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Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Environmental Protection Agency

Section 213.3318 is amended to show that one position of Special Assistant to the Assistant Administrator for Planning and Management is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (11–2–71), paragraph (y) is added to § 213.3318 as set out below.

§ 213.3318 Environmental Protection Agency.

* * * * *

(y) One Special Assistant to the Assistant Administrator for Planning and Management.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-15871 Filed 11-1-71;8:46 am]

Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements, and Orders; Fruit, Vegetables, Nuts), Department of Agriculture

[Lemon Reg. 504, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 36 F.R. 9061), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

(b) *Order, as amended.* The provision in paragraph (b)(1) of § 910.804 (Lemon Regulation 504, 36 F.R. 20503) during the period October 24, 1971, through October 30, 1971, is hereby amended to read as follows:

§ 910.804 Lemon Regulation 504.

* * * * *

(b) *Order.* (1) * * * 185,000 cartons.

* * * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 28, 1971.

ARTHUR E. BROWNE,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-15886 Filed 11-1-71;8:47 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[Docket No. 71-597]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, the references to the States of Hawaii and Nebraska in paragraph (f) are deleted, and paragraph (g) is amended by adding thereto the names of the States of Hawaii and Nebraska.

(Secs. 4–7, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791–792, as amended, secs. 1–4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 112, 113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment deletes Hawaii and Nebraska from the list of hog cholera eradication States in § 76.2(f), and the special provisions pertaining to the interstate movement of swine and swine products from or to such eradication States are no longer applicable to Hawaii and Nebraska.

The amendment also adds Hawaii and Nebraska to the list of hog cholera free States in § 76.2(g), and the special provisions pertaining to the interstate movement of swine and swine products from or to such free States are applicable to Hawaii and Nebraska.

Insofar as the amendment imposes certain further restrictions necessary to prevent the interstate spread of hog cholera, it must be made effective immediately to accomplish its purpose in the public interest. Insofar as it relieves restrictions, it should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to this Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable, unnecessary and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 28th day of October 1971.

F. J. MULHERN,
Acting Administrator, Agricultural Research Service.

[FR Doc.71-15947 Filed 11-1-71;8:50 am]

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS AND ANIMAL PRODUCTS

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Horses; Restrictions on Importation

Pursuant to section 2 of the Act of February 2, 1903, as amended, and sections 4, 5, and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 134c, 134d, and 134f) Part 92, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

Section 92.17 is amended by deleting the term "60 days" the third time it appears in the first sentence of said section and substituting therefor the term "14 days".

(Sec. 2, 32 Stat. 792, as amended; secs. 4, 5, and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 134c, 134d, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendment shall become effective upon issuance.

The purpose of this amendment is to reduce from 60 days to 14 days the waiting period presently imposed for entry of horses into the United States which have been vaccinated with a live or attenuated or inactivated vaccine preceding exportation from the country of origin. The effect of this amendment is to bring the requirements for importation into agreement with similar requirements in effect for interstate movement of horses which have been vaccinated.

The amendment relieves certain restrictions presently imposed but no longer deemed necessary to prevent the spread of animal diseases, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to this Department. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable, unnecessary and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 27th day of October 1971.

T. W. EDMINSTER,
Administrator, Agricultural Research Service.

[FR Doc.71-15890 Filed 11-1-71;8:52 am]

Title 14—AERONAUTICS AND SPACE

Chapter II—Civil Aeronautics Board

SUBCHAPER A—ECONOMIC REGULATIONS

[Regulation ER-707; Amdt. 36]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Transactions With Affiliated Groups

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 22d day of September 1971.

By circulation of EDR-187, dated September 9, 1970 (Docket 22546), and published at 35 F.R. 14464, the Board gave notice that it had under consideration an amendment to Part 241 which would prescribe more complete disclosure of transactions by air carriers within affiliated groups of companies than is presently required an set forth standards in accounting for such transactions.

In the notice of proposed rule making, the Board observed that nontransport activities on the part of certificated route air carriers have increased markedly in recent years, and we took note of the need to avoid practices of activity intermingling which could impair the credibility of the regulated activities. Thus, this rule making proceeding was undertaken with a view toward prescribing additional accounting regulations which would enable the Board to better monitor transactions relating to such diversified activities. In brief, this would be accomplished by requiring (a) that the charges involved in transfer or purchase transactions between the carriers' air transport activities and their nontransport activities be disclosed; (b) that the revenues and expenses attributable to nontransport activities be separately reported; and (c) that income taxes be allocated among the transport activities and nontransport activities.

Comments were submitted by the Airline Finance and Accounting Conference (ATA) on behalf of 22 of its members, Universal Airlines, Inc., and a firm of independent public accountants, Arthur Andersen & Co. After full consideration of all comments, the Board has decided to adopt the rule with modifications hereinafter discussed. Except to the extent modified herein, the tentative findings set forth in the Explanatory Statement of EDR-187 are incorporated herein and made final.

Basically, the comments have taken the following classes of exceptions to the proposed rule. (1) The additional reporting requirements as proposed would impose a costly time-consuming burden on the carriers;[1] (2) the rule, if applied to rate proceedings, will not allow affiliated groups to recover all their costs and will impose other burdens on the affiliated nontransport organizations which will compel them to turn down future joint ventures with the air carrier; (3) the cost allocations specified to implement these reporting requirements are inflexible and could lead to erroneous results; (4) certain nontransport services are closely related to the performance of the air transport activity and should be considered as "incidental" regardless of their magnitude; and (5) the methods of recording transactions between an affiliated air carrier and other members of an affiliated group differ from the methods required where no affiliated relation exists, thus leading to inconsistencies.

It is the judgment of the Board that the first two arguments summarized above are unrealistic. As a matter of necessity, corporations transacting business within affiliated groups must maintain highly complex accounting systems capable of providing profit and loss data not only for decisionmaking on an affiliated-group basis but also to eliminate intercompany profits in the preparation of consolidated statements. Moreover, the procedures prescribed by this rule are not necessarily controlling for ratemaking purposes. Thus, the proposed rule only requires disclosure of information reasonably accessible to members of affiliated groups and does not impose an undue burden on either the air carrier or its affiliated companies.

Considering further the possible impact on nontransport organizations, the Board has determined that public interest considerations outweigh any inconvenience which this rule may impose on such organizations. The rule is intended to disclose what the assets and services exchanged other than stock-in-trade items actually did cost the affiliated group and what additional profit element on this cost is being realized through air carrier revenues. In regard to this profit element, the Board is not suggesting that it will necessarily disallow this portion of the total service cost, but only that it seeks more adequate disclosure for regulatory purposes.

As for the remaining three classes of exceptions received from the respondents—those concerning inflexible cost allocations, nontransport services closely related to air transport operations, and problems of inconsistency—it is the opinion of the Board that these exceptions have some merit and appropriate modifications should be made to the proposed rule.

[1] Universal takes the position, in sum, that whatever the regulatory need for apparent precision in the accounting of scheduled carriers, no such cumbersome and complex regulations should be imposed on the supplementals. It is to be noted that Universal is the only supplemental objecting to the proposals.

The proposed revision of section 1–6(b) would have the effect of leaving in Account 4600—Incidental Revenues—Net, only those revenues being derived at an aggregate annual revenue rate not exceeding $1 million or an aggregate investment at cost not exceeding $100,000. The effect of the proposal would be to require the carriers to treat each activity involving a higher investment or annual revenue rate as a separate nontransport venture, rather than an activity incidental to air transportation services, with an autonomous set of revenue, expense, and investment accounts. According to the ATA carriers, this definition does not provide proper classification to the many activities currently included in Account 4600 that are either directly or indirectly related to air transportation services and do not in any way constitute a nonoperating or diversification activity. They add that these activities reflect programs instituted for the purpose of improving passenger comfort and are aimed at stimulating the growth of all classes of traffic, among which are (1) optional inflight sales; (2) providing containers, pet kennels, and pickup and delivery services; (3) earning sales commissions through arranging interline and other services; and (4) providing attractive itineraries and travel opportunities through interchange agreements, youth cards, travel clubs, and financing plans. They recommend that the sale of services related to plant and capacity be continued in the operating revenue classification as heretofore. The carriers also state that the provision that an aggregate investment at cost of $100,000 constitutes a nontransport venture is troublesome both as to the method of determining the amount of investment and as to the recordkeeping which may be required. They add that determining the size of the investment utilized in generating sales aloft will produce as many different answers as there are people assigned to the project.

The Board finds merit in the foregoing comments, and we are modifying section 1–6(b) accordingly. Thus, an investment standard for determining whether an activity constitutes a nontransport venture is being deleted from the final rule. Nevertheless, we are of the view that a test which turns solely upon the revenues produced by a particular activity could lead to artificial results. That is, a particular activity could, at least for a period of time, result in a substantial drain upon a carrier's resources while producing little or no revenue. In order to include such a situation within the purview of the rule, and to provide a substitute for the abandoned investment standard, we are adding an expense standard to section 1–6(b). Thus, under the final rule, an activity will be regarded as a nontransport venture, and subject to the detailed reporting requirements of this rule, if any one of the following circumstances is present:

1. The nature of the activity is such that it is not incidental to the carrier's transport activities;

2. The activity, even though otherwise incidental to the carrier's transport activities, produces an aggregate annual revenue rate during either of the past 2 years in excess of the greater of $1 million or 1 percent of the carrier's annual transport revenues, or results in an aggregate annual expense rate during either of the past 2 years in excess of the greater of $1 million or 1 percent of the carrier's annual operating expense.

3. The activity is conducted by a separate legal entity or a distinct organizational unit of the carrier.

The Board believes these new standards will in no way lessen the effectiveness of the rule with regard to disclosure of nontransport activities having a significant impact on the air carrier but will eliminate the requirements of making arbitrary cost allocations of facilities and equipment when applying the rule. Moreover, the modification to the proposed rule relating to the allocation of income items should not impose any burden on the air carriers which is not presently encountered; for this section of the rule merely provides a means of implementing the existing provisions of the accounting and reporting regulations in section 9 of the Uniform System of Accounts and Reports (USAR) which require nontransport activities beyond the magnitude and scope of incidental services to be reported in profit and loss classification 8100 Nonoperating Income and Expense—Net. In this regard, it also should be noted that standards of a similar type must be met in reports filed with the Securities and Exchange Commission for purposes of product line identification.

Based upon the same considerations, the Board has also decided to amend section 2–1 of the proposed rule by inserting a new paragraph (c) relating to the allocation of resources and facilities of the air carrier utilized by its separate nontransport ventures. To date the Board has not found it necessary to allocate balance sheet elements between separate operating entities of each air carrier but has followed a general rule of classifying between transport and nontransport on a basis of predominant use. The introduction of proration principles in the balance sheet area entails complex novel techniques and attendant developmental burdens which cannot be justified unless the presently prevailing actice is demonstrated to be ineffective in preserving the integrity of reported air transport activities. Consequently, this new paragraph will require that resources and facilities used predominantly by the air transportation activity but also employed in the operations of separate nontransport ventures be reflected in total in the property and other appropriate accounts of the air carrier activity and not be allocated. Resources and facilities used predominantly by the nontransport ventures but incidentally in air transport operations shall be reflected in total in account 1520 Advances to Nontransport Divisions on the books of the air carrier.

Turning now to a consideration of nontransport services which are closely related to the performance of the air transport activity and primarily undertaken for that purpose, the Board recognizes that treatment as a separate nontransport venture would result, in certain instances, in a failure to reflect all components of the air transport operations in the Form 41 reports. Consequently, the Board has decided to exempt in-flight nontransportation services, i.e., liquor sales, movies, etc., interchange sales and mutual aid assistance, from the new revenue standard of section 1–6(b) which would require separate entity reporting. Thus, section 1–6(b) of the proposed rule is being further modified by the Board to provide that "nontransportation revenue services performed in flight, interchange sales and mutual aid assistance shall be considered as incidental to the air transportation activity and accounted for accordingly, regardless of the revenue or expense standard set forth" in that section.

In EDR–187 it was proposed to add a new section 2–18 concerning transactions between members of an affiliated group. Briefly, incoming transactions, from the carrier point of view, would be charged against operations at the lower of cost or market to the providing member of the affiliated group, whereas outgoing transactions, from the air carrier point of view, would be taken up at the higher of cost or market to the air carrier. Any differences between actual transaction prices and the above would be considered of a financing nature and would be recorded, accordingly, as nonoperating charges or credits.

The ATA carriers contend that the proposal would place an intolerable bookkeeping burden on the carriers as it relates to incoming transactions to the carrier since it requires the determination of "cost" to the originating activity for all incoming transactions. They assert that cost information, if determinable at all, is not readily available in most cases and would require extensive effort not only in its initial determination, but also in continuing to maintain its accuracy on a current basis. The ATA carriers are also concerned with the provisions that revenue from the sale of services and assets to other activities of an affiliated group be recorded at the higher of cost or fair market value. They argue that such accounting treatment, if blindly followed, could erroneously suggest that intercompany profits (or losses) have been realized when, in fact, the sale may have been for the best price possible even though below cost. A similar position is taken by Universal and Arthur Andersen & Co.

In view of this argument, the Board has modified paragraphs (d) and (c) of section 2–18 of the proposed rule. As now modified paragraph (b) will require an air carrier to record, as the cost of assets or services received from an affiliated supplier, their invoice price in those circumstances where the invoice price can be determined from a prevailing price list of the affiliated supplier held out to the general public in the normal course of business. If no prevailing price list exists, the principle will remain that charges for services and assets received from other members of an affiliated group shall be recorded by the regulated air carrier activity at the lower of their cost to the originating activity, less all applicable valuation reserves, or their estimated fair market value. A similar change has been made to paragraph (c) of section 2–18 in regard to the revenue to be recorded by the regulated air carrier activity for services and assets sold to affiliated group members.

In regard to these modifications, it should be noted that, from an accounting standpoint, the Board is not mainly concerned with the recording of stock-in-trade items which the affiliated air carrier activity normally purchases and sells under terms held out to the public in general. Rather, the disclosure requirements contained in this rule are primarily directed at those transactions which are not included under an established price policy offered to organizations other than affiliated group members and whose terms, therefore, raise the question of possible impairment of air transportation resources. Thus, by adopting the modifications outlined herein, the Board has restricted the application of the rule to those circumstances in which affiliated relations may have a dominant influence as to the price determination. It is also contended by the ATA carriers that the method prescribed by section 2–18(d) for recording income taxes would grant to the air carrier for purposes of the Form 41 reports the entire tax savings derived from those tax credits generated by the air carrier but utilized on the tax returns of other affiliated companies. This is viewed by the carriers as improper and inequitable, for the tax savings from such tax credits represent a mutually earned benefit involving both the air carrier who could not utilize the tax credits and the efforts of an affiliated company necessary to convert them into a tax savings on its tax return. After considering this position the Board does not believe it justifies any change in the reporting requirements of section 2–18(d) of the proposed rule. Under the Federal tax laws, tax credits generated in a particular period which cannot be utilized in that period may be carried back for 3 years and carried forward for seven. It thus must be presumed that in the absence of consolidated tax reporting, the carrier will normally be able to realize the full benefits of tax credits over a period of time. Under these circumstances, the Board believes that the interests of full and fair disclosure require that tax credits generated by the carrier entity be allocated to the carrier entity on the Form 41 reports, notwithstanding the fact that in any particular period the tax credits can only be used because of offsetting revenues generated by noncarrier affiliates or activities.

Lastly, clarification is needed of the meaning of control as used in the definition of "Affiliated Group" to be inserted in section 03 of the USAR. The ATA carriers assumed that control of a route air carrier would involve ownership of a majority of its outstanding stock and that no reporting would be required on schedule B–44 for less than this amount. This assumption is not accurate, for a definition of control and its derivatives is already provided in section 03 of the USAR and is applicable to the definition of "Affiliated Group." A related assumption, by Universal, takes the position that companies controlled by the parent of an air carrier should not be considered as part of an affiliated group if they do not function as an economic unit in any meaningful sense. This narrow interpretation is without merit and cannot be accepted by the Board. The disclosure requirements of this rule are directed at all transactions between the air carrier and its affiliated companies and are not to be restricted by the amount or frequency of the transaction involved. To avoid any confusion on this point, the reference to "economic unit" will be deleted from the definition of "Affiliated Group."

Finally, with respect to reporting transactions between the parent of an air carrier and its other affiliates, the Board has decided to delete that provision which would require the parent to file a schedule B–44. This action is predicated upon the expectation that the information disclosed by the air carriers will be sufficient for the purposes of this rule.

Besides these exceptions and clarifications referred to and commented upon in this preamble, the parties have also suggested editorial and other minor changes which the Board has considered and adopted with modification, as appropriate.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 241 of the Economic Regulations (14 CFR Part 241), effective January 1, 1972, as follows:

1. Amend the Table of Contents of the Uniform System of Accounts and Reports to insert a new section 2–18 so that the table in pertinent part reads:

Sec.
2–16 Notes to financial statements.
2–17 Revenue accounting practices.
2–18 Transactions between members of an affiliated group.

2. Amend Section 03—Definitions for Purposes of this System of Accounts and Reports by inserting the definition "Affiliated Group" to read:

Section 03—Definitions for Purposes of this System of Accounts and Reports

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Affiliated group—A combination of companies comprised of the air carrier, any person controlling the air carrier or under common control with the air carrier, and organizational divisions (as defined in sections 1–6) of and persons controlled by the air carrier.

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3. Amend Section 1—Introduction to System of Accounts and Reports as follows:

By revising section 1–6 *Accounting entities* to read:

Sec. 1–6 Accounting entities.

(a) Separate accounting records shall be maintained for each air transport entity for which separate reports to the Civil Aeronautics Board are required to be made by sections 21(1) or 31(h), as applicable, and for each separate corporate or organizational division of the air carrier. For purposes of this Uniform System of Accounts and Reports each nontransport venture as delineated pursuant to paragraph (b) of this section undertaken by the air carrier whether or not formally organized within a distinct organizational unit shall be treated as a separately operated organizational division.

(b) As a general rule any activity or group of activities comprising a nontransport function provided for in incidental revenue accounts 10 through 18 shall be considered a separate nontransport venture under circumstances in which either: (1) A separate corporate or legal entity has been established to perform such services, (2) the aggregate annual revenue rate, as determined in section 2–1(d), during either of the past 2 years exceeds the greater of $1 million per annum or 1 percent of the air carrier's total annual transport revenues, or (3) the aggregate annual expense rate, as determined in section 2–1(d), during either of the past 2 years exceeds the greater of $1 million or 1 percent of the carrier's total annual operating expenses: *Provided*, That nontransportation revenue service performed in-flight, interchange sales and mutual aid assistance shall be considered as incidental to the air transportation activity and accounted for accordingly, regardless of the revenue or expense standard set forth above. Other nontransport revenue services which do not meet the foregoing standards shall be also considered as incidental to the air transportation and shall be accounted for accordingly.

(c) The records for each required accounting entity shall be maintained with sufficient particularity to permit a determination that the requirements of section 2–1 have been complied with.

4. Amend section 2—General Accounting Policies as follows:

A. By revising section 2–1 *Basis of allocation between entities* to read:

Sec. 2–1 Basis of allocation between entities.

(a) The provisions of this section shall apply to each person controlling an air carrier, each person controlled by the air carrier, as well as each transport entity and organizational division of the air carrier for which separate records must be maintained pursuant to section 1–6.

(b) Each transaction shall be recorded and placed initially under accounting controls of the particular air transport entity or organizational division of the air carrier or member of an affiliated group to which directly traceable. If applicable to two or more accounting entities, a proration shall be made from the entity of original recording to other participating entities on such basis that the statements of financial condition and operating results of each entity are comparable to those of distinct legal entities. The allocations involved shall embrace all debits and credits associated with each entity and shall comply with the provisions of section 2–18, as applicable.

(c) For the purposes of this section, investments by the air carrier in resources or facilities used in common by the regulated air carrier activity and those nontransportation revenue services defined as separate nontransport ventures under section 1–6(b) shall not be allocated between such entities but shall be reflected in total in the appropriate accounts of the entity which predominantly uses the facility or resource. Where the entity of predominate use is a nontransport venture, the air carrier shall reflect the investment in account 1520 Advances to Nontransport Divisions.

(d) For purposes of this Uniform System of Accounts and Reports, all revenues shall be assigned to or apportioned between accounting entities on bases which will fully recognize the services provided by each entity, and expenses, or costs, shall be apportioned between accounting entities on such bases as will result: (1) With respect to "incidental" services, in the assignment thereto of proportionate direct overheads, as well as direct labor and materials, of the applicable expense functions prescribed by this system of accounts and reports, and (2) with respect to separate ventures, in the assignment thereto of proportional general and administrative overheads as well as the direct overheads, labor, and materials.

(e) In accordance with the provisions of sections 22(d) or 32(d), as applicable, each air carrier shall file a statement with the Civil Aeronautics Board which details the practices and techniques used in directly assigning and prorating revenues and expenses, or costs, in compliance with the provisions of this section.

B. By adding a new section 2–18 to read:

Sec. 2–18 Transactions between members of an affiliated group.

(a) Unless otherwise approved by the Board's Director, Bureau of Accounts and Statistics, transactions between the regulated activity of an air carrier and activities conducted by nontransport divisions or other corporate members of an affiliated group shall be recorded by the air carrier as provided in paragraphs (b) through (e) of this section 2–18.

(b) Charges for services and assets purchased by or transferred to a regulated activity of an air carrier from other

activities of an affiliated group shall be recorded initially in the accounts of the regulated air carrier activity at their invoice price, if determinative from a prevailing price list held out to the general public in the normal course of business. Where the services and assets received by the regulated activity of the air carrier are not marketed by the affiliated supplier to the general public under a prevailing price list, the charges recorded by the air carrier activity for such services and assets shall be the lower of their cost to the originating activity of the affiliated group, less all applicable valuation reserves, or their estimated fair market value. In the case of charges against income for services received, as distinguished from charges for property and equipment or other assets acquired, any difference in the amount recorded and the consideration given by the air carrier shall be entered in subaccount 88.1 Intercompany Transaction Adjustment—Credit or in subaccount 89.1 Intercompany Transaction Adjustment—Debit. In the case of property and other assets acquired, any difference between the amount recorded and the consideration given by the air carrier shall be entered in appropriate subaccounts of account 1870 Property Acquisition Adjustment, paralleling subaccount 88.1 Intercompany Transaction Adjustment—Credit and subaccount 89.1 Intercompany Transaction Adjustment—Debit, and shall be cleared to such income accounts through periodic amortization at rates coinciding with those applied to other associated assets.

(c) The cost, less all associated valuation reserve accumulations, of services and assets sold by or transferred from the regulated activity of an air carrier to other activities of an affiliated group shall be charged by the air carrier to either applicable incidental services or capital gain income accounts, as appropriate. Where such services and assets are reflected in tariffs filed with the Board or in price lists held out to the general public, the associated revenues shall be recorded at the rates, fares or charges contained therein in the appropriate incidental services, capital gains or air transport income accounts. Where no tariff or prevailing price list is applicable, the associated revenue shall be recorded at the higher of cost or estimated fair market value of the asset or service involved. Any difference between the revenue so recorded and the agreed consideration to the air carrier shall be recorded in subaccount 88.1 Intercompany Transaction Adjustment—Credit or subaccount 89.1 Intercompany Transaction Adjustment—Debit.

(d) Income taxes shall be allocated among the transport entities of the air carrier, its nontransport divisions, and members of an affiliated group. Under circumstances in which income taxes are determined on a consolidated basis by an air carrier and other members of an affiliated group, the income tax expense to be recorded by the air carrier shall be the same as would result if determined for the air carrier separately for all time periods, except that the tax effect of carryback and carry-forward operating losses, investment tax credits, or other tax credits generated by operations of the air carrier shall be recorded by the air carrier during the period in which applied in settlement of the taxes otherwise attributable to any member, or combination of members, of the affiliated group. Any difference between the income tax so recorded and the amount at which settlement is to be made shall be recorded in subaccount 88.1 Intercompany Transaction Adjustment—Credit or in subaccount 89.1 Intercompany Transaction Adjustment—Debit, as is appropriate.

(e) The principles set forth in this section 2–18 shall apply equally to corporations, proprietorships, partnerships, or other forms of business organizations.

5. Amend Section 7—Chart of Profit and Loss Accounts to subdivide Account 88—Miscellaneous Nonoperating Credits and Account 89—Miscellaneous Nonoperating Debits so that the chart in pertinent part reads:

Section 7—Chart of Profit and Loss Accounts

88	Miscellaneous nonoperating credits	81	81	81.
88.1	Intercompany transaction adjustment-credit	81	81	81.
88.9	Other	81	81	81.
89	Miscellaneous nonoperating debits	81	81	81.
89.1	Intercompany transaction adjustment-debit	81	81	81.
89.9	Other	81	81	81.

6. Amend Section 9—Functional Classification—Operating Revenues as follows:

By revising paragraph (b) of subclassification 4600 Incidental Revenues—Net under classification 4900 Nontransport Revenues to read:

4600 *Incidental Revenues—Net.*

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(b) This subclassification shall include revenues, less related expenses, from only those services which are performed as an incidental adjunct to air transportation services and which provide improved utilization of plant and organization required for the performance of air transportation services. Revenues and expenses related to services of a magnitude or scope beyond an incidental adjunct to air transportation services shall not be included in this subclassification (see section 1–6(b)). Revenues and expenses applicable to such services shall be included in profit and loss classification 8100 Nonoperating Income and Expense—Net, and the accounting modified to conform with that of a nontransport division whether or not the service is organized as a nontransport division.

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7. Amend Section 14—Objective Classification—Nonoperating Income and Expense as follows:

A. By revising account 88 Miscellaneous Nonoperating Credits to read:

88 Miscellaneous Nonoperating Credits.

(a) Record here all credits of a nonoperating character not provided for otherwise, such as royalties from patents, gains from the reacquisition and retirement or resale of debt securities issued by the air carrier, and intercompany credit adjustments.

(b) This account shall be subdivided as follows by all air carrier groups:

88.1 *Intercompany Transaction Adjustment—Credit.* Record here all intercompany credits for any differences between amounts at which transactions between the air carrier and its nontransport divisions or associated companies are initially recorded and are to be settled as provided under section 2–18.

88.9 *Other.* Record here all other miscellaneous nonoperating credits not included in subaccount 88.1 Intercompany Transaction Adjustment—Credit.

B. By revising account 89 Miscellaneous Nonoperating Debits to read:

89 Miscellaneous Nonoperating Debits.

(a) Record here all debits of a nonoperating character not provided for otherwise, such as fines or penalties imposed by governmental authorities; costs related to property held for future use; donations for charitable, social or community welfare purposes; losses on reacquired and retired or resold debt securities of the air carrier; losses on uncollectible nonoperating receivables or accruals to reserve for uncollectible nonoperating receivables; and intercompany debt adjustments. This account shall be charged with amortization of amounts carried in balance sheet account 1870 Property Acquisition Adjustment, unless otherwise approved or directed by the Civil Aeronautics Board.

(b) This account shall be subdivided as follows by all air carrier groups:

89.1 *Intercompany Transaction Adjustment—Debit.* Record here all intercompany debits for any differences between amounts at which transactions between the air carrier and its nontransport divisions or associated companies are initially recorded and are to be settled as provided under section 2–18.

89.9 *Other.* Record here all other miscellaneous nonoperating debits not included in subaccount 89.1 Intercompany Transaction Adjustment—Debit.

8. Amend Section 15—Objective Classification—Income Taxes for Current Period as follows:

By revising paragraph (a) of account 91 Provision for Income Taxes to read:

91 Provision for income taxes.

(a) Record here quarterly provisions for accruals of Federal, State, local, and foreign taxes based upon net income, computed at the normal tax and surtax rates in effect during the current accounting year. In general, this account shall reflect provisions within each period for currently accruing tax liabilities as actually or constructively computed on tax returns, and any subsequent adjustments. This account shall include credits for refund claims arising from the carryback of losses in the year in which the loss occurs, credits for the carry-forward of losses in the year to which the loss is carried, and investment tax credits in the year in which each credit is utilized to reduce the liability for income taxes. (See section 2–6.) Income taxes shall be apportioned between members of a consolidated tax group in accordance with the provisions of section 2–18.

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9. Amend the title of Schedule B–44 in the list of schedules in paragraph (a) of Section 22—General Reporting Instructions so that the list in pertinent part reads:

B–43...	Inventory of Airframes and Aircraft Engines	do	90
B–44...	Summary of Resources Exchanged with Affiliated Group Members and Other Associated Companies.	do	90
B–46...	Long-Term and Short-Term Non-Trade Debt	do	90

10. Amend Section 23—Certification and Balance Sheet Elements as follows:

By revising the instruction for Schedule B–44 to read:

Schedule B–44—Summary of Resources Exchanged with Affiliated Group Members and Other Associated Companies

(a) This schedule shall be filed by all route air carriers.

(b) Single but separate sets of this schedule shall be filed for the overall corporate or other legal entity comprising the air carrier.

(c) One set each shall be filed, and checked in the appropriate box, for resources acquired by the air carrier or its regulated activity, and one set each shall be filed and checked in the appropriate box for resources disposed of by the air carrier or its regulated activity. For these purposes, the amount at which any resources of other persons are hypothecated for the benefit of the air carrier will be considered a resource acquired and the amount at which any resources of the air carrier are hypothecated for the benefit of others will be considered a disposition of resources. Land, buildings, and equipment acquired from or provided other members of an affiliated group under a lease arrangement will be reported in the same manner but separately from resources hypothecated.

(d) The data reported on this schedule shall be grouped within each indicated classification for resources exchanged with separate but associated legal entities and for resources exchanged between the air carrier's regulated activities and separately organized nontransport divisions.

(e) Column 1 shall reflect under each indicated classification the name of each company or other organization with which resources of any type were exchanged during the calendar year. For this purpose income taxes determined on a consolidated basis within an affiliated group shall be classified as an operational service performed by the controlling person which constitutes resource acquisition (or resource purchased) when the tax allocation results in a charge and resource disposition (or a resource sold) when the tax allocation results in a credit for any tax year.

(f) Column 2 shall reflect for all resources exchanged during the calendar year with each company or other organization reflected in column 1 the aggregate of the invoice price and/or the cost to the provider, less any associated valuation reserve accumulations, as applicable under section 2–18 of this Part 241.

(g) Column 3 shall reflect the estimated market value counterparts of the resource amounts reflected in column 2.

(h) Column 4 shall reflect the aggregate of those transactions with each company or other organization reflected in column 1 which have been recorded at invoice price or cost to the provider, as applicable. For this purpose, transactions concerning resource acquisitions shall not be offset against transactions concerning resource dispositions.

(i) Column 5 shall reflect the aggregate of those transactions with each company or other organization reflected in column 1 which have been recorded at estimated market value. For this purpose, transactions concerning resource acquisitions shall not be offset against transactions concerning resource dispositions.

(j) Column 6 shall reflect the debit adjustments to the aggregates shown in columns 4 and 5 combined, for each company or other organization reflected in column 1, which is necessary to reconcile with the amounts at which settlement has been established. For this purpose, transactions for which credit adjustments are entailed shall not be aggregated with transactions for which debit adjustments are entailed.

(k) Column 7 shall reflect the credit adjustments to the aggregates shown in columns 4 and 5 combined, for each company or other organization reflected in column 1, which is necessary to reconcile with the amounts at which settlement has been established. For this purpose, transactions for which debit adjustments are entailed shall not be aggregated with transactions for which credit adjustments are entailed.

(l) Column 8 shall reflect the net of any current year adjustments with each company listed in column 1 which pertain to settlements of prior years and which are recorded in asset accounts 1250, 1510, or 1520 or liability accounts 2050, 2240, and/or 2245.

(m) Column 9 shall reflect, for each company or other organization, reflected in column 1, the aggregate of the settlements established which should equal the sum of amounts shown in columns 4 and 5 adjusted by the net of amounts shown in columns 6, 7, and 8. The amounts in this column shall conform with the balance of accruals for the year, before liquidation, to accounts 2050, 2240, and/or 2245 with respect to resource acquisitions and accounts 1250, 1510, or 1520 with respect to resource dispositions, for each company or other organization, reflected in column 1, and as reflected at year-end in Schedule B–4—Accounts With Subsidiaries, Other Associated Companies and Nontransport Divisions.

(n) Column 10 shall reflect the effective interest rate(s), if any, charged on any unliquidated balance of amounts at which resource acquisitions are to be settled and the effective interest rate(s), if any, received on any unliquidated balance of amounts at which resource dispositions are to be settled. Explanatory footnotes shall be used for reporting multiple interest rates or other conditions pertinent to an understanding of effective finance charges.

11. Amend the list of schedules in paragraph (a) of section 32—General Reporting Instructions to insert a new Schedule B–44 so that the list in pertinent part reads:

B–43...	Inventory of Airframes and Aircraft Engines	do	90
B–44...	Summary of Resources Exchanged with Affiliated Group Members and Other Associated Companies.	do	90
B–46...	Long-Term and Short-Term Non-Trade Debt	do	90

12. Amend Section 33—Certification and Balance Sheet Elements as follows:

By inserting the instruction for new Schedule B–44 to read:

Schedule B–44—Summary of Resources Exchanged with Affiliated Group Members and Other Associated Companies

(a) This schedule [1] shall be filed by all supplemental air carriers.

(b) Single but separate sets of this schedule shall be filed for the overall corporate or other legal entity comprising the air carrier.

(c) One set each shall be filed, and checked in the appropriate box, for resources acquired by the air carrier, or its regulated activity, and one set each shall be filed and checked in the appropriate box for resources disposed of by the air carrier or its regulated activity. For these purposes, the amount at which any resources of other persons are hypothecated for the benefit of the air carrier will be considered a resource acquired and the amount at which any resources of the air carrier are hypothecated for the benefit of others will be considered a disposition of resources. Land, buildings, and equipment acquired from or provided other members of an affiliated group under a lease arrangement will be reported in the same manner but separately from resources hypothecated.

(d) The data reported on this schedule shall be grouped within each indicated classification for resources exchanged with separate but associated legal entities and for resources exchanged between the air carrier's regulated activities and separately organized nontransport divisions.

(e) Column 1 shall reflect under each indicated classification the name of each

[1] Filed as part of the original document.

company or other organization with which resources of any type were exchanged during the calendar year. For this purpose income taxes determined on a consolidated basis within an affiliated group shall be classified as an operational service performed by the controlling person which constitutes resource acquisition (or resource purchased) when the tax allocation results in a charge and a resource disposition (or a resource sold) when the tax allocation results in a credit for any tax year.

(f) Column 2 shall reflect for all resources exchanged during the calendar year with each company or other organization reflected in column 1 the aggregate of the invoice price and/or the cost to the provider, less any associated valuation reserve accumulations, as applicable under section 2-18 of this Part 241.

(g) Column 3 shall reflect the estimated market value counterparts of the resource amounts reflected in column 2.

(h) Column 4 shall reflect the aggregate of those transactions with each company or other organization reflected in column 1 which have been recorded at invoice price or cost to the provider, as applicable. For this purpose, transactions concerning resource acquisitions shall not be offset against transactions concerning resource dispositions.

(i) Column 5 shall reflect the aggregate of those transactions with each company or other organization reflected in column 1 which have been recorded at estimated market value. For this purpose, transactions concerning resource acquisitions shall not be offset against transactions concerning resource dispositions.

(j) Column 6 shall reflect the debit adjustments to the aggregates shown in columns 4 and 5 combined, for each company or other organization reflected in column 1, which is necessary to reconcile with the amounts at which settlement has been established. For this purpose, transactions for which credit adjustments are entailed shall not be aggregated with transactions for which debit adjustments are entailed.

(k) Column 7 shall reflect the credit adjustments to the aggregates shown in columns 4 and 5 combined, for each company or other organization reflected in column 1, which is necessary to reconcile with the amounts at which settlement has been established. For this purpose, transactions for which debit adjustments are entailed shall not be aggregated with transactions for which credit adjustments are entailed.

(l) Column 8 shall reflect the net of any current year adjustments with each company listed in column 1 which pertain to settlements of prior years and which are recorded in asset accounts 1250, 1510, or 1520 or liability accounts 2050, 2240, and/or 2245.

(m) Column 9 shall reflect, for each company or other organization, reflected in column 1, the aggregate of the settlements established which should equal the sum of amounts shown in columns 4 and 5 adjusted by the net of amounts shown in columns 6, 7, and 8. The amounts in this column shall conform with the balance of accruals for the year, before liquidation, to accounts 2050, 2240, and/or 2245 with respect to resource acquisitions and accounts 1250, 1510, or 1520 with respect to resource dispositions, for each company or other organization, reflected in column 1, and as reflected at year-end in Schedule B-4—Accounts With Subsidiaries, Other Associated Companies and Nontransport Divisions.

(n) Column 10 shall reflect the effective interest rate(s), if any, charged on any unliquidated balance of amounts at which resource acquisitions are to be settled and the effective interest rate(s), if any, received on any unliquidated balance of amounts at which resource dispositions are to be settled. Explanatory footnotes shall be used for reporting multiple interest rates or other conditions pertinent to an understanding of effective finance charges.

13. Amend CAB Form 41 by deleting old Schedule B-44—Transactions with Associated Companies and by adding new Schedule B-44—Summary of Resources Exchanged with Affiliated Group Members and Other Associated Companies as shown in Exhibit A[1] and incorporated herein by reference.

(Secs. 204(a) and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766; 49 U.S.C. 1324, 1377)

NOTE: The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-15938 Filed 11-1-71;8:50 am]

[1] Filed as part of the original document.

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Coumaphos

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (40-001V) filed by Chemagro Corp., Hawthorn Road, Post Office Box 4913, Kansas City, MO 64120, proposing that labeling for coumaphos be revised to indicate among other things, that treatment of colored breeds of commercial layers should be avoided while in production since these breeds appear to be more sensitive to coumaphos that white breeds. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), § 135e.39(f) is amended by revising the text in the "Limitations for use" column for item 3 to read, as follows:

§ 135e.39 Coumaphos.

* * * * * *

(f) *Conditions of use.* It is used as follows:

Amount	Limitations	Indications for use
* * *	* * *	* * *
3. Coumaphos..... * * *	For chickens in complete feed; administer continuously for from 10 to 14 days; do not feed to chickens under 8 weeks of age nor within 10 days of vaccination or other conditions of stress; when reinfection occurs, treatment should be repeated 8 weeks after end of previous treatment; as sole medication; not for use in pelleted feeds; treatment of colored breeds of commercial layers should be avoided while in production since these breeds appear to be more sensitive to coumaphos than white breeds.	* * *

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (11-2-71).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: September 22, 1971.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.71-15906 Filed 11-1-71;8:45 am]

PART 148i—NEOMYCIN

Combination Drug Containing Neomycin Sulfate and Nystatin for Oral Use

In the FEDERAL REGISTER of July 2, 1970 (35 F.R. 10793), the Commissioner of Food and Drugs announced (DESI 11212) the conclusions of the Food and Drug Administration following evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, regarding the following preparation: Mycifradin N Tablets, containing neomycin sulfate and nystatin; formerly marketed by The Upjohn Co., 7171 Portage Road, Kalamazoo, Mich. 49001 (NDA 11-212).

The Food and Drug Administration concluded there is a lack of substantial evidence, as defined in the Federal Food, Drug, and Cosmetic Act, that this drug is effective as a fixed combination for its claimed clinical effect, and that each component of the drug contributes to the total effects claimed for such drug. The Commissioner gave notice of his intention to initiate proceedings to revoke the antibiotic drug regulation providing for certification of such drug.

Interested persons who might be adversely affected by removal of the drug from the market were invited to submit within 30 days after publication of the announcement in the FEDERAL REGISTER, any pertinent data bearing on the proposal to revoke the antibiotic drug regulation. No data were received in response to the announcement.

Accordingly, the Commissioner concludes that the regulation should be revoked and that all outstanding certificates heretofore issued thereunder should also be revoked.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-51, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner (21 CFR 2.120), Part 148i is amended by revoking § 148i.29 Neomycin sulfate-nystatin tablets. All certificates issued under this section are also revoked.

Any person who will be adversely affected by the removal of any such drug from the market may file objections to this order, request a hearing, and show reasonable grounds for the hearing. The statement of reasonable grounds and request for a hearing shall be submitted in writing within 30 days after publication hereof in the FEDERAL REGISTER, shall state the reasons why the antibiotic drug regulations should not be so amended, and shall include a well-organized and full-factual analysis of the clinical and other investigational data the objector is prepared to prove in support of his objections.

A request for a hearing may not rest upon here allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing. When it clearly appears from the data incorporated into or referred to by the objections and from the factual analysis in the request for a hearing that no genuine issue of fact precludes the action taken by this order, the Commissioner will enter an order on these data, making findings and conclusions on such data.

If a hearing is requested and justified by the objections, the issues will be defined and a hearing examiner named to conduct the hearing. The provisions of Subpart F of 21 CFR Part 2 shall apply to such hearing, except as modified by 21 CFR 146:1(f) and to judicial review in accord with section 701 (f) and (g) (21 U.S.C. 371 (f) and (g)) of the Federal Food, Drug, and Cosmetic Act. (35 F.R. 7250, May 8, 1970.)

Objections and requests for a hearing should be filed (preferably in quintuplicate) with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20582. Received objections and requests for a hearing may be seen in the above office during regular business hours, Monday through Friday.

Effective date. This order shall become effective 30 days after its date of publication in the FEDERAL REGISTER. If objections are filed, the effective date will be extended for such period of time as necessary to rule thereon. In so ruling, the Commissioner will specify another effective date and how the outstanding stocks of the affected drugs are to be handled.

(Secs. 502, 507, 52 Stat. 1050-51, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357)

Dated: October 19, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-15907 Filed 11-1-71;8:45 am]

Title 22—FOREIGN RELATIONS

Chapter I—Department of State

SUBCHAPTER B—VISAS

[Departmental Reg. 106.647]

PART 42—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Definitions

Part 42, Chapter I, Title 22 of the Code of Federal Regulations is being amended to delete from the definition of "Entitled to immigrant classification" in § 42.1 the reference to the Department of Labor's Schedule C which has been abolished by that Department.

1. Section 42.1 is amended in part to read as follows:

§ 42.1 Definitions.

In addition to the pertinent definitions contained in the Immigration and Nationality Act, the following definitions shall be applicable to this part:

* * * * * *

"Entitled to immigrant classification" means that the alien (1) is the beneficiary of an approved petition to accord him immediate relative or preference status, or (2) has obtained an individual labor certification, or (3) has satisfied the consular officer that he (i) is entitled to special immigrant status under section 101(a)(27)(B) through (E) of the Act, or (ii) is within one of the professional or occupational groups listed in Schedule A of the Department of Labor regulations (29 CFR Part 60), or (iii) has a relationship to a U.S. citizen or resident alien which statutorily exempts him from the provisions of section 212(a)(14) of the Act, or (iv) is within one of the classes described in § 42.91(a)(14)(ii) and is therefore not within the purview of section 212(a)(14) of the Act.

* * * * * *

Effective date. The amendment to the regulations contained in this order shall become effective upon publication in the FEDERAL REGISTER (11-2-71).

The provisions of the Administrative Procedure Act (30 Stat. 383; 5 U.S.C. 553) relative to notice of proposed rule making are inapplicable to this order because the regulations contained herein involve foreign affairs functions of the United States.

(Sec. 104, 66 Stat. 174; 8 U.S.C. 1104)

Dated: October 18, 1971.

For the Secretary of State.

[SEAL] WILLIAM N. DALE,
Acting Administrator, Bureau of Security and Consular Affairs, Department of State.

[FR Doc.71-15925 Filed 11-1-71;8:52 am]

SUBCHAPTER M—INTERNATIONAL TRAFFIC IN ARMS

[Departmental Reg. 108.646]

MISCELLANEOUS AMENDMENTS TO SUBCHAPTER

Parts 121, 123, 124, 125, and 126 of Title 22 of the Code of Federal Regulations are amended and revised as set forth below.

PART 121—ARMS, AMMUNITION, AND IMPLEMENTS OF WAR

1. In § 121.01, Categories IV, V, XI, XIII, XIV, are revised to read in part as follows:

§ 121.01 The U.S. munitions list.

* * * * * *

CATEGORY IV—LAUNCH VEHICLES, GUIDED MISSILES, BALLISTIC MISSILES, ROCKETS, TORPEDOES, BOMBS, AND MINES

(a) Rockets (except meteorological sounding rockets), torpedoes, depth charges, land and naval mines, and demolition blocks and blasting caps (see § 121.05).

(b) Launch vehicles, guided missiles, and ballistic missiles, tactical and strategic.

(c) Apparatus, devices, and materials for the handling, control, activation, detection, protection, discharge, or detonation of the articles in paragraphs (a) and (b) of this category (see § 121.06).

(d) Missile and space vehicle powerplants.

(e) Military explosive excavating devices.

(f) Ablative materials fabricated or semi-fabricated from advanced composites (e.g., silica, graphite, carbon, and boron filaments) for the articles in this category when clearly identifiable as arms, ammunition, and implements of war, including the tape wrapping and other techniques for their production.

(g) All specifically designed components, parts, accessories, attachments, and associated equipment for the articles in this category.

CATEGORY V—PROPELLANTS, EXPLOSIVES, AND INCENDIARY AGENTS

(a) Propellants for the articles in Categories III and IV of this section (see § 121.09).

(b) Military explosives (see § 121.10).

(c) Military fuel thickeners (see § 121.11).

(d) Military pyrotechnics except (i) non-irritant smoke and (ii) other pyrotechnic materials having dual military and commercial use.

* * * * * *

CATEGORY XI—MILITARY AND SPACE ELECTRONICS

* * * * * *

(c) Electronic systems or equipment designed, configured, used, or intended for use in search, reconnaissance, collection, monitoring, direction-finding, display, analysis,

and production of information from the electromagnetic spectrum for intelligence or security purposes.

(d) Components, parts, accessories, attachments, and associated equipment specifically designed for use or currently used with the equipment in paragraphs (a) through (c) of this category, except such items as are in normal commercial use.

* * * * *

CATEGORY XIII—AUXILIARY MILITARY EQUIPMENT

* * * * *

(b) Speech scramblers, privacy devices, cryptographic devices (encoding and decoding), and specifically designed components therefor, ancillary equipment, and especially devised protective apparatus for such devices, components, and equipment.

* * * * *

CATEGORY XIV—TOXICOLOGICAL AGENTS AND EQUIPMENT; RADIOLOGICAL EQUIPMENT

* * * * *

(b) Biological agents adapted for use in war to produce death or disablement in human beings or animals, or to damage crops and plants.

* * * * *

§ 121.08 [Amended]

5. In § 121.08(a), items 6(b) and (b) are revoked to correct an error in printing.

§ 121.20 [Amended]

6. In § 121.20, paragraph (d) is revoked.

PART 123—LICENSES FOR UNCLASSIFIED ARMS, AMMUNITION, AND IMPLEMENTS OF WAR

7. Section 123.01 is amended to read as follows:

§ 123.01 Export license.

Equipment (see § 121.02 of this subchapter for definition) on the U.S. Munitions List shall not be exported from the United States until a license has been obtained from the Department of State, or it is otherwise exempt under other provisions of this subchapter. As a condition precedent for the issuance of an export license for equipment the Department of State may require all pertinent documentary information regarding the proposed transaction, and may also require the execution of an appropriate bond. (Applications for export license where the value is $50,000 or more shall be accompanied by a copy of the relevant DD form 1513 in cases involving the U.S. Foreign Military Sales program, and by a copy of a firm order or letter of intent in other cases.)

8. In § 123.10, paragraph (d) is revised to read as follows:

§ 123.10 Country of ultimate destination.

* * * * *

(d) Applications for export (form DSP–5) of unclassified significant combat equipment[1] submitted to the Office of Munitions Control shall be accompanied by a "Consignee-Purchaser Transaction Statement" (Form DSP–83) which must be submitted by the foreign importer to the U.S. applicant for export license. (Exports of classified significant combat equipment shall also require form DSP–83 submissions. See § 125.21 of this subchapter.) The Transaction Statement shall provide that, except as specifically authorized by prior written approval of the Department of State, the ultimate consignee (and purchaser if not the same as the ultimate consignee) will not reexport, resell or otherwise dispose of the equipment enumerated in the application outside the country named as the location of the ultimate consignee. The Office of Munitions Control reserves the right to require a Consignee-Purchaser Transaction Statement with respect to the export of any U.S. Munitions List article.

* * * * *

9. In § 123.12, paragraph (g) is amended to read as follows:

§ 123.12 Canadian shipments.

* * * * *

(g) Submersible and oceanographic vessels and related articles as defined in Category XX (a) through (d).

NOTE: The exemption from obtaining export licenses for certain equipment on the U.S. Munitions List destined for Canada shall not exempt shippers from filing Shipper's Export Declarations as required by § 123.53.

10. In § 123.53, paragraph (a) is amended to read as follows:

§ 123.53 Filing of export and intransit licenses, and shipper's export declarations, with district directors of customs.

(a) Prior to the actual shipment of any arms, ammunition and implements of war on the U.S. Munitions List, the license issued therefor shall be filed with the district director of customs at the port where the shipment is made, except for exports by mail (see § 123.54). A person holding a valid license may file it at one port and if necessary make shipment at another port provided the procedural requirements of the Bureau of Customs are followed. A Shipper's Export Declaration (U.S. Department of Commerce Form 7525–V) shall also be filed with, and be authenticated by, the district director of customs before the arms, ammunition, and implements of war are actually shipped for export. The district director of customs shall endorse each license to show the shipments made. Licenses shall be returned by the district director of customs to the Office of Munitions Control, Department of State, upon expiration of the dates stated thereon, or upon the completion of the shipments, whichever first occurs. (If in particular circumstances an export license is not required—e.g., certain equipment destined for Canada—a Shipper's Export Declaration is nevertheless required to be filed with a U.S. customs officer. Such declaration shall certify that the proposed export is covered by a relevant section of these regulations. Certification shall be made by annotating the declaration "22 CFR Part 123 * * * applicable", identifying the section under which an exemption is claimed. A copy of each such declaration shall be mailed immediately by the shipper to the Office of Munitions Control, Department of State, Washington, D.C. 20520.)

* * * * *

PART 124—MANUFACTURING LICENSE AND TECHNICAL ASSISTANCE AGREEMENTS

11. In § 124.10, paragraphs (d) through (m) are amended and a new paragraph (n) is added to read as follows:

§ 124.10 Required information in agreements.

* * * * *

(d) A statement that reads as follows: "This agreement shall not become effective without the prior approval of the Department of State of the U.S. Government."

(e) A statement that reads as follows: "This agreement is subject to all the laws and regulations, and other administrative acts, now or hereafter in effect, of the U.S. Government and its departments and agencies."

(f) A statement that reads as follows: "The parties to this agreement declare that the obligations contained in this agreement shall not affect the performance of any obligations created by prior contracts or subcontracts which the parties may have individually or collectively with the U.S. Government or its departments and agencies."

(g) A statement that reads as follows: "Any use of tooling and facilities which the U.S. Government owns or to which it has the right to acquire title must be authorized by the U.S. Government contracting officer."

(h) A statement that reads as follows: "No liability shall be incurred by or attributed to the U.S. Government in connection with any possible infringements of privately owned patent or proprietary rights, either domestic or foreign, by reason of the U.S. Government's approval of this agreement."

(i) A statement that reads as follows: "The article to be produced under license, including technical data pertaining thereto" (or in the case of a technical assistance agreement only: "The technical data pertaining to the article(s) to be produced") "are not authorized to be directly or indirectly sold, leased, released, assigned, transferred, conveyed, or in any manner disposed of in or to Albania, Bulgaria, Communist China, Cuba, Czechoslovakia, East Germany, Estonia, Hungary, Latvia, Lithuania, North Korea, Outer Mongolia, Poland, Romania, Union of Soviet Socialist Republics, any of the area of Vietnam which is under de facto Communist control, and any other area which is determined by the Department of State to be under Communist control."

(j) [Reserved]

(k) Specific identification of the countries or areas in which manufacturing, production, processing, sale, or other form of transfer is to be licensed.

(l) [Reserved]

(m) (1) With respect to all manufacturing license agreements, a statement that reads as follows: "No export, sale, transfer, or other disposition of the licensed article is authorized to any country outside the territory wherein manufacture or sale is herein licensed without the prior written approval of the U.S. Government."

(2) With respect to manufacturing license agreements for significant combat equipment, the Department may require that the prospective foreign licensee furnish an "Nth Country Control Statement" (Form DSP–83a) to the Office of Munitions Control. The Nth Country Control Statement shall provide that the licensee agrees to ensure that any contract or other transfer arrangement with a recipient of the licensed article in any country within the licensed sales territory will include the following provision:

The recipient shall obtain the approval of the U.S. Government prior to entering into a commitment for the transfer of the licensed article by sale or otherwise to another recipient in the same or any other country in the world.

[At the option of the parties, the obligation of the licensee as provided in the Nth Country Control Statement (Form DSP–83a) may be included in the manufacturing license agreement.]

[The Office of Munitions Control reserves the right to require an Nth Country Control Statement (Form DSP–83a) or a similar undertaking in the license agreement, at the option of the parties, in connection with the foreign manufacture of any U.S. Munitions List article.]

(n) A statement that reads as follows:

(1) It is agreed that sales under contracts made with funds derived through the Military Assistance Program or otherwise through the U.S. Government will not include either (i) charges for patent rights in which the U.S. Government holds a royalty-free license, or (ii) charges for data which the U.S. Government has a right to use and disclose to others, which are in the public domain, or which the U.S. Government has acquired or is entitled to acquire without restrictions upon their use and disclosure to others.

(2) If the U.S. Government is obligated or becomes obligated to pay licensor royalties, fees, or other charges for the use of technical data or patents which are involved in the manufacture, use or sale of any licensed item, any royalties, fees, or other charges in connection with purchases of such licensed item from licensee or its sublicensees with funds derived through the Military Assistance Program or otherwise through the U.S. Government shall in the aggregate be no greater than said obligation.

(3) If the U.S. Government has made financial or other contributions to the design and development of any licensed item, any charges for technical assistance or know-how relating to the item in connection with purchases of such items with funds derived through the Military Assistance Program or otherwise through the U.S. Government shall be proportionately reduced to reflect the U.S. Government contributions and, subject to the provisions of paragraph (2) above, no other royalties, fees or other charges will be assessed against U.S. Government funded purchases of such item. However, charges may be made for reasonable reproduction, handling, mailing, or similar administrative costs incident to the furnishing of such data.

NOTE: Manufacturing license agreements shall contain all of the information and statements in § 124.10 (a) through (n)(3); technical assistance agreements shall contain all of the information and statements in § 124.10 (a) through (l). See § 124.01 to distinguish between types of agreements.

12. In § 124.11, paragraphs (a) and (b) are amended as follows:

§ 124.11 Required information in letters of transmittal.

* * * * *

(a) A statement giving the applicant's Munitions Control registration number.

(b) A statement identifying any U.S. Government contract under which the equipment or technical data was generated, improved, or developed and supplied to the U.S. Government, and whether the equipment or technical data was derived from any bid or other proposal to the U.S. Government.

* * * * *

13. Section 124.20 is revised to read as follows:

§ 124.20 Offshore procurement.

Notwithstanding the other provisions in this Part 124, a person in the United States may conclude manufacturing arrangements for U.S. Munitions List equipment in a foreign country without prior Department of State approval provided:

(a) The arrangement calls for delivery of equipment only for use of the person in the United States or an agency of the U.S. Department of Defense;

(b) The technical data of U.S. origin to be used in the foreign manufacture is unclassified, and has been licensed for export by the Department of State or is subject to one of the exemptions in §§ 125.10, 125.11, or 125.12 of this subchapter;

(c) The foreign manufacture is pursuant to a contract or purchase order between a person in the United States and a foreign person for delivery of equipment only to the person in the United States or to an agency of the U.S. Government anywhere in the world;

(d) The contract or purchase order between a person in the United States and a foreign person:

(1) Limits the use of the technical data to that required by the contract or purchase order;

(2) Prohibits the disclosure of the data to any other person except duly qualified subcontractors for the equipment within the same country;

(3) Prohibits the acquisition of any rights in the data by any foreign person without the approval of the Department of State; and

(4) Provides that any subcontracts between foreign persons in the approved country for manufacture of equipment for delivery pursuant to the contract or purchase order contain all the limitations of this paragraph (d); and

(e) The person in the United States provides the Office of Munitions Control, Department of State, with a copy of each subcontract (or Purchase Order) for offshore procurement at the time it is accepted by both persons. Each such subcontract or purchase order must clearly identify the article to be produced.

PART 125—UNCLASSIFIED TECHNICAL DATA AND CLASSIFIED INFORMATION (DATA AND EQUIPMENT)

14. In § 125.11, paragraph (b) is amended to read as follows:

§ 125.11 General exemptions.

* * * * *

(b) *Plant visits:* Except as restricted by the provisions of § 126.01 of this subchapter:

(1) No license shall be required for the oral and visual disclosure of unclassified technical data during the course of a plant visit by foreign nationals provided the data is disclosed in connection with a classified plant visit or the visit has the approval of a U.S. Government agency having authority for the classification of information or material under Executive Order 10501, as amended, and the requirements of section V, paragraph 40(d) of the Industrial Security Manual are met.

(2) No license shall be required for the documentary disclosure of unclassified technical data during the course of a plant visit by foreign nationals provided the document does not contain technical data as defined in § 125.01 in excess of that released orally or visually during the visit, is within the terms of the approved visit request, and the person in the United States assures that the technical data will not be used, adapted for use, or disclosed to others for the purpose of manufacture or production without the prior approval of the Department of State in accordance with Part 124 of this subchapter.

(3) No Department of State approval is required for the disclosure of oral and visual classified information during the course of a plant visit by foreign nationals provided the visit has been approved by the cognizant U.S. Defense agency and the requirements of section V, paragraph 40(d) of the Defense Industrial Security Manual are met.

15. In § 125.12, paragraph (e) is amended to read as follows:

§ 125.12 Canadian shipments.

* * * * *

(e) Submersible and oceanographic vessels and related articles as defined in Category XX (a) through (d).

* * * * *

16. In § 125.20, paragraph (a) is amended to read:

§ 125.20 Export of unclassified technical data.

(a) *General and visits.* Unless exempted in § 125.10 or § 125.11 of this subchapter, applications for the export or the disclosure of nonexempt unclassified technical data to foreign persons shall be made (by persons in the United States

only) to the Department of State on Form DSP–5, accompanied by five copies of the data. In the case of visits, sufficient details of the proposed discussions shall be transmitted in quintuplicate for an adequate appraisal of the data in question.

• • • • • •

17. Section 125.21 is amended to read as follows:

§ 125.21 Export of classified information (data and equipment).

Unless exempted in § 125.10 or § 125.11, applications (from U.S. citizens only) for approval to export or disclose classified information (data or equipment) to foreign persons shall be submitted to the Department of State on form DSP–85. When the application is for export of classified technical data only it shall be accompanied by five copies of the data to permit an evaluation of whether an export license may be issued. When the application is for export of classified equipment it shall be accompanied by five copies of suitable descriptive information to permit an evaluation of whether an export license may be issued, and form DSP–83 in the case of significant combat equipment (see footnote 3 to § 123.10 (d) of this subchapter). All classified materials accompanying an application shall be treated as required by the Defense Industrial Security Manual, section I, paragraph 5.

PART 126—PROHIBITED SHIPMENTS, TEMPORARY SUSPENSION OR MODIFICATION OF REGULATIONS, EXEMPTIONS, AND RELATION TO OTHER PROVISIONS OF LAW

18. Section 126.04 is amended to read as follows:

§ 126.04 Shipments by U.S. Government agencies.

(a) The export of articles on the U.S. Munitions List by any department or agency of the U.S. Government is not subject to the provisions of section 414 of the Mutual Security Act of 1954, as amended. A license to export such articles, therefore, is not required when (1) all aspects of a transaction (export, carriage, and delivery abroad) are effected by a U.S. Government agency, or (2) actual transfer of possession of U.S. Government-owned articles is effected in the United States by an agency of the U.S. Government to a foreign government or its carrier and no private person or forwarding agent is involved in the export transaction.

(b) A license shall be required when a private person or forwarding agent is involved in any aspect of an export transaction unless the regulations in this subchapter contain a specific exemption from the need for a license under the particular circumstances of the transaction, or the consignor, consignee, and intermediate consignee (if any) are agencies of the U.S. Government and the export is covered by a U.S. Government Bill of Lading.

(c) This section does not authorize any Government department or agency to export any items listed in § 121.01 of this subchapter which are subject to restrictions by virtue of other statutory provisions.

Effective date. These amendments and revisions are effective upon publication in the FEDERAL REGISTER (11–2–71), except meteorological sounding rockets, filament winding machines, and non-irritant smoke and other pyrotechnic materials having dual military and commercial use shall not be removed from the export controls of the Department of State until November 1, 1971.

(Sec. 414, as amended, 68 Stat. 848; 22 U.S.C. 1934; secs. 101, 105, E.O. 10973, 26 F.R. 10469; sec. 6, Departmental Delegation of Authority No. 104, 26 F.R. 10608, as amended, 27 F.R. 9925; Redelegation of Authority No. 104–3–A, 28 F.R. 7231; Redelegation of Authority No. 104–7, 35 F.R. 5243; Redelegation of Authority No. 104–7–A, 35 F.R. 5423, 5424)

Dated: October 18, 1971.

[SEAL] WILLIAM P. ROGERS,
Secretary of State.

[FR Doc.71–15924 Filed 11–1–71;8:52 am]

Title 24—HOUSING AND HOUSING CREDIT

Chapter VII—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Eligible Communities

Section 1914.4 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1914.4 List of eligible communities.

• • • • • • • • •

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
• • •	• • •	• • •	• • •	• • •	• • •	• • •
Florida	Brevard	Indialantic				Oct. 29, 1971.
Do.	Palm Beach	Jupiter				Do.
Do.	Broward	Wilton Manors				Do.
Georgia	Fulton	Unincorporated areas.	I 13 121 0000 15 through I 13 121 0000 48	Bureau of State Planning and Community Affairs, 270 Washington St. SW., Atlanta, GA. 30334. Georgia Insurance Department, State Capitol, Atlanta, GA 30334.	Fulton County Planning Department, Room 305, 165 Central Ave. SW., Atlanta, GA 30303.	
Indiana	Marion	Indianapolis				Do.
Kentucky	Harlan	Harlan				Do.
Missouri	Clay	North Kansas City.				Do.
Do.	Mercer	Princeton				Do.
Do.	Greene	Springfield				Do.
New York	Rockland	Town of Ramapo (unincorporated areas) and Village of Spring Valley.				

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
North Dakota	Ward	Unincorporated areas.	I 38 101 0000 01 through I 38 101 0000 30	State Water Commission, Bismarck, N. Dak. 58501. North Dakota Insurance Department, State Capitol, Bismarck, N.D. 58501.	Office of the County Building Inspector, Ward County Courthouse, Minot, N. Dak. 58701.	Oct. 29, 1971
Pennsylvania	Berks	Reading				Do.
Do.	Bucks	Solebury Township.				Do.
Do.	Dauphin	Susquehanna Township.				Do.
Do.	Perry	Wheatfield Township.				Do.
Texas	Cameron	Port Isabel				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: October 27, 1971.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.71–15866 Filed 11–1–71;8:45 am]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas.

• • • • • • • • •

State	County	Location	Iap No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
• • •	• • •	• • •	• • •	• • •	• • •	• • •
Florida	Brevard	Indialantic				Oct. 29, 1971.
Do.	Palm Beach	Jupiter				Do.
Do.	Broward	Wilton Manors				Do.
Georgia	Fulton	Unincorporated areas.	H 13 121 0000 15 through H 13 121 0000 48	Bureau of State Planning and Community Affairs, 270 Washington St. SW., Atlanta, GA 30334. Georgia Insurance Department, State Capitol, Atlanta, GA 30334.	Fulton County Planning Department, Room 306, 165 Central Ave. SW., Atlanta, GA 30303.	Nov. 20, 1970.
Indiana	Marion	Indianapolis				Oct. 29, 1971.
Kentucky	Harlan	Harlan				Do.
Missouri	Clay	North Kansas City.				Do.
Do.	Mercer	Princeton				Do.
Do.	Greene	Springfield				Do.
New York	Rockland	Town of Ramapo (unincorporated areas) and Village of Spring Valley.				Do.
North Dakota	Ward	Unincorporated areas.	H 38 101 0000 01 through H 38 101 0000 30	State Water Commission, Bismarck, N. Dak. 58501. North Dakota Insurance Department, State Capitol, Bismarck, N. Dak. 58501.	Office of the County Building Inspector, Ward County Courthouse, Minot, N. Dak. 58701.	Mar. 11, 1970 and Apr. 8, 1971.
Pennsylvania	Berks	Reading				Oct. 29, 1971.
Do.	Bucks	Solebury Township.				Do.
Do.	Dauphin	Susquehanna Township.				Do.
Do.	Perry	Wheatfield Township.				Do.
Texas	Cameron	Port Isabel				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: October 27, 1971.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.71–15867 Filed 11–1–71;8:45 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7149]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Limitation on Dividends Received Deduction for Mutual Savings Banks, Building and Loan Associations, and Cooperative Banks

On August 20, 1970, notice of proposed rule making with respect to the limitation on the dividends received deduction for mutual savings banks, building and loan associations, and cooperative banks was published in the FEDERAL REGISTER (35 F.R. 13289). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the following amendment is adopted.

In order to prescribe regulations under section 596 of the Internal Revenue Code of 1954, as added by section 434(a) of the Tax Reform Act of 1969 (Public Law 91-172, 83 Stat. 624), the Income Tax Regulations (26 CFR Part 1) are amended as follows:

The following sections are added immediately after § 1.595-1:

§ 1.596 Statutory provisions; limitation on dividends received deduction.

SEC. 596. *Limitation on dividends received deduction.* In the case of an organization to which section 593 applies and which computes additions to the reserve for losses on loans for the taxable year under section 593(b)(2), the total amount allowed under sections 243, 244, and 245 (determined without regard to this section) for the taxable year as a deduction with respect to dividends received shall be reduced by an amount equal to the applicable percentage for such year (determined under subparagraphs (A) and (B) of section 593(b)(2)) of such total amount.

(Sec. 596 as added by sec. 434(a), Tax Reform Act 1969 (83 Stat. 624))

§ 1.596-1 Limitation on dividends received deduction.

(a) *In general.* For taxable years beginning after July 11, 1969, in the case of mutual savings banks, domestic building and loan associations, and cooperative banks, if the addition to the reserve for losses on qualifying real property loans for the taxable year is determined under section 593(b)(2) (relating to the percentage of taxable income method), the total amount allowed as a deduction with respect to dividends received under part VIII, subchapter B, chapter 1, subtitle A of the Code (section 241 et seq.) (determined without regard to section 596 and this section) for such taxable year is reduced as provided by this section. In such case, the dividends received deduction otherwise determined under part VIII, subchapter B, chapter 1, subtitle A of the Code, is reduced by an amount equal to the applicable percentage for such year (determined solely under subparagraphs (A) and (B) of section 593(b)(2) and the regulations thereunder) of such total amount. For the rule under which a mutual savings bank, domestic building and loan association, or cooperative bank is deemed to have determined the addition to its reserve for losses on qualifying real property loans for the taxable year under section 593(b)(2), see § 1.593-6A(a)(2).

(b) *Example.* The provisions of this section may be illustrated by the following example:

Example. X Corporation, a domestic building and loan association, determines the addition to its reserve for losses on qualifying real property loans under section 593(b)(2) for its taxable year beginning in 1971. During that taxable year, X Corporation received a total of $100,000 as dividends from domestic corporations subject to tax under chapter 1 of the Code. X Corporation received no other dividends during the taxable year. Under part VIII, subchapter B, chapter 1, subtitle A of the Code, a deduction, determined without regard to section 596 and this section, of $85,000 would be allowed with respect to the dividends. For the taxable year, the applicable percentage, determined under subparagraphs (A) and (B) of section 593(b)(2), is 54 percent. Under section 596 and this section, the amount allowed as a deduction under section 243 and the regulations thereunder is reduced by $45,900 (54 percent of $85,000) to $39,100 ($85,000 less $45,900).

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805; sec. 434(a), Tax Reform Act of 1969, Public Law 91-172, 83 Stat. 624)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: October 27, 1971.

EDWIN S. COHEN,
Assistant Secretary of the Treasury.

[FR Doc.71-15866 Filed 11-1-71;8:46 am]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER M—MISCELLANEOUS

PART 275—PRECISE TIME AND TIME INTERVAL (PTTI) STANDARDS AND CALIBRATION FACILITIES FOR USE BY DEPARTMENT OF DEFENSE COMPONENTS

The Deputy Secretary of Defense approved the following revision to Part 275:

Sec.
275.1 Purpose and applicability.
275.2 Definitions.
275.3 Policy.
275.4 Responsibilities.
275.5 Delineation of functions.

AUTHORITY: The provisions of this Part 275 issued under 5 U.S.C. 301, 552.

§ 275.1 Purpose and applicability.

This part establishes policy and assigns responsibility to a single Department of Defense Component for establishing, coordinating, and maintaining capabilities for time and time interval (astronomical and atomic) for use by all DOD Components, DOD contractors, and related scientific laboratories.

§ 275.2 Definitions.

For purposes of this part, the following definitions will apply.

(a) "Time" signifies epoch, that is, the designation of an instant on a selected time scale, astronomical or atomic. It is used in the sense of time of day.

(b) "Time Interval" indicates the duration of a segment of time without reference to when the time interval begins and ends. Time interval may be given in seconds of time.

(c) "Standards" signifies the reference values of time and time interval. These standards are determined by astronomical observation and by the operation of atomic clocks. They are disseminated by transport of clocks, radio transmissions, and by other means.

(d) "Precise frequency" signifies a frequency requirement to within one part in 10^9 of an established time scale.

(e) "Precise time" signifies a time requirement within 10 milliseconds.

§ 275.3 Policy.

(a) Resources for uniform and standard time and time interval operations and research shall be the responsibility of a single DOD Component.

(b) The maximum practicable interchange of time and time interval information shall be effected throughout the DOD.

(c) Maximum practical utilization of interservice support will be achieved as prescribed in Department of Defense Directive 4000.19, "Basic Principles for Interservice and Interdepartmental Logistic Support," August 5, 1967.[1]

§ 275.4 Responsibilities.

(a) The U.S. Naval Observatory (hereafter referred to as the "Observatory") is assigned the responsibility for insuring:

(1) Uniformity in precise time and time interval operations including measurements.

(2) The establishment of overall DOD requirements for time and time interval.

(3) The accomplishment of objectives requiring precise time and time interval with minimum cost.

(b) In carrying out the above responsibilities, the Observatory shall:

(1) Derive and maintain standards of time and time interval, both astronomical and atomic.

(2) Provide coordination of such standards with recognized national and international standards to insure worldwide continuity of precision.

(3) Monitor conferences concerning time and time interval standards.

(4) Advise and provide guidance to DOD Components, contractors and scientific laboratories on matters concerning time and time interval, and their measurement.

(c) All DOD Components which require, utilize, or distribute time and time interval information or have a need for a specific time scale shall:

(1) Refer time and time interval to the standards established by the Observatory.

(2) Maintain specific time scales such that relationship to the standard established by the Observatory is known.

(3) Prescribe technical requirements for the coordination of techniques, procedures and periodic calibrations of systems.

(4) Promote economy by prescribing requirements for precise time that are consistent with operational and research needs for accuracy.

§ 275.5 Delineation of functions.

(a) The Observatory is the single DOD Component responsible for PTTI management control functions. This responsibility encompasses overall activities requiring time to within ten milliseconds and frequency to within one part in 10^9 of an established time scale. In carrying out these PTTI functions on a common-servicing basis, the Observatory will:

(1) Issue detailed information concerning reference values for PTTI and distribute them by means of controlled radio transmissions and portable atomic clocks.

(2) Promote (i) operational uniformity of PTTI functions, including measurements; (ii) establishment of overall DOD PTTI requirements; and (iii) accomplishment of objectives requiring PTTI at minimum cost.

(3) Monitor DOD research programs concerning PTTI (frequency), in coordination with the Office of the Director of Defense Research and Engineering.

(4) Review (i) existing and future PTTI (frequency) requirements of the DOD user components in order to establish overall DOD requirements and to provide adequate supporting services; and (ii) existing PTTI operations conducted by DOD user components to provide guidance and recommendations to the Assistant to the Secretary of Defense (Telecommunications).

(5) Establish relationships between the DOD and other Federal Government agencies on PTTI matters.

(6) Provide advice and guidance concerning requests for unilateral PTTI (frequency) programs at the direction of Assistant to the Secretary of Defense (Telecommunications).

(7) Participate in PTTI policy negotiations between the DOD and other Federal Government agencies and international organizations.

(8) Maintain records of PTTI (frequency) arrangements between the DOD and its contractors and other Federal Government agencies, with the exception of radio frequency assignments.

(b) DOD user components:

(1) DOD Components presently conducting Precise Time and Time Interval operations and research may continue these activities unless otherwise instructed by the Assistant to the Secretary of Defense (Telecommunications).

(2) The Military Departments will assist the Observatory by (i) providing technical information on current and prospective programs involving PTTI applications; and (ii) distributing, monitoring and controlling PTTI services on request, subject to the provisions of this Part and the availability of funds.

(c) DOD User Components and contractors will:

(1) Consult the Observatory on any technical and logistic problems arising from obtaining a particular accuracy through radio transmissions and portable atomic clocks.

(2) Use DOD-controlled transmissions to the maximum extent practicable. Other transmissions of time and frequency which have been coordinated with the Observatory may be used when DOD transmissions do not provide adequate coverage.

(3) Refer measurements and contract specifications to DOD standards determined by the Observatory.

(4) Use techniques and procedures described in information documents issued by the Observatory in all cases where such documents satisfy the need.

(5) Notify the Observatory of:

(i) Existing and planned PTTI requirements, including information as to accuracy and stability of needs, measurement techniques planned or in operation, and continuity of service required of the applicable distribution transmission.

(ii) PTTI (frequency) arrangements between DOD user components and contractors and other Federal Government agencies (see (a)(8) of this section); and

(iii) Scheduled scientific and technical meetings on PTTI (frequency).

(6) Consult the Observatory prior to entering into contracts for equipment, research, studies, or services involving PTTI (frequency) in order that maximum use of existing facilities may be assured.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division OASD (Administration).

[FR Doc.71-15891 Filed 11-1-71;8:52 am]

[1] Filed as part of original. Copies available from U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120, Attention: Code 300.

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Blue Ridge Parkway, Virginia-North Carolina; Commercial Bus Use

A proposal was published at page 7859 of the FEDERAL REGISTER of April 27, 1971, to delete paragraphs (g)(3), (4), and (5) and amend paragraphs (g)(1) and (2) of § 7.34 of Title 36 of the Code of Federal Regulations. The effect of the amendment is to delete and amend provisions of the present regulations covering bus travel on Blue Ridge Parkway so as to permit broader use of the Parkway by commercial buses.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed amendment. Consideration having been given to all relevant matters presented, it has been determined that the amendment should be and is hereby adopted without change and is set forth below. These amendments shall take effect 30 days following the date of publication in the FEDERAL REGISTER.

Paragraphs (g)(3), (4), and (5) of § 7.34 are deleted in their entirety.

Paragraphs (g)(1) and (2) of § 7.34 are amended to read as follows:

§ 7.34 Blue Ridge Parkway.

* * * * *

(g) *Commercial automobiles and buses.* (1) Commercial passenger carrying buses shall be admitted to the Blue Ridge Parkway by special written permit from the Superintendent or his representative.

(2) The Superintendent shall issue special commercial bus permits upon satisfactory showing that the following standards have been met:

(i) The maximum loaded weight of the bus must not exceed 35,000 lbs. and must meet other restrictions as to weight and road conditions as detailed in paragraphs (f)(2) and (3) of this section.

(ii) The bus must comply with all applicable Federal and State standards as to safety and common carrier regulations.

(iii) The vehicle is subject to inspection by the Superintendent or his duly authorized representative at entrance points to the Parkway or at any location en route for compliance with the above stated regulations.

(iv) Permits may be obtained by written application to the Superintendent, or by applying in person to his authorized representatives in the field areas.

(3) [Revoked]

(4) [Revoked]

(5) [Revoked]

* * * * * *

(5 U.S.C. 553; 39 Stat. 535; 16 U.S.C. 3)

DAVID D. THOMPSON,
Director, Southeast Region.

[FR Doc.71-15919 Filed 11-1-71;8:49 am]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans' Administration

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

DOCUMENTATION OF MARRIAGE AND BIRTH

These amendments provide for a less formal type of proof of marriage and

birth in certain compensation, pension, dependency and indemnity compensation, and education benefits cases.

1. In § 3.205, the introductory portion of paragraph (a) preceding subparagraph (1) is amended to read as follows:

§ 3.205 Marriage.

(a) *Proof of marriage.* The certified statement of a veteran as to the material facts of his marriage, solemnized in accordance with the laws of the jurisdiction, each party not having been previously married, will be accepted for this purpose in the absence of information to the contrary. The certified statement of a person claiming as widow, as to the material facts of her marriage to the veteran, solemnized in accordance with the laws of the jurisdiction, each party not having been previously married, will be accepted for this purpose if corroborated in a material part by a statement made by the veteran in connection with a claim for benefits and if uncontradicted by other information. In all other instances the marriage should be established by one of the following types of evidence:

* * * * *

2. In § 3.209, the introductory portion preceding paragraph (a) is amended to read as follows:

§ 3.209 Birth.

The certified statement of a veteran as to the material facts of birth of a child of his marriage will be accepted as proof of age and relationship in the absence of information to the contrary. The certified statement of the other parent as to the material facts of birth of a child of a deceased veteran will be accepted as proof of age and relationship if uncontradicted by other information and if corroboration as to the child's identity or existence is supplied by a statement or assertion made by the veteran in connection with a claim for benefits. In all other cases the issues will be resolved by one of the types of evidence listed in paragraphs (a) through (g) of this section. Where the evidence submitted in proof of age or relationship indicates a difference in the name of the person as shown by other records, the discrepancy will be reconciled by an affidavit or certified statement identifying the person having the changed name as the person whose name appears in the evidence of age and relationship:

* * * * *

(72 Stat. 1114; 38 U.S.C. 210)

These VA regulations are effective the date of approval.

Approved: October 27, 1971.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[FR Doc.71-15929 Filed 11-1-71;8:52 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 14—Department of the Interior

MISCELLANEOUS AMENDMENTS TO CHAPTER

Pursuant to the authority of the Secretary of the Interior, contained in 5 U.S.C. 301, Parts 14–1, 14–2, 14–3, 14–6, and 14–7 of Chapter 14, Title 41 of the Code of Federal Regulations are hereby amended as set forth below.

It is the general policy of the Department of the Interior to allow time for interested parties to take part in the rule making process. However, the amendments and revisions contained herein are minor and entirely administrative in nature. Therefore, the public rule making process is waived and these changes will become effective upon publication in the FEDERAL REGISTER (11–2–71).

WARREN F. BRECHT,
Deputy Assistant Secretary of the Interior.

OCTOBER 26, 1971.

PART 14–1—GENERAL

Subpart 14–1.3—General Policies

1. The title of § 14–1.305–51 as set forth below is substituted for the heading "Index to Federal Specifications and Standards."

§ 14–1.305 Specifications.

§ 14–1.305–51 Index of Federal Specifications and Standards.

* * * * *

2. Subpart 14–1.3 is amended by the addition of § 14–1.318 and § 14–1.318–1.

§ 14–1.318 Disputes clause.

§ 14–1.318–1 Contracting officer's decision under a Disputes clause.

(a) It is the policy of the Department of the Interior for all contracting officers to consult with the Office of the Solicitor, either at its headquarters, regional or field office, to the maximum extent practicable, whenever a disagreement which may be within the Disputes clause of a contract has arisen, or appears to the contracting officer likely to arise.

(b) When a dispute cannot be settled by agreement, the contracting officer shall review the available facts pertinent to the dispute before making his final decision. When there is any doubt whether the disputes procedure is applicable, a final decision will be made pursuant to the Disputes clause. The disputes procedure shall not be invoked in cases when a dispute is clearly not subject to the procedure. The contracting officer shall obtain all necessary advice and assistance, but the final decision must be his own.

(c) The final decision should include a statement of facts sufficient to enable the contractor to understand both the decision and the basis therefor. Normally, the decision should be in the form of a statement of the claim or other description of the nature of the dispute, with necessary references to pertinent contract provisions; a statement of the facts relevant to the dispute to which the parties agree upon and, as clearly as possible, the area of disagreement; and the contracting officer's statement of his decision and the basis therefor.

(d) The contracting officer shall decide all questions subject to the disputes procedures as to which he has the authority to act.

(e) Each final decision of the contracting officer pursuant to the procedure of a Disputes clause shall include a paragraph substantially as follows:

> This decision is made in accordance with the Disputes clause and shall be final and conclusive as provided therein, unless, within 30 days from the date of receipt of this decision, a written notice of appeal (in triplicate) addressed to the Secretary of the Interior is mailed or otherwise furnished to the Contracting Officer. The notice of appeal, which is to be signed by you as the Contractor or by an attorney acting on your behalf, and which may be in letter form, should indicate that an appeal is intended, should refer to this decision, and should identify the contract by number. The notice of appeal may include a statement of the reasons why the decision is considered to be erroneous. The Interior Board of Contract Appeals is the authorized representative of the Secretary of the Interior for hearing and determining such disputes. The Rules of the Interior Board of Contract Appeals may be found in 43 CFR, Subtitle A, Part 4.

(f) After an appeal has been filed, contracting agencies are not precluded from further seeking agreement as to disposition of the controversy. However, such efforts to dispose of a controversy shall not be conducted pursuant to formal board actions or hearings, and shall not result in suspension of processing of an appeal, except as ordered or authorized by the Interior Board of Contract Appeals.

(g) In the event of an appeal, the amount determined to be payable in the decision of the contracting officer, less any portion previously paid, normally should be paid in advance of any decision by the Board without prejudice to the rights of either party on the appeal.

(h) Decisions of the Interior Board of Contract Appeals constitute decisions of the Secretary of the Interior. It is expected that decisions favorable to the appellant in whole or in part will be promptly implemented by payment at the contracting officer level. In cases where the question of entitlement only has been decided by the Board and the matter of amount has been remanded to the parties for negotiation, if agreement is not reached, appellant will be afforded a prompt decision and opportunity to appeal on the matter of amount.

(i) Any written communication from a contractor indicating a desire to have a review of a final decision of the contracting officer shall be considered as an appeal and shall be processed as an appeal in accordance with the rules of the Interior Board of Contract Appeals. Copies of the written communication from the contractor and the transmittal to the Board of Contract Appeals shall be forwarded to the Associate Solicitor, Procurement and Patents.

3. The title of § 14–1.706 as set forth below is substituted for the heading "Procurement set-aside for small business."

§ 14–1.706 Procurement set-asides for small business.

* * * * *

PART 14–2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 14–2.2—Solicitation of Bids

1. The title of § 14–2.201 as set forth below is substituted for the heading "Preparation of invitation for bids."

§ 14–2.201 Preparation of invitations for bids.

* * * * *

2. The title of § 14–2.207 as set forth below is substituted for the heading "Amendments of invitations for bids."

§ 14–2.207 Amendment of invitations for bids.

* * * * *

3. The § 14–2.405 as set forth below is inserted immediately preceding § 14–2.405–50 *Other irregularities in bids.*

§ 14–2.405 Minor informalities or irregularities in bids.

* * * * *

4. The title of § 14–2.406–4 as set forth below is substituted for the heading "Disclosure of mistake after award."

§ 14–2.406–4 Disclosures of mistakes after award.

* * * * *

5. Section 14–2.407–1 is revised to read as follows:

§ 14–2.407–1 General.

At least 72 hours (48 hours for contracts between $10,000 and $1 million) prior to any other announcement regarding the proposed date of award of any contract of $1 million or more, the following information shall be furnished simultaneously to the Assistant Secretary having jurisdiction over the bureau or office making the award and the Director of Congressional Liaison:

(a) Name and street address of contractor.

(b) Complete description in laymen terms of items or services involved and exact location of contract performance.

(c) Small business or distressed labor area preference given to successful bidder, if applicable.

(d) Proposed date of award.

(e) Contract value.

Contract amendments exceeding $10,000 and providing for a fundamental alteration in the project are subject to the above requirements.

PART 14–3—PROCUREMENT BY NEGOTIATION

1. The above appearing title of Part 14–3 is substituted for the heading "Circumstances Permitting Negotiation."

Subpart 14–3.1—Use of Negotiation

2. Section 14–3.103 is amended by addition of the following:

§ 14–3.103 Dissemination of procurement information.

* * * The requirements of § 14–2.407–1 relative to advance notices required prior to making contract award shall apply to negotiated contracts.

Subpart 14–3.2—Circumstances Permitting Negotiation

3. The title of § 14–3.212 as set forth below is substituted for the heading "Purchase not to be publicly disclosed."

§ 14–3.212 Purchases not to be publicly disclosed.

* * * * *

4. The title of § 14–3.214 as set forth below is substituted for the heading "Negotiations after advertising."

§ 14–3.214 Negotiation after advertising.

* * * * *

Subpart 14–3.6—Small Purchases

5. The title of § 14–3.603 as set forth below is inserted immediately preceding § 14–3.603–1 *Solicitation.*

§ 14–3.603 Competition.

* * * * *

PART 14–6—FOREIGN PURCHASES

Subpart 14–6.1—Buy American Act—Supply and Service Contracts

1. The title of § 14–6.104 as set forth below is inserted immediately preceding § 14–6.104–3 *Certificate.*

§ 14–6.104 Procedures.

* * * * *

PART 14–7—CONTRACT CLAUSES

Subpart 14–7.6—Fixed-Price Construction Contracts

1. The title of § 14–7.602 as set forth below is inserted immediately preceding § 14–7.602–50 *Additional contract clauses.*

§ 14–7.602 Additional standardized clauses.

* * * * *

2. The title of § 14–7.602–50(2) as set forth below is substituted for the heading "Bonding of subcontractor."

§ 14–7.602–50(2) Bonding of subcontractors.

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[FR Doc.71-15937 Filed 11-1-71;8:53 am]

Chapter 15—Environmental Protection Agency

PART 15–1—GENERAL

Subpart 15–1.3—General Policies

Subpart 15–1.3 is hereby added to Chapter 15, Title 41, of the Code of Federal Regulations.

Effective date. This regulation will become effective on the date of publication in the FEDERAL REGISTER (11–2–71).

Dated: October 28, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator.

Subpart 15–1.3—General Policies

Sec.
15–1.318 Disputes clause.
15–1.318–1 Contracting officer's decision under a disputes clause.

AUTHORITY: The provisions of this Subpart 15–1.318 issued under 40 U.S.C. 486(c), sec. 205(c), 63 Stat. 377, as amended.

§ 15–1.318 Disputes clause.

§ 15–1.318–1 Contracting officer's decision under a disputes clause.

(a) *Action prior to issuance of a final decision.* (1) In resolving a dispute, the contracting officer must understand that the Environmental Protection Agency (EPA) does not seek litigation as an end in itself. The contracting officer should consider the advisability of attempting to mediate the dispute or hear out the contractor through discussion meetings or other means. The contracting officer is required to effect the prompt determination of disputes arising out of the performance of contracts. He is required to give his personal and independent consideration to the making of each determination or decision with the aid of such technical and legal advice as may be necessary. He must not base his decision on summary advice from members of his legal, technical, and administrative team, since the decision must be the result of the independent judgment and discretion of the contracting officer. He must obtain and study all the facts which bear upon the issue before him. He must insist that his advisors in technical areas give him concrete advice on how to decide and present him with a detailed, understandable statement of the reasoning process by which they arrive at their conclusions.

(2) When a dispute cannot be resolved by agreement, the contracting officer should prepare a final decision on the matter in dispute. The decision should include the allegations made by the contractor, the specific findings of fact which form the basis for the decision, and a terminal paragraph substantially as prescribed in FPR 1–1.318–1. The contracting officer should insure

that the contract file includes the following information:

(i) The complete contract including all amendments, supplemental agreements and change orders, pertinent plans, specifications and drawings, and all pertinent preaward papers;

(ii) All correspondence and memoranda, and minutes of meetings or telephone conversations pertinent to the dispute;

(iii) The names and addresses of all persons, including contractor personnel, if known, having information concerning the facts in dispute;

(3) Any additional information or advice which the contracting officer considered in forming his decision, including such items as interoffice memoranda, sample photographs, and inspection, audit and financial reports.

(b) *Issuance of final decision.* (1) The finality of a final decision under FPR 1–1.318–1 depends upon the contracting officer's compliance with the regulations. If a TWX is used, it should be a complete final decision containing the terminal paragraph substantially as prescribed by FPR 1–1.318–1. The final decision should be promptly mailed to the contractor by certified mail, return receipt requested.

(2) Since the Board's jurisdiction of an appeal depends upon contractor's mailing or otherwise furnishing a notice of appeal within 30 days following receipt by the contractor of the final decision, the contracting officer shall preserve proof of the date of contractor's receipt of the final decision and of the date of mailing, furnishing or filing of the notice of appeal. Thus, the contracting officer should preserve the return receipt covering the final decision, and the postmarked envelope in which the notice of appeal was received, and if the notice was furnished in some way other than mailing, the contracting officer should endorse on the document the date of receipt.

(c) *Prohibition of preliminary final decisions.* Contracting officers and their duly authorized representatives are cautioned against the practice of using "preliminary final decisions," when the proper course is a final decision by the contracting officer. "Preliminary final decisions" generally act in favor of the contractor and give him valuable time in which to study the Government position and to develop rebuttals. A final decision by the contracting officer obligates the contractor to decide within 30 days whether he will appeal. This is the prudent and prompt method of disposal of claims and potential disputes. Final decisions may be made only by authorized contracting officers; other personnel, unless expressly authorized, may not increase or decrease the contractual obligations of the contractor or of the Government.

(d) *Use of Interior Board of Contract Appeals.* Pursuant to an interagency agreement (EPA–IAG–0002(R)) between the EPA and the Department of the Interior Board of Contract Appeals (IBCA), the IBCA will hear appeals from final decisions of EPA contracting officers issued pursuant to the disputes clause in EPA contracts. The rules and regulations of the IBCA appear in 43 CFR Part 4.

(e) *Action upon receipt of notice of appeal.* (1) When a notice of appeal in any form has been received by the contracting officer, he shall endorse thereon the date of mailing (or the date of receipt if the notice was otherwise conveyed) and within 5 days shall forward said notice of appeal to the IBCA by certified mail. The notice will be accompanied by a letter of transmittal stating the financial codes to be used by the Department of the Interior in billing EPA for services of the IBCA. At the same time, he shall telephonically notify the Assistant General Counsel, Grants and Procurement, that the appeal has been received so that Government counsel may be appointed.

(2) Notice of appeal, whether filed within the time prescribed by the "Disputes" clause or not, will be submitted to the IBCA. The contracting officer will forward promptly every notice of appeal to IBCA even if the intention to appeal is only vaguely or indirectly expressed, and regardless of the form of the notice, or of the method by which the notice was furnished to the contracting officer.

(3) Copies of the notice of appeal will be sent simultaneously to the Contracts Policy and Review Branch, Contracts Management Division and to the Assistant General Counsel, Grants and Procurement.

(f) *Duties of the contracting officer—appeal file.* (1) Following receipt of a notice of appeal, or advice that an appeal has been filed, the contracting officer shall promptly compile the appeal file (copies of all documents pertinent to the appeal), and three duplicate appeal files. The file shall include the following:

(i) The findings of fact and the decision from which the appeal is taken, and the letter or letters or other documents of claim in response to which the decision was issued;

(ii) The contract, and pertinent plans, specifications, amendments, and change orders;

(iii) Correspondence between the parties and other data pertinent to the appeal;

(iv) Transcripts of any testimony taken during the course of proceedings and affidavits, or statements of any witnesses on the matter in dispute made prior to the filing of the notice of appeal with the Board;

(v) Such additional information as may be considered material.

(2) In addition to the above, the contracting officer will prepare an index listing each document included in the file submitted to the IBCA, and place copies of such index in the submission and duplicate files.

(3) Contracting Officers, in making the submission, may not submit original documents which are a part of the official contract file. Copies of the pertinent documents will be submitted.

(4) Within 15 days of receipt or advice of a notice of appeal the official and two duplicate files will be forwarded through the Contracts Management Division to the Assistant General Counsel, Grants and Procurement, who will review the file and will forward the official appeal file to the IBCA within the 35-day time limitation set forth in 43 CFR 4.103(b). One duplicate file will be retained by the contracting officer, one by the Contracts Management Division, and one by the Assistant General Counsel.

(5) If for any reason the contracting officer anticipates that he cannot make a timely submission, he will immediately advise the Assistant General Counsel, Grants and Procurement by telephone of the extent of the anticipated delay and the reasons therefor. However, every effort will be exerted to make timely submissions.

(6) At the time of transmittal of the appeal file to the Board, the Assistant General Counsel, Grants and Procurement, shall notify the appellant of the transmittal, provide him with a listing of its contents, and afford him an opportunity to examine the file at the office of the contracting officer, at the office of the IBCA, or at some other suitable EPA office, for the purpose of satisfying himself as to the contents, and furnishing or suggesting any additional documentation deemed pertinent to the appeal. With his transmittal to the IBCA, the Assistant General Counsel, Grants and Procurement, shall certify that the appellant has been provided with the above-described listing.

(g) *Relations with Government counsel.* Contracting officers are reminded that they must cooperate fully with the Government Counsel assigned to handle the case before the Board. The Government Counsel is the contracting officer's lawyer. It is especially important to advise Counsel of all pertinent evidence regardless of the effect it may have on the Government's case. No trial lawyer can be very effective if he learns of an embarrassing fact from his adversary during the hearing before the Board.

(h) *Implementation—Adverse board decisions.* Pursuant to Comptroller General Decision B–125096, September 9, 1963 (43 Comp. Gen. 231), contract modifications or releases given by the Government resulting from contract appeal board decisions adverse to the Government's position shall include the following provision:

"*Provided, however,* That this instrument is not binding if the decision of the Interior Board of Contract Appeals, on which it is based, is later found to be in violation of the standards set forth in the Wunderlich Act (41 U.S.C. 321)."

[FR Doc.71–18963 Filed 11–1–71;8:48 am]

Title 45—PUBLIC WELFARE

Chapter VIII—Civil Service Commission

PART 801—VOTING RIGHTS PROGRAM

Appendix A; Mississippi

Appendix A to Part 801 is amended as set out below to show, under the heading "Dates, Times, and Places for Filing," one additional place for filing in Mississippi:

Mississippi	
County; Place for filing; Beginning date	
• • • • •	
Yazoo; Yazoo City, 100 South Main Street;	November 2, 1971.

(Secs. 7 and 9 of the Voting Rights Act of 1965; Public Law 89–110)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71–16039 Filed 11–1–71;9:53 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 18632; FCC 71–1044]

STATIONS OF THE MARITIME SERVICES IN ALASKA

Report and Order

In the matter of amendment of Parts 81 and 83 and the deletion of Part 85 to establish for the State of Alaska a schedule of dates, technical standards, frequencies and other requirements for the use of radiotelephony, radiotelegraphy and single sideband emissions on frequencies below 4,000 kHz, for the maritime services in Alaska, and below 12,000 kHz for Alaska-public fixed stations, and to make other incidental rule changes.

1. A notice of proposed rule making in the above-captioned matter was released on August 25, 1969, and was published in the FEDERAL REGISTER on August 30, 1969 (34 F.R. 13929). By its Order released September 26, 1969, and published in the FEDERAL REGISTER on October 2, 1969 (34 F.R. 15366), the Commission granted an extension of time in which to file comments. By its Order released October 30, 1969, and published in the FEDERAL REGISTER on November 5, 1969 (34 F.R. 17916), the Commission granted a further extension of time in which to file comments. The dates for filing comments and replies have passed.

2. Comments were filed by: Alaska State Federation of Fishermen's Associations (AFFA), American Institute of Merchant Shipping (AIMS), Association of Pacific Fisheries, Inc. (APF), Central Committee on Communication Facilities of the American Petroleum Institute (API), Collins Radio Co. (Collins), Foss Launch & Tug Co. (Foss), National Marine Electronics Association, Inc. (NMEA), New England Fish Co. (NEFC), Northern Radio Co. (NRC), Northern Pacific Marine Radio Council, Inc. (NPMRC), Northwest Instrument Co. (NIC), Peter Pan Seafoods, Inc. (PPS), Raytheon Co. (Raytheon), RCA Alaska Communications, Inc. (RCA), Service Electric Co., Inc. (SECO), Tug Communications, Inc. (TUG), and United States Power Squadrons (USPS).

3. The Commission initiated three dockets (Nos. 18307, 18632, and 18633) regarding schedule of dates, technical standards, frequencies and other requirements for the use of single sideband (SSB) radiotelephony on frequencies below 4000 kHz in the Maritime Services. The reason for three separate dockets was merely recognition of possible regional differences in maritime operational requirements. Docket No. 18307 pertained to the 48 contiguous States plus Hawaii, Puerto Rico, and the island territories. Docket No. 18633 pertained to the Great Lakes and Docket No. 18632, the instant proceeding, pertained to the Alaska area. The first report and order in Docket No. 18307, released June 16, 1969, and in Docket No. 18633, released June 28, 1971, 36 F.R. 12502, finalized for those areas all aspects of the transition to SSB on frequencies below 4000 kHz, except that the matter of specific frequency allotments within those areas was left to a further report and order. Thus, except for specific frequency allotments as mentioned above, there remains only the matter of finalization of the instant proceeding for the Alaska area, which includes as set forth in the notice of proposed rule making, incorporation of Part 85 into Parts 81 and 83.

4. With regard to rules for the Alaska area, the Commission, in its notice of proposed rule making, expressed its intent and desire to bring the rules applicable to Alaska into accord with rules for the other 49 States. The Commission also stated:

> Inclusion of Alaska in rules applicable to the other 49 States will facilitate Commission administrative functions. Further, as a practical matter, this action will remove divergencies between the rules applicable to Alaska and those applicable to the other 49 States. It is not envisaged that this action will impose unique hardship upon Commission licensees in Alaska; or, that Alaska will be exempt from programs applicable to the other 49 States.

Further in that regard, it will be noted that the Commission, in considering the comments filed for the Great Lakes area (Docket No. 18632), found no compelling basis for treating the Great Lakes in a manner different from that of the 49 States, Puerto Rico and the island territories (first report and order, Docket No. 18307). Specifically, in its first report and order, Docket No. 18633, the Commission concluded that the decisions set forth in the first report and order, Docket No. 18307, should be and are applicable to the Great Lakes area.

5. In accordance with its expressed intent and desire to bring the rules applicable to the maritime services in Alaska into accord with rules for the other 49 States, the Commission has given particular attention to the comments filed in this docket to determine if there is a compelling basis for treatment of the State of Alaska in a manner different from the other 49 States. This will not include the Alaska-public fixed service, which is available only in Alaska, since that service falls under the fixed service and not the maritime services.

6. In their comments AIMS, API, and Collins support the Commission's proposal to merge Part 85 into Parts 81 and 83. The remaining commenators offer no response to this proposal. The Commission is, therefore, adopting this proposal and, in the attached appendix, has made Parts 81 and 83 applicable to Alaska, has transferred, where appropriate, various provisions from Part 85 to Parts 81 and 83, and has deleted Part 85. The Alaska-public fixed service has been included in the revised rules as a separate subpart in Part 81 to facilitate Commission administration and in order to continue the long-standing association of that service with the maritime services in Alaska. The title of Part 81 has been amended to permit inclusion of the Alaska-public fixed service in that part.

REQUIRED FITTING OF VHF

7. With regard to ship stations, the Commission proposed that vessels be fitted with VHF as follows:

(a) After January 1, 1971, new installations aboard ship stations will be authorized use of SSB only when such ship stations are equipped also with VHF; and

(b) After January 1, 1977, use of radiotelephony on frequencies below 4,000 kHz would be limited to SSB and will be available only to vessels which are equipped also with VHF.

In lieu of the date of January 1, 1971, appearing in (a), above, the Commission has adopted the date of January 1, 1972. This is the same date as that adopted for the other 49 States, as set forth in the first report and order in Docket No. 18307. The date of January 1, 1977, appearing (b) above, is adopted without change.

8. AFFA opposes the Commission's program as it applies to small boat equipment. AFFA points out that VHF is of short range capability and may not be satisfactory where there is intervening terrain between transmitting and receiving stations; that most of these small boats do not usually travel more than 20 miles offshore; and that the requirement to obtain a third class radiotelephone operator license would create a hardship for elderly fishermen and others in a lower educational echelon. The points which AFFA raises are not unique to Alaska. They are applicable also to most if not all of the coastal States, as well as to many of the noncoastal States. Further, the situation described for small boats in Alaska appears to be the same as that for the vastly greater number of

small boats operated in the 48 conterminous States. The operator license requirements for noncompulsory ship stations are set forth in Part 83, section 83.159, and are not affected by this proceeding. A third class radiotelephone license would not be applicable to personnel aboard small boats where the transmitter power employed is 400 watts (peak envelope power) or less. For transmitters of 400 watts (PEP) or less, the restricted radiotelephone operator permit is adequate.

9. NEFC and APF express the view that the fitting of VHF should be voluntary and not mandatory. SECO and NPMRC request that VHF be waived for vessels operating solely in the Alaska area until adequate shore based VHF stations are available. As summarized for AFFA, above, the comments of NEFC, APF, SECO, and NPMRC all point to the short range capabilities of VHF, the adverse effects upon VHF from intervening terrain and, additionally, to the rugged coastal topography and the difficulties associated with providing coverage along all of the Alaska coastline by use of VHF.

10. The basic thrust of the argument advanced by AFFA, NEFC, APF, SECO, and NPMRC is that ship stations should not be required to fit for VHF until adequate shore based VHF stations are available. This argument is as applicable to Maine, Washington, Florida, et al., as it is to Alaska and, therefore, does not serve to point up or warrant treatment of Alaska in a manner different from the other 49 States. It is not responsive to a major objective of the Commission's VHF program. Further, this argument and the comments are silent with regard to a substantial element of the Commission's proposals.

As set forth in the notice of proposed rule making, a major objective of the Commission's program is to effect needed improvements in the maritime radio safety system. Towards that objective, we proposed to decrease congestion on frequencies in the band 2000–2850 kHz by shifting short distance communications to VHF. Removal of short distance communications will reduce congestion in the 2000–2850 kHz band and make the band more useful for vessels communicating over distances beyond the range of VHF. As a part of that program, each coast station authorized to operate in the 2000–2850 kHz band, effective January 1, 1977 is required to provide VHF service where it is not already provided. To be effective, the ship station must be fitted with VHF. If it is not fitted with VHF, the ship station will, as now, use the 2 MHz frequencies for both short and longer distance communication, thus defeating needed improvement of the maritime radio safety system.

11. In their comments the primary concern of AFFA, NEFC, APF, SECO, and NPMRC, is directed to vessels which are currently fitted with radio transmitters employing double sideband emission. Under the Commission's proposal, these vessels will not be required to shift to single sideband or to fit for use of VHF until January 1, 1977. In the view of the Commission, the period prior to January 1, 1977, provides AFFA, NEFC, APF, SECO, NPMRC, and others affected an adequate interval in which to complete preparatory arrangements to fit their vessels for use of VHF. Further, the comments filed in this proceeding set forth no persuasive basis for treatment of Alaska in a manner different from the other 49 States.

12. It is the conclusion of the Commission that the needed improvements to the maritime radio safety system can be realized only if vessels operating in the 2000–2850 kHz band are also fitted for the use of VHF, and that its rules regarding the fitting of VHF should be uniform for all 50 States. The Commission is, therefore, adopting this proposal essentially as proposed,[1] except in regard to the initial date, which is discussed below.

CONVERSION TO SSB—MARINE

13. With regard to ship stations, the Commission proposed conversion from double sideband (DSB) to single sideband (SSB) in the bands below 4,000 kHz, on the following schedule:

(a) Transmitters employing DSB will continue to be authorized in new or replacement installations until January 1, 1971;

(b) DSB transmitters authorized prior to January 1, 1971, may continue to be employed until January 1, 1977;

(c) New installations aboard ship stations after January 1, 1971, will be authorized use of SSB only; and

(d) The use of DSB emission will not be authorized for use aboard ship stations after January 1, 1977.

In lieu of the date of January 1, 1971, appearing in (a), (b), and (c), above, the Commission has adopted the date of January 1, 1972, which is the same date as that adopted for the other 49 States.

14. NMEA, NIC, and TUG suggest that the same initial dates be used in Dockets Nos. 18271, 18307, 18633, and in the instant proceeding. NMEA and NIC also suggest that the date by which new ship stations are required to install SSB and the proposed date by which coast stations are required to have capability to employ single sideband emissions A3A, A3H, and A3J be moved from January 1, 1971 to January 1, 1972. The Commission agrees with these suggestions and in Dockets Nos. 18271, 18307, and 18633 the same initial dates have been applied as follows: Coast stations are required to have capability to employ A3A, A3H, and A3J emissions on January 1, 1972;[2] and ship stations installed on or after January 1, 1972, must be capable of operating SSB. Turning now to the instant proceeding, it appears that in regard to the date after which new installations of ship stations must conform to the SSB requirement, no penalty would be imposed upon users by application of the common initial date of January 1, 1972, and that date is hereby adopted. A similar situation does not exist in regard to the date after which coast stations are required to have the capability to transmit in the A3A, A3H, and A3J modes, and this matter is further discussed below.

15. NMEA and NIC express the view that it is imperative that A3A and A3J channels in the band 2065–2107 kHz be made available and further suggest that the recommendations of RTCM on that subject be followed. NPMRC also expresses the view that these frequencies should be made available and, in addition, suggests (a) they be assigned on a joint coordination basis by both the United States and Canada, and (b) that at least two are needed for intership use. The Commission concurs with these suggestions and, with one exception, has included appropriate provisions in the attached appendix. The exception is with regard to NPMRC's suggestion that these frequencies be assigned on a joint coordination basis by both the United States and Canada. In discussing this matter with Canada, it was agreed that certain of these frequencies would be available for joint use, while others would be reserved for use by the respective governments. The final decision regarding availability of these frequencies is discussed in the Commission's First Report and Order, Docket No. 18307, released June 16, 1970.

16. SECO and NPMRC suggest that for public coast stations which do not assess a tariff (nontariff), which do not handle switched telephone calls (nonswitched) and which transmit and receive on the same frequency (simplex), the date for conversion to SSB should be made the same as the date for conversion of ship stations to SSB, that is, January 1, 1977. NPMRC indicates there are approximately 700 radiotelephone stations in Alaska which are included in this classification, and that these stations sorely need relief from the nearly immediate conversion to SSB. NPMRC indicates there is no parallel to this classification of station in the 48 conterminous States.

17. This SECO and NPMRC suggestion has been evaluated in the light of its impact upon the Commission's program for conversion to SSB. Sections 85.205 and 85.264 of Part 85 provide simplex frequencies which, with a few exceptions, are available for use by both public coast and by Alaska-public fixed stations. In transfer from Part 85 to Parts 81 and 83, no substantive changes were made to §§ 85.205 and 85.264 (see §§ 81.710 and 83.372 of the attached appendix). It is apparent, of course, that if the date for conversion to SSB of the nontariff, nonswitched, simplex public coast stations is shifted to January 1, 1977, it will be necessary, also, to shift the date for conversion to SSB of these Alaska-public fixed stations to January 1, 1977.

18. Although NPMRC mentions that approximately 700 public coast stations fall in the nontariff, nonswitched, simplex classification, accurate information is not available in the Commission records to confirm that figure. The simplified licensing procedure applicable in Alaska permits an applicant to apply for a public coast station, an Alaska-public fixed station, or a combined public coast and Alaska-public fixed station authorization. The Commission's Rules permit the licensee of the combined station to operate in either or both services, however, the rules do not require the licensee to operate in both services. As set forth above, when the operation is under §§ 85.205 or 85.264, the frequencies employed, with a few exceptions, are the same for a public coast station as for an Alaska-public fixed station. In view of this, while our sampling of available records indicates there are approximately 1,000 combined public coast and Alaska-public fixed station authorizations outstanding, we cannot provide a useful statistic as to the number of these stations which operate solely as public coast stations, or solely as Alaska-public fixed stations.

19. Before proceeding further in consideration of the SECO and NPMRC suggestion, it is appropriate to review the procedure applied by the Commission in conversion of the maritime mobile service from DSB to SSB. This procedure was evolved in conjunction with Commission licensees and is highly practical. Briefly, we have fixed a date for coast stations to convert to SSB, which is the same as the date after which all new ship station installations must be SSB, followed by a period during which ship stations may convert to SSB, and terminated by a date on which all equipment must be SSB and after which DSB will not be authorized, thus completing the transition. Since the procedure was developed specifically to meet the particular needs of the service, there are valid reasons for each of the steps. For example, the considerations associated with converting the coast station to SSB are substantially less than with the ship station; the number of coast stations are fewer than the number of ship stations; the coast station is continuously available for conversion and all can be scheduled to convert on a common date. The ship station is not so available and, thus, a period of time must be provided for conversion. As between coast and ship station, the coast station generally has the superior technical capability to communicate, so that by equipping the coast station first, the benefits of SSB can be realized by the ship station immediately upon its conversion to SSB.

20. Returning now to the SECO and NPMRC suggestion, it is apparent that if this suggestion were followed we would lose one of the major benefits which the above procedure provides. Specifically, those ship stations which convert to SSB prior to availability of SSB at the coast stations would be unable to realize the benefits of improved communications until the coast station had been fitted with SSB. In the case of new ship stations, this would extend over a period of several years. Other ship stations which converted prior to the terminating date would encounter the same situation, but for a lesser period of time.

21. In its essence, the SECO and NPMRC suggestion seeks postponement of the date on which nontariff, nonswitched, simplex public coast stations would be required to convert to SSB. SECO and NPMRC do not suggest that these stations should not be required to convert to SSB, but merely that the date by which they be required to convert to SSB be postponed. In considering the objective of the SECO and NPMRC suggestion, versus the loss in improved communications, as discussed above, the Commission is not persuaded that postponement for the period proposed should be adopted. At the same time, the Commission is of the view that the request of SECO and NPMRC for relief from the requirement to immediately convert to SSB is reasonable and should be provided. Accordingly, as set forth in the attached appendix, the date by which public coast stations in Alaska must be fitted for SSB is changed from January 1, 1971, as proposed in the notice of proposed rule making, to January 1, 1974.

22. NEFC calls attention to the dates set forth in the international treaty (Final Acts, World Administrative Radio Conference on marine matters, International Telecommunication Union, Geneva, 1967) and urges that the date for conversion to SSB be set ahead considerably. The discussion and action in the foregoing paragraphs responds to and, in part, complies with the request of NEFC. In other respects, the Commission has clearly set forth the reasons why implementation of SSB in accordance with the latest dates permitted under the international treaty is not in the public interest. Further, the Commission points to the fact that the schedule of dates for conversion to SSB set forth in this and other proceedings is in full accord with the international treaty. In the view of the Commission, the setting ahead of dates for conversion to SSB as requested by NEFC, except as provided herein, would not be in the public interest and, therefore, the request is denied.

23. The key aspects of the program for conversion of ship and coast stations from DSB to SSB are summarized as follows:

SHIP STATIONS OPERATING ON FREQUENCIES BELOW 4 MHz

Description of event	Date
No new authorizations for use of DSB after	Jan. 1, 1972
Vessels must be fitted with VHF to be eligible for a new SSB installation after	Jan. 1, 1972
Lower half SSB channel will be available	Jan. 1, 1977
Use of DSB will not be permitted after	Jan. 1, 1977

COAST STATIONS OPERATING ON FREQUENCIES BELOW 4 MHz

Description of event	Date
Must be capable of operation with emissions 2.8A3H, 2.8A3A, and 2.8A3J	Jan. 1, 1974
No new authorization for use of DSB after	Jan. 1, 1972
Lower half SSB channel will be available	Jan. 1, 1977
Use of DSB will not be permitted after	Jan. 1, 1974
4 MHz will be available only to public coast stations where service is also provided on VHF after	Jan. 1, 1977
Except for safety, 2 MHz shall not be used by a public coast station for communication with a vessel which is within VHF service range of that public coast station after	Jan. 1, 1977
Regarding 2182 kHz must be capable of:	
Transmitting 6A3 or 2.8A3H until	Jan. 1, 1974
Transmitting 2.8A3H after	Jan. 1, 1974
Receiving 6A3 or 2.8A3H until	Jan. 1, 1977
Receiving 2.8A3H after	Jan. 1, 1977

24. API and AIMS recommend alternative wording for proposed § 81.304 (f)(2)(ii), relating to limitations in use of 2 MHz, when vessels are within communication range of VHF, in order to make those limitations less rigid. These limitations were the subject of substantial comment in the proceeding in Docket No. 18307 and, in consequence, changes were made to that proposal which we believe fulfill the intent of the API and AIMS recommendation. The provisions adopted in the final report and order in Docket No. 18307 are set forth in § 81.304(c)(3). In view thereof, no further action on this recommendation is necessary.

25. Collins calls attention to proposed § 81.304(f)(1)(iv) and to the apparent omission of provision for the use of 2182 kHz after January 1, 1971. The text for this proposal as adopted in the first report and order in Docket No. 18307, § 81.304(c)(1). (iv) and (v), provides for the use of 2182 kHz beyond January 1, 1971, and for the indefinite future. In view thereof, no further action on this matter is required.

26. In regard to § 81.104(c)(1), amended by the first report and order in Docket No. 18307, our licensees have informally called attention to an inadvertent ambiguity in that section which implies that coast stations are required to provide DSB (6A3) capability after January 1, 1977. A similar ambiguity may be construed in regard to § 83.106(a). It was our clear intent and we so proposed that DSB capability not be required after January 1, 1977. Appropriate amendments to these sections are included in the attached appendix to remove this ambiguity.

[1] The subject of use and required fitting of VHF has been treated in depth by the Commission in a series of rule making proceedings, the first of which was released March 20, 1967. Interested persons are referred to the proceedings in Dockets Nos. 17295, 18240, 18307, and 18633; and to Lake Carriers Association, et al., v. U.S. and Federal Communications Commission (414 F. 2d 567 (1969)).

[2] Upon proper request, the Commission may grant authority to use DSB equipment until Jan. 1, 1977 (paragraph 10, Report and Order, Doc. No. 18633).

TECHNICAL STANDARDS—MARINE SSB

27. The matter of technical standards for single sideband in the maritime services has been treated in depth in the proceedings in Dockets Nos. 18271, 18307, and 18633. The comments filed in this proceeding by Collins, NMEA, NIC, and TUG in regard to these standards have been carefully examined to determine if the technical standards adopted in the above mentioned proceedings should be amended. Collins' proposals with regard to power, authorized bandwidth and frequency tolerance are essentially the same as were submitted and treated in Dockets Nos. 18307 and/or 18633. NMEA, NIC, and TUG endorsed the technical standards which were filed by RTCM. The technical standards recommended by RTCM were treated in Docket No. 18307.

28. RCA states that the transmitters which they took over from ACS and which are installed at maritime and Alaska-public fixed stations employ a power of 1 kw. and suggests, as set forth in the notice of proposed rule making, that this power be continued in the rules. This has been done. RCA suggests that conversion to SSB of existing transmitters be delayed until January 1, 1973. This suggestion is in accord with the mandatory shift of public coast stations to SSB on January 1, 1974, as discussed above, and that date is also applicable to transmitters employed at ACS stations. RCA suggests that the transfer to new carrier frequencies, as proposed in section 81.306, be delayed until January 1, 1972. Since the transfer to new carrier frequencies at ACS public coast stations should coincide with the date those stations convert to SSB, the proposed date in proposed section 81.306 has been changed to January 1, 1974. RCA suggests, also, that after January 1, 1971, transmitters have the capability to employ A3H plus A3A or A3J, but should not be required to have both A3A and A3J. This suggestion was considered and rejected in the earlier proceedings, mentioned above. Since no new arguments are submitted to warrant a change in the earlier decision, this suggestion is not adopted.

29. Collins suggests that provision be included in proposed §§ 81.708(a), 83.132, and 83.370 to permit the use of emissions F1, A7J, and A9J. The emission designator A7J describes a signal which is amplitude modulated, suppressed carrier, multichannel voice-frequency telegraphy. Emission designator A9J describes a signal which is amplitude modulated, suppressed carrier, where the type of modulation of the main carrier is not defined. While provision for the use of F1 has been included in § 83.132, use of that emission is limited to the frequencies of § 83.320. Emission F1 is also provided for use on five of the frequencies of proposed § 81.709.

30. As concerns emissions A7J and A9J, it will be noted that Part 85 provides for the use of both radiotelegraphy and radiotelephony on the frequencies of these two sections, although the only form of radiotelegraphy which was used in past years was manual radiotelegraphy. (ACS–USAF personnel, as well as Collins, have indicated that the use of manual radiotelegraphy has been discontinued.) Manual radiotelegraphy and voice radiotelephony are compatible to the extent that they both require monitoring of the actual transmission by operators, who can suspend operation to avoid interference. Such is not true of the types of transmission typical of emissions A7J and A9J, for example radioteletypewriter, where occupancy of the radio frequency is not routinely determined by the operator before and during transmission. Further, the use of the frequencies of §§ 81.708(a) and 83.370 have, heretofore, been limited to simple systems, generally radiotelephony. Systems employing emissions A7J and A9J are generally sophisticated systems. While there have been no licensee requests to add such systems to the frequencies of these two sections, the Commission is unwilling to specify, on the basis of available information, that these frequencies should not be used for sophisticated systems. On the other hand, the Commission feels it would be premature at this time to open the door for the use of such systems on these frequencies in advance of a demonstrated need for such systems. Accordingly, the suggestion of Collins to add emissions A7J and A9J to §§ 81.708(a) and 83.370 is not adopted.

31. API suggests that the power of public coast telephone stations in Alaska be increased to the value set forth in existing § 81.134(c)(1) and, thus, would be the same as in the 48 conterminous States. In support, API points out that present usage in Alaska is intended to provide a short distance communication system. But, as the resources of Alaska are developed and particularly the petroleum resources, API foresees the need for communication between coast and ship stations over much longer distances, one or two days prior to arrival of large cargo vessels, including both dry cargo and tank vessels. Also, in the absence of reliable and continuous interior communications within Alaska, it becomes necessary to communicate directly with the terminal for which the vessel is bound.

32. In their comments, API discusses the differences between power available at a coast station with double sideband emission and that available with single sideband emission. API expreses the view that during the interval between the time Alaska coast stations shift to single sideband and the time ship stations implement single sideband, the power available at the ship station from single sideband coast stations will be less than that presently available from double sideband coast stations, particularly in the case where the ship station is using a double sideband receiver. Based on this difference, which API estimates to be as much as 10 db, API suggests that the coast stations in Alaska should be permitted to employ levels of power as set forth in existing § 81.134(c)(1).

33. The Commission agrees with the API observation that the communication system which has evolved under former Part 85 of the rules (herein merged into Parts 81 and 83) is essentially a short range communication system. The frequencies available to the system have been able to accommodate an increasing number of cochannel and adjacent channel assignments solely through the application of restrictions on power. Despite these restrictions and the growth within the system, no stated requirement for longer range (700–1,000 miles) communication has been brought to our attention. While the situation which API anticipates may develop, if and when it does, we would expect prospective applicants to petition for such coast station facilities as are required. The Commission does not see adoption of the proposed rules as a deterrent to grant, at some future date, of Alaska public coast station facilities to meet the needs which API foresees. We are of the view, however, that it is preferable to await the development of this requirement, rather than to attempt to guess the specific nature of that requirement at this time.

34. With regard to the relative power available at a ship station from a coast station employing double sideband versus single sideband emission, this is basically the same argument advanced by Collins and Raytheon in Docket No. 18633, which was considered by the Commission and discussed in paragraphs 14 through 16 of the first report and order in that proceeding, released June 28, 1971. Since the substance of this matter was considered in the earlier proceeding, it is not necessary that it be reconsidered here. It is appropriate to note, however, that by fitting the ship station with single sideband receiving equipment, there would be more power at the ship's receiver from a coast station employing single sideband (A3A, A3H, or A3J) than there would be from a coast station employing double sideband emission. Since the vessel operator has the option of fitting his vessel with single sideband, or of installing a single sideband receiver, the Commission is not persuaded that the power available at Alaska public coast stations should be increased to the values set forth in existing § 81.134(c)(1) and that suggestion is, therefore, rejected.

35. API suggests that proposed § 81.134(g), which limits to 265 watts the power of public coast stations, other than ACS public stations, operating in the band 400–525 kHz with emissions A1 and A2, not be adopted. It should be noted that ACS public coast telegraph stations will continue to be authorized use of a maximum power of 1,000 watts; and, also, that the only public coast telegraph stations currently authorized to operate in Alaska are those formerly operated by the ACS. API is concerned that the anticipated upsurge in development of Alaska resources will be accompanied by a significant increase in the number of high seas vessels requiring communication with stations in that State and it sees the proposed rules as inadequate to meet this expanded need for service. While the Commission agrees that requirements not adequately met will have

to be accommodated, it does not agree that the suggested need for extended range service should be met by patching up the Alaskan short-range system. As stated above, the Commission believes it is preferrable to await the development of the need, since at that time we would be able to determine what is needed and where it should be located. Accordingly, we reject API's suggestion that § 81.134(g) not be adopted.

CONVERSION TO SSB—ALASKA-PUBLIC FIXED

36. The Commission's proposals with regard to conversion of Alaska-public fixed (APF) stations on frequencies in the band 1605–4000 kHz from DSB to SSB is set forth in the notice of proposed rule making in proposed § 81.708, which is paraphrased as follows:

Convert from DSB to SSB	Jan. 1, 1971
No new authorizations for the use of DSB after	Jan. 1, 1971
Use of DSB will not be permitted after	Jan. 1, 1971
Lower half SSB channel will be available:	
For common carrier (ACS) APF service	Jan. 1, 1971
For other APF stations, including frequencies shared with maritime mobile	Jan. 1, 1977

37. Alaska-public fixed stations operate in the fixed service to provide point-to-point communication and, as with other fixed stations, will from time to time handle messages involving the safety of life or property. This does not mean, however, that the fixed service is a safety service and must be accorded the same considerations as a safety service. While the fixed service is an essential service, particularly where adequate land line facilities are not available, there is no compelling public interest reason why in that service conversion to SSB cannot be effected in a substantially shorter period of time than in a safety service.

38. Turning now to the comments filed in the instant proceeding, SECO and NPMRC express the view that the conversion to SSB by Alaska-public fixed stations should be optional or permissive and not mandatory. NMEA, whose comments are endorsed by NIC, questions the necessity for Alaska-public fixed stations to convert to SSB at this time and suggests that this matter be studied. RCA suggests that Alaska-public fixed stations be permitted to use emissions A3 or A3H until January 1, 1975.

39. In regard to conversion of the Alaska-public fixed stations from DSB to SSB, the international radio regulations, adopted by the Administrative Radio Conference, Geneva, 1959, state:

465 sec. 15. (1) Administrations are urged to discontinue, in the fixed service, the use of double sideband radiotelephone transmissions in the bands below 30 MHz, if possible as from January 1, 1970.

As concerns the Commission's rules, Alaska is the last remaining area where there is substantial use of double sideband radiotelephony on fixed service frequencies. It is necessary, therefore, that the Commission establish schedules for conversion of Alaska-public fixed stations from DSB to SSB at an early date in order to fulfill this treaty obligation.

40. As discussed in paragraphs 17 and 18, above, the frequencies set forth in §§ 85.205 and 85.264, with a few exceptions, are shared by the maritime mobile and Alaska-public fixed stations. Conversion to SSB, as set forth in §§ 81.710 and 83.372, increase the number of frequencies available to both services. On these frequencies, it would be pointless and discriminatory to require the maritime mobile service to convert to SSB and to permit Alaska-public fixed stations to continue to employ DSB on those same frequencies. We believe that a shift from DSB to SSB cannot be effected where the licensee chooses his own time to convert to SSB, which would be the situation if the program was on an optional, permissive, or nonmandatory basis. Termination dates must be imposed for the critical steps if the program is to provide additional frequencies on a scheduled basis. Accordingly, the Commission is adopting a mandatory program for conversion to SSB of Alaska-public fixed stations, as set for in the attached appendix.

41. With regard to the schedule for conversion of Alaska-public fixed stations from DSB to SSB, we have discussed in paragraphs 19 through 21, above, the basis for requiring that public coast and Alaska-public fixed stations, which share common frequencies, cease transmission on DSB on a common date. Since the date of January 1, 1974, is being applied in the case of public coast stations, that date is also being applied to Alaska-public fixed stations which share frequencies with stations in the maritime mobile service, whether on frequencies above or below 4 MHz.

42. With regard to Alaska-public fixed stations providing common carrier services, we know of no compelling reason, and the comments in this proceeding provide none, why, in the public interest these stations should not convert to SSB by the same date which is applicable to public coast stations. It is apparent from inspection of §§ 81.711 and 81.712 that conversion to SSB will substantially increase the number of frequencies which are available for common carrier service. This increase in number of frequencies will, consequently, substantially increase the potential for expansion of service to the public. It is the view of the Commission, therefore, that stations providing common carrier service in Alaska should convert to SSB as soon as practicable, and not later than the earliest date applicable to other Alaska-public fixed stations, that is, by January 1, 1974. Accordingly, as set forth in the attached appendix, the Commission is adopting the date of January 1, 1974, as the date after which use of DSB will not be permitted at Alaska-public fixed stations which share frequencies with the maritime mobile service, both above and below 4 MHz, as well as those which operate on common carrier frequencies.

43. This leaves only the matter of dates to be applied to Alaska-public fixed stations operating on frequencies which are not contained in the above categories, that is, Alaska-public fixed stations which operate on frequencies which are not shared with the maritime mobile service and which are not available for common carrier service. The frequencies are *3201, 5167.5, and 8070 kHz and, when SSB is implemented, the lower half SSB channel frequencies of 3198, 5164.5, and 8067 kHz. These frequencies are available, under § 87.709, for use in all of the Alaska zones.

44. In connection with the date on which this category of station must convert to SSB, it is necessary to take into account the views expressed by several of the commentators in this proceeding, namely, NPMRC, NMEA, NIC, and SECO, regarding an estimated 200 to 400 stations which, it appears, employ Alaska-public fixed frequencies in a manner different from other users. This category of user is described by the comments of NPMRC, as follows:

> There are at least 200, perhaps 400, pure public fixed stations in Alaska, excluding those public fixed stations which also are public coast stations. These pure public fixed stations do not use Maritime Service frequencies. Some communicate with ACS stations and others only among themselves. Primarily, perhaps exclusively, they exist only to provide the only available telecommunications to remote locations. Some are portable. Typically, they are to be found at such places as village schools or stores, logging camps, mines, and occasionally in company business offices in towns or cities to communicate with remote properties.

The Commission said, in paragraph 12 of the docket, that converting the Alaska-public fixed service was based on the understanding that much of the equipment used for public coast communications is also used for Alaska-public fixed communications. Much of it is; but we commend the idea that 200–400 is too large a number of unrelated stations to be enfolded on these grounds. It appears to us, therefore, that conversion to single sideband operation in the public fixed service in Alaska should be made permissive and not mandatory as now proposed. This would permit the public coast stations which also are in the public fixed service to choose at the appropriate time, whether to use the A3H mode for communications with public fixed stations not yet voluntarily converted to DSB, or to retain their DSB transmitters for this purpose. This also would permit such a choice for communicating in the Aviation Service, because much of the public coast equipment also is used in that service.

45. The Commission is not persuaded that these estimated 200–400 stations should be permitted to convert from DSB

*While 1660 kHz (lower half SSB channel is 1657 kHz) also falls in this category, it is available only in Zone 6 and does not aid in solution to the situation hereinafter described. As set forth in § 81.708, 1660 kHz is scheduled for conversion to SSB on January 1, 1974, with 1657 kHz to become available on January 1, 1977.

to SSB on a permissive (nonmandatory) basis, or that these users should be totally exempt from converting to SSB. At the same time, the Commission is sympathetic to the general problem which this category of private or individual user could face in shifting from DSB to SSB, as well as to the impact which cessation of use (for example, on January 1, 1974) of radio would have upon that user. We are, therefore, disposed to the view that a relaxation of the principles set forth herein, in the case of these minority users, would not substantially retard the overall national program. Further, the Commission feels this category of user could be given the maximum practicable length of time in which to convert to SSB, if that relaxation is limited to a few frequencies.

46. As indicated in the proceedings in Dockets 18307, 18633, and in the instant proceeding, the various Commission programs for conversion will be terminated on January 1, 1977, with discontinuance of use of DSB by all stations subject to Parts 81, 83, and 85 of the rules. Thus, it is apparent that the maximum practical relaxation in conversion to SSB which could be accorded these 200–400 stations is January 1, 1977. Based on the foregoing, the Commission is delaying, in regard to the frequencies 3201, 5167.5, and 8070 kHz, the date for conversion to SSB until January 1, 1977. This action will permit these estimated 200–400 users to continue use of DSB until January 1, 1977. On that date these frequencies will cease to be available for use with DSB emission, will convert to SSB, and the lower half SSB channels (3198, 5164.5, and 8067 kHz) will become available for use. As set forth in § 81.709, the frequencies 3201, 5167.5, and 8070 kHz are available to licensees in all Alaska zones and those licensees may employ either DSB or SSB prior to January 1, 1977.

47. For convenient reference, in the following table, we have brought together and have summarized the schedule for conversion to SSB for all categories of users of Alaska-public fixed frequencies. The program complies in part with the suggestion of RCA, but makes no provision for study, as suggested by NMEA and NIC.

Description of event	*Date*
(1) Alaska-public fixed stations operating on frequencies: Designated for common carrier use; above 4 MHz, not shared with marine, except as set forth in (3) below:	
Convert from DSB to SSB on or before	Jan. 1, 1974
No new authorizations for the use of DSB after	Jan. 1, 1972
Lower half SSB channel will be available	Jan. 1, 1974
Use of DSB will not be permitted after	Jan. 1, 1974
(2) Alaska-public fixed stations operating on frequencies below 4 MHz, shared with maritime:	
Convert from DSB to SSB on or before	Jan. 1, 1974
No new authorizations for the use of DSB after	Jan. 1, 1972
Lower half SSB channel will be available	Jan. 1, 1974
Use of DSB will not be permitted after	Jan. 1, 1974
(3) Alaska-public fixed stations operating on frequencies 3201, 5167.5, and 8070 kHz:	
Convert from DSB to SSB on or before	Jan. 1, 1977
No new authorizations for the use of DSB after	Jan. 1, 1972
Lower half SSB channel will be available	Jan. 1, 1977
Use of DSB will not be permitted after	Jan. 1, 1977

TECHNICAL REQUIREMENTS—ALASKA-PUBLIC FIXED

48. Collins suggestions to include provision for the use of F1, A7J, and A9J in proposed §§ 81.708(a), 83.132, and 83.370, to establish the authorized bandwidth for SSB at 3.2 kHz, to increase the power to 1 kw., and to apply a frequency tolerance of 20 c.p.s. are directed to both the maritime mobile and Alaska-public fixed services. These suggested changes have been treated under the foregoing heading "Technical Standards—Marine SSB." It is believed that further discussion in connection with Alaska-public fixed stations is not required, since many of the transmitters affected will operate in both the maritime moble and Alaska-public fixed services. Collins suggests, additionally, that proposed § 81.132(a)(1) be amended to include provision for the use of emission A2H. As suggested, emission A2H has been added to § 81.132(a)(1) for the frequency band 160–525 kHz.

49. API suggests, and AIMS concurs, that the use of radiotelegraphy should be retained on frequencies above 1605 kHz available for public coast and Alaska-public fixed stations, in order to permit the use of radioteletypewriter and record communications. In referring to Part 85, §§ 85.204, 85.205, 85.206, 85.259, and 85.264, it will be noted that some or all of the frequencies listed therein are available for radiotelephony and/or radiotelegraphy. Based on information available at the time of preparation of the notice of proposed rule making, only manual radiotelegraphy had been used in the distant past and that had long since been discontinued. Accordingly, the Commission proposed to retain radiotelephony and to delete radiotelegraphy from Alaska-public fixed frequencies, as set forth in the proposed sections referenced above.

50. The above suggestion of API/AIMS and that of Collins to provide for the use of F1, A7J, and A9J emissions, discussed above under the section heading "Technical Standards—Marine SSB", are similar in that both call for use of radiotelephony and radiotelegraphy on Alaska-public fixed frequencies. In the view of the Commission, the radiotelegraphy usage which API suggests is, as explained in paragraph 30 of this document, not compatible with the radiotelephony usage. The objective of API/AIMS is, of course, to include provision in the rules which will permit future expanded needs to be satisfied; needs which they foresee will evolve in the course of development of Alaska's resources. The Commission agrees that such requirement(s) will have to be satisfied, however, we are reluctant to attempt to forecast the nature, extent, and location of those requirements. The Commission knows of no current requirement which has not been satisfied. Also, it believes it would be premature and technically unsound to superimpose a record system on top of the existing radiotelephone system. At the time it is appropriate to provide a record communication system, means must be evolved which will avoid disruption of one system by the other system. For these reasons the Commission is not adopting API's suggestion that radiotelegraphy be retained on the Alaska-public fixed frequencies referred to above. However, as stated above, the rules have been amended to include provision for the use of F1 emission on the five frequencies currently in use between the North Slope and the Anchorage/Valdez area.

51. API suggests that proposed § 81.132(a)(1) be amended to permit coast radiotelegraph stations to use radiotelegraphy on frequencies between 2065 and 27,500 kHz. This has been done.

52. API refers to proposed § 81.307(a)(7) and suggests that the definition and applicability of the term "daytime" be reviewed, as it applies to northern Alaska, since in this area continuous daytime or continuous darkness exists for extended periods. Under these conditions the definition of "day" set forth in § 81.2(j) would not provide useful guidance in regard to the hours during which a frequency could be used, since it relates usage to time, either after or before sunrise. This difficulty is avoided by the procedure specified in proposed § 81.307(a)(7), where the frequency availability is specified on the basis of hours, in local standard time. Since Alaska is in four of the world time zones, "local standard time" for each zone is, moving from east to west, relative to the time at 120° W., 135° W., 150° W., and 165° W. The use of "local standard time" serves also to provide distinction between that time and "daylight saving time." We have reviewed the proposed sections of the notice of proposed rule making and are unable to locate any instance where the term "day" or "daytime" has been employed. Also, in preparing the attached appendix, an effort has been made to avoid use of either of these two terms relative to frequency usage in Alaska.

53. API suggests that the maximum power permitted on the frequencies 5167.5 and 8070 kHz be raised from 150 watts PEP to 1 kw. PEP, so that the permitted power would be the same as for frequencies between 4 and 12 MHz set forth in proposed § 81.709. In proposed § 81.709 the only frequencies on which a power of 1 kw. PEP may be employed are those bearing footnote (1), which may be used with emission F1. The remainder of the frequencies are limited to 150 watts PEP. As discussed above, the Commission is not in this proceeding raising

the level of power which may be used on Alaska-public fixed frequencies. Accordingly, this suggestion of API is not being adopted.

54. RCA suggests that footnotes 1 and 2 of proposed § 81.131(b) be amended to make the given frequency tolerance effective from the date of installation, rather than from the date of authorization as proposed. From an administrative point of view, it is necessary that the Commission and the licensee have a common reference date. The date of authorization is known to both the Commission and to the licensee. On the other hand, the date of installation is known only to the licensee. While the effective date of the station authorization could be made contingent upon receipt of notification from the licensee that the transmitter had been installed, this procedure would be unnecessarily complicated and unwieldy and, therefore, is not being adopted.

55. In regard to proposed § 81.137, which requires that transmitters be type accepted, RCA points out that in taking over the public coast and Alaska-public fixed facilities from the ACS–USAF, the SSB transmitters in use prior to their takeover were of a type which were not type accepted by the Commission. RCA suggests that since it is necessary for them to continue to use these SSB transmitters, that appropriate exception be included as concerns type acceptance. In that regard, it is appropriate to refer to the Commission's memorandum opinion and order in regarding applications of RCA Alaska Communications, Inc. (FCC Mimeo 43905), released March 24, 1970, in particular to paragraphs 21 and 22, from which the following is excerpted:

> 21. RCAA has requested in connection with a number of its radio applications waiver of various Commission rules relating to frequency usage, type of equipment, and other operational requirements. Most of these waiver requests are necessitated by equipment which was originally installed by ACS to operate in the Government portion of the radio spectrum. In general, we think such requests do not raise any major policy questions and can be resolved at the bureau level. However, we believe it is desirable to comment on several of the requested waivers at this time.
>
> 22. In connection with its applications for public coast and Alaska-public fixed stations RCAA has requested waivers of certain rules which will enable them to use the equipment which is to be acquired from ACS. First, measurement data has not been submitted showing the performance of the single-sideband radiotelephone transmitters. Accordingly, the transmitters are not type accepted as required by §§ 81.137[25] and 85.156 of the rules. The second waiver request is for use of power in excess of that specified in § 85.158 of the rules. We are convinced that the orderly change to non-Government operation requires use of the ACS equipment. Accordingly, §§ 81.137 and 85.153 and 85.156 will be waived in regard to transmitters used by ACS in the public coast and Alaska-public fixed stations and acquired by RCAA for use in the same stations. RCAA will be expected to comply with the rules with respect to any other transmitters acquired for use in these stations • • •.

Returning now to RCA's suggestion, the Commission has made provision to resolve waiver requests concerning the former ACS–USAF SSB equipment at the Bureau level, which action is deemed to be adequate and, therefore, no further action is required. Also, as stated in the above reference memorandum opinion and order, the Commission expects RCA to comply with the rules in regard to any other transmitters acquired.

ADDITIONAL FREQUENCIES—ALASKA-PUBLIC FIXED

56. API, with AIMS concurrence, and Collins recommend that the number of frequencies above 4 MHz available to Alaska-public fixed stations be increased. Collins suggests that the number be doubled. API and Collins base their view that additional point-to-point frequencies will be required on anticipated industrial growth resulting from development of Alaska resources. API relates this growth, in part, to development of Alaska petroleum resources. Both API and Collins take into account the limited number of common carrier landline (or microwave) point-to-point communication facilities and the need to bridge the gap, at least on an interim basis pending availability of such facilities, by use of high frequency (HF) facilities. As mentioned above, the Commission does not see adoption of the proposed rules as an obstacle to, at a later date, increasing the number of frequencies available above 4 MHz for Alaska-public fixed stations. An increase in the number of such frequencies at this time would have to be based, largely, on guesswork as to where the need will be, as well as the megahertz order of frequencies which should be provided. Also, if we consider the uncertainties of ionospheric propagation in the Alaska area, it may develop that where a high degree of circuit continuity is required, the need for increased communications could turn to medium, low, or microwave frequencies, instead of to high frequencies. On the other hand, by waiting until the requirement has developed, we will be able to provide for the specific need. In view of this, the Commission is not increasing the number of frequencies available for Alaska-public fixed stations, except as are derived from implementation of SSB.

57. API advises there is a need to make the Alaska-public fixed frequencies between 4 and 12 MHz which are currently available for use between Alaska zones 3 and 6, also available for use between Alaska zones 2 and 6. This has been done.

58. RCA suggests that the frequency 2052.5 kHz be added to proposed § 81.132(a)(1) as available for use with A1 emission. This has been done.

APPLICATIONS; OPERATORS AND PROCEDURES

59. API, AIMS, and Collins suggest that proposed §§ 81.40(c)(1) and (c)(3) and 81.68(d) be amended to delete the requirement for construction permits. This has been done.

60. Collins and RCA suggest that proposed § 81.24(e) be amended to delete the requirement that applications and renewal applications be sent to Seattle, Wash., and to provide that, as with the other 49 States, they be sent to Washington, D.C. This has been done.

61. RCA suggests that footnote 1 to proposed §§ 81.74 and 81.75 be amended to delete the requirement to notify ACS. This has been done.

62. In regard to proposed §§ 81.9(c) and 81.179(f), RCA calls attention to their takeover of the Alaska Communication System (ACS) and requests that the rules be amended to reflect this situation. Further, in regard to proposed § 81.179(a), RCA suggests that where ACS appears it be followed with the phrase "or its successors". We agree with the substance of RCA's suggestions. The rules have been amended to delete the definition of "ACS" and all references to ACS. Where applicable, the reference to "ACS" has been replaced by "common carrier", and the definition of common carrier amended to bring it into accord with other common carrier rules.

63. In regard to proposed §§ 81.711 and 81.712, RCA suggests that the distinction between ACS common carrier fixed stations and Alaska-public fixed stations is inappropriate, since RCA has taken over the ACS facilities. As concerns one part of this suggestion we agree that with their takeover of the ACS–USAF Alaska-public fixed stations it is not appropriate to continue the reference to the ACS–USAF in these and other sections and we have, therefore, changed that reference. As concerns the other part of RCA's suggestion that the distinction between Alaska-public fixed stations now operated by RCA and the Alaska-public fixed stations operated by others which communicate with the RCA stations, there is a basic difference between these two types of stations which, in the view of the Commission, makes it appropriate to continue the distinction. The difference is (a) that the RCA stations function as true common carrier facilities, that is, a charge is assessed for the handling of traffic, whereas the other (non-RCA) stations do not assess a charge; and (b) the RCA stations operate on a duplex basis on frequencies which are separate or different from those used by the non-RCA stations and the non-RCA stations, when working each other, operate on a simplex basis on common frequencies. In view of these considerations, the Commission is continuing the distinction between Alaska-public fixed stations operated by RCA and those operated by others in Alaska, as set forth in proposed §§ 81.711 and 81.712.

64. RCA calls attention, in proposed § 81.711, limitation (1) below the table, to an incorrect reference to § 81.308, which should be to § 81.306. This change has been made.

FREQUENCY-CHANGE TIME OF TRANSMITTERS

65. In the comments, API, with AIMS concurrence, and Collins suggest that paragraphs (f) and (g) of § 81.106 be

[25] By cross reference, this section is applicable to coast stations in Alaska.

amended. These paragraphs specify the maximum time permitted multichannel transmitters, when used at coast stations, to change from one to other frequencies under various conditions which are set forth in those paragraphs. API suggests the time be extended beyond 5 seconds. Collins suggests the time be changed to approximately 15 seconds. The provisions of paragraphs (f) and (g) of § 81.106 were adopted (as § 7.106 (f) and (g)) in the proceeding in Docket No. 9797, effective July 23, 1951, and, as specified therein, were applicable to coast station transmitters effective on and after January 1, 1953. There has been no change of substance in these provisions since adoption in 1951.

66. From an operating or service point of view, it is the view of the Commission that the shorter time specified in § 81.106 (f) and (g) will, overall, result in a better service than the longer period of time suggested by API and Collins. The shorter period will reduce the time required to reestablish communications when shifting from one to another operating radio channel, will reduce the total time necessary to complete a communication and, thus, will result in a reduction of channel occupancy time. Further, receivers are currently available for use in the maritime services which permit the operator to shift from one to another operating radio channel in substantially less than 5 seconds. Since the maritime service is based on shared usage of available radio channels, channel occupancy by any one user must be reduced to a minimum. Thus, any trend with regard to multichannel transmitter frequency change time should be towards a time less than 5 seconds and not, as suggested by API and Collins, to a time which is greater than 5 seconds. Accordingly, the Commission is not adopting the suggestion that the frequency change time be increased beyond 5 seconds.

67. RCA calls attention to proposed § 81.301(b) and points out that at locations where the VHF and 2 MHz public coast stations are operated by separate licensees, there would be more than one public coast station. RCA suggests § 81.301(b) be amended to include provision for this situation. This has been done.

68. Changes have been made to the frequency tables and associated footnotes in the following sections in order to provide for the merging of Part 85 into Parts 81 and 83; to delete frequencies and footnotes which are no longer available or applicable; to delete dates which have passed; to effect needed editorial revisions; or to include applicable decisions discussed in the foregoing pages:

Part 81		
81.206	81.361	81.711
81.304	81.708	81.712
81.306	81.709	81.713
81.308	81.710	
Part 83		
83.351	83.358	83.371
83.354	83.360	83.372
83.355	83.370	

69. An application for modification of license where required to comply with any rule amendments adopted herein may be submitted without a fee.

70. *Accordingly, it is ordered,* That, pursuant to the authority contained in section 303 (c), (f), (g), and (r) of the Communications Act of 1934, as amended, Parts 81 and 83 of the Commission's rules are amended effective December 1, 1971, as set forth below.

71. *It is further ordered,* That Part 85 of the Commission's rules is deleted.

72. *It is further ordered,* That the proceeding in Docket No. 18632 is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Adopted: October 14, 1971.

Released: October 26, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[4]
[SEAL] BEN F. WAPLE,
Secretary.

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

A. Part 81, Stations on Land in the Maritime Services, is amended as follows:

1. The title of Part 81 is amended as set forth above and the headnotes of the sections listed have either been amended or added new to read as follows:

Sec.
81.9 Alaska-public fixed.
81.195 Alternate transmission on the same frequency in the Alaska area.
81.306 Frequencies available below 27.5 MHz.
81.307 Frequencies available in all zones of the Alaska area.
81.308 Frequencies available in one or more zones of the Alaska area.
81.361 Frequencies available.

Subpart Q—Alaska-Public Fixed Stations

81.701 Priority of distress and other signals.
81.702 Hours of service of Alaska-public fixed stations.
81.708 Documents required for Alaska-public fixed stations.
81.704 Alaska-public fixed station records.
81.705 Cooperative use of frequency assignments.
81.706 [Reserved]
81.707 Alternate transmission on the same radio channel.
81.708 Frequencies available.
81.709 Frequencies available in all zones of the Alaska area.
81.710 Frequencies available in one or more zones of the Alaska area.
81.711 Frequencies for communication with common carrier fixed stations.
81.712 Frequencies available to common carrier fixed stations.
81.713 Pairing of common carrier and Alaska-public fixed frequencies.
81.714 Use of U.S. Government frequencies.

2. A new § 81.9 is added to read as follows:

[4] Commissioner Johnson concurring in the result; Commissioner Reid not participating.

§ 81.9 Alaska-public fixed.

(a) *Alaska area.* For the purpose of frequency assignments to radio services and stations governed by this part, the Alaska area is defined as follows:

The area bounded by a line extending due west—from the end of the southernmost boundary line between Canada and the mainland of southeastern Alaska—to 131° west longitude, thence due south to 54°30' north latitude, thence due west to 142° west longitude, thence due south to 60° north latitude, thence due west to 165° west longitude, thence due south to 47° north latitude, thence due west to the boundary line between Regions 2 and 3 (as this line is defined by the Geneva Radio Regulations, 1959), thence generally northward along this boundary line to 80° north latitude, thence due east to 135° west longitude, thence due south to 70° north latitude, thence due west to 140° west longitude, thence generally southwest to the northern end of the boundary line between the mainland of northern Alaska and Canada, thence following the boundary line between Alaska and Canada to the southernmost point of this line in southeastern Alaska.

NOTE: Reference hereafter in this part to the "Alaska area" includes all of the "Zones" defined in paragraph (b) of this section.

(b) *Alaska zones.* For the same purpose expressed in paragraph (a) of this section, the Alaska area is subdivided into six zones, defined as follows:

Zone 1. That portion of the Alaska area east of 142° west longitude and south of 61° north latitude.

Zone 2. That portion of the Alaska area bounded on the east by a line south of 61° north latitude which coincides with 142° west longitude, and by a line north of 61° north latitude which coincides with the boundary line between Alaska and Canada, and by a line coinciding with 61° north latitude which joins those two lines; and bounded on the west by a line south of 62° north latitude which coincides with 149° west longitude, thence running due south to 60°30' north latitude, thence due west to 150° west longitude, thence due south to the southern limit of the Alaska area, and bounded on the north by a line coinciding with 62° north latitude.

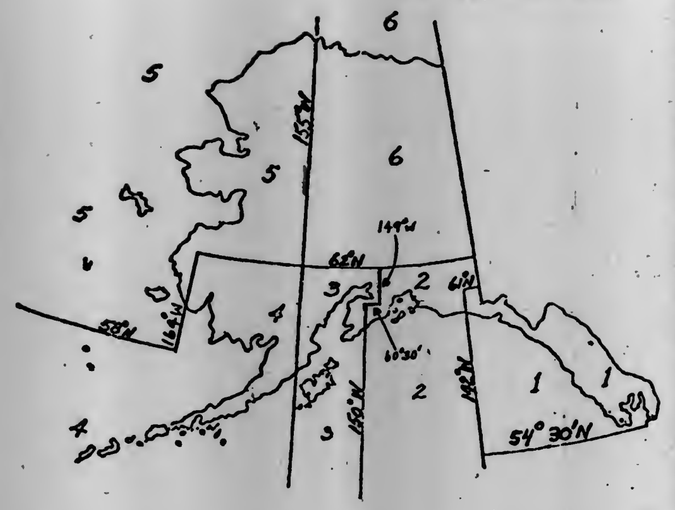
Zone 3. That portion of the Alaska area bounded on the north by a line which coincides with 62° north latitude and extends eastward from 155° west longitude to 149° west longitude, thence due south to 60°30' north latitude, thence due west to 150° west longitude, thence due south to the southern limit of the Alaska area, thence westward to 158° west longitude, thence due north to 62° north latitude.

Zone 4. That portion of the Alaska area west of 155° west longitude which is bounded on the north by a line coinciding with 62° north latitude extending due west to 164° west longitude, thence bounded on the west by a line coinciding with 164° west longitude extending due south to 58° north latitude, thence bounded on the north by a line coinciding with 58° north latitude extending due west to the western boundary of the Alaska area.

Zone 5. That portion of the Alaska area west of 155° west longitude which is not included in Zone 4.

Zone 6. That portion of the Alaska area east of 155° west longitude and north of 62° north latitude.

NOTE: The following diagram illustrates the subdivision of Alaska into the six zones.



ALASKA
Frequency Assignment Zones

(c) *"Common carrier" or "carrier".* Any person engaged in rendering communications service for hire to the public pursuant to authorization by the State and/or Federal Communications Commission.

(d) *Alaska-public fixed station.* A fixed station in Alaska, which is open to public correspondence and is licensed by the Commission for radiocommunication between specified fixed points in Alaska exclusively.

(e) *Point of communication.* This term, when applied to an Alaska-public fixed station, means a specified fixed station or specified geographic location with which such station is authorized to communicate.

3. Section 81.24 is amended to read as follows:

§ 81.24 Application precedent to authorization.

(a) Except as otherwise provided in §§ 81.26 and 81.41, no authorization will be granted for use or operation of any radio station on land in any service governed by this part, nor for any change in station control, facilities, services, equipment, or antenna, unless formal written application therefor in proper form first is filed with the Commission.

(b) Standard forms are prescribed herein for use in connection with the majority of applications submitted for Commission consideration. These forms may be obtained without cost from the Commission at Washington, D.C. 20554, or from any of its field offices.

(c) Except as otherwise permitted by this part, a separate application shall be filed in respect to each station and service subject to this part.

(d) Except as otherwise provided by this section, each application for radio station authorization, and all correspondence relating thereto, shall be submitted in duplicate (unless otherwise specified in a particular case or with respect to a particular form) to the Commission's main office in Washington, D.C.

(e) Except as otherwise provided in §§ 81.32 and 81.41, an application should be filed at least 60 days prior to the date on which it is desired that the requested authorization be granted by the Commission in order that action thereon may be taken by that date.

(f) The application shall be specific and complete with regard to the information required in the application form, or otherwise specifically requested by the Commission.

(g) An application by a corporation for a radio station authorization for an Alaska-public fixed station or a public coast station in the Alaska area proposing to establish common carrier radio facilities must (unless previously filed with the Commission) be accompanied by a copy of the applicant's charter, acts of incorporation, or articles of incorporation certified by the Secretary of the State of the place of incorporation, or certified otherwise by an appropriate public official.

4. In § 81.40, new paragraphs (c) and (d) are added to read as follows:

§ 81.40 One application for plurality of stations.

* * * * * *

(c) In addition to the provisions of paragraphs (a) (3) and (4) and (b) of this section, one application may be submitted by the same applicant to cover an Alaska-public fixed station and a public coast station at the same location in the Alaska area in the following categories:

(1) Application for license;

(2) Application for modification of license when the desired modification will apply similarly to both classes of station;

(3) Application for renewal of license.

(d) The provisions of paragraph (c) of this section shall apply on condition that the respective fixed and coast stations covered by each application are clearly identified therein and all of the required information in respect to each class of station is included in the application.

5. In § 81.68, new paragraphs (d) and (e) are added to read as follows:

§ 81.68 One authorization for plurality of stations.

* * * * * *

(d) Unless otherwise determined by the Commission, one station license may be issued to authorize the use and operation of an Alaska-public fixed station and a public coast station in the Alaska area when:

(1) The licensee or permittee of each class of station is the same;

(2) The location of each class of station is identical;

(3) The conditions which establish and maintain control of each class of station by the permittee or the station licensee are the same.

(e) Whenever a single station authorization is issued in accordance with paragraph (d) of this section, distinction will be shown in each such document as may be necessary in respect to the details of authorization for each service and each class of station except as these may be otherwise established by applicable rules and regulations of the Commission. Unless the station authorization provides otherwise, the same radio transmitting apparatus may be used for both fixed service and maritime mobile service whenever it is capable, by reason of frequency tuning range, technical adjustment, power, frequency stability and emission of being so used.

6. In § 81.74, paragraph (a) is amended by the addition of footnote 1, to read as follows:

§ 81.74 Notice of involuntary discontinuance, reduction, or impairment of service.

(a) If, for any reason beyond the control of the station licensee, the service provided by a public coast station is discontinued, reduced, or impaired for a period exceeding 24 hours, the station licensee shall immediately notify[1] the Commission at Washington, D.C. 20554, and the Commission's engineer in charge of the radio district in which the station is located. In such cases, the licensee shall furnish full particulars as to the reasons for such discontinuance,

[1] In the Alaska area, notification shall be given to the U.S. Coast Guard office in Juneau, Alaska, and to the Commission's engineer in charge at Anchorage, Alaska.

reduction, or impairment of service including a statement as to when normal service is expected to be resumed. In the event such changes in station operation include discontinuance, reduction, or suspension of a watch normally kept on 500 kHz or 2182 kHz, immediate notification[1] thereof shall be given by the station licensee to the nearest district office of the U.S. Coast Guard and to the Commission's engineer in charge of the radio district in which the station is located together with notification of the estimated or known time of resumption of such watch. When normal service is resumed, immediate notification[1] thereof shall be given to the Commission at Washington, D.C. 20554, and to the Commission's engineer in charge of the radio district in which the station is located. When the watch to which reference is made herein is resumed, immediate notification[1] thereof, shall be given to the Coast Guard and to the Commission's engineer in charge.

* * * * *

7. Section 81.75 is amended by the addition of footnote 1 to read as follows:

§ 81.75 Notice of voluntary discontinuance, reduction, or impairment of service.

When the service of any station subject to this part (other than a marine-utility station or a shipyard mobile station) is discontinued, reduced or impaired for any reason within the control of the station licensee, immediate notification[1] thereof shall be given to the Commission's engineer in charge of the radio district in which the station is located, together with, in the case of suspension, a statement of the estimated or known time of resumption of normal service. In the case of a public coast station, such notification shall be given as soon as practicable. In respect to any other class of station (except a marine-utility station or a shipyard mobile station) subject to this part, such notification need be made only when the discontinuance, reduction, or impairment of service continues for a period of more than 10 days. In the event any voluntary suspension, reduction, or discontinuance of operation includes discontinuance, reduction, or suspension of a watch normally kept by any coast station on 500 kHz or 2182 kHz, immediate notification[1] thereof shall be given by the station licensee to the nearest district office of the U.S. Coast Guard and to the Commission's engineer in charge of the radio district in which the station is located, together with notification of the estimated or known time of resumption of any such watch that has been suspended.

8. In § 81.104, paragraphs (b)(1) and (c)(1) are amended to read as follows:

§ 81.104 Facilities required for coast stations.

* * * * *

(b) * * *

(1) Each public coast station licensed to transmit within the band 1605 to 3500 kHz shall be capable of transmitting (and licensed to transmit) A3[1] or A3H[2] emission on the carrier frequency 2182 kHz with a carrier power not less than the maximum carrier power which it is capable of using on any other carrier frequency in this band for the same emission, except that, in any event, the required carrier power on 2182 kHz need not be more than 100 watts for A3[1] emission and 50 watts for A3H[2] emission. In addition, the coast station must be capable of receiving A3[3] and A3H[4] emissions on the carrier frequency 2182 kHz.

* * * * *

(c) * * *

(1) Each coast station licensed to transmit on the carrier frequency 2182 kHz shall be capable of efficiently receiving A3[3] and A3H[4] emissions on that frequency and shall be capable also of transmitting (and shall be licensed to transmit) A3[3] and A3H[4] emission and receiving A3[3] and A3H[4] emission on at least one other frequency for working with ship stations in the band 2000 to 3500 kHz.

* * * * *

9. Section 81.106 is amended to read as follows:

§ 81.106 Operating controls.

Each coast station, Alaska-public fixed station, or shipyard base station subject to this part shall provide operating controls in accordance with the following:

(a) The transmitting apparatus of stations subject to this part shall be installed and protected so as to be not accessible to other than duly authorized persons.

(b) Except for equipment intended for use only in emergencies and not used for normal communications, operating controls shall be available at the principal operating location of each station and shall be readily accessible to the authorized operator. The operating controls provided shall include those used for:

(1) Commencing and discontinuing normal operation;

(2) Normally changing from each operating radio channel to any other associated operating radio channel in the same characteristic portion of the spectrum; and

(3) Normally changing from transmission to reception, and vice versa.

(c) Each station using telegraphy shall, when an authorized operator is present at the principal operating location, be capable of changeover from telegraph transmission to telegraph reception and vice versa within a total period of 2 seconds under circumstances which do not require a change in operating radio channel at the same time.

(d) Each station using telephony shall, when an authorized operator is present at the principal operating location, be capable of changeover from telephone transmission to telephone reception and vice versa within a total period of 2 seconds under circumstances which do not require a change in operating radio channel at the same time.

(e) Each station shall, during its hours of service and when the authorized operator is present at the principal operating location, be capable of:

(1) Commencing operation within 1 minute after the need to do so occurs;

(2) Discontinuing all emission within 5 seconds after emission is no longer required or after the necessity arises for emission to cease.

(f) Each station using a multichannel installation for telegraphy shall, when the authorized operator is present at the principal operating location, be capable of changing, after the need to do so occurs, from each operating radio channel for telegraphy to any other operating radio channel for telegraphy within the same characteristic portion of the spectrum below 525 kHz within a period of 5 seconds: *Provided, however,* That this requirement need not be met by equipment intended for use only in emergencies and not used for normal communication.

(g) Every coast station using a multichannel installation for radiotelephony shall, when the authorized operator is present at the principal operating location, be capable of changing, after the need to do so occurs, from one operating radio channel for telephony to another operating radio channel for telephony within:

(1) A period of 5 seconds, when changing from the calling channel to a working channel and vice versa within the frequency band 1600 kHz to 4000 kHz; or

(2) A period of 3 seconds, when changing from the calling frequency to a working frequency and vice versa within the band 156 to 162 MHz.

(h)(1) Each coast station authorized to operate on a secondary basis as a shipyard base station, shall, while so operating, comply with the provisions of this section which apply to coast stations using telephony.

(2) Each shipyard mobile station shall comply with the provisions of this section which apply to coast stations using telephony.

10. In § 81.131, paragraphs (b) (2) and (3) are amended by addition of footnotes 1 and 2; a new paragraph (g) is added to read as follows:

§ 81.131 Authorized frequency tolerance.

* * * * *

(b) * * *

Frequency ranges	Tolerance—parts in 10^6 unless shown as Hertz (Hz)
(1) From 14 to 515 kHz	200
(2) From 1605 to 4000 kHz:	
For A3A, A3H, and A3J emissions	20 Hz
For other than A3A, A3H, and A3J emissions	[1] 50
(3) From 4000 to 27,500 kHz:	
(i) For A3A, A3B, A3H, and A3J emissions	20 Hz
(ii) For narrow-band direct-printing telegraph and data transmission systems	20 Hz
(iii) For other than (i) and (ii) above	[2] 15

[1] The tolerance shown in the table is applicable in the Alaska area to all types of transmitters after January 1, 1974, and to new types of transmitters brought into service after January 1, 1971. Types of transmitters authorized in coast stations in the Alaska area prior to January 1, 1971, may continue with a tolerance of 100 parts in 10^6 until January 1, 1974.

[2] The tolerance shown in the table is applicable in the Alaska area to all types of transmitters after January 1, 1974, and to new types of transmitters brought into service after January 1, 1971. Types of transmitters authorized in coast stations in the Alaska area prior to January 1, 1971, may continue with a tolerance of 50 parts in 10^6 until January 1, 1974.

* * * * *

(g) Authorized frequency tolerances for Alaska-public fixed station:

Frequency ranges	Tolerance—parts in 10^6 unless shown as Hertz (Hz)
(1) From 50 to 525 kHz	200
(2) From 1605 to 3400 kHz:	
(i) For A3A, A3B, A3H, and A3J emissions	20 Hz
(ii) For other than A3A, A3B, A3H, and A3J emissions	[1] [2] 50
(3) From 4000 to 12,000 kHz:	
(i) For A3A, A3B, A3H, and A3J emissions	20 Hz
(ii) For other than A3A, A3B, A3H, and A3J emissions	[1] [3] 15

[1] The tolerance shown in the tables is applicable to all types of transmitters after January 1, 1974, and to new types of transmitters brought into service after January 1, 1971. Types of transmitters authorized in Alaska-public fixed stations prior to January 1, 1971, may continue with a tolerance of 100 parts in 10^6 until January 1, 1974.

[2] For 6A3 emission of the frequencies 8301, 5167.5, and 8070 kHz, a tolerance of 100 parts in 10^6 is applicable until January 1, 1977.

11. In § 81.132, paragraphs (a) (1) and (2) are amended and a new paragraph (a)(6) is added to read as follows:

§ 81.132 Authorized classes of emission.

(a) * * *

Frequency band	Classes of emission
(1) Coast stations using telegraphy:	
14 to 160 kHz	A1.
160 to 490 kHz	A1; A2, or A2H for distress, urgency and safety signals or any communication preceded by one of these signals.
490 to 525 kHz	A1 and A2 or A2H.
2035 to 27,500 kHz, except Alaska	A1.
(2) Coast stations using radiotelephony:	
(i) For frequencies below 23 MHz in § 81.304(a):	
2182 kHz	A3 or A3H as specified in § 81.304 (c) and (d).
(ii) All other frequencies	A3, A3A, A3H, or A3J as specified in § 81.304.
* * * * *	* * * * *
(6) Alaska-public fixed stations:	
(i) For radiotelegraphy:	
14 to 160 kHz	A1.
400 to 12,000 kHz	F1.
(ii) For telephony:	
1605 to 12,000 kHz	A3, A3A, A3H, or A3J as specified in § 81.708.

* * * * *

12. In § 81.134, paragraph (b) and the introductory text of paragraph (c) are amended, and new paragraphs (g), (h), and (i) are added to read as follows:

§ 81.134 Transmitter power.

* * * * *

(b) Transmitter power for coast stations, except in the Alaska area, using radiotelegraphy on frequencies below 27.5 MHz shall not exceed the following values in kilowatts:

Frequency band (kHz)	Transmitter power (kw.)
14 to 150	80
150 to 525	40
2035 to 2065	6.6
4000 to 7000	10
8000 to 9000	20
12,000 to 27,500	30

(c) The power for coast stations, except in the Alaska area, using radiotelephony below 27.5 MHz shall not exceed the values set forth in this paragraph.

* * * * *

(g) For coast stations in the Alaska area, transmitter power in the bands below 12,000 KHz shall not exceed the indicated values:

Frequency band (kHz)	Class of emission	Transmitter power (watts)
400–525	A1 and A2	265
1605–12,000 [1]	A1, A3, A3A, A3H and A3J.	150

[1] When using 2182 kHz for purposes other than distress calls and distress traffic, and urgency and safety signals and messages, the carrier power of limited coast stations shall not exceed 100 watts for A3 emission and 50 watts for A3H emission.

(h) For Alaska-public fixed stations, unless otherwise specified in this Part, transmitter power shall not exceed the indicated value:

Frequency band (kHz)	Class of emission	Transmitter power (watts)
50–200	A1	[1] 650
400–525	A1 and A2	265
1605–12,000	A1, A3, A3A, A3H and A3J.	150

[1] Higher power may be authorized where a satisfactory showing of need has been made.

(i) For common carrier fixed and coast stations, transmitter power shall not exceed the indicated value:

Frequency band (kHz)	Class of emission	Transmitter power (watts)
400–525	A1 and A2	1,000
1605–12,000	A3, A3A, A3H, A3J.	1,000

13. In § 81.137, paragraph (a) is amended to read as follows:

§ 81.137 Acceptability of transmitters for licensing.

(a) Each radiotelephone transmitter authorized in a coast station, marine-utility, marine-fixed station, or Alaska-public fixed license (other than transmitters authorized solely for developmental stations) must be type accepted by the Commission. This requirement shall be applicable as follows:

(1) To transmitters when operating on frequencies above 27.5 MHz;

(2) To single sideband and independent sideband transmitters when operating on frequencies below 27.5 MHz.

* * * * *

14. A new § 81.195 is added to read as follows:

§ 81.195 Alternate transmission on the same frequency in the Alaska area.

Coast stations within the Alaska area when communicating with ship stations within the bands 1605–2035 kHz and 2107–12,000 kHz shall transmit and receive on the same frequency: *Provided, however,* That this requirement shall not apply when communicating with common carrier coast stations; and provided further, That this requirement is not applicable in an emergency affecting the safety of life or property when, by reason of interference or limitation of equipment, the same frequency cannot be used.

15. In § 81.206(a), the footnotes 1 through 14 are deleted from the table, paragraph (b)(1) is amended, and new paragraphs (d) and (e) are added to read as follows:

[1] In the Alaska area, notification shall be given to the U.S. Coast Guard office in Juneau, Alaska, and to the Commission's engineer in charge at Anchorage, Alaska.

[1] Use of emission A3 shall be discontinued effective Jan. 1, 1972; Alaska effective Jan. 1, 1974.

[2] Capability to transmit using emission A3H shall be provided effective Jan. 1, 1972; Alaska effective Jan. 1, 1974.

[3] Capability to receive A3 emission shall be provided until Jan. 1, 1977. After Jan. 1, 1972, this requirement may be fulfilled by provision of the capability to receive emission A3H.

[4] Capability to receive A3H emission shall be provided effective Jan. 1, 1972; Alaska effective Jan. 1, 1974.

[5] Capability to transmit A3H emission shall be provided during the period Jan. 1, 1972, to Jan. 1, 1977; Alaska during the period Jan. 1, 1974, to Jan. 1, 1977. After Jan. 1, 1977, capability to transmit using emissions A3A and A3J shall be provided.

[6] Capability to receive A3H emission shall be provided during the period Jan. 1, 1972, to Jan. 1, 1977; Alaska during the period Jan. 1, 1974, to Jan. 1, 1977. After Jan. 1, 1977, capability to receive A3A and A3J emissions shall be provided.

§ 81.206 Assignable frequencies.

(a) • • •

Area	90–160 (kHz)	415–525 (kHz)	2 (MHz)	4 (MHz)	6 (MHz)	8 (MHz)	12 (MHz)	16 (MHz)	22 (MHz)
North Atlantic	112.85	418	2036	4238	6351.5	8502	12745.5	16933.2	22407
	124.05	436	2040.5	4366	6378	8514	12925.5	16968.8	2248
	130.35	442	2046.5	4331	6414.5	8596	12945.0	16973.6	22503
	132.10	460	2051	4343	6418	8610	12961.5	16997.6	22521
	134.55	472	2054	4346	6502	8630	12997.5	17021.6	22599
	137.00	476	2060		6505.5	8658	13020.0	17093.6	22617
		482			6512.5	8686	13024.5	17242.4	
	146.80	500					13033.5		
	147.50	512					13060.5		
Central Atlantic		428	2063	4346	6484.5	8502	12885.0		
		500							
		512							
South Atlantic	137.70	434	2039	4250	6389.65	8486	12952.5	16918.8	22431
		464	2043.5	4292	6407.5	8525	12970.5	17093.6	22503
		472	2051	4295	6411	8686	13011.0	17160.8	22599
		488	2057			8722	13078.5	17170.4	
		500						17199.2	
		512							
North Pacific		482	2058.5	4349	6411	8582	12907.5	17007.2	22539
		488	2063			8658	12916.5		
		500							
		512							
Central Pacific	126.15	426	2037.5	4247	6348	8558	12695.5	17016.8	22425
	147.85	436	2045	4274	6365.5	8618	12808.5	17026.0	22479
		460	2061.5	4358	6477.5	8642	12844.5	17088.8	22515
		476			6488	8714	13002.0	17184.8	22557
		500							
		512					13033.5		
South Pacific		418	2049.5	4238	6355	8590	12691	17064.8	22413
		464	2055.5	4283	6463.5	8606	12912	17088.8	22467
		482				8642	12993	17218.4	
		500					13033.5		
		512							
Gulf of Mexico	153.0	416	2042	4256	6369	8473	12704.5	16918.8	22431
		420	2048	4274	6435.5	8550	12826.5	17117.6	22467
		434	2049.5	4310	6446	8570	12840	17170.4	22569
		438	2052.5	4322	6495	8666	13038	17172.4	
		478	2055.5			8714	13051.5	17268.8	
		484	2063			8722	13078.5		
		500							
		512							
Great Lakes		482		4316	6474	8534			
		500							
		512							
Hawaii		484	2052.5	4295	6407.5	8542	13029	16978.4	22509
		500							
		512							
Puerto Rico	153.0	486	2052.5	4244		8726	13119		
		500							
		512							

(b)(1) In addition to the specific frequencies listed in paragraphs (a), (d), and (e) of this section, other frequencies within bands between 10 kHz and 27,500 kHz shown in the Commission's table of frequency allocations contained in § 2.106 of this chapter as being allocated for use by coast stations using telegraphy may be assigned to such coast stations: *Provided, however,* That initial authorizations for such frequencies shall be limited to 6 months duration.

• • • • •

(d) Each of the following carrier frequencies, when authorized by station license, may be used by public coast stations, other than common carrier, in all zones of the Alaska area when transmitting by means of telegraphy, in accordance with subpart E of this part, for communication with ship and aircraft stations, and with other public coast stations using telegraphy in the Alaska area:

Frequency (kHz)	Conditions of use
416	Working frequency.
438	Working frequency.
500	Calling and distress frequency.
512	Supplementary calling frequency when 500 kHz is being used for distress communications. Also available as a working frequency, except in those areas where it is in use as a supplementary calling frequency when 500 kHz is being used for distress purposes.
2052.5	Calling and working frequency for communication with ship stations when such stations are using telegraphy within the band 2089.5–2092.5 kHz.

(e) Each of the following frequencies is authorized for use by common carrier public coast stations at the location indicated:

Frequency (kHz)	Conditions of use
452	Working frequency—Ketchikan coast station.
472	Working frequency—Juneau coast station.
472	Working frequency—Nome coast station.
500	Calling and distress frequency—coast stations.

16. Section 81.301 is amended to read as follows:

§ 81.301 Supplemental eligibility requirements.

A public coast station may be granted to any person, or State or local government which is subject to the provisions of section 301 of the Communications Act of 1934: *Provided,* That the applicant is legally, financially, and technically qualified to render the proposed service, and the public interest, convenience, or necessity would be served by a grant thereof.

17. In § 81.303, the present paragraph is designated (a) and a new paragraph (b) is added to read as follows:

§ 81.303 Duplication of facilities.

• • • • •

(b) Only one public coast station operating on frequencies below 27,500 kHz will be authorized to serve any area whose ship-shore communication needs can be adequately served by a single radio-communication facility. That coast station shall also provide public correspondence service on frequencies in the band 156–162 MHz: *Provided, however,* That this requirement may be waived where VHF service is already provided in waters near the proposed station.

18. Section 81.304 is amended to read as follows:

§ 81.304 Frequencies available.

(a) The following tabulation indicates the frequencies which may be the authorized carrier frequencies for use by public coast stations. For single sideband radiotelephone emission, the assigned frequency will be 1.4 kHz above the authorized carrier frequency. The specific conditions for authorization and use are enumerated in paragraphs (b) through (g) of this section.

Carrier frequency (kHz)	See section	Conditions of use
1619	81.307	29, 43, 45, 48, 50.
1622	81.307	13, 23, 29, 36, 43, 48, 50.
1643	81.308	20, 40, 45, 49.
1646	81.308	13, 23, 29, 30, 33, 35, 37, 42, 49.
1649	81.308	29, 36, 45, 49.
1652	81.308	13, 23, 29, 31, 34, 41, 49.
1706	81.308	30, 39, 40, 45, 49.
1708	81.308	17, 23, 29, 32, 35, 49.
1709	81.308	29, 37, 45, 49.
1712	81.308	13, 23, 29, 30, 34, 41, 49.
2003	81.308	29, 41, 45, 49, 52.
2006	81.308	13, 23, 29, 30, 37, 49, 52.
2115	81.308	29, 36, 45, 49.
2118	81.308	13, 23, 29, 31, 33, 40, 49, 58.
2182	81.191, 81.306	1, 29, 36, 43, 44, 46, 60.
2209	81.306(d)	29, 45, 47.
2212	81.306(d)	13, 23, 29, 47.
2279	81.307	29, 43, 45, 48.
2362	81.307	13, 23, 29, 36, 43, 48, 50.
2397	81.306(d)	29, 45, 47.
2400	81.306(d)	13, 23, 29, 47.
2400	81.306(e)	47.
2419	81.308	29, 37, 45, 49.
2422	81.308	13, 23, 29, 30, 32, 39, 49.
2427	81.308	29, 40, 45, 49.
2430	81.308	13, 23, 29, 31, 33, 34, 8, 41, 49, 59.
2442	81.306(b)	47.
2447	81.308	29, 40, 45, 49.
2450	81.308	13, 23, 29, 32, 33, 35, 39, 42, 49, 53.
2450	81.306(b)	47.
2466	81.306(b)	47.
2479	81.308	29, 39, 45, 49.
2482	81.308	13, 23, 29, 32, 33, 35, 40, 42, 49, 54, 59.
2482	81.306(b)	47.
2482	81.306	47.
2490	81.306(b)	47.
2506	81.308	13, 29, 34, 35, 41, 42, 49, 55.
2506	81.306(a)(b)	47.
2509	81.306	29, 36, 40, 45, 49.
2512	81.308	13, 23, 29, 30, 31, 32, 33, 37, 39, 49.
2514	81.306(b)	2, 47.
2522	81.306(b)	47.
2530	81.306(a)(b)	47.
2536	81.308	29, 39, 45, 49.
2538	81.308	13, 23, 29, 31, 32, 36, 49.
2538	81.306(b)	47.
2550	81.306(b)	2, 47.
2586	81.306(b)	47.
2563	81.308	29, 40, 45, 49.
2566	81.308	13, 23, 29, 30, 33, 34, 37, 41, 49.
2566	81.306(b)	47.
2572	81.306(b)	47.
2582	81.306(b)	2, 47.
2590	81.306(a)(b)	47.
2598	81.306(b)	47.
2616	81.308	13, 23, 29, 30, 37, 49, 52, 56.
2638	81.306(b), 81.360(b).	7, 8, 47.
2738	81.306(c), 81.360(b).	7, 47.
2762	81.306(c)	47.
2764	81.306(c)	47.
2268	81.308	29, 41, 45, 49, 57.
3361	81.308	13, 23, 29, 30, 33, 34, 37, 40, 49, 57.
4069.2	81.306(c)	3, 5, 12, 47.
4072.4	81.306(c)	3, 5, 18, 28, 47.
4088.4	81.306(c)	3, 5, 27, 47.
4367.8	81.306(c)	3, 5, 12, 47.
4371.0	81.306(a)(b)(c)	3, 5, 11, 18, 47.
4380.6	81.307	27, 29, 48, 51, 61.
4383.8	81.307	11, 29, 48, 51, 61.
4387.0	81.306(c)	3, 5, 27, 47.
4390.2	81.306(a)(b)	11, 47.
4399.8	81.306(a)(b)	12, 47.
4399.8	81.308	27, 29, 49, 61.
4403.0	81.306(a)(b)	11, 47.
4403.0	81.308	11, 29, 49, 61.
4412.6	81.306(b)	12, 47.
4415.8	81.306(a)(b)	11, 47.
4419.0	81.306(a)	12, 47.
4422.2	81.306(a)	11, 47.
4428.4	81.306(a)	12, 47.
4428.4	81.308	27, 29, 49, 61.
4428.6	81.306(a)	11, 47.
4428.6	81.308	11, 29, 49, 61.
6147.5	81.306(c)	3, 5, 11, 47.
6451.9	81.306(c)	3, 4, 5, 12, 47.
6455.0	81.306(c)	3, 4, 5, 11, 47.
8207.6	81.306(c)	3, 4, 12, 47.
8210.8	81.306(c)	3, 4, 11, 47.
8246.0	81.306(c)	3, 5, 27, 47.
8736.2	81.306(a)	12, 47.
8736.4	81.306(a)	11, 47.
8749.0	81.306(a)	12, 47.
8751.2	81.306(a)	11, 47.
2764.4	81.306(a)	12, 47.
8757.6	81.306(a)	11, 47.
8773.6	81.306(a)	12, 47.
8776.8	81.306(a)	11, 47.
8780.0	81.306(c)	3, 5, 27, 47.
8783.2	81.306(b)	11, 47.
8792.8	81.306(a)	12, 47.
8796.0	81.306(a)	11, 47.
12879.0	81.306(c)	3, 5, 27, 47.
13127.0	81.306(a)	12, 47.
13140.8	81.306(a)	11, 47.
13151.0	81.306(a)	12, 47.
13154.5	81.306(a)	11, 47.
13156.0	81.306(c)	3, 5, 27, 47.
13161.5	81.306(a)	11, 47.
13172.0	81.306(a)	12, 47.
13178.5	81.306(a)	11, 47.
16488.0	81.306(c)	3, 5, 27, 47.
17260.0	81.306(a)	12, 47.
17272.5	81.306(a)	11, 47.
17283.0	81.306(c)	3, 5, 27, 47.
17286.5	81.306(a)	11, 47.
17304.0	81.306(a)	12, 47.
17307.5	81.306(a)	11, 47.
17318.0	81.306(a)	12, 47.
17321.5	81.306(a)	11, 47.
22653.5	81.306(a)	12, 47.
22657.0	81.306(a)	11, 47.
22667.5	81.306(a)	12, 47.
22671.0	81.306(a)	11, 47.
22688.5	81.306(a)	12, 47.
22692.0	81.306(a)	11, 47.
156.750	81.304	26.
156.800	81.304	26.
161.800	81.304	22, 24.
161.825	81.304	22, 24.
161.850	81.304	22, 24.
161.875	81.304	22, 24.
161.900	81.304	22.
161.925	81.304	22.
161.950	81.304	22.
161.975	81.304	22.
162.000	81.304	22.

(b) Authorization and use of the carrier frequencies set forth in paragraph (a) of this section shall be in accordance with the following limitations and conditions.

(1) The frequency 2182 kHz is authorized for use on a shared basis primarily by ship stations and secondarily by coast stations.

(2) The frequencies 2514, 2550, and 2582 kHz are authorized for use in the Great Lakes area on a shared basis with coast stations of Canada upon the express condition that, except in case of distress, the frequency 2550 kHz shall not be used for transmission to ship stations of Canada and the frequency 2582 kHz shall not be used for transmission to ship stations of the United States.

(3) Available for assignment to coast stations serving vessels on the Mississippi River and connecting inland waters: Except, that this frequency shall not be used by coast stations to serve vessels on the Great Lakes.

(4) Transmission is prohibited during the period from 8 p.m. to 5 a.m., c.s.t.

(5) Authorization to use this carrier frequency is subject to the express condition that harmful intereference shall not be caused to the service of any station which, in the discretion of the Commission, may have priority on the frequency or frequencies used for the service to which interference is caused.

(6) [Reserved]

(7) Available for use in accordance with § 81.360.

(8) Use of the frequency 2638 kHz by coast stations in certain geographic areas as prescribed in this part is authorized upon the express condition that harmful interference shall not be caused to intership communication on this frequency, nor to the service of any station which in the discretion of the Commission, has priority on the frequency or frequencies to which interference results: *Provided,* That with respect to the stations of the maritime service, this condition shall not be construed as prohibiting the operation of a coast station on this frequency pursuant to the provisions of §§ 81.181(b), 81.182, and 81.183 (b) and (c).

(9) [Reserved]

(10) [Reserved]

(11) Until January 1, 1972, emission A3, A3A, A3B, A3H, and A3J; during the period January 1, 1972, to January 1, 1974, emission A3A, A3H, and A3J; after January 1, 1974, emission A3A and A3J: *Provided, however,* That during the period January 1, 1974, to January 1, 1978, emission A3H may be used with foreign ship stations not equipped for single sideband operation.

NOTE: Future use of emission A3B in the maritime mobile service will be indefinite following transition to SSB and entry into force of the new SSB allotment plan adopted by the WARC, Geneva, 1967. The WARC, in Resolution No. MAR 13, specified its agreement that the WARC, 1973, must consider whether class A3B emission should be maintained after 1973.

(12) This frequency is available for use with emissions A3A and A3J during the period March 1, 1970, to January 1, 1972: *Provided,* That harmful interference is not caused to systems still employing double sideband emission; and during the period January 1, 1972, to January 1, 1974: *Provided,* That harmful interference is not caused to ship station receivers employing double sideband techniques receiving a transmission on a carrier frequency positioned higher in frequency by 3.1, 3.2, or 3.5 kHz.

(13) Use of DSB will not be permitted after January 1, 1974.

(14) Use of DSB will not be permitted after January 1, 1977.

(15) [Reserved]

(16) [Reserved]

(17) Authorization for use of this frequency is withdrawn effective January 1, 1977.

(18) Authorization for use on the Mississippi River system of this frequency is withdrawn effective January 1, 1974.

(19) [Reserved]

(20) [Reserved]

(21) [Reserved]

(22) To the extent practicable, the order of assignment of public correspondence channels will be in accord with the U.S. priority numbering system as follows:

Priority No. U.S.	Priority No. I.T.U.	Transmit (MHz)	Receive (MHz)	Channel designator
1	1	161.900	157.300	26
2	2	161.950	157.350	27
3	3	161.850	157.250	25
4	4	161.800	157.200	24
1	6	162.000	157.400	28
5	13	161.825	157.225	84
6	14	161.975	157.375	87
7	15	161.925	157.325	85
8	17	161.875	157.275	85

[1] Channel 28 will be assigned interchangeably with Channel 26 as the first priority number.

(23) Until January 1, 1974, emissions 6A3, 2.8A3A, 2.8A3H, and 2.8A3J; during the period January 1, 1974, to January 1, 1977, emissions 2.8A3A, 2.8A3H, and 2.8A3J; after January 1, 1977, emissions 2.8A3A and 2.8A3J.

(24) Not available in Puerto Rico and the Virgin Islands.

(25) In the band 156–162 MHz, the frequency 156.800 MHz is the national distress, safety, and calling frequency for the maritime mobile service. It may be used for distress messages and messages preceded by the urgency and safety signals. It may be used to announce transmission on another frequency of traffic lists and, pending implementation of the environmental communication channel 156.750MHz, important maritime information. It may also be used for call and reply; however, where the ship station is known to maintain a watch on both 156.800MHz and a public coast working frequency, calling and replying by a public coast station should be conducted on a frequency authorized primarily for working.

(26) Available for assignment to coast stations, for use in accordance with an agreed program, for the broadcast of information to ship stations concerning the environmental conditions in which vessels operate, i.e., weather; sea conditions; time signals; notices to mariners; and hazards to navigation.

(27) Available January 1, 1974, for use with emissions 2.8A3A and 2.8A3J, with coast and ship stations operating (simplex) on the same channel.

(28) Until January 1, 1972, emission A3, A3A, A3B, A3H, and A3J; during the period January 1, 1972, to January 1, 1974, emission 2.8A3A, 2.8A3H, and 2.8A3J.

(29) Available for assignment to public coast stations in Alaska.

(30) Until January 1, 1977, available for use in Zone 1 of Alaska.

(31) Until January 1, 1977, available for use in Zone 2 of Alaska.

(32) Until January 1, 1977, available for use in Zone 3 of Alaska.

(33) Until January 1, 1977, available for use in Zone 4 of Alaska.

(34) Until January 1, 1977, available for use in Zone 5 of Alaska.

(35) Until January 1, 1977, available for use in Zone 6 of Alaska.

(36) Until January 1, 1977, available for use in all zones of Alaska.

(37) After January 1, 1977, available for use in Zone 1 of Alaska.

(38) After January 1, 1977, available for use in Zone 2 of Alaska.

(39) After January 1, 1977, available for use in Zone 3 of Alaska.

(40) After January 1, 1977, available for use in Zone 4 of Alaska.

(41) After January 1, 1977, available for use in Zone 5 of Alaska.

(42) After January 1, 1977, available for use in Zone 6 of Alaska.

(43) After January 1, 1977, available for use in all zones of Alaska.

(44) Until January 1, 1977, available for use with emissions 6A3, 2.8A3A, 2.8A3H, and 2.8A3J.

(45) After January 1, 1977, available for use with emissions 2.8A3A and 2.8A3J.

(46) After January 1, 1977, available for use with emission 2.8A3H.

(47) Available for use in accordance with § 81.306.

(48) Available for use in accordance with § 81.307.

(49) Available for use in accordance with § 81.308.

(50) Use of radiotelegraphy on this frequency is limited to manual radiotelegraphy and to emission 0.1A1.

(51) Primarily, for communication by radiotelephony with public ship stations on board any type of vessel during the hours 6 a.m. to 9 p.m., local standard time; and secondarily, during the hours 6 a.m. to 9 p.m., local standard time, for communication by radiotelephony between public coast stations, separated not less than 50 miles, for the exchange of public correspondence, on condition that ship-shore communications shall be given priority at all times. Use of this frequency for this purpose shall be limited to conditions which make it necessary to use this frequency in lieu of a frequency designated for fixed service by Subpart Q of this part.

(52) To minimize interference to or from the operation of stations outside the Alaska area or U.S. Government stations within Alaska, this frequency is authorized for use annually in the respective zone only during the hours from 7 a.m. to 11 p.m., local standard time, from May 15 to September 15, inclusive, and from 8 a.m. to 9 p.m., local standard time, from April 1 to May 14, inclusive, and from September 16 to October 31, inclusive.

(53) Until January 1, 1977, use of the frequency 2450 kHz shall be coordinated as necessary with use of the frequency 2466 kHz by Alaska-public fixed stations in the Alaska area in order to avoid harmful interference.

(54) Until January 1, 1977, use of the frequency 2482 kHz shall be coordinated as necessary with use of the frequencies 2466 and 2474 kHz by Alaska-public fixed stations in the Alaska area in order to avoid harmful interference.

(55) Use of the frequency 2506 kHz for maritime mobile service in the Alaska area is authorized on condition that harmful interference shall not be caused to the service of any coast station located in the vicinity of San Francisco or Eureka, Calif.

(56) Until January 1, 1977, use of the frequency 2616 kHz shall be coordinated as necessary with use of the frequency 2632 kHz by Alaska-public fixed stations in the Alaska area in order to avoid harmful interference.

(57) Insofar as is practicable, coast stations shall limit their use of the frequencies 3258 and 3261 kHz to communications over distances which cannot be effectively covered by the use of a frequency below 2700 kHz or above 156 MHz.

(58) Until January 1, 1977, use of the frequency 2118 kHz shall be coordinated as necessary with use of the frequency 2134 kHz in order to avoid harmful interference.

(59) To minimize interference to or from the operation of stations outside the Alaska area, the frequencies 2430 and 2482 kHz are authorized for use annually in the respective zone only during the hours from 6 a.m. to 11 p.m. local standard time, from April 1 to September 30, inclusive.

(60) Available for use in accordance with § 81.305.

(61) Use of this frequency is limited to radiotelephony exclusively; for use during the hours 6 a.m. to 9 p.m., local standard time. Availability and use of 4428.6 kHz is subject to the conditions that harmful interference shall not be caused to the service of any coast station located in the Great Lakes area.

(c) Conversion of public coast stations, except in Alaska, from DSB to SSB when using radiotelephony frequencies in the band 2000–2850 kHz shall be in accordance with the following schedule:

(1) Transmission of DSB emissions will not be permitted after January 1, 1972;

(2) Authorizations for use of DSB emission granted after July 24, 1970, shall expire on January 1, 1972;

(3) Transmission of SSB emissions A3A, A3H, or A3J is permitted prior to January 1, 1972. Except as provided in § 81.142(d), after January 1, 1972, the capability of using these emissions is required;

(4) On 2182 kHz, until January 1, 1972, public coast stations are required to have the capability to transmit DSB or SSB full carrier emissions and to receive DSB and SSB full carrier emissions;

(5) On 2182 kHz during the period January 1, 1972, to January 1, 1977, public coast stations are required to have the capability to receive SSB full carrier and DSB emission; after January 1, 1977, such stations are required to have the capability to receive SSB full carrier emission.

(d) Conversion of public coast stations in Alaska from DSB to SSB when using radiotelephony on frequencies below 4000 kHz shall be in accordance with the following schedule:

(1) Transmission of DSB emissions will not be permitted after January 1, 1974;

(2) Authorizations for use of DSB emission granted after December 1, 1971, shall expire on January 1, 1974;

(3) Transmission of SSB emissions A3A, A3H, or A3J is permitted prior to January 1, 1974. Except as provided in § 81.142(d), after January 1, 1974, the capability of using these emissions is required.

(4) On 2182 kHz, until January 1, 1974, public coast stations are required to have the capability to transmit DSB or full carrier emissions and to receive DSB and SSB full carrier emissions;

(5) On 2182 kHz during the period January 1, 1974, to January 1, 1977, public coast stations are required to have the capability to receive SSB full carrier and DSB emission; after January 1, 1977, such stations are required to have the capability to receive SSB full carrier emission.

(e) After January 1, 1977, radiotelephony frequencies in the bands below 4000 kHz will be available only to public coast stations which, in addition to providing service on the frequencies below 4000 kHz, shall apply for and if granted provide service on frequencies in the band 156–162 MHz.

(f) Except for safety communications, after January 1, 1977:

(1) Radio telephony frequencies below 4000 kHz shall not be used by a public coast station for communication with a vessel which is within the VHF service range of that public coast station; and

(2) Except in the Mississippi River system, public coast stations serving lakes or rivers will not be authorized to employ frequencies below 4000 kHz.

(g) In addition to the specific frequencies listed in paragraph (a) of this section, other frequencies within the bands between 2000 kHz and 27.5 MHz, as shown in the Commission's table of frequency allocations contained in § 2.106 of this chapter as being allocated for use by coast stations using telephony, may be assigned to such coast stations: *Provided, however,* That initial authorizations for such frequencies will be limited to 6 months' duration.

(h) (1) In addition to the authorized carrier frequencies designated for telephony in the license of a public coast station, such station when communicating by telephony with a mobile or coast station of the U.S. Government may, on the condition that its emission bandwidth and frequency tolerance shall be within the respective limits thereof permitted for the Government station, transmit on a frequency assigned to the U.S. Government when authorized or directed to do so by the Government station responsible, or by the Government department or agency for which the frequency is authorized. The coast station carrier frequency, the class of emission and the permissible class of traffic on such frequency, shall be designated by the Government station or the responsible Government department or agency.

(2) Frequencies assigned to Government radio stations are assignable to non-Government public coast stations for communication with other non-Government stations by telephony when such communication is necessary in connection with or in behalf of the Federal Government and where the Commission determines after consultation with the appropriate Government agency or agencies that such assignment is necessary.

(i) Each carrier frequency set forth in paragraph (a) of this section which is not to be used prior to a specified beginning date, may be used under appropriate station authorization for test transmission during a period commencing not more than 2 months in advance of such specified beginning date, solely to determine whether an existing coast station is capable of proper technical operation on that particular radio channel preparatory to rendering regular service thereon: *Provided,* That harmful interference is not caused by such test transmission to the service of any other station.

19. In § 81.306, paragraphs (a), (b), and (c) are amended, paragraph (d) and (e) are redesignated (e) and (f), and a new paragraph (d) is added, to read as follows:

§ 81.306 Frequencies available below 27.5 MHz.

(a) The carrier frequencies designated herewith are assignable to class I public coast stations using telephony when the coast station and the mobile station transmit alternately on different radio channels: *Provided,* That the designated carrier frequencies below 5000 kHz and above 22,650 kHz are assignable only to coast stations located in the vicinity of the specific harbors, ports, or places designated hereinafter opposite the respective coast station transmitting frequency: *Provided, further,* That the coast station shall receive transmissions from mobile stations on the associated receiving frequency also designated herewith:

(1) Working frequencies below 5000 kHz:

Coast station transmitting carrier frequency (kHz)	Coast station located in the vicinity of—	Coast station receiving carrier frequency (kHz)
2506	San Francisco, Calif.	2406
2630	Hawaii	2134
2590	New York, N.Y.	2198
4371.0	San Francisco, Calif.[3]	4072.4
4371.0	New York, N.Y.	4072.4
4371.0	Miami, Fla.	4072.4
4390.2	New York, N.Y.[3]	4091.6
4390.2	San Francisco, Calif.[3]	4091.6
4390.2	Miami, Fla.	4091.6
4399.8	New York, N.Y.	4101.2
4399.8	San Francisco, Calif.[3]	4101.2
4399.8	Miami, Fla.	4101.2
4408.0	New York, N.Y.	4104.4
4408.0	San Francisco, Calif.[3]	4104.4
4408.0	Miami, Fla.	4104.4
4415.8	Hawaii[3]	4117.2
[2] 4419.0	Miami, Fla.	4120.4
4419.0	New York, N.Y.	4120.4
4422.2	Miami, Fla.[1]	4123.6
4422.2	New York, N.Y.	4123.6
4422.2	San Francisco, Calif.	4123.6
[2] 4425.4	New York, N.Y.	4126.8
4425.4	San Francisco, Calif.	4126.8
[2] 4428.6	New York, N.Y.	4130.0
4428.6	San Francisco, Calif.[3]	4130.0
4428.6	Miami, Fla.	4130.0

[1] Available for use annually at New York, N.Y., during period Dec. 15 to March 15.
[2] Station of primary allotment.
[3] Subject to noninterference to use at locations set forth in paragraphs (b) and (c) of this section.

(2) Working frequencies between 5000 kHz and 27.5 MHz:

Coast station transmitting carrier frequency (kHz)	Coast station located in the vicinity of—	Coast station receiving carrier frequency (kHz)
8735.2	San Francisco, Calif.	8201.2
8735.2	New York, N.Y.[3]	8201.2
8735.2	Miami, Fla.	8201.2
8735.4	San Francisco, Calif.[3]	8204.4
8735.4	New York, N.Y.	8204.4
8735.4	Miami, Fla.	8204.4
8748.0	San Francisco, Calif.[3]	8214.0
8751.2	Hawaii[3]	8217.2
8754.4	New York, N.Y.	8220.4
8754.4	San Francisco, Calif.	8220.4
8754.4	Miami, Fla.[3]	8220.4
8757.6	New York, N.Y.[3]	8223.6
8757.6	San Francisco, Calif.	8223.6
8757.6	Miami, Fla.	8223.6
[2] 8773.6	Miami, Fla.	8239.6
[2] 8773.6	San Francisco, Calif.	8239.6
[2] 8773.6	New York, N.Y.[3]	8239.6
[2] 8776.8	Miami, Fla.[3]	8242.8
[2] 8776.8	San Francisco, Calif.	8242.8
[2] 8776.8	New York, N.Y.	8242.8
8792.8	New York, N.Y.	8258.8
8792.8	San Francisco, Calif.[3]	8258.8
8792.8	Miami, Fla.	8258.8
8796.0	New York, N.Y.[3]	8262.0
8796.0	San Francisco, Calif.[3]	8262.0
8796.0	Miami, Fla.	8262.0
13,137.0	New York, N.Y.	12,358.0
13,137.0	San Francisco, Calif.	12,358.0
13,137.0	Miami, Fla.[3]	12,358.0
13,140.5	New York, N.Y.[3]	12,361.5
13,140.5	San Francisco, Calif.	12,361.5
13,140.5	Miami, Fla.	12,361.5
13,151.0	San Francisco, Calif.[3]	12,372.0
13,154.5	Hawaii[3]	12,375.5
13,161.5	San Francisco, Calif.[3]	12,382.5
13,161.5	New York, N.Y.	12,382.5
13,161.5	Miami, Fla.	12,382.5
13,172.0	New York, N.Y.	12,393.0
13,172.0	Miami, Fla.[3]	12,393.0
13,175.5	New York, N.Y.[3]	12,396.5
13,175.5	Miami, Fla.	12,396.5
17,269.0	San Francisco, Calif.[3]	16,474.0
17,272.5	Hawaii[3]	16,477.5
17,288.5	New York, N.Y.[3]	16,491.5
17,288.5	San Francisco, Calif.	16,491.5
17,288.5	Miami, Fla.	16,491.5
17,304.0	San Francisco, Calif.	16,509.0
17,304.0	New York, N.Y.[3]	16,509.0
17,304.0	Miami, Fla.	16,509.0
17,307.5	San Francisco, Calif.[3]	16,512.5
17,307.5	New York, N.Y.	16,512.5
17,307.5	Miami, Fla.	16,512.5
17,318.0	New York, N.Y.	16,523.0
17,318.0	Miami, Fla.[3]	16,523.0
17,321.5	New York, N.Y.[3]	16,526.5
17,321.5	Miami, Fla.	16,526.5
22,653.5	New York, N.Y.	22,028.0
22,653.5	Miami, Fla.[3]	22,028.0
22,657.0	New York, N.Y.[3]	22,031.5
22,657.0	Miami, Fla.	22,031.5
22,667.5	San Francisco, Calif.	22,042.0
22,667.5	New York, N.Y.[3]	22,042.0
22,667.5	Miami, Fla.	22,042.0
22,671.0	San Francisco, Calif.[3]	22,045.5
22,671.0	New York, N.Y.	22,045.5
22,671.0	Miami, Fla.	22,045.5
22,688.5	New York, N.Y.	22,063.0
22,688.5	San Francisco, Calif.[3]	22,063.0
22,688.5	Miami, Fla.	22,063.0
22,692.0	New York, N.Y.[3]	22,066.5
22,692.0	San Francisco, Calif.[3]	22,066.5
22,692.0	Miami, Fla.	22,066.5

[1] Available for communication with ship stations in the Gulf of Mexico and the Caribbean area only. Use of the frequency is upon the express condition that interference shall not be caused to the service of any station which may have priority on the frequency or frequencies used for the service to which interference is caused.
[2] Station of primary allotment.

(b) Subject to the specific limitations imposed in this paragraph and in § 81.304 with respect to particular frequencies, the carrier frequencies designated are assignable for working purposes to class II public coast stations using telephony when the coast station and the mobile station transmit alternately on different radio channels: *Provided,* That these frequencies are assignable only to coast stations located in the vicinity of the harbors, ports, or places designated hereinafter opposite the respective coast station transmitting frequency: *Provided further,* That each coast station shall receive transmissions from mobile stations on the associated receiving frequency also designated in this paragraph.

Coast stations located in the vicinity of—	Coast station transmitting carrier frequency (kHz) [1]				Associated coast station receiving carrier frequency (kHz) [1]			
		Note 2	Note 3	Conditions of use, Note 4		Note 2	Note 3	Conditions of use, Note 4
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Boston, Mass.	2450			None	2366			None
	2506			None	2406			None
	2566			5, 9	2390			5, 9
New York, N.Y.	2482			6	2362			6
	2522			None	2126			None
	2558			None	2166			None
	2590			None	2196			None
		4390.2	4390.2	29, 32		4091.6	4091.6	33
		4403.0	4403.0	29, 32		4104.4	4104.4	33
		4422.2	4422.2	30, 32		4123.6	4123.6	33
		4428.6	4428.6	7, 10, 29, 32		4130.0	4130.0	3, 7, 10, 33
Wilmington, Del.	2558			None	2166			None
Baltimore, Md.	2558			None	2166			None
Norfolk-Quantico, Va.	2638			None	2142			None
	2450			5, 9	2366			5, 9
Charleston, S.C.-Jacksonville, Fla.	2506			None	2390			None
Lake Allatoona-Lake Sidney, Lanier, Ga.	2480			5	2366			5
Miami, Fla.	2442			9	2406			9
	2490			9	2081.5			None
	2514			5, 11	2118			10
	2540			13	2158			12
			4371.0	31, 32			4072.4	33
		4403.0	4403.0	29, 32		4104.4	4104.4	33
		4422.2	4422.2	30, 32		4123.6	4123.6	33
Tampa, Fla.	2466			None	2090			None
	2550			10	2188			10
			4419.0	32, 34			4120.4	33
Mobile, Ala.	2572			None	2430			None
			4412.6	32, 35			4114.0	33
New Orleans, La.	2598			None	2206			None
	2558			9, 14	2166			9
	2482			None	2362			None
			4419.0	33, 34			4120.4	33
Delcambre, La.	2606			5, 9	2458			5, 9
			4412.6	32, 35			4114.0	33
Galveston, Tex.	2630			None	2134			None
	2490			9, 16	2366			9, 16
			4425.4	32, 36			4126.5	33
Corpus Christi, Tex.	2638			16	2142			17
			4425.4	32, 36			4126.5	33
San Juan, P.R.	2638			None	2134			None
Great Lakes	2514			32	2118			None
	2560			32	2186			None
	2682			32	2206			19
		4418.6	4418.6	32		4117.2	4117.2	33
		4428.6	4428.6	32		4130.0	4130.0	3, 33
		8788.2	8788.2	32		8340.2	8340.2	33
Los Angeles-San Diego, Calif.	2566			None	2009			None
	2466			21	2362			20
	2506			22	2206			22
	2522			22	2126			22
San Francisco-Eureka, Calif.	2450			24	2006			23
	2506			None	2408			None
		4371.0	4371.0	31, 32		4072.4	4072.4	33
		4390.2	4390.2	29, 32		4091.6	4091.6	33
			4399.8	31, 32			4101.2	33
Astoria, Oreg.	2442			5, 9	2009			5, 9
Astoria-Portland, Oreg.	2598			None	2206			None
Coos Bay, Oreg.	2566			22	2081.5			5, 22
Seattle, Wash.	2522			None	2126			None
	2482			25	2430			25

Coast stations located in the vicinity of—	Coast station transmitting carrier frequency (kHz) [1]				Associated coast station receiving carrier frequency (kHz) [1]			
		Note 2	Note 3	Conditions of use, note 4		Note 2	Note 3	Conditions of use, note 4
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Kahuku, Hawaii	2630			None	2124			None
		4418.6	4418.6	32		4117.2	4117.2	33
Hilo, Hawaii	2582			None	2198			None
Palmyra Island, Hawaii	2530			27	2134			26
St. Thomas Isl., Virgin Islands	2606			28	2009			28

[1] In the table, for duplex working on frequencies above 2850 kHz coast station transmitting carrier frequencies appear in columns (2), (3) and (4); ship station transmitting carrier frequencies appear in columns (6), (7), and (8). Coast and ship station frequencies appearing on the same line are paired, as follows: Column (2) is paired with column (6); column (3) with (7); and column (4) is paired with (8). In general: The frequencies in columns (3) and (7) will be converted to SSB (see §§ 81.304; and 83.351, coast, Jan. 1, 1972; ship, Jan. 1, 1974); and those in columns (4) and (8) will be available after Jan. 1, 1974.

NOTE 1: [Reserved].

NOTE 2: Frequencies above 2850 kHz shown in columns (3) and (7) and available for DSB emission: Will replace the DSB frequencies shown in columns (2) and (6); and are available in accordance with the provisions of this section and the conditions of use set forth in §§ 81.304 and 83.351. The frequencies listed in columns (3) and (7) will not be available after Jan. 1, 1974.

NOTE 3: Frequencies above 2850 kHz shown in columns (4) and (8) will be available for 2.8A3A and/or 2.8A3J emissions on Jan. 1, 1974, and will replace the frequencies listed in columns (3) and (7) on that date.

Note 4: The conditions of use referred to in columns (5) and (9) are set forth below the table.

(1) [Reserved]

(2) [Reserved]

(3) The frequency in column (6) is replaced by the frequency in column (7) in accordance with the conditions of use set forth in § 83.351 of this chapter.

(4) [Reserved]

(5) Available on condition that no harmful interference will be caused to any service or station which in the discretion of the Commission may have priority on the frequency or frequencies used for the service to which interference is caused.

(6) Available on condition that harmful interference is not caused to the service of any coast station located in the vicinity of New Orleans, La., to which this carrier frequency is assigned for transmission.

(7) Available for use annually during period December 15 to March 15.

(8) Available on a 24-hour basis, on condition that harmful interference shall not be caused to the police radio service in southern California.

(9) Day only.

(10) Unlimited hours of use from December 15 to April 1, annually, and day only from April 1 to December 15, annually, on condition that harmful interference shall not be caused to the service of any ship station in the Great Lakes area which in the discretion of the Commission has priority on the frequency or frequencies used for the service to which interference is caused.

(11) Unlimited hours of use from December 15 to April 1, annually, and day only from April 1 to December 15, annually, on condition that harmful interference shall not be caused to the service of any coast station in the vicinity of Miami, Fla., to which the carrier frequency 2490 kHz is assigned for transmission.

(12) Unlimited hours of use from December 15 to April 1, annually, and day only from April 1 to December 15, annually, on condition that harmful interference is not caused to the service of any ship station which is within 300 nautical miles of Tampa, Fla., and is transmitting on this frequency to a coast station located in the vicinity of that port.

(13) Unlimited hours of use from December 15 to April 1, annually, and day only from April 1 to December 15, annually, on condition that harmful interference is not caused to the service of any coast station located in the vicinity of Tampa, Fla., to which this carrier frequency is assigned for transmission.

(14) Available on condition that harmful interference is not caused to the service of any coast station located in the vicinity of Mobile, Ala., to which the carrier frequency of 2572 kHz is assigned for transmission.

(15) Available on condition that harmful interference is not caused to the service of any ship station which is within 300 nautical miles of Boston, Mass., and is transmitting on this frequency to a coast station located in the vicinity of that port.

(16) Available on condition that harmful intereference is not caused to the service of any coast station located in the vicinity of Boston, Mass., San Francisco or Eureka, Calif., to which this carrier frequency is assigned for transmission.

(17) Available on condition that no harmful interference will be caused to the service of any ship station which is within 300 nautical miles of Norfolk-Quantico, Va., and is transmitting on this frequency to a coast station located in the vicinity of that port.

(18) Available on condition that no harmful interference will be caused to the service of any coast station located in the vicinity of Norfolk-Quantico, Va., to which this carrier frequency is assigned for transmission.

(19) Not available to U.S. ship stations for transmission.

(20) Available on condition that harmful interference is not caused to the service of any ship station which is within 300 nautical miles of New Orleans, La., and is transmitting on this frequency to a coast station located in the vicinity of that port.

(21) Available on condition that harmful interference is not caused to the service of any coast station located in the vicinity of Tampa, Fla., to which this carrier frequency is assigned for transmission.

(22) 7 a.m. to 7 p.m., P.s.t., only.

(23) Available on condition that harmful interference shall not be caused to the service of any ship station which is within 300 nautical miles of Los Angeles or San Diego, Calif., and is transmitting on 2009 kHz to a coast station located in the vicinity of either of these ports.

(24) Available on condition that harmful interference is not caused to police radio service in Kansas or Wisconsin.

(25) Authorized for use south of 51° north latitude and east of 142° west longitude exclusively during the following daily periods on condition that harmful interference is not caused to the service of any station in the Alaska area to which this carrier frequency is assigned for transmission: Annually from April 1 to September 30, inclusive, from 5 a.m. to 9 p.m., P.s.t., only; and annually from October 1 to March 31, inclusive, from 6 a.m. to 11 p.m., P.s.t., only.

(26) Available on condition that harmful interference shall not be caused to the service of any ship station which is within 300 nautical miles of Kahuku, Hawaii, and is transmitting on this frequency to a coast station located in the vicinity of that port.

(27) Available on condition that harmful interference is not caused to the service of any coast station located in the vicinity of Kahuku, Hawaii, to which the carrier frequency 2530 kHz is assigned for transmission.

(28) 8 a.m. to 9 p.m., A.s.t., only; on conditions that no harmful interference will be caused to any service or any station which in the discretion of the Commission may have priority on the frequency or frequencies used for the service to which interference is caused.

(29) New York, N.Y., is the station of primary assignment. Use of this frequency is shared with Miami, Fla., and San Francisco, Calif.

(30) Miami, Fla., is the station of primary assignment. Use of this frequency is shared with New York, N.Y., and San Francisco, Calif.

(31) San Francisco, Calif., is the station of primary assignment. Use of this frequency is shared with New York, N.Y., and Miami, Fla.

(32) In accordance with § 81.304.

(33) In accordance with § 83.351 of this chapter.

(34) Shared by New Orleans, La., Tampa and Miami, Fla. Use by Miami, Fla., is on a secondary basis to use by New Orleans, La., and Tampa, Fla.

(35) Shared by Mobile, Ala., and Delcambre, La.

(36) Shared by Galveston and Corpus Christi, Tex.

(c) Subject to the specific limitations imposed in this paragraph and in § 81.304 with respect to particular frequencies, the carrier frequencies designated herein are assignable for working purposes to class II public coast stations using telephony when the coast station and the mobile station tansmit alternately on the same radio channel: *Provided*, That these frequencies are assignable only to coast stations located in the vicinity of the harbors, ports, or places designated hereinafter opposite the respective frequency:

Coast stations located in the vicinity of—	Ship and coast station transmitting and receiving carrier frequency (kHz)			
		Note 2	Note 3	Conditions of use, note 4
(1)	(2)	(3)	(4)	(5)
Baltimore, Md.	2400			(1)
Louisville, Ky.	2782			(1)
	2086			(2)
		4072.4	4089.2	
		4371.0		
		6147.5		
		6455.0	6455.0	
		8210.8	8780.0	
			13, 158.0	
			17, 283.0	
Memphis, Tenn.	2782			(1)
	2086			(2)
		4072.4	4089.4	
		4371.0		
		6147.5		
			6451.9	
		6455.0		
		8210.0	8246.0	
			12, 379.0	
			16, 488.0	
Pittsburgh, Pa.	2782			(1)
	2086			(2)
		4072.4		
		4371.0	4367.8	
		6147.5		
		6455.0	8207.6	
		8210.8		
			12, 379.0	
			16, 488.0	
St. Louis, Mo.	2782			(1)
	2086			(2)
		4072.4		
		4371.0	4367.8	
		6147.5	6147.5	
		6455.0		
		8210.8	8210.8	
			13, 158.0	
			17, 283.0	
Lake Dallas-Lake Texhoma Tex.	2738			(1)
Lake Mead, Nev.	2782			(1)
The Dalles-Umatilla, Oreg.	2784			(1)

NOTE 1: [Reserved]

NOTE 2: Frequencies above 2850 kHz shown in column (3) are available during the period Mar. 1, 1970, to Dec. 31, 1972, for use with emissions 6A3, 2.8A2A, 2.8A3H, and 2.8A3J.

NOTE 3: Frequencies above 2850 kHz shown in column (4) are available effective Jan. 1, 1974, for use with emissions 2.8A3A and 2.8A3J and on that date will replace the frequencies shown in column (3). The frequencies appearing in column (3) will not be available after Dec. 31, 1973.

NOTE 4: The conditions of use referred to in column (5) are set forth below the table.

(1) Subject to a separate rule making proceeding.

(2) Available for use with emissions 2.8A3A and 2.8A3J.

* * * * *

(d) The carrier frequencies set forth in the following table are authorized for use by common carrier public coast stations for communication with public ship stations in the Alaska area.

For communication with common carrier coast stations located in the vicinity of—	Common carrier coast station carrier frequency (kHz)		Associated ship station transmitting carrier frequency (kHz)	
	Until 1-1-77	After 1-1-77	Until 1-1-77	After 1-1-77
Anchorage, Alaska	2312	2312	2134	2134
Cold Bay, Alaska	2312	2312	2134	2134
Cordova, Alaska	2312	2307	2134	2237
Juneau, Alaska	2400	2400	2240	2240
Ketchikan, Alaska	2312	2307	2134	2237
King Salmon, Alaska	2312	2400	2134	2240
Kodiak, Alaska	2400	2309	2240	2131
Nome, Alaska	2400	2400	2240	2240
Petersburg, Alaska	2312	2312	2134	2134
Sitka, Alaska	2400	2312	2240	2134
Unalaska, Alaska	2312	2312	2134	2134

[1] Subject to the limitations and conditions of use set forth in § 81.304.

(e) The frequency 2638 kHz is available for assignment as a working frequency for class II public coast stations for the transmission of safety and operational communications under the following conditions:

(1) No other frequency in the band 1600–5000 kHz is available for assignment to public coast stations at the proposed location;

(2) The proposed station is to be located within the continental United States (excluding Alaska) not less than 100 miles from the seacoast, the shores of navigable bays and sounds adjacent to the open sea, the shores of the Great Lakes, the St. Lawrence River, the Illinois and Ohio Rivers, and the Mississippi River south of Hastings, Minn.;

(3) The use of the frequency shall be confined exclusively to safety and operational communications;

(4) Except for safety communications, use of the frequency shall be limited to day only: *Provided*, That operational communications may be continued beyond such time to the extent necessary for compliance with the provisions of § 81.186(b); and

(5) An affirmative showing is submitted with the original application and each renewal application evidencing the need for the desired safety and operational communications and establishing the fact that such communications cannot be provided by the use of frequencies above 156 MHz.

(f) Use of the working frequencies authorized in paragraphs (a), (b), (c), and (d) of this section is subject to the applicable conditions and limitations set forth in § 81.304. Class II coast stations shall use frequency assignments in the band 2000 kHz to 27.5 MHz only when the use of frequency assignments in the band 156–162 MHz will not provide effective communication.

20. A new § 81.307 is added to read as follows:

§ 81.307 Frequencies available in all zones of the Alaska area.

(a) Each of the carrier frequencies set forth in the following table when authorized by station license, may be used by public coast stations, other than common carrier, in all zones of the Alaska area.

Frequency (kHz)

1619	2379	4380.6
1622	2382	4383.8

(b) The frequencies listed in paragraph (a) of this section are available for use for communication by radiotelegraphy or radio telephony between public correspondence coast stations and public ship stations on board any type of vessel.

(c) Use of the frequencies listed in paragraph (a) of this section are subject to the limitations and conditions of use set forth in § 81.304.

21. A new § 81.308 is added to read as follows:

§ 81.308 Frequencies available in one or more zones of the Alaska area.

(a) Each of the carrier frequencies set forth in the following tables, when authorized by station license, may be used by public coast stations, other than common carrier, employing radiotelephony. Frequencies designated for use in a zone of the Alaska area are available only to coast stations located in that zone. The limitations and conditions of use applicable to each frequency are set forth in § 81.304. Conversion from double sideband (DSB) to single sideband (SSB) emissions in the band 1605–4000 kHz shall be effected in accordance with the schedule set forth in § 81.304(f). The frequencies available and the zones in the Alaska area in which they may be employed are set forth in the following tables:

TABLE 1

Zone 1		Zone 2		Zone 3		Zone 4		Zone 5		Zone 6	
Available		Available		Available		Available		Available		Available	
Until 1-1-77 (kHz)	After 1-1-77 (kHz)	Until 1-1-77 (kHz)	After 1-1-77 (kHz)	Until 1-1-77 (kHz)	After 1-1-77 (kHz)	Until 1-1-77 (kHz)	After 1-1-77 (kHz)	Until 1-1-77 (kHz)	After 1-1-77 (kHz)	Until 1-1-77 (kHz)	After 1-1-77 (kHz)
1646	1646					1646	1646			1646	1646
		1652	1640					1652	1652		
				1705	1705	1708	1705				
1712	1709							1712	1712		
2006	2006								2008		
		2118	2118			2118	2118				
2422	2419			2422	2422						
		2430	2430			2430	2427	2430	2430		
				2450	2450	2450	2447			2450	2450
				2482	2479	2482	2483			2482	2482
								2606	2506	2606	2506
2512	2512	2512	2509	2512	2512	2512	2509				
		2536	2536	2536	2535						
2566	2560					2566	2563	2566	2566		
2616	2616										
3261	3261					3261	3261	3261	3258		

TABLE 2

Zone 1		Zone 2		Zone 3		Zone 4		Zone 5		Zone 6	
Available [2]		Available [2]		Available [2]		Available [2]		Available [2]		Available [2]	
Until [1] 1-1-74 (kHz)	After [2] 1-1-74 (kHz)	Until [1] 1-1-74 (kHz)	After [2] 1-1-74 (kHz)	Until [1] 1-1-74 (kHz)	After [2] 1-1-74 (kHz)	Until [1] 1-1-74 (kHz)	After [2] 1-1-74 (kHz)	Until [1] 1-1-74 (kHz)	After [2] 1-1-74 (kHz)	Until [1] 1-1-74 (kHz)	After [2] 1-1-74 (kHz)
4403.0	4403.0	4403.0	4428.0	4403.0	4390.8	4428.8	4425.4	4428.6	4428.6	4428.8	4403.0

[1] Prior to Jan. 1, 1972, emissions 6A3, 2.8A3A, 2.8A3H and 2.8A3J emissions. During the period Jan. 1, 1972, to Jan. 1, 1974, emissions 2.8A3A, 2.8A3H and 2.8A3J.
[2] After Jan. 1, 1974, emissions 2.8A3A and 2.8A3J.
[3] Conversion from double sideband (DSB) to single sideband (SSB) emissions in the band 4361–4438 kHz shall be effected in accordance with the schedule set forth in § 81.304.

22. Section 81.361 is revised to read as follows:

§ 81.361 Frequencies available.

(a) The following carrier frequencies may be authorized to limited coast stations for communication with ship stations operating on the same carrier frequency. The conditions of use are set forth in paragraph (b) of this section.

Carrier frequency (kHz)

2096.5	8281.2	16,572.0
4136.3	8284.4	22,094.5
4139.5	12,421.0	22,098.0
4434.9	12,424.5	22,101.5
6210.4	12,428.0	22,105.0
6213.5	16,565.0	22,108.5
6518.6	16,568.5	

(b) Assignment of the specific carrier frequencies designated in paragraph (a) of this section and use of frequency assignments of which those frequencies are the authorized carrier frequencies shall be subject to the express limitations and conditions set forth in this paragraph:

(1) The applicant must show that the desired communications are primarily over distances for which frequencies above 27.5 MHz would not be suitable;

(2) These frequencies are available on a shared basis only and shall not be construed as available for the exclusive use of any one station licensee;

(3) Normally no more than one frequency from each of the frequency bands will be authorized;

(4) These frequencies are not authorized for use in communicating with stations aboard aircraft;

(5) Transmitter peak envelope power shall not exceed 1 kw.;

(6) The class of emission shall be 2.8A3J.

23. A new Subpart Q (§§ 81.701–81.714) is added to read as follows:

Subpart Q—Alaska-Public Fixed Stations

§ 81.701 Priority of distress and other signals.

Alaska-public fixed stations, when operating on an authorized carrier frequency which is used also by the maritime mobile service, shall, at all times, give priority on such frequency to distress signals or communications as set forth in §§ 81.180 and 81.181, and to urgency or safety signals, or any communication preceded by one of these signals.

§ 81.702 Hours of service of Alaska-public fixed stations.

(a) The hours of service of each Alaska-public fixed station shall, within the scope of its normal operations, be such as to adequately meet the requirements of the particular region served by the station and, unless otherwise specified by the Commission for individual stations, shall be determined by the station licensee subject to such applicable conditions and limitations as are imposed by the rules of the Commission.

(b) Each Alaska-public fixed station whose hours of service are not continuous shall not suspend operations before having concluded, when possible within the scope of its normal operations, all communications of an emergency nature.

(c) The Commission, as public interest, convenience, or necessity requires, may order, at any time, the licensee of an Alaska-public fixed station not authorized for continuous hours of service to increase the hours of service of such station as may, in the discretion of the Commission, be required to provide adequate public service: *Provided, however*, That such requirement shall not be prescribed without the consent of the station licensee unless, after hearing, the Commission shall determine that such requirement will promote public convenience or interest or will serve public necessity, or the provisions of the Communications Act will be more fully complied with.

§ 81.703 Documents required for Alaska-public fixed stations.

Each Alaska-public fixed station shall be provided with a copy of Part 81 of the rules.

§ 81.704 Alaska-public fixed station records.

Each Alaska-public fixed station in the Alaska area shall maintain an accurate radiotelegraph and/or radiotelephone log as set forth in §§ 81.214(a) and 81.314, respectively: *Provided, however*, That Alaska-public fixed stations may express the time of making each log entry in local standard time in the same manner as is permitted by those sections for coast stations which communicate exclusively with vessels on inland waters of the United States.

§ 81.705 Cooperative use of frequency assignments.

(a) Only one Alaska-public fixed station will be authorized to serve any area whose point-to-point communication needs can be adequately served by a single radio communication facility.

(b) Unless otherwise provided by this part, or by the particular authorization, each radio channel authorized for use by an Alaska-public fixed station subject to this part is available for use on a shared basis only and shall not be construed as available for the exclusive use of any one station or any one station licensee. All station licensees shall cooperate in the use of their respective frequency assignments in order to minimize interference and obtain the most effective use of the authorized radio channels.

§ 81.706 [Reserved]

§ 81.707 Alternate transmission on the same radio channel.

Except for communication between licensed Alaska-public fixed stations and common carrier fixed stations as hereinafter specifically designated in this subpart all transmission, on each radio channel assigned by this subpart, by two or more stations engaged in any one exchange of signals or communications with each other, shall take place on only one radio channel. For this purpose, the stations communicating with each other shall transmit and receive on the same radio channel: *Provided, however*, That this requirement shall not apply in an emergency affecting the safety of life or property when, by reason of interference or limitation of equipment, this method of single-channel communication cannot be used.

§ 81.708 Frequencies available.

(a) The following tabulation indicates the frequencies which may be the authorized carrier frequencies for use by Alaska-public fixed stations. For single sideband radiotelephone emission, the assigned frequency will be 1.4 kHz above the authorized carrier frequency. The specific conditions for authorization and use are enumerated in paragraph (b) of this section.

Frequency (kHz)	See section	Conditions of use
149.6	81.709	2, 13.
1643	81.710	1, 3, 11.
1646	81.710	1, 3, 7, 9, 10.
1649	81.710	1, 3, 11.
1652	81.710	1, 3, 7, 9, 10.
1657	81.710	3, 11.
1660	81.710	3, 7, 9, 10, 21.
1705	81.710	1, 3, 11.
1708	81.710	1, 3, 7, 9, 10, 45.
1709	81.710	1, 3, 11.
1712	81.710	1, 3, 7, 9, 10, 22.
2003	81.710	1, 3, 11, 23.
2006	81.710	1, 3, 7, 9, 10, 23, 24.
2118	81.709	1, 2, 11.
2118	81.709	1, 2, 7, 9, 11, 12.
2249	81.711, 81.713	1, 4, 6, 9, 31, 32.
2253	81.711, 81.713	4, 6, 10, 33.
2266	81.711, 81.713	4, 6, 9, 10, 14, 33.
2312	81.712, 81.713	1, 5, 6, 7, 9, 11, 12, 44.
2400	81.712, 81.713	1, 5, 6, 7, 9, 11, 12, 44.
2419	81.710	1, 3, 11.
2422	81.710	1, 3, 7, 9, 10.
2427	81.710	1, 3, 11, 24.
2430	81.710	1, 3, 7, 9, 10, 24, 30.
2447	81.710	1, 3, 11.
2450	81.750	1, 3, 7, 9, 10, 24.
2463	81.711, 81.713	4, 6, 10, 34, 43.
2466	81.711, 81.713	4, 6, 9, 10, 14, 34, 42.
2471	81.711, 81.713	4, 6, 10, 35, 43.
2474	81.711, 81.713	4, 6, 9, 10, 14, 43.
2479	81.710	1, 3, 11, 24, 30.
2482	81.710	1, 3, 7, 9, 10, 24, 30.
2506	81.710	1, 3, 7, 9, 10, 27.
2509	81.710	1, 3, 11.
2512	81.710	1, 3, 7, 9, 10.
2535	81.710	1, 3, 11, 24.
2538	81.710	1, 3, 7, 9, 10, 24.
2563	81.710	1, 3, 11.
2566	81.710	1, 3, 7, 9, 10, 24.
2601	81.712, 81.713	5, 6, 10.
2604	81.712, 81.713	5, 6, 9, 10, 14.
2616	81.710	1, 3, 7, 9, 10, 24.
2629	81.711, 81.713	4, 6, 10, 36, 43.
2632	81.711, 81.713	4, 6, 9, 10, 14, 36, 43.
2691	81.711, 81.713	4, 6, 10, 37.
2694	81.711, 81.713	4, 6, 9, 10, 14, 37.
2773	81.711, 81.713	4, 6, 10, 38.
2776	81.711, 81.713	4, 6, 9, 10, 14, 38.
2781	81.712, 81.713	5, 6, 10.
2784	81.712, 81.713	5, 6, 9, 10, 14.
3164.5	81.712, 81.713	5, 6, 10.
3167.5	81.712, 81.713	5, 6, 9, 10, 14.
3180	81.712, 81.713	5, 6, 10.
3183	81.712, 81.713	5, 6, 9, 10, 14.
3198	81.709	2, 11, 17.
3201	81.709	2, 8, 11, 18, 17.
3238	81.712, 81.713	5, 6, 10.
3241	81.712, 81.713	5, 6, 9, 10, 14.
3258	81.710	1, 3, 11, 29.
3261	81.710	1, 3, 7, 9, 10, 29.
3303	81.712, 81.713	5, 6, 9, 10, 14, 45.
3354	81.711, 81.713	4, 6, 10, 39.
3357	81.711, 81.713	4, 6, 9, 10, 14, 39.
3362	81.711, 81.713	4, 6, 10, 40.
3365	81.711, 81.713	4, 6, 9, 10, 14, 40.
4035	81.712, 81.713	5, 6, 9, 10, 14, 45.
4701.5	81.710	3, 20.
5124.5	81.711, 81.713	4, 6, 10, 41, 43.
5137.5	81.711, 81.713	4, 6, 9, 10, 14, 41, 43.
5164.5	81.709	2, 11, 18.
5167.5	81.709	2, 11, 15, 16, 18.
5204.5	81.711, 81.713	4, 6, 10, 42, 43.
5207.5	81.711, 81.713	4, 6, 9, 10, 14, 42, 43.
5370	81.712, 81.713	5, 6, 9, 10, 14.
6948.5	81.710	3, 20.
7368.5	81.710	3, 20.
8057	81.709	2, 11, 19.
8070	81.709	2, 11, 15, 16, 19.
11437.0	81.710	3, 20.
11601.5	81.710	3, 20.

(b) Authorization and use of the carrier frequencies set forth in paragraph (a) of this section shall be in accordance with the following limitations and conditions.

(1) Available for use in accordance with § 81.701.

(2) Available for use in accordance with § 81.709.

(3) Available for use in accordance with § 81.710.

(4) Available for use in accordance with § 81.711.

(5) Available for use in accordance with § 81.712.

(6) Available for use in accordance with § 81.713.

(7) The transition by Alaska-public fixed stations from double sideband (DSB) to single sideband (SSB) emissions on frequencies below 4000 kHz which are shared with the maritime mobile service shall be effected in accordance with the following schedule and limitations:

(i) Transmission of DSB emissions will not be permitted beyond January 1, 1974;

(ii) Authorizations for use of DSB emission granted after December 1, 1971, shall expire on January 1, 1974;

(iii) Transmission of SSB emissions A3A, A3H, or A3J is permitted prior to January 1, 1974. Except as provided in § 81.142(d), after January 1, 1974, the capability of using these emissions is required.

(iv) After January 1, 1972, new installations of transmitters employing A3 (DSB) emission will not be authorized.

(8) The transition by Alaska-public fixed stations from double sideband (DSB) to single-sideband (SSB) emissions on frequencies below 4000 kHz which are not shared with the maritime mobile service shall be effected in accordance with the following schedule and limitations:

(i) Transmission of DSB emissions will not be permitted beyond January 1, 1977;

(ii) Authorizations for use of DSB emission granted after December 1, 1971 shall expire on January 1, 1977;

(iii) Transmission of SSB emissions A3A, A3H, or A3J is permitted prior to January 1, 1977. Except as provided in § 81.142(d), after January 1, 1977, the capability of using these emissions is required.

(iv) After January 1, 1972, new installations of transmitters employing A3 (DSB) emission will not be authorized.

(9) Until January 1, 1974, available for use with emissions A3, 2.8A3A, 2.8A3H, and 2.8A3J.

(10) After January 1, 1974, available for use with emissions 2.8A3A and 2.8A3J.

(11) After January 1, 1977, available for use with emissions 2.8A3A and 2.8A3J.

(12) During the period January 1, 1974, to January 1, 1977, available for use with emissions 2.8A3A, 2.8A3H, and 2.8A3J.

(13) Available for manual radiotelegraphy only, emission 0.1A1, at any appropriate location in the Alaska area.

(14) The transition by Alaska-public fixed stations from double sideband (DSB) to single sideband (SSB) emissions: (a) on frequencies above 4000 kHz which are not shared with the maritime mobile service; and (b) those available for common carrier use, shall be effected in accordance with the following schedule and limitations;

(i) Transmission of DSB emissions will not be permitted beyond January 1, 1974;

(ii) Authorizations for use of DSB emission granted after December 1, 1971, shall expire on January 1, 1974;

(iii) Transmission of SSB emissions A3A, A3H, or A3J is permitted prior to January 1, 1974. Except as provided in § 81.142(d), after January 1, 1974, the capability of using these emissions is required;

(iv) After January 1, 1972, new installations of transmitters employing A3 (DSB) emission will not be authorized.

(15) Until January 1, 1977, available for use with emissions A3, 2.8A3A, 2.8A3H, and 2.8A3J.

(16) Transmission of DSB emissions will not be permitted beyond January 1, 1977.

(17) Available for radiotelephony only. Insofar as practicable, Alaska-public fixed stations shall limit their use of this frequency to communication over distances which cannot be effectively covered by the use of a frequency below 2700 kHz or above 70 MHz.

(18) Available for radiotelephony only. To be used exclusively for communication over distances of not less than 50 miles and only during the hours from 6 a.m. to 9 p.m. local standard time.

(19) Available for radiotelephony only. To be used exclusively for communication over distances of not less than 200 miles and only during the hours from 6 a.m. to 6 p.m. local standard time, except in Zone 4 west of 165° west longitude where the hours of its use shall not be limited.

(20) Available for use between Zone 3 and Zone 6, between Zone 2 and Zone 6, and between Zone 6 and Zones 2 and 3, for communication over distances of not less than 300 miles.

(i) The transmitter output power employed shall be the minimum necessary for satisfactory communication and in no event shall exceed a maximum, for radiotelephony of 1,000 watts peak envelope power, or, for radiotelegraphy, of 1,000 watts carrier power.

(ii) Available for radiotelephony with emissions 2.8A3A and 2.8A3J: *Provided, however,* That the additional emission of 2.8A3H may be employed until January 1, 1974.

(iii) Available for radiotelegraphy with emission F1 with frequency shift keying having a total frequency shift of 170 c.p.s. Radioteletype transmitters which were authorized prior to December 1, 1971 for use of a suppressed carrier frequency-shifted tone modulated emission with an authorized bandwidth of 3.0 kHz may continue to be authorized until January 1, 1974. Radioteletype transmitters authorized after December 1, 1971, shall employ 0.3F1 emission with an authorized bandwidth of 0.5 kHz and shall comply with the emission limitations set forth in § 81.140(a)(3).

(21) Use of the frequency 1660 kHz shall be coordinated as necessary with use of the frequency 1666 kHz by other fixed stations in the Alaska area in order to avoid harmful interference.

(22) To minimize interference to the service of stations in Zone 4 operating on 1708 kHz, use of the frequency 1712 kHz in Zone 5 is authorized only for stations located north of 62° north latitude.

(23) To minimize interference to or from the operation of stations outside the Alaska area or U.S. Government stations within Alaska, this frequency is authorized for use annually in the respective zone only during the hours from 7 a.m. to 11 p.m. local standard time from May 15 to September 15, inclusive; and from 8 a.m. to 9 p.m. local standard time from April 1 to May 14, inclusive, and from September 16 to October 31, inclusive.

(24) This frequency may be authorized for use by Alaska-public fixed stations subject to the following limitations and conditions:

(i) The licensee is authorized to operate a public coast station in the maritime mobile service;

(ii) The Alaska-public fixed frequencies are the same as those authorized to the licensee for use at the licensee's public coast station;

(iii) The Alaska-public fixed frequencies are to be used in receiving and transmitting equipment which is installed at the same location as equipment used by the public coast station; and

(iv) The licensee has an established requirement for a radiocommunication system of fixed service and maritime mobile service on a frequency or frequencies common to both of these services.

(25) [Reserved]

(26) [Reserved]

(27) Use of the frequency 2506 kHz for fixed service in the Alaska area is authorized on condition that harmful interference shall not be caused to the service of any coast station located in the vicinity of San Francisco or Eureka, Calif., to which the frequency 2506 kHz is assigned as a carrier frequency for transmission.

(28) [Reserved]

(29) Insofar as is practicable, Alaska-public fixed stations shall limit their use of the frequencies 3258 and 3261 kHz to communication over distances which cannot be effectively covered by the use of a frequency below 2700 kHz or above 70 MHz.

(30) To minimize interference to or from the operation of stations outside the Alaska area, this frequency is authorized for use annually in the respective zone only during the hours from 6 a.m. to 11 p.m. local standard time, from April 1 to September 30, inclusive.

(31) The use of this frequency for fixed service is on a secondary basis to its use under § 83.371 of this chapter.

(32) This frequency will not be available after January 1, 1974. Available for radiotelephony and for communication with common carrier stations located at Juneau, Kodiak, and Nome.

(33) Available for radiotelephony only; for communication with the common carrier station located at Anchorage.

(34) Available for radiotelephony only; normally for communication with common carrier stations located at King Salmon, and Kotzebue.

(35) Available for radiotelephony only; normally for communication with common carrier stations located at Kodiak and Nome. Until January 1, 1977, the use of this frequency shall be coordinated as necessary with the use of the frequencies 2466 kHz by other stations in the Alaska area in order to avoid harmful interference.

(36) Available for radiotelephony only; normally for communications with common carrier stations located at Cordova and Bethel.

(37) Available for radiotelephony only; for communication with common carrier stations located at Juneau and Cold Bay.

(38) Available for radiotelephony only; for communication with the common carrier station located at Ketchikan.

(39) Available for radiotelephony only; for communication with common carrier stations located at Fairbanks and Juneau.

(40) Available for radiotelephony only; for communication with common carrier stations located at Unalaska and Anchorage. Until January 1, 1977, the use of this frequency shall be coordinated as necessary with use of the frequency 3357 kHz by other Alaska-public fixed stations in the Alaska area in order to avoid harmful interference.

(41) Available for radiotelephony only; normally for communication with common carrier stations located at Anchorage and Unalaska. Until January 1, 1977, the use of this frequency shall be limited to the hours from 6 a.m. to 9 p.m. local standard time.

(42) Available for radiotelephony only; normally for communication with common carrier stations located at Fairbanks and Bethel. The use of this frequency (except in Zone 4 west of 165° west longitude) shall be limited to the hours from 6 a.m. to 9 p.m. local standard time.

(43) Communication with common carrier stations at locations in addition to those specified may be authorized, depending upon operational requirements.

(44) Use of this frequency for fixed services is on a secondary basis to its use under § 81.306(d).

(45) This frequency will not be available after January 1, 1977.

§ 81.709 Frequencies available in all zones of the Alaska area.

Each of the carrier frequencies set forth in the following table, when authorized by station license, may be used by Alaska-public fixed stations, other than common carrier, in all zones of the Alaska area for communication with other licensed Alaska-public fixed stations, other than common carrier, located in any zone of the Alaska area. The limitations and conditions of use applicable to each frequency are set forth in § 81.708.

Frequency (kHz)

149.6	3198	5167.5
2115	3201	8067
2118	5164.5	8070

§ 81.710 Frequencies available in one or more zones of the Alaska area.

Each of the following carrier frequencies set forth in the following table, when authorized by station license, may be used by Alaska-public fixed stations, other than common carrier, employing radiotelephony. These frequencies are authorized for use on a shared basis, except 1660 kHz, with stations of the maritime mobile service. Frequencies designated for use in a zone of the Alaska area are available only to coast stations located in that zone. The limitations and conditions of use applicable to each frequency are set forth in § 81.708. The frequencies available and the zones in the Alaska area in which they may be employed are set forth in the following table.

TABLE 1

Zone 1		Zone 2		Zone 3		Zone 4		Zone 5		Zone 6	
Available		Available		Available		Available		Available		Available	
Until 1-1-77 (kHz)	After 1-1-77 (kHz)	Until 1-1-77 (kHz)	After 1-1-77 (kHz)	Until 1-1-77 (kHz)	After 1-1-77 (kHz)	Until 1-1-77 (kHz)	After 1-1-77 (kHz)	Until 1-1-77 (kHz)	After 1-1-77 (kHz)	Until 1-1-77 (kHz)	After 1-1-77 (kHz)
1646	1646					1646	1643			1646	1646
		1652	1649			1660	1660	1652	1652	1660	1657
				1708	1705	1708	1705				
1712	1709							1712	1712		
2006	2006								2005		
2422	2419			2422	2422						
		2430	2430			2430	2427	2430	2430		
				2450	2450	2450	2447			2450	2450
				2482	2479	2482	2482			2482	2482
								2506	2506	2506	2506
2512	2512	2512	2509	2512	2512	2512	2509				
		2536	2536	2536	2535						
2566	2566					2566	2563	2566	2566		
2616	2616										
3261	3261					3261	3261	3261	3258		

TABLE 2

Zone 1	Zone 2	Zone 3	Zone 4	Zone 5	Zone 6
	Available (kHz) [1]	Available (kHz) [1]			Available (kHz) [1]
	4791.5	4791.5			4791.5
	6948.5	6948.5			6948.5
	7298.5	7298.5			7298.5
	11457.0	11457.0			11457.0
	11601.5	11601.5			11601.5

[1] December 1, 1971.

§ 81.711 Frequencies for communication with common carrier fixed stations.

Each of the carrier frequencies set forth in the following table, when authorized by station license, may be used by Alaska-public fixed stations for communication with common carrier fixed stations in the Alaska area. The limitations and conditions of use applicable to each frequency are set forth in § 81.708. The particular station(s) with which the licensed station may communicate and the specific common carrier frequency or frequencies to be used for transmitting shall be specified on the radio station authorization.

Frequency (kHz)

2240	2629	3357
2253	2632	3362
2256	2691	3365
2463	2694	5134.5
2466	2773	5137.5
2471	2776	5204.5
2474	3354	5207.5

§ 81.712 Frequencies available to common carrier fixed stations.

The carrier frequencies set forth in the following table are authoried for use by common carrier fixed stations for communication with Alaska-public fixed stations. The limitations and conditions of use are set forth in § 81.708.

Frequency (kHz)

2312	2764	3238
2400	3164.5	3241
2601	3167.5	3303
2604	3180	4035
2781	3183	5370

§ 81.713 Pairing of common carrier and Alaska-public fixed frequencies.

The pairing of frequencies available for communication between common carrier fixed stations (CCFS), as set forth in § 81.712, and Alaska-public fixed stations (APFS), as set forth in § 81.711, is given in the following table.

For communication with common carrier stations located at	Frequencies available until 1-1-74		Frequencies available after 1-1-74	
	CCFS transmit (kHz)	APFS transmit (kHz)	CCFS transmit (kHz)	APFS transmit (kHz)
Anchorage	3183	2256	3183	3365
	5370	2357		5137.5
		5137.5		2253
Bethel	2604	2632	2604	2629
		2604		5204.5
Cold Bay	2312	2694	3241	2691
	3241	5137.5		
	4035			
Cordova	2312	2632	2312	2632
Fairbanks	3167.5	2632	3167.5	3354
		3357		5207.5
		5207.5		
Juneau	2784	2694	2784	2694
	3241	3357	3241	3357
Ketchikan	2604	2256	2604	2256
	3303	2776	3180	2776
King Salmon	3303	2644	3164.5	2466
Kodiak	2784			
	2604	2474	2781	2474
Kotzebue	2604	2466	2601	2463
Nome	2784			
	2400	2474	2784	2471
Sitka	2400	2240		
Unalaska	2312	2632	3238	3362
	4035	3365	5370	5134.5

§ 81.714 Use of U.S. Government frequencies.

Frequencies assigned to Federal Government radio stations under Executive order of the President may be authorized for use by Alaska-public fixed stations when such assignment is necessary for intercommunication with Federal Government stations or required for coordination with activities of the Federal Government provided the Commission determines, after consultation with the appropriate Government agency or agencies, that such assignment is in the public interest.

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

B. Part 83, Stations on Shipboard in the Maritime Services, is amended as follows:

1. In the Table of Contents, the following headnotes are either amended or added new to read as follows:

Sec.
83.116 Alternate transmission on the same frequency in the Alaska area.
83.354 Frequencies below 5000 kHz for public correspondence.
83.355 Frequencies from 5000 kHz to 27.5 MHz for public correspondence.
83.358 Frequencies below 3000 kHz for safety purposes.
83.360 Frequencies for business and operational purposes.
83.362 Frequencies below 3000 kHz for safety, business, and operational purposes.
83.370 Frequencies available in all zones of the Alaska area.
83.371 Public telephone service, ship stations to common carrier coast stations.
83.372 Frequencies available in one or more zones of the Alaska area.

2. In § 83.2, new paragraphs (t), (u), and (v), are added, to read as follows:

§ 83.2 General.

• • • • •

(t) *Alaska area.* For the purpose of frequency assignments to radio services and stations governed by this part, the Alaska area is defined as follows:

The area bounded by a line extending due west—from the end of the southernmost boundary line between Canada and the mainland of southeastern Alaska—to 131° west longitude, thence due south to 54°30′ north latitude, thence due west to 142° west longitude, thence due south to 50° north latitude, thence due west to 165° west longitude, thence due south to 47° north latitude, thence due west to the boundary line between Regions 2 and 3 (as this line is defined by the Geneva Radio Regulations, 1959), thence generally northward along this boundary line to 80° north latitude, thence due east to 135° west longitude, thence due south to 70° north latitude, thence due west to 140° west longitude, thence generally southwest to the northern end of the boundary line between the mainland of northern Alaska and Canada, thence following the boundary line between Alaska and Canada to the southernmost point of this line in southeastern Alaska.

NOTE: Reference hereafter in this part to the "Alaska area" includes all of the "Zones" defined in paragraph (b) of this section.

(u) *Alaska zones.* For the same purpose expressed in paragraph (a) of this section, the Alaska area is subdivided into six zones, defined as follows:

Zone 1. That portion of the Alaska area east of 142° west longitude and south of 61° North latitude.

Zone 2. That portion of the Alaska area bounded on the east by a line south of 61° north latitude which coincides with 142° west longitude, and by a line north of 61° north latitude which coincides with the boundary line between Alaska and Canada, and by a line coinciding with 61° north latitude which joins those two lines; and bounded on the west by a line south of 62° north latitude which coincides with 149° west longitude, thence running due south to 60°30′ north latitude, thence due west to 150° west longitude, thence due south to the southern limit of the Alaska area, and bounded on the north by a line coinciding with 62° north latitude.

Zone 3. That portion of the Alaska area bounded on the north by a line which coincides with 62° north latitude and extends eastward from 155° west longitude to 149° west longitude, thence due south to 60°30′ north latitude, thence due west to 150° west longitude, thence due south to the southern limit of the Alaska area, thence westward to 155° west longitude, thence due north to 62° north latitude.

Zone 4. That portion of the Alaska area west of 155° west longitude which is bounded on the north by a line coinciding with 62° north latitude extending due west to 164° west longitude, thence bounded on the west by a line coinciding with 164° west longitude extending due south to 58° north latitude, thence bounded on the north by a line coinciding with 58° north latitude extending due west to the western boundary of the Alaska area.

Zone 5. That portion of the Alaska area west of 155° west longitude which is not included in Zone 4.

Zone 6. That portion of the Alaska area east of 155° west longitude and north of 62° north latitude.

NOTE: The following diagram illustrates the subdivision of Alaska into the six zones.

ALASKA
Frequency Assignment Zones

(v) *"Common carrier" or "carrier".* Any person engaged in rendering communications service for hire to the public pursuant to authorization by the state and/or Federal Communications Commission.

3. Section 83.24 is amended to read as follows:

§ 83.24 Application precedent to authorization.

(a) Except as otherwise provided in §§ 83.26, 83.41, and 83.42, no authorization will be granted for use or operation of any radio station on board ship in any service governed by this part, nor for any change in station control, facilities, services, equipment or antenna, unless formal written application therefor in proper form first is filed with the Commission.

(b) Standard forms are prescribed herein for use in connection with the majority of applications submitted for Commission consideration. These forms may be obtained without cost from the Commission at Washington, D.C. 20554, or from any of its field offices.

(c) Each application for authority to operate a ship station, including applications for license, modification of license, or renewal of license, together with correspondence relating thereto, shall be filed with the Commission; or applications for interim ship station licenses made pursuant to § 83.35, at a

Field Engineering Office of the Commission. Unless otherwise specified in a particular case or for a particular form, each application shall be filed in original only.

(d) Except as otherwise provided in §§ 83.35, 83.41, and 83.42, an application should be filed at least 60 days prior to the earliest date on which it is desired that the requested authorization be granted by the Commission in order that action thereon may be taken by that date.

(e) The application shall be specific and complete with regard to the information required in the application form, or otherwise specifically requested by the Commission.

4. In § 83.106, paragraph (a) is amended to read as follows:

§ 83.106 Required frequencies for radiotelephony

(a) Each ship radiotelephone station licensed to operate in the band 1605 to 3500 kHz shall be able to transmit A3 or A3H [1] emission and receive A3 [2] emission on the carrier frequency 2182 kHz, and, if the station is used for other than safety communication, it shall be capable also of transmitting A3 or A3H [3] emission and receive class A3 [4] emission on at least two other frequencies within that band.

• • • • • •

5. A new § 83.116 is added to read as follows:

§ 83.116 Alternate transmission on the same frequency in the Alaska area.

Ship stations within the Alaska area when communicating with coast stations within the bands 1605–2035 kHz and 2107–12,000 kHz shall transmit and receive on the same frequency: *Provided, however,* That this requirement shall not apply when communicating with common carrier coast stations; *And provided further,* That this requirement is not applicable in an emergency affecting the safety of life or property when, by reason of interference or limitation of equipment, the same frequency cannot be used.

6. In § 83.132, paragraphs (a) (1) and (2) are amended to read as follows:

§ 83.132 Authorized classes of emission.

(a) • • •

Frequency band	Classes of emission
(1) Stations using radiotelegraphy:	
(i) 100 to 160 kHz	A1.
160 to 525 kHz	A1 and A2.
2060 to 27,500 kHz, except Alaska	A1: Survival craft stations may in addition use A2.
2070 to 2080 kHz, except Alaska	Wide-band telegraphy, facsimile and special transmission systems. Manual International Morse code and telephony are excluded.
1605 to 3400 kHz in Alaska	A1.
(ii) For frequencies designated in § 83.320	F1.
(2) Stations using radiotelephony:	
(i) For frequencies below 23 MHz designated in § 83.351(a):	
2182 kHz	Until January 1, 1977: A3 or A3H; After January 1, 1977: A3H.
All other frequencies	A3, A3H, A3A, or A3J as specified in § 83.351 (a) and (b).
(ii) For the frequency 121.5 MHz	A2.
(iii) For the frequency band 156 to 174 MHz	F3.

• • • • • • • • •

7. In § 83.351, paragraphs (a) (b) are amended to read as follows:

[1] Capability to transmit using emission A3 or A3H shall be provided until Jan. 1, 1977. After Jan. 1, 1977, capability to transmit using emission A3H shall be provided.

[2] Capability to receive A3 emission shall be provided until the station is converted to SSB, or until Jan. 1, 1977, whichever is earlier. Upon conversion to SSB, or effective Jan. 1, 1977, the station shall provide capability to receive emission A3H.

[3] Capability to transmit using emission A3 or A3H shall be provided until Jan. 1, 1977. After Jan. 1, 1977, capability to transmit using emissions A3A and A3J shall be provided.

[4] Capability to receive A3 or A3H emission shall be provided until Jan. 1, 1977. After Jan. 1, 1977, capability to receive A3A and A3J emissions shall be provided.

§ 83.351 Frequencies available.

(a) The following tabulation indicates the carrier frequencies which, when authorized by station license, may be used by ship stations. The specific conditions for use are enumerated in paragraph (b) of this section:

Carrier frequency (kHz)	See section	Conditions of use
1619	83.370	17, 35.
1622	83.370	7, 17, 39.
1643	83.372	22, 35.
1646	83.372	7, 22, 39.
1649	83.372	22, 35.
1652	83.372	7, 22, 39.
1706	83.372	22, 35.
1708	83.372	22, 75.
1709	83.372	7, 22, 39.
1712	83.372	22, 35, 60.
2003	83.366, 83.354	7, 20, 39.
2003	83.372	22, 35, 62.
2003	83.336	7, 39, 40.
2006	83.372	7, 22, 39, 62.
2009	83.354	7, 20, 39.
2031.5	83.354	7, 20, 39.
2065.0	83.362	23, 25.
2079.0	83.362	23, 25.
2082.5	83.336, 83.362	25, 26.
2088.0	83.354	3, 21, 25.
2093.0	83.362	25, 29.
2096.5	83.360	16, 25.
2115	83.372	22, 35, 73.
2118	83.354	7, 20, 39.
2118	83.372	7, 22, 39, 73.
2128	83.354	7, 20, 39.
2131	83.370, 83.371	17, 19, 35.
2134	83.354	7, 20, 39.
2134	83.370, 83.371	7, 17, 19, 30.
2142	83.354	7, 20, 39.
2142	83.336	7, 8, 30, 40.
2158	83.704	7, 20, 39.
2166	83.354	7, 20, 39.
2182	83.106	1, 43.
2196	83.354	7, 20, 39.
2203.0	83.336	25, 40.
2206	83.354	7, 20, 39.
2237	83.370, 83.371	17, 19, 35.
2240	83.370, 83.371	7, 17, 19, 30.
2366	83.354	7, 20, 39.
2379	83.370	17, 35.
2382	83.354	7, 20, 39.
2382	83.370	7, 17, 39.
2390	83.354	7, 20, 39.
2400	83.354	7, 21, 39.
2406	83.354	7, 20, 39.
2419	83.372	22, 35.
2422	83.372	7, 22, 39.
2427	83.372	22, 35.
2430	83.354	7, 20, 39.
2430	83.372	7, 22, 39, 61, 74.
2447	83.372	22, 35, 67.
2450	83.372	7, 22, 39, 67.
2479	83.372	22, 35, 68, 74.
2482	83.372	7, 22, 39, 68, 74.
2506	83.372	7, 22, 39, 69.
2509	83.372	22, 35.
2512	83.372	7, 22, 39.
2535	83.372	22, 35.
2538	83.372	7, 22, 39, 68.
2563	83.372	22, 35.
2566	83.372	7, 22, 39.
2616	83.372	7, 22, 39, 62, 70.
2638	83.358	7, 39, 40.
2738	83.354	7, 21, 39.
2738	83.358	7, 39, 40.
2738	83.362	7, 39, 41.
2782	83.354	7, 21, 39.
2784	83.354	7, 21, 39.
2830	83.358	7, 39, 40.
3258	83.372	22, 35, 71.
3261	83.372	7, 22, 39, 71.
4060.2	83.354	3, 21, 64.
4072.4	83.354	20, 28.
	83.354	3, 21, 31, 65.
4088.4	83.354	3, 21, 65.
4091.6	83.354	14, 20.
4181.2	83.354	20, 27.
4104.4	83.354	14, 20.
4114.0	83.354	20, 27.
4117.2	83.354	14, 20.
4120.4	83.354	20, 27.
4123.6	83.354	14, 20.
4126.8	83.354	20, 27.
4130.0	83.354	14, 20, 27.
4130.5	83.360	13, 16.
4136.5	83.360	13, 16.
4367.8	83.354	3, 21, 64.
4371.0	83.354	3, 20, 21, 31, 65.
4380.6	83.370	17, 32.
4383.8	83.370	15, 17.
4387.0	83.354	3, 21, 66.
4399.8	83.372	22, 32, 72.
4403.0	83.372	22, 31, 32, 72.
4426.4	83.372	22, 32, 72.
4428.6	83.372	22, 31, 32, 72.
4434.9	83.360	13, 16.
6210.4	83.360	13, 16.
6213.5	83.360	13, 16.
6518.6	83.360	13, 16.
6147.6	83.354	3, 5, 15, 21.
6455.0	83.354	3, 4, 15, 21.
8201.2	83.358	18, 27.
8204.4	83.358	14, 18.
8207.6	83.354	3, 21, 64.
8210.8	83.354	3, 15, 21, 28.
8214.0	83.358	18, 27.
8217.2	83.358	14, 18.
8220.4	83.358	18, 27.
8223.6	83.358	14, 18.
8230.6	83.358	18, 27.
8242.8	83.358	14, 18.
8246.0	83.354	3, 21, 60.
8249.2	83.358	14, 20.
8258.8	83.358	18, 27.
8262.0	83.358	14, 18, 27.
8281.2	83.360	13, 16.
8284.4	83.360	13, 16.
8780.0	83.354	3, 21, 66.
12,368.0	83.358	18, 27.
12,361.5	83.358	14, 18.
12,372.0	83.358	18, 27.
12,375.5	83.358	14, 18.
12,379.0	83.354	3, 21, 66.

Carrier frequency (kHz)	See section	Conditions of use
12,382.5	83.355	14, 18.
12,393.0	83.355	18, 27.
12,396.5	83.355	14, 18.
12,421.0	83.360	13, 16.
12,424.5	83.360	13, 16.
12,428.0	83.360	13, 16.
14,188.0	83.354	3, 21, 66.
16,474.0	83.355	18, 27.
16,477.5	83.355	14, 18.
16,488.0	83.354	3, 21, 66.
16,491.5	83.355	14, 18.
16,509.0	83.355	18, 27.
16,512.5	83.355	14, 18.
16,523.0	83.355	18, 27.
16,526.5	83.355	14, 18.
16,565.0	83.360	13, 16.
16,568.5	83.360	13, 16.
16,572.0	83.360	13, 16.
17,281.0	83.354	3, 21, 66.
22,028.0	83.355	18, 27.
22,031.5	83.355	14, 18.
22,042.0	83.355	18, 27.
22,045.5	83.355	14, 18.
22,063.0	83.355	18, 27.
22,066.5	83.355	14, 18.
22,094.5	83.360	13, 16.
22,098.0	83.360	13, 16.
22,101.5	83.360	13, 16.
22,105.0	83.360	13, 16.
22,108.5	83.360	13, 16.
156.275	83.359	33, 36, 40, 41, 45.
156.300	83.359	34, 40, 44.
156.325	83.359	33, 36, 40, 41, 45.
156.350	83.359	34, 40, 41, 49.
156.375	83.359	33, 40, 49.
156.400	83.359	34, 40, 49.
156.425	83.359	33, 40, 41, 50, 54.
156.450	83.359	34, 41, 49, 50.
156.475	83.359	33, 41, 50, 53.
156.500	83.359	34, 40, 41, 49.
156.525	83.359	33, 40, 50, 52.
156.550	83.359	34, 40, 41, 49.
156.575	83.359	33, 41, 50, 53.
156.600	83.359	34, 40, 41, 45.
156.625	83.359	33, 40, 50, 52.
156.650	83.359	34, 40, 41, 46, 59.
156.675	83.359	33, 40, 41, 45.
156.700	83.359	34, 40, 41, 45, 58.
156.725	83.359	33, 40, 41, 45.
156.750	83.359	33, 42, 47, 56.
156.800	83.213, 83.359	34, 40, 41, 43.
156.850	83.359	33, 41, 48, 57.
156.875	83.359	33, 40, 49.
156.900	83.359	34, 40, 41, 49.
156.925	83.359	33, 41, 50, 53.
156.950	83.359	34, 40, 41, 49.
156.975	83.359	33, 40, 41, 49.
157.000	83.359	34, 40, 41, 45.
157.025	83.359	33, 41, 49.
157.200	83.359	34, 38, 41, 51.
157.225	83.359	33, 38, 41, 51.
157.250	83.359	34, 38, 41, 51.
157.275	83.359	33, 38, 41, 51.
157.300	83.359	34, 38, 41, 51.
157.325	83.359	33, 38, 51.
157.350	83.359	34, 38, 41, 51.
157.375	83.359	33, 38, 51.
157.400	83.359	34, 38, 41, 51.
157.425	83.359	33, 40, 49, 55.

(b) Assignment of the specific carrier frequencies designated in paragraph (a) of this section and use of frequency assignments of which those frequencies are the authorized carrier frequencies shall be subject to the express limitations and conditions set forth in this paragraph.

(1) The frequency 2182 kHz is authorized for use on a shared basis primarily by ship stations and secondarily by coast stations.

(2) The frequencies 2514, 2550, and 2582 kHz are authorized for use in the Great Lakes area on a shared basis with coast stations of Canada upon the express condition that, except in case of distress, the frequency 2550 kHz shall not be used for transmission to ship stations of Canada and the frequency 2582 kHz shall not be used for transmission to ship stations of the United States.

(3) Available for use by ship stations aboard vessels operating on the Mississippi River and connecting inland waters: Except, that this frequency shall not be used by vessels when operating on the Great Lakes.

(4) Transmission by ship stations is prohibited during the period from 8 p.m. to 5 a.m., c.s.t.

(5) Use of this frequency is subject to the express condition that harmful interference shall not be caused to the service of any station which in the discretion of the Commission, may have priority on the frequency or frequencies used for the service to which interference is caused.

(6) Available for use in accordance with the provisions of § 83.351.

(7) Conversion from double sideband (DSB) to single sideband (SSB) emissions in the band 1605–4000 kHz shall be effected in accordance with the schedule set forth in paragraph (c) of this section.

(8) The frequency 2142 kHz is authorized for intership communication on a day only basis in the Pacific coast area south of 42° north latitude upon the express condition that harmful interference shall not be caused to the service of any station which, in the discretion of the Commission, has priority on the frequency or frequencies used for the service to which interference is caused.

(9) Available for use in accordance with the provisions of § 88.352.

(10) Available for use in accordance with the provisions of § 83.359.

(11) Available for use in accordance with the provisions of § 83.362.

(12) Available for use in accordance with the provisions of § 83.358.

(13) Use of this frequency is limited to emission 2.8A3J only.

(14) Until January 1, 1974, emissions 6A3, 2.8A3A, 5.6A3B, 2.8A3H, and 2.8A3J; after January 1, 1974, use is limited to emission 2.8A3A and 2.8A3J: *Provided, however*, That availability of emission 5.6A3B after January 1, 1974, is dependent upon the decision taken by the ITU World Administrative Radio Conference, to be convened in 1974, in regard to continued use of that emission.

(15) Until January 1, 1974, emissions 6A3, 2.8A3A, 2.8A3H, and 2.8A3J; after January 1, 1974, emissions 2.8A3A and 2.8A3J.

(16) Available for use in accordance with the provisions of § 83.360.

(17) Available for use in accordance with the provisions of § 83.370.

(18) Available for use in accordance with the provisions of § 83.355.

(19) Available for use in accordance with the provisions of § 83.371.

(20) Available for use in accordance with the provisions of § 83.354(a)(1).

(21) Available for use in accordance with the provisions of § 83.354(a)(2).

(22) Available for use in accordance with the provisions of § 83.372.

(23) Assignment will be subject to coordination with Canada. Available only at locations which will not cause interference to use of the same frequency by Canada.

(24) [Reserved]

(25) Limited to a maximum output power of 150 watts (PEP) and to emissions 2.8A3A and 2.8A3J.

(26) Available primarily for intership safety communications. On a secondary basis to intership safety communications, available to ship stations, other than those aboard vessels engaged in commercial fishing, for commercial (operational) communication. On a tertiary basis, subject to noninterference to ship stations, may be assigned to coast stations for commercial (operational) communication with ship stations.

(27) Available January 1, 1974, for use with emissions 2.8A3A and 2.8A3J. Use during the period January 1, 1972, to January 1, 1974, is subject to the condition that harmful interference is not caused to stations employing double sideband emission (DSB) 6A3 on a carrier frequency positioned higher in frequency by 3.1, 3.2, or 3.5 kHz.

(28) Available for use with emissions 2.8A3A and 2.8A3J on January 1, 1974.

(29) Available to ship stations for intership communication aboard vessels engaged in commercial fishing.

(30) Available to ship stations, other than those engaged in commercial fishing, for intership communication in the Gulf of Mexico.

(31) Until January 1, 1974, emissions 6A3, 2.8A3A, 2.8A3H, and 2.8A3J.

(32) After January 1, 1974, emissions 2.8A3A and 2.8A3J.

(33) The frequency deviation is limited to ±5 kHz.

(34) After March 1, 1969, a deviation of ±5 kHz shall be employed: Every U.S. registry vessel when required for communication with coast stations of other administrations may employ a deviation of ±15 kHz until January 1, 1972.

(35) After January 1, 1977, emissions 2.8A3A and 2.8A3J.

(36) Until January 1, 1973, available on a restricted basis; and after January 1, 1973, available on an equal basis with 156.300 MHz.

(37) Available to public ship stations for communication exclusively with common carrier coast stations which are located in the Alaska area and are open for public correspondence.

(38) To the extent practicable, the order of assignment of public correspondence channels will be in accord with the U.S. priority numbering system, as follows:

Priority No.		Transmit (MHz)	Receive (MHz)	Channel designator
U.S.	I.T.U.			
1	1	157.300	161.900	26
2	2	157.340	161.940	27
3	3	157.250	161.850	25
4	4	157.200	161.800	24
1[1]	5	157.400	162.000	28
5	13	157.225	161.825	84
6	14	157.275	161.875	87
7	15	157.325	161.925	86
8	17	157.375	161.875	85

[1] Channel 26 will be assigned interchangeably with Channel 26 as the first priority number.

(39) Until January 1, 1977, emissions 6A3, 2.8A3A, 2.8A3H, and 2.8A3J; after January 1, 1977, emissions 2.8A3A and 2.8A3J.

(40) Intership.

(41) Ship to coast.

(42) Coast station broadcast only.

(43) Distress, safety, and calling.

(44) Intership safety.

(45) Port operations.

(46) Navigational.

(47) Environmental.

(48) State control.

(49) Commercial.

(50) Noncommercial.

(51) Public correspondence.

(52) As an interim measure, until trends in communication needs of recreational boats are more definitive, this frequency is available for noncommercial intership communications during localized fleet operations, maneuvers during a cruise, and rendezvous.

(53) As an interim measure, until trends in communication needs of recreational boats are more definitive, this frequency is available to ship stations and to associated coast stations at marinas, organized yacht clubs, and to persons or organizations performing the function of service and supply to vessels, other than commercial transport vessels.

(54) Available for noncommercial communication, to fulfill the wide scope of needs of smaller type boats, where, for practical reasons the number of channels, output power and investment in radio equipment would be at a minimum and battery power could or would be employed. While available to all vessels, other than commercial transport vessels, this frequency does not replace, nor may it be used in lieu of frequencies allotted for distress, safety and calling, intership safety, navigational, port operations, or public correspondence.

(55) Available for assignment to ship stations aboard commercial transport vessels engaged in commercial fishing, in addition to the frequencies designated by subparagraph (49) of this paragraph, and between these commercial fishing vessels and associated aircraft while engaged in commercial fishing activities.

(56) Available for assignment to coast stations, the use of which is in accord with the agreed program, for the broadcast of information to ship stations concerning the environmental conditions in which vessels operate, i.e., weather; sea conditions; time signals; notices to mariners; and hazards to navigation.

(57) Available for assignment to stations aboard vessels for State control communications.

(58) Not available in Puerto Rico and the Virgin Islands.

(59) In the Great Lakes area only, available for commercial communication.

(60) To minimize interference to the service of stations in Zone 3 or 4 operating on 1708 kHz, ship stations in Zone 1 shall not transmit on 1712 kHz when west of 138° west longitude, nor in Zone 5 when south of 62° north latitude.

(61) To minimize interference to the service of ship stations transmitting on 2430 kHz to any public coast station in the vicinity of Seattle, Wash., ship stations in Zone 2 shall not transmit on 2430 kHz when south of 59° north latitude.

(62) To minimize interference to or from the operation of stations outside the Alaska area or U.S. Government stations within Alaska, this frequency is authorized for use annually in the respective zone only during the hours from 7 a.m. to 11 p.m. local standard time from May 15 to September 15 inclusive, and from 8 a.m. to 9 p.m. local standard time from April 1 to May 14 inclusive and from September 16 to October 31 inclusive.

(63) To minimize interference to or from the service of any coast station transmitting on 2538 kHz and located in the vicinity of Vancouver, British Columbia, ship stations in Zones 2 and 3 shall not transmit on 2538 kHz when south of 56° north latitude.

(64) Available for use with emissions 2.8A3A and 2.8A3J until January 1, 1972: *Provided*, That harmful interference is not caused to systems still employing double sideband (DSB) emission; and during the period January 1, 1972, to January 1, 1974: *Provided*, That harmful interference is not caused to ship station receivers employing double sideband (DSB) techniques receiving a transmission on a carrier frequency positioned higher in frequency by 3.1, 3.2, or 3.5 kHz.

(65) Authorization for use is withdrawn effective January 1, 1974.

(66) Effective January 1, 1974, limited to emissions 2.8A3A and 2.8A3J, this frequency will be available for assignment on a simplex basis in the Mississippi River system.

(67) Use of the frequency 2506 kHz for maritime mobile service in the Alaska area is authorized on condition that harmful interference shall not be caused to the service of any coast station located in the vicinity of San Francisco or Eureka, Calif.

(68) Insofar as is practicable, ship stations shall limit their use of the frequency 3261 kHz to communication over distances which cannot be effectively covered by the use of a frequency below 2700 kHz or above 156 MHz.

(69) The frequencies 4403.0 and 4428.6 kHz are authorized for telephony exclusively; for use during the hours 6 a.m. to 9 p.m. local standard time only. Availability and use of the frequency 4428.6 kHz is subject to the condition that harmful interference shall not be caused to the service of any coast station located in the Great Lakes area.

(70) To minimize interference to or from the operation of stations outside the Alaska area, this frequency is authorized for use annually in the respective zone only during the hours from 6 a.m. to 11 p.m., local standard time, from April 1 to September 30, inclusive.

(71) Until January 1, 1977, emissions 6A3, 2.8A3A, 2.8A3H, and 2.8A3J. Authorization for use of this frequency in Zone 3 and Zone 4 of the Alaska area is withdrawn effective January 1, 1977.

(72) See §§ 83.202, 82.224, 82.233, 83.249, 83.353, 83.359, 83.365, 83.366, 83.514, 83.518, and 83.519.

8. Section 83.354 is amended to read as follows:

§ 83.354 Frequencies below 5000 kHz for public correspondence.

(a) Carrier frequencies which are authorized for use by public ship stations employing telephony by means of amplitude modulation for the transmission of public correspondence exclusively are designated herewith: ship stations shall use the radio channels of which these frequencies are the authorized carrier frequencies exclusively for working with public coast stations located at, or in the vicinity of, the specific harbors, ports, or places designated hereinafter opposite the respective ship transmitting frequency, and shall receive transmission from the particular coast stations on the associated receiving frequencies also designated herewith.

(b) Frequencies available for use when the mobile station and the coast station transmit alternately on different radio channels:

Coast stations located in the vicinity of—	Mobile station transmitting carrier frequency (kHz)[1]				Associated coast station transmitting carrier frequency (kHz)[1]			
		Note 2	Note 3	Conditions of use, Note 4		Note 2	Note 3	Conditions of use, Note 4
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)[1]
Boston, Mass.	2366			None	2450			None
	2406			None	2506			None
	2500			5, 9	2566			5, 9
New York, N.Y.	2262			6	2462			6
	2126			None	2522			None
	2166			None	2566			None
	2198			None	2590			None
		4091.6	4091.6	33		4390.2	4390.2	29, 32
		4104.4	4104.4	33		4403.0	4403.0	29, 32
		4123.6	4123.6	33		4422.2	4422.2	29, 32
		4130.0	4130.0	3, 10, 33		4428.6	4428.6	10, 32
Wilmington, Del.	2160			None	2556			None
Baltimore, Md.	2160			None	2560			None
Norfolk-Quantico, Va.	2142			None	2338			None
	2366			5, 9	2450			5, 9
Charleston, S.C.-Jacksonville, Fla.	2360			None	2560			None

See footnote at end of table.

Coast stations located in the vicinity of—	Mobile station transmitting carrier frequency (kHz)[1]				Associated coast station transmitting carrier frequency (kHz)[1]			
		Note 2	Note 3	Conditions of use, Note 4		Note 2	Note 3	Conditions of use, Note 4
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Lake Allatoona-Lake Sidney, Lanier, Ga	2366			5	2450			5
Miami, Fla	2406			9	2442			9
	2031.5			None	2490			8
	2118			10	2514			5, 11
	2158			12	2550			13
			4072.4	33			4371.0	31, 32
		4104.4	4104.4	33		4403.0	4403.0	29, 32
		4123.6	4023.6	33		4422.2	4422.2	30, 32
Tampa, Fla	2009			None	2466			None
	2158			10	2550			10
			4120.4	33			4419.0	32, 34
Mobile, Ala	2430			None	2572			None
			4114.0	33			4412.6	32, 35
New Orleans, La	2206			None	2598			None
	2166			9	2558			9, 14
	2382			None	2462			None
			4120.4	33			4419.0	32, 34
Delcambre, La	2458			5, 9	2506			5, 9
			4114.0	33			4412.6	32, 35
Galveston, Tex	2134			None	2530			None
	2366			9, 15	2450			9, 16
			4126.8	33			4425.4	32, 36
Corpus Christi, Tex	2142			17	2538			18
			4126.8	33			4425.4	32, 36
San Juan, P.R	2134			None	2530			None
Great Lakes	2118			None	2514			32
	2158			None	2550			32
	2206			19	2582			32
		4117.2	4117.2	33		4415.8	4415.8	32
		4130.0	4130.0	3, 33		4428.6	4428.6	32
		8249.2	8249.2	33		8783.2	8783.2	32
Los Angeles-San Diego, Calif	2009			None	2566			None
	2382			20	2466			21
	2206			22	2598			22
	2126			22	2522			22
San Francisco-Eureka, Calif	2003			23	2450			24
	2406			None	2506			None
	4072.4	4072.4	4072.4	33	4377.4	4371.0	4371.0	31, 32
		4091.6	4091.6	33		4390.2	4390.2	29, 32
			4101.2	33			4399.8	29, 32
Astoria, Oreg	2009			5, 9	2442			5, 9
Astoria-Portland, Oreg	2206			None	2598			None
Coos Bay, Oreg	2031.5			5, 22	2566			22
Seattle, Wash	2126			None	2522			None
	2430			25	2482			25
Kahuku, Hawaii	2134			None	2530			None
		4117.2	4117.2	33		4415.8	4415.8	32
Hilo, Hawaii	2198			None	2582			None
Palmyra Island, Hawaii	2134			26	2530			27
St. Thomas Isl., Virgin Islands	2009			28	2506			28

[1] In the table, for duplex working on frequencies above 2850 kHz. mobile station transmitting carrier frequencies appear in columns (2), (3), and (4); coast station transmitting carrier frequencies appear in columns (6), (7), and (8). Coast and ship station frequencies appearing on the same line are paired, as follows: Column (2) is paired with column (6); column (3) with (7); and column (4) is paired with (8). In general: The frequencies in columns (3) and (7) will be converted to SSB (see §§ 81.304 and 83.351: coast, Jan. 1, 1972; ship, Jan. 1, 1974); and those in columns (4) and (8) will be available after Jan. 1, 1974.

NOTE 1: [Reserved]

NOTE 2: Frequencies above 2850 kHz. shown in columns (3) and (7) and available for DSB emission will replace the DSB frequencies shown in columns (2) and (6); and are available in accordance with the provisions of this section and conditions of use set forth in § 81.304 and § 83.351. The frequencies listed in columns (3) and (7) will not be available after Jan. 1, 1974.

NOTE 3: Frequencies above 2850 kHz. shown in columns (4) and (8) will be available for 2.8A3A and/or 2.8A3J emissions on Jan. 1, 1974, and will replace the frequencies listed in columns (3) and (7) on that date.

NOTE 4: The conditions of use referred to in columns (5) and (9) are set forth below the table.

(1) [Reserved]

(2) [Reserved]

(3) The frequency in column (2) is replaced by the frequency in column (3) in accordance with the conditions of use set forth in § 83.351.

(4) [Reserved]

(5) Available on condition that no harmful interference will be caused to any service or station which in the discretion of the Commission may have priority on the frequency or frequencies used for the service to which interference is caused.

(6) Available on condition that harmful interference is not caused to the service of any coast station located in the vicinity of New Orleans, La., to which this carrier frequency is assigned for transmission.

(7) Available for use annually during period December 15 to March 15.

(8) Available on a 24-hour basis, on condition that harmful interference shall not be caused to the police radio service in southern California.

(9) Day only.

(10) Unlimited hours of use from December 15 to April 1, annually, and day only from April 1 to December 15, annually, on condition that harmful interference shall not be caused to the service of any ship station in the Great Lakes area which in the discretion of the Commission has priority on the frequency or frequencies used for the service to which interference is caused.

(11) Unlimited hours of use from December 15 to April 1, annually, and day only from April 1 to December 15, annually, on condition that harmful interference shall not be caused to the service of any coast station in the vicinity of Miami, Fla., to which the carrier frequency 2490 kHz is assigned for transmission.

(12) Unlimited hours of use from December 15 to April 1, annually, and day only from April 1 to December 15, annually, on condition that harmful interference is not caused to the service of any ship station which is within 300 nautical miles of Tampa, Fla., and is transmitting on this frequency to a coast station located in the vicinity of that port.

(13) Unlimited hours of use from December 15 to April 1, annually, and day only from April 1 to December 15, annually, on condition that harmful interference is not caused to the service of any coast station located in the vicinity of Tampa, Fla., to which this carrier frequency is assigned for transmission.

(14) Available on condition that harmful interference is not caused to the service of any coast station located in the vicinity of Mobile, Ala., to which the carrier frequency 2572 kHz is assigned for transmission.

(15) Available on condition that harmful interference is not caused to the service of any ship station which is within 300 nautical miles of Boston, Mass., and is transmitting on this frequency to a coast station located in the vicinity of that port.

(16) Available on condition that harmful interference is not caused to the service of any coast station located in the vicinity of Boston, Mass., San Francisco or Eureka, Calif., to which this carrier frequency is assigned for transmission.

(17) Available on condition that no harmful interference will be caused to the service of any ship station which is within 300 nautical miles of Norfolk-Quantico, Va., and is transmitting on this frequency to a coast station located in the vicinity of that port.

(18) Available on condition that no harmful interference will be caused to the service of any coast station located in the vicinity of Norfolk-Quantico, Va., to which this carrier frequency is assigned for transmission.

(19) Not available to U.S. ship stations for transmission.

(20) Available on condition that harmful interference is not caused to the service of any ship station which is within 300 nautical miles of New Orleans, La., and is transmitting on this frequency to a coast station located in the vicinity of that port.

(21) Available on condition that harmful interference is not caused to the service of any coast station located in the vicinity of Tampa, Fla., to which this carrier frequency is assigned for transmission.

(22) 7 a.m. to 7 p.m., P.s.t. only.

(23) Available on condition that harmful interference shall not be caused to the service of any ship station which is within 300 nautical miles of Los Angeles or San Diego, Calif., and is transmitting on 2009 kHz to a coast station located in the vicinity of either of these ports.

(24) Available on condition that harmful interference is not caused to police radio service in Kansas or Wisconsin.

(25) Authorized for use south of 51° north latitude and east of 142° west longitude exclusively during the following daily periods on condition that harmful interference is not caused to the service of any station in the Alaska area to which this carrier frequency is assigned for transmission: annually from April 1 to September 30, inclusive, from 5 a.m. to 9 p.m., P.s.t., only; and annually from October 1 to March 31, inclusive, from 6 a.m. to 11 p.m., P.s.t., only.

(26) Available on condition that harmful interference shall not be caused to the service of any ship station which is within 300 nautical miles of Kahuku, Hawaii, and is transmitting on this frequency to a coast station located in the vicinity of that port.

(27) Available on condition that harmful interference is not caused to the service of any coast station located in the vicinity of Kahuku, Hawaii, to which the carrier frequency 2530 kHz is assigned for transmission.

(28) 8 a.m. to 9 p.m., A.s.t., only; on condition that no harmful interference will be caused to any service or any station which in the discretion of the Commission may have priority on the frequency or frequencies used for the service to which interference is caused.

(29) New York, N.Y., is the station of primary assignment. Use of this frequency is shared with Miami, Fla., and San Francisco, Calif.

(30) Miami, Fla., is the station of primary assignment. Use of this frequency is shared with New York, N.Y., and San Francisco, Calif.

(31) San Francisco, Calif., is the station of primary assignment. Use of this frequency is shared with New York, N.Y., and Miami, Fla.

(32) In accordance with § 81.304 of this chapter.

(33) In accordance with § 83.351.

(34) Shared by New Orleans, La., Tampa and Miami, Fla. Use by Miami, Fla., is on a secondary basis to use by New New Orleans, La., and Tampa, Fla.

(35) Shared by Mobile, Ala., and Delcambre, La.

(36) Shared by Galveston and Corpus Christi, Tex.

(c) Frequencies available for use when the mobile stations and the coast station transmit alternately on the same radio channel:

Coast stations located in the vicinity of—	Ship and coast station transmitting and receiving carrier frequency (kHz)			
		Note 2	Note 3	Conditions of use, Note 4
(1)	(2)	(3)	(4)	(5)
Baltimore, Md	2400			(1)
Louisville, Ky	2782			(1)
	2086	4072.4	4089.2	(2)
		4371.0		
		6147.5		
		6455.0	6455.0	
		8210.8	8780.0	
			13,158.0	
			17,283.0	
Memphis, Tenn	2782			(1)
	2086	4072.4	4089.4	(2)
		4371.0		
		6147.5	6451.9	
		6455.0		
		8210.8	8246.0	
			12,379.0	
			16,498.0	
Pittsburgh, Pa	2782			(1)
	2086	4072.4		(2)
		4371.0	4387.0	
		6147.5	6451.9	
		6455.0	8207.6	
		8210.8	12,379.0	
			16,498.0	
St. Louis, Mo	2782			(1)
	2086	4072.4		(2)
		4371.0	4387.8	
		6147.5	6147.5	
		6455.0		
		8210.8	8210.8	
			13,158.0	
			17,283.0	
Lake Dallas-Lake Texhoma Tex	2738			(1)
Lake Mead, Nev	2782			(1)
The Dalles-Umatilla, Oreg	2784			(1)

NOTE 1: [Reserved]

NOTE 2: Frequencies above 2850 kHz shown in column (3) are available during the period Mar. 1, 1970, to Dec. 31, 1973, for use with emissions 6A3, 2.8A3A, 2.8A3H, and 2.8A3J.

NOTE 3: Frequencies above 2850 kHz shown in column (4) are available effective Jan. 1, 1974, for use with emissions 2.8A3A and 2.8A3J and on that date will replace the frequencies shown in column (3). The frequencies appearing in column (3) will not be available after Dec. 31, 1973.

NOTE 4: The conditions of use referred to in column (5) are set forth below the table.

(1) Subject to a separate rule making proceeding.

(2) Available for use with emissions 2.8A3A and 2.8A3J.

9. In § 83.355, the tables following paragraphs (a) (1) and (2) are amended, to read as follows:

§ 83.355 Frequencies from 5000 kHz to 27.5 MHz for public correspondence.

(a) (1) • • •

Ship station transmitting carrier frequency (kHz)	Coast station located in the vicinity of—	Ship station receiving carrier frequency (kHz)
8201.2	San Francisco, Calif.	8735.2
8201.2	New York, N.Y.[2]	8735.2
8201.2	Miami, Fla.	8735.2
8204.4	San Francisco, Calif.[2]	8738.4
8204.4	New York, N.Y.	8738.4
8204.4	Miami, Fla.	8738.4
8214.0	San Francisco, Calif.[2]	8748.0
8217.2	Hawaii [2]	8751.2
8220.4	New York, N.Y.	8754.4
8220.4	San Francisco, Calif.	8754.4
8220.4	Miami, Fla.[2]	8754.4
8221.6	New York, N.Y.[2]	8767.6
8221.6	San Francisco, Calif.	8767.6
8221.6	Miami, Fla.	8767.6
8249.6	Miami, Fla.	[3]8773.6
8249.6	San Francisco, Calif.	8773.6
8249.6	New York, N.Y.[2]	8773.6
8242.8	Miami, Fla.[2]	[3]8776.8
8242.8	San Francisco, Calif.	8776.8
8242.8	New York, N.Y.	8776.8
8258.8	New York, N.Y.	8792.8
8258.8	San Francisco, Calif.[2]	8792.8
8258.8	Miami, Fla.	8792.8
8262.0	New York, N.Y.[2]	8796.0
8262.0	San Francisco, Calif.	8796.0
8262.0	Miami, Fla.	8796.0
12,358.0	New York, N.Y.	13,137.0
12,358.0	San Francisco, Calif.	13,137.0
12,358.0	Miami, Fla.[2]	13,137.0
12,361.5	New York, N.Y.[2]	13,140.5
12,361.5	San Francisco, Calif.	13,140.5
12,361.5	Miami, Fla.	13,140.5
12,372.0	San Francisco, Calif.[2]	13,151.0
12,375.5	Hawaii [2]	13,154.5
12,382.5	San Francisco, Calif.[2]	13,161.5
12,382.5	New York, N.Y.	13,161.5
12,382.5	Miami, Fla.	13,161.5
12,393.0	New York, N.Y.	13,172.0
12,393.0	Miami, Fla.[2]	13,172.0
12,396.5	New York, N.Y.[2]	13,175.5
12,396.5	Miami, Fla.	13,175.5
16,474.0	San Francisco, Calif.[2]	17,269.0
16,477.5	Hawaii [2]	17,272.5
16,491.5	New York, N.Y.[2]	17,286.5
16,491.5	San Francisco, Calif.	17,286.5
16,491.5	Miami, Fla.	17,286.5
16,508.0	San Francisco, Calif.	17,304.0
16,508.0	New York, N.Y.	17,304.0
16,508.0	Miami, Fla.[2]	17,304.0
16,512.5	San Francisco, Calif.[2]	17,307.5
16,512.5	New York, N.Y.	17,307.5
16,512.5	Miami, Fla.	17,307.5
16,523.0	New York, N.Y.	17,318.0
16,523.0	Miami, Fla.[2]	17,318.0
16,526.5	New York, N.Y.[2]	17,321.5
16,526.5	Miami, Fla.	17,321.5
22,028.0	New York, N.Y.	22,653.5
22,028.0	Miami, Fla.[2]	22,653.5
22,031.5	New York, N.Y.[2]	22,657.0
22,031.5	Miami, Fla.	22,657.0
22,042.0	San Francisco, Calif.	22,667.5
22,042.0	New York, N.Y.[2]	22,667.5
22,042.0	Miami, Fla.	22,667.5
22,045.5	San Francisco, Calif.[2]	22,671.0
22,045.5	New York, N.Y.	22,671.0
22,045.5	Miami, Fla.	22,671.0
22,063.0	New York, N.Y.	22,688.5
22,063.0	San Francisco, Calif.[2]	22,688.5
22,063.0	Miami, Fla.	22,688.5
22,066.5	New York, N.Y.[2]	22,692.0
22,066.5	San Francisco, Calif.	22,692.0
22,066.5	Miami, Fla.	22,692.0

[1] Available for communication with ship stations in the Gulf of Mexico and the Caribbean area only. Use of the frequency is upon the express condition that interference shall not be caused to the service of any station which may have priority on the frequency or frequencies used for the service to which interference is caused.

[2] Station of primary allotment.

• • • • • •

(2) • • •

Ship station transmitting carrier frequency (kHz)	*Ship station receiving carrier frequency (kHz)*
8249.2	8783.2

• • • • •

10. In § 83.358, paragraph (a) is amended, to read as follows:

§ 83.358 Frequencies below 3000 kHz for safety purposes.

(a) The following carrier frequencies are authorized for intership safety communications in the respective geographic areas. In addition, on a noninterference basis to safety communications, the frequencies may be used for operational communications and, in the case of commercial transport vessels and vessels of municipal or State governments, for business communications. Use of these carrier frequencies is prohibited when the use of a licensed frequency above 27.5 MHz in lieu thereof would provide effective communication.

Frequency (kHz)	*Geographic area*
2003	Great Lakes only.
2082.5	All areas.
2142	Pacific coast area south of latitude 42° north, on a day only basis.
2203	Gulf of Mexico.
2638	All areas.
2738	All areas except the Great Lakes and the Gulf of Mexico.
2830	Gulf of Mexico only.

• • • • •

11. Section 83.360 is revised to read as follows:

§ 83.360 Frequencies for business and operational purposes.

(a) The following carrier frequencies are available for business and operational communications with limited coast stations and other ship stations using the same carrier frequency. The conditions of use are set forth in paragraph (b) of this section.

Carrier frequency (kHz)	*Carrier frequency (kHz)*	*Carrier frequency (kHz)*
2096.5	8281.2	16,572.0
4136.3	8284.4	22,094.5
4139.5	12,421.0	22,098.0
4434.9	12,424.5	22,101.5
6210.4	12,428.0	22,105.0
6213.5	16,565.0	22,108.5
6518.6	16,568.5	

(b) Assignment of the specific carrier frequencies designated in paragraph (a) of this section and use of the frequency assignments of which those frequencies are the authorized carrier frequencies shall be subject to the express limitations and conditions set forth in this paragraph:

(1) The applicant must show that the desired communications are primarily over distances for which frequencies above 27.5 MHz would not be suitable;

(2) These frequencies are available on a shared basis only and shall not be construed as available for the exclusive use of any one station licensee;

(3) Normally no more than one frequency from each of the frequency bands will be authorized;

(4) These frequencies are not authorized for use in communicating with stations aboard aircraft;

(5) Transmitter peak envelope power shall not exceed 1 kw.;

(6) The class of emission shall be 2.8A3J; and

(7) Use should be limited to daytime.

12. In § 83.362, new paragraphs (e) and (f) are added, to read as follows:

§ 83.362 Frequencies below 3000 kHz for safety, business, and operational purposes.

• • • • •

(e) Subject to coordination with Canada and the provisions of § 83.351(c), the frequencies 2065.0 and 2079.0 kHz may be assigned for safety, operational, or business communications only at locations which will not cause interference to use of the same frequency by Canada. When used for communication with limited coast stations, the provisions of paragraph (d) of this section are also applicable.

(f) The frequency 2093.0 kHz is available for intership communication by vessels engaged in commercial fishing.

13. A new § 83.370 is added to read as follows:

§ 83.370 Frequencies available in all zones of the Alaska area.

(a) Each of the carrier frequencies set forth in the following table, when authorized by station license, may be used by ship stations in all zones of the Alaska area.

Frequency (kHz)		
1619 [1]	2237 [2]	4380.6 [4]
1622 [1]	2240 [2]	4383.6 [4]
2131 [2]	2379 [2]	
2134 [2]	2362 [2]	

[1] For communication by radiotelephony with public correspondence coast stations; and for intership communication by radiotelegraphy between ship stations on board vessels of less than 500 gross tons.

[2] Available to public ship stations for communication exclusively with common carrier coast stations which are located in the Alaska area and are open for public correspondence.

[3] For communication by radiotelephony with public correspondence coast stations; and for intership communication by radiotelegraphy between ship stations on board vessels of 500 gross tons or more.

[4] Primarily, for communication by radiotelephony with public correspondence coast stations on board any type of vessel during the hours 6 a.m. to 9 p.m., local standard time; and, secondarily, during the hours 6 a.m. to 9 p.m., local standard time, for communication by radiotelephony between ship stations on board any type of vessel, on condition that harmful interference shall not be caused to the service of any coast station using radiotelephony. The use of this frequency for this purpose shall be limited to the relatively longer distances over which the use of frequencies below 3400 kHz or above 156 MHz would not be effective.

14. A new § 83.371 is added to read as follows:

§ 83.371 Public telephone service, ship stations to common carrier coast stations.

Public ship stations shall use radiotelephony carrier frequencies, for working with the designated common carrier coast stations, as set forth in the following table. The hours of service of each common carrier coast station may be obtained upon request made to the Commission's engineer in charge at Anchorage, Alaska.

For communication with common carrier coast stations located in the vicinity of—	Ship station transmitting carrier frequency. (kHz)		Associated common carrier coast station carrier frequency. (kHz)	
	Until [1] 1-1-77	After [1] 1-1-77	Until [1] 1-1-77	After [1] 1-1-77
Anchorage, Alaska	2134	2134	2312	2312
Cold Bay, Alaska	2134	2134	2312	2312
Cordova, Alaska	2134	2237	2312	2307
Juneau, Alaska	2240	2240	2400	2400
Ketchikan, Alaska	2134	2237	2312	2307
King Salmon, Alaska	2134	2240	2312	2400
Kodiak, Alaska	2240	2131	2400	2309
Nome, Alaska	2240	2240	2400	2400
Petersburg, Alaska	2134	2134	2312	2312
Sitka, Alaska	2240	2134	2400	2312
Unalaska, Alaska	2134	2134	2312	2312

[1] Subject to the limitations and conditions of use set forth in § 83.351

15. A new § 83.372 is added to read as follows:

§ 83.372 Frequencies available in one or more zones of the Alaska area.

(a) Each of the carrier frequencies set forth in the following table, when authorized by station license, may be used by public ship stations employing radiotelegraphy or radiotelephony: *Provided, however,* That radiotelephony only shall be employed on frequencies in the band 4361–4438 kHz. Frequencies designated for use in a zone of the Alaska area are available only to ship stations located in that zone. The limitations and conditions of use applicable to each frequency are set forth in § 83.351. The frequencies available and the zones in the Alaska area in which they may be employed are set forth in the following table:

TABLE 1

Zone 1		Zone 2		Zone 3		Zone 4		Zone 5		Zone 6	
Available		Available		Available		Available		Available		Available	
Until 1-1-77 (kHz)	After 1-1-77 (kHz)	Until 1-1-77 (kHz)	After 1-1-77 (kHz)	Until 1-1-77 (kHz)	After 1-1-77 (kHz)	Until 1-1-77 (kHz)	After 1-1-77 (kHz)	Until 1-1-77 (kHz)	After 1-1-77 (kHz)	Until 1-1-77 (kHz)	After 1-1-77 (kHz)
1646	1646					1646	1643			1646	1646
		1652	1649					1652	1652		
				1708	1705	1708	1705				
1712	1709							1712	1712		
2006	2006								2003		
		2118	2115			2118	2118				
2422	2419			2422	2422						
		2430	2430			2430	2427	2430	2430		
				2450	2450	2450	2447			2450	2450
				2482	2479	2482	2482			2482	2482
								2506	2506	2506	2506
2512	2512	2512	2509	2512	2512	2512	2509				
		2538	2538	2538	2535						
2566	2566					2566	2563	2566	2566		
2616	2616										
3261	3261					3261	3261	3261	3258		

TABLE 2

Zone 1		Zone 2		Zone 3		Zone 4		Zone 5		Zone 6	
Available		Available		Available		Available		Available		Available	
Until 1-1-74 (kHz)	After 1-1-74 (kHz)	Until 1-1-74 (kHz)	After 1-1-74 (kHz)	Until 1-1-74 (kHz)	After 1-1-74 (kHz)	Until 1-1-74 (kHz)	After 1-1-74 (kHz)	Until 1-1-74 (kHz)	After 1-1-74 (kHz)	Until 1-1-74 (kHz)	After 1-1-74 (kHz)
4403.0	4403.0	4403.0	4428.6	4403.0	4399.8	4428.6	4425.4	4428.6	4428.6	4428.6	4403.0

(b) (1) When operating on any frequency designated in paragraph (a) of this section, a ship station shall transmit only on an authorized carrier frequency which is specifically authorized by that paragraph for transmission in the zone in which the ship station then is located: *Provided, however,* That, for communication with a ship or coast station located in a contiguous zone which uses a frequency in accordance with paragraph (a) but not designated by that paragraph for use in the zone in which the ship station then is located, such ship station may transmit on the contiguous zone frequency when, by reason of conditions not under its control, such operation becomes necessary.

(2) Ship stations are authorized generally to communicate on each frequency designated in this section with public coast stations using the same frequency. A ship station may communicate on any of these frequencies with another ship station only when requested to do so by a public coast station which operates on the same frequency in accordance with paragraph (a) of this section and is within communication range of the ship station.

PART 85—PUBLIC FIXED STATIONS AND STATIONS OF THE MARITIME SERVICES IN ALASKA

C. Part 85, Public Fixed Stations and Stations of the Maritime Services in Alaska, is deleted in its entirety.

[FR Doc.71-15748 Filed 11-1-71;8:45 am]

Title 49—TRANSPORTATION

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 71-11; Notice 2]

PART 566—MANUFACTURER IDENTIFICATION

This notice adopts a new Part 566 in Title 49, Code of Federal Regulations, to require manufacturers of motor vehicles, and manufacturers of motor vehicle equipment to which a motor vehicle safety standard applies, to submit identifying information and a description of the items they produce. A notice of proposed rule making on this subject was published on April 28, 1971 (36 F.R. 7970). The comments received in response to the notice have been considered in this issuance of a final rule. The final rule exempts tire manufacturers from coverage, deletes the required submittal of estimated annual production, and requires the manufacturer to submit revised information when necessary to keep his entry current.

As noted in the proposal of April 28, 1971 (36 F.R. 7970) the establishment of a centrally organized system to collect information regarding the manufacturer's corporate status, mailing address, and items manufactured has been found necessary for efficient enforcement of the Act, as well as for distribution of information to manufacturers.

Several manufacturers stated that the information required by the regulation is already submitted to the NHTSA under existing regulations. This claim is true only with respect to tire manufacturers, who are required under Part 574, Tire Identification and Recordkeeping (36 F.R. 1196 at 1197–8, to submit to the NHTSA data which would meet the requirements of the proposed regulation in order to obtain their code numbers. The tire manufacturers' request for exemption has therefore been granted.

While it is true that the Defect Reports regulation (36 F.R. 3064) requires the submittal of some information similar to the data collected under the proposed regulation, the former requirement does not provide the comprehensive data required by the Administration.

The largest number of comments were directed at the required submittal of estimated annual production figures. Upon consideration of the comments and review of the Administration's need for this data, it has been determined that its collection would create difficulties for the industry that outweigh its benefits, particularly since approximate information about production is available to the NHTSA from other sources. Therefore this requirement is deleted.

A number of manufacturers were uncertain about their coverage under the proposed regulation. One packager of brake fluids stated that he did not manufacture the fluid and wished to know whether he is considered a manufacturer under the regulation. The packager's operations may significantly affect the quality of the brake fluid. Moreover, under amended Federal Motor Vehicle Safety Standard No. 116, "Motor Vehicle Hydraulic Brake Fluids," the original

manufacturer in some cases will not be identified on the container label. For these reasons it has been determined that for the purposes of this regulation, a person who packages brake fluid from a bulk state shall be considered a manufacturer of motor vehicle equipment and therefore subject to the regulation.

A manufacturer of mobile homes sought an exemption from coverage on the grounds that the general public does not usually engage in transporting mobile structure trailers. The fact that only "experts" transport the regulated vehicle is not germane to the question of its inclusion under the regulation, however, since the identification requirement is based on the general determination that the centralized data system will improve enforcement of the Act and communication with manufacturers.

An incomplete vehicle manufacturer submitted a comment regarding the requirement that manufacturers of multipurpose passenger vehicles, trucks and trailers submit a description indicating the intended final use of their product. The final rule as issued does not specifically include incomplete vehicle manufacturers. A notice of proposed rulemaking published in this issue of the FEDERAL REGISTER would, however, amend the regulation to provide coverage of incomplete vehicles.

The time-of-submittal section has been clarified in light of the comments. It is intended that a manufacturer supply the required information when he begins to manufacture the motor vehicle or covered equipment. The regulation has been amended to indicate that subsequent submittals will be necessary only when changes in the manufacturer's business render the submitted data inaccurate or incomplete.

A number of manufacturers offered recommendations as to the classification system to be adopted by the Administration utilizing the data collected under this regulation. Such discussion is beyond the scope of this regulation, but these suggestions will be considered at the appropriate time.

One manufacturer petitioned for a public hearing to discuss the NHTSA's planned use of the information collected under the regulation. Since the required submittal of estimated annual production figures has been deleted from the final rule, the concern about the use of the information by the Administration would appear to be dispelled, and a public hearing has been found to be unnecessary. The petition is therefore denied.

Effective date: February 1, 1972.

In consideration of the above, Part 566, Manufacturer Identification, is added to Title 49, Code of Federal Regulations, as set forth below.

Issued on October 22, 1971.

DOUGLAS W. TOMS,
Administrator.

Sec.
566.1 Scope.
566.2 Purpose.
566.3 Application.
566.4 Definitions.
566.5 Requirements.
566.6 Submittal of information.

AUTHORITY: The provisions of this Part 566 issued under the authority of secs. 112 and 119 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1401 and 1407), and the delegation of authority at 49 CFR 1.51.

§ 566.1 Scope.

This part requires manufacturers of motor vehicles, and of motor vehicle equipment to which a motor vehicle safety standard applies, to submit identifying information and a description of the items they produce.

§ 566.2 Purpose.

The purpose of this part is to facilitate the regulation of manufacturers under the National Traffic and Motor Vehicle Safety Act, and to aid in establishing a code numbering system for all regulated manufacturers.

§ 566.3 Application.

This part applies to all manufacturers of motor vehicles, and to manufacturers of motor vehicle equipment to which a motor vehicle safety standard applies (hereafter referred to as "covered equipment").

§ 566.4 Definitions.

All terms defined in the Act and the rules and standards issued under its authority are used as defined therein. Specifically, "intermediate manufacturer," and "final-stage manufacturer" are used as defined in Part 568, Vehicles Manufactured in Two or More Stages.

§ 566.5 Requirements.

Each manufacturer of motor vehicles, and each manufacturer of covered equipment, shall furnish the information specified in paragraphs (a) through (c) of this section to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590.

(a) Full individual, partnership, or corporate name of the manufacturer.

(b) Residence address of the manufacturer and State of incorporation if applicable.

(c) Description of each type of motor vehicle or of covered equipment manufactured by the manufacturer, including, for motor vehicles, the approximate ranges of gross vehicle weight ratings for each type.

(1) Except as noted below, the description may be of general types, such as "passenger cars" or "brake fluid."

(2) In the case of multipurpose passenger vehicles, trucks, and trailers, the description shall be specific enough also to indicate the types of use for which the vehicles are intended, such as "tank trailer," "motor home," or "cargo van."

(3) In the case of motor vehicles produced in two or more stages, if the manufacturer is an intermediate manufacturer, or a final-stag manufacturer, the description shall so state and include a brief description of the work performed.

EXAMPLE: "Multipurpose passenger vehicles: Motor homes with GVWR from 8,000 to 12,000 pounds. Final-stage manufacturer—add body to bare chassis."

§ 566.6 Submittal of information.

Each manufacturer required to submit information under § 566.4 shall submit the information not later than

February 1, 1972. After that date, each person who begins to manufacture a type of motor vehicle or covered equipment for which he has not submitted the required information shall submit the information specified in paragraphs (a) through (c) of § 566.4 not later than 30 days after he begins manufacture. Each manufacturer who has submitted required information shall keep his entry current, accurate and complete by submitting revised information not later than 30 days after the relevant changes in his business occur.

[FR Doc.71-15935 Filed 11-1-71;8:53 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Multiple Corporations; Notice of Hearing on Proposed Regulations

Proposed regulations under sections 11, 46(a), 48, 179(d), 535, 804, 1562, 1563, and 1564 of the Internal Revenue Code of 1954, relating to multiple corporations, appear in the FEDERAL REGISTER for September 4, 1971 (36 F.R. 17863).

A public hearing on the provisions of these proposed regulations will be held on Wednesday, December 15, 1971, at 10 a.m., e.s.t., in Room 3313, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, DC 20224.

The rules of § 601.601(a)(3) of the Statement of Procedural Rules (26 CFR Part 601) shall apply with respect to such public hearing. Copies of these rules may be obtained by a request directed to the Commission of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, or by telephoning (Washington, D.C.) 202-964-3935. Under such § 601.601(a)(3), persons who have submitted written comments or suggestions within the time prescribed in the notice of proposed rule making and who desire to present oral comments should by December 1, 1971, submit an outline of the topics and the time they wish to devote to each topic. Such outlines should be submitted to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

Persons who desire a copy of such written comments or suggestions or outlines and who desire to be assured of their availability on or before the beginning of such hearing should notify the Commissioner, in writing, at the above address by December 9, 1971. In such a case, unless time and circumstances permit otherwise, the desired copies are deliverable only at the above address. The charge for copies is twenty-five cents ($0.25) per page, subject to a minimum charge of $1.

K. MARTIN WORTHY,
Chief Counsel.

[FR Doc.71-15669 Filed 11-1-71;8:46 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 928]

PAPAYAS GROWN IN HAWAII

Notice of Proposed Rule Making

Notice is hereby given that the Department is considering proposed rules and regulations (§§ 928.141, 928.150, 928.151, 928.152, and 928.160) hereinafter designated as Subpart—Rules and Regulations, pursuant to the marketing agreement and Order No. 928 (Part 928; 36 F.R. 8925) regulating the handling of papayas grown in Hawaii. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The aforesaid rules and regulations were proposed by the Papaya Administrative Committee, established under said marketing agreement and order as the agency to administer the terms and provisions thereof. The proposed rules and regulations would be issued pursuant to §§ 928.54 and 928.60 and would establish: (1) Prerequisites for certain types of papaya shipments to be relieved from inspection and certification requirements of the agreement and order; (2) requirements to be met by handlers of such types of shipments in order to secure and maintain the exempt status of the shipments; (3) safeguards to assure that unregulated shipments of papayas to charitable institutions, relief agencies, and for market research and development projects will not be used for any other purpose; (4) requirements to assure that papayas for commercial processing will not be handled in a manner contrary to the exemptive provisions of the agreement and order; (5) reporting requirements for assessment purposes and to ascertain the disposition of papayas; and (6) interest charges for late payment of assessment funds.

The proposed rules and regulations are as follows:

Subpart—Rules and Regulations

§ 928.141 Interest charges.

(a) Assessments levied pursuant to § 928.41 not paid within 5 days after the 15th of the month on papayas handled during the preceding month shall be subject to an interest charge of three-fourths of 1 percent per month.

(b) Notification that assessments are due not later than 5 days after the 15th of each month shall constitute a demand on a handler for the payment of his pro rata share of expenses within the meaning of § 928.41(a).

§ 928.150 Exemption for inspection.

(a) *Waivers.* A handler may handle papayas without inspection and certification, as prescribed under § 928.55, if all the following conditions are met:

(1) The handler requests the Federal-State Inspection Service to provide inspection during its regular working hours at least 2 hours in advance of the time when inspection is needed. The request need not be in writing but it shall be confirmed immediately in writing on a waiver form supplied by the inspection service;

(2) The Federal-State Inspection Service advises the handler that it is not practicable to provide inspection at the time and place designated by the handler. Such advice may be verbal but it shall be confirmed in writing by the Federal-State Inspection Service by execution of the waiver form on which the handler submitted his written request. A confirmed copy thereof shall be forwarded by the inspection service to the office of the Papaya Administrative Committee;

(3) The Federal-State Inspection Service furnishes the handler with the number of the waiver which shall cover the fruit on which inspection is requested;

(4) When so instructed, the handler plainly and conspicuously marks one end of each container with the letter "W" and the waiver number supplied by the Federal-State Inspection Service. The letter W and the number so marked shall be not less than one-half inch in height.

§ 928.151 Special purpose shipments.

(a) Papayas delivered to a handler for sale by the handler for the account of the grower shall be deemed a consignment only with respect to papayas which are actually sold by the handler; consignment shall not extend to those papayas delivered but disposed of by dumping as evidenced by a Dumping Certificate issued by the Federal-State Inspection Service. Papayas not consigned as herein defined shall not be subject to assessment levied pursuant to § 928.41.

(b) Any handler may, after application for and receipt of committee approval, handle papayas to be used as animal feed exempt from the provisions of §§ 928.41, 928.52, 928.53, and 928.55 and the regulations issued thereunder.

(1) Such application shall be made prior to handling, on the forms provided by the committee and shall be accompanied by certification stating that the fruit will be used for the applied for purpose.

(c) Any handler may handle papayas exempt from the provisions of §§ 928.41, 928.52, 928.53, and 928.55, and the regulations issued thereunder: *Provided*, That such fruit is donated for use by charitable institutions or distribution by relief agencies.

(d) Any handler may handle papayas exempt from the provisions of §§ 928.41, 928.52, 928.53, and 928.55 and the regulations thereunder, for market research and development projects.

(e) Any handler may handle papayas exempt from the provisions of §§ 928.41, 928.52, 928.53, and 928.55 and the regulations issued thereunder for commercial processing. Commercial processing of papaya is to can, freeze, cook, slice, dice, or pickle or convert such fruit into a beverage base for resale. All other product forms are considered fresh fruit and are subject to the provisions of the agreement and order.

§ 928.152 Maturity exemption.

(a) Any handler may handle immature papayas exempt from the maturity requirements issued pursuant to § 928.52: *Provided*, That such papayas are handled to an outlet authorized by the committee for resale of such papayas.

(1) A request for such authorization shall be submitted to the committee prior to the receipt of the exempted fruit.

(2) Containers of such fruit shall be clearly marked "off-grade-immature" in letters not less than one-half inch in height.

(3) Immature papayas are papayas which do not meet the maturity requirements of State of Hawaii Department of Agriculture's Wholesale Standards for Hawaii—Grown Papayas (Subsection 5.32).

§ 928.160 Utilization reports.

Each handler shall file with the Papaya Administrative Committee, not later than the 15th day of each month, a duly executed PAC Form 1 reporting all papayas handled by him during the immediately preceding calendar month. Such report shall include, but is not limited to, the following information: (a) Quantity of papayas handled subject to assessments and regulations including the date, destination, and inspection certificate number of each shipment; (b) quantity of papayas handled without regard to the assessment or regulatory provisions of the marketing agreement and order with such quantity itemized as to the amount (1) shipped to authorized commercial processors, (2) donated to charitable organizations or relief agencies, (3) shipped to authorized market research and development projects, and (4) disposed of otherwise, and indicating such disposition.

All persons who desire to submit written data, views, or arguments for consideration in connection with this proposal may file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 15th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: October 28, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-15645 Filed 11-1-71;8:50 am]

[7 CFR Part 989]

RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Proposed Expenses of Raisin Administrative Committee and Rate of Assessment

Notice is hereby given of a proposal regarding expenses of the Raisin Administrative Committee for the 1971-72 crop year and rate of assessment for that crop year, pursuant to §§ 989.79 and 989.80 of the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The Raisin Administrative Committee has unanimously recommended for the crop year beginning September 1, 1971 (1971-72 crop year), a budget of expenses in the total amount of $126,735 and an assessment rate of 85 cents per ton of assessable raisins. Expenses in that amount and the assessment rate are specified in the proposal hereinafter set forth.

Consideration will be given to any written data, views, or arguments pertaining to the proposal which are received by the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice should be in quadruplicate and will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposal follows:

§ 989.322 Expenses of the Raisin Administrative Committee and rate of assessment for the 1971-72 crop year.

(a) *Expenses.* Expenses (other than those specified in § 989.82) in the amount of $126,735 are reasonable and likely to be incurred by the Raisin Administrative Committee during the crop year beginning September 1, 1971, for the maintenance and functioning of the Committee and the Raisin Advisory Board and for such purposes as the Secretary may, in accordance with § 989.75, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for that crop year which each handler is required, pursuant to § 989.80, to pay to the Raisin Administrative Committee as his pro rata share of the expenses is fixed at 85 cents per ton applicable to each of the following:

(1) Free tonnage raisins acquired by the handler during the crop year, exclusive of such quantity thereof as represents the assessable portions of other handlers' raisins pursuant to subparagraph (3) of this paragraph;

(2) Reserve tonnage raisins released or sold to the handler for use as free tonnage, during the crop year; and

(3) Standard raisins (which he does not acquire) recovered by the handler by the reconditioning of off-grade raisins but only to the extent of the aggregate quantity of the free tonnage portions of these standard raisins that are acquired by other handlers during the crop year.

Dated: October 28, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-15644 Filed 11-1-71;8:50 am]

[7 CFR Parts 1030, 1049]

[Dockets Nos. AO-361-A5, AO-319-A18]

MILK IN THE CHICAGO REGIONAL AND INDIANA MARKETING AREAS

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

Notice is hereby given of a public hearing to be held in the Flying Carpet Motor Inn, 6465 North Mannheim Road, Des Plaines, IL, beginning at 10 a.m., on November 18, 1971, with respect to proposed amendments to the tentative marketing agreements and to the orders, regulating the handling of milk in the Chicago Regional and Indiana marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Central Milk Producers Cooperative:

Proposal No. 1. Provide for an advertising and promotion program for milk products under the Chicago Regional order. The following amendments are proposed as a means of achieving this objective:

1. In § 1030.22 *Additional duties of the market administrator*, add the following five paragraphs:

§ 1030.22 Additional duties of the market administrator.

* * * * * *

(o) Prepare proper forms for use of producers in demanding the refunding of funds withheld pursuant to § 1030.71(d);

(p) Make payments to producers who demand the refunding of deductions made pursuant to § 1030.71(d);

(q) Make payments from funds deducted pursuant to § 1030.71(d) for mandatory checkoffs to State advertising, promotion, and research programs;

(r) Conduct such referendums as may be required pursuant to § 1030.105; and

(s) Audit the activities of the agency as authorized under § 1030.103.

2. In § 1030.71, add a new paragraph (d), as follows:

§ 1030.71 Computation of uniform price.

* * * * *

(d) Subtract an amount equal to 5 cents per hundredweight of producer milk, to be transferred to the marketing research and promotion fund pursuant to § 1030.89;

§ 1030.83 [Amended]

3. In § 1030.83 *Producer-settlement fund*, immediately following the reference "§ 1030.61", add the reference "§ 1030.71(d)."

4. Add a new § 1030.89 as follows:

§ 1030.89 Marketing research and promotion fund.

The market administrator shall maintain a separate fund known as the "marketing research and promotion fund" into which he shall deposit monies subtracted pursuant to § 1030.71(d) and out of which he shall make payments for the following purposes:

(a) To pay to producers who pursuant to § 1030.109 demand the refunding of deductions made in § 1030.71(d) against their marketings of producer milk.

(b) To make appropriate payments with respect to producer milk on which a mandatory checkoff of advertising or marketing research is required under any State law.

(c) To pay the cost incurred by the market administrator in the administration of this program.

(d) Maintain a reasonable reserve to cover the expenditures specified in paragraphs (a), (b), and (c) of this section and pay all remaining funds to the Agency established pursuant to § 1030.103.

5. The following proposed amendments concern the addition of new §§ 1030.102 through 1030.113 to the order:

§ 1030.102 Definitions.

The terms used herein shall have the same meanings as are set forth in Part 1030, Federal Order No. 30.

§ 1030.103 Agency.

Agency means an organization of producers or producers' representatives authorized to expend funds deducted pursuant to § 1030.71(d) for the purposes of establishing or providing for the establishment of research and development projects and advertising (excluding brand advertising), sales promotion, educational and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products.

§ 1030.104 Composition of the Agency.

The Agency shall be composed as follows:

(a) Each cooperative association or combination of cooperative associations will be authorized one representative for each full five (5) percent of the total number of producers in this order which such cooperative represents: *Provided*, That after the program has been in effect 1 year, the number of representatives shall be based on the number of producers who have not requested refunds within the previous 6 months.

(b) Cooperatives with less than five (5) percent of the total number of producers in this order who have not elected to combine and producers who are not members of cooperatives shall be authorized one representative of each full five (5) percent of the total number of producers.

§ 1030.105 Selection of members to the Agency.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative, who may be either a producer member or an employee of the cooperative, and who shall serve at the pleasure of the cooperative. Cooperatives with less than five (5) percent of the producers in the order may combine their producer membership; and if such combined total exceeds five (5) percent, they shall be eligible to select a representative to the Agency.

(b) Cooperatives with less than five (5) percent of the producers in the order and producers not members of cooperative associations shall be divided by the market administrator into geographic areas containing five (5) percent of the total number of producers in the order. The market administrator shall conduct a referendum to determine the representative of each such area to the Agency from those producers in the area who request that their names and addresses be submitted on a ballot to eligible voters in the referendum, and who have not requested the refunding of deductions made pursuant to § 1030.71(d) within the six (6) month period immediately preceding the referendum.

(c) After the program has been in effect for 1 year the percentages used to determine representation to the Agency shall be adjusted annually to include only those producers who have not requested a refund of deductions made pursuant to § 1030.71(d) during the six (6) month period immediately preceding each such adjustment.

(d) Each person selected to serve on the Agency shall qualify by filing a written acceptance with the market administrator promptly after being notified of such selection.

§ 1030.106 Term of office.

The term of office for persons serving on the Agency shall be 1 year or until a replacement is designated by the cooperative or elected.

§ 1030.107 Powers of the Agency.

The Agency shall be empowered:

(a) To administer the terms and provisions of programs pursuant to § 1030.103;

(b) To make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) To recommend amendments to the Secretary.

§ 1030.108 Duties.

The Agency shall perform all duties necessary under the Act to administer the terms and provisions of this program including the following:

(a) To meet and organize and to select from among its members a President and such other officers as may be necessary; to select committees; and to adopt such rules for the conduct of its business as it may deem advisable;

(b) To employ and fix the compensation of any person deemed necessary to accomplish the exercise of powers and performance of duties;

(c) To establish the rate of compensation to the members of the Agency for expenses in attending meetings;

(d) To require all persons handling Agency funds to be bonded in an amount and with surety thereon satisfactory to the Secretary;

(e) To prepare and submit to the Secretary for approval a budget which shall show the projected amounts to be collected and disbursed by the Agency prior to each quarterly period;

(f) To determine which organizations should be utilized, the amount of money which each such organization should receive for carrying out research and development projects, advertising (excluding brand advertising), sales promotion, educational work and domestic marketing and consumption of milk and its products and make payments to such organizations for these purposes; and pay the expenses of administering the Agency.

(g) To keep minutes, books, and records and to submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(h) To prepare and make available for the benefit of producers, handlers and consumers, the budget, statistics, and information concerning the operation of the program, and publish annually the accounting of all funds collected and a statement of the use of such funds; and

(i) To establish advisory committees of persons other than Agency members.

§ 1030.109 Procedure for requesting refunds.

A producer who is not in favor of supporting a research and promotion program, as provided for herein, shall have the right to receive a refund of such assessment by writing to the market administrator in the following manner:

(a) The request should be submitted in the manner determined by the market administrator.

(b) The request should be submitted for each calendar quarter beginning with the months of January, April, July, and October, in advance, during the first 15 days of the month immediately preceding the first day of each such calendar quarter.

§ 1030.110 Limitation of expenditure by the Agency.

No more than five (5) percent of the money utilized by the Agency shall be for administration of the Agency.

§ 1030.111 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1030.112 Liquidation.

In the event that the provisions of this program are terminated, any remaining funds shall be refunded to producers in an equitable manner as determined by the Secretary.

§ 1030.113 Separability of provisions.

If any provisions of this program or its application to any person or circumstance is held invalid, the application of the provision and all the remaining provisions of this program to other persons or circumstances shall not be affected thereby.

Proposed by the Hoosier Milk Marketing Agency, Inc.:

Proposal No. 2. Provide for an advertising and promotion program for milk products under the Indiana order. The following amendments are proposed as a means of achieving this objective:

1. In § 1049.27 *Additional duties of the market administrator*, add the following five paragraphs:

§ 1049.27 Additional duties of the market administrator.

* * * * *

(o) Prepare proper forms for use of producers in demanding the refunding of funds withheld pursuant to § 1049.71(c-1);

(p) Make payments to producers who demand the refunding of deductions made pursuant to § 1049.71(c-1);

(q) Make payments from funds deducted pursuant to § 1049.71(c-1) for mandatory checkoffs to state advertising, promotion and research programs;

(r) Conduct such referendums as may be required pursuant to § 1049.105; and

(s) Audit the activities of the Agency as authorized under § 1049.103.

2. In § 1049.71 a new paragraph (c-1) is added as follows:

§ 1049.71 Computation of uniform prices.

(c-1) Subtract an amount equal to 5 cents per hundredweight of producer milk to be transferred to the marketing research and promotion fund pursuant to § 1049.89;

* * * * *

§ 1049.81 [Amended]

3. In § 1049.81 add "§ 1049.71(c-1)" between the words "out of which shall be made all payments pursuant to §§" and "1049.83".

4. Add a new § 1049.89 as follows:

§ 1049.89 Marketing research and promotion fund.

The market administrator shall maintain a seperate fund known as the "marketing research and promotion fund" into which he shall deposit monies subtracted pursuant to § 1049.71(c-1) and out of which he shall make payments for the following purposes:

(a) To pay to producers who pursuant to § 1049.109 demand the refunding of deductions made in § 1049.71(c-1) against their marketings of producer milk.

(b) To make appropriate payments with respect to producer milk on which a mandatory checkoff of advertising or marketing research is required under any State law.

(c) To pay the cost incurred by the market administrator in the administration of this program.

(d) Maintain a reasonable reserve to cover the expenditures specified in paragraphs (a), (b), and (c) of this section and pay all remaining funds to the Agency established pursuant to § 1049.103.

5. The following proposed amendments concern the addition of new §§ 1049.102 through 1049.113 to the order:

§ 1049.102 Definitions.

The terms used herein shall have the same meanings as are set forth in Part 1049, Federal Order No. 49.

§ 1049.103 Agency.

Agency means an organization of producers or producers' representatives authorized to expend funds deducted pursuant to § 1049.71 (c-1) for the purposes of establishing or providing for the establishment of research and development projects and advertising (excluding brand advertising), sales promotion, educational and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products.

§ 1049.104 Composition of the Agency.

The Agency shall be composed as follows:

(a) Each cooperative association or combination of cooperative associations will be authorized one representative for each full ten (10) percent of the total number of producers in this order which such cooperative represents: *Provided*, That after the program has been in effect 1 year, the number of representatives shall be based on the number of producers who have not requested refunds within the previous 6 months.

(b) Cooperatives with less than ten (10) percent of the total number of producers in this order who have not elected to combine and producers who are not members of cooperatives shall be authorized one representative of each full ten (10) percent of the total number of producers.

§ 1049.105 Selection of members to the Agency.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative, who may be either a producer member or an employee of the cooperative, and who shall serve at the pleasure of the cooperative. Cooperatives with less than ten (10) percent of the producers in the order may combine their producer membership; and if such combined total exceeds ten (10) percent, they shall be eligible to select a representative to the Agency.

(b) Cooperatives with less than ten (10) percent of the producers in the order and producers not members of cooperative associations shall be divided by the market administrator into geographic areas containing ten (10) percent of the total number of producers in the order. The market administrator shall conduct a referendum to determine the representative of each such area to the Agency from those producers in the area who request that their names and addresses be submitted on a ballot to eligible voters in the referendum, and who have not requested the refunding of deductions made pursuant to § 1049.71 (c-1) within the six (6) month period immediately preceding the referendum.

(c) After the program has been in effect for 1 year the percentages used to determine representation to the Agency shall be adjusted annually to include only those producers who have not requested a refund of deductions made pursuant to § 1049.71(c-1) during the six (6) month period immediately preceding each such adjustment.

(d) Each person selected to serve on the Agency shall qualify by filing a written acceptance with the market administrator promptly after being notified of such selection.

§ 1049.106 Term of office.

The term of office for persons serving on the Agency shall be 1 year or until a replacement is designated by the cooperative or elected.

§ 1049.107 Powers of the Agency.

The Agency shall be empowered:

(a) To administer the terms and provisions of programs pursuant to § 1049.103;

(b) To make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) To recommend amendments to the Secretary.

§ 1049.108 Duties.

The Agency shall perform all duties necessary under the Act to administer the terms and provisions of this program including the following:

(a) To meet and organize and to select from among its members a President and such other officers as may be necessary;

to select committees; and to adopt such rules for the conduct of its business as it may deem advisable;

(b) To employ and fix the compensation of any person deemed necessary to accomplish the exercise of powers and performance of duties;

(c) To establish the rate of compensation to the members of the Agency for expenses in attending meetings;

(d) To require all persons handling Agency funds to be bonded in an amount and with surety thereon satisfactory to the Secretary;

(e) To prepare and submit to the Secretary for approval a budget which shall show the projected amounts to be collected and disbursed by the Agency prior to each quarterly period;

(f) To determine which organizations should be utilized, the amount of money which each such organization should receive for carrying out research and development projects, advertising (excluding brand advertising), sales promotion, educational work and domestic marketing and consumption of milk and its products and make payments to such organizations for these purposes; and pay the expenses of administering the Agency;

(g) To keep minutes, books, and records and to submit books and records for examination by the Secretary and furnish information and reports requested by the Secretary;

(h) To prepare and make available for the benefit of producers, handlers and consumers, the budget, statistics and information concerning the operation of the program, and publish annually the accounting of all funds collected and a statement of the use of such funds; and

(i) To establish advisory committees of persons other than Agency members.

§ 1049.109 Procedure for requesting refunds.

A producer who is not in favor of supporting a research and promotion program, as provided for herein, shall have the right to receive a refund of such assessment by writing to the market administrator in the following manner:

(a) The request should be submitted as determined by the market administratof.

(b) The request should be submitted for each calendar quarter beginning with the months of January, April, July, and October, in advance, during the first 15 days of the month immediately preceding the first day of each such calendar quarter.

§ 1049.110 Limitation of expenditure by the Agency.

No more than five (5) percent of the money utilized by the Agency shall be for administration of the Agency.

§ 1049.111 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1049.112 Liquidation.

In the event that the provisions of this program are terminated, any remaining funds shall be refunded to producers in an equitable manner as determined by the Secretary.

§ 1049.113 Separability of provisions.

If any provisions of this program or its application to any person or circumstance is held invalid, the application of the provision and all the remaining provisions of this program to other persons or circumstances shall not be affected thereby.

Proposed by the Dairy Division, Consumer and Marketing Service:

Proposal No. 3. Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the orders may be procured from the Market Administrator, A. W. Colebank, 72 West Adams Street, Room 814, Chicago, IL 60603; Market Administrator, M. C. Jenkins, Post Office Box 55527, Indianapolis, IN 46205, or from the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

Signed at Washington, D.C., on October 26, 1971.

G. R. GRANGE,
Acting Deputy Administrator, Regulatory Programs.

[FR Doc.71-15946 Filed 11-1-71;8:50 am]

[9 CFR Part 318]

PHOSPHATES IN FRANKFURTERS AND SIMILAR PRODUCTS

Notice of Proposed Rule Making

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553 that the Consumer and Marketing Service, pursuant to the authority conferred by the Federal Meat Inspection Act, as amended (21 U.S.C., sec. 601 et seq.), proposes to amend § 318.7(c)(4) of the Federal meat inspection regulations (9 CFR Part 318) as follows:

Statement of considerations. The proposed amend of the regulations is to provide for the use of sodium acid pyrophosphate as a cure accelerator in the curing process of frankfurters, weiners, vienna, bologna, garlic bologna, knockwurst, and similar products. The current trend in the preparation of frankfurters is to process the emulsion immediately after stuffing through a continuous smoking and cooking tunnel. This method eliminates the holding or tempering time that has been associated with frankfurter processing. When the sausages are processed before the cured color has been fully developed, the consumer product will have an uncured or greenish colored core. The use of one-half of 1 percent of sodium acid pyrophosphate with the meat or meat and meat byproducts contributes to the rapid development of cure color and the elimination of the "green" core. Data have been filed with the Department on the experimental and commercial use of sodium acid pyrophosphate in emulsion for frankfurters and similar products and the efficacy of the additive has been demonstrated through industrial tests witnessed by members of the Department. Therefore, it is proposed to amend the chart in subparagraph (4) of paragraph (c) of § 318.7 as stated below:

In that portion of the chart dealing with the Class of Substance, "Curing Agents," the following information would be added in the appropriate columns in alphabetical order:

§ 318.7 Approval of substances for use in the preparation of products.

* * * * * * *

(c) * * *

(4) * * *

Class of substance	Substance	Purpose	Products	Amount
* * *	* * *	* * *	* * *	* * *
Curing agents.....	Sodium Acid Pyrophosphate.	To accelerate color fixing.	Frankfurters, weiners, vienna, bologna, garlic bologna, knockwurst and similar products.	Not to exceed, alone or in combination with other color fixing accelerators, 8 ounces to 100 pounds (0.5 percent) of meat or meat and meat byproducts.
	* * *	* * *	* * *	* * *

If the proposed amendment is adopted, the labels of such products which contain sodium acid pyrophosphate would be required by § 317.2 of the regulations to list such substance in the ingredients statement as "Sodium Acid Pyrophosphate" in its proper position according to the quantity used.

All persons who wish to submit data, views, or arguments relative to this matter may do so by filing such information in written form, in duplicate, with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 60 days after publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be made available for public inspection unless the person making the submission requests that it be held confidential and a determination is made that a proper showing in support of the request has been made on the grounds that its disclosure could adversely affect such person by disclosing information in the nature of trade secrets or commercial or financial information obtained from any person and privileged or confidential. If it is determined that a proper showing has been made in support of the request, the material will be held confidential; otherwise, notice will be given of denial of such a request and an opportunity afforded for withdrawal of the submission. Requests for confidential treatment will be held confidential (7 CFR 1.27 (c)).

Comments on the proposal should bear a reference to the date and page number of this issue of the FEDERAL REGISTER.

Done at Washington, D.C., on October 27, 1971.

KENNETH M. MCENROE,
Deputy Administrator, Meat and Poultry Inspection Program.

[FR Doc.71-15887 Filed 11-1-71;8:47 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 27, 31]

CERTAIN ORANGE JUICE PRODUCTS

Extension of Time for Filing Comments on Proposals Regarding Stayed Identity Standards

The notice published in the FEDERAL REGISTER of September 9, 1971 (36 F.R. 18098), proposing to revise the stayed standards for the diluted orange juice beverages (§§ 27.120, 27.121, 27.122) and proposing establishment of additional identity standards for certain related products, provided for the filing of comments within 60 days after said date.

The Commissioner of Food and Drugs has received a request for a 30-day extension of such time and, good reason therefor appearing, the time for filing comments on the subject proposals is hereby extended to December 8, 1971. Received comments may be seen in the office of the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, during working hours, Monday through Friday.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended, 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: October 15, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-15908 Filed 11-1-71;8:45 am]

[21 CFR Part 148i]

COMBINATION DRUG CONTAINING NEOMYCIN SULFATE AND AMPHOTERICIN FOR ORAL USE

Proposed Revocation of Provisions for Certification

In the FEDERAL REGISTER of July 2, 1970 (35 F.R. 10793; DESI 11212), the Commissioner of Food and Drugs announced the conclusions of the Food and Drug Administration following evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on a certain oral preparation containing neomycin sulfate and nystatin. The drug was regarded as lacking substantial evidence, as defined in the Federal Food, Drug, and Cosmetic Act, that it is effective as a fixed combination for its claimed clinical effect and that each component of the drug contributes to the total effects claimed for such drug.

In addition to the section of the antibiotic drug regulations describing conditions for certification of such preparations, another section describes conditions for certification of a related drug, Fungizone Tablets, containing neomycin sulfate and amphotericin B. An approved Form 5 antibiotic drug application (NDA 60-514) is held for this drug by E. R. Squibb & Sons, Inc., 5 Georges Road, New Brunswick, N.J. 08903.

This product was not reviewed by the Academy; however, the Food and Drug Administration, having evaluated data originally filed in support of efficacy of this preparation, concludes that there is a lack of substantial evidence, as defined in the Federal Food, Drug, and Cosmetic Act, that this drug is effective as a fixed combination for its claimed clinical effects, and that each component of the drug contributes to the total effects claimed for such drug.

Accordingly, the Commissioner concludes that the antibiotic drug regulations providing for certification of such drugs should be revoked.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-51 as amended, 59 Stat. 463 as amended; 21 U.S.C. 352, 357) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that Part 148i be amended by revoking § 148i.45 *Neomycin sulfateamphotericin B tablets.*

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: October 19, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-15909 Filed 11-1-71;8:45 am]

[21 CFR Part 191]

HAZARDOUS SUBSTANCES

Proposal To Declare Certain Heavy Metal-Containing Paints and Other Surface-Coatings To Require Special Labeling for Child Protection

The heavy metals antimony, arsenic, cadmium, lead, mercury, selenium, and soluble barium may be toxic when ingested, even in small amounts. Because children may chew on interior and certain exterior residential surfaces and on toys and other children's articles, the Commissioner of Food and Drugs concludes that paints and other surface-coating materials are hazardous substances requiring special labeling warning against their use on such surfaces if they contain more of these heavy metals than is essential under good manufacturing practices, or in any event if they contain more than 0.5 percent lead; or a total of 0.05 percent of the other heavy metals listed above on a dried weight basis, except for soluble barium which shall constitute no more than 1 percent of the total barium present. The special labeling to be required shall include on the main panel a cautionary signal word "Warning", a statement of the hazard "Contains ----------" (the blank being filled in with the name(s) of the applicable heavy metal(s)) and instructions to read carefully the cautionary information placed on other panel(s) where located. Existing technology will permit industry to produce household paints containing no more of these heavy metals than is specified above. As new technology becomes available, the acceptable levels may be further reduced in accordance with good manufacturing practices.

Although paints containing small amounts of lead in excess of the proposed levels may not be toxic in themselves; when considered in conjunction with other sources of lead in the environment they constitute a substantial addition to the body burden that can reasonably be avoided through the application of available technology. The Commissioner has concluded that the scope of the Federal Hazardous Substances Act fully encompasses the question of cumulative toxicity.

The American National Standards Institute, in its voluntary standard Z66.1, has specified a maximum limit since 1955 of 1 percent lead in paint intended for use on children's toys, furniture, or interior surfaces. A 1-percent lead level was also adopted by Congress in the Lead-Based Paint Poisoning Prevention Act (Public Law 91-695; 84 Stat. 2078), which is administered by the Bureau of Community Environmental Management, Health Services and Mental Health Administration. That act prohibits the use of paint with a lead content above 1 percent in residential structures constructed or rehabilitated by the Federal Government or with Federal assistance. As an additional margin of safety, the

Commissioner proposes to reduce the exposure to lead found acceptable by Congress by establishing special labeling requirements for all household paints containing more than 0.5 percent lead.

Consideration has been given to the question of whether paints containing lead above the level specified herein should be banned from interstate commerce, or required to bear special labeling warning of the hazard involved and giving instructions for safe use. While there are numerous reports of serious injury and even death resulting from the ingestion of the dried film of old formulations of paints containing high levels of lead, the Commissioner is unaware of any similar reports as a result of ingestion of paints containing 1 percent lead or less. The Commissioner has therefore concluded that cautionary labeling will be adequate to protect the public health and safety from any potential hazards associated with the use of such paints.

Accordingly, under section 3(a) of the Federal Hazardous Substances Act, the Commissioner proposes that paints and other surface-coating materials be declared to be hazardous substances (as defined in section 2(f)(1)(A) of the Act) that require special labeling as specified herein if such paints and other surface-coating materials contain, on a dried weight basis, more than 0.5 percent lead; or a total of more than 0.05 percent antimony, arsenic, cadmium, mercury, or selenium; or soluble barium in excess of 1 percent of the total barium present. Finalization of the regulations proposed herein, in conjunction with section 2(q)(1)(A) of the Federal Hazardous Substances Act, will have the additional effect of automatically banning any toy or other article intended for use by children which is produced after effective date of these regulations and which bears such paint or other surface-coating material.

Therefore, pursuant to provisions of the Federal Hazardous Substances Act (secs. 2(f)(1)(B), 2(q)(1)(A), 3(a), and 3(b), 74 Stat. 372, 374–375 as amended, 80 Stat. 1304; 15 U.S.C. 1261, 1262), and the Federal Food, Drug, and Cosmetic Act (sec. 701, 52 Stat. 1055–56 as amended; 21 U.S.C. 371), and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that a new subparagraph be added to § 191.5 (a) and that a new subparagraph be added to § 191.7(b), as follows:

§ 191.5 Products declared to be hazardous substances under section 3(a) of the act.

(a) The Commissioner finds that the following articles are hazardous substances within the meaning of the act because they are capable of causing substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use:

* * * * *

(2) Paint and other surface-coating materials, produced or shipped in interstate commerce after the effective date of this regulation, containing any of the heavy metals specified below at a level exceeding that which is essential under good manufacturing practices or in any event containing amounts of such heavy metals as follows:

(i) Lead compounds of which the lead content (calculated as the metal) is in excess of 0.5 percent of the total weight of the contained solids or dried paint film; or

(ii) Antimony, arsenic, cadmium, mercury, and selenium of which the metal content individually or in total (calculated as the metal) exceeds 0.05 percent of the total weight of the contained solids or dried paint film; or

(iii) Barium compounds of which the water soluble barium (calculated as the metal) exceeds 1 percent of the total barium present.

§ 191.7 Products requiring special labeling under section 3(b) of the act.

* * * * *

(b) The Commissioner finds that these substances present special hazards and that the labeling required by section 2(p)(1) of the act is not adequate for the protection of the public health. Under section 3(b) of the act the following specific label statements are deemed necessary to supplement the labeling required by section 2(p)(1) of the act:

* * * * *

(7) Paint and other surface-coating materials declared to be hazardous under § 191.5(a)(2) shall bear on the main panel of their label, in addition to the requirements of § 191.101(a), the statement "contains ----------", the blank being filled in with the name of each heavy metal present in the amount specified in § 191.5(a)(2). Such paint and other surface-coating materials shall also bear on their labeling the signal word "Warning," and the following additional statement or its practical equivalent:

"Contains ----------

Dried film of this paint may be harmful if eaten or chewed.

Do not apply on toys and other children's articles, furniture, or interior surfaces of any dwelling or facility which may be occupied or used by children.

Do not apply on those exterior surfaces of dwelling units, such as windowsills, porches, stairs, or railings, to which children may be commonly exposed.

Keep out of the reach of children."

the blank being filled in with the name of each heavy metal present in the amount specified in § 191.5(a)(2).

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: October 28, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.71–15961 Filed 11–1–71;8:52 am]

[21 CFR Part 191]

BANNED HAZARDOUS SUBSTANCES

Proposal To Classify Paints Containing More Than Minute Traces of Lead

The Commissioner of Food and Drugs has received a petition, submitted pursuant to section 701(e)(1)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(e)(1)(B)), proposing the issuance of a regulation under sections 2(q)(1)(B) and 3(a)(2) of the Federal Hazardous Substances Act (15 U.S.C. 1261, 1262) classifying as banned hazardous substances paint for household use containing more than minute traces of lead.

The petitioners are Joseph A. Page, Associate Professor at Georgetown University Law Center, Anthony L. Young, student, Mary Win O'Brien, student, William F. Ryan, U.S. Congressman, Jack Newfield, author, and Edmund O. Rothschild, M.D.

The petitioners propose that § 191.9(a) of the hazardous substances regulations be amended by adding thereto a new subparagraph (§ 191.9(a)(6)), as follows:

§ 191.9 Banned hazardous substances.

(a) Under the authority of section 2(q)(1)(B) of the act, the Commissioner declares as banned hazardous substances the following articles because they possess such a degree of hazard that adequate cautionary labeling cannot be written and the public health and safety can be served only by keeping such articles out of interstate commerce:

* * * * *

(6) Paint containing lead, except for minute traces which no reasonable manufacturer could preclude from his product, as measured by the atomic absorbence method, intended for interior or exterior use, and packaged in a form suitable for use in the household as defined by § 191.1(c).

The following is the statement of grounds as presented in the petition:

STATEMENT OF THE GROUNDS UPON WHICH PETITIONERS RELY FOR THE ISSUANCE OF THE REGULATION

Human experience has established that numerous infants and young children have pica (habitual eating of nonfood substances). Human experience has also established that ingestion by children of flakes from lead based paint causes lead poisoning, the consequences of which include death, encephalopathy, neuromuscular effects, interference with the development of red blood cells, and an abnormal syndrome characterized by colic, anorexia and malaise. DHEW, PHS, Bureau of Community Environmental Management, "Control of Lead Poisoning In Children." Prepublication Draft, at I–1 (December 1970).

It is widely known that the adult system absorbs the daily intake of lead at the rate of 10 percent. Chisolm, J. Julian, "Scientific American" (February 1971). Thus, assuming the rate of absorption to be the same in children, a child with pica ingesting 1 gram of lead based paint (1 percent lead by ANSI standard Z66.1) daily will intake 10,000 micrograms of lead of which 1,000 micrograms will be absorbed. In addition to direct ingestion by eating flaking paint, a child will be exposed to from 14 to 269 micrograms of lead from other environmental sources. Engel, Ronald E., "Health Hazards of Environmental Lead," at Table 2 (April 1971).

It is known that blood levels of above 40 micrograms per milliliters of blood represent undue exposure to and absorption of lead. "Hearings on H.R. 17260, H.R. 13254, H.R. 14734, Before the Subcommittee on Housing of the House Committee on Banking and Currency," 91st Cong., second sess. 10 (1970). At levels of 80 micrograms per 100 milliliters a child be treated as a medical emergency. Id. While Engle in his paper has extrapolated the effect of lead fallout in children with pica, at A–9, the same must be done with 1 percent lead paint to theorize the result in children who ingest paint flakes.

In his study, Dr. Kehoe found that an adult man fed 3,000 micrograms of lead daily, in addition to the usual amount in his diet, achieved a blood lead level after 4 months of 50 micrograms lead per 100 grams whole blood. It was estimated that he would have achieved a "toxic" level of 80 micrograms lead per 100 grams whole blood if feeding had continued for 4 additional months. Kehoe, R. A., 24 "Jour. Roy. Inst. Pub. Hlth. Hyg." 81–97, 101, 129–143, 177–203 (1961). As Engle has assumed, this would be 43 micrograms per kilogram body weight in a 70 kilogram man. If a child with pica weighing 10 kilograms ingested lead to the same degree of Kehoe's subject, as Engle has suggested, then a proper assumtpion would be that a daily supplement of 430 micrograms lead would produce toxicity within 8 months. A child ingesting a 1 gram chip of 1 percent lead based paint would have a daily intake of almost 24 times the amount of Kehoe's subject. Obivously, intake at this rate would produce an undue medical emergency much more quickly than Kehoe foresaw for his subject.

Medical experiments cannot be performed on young children and infants to determine whether their absorption rate for lead is greater than that of adults. The child with pica must be protected from lead in his environment. The only adequate way to protect him is to eliminate the lead hazards that confront him. It is within the existing state of the art for the paint industry to eliminate lead (except for minute traces) from paint. "Hearings on H.R. 17260," supra at 246. Americans have been lulled into a feeling of security with regard to today's paints. See EPA, "Environmental Lead and Public Health," at 25 (March 1971). Many believe that lead in paint has been banned. Yet the city of New York has found paints for interior use with up to 10.8 percent lead levels on shelves of merchants within the last month. The New York Times, July 24, 1971, at 1, August 4, 1971, at 18. This despite industry's ANSI standard Z66.1 and a law banning the sale of paint for interior use with more than a 1 percent lead content without an adequate warning label.

Warning labels are, however, absolutely inadequate to prevent injury to children from lead based paints. In today's mobile society a family has no idea what their landlord or predecessor occupant has used to coat the walls of their living quarters. The generation that is suffering from lead based paint poisoning today is eating the walls of the thirties and the forties. The generation that this proposed regulation seeks to protect is yet unborn. Their parents are unborn. It would be impossible to substantiate that warning labels would have any significant impact on the future children of America. Moreover, there is no evidence that existing warning labels are efficacious for their intended purpose. The parents of the eighties and the nineties will have no opportunity to read the warning labels of the seventies.

It is not necessary to weigh the advantages of lead based paint against the health and welfare of this Nation's children and Her future children. The paint industry can produce paint without lead (except for minute traces) as measured by the atomic absorbence method. Petitioners therefore urge the Commissioner of Food and Drugs to proceed with all due speed to publish this proposal in the FEDERAL REGISTER in order that all interested persons may present their views thereon.

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: October 28, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.71–15960 Filed 11–1–71;8:52 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Part 566]

[Docket No. 71–11; Notice 3]

MANUFACTURER IDENTIFICATION

Proposed Motor Vehicle Safety Regulations

The purpose of this proposed amendment to Part 566 in Title 49, Code of Federal Regulations, is to provide for the coverage of "incomplete vehicles", as defined in Part 568, Vehicles Manufactured in Two or More Stages.

A previous notice of proposed rule making published on April 28, 1971 (36 F.R. 7970), proposed a new Part 566 that would require manufacturers of motor vehicles and of motor vehicle equipment to which a motor vehicle safety standard applies to submit identifying information and a description of the items which they produce. A notice of issuance of that part is published in this issue of the FEDERAL REGISTER, 36 F.R. 20977.

In responding to a comment from an incomplete vehicle manufacturer, it was noted that while the proposed regulation clearly covers intermediate and final-stage manufacturers (as defined in Part 568) it makes no reference to incomplete vehicle manufacturers. The proposed amendment is intended to clarify this ambiguity by specifically providing for coverage of incomplete vehicles.

The incomplete vehicle manufacturer stated that he was unaware of the final use of his light truck vehicles and requested that he be permitted to submit a brief description of the incomplete vehicle expressed in the terminology of the industry as an alternative to the description in terms of final use. This proposed alternative for incomplete vehicle manufacturers has been found acceptable, and the NHTSA accordingly proposes to grant this request.

In consideration of the foregoing the NHTSA proposes that the following amendments be made to Part 566 of Title 49, Code of Federal Regulations:

1. § 566.4 would be amended to read as follows:

§ 566.4 Definitions.

All terms defined in the Act and the rules and standards issued under its authority are used as defined therein. Specifically, "incomplete vehicle", "intermediate manufacturer", and "final-stage manufacture" are used as defined in Part 568, Vehicles Manufactured in Two or More Stages.

2. Paragraph (c)(3) of § 566.5 would be amended to read as follows:

§ 566.5 Requirements.

Each manufacturer of motor vehicles, and each manufacturer of covered equipment, shall furnish the information specified in paragraphs (a) through (c) of this section to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590.

* * * * *

(c) * * *

(3) In the case of motor vehicles produced in two or more stages, if the manufacturer is an incomplete vehicle manufacturer, the description shall so state and include a description indicating the stage of completion of the vehicle and, where known, the types of use for which the vehicle is intended.

EXAMPLE: "Chassis-cab"; "van-type truck".

If the manufacturer is an intermediate manufacturer, or a final-stage manufacturer, the description shall so state and include a brief description of the work performed.

EXAMPLE: "Multipurpose passenger vehicles: Motor homes with GVWR from 8,000 to 12,000 pounds. Final-stage manufacturer —add body to bare chassis".

Proposed effective date: February 1, 1972.

Interested persons are invited to submit comments on the proposed amendment. Comments should identify the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on December 1, 1971, will be considered, and will be available for examination in the docket at the above address both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Administration. However, the rule making action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the actions will be treated as suggestions for future rule making. The Administration will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new materials.

This notice of proposed rule making is issued under the authority of sections 112 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1401, 1407, and the delegations of authority at 49 CFR 1.51 and 501.8.

Issued on October 27, 1971.

ROBERT L. CARTER,
Acting Associate Administrator, Motor Vehicle Programs.

[FR Doc.71-15934 Filed 11-1-71;8:53 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 74]

[Docket No. 19334, FCC 71-1084]

CABLE TELEVISION CHANNEL IDENTIFICATION

Notice of Proposed Rule Making

In the matter of amendment of Part 74, Subpart K, of the Commission's rules and regulations relative to Cable Television Channel Identification.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. The Commission has received complaints from cable television viewers concerning the manner in which cable operators identify themselves in connection with cable originated programs. According to these complaints, some cable operators use call signs on their originated programs which are misleadingly similar to the call signs of television broadcast stations, creating confusion in the minds of viewers as to whether they are watching broadcast programs or cable programs.

3. Accordingly, we are proposing that cablecasters identify their originated programs as the product of the CATV company concerned by name, and by use of the expression "Cable TV, Channel _____, (Location)." We are proposing a new rule, § 74.1123, as set out below to reflect this.

We believe that the use of 4-letter call signs by cablecasters would be impractical. The use of call letters by radio stations and ships has created a general shortage of call letters in the 4-letter "K" and "W" series over a period of years. This shortage would be greatly and unnecessarily compounded if large numbers of 4-letter call signs were used by cablecasters. Similarly, 4-letter call signs with a "CT" indication on the end (e.g., WWWW-CT) or call letters with more than 4 digits, are, we believe, undesirable alternatives for they would be equally confusing to the viewer. The identification system we propose informs the viewer clearly and simply if he is watching a cablecast or broadcast program. We also note that a system of identification by cablecasters could be useful in our interference cases. The Commission's Field Engineering Bureau has in the past received complaints of interference and malfunctioning by leakage in CATV systems. A unique system of identification could be of some assistance in locating, pinpointing and identifying interference that occurs primarily from such signal leakage.

5. Authority for the rule making proposal set forth herein is contained in sections 4(i) and (j) of the Communications Act of 1934, as amended. Parties are requested to comment on the form and content of the proposed rule described in paragraph 3 above, and set forth in the appendix, or to suggest other alternatives.

6. All interested persons may file comments on the rulemaking proposal on or before December 6, 1971, and reply comments on or before December 16, 1971. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments, replies, pleadings, briefs and other documents filed in this proceeding shall be forwarded to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Broadcast and Docket Reference Room at its Headquarters in Washington, D.C.

Adopted: October 21, 1971.

Released: October 26, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

1. In Part 74 of Chapter I of Title 47 of the Code of Federal Regulations, a new section is added to read as follows:

§ 74.1123 Cable Television Channel Identification.

(a) *Content.* Programs originated on cable systems shall be clearly identified as the product of the cablecaster, by name, and use of the expression "Cable TV, Channel _____ (Location)."

(b) *Frequency.* The cablecaster shall make appropriate identification announcements at the beginning and end of each cablecast program. The announcement shall be by both aural and visual means.

[FR Doc.71-15942 Filed 11-1-71;8:53 am]

[1] Commissioner Bartley absent; Commissioner Reid not participating.

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR 8457]

OREGON

Notice of Proposed Withdrawal and Reservation of Land; Correction

OCTOBER 26, 1971.

In F.R. Doc. 71-13480 of the issue for Tuesday, September 14, 1971, appearing at page 18428, the serial number in the heading "OR 8437," should read "OR 8457" as set forth above.

VIRGIL O. SEISER,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.71-15918 Filed 11-1-71;8:49 am]

OUTER CONTINENTAL SHELF OFF LOUISIANA

Oil and Gas Lease Sale

OCTOBER 21, 1971.

The competitive oil and gas lease offering of blocks on the Outer Continental Shelf off Louisiana, scheduled for November 4, 1971, as announced in the FEDERAL REGISTER on Tuesday, October 5, 1971, is hereby amended as shown below:

The following tract described in the FEDERAL REGISTER on October 5, 1971, is withdrawn and deleted from the lease offering.

LOUISIANA

Official Leasing Map, Louisiana Map No. 10

(Approved June 8, 1954; Revised July 22, 1954; April 28, 1966)

MAIN PASS AREA

Tract No.	Block	Description	Acreage
La. 2345	7 18	N½SW¼; S½S½ N½	3552.965

BURT SILCOCK,
Director, Bureau of Land Management.

Approved: October 29, 1971.

HARRISON LOESCH,
Assistant Secretary of the Interior.

[FR Doc.71-16025 Filed 11-1-71;8:53 am]

Geological Survey

[Power Site Cancellation 263]

GREEN RIVER, UTAH

Cancellation of Power Site

Pursuant to authority under the act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31) and 220 Departmental Manual 6.1, Power Site Classification 323 of June 28, 1941, is hereby canceled to the extent that it affects the following described land:

SALT LAKE MERIDIAN

T. 28 S., R. 17 E.,
Sec. 16, N½NE¼ (Power Site Interpretation 428, January 13, 1958).

Every smallest legal subdivision which lies outside the boundaries of Canyonlands National Park along the Green River and its tributaries not previously withdrawn for power purposes which when surveyed will lie in whole or in part below the 4,100-foot contour as shown on a map of the Green River entitled "Plan and Profile of Green River Mouth to Gunnison Butte, Utah," surveyed by the U.S. Bureau of Reclamation and published in nine sheets by the U.S. Geological Survey. The unsurveyed land affected by this cancellation is in the following townships:

T. 28 S., R. 17 E.
T. 29 S., R. 17 E.
T. 27 S., R. 18 E.
T. 28½ S., R. 18 E. (Power Site Interpretation 428).
T. 29 S., R. 18 E.
T. 30 S., R. 18 E.

The total area described aggregates about 1,920 acres.

W. A. RADLINSKI,
Acting Director.

OCTOBER 22, 1971.

[FR Doc.71-15916 Filed 11-1-71;8:49 am]

[Power Site Cancellation 220]

SEVIER LAKE BASIN, UTAH

Cancellation of Power Site

Pursuant to authority under the act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31) and 220 Departmental Manual 6.1, Power Site Classifications 6, 12, 16, 23, 68, 95, 129, 135, and 204, are hereby canceled to the extent that they affect the following described land:

SALT LAKE MERIDIAN

Power Site Classification 6 of July 29, 1921:
T. 17 S., R. 3 E.,
Sec. 13, SE¼NE¼NE¼.
Area—10 acres.
Power Site Classification 12 of October 19, 1921:
T. 34 S., R. 8 W.,
Sec. 30, lots 2 and 3, and NE¼SW¼.
T. 34 S., R. 9 W.,
Sec. 24, lot 1;
Sec. 25, lots 1 and 5.
Area—228.53 acres.
Power Site Classification 16 of October 28, 1921:
T. 13 S., R. 5 E.,
Sec. 31, SE¼SE¼.
Area—40 acres.
Power Site Classification 23 of January 21, 1922:
T. 36 S., R. 10 W.,
Sec. 17, NW¼, SW¼SW¼, W½SE¼, and SE¼SE¼;
Sec. 18, N½NE¼ and S½SE¼;
Sec. 20, NW¼NE¼ and SE¼NE¼;
Sec. 21, SW¼NE¼, W½NW¼, N½SW¼, and SE¼SW¼;
Sec. 28, NW¼NE¼, NW¼, and NW¼SW¼.
Area—1,040 acres.
Power Site Classification 68 of May 13, 1924:
T. 34 S., R. 8 W.,
Sec. 30, lot 4 and SE¼SW¼;
Sec. 31, lots 1, 2, and 3, and E½NW¼.
T. 34 S., R. 9 W.,
Sec. 25, lots 2, 6, and 7, SW¼NE¼, and W½SE¼.
Area—479.61 acres.
Power Site Classification 95 of May 2, 1925:
T. 25 S., R. 3 W.,
Sec. 23, N½NE¼SW¼, NE¼SW¼NE¼SW¼, SE¼NE¼SW¼, N½NW¼SW¼, SW¼NW¼SW¼, NW¼NE¼SW¼SW¼, S½NE¼SW¼SW¼, NW¼SW¼SW¼, S½SW½SW¼, N½NE¼SE¼SW¼, SW¼SE¼SW¼, W½SE¼SE¼SW¼, SE¼SE¼SE¼SW¼, N½SE¼, N½SW¼SE¼, SW¼SW¼SW¼SE¼, E½SE¼SW¼SE¼, and SE¼SE¼;
Sec. 25, NW¼;
Sec. 26, NE¼.
Area—590 acres.
Power Site Classification 129 of February 16, 1926: (As interpreted by Power Site Interpretations 273 and 343 of September 13, 1938, and June 12, 1945, respectively.)
T. 27 S., R. 3 W.,
Sec. 31, NE¼SW¼ and NW¼SE¼.
T. 28 S., R. 3 W.,
Sec. 6, lots 4, 5, and 6.
T. 25 S., R. 4 W.,
Sec. 26, NW¼NW¼;
Sec. 27, S½NE¼;
Sec. 31, SE¼NW¼.
T. 27 S., R. 4 W.,
Sec. 1, lot 2.
T. 26 S., R. 4½ W.,
Sec. 9, SE¼NE¼, SE¼SW¼, NE¼SE¼, and S½SE¼;
Sec. 10, lots 2 and 4, SW¼NW¼, and NW¼SW¼;
Sec. 16, NW¼NE¼ and N½NW¼;
Sec. 17, NE¼NE¼, S½NE¼, SE¼NW¼, and N½SW¼;
Sec. 18, NE¼SE¼ and S½SE¼;
Sec. 19, NW¼NE¼, NW¼, and NW¼SW¼.
T. 26 S., R. 5 W.,
Sec. 24, NE¼SE¼ and S½SE¼;
Sec. 25, NW¼NE¼, NE¼NW¼, S½NW¼, N½SW¼, and SW¼SW¼;
Sec. 26, SE¼SE¼;
Sec. 34, SE¼SE¼;
Sec. 35, N½NE¼, SW¼NE¼, SE¼NW¼, N½SW¼, and SW¼SW¼.
T. 27 S., R. 5 W.,
Sec. 4, lot 4;
Sec. 5, lot 1, S½NE¼, SW¼, and NW¼SE¼;

All unsurveyed lands within 50 feet of the transmission line of the Telluride Power Co., right-of-way for which was granted to the Beaver River Power Co. by the Secretary of Agriculture, November 7, 1912. Protraction of public-land surveys indicates that the lands described above, when surveyed, will be wholly within the S½, section 6, and N½, section 7.

T. 27 S., R. 6 W.,
Sec. 12, NE¼NE¼, S½NE¼, NE¼SW¼, S½SW¼, and NW¼SE¼;
Sec. 13, NW¼ and E½SW¼;
Sec. 24, E½NW¼, NE¼SW¼, and S½SW¼;
Sec. 25, N½NW¼, SW¼NW¼, and W½SW¼;

Sec. 26, SE¼SE¼;
Sec. 35, E½NE¼ and SE¼;
Sec. 36, NW¼NW¼.

T. 28 S., R. 6 W.,
Sec. 2, lots 2, 7, 10, and 11, and SW¼;
Sec. 10, NE¼NE¼, S½NE¼, E½SW¼, and NW¼SE¼;
Sec. 11, SW¼NW¼;
Sec. 15, NE¼NW¼ and W½W½;
Sec. 16, SE¼SE¼;
Sec. 21, NE¼, SE¼NW¼, NE¼SW¼, S½SW¼, and NW¼SE¼;
Sec. 28, W½NW¼;
Sec. 29, lots 1, 4, 5, 6, 7, and 8.

T. 29 S., R. 6 W.,
Sec. 5, N½NW¼, SW¼NW¼, and W½SW¼;
Sec. 6, SE¼SE¼;
Sec. 7, E½NE¼, SW¼NE¼, NW¼SE¼, and lot 6;
Sec. 16, NW¼NE¼ and E½NW¼;
Sec. 24, NE¼ and S½;
Sec. 26, N½NE¼, NE¼NW¼, and S½NW¼;
Sec. 27, lots 2, 3, and 4, and S½N½;
Sec. 28, lots 1 and 4.

T. 29 S., R. 7 W.,
Sec. 18, lots 1 and 2.

T. 29 S., R. 8 W.,
Sec.7 , lot 3, E½SW¼, and SE¼;
Sec. 8, S½S½;
Sec. 9, SE¼SW¼ and S½SE¼;
Sec. 10, S½SW¼;
Sec. 13, N½;
Sec. 14, N½N½ and SE¼NE¼;
Sec. 15, N½N½.

T. 28 S., R. 9 W.,
Sec. 28, SW¼NW¼ and NW¼SE¼;
Sec. 34, NW¼SW¼.

T. 29 S., R. 9 W.,
Sec. 3, lots 1 and 2, and S½NE¼;
Sec. 11, S½NE¼, NW¼, and N½SE¼;
Sec. 12, SW¼NW¼, NW¼SW¼, and N½SE¼.

T. 28 S., R. 11 W.,
Sec. 1, SW¼SW¼;
Sec. 3, lots 2, 3, and 4, S½NE¼, SE¼NW¼, and NE¼SE¼;
Sec. 4, lot 1;
Sec. 11, NE¼NE¼;
Sec. 12, N½NW¼ and SE¼NW¼.

T. 27 S., R. 12 W.,
Sec. 19, lots 3 and 4, S½NE¼, and SE¼NW¼;
Sec. 20, SW¼NE¼, S½NW¼, NE¼SW¼, and N½SE¼;
Sec. 21, SW¼ and S½SE¼;
Sec. 22, SW¼SW¼;
Sec. 25, SW¼NW¼, N½SW¼, and SE¼;
Sec. 26, S½N½, NW¼NW¼, and NE¼SE¼;
Sec. 27, N½N½ and SE¼NE¼.

T. 27 S., R. 13 W.,
Sec. 21, lot 1, W½NE¼, SE¼NE¼, NE¼NW¼, and NE¼SE¼;
Sec. 22, lots 7, 8, 9, and 11, and S½SW¼;
Sec. 23, lot 5;
Sec. 24, lots 3 and 4, E½SW¼, N½SE¼, and SW¼SE¼;
Sec. 25, lot 1;
Sec. 26, lots 1, 2, 3, and 4;
Sec. 27, lot 1 and NW¼NE¼.

Area—11,454 acres.

Power Site Classification 135 of March 4, 1926:

T. 28 S., R. 4 W.,
Sec. 1, lots 1, 7, 8, and 10, NE¼SW¼, S½SW¼; and NW¼SE¼;
Sec. 11, lot 1;
Sec. 12, lots 6 and 7, and SE¼SW¼;
Sec. 13, lot 5, SW¼NE¼, NE¼NW¼, S½NW¼, and NW¼SW¼;
Sec. 14, SE¼SW¼, NE¼SE¼, and S½SE¼;
Sec. 21, lot 2, NE¼SW¼, S½SW¼, and NW¼SE¼;
Sec. 22, lots 1 and 2, NE¼, and SE¼NW¼;
Sec. 23, NW¼NE¼ and N½NW¼;
Sec. 26, NW¼NW¼;
Sec. 29, N½NE¼, SW¼NE¼, and S½NW¼;
Sec. 30, lots 3 and 4, S½NE¼, NE¼SW¼, and NW¼SE¼.

T. 28 S., R. 5 W.,
Sec. 25, SE¼SE¼;
Sec. 35, SE¼SW¼ and SE¼.

T. 29 S., R. 5 W.,
Sec. 3, SE¼NE¼, S½SW¼, N½SE¼, and SW¼SE¼;
Sec. 8, NE¼SE¼ and S½SE¼;
Sec. 9, NE¼NE¼, S½NE¼, SE¼NW¼, and N½SW¼;
Sec. 10, NW¼NW¼;
Sec. 17, N½NE¼, SW¼NE¼, SE¼NW¼, and SW¼;
Sec. 18, SE¼SE¼;
Sec. 19, lots 10, 11, 12, and 13, N½NE¼, and SW¼NE¼.

Area—3,386 acres.

Power Site Classification 204 of November 3, 1928:

T. 18 S., R. 3 E.,
Sec. 11, SW¼ and SW¼SE¼.
Area—200 acres.

The land described in this notice aggregates about 17,428 acres.

W. A. RADLINSKI,
Acting Director.

OCTOBER 22, 1971.

[FR Doc.71-15917 Filed 11-1-71;8:49 am]

[Power Site Classification 463]

TAZIMINA RIVER AND LAKES, ALA.

Classification of Power Site

Pursuant to authority under the act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and 220 Departmental Manual 6.1, the following described land is hereby classified as power sites insofar as title thereto remains in the United States and subject to valid existing rights; and this classification shall have full force and effect under the provisions of section 24 of the act of June 10, 1920, as amended by section 211 of the act of August 26, 1935 (16 U.S.C. 818):

SEWARD MERIDIAN

Every smallest legal subdivision adjacent to Tazimina River and Lower and Upper Tazimina Lakes, upstream from the south boundary of protracted section 24, T. 3 S., R. 32 W., Seward meridian, any portion of which when surveyed will be below an altitude of 720 feet above sea level. Bureau of Land Management protraction diagrams S-17-3 and S-17-4 indicate that the classification includes the following land:

T. 1 S., R. 27 W.,
Sec. 31, W½NW¼, SE¼NW¼, SW¼, and W½SE¼.
T. 2 S., R. 27 W.,
Sec. 6, N½NW¼.
T. 1 S., R. 28 W.,
Sec. 29, S½SW¼;
Sec. 30, S½S½;
Sec. 31;
Sec. 32;
Sec. 33;
Sec. 34, NE¼NE¼, S½N½, and S½;
Sec. 35;
Sec. 36, NE¼NE¼, S½N½, and S½.

T. 2 S., R. 28 W.,
Sec. 1, NE¼NE¼;
Sec. 2, NW¼NW¼;
Sec. 3, N½N½;
Sec. 4, N½N½ and NE¼NW¼.

T. 1 S., R. 29 W.,
Sec. 25, SE¼SE¼;
Sec. 34, S½SE¼;
Sec. 35, SE¼NE¼ and S½;
Sec. 36, NE¼, NE¼NW¼, S½NW¼, and S½.

T. 2 S., R. 29 W.,
Sec. 1, W½NE¼ and NW¼;
Sec. 2, N½, SW¼, and N½SE¼;
Sec. 3, NE¼, S½NW¼, N½SW¼, SW¼SW¼, and N½SE¼;
Sec. 4;
Sec. 5, NE¼, S½NW¼, and S½;
Sec. 6, SE¼NE¼ and S½;
Sec. 7, N½NE¼, SW¼NE¼, and NW¼, and N½SW¼;
Sec. 8, N½N½;
Sec. 9, N½NE¼, SW¼NE¼, and N½NW¼.

T. 2 S., R. 30 W.,
Sec. 1, S½SW¼, NE¼SE¼, and S½SE¼;
Sec. 2, S½SE¼;
Sec. 8, NE¼SE¼ and S½SE¼;
Sec. 9, S½NE¼, SE¼NW¼, and S¼;
Sec. 10;
Sec. 11;
Sec. 12, N½ and N½S½;
Sec. 14, NW¼NW¼;
Sec. 15, N½N½;
Sec. 16, N½, SW¼, and W½SE¼;
Sec. 17;
Sec. 18, S½NE¼ and S½;
Sec. 19;
Sec. 20, N½, SW¼, and N½SE¼;
Sec. 21, W½NW¼ and NW¼SW¼;
Sec. 30, N½NE¼ and NW¼.

T. 2 S., R. 31 W.,
Sec. 13, S½S½;
Sec. 14, S½SE¼;
Sec. 22, SE¼SE¼;
Sec. 23, NE¼, SE¼NW¼, and S½;
Sec. 24;
Sec. 25, N½, SW¼, N½SE¼, and SW¼SE¼;
Sec. 26, N½, NE¼SW¼, S½SW¼, and SE¼;
Sec. 27, N½NE¼ and SE¼NE¼;
Sec. 34, NE¼, SE¼SW¼, and SE¼;
Sec. 35;
Sec. 36, W½.

T. 3 S., R. 31 W.,
Sec. 1, N½NW¼, SW¼NW¼, and NW¼SW¼;
Sec. 2;
Sec. 3, NE¼, E½NW¼, and S½;
Sec. 4, S½SE¼;
Sec. 7, E½SE¼;
Sec. 8, S½N½ and S½;
Sec. 9;
Sec. 10, N½, SW¼, and W½SE¼;
Sec. 11, NW¼NE¼, N½NW¼, and SW¼NW¼;
Sec. 15, W½NE¼, W½, and NW¼SE¼;
Sec. 16, NE¼, N½NW¼, SE¼NW¼, and N½SE¼;
Sec. 17, N½NE¼, NW¼, N½SW¼;
Sec. 18, NE¼, S½NW¼, and S½;
Sec. 19, NW¼NE¼, NW¼, and NW¼SW¼.

T. 3 S., R. 32 W.,
Sec. 13, SE¼NE¼ and E½SE¼;
Sec. 24, NE¼, SE¼NW¼, NE¼SW¼, S½SW¼, and SE¼.

The land area described aggregates about 18,000 acres.

W. A. RADLINSKI,
Acting Director.

OCTOBER 22, 1971.

[FR Doc.71-15915 Filed 11-1-71;8:49 am]

National Park Service

[Order No. 4]

CHIEF, U.S. PARK POLICE

Delegation of Authority

Order No. 4 (dated August 26, 1969) is completely revoked and the following inserted in its place:

SECTION 1. *Redelegation.* The Chief of the U.S. Park Police is authorized to exercise the authority of the Director of National Capital Parks to issue rules and regulations for the administration of the U.S. Park Police, pursuant to the Act of May 27, 1924 (43 Stat. 175, as amended; 4 D.C. Code 202–208).

SEC. 2. *Limitations.* This authority may not be redelegated. (43 Stat. 175, as amended; 4 D.C. Code 202–208; sec. 2 of Reorganization Plan No. 3 of 1950; 245 DM 2nd National Park Service Order 68).

Dated: October 14, 1971.

RUSSELL E. DICKENSON,
Director,
National Capital Parks.

[FR Doc.71-15884 Filed 11-1-71;8:51 am]

GRAND TETON NATIONAL PARK

Notice of Intention To Negotiate a Concession Contract

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Grand Teton Lodge Co. authorizing it to provide concession facilities and services for the public at Grand Teton National Park for a period of 30 years from January 1, 1972, through December 31, 2001.

The foregoing concessioner has performed its obligations under the expiring contract to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Chief, Division of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: October 20, 1971.

LAWRENCE C. HADLEY,
Assistant Director,
National Park Service.

[FR Doc.71-15920 Filed 11-1-71;8:49 am]

SHENANDOAH NATIONAL PARK

Notice of Intention to Issue a Concession Permit

Pursuant to the provisions of section 5, of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Superintendent, Shenandoah National Park, proposes to issue a concession permit to Potomac Appalachian Trail Club authorizing it to provide concession facilities and services for the public at Shenandoah National Park for a period of 5 year(s) from January 1, 1972, through December 31, 1976.

The foregoing concessioner has performed its obligations under a prior permit to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. However, under the Act cited above, the National Park Service is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Superintendent, Shenandoah National Park, Luray, Va. 22835, for information as to the requirements of the proposed permit.

Dated: September 30, 1971.

A. P. KOSTER,
Acting Superintendent,
Shenandoah National Park.

[FR Doc.71-15921 Filed 11-1-71;8:49 am]

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, or Corrections

By notice in the FEDERAL REGISTER of February 20, 1971, Part II, there was published a list of the properties included in the National Register of Historic Places. This list has been amended by a notice in the FEDERAL REGISTER of March 2 (pp. 3930–31), April 6 (pp. 6526–28), May 4 (pp. 8333–36), June 3 (pp. 10811–13), July 8 (pp. 12868–70), August 3 (pp. 14275–76), September 8 (pp. 18016–19), and October 5 (pp. 19409–10). Further notice is hereby given that certain amendments or revisions, in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 915, 16 U.S.C. 470.

The following properties have been added to the National Register since October 5:

ARIZONA

Cochise County

Tombstone, *St. Paul's Episcopal Church*, Safford and Third Streets.

ARKANSAS

Sebastian County

Fort Smith, *Bonneville House*, 318 North Seventh Street.

CALIFORNIA

Los Angeles County

Los Angeles, *Storer House*, 8161 Hollywood Boulevard.

Madera County

Madera, *Madera County Courthouse*, 210 West Yosemite Avenue.

Ventura County

Ventura, *Ventura County Courthouse*, 501 Poli Street.

GEORGIA

Bibb County

Macon, *Mercer University Administration Building*, Coleman Avenue.

De Kalb County

Decatur, *Old De Kalb County Courthouse (Civic Center)*, Court Square.

IDAHO

Ada County

Boise, *Logan, Thomas E., House*, 602 North Julia Davis Drive.

KENTUCKY

Fayette County

Lexington, *Clay, Henry, Law Office*, 176 North Mill Street.

Lyon County

Kuttawa vicinity, *Kelly's Suwanee Furnace Office*, 1.4 miles west of Kuttawa.

MARYLAND

Baltimore (independent city), *Bolton Hill Historic District*, bounded on the north by North Avenue, on the northeast by Mount Royal Avenue, on the east by Cathedral Street, on the south by Dolphin Street, and on the southwest by Madison Avenue.

Eastern Female High School, 249 Aisquith Street.

Mount Vernon Place United Methodist Church and Asbury House, 2–10 East Mount Vernon Place.

Prince George's County

Croom vicinity, *Bellefields*, north side of Dudley Station Road, 0.3 mile south of Croom.

Worcester County

Berlin vicinity, *Genesar*, southeast of Berlin on Maryland 611, 9 miles south of U.S. 50.

MASSACHUSETTS

Bristol County

New Bedford, *Old Third District Courthouse*, Second and William Streets.

New Bedford, *Rotch Counting House*, 123 Front Street.

MICHIGAN

Alger County

Christmas vicinity, *Bay Furnace*, northwest of Christmas off Michigan 28.

Huron County

Harbor Beach, *Murphy, Frank, Birthplace*, 142 South Huron Street.

MINNESOTA

Blue Earth County

Mankato vicinity, *Seppman Mill*, west of Mankato off Minnesota 68.

MISSISSIPPI

Harrison County

Biloxi, *Beauvoir*, 200 West Beach Boulevard.

Jackson County

Pascagoula, U.S. *Cairo*, Ingalls Shipyard.

NEW HAMPSHIRE

Cheshire County

Harrisville, *Harrisville Historic District*.

Rockingham County

Exeter, *The First Church (Congregational Church)*, 21 Front Street.

NEW YORK

Oswego County

Oswego, *Oswego City Library*, 120 East Second Street.

NORTH CAROLINA

Alamance County

Burlington vicinity, *Allen House*, southwest of Burlington on Route 1, off South Carolina 62, near intersection with Route 1129.

Bertie County

Roxobel vicinity, Woodbourne, west of Roxobel on Route 1139.

Windsor vicinity, *Jordan House*, south of Windsor on North Carolina 1522.

Windsor vicinity, *King House*, northwest of windsor on North Carolina 1116.

Craven County

New Bern, *Stevenson House*, 609–611 Pollock Street.

Forsyth County

Winston-Salem, *Bethabara Moravian Church*, 2147 Bethabara Road.

Guilford County

High Point, *Haley, John, House*, 1805 East Lexington Avenue.

Hertford County

Murfreesboro, *Murfreesboro Historic District*, bounded on the east by a line 60 feet east of Fourth Street; on the south by Vance Street extending beyond to a point 1,050 feet west of Liberty Street and 300 feet south of Main Street; on the west by a line 500 feet west of Winder Street; and on the north by a line 120 feet north of Broad Street.

Lenoir County

Falling Creek vicinity, *Cedar Dell*, southeast of Falling Creek on North Carolina 1338, 0.4 mile from the intersection with North Carolina 1324.

Falling Creek vicinity, *Wood, Dempsey, House*, southwest of Falling Creek on North Carolina 1324.

Kinston, *Peebles House (Harmony Hall)*, 109 East King Street.

Orange County

Hillsborough, *Ayr Mount*, St. Mary's Road.

Hillsborough, *Nash Law Office*, 143 West Margaret Lane.

Hillsborough, *Sans Souci*, East Corbin Street.

Rowan County

Granite Quarry vicinity, *Braun, Michael, House*, northwest of Granite Quarry on North Carolina 2308, 0.5 mile from the junction of North Carolina 2308 and U.S. 52.

OHIO

Columbiana County

East Liverpool, *Thompson, Cassius Clark, House*, 305 Walnut Street.

Montgomery County

Germantown, *Germantown Covered Bridge*, Center Street, over Little Twin Creek.

Kettering, *Deeds Barn*, Prugh Park.

Preble County

Eaton vicinity, *Roberts Covered Bridge*, 3 miles south of Eaton.

Trumbull County

Kinsman, *Congregational - Presbyterian Church*, near Ohio 5–7.

Kinsman vicinity, *Allen, Dr. Peter, House*, Kinsman, West Williamsfield State Road north of the intersection of Ohio 87.

North Bloomfield, *Brownwood*, Ohio 45.

OREGON

Clatsop County

Hammond, *Fort Stevens*, Fort Stevens State Park.

PENNSYLVANIA

Bucks County

Levittown, *Pemberton, Phineas, House (Bolton Mansion)*, Holly Drive.

Philadelphia County

Philadelphia, *Free Quaker Meetinghouse*, southwest corner of Fifth and Arch Streets.

RHODE ISLAND

Bristol County

Bristol, *Church, Benjamin, House*, 1014 Hope Street.

Kent County

Warwick, *Arnold, John W., House*, 11 Roger Williams Avenue.

Newport County

Newport, *The Breakers*, Ochre Point Avenue.

Newport, *The Elms*, Bellevue Avenue.

Newport, *Marble House*, Bellevue Avenue.

SOUTH CAROLINA

Chesterfield County

Cheraw, *St. David's Episcopal Church and Cemetery*, Church Street.

TENNESSEE

Cheatham County

Kingston Springs vicinity, *Mound Bottom*, east of Kingston Springs on Route 2.

TEXAS

Val Verde County

Langtry vicinity, *Rattlesnake Canyon Site*, about 4 miles southwest of Langtry.

VIRGINIA

Essex County

Loretto vicinity, *Brooke's Bank*, 1 mile east of Loretto, 1.4 miles north of Route 17.

Fluvanna County

Palmyra, *Fluvanna County Courthouse Historic District*, extending 0.3 mile north of the intersection of Routes 601 and 15 and to the Rivanna River on the south; bounded on the east by Route 15 and on the west by the river.

Fredericksburg (independent city), *Fredericksburg Historic District*, bounded on the northeast by the Rappahannock River; on the southwest by a line parallel to Prince Edward Street halfway between it and Winchester Street; extending north to Canal Street and south to the intersection of Hazel Run and the river.

Gloucester County

Ware Neck vicinity, *Lowland Cottage*, southwest of Ware Neck, 0.6 mile south of Route 623.

Grayson County

Trout Dale vicinity, *Ripshin*, north side of Route 732, 0.1 mile east of the intersection with Route 603.

Harrisonburg (independent city), *Morrison House*, northwest corner of the intersection of West Market and North Liberty Streets.

Henrico County (also in Richmond)

Richmond vicinity, *James River and Kanawha Canal Historic District*, extends from Ship Locks to Bosher's Dam.

King and Queen County

Stevensville vicinity, *Hillsborough*, 0.6 mile southwest of Route 633, 1.9 miles northwest of its intersection with Route 632.

Norfolk (independent city), *Allmand-Archer House*, 327 Duke Street.

Freemason Street Baptist Church, northeast corner of Freemason and Bank Streets.

Whittle House, 225 West Freemason Street.

Willoughby-Baylor House, 601 Freemason Street.

Patrick County

Critz vicinity, *Reynolds Homestead*, east side of Route 798, 0.5 mile north of the intersection with Route 626.

Richmond (independent city), *James River and Kanawha Canal Historic District* (see Henrico County).

ERNEST ALLEN CONNALLY,
Director, Office of Archeology and Historic Preservation.

[FR Doc.71–15885 Filed 11–1–71;8:51 am]

Office of the Secretary

COLORADO, UTAH, AND WYOMING

Call for Nominations of Areas for Oil Shale Leasing

Pursuant to the Department of Interior's Proposed Prototype Oil Shale Leasing Program released on June 29, 1971, notice is hereby given that nominations of lands for prospective oil shale leasing in the States of Colorado, Utah, and Wyoming may be submitted to the Secretary of Interior not later than January 31, 1972.

Nominations shall include a description of the lands sought to be included in an oil shale lease. If the lands have been surveyed under the public land rectangular system, each nomination shall describe the lands by legal subdivision, section, township, and range. If the lands have not been so surveyed, each nomination shall describe the lands by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, and connected by courses and distances to a monument or to a prominent topographic feature. When protracted surveys have been approved and the effective date thereof published in the FEDERAL REGISTER, each nomination for lands shown on such protracted surveys, filed on or after such effective date, shall describe the lands according to the legal subdivision, section, township, and range shown on the approved protracted surveys. Maximum size of single lease tracts is 5,120 acres. Smaller areas may be nominated and more than one area may be proposed for consideration.

Parties submitting nominations are also requested to submit data on environmental aspects of the development envisioned for the nominated lands. Information on lands not recently core drilled is particularly solicited.

Nominations should be submitted in triplicate and addressed to: Secretary of the Interior, Attention: Oil Shale Coordinator, Room 7000, Department of the Interior, Washington, D.C. 20240.

Envelopes should be marked "Nominations for Oil Shale Leasing in (*State*)."

After environmental evaluations, public hearings, and submission of Draft and Final Environmental Statements by the Department, as discussed in the Environmental Impact and Program Statements for the Proposed Prototype Oil Shale Leasing Program released on June 29, 1971, a description of any tracts which may be selected for competitive bidding will be published in the FEDERAL REGISTER and the published notice of such lease offerings will state the conditions and terms for leasing and the place, date, and hour at which bids will be received and opened.

W. T. PECORA,
Under Secretary of the Interior.

OCTOBER 28, 1971.

[FR Doc.71–15959 Filed 11–1–71;8:53 am]

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

GORDO STOCK YARDS, ET AL.

Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Name, location of stockyard, and date of posting
Gordo Stock Yards, Gordo, Ala., May 14, 1959.
Newhall Horse and Mule Auction, Inc., Newhall, Calif., October 10, 1965.
Southeastern Kansas Sales Co., Inc., Fort Scott, Kans., May 28, 1959.
Waynesboro Livestock Yard, Inc., Waynesboro, Miss., January 5, 1959.
Lockhart Livestock Auction Co., Inc., Lockhart, Tex., April 4, 1957.

Notice or other public procedure has not preceded promulgation of the foregoing rule. There is no legal justification for not promptly deposting a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a rule relieving a restriction and may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This notice shall become effective upon publication in the FEDERAL REGISTER (11–2–71).

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 et seq.)

Done at Washington, D.C., this 27th day of October 1971.

G. H. HOPPER,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc.71–15888 Filed 11–1–71;8:47 am]

WESTBROOK LIVESTOCK AUCTION SALES ET AL.

Notice of Changes in Names of Posted Stockyards

It has been ascertained, and notice is hereby given, that the names of the livestock markets referred to herein, which were posted on the respective dates specified below as being subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), have been changed as indicated below.

Original name of stockyard, location, and date of posting	*Current name of stockyard and date of change in name*
ALABAMA	
Shaver & Black Livestock Auction, Troy, May 15, 1959.	Westbrook Livestock Auction Sales, Sept. 1, 1971.
GEORGIA	
Holman Auction Co., Blakely, Dec. 18, 1959	W. L. Moseley Livestock Company, Oct. 1, 1971.
MARYLAND	
West Nottingham Sales, Inc., Rising Sun, July 26, 1961.	West Nottingham Auction, Aug. 1, 1971.
NEBRASKA	
Ewing Livestock Market, Ewing, Jan. 25, 1950	Ewing Livestock Market, Inc., Aug. 1, 1966.
TEXAS	
Eastland Auction Company, Eastland, Nov. 30, 1956.	Eastland Auction Co., Feb. 1, 1971.

Done at Washington, D.C., this 26th day of October 1971.

G. H. HOPPER,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc.71–15889 Filed 11–1–71;8:48 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 9149; Docket No. FDC–D–334; NDA 9–149 etc.]

CERTAIN PREPARATIONS CONTAINING CHLORPROMAZINE; PERPHENAZINE; PROCHLORPERAZINE; PROMAZINE; THIORIDAZINE; TRIFLUOPERAZINE; OR TRIFLUPROMAZINE

Drugs For Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration published an announcement in the FEDERAL REGISTER of April 3, 1971 (36 F.R. 6447), regarding the efficacy of certain preparations containing chlorpromazine; perphenazine; prochloroperazine; promazine; thioridazine; trifluoperazine; or triflupromazine. Based upon a reevaluation, the Commissioner of Food and Drugs finds it appropriate to amend the announcement of April 3, 1971, by the following revisions:

In section I. *Effectiveness classification*, the evaluations are changed in the following respects:

A. CHLORPROMAZINE (ORAL AND PARENTERAL FORMS)

The paragraphs describing the conditions for which the drug is regarded as effective and probably effective are changed to read:

1. Chlorpromazine is effective in the management of manifestations of psychotic disorders; control of nausea and vomiting; the relief of restlessness and apprehension prior to surgery; acute intermittent porphyria; and as an adjunct in the treatment of tetanus.

2. This drug is probably effective for reducing agitation and tension associated with mild alcoholic withdrawal symptoms in patients under close supervision; for the control of involuntional melancholia or of the manifestations of the manic type of manic depressive illness; for the relief of intractable hiccups; and for the control of moderate to severe agitation, hyperactivity, or aggressiveness in disturbed children.

(Other classifications are unchanged.)

B. PERPHENAZINE (ORAL AND PARENTERAL FORMS AND SUPPOSITORY FOR RECTAL ADMINISTRATION)

The paragraph describing the conditions for which the drug is regarded as effective is changed to read:

1. Perphenazine is effective in the management of manifestations of psychotic disorders; and for the control of severe nausea and vomiting in adults.

(Other classifications are unchanged.)

C. PROCHLORPERAZINE (ORAL AND PARENTERAL FORMS)

The paragraph describing the conditions for which the drug is regarded as effective is changed to read:

1. Prochlorperazine is effective in the management of manifestations of psy-

chotic disorders; and for the control of severe nausea and vomiting.

(Other classifications are unchanged.)

D. PROMAZINE (ORAL AND PARENTERAL FORMS)

The paragraph describing the conditions for which the drug is regarded as effective is changed to read:

1. Promazine is effective in the management of manifestations of psychotic disorders.

(Other classifications are unchanged.)

E. THIORIDAZINE (ORAL FORMS)

The paragraph describing the conditions for which the drug is regarded as effective is changed to read:

1. Thioridazine is effective in the management of manifestations of psychotic disorders.

(Other classifications are unchanged.)

F. TRIFLUOPERAZINE (ORAL AND PARENTERAL FORMS)

The paragraphs describing the conditions for which the drug is regarded as effective and probably effective are changed to read:

1. Trifluoperazine is effective in the management of manifestations of phychotic disorders.

2. This drug is probably effective for the control of involutional melancholia or of the manifestations of the manic type of manic depressive illness.

(Other classifications are unchanged).

G. TRIFLUPROMAZINE (ORAL AND PARENTERAL FORMS)

The paragraph describing the conditions for which the drug is regarded as effective is changed to read:

1. Triflupromazine is effective in the management of manifestations of psychotic disorders; and for the control of severe nausea and vomiting.

(Other classifications are unchanged.)

In section III. *Labeling conditions*, the Indications sections are changed to read as follows:

A. CHLORPROMAZINE

INDICATIONS

This drug is indicated for use in the management of the manifestations of psychotic disorders; for the control of nausea and vomiting; for the relief of restlessness and apprehension prior to surgery; as an adjunct in the treatment of tetanus; and in the treatment of acute intermittent porphyria. It may also be useful for reducing agitation and tension associated with mild alcoholic withdrawal symptoms in patients under close supervision; for the control of involutional melancholia or of the manifestations of the manic type of manic depressive illness; for the relief of intractable hiccups; and for the control of moderate to severe agitation, hyperactivity or aggressiveness in disturbed children.

B. PERPHENAZINE

INDICATIONS

This drug is indicated for use in the management of the manifestations of psychotic disorders; and for the control of severe nausea and vomiting in adults. It may also be useful for reducing agitation and tension associated with mild alcoholic withdrawal symptoms in patients under close supervision.

C. PROCHLORPERAZINE

INDICATIONS

This drug is indicated for use in the management of the manifestations of psychotic disorders, and for the control of severe nausea and vomiting.

D. PROMAZINE

INDICATIONS

This drug is indicated for use in the management of manifestations of psychotic disorders. It may also be useful for the control of nausea and vomiting; for the relief of apprehension prior to surgery; and for reducing agitation and tension associated with mild alcoholic withdrawal symptoms in patients under close supervision.

E. THIORIDAZINE

INDICATIONS

This drug is indicated for use in the management of manifestations of psychotic disorders. It may also be useful for the relief of symptoms of neurotic depressive reaction; and for the control of moderate to severe agitation, hyperactivity, or aggressiveness in disturbed children.

F. TRIFLUOPERAZINE

INDICATIONS

This drug is indicated for use in the management of manifestations of psychotic disorders. It may also be useful for the control of involutional melancholia or of the manifestations of the manic type of manic depressive illness.

G. TRIFLUPROMAZINE

INDICATIONS

This drug is indicated for use in the management of manifestations of psychotic disorders; and for the control of severe nausea and vomiting. It may also be useful as an adjunct in preoperative and postoperative management; and for reducing agitation and tension associated with mild alcoholic withdrawal symptoms in patients under close supervision.

The date of publication of this notice in the FEDERAL REGISTER amending the previous notice shall be used to compute time periods allowed for the submission of revised labeling as required under section VI B1 and the use of the revised labeling as required under VI C.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: October 19, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-15910 Filed 11-1-71;8:45 am]

AIR PRODUCTS AND CHEMICALS, INC.

Notice of Filing of Petition for Food Additive

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 2B2727) has been filed by Air Products and Chemicals, Inc., Post Office Box 427, Marcus Hook, Pa. 19061, proposing that § 121.2526 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 121.2526) be amended to provide for the safe use of diethanolammonium salts of undecafluorocyclohexylmethylphosphoric acid, bis-(undecafluorocyclohexylmethyl)-phosphate and bis-(undecafluorocyclohexylmethyl) - pyrophosphate for use as oil repellents in paper and paperboard in contact with aqueous and fatty foods.

Dated: October 21, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-15911 Filed 11-1-71;8:45 am]

CELANESE FIBERS MARKETING CO.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 2B2730) has been filed by Celanese Fibers Marketing Co., % TRW/Hazleton Laboratories, 9200 Leesburg Turnpike, Vienna, Va. 22180, proposing that § 121.2535 *Textiles and textile fibers* (21 CFR 121.2535) be amended to provide for the safe use of polyethylene terephthalate fibers, and of sodium nitrite and N-cetyl, N-ethyl morpholinium ethosulfate as adjuvants in the production of woven or unwoven articles or components of articles intended for use in manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food.

Dated: October 21, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-15912 Filed 11-1-71;8:46 am]

MASON CHEMICAL CO.

Notice of Filing of Petition for Food Additive

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 2H2737) has been filed by Mason Chemical Co., 5253 West Belmont Avenue, Chicago, Ill. 60641, proposing that § 121.2547 *Sanitizing solutions* (21 CFR 121.2547) be amended to provide for the safe use of *N*-Alkyl (C_{12}-C_{18}) dimethyl ethylbenzyl ammonium chloride in combination with *N*-Alkyl (C_{12}-C_{18}) dimethyl benzyl ammonium chloride as a sanitizer on food processing and handling equipment.

Dated: October 21, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-15913 Filed 11-1-71;8:46 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23716]

AEROTRANSPORTES ENTRE RIOS S.R.L.

Foreign Air Carrier Permit; Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on November 23, 1971, at 10 a.m., e.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned examiner.

For information concerning the issues involved and other details of this proceeding, interested persons are referred to the Report of Prehearing Conference served October 20, 1971, and all other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., October 28, 1971.

[SEAL] EDWARD T. STODOLA,
Hearing Examiner.

[FR Doc.71-15939 Filed 11-1-71;8:50 am]

[Docket No. 23333; Order 71-10-110]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to Rate Matters

Issued under delegated authority October 26, 1971.

By Order 71-10-44, dated October 12, 1971, action was deferred, with a view toward eventual approval, on a resolution adopted by the Traffic Conferences of the International Air Transport Association (IATA). The agreement amends the resolution governing the rounding-off of cargo rates by the inclusion of the currency of Equatorial Guinea.

In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period and the tentative conclusions in Order 71-10-44 will herein be made final.

Accordingly, it is ordered, That:

Agreement CAB 22725 be, and it hereby is, approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-15940 Filed 11-1-71;8:50 am]

[Docket No. 23944; Order 71-10-126]

SUPPLEMENTAL RENEWAL PROCEEDING

Order Instituting Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of October 1971.

Twelve supplemental carriers hold certificates of public convenience and necessity authorizing them to engage in supplemental air transportation of persons and property between any point within any State or the District of Columbia and any other point in any State or the District of Columbia.[1] The authorizations granted by those certificates to operate inclusive tour charters expired on May 13, 1971. The same twelve carriers hold certificates to engage in overseas and foreign supplemental air transportation between points in any State or the District of Columbia, on the one hand, and points in various geographic areas, on the other hand.[2] These authorizations expire on November 26, 1971.

Except as noted in the margin, each of the carriers has filed timely applications for renewal of its domestic inclusive tour charter authority and its overseas and foreign (except transatlantic) supplemental charter authority and each carrier has invoked section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), pursuant to which its certificate authority will continue in effect until the Board takes final action on the applications for renewal.[3]

Several carriers have also filed applications seeking additional authority and seeking modifications of their existing authority, or of the manner in which that authority is defined and the terms, conditions, and limitations pursuant to which that authority can be exercised.

By this order we are instituting a proceeding in which to consider renewal of the aforementioned authority of the 12 supplemental carriers and we are consolidating for hearing herein the applications of the 12 carriers for renewal and amendment of their existing authority insofar as those applications conform to the scope of the proceeding here instituted.

Specifically, we will consider herein the renewal of the domestic inclusive tour charter authority of the 12 carriers and also the renewal of the overseas and foreign supplemental charter authority (except transatlantic charter authority) presently held by each of the 12 carriers. We will also consider applications by each of the 12 carriers for authority to serve additional geographic areas which it is not presently authorized to serve. However, we do not intend to hear in this proceeding any applications for transatlantic charter authority (persons or property).[4]

We will also consider herein the award of authority limited to the provision of specific types of service, e.g., property only. Accordingly, it is our intention to consider herein Southern's application for certificate authority to carry out-size cargo to and from each of the geographic areas in issue in this proceeding.[5]

We will not freeze the specific wording of geographic areas as defined by the existing certificates[6] but will allow the carriers to argue that the wording should be modified in respects suitable to them.[7] Among other proposals, we will consider modifications which would make possible the operation of supplemental air transportation between U.S. territories and possessions within a geographic area (as, e.g., the U.S. Virgin Islands in the Caribbean area), on the one hand, and other points within the same geographic area, on the other hand. For that purpose we intend to consider herein the application of Southern Air Transport for a certificate authorizing operations within and between Puerto Rico and the U.S. Virgin Islands, and between points in Puerto Rico and the U.S. Virgin Islands, on the one hand, and other points in the Caribbean, on the other hand.[8]

We will consider herein any proposed

[1] Capitol International Airways, Inc.; Johnson Flying Service, Inc.; McCulloch International Airlines, Inc.; Modern Air Transport, Inc.; Overseas National Airways, Inc.; Purdue Airlines, Inc.; Saturn Airways, Inc.; Southern Air Transport, Inc.; Standard Airways, Inc.; Trans International Airlines, Inc.; Universal Airlines, Inc.; and World Airways, Inc.

[2] The geographic areas are:

(a) Canada;

(b) Mexico;

(c) American Samoa, Guam, Johnston Island, the Marshall Islands, Okinawa, Wake Island, and points in Australasia, Indonesia, and Asia as far west at longitude 70 degrees east via a transpacific routing;

(d) points in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Puerto Rico, the Virgin Islands, Trinidad, Aruba, the Leeward and Windward Islands, and any other place located in the Gulf of Mexico or the Caribbean Sea; and

(e) points in British Honduras, the Canal Zone, Guatemala, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, and in the countries on the continent of South America.

No carrier presently holds authority to serve all five geographic areas.

[3] The application of Purdue Airlines, Inc., for renewal of its authority to serve points in Canada was filed approximately 60 days later than the 180-days-before-expiration requirement imposed by 14 CFR 377.10(c). As a matter of discretion we will waive the 180-day requirement for Purdue and accept its application as being in compliance with the requirements for timely filing prescribed by Part 377 of the Board's regulations.

[4] Issues relating to transatlantic passenger charter authority are presently before the Board in the Transatlantic Supplemental Charter Authority Renewal Case, Docket 20569. The Board finds it more appropriate to consider the question of transatlantic cargo charter authority at the time when it considers applications for renewal of the temporary transatlantic cargo authority held by scheduled carriers which expires in 1973.

[5] Southern is put on notice that its application, as filed, is technically deficient as a request for a temporary extension of the exemption authority currently held. If the carrier desires to avail itself of the provisions of section 9(b) of the Administrative Procedure Act it must amend (and serve) its application so as to give notice in the caption of its application that it requests a pendente lite extension of its exemption authority. Cf: Board Regulations 302.909 and 377.10.

[6] See note 2, supra.

[7] However, we do not intend to consider in this proceeding the specific authorization of around-the-world charters.

[8] Our comments in note 6, supra, apply equally to Southern's request for a certificate to authorize operations covered by the exemption granted pursuant to Order E-26331.

changes in the standard terms, conditions, and limitations included in the certificates of the supplemental carriers and we will also consider any proposed changes in Parts 208 and 378 of the Board's regulations which, in the Board's opinion, can best be dealt with through the hearing process. In order to provide the Board with an opportunity to determine, at the outset, whether to conduct proceedings on a proposed amendment of the regulations and to determine whether such proceedings should be conducted as part of this hearing or through the normal rulemaking processes, we will require that each person intending to propose changes in Part 208 and/or Part 378 of the Board's regulations in connection herewith, file its proposed amendments with the Board in the form of a petition for rule making, together with a Motion to Consolidate the petition with this proceeding, no later than 30 days after the date of service of this order. No amendments to the Board's regulations will be considered in this proceeding unless they are presented in the fashion here described.

Accordingly, it is ordered, That:

1. A proceeding to be known as the "Supplemental Renewal Proceeding," Docket 23944, be and it hereby is instituted and shall be set down for hearing before an examiner of the Board at a time and place hereafter designated;

2. The proceeding instituted by paragraph "1" above shall include consideration of:

(a) whether the public convenience and necessity require the renewal of the certificates to engage in foreign and overseas supplemental air transportation (except transatlantic supplemental air transportation) held by the 12 supplemental carriers whose applications are consolidated herein by paragraph "3" hereof;

(b) whether the public convenience and necessity require the renewal of the certificates to engage in interstate supplemental air transportation held by the 12 carriers whose applications are consolidated herein by paragraph "3" insofar as those certificates authorize the operation of inclusive tour charters;

(c) whether the public convenience and necessity require that the authority, if any, granted to each carrier should be limited as to type (e.g., property only), should be modified to include greater or lesser authority than is now held, or should be modified to include authority to serve more, fewer, or other geographic areas (other than transatlantic);

3. Insofar as they conform to the scope of the proceeding set forth in paragraph "2" above, the applications of Capitol International Airways, Inc., in Dockets 22643, 23373, and 23374, Johnson Flying Service, Inc., Dockets 22752 and 23420, McCulloch International Airlines, Inc., Dockets 22756 and 23367, Modern Air Transport, Inc., Dockets 22711 and 23365 Overseas National Airways, Inc., Dockets 22722 and 23435, Purdue Airlines, Inc., Dockets 19549, 22757 and 23667, Saturn Airways, Inc., Dockets 22744 and 23388, Southern Air Transport, Inc., Dockets 22728 and 23439, Standard Airways, Inc., Dockets 22753 and 23384, Trans International Airlines, Inc., Dockets 22759 and 23383, Universal Airlines, Inc., Dockets 22739 and 23453, and World Airways, Inc., Dockets 22723 and 23425, be and they hereby are consolidated with the proceeding instituted by paragraph "1" above; to the extent not consolidated herein, the foregoing applications be and they hereby are dismissed without prejudice;

4. The application of Purdue Airlines, Inc., Docket 23667, be and it hereby is accepted as being in compliance with the requirements for timely filing of renewal applications imposed in Part 377 of the Board's economic regulations; and

5. Applications, petitions for rulemaking, motions to consolidate, and petitions for reconsideration of this order shall be filed no later than 30 days after the date of service of this order, and answers to such pleadings shall be filed no later than 10 days thereafter.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-15941 Filed 11-1-71;8:50 am]

CIVIL SERVICE COMMISSION

CIVIL AERONAUTICS BOARD

Notice of Title Change in Noncareer Executive Assignment

By notice of November 17, 1967, F.R. Doc. 67-13608, the Civil Service Commission authorized the departments and agencies to fill by noncareer executive assignment, certain positions removed from Schedule C of Civil Service Rule VI by 5 CFR 213.3301a on November 17, 1967. This is notice that the title of one such position so authorized to be filled by noncareer executive assignment has been changed from Executive Director to Managing Director.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-15881 Filed 11-1-71;8:47 am]

DEPARTMENT OF AGRICULTURE

Notice of Title Change in Noncareer Executive Assignment

By notice of November 17, 1967, F.R. Doc. 67-13608, the Civil Service Commission authorized the departments and agencies to fill by noncareer executive assignment, certain positions removed from Schedule C of Civil Service Rule VI by 5 CFR 213.3301a on November 17, 1967. This is notice that the title of one such position so authorized to be filled by noncareer executive assignment has been changed from "Assistant Administrator (Insured Loan Funds), Farmers Home Administration" to "Assistant Administrator (Insured Note Marketing), Farmers Home Administration".

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-15880 Filed 11-1-71;8:47 am]

DEPARTMENT OF COMMERCE

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Assistant to the Secretary, Office of the Secretary, Immediate Office.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-15878 Filed 11-1-71;8:47 am]

DEPARTMENT OF COMMERCE

Notice of Title Change in Noncareer Executive Assignment

By notice of November 17, 1967, F.R. Doc. 67-13608, the Civil Service Commission authorized the departments and agencies to fill by noncareer executive assignment, certain positions removed from Schedule C of Civil Service Rule VI by 6 CFR 213.3301a on November 17, 1967. This is notice that the title of one such position so authorized to be filled by noncareer executive assignment has been changed from "Director, Bureau of Commercial Fisheries, Fish and Wildlife Service" to "Director, National Marine Fisheries Service, National Oceanic and Atmospheric Administration".

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-15882 Filed 11-1-71;8:47 am]

DEPARTMENT OF DEFENSE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Defense to fill by noncareer executive assignment in the excepted service the position of Technical Director and Principal Assistant to the Deputy Assistant Secretary (Production Engineering and Materiel Acquisition), Office of the Secretary of Defense.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-15872 Filed 11-1-71;8:46 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy Special Assistant to the Secretary for Civil Rights and Deputy Director, Office for Civil Rights, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-15873 Filed 11-1-71;8:46 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of Director, Office of Program Support, Office of the Assistant Secretary for Community Development, Immediate Office.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-15874 Filed 11-1-71;8:46 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Notice of Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of Deputy Director, Office of Renewal Assistance, Office of the Director.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-15879 Filed 11-1-71;8:47 am]

DEPARTMENT OF JUSTICE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Justice to fill by noncareer executive assignment in the excepted service the position of Staff Assistant, Criminal Division, Office of Assistant Attorney General.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-15876 Filed 11-1-71;8:47 am.]

DEPARTMENT OF JUSTICE

Notice of Grant of Authority to Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Justice to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Administrator, Law Enforcement Assistance Administration.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-15875 Filed 11-1-71;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the National Foundation on the Arts and the Humanities to fill by noncareer executive assignment in the excepted service the position of Director of Performing Arts and Public Media Programs, Office of Performing Arts and Public Media Programs, National Endowment for the Arts.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-15877 Filed 11-1-71;8:47 am]

ENVIRONMENTAL PROTECTION AGENCY

CALIFORNIA STATE MOTOR VEHICLE POLLUTION CONTROL STANDARDS

Notice of Intention To Waive Federal Preemption and Opportunity for Public Hearing

Whereas section 209(a) of the Clean Air Act, as amended (42 U.S.C. 1857f-6a(a); 81 Stat. 501; Public Law 90-148), provides: "No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this title. No State shall require certification, inspection, or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment"; and

Whereas section 209(b) of said Act directs the Administrator of EPA, after notice and opportunity for public hearing, to waive application of the prohibitions of said section 209 to any State which had adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, unless he finds that such State does not require standards more stringent than applicable Federal standards to meet compelling and extraordinary conditions or that such State standards and accompanying enforcement procedures are not consistent with section 202(a) of the Clean Air Act;

Now therefore, I hereby give notice (1) that the State of California, being eligible for a waiver pursuant to section 209(b), has requested waiver of the application of the prohibitions of section 209(a) with respect to California fuel evaporative emission standards and approval procedures for 1973 and subsequent model year gasoline powered motor vehicles over 6,000 pounds gross vehicle weight (sections 1951 and 2509 of Title 13 of the California Administrative Code); (2) that, based on information available at this time, I intend to waive the provisions of section 209(a) of the Clean Air Act with respect to the above standard and procedures; (3) that notice granting such waiver will be published within 30 days of the date of this notice unless, within 20 days of such date, a written request for a public hearing on the intended action is received; and (4) that any such written request shall be addressed to the Administrator, Environmental Protection Agency, Washington, D.C. 20460. Upon receipt of such request, public notice of a hearing regarding the intended waiver will be published in the FEDERAL REGISTER.

Dated: October 28, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator.

[FR Doc.71-15952 Filed 11-1-71;8:53 am]

FARM CREDIT ADMINISTRATION

PUBLIC PARTICIPATION IN RULE MAKING

Statement of Policy

Notice is hereby given of a statement of policy on public participation in rule making by the Farm Credit Administration. As a matter of policy adopted by the Federal Farm Credit Board, the Administration will use notice of proposed

rule making procedures even though not now required by law. Effective immediately, proposed rules and regulations issued by the Farm Credit Administration relating to public property, grants, loans, and contracts will be published and interested persons will be given reasonable opportunity to participate in the rule making through the submission in writing of data, views, and arguments. In certain situations, notice and public participation with respect to proposed regulations may be impracticable, unnecessary, contrary to the public interest, or otherwise not required, or there may be reason or good cause in the public interest why the effective date should not be deferred. Some examples of situations in which advance notice or deferred effective date, or both, will ordinarily be omitted in the public interest are the review and determination of the Farm Credit Administration with respect to discount rates, or interest rates, or the handling of securities by the banks and associations of the Farm Credit System.

E. A. JAENKE,
Governor,
Farm Credit Administration.

[FR Doc.71-15870 Filed 11-1-71;8:46 am]

FEDERAL MARITIME COMMISSION

[Docket No. 71-82; Agreement No. 9950]

TRANSPORTATION OF MAIL

Rates and Other Matters; Order of Investigation and Hearing

Agreement relating to rates and other matters to be used as basis for negotiating arrangements with the United States Postal Service for transportation of mail.

Pursuant to section 15 of the Shipping Act, 1916, an agreement between Farrell Lines Incorporated and Moore-McCormack Lines, Inc., has been filed for approval and assigned Federal Maritime Commission No. 9950. This agreement covers an arrangement for the discussion of mail transportation costs, space availability, sailing schedules and related matters, and agreement as to rates, terms and conditions for use as a basis for the negotiation of arrangements with the U.S. Postal Service for the transportation of mail in the U.S. Atlantic and Gulf/South and East Africa trade.

Notice of the filing of Agreement No. 9950 was published in the FEDERAL REGISTER on June 3, 1971. Pursuant to such publication, the Postmaster General, through counsel, has filed a Motion to Strike the agreement urging as a basis for such motion that the Commission has no jurisdiction to approve the agreement or any other arrangement that concerns the transportation of mail for the U.S. Postal Service. Counsel for the parties to the agreement has replied to the motion, taking issue with the position advanced by the Postmaster General and with the arguments and cases cited in support thereof. In addition to the foregoing matters, the Postmaster General, through counsel, has indicated that if this agreement is approved, a judicial review will be sought and that the Postal Service may, for economic reasons, direct the mail to other carriers if the parties, with or without the approval of the Commission institute any joint action with respect to the carriage of mail.

It is, therefore, ordered, That pursuant to sections 15 and 22 of the Shipping Act, 1916, a proceeding is hereby instituted to determine whether Agreement No. 9950 should be approved, disapproved or modified.

It is further ordered, That Farrell Lines, Inc., and Moore-McCormack Lines, Inc., are hereby made respondents in this proceeding.

It is further ordered, That the Postmaster General of the U.S. Postal Service is hereby made a petitioner in this proceeding.

It is further ordered, That a public hearing be held in this proceeding before an examiner of the Commission's Office of Hearing Examiners at a date and place to be hereafter determined and announced by the presiding examiner.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER, and that a copy thereof and notice of hearing be served upon respondents and petitioner, as shown in the Appendix.

It is further ordered, That any person other than respondents and petitioner, having an interest and desiring to participate in this proceeding, shall file a petition for leave to intervene in accordance with Rule 5(1) (46 CFR 502.72) of the Commission's rules of practice and procedure.

And it is further ordered, That all future notices, orders and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

APPENDIX

Farrell Lines, Inc., 1 Whitehall Street, New York, NY 10004.
Moore-McCormack Lines, Inc., 2 Broadway, New York, NY 10004.
The Postmaster General, Attention: Thomas F. Meagher, Jr., Esq., Assistant General Counsel, Transportation, Law Department, U.S. Postal Service, Room 4226, Washington, DC 20260.
Baldvin Einarson, Esq., Kirlin, Campbell & Keating, 120 Broadway, New York, NY 10005 (Attorney for parties to Agreement).

[FR Doc.71-15955 Filed 11-1-71;8:51 am]

[General Order 27]

FINANCIAL RESPONSIBILITY FOR OIL POLLUTION CLEANUP

Rescission of Notice of Substantial Compliance

On March 26, 1971, the Federal Maritime Commission published notice in the FEDERAL REGISTER (36 F.R. 5751) that pending further notice, any vessel subject to the financial responsibility provisions of section 11(p)(1) of the Federal Water Pollution Control Act, as amended, and the provisions of Part 542 of 46 CFR (Commission General Order 27), for which an application for a Certificate of Financial Responsibility (Oil Pollution) had been filed and required evidence of financial responsibility submitted, but which did not have its certificate aboard, would be deemed to be in substantial compliance with section 11(p)(1) of the Act and the Commission's implementing regulations. Masters of vessels which did not have certificates aboard were asked to have available the following information: (1) Registered name of the vessel; (2) Name of owner or operator having applied for the certificate; and (3) Control or certificate number which had been assigned to each application or certificate by the Federal Maritime Commission.

The purpose of the aforementioned notice was to assure that vessels which had complied with the Commission's financial responsibility requirements, but had not received certificates because of unforeseen events such as the prolonged British postal strike, would not be denied use of U.S. waters, including the Panama Canal.

In the opinion of the Commission, sufficient time has now elapsed for all subject vessels to have issued certificates aboard. All properly filed applications are being processed, and certificates issued, within the 45 day time period allotted by § 542.4(b) of 46 CFR.

Accordingly, the Commission's "Notice of Substantial Compliance," published in the FEDERAL REGISTER on March 26, 1971, is hereby rescinded, effective November 30, 1971. Therefore, on and after December 1, 1971, every vessel subject to the Commission's oil pollution financial responsibility requirements must maintain on board and make available to U.S. Government officials the original or copy of its certificate, pursuant to the provisions of § 542.6(a) of 46 CFR.

By order of the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-15954 Filed 11-1-71;8:53 am]

INTER-AMERICAN FREIGHT CONFERENCE—PUERTO RICO AND U.S. VIRGIN ISLANDS AREA AGREEMENT

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Capt. Frank R. A. Levier, Executive Administrator, Section C, Inter-American Freight Conference, Av. Rio Branco, 156-27°, Andar—Grupos 2707/2711, Rio de Janeiro, Brazil.

Agreement No. 9968, between: Booth/Lamport Joint Service, The Booth Steamship Co., Ltd., as one member only, Lamport & Holt Line, Ltd.; CIA. Agropecuaria Y Maritima Santa Rosa (Lineas Agromar); CIA. De Navegacao Lloyd Brasileiro (Lloyd Brasileiro); CIA. De Navegacao Maritima Netumar; Delta Steamship Lines, Inc. (Delta Line); Empresa Lineas Maritimas Argentinas (E.L.M.A.); High Seas Co. Ltd.; Ivaran Lines (A/S Ivarans Rederi); L. Figueiredo Navegacao S.A.; Montemar S.A. Comercial Y Maritima; Trans-Caribbean Steamship Co. Ltd.; and Westfal-Larsen Line (Westfal-Larsen & Co. A/S), provides for the creation of the Inter-American Freight Conference—Puerto Rico and Virgin Islands Area Agreement, for the establishment and maintenance of rates, rules and regulations to apply on the movement of cargo in the trades, both northbound and southbound, between Brazilian ports and ports in Puerto Rico and the U.S. Virgin Islands.

Dated: October 27, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-15956 Filed 11-1-71;8:51 am]

PACIFIC WESTBOUND CONFERENCE AND STATES MARINE LINES

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements; including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. W. C. Galloway, Chairman, Pacific Westbound Conference, 635 Sacramento Street, San Francisco, CA 94111.

Agreement No. 57-94 reflects a request for a change of membership status of States Marine Lines from that of a regular member to that of an associate member.

Dated: October 27, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-15957 Filed 11-1-71;8:51 am]

THAI MERCANTILE MARINE, LTD., AND P. T. SAMUDERA INDONESIA

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Stanley O. Sher, Esq., Bebchick, Sher & Kushnick, 919 18th Street NW., Washington, DC 20006.

Agreement No. 9967 is a joint service Agreement between Thai Mercantile Marine, Ltd., and P. T. Samudera Indonesia operating in the trades between the U.S. Atlantic, gulf, and west coast ports and ports in Singapore, Thailand, Vietnam, Cambodia, Indonesia, Malaysia, Laos, Burma, Ceylon, India, Pakistan, the Philippines, Taiwan, Hong Kong, Australia, New Guinea, Korea, Japan and "all other ports in the Far East." The parties will confer with each other and file with the Commission tariffs of rates, charges and practices in accordance with the provisions of section 18(b) of the Shipping Act, 1916, in those trades where they are not members of a conference. The parties will discuss and agree on all matters necessary to operate the joint service in an efficient and economical manner including the tonnage to be contributed by each. They shall share the expenses, revenues, profits, and losses of the joint service in such a manner as they shall determine.

Dated: October 27, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-15958 Filed 11-1-71;8:51 am]

FEDERAL POWER COMMISSION

[Docket No. CP72-85]

ARKANSAS LOUISIANA GAS CO.

Notice of Application

OCTOBER 21, 1971.

Take notice that on September 27, 1971, Arkansas Louisiana Gas Co. (applicant), Post Office Box 1734, Shreveport, LA 71151, filed in Docket No. CP 72-85 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the regulations under said Act, for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1972, and operation of certain natural gas facilities to enable applicant to take into its pipeline system supplies of natural gas which will be purchased from producers in the general area of said system, all as more fully set forth

in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment its ability to act with reasonable dispatch in contracting for and connecting supplies of natural gas to its pipeline system. The total cost of the facilities proposed herein will not exceed $6,245,100, with no single project costing in excess of $1 million. Applicant states that these costs will be financed from cash on hand, cash generated from normal operations and from short-term borrowing.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 8, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervent is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-15892 Filed 11-1-71;8:48 am]

[Docket No. CP72-78]

EL PASO NATURAL GAS CO.

Notice of Application

OCTOBER 21, 1971.

Take notice that on September 22, 1971, El Paso Natural Gas Co. (applicant), Post Office Box 1492, El Paso, TX 79978, filed in Docket No. CP72-78 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing: (i) the construction during the calendar year 1972, and limited-term operation of natural gas sales facilities or the limited-term operation of existing sales facilities, where available, to be utilized for its Southern Division System sales, on a direct basis, of natural gas for uses associated with the production of oil or gas other than such uses permitted under § 157.22(b) of the regulations under the Natural Gas Act; and (ii) the Southern Division System sale, on a limited-term basis, during the calendar year 1972, of natural gas for resale for uses associated with the drilling of oil or gas wells; all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The applicant states that it anticipates, during the calendar year 1972, requests for short-term direct gas service for such purposes as pumping, injection, pressure maintenance, equipment fuel, various lease and camp uses and emergency standby service. Applicant also anticipates, during the calendar year 1972, requests for both direct and resale gas service for use in drilling oil or gas wells. In addition to the certificate authorizations requested, applicant states that it will file annually with the Commission data required by § 157.7(c)(8) of the Commission's regulations under the Natural Gas Act with respect to each new project supplied with gas pursuant to the instant authorization sought herein.

Under the budget-type construction authorizations requested, applicant would not, during the term therefor, install more than 25 separate sales facility installations, and their aggregate installed cost would not exceed $42,500.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 8, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on its application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-15893 Filed 11-1-71;8:48 am]

[Docket No. CP69-251]

MICHIGAN WISCONSIN PIPE LINE CO. AND NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Petition To Amend

OCTOBER 21, 1971.

Take notice that on September 22, 1971, Michigan Wisconsin Pipe Line Co. (Michigan Wisconsin), 1 Woodward Avenue, Detroit, MI 48226, and Natural Gas Pipeline Company of America (Natural), 112 South Michigan Avenue, Chicago, IL 60603, filed in Docket No. CP69-251, a petition to amend the orders of the Commission heretofore issued in said docket pursuant to section 7(c) of the Natural Gas Act, on May 20, 1969 (41 FPC 655), as amended on April 21, 1970 (43 FPC 556), and on August 20, 1971 (46 FPC ——), by authorizing the exchange of additional volumes of natural gas between the parties and the construction and operation of an additional exchange point in Cameron Parish, La., all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The order of May 20, 1969, as amended, authorized, inter alia, the construction and operation of facilities and the exchange of natural gas by petitioners. Petitioners propose herein to construct and operate an additional exchange point on Natural's 30-inch pipeline in Cameron Parish. Michigan Wisconsin will deliver up to 10,000 Mcf per day to Natural at this point. This volume will be in excess of the presently authorized delivery of up to 125,000 Mcf per day at the existing delivery points. Natural will redeliver equivalent volumes to Michigan Wisconsin at one or both of the exchange points in Wheeler and Hansford Counties, Tex.

Petitioners state that the proposed facilities and exchange will reduce the facilities required and the costs incurred by Michigan Wisconsin in connecting reserves in the Deep Bayou Field, Cameron Parish, La., and will afford Natural additional operating flexibility. The estimated cost of the facilities necessary for the additional delivery point is $15,300, which cost will be reimbursed to Natural by Michigan Wisconsin.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 8, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

Docket No.	Date filed	Name of applicant
CS72-302	10- 4-71	PetroDynamics, Inc. (Operator), et al., Post Office Box 10006, Amarillo, TX 79106.
CS72-303	10- 4-71	John J. Redfern, Jr., Post Office Box 1747, Midland, TX 79701.
CS72-304	10- 4-71	W. M. Gallaway, 101-2 Petroleum Plaza Bldg., Farmington, N. Mex. 87401.
CS72-305	10- 4-71	Kenneth C. English, 4815 Republic National Bank Tower, Dallas, Tex. 75201.
CS72-306	10- 4-71	Don C. Rider, 104 West Lockwood St., Medicine Lodge, KS 67104.
CS72-307	10- 5-71	Western Petroleum Co., Operator, Post Office Box 149, Sapulpa, OK 74066.
CS72-308	10- 5-71	George W. Moran, 9836 Shadydale Lane, Dallas, TX 75238.
CS72-309	10- 5-71	Gary E. Reagan, Post Office Box 52401 OCS, Lafayette, LA 70501.
CS72-310	10- 5-71	Morris E. Pyle, Post Office Box 51601 OCS, Lafayette, LA 70501.
CS72-311	10- 4-71	Husky Producing Co., Post Office Box 380, Cody, WY 82414.
CS72-312	10- 7-71	Dwight E. Hutchison, Post Office Box 38, Spearman, TX 79081.
CS72-313	10- 8-71	The Pardee Co., Post Office Box 299, Minden, LA 71055.
CS72-314	10-12-71	Damson Exploration Funds, Inc., 366 Madison Ave., New York, NY 10017.
CS72-315	10- 8-71	Waymon G. Peavy, 3330 Republic National Bank Tower, Dallas, TX 75201.
CS72-316	10- 8-71	John C. Pickett, Box 842, Aztec, NM 87410.
CS72-317	10-12-71	J. Olenn Turner, 1700 Mercantile Bank Bldg., Dallas, Tex. 75201.
CS72-318	10-12-71	R. P. Brandenburg, 313 Hightower Bldg., Oklahoma City, Okla. 73102.

[FR Doc.71-15894 Filed 11-1-71;8:48 am]

[Docket No. CS72-302 etc.]

PETRODYNAMICS, INC., ET AL.

Notice of Applications for "Small Producer" Certificates [1]

OCTOBER 22, 1971.

Take notice that each of the applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 15, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[FR Doc.71-15836 Filed 11-1-71;8:45 am]

FEDERAL RESERVE SYSTEM

ASSOCIATED BANK SERVICES, INC.

Notice of Applications for Approval of Acquisition of Shares of Banks

Notice is hereby given that two separate applications have been made, as listed below, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Associated Bank Services, Inc., which is a bank holding company located in Green Bay, Wis.

1. Application for prior approval by the Board of Governors of the acquisition by applicant of 80 percent or more of the voting shares of American National Bank of Green Bay, Wis.

2. Application for prior approval by the Board of Governors of the acquisition by applicant of 80 percent or more of the voting shares of Neenah West National Bank, Neenah, Wis.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisitions may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The applications may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Chicago.

Board of Governors of the Federal Reserve System, October 26, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-15895 Filed 11-1-71;8:48 am]

BANKS OF IOWA, INC.

Notice of Applications for Approval of Acquisition of Shares of Banks

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Banks of Iowa, Inc., which is a bank holding company located in Cedar Rapids, Iowa, for prior approval by the Board of Governors of the acquisition by applicant of 80 percent or more of the voting shares of Council Bluffs Savings Banks, Council Bluffs, Iowa.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country

may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Chicago.

Board of Governors of the Federal Reserve System, October 27, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-15896 Filed 11-1-71;8:48 am]

FIRST CHICAGO CORP.

Proposal To Engage in Real Property Leasing

First Chicago Corp., Chicago, Ill., a bank holding company, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843 (c)(8)) and § 222.4(a) of the Board's Regulation Y, for permission to engage, through its subsidiary, First Chicago Leasing Corp., in certain activities involving the leasing of real property to McDonald's Corp., Chicago, Ill. Notice of the application to engage in certain real property leasing activities was published on August 4, 1971, in the Chicago Daily News, a newspaper circulated in Chicago. Such notice described the activities as follows: "Leasing real property, or acting as agent, broker, or adviser in leasing of such property, where at the inception of the initial lease the expectation is that the effect of the transaction and reasonably anticipated future transactions with the same lessee as to the same property will be to compensate the lessor for not less than the lessor's full investment in the property."

The Board has determined that leasing personal property under substantially similar conditions as those proposed is so closely related to banking or managing or controlling banks as to be a proper incident thereto (§ 222.4(a)(6) of the Board's Regulation Y) but has made no such determination with respect to the leasing of real property.

Interested persons may express their views on whether such real property leasing activities, under the circumstances described, are so closely related to banking or managing or controlling banks as to be a proper incident thereto.

Interested persons may also express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."

Any requests for a hearing on this question, or on the question whether the proposed activities are activities so closely related to banking or managing or controlling banks as to be a proper incident thereto, should be accompanied by a statement summarizing the evidence that the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected in Room 1020 of the Board's building or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 26, 1971.

Board of Governors of the Federal Reserve System, October 26, 1971.

[SEAL] TYNAN SMITH,
Secretary.

[FR Doc.71-15897 Filed 11-1-71;8:48 am]

FIRSTBROOK CORP.

Notice of Applications for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), by Firstbrook Corp., Chicago, Ill., for prior approval by the Board of Governors of action whereby applicant would become a bank holding company through the acquisition of 80 percent or more of the outstanding voting shares of Northbrook Trust & Savings Bank, Northbrook, Ill.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Chicago.

Board of Governors of the Federal Reserve System, October 27, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-15898 Filed 11-1-71;8:48 am]

NORTRUST BANK

Order Approving Application for Merger of Banks Under Bank Merger Act

In the matter of the application of Nortrust Bank, Chicago, Ill., for approval of merger with The Northern Trust Co., Chicago, Ill.

There has come before the Board of Governors, pursuant to the Bank Merger Act (12 U.S.C. 1828(c)), an application by Nortrust Bank, a proposed member State bank of the Federal Reserve System, for the Board's prior approval of the merger of that bank with The Northern Trust Co., Chicago, Ill., under the charter of the former and the name of the latter. Notice of the proposed merger, in form approved by the Board, has been published as required by said Act.

In accordance with the Act, the Board requested reports on competitive factors involved from the Attorney General, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation. The Board has considered all relevant material contained in the record in the light of the factors set forth in the Act, including the effect of the proposal on competition, the financial and managerial resources and prospects of the banks concerned, and the convenience and needs of the communities to be served.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized in the Board's order of this date relating to the application of Nortrust Corp. to become a bank holding company: *Provided,* That said merger shall not be consummated (a) before the 30th calendar day following the date of this order, or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[1] October 26, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-15899 Filed 11-1-71;8:48 am]

NORTRUST CORP.

Order Approving Action To Become Bank Holding Company

In the matter of the application of Nortrust Corp., Chicago, Ill., for approval of action to become a bank holding company through the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The Northern Trust Co., Chicago, Ill.

There has come before the Board of Governors, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Nortrust Corp., Chicago, Ill., for the Board's prior approval of action whereby applicant would become a bank holding company through the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The Northern Trust Co., Chicago, Ill. (Bank).

The bank into which Bank is to be merged has no significance except as a means of acquiring the voting shares of Bank. Accordingly, the proposed acquisition of the shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Commissioner of Banks and Trust Companies for the State of Illinois and requested his views and recommendation. The Commissioner recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on September 30, 1971 (36 F.R. 19195), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the Banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant is a newly organized corporation formed for the purpose of becoming a bank holding company. Bank, with deposits of $1.4 billion as of December 31, 1970, is the fourth largest bank in the city of Chicago and the State of Illinois.

Inasmuch as the proposal constitutes a corporate reorganization and reflects no expansion of corporate interest or significant change in the character of the banking facilities involved, consummation of the proposal would eliminate neither existing nor potential competition, nor does it appear that there would be any adverse effects on any bank in the area.

The financial and managerial resources and prospects of applicant and Bank are regarded as generally satisfactory and consistent with approval of the application. The convenience and needs of the communities involved would not be immediately affected by consummation of this proposal but improved services may be provided in the future under the more flexible corporate structure of the holding company. It is the Board's judgment that the transaction would be in the public interest, and that the application should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above: *Provided,* That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[1] October 26, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-15900 Filed 11-1-71;8:48 am]

MOUNTAIN BANKS, LTD.

Notice of Application for Approval of Acquisition of Shares of Banks

Notice is hereby given that application has been made, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), by Mountain Banks, Ltd., Englewood, Colo., for prior approval by the Board of Governors of action whereby applicant would become a bank holding company through the acquisition of at least 51 percent of the voting shares of The First National Bank of Pueblo, Pueblo; Park National Bank of Pueblo, Pueblo; The Exchange National Bank of Colorado Springs, Colorado Springs; Cherry Creek National Bank, Denver; and South Denver National Bank, Glendale (Post Office Denver), all in Colorado.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Kansas City.

Board of Governors of the Federal Reserve System, October 26, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-15901 Filed 11-1-71;8:49 am]

UNITED JERSEY BANKS

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the applications of United Jersey Banks, Hackensack, N.J., for approval of acquisition of 100 percent of the voting shares of Peoples Bank of South Bergen County, Carlstadt, Peoples Bank of Montvale, Montvale, and Peoples Bank of Ridgewood, Ridgewood, all in New Jersey.

There have come before the Board of Governors pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), applications by United Jersey Banks, Hackensack, N.J., for the Board's prior approval of the acquisition of 100 percent of the voting shares of Peoples Bank of South Bergen County, Carlstadt (Peoples Carlstadt), Peoples Bank of Montvale, Montvale (Peoples Montvale), and Peoples Bank of Ridgewood, Ridgewood (Peoples Ridgewood), all in New Jersey.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the applications to the New

[1] Voting for this action: Chairman Burns and Governors Mitchell, Daane, and Sherrill. Absent and not voting: Governors Robertson, Maisel, and Brimmer.

[1] Voting for this action: Chairman Burns and Governors Mitchell, Daane, and Sherrill. Absent and not voting: Governors Robertson, Maisel, and Brimmer.

FEDERAL REGISTER, VOL. 36, NO. 211—TUESDAY, NOVEMBER 2, 1971

Jersey Commissioner of Banking and requested his views and recommendation. The Commissioner recommended approval of the applications.

Notice of receipt of the application was published in the FEDERAL REGISTER on August 19, 1971 (36 F.R. 16146, 16147), providing an opportunity for interested persons to submit comments and views with respect to the proposal. Copies of the applications were forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the applications in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisitions on competition, the financial and managerial resources and future prospects of the applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant, with six subsidiary banks holding aggregate deposits of $856 million, is the second largest banking organization in New Jersey with 5.7 percent of the commercial bank deposits in the State. (All banking data are as of December 31, 1970, and reflect holding company formations and acquisitions approved through August 31, 1971.) The three proposed subsidiaries Peoples Carlstadt, Peoples Montvale, and Peoples Ridgewood, with deposits of $4.7 million, $4 million, and $1 million, respectively, and applicant's lead bank, Peoples Trust of New Jersey, Hackensack, N.J. (Peoples Trust) with deposits of $652 million, are all located in the Paterson banking market which is approximated by Passaic and Bergen Counties. Applicant presently ranks as the largest banking organization in the market with control of 18.8 percent of deposits. Acquisition of the proposed subsidiaries would increase control by only 0.1 percent of market deposits. Although the separate and distinct service areas of the proposed subsidaries are within the service area of Peoples Trust, there is no real existing competition between them because the three banks were sponsored by principals of Peoples Trust and have been affiliated with Peoples Trust or applicant since their formation. On the same basis and because the likelihood of disaffiliation appears to be remote, significant potential competition does not appear to be foreclosed by approval of the applications. Nevertheless, unconditional approval of these applications would appear to have an adverse competitive impact in that home office protection could be perpetuated in two of the three communities, Carlstadt and Montvale, both of which are growing rapidly and should be attractive for future branch entry. Charter restrictions imposed by the New Jersey Commissioner of Banking prohibit merger by the three banks for a period of 5 years from their respective dates of charter. These restrictions will expire in 1973 and 1974. However, possible anticompetitive effects of approval could be eliminated if home office protection were not perpetuated. Consequently, approval of the applications is conditioned upon applicant filing merger applications and, subject to supervisory approval, merging the three banks with Peoples Trust within 5 years of the date of this order so as to remove or aid in removing home office protection from the respective communities unless, within such 5-year period, there is a change in New Jersey law which would accomplish the same result. On that basis and after consideration of the record, the Board concludes that no significant adverse competitive effects are likely to result from approval of the applications.

The financial and managerial resources and future prospects of applicant, its subsidiaries, and the proposed subsidiaries appear to be satisfactory. Although approval of the applications is not expected to result in any significant new services, considerations related to convenience and needs of the communities involved as well as to financial and managerial resources are consistent with approval.

It is hereby ordered, On the basis of the record, that said applications be and hereby are approved for the reasons summarized above: *Provided*, That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order, or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of New York pursuant to delegated authority, and,

It is further ordered, That applicant shall file merger applications and, subject to supervisory approval, merge the three banks with Peoples Trust of New Jersey, Hackensack, N.J., within 5 years of the date of this order so as to remove or aid in removing home office protection unless, within such 5-year period, there is a change in New Jersey law which would accomplish the same result.

By order of the Board of Governors,[1] October 26, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-15902 Filed 11-1-71;8:49 am]

[Regs. G, T, and U]

OTC MARGIN STOCK

Changes in List

The following changes have been made, effective October 27, 1971, in the List of OTC Margin Stocks, as of July 12, 1971, published in the FEDERAL REGISTER on July 17, 1971.

1. Deletions: (stocks now registered on national securities exchanges) American Medicorp, Inc., $0.01 par common; Capital Holding Corp., $1 par common; Continental Investment Corp., $1 par common; General Medical Corp., $1 par common; International Multifoods Corp., $1 par common; Lane Wood, Inc., no par common; and Mohawk Rubber Co., $1 par common; (stocks of companies acquired by other firms) Eastern Life Insurance Company of New York, $1 par common; and Water Treatment Corp., common.

2. Changes: Eastern Shopping Centers, Inc., $5 par common is changed to Mortgage Growth Investors, $5 par common; First City National Bank of Houston, $10 par common-capital now reads as First City Bancorporation of Texas, Inc., $10 par common; International Book Corp., $1.02 par common because IBC Industries Inc., $0.02 par common; and Tassette, Inc., Class A, $0.10 par common is renamed Tassaway, Inc., Class A, $0.10 par common.

Board of Governors of the Federal Reserve System, by its Director of Supervision and Regulation pursuant to delegated authority (12 CFR 265.2(c)(13)), October 27, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-15903 Filed 11-1-71;8:49 am]

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

CERTAIN COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN MAURITIUS

Entry or Withdrawal From Warehouse for Consumption

OCTOBER 23, 1971.

On August 25, 1971, the U.S. Government requested the Government of Mauritius to enter into consultations concerning exports t. the United States of cotton[1] textile products in Category 39 produced or manufactured in Mauritius. Public notice of this request was published in the FEDERAL REGISTER on September 18, 1971 (36 F.R. 18681). In that request the U.S. Government indicated the specific level at which it considered that exports in this category from Mauritius should be restrained for the 12-month period beginning August 25, 1971, and extending through August 24, 1972. Since no solution has been mutually agreed upon the U.S. Government in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, including Article 3, paragraph 3 and Article 6(c) which relates to nonparticipants, is establishing a restraint at the level indicated in that request for the 12-month period beginning August 25, 1971, and extending through August 24, 1972. This restraint does not apply to cotton textile products in Category 39, produced or manufactured in Mauritius exported to the United States prior to the beginning of the designated 12-month period.

There is published below a letter of October 23, 1971, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, directing that the amount of cotton textile products in Category 39, produced or manufactured in Mauritius, which may be entered or withdrawn from warehouse for consumption in the United States for the 12-month period beginning August 25, 1971, be limited to the designated level.

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.

SECRETARY OF COMMERCE

PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE

COMMISSIONER OF CUSTOMS,
Department of the Treasury, Washington, D.C. 20226.

OCTOBER 23, 1971.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, including Article 6(c) thereof relating to nonparticipants, and in accordance with the procedures outlined in Executive Order 11052 of September 28, 1962, as amended by Executive Order 11214 of April 7, 1965, you are directed to prohibit, effective as soon as possible, and for the 12-month period beginning August 25, 1971, and extending through August 24, 1972, entry into the United States for consumption and withdrawal from warehouse for consumption, of cotton textile products in Category 39, produced or manufactured in Mauritius, in excess of a level of restraint for the period of 21,680 dozen pairs.[1]

In carrying out this directive, entries of cotton textile products in Category 39, produced or manufactured in Mauritius and which have been exported to the United States from Mauritius prior to August 25, 1971, shall not be subject to this directive.

Cotton textile products which have been released from the custody of the Bureau of Customs under the provisions of 19 U.S.C. 1448(b) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of Category 39, in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on October 9, 1971 (36 F.R. 19722).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Mauritius and with respect to imports of cotton textile products from Mauritius have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

MAURICE H. STANS,
Secretary of Commerce, Chairman, President's Cabinet Textile Advisory Committee.

[FR Doc.71-15914 Filed 11-1-71;8:52 am]

[1] Voting for this action: Chairman Burns and Governors Mitchell, Daane, and Sherrill. Absent and not voting: Governors Robertson, Maisel, and Brimmer.

[1] This level has not been adjusted to reflect any entries made on or after Aug. 25, 1971.

INTERNATIONAL JOINT COMMISSION—UNITED STATES AND CANADA

WATER POLLUTION IN THE NIAGARA RIVER AREA

Notice of Public Meeting

Notice is hereby given that the International Joint Commission will convene a public international meeting on December 16, 1971, at 9 a.m., in the Council Chambers, City Hall; Niagara Falls, N.Y., to inquire into the progress made in the United States and Canada since 1967 in abatement of pollution of the Niagara River from municipal and industrial sources and to ascertain why the water quality objectives for the river are not being met. A summary report on pollution abatement progress in the Niagara River Area from 1967 to August 1971 has been prepared for the Commission by its Lakes Erie-Ontario Advisory Board and is being made available to those interested.

At the meeting, the Commission will invite water pollution control agencies and enforcement authorities in both countries to describe the progress in abatement programs they have underway and their timetables for achievement of the established water quality objectives in the Niagara River.

The Commission will also receive written statements from others who may wish to submit them and will entertain requests for time for oral presentations. Depending on the number of persons wishing to be heard, the Commission may have to limit the time allotted each witness. While not mandatory, written statements are desirable to supplement oral testimony and insure accuracy of the record. When a written statement is presented, thirty (30) copies should be provided for Commission purposes. Additional copies of written statements may be deposited with the Secretaries at the hearings for distribution to the news media and others interested.

Copies of the report Niagara River Pollution Abatement Progress 1971 may be obtained free of charge from the Secretaries of the Commission at either of the addresses noted below.

W. A. BULLARD,
Secretary, U.S. Section, International Joint Commission, Washington, D.C.

D. G. CHANCE,
Secretary, Canadian Section, International Joint Commission, 151 Slater Street, Suite 850, Ottawa, ON, Canada.

OCTOBER 28, 1971.

[FR Doc.71-15936 Filed 11-1-71;8:52 am]

SECURITIES AND EXCHANGE COMMISSION

[70-5106]

KENTUCKY POWER CO.

Notice of Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding

OCTOBER 26, 1971.

Notice is hereby given that Kentucky Power Co. (Kentucky Power), 15th Street and Carter Avenue, Ashland, KY 41011, an electric utility subsidiary company of American Electric Power Co., Inc. (AEP), a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating section 6(b) of the Act and Rules 42 and 50 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Kentucky Power proposes to issue and sell, pursuant to the competitive bidding requirements of Rule 50 under the Act, $50 million aggregate principal amount of first mortgage bonds. The proposed series of bonds will bear a single maturity date within the range of from 5 to 30 years, such maturity date to be determined not less than 72 hours prior to the opening of the bids. The interest rate of the bonds (which shall be a multiple of one-eighth of 1 percent) and the price to be paid to Kentucky Power (which shall not be less than 99 percent nor more than 102¾ percent of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under and pursuant to the provisions of the Mortgage and Deed of Trust, dated as of May 1, 1949, between Kentucky Power and Bankers Trust Co., as trustee, as heretofore supplemented and amended and as to be further supplemented and amended by a Supplemental Indenture to be dated as of the first day of the month in which the bonds are issued and which includes a prohibition until December 1, 1976, against refunding the issue with the proceeds of funds borrowed at a lower interest cost.

Kentucky Power will apply the proceeds from the sale of the bonds, together with other available funds, to prepay short-term notes to banks outstanding in the amount of $9,200,000 to prepay to the extent available long-term notes due December 31, 1972, outstanding in the amount of $92 million issued in connection with Kentucky Power's construction program, to reimburse its treasury for money actually expended for such purposes, and for working capital. It is estimated that Kentucky Power's construction program for the last quarter of 1971 and for 1972 will cost approximately $12 million.

It is stated that the Public Service Commission of Kentucky has jurisdiction over the issue and sale of the bonds and that no other State commission and no Federal commission, other than this

Commission, has jurisdiction over the proposed transaction. The fees and expenses to be incurred by Kentucky Power in connection with the proposed issue and sale of the bonds will be supplied by amendment.

Notice is further given that any interested person may, not later than November 24, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-15922 Filed 11-1-71;8:50 am]

[File Nos. 2-31416; 22-5354]

OWENS-CORNING FIBERGLAS CORP.

Notice of Application and Opportunity for Hearing

Notice is hereby given, that Owens-Corning Fiberglas Corp. (the company) has filed an application pursuant to section 310(b)(1)(ii) of the Trust Indenture Act of 1939, as amended (the Act) for a finding by the Securities and Exchange Commission (the Commission) that the trusteeship of Morgan Guaranty and Trust Company of New York (Morgan) under an indenture heretofore qualified under the Act, and a new indenture not qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Morgan from acting as Trustee under both indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in such section) it shall within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such section provides, in effect, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same obligor are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the same obligor are outstanding, if the obligor shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under both indentures.

That company alleges that:

(1) It has issued an outstanding $30 million principal amount of 6⅞ percent Sinking Fund Debentures due February 1, 1994 under an Indenture, dated as of February 1, 1969 ("the 1969 Indenture") between the company and Morgan and qualified under the Act.

(2) Morgan has entered into an Indenture dated as of August 1, 1971 ("the 1971 Indenture") with Owens-Corning Fiberglas Finance N.V. (Finance) and the company pursuant to which there have been issued $20 million principal amount of Finance's 9 percent Guaranteed Sinking Fund Debentures due August 1, 1986. The company is a party to the 1971 Indenture solely as a guarantor of the Debentures issued thereunder. Inasmuch as the Debentures issued under the 1971 Indenture have been offered and sold outside the United States, its territories and possessions to persons who are not nationals or residents thereof, the 1971 Indenture has not been qualified under the Act and the Debentures issued thereunder have not been registered under the Securities Act of 1933.

(3) The 1969 Indenture and the 1971 Indenture are wholly unsecured and the company is not in default under either Indenture. All debentures issued under the 1969 Indenture rank equally with the guarantee of the company of the Debentures issued under the 1971 Indenture. Except for variations as to amounts, dates, and interest rates and certain other figures, with certain exceptions set forth in the application, the provisions of the 1969 Indenture and the 1971 Indenture are substantially identical.

(4) Such differences as exist between the 1969 Indenture and the 1971 Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Morgan from acting as Trustee under both Indentures.

The company has waived notice of hearing, and hearing, in connection with the matter referred to in this application.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to the application, which is a public document on file in the offices of the Commission at 500 North Capitol Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than November 17, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-15923 Filed 11-1-71;8:50 am]

TENNESSEE VALLEY AUTHORITY

ENVIRONMENTAL QUALITY MANAGEMENT

Policy, Delegations, Reservations, and Procedures

The following statement of policy and procedure for environmental quality management has been approved by the Board of Directors in accordance with requirements of the National Environmental Quality Act of 1969, Executive Order 11514, and requests from and guidelines issued by the Council on Environmental Quality. The text of the code reported herein was approved after consultation with the Council on Environmental Quality and revises and supersedes a policy statement on environmental quality management approved by the Board on February 25, 1971, and instructions issued thereunder.

In accordance with 5 U.S.C. section 553, a general preliminary notice and public procedure is unnecessary.

The Board of Directors approved the following policy, delegations, reservations, and procedures on October 15, 1971. They supersede the "Policy" and "Reservations" approved on February 25, 1971.

Policy. TVA recognizes that maintenance of a quality environment is of major importance to the Nation.

Protection and enhancement of environmental quality is an integral part of TVA's concept of unified development of the resources of the region. The TVA program relating to environmental quality is carried on through ongoing programs related to development of particular resources, such as water resources, recreation resources, and electric power production resources, and a diverse environmental quality control research and development program. These programs are conducted so as to provide, for both the present and future, a wide range of beneficial uses of the environment.

At the earliest possible stage in planning its activities, TVA considers their environmental impact in a broad, interdisciplinary manner, which includes the natural and social sciences and the environmental design arts. TVA consults with other Federal agencies, at the regional and national levels according to the preferences of the agency, and coordinates with State, regional, and local governmental agencies when preliminary overall plans and analyses are available. TVA also consults with other interested groups and individuals regarding TVA activities which may have a significant impact on the quality of the human environment. To the fullest extent practicable, TVA assesses potential environmental impacts to avoid or minimize adverse effects and to restore or enhance environmental quality.

Reservations. The Board of Directors determines TVA policies relating to programs for protection and enhancement of environmental quality and to major TVA actions which may have a significant adverse impact on environmental quality.

Delegations. The General Manager:

1. Coordinates implementation of the policy, approves and issues supplemental procedures, and insures agency compliance with all applicable laws and regulations.

2. Approves environmental statements.

3. Determines at what stage or stages of a series of actions relating to a particular matter the environmental statement procedures under this code will be applied.

4. Insures that appropriate assistance is given to the Council on Environmental Quality.

5. Consults with the Board as he deems appropriate.

The Division of Law:

1. Determines and advises the General Manager and interested offices and divisions as to applicable legal requirements relating to environmental matters and reviews documents for legal significance and conformity with such requirements.

2. Conducts public hearings and conducts or coordinates TVA's presentations at hearings conducted by other agencies.

The Office of Health and Environmental Science:

1. In cooperation with interested offices and divisions, recommends to the General Manager supplemental procedures relating to environmental statements.

2. In cooperation with interested offices and divisions, plans, formulates, and recommends policies and programs relating to protection and enhancement of the environment. Specifically, it:

a. Collaborates with other offices and divisions in considering the environmental implications of major actions being planned by TVA.

b. Provides technical guidance and assistance to other TVA offices and divisions in planning and implementing the environmental aspects of their activities.

c. Maintains liaison with the Council on Environmental Quality and in coordination with other offices and divisions, consults with the Council on Environmental Quality concerning the identification and development of methods and procedures which will insure that presently unquantified environmental amenities and values are given appropriate considerations in TVA planning processes along with economic and technical considerations.

d. Makes available, in cooperation with other offices and divisions to States, counties, municipalities, institutions, and individuals advice and information useful in restoring, maintaining, and enhancing the quality of the environment.

e. Initiates and coordinates the utilization of ecological information in the planning and development of resource oriented projects.

f. Administers cooperative relationships, as appropriate, with Federal, regional, State, and local agencies and other groups and individuals concerned with environmental quality management.

g. Monitors, conducts primary research on, and assesses the impact on environmental quality of TVA actions.

3. Throughout the formulative stages of proposals for TVA actions and in cooperation with other TVA offices and divisions, reviews and balances environmental and nonenvironmental considerations (including unquantified as well as quantified environmental amenities and values along with economic and technical considerations) and advises the initiating office or division of the results thereof. It advises the General Manager of TVA proposals for major actions having a significant environmental impact where, at its discretion, a review and balancing of environmental and nonenvironmental considerations should be undertaken by the General Manager at a stage in the planning process earlier than that at which he would normally do so.

Offices and Divisions:

1. In collaboration with the Office of Health and Environmental Science, evaluate the environmental impact of potential TVA actions at the earliest possible stage in planning and as an integral part of the feasibility, technical, and/or other evaluations.

2. Carry out the responsibilities assigned to them by procedures issued by the General Manager. They consider environmental quality implications at the earliest possible stage in planning their actions. Where significant environmental implications exist, they forward appropriate information to the Office of Health and Environmental Science. Based on their expertise or interest, they provide advice and assistance to the Office of Health and Environmental Science and cooperate with that office in its studies and evaluations of potential environmental impacts.

3. Use a systematic, interdisciplinary approach incorporating the natural and social sciences and the environmental design arts in the planning and consideration of major TVA actions which may have an impact on man's environment.

4. Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources.

5. Identify and analyze worldwide and long-range character of environmental problems arising out of TVA actions or proposed actions, and coordinate with the Office of Health and Environmental Science the lending of TVA support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment.

Procedures. A. Definitions.

1. The term "action" as used herein includes projects; programs; continuing activities; approvals under section 26a of the TVA Act and regulations issued thereunder; sales, leases, and licenses of real property; legislative proposals; regulations; procedures; classes of action; or changes in any of the foregoing.

2. The term "action" as used herein may include both proposed actions and ongoing actions.

3. The term "class of action" means a type of action undertaken frequently, or a program which involves numerous similar types of acts, as for example, TVA's coal procurement program, or an action having other actions as included components, as for example, the construction of a dam and reservoir.

B. Initial Environmental Evaluations.

At the earliest possible stage in planning for potential TVA actions, and as an integral part of the feasibility, technical and/or other evaluations, the initiating office or division, in collaboration with the Office of Health and Environmental Science and other appropriate offices and divisions, evaluates the environmental impacts involved. In doing so, it utilizes ecological and other pertinent information and examines:

1. Compatible uses of the environment;

2. Unavoidable adverse environmental impacts;

3. Alternative means for achieving the intended benefits of the Proposal and the environmental impacts thereof;

4. Cumulative and long-range impacts;

5. Unquantified values and amenities;

6. The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity;

7. Irreversible and irretrievable commitments of resources; and

8. Economic effects of the proposed action (including cost benefit analyses where appropriate).

C. Determination of Applicability of National Environmental Policy Act section 102(2)(C).

1. During, or at the earliest practicable stage following, the evaluation described in section B hereof, the initiating office or division promptly notifies the Office of Health and Environmental Science and the Division of Law if the evaluation discloses that the action may affect the quality of the human environment.

2. Actions which may affect the quality of the human environment and which require notice to the Office of Health and Environmental Science and the Division of Law include but are not limited to:

a. Water resource and other natural resource development or reclamation projects;

b. New power-generating facilities, or significant modifications to existing facilities;

c. Transmission system facilities;

d. Urban and industrial development proposals;

e. Weed and vector control methods;

f. Major recreation facilities;

g. Proposals for and policies related to the use and disposal of TVA lands and land rights;

h. Effluent-producing facilities or any use of TVA land which may result in the production or deposit of effluent;

i. Recommendations or reports relating to legislation or appropriations;

j. Permits under section 26a of the TVA Act;

k. TVA policy-, procedure-, and regulation-making; and

l. Any action, the environmental impact of which is anticipated to be highly controversial.

3. At the same time the notice required by section C(1) is given, the initiating office or division forwards a preliminary determination as to whether the action is a major action significantly affecting the quality of the human environment.

4. The initiating office or division promptly requests the concurrence of the Office of Health and Environmental Science and the Division of Law in its determination. Forwarded with the request for concurrence is a description of the proposed action and a discussion of the basis for the determination.

5. If the Office of Health and Environmental Science and the Division of Law both concur, the determination is a final determination.

6. If either the Office of Health and Environmental Science or the Division of Law does not concur, the matter is decided by the General Manager consistent with legal determinations made by the General Counsel.

7. The General Manager is notified of all determinations that an action is a major action significantly affecting the quality of the human environment.

8. Where an action is determined to be a major action significantly affecting the quality of the human environment, an environmental statement will be prepared in accordance with the procedures described below. The General Manager may direct that a statement be prepared having a different scope from that dealt with in the determination described above. For example, he may direct that a statement be prepared dealing with a program or policy rather than an individual action.

9. The General Manager may also determine that preparation of a statement should be delayed while further study is made of the action or its potential environmental consequences.

D. Review Preceding Preparation of Draft Environmental Statements.

1. Subject to and consistent with any determinations made by the General Manager under sections C (8) and (9), the initiating office or division provides the Office of Health and Environmental Science and other interested offices and divisions with detailed information concerning the action, including proposed implementation dates, if possible.

2. The initiating office or division requests from other offices and divisions comments relating to the environmental impacts of the action as they relate to the expertise or program interests of the respective offices and divisions.

3. Offices and divisions send their comments to the initiating office or division with a copy to the Office of Health and Environmental Science.

4. The initiating office or division reviews the proposal with the Office of Health and Environmental Science. This review includes a discussion of the comments received and the alternatives evaluated.

5. The Office of Health and Environmental Science advises the initiating office or division of changes which it deems environmentally desirable and assists in further evaluation of the action.

E. Preparation of Preliminary Draft Environmental Statements.

1. The initiating office or division is responsible for preparation of a preliminary draft environmental statement.

2. The preliminary draft is prepared upon completion of necessary investigations and analysis, including engineering or technical feasibility, economic analysis, environmental studies, and investigations of alternatives.

3. The statement is prepared either prior to or simultaneously with the planning report, if any. If no planning report is to be prepared, the statement is prepared as early as practicable.

4. In all cases, the statements are prepared in sufficient time to meet the requirements of the CEQ guidelines, these procedures and other applicable requirements. Normal time schedules may be modified as provided in section 10(d) of the CEQ guidelines.

5. Draft statements prepared after the effective date of this instruction will include:

a. A summary sheet;

b. A detailed description of the proposed action;

c. A description of the environmental impacts of the proposed action, including impacts on unquantified environmental values and amenities;

d. A description of the adverse environmental effects which cannot be avoided should the proposal be implemented;

e. A discussion of alternatives to the proposed action;

f. A discussion of the relationship between local short-term uses of man's environment and the maintenances and enhancement of long-term productivity;

g. A discussion of any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented; and

h. A discussion of the economic effects of the action.

F. Review of Preliminary Draft Environmental Statements.

1. The preliminary draft is reviewed by the Office of Health and Environmental Science, the Division of Law, and other interested offices and divisions, including all of those involved in earlier planning.

2. The initiating office or division, with the advice and assistance of the Office of Health and Environmental Science, reviews all comments received, modifies the statement as appropriate, and submits it to the Office of Health and Environmental Science.

3. Completion deadlines for handling of the statements are established by the initiating office or division in consultation with the Office or Health and Environmental Science and other interested offices and divisions.

4. The Office of Health and Environmental Science obtains approval of the draft statement from the Division of Law and transmits it to the General Manager.

5. Accompanying the statement when it is sent to the General Manager are recommendations, made in consultation with the initiating office or division, the Division of Law, and the Division of Navigation Development and Regional Studies, regarding formal consultation and review with Federal, State, regional, and local governmental agencies and regarding the holding of public hearings. The General Manager determines whether a public hearing is to be held and makes such other determinations regarding consultation and review as he deems appropriate.

G. External Review of Draft Environmental Statements.

1. The General Manager transmits the draft statement to the Council on Environmental Quality.

2. The Office of Health and Environmental Science, by requesting comments on the draft environmental statement, consults with Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved.

3. The Division of Navigation Development and Regional Studies requests review by State and local agencies authorized to develop and enforce relevant environmental standards.

4. All action described in items G(1) through (3) will be undertaken in accordance with the CEQ guidelines, procedures established pursuant to the Office of Management and Budget Circular A-95 (revised) and Bulletin 72-6, as hereafter amended or supplemented, and special requests of agencies relating to review by their regional, district, or local offices.

5. The Office of Health and Environmental Science, in consultation with the initiating office or division, establishes the time limits for the receipt of comments. Except in emergency situations, the minimum review period will be 30 days or, in the case of statements sent to the Environmental Protection Agency under item G(7), 45 days.

6. In addition to formal consultation and review, the Office of Health and Environmental Science and the Division of Navigation Development and Regional Studies may consult directly with other agencies, with the concurrence of the initiating office or division and the Division of Law, where such consultation is deemed to be appropriate.

7. When required and as prescribed by section 309 of the Clean Air Act and section 8 of the CEQ guidelines, the General Manager also transmits the statement to the Administrator of the Environmental Protection Agency for review. In any case in which review is required under section 309 of the Clean Air Act but for which no statement is being prepared, the Office of Health and Environmental Science will obtain the necessary review as soon as practicable, but in all cases well enough in advance of submission of the proposed action for authorization to allow 45 days for review by the Environmental Protection Agency.

8. Copies of comments received from both official and private sources are forwarded upon receipt to the initiating office or division, the Office of Health and Environmental Science, and the Division of Law.

9. The Office of Health and Environmental Science forwards copies of comments to offices and divisions having pertinent responsibility or expertise.

10. The Office of Health and Environmental Science will forward all Federal, State, regional, and local governmental agencies' comments to the Council on Environmental Quality as necessary. Comments on draft statements from private groups will also be forwarded to CEQ where in TVA's judgment they raise significant environmental issues not raised in the official review process.

H. Public Notification.

1. At the same time the draft environmental statement is circulated for comment and furnished to the Council on Environmental Quality, it is also made available to the public through the Information Office, except where advance public disclosure within the meaning of section 10(d) of the CEQ guidelines would result in significantly increased costs of procurement.

2. With respect to recommendations or reports on proposals for legislation, such information is made available to the public at the same time it is furnished to Congress.

3. The Division of Law, as it deems appropriate, arranges for publication of notice of the availability of statements in the FEDERAL REGISTER.

4. Whenever a public hearing is to be held, the Division of Law schedules and conducts any hearing held by TVA, in such manner that the hearing process meets the requirements of section 10(e) of the CEQ guideline and any other applicable requirements.

5. The Information Office disseminates to the public information concerning public hearings.

6. The Division of Law obtains a transcript of the public hearing and forwards it, along with a summary of points raised in cases where the Division of Law believes such a summary would be helpful, to the Office of Health and Environmental Science and initiating office or division.

7. The Division of Law also handles or coordinates the presentation by TVA at any hearing held by another agency.

8. The Office of Health and Environmental Science requests from other appropriate offices and divisions their review of comments made at the public hearing related to points not previously raised.

I. Evaluation of Comments.

1. The initiating office or division evaluates the comments, in consultation with the Office of Health and Environmental Science and other appropriate offices and divisions.

2. This evaluation includes a reexamination of the matters considered in the original evaluation to the extent the comments or the evaluation process raise significant issues along with a reexamination of the economic and technical benefits of the proposed action and alternatives in relation to both quantified and unquantified environmental considerations.

J. Preparation of Final Statements.

1. Following completion of evaluation of comments, the Office of Health and Environmental Science prepares a draft of the final statement or requests another office or division to do so.

2. The final statement consists of either a new statement or the draft statement together with separate indication of any corrections or changes therein deemed to be desirable, It includes the text of the comments received in the Federal, State, and local review process; the text or a summary of comments from private organizations and individuals to the extent they raise signifiant issues not raised by the Federal, State, or local comments; and a discussion of the comments. A copy of the draft statement may be appended to the final statement.

3. The draft is reviewed by the initiating office or division and the offices and divisions which reviewed previous drafts.

4. Each reviewing office and division forwards any comments it has to the Office of Environmental Science and to the initiating office or division. In consultation with the initiating office or division the Office of Health and Environmental Science makes revisions in the statement which it deems desirable.

5. The Office of Health and Environmental Science obtains approval of the proposed final environmental statement from the Division of Law and transmits the statement to the General Manager along with the comments of reviewing offices and divisions and information concerning any unresolved internal comments.

K. Review and Balancing; Authorization.

1. The General Manager, or the Assistant General Manager when designated by the General Manager, with the assistance of such members of the staff as he may select, conducts an independent review and balancing of environmental and nonenvironmental considerations (including unquantified as well as quantified environmental amenities and values along with economic and technical considerations) involved in all proposed actions for which a proposed final environmental statement has been prepared. This includes a review of staff recommendations concerning the proposed action, of alternatives thereto, and of the proposed final environmental statement.

2. Following such review and balancing, the General Manager may approve, modify, or disapprove the final statement. Where he disapproves a statement, he may return it for revision and may also request the suspension of further planning work on an action pending preparation of a revised statement.

3. In all cases in which under the TVA Code the proposed action is one which will require Board approval, the General Manager forwards to the Board a report concerning his or the Assistant General Manager's review and balancing and conclusions concerning the proposed action, and a copy of the final environmental statement if he or the Assistant General Manager has approved one.

4. In all cases in which the proposed action is one which under the TVA Code can be approved by the General Manager without Board approval, the General Manager employs results of the foregoing review and balancing as part of his consideration of the request for authorization.

5. In all cases in which the proposed action is one which under the TVA Code could otherwise be approved by an office or division, the General Manager's approval is required prior to the authorization if the action is one for which a proposed final environmental statement has been prepared.

6. The General Manager may consult with the Board as he deems appropriate

on proposed actions which do not require Board approval.

7. The initiating office or division in consultation with the Office of Health and Environmental Science, the Division of Law, and other appropriate offices and divisions, determines and informs the General Manager of time limitations applicable to the authorization process.

8. The General Manager submits the final statement to the Council on Environmental Quality.

9. Copies of the final statement are forwarded by the Office of Health and Environmental Science to the Division of Navigation Development and Regional Studies, which makes them available to appropriate State, regional, and metropolitan clearinghouses, and to the Information Office, which makes them available to the public.

10. The Office of Health and Environmental Science maintains a file on all environmental statements.

L. Review of Statements Prepared by Other Agencies.

1. The Office of Health and Environmental Science reviews, in consultation with other interested TVA offices and divisions, environmental statements submitted to TVA by other Federal agencies and prepares a response, which after review by the Division of Law and the Office of the General Manager is forwarded to the initiating agency.

2. Where another Federal agency is preparing a statement in connection with a TVA action, the procedures outlined in this instruction may be utilized to such extent and with such modifications as the General Manager deems appropriate.

M. Review of Existing Projects and Programs.

To the maximum extent deemed by the General Manager to be practicable, the procedure described above should be applied to actions having a significant impact on the environment even though such actions arise from policies, projects, programs, or classes of action which were initiated prior to January 1, 1970.

N. Modifications of These Procedures.

1. The assignments to offices and divisions in these procedures may be modified by agreement of the offices or divisions involved, or by special instructions from the General Manager.

2. The procedures also may be modified by the Office of Health and Environmental Science, with the concurrence of the General Manager and the concurrence of the Division of Law as to legal propriety, where the action involves TVA policies, where it involves changes necessary or desirable to conform with the policies, procedures, or preferences of another agency also involved in the proposed action, as in the case of a proposed nuclear powerplant project, where it involves actions planned or in progress prior to July 1, 1971, or where modification is necessary or desirable because of a change in the CEQ guidelines or other similar regulations.

O. Substantial Compliance.

Because of unforeseen situations or emergencies, or through inadvertence, or for other reasons, some of the steps outlined in these procedures may be consolidated, modified, or omitted by offices or divisions. The Division of Law shall be promptly asked to approve any such consolidation, modification, or omission, and may do so if such change would conform to legal requirements and substantially comply with the intent of this code. The Division of Law shall consult with the Council on Environmental Quality as it deems appropriate before approving any such changes.

P. Application of These Procedures to Actions in Progress.

These procedures apply to the fullest extent practicable to further work in connection with actions in progress as of the effective date of the procedures.

These procedures are issued for publication in the FEDERAL REGISTER in compliance with a request of the Council on Environmental Quality, dated May 14, 1971.

Dated at Knoxville, this the 26th day of October 1971, for the Tennessee Valley Authority.

LYNN SEEBER,
General Manager.

[FR Doc.71-15930 Filed 11-1-71;8:52 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

OCTOBER 28, 1971.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 12426 Sub 1, Groups Unlimited, Inc., assigned December 6, 1971, in Room F-2220, 26 Federal Plaza, New York, NY.

MC 134356, Gale Delivery, Inc., assigned December 8, 1971, in Room F-2220, 26 Federal Plaza, New York, NY.

MC 101186 Sub 11, Ariedge Transfer, Inc., now being assigned hearing December 6, 1971, in Room 271, Federal Building, 210 Walnut Street, Des Moines, IA.

MC 110563 Sub 58, Coldway Food Express, Inc., now assigned November 2, 1971, at Washington, D.C., postponed to January 26, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 109397 Sub 252, Tri-State Transit Co., now assigned November 10, 1971, at Washington, D.C., postponed to January 26, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 105997 Sub 11, Oil-Ways, Co., assigned November 2, 1971, at New York, N.Y., postponed to January 24, 1972, at a hearing room to be later designated in New York, NY.

MC 124211 Sub 179, Hilt Truck Line, now assigned November 29, 1971, in Room 106, Federal Office Building, 106 South 15th Street, Omaha, NE.

MC 124211 Sub 175, Hilt Truck Line, now assigned November 30, 1971, in Room 106, Federal Office Building, 106 South 15th Street, Omaha, NE.

MC 124174 Sub 82, Momsen Trucking, now assigned December 1, 1971, in Room 106, Federal Office Building, 106 South 15th Street, Omaha, NE.

MC 133436 Sub 6, Dudden Elevator, Inc., now assigned December 3, 1971, in Room 106, Federal Office Building, 106 South 15th Street, Omaha, NE.

MC 16682 Sub 81, Mural Transport, MC 35358 Sub 25, Berger Transfer & Storage, MC 107012 Sub 111, North American Van Lines, now assigned December 6, 1971, in Room 106, Federal Office Building, 106 South 15th Street, Omaha, NE.

MC-F-11155, Worster-Iowa, Inc.—Merger—Powers Transportation, Inc., assigned January 19, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-F-11171, Cook Motor Lines, Inc.—Purchase (Portion)—Epperly Motor Freight, Inc., MC 106451 Sub 8, Cook Motor Lines, Inc., MC-F-11172, Overnight Transportation Co.—Purchase (Portion)—Epperly Motor Freight, Inc., MC 109533 Sub 47, Overnite Transportation Co., assigned January 19, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 127042 Sub 72, Hagen, Inc., now assigned Nov. 3, 1971, at Chicago, Ill., postponed to February 2, 1972, at Chicago, Ill., at a hearing room to be later designated.

MC 115841 Sub 4, Inter-County Motor Coach, now assigned November 8, 1971, at New York City, N.Y., postponed to January 17, 1972, at New York, N.Y., at a hearing room to be later designated.

MC 113651 Sub 136, Indiana Refrigerator Lines, now assigned November 4, 1971, at Kansas City, Mo., canceled and application dismissed request of Dillion for applicant.

MC-C-7297, Suwak Trucking Co., Revocation of certificate (Portion) assigned January 17, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 34975 Sub 5, Tredways Express, Inc., now assigned January 12, 1972, at New York, N.Y., hearing room to be later designated.

MC 133265 Sub 3, Consolidated Carriers Corp., now assigned January 10, 1972, at New York, N.Y., in a hearing room to be later designated.

MC 69278 Sub 41, M & M Transportation Co., now assigned December 6, 1971, in Courtroom A, Room 238, U.S. Court of Claims, 26 Federal Building, New York, N.Y.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-15948 Filed 11-1-71;8:51 am]

[Rev. S.O. No. 994; ICC Order 61; Amdt. 2]

NEW YORK, SUSQUEHANNA AND WESTERN RAILROAD CO.

Rerouting or Diversion of Traffic

Upon further consideration of ICC Order No. 61 (New York, Susquehanna and Western Railroad Co.) and good cause appearing therefor:

It is ordered, That:

ICC Order No. 61 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1971, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., October 31, 1971, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., October 27, 1971.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.71-15950 Filed 11-1-71;8:51 am]

[S.O. 1062]

STAR FORWARDERS, INC.

Authorization To Operate Through Halifax, Nova Scotia, and Montreal, Quebec, Canada, and Other Ports

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 26th day of October, 1971.

It appearing, that Star Forwarders, Inc., Kansas City, Mo., is authorized, under permit No. FF-53 et al., to operate as a freight forwarder of commodities generally, consigned for export, from certain named points of the United States to specified ports and points on the Atlantic and Gulf coasts of the United States, as specified in the appendix hereto; that such Atlantic and Gulf coast ports are effectively closed by a strike of the International Longshoremen's Association; that this labor disturbance has rendered it impossible for said freight forwarder to handle the traffic offered it so as promptly to serve the public; that this emergency condition affecting said freight forwarder is a matter beyond its control calling for immediate and interim relief; that the authorization granted herein is required to best promote service in the interest of the public and the commerce of the people; that notice and subject procedure herein are impractical and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days notice; wherefore:

It is ordered, That pursuant to sections 1(16) and 420 of the Interstate Commerce Act, 49 U.S.C. 1(16) and 1020, Star Forwarders, Inc., be and it is hereby, authorized to operate to Halifax, Nova Scotia, and Montreal, Quebec, Canada, insofar as such movement is in the United States, and to any port on the Atlantic and Gulf coasts of the United States not effectively closed by the strike of the International Longshoremen's Association, in the forwarding of the commodities it otherwise is authorized to handle as a freight forwarder under the above described portion of permit Nos. FF-53 et al;

It is further ordered, That said freight forwarder be, and it is hereby, directed promptly to print and file with the Commission tariffs showing its rates and charges for the service authorized herein and otherwise to comply with the provisions of the Interstate Commerce Act;

It is further ordered, That this order be, and it is hereby, made effective at 12:01 a.m., October 27, 1971, and shall expire at 11:59 p.m., November 26, 1971, unless otherwise modified, changed or suspended, and

It is further ordered, That copies of this order shall be served upon said freight forwarder; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

APPENDIX

(1) From Sioux Falls, S. Dak., Omaha, Nebr., Louisville, Ky., and all points in Illinois, Missouri, Indiana, Iowa, Michigan, Minnesota, Wisconsin, Ohio, Pennsylvania, New York, and West Virginia, to the ports of New York, N.Y., Pensacola, Fla., and New Orleans, La., when consigned for export, (2) from all points in Illinois, Kentucky, Tennessee, Mississippi, Texas, Oklahoma, Arkansas, Missouri, Iowa, Kansas, and Colorado, to all points in Massachusetts, Rhode Island, Connecticut, New Jersey, Pennsylvania, Maryland, New York, Delaware, and the District of Columbia, for export, except as specified in (1) above, and (3) from points in Michigan, Ohio, Indiana, Wisconsin, Minnesota, and Omaha, Nebr., to Baltimore, Md., for export.

[FR Doc.71-15951 Filed 11-1-71;8:51 am]

[Notice 773]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 28, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73104. By order of October 27, 1971, the Motor Carrier Board approved the transfer to Lessard Buss Lines, Inc., 4 Massawippi St., Lennoxville, PQ, Canada, of the operating rights in certificate No. MC-119538 issued October 12, 1965, to Mrs. Hilda Dillon Lessard, doing business as Lessard Bus Lines Registered, 4 Massawippi St., Lennoxville, PQ, Canada, authorizing the transportation of passengers and their baggage, in round trip charter operations, beginning and ending at specified ports of entry on the United States-Canada boundary line in Vermont and extending to points in Vermont, New Hampshire, Maine, Massachusetts, New York, North Carolina, and Florida.

No. MC-FC-73116. By order of October 26, 1971, the Motor Carrier Board approved the transfer to Kearney's Inc., Portland, Pa., of certificate No. MC-134616, issued June 28, 1971, to Kearney's Trucking Service, Inc., Portland, Pa., authorizing the transportation of slag, sandblasting sand, sand, gravel, and stone, from and to various specified points in Pennsylvania, New York, and New Jersey. Kenneth R. Davis, ICC Practitioner, 999 Union Street, Taylor, PA 18517.

No. MC-FC-73215. By order of October 27, 1971, the Motor Carrier Board approved the transfer to Raymond Woodson, doing business as Woodson's Trucking Service, Wellsville, Mo., of the operating rights in certificate No. MC-90847 issued September 9, 1970, to Hazel Kersting and Benton Lowry, a partnership, doing business as Kersting & Lowry Trucking Service, Martinsburg, Mo., authorizing the transportation of coal, from Belleville, Ill., to Auxvasse, Mo., serving specified intermediate and off-route points; washing machines, coffins, and stoves, from St. Louis, Mo., to Auxvasse; livestock and hay, from Auxvasse, Mo., to East St. Louis, Ill., serving specified intermediate and off-route points; wire fence and fence materials, shingles, livestock, feed, and fertilizer, from East St. Louis, Ill., to Auxvasse, Mo., serving specified intermediate and off-route points; and dry fertilizer, from East St. Louis., Ill., to specified counties in Missouri, subject to restrictions. Herman W. Huber, 101 East High Street, Jefferson City, MO 65101, attorney for applicants.

No. MC-FC-73217. By order of October 26, 1971, the Motor Carrier Board approved the transfer to Anthony Tammaro, Inc., Robbinsville, N.J., of the operating rights in certificate No. MC-118213 issued May 14, 1969, to Richard Parker, Inc., Cranbury, N.J., authorizing the transportation of bananas from and to specified points in New York, New Jersey, Pennsylvania, Maryland, and South Carolina. Robert Watkins, 170 South Broad Street, Trenton, NJ 08608, attorney for applicants.

No. MC-FC-73222. By order of October 21, 1971, the Motor Carrier Board approved the transfer to I-88 Express Lines, Inc., Cobleskill, N.Y., of the operating rights in certificate No. MC-4306 issued October 5, 1949, to La Grange Motor Express, Inc., Cobleskill, N.Y., authorizing the transportation of general

commodities, with exceptions, between Albany, N.Y., and various specified points in New York. John J. Brady, 75 State Street, Albany, NY 12207, attorney for applicants.

No. MC–FC–73229. By order of October 26, 1971, the Motor Carrier Board approved the transfer to Frank Rose, Jr., doing business as Union Transportation, Glouchester, Mass., of certificate of registration No. MC–98164 (Sub-No. 1), issued January 10, 1964, to David Elton McCabe, doing business as McCabe Transportation, Wellesley Hills, Mass., evidencing a right to engage in transportation in interstate commerce corresponding in scope to irregular route common carrier certificate No. 1726, dated October 11, 1951, issued by the Massachusetts Department of Public Utilities. Frederick T. O'Sullivan, 372 Granite Avenue, Milton, MA 02186, attorney for applicants.

No. MC–FC–73232. By order of October 26, 1971, the Motor Carrier Board approved the transfer to J & K Trucking, Inc., Wawaka, Ind., of certificates Nos. MC–126224 (Sub-No. 1) and MC–126224 (Sub-No. 3), issued August 27, 1964, and December 15, 1966, respectively, to James F. Bailey, doing business as Bailey Trucking, Garrett, Ind., authorizing the transportation of: Fertilizer, hog feeders, and hog houses, animal and poultry feeds, salt, agricultural lime, grain and hay seeds, grain, baled hay and straw, livestock, alfalfa meal, picket cribbing, fence posts and poles, and roofing, soybean meal, meat scraps and tankage, from, to, or between specified points and places in Illinois, Ohio, Indiana, and Michigan. Donald W. Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204, attorney for applicants.

No. MC–FC–73235. By order of October 26, 1971, the Motor Carrier Board approved the transfer to Hi-Lo Transportation Corp., Baltimore, Md., of the operating rights in certificate No. MC–69103 issued November 15, 1949 to Forster Transfer and Rigging Co., Inc., 518 South Gilmor Street, Baltimore, MD 21223, authorizing the transportation of specified commodities between Baltimore, Md. and points within 25 miles thereof, on the one hand, and, on the other, Martinsburg, W. Va., New York, N.Y., and points in Virginia, Maryland, Pennsylvania, Delaware, New Jersey, and the District of Columbia. Robert H. Griswold, Post Office Box 1166, Harrisburg, PA 17108, Sigmund R. Kallins, 900 Garrett Building, Baltimore, Md. 21202, attorneys for transferee.

No. MC–FC–73238. By order of October 27, 1971, the Motor Carrier Board approved the transfer to Font Transport Corp., New York, N.Y., of certificate No. MC–134104 (Sub No. 2) issued July 12, 1971, to Gilbert Font and Peter J. Betz, doing business as B & F Transport Co., Central Islip, N.Y., authorizing the transportation of: Industrial refuse containers, and lampshades, from specified points in New York, to points in Delaware, Florida, Iowa, Illinois, Indiana, Louisiana, Maryland, Michigan, Minnesota, New Jersey, New York, Nebraska, Ohio, Oklahoma, Pennsylvania, Texas, Virginia, Wisconsin, and the District of of Columbia. Arthur J. Piken, Attorney, 1 Lefrak City, Rego Park, N.Y. 11373.

No. MC–FC–73258. By order of October 27, 1971, the Motor Carrier Board approved the transfer to C. L. Wright, Inc., South Charleston, W. Va., of the operating rights in certificates Nos. MC–7576 and MC–7576 (Sub-No. 4) issued August 21, 1950, to E. B. Harter, doing business as C. L. Wright Trucking, South Charleston, W. Va., authorizing the transportation of various commodities from and to specified points and areas in West Virginia, Pennsylvania, Virginia, and Ohio, and specified points and areas in North Carolina, Virginia, Tennessee, Kentucky, Ohio, and Pennsylvania. Henry C. Bias, Jr., Post Office Box 188, 603 Virginia Street, East, Charleston, WV 25321, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71–15949 Filed 11–1–71;8:51 am]

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federal register

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Latest Edition

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[Revised as of January 1, 1971]

This useful reference tool is designed to keep businessmen and the general public informed concerning the many published requirements in Federal laws and regulations relating to record retention.

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EXECUTIVE ORDER 11630

Amending Executive Order No. 11627 of October 15, 1971, Further Providing for the Stabilization of the Economy

By virtue of the authority vested in me by the Constitution and Statutes of the United States, particularly the Economic Stabilization Act of 1970, as amended, it is hereby ordered as follows:

SECTION 1. Subsection (b) of Section 7 of Executive Order No. 11627 [1] of October 15, 1971 is hereby amended by adding at the end thereof the following: "Each member of the Pay Board, other than the Chairman thereof, may designate an alternate who shall serve as a member of the Pay Board whenever the regular member is unable to attend any meeting of the Board."

SEC. 2. Subsection (b) of Section 8 of Executive Order No. 11627 of October 15, 1971, is hereby amended by adding at the end thereof the following: "Each member of the Price Commission, other than the Chairman thereof, may designate an alternate who shall serve as a member of the Price Commission whenever the regular member is unable to attend any meeting of the Commission."

Richard Nixon

THE WHITE HOUSE,
October 30, 1971.

[FR Doc.71-16115 Filed 11-1-71; 1:13 pm]

[1] 36 F.R. 20139.

Rules and Regulations

Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 926—HANDLING OF TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIF.

Increase in Assessment Rate for the 1971–72 Fiscal Period

On October 20, 1971, notice of rule making was published in the FEDERAL REGISTER (36 F.R. 20302) regarding a proposed increase in the assessment rate previously approved for the fiscal year ending March 31, 1972, pursuant to the marketing agreement, as amended, and Order No. 926, as amended (7 CFR Part 926), regulating the handling of Tokay grapes grown in San Joaquin County, Calif., effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The notice afforded interested persons an opportunity to submit written data, views, or arguments in connection with the proposal. None were submitted within the prescribed time.

After consideration of all relevant matters presented, including the proposals set forth in the aforesaid notice which were submitted by the Industry Committee (established pursuant to said amended marketing agreement and order): *It is hereby ordered*, That the provisions of paragraph (b) of § 926.211 Expenses and rate of assessment (36 F.R. 17323) be amended to read as follows:

§ 926.211 Expenses and rate of assessment.

* * * * *

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 926.46, is fixed at three cents ($0.03) per standard package or equivalent quantity of grapes.

Terms used in the amended marketing agreement and this part shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and this part.

It is hereby found that it is impracticable and contrary to the public interest to postpone the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) the relevant provisions of said marketing agreement and order require that any increase in the rate of assessment fixed for a particular fiscal period shall be applicable to all assessable Tokay grapes from the beginning of such fiscal period; (2) the current fiscal period began on April 1, 1971, and the increased rate of assessment herein fixed will automatically apply to all assessable Tokay grapes beginning with such date; and (3) shipments of Tokay grapes are now being made and it is desirable, for administrative purposes, to apply this amended rate of assessment to the billing of handlers of Tokay grapes during the time of such handling.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 29, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc. 71-15992 Filed 11-2-71;8:47 am]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 71-1113]

PART 545—OPERATIONS

Distribution of Earnings of Short-Term Savings Accounts

OCTOBER 22, 1971.

Resolved that the Federal Home Loan Bank Board considers it advisable to amend § 545.1–1 of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.1–1) for the purpose of permitting a Federal savings and loan association to distribute earnings on any designated class or classes of short-term savings accounts on such date or dates as may be designated by the association's board of directors. Accordingly, on the basis of such consideration and for such purpose, the Federal Home Loan Bank Board hereby amends said § 545.1–1 by adding, immediately after paragraph (f) thereof, a new paragraph (g) to read as follows, effective November 3, 1971:

§ 545.1–1 Distribution of earnings on bases, terms, and conditions other than those provided by charter.

* * * * *

(g) *Short-term savings accounts.* A Federal association which has a charter in the form of charter N or charter K (rev.) may, after adoption by its board of directors of a resolution so providing and while such resolution remains in effect, distribute earnings on any designated class or classes of short-term savings accounts as of such date or dates as may be designated in such resolution.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

Resolved further that, since affording notice and public procedure on the above amendment would delay it from becoming effective for a period of time and since it is in the public interest that such amendment become effective as soon as possible, the Board hereby finds that notice and public procedure thereon are contrary to the public interest under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and, since such amendment relieves restriction, publication of such amendment for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date thereof is unnecessary and the Board hereby provides that such amendment shall become effective as hereinbefore set forth.

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary.

[FR Doc.71-16035 Filed 11-2-71;8:51 am]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 71-274]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Application for Refund of Tonnage Tax

In accordance with Revised Statutes 4219 and 4225, as amended (46 U.S.C. 121 and 128), tonnage tax is imposed upon the entry of a vessel engaged in trade from a foreign port or place. Under section 26 of the Act of June 26, 1884, as amended (46 U.S.C. 8), illegally, improperly, or excessively imposed charges may be refunded and § 4.24, Customs Regulations, prescribes the procedure for applying for such refunds. This amendment delegates to Regional Commissioners of Customs the present authority of the Commissioner of Customs to act on certain applications for refunds, with a right to petition the Commissioner for a review of a decision by a Regional Commissioner. Section 4.24, Customs Regulations, is amended to read as follows:

§ 4.24 Application for refund of tonnage tax.

(a) The authority to make refunds in accordance with section 26 of the Act of June 26, 1884 (46 U.S.C. 8) of regular tonnage taxes described in § 4.20(a) is delegated to the several Regional Commissioners of Customs. If any doubt exists, the case shall first be referred to the Bureau for advice.

(b) Each application for refund of regular or special tonnage tax or light money prepared in accordance with this section shall be filed with the Customs

officer to whom payment was made. After verification of the pertinent facts asserted in the claim, the application shall be forwarded with any necessary report or recommendation to the Regional Commissioner of Customs. Applications for refund of special tonnage tax and light money (see § 4.20(c)) with the reports and recommendations submitted therewith shall be forwarded by the Regional Commissioner to the Commissioner of Customs for decision. Any refund authorized by the Regional Commissioner of Customs under paragraph (a) of this section or any refund of special tonnage tax or light money authorized by the Commissioner of Customs shall be made by the appropriate Customs officer. The records of tonnage tax shall be clearly noted to show each refund authorized.

(c) The application shall be a direct request for the refund of a definite sum, showing concisely the reasons therefor, the nationality and name of the vessel, and the date, place, and amount of each payment for which refund is requested. The application shall be made within 1 year from date of the payment. A protest against a payment shall not be accepted as an application for its refund.

(d) When the application is based upon a claim that more than five payments of regular tax at either the 2-cent or the 6-cent rate have been made during a tonnage year, the application shall be supported by a statement from the appropriate customs officer at the port where the application is submitted and from the appropriate customs officer at each port at which any claimed payment was made verifying the facts and showing in each case whether refunds have been authorized.

(e) The application shall include a certificate by the owner or by the owner's agent that payment of tonnage tax at the applicable rate has been or will be made for each entry of the vessel on a voyage on which that rate is applicable before the end of the current tonnage year, exclusive of any payment which has been refunded or which may be refunded as a result of such application.

(f) The owner or operator of the vessel involved, or other party in interest, may file with the Regional Commissioner a petition addressed to the Commissioner of Customs for a review of the Regional Commissioner's decision on an application for refund of regular tonnage tax. Such petition shall be filed in duplicate within 30 days from the date of notice of the Regional Commissioner's decision, shall completely identify the case, and shall set forth in detail the exceptions to the Regional Commissioner's decision. When such a petition has been filed, the Regional Commissioner shall immediately transmit both copies thereof and the entire file to the Bureau, together with any comments he may desire to submit. (Section 26, 23 Stat. 59, as amended; 46 U.S.C. 6.)

(80 Stat. 379, section 3, 23 Stat. 119, as amended; 5 U.S.C. 301; 46 U.S.C. 3)

Effective date. This amendment shall become effective 30 days following the date of publication in the FEDERAL REGISTER.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: October 20, 1971.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-15999 Filed 11-2-71;8:48 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 130—NEW DRUGS

Subpart A—Procedural and Interpretive Regulations

RADIOACTIVE NEW DRUGS; NEW-DRUG APPLICATION REQUIREMENTS

A notice was published in the FEDERAL REGISTER of January 27, 1971 (36 F.R. 1274), proposing removing the exemption of specific investigational radioactive new drugs from § 130.3 (21 CFR 130.3) of the new-drug regulations. The notice provided for the filing of comments within 30 days. At the request of a number of interested persons, the time for filing of comments was extended until March 26, 1971, by a notice published February 26, 1971 (36 F.R. 3528).

More than 100 comments were received from the medical community and the pharmaceutical industry. Some of the comments were from organizations acting as spokesmen for many of the Nation's medical and pharmaceutical specialists in radioactive drugs.

Most of those commenting agreed that there is a need to exercise regulatory control of radiopharmaceuticals. Some felt that the current controls, which are primarily exercised by the Atomic Energy Commission or by State Governments under "Agreement State Programs," were sufficient. Others felt that the evaluation of drugs for use in medicine more properly belongs with the Food and Drug Administration; however, a number of thoughtful points were raised about the procedures for implementing the proposal.

The comments may be summarized as follows:

(1) Brachytherapy and teletherapy sealed sources should be removed from the requirements of this proposal. These items are not drugs. The hazards from these sources are limited primarily to radiation emission which is effectively controlled by the Atomic Energy Commission.

(2) The Food and Drug Administration's implementation of the proposal would not provide for an orderly transition of previously exempted radioactive drugs to its control and would interfere with availability of these drugs for medical use.

(3) The proposal is not clear regarding the marketing status of the listed isotopes during the time that a new-drug application or "Notice of Claimed Investigational Exemption for a New Drug" is pending.

(4) The required 90-day time period to submit a new-drug application or "Notice of Claimed Investigational Exemption for a New Drug" is not considered sufficient to submit a well-organized document.

(5) Procedures for submitting a new-drug application, license application, or a "Notice of Claimed Investigational Exemption for a New Drug" should be revised and simplified, since the requirements for nonradioactive drugs are not appropriate in several respects to those of radiopharmaceuticals.

The Commissioner of Food and Drugs, having considered these comments and having discussed them with the Food and Drug Administration's Radiopharmaceutical Advisory Committee and societies representing various disciplines of radiopharmaceutical medicine, finds that:

(1) Brachytherapy and teletherapy sealed sources will not be included at this time in the listing of isotopes that require a new-drug application or "Notice of Claimed Investigational Exemption for a New Drug," pending further discussions with radiologists to determine the most effective procedures for handling sealed sources.

(2) The Food and Drug Administration and Division of Biologics Standards of the National Institutes of Health will develop procedures to assure a smooth transition of regulatory control without any interference in the availability of previously exempted radioactive drugs, provided the interests of the patient are adequately protected.

(3) If the requirements of § 130.49 (21 CFR 130.49) are met, commercial distribution of the radioactive new drugs may be continued until the Food and Drug Administration or Division of Biologics Standards of the National Institutes of Health notifies the sponsor or applicant otherwise.

(4) In view of the extent of experience with the listed isotopes and the fact that the Food and Drug Administration has given prior notice to manufacturers of the applicability to these products of the new-drug requirements (21 CFR 130.3 and 130.4), 90 days beyond the effective date of this order is regarded as adequate time to organize and submit the required information.

(5) The procedures for submission of a new-drug application, license application, or a "Notice of Claimed Investigational Exemption for a New Drug" are flexible enough to allow for the differences in the types of data required for radiopharmaceuticals and nonradiopharmaceuticals. However, the Food and Drug Administration and Division of Biologics Standards of the National Institutes of Health will work with interested representatives of associations, the FDA advisory committee on radiopharmaceuticals, applicants, and sponsors in order to define the kind and extent of data that are required for the listed drugs. The Food and Drug Administration in cooperation with the Atomic Energy Commission will develop procedures to eliminate as much as possible the burden that may result from both agencies having overlapping responsibilities.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 505, 701(a), 52 Stat. 1052–53, as amended, 1055; 21 U.S.C. 355, 371(a)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), and in cooperation with the Division of Biologics Standards of the National Institutes of Health and the Atomic Energy Commission, Part 130, Subpart A, is amended as follows:

1. Section 130.3 is amended by adding new paragraph (i) as follows:

§ 130.3 New drugs for investigational use in human beings; exemptions from section 505(a).

* * * * *

(i) For requirements regarding certain radioactive drugs, see § 130.49.

2. The following new section is added to Subpart A:

§ 130.49 Requirements regarding certain radioactive drugs.

(a) On January 8, 1963 (28 F.R. 183), the Commissioner of Food and Drugs exempted investigational radioactive new drugs from § 130.3 provided they were shipped in complete conformity with the regulations issued by the Atomic Energy Commission. This exemption also applied to investigational radioactive biologics.

(b) It is the opinion of the Atomic Energy Commission, the Division of Biologics Standards of the National Institutes of Health, and the Food and Drug Administration that this exemption should not apply for certain specific drugs and that these drugs should be appropriately labeled for uses for which safety and effectiveness can be demonstrated by new-drug applications or through licensing by the Public Health Service in the case of biologics. Continued distribution under the investigational exemption when the drugs are intended for established uses will not be permitted.

(c) Based on its experience in regulating investigational radioactive pharmaceuticals, the Atomic Energy Commission has compiled a list of reactor-produced isotopes for which it considers that applicants may reasonably be expected to submit adequate evidence of safety and effectiveness for use as recommended in appropriate labeling; such use may include, among others, the uses in this tabulation:

Isotope	Chemical form	Use
Chromium 51	Chromate	Spleen scans.
Do	do	Placenta localization.
Do	do	Red blood cell labeling and survival studies.
Do	Labeled human serum albumin.	Gastrointestinal protein loss studies.
Do	do	Placenta localization.
Do	Labeled red blood cells.	Do.
Cobalt 58 or Cobalt 60	Labeled cyanocobalamin.	Intestinal absorption studies.
Gold 198	Colloidal	Liver scans.
Do	do	Intracavitary treatment of pleural effusions and/or ascites.
Do	do	Interstitial treatment of cancer.
Iodine 131	Iodide	Diagnosis of thyroid functions.
Do	do	Thyroid scans.
Do	do	Treatment of hyperthyroidism and/or cardiac dysfunction.
Do	do	Treatment of thyroid carcinoma.
Do	Iodinated human serum albumin.	Blood volume determinations.
Do	do	Cisternography.
Do	do	Brain tumor localization.
Do	do	Placenta localization.
Do	do	Cardiac scans for determination of pericardial effusions.
Do	Rose Bengal	Liver function studies.
Do	do	Liver scans.
Do	Iodopyracet, sodium iodohippurate, sodium diatrizoate, diatrizoate methyl-glucamine, sodium diprotrizoate, sodium acetrizoate, or sodium iothalamate.	Kidney function studies and kidney scans.
Iodine 131	Labeled fats and/or fatty acids.	Fat absorption studies.
Do	Cholografin	Cardiac scans for determination of pericardial effusions.
Do	Macroaggregated iodinated human serum albumin.	Lung scans.
Do	Colloidal microaggregated human serum albumin.	Liver scans.
Iodine 125	Iodide	Diagnosis of thyroid function.
Do	Iodinated human serum albumin.	Blood volume determinations.
Do	Rose Bengal	Liver function studies.
Do	Iodopyracet, sodium iodohippurate, sodium diatrizoate, diatrizoate methyl-glucamine, sodium diprotrizoate, sodium acetrizoate, or sodium iothalamate.	Kidney function studies.
Do	Labeled fats and/or fatty acids.	Fat absorption studies.
Iron 59	Chloride, citrate and/or sulfate.	Iron turnover studies.
Krypton 85	Gas	Diagnosis of cardiac abnormalities.
Mercury 197	Chlormerodrin	Kidney scans.
Do	do	Brain scans.
Mercury 203 [1]	do	Kidney scans.
Do	do	Brain scans.
Phosphorus 32	Soluble phosphate.	Treatment of polycythemia vera.
Do	do	Treatment of leukemia and bone metastasis.
Do	Colloidal chromic phosphate.	Intracavitary treatment of pleural effusions and/or ascites.
Do	do	Interstitial treatment of cancer.
Potassium 42	Chloride	Potassium space studies.
Selenium 75	Labeled methionine.	Pancreas scans.
Strontium 85	Nitrate or chloride.	Bone scans on patients with diagnosed cancer.
Technetium 99m.	Pertechnetate	Brain scans.
Do	do	Thyroid scans.
Do	Sulfur colloid	Liver and spleen scans.
Do	Pertechnetate	Placenta localization.
Do	do	Blood pool scans.
Do	do	Salivary gland scans.
Do	Diethylenetriamine pentaacetic acid (DTPA).	Kidney scans.
Xenon 133	Gas	Diagnosis of cardiac abnormalities. Cerebral blood-flow studies. Pulmonary function studies. Muscle blood-flow studies.

[1] This item has been removed from the AEC list for kidney scans but is included as the requirements of this order are applicable.

(d) (1) In view of the extent of experience with the isotopes listed in paragraph (c) of this section, the Atomic Energy Commission, the Division of Biologics Standards of the National Institutes of Health, and the Food and Drug Administration conclude that they should not be distributed under investigational-use labeling when they are actually intended for use in medical practice.

(2) It is further concluded that manufacturers or distributors interested in continuing to ship in interstate commerce drugs containing the isotopes listed in paragraph (c) of this section for any of the indications listed should submit, within 90 days after the effective date of this section, to the Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852, a new-drug application or a "Notice of Claimed Investigational Exemption for a New Drug" for each such drug for which the manufacturer or distributor does not have an approved new-drug application pursuant to section 505(b) of the Federal Food, Drug, and Cosmetic Act. Any "Notice of Claimed Investigational Exemption for a New Drug" should be submitted in accordance with § 130.3, and any new-drug application should be submitted in accordance with § 130.4.

(3) If the drug is a biologic, a "Notice of Claimed Investigational Exemption for a New Drug" or an application for a license under the Public Health Service Act of July 1, 1944, should be submitted to the Division of Biologics Standards of the National Institutes of Health, Public Health Service, Building 29, 9000 Rockville Pike, Bethesda, Md. 20014.

(4) After such 90-day period, the isotopes listed in paragraph (c) of this section, in the "chemical form" and intended for the uses stated, will no longer be exempt from § 130.3.

(e) No exemption from section 505 of the act or from § 130.3 is in effect or has been in effect for radioactive drugs prepared from accelerator-produced radioisotopes, naturally occurring isotopes, or nonradioactive substances used in conjunction with isotopes.

Effective date: This order shall become effective 30 days after its date of publication in the FEDERAL REGISTER.

(Secs. 505, 701(a), 52 Stat. 1052–53, as amended, 1055a, 21 U.S.C. 355, 371(a))

Dated: October 18, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.71-15905 Filed 11-2-71;8:45 am]

Title 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice

[Order 470-71]

PART 50—STATEMENTS OF POLICY

Release of Information by Personnel of Department of Justice Relating to Criminal and Civil Proceedings

This order revises the existing Department of Justice guidelines governing release by Department personnel of information relating to criminal proceedings to assure greater protection of the right of the accused to a fair trial and adds guidelines for the release of information regarding civil proceedings.

By virtue of the authority vested in me by 28 U.S.C. 509, § 50.2 of Part 50 of chapter I of Title 28 of the Code of Federal Regulations is revised to read as follows:

§ 50.2 Release of information by personnel of the Department of Justice relating to criminal and civil proceedings.

(a) *General.* (1) The availability to news media of information in criminal and civil cases is a matter which has become increasingly a subject of concern in the administration of justice. The purpose of this statement is to formulate specific guidelines for the release of such information by personnel of the Department of Justice.

(2) While the release of information for the purpose of influencing a trial is, of course, always improper, there are valid reasons for making available to the public information about the administration of the law. The task of striking a fair balance between the protection of individuals accused of crime or involved in civil proceedings with the Government and public understandings of the problems of controlling crime and administering government depends largely on the exercise of sound judgment by those responsible for administering the law and by representatives of the press and other media.

(3) Inasmuch as the Department of Justice has generally fulfilled its responsibilities with awareness and understanding of the competing needs in this area, this statement, to a considerable extent, reflects and formalizes the standards to which representatives of the Department have adhered in the past. Nonetheless, it will be helpful in ensuring uniformity of practice to set forth the following guidelines for all personnel of the Department of Justice.

(4) Because of the difficulty and importance of the questions they raise, it is felt that some portions of the matters covered by this statement, such as the authorization to make available Federal conviction records and a description of items seized at the time of arrest, should be the subject of continuing review and consideration by the Department on the basis of experience and suggestions from those within and outside the Department.

(b) *Guidelines to criminal actions.* (1) These guidelines shall apply to the release of information to news media from the time a person is the subject of a criminal investigation until any proceeding resulting from such an investigation has been terminated by trial or otherwise.

(2) At no time shall personnel of the Department of Justice furnish any statement or information for the purpose of influencing the outcome of a defendant's trial, nor shall personnel of the Department furnish any statement or information, which could reasonably be expected to be disseminated by means of public communication, if such a statement or information may reasonably be expected to influence the outcome of a pending or future trial.

(3) Personnel of the Department of Justice, subject to specific limitations imposed by law or court rule or order, may make public the following information:

(i) The defendant's name, age, residence, employment, marital status, and similar background information.

(ii) The substance or text of the charge, such as a complaint, indictment, or information.

(iii) The identity of the investigating and/or arresting agency and the length or scope of an investigation.

(iv) The circumstances immediately surrounding an arrest, including the time and place of arrest, resistance, pursuit, possession and use of weapons, and a description of physical items seized at the time of arrest.

Disclosures should include only incontrovertible, factual matters, and should not include subjective observations. In addition, where background information or information relating to the circumstances of an arrest or investigation would be highly prejudical or where the release thereof would serve no law enforcement function, such information should not be made public.

(4) Personnel of the Department shall not volunteer for publication any information concerning a defendant's prior criminal record, but information drawn from Federal conviction records may be made available in response to a specific request.

(5) Because of the particular danger of prejudice resulting from statements in the period approaching and during trial, they ought strenuously to be avoided during that period. Any such statement or release shall be made only on the infrequent occasion when circumstances absolutely demand a disclosure of information and shall include only information which is clearly not prejudicial.

(6) The release of certain types of information generally tends to create dangers of prejudice without serving a significant law enforcement function. Therefore, personnel of the Department should refrain from making available the following:

(i) Observations about a defendant's character.

(ii) Statements, admissions, confessions, or alibis attributable to a defendant, or the refusal or failure of the accused to make a statement.

(iii) Reference to investigative procedures such as fingerprints, polygraph examinations, ballistic tests, or laboratory tests, or to the refusal by the defendant to submit to such tests or examinations.

(iv) Statements concerning the identity, testimony, or credibility of prospective witnesses.

(v) Statements concerning evidence or argument in the case, whether or not it is anticipated that such evidence or argument will be used at trial.

(vi) Any opinion as to the accused's guilt, or the possibility of a plea of guilty to the offense charged, or the possibility of a plea to a lesser offense.

(7) Personnel of the Department of Justice should take no action to encourage or assist news media in photographing or televising a defendant or accused person being held or transported in Federal custody. Departmental representatives should not make available photographs of a defendant unless a law enforcement function is served thereby.

(8) This statement of policy is not intended to restrict the release of information concerning a defendant who is a fugitive from justice.

(9) Since the purpose of this statement is to set forth generally applicable guidelines, there will, of course, be situations in which it will limit the release of information which would not be prejudicial under the particular circumstances. If a representative of the Department believes that in the interest of the fair administration of justice and the law enforcement process information beyond these guidelines should be released, in a particular case, he shall request the permission of the Attorney General or the Deputy Attorney General to do so.

(c) *Guidelines to civil actions.* Personnel of the Department of Justice associated with a civil action shall not during its investigation or litigation make or participate in making an extrajudicial statement, other than a quotation from or reference to public records, which a reasonable person would expect to be disseminated by means of public communication if there is a reasonable likelihood that such dissemination will interfere with a fair trial and which relates to:

(1) Evidence regarding the occurrence or transaction involved.

(2) The character, credibility, or criminal records of a party, witness, or prospective witness.

(3) The performance or results of any examinations or tests or the refusal or failure of a party to submit to such.

(4) An opinion as to the merits of the claims or defenses of a party, except as required by law or administrative rule.

(5) Any other matter reasonably likely to interfere with a fair trial of the action.

Dated: October 26, 1971.

JOHN N. MITCHELL,
Attorney General.

[FR Doc.71-15998 Filed 11-2-71;8:48 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airpace Docket No. 71-SW-51]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate a 700-foot transition area at Breckenridge, Tex.

On September 9, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 18109) stating the Federal Aviation Administration proposed to designate a transition area at Breckenridge, Tex.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 6, 1972, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the following transition area is added:

BRECKENRIDGE, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Stephens County Airport (latitude 32°43'01" N., longitude 98°53'34" W.) and within 3.5 miles each side of the 004° bearing from the Breckenridge RBN (latitude 32°44'50" N., longitude 98°53'27" W.) extending from the 5-mile radius area to 11.5 miles north of the RBN.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Fort Worth, Tex., on October 22, 1971.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.71-15965 Filed 11-2-71;8:45 am]

[Airspace Docket No. 71-SW-59]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

The purpose of this amendment is to alter the description of the Albuquerque, N. Mex., control zone and transition area.

The present control zone and transition area descriptions include specific reference to the Albuquerque Sunport Airport/Kirtland AFB; however, the name of this airport has now been changed to Albuquerque International Airport.

As this amendment imposes no additional burden on any person, notice and public procedures hereon are unnecessary and the amendment may be effective immediately.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In §71.171 (36 F.R. 2055) and in §71.181 (36 F.R. 2140), the Albuquerque, N. Mex., control zone and transition area are amended by deleting "Albuquerque Sunport Airport/Kirtland AFB" and substituting "Albuquerque International Airport" therefor, wherever it appears.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Fort Worth, Tex., on October 22, 1971.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.71-15966 Filed 11-2-71;8:45 am]

[Airspace Docket No. 71-SW-60]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Corpus Christi, Tex., control zone.

The present description of the Corpus Christi, Tex., control zone includes an extension to the northeast based on utilization of the Corpus Christi VORTAC 200° radial (191° magnetic). It was determined that the 202° radial (193° magnetic) affords a more suitable final approach course and the approach procedure (VOR Rwy 17—Corpus Christi International) was changed accordingly.

Action is being taken herein to change the airspace description to indicate the VORTAC 202° radial rather than the 200° radial. As the extent of airspace will not be increased and the airspace affected is minor, notice and public procedures are considered unnecessary and the amendment may be effective immediately.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately, as herein set forth.

In § 71.171, (36 F.R. 2055), the Corpus Christi, Texas, control zone is amended by deleting "VORTAC 200° radial" and substituting "VORTAC 202° radial" therefor.

(Sec. 307(a); Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Forth Worth, Tex., on October 22, 1971.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.71-15967 Filed 11-2-71;8:45 am]

[Airspace Docket No. 71-EA-144]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

The Federal Aviation Administration is amending § 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the Danville, Va., control zone (36 F.R. 2073).

On January 13, 1972, the Flight Service Station's hours of operation will be reduced to 0600–2200 hours, local time, daily. This will require a similar reduction in the hours of the existence of the control zone.

Since the foregoing amendment is less restrictive in nature, notice and public procedure are unnecessary and the amendment may be made effective in less than 30 days.

The Federal Aviation Administration having reviewed the airspace requirements in the terminal airspace of Danville, Va., the amendment is herewith made effective upon publication in the FEDERAL REGISTER as follows:

1. Amend § 71.171 of Part 71, Federal Aviation Regulations, so as to amend the description of the Danville, Va. control zone by adding, "This control zone is effective from 0600 to 2200 hours, local time, daily", following the phrase, "7 miles SW of the VOR."

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on October 15, 1971.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.71-15968 Filed 11-2-71;8:45 am]

[Airspace Docket No. 71-EA-145]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

The Federal Aviation Administration is amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Harrisburg, Pa., control zone (36 F.R. 2088) and transition area (36 F.R. 2199).

The Harrisburg State and Olmsted State Airports were recently renamed Capital City Airport and Harrisburg International Airport-Olmsted Field respectively. To reflect these airport name changes, alteration of the Harrisburg, Pa. control zone and 700-foot floor transition area descriptions will be required.

Since the foregoing amendment is editorial in nature, notice and public procedure thereon are unnecessary and the amendment may be made effective in less than 30 days.

In view of the foregoing, Federal Aviation Administration having reviewed the airspace requirements in the terminal airspace of Harrisburg, Pa., the amendment is herewith made effective upon publication in the FEDERAL REGISTER (11-3-71), as follows:

1. Amend § 71.171 of Part 71, Federal Aviation Regulations, so as to amend the Harrisburg, Pa. control zone as follows:

a. Delete, "Harrisburg State Airport", and substitute, "Capital City Airport", therefor wherever it appears in the text.

b. Delete, "Olmsted State Airport", and substitute, "Harrisburg International Airport—Olmsted Field", therefor wherever it appears in the text.

2. Amend § 71.181 of Part 71, Federal Aviation Regulations, so as to amend the Harrisburg, Pa. 700-foot floor transition area as follows:

a. Delete, "Harrisburg State Airport", and substitute, "Capital City Airport", therefor.

b. Delete, "Olmsted State Airport", and substitute, "Harrisburg-International Airport—Olmsted Field", therefor wherever it appears in the text.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), of the Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on October 15, 1971.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.71-15969 Filed 11-2-71;8:45 am]

[Airspace Docket No. 71-WA-2B]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Area High Routes

On March 4, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 4298) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 75 of the Federal Aviation Regulations that would designate area high routes as a part of the overall program to establish an area navigation route structure.

To date, nine of the proposed high routes have been designated in two rules. Additional proposed routes, J826R, J827R, J830R, J834R, J836R, J839R, J846R, and J849R have now been successfully flight inspected and are being designated in this rule. Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. Due consideration was given to all relevant matter presented.

The USAF Strategic Air Command tentatively objected to the proposed routes due to possible derogation to their training program by conflicts between some of the proposed routes and USAF radar bomb scoring routes, refueling areas, or other orbital paths. The FAA regions involved have assured USAF that procedural separation shall be provided between military aircraft and civil aircraft at route conflict points.

New reference facilities were selected to improve signal coverage for some waypoints in each of the routes herein, except J836R which remains as originally proposed. One waypoint was eliminated from J830R. Also, J839R (Jacksonville, Fla., to Atlanta, Ga.) was realigned by relocating the first waypoint to effect segregation from proposed parallel route J838R planned for designation in a future rule. This realignment is minor in nature. The reference facility changes involved do not affect route alignments.

Remaining routes in Airspace Docket No. 71-WA-2 will be issued in one or more final rules soon after flight inspection has been completed.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 6, 1972, as hereinafter set forth.

In § 75.400 (36 F.R. 2370) the following area high routes are added:

Waypoint name	Location, North latitude/West longitude (in degrees, minutes and seconds)	Reference facility
J826R (KANSAS CITY, MO., TO CHICAGO, ILL.)		
Bogard, Mo.	39 24 13/93 44 49	Lamoni, Iowa.
Bradford, Ill.	41 09 35/89 35 16	Dubuque, Iowa.
Warren, Ill.	41 48 38/88 16 07	Joliet, Ill.
J827R (CHICAGO, ILL., TO KANSAS CITY, MO.)		
Morrison, Ill.	41 55 53/89 47 00	Bradford, Ill.
Kirksville, Mo.	40 08 06/92 35 30	Lamoni, Iowa.
Lawson, Mo.	39 30 13/94 05 16	Lamoni, Iowa.
J830R (ST. LOUIS, MO., TO NEW YORK, N.Y.)		
Marine, Ill.	38 43 46/89 51 54	Capital, Ill.
Gosport, Ind.	39 26 27/86 39 20	Lafayette, Ind.
Spot, Ohio.	42 00 19/80 56 16	Carleton, Mich.
Ormsby, Pa.	41 48 09/78 38 27	Buffalo, N.Y.
Sparta, N.J.	41 04 03/74 32 19	Sparta, N.J.
J834R (CHICAGO, ILL., TO CLEVELAND, OHIO)		
Kinderhook, Mich.	41 47 37/85 00 23	Fort Wayne, Ind.
Henrietta, Ohio	41 19 23/82 22 42	Carleton, Mich.
J836R (CHICAGO, ILL., TO CINCINNATI, OHIO)		
Judyville, Ind.	40 14 20/87 22 35	Fort Wayne, Ind.
Osgood, Ind.	39 09 27/85 12 25	Fort Wayne, Ind.
J839R (JACKSONVILLE, FLA., TO ATLANTA, GA.)		
Woodbine, Ga.	30 45 00/81 44 02	Savannah, Ga.
Sinclair, Ga.	33 05 19/83 33 03	Augusta, Ga.
J846R (OMAHA, NEBR., TO CHICAGO, ILL.)		
Omaha, Nebr.	41 18 00/96 54 00	Lamoni, Iowa.
Des Moines, Iowa.	41 26 15/93 38 54	Lamoni, Iowa.
Scales Mound, Ill.	42 22 53/90 24 00	Iowa City, Iowa.
Lakewood, Ill.	42 12 21/88 18 53	Milwaukee, Wis.
J849R (CHICAGO, ILL., TO DES MOINES, IOWA)		
Morrison, Ill.	41 55 53/89 47 00	Bradford, Ill.
Runnells, Iowa.	41 36 41/93 22 48	Mason City, Iowa.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 26, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-15970 Filed 11-2-71; 8:45 am]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 17—MEDICAL

Board on Collections and Compromises

1. In § 17.300, the introductory text preceding paragraph (a) is amended to read as follows:

§ 17.300 Establishment and jurisdiction.

There is established in the Department of Medicine and Surgery, under the supervision and administrative control of the Executive Assistant to the Chief Medical Director, a Board on Collections and Compromises. The Board shall consider and determine, except for determinations as to litigative probabilities and other legal considerations for which authority has been delegated to the general counsel under § 2.6(e)(4)(i) of this chapter, questions involving any offer to settle for less than liquidated value, and proposals to terminate collection action or to suspend collection action for 1 year or more, which are properly referred to the Board under §§ 17.64 and 17.65, in any claim asserted by the Veterans Administration on a debt or obligation owed the Veterans Administration, if:

• • • • •

2. Section 17.302 is revised to read as follows:

§ 17.302 Selection of members.

The members of the Board on Collections and Compromises, and their alternates, shall be selected so that each organizational element headed by an Assistant Chief Medical Director is represented on the Board. The chairman and his alternate shall be selected from the staff of the Executive Assistant to the Chief Medical Director.

(72 Stat. 1114; 38 U.S.C. 210)

This VA Regulation is effective the date of approval.

Approved: October 27, 1971.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[FR Doc.71-16007 Filed 11-2-71;8:48 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations

SUBCHAPTER B—ARCHIVES AND RECORDS

PART 101-11—RECORDS MANAGEMENT

Disposition of Federal Records

Subpart 101-11.4 is amended to conform to the provisions of Public Law 91-287, approved June 23, 1970, which amended the Records Disposal Law of 1943 (44 U.S.C. Ch. 33), and to reflect changes in the organization of the General Services Administration.

The table of contents for Part 101-11 is amended as follows:

Sec.
101-11.410 Transfer of records to Federal records centers.
101-11.410-2 Procedures for transfers to Federal records centers.
101-11.410-3 Procedures for transfers to the National Personnel Records Center, St. Louis, Mo.
101-11.410-4 Vital records.
101-11.411-2 Transfers via Federal records centers.

Subpart 101-11.4—Disposition of Federal Records

1. Section 101-11.401-1 is revised to read as follows:

§ 101-11.401-1 Records scheduling programs.

A records scheduling program is essential to promote a prompt and orderly reduction in the quantity of records in each Federal agency in accordance with 44 U.S.C. 2904, 3102, and 3301.

2. Section 101-11.401-2 is amended by adding paragraph (d) and revising the introductory text as follows:

§ 101-11.401-2 Basic elements in records scheduling programs.

Four basic elements are present in a records scheduling program:

• • • • •

(d) The identification and selection of permanent records in accordance with records retention plans. (See § 101-11.403-4.)

3. Sections 101-11.401-3 (a) and (b) are revised to read as follows:

§ 101-11.401-3 Formulation of records control schedules.

• • • • •

(a) Each Federal agency shall compile and maintain on a current basis a records control schedule for all major groups of records in its custody having importance in terms of content, bulk, or space and equipment occupied. For all newly created Federal agencies such schedules shall be completed within 1 year after creation of the agency.

(b) Schedules shall clearly identify and describe the series of records covered, and shall contain instructions that, when approved, can be readily applied. Schedules must be readily adaptable to use along organizational lines so that each office will have standing instructions for the disposition or retention of records in its custody.

• • • • •

4. Section 101-11.401-4 is amended by revising paragraph (b) and adding paragraph (d) as follows:

§ 101-11.401-4 Provisions of records control schedules.

• • • • •

(b) The removal to a Federal records center (or to an agency records center approved under § 101-11.412) of those records which cannot be disposed of immediately but which need not be maintained in office space and equipment. Such records will be maintained by the records center pending their transfer or disposal.

• • • • •

(d) The identification of permanent records, in accordance with records retention plans. (See § 101-11.403-4.)

5. Section 101-11.401-5 is revised to read as follows:

§ 101-11.401-5 Application of records control schedules.

The head of each Federal agency shall take necessary action to obtain the application of records control schedules to provide for the maximum economy of space, equipment, and personnel. Two copies of each directive or other issuance (including the text of schedules as issued) affecting the agency's records disposition program at the bureau or higher organizational level shall be transmitted to the General Services Administration (NNA), Washington, D.C. 20408, upon its promulgation.

6. Sections 101-11.403-1 and 101-11.403-4(b) are revised to read as follows:

§ 101-11.403-1 Authority.

The head of each Federal agency shall make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency (44 U.S.C. 3101). The Administrator of General Services will establish standards for the selective retention of those records having continuing value and assist Federal agencies in applying the standards to records in their custody (44 U.S.C. 2905).

§ 101-11.403-4 Application of records retention plans.

• • • • •

(b) Within 6 months after receipt of a plan, an agency shall revise its records control schedules in accordance with the provisions of the plan to insure that all records designated in the plan are retained and periodically transferred to the National Archives of the United States.

• • • • •

7. Section 101-11.404-1 is revised to read as follows:

§ 101-11.404-1 Authority.

(a) The Administrator of General Services will establish standards for the selective retention of records of continuing value (44 U.S.C. 2905).

(b) No records of the U.S. Government shall be alienated or destroyed except in accordance with 44 U.S.C. 3314.

(c) The Administrator may promulgate General Records Schedules authorizing the disposal, after the lapse of specified periods of time, of records of a specified form or character common to several or all agencies if such records will not, at the end of the periods specified, have sufficient administrative, legal, research, or other value to warrant their further preservation by the Government (44 U.S.C. 3303a).

[Airspace Docket No. 71-SO-83]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

The Federal Aviation Administration is amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Columbia, S.C., control zone (36 F.R. 2088) and transition area (36 F.R. 2199).

The Columbia Metropolitan Airport has been relocated and a new instrument approach procedure has been developed. Accordingly, it is necessary to alter the Columbia, S.C., control zone and 700-foot floor transition area to accommodate aircraft executing the new instrument approach procedure.

Since the foregoing amendment is editorial in nature, notice and public procedure thereon are unnecessary and the amendment may be made effective in less than 30 days.

In view of the foregoing, Federal Aviation Administration having reviewed the airspace requirements in the terminal airspace of Columbia, S.C., the amendment is herewith made effective upon publication in the FEDERAL REGISTER (11-3-71), as follows:

1. Amend § 71.171 of Part 71, Federal Aviation Regulations, so as to amend the Columbia, S.C., control zone as follows:

a. Delete, "Columbia Municipal Airport", and substitute, "Columbia Metropolitan Airport", therefor wherever it appears in the text.

b. Delete, "Owens Field", and substitute, "Columbia Metropolitan Airport", therefor wherever it appears in the text.

c. Delete, "Columbia Municipal Airport (lat. 33°56'30" N., long. 81°07'00" W.)", and substitute, "Columbia Metropolitan Airport (lat. 34°00'00" N., long. 81°03'00" W.)", therefor.

d. Delete, "Owens Field (lat. 33°56'30" N., long. 81°07'00" W.)", and substitute, "Columbia Metropolitan Airport (lat. 34°00'00" N., long. 81°03'00" W.)", therefor.

2. Amend § 71.181 of Part 71, Federal Aviation Regulations, so as to amend the Columbia, S.C., 700-foot floor transition area as follows:

a. Delete, "Columbia Municipal Airport", and substitute, "Columbia Metropolitan Airport", therefor wherever it appears in the text.

b. Delete, "Owens Field", and substitute, "Columbia Metropolitan Airport", therefor wherever it appears in the text.

c. Delete, "Columbia Municipal Airport (lat. 33°56'30" N., long. 81°07'00" W.)", and substitute, "Columbia Metropolitan Airport (lat. 34°00'00" N., long. 81°03'00" W.)", therefor.

d. Delete, "Owens Field (lat. 33°56'30" N., long. 81°07'00" W.)", and substitute, "Columbia Metropolitan Airport (lat. 34°00'00" N., long. 81°03'00" W.)", therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), of the Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on October 15, 1971.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.71-15968 Filed 11-2-71;8:45 am]

[Airspace Docket No. 71-SO-84]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

The Federal Aviation Administration is amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Florence, S.C., control zone (36 F.R. 2088) and transition area (36 F.R. 2199).

The Florence Municipal Airport has been relocated and a new instrument approach procedure has been developed. Accordingly, it is necessary to alter the Florence, S.C., control zone and 700-foot floor transition area to accommodate aircraft executing the new instrument approach procedure.

Since the foregoing amendment is editorial in nature, notice and public procedure thereon are unnecessary and the amendment may be made effective in less than 30 days.

In view of the foregoing, Federal Aviation Administration having reviewed the airspace requirements in the terminal airspace of Florence, S.C., the amendment is herewith made effective upon publication in the FEDERAL REGISTER (11-3-71), as follows:

1. Amend § 71.171 of Part 71, Federal Aviation Regulations, so as to amend the Florence, S.C., control zone as follows:

a. Delete, "Florence Municipal Airport", and substitute, "Florence Regional Airport", therefor wherever it appears in the text.

b. Delete, "Florence Municipal Airport (lat. 34°11'30" N., long. 79°43'00" W.)", and substitute, "Florence Regional Airport (lat. 34°11'15" N., long. 79°43'00" W.)", therefor.

2. Amend § 71.181 of Part 71, Federal Aviation Regulations, so as to amend the Florence, S.C., 700-foot floor transition area as follows:

a. Delete, "Florence Municipal Airport", and substitute, "Florence Regional Airport", therefor wherever it appears in the text.

b. Delete, "Florence Municipal Airport (lat. 34°11'30" N., long. 79°43'00" W.)", and substitute, "Florence Regional Airport (lat. 34°11'15" N., long. 79°43'00" W.)", therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), of the Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on October 15, 1971.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.71-15967 Filed 11-2-71;8:45 am]

[Airspace Docket No. 71-SO-85]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

The Federal Aviation Administration is amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Greenville, S.C., control zone (36 F.R. 2088) and transition area (36 F.R. 2199).

The Greenville Downtown Airport has been relocated and a new instrument approach procedure has been developed. Accordingly, it is necessary to alter the Greenville, S.C., control zone and 700-foot floor transition area to accommodate aircraft executing the new instrument approach procedure.

Since the foregoing amendment is editorial in nature, notice and public procedure thereon are unnecessary and the amendment may be made effective in less than 30 days.

In view of the foregoing, Federal Aviation Administration having reviewed the airspace requirements in the terminal airspace of Greenville, S.C., the amendment is herewith made effective upon publication in the FEDERAL REGISTER (11-3-71), as follows:

1. Amend § 71.171 of Part 71, Federal Aviation Regulations, so as to amend the Greenville, S.C., control zone as follows:

a. Delete, "Greenville Downtown Airport", and substitute, "Greenville Downtown Airport (Donaldson Center)", therefor wherever it appears in the text.

b. Delete, "Greenville Downtown Airport (lat. 34°50'30" N., long. 82°21'30" W.)", and substitute, "Greenville Downtown Airport (Donaldson Center) (lat. 34°50'45" N., long. 82°21'30" W.)", therefor.

2. Amend § 71.181 of Part 71, Federal Aviation Regulations, so as to amend the Greenville, S.C., 700-foot floor transition area as follows:

a. Delete, "Greenville Downtown Airport", and substitute, "Greenville Downtown Airport (Donaldson Center)", therefor wherever it appears in the text.

b. Delete, "Greenville Downtown Airport (lat. 34°50'30" N., long. 82°21'30" W.)", and substitute, "Greenville Downtown Airport (Donaldson Center) (lat. 34°50'45" N., long. 82°21'30" W.)", therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), of the Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on October 15, 1971.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.71-15966 Filed 11-2-71;8:45 am]

(d) These schedules constitute authority to dispose of the records included therein. Agencies may apply this authority subject to approval of the Comptroller General of the United States when required by 44 U.S.C. 3309. Such common records disposal authority is permissive and not mandatory. Provisions of the General Records Schedules may be applied to records in the custody of the Archivist of the United States at his discretion. (Agencies desiring authority to dispose of records covered by such schedules after different periods of time than the periods in the General Records Schedules shall make request therefor in the manner prescribed by § 101–11.406.) In addition, since the staff agencies involved have approved the standards embodied in these schedules, such requests shall be supported by an explanation of the basis for the shorter retention period proposed.

8. Section 101–11.406 is amended to read as follows:

§ 101–11.406 Agency disposal authority.

§ 101–11.406–1 Authority.

No records of the Government shall be alienated or destroyed except in accordance with 44 U.S.C. 3314. The Administrator will establish procedures to be followed by Federal agencies in compiling and submitting lists and schedules of records proposed for disposal (44 U.S.C. 3302).

§ 101–11.406–2 Submsision of disposal requests.

Requests for authorization to dispose of records shall be initiated by Federal agencies by submitting records disposal lists or schedules to the National Archives and Records Service on Standard Form 115, Request for Authority to Dispose of Records, and Standard Form 115–A, Request for Authority to Dispose of Records—Continuation Sheet, if necessary (§§ 101–11.4902 through 101–11.4904). Standard Form 115 may be used for submitting either a list or schedule, by checking either A or B under entry 6 of the form. Authority contained in an approved list is limited to records already in existence and should be used only when records of the types described are no longer accumulating. A schedule gives continuing authorization and will be used in all instances where the types of records described in the request will continue to accumulate.

* * * * *

§ 101–11.406–4 General Accounting Office clearance.

Each Federal agency shall obtain the approval of the Comptroller General for the disposal of certain classes of records relating to claims and demands by or against the Government or to accounts in which the Government is concerned. Such approval shall be obtained either prior to or concurrently with the submission of the disposal request to the National Archives and Records Service (44 U.S.C. 3309).

§ 101–11.406–5 Approval of requests for disposal authority.

After review by the National Archives and Records Service, the Archivist of the United States will determine whether the records are disposable. If the Archivist approves the disposal request, the National Archives and Records Service will notify the agency by returning one copy of completed Standard Form 115. This shall constitute the disposal authorization, which is mandatory. (For extension of retention periods or withdrawal of disposal authority, see §§ 101–11.406–7 and 101–11.406–8.) Such authorized disposal shall be accomplished as prescribed in § 101–11.408. Agencies shall forward 16 copies of all formally published disposal authorities to the National Archives and Records Service (NC).

§ 101–11.406–6 Mutilation and destruction of records.

(a) The Administrator and the heads of Federal agencies are responsible for preventing the unlawful removal, defacing, alteration, or destruction of records (44 U.S.C. 2905, 3106).

* * * * *

§ 101–11.406–7 Extension of retention periods.

In an emergency or when it is in the interest of economy, the head of a Federal agency may retain records authorized for disposal after the specified retention period. When records are so retained, a copy of the directive directing such retention shall be furnished to the Administrator and such records shall be disposed of as soon as administratively practicable (44 U.S.C. 2909).

§ 101–11.406–8 Withdrawal of disposal authority.

In an emergency or when it is in the interest of efficiency of Government operations, GSA will withdraw disposal authorizations in approved disposal schedules (44 U.S.C. 2909). Such withdrawal may apply to particular items on schedules submitted by agencies or may apply to all existing authorizations for the disposal of a specified type of record obtained by any or all agencies of the Government. If the withdrawal is applicable to only one agency, that agency will be notified of such action by letter signed by the Archivist; if applicable to more than one agency, notification may be by GSA bulletin issued and signed by the Archivist.

§ 101–11.406–9 Supersession of disposal authority.

Disposal authorizations contained in approved disposal schedules are automatically superseded by approval of a later schedule applicable to the same records unless the later schedule specifically provides that both the earlier and later schedules shall be applicable at the agency's discretion.

9. Sections 101–11.407–2(a) and 101–11.407–3(a) are revised to read as follows:

§ 101–11.407–2 Menaces to human health or life or to property.

(a) Disposal is authorized whenever it is determined that records constitute a continuing menace to human health or life or to property (44 U.S.C. 3310). Whenever the head of an agency has determined that records constitute such a menace, he shall notify the National Archives and Records Service, specifying the nature of the records, their location and quantity, and the nature of the menace. If the National Archives and Records Service concurs in the determination, the immediate removal of the menace by the destruction of the records or by other appropriate means will be directed. However, if the determination is with respect to still or motion picture film on nitrocellulose base that has deteriorated to the extent described in paragraph (b) of this section, the head of the agency may follow the procedure therein provided.

* * * * * *

§ 101–11.407–3 State of war or threatened war.

(a) Destruction of records outside the territorial limits of the continental United States is authorized whenever, during a state of war between the United States and any other nation or when hostile action by a foreign power appears imminent, the head of the agency that has custody of the records determines that their retention would be prejudicial to the interest of the United States, or that they occupy space urgently needed for military purposes and are without sufficient value to warrant preservation (44 U.S.C. 3311).

* * * * * *

10. Sections 101–11.408–1 and 101–11.408–2 are revised to read as follows:

§ 101–11.408–1 Authority.

Federal agencies are required to follow regulations issued by the Administrator governing the methods for use in disposing of records (44 U.S.C. 3314). Only the methods in this § 101–11.408 shall be used.

§ 101–11.408–2 Sale or salvage.

Paper records to be disposed of shall normally be sold as wastepaper. If the records are defense classified, their disposal is governed by Executive Order 10501 of November 5, 1953 (3 CFR). If the records are restricted, that is, if laws or regulations forbid their use by the public, the wastepaper contractor shall be required to pulp, macerate, or shred them. The contracting officer shall name a Federal employee to witness the disposal. For all other records the contract for sale shall prohibit their resale for use as records or documents. Records other than paper records (film, plastic recordings, etc.) may be salvaged or sold in the same manner and under the same conditions as paper records. All sales shall be in accordance with the established procedures for the sale of surplus personal property. (See FPMR regulations, subchapter H, § 101–45 Sale, Abandonment, or Destruction of Personal Property.)

11. Sections 101–11.409–1 and 101–11.409–9(a) are revised to read as follows:

§ 101–11.409–1 Authority.

The Administrator will issue regulations governing the transfer of records from the custody of one executive agency to another (44 U.S.C. 2908).

§ 101–11.409–9 Exceptions.

* * * * * *

(a) When records are transferred to the Federal records centers or the National Archives Building in accordance with §§ 101–11.410 and 101–11.411.

* * * * * *

12. Section 101–11.410 is amended as follows:

§ 101–11.410 Transfer of records to Federal records centers.

§ 101–11.410–1 Authority.

The Administrator of General Services is authorized to establish, maintain, and operate records centers for the storage, processing, and servicing of records for Federal agencies (44 U.S.C. 2907). Such centers are known as Federal records centers. In addition, a National Personnel Records Center is maintained for designated records of the Department of Defense and the U.S. Civil Service Commission and for other designated records pertaining to former Federal civilian employees. A list of these records centers follows:

GSA region	Areas served	Mailing addresses
	Designated records of the Military Departments and the U.S. Coast Guard.	National Personnel Records Center, 9700 Page Blvd., St. Louis, MO 63132,
	Entire Federal Government (for personnel and pay records of separated Civilian employees; other designated records).	National Personnel Records Center, 111 Winnebago Street, St. Louis, MO 63118.
1	Maine, Vermont, New Hampshire, Massachusetts, Connecticut, and Rhode Island.	Federal Records Center, 380 Trapelo Rd., Waltham, MA 02154.
2	New York, New Jersey, Puerto Rico, and the Virgin Islands.	Federal Records Center, 641 Washington St., New York, NY 10014.
3	Delaware and Pennsylvania east of Lancaster.	Federal Records Center, 5000 Wissahickon Ave., Philadelphia, PA 19144.
	Pennsylvania except areas east of Lancaster.	Federal Records Center, Naval Supply Depot, Bldg. 308, Mechanicsburg, PA 17055.
	District of Columbia, Maryland, West Virginia, and Virginia.	Washington National Records Center, Washington, DC 20409.
4	North Carolina, South Carolina, Tennessee, Mississippi, Alabama, Georgia, Florida, and Kentucky.	Federal Records Center, 1557 St. Joseph Ave., East Point, GA 30044.
5	Illinois, Wisconsin, Michigan, Indiana, Ohio, and Minnesota.	Federal Records Center, 7201 South Leamington Ave., Chicago, IL 60638.
6	Kansas, Iowa, Nebraska, and Missouri except greater St. Louis area.	Federal Records Center, 2306 East Bannister Rd., Kansas City, MO 64131.
	Greater St. Louis area (Missouri only).	National Personnel Records Center, 111 Winnebago St., St. Louis, MO 63118.
7	Texas, Oklahoma, Arkansas, Louisiana, and New Mexico.	Federal Records Center, Post Office Box 6216, Fort Worth, TX 76115.
8	Colorado, Wyoming, Utah, Montana, North Dakota, and South Dakota.	Federal Records Center, Building 48, Denver Federal Center, Denver, CO 80225.
9	Nevada except Clark County, California except Southern California and Pacific Ocean areas.	Federal Records Center, Building 1, 100 Harrison St., San Francisco, CA 94105.
	Arizona; Clark County, Nevada; and Southern California (counties of San Luis Obispo, Kern, San Bernardino, Santa Barbara, Ventura, Orange, Los Angeles, Riverside, Inyo, Imperial, San Diego).	Federal Records Center, 4747 Eastern Ave., Bell, CA 90201.
10	Washington, Oregon, Idaho, and Alaska.	Federal Records Center, 6125 Sand Point Way, Seattle, WA 98115.

§ 101–11.410–2 Procedures for transfers to Federal records centers.

This § 101–11.410–2 contains procedures governing the transfer of records to Federal records centers. Such procedures also appear in detail in the GSA Records Management Handbook, "Federal Records Centers."

(a) Federal records centers will accept for transfer any records offered by Federal agencies, subject to the following conditions:

(1) The records are not authorized for immediate disposal and transportation costs are not in excess of the resulting savings, and

(2) Facilities for storing and providing reference service on the records are available.

* * * * * *

(c) Transfers may be initiated by either oral or written request to the manager of the Federal records center in the GSA region in which the records are located. Requests shall specify the nature and quantity of the records proposed for transfer.

(d) Transfers of records on an agency-wide basis may be initiated by central or headquarters offices of agencies by either oral or written request to the General Services Administration (NC), Washington, D.C. 20408. Requests shall specify the nature and quantity of the records proposed for transfer.

(e) Transfers to the Federal records centers shall be accompanied by Standard Form 135, Records Transmittal and Receipt (§ 101–11.4907), and Standard Form 135–A, Records Transmittal and Receipt Continuation Sheet (§ 101–11.4908), if necessary, in triplicate. When feasible, records should be transferred in standard corrugated boxes used by the records centers.

(f) Federal records centers will furnish agencies with a receipt acknowledging the transfer of records by returning to the transferring agency a signed copy of the standard form required by paragraph (e) of this section. The returned copy will serve as a future aid in requesting reference service, as it will be annotated with the numbers of the records center containers in which the records are stored.

§ 101–11.410–3 Procedures for transfer to the National Personnel Records Center, St. Louis, Mo.

General Records Schedules 1 and 2 specify that certain civilian personnel and pay records shall be centralized at the National Personnel Records Center (Civilian Personnel Records) at St. Louis.

* * * * * *

(b) Official personnel folders should be transferred to the Center by transmittal letter specifying the number of folders and the month and year of separation of employees. Receipts will not be furnished for official personnel folders, loose papers intended for inclusion in such folders, or pay records.

(c) Loose papers being prepared for transfer for inclusion in official personnel folders previously sent to the records center shall be screened of temporary material, as defined in the Federal Personnel Manual, and only the papers prescribed as essential for inclusion in each individual's folder shall be forwarded. Each paper should show the following concerning the employee: Full name, date of birth, social security number, and date of separation.

(d) Transfer of fiscal records shall be accompanied by Standard Form 135 in triplicate. When feasible, records shall be transferred in the standard corrugated boxes used by the records centers.

(e) Standard Form 127, Request for Official Personnel Folder (Separated Employee) (§ 101–11.4906) shall be used by agencies in requesting transmission of personnel records of separated employees from the records center. Use of this form insures prompt transmission of the desired folders. It should be submitted to the records center in duplicate.

§ 101–11.410–4 Vital records.

GSA has established a single, centrally located depository suitable for the storage and protection of emergency preparedness records as described in Subpart 101–11.7. The depository is accessible to rail, motor, and air transportation. It has temperature and humidity controls allowing the safe storage of paper records, magnetic tape, and photographic film. Agencies may make arrangements through the General Services Administration (NC), Washington, DC 20408 for the transfer of indispensable records to this depository and for their use.

§ 101–11.410–5 Surveys of records available for transfer.

The appropriate regional National Archives and Records Service facility will conduct surveys of the records accumulations of field offices of those agencies

not operating approved records centers and recommend records to be transferred to Federal records centers. Such recommendations will be submitted to the field office concerned and to the National Archives and Records Service, GSA Central Office (NCO), for coordination with the appropriate agency headquarters. Surveys of records of agency headquarters normally will be made by the National Archives and Records Service, Central Office (NCO).

§ 101–11.410–6 Release of equipment.

File equipment received with the transfer of records to a Federal records center will normally be disposed of in accordance with applicable excess personal property regulations. An agency desiring return of the equipment should make such request prior to transfer of the records to the records center.

§ 101–11.410–7 Servicing transferred records.

• • • • • •

(b) Requests for official civilian personnel files shall be made in accordance with § 101–11.410–3(e).

• • • • • •

§ 101–11.410–8 Disposal clearances.

Records at the National Personnel Records Center (Civilian Personnel Records), authorized for disposal by General Records Schedules 1 and 2, will be destroyed in accordance with those schedules without further agency clearance. No other records of a Federal agency still in existence will be disposed of by any Federal records center except with the concurrence of the agency concerned. Agency approval will be requested for each disposal action by use of GSA Form 439, Records Disposition Control (§ 101–11.4909), or its authorized equivalent, unless prior written concurrence has been given by the agency concerned.

13. Sections 101–11.411–1 and 101–11.411–2 are revised to read as follows:

§ 101–11.411–1 Authority.

The Administrator is authorized by 44 U.S.C. 2103 to accept for deposit with the National Archives of the United States the records of any Federal agency or of the Congress that are determined by the Archivist to have sufficient historical or other value to warrant preservation.

§ 101–11.411–2 Transfers via Federal records centers.

Records will normally be transferred to the National Archives Building from a Federal records center or an approved agency records center. When such transfers are made, the agencies concerned will be furnished an inventory of the records transferred.

14. Section 101–11.411–3 is amended by revising the introductory text and paragraphs (b) and (c) to read as follows:

§ 101–11.411–3 Direct transfers.

The classes of Federal records listed in this section may be offered for direct transfer to the National Archives of the United States. Such transfers shall be initiated by Federal agencies by written request to the General Services Administration (NNA), Washington, D.C. 20408, specifying the nature and quantity of the records proposed for transfer. Existing arrangements for the transfer of records of the Congress will be continued.

• • • • • •

(b) Records of the Congress.
(c) Records of the Supreme Court.

• • • • • •

15. Section 101–11.411–5(a) is revised and § 101–11.411–5(b) is amended to read as follows:

§ 101–11.411–5 Use of records transferred to the National Archives.

(a) Restrictions lawfully imposed on the use of transferred records will be observed and enforced by the National Archives and Records Service subject to 44 U.S.C. 2104. The regulations in this Part 101–11 and in Part 105–61, insofar as they relate to the use of records in the research rooms of the National Archives Building or in a Federal records center, apply to official use of the records by Federal agencies as well as to the public.

(b) In instances of demonstrated need, and subject to any restrictions on their use, records deposited in the National Archives Building or in a Federal records center may be borrowed for official use outside the building in which they are housed by Federal agencies and the Congress, provided:

(1) Documents of exceptionally intrinsic value shall not be removed from the building in which they are housed except with the written approval of the Archivist.

• • • • • •

16. Section 101–11.411–8(e) is revised to read as follows:

§ 101–11.411–8 Transfer of cartographic records.

• • • • • •

(e) Records related to preparing, compiling, editing, or printing maps, such as projects folders containing specifications to be followed and appraisals of source materials to be used.

17. Section 101–11.412–1 is revised to read as follows:

§ 101–11.412–1 Authority.

Federal agencies are authorized to maintain and operate records centers for the storage, processing, and servicing of appropriate records when such centers are approved by the Administrator (44 U.S.C. 3103). Such centers operated by Federal agencies are referred to in this Part 101–11 as "agency records centers."

(Sec. 205(a), 63 Stat. 390, 40 U.S.C. 486(a); sec. 3302, 82 Stat. 1299, 44 U.S.C. 3302.)

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER (11–3–71).

Dated: October 28, 1971.

ROBERT L. KUNZIG,
Administrator of General Services.

[FR Doc.71–16010 Filed 11–2–71;8:49 am]

Title 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior

[Circular No. 2315]

PART 24—PRESERVATION, USE, AND MANAGEMENT OF FISH AND WILDLIFE RESOURCES

On page 14573 of the FEDERAL REGISTER of September 17, 1970, there was published a regulation which set forth the Department of the Interior's policy regarding cooperation with the various States in the preservation, use and management of the Nation's fish and wildlife resources. The purpose of this amendment is to codify this regulation as Part 24, Subtitle A, Title 43 of the Code of Federal Regulations.

It is the policy of the Department of the Interior to give notice of proposed rule making and to invite the public to participate in rule making except where such participation would be impracticable, unnecessary or contrary to the public interest and specific finding to this effect is published with rules or regulations (36 F.R. 8336, May 4, 1971). Public participation is unnecessary in this case since existing regulations are simply being codified.

A new Part 24 is added to Subtitle A, Title 43 of the Code of Federal Regulations to read as follows:

Sec.
24.1 Policy.
24.2 Cooperation with States.
24.3 Procedures.
24.4 Exemptions.
24.5 Hunting, fishing, trapping in National Park System.
24.6 Cooperative agreements.

AUTHORITY: The provisions of this Part 24 issued under 43 U.S.C. 1201.

§ 24.1 Policy.

The Secretary of the Interior recognizes that fish and wildlife resources must be maintained for their aesthetic, scientific, recreation, and economic importance to the people of the United States, and that because fish and wildlife populations are totally dependent upon their habitat, the several States and the Federal Government must work in harmony for the common objective of developing and utilizing these resources. It is the policy of the Secretary of the Interior further to strengthen and support, to the maximum extent possible, the missions of the States and the Department of the Interior in the attainment of this objective.

§ 24.2 Cooperation with States.

The effective husbandry of such resources requires the cooperation of State and Federal Government because:

(a) The several States have the authority to control and regulate the capturing, taking, and possession of fish and resident wildlife by the public within State boundaries;

(b) The Congress, through the Secretary of the Interior, has authorized and directed to various Interior agencies certain responsibilities for the conservation and development of fish and wildlife resources and their habitat.

§ 24.3 Procedures.

The following procedures will apply to all areas administered by the Secretary of the Interior through the National Park Service, Bureau of Sport Fisheries and Wildlife, Bureau of Land Management, and Bureau of Reclamation (hereinafter referred to as the Federal agencies). These Federal agencies will:

(a) Within their statutory authority, institute fish and wildlife habitat management practices in cooperation with the States which will assist the States in accomplishing their respective, comprehensive, statewide resource plans;

(b) Permit public hunting, fishing, and trapping within statutory limitations and in a manner compatible with the primary objectives for which the lands are administered. Such hunting, fishing, and trapping and the possession and disposition of fish, game, and fur animals shall be conducted in all other respects within the framework of applicable State laws, including requirements for the possession of appropriate State licenses or permits. The Federal agencies may, after consultation with the States, close all or any portion of land under their jurisdiction to public hunting, fishing, or trapping in order to protect the public safety or to prevent damage to Federal lands or resources thereon, and may impose such other restrictions as are necessary to comply with management objectives;

(c) Consult with the States and comply with State permit requirements in connection with the activities listed below, except in instances where the Secretary of the Interior determines that such compliance would prevent him from carrying out his statutory responsibilities:

(1) In carrying out research programs involving the capturing, taking, or possession of fish and wildlife or programs involving introduction of fish and wildlife;

(2) For the planned and orderly removal of surplus or harmful populations of fish and wildlife except where emergency situations requiring immediate action make such consultation and compliance with State permit requirements infeasible;

(3) In the disposition of fish and wildlife taken under subparagraph (1) or (2) of this paragraph.

§ 24.4 Exemptions.

Exempted from this regulation are the following:

(a) The control and regulation by the United States, in the area in which an international convention or treaty applies, of the taking of those species and families of fish and wildlife expressly named or otherwise covered under any international treaty or convention to which the United States is a party;

(b) Any species of fish and wildlife control over which has been ceded or granted to the United States by any State;

(c) Areas over which the States have ceded exclusive jurisdiction to the United States.

§ 24.5 Hunting, fishing, trapping in National Park System.

Nothing contained herein shall be construed as permitting public hunting, fishing, or trapping on National Parks, Monuments, or Historic areas of the National Parks System, except where Congress or the Secretary of the Interior has otherwise declared that hunting, fishing, or trapping is permissible.

§ 24.6 Cooperative agreements.

The Federal agencies and States will enter into written cooperative agreements containing the plans, terms, and conditions of each party in carrying out the intent of this regulation when such agreements are desired by the States. Such agreements will be reviewed periodically by both parties and, when appropriate, adjusted to reflect changed conditions.

Effective date. This amendment shall become effective on December 2, 1971.

W. T. PECORA,
Under Secretary of the Interior.

OCTOBER 27, 1971.

[FR Doc.71–15988 Filed 11–2–71;8:47 am]

Chapter II—Bureau of Land Management, Department of the Interior

SUBCHAPTER C—MINERALS MANAGEMENT: GENERAL

[Circular No. 2314]

PART 3100—OIL AND GAS LEASING

Subpart 3108—Terminations and Expirations

EXCEPTIONS TO AUTOMATIC TERMINATIONS AND REINSTATEMENT OF TERMINATED LEASES

On page 2871 of the FEDERAL REGISTER of February 11, 1971, there was published a notice and text of a proposed rule making to amend Subpart 3108 of Title 43 CFR. The purpose of the amendment is to implement the Act of May 12, 1970 (84 Stat. 206), which modifies section 31 of the Mineral Leasing Act (30 U.S.C. 181) as amended, by providing (1) that the automatic termination provisions do not operate under certain circumstances and (2) for reinstatement of terminated leases under certain conditions.

Interested persons were given 30 days within which to submit comments, suggestions or objections to the proposed amendment. Eight comments were received. All endorsed the proposal and suggested editorial changes.

One suggested a change to make it clear that the regulation applies to leases issued prior to July 29, 1954, where the lessee has filed a consent to subject the lease to the automatic termination provisions of the Act of July 29, 1954. The regulations have been so revised.

Two suggested adding the phrase "resulting in a deficiency" after the word "error" in line 12, paragraph (b), § 3108.2–1 to conform with the language of the Act. This has been done.

Three suggested that footnote 1, permitting a secretarial officer to recognize as nominal a deficiency greater than that provided for in the regulations, be deleted. In order that there will be no doubt as to what constitutes a nominal deficiency, the footnote has been deleted.

One suggested that the regulations be revised to allow the lessee 15 days from the date of receipt of notice of deficiency or until due date, whichever is later, to submit the balance of the rental due. The recommendation has been adopted to make it clear that the due date is controlling where after receipt of the notice of deficiency, more than 15 days remain in the life of the lease.

Three suggested that it should be made clear that notices of termination will not be sent to persons whose leases terminated prior to the date of the Act, May 12, 1970. The regulations now include this provision.

One suggested that the definition of "reasonable diligence" be expanded. The regulations have been revised to broaden what constitutes reasonable diligence so as to permit such a finding in special circumstances even when the lessee has not sent or delivered payments in advance of the due date.

One suggested that the Secretary's discretionary authority to issue oil and gas leases be stated. This has been done.

Three suggested that the regulations fix a definite period of time during which no new leases would be issued for lands in terminated leases as provided for in the amendatory legislation. The regulations have been revised to provide that a new lease for lands in a terminated lease shall not be issued until 90 days after the date of termination.

The revised regulation as set forth below will become effective upon publication in the FEDERAL REGISTER. (11–3–71)

Section 3108.2–1 of Subpart 3108, Chapter II of Title 43 of the Code of Federal Regulations is amended to read as follows:

§ 3108.2–1 Automatic terminations and reinstatement.

(a) *Automatic terminations.* Except as provided in paragraph (b) of this section, any lease subject to the provisions of section 31 of the act, as amended by section 1(7) of the Act of July 29, 1954 (30 U.S.C. 188) on which there is no well capable of producing oil or gas in paying quantities, shall automatically terminate by operation of law if the lessee fails to pay the rental on or before the anniversary date of such lease. However, if the time for payment falls upon any day in which the proper office to receive payment is not open, payment received on the next official working day shall be deemed to be timely. The termination of the lease for failure to pay the rental must be noted on the official records of the appropriate land office. Upon such notation the lands included in such lease will become subject to the filing of new lease offers only as provided for in Subpart 3112.

(b) *Exceptions.* If the rental payment due under a lease is paid on or before its anniversary date but either the amount of the payment has been or is hereafter deficient and the deficiency is nominal as defined in this section, or the amount of payment made was determined in accordance with the rental or acreage figure stated in the lease or stated in a bill or decision rendered by an authorized officer and such figure is found to be in error resulting in a deficiency, such lease shall not have automatically terminated unless (i) a new lease had been issued prior to May 12, 1970, or (2) the lessee fails to pay the deficiency within the period prescribed in the Notice of Deficiency provided for in this section. A deficiency will be considered nominal if it is not more than $10 or five per centum (5 percent) of the total payment due, whichever is more. The authorized officer will send a Notice of Deficiency to the lessee on a form approved by the Director. The notice will be sent by certified mail, return receipt requested, and will allow the lessee 15 days from the date of receipt or until the due date, whichever is later, to submit the full balance due to the appropriate office. If the payment called for in the notice is not paid within the time allowed, the lease will have terminated by operation of the law as of its anniversary date.

(c) *Reinstatement.* (1) Except as hereinafter provided, the authorized officer may reinstate a terminated lease which has been or is hereafter terminated automatically by operation of law for failure to pay on or before the anniversary date the full amount of rental due, provided that (i) such rental was paid or tendered within 20 days thereafter, and (ii) it is shown to the satisfaction of the authorized officer that such failure was either justifiable or not due to a lack of reasonable diligence on the part of the lessee, and (iii) a petition for reinstatement, together with the required rental, including any back rental which has accrued from the date of termination of the lease, is filed with the appropriate office within 15 days after receipt of Notice of Termination of Lease due to late payment of rental. The Notice of Termination will be sent by certified mail, return receipt requested. Notices of Termination will not be sent to lessees whose leases terminated prior to May 12, 1970. Lessees whose leases terminated prior to May 12, 1970, must file petitions for reinstatement with the appropriate office by close of business on December 31, 1971. Such petitions are subject to all other appropriate provisions of this section.

(2) The burden of showing that the failure to pay on or before the anniversary date was justifiable or not due to lack of reasonable diligence will be on the lessee. Reasonable diligence normally requires sending or delivering payments sufficiently in advance of the anniversary date to account for normal delays in the collection, transmittal, and delivery of the payment. The authorized officer may require evidence, such as post office receipts, of the time of sending or delivery of payments.

(3) Under no conditions will a terminated lease be reinstated if (i) a valid oil and gas lease has been issued prior to the filing of petition for reinstatement affecting any of the lands covered by that terminated lease, or (ii) the Federal oil and gas interests in the lands have been withdrawn or disposed of, or have otherwise become unavailable for oil and gas leasing; however, the authorized officer will not issue a new lease for lands covered by a lease which terminates automatically until 90 days from the date of termination.

(4) Reinstatement of terminated leases is discretionary with the Secretary.

(d) *Extension of terms of reinstated leases.* In any case where a reinstatement of a terminated lease is granted under this section and the authorized officer finds that the reinstatement of such lease will not afford the lessee a reasonable opportunity to continue operations under the lease, the authorized officer may, at his discretion, extend the term of such lease for such period as he believes will give the lessee such an opportunity. Such extensions shall be subject to the following conditions:

(1) No extension shall exceed a period equivalent to the time (i) beginning when the lessee knew or should have known of the termination and (ii) ending on the date on which the authorized officer grants such petition.

(2) No extension shall exceed a period equal to the unexpired portion of the lease or any extension thereof remaining at the date of termination.

(3) When the reinstatement occurs after the expiration of the term or extension thereof, the lease may be extended from the date the authorized officer grants the petition.

(e) *Service of documents.* The rules governing filing and service of documents set out in § 1840.0–6(e) of this chapter shall apply to notices of deficiency and termination issued under the provisions of this section.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 27, 1971.

[FR Doc.71–15987 Filed 11–2–71;8:47 am]

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5143]

[Oregon 3796 (Wash.)]

WASHINGTON

Withdrawal for National Forest Recreation Area

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

GIFFORD PINCHOT NATIONAL FOREST
WILLAMETTE MERIDIAN

Spirit Lake Recreation Area Addition

T. 9 N., R. 5 E.,
Sec. 1, E½ excepting Exchange Surveys 278, 279, and patented MS–781A.
T. 10 N., R. 5 E.,
Sec. 36, lots 1, 2, 3, NE¼NE¼, W½E½.
T. 9 N., R. 6 E.,
Sec. 6, W½ excepting Exchange Survey 278 and patented MS–781A;
Sec. 7, lots 3, 4, 5, 8, and 9, SE¼NW¼.
T. 10 N., R. 6 E.,
Sec. 31, lots 2, 3, 4, 9, and 10, NE¼NW¼.

The areas described aggregate approximately 1,099 acres in Skamania County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 27, 1971.

[FR Doc.71–15989 Filed 11–2–71;8:47 am]

[Public Land Order 5144]

[Arizona 035594]

ARIZONA

Restoration, Cancellation and Partial Revocation of Public Land

By virtue of the authority contained in section 24 of the Act of June 10, 1920, 41 Stat. 1075, as amended, 16 U.S.C. section 818 (1964), and pursuant to the determination of the Federal Power Commission in DA–147–Arizona, it is ordered as follows:

1. The Executive orders of July 2, 1910, June 16, 1911, and March 21, 1917, creating Powersite Reserves Nos. 96, 188, and 590, respectively, and the Departmental Order of February 1, 1917, creating Waterpower Designation No. 4, are hereby revoked so far as they affect the following described lands:

GILA AND SALT RIVER MERIDIAN

T. 8 N., R. 5 W.,
Sec. 14, SE¼SE¼;
Sec. 23, E½E½;
Sec. 24, W½W½;
Sec. 25, W½NW¼, SW¼SW¼, E½SW¼, SW¼SE¼;
Sec. 26, E½NE¼, NE¼SE¼.
T. 9 N., R. 3 W.,
Sec. 1, lot 4, SW¼NW¼, NW¼SW¼, S½SW¼;
Sec. 2, lot 1, SE¼NE¼, E½SE¼;
Sec. 11, E½E½, SE¼SW¼, NW¼SE¼, SW¼SE¼;
Sec. 14, E½NE¼, NE¼NW¼, NW¼SE¼;
Sec. 15, S½N½, N½S½;
Sec. 16, SW¼, NE¼SE¼, NW¼SE¼, S½SE¼;
Sec. 17, S½;
Sec. 18, lot 4, SE¼SW¼, E½SE¼, SW¼SE¼;
Sec. 19, lots 1 to 4, incl., E½, E½W½;
Sec. 20, N½, N½SW¼, SW¼SW¼;
Sec. 21, lots 1 and 2, N½NE¼, SW¼NE¼, NW¼, NE¼SW¼;
Sec. 22, NW¼NE¼, NW¼, NW¼SW¼;
Sec. 29, NW¼NW¼;
Sec. 30, lots 1 to 4, incl., NE¼, E½W½, NE¼SE¼, W½SE¼;

Sec. 31, lots 2 to 5, incl., NW¼NE¼, NE¼NW¼.
T. 10 N., R. 3 W.,
Sec. 2, SW¼SE¼;
Sec. 22, lot 5;
Sec. 26, lots 1 to 3, inclusive, S½NE¼, SE¼NW¼, SE¼;
Sec. 35, E½.
T. 3 S., R. 17 E.,
Sec. 23, SE¼SE¼;
Sec. 24, S½NE¼, SE¼NW¼;
Sec. 27, SW¼NW¼;
Sec. 28, NE¼NE¼;
Sec. 35, NW¼NW¼.
T. 4 S., R. 22 E.,
All lands of the United States in unsurveyed portions of sections 2, 3, 4, 5, 9, 10, 11, 14, 15, and 16, situated in whole or in part within 1 mile of Gila River.

The areas described aggregate approximately 9,954 acres of public and nonpublic lands in Yavapai, Gila, Pinal, and Graham Counties.

2. Portions of the lands described above are withdrawn for the Hassayampa Reclamation Project by the Secretary's Order of September 14, 1945. The lands described in T. 3 S., R. 17 E., and T. 4 S., R. 22 E., are withdrawn by Executive orders of November 9, 1871, and December 6, 1926, and by the Secretary's order of September 19, 1934, respectively, for the White Mountain Indian Reservation, the San Carlos Indian Reservation, and the San Carlos Indian Irrigation Project.

3. At 10 a.m. on December 2, 1971, the unreserved and unappropriated public lands shall be open to operation of the public land laws, subject to valid existing rights, the requirements of applicable law, and the provisions of existing withdrawals. All valid applications received at, or prior to 10 a.m. on December 2, 1971, shall be considered as filed simultaneously at that time. Those received thereafter shall be considered in the order of filing.

These public lands have been and continue to be open to applications and offers under the mineral leasing laws, and to location and entry under the U.S. mining laws.

Inquiries concerning the lands shall be addressed to the Chief, Division of Technical Services, Bureau of Land Management, 3022 Federal Building, Phoenix, Ariz. 85025.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 27, 1971.

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Title 50—WILDLIFE AND FISHERIES

Chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce

PART 260—INSPECTION AND CERTIFICATION

Fishery Products

On pages 8688 through 8693 of the FEDERAL REGISTER of May 11, 1971, there was published a notice of proposed revisions of certain sections of Part 260 of Title 50 CFR.

Interested persons were given 45 days to submit written comments, suggestions, or objections with respect to the proposed amendments pertaining to the following subject matter:

1. Administration of regulations.
2. Definitions.
3. Fees and charges.
4. Requirements for official establishments under fishery products inspection on a contract basis.

Several comments were received regarding the proposed amendments, and changes have been made in various sections based upon comments received. All changes of a substantive nature which were incorporated pertained to §§ 260.96 through 260.103 dealing with requirements for official establishments utilizing fishery products inspection services on a contract basis.

The changes relating to requirements for official establishments under fishery products inspection on a contract basis reflect incorporation of most of the provisions contained in the contract form currently used. Additional modifications have been made in some of the current sections by updating certain requirements to the present state of technological accomplishment. Other changes have been made to more closely align plant sanitation requirements with regulations issued pursuant to the Food, Drug, and Cosmetic Act, as amended.

These amendments of various sections of Part 260 of Title 50 CFR are issued pursuant to sections 203 and 205 of Title II of the Agricultural Marketing Act of 1946, 60 Stat. 1087, 1090, as amended, 7 U.S.C. sections 1622 and 1624, as transferred to the Department of the Interior by section 6 of the Fish and Wildlife Act of 1956, 70 Stat. 1122, as amended, 16 U.S.C., section 742e and subsequently transferred to the Department of Commerce.

This latter transfer was effected by Reorganization Plan No. 4 of 1970 (84 Stat. 2090), which, among other things, abolished the Bureau of Commercial Fisheries in the Department of the Interior and transferred its functions, including the fishery inspection function dealt with in these regulations, to the Department of Commerce.

The amendments to the designated sections of Part 260 of Title 50 CFR are hereby adopted as set forth below and shall become effective 30 days from the date of publication in the FEDERAL REGISTER.

HOWARD POLLOCK,
Acting Administrator.

ROBERT W. SCHONING,
Acting Director,
National Marine Fisheries Service.

OCTOBER 28, 1971.

ADMINISTRATION OF REGULATIONS

1. Section 260.1 is amended as follows:

§ 260.1 Administration of regulations.

The Secretary of Commerce is charged with the administration of the regulations in this part except that he may delegate any or all of such functions to any officer or employee of the National Marine Fisheries Service of the Department in his discretion.[1]

DEFINITIONS

2. In § 260.6, the terms "department," "director," and "inspection service" are amended; the term "plant" is deleted; and "establishment," "official establishment," and "wholesome" are added.

§ 260.6 Terms defined.

* * * * *

Department. "Department" means the U.S. Department of Commerce.

* * * * *

Director. "Director" means the Director of the National Marine Fisheries Service.

* * * * *

Establishment. "Establishment" means any premises, buildings, structures, facilities, and equipment (including vehicles) used in the processing, handling, transporting, and storage of fish and fishery products.

* * * * *

Inspection service. "Inspection service" means:

* * * * *

(d) Performance by an inspector of any related services such as to observe the preparation of the product from its raw state through each step in the entire process; or observe conditions under which the product is being harvested, prepared, handled, stored, processed, packed, preserved, transported, or held; or observe sanitation as a prerequisite to the inspection of the processed product, either on a contract basis or periodic basis; or checkload the inspected processed product in connection with the marketing of the product, or any other type of service of a consultative or advisory nature related herewith.

* * * * *

Official establishment. "Official establishment" means any establishment which has been approved by National Marine Fisheries Service, and utilizes inspection service on a contract basis.

* * * * *

Wholesome. "Wholesome" means the minimum basis of acceptability for human food purposes, of any fish or fishery

[1] All functions of the Department of Agriculture which pertain to fish, shellfish, and any products thereof, now performed under the authority of Title II of the act of August 14, 1946, popularly known as the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627) including but not limited to the development and promulgation of grade standards, the inspection and certification, and improvement of transportation facilities and rates for fish and shellfish and any products thereof, were transferred to the Department of the Interior by the Director of the Budget (23 F.R. 2304) pursuant to section 6(a) of the act of Aug. 8, 1956, popularly known as the Fish and Wildlife Act of 1956 (16 U.S.C. sec. 742e). Reorganization Plan No. 4 of 1970 (84 Stat. 2090) transferred, among other things, such functions from the U.S. Department of the Interior to the U.S. Department of Commerce.

product as defined in section 402 of the Federal Food, Drug, and Cosmetic Act, as amended.

FEES AND CHARGES

3. Section 260.69 is amended as follows:

§ 260.69 Payment of fees and charges.

Fees and charges for any inspection service shall be paid by the interested party making the application for such service, in accordance with the applicable provisions of the regulations in this part, and, if so required by the person in charge of the office of inspection serving the area where the services are to be performed, an advance of funds prior to rendering inspection service in an amount suitable to the Secretary, or a surety bond suitable to the Secretary, may be required as a guarantee of payment for the services rendered. All fees and charges for any inspection service, performed pursuant to the regulations in this part shall be paid by check, draft, or money order made payable to the National Marine Fisheries Service. Such check, draft, or money order shall be remitted to the appropriate regional or area office serving the geographical area in which the services are performed, within ten (10) days from the date of billing, unless otherwise specified in a contract between the applicant and the Secretary, in which latter event the contract provisions shall apply.

4. Section 260.70 is amended as follows:

§ 260.70 Schedule of fees.

(a) Unless otherwise provided in a written agreement between the applicant and the Secretary, the fees to be charged and collected for any inspection service performed under the regulations in this part at the request of the United States, or any other agency or instrumentality thereof, shall be in accordance with the applicable provisions of this section and § 260.81.

(b) Unless otherwise provided in the regulations in this part, the fees to be charged and collected for any inspection service performed under the regulations in this part shall be based on the applicable rates specified in this section for the type of service performed.

(1) *Type I—Official Establishment and Product Inspection.* Contract basis.

	Per hour
Regular Time	$9.80
Overtime	11.05
Legal Holidays (2 hour minimum)	20.00

The contracting party shall be charged at an hourly rate of $9.80 per hour for regular time, $11.05 per hour for overtime in excess of 40 hours per week, and $20 per hour for national legal holidays for service performed by inspectors at official establishment(s) operating under Federal inspection. The contracting party shall be billed monthly for services rendered in accordance with contractual provisions at the rates prescribed in this section. At an official establishment designated in a contract, products also designated therein will be inspected during processing at the hourly rate for regular time, plus overtime, when appropriate. Products not designated in the contract will be inspected upon request on a lot inspection basis at lot inspection rates as prescribed in this section.

(2) *Type II—Lot Inspection—Officially and unofficially drawn samples.*

	Per hour
Regular Time	$13.25
Overtime	16.25
Saturday, Sunday, and Holiday	20.75
Minimum fee	3.50

For lot inspection services performed between the hours of 7 a.m. and 5 p.m. of any regular workday—$13.25 per hour.

For lot inspection services performed between the hours of 5 p.m. and 7 a.m. of any regular workday—$16.25 per hour.

For lot inspection services performed on Saturday, Sunday, and national legal holidays—$20.75 per hour.

The minimum service fee to be charged and collected for inspection of any lot or lots of products requiring less than 1 hour shall be $8.50.

(3) *Type III—Miscellaneous Inspection and Consultative Service.* When any inspection or related service, such as, but not limited to, initial and final establishment surveys, appeal inspection, sanitation evaluation, sampling, product evaluation, and label and product specification review rendered is such that charges based on the foregoing sections are clearly inapplicable, charges will be based on time consumed by the inspector in performance of such inspection related service at the rates set forth in paragraph (b)(2) of this section for lot inspection.

(c) Fees to be charged and collected for lot, miscellaneous, and consultative inspection service furnished on an hourly basis shall be based on the actual time required to render such service including, but not limited to, the travel, sampling, and waiting time required of the inspector or inspectors, in connection therewith.

(d) Analytical services: Fees for various laboratory analyses are set forth below.

Type of analysis	*Fee per individual analysis*
Hydrogen Ion Concentration	$2.85
Moisture (drying method)	4.60
Fat	6.90
Protein	17.10
Salt	11.50
Bacteriological plate count	4.60
Bacteriological direct count	4.60
E. coli (presumptive)	6.90
Yeast and mold count	4.60
Staphylococcus	13.80
Salmonella:[1]	
Step 1	9.20
Step 2	4.60
Step 3	9.20
Coliform	4.60
Species determination	20.00

[1] Salmonella test may be in three steps as follows: Step 1—growth through differential agars; Step 2—growth and testing through triple-sugar-iron agar; Step 3—confirmatory test through biochemicals.

(1) Applicants requesting specific analysis will be charged on the basis of these fees. Charges based on these fees will be in addition to any hourly rates charged to applicants for lot miscellaneous and consultative inspection service as well as to any hourly rates charged for inspection services provided under a contract at official establishments.

(2) Fees to be charged for any analysis performed at a Government laboratory not specifically shown in this paragraph (d) will be based on the time required to perform such analysis at an hourly rate of $11.

(3) A surcharge of 10 percent of the total charges for analytical services will be charged for administrative purposes.

5. Section 260.71 is amended as follows:

§ 260.71 Inspection services performed on a resident basis.

* * * * *

(b) A charge to cover the actual cost to the NMFS of the travel (including the cost of movement of household goods and dependents), and per diem with respect to each inspector who is transferred (other than for the convenience of the NMFS), from an official station to the designated official establishment(s).

(c) A charge of $13.25 per hour plus actual costs to the NMFS for per diem and travel costs incurred in rendering service not specifically covered in this section; such as, but not limited to, initial plant surveys and inauguration of inspection service.

§ 260.76 [Deleted]

6. Section 260.76 is deleted.

7. Section 260.80 is amended as follows:

§ 260.80 Charges for inspection service on a contract basis.

Irrespective of fees and charges prescribed in the foregoing sections, the Secretary may enter into a written memorandum of understanding or contract, whichever may be appropriate, with any administrative agency charged with the administration of a marketing order effective pursuant to the Agricultural Marketing Agreement Act of 1937, as revised (16 U.S.C. 661 et seq.) for the making of inspections pursuant to said agreement or order on such basis as will reimburse the National Marine Fisheries Service of the Department for the full cost of rendering such inspection service as may be determined by the Secretary. Likewise, the Secretary may enter into a written memorandum of understanding or contract, whichever may be appropriate, with an administrative agency charged with the administration of a similar program operated pursuant to the laws of any State.

REQUIREMENTS FOR OFFICIAL ESTABLISHMENTS UNDER FISHERY PRODUCTS INSPECTION ON A CONTRACT BASIS[1]

8. Section 260.97, Plant survey, through § 260.103, Personnel; health, are deleted and are replaced by § 260.96, Application for Fishery Products Inspection Service on a contract basis, through § 260.104, Personnel, as follows:

[1] Compliance with the above requirements does not excuse failure to comply with all applicable sanitary rules and regulations of city, county, State, Federal, or other agencies having jurisdiction over such establishments and operations.

§ 260.96 Application for Fishery Products Inspection Service on a contract basis at official establishments.

Any person desiring to process and pack products in an establishment under fishery products inspection service on a contract basis, must receive approval of such buildings and facilities as an official establishment prior to the inauguration of such service. An application for inspection service to be rendered in an establishment shall be approved according to the following procedure:

(a) Initial survey: When application has been filed for inspection service as aforesaid, NMFS inspector(s) shall examine the buildings, premises, and facilities according to the requirements of the fishery products inspection service and shall specify any additional facilities required for the service.

(b) Final survey and establishment approval: Prior to the inauguration of the fishery products inspection service, a final survey of the buildings, premises, and facilities shall be made to verify that the buildings are constructed and facilities are in accordance with the approved drawings and the regulations in this part.

(c) Drawings and specifications of new construction or proposed alterations of existing official establishments shall be furnished to the Director in advance of actual construction for prior approval with regard to compliance with requirements for facilities.

§ 260.97 Conditions for providing fishery products inspection service at official establishments.

(a) The determination as to the inspection effort required to adequately provide inspection service at any establishment will be made by NMFS. The man-hours required may vary at different official establishments due to factors such as, but not limited to, size and complexity of operations, volume and variety of products produced, and adequacy of control systems and cooperation. The inspection effort requirement may be reevaluated when the contracting party or NMFS deems there is sufficient change in production, equipment and change of quality control input to warrant reevaluation. Inspectors will not be available to perform any of employee or management duties, however, they will be available for consultation purposes. NMFS reserves the right to reassign inspectors as it deems necessary.

(b) NMFS shall not be held responsible:

(1) For damages occurring through any act of commission or omission on the part of its inspectors when engaged in performing services; or

(2) For production errors, such as processing temperatures, length of process, or misbranding of products; or

(3) For failure to supply enough inspection effort during any period of service.

(c) The contracting party will:

(1) Use only wholesome raw material which has been handled or stored under sanitary conditions and is suitable for processings; maintain the official establishment(s), designated on the contract in such sanitary condition and to employ such methods of handling raw materials for processing as may be necessary to conform to the sanitary requirements prescribed or approved by NMFS;

(2) Adequately code each primary container and master case of products sold or otherwise distributed from a manufacturing, processing, packing, or repackaging activity to enable positive lot identification to facilitate, where necessary, the segregation of specific food lots that may have become contaminated or otherwise unfit for their intended use;

(3) Not permit any labels on which reference is made to Federal inspection, to be used on any product which is not packed under fishery products inspection service nor permit any labels on which reference is made to any U.S. Grade to be used on any product which has not been officially certified as meeting the requirements of such grade; nor supply labels bearing reference to Federal inspection to another establishment unless the products to which such labels are to be applied have been packed under Federal inspection at an official establishment;

(4) Not affix any label on which reference is made to Federal inspection to any container of processed foods, produced in any designated official establishment, with respect to which the grade of such product is not certified because of adulteration due to the presence of contaminants in excess of limits established in accordance with the regulations or guidelines issued pursuant to the Food, Drug, and Cosmetic Act, as amended;

(5) Not, with respect to any product for which U.S. Grade Standards are in effect, affix any label on which reference is made to Federal inspection to any container of processed food which is substandard: *Provided*, That such label may be affixed to any container of such substandard quality product if such label bears a statement to indicate the substandard quality;

(6) Not, with respect to any product for which U.S. Grade Standard are not in effect, affix any label on which reference is made to the Federal inspection to containers of processed foods, except with the approval of NMFS;

(7) Furnish such reports of processing, packaging, grading, laboratory analyses, and output of products inspected, processed, and packaged at the designated official establishment(s) as may be requested by NMFS, subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942;

(8) Make available for use by inspectors, adequate office space in the designated official establishment(s) and furnish suitable desks, office equipment, and files for the proper care and storage of inspection records;

(9) Make laboratory facilities and necessary equipment available for the use of inspectors to inspect samples of processed foods and/or components thereof;

(10) Furnish and provide laundry service, as required by NMFS, for coats, trousers, smocks, and towels used by inspectors during performance of duty in official establishment(s);

(11) Furnish stenographic and clerical assistance as may be necessary in the typing of certificates and reports and the handling of official correspondence, as well as furnish the labor incident to the drawing and grading of samples and other work required to facilitate adequate inspection procedures whenever necessary;

(12) Submit to NMFS, three (3) copies of new product specifications in a manner prescribed by NMFS, and three (3) end-product samples for evaluation and/or laboratory analysis on all products for approval, for which U.S. Grade Standards are not available, when inspection is to be applied to such products. If requested of NMFS, such new specifications and end-product samples shall be considered confidential;

(13) Submit, as required by NMFS, for approval, proofs prior to printing and thereafter four (4) copies of any finished label which may or may not bear official identification marks, when such products are packed under federal inspection on a contract basis;

(14) Not make deceptive, fraudulent, or unauthorized use in advertising, or otherwise, of the fishery products inspection service, the inspection certificates or reports issued, or the containers on which official identification marks are embossed or otherwise identified, in connection with the sale of any processed products;

(15) Submit to NMFS, four (4) copies of each label which may or may not bear official identification marks, when such labels are to be withdrawn from inspection or when approved labels are disapproved for further use under inspection;

(16) Notify NMFS in advance of the proposed use of any labels which require obliteration of any official identification marks, and all reference to the inspection service on approved labels which have been withdrawn or disapproved for use;

(17) Accord representatives of NMFS at all reasonable times free and immediate access to establishment(s) and official establishment(s) under applicant's control for the purpose of checking codes, coded products, coding devices, coding procedures, official identification marks obliteration, and use of withdrawn or disapproved labels.

(d) Termination of inspection services:

(1) The fishery products inspection service, including the issuance of inspection reports, shall be rendered from the date of the commencement specified in the contract and continue until suspended or terminated (i) by mutual consent; (ii) by either party giving the other party sixty (60) days' written notice specifying the date of suspension or

termination; (iii) by one (1) day's written notice by NMFS in the event the applicant fails to honor any invoice within ten (10) days after date of receipt of such invoice covering the full costs of the inspection service provided, or in the event the applicant fails to maintain its designated plants in a sanitary condition or to use wholesome raw materials for processing as required by NMFS, or in the event the applicant fails to comply with any provisions of the regulations contained in this part, (iv) by automatic termination in case of bankruptcy, closing out of business, or change in controlling ownership.

(2) In case the contracting party wishes to terminate the fishery products inspection service under the terms of paragraph (d) (1) (i) or (ii) of this section, either the service must be continued until all unused containers, labels, and advertising material on hand or in possession of his supplier bearing official identification marks, or reference to fishery products inspection service have been used, or said containers, labels, and advertising material must be destroyed, or official identification marks, and all other reference to the fishery products inspection service on said containers, labels, advertising material must be obliterated, or assurance satisfactory to NMFS must be furnished that such containers, labels, and advertising material will not be used in violation of any of the provisions of the regulations in the part.

(3) In case the fishery products inspection service is terminated for cause by NMFS under the terms of subparagraph (1) (iii) of this paragraph, or in case of automatic termination under terms of subparagraph (1) (iv) of this paragraph, the contracting party must destroy all unused containers, labels, and advertising material on hand bearing official identification marks, or reference to fishery products inspection service, or must obliterate official identification marks, and all reference to the fishery products inspection service on said containers, labels and advertising material.

After termination of the fishery products inspection service, NMFS may, at such time or times as it may determine to be necessary, during regular business hours, enter the establishment(s) or other facilities in order to ascertain that the containers, labels, and advertising material have been altered or disposed of in the manner provided herein, to the satisfaction of NMFS.

§ 260.98 Premises.

The premises about an official establishment shall be free from conditions which may result in the contamination of food including, but not limited to, the following:

(a) Strong offensive odors;

(b) Improperly stored equipment, litter, waste, refuse, and uncut weeds or grass within the immediate vicinity of the buildings or structures that may constitute an attractant, breeding place, or harborage for rodents, insects, and other pests;

(c) Excessively dusty roads, yards, or parking lots that may constitute a source of contamination in areas where food is exposed;

(d) Inadequately drained areas that may contribute contamination to food products through seepage or foot-borne filth and by providing a breeding place for insects or micro-organisms;

If the grounds of an official establishment are bordered by grounds not under the official establishment operator's control of the kind described in paragraphs (b) through (d) of this section, care must be exercised in the official establishment by inspection, extermination, or other means to effect exclusion of pests, dirt, and other filth that may be a source of food contamination.

§ 260.99 Buildings and structures.

The buildings and structures shall be properly constructed and maintained in a sanitary condition, including, but not limited to the following requirements:

(a) Lighting: There shall be sufficient light (1) consistent with the use to which the particular portion of the building is devoted, and (2) to provide for efficient cleaning. Belts and tables on which picking, sorting, or trimming operations are carried on shall be provided with sufficient nonglaring light to insure adequacy of the respective operation. Light bulbs, fixtures, skylights, or other glass suspended over exposed food in any step of preparation shall be of the safety type or otherwise protected to prevent food contamination in case of breakage.

(b) Ventilation: There shall be sufficient ventilation in each room and compartment thereof to prevent excessive condensation of moisture and to insure sanitary and suitable processing and operating conditions. If such ventilation does not prevent excessive condensation, the Director may require that suitable facilities be provided to prevent the condensate from coming in contact with equipment used in processing operations and with any ingredient used in the manufacture or production of a processed product.

(c) Drains and gutters: All drains and gutters shall be properly installed with approved traps and vents. The drainage and plumbing system must permit the quick runoff of all water from official establishment buildings, and surface water around buildings and on the premises; and all such water shall be disposed of in such a manner as to prevent a nuisance or health hazard. Tanks or other equipment whose drains are connected to the waste system must have such screens and vacuum breaking devices affixed so as to prevent the entrance of waste water, material, and the entrance of vermin to the processing tanks or equipment.

(d) Water supply: There shall be ample supply of both hot and cold water; and the water shall be of safe and sanitary quality with adequate facilities for its (1) distribution throughout buildings, and (2) protection against contamination and pollution.

Sea water of safe suitable and sanitary quality may be used in the processing of various fishery products when approved by NMFS prior to use.

(e) Construction: Roofs shall be weathertight. The walls, ceilings, partitions, posts, doors, and other parts of all buildings and structures shall be of such materials, construction, and finish as to permit their efficient and thorough cleaning. The floors shall be constructed of tile, cement, or other equally impervious material, shall have good surface drainage, and shall be free from openings or rough surfaces which would interfere with maintaining the floors in a clean condition.

(f) Processing rooms: Each room and each compartment in which any processed products are handled, processed, or stored (1) shall be so designed and constructed as to insure processing and operating conditions of a clean and orderly character; (2) shall be free from objectional odors and vapors; and (3) shall be maintained in a clean and sanitary condition.

(g) Prevention of animals and insects in official establishment(s): Dogs, cats birds, and other animals (including, but not being limited to rodents and insects) shall be excluded from the rooms from which processed products are being prepared, handled, or stored and from any rooms from which ingredients (including, but not being limited to salt, sugar, spices, flour, batter, breading, and fishery products) are handled or stored. Screens, or other devices, adequate to prevent the passage of insects shall, where practical, be provided for all outside doors and openings. The use of chemical compounds such as cleaning agents, insecticides, bactericides, or rodent poisons shall not be permitted except under such precautions and restrictions as will prevent any possibility of their contamination of the processed product. The use of such compounds shall be limited to those circumstances and conditions as approved by NMFS.

(h) Inspector's office: Furnished suitable and adequate office space, including, but not being limited to, light, heat, and janitor service shall be provided rent free in official establishments for use for official purposes by the inspector and NMFS representatives. The room or rooms designated for this purpose shall meet with the approval of NMFS and shall be conveniently located, properly ventilated, and provided with lockers or cabinets suitable for the protection and storage of inspection equipment and supplies and with facilities suitable for inspectors to change clothing.

(i) Adequate parking space, conveniently located, for private or official vehicles used in connection with providing inspection services shall be provided.

§ 260.100 Facilities.

Each official establishment shall be equipped with adequate sanitary facilities and accommodations, including, but not being limited to, the following:

(a) Containers approved for use as containers for processed products shall not be used for any other purpose.

(b) No product or material not intended for human food or which creates an objectionable condition shall be processed, handled, or stored in any room, compartment, or place where any fishery product is manufactured, processed, handled, or stored.

(c) Suitable facilities for cleaning and sanitizing equipment (e.g., brooms, brushes, mops, clean cloths, hose, nozzles, soaps, detergent, sprayers) shall be provided at convenient locations throughout the plant.

§ 260.101 Lavatory accommodations.

Modern lavatory accommodations, and properly located facilities for cleaning and sanitizing utensils and hands, shall be provided.

(a) Adequate lavatory and toilet accommodations, including, but not being limited to, running hot water (135° F. or more) and cold water, soap, and single service towels, shall be provided. Such accommodations shall be in or near toilet and locker rooms and also at such other places as may be essential to the cleanliness of all personnel handling products.

(b) Sufficient containers with covers shall be provided for used towels and other wastes.

(c) An adequate number of hand washing facilities serving areas where edible products are prepared shall be operated by other than hand-operated controls, or shall be of a continuous flow type which provides an adequate flow of water for washing hands.

(d) Durable signs shall be posted conspicuously in each toilet room and locker room directing employees to wash hands before returning to work.

(e) Toilet facilities shall be provided according to the following formula:

Number of persons:	*Toilet bowls required*
1 to 15, inclusive	1
16 to 35, inclusive	2
36 to 55, inclusive	[1]3
56 to 80, inclusive	[1]4
For each additional 30 persons in excess of 80	[1]1

[1] Urinals may be substituted for toilet bowls but only to the extent of one-third of the total number of bowls required.

All toilet equipment shall be kept operative, in good repair, and in a sanitary condition.

§ 260.102 Equipment.

All equipment used for receiving, washing, segregating, picking, processing, packaging, or storing any processed products or any ingredients used in the manufacture or production thereof, shall be of such design, material, and construction as will:

(a) Enable the examination, segregation, preparation, packaging, and other processing operations applicable to processed products, in an efficient, clean, and sanitary manner, and

(b) Permit easy access to all parts to insure thorough cleaning and effective bactericidal treatment. Insofar as is practicable, all such equipment shall be made of smooth impermeable corrosion-resistant material that will not adversely affect the processed product by chemical action or physical contact. Such equipment shall be kept in good repair and sanitary condition. Such equipment shall be cleaned and sanitized at a frequency as is necessary or required in accordance with Good Manufacturing Practice Regulations, 21 CFR, Part 128.

§ 260.103 Operations and operating procedures shall be in accordance with an effective sanitation program.

(a) All operators in the receiving, transporting, holdings, segregating, preparing, processing, packaging, and storing of processed products and ingredients, used as aforesaid, shall be strictly in accord with clean and sanitary methods and shall be conducted as rapidly as possible and at temperatures that will inhibit and retard the growth of bacterial and other micro-organisms and prevent any deterioration or contamination of such processed products or ingredients thereof. Mechanical adjustments or practices which may cause contamination of foods by oil, dust, paint, scale, fumes, grinding materials, decomposed food, filth, chemicals, or other foreign materials shall not be conducted during any manufacturing or processing operation.

(b) All processed products, raw materials, ingredients, and components thereof shall be subject to inspection during each manufacturing or processing operation. To assure a safe, wholesome finished product, changes in processing methods and procedures as may be required by the Director shall be effectuated as soon as practicable. All processed products which are not manufactured or prepared in accordance with the requirements contained in § 260.96 to § 260.104 or are unwholesome or otherwise not fit for human food shall be removed and segregated prior to any further processing operation.

(c) Official establishments operating under Federal inspection should have an effective quality control program as appropriate for the nature of the products and processing operations.

(d) All ingredients used in the manufacture or processing of any processed product shall be wholesome and fit for human food.

(e) The methods and procedures employed in the receiving, segregating, handling, transporting, and processing of ingredients in official establishment(s) shall be adequate to result in a satisfactory processed product. Such methods and procedures include, but are not limited to, the following requirements:

(1) Containers, utensils, pans, and buckets used for the storage or transporting of partially processed food ingredients shall not be nested unless rewashed and sanitized before each use;

(2) Containers which are used for holding partially processed food ingredients shall not be stacked in such manner as to permit contamination of the partially processed food ingredients;

(3) Packages or containers for processed products shall be clean when being filled with such products; and all reasonable precautions shall be taken to avoid soiling or contaminating the surface of any package or container liner which is, or will be, in direct contact with such products.

(f) Retention tags: (1) Any equipment such as, but not limited to, conveyors, fillers, sorters, choppers, and containers which fail to meet appropriate and adequate sanitation requirements will be identified by the inspector in an appropriate and conspicuous manner with the word "RETAINED." Following such identification, the equipment shall not be used until the discrepancy has been resolved, the equipment reinspected and approved by the inspector and the "RETAINED" identification removed by the inspector.

(2) Lot(s) of processed products that may be considered to be mislabeled and/or unwholesome by reason of contaminants or which may otherwise be in such condition as to require further evaluation or testing to determine that the product properly labeled and/or wholesome will be identified by the inspector in an appropriate and conspicuous manner with the word "RETAINED." Such lot(s) of product shall be held for reinspection or testing. Final disposition of the lot(s) shall be determined by NMFS and the removal of the "RETAINED" identification shall be performed by the inspector.

§ 260.104 Personnel.

The establishment management shall be responsible for taking all precautions to assure the following:

(a) *Disease control.* No person affected by disease in a communicable form, or while a carrier of such disease, or while affected with boils, sores, infected wounds, or other abnormal sources of microbiological contamination, shall work in a food plant in any capacity in which there is a reasonable possibility of food ingredients becoming contaminated by such person, or of disease being transmitted by such person to other individuals.

(b) *Cleanliness.* All persons, while working in direct contact with food preparation, food ingredients, or surfaces coming into contact therewith shall:

(1) Wear clean outer garments, maintain a high degree of personal cleaniness, and conform to hygienic practices while on duty, to the extent necessary to prevent contamination of food products.

(2) Wash and sanitize their hands thoroughly to prevent contamination by undesirable microorganisms before starting work, after each absence from the work station, and at any other time when the hands may have become soiled or contaminated.

(3) Remove all insecure jewelry and, when food is being manipulated by hand, remove from hands any jewelry that cannot be adequately sanitized.

(4) If gloves are used in food handling, maintain them in an intact, clean, and sanitary condition. Such gloves shall be of an impermeable material except where their usage would be inappropriate or incompatible with the work involved.

(5) Wear hair nets, caps, masks, or other effective hair restraints. Other persons that may incidentally enter the processing areas shall comply with this requirement.

(6) Not store clothing or other personal belongings, eat food, drink beverages, chew gum, or use tobacco in any form in areas where food or food ingredients are exposed or in areas used for washing equipment or utensils.

(7) Take any other necessary precautions to prevent contamination of foods with microorganisms or foreign substances including, but not limited to perspiration, hair, cosmetics, tobacco, chemicals, and medicants.

(c) *Education and training.* Personnel responsible for identifying sanitation failures or food contamination should have a background of education or experience, or a combination thereof, to provide a level of competency necessary for production of clean wholesome food. Food handlers and supervisors should receive appropriate training in proper food-handling techniques and food-protection principles and should be cognizant of the danger of poor personal hygiene and unsanitary practices, and other vectors of contamination.

[FR Doc.71-16008 Filed 11-2-71;8:49 am]

Proposed Rule Making

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[24 CFR Part 1710]

[Docket No. R-71-149]

LAND REGISTRATION

Notice of Proposed Rule Making

On February 24, 1971, the Department published a proposed revision of 24 CFR Part 1710 providing registration requirements under the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701). Various comments were received and on August 16 and 17, 1971, informal hearings were held in accordance with a notice published in the FEDERAL REGISTER on August 5, 1971.

Upon consideration of the comments filed and the statements of record presented at the hearings, certain substantive modifications, editorial clarifications, and changes of format are being considered, the principal of which are as follows:

In § 1710.1, new definitions of "Exemption determination," "Exemption order," "Property Report," and "Sale" are included and the former definition of "Unimproved land" is deleted.

Section 1710.2 gives the official address of the Office of Interstate Land Sales Registration.

Former § 1710.10 is now divided into four separate sections: §§ 1710.10, 1710.11, 1710.12, and 1710.14, distinguishing respectively between statutory exemptions not requiring an advisory opinion, statufory exemptions which require a determination, regulatory exemptions not requiring an opinion, and a special exemption category concerning limited offerings that include sale of lots primarily in intrastate commerce.

Section 1710.15 provides more detailed information on preparing and filing requests for "Exemption advisory opinions."

Section 1710.17 is being added to provide that after the issuance of a favorable exemption advisory opinion a Statement of Record shall be considered ineffective and deemed withdrawn unless the developer notifies the Secretary to the contrary.

A new § 1710.18 clarifies the effect of a no-action letter determination.

Section 1710.20 is simplified to cover only the form and filing requirements for Statements of Record and Property Reports, while a new § 1710.21 prescribes the basis for determining the effective dates for Statements of Record and amendments, and a new § 1710.22 provides for filing of consolidated Statements of Record.

Section 1710.25 is revised to describe, in general, acceptance by the Office of Interstate Land Sales Registration of materials filed with agencies of certain States. § 1710.26 lists these State agencies and authorities, and § 1710.27 provides for consolidation and amendment of materials filed with the agencies.

Section 1710.30, which requires amendment of the Statement of Record if a material change occurs in any represented fact, is simplified, and § 1710.32 provides that the use of Property Reports which contain any material misrepresentation or omission of fact is unauthorized.

Section 1710.35 is now in tabular form to avoid possible confusion in the computation of fees.

Section 1710.50 is being added to provide that currently effective Statements of Record and Property Reports must be amended before April 1, 1972, to comply with these regulations.

Section 1710.101 is amended to reflect the redesignation of former § 1710.10(j), "exemption" as § 1710.11.

Section 1710.102, showing format for the Statement of Reservations, Restrictions, Taxes and Assessments, is revised, in part, to require under paragraph 1, "Reservations and Restrictions," that the developer furnish specific recording information whenever he refers to instruments of record.

Section 1710.105, giving instructions for preparing the Statement of Record, is revised to explain certain terms, e.g., water quality and purity, and is amended to require disclosures concerning unusual noise or safety factors and further disclosures with respect to ownership of recreational and common facilities, any arrangements or assurances for construction of such facilities, and taxes or assessments relating thereto.

Section 1710.110 provides more detailed instructions for preparation of the Property Report and lease addendum, emphasizing, in particular, disclosure of (1) legal conditions in the description of the land, (2) any potential risk of investment prior to sale, (3) any unusual noise or safety factor, and (4) adequacy of the potential water supply.

Section 1710.115 includes a new paragraph to inform recipients of the State Property Report Disclaimer that the Office of Interstate Land Sales Registration has relied upon and accepted determinations by a State.

Section 1710.125 is revised to require information filed in the heading of a full Statement of Record under § 1710.105 shall be filed in the same format in the case of partial Statements of Record filed under § 1710.125.

Inasmuch as certain of the proposed further revisions constitute substantive modification of the proposal as originally published, and particularly in view of the new proposal to require filing of updated Statements of Record by all registrants, the Department is providing for additional comment with respect to the revised proposal before adoption of a final rule.

Interested persons are invited to participate in the making of the proposed rule by submitting such written comments or suggestions as they may desire. Communications should identify the subject matter by the above title and should be submitted in triplicate to the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, Room 10256, 451 Seventh Street SW., Washington, DC 20410. All communications received on or before December 5, 1971, will be considered before taking action on the proposal. The proposals contained in this notice may be changed in the light of comments received. A copy of each submittal will be available for public inspection during business hours at the above address.

Accordingly, the proposed further revision of Part 1710 reads as follows:

Subpart A—General Requirements

Sec.	
1710.1	Definitions.
1710.2	Official address.
1710.10	Statutory exemptions.
1710.11	Statutory exemptions—exemption determination required.
1710.12	Regulatory exemptions.
1710.14	Regulatory exemptions—exemption order required—limited offering.
1710.15	Exemption advisory opinions.
1710.17	Election — exemption — effective Statement of Record.
1710.18	No-Action Letter Determination.
1710.20	Statement of Record and Property Report—form and filing.
1710.21	Statement of Record—effective date—amendments.
1710.22	Consolidated Statements of Record.
1710.25	State filings—in general.
1710.26	State filings—acceptable filings.
1710.27	State filings—consolidations and amendments.
1710.30	Amendments—Statement of Record and Property Report—form and filing.
1710.32	Use of Property Reports—misstatements or omissions prohibited.
1710.35	Payment of fees.
1710.45	Suspensions.
1710.50	Application to effective Statement of Record.

Subpart B—Reporting Requirements

1710.101	Claim of exemption—format of affirmation.
1710.102	Statement of Reservations, Restrictions, Taxes, and Assessments—format and instructions.
1710.105	Statement of Record—format and instructions.
1710.110	Property Report and lease addendum.
1710.115	State Property Report disclaimer.
1710.120	Statement of Record—State filing.
1710.125	Partial Statement of Record—request for exemption.

AUTHORITY: The provisions of this Part 1710 are issued under sec. 1419 of the Interstate Land Sales Full Disclosure Act, 82 Stat. 598; 15 U.S.C. 1718.

Subpart A—General Requirements

§ 1710.1 Definitions.

As used in this part:

(a) "Act" means the Interstate Land Sales Full Disclosure Act, 82 Stat. 590, 15 U.S.C. 1701, which became effective in its original form on April 28, 1969.

(b) "Blanket encumbrance" means a trust deed, mortgage, judgment, or any other lien or encumbrance, including an option or contract to sell, or a trust agreement, affecting a subdivision or affecting more than one lot offered within a subdivision, except that such term shall not include any lien or other encumbrance arising as the result of the imposition of any tax assessment by any public authority.

(c) "Date of filing" for the purpose of this part shall be considered to be the date of receipt by the Secretary of all required statements, materials, documents, and information when completed in the proper form and accompanied by the appropriate fee.

(d) "Developer" means any person who, directly or indirectly, sells or leases, or offers to sell or lease, or advertises for sale or lease any lots in a subdivision.

(e) "Exemption advisory opinion" means the formal written decision of the Secretary, pursuant to §§ 1710.10 and 1710.12, stating whether or not a particular method of sale is exempt from the requirements of this part. Such decision shall be issued on the basis of an examination of the information submitted and will not be considered binding if such information is incomplete or inaccurate in any material respect.

(f) "Exemption determination" means the formal written decision of the Secretary stating whether or not a particular method of sale will meet the requirements of § 1710.11. Such decision shall be issued on the basis of an examination of the information submitted and will not be considered binding if such information is incomplete or inaccurate in any material respect.

(g) "Exemption order" means the formal written decision of the Secretary, pursuant to § 1710.14, to exempt any subdivision or any lots in a subdivision from the requirements of this part.

(h) "Interstate commerce" means trade or commerce among the several States.

(i) "Offer" means any inducement, solicitation, or attempt to encourage a person to acquire a lot in a subdivision.

(j) "OILSR" means the Office of Interstate Land Sales Registration.

(k) "Person" means an individual, or an unincorporated organization, partnership, association, corporation, trust, or estate.

(l) "Property Report" means the Property Report prescribed and accepted by the Secretary as to form and content.

(m) "Purchaser" means an actual or prospective purchaser or lessee of a lot in a subdivision.

(n) "Rules and regulations" refer to all rules and regulations adopted pursuant to the Act, including the general requirements and the report requirements published in this part.

(o) "Sale" and "Seller" include in their meanings "lease" and "lessor," respectively.

(p) "Secretary" means the Secretary of Housing and Urban Development or his duly authorized representatives.

(q) "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(r) "Subdivision" means any land which is divided or proposed to be divided into 50 or more lots, whether contiguous or not, for the purpose of sale or lease as part of a common promotional plan; and, where subdivided land is offered for sale or lease by a single developer or a group of developers acting in concert and where such land is contiguous or is known, designated, or advertised as a common unit or by a common name, such land shall be presumed, without regard to the number of lots covered by each individual offering, as being offered for sale or lease as part of a common promotional plan.

§ 1710.2 Official address.

The official address of the Secretary for delivery of all mail, telegrams, information, filings, registration, and other material required by or relating to the Act or this chapter is:

Office of Interstate Land Sales Registration,
HUD Building, 451 Seventh Street SW.,
Washington, DC 20411.

§ 1710.10 Statutory exemptions.

Unless a method of sale, lease, or other disposition of land or an interest in land is adopted for the purpose of evasion of the Act, the requirements of this part shall not apply to:

(a) The sale or lease of real estate not pursuant to a common promotional plan to offer or sell 50 or more lots in a subdivision.

(b) The sale or lease of lots in a subdivision, all of which are 5 acres or more in size.

(c) The sale or lease of any lots on which there is a residential, commercial, or industrial building, or to the sale or lease of land under a contract obligating the seller to erect such a building thereon within a period of 2 years.

(d) The sale or lease of real estate under or pursuant to court order.

(e) The sale of evidences of indebtedness secured by a mortgage or deed of trust on real estate.

(f) The sale of securities issued by a real estate investment trust.

(g) The sale or lease of real estate by any government or government agency.

(h) The sale or lease of cemetery lots.

(i) The sale or lease of lots to any person who acquires such lots for the purpose of engaging in the business of constructing residential, commercial, or industrial buildings or for the purpose of resale or lease of such lots to persons engaged in such business.

The foregoing exemptions are available where the particular factual circumstances of the sale or lease meet the express requirements of the exemption provision. No formal written decision is required, but an exemption advisory opinion pursuant to § 1710.15 may be obtained if desired.

§ 1710.11 Statutory exemptions—exemption determination required.

(a) The sale or lease of real estate shall be exempt from the requirements of this part if all of the following criteria are met:

(1) At the time of sale or lease the real estate is free and clear of all liens, encumbrances, and adverse claims.

(2) Each and every purchaser or his or her spouse shall have personally made an on-the-lot inspection of the real estate which he has purchased or leased prior to the signing of a contract to purchase or lease.

(3) The developer has filed with the Secretary a Claim of Exemption in the form of the affirmation set forth in § 1710.101 and has paid the required fee.

(4) The developer has obtained the Secretary's approval of a Statement of Reservations, Restrictions, Taxes, and Assessments, prepared in accordance with the instructions in § 1710.102.

(5) Prior to the time a purchaser signs a contract for sale or lease the developer shall have furnished to such purchaser a Statement of Reservations, Restrictions, Taxes, and Assessments and shall have obtained in writing the purchaser's acknowledgment of receipt of such statement.

(b) The developer shall file a copy of each acknowledged statement with the Secretary within 31 days after the expiration of the calendar year in which the sale or lease is made. If the developer has relied upon the provisions of paragraph (c)(1) of this section to establish the time of sale, he shall file with each acknowledged statement a copy of the applicable contract of sale. Such copies shall be bound in alphabetical order and indexed by purchaser surname. Each bound volume shall contain only such copies as are applicable to a single subdivision and shall be identified on the outer cover by the name and location of the subdivision and the number assigned by OILSR to such subdivision. Upon demand by the Secretary made at any time during the calendar year, the developer shall, without delay, file such copies of acknowledged statements as the Secretary shall request.

(c) For the purposes of this section:

(1) "Time of sale or lease" means the date the sales contract or lease is signed by the purchaser except that the "time of sale" shall be deemed to be the effective date of the conveyance if both of the following conditions are met:

(i) The contract of sale requires delivery of a deed to the purchaser within 120 days following the signing of the sales contract.

(ii) Any earnest money deposit, or other payment on account of the purchase price, made by the purchaser prior to the effective date of the conveyance is placed in an escrow account, fully protecting the interest of the purchaser. Such account shall be with an institution or organization which has trust powers or in an established bank, title insurance, or abstract company, or an escrow company which is doing business in the jurisdiction in which the property is located.

(2) "Liens, encumbrances, and adverse claims" do not include the following:

(i) Property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed.

(ii) Taxes and assessments imposed by a State, by any other public body having authority to assess and tax property or by a property owners' association, which under applicable State or local law constitute liens before they are due and payable.

(iii) Beneficial property restrictions which would be enforceable by other lot owners or lessees in the subdivision.

(d) Any sale or lease made before written notice is received from the Secretary that he has determined that a subdivision is exempt under this section is in violation of the Act unless otherwise exempt and may be voidable at the option of the purchaser.

§ 1710.12 Regulatory exemptions.

The requirements of this part shall not apply to:

(a) The sale or lease of lots each of which exceeds 10,000 square feet and each of which will be sold for less than $100, including closing costs.

(b) The lease of lots for a term not to exceed 5 years provided the terms of the lease do not obligate the lessee to renew.

The foregoing exemptions are available where the particular factual circumstances of the sale or lease meet the express requirements of the exemption provision. No formal written decision is required, but an exemption advisory opinion pursuant to § 1710.15 may be obtained if desired.

§ 1710.14 Regulatory exemptions—exemption order required—limited offering.

(a) The Secretary may exempt from the provisions of this part any subdivision or any lots in a subdivision which otherwise would be covered by the provisions of this part, by issuing an exemption order in writing to the effect that the enforcement of this part with respect to such subdivision or lots is not necessary in the public interest and for the protection of purchasers by reason of the small amount involved or the limited character of the public offering, if he determines that:

(1) The request for the exemption order is limited to a single transaction; or

(2) All of the following criteria are met:

(i) There are less than 300 lots in the subdivision.

(ii) The subdivision is located entirely within one State.

(iii) The offering of lots in the subdivision is entirely or almost entirely limited to the State in which the subdivision is located.

(iv) The use of all advertising and other promotional means, the distribution of which is within control of the developer or his agents, is confined to the State in which the subdivision is located. All use of billboards and similar signs, telephonic methods of communication and direct mail shall be conclusively presumed to be within the control of the developer or his agents.

(v) No more than 5 percent of the sales in the subdivision in any one year will be made to nonresidents of the State in which the subdivision is located.

(b) To obtain an order by the Secretary under paragraph (a) of this section, the developer shall:

(1) File a partial Statement of Record—Request for Exemption in accordance with § 1710.125.

(2) Pay the filing fee required by § 1710.35(g).

(3) Submit a comprehensive statement:

(i) Identifying the lots which are the subject of the exemption request and setting forth the reasons supporting such request. The developer shall enumerate and identify prior sales, if any.

(ii) Describing the advertising and promotional media and methods used or to be used in connection with the sale or lease or offers to sell or lease lots in the subdivision. The statement shall describe the area and States in which newspapers and periodicals are distributed, or in which broadcast of radio or television stations are received, or to which mailings or other promotional means are directed. If the request is for the exemption of a single transaction the statement shall include the details of that transaction.

(iii) Stating whether any of the holders of an ownership interest in the land, or the developer or any principals in the holder or developer, are directly or indirectly involved in any other subdivision which has filed with or has requested an exemption determination, order or advisory opinion from the Office of Interstate Land Sales Registration. If so, the statement shall identify the subdivision by name, location and OILSR number or numbers. If any of the above-mentioned persons are involved in any other subdivision upon which they plan to file a Statement of Record or upon which they plan to request an exemption determination, order or advisory opinion, the statement shall identify such subdivision by name and location and shall state the proposed number of lots in that subdivision.

(4) Submit such additional information as the Secretary may require in order to make his decision.

(c) Any exemption order issued pursuant to the provisions of this section shall be limited to the facts, affirmations, and methods of operation as represented in the request and any material change in or deviation therefrom shall automatically terminate the effect of such exemption order.

§ 1710.15 Exemption advisory opinions.

(a) *In general.* A developer of a subdivision may obtain an exemption advisory opinion from the Secretary stating whether or not, in the opinion of the Secretary, a particular method of sale or lease is exempt from the requirements of this part. An exemption advisory opinion is issued solely in connection with those methods of sale or lease exempted by §§ 1710.10 and 1710.12. An exemption advisory opinion may be obtained in the manner described in paragraph (b) or (c) of this section.

(b) *Opinion request—full Statement of Record.* (1) A developer who wishes to begin promptly to offer or to sell lots in a subdivision may submit in connection with a request for an exemption advisory opinion a full Statement of Record (§ 1710.20). The request for such opinion shall not affect the date upon which the Statement of Record shall become effective.

(2) If a Statement of Record has become effective prior to the issuance of an advisory opinion of the Secretary to the effect that the method of disposition is exempt, the developer shall elect within 30 days of the date of such opinion whether he intends to rely upon such opinion or intends for the Statement of Record to remain in effect. Unless the developer informs the Secretary to the contrary, it will be presumed that he intends to rely upon the opinion of the Secretary and thereafter he shall not represent to a purchaser that:

(i) The subdivision has been registered with the Secretary,

(ii) The Statement of Record is in effect, or

(iii) The Secretary has approved any Property Report or similar information given to a purchaser.

If the developer does not intend to rely on the exemption advisory opinion, he shall notify the Secretary of his election within 30 days of the date of such opinion and shall not thereafter represent to a purchaser that the method of disposition is exempt from the Act.

(c) *Opinion request—partial Statement of Record.* A developer who, for any reason, prefers not to file a complete Statement of Record may file a partial Statement of Record in connection with a request for an exemption advisory opinion. The partial Statement of Record shall be in the form required by § 1710.125. The partial Statement of Record shall not operate as registration under the Act.

(d) *Supporting statement and fees.* Any opinion request shall be accompanied by the required fee, set forth in § 1710.35, and a comprehensive statement of facts and applicable law under which the developer believes the method of disposition to be exempt. The statement shall:

(1) Describe the advertising and promotional media and methods used or to be used in connection with the sale or lease or offers to sell or lease lots in the subdivision.

(2) Describe the area and States in which newspapers and periodicals are

distributed, or in which broadcasts of radio or television stations are received, or to which mailings or other promotional materials are directed.

(3) State whether any of the holders of an ownership interest in the land or the developer or any principals in the holder or developer are directly or indirectly involved in any other subdivision which has filed with or has requested an exemption determination, order or advisory opinion from the Office of Interstate Land Sales Registration. If so, the statement shall identify the subdivision by name, location and OILSR number or numbers. If any of the abovementioned persons are involved in any other subdivision upon which they plan to file a Statement of Record or upon which they plan to request an exemption determination, order or advisory opinion, the statement shall identify such subdivision by name and location and shall state the proposed number of lots in that subdivision.

§ 1710.17 Election—exemption—effective Statement of Record.

After the issuance of a favorable exemption advisory opinion, a Statement of Record shall be considered ineffective and shall be deemed permanently withdrawn unless the developer notifies the Secretary of his election to rely upon the Statement of Record in accordance with § 1710.15(b).

§ 1710.18 No-Action Letter Determination.

Whenever the Secretary determines on the basis of the facts presented that no affirmative action is necessary to protect the public interest or prospective purchasers, a letter stating that no action will be taken by the Secretary may be issued. Any determination by the Secretary that action shall not be taken shall not bind the Secretary with regard to his future actions relating to such matter unless the Secretary shall specifically set forth in writing his determination to be so bound and the extent and nature thereof. Any such No-Action Letter Determination by the Secretary shall not affect any right which any purchaser may have under the Act.

§ 1710.20 Statement of Record and Property Report—form and filing.

The requirements for registering a subdivision, by filing a Statement of Record and a Property Report with the Secretary and obtaining the Secretary's determination of a date when such filing becomes effective, are as follows:

(a) *Filing.* A Statement of Record and a Property Report relating to a subdivision shall be filed with the Secretary by personal delivery or by certified mail, return receipt requested, addressed as shown in § 1710.2.

(b) *Form of Statement of Record.* The Statement of Record shall be filed in the form, and shall be supported by the documentation, required by § 1710.105. The Statement of Record shall also include such other information as the Secretary may require as being reasonably necessary or appropriate for the protection of purchasers.

(c) *Form of Property Report.* The Property Report is a summary of information disclosed in the Statement of Record and is to be given to purchasers. It shall be in the form set forth in § 1710.110.

(d) *State filings.* Instead of the forms required by paragraphs (b) and (c) of this section, a Statement of Record and Property Report may be in the form required by State authorities if filed in accordance with the provisions of §§ 1710.25, 1710.115, and 1710.120.

(e) *Effective date—Property Report.* The Property Report shall be considered to be a part of the Statement of Record for the purpose of determining the effective date and the suspension of the effective date thereof.

§ 1710.21 Statement of Record—effective date—amendments.

(a) *Original filing and amendment thereto—effective date.* The effective date of a Statement of Record or any amendment thereto shall be the 30th day after the date of filing unless the Secretary shall notify the developer in writing prior to such 30th day either that:

(1) The effective date has been suspended in accordance with § 1710.45, or

(2) An earlier effective date has been determined by the Secretary.

(b) *Consolidated filing—effective date.* The effective date of a consolidated Statement of Record shall be governed by the provisions of paragraph (a) of this section except that the date of filing shall be the date the required fee and the material which is to be consolidated with the original filing is received by the Secretary.

(c) *Amendments — effective date.* Amended Statements of Record shall become effective as follows: If a Statement of Record or any amendment thereto has been filed but is not yet effective, the effective date of the Statement or amendment, as amended, shall be the 30th day after the filing of the latest amendatory material unless the Secretary shall notify the developer in writing prior to such 30th day either that:

(1) The effective date has been suspended in accordance with § 1710.45, or

(2) An earlier effective date has been determined by the Secretary.

(d) *Requirement for amendment.* The Statement of Record and Property Report shall be immediately amended when any omission is discovered or any change occurs which causes the Statement of Record or Property Report to contain any material misstatement or omission of fact.

§ 1710.22 Consolidated Statements of Record.

If in connection with lots previously offered for sale and covered by an effective Statement of Record, the developer intends to offer additional lots as part of a common promotional plan, either a new or a consolidated Statement of Record must be filed. The developer shall answer specifically each question in the Statement of Record and submit a new Property Report. The developer may not incorporate by reference answers to questions or suporting documentation in the previous filing, except that supporting documentation may be incorporated by reference in those instances where it is applicable specifically to both the original filing and to the additional lots to be offered. In all other respects the consolidated Statement of Record shall conform to the format requirements of an initial Statement of Record filed in accordance with these regulations.

§ 1710.25 State filings—in general.

(a) Material filed with and found acceptable by State authorities charged with the responsibility of regulating the sale of lots in subdivisions may be accepted for filing by the Secretary as meeting the requirements of this part if the Secretary determines such action to be appropriate and such determination is set forth in § 1710.26. Material filed with the Secretary under this section must be certified by such State authorities. The certification shall:

(1) State that the material is a complete duplicate of all materials which were the bases for the finding of acceptability under applicable State law and regulations.

(2) Specifically cite the State law under which the material was found acceptable.

(3) State the date when the finding was determined to be acceptable.

(4) State that the finding of acceptability is effective as of the date of the certification.

(b) Where duplicate material has been accepted for filing by the Secretary under paragraph (a) of this section and such material, or any part thereof, for any reason, is no longer acceptable to the State authorities or effective in that State, the filing with the Secretary shall be ineffective unless amended pursuant to § 1710.27.

(c) The effective date of a State filing shall be determined in accordance with the provisions of § 1710.20 and § 1710.21.

§ 1710.26 State filings—acceptable filings.

The Secretary has determined that material initially filed with and certified by authorities in the several States listed below shall be accepted pursuant to § 1710.25:

(a) California.

(b) Florida, except as to material filed with State authorities prior to enactment of section 478, Florida statutes, effective August 1, 1967.

(c) Hawaii, except as to material filed with State authorities prior to the enactment of Act 223, Session laws of Hawaii 1967.

(d) New York.

§ 1710.27 State filings—consolidations and amendments.

(a) *Procedures.* Where material filed with State authorities also has been filed with the Secretary pursuant to § 1710.25, and subsequent thereto, the State authorities approved amendments or a consolidation to such material, copies of the amended or consolidated material, as approved, shall be filed with the Secretary. The OILSR number shall appear at the top of each page of the material submitted. Such a filing shall be made with the Secretary within 5 days after it becomes effective under the applicable State laws and shall include the following additional items:

(1) A letter or other document from the State authorities stating that the amendment or additional material has been allowed to become effective.

(2) A letter from the developer giving a narrative statement fully explaining the purpose and significance of the amendment or consolidation and referring to that part and page of the Statement of Record which is being amended.

(3) All pages of the Statement of Record, which have been amended, retyped in the approved format reflecting the amendments.

(4) A copy of the Property Report, if amended.

(b) *Requirement for amendment.* The Statement of Record and Property Report shall be immediately amended when any omission is discovered or any change occurs which causes the Statement of Record or Property Report to contain any material misstatement or omission of fact.

(c) *Effective date—State filing.* The effective date of a State filing consolidation or amendment shall be determined in accordance with the provisions of § 1710.21.

§ 1710.30 Amendments—Statement of Record and Property Report—form and filing.

(a) An amendment to an effective Statement of Record or to a Property Report shall be filed with the Secretary if any material change occurs in any representation of fact made in such statement or report. An amendment shall be filed within 15 days of the date on which the developer knows or should have known that there has been a material change. The OILSR number of the Statement of Record shall appear at the top of each page of the material submitted.

(b) An amendment to a Statement of Record or Property Report shall incorporate by reference the prior Statement of Record or Property Report except for any material change which may have occurred. A material change shall be specifically described and shall be supported by such documentation as would be required in connection with an initial filing. Any such amendments shall be accompanied by:

(1) A letter from the developer giving a narrative statement fully explaining the purpose and significance of the amendment and referring to that part and page of the Statement of Record which is being amended.

(2) All pages of the Statement of Record, which have been amended, retyped in the approved format reflecting the amendments.

(3) A copy of the Property Report, if amended.

§ 1710.32 Use of Property Reports—misstatements or omissions prohibited.

Nothing in this part shall be construed to authorize or approve any use of a Property Report containing any material misstatement or omission of fact.

§ 1710.35 Payment of fees.

(a) *Method of payment.* Fees shall be paid by certified check or cashier's check or postal money order. Such check or money order shall be payable to the Treasurer of the United States.

(b) *Initial filing.* The fee, not to exceed $1,000, for the initial filing of a Statement of Record, shall be, as set forth in column 1 of paragraph (f) of this section, based on the number of lots in the offering.

(c) *Consolidated filing.* The fee, not to exceed $1,000, for filing a consolidated Statement of Record, shall be, as set forth in column 2 of paragraph (f) of this section, based on the number of lots in addition to the number which were offered in the initial Statement of Record.

(d) *Initial State filing.* The fee, not to exceed $1,000, for an initial filing of a duplicate of material filed with a State (§ 1710.25), shall be, as shown in column 3 of paragraph (f) of this section, based on the number of lots in the offering.

(e) *Consolidated State filing.* The fee, not to exceed $1,000, for the filing of a duplicate of material filed with a State covering a number of lots in addition to the number contained in the initial offering approved by the State (§ 1710.27), shall be, as shown in column 4 of paragraph (f) of this section, based on the number of lots being added to the number in the initial offering. This paragraph applies only in those instances where the State has permitted the consolidation of the additional number of lots with those included in the initial offering.

(f) *Fee schedule.* The following chart shall be used in computing fees required to be paid under paragraphs (b), (c), (d), and (e) of this section.

Number of lots	Fees column 1	2	3	4
1–50	$300	$250	$225	$125
51–100	350	300	250	150
101–150	400	350	275	175
151–200	450	400	300	200
201–250	500	450	325	225
251–300	550	500	350	250
301–350	600	550	375	275
351–400	650	600	400	300
401–450	700	650	425	325
451–500	750	700	450	350
501–550	800	750	475	375
551–600	850	800	500	400
601–650	900	850	525	425
651–700	950	900	550	450
701–750	1,000	950	575	475
751–800	1,000	1,000	600	500
801–850	1,000	1,000	625	525
851–900	1,000	1,000	650	550
901–950	1,000	1,000	675	575
951–1,000	1,000	1,000	700	600
1,001–1,050	1,000	1,000	725	625
1,051–1,100	1,000	1,000	750	650
1,101–1,150	1,000	1,000	775	675
1,151–1,200	1,000	1,000	800	700
1,201–1,250	1,000	1,000	825	725
1,251–1,300	1,000	1,000	850	750
1,301–1,350	1,000	1,000	875	775
1,351–1,400	1,000	1,000	900	800
1,401–1,450	1,000	1,000	925	825
1,451–1,500	1,000	1,000	950	850
1,501–1,550	1,000	1,000	975	875
1,551–1,600	1,000	1,000	1,000	900
1,601–1,650	1,000	1,000	1,000	925
1,651–1,700	1,000	1,000	1,000	950
1,701–1,750	1,000	1,000	1,000	975
1,751–or more	1,000	1,000	1,000	1,000

(g) *Exemption order, determination, or advisory opinion.* The fee for an exemption order, determination, or advisory opinion (§§ 1710.10–1710.15) shall be $100 which shall not be refundable and is to be collected as follows:

(1) When the developer files a complete Statement of Record, the fee required by paragraphs (b) through (e) of this section shall be submitted and if the Secretary advises that the offering is exempt under §§ 1710.10–1710.14, the Secretary will refund the submitted fee except for $100.

(2) Where the developer files a request for an exemption order, determination or advisory opinion not accompanied by a complete Statement of Record, the fee of $100 shall be submitted. If the Secretary finds that the filing of a complete Statement of Record is required, the fee of $100 shall be applied as a credit toward the fee required for the filing of the complete Statement of Record.

§ 1710.45 Suspensions.

(a) *Suspension notice—prior to effective date.* (1) A suspension notice with respect to a Statement of Record or an amendment may be issued to a developer within 30 days after receipt by the Secretary if any of the following occurs:

(i) Prior to its effective date, the Secretary has reasonable grounds to believe that a Statement of Record is on its face incomplete or inaccurate in any material respect.

(ii) Prior to its effective date, the Secretary has reasonable grounds to believe that an amendment is on its face incomplete or inaccurate in any material respect.

(2) Suspension notices issued pursuant to this section shall suspend the effective date of the statement or the amendment until 30 days, or such earlier date as the Secretary may determine, after the developer files such additional information as the Secretary shall require.

(3) A developer, upon receipt of a suspension notice, may request a hearing, and such hearing shall be held within 20 days of receipt of such request by the Secretary.

(b) *Notice of proceeding; suspension orders—subsequent to effective date.* (1) A notice of proceedings to suspend an effective Statement of Record may be issued to a developer if any of the following occurs:

(i) The Secretary has reasonable grounds to believe that an effective Statement of Record includes an untrue statement of a material fact, or omits a material fact required by the Act or the rules and regulations, or omits a material fact which is necessary to make the statements therein not misleading.

(ii) The Secretary undertakes an examination of a developer or his records to determine whether a suspension order should be issued and the developer fails to cooperate with the Secretary, or obstructs, or refuses to permit the Secretary to make such examination.

(iii) Upon receipt of an amendment to an effective Statement of Record, the

Secretary has reasonable grounds to believe that in the public interest or for the protection of purchasers, the Statement of Record should be suspended.

(2) The Secretary may, after notice, and after opportunity for a hearing, issue an order suspending the Statement of Record.

(3) In the event that a suspension order is issued, such order shall remain in effect until the developer has amended the Statement of Record or otherwise complied with the requirements of the order. When the developer has complied with the requirements of the order, the Secretary shall so declare and thereupon the suspension order shall cease to be effective.

§ 1710.50 Application to effective Statement of Record.

Statements of Record and Property Reports filed and allowed to become effective with OILSR prior to the effective date of these regulations shall continue in effect through March 31, 1972, or until such time as the developer amends or consolidates his Statement of Record or changes his method of operation so as to require a reprinting or revision of the Property Report but in no event later than April 1, 1972. As of April 1, 1972, any and all effective Statements of Record and Property Reports must have been amended to conform to these regulations. Failure of a developer to amend a Statement of Record to comply with the regulations in this part shall subject a Statement of Record to immediate institution of suspension proceedings.

Subpart B—Reporting Requirements

§ 1710.101 Claim of exemption—format of affirmation.

A claim of exemption pursuant to § 1710.11 shall be made to the Office of Interstate Land Sales Registration, Department of Housing and Urban Development, and shall be supported by an affirmation as follows:

CLAIM OF EXCEPTION

I hereby affirm on this _____ day of _____, 19__, as follows:

(1) I am the developer, or the duly authorized agent of the developer, of the subdivision known as _____, located at _____, in the State of _____, County of _____.

(2) Each and every purchaser or lessee of a lot to be covered by this exemption, or his or her spouse, prior to his signing a contract to purchase or lease will have:

(a) Made a personal on-the-lot inspection of the real estate which he purchases or leases; and

(b) Acknowledged, in writing, receipt of a statement furnished by the developer setting forth all reservations, restrictions, taxes, and assessments applicable to the lot to be purchased or leased whether or not such reservations, restrictions, taxes, or assessments are included within the term "liens, encumberances, and adverse claims" as used in paragraph (7) below.

(3) This affirmation is accompanied by a Statement of Reservations, Restrictions, Taxes, and Assessments prepared in accordance with the provisions of 24 CFR 1710.102. The Secretary's approval of such statement will be obtained prior to its distribution and use.

(4) The Statement of Reservations, Restrictions, Taxes, and Assessments is complete and correct.

(5) The receipt of such statement will be acknowledged in writing, in duplicate, by the purchaser or lessee prior to the time of the signing of the contract.

(6) A copy of the acknowledged statement will be filed with the Secretary within 31 days after the expiration of the calendar year in which the sale or lease is made. Upon demand by the Secretary made at any time during the calendar year, the developer shall file such copies of such acknowledged statements as shall be specified by the Secretary.

(7) At the time of sale or lease, the lot will be free and clear of all liens, encumbrances, and adverse claims. The term "liens, encumbrances, and adverse claims" (as used in this paragraph) is not intended to include property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed, nor to taxes and assessments imposed by a State, by any other public body having authority to assess and tax property or by a property owners' association, which, under applicable State or local law, constitute liens on the property before they are due and payable, nor to beneficial property restrictions which would be enforceable by other lot owners or lessees in the subdivision.

(8) For the purpose of this claim of exemption, the undersigned agrees that the "time of sale or lease" shall be deemed to be the date the sales contract or lease is signed by the purchaser or lessee except that the "time of sale" shall be deemed to be the effective date of the conveyance or lease if both of the following requirements are met:

(a) The contract of sale requires delivery of a deed to the purchaser within 120 days following the signing of the sales contract.

(b) Any earnest money deposit or other payment on account of the purchase price made by the purchaser prior to the effective date of the conveyance will be placed in an escrow account, fully protecting the interests of the purchaser, in an institution or organization which has trust powers, or in an established bank, title insurance, or abstract company, or escrow company doing business in the jurisdiction in which the property is located.

_____
_____
(Title)

(If the affirmation is made by an agent of the developer of the subdivision, submit written authorization to act as agent.)

§ 1710.102 Statement of Reservations, Restrictions, Taxes, and Assessments—format and instructions.

A Statement of Reservations, Restrictions, Taxes, and Assessments shall be prepared by the developer in accordance with the following format and instructions:

STATEMENT OF RESERVATIONS, RESTRICTIONS, TAXES, AND ASSESSMENTS

Employer's IRS Number _____
Developer _____
Owner _____
Name of developer _____
Address _____
Owner (if developer is other than owner) _____
Address _____
Name of subdivision _____
Location _____
Number of lots in subdivision _____
Number of acres in subdivision _____

1. *Reservations and restrictions.*

(The developer shall set forth, in descriptive and concise terms, a complete statement of all reservations and restrictions affecting the property within the above-named subdivision. Where reservations or restrictions are not applicable to all lots within a subdivision the statement shall identify the lots affected. State whether such reservations and restrictions are enforceable by other lot owners or lessees of lots in the subdivision. Reference to instruments of record shall include a specific citation to the public record in which such instruments are recorded or filed by book, page, and place of record.)

2. *Taxes.*

(The developer shall set forth, in descriptive and concise terms, a complete statement listing all taxes and liens presently due and payable and those which constitute liens on the property before they become due and payable, together with the date such taxes will become due and payable. Itemize taxes, amounts and rates by lots. Where taxes, amounts or rates shown are not yet available for the current calendar year, those for the previous year should be shown with a statement that they are not for the current year and that the new taxes, amounts or rates may vary; and, if property has been rezoned or subdivided since the last taxing period, the estimated amount of changes for the current year should also be shown. Where the previous year's taxes were based other than on lots as presently subdivided, estimates should be shown and so identified.)

3. *Assessments.*

(The developer shall set forth in descriptive and concise terms a statement of all assessments which are made or may be made by State or local authorities or by a property owners' association or similar organization. The statement shall include any dues or fees paid in the last year or payable to a property owner's association. Itemize assessments, dues, fees, amounts and rates. State the authority under which the assessments, dues, and fees are imposed.)

WARNING: This subdivision is not registered with the Office of Interstate Land Sales Registration nor has that Office passed upon the accuracy or adequacy of this statement, nor does this statement serve as an endorsement or recommendation by that Office of the above offering.

The undersigned by his signature hereby acknowledges that he has received a Statement of Reservations, Restrictions, Taxes, and Assessments, on (identify subdivision and location) from (name of developer) located at (address) and that he has made a personal on-the-lot inspection of (at the time of delivery to the purchaser or lessee insert a legal description of the particular lot) which is the lot upon which the undersigned plans to execute a contract of sale or lease.

_____
(Date)

_____
(Signature of purchaser or lessee)

§ 1710.105 Statement of Record—format and instructions.

The Statement of Record required by § 1710.20 shall be prepared in accordance with the format and instructions as follows:

Employer's IRS number: _____
Developer: _____
Owner: _____

STATEMENT OF RECORD

Name of subdivision: _____
Location: _____
Name of developer: _____
Developer's address: _____
Authorized agent: _____
Authorized agent's address: _____

PART I. ADMINISTRATIVE INFORMATION

A. Identification and filing information:
1. _____
2. _____
3. _____
B. General information:
1. _____
2. _____
3. _____
4. _____
5. _____
6. Acres owned _____
Acres under option or other similar arrangement _____
Total _____
C. Filings with State authorities:
1. _____
2. _____
D. Supporting documentation:
1. _____
2. _____

PART II. DEVELOPERS AND HOLDERS OF OWNERSHIP INTERESTS IN LAND

A. Holder of ownership interest _____
Type of legal entity _____
Extent and type of interest _____
B. Holder of interest in developer _____
Type of legal entity _____
Extent and type of interest _____
C. Supporting documentation _____

PART III. IDENTITY OF INTEREST IN MORE THAN ONE FILING

A. Subdivision _____
Location _____
OILSR number _____
Date of filing _____
B. Suspensions _____

PART IV. LEGAL DESCRIPTION, TOPOGRAPHY, CLIMATE, SUBDIVISION MAP

A. Legal description _____
B. Topography and physical characteristics:
1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
C. Climate and temperature:
1. _____
2. _____
D. Environmental factors:
1. _____
2. _____
E. Subdivision map:
1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
F. Supporting documentation:
1. _____
2. _____

PART V. CONDITION OF TITLE, ENCUMBRANCES, DEED RESTRICTIONS, AND COVENANTS

A. _____
B. _____
C. _____
D. _____

PART VI. GENERAL TERMS AND CONDITIONS OF OFFER, PROPOSED RANGE OF SELLING PRICES OR RENTS

A. Summary of General Terms and Conditions of Offer:
1. _____
2. _____
3. _____
B. Proposed range of selling prices or rents _____
C. Supporting documentation:
1. _____
2. _____
3. _____

PART VII. ACCESS, NEARBY COMMUNITIES, ROAD SYSTEM WITHIN THE SUBDIVISON

A. Access—Nearby communities:
1. _____
2. _____
3. Name of community _____
Population _____
Distance over paved roads _____
Distance over unpaved roads _____
Total _____
B. Road system within the subdivision:
1. _____
2. _____
3. _____
C. Supporting documentation:
1. _____
2. _____
3. _____

PART VIII. UTILITIES

A. Water:
1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. Supporting documentation:
a. _____
b. _____
c. _____
d. _____
B. Electricity:
1. _____
2. _____
3. _____
4. _____
5. _____
6. Supporting documentation:
a. _____
b. _____
c. _____
C. Gas:
1. _____
2. _____
3. _____
4. _____
5. _____
6. Supporting documentation:
a. _____
b. _____
c. _____
D. Telephone:
1. _____
2. _____
3. _____
4. _____
5. _____
6. Supporting documentation:
a. _____
b. _____
c. _____
E. Sewage disposal:
1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. Supporting documentation:
a. _____
b. _____
F. Drainage and flood control:
1. _____
2. _____
3. _____
4. _____
5. Supporting documentation:
a. _____
b. _____
G. Television:
1. _____
2. _____

PART IX. RECREATIONAL AND COMMON FACILITIES

A. _____
1. _____
2. _____
3. _____
4. _____
5. _____
B. _____

PART X. MUNICIPAL SERVICES

A. Fire protection:
1. _____
2. _____
3. _____
B. Police protection _____
C. Garbage and trash collection:
1. _____
2. _____
3. _____
D. Public schools:
1. Elementary school:
a. _____
b. _____
c. _____
2. Junior high school:
a. _____
b. _____
c. _____
d. _____
3. High school:
a. _____
b. _____
c. _____
d. _____
E. Medical and dental facilities:
1. Hospital facilities:
a. _____
b. _____
c. _____
d. _____
e. _____
2. Physicians and dentists:
a. _____
b. _____
F. Public transportation:
1. _____
2. _____
3. _____
4. _____

PART XI. TAXES AND ASSESSMENTS—COMMON FACILITIES

A. _____
B. _____
C. _____
1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____

PART XII. OCCUPANCY STATUS

A. _____
B. _____
C. _____

PART XIII. SHOPPING FACILITIES

A. _____
B. _____

PART XIV. FINANCIAL STATEMENT

A. ----------
B. ----------

PART XV. AFFIRMATION

Affirmation

I hereby affirm that I am the developer of the lots herein described or will be the developer at the time lots are offered for sale or lease to the public, or that I am the agent authorized by such developer to complete this statement (if agent, submit written authorization to act as agent):

That the statements contained in this Statement of Record and any supplement thereto, together with any documents submitted herewith, are full, true, complete, and correct;

That the fees accompanying this application are in the amount required by the rules and regulations of the Office of Interstate Land Sales Registration.

(Date)	(Signature)
(Corporate seal if applicable)	(Title)

WARNING: Section 1418 of the Housing and Urban Development Act of 1968 (82 Stat. 598, 15 U.S.C. 1717) provides: "Any person who willfully violates any of the provisions of this title or of the rules and regulations or any person who willfully, in a statement of record filed under, or in a property report issued pursuant to, this title, makes any untrue statement of a material fact * * *, shall upon conviction be fined not more than $5,000 or imprisoned not more than 5 years, or both."

INSTRUCTIONS FOR COMPLETION OF STATEMENT OF RECORD

These instructions must be followed in completing the Statement of Record. All spaces in the specified format must be completed. The format must not be changed in any respect, except as follows:

a. Spaces provided in the format may be enlarged or extended for the purpose of providing a comprehensive explanation.

b. In addition to the information expressly required to be stated in the Statement of Record, there shall be added such further material information, if any, as may be necessary to make the required statements in the light of the circumstances under which they are made, not misleading.

c. If a filing is to be consolidated pursuant to § 1710.22, the developer shall answer specifically each question in the Statement of Record and submit a new Property Report. The developer shall not incorporate by reference the answers to questions or supporting documentation in the previous filing, except that supporting documentation may be incorporated by reference in those instances where it is applicable specifically to both the original filing and to the additional lots to be offered. This shall be accomplished by placing after the applicable part or subpart in the format the OILSR number of the previous filing identifying the appropriate part, subpart, exhibit, and page number. In all other respects the consolidated Statement of Record shall conform to the format requirements of an initial Statement of Record filed under these regulations.

To facilitate proper filing, Statements of Record shall be filed on good quality, unglazed, white paper, approximately 8½ by 13 inches in size, with a 2-inch margin at the top and a 1½-inch margin on each side. They shall be in black ink in standard elite or pica type. They may be printed, lithographed, mimeographed, or typewritten; but the standard size of elite or pica type must be used. Deeds, title policies, subdivision maps or plats, and other supporting documents may be on different size paper but should be folded to the 8½- by 13-inch size. A copy of the Property Report in the form that it will be given to the purchaser shall be attached to the Statement of Record. Statements of Record shall be properly signed and dated.

In the upper right hand corner, the developer shall give his employer's IRS number as well as that of the owner of the subdivision, if the developer is not the owner. The name at the heading of the Statement of Record shall be the common promotional name used for the subdivision. The name and address of the authorized agent shall be the name and address of the party designated by the developer to receive correspondence and to receive service of process or notice of any action taken by OILSR. In all filings, including filings by foreign developers, the authorized agent shall be a resident of the United States.

The supporting documents required by the various parts of these instructions shall be attached as exhibits at the back of the Statement of Record. Each exhibit shall be identified by affixing a tab on the right side of the cover sheet of the exhibit and by identifying thereon the applicable part and subpart by Roman numeral, letter and Arabic number. The pages of each exhibit shall be numbered beginning with the number one for the first page in each exhibit and numbering the remaining pages in the exhibit sequentially. If, at a later time, additional data is furnished to be incorporated into, or to amend, an exhibit, the pages of the additional data shall be numbered beginning with the number following the last page number in the exhibit and following sequentially therefrom. If the information in an exhibit is applicable to more than one part, the developer may incorporate that information by reference to the appropriate exhibit and to the applicable page or pages within that exhibit.

If an item in the Statement of Record is supported by information in an exhibit, place the appropriate exhibit and page number in the right margin immediately adjacent to the item. Whenever the Statement of Record requires a summary or statement of terms or items, such summary or statement must be presented in a clear and concise manner.

Where the documentation required by the Statement of Record cannot be obtained, a letter stating the reasons therefore must be furnished by the developer, along with the best alternative assurance available.

The following instructions correspond to the part and subpart letters and numbers set forth in the Statement of Record format.

PART I. ADMINISTRATIVE INFORMATION

A. Identification and filing information.

1. State whether the filing is an initial filing with the Office of Interstate Land Sales Registration on the subdivision or an additional offering of lots to be consolidated with a Statement of Record previously filed for lots offered under the same common promotional plan. If the filing is to be consolidated, identify the OILSR filing number assigned to the original Statement of Record.

2. Do you intend to make subsequent filings for additional lots within the subdivision?

3. Are you submitting documentation to support a claim of exemption? If so, see instruction in D.1 of this part.

B. General information.

1. Name the State, Commonwealth, territory, or possession of the United States or the country in which the subdivision is located.

2. Name the county or counties or other political subdivision or subdivisions within which the subdivision is located.

3. State the number of lots in this offering.

4. If more than one offering of lots in the subdivision has been made or will be made, state the number of lots to be offered in the entire subdivision. See instruction D.2 of this part.

5. State the number of acres included in this offering.

6. If more than one offering of lots in the subdivision has been made or will be made, state the number of acres owned, the number of acres under option or other similar arrangement for acquisition of title to the land and the total number of acres to be offered pursuant to the same common promotional plan.

C. Filings with State authorities.

1. If a Statement of Record or similar instrument for the subdivision has been filed in any State or States, list the State or States.

2. If any of the States listed in answer to figure 1 above has not permitted the filing to become effective or has suspended the filing, give reasons cited by the State and also the developer's reasons, if different from those cited by the State.

D. Supporting documentation.

1. If you are requesting an exemption pursuant to § 1710.14 or § 1710.15 of these rules and regulations, your request should be entitled "Request for Exemption" and should include a statement of applicable facts and law. The statement shall include the information specified in the applicable section and all other information you feel necessary for the consideration of the merits of the proposed offering in relation to the Interstate Land Sales Full Disclosure Act. The offering must be prospective; and the information submitted must affirmatively disclose that both the offering and the operations contemplated thereunder will not be inconsistent with the provisions of the Interstate Land Sales Full Disclosure Act.

2. If the present offering is a subdivision which is or will be offered with one or more additional subdivisions having recreational and/or other common facilities, submit the general or total plan. Include a map showing the total land owned or under option or other similar arrangement for acquisition of title to the land; and delineate thereon the land included in this offering.

PART II. DEVELOPERS AND HOLDERS OF OWNERSHIP INTERESTS IN LAND

A. List the name and address and the type and extent of interest of each holder of any ownership interest in the land included in this offering. (Individual lot owners or lessees who have purchased or leased lots from the developer need not be listed.) If the holder is other than an individual, name the type of legal entity and list the interest and the extent thereof, of each principal. For the purposes hereof, "principal" shall mean any person or entity having a 10 percent or more financial interest.

B. If the developer does not own an interest in the land, list name and address of each individual or entity having an ownership interest in the developer. If the developer is other than an individual, name the type of legal entity and list the interest, and the extent thereof, of each principal. For the purposes hereof, principal shall mean any person or entity having a 10 percent or more financial interest.

C. If the developer is a corporation, submit a copy of the Articles of Incorporation, with all amendments thereto; and a list of the officers and directors of the corporation.

If the developer is a trust, submit copies of the instruments creating the trust.

If the developer is a partnership, unincorporated association, joint-stock company, or any other form of organization, submit copies of articles of partnership or association and all other documents relating to its organization.

If the holder of any ownership interest in the land being offered is a person or entity other than the developer, submit copies of the above documents for such holder. (For purposes of this subpart C, it is not necessary to include the sales agent if the sales agent is a legal entity other than a holder of an ownership interest in the land.)

PART III. IDENTITY OF INTEREST IN MORE THAN ONE FILING

A. Are any of the holders of an ownership interest in the land or the developer, or any principals in the holder or developer, directly or indirectly involved in any other subdivision or development which has been filed with the Office of Interstate Land Sales Registration? If so, identify by subdivision name, location, OILSR number or numbers, and date of filing. If not applicable, state "None."

B. Has a suspension order been issued with respect to any Statement of Record identified in subpart A? If so, give reasons. (Do not include the suspension of a Statement of Record prior to its effective date or the suspension of an amendment prior to its effective date.)

PART IV. LEGAL DESCRIPTION, TOPOGRAPHY, CLIMATE, SUBDIVISION MAP

A. Legal description. Include an adequate legal description acceptable in the political subdivision for conveyancing of the land included in this offering; and if additional offerings have been made or will be made pursuant to a common promotional plan, include a legal description of the total area offered or to be offered pursuant to the common promotional plan.

B. Topography and physical characteristics.

1. Describe the general topography and physical characteristics of the subdivision; for example, level, hilly, rocky, etc.; soil conditions, for example, loose sand, alkaline, etc.

2. State whether any of the lots, or portions thereof, in the offering are in danger of flooding or are covered by water at any time of the year and whether the property is located within a 100-year flood plain.

3. Is the property subject to a flood control easement?

4. What percentage of the land in the subdivision will require corrective work, other than fill, before construction of a one-story residential structure? If any, describe type of work and plans for correction; and state the estimated cost to buyer or lessee.

5. Will any unusual construction techniques be necessary to build on any part of land? If so, describe.

6. What percentage of the land will require fill before construction? If any, describe plans for fill, including composition, and estimated cost to lot buyer or lessee.

7. State elevation of the highest and lowest lots in the subdivision.

C. Climate and temperature.

1. Describe general weather conditions of the area and state whether the area is subject to sandstorms, windstorms, or any other unusual weather phenomena.

2. State temperature ranges for summer and winter, including high, low, and mean.

D. Environmental factors.

1. Is the land affected by any unusual or unpleasant noises, odors, pollutants, or other nuisances? (Examples of unusual noises which might affect the subdivision include proposed or existing industrial activity, airports or other transportation facilities, animal pens, entertainment centers or the like. Examples of unpleasant odors include noxious smoke, chemical fumes, stagnant ponds or marshes, slaughter houses, sewage treatment facilities, and the like.) Any such conditions should be accurately described and fully explained identifying their origin and location and stating whether they are proposed or existing—if existing, whether temporary (estimate duration) or permanent.

2. Do you know of any unusual safety factors or any proposed plans, private or governmental, for construction of any facility which may create a nuisance or adversely affect the use of the land? (Examples of unusual safety factors which might affect the subdivision would include a physical hazard such as dilapidated or abandoned properties, unsafe construction, air or vehicular traffic hazards, danger from fire, or explosion, radiation hazards and the like.) Any such conditions should be accurately described and fully explained identifying their origin and location and stating whether they are proposed or existing—if existing, whether temporary (estimate duration) or permanent.

E. Subdivision map.

1. State whether a subdivision map has been filed with and accepted for recording by local authorities. If so, give recording data.

2. Has each lot in the subdivision been surveyed?

3. Has each individual lot been staked or marked so that the buyer can identify the boundary lines of his lot? If not, state estimated cost to purchaser or lessee to obtain a survey and to have boundary lines staked or marked.

4. Will all streets shown on the tract map, if any, be public streets?

5. Has legal access been provided to each of the individual lots within the subdivision?

6. State minimum width of legal access to the lots.

F. Supporting documentation.

1. Copy of an accurate map prepared to scale showing the dimensions of the lots and their relation to existing streets and roads. (To comply with this requirement, supply a map or maps which have been submitted to local authorities, if available.) If the land has not been divided, include a map showing the proposed division, lot dimension and their relationship to existing streets and roads.

2. Copy of the current Geological Survey Topographic Map or Maps of the largest scale available from the U.S. Geological Survey, Washington, D.C., with an outline of the subdivision area clearly indicated thereon.

PART V. CONDITION OF TITLE, ENCUMBRANCES, DEED RESTRICTIONS AND COVENANTS

A. State condition of the title to the land comprising the subdivision, including all encumbrances, easements, covenants, conditions, reservations, limitations or restrictions applicable thereto. This requirement may be met only by submission of title evidence in the form of (1) an original or copy of a fee or owners policy of title insurance, a guaranty or guarantee of title, or a certificate of title, or an interim title binder or commitment for title insurance, or similar instrument issued by a title company, duly authorized by law to issue such instruments in the State in which the subdivision is located; or (2) a legal opinion, stating the condition of title, prepared and signed by an attorney at law experienced in the examination of titles and a member of the Bar in the State in which the property is located.

The title evidence shall be dated as of a date no earlier than 20 business days preceding the date of this filing and shall include:

1. A legal description of all of the property included in this offering together with a legal description of the property upon which there is or will be located any common areas or facilities which will be advertised as being available for the benefit or use of purchasers of lots. (Where the legal description does not specifically describe as individual parcels each of the lots included in this offering, an affirmative statement, to the effect that each of the lots included in the offering is encompassed by the description, is required.)

2. The name of the person(s) or other legal entity(ies) holding fee title to the property described.

3. The name of any person(s) or other legal entity(ies) holding a leasehold estate or other interest of record in the property described.

4. A listing of any and all exceptions or objections to the title, estate or interest of the person(s) or legal entity(ies), referred to in 2 or 3 above, including any encumbrances, easements, covenants, conditions, reservations, limitations, restrictions of record. (Any reference to exceptions or objections to title shall include specific references to the instruments in the public records upon which the exception is based.) When an objection or exception to title affects less than all of the property included in this offering, the title evidence should specifically note which lots are affected.

5. Copies of all instruments in the public records specifically referred to in 4 above. (Abstracts of such instruments are acceptable if prepared by an attorney or professional or official abstracter qualified and authorized by law to prepare and certify to abstracts and if the abstracts contain the material portion of the recorded instruments to determine the nature and effect of such instruments.)

Where the title evidence is dated earlier than 20 days prior to the date of filing, the requirement for a statement of the condition of title may be met by submitting that evidence together with an attorney's opinion of title covering the period from the date of the title evidence to a date no earlier than 20 business days preceding the date of the filing. The attorney's opinion shall be prepared and signed by an attorney at law experienced in the examination of titles and a member of the Bar in the State in which the property is located.

B. Describe and furnish copies of any instrument, not of public record, known to the developer, which if recorded would affect the condition of title. (Copies of instruments to individual lot owners or lessees who have purchased or leased lots from the developer need not be described or furnished.)

C. State the consequences for an individual purchaser of a failure, by the person or persons bound, to fulfill obligations under any instrument or instruments, referred to under A or B above, which create a blanket encumbrance upon the property, or any portion thereof, described under A, above.

D. Describe and furnish copy(ies) of any trust deed(s), deed(s) in trust, escrow agreement(s) or other instrument(s) which purport to protect the purchaser in the event of default by the person or persons bound to fulfill obligations under any instrument or instruments, referred to under A or B, above, which create a blanket encumbrance upon the property or any portion thereof, described under A, above.

PART VI. GENERAL TERMS AND CONDITIONS OF OFFER, PROPOSED RANGE OF SELLING PRICES OR RENTS

A. Summarize the terms and conditions of the offer and of the contract of sale or lease. The summary must include, but shall not be limited to:

1. A statement of the terms of release of lots from the blanket encumbrance, if the subdivision, or any portion thereof, is subject to a blanket encumbrance. If there is

no provision for release, describe any legal steps taken to protect the purchaser or lessee in the event the obligor on the blanket encumbrance defaults.

2. A statement of the disposition which will be made of earnest money or good faith deposits and downpayments or other payments received from buyers or lessees including any steps taken to protect the buyer or lessee in the event the seller or lessor does not perform his obligations under the contract.

3. A statement of the disposition which will be made of earnest money or good faith deposits and downpayments and other payments received from buyers or lessees who default under the terms of the contract.

B. State the range of selling prices or rents for lots in the subdivision.

C. Supporting documentation.

1. A copy of all forms of contracts or agreements to be used in selling or leasing lots. (The contracts or agreements must contain language (a) giving the purchaser the option to void the contract or agreement if he does not receive a Property Report prepared pursuant to the rules and regulations of the U.S. Department of Housing and Urban Development, in advance of, or at the time of, his signing the contract or agreement; and (b) giving the purchaser the right to revoke the contract or agreement within 48 hours after signing the contract or agreement if he did not receive the Property Report at least 48 hours before signing the contract or agreement. [The contract or agreement may stipulate that the revocation authority shall not apply in the case of a purchaser who (i) has received the Property Report and inspected the lot to be purchased or leased in advance of signing the contract or agreement, and (ii) acknowledges by his signature that he has made such inspection and has read and understood such report.])

2. A copy of the agreement, if not included in the sales contract, in which seller agrees with buyer to release lots from any blanket encumbrance.

3. Copies of deeds and leases by which the developer will lease or convey title to the lots to purchasers or lessees.

PART VII. ACCESS, NEARBY COMMUNITIES, ROAD SYSTEM WITHIN THE SUBDIVISION

A. Access—nearby communities.

1. Describe present condition of access routes to the subdivision, including type and width of road surface and number of lanes.

2. Are any improvements proposed to access routes? If so, state who will bear the cost of the improvements and the estimated completion date. If the improvements are to be made by a local governmental authority, state the name of the authority, and the source of funds to complete the improvements. If lot owners will be subject to a special assessment or similar charge for such improvements which shall be a lien on the lots in the subdivision, so state.

3. List nearest large cities and the county seat, and the population of each. List the total distance to the center of the subdivision from each and the portion of that distance which is paved and unpaved. If the geographical center of the subdivision is located more than 50 miles from a large city or the county seat, list also the nearest established community or communities.

B. Road system within the subdivision.

1. Describe the present condition of the road system within the subdivision, including the type and width of road surface, number of lanes and approximate dedicated width of roads. State whether all of the lots in the subdivision can be reached by conventional automobile.

2. State any proposed improvements to the road system within the subdivision, the percentage completed, and the estimated schedule for completion. State who will bear the cost of the improvements; and if any of the cost is to be borne by the purchaser, state the estimated cost to the purchaser.

3. State whether the roads within the subdivision have been dedicated to and accepted by a public authority responsible for maintenance. If not dedicated and accepted, state who will be responsible for maintenance. If the lot owner will be responsible for maintenance, state the estimated cost to the purchaser.

C. Supporting documentation.

1. If the developer is to complete access routes, submit copies of contracts and copy of any bonds or escrow agreements to guarantee completion thereof. If the access routes are to be completed by the local government, a copy of a letter from the local authorities setting forth the plan for the completion of access routes and maintenance thereof.

3. Copy of letter from local authority setting forth the plan for maintenance of the road system with the subdivision.

PART VIII. UTILITIES

A. Water.

1. State the availability of the water supply and whether the supply will be adequate to serve the anticipated population of the area.

2. Is the water supplied or to be supplied by a public or private utility company? If so, state the name and address and whether the company is regulated by a public body. If not, is there any other means of assurance of continuous service at reasonable rates?

3. State whether the waterlines will be extended to the individual lots. If they are to be extended, state the estimated schedule for the extension and the assurance of completion.

4. State estimated cost of installation or construction to be borne by the purchaser, if any.

5. Is the water supply to be obtained from private well? If so, indicate (1) probable depth and (2) results of test borings or other data establishing that a sufficient quantity of potable water is available to each buyer or lessee and (3) estimated total completion cost to buyer or lessee.

6. If water is provided by a supplier not regulated by a public body, state the rate schedule.

7. If privately supplied water or individual wells are to be the source of water for human use, has the cognizant State or county health authority issued a report on the quality of the water?

8. Supporting documentation.

a. Copy of a letter from water company stating that it will supply the water.

b. Copy of the contract for construction, if any, and the bond or escrow agreement to assure completion of the facility, if any.

c. If available, copy of engineer's report or geological report or any other data indicating the source and quantity of water. If it is stated that there will be an adequate supply of available water to serve the anticipated population of the area, submit a copy of an engineer's report or hydrological survey supporting such statement.

d. Copy of letter or report from cognizant health officer which includes an analysis of the chemical quality and bacteriological purity of water.

B. Electricity.

1. State whether electricity is available and, if so, the name and address of the supplier from which it may be obtained.

2. Is the supplier a public or private utility company? State whether the supplier is regulated by a public body. If not, is there any other means of assurance of continuous service at reasonable rates.

3. Have the electrical facilities been extended to the individual lots?

4. If the electrical facilities have not been extended to the individual lots, what is the estimated schedule for installation and what estimated costs, if any, will be borne by the purchaser?

5. State the assurance of completion if the electrical facilities are to be installed by the developer.

6. Supporting documentation.

a. Copy of a letter from the electric company stating that it will supply the electricity.

b. If electricity is provided by a supplier not regulated by a public body, state the rate schedule.

c. Copy of the contract for construction of electrical facilities, if any, and any bond or escrow arrangements to assure completion of the facilities.

C. Gas.

1. State the availability of gas including the name and address of the supplier.

2. Is the supplier a public or private utility company? State whether the supplier is regulated by a public body. If not, is there any other means of assurance of continuous service at reasonable rates?

3. Have gaslines been extended to the individual lots?

4. If the gas facilities have not been extended to the individual lots, what is the estimated schedule for installation and what estimated costs will be borne by the purchaser?

5. State the assurance of completion if the gas facilities are to be installed by the developer.

6. Supporting documentation.

a. Letter from the gas supplier stating that it will provide the service.

b. If gas is provided by a supplier not regulated by a public body, state rate schedule for the service.

c. Copy of the contract for construction of the gas facilities, if any, and any bond or escrow arrangements to assure completion of the facilities.

D. Telephone.

1. State the availability of telephone service including the name and address of the supplier.

2. Is the supplier a public or private utility company? State whether the supplier is regulated by a public body. If not, is there any other means of assurance of continuous service at reasonable rates?

3. Have the telephone facilities been extended to the individual lots?

4. If the telephone facilities have not been extended to the individual lots, what is the estimated schedule for installation and what cost will be borne by the purchaser?

5. State the assurance of completion of the telephone facilities if those facilities are to be installed by the developer.

6. Supporting documentation.

a. Copy of a letter from the telephone company stating that the company will supply the service.

b. If telephone service is provided by a supplier not regulated by a public body, state the rate schedule.

c. Copy of the contract for the construction of the telephone services, if any, and any bond or escrow arrangements to assure completion of the facilities.

E. Sewage disposal.

1. State whether sewers are available and, if so, the name and address of the entity responsible for installation and maintenance.

2. Is the entity a public or private utility company? State whether entity is regulated by a public body. If not, is there any other means of assurance of continuous service at reasonable rates?

3. Have the sewage facilities been extended to the individual lots?

4. If the sewage facilities have not been extended to the individual lots, what is the estimated schedule for their installation and what estimated costs will be borne by the purchaser, including construction, installation, and connection costs?

5. State the assurance of completion if the sewage facilities are to be installed by the developer.

6. If public sewers are not now installed and are not to be installed, state the alternate sewage disposal method to be used, such as septic tanks or cesspools.

7. If a public sewer is not or will not be installed, state the estimated cost of installing the alternate method of sewage disposal.

8. Will the local health authorities approve the use of an alternate method of sewage disposal? Has such approval been obtained?

9. If use of septic tanks is contemplated, state whether the land is suitable for the use of septic tanks; include in your statement the results of any percolation tests.

10. Supporting documentation.

a. Copy of the contract for construction of the sewage disposal facilities, if any, and any bond or escrow arrangements to assure the completion of the facilities.

b. Copy of a letter from local health authorities stating the methods of sewage disposal which will or will not be permitted.

F. Drainage and flood control.

1. State whether there has been or will be any drainage required to render any of the lots suitable for construction purposes. If so, list the lots, and state estimated cost to purchaser.

2. Have artificial drains, storm sewers, or flood control channels been installed?

3. If these facilities have not been installed, what is the estimated schedule for completion, if any, and what estimated costs or other assessments will the purchaser be expected to pay?

4. If the developer is to install these facilities, state the assurance of completion.

5. Supporting documentation.

a. Copy of the contract for the construction of the artificial drains, storm sewers, or flood control channels, if any, and any bonds or escrow agreements to assure completion of the facilities.

b. If drainage is provided or to be provided by a public or private company, submit a letter from the company stating that it will provide the service.

G. Television.

1. Is television reception available to the lots within the subdivision without reception cost?

2. If not, state estimated cost to user.

PART IX. RECREATIONAL AND COMMON FACILITIES

List any common or recreational facilities which have been or are to be installed for the beneficial use and enjoyment of the owners of lots in the subdivision which have not been discussed in the previous parts of the Statement of Record. Identify each facility and answer the following questions for each:

A. (Name of facility.)

1. If the facility has not been installed, what is the percentage of completion, the estimated schedule for completion and what estimated costs will the purchaser have to pay?

2. What provisions have been made for the maintenance and operation of the facility and what is the estimate of the assessments or other recurring charges to be paid by the purchaser?

3. Include a statement of the assurance of completion of the facility if the developer is responsible for construction.

4. If a property owners' association, or similar organization, owns or will own the facility, so state. If the association has not been formed as a legal entity, state when it is expected to be formed and the conditions under which the association will take title to the facility.

5. Supporting documentation. Include copy of the contract for construction of the facilities, if any, and describe any bond or escrow arrangements to assure completion of the facilities.

B. (Name of facility.)

PART X. MUNICIPAL SERVICES

A. Fire protection.

1. State the availability of fire protection and list the name and address of the particular force exercising jurisdiction over the subdivision.

2. State whether the service is provided by the municipality or by a volunteer organization.

3. State the distance in terms of road miles from the geographical center of the subdivision to the nearest fire station or substation.

B. Police protection.

State the availability of police protection and list the name and address of the particular force exercising jurisdiction over the subdivision.

C. Garbage and trash collection.

1. State the availability of garbage and trash collection service and the name and address of the company which presently furnishes the service. If garbage and trash collection service is not presently available, state whether such service is proposed; and if it is, give the date on which it will become effective.

2. State whether the cost of the service is to be paid directly by the lot owner or whether the service is to be provided by a municipal agency.

3. If the cost of the service is to be paid directly by the lot owners, state the estimated monthly cost per lot.

D. Public schools.

1. Elementary school.

a. State name and address of the nearest elementary school available to residents of the subdivision.

b. State the distance to the school in terms of road miles from the geographical center of the subdivision.

c. State whether school bus transportation will be provided.

d. State whether public transportation is available to the school.

2. Junior high school.

a. State name and address of the nearest junior high school available to residents of the subdivision.

b. State the distance to the school in terms of road miles from the geographical center of the subdivision.

c. State whether school bus transportation will be provided.

d. State whether public transportation is available to the school.

3. High school.

a. State name and address of the nearest high school available to residents of the subdivision.

b. State the distance to the school in terms of road miles from the geographical center of the subdivision.

c. State whether school bus transportation will be provided.

d. State whether public transportation is available to the school.

E. Medical and dental facilities.

1. Hospital facilities.

a. State the availability of hospital facilities and the name and address of the particular hospitals available to residents of the subdivision.

b. State whether the hospital is publicly or privately owned and whether the services are general or specialized.

c. State the bed capacity of the hospital.

d. State the distance in terms of road miles from the geographical center of the subdivision to the nearest general hospital.

e. State the availability of ambulance service and specify whether this service is furnished by the hospital(s) or by a volunteer organization.

2. Physicians and dentists.

a. State the distance in terms of road miles from the geographical center of the subdivision to physicians' and dentists' offices.

b. State whether or not public transportation is available from the subdivision to the general physicians' and dentists' offices.

F. Public transportation.

1. State whether public transportation is available from the subdivision to nearby municipalities including the frequency, type and estimated cost of service.

2. If no such transportation is available, state whether it will be available and give estimated date of availability.

3. Include in your statement the proposed frequency of service and estimated cost.

4. If public transportation is not presently available from the subdivision, state the distance in road miles to nearest public transportation.

PART XI. TAXES AND ASSESSMENTS—COMMON FACILITIES

A. Will the buyer or lessee be required to pay any property taxes or special assessments to any municipal, governmental or public body after signing the contract of purchase or to lease and prior to delivery of an executed deed or lease? Will the buyer or lessee be required to pay any assessments, dues or other payments to a property owners' association, the developer or any other organization or entity for the maintenance of common facilities or other purposes after signing the contract to purchase or lease and prior to delivery of an executed deed or lease? If the answer to either of the foregoing questions is affirmative, itemize the amounts or rates to be paid and to whom they must be paid.

B. Will the buyer or lessee be required to pay any property taxes or special assessments to any municipal, governmental or public body after taking title? Will the buyer or lessee be required to pay any assessments, dues or other payments to a property owners' association, the developer or any other organization or entity for the maintenance of common facilities or other purposes after taking title? If the answer to either of the foregoing questions is affirmative, itemize the amounts or rates to be paid and to whom they must be paid.

C. If a property owners' association, the developer, or any other organization or entity, exercises or will exercise any control over or provides or will provide any services or maintenance on any lots or common facilities or areas in or adjacent to the development, include:

1. A statement that the association, organization or other entity has been formed or setting forth the steps to be taken to form such association or organization or other entity.

2. A statement setting forth the requirements for membership in the association, organization or other entity and stating whether all lot owners will be members of the association, organization or other entity and if not whether nonmember lot owners will be liable for assessments levied by that association, organization or other entity.

3. Financial statements or pro forma financial statements of any property owners' association, including a Statement of Sources and Application of Funds for the 12-month period ending not earlier than the 60th day prior to the date of the submission of the

Statement of Record and a pro forma Statement of Sources and Application of Funds for the period of time that the developer will control the association. If moneys paid by buyers or lessees as assessments, dues or other payments for the purpose of providing any services or maintenance on any lots or common facilities or areas are received by the developer or any other organization or entity other than a propekty owners' association, a Statement of Sources and Application of Funds and a pro forma Statement of Sources and Application of Funds covering funds received for such purposes shall be submitted. A financial statement or pro forma financial statement of the developer or other organization or entity shall also be submitted. In no event shall a pro forma Statement of Sources and Application of funds be required to extend beyond 5 years from the date of submission of the Statement of Record. If the developer has no control over the property owners' association or other organization or entity and cannot obtain this information, so state.

4. A statement as to who may use the facilities.

5. A statement of the degree and duration of control of the developer in the association, organization, or other entity.

6. If the association, organization, or other entity has been formed as a legal entity, attach as exhibits copies of articles of association and bylaws or similar documents and a statement from the appropriate State authority confirming that the charter is in effect. If not formed, attach proposed articles of association and bylaws or similar documents, if available.

7. Copy of membership agreement or similar documents.

PART XII. OCCUPANCY STATUS

A. State the approximate number of dwellings in the subdivision at the time of filing.

B. State the number of dwellings which are proposed and the estimated completion date of those dwellings.

C. State the approximate number of dwellings presently occupied, if any.

PART XIII. SHOPPING FACILITIES

A. State what shopping facilities are available to the subdivision. Include available types of stores and consumer services and the distance in terms of road miles from the geographical center of the subdivision to the facilities.

B. State whether public transportation is available to the facility, the frequency of the service and the estimated cost.

PART XIV. FINANCIAL STATEMENT

A. Submit a copy of the latest financial statement of the developer. Such financial statement shall not be more than 6 months old and shall include a balance sheet and a statement of profit and loss.

B. State the means by which the developer will finance the obligations undertaken or proposed and as set forth in this Statement of Record. A statement of past performance in completing obligations undertaken by the developer may be included.

PART XV. AFFIRMATION

§ 1710.110 Property Report and lease addendum.

The Property Report and, if applicable, the lease addendum to be filed with the Office of Interstate Land Sales Registration, Department of Housing and Urban Development, as a part of the Statement of Record, and as provided in § 1710.20, shall be prepared in question and answer form. The Property Report shall state verbatim the questions in this section. The developer should then answer the questions directly and completely in accordance with the instructions and format as follows:

INSTRUCTIONS FOR COMPLETING PROPERTY REPORT AND LEASE ADDENDUM

These instructions must be followed in completing the Property Report and lease addendum. All spaces must be completed. This format may not be changed in any respect, except as follows:

a. All references to leases, lessees, and rents should be deleted if no leasing is proposed and the offering is exclusively for sales. In this event, the lease addendum may be disregarded.

b. Spaces provided in the format may be enlarged or extended for the purpose of providing a summary explanation of the subject under discussion but may not be used to insert promotional or advertising matter designed to counteract facts adverse to the interests of the buyer or lessee.

c. Questions on the Property Report must be answered in concise, plain language but should disclose all pertinent facts.

d. The Property Report shall contain information in addition to that elicited by the questions appearing therein if at any time it appears to the Secretary that the inclusion of additional information is necessary or appropriate in the public interest, and the Secretary so advises the developer.

SPECIAL INSTRUCTIONS

The instructions below correspond to the numbered paragraphs in the Property Report:

Paragraph 2a. The effective date of registration is the date the Statement of Record becomes effective under § 1710.21. This date will be left blank in the proposed Property Report. When the developer receives notification of effectiveness from OILSR this date shall be inserted. The final printed copies of the Property Report submitted in accordance with this section must state that date. If the Statement of Record has been amended or consolidated, the date the most recent amendment to the Statement of Record or consolidation became effective should be used.

Paragraph 2b. The legal description of the land offered for sale shall describe the lots adequately to permit identification from the plat maps of the developer and from the public records of the county where located. If all of the lots in a particular section are not being offered for sale, the legal description shall be sufficiently detailed to permit the purchaser to determine whether his lot is included in the offering. The developer shall also state the total number of lots being offered in each section.

Paragraph 3. List the nearest large city or county seat and the population of each. List the total distance to the center of the subdivision from each and the portion of that distance which is paved and unpaved. If the subdivision is located more than 50 miles from either, list also the nearest established community or communities.

Paragraph 4. If the buyer or lessee is exposed to the risk of losing his investment in the event of the developer's failure or bankruptcy, this fact must be made unmistakably clear in this paragraph. Explanations should include any measures designed to protect the buyer's interests, and they must disclose any circumstances under which the buyer would lose his investment either because of his own default or the developer's inability to perform under the sales contract. If there is any prohibition or penalty against the buyer recording the sales contract or lease; so state. Describe also any potential adverse effect on the buyer's interests which may arise from not having his contract recorded. ("Potential adverse effect" includes subordination of the buyer's interest to after-recorded liens on the property.) A statement may be included by the developer describing his past performance in conveying free and clear titles to buyers upon their payment of the full purchase price.

Paragraph 5. Whether the offering includes only cash sales, or installment contracts and leases, explain fully how the buyer or lessee is to be protected against loss of his investment. If a blanket mortgage or other lien is foreclosed against the developer, will the holder of such mortgage or other lien be obligated to perform the agreement with the purchaser or lessee? If not, are the buyer's or lessee's payments and investments in improving the property protected through an escrow or by other means? The buyer or lessee must be told of the possible consequences in the explanation of the answer to this question.

Paragraph 7. Buyers and lessees must be told when their obligation to pay taxes, special assessments and similar charges begins. They should also be made aware of the approximate amount of buyer's or lessee's annual payments, but the items for indicating the amount of taxes and special assessments may be answered by the statement "Consult local taxing authorities."

Paragraph 8(b). Include all limitations upon the buyer's use or enjoyment of the property, including mineral rights reservations.

Paragraph 8(d). In answering this question the following guidelines shall be followed: Examples of unusual noises which might affect the subdivision would include proposed or existing industrial activity, airports or other transportation facilities, animal pens, entertainment centers and the like. Unusual safety factors which might affect the subdivision would include any proposed or existing condition in the area which might create: (1) a physical hazard such as dilapidated abandoned properties, unsafe construction, danger of flooding or located within a 100-year flood plain, air or vehicular traffic hazards, danger from fire or explosion, radiation hazards, and the like; or (2) a noxious odor such as smoke, chemical fumes, stagnant ponds or marshes, slaughterhouses, sewage treatment facilities, and the like. Any such conditions should be fully explained identifying their origin and location and stating whether they are proposed or existing—if existing, whether temporary (include estimated duration) or permanent.

Paragraph 10. Describe arrangements made (contracts supported by completion bonds or escrows, for example) designed to assure completion of the improvements. If no arrangements have been made, state "None." If it later becomes evident that an improvement will not be completed on or before the specified date, amendments to the Statement of Record and Property Report are required. If no sewage disposal arrangements are contemplated, state if land is suitable for the use of septic tanks, describing the results of any percolation tests. State estimated cost to buyer for septic tank. If water is to be provided by private well, indicate (1) estimated completion cost and (2) any other data establishing that a sufficient quantity of potable water is available to each buyer or lessee. If water is to be provided by a private utility, describe assurances for continuous service at reasonable rates.

Paragraph 11. If the developer states that the water supply will be adequate to serve the anticipated population of the area such statement must be supported by an engineer's report or hydrological survey which is to be submitted as Exhibit VIII A–8c of the Statement of Record. If such documentation is unavailable, the answer to this question should state that the developer has not obtained an engineer's report or a hydrological survey indicating the source and quantity of water in the subdivision and accordingly, there is no assurance that a sufficient quantity of water will be available to serve the anticipated population of the area.

Paragraph 14. The number of homes occupied can be amended to reflect periodic increases subsequent to the initial filing date.

Paragraph 15. Include statement as to nature of terrain (flat, rolling, hilly, mountainous, etc.), type of soil (sandy, swampy, rocky, etc.) and vegetation (cactus, trees, grass, etc.).

ADDITIONAL REQUIREMENTS FOR PROPERTY REPORT

a. The Property Report, as filed with the Statement of Record and in final form to be given to prospective purchasers, shall be on good quality unglazed, white paper, approximately 8½ by 11 to 13 inches in size with margins in final form to be approximately 1 inch at the top, 1 inch at the sides, and one-half inch at the bottom. It shall be in black ink and the type size shall not be smaller than 10 point leaded type of uniform font and in an easily readable style.

b. The questions shall be printed in bold face type and the answers indented below and printed in light face type of the same size. No other portion of the Property Report shall be underscored, italicized or printed in larger or bolder type than the balance of the report, except where the Secretary requires or permits it as being necessary or appropriate in the public interest or for the protection of purchasers.

c. The Secretary may require or permit such additional information to be included in a Property Report or such change in the sequence or position of information required by this section as he may consider necessary or appropriate in the public interest or for the protection of purchasers.

d. The developer shall attach to and file with the Property Report submitted as part of the Statement of Record a statement in the following form:

"The proposed Property Report attached hereto contains the text in its entirety as it is intended to be reproduced for delivery to prospective purchasers of lots in the (insert identification of subdivision)."

e. Within 20 days of the date upon which the Statement of Record is allowed to become effective by the Secretary, 10 copies of the Property Report, in the identical form in which it will be distributed to prospective purchasers, shall be filed with the Secretary. Ten copies of any subsequent reproduction, alteration, duplication or reprint of the Property Report shall be filed with and accepted by the Secretary prior to its use if such subsequent reproduction, duplication or reprint contains any change in content or form.

f. If the amendment to or the consolidation of the Statement of Record causes no change in the Property Report except the effective date of registration, the subsequent effective date of registration may be shown by overprinting on the front cover of the Property Report.

PROPERTY REPORT

NOTICE AND DISCLAIMER BY OFFICE OF INTERSTATE LAND SALES REGISTRATION, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

This report is not a recommendation or endorsement of the offering herein by the Office of Interstate Land Sales Registration, nor has that office made an inspection of the property nor passed upon the accuracy or adequacy of this report or any promotional or advertising materials used by the seller.

It is in the interest of the buyer or lessee to inspect the property and carefully read all sale or lease documents.

Prospective buyers and lessees are notified that unless they have received this Property Report prior to, or at the same time they enter into a contract, they may void the contract by notice to the seller.

Unless a buyer or lessee acknowledges in writing that he has read the report and personally inspected the lot prior to signing his contract, he may revoke his contract within 48 hours from the signing of his contract, if he has received the Property Report less than 48 hours prior to signing such contract.

1. Name(s) of developer _____
Address _____
2. Name of subdivision _____
Location _____ County, State of _____
a. Effective date of Property Report _____
b. This offering consists of _____

3. List names and populations of surrounding communities and list distances over paved and unpaved roads to the subdivision.

Name of community	Population	Distance over paved roads	Unpaved roads	Total
a.				
b.				
c.				
d.				
e.				

4. If periodic payments are to be made by a buyer (as in the case of installment sales contracts) complete all items under this paragraph 4. If not, enter "Not Applicable."

a. Will the sales contract be recordable? Yes or No?

b. In the absence of recording, could the developer's creditors or others acquire title to the property free of any obligation to deliver a deed to the buyer when final payment has been made under the sales contract? Yes or No? _____ Explain. _____

c. What provision, if any, has been made for refunds if buyer defaults?

d. State prepayment penalties or privileges, if any.

5. Is there a blanket mortgage or other lien on the subdivision or portion thereof in which the subject property is located? Yes or No? If yes, list below and describe arrangements, if any, for protecting interests of the buyer or lessee if the developer defaults in payment of the lien obligation. If there is such a blanket lien, describe arrangements for release to a buyer of individual lots when the full purchase price is paid.

Type of lien	Effect on buyers if developer defaults
a.	
b.	
c.	

6. Does the offering contemplate leases of the property in addition to, or as distinguished from, sales? Yes or No? If yes, a lease addendum must be completed, attached, and made a part of the Property Report.

7. Is buyer or lessee to pay taxes, special assessments, or to make payments of any kind for the maintenance of common facilities in the subdivision (a) before taking title or signing of lease or (b) after taking title or signing of lease? If yes, complete the schedule below:

	Approximate amount of buyer's or lessee's annual payments
Taxes	$
Special assessments	
Payments to property owner's association	
Other	
Specify	

8. (a) Will buyer's downpayment and installment payments be placed in escrow or otherwise set aside? Yes or No? If yes, with whom? If not, will title be held in trust or in escrow?

(b) Except for those property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed, will buyer receive a deed free of exceptions? Yes or No? If no, list all restrictions, easements, covenants, reservations and their effect upon buyer.

(c) Buyer should determine permissible uses of the property from local zoning authorities.

(d) List all existing or proposed unusual conditions relating to noise or safety which affect or may affect the subdivision.

9. (a) List all recreational facilities currently available (e.g., television, sports, beaches, etc.). State any costs or assessments to buyer or lessee.

(b) If facilities are proposed or partly completed, state promised completion date, provisions to insure completion, and all estimated cost or assessments to buyer or lessee.

10. State whether the following are now available in the subdivision: Garbage and trash collection, sewage disposal, paved streets, electricity, gas, water, telephone. If yes, state any estimated costs to buyer or lessee. If proposed or partly completed, state promised completion date, provisions to insure completion and give estimate of all costs including maintenance costs to buyer or lessee.

11. Will the water supply be adequate to serve the anticipated population of the area?

12. Is any drainage of surface water, or use of fill necessary to make lots suitable for construction of a one-story residential structure? Yes or No? If yes, state whether any provision has been made for drainage or fill and give estimate of any costs buyer would incur.

13. State whether any of the following are currently available in the subdivision: Schools; medical facilities (hospitals, doctors, dentists); shopping facilities. List availability of public transportation to, and distance of facility from geographical center of subdivision. If facility is proposed or partly completed, state promised completion date and any provisions to insure completion.

14. Approximately how many homes were occupied as of _____ (insert date of filing)?

15. State elevation of the highest and lowest lots in the subdivision and briefly describe topography and physical characteristics of the property.

16. Will any subsurface improvement, or special foundation work be necessary to construct one story residential or commercial structures on the land? Yes or No? If yes, state if any provision has been made and estimate any costs buyer would incur.

17. Are all lots and common facilities legally accessible by public road or street? Yes or No? If not, explain.

18. Has land, in the subdivision been platted of record? Yes or No? If not, has it been surveyed? Yes or No? If not, state estimated cost to buyer to obtain a survey.

19. Are lots staked or marked so that buyer can locate his lot(s)? Yes or No?

LEASE ADDENDUM

1. State term of lease.
2. Will the lease be recordable? Yes or No?
3. Is there any prohibition or penalty against the lessee for recording the lease? Yes or No? If yes, explain.
4. Can the owner's or developer's creditors or others acquire title to the property free of any obligation to continue the lease? Yes or No? Explain.
5. Describe whether rental payments are flat sums or graduated. Describe any provisions for increase of rental payments during the term of the lease.
6. Are there any provisions in lease prohibiting assignment and/or subletting? Yes or No? If yes, describe.
7. Summarize termination provisions in the lease.
8. Does the lease prohibit the lessee from mortgaging or otherwise encumbering the leasehold? Yes or No?
9. Will lessee be permitted to remove improvement when lease expires?

§ 1710.115 State Property Report disclaimer.

If the developer is filing with the Office of Interstate Land Sales Registration, Department of Housing and Urban Development, pursuant to § 1710.25, the following statement must be delivered to each purchaser simultaneously with the delivery of the State Property Report:

STATE PROPERTY REPORT DISCLAIMER

NOTICE AND DISCLAIMER BY OFFICE OF INTERSTATE LAND SALES REGISTRATION, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The Office of Interstate Land Sales Registration, U.S. Department of Housing and Urban Development has accepted this (name of State) (name of Property Report i.e. Public Offering Statement, Subdivision Report, etc.) as the Property Report on this subdivision.

This report is not a recommendation or endorsement of the offerings herein by the Office of Interstate Land Sales Registration, nor has that Office made an inspection of the property nor passed upon the accuracy or adequacy of this report or of any promotional or advertising materials used by the seller. Information contained herein has been filed with the State of_____and the Office of Interstate Land Sales Registration.

It is in the interest of the buyer to inspect the lot and to read all contract documents before signing the contract to purchase or lease.

Prospective buyers and lessees are notified that unless they have received this Property Report prior to, or at the same time they enter into a contract, they may void the contract by notice to the seller.

Unless a buyer or lessee acknowledges in writing that he has read the report and personally inspected the lot prior to signing his contract, he may revoke his contract within 48 hours from signing his contract if he has received the Property Report less than 48 hours prior to signing such contract.

Although a Statement of Record has been filed with the Office of Interstate Land Sales Registration, the filing has not been examined or verified.

§ 1710.120 Statement of Record—State filing.

If the developer is filing pursuant to § 1710.25, there shall be filed with the Office of Interstate Land Sales Registration, Department of Housing and Urban Development, a statement as follows:

Section I. State Filings—The following information shall preface the State Statement of Record or similar instrument and shall be done in accordance with the general instructions set forth in § 1710.105 for Part I, Administrative Information, and Part III, Identity of Interest in More Than One Filing, and shall be set forth in the following format.

Employer's IRS number_____
Developer:_____
Owner:_____

STATEMENT OF RECORD

Name of subdivision:_____
Location:_____
State of filing:_____
Name of developer:_____
Developer's address:_____
Authorized agent:_____
Authorized agent's address:_____

ADMINISTRATIVE INFORMATION

A. Identification and filing information:
1. _____
2. _____
3. _____

B. General information:
1. _____
2. _____
3. _____
4. _____
5. _____
6. Acres owned_____
Acres under option or other similar arrangement_____
Total _____

C. Filings with State authorities:
1. _____
2. _____

D. Supporting documentation:
1. _____
2. _____

IDENTITY OF INTEREST IN MORE THAN ONE FILING

Subdivision _____
Location _____
OILSR number_____
Date of filing_____

SEC. II. A. Submit all of the information, documentation, and certifications or affirmations submitted to the State.

B. If the State does not require the information and documentation required in Part II, C. of § 1710.105, submit such information and documentation.

C. The contract of sale or lease which will be executed by prospective purchasers or lessees must contain language (a) giving the purchaser the option to void the contract or agreement if he does not receive a Property Report prepared pursuant to the rules and regulations of the Office of Interstate Land Sales Registration, U.S. Department of Housing and Urban Development, in advance of, or at the time of, his signing the contract or agreement, and (b) giving the purchaser the right to revoke the contract or agreement within 48 hours after signing the contract or agreement if he did not receive the Property Report at least 48 hours before signing the contract or agreeemnt. (The contract or agreement may stipulate that the revocation authority shall not apply in the case of a purchaser who (1) has received the Property Report and inspected the lot to be purchased or leased in advance of signing the contract or agreement, and (2) asknowledges by his signature that he has made such inspection and has read and understood such report.)

D. Consolidation—Incorporation by Reference: If a filing is for an offering of lots to be sold pursuant to a common promotional plan and there has been an earlier filing with OILSR for lots offered under the same promotional plan and if the State has approved a consolidation to such filing, the consolidated material, as approved, shall be filed with the Secretary. The OILSR number shall appear at the top of each page of the material submitted. Any such filing shall be made with the Secretary within 5 days after it becomes effective under the applicable State laws and shall meet the requirements of § 1710.27 of this part.

SEC. III. *Affirmation.* I hereby affirm that I am the developer of the lots herein described or will be the developer at the time lots are offered for sale or lease to the public, or that I am the agent authorized by such developer to complete this statement (if agent, submit written authorization to act as agent);

That the statements contained in this Statement of Record and any supplement thereto, together with any documents submitted herewith, are full, true, complete, and correct;

That I have complied with the land development and disclosure requirements of the State of _____ (State of filing);

That the material submitted is a true and accurate copy of the material filed with the State of _____ (State of filing);

That the material submitted is a true and accurate copy of the material filed with the State of _____; and

That the fees accompanying this application are in the amount required by the rules and regulations of the Office of Interstate Land Sales Registration.

_____ _____
(Date) (Signature)

_____ _____
(Corporate seal if applicable) (Title)

WARNING: Section 1418 of the Housing and Urban Development Act of 1968 (82 Stat. 598, 15 U.S.C. 1717) provides: "Any person who willfully violates any of the provisions of this title or of the rules and regulations or any person who willfully, in a Statement of Record filed under, or in a Property Report issued pursuant to, this title, makes any untrue statement of a material fact or omits to state any material fact * * * shall upon conviction be fined not more than $5,000 or imprisoned not more than 5 years, or both."

§ 1710.125 *Partial Statement of Record—request for exemption.*

Requests for an exemption order or an exemption advisory opinion pursuant to § 1710.14 or § 1710.15(c) shall be prepared in accordance with the following instructions:

INSTRUCTIONS FOR COMPLETION OF PARTIAL STATEMENT OF RECORD—REQUEST FOR EXEMPTION

The partial Statement of Record shall be prepared in the manner shown below and shall contain the information requested, as follows:

Employer's IRS No_____
Developer _____
Owner _____

STATEMENT OF RECORD

Name of subdivision_____
Location _____
Name of developer_____
Developer's address_____
Authorized agent_____
Authorized agent's address_____

Part I. Administrative Information, shall be filed in the form set forth in § 1710.105 followed by the affirmation and agreement as set forth below:

The filing of this information does not preclude a developer from filing a complete Statement of Record. If the developer files the material necessary to complete the Statement of Record, the date of filing shall be the date the complete Statement of Record is received by the Secretary.

AFFIRMATION AND AGREEMENT

I hereby affirm that I am the developer of the lots herein described or will be the developer at the time the lots are offered for sale or lease to the public, or that I am the agent authorized by such developer to complete this statement (if agent, submit written authorization to act as agent);

That the statements contained in this partial Statement of Record and any supplement thereto, together with any documents submitted are full, true, complete, and correct;

That, if this request is filed pursuant to 24 CFR 1710.14(a)(2) the developer hereby affirms and represents to the Secretary that the facts, affirmations and method of operation are within the requirements of 24 CFR 1710.14(a)(2) subparagraphs (i), (ii), (iii), (iv), and (v);

That the fee accompanying this application is in the amount required by the regulations of the Office of Interstate Land Sales Registration;

That I agree that this filing is a partial Statement of Record and that the receipt of this filing by the Secretary shall not be the date of filing of a Statement of Record for the purpose of determining the effective date thereof; and

That if the Secretary advises that the offering is not exempt, I agree to file the remaining portions of the Statement of Record as set forth in § 1710.105 of these rules and regulations prior to any offering and that the date of the receipt of the complete Statement of Record by the Secretary shall be the date of filing for the purpose of determining the effective date of the Statement of Record.

_____ _____
(date) (signature)

_____ _____
(corporate seal if applicable) (title)

WARNING: Section 1418 of the Housing and Urban Development Act of 1968 (82 Stat. 598, 15 U.S.C. 1717) provides: "Any person who willfully violates any of the provisions of this title or the rules and regulations prescribed pursuant thereto * * *, shall upon conviction be fined not more than $5,000 or imprisoned not more than 5 years, or both."

(Sec. 1419, 82 Stat. 598, 15 U.S.C. 1718, Secretary's delegation published 36 F.R. 5006)

Issued at Washington, D.C., October 27, 1971.

EUGENE A. GULLEDGE,
Assistant Secretary for Housing Production and Mortgage Credit—FHA Commissioner.

[FR Doc.71-15931 Filed 11-2-71;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Gain From Dispositions of Certain Depreciable Realty

Proposed regulations under section 1250 of the Internal Revenue Code of 1954, relating to gain from dispositions of certain depreciable realty, appear in the FEDERAL REGISTER for March 5, 1971 (36 F.R. 4388).

A public hearing on the provisions of these proposed regulations will be held on Tuesday, November 30, 1971, at 10 a.m., e.s.t., in Room 3313, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, DC 20224.

The rules of § 601.601(a)(3) of the Statement of Procedural Rules (26 CFR Part 601) shall apply with respect to such public hearing. Copies of these rules may be obtained by a request directed to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, or by telephoning (Washington, D.C.) 202-964-3935. Under such § 601.601(a)(3), persons who have submitted written comments or suggestions within the time prescribed in the notice of proposed rule making and who desire to present oral comments should by November 17, 1971, submit an outline of the topics and the time they wish to devote to each topic. Such outlines should be submitted to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

Persons who desire a copy of such written comments or suggestions or outlines and who desire to be assured of their availability on or before the beginning of such hearing should notify the Commissioner, in writing, at the above address by November 24, 1971. In such a case, unless time and circumstances permit otherwise, the desired copies are deliverable only at the above address. The charge for copies is Twenty-five cents ($0.25) per page, subject to a minimum charge of $1.

K. MARTIN WORTHY,
Chief Counsel.

[FR Doc.71-16178 Filed 11-2-71;10:33 am]

DEPARTMENT OF JUSTICE

Bureau of Narcotics and Dangerous Drugs

[21 CFR Parts 311, 312]

IMPORTATION AND EXPORTATION OF CONTROLLED SUBSTANCES

Notice of Proposed Rule Making

Under the authority vested in the Attorney General by sections 1002, 1003, 1007, and 1008 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91-513) and redelegated to the Director, Bureau of Narcotics and Dangerous Drugs, by § 0.100 of Title 28 of the Code of Federal Regulations, the Director hereby proposes that Parts 311 and 312 of Title 21 of the Code of Federal Regulations be amended as follows:

1. By deleting § 312.13 and replacing it with the following:

§ 312.13 Issuance of import permit.

(a) The Director may authorize importation of any controlled substance listed in schedule I or II or any narcotic drug listed in schedule III, IV, or V if he finds:

(1) That the substance is crude opium or coca leaves in such quantity as he finds necessary to provide for medical, scientific, or other legitimate purposes;

(2) That the substance is necessary to provide for medical and scientific needs or other legitimate needs of the United States during an emergency where domestic supplies of such substance or drug are found to be inadequate, or in any case in which the Director finds that competition among domestic manufacturers of the controlled substance is inadequate and will not be rendered adequate by the registration of additional manufacturers under section 303 of the Controlled Substances Act (21 U.S.C. 823); or

(3) That the domestic supply of any controlled substance is inadequate for scientific studies, and that the importation of that substance for scientific purposes is only for delivery to officials of the United Nations, of the United States, or of any State, or to any person registered or exempted from registration under sections 1007 and 1008 of the Act (21 U.S.C. 957 and 958).

(b) If after careful consideration of the application, it is found that approval cannot be given, and if additional information is required, or other action is necessary to correct any mistake or irregularity in the application or accompanying documents, opportunity will be afforded the prospective importer by the Director to furnish such additional information or to correct such mistake or irregularity before the application is finally disapproved.

(c) Each import permit shall be issued in sextuplet and serially numbered, with all six copies bearing the same serial number and being designated "original" (Copy 1), "duplicate" (Copy 2), etc., respectively. All copies of import permits shall bear the signature of the Director or his delegate, and facsimiles of signatures shall not be used. No permit shall be altered or changed by any person after being signed by the Director or his delegate and any change or alternation upon the face of any permit after it shall have been signed by the Director or his delegate shall render it void and of no effect. Permits are not transferable. Each copy of the permit shall have printed or stamped thereon the disposition to be made thereof. Each permit shall be dated and shall certify that the importer named therein is thereby permitted as a registrant under the Act, to import, through the port named, one shipment of not to exceed the specified quantity of the named controlled substances, shipment to be made before a specified date. Not more than one shipment shall be made on a single import permit. The permit shall state that the Director is satisfied that the consignment proposed to be imported is required for legitimate purposes.

2. By deleting § 312.23 and replacing it with the following:

§ 312.23 Issuance of export permit.

(a) The Director may authorize exportation of any controlled substance listed in schedule I or II or any narcotic controlled substance listed in schedule

III or IV if he finds that such exportation is permitted by subsections 1003 (a), (b), (c), or (d) of the Act (21 U.S.C. 953 (a), (b), (c), or (d)).

(b) If after careful consideration of the application it is found that approval cannot be given, and additional information is required, or other action is necessary to correct any mistake or irregularity in the application or accompanying documents, opportunity will be afforded the prospective exporter by the Director to furnish such additional information or to correct such mistake or irregularity before the application is finally disapproved.

(c) Each export permit shall be issued in septuplet and serially numbered, with all seven copies bearing the same serial number and being designated "original" (Copy 1), "duplicate" (Copy 2), etc., respectively. Each export permit shall be predicated upon a separate import certificate or other documentary evidence, and not more than one shipment shall be made thereon. Export permits are not transferable.

(d) No export permit shall be issued for the exportation of any narcotic drug to any country when the Director has information to show that the estimates submitted with respect to that country for the current period, under the Narcotic Limitation Convention of 1931, or the Single Convention on Narcotic Drugs of 1961, have been, or, considering the quantity proposed to be imported, will be exceeded. If it shall appear, through subsequent advice received from the International Narcotic Control Board of the United Nations that the estimates of the country of destination have been adjusted to permit further importation of the narcotic drug, an export permit may then be issued if otherwise permissible.

3. By adding seven new sections as follows:

§ 312.41 Hearings generally.

(a) In any case where the Director shall hold a hearing regarding the denial of an application for an import or export permit, the procedures for such hearing shall be governed generally by the rulemaking procedures set forth in the Administrative Procedure Act (5 U.S.C. 551–559) and specifically by sections 1002 and 1003 of the Act (21 U.S.C. 952 and 953), by §§ 312.42–312.47, and by the procedures for administrative hearings under the Act set forth in §§ 316.41–316.67 of this chapter.

§ 312.42 Purpose of hearing.

(a) If requested by an interested person, who presents reasonable grounds therefor, the Director shall hold a hearing for the purpose of receiving factual evidence regarding the issues involved in the denial of an application for an import or export permit.

(b) The Director need not hold a hearing on the denial of an application for an import or export permit separate from a hearing on the suspension, revocation or denial of a registration to import or export, held pursuant to §§ 311.51–311.53 of this chapter.

(c) Extensive argument should not be offered into evidence but rather presented in opening or closing statements of counsel or in memoranda or proposed findings of fact and conclusions of law.

§ 312.43 Waiver or modification of rules.

The Director or the presiding officer (with respect to matters pending before him) may modify or waive any rule in this part by notice in advance of the hearing, if he determines that no party in the hearing will be unduly prejudiced and the ends of justice will thereby be served. Such notice of modification or waiver shall be made a part of the record of the hearing.

§ 312.44 Request for hearing or appearance; waiver.

(a) Any person who desires a hearing on the denial of his application for an import or export permit shall, within 30 days after the date of receipt of the denial of his application for an import or export permit, file with the Director a written request for a hearing in the form prescribed in § 316.47 of this chapter.

(b) Any interested person who desires to participate in a hearing on the denial of an application for an import or export permit shall, within 30 days of the date of publication of notice of the hearing in the FEDERAL REGISTER, file with the Director a written notice of his intention to participate in such hearing in the form prescribed in § 316.48 of this chapter. Any person filing a request for a hearing need not also file a notice of appearance; the request for a hearing shall be deemed to be a notice of appearance.

(c) Any person entitled to a hearing or to participate in a hearing pursuant to § 312.13 or § 312.23 may, within the period permitted for filing a request for a hearing or a notice of appearance, file with the Director a waiver of an opportunity for a hearing or to participate in a hearing, together with a written statement regarding his position on the matters of fact and law involved in such hearing. Such statement, if admissible, shall be made a part of the record and shall be considered in light of the lack of opportunity for cross-examination in determining the weight to be attached to matters of fact asserted therein.

(d) If any person entitled to a hearing or to participate in a hearing pursuant to § 312.13 or § 312.23, fails to file a request for a hearing or a notice of appearance, or if he so files and fails to appear at the hearing, he shall be deemed to have waived his opportunity for the hearing or to participate in the hearing, unless he shows good cause for such failure.

(e) If all persons entitled to a hearing or to participate in a hearing waive or are deemed to waive their opportunity for the hearing or to participate in the hearing, the Director may cancel the hearing, if scheduled, and issue his final order pursuant to § 312.47 without a hearing.

§ 312.45 Burden of proof.

At any hearing regarding the denial of an application for an import or export permit, each person entitled to, or participating in, the hearing shall have the burden of proving any propositions of fact or law asserted by him in the hearing.

§ 312.46 Time and place of hearing.

(a) If any person entitled to a hearing or to participate in a hearing pursuant to § 312.13 or § 312.23 requests a hearing on the denial of an application for an import or export permit, the Director shall hold such hearing. Notice of the time and place of the hearing shall be given at least 30 days prior to the hearing, unless such notice is waived and it is requested that the hearing be held at an earlier time, in which case the Director shall fix a date for such hearing as early as reasonably possible.

(b) The hearing will commence at the place and time designated in the notice given pursuant to paragraph (a) of this section or in the notice of hearing published in the FEDERAL REGISTER pursuant to § 312.44(b), but thereafter it may be moved to a different place and may be continued from day to day or recessed to a later day without notice other than announcement thereof by the presiding officer at the hearing.

§ 312.47 Final order.

As soon as practicable after the presiding officer has certified the record to the Director, the Director shall issue his order on the denial of the application for an import or export permit. The order shall include the findings of fact and conclusions of law upon which the order is based. The Director shall serve one copy of his order upon each party in the hearing.

All interested persons are invited to submit their comments and objections in writing regarding this proposal. Comments and objections should be submitted in quintuplicate to the Office of Chief Counsel, Bureau of Narcotics and Dangerous Drugs, Department of Justice, Room 611, 1405 Eye Street NW., Washington, DC 20537, and must be received no later than 30 days after publication of this proposal in the FEDERAL REGISTER.

Dated: October 22, 1971.

JOHN FINLATOR,
Acting Director, Bureau of Narcotics and Dangerous Drugs.

[FR Doc.71-16011 Filed 11-2-71;8:49 am]

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

[9 CFR Part 113]

VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS

Proposed Standard Requirements

Notice is hereby given in accordance with the provisions contained in section 553(b) of title 5, United States Code (1966), that it is proposed to amend certain of the regulations relating to viruses, serums, toxins, and analogous products in Title 9, Code of Federal Regulations, issued pursuant to the provisions of the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151–158).

The use of inhibitors or neutralizers of preservatives would be provided for in § 113.25(d); the use of Fluid Thioglycollate Medium instead of Soybean-Casein Digest Medium for testing biological products containing mercurial preservatives would be provided for in § 113.26(a)(3); and incubation temperatures in § 113.26(b)(3) would be adjusted to the proposed changes in § 113.26(a)(3).

1. Section 113.25(d) is amended to read:

§ 113.25 Culture media for detection of bacteria and fungi.

* * * * *

(d) A determination shall be made by the licensee for each biological product of the ratio of inoculum to medium which shall result in sufficient dilution of such product to prevent bacteriostatic and fungistatic activity. The determination may be made by tests on a representative biological product for each group of comparable products containing identical preservatives at equal or lower concentrations.

Inhibitors or neutralizers of preservatives, approved by the Director, may be considered in determining the proper ratio.

2. Section 113.26 (a)(3) and (b)(3) are amended to read:

* * * * *

§ 113.26 Detection of viable extraneous bacteria and fungi in all biological products except live vaccines.

* * * * *

(a) * * *

(3) Soybean-Casein Digest Medium shall be used to test biological products for fungi; provided, that Fluid Thioglycollate Medium without beef extract shall be substituted when testing biological products containing mercurial preservatives.

(b) * * *

(3) Incubation shall be for an observation period of 14 days at 30° to 35° C. to test for bacteria and 14 days at 20° to 25° C. to test for fungi.

Interested persons are invited to submit written data, views, or arguments regarding the proposed regulations to the Veterinary Biologics Division, Federal Center Building, Hyattsville, Md. 20782, within 60 days after date of publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 28th day of October 1971.

F. J. MULHERN,
Acting Administrator, Agricultural Research Service.

[FR Doc.71-15993 Filed 11-2-71;8:47 am]

Consumer and Marketing Service

[7 CFR Part 932]

OLIVES GROWN IN CALIFORNIA

Notice of Proposed Rule Making With Respect to Expenses, Rate of Assessment, and Carryover of Unexpended Funds

Consideration is being given to the following proposals submitted by the Olive Administrative Committee, established under the marketing agreement, as amended, and Order No. 932, as amended (7 CFR Part 932, 36 F.R. 20355), regulating the handling of olives grown in California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(a) That the Secretary of Agriculture find that the expenses that are reasonable and likely to be incurred by the Olive Administrative Committee during the period September 1, 1971, through August 31, 1972, will amount to $558,850.

(b) That the Secretary of Agriculture fix the rate of assessment for said period, payable by each first handler in accordance with § 932.39, at $10 per ton of olives.

(c) That unexpended assessment funds in excess of expenses incurred during the fiscal period ended August 31, 1971, shall be carried over as a reserve in accordance with the applicable provisions of §§ 932.40 and 932.203 of the marketing agreement and order.

Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposal shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: October 29, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-16029 Filed 11-2-71;8:50 am]

GENERAL SERVICES ADMINISTRATION

[41 CFR Parts 101–17, 101–18, 101–20]

CONSIDERATION OF SOCIOECONOMIC IMPACT WHEN SELECTING LOCATIONS FOR FEDERAL BUILDINGS

Notice of Proposed Rule Making

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 533 that pursuant to the Federal Property and Administrative Services Act of 1949, as amended, the General Services Administration is considering an amendment to 41 CFR 101–17—Public Buildings and Space, 41 CFR 101–18—Acquisition of Real Property, and 41 CFR 101–20—Assignment and Utilization of Space. The revisions will establish agency policy for applying socioeconomic considerations to selecting locations for Federal buildings in order to implement Executive Order No. 11512 of February 27, 1970.

Any person who wishes to submit written data, views, or objections pertaining to the proposed amendment may do so by filing them in duplicate with the Commissioner of Public Buildings, General Services Administration, Room 6340, General Services Bulding, 19th and F Streets NW., Washington, DC 20405, within 30 calendar days following publication of this notice in the FEDERAL REGISTER.

Dated: October 28, 1971.

ARTHUR F. SAMPSON,
Commissioner, Public Buildings Service.

As proposed, the amendment to the regulations would read as follows:

This amendment provides for: (1) Inclusion of new legislative and Executive order citations to the authorities being implemented in Parts 101–17, 101–18, and 101–20; (2) revision of the policy statements in §§ 101–17.102, 101–18.102, and 101–20.002 to include considerations required by such acts and orders in the planning for new public buildings, in the acquisition of space by lease, and in the assignment and utilization of space; (3) the implementation of these policies in providing buildings and space for Federal agencies in accordance with existing authority in a manner designed to exert a positive economic and social influence on the development or redevelopment of the areas in which such facilities will be located; and (4) minor editorial corrections.

PART 101–17—CONSTRUCTION AND ALTERATION OF PUBLIC BUILDINGS

The table of contents for Part 101–17 is amended by adding the following new entries:

Sec.	
101–17.104	Application of socioeconomic considerations.
101–17.104–1	Location of buildings.

Sec.

101–17.104–2 Agreement with Secretary of Housing and Urban Development.
101–17.104–3 Consultation with HUD.
101–17.104–4 Affirmative action plan.
101–17.104–5 Agency compliance.

Section 101–17.001 is revised to read as follows:

§ 101–17.001 Authority.

This Part 101–17 implements the applicable provisions of the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended; the Public Buildings Act of 1959, as amended (40 U.S.C. 601–615); Public Law 90–480, approved August 12, 1968, 82 Stat. 718 (42 U.S.C. 4151–4156); the Clean Air Act (42 U.S.C. 1857); the Federal Water Pollution Control Act (33 U.S.C. 1151–1174); the Intergovernmental Cooperation Act of 1968, 82 Stat. 1105 (40 U.S.C. 533); the Agricultural Act of 1970, 84 Stat. 1383; Executive Order 11507 of February 4, 1970; Executive Order 11508 of February 10, 1970; Executive Order 11512 of February 27, 1970 (3 CFR); and title VIII of the Civil Rights Act of 1968, as amended (42 U.S.C. 3601, section 808(d)).

Subpart 101–17.1—General

1. Section 101–17.102 is revised to read as follows:

§ 101–17.102 Basic policy.

(a) In the process of developing building projects, the following policies will be observed:

(1) Material consideration will be given to the efficient performance of the missions and programs of the executive agencies and the nature and function of the facilities involved with due regard for the convenience of the public served and the maintenance and improvement of safe and healthful working conditions for employees;

(2) Consideration will be given in the delineation of areas and the selection of sites for the development of Federal facilities to the need for development and redevelopment of areas and the development of new communities and the impact a selection will have on improving social and economic conditions in the area. In determining these conditions, the Administrator will consult with and receive advice from the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and others, as appropriate;

(3) Maximum use will be made of existing Government-owned permanent buildings which are adequate or economically adaptable to the space needs of executive agencies;

(4) Suitable privately owned space will be acquired only when satisfactory Government-owned space is not available and only at rental charges which are consistent with prevailing rates in the community for comparable facilities;

(5) Space planning and assignments will take into account the objective of consolidating agencies and constituent parts thereof in common or adjacent space for the purpose of improving management and administration;

(6) Consider to the maximum possible extent the availability for employees of low and moderate income housing without discrimination because of race, color, religion, or national origin; adequate access from other areas of the urban center; and adequacy of parking.

(7) Proposed developments will be, to the greatest extent practicable, consistent with State, regional, and local plans and programs; and Governors, local elected officials, and regional comprehensive planning agencies will be consulted in the planning of such developments.

(b) In accordance with the provisions of section 901(b) of the Agricultural Act of 1970 (84 Stat. 1358), insofar as practicable, new offices and other facilities will be located in areas or communities of low population density in preference to areas or communities of high population density, due consideration being given to the provisions of section 7(a) of the Public Buildings Act of 1959, as amended (40 U.S.C. 606(a)), and Executive Order 11512 of February 27, 1970 (3 CFR).

(c) GSA will plan the construction and alteration of Federal facilities at a rate that will reduce the total amount of rental space, provide for Federal operations to be housed in Government-owned space, and replace Government-owned facilities becoming obsolete, with modern functional structures that meet present day requirements for efficient and economical operations.

(d) GSA will provide technical services and guidance to other Federal agencies in the formulation and development of their programs for construction and alteration of special facilities.

(e) Excess properties transferred to GSA will be renovated and altered whenever practical to meet Government space needs.

(f) In selecting sites for public buildings, consideration will also be given to:

(1) Maximum utilization of Government-owned land (including excess land) whenever it is adequate, economically adaptable to requirements, and properly located, where such is consistent with the provisions of Executive Order 11508 of February 10, 1970, and § 101–47.8;

(2) A site adjacent to or in the proximity of an existing Federal building which is well located and is to be retained for long-term occupancy; and

(3) Suitable sites in established civic or redevelopment centers which are well planned and properly financed with development initiated and insured.

(g) The design of new buildings shall provide requisite and adequate facilities in an architectural style and form which is distinguished and which will reflect the dignity, enterprise, vigor, and stability of the U.S. Government. Major emphasis shall be placed on the choice of designs that embody the finest contemporary American architectural thought. Specific attention shall be paid to the possibilities of incorporating into such designs qualities which reflect the regional architectural traditions of that part of the Nation in which buildings are located.

(h) In the alteration of existing buildings, GSA will maintain architectural integrity and compatibility with the existing structures.

(i) In the design of new public buildings, and to the extent feasible in the alteration of existing public buildings, GSA will (1) insure that such buildings and attendant facilities will be accessible to and usable by the physically handicapped (42 U.S.C. 4151–4156), and (2) utilize, to the maximum extent, modern methods and techniques for the control of air and water pollution (Clean Air Act, 42 U.S.C. 1857; Federal Water Pollution Control Act, 33 U.S.C. 1151–1174).

(j) In the siting and locating of buildings on selected sites, GSA representatives will work directly with local officials in seeking to conform as closely as possible to local zoning regulations.

(k) In the design of new public buildings and alterations to public buildings, locally approved and/or nationally recognized building and performance codes, standards, and specifications will be followed as minimum requirements.

(l) Parking for Government-owned vehicles, visitors, and employees will be provided in the planning of public buildings with due regard to the needs of the Federal agencies to be housed in each building, local zoning and parking regulations, availability of public transportation, and availability of planned and existing public and privately owned parking facilities in the locality.

(m) Fine arts, as appropriate, will be incorporated in the design of selected new public buildings. Fine arts, including painting, sculpture, and artistic work in other mediums, will reflect the national cultural heritage and emphasize the work of living American artists.

2. Section 101–17.104 is added as follows:

§ 101–17.104 Application of socioeconomic considerations.

The purpose of this section is to provide an effective, systematic arrangement to assure for Federal employees the availability of low- and moderate-income housing without discrimination because of race, color, religion, or national origin and to influence the improvement in social and economic conditions in the area of Federal buildings.

§ 101–17.104–1 Location of buildings.

(a) GSA in all its determinations with respect to the location of federally constructed buildings and the acquisition of leased buildings will consider to the maximum possible extent the availability for employees of low and moderate income housing without discrimination because of race, color, religion, or national origin and will affirmatively further the purposes of title VIII of the Civil Rights Act of 1968.

(b) Final decisions of the Administrator will be based on the determination that such decisions will improve the management and administration of governmental activities and services and will foster the programs and policies of the Federal Government.

§ 101–17.104–2 Agreement with Secretary of Housing and Urban Development.

(a) The Administrator has entered into an agreement with the Secretary of Housing and Urban Development to utilize the Department of Housing and Urban Development (HUD) to investigate, determine, and report findings to GSA on the availability of low- and moderate-income housing on a nondiscriminatory basis with respect to proposed locations for a federally constructed building or major lease action having a significant socioeconomic impact on a community.

(b) HUD will advise GSA and other Federal agencies with respect to actions which would increase the availability of low- and moderate-income housing on a nondiscriminatory basis, once a site has been selected for a federally constructed building or a lease executed for space, as well as to assist in increasing the availability of such housing through its own programs.

§ 101–17.104–3 Consultation with HUD.

(a) In the initial selection of a city or delineation of a general area for location of public buildings or leased buildings, GSA will provide the earliest possible notice to HUD of information with respect to such decisions. Regional offices of HUD, as identified by the Secretary of Housing and Urban Development, and local planning and housing authorities will be consulted concerning the present and planned availability of low- and moderate-inome housing on a nondiscriminatory basis in the area where the project is to be located during the survey preliminary to the preparation and submission of the project development report. A copy of the prospectus for each public building or lease-construction project will be provided to HUD.

(b) Regional office representatives of HUD, as designated by the Secretary of Housing and Urban Development, will participate in site investigations for the purpose of providing a report to GSA on the availability of low- and moderate-income housing on a nondiscriminatory basis in the area of the investigation.

(c) The advice of HUD will constitute the principal basis for GSA's consideration of the availability of housing as described in this § 101–17.104. The Regional Director, PBS, will advise the HUD representative when the GSA site investigator recommends a site for selection which has been reported unfavorably by HUD. In the event the disagreement between HUD and GSA representatives at the area or regional level is not resolved, HUD shall advise the Administrator of such disagreement within 5 workdays and specify the time required to properly present its views for headquarters review.

(d) GSA will provide HUD with a written explanation when, after headquarters review, a location is selected which HUD reported inadequate with respect to the availability to such location of low- and moderate-income housing on a nondiscriminatory basis.

§ 101–17.104–4 Affirmative action plan.

When a site has been selected or lease entered into and HUD has determined that, with respect to such location, the supply of low- and moderate-income housing on a nondiscriminatory basis is inadequate to meet the needs of the personnel of the agency or agencies involved, an affirmative action plan shall be developed. The plan shall be designed to insure that an adequate supply of such housing will be available before the building or space is to be occupied or within a period of 6 months thereafter. The plan should provide for commitments from the community involved to initiate and carry out all feasible efforts to obtain a sufficient quantity of low- and moderate-income housing available to the agency's personnel on a nondiscriminatory basis with adequate access to the location of the building or space. It should include commitments by the local officials having the authority to remove obstacles to the provision of such housing, when such obstacles exist, and to take effective steps to assure its provision. The plan should also set forth the steps proposed by the agency to develop and implement a counseling and referral service to seek out and assist its personnel to obtain such housing. As part of any plan, during as well as after its development, HUD will give priority consideration to applications for assistance under its housing programs for the housing proposed to be provided in accordance with the plan.

§ 101–17.104–5 Agency compliance.

(a) Agencies are required to cooperate with the Administrator and provide such information as may be necessary to effectively comply with these regulations and to cooperate with the Secretary of Housing and Urban Development to affirmatively further the purposes of title VIII of the Civil Rights Act of 1968, as amended (42 U.S.C. 3601).

(b) As a minimum, agencies are required to determine the number of positions by grade and an estimate of the number of employees whose jobs are being moved. Further details, such as family income and size, minority status, present home location, and status as head-of-household, may also be required depending upon the type, scope, and circumstances of the relocation. GSA will advise agencies concerning specific situations.

(c) Federal agencies who will relocate shall provide counseling and referral service to assist their personnel in obtaining housing. GSA and HUD will cooperate in this effort.

PART 101–18—ACQUISITION OF REAL PROPERTY

The table of contents for Part 101–18 is amended by adding the following new entry:

Sec.

101–18.109 Application of socioeconomic considerations.

Subpart 101–18.1—Acquisition by Lease

1. Section 101–18.101 is revised to read as follows:

§ 101–18.101 Authorities of subpart.

This Subpart 101–18.1 implements section 210(h)(1) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(h)(1); the Act of August 27, 1935 (40 U.S.C. 304c), Reorganization Plan No. 18 of 1950 (40 U.S.C. 490 note); the Intergovernmental Cooperation Act of 1968, 82 Stat. 1105 (40 U.S.C. 533); the Agricultural Act of 1970, 84 Stat. 1383; Executive Order 11512 of February 27, 1970 (3 CFR); and title VIII of the Civil Rights Act of 1968, as amended (42 U.S.C. 3601 section 808(d)).

2. Section 101–18.102 is revised to read as follows:

§ 101–18.102 Basic policy.

(a) GSA will lease space in privately owned buildings and land only when needs cannot be satisfactorily met in Government-owned or presently leased space, or when the construction or alteration of a Federal building or the purchase of a privately owned building is not warranted because requirements in the community are insufficient or are indefinite in scope or duration, or completion of a new building within a reasonable time cannot be assured.

(b) Acquisition of space by lease will be on the basis most favorable to the Government, with due consideration to maintenance and operational efficiency, and only at charges consistent with prevailing scales in the community for comparable facilities.

(c) Acquisition of space by lease will be by negotiation except where all the factors are present which will permit true competition and where the formal sealed bid method is required by law. In negotiating, competition will be obtained to the maximum extent practical among suitable available locations meeting minimum Government requirements.

(d) When acquiring space by lease and subject to the provisions of § 101–18.109:

(1) Material consideration shall be given to the efficient performance of the missions and programs of the executive agencies and the nature and function of the facilities involved with due regard for the convenience of the public served and the maintenance and improvement of safe and healthful working conditions for employees;

(2) Consideration shall be given in the selection of sites for Federal facilities to the need for development and redevelopment of areas and the development of new communities, and the impact a selection will have on improving social and economic conditions in the area. In determining these conditions the Administrator shall consult with and receive advice from the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and others, as appropriate;

(3) Maximum use shall be made of existing Government-owned permanent buildings which are adequate or economically adaptable to the space needs of executive agencies;

(4) Suitable privately owned space shall be acquired only when satisfactory Government-owned space is not available, and only at rental charges which are consistent with prevailing rates in the community for comparable facilities;

(5) Space planning and assignments shall take into account the objective of consolidating agencies and constituent parts thereof in common or adjacent space for the purpose of improving management and administration; and

(6) The availability of adequate low- and moderate-income housing on a nondiscriminatory basis, adequate access from other areas of the urban center, and adequacy of parking will be considered.

(e) Lease-construction projects required to be authorized in accordance with or in the manner provided by the provisions of the Public Buildings Act of 1959 will be, to the greatest extent practicable, consistent with State, regional, and local plans, programs, and local zoning regulations; and Governors, local elected officials, and regional comprehensive planning agencies will be consulted in the planning of the proposed development of such Federal facilities.

(f) Insofar as practicable, leased space for new offices and other facilities will be located in areas or communities of low population density, due consideration being given to the provisions of Executive Order No. 11512 of February 27, 1970 (3 CFR).

3. Section 101–18.104(e)(3) is revised to read as follows:

§ 101–18.104 Acquisition by other agencies.

• • • • • •

(e) • • •

(3) The space is acquired by the U.S. Postal Service for postal purposes.

4. Section 101–18.106–1 is revised as follows:

§ 101–18.106–1 List of special purpose space.

• • • • • •

(d) [Reserved]

• • • • • •

(f) Department of Housing and Urban Development: Space used for residential and related purposes.

• • • • • •

(j) Treasury Department: Garage space held under service contracts.

• • • • • •

(l) Department of the Interior:

(1) Space in buildings and land incidental thereto used by field crews of the Bureau of Reclamation, Bureau of Land Management, the Geological Survey, and the Federal Water Pollution Control Administration for periods of less than 1 year in remote areas where no other Government agencies are quartered;

(2) Garage space held under service contract used by the Geological Survey and the Bureau of Land Management;

(3) Laboratory, storage and related space, and land incidental thereto for use by the Federal Water Pollution Control Administration for periods of 1 year situated outside urban areas, including sites for mobile (trailer) laboratories and docking and mooring facilities.

• • • • • •

(p) Department of Transportation:

(1) U.S. Coast Guard: Plots of land and pier sites, including closed storage space required in combination with piers and docking and mooring facilities; space for the oceanic unit at Woods Hole, Mass.; and space for port security activities;

(2) Federal Aviation Administration: All space located at airports, the Aeronautical Center at Oklahoma City, Okla., air route traffic control centers, garage space held under service contracts, and land.

5. Section 101–18.107(c) is revised to read as follows:

§ 101–18.107 Limitations on the use of delegated authority.

• • • • • •

(c) Agencies having a need for other than temporary parking accommodations in the urban centers listed in § 101–18.104, for Government-owned motor vehicles not regularly housed by GSA, shall ascertain the availability of Government-owned or controlled parking from GSA in accordance with the procedure outlined in § 101–20.102–6 prior to instituting procurement action to acquire parking facilities or services.

6. Section 101–18.109 is added as follows:

§ 101–18.109 Application of socioeconomic considerations.

(a) In acquiring space by lease, locations will be avoided which will work a hardship on employees because (1) there is a lack of adequate housing for low- and middle-income employees on a nondiscriminatory basis within reasonable proximity, and (2) the location is not readily accessible from other areas of the urban center.

(b) Consideration of low- and moderate-income housing on a nondiscriminatory basis for employees and the need for development and redevelopment of areas for socioeconomic improvement will apply to the acquisition of space by lease when the lease term is in excess of 5 years, including all options, and where the space is to be acquired within the defined limits of a city or town and the amount of space in relation to the population exceeds the indicated footage as follows:

Population	*Square footage*
0–25,000	Over 5,000.
25,000–50,000	Over 10,000.
50,000–100,000	Over 15,000.
100,000–500,000	Over 30,000.
Over 500,000	Over 50,000.

(c) The Department of Housing and Urban Development is responsible for providing information concerning the availability of low- and moderate-income housing on a nondiscriminatory basis in areas where Federal facilities are planned to be located.

(d) The Department of Housing and Urban Development shall be consulted concerning the availability, on a nondiscriminatory basis, of low- and moderate-income housing for those Federal employees who will work in the project area when (1) a leasing action meets the criteria in paragraph (b) of this section, (2) a least-construction project is developed which required a prospectus, and (3) a leasing action involves a major shift or relocation of agencies to new areas or locales. Procedures described in § 101–17.104 shall apply.

PART 101–20—ASSIGNMENT AND UTILIZATION OF SPACE

The table of contents for Part 101–20 is amended by the addition of the following new entries:

Sec.
101–20.102–6 Procurement of parking for Government-owned vehicles.
101–20.104 Application of socioeconomic considerations.

1. Section 101–20.001 is revised to read as follows:

§ 101–20.001 Authority.

This part implements the applicable provisions of the Federal Property and Administrative Services Act of 1949, as amended 63 Stat. 377; the Act of July 1, 1898 (40 U.S.C. 285); the Act of August 27, 1935 (40 U.S.C. 304c); the Public Buildings Act of 1959, as amended (40 U.S.C. 601 et seq.); Reorganization Plan No. 18 of 1950 (40 U.S.C. 490 note); and Executive Order 11512 of February 27, 1970 (3 CFR).

2. Section 101–20.002 is revised to read as follows:

§ 101–20.002 Basic policy.

GSA and other Federal agencies shall be guided by the following policies for the assignment, reassignment, and utilization of office buildings and space.

(a) Material consideration shall be given to the efficient performance of the missions and programs of the executive agencies and the nature and function of the facilities involved with due regard for the convenience of the public served and the maintenance and improvement of safe and healthful working conditions for employees.

(b) Maximum use shall be made of existing Goverment-owned permanent buildings which are adequate or economically adaptable to the space needs of executive agencies.

(c) Suitable privately owned space shall be acquired only when satisfactory Government-owned space is not available.

(d) Space planning and assignments shall take into account the objective of consolidating agencies and constituent parts thereof in common or adjacent space for the purpose of improving management and administration.

(e) The availability of adequate low- and moderate-income housing on a nondiscriminatory basis for employees, accessibility from other areas of the urban center, and adequacy of parking facilities shall be considered.

(f) Whenever a space assignment requires the acquisition of space, the policies established in § 101–17.102 or 101–18.102 shall apply to such acquisition.

3. Section 101–20.102(b) is revised to read as follows:

§ 101–20.102 Requests for space.

• • • • • •

(b) Heads of executive agencies shall:

(1) Cooperate with and assist the Administrator in carrying out his responsibilities respecting buildings and space;

(2) Take measures to give the Administrator early notice of new or changing space requirements;

(3) Seek to economize in their requirements for space; and

(4) Review continuously their needs for space in and near the District of Columbia, taking into account the feasibility of decentralizing services or activities which can be carried on elsewhere without excessive costs or significane loss of efficiency.

4. Section 101–20.102–6 is added as follows:

§ 101–20.102–6 Procurement of parking for Government-owned vehicles.

Agencies having a need for other than temporary parking accommodations in the urban centers listed in § 101–18.104, for Government-owned motor vehicles not regularly housed by GSA, shall, prior to initiating procurement action for parking accommodations, make their needs for such facilities known to the appropriate GSA regional office. The request, which may be in the form provided for in § 101–20.102–1 (Standard Form 81, Request for Space), will be reviewed by GSA to determine the availability of Government-owned or controlled space. The agency shall be notified promptly should no such space be available. This notification shall become a part of the file supporting the subsequent procurement.

5. Section 101–20.103–1(b) is revised to read as follows:

§ 101–20.103–1 Assignment by GSA.

• • • • • •

(b) GSA may, in accordance with policies and directives prescribed by the President, including E.O. No. 11512 of February 27, 1970 (3 CFR), under section 205(a) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(a)), and after consultation with the agencies affected, assign and reassign space of any executive agencies after determining that such assignment or reassignement is advantageous to the Government in terms of economy, efficiency, or national security.

6. Section 101–20.104 is added as follows:

§ 101–20.104 Application of socioeconomic considerations.

(a) Agencies shall cooperate with GSA in coordinating proposed programs and plans for buildings and space in a manner designed to exert a positive economic and social influence on the development or redevelopment of the areas in which such facilities are located.

(b) Whenever actions are proposed to accomplish the reassignment or utilization of space through the relocation of an existing major workforce but do not involve the acquisition of buildings or leased space, the impact on low and moderate income and minority employees shall be considered when the occupancy term is expected to exceed 5 years and where the space to be occupied is within the defined limits of a city or town and the amount of space in relation to the population exceeds the indicated footage as follows:

Population	*Square Footage*
0–25,000	Over 5,000.
25,000–50,000	Over 10,000.
50,000–100,000	Over 15,000.
100,000–500,000	Over 30,000.
Over 500,000	Over 50,000.

(c) The Department of Housing and Urban Development shall be consulted concerning the availability, on a nondiscriminatory basis, of low- and moderate-income housing to the project area for those Federal employees who will work in the space to be assigned or reassigned when the action meets the criteria in paragraph (b) of this section.

(d) When, after consultation, it is determined: (1) There is a lack of low- and moderate-income housing on a nondiscriminatory basis within reasonable proximity, and (2) the location is not readily accessible from other areas of the urban center, an affirmative action plan shall be developed as described in § 101–17.104–4 with agency participation as described in § 101–17.104–5.

(e) Whenever an agency initiates a request for the assignment of space in a specifically delineated area, they shall first determine whether there is an adequate supply of low- and moderate-income housing available to the delineated area in accordance with this § 101–20.104. A copy of the HUD finding shall be submitted to GSA with the SF81. If the finding shows there is a lack of suitable housing, the SF81 shall state that the agency has initiated action in accordance with § 101–20.104(d).

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

[FR Doc.71–15928 Filed 11–1–71;8:52 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGFR 71–122]

NORTH BRANCH, CHICAGO RIVER, ILL.

Proposed Drawbridge Operations

The Coast Guard is considering revising the regulations for the North Avenue, Cortland Street, Webster Avenue, North Ashland Avenue, North Damen Avenue, and Belmont Avenue bridges across the North Branch of the Chicago River, Chicago, Ill., to permit the draws to be maintained in the closed position. The operating machinery of these bridges would be removed. These bridges are presently required to open on signal except for morning and evening peak vehicular traffic periods. This change is being considered because of limited use of this reach of the North Branch by vessels which require the openings of these bridges.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander, Ninth Coast Guard District (oan), 1240 East 9th Street, Cleveland, Ohio 44199. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Ninth Coast Guard District.

The Commander, Ninth Coast Guard District, will forward any comments received before December 10, 1971, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by adding § 117.664(h) to read as follows:

§ 117.663 The Chicago River, the Ogden Slip, the North Branch of the Chicago River, the North Branch Canal, the South Branch, the West Fork of the South Branch, the South Fork of the South Branch, and the West Arm of South Fork of South Branch of the Chicago River, Ill.; bridges.

• • • • • •

(h) The draws of the North Avenue, Cortland Street, Webster Avenue, North Ashland Avenue, North Damen Avenue,

and Belmont Avenue bridges across the North Branch of the Chicago River need not open for the passage of vessels. However the draws shall be returned to an operable condition within 6 months after notification from the Commandant to take such action.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4) (35 F.R. 15922))

Dated: October 27, 1971.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.71-16013 Filed 11-2-71;8:49 am]

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 11470]

BRITISH AIRCRAFT CORPORATION MODEL BAC 1-11 200 AND 400 SERIES AIRPLANES, EQUIPPED WITH AIRESEARCH MODEL GTCP-85-115, -115C, -115K, OR -115CK AUXILIARY POWER UNITS

Proposed Airworthiness Directives

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to British Aircraft Corp. Model BAC 1-11 200 and 400 series airplanes. There have been reports of failures of the Auxiliary Power Unit (APU) due to deterioration of the turbine bearing seals, resulting in fire in the jet pipe and damage to the tail cone structure on Model BAC 1-11 200 and 400 series airplanes. Since this condition is likely to exist or develop in other airplanes of the same type design the proposed airworthiness directive would require periodic inspection of the APU turbine bearing seals, and the repair or disconnection of APU's with defective bearing seals until the APU's are modified by installing overheat sensors and automatic overheat shutdown provisions, and the associated tail cone changes are accomplished on British Aircraft Corp. Model BAC 1-11 200 and 400 series airplanes.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. All communications received on or before December 3, 1971, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

BRITISH AIRCRAFT CORP. Applies to Model BAC 1-11 200 and 400 series airplanes equipped with AiResearch Model GTCP-85-115, -115C, -115K, or 115CK Auxiliary Power Units (APU).

Compliance is required as indicated.

To prevent possible overheat damage of the rear fuselage tail cone structure due to fire resulting from an APU or jet pipe assembly failure, accomplish the following:

(a) Check the condition of the APU turbine bearing seals either—

(1) In accordance with an oil sampling analysis program that detects progressive deterioration of the bearing seals and that must be approved by an FAA maintenance inspector within the next 25 airplane hours' time in service after the effective date of this AD; or

(2) In accordance with paragraphs 2.2.1, 2.2.2, and 2.2.3, BAC 1-11 Alert Service Bulletin No. 49-A-PM 4714, Issue 4, dated March 8, 1971, or an FAA-approved equivalent, within the next 25 airplane hours' time in service after the effective date of this AD, and thereafter at intervals not to exceed 25 airplane hours' time in service from the last inspection.

(b) If a defective turbine bearing seal is found during a check required by paragraph (a), before further flight, either—

(1) Repair the APU in accordance with the applicable AiResearch Maintenance Manual or an FAA-approved equivalent; or

(2) Mechanically disconnect the APU so that it is not possible to operate the APU on the ground or in flight and install a placard in the cockpit in clear view of the pilot stating that the APU is not to be operated.

(c) Within the next 1,000 airplane hours' time in service after the effective date of this AD, unless already accomplished, either—

(1) Mechanically disconnect the APU so that it is not possible to operate the APU on the ground or in flight and install a placard on the APU cockpit controls stating that the APU is not to be operated; or

(2) Modify the APU installation and tail cone assembly to provide a means that automatically shuts down the APU when an overheat condition occurs, as follows:

(i) For airplanes equipped with a premodification PM3520 tail cone installation, modify the APU installation and tail cone assembly in accordance with BAC 1-11 Service Bulletin No. 49-PM4714, Part 1, Revision 1, dated November 9, 1970, and Parts 2 (a), (b), and (d), dated November 16, 1970, or an FAA-approved equivalent.

(ii) For airplanes equipped with a post-modification PM3520 tail cone installation, modify the APU installation and tail cone assembly in accordance with BAC 1-11 Service Bulletin No. 49-PM4714, Part 1, Revision 1, dated November 9, 1970, and Parts 2 (a), (b), (c), and (d), dated November 16, 1970, or an FAA-approved equivalent.

(d) The checks required by paragraph (a) may be discontinued after the APU has been disconnected in accordance with subparagraph (b)(2), or subparagraph (c)(1) or after the modification specified in subparagraph (c)(2) has been accomplished.

(e) Placards installed in accordance with subparagraph (b)(2), or subparagraph (c)(1) may be removed after the modification specified in subparagraph (c)(2) has been accomplished.

(f) The checks required by paragraph (a) constitute preventive maintenance under FAR 43.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on October 27, 1971.

R. S. SLUFF,
Acting Director, Flight Standards Service.

[FR Doc.71-15971 Filed 11-2-71;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 71-EA-126]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Galeton, Pa., 700-foot floor transition area (36 F.R. 2192).

The airspace requirements for the Galeton, Pa. terminal area have been reviewed for compliance with the U.S. Standard for Terminal Instrument Procedures. This review requires alteration of the Galeton, Pa. 700-foot floor transition area and also changes the transition area designation from part time to full time.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Galeton, Pa., proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71, Federal Aviation Regulations, so as to delete the description of the Galeton, Pa. 700-foot floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, 41°40'00" N., 77°49'15" W. of Cherry Springs Airport, Galeton, Pa.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on October 15, 1971.

ROBERT H. STANTON,
Acting Chief, Eastern Region.

[FR Doc.71-15972 Filed 11-2-71;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 71-EA-128]

TRANSITION AREA

Proposed Alteration and Revocation

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Lewisburg, W. Va., Transition Area (36 F.R. 2219) and revoke the White Sulphur Springs, W. Va., transition area (36 F.R. 2294).

A review of the airspace requirements for the Lewisburg, W. Va. terminal area indicates alteration of the 700-foot floor transition area is required. In addition, the controlled airspace required to protect aircraft executing the VOR instrument approach procedure for Greenbrier Airport, White Sulphur Springs, W. Va., is included in the proposed alteration of the Lewisburg, W. Va., transition area and the White Sulphur Springs, W. Va., transition area can therefore be revoked.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment.

No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal areas of Lewisburg, W. Va., and White Sulphur Springs, W. Va., proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71, Federal Aviation Regulations, so as to delete the description of the Lewisburg, W. Va. 700-foot floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of the center (37°51'35" N., 80°23'55" W.) of Greenbrier Valley Airport, Lewisburg, W. Va., extending clockwise from the 252° bearing to the 278° bearing from the airport; within a 15-mile radius of Greenbrier Valley Airport, extending clockwise from the 278° bearing to the 291° bearing from the airport; within a 16-mile radius of Greenbrier Valley Airport, extending clockwise from the 291° bearing to the 301° bearing from the airport; within a 21.5-mile radius of Greenbrier Valley Airport, extending clockwise from the 301° bearing to the 332° bearing from the airport; within a 22.5-mile radius of Greenbrier Valley Airport, extending clockwise from the 332° bearing to the 347° bearing from the airport; within a 23.5-mile radius of Greenbrier Valley Airport, extending clockwise from the 347° bearing to the 357° bearing from the airport; within a 17-mile radius of Greenbrier Valley Airport, extending clockwise from the 357° bearing to the 030° bearing from the airport; within an 18.5-mile radius of Greenbrier Valley Airport, extending clockwise from the 030° bearing to the 086° bearing from the airport; within a 15-mile radius of Greenbrier Valley Airport, extending clockwise from the 086° bearing to the 143° bearing from the airport; within a 17-mile radius of Greenbrier Valley Airport, extending clockwise from the 143° bearing to the 192° bearing from the airport; within a 14-mile radius of Greenbrier Valley Airport, extending clockwise from the 192° bearing to the 252° bearing from the airport; within 3 miles each side of the 216° bearing from the Lewisburg, W. Va., RBN (37°46'52" N., 80°26'10" W.) extending from the RBN to 8.5 miles southwest and within 3 miles each side of the White Sulphur Springs, W. Va., VOR 115° radial, extending from the VOR to 8.5 miles southeast.

2. Amend § 71.181 of Part 71, Federal Aviation Regulations, so as to revoke the White Sulphur Springs, W. Va., 700-foot floor transition area.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on October 15, 1971.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.71-15973 Filed 11-2-71;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 71-EA-140]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Washington, D.C., transition area (36 F.R. 2290, 36 F.R. 9130).

A new RNAV instrument approach procedure for Manassas Municipal Airport (Harry P. Davies Field) was authorized recently. To provide controlled airspace for this procedure, alteration of the 700-foot floor transition area will be required.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate, to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment.

No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Washington, D.C., proposes the air space action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to amend the Washington, D.C. 700-foot floor transition area by inserting, "; within a 6.5-mile radius of the center of 38°43'30" N., 77°31'00" W., of Manassas Municipal Airport (Harry P. Davies Field), Manassas, Va., and within 2.5 miles each side of a line bearing 329° from the airport geographical position to a point 12 miles northwest of said position;" following, "39°05'32" N., 77°27'30" W.,".

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on October 15, 1971.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.71-15974 Filed 11-2-71;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SW-58]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter controlled airspace in the Tucumcari, N. Mex., terminal area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

(1) In § 71.171 (36 F.R. 2055), the Tucumcari, N. Mex., control zone is amended to read:

TUCUMCARI, N. MEX.

That airspace within a 6-mile radius of the Tucumcari Municipal Airport (latitude 35°10'50" N., longitude 103°35'15" W.); within 2.5 miles each side of the Tucumcari, N. Mex., VORTAC 033° radial extending beyond the 6-mile radius zone to a point 6.5 miles northeast of the VORTAC; and within 2.5 miles each side of the Tucumcari, N. Mex., VORTAC 078° radial extending beyond the 6-mile radius zone to a point 6.5 miles east of the VORTAC.

(2) In § 71.181 (36 F.R. 2140), the Tucumcari, N. Mex., transition area is amended to read:

TUCUMCARI, N. MEX.

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of the Tucumcari Municipal Airport (latitude 35°10'50" N., longitude 103°36'15" W.).

The instrument approach procedures at Tucumcari, N. Mex., Municipal Airport have been revised in accordance with Terminal Instrument Procedures (TERPs) and the associated controlled airspace has been altered to conform to TERPs and airspace criteria.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)).

Issued in Fort Worth, Tex., on October 22, 1971.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.71-15975 Filed 11-2-71;8:46 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19297]

CERTAIN FM BROADCAST STATIONS; TABLE OF ASSIGNMENTS

Order Extending Time for Filing Reply Comments

In the matter of amendment of § 73.202, *Table of Assignments*, FM Broadcast Stations (Modesto, Turlock, and Patterson, Calif.; Albuquerque, N. Mex.; Centerville, Iowa; and Milford, Del.) RM-1611, RM-1612, RM-1622, RM-1625, and RM-1661.

1. This proceeding was begun by notice of proposed rule making (FCC 71-802) adopted August 4, 1971, released August 9, 1971, and published in the FEDERAL REGISTER on August 12, 1971, 36 F.R. 15057. The date for comments has expired and the date for filing reply comments has been designated as October 15, 1971.

2. On October 8, 1971, Hubbard Broadcasting, Inc. (Hubbard), filed a request for extension to and including November 15, 1971, in which to file reply comments. Hubbard states that the present work schedule of its consulting engineer prohibits analysis of the engineering statements filed within the required reply date.

3. We are of the view that the additional time requested is warranted and would serve the public interest. *Accordingly, it is ordered*, That the time for filing reply comments in RM-1612 and RM-1625 only is extended to and including November 15, 1971.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules and regulations.

Adopted: October 27, 1971.

Released: October 28, 1971.

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.71-16003 Filed 11-2-71;8:48 am]

[47 CFR Part 73]

[Docket No. 19315]

CERTAIN FM BROADCAST STATIONS; TABLE OF ASSIGNMENTS

Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations (Hilton Head Island, S.C., Onawa, Iowa, Emmett, Idaho, Clinton, Miss., Wanchese, N.C., Kewaunee, Wis., Sullivan, Ill.) RM-1763, RM-1764, RM-1770, RM-1778, RM-1781, RM-1794, and RM-1808.

1. The notice of proposed rule making in the above-entitled proceeding was adopted on September 8, 1971, released on September 13, 1971, and published in the FEDERAL REGISTER on September 18, 1971, 36 F.R. 18664. The date for filing comments and reply comments are presently October 22, 1971, and November 2, 1971, respectively.

2. On October 22, 1971, Thomas E. Webb filed a request for a 45-day extension in which to file comments. He states that the additional time is necessary so that he can produce the needed preclusion showing.

3. We are of the view that the requested extension of time is warranted and would serve the public interest. *Accordingly, it is ordered*, That the time for filing comments in the above docket, RM-1778 only, is extended to and including December 10, 1971, and December 22, 1971, for the filing of reply comments.

4. This action is taken pursuant to authority found in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules and regulations.

Adopted: October 27, 1971.

Released: October 28, 1971.

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.71-16004 Filed 11-2-71;8:48 am]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 546]

[No. 71-1115]

FEDERAL SAVINGS AND LOAN SYSTEM

Mergers by Federal Savings and Loan Associations

OCTOBER 26, 1971.

Resolved That the Federal Home Loan Bank Board considers it desirable to amend Part 546 of the rules and regulations for the Federal Savings and Loan System (12 CFR Part 546) for the purposes of (1) requiring the publication of notice of the filing by Federal savings and loan associations of certain merger applications and (2) providing for public inspection of such applications. Accordingly, the Federal Home Loan Bank Board proposes to amend said Part 546 as follows:

1. By revising the introductory text of § 546.1 and by adding, immediately after paragraph (c) in § 546.1, a new paragraph (d), to read as follows:

§ 546.1 Definitions.

As used in §§ 546.1-1, 546.2, and 546.3, the following terms have the following meanings:

* * * * * *

(d) "Supervisory Agent" means the President of the Federal Home Loan Bank of the district in which the resulting association is located or any other officer or employee of such bank designated by the Board as agent as provided by § 501.10 or § 501.11 of this chapter.

2. By adding, imediately after § 546.1, a new § 546.1-1 to read as follows:

§ 546.1-1 Public inspection.

(a) An application for approval by the Board of a merger, and the fact that such an application has been filed, shall be held as confidential prior to the issuance of advice to publish notice of the filing of such application as provided in subparagraph (2) of paragraph (c) of § 546.2. Should the applicants desire to submit any information deemed to be of a confidential nature in connection with such application, such information shall be separately bound and labeled "confidential". Only general reference thereto shall be made in the portions of the application for which the applicants do not claim confidential status. The Supervisory Agent shall determine, pursuant to the policies contained in Part 505 of this chapter and any guidelines or instructions issued by the Board, whether any such information deemed by the applicants to be of a confidential nature will be so considered and shall advise the applicants of such determination prior to or at the time of the issuance by such Supervisory Agent of advice to publish notice of the filing of the application.

(b) After the issuance of advice to publish the notice prescribed in subparagraph (2) of paragraph (c) of § 546.2, the application, all information submitted with such application other than information deemed by the Supervisory Agent to be confidential, and all communications in favor or in protest of such application shall be available at the office of the Supervisory Agent during regular working hours for inspection by any person.

(c) Even though portions of an application, or other information submitted in connection with such application, are determined pursuant to paragraph (a) of this section to be confidential as far as public inspection thereof is concerned, the Board may comment on such confidential submissions in any public statement in connection with its decision on the application, without prior notice to the applicants.

(d) All recommendations by Supervisory Agents and by officers and employees of the Board in connection with such applications shall be deemed to be privileged and confidential and subject to the provisions of § 505.6 of this chapter.

3. By revising paragraph (c) of § 546.2 to read as follows:

§ 546.2 Procedure; effective date.

* * * * * *

(c)(1) Application for approval by the Board of the merger as provided by the said merger agreement shall be made by filing with the Federal Home Loan Bank of which the resulting association is a member, two copies of the merger agreement, properly executed in the name of the respective associations, and two certified copies of such portions of the minutes of the meetings of the respective boards of directors as relate to the consideration and approval of the plan of merger by such boards.

(2) Upon determination by the Supervisory Agent that an application for approval of a merger is complete, the Supervisory Agent shall advise the applicants, in writing, to publish, within 10 days from the date of such advice, in a newspaper or newspapers printed in the English language and having general circulation in the community or communities being served by the merging associations and the resulting association, a notice of the filing of the application in the following form:

NOTICE OF FILING OF MERGER APPLICATION

Notice is hereby given that, pursuant to the provisions of § 546.2 of the rules and regulations for the Federal Savings and Loan System, the ---------- Federal Savings and Loan Association, ----------, ---------- (City) (State) and the ---------- Savings and Loan Association, ----------, ---------- (City) (State) have filed an application with the Federal Home Loan Bank Board for permission to merge, ---------- Savings and Loan Association to be the resulting association, operating under the (same name) (name of ---------- Savings and Loan Association). The resulting association intends to have its home office at ----------, ---------- (Street address) (City) ---------- (State) and to maintain a branch office (or branch offices) at the following location (or locations): ----------, ---------- (Street address) (City) (State). The application has been delivered to the office of the Supervisory Agent of the said Board, located at the Federal Home Loan Bank of ----------, ---------- (City) ----------, ---------- (Street address) (City). Any person may file communications, including briefs, in favor or in protest of said application at the aforesaid office of the Supervisory Agent within 10 days (or within 30 days if advice is filed within the first 10 days stating that more time is needed to furnish additional information) after the date of this publication. Four copies of any communication should be filed. The application, information submitted therewith, and all communications in favor or in protest thereof are available for inspection by any person at the aforesaid office of the Supervisory Agent in accordance with the provisions of § 546.1-1 of the rules and regulations for the Federal Savings and Loan System.

---------- Federal Savings and Loan Association
---------- Savings and Loan Association

(3) Promptly after publication of said notice or notices, the applicants shall transmit two copies thereof to the Supervisory Agent accompanied by two copies of a publisher's affidavit of publication.

(4) Within 10 days (or within 30 days if advice is filed within 10 days stating that more time is needed to furnish additional information) after the date of publication of said notice, any person may file, at the office of the Supervisory Agent designated in the notice, communications, including briefs, in favor or in protest of the application. In the event any communication is filed in protest of the application, the applicants may file information relevant to such protest within 15 days after the last date for filing communications pursuant to the preceding sentence or waive the right to file such information. Information may be submitted in connection with an application only as provided in this section, unless additional information is requested by the Supervisory Agent or otherwise by or on behalf of the Board. Four copies shall be furnished of any communication or information filed pursuant to this subparagraph.

(5) Upon receipt of such application, the Board will (i) disapprove the merger; (ii) approve the merger; or (iii) withhold final action but recommend modifications of the plan of merger as submitted; if the modifications recommended by the Board are accepted by the directors of each of the associations, they shall thereupon amend such merger agreement accordingly and shall submit the amended merger agreement in the same manner as provided in subparagraph (1) of this paragraph.

(6) Subparagraphs (2), (3), and (4) of this paragraph shall not apply to mergers instituted for supervisory reasons.

* * * * * *

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

Resolved further that interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, DC 20552, by December 3, 1971, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary.

[FR Doc.71-16036 Filed 11-2-71;8:51 am]

[12 CFR Part 563]

[No. 71-1116]

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Mergers, Consolidations, or Purchases of Bulk Assets

OCTOBER 26, 1971.

Resolved that the Federal Home Loan Bank Board considers it desirable to amend Part 563 of the rules and regulations for Insurance of Accounts (12 CFR Part 563) for the purposes of (1) requiring the publication of notice of the filing of applications concerning certain mergers, consolidations, or purchases of bulk assets, and (2) providing for public inspection of such applications. Accordingly, the Federal Home Loan Bank Board proposes to amend said Part 563 by revising § 563.22 thereof to read as follows:

§ 563.22 Merger, consolidation, or purchase of bulk assets.

(a) No insured institution may at any time increase its accounts of an insurable type as a part of any merger or consolidation with another institution or through the purchase of bulk assets, without application to and approval by the Corporation. Application for such approval shall be submitted in duplicate upon forms prescribed by the Corporation and such information shall be furnished therewith as the Corporation may require.

(b) All requests by interested persons for advice or instructions with respect to any matter arising under this section shall be addressed to the Corporation's Supervisory Agent. As used in this section, the term "Supervisory Agent" means the President of the Federal Home Loan Bank of the district in which the applicant institution is located or any other officer or employee of such bank designated by the Board as agent as provided by § 501.10 or § 501.11 of this chapter.

(c) (1) Upon determination by the Supervisory Agent that an application pursuant to paragraph (a) of this section is complete, the Supervisory Agent shall advise the applicant, in writing, to publish, within 10 days from the date of such advice, in a newspaper or newspapers printed in the English language and having general circulation in the community or communities being served by the applicant institution and the other institution to be merged, consolidated, or whose assets are to be sold, a notice of the filing of the application in the following form:

NOTICE OF FILING OF APPLICATION TO INCREASE ACCOUNTS OF AN INSURABLE TYPE PURSUANT TO (MERGER, CONSOLIDATION, OR PURCHASE OF ASSETS)

Notice is hereby given that, pursuant to the provisions of § 563.22 of the rules and regulations for Insurance of Accounts, the ----------, ----------, (Name of applicant) (City) ----------, has filed an application with (State) the Federal Savings and Loan Insurance Corporation for permission to increase its accounts of an insurable type as a part of a (merger with) (consolidation with) (purchase of bulk assets of) ---------- ----------, (Name of party to such transaction other than applicant) ----------, ----------. The application (City) (State) has been delivered to the office of the Supervisory Agent of the said Corporation, located at the Federal Home Loan Bank of ----------, ----------, (City) (Street address) ----------. Any person may file communications, including briefs, in favor or in protest of said application at the aforesaid office of the Supervisory Agent within 10 days (or within 30 days if advice is filed within the first 10 days stating that more time is needed to furnish additional information) after the date of this publication. Four copies of any communication should be filed. The application, information submitted therewith, and all communications in favor or in protest thereof are available for inspection by any person at the aforesaid office of the Supervisory Agent in accordance with the provisions of § 563.22 of the rules and regulations for Insurance of Accounts.

---------- (Applicant)

---------- (Party to this transaction other than applicant)

(2) Promptly after publication of said notice or notices, the applicant shall transmit two copies thereof to the supervisory agent accompanied by two copies of a publisher's affidavit of publication.

(3) Within 10 days (or within 30 days if advice is filed within 10 days stating that more time is needed to furnish additional information) after the date of publication of said notice, any person may file, at the office of the supervisory agent designated in the notice, communications, including briefs, in favor or in protest of the application. In the event any communication is filed in protest of the application, the applicant may file information relevant to such protest within 15 days after the last date for filing communications pursuant to the preceding sentence or waive the right to file such information. Information may be submitted in connection with an application only as provided in this section, unless additional information is requested by the supervisory agent or otherwise by or on behalf of the Board. Four copies shall be furnished of any communication or information filed pursuant to this subparagraph.

(4) This paragraph shall not apply to any application for an increase of accounts of an insurable type that arises out of a merger, consolidation, or purchase of assets instituted for supervisory reasons.

(d) (1) An application pursuant to paragraph (a) of this section and the fact that such an application has been filed, shall be held as confidential prior to the issuance of advice to publish notice of the filing of such application as provided in paragraph (c) (1) of this section. Should the applicant desire to submit any information deemed to be of a confidential nature in connection with such application, such information shall be separately bound and labeled "confidential." Only general reference thereto shall be made in the portions of the application for which the applicant does not claim confidential status. The supervisory agent shall determine, pursuant to the policies contained in Part 505 of this chapter and any guidelines or instructions issued by the corporation, whether any such information deemed by the applicant to be of a confidential nature will be so considered and shall advise the applicant of such determination prior to or at the time of the issuance by such supervisory agent of advice to publish notice of the filing of the application.

(2) After the issuance of advice to publish the notice prescribed in paragraph (c) (1) of this section, the application, all information submitted with such application other than information deemed by the supervisory agent to be confidential, and all communications in favor or in protest of such application shall be available at the office of the supervisory agent during regular working hours for inspection by any person.

(3) Even though portions of an application, or other information submitted in connection with such application, are determined pursuant to subparagraph (1) of this paragraph to be confidential as far as public inspection thereof is concerned, the corporation may comment on such confidential submissions in any public statement in connection with its decision on the application, without prior notice to the applicant.

(4) All recommendations by supervisory agents and by officers and employees of the corporation in connection with such applications shall be deemed to be privileged and confidential and subject to the provisions of § 505.6 of this chapter.

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

Resolved further that interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue, NW., Washington, DC 20552, by December 3, 1971, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN, *Assistant Secretary.*

[FR Doc.71-16037 Filed 11-2-71;8:51 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[14 CFR Part 1245]

NASA PATENT LICENSING REGULATIONS

Notice of Proposed Rule Making

Notice is hereby given that all persons desiring to submit written comments or suggestions respecting the proposed revisions to NASA Patent Licensing Regulations (Title 14, Chapter V, Part 1245, Subpart 2: 27 F.R. 10446–10448, October 26, 1962) hereinafter set forth may do so by filing them with the General Counsel, National Aeronautics and Space Administration, Washington, D.C. 20546, not later than the 30th day following date of publication of this notice in the FEDERAL REGISTER.

§ 1245.200 Scope of subpart.

This proposed Subpart 1245.2 prescribes the terms, conditions and procedures for licensing inventions covered by U.S. patents and patent applications for which the Administrator of the National Aeronautics and Space Administration holds title on behalf of the United States.

§ 1245.201 Definitions.

For the purpose of this subpart, the following definitions apply:

(a) "NASA invention" means any invention covered by a U.S. patent or patent application for which the Administrator of NASA holds title on behalf of the United States and is designated by the Administration as appropriate for the grant of a nonexclusive or exclusive license(s).

(b) "To practice an invention" means to make, have made, use or have used, sell or have sold, or otherwise dispose of according to law any machine, manufacture or composition of matter physically embodying the invention, or to use or have used the process or method comprising the invention.

(c) "Practical application" means the manufacture in the case of a composition or product, the practice in the case of a process, or the operation in the case of a machine, under such conditions as to establish that the invention is being utilized and that its benefits are reasonably accessible to the public.

(d) The "Administrator" means the Administrator of the National Aeronautics and Space Administration, or his designee.

(e) "Government" means the Government of the United States of America.

(f) The "Inventions and Contributions Board" means the NASA Inventions and Contributions Board established by the Administrator of NASA within the Administration under section 305 of the National Aeronautics and Space Act of 1958 as amended (42 U.S.C. 2457).

§ 1245.202 Basic considerations.

(a) Much of the new technology resulting from NASA sponsored research and development in aeronautical and space activities has secondary application in other fields. NASA has special authority and responsibility under the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2451), to provide for the widest practical dissemination and utilization of this new technology. In addition, NASA has been given unique requirements to obtain patents and protect the inventions resulting from NASA activities and to determine and promulgate licensing regulations to encourage commercial use of these inventions.

(b) NASA inventions will best serve the interests of the United States when they are brought to practical application in the shortest time possible. Although NASA encourages the nonexclusive licensing of its inventions to promote competition and achieve their widest possible utilization, the commercial development of certain NASA inventions calls for a substantial capital investment which private manufacturers may be unwilling to risk under a non-exclusive license. It is the policy of NASA to seek exclusive licensees when such licenses will provide the necessary incentive to achieve early practical application of the invention.

(c) The Administrator, in determining whether to grant an exclusive license, will consider the necessity for further technical and market development of the invention, the capabilities of prospective licensees, their proposed plans to undertake the required investment and development, the impact on competitors, and the benefits of the license to the Government and to the public. Consideration may also be given to assisting small businesses and minority business enterprises, as well as economically depressed, low income and labor surplus areas.

(d) All licenses for NASA inventions shall be by express written instruments. No license shall be granted or implied in a NASA invention except as provided for in § 1245.203 and any existing or future treaty or agreement between the United States and any foreign government.

§ 1245.203 Types of licenses and conditions for licensing.

(a) *General.* NASA inventions will normally be made available for the grant of licenses to responsible applicants according to the circumstances and conditions set forth in paragraphs (b), (c), and (d) of this section.

(b) *Nonexclusive licenses.* (1) Each NASA invention will be made available to responsible applicants for nonexclusive, revocable licensing in accordance with § 1245.205(b), consistent with the provisions of any exclusive license in force.

(2) The term of the license shall be for a period as specified in the license.

(3) The license shall require the licensee to practice the invention for the duration of the license and to achieve the practical application of the invention.

(4) The license shall be granted to all or part of the rights in an invention throughout the United States of America, its territories and possessions, Puerto Rico, and the District of Columbia, or in any lesser geographic portion thereof.

(5) The license shall extend to the subsidiaries and affiliates of the licensee and shall be nonassignable without approval of the Administrator, NASA, except to the successor of that part of the licensee's business to which the invention pertains.

(c) *Exclusive licenses.* (1) An exclusive license may be granted on a NASA invention, provided that:

(i) The Administrator, NASA, has determined (*a*) that the invention has not been brought to practical application; or that the invention has not been brought to practical application in certain fields of use or in certain geographical locations, and (*b*) that the practical application is not likely to be achieved expeditiously under a nonexclusive license or as a result of further Government-funded efforts; and

(ii) The invention has been published for at least 9 months as available for licensing pursuant to § 1245.204 or the patent has been issued for at least 6 months, whichever is earlier. However, a limited exclusive license may be granted at any time on a NASA invention when the administrator determines that a period of exclusivity is necessary to bring the invention to practical application and that it is in the public interest to grant such license.

(2) The license may be granted for all or less than all fields of use of the invention; and throughout the United States of America, its territories and possessions, Puerto Rico, and the District of Columbia, or in any lesser geographic portion thereof.

(3) The duration of the license shall be negotiated, but shall be for a period of less than the terminal portion of the patent; and, the period of exclusivity shall be related to the period necessary to provide a reasonable incentive to invest the necessary risk capital.

(4) The license shall require the licensee to practice the invention within a period specified in the license and then to achieve practical application of the invention.

(5) The license shall require the licensee to expend a specified minimum sum of money and/or to take other specified actions, within indicated period(s) after the effective date of the license, in an effort to achieve practical application of the invention.

(6) The license shall be subject to at least an irrevocable royalty-free right of the Government of the United States to practice and have practiced the invention throughout the world by or on behalf of the Government of the United States and on behalf of any foreign government pursuant to any existing or future treaty or agreement with the United States.

(7) The license may reserve to the Administrator, NASA, the right to require the granting of a license to responsible applicant(s) on terms that are reasonable under the following circumstances: (i) To the extent that the invention is required for public use by Government regulations; or (ii) as may be necessary to fulfill health or safety needs, or (iii) for other public purposes stipulated in the license.

(8) The license shall be nontransferable except to the successor of that part of the licensee's business to which the invention pertains.

(9) Subject to the approval of the Administrator, the licensee may grant sublicenses under the license. Each sublicense granted by an exclusive licensee shall make reference to and shall provide that the sublicense is subject to the terms of the exclusive license including the rights retained by the Government under the exclusive license. A copy of each sublicense shall be furnished to the Administrator.

(10) A license may require the licensee or sublicensee under an exclusive license to obtain the approval of the Administrator prior to use of any advertising or markings regarding the invention which refers to the license or to NASA.

(11) The license may be subject to such other reservations as may be in the public interest:

(d) *License to contractor.* There is hereby granted to the contractor reporting an invention, made in the performance of work under a contract of NASA in the manner specified in section 305(a)

(1) or (2) of the National Aeronautics and Space Act of 1958 as amended (42 U.S.C. 2457(a)(1) or (2)), a revocable, nonexclusive, royalty-free license for the practice of such invention, together with the right to grant sublicenses for the same scope to the extent the contractor was legally obligated to do so at the time the contract was awarded. Such license and right is nontransferable except to the successor of that part of the contractor's business to which the invention pertains. The term "contract" as used in this subparagraph (d) does not include a license granted.

(e) *Other licenses.* Subject to any outstanding licenses, nothing in this Subpart 1245.2 shall preclude the Administrator from granting other licenses for NASA inventions, when he determines that to do so would provide for an equitable distribution of rights. The following exemplify circumstances wherein such licenses may be granted:

(1) In consideration of the settlement of an interference;

(2) In consideration of a release of a claim of infringement; or

(3) In exchange for or as part of the consideration for a license to the Government under adversely held patent(s).

§ 1245.204 Publication of NASA inventions available for license.

The Administrator will publish periodically a notice in the FEDERAL REGISTER listing NASA inventions available for licensing. The publication will be updated from time-to-time to include directly, or by reference to a previous publication, all inventions currently available for licensing.

§ 1245.205 Application for nonexclusive license.

(a) *Submission of application.* An application for nonexclusive license under a NASA invention shall be addressed (1) to the NASA Patent Counsel of the NASA installation having cognizance over the NASA invention for which a license is desired or (2) to the NASA Assistant General Counsel for Patent Matters.

(b) *Contents of an application for nonexclusive license.* An application for a nonexclusive license under a NASA invention shall include:

(1) Identification of invention for which license is desired, including the patent application serial number or patent number, title and date, if known;

(2) Name and address of company or organization applying for license;

(3) Name and address of representative of applicant to whom correspondence should be sent;

(4) Nature and type of applicant's business;

(5) Number of employees;

(6) Purpose for which license is desired;

(7) A statement that contains the applicant's best knowledge of the extent to which the invention is being practiced by private industry and the Government;

(8) A description of applicant's capability and plan to undertake the development and marketing required to achieve the practical application of the invention; and,

(9) A statement indicating the minimum term of years the applicant desires to be licensed.

§ 1245.206 Application for exclusive license.

(a) *Submission of application.* An application for exclusive license may be submitted to NASA at any time. An application for exclusive license under a NASA invention shall be addressed to the NASA Assistant General Counsel for Patent Matters.

(b) *Contents of an application for exclusive license.* In addition to the requirements set forth in § 1245.205, an application for an exclusive license shall include:

(1) Applicant's status, if any, in any one or more of the following categories:

(i) Small business firm;

(ii) Minority business enterprise;

(iii) Location in a surplus labor area;

(iv) Location in a low income urban area; and

(v) Location in an area designated by the Government as economically depressed.

(2) A statement indicating the time, expenditure and other acts which the applicant considers necessary to achieve practical application of the invention, and the applicant's offer to invest that sum and to perform such acts if the license is granted;

(3) A statement whether the applicant would be willing to accept a license for all or less than all fields of use of the invention throughout the United States of America, its territories and possessions, Puerto Rico, and the District of Columbia, or in any lesser geographic portion thereof;

(4) A statement indicating the amount of royalty fees or other consideration, if any, the applicant would be willing to pay the Government for the exclusive license; and

(5) Any other facts which the applicant believes to show it to be in the interests of the United States of America for the Administrator to grant an exclusive license rather than a nonexclusive license and that such an exclusive license should be granted to the applicant.

§ 1245.207 Processing applications for license.

(a) *Initial review.* Applications for nonexclusive and exclusive license will be reviewed by the Patent Council of the NASA installation having cognizance for the NASA invention and the NASA Assistant General Counsel for Patent Matters, to determine the conformity and appropriateness of the application for license and the specific NASA invention. The Assistant General Counsel for Patent Matters will forward all applications for license conforming §§ 1245.205 and 1245.206 to the NASA Inventions and Contributions Board together with an opinion on (1) whether the invention is appropriate for consideration of the requested license and (2) whether the license should be granted to the applicant. Applications for license not conforming with the requirements of §§ 1245.205 and 1245.206 shall be returned to the applicant.

(b) *Recommendations of Inventions and Contributions Board.* The Inventions and Contributions Board shall, in accordance with the criteria of § 1245.203, evaluate all applications for license forwarded by the Assistant General Counsel for Patent Matters. Based upon the facts presented to the Inventions and Contributions Board in the application and any other facts in its possession, the Inventions and Contributions Board shall recommend to the Administrator (1) whether a nonexclusive or exclusive license should be granted, (2) the identity of the licensee, and (3) any special terms or conditions of the license.

(c) *Determination of Administrator—*(1) *General.* The Administrator shall review the recommendations of the Inventions and Contributions Board and determine whether to grant the license in accordance with the recommendations of the Inventions and Contrbutions Board.

(2) *Nonexclusive license.* If the Administrator determines that the best interest of the United States would be served by granting of a nonexclusive license for the specific NASA inventions, the nonexclusive license shall be granted to the applicant.

(3) *Exclusive license.* If the Administrator determines that the best interest of the United States will be served by the granting of an exclusive license in accordance with the basic consideration set forth in §§ 1245.202 and 1245.203, a notice shall be published in the FEDERAL REGISTER announcing the intent to grant the exclusive license, the identity of the contemplated licensee, the identification of the invention, and special terms or conditions, and a statement that NASA will grant the exclusive license unless within 30 days of the publication of such notice the Inventions and Contributions Board receives in writing any of the following together with supporting documentation:

(i) A notification from a nonexclusive licensee of the specific invention that he has already brought or is likely to bring the invention to practical application within a reasonable period without an exclusive license; or

(ii) A written notification from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed exclusive license; or

(iii) An application for a nonexclusive license under such invention, in accordance with § 1245.205(b), in which applicant states that he has already brought or is likely to bring the invention to practical application within a reasonable period.

Upon the expiration of the 30-day period contained in the notice required by subparagraph (3) of this paragraph, the Administrator shall review all written responses to the notice and shall determine whether to grant the exclusive license or one or more nonexclusive licenses for the NASA invention.

(d) *Negotiation of terms.* The terms and conditions of licenses will be negotiated by the Office of General Counsel, NASA, and the selected licensee.

§ 1245.208 Royalties and fees.

(a) Normally, a nonexclusive license for a NASA invention will not require the payment of royalties or fees; however, NASA may require other consideration.

(b) An exclusive license on a NASA invention may require the payment of royalties, fees or other consideration when the licensing circumstances and the basic considerations in § 1245.202, considered together, indicate that it is in the public interest to do so.

§ 1245.209 Reports.

A license shall require the licensee to submit periodic reports of his efforts to work the invention. The reports shall contain information within his knowledge, or which he may acquire under normal business practice, pertaining to the commercial use that is being made of the invention and such other information which the Administrator may determine pertinent to the licensing program and which is specified in the license.

§ 1245.210 Revocation of licenses.

(a) Any license granted pursuant to this Subpart 1245.2 may be revoked by the Administrator if in his opinion the licensee at any time shall fail to use adequate efforts to bring to or achieve practical application of the invention in accordance with the terms of the license, or if the licensee at any time shall default in making any report required by the license, or shall make any false report, or shall commit any breach of any covenant or agreement therin contained, and shall fail to remedy any such default, false report, or breach within 30 days after written notice, or if the patent is deemed unenforceable either by the Attorney General or a final decision or a United States court.

(b) Before revoking any license granted pursuant to this Subpart 1245.2 for any cause, there will be furnished to the licensee a written notice of intention to revoke the license, and the licensee will be allowed 30 days after such notice in which to appeal and request a hearing before the Inventions and Contributions Board on the question of whether the license should be revoked. After a hearing, the Inventions and Contributions Board shall transmit to the Administrator the record of proceedings, its findings of fact, and its recommendation whether the license should be revoked. The Administrator shall review the recommendation of the Inventions and Contributions Board and determine whether to revoke the license. Revocation of a license shall include revocation of all sublicenses which have been granted.

§ 1245.211 Appeals.

Any person desiring to file an appeal pursuant to § 1245.210 shall address the appeal to Chairman, Inventions and Contributions Board. Any person filing an appeal shall be afforded an opportunity to be heard before the Inventions and Contributions Board, and to offer evidence in support of his appeal. The procedures to be followed in any such matter shall be determined by the Administrator. The Board shall make findings of fact and recommendations with respect to disposition of the appeal. The decision of the appeal shall be made by the Administrator, and such decision shall be final and conclusive, except on questions of law, unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence.

§ 1245.212 Litigation.

An exclusive licensee shall be granted the right to sue at his own expense any party who infringes the rights set forth in his license and covered by the licensed patent. The licensee may join the Government, upon consent of the Attorney General, as a party complainant in such suit, but without expense to the Government and the licensee shall pay costs and any final judgment or decree that may be rendered against the Government in such suit. The Government shall also have an absolute right to intervene in any such suit. The licensee shall be obligated to promptly furnish without cost to the Government, upon request, copies of all pleadings and other papers filed in any such suit and of evidence adduced in proceedings relating to the licensed patent including, but not limited to, negotiations for settlement and agreements settling claims by a licensee based on the licensed patent, and all other books, documents, papers, and records pertaining to such suit. If, as a result of any such litigation, the patent shall be declared invalid, the licensee shall have the right to surrender his license and be relieved from any further obligation thereunder.

§ 1245.213 Address of communications.

(a) Communications to the Assistant General Counsel for Patent Matters in accordance with §§ 1245.205 and 1245.206 and requests for information concerning licenses for NASA inventions should be addressed to the Assistant General Counsel for Patent Matters, Code GP, National Aeronautics and Space Administration, Washington, DC 20546.

(b) Communications to the Inventions and Contributions Board in accordance with §§ 1245.207 and 1245.210 should be addressed to Chairman, Inventions and Contributions Board, National Aeronautics and Space Administration, Washington, D.C. 20546.

JAMES C. FLETCHER,
Administrator.

[FR Doc. 71-16040 Filed 11-2-71;8:51 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1047]

[No. MC-C-4000 (Sub-No. 5)]

SAVANNAH, GA. AIRPORT

Petition for Individual Determination of Exempt Zone

OCTOBER 29, 1971.

Petition for individual determination of exempt zone under Motor Carrier Regulations § 1047.40(c) (Passengers—Savannah, Ga., Airport). Petitioner: YELLOW CAB COMPANY OF SAVANNAH, INC. Petitioner's representative: Conneret, Dunn, Hunter, Houlihan, Maclean & Exley, Post Office Box 9848, Savannah, Ga. 31420. By the instant petition, the petitioner states that the limits of the present exempt zone (25 miles) surrounding Savannah Airport divide Hilton Head Island, S.C., in half, and that the only bridge connecting to Hilton Head Island with the mainland is located on the Island's northern end at a point beyond the limits of the exempt zone. This means that limousines traverse the northern end of the island and must pass all the developments there en route to the southern half of the island which is within the exempt zone. This petition seeks to have all portions of Hilton Head Island included within the limits of the Savannah Airport passenger exempt zone.

No oral hearing is contemplated at this time, but anyone wishing to make representations in favor of, or against, the above-proposed specific redefinition of the limits of the Savannah Airport exempt zone, may do so by the submission of written data, views, or arguments. An original and 15 copies of such data, views, or arguments shall be filed with the Commission on or before December 15, 1971. Written material or suggestions submitted will be available for public inspection at the Offices of the Interstate Commerce Commission, 12th and Constitution, Washington, D.C., during regular business hours.

Notice to the general public of the matter herein under consideration will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16026 Filed 11-2-71;8:50 am]

SELECTIVE SERVICE SYSTEM

[32 CFR Parts 1602, 1603, 1604, 1611, 1617, 1621, 1622, 1623, 1624, 1625, 1626, 1627, 1628, 1630, 1631, 1632, 1642, 1655, 1660]

SELECTIVE SERVICE REGULATIONS

Notice of Proposed Rule Making

Pursuant to the Military Selective Service Act, as amended (50 United States Code App., sections 451 et seq.), and Executive Order No. 11623 dated October 12, 1971, the Director of Selective Service hereby gives public notice that consideration is being given to the following proposed amendments to the Selective Service Regulations constituting a portion of Chapter XVI of the Code of Federal Regulations. These Regulations implement the Military Selective Service Act, as amended (50 United States Code App., sections 451 et seq.).

All persons who desire to submit views to the Director on the proposals should prepare them in writing and mail them to the Deputy General Counsel, National Headquarters, Selective Service System, 1724 F Street Northwest, Washington, DC 20435, within 30 days following the publication of this notice in the FEDERAL REGISTER.

The proposed amendments follow:

PART 1602—DEFINITIONS

SECTION 1. Part 1602 *Definitions*, is amended as follows:

a. Section 1602.4 *Delinquent* is amended to read as follows:

§ 1602.4 Violator.

A violator is a person required to be registered under the selective service law who fails or neglects to perform any duty required of him under the provisions of the selective service law.

b. Section 1602.14 is added to read as follows:

§ 1602.14 Numbers.

Cardinal numbers may be expressed by Arabic or Roman symbols.

PART 1603—SELECTIVE SERVICE PERSONNEL IN GENERAL

SEC. 2. Section 1603.3 *Uncompensated services*, is amended to read as follows:

§ 1603.3 Uncompensated services.

The services of registrars (except as the Director of Selective Service may otherwise provide), members of local boards, medical advisors to the State Directors of Selective Service, advisors to registrants, and all other persons volunteering their services to assist in the administration of the selective service law shall be uncompensated, and no such person serving without compensation shall accept remuneration from any source for services rendered in connection with selective service matters.

PART 1604—SELECTIVE SERVICE OFFICERS

SEC. 3. Part 1604 is amended as follows:

a. Section 1604.6 is amended to read as follows:

§ 1604.6 National Selective Service Appeal Board.

(a) There is hereby created and established within the Selective Service System a civilian agency of appeal which shall be known as the National Selective Service Appeal Board, hereafter in this section referred to as the National Board. The President shall appoint members of the National Board from among citizens of the United States who are not members of the armed forces, and he shall designate one member as Chairman of the National Board. A majority of the members of the National Board shall constitute a quorum for the transaction of business, and a majority of the members present at any meeting at which a quorum is present shall decide any question. The National Board may sit en banc, or upon the request of the Director of Selective Service or as determined by the Chairman of the National Board, in panels, each panel to consist of at least three members. The Chairman of the National Board shall designate the members of each panel and he shall designate one member of each panel as chairman. A majority of the members of a panel shall constitute a quorum for the transaction of business, and a majority of the members present at any meeting at which a quorum is present shall decide any question. Each panel of the National Board shall have full authority to act on all cases assigned to it. The National Board, or a panel thereof, shall hold meetings in Washington, D.C., and, upon request of the Director of Selective Service or as determined by the Chairman of the National Board, at any other place.

(b) The National Board or a panel thereof, is authorized and directed to perform all the functions and duties vested in the President by that sentence of section 10(b)(3) of the Military Selective Service Act, which reads as follows: "The President, upon appeal or upon his own motion, shall have power to determine all claims or questions with respect to inclusion for, or exemption or deferment from training and service under this title, and the determination of the President shall be final." The National Board, upon appeal to the President taken under Part 1627 of these regulations, shall classify each registrant, giving consideration to the various classifications which a local board might consider, and shall give effect to the provisions of the Military Selective Service Act and the regulations promulgated thereunder, and the established policies of the Director of Selective Service.

(c) The National Board shall be in all respects independent of the Director of Selective Service except that the Director of Selective Service shall provide for the payment of the compensation and expenses of the members of the National Board, shall furnish that Board and its panels necessary personnel, suitable office space, necessary facilities and services. The Director of Selective Service shall establish the order, by category, in which appeals by registrants will be considered, but he shall not determine the sequence in which appeals within a given category shall be processed. The Director of Selective Service and the Chairman of the National Board shall furnish to each other such information, advice, and assistance as will further the attainment of the objectives of the Military Selective Service Act and promote the effective administration of the Act.

(d) Each member of the National Board shall: (1) Devote so much time to the affairs of the National Board as its responsibilities may require, (2) be compensated as provided in paragraph (e) of this section, and (3) while on the business of the National Board away from his home or regular place of business, receive actual traveling expenses and per diem in lieu of subsistence in accordance with rates established by Standardized Government Travel Regulations as amended.

(e) The compensation of each member of the National Board shall be governed by the following: (1) The member shall be compensated at an hourly rate for such time as is actually spent by him in attendance at meetings of the National Board, or a panel thereof, without limitation as to the number of hours compensable in any one day, (2) the member shall be compensated at an hourly rate for travel time away from his home or regular place of business while en route to or from any meeting of the National Board or while otherwise traveling on business of the National Board, but the compensable time for any trip to or from any such meeting or other business shall be limited to eight hours, (3) duties performed on, and travel time occurring on, a Saturday, Sunday, or holiday shall be compensable as if performed or occurring on any other day of the week, (4) the compensation shall be in accord with the provisions of section 5332 of title 5, United States Code, and (5) the compensable hours per week, Sunday through the following Saturday, shall not exceed 40 hours and the compensation in any pay period shall not exceed one twenty-sixth (1/26) of the Government annual rate of compensation.

b. Section 1604.22 *Composition and appointment* is amended to read as follows:

§ 1604.22 Composition and appointment of Appeal Boards.

The Director of Selective Service will prescribe the number of members for the appeal board and panels thereof for each appeal board area. The President, upon recommendation of the respective Governor, shall appoint members of appeal boards from among citizens of the United States who are residents of the area for which the respective boards have jurisdiction.

c. Section 1604.51 *Areas* is amended to read as follows:

§ 1604.51 Areas of local boards.

The State Director of Selective Service for each State shall divide his State into local board areas and establish local boards in accord with instructions of the Director of Selective Service. There shall be at least one local board in each county except where the Director of Selective Service approves the establishment of an intercounty local board. When more than one local board is established with the same geographical jurisdiction, registrants residing in that area will be assigned among the local boards as prescribed by the Director of Selective Service. The State Director of Selective Service may establish panels of local boards in accord with instructions of the Director of Selective Service.

d. Section 1604.52 *Composition and appointment* is amended to read as follows:

§ 1604.52 Composition of local boards.

The Director of Selective Service shall prescribe the number of members of local boards and intercounty local boards.

§ 1604.52a [Revoked]

e. Section 1604.52a *Panels of local boards* is revoked.

f. Section 1604.54 is amended to read as follows:

§ 1604.54 Jurisdiction.

The jurisdiction of each local board shall extend to all persons registered with or subject to registration with that local board. It shall have full authority to do and perform all acts within its jurisdiction authorized by law.

g. Section 1604.71 *Appointment and duties* is revoked.

PART 1611—DUTY AND RESPONSIBILITY TO REGISTER

SEC. 4. Part 1611 is amended as follows:

a. Section 1611.2 is amended to read as follows:

§ 1611.2 Persons not required to be registered.

(a) Under the provisions of section 6(a) of the Military Selective Service Act the following persons are not required to be registered;

(1) Commissioned officers, warrant officers, pay clerks, enlisted men, and aviation cadets of the Regular Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, the National Oceanic and Atmospheric Administration, and the Public Health Service;

(2) Cadets, U.S. Military Academy;

(3) Midshipmen, U.S. Navy;

(4) Cadets, U.S. Air Force Academy;

(5) Cadets, U.S. Coast Guard Academy;

(6) Midshipmen, Merchant Marine Reserve, U.S. Naval Reserves;

(7) Students enrolled in an officer procurement program at military colleges the curriculum of which is approved by the Secretary of Defense;

(8) Members of the reserve components of the Armed Forces, the Coast Guard, and the Public Health Service, while on active duty: *Provided*, That such active duty in the Public Health Service that commences after the enactment of the Military Selective Service Act of 1967 is performed by members of the Reserve of the Public Health Service while assigned to staff any of the various offices and bureaus of the Public Health Service, including the National Institutes of Health, or while assigned to the Coast Guard, the Bureau of Prisons of the Department of Justice, or the National Oceanic and Atmospheric Administration; and

(9) Foreign diplomatic representatives, technical attachés of foreign embassies and legations, consuls general, consuls, vice consuls, and other consular agents of foreign countries who are not citizens of the United States and members of their families.

(b) A male alien who is now in or who hereafter enters the United States and who has not been admitted for permanent residence in the United States shall not be required to be registered under section 3 of the Military Selective Service Act, and shall be relieved from liability for training and service under section 4 of said Act, provided:

(1) He is lawfully admitted to the United States as a nonimmigrant under section 101(a)(15) of the Immigration and Nationality Act, as amended (66 Stat. 163; 8 U.S.C. 1101), for so long as he continues to maintain a lawful nonimmigrant status in the United States;

(2) He is a person who has entered the United States and remains therein pursuant to the provisions of section 11 of the Agreement between the United Nations and the United States of America Regarding the Headquarters of the United Nations as approved August 4, 1947 (61 Stat. 756);

(3) He is a member of a group of persons who have been temporarily admitted to the United States under an arrangement with the government of the country of which they are nationals, or an appropriate agency thereof, for seasonal or temporary employment, and continues to be employed in the work for which he was admitted;

(4) He is a national of a country with which there is in effect a treaty or international agreement exempting nationals of that country from military service while they are within the United States; or

(5) He is a person who has entered the United States and remains therein pursuant to the provisions of the Agreement between the parties to the North Atlantic Treaty Regarding the Status of their Forces, or the Agreement on the Status of the North Atlantic Treaty Organization, National Representatives and International Staff, or the Protocol on the Status of International Military Headquarters Set up Pursuant to the North Atlantic Treaty.

(c) Each alien who is in the category described in subparagraph (1) of paragraph (b) of this section must have in his possession and available for examination any visa or other official document which was issued to him by a diplomatic, consular, or immigration officer of the United States evidencing that he is within the United States pursuant to the provisions of section 101(a)(15) of the Immigration and Nationality Act.

(d) Each alien who is in the category described in subparagraph (9) of paragraph (a) of this section or who is in one of the categories described in subparagraphs (2), (3), (4), and (5) of paragraph (b) of this section must have in his personal possession, at all times, an official document issued pursuant to the authorization of or described by the Director of Selective Service which identifies him as a person not required to present himself for and submit to registration.

b. Section 1611.4 is amended to read as follows:

§ 1611.4 Registration of male persons separated from armed forces.

Every male person who (a) has been separated from active service in the armed forces, the National Oceanic and Atmospheric Administration or the Public Health Service, (b) has not been registered prior to such separation, (c) would have been required to be registered except for the fact that he was in such active service on the day or days fixed for his registration by Presidential proclamation, and (d) who has not discharged his current military obligation under the Military Selective Service Act shall present himself for and submit to registration before a local board within the period of 30 days following the date on which he was so separated.

PART 1617—REGISTRATION CERTIFICATE

SEC. 5. Section 1617.1 is amended to read as follows:

§ 1617.1 Effect of failure to have unaltered registration certificate in personal possession.

Every person required to present himself for and submit to registration must, after he has registered, have in his personal possession until his liability for training and service has terminated his Registration Certificate (SSS Form 2) prepared by his local board which has not been altered and on which no notation duly and validly inscribed thereon has been changed in any manner after its preparation by the local board. The failure of any person to have his Registration Certificate (SSS Form 2) in his personal possession shall be prima facie evidence of his failure to register. When a registrant is inducted into the armed forces, other than active duty for training only or active duty for the sole purpose of undergoing a physical examination, he shall surrender his Registration Certificate (SSS Form 2) to the commanding officer of the Armed Forces Examining and Entrance Station or to the responsible officer at the place to

which he reports for active duty. Such officer shall return the certificate to the local board that issued it.

PART 1621—PREPARATION FOR CLASSIFICATION

SEC. 6. Part 1621 is amended as follows:

a. Section 1621.9 is amended to read as follows:

§ 1621.9 Mailing Classification Questionnaire (SSS Form 100).

(a) The local board shall mail a Classification Questionnaire (SSS Form 100) to each registrant according to the rules prescribed by the Director of Selective Service.

(b) The date upon which the Classification Questionnaire (SSS Form 100) is mailed shall be entered in the Classification Record (SSS Form 102).

b. Section 1621.11 is amended to read as follows:

§ 1621.11 Special form for conscientious objector.

A registrant who claims to be a conscientious objector shall offer information in substantiation of his claim in writing. If he files such claim with his local board before his order to report for induction is issued he shall be furnished a copy of Special Form for Conscientious Objector (SSS Form 150). The local board shall not issue a copy of Special Form for Conscientious Objector (SSS Form 150) to a registrant after he has been issued an order to report for induction.

c. Section 1621.12 is amended to read as follows:

§ 1621.12 Claims for, or information relating to deferment.

The registrant shall be entitled to present all written information which he believes to be necessary to assist the local board in determining his proper classification. Such information should be included in or attached to the Classification Questionnaire (SSS Form 100) and may include any documents, affidavits, or depositions. The affidavits and depositions shall be as concise and brief as possible.

PART 1622—CLASSIFICATION RULES AND PRINCIPLES

SEC. 7. Part 1622 is amended as follows:

a. Section 1622.1 is amended to read as follows:

§ 1622.1 General principles of classification.

(a) It is the local board's responsibility to decide, subject to appeal, the class in which each registrant shall be placed. Each registrant will be considered as available for military service until his eligibility for deferment or exemption from military service is clearly established to the satisfaction of the local board. The local board will receive and consider all information, pertinent to the classification of a registrant, timely presented to it. The mailing by the local board of a Classification Questionnaire (SSS Form 100) to the latest address furnished by a registrant shall be notice to the registrant that unless information is presented to the local board, within the time specified for the return of the questionnaire, which will justify his deferment or exemption from military service the registrant will be classified in Class 1–A.

(b) In classifying a registrant there shall be no discrimination for or against him because of his race, creed, or color, or because of his membership or activity in any labor, political, religious or other organization. Each such registrant shall receive equal justice.

b. Section 1622.2 is amended to read as follows:

§ 1622.2 Classes.

Each registrant shall be classified in one of the following classes:

CLASS 1

Class 1–A: Available for military service.
Class 1–A–O: Conscientious objector available for noncombatant military service only.
Class 1–C: Member of the Armed Forces of the United States, the National Oceanic and Atmospheric Administration, or the Public Health Service.
Class 1–D: Member of reserve component or student taking military training.
Class 1–H: Registrant not currently subject to processing for induction.
Class 1–O: Conscientious objector available for alternate service.
Class 1–W: Conscientious objector performing alternate service in lieu of induction.

CLASS 2

Class 2–A: Registrant deferred because of civilian occupation (except agriculture) or nondegree study.
Class 2–C: Registrant deferred because of agricultural occupation.
Class 2–D: Registrant deferred because of study preparing for the ministry.
Class 2–S: Registrant deferred because of activity in study.

CLASS 3

Class 3–A: Registrant with a child or children; and registrant deferred by reason of extreme hardship to dependents.

CLASS 4

Class 4–A: Registrant who has completed military service.
Class 4–B: Officials deferred by law.
Class 4–C: Aliens.
Class 4–D: Minister of religion.
Class 4–F: Registrant not qualified for military service.
Class 4–G: Registrant exempted from service during peace.
Class 4–W: Conscientious objector who has completed alternate service in lieu of induction.

§ 1622.13 [Amended]

c. Paragraph (b) of § 1622.13 *Class 1–D: Member of reserve component or student taking military training,* is amended to read as follows:

(b) In Class 1–D shall be placed any registrant who (1) has been selected for enrollment or continuance in the Senior (entire college level) Reserve Officers' Training Corps, or the Air Reserve Officers' Training Corps, or the Naval Reserve Officers' Training Corps, or the Naval and Marine Corps officer candidate program of the Navy, or the platoon leader's class of the Marine Corps, or the officer procurement programs of the Coast Guard and the Coast Guard Reserve, or is appointed an ensign, U.S. Naval Reserve, while undergoing professional training; (2) has agreed, in writing, to accept a commission, if tendered, and to serve subject to order of the Secretary of the military department having jurisdiction over him (or the Secretary of Transportation with respect to the U.S. Coast Guard), not less than 2 years on active duty after receipt of a commission; and (3) has agreed to remain a member of a regular or reserve component until the sixth anniversary of his receipt of a commission. Such registrant shall remain eligible for Class 1–D until completion or termination of the course of instruction and so long thereafter as he continues in a reserve status upon being commissioned except during any period he is eligible for Class 1–C under the provisions of § 1622.12.

d. Section 1622.14 is amended to read as follows:

§ 1622.14 Class 1–O: Conscientious objector available for alternate service.

In Class 1–O shall be placed every registrant who would have been classified in Class 1–A but for the fact that he has been found to be conscientiously opposed to participation in war in any form and to be conscientiously opposed to participation in both combatant and noncombatant training and service in the Armed Forces.

§ 1622.15 [Revoked]

e. Section 1622.15 *Class I–S: Student Deferred by Statute* is revoked.

f. Section 1622.16 *Class 1–W: Conscientious objector performing civilian work contributing to the maintenance of the National Health, Safety, or Interest,* is amended to read as follows:

§ 1622.16 Class 1–W: Conscientious objector performing alternate service in lieu of induction.

In Class 1–W shall be placed any registrant who has entered upon and is performing alternate service contributing to the maintenance of the national health, safety, or interest, in accordance with the order of the local board.

§ 1622.17 [Revoked]

g. Section 1622.17 *Class I–Y: Registrant not eligible for a lower class who would be qualified for military service in time of war or national emergency* is revoked.

h. By adding § 1622.18 to read as follows:

§ 1622.18 Class 1–H (Holding Classification): Registrant not currently subject to processing for induction.

In Class 1–H shall be placed any registrant who is not currently subject to processing for induction according to these regulations and the rules prescribed by the Director of Selective Service.

i. Section 1622.22 *Class II–A: Registrant deferred because of civilian occupation,* is amended to read as follows:

§ 1622.22 Class 2–A: Registrant deferred because of civilian occupation (except agriculture) or nondegree study.

(a) In Class 2–A shall be placed any registrant whose continued service is found to be necessary to the maintenance of the national health, safety, or interest in an activity identified as essential by the Director of Selective Service upon the advice of the National Security Council, provided that any registrant in Class 2–A under the provisions of this paragraph in effect prior to April 23, 1970 may be retained in such class so long as he qualified under those provisions. In addition, any registrant qualified for classification in Class 2–A prior to such effective date may be placed and retained in such class if request thereof has been made prior to such effective date.

(b) In Class 2–A shall be placed any registrant who (1) was satisfactorily pursuing an approved full-time course of instruction, not leading to a baccalaureate degree, in a junior college, community college or technical school during the 1970–71 academic school year, (2) is engaged in an approved apprentice training program begun prior to July 1, 1971, or (3) is satisfactorily pursuing approved full-time training, begun prior to July 1, 1971, in a technical or trade school not on an academic year. Deferment under the authority of this paragraph will continue until such registrant fails to pursue satisfactorily such full-time course of instruction or training or until the expiration of the period of time normally required to complete such course of full-time instruction or training.

§ 1622.25 [Amended]

j. Paragraph (a) of § 1622.25 *Class II–S: Registrant deferred because of activity in study* is amended to read as follows:

(a) In Class 2–S shall be placed any registrant who requests such classification, who was satisfactorily pursuing a full-time course of instruction at a college, university, or similar institution of learning during the 1970–71 regular academic school year and who is satisfactorily pursuing such course, such classification to continue until such registrant completes the requirement for his baccalaureate degree, fails to pursue satisfactorily full-time course of instruction, or attains the twenty-fourth anniversary of the date of his birth, whichever occurs first.

§ 1622.26 [Revoked]

k. Paragraph (b) of § 1622.26 *Class II–S: Registrant deferred because of graduate study* is revoked.

l. Section 1622.27 is added which shall read as follows:

§ 1622.27 Class 2–D: Registrant defered because of study preparing for the ministry.

(a) In Class 2–D shall be placed any registrant who is a student preparing for the ministry under the direction of a recognized church or religious organization, who is satisfactorily pursuing a full-time course of instruction in a recognized theological or divinity school, or who is satisfactorily pursuing a full-time course of instruction required for entrance into a recognized theological or divinity school in which he has been preenrolled.

(b) A registrant will be deemed to be satisfactorily pursuing a full-time course of instruction when he is making proportionate progress. For example, if the registrant is enrolled in a 4-year course of instruction, the registrant must complete at least one fourth of the total requirements by the end of the first academic year, at least one half by the end of the second academic year, at least three-fourths by the end of the third academic year, and all requirements by the end of the fourth academic year. The registrant's academic year, for the purpose of this paragraph, shall terminate on the anniversary of his entrance into the course of study.

m. The title of § 1622.40 *Class IV–A: Registrant who has completed service; sole surviving son* is amended to read as follows:

§ 1622.40 Class 4–A: Registrant who has completed military service.

§ 1622.40 [Amended]

n. Paragraph (a)(4) of § 1622.40 *Class 4–A: Registrant who has completed service* is amended to read as follows:

(4) A registrant who has served on active duty subsequent to June 24, 1948, for a period of not less than 12 months in the armed forces of a nation certified by the Department of State to be a nation with which the United States is associated in mutual defense activities and which grants exemption from training and service in its armed forces to citizens of the United States who have served on active duty in the Armed Forces of the United States subsequent to June 24, 1948, for a period of not less than 12 months: *Provided*, That in computing such twelve-month period, there shall be credited any active duty performed by the registrant prior to June 24, 1948, in the armed forces of a country allied with the United States during World War II and with which the United States is associated in such mutual defense activities: *And provided further*, That all information which is submitted to the local board concerning the registrant's service in the armed forces of a foreign nation shall be written in the English language.

§ 1622.40 [Revoked]

o. Paragraph (a)(10) of § 1622.40 *Class IV–A: Registrant Who Has Completed Service* is revoked.

§ 1622.42 [Amended]

p. Paragraph (b) of § 1622.42 *Class IV–C: Aliens* is amended to read as follows:

(b) In Class 4–C shall be placed any registrant who is an alien who is certified by the Department of State to be, or otherwise establishes that he is, exempt from military service under the terms of a treaty or international agreement between the United States and the country of which he is a national, and who has made application to be exempted from liability for training and service in the Armed Forces of the United States.

q. Paragraph (e) is added to § 1622.42 *Class IV–C: Aliens* to read as follows:

(e) In Class 4–C shall be placed any registrant who is an alien lawfully admitted for permanent residence as defined in paragraph (20) of section 101 (a) of the Immigration and Nationality Act, as amended (66 Stat. 163, 8 U.S.C. 1101), and who by reason of occupational status is subject to adjustment to nonimmigrant status under paragraph (15) (A), (15)(E), or (15)(G) of such section 101(a) but who executes a waiver in accordance with section 247(b) of that Act of all rights, privileges, exemptions, and immunities which would otherwise accrue to him as a result of that occupational status. A registrant placed in Class 4–C under the authority of this paragraph shall be retained in Class 4–C only for so long as such occupational status continues.

r. Section 1622.43 *Class IV–D: Minister of religion or divinity student,* is amended to read as follows:

§ 1622.43 Class 4–D: Minister of religion.

In Class 4–D shall be placed any registrant who is a regular or duly ordained minister of religion as defined in section 16(g) of the Military Selective Service Act.

s. Section 1622.44 *Class IV–F: Registrant not qualified for any military service* is amended to read as follows:

§ 1622.44 Class 4–F: Registrant not qualified for military service.

(a) In Class 4–F shall be placed any registrant who is found under applicable physical, mental, and moral standards to be not qualified for service in the Armed Forces either currently, or in time of war or national emergency declared by the Congress, except that no such registrant whose further examination or reexamination may be justified shall be placed in Class 4–F until such further examination as the Director of Selective Service deems appropriate has been accomplished and such registrant continues to be found not qualified for military service.

(b) In Class 4–F shall be placed any registrant in the medical, dental, and allied specialist categories who has applied for an appointment as a Reserve officer in one of the Armed Forces in any of such categories and has been rejected for such appointment on the sole ground of a physical disqualification.

t. Section 1622.45 is added which shall read as follows:

§ 1622.45 Class 4–G: Registrant exempted for service during peace.

In Class 4–G shall be placed any registrant who meets the requirements of section 6(o) of the Military Selective Service Act or section 101(d)(3) of Public Law 92–129: *Provided*, That no registrant who volunteers for induction shall be placed or retained in Class 4–G.

u. Section 1622.46 is added which shall read as follows:

§ 1622.46 Class 4–W: Registrant who has completed alternate service in lieu of induction.

In Class 4–W shall be placed any registrant who subsequent to being ordered by the local board or by order of a court of the United States to perform civilian work in lieu of induction has been released from such work by the local board after satisfactorily performing the work for a period of 24 consecutive months, has completed such work pursuant to the order of a court of the United States or has been released from such work by the Director of Selective Service.

§ 1622.50 [Revoked]

v. Section 1622.50 *Class V–A: Registrant over the age of liability for military service* is revoked.

§ 1622.61 [Revoked]

w. Section 1622.61 *Identifying a registrant when registration is canceled* is revoked.

§ 1622.62 [Revoked]

x. Section 1622.62 *Identifying a registant when induction is postponed* is revoked.

§ 1622.63 [Revoked]

y. Section 1622.23 *Identifying registrants who are deceased* is revoked.

PART 1623—CLASSIFICATION PROCEDURE

SEC. 8. Part 1623—*Classification Procedure* is amended as follows:

a. Section 1623.1 *Commencement of classification,* is amended to read as follows:

§ 1623.1 Commencement of classification.

(a) Each registrant shall be classified as soon as practicable after his registration.

(b) The registrant's classification shall be determined on the basis of the official forms of the Selective Service System and such other written information as may be contained in his file: *Provided,* That the board shall proceed with the registrant's classification whenever he fails to provide the board in a timely manner with any information concerning his status which he is requested or required to furnish. Since it is imperative that appeal agencies have available to them all information on which the local board determined the registrant's classification, oral information shall not be considered unless it is summarized in writing and the summary placed in the registrant's file. Under no circumstances shall the local board rely upon information received by a member personally unless such information is reduced to writing and placed in the registrant's file. None of the provisions of this section shall impair the power of the local board to take notice of the birthday of any registrant and of the fact that the Congress has made registrants of his age liable for induction for military service and in the absence of any other information, when the registrant has failed to furnish such information within the time prescribed, to classify the registrant as available for military service.

(b) Section 1623.2 *Consideration of classes* is amended to read as follows:

§ 1623.2 Consideration of classes.

Every registrant shall be placed in Class 1–A under the provisions of section 1622.10 of this chapter except that when grounds are established to place a registrant in one or more of the classes listed in the following table, the registrant shall be classified in the lowest class for which he is determined to be eligible, with Class 1–A–O considered the highest class and Class 1–C considered the lowest class according to the following table:

Class	Class
1–A–O	4–D
1–O	1–H
2–A	4–F
2–C	4–A
2–S	4–G
2–D	1–W
3–A	4–W
4–B	1–D
4–C	1–C

c. Section 1623.4 is amended to read as follows:

§ 1623.4 Action to be taken when classification determined.

(a) As soon as practicable after the local board has classified or reclassified a registrant (except a registrant who is classified in Class 1–C because of his entry into active service in the Armed Forces) it shall mail him a notice thereof. When a registrant is classified in Class 2–A, Class 2–C, Class 2–D, or Class 2–S, the date of the termination of the deferment shall be entered on such notice.

(b) After each local board meeting, a notice listing the registrants who have been classified or whose classification has been changed, shall be posted in a conspicuous place in the office of the local board. When a person is unable to ascertain the current classification of a registrant from this posted notice, an employee of the local board, upon request, shall consult the Classification Record (SSS Form 102) and shall furnish the person making the inquiry the current classification of such registrant.

(c) In the event that the local board classifies the registrant in a class other than that which he requested it shall record its reasons therefor in his file. The local board shall inform the registrant of such reasons in the manner prescribed by the Director of Selective Service.

d. Section 1623.5 is amended to read as follows:

§ 1623.5 Persons required to have Notice of Classification (SSS Form 110) in personal possession.

Every person who has been classified by a local board must have in his personal possession until his liability for training and service has terminated a valid Notice of Classification (SSS Form 110) issued to him showing his current classification. When any such person is inducted into the Armed Forces or enters upon active duty in the Armed Forces, other than active duty for training only or active duty for the sole purpose of undergoing a physical examination, he shall surrender his Notice of Classification (SSS Form 110) to the commanding officer of the Armed Forces Examining and Entrance Station or to the responsible officer at the place to which he reports for active duty. Such officer shall return the notice to the local board that issued it.

e. Section 1623.7 is amended to read as follows:

§ 1623.7 Issuing a duplicate of a lost, destroyed, mislaid, or stolen Notice of Classification (SSS Form 110).

A duplicate Notice of Classification (SSS Form 110) may be issued to a registrant only by the local board which mailed the original Notice of Classification (SSS Form 110) to him upon his written request therefor and the presentation of proof satisfactory to the local board that his Notice of Classification (SSS Form 110) has been lost, destroyed, mislaid, or stolen.

§ 1623.8 [Revoked]

f. Section 1623.8 *Register of conscientious objectors* is revoked.

PART 1624—APPEARANCE BEFORE LOCAL BOARD

SEC. 9. Part 1624 is amended to read as follows:

§ 1624.1 Opportunity to appear in person.

(a) Every registrant after his classification is determined by the local board, except a classification which is determined upon an appearance before the local board under the provisions of this part, shall have an opportunity to appear in person before the local board.

(b) A registrant who has filed a claim for classification in Class 1–O, Class 1–A–O, or Class 3–A, upon his request, shall be afforded an opportunity before his classification is determined by the local board to appear in person before the local board. Should such registrant appear in person before the local board in advance of his classification being determined he shall not be afforded an opportunity to appear concerning such classification after such determination.

§ 1624.2 Request for personal appearance.

A registrant who desires a personal appearance before his local board must file a written request therefor within 15 days after the local board has mailed a Notice of Classification (SSS Form 110) to him. Such 15-day period may not be extended.

§ 1624.3 Appointment for personal appearance.

The local board, not less than 15 days in advance of the meeting at which he may appear, shall inform the registrant of the time and place of such meeting and that he may present evidence, including witnesses, bearing on his classification. Should the registrant fail, for good cause he establishes to the satisfaction of the local board, to appear at such meeting, he shall be afforded an opportunity to appear at a subsequent meeting. The registrant must file a written statement of the reasons for his failure to appear at his scheduled meeting within 5 days after such failure or the registrant will be deemed to have waived his right to an opportunity to appear at a subsequent meeting.

§ 1624.4 Procedure during appearance before local board.

(a) A quorum of the local board shall be present during all personal appearances.

(b) At any such appearance, the registrant may present evidence including witnesses, may discuss his classification, may point out the class or classes in which he thinks he should have been placed, and may direct attention to any information in his file which he believes the local board has overlooked or to which he believes it has not given sufficient weight. The registrant may present such further information as he believes will assist the local board in determining his proper classification. Such information shall be in writing, or, if oral, shall be summarized in writing by the registrant and, in either event, shall be placed in the registrant's file. The information furnished should be as concise as possible under the circumstances.

(c) A registrant is entitled to such time for his personal appearance as is reasonably necessary for the fair presentation of his claim. Normally 15 minutes shall be deemed adequate for this purpose, consistent with the informal and expeditious processing required in selective service cases. If it appears to the board that further time is reasonably necessary, the board shall extend the time. During the time available to a registrant, he may present the testimony of not more than three witnesses.

(d) If the registrant does not speak English adequately he may appear with a person to act as interpreter for him.

(e) No registrant may be represented before the local board by anyone acting as attorney or legal counsel.

§ 1624.5 Procedure when local board does not reopen or when registrant fails to appear.

If the local board determines that the information presented at the registrant's personal appearance does not justify a change in the registrant's classification or if a registrant for whom a personal appearance is scheduled fails to appear for such personal appearance it shall not reopen the registrant's classification, but by letter, it shall promptly notify the registrant of its decision not to change his classification and, by a brief statement, of the reasons therefor.

§ 1624.6 Record of personal appearance and classification.

(a) A notation that the registrant has appeared before his local board shall be entered on the Classification Questionnaire (SSS Form 100).

(b) If the local board determines that the information presented at the registrant's personal appearance warrants a change in the registrant's classification, the local board shall classify the registrant and, as soon as practicable thereafter, mail notice thereof on Notice of Classification (SSS Form 110) to the registrant.

§ 1624.7 Appearance before local board stays induction.

The local board shall not issue an order for a registrant to report for induction either during the period afforded the registrant to request an appearance in person before the local board or, if the registrant has requested such an appearance, during the period such appearance is pending. Any order to report for induction which has been issued during either of such periods shall be ineffective and shall be canceled by the local board.

PART 1625—REOPENING AND CONSIDERING ANEW REGISTRANT'S CLASSIFICATION

SEC. 10. Part 1625 is amended as follows:

a. Section 1625.1 is amended to read as follows:

§ 1625.1 Classification not permanent.

(a) No classification is permanent.

(b) Each classified registrant shall, within 10 days after it occurs, report to the local board in writing any fact, such as, but not limited to, any change in his occupational, marital, military, or dependency status, or in his physical condition, that might result in his being placed in a different classification.

(c) The local board shall keep informed of the status of classified registrants. Registrants may be questioned or physically or mentally reexamined, employers may be requested to furnish information, police officials or other agencies may be requested to make investigations, and other steps may be taken by the local board to keep currently informed concerning the status of classified registants.

b. Section 1625.2 is amended to read as follows:

§ 1625.2 When registrant's classification may be reopened and considered anew.

(a) The local board may reopen and consider anew the classification of a registrant (1) upon the written request of the registrant if such request is accompanied by written information presenting facts not considered when the registrant was classified, which, if true, would justify a change in the registrant's classification; or (2) upon its own motion if such action is based upon facts not considered when the registrant was classified which, if true, would justify a change in the registrant's classification; provided, in either event, the classification of a registrant shall not be reopened after the local board has mailed to such registrant an order to report for induction or alternate service unless the local board first specifically finds there has been a change in the registrant's status resulting from circumstances over which the registrant had no control.

(b) The local board may also reopen and consider anew the classification (1) of a registrant in Class 1–H who becomes subject to processing for induction according to these regulations and the rules prescribed by the Director; and (2) of a registrant in any classification for the purpose of classifying him 1–H according to these regulations and the rules prescribed by the Director.

c. Section 1625.3 is amended to read as follows:

§ 1625.3 When registrant's classification shall be reopened and considered anew.

The local board shall reopen and consider anew the classification of a registrant upon the written request of the State Director of Selective Service or the Director of Selective Service and upon receipt of such request shall immediately cancel any order to report for induction or alternate service which may have been issued to the registrant.

d. Section 1625.4 is amended to read as follows:

§ 1625.4 Refusal to reopen and consider anew registrant's classification.

When a registrant files with the local board a written request to reopen and consider anew the registrant's classification and the local board is of the opinion that the information accompanying such request fails to present any facts in addition to those considered when the registrant was classified or, even if new facts are presented, the local board is of the opinion that such facts, if true, would not justify a change in such registrant's classification, it shall not reopen the registrant's classification. In such a case, the local board (1) shall record in the registrant's file the reasons for its decision not to reopen his classification, and (2) shall advise the registrant by letter of its decision not to reopen his classification and the reasons therefor.

e. Section 1625.12 is amended to read as follows:

§ 1625.12 Notice of action when classification considered anew.

When the local board reopens the registrant's classification, it shall, as soon as practicable after it has again classified the registrant, mail him notice thereof.

f. Section 1625.14 *Cancellation of order to report for induction or for civilian work by reopening of classification* is amended to read as follows:

§ 1625.14 Cancellation of order to report for induction or for alternate service by reopening of classification.

The reopening of the classification of a registrant by the local board shall cancel any order to report for induction or alternate service which may have been issued to the registrant, except that if the registrant has failed to comply with

either of those orders, the reopening of his classification thereafter by the local board for the purpose of placing him in Class 4–C shall not cancel the order with which he failed to comply.

PART 1626—APPEAL TO APPEAL BOARD

SEC. 11. Part 1626 is amended to read as follows:

§ 1626.1 Who may appeal.

The Director of Selective Service and the State Director of Selective Service as to the local boards in his State may appeal from any determination of a local board at any time. The registrant may appeal to an appeal board from his classification by the local board in Class 1–A, 1–A–O, or 1–O.

§ 1626.2 Time limit within which registrant may appeal.

The registrant must file his appeal and his request for a personal appearance before the appeal board, if such personal appearance is desired, within 15 days after the date the local board mails to the registrant a Notice of Classification (SSS Form 110). At any time prior to the date the local board mails to the registrant an Order to Report for Induction (SSS Form 252) the local board may permit him to appeal even though the period for taking an appeal has elapsed, if it is satisfied that his failure to appeal within such period was due to a lack of understanding of the right to appeal or to some cause beyond his control. If the local board grants an extension of time to appeal to the registrant, he may within such extended period, also request an appearance before the appeal board.

§ 1626.3 Procedure for taking an appeal.

(a) Any person entitled to do so may appeal to the appeal board by filing with the local board a written notice of appeal. If the Director of Selective Service or the State Director of Selective Service appeals to the appeal board he shall place in the registrant's file a written statement of his reasons for taking such appeal. If the registrant is taking the appeal, he may also request an opportunity to appear in person before the appeal board. The notice of appeal need not be in any particular form, but must include the name of the registrant. Any notice shall be liberally construed so as to permit the appeal.

(b) Whenever an appeal to the appeal board involves a registrant whose principal place of employment or whose current place of residence is located outside the appeal board area in which the local board having jurisdiction over the registrant is located and is located in the area of another appeal board, the person appealing may, at the time he files the notice of appeal, file with the local board a written request that the appeal be submitted to the appeal board having jurisdiction over the area in which is located the principal place of employment or residence of the registrant.

(c) The registrant may attach to his appeal a statement specifying the reasons he believes the classification inappropriate, directing attention to any information in his file which he believes received inadequate consideration, and setting out more fully any information which was submitted.

(d) Whenever an appeal is taken from a local board's classification by the Director of Selective Service or the State Director of Selective Service, the local board shall notify the registrant in writing of the action, the reasons therefor, and inform him that if he desires to appear before the appeal board he must within 15 days from the date on the letter of notification, file with the local board a written request for such an appearance.

§ 1626.4 Review by appeal board.

(a) The appeal board shall consider appeals in the order of the random sequence numbers of the registrants, the lowest being considered first, unless otherwise directed by the Director of Selective Service, in which event, appeals shall be considered in such order as the Director of Selective Service shall prescribe.

(b) Upon receipt of the file, the appeal board shall ascertain whether the registrant has requested a personal appearance before the appeal board. If no such request had been made, the appeal board may classify the registrant not less than 15 days after the receipt of the registrant's file.

(c) Not less than 15 days in advance of the meeting at which his classification will be considered, the Board shall inform any registrant who has requested a personal appearance that he may appear at such meeting and present evidence, other than witnesses, bearing on his classification. Should the registrant fail, for good cause he establishes to the satisfaction of the Board, to appear at such meeting, he shall be afforded an opportunity to appear at a subsequent meeting. The registrant must file a written statement of the reasons for his failure to appear at his scheduled meeting within 5 days after such failure or the registrant will be deemed to have waived his right to an opportunity to appear at a subsequent meeting.

(d) A registrant is entitled to such time for his personal appearance before an appeal board as the board determines is reasonably necessary for the fair presentation of his claim, consistent with the informal and expeditious processing required in selective service cases, but shall not be entitled to present witnesses.

(e) At any such appearance, the registrant may present evidence, may discuss his classification, may point out the class or classes in which he thinks he should have been placed, and may direct attention to any information in his file which he believes the local board has overlooked or to which he believes it has not given sufficient weight. The registrant may present such further information as he believes will assist the board in determining his proper classification. Such information shall be in writing, or, if oral, shall be summarized in writing by the registrant and, in either event, shall be placed in the registrant's file. The information furnished should be as concise as possible under the circumstances.

(f) The appeal board shall classify a registrant who has requested a personal appearance after (1) he has appeared before the Board, (2) he withdrew his request to appear, (3) waived his right to an opportunity to appear, or (4) failed to appear without establishing to the satisfaction of the Board good cause therefor. When a registrant appears before the appeal board, only those members of the appeal board before whom the registrant appeared shall classify him.

(g) In reviewing the appeal and classifying the registrant, the Board shall not receive or consider any information other than the following:

(1) Information contained in the record received from the local board;

(2) General information concerning economic, industrial, and social conditions; and

(3) Oral statements by the registrant to the appeal board during his personal appearance.

(h) The appeal board shall classify the registrant, giving consideration to the various classes in the same manner in which the local board gives consideration thereto when it classifies a registrant.

(i) In the event that the appeal board classifies the registrant in a class other than that he requested it shall record its reasons therefor in his file. Upon the receipt by the local board of a written request by the registrant it shall furnish to such registrant a brief statement of the reasons for the decision of the appeal board.

§ 1626.6 Procedure of local board when advised of decision of appeal board.

When the local board receives notice of the decision of a case by the appeal board, it shall mail a Notice of Classification (SSS Form 110) to the registrant, and enter upon such form the record of the vote of the appeal board as follows: "Vote of appeal board—Yes ____ No ____." At the time of mailing of the Notice of Classification (SSS Form 110), the local board, if the classification by the appeal board was not by unanimous vote, shall notify the registrant in the manner prescribed by the Director of Selective Service of his right to appeal to the National Selective Service Appeal Board, and of his right to personally appear before the National Selective Service Appeal Board.

§ 1626.7 Appeal stays induction or order to report for civilian work.

The local board shall not issue an order for a registrant to report for induction or for alternate service in lieu of induction either during the period afforded the registrant to take an appeal to the appeal board or during the period such an appeal is pending. Any order to report for induction, or for civilian work in lieu of induction, which has been issued during either of such periods shall be ineffective and shall be canceled by the local board. Whenever an appeal to the appeal board has been taken during the time allowed for taking appeals by a person entitled to do so, any order to report for induction or for civilian work which has been previously issued to the registrant shall be ineffective and shall be canceled by the local board.

PART 1627—APPEAL TO THE PRESIDENT

SEC. 12. Part 1627 is amended to read as follows:

§ 1627.1 Persons who may appeal to the President.

(a) The Director of Selective Service, the State Director of Selective Service of the State in which the local board which classified the registrant is located, or the State Director of Selective Service of the State in which the appeal board is located may appeal to the President from any determination of an appeal board at any time prior to the induction of the registrant.

(b) When a registrant has been classified by the appeal board and one or more members of the appeal board dissented from that classification, he may appeal to the President within 15 days after the mailing by the local board of the Notice of Classification (SSS Form 110) notifying him of his classification by the appeal board. The local board may permit any registrant who is entitled to appeal to the President under this section to do so, even though the period of taking such an appeal has elapsed, if it is satisfied that his failure to appeal within such period was due to lack of understanding of the right to appeal or to some other cause beyond his control.

§ 1627.2 Procedure for taking an appeal to the President.

(a) An appeal to the President may be taken by the Director of Selective Service (1) by mailing to the local board, through the State Director of Selective Service, a written notice of appeal or (2) by placing in the registrant's file a written notice of appeal and, through the State Director of Selective Service, advising the local board thereof.

(b) An appeal to the President may be taken by the State Director of Selective Service (1) by mailing to the local board a written notice of appeal and directing the local board to forward the registrant's file to him for transmittal to the Director of Selective Service or (2) by placing in the registrant's file a written notice of appeal and advising the local board thereof. Before he forwards the registrant's file to the Director of Selective Service, the State Director of Selective Service shall place in such file a written statement of his reasons for taking such appeal.

(c) An appeal to the President by the registrant shall be taken by filing with the local board a written notice of appeal. Such notice need not be in any particular form but must state the name of the registrant and the fact he wishes the President to review the determination of the appeal board.

§ 1627.3 Procedure on appeal to the President.

(a) When an appeal to the President is taken by the Director of Selective Service or a State Director of Selective Service, the local board shall notify the registrant that the appeal has been taken. If the registrant's file is in the local board's possession, it shall forward the entire file to the State Director of Selective Service and the local board shall enter on the Classification Record (SSS Form 102) under "Remarks" the date the file is forwarded or the date it receives notice that an appeal to the President has been taken.

(b) When an appeal to the President is taken, the State Director of Selective Service shall check the file which is in his possession or which is forwarded to him to be sure that all procedural requirements have been properly complied with, including notice to the registrant that such an appeal has been taken, and, if he discovers any procedural defects, return the file for correction. If any information has been placed in the file which was not considered by the local board in making the classification from which the appeal to the President is taken, the State Director of Selective Service shall review such information and, if he is of the opinion that such information, if true, would justify a different classification of the registrant, return the file to the local board with instructions to reopen the registrant's classification and classify the registrant anew.

(c) When the State Director of Selective Service has complied with the provisions of paragraph (b) of this section, he shall, unless the file is returned to the local board, forward the file to the Director of Selective Service.

(d) Whenever the State Director or Director appeals to the President, the registrant shall be notified by his local board in writing of the action and informed that if he desires to appear before the National Selective Service Appeal Board he must within 15 days from the date on the letter of notification, request such an appearance in writing, addressed to his local board. The local board shall forthwith notify the National Selective Service Appeal Board of such request.

(e) If the registrant is taking the appeal, he may at the same time also file a written request with the local board to appear before the National Selective Service Appeal Board. The local board shall forthwith notify the National Selective Service Appeal Board of such request.

§ 1627.4 Procedures of the National Selective Service Appeal Board.

(a) An appeal to the President is determined by the National Selective Service Appeal Board by its classification of the registrant. The Board will consider appeals in the order prescribed by the Director of Selective Service.

(b) The National Board shall proceed forthwith to classify any registrant who has not requested a personal appearance after the specified time in which to request a personal appearance has elapsed.

(c) Not less than 15 days in advance of the meeting at which his classification will be considered, the Board shall inform any registrant who has requested a personal appearance that he may appear at such meeting and present evidence, other than witnesses, bearing on his classification. Should the registrant fail, for good cause he establishes to the satisfaction of the National Board, to appear at such meeting, he shall be afforded an opportunity to appear at a subsequent meeting. The registrant must file a written statement of the reasons for his failure to appear at his scheduled meeting within 5 days after such failure or the registrant will be deemed to have waived his right to an opportunity to appear at a subsequent meeting.

(d) The registrant is entitled to 15 minutes for his personal appearance. The National Board may, in its discretion, extend the time of the registrant's personal appearance. No registrant may be represented before the National Board by anyone acting as attorney or legal counsel.

(e) At any such appearance, the registrant may discuss his classification, may point out the class or classes in which he thinks he should have been placed, and may direct attention to any information in his file which he believes the local board has overlooked or to which he believes it has not given sufficient weight. The registrant may present such further information as he believes will assist the National Board in determining his proper classification, at the time he requests a personal appearance.

(f) The National Board shall classify a registrant who has requested a personal appearance after (1) he has appeared before the National Board, (2) he withdrew his request to appear, (3) waived his right to an opportunity to appear, or (4) failed to appear without establishing to the satisfaction of the National Board good cause therefor. When a registrant appears before the National Board, only those members of the Board before whom the registrant appeared shall classify him.

(g) In reviewing the appeal and classifying the registrant, the National Board shall not receive or consider any information other than the following:

(1) Information contained in the registrant's record received from the local board;

(2) General information concerning economic, industrial, and social conditions; and

(3) Oral statements by the registrant to the National Board during his personal appearance.

(h) In the event that the National Board classifies the registrant in a class other than that he requested it shall record its reasons therefor in his file. Upon the receipt by the local board of a written request by the registrant mailed within 30 days after the mailing of a Notice of Classification (SSS Form 110) in accord with § 1627.6 it shall furnish to such registrant a brief statement

of the reasons for the decision of the National Board.

§ 1627.5 File to be returned after appeal to the President is decided.

When the appeal to the President has been decided, the file shall be returned to the local board through the appropriate State Director of Selective Service.

§ 1627.6 Procedure of local board after file is returned.

When the file of the registrant is received by the local board, it shall: (a) Mail a Notice of Classification (SSS Form 110) to the registrant and (b) enter on the Classification Record (SSS Form 102) and on the Classification Questionnaire (SSS Form 100) the classification given the registrant by the President and the date of mailing of the Notice of Classification (SSS Form 110).

§ 1627.7 Appeal to the President stays induction.

The local Board shall not issue an order for a registrant to report for induction either during the period afforded the registrant to take an appeal to the President or during the period such appeal is pending. Any order to report for induction which has been issued during either of such periods shall be ineffective and shall be canceled by the local board. Whenever an appeal to the President has been taken by a person entitled to do so, any other to report for induction which has previously been issued to the registrant shall be ineffective and shall be canceled by the local board.

SEC. 13. Part 1628—*Physical Examination* is amended to read as follows:

PART 1628—EXAMINATION OF REGISTRANTS

§ 1628.1 Who will be examined.

(a) Every registrant, before he is ordered to report for induction or ordered to perform alternate service contributing to the maintenance of the national health, safety, or interest, shall have his acceptability for military service determined under standards of acceptability prescribed by the Secretary of Defense, except that a registrant who has volunteered for induction or a registrant who has failed or refused to report for and submit to an Armed Forces examination may have his acceptability determined at the time he reports for induction.

(b) The Director of Selective Service shall prescribe procedures for the selection and delivery of registrants for Armed Forces examination.

(c) Based on lists of various medical conditions or physical defects that disqualify registrants for service in the Armed Forces, as may be issued from time to time by the Surgeon General of the Department of the Army, the local board, under such rules and regulations as the Director of Selective Service may prescribe shall determine whether a registrant who has or who may have such disqualifying medical condition or defect shall be delivered for an armed forces examination.

§ 1628.2 Preliminary determination of acceptability.

(a) Whenever the local board has reason to believe that a registrant has a disqualifying medical condition or physical defect enumerated in the list described in § 1628.1(c), it shall determine whether (1) he has such medical condition or physical defect, (2) he should be delivered for Armed Forces examination, or (3) only the medical information in such registrant's file together with the medical advisor's recommendation, if applicable, shall be forwarded to the AFEES for review and determination. In making this determination, the local board shall consider the report and recommendation, if available, of a medical advisor following a medical interview.

§ 1628.3 Registrants to be given medical interview.

Whenever the local board is of the opinion that a registrant has one or more of the disqualifying medical conditions or physical defects which appear in the list described in § 1628.1(c), it may order the registrant to present himself for medical interview at a specified time and place by mailing to such registrant a Notice to Registrant To Appear for Medical Interview (SSS Form 219). It shall be the duty of the registrant to present himself to the medical advisor to the local board at the time and place designated and to submit to examination.

§ 1628.4 Duties of medical advisors to local board.

The medical advisor to the local board shall (1) give each registrant who presents himself for medical interview such examination as he deems necessary to determine whether the registrant has one or more of the disqualifying medical conditions or physical defects which appear in the list described in § 1628.1(c) or (2) review each affidavit of a reputable physician or official statement of a representative of a Federal or State agency referred to him by the local board. No laboratory or X-ray work shall be authorized but reports of laboratory or X-ray work performed previously and presented by the registrant may be given consideration by the medical advisor. From such examination or review, the medical advisor to the local board shall determine whether the registrant has one or more of the disqualifying medical conditions or physical defects which appear in the list described in § 1628.1(c) and shall report his findings to the local board.

§ 1628.5 Transfer for medical interview.

Any registrant who has received a Notice to Registrant to Appear for Medical Interview (SSS Form 219) and who is so far from his own local board that presenting himself to the medical advisor to his local board would be a hardship may file a written request with the local board having jurisdiction of the area in which he is at that time located for his transfer for medical interview to that local board. The local board with which the request for transfer for medical interview is filed shall forward the request to the registrant's own local board.

§ 1628.6 Order to report for Armed Forces examination.

(a) In accordance with instructions of the Director of Selective Service, the State Director of Selective Service shall periodically issue to each local board in his State an Examination Call on Local Board (SSS Form 202) for registrants to be delivered for Armed Forces examination and the time and place fixed for their delivery.

(b) The local board shall select and order for Armed Forces examination registrants in accordance with the instructions of the Director of Selective Service. The date specified for reporting for such examination shall be at least 10 days after the date on which the Order to Report for Armed Forces Examination (SSS Form 223) is mailed, except that a registrant who has volunteered for induction may be ordered to report for such examination on any date after he has so volunteered.

(c) The local board shall also order for Armed Forces examination those registrants who have not attained age 26 and who have not previously had such an examination, who request such examination. Requests for examinations must be submitted in writing to the registrant's local board. The local board shall establish a specific date for the examination, which date shall be within 60 days of the receipt of the applicant's request, and the registrant shall be given written notice thereof at least 15 days prior to the date of such examination. A registrant shall have the right to receive only one preinduction examination on his own request. The Director of Selective Service may temporarily suspend the provisions of this paragraph for particular States or particular local boards if he determines that the number of such requests, if granted, would adversely affect the processing of men toward induction or would increase the total workloads of the respective Armed Forces Examining and Entrance Stations beyond their capacities. If any registrant is found acceptable upon examination at his request, he will not be selected for induction until his normal sequence number is reached.

§ 1628.7 Postponement of Armed Forces examination.

The issuance of an Order to Report for Armed Forces Examination (SSS Form 223) may be delayed or the forwarding of a registrant under such an order may be postponed to the same extent and in the same manner as provided in § 1632.2 of this chapter with reference to an Order to Report for Induction (SSS Form 252): *Provided*, That any such delay or postponement under the provisions of this section shall terminate whenever the local board determines that the induction of the registrant is imminent, in which event the local board shall order the registrant to report for Armed Forces examination.

§ 1628.8 Transfer of registrants for examination.

(a) Any registrant who has received an Order to Report for Armed Forces Examination (SSS Form 223) and who is so far from his own local board that reporting to his own local board would be a hardship may, subject to the provisions of this section, be transferred for Armed Forces examination to the local board having jurisdiction of the area in which he is at that time located.

(b) Any such registrant desiring to be so transferred shall immediately report to the local board having jurisdiction of the area in which he is at that time located, present his Order to Report for Armed Forces Examination (SSS Form 223) and apply for transfer by completing Part 1 of Transfer for Armed Forces Examination or Induction (SSS Form 230).

(c) The registrant shall be required to report in accordance with the Order to Report for Armed Forces Examination (SSS Form 223), which he received from his own local board, if his application for transfer is disapproved.

§ 1628.9 Transfer for Armed Forces examination directed by Director of Selective Service.

(a) The Director of Selective Service may direct that a particular registrant or a registrant who comes within a described group of registrants be transferred for Armed Forces examination to such local board or local boards as he shall designate.

§ 1628.10 Duty of registrant to report for and submit to Armed Forces examination.

(a) When the local board mails to a registrant an Order to Report for Armed Forces Examination (SSS Form 223), it shall be the duty of the registrant to report for such examination at the time and place fixed in such order unless, after the date the Order to Report for Armed Forces Examination (SSS Form 223) is mailed and prior to the time fixed therein for the registrant to report for his Armed Forces examination, the local board cancels such Order to Report for Armed Forces Examination (SSS Form 223) or postpones that time when such registrant shall so report and advises the registrant in writing of such cancellation or postponement.

(b) If the time when the registrant is ordered to report for Armed Forces examination is postponed, it shall be the duty of the registrant to report for Armed Forces examination upon the termination of such postponement and he shall report for Armed Forces examination at such time and place as may be fixed by the local board. Regardless of the time when or the circumstances under which a registrant fails to report for Armed Forces examination when it is his duty to do so, it shall thereafter be his continuing duty from day to day to report for Armed Forces examination to his local board and to each local board whose area he enters or in whose area he remains.

(c) Upon reporting for Armed Forces examination, it shall be the duty of the registrant (1) to follow the instructions of a member, executive secretary, or local board clerk as to the manner in which he will be transported to the location where his Armed Forces examination will take place, (2) to obey the instructions of the leader or assistant leaders appointed for the group being forwarded for Armed Forces examination, (3) to appear for and submit to such examination as the commanding officer of the examining station shall direct, and (4) to follow the instructions of a member, executive secretary, or clerk of the local board as to the manner in which he will be transported on his return trip from the place where his Armed Forces examination takes place.

PART 1630—VOLUNTEERS

SEC. 14. Part 1630 is amended as follows:

a. Section 1630.4 is amended to read as follows:

§ 1630.4 Classification of volunteers.

(a) When a man who is not in a deferred class files an Application for Voluntary Induction (SSS Form 254) he shall be processed for induction regardless of the class in which he is classified.

(b) When a man who is in a deferred class files an Application for Voluntary Induction (SSS Form 254) he shall be classified in Class 1-A as soon as possible.

§ 1630.5 [Revoked]

b. Section 1630.5 *Selection of volunteer* is revoked.

SEC. 15. Part 1631—*Quotas and Calls* is amended to read as follows:

PART 1631—ALLOCATION OF INDUCTIONS

§ 1631.1 Random selection sequence for induction.

The Director of Selective Service shall establish a random selection sequence for induction. Such random selection sequence will be established by a drawing to be conducted in Washington, D.C., once each year on a date the Director shall fix, and shall be applied nationwide. The random selection method shall use 365 days or, when appropriate, 366 days to represent the birthdays (month and day only) of all registrants who, during the calendar year within which occurs the date fixed for the drawing, shall have attained their 19th but not their 20th year of age. The drawing, commencing with the first day selected and continuing until all 365 days or, when appropriate, 366 days are drawn, shall be accomplished impartially. The random selection sequence thus obtained shall, in accordance with the Selective Service Regulations, determine the order of selection of such registrants. The random sequence number thus determined for any registrant shall apply to him so long as he remains subject to induction for military training and service by random selection. A random sequence number established for a registrant shall be equivalent, for purposes of selection, to the same random sequence established for other registrants in other drawings, including the drawings of December 1, 1969 and of July 1, 1970, and the random selection sequences obtained in those drawings shall continue to determine the order of selection of the registrants covered thereby in accordance with the Selective Service Regulations. Selection among registrants who have the same random sequence number shall be based upon the supplemental drawing conducted December 1, 1969, which determined alphabetically a random selection sequence by name.

§ 1631.2 Allocation of inductions under random selection.

When persons are selected for training and service in accordance with random selection, allocations of inductions shall be placed under such rules and regulations as the Director of Selective Service may prescribe.

§ 1631.3 Calls by the Secretary of Defense.

The Secretary of Defense may from time to time place with the Director of Selective Service a call or requisition for men required for induction into the Armed Forces. The Secretary of Defense may also from time to time place with the Director of Selective Service a call or requisition for men in any medical, dental, or allied specialist category required for induction into the Armed Forces.

§ 1631.4 Allocations by the Director of Selective Service.

(a) The Director of Selective Service shall, upon receipt of a call or requisition from the Secretary of Defense for men to be inducted into the Armed Forces, issue a call or requisition to the several States.

(b) Upon receipt of a call or requisition from the Secretary of Defense for men in a medical, dental, or allied specialist category to be inducted into the Armed Forces, the Director of Selective Service shall issue a call or requisition to the several States.

§ 1631.5 Allocations by State Director of Selective Service.

The State Director of Selective Service shall direct each local board to select and deliver men for induction in accordance with the rules and regulations as the Director of Selective Service may prescribe.

§ 1631.6 Action by local board upon receipt of allocation.

(a) When an allocation is received from the State Director of Selective Service, the executive secretary or clerk, if so authorized, or a local board member shall select as provided herein, and issue orders to report for induction to those men required to fill the call from among

its registrants who have been classified in Class 1–A or Class 1–A–O and have been found acceptable for service in the Armed Forces and to whom a Statement of Acceptability (DD Form 62) has been mailed: *Provided*, That notwithstanding Part 1628 of this chapter or any other provision of these regulations, when a registrant in whatever classification has refused or otherwise failed to comply with an order of his local board to report for and submit to an Armed Forces physical examination, he may, after he is reclassified into Class 1–A or 1–A–O be selected and ordered to report for induction even though he has not been found acceptable for service in the Armed Forces and a Statement of Acceptability (DD Form 62) has not been mailed to him, and in such case the Armed Forces examination shall be performed after he has reported for induction as ordered and he shall not be inducted until his acceptability has been satisfactorily determined: *Provided further*, That a registrant who has volunteered for induction may be selected and ordered to report for induction to fill an induction call notwithstanding the fact that he has not been found acceptable for service in the Armed Forces and regardless of whether or not a Statement of Acceptability (DD Form 62) has been mailed to him, but in such case the Armed Forces examination shall be performed after he has reported for induction as ordered and he shall not be inducted until his acceptability has been satisfactorily determined.

(b) Registrants shall be selected and ordered to report for induction in the following categories and in the order indicated:

(1) Volunteers who have not attained the age of 26 years in the sequence in which they have volunteered for induction.

(2) Nonvolunteers in the Extended Priority Selection Group in the order of their random sequence number established by random selection procedures prescribed in accordance with § 1631.1.

(3) Nonvolunteers in the First Priority Selection Group in the order of their random sequence number established by random selection procedures prescribed in accordance with § 1631.1.

(4) Nonvolunteers in each of the lower priority selection groups, in turn, within the group in the order of their random sequence number established by random selection procedures prescribed in accordance with § 1631.1.

(5) Nonvolunteers who have attained the age of 19 years during the calendar year but who have not attained the age of 20 years, in the order of their dates of birth with the oldest being selected first.

(6) Nonvolunteers who have attained the age of 26 years in the order of their dates of birth with the youngest being selected first.

(7) Nonvolunteers who have attained the age of 18 years and 6 months and who have not attained the age of 19 years in the order of their dates of birth with the oldest being selected first.

(c) Definitions:

(1) Extended Priority Selection Group consists of registrants who on December 31 were members of the First Priority Selection Group whose random sequence number had been reached but who had not been issued Orders to Report for Induction.

(2) First Priority Selection Group:

(i) 1970. In the calendar year 1970, nonvolunteers in Class 1–A or 1–A–O born on or after January 1, 1944, and on or before December 31, 1950, who have not attained the 26th anniversary of the dates of their birth.

(ii) 1971 and later years. In the calendar year 1971 and each calendar year thereafter, nonvolunteers in Class 1–A, Class 1–A–O, or Class 1–H who prior to January of each such calendar year have attained the age of 19 years but not of 20 years and nonvolunteers who prior to January 1 of each such calendar year have attained the age of 19 but not of 26 years and who during that year are classified into Class 1–A, Class 1–A–O, or Class 1–H.

(3) Lower priority selection groups. One or more priority selection groups lower than the First Priority Selection Group in a given year.

(4) "Reached" random sequence number. A registrant's random sequence number will be deemed to have been "reached" if such number is equal to or lower than the random sequence number set by the Director of Selective Service or the highest random sequence number to be ordered for induction for that calendar year for any registrant in that priority selection group.

(d) Procedures:

(1) Local boards shall identify registrants in the appropriate groups as provided in this section.

(2) Members of the First Priority Selection Group on December 31 in any calendar year whose random sequence numbers have not been reached by that date, or members of any subgroup which was not reached during such calendar year, shall be assigned to the priority selection group which is next below the First Priority Selection Group for the immediately succeeding calendar year.

(3) On December 31 of each year, each priority selection group below the first priority selection group shall be reduced one step further in priority. In this manner the second priority selection group would become the third, the third would become the fourth, and so on.

(4) Members of the First Priority Selection Group on December 31 in any calendar year whose random sequence number had been reached but who had not been issued Orders to Report for induction during the calendar year shall be assigned to the Extended Priority Selection Group for the immediately succeeding calendar year.

(5) Members of the Extended Priority Selection Group who have not been issued orders to report for induction and originally scheduled for a date prior to April 1 shall forthwith be assigned to the lower priority selection group to which they would have been assigned had they never been assigned to the Extended Priority Selection Group; except that members of the Extended Priority Selection Group who would have been ordered to report for induction to fill the last call in the first quarter of the calendar year but who could not be issued orders shall remain in the Extended Priority Selection Group and shall be ordered to report for induction as soon as practicable. Circumstances which would prevent such an order shall include but not be limited to those arising from a personal appearance, appeal, preinduction physical examination, reconsideration, judicial proceeding, or inability of the local board to act.

(6) Any registrant assigned to a lower priority selection group or the Extended Priority Selection Group, who while in such priority selection group receives a deferment or exemption, and who subsequently is reclassified into Class 1–A, Class 1–A–O, or Class 1–H, shall be assigned to the priority selection group which, at the time of such reclassification, is in the same corresponding position as was the priority selection group of which he was a member when he received such deferment or exemption.

(7) A registrant in category (b) (2), (3), or (4) can be inducted under those provisions after he has attained the age of 26 only if he has extended liability and has been issued an order to report for induction prior to such birthday.

(8) Within category (3) and (4) listed in (b) there shall be a subgroup consisting of registrants who have a wife whom they married on or before August 26, 1965, and with whom they maintain a bona fide family relationship in their homes. Registrants in any such subgroup shall be subject in all respects to this section except that they shall be selected after other registrants in the group of which that subgroup is a part.

§ 1631.7 Registrants who shall be inducted without calls.

(a) Notwithstanding any other provision of the regulations in this chapter, any registrant enlisted or appointed after October 4, 1961, in the Ready Reserve of any reserve component of the Armed Forces (other than under section 511(b) of title 10, United States Code), the Army National Guard, or the Air National Guard, prior to attaining the age of 26 years, or any registrant enlisted or appointed in the Army National Guard or the Air National Guard prior to attaining the age of 18 years and 6 months and prior to September 3, 1963, and deferred under the provisions of section 6(c)(2)(A) of the Military Selective Service Act which were in effect prior to September 3, 1963, or any registrant enlisted in the Ready Reserve of any reserve component of the Armed Forces prior to attaining the age of 18 years and 6 months and prior to August 1, 1963, and deferred under section 262 of the Armed Forces Reserve Act of 1952, as amended, who fails to serve satisfactorily during his obligated period of service as a member of such Ready Reserve or National Guard or the Ready Reserve of another reserve component or the National Guard of which he becomes a member as certified by the respective armed force, shall be ordered to report for induction by the local board regardless of the class in which he is classified and without changing his classification. Any registrant who is ordered to report for induction under this paragraph shall be forwarded for induction at the next time the local board is forwarding other registrants for induction or at any prior time when special arrangements have been made with the induction station, without any calls being made for the delivery of such registrants. Whenever the local board desires to deliver such a registrant specially, it shall request the State Director of Selective Service to make the special arrangements for the time and place at which the registrant may be delivered for induction.

(b) At the induction station, each registrant who is forwarded for induction under paragraph (a) of this section shall be inducted into the armed force of which the reserve component in which the registrant is a member is a part.

(c) Notwithstanding any other provision of law, any registrant who has failed or refused to report for induction shall continue to remain liable for induction and when available shall be immediately inducted.

PART 1632—DELIVERY AND INDUCTION

SEC. 16. Part 1632 is amended as follows:

a. Section 1632.1 is amended to read as follows:

§ 1632.1 Order to report for induction.

(a) Immediately upon determining which men are to report for induction, the local board shall prepare for each man an Order to Report for Induction (SSS Form 252). The date specified to report for induction shall be at least 30 days after the date on which the Order to Report for Induction (SSS Form 252) is mailed, except that a registrant who has volunteered for induction may be ordered to report for induction on any date after he has so volunteered.

(b) Any registrant who has been ordered for induction and who is distant from his local board of origin, must report at the time and place specified on the notice ordering him for induction, unless he voluntarily submits to processing for induction at any Armed Forces Examining and Entrance Station and is actually inducted into the Armed Forces on or before the third day prior to the day that he was required to report in accordance with his local board's induction order.

(c) If the registrant is inducted or if the registrant is found not qualified for induction pursuant to paragraph (b) thereof, the Armed Forces Examining and Entrance Station shall inform the local board which ordered the registrant for induction of such event, and in either event the registrant shall not be required to comply with the local board's order.

§ 1632.5 [Revoked]

b. Section 1632.5 *Preparing records for a group ordered to report for induction* is revoked.

§ 1632.10 [Amended]

c. Paragraph (c) of § 1632.10 *Transfer for induction* is amended to read as follows:

(c) When the local board to which the registrant has been transferred for induction receives the papers from the registrant's own local board, as provided in paragraph (b) of this section, it shall proceed to deliver him for induction as soon as practicable.

§ 1632.14 [Amended]

d. Paragraph (a) of § 1632.14 *Duty of registrant to report for and to submit to induction* is amended to read as follows:

(a) When the local board orders the registrant for induction it shall be the duty of the registrant to report for induction at the time and place ordered by the local board. If the time when the registrant is ordered to report for induction is postponed, it shall be the continuing duty of the registrant to report for induction at such time and place as may be ordered by the local board. Regardless of the time when or the circumstances under which a registrant fails to report for induction when it is his duty to do so, it shall thereafter be his continuing duty from day to day to report for induction to his local board.

PART 1642—DELINQUENTS

SEC. 17. Part 1642—*Delinquents* is revoked.

PART 1655—REGISTRATION OF U.S. CITIZENS OUTSIDE THE UNITED STATES AND CLASSIFICATION OF SUCH REGISTRANTS

§ 1655.6 [Revoked]

SEC. 18. Section 1655.6 *Records to be completed by local board receiving registration questionnaire—Foreign (SSS Form 50) and assignment of selective service number* is revoked.

PART 1660—CIVILIAN WORK IN LIEU OF INDUCTION

SEC. 19. Part 1660—*Civilian Work In Lieu of Induction* is revoked.

CURTIS W. TARR,
Director.

NOVEMBER 1, 1971.

[FR Doc.71-16100 Filed 11-2-71;8:51 am]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

DEFLECTION YOKES FROM JAPAN

Antidumping Proceeding Notice

On September 22, 1971, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs regulations (19 CFR 153.26, 153.27), indicating a possibility that deflection yokes (of the type used in color television receivers) from Japan are being, or likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

There is evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Having conducted a summary investigation as required by § 153.29 of the Customs regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the Bureau of Customs in instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows:

The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the prices for home consumption.

This notice is published pursuant to § 153.30 of the Customs regulations (19 CFR 153.30).

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: October 21, 1971.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-16139 Filed 11-2-71;8:52 am]

ICE CREAM SANDWICH WAFERS FROM CANADA

Withholding of Appraisement Notice

Information was received on October 21, 1970, that ice cream sandwich wafers from Canada were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice," which was published in the FEDERAL REGISTER of February 19, 1971, on page 3203. The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Pursuant to section 201(b) of the Act (19 U.S.C. 160(b)) notice is hereby given that there are reasonable grounds to believe or suspect that the purchase price (section 203 of the Act; 19 U.S.C. 162) of ice cream sandwich wafers from Canada is less, or likely to be less, than the foreign market value (section 205 of the Act; 19 U.S.C. 164).

Customs officers are being directed to withhold appraisement of ice cream sandwich wafers from Canada in accordance with § 153.48, Customs Regulations (19 CFR 153.48).

In accordance with §§ 153.32(b) and 153.37, Customs Regulations (19 CFR 153.32(b), 153.37) interested parties may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, DC 20226, in time to be received by his office not later than 7 days from the date of publication of this notice in the FEDERAL REGISTER.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than 14 days from the date of publication of this notice in the FEDERAL REGISTER.

This notice, which is published pursuant to § 153.34(a), Customs Regulations, shall become effective upon publication in the FEDERAL REGISTER. It shall cease to be effective at the expiration of 3 months from the date of this publication, unless previously revoked.

[SEAL] MYLES J. AMBROSE,
Commissioner of Customs.

Approved: October 26, 1971.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-16137 Filed 11-2-71;8:52 am]

ASBESTOS-CEMENT PIPE FROM JAPAN

Withholding of Appraisement Notice

Information was received on November 13, 1970, that asbestos-cement pipe from Japan was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of February 2, 1971, on page 1546. The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), notice is hereby given that there are reasonable grounds to believe or suspect that the purchase price (section 203 of the Act; 19 U.S.C. 162) of asbestos-cement pipe from Japan is less, or likely to be less, than the foreign market value (section 205 of the Act; 19 U.S.C. 164).

Statement of Reasons:

Information currently before the Bureau tends to indicate that the probable basis of comparison for fair value purposes will be between purchase price and home market price of such or similar merchandise.

Preliminary analysis suggests that purchase price will probably be calculated by deducting from the f.a.s. Japanese port price inland freight and shipping charges.

It appears that home market price will be based on the delivered job site price with a deduction made for inland freight. Adjustments will be made for differences in packing, inspection fees, interest expenses, commissions, and technical services, as appropriate.

Using the above criteria, there are reasonable grounds to believe or suspect that purchase price will be lower than home market price.

Customs officers are being directed to withhold appraisement of asbestos-cement pipe from Japan in accordance with section 153.48, Customs Regulations (19 CFR 153.48).

In accordance with §§ 153.32(b) and 153.37, Customs Regulations (19 CFR 153.32(b), 153.37), interested parties may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, DC 20226, in time to be received by his office not later than 10 calendar days from the date of publication of this notice in the FEDERAL REGISTER.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

This notice, which is published pursuant to section 153.34(b), Customs Regulations, shall become effective upon publication in the FEDERAL REGISTER. It shall cease to be effective at the expiration of 6 months from the date of this publication, unless previously revoked.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: October 26, 1971.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-16140 Filed 11-2-71;8:52 am]

Office of the Secretary

PENTAERYTHRITOL FROM ITALY

Notice of Discontinuance of Antidumping Investigation

On July 23, 1971, there was published in the FEDERAL REGISTER a "Notice of Intent to Discontinue Antidumping Investigation" of pentaerythritol from Italy.

The statement of reasons for intending to discontinue this investigation was published in the above-mentioned notice, and interested parties were afforded an opportunity to make written submissions and to present oral views in connection with the intended action.

No written submissions or requests having been received and for the reasons stated in the "Notice of Intent to Discontinue Antidumping Investigation," I hereby discontinue the antidumping investigation of pentaerythritol from Italy.

This "Notice of Discontinuance of Antidumping Investigation" is published pursuant to § 153.15(b) of the Customs regulations (19 CFR 153.15(b)).

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

OCTOBER 21, 1971.

[FR Doc.71-16141 Filed 11-2-71;8:52 am]

ICE CREAM SANDWICH WAFERS FROM CANADA

Determination of Sales at Less than Fair Value

Information was received on October 21, 1970, that ice cream sandwich wafers from Canada were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act").

A "Withholding of Appraisement Notice" issued by the Commissioner of Customs is being published concurrently with this notice.

I hereby determine that ice cream sandwich wafers from Canada are being, or are likely to be, sold at less than fair value within the meaning of section 201 (a) of the Act.

Statement of reasons:

The information currently before the Bureau indicates that the proper basis of comparison will be between purchase price and home market price of such or similar merchandise.

Purchase price was calculated by deducting from the f.o.b. factory price a cash discount. Canadian rebates and drawback refunded upon exportation are added back.

Home market price was based on the f.o.b. factory price with deductions made for a cash discount. Adjustments were made for a packing and shipping differential and differences in commissions.

Using the above criteria, purchase price was lower than home market price.

This determination is published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-16138 Filed 11-2-71;8:52 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

OREGON

Redelegation of Authority

OCTOBER 22, 1971.

Pursuant to the authority contained in section 1.1(a) of Bureau Order 701, as amended, the following specific authorities delegated to the State Director in the cited Bureau order are hereby redelegated to the incumbent of the positions designated. The specific authorities redelegated are those listed in the designated sections of the Bureau order and are subject to the limitations listed in that order together with any additional limitations outlined below.

SECTION 1.8 *Forest Management.* The area managers in the Oregon District Offices and Spokane, Wash. District Office may take action on:

a. Disposition of forest products:

(1) The area managers in the Salem, Eugene, Roseburg, Medford and Coos Bay District Offices may take action on disposition of forest products except sales of timber in excess of 1 million board feet.

(2) The area managers in Baker, Burns, Lakeview, Prineville, Vale, Oregon, and Spokane, Wash. District Offices may take action on disposition of forest products except sales of timber in excess of 250,000 board feet.

SEC. 1.9 *Lands use* (a)–(f) [*Reserved*].

(g) *Materials.* The area managers in the Salem, Eugene, Roseburg, Medford, and Coos Bay District Offices and the Chiefs, Division of Resource Management in the Lakeview, Burns, Vale, Prineville, Baker, and Spokane District Offices may take action on any sale or contract for sale of materials other than forest products, or the free use of materials other than forest products, under 43 CFR Part 3610 except transactions in which the materials are valued in excess of $2,000. The area managers in the Lakeview, Burns, Vale, Prineville, Baker, and Spokane District Offices may make such material disposals in which the materials are valued at $300 or less. All of the above authorities redelegated to the area managers or chief, Division of Resource Management in district offices are to be performed in their respective areas of responsibility and in accordance with existing policies, and regulations and under the direct supervision of the district manager. The district manager may at any time temporarily restrict or withhold any portion of the above-delegated authority through use of Bureau Form 1213-1 District Office Authority and Responsibility Guide.

This order will become effective upon publication in the FEDERAL REGISTER (11-3-71). Supersedes the redelegation of September 8, 1971, and printed in the FEDERAL REGISTER of September 16, 1971.

ARTHUR W. ZIMMERMAN,
Acting State Director.

Approved:

GEORGE L. TUSCOTT,
Associate Director.

[FR Doc.71-16009 Filed 11-2-71;8:49 am]

Geological Survey

CALIFORNIA

Known Geothermal Resources Areas, Correction

In F.R. Doc. 71-14525 appearing on page 19409 of the issue of October 5, 1971, the following change should be made:

The first line under the heading "East Mesa Known Geothermal Resources Area", now reading T. 15 S., R. 16 E. should read T. 15 S., R. 16 E., SBM. All the following townships are also in this meridian.

Dated: October 22, 1971.

W. A. RADLINSKI,
Acting Director.

[FR Doc.71-15996 Filed 11-2-71;8:48 am]

National Park Service

[Order 71]

DIRECTOR AND ASSISTANT DIRECTOR, COOPERATIVE ACTIVITIES, NATIONAL CAPITAL PARKS

Delegation of Authority Regarding Representation on Zoning Commission of District of Columbia

SECTION 1. *Delegation.* The authority delegated by the Secretary of the Interior to the Director, National Park Service, to serve as a member of the Zoning Commission of the District of Columbia is hereby redelegated to the Asssitant Director, Cooperative Activities, National Capital Parks and, in the event of his inability to serve, to the Director, National Capital Parks.

SEC. 2. *Redelegation.* The authority delegated in section 1 of this order may not be redelegated.

SEC. 3. *Revocation.* Delegation Order No. 49 of February 12, 1968 (33 F.R. 4591) is hereby revoked.

(41 Stat. 500, Reorganization Plan No. 3 of 1950, 245 DM1 (27 F.R. 6395) as amended)

Dated: October 28, 1971.

RAYMOND L. FREEMAN,
Acting Director, National Park Service.

[FR Doc.71-15994 Filed 11-2-71;8:48 am]

[Order 72]

DIRECTOR AND ASSISTANT DIRECTOR, COOPERATIVE ACTIVITIES, NATIONAL CAPITAL PARKS

Delegation of Authority

SECTION 1. *Delegation.* The authority vested in the Director, National Park Service, to serve as an ex officio member of the National Capital Planning Commission is hereby redelegated to the Assistant Director, Cooperative Activities, National Capital Parks, and, in the event of his inability to serve, to the Director, National Capital Parks.

SEC. 2. *Redelegation.* The authority delegated in section 1 of this order may not be redelegated.

SEC. 3. *Revocation.* Delegation Order No. 56 of June 19, 1970 (35 F.R. 10697) is hereby revoked.

(66 Stat. 782, as amended; 40 U.S.C. 71a(b)(1))

Dated: October 28, 1971.

RAYMOND L. FREEMAN,
Acting Director,
National Park Service.

[FR Doc.71-15995 Filed 11-2-71;8:48 am]

Office of the Secretary

MAXWELL S. McKNIGHT

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of October 26, 1971.

Dated: October 13, 1971.

MAXWELL S. McKNIGHT.

[FR Doc.71-15997 Filed 11-2-71;8:48 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

POULTRY INSPECTION

Notice of Intended Designation of Commonwealth of Puerto Rico Under the Poultry Products Inspection Act

Section 5(c) of the Poultry Products Inspection Act (21 U.S.C. 454(c)) required the Secretary of Agriculture to designate promptly after August 18, 1970, any State[1] as one in which the requirements of sections 1–4, 6–10, and 12–22 of said Act shall apply to intrastate operations and transactions, and to persons engaged therein, with respect to poultry, poultry products, and other articles subject to the Act, if he determined after consultation with the Governor of the State, or his representative, that the State involved had not developed and activated requirements at least equal to those under sections 1–4, 6–10, and 12–22, with respect to establishments within the State (except those that would be exempted from Federal inspection under subsection 5(c)(2) of the Act), at which poultry are slaughtered or poultry products are processed for use as human food, solely for distribution within such State, and the products of such establishments. However, if the Secretary had reason to believe that the State would activate the necessary requirements within an additional year, he could allow the State the additional year in which to activate such requirements. The Secretary had reason to believe, after consultation with the Governor of the Commonwealth of Puerto Rico, that the Commonwealth would develop and activate the prescribed requirements by August 18, 1971, and accordingly allowed the Commonwealth the additional period of time for this purpose. However, the Secretary has now determined that Puerto Rico has not developed and activated the prescribed requirements. Therefore, notice is hereby given that the Secretary of Agriculture will designate the Commonwealth of Puerto Rico under section 5(c) of the Act as soon as necessary arrangements can be made for determining which establishments in Puerto Rico are eligible for Federal inspection, providing inspection at the eligible establishments, and otherwise enforcing the applicable provisions of the Federal Act with respect to intrastate activities in Puerto Rico when the designation is made and becomes effective. As soon as these arrangements are completed, notice of the designation will be published in the FEDERAL REGISTER. Upon the expiration of 30 days after such publication, the provisions of sections 1–4, 6–10, and 12–22 of the Act shall apply to intrastate operations and transactions and persons engaged therein in Puerto Rico to the same extent and in the same manner as if such operations and transactions were conducted in or for "commerce," within the meaning of the Act, and any establishment in Puerto Rico which conducts any slaughtering of poultry or processing of poultry products as described above must have Federal inspection or cease its operations, unless it qualifies for an exemption under subsection 5(c)(2) or section 15 of the Act.

Therefore, the operator of each such establishment in Puerto Rico who desires to conduct such operations after designation of Puerto Rico becomes effective should immediately communicate with the Regional Director specified below:

Dr. N. B. Isom, Director, Southeastern Region, Meat and Poultry Inspection Program, Room 216, 1718 Peachtree Street NW., Atlanta, GA 30309. Telephone: AC 404/526-3911.

Done at Washington, D.C., on October 29, 1971.

J. PHIL CAMPBELL,
Under Secretary.

[FR Doc.71-16028 Filed 11-2-71;8:50 am]

[1] As used in section 5(c) of the Act, the term "State" includes the Commonwealth of Puerto Rico and any organized Territory of the United States.

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 71-123]

BISCAYNE BAY ADJACENT TO KEY BISCAYNE, FLA.

Security Zone

The security zone for Biscayne Bay adjacent to Key Biscayne as published in the FEDERAL REGISTER of November 30, 1968 (33 F.R. 17864) is hereby terminated. In lieu thereof, and by authority vested in the Commandant, U.S. Coast Guard, by Executive Order 10173, as amended (33 CFR Part 6), sec. 6(b)(1), 80 Stat. 937, 49 U.S.C. 1655(b)(1), 49 CFR 1.46(b) and the redelegation of authority to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, as published in the FEDERAL REGISTER of September 30, 1971 (36 F.R. 19160), I hereby affirm for publication in the FEDERAL REGISTER the order of O. R. Smeder, Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District, who has exercised authority as District Commander, such order reading as follows:

BISCAYNE BAY ADJACENT TO KEY BISCAYNE, MIAMI, FLA.

DESIGNATION AND ESTABLISHMENT

SECURITY ZONE

Pursuant to the request of the U.S. Secret Service, and acting under the authority of the Act of June 15, 1917 (40 Stat. 220), as amended, and the regulations in Part 6, Subchapter A, Chapter I, Title 33, Code of Federal Regulations, and as Commander, Seventh Coast Guard District, I hereby designate and establish a security zone as follows:

All water and land bounded by and within the perimeter commencing at the southern tip of Harbor Point on Key Biscayne, Miami, Fla., in position 25°41'17.5" N., 80°10'32" W.; thence along a line bearing 304° to position 25°41'36" N., 80°11'02.5" W.; thence along a line bearing 034° to position 25°42'07.5" N., 80°10'40" W.; thence along a line bearing 124° to the shoreline on Key Biscayne at position 25°41'50" N., 80°10'12" W.; thence southerly along the water's edge to the point of origin.

All persons and vessels are directed to remain outside the closed area. This order will be enforced by the Group Commander, Miami, and by U.S. Coast Guard personnel under his command or the command of Commander, Seventh Coast Guard District. The aid of other Federal, State, municipal and private agencies may be enlisted under the authority of the Captain of the Port in the enforcement of this order.

Penalties for violation of the above order: Section 2, title II of the act of June 15, 1917, as amended, 50 U.S.C. 192, provides as follows: If any owner, agent, master, officer or person in charge, or any member of the crew of any such vessel fails to comply with any regulations or rule issued or order given under the provisions of this title, or obstructs or interferes with the exercise of any power conferred by this title, he shall be punished by imprisonment for not more than 10 years and may, at the discretion of the court, be fined not more than $10,000.

Dated: October 26, 1971.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Marine Environment and Systems.

[FR Doc.71-16014 Filed 11-2-71;8:49 am]

[CGFR 71-126]

SAN DIEGO HARBOR

Security Zone

By virtue of the authority vested in the Commandant, U.S. Coast Guard, by Executive Order 10173, as amended (33 CFR Part 6, sec. 6(b)(1), 80 Stat. 937, 49 U.S.C. 1655(b)(1), 49 CFR 1.46(b)) and the redelegation of authority to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters as contained in the FEDERAL REGISTER of September 30, 1971 (36 F.R. 19160), I hereby affirm for publication in the FEDERAL REGISTER the order of A. H. Siemens, Captain, U.S. Coast Guard, Captain of the Port, San Diego, Calif., who has exercised authority as Captain of the Port, such order reading as follows:

SAN DIEGO HARBOR

SECURITY ZONE

Under the present authority of section 1 of title II of the Espionage Act of June 15, 1917, 40 Stat. 220, as amended, 50 U.S.C. 191, and Executive Order 10173, as amended, I declare that from 0730 P.s.t. on November 8, 1971, until the U.S.S. *Kitty Hawk* has cleared San Diego Harbor, the following area is a Security Zone and I order it closed to any person or vessel due to the transiting of San Diego Harbor by the U.S.S. *Kitty Hawk*. The Security Zone will be disestablished 1500 yards astern of the U.S.S. *Kitty Hawk* as she transits the channel.

The water area contained within the limits of the turning basin off the U.S. Naval Air Station, North Island, San Diego Harbor. The boundary of the basin begins at 32°42' 21" N., 117°11'20" W. to Mooring Buoy No. 23, thence along a line from Mooring Buoy No. 23 to Mooring Buoy No. 27, thence to 32°42'11" N., 117°10'49" W. thence along the face of the Naval Air Station North Island to 32°42'21" N., 117°11'20" W.; and the San Diego Main Channel from the above-described turning basin to San Diego Channel Entrance Buoy No. 5, thence a 500-yard corridor to San Diego Approach Lighted Whistle Buoy No. 1SD, using San Diego Approach Buoys 1, 3 and Entrance Channel Buoy No. 5 as the westernmost boundary.

No person or vessel shall remain in or enter this Security Zone without permission of the Captain of the Port, San Diego, 295-3121.

The Captain of the Port shall enforce this order. In the enforcement of this order, the Captain of the Port may utilize, by appropriate agreement, personnel and facilities of any other Federal agency, or of any State or political subdivision thereof.

For violation of this order, section 2 of title II of the Espionage Act of June 15, 1917 (40 Stat. 220 as amended, 50 U.S.C. 192), provides:

If any owner, agent, master, officer, or person in charge, or any member of the crew of any such vessel fails to comply with any regulation or rule issued or order given under the provisions of this chapter, or obstructs or interferes with the exercise of any power conferred by this chapter, the vessel, together with her tackle, apparel, furniture, and equipment, shall be subject to seizure and forfeiture to the United States in the same manner as merchandise is forfeited for violation of the customs revenue laws; and the person guilty of such failure, obstruction, or interference shall be punished by imprisonment for not more than 10 years and may, in the discretion of the court, be fined not more than $10,000.

(a) If any other person knowingly fails to comply with any regulation or rule issued or order given under the provisions of this chapter, or knowingly obstructs or interferes with the exercise of any power conferred by this chapter, he shall be punished by imprisonment for not more than 10 years and may, at the discretion of the court, be fined not more than $10,000.

Dated: October 29, 1971.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Marine Environment and Systems.

[FR Doc.71-16015 Filed 11-2-71;8:49 am]

[CGFR 71-118]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

1. Certain laws and regulations (46 CFR Ch. I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from January 22, 1971, to March 12, 1971 (Lists Nos. 4–71, 5–71, 6–71, and 7–71). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner canceled or suspended by proper authority.

BUOYS, LIFE, RING, CORK, OR BALSA WOOD FOR MERCHANT VESSELS AND MOTORBOATS

Approval No. 160.009/36/0, 30-inch cork ring life buoy, dwg. No. 5–1–51, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, NY 11201, effective March 2, 1971. (It is an extension of Approval No. 160.009/36/0 dated May 26, 1966.)

BUOYANT APPARATUS FOR MERCHANT VESSELS

Approval No. 160.010/61/0, 5.0' x 2.5' (7½" x 9" body section), solid balsa wood fiber glass covered buoyant apparatus, 5-person capacity, dwg. No. 32761, Rev. A, dated June 6, 1961, and Specification, Rev. II, dated June 6, 1961, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, NY 11201, effective March 2, 1971. (It is an extension of Approval No. 160.010/61/0 dated May 26, 1966.)

LADDERS, EMBARKATION—DEBARKATION (FLEXIBLE), FOR MERCHANT VESSELS

Approval No. 160.017/4/8, Model 241–A, Type II, embarkation-debarkation ladder, chain suspension, steel ears, dwg. No. 241–A dated February 21, 1950, revised March 18, 1966, approval limited to ladders 60 feet or less in length, manufactured by Great Bend Manufacturing Corp., 234 Godwin Avenue, Paterson, NJ 07501, effective February 1, 1971. (It is an extension of Approval No. 160.017/4/8 dated April 15, 1966.)

Approval No. 160.017/16/3, Model 10 PL–S, Type II, embarkation-debarkation ladder, chain suspension, steel ears, dwg. dated November 28, 1956, revised April 11, 1966, approval limited to ladders 65 feet or less in length, manufactured by H. K. Metalcraft Manufacturing Corp., 35 Industrial Road, Post Office Box 275, Lodi, NJ 07644, effective February 1, 1971. (It is an extension of Approval No. 160.017/16/3 dated April 15, 1966.)

WATER, EMERGENCY DRINKING (IN HERMETICALLY SEALED CONTAINERS), FOR MERCHANT VESSELS

Approval No. 160.026/20/0, container for emergency provisions, dwg. No. 202–P and Specification 202–S–1 dated April 6, 1951, two containers required per ration, manufactured by Globe Equipment Corp., 257 Water Street, Brooklyn, NY 11201, effective March 1, 1971. (It is an extension of Approval No. 160.026/20/0 dated May 25, 1966.)

DAVITS FOR MERCHANT VESSELS

Approval No. 160.032/160/1, gravity davit, Type 30–22, approved for a maximum working load of 22,240 pounds per set (11,120 pounds per arm) using 2-part falls, identified by general arrangement dwg. No. 3015–1E, dated August 15, 1958, and drawing list dated February 17, 1966, manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, N.J. 07727, effective January 27,

1971. (It is an extension of Approval No. 160.032/160/1 dated March 2, 1966 and change in address of manufacturer.)

MECHANICAL DISENGAGING APPARATUS, LIFEBOAT, FOR MERCHANT VESSELS

Approval No. 160.033/51/0, Rottmer type, size 0–1–C2, releasing gear, approved for maximum working load of 18,000 pounds per set (9,000 pounds per hook), identified by assembly drawing No. R–145 dated December 27, 1955, manufactured by Lane Lifeboat Division of Lane Marine Technology Inc., 150 Sullivan Street, Brooklyn, NY 11231, effective March 1, 1971. (It is an extension of Approval No. 160.033/51/0 dated May 25, 1966 and change of name of manufacturer.)

LIFEBOATS

Approval No. 160.035/38/4, 24.0' x 7.75' x 3.33' steel, motorpropelled lifeboat, without radio cabin or searchlight, class 1, 35-person capacity, identified by general arrangement and construction dwg. No. 24–001–03 dated November 2, 1970. This boat is built with a wooden or fibrous glass reinforced plastic (FRP) removable interior, formerly built by Welin Davit & Boat Division of Continental Copper and Steel Industries Inc., 46 CFR 160.035–13(c) Marking. Weights: Condition "A"=4,305 pounds; Condition "B"=10,995 pounds, manufactured by Lane Lifeboat Division of Lane Marine Technology Inc., 150 Sullivan Street, Brooklyn, NY 11231, effective February 19, 1971. (It reinstates and supersedes Approval No. 160.035/38/3, terminated June 21, 1965 to show change in name and construction.)

Approval No. 160.035/281/3, 26.0' x 9.0' x 3.83' steel, oar-propelled lifeboat, 53-person capacity, identified by general arrangement dwg. No. 26–98, Rev. A dated January 4, 1971, 46 CFR 160.035–13(c) Marking. Weights, Condition "A"=4,170 pounds; Condition "B"=14,013 pounds, manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, N.J. 07727, effective January 21, 1971. (It supersedes Approval No. 160.035/281/2 dated January 21, 1966 to show change in address and construction.)

Approval No. 160.035/416/1, 30.0' x 10.0' x 4.33' fibrous glass reinforced plastic (FRP), hand-propelled lifeboat, 78-person capacity, identified by construction and arrangement dwg. No. B–80289, Rev. K dated February 5, 1971, formerly built by Welin Davit & Boat Division of Continental Copper and Steel Industries, Inc., 46 CFR 160.035–13(c) Marking. Weights: Condition "A"=5,637 pounds; Condition "B"=18,507 pounds, manufactured by Lane Lifeboat Division of Lane Marine Technology Inc., 150 Sullivan Street, Brooklyn, NY 11231, effective March 5, 1971. (It reinstates and supersedes Approval No. 160.035/416/0 terminated August 31, 1966, to show change in name and construction.)

Approval No. 160.035/417/3, 30.0' x 10.0' x 4.33' fibrous glass reinforced plastic (FRP), motor-propelled lifeboat without radio cabin or searchlight (class 1), 74-person capacity, identified by construction and arrangement dwg. No. 80305, Rev. J dated February 5, 1971, formerly built by Welin Davit & Boat Division of Continental Copper and Steel Industries, Inc., 46 CFR 160.035–13(c) Marking. Weights: Condition "A"=4,955.0 pounds; Condition "B"=18,432.0 pounds, manufactured by Lane Lifeboat Division of Lane Marine Technology Inc., 150 Sullivan Street, Brooklyn, NY 11231, effective March 5, 1971. (It reinstates and supersedes Approval No. 160,035/417/2 terminated February 16, 1967, to show change in name and construction.)

BUOYANT VESTS, KAPOK, OR FIBROUS GLASS

For Motorboats of Classes A, 1, or 2 Not Carrying Passengers for Hire.

Approval No. 160.047/330/0, Type I, Model AK–1, adult kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Crawford Manufacturing Co., Inc., 3d and Decatur Streets, Richmond, Va. 23212 and 12th and Graham Street, Emporia, Kans. 66801, effective February 10, 1971. (It is an extension of Approval No. 160.047/330/0 dated April 28, 1966 and change in address of manufacturer.)

Approval No. 160.047/331/0, Type I, Model CKM–1, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Crawford Manufacturing Co., Inc., 3d and Decatur Streets, Richmond, Va. 23212 and 12th and Graham Streets, Emporia, Kans. 66801, effective February 10, 1971. (It is an extension of Approval No. 160.047/331/0 dated April 28, 1966 and change in address of manufacturer.)

Approval No. 160.047/332/0, Type I, Model CKS–1, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Crawford Manufacturing Co., Inc., 3d and Decatur Streets, Richmond, Va. 23212 and 12th and Graham Streets, Emporia, Kans. 66801, effective February 10, 1971. (It is an extension of Approval No. 160.047/332/0 dated April 28, 1966 and change in address of manufacturer.)

Approval No. 160.047/333/0, Type I, Model AK–1, adult kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Crawford Manufacturing Co., Inc., 3d and Decatur Streets, Richmond, Va. 23212 and 12th and Graham Streets, Emporia, Kans. 66801, for Montgomery Ward & Co., Inc., 619 West Chicago Avenue, Chicago, IL 60610, effective February 10, 1971. (It is an extension of Approval No. 160.047/333/0 dated April 28, 1966, and change in address of manufacturer.)

Approval No. 160.047/334/0, Type I, Model CKM–1, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Crawford Manufacturing Co., Inc., 3d and Decatur Streets, Richmond, Va. 23212 and 12th and Graham Streets, Emporia, Kans. 66801, for Montgomery Ward & Co., Inc., 619 West Chicago Avenue, Chicago, IL 60610, effective February 10, 1971. (It is an extension of Approval No. 160.047/334/0 dated April 28, 1966 and change in address of manufacturer.)

Approval No. 160.047/335/0, Type I, Model CKS–1, child kapok buoyant vest, USCG Specification Subpart 160.047, manufactured by Crawford Manufacturing Co., Inc., Third and Decatur Streets, Richmond, VA 23212 and 12th and Graham Streets, Emporia, KS 66801, for Montgomery Ward & Co., Inc., 619 West Chicago Avenue, Chicago, IL 60610, effective February 10, 1971. (It is an extension of Approval No. 160.047/335/0 dated April 28, 1966 and change in address of manufacturer.)

BUOYANT CUSHIONS, KAPOK, OR FIBROUS GLASS

For motorboats of classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.048/57/0, group approval for rectangular and trapezoidal kapok buoyant cushions, USCG Specification Subpart 160.048, sizes and weights of kapok filling to be as per table 160.-048–4(c)(1)(i), manufactured by Crawford Manufacturing Co., Inc., Third and Decatur Streets, Richmond, VA 23212 and 12th and Graham Streets, Emporia, KS 66801, effective February 10, 1971. (It is an extension of Approval No. 160.048/57/0 dated April 28, 1966 and change in address of manufacturer.)

Approval No. 160.048/103/0, group approval for rectangular and trapezoidal kapok buoyant cushions, USCG Specification Subpart 160.048, sizes and weights of kapok filling to be as per table 160.-048–4(c)(1)(i), manufactured by Crawford Manufacturing Co., Inc., Third and Decatur Streets, Richmond, VA 23212 and 12th and Graham Streets, Emporia, KS 66801, for Montgomery Ward & Co., Inc., 619 West Chicago Avenue, Chicago, IL 60610, effective February 10, 1971. (It is an extension of Approval No. 160.048/103/0 dated April 28, 1966 and change in address of manufacturer.)

BUOYS, LIFE, RING, UNICELLULAR PLASTIC

Approval No. 160.050/7/2, 20-inch ring life buoy, fibrous glass reinforced neoprene latex shell with unicellular plastic foam core, specification dated February 22, 1960, Rev. 4 and drawing dated February 1, 1958, approved as alternate construction to that provided by USCG Specification Subpart 160.050, manufactured by The Plasti-Kraft Corp., Ozona Industrial Park, Ozona, Fla. 33560, effective February 1, 1971. (It is an extension of Approval No. 160.050/7/2 dated April 8, 1966.)

Approval No. 160.050/10/1, 24-inch ring life buoy, fibrous glass reinforced neoprene latex shell with unicellular plastic foam core, specification dated February 22, 1960, Rev. 4 and drawing dated February 1, 1958, approved as alternate construction to that provided by USCG Specification Subpart 160.050, manufactured by The Plasti-Kraft Corp., Ozona Industrial Park, Ozona, Fla. 33560, effective February 1, 1971. (It is an extension of Approval No. 160.050/10/1 dated April 8, 1966.)

Approval No. 160.050/11/1, 30-inch ring life buoy, fibrous glass reinforced neoprene latex shell with unicellular plastic foam core, specification dated February 22, 1960, Rev. 4 and drawing dated February 1, 1958, approved as alternate construction to that provided by USCG Specification Subpart 160.050, manufactured by The Plasti-Kraft Corp., Ozona Industrial Park, Ozona, Fla. 33560, effective February 1, 1971. (It is an extension of Approval No. 160.050/11/1 dated April 8, 1966.)

BUOYANT VESTS, UNICELLULAR PLASTIC FOAM

NOTE: For motorboats of classes A, 1, or 2 not carrying pasengers for hire.

Approval No. 160.052/131/1, Type II, Model "A," adult unicellular plastic foam buoyant vest, dwg. Nos. 11 and 12 dated March 3, 1961, Rev. 1 dated June 1, 1963, and bill of materials dated September 29, 1965, manufactured by Crawford Manufacturing Co., Inc., Third and Decatur Streets, Richmond, VA 23212 and 12th and Graham Streets, Emporia, KS 66801, effective February 12, 1971. (It supersedes Approval No. 160.052/131/1 dated January 13, 1971 to show change in address of manufacturer.)

Approval No. 160.052/132/1, Type II, Model "M," child medium unicellular plastic foam buoyant vest, dwg. Nos. 11 and 13 dated March 3, 1961, Rev. 1 dated June 1, 1963, and bill of materials dated September 29, 1965, manufactured by Crawford Manufacturing Co., Inc., Third and Decatur Streets, Richmond, VA 23212 and 12th and Graham Streets, Emporia, KS 66801, effective February 12, 1971. (It supersedes Approval No. 160.052/132/1 dated January 13, 1971 to show change in address of manufacturer.)

Approval No. 160.052/133/1, Type II, Model "S" child small unicellular plastic foam buoyant vest, dwg. Nos. 11 and 14 dated March 3, 1961, Rev. 1 dated June 1, 1963, and bill of materials dated September 29, 1965, manufactured by Crawford Manufacturing Co., Inc., Third and Decatur Streets, Richmond, VA 23212 and 12th and Graham Streets, Emporia, KS 66801, effective February 12, 1971. (It supersedes Approval No. 160.052/133/1 dated January 13, 1971 to show change in address of manufacturer.)

Approval No. 160.052/150/0, Type II, Model "A," adult unicellular plastic foam buoyant vest, dwg. Nos. 11 and 12 dated March 3, 1961, Rev. 1 dated June 1, 1963, and bill of materials dated September 29, 1965, manufactured by Crawford Manufacturing Co., Inc., Third and Decatur Streets, Richmond, VA 23212 and 12th and Graham Streets, Emporia, KS 66801, for Montgomery Ward & Co., Inc., 619 West Chicago Avenue, Chicago, IL 60610, effective March 12, 1971. (It is an extension of Approval No. 160.052/150/0 dated March 16, 1966.)

Approval No. 160.052/151/0, Type II, Model "M," child medium unicellular plastic foam buoyant vest, dwg. Nos. 11 and 13 dated March 3, 1961, Rev. 1 dated June 1, 1963, and bill of materials dated September 29, 1965, manufactured by Crawford Manufacturing Co., Inc., Third and Decatur Streets, Richmond, VA 23212 and 12th and Graham Streets, Emporia, KS 66801, for Montgomery Ward & Co., Inc., 619 West Chicago Avenue, Chicago, IL 60610, effective March 12, 1971. (It is an extension of Approval No. 160.052/151/0 dated March 16, 1966.)

Approval No. 160.052/152/0, Type II, Model "S," child small unicellular plastic foam buoyant vest, dwg. Nos. 11 and 14 dated March 3, 1961, Rev. 1 dated June 1, 1963, and bill of materials dated September 29, 1965, manufactured by Crawford Manufacturing Co., Inc., Third and Decatur Streets, Richmond, VA 23212 and 12th and Graham Streets, Emporia, KS 66801, for Montgomery Ward & Co., Inc., 619 West Chicago Avenue, Chicago, IL 60610, effective March 12, 1971. (It is an extension of Approval No. 160.052/152/0 dated March 16, 1966.)

LIFE PRESERVERS, UNICELLULAR PLASTIC FOAM ADULT AND CHILD FOR MERCHANT VESSELS

Approval No. 160.055/50/0, Type IA, Model 62, adult vinyl dip coated unicellular plastic foam life preserver, USCG Specification Subpart 160.055 and dwg. No. 160.055–1A (sheets 1 and 2), manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, NY 11201, effective March 2, 1971. (It is an extension of Approval No. 160.055/50/0 dated May 4, 1966.)

Approval No. 160.055/51/0, Type IA, Model 66, child vinyl dip coated unicellular plastic foam life preserver, USCG Specification Subpart 160.055 and dwg. No. 160.055–1A (sheets 1 and 2), manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, NY 11201, effective March 2, 1971. (It is an extension of Approval No. 160.055/51/0 dated May 4, 1966.)

PROTECTING COVER FOR LIFEBOATS

Approval No. 160.065/2/0, "MASECO", Type I, protecting cover for the occupants of all types of aluminum, steel, and fibrous glass reinforced plastic (FRP) lifeboats, for lengths of 16' through 37' lifeboats, identified by master drawing, dwg. No. PC 85–24 Rev. B dated April 11, 1966, modifications to the cover and supports may be necessary in the case of some motor-propelled lifeboats equipped with vertical (dry) exhaust lines, radio cabins and antenna masts, manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, NJ 07727, effective March 1, 1971. (It is an extension of Approval No. 160.065/2/0 dated May 6, 1966 and change of address of manufacturer.)

TELEPHONE SYSTEMS, SOUND-POWERED

Approval No. 161.005/63/0, sound powered telephone station, selective ringing, common talking, 19-station maximum, internal heater, bulkhead mounting, waterproof, attached external bell, dwg. No. 92–01, Alt. 0, Model SWTP–H, manufactured by Hose-McCann Telephone Co., Inc., 524 West 23d Street, New York, NY 10011, effective February 2, 1971. (It is an extension of Approval No. 161.005/63/0 dated April 26, 1966 and change of address of manufacturer.)

Approval No. 161.005/65/0, sound powered telephone station, selective ringing, common talking, 19-station maximum, internal heater, bulkhead mounting, waterproof, attached external bell, dwg. No. 90–01, Alt. 0, Model SWT4–H, manufactured by Hose-McCann Telephone Co., Inc., 524 West 23d Street, New York, NY 10011, effective February 2, 1971. (It is an extension of Approval No. 161.005/65/0 dated April 26, 1966 and change of address of manufacturer.)

SAFETY VALVES (POWER BOILERS)

Approval No. 162.001/221/0, Series VM–110, cast carbon steel body spring loaded nozzle type safety valve, maximum pressure 120 p.s.i., maximum temperature 650° F., approved for sizes 1½", 2", 2½", 3", and 4", manufactured by J. E. Lonergan Co., Red Lion Road West of Verree Road, Post Office Box 6167, Philadelphia, PA 19115, effective February 19, 1971. (It is an extension of Approval No. 162.001/221/0 dated April 18, 1966.)

Approval No. 162.001/222/0, Series VM–120, cast carbon steel body sprifg loaded nozzle type safety valve, maximum pressure 92 p.s.i., maximum temperature 800° F., approved for sizes 1½", 2", 2½", 3", and 4", manufactured by J. E. Lonergan Co., Red Lion Road West of Verree Road, Post Office Box 6167, Philadelphia, PA 19115, effective February 19, 1971. (It is an extension of Approval No. 162.001/222/0 dated April 18, 1966.)

Approval No. 162.001/223/0, Series VM–130, cast carbon moly steel body spring loaded nozzle type safety valve, maximum pressure 70 p.s.i., maximum temperature 900° F., approved for sizes 1½", 2", 2½", 3", and 4", manufactured by J. E. Lonergan Co., Red Lion Road West of Verree Road, Post Office Box 6167, Philadelphia, PA 19115, effective February 19, 1971. (It is an extension of Approval No. 162.001/223/0 dated April 18, 1966.)

Approval No. 162.001/263/0, Crosby style HN–MS–55 nozzle type safety valve, dwg. D49675 dated February 15, 1966, approved for a maximum pressure of 1200 p.s.i.g. at 650° F., inlet sizes 1½", 2", 2½", 3", and 4", manufactured by Crosby Valve and Gage Co., Wrentham, Mass. 02093, effective March 9, 1971. (It is an extension of Approval No. 162.001/263/0 dated May 23, 1966.)

Approval No. 162.001/264/0, Crosby style HN–MS–56 nozzle type safety valve, dwg. D49675 dated February 15, 1966, approved for a maximum pressure of 1200 p.s.i.g. at 750° F., inlet sizes 1½", 2", 2½", 3", and 4", manufactured by Crosby Valve and Gage Co., Wrentham, Mass. 02093, effective March 9, 1971. (It is an extension of Approval No. 162.001/264/0 dated May 23, 1966.)

Approval No. 162.001/265/0, Crosby style HN–MS–65 nozzle type safety valve, dwg. D49675 dated February 15, 1966, approved for a maximum pressure of 1500 p.s.i.g. at 650° F., inlet sizes 1½", 2", 2½", and 3", manufactured by Crosby Valve and Gage Co., Wrentham, Mass. 02093, effective March 9, 1971. (It is an extension of Approval No. 162.001/265/0 dated May 23, 1966.)

Approval No. 162.001/266/0, Crosby style HN–MS–66 nozzle type safety valve, dwg. D49675 dated February 15, 1966, approved for a maximum pressure of 1500 p.s.i.g. at 750° F., inlet sizes 1½", 2", 2½", and 3", manufactured by Crosby Valve & Gage Co., Wrentham, Mass. 02093, effective March 9, 1971. (It is an extension of Approval No. 162.001/266/0 dated May 23, 1966.)

Approval No. 162.001/268/0, Crosby style HN–MS–66–9 nozzle type safety relief valve, dwg. D49675 dated February 15, 1966, approved for a maximum pressure of 1200 p.s.i.g. at 750° F., inlet size 3", manufactured by Crosby Valve & Gage Co., Wrentham, Mass. 02093, effective March 9, 1971. (It is an extension of Approval No. 162.001/268/0 dated May 23, 1966.)

Approval No. 162.001/269/0, Crosby style HN–MS–55–9 nozzle type safety relief valve, dwg. D49675 dated February 15, 1966, approved for a maximum pressure of 1200 p.s.i.g. at 650° F., inlet sizes 3" and 4", manufactured by Crosby Valve & Gage Co., Wrentham, Mass. 02093, effective March 9, 1971. (It is an extension of Approval No. 162.001/269/0 dated May 23, 1966.)

Approval No. 162.001/270/0, Crosby style HN–MS–56–9 nozzle type safety relief valve, dwg. D49675 dated February 15, 1966, approved for a maximum pressure of 1200 p.s.i.g. at 750° F., inlet sizes 3" and 4", manufactured by Crosby Valve & Gage Co., Wrentham, Mass. 02093, effective March 9, 1971. (It is an extension of Approval No. 162.001/270/0 dated May 23, 1966.)

SAFETY VALVES (STEAM HEATING BOILERS)

Approval No. 162.012/21/0, Type 1511 series cast iron safety valve for steam heating boilers and unfired steam generators, dwg. No. 3VP953, dated February 10, 1956, approved for a maximum pressure of 30 p.s.i.g. in the following sizes and relieving capacities:

Size (inches)	Type No.	Capacity (pounds per hour at 30 p.s.i.g.)
1¼	1511 H	1615
1½	1511 J	2650
2	1511 K	3790
2½	1511 L	5875
3	1511 M	7410
4	1511 N	9035
4	1511 P	13135

manufactured by DRESSER, Industrial Valve & Instrument Division, Post Office Box 1430, Alexandria, LA 71301, effective March 9, 1971. (It is an extension of Approval No. 162.012/21/0 dated May 15, 1966 and change of name and address of manufacturer.)

SAFETY RELIEF VALVES, LIQUEFIED COMPRESSED GAS

Approval No. 162.018/31/1, Series W–100 and W–300 safety relief valves for liquefied petroleum gas and anhydrous ammonia service, full nozzle type metal-to-metal seat, subject to pressure-temperature limitations on J. E. Lonergan Co. drawing No. A–1681 dated January 23, 1962, manufactured by J. E. Lonergan Co., Red Lion Road west of Verree Road, Post Office Box 6167, Philadelphia, PA 19115, effective February 17, 1971. (It supersedes Approval No. 162.018/31/0 dated September 12, 1968, to show W–100 Model Numbers and new W–300 Model Number listing.)

Approval No. 162.018/72/0, 400 Series safety relief valves for compressed gas service, identified in Sage Valve Catalog dated April 1970, manufactured by Sage Engineering and Valve Co., 1463 Brittmoore Road, Houston, TX 77024, effective February 11, 1971.

Approval No. 162.018/73/0, 600 Series safety relief valves for compressed gas service, identified in Sage Valve Catalog dated April 1970, manufactured by Sage Engineering and Valve Co., 1463 Brittmoore Road, Houston, TX 77024, effective February 11, 1971.

NOZZLES, FIREHOSE, COMBINATION SOLID STREAM AND WATER SPRAY (1½ INCH AND 2½ INCH) FOR MERCHANT VESSELS

Approval No. 162.027/2/1, Rockwood 1½-inch SG70 combination solid stream and water spray firehose nozzle, 1½-inch Type TCG high velocity head, and either 10'–90° Type CGC, 10'–90° CGG, 4'–60° Type CGC, or 4'–60° Type CGG applicator with Type T–11 low-velocity head; dwgs. Nos. S–4787 dated February 9, 1955; S–4352, Rev. B dated June 21, 1956; S–6742 dated October 23, 1959; S–6748 dated October 23, 1959; S–6740 dated October 23, 1959; S–6744 dated October 23, 1959; and S–6738 dated October 19, 1959, applicators were formerly Type CG; low-velocity head was formerly Type T–11A; due to orifice sizes, no special self-cleaning strainer is required, manufactured by ROCKWOOD, 80 Second Street, South Portland, ME 04106, formerly Bliss-Gamewell, effective February 19, 1971. (It supersedes Approval No. 162.027/2/1 dated May 18, 1967, to show change in name and address of manufacturer.)

Approval No. 162.027/3/1, Rockwood 2½-inch SG70 combination solid stream and water spray firehose nozzle, 2½-inch Type TCG high-velocity head, and 12'–90° Type CGC or Type CGG applicator with Type T–10 low-velocity head; dwgs. Nos. S–4992 dated September 8, 1955; S–4993 dated September 8, 1955; S–6741 dated October 23, 1959; S–6743 dated October 20, 1959; and S–6733 dated October 16, 1959, applicators were formerly Type CG; low-velocity head was formerly Type T–10A, manufactured by ROCKWOOD, 80 Second Street, South Portland, ME 04106, formerly Bliss-Gamewell effective February 19, 1971. (It supersedes Approval No. 162.027/3/1 dated May 18, 1967, to show change in name and address of manufacturer.)

Approval No. 162.027/8/0, Rockwood 1½-inch SG71 combination solid stream and water spray fire hose nozzle, 1½-inch Type TCG high velocity head, and either 10'–90° Type CGC, 10'–90° CGG, 4'–60° Type CGC, or 4'–60° Type CGG applicator with Type T–11 low-velocity head; dwgs. Nos. 10–07832, Rev. B dated June 27, 1966; S–4352, Rev. B dated June 21, 1956; S–6742 dated October 23, 1959; S–6748 dated October 23, 1959; S–6740 dated October 23, 1959; S–6744 dated October 23, 1959; and S–6738 dated October 19, 1959, applicators were formerly Type CG; low-velocity head was formerly Type T–11A; due to orifice sizes, no special self-cleaning strainer is required, manufactured by ROCKWOOD, 80 Second Street, South Portland, ME 04106, formerly Bliss-Gamewell, effective February 19, 1971. (It supersedes Approval No. 162.027/8/0 dated May 18, 1967, to show change in name and address of manufacturer.)

FIRE EXTINGUISHING SYSTEMS, FOAM TYPE

Approval No. 162.033/5/0, Rockwood Marine Air Foam Systems using Rockwood Regular Foam Liquid (6 percent Low Expansion), design data booklet No. S–7008, Rev. 6 dated November 15, 1965, manufactured by ROCKWOOD, 80 Second Street, South Portland, ME 04106, formerly Bliss-Gamewell, effective February 19, 1971. (It supersedes Approval No. 162.033/5/0 dated May 15, 1967, to show change in name and address of manufacturer.)

Approval No. 162.033/6/0, Rockwood Marine Air Foam Systems using Rockwood Double Strength Foam Liquid (3 percent Low Expansion), design data booklet No. S–7009, Rev. 5 dated November 15, 1965, manufactured by ROCKWOOD, 80 Second Street, South Portland, ME 04106, formerly Bliss-Gamewell, effective February 19, 1971. (It supersedes Approval No. 162.033/6/0 dated May 15, 1967 to show change in name and address of manufacturer.)

BACKFIRE FLAME CONTROL, GASOLINE ENGINES; FLAME ARRESTERS; FOR MERCHANT VESSELS AND MOTORBOATS

Approval No. 162.041/64/0, Bendix Model C175–11 backfire flame arrester, drawing C175–11 dated January 6, 1966, manufactured by Bendix Corp., Zenith Carburetor Division, 696 Hart Avenue, Detroit, MI 48214, effective February 2, 1971. (It is an extension of Approval No. 162.041/64/0 dated February 2, 1966.)

Approval No. 162.041/65/0, Bendix Model C175–11A backfire flame arrester, drawing C175–11A dated January 6, 1966, manufactured by Bendix Corp., Zenith Carburetor Division, 696 Hart Avenue, Detroit, MI 48214, effective February 2, 1971. (It is an extension of Approval No. 162.041/65/0 dated February 2, 1966.)

Approval No. 162.041/66/0, Bendix Model C175–35 backfire flame arrester, drawing C175–35 dated January 10, 1966, manufactured by Bendix Corp., Zenith Carburetor Division, 696 Hart Avenue, Detroit, MI 48214, effective February 2, 1971. (It is an extension of Approval No. 162.041/66/0 dated February 2, 1966.)

Approval No. 162.041/67/0, Bendix Model B175–38 backfire flame arrester, Bendix drawing B175–38 dated December 8, 1965, manufactured by Bendix Corp., Zenith Carburetor Division, 696 Hart Avenue, Detroit, MI 48213, effective February 2, 1971. (It is an extension of Approval No. 162.041/67/0 dated February 2, 1966.)

Approval No. 162.041/78/0, Air-Maze No. 2 Unimaze backfire flame arrester, Air-Maze dwgs. A17853–C, A17853–G, and A17853–F, manufactured by Air-Maze Division, Rockwell-Standard Corp., 25000 Miles Road, Cleveland, OH 44128, effective February 22, 1971. (It is an extension of Approval No. 162.041/78/0 dated March 10, 1966.)

Approval No. 162.041/80/0, Bendix Model B175–13 backfire flame arrester, Bendix dwg. B175–13 issued March 9, 1966, manufactured by Bendix Corp., Zenith Carburetor Division, 696 Hart Avenue, Detroit, MI 48214, effective March 10, 1971. (It is an extension of Approval No. 162.041/80/0 dated April 14, 1966.)

Approval No. 162.041/81/0, Bendix Model B175–13A backfire flame arrester, Bendix dwg. B175–13A issued March 9, 1966, similar to Model B175–13, University of Detroit Test Report, Project No. 1010 applies because of similarity, manufactured by Bendix Corp., Zenith Carburetor Division, 696 Hart Avenue, Detroit, MI 48214, effective March 10, 1971. (It is an extension of Approval No. 162.041/81/0 dated April 14, 1966.)

Approval No. 162.041/82/0, Bendix Model B175–13B backfire flame arrester, Bendix dwg. B175–13B issued March 9, 1966, similar to Model B175–13, University of Detroit Test Report, Project No. 1010 applies because of similarity, manufactured by Bendix Corp., Zenith Carburetor Division, 696 Hart Avenue, Detroit, MI 48214, effective March 10, 1971. (It is an extension of Approval No. 162.041/82/0 dated April 14, 1966.)

Approval No. 162.041/83/0, Bendix Model B175–14 backfire flame arrester, Bendix dwg. B175–14 issued March 9, 1966, manufactured by Bendix Corp., Zenith Carburetor Division, 696 Hart Avenue, Detroit, MI 48214, effective March 10, 1971. (It is an extension of Approval No. 162.041/83/0 dated April 14, 1966.)

Approval No. 162.041/84/0, Bendix Model B175–17 backfire flame arrester, Bendix dwg. B175–17 issued March 9, 1966, similar to Model B175–14, University of Detroit Test Report, Project No. 1010 applies because of similarity, manufactured by Bendix Corp., Zenith Carburetor Division, 696 Hart Avenue, Detroit, MI 48214, effective March 10, 1971. (It is an extension of Approval No. 162.041/84/0 dated April 14, 1966.)

Approval No. 162.041/85/0, Bendix Model B175–18 backfire flame arrester, Bendix dwg. B175–18 issued March 9, 1966, similar to Model B175–14, University of Detroit Test Report, Project No. 1010 applies because of similarity, manufactured by Bendix Corp., Zenith Carburetor Division, 696 Hart Avenue, Detroit, MI 48214, effective March 10, 1971. (It is an extension of Approval No. 162.041/85/0 dated April 14, 1966.)

Approval No. 162.041/86/0, Bendix Model B175–20 backfire flame arrester, Bendix dwg. B175–20 issued March 9, 1966, similar to Model B175–14, University of Detroit Test Report, Project No. 1010 applies because of similarity, manufactured by Bendix Corp., Zenith Carburetor Division, 696 Hart Avenue, Detroit, MI 48214, effective March 10, 1971. (It is an extension of Approval No. 162.041/86/0 dated April 14, 1966.)

Approval No. 162.041/87/0, Bendix Model B175–21 backfire flame arrester, Bendix dwg. B175–21 issued March 9, 1966, similar to Model B175–14, University of Detroit test report, Project No. 1010 applies because of similarity, manufactured by Bendix Corp., Zenith Carburetor Division, 696 Hart Avenue, Detroit, MI 48214, effective March 10, 1971. (It is an extension of Approval No. 162.041/87/0 dated April 14, 1966.)

Approval No. 162.041/88/0, Bendix Model B175–19 backfire flame arrester, Bendix dwg. B175–19 issued March 9, 1966, manufactured by Bendix Corp., Zenith Carburetor Division, 696 Hart Avenue, Detroit, MI 48214, effective March 10, 1971. (It is an extension of Approval No. 162.041/88/0 dated April 14, 1966.)

Approval No. 162.041/89/0, Bendix Model B175–19A backfire flame arrester, Bendix dwg. B175–19A issued March 9, 1966, similar to Model B175–19, University of Detroit test report, Project No. 1010 applies because of similarity, manufactured by Bendix Corp., Zenith Carburetor Division, 696 Hart Avenue, Detroit, MI 48214, effective March 10, 1971. (It is an extension of Approval No. 162.041/89/0 dated April 14, 1966.)

Approval No. 162.041/91/0, Zenith Model B175–16 backfire flame arrester, Zenith drawing B175–12A issued April 22, 1966, manufactured by Bendix Corp., Zenith Carburetor Division, 696 Hart Avenue, Detroit, MI 48214, effective March 10, 1971. (It is an extension of Approval No. 162.041/91/0 dated May 17, 1966.)

Approval No. 162.041/92/0, Zenith Model B175–16 backfire flame arrester, Zenith drawing B175–16 issued April 22, 1966, manufactured by Bendix Corp., Zenith Carburetor Division, 696 Hart Avenue, Detroit, MI 48214, effective March 10, 1971. (It is an extension of Approval No. 162.041/92/0 dated May 17, 1966.)

Approval No. 162.041/133/0, Barbron Model No. 57215B flame arrester with brass diffusing element; alternate material 0.032 anodized aluminum, Model No. 57215A with brass diffusing element, testing waived because of similarities to other previously approved Barbron flame arresters, manufactured by Barbron Corp., 14580 Lesure Avenue, Detroit, MI 48227, effective February 17, 1971.

BULKHEAD PANELS FOR MERCHANT VESSELS

Approval No. 164.008/46/0, "Fyrcor 33" bulkhead panel identical to that described in National Bureau of Standards Test Report No. TG10230–25:FR3639 dated August 13, 1964; approved as meeting class B–15 requirements in a three-fourths-inch thickness, 33 pounds per cubic foot density, manufactured by Chembest Division of Owens-Corning Fiberglas Corp., 1111 West Perry Street, Bloomington, IL 61701, effective March 1, 1971. (It supersedes Approval No. 164.008/46/0 dated October 19, 1970 to show change of name of product.)

Approval No. 164.008/56/0, Marinite Ltd. bulkhead panel "Marinite-36" identical to that described in the National Bureau of Standards Report No. FR3743 dated January 25, 1971 and Marinite's letter dated August 29, 1969; approved as meeting class B–15 requirements in a density of 36 pounds per cubic foot in a three-fourths-inch thickness, manufactured by Marinite Ltd., Cape Universal House Exchange Road, Watford Herts, England, plant: Marinite Ltd., Germiston Works, Pertershell Road, Springburn, Glasgow No. 1, Scotland, effective February 5, 1971.

Approval No. 164.008/57/0, Nippon Asbestos Co., bulkhead panel "Marine Board 60 P" identical to that described in Underwriter's Laboratories Inc. Report No. 70NK550 dated October 28, 1970 and Nippon's letter dated November 28, 1969; approved as meeting class B–15 requirements in a density of 40.5 pounds per cubic foot in a three-fourths-inch thickness. Approval drawing dated April 15, 1970 "MB–USCG–003" forms a part of this certificate, manufactured by Nippon Asbestos Co., Ltd., 3, 6-Chome, Ginza-Nishi, Chuo-Ku, Tokyo, Japan, plant: Hajima-City, Gifu-Prefecture, Japan, effective January 22, 1971.

Approval No. 164.008/62/0, Marinite Ltd. bulkhead panel "Marinite-45" identical to that described in the National Bureau of Standards Report No. FR3743 dated January 25, 1971 and Marinite's letter dated August 29, 1969; approved as meeting class B–15 requirements in a density of 45 pounds per cubic foot in a seven-eighths-inch thickness, manufactured by Marinite Ltd., Cape Universal House Exchange Road, Watford Herts, England, plant: Marinite Ltd., Germiston Works, Pertershell Road, Springburn, Glasgow No. 1, Scotland, effective February 5, 1971.

INCOMBUSTIBLE MATERIALS FOR MERCHANT VESSELS

Approval No. 164.009/36/0, J–M 302 Cement, incombustible material composed solely of asbestos fibers, diatomaceous silicas and clay, manufactured by Johns-Manville Sales Corp., 22 East 40th Street, New York, NY 10016, effective March 2, 1971. (It is an extension of Approval No. 164.009/36/0 dated May 15, 1966.)

Approval No. 164.009/90/0, Insul-Coustic SeeGee Adhesive I–C 292 composition type incombustible material identical to that described in National Bureau of Standards Test Report No. TG10210–2131:FR3666 dated February 24, 1966, and Insul-Coustic letter dated January 14, 1966, manufactured by Insul-Coustic Division, Birma Production Corp., Jernee Mill Road, Sayreville, NJ 08872, effective February 25, 1971. (It is an extension of Approval No. 164.009/90/0 dated March 10, 1966.)

Approval No. 164.009/91/0, Insul-Coustic SeeGee Coating I–C 596 composition type incombustible material identical to that described in National Bureau of Standards Test Report No. TG10210–2131:FR3666 dated February 24, 1966, and Insul-Coustic letter dated January 14, 1966, manufactured by Insul-Coustic

Division, Birma Production Corp., Jernee Mill Road, Sayreville, NJ 08872, effective February 25, 1971. (It is an extension of Approval No. 164.009/91/0 dated March 10, 1966.)

Approval No. 164.009/92/0, "Incombustible Hullboard SG" fibrous glass type incombustible material identical to that described in National Bureau of Standards Test Report No. TG10210–2133: FR9369 dated May 1, 1966, approved in a nominal density of 3 pounds per cubic foot, manufactured by Johns-Manville Sales Corporation, 22 East 40th Street, New York, NY 10016, plant: Johns-Manville Products Corp., 814 Richmond Avenue, Richmond, IN, effective March 2, 1971. (It is an extension of Approval No. 164.009/92/0 dated May 11, 1966.)

Dated: October 19, 1971.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.71–16012 Filed 11–2–71;8:51 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50–255]

CONSUMERS POWER CO. (PALISADES PLANT)

Notice of Public Hearing

Take notice, pursuant to the Atomic Energy Act, as amended, and the rules of practice of the Atomic Energy Commission, an evidentiary hearing in this proceeding shall convene at 3 p.m. on Tuesday, December 7, 1971, in the Van Deusen Auditorium of the City Library System, 312 South Rose Street, Kalamazoo, MI.

This notice confirms the public announcement made at the evidentiary hearing held on October 26, 1971, that a further hearing would be convened during the week of December 6, 1971, to consider data to be presented in reference to applicant's request to operate this nuclear facility up to a limit of 60 percent of power.

Issued: October 28, 1971, Germantown, Md.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[FR Doc.71–15976 Filed 11–2–71;8:46 am]

[Docket No. 50–271]

VERMONT YANKEE NUCLEAR POWER CORP. (VERMONT YANKEE NUCLEAR POWER STATION)

Notice of Public Hearing

Take notice, in accordance with the Atomic Energy Act, as amended, and the rules of practice of the Commission, that an evidentiary hearing in this proceeding shall convene at 2 p.m. on Monday, November 29, 1971, at the first floor level of the Vermont National Guard Armory, 207 Main Street, Brattleboro, VT.

This notice confirms the public announcement made at the session of evidentiary hearing held on October 22, 1971.

Issued: October 28, 1971, Germantown, Md.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[FR Doc.71–15977 Filed 11–2–71;8:46 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23862; Order 71–10–133]

CONTINENTAL AIR LINES, INC.

Order Denying Petition for Reconsideration

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of October 1971.

By Order 71–9–115, dated September 29, 1971, the Board set for investigation a proposal of Continental Air Lines, Inc. (Continental), to offer one-way nonaffinity fares for group sizes of 40, 88, 105, and 154 persons between several points within the continental United States and between a number of mainland points and Hawaii. The fares were permitted to become effective pending investigation.

Continental has petitioned the Board for reconsideration of Order 71–9–115, requesting that its fares be permitted to continue in effect through their 1-year expiry date without investigation. In support of its petition Continental asserts that the fares are identical to, or slightly higher than, certain group inclusive tour (GIT) fares permitted to become effective for the same size groups without investigation,[1] and that the differences in travel under the two types of fares are not so significant as to compel investigation in one case and not the other. It further asserts that an investigation will be of no practical value since there will be little if any evidence of traffic experience available for quite some time, and that essentially all that could be presented are the varying judgments available today rather than evidence.

The Board finds that Continental's petition sets forth no new facts which warrant a reversal of our decision to investigate the fares in question. We are not persuaded that the fact that Continental's group fares are set at virtually the same level as present GIT fares in the same markets provides a ground for dismissal of the investigation, in light of the fact that the group fares are substantially devoid of travel restrictions as compared with the GIT fares. On the contrary, we believe availability of these relatively low and unrestricted fares in highly dense and competitive markets may result in significant diversion of travel which would otherwise be undertaken at higher fares. In any event, we conclude that the fares raise sufficient questions of reasonableness, particularly insofar as they would be available during the peak summer season, to warrant continuation of the investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That:

1. The request by Continental Air Lines, Inc., for reconsideration of Order 71–9–115 is denied; and

2. A copy of this order be served upon Continental Air Lines, Inc., Northwest Airlines, Inc., Overseas National Airways, Inc., Pan American World Airways, Inc., Saturn Airways, Inc., Trans International Airlines, Inc., Trans World Airlines, Inc., Universal Airlines, Inc., Western Air Lines, Inc., and World Airways, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71–16031 Filed 11–2–71;8:50 am]

[Docket No. 22628; Order 71–10–125]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fare Matters

Issued under delegated authority October 27, 1971.

By Order 71–10–36, dated October 8, 1971, action was deferred, with a view toward eventual approval, on an agreement adopted by Joint Conference 3–1 of the International Air Transport Association (IATA). The agreement amends the existing resolution pertaining to construction rules for passenger fares so as to add routings on North and Central Pacific sectors which will enable operations by TWA in conformance with its route authority.

In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period and the tentative conclusions in Order 71–10–36 will herein be made final.

Accordingly, it is ordered, That:

Agreement CAB 22664 be, and it hereby is, approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71–16030 Filed 11–2–71;8:50 am]

[Docket No. 23925]

TRANS INTERNATIONAL AIRLINES, INC., AND SABER AIR (PTE) LTD.

Notice of Proposed Approval of Joint Application

Joint application of Trans International Airlines, Inc. and Saber Air (PTE) Ltd. for disclaimer of jurisdiction or approval under section 408 of the Federal Aviation Act of 1958, as amended, Docket 23925.

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the undersigned intends to issue the attached order under delegated authority. Interested persons are hereby afforded a period of 7 days from the date of this notice within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., October 29, 1971.

[SEAL] A. M. ANDREWS,
Director, Bureau of Operating Rights.

ORDER OF APPROVAL

Issued under delegated authority.

By joint application filed October 19, 1971, Trans International Airlines, Inc. (TIA) and Saber Air (PTE) Ltd. (Saber) request that the Board disclaim jurisdiction over, or in the alternative, approve pursuant to section 408 of the Federal Aviation Act of 1958, as amended, (the Act) an agreement whereby TIA will dry-lease to Saber a McDonnell-Douglas DC–8–61CF.

TIA is a United States certificated supplemental carrier authorized to engage in supplemental air transportation (including inclusive tour charter authority) with respect to persons and property in interstate and foreign transportation.[1]

Saber, a Singapore-based corporation, performs transportation services by air in Asia. Saber does not have a foreign air carrier permit and does not presently intend to apply for such a permit under section 402 of the Act. Saber is planning to operate the subject aircraft in ad hoc charters between Europe and Singapore.

The agreement involves the lease of one McDonnell-Douglas DC–8–61CF and related spare parts for a period of 10 years and 4 months commencing on November 12, 1971. Rental will be at the rate of $89,500 per month with a purchase option at times specified in the text of the lease. Saber will have complete and exclusive control of the aircraft, providing its own crew, fuel, insurance, etc., under the terms of the lease.

It appears that the aircraft involved in the instant lease represents approximately 11.8 percent of the total value of TIA's aircraft, spare engines, and parts inventory. TIA presently has no other aircraft under lease to Saber. In support of the alternative request for approval, it is submitted that approval of the instant lease agreement will not result in the control of an air carrier engaged in air transportation, nor will it result in creating a monopoly or tend to restrain competition. Moreover, the applicants contend that the rent payments will be of benefit to TIA, as well as to the United States in its balance of payments position.

No objections to the application or requests for a hearing have been received.

Notice of intent to dispose of the application without hearing has been published in the FEDERAL REGISTER, and a copy of such notice has been furnished by the Board to the Attorney General not later than the day following the date of such publication, both in accordance with the requirements of section 408(b) of the Act.

Upon consideration of the foregoing, it is concluded that the lease involves a substantial part of the properties of TIA, and therefore, is subject to section 408 of the Act. However, it is further concluded that the transaction does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in creating a monopoly and does not tend to restrain competition. Furthermore, no person disclosing a substantial interest in the proceeding is currently requesting a hearing, and it is concluded that the public interest does not require a hearing. It appears that TIA is able to consummate its obligations under the lease without depriving itself of aircraft necessary to meet its own commitments. In addition, the transaction is similar to others approved by the Board.[2] Under all the circumstances, it is not found that the lease transaction will be inconsistent with the public interest or that the the conditions of section 408 will be unfulfilled.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.3 and 385.13, it is found that the foregoing transaction should be approved under section 408(b) of the Act without a hearing and that the application to the extent it requests disclaimer of jurisdiction in regard to the above-mentioned lease agreement should be dismissed.

Accordingly, it is ordered, That:

1. The subject lease by Saber Air (PTE), Ltd. of a McDonnell-Douglas DC–8–61CF aircraft and related parts and spare engines from Trans International Airlines, Inc., as described in the application in Docket 23925 be and it hereby is approved; and

2. To the extent not granted, the request for disclaimer of jurisdiction in regard to the lease agreement be and hereby is dismissed.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 5 days after the date of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for reveiw thereof is filed, or the Board gives notice that it will review this order on its own motion.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71–16071 Filed 11–2–71;8:51 am]

[1] See Order E–26490, March 8, 1968.

[2] *Cf.* World Airways, Inc. and Pakistan International Airlines Corp., Order 70–8–44, August 12, 1970.

ENVIRONMENTAL PROTECTION AGENCY

AMERICAN CYANAMID CO.

Notice of Withdrawal of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), the following notice is issued:

In accordance with § 420.8 *Withdrawal of petitions without prejudice* of the pesticide procedural regulations (21 CFR 420.8), American Cyanamid Co., Agricultural Division, Post Office Box 400, Princeton, NJ 08540, has withdrawn its petition (PP 0F0949), notice of which was published in the FEDERAL REGISTER of April 17, 1970 (35 F.R. 6288), proposing establishment of a tolerance of 0.05 part per million for negligible residues of the insecticide phorate (*O,O*-diethyl *S*-(ethylthio)methyl phosphorodithioate) in or on the raw agricultural commodity safflower seed.

Dated: October 22, 1971.

LOWELL E. MILLER,
Acting Deputy Assistant, Administrator for Pesticides Programs.

[FR Doc.71–15983 Filed 11–2–71;8:47 am]

CIBA AGROCHEMICAL CO.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 2F1196) has been filed by Ciba Agrochemical Co., Post Office Box 1090, Vero Beach, FL 32960, proposing establishment of tolerances (21 CFR Part 420) for negligible residues of the herbicide 3-(4-bromo-3-chlorophenyl) - 1 - methoxy-1-methylurea and its metabolites containing the 4-bromo-3-chloroaniline moiety in or on the raw agricultural commodities carrots and wheat grain and straw at 0.2 part per million.

The analytical method proposed in the petition for determining residues of the herbicide is a colorimetric procedure in which the residue is hydrolyzed to 4-bromo-3-chloroaniline. After steam distillation, the aniline is diazotized and coupled with *N*-1-naphthyl-ethylenediamine to produce a colored compound that is measured spectrophotometrically at 550 nanometers.

Dated: October 22, 1971.

LOWELL E. MILLER,
Acting Deputy Assistant, Administrator for Pesticides Programs.

[FR Doc.71–15984 Filed 11–2–71;8:47 am]

STAUFFER CHEMICAL CO.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 2F1194) has been filed by Stauffer Chemical Co., 1200 South 47th Street, Richmond, CA 94804, proposing establishment of tolerances (21 CFR Part 420) for negligible residues of the herbicide 2-(α-naphthoxy)-*N,N*-diethylpropionamide in or on the raw agricultural commodities almonds, citrus fruits, fruiting vegetables, small fruits, and stone fruits at 0.1 part per million.

The analytical method proposed in the petition for determining residues of the herbicide is a gas chromatographic procedure using a conductivity detector for nitrogen compounds.

Dated: October 22, 1971.

LOWELL E. MILLER,
Acting Deputy Assistant, Administrator for Pesticides Programs.

[FR Doc.71–15985 Filed 11–2–71;8:47 am]

UNIROYAL CHEMICAL

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d) (1), 68 Stat. 512; 21 U.S.C. 346a(d) (1)), notice is given that a petition (PP 2F1191) has been filed by Uniroyal Chemical, Division of Uniroyal, Inc., Bethany, Conn. 06525, proposing establishment of tolerances (21 CFR Part 420) for combined negligible residues of the fungicide carboxin (5,6-dihydro-2-methyl-1,4-oxathiin-3-carboxanilide) and its metabolite 5,6-dihydro-3-carboxanilide-2-methyl-1,4-oxathiin-4-oxide (calculated as carboxin) in or on the raw agricultural commodities peanuts and wheat grain at 0.2 part per million.

The analytical method proposed in the petition for determining residues of the fungicide is a technique in which caustic digestion cleaves aniline from the fungicide. The aniline is removed by steam distillation, and an aliquot is injected into a microcoulometric gas chromatograph equipped with a nitrogen detector.

Dated: October 22, 1971.

LOWELL E. MILLER,
Acting Deputy Assistant,
Administrator for Pesticides Programs.

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FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 19168-19170; FCC 71R-317]

COWLES FLORIDA BROADCASTING, INC. AND CENTRAL FLORIDA ENTERPRISES, INC.

Memorandum Opinion and Order Amending Issues

In regard applications of Cowles Florida Broadcasting, Inc. (WESH-TV), Daytona Beach, Fla., for renewal of license, Docket No. 19168, File No. BRCT-354; Cowles Florida Broadcasting, Inc. (WESH-TV), Daytona Beach, Fla., for modification of authorized facilities, Docket No. 19169, File No. BPCT-4158; Central Florida Enterprises, Inc., Daytona Beach, Fla., for a construction permit, Docket No. 19170, File No. BPCT-4346.

1. By an Order, FCC 71-237, 36 F.R. 4901, published March 13, 1971 (adopted March 3, 1971), the Commission designated for consolidated hearing the mutually exclusive applications (a) of Cowles Florida Broadcasting, Inc. (Cowles or WESH-TV) seeking renewal and modification of the facilities of WESH-TV, Channel 2, Daytona Beach, Fla., and of (b) Central Florida Enterprises, Inc. (Central) for a new commercial television broadcast station to operate on this channel at Daytona Beach.[1]

2. As shown by the designation order, there are basic threshold qualification issues directed against Cowles, as well as Central. Among the basic threshold qualification issues directed against Cowles are Issues 2 e and f which read, as follows:

2e. The facts and circumstances surrounding the purported criminal mail fraud by the applicant's parent corporation, Cowles Communications, Inc.

f. In light of the evidence adduced under issues * * * and "e", whether the applicant has the requisite qualifications to be a licensee of the Commission, or whether it should be given a comparative demerit or demerits.[2]

Paragraph 25 of the designation order sets forth brief preamble recitations leading to the Commission's (a) specification of the above-described issues 2 e and f, and (b) the specification at paragraph 29 of the designation order of a condition to be attached to a grant of the Cowles applications should it prevail in this proceeding. The condition reads, as follows:

That the grant of this application is without prejudice to whatever action the Commission may deem appropriate as a result of the pending proceedings involving Cowles Communications, Inc., instituted by the Federal Trade Commission and the State of Wisconsin.

Paragraph 25 of the designation order, in pertinent part, reads as follows:

Cowles' 100 percent parent, Cowles Communications, Inc., is involved in two proceedings raising questions about certain of its activities. One involves a complaint by the State of Wisconsin in which the parent is alleged to have engaged in unfair trade practices and unfair competition in violation of § 100.20(1) of the States statutes. A second proceeding involves a complaint initiated May 29, 1970, by the Federal Trade Commission in which several publishers including Cowles' parent corporation, are alleged to have used deceptive means to get long-term subscription contracts. * * * Accordingly, the grant of either of Cowles' applications will be subject to the condition that it is without prejudice to whatever action we may deem appropriate as a result of those proceedings. In addition, Cowles Communications, Inc., and five of its subsidiaries, paid $50,000 in fines and pleaded no contest to 50 criminal counts of mail fraud. We believe it is appropriate to permit evidence as to this matter to be introduced under the qualifications issue.

3. Presently before the Review Board are three petitions:[3] Two were filed concurrently on March 29, 1971, by Central, and one was filed on April 29, 1971, by the Broadcast Bureau. Central's major petition seeks enlargement and modification of the issues, as follows:

(a) To determine, in light of allegations made to the Commission in Courts located in Wisconsin, Michigan, Pennsylvania, California, and Iowa, and in light of allegations concerning misuse of telephone services in Wisconsin, Pennsylvania, Virginia, Maryland, Tennessee, and the District of Columbia, whether Cowles Communications, Inc., has engaged in willful and concerted attempts to defraud, mislead, and/or harass consumers and subscribers; and, if so, whether Cowles Communications, Inc., possessed the requisite qualifications to hold, control, or retain a substantial interest in a broadcast license authorization;

(b) To determine whether facts developed concerning the foregoing allegations constitute unfair business practices or unfair competition, and if so, whether Cowles Communications, Inc., possesses the requisite character qualifications to hold, control, or retain a substantial interest in a broadcast license authorization.

4. While not specifically stating so, Central's major petition seeking the above-quoted issues, in effect, requests substitution of the requested issues for Issue 2e as specified in the designation order, and deletion of the conditional grant procedure prescribed by paragraph 25 of the designation order. The Bureau's petition is also directed to Issue 2e, but instead of enlargement or modification of the issue, the Bureau seeks merely what it deems to be a correction of Issue 2e for the purpose of rectifying an apparent mistake in the issue. According to the Bureau, the wording of Issue 2e stems from an inaccurate statement of fact in paragraph 25 of the designation order that "Cowles Communications, Inc. [CCI], and five of its subsidiaries paid $50,000 in fines and pleaded no contest to 50 criminal counts of mail fraud." As stated by the Bureau, the criminal information proceeding named only the five wholly owned magazine subsidiaries as defendants. Hence, the Bureau states that it is evident that the Commission mistakenly considered CCI a party to the suit and thus inaccurately specified Issue 2e. Accordingly, the Bureau requests that the issue be modified to read, as follows:

[To determine] the facts and circumstances surrounding the purported criminal mail fraud by five wholly owned subsidiaries of the applicant's parent corporation, Cowles Communications, Inc.

5. Central's other concurrently filed petition seeks the addition[4] of a nondisclosure, a § 1.65 and a § 1.526 issue directed against Cowles primarily because (a) of its alleged failure to notify the Commission of similar litigation in Pennsylvania, California, and Michigan concerning CCI which involved similar activities of its magazine subsidiary company purportedly contrary to State statutes relating to unfair trade practices, anticompetitive practices, and installment sales practices; and (b) of the alleged highly selective and reluctant manner CCI submitted information and copies of these various and sundry complaints to the Commission.

BACKGROUND FACTS

6. All pertinent background facts are required to place the above-described petitions in perspective, and these facts, derived from the Commission's public files and from the pleadings here, are summarized, as follows: Initially, it is noted that the litigation in the State of Wisconsin which is referred to in the conditional grant procedure set forth at paragraph 25 of the designation order was reported in the WESH-TV renewal application. It is further noted that on January 29, 1971, a copy of a Michigan complaint was delivered to the Broadcast Bureau "for the information of the Commission's staff."[5]

7. Thereafter, by letter, dated February 5, 1971, cross-referenced to the subject WESH-TV file, John F. Harding, Executive Vice President and General Counsel of Cowles Communications, Inc., advised the Commission of the (a) criminal information proceeding and a companion civil injunction proceeding; and (b) termination of the criminal proceeding by nolo contendere pleas and fines, of the termination of the companion civil proceeding by a consent decree and injunction. The letter emphasizes (a) that the criminal information proceeding named only the five magazine subsidiaries; (b) that "the entry of a guilty plea in this action would constitute an admission against interest and would be seriously prejudicial in * * * civil litigation;" and (c) that CCI was named as a party to the civil suit, but no charges were made against CCI. It is further stated in the letter that "all of the pleadings referred to have been delivered to the Office of the Deputy Chief, Broadcast Bureau, for reference copies." No copies were filed as an amendment to the WESH-TV application; nor were any copies of these documents or pleadings served upon Central although it was supplied with a copy of the letter. As indicated at paragraph 2, supra, the Commission's designation order refers to the criminal information proceeding, but there is no reference to the companion civil injunction proceeding in which CCI was named as a party.

8. By this letter report of February 5, 1971, a brief reference is made to the fact that "The Federal Trade Commission has issued a complaint, served on January 25, 1971, involving the same general allegations," and that "because of liaison between the FCC and the Federal Trade Commission" CCI assumes that the FCC had been supplied with a copy of the complaint. As further indicated at paragraph 2, supra, the designation order in circumscribing the conditional grant procedure relating to the Federal Trade Commission (FTC) proceeding and the Wisconsin state proceeding makes reference to a complaint of the FTC; however, that reference relates to a prior FTC investigatory proceeding involving several publishers which subsequently and on January 25, 1971, culminated in the FTC complaint directed against CCI. See, paragraph 11, infra.

9. The letter report of February 5, 1971, also advised the Commission that "these companies [the five magazine subsidiaries], as well as the parent company, are presently defendants in civil litigation in several courts * * *," and that a recent proceeding was instituted in the state of Michigan where the Attorney General directed a third-party complaint against four of the magazine subsidiaries "and the Company, [and] accused defendants of, among other acts, deceptive advertising, public nuisance and obtaining money by false pretenses and violation of the Michigan Retail Installment Sales Act." As indicated previously, a copy of the Michigan complaint was delivered to the Broadcast Bureau on January 29, 1971 "for the information of the Commission's staff;" however, no mention is made of the Michigan proceeding in the Commission's designation order.

10. CCI's report of February 5, 1971, was supplemented by a letter, dated February 26, 1971, from Mr. Harding, but was referenced solely to the files of Stations KRNT and KRNT-TV, Des Moines. No copy was cross-referenced or directed to the files of WESH-TV, and no copy was provided to Central, as in the case of the prior February 5 report. This supplementary report, in part, is directed to the Federal Trade Commission proceeding which had only been briefly referred to in the prior report. Initially, it is pointed out that a copy of this complaint was transmitted to the Broadcast Bureau on February 19, 1971, apparently at the request of the Deputy Chief. In addition, this letter reports additional State litigation in the State of California involving similar practices of the five magazine subsidiaries allegedly contrary to State laws. As indicated at paragraph 2, supra, no mention is made of this California litigation in the designation order.

11. With respect to the Federal Trade Commission proceeding this later report traces the prior history of the investigation of the door-to-door magazine subscription activities of four major publishing houses, including CCI, by that administrative agency, and then indicates that the FTC complaints of January 25, 1971, were issued against only two of these four companies, one of which is CCI.[6]

12. This letter report of February 26, 1971, further identifies John F. Harding, the writer of this, as well as the prior, report stating that he is the Executive Vice President-Administration and General Counsel of CCI, and that he is the Secretary and Chief legal officer for every one of CCI's approximately 40 subsidiary companies, including the five magazine subsidiaries; that he was present at all stages of the proceedings, involving the criminal information and companion civil injunction proceeding; that he entered the nolo pleas in the criminal information proceeding; and that as the officer of the five subsidiary companies he signed the consent decree in the civil proceeding.[7]

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[1] As this proceeding involves a renewal application, it was in the designation order made subject to the FCC Policy Statement on Comparative Hearings Involving Regular Renewal Applicants (FCC 70-62, released Jan. 2, 1970). See, paragraphs 20 and 26 of the designation order. By further order, released Aug. 20, 1971, the Commission, in accordance with the decision of the U.S. Court of Appeals for the District of Columbia Circuit in Citizens Communications Center, et al. v. FCC, et al. (Case Nos. 23, 471, decided June 11, 1971), deleted those portions of its prior designation order relating to the Policy Statement, "thus making clear that the Policy Statement is not applicable to this proceeding", and that "the comparative issue as presently framed properly provides for a full comparative hearing."

[2] In passing, the Board notes that the Commission's action of Aug. 18, 1971, granting the application for transfer of control of WREC-TV, Channel 3, Memphis, Tenn., from Cowles Communications, Inc., to the New York Times Co., was made subject to the outcome of a number of legal proceedings involving both parties, including the "State and Federal proceedings against Cowles and some of its subsidiaries, involving their magazine subscription activities * * * being considered in connection with Cowles' renewal applications for Stations WESH-TV, Channel 2, Daytona Beach-Orlando, Fla., and KRNT-AM-FM and KRNT-TV, Channel 8, Des Moines, Iowa." See, Commission Report No. 10069, Broadcast Action, dated Aug. 18, 1971.

[3] A list identifying these documents and their respective interrelated pleadings is set forth in appendix A annexed hereto.

[4] More specifically, the requested issues read as follows:

(a) To determine whether Cowles Florida Broadcasting, Inc., has failed in its responsibility to keep its pending application currently accurate and complete as required by § 1.65 of the Commission's rules;

(b) To determine whether the facts adduced pursuant to the foregoing issue reflect adversely upon the qualifications of Cowles Florida Broadcasting, Inc., to continue to be a Commission licensee;

(c) To determine whether Cowles Florida Broadcasting, Inc., has failed to fully disclose requisite information in its applications; and, if so, to determine the effect thereof upon Cowles Florida Broadcasting, Inc.'s, qualifications to continue to be a Commission licensee;

(d) To determine whether Cowles Florida Broadcasting, Inc., failed to properly maintain its public files pursuant to § 1.526 of the Commission's rules; and, if so, to determine the effect thereof upon Cowles Florida Broadcasting, Inc.'s, qualifications to continue to be a Commission licensee.

[5] See, paragraph 5, opposition of Cowles to Central's petition for a 1.65 issue, etc.

[6] Apparently, one company had entered into a consent decree with the Federal Trade Commission, and the other had ceased to operate and closed its door-to-door subscription activities. See, also, CCI's letter of Aug. 12, 1971, reporting, among other matters, that the five CCI magazine subsidiaries are no longer in business for any practical purpose.

[7] As stated by Central, and as shown by appendix C attached to Central's petition to enlarge issues, Mr. Harding also signed the consent decree as Executive Vice President and General Counsel of CCI.

13. This letter report emphasizes again that:

The criminal information filed by the Department of Justice in the Federal District Court did not make any reference to CCI in any way. Neither did the criminal information make any charges of any kind against Cowles Communications, Inc. It is significant that this criminal information was filed after a very thorough investigation by the Postal Department and a Federal Grand Jury • • • the most thorough investigation has been conducted by the Postal Department and by the Federal Grand Jury, and that neither has taken any action against Cowles Communications, Inc. as a result of these thorough investigations.*

14. This report of February 26 also outlines the position taken by CCI in its negotiations with the FTC, as well as with the various State authorities involved in the State complaints. Succinctly stated, it is CCI's position that it should not be named as a party defendant; that it should not be charged with the practices complained of, and that with respect to the Wisconsin, California, and Michigan litigation CCI is endeavoring to settle this litigation "on the same basis as the permanent injunction" issued by the court in connection with the civil proceeding of the Department of Justice. It is also stated that:

In the case of every one of the State actions referred to, Cowles Communications, Inc., is brought in solely on the contention that it is responsible for each and every act of its subsidiaries. Such a theory proceeds upon an assumption of absolute liability, albeit without any fault or wrongdoing. In one State case, the contention is made that CCI directs policies of a subsidiary corporation and is, therefore, responsible for the practices of the subsidiary • • •. With this contention, Cowles takes issue in each of the States. Charges are leveled that Cowles • • • was fully aware of all practices complained of in certain of the State proceedings. Still, the Federal Postal Authorities and the Federal Grand Jury • • • after a very long (2-year) and thorough investigation, found no basis for including CCI in the criminal information filed by the Department of Justice.[10]

THE PLEADINGS RELATING TO ISSUE 2e AND THE CONDITIONAL GRANT PROCEDURE AS CIRCUMSCRIBED BY THE COMMISSION AT PARAGRAPHS 25 AND 29 OF THE DESIGNATION ORDER

15. As indicated previously, Central's major petition (paragraph 3) and the Bureau's petition (paragraph 4) are both directly or indirectly related to Issue 2e of the designation order. For this reason, the pleadings of the parties present overlapping arguments, and since their respective positions do not emerge with clarity, the Board believes it desirable, first, to summarize the positions of the parties, and, thereafter, to discuss their positions.[11]

16. Briefly described, Central's major petition (paragraph 3) is one seeking substitution of its requested issues for Issue 2e now set forth in the designation order. This petition will hereinafter be referred to as Central's petition for substitution of issues. In support of its request, Central has submitted an elaborate showing, consisting of well over 200 pages of documents, annexed to its pleadings. By these documents, Central traces the troubled history of CCI's five magazine subsidiaries in the myriad Federal and State litigation. On this basis, its proposed substituted issues (paragraph 3) look toward an abbreviated type of evidentiary inquiry, essentially based on allegations of the various and sundry complaints (i.e., the criminal information, the companion civil complaint, etc.), rather than an evidentiary inquiry relating to the facts underlying those allegations. Central's proposed substituted issues also look toward deletion of the conditional grant procedure prescribed by the Commission with respect to the FTC proceeding and the Wisconsin proceeding, and resolution by this Commission of the public policy considerations involved in those, and the other State, proceedings. By its elaborate documentary submissions, Central also traces what it deems to be an alleged misuse by CCI of Wide Area Telephone Service (WATS).[12] Stripped of unessential details, Central's major thrust emphasizes that (a) on the basis of allegations of the criminal information, the subsidiaries were charged with "fraudulent and deceptive magazine subscription activities;" (b) on the basis of the allegations of the companion civil injunction proceeding, such activities "have been employed on a nationwide basis and constitute a widespread public nuisance and have a widespread and injurious effect upon the public welfare;" and (c) the civil injunction suit requested that CCI be required to undertake a surveillance program to insure that the operations of its subsidiaries, franchise dealers, and their employees are consistent with the court order. Central's emphasis with respect to the Federal Trade Commission proceeding relates primarily to allegations in that complaint that "through a variety of means, CCI, directly or indirectly through subsidiaries, controls and furnishes the means, instrumentalities, service, and facilities for, condones, approves, and accepts the pecuniary and other benefits flowing from the acts, practices, and policies which are the subject of the complaint." Central's emphasis with respect to the Wisconsin proceeding is similar and is directed to the alleged "widespread nature of the practices," nationwide in scope, and to the fact that CCI is a party defendant. Central's emphasis is also similar with respect to the litigation in California, Michigan, and Pennsylvania which litigation was not referred to in the Commission's designation order. To illustrate the charges of these various State complaints allegedly linking CCI with the alleged misconduct of its magazine subsidiaries, Central refers (a) to the complaint of the Attorney General of the State of California which states that "at all times mentioned in this complaint, and that for many years past CCI was fully aware of the practices complained of," and that "CCI kept control over, knowledge of, and participated in the illegal activities of dealers by keeping the dealers in debt to CCI;" and (b) to the remarks of the Honorable Fred B. Rooney of Pennsylvania, as set forth in copies of the Congressional Record annexed to Central's petition whereby "Rooney blames corporate pressures for high volume sales as the root cause of magazine sales frauds," and challenges Cowles claim that his "charges" are unfounded in light of a Pennsylvania court proceeding.

17. Finally, by way of its comments to Cowles' motion of strike,[13] Central submitted a copy of the transcript of all known available materials of public record obtained from the clerk of court relating to the grand jury investigation which preceded the criminal information proceeding. These materials are captioned "In the United States District Court for the Southern District of Iowa in the Matter of Grand Jury Investigation of Cowles Communications, Inc., Miscellaneous 1-39, 1970," and constitute the ancillary court proceedings incident to the grand jury investigation. As indicated by the caption, the grand jury investigation relates to CCI, and this transcript at page 121 explains the scope of the investigation, as follows:

We have pending before us in the southern district of Iowa, before the grand jury, an investigation involving the magazine industry in general, involving the sale of magazines—what is known as P.D.S.—Paid During Service. While it is true that Cowles Communications and its five subsidiaries are before the grand jury, it is not our intention to limit it to them. It will go to the industry practices. And there will be witnesses in that respect.

• • • And it so happens that Cowles has 50 percent of all the P.D.S. service in America, or did have at the time they were under investigation. So that would logically be the first starter.

Obviously, the prime purpose of the submission of these ancillary court proceedings incident to the grand jury investigation is to establish that CCI was named as a party, and participated, as a party, in the grand jury investigation.

18. On the basis of its lengthy and elaborate submissions, Central essentially makes three main lines of argument. First, it is contended that in preparing the initial order of designation (paragraph 2 above), the Commission did not have available the facts now presented by it. In this connection, Central refers to the order of designation, and to the fact that the order on its face makes no reference to the civil complaint of the Department of Justice, or to the agreement of CCI, as well as the five subsidiaries, to abide by the terms of a decree of permanent injunction. Central also refers to the fact that the Commission's order does not mention litigation involving similar conduct of the five magazine subsidiaries in the States of California, Pennsylvania, or Michigan, and that the order took no cognizance of matters of record concerning alleged abuses of Wide Area Telephone Service lines (WATS) by CCI or its employees or agents in furtherance of what Central describes as a carefully orchestrated policy to defraud, harass, and mislead consumers and/or magazine dealers and employees, not to mention unfair competition. Secondly, Central contends that its carefully documented submissions constitute a conclusive showing that the fraudulent and deceptive practices of CCI are nationwide in scope. On the basis of this hypothesis that its documentary submissions constitute a conclusive showing, Central then argues certain propositions which, although stated unclearly, resolve themselves into a contention that on the basis of the nolo pleas, maximum fines, and consent judgment in the criminal information and companion civil proceeding, the magazine subsidiaries should, in effect, be deemed guilty of misconduct, and that CCI should, in effect, be deemed responsible for such misconduct. Hence, the issues requested by Central look toward an evidentiary showing grounded, in most part, upon Central's documentary submissions here in connection with its pleadings. Insofar as those issues look toward deletion of the conditional grant procedure prescribed by paragraphs 25 and 29 of the Commission's designation order with respect to the FTC and Wisconsin State proceeding, Central states that an evidentiary inquiry is required on the basis of the Commission's regulatory concepts in general, and the application of these concepts to this proceeding in particular.

19. Thirdly, Central asserts, citing Atlantic Broadcasting Co., 5 FCC 2d 717, 8 RR 2d 991 (1966) that "it is axiomatic that the Review Board may reach a different conclusion concerning the issues which must be scrutinized during a hearing proceeding when it is established that the Commission has not fully considered the matter in its designation order."

20. The Bureau opposes Central's request for substitution of issues, and Central, in turn, opposes the Bureau's request for correction of Issue 2e (paragraph 4). It is the Bureau's position that the few factual errors in the Commission's designation order should be corrected by the Board, and that the face of the designation order (paragraph 2, supra) demonstrates that the Commission was aware of and considered the various and sundry types of litigation involving the same or similar activities of CCI's magazine subsidiaries, and that the Commission fashioned the administrative procedures for handling the subject matter. The Bureau asserts that the Review Board is constrained to adopt the same procedures insofar as additional civil litigation is concerned which is inadvertently omitted from the designation order or which is reported by Central. Accordingly, the Bureau requests that (a) with respect to the California, Michigan, and Pennsylvania litigation, the Board incorporate such litigation within the conditional grant procedure already specified by the Commission; and (b) with respect to Issue 2e relating to the criminal information proceeding, the Board, in effect, merely substitute the names of the five magazine subsidiaries for that of CCI now specified in Issue 2e in order to correct the mistake of fact. In support of this latter request, the Bureau states:

The change will not, in the Bureau's view, in any way change the import of the issue since the activities of wholly owned subsidiaries are directly attributable to the parent corporation. The proposed change will merely correct a mistake in fact without altering the right of any party to argue the legal ramifications attendant to the alleged criminal activities.

21. Despite this unequivocal position as stated by the Bureau above, it is noted that in a subsequently filed reply pleading the Bureau apparently modified its initial position by arguing that "one of the critical links which must be forged at the hearing if Cowles Florida is to be faulted is attribution to Cowles Communications, Inc., of the activities of its five subsidiaries which were charged with criminal conduct."[14]

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* According to 41 Am Jur 2d, Indictments § 1, an indictment is defined as a "written accusation or charge of crime, against one or more persons, presented upon oath by a grand jury." An information is defined as "a written accusation of crime preferred by a public prosecuting officer without the intervention of grand jury." The thrust of CCI's position, as stated above as well as in the pleadings of Cowles discussed infra, seeks favorable inferences from the fact that there was no indictment, that CCI was not named in the criminal information, and that the Department of Justice proceeded by way of a criminal information, dropping CCI which was the only party named in the grand jury investigation. (See, paragraph 17, infra.) However, there are no other facts, let alone legal principles, cited or relied upon by CCI to support favorable inferences. For example, there are no facts whatsoever submitted by CCI indicating (a) whether the grand jury refused to return an indictment and notified the court, and whether the court discharged the grand jury, or (b) whether no action was taken by the grand jury with respect to the return of a bill of indictment, and whether the term of the grand jury was permitted to lapse. There is also no indication whether CCI, or its five magazine subsidiaries, waived in open court, the return of an indictment as provided for by rule 7(b) of the Federal Rules of Criminal Procedure. In short, there are no facts submitted of what did actually occur. In passing, it may be noted that a Memorandum in Support of Affidavits and Exhibits filed by the Attorney General of Wisconsin in the Wisconsin litigation, submitted by Central as appendix E to its petition discussed infra, reads, in part, as follows: "Early contacts with the Department of Justice [of Wisconsin] were all made by Cowles' attorney • • •. Discussion developed to the point that the Cowles' attorney informed us of how the subsidiaries • • • and a franchise dealer • • • would settle with the Department of Justice. Such a procedure for settlement is not a unique [one] to this case and in fact was used in a similar manner with the Federal Trade Commission."

[9] See note 8, supra.

[10] See note 8, supra.

[11] Similar pleadings are before the Commission in connection with Central's petition seeking reconsideration by the Commission of Issue 2c and substitution of Central's requested Issues (a) and (b) as set forth in para. 3, supra.

[12] Paragraph 11 of the civil complaint which terminated in the injunction and consent decree, reads, as follows: "The said activities have been employed on a nationwide basis and constitute a widespread public nuisance and have a widespread and injurious effect on the public welfare. The United States mails and interstate wire facilities in the United States were used by the defendants in said fraudulent sales and collection activities." (Emphasis supplied.) In support of its allegations with respect to the alleged misuse of Wide Area Telephone Service (WATS) by CCI and its magazine subsidiaries, Central submitted in the appendices attached to its petition the following documents: Copies of a variety of complaints, letters, and correspondence concerning alleged telephone harassment and legal collection methods, and of an exchange of correspondence by the Common Carrier Bureau of this Commission with the Wisconsin Telephone Co., the American Telephone and Telegraph Co., the Chesapeake and Potomac Telephone Co. See appendix J. Central also submitted as appendix K, copies of the Commission's Public Notice (FCC 70-609, dated June 10, 1970) entitled "Use of Telephone for Debt Collection Purposes," and a staff memorandum, dated November 16, 1970, entitled "Memorandum on Use of Telephone for Debt Collection."

[13] Since the documents which Central provided were actual copies of the court's judgment relating to the criminal information proceeding, we find no adequate basis for either striking Central's comments, or the documents submitted with such pleadings. In this connection, the Board notes, in passing, that after Central filed a copy of the court's judgment, CCI obtained a Nunc Pro Tunc order of the court deleting that portion of the judgment which had previously read, as follows: "It is adjudged that the defendant is guilty as charged and convicted." As corrected, the decree of the court with respect to each of the five magazine subsidiaries, according to the Nunc Pro Tunc order remains "in full force and effect," and, in pertinent part, reads, as follows:

It is adjudged that the defendant upon his plea of nolo contendere to counts • • • have been convicted of the offense of violating title 18, section 1341, United States Code • • •.

[14] It is to be further noted, as brought to the Board's attention by Central, that the Bureau supported Central's request for production of documents relating to the criminal information proceeding, stating that the relevance of the requested documents to Issue 2(e) is apparent on their face. See, Memorandum Opinion and Order, FCC 71M-724, issued May 7, 1971, released May 10, 1971, by Chester F. Naumowicz, Jr., Hearing Examiner. In the memorandum opinion and order denying the request for production of documents, the Hearing Examiner indicates that with respect to Issue 2c:

• • • There is a dispute as to the scope of the issue. On the one hand, it may be construed as a directive to take evidence as to the fact that the mail fraud information was filed, the allegations of the information, the plea thereto, and the action thereon. On the other hand, it may be construed as a mandate to take the mail fraud cases to trial in this proceeding. Plainly, Central Florida believes the latter to be the Commission's meaning. While such a purpose is undoubtedly within the Commission's authority the Examiner is unable to agree that such was its intention • • •.

22. As indicated above, Central opposes the Bureau's request for correction of Issue 2e, and its variable positions here are opposite, to some extent at least, to its basic position as stated in its petition to substitute issues (paragraph 18, supra). On the one hand, Central states that "the mail fraud convictions are attributable to CCI, as parent company of the five subsidiaries," and that "the Commission has so indicated in framing Issue 2e." Central further states that "it may be reasonably construed that no change in the issue is necessarily warranted and the Commission's judgment, following Atlantic, supra, should be followed." On the other hand, Central asserts that one of the pivotal questions before the Board is to what extent the fifty counts of mail fraud are attributable to CCI; however, it also urges the Board to declare that CCI is responsible. In this connection, Central points out, as it did previously with respect to its motion to substitute issues (paragraph 18), that a plea of nolo contendere does not admit the allegations of the charge but merely says that the defendant does not choose to defend; [15] and, again, argues, in effect, that a legal conclusion relating to the misconduct of the subsidiaries could be predicated upon the fact that the five magazine subsidaries were fined maximum permissible fines; that the Court adjudged that the defendants upon their pleas of nolo contendere have "been convicted;" and that CCI in no pleading before this Commission has denied any of the charges relating to its magazines subsidiaries. On this hypothesis, Central argues that under the respondent superior doctrine this misconduct is attributable to CCI as the parent of these wholly owned subsidiaries.

23. Cowles opposes both the Bureau's request to correct Issue 2e, and Central's petition for substitution of issues. Insofar as the Bureau's request for correction is concerned, the thrust of Cowles' position is that the Review Board does not have the power to change the issue as requested because "the Commission has given full consideration to evidence before it, and there is no further or conflicting evidence on the matters." Following Atlantic, supra, Cowles contends that the Board is "lacking authority to substitute an entirely new issue." According to Cowles, the change in Issue 2e sought by the Bureau constitutes an entirely different issue because the Commission had evidence before it that CCI was not charged with any improper conduct in either the criminal information or companion civil injunction proceedings, and that CCI was not named as a party in the criminal information proceeding. Hence, in Cowles view, "it is, therefore, significant that the issue inquires only into purported criminal mail fraud of the applicant's parent corporation * * *."

[15] For a more detailed discussion of the legal implications of a plea of nolo contendere, see p. 5 of Central's supplement to its comments on broadcast bureau's motion to change issues, or p. 7 of Central's comments to Cowles' motion to strike.

24. Cowles also (a) refers to the Bureau's statement that "The change will not, in the Bureau's view, in any way change the import of the issue since the activities of wholly owned subsidiaries are directly attributable to the parent corporation," and (b) emphasizes that "the Commission's order nowhere discusses much less suggests this legal conclusion;" and (c) contends that the position urged by the Bureau "would of necessity require a finding that purported activities of wholly owned nonbroadcast subsidiaries are in some manner relevant to the operations or policies of an entirely separate broadcast subsidiary, without any inquiry into the activities or relationship of the parent." Stated another way, Cowles reads the issue, as now framed, to be one designed only to discover in the hearing if CCI, and, in turn, Cowles Florida, can legally, or by implication, be deemed indirectly responsible for the purported criminal activities of five of CCI's magazine subsidiaries. Challenging the inferences indulged in by Central relating to the nolo pleas, the grand jury proceeding, etc., Cowles states "that CCI would have a significant interest in the course of the grand jury investigation is to state the obvious," and that, contrary to the presumption urged by Central that the criminal information and civil proceeding prove attribution of improper conduct to CCI, the undisputed facts, according to Cowles, "are that the U.S. Attorney, the Department of Justice and the Court found no basis whatever for any such attribution." [16] In sum, Cowles states that none of the documents or pleadings placed before the Commission by Cowles Florida, CCI or Central permit, much less require, any finding of criminal misconduct by, or attributable to, Cowles, as a separate broadcast subsidiary, and that, absent such a finding, Central's recitation of permissible inferences from entry of a nolo contendere plea is inappropriate and superfluous.

25. Cowles' opposition to Central's petition for substitution of the scope of Issue 2e reiterates, in many respects, the position of CCI set forth in the February 26 report to the Commission (paragraphs 10 to 14, supra), as well as in its opposition to the Bureau's petition. In short, it again points out that CCI is not named as a defendant in the criminal information proceeding, that the grand jury has never returned an indictment against CCI,[17] and that the Department of Justice proceeded by information [18] only against five wholly owned "paid during service" (PDS) subsidiaries of CCI. Cowles also emphasizes again that "it is clear that the Department of Justice did not find any unlawful activity by CCI." With respect to the companion civil injunction proceeding, the Federal Trade Commission complaint, the Wisconsin complaint, and the other state complaints, the same information as set forth in CCI's February 26 report (paragraphs 10 to 14, supra) is largely restated.

26. It is Cowles' unequivocal position that (a) the conduct complained of is to date only unproven allegations; (b) none of the litigation involves in any way the licensee and the applicant here; (c) none of the allegations concern matters which, if proven, would reflect adversely on the licensee's qualifications; and (d) the Commission could consider the ramifications of proven unlawful conduct by the parent and subsidiaries on the operation of the broadcast subsidiary involved herein, but only upon resolution of the suits now pending before the Federal Trade Commission and the various State courts, and then only upon a finding of conduct related and relevant to the broadcast operations.

27. As to the alleged misuse of WATS (note 11, supra), Cowles asserts that these complaints concern companies with no direct association with CCI or its wholly owned subsidiaries, and that the practices complained of were engaged in by independent franchise dealers. Pointing out that the sole complaint relating to CCI is made by Hyatt, who was employed by Home Readers Service, Inc. of Memphis (a CCI subsidiary), Cowles states that Hyatt's employment was terminated by the subsidiary for using improper collection methods over the telephone and that his statement was simply a self-serving accusation of a disgruntled employee. Further, Cowles states that to its knowledge there have been no formal complaints filed with the Commission; neither has any fine been levied under section 223 [19] of the Communications Act of 1934, as amended. Instead, it asserts that the complaints have been resolved without action against CCI or any of the wholly owned PDS subsidiaries.

Discussion and Conclusions Relating to Central's Request for Substituted Issues

28. We now come to an analysis of Central's requested substituted issues set forth at paragraph 3, supra. As shown by its requested issue (a), Central, in

[16] See note 6, supra.
[17] See note 8, supra.
[18] See note 6, supra.

[19] Section 223 reads, as follows:
Whoever—
(1) in the District of Columbia or in interstate or foreign communication by means of telephone—
(A) makes any comment, request, suggestion or proposal which is obscene, lewd, lascivious, filthy, or indecent;
(B) makes a telephone call, whether or not conversation ensues, without disclosing his identity and with intent to annoy, abuse, threaten, or harass any person at the called number;
(C) makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number; or
(D) makes repeated telephone calls during which conversation ensues, solely to harass any person at the called number; or
(2) knowingly permits any telephone under his control to be used for any purpose prohibited by this section, shall be fined not more than $500 or imprisoned not more than 6 months, or both.

effect, includes within its scope all of the "allegations" set forth in the complaints relating to the multifarious litigation in the various State courts, the FTC proceeding, as well as the "allegations" of the criminal information and civil injunction complaint filed in the Iowa court. Thereafter, Central proposes a standard of conduct which it describes as "attempts to defraud" with respect to the criminal information and companion civil proceeding, whereas the criminal information is grounded upon charges of alleged mail fraud, and the companion civil proceeding is grounded upon allegations of nationwide fraudulent and deceptive practices. Secondly, Central seeks a change of the evidentiary standard of hard proven facts to constitute substantial evidence where, as here, the criminal information and civil injunction proceeding have been terminated by nolo pleas, maximum fines, a judgment of conviction, and a consent decree, without any exploration in this proceeding of (a) the facts underlying the charges and/or allegations of alleged mail fraud, and nationwide fraudulent and deceptive practices, (b) relevant facts relating to the relationship of CCI to its five magazine subsidiaries, and (c) relevant legal principles [20] with respect to the question of the extent, if any, of CCI's responsibility for the activities of its five wholly owned magazine subsidiaries. Thirdly, by issues (a) and (b), Central seeks a deletion of the conditional grant procedure circumscribed by the Commission with respect to the FTC and various State proceedings, the inclusion of these matters in this proceeding, and a determination by this Commission as to whether the conduct complained of constitutes not only "attempts to defraud," but also unfair trade practices and anti-competitive practices.

29. Suffice it to say that Central's proposal here extends far beyond this Board's jurisdiction, raising new policies and new procedures, relating to the implementation by the Commission of its Report on Uniform Policy As to Violation by Applicants of Laws of The United States (Docket No. 9572), 1 RR 91: 495 (1951), quite apart from the serious questions presented relating to well established legal principles governing due process and substantial evidence requirements. Without elaborating on Central's proposed standard of conduct, viz. "attempts to defraud," we merely note that Central pleadings are devoid of any discussion whatsoever concerning the origin, genesis, or even its own rationale pertaining to its proposed standard of conduct, other than a brief reference to the fact that in its policy statement, supra, the Commission evinced concern with conduct underlying the questionable activities of an applicant, and not with the question of whether such conduct is unlawful, per se. As indicated above, Central's proposed standard of conduct relates to the criminal information and companion civil injunction proceedings where the former is grounded on alleged mail fraud, and the latter is grounded upon allegations of nationwide fraudulent and deceptive practices.

30. With respect to Central's proposed change in the standard of proof, Central proposes, in effect, submission into evidence (a) the criminal information and the various complaints; (b) the nolo pleas; (c) the maximum fines; (d) the judgment of "conviction" in the criminal information case (see note 13, supra); and (e) the consent judgment in the companion civil injunction case, in lieu of an evidentiary hearing on the basic facts underlying the criminal information and companion civil injunction complaint. Central's methodology is not grounded upon any recognized evidentiary practice, or generally accepted inferences or assumptions, and Central cites no principles of law permitting the existence of nolo pleas, maximum fines, a consent judgment, etc., to be translated into substantial evidence sufficient to support a legal conclusion of misconduct in this proceeding. For it is clear, as indeed, admitted by Central, that nolo pleas, and consent decrees constitute proof of no fact, no any admission. Under these circumstances, the Commission has no adjudicated findings of the court with respect to the alleged misconduct. Westinghouse Radio Stations, Inc., 10 RR 878, 964–965. In this connection, we find significant the Commission's memorandum opinion and order (FCC 71–970) in re RKO General, released September 20, 1971, where it rejects contentions similar to those urged here and, in doing so, states that resolution of the proceedings must be based on records developed in the adjudicatory hearings before the Commission.

31. In reaching these conclusions rejecting Central's requested issue (a), the Board does not intend to imply that Central's proposal here for a change in the standard of proof has no appeal or is wholly lacking in merit. For it is undebatable that a protracted trial of the underlying facts relating to alleged antitrust violations, as in RKO, supra, or of the underlying facts of alleged mail fraud, and/or nationwide fraudulent and deceptive practices, as in the instant case, does frustrate the public interest in the Commission's orderly administration of its hearing processes which should look toward and be geared to expeditious resolution of hearings, and, particularly, such hearings relating to an application for renewal of license. However, we believe that the drastic modification of policies, procedures, and practices which Central seeks here are better and more fairly examined and considered in the broader context of a rulemaking proceeding, where the inquiry can be thorough and where all interested parties can participate. Central has not sought such a rulemaking proceeding.

32. For all of the reasons set forth above, we will deny Central's request for its issue (a) (paragraph 3). We will, likewise, deny its request for issue (b) (paragraph 3), which primarily involves deletion of the conditional grant procedure circumscribed by the Commission with respect to the FTC proceeding and the Wisconsin State proceeding, and the inclusion of these matters, and the other State proceedings, into the subject proceeding. Here, we agree with the Broadcast Bureau that the Commission has fashioned the administrative procedure to be used with respect to determinations as to whether such conduct constitutes unfair trade practices or anticompetitive practices under the various State and Federal statutes. In this connection, we note again with significance that essentially the same conduct is involved in all of these multifarious proceedings, and that this Commission's protection of the public interest insofar as its licensing functions are concerned, does not require at this time a full sweep of such conduct into all various State and Federal categories of public policy. Rather, on the basis of the inquiry circumscribed by Issue 2e, as modified herein and as geared to the facts underlying the criminal information and companion civil proceeding, sufficient scope is provided in the

[20] There is no discussion by the parties of these legal principles, other than Central's brief reference, without explanation, to the respondeat superior doctrine. In this connection, it is to be noted that although Cowles briefly indicates that there can be no direct attribution of the alleged misconduct of the subsidiaries, without an inquiry into the activities or relationshp of the parent, Cowles did not proffer any facts relating to the structure and relationship of CCI and its subsidiaries, etc. For a discussion of some of the legal principles involved, see 18 Am Jur 2d, Corporations § 716 and 719; and Carl Zeiss Stiftung v. V.E.B. Carl Zeiss, Jena, 298 F. Supp. 1309 (1969), where the court, citing National Dairy Products Corporation v. U.S., 250 F. 2d 321, 8th Circuit, C.C.A. (1965), states: "Although the existence of a parent-subsidiary relationship is entitled to considerable great weight in determining whether the parent is legally responsible for antitrust misconduct of its subsidiary, the separate corporate entities will not be disregarded unless it appears that the subsidiary is independent of the parent in form only." In the Zeiss case a sufficient degree of dominion and control required to disregard the separate corporate entities was not shown even though it was established there had been some common board memberships, and subsidiaries did report results of operations. However, it was also established that separate books and records were maintained by separate employees, separate financial statements were prepared, and separate tax returns were filed. Under these circumstances, the Court held there was no proof of control.

It is to be noted that CCI does not stand before this Commission as a mere parent of its broadcast subsidiary, although this fact is not mentioned either by Central or by Cowles. CCI is a broadcast licensee of KRNT–TV and KRNT (AM–FM), Des Moines, Iowa. See, also, note 3, supra, relating to its prior ownership, albeit through a separate subsidiary, Cowles Broadcasting Service, Inc., of WREC–TV, Memphis, Tenn., and the conditions attached to a grant of an application for transfer of control to the New York Times Co.

Thus, while the principles of the Zeiss case are relevant to this proceeding, they may not be determinative of the question of CCI's responsibility in the ultimate disposition of this case.

subject adjudicatory proceeding to assure no risks to the public interest, and to Central's rights as a comparative applicant. Moreover, we note that although Central recognized that its request for deletion of the conditional grant procedure must be evaluated against "a backdrop of (a) the Commission's regulatory concepts in general, and (b) the application of these concepts to this proceeding in particular," Central, nevertheless, has made no showing here that the structuring of the Commission's inquiry and the conditional grant procedure is deficient from the standpoint of the overall public interest or of its rights to a full and fair hearing on the comparative issue. Nor does Central contend that the fashioning of the Commission's concern with these matters as exemplified by Issue 2e and the conditional grant procedure does not comport with Commission policy of abstaining from interpreting alleged violations of State or Federal law where the appropriate authorities have not yet acted.

DISCUSSION AND CONCLUSIONS RELATING TO CORRECTIONS OF THE COMMISSION'S DESIGNATION ORDER

33. The Board will grant, in substance, the Bureau's request for correction of Issue 2e on the basis of the Bureau's modified position (paragraph 21) that one of the critical links which must be forged at the hearing if Cowles is to be faulted is attribution to CCI of the activities of its five subsidiaries in the criminal information case. As indicated by our discussion in paragraphs 28–30, supra, it is the Board's view that the Commission, in so many words, viz. "facts and circumstances" as set forth in Issue 2e, is requiring an all inclusive factual showing relating to the underlying facts incident to the allegations of the criminal information, as well as the companion civil injunction case.

34. Similarly, we believe the question relating to the extent, if any, of CCI's participation and/or responsibility for the alleged misconduct of its five subsidiaries, is subsumed within the ambit of Issue 2e, if due regard is accorded to the troubled history of CCI and its magazine subsidiaries. As indicated by note 20, supra, this question resolves itself into a basic one relating to "control," which CCI has challenged in the Federal Trade Commission proceeding, as well as in the multifarious State court proceedings, and which it now challenges before this Commission. Moreover, contrary to Cowles' position (paragraph 25), there can be no resolution of this question on the basis of its assertions concerning the grand jury and the Department of Justice, and the Commission did not, in its designation order, either accept or reject CCI's assertions as set forth in its letter of February 26, 1971, relating to the implied resolution of this question either by the grand jury or by the Department of Justice. In any event, we believe that in the absence of a reasoned analysis in the designation order as contemplated in Atlantic, supra, we are obligated to rule on this matter, and on the basis of the pleadings before us a threshold showing has been made to warrant an issue to permit the adduction of evidence to determine the extent, if any, of CCI's participation and/or responsibility for the activities of its magazine subsidiaries.

35. We are also constrained to point out that with the troubled history of these magazine subsidiaries in mind, the problems to which the multiple pleadings of the parties have been directed ought not to elude clarity to the extent presented by their diametrical opposite views or their variable, if not internally inconsistent, positions. Surely, with this history in mind, there is no reason for the parties (a) to refuse to accept the fact that the Commission in its designation order fashioned and specified an inquiry relating to the alleged mail fraud by specifying Issue 2e evincing its concern with the subject matter albeit on the basis of an inaccurate and incomplete description of the criminal information and companion civil proceeding; (b) to refuse to recognize the state of affairs as unfolded with respect to the criminal information and companion civil proceeding; and (c) to take positions which are essentially based upon the literal language of Issue 2e without regard to all, and not merely some, of the facts which gave rise to the issue. For it is obvious that literalness of meaning affixed to particular words, without regard to all antecedent facts, sheds no light on the problem. Stated another way, the Board does not agree that the essentially literal reading of Issue 2e by the parties compels the meaning which they give to it. More specifically, we find no merit in the Bureau's initial position (paragraph 20) that substitution of the names of the five magazine subsidiaries, standing alone, would correct the problems with the issue which stem not only from an inaccurate description of the criminal information proceeding but, in addition, from the fact that the companion civil injunction case is not mentioned; nor do we agree with the Bureau's initially stated position that the activities of the wholly owned subsidiaries are directly attributable to the parent corporation without an evidentiary exploration of relevant facts. (See, note 20, supra.) Similarly, we find no merit in Central's contention that the Commission in wording the issue as it did and by including CCI only, reached an implicit conclusion attributing direct responsibility to CCI. We also disagree with Cowles that the Commission deliberately named CCI only, thereby, in effect, holding that CCI is not directly responsible, and leaving it to the parties to argue the legal ramifications of indirect responsibility. (See, note 20, supra.)

36. As pointed out above, it is our view that the very purpose and direction of the issue, in light of the nature of the termination of the criminal information and companion civil proceedings, is to require full exploration of all "facts and circumstances" (a) relating to the facts underlying the allegations of the criminal and companion civil proceedings and (b) relating to the question of the extent, if any, of CCI's participation and/or responsibility for the alleged activities of its magazine subsidiaries. In sum, the Board will correct and/or modify Issue 2e to comport with our discussion above. However, the scope of this issue, insofar as the alleged misuse of WATS is concerned, will depend on whether this matter is deemed relevant to the allegations of the civil injunction case (see, note 12, supra), and this is a matter for the Hearing Examiner's determination. Insofar as the pending proceedings in Michigan, California, and Pennsylvania are concerned, the Board will include these matters as part of the condition found in paragraph 29 of the designation order. With respect to the two proceedings now pending in Pennsylvania, only one is to be made part of the condition. That case involves a suit brought by a CCI subsidiary (Mutual Readers League, Inc.) against one of its franchised dealers in which the State of Pennsylvania intervened as amicus curiae thereby making the subsidiary a third party defendant. A permanent injunction was then issued against both parties and the case is now on appeal. Since, from the pleadings, it did involve a CCI subsidiary, we will add this proceeding to the condition. The other Pennsylvania case will not be included; as Cowles explains, this latter suit is in no way related to a CCI subsidiary.

OTHER MATTERS

37. We turn to Central's petition to add a § 1.65 issue, etc. (paragraph 5, supra) directed against Cowles. Without reciting the details of the pleadings, it is evident on the basis of the facts set forth in paragraphs 6 to 14, supra, that Cowles did not submit appropriate amendments to either Cowles' application for renewal of WESH–TV's license or to Cowles' application for modification of the authorized facilities of WESH–TV. It is also evident that its informal filings, as well as its selective manner of supplying copies of documents "for the information of the Commission's staff," may reasonably account, to some extent at least, for the patent errors in the designation order. As indicated at paragraph 10, supra, CCI's letter of February 26, 1971, was not cross-referenced to the subject applications; nor was it cross-referenced to the WESH–TV public license files, and, as stated by Central, it was filed only 3 work days prior to the Commission's consideration of its designation order. Cowles' reasons for its chosen course are based on its position that the activities of CCI's wholly owned magazine subsidiaries are not relevant to "license renewal proceedings involving the parent corporation or unrelated broadcast subsidiaries."

38. Clearly, in our view, the applications forms, the Commission's report and order in (Docket 14867), Reporting of Changed Circumstances, 29 F.R. 15516, 3 RR 2d 1622 (1964), and the Commission's Report on Uniform Policy As To

Violation by Applications of Laws of the United States, supra, compel the filing of this type of information as an amendment, including copies of all relevant documents, to keep pending applications up-to-date. We, therefore, deem Cowles' reasons for its informal and selective submissions wholly lacking in merit. In addition, it is our view that elementary principles of fairness would require Cowles to serve such amendments and related documents on Central, and that it should have, in any event, served a copy of its February 26th letter, and related documents, on Central. Nevertheless, the fact remains that Cowles did file its informal letter reports of February 5 and 26, 1971, respectively, reporting the substance of this multifarious litigation to the Commission, and the face of the Commission's designation order reflects this reported information. Thus, in light of the multifaceted and complex issues already in this proceeding, we will not add the issues requested by Central because they are not warranted, even though the Board cannot commend Cowles' method of informing the Commission of the multifarious litigation as conducive to the orderly and efficient conduct of the Commission's business. Moreover, it is our opinion that Cowles does not stand alone in this respect, because Central's erroneous references in its petition to substitute issues (paragraph 18) must be viewed in similar vein. There, for example, Central erroneously stated that a press release by the Department of Justice announced that the Justice Department had filed a 50-count criminal indictment against CCI. Surely, in light of Central's arguments in that petition and its elaborate submissions, such erroneous references as these cannot be ascribed to mere typographical errors.

39. One further matter remains for discussion. While reviewing the pleadings, the Board has become concerned with the fact that in paragraph 1 of its opposition to Central's petition to substitute issues, Cowles does not seem to deem CCI as a party to this proceeding for purposes of carrying the burden of proof or burden of proceeding with evidence, whereas it did not appear to challenge the fact that CCI is a party to this proceeding, as its parent company, when it urged its position that (a) by the inclusion of CCI only in Issue 2e as specified by the Commission, the Commission deliberately determined that CCI had no direct responsibility, and (b) Issue 2e relates solely to the legal ramifications of CCI's indirect responsibility. Although we have rejected Cowles' position, there is no doubt, in our view, that Issue 2e, as specified by the Commission and as modified by the Board, requires (a) CCI, as the parent of Cowles and as the licensee of KRNT–TV–AM–FM Des Moines, Iowa, to come forward with evidence, particularly, in relation to the structure, relationship, and activities of CCI in regard to its magazine subsidiaries, as well as its broadcast properties,[1] and (b) Cowles to carry, under section 309 of the Communications Act, the burden of proof with respect to Issue 2e.

40. Accordingly, the Board is of the opinion that to be conducive to the proper dispatch of business and the ends of justice, the designation order should at this time, on the Board's own motion, be amended to include CCI as a party to this proceeding, and to prescribe (a) that the burden of proof with respect to Issue 2e is on Cowles; (b) that the burden of proceeding with the evidence is on CCI and Cowles, insofar as Issue 2e relates to CCI's structure, relationship, and activities in connection with its magazine subsidiaries, and its broadcast properties, and to any mitigating facts which CCI may deem relevant to this issue; and (c) that the burden of proceeding with evidence relating to the facts underlying the allegations of the criminal information and companion civil injunction complaints is on Central and the Commission's Broadcast Bureau.

41. *Accordingly, it is ordered,* That the petition of Central Florida Enterprises, Inc. to enlarge and modify issues concerning Cowles Communications, Inc.'s subsidiary, Cowles Florida Broadcasting, Inc., filed on March 29, 1971, is denied; and the Broadcast Bureau's motion to change issues, filed April 29, 1971, is granted, to the extent indicated herein, and is denied in all other respects; and

42. *It is further ordered,* That Issue (2)e, as specified in the designation order, is corrected and/or amended to read as follows:

The facts and circumstances (i) surrounding the criminal information proceeding relating to purported mail fraud by five wholly owned P.D.S. magazine subsidiaries of the applicant's parent corporation, Cowles Communications, Inc., (ii) surrounding the companion civil proceeding relating to purported nationwide fraudulent and deceptive practices by these same P.D.S. magazine subsidiaries, and (iii) relating to the extent, if any, of the participation and/or responsibility of Cowles Communications, Inc., for the activities of its five P.D.S. magazine subsidiaries.

43. *It is further ordered,* That the condition specified by the Commission in paragraph 29 of the designation order herein is corrected and/or amended to read as follows:

That the grant of this application is without prejudice to whatever action the Commission may deem appropriate as a result of the pending proceedings involving Cowles Communications, Inc., instituted by the Federal Trade Commission, the States of Wisconsin, California, and Michigan, and the Pennsylvania litigation involving Mutual Readers League, Inc., a subsidiary of Cowles Communications, Inc.

44. *It is further ordered,* That Cowles Communications, Inc., is made a party to this proceeding with regard to Issue 2(e); and

45. *It is further ordered,* That the petition of Central Florida Enterprises, Inc., to add full disclosure, § 1.65, and failure to maintain proper public files issues against Cowles Florida Broadcasting, Inc. (WESH–TV), filed March 29, 1971; and the motion to strike supplement to Central's comments on motion to change the issue, filed on June 1, 1971, by Cowles Florida Broadcasting Service, Inc., are denied.

Adopted: October 20, 1971.

Released: October 26, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[2]

[SEAL] BEN F. WAPLE,
Secretary.

APPENDIX A

I. (1) Petition to enlarge and modify issues, filed March 29, 1971, by Central Florida Enterprises, Inc. (Central).
(2) Opposition, filed April 22, 1971, by Cowles Florida Broadcasting, Inc. (Cowles).
(3) Comments, filed April 22, 1971, by the Broadcast Bureau.
(4) Correction to (2), filed May 7, 1971, by Cowles.
(5) Reply to (3), filed May 14, 1971, by Cowles.
(6) Reply to (2) and (3), filed May 14, 1971, by Central.
II. (1) Petition to add issues, filed March 29, 1971, by Central.
(2) Opposition, filed April 13, 1971, by the Broadcast Bureau.
(3) Opposition, filed April 22, 1971, by Cowles.
(4) Reply, filed May 14, 1971, by Central.
III. (1) Motion to change issues, filed April 29, 1971, by the Broadcast Bureau.
(2) Opposition, filed May 12, 1971, by Cowles.
(3) Comments, filed May 12, 1971, by Central.
(4) Supplemental to (3), filed May 19, 1971, by Central.
(5) Reply to (2), filed May 24, 1971, by the Broadcast Bureau.
(6) Reply to (3), filed May 24, 1971, by the Broadcast Bureau.
(7) Motion to strike supplement (4), filed June 1, 1971, by Cowles.
(8) Comments to (7), filed June 16, 1971, by Central.
(9) Reply to (8), filed July 6, 1971, by Cowles.

[FR Doc.71–16005 Filed 11–2–71;8:48 am]

[1] Since CCI, in Cowles' pleadings, disclaims responsibility for the operations of its magazine subsidiaries, a serious question is raised as to whether "CCI's corporate policies, procedures, and organizational structure are such as to assure proper discharge of the responsibility of top management for operation of the broadcast stations in the public interest." General Electric Co., 22 RR 307 (1961), and Westinghouse Broadcasting Co., 22 RR 309 (1961). We do not believe that evidence with respect to CCI's policies and practices with respect to its broadcast properties should await a further hearing. Instead, we believe that all of these matters should be explored in the subject hearing, within the scope of Issue 2e, and that CCI should have the burden of proceeding with pertinent evidence.

[2] Board Member Berkemeyer concurring in the result and statement of Dee W. Pincock, dissenting in part, filed as part of the original document.

FEDERAL MARITIME COMMISSION

EPIROTIKI STEAMSHIP CO.

Notice of Issuance of Certificate [Casualty]

Security for the protection of the public financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89–777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540):

The Epirotiki Steamship Co., George Potamianos S.A., 2, Bouboulinas Str., Piraeus, Greece.

Dated: October 28, 1971.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71–16032 Filed 11–2–71;8:51 am]

EPIROTIKI STEAMSHIP CO.

Notice of Issuance of Certificate [Performance]

Security for the protection of the public indemnification of passengers for nonperformance of transportation.

Notice is hereby given that the following have been issued a certificate of financial responsibility for indemnification of passengers for nonperformance of transportation pursuant to the provisions of section 3, Public Law 89–777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

The Epirotiki Steamship Co., George Potamianos S.A., 2, Bouboulinas Str., Piraeus, Greece.

Dated: October 28, 1971.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71–16033 Filed 11–2–71;8:51 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which has been issued by the Federal Maritime Commission, covering the below-indicated vessels, pursuant to Part 542 of Title 46 CFR and section 11(p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	*Owner/operator and vessels*
01128---	Apache Barge Co.: Apache.
01129---	Comanche Barge Co.: Comanche.
01130---	Cherokee Barge Co.: Cherokee.
01131---	Choctaw Barge Co.: Choctaw.
01132---	Cape Charles Barge Co.: Cape Charles.
01133---	Cape Henry Barge Co.: Cape Henry.
01153---	Atlas Levante-Linie G.m.b.H.: Pacifico.
01287---	Knohr & Burchard Nfl.: Lasbek.
01326---	Sabine Towing & Transportation Co., Inc.: STCO 200. STCO 201. STCO 202.
01340---	Compagnie Auxiliaire de Navigation: Bethsabee.
01412---	Shipping Developmente Corp., Panama: Santa Anna.
01758---	Chotin Transportation, Inc.: Chotin 49. J&S 626. J&S 800. BBT 977. Chotin 50. Chotin 989. Chotin 990. Chotin 1506. Chotin 1513. Chotin 1780.
01817---	The Clan Line Steamers, Ltd.: Clan MacLennan.
01818---	Houston Line, Ltd.: Clan MacDougall.
01875---	Sicula Sakda-Societa di Navigazione S.p.A.: Giovanni Queirolo. Puglioa.
01876---	Sicula Ligure-Societa di Navigazione S.p.A.: Sunprince.
01905---	The Ben Line Steamers, Ltd.: Bennachie.
01910---	Deutche Dampfschifffahrts-Gesellschaft "Hansa": Geyerfels.
01935---	Interessentskab Mellem Aktieselskabet Dampskibsselskabet Svendborg & Damp . . . Af 1912 Aktieselskab: Gjertrud Maersk.
01981---	Ab Svenska Orient Linien: Thuleland.
02001---	Rederiaktiebolaget Transatlantic: Lommaren. Bullaren.
02189---	Williams-McWilliams Co., Division of Paramount Warrior, Inc.: Port Arthur. Arkansas. Vicksburg. George A. McWilliams. Natchez. W–701.
02238---	John T. Essberger: Ulanga.
02264---	Fr. Erich Retzlaff: Else Retzlaff.
02458---	The China Navigation Co., Ltd.: Anshun.
02463---	H. Peters: Hildegard Peters.
02498---	Chevron Oil Co.: Z–112. PBI No. 1.
02551---	Ellerman Lines, Ltd.: City of Exeter. City of Durban.
02621---	Ernst Russ on behalf of Partenreederei M/V Julius Schindler: Julius Schindler.
02691---	Gulf Navigation Corp.: Cathy.
02870---	Isthmian Lines, Inc.: Steel Rover.
02872---	States Marine International, Inc.: Aloha State.
02956---	Ashland Oil, Inc.: NDT 108. UMI 1204. UMI 1206. SS 2021.
02980---	Rederi A/S Mimer and A/S Norfart: Anja.
03090---	Malaysia Overseas Lines, Ltd., Liberia: Oriental Inventor.
03314---	Gulf Oil Corp.: Gulf Chem I. Gulf Chem II.
03352---	Eastern Union Marine Corp., Inc.: Eastern Union.
03413---	Baba-Daiko Shosen K.K.: Narasan Maru.
03438---	Imura Kisen Kabushiki Kaisha: Kiyo Maru.
03441---	Japan Line, K.K.: Nichiwa Maru.
03503---	Shofuku Kisen K.K.: Kenryn Maru. Daikai Maru.
03519---	Toko Shosen K.K.: Ganges Maru.
03691---	Spentonbush Transport Service, Inc.: W. A. Weber.
03692---	Marmac Corp.: M–609.
03841---	American Export Isbrandtsen Lines, Inc.: Atlantic.
03918---	Mobil Tankers Co. (Liberia), Ltd.: T.B.N. Mobil Pride. Mobil Comet. Mobil Japan. Mobil Valiant. Mobil Vigilant. Tasso.
04357---	Koninklijke Nedlloyd N.V.: Utrecht.
04407---	Domar, Inc.: Z–102.
04437---	LeBecuf Bros. Towing Co., Inc.: OC 603. OC 604.
04474---	Fukucho Suisan Kabushiki Kaisha: Fukucho Maru No. 13.
04476---	Katsukura Gyogyo Kabushiki Kaisha: Shoelmaru No. 12.
04564---	Yamashita-Shinnihon Kisen Kaisha: Kotoura Maru.
04637---	McAllister Brothers, Inc. (New York): Triton.
04641---	American Tug Boat Co.: ATB 99.
04665---	Panagos Shipping Co., Ltd.: Panagos L.
04841---	Hydromar Corp. of Delaware: Hydro-Atlantic.
04936---	Alaska Steamship Co.: Fortuna. Chena. Polar Pioneer.
05241---	Sea Bees B–9, Inc., Owner: Vito Cirillo.
05302---	Sea Bees T–2, Inc., Owner: Cirillo Bros. 162.
05303---	Sea bees B–10, Inc., Owner: Costantino.
05436---	Time Lines (Panama), Ltd., S.A.: Tien Shun.
05493---	Vasco-Antillean Navigation Co., Ltd.: Aurrera.
05520---	Union Carbide Corp.: RC 1401. RC 2005. NMS 1202.
05591---	Caribbean Charters & Operators, Ltd.: Copperland.
05764---	Cerrahogullari Umumi Nakliyat ve Ticaret: Turkiye.
05778---	Erich Hanisch: Seeadler.
05826---	Y. K. Yasuchiyo Kaiun: Oshima Maru.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71–16034 Filed 11–2–71;8:57 am]

FEDERAL POWER COMMISSION

[Project No. 2485]

CONNECTICUT LIGHT AND POWER CO., ET AL.

Notice of Application for Amendment of License for Partially Constructed Project

OCTOBER 27, 1971.

Public notice is hereby given that application has been filed under the Federal Power Act (16 USC 791a–825r) by The Connecticut Light and Power Co., The Hartford Electric Light Co., and Western Massachusetts Electric Co. (correspondence to: Anthony E. Wallace, president, The Connecticut Light and Power Co., Post Office Box 2010, Hartford, CT 06101; Joseph R. McCormick, president, The Hartford Electric Light Co., Post Office Box 2370, Hartford, CT 06101; Robert E. Barett, Jr., president, Western Massachusetts Electric Co., 174 Brush Hill Avenue, West Springfield, MA 01089) for amendment of license for partly constructed Project No. 2485, known as the Northfield Mountain Pumped Storage Project, located on the Connecticut River, Briggs Brook, and Four Mile Brook in Franklin County, Mass.

The application seeks to delete from the license the requirement for development of recreation resources in the Four Mile Brook area. According to the application, licensees' proposal for recreational development of the Four Mile Brook area was rejected September 28, 1970 by local citizens of the town of Northfield, Mass. In the absence of alternate sites in the area, licensees do not wish to pursue development of the Four Mile Brook area but desire to expend funds which were to be devoted to the Four Mile Brook development on the development of other recreational resources. Therefore, the licensees request that article 41 of the license be amended by deleting from the second sentence thereof the phrase, "shall construct, operate, and maintain or provide for the construction, operation, and maintenance, of the outdoor recreation resources at the Four Mile Brook area, generally as shown in exhibit R (FPC No. 2485–30), which formed a part of the application, and" so that the sentence will read: "The licensees, from these monies, shall purchase and make available to the Commonwealth of Massachusetts the land needed for the Pauchaug Brook area."

Any person desiring to be heard or to make any protest with reference to said application should on or before December 10, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71–15976 Filed 11–2–71;8:46 am]

[Docket No. RP72–53]

EAST TENNESSEE NATURAL GAS CO.

Notice of Proposed Changes in Rates and Charges

OCTOBER 27, 1971.

Take notice that on October 14, 1971, East Tennessee Natural Gas Co. (East Tennessee) tendered for filing proposed changes to its FPC Tariff, Sixth Revised Volume No. 1, and requests that such changes be made effective as of November 14, 1971. The company states that the aforementioned changes track the $3,519,775 rate increase sought by its supplier, Tennessee Gas Pipeline Co. and results in a 0.27 cent per Mcf increase in the commodity component of all its filed rates.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 5, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

Any order or orders issued in this proceeding shall be subject to the Commission's Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91–379, 84 Stat. 799, as amended by Public Law 92–15, 85 Stat. 38) and Executive Order No. 11615, including such amendments as the Commission may require.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71–15979 Filed 11–2–71;8:46 am]

[Docket No. CP66–112 etc.]

GREAT LAKES GAS TRANSMISSION CO.

Notice of Petition To Amend Orders

OCTOBER 27, 1971.

Take notice that on September 23, 1971, Great Lakes Gas Transmission Co. (petitioner), 1 Woodward Avenue, Detroit, MI 48226, filed in Dockets Nos. CP66–112, CP70–19, CP70–100, and CP71–223, a petition to amend the orders of the Commission heretofore issued in said dockets pursuant to section 3 of the Natural Gas Act, by authorizing an increase in the pressure at which petitioner receives gas imported from Canada and delivered by Trans-Canada Pipe Lines, Ltd. (Trans-Canada), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By order of June 20, 1967, accompanying Opinion No. 521 (37 FPC 1070) in Docket No. CP66–112; the order of April 30, 1970, accompanying Opinion No. 577 (43 FPC 635) in Docket No. CP70–19; the order of April 30, 1970 (43 FPC 653), in Docket No. CP70–100; and, the order of June 1, 1971 (45 FPC ——), in Docket No. CP71–223, authorized petitioner, *inter alia*, to import natural gas into the United States from Canada. Petitioner purchases said gas from Trans-Canada and the gas is delivered at a pressure of 550 p.s.i.g.

Petitioner states that it has entered into an agreement with Trans-Canada whereby the delivery pressure will be increased at the Emerson, Manitoba, delivery point from 550 p.s.i.g. to 750 p.s.i.g. until October 31, 1973. Petitioner states that this increase in the delivery pressure will defer until the summer of 1973, an estimated capital expenditure of approximately $4,377,000, for the installation of additional compressor facilities. When the savings resulting from the deferred construction are added to the savings in fuel and operation expense, Petitioner states, the total savings are substantially in excess of the cost to petitioner of the compression service rendered by Trans-Canada. Petitioner will pay Trans-Canada at a rate of 0.20 cent per Mcf for this compression service.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 15, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be

considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH P. PLUMB,
Secretary.

[FR Doc.71-15980 Filed 11-2-71;8:46 am]

[Docket No. RP72-52]

MIDWESTERN GAS TRANSMISSION CO.

Notice of Proposed Changes in Rates and Charges

OCTOBER 27, 1971.

Take notice that on October 14, 1971, Midwestern Gas Transmission Co. (Midwestern) tendered for filing proposed changes to its FPC Tariff, Second Revised Volume No. 1, and requests that such changes be made effective as of November 14, 1971. The company states that the aforementioned changes track the $3,519,775 rate increase sought by its supplier, Tennessee Gas Pipeline Co. and results in a 0.27 cent per Mcf increase in the commodity component of all its Southern System filed rates.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 5, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

Any order or orders issued in this proceeding shall be subject to the Commission's Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38) and Executive Order No. 11615, including such amendments as the Commission may require.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-15981 Filed 11-2-71;8:46 am]

[Docket No. CP70-185]

TENNESSEE GAS PIPELINE CO.

Notice of Application To Amend

OCTOBER 27, 1971.

Take notice that on October 12, 1971, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (petitioner), Post Office Box 2511, Houston, TX 77001, filed in Docket No. CP70-185 a petition to amend the order of the Commission issued in said docket on June 22, 1970 (43 FPC 937), pursuant to section 7(c) of the Natural Gas Act, by authorizing reallocation of presently authorized contract quantities of natural gas delivered by petitioner to Lawrence Gas Co. (Lawrence), Lynn Gas Co. (Lynn), and North Shore Gas Co. (North Shore), all as more fully set forth in the application to amend which is on file with the Commission and open to public inspection.

Pursuant to the request of New England Electric System (NEES), the parent company of Lawrence, Lynn, and North Shore, petitioner proposes to reallocate the existing contract quantities of natural gas available to these three companies from applicant, commencing with the date of Commission authorization, as follows:

Company	Present contract MDQ (Mcf at 14.73 p.s.i.a.)	Requested contract MDQ (Mcf) at 14.73 p.s.i.a.)
Lawrence	19,104	18,849
Lynn	15,300	16,371
North Shore Beverly-Salem	14,750	13,934
Total	49,154	49,154

Applicant states that no increase in the contract quantities available to Lawrence, Lynn, and North Shore from applicant will result from providing the requested reallocation. NEES, which provides central direction of fuel supply and peak shaving operations to the three companies, has advised applicant that this reallocation is requested to achieve a balance in the degree day level at which said companies utilize onsite peak shaving. Applicant states that the proposed reallocation can be performed with existing facilities and without affecting its ability to render authorized natural gas service to other existing customers.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 15, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-15982 Filed 11-2-71;8:46 am]

[Docket No. RP72-55]

COLORADO INTERSTATE GAS CO.

Notice of Proposed Change in FPC Gas Tariff

OCTOBER 29, 1971.

Take notice that on October 15, 1971, Colorado Interstate Gas Co. (CIG) tendered for filing a proposed change in its FPC Gas Tariff providing for an increase in the rate under Rate Schedule S-1 from 26 cents per Mcf to 29.4 cents per Mcf. CIG requests that this tariff change be considered a minor rate increase under § 154.63(a)(3) of the Commission's regulations under the Natural Gas Act. CIG further requests that since the proposed Rate Schedule S-1 rate is based on the general service rates which are under suspension until January 1, 1972, in Docket No. RP72-4 and the underlying cost data is the same in both rate filings, the effective date of the proposed S-1 change also be suspended until January 1, 1972.

Copies of the proposed tariff changes were served on CIG's customers and interested State commissions.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 10, 1971 filed with the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

Any order or orders issued in these proceedings will be subject to the Commission's Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38) and Executive Order 11615, including such amendments as the Commission may require.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16048 Filed 11-2-71;8:51 am]

[Docket Nos. RP71-108, RP71-110]

PANHANDLE EASTERN PIPE LINE CO.

Notice of Filing of Motion for Approval of Rate Agreement and Revised Tariff Sheets

OCTOBER 29, 1971.

Take notice that on October 18, 1971, Panhandle Eastern Pipe Line Co. (Panhandle) filed in Docket Nos. RP71-108 and RP71-110 a motion for approval of an attached agreement as to rates dated October 18, 1971, together with a schedule of proposed rates. The agreement as to rates is stated to be the product of settlement discussion between Panhandle, the Commission staff, customers of Panhandle and other parties to these proceedings.

The rate agreement has been submitted as a negotiated settlement of these proceedings. It provides for a commitment by Panhandle to have a newly formed production affiliate, Pan Eastern Exploration Co., invest $35 million for the exploration and development of new gas reserves plus additional amounts related to discovered recoverable hydrocarbons, subject however to Commission certification of the project as filed. The rate agreement also includes a Purchased Gas Adjustment provision subject to pending rulemaking proceedings, that would have Panhandle revise its rates to reflect increases or decreases in its cost of purchased gas, and flow through any supplier refunds proportionately to jurisdictional customers.

Copies of the rate agreement, the settlement cost of service and a schedule of proposed rates were served on all of Panhandle's customers, parties of record, and interested state commissions.

Comments or objections to the proposed agreement as to rates may be filed with the Federal Power Commission, Washington, D.C. 20426, on or before November 10, 1971.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16047 Filed 11-2-71;8:51 am]

[Docket No. CI72-254]

DOUGLAS B. MARSHALL ET AL.

Notice of Application

NOVEMBER 1, 1971.

Take notice that on October 29, 1971, Douglas B. Marshall, et al. (Applicants), c/o W. H. Drushel, Jr., Esquire, 2100 First City National Bank Building, Houston, Tex. 77002, filed in Docket No. CI72-254 an application pursuant to section 7(c) of the Natural Gas Act authorizing the sale for resale and delivery of natural gas in interstate commerce to Transcontinental Gas Pipe Line Corp. (Transco) from the South Gibson Area, Terrebonne Parish, La., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to sell natural gas to Transco for a period of 6 months to 1 year commencing by December 1, 1971, within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70) at the rate of 35 cents per Mcf at 15.025 p.s.i.a. The estimated monthly sales volume is 1,500,000 Mcf of gas.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 15, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16163 Filed 11-2-71;10:18 am]

OFFICE OF ECONOMIC OPPORTUNITY

APPLICABILITY OF DIRECTIVES

Notice of Issuance of Instruction

Notice is hereby given that:

1. On May 10, 1971, the Office of Economic Opportunity issued OEO Instruction 6000-2 entitled "Applicability of Directives". Appendix A to that OEO Instruction lists all OEO Instructions and Directives applicable as of May 10, 1971, to recipients of assistance under the Economic Opportunity Act of 1964, as amended, if such assistance is administered by OEO.

2. OEO Instruction 6000-2, the OEO Instructions and Directives listed therein, and all OEO Instructions issued since May 10, 1971 are available without cost to the class of persons affected thereby from:

OEO Publications and Distribution Center, 5458 Third Street NE., Washington, DC 20011.

WESLEY J. HJORNEVIK,
Deputy Director.

OCTOBER 28, 1971.

[FR Doc.71-16009 Filed 11-2-71;8:49 am]

INTERSTATE COMMERCE COMMISSION

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

OCTOBER 29, 1971.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. 4354, filed July 27, 1971. Applicant: ALLISON-LOGAN FREIGHT LINES, INC., 106 West High Street, Terrell, TX 75160. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities*, (a) from Emory, Tex., to Lone Oak, Tex., over Highways 69 and 513, to the junction of Highways 35 and 47, then to the junction of Highways 47 and 80, and return over the same route serving all intermediate points and for the purpose of forming joinder of routes with existing routes; coordinating this service with that rendered under other authority. Applicant seeks corresponding authority to conduct operations in interstate or foreign commerce. Both intrastate and interstate authority sought.

HEARING: Approximately 30 days after publication in the FEDERAL REGISTER. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Texas Railroad Commission, Austin, Tex. 78711, and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16017 Filed 11-2-71;8:49 am]

[Notice 30]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

OCTOBER 29, 1971.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised

Deviation Rules-Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC-1515 (Deviation No. 596) (Cancels Deviation Nos. 370 and 571), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, OH 44113, filed October 15, 1971. Carrier proposes to operate as a *common carrier*, by motor vehicle, *of passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From junction Interstate Highways 80 and 94 and U.S. Highway 41 at Hammond, Ind., over Interstate Highways 80 and 94 to junction Interstate Highway 65 in East Gary, Ind., thence over Interstate Highway 65 to Indianapolis, Ind., with the following access roads: (1) from Gary, Ind., over city streets to the 15th Avenue interchange of Interstate Highway 65, (2) from the interchange of Interstate Highway 90 (Indiana Toll Road) and Interstate Highway 65 over Interstate Highway 65 to interchange Interstate Highways 80 and 94, (3) from Lafayette, Ind., over Indiana Highway 43 to junction Interstate Highway 65, (4) from Lafayette, Ind., over Indiana Highway 26 to junction Interstate Highway 65, (5) from Lebanon, Ind., over U.S. Highway 52 to junction Interstate Highway 65, and (6) from Lebanon, Ind., over Indiana Highway 39 to junction Interstate Highway 65, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over pertinent service routes as follows: (1) From Rushville, Ind., over U.S. Highway 52 via Lebanon, Ind., to Lafayette, Ind., thence over U.S. Highway 52 via Templeton, Ind., to Atkinson, Ind., thence over U.S. Highway 52 to Kentland, Ind., thence over U.S. Highway 41 to junction unnumbered highway, 2 miles south of Morocco, Ind., thence over unnumbered highway via Morocco to junction U.S. Highway 41, 0.5 mile north of Morocco, thence over U.S. Highway 41 to junction unnumbered highway approximately 1 mile south of Lake Village, Ind., thence over unnumbered highway via Lake Village, Ind., to junction U.S. Highway 41, approximately 1 mile north of Lake Village, Ind., thence over U.S. Highway 41 via Cook and Hammond, Ind., to Chicago, Ill., and (2) from junction U.S. Highways 6 and 41 and Indiana Highway 152 over Indiana Highway 152 to junction Interstate Highways 80 and 94, thence over Interstate Highways 80 and 94 to junction Interstate Highway 94, thence over Interstate Highway 94 to Chicago, Ill., and return over the same routes.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16018 Filed 11-2-71;8:49 am]

[Notice 34]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

OCTOBER 29, 1971.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 1936 (Deviation No. 10), B & P MOTOR EXPRESS, INC., 720 Gross Street, Pittsburgh, PA 15224, filed September 23, 1971. Carrier's representative: Samuel P. Delisi, 530 Grant Building, Pittsburgh, Pa. 15219. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Greensburg, Pa., over U.S. Highway 119 to junction U.S. Highway 22, thence over U.S. Highway 22 to junction U.S. Highway 1 at or near Newark, N.J., and (2) from Greensburg, Pa., over U.S. Highway 119 to junction U.S. Highway 22, thence over U.S. Highway 22 to junction Interstate Highway 81, at or near Harrisburg, Pa., thence over Interstate Highway 81 to junction Interstate Highway 78, thence over Interstate Highway 78 to junction U.S. Highway 1 at or near Newark, N.J., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: from Greensburg, Pa., over U.S. Highway 30 to Breezewood, Pa., thence over Interstate Highway 70 to Hancock, Md., thence over U.S. Highway 40 to junction U.S. Highway 13, thence over U.S. Highway 13 to junction U.S. Highway 1 at or near Morrisville, Pa., thence over U.S. Highway 1 to junction U.S. Highway 22 at or near Newark, N.J., and return over the same route.

No. MC-1936 (Deviation No. 11), B & P MOTOR EXPRESS, INC., 720 Gross St., Pittsburgh, PA 15224, filed September 23, 1971. Carrier's representative: Samuel P. Delisi, 530 Grant Building, Pittsburgh, Pa. 15219. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Breezewood, Pa., over Interstate Highway 76 to junction Pennsylvania Highway 75 at or near Willow Hill, Pa., thence over Pennsylvania Highway 75 to junction U.S. Highway 30 at or near Ft. Loudon, Pa., thence over U.S. Highway 30 to junction Pennsylvania Highway 41 at or near Gap, Pa., thence over Pennsylvania Highway 41 to the Pennsylvania-Delaware State line, thence over Delaware Highway 41 to Wilmington, Del., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: from Breezewood, Pa., over Interstate Highway 70 to Hancock, Md., thence over U.S. Highway 40 to junction U.S. Highway 13 to Wilmington, Del., and return over the same route.

No. MC-29130 (Deviation No. 11), THE ROCK ISLAND MOTOR TRANSIT COMPANY, 2744 Southeast Market Street, Des Moines, IA 50305, filed October 19, 1971. Carrier's representative: George M. Mariner, 139 West Van Buren Street, Chicago, IL 60605. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Kansas City, Kans., over Interstate Highway 35 to Ottawa, Kans., thence over U.S. Highway 50 to Florence, Kans., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Kansas City, Mo., over U.S. Highway 24 to Topeka, Kans., (2) from Wichita, Kans., over U.S. Highway 81 to Newton, Kans., thence over U.S. Highway 50 to junction U.S. Highway 77, thence over U.S. Highway 77 to junction U.S. Highway 56 approximately 3 miles east of Marion, Kans., and (3) from St. Joseph, Mo., over U.S. Highway 36 to Troy, Kans., thence over Kansas Highway 7 to junction Kansas Highway 20, thence over Kansas Highway 20 to junction U.S. Highway 73, thence over U.S. Highway 73 to Horton, Kans., thence over U.S. Highway 159 to junction Kansas Highway 9, thence over Kansas Highway 9 to junction U.S. Highway 75, thence over U.S. Highway 75 to Topeka, Kans., thence over U.S. Highway

40 to junction Kansas Highway 99, thence over Kansas Highway 99 to junction Kansas Highway 4, thence over Kansas Highway 4 to junction U.S. Highway 77, thence over U.S. Highway 77 to Herington, Kans., thence over U.S. Highway 56 to McPherson, Kans., thence over Kansas Highway 61 to Hutchinson, Kans., and return over the same routes.

No. MC-43421 (Deviation No. 30), DOHRN TRANSFER COMPANY, Post Office Box 1237, Rock Island, IL 61202, filed September 22, 1971. Carrier's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Chicago, Ill., over U.S. Highway 41 to junction U.S. Highway 30, thence over U.S. Highway 30 via Fort Wayne, Ind., to junction U.S. Highway 24, thence over U.S. Highway 24 to junction Interstate Highway 75, thence over Interstate Highway 75 to Detroit, Mich., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Chicago, Ill., over U.S. Highway 12 (portion formerly U.S. Highway 112) to Detroit, Mich., and return over the same route.

No. MC-48958 (Deviation No. 31), ILLINOIS-CALIFORNIA EXPRESS, INC., Post Office Box 9050, Amarillo, TX 79105, filed October 15, 1971. Carrier's representative: Morris G. Cobb, same address as applicant. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Los Angeles, Calif., over Interstate Highway 10 to junction Interstate Highway 15, thence over Interstate Highway 15 (U.S. Highways 66 and 91) to junction Interstate Highway 70 (Utah Highway 4) at or near Cove Fork, Utah, thence over Interstate Highway 70 (Utah Highway 4 and U.S. Highway 89) to Green River, Utah, thence over U.S. Highway 8 (Interstate Highway 70) to Idaho Springs, Colo., thence over U.S. Highway 40 (Interstate Highway 70) to Denver, Colo., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Los Angeles, Calif., over U.S. Highway 66 via San Bernardino, Calif., to Albuquerque, N. Mex., thence over U.S. Highway 85 to Denver, Colo. (also from junction U.S. Highway 85 and unnumbered highway 3 miles south of Greenhorn, Colo., over unnumbered highway to Crow, Colo., thence over Colorado Highway 165 to junction U.S. Highway 85 north of Crow; also from junction U.S. Highway 85 and Colorado Highway 105 approximately one-half mile south of Monument, Colo., over Colorado Highway 105 to Palmer Lake, Colo., thence Colorado Highway 393 to junction U.S. Highway 85 approximately 1½ miles north of Larkspur, Colo.), (2) from Los Angeles, Calif., over U.S. Highway 99 to Colton, Calif., thence over connecting highways to San Bernardino, Calif., and (3) from Colton, Calif., over U.S. Highway 99 to Indio, Calif., thence over U.S. Highway 60 to Wickenburg, Ariz., thence over U.S. Highway 89 to Ashfork, Ariz., and return over the same routes.

No. MC-52310 (Deviation No. 3), BRUCE MOTOR FREIGHT, INC., 3920 Delaware, Des Moines, IA 50303, filed October 15, 1971. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From junction Iowa Highway 92 and Iowa Highway 21 over Iowa Highway 21 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction Iowa Highway 149, (2) from junction U.S. Highway 63 and Iowa Highway 149 over Iowa Highway 149 to junction Iowa Highway 78, thence over Iowa Highway 78 to junction U.S. Highway 218, thence over U.S. Highway 218 to Mount Pleasant, Iowa, and (3) from Centerville, Iowa, over Iowa Highway 5 to the Iowa-Missouri State line, thence over Missouri Highway 5 to junction U.S. Highway 136, thence over U.S. Highway 136 to junction U.S. Highway 63, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) from Cedar Rapids, Iowa, over Iowa Highway 149 to junction U.S. Highway 63, thence over U.S. Highway 63 to Ottumwa, Iowa, (2) from Sigourney, Iowa, over Iowa Highway 92 to Oskaloosa, Iowa, (3) from Des Moines, Iowa, over Iowa Highway 163 to Oskaloosa, Iowa, thence over U.S. Highway 63 to Ottumwa, Iowa, thence over U.S. Highway 34 to Mount Pleasant, Iowa, thence over U.S. Highway 218 to junction U.S. Highway 61, thence over U.S. Highway 61 to Wentzville, Mo., thence over Interstate Highway 70 (formerly By-Pass U.S. Highway 40 and Alternate U.S. Highway 40) to St. Louis, Mo., (4) from Des Moines, Iowa, over the route described in (3) above to Ottumwa, Iowa, thence over U.S. Highway 63 to Columbia, Mo., thence over U.S. Highway 40 (Interstate Highway 70) to junction Interstate Highway 70 (formerly By-Pass U.S. Highway 40 and Alternate U.S. Highway 40), thence over Interstate Highway 70 to St. Louis, Mo., (5) from Leon, Iowa, over Iowa Highway 2 via Corydon, Iowa, to Centerville, Iowa, and (6) from Centerville, Iowa, over Iowa Highway 2 to junction U.S. Highway 63, and return over the same routes.

No. MC-69833 (Deviation No. 22), ASSOCIATED TRUCK LINES, INC., Vandenberg Center, Grand Rapids, Mich. 49502, filed October 19, 1971. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Sturgis, Mich., over Michigan Highway 78 to the Michigan-Indiana State line, thence over Indiana Highway 9 to LaGrange, Ind., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Toledo, Ohio, over U.S. Highway 25 to Detroit, Mich., thence over U.S. Highway 12 (formerly U.S. Highway 112) to Niles, Mich., (2) from Chicago, Ill., over U.S. Highway 20 to junction Indiana Highway 15, thence over Indiana Highway 15 to the Indiana-Michigan State line, thence over Michigan Highway 103 to junction U.S. Highway 131, thence over U.S. Highway 131 to Kalamazoo, Mich., and (3) from South Bend, Ind., over U.S. Highway 33 to junction U.S. Highway 6, thence over U.S. Highway 6 to Waterloo, Ind., thence over U.S. Highway 27 to Auburn, Ind., and return over the same routes.

No. MC-69833 (Deviation No. 23), ASSOCIATED TRUCK LINES, INC., Vandenberg Center, Grand Rapids, Mich. 49502, filed October 19, 1971. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: Between Mishawaka, Ind., and Bourbon, Ind., over Indiana Highway 331, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) from Goshen, Ind., over U.S. Highway 33 via Elkhart to South Bend, Ind., (2) from South Bend, Ind., over U.S. Highway 31 to Plymouth, Ind., and (3) from Columbus, Ohio, over Ohio Highway 31 to Kenton, Ohio, thence over U.S. Highway 30S to Delphos, Ohio, thence over U.S. Highway 30 to junction Illinois Highway 42A, thence over Illinois Highway 42A to Chicago, Ill., and return over the same routes.

No. MC-103435 (Deviation No. 20), UNITED-BUCKINGHAM FREIGHT LINES, Post Office Box 1631, Rapid City, SD 57701, filed October 15, 1971. Carrier's representative: J. Maurice Andren, same address as applicant. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) from Rapid City, S. Dak., over Interstate Highway 90 to Gillette, Wyo., and (2) from Gillette, Wyo., over Interstate Highway 90 to Sheridan, Wyo., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Rapid City, S. Dak., over U.S. Highway 14 to Sturgis, S. Dak., (2) from Sturgis, S. Dak., over Alternate U.S. Highway 14 to Deadwood, S. Dak., (3) from Deadwood, S. Dak., over U.S. Highway 85 to Spearfish, S. Dak., (4) from Sturgis, S. Dak., over South Dakota Highway 34 to junction U.S. Highway 85 (2 miles south of Belle Fourche, S. Dak.), thence over U.S. Highway 85 to Spearfish, S. Dak., (5) from Spearfish, S. Dak., over U.S. Highway 14 to Moorcroft, Wyo., (6) from Rapid City, S. Dak., over South Dakota Highway 79 to Hermosa, S. Dak.,

(7) from Hermosa, S. Dak., over South Dakota Highway 36 to junction Alternate U.S. Highway 16, (8) from junction South Dakota Highway 36 and Alternate U.S. Highway 16 over Alternate U.S. Highway 16 to Custer, S. Dak., (9) from Rapid City, S. Dak., over U.S. Highway 16 to Sheridan, Wyo., and (10) from junction unnumbered highway and U.S. Highway 14 (west of Spotted Horse, Wyo.) over U.S. Highway 14 to Sheridan, Wyo., and return over the same routes.

No. MC-111383 (Deviation No. 13), BRASWELL MOTOR FREIGHT LINES, INC., Post Office Box 4447, Dallas, TX 75208, filed October 4, 1971. Carrier's representative: Ronald R. Slaughter, same address as applicant. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Opelika, Ala., over Alabama Highway 169 to Crawford, Ala., thence over U.S. Highway 80 to Columbus, Ga., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: between Opelika, Ala., and Columbus, Ga., over U.S. Highway 280.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16019 Filed 11-2-71;8:49 am]

[Notice 87]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

OCTOBER 29, 1971.

The following publications are governed by the new Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will elimate any restrictions which are not acceptable to the Commission.

MOTOR CARRIERS OF PROPERTY

No. MC-51018 (Sub-No. 8) (Republication), filed August 5, 1970, published in the FEDERAL REGISTER issues of September 3, 1970, and September 17, 1970, and republished this issue. Applicant: THE BESL TRANSFER COMPANY, a corporation, 5550 East Avenue, Cincinnati, OH 45232. Applicant's representative: A. Alvis Layne, 915 Pennsylvania Building, Washington, D.C. 20004. A report and order of the Commission, Review Board No. 2, decided September 30, 1971, and served October 22, 1971, finds; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, (1) of commodities which, because of their size or weight require the use of special equipment, (2) of self-propelled articles, each weighing 15,000 pounds or more (restricted to commodities which are transported on trailers), and (3) of related machinery, tools, parts, and supplies moving in connection with the commodities described in (2), between points in that part of Ohio on and south of U.S. Highway 70 and on and west of U.S. Highway 75, and points in Indiana and Kentucky within 25 miles of Cincinnati, Ohio, on the one hand, and, on the other, those in Indiana, Illinois, Missouri, Michigan, Pennsylvania, New York, Ohio, Kentucky, and West Virginia. The Board further finds that an appropriate certificate should be issued, subject to the prior receipt from applicant of a written request for cancellation of its certificate No. MC-51018 (Sub-No. 5), dated October 20, 1967, and of certificate No. MC-51018 (Sub-No. 6), dated November 24, 1964. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings of this report, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 70083 (Sub-No. 16) (Republication), filed January 26, 1970, published in the FEDERAL REGISTER issue of August 6, 1970, and republished this issue. Applicant: DRAKE MOTOR LINES, INC., 20 Olney Avenue, Cherry Hill, NJ 08034. Applicant's representative: Herbert Burstein, 30 Church Street, New York, NY 10007. An order of the Commission, Division 1, Acting as an Appellate Division, dated 13 October 1971, and served October 27, 1971, finds, upon consideration of the record in this proceeding; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier, by motor vehicle, over irregular routes, of general commodities (except explosives and inflammable commodities), moving on a through air bill of lading of direct air carriers or air freight forwarders between New York, N.Y., and points in Nassau, Suffolk, Westchester, and Rockland Counties, N.Y.; Newark, N.J., and points in Hunterdon, Mercer, Middlesex, Burlington, Camden, Gloucester, Salem, Monmouth, Somerset, Morris, Passaic, Bergen, Essex, and Union Counties, N.J.; Philadelphia, Pa., points in Bucks, Montgomery, Chester, and Deleware Counties, Pa.; New Castle County, Del.; points in Fairfield County, Conn.; Boston, Mass., and points in Middlesex, Plymouth, Essex, Bristol, Suffolk, and Norfolk Counties, Mass.; and Providence, R.I., on the one hand, and, on the other, Chicago, Ill., and points in Will, Kankakee, Cook, Kendall, Kane, Du Page, Lake, and McHenry Counties, Ill., and points in Lake and Porter Counties, Ind. Since it is possible that other parties who have relied upon the notice in the FEDERAL REGISTER of the application as published may have an interest in and would be prejudiced by the lack of proper notice of the service authorized with respect to points in New Castle County, Del., a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of the certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in the proceeding setting forth in detail the precise manner in which it has been prejudiced.

No. MC 128381 (Sub-No. 3) (Republication), filed November 4, 1970, published in the FEDERAL REGISTER, issue of December 3, 1970, and republished this issue. Applicant: BLUE EAGLE TRUCK LINES, INC., Post Office Box 446, Box 183, Highland Park, IL 60035. Applicant's representative: Stephen L. Jennings, 111 West Jackson Boulevard, Chicago, IL 60604. A report and order of the Commission, Review Board No. 2, decided September 30, 1971, and served October 22, 1971, finds that operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of firefighting equipment and parts, and equipment, materials, and supplies used in the manufacture, installation, and repair thereof (except commodities in bulk and except commodities which, because of size or weight, require the use of special equipment), (1) from Northbrook, Ill., to Atlanta, Ga.; and (2) from Northbrook, Ill., and Atlanta, Ga., to Miami and Fort Lauderdale, Fla., under a continuing contract or contracts with General Fire Extinguisher Corp., of Northbrook, Ill.; because it is possible that other persons, who may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings of this report, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

NOTICE OF FILING OF PETITIONS

No. MC 134153 (Sub-No. 1) (Notice of Filing of Petition for Issuance of a Declaratory Order for Modification of Permit), filed September 20, 1971. Petitioner: JOSEPH O. DICKERSON, JR., AND JOSEPH O. DICKERSON, SR., a partnership, doing business as D & D TRANSPORTATION COMPANY, 1415 Park Boulevard, Camden, NJ 08103. Petitioner's representative: Robert D. Stair, Sr., 2122 Meeting House Road, Cinnaminson, NJ 08077. By petition filed as indicated above, petitioner states it was granted authority as a motor contract carrier in Docket No. MC 134153 Sub 1. A permit has been subsequently issued by the Commission on October 7, 1971, and the service authorized therein reads as follows: "Irregular routes: *Steel articles*, from Philadelphia, Pa., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Bayou, Ltd., of Pennsauken, N.J." By the instant petition, petitioner requests that a Declaratory Order be issued by the Interstate Commerce Commission, finding that the restrictive portion of the said permit, which reads: "Irregular routes: Steel articles, from Philadelphia, Pa., * * * *under a continuing contract or contracts with Bayou, Ltd., of Pennsauken, N.J.*," is unduly prejudicial and discriminatory to petitioner, by being restricted to transportation for only one shipper.

Petitioner further indicates that while the above permanent authority (now issued and corresponding to its previously held authority in MC 134153 TA), which presently held permanent authority covers steel articles from Philadelphia, Pa., and points in 12 eastern States and the District of Columbia, it is all for the account of Bayou, Ltd., of Pennsauken. Petitioner states that while the authority would appear to be adequate, no healthy profit picture has been shown on the partnership books due to strikes in the steel industry and lack of steel to transport over the months. Petitioner further states that one of the steel shippers who has approached petitioner is Precision Dawn Steel Co., the parent company of which Bayou is a division. Petitioner believes that elimination of the restriction in its permit would enable it to serve said parent company and its subsidiaries. Petitioner believes that the restriction should be eliminated in the interests of better conformance to the National Transportation Policy, or, in the alternative, allow petitioner to make contracts with other shippers of steel articles having need of its services. Any interested person desiring to participate may file an original and six copies of his written representations, views, or arguments, in support of, or against the petition within 30 days from the date of this publication in the FEDERAL REGISTER.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 89805 (Sub-No. 3) (Correction), filed September 17, 1971, published in the FEDERAL REGISTER issue of October 6, 1971, corrected in part, and republished as corrected, this issue. Applicant: JAMES RIVER BUS LINES, a corporation, 310 North Main Street, Blackstone, VA 23824. Applicant's representative: John C. Goddin, 200 West Grace Street, Richmond, VA 23220. NOTE: The purpose of this partial republication is to reflect under section (b) that no intermediate points are to be served, in lieu of all, erroneously shown in previous publication. The rest of the application remains the same.

No. MC 98913 (Sub-No. 3), filed October 1, 1971. Applicant: J. B. REED MOTOR EXPRESS, INC., 712 North Farnsworth Avenue, Aurora, IL 60507. Applicant's representative: Charles H. Atwell, 403 West Galena Boulevard, Aurora, IL 60506. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Illinois on and within the following boundaries: From the Illinois-Indiana State line in a westerly direction along Illinois Highway 17 to its junction with Illinois Highway 23, thence along Illinois Highway 23 in a northerly direction to its junction with U.S. Highway 6 at Ottawa, thence in a westerly direction along U.S. Highway 6 to its junction with U.S. Highway 51 at Peru, thence in a northerly direction along U.S. Highway 51 to its junction with Illinois Highway 173 at or near Rockford, Ill., thence along Illinois Highway 173 in an easterly direction to Zion, thence along the western shore of Lake Michigan to the Illinois-Indiana State line, thence along the Illinois-Indiana State line to the point of beginning. NOTE: Applicant indicates it does not intend to tack although it holds authority in its Sub-No. 1, wherein the authority sought herein could be tacked. Applicant states that revocation of its Sub-No. 1 is agreeable if authority herein is granted. This application is a matter directly related to MC-F-11290, published in the FEDERAL REGISTER issue of September 9, 1971. The instant application seeks to convert the certificate of registration now held by applicant in No. MC 98913 (Sub-No. 2), which is involved in an application for control by Gordons Transports, Inc., under MC-F-11290 into a certificate of Public convenience and necessity. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., Memphis, Tenn., or Washington, D.C.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240.)

MOTOR CARRIERS OF PROPERTY

No. MC-F-11341. (Correction) (SOUTHEASTERN TRAILWAYS, INC.—MERGE—I & S TRAILWAYS, INC., doing business as INDIANAPOLIS & SOUTHEASTERN TRAILWAYS), published in the October 20, 1971, issue of the FEDERAL REGISTER on page 20323, should be modified to show SOUTHEASTERN TRAILWAYS, INC., formerly WESSON COMPANY is authorized to operate as a common carrier in Indiana and Kentucky. NOTE: Pursuant to IM-141-D Order dated October 12, 1971 in No. MC-54591 Subs 4, 5, and 6, the Commission's records were amended to reflect applicant's corporate name as SOUTHEASTERN TRAILWAYS, INC.

No. MC-F-11354. Authority sought for control and lease by F-B TRUCK LINE COMPANY, 1891 West 2100 South, Salt Lake City, Utah 84119, of BOAT TRANSIT, INC., 1343 Logan Avenue, Costa Mesa, CA, and for acquisition by MERLIN J. NORTON, also of Salt Lake City, Utah 84119, of control and lease of BOAT TRANSIT, INC., through the acquisition by F-B TRUCK LINE COMPANY. Applicants' attorney: Earl H. Schudder, Jr., Post Office Box 82028, Lincoln, NE 68501. Operating rights sought to be controlled and leased: *Boats and boat parts, supplies, and equipment*, as a *common carrier* over irregular routes, (1) between points in Michigan, Ohio, Illinois, Indiana, New York, Pennsylvania, Delaware, New Jersey, West Virginia, Wisconsin, Kentucky, Virginia, and the District of Columbia, (2) between points in Alabama, Arkansas, Connecticut, Florida, Georgia, Iowa, Kansas, Maine, Maryland, Massachusetts, Minnesota, Missouri, New Hampshire, North Carolina, Oklahoma, Rhode Island, South Carolina, Tennessee, and Vermont, between points in (2) on the one hand, and, on the other, points in (1), (3) between points in Arizona, California, Colorado, Idaho, Louisiana, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming, between points in (3) on the one hand, and, on the other, points in (1) and (2); *fiberglass bathtubs and shower bathstalls*, from Santa Ana, Calif., to points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, and points in the United States east thereof; *fiberglass roving*, from Anderson, S.C., to Santa Ana, Calif.; *prefabricated wall panels*, from the plantsite of Plywood Fabricators, Inc., in Mendocino County, Calif., to points in Maryland; *synthetic yarn*, from the plantsite and storage facilities of Boaz Spinning Co., Inc., at or near Boaz and Guntersville, Ala., to points in California. F-B TRUCK LINE COMPANY is authorized to operate as a *common carrier* in Idaho, Utah, Montana, California, Oregon, and Washington. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11353. Authority sought for purchase by ALLIED VAN LINES, INC., 25th Avenue, and Roosevelt Road, Broadview, IL, Mail: Post Office Box 4403, Chicago, IL 60680, of the operating rights of CONTINENTAL VAN LINES, INC., 4501 West Marginal Way, Mail:

Post Office Box 3963, Seattle, WA 98124. Applicants' attorneys: Patrick H. Smyth and Charles M. Walters, both of, Mail: Post Office Box 4403, Chicago, IL 60680. Operating rights sought to be transferred: *Household goods* as defined by the Commission, as a *common carrier* over irregular routes, between points in Alaska, except those east of an imaginary line constituting a southward extension of the United States-Canada boundary line (Alaska-Yukon Territory); *household goods* as defined by the Commission, *new furniture*, uncrated, and *office fixtures*, uncrated, between Seattle, Wash., and points in that part of Alaska lying south and east of the United States-Canada boundary line located at or near Haines, Alaska. Vendee is authorized to operate as a *common carrier* in all States in the United States except Alaska and Hawaii. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11351. Authority sought for continuance in control by JAMES D. PIRNIE, Post Office Box 1665, Grand Island, NE 68801, of GRAND ISLAND MOVING & STORAGE CO., INC., also of Grand Island, Nebr. 68801. Applicants' attorney: Gailyn L. Larsen, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. GRAND ISLAND MOVING & STORAGE CO., INC., is now operating under section 210(a) a temporary authority, for the transportation of generally *meats, meat products and meat by-products, and articles distributed by meat packinghouses* as a *common carrier* over irregular routes in Nebraska, Pennsylvania, Iowa, Missouri, Delaware, Maryland, Massachusetts, New Jersey, New York, Illinois, Minnesota, Wisconsin, and Vermont. JAMES D. PIRNIE holds no authority from this Commission. However, he is affiliated with ARROW FREIGHT LINES, INC., Post Office Box 1665, Grand Island, NE 68801, which is authorized to operate as a common carrier in Nebraska. Application has not been filed for temporary authority under section 210a(b). NOTE: No. MC-135283 Sub-5, to be heard concurrently herewith.

No. MC-F-11352. Authority sought for purchase by MINNESOTA-WISCONSIN TRUCK LINES, INCORPORATED, 965 Eustis Street, St. Paul, MN 55114, of the operating rights of CARL SCHOEN, doing business as CHASKA-CARVER MOTOR EXPRESS, Rural Route No. 2, Box 71, Chaska, MN 55318, and for acquisition by A. A. McCUE, also of St. Paul, Minn. 55114, of control of such rights through the purchase. Applicants' attorney: William S. Rosen, 630 Osborn Building, St. Paul, Minn. 55102. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC-98287 Sub-1, covering the transportation of property, as a common carrier, in interstate commerce, within the State of Minnesota. Vendee is authorized to operate as a *common carrier* in Wisconsin, Minnesota, and South Dakota. Application has not been filed for temporary authority under section 210a(b). NOTE: MC-119914 Sub-19, is a matter directly related.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16020 Filed 11-2-71;8:50 am]

[Notice 388]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 28, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 111383 (Sub-No. 31 TA), filed October 18, 1971. Applicant: BRASWELL MOTOR FREIGHT LINES, INC., 3925 Singleton Boulevard, Post Office Box 4447, Dallas, TX 75208. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (with the usual exceptions) (1) from Atlanta, Ga., to Norcross, Ga., and points in its commercial zone over U.S. Interstate Highway 85 to junction Georgia Highway 141, thence over Georgia Highway 141 to Norcross, Ga., serving all intermediate points and (2) from Atlanta, Ga., to Norcross, Ga., over U.S. Highway 23, serving all intermediate points, and return over the same routes, serving Tucker-Stone Mountain, Ga., as an intermediate or off-route point in connection with carriers authorized regular route operation in MC-111383 and subs thereunder, for 180 days. NOTE: Applicant states it does not intend to tack with existing authority. Supported by: There are approximately 33 shippers and consignees mostly in the Atlanta, Norcross, Tucker-Stone Mountain area. Send protests to: E. K. Willis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 13C12 Federal Building, 1100 Commerce Street, Dallas, TX 75202.

No. MC 115523 (Sub-No. 166 TA), filed October 18, 1971. Applicant: CLARK TANK LINES COMPANY, Post Office Box 1895 (84110), 1450 Beck Street, Salt Lake City, UT 84116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Potash*, in bulk, from the plantsite of Kaiser Chemicals, near Wendover, Utah, to the plantsite of U.S. Steel Agri-Chemicals at Filer, Fischer, Hansen, Mitchell, Paul, Shelley, Rexburg, Wilder, and Nampa, Idaho, and Claude, Oreg., and the plantsites of Simplot Soilbuilders at American Falls and Blackfoot, Idaho, for 180 days. Supporting shipper: Kaiser Chemicals, Division of Kaiser Aluminum & Chemical Corp., Kaiser Center, 300 Lakeside Drive, Oakland, CA 94604 (Post Office Box 2099) (R. L. Weber, traffic manager). Send protests to: John T. Vaughan, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5239 Federal Building, Salt Lake City, Utah 84111.

No. MC 124679 (Sub-No. 44 TA), filed October 18, 1971. Applicant: C. R. ENGLAND & SONS, INC., 975 West 2100 South Street, Salt Lake City, UT 84119. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum sheets* with plastic impregnation, from Salt Lake City, Utah, to points in the continental United States, for 180 days. Supporting shipper: Dyna-Flex Corp., 2300 South 3600 West Street, Salt Lake City, UT 84120 (Richard D. Bunker, vice president). Send protests to: John T. Vaughan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5239 Federal Building, Salt Lake City, Utah 84111.

No. MC 126278 (Sub-No. 3 TA), filed October 18, 1971. Applicant: FRIGID WAY CARTAGE CO., 4400 West 45th Street, Chicago, IL 60438. Applicant's representative: William B. McMaster (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Chicago and Deerfield, Ill., to points in Indiana, Ohio, Michigan, and Louisville, Ky. Restriction: The above authority is restricted to the transportation of traffic originating at the facilities of Continental Freezers of Illinois at Chicago, Ill., and the plantsites and warehouse utilized by Kitchens of Sara Lee, Inc., at Deerfield, and Chicago, Ill., and destined to the named destination States, for 180 days. Supporting shippers: James D. Varrato, distribution manager, Kitchens of Sara Lee Corp., 500 Waukegan Road, Deerfield, IL; Raymond C. Wheaton, traffic manager, Continental Freezers of Illinois, 4220 South Kildare Avenue, Chicago, IL. Send protests to: District Supervisor Robert G. Anderson, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 129631 (Sub-No. 21 TA), filed October 18, 1971. Applicant: PACK TRANSPORT, INC., Post Office Box 17233, Salt Lake City, UT 84117. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials*, from Salt Lake City, Woods Cross, and North Ogden, Utah, to points in Montana and those points in Idaho south of Idaho County, Idaho, for 180 days. Supporting shippers: Lloyd A. Fry, Roofing Co., 5818 Archer Road, Summit (Argo Post Office), IL 60501 (G. A. Homeier, director of traffic); Smith & Edwards, No. Highway 84, Route 3, Box 118, Ogden, UT (Bert N. Smith); Marko Inc., 1184 Bonner Way, Salt Lake City, UT 84117 (Mark R. Critchfield, president). Send protests to: John T. Vaughn, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5239 Federal Building, Salt Lake City, Utah 84111.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16021 Filed 11-2-71;8:54 am]

[Notice 774]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 29, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73164. By order of October 28, 1971, the Motor Carrier Board approved the transfer to Simons Trucking Co., Inc., Grand Rapids, Minn., of the operating rights in certificate No. MC-133961 (Sub-No. 1) issued March 19, 1971, to Donald L. Simons, doing business as Simons Trucking Co., Grand Rapids, Minn., authorizing the transportation of fencing, lath, and pallets, from the plantsite of Cole Forest Products, Inc., near Grand Rapids, Minn., to points in North Dakota, South Dakota, Nebraska, Kansas, Missouri, Iowa, Minnesota, Michigan, Wisconsin, Illinois, Indiana, Ohio, Montana, Wyoming, and Colorado. Val M. Higgins, 1000 National Bank Building, Minneapolis, Minn. 55402, attorney for applicants.

No. MC-FC-73214. By order of October 28, 1971, the Motor Carrier Board approved the transfer to Proffitt Vans, Inc., 604 South Atlantic Street, Tullahoma, TN 37388, of the operating rights in certificate No. MC-102492 issued July 26, 1963, to Patrick F. Proffitt, doing business as Proffitt's Vans, 604 South Atlantic Street, Tullahoma, TN 37388, authorizing the transportation of household goods, as defined by the Commission, between specified points in Tennessee, Kentucky, and North Carolina.

No. MC-FC-73218. By order of October 28, 1971, the Motor Carrier Board approved the transfer to James H. Jenkins, Phenix City, Ala., of the operating rights in permits Nos. MC-109730 (Sub-No. 1) and MC-109730 (Sub-No. 3) issued September 23, 1948, and September 18, 1958, respectively, to Earl Powell, Phenix City, Ala., authorizing the transportation of tile and clay products, between Phenix City, Ala., and points in Alabama within 10 miles thereof, on the one hand, and, on the other, points in Georgia, and brick, tile, and other clay products, from Phenix City, Ala., and points in Alabama within 10 miles thereof, to points in that part of Florida in and west of Jefferson County, Fla. Richard Y. Bradley, Post Office Box 2707, Columbus, GA 31902, attorney for applicants.

No. MC-FC-73228. By order of October 28, 1971, the Motor Carrier Board approved the transfer to Boland Trucking Co., Inc., San Francisco, Calif., of the certificate of registration in No. MC-99694 (Sub-No. 1) issued October 13, 1964, to I. W. Boland, doing business as Boland Trucking Co., San Francisco, Calif,, evidencing a right to engage in transportation in interstate or foreign commerce in the San Francisco-East Bay Cartage Zone as indicated in decision No. 52695 dated February 28, 1956, issued by the Public Utilities Commission of California. David W. Tucker, 44 Montgomery Street, San Francisco, CA 94104, attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16022 Filed 11-2-71;8:50 am]

[Notice 772-A]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 27, 1971.

Application filed for temporary authority under section 210(a)(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-73273. By application filed October 22, 1971, J & P PROPERTIES, INC., 6801 Northwest 74th Avenue NW., Miami, FL 33166, seeks temporary authority to lease the operating rights of TRANSYSTEMS, INC. (James W. Beasley, Trustee in Bankruptcy), 6801 Northwest 74th Avenue NW., Miami, FL 33166, under section 210a(b). The transfer to J & P PROPERTIES, INC., of the operating rights of TRANSYSTEM, INC. (James W. Beasley, Trustee in Bankruptcy), is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16023 Filed 11-2-71;8:50 am]

ASSIGNMENT OF HEARINGS

OCTOBER 29, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 77972 Sub 17, Merchants Truck Lines, Inc., continued to November 15, 1971, Room 403, Sun-N-Sand Motel, Jackson, Miss.

MC 135602, Road Hog, Inc., now assigned January 17, 1972, in New York, N.Y.

MC-F-11122, Duff Truck Lines—Purchase—Vernon R. Doering, doing business as Michigan Ohio Motor Freight, now assigned December 16, 1971, at the Offices of Interstate Commerce Commission, Washington, D.C.

MC-F-11221, Alleghany Corp., doing business as Jones Motor—Control—R. F. Post, Inc., at the Offices of Interstate Commerce Commission, Washington, D.C., now assigned January 24, 1972.

W-1255, Potomac Boat Tours, now assigned December 16, 1971, at the Offices of Interstate Commerce Commission, Washington, D.C.

MC 95540 Sub 814, Watkins Motor Lines, Inc., assigned January 19, 1972, at Dallas, Tex.

MC 107064 Sub 83, Steere Tank Lines, Inc., assigned January 12, 1972, at Dallas, Tex.

MC 107295 Sub 480, Pre-Fab Transit Co., assigned January 17, 1972, at Dallas, Tex.

MC 112304 Sub 47, Ace Doran Hauling & Rigging Co., assigned January 11, 1972, at Dallas, Tex.

MC-F 11133, Reliable Truck Lines, Inc.—Purchase (Portion)—A-OK Motors Lines, Inc. (Samuel Kaufman Trustee in Bankruptcy), MC 129944 Sub 9, Reliable Truck Lines, Inc., MC-F 11134, Cooper Transfer Co., Inc.—Purchase (Portion)—A-OK Motor Lines, Inc. (Samuel Kaufman-Trustee in Bankruptcy), MC 55889 Sub 39, Cooper Transfer Co., Inc., MC-F 11143, Gordons Transports, Inc.—Purchase (Portion)—A-OK Motor Lines, Inc. (Samuel Kaufman, Trustee in Bankruptcy), MC 11220 Sub 123, Gordons Transports, Inc., MC-F 11150, The Mason & Dixon Lines, Inc.—Purchase (Portion)—A-OK Motor Lines, Inc. (Samuel Kaufman Trustee in Bankruptcy) MC 59583 Sub 130, The Mason & Dixon Lines, Inc., now being assigned hearing December 6, 1971, in Montgomery, Alabama, in a hearing room to be later designated.

MC 112822 Sub 188, Bray Lines, Inc., assigned January 10, 1972, at Dallas, Tex.

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MC 83539 Sub 310, C & H Transportation Co., now assigned January 12, 1972, at San Francisco, Calif., hearing room to be designated later.

MC 83539 Sub 311, C & H Transportation Co., now assigned January 13, 1972, at San Francisco, Calif., hearing room to be designated later.

MC 107227 Sub 121, Insured Transporters, now assigned January 10, 1972, at San Francisco, Calif., hearing room to be designated later.

MC 121060 Sub 8, Arrow Truck Lines, Inc., now assigned November 29, 1971, in the Municipal Auditorium, 1930 Eighth Avenue North will be held in the Civic Center Travelodge, 1800 Eighth Avenue, North Birmingham, Ala.

MC 30844 Sub 358, Kroblin Refrigerated Xpress, Inc., now assigned November 1, 1971, at New York, N.Y., canceled and reassigned to November 1, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 135510, Robert E. Bailey Transport, Inc., now assigned November 5, 1971, at Portland, Oreg., canceled and application dismissed.

MC 11207 Sub 309, Deaton, Inc., now being assigned hearing December 3, 1971, at Atlanta, Ga., in a hearing room to be later designated.

MC 83539 Sub 317, C & H Transportation Co., Inc., now being assigned hearing December 17, 1971, in a hearing room to be later designated, in Atlanta, Ga.

MC 107515 Sub 752, Refrigerated Transport Co., Inc., now being assigned hearing December 15, 1971, in Atlanta, Ga., in a hearing room to be later designated.

MC 107839 Sub 146, Denver-Albuquerque Motor Transport, Inc., now being assigned hearing December 14, 1971, at Atlanta, Ga., in a hearing room to be later designated.

MC-C 7566, W. T. Mayfield Sons Trucking Co., Inc.—Investigation and Revocation of Certificates, now being assigned hearing December 16, 1971, at Atlanta, Ga., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16024 Filed 11-2-71;8:50 am]

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Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Navel Orange Reg. 237]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.537 Navel Orange Regulation 237.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907, 35 F.R. 16359), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 2, 1971.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period November 5, 1971, through November 11, 1971, are hereby fixed as follows:

(i) District 1: 114,204 cartons;

(ii) District 2: Unlimited;

(iii) District 3: 113,501 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 3, 1971.

FRED DUNN,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-16244 Filed 11-3-71;11:43 am]

[Valencia Orange Reg. 373]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 908.673 Valencia Orange Regulation 373.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908, 35 F.R. 16625), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 2, 1971.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period November 5, through November 11, 1971, are hereby fixed as follows:

(i) District 1: 85,000 cartons;

(ii) District 2: 415,000 cartons;

(iii) District 3: Unlimited.

(2) As used in this section, "handler," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 3, 1971.

ARTHUR E. BROWNE,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-16242 Filed 11-3-71;11:43 am]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER A—ARMED SERVICES PROCUREMENT REGULATIONS

MISCELLANEOUS AMENDMENTS TO SUBCHAPTER

The following amendments to this subchapter are issued by direction of the Assistant Secretary of Defense (Installations and Logistics) pursuant to authority contained in Department of Defense Directive No. 4105.30, dated March 11, 1959 (24 F.R. 2260), as amended, and 10 U.S.C. 2202.

PART 1—GENERAL PROVISIONS

1. Sections 1.109–2, 1.113–2, 1.201–2, and 1.201–14 are amended; § 1.201–22 is revised; §§ 1.201–33 and 1.201–34 are added; §§ 1.307–1 and 1.307–3 are amended; § 1.319(f) is revoked; § 1.320 is revised; § 1.322–1(a) is amended; § 1.322–2(j)(1) is revised; in § 1.322–6 paragraph (a) is amended and paragraph (c) is revised; § 1.322–9 is added; § 1.327 is revised; § 1.330 is added; § 1.406 (c)(51) is revised; § 1.701–1 is revised; in § 1.701–4 the introductory statement is amended and a new classification code "1929" is added under Major Group 19—Ordnance and Accessories; § 1.704–2(b) is amended; §§ 1.704–3(a)(1) and (3), and 1.705–5 are revised; § 1.908–1 is amended; § 1.908–2 is revised; § 1.908–3 (a) is amended; and § 1.908–6 is revised by deleting all after the first sentence, as follows:

§ 1.109–2 Deviations affecting one contract or transaction.

Deviations from this subchapter or a Department of Defense Directive which affect only one contract or procurement may be made or authorized in accordance with Departmental procedures: *Provided*, (a) Special circumstances justify a deviation and (b) written notice of such deviation is furnished to the Assistant Secretary of Defense (Installations and Logistics); and in the case of the Department of the Army, to the Assistant Secretary of the Army (I&L), Attn: ASPR Policy Member; the Department of the Navy, the Chief of Naval Material, Attn: Code MAT02G; Department of the Air Force, Director of Procurement Policy, DCS/S&L, Attn: AFSPPC; and the Defense Supply Agency, Executive Director, Procurement and Production, Attn: DSAH–PM. Such written notice shall be given in advance of the effective date of such deviations unless exigency of the situation requires immediate action.

§ 1.113–2 Organizational conflicts of interest.

(a) Part 141 of this chapter—Rules for the Avoidance of Organizational Conflicts of Interest sets out some of the more essential policy considerations of the Department of Defense with respect to relationships with non-Federal institutions. Specifically, Part 141 of this chapter describes examples of various organizational conflicts of interest which might come into being, and rules for avoidance of such conflicts; and it provides that action must be taken to avoid placing a contractor in a position where his judgment might be biased or where he would have an unfair competitive advantage within the scope and intent of the rules. However, Part 141 of this chapter cannot of itself impose any obligations on the contractor; such obligations must be imposed by a contract clause designed to carry out the intent of Part 141 of this chapter. Furthermore, potential contractors must be advised in the solicitation as to the extent of applicability of the rules, and must be given an opportunity to negotiate on the terms of the clause and its application.

(b)(1) The contracting officer is responsible for applying the rules in Part 141 of this chapter to contracts under his cognizance and shall determine whether each proposed procurement is subject to Part 141 of this chapter.

(2) If the contracting officer initially determines with respect to a particular procurement that a potential conflict of interest exists, he shall, before issuing the solicitation, prepare a written analysis, including a statement as to which of the four rules (or other conflict of interest not stated in the rules) he considers applicable, and a recommended solicitation notice and clause designed to avoid the organizational conflict of interest. A standard form of solicitation notice or clause is not prescribed in this subchapter since such notices and clauses must be especially adapted to apply the principle of the rules to the specific facts of each contractual situation. The clause shall spell out the specific extent of any future restrictions on the contractor. The restrictions of the proposed clause shall also have a specific time period of effectiveness. As a general rule, the time effectiveness of any clause which excludes the contractor from participation in subsequent procurement shall have a fixed term of reasonable duration as appropriate, except that where Rule 1 of Part 141 of this chapter (§ 141.2(b)(1)) is involved the exclusion shall be permanent. A fixed term of reasonable duration is measured by the time required to avoid the circumstance of unfair competitive advantage. This is variable; for example, it may run to the date of award of the first production contract or for a stated period of time. (See Rules 2 and 3 of Part 141 of this chapter (§ 141.2(b)(2) and (3)). In no event shall an exclusion be stated in the clause without a specific date, or an event certain, terminating the effectiveness of the exclusion except where Rule 1 is involved.

(3) After approval by the Head of the Procuring Activity or his designee and before issuance of the solicitation, the contracting officer shall include the determination, together with the written analysis, in the negotiation file or record. The approved solicitation notice and proposed clause shall then be included in the solicitation, together with a clear statement that the proposed clause and the application of Part 141 of this chapter are subject to negotiation.

(4) In no case shall the clause included in a solicitation or in a contract (including letter contracts) pursuant to § 1.113–2 defer the determination of the application of Part 141 of this chapter to a time after the contract has been awarded.

(5) Where a contract contemplates a Rule 4 situation (§ 141.2(b)(4)), it is incumbent on the contracting officer to assure himself that the agreement called for by Rule 4 (§ 141.2(b)(4)) is in fact executed, and that copies thereof are made available to the Government.

(c) The contracting officer shall not impose restrictions under Part 141 of this chapter in follow-on procurements on any prospective contractor in the absence of a specific contractual agreement with that contractor. If, during the effective period of any restriction, procurement responsibility for the system or item involved is transferred from the procuring activity which imposed the restriction that activity shall notify the transferee of the restriction and send it a copy of the contract under which it was imposed.

(d) The Departments shall maintain, in accordance with Departmental procedures, and for an appropriate period of time as determined by the circumstances, a record of all solicitation notices and of all clauses incorporated in contracts pursuant to this section.

§ 1.201–2 Contract modification.

Contract modification means any written alteration in the specification, delivery point, rate of delivery, contract period, price, quantity, or other contract provisions of an existing contract, whether accomplished by unilateral action in accordance with a contract provision, or by mutual action of the parties to the contract. It includes (a) bilateral actions such as supplemental agreements, and (b) unilateral actions such as change orders, orders for provisioned items, administrative changes, notices of termination, and notices of the exercise of a contract option.

§ 1.201–14 Procuring activity.

Procuring activity includes for the Army: Directorate of Requirements and Procurement, Headquarters, U.S. Army Materiel Command; the U.S. Army Munitions Command; the U.S. Army Missile Command; the U.S. Army Electronics Command; the U.S. Army Mobility Equipment Command; the U.S. Army Tank-Automotive Command; the U.S. Army Aviation Systems Command; the U.S. Army Weapons Command; the U.S. Army Test and Evaluation Command; U.S. Continental Army Command and its subordinate commands consisting of Zone of Interior Armies and Military District of Washington, U.S. Army; U.S. Army, Alaska; U.S. Forces Southern Command, U.S. Army; U.S. Theater Army Support Command, Europe; U.S. Army, Pacific; National Guard Bureau; Office of the Chief of Engineers; Strategic Communications Command; Office of the Chief of Support Services; Office of The Surgeon General; U.S. Army Security Agency; Military Traffic Management and Terminal Service; and the Safeguard System Organization; for the Navy: each Bureau, the Headquarters, Naval Material Command, the Office of the Deputy Chief of Naval Material (Procurement and Production), the Naval Air Systems Command, the Naval Electronic System Command, the Naval Facilities Engineering Command, the Naval Ordinance Systems Command, the Naval Ship Systems Command, the Naval Supply Systems Command, the Office of Naval Research, the Navy Aviation Supply Office, the Military Sealift Command, and the United States Marine Corps; for the Air Force: Hq., USAF (AFSPP); the Air Force Logistics Command; the Air Force Systems Command; the Strategic Air Command; the Tactical Air Command; the Aerospace Defense Command; the Military Airlift Command; the Air Training Command; the Pacific Air Forces, the U.S. Air Forces in Europe; the Alaskan Air Command; for the Defense Supply Agency: the Office of the Deputy Director for Contract Administration Services; the Office of the Executive Director, Procurement and Production; the Defense Supply Centers; and the Defense Personnel Support Center; for the Defense Communications Agency: The Headquarters, Defense Communications Agency; and the Defense Commercial Communications Office; for the Defense Atomic Support Agency: Headquarters, Defense Atomic Support Agency. It also includes any other procuring activity hereafter established. The number and designation of particular procuring activities of any Military Department may be changed by directive of the Secretary.

§ 1.201–22 Classified procurement.

Classified procurement is that which requires access to classified information ("Confidential, Secret or Top Secret") either to submit a bid or proposal, or to perform the contract; see § 1.320.

§ 1.201–33 Exhibit.

Exhibit means a document attached to a procurement instrument, referenced by its capital letter identifier in a line or subline item in the procurement instrument schedule, which identifies deliverable requirements in the attached document as an alternative to establishing an extensive list of line or subline items in the procurement instrument Schedule.

§ 1.201–34 Classified contract.

Classified contract is any contract that requires or will require access to classified information by the contractor or his employees in the performance of the contract. A contract may be a classified contract even though the contract document is not classified.

§ 1.307–1 General.

In the interest of maintaining a minimum priorities and allocations system as a mobilization preparedness measure, it is national policy to require contractors to use ratings and allotment authority to support military procurement, to the extent required by the Bureau of Domestic Commerce (BDC).

(a) *DOD Priorities and Allocations Manual.* Department of Defense implementation of all rules and regulations published by the Bureau of Domestic Commerce, with respect to which the Department of Defense is delegated administrative responsibility, will be published in the Priorities and Allocations Manual promulgated by Department of Defense Instruction 4410.1. Authorized deviations to the priorities and allocations rules and regulations will likewise be published in the Manual.

(b) *Operating responsibility.* In accordance with § 1.403, the Military Departments shall comply with the priorities and allocations program, including the Defense Materials System, as set forth in the Priorities and Allocations Manual and in the rules and regulations published by the Bureau of Domestic Commerce.

§ 1.307–3 Inadequate response to solicitations.

(a) In accordance with the policies and procedures of the Priorities and Allocations System rated contracts and purchase orders or Authorized Controlled Material Orders may be placed on selected suppliers when adequate response to a solicitation is not received. Therefore, when there are no bids or proposals received as a result of a solicitation or if the bids or proposals received do not cover the entire requirement, normal procurement procedures shall be followed in attempting to locate sources, to the extent exigencies of the procurement will permit. If such efforts are unsuccessful, and it is determined at this point in time that the procurement must be accomplished, then rated orders in the form of rated contracts, rated purchase orders or an Authorized Controlled Material Order shall be presented, to one or more (as appropriate) selected suppliers or manufacturers qualified to produce the item or material. This will be accomplished by a cover letter signed by the contracting officer, citing the requirements of the Defense Production Act and BDC Regulation 2, and requesting timely acceptance thereof by the contractor. The letter shall also request that any reasons for rejection be promptly furnished in writing, as required by the BDC Regulations. Rated orders will be placed pursuant to appropriate negotiation authority. Contracts and purchase orders shall contain, as a minimum, the following information in addition to normal contractual requirements to be a valid rated order:

(1) DO or DX rating on contracts or purchase orders as appropriate.

(2) DMS allotment number or Authorized Controlled Material Orders.

(3) Certification "Certified for National Defense Use Under DMS Regulation 1 or BDC Regulation 2 (as appropriate)."

(4) Delivery schedule.

(5) Signature.

(b) Rated orders or Authorized Controlled Material Orders which are rejected by suppliers shall be forwarded to BDC, through established Departmental priorities assistance channels, for such action as BDC considers appropriate.

§ 1.319 Renegotiation performance reports.

* * * * * *

(f) [Revoked]

§ 1.320 Industry security.

Procedures required to safeguard classified defense information to which U.S. contractors, subcontractors, vendors, or suppliers will possess or have access to are set forth in the Department of Defense Industrial Security Regulation (DoD 5220.22–R), hereinafter referred to as the ISR, and its companion publication, the Department of Defense Industrial Security Manual for Safeguarding Classified Information (DoD 5220.22–M), hereinafter referred to as the ISM, together with supplements and revisions thereto. Procedures for the protection of information covered by foreign classified contracts awarded to U.S. industry and instructions for the protection of U.S. classified information in connection with classified contracts awarded to foreign firms are explained in section VIII, ISR (also see § 9.106 of this chapter).

§ 1.322–1 General.

(a) *Description of procedure.* Multiyear procurement is a method for competitive contracting for known requirements for military supplies or services in quantities and total cost not in excess of planned requirements for 5 years (4 years in the case of supplies or services for the maintenance and operation of family housing), set forth in, or in support of, the Department of Defense 5-Year Defense Program, even though the total funds ultimately to be obligated by the contract are not available to the contracting officer at the time of entering into the contract. Under this method, contract quantities are budgeted for and financed in accordance with the program year for which each quantity is authorized. This procedure provides for solicitation of prices based either on award of the current 1-year program quantity only, or, in the alternative, on the total multiyear quantities. Award is made on which ever of these two alternative bases reflects the lowest unit prices to the Government. If award is made on the multiyear basis, funds are obligated only for the first year's quantity, with succeeding years' contract quantities funded annually thereafter. In the event funds are not made available to support one or more succeeding year's quantities, cancellation is effected. The contractor is protected against loss resulting from cancellation by contract provisions allowing reimbursement of unrecovered nonrecurring costs included in prices for canceled items.

* * * * * *

§ 1.322–2 Procedures for supply contracts.

* * * * * *

(j) *Limitations.* Multiyear procurement of supplies shall not be used:

(1) When funds covering the procurement are limited by statute for obligation during the fiscal year in which the contract is executed (but see § 1.322–9, multiyear procurement of supplies and services for the maintenance and operation of family housing under Public Law 91–142);

• • • • • •

§ 1.322–6 Multiyear procurement of services.

(a) *Description of procedure.* Multiyear procurement of services is a method for competitive contracting for known requirements for services and items of supply incidental to service contracts in quantities and total cost not in excess of planned requirements for 5 years (4 years in the case of services for the maintenance and operation of family housing) set forth in, or in support of, the 5-Year Defense Program, even though the total funds ultimately to be obligated by the contract are not available to the contracting officer at the time of entering into the contract. Under this method, requirements are budgeted for and financed in accordance with the program year for which each quantity is authorized. This procedure provides for solicitation of prices based either on award of the current 1-year requirements only, or, in the alternative, on total requirements representing the first and one or more succeeding years' requirements (multiyear). Award is made on whichever of these two alternative bases reflects the lowest prices to the Government. If award is made on the multiyear basis, funds are obligated only for the first year's quantity, with succeeding years' contract quantities funded annually thereafter. In the event funds are not made available to support one or more succeeding year's requirements, cancellation is effected. The contractor is protected against loss resulting from cancellation by contract provisions allowing reimbursement of unrecovered nonrecurring costs included in prices for canceled requirements.

• • • • • •

(c) *Limitations.* Multiyear contracts for services shall not be used:

(1) When funds covering the procurement are limited by statute for obligation during the fiscal year in which the contract is executed (1-year funds) (but see § 1.322–8, Multiyear Procurement of Services under Public Law 90–378, for multiyear procurement of specified services outside the 48 contiguous States and the District of Columbia; and § 1.322–9, multiyear procurement of supplies and services for the maintenance and operation of family housing under Public Law 91–142);

(2) To procure requirements which are in excess of the 5-year Defense Program;

(3) Until a written determination has been made that (i) there will be a continuing requirement for the services and incidental supplies consonant with current plans for the proposed contract period, and (ii) the furnishing of such services and incidental supplies will require a substantial initial investment in plant or equipment, the incurrence of substantial contingent liabilities for the assembly, training, or transportation of a specialized work force, or other substantial startup costs, and (iii) the use of such a contract will promote the best interests of the United States by encouraging effective competition and promoting economies of operation. These determinations and findings shall be executed by:

(*a*) The Commanding Officer of the installation or activity, when the contract period will not exceed 2 years and the estimated annual expenditures thereunder do not exceed $350,000;

(*b*) The Head of the Procuring Activity when the contract period will exceed 2 years (except see (c) of this subdivision for multiyear procurement of services under Public Law 90–378) or when the contract period will not exceed 2 years but the estimated annual contract expenditure will exceed $350,000;

(*c*) The Assistant Secretary for Installations and Logistics, of the respective Departments, or the Directors of Defense Agencies for multiyear procurement of services performed outside the 48 contiguous States and the District of Columbia under Public Law 90–378 when the contract period will exceed 3 years regardless of dollar value.

§ 1.322–9 Multiyear procurement of supplies and services under Public Law 91–142.

(a) *General.* Under section 512 of Public Law 91–142, the Department of Defense is authorized to enter into contracts for periods of not more than 4 years for supplies and services required for the maintenance and operation of family housing for which funds would otherwise be available only within the fiscal year for which appropriated. Such procurements shall be entered into only when they are consistent with the policies and satisfy the requirements set forth in § 1.322–2 for supply contracts and §§ 1.322–6 and 1.322–7 for service contracts (except as provided in paragraphs (b) and (c) of this section). The performance years specified in the schedule shall not extend beyond the end of any fiscal year (1 July–30 June).

(b) *Limitations.* Since procurements under this authority are limited for execution on a fiscal year basis, references to "program year" throughout §§ 1.322–6 and 1.322–7 shall be considered to mean "fiscal year."

(c) *Clauses.* The clauses set forth in § 1.322–8(c) (1) and (2) shall be included in all contracts for the procurement of supplies or services under this section on a multiyear basis.

§ 1.327 Use of excess aluminum in national stockpile.

§ 1.327–1 General.

It has been determined to be in the public interest to establish a Government Use Program requiring, to the maximum practicable extent, purchase of excess aluminum in the Government stockpile by defense contractors, directly or through subcontractors or suppliers, equal in weight to the weight of aluminum products as defined in § 7.104–59 of this chapter, purchased by the Government or used in the production of items delivered under defense contracts. In implementation of this Program, all contracts in the categories listed below, shall contain the clause in § 7.104–59 of this chapter; or in the case of construction contracts, the clause as modified in § 7.603–44 of this chapter.

(a) Purchases in the amount of $500 or more of aluminum products as defined in § 7.104–59 of this chapter.

(b) Purchases of supplies or construction in the amount of $25,000 or more where the aluminum products used in the production of items delivered under the contract or in the production of items incorporated in construction performed under the contract are estimated by the contracting officer to approximate 10,000 pounds or more.

These provisions do not apply to procurements of supplies or construction effected by procuring activities located outside, for use outside, the United States, its possessions, and Puerto Rico. These provisions are applicable to new procurements that are effected by modifications to an existing contract. In such cases, only the new procurement portion of the total contract is considered in determining whether the clause is required and, if required, the extent of its applicability.

§ 1.327–2 Contract clause.

In accordance with § 1.327–1, insert the clause in § 7.104–59 of this chapter, or in the case of construction contracts, the clause as modified in § 7.603–44 of this chapter.

§ 1.330 Contractor liability for defective supplies.

(a) It is the policy of the Department of Defense generally to act as a self-insurer for loss of or damage to property of the Government occurring after final acceptance of supplies delivered to the Government and resulting from any defects or deficiencies in such supplies. Exceptions to this policy are:

(1) Loss of or damage to the contract end item itself (but see paragraph (b) (1) of this section.

(2) When contractor liability can be preserved without increasing the contract price, and

(3) When contractor liability is expressly provided by a clause authorized by this regulation (but see § 7.104–45(b) of this chapter).

(b) Therefore, the clause set forth in § 7.104–45(a) of this chapter shall be inserted in all contracts requiring the delivery of supplies with exception of the following:

(1) *Major items.* In procurements of high dollar value items, it is Department of Defense policy, in addition to paragraph (a) of this section, to relieve the contractor from liability for loss of or damage to the contract end item occurring after final acceptance of such end

item. Accordingly, the clause in § 7.104–45(b) of this chapter shall be substituted for the clause in § 7.104–45(a) of this chapter in contracts for such items as missiles, aircraft, tanks, ships, aircraft engines, navigational and communications systems to the extent any of these items have a high unit cost. The § 7.104–45(b) of this chapter clause would not be appropriate when the contractor includes in his price a contingency for such losses. The § 7.104–45(b) of this chapter clause does not limit the Government's rights otherwise arising under the contract to have any defective items or components thereof, corrected, repaired or replaced when discovery of the defect occurs prior to loss of or damage to the contract end item or equivalent relief when the defect is discovered after loss or damage occurs.

(2) *Catalog or market priced items.* Contractors generally carry products liability insurance or similar insurance coverage or maintain a reserve for self insurance covering liability arising out of defective commercial items. Accordingly, the clause in § 7.104–45(a) of this chapter should not be used for catalog or market priced items (see § 3.807–1(b) (2) of this chapter) unless there is an appropriate reduction in the catalog or market price to reflect reduced contractor liability.

(3) *Purchase orders.* The § 7.104–45 (a) of this chapter clause is optional for use with DD Form 1155, Order for Supplies or Services/Request for Quotations.

(4) *Contractor practices.* When it is a contractor's practice to insure for the liability excluded by the clause in § 7.104–45(a) of this chapter, the clause shall not be used unless it can be ascertained that the price includes no part of the cost of insurance or a reserve for self insurance for such liability.

§ 1.406 Contract administration functions.

• • • • • •

(c) • • •

(51) In connection with classified contracts, administer those portions of the Industrial Security Program designated as ACO responsibilities in the ISR and ISM (See Appendix C, Industrial Security Regulation, DoD 5220.22–R, for partial listing of primary responsibilities (also see § 1–320).);

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§ 1.701–1 Small business concern.

(a) (1) *General definition.* A small business concern is a concern that is independently owned and operated, is not dominant in the field of operation in which it is bidding on Government contracts, and with its affiliates, can further qualify under the criteria set forth in subparagraphs (2) and (3) of this paragraph. "Concern" means any business entity organized for profit with a place of business in the United States, its possessions, Puerto Rico, or the Trust Territory of the Pacific Islands, including but not limited to an individual, partnership, corporation, joint venture, association, or cooperative. For the purpose of a procurement of a product or service that could be classified into two or more industries with different size standards, the size standard to be used in determining a bidder's size status shall be that for the industry whose definition best describes the principal nature of the product or service being procured.

(2) *Industry small business size standards.* In addition to being independently owned and operated, and not dominant in the field of operation in which it is bidding on Government contracts, a small business concern in order to qualify as such must meet the criteria established for the industries set forth below. "Annual receipts" means the gross income (less returns and allowances, sales of fixed assets and interaffiliate transactions) of a concern (and its affiliates) from sales of products and services, interest, rents, fees, commissions, and/or from whatever other source derived, as entered on its regular books of account for its most recently completed fiscal year (whether on a cash accrual, completed contracts, percentage of completion, or other acceptable accounting basis) and reported or to be reported to the U.S. Treasury Department, Internal Revenue Service, for Federal income tax purposes. If a concern has been in business less than one year, its annual receipts shall be computed by determining its average weekly receipts for the period in which it has been in business and multiplying such figure by 52. If a concern has 50 percent or more of its annual receipts attributable to business activity within Alaska then whatever size criterion of "annual receipts" is used in any size definition contained in this subpart, the stated dollar limitation for the purpose of qualifying as a small business concern shall be increased by 25 percent of the indicated amount.

(i) *Construction industries.* For construction, alteration, or repair (including painting and decorating), of buildings, bridges, roads or other real property, the average annual receipts of the concern and its affiliates for its preceding 3 fiscal years must not exceed $7,500,000. For dredging, the average annual receipts of the concern and its affiliates for its preceding three fiscal years must not exceed $5 million. Also, in order to be eligible for a small business set-aside award on dredging contracts, the firms must perform the dredging of at least 40 percent of the yardage advertised in the plans and specifications with dredging equipment owned by the bidder or obtained from another small business dredging concern.

(ii) *Manufacturing industries—(a) Food canning and preserving industry.*— For food canning and preserving, the number of employees of the concern and its affiliates must not exceed 500 persons, exclusive of "agricultural labor" as defined in 26 U.S.C. 3306(k).

(*b*) *Refined petroleum products.*— Any concern bidding on a contract for a refined petroleum product other than Paving mixture and blocks, Asphalt felts and coatings, Lubricating oils and greases, or Products of petroleum and coal, not elsewhere classified, is classified as small if (*1*) (*i*) its number of employees does not exceed 1,000 persons; (*ii*) it does not have more than 30,000 barrels-per-day crude oil or bona fide feed stock capacity from owned or leased facilities or from facilities made available to such concern under an arrangement such as, but not limited to, an exchange agreement (except one on a refined product for refined product basis), or a throughput or other form of processing agreement, with the same effect as though such facilities had been leased; and (*iii*) the product to be delivered in the performance of the contract will contain at least 90 percent components refined by the bidder from either crude oil or bona fide feed stocks: *Provided, however,* That a petroleum refining concern which meets the requirements in (*i*) and (*ii*) of (*b*) (*1*) may furnish the product of a refinery not qualified as small business if such product is obtained pursuant to a bona fide exchange agreement, in effect on the date of the bid or offer, between the bidder or offeror and the refiner of the product to be delivered to the Government which requires exchanges in a stated ratio on a refined petroleum product for a refined petroleum product basis, and precludes a monetary settlement, and that the products exchanged for the products offered and to be delivered to the Government meet the requirement in (*iii*) of (*b*) (*1*): *And, provided further,* That the exchange of products for products to be delivered to the Government will be completed within 90 days after expiration of the delivery period under the Government contract and that any product furnished pursuant to a bona fide exchange agreement must be for delivery in the same Petroleum Administration for Defense (PAD) District as that in which the small refinery is located; or (2) its number of employees does not exceed 500 persons and the product to be delivered to the Government has been refined by a concern which qualifies under (*1*) of (*b*).

(c) *Pneumatic tires.* For passenger cars, motorcycles, truck, bus, and off-the-road pneumatic tires, a concern is classified as small when bidding on a contract for the above listed items: *Provided,* That (*1*) the value of the above types of pneumatic tires which it manufactured in the United States during the preceding calendar year is more than 50 percent of the value of its total worldwide manufacture, (2) the value of these pneumatic tires which it manufactured worldwide during the preceding calendar year was less than 5 percent of the value of all such tires manufactured in the United States during said period, and (3) the value of the principal products which it manufactured or otherwise produced or sold worldwide during the preceding calendar year is less than 10 percent of the total value of such products manufactured or otherwise produced or sold in the United States during said period. This section does not apply to procurements for the repairing and/or retreading of pneumatic aircraft tires which, by reason of the extent and nature of the equipment and operations required, is

considered for size standards purposes to be manufactured within the meaning of Standard Industrial Classification Industry No. 3011, Tires and Inner Tubes.

(d) *Passenger cars.* A company is classified as small if it is bidding on a contract for passenger cars: *Provided,* That (1) the value of the passenger cars which it manufactured or otherwise produced in the United States during the preceding calendar year is more than 50 percent of the value of its total worldwide manufacture or production of such passenger cars, (2) the value of the passenger cars which it manufactured or otherwise produced during the preceding calendar year was less than 5 percent of the total value of all such cars manufactured or produced in the United States during the said period, and (3) the value of the principal products which it manufactured or otherwise produced or sold during the preceding calendar year is less than 10 percent of the total value of such products manufactured or otherwise produced or sold in the United States during said period.

(e) *Rebuilding of machinery on a factory basis.* Any concern bidding on a contract for the rebuilding of machinery or equipment on a factory basis is classified as small business: *Provided,* The purpose of the rebuilding is to restore such machinery or equipment to as serviceable and as like new condition as possible and the number of employees does not exceed the number of employees specified for the classification code applicable to the manufacturer of the original item. The size standard is not limited to concerns who are manufacturers of the original item but is applicable to all bidders or offerors. The term "rebuilding on a factory basis" as used in (e) does not include ordinary repair services such as those involving minor repair and/or preservation operations.

(f) *Manufacturing industries listed in § 1.701–4.* For a product classified within an industry listed in § 1.701–4, the number of employees of the concern and its affiliates must not exceed the small business size standard established therein for that industry.

(g) *Manufacturing industries not listed in § 1.701–4.* For a product classified within an industry not set forth in this paragraph or in § 1.701–4, the number of employees of the concern and its affiliates must not exceed 500 persons.

(iii) *Nonmanufacturing industries.* For a product not manufactured by the concern submitting a bid or proposal, other than for a construction or service contract, the number of employees of that concern must not exceed 500 persons, and in the case of a procurement set aside for small business (see § 1.706) or involving equal low bids (see § 2.407–6 of this chapter), or otherwise involving the preferential treatment of small business (e.g., C.O.C. procedures, see § 1.705–4), it must agree to furnish in the performance of the contract end items manufactured or produced in the United States, its possessions, Puerto Rico or the Trust Territory of the Pacific Islands by small business concerns. However, if the goods to be furnished are wool, worsted, knitwear, duck, or webbing, nonmanufacturers (dealers and converters) shall furnish such products which have been manufactured or produced by a small weaver (small knitter for knitwear) and, if finishing is required, by a small finisher. If the product to be furnished is thread, nonmanufacturers (dealers and converters) shall furnish thread which has been finished by a small finisher. (Finishing of thread is defined as all "dyeing, bleaching, glazing, mildew proofing, coating, waxing, and other applications required by the pertinent specification, but excluding mercerizing, spinning, throwing, or twisting operations.)

(iv) *Service industries.* (a) For services not elsewhere defined in this part, the average annual receipts of the concern and its affiliates for the preceding 3 fiscal years must not exceed $1 million.

(b) Any concern bidding on a contract for engineering services (other than marine engineering services), motion picture production, or motion picture services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $5 million.

(c) Any concern bidding on a contract for naval architectural and marine engineering services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $6 million.

(d) Any concern bidding on a contract for janitorial and custodial services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $3 million.

(e) Any concern bidding on a contract for base maintenance is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $5 million.

(f) Any concern bidding on contracts for marine cargo handling services is classified as small if its annual receipts do not exceed $5 million for the preceding 3 fiscal years.

(g) Any concern bidding on a contract for food services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $4 million.

(h)(1) Any concern bidding on a contract for laundry including linen supply, diaper services, and industrial laundering, is classified small if its average annual receipts for its preceding 3 fiscal years do not exceed $3 million.

(2) Any concern bidding on a contract for cleaning and dyeing including rug cleaning services is classified small if its average annual receipts for its preceding 3 fiscal years do not exceed $1 million.

(i) Any concern bidding on a contract for computer programming services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $3 million.

(j) Any concern bidding on a contract for flight training services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $5 million.

(k) Any concern bidding on a contract for motorcar rental and leasing services or truck rental and leasing services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $5 million.

(l) Any concern bidding on a contract for tire recapping services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $3 million.

(m) Any concern bidding on a contract for data processing services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $3 million.

(n) Any concern bidding on a contract for computer maintenance services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $5 million.

(v) *Transportation industries*—(a) *General.* Except as provided in (b) and (c) of this subdivision, for passenger or freight transportation the number of employees of the concern and its affiliates must not exceed 500 persons.

(b) *Air transportation.* For air transportation, the number of employees of the concern and its affiliates must not exceed 1,000 persons.

(c) *Trucking (local and long distance), warehousing, packing and crating, and/or freight forwarding.* For trucking (local and long distance), warehousing, packing and crating, and/or freight forwarding, the annual receipts of the concern and its affiliates must not exceed $5 million. No such concern, however, will be denied small business status for the purpose of Government procurement solely because of its contractual relationship with a large interstate van line if the concern's annual receipts have not exceeded $5 million during its most recently completed fiscal year.

(vi) *Research, development or testing industries.* For research, development, or testing, which requires delivery of a manufactured product, a concern must (a) qualify as a small business manufacturer within the meaning of subdivision (ii) of this subparagraph for the industry in which the product is classified, or (b) qualify as a small business nonmanufacturer within the meaning of subdivision (iii) of this subparagraph. For research, development, or testing, which does not require delivery of a manufactured product, the number of employees of the concern and its affiliates must not exceed 500 persons.

(3) *Small business subcontractors.* In connection with subcontracts of $2,500 or less, any concern will be considered a small business concern if it, with its affiliates, employs not more than 500 employees. In connection with subcontracts exceeding $2,500, any concern shall be considered a small business concern if it qualifies as such under subparagraphs (1) and (2) of this paragraph.

(b) *Dominance in field of operations.* A concern "is not dominant in its field of operations" when it does not exercise a controlling or major influence in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration is given to all

appropriate factors including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents and license agreements, facilities, sales territory, and nature of business activity.

(c) *Affiliates.* Business concerns are affiliates of each other when either directly or indirectly (1) one concern controls or has the power to control the other or (2) a third party controls or has the power to control both. In determining whether concerns are independently owned and operated and whether or not affiliation exists, consideration is given to all appropriate factors including common ownership, common management, and contractual relationships: *Provided, however,* That restraints imposed on a franchisee by its franchise agreement shall not be considered in determining whether the franchisor controls or has the power to control and, therefore, is affiliated with the franchisee, if the franchisee has the right to profit from his effort, commensurate with ownership, and bears the risk of loss or failure.

(d) *Number of employees.* In connection with the determination of small business status, "number of employees" means the average employment of any concern, including the employees of its domestic and foreign affiliates, based on the number of persons employed on a full-time, part-time, temporary, or any other basis during the pay period ending nearest the last day of the third month in each calendar quarter for the preceding 4 quarters. If a concern has not been in existence for 4 calendar quarters, "number of employees" means the average employment of such concern and its affiliates during the period such concern has been in existence based on the number of persons employed during the pay period ending nearest the last day of each month.

(e) *Small business certificate.* A small business certificate is a certificate issued by SBA pursuant to the authority contained in sections 3 and 8(b)(6) of the Small Business Act certifying that the holder of the certificate is a small business concern for the purpose of Government procurement and in accordance with the terms of the certificate.

§ 1.701–4 Manufacturing industry employment size standards.

The Standard Industrial Classification Manual (1967 Edition) index provides an alphabetical listing of products and the industry with which the product is associated, which includes references to the Classification Code set forth below.

MAJOR GROUP 19—ORDNANCE AND ACCESSORIES

Census classification code	Industry	Employment size standard (number of employees)[1]
1926	Guided missiles and space vehicles, completely assembled.	1,000
1929	Ammunition except for small arms, n.e.c.	1,000
1931	Tanks and tank components	1,000
1961	Small arms	1,000
1961	Small arms ammunition	1,000

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§ 1.704–2 Departmental small business advisors.

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(b) **Navy—Special Assistant for Small Business and Economic Utilization, Office of the Assistant Secretary of the Navy (Installations and Logistics), Navy Department, Washington, D.C.;**

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§ 1.704–3 Small business specialists.

(a) • • •

(1) Army—Head of procuring activity (see § 1.201–7) with authority to redelegate to installation or activity commanders under his jurisdiction without power of redelegation.

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(3) Air Force—Commander of each central procurement activity; the Base Commander of each local purchasing activity and the Chief of each contract administration activity. In addition, an Executive for Small Business shall be appointed by the Commander of each Major Air Command in the United States, not mandatorily reporting directly to the Commander but having ready access to such person, who will have primary responsibility for the effective implementation of the Air Force Small Business Program within the Command. The Executive for Small Business at Major Air Command Headquarters other than Air Force Logistics Command and Air Force Systems Command may be on a part-time basis. The Executive for Small Business at PACAF may be appointed by the Base Commander, Hickam AFB, Hawaii.

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§ 1.705–5 Contracting with the Small Business Administration.

(a) *Authority.* When the Administrator of the Small Business Administration (SBA) certifies to the Secretary concerned in accordance with section 8(a) of the Small Business Act (15 U.S.C. 637 (a)) that the SBA is competent to perform a specific contract, the contracting officer is authorized, in his discretion, to award the contract to the SBA.

(b) *Policy.* It is the policy of the Department of Defense (DOD) to enter into contracts with the SBA to foster or assist in the establishment or the growth of small business concerns as designated by the SBA so that these concerns my become self-sustaining, competitive entities within a reasonable period of time. The SBA is empowered to arrange for the performance of such contracts by negotiating or otherwise letting contracts to small business concerns or others.

(c) *Procedures*—(1) *Supplies, services and research and development.* (i) In contracts for supplies, services and research and development, it is the stated policy of the SBA to contract with only those small firms which have submitted a written business plan specifically outlining a reasonable approach to the attainment of the policy objectives of paragraph (b) of this section. This business plan, if approved by the SBA, will be the basis for DOD's consideration of participation in a section 8(a) program for the firm. In the execution of this policy, the SBA will furnish to the Secretary of the appropriate Department, Attention: Economic Utilization Advisor, its request for a commitment to support the approved plan, showing at least the following information:

(a) The background and ownership of the firm;

(b) How and when the firm is expected to become a self-sustaining, competitive entity;

(c) The extent to which procurement assistance is needed and an identification of the requirements sought from the DoD (The identification of the supplies or services which the SBA may require in connection with a small firm's business plan will be developed by the SBA representatives. This may be accomplished through liaison with appropriate procuring activities either before or after the SBA's approval of a small firm's business plan as the SBA may elect. Small business and labor surplus area specialists at procuring activities shall cooperate and assist the SBA representatives in developing identifying information for the requirements being sought from the procuring activity. To the extent possible, identifying information furnished by the SBA will be definitive and include, purchase descriptions and federal stock numbers. The small business and labor surplus area specialist shall, when practicable and feasible, arrange for such additional assistance as may be required from procurement, technical and supply management officials in order that the development of the identifying information may be meaningful. Current and future requirements of a small firm's business plan, if identified in meaningful terms will enable the DoD to relate the items to present and future procurement requirements); and

(d) If the firm is currently in existence, the present production capacity and related facilities and how any additional facilities needed will be provided.

(ii) The Department concerned will evaluate the SBA's request for a commitment to support the business plan approved by the SBA and determine whether or to what extent the Departments can support the SBA request. In the evaluation of the SBA requested commitments, consideration shall be given to:

(a) Estimated total quantities of the identified items planned for procurement in the current fiscal year and, to the extent known, future fiscal years;

(b) Required monthly rates of production and delivery schedules;

(c) Items of similar complexity and nature if there are no known requirements of the specifically identified items;

(d) Problems encountered in prior production of the items either by the proposed contractor or other contractors;

(e) Impact if slippage in delivery occurs;

(f) Impact if items were procured historically by small business or labor surplus area set-aside; and

(g) Any other information concerning the items or the proposed contractor which is pertinent to the evaluation of the requested commitments.

(iii) After the SBA requested commitments have been evaluated, the Department concerned, through the Economic Utilization Advisor, will notify the Office of Business Development, SBA, Washington, D.C., or its designee of the extent to which it appears that contracts will be placed with the SBA as requested. This notification represents a firm commitment of the DoD to negotiate with the SBA: *Provided*, That there is no material change in requirements, availability of funds, and other pertinent factors. The Departments, through the Economic Utilization Advisor, will notify the appropriate procuring activities to reserve the initially identified requirements for negotiation of a section 8(a) award to the SBA. Within 10 working days after notification, the SBA will establish contact with the designated procuring activity and initiate negotiation of the section 8(a) contract in support of the SBA requested commitments. If negotiations with the procuring activity have not been initiated by the SBA within the time indicated, the procuring activity will notify the Departmental Economic Utilization Advisor of the intent to proceed with the procurement without further regard to the section 8(a) procedures, unless additional time is requested by the SBA and such additional time can be granted considering the urgency of the requirement.

(iv) It will be the responsibility of the SBA to provide written certification as to its competency to perform the contract to the Secretary of the Department with a copy to the designated procuring activities.

(v) A preaward survey of the SBA's contractor, as required by § 1.905–4, will not generally be requested by the DOD contracting officer. The SBA or the DOD contracting officer may request a cognizant contract administration office to assist in a review of a specific element pertaining to the SBA's contractor's responsibility.

(vi) Certified cost or pricing data, when required by § 3.807–3 of this chapter, shall be obtained by the contracting officer. The request shall provide for the submission in writing by the SBA's contractor of appropriate cost or pricing data with a supporting certificate.

(vii) When satisfactory terms and conditions, including price, have been negotiated with the SBA's contractor, the contracting officer shall proceed with the award of a contract to the SBA, after approval has been obtained from: Department of the Army, the Deputy for Procurement, OASA (I&L); Department of the Navy, the Director of Procurement, OASN (I&L); Department of the Air Force, SAFIL; Defense Supply Agency, the Executive Director of Procurement and Production, or their designees.

(viii) For follow-on year procurements in support of the SBA requested commitment, the SBA will initiate individual requests to the Departments concerned for each ensuing proposed section 8(a) contract. This process will permit, prior to actual negotiations of follow-on section 8(a) awards, the Departments to verify the availability of requirements, funding and other pertinent factors. It will be the responsibility of the SBA to provide certification to the Secretary of the Department for each section 8(a) contract with a copy of the certification to the designated procuring activities.

(ix) To assist the SBA, DOD purchasing offices shall prepare two contract sets as follows:

(a) Prepare Standard Form 26 for use by the SBA with the SBA's contractor. The Standard Form 26 shall show "15 USC 637(a)" in Block 13 and contain all of the information required with the exception of the following, which will be inserted by the SBA:

(1) Block 1, the SBA contract number, which will be constructed in general conformance with section XX, Part 2 of the ASPR;

(2) Block 2, the effective date;

(3) Block 24, the signature of the SBA's contractor;

(4) Block 25, the SBA contractor's date;

(5) Block 27, the signature of the SBA's contracting officer;

(6) Block 28, the name of the SBA's contracting officer; and

(7) Block 29, the date signed.

The contract shall incorporate the general provisions of Standard Form 32, including DOD alterations thereto, and other appropriate provisions as required, recognizing that this contract will be executed between the SBA and the SBA's contractor. The contract also shall include the appropriate one of the following clauses:

(i) For all contracts excepting civil works contracts of the Corps of Engineers—

For the purposes of this contract, the reference to "his duly authorized representative" in the "Disputes" clause of this contract shall be deemed to refer to the Armed Services Board of Contract Appeals.

(ii) For civil works contracts of the Corps of Engineers—

For the purposes of this contract, the references to "his duly authorized representative" in the "Disputes" clause of this contract shall be deemed to refer to the Chief of Engineers, Department of the Army, or an individual or board designated by him.

The contract set prepared as shown herein will be provided to the SBA at the time of distribution of the contract set prepared in accordance with (b) of this subdivision.

(b) Prepare a Standard Form 26 for execution with the SBA without incorporating any general provisions of Standard Form 32. The general provisions are not applicable to the SBA. "10 USC 2304(a)(17)" shall be cited as the authority for negotiation of this contract. This contract shall include a statement as follows:

It is agree that the provisions of the "Termination for Convenience," "Changes," "Disputes," "Default," and "Price Reduction" clauses which are included in the contract between the SBA and its Contractor shall be invoked in appropriate cases when requested by the DoD Contracting Officer. If the SBA does not agree with the DoD Contracting Officer's request, the case shall be referred to the Secretary or his designee for decision.

(x) Contract administration functions will be performed by the cognizant contract administration office as listed in DoD Directive 4105.59–H (DoD Director of Contract Administration Services Components). Since the contractual relationship between the SBA and its contractor would be analogous to that of a PCO and a prime contractor, the contract administration assignment shall include all functions as required by ASPR and shall relate to the location of the SBA's contractor.

(xi) The execution and distribution of procurement documents shall be in accordance with section XX, Part 4 of the ASPR. The SBA is responsible for effecting execution and distribution to the DoD contracting offices and others of the contracts executed with its contractor.

(2) *Construction.* (i) In contracts for construction, it is the stated policy of the SBA to contract with only those small firms which have been approved by the SBA as supporting the policy objectives of § 1.705–5(b). In the execution of this policy, the SBA will furnish to the Secretary of the appropriate Department, Attention: Economic Utilization Advisor, its request for a commitment(s) showing at least the following information:

(a) The identification of the SBA's contractor(s) and the capabilities and qualifications of the contractor(s) to accomplish various categories of maintenance, repair, alteration, and construction work in such specific work project categories as mechanical, electrical, heat and air conditioning, demolition, building, painting, paving, earthwork, waterfront work or general construction work;

(b) The total extent to which procurement assistance is needed and an individual identification of the estimated dollar value in each category in which the SBA's contractor(s) have capabilities; for example, electrical up to $100,000, mechanical up to $100,000;

(c) Any other information concerning the capabilities of the proposed contractor(s) which would be pertinent to the evaluation of the requested commitments.

(ii) The Department concerned will evaluate the SBA's request for a commitment(s) and determine whether or to what extent the Departments have proposed work projects for which funding is available, in those categories for which the SBA has indicated its contractors have capabilities to perform. In the evaluation of the SBA's request for a commitment(s), consideration shall be given to:

(a) The extent to which work project(s) of the type requested by the SBA are planned for procurement in the current fiscal year and, to the extent known, future fiscal years;

(b) Required performance schedule(s);

(c) Work project(s) of similar complexity and nature if there are not known work project(s) of the specific type requested;

(d) Problems encountered in prior work project(s) of the type requested;

(e) Impact if slippage occurs in the performance schedule;

(f) Impact if the work project(s) was procured historically by small business set-aside; and

(g) Any other information concerning the work project(s) or the contractor which is pertinent to the evaluation of the requested commitment(s).

(iii) After the SBA requested commitments have been evaluated, the Department concerned, through the Economic Utilization Advisor, will notify the Office of Business Development, SBA, Washington, D.C., or its designee, of the extent to which it appears that contracts will be placed with the SBA as requested. This notification shall contain information with regard to the work project(s) as follows:

(a) A summary of the scope of the proposed work;

(b) Detailed Government cost estimates;

(c) Plans and specifications;

(d) Required performance schedules;

(e) Any other pertinent and reasonably available data.

The Departments, through the Economic Utilization Advisor, will notify the appropriate Defense contracting office to reserve the work project(s) for negotiation of a section 8(a) contract with the SBA. Within 10 working days after notification, the SBA will establish contact with the Defense contracting office and initiate negotiation of the section 8(a) contract in support of the SBA requested commitments. If negotiations with the Defense contracting office have not been initiated by the SBA within the time indicated, the Defense contracting office will notify the Departmental Economic Utilization Advisor of the intent to proceed with the procurement without further regard to the section 8(a) procedures, unless additional time is requested by the SBA and such additional time can be granted considering the urgency of the work project.

(iv) Provisions of the Miller Act with respect to performance and payment bonds do not apply to the prime contract between the contracting office and the SBA, but do apply to the contract between the SBA and its contractor.

(v) Certified cost or pricing data, when required by § 3.807–3 of this chapter shall be obtained by the contracting officer. The request shall provide for the submission in writing by the SBA's contractor of appropriate cost or pricing data with a supporting certificate.

(vi) It will be the responsibility of the SBA to provide written certification as to its competency to perform the contract to the Secretary of the Department with a copy to the Defense contracting office.

(vii) When satisfactory terms and conditions, including price, have been negotiated with the SBA's contractor, the Defense contracting office shall proceed with the award of a contract to the SBA, after approvals have been obtained from: Department of the Army, the Deputy for Procurement, OASA (I&L); Department of the Navy, Director of Procurement, OASN (I&L); Departmnet of the Air Force, SAFIL; Defense Supply Agency, the Executive Director of Procurement and Production; or their designees.

(viii) To assist the SBA, DOD contracting offices shall prepare two contract sets as follows:

(a) Prepare appropriate contractual documents for use by the SBA with the SBA's contractor. These documents shall be completed, except for signatures and award information, based on information requested or furnished by the SBA. This contract shall incorporate the mandatory general provisions and standard forms as required and also shall include the appropriate one of the following statements:

(1) For all contracts excepting civil works contracts of the Corps of Engineers—

For the purposes of this contract, the reference to "his duly authorized representative" in the "Disputes" clause shall be deemed to refer to the Armed Services Board of Contract Appeals.

(2) For civil works contracts of the Corps of Engineers—

For the purposes of this contract, the reference to "his duly authorized representative" in the "Disputes" clause shall be deemed to refer to the Chief of Engineers, Department of the Army, or an individual or board designated by him.

(b) Prepare Standard Form 19 or Standard Form 23 or other appropriate forms for execution with the SBA without incorporating any general provisions. The general provisions are not applicable to the SBA. "10 U.S.C. 2304(a)(17)" shall be cited as the authority for negotiations of this contract. This contract shall include a statement as follows:

It is agreed that the provisions of the "Termination for Convenience," "Changes," "Differing Site Conditions," "Default-Damages for Delay-Time Extensions," "Suspension of Work," "Disputes," "Price Reduction" and "Payments to Contractor" clauses which are included in the contract between the SBA and its Contractor shall be invoked in appropriate cases when requested by the DOD Contracting Officer. If the SBA does not agree with the DOD Contracting Officer's request, the case shall be referred to the Secretary or his designee for decision.

(ix) Contract administration functions will be performed by the cognizant Defense contracting office.

(x) The execution and distribution of procurement documents shall be in accordance with section XX of the ASPR. The SBA will be responsible for effecting execution and distribution to the DOD contracting offices and others of contracts executed with its contractor.

§ 1.908–1 General.

The purpose of the Contractor Performance Evaluation Program is to provide an orderly and uniform method of determining and recording the effectiveness of contractors in meeting their contractual commitments. This procedure will increase the importance to the contractor of satisfying his agreements in regard to cost, schedule and technical performance. The program provides a long-term incentive to contractors by creating within the Government a "memory" of their performance and means for considering this record in future actions. The dollar value and type of effort required by a contract determine the reporting requirements, form(s) and procedures to be used. The evaluation of development contracts is specified by § 1.908–2; supply contracts by § 1.908–3; architect-engineer contracts by § 1.908–4; and construction contracts by §1.908–5.

§ 1.908–2 Contractor Performance Evaluation Report (Development Contracts).

All contracts between $100,000 and $2 million for (a) advanced development (with measurable contractual commitments), or (b) engineering and operational-systems development (except those with Federal Contract Research Centers) shall be evaluated on DD Form 1683, Contractor Performance Evaluation Report (Development). These evaluations shall be made by the project manager, project engineer or equivalent who has overall responsibility for the project and shall be reviewed by an official of a higher organizational level than the evaluator upon the completion, substantial completion or termination of the contract. To afford contractors an opportunity to review CPE Reports, whether favorable or not, within 20 days of the specified evaluation date, a copy of DD Form 1683 shall be mailed to a senior official of the contractor who shall be afforded 2 weeks from the date of mailing to submit a detailed justification to the reviewer to support any requested change in the evaluation report. The reviewer shall resolve inconsistencies of fact and, if appropriate, prepare a revised report and furnish a copy to the contractor. The reviewer shall advise the contractor of the reasons why any requested change was not made. The original copy of each resolved evaluation report shall be transmitted to the Defense Documentation Center, Attention: DDC–TSR, Cameron Station, Alexandria, Va. 22314, within 35 days of the specified evaluation date, except that an additional 15 days will be allowed when it is necessary to prepare a revised report. Any significant errors discovered subsequent to transmission shall be corrected by a revised report. Monitors designated by the Departments and Defense Agencies shall ensure that the reports are timely and clear. Contractors may appeal the reviewer's final decision by written submission to the appropriate monitor within 30 days after receipt of the reviewer's decision. The monitor shall have 60 days to resolve, or if necessary decide, the differences between the contractor and the reviewer and, if necessary, forward a revised report (DD Form 1683) to the data bank. The monitor shall advise the contractor of his resolution of

the matter. The Defense Documentation Center shall tabulate these Contractor Performance Evaluation Reports and provide for distribution, with quarterly revisions, of the performance evaluation information to procurement activities having need for the information for use by (1) Source Selection Advisory Councils or other persons or groups acting in similar capacity, (2) contracting officers in determining fees or profits and prospective contractor's responsibility, and (3) the Renegotiation Board (see §§ 4.106–4 (c) and (d), 3.808–4(a), and 3.808–5(d). These evaluation reports shall be retained for a minimum of 3 years. Report Control Symbol DD–DSA (AR) 1327(DDC) is assigned to these evaluation reports.

§ 1.908–3 Contractor Performance Record (Supply Contracts).

(a) A Contractor Performance Record (CPR) is a factual historical documentation of contract performance data prepared by the cognizant contract administration office on completed or terminated DoD supply contracts. The CPR provides an orderly and uniform method of determining and recording how effectively supply contractors meet their contractual commitments. For each supply contract of $100,000 or more, except those contracts authorized for retention by purchasing offices under section 20–703.2 of the ASPR, a contract performance record shall be prepared by the cognizant contract administration office utilizing DD Form 1661, Contractor Performance Record (Supply Contracts). These evaluation reports shall be retained for a minimum of 3 years. Subject to the approval of OASD (Installations and Logistics) and if the Departments concerned consider it desirable and make request therefor, certain other supply contracts that do not fall within the foregoing category may be recorded.

• • • • • •

§ 1.908–6 Disclosure of contractor performance evaluation reports and records.

Contractor performance evaluation reports and records shall be classified in accordance with their content but, if not classified, shall be marked "For Official Use Only."

PART 2—PROCUREMENT BY FORMAL ADVERTISING

2. In § 2.201(a)(3)(xvii), the statement contained therein is amended, and new subdivisions (xxxii) and (xxxiii) are added; also in this section, paragraph (b), subparagraphs (24) and (25)(B) are amended; § 2.306 is revoked; § 2.407–8 (a)(1) is amended; and § 2.408–2 is revised, as follows:

§ 2.201 Preparation of invitation for bids.

(a) *Supply and services contracts.* • • •

(3) Section C—Instructions, Conditions and Notices to Bidders.

• • • • • •

(xvii) Invitations for bid which will result in the placement of rated orders or Authorized Controlled Material Orders (see § 1.307 of this chapter) shall contain the following statement:

Contracts or purchase orders to be awarded as a result of this solicitation shall be assigned a ☐ DX ------ rating; ☐ DO ------ rating; ☐ DMS allotment number ------ (Contracting Officer check appropriate box or boxes) in accordance with the provisions of BDC Regulation 2 and/or DMS Regulation 1. (April 1971)

• • • • • •

(xxxii) When the contract is expected to contain requirements for provisioned items, include the information prescribed in § 4.302–1 of this chapter; and

(xxxiii) For procurements involving Foreign Military Sales (FMS) or Military Assistance Program (MAP) (Grant Aid), enter the special markings, the applicable FMS country and case identifier or MAP Record Control/Program/Directive Number identifier to permit the contractor to comply with § 30.8 of this chapter, Part 3, Block 16(12).

• • • • • •

(b) *Construction contracts.* • • •

(24) Invitations for bids which will result in the placement of rated orders or Authorized Controlled Material Orders (see § 1.307 of this chapter) shall contain the following statement:

Contracts or purchase orders to be awarded as a result of this solicitation shall be assigned a ☐ DX ------ rating; ☐ DO ------ rating; ☐ DMS allotment number ------ (contracting Officer check appropriate box or boxes) in accordance with the provisions of BDC Regulation 2 and/or DMS Regulation 1. (April 1971)

(25) Unless exempted by § 12.805 of this chapter from inclusion of the Equal Opportunity clause—

• • • • • •

(B) The applicable provisions set forth or identified in §§ 12.806 and 12.807–3 of this chapter;

• • • • • •

§ 2.306 Late offers and modifications and withdrawals. [Deleted]

§ 2.407–8 Protests against award.

(a) *General.* (1) Contracting officers shall consider all protests or objections to the award of a contract, whether submitted before or after award. If the protest is oral and the matter cannot otherwise be resolved, written confirmation of the protest shall be requested. The protester shall be notified in writing of the final decision on the written protest. (See § 1.308(b)(1) of this chapter.) (See § 1.703(b) of this chapter for protests of small business status and § 12.604(a) of this chapter for protests involving eligibility under the Walsh-Healey Public Contracts Act.) An interested party wishing to protest to the Comptroller General of the United States against an award of a contract should do so in accordance with General Accounting Office Regulations, 4 CFR Part 20.

• • • • • •

§ 2.408–2 Award of classified contracts.

In addition to § 2.408–1 (a) and (b), if classified information was furnished or created in connection with the solicitation, the PCO shall advise the unsuccessful bidders, including any who did not bid, to take disposition action in accordance with the Industrial Security Manual (DoD 5220.22–M). Information with respect to the name of the successful bidder and the contract price will be furnished to unsuccessful bidders only upon request. No information regarding a classified award may be furnished by telephone.

PART 3—PROCUREMENT BY NEGOTIATION

3. Section 3.101(h) is deleted and the paragraph reserved; § 3.113 is deleted; §§ 3.210–2(r), 3.210–3, 3.213–5 and 3.403 (b)(3) are amended; § 3.409(c) is revised and paragraphs (d) and (e) are added; § 3.409–1(a) is amended; §§ 3.409–2(a) and 3.409–3(a) are revised; § 3.409–4 is revised; in § 3.501(b)(2)(xvi) is deleted and subdivision reserved and (xx) is deleted; also in this paragraph, subdivision (3)(xviii) is amended and new subdivisions (xii) and (xiii) are added; in § 3.501(c)(34) is amended and (38)(B) is revised and (39) is amended and (40) is deleted and reserved, and (50) is deleted; in § 3.608–2(b)(1)(i)(c) and (xiv) are amended and (xvii) is added; and in (c)(1) a new sentence is added; in § 3.608–8(c) under "Title and Instructions for Entries" Blocks 17 and 19 are amended; §§ 3.608–10 and 3.807–5(a)(3) are added; § 3.808–5(d)(2) is amended and (6)(v) is deleted and present subdivisions (vi) through (x) are redesignated (v) through (ix); and § 3.1008 is amended, as follows:

§ 3.101 Negotiation as distinguished from formal advertising.

• • • • • •

(h) [Reserved]

• • • • • •

§ 3.113 Examination of records. [Revoked]

§ 3.210–2 Application.

• • • • • •

(r) When the contemplated procurement is to be reimbursed by a foreign country which requires that the product be obtained from a particular firm.

§ 3.210–3 Limitation.

The authority of §§ 3.210 through 3.210–3 shall not be used when negotiation is authorized by any other authority set forth in §§ 3.201 through 3.217, except that this authority shall be used in preference to § 3.212 and in procurements for foreign military sales described in § 3.210–2(r). The authority illustrated in § 3.210–2 (c) and (d) shall not be used in cases where "Small Business Restricted Advertising" has been used. However, the authority may be used in the case of partial set-asides unless in the judgment of the contracting officer the failure to obtain sufficient responsive bids was caused by the existence of the set-aside. The authority contained in § 3.210–2 (m) and (o) shall not be used in procurements in excess of $10,000 unless its use is approved in advance at a level higher than the contracting officer. Every contract that is negotiated under the authority of §§ 3.210 through 3.210–3 shall be accompanied with a determination and findings justifying its use, signed by the contracting officer and prepared in accordance with the requirements of Subpart C of this part.

§ 3.213–5 Records and reports.

Each Military Department shall maintain on a current basis, a master list of items for which determinations and findings have been made under the authority of §§ 3.213—3.215–5.

§ 3.403 Negotiation of contract type.

• • • • • •

(b) *Research and development (R&D).* • • •

(3) *Engineering development and operational systems development.* Engineering and Operational Systems Development, because of many similarities, form a logical grouping in the spectrum of R&D categories. These categories, the ultimate aim of which is production and deployment, include all effort the primary objective of which is the engineering design and final engineering demonstration of the technical, economic, logistic and operational characteristics of an experimentally feasible and acceptable system, equipment, subsystem, component or process judged to be the optimum solution to clearly stated military problems or technical objectives. In Engineering Development, such effort is founded on the possibility of eventual procurement for inventory and use, and, therefore, includes effort leading to the demonstration of acceptability for such procurement. Operational Systems Development effort has the primary objective of producibility demonstration and R&D support of final service test of the logical and operational development of an acceptable system, equipment, subsystem or component, approved for procurement and operational deployment or otherwise specifically approved for inclusion in this category. It may include the building of one or more production prototypes utilizing all processes, tooling, and test equipment considered for the production process thereby constituting a demonstration and qualification of the product process. Even when the overall project is in Engineering or Operational System Development, there may be integral supporting tasks that are still in the Advanced Development stage and the contract type for these tasks should be selected accordingly. The type of contract selected should be decided on the basis of major factors such as; (i) The definitiveness of the project at this stage and its bearing on the accuracy of cost estimates; (ii) the completion schedule required for satisfactory operational deployment; (iii) the degree of uncertainty expected; (iv) the contractor's willingness and ability to accept a high-risk type of contract; (v) the ability to establish meaningful and measurable incentives; (vi) the need for effort overlapping that of earlier development stages; (vii) the desirability of firm technical direction by the Government, and (viii) the degree of configuration control to be exercised. Any one or combination of these factors could have a direct bearing on the type of contract selected. Cost plus incentive fee is the preferred type of contract for major development programs. However, another type or combination of types may be preferable for a given program. Cost plus incentive fee or other cost type contracts are preferred for other development programs. Notwithstanding this preference, a fixed price type contract may be appropriate in some circumstances, e.g., when a program has reached the final stages of development and technical risks are minimal.

§ 3.409 Indefinite delivery type contracts.

• • • • • •

(c) Depending on the situation, indefinite delivery type contracts may provide for (1) firm fixed prices, (2) price escalation, (3) price redetermination, or (4) prices established in accordance with paragraph (d) of this section.

(d) When indefinite delivery type contracts, whether competitively awarded or not, are priced on the basis of catalog or market prices, the price to be paid may be determined by establishing an adjustment factor for application to the price in industry-wide pricing guides or manufacturer's price catalogs. Normally, the adjustment factor will be a fixed percentage discount for application to the price in effect on the date of each order.

(e) When it is desired to authorize the use of the fast pay procedure for orders not in excess of $2,500, the special data required by § 3.606–3(b) shall be included in the contract. The clause in § 3.606–3 (b)(4) shall be modified for this purpose to refer to delivery orders and to the appropriate contract clause of the indefinite delivery type contract for the preparation of invoices.

§ 3.409–1 Definite quantity contracts.

(a) *Description.* This type of contract provides for a definite quantity of specified supplies or for the performance of specified services for a fixed period, with deliveries or performance at designated locations upon order.

• • • • • •

§ 3.409–2 Requirements contracts.

(a) *Description.* This type of contract provides for filling all actual purchase requirements of specific supplies or services of designated activities during a specified contract period with deliveries to be scheduled by the timely placement of orders upon the contractor by activities designated either specifically or by class. An estimated total quantity is stated for the information of prospective contractors, which estimate should be as realistic as possible. The estimate may be obtained from the records of previous requirements and consumption, or by other means. Care should be used in writing and administering this type of contract to avoid imposition of an impossible burden on the contractor. Therefore, the contract shall state, where feasible, the maximum limit of the contractor's obligation to deliver and, in such event, shall also contain appropriate provision limiting the Government's obligation to order. When large individual orders from more than one activity are anticipated, the contract may specify the maximum quantities which may be ordered under each individual order or during a specified period of time. Similarly, when small orders are anticipated, the contract may specify the minimum quantities to be ordered. Funds are obligated by each order and not by the contract itself.

• • • • • •

§ 3.409–3 Indefinite quantity contracts.

(a) *Description.* This type of contract provides for the furnishing of an indefinite quantity, within stated limits, of specific supplies or services, during a specified contract period, with deliveries to be scheduled by the timely placement of orders upon the contractor by activities designated either specifically or by class. The contract shall provide that during the contract period the Government shall order a stated minimum quantity of the supplies or services and that the contractor shall furnish such stated minimum and, if and as ordered, any additional quantities not exceeding a stated maximum which should be as realistic as possible. The maximum may be obtained from the records of previous requirements and consumption, or by other means. To assure that the contract is binding, the minimum must be more than a nominal quantity; yet it should not exceed the amount which the Government is fairly certain to order. When large individual orders or orders for more than one activity are anticipated, the contract may specify the maximum quantities which may be ordered under each individual order or during a specified period of time. Similarly, when small orders are anticipated, the contract may specify the minimum quantities to be ordered. Funds for other than the stated minimum quantity are obligated by each order and not by the contract itself.

• • • • • •

§ 3.409–4 Orders.

(a) Orders placed under indefinite delivery type contracts shall contain the following information, consistent with the contract terms:

(1) Date of order;

(2) Contract number and order number;

(3) Item number and description, quantity ordered, and contract price;

(4) Delivery or performance date;

(5) Place of delivery or performance (including consignee);

(6) Packaging, packing, and shipping instructions, if any;

(7) Accounting and appropriation data; and

(8) Any other pertinent information.

(b) Orders may be placed by means of written telecommunications media, if:

(1) The contract provides for the placement of orders by such means,

(2) The orders are approved by the contracting officer prior to transmission, and

(3) The purchasing office retains all contract administration functions.

§ 3.501 Preparation of request for proposals or requests for quotations.

• • • • • •

(b) *Contract forms and uniform contract format.* • • •

(2) Section B—Contract Forms and Representation, Certifications, and Other Statements of Offeror or Quoter.

• • • • • •

(xvi) [Reserved]

• • • • • •

(xx) [Deleted]

(3) Section C—Instructions, Conditions, and Notices to Offerors/Quoters.

• • • • • •

(xviii) Solicitations which will result in the placement of rated orders or Authorized Controlled Material Orders (see § 1.307 of this chapter) shall contain the following statement:

Contracts or purchase orders to be awarded as a result of this solicitation shall be assigned a ☐ DX ------ rating; ☐ DO ------ rating; ☐ DMS allotment number ------ (Contracting Officer check appropriate box or boxes) in accordance with the provisions of BDC Regulation 2 and/or DMS Regulation 1. (APRIL 1971)

• • • • • •

(xli) When the contract is expected to contain requirements for provisioned items, include the information prescribed in § 4.302–1 of this chapter; and

(xlii) For procurements involving Foreign Military Sales (FMS) or Military Assistance Program (MAP) (Grant Aid), enter the special markings, the applicable FMS country and case identifier or MAP Record Control/Program/Directive Number identifier to permit the contractor to comply with § 30.8, Block 16 (12), of this chapter.

(c) *Construction contracts.* • • •

(34) Requests for Proposals which will result in the placement of rated orders or Authorized Controlled Material Orders (see 1–307) shall contain the following statement:

Contracts or purchase orders to be awarded as a result of this solicitation shall be assigned a ☐ DX ------ rating; ☐ DO ------ rating; ☐ DMS allotment number ------ (Contracting Officer check appropriate box or boxes) in accordance with the provisions of BDC Regulation 2 and/or DMS Regulation 1. (April 1971)

• • • • • •

(38) Unless exempted by § 12.805 of this chapter from inclusion of the Equal Opportunity clause—

• • • • • •

(B) The applicable provisions set forth or identified in §§ 12.806 and 12.807–3 of this chapter.

(39) The applicable small business size standard (see §§ 1.701 and 1.703 of this chapter); pending revision of the October 1969 edition of Standard Form 19B, Representations and Certifications, substitute $5 million for $7,500,000 in paragraph 1 when the procurement is for dredging;

(40) [Reserved]

• • • • • •

(50) [Deleted]

§ 3.608–2 Order for Supplies or Services/Request for Quotations (DD Forms 1155, 1155r, 1155r–1; Standard Form 36; DD Form 1155c–1 and Standard Form 30).

• • • • • •

(b) *Conditions for use.* • • •

(1) • • •

(i) • • •

(c) DD Form 254 (Contract Security Classification Specification) (see § 16.811 of this chapter) is incorporated in the purchase order; and

• • • • • •

(xiv) When required by Subpart C, Part 1 of this chapter, the clause set forth in § 7.104–59 of this chapter shall be added.

• • • • • •

(xvii) The Limitation of Liability for Defects clause set forth in § 7.104–45(a) of this chapter may be used in accordance with § 1.330(b)(3) of this chapter.

• • • • • •

(c) *Solicitation and evaluation of quotations*—(1) *General.* • • • When using a teletype as a request for quotation, general provisions applicable to the solicitation shall be incorporated by reference.

• • • • • •

§ 3.608–3 Instructions for entries on DD Form 1155 and Standard Form 36.

• • • • • •

(c) • • •

Block No.	Title and instructions for entries	Applicable to— RFQ	PO	DO
17	*Accounting and Appropriation Data*—Enter the accounting classification applicable to the order. Enter the Accounting Classification Reference Number(s) in accordance with 20-308.3 of the ASPR.	.....	P	P
...	...	...	...	...
19	*Schedule of Supplies/Services*—The Schedule contains several elements of data. In order to accomplish standardization objectives, it will be necessary to treat and enter separately certain elements of data as indicated below. Though the order and arrangement of data in the schedule is only mandatory for purchase and delivery orders assigned to DCAS or Plant Cognizance Representatives for administration, it is encouraged, in order to establish uniformity, that this format be adopted for all orders.			
	(i) *Federal Stock Number (FSN)*—Total Item Quantity for the line or subline item number followed by the appropriate Federal Stock Number or the word "none" if an FSN has not been assigned. On the same line and adjacent to FSN, enter the words "Total Item Quantity." This phrase is used in conjunction with the total quantity, unit of issue unit price, and dollar amount of the stock number or item cited (see entries for blocks 20, 21, 22, and 23).	P	P	P
	(ii) *Item Identification*—Enter first the most descriptive noun or verb of the supplies or services to be furnished, supplemented by additional description as prescribed in section I, Part 12. If multiple accounting classifications apply to the contract, enter the Accounting Classification Reference Number in accordance with 20-308.3(c) of the ASPR.	P	P	P
	(iii) *Quantity Variance*—Enter the quantity variance permitted for the line item in terms of percentages, indicating whether the percentage is plus or minus and if applicable to each destination.	P	P	P
	(iv) *Inspection/Acceptance*—Enter the point at which inspection/acceptance will take place.	P	P	P
	(v) *Preservation and Packaging*—Enter the preservation and packaging requirements for the item described. These requirements may be expressed in terms of MIL-STD-726 codes or reference to applicable specifications. First example: MIL STD 726 PRES/PACK: B/10/1/00/2/10/e/00/21/3/22/4/3/2/00. Second example: Preservation and packaging shall be in accordance with instructions below. DGSC P-54 in lieu of level "0" requirement.	P	P	P
	(vi) *Packing*—When required, enter the packing level designator and specification, standard, or document in which the requirements are stated, or state the specific requirements. First example: Packing. Preserved and packaged items shall be packed Level (A, B, or C depending on destination) in accordance with MIL-STD-794; Second example: Packing. Preserved and packaged items shall be packed level (A, B, or C) in accordance with DESC Manual 4100.1.	P	P	P
	(vii) *Unitization*—When desired by the requiring activity, a requirement for cargo unitization for a particular destination should be specified for shipments involving two or more shipping containers having an aggregate total of not less than 20 cubic feet or 200 pounds. Example 1: Items packed for shipment shall be unitized in accordance with MIL-STD-147. Example 2: Nonperishable subsistence, packed as specified shall be unitized in accordance with MIL-L-35078C Type (I or II) Class (A through F for Type I, A through D for Type II). Supplemental waterproofing requirements of Appendix II (are/are not) applicable.	P	P	P
	(viii) *Ship to*—Enter the organizational entity code (address code) of the ship to point on the first line and the corresponding name and address on succeeding lines. If multiple accounting classifications apply to the same line or subline item, enter the Accounting Classification Reference Number in accordance with 20-308.3(c)(i) of the ASPR. When several items are to be shipped to the same point, the code will be listed; but, it will not be necessary to repeat the clear text address.	P	P	P
	(ix) *Issue Priority Designator*—If a priority is applicable enter the code as prescribed in DoD Instruction 4410.6 on the same line and adjacent to the ship to address code.	—	P	P
	(x) *Delivery Date*—When multiple delivery dates apply, enter the required date of delivery on the same line with Ship to Code.	P	P	P
	(xi) *Mark For*—Enter the organizational entity code (address code) on the on the first line and name and address of the ultimate recipient of the supplies and services on succeeding lines.	P	P	P
...	...	...	...	...

§ 3.608–10 Purchase orders via written telecommunications media.

(a) A written telecommunicated purchase order is an order for supplies or services which is electrically transmitted to a supplier and which is not signed by the contracting officer.

(b) A written telecommunicated purchase order may be used only when all of the following conditions are present:

(1) Its use is more advantageous to the Government than any other small purchase technique,

(2) An unsigned transmitted order is acceptable to the supplier,

(3) The order is approved by the contracting officer prior to its transmission,

(4) The order does not require written acceptance by the supplier, and

(5) The purchasing office retains all contract administration functions.

(c) When a written telecommunicated purchase order is used:

(1) The General Provisions on DD Form 1155r shall be incorporated by reference in the transmitted order, as appropriate;

(2) Administrative information which is not needed by the supplier should not be transmitted but should be placed only on copies intended for internal distribution;

(3) The same distribution shall be made of the transmitted order as is made of DD Form 1155; and

(4) No DD Form 1155 or other small purchase form shall be issued.

(d) A written telecommunicated purchase order may be unpriced: *Provided*, It meets the conditions set forth in § 3.608–3.

§ 3.807–5 Defective cost or pricing data.

(a) • • •

(3) In determining the amount of an adjustment in the contract price because of defective cost or pricing data, the contracting officer shall consider any understated cost or pricing data submitted in support of price negotiations for the same pricing action (e.g., for the initial pricing of the same contract or for pricing the same change order), up to the amount of the Government's claim for overstated cost or pricing data arising out of the same pricing action. Such offsets, however, need not be in the same cost groupings (e.g., material, labor or overhead).

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§ 3.808–5 Assignment of values to specific factors.

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(d) *Record of contract performance.* • • •

(2) Contracting officers should insure that an adequate review is made of contractor's past performance in order that an objective evaluation may be accomplished. For assistance in determining fee or profit for an advanced-development, engineering-development, or operational-systems-development contract between $100,000 and $2 million the contracting officer may obtain from the Defense Documentation Center, Attention: DDC–TSR, Cameron Station, Alexandria, Va. 22314 (see § 1.908–2 of this chapter), a summary of the performance evaluations of the contractor with whom negotiations are being conducted. This information or a statement that there is no record on file shall be furnished within 2 working days from receipt of the request by the Defense Documentation Center. Similarly, on supply contracts for $100,000 or more, contracting officers may obtain from the cognizant contract administration office copies or a summary of the Contractor Performance Records (Supply Contracts) DD Form 1661 (see § 1.908–3 of this chapter) of the contractor with whom negotiations are being conducted. This information or a statement that there is no record on file shall be transmitted within 2 working days after receipt of request by the cognizant contract administration office. Reports of cost reduction monitors, small business, labor surplus and other specialists involved in the evaluation of the various aspects of contractor performance shall be obtained.

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(6) • • •

(iv) *Reliability of cost estimates.* Accuracy and reliability of previous cost estimates should be considered.

(v) *Value engineering accomplishments.* Outstanding accomplishments from value engineering efforts such as substantial savings in later contract costs, spare parts support, or maintenance, should be given special consideration. This factor should be used in recognition of outstanding accomplishments and is in addition to contractor sharing under value engineering incentive provisions in individual contracts.

(vi) *Timely deliveries.* The contractor's delivery record, considering excusable delays and the contractor's efforts to overcome delays, should be analyzed.

(vii) *Quality of product.* Experience with the contractor's product reliability, including the rate of rejection of his product and his acceptance of responsibility for continuing support should be considered.

(viii) *Inventive and developmental contributions.* Extent and nature of contractor-initiated and financed research, development, design work, product engineering, quality control, and manufacturing processes and techniques should be analyzed.

(ix) *Labor surplus area participation.* A similar review and evaluation (as required in paragraph (a) of this section) should be given to the contractor's policies and procedures supporting the Government's Labor Surplus Area Program pursuant to § 1.805–1 of this chapter. Particular favorable consideration should be given to a contractor who (a) makes a significant effort to help find jobs and provide training for the hardcore unemployed, or (b) promotes maximum subcontractor utilization of certified-eligible concerns, as defined in § 1.801–1 of this chapter.

§ 3.1008 Maintenance of records.

Each Defense Contract Administration Services Region shall maintain a current central register of CWAS ratings established for contractors subject to ACO cognizance by that Region. Copies of all CWAS ratings approved, withdrawn, or reinstated by regional ACO's will also be forwarded to Headquarters, Defense Supply Agency, Attention: DCAS–ACC, where a master register will be maintained. Similarly, ACO's assigned under the National Plant Cognizance Program will forward copies of all CWAS ratings approved, withdrawn, or reinstated for their contractors to Headquarters, Defense Supply Agency, Attention: DCAS–ACC, for integration into the master register. This master register is maintained for benefit of contracting officers, auditors, and other Department of Defense personnel who may require approved CWAS ratings on contractors who have reported under these procedures. These ratings may be obtained from Headquarters, Defense Supply Agency, Attention: DCAS–ACC.

PART 4—SPECIAL TYPES AND METHODS OF PROCUREMENT

4. The table of contents to Part 4 is amended by adding a new Subpart C; § 4.106–4 (c) and (d) are amended; Subpart C is added, as follows:

§ 4.106–4 Evaluation for award.

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(c) In determining to whom the contract shall be awarded, the contracting officer shall consider not only technical competence, but also all other pertinent factors including management capabilities, cost controls, and past performance in adhering to contract requirements, weighing each factor in accordance with the requirements of the particular procurement (see § 1.903 of this chapter). The contracting officers shall notify those sources whose proposals or offers have been determined to be unacceptable of that decision in accordance with § 3.508 of this chapter.

(d) For assistance in evaluating proposals for an advanced-development, engineering-development or operational-systems-development contract between $100,000 and $2 million, the Source Selection Advisory Council or any other person or group acting in a similar capacity should obtain from the Defense Documentation Center, Attention: DDC–TSR, Cameron Station, Alexandria, Va. 22314 (see § 1.908–2 of this chapter), a summary of the performance evaluations of all contractors submitting acceptable proposals. This information or a statement that there is no record on file shall be furnished within 2 working days from receipt of the request by the Defense Documentation Center.

Subpart C—Contracts With Requirements for Provisioned Items

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Sec.
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4.303–1 Provisioning conferences.
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4.303–3 Negotiating and executing supplemental agreements.

AUTHORITY: The provisions of this Subpart C issued under secs. 2202, 2301–2314, 70A Stat. 120, 127–133; 10 U.S.C. 2202, 2301–2314.

Subpart C—Contracts With Requirements for Provisioned Items

§ 4.300 Scope of subpart.

This subpart sets forth contract requirements and procedures to be followed with respect to the provisioning process.

§ 4.301 Definitions.

§ 4.301–1 Provisioned item.

Provisioned item means any support-type item selected through provisioning procedures to support an end item of equipment. Support-type items include (but are not limited to) spares, repair parts and special support equipment.

§ 4.301–2 Provisioning activity.

Provisioning activity means that organization of a using Military Service, or that organization delegated by a using Service, which is responsible for the selection of, and the determination of requirements for, provisioned items.

§4.301–3 Provisioning procedure.

Provisioning procedure means the contract specification which sets forth the general requirements governing the acquisition of provisioned item and related documentation. It includes various optional provisioning techniques and formats for provisioning lists and data which the Government may elect to use on a particular contract. It also prescribes the sequence and timing of events to be followed and the responsibilities of the Government and the contractor in the provisioning process.

§ 4.301–4 Provisioning requirements statement.

Provisioning requirements statement means the contractual document by which the Government notifies the contractor of the specific provisioning requirements selected from available options, as applicable to a particular contract. It normally includes instructions such as the provisioning method to be used; the range of provisioning technical documentation and data including the form and schedule of submission, number of copies and distribution instructions; the type and location of provisioning conferences; sample article requirements; the delivery schedule and packaging and marketing requirements for provisioned items, and contractor requirements for provisioning screening.

§ 4.301–5 Provisioning technical documentation.

Provisioning technical documentation means the documentation furnished by contractors to a provisioning activity for use in the identification, determination of initial requirements and cataloging of items to be procured. It generally includes (a) provisioning lists, (b) priced spare parts lists, and (c) EDP cards and tapes. Engineering drawings or sketches supported by item descriptions (which include technical characteristics) are referred to as supplementary provisioning technical documentation.

§ 4.301–6 Provisioned Items Order.

Provisioned Items Order means an unpriced order issued under a contract which sets forth the Government's requirements for provisioned items. (Provisioned items for which firm prices have been established are procured by supplemental agreement or by separate contract.)

§ 4.302 Procurement requirements.

§ 4.302–1 Contract requirements.

Contracts which contain Provisioning Procedures shall specify the functions of the provisioning process to be performed under the contract and the activities responsible for performing these functions. Further, such contracts shall:

(a) Include a Provisioning Requirements Statement or specify a time (e.g., days after award) for its incorporation in the contract by contract modification; revisions to the Provisioning Requirements Statement shall also be incorporated by contract modification;

(b) Provide on the DD Form 1423 a time schedule or milestones for the delivery of provisioning technical documentation or for the subsequent incorporation thereof in the contract by contract modification;

(c) Require a flow-down of the appropriate provisioning technical documentation requirement in subcontracts and purchase orders where the documentation is to be prepared by subcontractors;

(d) Specify, if applicable, procedures for contractor interim release of long lead time items and include ordering and funding instructions for such items (Such instructions shall require the contractor to advise the PCO or Provisioning Activity within 30 days as to the items released, their estimated cost and the effective date of release.);

(e) Provide a time-frame for contractors to furnish price quotations for Provisioned Items Orders, which normally shall not exceed 60 days from receipt of the order;

(f) Specify exhibit identifiers applicable to the contract line/subline items.

(g) Specify the activity designated to issue Provisioned Items Orders, i.e., PCO, Provisioning Activity or ACO (When it is anticipated that more than one department will place Provisioned Items Orders against the contract, the requirements for provisioned items of each department shall be stated as separate contract line items.);

(h) Include procedures for processing changes in quantities of items ordered, including cancellations.

§ 4.302–2 Issuance of Provisioned Items Orders.

Provisioned Items Orders shall be issued on Standard Form 30, Amendment of Solicitation/Modification of Contract, and numbered in accordance with 20–204.3 of the ASPR.

(a) The term PROVISIONED ITEMS ORDER, in capital letters and underscored, shall be entered in Block 12.

(b) The appropriate exhibit identifier(s) for all attached exhibits shall be entered in Block 12.

(c) The order shall obligate funds to cover the estimated price of the items being ordered. Individual estimated prices will be shown for each exhibit line item on the copy(ies) of the Provisioned Items Order to be provided to the accounting and payment office(s).

(d) The Provisioned Items Order, or other form of contract modification, shall be used to effect decreases in quantities of items ordered, including cancellation.

(e) Upon receipt of advice from the contractor, as provided in § 4.302–1(d), the contracting officer will normally within 30 days issue an order covering the interim released items or notify the contractor to cancel the items.

(f) Orders shall be given the same distribution as the basic contract except that the distribution of voluminous spares/repair parts exhibits may be curtailed to the extent determined by the PCO and provided that the required copies, complete with exhibits, are forwarded to the Contract Administration Office and the payment office.

§ 4.303 Contract administration requirements.

§ 4.303–1 Provisioning conferences.

The PCO or Provisioning Activity shall give the Contract Administration Office (CAO) timely notice of conferences on provisioning matters. The CAO shall: (a) Insure that the contractor understands the basic provisioning requirements of the contract and that all applicable publications are available to the contractor; (b) coordinate, as necessary, with the contractor and the PCO or Provisioning Activity to determine the types of and schedules for provisioning conferences required, e.g., guidance meetings, long lead time items conferences, source coding meetings, etc.; and (c) assist, if required, in the development of conference agenda. When requested by the PCO or Provisioning Activity or when otherwise considered necessary for effective contract administration, the CAO shall be represented at provisioning conferences.

§ 4.303–2 Monitoring by the Contract Administration Office.

The CAO shall monitor each contract which contains requirements for provisioning technical documentation and provisioned items, as follows:

(a) Prepare and maintain a check list of events in the provisioning process, including schedules for use in monitoring such events;

(b) Review contractor progress in the preparation of provisioning technical documentation and, on request of the PCO or Provisioning Activity, inspect such documentation for format and content;

(c) Insure that the contractor invokes the prime contract provisioning technical documentation requirements in subcontracts and purchase orders when the subcontractor is charged with preparation of any documentation;

(d) Advise the PCO or Provisioning Activity, in accordance with § 25.203, of this chapter of provisioning technical documentation delivery delays or other related problems;

(e) Insure contractor compliance with contract requirements relative to the assignment of Federal Stock Numbers;

(f) Insure that the contractor adheres to the criteria established by the contract for the release of long lead time items.

§ 4.303–3 Negotiating and executing supplemental agreements.

The ACO shall accomplish negotiation of prices and execution of supplemental agreements within 180 days after receipt of the Provisioned Items Order: *Provided*, That, when time in excess of 60 days is allowed for submission of price quotations (see § 4.302–1(e)), the 180 day period shall be adjusted accordingly. He also shall maintain records to reflect the status of Provisioned Items Orders as to (a) adequacy of obligated funds, (b) due dates for price quotations, and (c) actions taken to obtain additional funds or deobligate excess funds.

(1) In the process of negotiating prices, the ACO shall:

(i) Determine the acceptability of pricing methods proposed by the contractor;

(ii) Verify that items and quantities contained in proposals are identical to those ordered, clarifying, as appropriate, any variances with the PCO or Provisioning Activity; and

(iii) Avail himself of data from similar contracts with the contractor, making use of audit records and information available from the PCO or Provisioning Activity. Price negotiation policies and techniques set forth in Part 3, Subpart H, of this chapter, shall be followed, including the record of price negotiations required by § 3.811 of this chapter.

(2) When delivery dates are not proposed by the PCO or Provisioning Activity or, when proposed delivery dates cannot be met by the contractor, the ACO shall coordinate the negotiated schedule with the PCO or Provisioning Activity prior to execution of the supplemental agreement.

(3) Supplemental Agreements shall be used to increase quantities of priced items and to definitize Provisioned Items Orders. Supplemental Agreements which definitize Provisioned Items Orders may incorporate multiple orders, or portions of orders when such action is not inconsistent with the provisions of the applicable contract.

PART 5—INTERDEPARTMENTAL AND COORDINATED PROCUREMENT

5. Section 5.102–3 is revised; §§ 5.1108 and 5.1108–1(f) are amended; and §5.1201–2(d) is revised, as follows:

§ 5.102–3 Applicability of listed Federal Supply Schedules.

Supplies and service covered by the Federal Supply Schedules listed herein are mandatory in whole or in part upon some element of the Department of Defense. Some of the Federal Supply Schedules listed include classes unrelated to the Federal Supply Group which identifies the Schedule. To aid in locating an item in the mandatory Schedules, the classes included in each Schedule have been listed. The Remarks column states exceptions to the mandatory provisions of the Schedule when applicable. (But see Subpart B of this part for mandatory use of GSA Term Contracts for maintenance, repair, rehabilitation and reclamation of personal property.) The Schedules should be checked for complete details concerning the exceptions.

(a) *Mandatory nationally.*

FSC Group	Class	Title of schedule	Remarks
25		VEHICULAR EQUIPMENT COMPONENTS	No exceptions.
	2520	Clutch facings (metallic).	
	2530	Brake linings (metallic).	
	2540	Tire chains.	
26		TIRES AND TUBES, PART II	No exceptions.
	2610	Tires, pneumatic, vehicular (highway) inner tubes, pneumatic tires.	
26		TIRES AND TUBES, PART IV	No exceptions.
	2630	Tires, solid and cushion.	
26		TIRES, PNEUMATIC, PART V	No exceptions.
	2610	Tires, motorcycle, off-highway, industrial, and pursuit/emergency high-speed vehicle.	
35		SERVICE AND TRADE EQUIPMENT	No exceptions.
	3590	Heat and cold process laminating presses.	
	3540	Wrapping and packaging machinery.	
36		SPECIAL INDUSTRY MACHINERY, PART I	No exceptions.
	3610	Section A—Offset blankets, rubber. Section B—Lithographic printing plates, lithographic solutions, fountain solutions.	
36		PRINTING, DUPLICATING, AND BOOKBINDING EQUIPMENT, PART II.	Not mandatory for the following items: 51–1, 51–1–1, 51–2, 51–3, 51–60, 51–104, 51–110, 51–110–1, 51–113, 51–125, 51–125–1, 51–126, 51–127, 51–140,[1] 51–143, and 51–146 in section A and all items in sections B and C.
	3610	Section A—Purchase of machines. Section B—Rental, repair, and maintenance of machines.	
	3615	Section C—Purchase of machines.	
36		PRINTING, DUPLICATING AND BOOKBINDING EQUIPMENT, PART IV.	Not mandatory for the following items: 51–4, 51–5, 51–6, 51–10, 51–11, 51–12, 51–28, 51–29, 51–30, 51–31, 51–32, 51–33, 51–37, 51–38, 51–39, 51–43, 51–44, 51–45, 51–46, 51–47, 51–48, 51–52, 51–53, and 51–54 and items in section B.
	3610	Section A—Purchase of copying machines. Section B—Rental, repair, and maintenance of machines.	
41		AIR-CONDITIONING EQUIPMENT, PART I	No exceptions.
	4120	Air conditioners: Window types and floor mounted.	
41	4130	AIR FILTER MEDIA	No exceptions.
45		MISCELLANEOUS PLUMBING, HEATING AND SANITATION EQUIPMENT, PART II.	No exceptions.
	4540	Incinerators security (document destruction).	
	6685	Replacement pyrometers.	
51		HAND AND POWER TOOLS	Mandatory only for items in FSG 51 and FSC 5210.
	5110	Hand tools, edged, nonpowered.	
	5120	Hand tools, nonedged, nonpowered.	
	5130	Hand tools, power driven.	
	5133	Drill bits, counterbores, and countersinks; hand and machine.	
	5136	Taps, dies, and collets; hand and machine.	
	5140	Tool and hardware boxes.	
	5180	Sets, kits, and outfits of hand tools. NOTE: This schedule also includes certain items in FSC's 3220, 3410, 3413, 3415, 3416, 3417, 3433, 5210, 5980, 6130, 6140, and 6230.	
52		MEASURING TAPES	No exceptions.
	5210	Measuring tapes, complete line; steel, stainless steel, metallic woven, and other accessories.	
53		ABRASIVES	No exceptions.
	5345	Abrasive belts, disks, and stones.	
	5350	Abrasive cloth, grain and paper.	
58		SOUND RECORDING AND TRANSCRIPTION SERVICE, PART I.	Not mandatory when satisfactory security arrangements of highly classified material cannot be made in accordance with requirements under paragraphs 13 of the Special Provisions Federal Supply Schedule and on instantaneous recording; recording of one tape only, or multiple duplication.
	5835	Studio rental; tape recording, re-recording, and editing; Disc recording and pressing.	
58		COMMUNICATION EQUIPMENT, PART III, SECTION A	No exceptions, except not mandatory on DOD for language laboratory-type intercommunications sets.
		NOTE: Also includes items of foreign origin.	
58	5830	Intercommunication sets (language laboratory type).	
	5835	Sound recording and reproducing equipment.	
58		COMMUNICATION EQUIPMENT, PART III, SECTION B	No exceptions.
	5820	Video equipment.	
	5836	Recorder—Reproduce sets, sound, tape magnetic: Cartridge type, duplicators, signed type; reproducers, sound: Disc type, tape type.	

FSC Group	Class	Title of schedule	Remarks
58		COMMUNICATION EQUIPMENT, PART V	Not mandatory for high resolution and instrumentation tape.
	5820	Tape, video.	
	5835	Tapes, instrumentation, high resolution and sound recording.	
		Reels, cartridges, and cassettes:	
	7440	Electronic data processing tape (widths other then ½ inch).	
58		COMMUNICATION EQUIPMENT, PART V, SECTION A	No exceptions.
	7440	Tape, electronic data processing, ½ inch 800 BPI and 1600 BPI.	
61		DRY BATTERIES, PART III	No exceptions.
	6135	Batteries and dry cells for: Alarm systems, emergency lighting, flashlights and lanterns, telephone circuits and radio tubes.	
62		LIGHTING FIXTURES AND LAMPS, PART I	Not mandatory for the Department of Army Air Force for any item covered by Army/Military Specification.
	6230	Household and quarters lamps.	
62		ELECTRIC LAMPS, PART II	No exceptions.
	6220	Light sets, general illumination (emergency) and (auxiliary).	
62		LIGHTING FIXTURES AND LAMPS, PART III	No exceptions.
	6240	Fluorescent—Incandescent tungsten-filament: Extended service, general lighting, miscellaneous, rough service.	
62& 67		ELECTRIC AND PHOTOGRAPHIC LAMPS	No exceptions.
	6240	Fluorescent, glow, mercury vapor, high intensity, incandescent tungsten filament, photographic (other).	
	6750	Photographic lamps.	
66		INSTRUMENTS AND LABORATORY EQUIPMENT, PART III.	No exceptions.
	6645	Time measuring instruments and card racks.	
67		PHOTOGRAPHIC EQUIPMENT, PART III	Mandatory only for Item 20-70(a), prompter, projectors, professional television studio type.
	6710	Cameras, motion picture.	
	6720	Cameras, still picture, and accessories.	
	6730	Photographic project equipment, finishing equipment.	
	6740	Photographic developing and finishing equipment.	
	6750	Photographic supplies.	
	6760	Photographic equipment and accessories.	
	6780	Photographic sets, kits, and outfits.	
67		PHOTOGRAPHIC EQUIPMENT, PART IV, SECTION A	No exceptions:
	6750	Film, direct—Positive (diazotype).	
67		PHOTOGRAPHIC EQUIPMENT, PART IV, SECTION B	Mandatory except for Item 21-12.
	6720	Microfilm cameras.	
	6730	Microfilm projectors, readers, and viewers.	
	6740	Microfilm and paper processing machines; printers, rewinds; and film splicers.	
	6750	Microfilm spools, reels, and cartons.	
	7530	Microfilm print paper.	
	7670	Microfilmed library systems.	
68		CHEMICALS AND CHEMICALS PRODUCTS, PART III, SECTIONS E AND F.	No exceptions.
	6830	Compressed and liquefied gases: Section E—Refrigerant gases. Section F—Sulfur hexafluoride.	
68		CHEMICALS AND GASES, PART III, SECTION G	Mandatory on destinations listed in the schedule.
	6830	Helium.	
68		CHEMICALS AND GASES, PART III, SECTION H	No exceptions.
	6830	Fire extinguishing fluorocarbons.	
68		CHEMICALS AND CHEMICAL PRODUCTS, PART III, SECTION J.	No exceptions.
	6830	FSN 6830-882-1793 Argon, missile checkout.	
71		HOUSEHOLD FURNITURE, PART I	No exceptions.
	7105	Household furniture.	
71		HOUSEHOLD FURNITURE, PART II, SECTION A	No exceptions.
	7105	Upholstered living room furniture: matching sofas, settees, sectionals, and chairs; lounge chairs.	
71		HOUSEHOLD FURNITURE, PART II, SECTION B	No exceptions:
	7105	Multiple seating units, modular, wood or metal.	
71		HOUSEHOLD FURNISHINGS, PART III, SECTIONS A AND B.	No exceptions.
	7105	Living room furniture, modern and traditional furniture: Bedroom, dining room, and living room, miscellaneous chairs, and tables.	
71		HOUSEHOLD FURNITURE, PART IV	No exceptions.
	7105	Rattan furniture: Bedroom, dining room, living room, and recreation room.	
		Squared stock rattan furniture: Bedroom, dining room, living room, and recreation room.	
71		OFFICE FURNITURE, WOOD AND METAL, PART V	No exceptions.
	5340	Parts for folding chairs.	
	7105	Ash receptacles, folding chairs, mirrors, wardrobes.	
	7110	Office furniture.	
	7125	Key cabinets, metal.	
	7195	Bulletin boards, folding tables, dictionary stands—wood.	
71		EXECUTIVE TYPE OFFICE FURNITURE, PART VI	No exceptions.
	7110	Bookcases, cabinets, chairs, credenzas, desks, telephone cabinets, typewriter stands.	
	7195	Costumers.	
71		HOUSEHOLD FURNITURE, PART VII, SECTION A	Not mandatory for Department of Defense for bunk beds for FSN's 7105-935-3270, 7105-935-3271, and 7105-987-0220.
	7105	Metal, indoor-outdoor, hospital and quarters, and recreation room, and lobby use.	
71		HOUSEHOLD FURNITURE, PART VII, SECTION B	Not mandatory for Department of Defense for bunk beds for FSN's 7105-935-3270, 7105-935-3271, and 7105-987-0220.
	7105	Metal framed, dormitories and quarters use.	
71		OFFICE FURNITURE, PART VIII	No exceptions.
	7105/ 7110	Office furniture, executive-type wood: Section A—Traditional. Section B—Modern. Section C—Unitized.	
71		OFFICE FURNITURE, PART IX	No exceptions.
	7110	Accessories for EAM and ADP systems, address plate cabinets, key punch cabinets.	
71		SPECIAL PURPOSE FURNITURE, PART X	No exceptions.
	GP71	Chairs, chair and desk units, desks, tables and other types of special purpose furniture.	
71		OFFICE FURNITURE, PART XI	No exceptions.
	7110	Security filing cabinets.	
		Security vault door.	
		Security map and plan files.	
71		OFFICE FURNITURE EXECUTIVE, WOOD, AND METAL, PART XII.	No exceptions:
	7110	Bookcases, telephone cabinets, chairs, credenzas, desks, desk attachments.	
71		LIBRARY FURNITURE, METAL AND WOOD, PART XIII.	No exceptions.
	7195	Bookcase; bookstock; book truck; cabinets; chair and desks; and panels; racks; settees and chairs; stands; stools; tables.	
71		SHOP DESK AND WORK BENCHES, PART XIV	Mandatory for Items specified:
	7110	Work benches and shop desks.	
	7125		
	7195		
71		HOUSEHOLD FURNITURE, PART XV	No exceptions.
	7105	Composite metal and wood furniture; dinette furniture; writing tables; and stacking chairs.	
72		HOUSEHOLD FURNISHINGS, PART I, SECTIONS A AND	Not mandatory on DOD for installation of wall-to-wall carpeting and for deck covering and other items required for use aboard vessels.
	7220	Carpet, rugs and cushions.	
72		HOUSEHOLD FURNISHINGS, PART I, SECTION A, SUPPLEMENT 1.	Not mandatory on DOD for installation of wall-to-wall carpeting and for deck covering and for other items required for use aboard vessels.
	7220	Special purpose carpet.	
72		HOUSEHOLD FURNISHINGS, PART I, SECTION A, SUPPLEMENT 2.	Not mandatory on DOD for installation of wall-to-wall carpeting and for deck covering and other items required for use aboard vessels.
	7220	Special purpose carpet.	

FSC Group	Class	Title of schedule	Remarks
72		HOUSEHOLD FURNISHINGS, PART I, SECTION B	Not mandatory on DOD for installation of wall-to-wall carpeting and for deck covering and other items required for use aboard vessels
	7220	Linoleum tile:	
72		HOUSEHOLD FURNISHINGS, PART I, SECTION C	Not mandatory on DOD for installation of wall-to-wall carpeting and for deck covering and other items required for use aboard vessels.
	7220	Carpet mats and mattings.	
72		HOUSEHOLD FURNISHINGS, PART IV	No exceptions.
		Executive type floor mats (for chairs).	
72		HOUSEHOLD WINDOW FURNISHINGS, PART II	Mandatory for window shades only.
	7220	Window shades.	
73		FOOD PREPARATION AND SERVING EQUIPMENT, PART II.	Mandatory for glassware only.
	7350	Glassware: Stemware and tumbler.	
74		OFFICE MACHINES, PART I	Mandatory on DOD for all section A items, except Special Items 47-16, 47-22, and 47-28 (repair parts); optional for items in sections B and C.
	7430	Section A—Purchase of composing machines, typewriters, and repair parts. Section B—Rental, repair, and maintenance. Section C—Exchange allowance.	
74		OFFICE MACHINES OTHER THAN TYPEWRITERS, PARTS II AND III.	Not mandatory on DOD for repair parts or Part II, rental repair and maintenance.
	7420	Accounting and calculating machines.	
	7480	Office-type sound recording and reproducing machines.	
	7490	Miscellaneous office machines Part II: rental, repair, and maintenance.	
74		OFFICE MACHINES, PART IV	Not mandatory on DOD for section B items.
	7460	Section A—Visible record equipment control boards. Files: Book unit, cabinet, posting tray ledger, rotary, stationery, and vertical; frames, racks, binder, trays; cabinet. Section B—Rental, repair, and maintenance of visible record equipment.	
74		DATA PROCESSING EQUIPMENT AND SOFTWARE, PART VI.	No exceptions.
		Rental, purchase, maintenance, repairs, and repair parts.	
	7410	Punched card machine equipment.	
	7440	Automatic data processing equipment and software.	
75		OFFICE SUPPLIES, PART I, SECTION A	No exceptions.
	7510	Office supplies (includes certain items of art and drafting supplies).	
	7020	Label tape, pressure sensitive adhesive.	
	7690	Tape label marking.	
75		OFFICE SUPPLIES, PART I, SECTION E	No exceptions.
	7520	Office devices and accessories.	
	7530	Stencil, paper.	
	8110	Boxes, set-up.	
	8135	Tape, pressure sensitive, plastic back and tags merchandise.	
	9310	Cardboard, bristol.	
75		OFFICE SUPPLIES, PART I, SECTION C	No exceptions.
	7530	Stationery paper; drawing and tracing; graph; cross section; carbon; overlay; paperboard; waterproof; binder indexes; pressboard folders; labels; plastic sheets.	
75		OFFICE SUPPLIES, PART IV	No exceptions.
	7520	Rubber stamps.	
76		OFFICE SUPPLIES, PART V	No exceptions; however, plain envelopes for use in the District of Columbia shall be procured from GPO in accordance with title 44 U.S.C., section 226.
	7530	Envelopes, printed and plain.	
75		TABULATING CARDS, PART VII	No exceptions.
	7530	Section A—(advertised): Tabulating cards. Section B—(negotiated): Tabulating cards.	
76		BOOKS, DICTIONARIES AND OTHER PUBLICATIONS, PART I.	No exceptions:
	7610	Books and pamphlets.	
	7640	Maps, atlases, charts and globes.	
76		LAW BOOKS AND TAX AND OTHER REGULATORY REPORTING PERIODICALS, PART II.	No exceptions.
	7610	Law books.	
	7630	Tax and other regulatory reporting periodicals.	
77		PHONOGRAPH RECORDS, PART I	No exceptions:
	7740	Phonograph records.	
78/84		RECREATION AND ATHLETIC EQUIPMENT PART I/ ATHLETIC FOOTWEAR AND CLOTHING, PART I.	Not mandatory on DOD for requirements within 8415 and 8430.
	7810	Athletic and sporting equipment.	
	7820	Games, toys and wheeled goods.	
	7830	Recreational and gymnastic equipment.	
	8415	Clothing, special purpose, athletic and recreational.	
	8430	Footwear, athletic and recreational.	
79		CLEANING EQUIPMENT AND SUPPLIES	Not mandatory on DOD for following items: 7910-985-6790; 7910-913-3218; 7910-913-3219; 7910-917-8744; 7910-062-3742; 7910-935-3965; 7910-928-8712; 7910-928-8714; 7910-891-2905; 7910-628-9585; 7910-891-7614; and 7910-224-7986.
	7910	Vacuum cleaners, parts and attachments: Commercial and industrial. Furnace. Back-Pack. Household. Microstatic. Litter.	
		Floor polishing and scrubbing machines: Parts and Attachments: Cylindrical. Rotary disk. Baseboard. Corner.	
		Steel wool floor polishing pads.	
	7910	Floor polishing and scrubbing brushes.	
81		PACKAGING AND PACKING BULK MATERIALS PART II, SECTIONS I AND II.	No exceptions.
	8135	Section I—Steel strapping flat; seals, steel strapping and edge protectors. Section II—Strapping, nonmetallic, flat, cord and synthetic plastic, seals for nonmetallic strapping; buckles for nonmetallic strapping.	

(b) *Mandatory in Washington, D.C. and contiguous area.*

FSC Group	Class	Title of schedule	Remarks
42		FIREFIGHTING EQUIPMENT, PART I	Not mandatory on DOD for firehose; o items 4210-251-7904; 4210-595-1782; 4210-720-1815; 4210-789-1845; 4210-889-2299; and 4210-973-1866.
	4210	Fire extinguishers, extinguishing agents (dry chemicals), extinguisher charges, and repair parts and accessories, firehose.	
67		PHOTOGRAPHIC EQUIPMENT, PART II, SECTION B	Mandatory on DOD for Items 19-1, 19-2, andr 19-6 only.
	6750	Photographic sensitized and chemical supplies. Chemical preparation, developers, fixers. Film and papers. Films, photographic. Paper, photographic. Plates, Lantern-slide.	

FSC Group	Class	Title of schedule	Remarks
68		CHEMICAL AND CHEMICAL PRODUCTS, PART III, SECTIONS A, B, AND C.	Items in section A mandatory on DOD except for items procured through Defense Personnel Support Center.
	6830	Gases: Compressed and liquefied (includes certain items in FSC 6505).	
87		AGRICULTURAL SUPPLIES, PART I.	No exceptions.
	8710	Forage and feed.	
87		AGRICULTURAL SUPPLIES, PART II.	No exceptions.
	8730	Seed.	
89		SUBSISTENCE, PART III.	No exceptions.
	8960	Ice.	
Industrial Group		Sweeping cloth and wiping cloth service.	
721		(Rental) Formerly Industrial Group 103, Part IV.	

(c) *Mandatory in GSA areas other than Region 3.*

FSC Group	Class	Title of schedule	Remarks
68		CHEMICALS AND CHEMICAL PRODUCTS, PART III, SECTIONS A, B, C, AND D.	Mandatory on DOD activities located within the specified GSA geographical area other than Region 3 except for items procured through the Defense Personnel Support Center.
	6505	Medical gases.	
	6830	Industrial gases; compressed and liquefied.	

§ 5.1108 Preparation and use of DD Form 448/448c (MIPR).

DD Forms 448 and 448c are substantially self-explanatory. Information provided in MIPRs shall be arranged in Uniform Contract Format (see §§ 2.200 and 3.500 of this chapter) to the extent feasible. If desired, each Department may overprint fixed repetitive information.

§ 5.1108–1 Special instructions.

* * * * * *

(f) The requiring department shall initiate and forward DD Form 254, Contract Security Classification Specification when work or information in connection with a requested procurement requires safeguarding of classified defense information.

§ 5.1201–2 Exclusions—Defense Supply Agency and General Services Administration assignments.

* * * * *

(d) *Exclusions for local purchase of integrated materiel managed items.* Requiring Departments may purchase at their option any DSA or GSA centrally managed, commercially available item provided:

(1) in the case of an emergency requirement, such as a work stoppage, the purchase action is limited to immediate-use quantity; or

(2) in the case of routine requirements, the total line item value does not exceed $10 and local purchase is determined to be the most economical method of supply.

When an emergency purchase is made, one copy of the contractual instrument shall be forwarded promptly to the appropriate DSA Center or the GSA, Federal Supply Service, Procurement Operations Division (FPNP), Washington, D.C. 20406. A copy of the sales slip, delivery ticket or receipt document (e.g., Standard Form 1165) may be used to fulfill this requirement when purchase was accomplished by use of imprest funds or by call against a basic purchase agreement.

PART 6—FOREIGN PURCHASES

6. Sections 6.103–6, 6.103–7, 6.603–3, 6.603–4, and 6.605–2 are revised; § 6.605–3(d) is amended; §§ 6.605–4(a) and 6.704–2 are revised; in § 6.805–2(a)(8)(i) new (o) and (p) are added, and also subdivision (ii) of paragraph (a)(8) is revised, as follows:

§ 6.103–6 Panama Canal Zone.

(a) *Panamanian supplies for use in the Canal Zone.* In accordance with the Memorandum of Understandings ancillary to the Treaty with the Republic of Panama signed January 25, 1955, the Secretaries have determined that it would be inconsistent with the public interest to apply the restrictions of the Buy American Act to articles, materials, or supplies that are mined, produced, or manufactured in Panama and are purchased for use in the Canal Zone.

(b) *Merchandise purchased for resale.* Merchandise (except gasoline) purchased by activities in the Canal Zone for resale in the Canal Zone, which originated in countries other than the United States and its possessions or the Republic of Panama, may be purchased only from a United States or Republic of Panama source which has paid all appropriate duties thereon.

§ 6.103–7 Commissary resale.

The provisions of the Buy American Act do not apply to supplies purchased specifically for commissary resale. Accordingly, notwithstanding § 6.103–2(c), approvals are not required for purchases for resale in domestic commissaries of brand-name subsistence items and fresh fruits and vegetables of foreign origin. Nonsubsistence items of foreign origin purchased for resale in domestic commissaries, although not subject to the Buy American Act restrictions, are subject to approval in accordance with § 6.103–2(c) ("Gold Flow Procedures").

§ 6.603–3 Contract clauses.

(a) *Duty-free entry for designated items.* Within the limits of § 6.603–2(a), the following clause shall be used where the contracting officer definitely knows at the time of execution of the contract that foreign supplies (other than those for which duty-free entry is to be accorded pursuant to a clause authorized by § 6.605), on which the estimated aggregate duty exceeds $1,000, are to be imported into the United States, its possessions, or Puerto Rico, in connection with performance of the contract.

DUTY-FREE ENTRY FOR CERTAIN SPECIFIED ITEMS (FEBRUARY 1971)

(a) Except as otherwise approved by the Contracting Officer, no amount is or will be included in the contract price on account of duty with respect to those supplies that are specifically identified in the Schedule as supplies to be accorded duty-free entry.

(b) The Contractor warrants that all such supplies for which duty-free entry is to be claimed are intended to be delivered to the Government or incorporated in the end items to be delivered under this contract, and that duty shall be paid by the Contractor to the extent that such supplies, or any portion thereof (if not scrap or salvage), are diverted to nongovernmental use other than as a result of a competitive sale made, directed or authorized by the Contracting Officer.

(c) The Government agrees to execute duty-free entry certificates and to afford such assistance as appropriate in order to obtain the duty-free entry of supplies as to which the shipping documents bear the notation specified in paragraph (d) below, except as the Contractor may otherwise agree.

(d) All shipping documents covering those supplies that are specifically identified in the Schedule as supplies to be accorded duty-free entry, shall consign the shipments to the appropriate Military Department, in care of the particular Contractor including the Contractor's delivery address or the appropriate military installation and shall bear the following information:

(i) Government prime contract number;

(ii) Identification of carrier;

(iii) The notation: "United States Department of Defense—Duty-Free Entry To Be Claimed pursuant to Schedule 8, Part 3, Item No. 832.00, Tariff Schedules of the United States. Upon arrival of shipment at port of entry, District Director of Customs, kindly release shipment under section 8.59CR and notify the appropriate DCASR for execution of Customs Forms 7501 and 7501A and the Duty-Free Entry Certificate.";

(iv) Gross weight in pounds (if freight is based on space tonnage, state cubic feet in addition to gross shipping weight); and

(v) Estimated value in United States dollars.

(e) The Contractor agrees to instruct the foreign supplier to consign the shipment as specified in (d) above and mark all packages U.S. Department of Defense to qualify for duty-free entry and to prepare a sufficient number of copies of the bill of lading (or other shipping document) so that at least two of the copies accompanying the shipment will be available for use by the District Director of Customs at the port of entry.

(f) The Contractor agrees to notify the Contract Administration Office (CAO) in writing of any purchase by the Contractor of foreign supplies identified in the schedule as supplies to be accorded duty-free entry. Such notice shall be furnished to the CAO immediately upon the award by the Contractor to the overseas supplier. The notice shall identify (i) the foreign supplies, (ii) the country of origin, (iii) the prime contract number, and (iv) the schedule delivery date(s).

(g) The Contractor will make appropriate provisions in subcontracts hereunder to assure that the entire substance of this clause is agreed to by each first- or lower-tier subcontractor, if any, who will import into the United States, its possessions, or Puerto Rico, supplies identified in the Schedule as supplies to be accorded duty-free entry.

When the Duty-Free Entry for Certain Specified Items clause is used, the following clause shall be inserted in the Schedule:

SUPPLIES TO BE ACCORDED DUTY-FREE ENTRY (DECEMBER 1965)

In accordance with paragraph (a) of the clause hereof entitled "Duty-Free Entry for Certain Specified Items", the following supplies are hereby identified as supplies to be accorded duty-free entry:

(b) *Duty-free entry for items not identified in the contract.* Within the limits of § 6.603–2(a), the following clause shall be used unless the contracting officer anticipates that, in connection with the performance of the contract neither the prime contractor nor any first-tier subcontractor will make any purchase of foreign supplies in excess of $10,000 that would not be covered either by the clause in paragraph (a) of this section or by a clause authorized by § 6.605.

NOTICE OF IMPORTS—POSSIBLE DUTY-FREE ENTRY (FEBRUARY 1971)

(a) Except as provided in paragraph (c) below, the Contractor shall notify the Contracting Officer in writing of any purchase in excess of $10,000 by the Contractor of foreign supplies (including without limitation raw materials, components, and intermediate assemblies) that are to be imported into the United States, its possessions, or Puerto Rico, for delivery to the Government, or for incorporation in end items to be delivered to the Government, under this contract; *Provided*, That if this contract contains any other clause providing for duty-free entry, such notice is not required for any supplies that are to be accorded duty-free entry under any other such clause. Any such notice shall be furnished to the Contracting Officer at least twenty (20) days before the importation of any supplies pursuant to any such purchase. The notice shall identify (i) the foreign supplies, (ii) the estimated amount of duty payable thereon, and (iii) the country of origin.

(b) If, within ten (10) days of receipt of any notice under (a) above, the Contracting Officer notifies the Contractor in writing that the Government will issue duty-free entry certificates for such foreign supplies, or if the Government otherwise tenders and the Contractor agrees to the issuance of such a duty-free entry certificate, the following subparagraphs shall apply:

(1) Except as otherwise approved by the Contracting Officer, the contract price shall be reduced by (or the allowable cost shall not include) the amount of duty which would be payable if duty-free entry certificates were not issued pursuant to the provisions of this clause.

(2) The Contractor warrants that all such foreign supplies for which duty-free entry certificates are to be issued in accordance with this clause are intended to be delivered to the Government or incorporated in end items to be delivered under this contract, and that duty shall be paid by the Contractor to the extent that such supplies or any portion thereof (if not scrap or salvage), are diverted to nongovernmental use other than as a result of a competitive sale made, directed or authorized by the Contracting Officer.

(3) The Government agrees to execute duty-free certificates and to afford appropriate assistance in order to obtain the duty-free entry of such foreign supplies as to which, pursuant to subparagraph (4) below, the shipping documents bear the notation specified therein, except as the Contractor may otherwise agree.

(4) All shipping documents submitted to Customs, covering foreign supplies for which duty-free entry certificates are to be issued in accordance with this clause shall consign the shipments to the appropriate (i) Military Department in care of the particular Contractor including the Contractor's delivery address, or (ii) the appropriate military installation and shall bear the following information:

(i) Government prime contract number;

(ii) Identification of carrier;

(iii) The notation: "United States Department of Defense—Duty-Free Entry To Be Claimed pursuant to Schedule 8, Part 3, Item No. 832.00, Tariff Schedules of the United States. Upon arrival of shipment at port of entry, District Director of Customs, kindly release shipment under section 8.59CR and notify the appropriate DCASR for execution of Customs Forms 7501 and 7501A and the Duty-Free Entry Certificate.";

(iv) Gross weight in pounds (if freight is based on space tonnage, state cubic feet in addition to gross shipping weight); and

(v) Estimated value in U.S. dollars.

(5) The Contractor agrees to instruct the foreign supplier to consign the shipment as specified in (4) above and mark all packages U.S. Department of Defense to qualify for duty-free entry and to prepare a sufficient number of copies of the bill of lading (or other shipping document) so that at least two of the copies accompanying the shipment will be available for use by the District Director of Customs at the port of entry.

(6) The Contractor agrees to notify the Contract Administration Office (CAO) in writing of any purchase by the Contractor of foreign supplies for which duty-free entry certificates are to be issued in accordance with this clause. Such notice shall be furnished to the CAO immediately upon notification from the Contracting Officer that duty-free entry will be accorded the supplier. The notice shall identify (i) the foreign supplies, (ii) the country of origin, (iii) the prime contract number, and (iv) the scheduled delivery date(s).

(c) This clause shall not apply to purchases of foreign supplies in connection with this contract if (i) such foreign supplies are identical in nature with supplies purchased by the Contractor or any subcontractor hereunder in connection with his commercial business, and (ii) segregation of such supplies to insure use only on Government contracts containing duty-free entry provisions is not economical or feasible.

(d) The Contractor agrees to insert the substance of this clause in any first-tier subcontract hereunder in connection with which foreign supplies in excess of $10,000 may be imported by the subcontractor into the United States, its possessions, or Puerto Rico.

§ 6.603–4 Customs entries and duty-free certificates.

(a) When a prime contract involving foreign supplies contains the clause set forth in § 6.603–3 (a) or (b) and the prime contractor sends a notification of a purchase of foreign supplies under the contract to the Contract Administration Office (CAO) designated in the contract, the CAO will verify that the prime contract includes the Duty-Free Entry for Certain Specified Items clause for the items identified or the Notice of Imports—Possible Duty-Free Entry clause; and in the latter case, that the contracting officer has agreed to furnish a duty-free entry certificate for the items identified in exchange for a reduction in contract price in the amount of duty which woud be payable if duty-free entry certificates were not issued pursuant to the provisions of this clause. The CAO will then forward the notification to the appropriate DCASR as follows: (1) Commander, Defense Contract Administration Services Region, Detroit, 1580 East Grand Boulevard, Detroit, MI 48211, for shipments arriving from Canada; (2) Commander, Defense Contract Administration Services Region, New York, 60 Hudson Street, New York, NY 10013, for shipments arriving from the European, African, and Middle Eastern areas west of 60° East Longitude and the area in the North Atlantic Ocean north of 30° North Latitude including Greenland and Iceland; (3) Commander, DCASR, Dallas, Merchandise Mart Building, 500 South Ervay Street, Dallas, TX 75201, for shipments arriving from the Mexican, Caribbean, Central and South American areas and that portion of the North Atlantic Ocean south of 30° North Latitude and west of 30° West Longitude; or (4) Commander, DCASR, San Francisco, 866 Malcolm Road, Burlingame, CA 94010, for shipments arriving from the Pacific area, Near East and that portion of the Middle East east of 60° East Longitude. The notification will be forwarded as an enclosure to the information provided in the format shown below.

To: Commander
DCSAR, ----------,
Attention: Transportation Officer
Contract ------ issued to ----------
(Contractor)

Enclosed is a contractor notification of the purchase of foreign supplies. Verification has been made that:

☐ The prime contract includes ASPR Clause 6–603.3(a) Duty-Free Entry for Certain Specified Items for the items identified on the enclosed notification.

☐ The prime contract includes ASPR Clause 6–603.3(b) Notice of Imports—Possible Duty-Free Entry and the Contracting Officer has agreed to furnish a duty-free entry certificate for the items identified in exchange for an appropriate reduction in contract price.

The contract is expected to be completed by ----------

Signature ----------

Title ----------

(b) For procedures applicable to Canadian supplies, see § 6.605–4(a).

(c) When the Government agrees to execute duty-free entry certificates for supplies, in accordance with the clauses set forth in § 6.603–3 or authorized by § 6.605, the contractor shall be notified

that the foreign supplier is to include on the bill of lading (or other shipping document) the information required to be inserted on such documents as provided in the clause. Failure to include such information on the bill of lading (or other shipping document) will result in the shipment being treated as a shipment without benefit of free entry under Schedule 8, Part 3, Item No. 832.00, Tariff Schedules of the United States.

(d) Upon receipt of a request for duty-free entry, the designated Government representative shall promptly prepare the required Customs Forms and execute the duty-free entry certificate in accordance with paragraph (e) of this section and forward two copies of Customs Form 7501 and one copy of Customs Form 7501A to the District Director of Customs submitting the request.

(e) The duty-free entry certificate referred to in this paragraph shall be printed, stamped, or typed on the face of Customs Form 7501 or attached thereto in the following form:

(1968 FEB)

I certify that the procurement of this material constituted an emergency purchase of war material abroad by the (indicate Department of the Army, Department of the Navy, Department of the Air Force, or Defense Supply Agency) and it is accordingly requested that such material be admitted free of duty pursuant to Schedule 8, Part 3, Item No. 832.00, Tariff Schedules of the United States.

(Name)

(Organization)

((Title), who has been designated to execute free entry certificates for the above named (Department or Agency))

§ 6.605–2 Contract clause.

Every contract in excess of $2,500 except construction contracts, that includes the procurement of end items contained in the list maintained by the Department concerned pursuant to § 6.103–5(a) shall include the following clause unless it is reasonably certain that no supplies will be imported from Canada by the contractor or any first- or lower-tier subcontractor in connection with the performance of the contract. The clause shall be included in invitations for bids or requests for proposals that are expected to lead to such a contract.

DUTY-FREE ENTRY—CANADIAN SUPPLIES (1971 FEB)

(a) Except as otherwise approved by the Contracting Officer, no amount is or will be included in the contract price on account of duty with respect to—

(i) All end items which constitute "Canadian end products" (as defined in paragraph 6–101 of the Armed Services Procurement Regulation) to be delivered under this contract; and

(ii) All supplies (including, without limitation, raw materials, components and intermediate assemblies) produced or made in Canada which are to be incorporated in the end items to be delivered under this contract: *Provided*, That such end items are made in the United States or Canada;

except supplies imported into the United States prior to the date of this contract, or, in the case of supplies imported by a first- or lower-tier subcontractor hereunder, prior to the date of his subcontract.

(b) The Contractor warrants that all such Canadian supplies, for which such duty-free entry is to be claimed, are intended to be delivered to the Government or incorporated in the end items to be delivered under this contract, and that duty shall be paid by the Contractor to the extent that such supplies, or any portion thereof (if not scrap or salvage), are diverted to nongovernmental use other than as a result of a competitive sale made, directed or authorized by the Contracting Officer.

(c) The Government agrees to execute duty-free entry certificates and to afford such assistance as appropriate in order to obtain the duty-free entry of Canadian end products or supplies as to which the shipping documents bear the notation specified in paragraph (d) below, except as the Contractor may otherwise agree.

(d) All shipping documents submitted to Customs, covering such Canadian end products or supplies for which duty-free entry is to be claimed, shall bear the following information:

(i) Government prime contract number;

(ii) Identification of carrier;

(iii) The notation: "United States Department of Defense Duty-Free Entry To Be Claimed pursuant to Schedule 8, Part 3, Item No. 832.00, Tariff Schedules of the United States. Upon arrival of shipment at port of entry, District Director of Customs, kindly release the shipments under 8.59CP and notify the Director, Defense Contract Administration Services Region, Detroit, 1580 East Grand Blvd., Detroit, Mich. 48211, who will execute Customs Forms 7501 and 7501A and the Duty-Free Entry Certificate.";

(iv) Gross weight in pounds (if freight is based on space tonnage, state cubic feet in addition to gross shipping weight); and

(v) Estimated value in U.S. dollars.

(e) The Contractor agrees to instruct the foreign supplier to prepare a sufficient number of copies of the bill of lading (or other shipping document) so that at least two of the copies accompanying the shipment will be available for use by the District Director of Customs at the port of entry.

(f) The Contractor agrees to notify the Contract Administration Office (CAO) in writing of any purchase by the Contractor of Canadian supplies that are to be imported into the United States for delivery to the Government or for incorporation in end items to be delivered to the Government under the contract. Such notice shall be furnished to the CAO immediately upon the award by the Contractor to the Canadian supplier. The notice shall identify (i) the Canadian supplies, (ii) the contract number, and (iii) the scheduled delivery date(s).

(g) This clause shall not apply to purchases of Canadian supplies in connection with this contract if (i) such Canadian supplies are identical in nature with supplies purchased by the Contractor or any subcontractor hereunder in connection with his commercial business, and (ii) it is not economical or feasible to account for such supplies so as to assure that the amount of such supplies for which duty-free entry is claimed pursuant to this clause does not exceed the amount thereof purchased in connection with this contract.

(h) The Contractor agrees to insert the substance of this clause, including this paragraph (h), in all subcontracts for supplies hereunder that exceed $2,500. Each such subcontract shall require the subcontractor to identify this contract by its contract number on any shipping documents submitted to Customs covering supplies for which duty-free entry is to be claimed pursuant to this clause.

If the procurement covers both listed and unlisted end items, the foregoing clause should be modified so as to limit its application to the listed end items.

§ 6.605–3 Listed supplies for unlisted end items.

* * * * *

(d) As to paragraph (h) of the clause, limiting the "flow-down" provision to subcontracts for supplies specifically identified in the Schedule, or, if appropriate, deleting the provision.

§ 6.605–4 Customs entries and duty-free certificates—Canadian supplies.

(a) Pursuant to the clause set forth in §§ 6.603–3(a), 6.603–3(b) or 6.605–2 (as may be modified in accordance with § 6.605–3), the Defense Contract Administration Services Region, Detroit, shall execute Customs Forms 7501 and 7501A and the duty-free entry certificate for imports from Canada which are to be accorded duty-free entry. Accordingly, when a prime contractor notifies the contract administration office designated in the contract of a purchase of Canadian supplies under the contract, the CAO will verify that the prime contract includes the Duty-Free Entry—Canadian Supplies clause, the Duty-Free Entry for Certain Specified Items clause for the items identified, or the Notice of Imports—Possible Duty-Free Entry clause; and, in the latter case, that the contracting officer has agreed to furnish a duty-free entry certificate for the items identified in exchange for an appropriate reduction in contract price in the amount of duty which would be payable if duty-free entry certificates were not issued pursuant to the provisions of this clause. The CAO will then forward the notification to DCASR, Detroit, as an enclosure to the information provided in the format shown below.

To: Commander, DCASR, Detroit, Attn: DCRD–PT.

Contract ------ issued to ----------
(Contractor)

Enclosed is a contractor notification of the purchase of foreign supplies. Verification has been made that:

☐ The prime contract includes ASPR Clause 6–605.2 Duty-Free Entry—Canadian Supplies.

☐ The prime contract includes ASPR Clause 6–603.3(a) Duty-Free Entry for Certain Specified Items for the Items identified on the enclosed notification.

☐ The prime contract includes ASPR Clause 6–603.3(b) Notice of Imports—Possible Duty-Free Entry and the Contracting Officer has agreed to furnish a duty-free entry certificate for the items identified in exchange for an appropriate reduction in contract price.

This contract is expected to be completed by ----------

(Signature)

(Title)

* * * * *

§ 6.704–2 Department of Defense audit and records.

Contracts exempted under § 6.704–1 from the requirement for examination of records by the Comptroller General shall nevertheless include the Audit by Department of Defense clause set forth in § 7.104–41 of this chapter in accordance with the requirements of that paragraph. When the clause in § 7.104–41 (a) of this chapter is used, the second sentence of paragraph (c) shall be deleted.

§ 6.805–2 Procurement limitations.

(a) * * *

(8) *Miscellaneous exceptions.* (i) * * *

(o) Custodial services; and

(p) Other mandatory requirements for contractual services which by their nature can only be performed locally and where an organic capability does not exist.

(ii) Procurement of the requirements listed below: *Provided*, That foreign cost is estimated not to exceed $10,000:

(a) Services of part-time instructors;

(b) Printing of base newspapers;

(c) Dry ice; and

(d) Ready-mixed asphalt and portland cement concrete.

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PART 7—CONTRACT CLAUSES

7. The table of contents to Part 7 is amended by adding a new Subpart Q; §§ 7.101 and 7.103–18(a) are amended; § 7.104–7 is added; §§ 7.104–12 and 7.104–15 are revised; § 7.104–18 is amended, §§ 7.104–29, 7.104–31, 7.104–32, 7.104–41 and 7.104–42 are revised; § 7.104–45 is added; §§ 7.104–51 and 7.104–59 are revised; § 7.105–3(b)(1) is amended and paragraph (c) is revised; §§ 7.202 and 7.203–4(c)(2) are amended; §§ 7.203–7, 7.203–29 and 7.204–12 are revised; §§ 7.204–33 and 7.204–36 are added; § 7.302–6 is amended; §§ 7.302–10, 7.302–25 and 7.303–28 are revised; §§ 7.303–35 and 7.303–48 are added; §§ 7.402–7 and 7.402–24 are amended; § 7.402–30 is revised; §§ 7.403–44 and 7.403–45 are added; § 7.504–1 is revised; § 7.603–44 is amended; § 7.605–11 is revised; § 7.605–15 is amended; § 7.606–12 is added; § 7.607–22 is revised; §§ 7.607–29 and 7.608–3 are added; in § 7.702–12 the title of the contract clause is amended; §§ 7.702–13 and 7.702–22 are revised; § 7.702–35 is amended; § 7.702–48 is revised; §§ 7.703–11 and 7.703–27 are amended; §§ 7.703–41, 7.704–5 and 7.704–33 are revised; § 7.705–23 is added; § 7.802–7 is revised; in § 7.901–4 the title of the contract clause is amended and a new paragraph (f) is inserted in the contract and former paragraphs (f)–(i) are redesignated (g)–(j) and the last sentence of this section is amended; §§ 7.901–16 and 7.901–17 are amended; §§ 7.902–19 and 7.902–33 are added; § 7.1002–21 is deleted and the section reserved; §§ 7.1002–22, 7.1003–10, 7.1202–1 and 7.1601–14 are revised; and a new Subpart Q is added, as follows:

§ 7.101 Applicability.

As used throughout this subpart, the term "fixed-price supply contract" shall mean any contract (a) entered into either by formal advertising or by negotiation other than (1) purchase orders (but see §§ 7.104–15 and 7.104–16), (2) short form negotiated supply contracts (see § 16.102–2(c) of this chapter), (3) letter contracts, (4) notices of award, (5) general contracts for communication services and facilities and (6) supplemental agreements to contracts or purchase orders, which do not effect new procurement; (b) at a fixed price (with or without provision for price redetermination, escalation, or other form of price revision as covered in § 3.404 of this chapter; and (c) for supplies other than (1) the construction, alteration, or repair of buildings, bridges, roads, or other kinds of real property, (2) experimental, developmental, or research work, or (3) facilities to be provided by the Government under a facilities contract as defined in Part 13 of this chapter. However, there are supply contracts in which performance involves cost-reimbursement, construction, research and development, or other special factors. In such cases, see the particular subparts containing additional applicable clauses.

§ 7.103–18 Equal opportunity clause.

(a) *Government contracts.* The following clause shall be included in all contracts (and modifications thereof if the clause was not included in the original contract) unless exempted in accordance with § 12.805 of this chapter (see also § 12.804 of this chapter).

EQUAL OPPORTUNITY (APRIL 1971)

During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency Contracting Officer, advising the labor union or workers' representative of the contractor's commitments under this Equal Opportunity clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(6) In the event of the Contractor's noncompliance with the Equal Opportunity clause of this contract or with any of said rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11248 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however*, That in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

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§ 7.104–7 Contract schedule subline items not separately priced.

In accordance with ASPR 20–3304.2(c)(ii) and at the option of the contracting officer, the following clause may be inserted.

CONTRACT SCHEDULE SUBLINE ITEMS NOT SEPARATELY PRICED—WITH HOLDING OF BILLING AND PAYMENT (NOVEMBER 1970)

If the unit price of any contract subline or exhibit subline item contained in the schedule of this contract is not separately priced ("NSP" entered as the unit price column) and the unit price for such subline item is included within the unit price of a related subline item, payment shall not be made nor shall the Contractor invoice the Government for any portion of a contract line item or exhibit line item which contains a "NSP" subline until the total quantity of all related contract subline items or exhibit subline items have been delivered and accepted. This clause is not applicable to technical data.

§ 7.104–12 Military security requirements.

Insert the following clause in all classified contracts (see § 1.201–34 of this chapter.) If the situation warrants

because of the nature of the item, or the location or the conditions under which the contract is to be performed, such contract shall include a separate provision for such additional security safeguards as may be required (see paragraphs 1–103, 1–108, 1–115, and 1–116, ISR). When the Military Security Requirement clause is inserted in any contract, the contracting officer or his authorized representative shall approve and transmit a Contract Security Classification Specification (DD Form 254 and, if applicable, 254c) in accordance with § 16.811 of this chapter and Section VII, DoD 5220.22–R. The DD Form 254 is required in connection with all classified subcontracts unless excepted by DoD 5220.22–R.

MILITARY SECURITY REQUIREMENTS (APRIL 1971)

(a) The provisions of this clause shall apply to the extent that this contract involves access to information classified "Confidential," "Secret" or "Top Secret."

(b) The Contractor shall comply with (i) the Security Agreement (DD Form 441), including the attached Department of Defense Industrial Security Manual for Safeguarding Classified Information (DoD 5220.22–M); and (ii) any revisions thereto, notice of which has been furnished to the Contractor.

(c) If, subsequent to the date of this contract, the security classification or security requirements under this contract are changed by the Government as provided in this clause and the security costs or time required for delivery under this contract are thereby increased or decreased, the contract price, delivery schedule, or both and any other provision of the contract that may be affected shall be subject to an equitable adjustment by reason of such increased or decreased costs. Any equitable adjustment shall be accomplished in the same manner as if such changes were directed under the "Changes" clause of this contract.

(d) The Contractor agrees to insert in all subcontracts hereunder which involve access to classified information provisions which shall conform substantially to the language of this clause, including this paragraph (d) but excluding the last sentence of paragraph (c) of this clause.

§ 7.104–15 Omnibus GAO audit clause.

Insert the clause set forth below in all contracts, unless excepted under § 6.704 or § 6.1001 of this chapter.

EXAMINATION OF RECORDS BY COMPTROLLER GENERAL (MARCH 1971)

(a) This clause is applicable if the amount of this contract exceeds $2,500 and was entered into by means of negotiation, including small business restricted advertising, but is not applicable if this contract was entered into by means of formal advertising.

(b) The Contractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of 3 years after final payment under this contract or such lesser time specified in either Appendix M of the Armed Services Procurement Regulation or the Federal Procurement Regulations Part 1–20, as appropriate, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to this contract.

(c) The Contractor further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of 3 years after final payment under the subcontract or such lesser time specified in either Appendix M of the Armed Services Procurement Regulation or the Federal Procurement Regulations Part 1–20, as appropriate, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract. The term "subcontract" as used in this clause excludes (i) purchase orders not exceeding $2,500 (ii) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

(d) The periods of access and examination described in (b) and (c) above for records which relate to (i) appeals under the "Disputes" clause of this contract, (ii) litigation or the settlement of claims arising out of the performance of this contract, or (iii) costs and expenses of this contract as to which exception has been taken by the Comptroller General or any of his duly authorized representatives, shall continue until such appeals, litigation, claims or exceptions have been disposed of.

§ 7.104–18 Priorities, allocations, and allotments.

In accordance with § 1.307–2, of this chapter insert the following clause.

PRIORITIES, ALLOCATIONS, AND ALLOTMENTS (APRIL 1971)

The Contractor shall follow the provisions of DMS Reg. 1 and all other applicable regulations and orders of the Bureau of Domestic Commerce in obtaining controlled materials and other products and materials needed to fill this order.

§ 7.104–29 Price reduction for defective cost or pricing data.

(a) The following clause shall be inserted in negotiated contracts which when entered into exceed $100,000, except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. In addition the contracting officer shall include this clause in other negotiated contracts for which he has obtained a Certificate of Current Cost or Pricing Data in accordance with § 3.807–3(a)(3) of this chapter in connection with the initial pricing of the contract, or for which he has obtained partial cost or pricing data in accordance with § 3.807–3(c) of this chapter.

PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA (JANUARY 1970)

If any price, including profit or fee, negotiated in connection with this contract or any cost reimbursable under this contract was increased by any significant sums because:

(i) The Contractor furnished cost or pricing data which was not complete, accurate and current as certified in the Contractor's Certificate of Current Cost or Pricing Data;

(ii) A subcontractor, pursuant to the clause of this contract entitled "Subcontractor Cost or Pricing Data" or "Subcontractor Cost or Pricing Data—Price Adjustments" or any subcontract clause therein required, furnished cost or pricing data which was not complete, accurate and current as certified in the subcontractor's Certificate of Current Cost or Pricing Data;

(iii) A subcontractor or prospective subcontractor furnished cost or pricing data which was required to be complete, accurate and current and to be submitted to support a subcontract cost estimate furnished by the Contractor but which was not complete, accurate and current as of the date certified in the Contractor's Certificate of Current Cost or Pricing Data; or

(iv) The Contractor or a subcontractor or prospective subcontractor furnished any data, not within (i), (ii), or (iii) above, which was not accurate as submitted;

the price or cost shall be reduced accordingly and the contract shall be modified in writing as may be necessary to reflect such reduction. However, any reduction in the contract price due to defective subcontract data of a prospective subcontractor when the subcontract was not subsequently awarded to such subcontractor, will be limited to the amount (plus applicable overhead and profit markup) by which the actual subcontract, or actual cost to the Contractor if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor, Provided the actual subcontract price was not affected by defective cost or pricing data.

(NOTE: Since the contract is subject to reduction under this clause by reason of defective cost or pricing data submitted in connection with certain subcontracts, it is expected that the contractor may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the contractor. However, the inclusion of such a clause and the terms thereof are matters for negotiation and agreement between the contractor and the subcontractor: *Provided*, That they are consistent with ASPR 23–203 relating to Disputes provisions in subcontracts. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification for defective cost or pricing data required to be submitted by his lower tier subcontractors.)

(b) Insert the following clause in all contracts, both formally advertised and negotiated, which when entered into exceed $100,000 except those containing the clause set forth in paragraph (a) of this section.

PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA—PRICE ADJUSTMENTS (JANUARY 1970)

(a) This clause shall become operative only with respect to any modification of this contract which involves aggregate increases and/or decreases in cost plus applicable profits in excess of $100,000 unless the modification is priced on the basis of adequate competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. The right to price reduction under this clause is limited to defects in data relating to such modification.

(b) If any price, including profit, or fee, negotiated in connection with any price adjustment under this contract was increased by any significant sums because:

(i) The Contractor furnished cost or pricing data which was not complete, accurate and current as certified in the Contractor's Certificate of Current Cost or Pricing Data;

(ii) A subcontractor, pursuant to the clause of this contract entitled "Subcontractor Cost or Pricing Data" or "Subcontractor Cost or Pricing Data—Price Adjustments" or any subcontract clause therein required, furnished cost or pricing data which was not complete, accurate and current as certified in the subcontractor's Certificate of Current Cost or Pricing Data;

(iii) A subcontractor or prospective subcontractor furnished cost or pricing data which was required to be complete, accurate and current and to be submitted to support a subcontract cost estimate furnished by the Contractor but which was not complete, accurate and current as of the date certified in the Contractor's Certificate of Current Cost or Pricing Data; or

(iv) The Contractor or a subcontractor or prospective subcontractor furnished any data, not within (i), (ii), or (iii) above, which was not accurate, as submitted;

the price shall be reduced accordingly and the contract shall be modified in writing as may be necessary to reflect such reduction. However, any reduction in the contract price due to defective subcontract data of a prospective subcontractor, when the subcontract was not subsequently awarded to such subcontractor, will be limited to the amount (plus applicable overhead and profit markup) by which the actual subcontract, or actual cost to the Contractor if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor, provided the actual subcontract price was not affected by defective cost or pricing data.

(NOTE: Since the contract is subject to reduction under this clause by reason of defective cost or pricing data submitted in connection with certain subcontracts, it is expected that the contractor may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the contractor. However, the inclusion of such a clause and the terms thereof are matters for negotiation and agreement between the contractor and the subcontractor: *Provided*, That they are consistent with ASPR 23–203 relating to Disputes provisions in subcontracts. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification for defective cost or pricing data required to be submitted by his lower tier subcontractors.)

(c) The requirement for inclusion of the above clauses in contracts with foreign governments or agencies thereof may be waived in exceptional cases by the Head of a Procuring Activity, stating in writing his reasons for such determination.

§ 7.104–31 Duty-free entry.

(a) *Duty-free entry for designated items.* In accordance with § 6.603–3(a) of this chapter, insert the following clause.

DUTY-FREE ENTRY FOR CERTAIN SPECIFIED ITEMS (FEBRUARY 1971)

(a) Except as otherwise approved by the Contracting Officer, no amount is or will be included in the contract price on account of duty with respect to those supplies that are specifically identified in the Schedule as supplies to be accorded duty-free entry.

(b) The Contractor warrants that all such supplies for which duty-free entry is to be claimed are intended to be delivered to the Government or incorporated in the end items, to be delivered under this contract, and that duty shall be paid by the Contractor to the extent that such supplies, or any portion thereof (if not scrap or salvage), are diverted to nongovernmental use other than as a result of a competitive sale made, directed or authorized by the Contracting Officer.

(c) The Government agrees to execute duty-free entry certificates and to afford such assistance as appropriate in order to obtain the duty-free entry of supplies as to which the shipping documents bear the notation specified in paragraph (d) below, except as the Contractor may otherwise agree.

(d) All shipping documents covering those supplies that are specifically identified in the Schedule as supplies to be accorded duty-free entry, shall consign the shipments to the appropriate Military Department, in care of the particular Contractor including the Contractor's delivery address or the appropriate military installation and shall bear the following information:

(i) Government prime contract number;

(ii) Identification of carrier;

(iii) The notation: "United States Department of Defense—Duty-Free Entry To Be Claimed pursuant to Schedule 8, Part 3, Item No. 832.00, Tariff Schedules of the United States. Upon arrival of shipment at port of entry, District Director of Customs, kindly release shipment under section 8.59CR and notify the appropriate DCASR for execution of Customs Forms 7501 and 7501A and the Duty-Free Entry Certificate.";

(iv) Gross weight in pounds (if freight is based on space tonnage, state cubic feet in addition to gross shipping weight); and

(v) Estimated value in U.S. dollars.

(e) The Contractor agrees to instruct the foreign supplier to consign the shipment as specified in (d) above and mark all packages United States Department of Defense to qualify for duty-free and to prepare a sufficient number of copies of the bill of lading (or other shipping document) so that at least two of the copies accompanying the shipment will be available for use by the District Director of Customs at the port of entry.

(f) The Contractor agrees to notify the Contract Administration Office (CAO) in writing of any purchase by the Contractor of foreign supplies identified in the schedule as supplies to be accorded duty-free entry. Such notice shall be furnished to the CAO immediately upon the award by the Contractor to the overseas supplier. The notice shall identify (i) the foreign supplies, (ii) the country of origin, (iii) the prime contract number, and (iv) the scheduled delivery date(s).

(g) The Contractor will make appropriate provisions in subcontracts hereunder to assure that the entire substance of this clause is agreed to be each first- or lower-tier subcontractor, if any, who will import into the United States, its possessions, or Puerto Rico, supplies identified in the Schedule as supplies to be accorded duty-free entry.

(b) In accordance with § 6.603–3(b) of this chapter, insert the following clause.

NOTICE OF IMPORTS—POSSIBLE DUTY-FREE ENTRY (FEBRUARY 1971)

(a) Except as provided in paragraph (c) below, the Contractor shall notify the Contracting Officer in writing of any purchase in excess of $10,000 by the Contractor of foreign supplies (including without limitation raw materials, components, and intermediate assemblies) that are to be imported into the United States, its possessions, or Puerto Rico, for delivery to the Government, or for incorporation in end items to be delivered to the Government, under this contract: *Provided*, That if this contract contains any other clause providing for duty-free entry, such notice is not required for any supplies that are to be accorded duty-free entry under any other such clause. Any such notice shall be furnished to the Contracting Officer at least twenty (20) days before the importation of any supplies pursuant to any such purchase. The notice shall identify (i) the foreign supplies, (ii) the estimated amount of duty payable thereon, and (iii) the country of origin.

(b) If, within ten (10) days of receipt of any notice under (a) above, the Contracting Officer notifies the Contractor in writing that the Government will issue duty-free entry certificates for such foreign supplies, or if the Government otherwise tenders and the Contractor agrees to the issuance of such a duty-free entry certificate, the following subparagraphs shall apply:

(1) Except as otherwise approved by the Contracting Officer, the contract price shall be reduced by (or the allowable cost shall not include) the amount of duty which would be payable if duty-free entry certificates were not issued pursuant to the provisions of this clause.

(2) The Contractor warrants that all such foreign supplies for which duty-free entry certificates are to be issued in accordance with this clause are intended to be delivered to the Government or incorporated in end items to be delivered under this contract, and that duty shall be paid by the Contractor to the extent that such supplies or any portion thereof (if not scrap or salvage), are diverted to nongrovernmental use other than as a result of a competitive sale made, directed or authorized by the Contracting Officer.

(3) The Government agrees to execute duty-free entry certificates and to afford appropriate assistance in order to obtain the duty-free entry of such foreign supplies as to which, pursuant to subparagraph (4) below, the shipping documents bear the notation specified therein, except as the Contractor may otherwise agree.

(4) All shipping documents submitted to Customs, covering foreign supplies for which duty-free entry certificates are to be issued in accordance with this clause shall consign the shipments to the appropriate (i) Military Department in care of the particular Contractor including the Contractor's delivery address, or (ii) the appropriate military installation and shall bear the following information:

(i) Government prime contract number;

(ii) Identification of carrier;

(iii) The notation: "United States Department of Defense—Duty-Free Entry To Be Claimed pursuant to Schedule 8, Part 3, Item No. 832.00, Tariff Schedules of the United States. Upon arrival of shipment at port of entry, District Director of Customs, kindly release shipment under section 8.59CR and notify the appropriate DCASR for execution of Customs Forms 7501 and 7501A and the Duty-Free Entry Certificate.";

(iv) Gross weight in pounds (if freight is based on space tonnage, state cubic feet in addition to gross shipping weight); and

(v) Estimated value in U.S. dollars.

(5) The Contractor agrees to instruct the foreign supplier to consign the shipment as specified in (4) above and mark all packages United States Department of Defense to qualify for duty-free entry and to prepare a sufficient number of copies of the bill of lading (or other shipping document) so that at least two of the copies accompanying the shipment will be available for use by the District Director of Customs at the port of entry.

(6) The Contractor agrees to notify the Contract Administration Office (CAO) in writing of any purchase by the Contractor of foreign supplies for which duty-free entry certificates are to be issued in accordance with this clause. Such notice shall be furnished to the CAO immediately upon notification from the Contracting Officer that duty-free entry will be accorded the supplier. The notice shall identify (i) the foreign supplies, (ii) the country of origin, (iii) the prime contract number, and (iv) the scheduled delivery date(s).

(c) This clause shall not apply to purchases of foreign supplies in connection with this contract if (i) such foreign supplies are identical in nature with supplies purchased by the Contractor or any subcontractor hereunder in connection with his commercial

business, and (ii) segregation of such supplies to insure use only on Government contracts containing duty-free entry provisions is not economical or feasible.

(d) The Contractor agrees to insert the substance of this clause in any first-tier subcontract hereunder in connection with which foreign supplies in excess of $10,000 may be imported by the subcontractor into the United States, its possessions, or Puerto Rico.

§ 7.104–32 Duty-free entry of listed Canadian supplies.

In accordance with § 6.605–2, of this chapter insert the following clause.

DUTY-FREE ENTRY—CANADIAN SUPPLIES (FEBRUARY 1971)

(a) Except as otherwise approved by the Contracting Officer, no amount is or will be included in the contract price on account of duty with respect to—

(i) All end items which constitute "Canadian end products" (as defined in paragraph 6–101 of the Armed Services Procurement Regulation) to be delivered under this contract; and

(ii) All supplies (including, without limitation, raw materials, components and intermediate assemblies) produced or made in Canada which are to be incorporated in the end items to be delivered under this contract: *Provided*, That such end items are made in the United States or Canada;

except supplies imported into the United States prior to the date of this contract, or, in the case of supplies imported by a first- or lower-tier subcontractor hereunder, prior to the date of his subcontract.

(b) The Contractor warrants that all such Canadian supplies, for which such duty-free entry is to be claimed, are intended to be delivered to the Government or incorporated in the end items to be delivered under this contract, and that duty shall be paid by the Contractor to the extent that such supplies, or any portion thereof (if not scrap or salvage), are diverted to nongovernmental use other than as a result of a competitive sale made, directed or authorized by the Contracting Officer.

(c) The Government agrees to execute duty-free entry certificates and to afford such assistance as appropriate in order to obtain the duty-free entry of Canadian end products or supplies as to which the shipping documents bear the notation specified in paragraph (d) below, except as the Contractor may otherwise agree.

(d) All shipping documents submitted to Customs, covering such Canadian end products or supplies for which duty-free entry is to be claimed, shall bear the following information:

(i) Government prime contract number;

(ii) Identification of carrier;

(iii) The notation: "United States Department of Defense Duty-Free Entry To Be Claimed pursuant to Schedule 8, Part 3, Item No. 852.00, Tariff Schedules of the United States. Upon arrival of shipment at port of entry, District Director of Customs, kindly release the shipments under 8.59CP and notify the Director, Defense Contract Administration Services Region, Detroit, 1580 East Grand Blvd., Detroit, MI 48211, who will execute Customs Forms 7501 and 7501A and the Duty-Free Entry Certificate."

(iv) Gross weight in pounds (if freight is based on space tonnage, state cubic feet in addition to gross shipping weight); and

(v) Estimated value in U.S. dollars.

(e) The Contractor agrees to instruct the foreign supplier to prepare a sufficient number of copies of the bill of lading (or other shipping document) so that at least two of the copies accompanying the shipment will be available for use by the District Director of Customs at the port of entry.

(f) The Contractor agrees to notify the Contract Administration Office (CAO) in writing of any purchase by the Contractor of Canadian supplies that are to be imported into the United States for delivery to the Government or for incorporation in end items to be delivered to the Government under the contract. Such notice shall be furnished to the CAO immediately upon the award by the Contractor to the Canadian supplier. The notice shall identify (i) the Canadian supplies, (ii) the contract number, and (iii) the scheduled delivery date(s).

(g) This clause shall not apply to purchases of Canadian supplies in connection with this contract if (i) such Canadian supplies are identical in nature with supplies purchased by the Contractor or any subcontractor hereunder in connection with his commercial business, and (ii) it is not economical or feasible to account for such supplies so as to assure that the amount of such supplies for which duty-free entry is claimed pursuant to this clause does not exceed the amount thereof purchased in connection with this contract.

(h) The Contractor agrees to insert the substance of this clause, including this paragraph (h), in all subcontracts for supplies hereunder that exceed $2,500. Each such subcontract shall require the subcontractor to identify this contract by its contract number on any shipping documents submitted to Customs covering supplies for which duty-free entry is to be claimed pursuant to this clause.

§ 7.104–41 Audit by Department of Defense.

(a) Insert the clause set forth below in all contracts other than contracts entered into by formal advertising which are not expected to exceed $100,000.

AUDIT BY DEPARTMENT OF DEFENSE (APRIL 1971)

(a) *General.* The Contracting Officer or his representatives shall have the audit and inspection rights described in the applicable paragraphs (b), (c), and (d) below.

(b) *Examination of Costs.* If this is a cost reimbursement type, incentive, time and materials, labor hour, or price redeterminable contract, or any combination thereof, the Contractor shall maintain, and the Contracting Officer or his representatives shall have the right to examine books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this contract. Such right of examination shall include inspection at all reasonable times of the Contractor's plants, or such parts thereof, as may be engaged in the performance of this contract.

(c) *Cost or Pricing Data.* If the Contractor submitted cost or pricing data in connection with the pricing of this contract or any change or modification thereto, unless such pricing was based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation, the Contracting Officer or his representatives who are employees of the U.S. Government shall have the right to examine all books, records, documents, and other data of the Contractor related to the negotiation, pricing or performance of such contract, change of modification, for the purpose of evaluating the accuracy, completeness and currency of the cost or pricing data submitted. Additionally, in the case of pricing any change or modification exceeding $100,000 to formally advertised contracts, the Comptroller General of the United States or his representatives who are employees of the U.S. Government shall have such rights. The right of examination shall extend to all documents necessary to permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.

(d) *Reports.* If the Contractor is required to furnish Cost Information Reports (CIR) or Contract Fund Status Reports (CFSR), the Contracting Officer or his representatives shall have the right to examine books, records, documents, and supporting materials, for the purpose of evaluating (1) the effectiveness of the Contractor's policies and procedures to produce data compatible with the objectives of these reports, and (ii) the data reported.

(e) *Availability.* The materials described in (b), (c), and (d) above shall be made available at the office of the Contractor, at all reasonable times, for inspection, audit, or reproduction, until the expiration of 3 years from the date of final payment under this contract or such lesser time specified in Appendix M of the Armed Services Procurement Regulation, and for such longer period, if any, as is required by applicable statute, or by other clauses of this contract, or by (1) and (2) below:

(1) If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for a period of 3 years from the date of any resulting final settlement.

(2) Records which relate to appeals under the "Disputes" clause of this contract, or litigation or the settlement of claims arising out of the performance of this contract, shall be made available until such appeals, litigation, or claims have been disposed of.

(f) The Contractor shall insert a clause containing all the provisions of this clause, including this paragraph (f), in all subcontracts hereunder, except altered as necessary for proper identification of the contracting parties and the Contracting Officer under the Government prime contract.

(b) In the case of consolidated facilities contracts, facilities acquistion contracts and facilities use contracts, paragraph (b) of the clause should be amended to read:

(b) *Examination of Costs.* The Contractor shall maintain, and the Contracting Officer and his representatives shall have the right to examine books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly (1) all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this contract and (2) the use of, and charges for the use of, the facilities. Such right of examination shall include inspection at all reasonable times of the Contractor's plants, or such parts thereof, as may be engaged in the performance of this contract.

§ 7.104–42 Subcontractor cost or pricing data.

(a) The following clause shall be inserted in all negotiated contracts expected to exceed $100,000, except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. The contracting officer may include this clause, with appropriate reduction in the dollar amounts included therein, in other negotiated contracts where a Certificate of Current Cost or Pricing Data is required (see § 3.807–3(a)(3) of this chapter) in connection with initial pricing of the contract.

SUBCONTRACTOR COST OR PRICING DATA (JANUARY 1970)

(a) The Contractor shall require subcontractors hereunder to submit, actually or by specific identification in writing, cost or pricing data under the following circumstances: (i) prior to the award of any subcontract the amount of which is expected to exceed $100,000 when entered into; (ii) prior to the pricing of any subcontract modification which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed $100,000; except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(b) The Contractor shall require subcontractors to certify, in substantially the same form as that used in the certificate by the Prime Contractor to the Government, that to the best of their knowledge and belief, the cost and pricing data submitted under (a) above is accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract change or modification.

(c) The Contractor shall insert the substance of this clause including this paragraph (c) in each subcontract hereunder which exceeds $100,000 when entered into except where the price thereof is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. In each such excepted subcontract hereunder in excess of $100,000, the Contractor shall insert the substance of the following clause:

SUBCONTRACTOR COST OR PRICING DATA—PRICE ADJUSTMENTS

(a) Paragraphs (b) and (c) of this clause shall become operative only with respect to any modification made pursuant to one or more provisions of this contract which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed $100,000. The requirements of this clause shall be limited to such contract modifications.

(b) The Contractor shall require subcontractors hereunder to submit, actually or by specific identification in writing, cost or pricing data under the following circumstances: (i) prior to award of any subcontract, the amount of which is expected to exceed $100,000 when entered into; (ii) prior to the pricing of any subcontract modification which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed $100,000; except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(c) The Contractor shall require subcontractors to certify, in substantially the same form as that used in the certificate by the Prime Contractor to the Government, that to the best of their knowledge and belief the cost and pricing data submitted under (b) above is accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract change or modification.

(d) The Contractor shall insert the substance of this clause including this paragraph (d) in each subcontract hereunder which exceeds $100,000 when entered into.

(b) Insert the following clause in all contracts, both formally advertised and negotiated, which exceed $100,000 other than those described in paragraph (a) of this section:

SUBCONTRACTOR COST OR PRICING DATA—PRICE ADJUSTMENTS (JANUARY 1970)

(a) Paragraphs (b) and (c) of this clause shall become operative only with respect to any modification made pursuant to one or more provisions of this contract which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed $100,000. The requirements of this clause shall be limited to such modifications.

(b) The Contractor shall require subcontractors hereunder to submit cost or pricing data under the following circumstances: (i) prior to the award of any subcontract the amount of which is expected to exceed $100,000 when entered into; (ii) prior to the pricing of any subcontract modification which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed $100,000; except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(c) The Contractor shall require subcontractors to certify that to the best of their knowledge and belief the cost and pricing data submitted under (b) above is accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract change or modification.

(d) The Contractor shall insert the substance of this clause including this paragraph (d) in each subcontract which exceeds $100,000.

(c) The requirement for inclusion of the above clauses in contracts with foreign governments or agencies thereof may be waived in exceptional cases by the Head of a Procuring Activity, stating in writing his reasons for such determination.

§ 7.104–45 Limitation of liability for defects.

(a) In accordance with § 1.330(b) of this chapter, insert the following clause:

LIMITATION OF LIABILITY FOR DEFECTS (FEBRUARY 1971)

(a) Except for remedies expressly provided elsewhere in this contract, the Contractor shall not be liable for loss of or damage to property of the Government (excluding the supplies delivered under this contract) occurring after final acceptance of the supplies delivered under this contract and resulting from any defects or deficiencies in such supplies.

(b) The foregoing limitations shall not apply:

(i) To the extent that the Contractor carries insurance or has established a reserve for insurance covering his liability to the Government for such loss or damage;

(ii) When the defects or deficiencies in such supplies or the Government acceptance of such supplies resulted from fraud or gross negligence as amounts to fraud, on the part of any personnel of the Contractor; or

(iii) When the defects or deficiencies in such supplies or the Government acceptance of such supplies resulted from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or on the part of any of his managers, superintendents, or other equivalent representatives, who has supervision or direction of—

(A) All or substantially all of the Contractor's business; or

(B) All or substantially all of the Contractor's operations at any one plant or separate location, in which this contract is being performed; or

(C) A separate and complete major industrial operation in connection with the performance of this contract.

(b) In accordance with § 1.330(b) of this chapter in procurements of high dollar value items, insert the following clause in lieu of the clause in paragraph (a) of this section:

LIMITATION OF LIABILITY FOR DEFECTS—MAJOR ITEMS (FEBRUARY 1971)

(a) Notwithstanding any other provision of this contract, including specifically the "Inspection" clause and any "Warranty of Supplies," "Correction of Deficiency" or other warranty clause, the Contractor shall not be liable for loss of or damage to property of the Government (including the supplies delivered under this contract) occurring after final acceptance of the supplies delivered under this contract and resulting from any defects or deficiencies in such supplies.

(b) The foregoing limitations shall not apply:

(i) To the extent that the Contractor carries insurance or has established a reserve for insurance covering his liability to the Government for such loss or damage;

(ii) When the defects or deficiencies in such supplies or the Government acceptance of such supplies resulted from fraud or gross negligence as amounts to fraud, on the part of any personnel of the Contractor; or

(iii) When the defects or deficiencies in such supplies or the Government acceptance of such supplies resulted from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or on the part of any of his managers, superintendents, or other equivalent representatives, who has supervision or direction of—

(A) All or substantially all of the Contractor's business; or

(B) All or substantially all of the Contractor's operations at any one plant or separate location, in which this contract is being performed; or

(C) A separate and complete major industrial operation in connection with the performance of this contract.

(c) This clause does not diminish the Contractor's obligation, to the extent otherwise arising under this contract, relating to correction, repair or replacement of any defect or deficiency in supplies delivered under this contract or to provide equivalent relief. If loss or damage has occurred and correction, repair or replacement is no longer feasible or desired by the Government, the Contractor shall pay to the Government the amount which it would have cost the Contractor to make such correction, repair or replacement before the loss or damage occurred or provide other equivalent relief.

§ 7.104–51 Production progress report.

In accordance with § 25.202 of this chapter, insert the following clause.

PRODUCTION PROGRESS REPORTS (APRIL 1971)

(a) The Contractor shall prepare and submit to the Contracting Officer Production Progress Reports in accordance with the instructions set forth elsewhere in this contract.

(b) During any delay in furnishing a Production Progress Report required under this contract, the Contracting Officer may withhold from payment an amount not exceeding

$10,000 or 5 percent of the amount of this contract, whichever is less.

§ 7.104–59 Aluminum.

In accordance with § 1.327 of this chapter, insert the following clause.

REQUIRED SOURCE FOR ALUMINUM INGOT (APRIL 1971)

(a) As used in this clause (i) the term "aluminum products" means aluminum or aluminum alloy in its last commercial form delivered by the producer, mill, or foundry as an end item under this contract, or used to produce an end item under this contract, such as by way of example (but not limited to) wrought aluminum products; forgings and castings; rolled bar, rod, structural shapes, and bare wire; aluminum conductor steel reinforced and bare aluminum cable; insulated or covered wire or cable; extruded bar, rod, shapes and tube (extruded, drawn and welded tube); sheet, strip and plate; pig or ingot; granular or shot; slab; foil; and powder, flake or paste; and (ii) the term "supplier" includes vendors, materialmen, warehousemen, distributors or manufacturers of aluminum products or other items containing aluminum in any form.

(b) Except as provided in (c) below, the Contractor (or subcontractor or supplier, where applicable) shall purchase from the General Services Administration (GSA) a quantity of aluminum pig or ingot equal in weight to the gross weight of aluminum products constituting, or used in the production of, the items to be delivered under this contract. Such purchase shall be in accordance with the terms and conditions of sale prescribed therefor by GSA. Each order placed with GSA pursuant to this clause shall state that it is placed in accordance therewith and shall be sent to:

Director, Stockpile Disposal Division, Property Management and Disposal Service, General Services Administration, Washington, D.C. 20405.

Aluminum purchased pursuant to this clause may be used in any manner the Contractor desires and need not be earmarked in any way after delivery to the Contractor, nor physically incorporated in the items to be delivered hereunder.

(c) To the extent the Contractor (or subcontractor or supplier, where applicable) places subcontracts or purchase orders for aluminum products or for items other than aluminum products and containing aluminum in any form, he is not required with respect to such subcontracts or purchase orders to purchase aluminum from the GSA. However, he agrees to incorporate this clause:

(i) In any such subcontract or purchase order for aluminum products in the total amount of $500 or more, or

(ii) In any such subcontract or purchase order in the total amount of $25,000 or more for any items containing aluminum in any form where the quantity of aluminum products used in the production of such items is estimated to be 10,000 pounds or more.

(d) The requirements of this clause are not intended to preclude basic agreements or other arrangements between the parties to any contracts (subcontracts or purchase orders) subject to this clause that will permit reference in such contracts to the applicability of the requirements of this clause, without the need for physically incorporating this clause in its entirety in each affected subcontract or purchase order.

(e) In placing subcontracts and purchase orders subject to the clause, the Contractor and all subcontractors and suppliers are authorized and encouraged to consolidate aluminum product purchases hereunder with other defense rated order purchases (ACM, DO, or DX) and other identifiable Government orders so as to apply the requirements of this clause to the total purchase. Otherwise, it is required either that aluminum product purchases subject to this clause be separately made, or, if consolidated with other aluminum product purchases, that the quantities (by weights) of aluminum products subject to this clause be separately set forth in the purchase document and identified as subject to this clause.

(f) Required purchases of aluminum from GSA by Contractors, subcontractors, or suppliers, shall be made within 90 days from the date (i) of final delivery pursuant to a contract, subcontract, or purchase order containing the requirements of this clause, or (ii) when the Contractor, subcontractor or supplier, has completed deliveries of aluminum products aggregating 100,000 pounds, whichever is earlier: *Provided, however*, That any Contractor, subcontractor or supplier, may defer required purchases of aluminum for the purpose of consolidating purchases to meet the requirement of two or more contracts, subcontracts, or purchase orders containing this clause until 90 days after the aggregate purchase requirements of such contracts, subcontracts or purchase orders equal the minimum order quantities established by GSA (approximately 10,000 pounds or more). Successive consolidated purchases thereafter may be made at any time within 90-day intervals. The 90-day limitations may be extended upon approval in writing by the GSA.

(g) Certain producers of aluminum have entered into contracts with GSA effective as of November 1, 1965 under which they have made long-term commitments to purchase certain minimum and maximum quantities of aluminum from that Agency. The obligations of such producers under this clause shall be governed by the provisions of those contracts to the extent of any inconsistency.

(h) All purchases made pursuant to this clause, other than from GSA, which are rated (ACM, DO, or DX) in accordance with DMS Regulation 1, DMS Order 3, and DPS Regulation 1, are subject to the provisions of those regulations concerning the maintenance of records, rights of inspection and audit, and the penalty provisions contained therein for willful noncompliance.

§ 7.105–3 Stop work orders.

* * * * *

(b) *Use of orders.* (1) Inasmuch as stop work orders may result in increased costs to the Government by reason of standby costs, such orders will be issued only with prior approval at a level above the contracting officer. Generally, use of a stop work order will be limited to those situations where it is advisable to suspend work pending such a decision by the Government and a supplemental agreement providing for such suspension is not feasible. A stop work order will not be used in lieu of the issuance of a termination notice after a decision to terminate has been made.

* * * * *

(c) *Clause.*

STOP WORK ORDER (APRIL 1971)

(a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of ninety (90) [1] days after the order is delivered to the Contractor, and for any further period to which the parties may agree. Any such order shall be specifically identified as a Stop Work Order issued pursuant to this clause. Upon receipt of such an order, the Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of ninety (90) [1] days after a stop work order is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either—

(i) Cancel the stop work order, or

(ii) Terminate the work covered by such order as provided in the "Default" or the "Termination for Convenience" clause of this contract.

(b) If a stop work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. An equitable adjustment shall be made in the delivery schedule or contract price, or both, and the contract shall be modified in writing accordingly, if—

(i) The stop work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract, and

(ii) The Contractor asserts a claim for such adjustment within thirty (30) days after the end of the period of work stoppage: *Provided*, That, if the Contracting Officer decides the facts justify such action, he may receive and act upon any such claim asserted at any time prior to final payment under this contract.

(c) If a stop work order is not canceled and the work covered by such order is terminated for the convenience of the Government, the reasonable costs resulting from the stop work order shall be allowed in arriving at the termination settlement.

(d) If a stop work order is not canceled and the work covered by such order is terminated for default, the reasonable costs resulting from the stop work order shall be allowed by equitable adjustment or otherwise.

§ 7.202 Applicability.

As used in this subpart, the term "cost-reimbursement type supply contract" shall mean any contract (other than a letter contract, notice of award, or a supplemental agreement to a contract which does not effect a new procurement) entered into on a cost reimbursement basis as covered in § 3.405 of this chapter for supplies other than (a) the construction, alteration or repair of buildings, bridges, roads, or other kinds of real property; (b) experimental, developmental, or research work; (c) facilities to be provided by the Government under a "facilities contract" as defined in § 7.701 and Part 13 of this chapter or (d) general contracts for communication services and facilities.

§ 7.203–4 Allowable cost, fee, and payment.

* * * * *

(c) * * *

(2) In paragraph (f)(ii)(B) of the foregoing clauses, the period of years may be increased to correspond with any statutory period of limitation applicable to claims of third parties against the contractor: *Provided*, That a corresponding increase is made in the period of retention of records required in paragraph (d) of the clause set forth in § 7.104–15.

* * * * *

§ 7.203–7 Examination of records.

In accordance with § 7.104–15, insert the clause set forth therein.

§ 7.203–29 Audit by Department of Defense.

Insert the clause set forth in § 7.104–41(a).

§ 7.204–12 Military security requirements.

In accordance with § 7.104–12, insert the clause set forth therein, deleting paragraphs (c) and (d) and substituting the following:

(c) If, subsequent to the date of this contract, the security classifications or security requirements under this contract are changed by the Government as provided in this clause, and if such changes cause an increase or decrease in the estimated cost or time required for performance of this contract, the estimated cost, fee, delivery schedule, or any other provision of the contract that may be affected, shall be subject to an equitable adjustment. Any such equitable adjustment shall be accomplished in the manner set forth in the "Changes" clause of this contract.

(d) The Contractor agrees to insert, in all subcontracts hereunder which involve access to classified information, provisions which shall conform substantially to the language of this clause, including this paragraph (d) but excluding the last sentence of paragraph (c) of this clause. (April 1971)

§ 7.204–33 Limitation of liability for defects.

In accordance with § 1.330(b) of this chapter, insert the appropriate clause set forth in § 7.104–45.

§ 7.204–36 Aircraft, missile, and space vehicle accident reporting and investigation.

In accordance with § 7.104–81, insert the clause set forth therein.

§ 7.302–6 Examination of records.

In accordance with § 7.104–15, insert the clause set forth therein.

§ 7.302–10 Termination for convenience of the government.

(a) In accordance with § 8.701 of this chapter insert the clause set forth in § 7.103–21(c).

(b) In accordance with § 8.704 of this chapter, insert the following clause, except that in the case of organizations other than educational institutions, paragraph (d) shall be deleted and the paragraph in (c) below shall be used.

TERMINATION FOR THE CONVENIENCE OF THE GOVERNMENT (APRIL 1971)

(a) The performance of work under this contract may be terminated, in whole or from time to time in part, by the Government whenever for any reason the Contracting Officer shall determine that such termination is in the best interest of the Government. Termination of work hereunder shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under the contract is terminated and the date upon which such termination becomes effective.

(b) After receipt of the Notice of Termination the Contractor shall cancel his outstanding commitments hereunder covering the procurement of materials, supplies, equipment and miscellaneous items. In addition the Contractor shall exercise all reasonable diligence to accomplish the cancellation or diversion of his outstanding commitments covering personal services and extending beyond the date of such termination to the extent that they relate to the performance of any work terminated by the notice. With respect to such canceled commitments the Contractor agrees to (i) settle all outstanding liabilities and all claim arising out of such cancellation of commitments, with the approval or ratification of the Contracting Officer, to the extent he may require, which approval or ratification shall be final for all purposes of this clause, and (ii) assign to the Government, in the manner, at the time, and to the extent directed by the Contracting Officer, all of the right, title, and interest of the Contractor under the orders and subcontracts so terminated in which case the Government shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.

(c) The Contractor shall submit his termination claim to the Contracting Officer promptly after receipt of a Notice of Termination, but in no event later than one year from the effective date thereof, unless one or more extensions in writing are granted by the Contracting Officer upon written request of the Contractor within such one year period or authorized extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the Contracting Officer may, subject to any Settlement Review Board approvals required by section VIII of the Armed Services Procurement Regulation in effect as of the date of execution of this contract, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.

(d) Any determination of costs under paragraph (c) shall be governed by the cost principles set forth in section XV, part 3, of the Armed Services Procurement Regulation, as in effect on the date of this contract.

(e) Subject to the provisions of paragraph (c) above, and subject to any Settlement Review Board approvals required by section VIII of the Armed Services Procurement Regulation in effect as of the date of execution of this contract, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the termination under this clause, which amount or amounts may include any reasonable cancellation charges thereby incurred by the Contractor and any reasonable loss upon outstanding commitments for personal services which he is unable to cancel: *Provided, however*, That in connection with any outstanding commitments for personal services which the Contractor is unable to cancel, the Contractor shall have exercised reasonable diligence to divert such commitments to his other activities and operations. Any such agreement shall be embodied in an amendment to this contract and the Contractor shall be paid the agreed amount.

(f) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments against costs incurred by the Contractor in connection with the terminated portion of this contract, whenever, in the opinion of the Contracting Officer, the aggregate of such payments is within the amount to which the Contractor will be entitled hereunder.

(g) The Contractor agrees to transfer title and deliver to the Government, in the manner, at the time, and to the extent, if any, directed by the Contracting Officer, such information and items which, if the contract had been completed, would have been required to be furnished to the Government, including:

(i) Completed or partially completed plans, drawings and information; and

(ii) Materials or equipment produced or in process or acquired in connection with the performance of the work terminated by the notice.

Other than the above, any termination inventory resulting from the termination of the contract may, with the written approval of the Contracting Officer, be sold or acquired by the Contractor under the conditions prescribed by and at a price or prices approved by the Contracting Officer. The proceeds of any such disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this contract or shall otherwise be credited to the price or cost of work covered by this contract or paid in such other manner as the Contracting Officer may direct. Pending final disposition of property arising from the termination, the Contractor agrees to take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the Government has or may acquire an interest.

(h) Any disputes as to questions of fact which may arise hereunder shall be subject to the "Disputes" clause of this contract.

(c) The following paragraph shall be used in place of (d) in the above clause when the contract is with a nonprofit organization other than an educational institution.

(d) Costs claimed, agreed to, or determined pursuant to (c) above and (e) below shall be in accordance with the section XV Contract Cost Principles and Procedures of the Armed Services Procurement Regulation as in effect on the date of this contract.

(d) The clause in paragraph (b) of this section suitably altered to indicate the relationship between the prime contractor and subcontractor is suggested for use in subcontracts placed with educational institutions and when modified as prescribed in paragraph (c) of this section for use with other nonprofit institutions: *Provided*, Such subcontracts incorporate, or are negotiated on the basis of, the cost principles set forth in Part 15 of this chapter: *And provided further*, Such subcontracts are placed on the no-fee or no-profit basis.

§ 7.302–25 Military security requirements.

Insert the Military Security Requirements clause in accordance with § 7.104–12.

§ 7.303–28 Audit by Department of Defense.

In accordance with § 7.104–41(a), insert the clause set forth therein.

§ 7.303–35 Limitation of liability for defects.

In accordance with § 1.330(b) of this chapter, insert the appropriate clause set forth in § 7.104–45.

[1] The clause may provide for less than 90 days.

§ 7.303–48 Aircraft, missile and space vehicle accident reporting and investigation.

In accordance with § 7.104–81, insert the clause set forth therein.

§ 7.402–7 Examination of records.

In accordance with § 7.104–15, insert the clause set forth therein. In the case of research and development contracts with nonprofit institutions and subcontracts thereunder, and pursuant to procedures approved by the Comptroller General, original documentary evidence in support of costs of the transportation of things will not be required pursuant to said clause.

§ 7.402–24 Military security requirements.

Insert the clause set forth in § 7.104–12, modified in accordance with § 7.204–12.

§ 7.402–30 Audit by Department of Defense.

In accordance with § 7.104–41(a), insert the clause set forth therein.

§ 7.403–44 Limitation of liability for defects.

In accordance with § 1.330(b) of this chapter, insert the appropriate clause set forth in § 7.104–45.

§ 7.403–45 Aircraft, missile, and space vehicle accident reporting and investigation.

In accordance with § 7.104–81, insert the clause set forth therein.

§ 7.504–1 Military security requirements.

(a) Except as provided in paragraph (b) of this section, insert the Military Security Requirements clause in accordance with § 7.104–12.

(b) In any cost reimbursement type contract, insert the Military Security Requirements clause in accordance with § 7.204–12.

§ 7.603–44 Aluminum.

In accordance with § 1.327 of this chapter, insert the clause set forth in § 7.104–59 modified by deletion of paragraph (c) thereof and substitution of the following paragraph.

(c) To the extent the Contractor or subcontractor or supplier, where applicable places subcontracts or purchase orders for aluminum products, or for items other than aluminum products and containing aluminum in any form, or for construction where the subcontractor is to furnish materials containing aluminum in any form, he is not required with respect to such subcontracts or purchase orders to purchase aluminum from the GSA. However, he agrees to incorporate this clause:

(i) In any such subcontract or purchase order for aluminum products in the total amount of $500 or more, or

(ii) In any such subcontract or purchase order in the total amount of $25,000 or more for any items containing aluminum in any form where the quantity of aluminum products used in the production of such items is estimated to be 10,000 pounds or more, or

(iii) Construction, where the materials are to be supplied by the subcontractor and the total value of such materials containing aluminum (in any form) is estimated to be $25,000 or more, and where the quantity of aluminum products used in the production of such items is estimated to be 10,000 pounds or more.

§ 7.605–11 Audit by Department of Defense.

In accordance with § 7.104–41(a), insert the clause set forth therein.

§ 7.605–15 Examination of records.

In accordance with § 7.104–15, insert the clause set forth therein.

§ 7.606–12 Aircraft, missile, and space vehicle accident reporting and investigation.

In accordance with § 7.104–81, insert the clause set forth therein.

§ 7.607–22 Audit by Department of Defense.

In accordance with § 7.104–41(a), insert the clause set forth therein.

§ 7.607–29 Responsibility of the Architect-Engineer.

RESPONSIBILITY OF THE ARCHITECT-ENGINEER (AUGUST 1970)

(a) The Architect-Engineer shall be responsible for the professional quality, technical accuracy and the coordination of all designs, drawings, specifications, and other services furnished by the Architect-Engineer under this contract. The Architect-Engineer shall, without additional compensation, correct or revise any errors or deficiencies in his designs, drawings, specifications, and other services.

(b) Neither the Government's review, approval or acceptance of, nor payment for, any of the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract, and the Architect-Engineer shall be and remain liable to the Government in accordance with applicable law for all damages to the Government caused by the Architect-Engineer's negligent performance of any of the services furnished under this contract.

(c) The rights and remedies of the Government provided for under this contract are in addition to any other rights and remedies provided by law.

§ 7.608–3 Redesign responsibility.

(a) Insert the following clause in all Architect-Engineer contracts except (1) those involving projects for which the Head of Procuring Activity or his designee determines that cost limitations are secondary to performance considerations and that additional funding can be expected if necessary, and (2) those for the design of a standard structure which is not intended for a specific location site.

DESIGN WITHIN FUNDING LIMITATIONS (APRIL 1971)

(a) The Architect-Engineer shall accomplish the design services required under this contract so as to permit the award of a contract, pursuant to standard Department of Defense procedures, for the construction of the facilities designed at a price that does not exceed the estimated construction contract price set forth in this contract. When bids or proposals for the construction contract are received which exceed such estimated price, the Architect-Engineer shall perform such redesign and other services as are necessary to permit contract award within such funding limitation. These additional services shall be performed at no increase in the price of this contract. However, the perform such additional services at no cost to the Government if the unfavorable bids or Architect-Engineer shall not be required to proposals are the result of conditions beyond his reasonable control.

(b) The Architect-Engineer will promptly advise the Contracting Officer if he finds that the project being designed will exceed or is likely to exceed the funding limitations and he is unable to design a usable facility within these limitations. Upon receipt of such information, the Contracting Officer will review the Architect-Engineer's revised estimate of construction cost. The Contracting Officer may, if he determines that the estimated construction contract price set forth in this contract is so low that award of a construction contract not in excess of such estimate is improbable, authorize a change in scope or materials as required to reduce the estimated construction cost to an amount within the estimated construction contract price set forth elsewhere in the contract, or he may adjust such estimated construction contract price. When bids or proposals are not solicited or where they are unreasonably delayed, the Government shall prepare an estimate of constructing the design submitted and such estimate will be used in lieu of bids or proposals to determine compliance with the funding limitation.

(b) Whenever the clause set forth in paragraph (a) of this section is included in a contract, the statement set out below shall be inserted in the description of the work to be performed by the Architect-Engineer.

The estimated construction contract price for the project described herein is $---------.

The figure to be inserted in this statement is to be established at the beginning of contract negotiations by agreement between the Architect-Engineer and the Government. Such estimated construction contract price shall take into account any statutory or other limitations and exclude any allowances for Government supervision and overhead and any amounts set aside by the Government for contingencies. In negotiating the figure to be inserted, the Contracting Officer should make available to the Architect-Engineer the information upon which the Government has based its initial estimate and any subsequently acquired information which may affect the construction cost.

§ 7.702–12 Use and charges.

USE AND CHARGES (APRIL 1971)

* * * * *

§ 7.702–13 Examination of records.

In accordance with § 7.104–15, insert the clause set forth therein.

§ 7.702–22 Termination of work.

TERMINATION OF WORK (APRIL 1971)

(a) The performance of work under this contract may be terminated by the Government in accordance with this clause in whole, or from time to time in part, whenever for any reason the Contracting Officer shall determine that such termination is in the best interest of the Government. Any such termination shall be effected by delivery to the Contractor of a written Notice of Termination specifying the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective.

(b) After receipt of a Notice of Termination and except as otherwise directed by the Contracting Officer, the Contractor shall:

(i) Stop work in performance of the contract on the date and to the extent specified in the Notice of Termination;

(ii) Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract as is not terminated;

(iii) Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;

(iv) Assign to the Government, in the manner and to the extent directed by the Contracting Officer, all of the right, title, and interest of the Contractor under the orders or subcontracts so terminated, in which case the Government shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

(v) With the approval or ratification of the Contracting Officer, to the extent he may require, which approval or ratification shall be final and conclusive for all purposes of this clause, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, the cost of which would be reimbursable in whole or in part, in accordance with the provisions of this contract;

(vi) Transferred title (to the extent that title has not already been transferred) and, in the manner, to the extent, and at the times directed by the Contracting Officer, deliver to the Government—

(A) The fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in respect to the performance of, the work terminated by the Notice of Termination; and

(B) The completed or partially completed plans, drawings, information, and other property which, if the contract had been completed, would be required to be furnished to the Government;

(vii) Use his best efforts to sell in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Contracting Officer, any property of the types referred to in (vi) above: *Provided, however,* That the Contractor—

(A) Shall not be required to extend credit to any purchaser, and

(B) May acquire any such property under the conditions prescribed by and at a price or prices approved by the Contracting Officer: *And provided further,* That the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this contract or shall otherwise be credited to the price or cost of the work covered by this contract or paid in such other manner as the Contracting Officer may direct;

(viii) Complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and

(ix) Take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to this contract which is in the possession of Contractor in which the Government has or may acquire an interest.

The Contractor shall proceed immediately with the performance of the above obligations notwithstanding any delay in determining any item of reimbursable cost under this clause. At any time after expiration of the plant clearance period, as defined in Section VIII, Armed Services Procurement Regulation, in effect as of the date of this contract, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the Contracting Officer, and may request the Government to remove such items or enter into a storage agreement covering them. Not later than fifteen (15) days thereafter the Government will accept such items and remove them or enter into a storage agreement covering the same: *Provided,* That the list submitted shall be subject to verification by the Contracting Officer upon removal of the items, or if the items are stored, within forty-five (45) days from the date of submission of the list, and any necessary adjustment to correct the list as submitted shall be made prior to final settlement.

(c) After receipt of a Notice of Termination, the Contractor shall submit to the Contracting Officer his termination claim in the form and with the certification prescribed by the Contracting Officer. Such claim shall be submitted promptly but in no event later than 1 year from the effective date of termination, unless one or more extensions in writing are granted by the Contracting Officer, upon request of the Contractor made in writing within such 1-year period or authorized extension thereof. However, if the Contracting Officer determines that the facts justify such action, he may receive and act upon any such termination claim at any time after such 1-year period or any extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the Contracting Officer may, subject to any Settlement Review Board approvals required by Section VII of the Armed Services Procurement Regulation in effect as of the date of this contract, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.

(d) Subject to the provisions of paragraph (c), and subject to any Settlement Review Board approvals required by Section VIII of the Armed Services Procurement Regulation in effect as of the date of this contract, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this clause. The contract shall be amended accordingly, and the Contractor shall be paid the agreed amount.

(e) In the event of the failure of the Contractor and the Contracting Officer to agree in whole or in part, as provided in paragraph (d), as to the amounts with respect to costs to be paid to the Contractor in connection with the termination of work pursuant to this clause, the Contracting Officer shall, subject to any Settlement Review Board approvals required by Section VIII of the Armed Services Procurement Regulation in effect as of the date of this contract, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall pay to the Contractor the amount determined as follows:

(i) There shall be included therein all costs and expenses reimbursable in accordance with this contract, not previously paid to the Contractor for the performance of this contract prior to the effective date of the Notice of Termination, and such of these costs as may continue for a reasonable time thereafter with the approval of or as directed by the Contracting Officer: *Provided, However,* That the Contractor shall proceed as rapidly as practicable to discontinue such costs;

(ii) There shall be included therein so far as not included under (i) above, the cost of settling and paying claims arising out of the termination of work under subcontracts or orders, as provided in paragraph (b)(v) above, which are properly chargeable to the terminated portion of the contract; and

(iii) There shall be included therein the reasonable costs of settlement, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the contract and for the termination and settlement of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of termination inventory.

(f) Costs claimed, agreed to, or determined pursuant to (c), (d) and (e) hereof shall be in accordance with the section XV Contract Cost Principles and Procedures of the Armed Services Procurement Regulation as in effect on the date of this contract.

(g) The Contractor shall have the right of appeal, under the clause of this contract entitled "Disputes", from any determination made by the Contracting Officer under paragraph (c) or (e) above, except that if the Contractor has failed to submit his claim within the time provided in paragraph (c) above and has failed to request extension of such time, he shall have no such right of appeal. In any case where the Contracting Officer has made a determination of the amount due under paragraph (c) or (e) above, the Government shall pay to the Contractor the following: (i) if there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Contracting Officer, or (ii) if an appeal has been taken, the amount finally determined on such appeal.

(h) In arriving at the amount due the Contractor under this clause there shall be deducted: (i) all unliquidated advance or other payments theretofore made to the Contractor, applicable to the terminated portion of this contract, (ii) any claim which the Government may have against the Contractor in connection with this contract, and (iii) the agreed price for, or the proceeds of sale of, any materials, supplies, or other things acquired by the Contractor or sold pursuant to the provisions of this clause and not otherwise recovered by or credited to the Government.

(i) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of the contract whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand, together with interest computed at the rate of six percent (6%) per annum, for the period from the date such excess payment is received by the Contractor to the date on which such excess is repaid to the Government: *Provided, however,* That no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until ten (10) days after the date of such retention or disposition, or such later date as determined by the Contracting Officer by reason of the circumstances.

(j) Appropriate equitable adjustment may be made in any related procurement contract of the Contractor which so provides and which is affected by a Notice of Termination under this clause. In no event shall the Government be liable to the Contractor for damages or loss of profits by reason of a Notice of Termination issued pursuant to this clause.

In accordance with § 163.119 of this chapter, the last sentence of paragraph (i) in the above clause may be deleted in contracts with agencies of the U.S. Government, foreign governments or agencies thereof, State or local governments or agencies thereof, or nonprofit contracts with nonprofit educational or research institutions.

§ 7.702–35 Utilization of labor surplus area concerns.

In accordance with § 1.805–3(a) of this chapter, insert the clause set forth in § 7.104–20(a).

§ 7.702–48 Audit by Department of Defense.

In accordance with § 7.104–41(a), insert the clause set forth therein as amended by § 7.104–41(b).

§ 7.703–11 Examination of records.

In accordance with § 7.104–15, insert the clauses set forth therein.

§ 7.703–27 Utilization of labor surplus area concerns.

In accordance with § 1.805–3(a) of this chapter, insert the clause set forth in § 7.104–20(a).

§ 7.703–41 Audit by Department of Defense.

In accordance with § 7.104–41(a), insert the clause set forth therein as amended by § 7.104–41(b).

§ 7.704–5 Examination of records.

In accordance with § 7.104–15, insert the clause set forth therein.

§ 7.704–33 Audit by Department of Defense.

In accordance with § 7.104–41(a), insert the clause set forth therein as amended by § 7.104–41(b).

§ 7.705–23 Aircraft, missile, and space vehicle accident reporting and investigation.

In accordance with § 7.104–81, insert the clause set forth therein.

§ 7.802–7 Audit by Department of Defense.

Insert the clause set forth in § 7.104–41(a).

§ 7.901–4 Termination.

TERMINATION (APRIL 1971)

• • • • •

(f) Costs claimed, agreed to, or determined pursuant to (c), (d), and (e) hereof shall be in accordance with the Section XV Contract Cost Principles and Procedures of the Armed Services Procurement Regulation as in effect on the date of this contract.

(g) The Contractor shall have the right of appeal, under the "Disputes" clause of this contract, from any determination made by the Contracting Officer under paragraphs (c) or (e), above, except that if the Contractor has failed within the time provided in paragraph (c), above, to request extension of such time, he shall have no such right of appeal. In any case where the Contracting Officer has made a determination of the amount due under paragraph (c) or (e), above, the Government shall pay to the Contractor the following: (i) if there is no right of appeal hereunder, or if no timely appeal has been taken, the amount so determined by the Contracting Officer; or (ii) if an appeal has been taken, the amount finally determined on such appeal.

(h) In arriving at the amount due the Contractor under this clause, there shall be deducted (i) all unliquidated advance or other payments theretofore made to the Contractor, applicable to the terminated portion of this contract; (ii) any claim which the Government may have against the Contractor in connection with this contract; and (iii) the agreed price for, or the proceeds of sale of, any materials, supplies, or other things acquired by the Contractor or sold pursuant to the provisions of this clause and not otherwise recovered by or credited to the Government.

(i) In the event of a partial termination, the hourly rates for direct labor hours with respect to the work under the continued portion of the contract shall be equitably adjusted by agreement between the Contractor and the Contracting Officer, and such adjustment shall be evidenced by an amendment to this contract.

(j) The Government under such terms and conditions as it prescribes may make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of the contract, whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand, together with interest computed at the rate of six (6) percent per annum, for the period from the date such excess payment is received by the Contractor to the date on which such excess is repaid to the Government: *Provided, however,* That no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until ten (10) days after the date of such retention or disposition, or such later date as determined by the Contracting Officer by reason of the circumstances.

In accordance with § 163.119 of this chapter, the last sentence of paragraph (j) in the above clause may be deleted in contracts with agencies of the U.S. Government, foreign governments or agencies thereof, State or local governments or agencies thereof, or nonprofit contracts with nonprofit educational or research institutions.

§ 7.901–16 Audit by Department of Defense.

In accordance with § 7.104–41(a), insert the clause set forth therein.

§ 7.901–17 Examination of records.

In accordance with § 7.104–15, insert the clause set forth therein.

§ 7.902–19 Limitation of liability for defects.

In accordance with § 1.330(b) of this chapter, insert the appropriate clause set forth in § 7.104–45.

§ 7.902–33 Aircraft, missile, and space vehicle accident reporting and investigation.

In accordance with § 7.104–81, insert the clause set forth therein.

§ 7.1002–21 [Reserved]

§ 7.1002–22 Examination of records.

In accordance with § 7.104–15, insert the clause set forth therein except in contracts of the type described in § 7.502.

§ 7.1003–10 Audit by Department of Defense.

In accordance with § 7.104–41(a), insert the clause set forth therein.

§ 7.1202–1 Examination of records.

In accordance with the instructions in § 7.104–15, insert the clause set forth therein.

§ 7.1601–14 Liability.

LIABILITY (OCTOBER 1970)

(a) "Article" means any shipping piece or package and its contents.

(b) If notified within one (1) year after the time the owner discovers loss of or damage to his property or the time he shall have discovered such loss or damage had he exercised due diligence, the Contractor agrees to indemnify the owner for loss of or damage to the owner's property which arises from any cause while it is in the Contractor's possession as follows:

(i) *Nonnegligent Damage.* The Contractor shall indemnify owners for any loss of or damage to their property which results from any cause, other than the Contractor's negligence, at a rate not to exceed sixty cents (60¢) per pound per article.

(ii) *Negligent Damage.* When loss or damage is caused by the negligence of the Contractor, he shall be liable for the full cost of satisfactory repair or for the current replacement value of the article. The Contractor shall make prompt payment to the owner of the property for any loss or damage for which the Contractor is liable.

Subpart Q—Clauses for Communication Service Contracts

Sec.
7.1700 Scope of subpart.
7.1701 Required clauses.
7.1701–1 Definitions.
7.1701–2 Assignment of claims.
7.1701–3 Disputes.
7.1701–4 Officials not to benefit.
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7.1702 Clauses to be used when applicable.
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7.1702–8 Ordering of facilities and services.
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7.1703 Clauses to be used when special construction charges are expected.
7.1703–1 Labor standards for construction work.
7.1703–2 Buy American—construction contracts.
7.1703–3 Special construction and equipment charges.
7.1703–4 Title to communication facilities and equipment.
7.1703–5 Subcontracts.

AUTHORITY: The provisions of this Subpart Q issued under secs. 2202, 2301–2314, 70A Stat. 120, 127–133; 10 U.S.C. 2202, 2301–2314.

Subpart Q—Clauses for Communication Service Contracts

§ 7.1700 Scope of subpart.

This subpart prescribes clauses for "General Contracts" with common carriers and with noncommon carriers under which communication services and facilities will be ordered pursuant to Part 22, Subpart J, of this chapter.

§ 7.1701 Required clauses.

The following clauses shall be inserted in all "General Contracts" for communication services and facilities. With the exception of the clauses prescribed by §§ 7.1701–1 through 7.1701–15, the clauses prescribed by this section may be varied to meet specific requirements of an appropriate governmental regulatory body or when the basic intent is not changed.

§ 7.1701–1 Definitions.

Insert the clause in § 7.103–1 with the following additional paragraphs:

(d) The term "Communication Service Authorization" (CSA) means an order for services or facilities under this contract.

(e) The term "Appropriate Governmental Regulatory Body" means the Federal Communications Commission, any statewide regulatory body, or any body with less than statewide jurisdiction when operating pursuant to State authority. Regulatory bodies whose decisions are not subject to judicial appeal and regulatory bodies which regulate a company owned by the same entity which creates the regulatory body are not "appropriate governmental regulatory bodies" for the purposes of this contract. (April 1971)

§ 7.1701–2 Assignment of claims.

Insert the clause in §7.103–8.

§ 7.1701–3 Disputes.

Insert the appropriate clause in § 7.103–12, with the following additional paragraph in contracts with common carriers.

(c) The provisions of (a) above shall not apply to disputes which are subject to the jurisdiction of an appropriate governmental regulatory body. The provisions of (a) above also shall be subject to the requirements of the law with respect to the rendering of communication services and the collection of tariff charges. (April 1971)

§ 7.1701–4 Officials not to benefit.

Insert the clause in § 7.103–19.

§ 7.1701–5 Covenant against contingent fees.

Insert the clause in § 7.103–20.

§ 7.1701–6 Notice to the Government of labor disputes.

Insert the clause in § 7.104–4.

§ 7.1701–7 Military security requirements.

Insert the clause in § 7.104–12.

§ 7.1701–8 Examination of records.

Insert the clause in § 7.104–15.

§ 7.1701–9 Gratuities.

Insert the clause in § 7.104–16.

§ 7.1701–10 Patent indemnity.

Insert the clause in § 9.103–1 of this chapter, designating the text thereof as paragraph (a) and adding the following as (b):

(b) This clause shall apply only to individual CSAs over $5,000 issued under this contract and covering those communications services and facilities which normally are or have been sold or offered for sale by the Contractor to the public, or which can be provided over commercially available equipment, or which involve relatively minor modifications thereto. (April 1971)

§ 7.1701–11 Notice and assistance regarding patent infringement.

Insert the clause in § 9.104 of this chapter.

§ 7.1701–12 Reporting of royalties.

In accordance with the requirements of § 9.110 of this chapter, insert the clause set forth therein. In contracts with common carriers, revise the clause by deleting the date of the clause and by substituting the following for the first three lines of the clause:

When the response to a solicitation for special construction or special assembly under this contract contains costs or charges for royalties totaling more than $250, the following information shall be furnished with the offer, proposal, or quotation on each separate item of royalty or license fee:

§ 7.1701–13 Convict labor.

Insert the clause in § 12.203 of this chapter.

§ 7.1701–14 Contract work hours standards act—overtime compensation.

Insert the clause in § 12.303 of this chapter.

§ 7.1701–15 Equal employment opportunity.

Insert the clause in § 12.804 of this chapter.

§ 7.1701–16 Access.

ACCESS (APRIL 1971)

(a) Subject to military security regulations, the Government shall permit the Contractor access at all reasonable times to contractor furnished facilities: *Provided,* That if by reason of military necessity the Government is unable to permit access, the Government at its own risk and expense shall maintain these facilities and the Contractor shall not be responsible for the service involving any of these facilities during the period of nonaccess, unless the service failure results from the Contractor's fault or negligence.

(b) During periods when Contractor access is not permitted, cost attributable to loss of or damage to the equipment due to the fault or negligence of the Government shall be reimbursed to the Contractor at mutually acceptable rates. Failure to agree shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract.

§ 7.1701–17 Amendment of contract.

AMENDMENT OF CONTRACT (APRIL 1971)

Upon thirty (30) days' written notice, either party may request reconsideration of this contract for the purpose of revision to conform with requirements of law or to provide for mutually acceptable changes.

§ 7.1701–18 Obligation of the Government.

OBLIGATION OF THE GOVERNMENT (APRIL 1971)

The Government incurs no monetary liability under this instrument. The Government's liability shall arise, if appropriate, upon the issuance of a CSA pursuant to the terms of this instrument.

§ 7.1702 Clauses to be used when applicable.

With the exception of the clauses prescribed by §§ 7.1702–1 through 7.1702–5, 7.1702–14(b), and § 7.1702–15(b), the clauses prescribed by this section may be varied to meet specific requirements of an appropriate governmental regulatory body or when the basic intent is not changed.

§ 7.1702–1 Utilization of small business concerns.

In accordance with the requirements of § 1.707–3(a) of this chapter, insert the clause set forth therein.

§ 7.1702–2 Buy American act.

In accordance with the requirements of § 6.104–5 of this chapter, insert the clause set forth therein.

§ 7.1702–3 Approval of contract.

When the contract requires manual approval prior to becoming effective, insert the clause set forth in § 7.105–2.

§ 7.1702–4 Patent rights (license).

In accordance with the requirements of § 9.107–5(b) of this chapter, insert the clause set forth therein.

§ 7.1702–5 Authorization and consent.

(a) Insert the following clause in contracts with common carriers.

AUTHORIZATION AND CONSENT (COMMON CARRIERS) (APRIL 1971)

The Government hereby gives authorization and consent (without prejudice to its rights of indemnification, if these rights are provided for in this contract) for all use and manufacture, in the performance of any order placed under this contract for communication services and facilities for which rates, charges, and tariffs are not established by a governmental regulatory body, or any

part thereof or any amendments thereto or any subcontract thereunder (including any lower-tier subcontract), of any United States patented invention (i) embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract; or (ii) utilized in the machinery, tools, or methods the use of which necessarily results from compliance by the Contractor or the using subcontractor with (A) specifications or written provisions now or hereafter forming a part of this contract, or (B) specific written instructions given by the Contracting Officer directing the manner of performance. The entire liability to the Government for infringement of a patent of the United States shall be determined solely by the provisions of the indemnity clauses, if any, included in this contract or any subcontract hereunder (including any lower-tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent herein above granted.

(b) Insert the clause in § 7.103–22 in contracts with noncommon carriers.

§ 7.1702–6 Continuation of orders.

When a communication services contract supersedes another and it is desired to transfer outstanding orders to the new contract, insert the following clause:

CONTINUATION OF ORDERS (APRIL 1971)

All orders heretofore issued by _____ under Contract Number _____, dated _____, are transferred to this contract and shall continue in full force and effect as though placed under this contract. Orders currently in effect which were heretofore issued by the above Department under other contracts of that Department with the Contractor may likewise be transferred to this contract.

§ 7.1702–7 Facilities and services to be furnished.

Insert the following clause in contracts with common carriers:

FACILITIES AND SERVICES TO BE FURNISHED—COMMON CARRIERS (APRIL 1971)

(a) The Contractor shall furnish any classes of services or facilities that he offers or furnishes under published tariffs.

(b) When it is mutually agreed that the Contractor shall furnish nontariffed services, such services may be ordered in the manner provided in the clause entitled "Ordering of Facilities and Services." These may include the engineering, installation, alteration or maintenance of facilities owned either by the Contractor or by the Government, and may be located on or off Government premises or at any of its establishments.

(c) The Contractor agrees to interconnect his facilities with any Government-owned or furnished communications equipment, facilities or transmission media, in accordance with established technical criteria for assuring continuity of service and/or traffic without damage to or degradation of commercial facilities, upon request of the Contracting Officer.

§ 7.1702–8 Ordering of facilities and services.

Insert the following clause in contracts with common carriers:

ORDERING OF FACILITIES AND SERVICES—COMMON CARRIERS (APRIL 1971)

All services and facilities furnished, as provided in the clause entitled "Facilities and Services To Be Furnished—Common Carriers" shall be ordered by the Contracting Officer on numbered CSAs referring to this contract and specifying the services and facilities desired, the premises involved, the address where bills for service shall be sent, the Disbursing Officer, and any other pertinent details. Acceptance of orders by the Contractor shall be acknowledged by (i) commencing performance or (ii) written acceptance by a duly authorized representative. The Contractor shall sign and promptly return the order to the Government when required by the Contracting Officer. Orders pursuant to this clause which are unacceptable to the Contractor shall be returned to the Contracting Officer within _____ days of receipt stating the reasons therefor.

§ 7.1702–9 Rates, charges, and services—common carriers.

Insert the following clause in contracts with common carriers:

RATES, CHARGES AND SERVICES—COMMON CARRIERS (APRIL 1971)

(a) The services and facilities furnished hereunder shall be in accordance with all applicable tariffs, rates, charges, rules, regulations, or requirements (i) lawfully established by an appropriate governmental regulatory body; and (ii) applicable to service and facilities furnished or offered by the Contractor to the general public or his subscribers; or at rates, terms and conditions of service and facilities furnished or offered by the Contractor to the general public or his subscribers; or at rates, terms and conditions of service as may be agreed upon, subject, when appropriate, to jurisdiction of an appropriate governmental regulatory body. For nontariffed services which are furnished, the Government shall be charged at the lowest rate and under the most favorable terms and conditions for similar service and facilities offered to any other customer.

(b) Recurring charges for services and facilities furnished under this contract shall, in each case, commence with satisfactory establishment of service or provision of facilities or equipments and are payable monthly in arrears.

(c) Subject to the "Cancellation or Termination of Orders—Common Carriers" clause, the Government may discontinue the use of any service or facilities furnished hereunder at any time. Upon discontinuance, the Government shall pay to the Contractor all charges for services and facilities adjusted to the effective date of discontinuance.

(d) Expediting charges are expenditures necessary to secure services earlier than those services normally would be provided, such as costs of overtime pay, or special shipment. Expediting charges shall be paid only when (i) payment thereof is provided for in the tariff established by an appropriate regulatory authority or (ii) such charges are specially authorized in an expediting CSA. When authorized, expediting charges shall be the additional costs incurred by the Contractor and the subcontractor.

(e) When the services normally provided are technically unacceptable and the requirement necessitates the development, fabrication or manufacture of special equipment, the Government may provide such equipment or may direct the Contractor to procure the equipment or facilities upon a competitive basis to the extent practicable.

(f) If at any time the Government defers or changes its orders for any of the services hereunder but does not cancel or terminate them, the amount paid or payable to the Contractor for providing the services deferred or modified shall be equitably adjusted in accordance with applicable tariffs filed by the Contractor with the regulatory commission and in effect at the time of the deferral or change or, if no tariffs are in effect, by written agreement between the Government and the Contractor. Failure to agree on any adjustment shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause.

§ 7.1702–10 Payment.

(a) Insert the following clause in each contract with common carriers.

PAYMENT—COMMON CARRIER (APRIL 1971)

The Government shall pay the Contractor, in arrears, upon submission of invoices for services and facilities furnished in accordance with the provisions of CSAs issued under this contract, the rates and charges for such services and facilities as set forth in the clause entitled "Rates, Charges and Services."

(b) Insert the clause in § 7.103–7 in contracts with noncommon carriers.

§ 7.1702–11 Tariff information.

Insert the following clause in contracts with common carriers.

TARIFF INFORMATION (APRIL 1971)

(a) A copy of the Contractor's current existing tariffs (including changes) shall be furnished promptly to the Contracting Officer upon request. As early as possible prior to the filing of any application to a Federal, State or any other regulatory agency seeking the establishment of, or changes in, rates, charges, services, or any other regulations relating to any tariff or any of the facilities or services to be furnished solely or primarily to the Government, the Contractor shall notify the Contracting Officer thereof and shall furnish a copy of the application. Upon request therefor, the Contractor shall furnish a copy of all information, material and data developed or prepared in support of or in connection with such application.

(b) The Contractor also shall notify the Contracting Officer of any such application which may be filed with an appropriate governmental regulatory body by anyone other than the Contractor which affects or will affect the rate or conditions of services rendered or to be rendered promptly after the Contractor himself learns of that application. The foregoing requirements shall apply also to all such applications pending on the effective date of this contract.

§ 7.1702–12 Cancellation or termination of orders—common carriers.

Insert the following clause in all contracts with common carriers.

CANCELLATION OR TERMINATION OF ORDERS—COMMON CARRIERS (APRIL 1971)

(a) In the event the Government cancels, in whole or in part, any of the services which the Contractor is requested to provide under this contract, prior to the time such services are made available to the Government, or in the event that the Government terminates any of these services, in whole or in part, after they are made available to the Government, the Government shall reimburse the Contractor for the actual nonrecoverable costs which the Contractor has reasonably incurred in specially providing facilities and equipment the use of which is canceled or terminated and for which the Contractor has no foreseeable reuse. The amount of reimbursement shall be determined in the manner set forth in (b), (c), or (d) below.

(b) The amount of the Government's liability upon cancellation or termination of any of the services ordered under this contract, in whole or in part, shall be determined in accordance with applicable tariffs governing cancellation and termination charges which are filed by the Contractor with an appropriate governmental regulatory body and are in effect on the date of termination, and which provide specific cancellation or termination charges for the facilities and equipment involved or set forth the manner in which such charges will be determined.

(c) The amount of the Government's liability upon cancellation or termination, in whole or in part, of any of the services ordered under this contract, which are not subject to an appropriate governmental regulatory body, shall be determined in accordance with a mutually agreed schedule as contained in the applicable Communication Services Authorization.

(d) If no such applicable tariffs are in effect on the date of cancellation or termination or set forth in the applicable CSA, the Government's liability shall be determined at the time of cancellation or termination of the facilities and equipment in accordance with the following settlement procedures:

(1) The Contractor agrees to provide the Contracting Officer, in such reasonable detail as he may require, certified inventory schedules covering all items of property or facilities in the Contractor's possession, the cost of which is included in the "Basic Cancellation or Termination Liability" for which the Contractor has no foreseeable reuse.

(2) The Contractor shall use his best efforts to sell such property or facilities when the Contractor has not foreseeable reuse or when the Department has not exercised its option to take title under the clause entitled "Title to Communications Facilities and Equipment." Any proceeds of such sale shall be applied in reduction of any payments to be made by the Government to the Contractor under a cancellation or termination settlement.

(3) Actual nonrecoverable costs shall be recorded in accordance with the established accounting procedures prescribed by the cognizant governmental regulatory authority or, if no such procedures have been prescribed, in accordance with generally accepted accounting procedures applicable to the provision of communication services for public use.

(4) The actual nonrecoverable costs are the installed costs of the facilities and equipment, less cost of reusable materials, and less net salvage. Installed costs shall include the actual cost of equipment and materials specifically provided or used, plus the actual cost of installing (including engineering, labor, supervision, transportation, rights-of-way, and any other items which are chargeable to the capital accounts of the Contractor) except any such costs for which the Government may have directly reimbursed the Contractor under the clause entitled "Special Construction and Equipment Charges." From the Contractor's installed cost, there shall be deducted the net salvage value (salvage value less cost of removal). In determining such net salvage, due consideration shall be given to foreseeable reuse by the Contractor of the facilities and equipment and due allowance shall be made for the cost of dismantling, removal, reconditioning and disposal of the facilities and equipment when necessary either to the sale of facilities or their reuse by the Contractor in another location.

(5) The "Basic Cancellation Liability" is defined as the actual nonrecoverable cost which the Government shall reimburse the Contractor at the time services are canceled. The "Basic Termination Liability" is defined as the nonrecoverable cost amortized in equal monthly increments throughout the liability period. Upon termination of services, the Government shall reimburse the Contractor for the nonrecoverable cost less such costs amortized to the date services are terminated. The liability period shall be established as mutually agreed to but will not exceed ten (10) years.

(6) When the "Basic Cancellation or Termination Liability" established by the CSA is based on estimated costs, the Contractor agrees to settle on the basis of actual cost at the time of termination or cancellation.

(7) The Contractor agrees that, if after settlement but within the termination liability period of the services, should the Contractor make reuse of equipment or facilities which were treated as nonreusable or nonsalvable in the settlement, the Contractor shall reimburse the Government for the value thereof.

(8) The Contractor agrees that in no event shall any costs be included which are not included in determining cancellation and termination charges under the Contractor's standard practices or procedures; and no cancellation or termination charge shall be made if such charge is not ordinarily made by the Contractor with respect to similar facilities or equipment furnished under similar circumstances.

(e) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the canceled or terminated portion of this contract whenever in the opinion of the Contracting Officer the aggregate of such payments is within the amount to which the Contractor is entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand, together with interest at the rate of six percent (6%) per annum, for the period from the date such excess payment is received by the Contractor to the date on which such excess is repaid to the Government: *Provided, however,* That no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of the cancellation or termination inventory until ten (10) days after the date of such retention or disposition, or such later date as determined by the Contracting Officer by reason of the circumstances.

(f) Failure to agree shall be a dispute concerning a question of fact within the meaning of the clause entitled "Disputes."

§ 7.1702–13 Reuse arrangements.

Insert the following clause in contracts with common carriers.

REUSE ARRANGEMENTS (APRIL 1971)

(a) When feasible, the Contractor shall reuse canceled or terminated facilities or equipment to minimize the charges to the Government.

(b) If at any time the Government requires that communications facilities or equipment be relocated within the Contractor's service area, the Government shall have the option of paying the costs of relocating the facilities or equipment in lieu of paying any termination or cancellation charge. The "Basic Termination Liability" applicable to the facilities or equipment in their former location shall continue to apply to the facilities or equipment in their new location. Monthly rental charges shall continue to be paid during the period.

(c) When there is another requirement or foreseeable reuse-in-place of canceled or terminated facilities or equipment, no charge shall apply and the basic cancellation or termination liability shall be appropriately reduced. When feasible, the Contractor shall promptly reuse discontinued channels or facilities, including equipment for which the Government is obligated to pay a minimum service charge.

§ 7.1702–14 Cost or pricing data.

(a) (1) Insert the following clause in contracts with common carriers.

SUBMISSION OF COST OR PRICING DATA—COMMON CARRIERS (APRIL 1971)

The Contractor agrees to provide certified cost or pricing data, as requested by the Contracting Officer whenever:

(i) The services are nontariffed services;

(ii) A tariff, whether filed or contemplated to be filed, is for new services installed or developed primarily for Government use (and the data shall cover special construction charges in connection therewith);

(iii) A tariff, whether filed or contemplated to be filed, in which specific rates and charges are not included;

(iv) More than one commercial source (one or more of which is a common carrier) can offer the desired service but price competition is not considered adequate;

(v) Required to support the reasonableness of special assembly rates and charges;

(vi) Required to support the reasonableness of special construction and equipment charges;

(vii) Required to support the reasonableness of those contingent liabilities which are fixed at the outset of the service; or

(viii) Required to support proposed cancellation and termination charges (pursuant to the clause entitled "Cancellation or Termination Orders") and reuse arrangements (pursuant to the clause entitled "Reuse Arrangements").

(2) In contracts with common carriers for which certified cost or pricing data are or may be required, insert the appropriate clauses set forth in § 7.104–29 (Price Reduction for Defective Cost or Pricing Data) and § 7.104–42 (Subcontractor Cost and Pricing Data).

(b) In contracts with noncommon carriers, insert the appropriate clauses set forth in § 7.104–29 (Price Reduction for Defective Cost or Pricing Data) and § 7.104–42 (Subcontractor Cost and Pricing Data).

§ 7.1702–15 Audit and records.

(a) Insert the following clause in contracts with common carriers.

AUDIT AND RECORDS—COMMON CARRIERS (APRIL 1971)

(a) For the purpose of verifying the accuracy of the cost or pricing data submitted pursuant to the clause entitled "Provision of Cost or Pricing Data—Common Carrier," the Contracting Officer or his authorized representative shall, (i) until the expiration of three (3) years from the date of the submission of the data which forms the basis for a recurring or nonrecurring charge, or (ii) until the expiration of the period of contingent liability with respect to such contingent liability, have the right to examine those books, records, documents, and other supporting data which will permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein, which were available to the Contractor as of the date of the certification of the data.

(b) The Contractor shall maintain such books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly the direct

and indirect costs which were the basis for the pricing of the CSA. The foregoing constitute "Records" for the purpose of this clause.

(c) The Contractor shall insert the substance of this clause in subcontracts awarded hereunder which furnish the basis for charges referred to in (a) hereof, unless its omission is authorized by the Contracting Officer.

(b) In accordance with the requirements of § 7.104–41, insert the appropriate clause set forth therein in contracts with noncommon carriers.

§ 7.1702–16 Term and termination of contract.

Insert the following clause in contracts with common carriers.

TERM AND TERMINATION OF CONTRACT—COMMON CARRIERS (APRIL 1971)

This contract shall be effective for an initial term commencing _____,* and ending June 30, 19 ____,** and shall continue in force thereafter from year to year, unless and until terminated by either party at any time upon not less than sixty (60) days' prior written notice to the other. Termination shall be applicable prospectively only and shall not operate as a cancellation of any orders previously issued or outstanding.

§ 7.1703 Clauses to be used when special construction charges are expected.

Insert the following clauses in contracts with common carriers whenever it is expected that in order to secure the services and facilities it will be necessary for the Government to reimburse the contractor for, or to assume a contingent termination liability for, all or part of the costs of constructing or providing the facilities or equipment. If the necessity of paying such charges or of assuming such a liability arises subsequent to the execution of the contract, these clauses shall be included in the contract by supplemental agreement. With the exception of the clauses prescribed by § § 7.1703–1 and 7.1703–2, the clauses prescribed by this section may be varied to meet specific requirements of an appropriate governmental regulatory body or when the basic intent is not changed.

§ 7.1703–1 Labor standards for construction work.

Except as provided in § § 18.703–3 and 18.703–4 of this chapter when the special construction involves construction (as defined in § 18.101–1 of this chapter) of a public building or public work, and under § 12.106 of this chapter the construction labor standards are applicable insert the clause in § 7.705–5.

§ 7.1703–2 Buy American—construction contracts.

In accordance with § 18.509–5 of this chapter, insert the clause therein whenever the contract involves construction (as defined in § 18.101–1 of this chapter).

* Insert the effective date of the contract.
** Insert the current fiscal year.

§ 7.1703–3 Special construction and equipment charges.

SPECIAL CONSTRUCTION AND EQUIPMENT CHARGES (APRIL 1971)

(a) Except to the extent provided in the clause of this contract entitled "Cancellation or Termination of Orders," the Government shall not directly reimburse the Contractor for charges based on the cost of constructing any facilities or providing any equipment unless such direct reimbursement is specifically authorized by the Contracting Officer. If, at any time, facilities or equipment for which the Government has directly reimbursed the Contractor in whole or in part are discontinued, the Contractor shall allow the Government such credit as may be appropriate for the value of the facilities or equipment attributable to the Government's contribution. The value of the facilities and equipment shall be determined on the basis of the foreseeable reuse of the facilities and equipment by the Contractor at the time their use is discontinued or on the basis of the net salvage value, whichever is greater. The Contractor shall promptly pay the Government the amount of any such credit.

(b) The amount of any direct special construction charge shall not exceed the actual costs to the Contractor, properly allocable to the services to be provided to the Government, of specially constructing or providing the facilities or equipment involved. In no event shall the amount of any direct special construction charge include costs incurred by the Contractor which are covered by a cancellation or termination liability or by the Contractor's recurring or other nonrecurring charges. The Contractor represents that in establishing his recurring charges for the services, facilities and equipment involved, he has not included in his rate base any costs for which he has been reimbursed by the Government and that depreciation charges are based only on the cost of facilities and equipment paid by the Contractor and not reimbursed by the Government. If, due to circumstances beyond the control and without the fault of the Contractor, it becomes necessary for the Contractor to incur costs for the replacement of any facilities or equipment for which direct special construction charges were assumed by the Government or for which the Contractor was reimbursed by the Government beyond that provided as a part of the Contractor's recurring charges, the Government shall assume such costs or reimburse the Contractor for such replacement costs at rates mutually acceptable to both the Government and the Contractor. Prior to incurring such costs, the Government shall have the right to terminate such service in accordance with the clause entitled "Cancellation or Termination of Orders."

§ 7.1703–4 Title to communication facilities and equipment.

TITLE TO COMMUNICATION FACILITIES AND EQUIPMENT (APRIL 1971)

Notwithstanding payment by the Government of any of the Contractor's costs of constructing communication facilities and equipment, title to all contractor furnished facilities and equipment used in providing communication services ordered under this contract shall remain in the Contractor except as may be specifically provided in a CSA issued and accepted hereunder, and the Contractor shall operate and maintain all such communication facilities and equipment.

§ 7.1703–5 Subcontracts.

In accordance with the requirements of § 23.201 of this chapter, insert an appropriate clause entitled Subcontracts.

PART 8—TERMINATION OF CONTRACTS

8. Section 8.206–2 is revised; and § 8.704–2 is amended, as follows:

§ 8.206–2 Release of excess funds.

An estimate of funds required to settle the termination claim will be made by the TCO at the earliest practicable date. Except in cases where (a) the contract price of items terminated is $1,000 or less, or (b) the estimated amount of excess funds available is $1,000 or less, funds obligated under the contract in excess of an estimated amount required for settlement will be released to the purchasing office within 30 days after receipt of the termination notice by the TCO. Amounts of less than $1,000 shall be released upon request from the purchasing office. Continuous surveillance of required funds will be maintained by the TCO to permit timely release of any additional excess funds. In all cases, funds will be released within 10 days after the amount required for settlement has been determined by the TCO. A recommended format for release of excess funds is in § 8.807. If it appears that the previous releases of excess funds have resulted in a shortage of the amount which will be required for settlement, the TCO will inform the purchasing office and request by letter the reinstatement of funds, which will be provided within 30 days thereafter.

§ 8.704–2 Suggested clause for subcontracts.

The clause in § 8.704–1, suitably altered to indicate the relationship between the prime contractor and subcontractor, is suggested for use in subcontracts placed with educational or nonprofit institutions: *Provided*, Such subcontracts incorporate, or are negotiated on the basis of, the cost principles set forth in Part 15 of this chapter: *And provided further*, Such subcontracts are placed on the no-fee or no-profit basis.

PART 9—PATENTS, DATA, AND COPYRIGHTS

9. In § 9.106 the introductory text is amended; and § 9.106–1 the title of this section is revised, as follows:

§ 9.106 Classified contracts.

Unauthorized disclosure of classified subject matter, whether in patent applications or resulting from the issuance of a patent, may be a violation of 18 U.S.C. 792 et seq. (Espionage and Censorship) and related statutes and may be contrary to the interests of national security. Accordingly, except as otherwise provided in § 9.106–2, the following clause shall be included in every classified contract (see §§ 1.201.34 and 1.320 of this chapter).

* * * * *

§ 9.106–1 Patent applications.

* * * * *

PART 10—BONDS, INSURANCE, AND INDEMNIFICATION

10. Section 10.103–5 is added; and § 10.502(c) is amended, as follows:

§ 10.103–5 Requirements and indefinite quantity contracts.

In requirements type contracts, for purposes of determination of the penal sum of bonds, the contract price will be deemed to be the price payable for the estimated quantity. In indefinite quantity contracts, the contract price will be deemed to be the price payable for the specified minimum quantity. When such estimated or minimum quantities are exceeded, §§ 10.103–1(b) and 10.103–2(b) will be applied.

§ 10.502 Self-insurance.

* * * * *

(c) The schedule of each contract containing the clause in paragraph (b) of this section shall contain (1) the estimated cost for war hazard losses, (2) the clause at § 7.203–4(a) of this chapter appropriately limited to cover allowable war hazard cost, (3) the Examination of Records clause (§ 7.104–15 of this chapter), and (4) an entry similar to the following.

The portion of this contract providing for the Contractor to afford protection to his employees and subcontractors to their employees against war hazard risks (see the clauses entitled Reimbursement for War Hazard Losses and Workmen's Compensation and War Hazard Insurance Overseas) is on a cost-reimbursement, no fee basis, notwithstanding the basis of the remainder of the contract.

* * * * *

PART 11—FEDERAL, STATE AND LOCAL TAXES

11. Section 11.203 is revised, as follows:

§ 11.203 Supplies and services for the exclusive use of the United States.

By virtue of action taken by the Secretary of the Treasury, pursuant to section 4293 of the Internal Revenue Code, exemption is available and shall be obtained, to the extent indicated, from the Federal excise tax on communication services and facilities furnished directly to the United States (as distinguished from being furnished to a Government contractor) and paid for directly by the Government. Such exemption is obtained without any exemption certificate.

PART 12—LABOR

12. The table of contents of Part 12 is amended by revising the subject of Subpart H; § 12.107 is revised; the subject of Subpart H is revised; §§ 12.801(c) and 12.802(m), (n), (o) and (p) are added; § 12.803(f) is revised; §§ 12.804, 12.805, 12.806, and 12.807 are revised; §§ 12.807–1, 12.807–2 and 12.807–3 are added; §§ 12.808, 12.808–1, 12.808–2, 12.808–3, 12.809, 12.810, 12.811, 12.812, and 12.813 are revised; §§ 12.813–1 and 12.813–2 are added; § 12.814 is revised; and §§ 12.815 through 12.820 are deleted, as follows:

§ 12.107 Labor standards enforcement report.

(a) A semiannual report is required on compliance with and enforcement of the labor standards provisions of the Davis-Bacon Act and Contract Work Hours Standards Act. The reporting periods are 1 January through 30 June and 1 July through 31 December. The reports shall be prepared by the contract administration office and will be submitted through channels so as to reach the labor relations advisor of the Headquarters concerned not later than 25 days after the close of the reporting period. Within the next 5 days a report will be submitted by the Headquarters to the Administrator, Wage and Hour Division, Workplace Standards Administration, U.S. Department of Labor, Washington, D.C. 20210.

(b) The report shall contain the following information which shall be stated separately, as applicable, in two columns—one column for construction work subject to the Davis-Bacon Act and Contract Work Hours Standards Act and the other column for nonconstruction work subject to the Contract Work Hours Standards Act:

(1) Period covered;
(2) Number of prime contracts awarded;
(3) Total dollar amount of prime contracts awarded;
(4) Number of contractors/subcontractors against whom complaints were received—
(i) Prime,
(ii) Subcontractors;
(5) Number of investigations—
(i) Undertaken,
(ii) Completed;
(6) Number of contractors/subcontractors found in violation—
(i) Prime,
(ii) Subcontractors;
(7) Amount of wage restitution found due—
(i) Davis-Bacon Act.
(ii) Contract Work Hours Standards Act;
(8) Number of employees due wage restitution under—
(i) Davis-Bacon Act.
(ii) Contract Work Hours Standards Act;
(9) Amount of liquidated damages assessed under the Contract Work Hours Standards Act—
(i) Number of contracts involved;
(10) Number of complaints received from—
(i) Labor unions,
(ii) Individual employees,
(iii) Department of Labor, and
(iv) Others, including Congressional;
(11) Number of employees and the total amount paid or withheld under—
(i) Davis-Bacon Act,
(ii) Contract Work Hours Standards Act,
(iii) Copeland Act;
(12) Prework activities—
(i) Number of conferences held,
(ii) Letters sent;
(13) Number of compliance checks performed;
(14) Number of employees interviewed.

Subpart H—Equal Employment Opportunity

§ 12.801 Policy.

* * * * *

(c) No contract or modification thereto involving new procurement shall be entered into and no subcontract shall be approved with a company which has been declared ineligible under, or found to be in noncompliance with, the Equal Opportunity Program, in accordance with the procedures set forth in this subpart.

§ 12.802 Definitions.

* * * * *

(m) "Subcontract" means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee): (1) For the furnishing of supplies or services or for the use of real or personal property, including lease arrangements, which, in whole or in part, is necessary to the performance of any one or more contracts; or (2) under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken, or assumed.

(n) "Subcontractor" means any person holding a subcontract and any person who has held a subcontract subject to the order. The term "first-tier subcontractor" refers to a subcontractor holding a subcontract with a prime contractor.

(o) "Contract Compliance Office" or "CCO" means a DOD Contract Compliance Office (see § 12.803(f)).

(p) "Compliance Agency" means the Department or Agency designated by the Department of Labor to conduct compliance reviews and to undertake such other responsibilities in connection with the administration of the Equal Employment Opportunity Program as the Department of Labor may determine to be appropriate.

§ 12.804 Equal opportunity clauses.

* * * * *

(f) Contract Compliance Offices (CCO) have been organized at both headquarters and field levels within the Defense Supply Agency. CCOs are administered as separate components of the Defense Contract Administration Services (DCAS) and are responsible for the following when DOD is the compliance agency:

(1) Developing information on contractor and subcontractor compliance, including the conduct of a program of compliance reviews, the investigations of complaints, and the conduct of preaward reviews as provided for in (i) the Executive order, (ii) the regulations of the Secretary of Labor, (iii) this subpart and (iv) such other procedures for developing information on contractor and

subcontractor compliance as may be prescribed;

(2) In the case of preaward compliance reviews, furnishing contracting officers with determinations as to whether the prospective contractors and known first-tier subcontractors are eligible for award; and

(3) Attempting to secure compliance by contractors and subcontractors with the provisions of the Equal Opportunity clause through persuasion, negotiation and conciliation.

§ 12.804 Equal opportunity clauses.

(a) *Government contracts.* The following clause shall be included in all contracts (and modifications thereof if the clause was not included in the original contract), unless exempted in accordance with § 12.805.

EQUAL OPPORTUNITY (APRIL 1971)

During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency Contracting Officer, advising the labor union or workers' representative of the contractor's commitments under this Equal Opportunity clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(6) In the event of the Contractor's noncompliance with the Equal Opportunity clause of this contract or with any of said rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include the provisions of Paragraph (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for non-compliance: *Provided, however,* That in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

(b) *Federally assisted construction contracts.* The following clause shall be included as a condition of any grant, contract, loan, insurance, or guarantee involving federally assisted construction, unless exempted in accordance with § 12.805.

EQUAL OPPORTUNITY (FEDERALLY ASSISTED CONSTRUCTION) JANUARY (1969)

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the Regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following Equal Opportunity clause:

During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

(5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States. The applicant further agrees it will be bound by the above Equal Opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided,* That if the applicant so participating is a State or local government, the above Equal Opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract. The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of Contractors and subcontractors with the Equal Opportunity clause and the rules, regulations and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance. The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a Contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the Equal Opportunity clause as may be imposed upon Contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: cancel, terminate or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

(c) *Subcontracts.* Each nonexempt prime contractor or subcontractor shall include the Equal Opportunity clause in each of its nonexempt subcontracts.

(d) *Incorporation by operation of the order and this subpart.* By operation of the Executive order, the Equal Opportunity clause shall be considered to be a part of every contract and subcontract required by the order and this subpart to include such a clause whether or not it is physically incorporated in such contracts.

(e) *Adaptation of language.* Prime contractors and subcontractors may make necessary changes in the language of the Equal Opportunity clause to identify properly the parties and their undertakings.

(f) *Notices to be posted.* (1) Paragraphs (1) and (3) of the Equal Opportunity clauses in paragraphs (a) and (b) of this section require prime contractors and subcontractors to post notices which set forth the provisions of the clauses. Unless alternative notices are prescribed by the Director, OFCC, or by the Director, DSA, with the approval of the Director, OFCC, the contracting officer shall furnish to contractors appropriate numbers of copies of the notice entitled "Equal Employment Opportunity is the Law." The notices are available in either English or Spanish versions. Stock numbers for these notices, as listed in the GSA Stores Stock Catalog, are 7690–926–8988 (English) and 7890–926–9118 (Spanish). Contracting officers shall obtain these notices in accordance with departmental procedures. Prime contractors shall obtain from contracting officers copies for first and other tier subcontractors as necessary.

(2) The requirement of paragraph (3) of the Equal Opportunity clause shall be satisfied whenever the prime contractor or subcontractor posts copies of the notification prescribed by or pursuant to paragraph (a) of this section in conspicuous places available to employees, applicants for employment and representatives of each labor union or other organization representing his employees with which he has a collective bargaining agreement or other contract or understanding.

§ 12.805 Exemptions.

(a) *Transactions of $10,000 or under.* Contracts and subcontracts not exceeding $10,000, other than Government bills of lading, are exempt from the requirements of the Equal Opportunity clause. In determining the applicability of this exemption to any federally assisted construction contract, or subcontract thereunder, the amount thereof rather than the amount of the Federal financial assistance shall govern. Indefinite delivery type contracts and subcontracts thereunder, basic agreements and basic ordering agreements shall include the Equal Opportunity clause, except when the contracting officer (in the case of subcontractors, the prime contractor or subcontractors issuing the subcontract) determines that the amount to be ordered is not expected to exceed $10,000 in any single year. The applicability of the Equal Opportunity clause shall be determined by the contracting officer at the time of award for the first year, and annually thereafter for succeeding years if any. Notwithstanding the above, the Equal Opportunity clause shall be incorporated into such contract, subcontract, basic agreement or basic ordering agreement whenever the amount of a single order or procurement action exceeds $10,000. Once the clause is incorporated, the contract, subcontract, basic agreement, or basic ordering agreement shall continue to be subject to such clause for its duration, regardless of the amounts ordered, or reasonably expected to be ordered, in any year. No agency, contractor or subcontractor shall procure supplies or services in less than usual quantities to avoid applicability of the Equal Opportunity clause.

(b) *Work outside the United States.* Contracts and subcontracts are exempt from the requirements of the Equal Opportunity clause with regard to work performed outside the United States by employees who were not recruited within the United States. See § 12.808–2(c) for procedures in cases where employees are recruited in the United States.

(c) *Contracts with State or local governments.* The requirements of the clause in any contract or subcontract with a State or local government (or any agency, instrumentality or subdivision thereof) shall not be applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract or subcontract.

(d) *Contracts exempted by the Secretary of Defense in the interest of national security.* (1) Any requirement set forth in this subpart shall not apply to any contract or subcontract whenever the Secretary of Defense determines that such contract or subcontract is essential to the national security and that its award without complying with such requirement is necessary to the national security.

(2) *Request for exemption.* The contracting officer shall prepare a detailed justification for such determination which shall be submitted to the ASD (M&RA) in accordance with Departmental procedures. The ASD(M&RA) shall submit the request for exemption to the Secretary of Defense for approval, and shall notify the Director, OFCC, within 30 days of such a determination.

(e) *Specific contracts and facilities exempted by the Director, OFCC.*—(1) *Specific contracts.* The Director, OFCC, may exempt an agency or person from requiring the inclusion of any or all of the Equal Opportunity clause in any specific contract or subcontract when he deems that special circumstances in the national interest so require. He may also exempt groups or categories of contracts or subcontracts of the same type where he finds it impracticable to act upon each request individually or where group exemptions will contribute to convenience in the administration of the Order.

(2) *Facilities not connected with contracts.* The Director, OFCC, may exempt from the requirements of the clause any of a prime contractor's or a subcontractor's facilities which he finds to be in all respects separate and distinct from activities of the prime contractor or subcontractor related to the performance of the contract or subcontract, provided that he also finds that such an exemption will not interfere with or impede the effectuation of the Order.

(3) *Special circumstances.* The Director, OFCC, may exempt a contract or subcontract when he finds that special circumstances indicate that use of either of the clauses set forth in § 12.804 in the contract or subcontract would not be in the national interest.

(4) *Request for exemptions.* The contracting officer shall submit a detailed justification for omitting or modifying the clause under subparagraph (1), (2) or (3) of this paragraph to the ASD (M&RA) in accordance with Departmental procedures.

(5) *Withdrawal of exemption by the Director, OFCC.* When any contract or subcontract is of a class exempted under this section the Director, OFCC, may withdraw the exemption for a specific contract or subcontract or group of contracts or subcontracts when in his judgment such action is necessary or appropriate to achieve the purposes of the Order. Such withdrawal shall not apply to contracts or subcontracts awarded prior to the withdrawal. In procurements entered into by formal advertising or the various forms of restricted formal advertising, such withdrawal shall not apply unless the withdrawal is made more than 10 calendar days before the date set for the opening of the bids.

§ 12.806 Equal opportunity solicitation provisions.

(a) *Preaward compliance review.* Each solicitation, written or oral, for nonexempt contracts estimated to be for $1 million or more shall advise bidders or offerors that prior to the award of a contract the proposed contractor and his known first-tier subcontractors with proposed subcontracts of $1 million or more shall be subject to an EEO compliance review as follows:

PREAWARD ON SITE EQUAL OPPORTUNITY COMPLIANCE REVIEW (AUGUST 1970)

In accordance with regulations of the Office of Federal Contract Compliance, 41 CFR 60.1, effective 1 July 1968, an award in the amount of $1 million or more will not be made under

this solicitation unless the bidder and each of his known first-tier subcontractors (to whom he intends to award a subcontract of $1 million or more) are found, on the basis of a compliance review, to be able to comply with the provisions of the Equal Opportunity clause of this solicitation.

(b) *Representations.* Insert the following provisions as applicable:

(1) When not contained on the solicitation form, the following:

(i) Certification of Nonsegregated Facilities

CERTIFICATION OF NONSEGREGATED FACILITIES

(Applicable to contracts, subcontracts, and to agreements with applicants who are themselves performing federally assisted construction contracts, exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity clause.) By the submission of this bid, the bidder, offeror, applicant, or subcontractor certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. He certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The bidder, offeror, applicant, or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion or national origin, because of habit, local custom or otherwise. He further agrees that (except where he has obtained identical certifications from proposed subcontractors for specific time periods) he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of Equal Opportunity clause; that he will retain such certifications in his files; and that he will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES

A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding $10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually). (Aug. 1970)

(NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.)

(ii) Equal opportunity:

EQUAL OPPORTUNITY

He ☐ has, ☐ has not, participated in a previous contract or subcontract subject either to the Equal Opportunity clause herein or the clause originally contained in section 301 of Executive Order No. 10925, or the clause contained in section 201 of Executive Order No. 11114; that he ☐ has, ☐ has not, filed all required compliance reports; and that representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained prior to subcontract awards. (The above representation need not be submitted in connection with contracts or subcontracts which are exempt from the clause.)

(2) When the contract is for other than construction and is not exempt from the Equal Opportunity clause, the following:

AFFIRMATIVE ACTION PROGRAM (AUGUST 1970)

(The following certification shall be completed by each offeror whose offer is $50,000 or more and who has 50 employees or more.) The offeror certifies that he ☐ has, ☐ has not, developed and maintained at each of his establishments Equal Opportunity Affirmative Action Programs, pursuant to 41 CFR 60.2.

(3) When the contract is not exempt from the Equal Employment Opportunity clause, the following:

CERTIFICATION OF EQUAL EMPLOYMENT COMPLIANCE (APRIL 1971)

By submission of this offer, the offeror certifies that, to the best of his knowledge and belief except as noted below, up to the date of this offer no written notice such as a show cause letter, a letter indicating probable cause, or any other formal written notification citing specific deficiencies, has been received by the offeror from any Federal Government agency or representative thereof that the offeror or any of its divisions or affiliates or known first-tier subcontractors is in violation of any of the provisions of Executive Order No. 11246 of September 24, 1965, Executive Order No. 11375 of October 13, 1967, or rules and regulations of the Secretary of Labor (41 CFR, Chapter 60) and specifically as to not having an acceptable affirmative action program or being in noncompliance with any other aspect of the Equal Employment Opportunity Program. It is further certified and agreed that should there be any change in the status of circumstances certified to above between this date and the date of expiration of this offer or any extension thereof, the Government Contracting Officer cognizant of this procurement will be notified forthwith promptly.

§ 12.807 Affirmative action programs.

§ 12.807–1 General.

Except as provided in § 12.805, each prime contractor and each subcontractor with 50 or more employees and a contract or subcontract of $50,000 or more is required to develop a written affirmative action compliance program for each of his establishments within 120 days from the commencement of his first such Government contract or subcontract.

§ 12.807–2 Contracts other than construction contracts.

An acceptable affirmative action program for applicable contractors other than construction contractors shall include:

(a) An analysis of areas in which the contractor is deficient in the utilization of minorities (41 CFR 60–2.10);

(b) An analysis of all major job categories at the facility, using the nine factors listed in 41 CFR 60–2.11(a) (1) through (9), with explanations if minorities are currently being underutilized in any one or more job categories;

(c) Support data for the analysis provided by paragraphs (a) and (b) of this section (41 CFR 60–2.11(c)); and

(d) The eight program ingredients listed under 41 CFR 60–2.12 (a) through (h), and goals and timetables (41 CFR 60–2.11(b)), to correct the deficiencies and thus to increase materially the utilization of minorities at all levels and in all segments of the contractor's work force where deficiencies exist (41 CFR 60–2.10).

§ 12.807–3 Construction contracts.

An acceptable affirmative action program for construction contractors shall meet the requirements of 41 CFR 60–1.40, including approved local plans. Such plans may require prospective contractors on projects in certain geographic areas to state, in their bids or proposals, percentage goals for minority employment which they will endeavor to meet during contract performance. Local plans which have been issued will be listed in Defense Procurement Circulars. Such plans will be sent to the principally affected procurement offices. Any other procurement office contemplating a construction project in excess of $10,000 within geographic areas covered by a local plan shall request instructions prior to issuance of a solicitation. Such requests shall be forwarded through procurement channels to: Labor Advisor, OASA (I&L), for the Army; the cognizant field office of the Naval Facilities Engineering Command for the Navy; Headquarters, USAF (AFSSP), for the Air Force; and Executive Director, P&P (DSAH–PPR), for the Defense Supply Agency.

§ 12.808 Compliance reviews and preaward clearances.

§ 12.808–1 General.

The purpose of a compliance review is to determine if the prime contractor or subcontractor maintains nondiscriminatory hiring and employment practices and is taking affirmative action to ensure that applicants are employed, and that employees are placed, trained, upgraded, promoted, and otherwise treated during employment, without regard to race, color, religion, sex, or national origin. The review shall include an evaluation of the contractor's affirmative action program (AAP) as well as a sufficient examination of his practices and employment statistics to ensure that his program identifies any deficiencies which may exist and that the program's goal and timetables established for their correction are realistic in accordance with 41 CFR Ch. 60. Responsibility for the conduct of compliance reviews has been assigned by the Director, Office of Federal Contract Compliance, to various Government agencies. Except where the compliance responsibility has been assigned to a department or agency other than the Department of Defense, DSA shall have the primary responsibility for the conduct of compliance reviews in accordance with the guidelines of the Director, OFCC. DSA shall also conduct compliance reviews in accordance with any special request or instructions of the Director, OFCC. Compliance reviews may also be conducted by the Director, OFCC. Compliance reviews shall be conducted by qualified specialists regularly involved in equal opportunity programs.

§ 12.808–2 Contracting officers' responsibility for requesting preaward clearance.

(a) *Contracts and subcontracts of $1 million or more.* Except as provided in paragraph (d)(2) of this section, the contracting officer shall request the appropriate compliance agency to determine whether a company is in compliance and the company therefore is eligible for award prior to:

(1) Award of a contract (including letter contract) in an estimated or actual amount of $1 million or more;

(2) Award of a contract of an estimated or actual amount less than $1 million containing an option which if exercised would bring the contract to over $1 million;

(3) Issuance of a contract modification for new procurement including the exercising of contract options and spare parts provisioning, in an estimated or actual amount of $1 million or more;

(4) Consent to a first-tier subcontract for an estimated or actual amount of $1 million or more;

(5) Execution of a basic ordering agreement (BOA) or the extension or continuance of one beyond a 1-year period, when the aggregate amount of all orders estimated to be placed thereunder within 1 year after the date of the agreement or extension or continuance thereof is $1 million or more; or

(6) Issuance of an individual order in the actual or estimated amount of $1 million or more, under an indefinite delivery type contract, a basic ordering agreement, or under a Master Ship Repair Contract.

(b) *Contracts between $10,000 and $1 million.* If, in determining the contractor's responsibility for award of a contract in an estimated or actual amount between $10,000 and $1 million, the contracting officer learns or has reason to believe because of information from Government sources or from the offeror (see § 12.806(b)) that the prospective contractor is currently in violation of the Equal Opportunity clause, or has not developed an acceptable affirmative action program at each of his establishments, award shall be made only after ascertaining that the company is no longer in noncompliance and is, therefore, eligible for award. The request for clearance and clearance may be made by telephone or other informal means subject to confirmation in writing. Award may also be made, notwithstanding the company's failure to have developed an acceptable affirmative action program, if the contracting officer determines that the proposed contract is for less than $50,000 or that the company has fewer than 50 employees and, in either case, has not previously been required to develop an affirmative action program.

(c) *Procedures for requesting preaward clearance.* (1) When the Department of Defense is the compliance agency, the contracting officer shall request preaward clearance for the prime contract and all known first-tier subcontracts of $1 million or more from the CCO of the DCASR where the prime contract is to be performed (see DOD Directory of Contract Administration Components (DOD 4105.59–H)). When it is necessary to make the request by telephone written confirmation shall follow.

(2) When the compliance agency for the prime contract is other than the Department of Defense, the contracting officer shall request preaward clearance for the prime contract directly from the cognizant compliance agency. Preaward clearance for each known proposed first-tier subcontract of $1 million or more shall be requested by the contracting officer directly from the compliance agency for that subcontractor. When the Department of Defense has compliance responsibility for the proposed subcontractor, the contracting officer shall request the preaward clearance from the CCO of the DCASR where the subcontract is to be performed (see DoD 4105.59–H).

(3) When contract work is to be performed outside the United States with employees recruited within the United States, the preaward review should be requested from the CCO of DCASR serving the area where the contractor's corporate home or branch office is located within the United States, or the corporate location where personnel recruiting is handled, if different from the foregoing. In cases where the proposed contractor has no corporate office or location within the United States, the preaward action should be based on the location of the recruiting agency, as defined in § 12.802(j), in the United States.

(4) When the compliance agency is unknown, the contracting officer shall contact, by telephone if convenient, the CCO of the DCASR where the prime contract is to be performed for information as to the appropriate compliance agency. Requests for clearance received by CCOs which should have been directed to another CCO or another compliance agency shall be forwarded by the receiving CCO directly to the appropriate compliance office or agency and the contracting officer advised of the referral.

(5) In making a request for preaward clearance, the contracting officer shall furnish the following information:

(i) Name and address of the prospective prime contractor, any corporate affiliate thereof at which work is to be performed, and each known first-tier subcontractor with a proposed subcontract estimated at $1 million or more;

(ii) Anticipated date of award;

(iii) Information as to whether the prime contractor and known first-tier subcontractors have previously held any Government contracts or subcontracts or federally assisted construction contracts;

(iv) Information as to whether the prime contractor has previously filed Employer Information Report SF–100;

(v) Place or places of performance of the prime and first-tier subcontracts estimated at $1 million or more, if known;

(vi) When directed to a CCO of a DCASR, the anticipated dollar category for the prime and each subcontract as follows:

Category A, if between $1 and $2 million;

Category B, if between $2 and $50 million;

Category C, if over $50 million; and

(vii) When the request is for clearance of a proposed award under $1 million, the source and nature of the information causing the contracting officer to seek preaward clearance.

(d) *Time for requesting preaward clearance.* (1) The contracting officer shall request a preaward clearance as soon as it is reasonably certain who the successful contractor will be, so as to provide as much time as possible prior to award for the CCO or the compliance agency to conduct necessary reviews. Except as provided in subparagraph (2) of this paragraph, preaward clearance shall be requested at least 10 working days and, when possible, 30 calendar days prior to the proposed award date. If the cognizant compliance agency is outside the Department of Defense, the request for preaward clearance shall provide 30 calendar days unless the cognizant compliance agency agrees to a shorter time. If the CCO is unable to conduct a compliance review of the prospective prime contractor and obtain necessary clearance for first-tier subcontractors within the time requested, the CCO shall advise the contracting officer within 5 working days of receipt of the request of the estimated time required. Additional time shall be granted to the CCO unless award is authorized in accordance with subparagraph (2) of this paragraph.

(2) When the procedures specified in subparagraph (1) of this paragraph would delay award of a contract beyond the time necessary for the Government to make awards or beyond the time specified in the bid or proposal or extension thereof, the contracting officer shall immediately inform the CCO or the cognizant compliance agency as to the expiration date of the bid or proposal or the required date of award and request clearance be provided prior to that date. If the CCO or cognizant compliance agency advises that a clearance review cannot be completed by the required date, the Head of the Procuring Activity may authorize the contracting officer to (i) make the award, (ii) immediately inform the CCO or cognizant compliance agency, and (iii) request a postaward review in accordance with § 12.808–3(c).

§ 12.808–3 CCO responsibility for preaward compliance actions.

(a) The CCO shall be responsible for making a determination as soon as possible regarding all EEO clearances requested in accordance with § 12.808–2. When one or more of the first-tier sub-

contractors comes under the compliance cognizance of another CCO or compliance agency, the CCO responsible for the prime contractor shall request clearance from that CCO or compliance agency and shall incorporate the results in his report to the contracting officer.

(b) The CCO shall notify the contracting officer within 5 working days of receipt of the request for clearance if review cannot be completed by the time requested. When the prospective contractor is found to be in noncompliance, the CCO shall, as soon as possible, notify the contracting officer that the company is not eligible for award.

(c) When awards are made without preaward clearance in accordance with § 12.808–2(d)(2), a review shall be performed by the CCO as soon as possible thereafter, but in no case later than 30 days after the date of award.

§ 12.809 Filing complaints.

(a) Complaints alleging discrimination in violation of the Equal Opportunity clause may be submitted in writing by any employee of any contractor or applicant for employment with such contractor, or by the employee's or applicant's authorized representative.

(b) Complaints should be filed with any DCASR–CCO, with the Director, DSA, Cameron Station, Alexandria, Va. 22314, or with the Director, OFCC, 12th and Constitution Avenue NW., Washington, DC 20210. When the complaint is directed against a contractor assigned to another compliance agency, the complainant or the complaint will be directed to the OFCC. The Director, OFCC, may refer complaints to DSA for processing, or where he considers it necessary or appropriate to the achievement of the purposes of the Executive order, he may assume jurisdiction over the matter.

(c) Complaints shall be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by the Director, OFCC, or the Assistant Secretary of Defense (Manpower and Reserve Affairs).

(d) Complaints shall be signed by the complainant or his authorized representative and shall contain:

(1) Name, address, and telephone number of the complainant;

(2) Name and address of the contractor or subcontractor committing the alleged discriminatory acts;

(3) A description of the acts considered to be discriminatory; and

(4) Such other pertinent information as will assist in the investigation and resolution of the complaint.

(e) Where a complaint contains incomplete information, the CCO, DCAS, or the DCASR–CCO shall request the needed information promptly from the complainant. In the event such information is not furnished to the CCO, DCAS, or the DCASR–CCO within 60 days of the date of such request, the case may be closed.

(f) Complaints filed with a purchasing office or contracting Department shall be transmitted immediately to the Director, DSA, who will furnish a copy of the complaint to the Director, OFCC, within 10 days of receipt.

§ 12.810 Processing complaints.

(a) *Investigation.* The Director, DSA, shall assign the complaint for investigation to the appropriate DCASR–CCO. The CCO concerned shall be responsible for conducting the necessary complaint investigation, developing a complete case record, establishing findings, and reaching a determination regarding the disposition of the case.

(b) *Reports.* The Contract Compliance Agency shall be responsible for advising the complainant and the contractor involved of the disposition of the case. Reports of all complaint investigations and copies of closeout letters to complainants shall be forwarded to the Director, OFCC, within 60 days from the date the case was received from the OFCC. The Contract Compliance Agency shall advise OFCC of any cases requiring more than 60 days for processing.

§ 12.811 Resolution of complaints and violations.

(a) If a complaint investigation made in accordance with the provisions of § 12.810 shows no violation of the Equal Opportunity clause, the Contract Compliance Agency shall so inform the Director, OFCC. The Director, OFCC, may review the findings and request further investigation by the Contract Compliance Agency or undertake such investigation as he deems appropriate.

(b) If any complaint investigation or compliance review indicates a violation of the clause, the matter shall be resolved by informal means whenever possible.

(c) Where any complaint, investigation or compliance review indicates a violation of the Equal Opportunity clause and the matter has not been resolved by informal means, the Director, OFCC, or the Contract Compliance Offices for DoD with the approval of the Director, OFCC, shall afford the contractor an opportunity for a hearing. If the final decision is that a violation of the clause has taken place, the Director, OFCC, or ASD (M&RA), with the approval of the Director, OFCC, may cause the cancellation, termination or suspension of any contract or subcontract, cause a contractor to be debarred from further contracts or subcontracts, or may impose such other sanctions as are authorized by the Order.

§ 12.812 Reports and other required information.

(a) Title 41, § 60–1.7 of the CFR prescribes the annual filing of Standard Form 100 (EEO–1) by prime and subcontractors.

(b) If the bidder or prospective prime contractor or proposed subcontractor has not stated in his bid or offer that he has complied with this requirement, he should state, prior to award of the contract, whether he has participated in any previous contract or subcontract subject to the Equal Opportunity clause; and, if so, whether he has filed with the Joint Reporting Committee, the Director, OFCC, an agency, or the former President's Committee on Equal Employment Opportunity all reports due under the applicable filing requirements.

(c) In any case in which the bidder, prospective prime contractor or proposed subcontractor who participated in a previous contract or subcontract subject to Executive Orders 10925, 11114, or 11246 has not filed a report due under the applicable filing requirements; no contract or subcontract shall be awarded unless such contractor submits a report covering the delinquent period or such other period specified by the Director, OFCC, or the Director, DSA, and notifies the PCO of such submission.

(d) A bidder or prospective prime contractor or proposed subcontractor shall be required to submit such information, including copies of affirmative action programs, as the Director, DSA, or the Director, OFCC, requests prior to the award of the contract or subcontract. When a determination has been made to award the contract or subcontract to a specific contractor, such contractor shall be required, prior to the award or after the award, or both, to furnish such information, including copies of affirmative action programs, as the Director, DSA, or the Director, OFCC, requests.

(e) Failure to file timely, complete, and accurate reports as required constitutes noncompliance with the prime contractor's or subcontractor's obligations under the Equal Opportunity clause and is basis for the imposition by the ASD (M&RA), by the Director, OFCC, or by an applicant, prime contractor or subcontractor of any sanctions authorized by these regulations. Any such failure shall be reported in writing to the Director, OFCC, by the Director, DSA, as soon as practicable after it occurs.

(f) Reports filed and information furnished pursuant to this subpart shall be used only in connection with the administration of the order, the Civil Rights Act of 1964, or in furtherance of the purpose of the order and said Act and, to the extent consistent with this purpose, shall be held in confidence as privileged information in accordance with § 286.6(b)(4) of this chapter, when requested by the offeror, contractor or subcontractor.

§ 12.813 Enforcement procedures.

§ 12.813–1 Informal enforcement procedures.

When a compliance investigation or compliance review indicates the existence of an apparent violation of the Equal Opportunity clause in § 12.804 or apparent noncompliance with the contractor's affirmative action program established in accordance with § 12.807, the matter should be resolved to the greatest extent possible by informal means, including conference, conciliation, mediation, and persuasion. Such informal means may include informal hearings when the Director, OFCC, or the Director, DSA, with the approval of the Director, OFCC, decides that such informal hearings would be helpful in determining the status of the contractor's or subcontractor's compliance with the terms of the Equal Opportunity clause or his affirmative action program. The informal hearings shall be conducted by

a hearing officer appointed by the Director, OFCC, or the Director, DSA. The contractor or subcontractor involved shall be advised in writing of the time and place of the hearing, and other relevant information. Parties to informal hearings may be represented by counsel and shall have a fair opportunity to present any relevant material. Formal rules of evidence shall not apply to such proceedings.

§ 12.813–2 Formal enforcement procedures.

(a) When the informal enforcement procedures described in § 12.813–1 have not resolved the matter, the DCASR Commander shall issue a notice to the contractor informing him that he will have 30 days to develop an acceptable affirmative action program, or to correct deficiencies in his program, or otherwise demonstrate why enforcement proceedings under section 209(b) should not be instituted. The contractor should be informed that such enforcement proceedings could result in cancellation or termination of his contract, and other proceedings which may ultimately result in his being declared ineligible for future Government contracts. During the 30-day period, every effort shall be made by the DOD CCO through conciliation, mediation and persuasion to resolve the deficiencies which led to the determination of noncompliance.

(b) If the contractor fails to show acceptable reasons for his failure to develop an AAP, or fails to develop or effectively implement an acceptable AAP, or otherwise fails to correct apparent violations of the Equal Opportunity clause within the 30-day period provided for in paragraph (a) of this section, the DOD CCO shall notify the DCASR Commander, the Director, DSA, and the contracting officer, as appropriate.

(c) Upon the approval of the Director, OFCC, and ASD(M&RA), the Director, DSA, shall notify the contractor that he has 10 calendar days in which to request a hearing on the question of whether existing Government contracts should be canceled or terminated and whether the contractor should be declared ineligible for future Government contracts. The contractor shall be informed that the hearings are to be held in accordance with section 208(b) of Executive Order 11246. The contractor shall also be informed that his failure to request a hearing within 10 calendar days will result in his current Government contracts being canceled or terminated for default and his being declared ineligible for future Government contracts.

(d) If a request for a hearing has not been received after 10 calendar days from the date of the notice given by the Director, DSA, pursuant to paragraph (c) of this section, the ASD(M&RA) shall request approval from the Director, OFCC, to declare the contractor ineligible for future contracts, and cancel or terminate for default existing contracts.

(e) If the contractor requests a hearing in response to the notice sent pursuant to paragraph (c) of this section, the Director, OFCC, or the Director, DSA, with the approval of the Director, OFCC, may convene such formal hearings. Reasonable notice of a hearing shall be sent by certified mail, return receipt requested, to the last known address of the prime contractor or subcontractor concerned. Such notice shall contain the time and place of hearing, a statement of the provisions of the order and regulations pursuant to which the hearing is to be held, and a concise statement of the matters pursuant to which the action furnishing the basis of the hearing has been taken or is proposed to be taken. A copy of such notice shall be sent to OFCC. Hearings shall be held before a hearing officer designated by the Director, OFCC, or the Director, DSA. Each party shall have the right to counsel and a fair opportunity to present evidence and argument and to cross-examine. Wherever a formal hearing is based in whole or in part on matters subject to the collective bargaining agreement and compliance may necessitate a revision of such agreement, any labor organization which is a signatory to the agreement shall have the right to participate as a party. Any other person or organization shall be permitted to participate upon a showing that such person or organization has an interest in the proceedings and may contribute materially to the proper disposition thereof. The hearing officer shall make his proposed findings and conclusions upon the basis of the record before him.

(f) When the hearing is conducted by DSA, the hearing officer will make his report to the Director, DSA, who will make his recommendation to the ASD (M&RA). The decision of the ASD (M&RA) shall be final upon the approval of the Director, OFCC. When the hearing is conducted by a hearing officer appointed by the Director, OFCC, the hearing officer will make recommendations to the Director, OFCC, who will make the final decision. Parties will be furnished with copies of the hearing officer's recommendations and will be given an opportunity to submit their views.

§ 12.814 Sanctions and penalties.

(a) With the prior approval of the Director, OFCC, the following sanctions and penalties may be exercised against contractors found to be in violation of the Executive order, the regulations of the Secretary of Labor, or the clauses in § 12.804:

(1) Publication of the names of such contractors or their unions;

(2) Cancellation, termination, or suspension of the contractor's contracts or portions thereof; and

(3) Debarment from future Government contracts, or extensions or modifications of existing contracts until such contractors have established and carried out personnel and employment policies in compliance with the Executive order, the regulation of the Secretary of Labor, and the compliance program of the Director, DSA.

(b) The Director, OFCC, may refer any matter arising under the Executive Order to the Department of Justice or to the Equal Employment Opportunity Commission (EEOC) for the institution of appropriate civil or criminal proceedings.

(c) The above sanctions and penalties may be exercised by the Director, OFCC, or the ASD(M&RA) against any prime contractor, subcontractor or applicant who fails to take all necessary steps to ensure that no person intimidates, threatens, coerces, or discriminates against any individual for the purpose of interfering with the filing of a complaint, furnishing information, or assisting or participating in any manner in an investigation, compliance review, hearing, or any other activity related to the administration of the Executive order or any other Federal, State, or local laws requiring equal employment opportunity.

(d) Those declared ineligible under paragraph (a) or (c) of this section may request reinstatement in a letter directed to the Director, OFCC. In connection with the reinstatement proceedings, the prime contractor or subcontractor shall be required to show that it has established and will carry out employment policies and practices in compliance with the Equal Opportunity clause.

§§ 12.815—12.820 [Deleted]

PART 13—GOVERNMENT PROPERTY

13. Sections 13.312 and 13.404(a) are revised; § 13.405(a) is amended and (d) is added; § 13.406 is added, as follows:

§ 13.312 Items to be reported to and screened by Defense Industrial Plant Equipment Center (DIPEC).

The items to be reported to and screened by the Defense Industrial Plant Equipment Center in accordance with §§ 13.301(g) and 13.306–4 are listed in the following Joint DoD Handbooks.

INDEX OF INDUSTRIAL PLANT EQUIPMENT HANDBOOKS

(NOTE—Handbooks are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402)

FSC	Title	Army	Navy	Air Force	DSA	Marine Corps
3626	Electrical and Electronic Properties Measuring and Testing Instruments.	SB 708–3626–1	NAVSUP Publication 5543	AFM 78–6	DSAH 4215.1	
3220	Woodworking Machines	SB 708–3220–1	NAVSANDA Publication 5500	AFM 78–7	DSAH 4215.2	MCO 4670.6
3416–3417, 3441–3449	Production Equipment Directory D1 Metalworking Machinery 1960 Revision Volumes 1 and 2.					

FSC	Title	Army	Navy	Air Force	DSA	Marine Corps
3415-3417, 3441-3449.	Supplement to Production Equipment Directory D1 Metalworking Machinery 1969 Revision.	SB 708-3400-1	NAVSANDA Publication 5501	AFM 78-42	DSAH 4215.3	MCO P4870.7
3424, 4430....	Industrial Furnaces and Ovens Volume 1 and 2.	SB 708-4430-1	NAVSANDA Publication 5502	AFM 78-8	DSAH 4215.4	MCO P4870.8
6635.....	Physical Properties Testing Equipment.	SB 708-6635-1	NAVSUP Publication 5504	AFM 78-10	DSAH 4215.6	MCO P4870.10A
3530, 3626....	Textile Industries Machinery and Industrial Sewing Machines.	SB 708-3500-1	NAVSANDA Publication 5506	AFM 78-12	DSAH 4215.8	MCO P4870.12
6636.....	Environmental Chambers.....	SB 708-6636-1	NAVSUP Publication 5508	AFM 78-14	DSAH 4215.10	MCO P4870.14A
3422, 3426...	Rolling Mills, Drawing Machines and Metal Finishing Equipment.	SB708-3400-2	NAVSANDA Publication 5510	AFM 78-16	DSAH 4215.12	MCO P4870.16
3450, 3460, 5220.	Portable Machine Tools and Toolroom Layout Plates and Tables.	SB708-3400-3	NAVSANDA Publication 5511	AFM 78-16	DSAH 4215.13	MCO P4870.17
6680, 6685...	Liquid and Gas, Pressure, Temperature, Humidity, and Mechanical Motion Measuring and Controlling Instruments.	SB708-6600-1	NAVSANDA Publication 5513	AFM 78-18	DSAH 4215.15	MCO P4870.19
3635.....	Crystal and Glass Industries Machinery.	SB708-3635-1	NAVSANDA Publication 5514	AFM 78-19	DSAH 4215.16	MCO P4870.20
4440.....	Driers, Dehydrators, and Anhydrators.	SB708-4440-1	NAVSUP Publication 5515	AFM 78-20	DSAH 4215.17	MCO P4870.21A
6650, 6670...	Scales, Balances and Optical Instruments.	SB708-6600-2	NAVSUP Publication 5516	AFM 78-25	DSAH 4215.18	MCO P4870.22A
3680.....	Foundry Equipment.....	SB708-3680-1	NAVSANDA Publication 5517	AFM 78-23	DSAH 4215.19	MCO P4870.23
6695.....	Combination and Miscellaneous Instruments Including Dynamometers.	SB708-6695-1	NAVSUP Publication 5519	AFM 78-30	DSAH 4215.21	MCO P4870.25A
4920.....	Aircraft Maintenance and Repair Shop Specialized Equipment.	SB708-4920-1	NAVSUP Publication 5521	AFM 78-33	DSAH 4215.23	MCO P4870.27A
4330.....	Centrifugals, Separators and Filters.	SB708-4330-1	NAVSANDA Publication 5522	AFM 78-27	DSAH 4215.24	MCO P4870.28
6630, 6640...	Chemical Analysis and Laboratory Instruments.	SB708-6600-3	NAVSUP Publication 5529	AFM 78-38	DSAH 4215.30	MCO P4870.35
3615, 3640	Pulp and Paper Industries and Size Reduction Machinery.	SB 708-3600-1	NAVSUP Publication 5532	AFM 78-44	DSAH 4215.33	MCO P4870.38
3620.....	Rubber and Plastics Working Machinery.	SB 708-3620-1	NAVSUP Publication 5534	AFM 78-28	DSAH 4215.35	MCO P4870.40
3611, 3695, 3693, 3694, 3695.	Marking, Metal Container, Assembly, Clean Work Stations, and Miscellaneous Industry Machinery.	SB 708-3600-2	NAVSUP Publication 5535	AFM 78-26	DSAH 4215.36	MCO P4870.41
3650.....	Chemical and Pharmaceutical Products Manufacturing Machinery.	SB 708-3650-1	NAVSUP Publication 5536	AFM 78-45	DSAH 4215.37	MCO P4870.32
4940.....	Miscellaneous Maintenance and Repair Shop Specialized Equipment.	SB 708-4940-1	NAVSUP Publication 5537	AFM 78-48	DSAH 4215.38	MCO P4870.43
3690, 4925...	Specialized Ammunition and Ordnance Machinery.	SB 708-4900-1	NAVSUP Publication 5538	AFM 78-49	DSAH 4215.39	MCO P4870.44
3405.....	Metalworking Saws and Filing Machines.	SB 708-3405-1	NAVSUP Publication 5539	AFM 78-34	DSAH 4215.40	MCO P4870.47
3418.....	Planers and Shapers (Includes Shapers, formerly Part of FSC 3419).	SB 708-3418-1	NAVSUP Publication 5540	AFM 78-37	DSAH 4215.41	MCO P4870.48
3431, 3432, 3433, 3436, 3438.	Welding, Heat Cutting and Metalizing Equipment.	SB 708-3400-4	NAVSUP Publication 5541	AFM 78-39	DSAH 4215.42	MCO P4870.49
3408, 3410...	Machining Centers, Way Type Machines, Electrical and Ultrasonic Erosion Machines.	SB 708-3400-5	NAVSUP Publication 5542	AFM 78-41	DSAH 4215.43	MCO P4870.50
3419.....	Miscellaneous Machine Tools.	SB 708-3400-6	NAVSUP Publication 5547	AFM 78-46	DSAH 4215.44	MCO P4870.51
3413.....	Drilling and Tapping Machines.	SB 708-3413-1	NAVSUP Publication 5548	AFM 78-50	DSAH 4215.45	MCO P4870.53
3411, 3412, 3414.	Boring Machines, Broaching Machines, Gear Cutting and Finishing Machines.	SB 708-3400-7	NAVSUP Publication 5549	AFM 78-51	DSAH 4215.46	MCO P4870.55
4910.....	Motor Vehicle Maintenance and Repair Shop Specialized Equipment.	SB 708-4910-1	NAVSUP Publication 5550	AFM 78-52	DSAH 4215.47	MCO P4870.54

§ 13.404 Rental rates and policies applicable to the use of Government production and research property.

(a) Except as provided below, the rent for all Government production and research property shall be computed in accordance with the Use and Charges clause set forth in § 7.702–12 of this chapter for facilities. Rent for machine tools (Federal Supply Classes 3405, 3408, 3410, 3411 through 3419) and secondary metalforming and cutting machines (Federal Supply Classes 3441 through 3449) shall be based on the time such property is available for use. Rent for other classes of Government production and research property is normally charged on the same basis; however, if the Secretary concerned, or his designee, determines it to be in the best interest of the Government, rent may be charged on an actual use or other basis. In such cases, the Use and Charges clause should be appropriately modified.

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§ 13.405 Non-Government use of industrial plant equipment (IPE).

(a) The prior written approval of the contracting officer is required for any non-Government use of active Government-owned industrial plant equipment. Before non-Government use exceeding 25 percent may be authorized, prior approval of the Secretary of the Department concerned or his designee shall be obtained. In addition, non-Government use of machine tools and secondary metalforming and cutting machines (Federal Supply Classes 3405, 3408, 3410, 3411 through 3419 and 3441 through 3449) in excess of 25 percent shall require the advance approval of the Office of Emergency Preparedness which shall be obtained through the Assistant Secretary of Defense (Installations and Logistics). Requests requiring approval by the Assistant Secretary of Defense (Installations and Logistics) shall be submitted at least 6 weeks in advance of the projected use and shall include:

(1) The total number of active IPE items involved and total acquisition cost thereof; and

(2) An itemized listing of active equipment having an acquisition cost of $25,000 or more, showing for each such item the nomenclature, production equipment code, year of manufacture, and the acquisition cost.

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(d) For purposes of this section, use for a foreign government authorized under § 13.406 is Government use.

§ 13.406 Rent-free use of Government production and research property on work for foreign governments.

(a) It is the policy of the Department of Defense to encourage the maximum feasible sales of supplies manufactured or services performed in the United States to friendly foreign governments or organizations thereof. Rent-free use of Government production and research property to promote this policy should be authorized when the requirements of paragraph (b) of this section are satisfied. Requests made for such use shall be processed as expeditiously as possible.

(b) Upon the request of a foreign government, or a contractor certifying that he is acting on behalf of a foreign government, the Secretary or his designee cognizant of Government production and research property located in the United States, its possessions, or Puerto Rico, may give written approval for its use without charge on contracts of foreign governments or subcontracts thereunder if:

(1) The foreign government would be authorized to place the contract with the Department concerned under the Foreign Military Sales Act of 1968, as amended, or such use is authorized by an agreement with the foreign government;

(2) The foreign government's placement of the contract directly with the contractor is consistent with the best interest of the United States;

(3) It appears that the foreign government will place the contract with the contractor whether or not such use is authorized, or that no competitive pricing advantage will accrue to the contractor by virtue of such use;

(4) The contractor agrees that no charge for the use of such property will be included in the price charged the foreign government under the contract; and

(5) Such use will not interfere with foreseeable requirements of the United States.

PART 14—PROCUREMENT QUALITY ASSURANCE

14. Subpart F is revised and Subpart G is revoked, as follows:

Subpart F—Performance of Government Procurement Quality Assurance Actions for and by Other Government Agencies, Foreign Governments and International Organizations

Sec.

14.601 General.
14.602 Federal Aviation Administration.
14.603 Quality assurance among NATO countries.
14.603–1 NATO quality control system requirements for industry.
14.603–2 NATO Quality Assurance Handbook AQAP–2.

AUTHORITY: The provisions of this Subpart F issued under secs. 2202, 2301–2314, 70A Stat. 130, 127–133; 10 U.S.C. 2202, 2301–2314.

Subpart F—Performance of Government Procurement Quality Assurance Actions for and by Other Government Agencies, Foreign Governments and International Organizations

§ 14.601 General.

Except for the special quality assurance provisions below concerning the Federal Aviation Administration and NATO, performance of government procurement quality assurance and other contract administration services for and by other government agencies, foreign governments and international organizations is in accordance with Section XX, Parts 5 and 6 of the ASPR.

§ 14.602 Federal Aviation Administration.

Under Public Law 85–726 (72 Stat. 776, 49 U.S.C. 1423), the Federal Aviation Administration (FAA) has certain responsibilities and prerogatives in connection with the issuance and continuation of various certificates applicable to the design, manufacture, and airworthiness criteria of certain types of commercial aircraft and of aircraft equipment and accessories. The FAA evaluations are not a substitute for normal Department of Defense evaluations of the contractor's quality assurance measures. Actual records of such FAA evaluations may be of benefit, however, and should be utilized to maximum advantage by the contract administration office. That office is responsible for assuring that the supplies and services conform to the terms of the contract and that any required certificates and approvals are in the possession of the contractor prior to acceptance.

§ 14.603 Quality assurance among NATO countries.

The NATO Standardization Agreements (STANAG) 4107—Mutual Acceptance of Government Quality Assurance sets forth procedures, terms and conditions under which mutual government quality assurance of military material and services is to be performed by the national authority of one NATO country on request of another NATO country, or a NATO organization. This agreement, with certain reservations, has been ratified by the United States and other nations in the North Atlantic Treaty Organization. The Military Departments may request NATO countries to perform quality assurance in accordance with STANAG 4107. They will also perform quality assurance in accordance with STANAG 4107, if requested. As a reservation to STANAG 4107, the U.S. Government requires reimbursement for work performed for other NATO countries.

§ 14.603–1 NATO quality control system requirements for industry.

The NATO Standardization Agreement (STANAG) 4108—NATO Quality Control System Requirements for Industry AQAP–1 sets forth details of an agreement among NATO Nations with an objective to standardize the application of Allied Quality Assurance Publication No. 1 (AQAP–1). In accordance with STANAG 4108 participants agree to:

(a) Encourage suppliers of defense materiel and services to establish Quality Control Systems in accordance with the principles outlined in AQAP–1;

(b) Consider compliance with AQAP–1 a basic factor when selecting suppliers of defense materiel in NATO cooperative projects;

(c) Use AQAP–1 as a guide for evaluating a supplier's Quality Control System when so requested by another NATO Country, which is considering placing a contract with that supplier.

This agreement has been ratified by the United States and other nations in NATO. The Military Departments may request NATO Nations to assure compliance with AQAP–1 in the performance of quality assurance in accordance with STANAG 4107. They will also assure compliance with AQAP–1 when so requested by a participating NATO Nation.

§ 14.603–2 NATO Quality Assurance Handbook AQAP–2.

NATO Quality Control System Requirements for Industry (AQAP–1) establishes requirements for a contractor's quality control system (§ 14.603–1). AQAP–2, Guide for Evaluation of a Contractor's Quality Control System for Compliance with AQAP–1, has been prepared to assist Quality Assurance Representatives of NATO Countries to administer the provisions of AQAP–1. AQAP–2 is not to be incorporated into contracts, but is to be used as guidance to Government Quality Assurance personnel when performing quality assurance for NATO Countries in accordance with STANAG 4107 to insure contractor's conformance to AQAP–1.

Subpart G [Revoked]

PART 15—CONTRACT COST PRINCIPLES AND PROCEDURES

15. Sections 15.107, 15.205–6(a)(1), and (f)(2) are revised; in § 15.205–16 the title is amended and paragraph (a)(2)(iv) is revised; §§ 15.205–33(d), 15.205–34(c), 15.205–44, 15.301–2, 15.301–3, and 15.302–7 are revised; § 15.303–1 is amended; § 15.303–6 is added; § 15.304–1 is revised; § 15.304–2 is amended; §§ 15.305–1, 15.305–2 (b), (c) and (d), and § 15.306–3 are revised; § 15.306–4(a) is amended; §§ 15.306–5(b), 15.307–2, and 15.307–3 are revised; § 15.307–5 is added; §§ 15.309–7, 15.309–7 (a) and (b), and 15.709–3 are revised; and §§ 15.709–4, 15.709–5 and 15.709–6 are added, as follows:

§ 15.107 Advance understandings on particular cost items.

(a) The extent of allowability of the selected items of cost covered in Subparts B through E of this part has been stated to apply broadly to many accounting systems in varying contract situations. Thus, as to any given contract, the reasonableness and allocability of certain items of cost may be difficult to determine, particularly in connection with firms or separate divisions thereof which may not be subject to effective competitive restraints. In order to avoid possible subsequent disallowance or dispute based on unreasonableness or nonallocability, it is desirable that contractors seek advance agreement with the Government as to the treatment to be accorded those special or unusual costs. Such agreements may also be initiated by the Government. Advance agreements may be negotiated either before or during a contract but should be negotiated before incurrence of the cost covered by the agreement. Any such agreement must be in writing, shall be executed by both contracting parties, and shall be incorporated in the present and future contracts to which it is applicable.

(b) The contracting officer is not authorized by this section to agree to a treatment of costs inconsistent with Subparts B through E of this part. For example, an advance agreement may not provide that, notwithstanding § 15.205–17, interest shall be allowable.

(c) An advance agreement entered into in accordance with this section shall contain a suitable statement of its intended applicability and duration. The absence of an advance agreement on any element of cost will not, in itself, affect the reasonableness or allocability of that element.

(d) Advance agreements may be negotiated to affect only a single contract, a group of contracts, or may be broad enough to affect all the contracts of a procuring activity, an agency, or the entire Department of Defense. An advance agreement which affects only one contract, or class of contract from a single buying office, shall be negotiated by the procuring contracting officer (PCO), his authorized representative, or an ACO when delegated this authority by the PCO. The proposed agreement shall be coordinated between the ACO and the PCO prior to execution.

(e) Advance agreements, other than those negotiated by the PCO in accordance with paragraph (d) of this section, shall be negotiated by the cognizant ACO or the assigned Corporate Administrative Contracting Officer (CACO) except when this responsibility is currently assigned in the master list published annually in a Defense Procurement Circular for Tri-Service Departmental negotiation. Agreements at corporate level with contractors other than those assigned for Tri-Service negotiations,

and for which a CACO has not been established, shall be negotiated by an ACO determined by majority vote among the Departments concerned in general accordance with the procedures set forth in 20-903(b) of the ASPR.

(f) Prior to undertaking negotiation of an advance agreement under paragraph (e) of this section, the cognizant negotiator shall (1) determine whether there are other DOD or non-DOD departments or agencies that have a significant unliquidated dollar balance in contracts with the same contractor, (2) inform any such department or agency of the cost item(s) or other matters to be negotiated, and (3) invite the department or agency to participate in prenegotiation discussions, or in the subsequent negotiations as appropriate. The results of the negotiation will be binding upon all military departments. At the completion of the negotiation, the sponsor will prepare and distribute copies of the fully executed agreement to the military departments' procuring activities and Defense Contract Audit Agency.

(g) Examples of cost on which advance agreements may be particularly important are:

(1) Compensation for personal services including but not limited to allowances for offsite pay, incentive pay, location allowances, hardship pay and cost of living differential;

(2) Use charge for fully depreciated assets;

(3) Deferred maintenance costs

(4) Precontract costs;

(5) Independent research and development costs;

(6) Royalties;

(7) Selling and distribution costs;

(8) Travel costs, as related to special or mass personnel movements;

(9) Idle facilities and idle capacity;

(10) Automatic data processing equipment;

(11) Bid and proposal costs; and

(12) Severance pay to employees on support service contracts.

§ 15.205–6 Compensation for personal services.

(a) *General.* (1) (CWAS) Compensation for personal services includes all remuneration paid currently or accrued, in whatever form and whether paid immediately or deferred, for services rendered by employees to the contractor during the period of contract performance (except as otherwise provided in paragraph (f) of this section). It includes, but is not limited to, salaries, wages, directors' and executive committee members' fees, bonuses (including stock bonuses), incentive awards, employee stock options, employee insurance, fringe benefits, contributions to pension, annuity, and management employee incentive compensation plans, allowances for offsite pay, incentive pay, location allowances, hardship pay and cost of living differential. Except as otherwise specifically provided in this section, such costs are allowable to the extent that the total compensation of individual employees is reasonable for the services rendered and they are not in excess of those costs which are allowable by the Internal Revenue Code and regulations thereunder.

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(f) *Deferred compensation (CWAS–NA).* • • •

(2) Deferred compensation is allowable only to the extent that:

(i) It is, together with all other compensation paid to the employee, reasonable in amount; and

(ii) It is paid (*a*) pursuant to an agreement entered into in good faith between the contractor and employees before the services are rendered, or (*b*) pursuant to a plan established and consistently applied thereafter by the contractor; and either

(*1*) It is deductible for the same fiscal year for Federal income tax purposes under section 404 (excluding subsection (a)(5)) of the Internal Revenue Code of 1954 as amended and the regulations of the Internal Revenue Service: *Provided*, That

(*i*) Normal costs of pension plans incurred subsequent to the effective date of this section, not funded in the year incurred, shall not be allowable in subsequent years (except that a payment made to a fund by the time set for filing of the Federal income tax return for any taxable year shall be deemed to have been made during such taxable year);

(*ii*) Allowable costs of contributions for past service or supplementary pension or annuity credits (including contributions for the equivalent of interest that would have been earned on previously unfunded costs, sometimes called "freezing payments") shall not exceed, for any year, amounts required to systematically amortize the actuarial liability annually over not less than 10 or more than 40 years beginning with the year that the liability was first assumed, either by announcement, agreement, regular practice or other means which would reasonably inform employees that continuing service would result in retirement benefits based in part on the previously unfunded past service;

(*iii*) Pension costs of previous years which have not been funded as of the effective date of this section are allowable to the extent they are systematically funded over not less than 10 years, provided the contractor can demonstrate that pension costs were allocated to Government contracts on a funding rather than an accrual basis in the accounting periods previous to the effective date of this section and also provided that the systematic funding starts no later than the contractor's first full fiscal year after the effective date of this section;

(*iv*) The determination of allowable costs shall take into consideration unrealized, as well as realized appreciation in the market value of the fund assets, established on a rational and systematic basis. This recognition shall include unrealized appreciation on equity securities taking into account both the investment policy and prior growth experience of the fund. The appreciation to be recognized for equity securities generally shall be the amount by which 80 percent of the market value exceeds the total adjusted book value. The adjusted book value is defined as the acquisition cost adjusted for appreciation or depreciation previously recognized whether or not actually recorded in the asset account. Unrealized depreciation of equity securities may be recognized to the extent of unrealized appreciation previously recognized, but the total of value of all equity securities in a fund shall not be depreciated below the acquisition cost. Initial recognition of accumulated unrealized appreciation may be spread over a period of time not to exceed 10 years. Ordinarily, appreciation and depreciation need not be recognized for debt securities expected to be held to maturity and redeemed at face value;

(*v*) Abnormal forfeitures, due to significant reduction in the contractor's level of employment, that are foreseeable and which can be currently evaluated with reasonable accuracy, by actuarial or other sound computation, shall be reflected by an adjustment of costs otherwise allowable; where abnormal forfeitures were not taken into account previously, appropriate credit shall be given to the Government pursuant to § 15.201–5;

(*vi*) Any amount paid or funded and deductible in any year under section 404 (excluding section 404(a)(5)) of the Internal Revenue Code of 1954 as amended prior to the time it becomes allowable under this subdivision shall be applied to future years, in order of time, as if actually paid and deductible in such years;

or

(*2*) It is deductible in the same fiscal year for Federal income tax purposes under section 404(a)(5) of the Internal Revenue Code of 1954 as amended and the regulations of the Internal Revenue Service, except that the costs of unfunded pension and retirement benefits paid directly to, or on behalf of, former employees shall be allowable only to the extent the contractor demonstrates that such costs, together with any pension and retirement costs allowed pursuant to (*1*) of this subdivision, do not exceed the amount that would be allowable under (ii)(b) if the contractor were providing for equivalent benefits on an actuarial basis in the current period.

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§ 15.205–16 Insurance and indemnification. (CWAS)

(a) • • •

(2) • • •

(iv) Provisions for a reserve under an approved self-insurance program are allowable to the extent that the types of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks except that provisions for known or reasonably estimated self-insured liabilities, such as, liabilities for workmen's compensation, which do not become payable for more than one year after such provision is made, shall not exceed the present value of the liability, determined by using a rate of 6 percent, compounded annually; and

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§ 15.205–33 Recruitment costs.

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(d) (CWAS–NA) Relocation costs incurred incident to recruitment of new employees are subject to § 15.205–25. When such costs have been allowed either as an allocable direct or indirect cost and the newly hired employee resigns for reasons within his control within 12 months after hire, the contractor shall be required to refund or credit such relocation costs to the Government. However, costs of travel to an overseas location shall be considered travel costs in accordance with § 15.205–46 and not relocation costs for the purpose of this subparagraph, if (1) dependents are not permitted at that location for any reason, and (2) such costs do not include costs of transporting household goods.

§ 15.205–34 Rental costs (including sale and leaseback of property) (CWAS)

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(c) Rental costs under short-term leasing are allowable to the extent that:

(1) The rates are reasonable at the time of the decision to lease in light of such factors as rental costs of comparable property, if any, and market conditions in the area, the type, life expectancy, condition, and value of property leased, alternatives available, and other provisions of the agreement; and

(2) They do not give rise to a material equity in the property (such as an option to renew or purchase at a bargain rental or price) other than that normally given to industry at large, but represent charges only for the current use of the property including, but not limited to, any incidental service costs such as maintenance, insurance and applicable taxes.

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§ 15.205–44 Training and educational costs.

(a) (CWAS) Costs of preparation and maintenance of a program of instruction at noncollege level, including but not limited to on-the-job, classroom and apprenticeship training, designed to increase the vocational effectiveness of bona fide employees, including training materials, textbooks, salaries or wages of trainees (excluding overtime compensation which might arise thereform), and

(1) Salaries of the director of training and staff when the training program is conducted by the contractor; or

(2) Tuition and fees when the training is in an institution not operated by the contractor;

are allowable.

(b) (CWAS) Costs of part-time education, at an undergraduate or postgraduate college level, including that provided at the contractor's own facilities, are allowable only when the course or degree pursued is relative to the field in which a bona fide employee is now working or may reasonably be expected to work, and are limited to—

(1) Training materials;

(2) Textbooks;

(3) Fees charged by the educational institution;

(4) Tuition charged by the educational institution, or in lieu of tuition, instructors' salaries and the related share of indirect cost of the educational institution to the extent that the sum thereof is not in excess of the tuition which would have been paid to the participating educational institution;

(5) Salaries and related costs of instructors who are employees of the contractor; and

(6) Straight-time compensation of each employee for time spent attending classes during working hours not in excess of 156 hours per year where circumstances do not permit the operation of classes or attendance at classes after regular working hours.

(c) (CWAS) Costs of tuition, fees, training materials and textbooks (but not subsistence, salary, or any other emoluments) in connection with fulltime education, including that provided at the contractor's on facilities, at a postgraduate (but not undergraduate) college level, are allowable only when the course or degree pursued is related to the field in which a bona fide employee is now working or may reasonably be expected to work, and are limited to a total period not to exceed 1 school year for each employee so trained. In unusual cases where required by military technology, the period may be extended.

(d) (CWAS) Costs of attendance of up to 16 weeks per employee per year at specialized programs specifically designed to enhance the effectiveness of executives or managers or to prepare bona fide employees for such positions are allowable. Such costs include enrollment fees, training materials, textbooks and related charges, employees', salaries, subsistence and travel. Costs allowable under this paragraph do not include those for courses that are part of a degree oriented curriculum, which are allowable only to the extent set forth in paragraphs (b) and (c) of this section.

(e) (CWAS) Maintenance expense, and normal depreciation or fair rental, on facilities owned or leased by the contractor for training purposes are allowable to the extent set forth in §§ 15.205–20, 15.205–9, and 15.205–34, respectively.

(f) (CWAS–NA) Grants to educational or training institutions, including the donation of facilities or other properties, scholarships, or fellowships, are considered contributions and are unallowable.

§ 15.301–2 Policy guides.

The successful application of these principles requires development of mutual understanding between representatives of universities and of the Department of Defense as to their scope, implementation, and interpretation. It is recognized that—

(a) The arrangements for agency and institutional participation in the financing of a research and development project are properly subject to negotiation between the agency and the institution concerned in accordance with such Government-wide criteria as may be applicable.

(b) Each college and university, possessing its own unique combination of staff, facilities and experience, should be encouraged to conduct research in a manner consonant with its own academic philosophies and institutional objectives.

(c) Each institution, in the fulfillment of its obligations, should be expected to employ sound management practices.

(d) The application of the principles established herein should require no significant changes in the generally accepted accounting practices of colleges and universities.

(e) All agencies of the Department of Defense involved in negotiating indirect cost rates and auditing should assure that institutions are generally applying the cost principles and standards herein provided on a consistent basis. Where wide variations exist in the treatment of a given cost item among institutions, the reasonableness and equitableness of such treatments should be fully considered during the rate negotiations and audit.

§ 15.301–3 Application.

All agencies of the Department of Defense that sponsor research and development work at educational institutions should apply these principles and related policy guides in determining the costs incurred for such work under any type of research and development agreement. These principles should be used also as a guide in the pricing of fixed price contracts or lump sum agreements.

§ 15.302–7 Stipulated salary support.

Stipulated salary support is a fixed or a stated dollar amount of the salary of professorial or other professional staff involved in the conduct of research which a Government agency agrees in advance to reimburse an educational institution as a part of sponsored research costs.

§ 15.303–1 Composition of total costs.

The cost of a research agreement is comprised of the allowable direct costs incident to its performance, plus the allocable portion of the allowable indirect costs of the institution, less applicable credits as described in § 15.303–5.

§ 15.303–6 Costs incurred by State and local governments.

Costs insurred or paid by State or local governments in behalf of educational institutions for certain personnel benefit programs, such as, pension plans, FICA and any other costs specifically disbursed in behalf of and in direct benefit to the intitutions, are allowable costs of such institutions whether or not these costs are recorded in the accounting records of such institutions, subject to the following:

(a) Such costs meet the requirements of §§ 15.303–1 through 15.303–5.

(b) Such costs are properly supported by cost allocation plans in accordance with Subpart G of this part (see § 15.709).

(c) Such costs are not otherwise borne directly or indirectly by the Federal Government.

§ 15.304–1 General.

Direct costs are those that can be identified specifically with a particular research project, an instructional activity or any other institutional activity or which can be directly assigned to such activities relatively easily with a high degree of accuracy.

§ 15.304–2 Application to research agreements.

Identifiable benefit to the research work rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect costs of research agreements. Typical transactions chargeable to a research agreement as direct costs are the compensation of employees for performance of work under the research agreement, including related staff benefit and pension plan costs to the extent that such items are consistently treated by the educational institution as direct rather than indirect costs; the costs of materials consumed or expended in the performance of such work; and other items of expense incurred for the research agreement, including extraordinary utility consumption. The cost of materials supplied from stock or services rendered by specialized facilities or other institutional service operations may be included as direct costs of research agreements: *Provided*, Such items are consistently treated by the institution as direct rather than indirect costs and are charged under a recognized method of costing or pricing designed to recover only actual costs and conforming to generally accepted cost accounting practices consistently followed by the institution.

§ 15.305–1 General.

Indirect costs are those that have been incurred for common or joint objectives and, therefore, cannot be identified specifically with a particular research project, an instructional activity or any other institutional activity. At educational institutions, such costs normally are classified under the following functional categories: general administration and general expenses; research administration expenses; operation and maintenance expenses; library expenses; and Departmental administration expenses.

§ 15.305–2 Criteria for distribution.

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(b) *Need for cost groupings.* The overall objective of the allocation and apportionment process is to distribute the indirect costs described in § 15.306 to organized research, instruction, and other activities in reasonable proportions consistent with the nature and extent of the use of the institution's resources by research personnel, academic staff, students, and other personnel or organizations. In order to achieve this objective with reasonable precision, it may be necessary to provide for selective distribution by establishing separate groupings of cost within one or more of the functional categories of indirect costs referred to in § 15.305–1. In general, the cost groupings established within a functional category should constitute, in each case, a pool of those items of expense that are considered to be of like character in terms of their relative contributions to (or degree of remoteness from) the particular cost objectives to which distribution is appropriate. Cost groupings should be established considering the general guides provided in paragraph (c) of this section. Each such pool or cost grouping should then be distributed individually to the appertaining cost objectives, using the distribution base or method most appropriate in the light of the guides set out in paragraph (d) of this section.

(c) *General considerations on cost groupings.* The extent to which separate cost groupings and selective distribution would be appropriate at an institution is a matter of judgment to be determined on a case by case basis. Typical situations which may warrant the establishment of two or more separate cost groups (based on account classification or analysis) within a functional category include but are not limited to the following:

(1) Where certain items or categories of expense relate solely to one of the three major divisions of the institution (instruction, organized research or other institutional activities) or to any two but not the third, such expenses should be set aside as a separate cost grouping for direct assignment or selective distribution in accordance with the guides provided in paragraphs (b) and (d) of this section.

(2) Where any types of expense ordinarily treated as general administration and general expenses or Departmental administration expenses are charged to research agreements as direct costs, the similar type expenses applicable to other activities of the institution must, through separate cost groupings, be excluded from the indirect costs allocable to those research agreements and included in the direct cost of other activities for cost allocation purposes.

(3) Where it is determined that certain expenses are for the support of a service unit or facility whose output is susceptible of measurement on a workload or other quantitative basis, such expenses should be set aside as a separate cost grouping for distribution on such basis to organized research and other activities at the institution or within the department.

(4) Where organized activities (including identifiable segments of organized research as well as the activities cited in § 15.302–4) provide their own purchasing, personnel administration, building maintenance or similar service, the distribution of general administration and general expenses or operation and maintenance expenses to such activities should be accomplished through cost groupings which include only that portion of central indirect costs (such as for overall management) which are properly allocable to such activities.

(5) Where the institution elects to treat as indirect charges the cost of the pension plan and other staff benefits, such costs should be set aside as a separate cost grouping for selective distribution to appertaining cost objectives, including organized research; and

(6) The number of separate cost groupings within a functional category should be held within practical limits, after taking into consideration the materiality of the amounts involved and the degree of precision attainable through less selective methods of distribution.

(d) *Selection of distribution method.* (1) Actual conditions must be taken into account in selecting the method or base to be used in distributing to applicable cost objectives the expenses assembled under each of the individual cost groupings established as indicated under paragraph (b) of this section. Where a distribution can be made by assignment of a cost grouping directly to the area benefited, the distribution should be made in that manner. Where the expenses under a cost grouping are more general in nature, the distribution to appertaining cost objectives should be made through use of a selected base which will produce results which are equitable to both the Government and the institution. In general, any cost element or cost-related factor associated with the institution's work is potentially adaptable for use as a distribution base: *Provided*, (i) It can readily be expressed in terms of dollars or other quantitative measure (total direct expenditures, direct salaries, man-hours applied, square feet utilized, hours of usage, number of documents processed, population served, and the like); and (ii) it is common to the appertaining cost objectives during the base period.

(2) Results of cost analysis studies may be used when they result in more accurate and equitable distribution of costs. Such cost analysis studies may take into consideration weighting factors, population, or space occupied if they produce equitable results. Cost analysis studies, however, should (i) be appropriately documented in sufficient detail for subsequent review by the cognizant Federal agency, (ii) distribute the indirect costs to the appertaining cost objectives in accord with the relative benefits derived, (iii) be conducted to fairly reflect the true conditions of the activity and to cover representative transactions for a reasonable period of time, (iv) be performed specifically at the institution at which the results are to be used, and (v) be updated periodically and used consistently. Any assumptions made in the study will be sufficiently supported. The use of cost analysis studies and periodic changes in the method of cost distribution must be fully justified.

(3) The essential consideration in selection of the distribution base in each instance is that it be the one best suited for assigning the pool of costs to appertaining cost objectives in accord with the relative benefits derived; the traceable cause and effect relationship; or

logic and reason, where neither benefit nor cause and effect relationship is determinable.

§ 15.305–3 Administration of limitations on allowances for research costs.

Research agreements may be subject to statutory or administrative policies that limit the allowance of research costs. When the maximum amount allowable under a statutory limitation or the terms of a research agreement is less than the amount otherwise reimbursable under this part, the amount not recoverable under that research agreement may not be charged to other research agreements.

§ 15.306–4 Library expenses.

(a) The expenses under this heading are those that have been incurred for the operation of the library, including the costs of books and library materials purchased for the library, less any items of library income that qualify as applicable credits under § 15.303–5. The library expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the costs of the operation and maintenance of the physical plant, and charges representing use allowances and/or depreciation applicable to the buildings and equipment utilized in the performance of the functions represented thereunder. Costs incurred in the purchases of rare books (museum type books) with no research value should not be allocated to Government-sponsored research.

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§ 15.306–5 Departmental administration expenses.

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(b) The distribution of Departmental administration expenses should be made through use of selected bases applied to cost groupings established within this category of expenses in accordance with the guides set out in § 15.305–2(d).

§ 15.307–2 The distribution base.

Indirect costs allocated to organized research should be distributed to applicable research agreements on the basis of direct salaries and wages. For this purpose, an indirect cost rate should be determined for each of the separate indirect cost pools developed pursuant to § 15.307–1. The rate in each case should be stated as the percentage which the amount of the particular indirect cost pool is of the total direct salaries and wages of all research agreements identified with such pool. For the purpose of establishing an indirect cost rate, direct salaries and wages may include that portion contributed to the research by the institution for cost sharing or other purposes. Bases other than salaries and wages may be used provided it can be demonstrated that they produce more equitable results.

§ 15.307–3 Negotiated lump sum for indirect costs.

A negotiated fixed amount in lieu of indirect costs may be appropriate for self-contained, off-campus, or primarily subcontracted research activities where the benefits derived from an institution's indirect services cannot be readily determined. Such amount negotiated in lieu of indirect costs will be treated as an offset to total indirect expenses before apportionment to instruction, organized research, and other institutional activities. The base on which such remaining expenses are allocated should be appropriately adjusted.

§ 15.307–5 Negotiated fixed rates and carryforward provisions.

When a fixed rate is negotiated in advance for a fiscal year (or other time period), the over- or under-recovery for that year may be included as an adjustment to the indirect cost for the next rate negotiation. When the rate is negotiated before the carryforward adjustment is determined due to the delay in audit, the carryforward may be applied to the next subsequent rate negotiation. When such adjustments are to be made, each fixed rate negotiated in advance for a given period will be computed by applying the expected indirect costs allocable to Government research for the forecast period plus or minus the carryforward adjustment (over- or under-recovery) from the prior period, to the forecast distribution base. Unrecovered amounts under lump-sum agreements or cost-sharing provisions of prior years shall not be carried forward for consideration in the new rate negotiation. There must, however, be an advance understanding in each case between the institution and the cognizant Federal agency as to whether these differences will be considered in the rate negotiation rather than making the determination after the differences are known. Further, institutions electing to use this carryforward provision may not subsequently change without prior approval of the cognizant Federal agency. In the event that an institution returns to a postdetermined rate, any over- or under-recovery during the period in which negotiated fixed rates and carryforward provisions were followed will be included in the subsequent postdetermined rates. Where multiple rates are used, the same procedure will be applicable for determining each rate. This procedure also applies to rates established for grants and contracts for training and other educational services, but does not apply to cost-type research agreements covering work performed in wholly or partially Government-owned facilities.

§ 15.309–7 Compensation for personal services.

(a) *General.* Compensation for personal services covers all remuneration paid currently or accrued to employees of the institution for services rendered during the period or performance under Government research agreements. Such remuneration include salaries, wages, staff benefits (see § 15.309–39) and pension plan costs (see § 15.309–23). The costs of such remuneration are allowable to the extent that the total compensation to individual employees is reasonable for the services rendered and conforms to the established policy of the institution consistently applied: *And provided*, That the charges for work performed directly on government research agreements and for other work allocable as indirect costs to organized research are determined and supported as hereinafter provided.

(b) *Payroll distribution.* Amounts charged to organized research for personal services, except stipulated salary support regardless of whether treated as direct costs or allocated as indirect costs, will be based on institutional payrolls which have been approved and documented in accordance with generally accepted institutional practices. Support for direct and indirect allocations of costs to (1) instruction, (2) organized research, (3) indirect activities as defined in § 15.305–1, or (4) other institutional activities as defined in § 15.302–4 will be provided as described in paragraphs (c), (d), (e), and (f) of this section.

(c) *Stipulated salary support.* As an alternative to payroll distribution, stipulated salary support amounts may be provided in the research agreement for professorial staff, any part of whose compensation is chargeable to Government-sponsored research. Stipulated salary support may also be provided for any other professionals who are engaged part time in sponsored research and part time in other work. The stipulated salary support for an individual will be determined by the Government and the educational institution during the proposal and award process on the basis of considered judgment as to the monetary value of the contribution which the individual is expected to make to the research project. This judgment will take into account any cost sharing by the institution and such other factors as the extent of the investigator's planned participation in the project and his ability to perform as planned in the light of his other commitments. It will be necessary for those who review research proposals to obtain information on the total academic year salary of the faculty members involved; the other research projects or proposals for which salary is allocated; and any other duties they may have such as teaching assignments, administrative assignments, number of graduate students for which they are responsible, or other institutional activities. Stipulated amounts for an individual must not per se result in increasing his official salary from the institution.

(d) *Direct charges for personal services under payroll distribution.* The direct cost charged to organized research for the personal services of professorial and professional staff, exclusive of those whose salaries are stipulated in the research agreement, will be based on institutional payroll systems. Such institutional payroll systems must be supported by either (1) an adequate appointment and workload distribution system accompanied by monthly reviews performed by responsible officials and a reporting of any significant changes in workload distribution of each professor or professional staff member, or (2) a monthly after-the-fact certification system which will require the individual

investigators, deans, departmental chairmen or supervisors having firsthand knowledge of the services performed on each research agreement to report the distribution of effort. Reported changes will be incorporated during the accounting period into the payroll distribution system and into the accounting records. Direct charges for salaries and wages of nonprofessionals will be supported by time and attendance and payroll distribution records.

(e) *Direct charges for personal services under stipulated salaries.* The amounts stipulated for salary support will be treated as direct costs. The stipulated salary for the academic year will be prorated equally over the duration of the grant or contract period during the academic year, unless other arrangements have been made in the grant or contract instrument. No time or effort reporting will be required to support these amounts. Special provision for summer salaries, or for a particular "off period" if other than summer, will be required. The research agreements will state that any research covered by summer salary support must be carried out during the summer, not during the academic year, and at locations approved in advance in writing by the granting agency. The certification required in § 15.310 will attest to this requirement as well as all others in a given research agreement. Stipulated salary support remains fixed during the funding period of the grant or contract and will be costed at the rate described above unless there is a significant change in performance. For example, a significant change in performance would exist if the faculty member (1) was ill for an extended period, (2) took sabbatical leave to devote effort to duties unrelated to his research, or (3) was required to increase substantially his teaching assignments, administrative duties, or responsibility for more research projects. In the latter event, it will be the responsibility of the educational institution to reduce the charges to the research agreement proportionately or seek an appropriate amendment. In the case of those covered by stipulated salary support, the auditors are no longer required to review the precise accuracy of time or effort devoted to research projects. Rather, their reviews should include steps to determine on a sample basis that an institution is not reimbursed for more than 100 percent of each faculty member's salary and that the portion of each faculty member's salary charged to Government-sponsored research is reasonable in view of his university workload and other commitments. The stipulated salary method may also be agreed upon for that portion of a professional's salary that represents cost sharing by the institution.

(f) *Indirect personal services costs.* Allowable indirect personal services costs will be supported by the educational institution's accounting system maintained in accordance with generally accepted institutional practices. Where a comprehensive accounting system does not exist, the institution should make periodic surveys no less frequently than annually to support the indirect personal services costs for inclusion in the overhead pool. Such supporting documentation must be retained for subsequent review by Government officials.

(g) *General guidance for charging personal services.* Budget estimates on a monthly, quarterly, semester, or yearly basis do not qualify as support for charges to federally sponsored research projects and should not be used unless confirmed after the fact. Charges to research agreements may include reasonable amounts for activities contributing and intimately related to work under the agreement, such as preparing and delivering special lectures about specific aspects of the ongoing research, writing research reports and articles, participating in appropriate research seminars, consulting with colleagues and graduate students with respect to related research, and attending appropriate scientific meetings and conferences. In no case should charges be made to federally sponsored research projects for lecturing or preparing for formal courses listed in the catalog and offered for degree credit, or for committee or administrative work related to university business.

(h) *Nonuniversity professional activities.* A university must not alter or waive university-wide policies and practices dealing with the permissible extent of professional services over and above those traditionally performed without extra university compensation, unless such arrangements are specifically authorized by the sponsoring agency. Where university-wide policies do not adequately define the permissible extent of consultantships or other nonuniversity activities undertaken for extra pay, the Government may require that the effort of professional staff working under research agreements be allocated as between (1) university activities, and (2) nonuniversity professional activities. If the sponsoring agency should consider the extent of nonuniversity professional effort excessive, appropriate arrangements governing compensation will be negotiated on a case by case basis

(i) *Salary rates for academic year.* Charges for work performed on government research by faculty members during the academic year will be based on the individual faculty member's regular compensation for the continuous period which, under the practice of the institution concerned, constitutes the basis of his salary. Charges for work performed on research agreements during all or any portion of such period would be allowable at the base salary rate. In no event will the charge to research agreements, irrespective of the basis of computation, exceed the proportionate share of the base salary for that period, and any extra compensation above the base salary for work on government research during such period would be unallowable. This principle applies to all members of the faculty at an institution and, since intrauniversity consulting is assumed to be undertaken as a university obligation requiring no compensation additional to fulltime base salary, the principle also applies to those who function as consultants or otherwise contribute to a research agreement conducted by another faculty member of the same institution: *Provided, however,* That in unusual cases where consultation is across departmental lines or involves a separate or remote operation, and the work performed by the consultant is in addition to his regular departmental load, any charges for such work representing extra compensation above the base salary are allowable: *Provided,* Such consulting arrangement is specifically provided in the research agreement or approved in writing by the sponsoring agency.

(j) *Salary rates for periods outside the academic year.* Charges for work performed by faculty members on government research during the summer months or other periods not included in the base salary period will be determined for each faculty member at a monthly rate not in excess of that which would be applicable under his base salary and will be limited to charges made in accordance with other subparagraphs of 15.309–7.

(k) *Salary rates for part-time faculty.* Charges for work performed on government research by faculty members having only part-time appointments for teaching will be determined at a rate not in excess of that for which he is regularly paid for his part-time teaching assignments. Example: An institution pays $5,000 to a faculty member for half-time teaching during the academic year. He devoted one-half of his remaining time (25 percent of his total available time) to government research. Thus his additional compensation, chargeable by the institution to government research agreements, would be one-half of $5,000 or $2,500.

§ 15.309–37 Specialized service facilities operated by institution.

(a) The costs, including amortization by generally accepted accounting practice, of institutional services involving the use of highly complex and specialized facilities such as electronic computers, including the cost of adapting computers for use, wind tunnels, and reactors are allowable: *Provided,* The charges therefor meet the conditions of paragraphs (b) or (c) of this section, and otherwise take into account any items of income or Federal financing that qualify as applicable credits under § 15.303–5.

(b) The costs of such institutional services normally will be charged directly to applicable research agreements based on actual usage or occupancy of the facilities on the basis of a schedule of rates that (1) is designed to recover only aggregate costs of providing such services over a long term agreed upon in advance by the cognizant Federal agency on an individual basis, and (2) is applied on a nondiscriminatory basis as between organized research and other work of the institution, including usage by the institution for internal purposes. Commercial or accommodation sales of computer services will be charged at not less than the above rates; however, if the rates charged for these services are greater, the total amount of charges above the scheduled rates when significant may be considered in revising the schedule of rates. Further, within the constraints of this section, it is not necessary that the rates charged for services be equal to the cost of providing those services during any one fiscal year.

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§ 15.709–3 Instructions for preparation of cost allocation plans.

The Department of Health, Education, and Welfare, in consultation with the other Federal agencies concerned, will be responsible for developing and issuing the instructions for use by State and local government grantees in preparation of cost allocation plans. This responsibility applies to both central support services at the State and local government level as well as indirect cost proposals of individual grantee departments.

§ 15.709–4 Negotiations and approval of indirect cost proposals for States.

(a) The Department of Health, Education, and Welfare, in collaboration with the other Federal agencies concerned, will be responsible for negotiation, approval and audit of cost allocation plans, which will be submitted to it by the States. These plans will cover central support service costs of the State.

(b) At the grantee department level in a State, a single Federal agency will have responsibility similar to that set forth in paragraph (a) of this section for the negotiation, approval, and audit of the indirect cost proposal. Cognizant Federal agencies have been designated for this purpose. Changes which may be required from time to time in agency assignments will be arranged by the Department of Health, Education, and Welfare in collaboration with the other interested agencies and submitted to the Office of Management and Budget for final approval. A current list of agency assignments will be maintained by the Department of Health, Education, and Welfare.

(c) Questions concerning the cost allocation plans approved under paragraphs (a) and (b) of this section should be directed to the agency responsible for such approvals.

§ 15.709–5 Negotiation and approval of indirect cost proposals for local governments.

(a) Cost allocation plans will be retained at the local government level for audit by a designated Federal agency except in those cases where that agency requests that cost allocation plans be submitted to it for negotiation and approval.

(b) A list of cognizant Federal agencies assigned responsibility for negotiation, approval and audit of central support service cost allocation plans at the local government level is being developed. Changes which may be required from time to time in agency assignments will be arranged by the Department of Health, Education, and Welfare.

(c) At the grantee department level of local governments, the Federal agency with the predominant interest in the work of the grantee department will be responsible for necessary negotiation, approval and audit of the indirect cost proposal.

§ 15.709–6 Resolution of problems.

To the extent that problems are encountered among the Federal agencies in connection with §§ 15.709–4 and 15.709–5, the Office of Management and Budget will lend assistance as required.

PART 16—PROCUREMENT FORMS

16. Section 16.101 is amended and the footnote thereto revoked; § 16.101–1 is revised; § 16.102 is amended and the footnote thereto is revised; § 16.103 (b)(6) is added; § 16.201 is revised; §§ 16.202 and 16.204 are deleted and the sections reserved; § 16.205 is amended and the footnote thereto revised; § 16.401–1(c) is revised; § 16.405–2 is amended; § 16.501–2 in the clause contained therein, paragraph 4(a) is amended; § 16.505 is revised; § 16.803–4 is revoked; and § 16.811 is revised, as follows:

§ 16.101 Forms for Advertised Supply or Services Contracts (Standard Forms 33, 33A, 32, 36, 30, and 26 and DD Form 1707).

§ 16.101–1 General.

The following contract forms shall be used in effecting procurements of supplies or services by formal advertising:

(a) Solicitation, Offer, and Award (Standard Form 33) (November 1969 edition), its reverse (Representations, Certifications and Acknowledgements) and Information to Offerors (DD Form 1707), which is printed on blue paper and may be reproduced locally, unless such action is precluded by Departmental direction;

(b) Solicitation Instructions and Conditions (Standard Form 33A) (March 1969 edition), substituting the clause in § 7.103–14 of this chapter for paragraph 9(b);

(c) General Provisions (Supply Contract), Standard Form 32, November 1969 edition (to be used only when procuring supplies). When using this form, the following clause shall be added.

ALTERATIONS IN CONTRACT (OCTOBER 1970)

Standard Form 32, General Provisions (Supply Contract) is hereby altered by substituting the following ASPR clauses in effect on the date of this solicitation:

a. Title and Risk of Loss (ASPR 7–103.6) for Clause 6.

b. Examination of Records (ASPR 7–104.15) for Clause 10.

c. Notice and Assistance Regarding Patent and Copyright Infringement (ASPR 7–103.23) for Clause 13.

d. Buy American Act (ASPR 7–104.3) for Clause 14.

e. Utilization of Labor Surplus Area Concerns (ASPR 7–104.20(a)) for Clause 22.

(d) Any other special terms for the solicitation or additional contract provisions which are prescribed by the ASPR or Departmental procedures (see § 1.108 of this chapter). (NOTE: The Federal, State and Local Taxes clause at § 11.401–1 of this chapter shall be used as a part of Standard Form 32, when that standard form is used in any advertised procurement or in any of the other circumstances set forth in § 11.401–1 of this chapter. In the case of a noncompetitive negotiated fixed price contract in excess of $10,000, when the contracting officer is satisfied (1) that the contract price does not include contingencies for State and local taxes, and (2) that unless this clause is used the contract price will include such contingencies, the Federal, State, and Local Taxes clause at § 11.402–1 of this chapter shall be made a part of the contract.);

(e) Continuation Sheet (Standard Form 36);

(f) Amendment of Solicitation/Modification of Contract (Standard Form 30) when needed (see § 16.103); and

(g) Award/Contract (Standard Form 26) when needed.

§ 16.102 Forms for Negotiated Supply or Services Contracts (Standard Forms 18, 26, 30, 32,[1] 33, 33A[1] and 36; DD Forms 1665, 1706 and 1707; DD ASPR Form 1270).

§ 16.103 Amendment of solicitation/modification of contract (Standard Form 30).

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(b) *Conditions for use.* * * *

(6) Provisioned items orders.

§ 16.201 Contractor Performance Evaluation Report (Development) (DD Form 1683).

DD Form 1683 is prescribed for use in accordance with § 1.908–2 of this chapter. Pending revision of the 1 September 1968 edition of this form, delete "Director of Contractor Performance Evaluation" in lines 7 and 8 on the reverse thereof.

§ 16.202 [Reserved]

§ 16.204 [Reserved]

§ 16.205 General Provisions—Fixed-Price Supply Contracts (Standard Form 32).[1]

Any negotiated contract to which Subpart A, Part 7 of this chapter, is applicable will include Standard Form 32. The addition of other clauses set forth in Subpart A, Part 7 of this chapter, or of other clauses not inconsistent with ASPR, shall be accomplished by including such clauses as "Additional General Provisions" numbered consecutively. The deletion or modification of clauses contained in the "Additional General Provisions" shall be accomplished by appropriate reference or provision in an Alterations in Contract clause. These instructions must be read in conjunction with Subpart A, Part 7 of this chapter, to make

[1] For ASPR clause substitutions on Standard Form 32, Nov. 1969 edition, and Standard Form 33A, Mar. 1969 edition, see § 16–101.

certain that current clauses are in use at all times.

§ 16.401–1 General.

• • • • •

(c) **Standard Form 19–B—Representations and Certifications (Construction Contract).** (Pending revision of the October 1969 edition, substitute $5 million for $7,500,000 in paragraph 1 when the procurement is for dredging.)

• • • • •

§ 16.405–2 Construction Contractor Performance Evaluation Report (DD Form 1596).

DD Form 1596 is prescribed for use in accordance with § 1.908–5 of this chapter to provide an orderly and uniform method of determining and recording how effectively construction contractors meet their contractual commitments.

§ 16.501–2 Schedule provisions.

SCHEDULE PROVISIONS

• • • • •

4. *Withdrawal of students.* (April 1971). (a) The Government may, at its option and at any time, withdraw any student by issuing official orders. The Government shall furnish _____ copies of such orders to the Contractor within a reasonable time after publication.

• • • • •

§ 16.505 Communication service authorization (DD Form 428).

(a) In accordance with § 22.1007 of this chapter, DD Form 428 shall be used as an order for communication services, including associated equipment and facilities. It may be used also as a delivery order under GSA Federal Supply Schedule contracts.

(b) When the volume of transactions necessitates preparation of orders by other than manual processes, a format suitable for an electronic data processing system may be used in lieu of DD Form 428: *Provided,* That all essential elements of DD Form 428 are incorporated in the electronic data processed CSA.

§ 16.803–4 [Revoked]

§ 16.811 Contract Security Classification Specification (DD Forms 254 and 254c).

Contracting officers shall inform contractors of the security classifications and requirements assigned to the various documents, materials, tasks, subcontracts, and components of the classified contract by using Contract Security Classification Specification, DD Form 254, and, if applicable, DD Form 254c. Instructions for preparation of these forms are contained in section VII, DoD 5220.22–R. The contracting officer is the approving official for the Contract Security Classification Specification and shall insure that it is distributed in accordance with section VII, DoD 5220.22–R.

PART 17—EXTRAORDINARY CONTRACTUAL ACTIONS TO FACILITATE THE NATIONAL DEFENSE

17. Section 17.206(e) is revised; §§ 17.207–1(f), 17.208–2(a)(6), 17.208–3(a)(6) and (c)(5), and 17.208–4(a) are amended, as follows:

§ 17.206 Contractual requirements.

• • • • •

(e) **The contract clause entitled "Examination of Records by Comptroller General"** in accordance with § 7.104–15 of this chapter.

• • • • •

§ 17.207–1 Filing requests.

• • • • •

(f) In the Defense Atomic Support Agency,

Director, DASA,
Attention: J–4CM.

§ 17.208–2 Disposition below Secretarial level.

(a) *Disposition.* • • •

(6) Identification of any of the foregoing information which is classified "Confidential" or higher.

• • • • •

§ 17.208–3 Submission of cases to the Contract Adjustment Board.

(a) *Statement to Board.* • • •

(6) Where the case involves a Military Assistance Program purchase within the scope of § 6.704–1(b) of this chapter a recommendation as to the impracticability of inclusion of the Examination of Records by Comptroller General clause set forth in § 7.104–15 of this chapter (see § 17.206(e) and § 6.704 of this chapter).

• • • • •

(c) *Forwarding to Boards.* • • •

(5) In the Defense Atomic Support Agency, each case shall be sent to the Headquarters, DASA, Attention: J–4CM, for further processing.

§ 17.208–4 Processing by Contract Adjustment Boards.

(a) *Disposition.* Upon receipt of cases, the Contract Adjustment Boards, each in accord with its own procedures, shall render decisions as expeditiously as practicable. The chairman shall sign a Memorandum of Decision disposing of the case, which shall be dated and shall contain the information required by § 17.208–2(a)(1) through (5). The Memorandum of Decision shall omit any information classified "Confidential" or higher. The Board's decision will be communicated to the appropriate officer or official for implementing action.

• • • • •

PART 18—PROCUREMENT OF CONSTRUCTION AND CONTRACTING FOR ARCHITECT-ENGINEER SERVICES

18. Section 18.107 is revised; §§ 18.117 and 18.118 are added; and § 18.701(b)(2) is amended and new subparagraphs (3) and (4) are added, as follows:

§ 18.107 Specifications.

The technical provisions of construction specifications shall be in sufficient detail so that, when used with the applicable drawings and the specifications and standards incorporated by reference, bids can be prepared on a fair and competitive basis. Materials, equipment, components, or systems shall be described, where possible, by reference to documents generally known to industry. The documents include Federal, military, or nationally recognized industry, and technical society specifications and standards. The standards which best represent no more and no less than the Government's minimum needs shall be selected for incorporation by reference into the construction specifications.

§ 18.117 Multiple completion dates.

Contracting officers should consider the use of multiple completion dates whenever the work is readily separable without substantial detriment to the contractor. This may prevent undue delays in completion of an entire project when excusable delays or changes affect only a separable portion thereof. (See 18–113 concerning liquidated damages.)

§ 18.118 Responsibility of Architect-Engineer.

(a) Whenever there is a modification to a construction project resulting from an error or deficiency in plans or specifications, the Contracting Officer shall consider the extent to which the Architect-Engineer may be reasonably responsible for such error or deficiency under the clause in § 7.607–29 of this chapter, and if so whether any increased cost to the Government resulting from such error or deficiency shall be assessed against the Architect-Engineer. The determination and subsequent action in this regard shall be documented in the contract file.

(b) Whenever the Government is entitled to redesign services under the conditions of the clause in § 7.608.3(a) of this chapter and the Architect-Engineer firm is not required to redesign pursuant to that clause, the reasons for not obtaining such redesign service shall be documented in the contract file.

§ 18.701 Applicability.

• • • • •

(b) • • •

(2) The "site of the work" is limited to the physical place or places where the construction called for in the contract will remain when work on it has been completed and to other adjacent or nearby property used by the contractor or subcontractor in such construction which can reasonably be said to be included in the "site" because of proximity. For example, if a small office building is being erected, the "site of the work" will normally include no more than the building itself and its grounds and other land or structures "down the block" or "across the street" which the contractor or subcontractor uses in the course of his performance on the particular contract. In the case of larger contracts, such as for an airport or a dam, the "site of the work" is necessarily more extensive and includes the whole area in which the contract construction activity will take place. Fabrication plants, "mobile factories," batch plants, borrow pits, job headquarters, tool yards, etc., are part of the "site of the work": *Provided,* They are dedicated exclusively or nearly so to performance on the contract and are so located in proximity to the actual construction location that it would be reasonable to include them. Once the limits of "site of the work" have been determined, the Secretary's wage rate decision is applicable only to those mechanics and laborers employed by a contractor or subcontractor within such limits (that is, upon the "site of the work"), including drivers who temporarily leave the "site" to transport materials and equipment used in the course of contract operations.

(3) Not included in the "site of the work" are permanent home offices or branch plant establishments of a contractor or subcontractor, his fabrication plant and tool yard establishments, whose locations and continuance are governed by his general business operations. This is so even though mechanics and laborers working at such an establishment may repair or maintain machinery used in contract performance, or make doors, windows, frames, or forms. Regardless of the activities performed at such establishments, the Secretary's wage rate determination does not apply because they do not constitute the "site of the work". However, if such mechanics or laborers are required to go to a place which is the "site of the work" to perform activities on the contract there, the Secretary's wage rate decision is applicable for the actual time so spent, not including travel.

(4) Contracts with bona fide material suppliers or with manufacturers to produce, supply or deliver items to the "site of the work" for use in the construction activities are not subject to Davis-Bacon and related acts, nor is transportation by common carrier over regular routes. However, if such a materialman, manufacturer or carrier undertakes to perform a contract, or some part of a contract as a subcontractor, his mechanics and laborers employed at the "site of the work" are subject to the Secretary's wage rate decision in the same manner as those employed by any other contractor or subcontractor.

PART 19—TRANSPORTATION

19. Section 19.403–2(c) is revised, as follows:

§ 19.403–2 Use of prepaid commercial bills of lading.

• • • • •

(c) Unless otherwise provided by the contract, when the contractor is authorized to ship on a prepaid commercial bill of lading in lieu of a Government bill of lading, he must agree to show the prepaid transportation charges, or apportioned charges as agreed (see paragraph (a)(4) of this section), as a separate item on the invoice for each individual shipment of supplies. The contractor also must agree to retain related freight bills or other transportation billings paid separately for a period of three years and to furnish such bills to the Government when requested for audit purposes. When reimbursement of transportation charges is provided in the contract, the contract shall contain the agreement for retention of such bills. When the contracting officer or his representative authorizes prepaid shipment in special instances, subject to reimbursement, the written authority shall contain the instructions as to retention of freight bills.

PART 22—SERVICE CONTRACTS

20. The table of contents of this part is amended by adding a new Subpart J; § 22.107(a)(2) is amended; § 22.108 is added; § 22.501–3 is revised; § 22.602–1 "Recapitulation Schedules I and II and Schedule III—Intracity and Intraarea Movers" are revised; and a new Subpart J is added, as follows:

§ 22.107 Contract term.

(a) • • •

(2) A multiyear service contract within the coverage of § 1.322–8 of this chapter.

• • • • •

§ 22.108 Prohibition against contracts with Detective Agencies.

There is a statutory prohibition against entering into a contract with a detective agency or its employees regardless of the character of the contract services to be performed (5 U.S.C. 3108).

§ 22.501–3 Solicitation planning.

Bids or offers for annual requirements for the next fiscal year shall be solicited in sufficient time to permit award prior to the beginning of the fiscal year.

§ 22.602–1 Schedule of items.

• • • • •

RECAPITULATION

SCHEDULE I

Schedule Total—Area _____ $ _____
(Repeat for each area listed.)

SCHEDULE II

Inbound Services

Item 15. *Complete Service—Inbound (HHG's).* Service shall include drayage to owner's residence, decontainerization and unpacking of loaded containers of household goods and placing goods in appropriate rooms as directed by owner or his designated representative, servicing appliances, assembly of any disassembled articles and removing shipping containers, barrels, boxes/crates and debris from owner's residence and drayage of empty containers to Contractor's or Government facility as directed by Contracting Officer.
Area _____

Est Annual Qty	*Unit*	*Unit Price*	*Total*
	GCWT		

(Repeat for additional areas as needed.)

Item. 16. *Complete Service—Inbound (HHG's).* Service shall be same as Item 15 except that drayage of shipment to residence is not required.
Area _____

Est Annual Qty	*Unit*	*Unit Price*	*Total*
	GCWT		

(Repeat for additional areas as needed.)

Item 17. *Complete Service Inbound (HHG's).* Service shall be the same as *Item 15* except removal of items from outer container will be at the Contractor's facility and articles will be drayed to owner's residence. This service will be performed only upon order of the Contracting Officer.
Area _____

Est Annual Qty	*Unit*	*Unit Price*	*Total*
	GCWT		

(Repeat for additional areas as needed.)

Item 18. *Inbound Service—Contractor Facility (HHG's).* Service shall include removal of items from outer shipping container(s) at the Contractor's facility and delivery of articles to property owner, motor van carrier or commercial non-temporary storage Contractor at the Contractor's facility.
Area _____

Est Annual Qty	*Unit*	*Unit Price*	*Total*
	GCWT		

(Repeat for additional areas as needed.)

Item 19. *Complete Service—Extraordinary Value Items.* Service includes decontainerization and unpacking of containers at owner's residence, and removal of shipping containers and debris from the residence. Drayage, if required, will be ordered by the Contracting Officer.
Area _____

RECAPITULATION—Continued

	Est Annual Qty	Unit	Unit Price	Total
(Repeat for additional areas as needed.)				

b. *Recooperage.* Service shall consist of repair of containers not to exceed 30 percent of total area of shipping container as necessary when ordered by the Contracting Officer. Minor repair such as replacement of bolts, reslling and rebanding shall be accomplished at no expense to the Government.

Area _____

	Est Annual Qty	Unit	Unit Price	Total

(Repeat for additional areas as needed.)

Items 25–28 Reserved (See 22-602(b).)

RECAPITULATION
SCHEDULE II

Schedule Total—Area _____ $ _____
(Repeat for each area listed.)

SCHEDULE III

Intracity and Intraarea Movers

Item 29. *Complete Service for Intracity and Intraarea Moves.* Service shall include a premove survey, servicing of appliances, packing at owner's residence to protect household goods properly during transit, tagging of items, inventorying, loading, weighing, drayage, unloading, unpacking, and placing of each article in owner's residence (new) as directed by owner or his designated representative and removal of all empty containers and materials from residence. Service shall be in conformance with provisions of MIL–P–22084 (SEA), except that all service shall be performed within times stipulated in clause entitled "Time Requirements."

Area _____

	Est Annual Qty	Unit	Unit Price	Total

(Repeat for additional areas as needed.)

Item 30. *Storage.* Storage of articles shall be furnished incident to services performed under Item 29 when ordered by the Contracting Officer. Storage charges apply for each 30-day period or fraction thereof. Date of release from storage shall be considered in computation of storage charges.

Area _____

	Est Annual Qty	Unit	Unit Price	Total

(Repeat for additional areas as needed.)

(Insert when required.)

RECAPITULATION—Continued

	Est Annual Qty	Unit	Unit Price	Total
a. Drayage Required		GCWT		
b. Drayage Not Required		GCWT		

(Repeat for additional areas as needed.)

Item 20. *Complete Service—Inbound (Unaccompanied Baggage).* Service shall include drayage of unaccompanied baggage containers to owner's residence, unpacking of containers and removal of all shipping containers and debris from the residence.

Area _____

	Est Annual Qty	Unit	Unit Price	Total
		GCWT		

(Repeat for additional areas as needed.)

Items 25–28 Reserved (See 22-602(b).)

Item 21. *Complete Service—Inbound (Unaccompanied Baggage).* Service shall be same as Item 20 except that drayage to residence is not required.

Area _____

	Est Annual Qty	Unit	Unit Price	Total
		GCWT		

(Repeat for additional areas as needed.)

Item 22. *Inbound Service—Contractor Facility (Unaccompanied Baggage).* Service shall include removal of unaccompanied baggage from outer shipping containers for pickup by the owner at the Contractor's facility.

Area _____

	Est Annual Qty	Unit	Unit Price	Total
		GCWT		

(Repeat for additional areas as needed.)

Item 23. *Storage.* Storage of containerized articles shall be furnished when ordered by the Contracting Officer. Charges under this item shall not commence earlier than the sixth (6th) work day following date of notification to transportation officer of arrival of shipment. Storage charges apply for each 30 day period or fraction thereof. Date of release from storage shall not be considered in computation of storage charges.

Area _____

	Est Annual Qty	Unit	Unit Price	Total
		GCWT		

(Repeat for additional areas as needed.)

Item 24. *Remarking/Recooperage Service.*

a. *Remarking of Shipments for Reconsignment or Diversions.* Service shall consist of obliteration of all old markings and stenciling of necessary information on loaded shipping containers scheduled for reconsignment or diversion when ordered by the Contracting Officer.

Area _____

Subpart J—Communication Services

Sec.
22.1001 Applicability of subpart.
22.1002 Definitions.
22.1003 Policy.
22.1004 Regulatory bodies.
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22.1010–2 Applicability of construction labor standards to CSA's for special construction.
22.1011 Special assembly.
22.1012 Cancellation and termination.

AUTHORITY: The provisions of this Subpart J issued under secs. 2202, 2301–2314, 70A Stat. 120, 127–133; 10 U.S.C. 2202, 2301–2314.

Subpart J—Communication Services

§ 22.1001 Applicability of subpart.

This subpart applies to procurement of communications services from communications common carriers regulated by the Federal Communications Commission or an appropriate Governmental regulatory body. In addition, except as otherwise specifically provided, this subpart provides guidelines for the procurement of all other communications services (e.g., from nonregulated common carriers, noncommon carriers and foreign carriers) but is not mandatory for use in such procurements. This subpart does not apply to the Alaska Communications System (929 Communications Group (ACS)), Air Force Communications Services.

§ 22.1002 Definitions.

(a) *Communications services.* Communication services are those services provided by all types of systems and facilities connected therewith that employ electric or electromagnetic signals to transmit information between two or more points by means of radio, wire, cable, satellite, and other media. Included are telephone, telegraph, teletypewriter, remote writing, remote display, data transmission, facsimile and television transmission services, as well as terminal devices, switches, private branch exchanges, transmission facilities and other components of the systems that supply these services. Also included are all local, post, camp, station or long distance services as well as all fixed or mobile facilities that are interconnected to systems providing these types of services.

(b) *Common carrier.* Any person, partnership, association, joint-stock company, trust governmental body, or corporation engaged in the business of providing communications services to the general public, normally authorized or franchised by the Federal Communications Commission (FCC) or other appropriate governmental regulatory body is a common carrier.

(c) *Noncommon carrier.* Any entity other than a common carrier which offers communications facilities, services or equipment for lease is a noncommon carrier.

(d) *Foreign carrier.* Any person, partnership, association, joint-stock company, trust, governmental body, or corporation not subject to regulation by an appropriate United States governmental regulatory body and not doing business as a citizen of the United States, which provides communications services outside the territorial limits of the United States is a foreign carrier.

(e) *Appropriate governmental regulatory body.* The term "appropriate governmental regulatory body" encompasses the Federal Communications Commission, any statewide regulatory body, or any body with less than statewide jurisdiction when operating pursuant to State authority. Regulatory bodies whose decisions are not subject to judicial appeal and regulatory bodies which regulate a company owned by the same entity which creates the regulatory body are not "appropriate governmental regulatory bodies" for the purposes of this subpart.

§ 22.1003 Policy.

In accordance with instructions contained in Department of Defense directives and implementing departmental regulations concerning the operation of commercial and industrial type activities, and specifically with those concerning the sources for communications services, the Department of Defense generally procures communications services of a kind offered by common carriers, including equipment and facilities incidental to those services, from common carriers in accordance with tariff provisions, and at tariff rates established with the Federal Communications Commission (FCC) or with other appropriate governmental regulatory bodies unless cost or operational requirements dictate otherwise.

§ 22.1004 Regulatory bodies.

(a) The Federal Communications Commission (FCC) and other appropriate governmental regulatory bodies generally publish rules and regulations governing the operations of common carriers and prescribe accounting principles to be employed in the establishment of rates. Nothwithstanding other provisions of this subpart, the regulations, practices, and decisions of the FCC and other appropriate governmental regulatory bodies concerning rates, cost principles, and accounting practices shall be recognized in the procurement of communications services from common carriers. With respect to those issues concerning common carrier services (1) on which the appropriate governmental regulatory body has not expressed itself, (2) over which the appropriate governmental regulatory body has declined jurisdiction, or (3) as to which there is no appropriate governmental regulatory body to make a decision, specific provisions should be made in the contract for adoption of FCC-approved practices or the generally accepted practices of the industry.

(b) Since the Department of Defense frequently requires unusual or special communications services advancing the "state of the art," Defense Department activities frequently move into areas which the cognizant governmental regulatory bodies have not explored. In such situations, the Defense Department frequently is the sole or primary user of many of a given common carrier's offerings. In addition, because of the large volume of normal services which the Defense Department requires, the day-to-day decisions of governmental regulatory bodies may have a vast dollar impact upon it. It is not Defense Department policy to duplicate the efforts of appropriate governmental regulatory bodies or to act as a second regulatory body. On the other hand, the Defense Department's self interest requires that it act as an informed and intelligent consumer, seeing to it that its side of the case is presented to the cognizant bodies and working with the common carriers to ensure that in those areas in which the FCC cannot or will not rule, sound regulatory practices are followed. Every effort should be made to avoid the time and expense of litigation by full and fair disclosure of both the carrier's and the Government's position in advance. Nevertheless, in the event actions short of litigation are not productive or just, reasonable or otherwise lawful rates, or when there is a refusal to provide required services or file appropriate tariffs, legal actions should be initiated and vigorously pursued. All contacts with the regulatory bodies should be through cognizant counsel in accordance with established Departmental and Defense Communications Agency procedures.

(c) Upon receipt of tariff information received in accordance with § 7.1702–11 of this chapter, the contracting officer shall immediately provide copies to the cognizant counsel.

§ 22.1005 Sources for communications services.

§ 22.1005–1 Common carriers.

(a) Generally, communication services shall be procured from the communication common carrier authorized by the appropriate regulatory body to operate within the service area in which the services are required.

(b) Although normally only one carrier is authorized to provide a specific type of service at any given location, there are locations at which no single communication common carrier has the exclusive right to provide the required service. When this is the case and more than one common carrier is authorized and can provide the required service, the procurement shall be made from the source offering the lowest cost to the

Government, if practicable. If this is not practicable, the contract file shall be documented as to the reasons for selection of another source (e.g., unique ability to meet service date; more timely and effective maintenance; security reasons; system integrity). In any event, special assembly items and entire communicatioris systems shall be procured on a competitive basis to the maximum extent practicable; and every effort should be made to exclude from the service contract any provisions which would require the Government to lease from the source of service any associated and related items such as circuits, circuit extensions, and terminal equipment.

§ 22.1005–2 Noncommon carriers.

While communication services generally shall be procured from common carriers, they may be procured from noncommon carriers when equipment and the services function as a complete communication system or are an integral part of a communication system. Equipment and services shall be considered an integral part of a communication system if the combination of equipment and services is necessary to perform the desired services.

§ 22.1005–3 Foreign carriers.

The procurement of communication services within or between foreign countries and the procurement from a foreign carrier of communication services from a foreign country to the United States present problems beyond the scope of this subpart. Frequently, foreign carriers are owned by the Government of the country in which they operate; and their methods of doing business are prescribed by the foreign Government. In many countries, an international agreement with the host country prescribes guidelines for how the Defense Department will obtain communication services. In addition, there are frequently severe problems with taxes on communications in foreign countries. In other countries, a corporate subsidiary of a carrier not indigeous to the country (often a U.S. parent) is the sole source for communication services. As a general rule in foreign countries, rates and practices should be spelled out in as much detail as possible in a contractual document. It consistently has been Defense Department policy not to pay discriminatory rates and to pay no more for communication services in a foreign country than does the military of that country. Special problems with communications procurement in foreign countries should be channeled to higher headquarters for resolution with the assistance of State Department representatives as appropriate.

§ 22.1006 Who may procure communication services.

(a) The general authority of the Head of a Procuring Activity contained in § 1.401 of this chapter includes the procurement of communication services. In addition, the Administrator, General Services Administration, has delegated to the Secretary of Defense under the terms of the Federal Property and Administrative Services Act, as amended, authority to enter into contracts for communication services extending beyond the fiscal year but not longer than 10 years under the following circumstances:

(1) The Government obtains lower rates, larger discounts, or more favorable conditions of service than those available under a contract for a definite term not extending beyond the current fiscal year; or

(2) Nonrecurring or termination charges payable under contracts for a definite term not extending beyond the current fiscal year are eliminated or reduced; or

(3) The carrier refuses to render the desired service except under contract for a definite term extending beyond the current fiscal year.

(b) The Secretary of Defense has delegated the authority delegated to him by the Administrator, GSA, to the Secretaries of the Military Departments and the Director, Defense Communications Agency, who have in turn delegated it to the following (with power of redelegation):

(1) For the Department of the Army: The Commanding General, U.S. Army Strategic Communications Command; and the Commanding General, U.S. Continental Army Command;

(2) For the Department of the Navy: The Commander, Naval Facilities Engineering Command;

(3) For the Department of the Air Force: The Commander, Air Force Logistics Command; and The Commander, Air Force Communications Service; and

(4) For the Defense Communications Agency: The Chief, Defense Commercial Communications Office.

(c) The 10-year limitation of paragraph (a) of this section does not apply to "general contracts" (see § 22.1008) but to obligating the Government for a longer period than 10 years by orders placed under the general contract.

§ 22.1007 Cost or pricing data.

(a) Rates or preliminary estimates quoted by a common carrier for tariffed services are considered to be prices set by regulation within the provisions of Public Law 87–653, even if the tariff will not be established until after execution of the contract. Accordingly, except as provided in paragraph (b) of this section, common carriers are not required to submit cost or pricing data prior to award of contracts for tariffed services. On the other hand, rates or preliminary estimates quoted by a common carrier for nontariffed service or by a noncommon carrier for any service are not considered to be prices set by regulation; and the provisions of Public Law 87–653 and § 3.807–3 of this chapter shall be applied accordingly.

(b) Even when not required by Public Law 87–653, certified cost or pricing data shall be obtained whenever the contracting officer is unable to determine that the prices are reasonable on the basis of price analysis (see § 3.807–2(b) of this chapter). However, certified cost or pricing data shall not be required to support annual recurring costs below $5,000 and nonrecurring costs or basic termination liabilities below $10,000. Situations in which cost or pricing data may be found necessary within the above policy are:

(1) A tariff, whether filed or contemplated to be filed is for new services installed or developed primarily for Government use (and the data shall cover special construction charges in connection therewith);

(2) A tariff, whether filed or contemplated to be filed, in which specific rates and charges are not included;

(3) More than one commercial source (one or more of which is a noncommon carrier) can offer the desired service but price competition is not considered adequate;

(4) To support the reasonableness of special assembly rates and charges;

(5) To support the reasonableness of special construction and equipment charges;

(6) To support the reasonableness of those contingent liabilities which are fixed at the outset of the service; or

(7) To support proposed cancellation and termination charges (pursuant to the clause entitled "Cancellation or Termination of Orders") and reuse arrangements (pursuant to the clause entitled "Reuse Arrangements").

(c) Cost or pricing data need not be obtained for each order in the case of services obtained by delivery order under a general call type contract which is negotiated for use by all Government ordering activities and includes detailed and approved price schedules as a part of the general contract.

(d) As to the form and detail of cost or pricing data, the following will apply:

(1) For data submitted by common carriers, the data may be in the same form and detail normally submitted to the governmental regulatory body having jurisdiction over the carrier in question: *Provided*, This form and detail is sufficient for the Government to make an adequate evaluation.

(2) For data submitted by other than common carrier, the data should be that required by § 3.807 of this chapter.

(e) In the case of noncommon carriers or common carriers quoting for services not to be furnished pursuant to tariff, the procuring activity shall require that the cost or pricing data be accompanied with a certificate as required in § 3.807–4 of this chapter. In the case of a common carrier furnishing service pursuant to a tariff filed or to be filed, the procuring activity shall require that data submitted pursuant to paragraph (b) of this section be accompanied with a certificate that to the best of the company's knowledge the data are accurate, complete, and current and a statement that either:

(1) The rates for services in question are based on these data which will be used or are currently being used to justify the tariff for such service; or

(2) The rates for services in question are not based on these data but are based upon filed tariffs.

The procuring activity shall inform carriers required to furnish cost or pricing data under this paragraph (e) that the data and certifications will be used by the Government, if appropriate, in any subsequent proceedings relative to this tariffed service.

(f) If any noncommon carrier or any common carrier providing a service not to be furnished pursuant to tariff refuses to furnish cost or pricing data required under this section, applications for waiver shall be processed in accordance with § 3.807–3 of this chapter.

§ 22.1008 Type of contract.

§ 22.1008–1 General.

Generally, the procurement of communication services is facilitated by a contractual arrangement which (a) permits the activities served to order services directly from time to time as specific requirements are developed; and/or (b) provides a written instrument of understanding between the Department of Defense or a procurement activity and the contractor which sets forth the basis under which future procurements will be entered into as required during the term of the agreement.

§ 22.1008–2 General agreements.

General agreements, referred to as "general contracts" within the communications industry, are widely used to facilitate awards for communication services. Such an instrument is not a contract, but rather represents a written instrument of understanding executed between a procurement activity and a communications contractor which sets forth the negotiated contract clauses and other matters which shall be applicable to future procurements entered into between the parties during the term of the agreement. The general agreement together with the order issued thereunder (see § 22.1008–3) represents the contract. General agreements shall not be used in any manner to restrict available competition. All general agreements will be executed in the name of the U.S. Government.

§ 22.1008–3 Communication Service Authorization (CSA).

DD Form 428, Communication Service Authorization (CSA), or the electronic data processing substitute (see § 16.505 of this chapter) shall be used to order services under the general contract and to modify, cancel, or terminate services when a CSA has been used to establish the service. As a general rule, prices should be established prior to authorizing the contractor to begin work. However, when the contractor is allowed to begin work prior to pricing in accordance with this section, an estimated price or ceiling shall be included; and the contractor and the contracting officer shall proceed with definitive pricing as soon as practicable. In addition, a CSA may be issued which includes a ceiling or a series of ceilings for the stated services. Normally, this type of CSA is called a "maximum limit authorization" in the communications industry. This maximum limit authorization also may provide, in addition to the established ceilings, limited authority to designated individuals to effect modifications in service within the dollar ceilings by the use of work orders designated for this purpose. Each CSA issued under a general agreement shall be subject to such reviews, approvals and determinations and findings specified in this subpart as would be applicable if the CSA were a contract entered into apart from the general contract.

§ 22.1008–4 Federal Supply Schedule contracts.

General Services Administration Federal Supply Schedule contracts covering communication services, including equipment and facilities incidental to the services, are optional for use by the Department of Defense and may be used in accordance with § 5.104 of this chapter when it is not more advantageous to negotiate a separate contract.

§ 22.1009 Funding of Communication Service Authorizations (CSA's) under "general contracts."

(a) Funding is a comptroller responsibility and shall be handled in accordance with appropriate Department of Defense comptroller related directives and Departmental implementations thereof. The guidelines in paragraphs (b) through (e) of this section are provided for the contracting officer's information.

(b) In procurements of communication services, unlike other types of procurements, obligations are usually recorded when the service starts or if and when a cancellation or termination is ordered. Thus funds are not obligated by the "general contract," but are ordinarily obligated by CSA's issued under the "general contracts" (see § 7.1702–8 of this chapter).

(c) Each individual CSA establishes a basis for the obligation of funds to cover recurring charges for services to be provided during the fiscal year in which the CSA is issued, together with such one-time charges as are applicable to those services.

(d) The same CSA continues to be the basis for the obligation of funds when the same services are required to be continued into subsequent fiscal years. However, obligation of funds for recurring charges for such subsequent fiscal years must be subject to the availability of appropriations therefor; and in the event funds are not appropriated, a cancellation or termination CSA must be issued.

(e) The contracting officer, through his comptroller, must insure that funds are available at the time service is provided or at the time a cancellation or termination CSA is issued. Section 1.318 of this chapter does not apply to the issuance of CSA's.

§ 22.1010 "Special construction."

§ 22.1010–1 General.

(a) Special construction, as defined by tariffs, normally involves the furnishing of some special service or facility by a common carrier incident to the performance of the basic service. Under a given tariff, this may include (1) moving or relocating specified equipment, (2) providing temporary facilities, (3) expediting provision of facilities, or (4) providing channel facilities which must be specially constructed to meet the requirements of the Government. The procurement of "special construction," as that term is used in the communication industry, shall be governed by the provisions of this subpart and shall not ordinarily be subject to the provisions of Part 18 of this chapter.

(b) Special construction costs may take the following forms:

(1) Contingent liability for utilizing the services for a shorter period of time than the specified minimum to reimburse the contractor for his unamortized nonrecoverable costs and usually expressed in terms of a termination liability, as provided in the contract or by tariff;

(2) A one-time special construction charge;

(3) Recurring charges for constructed facilities;

(4) A minimum service charge;

(5) An expediting charge; or

(6) A move or relocation charge.

(c) When a common carrier submits a proposal or quotation of charges which indicates that special construction will be necessary, he shall be required to submit a detailed special construction proposal as well. All special construction proposals shall be analyzed to (1) determine the adequacy of the proposed construction; (2) disclose excessive or duplicative construction; and (3) when different forms of charge are possible, insure that the form most advantageous to the Government is provided for.

(d) When possible, special construction charges should be analyzed and approved prior to provision of the service. If, because of operational requirements, prior approval is not possible and a contractor is authorized to proceed, a ceiling cost for the special construction shall be imposed. Special construction charges must be approved and authorized prior to total payment thereof.

(e) Special construction provisions shall be administered by the contracting officer issuing the CSA. This involves administration of the cost and payment provisions, recording the unamortized termination liabilities (if any), and monitoring minimum service charges (MSC) and reuse of MSC facilities—all in coordination with the requiring Department, office or agency and with the Defense Contract Audit Agency, as appropriate.

§ 22.1010–2 Applicability of construction labor standards to CSA's for special construction.

(a) The construction labor standards in Subpart G, Part 18 of this chapter, ordinarily do not apply to "special construction." However, if the special construction includes construction (as de-

fined in § 18.101–1 of this chapter) of a public building or public work, the construction labor standards may be applicable. Applicability must be determined under § 12.106 of this chapter.

(b) Individual CSA's which are subject to construction labor standards under § 12.106 of this chapter shall specifically recite that fact.

§ 22.1011 Special assembly.

(a) Special assembly is the designing, manufacturing, arranging, assembling or wiring of an item or items of equipment to provide service that cannot be provided with equipment normally employed for general use.

(b) Special assembly rates and charges shall be based on estimated costs and shall be negotiated prior to commencement of service whenever possible. When it is not possible to negotiate in advance, the initial rates and charges shall be preliminary and tentative only and shall be subject to adjustment to the extent appropriate at the time that final rates and charges are negotiated.

§ 22.1012 Cancellation and termination.

(a) (1) Cancellation is the discontinuation of a requirement subsequent to the placing of an order, but prior to initiation of service.

(2) Termination is the discontinuation of a service for the convenience of the Government after the service has been initiated.

(b) Cancellation or termination charges shall be determined in accordance with the provisions of the applicable tariff or contract.

(c) At the conclusion of a cancellation or termination settlement negotiation, the contracting officer shall document the contract file as to the principal elements involved in the settlement in sufficient detail to establish the reasonableness of the proposed settlement and in a manner which will enable reviewing authorities to understand the appropriateness of the proposed settlement.

(d) Pursuant to the Cancellation or Termination of Orders clause, partial payments on cancellation or termination claims may be made prior to settlement under the applicable policy and procedures of § 8.213–1 of this chapter.

PART 24—DISPOSITION OF PERSONAL PROPERTY IN POSSESSION OF CONTRACTORS

21. Sections 24.204–4(e)(1) and 24.206–4(c) are amended as follows:

§ 24.204–4 Contractor's approved scrap procedure.

• • • • • •

(e) (1) Silver scrap and scrap items containing recoverable quantities of silver shall be reported by letter to the Supply Officer, Naval Ammunition Depot, Earle, Colts Neck, N.J. 07722, for disposition instructions. Gold and platinum scrap and scrap items containing recoverable quantities of gold and platinum shall be shipped as follows:

• • • • •

§ 24.206–4 Proceeds of sale.

• • • • • •

(c) All proceeds of sale remitted to the plant clearance officer shall be delivered to the designated disbursing officer by means of DD Form 1131, Cash Collection Voucher, within 2 working days after receipt. Transmittals shall identify the procurement contract by number and name of the contractor.

PART 25—PRODUCTION MANAGEMENT

22. Section 25.202 is revised as follows:

§ 25.202 Production progress reporting by contractors.

(a) Production progress reporting by contractors, on a recurring or an exception basis, may be required in accordance with this part if approved by the Head of a Procuring Activity or his designee. Exception reports may be required only for (1) provisioned items, (2) data or (3) contracts retained by the purchasing office for administration in accordance with 20–703 of the ASPR.

(b) When production progress reports are required from the contractor, the clause set forth in § 7.104–51 of this chapter shall be included in the contract.

(c) Reports shall be made on DD Form 375, Production Progress Reports, or any other form approved by the Bureau of the Budget under the Federal Reports Act of 1942 (Public Law 77–831). Automatic data processing cards or tape or electrical transmissions which contain the data normally contained in these reports may be authorized in lieu of the printed form. Schedule provisions supporting the clause in paragraph (b) of this section shall contain but not be limited to instructions relative to (1) the frequency and timing (normally 5 workdays after each reporting period) of reporting; (2) the contract line items, exhibits, or exhibit line items for which reporting is required; (3) offices and mailing addresses to which reports shall be sent, including the purchasing office, the contract administration office (three copies), status control activities and inventory managers, if appropriate; and (4) special requirements as to codes and formats.

(d) If the contract is assigned for contract administration, the contract administration office shall take appropriate action to enforce contract production reporting requirements. The accuracy of contractor-prepared reports shall be verified by either (1) a program of continuous surveillance over the contractor's system for preparation of the reports, or (2) by individual review of each report.

(e) If the contractor's report indicates that the contract schedule will be met and the contract administration office concurs, no further report by the contract administration office is required. If, on the other hand, either (1) the contractor forecasts a delivery or performance failure, or (2) the contract administration office does not concur in the contractor's no-failure report, and in either case (i) the delay is expected to be for more than 30 days, or (ii) purchasing office action, in any case, is deemed necessary, the contract administration office shall complete DD Form 375c, Production Progress Report (Continuation), and shall forward a copy to the purchasing office and to the status control activity and inventory managers within 4 working days after receipt of the DD Form 375.

(f) The DD Form 375c shall include:

(1) Problem—a statement of the difficulty, the reasons therefor, and whether caused by the Government or the contractor;

(2) Items and Quantities Affected;

(3) Date of commencement of the actual or anticipated delinquency;

(4) Action Taken—by the contractor and by the Government to overcome the anticipated or actual delinquency;

(5) Estimated Recovery Date—based upon verification and evaluation of the factors contributing to the delinquency; and

(6) Action Required—a positive recommendation to the purchasing office of the action necessary to correct the delinquency, including any realistic schedule revision which can be met by the contractor and the extent to which the contractor may have excusable cause of delay. When other actions are indicated, such as those leading to default termination, the contract administration office shall indicate specific dates by which Government action should be taken to preserve the Government's rights.

PART 26—CONTRACT MODIFICATIONS

23. Sections 26.101, 26.301(e) and 26.400 are revised; § 26.402(b)(2) is amended, and in paragraph (c) of this section in the Agreement set forth therein paragraph 1 of the Witnesseth portion is amended; § 26.403(a)(3) is amended, and in paragraph (b) of this section in the Agreement set forth therein paragraph 1 of the Witnesseth portion is amended; and in § 26.404(a), (b), (d) and (e) are amended, as follows:

§ 26.101 Policy.

(a) Contract modifications, which are defined in § 1.201–2 of this chapter, shall be effected only by the use of Standard Form 30, Amendment of Solicitation/Modification of Contract (see § 16.103 of this chapter). Contract modifications are of four general types:

(1) Administrative changes (These changes, such as a change in paying office and appropriation data, do not affect the substantive rights of the contracting parties and do not require the contractor's acceptance.),

(2) Change orders (see Subpart B of this part),

(3) Supplemental agreements (see Subpart C of this part), and

(4) Orders for provisioned items (see § 4.300 of this chapter).

(b) The price of contract modifications shall be negotiated prior to their execution if this can be done without adversely affecting the interests of the Government. This includes changes which could be issued unilaterally pursuant to the contract. If a significant cost increase could result from a modification and time does not permit negotiation of a price, at least a maximum price shall be negotiated unless to do so would be clearly impracticable.

(c) Only contracting officers, as defined in § 1.201–3 of this chapter, acting within the scope of their authority are empowered to execute modifications on behalf of the Government. Other Government personnel shall not:

(1) Execute modifications,

(2) Act in such a manner as to cause the contractor to believe that they have authority to bind the Government, or

(3) Direct or encourage the contractor to perform work which should be the subject of a modification.

§ 26.301 Use.

• • • • • •

(e) To definitize provisioned items orders (see § 4.300 of this chapter).

§ 26.400 Scope of subpart.

This subpart prescribes the policy and procedures for (a) recognition of a successor in interest to Government contracts when such interests are acquired incidental to a transfer of all the assets of a contractor or such part of his assets as is involved in the performance of the contracts, (b) a change of name of a contractor, (c) execution of novation agreements and change of name agreements by the cognizant Administrative Contracting Officer (ACO) (see definition below), and (d) entering into novation agreements and change of name agreements on behalf of the National Aeronautics and Space Administration (NASA).

§ 26.402 Agreement to recognize a successor in interest.

• • • • • •

(b) • • •

(2) A list of all contracts and purchase orders which have not been finally settled among all Departments concerned and the transferor, and all elements of NASA concerned and the transferor, showing the contract number, the name and address of the purchasing office involved, the total dollar value of each contract as amended, the type of contract involved, and the balance remaining unpaid;

• • • • • •

(c) • • •

AGREEMENT

• • • • • •

WITNESSETH:

1. Whereas, the Government, represented by various Contracting Officers of the Department of Defense and the National Aeronautics and Space Administration, has entered into certain contracts and purchase orders with the Transferor (namely: ----------) or as set forth in the attached list marked "Exhibit A" to this Agreement and herein incorporated by reference; and the term "the contracts" as hereinafter used means the above contracts and purchase orders, and all other contracts and

purchase orders, including modifications thereto, heretofore made between the Government, represented by various Contracting Officers of the above named Department, or NASA and the Transferor (whether or not performance and payment have been completed and releases executed, if the Government or the Transferor has any remaining rights, duties or obligations thereunder), and including modifications thereto hereafter made in accordance with the terms and conditions of such contracts and purchase orders between the Government and the Transferee:

• • • • • •

§ 26.403 Agreement to recognize change of name of contractor.

(a) • • •

(3) A list of all contracts and purchase orders which have not been finally settled among all Departments concerned and the transferor, and all elements of NASA concerned and the transferor showing the contract number, the name and address of the purchasing office involved, the total dollar value of each contract as amended, and the balance remaining unpaid.

(b) • • •

AGREEMENT

• • • • • •

WITNESSETH:

1. Whereas, the Government, represented by various Contracting Officers of the Department of Defense and the National Aeronautics and Space Administration, has entered into certain contracts and purchase orders with the XYZ Corporation, (namely: ----------) or (as set forth in the attached list marked "Exhibit A" to this agreement and herein incorporated by reference); and the term "the Contracts" as hereinafter used means the above contracts and purchase orders, and all other contracts and purchase orders, including modifications thereto, entered into between the Government, represented by various Contracting Officers of the Department of Defense, or NASA and the Contractor (whether or not performance and payment have been completed and releases executed, if the Government or the Contractor has any remaining rights, duties, or obligations thereunder);

• • • • • •

§ 26.404 Processing novation agreements and change of name agreements.

(a) The cognizant ACO processing a proposed novation agreement shall promptly provide notice of the proposed agreement, including the list of contracts as required by § 26.402(b)(2), to the Departments and Defense agencies and NASA having contracts with the contractor or contractors concerned. Such notice shall be transmitted to the appropriate addressee listed herein.

Department of the Army, Hq., U.S. Army Materiel Command, Attention: AMCGC–P, Washington, D.C. 20315.

Department of the Navy, Chief of Naval Material, Attention: MAT 02D, Washington, D.C. 20360.

Department of the Air Force, Hq., U.S. Air Force Systems Command, Attention: PPPB, Washington, D.C. 20331.

Defense Supply Agency, Attention: DSAH–PPR, Cameron Station, Alexandria, Va. 22314.

National Aeronautics and Space Administration, Director of Procurement, Attention: KDP–3, Washington, D.C. 20546.

Defense Communications Agency, Attention: Code 260, Washington, D.C. 20305.

Director, Defense Atomic Support Agency, Attention: J–4CM, Washington, D.C. 20305.

Within 30 days after receipt of such notice, the Department or NASA may submit comments to the cognizant ACO, which comments shall be considered prior to execution of the proposed agreement. The absence of comment from a Department within 30 days after its receipt of notice of a proposed novation agreement shall be construed as approval by that Department.

(b) Where substantial alterations or additions to the formats set forth in §§ 26.402(c) and 26.403(b) are considered appropriate by the cognizant ACO processing the proposed agreement, coordination will be made with the appropriate addressees listed above involved prior to execution. Any objection shall be resolved before the agreement is executed. If, for any reason, NASA indicates a desire to consummate a separate agreement with the contractor, the cognizant ACO shall continue to process the agreement only for the Departments and Defense agencies concerned.

• • • • • •

(d) After execution and distribution of an agreement, an administrative change (Standard Form 30) shall be prepared by the cognizant ACO incorporating a summary of the agreement and attaching thereto a complete list of the contracts affected. For NASA contracts affected, only blocks 7, 8, 11 and 12 of the Standard Form 30 will be completed. Three copies of the Standard Form 30 for each contract shall be furnished to the purchasing offices concerned. Two additional copies will be furnished to the appropriate addressee(s) listed in paragraph (a) of this section.

(e) Novation and change of name agreements amending contracts and basic agreements for storage and related services for personal property of military and civilian personnel shall be forwarded to the appropriate Military Traffic Management and Terminal Service area activity set forth below for execution without regard to the provisions of paragraphs (a), (b) and (d) of this section.

Commander, Eastern Area, Military Traffic Management and Terminal Service, Attention: PPS, Brooklyn, N.Y. 11250.

Commander, Western Area, Military Traffic Management and Terminal Service, Oakland Army Base, Attention: PPS, Oakland, Calif. 94626.

PART 30—APPENDIXES TO ARMED SERVICES PROCUREMENT REGULATIONS

24. In § 30.7, part 3, item 303.1(b)(2) is amended; in § 30.8, part 1, item I–104(a)(1) is amended, in part 3, items I–301(a)(i) is amended, Block 1 is revised, Block 2(b), Block 3, Block 4(b), Blocks 14 and 15, Block 16(a)(2), (3), (4) and (b) and (c)(16) are revised, Blocks 17(a) and 18 are amended, Block 19(d) is added, Block 21(b) is amended

and a new (c) added, under "A. Origin" (4) is revised and (5) is revoked, under "B. Destination" (5) is revised, in item I–302 the description of code "Z" is amended, item I–304 (i) and (iv) are revised and (vi) is revoked, in part 4, item I–404, Table 2 after Navy is revised. In part 5, item I–501, Block 1 is amended, in part 7, item I–701, Tables 3 and 5 are revised, as follows:

§ 30.7 Appendix K—Preaward survey procedures.

• • • • • •

PART 3—SURVEY

• • • • • •

K–303.1 *Interview, investigation and review.* • • •

(b) *Interview with management.* • • •

(2) Lack of understanding or misinterpretation of the solicitation often results in delinquent contracts and leads to default actions. Therefore, the solicitation shall be discussed with prospective contractors to assure that they understand its requirements, including its technical aspects such as drawings, specifications, prototype, technical data and provisioning technical documentation (including automated data processing requirements when appropriate), testing, and packaging. Any misinterpretations of the requirements of the solicitation which could adversely affect performance, or refusal by the prospective contractor to furnish required data, should be brought to the immediate attention of the monitor by the team coordinator. The monitor shall, in turn, promptly advise the purchasing office.

• • • • • •

§ 30.8 Appendix I—Material Inspection and Receiving Report (DD Forms 250, 250c, and 250–1).

PART 1—INTRODUCTION

• • • • • •

I–104 *Application.*

(a) *DD Form 250:*

(1) The DD Form 250 shall be used for delivery of contract line, subline, exhibit line, or exhibit subline items.

• • • • • •

PART 3—PREPARATION OF THE DD FORM 250 AND DD FORM 250c

I–301 *Preparation Instructions.* DD Form 250 (MIRR) and DD Form 250c (Continuation Sheet) shall be prepared as follows:

(a) *General:*

(1) The date, where required, shall utilize seven spaces consisting of the last two digits of the year, three alphabetic month abbreviation, and two digits for the day. For example, 71AUG07, 71SEP24;

• • • • • •

Block 1—*Procurement Instrument Identification (Contract).*

(a) Enter the 13 position alpha-numeric basic Procurement Instrument Identification (PII) number of the contract. When applicable, enter the four alpha-numeric call/order serial number which is supplementary to the 13 position basic PII number, i.e., delivery orders under indefinite delivery type contracts, orders under basic ordering agreements and calls under blanket purchase agreements. This number shall be entered as shown in the examples below. Except as indicated in (b) below, do not enter supplementary numbers used in conjunction with basic PII numbers to identify (i) modifications of contracts and agreements or (ii) modifications to calls/orders or (iii) document numbers representing contracts written between contractors.

1. PROC INSTRUMENT IDEN (CONTRACT) (ORDER) NO. DABE01–66–C–0001

1. PROC INSTRUMENT IDEN (CONTRACT) (ORDER) NO. DABE01–67–A–0001–0001

(b) When shipping instructions are furnished by telephone/TWX message and shipment is made prior to receipt of the confirming contract modification (SF 30), the contract modification six digit number or the two digit call/order number which is provided in accordance with 19–204 will be entered immediately following the PIIN or call/order four digit SPIIN.

1. PROC INSTRUMENT IDEN (CONTRACT) (ORDER) NO. DABE01–66–C–0001–PV0001

1. PROC INSTRUMENT IDEN (CONTRACT) (ORDER) NO. DABE01–67–A–0001–0001AA

(c) For DoD delivery orders on non-DoD contracts, enter the non-DoD contract number immediately below the PII number.

1. PROC INSTRUMENT IDEN (CONTRACT) (ORDER) NO. DSA400–68–F–1684 GS–000S–61917

(d) When a contract number other than PII number is used, enter that contract number.

Block 2—*Shipment Number.*

• • • • • •

(b) The shipment number of the initial shipment shall be reassigned where a "Replacement Shipment" is involved (Block 16 (c) (6)).

• • • • • •

Block 3—*Date Shipped.* Enter the date the shipment is released to the carrier or the date of completion of services. If the shipment will be released after the date of PQA and/or Acceptance, enter the estimated date of release. When the date is estimated, enter an "E" after the date. Distribution of the MIRR shall not be delayed for entry of the actual shipping date. Reissuance of the MIRR is not required to show the actual shipping date.

Block 4—*B/L TCN.* When applicable, enter:

(a) The commercial or Government bill of lading number after "B/L";

(b) The Transportation Control Number after "TCN" (When a TCN is assigned for each line item on the DD Form 250 in accordance with Block 16 instructions, insert "See Block 16."); and

(c) The initial (line haul) mode of shipment code in the lower right corner of the block (I–302).

• • • • • •

Block 14—*Marked for/code.* Enter the "Mark For" code and address contained in the contract or shipping instructions. When three-character project codes are provided in the contract or shipping instructions, enter the code in the body of the block, prefixed by "Proj"; do not enter in the code block.

Block 15—*Item Number.* Enter the contract line item, subline line, exhibit line or exhibit subline identification as set forth in the contract. If four or less digits are used, they will be positioned immediately to the left of the vertical dashed line and prefixed with zeroes, if applicable to achieve four digits. Where a six digit identification containing alpha digits in the final two positions is used, enter the last two digits to the right of the vertical dashed line. Do not make an entry on the DD Form 250 for sublines/exhibit sublines which are included in and identified by numerics in the last two positions. Line item identifications not in accordance with the Uniform Contract Line Item Number System, Section XX, will be entered without regard to positioning.

Block 16—*Stock/Part Number/Description.*

(a) Enter, as applicable, for each line item, using single spacing between each line item:

• • •

(2) On the next printing line if required by the contract for control purposes enter: the make, model, serial number, lot, batch, hazard indicator and/or similar description.

(3) On the next printing lines: the MIPR number prefixed by "MIPR" or the MILSTRIP requisition number(s) when provided in the contract, or shipping instructions followed on the same line, when more than one requisition is entered, by the unit for payment and the quantity shipped against each requisition.

Example:

V04696018507S0XY19059A EA 5
N0018801776038XY3211BA EA 200
AT650603050051AAT6391J EA 1000

(4) When a TCN is assigned for each line item, enter on the next line the Transportation Control Number prefixed by "TCN".

(b) When acceptance of a service line item (as differentiating from supplies) is involved, enter a short description in no more than 27 characters. Some examples of service line items are engineering services, research and development services, training services and testing services. Do not complete Blocks 4, 13 and 14 when shipment of materiel is not involved in the service.

(c) • • •

(16) The copy of the DD Form 250 required to support payment for destination acceptance (top copy of those with shipment) or ARP origin acceptance (additional copy furnished to the QAR) shall be identified as follows: enter "PAYMENT COPY" in approximately one-half inch outline type style letters with "FORWARD TO BLOCK 12 ADDRESS" in approximately one-quarter inch letters immediately below. Do not obliterate any other entries.

• • • • • •

Block 17—*Quantity Shipped/Received.*

(a) Enter the quantity shipped, using the unit of measure indicated in the contract for payment. When a second unit of measure is used for purposes other than payment, enter the appropriate quantity directly below in parentheses.

• • • • • •

Block 18—*Unit.* Enter the abbreviation of the unit measure as indicated in the contract for payment. Where a second unit of measure is indicated in the contract for purposes other than payment or used for shipping purposes, enter the second unit of measure directly below in parentheses. Authorized abbreviations are listed in MIL–STD–129 (Marking for Shipment and Storage). For example: LB for pound; SH for sheet.

18. UNIT
LB (SH)

Block 19—*Unit Price.* • • •

(d) Copies distributed to Foreign Military Sales Representatives in accordance with I–401, Table 2, shall be priced using actual or, if not available, estimated price.

• • • • •

Block 21—*Procurement Quality Assurance.*

• • • • •

(b) When a shipment is authorized under Alternative Release Procedure, the appropriate contractor signed certificate shall be attached to or included on the top copy of the DD Form 250 copies distributed to the payment office.

(c) When contract terms provide for use of Certificate of Conformance and shipment is made under these terms, the contractor shall enter "Certificate of Conformance" in Block 21A on the next line following the PQA and Acceptance statements. The appropriate contractor signed certificate shall be attached to or included on the top copy of the DD Form 250 copies distributed to the payment office. When acceptance is at destination, a copy of the signed certificate shall also be attached to or entered on copies of the MIRR sent with shipment.

"A. ORIGIN"

• • • • • •

(4) When Certificate of Conformance procedures apply and acceptance is at source, shall place an "X" in the acceptance block, and make entries required by "A. ORIGIN" (1) b, c, and d above. When acceptance is at destination, no entry shall be made other than "CERTIFICATE OF CONFORMANCE."

(5) [Revoked]

"B. DESTINATION"

• • • • • •

(5) When "FAST PAY" is entered in Block 21A, no entries shall be made in this block.

• • • • •

I–302 *Mode of Shipment Codes.*

Code and description

• • • • •

Z—MSC (controlled/contract/arranged space).

• • • • •

I–304 *Multiple-Consignee Instructions.* • • •

(i) Blocks 2, 4, 13 and, if applicable, 14—Enter "See Attached Distribution List."

• • • • • •

(iv) The DD Form 250c shall be used to list each individual "Shipped To" and "Marked For" with code(s) and complete shipping address and a sequential shipment number for each; line item number(s); quantity; MIPR number prefixed by "MIPR" or the MILSTRIP requisition number(s) and quantity for each when provided in the contract or shipping instructions; and if applicable, Bill of Lading number, TCN, and Mode of Shipment Code.

• • • • •

(vi) [Revoked]

• • • • • •

PART 4—DISTRIBUTION OF DD FORM 250 AND DD FORM 250c

I–401 *Distribution.*

• • • • •

TABLE 2—SPECIAL DISTRIBUTION

As required	Address	Number of copies
• • •	• • •	• • •
Navy:		
When typed code (TC) 2T or 7T is shown in Block 16.	Navy Finance Center, PAD (FPA), Washington, D.C. 20390.	2
Foreign Military Sales/Military Assistance Program (Grant Aid).	Navy International Logistics, Control Office (NAVILCO), Bayonne, N.J. 07002.	2
When shipment is consigned to another contractor's plant for a Government representative.	Navy Finance Center, PAD (FPA), Washington, D.C. 20390.	2
When Block 16 indicates the shipment includes GFF.	Navy Finance Center, PAD (FPA), Washington, D.C. 20390.	2
Marine Corps:		
All shipments consigned to a Marine Corps Activity (excluding aeronautical spares).	Commandant of the Marine Corps, Headquarters, USMC, Washington, D.C. 20360.	1
	Commanding General, Marine Corps Supply Activity, 1100 South Broad Street, Philadelphia, PA 19146.	3

PART 5—PREPARATION OF THE DD FORM 250–1 (LOADING REPORT)

I–501 *Instructions.* • • •

Block 1—*Tanker/Barge.* Line out "Tanker" or "Barge" as appropriate and place "X" to indicate loading report.

• • • • • •

PART 7—DISTRIBUTION OF THE DD FORM 250–1

I–701 *Distribution.*

• • • • • •

TABLE 3—DD FORM 250–1 DISTRIBUTION

		Number of copies			
		Loading		Discharge	
		Tanker	Barge	Tanker	Barge
On all overseas shipments provide for a minimum of 4 consignees. Place 1 copy (attached to ullage report) in each of 4 envelopes and mark envelopes "Consignee-First Destination," "Consignee-Second Destination" etc. for delivery via the tanker.	Each consignee:				
	By mail (CONUS shipments only).	2	2	(1)	(1)
	With shipment	1	1	(1)	(1)
	Master of vessel	1	1	1	1
	Tanker or barge agent	2	2	2	2
	Contractor	(1)	(1)	(1)	(1)
	Inspector	1	1	1	1
	Cognizant inspection office	1	1	1	1
	Government representative at each destination.	1	1	1	1
On all USNS tankers and all MSC chartered tankers and MSC chartered barges.	Military Sealift Command, Washington, D.C. 20390.	2	2	2	2
See contract or shipping order for finance documentation and any supplemental requirements for Government-owned product shipments and receipts.	Payment office	2	2	2	2
Forward only when ordering activity is other than consignee, Navy Fuel Supply Office or Defense Fuel Supply Center.	Ordering activity	1	1	1	1
Mark "Consignee copies for distribution" and airmail to each JPO receiving a portion of the cargo.	Joint Petroleum Office (see table 4)	12	1	1	1
On shipments to Japan or Korea	Airmail to CO, U.S. Army Depot Command, Japan, APO San Francisco 96343.	3	0	0	0
When one grade of product is loaded on a vessel by more than one Service each Service involved shall be furnished a copy of all loading and discharge reports.	Army Petroleum Center, Alexandria, Va. 22314.	1	1	1	1
	Navy Regional Finance Center, Property Accounting Dept. (FPA), Washington, D.C. 20390.	2	2	2	2
	Det 29 HQ SAAMA (SFML), Alexandria, Va. 22314.	1	1	1	1
Army:					
All shipments for Army	Army Petroleum Center, Alexandria, Va. 22314.	2	2	2	2
On Army MAP shipments	U.S. Army International Logistics Center, Post Office Box 2745, Harrisburg, Pa. 17105.	2	2	2	2
Navy:					
On all shipments for Navy	Navy Fuel Supply Office, Alexandria, Va. 22314.	2	1	2	1
On all Navy shipments except aircraft fuels and aircraft lubricants.	Naval Ship Systems Command, Washington, D.C. 20360.	1	1	0	0
On all Navy shipments of aircraft fuels and aircraft lubricants.	Naval Air Systems Command, Washington, D.C. 20360.	1	1	1	1
On all tanker shipments for Navy	Navy Regional Finance Center, Property Accounting (FPA), Washington, D.C. 20390.	2	0	2	0
Air Force:					
On all shipments for Air Force	Aerospace Fuels Field Office Cognizant of Shipping Point (see table 5).	1	1	0	0
On all shipments for Air Force	Aerospace Fuels Field Office Cognizant of Receiving Point (see table 5).	1	1	1	1
On the tanker shipments for Air Force (attach to ullage report).	Det 29 HQ SAAMA (SFMR), Alexandria, Va. 22314.	1	0	1	0
On all shipments for Air Force [2]	Det 29 HQ SAAMA (ACFOPA), Alexandria, Va. 22334.	1	1	1	1

[1] As required.
[2] If shipped from AF stock to other than AF distribute 2 copies in lieu of 1.

TABLE 5.—AEROSPACE FUELS FIELD OFFICES

ZONE 1

Address	Area Served
AFFO—Det 30 HQ SAAMA (SFA), McGuire AFB, N.J. 08641.	Connecticut, Delaware, District of Columbia, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, Baffin Island, Greenland, Labrador, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Newfoundland, Eastern Section of Northwest Territories.

ZONE 2

AFFO—Det 24 HQ SAAMA (SFB), Post Office Drawer K, Lynn Haven, FL 32444.	Alabama, Florida, Georgia, Louisiana, East of Mississippi River (including cities of New Orleans and Baton Rouge), Mississippi, North Carolina, South Carolina, Tennessee.

ZONE 3

AFFO—Det 25 HQ SAAMA (SFC), 8900 South Broadway, Building 2, St. Louis, MO 63125.	Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Wisconsin, Wyoming.

ZONE 4

AFFO—Det 26 HQ SAAMA (SFD), Room 5626, Federal Office and Court Building, 515 Rusk Avenue, Houston, TX 77002.	Arkansas, Louisiana, West of Mississippi River (excluding cities of New Orleans and Baton Rouge), New Mexico, Oklahoma, Texas.

ZONE 5

AFFO—Det 26 HQ SAAMA (SFE), 11550 Wilshire Boulevard, Los Angeles, CA 90025.	Arizona, California, Idaho, Montana, Nevada, Oregon, Utah, Washington.

[Rev. 9, ASPR, April 30, 1971; DPC 73, Item IX; DPC 74, Item I; DPC 76, Item III; DPC 77, Items I and II; DPC 79, Item I; DPC 81, Items VIII and IX; DPC 82, Item I; DPC 83, Items I, II, IV, VI, VII, VIII and IX; DPC 84, Item II; DPC 85, Items IV and V; DPC 86, Items I, II, III, and IV; and DPC 87, Items III, IV, V, and VIII] (Secs. 2202, 2301–2314, 70A Stat. 120, 127–133; 10 U.S.C. 2202, 2301–2314)

For the Adjutant General.

R. B. BELNAP,
Special Advisor to TAG.

[FR Doc.71-16043 Filed 11-3-71;8:45 am]

SUBCHAPTER B—PERSONNEL; MILITARY AND CIVILIAN

PART 45—VIETNAM SERVICE MEDAL

SUBCHAPTER C—MILITARY PERSONNEL

PART 87—DROPPING RETIRED MILITARY PERSONNEL FROM THE ROLLS OF THE ARMED FORCES

Discontinuance of Parts

1. Codification of Part 45 is discontinued. It was based on DOD Instruction 1348.15 dated October 1, 1965, which is no longer in effect.

2. Codification of Part 87 is discontinued. Part 87 was based on DOD Directive 1332.16 dated March 26, 1960, which is no longer in effect.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division OASD (Administration).

[FR Doc.71-16120 Filed 11-3-71;8:51 am]

Chapter XVIII—Office of Civil Defense, Office of the Secretary of the Army

PART 1806—OFFICIAL CIVIL DEFENSE INSIGNE

Manufacture, Reproduction and Display of Prescribed Insigne

Section 1806.5 is amended by designating the existing provisions of paragraphs (b) (8) and (9) as paragraphs (b) (9) and (10) respectively and by adding a new paragraph (b) (8) to read as follows:

§ 1806.5 Manufacture, reproduction and display of prescribed insigne.

* * * * *

(b) * * *

(8) On the merit badge for "Emergency Preparedness" designed for and as authorized and awarded by the Boy Scouts of America, together with the reproduction of such merit badge on any publication or certificate of award to be used or issued by said organization in connection therewith.

* * * * *

(64 Stat. 1254, 50 U.S.C. app. 2253; Reorg. Plan No. 1 of 1958, as amended, 72 Stat. 1799–1801, 23 F.R. 4991; E.O. 10952, as amended, 26 F.R. 6577; Establishment of the Office of Civil Defense and Delegation of Authority Regarding Civil Defense Functions, published April 10, 1964, 29 F.R. 5017)

Effective date. These amendments are effective immediately.

Dated: October 21, 1971.

JOHN E. DAVIS,
Director of Civil Defense.

[FR Doc.71-16044 Filed 11-3-71;8:45 am]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release No. 34-9376]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

Quarterly Securities Counts by Certain Exchange Members, Brokers and Dealers

The Securities and Exchange Commission announced today that it has adopted Rule 17a–13 (17 CFR 240.17a–13) under the Securities Exchange Act of 1934 ("the Act") to require a quarterly "box-count" and verification of all securities not in a broker's physical possession. At the same time the Commission has amended Rule 17a–3 (17 CFR 240.17a–3) to require the making and keeping of records with respect to stock record differences. Finally, the Commission has adopted a related proposal to amend existing Form X–17A–5 (17 CFR 249.617) with respect to stock record differences and the scope of the auditors' review.

On April 19, 1971, in Securities Exchange Act Release No. 9140 and in the FEDERAL REGISTER for April 28, 1971, at 36 F.R. 7974, the Commission published its proposal to adopt Rule 17a–13 (17 CFR 240, 17a–13), amend Rule 17a–3 (17 CFR 240.17a–3) and amend Form X–17A–5 (17 CFR 249.617). It has considered the comments and suggestions it received in response to that proposal and now adopts Rule 17a–13 (17 CFR 240.17a–13) and amendments to Rule 17a–3 (17 CFR 240.17a–3) and Form X–17A–5 (17 CFR 249.617) set forth below.

Rule 17a–13 (17 CFR 240.17a–13) applies to all members of national securities exchanges who do business with or for others than members of national securities exchanges, and to all brokers and dealers except broker-dealers who limit their business to the sale and redemption of securities of registered investment companies and interests or participations in an insurance company separate account and those who solicit accounts for federally insured savings and loan associations, provided that such persons promptly transmit all funds and securities and hold no customer funds and securities. However, the rule does not apply to insurance companies which are registered broker-dealers, solely by reason of their purchase and sale of securities on behalf of their general and separate accounts, provided that they otherwise meet the exemptive conditions of the rule. The member, broker, or dealer subject to Rule 17a–13 (17 CFR 240.17a–13), must once every calendar quarter: (1) Physically examine and count all securities held (this includes firm securities and customer securities); (2) account for all securities in transfer, in transit, pledged, loaned, borrowed, deposited, failed to receive, and failed to deliver or otherwise subject to his control or direction but not in his physical possession, by examination and comparison of the supporting detail records with the appropriate ledger control accounts; (3) verify all securities in transfer, in transit, pledged, loaned, borrowed, deposited, failed to receive, and failed to deliver or otherwise subject to his control or direction but not in his physical possession, where such securities have been in said status for longer than 30 days; (4) compare the results of the examination and verification with the firm's record; and (5) post the unresolved differences to the firm's books and records within 7 business days. The examination, count, verification, and comparison conducted by the firm's auditors in connection with the firm's annual report of financial condition (Form X–17A–5) may be substituted for the firm's examination, count, verification and comparison for the quarter in which the audit date falls. The quarterly examination, count, verification, and comparison are to be made no less than 2 nor more than 4 months apart. The rule specifically allows cyclical counts, whereby all locations would be counted for a specific security, and all security positions would be counted within the prescribed period. The examination, count, verification, and comparison are to be conducted or supervised by persons not normally responsible for handling securities or making the subject records.

The amendment to Rule 17a–3 (17 CFR 240.17a–3) adding a new clause (a)(4)-(F) creates a security difference account to which the unresolved long and short differences have to be posted after each examination, count, verification, and comparison, by date, showing for each security the number of shares of long or short count differences. All subsequent adjustments to the differences posted also have to be posted to this account. The other amendment to Rule 17a–3 (17 CFR 240.17a–3), a change in existing clause (a)(5), requires that the securities record which reflects all long and short securities positions also reflect the unresolved differences remaining from each of the required quarterly examinations, counts, verifications, and comparisons, and all subsequent adjustments thereto. The securities record, being the main accounting record for the location and movement of securities, should reflect these unresolved stock differences and the subsequent adjustments. Retention of the supporting documentation, required under Rule 17a–4(b)(5) (17 CFR 240.17a–4(b)(5)), is necessary so that the auditors will have adequate documentation for their review under the amendments to the audit requirements of Form X–17A–5 (17 CFR 249.617).

The final change amends Form X–17A–5 (17 CFR 249.617). This change is applicable to any form of questionnaire used by a member of a national securities exchange in lieu of Form X–17A–5. Question 13 is amended to require reporting of: The value of unresolved differences (long and short), classified in accordance with the date of their discovery; the value of long differences sold and short differences bought-in since the previous annual audit, classified in accordance with the date of their discovery; the number of securities in which there were long or short differences; and the total number of securities in which there were positions as of the audit date. Also, the audit requirements are amended to require the accountant to review and comment on the practices and procedures employed in complying with Rule 17a–13 (17 CFR 240.17a–13) and in the resolution of differences uncovered by the procedures required by Rule 17a–13 (17 CFR 240.17a–13).

Deficiencies in the accounting system, internal control and procedures for safeguarding securities are reflected by material amounts of unresolved security differences, suspense balances, unverified transfer items and differences in dividend accounts which represent potential losses. The extent of such deficiencies or the absence of appropriate provisions for estimated losses may require the independent public accountant to qualify or disclaim an opinion on the financial statements.

Rule 17a–13 (17 CFR 240.17a–13) establishes a minimum standard of control over securities for all subject members, brokers, and dealers. The rule is not intended to discourage the practice of certain brokers and dealers who examine, count, verify, and compare their securities more frequently than once a calendar quarter. The Commission encourages all brokers and dealers to make such additional examinations, counts, verifications and comparisons as good business practice would require, and as are necessary and appropriate to comply with the requirements from time to time of the self-regulatory organizations.

Commission action: The Securities and Exchange Commission, acting pursuant to the provisions of the Securities Exchange Act of 1934, particularly sections 17(a) and 23(a) thereof, and deeming it necessary for the exercise of the functions vested in it, and necessary and appropriate in the public interest and for the protection of investors, hereby amends Parts 240 and 249 of Chapter II of Title 17 of the Code of Federal Regulations by adopting § 240.17a–13 and amending §§ 240.17a–3 and 249.617 as set forth below, effective January 1, 1972.

§ 240.17a–13 Quarterly security counts to be made by certain exchange members, brokers, and dealers.

(a) This section shall apply to every member of a national securities exchange who transacts a business in securities directly with or for others than members of a national securities exchange, every broker or dealer (other than a member) who transacts a business in securities through the medium of any member of a national securities exchange, and every broker or dealer registered pursuant to section 15 of the Act; except that a broker or dealer meeting all of the following conditions shall be exempt from the provisions of this section:

(1) His dealer transactions (as principal for his own account) are limited to the purchase, sale, and redemption of redeemable shares of registered investment companies or of interests or participations in an insurance company separate account, whether or not registered as an investment company; except that a broker or dealer transacting business as a sole proprietor may also effect occasional transactions in other securities for his own account with or through another registered broker-dealer;

(2) His transactions as broker (agent) are limited to: (i) The sale and redemption of redeemable securities of registered investment companies or of interests or participations in an insurance company separate account, whether or not registered as an investment company; (ii) the solicitation of share accounts for savings and loan associations insured by an instrumentality of the United States; and (iii) the sale of securities for the account of a customer to obtain funds for immediate reinvestment in redeemable securities of registered investment companies; and

(3) He promptly transmits all funds and delivers all securities received in connection with his activities as a broker or dealer, and does not otherwise hold funds or securities for, or owe money or securities to, customers.

Notwithstanding the foregoing, this rule shall not apply to any insurance company which is a registered broker-dealer, and which otherwise meets all of the conditions in subparagraphs (1), (2), and (3) of this paragraph, solely by reason of its participation in transactions that are a part of the business of insurance, including the purchasing, selling, or holding of securities for or on behalf of such company's general and separate accounts.

(b) Any member, broker, or dealer who is subject to the provisions of this rule shall at least once in each calendar quarter-year:

(1) Physically examine and count all securities held;

(2) Account for all securities in transfer, in transit, pledged, loaned, borrowed, deposited, failed to receive, and failed to deliver, or otherwise subject to his control or direction but not in his physical possession by examination and comparison of the supporting detail records with the appropriate ledger control accounts;

(3) Verify all securities in transfer, in transit, pledged, loaned, borrowed, deposited, failed to receive, and failed to deliver, or otherwise subject to his control or direction but not in his physical possession, where such securities have been in said status for longer than 30 days;

(4) Compare the results of the count and verification with his records; and

(5) Record on the books and records of the member, broker, or dealer all unresolved differences setting forth the security involved and date of comparison in a security count difference account no later than 7 business days after the date of each required quarterly security examination, count, and verification in accordance with the requirements provided in paragraph (c) of this section. *Provided, however,* That such procedures need not be carried out by the member, broker, or dealer for the calendar quarter-year during which the date of his annual report of financial condition (pursuant to § 240.17a–5) falls, and further provided, that no examination, count, verification, and comparison for the purpose of this section shall be within 2 months of or more than 4 months following a prior examination, count, verification, and comparison made hereunder.

(c) The examination, count, verification, and comparison may be made either as of a date certain or on a cyclical basis covering the entire list of securities. In either case the recordation shall be effected within 7 business days subsequent to the examination, count, verification, and comparison of a particular security. In the event that an examination, count, verification, and comparison is made on a cyclical basis, it shall not extend over more than 1 calendar quarter-year, and no security shall be examined, counted, verified, or compared for the purpose of this rule less than 2 months or more than 4 months after a prior examination, count, verification, and comparison.

(d) The examination, count, verification, and comparison shall be made or supervised by persons whose regular duties do not require them to have direct responsibility for the proper care and protection of the securities or the making or preservation of the subject records.

(e) The Commission may, upon written request, exempt from the provisions of this section, either unconditionally or on specified terms and conditions, any member, broker, or dealer who satisfies the Commission that it is not necessary in the public interest and for the protection of investors to subject the particular member, broker, or dealer to certain or all of the provisions of this section, because of the special nature of his business, the safeguards he has established for the protection of customers' funds and securities, or such other reason as the Commission deems appropriate.

Amendment to Form X–17A–5 (17 CFR 249.617):

Form X–17A–5 [§ 249.617 of this chapter] is amended by: (1) Adding at the end of the first paragraph of question 13, preceding the language "and other accounts not specifically mentioned herein.", the following new language: "long security count difference valuations; short security count difference valuations;" (2) adding new notes 2 and 3 immediately following note 1; (3) adding to the last sentence of the section entitled Audit Requirements immediately preceding the words "and shall indicate any corrective action taken or proposed.", the following new language ": (a) The accounting system; (b) the internal accounting control; (c) procedures for safeguarding securities; (d) the practices and procedures employed in complying with § 240.17a–13 of this chapter and in the resolution of securities differences;" and (4) adding a new paragraph (9) to the section entitled "Audit Requirements."

As so amended, question 13 of Form X–17A–5 would read as follows:

State details (ledger balances, valuations of securities and spot (cash) commodities; status of future commodity positions and any other relevant information) of any accounts which have not been included in one of the answers to the above questions. These shall include: Accounts for exchange memberships; furniture, fixtures and other fixed assets; valuation reserves; funds provided or deposited by the respondent as margin in joint accounts; revenue stamps; dividends receivable, payable, and unclaimed; floor brokerage receivable and payable; commissions receivable and payable; advances to salesmen and other employees; commodity difference account; goodwill; organization expense; prepaid expenses and deferred charges; liability reserves; mortgage payable; other liabilities and deferred credits; market value of securities borrowed (other than for delivery against customers' sales) to the extent to which no equivalent value is paid or credited; long security count difference valuations; short security count difference valuations; and other accounts not specifically mentioned herein.

NOTE 1: Any liability reported under this question secured by collateral in any form shall be identified by reference to the related collateral.

NOTE 2: State in a footnote (a) long security count difference valuations and short security count difference valuations classified in accordance with the date of the physical count and verification pursuant to Rule 17a–5 (§ 240.17a–5) or 17a–13 (§ 240.17a–13) in which they were discovered, and (b) the value of long security count differences sold and short security count differences bought in to resolve differences since the last report on Form X–17A–5 (§ 249.617) classified in accordance with the date that the related differences were discovered.

NOTE 3: State in a footnote the number of securities in which there were long security count differences; the number in which there were short security count differences; and the total number of securities in which there were positions as of the audit date.

AUDIT REQUIREMENTS

The audit shall be made in accordance with generally accepted auditing standards and shall include a review of the accounting system, the internal accounting control and procedures for safeguarding securities including appropriate tests thereof for the period since the prior examination date. It shall include all procedures necessary under the circumstances to substantiate the assets and liabilities and securities and commodities positions as of the date of the responses to the financial questionnaire and to permit the expression of an opinion by the independent public accountant as to the financial condition of the respondent at that date. Based upon such audit, the accountant shall comment upon any material inadequacies found to exist in: (a) The accounting system; (b) the internal accounting control; (c) procedures for safeguarding securities; (d) the practices and procedures employed in complying with Rule 17a–13 (§ 240.17a–13) and in the resolution of securities differences; and shall indicate any corrective action taken or proposed.

(9) Review the practices and procedures employed for the making of the securities examinations, counts, verifications, comparisons, and the recordation of differences required by Rule 17a–13 (§ 240.17a–13) and the methods employed in the resolution of the differences uncovered.

As amended, subparagraphs (4) and (5) of § 240.17a–3(a) will read as follows:

§ 240.17a–3 Records to be made by certain exchange members, brokers, and dealers.

(a) • • •

(4) Ledgers (or other records) reflecting the following:

• • • • • •

(vi) All long and all short stock record differences arising from the examination, count, verification, and comparison pursuant to §§ 240.17a–3 and 240.17a–5 of this chapter (by date of examination, count, verification, and comparison showing for each security the number of long and short count differences),

(5) A securities record or ledger reflecting separately for each security as of the clearance dates all "long" or "short" positions (including securities in safekeeping) carried by such member, broker, or dealer for his account or for the account of his customers or partners and showing the location of all securities long and the offsetting position to all securities short, including long security count differences and short count differences classified by the date of the physical count and verification in which they were discovered, and in all cases the name or designation of the account in which each position is carried.

(Secs. 17(a), 23(a), 48 Stat. 897, 901, as amended, 49 Stat. 1379, secs. 4, 8, 52 Stat. 1076, sec. 5, 15 USC 78q, 78w)

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71–16086 Filed 11–3–71;8:49 am]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 230—ORGANIZATION OF THE GOVERNMENT FOR PERSONNEL MANAGEMENT

Agency Authority To Take Personnel Actions in a National Emergency

Subpart D of Part 230 is amended by adding a new § 230.402 to provide authority for agencies to make emergency-indefinite appointments. The new section, which is effective November 4, 1971, reads as follows:

§ 230.402 Agency authority to make emergency-indefinite appointments in a national emergency.

(a) *Basic authority.* In a national emergency, the Commission may authorize an agency to make emergency-indefinite appointments to continuing positions (normally those expected to last longer than a year) when it is not in the public interest to make career or career-conditional appointments. Except as provided by paragraphs (b) and (c) of this section, the agency shall make appointments under this authority from appropriate registers of eligibles as long as there are available eligibles.

(b) *Appointment outside the register.* Unless the Commission specifies otherwise, an agency authorized to make emergency-indefinite appointments under this section may make these appointments outside registers of eligibles without specific prior approval when all the following conditions are met:

(1) A number of vacancies must be filled immediately as a result of the conditions created by the national emergency;

(2) Either the number of vacancies to be filled exceeds the number of immediately available eligibles or emergency conditions do not allow sufficient time to make this determination; and

(3) Available eligibles on registers are given prior or concurrent consideration for appointment to the extent possible within emergency time considerations.

(c) *Appointment noncompetitively.* An agency authorized to make emergency-indefinite appointments under this section may give the following classes of persons emergency-indefinite appointments without regard to civil service registers and the provisions in § 333.102 of this chapter:

(1) Persons who were recruited on a standby basis prior to the national emergency in accordance with applicable requirements of the Commission;

(2) Members of the National Defense Executive Reserve, designated in accordance with section 710(e) of the Defense Production Act of 1950, Executive Order 11179 of September 22, 1964, and implementing instructions of the Office of Emergency Preparedness; and

(3) Former Federal employees eligible for reinstatement.

(d) *Tenure of emergency-indefinite employees.* (1) An emergency-indefinite employee does not acquire a competitive status on the basis of his emergency-indefinite appointment.

(2) An emergency-indefinite appointment may be continued for the duration of the emergency for which authorized unless the Commission orders its termination earlier.

(e) *Trial period.* (1) The first year of service of an emergency-indefinite employee is a trial period.

(2) The agency may terminate the appointment of an emergency-indefinite employee at any time during the trial period. The employee is entitled to the procedures set forth in § 315.804 or § 315.805 of this chapter as appropriate.

(f) *Eligibility for within-grade increases.* An emergency-indefinite employee serving in a position subject to the General Schedule is eligible for within-grade increases in accordance with Subpart D of Part 531 of this chapter.

(g) *Application of other regulations.* (1) The term "indefinite employee" as used in the following includes an emergency-indefinite employee: Section 316.801, Part 351, Part 353, Subpart G of Part 550, and Part 752 of this chapter.

(2) The selection procedures of Part 333 of this chapter apply to emergency-indefinite employees appointed outside the register under paragraph (b) of this section.

(3) Despite the provisions in § 831.201 (a)(11) of this chapter, an employee serving under an emergency-indefinite appointment under authority of this section is excluded from retirement coverage, except as provided in paragraph (b) of § 831.201 of this chapter.

(h) *Promotion, demotion, or reassignment.* (1) An agency may promote, demote, or reassign an emergency-indefinite employee to any position to which the Commission has authorized it to make emergency-indefinite appointments.

(5 U.S.C. 1302, 3301, 3302, E.O. 10577; 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71–16225 Filed 11–3–71;9:58 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[Docket No. 71–598]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, the reference to the State of Texas in the introductory portion of paragraphs (e) and (e)(1) relating to the State of Texas are deleted, and paragraph (f) is amended by adding thereto the name of the State of Texas.

(Secs. 4–7, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791–792, as amended, secs. 1–4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 112, 113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f, 29 F.R. 16210, as amended)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment excludes portions of Tom Green County in Texas from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 will apply to the excluded areas. No areas in Texas remain under the quarantine.

The amendment adds Texas to the list of hog cholera eradication States in § 76.2(f), and the special provisions pertaining to the interstate movement of swine and swine products from or to such eradication States are applicable to Texas.

Insofar as the amendment relieves certain restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera, it must be made effective immediately to be of maximum benefit to affected persons. Insofar as it imposes restrictions it should be made effective promptly in order to prevent the spread of hog cholera. It does not appear that public participation in this rule making proceeding would make additional relevant information available to this Department. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 29th day of October 1971.

F. J. MULHERN,
Acting Administrator,
Agricultural Research Service.

[FR Doc.71–16076 Filed 11–3–71;8:48 am]

[Docket No. 71–599]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to the provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act

of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, paragraph (f) is amended by adding thereto the name of the State of Indiana.

2. In § 76.2, the reference to the State of Connecticut in paragraph (f) is deleted, and paragraph (g) is amended by adding thereto the name of the State of Connecticut.

(Secs. 4–7, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791–792, as amended, secs. 1–4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 112, 113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments add Indiana to the list of hog cholera eradication States in § 76.2(f), and the special provisions pertaining to the interstate movement of swine and swine products from or to such eradication States are applicable to Indiana.

The amendments delete Connecticut from the list of hog cholera eradication States in § 76.2(f), and the special provisions pertaining to the interstate movement of swine and swine products from or to such eradication States are no longer applicable to Connecticut. Further, the amendments add Connecticut to the list of hog cholera free States in § 76.2(g), and the special provisions pertaining to the interstate movement of swine and swine products from or to such free States are applicable to Connecticut.

Insofar as the amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera, they must be made effective immediately to accomplish their purpose in the public interest. Insofar as they relieve restrictions, they should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to this Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 29th day of October 1971.

F. J. MULHERN,
Acting Administrator,
Agricultural Research Service.

[FR Doc.71-16153 Filed 11-3-71;8:54 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 71-SO-147]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On September 21, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 18751), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Auburn, Ala., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 6, 1972, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the Auburn, Ala., transition area is amended to read:

AUBURN, ALA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Auburn-Opelika Airport (lat. 32°27'00" N., long. 85°26'00" W.); within 2 miles each side of the extended centerline of runway 18/36, extending from the 5-mile radius area to 6 miles N. of the runway end; within 5 miles each side of Tuskegee VORTAC 056° radial, extending from the 5-mile radius area to the VORTAC; within 5 miles each side of Columbus VORTAC 270° radial, extending from the 5-mile radius area to 11.5 miles W. of the VORTAC; excluding the portion that coincides with the Columbus, Ga., transition area.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); secs. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on October 27, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71-16107 Filed 11-3-71;8:52 am]

[Airspace Docket No. 71-RM-24]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the description of the Denver, Colo., transition area.

The Federal Aviation Administration plans to convert the Hugo VOR to a VORTAC to permit use of this navaid by TACAN-only equipped aircraft and to provide DME capability for air traffic control purposes. A study conducted on the conversion of the Hugo VOR facility to a VORTAC revealed that relocation of this facility closer to an available three-phase power supply would substantially reduce initial and recurring costs for converting and operating this navaid as a VORTAC. Therefore, the agency plans to relocate the Hugo facility approximately 12 miles west-southwest of the existing site on December 9, 1971. The relocation of Hugo VOR requires an amendment to the description of the Denver, Colo., transition area.

Since this amendment is minor in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary.

In consideration of the foregoing in § 71.181 (36 F.R. 2140), the description of the Denver, Colo., transition area is amended in part as follows:

In the text of the 7,500-foot portion of the transition area delete * * * "on the south by latitude 39°05'00" N." * * * and substitute * * * "on the south by the east edge of V263 and latitude 39°05'00" N."

Effective date. This amendment shall be effective 0901 G.m.t., December 9, 1971.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Aurora, Colo., on October 27, 1971.

M. M. MARTIN,
Director, Rocky Mountain Region.

[FR Doc.71-16105 Filed 11-3-71;8:52 am]

[Airspace Docket No. 71-SO-146]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On September 21, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 18751), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation regulations that would designate the Haleyville, Ala., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation regulations is amended, effective 0901 G.m.t., January 6, 1972, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the following transition area is added:

HALEYVILLE, ALA.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Haleyville Municipal Airport (lat. 34°16'40" N., long. 87°36'05" W.); within 5 miles each side of Hamilton VORTAC 077° radial, extending from the 5.5-mile radius area to 11.5 miles E. of the VORTAC.

(Sec. 307(a) of the Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on October 27, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71-16106 Filed 11-3-71;8:52 am]

[Docket No. 11478; Amdt. 103-10]

PART 103—TRANSPORTATION OF DANGEROUS ARTICLES AND MAGNETIZED MATERIALS

Transportation of Fusees

On April 22, 1970, the Hazardous Materials Regulations Board published a notice of proposed rule making, Docket No. HM-46; Notice 70-7 (35 F.R. 6439) proposing to reclassify railway and highway fusees from Explosive C to the Flammable solid classification. By a separate document published at page 21201 of this issue, the Hazardous Materials Regulations Board issued an amendment to the Department's Hazardous Materials Regulations contained in Title 49 of the Code of Federal Regulations. For the reason stated in the document, a change is being made in Part 103 of the Federal Aviation Regulations.

In consideration of the foregoing, 14 CFR Part 103 is amended as follows:

In § 103.7, paragraph (b)(7) is added, as follows:

§ 103.7 Passenger-carrying aircraft.

* * * * * * *

(b) * * *

(7) Fusees (railway and highway), with a net weight of not more than 50 pounds in each outside container.

(Title VI and sec. 902(h), Federal Aviation Act of 1958, 49 U.S.C. 1421–1430, 1472(h))

This amendment is effective December 31, 1971.

Issued in Washington, D.C., on October 29, 1971.

JAMES F. RUDOLPH,
Board Member for the
Federal Aviation Administration.

[FR Doc.71-16135 Filed 11-3-71;8:53 am]

[Docket No. 9938; Amdt. 103-9]

PART 103—TRANSPORTATION OF DANGEROUS ARTICLES AND MAGNETIZED MATERIALS

Reports of Incidents Involving Radioactive Materials

The purpose of this amendment to Part 103 of the Federal Aviation Administration's regulations is to make reporting requirements for incidents involving radioactive materials consistent with reporting requirements applicable to other hazardous materials.

This amendment is based on a notice of proposed rule making, Docket No. 9936; Notice No. 71-19, published in the FEDERAL REGISTER on July 9, 1971 (36 F.R. 12913). That notice was issued concurrently with a notice issued by the Hazardous Materials Regulations Board. The Board's evaluation of the comments received is discussed in detail in the document published on page 21200 of this issue. For the reasons stated therein, the Federal Aviation Administration has decided to amend Part 103 of the Federal Aviation Administration regulations.

It should be emphasized that the reporting requirements for radioactive materials transportation incidents as established by the Board in this amendment are in no way intended to replace or impair the existing national system for obtaining emergency radiological assistance in the event of incidents involving radioactive materials. That system, which is intended to provide response capabilities for radiological monitoring in emergencies, is administered by the U.S. Atomic Energy Commission and supported by the capabilities of other Federal and State organizations. Further information on that system may be obtained from the U.S. Atomic Energy Commission, Division of Operational Safety, Washington, D.C. 20545.

In consideration of the foregoing, 14 CFR Part 103 is amended as follows:

(A) In § 103.23, paragraph (b) is amended to read as follows:

§ 103.23 Special requirements for radioactive materials.

* * * * * * *

(b) In addition to the reporting requirements of § 103.28, the carrier must also notify the shipper at the earliest practicable moment following any incident in which there has been breakage, spillage, or suspected radioactive contamination involving radioactive materials shipments. Aircraft in which radioactive materials have been spilled may not be again placed in service or routinely occupied until the radiation dose rate at any accessible surface is less than 0.5 millirem per hour and there is no significant removable radioactive surface contamination (see 49 CFR 173.397). In these instances, the package or materials should be segregated as far as practicable from personnel contact. If radiological advice or assistance is needed, the U.S. Atomic Energy Commission should also be notified. In case of obvious leakage, or if it appears likely that the inside container may have been damaged care should be taken to avoid inhalation, ingestion, or contact with the radioactive materials. Any loose radioactive materials should be left in a segregated area pending disposal instructions from qualified persons.

(B) In § 103.28, paragraph (a)(5) is added to read as follows:

§ 103.28 Reporting certain dangerous article incidents.

(a) * * *

(5) Fire, breakage, or spillage or suspected radioactive contamination occurs involving shipment of radioactive materials (see also § 103.23(b)).

* * * * * * *

(Title VI and sec. 902(h), Federal Aviation Act of 1958, 49 U.S.C. 1421–1430 and 1472(h))

This amendment is effective December 31, 1971.

Issued in Washington, D.C., on October 29, 1971.

JAMES F. RUDOLPH,
Board member for the
Federal Aviation Administration.

[FR Doc.71-16134 Filed 11-3-71;8:53 am]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Rev. 10, Amdt. 10]

PART 121—SMALL BUSINESS SIZE STANDARDS

Size Standards Policy

Section 121.3–1 of Part 121, of Chapter I of Title 13 of the Code of Federal Regulations is hereby amended by:

1. Renumbering paragraphs (b) (2), (3), and (4) respectively as (b) (3), (4), and (5), and

2. Inserting new paragraph (b)(2) to read as follows:

§ 121.3–1 Purpose and method of establishing size standards.

* * * * * * *

(b) *Method of establishing size standards.* * * *

(2) *Size standards policy.* (i) The fundamental purpose of Small Business Administration assistance is to preserve free competitive enterprise by strengthening the competitive position of small business concerns.

(ii) It is the Small Business Administration's view that, in the absence of proof to the contrary, there is a segment of each industry wherein concerns by reason of their small size are at a competitive disadvantage. Therefore, the definition of small business for each industry should be limited to that segment of the industry struggling to become or remain competitive.

(iii) Smaller concerns often are forced to compete with middle-sized as compared with very large concerns. In consideration of this fact, the standard for each industry should be established as low as reasonably possible. It should be lowered in any case where the SBA determines that a few concerns under the size standard umbrella have, because of their size, gained undue competitive strength as compared with other concerns under the umbrella.

(iv) It is the Small Business Administration's view that concerns which, with or without assistance under the Small Business Act, have grown to a size which exceeds the applicable small business size standard, should compete for

Government contracts not reserved for small business concerns or should seek commercial markets in the same or related fields. Under such circumstances small business concerns should not rely on continuing assistance under the Small Business Act from the cradle to the grave, but should plan for the day on which they become other than small business and should be able to compete without assistance.

• • • • •

Effective date. This amendment shall become effective on publication in the FEDERAL REGISTER (11-4-71).

Dated: October 27, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-16077 Filed 11-3-71;8:48 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

USE OF ANTIBIOTIC DRUGS IN ANIMALS

In the FEDERAL REGISTER of April 9, 1969 (34 F.R. 6284), the Commissioner of Food and Drugs proposed (1) certain new food additive regulations for certifiable oral antibiotic drugs intended for use in food-producing animals, (2) certain amendments to the antibiotic drug regulations to provide that those antibiotics which were not covered by existing or proposed food additive regulations would not be eligible for certification when intended for use in animals raised for food production, and (3) the revocation of exemptions from certification for antibiotic drugs intended for such use.

The basis upon which such action was proposed is contained in a statement of policy, § 3.25 *Antibiotics used in food-producing animals*, published April 11, 1968 (33 F.R. 5616), which stated that (1) all such products are food additives and accordingly may be used only when provided for by an appropriate food additive regulation (subsequently the Animal Drug Amendments of 1968 redefined such substances as new animal drugs under the provisions of section 512 of the Federal Food, Drug, and Cosmetic Act), and (2) that antibiotic preparations, other than those for topical or ophthalmic use, intended for use in food-producing animals and which are not covered by appropriate regulations will be subject to regulatory action within 180 days after publication of the contemplated final orders.

The comments received in response to the proposal have been evaluated, as follows:

1. A request that soluble forms of bacitracin should be included in the new animal drug regulations to provide for their continued use in drinking water was supported by the submission of data and labeling for such products. The Commissioner has concluded that the data is adequate to insure that edible products from treated animals are safe for human consumption.

2. It was requested that the 21-day limitation on the administration of tetracycline in the drinking water of swine be deleted. An evaluation of available data establishes that the 21-day restriction is not required since longer administration of the drug by this route would not result in increased tissue residues.

3. It was requested that the administration of tetracycline boluses to calves and sheep be permitted in two divided daily doses rather than in four, as proposed. The Commissioner concludes that administration of two divided daily doses should be permitted.

4. It was requested that tolerances for residues of tetracycline in edible tissues of animals be established at the same levels as those for chlortetracycline. The Commissioner has concluded that sufficient data are not available to provide for other than negligible residues of tetracycline.

5. It was requested that a prescription not be required for the use of tetracycline boluses in calves. The Commissioner concludes that, when more than 10 days is required to deplete the tissues of tetracycline drug residues, such drugs should be available only on a prescription basis.

6. It was requested that the withdrawal period for soluble tetracycline in poultry be reduced from 4 to 2 days. An evaluation of the available data shows that at 3 days residues remain in some edible products; however, at 4 days no residues were shown. Therefore, the 4-day withdrawal period is retained.

7. It was requested that tetracycline hydrochloride be restricted only from use in chickens producing eggs for food purposes instead of from use in all laying chickens, as proposed. The Commissioner concludes that the data are adequate to substantiate this request.

8. There was opposition to the provisions deleting the exemptions from certification for antibiotic drugs intended for use in animals raised for food production. The Commissioner has considered these comments and has concluded that certification should be required for these drugs in order to permit determination of their safety and efficacy as related to their compliance with the required labeling and standards of identity, strength, quality, and purity. The Commissioner has concluded that a period of 90 days should be provided to permit the preparation and submission of appropriate applications under the provisions of section 512(b) of the act. He further concludes that such drugs would become subject to certification 180 days after publication of this order in the FEDERAL REGISTER. Certification would be an interim measure following which exemptions may be granted on an individual basis under section 512(n)(2) of the act.

The claims provided for the preparations described below are on the basis of prior use and may be subject to change upon a determination of their effectiveness by the National Academy of Sciences-National Research Council, Drug Efficacy Study Group.

The Commissioner concludes, on the basis of all the information available to him, that the proposed amendments should be promulgated incorporating the various changes indicated by his above-stated conclusions.

A. Accordingly, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135c and 135g are amended, as follows:

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

1. In § 135c.2(e) by adding new items 7, 8, and 9 to table 1 and by adding a new table 3 consisting of one item, as follows:

§ 135c.2 Chlortetracycline.

• • • • •

(e) • • •

TABLE 1—IN DRINKING WATER

	Milligrams per gallon	Limitations	Indications for use
• • •	• • •	• • •	• • •
7. Chlortetracycline.	100-200	For swine; as chlortetracycline hydrochlorides; administer for not more than 45 days; do not slaughter animals for food within 24 hours of treatment; prepare a fresh solution daily; as sole source of chlortetracycline.	As an aid in prevention of bacterial enteritis.
8. Chlortetracycline.	200-400	do	As an aid in prevention of bacterial pneumonia; for treatment of bacterial enteritis.
9. Chlortetracycline.	400-800	For swine; as chlortetracycline hydrochlorides; administer for not more than 24 days; do not slaughter animals for food within 24 hours of treatment; prepare a fresh solution daily; as sole source of chlortetracycline.	For treatment of bacterial pneumonia.

• • • • • • •

TABLE 3—FOR MISCELLANEOUS USE

Principal ingredient	Amount	Limitations	Indications for use
1. Chlortetracycline.	2 mg. per lb. body weight.	For calves; as chlortetracycline hydrochlorides; as a drench administer 2 mg. per lb. body weight per day for not more than 5 days; do not slaughter animals for food within 5 days of treatment; prepare a fresh solution daily; as sole source of chlortetracycline.	For treatment of bacterial pneumonia, bacterial diarrhea, and shipping fever.

2. By adding the following new sections to Part 135c:

§ 135c.34 Tetracycline oral veterinary.

(a) *Specifications.* Tetracycline is each of the several antibiotic substances produced by hydrogenation of chlortetracycline, and each of the same substances produced by any other means is a kind of tetracycline.

(b) *Sponsor.* See codes Nos. 042 in § 135.501(c) of this chapter.

(c) *Special considerations.* Antibiotic activities authorized are expressed in this section in terms of the weight of the appropriate antibiotic standard.

(d) *Related tolerances.* See § 135g.72 of this chapter.

(e) *Conditions of use.* It is used as follows:

TABLE 1—IN A SOLUBLE POWDER

	Amount	Limitations	Indications for use
1. Tetracycline	*Mg. per day* 32	For newborn pigs; as tetracycline hydrochloride in water or milk; administer for not more than 3 days; do not slaughter animals for food purposes within 4 days of treatment; prepare a fresh solution daily; as sole source of tetracycline.	For treatment of bacterial enteritis and bacterial pneumonia.
2. Tetracycline	*Mg. per gal.* 100-200	For swine; as tetracycline hydrochloride in feed or drinking water; do not slaughter animals for food purposes within 5 days of treatment; prepare a fresh solution daily; as sole source of tetracycline.	As an aid in prevention of bacterial enteritis.
3. Tetracycline	200-400	do	As an aid in prevention of bacterial pneumonia; for treatment of bacterial enteritis.
4. Tetracycline	400	do	For treatment of bacterial pneumonia.
5. Tetracycline	100-200	For calves; as tetracycline hydrochloride in drinking water; administer for not more than 5 days; do not slaughter animals for food purposes within 5 days of treatment; prepare a fresh solution daily; as sole source of tetracycline.	As an aid in prevention of bacterial diarrhea, bacterial pneumonia, and shipping fever (hemorrhagic septicemia).
6. Tetracycline	200-400	For calves; as tetracycline hydrochloride in drinking water; administer for not more than 5 days; do not slaughter animals for food purposes within 5 days of treatment; prepare fresh solution daily; as sole source of tetracycline.	For treatment of bacterial diarrhea, bacterial pneumonia, and shipping fever (hemorrhagic septicemia).
7. Tetracycline	100-200	For turkeys and chickens; as tetracycline hydrochlorides in drinking water; administer for not more than 21 days; do not slaughter birds for food within 4 days of treatment; not for use in chickens and turkeys producing eggs for human consumption; prepare fresh solution daily; as sole source of tetracycline.	As an aid in prevention of chronic respiratory disease (air-sac infection), beramitiasis, blue comb (nonspecific enteritis), infectious sinusitis, and synovitis.
8. Tetracycline	200-400	do	For treatment of chronic respiratory disease (air-sac infection), beramitiasis, blue comb (nonspecific enteritis), infectious sinusitis, and synovitis.

TABLE 2—IN BOLUSES

Milligrams per bolus	Limitations	Indications for use
1. Tetracycline..... 500	For calves; as tetracycline hydrochloride; administer orally 10 mg. per lb. of body weight per day for not more than 5 days; do not slaughter animals for food within 12 days of treatment; as sole source of tetracycline; for use by or on the order of a licensed veterinarian.	For treatment of pneumonia, shipping fever, and pneumoenteritis.
2. Tetracycline..... 500	For sheep; as tetracycline hydrochlorides; administer orally 10 mg. of body weight per day divided into two daily doses for not more than 4 days; do not slaughter animals for food within 5 days of treatment; as sole source of tetracycline.	For treatment of pneumonia, shipping fever, and enteritis complex; and bacterial enteritis (scours).

§ 135c.35 Bacitracin oral veterinary.

(a) *Specifications.* Bacitracin is the antibiotic substance produced by growth of *Bacillus subtilis var. Tracy* or the same antibiotic substance produced by other means, and for the purpose of this section refers to bacitracin or feed grade bacitracin.

(b) *Sponsor.* See code No. 042 in § 135.501(c) of this chapter.

(c) *Special considerations.* Antibiotic activities authorized are expressed in this section in terms of the weight of the appropriate antibiotic standard.

(d) *Related tolerances.* See § 135c.4 of this chapter.

(e) *Conditions of use.* It is used as follows:

IN DRINKING WATER

	Amount	Limitations	Indications for use
1. Bacitracin.....	*Mg. per gal.* 100-200	For chickens; prepare a fresh solution daily.....	Prevention of chronic respiratory disease (air-sac infection); blue comb (nonspecific infections enteritis).
2. Bacitracin.....	100-200	For turkeys; prepare a fresh solution daily.....	Prevention of infections sinusitis; blue comb (mud fever).
3. Bacitracin.....	200-1000	For chickens; prepare a fresh solution daily.....	Therapy for chronic respiratory disease (air-sac infection); blue comb (nonspecific infections enteritis).
4. Bacitracin.....	200-1000	For turkeys; prepare a fresh solution daily.....	Treatment of infectious sinusitis; blue comb (mud fever).
5. Bacitracin.....	100-200	For swine; prepare a fresh solution daily.....	Aid in prevention of bacterial swine enteritis (scours).
6. Bacitracin.....	200	.....do.....	Treatment of bacterial swine enteritis (scours).

§ 135c.36 Zinc bacitracin oral veterinary.

(a) *Specifications.* Zinc bacitracin is the zinc salt of the antibiotic substance produced by growth of *Bacillus subtilis var. Tracy* or the same antibiotic substance produced by any other means, and for the purposes of this section refers to zinc bacitracin or feed grade zinc bacitracin.

(b) *Sponsor.* See code No. 009 in § 135.501(c) of this chapter.

(c) *Special considerations.* Quantities of zinc bacitracin expressed in paragraph (e) of this section refer to the weight of an appropriate antibiotic standard.

(d) *Related tolerances.* See § 135g.4 of this chapter.

(e) *Conditions of use.* It is used as follows:

IN DRINKING WATER

	Milligrams per gallon	Limitations	Indications for use
1. Zinc bacitracin..	100–200	For chickens; prepare a fresh solution daily.....	Prevention of chronic respiratory disease (air-sac infection); blue comb (nonspecific infectious enteritis).
2. Zinc bacitracin..	100–200	For turkeys; prepare a fresh solution daily.....	Prevention of infectious sinusitis; blue comb (mud fever).
3. Zinc bacitracin..	200–1000	For chickens; prepare a fresh solution daily.....	Treatment of chronic respiratory disease (air-sac infection); blue comb (nonspecific infectious enteritis).
4. Zinc bacitracin..	200–1000	For turkeys; prepare a fresh solution daily.....	Treatment of infectious sinusitis; blue comb (mud fever).
5. Zinc bacitracin..	100–200	For swine; prepare a fresh solution daily.....	Aid in prevention of bacterial swine enteritis (scours).
6. Zinc bacitracin..	200	....do.....	Treatment of bacterial swine enteritis (scours).

§ 135c.37 Bacitracin methylene disalicylate oral veterinary.

(a) *Specifications.* Bacitracin methylene disalicylate is the methylene disalicylate salt of the antibiotic substance produced by growth of *Bacillus subtilis var. Tracy* or the same antibiotic substance produced by any other means and, for the purposes of this section, refers to bacitracin methylene disalicylate or feed grade bacitracin methylene disalicylate.

(b) *Sponsor.* See code No. 028 in § 135.501(c) of this chapter.

(c) *Special considerations.* Antibiotic activities authorized in paragraph (e) of this section are expressed in terms of the weight of the appropriate antibiotic standard.

(d) *Related tolerances.* See § 135g.4 of this chapter.

(e) *Conditions of use.* It is used as follows:

IN DRINKING WATER

	Milligrams per gallon	Limitations	Indications for use
1. Bacitracin methylene disalicylate.	100–200	For chickens; prepare a fresh solution daily.....	Prevention of chronic respiratory disease (air-sac infection); blue comb (nonspecific infectious enteritis).
2. Bacitracin methylene disalicylate.	100–200	For turkeys; prepare a fresh solution daily.....	Prevention of infectious sinusitis; blue comb (mud fever).
3. Bacitracin methylene disalicylate.	200–400	For chickens; prepared a fresh solution daily....	Treatment of chronic respiratory disease (air-sac infection); blue comb (nonspecific infectious enteritis).
4. Bacitracin methylene disalicylate.	200–400	For turkeys; prepare a fresh solution daily.....	Treatment of infectious sinusitis; blue comb (mud fever).
5. Bacitracin methylene disalicylate.	100–200	For swine; prepare a fresh solution daily.....	Aid in prevention of bacterial swine enteritis (scours).
6. Bacitracin methylene disalicylate.	200	....do.....	Treatment of bacterial swine enteritis (scours).

PART 135g—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

3. By adding the following new section to Part 135g:

§ 135g.72 Tetracycline.

A tolerance of 0.25 part per million is established for negligible residues of tetracycline in uncooked edible tissues of calves, swine, sheep, chickens, and turkeys.

B. Pursuant to provisions of the act (sec. 512(n), 82 Stat. 350–51; 21 U.S.C. 360b(n)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 146c, 146d, and 146e are amended, as follows:

PART 146c—CERTIFICATION OF CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-) CONTAINING DRUGS

1. By revising § 146c.204(c)(2) to read as follows:

§ 146c.204 Chlortetracycline hydrochloride capsules; tetracycline hydrochloride capsules; tetracycline capsules; tetracycline phosphate complex capsules.

(c) • • •

(2) *It is packaged for dispensing and intended solely for veterinary use.* Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph, except that in lieu of the statement, "Caution: Federal law prohibits dispensing without prescription," each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity and the statement, "Warning: Not for use in animals which are raised for food production."

• • • • • •

2. In § 146c.205 by deleting paragraph (f) and revising paragraph (c)(2) to read as follows:

§ 146c.205 Chlortetracycline powder (chlortetracycline hydrochloride powder); tetracycline hydrochloride powder; tetracycline powder.

• • • • • •

(c) • • •

(2) *It is packaged for dispensing and intended solely for veterinary use.* (i) Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph, except that in lieu of the statement, "Caution: Federal law prohibits dispensing without prescription," each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity.

(ii) If it is intended for use in animals raised for food production, it shall also be labeled in accordance with the requirements of regulations in Parts 121 and 135c of this chapter.

• • • • • •

(f) [Deleted]

3. By revising § 146c.207(a) to read as follows:

§ 146c.207 Chlortetracycline hydrochloride tablets; tetracycline hydrochloride tablets; tetracycline tablets.

(a) Chlortetracycline hydrochloride tablets, tetracycline hydrochloride tablets, and tetracycline tablets are tablets that conform to all requirements and are subject to all procedures prescribed by § 146c.204 for chlortetracycline hydrochloride capsules, tetracycline hydrochloride capsules, and tetracycline capsules, except that:

(1) The average moisture content of the tablets is not more than 3 percent, unless the person who requests certification has submitted to the Commissioner information adequate to prove that his drug is stable when it has a moisture content not exceeding 6 percent.

(2) In addition to the requirements prescribed by § 146c.204, tablets not exceeding 15 millimeters in diameter, or not intended only for use in preparing solutions, shall disintegrate within 1 hour. A person who requests certification shall therefore also submit for disintegration-time studies, results of this test made by him and a sample of six tablets.

(3) If it is intended for use in animals raised for food production, it shall be labeled in accordance with the requirements of regulations in Part 135c of this chapter.

• • • • • •

4. By revising § 146c.211(c)(2) to read as follows:

§ 146c.211 Chlortetracycline surgical powder (chlortetracycline hydrochloride surgical powder); tetracycline hydrochloride surgical powder.

• • • • • •

(c) • • •

(2) *It is packed for dispensing and intended solely for veterinary use.* Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph, except that in lieu of the statement, "Caution: Federal Law prohibits dispensing without prescription," each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity and, if it is intended for other than topical use, the statements, "Warning: Not for use in animals which are raised for food production."

• • • • • •

5. By revising § 146c.212(c)(2) to read as follows:

§ 146c.212 Chlortetracycline suppositories (chlortetracycline hydrochloride suppositories); tetracycline hydrochloride suppositories.

• • • • • •

(c) • • •

(2) *It is packaged for dispensing and intended solely for veterinary use.* Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph, except that in lieu of the statement, "Caution: Federal law prohibits dispensing without prescription," each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity and the statement, "Warning: Not for use in animals which are raised for food production."

• • • • • •

6. By revising § 146c.215(c)(2) to read as follows:

§ 146c.215 Chlortetracycline with vasoconstrictor (chlortetracycline hydrochloride with vasoconstrictor); chlortetracycline with ---------- (chlortetracycline hydrochloride with ----------) (the blank being filled in with the established name of the vasoconstrictor).

• • • • • •

(c) • • •

(2) *It is packaged for dispensing and intended solely for veterinary use.* Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph, except that in lieu of the statement, "Caution: Federal law prohibits dispensing without prescription," each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity and the statement, "Warning: Not for use in animals which are raised for food production."

• • • • • •

7. By revising § 146c.217(c)(2) to read as follows:

§ 146c.217 Chlortetracycline calcium syrup (chlortetracycline calcium oral drops); tetracycline syrup (tetracycline oral drops); tetracycline magnesium syrup (tetracycline magnesium oral drops).

• • • • • •

(c) • • •

(2) *It is packaged for dispensing and intended solely for veterinary use.* Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph, except that in lieu of the statement, "Caution: Federal law prohibits dispensing without prescription," each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity and the statement, "Warning: Not for use in animals which are raised for food production."

• • • • • •

8. In § 146c.219 by deleting paragraph (f) and by revising paragraphs (a) and (c)(2) to read as follows:

§ 146c.219 Crude chlortetracycline oral veterinary.

(a) *Standards of identity, strength, quality, and purity.* Crude chlortetracycline oral veterinary is crude chlortetracycline with suitable and harmless diluents, with or without buffer substances and suspending and dispersing agents (and with or without one or more essential vitamins and mineral substances for nutritive purposes). It contains not less than 2 grams of chlortetracycline activity per pound, except it shall contain 100 grams of chlortetracycline activity per pound if it is intended for use in the treatment of psittacosis in psittacine birds (parrots, macaws, and cockatoos). Its moisture content is not more than 6 percent.

• • • • • •

(c) • • •

(2) On the circular or other labeling within or attached to the package:

(i) Adequate directions and warnings for the veterinary use of such drug by the laity.

(ii) If it is intended for use in animals raised for food production, labeling in accordance with the requirements of regulations in Parts 121 and 135c of this chapter.

• • • • • •

(f) [Deleted]

9. By revising § 146c.222(c)(2) to read as follows:

§ 146c.222 Tetracycline hydrochloride oral suspension (tetracycline hydrochloride homogenized mixture); tetracycline phosphate complex oral suspension (tetracycline phosphate complex oral drops); tetracycline hydrochloride oral solution; tetracycline calcium oral suspension; tetracycline oral suspension.

• • • • • •

(c) • • •

(2) *It is packaged for dispensing and intended solely for veterinary use.* Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph, except that in lieu of the statement, "Caution: Federal law prohibits dispensing without prescription," each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity and the statement, "Warning: Not for use in animals which are raised for food production."

• • • • • •

10. By revising § 146c.226(c)(2) to read as follows:

§ 146c.226 Tetracycline and vasoconstrictor suspension; tetracycline and ---------- (the blank being filled in with the established name of the vasoconstrictor) suspension.

• • • • • •

(c) • • •

(2) *It is packaged for dispensing and intended solely for veterinary use.* Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph, except that in lieu of the statement, "Caution: Federal law prohibits dispensing without prescription," each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity and the statement, "Warning: Not for use in animals which are raised for food production."

• • • • • •

11. By adding to § 146c.228 a new paragraph (b), as follows:

§ 146c.228 Chlortetracycline hydrochloride-neomycin tablets veterinary; tetracycline hydrochloride-neomycin tablets veterinary.

• • • • • •

(b) If it is intended for use in animals which are raised for food production, it shall also be labeled in accordance with the requirements of Part 135c of this chapter.

• • • • • •

12. By revising the introductory text of § 146c.236 to read as follows:

§ 146c.236 Tetracycline-nystatin for oral suspension.

Tetracycline-nystatin for oral suspension conforms to all requirements and procedures prescribed by § 146c.205 for tetracycline powder intended for use by man, except that:

• • • • • •

13. By revising § 146c.252(c)(2) to read as follows:

§ 146c.252 Capsules demeclocycline hydrochloride.

• • • • • •

(c) • • •

(2) *If it is packaged for dispensing and intended solely for veterinary use.* Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph, except that in lieu of the statement, "Caution: Federal law prohibits dispensing without prescription," each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity and the statement, "Warning: Not for use in animals which are raised for food production."

* * * * *

14. In § 146c.265(c) by deleting subparagraph (1)(iv) and by adding a new subparagraph (2), as follows:

§ 146c.265 Chlortetracycline bisulfate soluble powder veterinary.

* * * * *

(c) * * *
(1) * * *
(iv) [Deleted]

* * * * *

(2) On the circular or other labeling within or attached to the package:

(i) Adequate directions and warnings for the veterinary use of such drug by the laity.

(ii) If it is intended for use in animals raised for food production, labeling in accordance with the requirements of regulations in Part 135c of this chapter.

* * * * *

PART 146d—CERTIFICATION OF CHLORAMPHENICOL AND CHLORAMPHENICOL - CONTAINING DRUGS

15. By revising § 146d.302(c)(2) to read as follows:

§ 146d.302 Chloramphenicol capsules.

* * * * *

(c) * * *

(2) *If it is intended solely for veterinary use.* Its label and labeling shall comply with all the requirements of subparagraph (1) of this paragraph except subdivisions (i)(a) and (ii), and in lieu of the statement, "Caution: Federal law prohibits dispensing without prescription," it shall be labeled in accordance with the requirements prescribed by § 1.106(c) of this chapter (regulations issued under section 502(f) of the act) and bear on its label and labeling the statement, "Warning: Not for use in animals which are raised for food production."

* * * * *

16. By revising § 146d.303(c)(2) to read as follows:

§ 146d.303 Chloramphenicol ointment (chloramphenicol cream).

* * * * *

(c) * * *

(2) *If it is intended solely for veterinary use.* Its label and labeling shall comply with all the requirements of subparagraph (1) of this paragraph, except that in lieu of the statement, "Caution: Federal law prohibits dispensing without prescription," it shall be labeled in accordance with requirements prescribed by § 1.106(c) of this chapter (regulations issued under section 502(f) of the act) and bear on its label and labeling the statement, "Warning: Not for use in animals which are raised for food production."

* * * * *

17. By revising § 146d.306(c)(2) to read as follows:

§ 146d.306 Chloramphenicol palmitate and suspension.

* * * * *

(c) * * *

(2) *If it is intended solely for veterinary use.* Its label and labeling shall comply with all the requirements of subparagraph (1) of this paragraph, except subdivisions (i)(a) and (ii), and in lieu of the statement, "Caution: Federal law prohibits dispensing without prescription," it shall be labeled in accordance with the requirements prescribed by § 1.106(c) of this chapter (regulations issued under section 502(f) of the act) and bear on its label and labeling the statement, "Warning: Not for use in animals which are raised for food production."

* * * * *

18. By revising § 146d.308(c)(2) to read as follows:

§ 146d.308 Chloramphenicol otic; chloramphenicol topical.

* * * * *

(c) * * *

(2) *If it is intended solely for veterinary use.* Its label and labeling shall comply with all the requirements of subparagraph (1) of this paragraph, except that in lieu of the statement, "Caution: Federal law prohibits dispensing without prescription," each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity and the statement, "Warning: Not for use in animals which are raised for food production."

* * * * *

PART 146e—CERTIFICATION OF BACITRACIN AND BACITRACIN-CONTAINING DRUGS

19. By revising § 146e.403(c)(2) to read as follows:

§ 146e.403 Bacitracin tablets; zinc bacitracin tablets; bacitracin methylene disalicylate tablets; bacitracin suppositories; zinc bacitracin suppositories (if they are represented for vaginal use); bacitracin implantation pellets; zinc bacitracin implantation pellets (if they are represented for use by implanting under the skin of animals).

* * * * *

(c) * * *

(2) *It is packaged for dispensing and intended solely for veterinary use.* Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph, except that in lieu of the statement, "Caution: Federal law prohibits dispensing without prescription," each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity and the statement, "Warning: Not for use in animals which are raised for food production."

* * * * *

20. By revising § 146e.405(c)(2) to read as follows:

§ 146e.405 Bacitracin with vasoconstrictor; bacitracin with _____ (the blank being filled in with the established name of the vasoconstrictor).

* * * * *

(c) * * *

(2) *It is packaged for dispensing and intended solely for veterinary use.* Its label and labeling shall comply with all the requirements prescribed by subparagraph (1) of this paragraph except that in lieu of the statement, "Caution: Federal law prohibits dispensing without prescription," each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity and the statement, "Warning: Not for use in animals which are raised for food production."

* * * * *

21. By revising § 146e.416(c)(2) to read as follows:

§ 146e.416 Bacitracin methylene disalicylate.

(c) * * *

(2) On the circular or other labeling within or attached to the package:

(i) Adequate directions and warnings for the veterinary use of the drug by the laity.

(ii) If it is intended for use in animals raised for food production, labeling in accordance with the requirements of regulations in Parts 121 and 135c of this chapter.

* * * * *

22. In § 146e.417(c)(1) by redesignating subdivision (v) as (vi) and adding a new subdivision (v), as follows:

§ 146e.417 Powder bacitracin methylene disalicylate and streptomycin sulfate oral veterinary.

* * * * *

(c) * * *
(1) * * *

(v) The statement, "Warning: Not for use in animals which are raised for food production".

(vi) If it contains adsorbent ingredients, the name of each.

* * * * *

23. In § 146e.423 by deleting paragraph (c) and by revising paragraph (b) to read as follows:

§ 146e.423 Soluble bacitracin methylene disalicylate.

* * * * *

(b) *Packaging; labeling; requests for certification, samples.* Soluble bacitracin methylene disalicylate conforms to all requirements and procedures prescribed for bacitracin methylene disalicylate by § 146e.416 (b), (c), and (d), except that the person who requests certification of a batch shall submit with his request (unless previously submitted) a sample consisting of five immediate containers, each containing approximately 5 grams, of the bacitracin methylene disalicylate used in making the batch.

(c) [Deleted]

24. In § 146e.425 by deleting paragraph (f) and by adding to paragraph (c)(1) a new subdivision, as follows:

§ 146e.425 Bacitracin powder.

* * * * *

(c) * * *
(1) * * *

(v) If it is intended for use in animals raised for food production, it shall be labeled in accordance with the requirements of regulations in Parts 121 and 135c of this chapter.

* * * * *

(f) [Deleted]

25. By revising § 146e.427(b) to read as follows:

§ 146e.427 Feed grade bacitracin powder oral veterinary (crude bacitracin powder oral veterinary, unrefined bacitracin powder oral veterinary); feed grade zinc bacitracin powder oral veterinary (crude zinc bacitracin powder oral veterinary, unrefined zinc bacitracin powder oral veterinary).

* * * * *

(b) *Packaging; labeling; requests for certification, samples.* Feed grade bacitracin powder oral veterinary and feed grade zinc bacitracin powder oral veterinary conform to all requirements and procedures prescribed for bacitracin powder by § 146e.425 (b), (c), and (d), except that an expiration date of 24 months or 36 months may be used if the manufacturer has submitted to the Commissioner results of tests and assays showing that, after having been stored for such period of time, such drug as prepared by him complies with the standards prescribed by paragraph (a) of this section.

26. By revising § 146e.431(b) to read as follows:

§ 146e.431 Feed grade manganese bacitracin powder oral veterinary.

* * * * *

(b) *Packaging; labeling; requests for certification, samples.* Feed grade manganese bacitracin powder oral veterinary conforms to all requirements and procedures prescribed for feed grade zinc bacitracin powder oral veterinary by § 146e.427(b), except:

(1) Its expiration date shall be 12 months.

(2) Its labeling is such that, when the drug is mixed with animal feed according to the directions contained therein, such medicated feed complies with the requirements of § 144.24 of this chapter and the requirements of regulations in Part 121 of this chapter.

Effective date. This order shall be effective 30 days after its publication in the FEDERAL REGISTER.

(Sec. 512 (i), (n), 82 Stat. 347, 350–51; 21 U.S.C. 360b (i), (n))

Dated: October 19, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-15904 Filed 11-3-71;8:45 am]

Chapter III—Environmental Protection Agency

PART 420—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Mixture of 3,4,5-Trimethylphenyl Methylcarbamate and 2,3,5-Trimethylphenyl Methylcarbamate

A petition (PP 9F0843) was filed by Shell Chemical Co., Division of Shell Oil Co., Suite 1103, 1700 K Street NW., Washington, DC 20006, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act as amended (21 U.S.C. 346a), proposing establishment of tolerances for negligible residues of an insecticide that is a mixture of 3,4,5-trimethylphenyl methylcarbamate and 2,3,5-trimethylphenyl methylcarbamate isomers which are present in ratios varying between 4:1 and 3:1, respectively, in or on the raw agricultural commodities corn grain, fodder, and forage, including field corn, popcorn, and sweet corn at 0.2 part per million.

Subsequently, the petitioner amended the petition by withdrawing the proposed tolerance for sweet corn and changing the proposed tolerances for the remaining commodities from 0.2 to 0.1 part per million (negligible residue).

Prior to December 2, 1970, the Secretary of Agriculture certified that this pesticide chemical is useful for the purpose for which tolerances are being established, and the Fish and Wildlife Service of the Department of the Interior advised that it has no objection to these tolerances.

Part 120, Chapter I, Title 21 was redesignated Part 420 and transferred to Chapter III (36 F.R. 424).

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The proposed uses are not reasonably expected to result in residues of the pesticides in eggs, meat, milk, and poultry. The uses are classified in the category specified in § 420.6(a)(3).

2. The tolerances established by the order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs of the Environmental Protection Agency (36 F.R. 9038), Part 420 is amended as follows:

1. Section 420.3(e)(5) is amended by alphabetically inserting in the list of cholinesterase-inhibiting pesticides a new item, as follows:

§ 420.3 Tolerances for related pesticide chemicals.

* * * * *

(e) * * *

(5) * * *

3,4,5-Trimethylphenyl methylcarbamate and its isomer 2,3,5-trimethylphenyl methylcarbamate.

2. The following new section is added to Subpart C:

§ 420.305 3,4,5-Trimethylphenyl methylcarbamate and 2,3,5-trimethylphenyl methylcarbamate; tolerances for residues.

Tolerances are established for negligible residues of an insecticide that is a mixture consisting of 3,4,5-trimethylphenyl methylcarbamate and 2,3,5-trimethylphenyl methylcarbamate isomers, which are present in ratios varying between 4:1 and 3:1, respectively, in or on the raw agricultural commodities corn grain (including field corn and popcorn) and corn fodder and forage at 0.1 part per million (such tolerance to cover the sum of the residues of both components).

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Objections Clerk, Environmental Protection Agency, Room 3175, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (11-4-71).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: October 28, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71-16050 Filed 11-3-71;8:46 am]

PART 420—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Exemptions From Tolerances for Butoxytriethyleneglycol Phosphate

A petition (PP 1F1079) was filed by Witco Chemical Corp., 400 North Michigan Avenue, Chicago, IL 60611, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) proposing establishment of an exemption from the requirement of a tolerance for residues of butoxytriethyleneglycol phosphate when used as an inert ingredient of arsenical herbicide formulations.

Part 120, Chapter I, Title 21 was redesignated Part 420 and transferred to Chapter III (36 F.R. 424).

Based on consideration given data submitted in the petition and other relevant material, it is concluded that butoxytriethyleneglycol phosphate is useful for the purpose for which an exemption is being established and that the exemption established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs of the Environmental Protection Agency (36 F.R. 9038), § 420.1001 is amended by alphabetically inserting a new item in the table in paragraph (d), as follows:

§ 420.1001 Exemptions from the requirement of a tolerance.

• • • • • •

(d) • • •

Inert ingredients	Limits	Uses
• • •	• • •	• • •
Butoxytriethyleneglycol phosphate	.....	Surfactant for arsenical herbicide formulations only.
• • •	• • •	• • •

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Objections Clerk, Environmental Protection Agency, Room 3175, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (11-4-71).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: October 27, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71-16049 Filed 11-3-71;8:46 am]

Title 22—FOREIGN RELATIONS

Chapter II—Agency for International Development, Department of State

[A.I.D. Reg. 1]

PART 201—RULES AND PROCEDURES APPLICABLE TO COMMODITY TRANSACTIONS FINANCED BY A.I.D.

U.S.-Flag Shipping and Bills of Lading

Part 201 of chapter II, title 22 (A.I.D. Reg. 1) is amended as follows:

1. In § 201.15, paragraph (a) is revised to read as follows:

§ 201.15 U.S.-flag vessel shipping requirement.

(a) *General requirements.* At least 50 percent of the gross tonnage of all commodities financed with A.I.D. dollar funds and transported to the cooperating country on ocean vessels shall be transported on privately owned U.S.-flag commercial vessels. The foregoing requirement shall apply separately for shipments on dry bulk carriers, dry cargo liners, and tankers from each of the following geographical areas: United States, Europe, and Africa, Near East and South Asia, Latin America and Canada, and Far East. Additionally, at least 50 percent of the gross freight revenue generated by all shipments financed with A.I.D. dollar funds and transported to the cooperating country on dry cargo liners shall be paid to or for the benefit of privately owned U.S.-flag commercial vessels.

• • • • • •

2. In § 201.31, paragraph (f) is revised to read as follows:

§ 201.31 Suppliers of commodities.

• • • • • •

(f) *Distribution of shipping documents.* In addition to customary commercial document distribution the supplier shall, at the time of loading the commodities or as soon as practicable thereafter, airmail one set of the following documents to the Controller, USAID, c/o American Embassy in the capital city of the cooperating country to which shipment is being made, or to such other address as is designated to him: A nonnegotiable copy of the ocean or charter party bill of lading or other shipping document, supplier's invoice, and packing list. The supplier shall indicate on each such document the number of the applicable implementing document, if known to the supplier. Prior to presenting the documents specified in § 201.52 for payment the supplier shall mail a copy of the bill of lading described in § 201.52(a)(4)(i) to the Maritime Administration, Cargo Preference Control Center, Commerce Building, Washington, D.C. 20235.

• • • • • •

3. Section 201.52 is amended by adding a new subdivision (a)(2)(iii) to read as follows:

§ 201.52 Required documents.

(a) • • •

(2) • • •

(iii) The following certification manually signed by the supplier must appear on or be attached to each invoice:

A copy of the bill of lading, required to be presented for payment under and containing all the information specified in § 201.52 of A.I.D. Regulation 1 (22 CFR Part 201), has been mailed to the Maritime Administration, Cargo Preference Control Center, Commerce Building, Washington, D.C. 20235.

• • • • • •

Effective date. This amendment shall become effective on the date of its publication in the FEDERAL REGISTER (11-4-71).

Dated: October 27, 1971.

JOHN A. HANNAH,
Administrator.

[FR Doc.71-16136 Filed 11-3-71;8:53 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 208—FLOOD CONTROL REGULATIONS

Clark Canyon Dam and Reservoir, Beaverhead River, Beaverhead County, Mont.

Pursuant to the applicable provisions of sections 7 and 9 of the Act of Congress approved December 22, 1944 (58 Stat. 890, 891; 33 U.S.C. 709), the following regulations are hereby prescribed to govern the use of storage capacity for flood control purposes in Clark Canyon Reservoir by the operation of Clark Canyon Dam on the Beaverhead River, Beaverhead County, Mont.

§ 208.48 Clark Canyon Dam and Reservoir, Beaverhead River, Beaverhead County, Mont.

The Bureau of Reclamation, Department of the Interior, represented by the Regional Director in charge of the locality, hereinafter referred to as the Regional Director, shall regulate Clark Canyon Dam and Reservoir in the interest of flood control in accordance with instructions furnished by the Department of the Army, represented by the District Engineer in charge of the locality, hereinafter referred to as the District Engineer, as follows:

(a) Releases will be made as necessary to achieve the following control:

(1) *Local flood control.* To restrict project releases to the amount which, in conjunction with incremental inflows below the dam, will not result in damaging discharges on the Beaverhead River.

(2) *Replacement flood control.* In years when the flood control and multiple-use storage space within the downstream Fort Peck Reservoir may be fully utilized, Clark Canyon Reservoir will assist in flood control along the Missouri River by withholding floodwater from Fort Peck Reservoir.

(b) To achieve the control specified in paragraph (a) of this section, storage space in Clark Canyon Reservoir shall be kept available in accordance with the Flood Control Storage Reservation Diagram currently in force. The Flood Control Storage Reservation Diagram in force as of the promulgation of this section is that dated October 14, 1971, and is on file in the Office of the Chief of Engineers, Department of the Army, Washington, D.C., and in the Office of the Commissioner of Reclamation, Washington, D.C. Revisions of the diagram may be developed from time to time as necessary by the Corps of Engineers and the Bureau of Reclamation. Each such revision shall be effective upon the date specified in the approval thereof by the Chief of Engineers and the Commissioner of Reclamation and from that date until replaced shall be the Flood Control Storage Reservation Diagram for purposes of this section. Copies of the Flood Control Storage Reservation Diagram currently in force shall be kept on file in and may be obtained from the Office of the District Engineer, Corps of Engineers, and the Regional Director, Bureau of Reclamation, in charge of the locality.

(c) Any water temporarily stored in the space between elevation 5,560.4 (crest of spillway) and the elevation corresponding to the flood control allocation as indicated by the Flood Control Diagram, shall be released as rapidly as downstream conditions permit. The District Engineer will determine releases under these conditions.

(d) The discharge characteristics of the river regulation outlet works (having a capacity of 2,160 cubic feet per second with reservoir level at elevation 5,535.7) shall be maintained in accordance with the as-constructed drawings (Bureau of Reclamation Drawing No. 699-D-268 dated February 6, 1962).

(e) Proposed schedules of conservation releases and storage changes, if available, and current operating data shall be provided to the District Engineer by the Regional Director. Operating data shall be tabulated daily and furnished periodically as required and shall include such items as: Reservoir elevation, reservoir storage, inflow, discharge, and other pertinent available hydrologic data.

(f) Oral instructions issued by the District Engineer to the Regional Director shall be confirmed in writing under the date of the day issued.

(g) Nothing in this section shall be construed to require that releases shall be made at rates or in a manner inconsistent with requirements for protecting the dam and reservoir from major damage or inconsistent with the safe routing of the spillway design flood.

All elevations stated in this section are at the Clark Canyon Dam and are referred to a datum giving 5,560.4 as the elevation of the spillway crest.

[Regs., Oct. 14, 1971. DAEN-CWE-Y] Sections 7 and 9, 58 Stat. 890, 891; 33 U.S.C. 709)

For the Adjutant General.

R. B. BELNAP,
Special Advisor to TAG.

[FR Doc.71-16045 Filed 11-3-71;8:45 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 9—Atomic Energy Commission

PART 9-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Cost Sharing

The following new Subpart 9-4.56—Cost Sharing sets forth the Atomic Energy Commission's policy on cost sharing under prime contracts for basic and applied research and implements Office of Management and Budget Circular No. A-100.

1. The following new subpart is added:

Subpart 9-4.56—Cost Sharing

Sec.
9-4.5600 Scope of subpart.
9-4.5601 Policy.
9-4.5602 Application.
9-4.5603 Amount of cost sharing.
9-4.5604 Records.

AUTHORITY: The provisions of this Subpart 9-4.56 issued under sec. 161 of the Atomic Energy Act of 1954, as amended, 68 Stat. 948, 42 U.S.C. 2201; sec. 205 of the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390, 40 U.S.C. 486.

Subpart 9-4.56—Cost Sharing

§ 9-4.5600 Scope of subpart.

This subpart sets forth the policy of the Atomic Energy Commission on cost sharing by organizations performing basic and applied research under AEC prime contracts and agreements.

§ 9-4.5601 Policy.

It is the policy of the AEC to encourage, when appropriate, participation by the performing organization in the cost of research effort. While not required of the Commission by statute, cost sharing is encouraged to obtain a larger national effort in the nuclear energy field and to recognize that the research is also normally of benefit to the performing organization.

§ 9-4.5602 Application.

(a) This policy applies to research contracts and agreements with educational institutions, other not-for-profit or nonprofit organizations and commercial or industrial organizations, or other organizations except other Federal agencies. This policy ordinarily will not be applied in the following cases:

(1) Contracts for the operation of Government-owned or leased, contractor-operated facilities;

(2) Continuing cost reimbursement contracts for mission-oriented, large-scale research programs performed in research centers using equipment or facilities which are usually either partially or wholly Government owned.

(b) This policy need not be applied where deemed inappropriate by the cognizant Headquarters Division Director or Field Office Manager (whoever selects the contractor) or their designees for any of the following reasons:

(1) It is a development effort the principal purpose of which is the production of, or the design, testing or improvement of, products, materials, devices, systems, or methods such as projects connected with the LMFBR program, the Naval Reactors program or the ROVER program;

(2) The research effort has only minor relevance to the performing organization's non-Federal activities;

(3) The performing organization has little or no non-Federal sources of funds from which to make a cost contribution;

(4) The performing organization is predominantly engaged in research and development and has little or no production or other service activities to which knowledge obtained from the research effort may be gainfully applied;

(5) The research objective or scope of the effort is specified by the Commission rather than proposed by the performing organization (e.g., a contract resulting from a request for proposal);

(6) It is concluded that payment of the full cost of the research effort is necessary in order to obtain the services of a particular organization.

§ 9-4.5603 Amount of cost sharing.

The extent and type of cost sharing will be established by mutual agreement of the parties with consideration given to the research effort and the organization performing it. When an amount is determined for a contract or agreement, the organization's participation over the total term of the project may be considered so that a relatively high contribution in 1 year may be offset by a relatively low contribution in another. Cost participation may be accomplished by a contribution to any of the cost elements under a research contract or agreement, either direct or indirect costs, provided that such costs would otherwise be allowable and are not charged to the Federal Government under any other contract, agreement, or grant.

(a) Cost participation by educational institutions and other not-for-profit or nonprofit organizations should normally be more than on a token basis; however,

cost sharing of less than 5 percent of total project cost may be appropriate in view of these organizations' nonprofit status and their normally limited ability to recover the cost of such participation from non-Federal sources. Educational institutions will normally be expected to provide a higher degree of cost sharing when, for example:

(1) The cost of the research consists primarily of the academic year salary of faculty members;

(2) Equipment acquired by the institution for the project will be of significant value to the institution in its educational activities; or

(3) The institution has demonstrated a substantial interest in a particular area of research as evidenced by the establishment of a higher degree of cost sharing under prior contracts or agreements.

(b) Commercial or industrial organizations might contribute amounts ranging up to 50 percent or more of the total project cost. The amount of their cost sharing participation should depend principally on whether, and to what degree, the results of the research are likely to enhance their capability, expertise, or competitive posture. However, these potential benefits would be lessened if the performing organization lacks production or other service activities to which the research results might be commercially applied, as is likely to be the case with a predominantly research and development organization.

(c) The level at which a performing organization cost shares may depend to some degree upon the extent to which the organization will receive or be expected to receive rights in and to any inventions, patents, or technical information that may result from the research effort and the degree to which the organization is likely to benefit thereby.

(d) A relatively low degree of cost sharing may be appropriate if a particular area of research requires special stimulus in the national interest.

(e) A fee, profit, or an amount otherwise accepted as allowable for independent research, if any (see AECPR 9–15.5010–12 for policy on independent research and development), will usually not be paid if the performing organization is to contribute to the cost of the research effort, but the amount of cost sharing may be reduced if the performing organization is foregoing its normal fee or profit or an otherwise acceptable amount for independent research. Alternatively, the contribution may take the form of reduced fee or profit or a reduced amount otherwise accepted as allowable for independent research, particularly if the research contracted for is expected to be of relatively minor value to the performing organization.

§ 9–4.5604 Records.

Recipients of contracts or agreements which provide for cost sharing shall be required to maintain records adequate to reflect the nature and extent of their cost contribution as well as those costs charged to the AEC. Such records shall be subject to audit by the Commission or its duly authorized representative. This requirement does not apply to contributions of effort made by principal investigators as provided in AECPR 9–4.5107–2(d).

Effective date. These amendments are effective upon publication in the FEDERAL REGISTER (11–4–71).

Dated at Germantown, Md., this 28th day of October 1971.

For the U.S. Atomic Energy Commission.

ROBERT A. KOHLER,
Acting Director,
Division of Contracts.

[FR Doc. 71–16046 Filed 11–3–71;8:45 am]

Chapter 15—Environmental Protection Agency

PART 15–3—PROCUREMENT BY NEGOTIATIONS

Subpart 15–3.8—Price Negotiation

POLICIES AND TECHNIQUES REGARDING PROFIT OR FEE

On pages 14216 through 14219 of the FEDERAL REGISTER of July 31, 1971, there was published a notice of proposed rule making to issue regulations concerning the negotiation of profit or fee. Interested persons were given 30 days in which to submit written data, views or arguments regarding the proposed regulations.

All data received have been reviewed and comments considered by the Agency and it has been determined that it would be impracticable to incorporate any of the suggested changes at this time. Therefore, the proposed regulations are hereby adopted without change and are set forth below.

Effective date. These regulations shall be effective as of October 15, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator.

OCTOBER 29, 1971.

§ 15–3.808–50 Profit or fee guidelines.

(a) (1) *General.* It is the policy of the Agency to utilize profit to attract contractors who possess talents and skills necessary to the accomplishment of the objectives of the EPA, and to stimulate efficient contract performance. In negotiating profit/fee, it is necessary that all relative factors be considered, and that fair and reasonable amounts be negotiated which give the contractor a profit objective commensurate with the nature of the work to be done, the contractor's input to the total performance, and the risks assumed by the contractor. The profit evaluation criteria which follow were developed for use by the EPA in order (i) to provide a standard method of evaluation, (ii) to insure consideration of all relative factors, (iii) to provide a basis for documentation and explanation of the profit negotiation objective, (iv) to allow contractors to earn profits commensurate with the assumption of risk, (v) to reward contractors who provide their own facilities, financing and personnel, and (vi) to reward contractors who undertake more difficult work requiring higher risks. Except as noted below, use of these guidelines is mandatory for establishing prenegotiation profit/fee objectives for all negotiated contracts where cost analysis is required (see FPR 1–3.807–2).

(2) *Exceptions.* (i) Under the following circumstances, other methods for establishing profit objectives can be used. Generally, it is expected that such methods will (a) provide the contracting officer with a technique that will insure consideration of the relative value of the appropriate profit factors described under "Profit Factors", and (b) serve as a basis for documentation of the objective. The circumstances are:

(1) Architect-engineering contracts;

(2) Personal or professional service contracts;

(3) Management contracts, e.g., for maintenance or operation of Government facilities;

(4) Termination settlements;

(5) Engineering services, labor-hour, time and material contracts which provide for payment on a man-hour, man-day or man-month basis, and where the contribution by the contractor constitutes the furnishing of personnel rather than the output of an integrated research, engineering, or manufacturing operation; and

(6) Cost-reimbursement construction contracts; and

(7) Cost-plus-award-fee contracts.

(ii) Under unusual circumstances, the Head of the Procuring Activity may specifically waive the requirement for the use of the guidelines. Such exceptions shall be justified in writing and authorized only in situations where the guidelines method is determined to be unsuitable.

(3) *Limitations.* In the event that any of the methods used would result in establishing a fee objective in violation of limitations established by statute or the FPR, the maximum fee objective shall be the percentage allowed pursuant to such limitations. No administrative ceilings on profits shall be established at any level below the Head of the Procuring Activity.

(b) (1) Profit factors: The factors set forth below and the weighted ranges listed after each factor shall be used in all instances where the profit is to be specifically negotiated.

CONTRACTOR'S INPUT TO TOTAL PERFORMANCE

	Weight range (percent)
Direct Materials:	
Purchases	1 to 4.
Subcontracts	1 to 5.
Equipment	1 to 2.
Engineering labor	8 to 15.
Engineering overhead	6 to 9.
Manufacturing labor	5 to 9.
Manufacturing overhead	4 to 7.
Consultants	2 to 5.
Other direct costs	1 to 3.
General and administrative expenses	5 to 8.
Contractor's assumption of contract cost risk	0 to 6.
Record of contractor's performance	−2 to +2.
Cost efficiency.	
Management.	
Extent of investment.	
Reliability of cost estimates.	
Inventive and developmental contributions.	
Timely performance.	
Small business participation.	
Labor surplus area participation.	
Extent of Government assistance.	
Effect of competition.	

(2) Using the above method, the contracting officer shall first measure the "Contractor's Input to Total Performance" by the assignment of a profit percentage within the designated weight ranges to each element of contract cost recognized by the contracting officer. Such costs are multiplied by the specific percentages, to arrive at specific dollar profits.

(3) After the contracting officer has computed a total dollar profit for the Contractor's Input to Total Performance, he shall divide this amount by the total recognized costs to determine the composite profit percentage for this factor. To this composite percentage, he shall then add the specific percentages, assigned for cost risk, and performance, to arrive at a total profit percentage. He shall then multiply the total recognized contract costs by this total profit percentage to determine the profit objective. It should be noted that the specific percentages assigned for cost risk, and performance are applied to total recognized costs in establishing the profit objective. EPA Form 1900–2 is to be used to facilitate the calculation of this profit objective.

(4) The weight factors shown are designed for arriving at profit or fee objectives for other than nonprofit and not-for-profit organizations. Adjustments as explained below are to be made to reflect differences between profit and nonprofit organizations.

(i) For purposes of this subparagraph, nonprofit and not-for-profit organizations are defined as those business entities organized and operated exclusively for charitable, scientific or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation or participating in any political campaign on behalf of any candidate for public office, and which are exempt from Federal income taxation under section 501 of the Internal Revenue Code.

(ii) For contracts with nonprofit and not-for-profit organizations where fees are involved, the following adjustments are required:

(a) A special factor of −3 percent shall be assigned in all cases.

(b) The weighted ranges from "Record of Contractor's Performance" shall be halved, i.e., −1 percent to +1 percent rather than −2 percent to +2 percent.

(c) Assignment of values to specific factors:

(1) *General.* In making his judgment of the value of each factor, the contracting officer should be governed by the definition, description, and purpose of the factors together with considerations for evaluating them as set forth herein.

(2) *Contractor's input to total performance.* This factor is a measure of how much the contractor himself is expected to contribute to the overall effort necessary to meet the contract performance requirements in an efficient manner. This factor, which is apart from the contractor's responsibility for contract performance, takes into account what resources are necessary and what the contractor himself must do to accomplish a conversion of ideas and materials into the final item called for in the contract. This is a recognition that within a given performance output, or within a given sales dollar figure, necessary efforts on the part of individual contractors can vary widely in both value and quantity, and that the profit objective should reflect the extent and nature of the contractor's contribution to total performance. The evaluation of this factor requires an analysis of the cost content of the proposed contract as follows:

(i) *Direct materials (purchased parts, subcontracted items, and other material).* Analysis of these cost items shall include an evaluation of the managerial and technical effort necessary to obtain the required purchased parts, subcontracted items, and other materials. This evaluation shall include consideration of the number of orders and suppliers, and whether established sources are available or new sources must be developed. The contracting officer shall also determine whether the contractor will, for example, obtain the materials by routine orders or readily available supplies (particularly those of substantial value in relation to the total contract costs), or by detailed subcontracts for which the prime contractor will be required to develop complex specifications involving creative design or close tolerance manufacturing requirements. Consideration should be given to the managerial and technical efforts necessary for the prime contractor to administer subcontracts, and select subcontractors, including efforts to break out subcontracts from sole sources, through the introduction of competition. These determinations should be made for purchases of raw materials or basic commodities, purchases of processed material including all types of components of standard or near-standard characteristics, and purchases of pieces, assemblies, subassemblies, special tooling and other products special to the end-item. In the application of this criterion, it should be recognized that the contribution of the prime contractor to his purchasing program might be substantial. This might be applicable in the management of subcontracting programs involving many sources, involving new complex components and instrumentation, incomplete specifications, and close surveillance by the prime contractor's representative. Recognized costs proposed as direct material costs such as scrap charges shall be treated as material for profit evaluation. If intracompany transfers are accepted at price, in accordance with § 1–15.205–22(e) of this title, they should be excluded from the fee computation. Other intracompany transfers shall be evaluated by individual components of cost, i.e., material, labor and overhead. Normally, the lowest weight for direct material is 2 percent. A weighting of less than 2 percent would be appropriate only in unusual circumstances when there is a minimal contribution by the contractor in relation to the total cost of the material.

(ii) *Equipment.* It is the policy of the Agency to contract with individuals or firms who have special capabilities relative to the need of the EPA. These capabilities include personnel with particular skills, or talents, and facilities (plant and equipment) necessary to complete the contract objectives. For the purpose of profit/fee analysis, equipment includes purchased items which are not to be an integral part of the final product. It would generally consist of production or test equipment. Where the EPA has to provide equipment to the contractor either as Government furnished equipment or contractor acquired equipment, appropriate profit/fee adjustments are necessary. Generally a low weight range shall be assigned to the cost of such equipment (1–2 percent).

(iii) *Engineering labor and manufacturing labor.* Analysis of the engineering labor and manufacturing labor items of the cost content of the contract should include evaluation of the comparative quality and level of the engineering talents, manufacturing skills and experience to be employed. In evaluating engineering labor for the purpose of assigning profit dollars, consideration should be given to the amount of notable scientific talent or unusual or scarce engineering talent needed in contrast to journeyman engineering effort or supporting personnel. The diversity, or lack thereof, of scientific and engineering specialties required for contract performance and the corresponding need for engineering supervision and coordination should be evaluated. Similarly, the variety of manufacturing labor skills required and the contractor's manpower resources for meeting these requirements should be considered. For the purpose of profit/fee computation, manufacturing labor includes all nonprofessional labor, e.g. secretaries, technicians and carpenters, etc.

(iv) *Engineering overhead, manufacturing overhead, and general and administrative expenses.* (a) Where practicable, analysis of these overhead items of cost should include the evaluation of the make up of the expenses and how much they contribute to contract performance. This analysis should include a determination of the amount of labor within these overhead pools and how this labor would be treated if it were considered as direct labor under the contract.

The allocable labor elements should be given the same profit consideration that they would receive if they were treated as direct labor. The other elements of these overhead pools should be evaluated to determine whether they are routine expenses such as utilities, depreciation, and maintenance, and hence given lesser profit consideration given the pools as a whole.

(b) It is not necessary that the contractor's accounting system break down his overhead expenses within the classification of engineering overhead, manufacturing overhead, and general and administrative expenses. The contractor whose accounting system only reflects one overhead rate on all direct labor need not change his system to correspond with all the above classifications. Where practicable, the contracting officer in his evaluation of such a contractor's overhead rate should break out the applicable sections of the composite rate which could be classified as engineering overhead, manufacturing overhead and general and administrative expenses and follow the appropriate evaluation technique. When it is not practicable to evaluate the elements of the burden pool, the following rates should usually apply:

	Percent
Engineering overhead	7.5
Manufacturing overhead	5.5
Composite overhead	6.5
G & A	6.5

(c) It is not necessary for the contracting officer to make a separate profit evaluation of overhead expenses in connection with each procurement action for substantially the same product with the same contractor. Once an analysis of the profit weight to be assigned the overhead pool has been made, the weight assigned may be used for future procurements with the same contractor until there is a change in the cost composition of the overhead pool or the contract circumstances.

(v) *Consultants.* Consultant costs, whether related to an individual consultant or consulting firm should be analyzed from the standpoint of what talents and skills the consultants have and how they will be used on the contract. The analysis should consider if the contractor normally should be expected to have people with comparable expertise employed as full-time staff or if the contract requires skills not normally available on an employer-employee relationship. Where the contractor is using consultants to perform services which could normally be expected to be done in-house, the rating factor should be generally below 2–3 percent. Where noted experts are retained for consultation on the contract, the rating will generally be higher.

(vi) *Other direct costs.* Items of costs, such as travel, subsistence, printing and computers should generally be assigned a rating of 1 to 3 percent. The analysis of these costs should be similar to the analysis of direct materials.

(3) *Contractor's assumption of contract cost risk.* (i) It is the policy of the Administration to shift the risk of contract costs to the fullest extent practicable to contractors and to compensate them for the assumption of this risk. Evaluation of this risk requires a determination of (a) the degree of cost responsibility the contractor assumes, (b) the reliability of the cost estimates in relation to the task assumed, and (c) the chance of the contractor's success or failure. This factor is specially limited to the risk of contract costs. Thus, such risks of losing potential profits in other fields, are not within the scope of this factor.

(ii) The first and basic determination of the degree of cost responsibility assumed by the contractor is related to the sharing of total risk of contract cost by the Government and the contractor through the selection of contract type. The extremes are a cost-plus-fixed-fee contract requiring only that the contractor use his best efforts to perform a task, and a firm-fixed-price contract for a complex item. Such cost-plus-fixed-fee contract would reflect a minimum assumption of cost responsibility, whereas such firm-fixed-price contract would reflect a complete assumption of cost responsibility. Therefore, in the first step of determining what value is to be given for the contractor's assumption of contract cost risk, a zero rating shall be given to a proposed cost-plus-fixed-fee best efforts contract, and a higher rating shall be given to a closely priced firm-fixed-price contract for a new, complex item.

(iii) The second determination is that of the reliability of the cost estimates. Sound price negotiation requires well-defined contract objectives and reliable cost estimates. An excessive cost estimate reduces the possibility that the cost of performance will exceed the contract price, thereby reducing the contractor's assumption of contract cost risk.

(iv) The third determination is that of the difficulty of the contractor's task. The contractor's task can be difficult or easy, regardless of the type of contract.

(v) Contractors are likely to assume greater cost risks only if the contracting officers objectively analyze the risk incident to proposed contracts and are willing to compensate contractors for it. Generally, a cost-plus-fixed-fee contract would not justify a reward for risk in excess of 1 percent, nor would a firm-fixed-price contract justify a reward of less than 4 percent. Where proper contract type selection has been made, the reward for risk by contract type would usually fall into the following percentage ranges:

Type of contract:	Percentage ranges
Cost-plus-fixed-fee	0 to 1.
Cost-plus-incentive-fee including cost incentives only	1 to 2.
Cost-plus-incentive-fee including cost, performance, and delivery incentives	2½ to 3.
Fixed-price-incentive including cost incentives only	2 to 4.
Fixed-price-incentive including cost, performance, and delivery incentives	3 to 5.
Prospective price determination	4 to 5.
Firm-fixed-price	4 to 6.

(a) These ranges may not be appropriate for all procurement situations. For instance, a fixed-price-incentive contract which is closely priced with a low ceiling price and a high incentive share may be tantamount to a firm-fixed-price contract. In this situation, the contracting officer might determine that a basis exists for high confidence in the reasonableness of the estimate, and that little opportunity exists for cost reduction without extraordinary efforts. The contractor's willingness to accept ceilings on their burden rates should be considered as a risk factor for cost-plus-fixed-fee contractors.

(b) In making a contract cost risk evaluation in a procurement action that involves definitization of a letter contract, consideration should be given to the effect on total contract cost risk as a result of having partial performance under a letter contract. Under some circumstances it may be reasoned that the total amount of cost risk has been effectively reduced by the existence of a letter contract. Under other circumstances, it may be apparent that the contractor's cost risk remained substantially as great as though a letter contract had not been used. Where a contractor has begun work under an anticipatory cost letter, the risk assumed is greater than the normal situation. To be equitable the determination of a profit weight for application to the total of all recognized costs, both those incurred and those yet to be expended, must be made with consideration to all attendant circumstances, not just to the portion of costs incurred or percentage of work completed, prior to definitation.

(4) *Record of contract performance.* (i) The purpose of this factor is to motivate contractors to improve their performance by rewarding them for excellent past performance and penalizing them for poor performance. Effective use of this factor requires that (a) reports on the various aspects of past performance be obtained and evaluated; and (b) this information be used in such a way as to motivate contractors to improve their performance.

(ii) The evaluation of a particular contractor's past performance and the importance placed upon the various subfactors listed below should be done in such a way as to motivate the contractor to improve his performance. For instance, it might be pointless, in evaluating the performance of an autonomous division of a multidivisional contractor, to place emphasis on the performance of another autonomous division. Under such circumstances, management of the division being evaluated might have no means of controlling the performance of the other division; therefore, emphasis on this performance by assigning a plus or minus rating to this factor might have a negative affect upon motivation to improve.

(iii) The weight to be assigned to this factor is arrived at on a judgment basis rather than an arithmetical averaging of weights assigned to all factors, depending upon the particular procurement situation, and the relative importance of the various factors. For example, an evaluation of a particular contractor may indicate that his performance was satisfactory in most areas, except that he showed a preference for doing all work in-house and a disinclination to support Government small business objectives. In such a case the contracting officer may feel that the importance of these factors might justify the assignment of a lower overall rating for the record of past performance.

(iv) As stated above, the purpose of this factor is to reward a contractor for excellent past performance and penalize him for poor performance. Therefore, performance which is rated as merely satisfactory should generally be assigned to weight of zero. However, a contractor who has consistently met contractual requirements may be awarded a plus.

(v) The following factors are to be considered in evaluating a contractor's performance record:

(a) Cost efficiency: Low cost performance reflecting economic use of facilities and manpower, sound purchasing methods and subcontracting procedures, and effective inventory control are criteria for consideration. Improvement in efficiency through investment in plant modernization, past efficiencies, or lack thereof, effectiveness of the contractor's make-or-buy program, purchasing and subcontracting system and inventory control should be evaluated.

(b) Management: Stability and competence of management personnel, their willingness and ability to adjust company resources to meet peculiarly difficult and changing control requirements are criteria for consideration. The degree of cooperation by the contractor, both business and technical, with the objectives of the Government should be considered.

(c) Extent of the contractor's investment: The extent of a contractor's total investment (i.e., both equity and borrowed capital) in the performance of the contract will be taken into consideration in determining the amount of the fee or profits.

(d) Reliability of cost estimates: Accuracy and reliability of previous cost estimates should be considered. Where substantial overruns have occurred, the contracting officer should attempt to determine the reasons.

(e) Inventive and developmental contributions: Extent and nature of contractor-initiated and financed research, development, design work, product engineering, quality control, and manufacturing processes and techniques in the areas of concern to the EPA should be analyzed.

(f) Timely performance: The contractor's performance record, considering excusable delays and the contractor's efforts to overcome delays, should be analyzed.

(g) Small business participation: The contractor's policies and procedures which energetically support Government small business programs pursuant to § 1–1.710–1 of this title should be given favorable consideration. Any unusual effort which the contractor displays in subcontracting with small concerns, particularly for development type work likely to result in later production opportunities, and overall effectiveness of the contractor in subcontracting with and furnishing assistance to small concerns should be considered. Conversely, failure or willingness on the part of the contractor to support Government small business policies should be viewed as evidence of poor performance for the purpose of establishing a profit objective.

(h) Labor surplus area participation: A similar review and evaluation (as required in (g) of this subdivision) should be given to the contractor's policies and procedures supporting the Government's Labor Surplus Area Program pursuant to § 1–1.805–1 of this title. Particular favorable consideration should be given to a contractor who (1) makes a significant effort to help find jobs and provide training for the hardcore unemployed, or (2) promotes maximum subcontractor utilization of certified-eligible concerns, as defined in § 1–1.801–1 of this title.

(i) Extent of Government assistance: The Government encourages its contractors to perform their contracts with the minimum of financial, facilities, or other assistance from the Government. Where extraordinary financial, facilities, or other assistance must be furnished to a contractor by the Government, such extraordinary assistance should have a modifying effect in determining what constitutes a fair and reasonable profit or fee.

(j) Effect of competition: When competition is effective and proposals are on a firm-fixed-price basis, the contracting officer normally need not consider in detail the amount of estimated profit included in a price. When effective competition is lacking, and in all cases where cost analysis is performed in accordance with § 1–3.807–2(c) of this title the estimate for profit, target profit or fee, or the proposed fixed fee should be analyzed in the same manner as all other elements of price.

[FR Doc.71-16038 Filed 11-3-71;8:45 am]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5142]

[New Mexico 13912]

NEW MEXICO

Final Revocation of Stock Driveway Withdrawal (Magdalena Stock Driveway)

By virtue of the authority contained in section 10 of the Act of December 29, 1916, 39 Stat. 865, as amended, 43 U.S.C. 300 (1964), it is ordered as follows.

1. The departmental order of February 28, 1918, which established Stock Driveway No. 9, New Mexico No. 3, as heretofore modified, is hereby revoked so far as it affects the remaining lands embraced therein described as follows:

NEW MEXICO PRINCIPAL MERIDIAN

T. 2 S., R. 4 W.,
Sec. 21, lot 5, SW¼NE¼, NE¼SW¼, W½SW¼ and NW¼SE¼;
Sec. 29, NW¼NE¼ and N½NW¼;
Sec. 30, lots 1, 2, 3, NE¼, E½NW¼ and NE¼SW¼.
T. 2 S., R. 5 W.,
Sec. 25, E½NE¼ and S½;
Sec. 26, S½;
Sec. 27, S½;
Sec. 33, S½SE¼;
Sec. 34;
Sec. 35, N½NE¼ and NW¼;
Sec. 36, N½NW¼.
T. 3 S., R. 5 W.,
Sec. 3, lots 2, 3, 4, SW¼NE¼, S½NW¼ and W½SW¼;
Secs. 4 and 5;
Sec. 6, lots 8, 9 and 12 to 23, inclusive;
Sec. 7, lots 6, 7, 8 and 9.
T. 3 S., R. 6 W.,
Sec. 1, S½NE¼ and S½;
Sec. 7, lots 1, 2, NE¼ and E½NW¼;
Sec. 8, N½;
Sec. 9, N½;
Sec. 10, N½;
Sec. 11, N½;
Sec. 12, N½.
T. 3 S., R. 7 W.,
Sec. 7, lots 1, 2, 3, NE¼, E½NW¼, NE¼SW¼ and N½SE¼;
Sec. 8, N½ and N½S½;
Sec. 9, E½, NW¼, N½SW¼ and SE¼SW¼;
Sec. 10, N½, SW¼ and NW¼SE¼;
Sec. 11, N½;
Sec. 12, W½NE¼, SE¼NE¼ and NW¼;
Sec. 15, NW¼NW¼;
Sec. 16, NE¼NE¼.
T. 3 S., R. 8 W.,
Sec. 7, lots 2, 3, S½NE¼, SE¼NW¼, NE¼SW¼ and N½SE¼;
Sec. 8, S½N½ and N½S½;
Sec. 9, S½N½ and N½S½;
Sec. 10, S½N½ and N½S½;
Sec. 11, S½N½ and N½S½;
Sec. 12, S½N½ and N½S½.
T. 3 S., R. 9 W.,
Sec. 11, E½E½;
Sec. 12, S½N½ and N½S½;
Sec. 14, E½E½;
Sec. 23, E½E½;
Sec. 26, NE¼ and S½NW¼;
Sec. 27, S½N½;
Sec. 28, S½N½ and NE¼SE¼;
Sec. 29, S½N½;
Sec. 30, lot 2, S½NE¼ and SE¼NW¼.
T. 3 S., R. 10 W.,
Sec. 25, S½N½ and NW¼SW¼;
Sec. 26, E½SE¼ and SW¼SE¼;
Sec. 34, E½SE¼ and SW¼SE¼;
Sec. 35, NW¼NE¼, E½NW¼, SW¼NW¼ and NW¼SW¼.
T. 4 S., R. 10 W.,
Sec. 3, lots 2, 3, S½NW¼ and NW¼SW¼;
Sec. 4, N½S½;
Sec. 5, N½S½;
Sec. 6, lots 8, 7, NE¼SW¼, N½SE¼ and SE¼SE¼.
T. 4 S., R. 11 W.,
Sec. 1, SE¼SE¼;
Sec. 11, SE¼SE¼;
Sec. 12, N½NE¼, SW¼NE¼, SE¼NW¼, N½SW¼ and SW¼SW¼;
Sec. 14, N½NE¼, SW¼NE¼, SE¼NW¼, N½SW¼ and SW¼SW¼;
Sec. 19, lots 9, 10, 11, 12 and N½SE¼;
Sec. 20, N½S½;
Sec. 21, N½S½;
Sec. 22, N½NE¼, SW¼NE¼, SE¼NW¼ and N½SW¼.

The areas described aggregate 16,512.28 acres in Socorro and Catron Counties.

The land is located in west-central New Mexico. It extends in an easterly-westerly direction through the central part of the San Augustine plains. It

varies from one quarter to 2 miles in width and is about 50 miles long. The topography varies from nearly level to moderately rolling. Soils vary from heavy loam to sandy loam in texture and from shallow to deep in depth. Vegetation consists of blue grama and sand dropseed grasses, chamise browse, rabbitbrush and a scattered stand of pinon-juniper trees.

2. At 10 a.m. on November 25, 1971, the land shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on November 25, 1971, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The lands have been and continue to be open to applications and offers under the mineral leasing laws, and to location under the U.S. mining laws.

Inquiries concerning the land should be addressed to the Chief, Division of Technical Services, Bureau of Land Management, Post Office Box 1449, Santa Fe, NM 87501.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 20, 1971.

[FR Doc.71-16070 Filed 11-3-71;8:48 am]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER N—DANGEROUS CARGOES

[CGFR 71-128]

PART 2—VESSEL INSPECTIONS

PART 146—TRANSPORTATION OR STORAGE OF EXPLOSIVES OR OTHER DANGEROUS ARTICLES OR SUBSTANCES AND COMBUSTIBLE LIQUIDS ON BOARD CARGO VESSELS

Dangerous Cargo Containers

On pages 12909 and 12910 of the FEDERAL REGISTER (36 F.R. 5246) which appeared July 9, 1971, a notice of proposed rule making was published, which proposed an amendment to the Dangerous Cargo Regulations. A public hearing was held on August 24, 1971 and interested persons were given 53 days in which to submit written comments regarding the proposed regulations.

No objections have been received and the proposed regulations are hereby adopted without change and are set forth below.

(RS 472 as amended, sec. 1, 19 Stat. 252; sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 170, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Effective date. This amendment shall become effective on December 31, 1971.

Dated: October 29, 1971.

T. R. SARGENT,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

Chapter I of Title 46, Code of Federal Regulations, is amended as follows:

1. By amending § 2.20-65 by deleting the word "or" in paragraph (b)(4), by adding "; or" after the words "of this paragraph" in paragraph (b)(5), and by adding paragraphs (b)(6) and (e) to read as follows:

§ 2.20-65 Immediate notice of certain hazardous incidents.

* * * * * * *

(b) * * *

(6) Fire, breakage, spillage or suspected radioactive contamination occurs involving shipment of radioactive materials.

* * * * * * *

(e) *Notification to the shipper.* The owner, master, agent, or person in charge of any vessel, domestic or foreign engaged in transporting radioactive materials (including loading, unloading or temporary storage) shall notify the shipper by telephone, radiotelephone, radio message, or other expeditious means, at the earliest practicable moment, of any incident that occurs on board in which there has been fire, breakage, spillage, or suspected radioactive contamination involving the radioactive materials shipment.

2. By amending § 146.19-50(a) by adding the words "as prescribed by § 2.20-65 of this chapter," after the words ", or his authorized representative," in the fourth sentence.

[FR Doc.71-16132 Filed 11-3-71;8:53 am]

[CGFR 71-129]

PART 146—TRANSPORTATION OR STORAGE OF EXPLOSIVES OR OTHER DANGEROUS ARTICLES OR SUBSTANCES, AND COMBUSTIBLE LIQUIDS ON BOARD VESSELS

Reclassification of Fusees

This amendment reclassifies Railway Fusees and Highway Fusees from class C explosives to inflammable solids. This will require fusees to bear a yellow label as an inflammable solid.

At page 21201 of this issue of the FEDERAL REGISTER, the Hazardous Materials Regulations Board of the Department of Transportation is amending 49 CFR Part 173. Their amendment provides for the reclassification of railway and highway fusees from class C explosives to inflammable solids.

The Board's amendment to the hazardous material regulations of the Department of Transportation in Title 49 applies to shippers by water, air, and land and to carriers by air and land. This amendment to Title 46 applies to carriers by water.

Interested persons were afforded an opportunity to participate in the making of this rule. This amendment was published as a notice of proposed rule making (CGFR 71-12) on March 20, 1971 (36 F.R. 5400) and a hearing was held on this amendment on June 8, 1971 at Washington, D.C.

Accordingly, Part 146 of Title 46 Code of Federal Regulations is amended as follows:

1. In § 146.04-5 *Test of explosives and other dangerous articles and combustible liquids.*

a. By deleting the entries for "Railway Fusees" and "Highway Fusees".

b. By adding in proper alphabetical sequence the following entry:

Article	Classed as—	Label required
* * *	* * *	* * *
Fusees	Inf. S	Yellow.
* * *	* * *	* * *

2. In § 146.20-300 "Table C—Classification: Class C relatively safe explosives" by deleting the entries for the articles "Highway Fusees" and "Railway Fusees".

3. In § 146.22-100 "Table D—Classification: Inflammable Solids" by adding in proper alphabetical sequence the following entry:

Descriptive name of article	Characteristic properties, cautions, markings required	Label required	Required conditions for transportation: Cargo vessel	Passenger vessel	Ferry vessel, passenger, or vehicle	R.R. car ferry, passenger or vehicle
Fusees	*A fusee is a device to burn at a controlled rate and to produce visible effects for signaling purposes. It consists of a pasteboard or fiber tube containing a colored flare mixture and with or without a means of support. The composition of the fusee must be such that spontaneous ignition does not occur when the moistened composition is exposed to a temperature of 5VT/° F. for 72 consecutive hours. Fusees must have individual tip, head, or similar ignition point or surface entirely covered and securely protected against accidental contact or friction.* Fusees without spikes when offered for shipment may be packed in packages prescribed herein, omitting the protection required for these devices when equipped with spikes. May be packed with nonexplosive or noninflammable articles provided the outside packages are marked as prescribed below. Each outside package must be plainly marked in letters not less than seven-eighteenths inch in height "Fusees" and with the additional words "Handle Carefully—Keep Fire Away."	Yellow	Stowage: "On deck under cover." "Tween decks readily accessible." "Under deck away from heat." Outside containers: Wooden boxes (DOT-15A, 15B, 16A, 19A) not over 200 lb. gr. wt. Wooden boxes (DOT-15C) WIMC, not over 200 lb. gr. wt. Wooden boxes (DOT-19B) not over 150 lb. gr. wt. Fiberboard boxes (DOT-12B) WIC, not over 65 lb. gr. wt. Mailing tubes (DOT-29) not over 5 lb. gr. wt.	Stowage: "On deck under cover." "Tween decks readily accessible." Outside containers: Wooden boxes (DOT-15A, 15B, 16A, 19A) not over 200 lb. gr. wt. Wooden boxes (DOT-15C) WIMC, not over 200 lb. gr. wt. Wooden boxes (DOT-19B) not over 150 lb. gr. wt. Fiberboard boxes (DOT-12B) WIC, not over 65 lb. gr. wt. Mailing tubes (DOT-29) not over 5 lb. gr. wt.	Ferry stowage (AA) Outside containers: Wooden boxes (DOT-15A, 15B, 16A, 19A) not over 200 lb. gr. wt. Wooden boxes (DOT-15C) WIMC not over 200 lb. gr. wt. Wooden boxes (DOT-19B) not over 150 lb. gr. wt. Fiberboard boxes (DOT-12B) WIC, not over 65 lb. gr. wt. Mailing tubes (DOT-29) not over 5 lb. gr. wt.	Ferry stowage (BB) Outside containers: Wooden boxes (DOT-15A, 15B, 16A, 19A) not over 200 lb. gr. wt. Wooden boxes (DOT-15C) WIMC, not over 200 lb. gr. wt. Wooden boxes (DOT-19B) not over 150 lb. gr. wt. Fiberboard boxes (DOT-12B) WIC, not over 65 lb. gr. wt. Mailing tubes (DOT-29) not over 5 lb. gr. wt.

(R.S. 4472, as amended; sec. 1, 19 Stat. 252, sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 170, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Effective date. This amendment shall become effective on December 31, 1971.

Dated: October 29, 1971.

T. R. SARGENT,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc.71-16133 Filed 11-3-71;8:53 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 19161; FCC 71-1115]

PART 73—RADIO BROADCAST SERVICES

First Report and Order

In the matter of amendment of § 73.202(b) of the Commission's rules, the FM Table of Assignments. (West Allis, Berlin, Hartford, Neenah-Menasha, Shawano, Watertown, and Waupun, Wis., and Escanaba, Mich.; Coal City, Dwight, or Marseilles, Ill.; St. Charles and St. Louis, Mo.; Muncie, Ind. and Celina, Fostoria, and Lima, Ohio; Anamosa and Iowa City, Iowa; Terrell and Corsicana, Tex.; Sullivan, Bedford, and Paoli, Ind.; Orangeburg, S.C.; Danville, Ind.; Decatur or Paris, Ill.; Manning and Kingstree, S.C.) RM-1476, RM-1489, RM-1523, RM-1524, RM-1528, RM-1540, RM-1552, RM-1554, RM-1559, RM-1561, RM-1563, RM-1566, RM-1571, RM-1626, and RM-1660.

1. The Commission has under consideration the notice of proposed rule making, issued March 1, 1971, concerning the amendment to § 73.202(b) of the Commission's rules, the FM Table of Assignments. The notice gave consideration to the requests for assignment of FM channels to 15 communities and raised questions as to a number of the proposals. Except where indicated, all population figures herein are from the 1970 U.S. Census.

2. This first report and order deals with eight proposals which did not draw substantial oppositions or involve conflicting proposals. The remainder of the proposals will be considered in another document. Briefly, the proposals to assign or substitute channels in the following communities are adopted: St. Charles and St. Louis, Mo.; Terrell, Tex.; Sullivan, Bedford, and Paoli, Ind.; Orangeburg, S.C.; Danville, Ind.; and Manning and Kingstree, S.C. The proposals to assign channels to Anamosa, Iowa, and Coal City, Ill., are withdrawn for lack of continuing interest by the proponents. The specific proposals are discussed below.

3. Coal City, Ill. (RM-1489). As a result of a petition filed by Grundy County Broadcasters, Inc., a daytime-only AM licensee at Morris, Illinois, we invited comments on the proposal to assign Channel 288A to Coal City, Ill., or as alternatives, to Dwight or Marseille, Ill. The record shows that Grundy County entered into an agreement, after the notice of proposed rule making was released, to acquire an FM station at Morris, Illinois, and it is no longer interested in the channel assignment at Coal City.[1] No interest was shown for the assignment of a channel to the alternative communities. Thus, we have reconsidered and will withdraw the proposal to assign Channel 288A to this area of Illinois.

4. St. Charles, Mo. (RM-1523). The proposal of Contemporary Media, Inc., would assign Channel 246 to St. Charles, Mo., by shifting the assignment at St. Louis, Mo. from Channel 243 to 242. Channel 243 is presently assigned to Station KADI, St. Louis. The proposal would provide for a first FM station and the second aural facility (first at night) to St. Charles, a community of 31,834 persons and the seat of St. Charles County (population 92,954). Although located about 19 miles from St. Louis and in its SMSA, St. Charles is an independent community with its own city government

[1] On Aug. 23, 1971, the license of Station WRMI-FM, Morris, Ill., was assigned to Grundy County Broadcasters, Inc. (BALH-1538). The previous licensee of this station, Radio Morris, had filed an opposition to the original petition, on the basis of economic injury which it claimed would result to it from the AM-FM combination contemplated by Grundy County Broadcasters, since Coal City and Morris are in the same county and less than 10 miles apart.

and St. Charles County is not adjacent to the city of St. Louis. It has no FM assignments or AM stations except one daytime-only at St. Charles, licensed to petitioner. The notice, which invited comments on the proposal, raised questions as to whether the station would be primarily a St. Louis station outlet and requested additional information on the preclusion. As far as it appears, this is the only way a channel can be assigned to St. Charles.

5. Comments were filed by Paul L. Blair, Jr., a potential applicant, and Contemporary, both urging assignment of the channel to St. Charles. Contemporary assures that the station would be used as a local St. Charles outlet and would be programed to serve the community needs which would be determined by surveys, and points to its daytime AM operation, during the 1970 composite week, as having devoted 60 percent of its news to items of local origin and a great number of 185 public service announcements which were in behalf of St. Charles' organizations. The study indicates that some preclusion would occur on Channels 246, 247, and 249A, but assignments could be made on Channel 244A in the areas precluded on Channel 246 and 247. The preclusion on Channel 249A is limited to a small area where a community of only 119 persons is involved. The study also shows that, by having KADI change its operation to Channel 242, Channel 244A would be available, theoretically, for an additional five assignments.

6. In view of the above, the public interest would be served by adopting the proposal to assign Channel 246 to St. Charles, Mo. Any applicant for Channel 246 at St. Charles would have to specify a transmitter site located approximately 15 miles north or 32 miles southwest of St. Charles, Mo. The party becoming the permittee on Channel 246 shall reimburse Station KADI for the reasonable cost involved in changing its channel.

7. Anamosa, Iowa (RM-1540). Although the request for a first assignment at Anamosa, Iowa, would have resulted in a mixture of Class A and C channels at Iowa City, Iowa, we proposed to assign Channel 232A at Anamosa and Channel 228A at Iowa City, Iowa. Channel 228A was proposed as a substitute for Channel 230, which had to be deleted to make the Anamosa assignment. In addition to an FM educational station licensed to the University of Iowa, Iowa City now has two commercial channels assigned, both Class C, the other occupied by a station licensed to the commercial daytime AM licensee. An opposition to the proposal was filed by Communicators, Inc., potential applicant for Channel 230 at Iowa City. It contends that there is a greater need for a Class C channel at Iowa City, because it would provide first and second FM services to substantial areas and the two proposed Class A channels at Anamosa and Iowa City would not provide such services. Its allegations are supported by an engineering affidavit.

8. In setting forth a notice of proposed rule making to amend the FM Table of Assignments, we required the proponents of the various proposals to file comments as a means of ascertaining whether they had continuing interest in their proposals. Since the petitioner for the Anamosa assignment has not submitted any comments or reply comments, and comments were filed urging the retention of Channel 230 at Iowa City, we will reconsider our proposal as to Anamosa and retain the assignment of Channel 230 as a second Class C commercial assignment at Iowa City, Iowa (population 46,850). Charles Leonard 55230 (5) Day Lino 66-000 Folio 4241 11-3-71

9. Terrell, Tex. (RM-1552). Billy D. Pirtle proposes assignment of Class C Channel 300 to Terrell, Tex. (population 14,182) which would require deletion of that channel at Corsicana, Tex. (population 19,972) and replacing it with Channel 228A. The assignment would provide for a first FM station at Terrell. As an alternative, he proposes Channel 296A which could be assigned there without changing any assignments. In either case, the transmitter site must be located about 6 miles east of Terrell. However, an FM station, located at such a distance from the community, would be able to provide the required principal-city coverage even with Class A facilities.

10. In the notice, we stated that we are not persuaded that Channel 300 should be removed from Corsicana, but suggested that, if a suitable replacement channel could be found, we might give consideration to assigning Channel 300 to Terrell. Channel 228A, proposed as a substitute channel for Corsicana, cannot be assigned there because the transmitter site must be located at least 10 miles east of Corsicana. This limitation is the result of minimum separation requirements from the transmitter sites of Station KBUY-FM, Channel 230, at Fort Worth, Tex., and Station KLEN-FM, Channel 227, at Killeen, Tex. A Class A station, located at such a distance, would not be able to provide the requisite 70 dbu signal over the community. Since the petitioner has not shown a suitable replacement channel for Corsicana, and it appears that a suitable channel cannot be found without drastic shuffling of the number of presently assigned channels, we are retaining the assignment of Channel 300 at Corsicana. As to Channel 296A, it seems that it is the only channel available which is assignable to Terrell. Thus we will make this assignment to Terrell, Tex.

11. Sullivan, Bedford, and Paoli, Ind. (RM-1554). Donnie Joe Spiller proposed assignment of Channel 237A to Sullivan, Ind., by replacing the presently assigned Channel 237A at Bedford, Ind., with Channel 288A, and assigning Channel 237A to Paoli, Ind. Bedford's present channel has been recently assigned for use at Paoli, some 22 miles away, as a result of an application filed before the adoption of the current rule limiting the use of a Class A channel to 10 miles from the listed community, and granted on September 13, 1971. Although no comments were filed with respect to the proposed assignment at Sullivan, the record indicates that there is interest in the replacement channel at Bedford. Thus the public interest would be served to adopt the proposed assignments because the net effect would be the addition of two FM channels in this area of Indiana, a channel would be available in Bedford, and the use of Channel 237A at Paoli would be consistent with the current § 73.203(b) of the rules. Channel 288A at Bedford must be used at a point two miles southwest of the community, and Channel 237A at Sullivan at a point north, northwest or west.

12. Orangeburg, S.C. (RM-1559), Radio Orangeburg, Inc., licensee of AM Station WORG, petitioned for assignment of Channel 280A to Orangeburg, S.C. We found that the rule making on the proposal was clearly warranted because it would provide for a second FM station in the community, which is the county seat and the largest city in the county (city population 13,252), and the assignment of this channel would result in a very limited preclusion on one channel in an area which already has an FM assignment and appears not to warrant an additional assignment. Comments were filed only by Radio Orangeburg, urging the assignment of the channel, and stating that it would apply for its use as soon as it becomes available. We will thus adopt the proposed assignment of Channel 280A to Orangeburg, S.C. The transmitter site must be located south of Orangeburg.

13. Danville, Ind. (RM-1563). On petition filed by United Broadcasting Co., Inc., licensee of Station WWVR-FM, West Terre Haute, Ind., a notice was issued inviting comments on a proposal to assign Channel 296A to Danville, Ind., a community located approximately 20 miles west of Indianapolis. The requested assignment would provide for a first local aural facility to a community of 5,819 persons. No adverse preclusionary effects would occur from the proposed assignment. Comments were filed only by United Broadcasting in support of the proposal, although earlier the licensee of Station WJMK, Plainfield, Ind., had filed an opposition to the petition on economic injury grounds.[2] We believe that the public interest would be served to assign Channel 296A to Danville, Ind. Any applicant for this channel here must specify a site at least 2 miles northwest or west of Danville.

14. Manning, S.C. (RM-1571). As a result of a petition filed by Clarendon County Broadcasting Co., Inc., licensee of AM Station WYMB, a notice of proposed rule making was given proposing to assign Channel 221A to Manning, S.C. Although the FM Table reflects the assignment of Channel 261A at Manning, the channel is utilized at Kingstree, S.C., about 22 miles away in a different county. Thus, in reality, the requested channel would provide for a first FM station at Manning, a community of 4,025 persons, the county seat and the largest city in Clarendon County. We found preclusionary effects on some of the channels, but we concluded that no adverse impact would occur to prevent consideration of the proposal.

[2] Plainfield and Danville are some 8 miles apart, both in Hendricks County (1970 population 53,974), which has no AM stations. This county is in the Indianapolis Standard Metropolitan Statistical Area (SMSA) although not its central county. Danville is the county seat, but Plainfield is the larger community (populations 8,211 and 5,819).

15. Comments were filed only by Clarendon County Broadcasting, in support of the proposal. It appears that it would be in the public interest to assign Channel 221A to Manning, and shift the assignment of Channel 261A from Manning to Kingstree, S.C., keeping the assignment consistent with the provisions of § 73.203(b) of the rules.

16. In view of the foregoing: *It is ordered*, That, pursuant to section 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, effective December 14, 1971, § 73.202(b) of the Commission's rules, the FM Table of Assignments, is amended: (a) By the addition of the following entries:

City	Channel No.
Danville, Ind	296A
Paoli, Ind	237A
Sullivan, Ind	237A
St. Charles, Mo	246
Kingstree, S.C	261A
Terrell, Tex	296A

(b) To change the entries for the following cities to read as indicated:

City	Channel No.
Bedford, Ind	288A
St. Louis, Mo	222, 229, 242, 251, 273, 277, 299
Manning, S.C	221A
Orangeburg, S.C	280A, 294

17. *It is further ordered*, That effective December 14, 1971, the outstanding license held by Vanguard Broadcasting Corp. for Station KADI, St. Louis, Mo., is modified to specify operations on Channel 242 in lieu of Channel 243, subject to the following conditions:

(a) The licensee shall inform the Commission in writing by no later than December 14, 1971, of its acceptance of this modification.

(b) The licensee shall submit to the Commission by January 4, 1972, all necessary information complying with the applicable technical rules for modification of authorization to cover the operation of Station KADI on Channel 242 at St. Louis, Mo.

(c) The licensee may continue to operate on Channel 243 under its outstanding authorization until December 14, 1971, or until 45 days after it receives notice from the Commission that a station is authorized to operate on Channel 246 at St. Charles, Missouri, whichever is later, or the licensee is ready to operate earlier on the new frequency and submits an application for an FM broadcast station license with proof of performance measurement data to demonstrate compliance with technical performance requirements of the rules. The licensee shall not operate on Channel 242 without prior authorization from the Commission.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: October 28, 1971.

Released: November 1, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[3]
BEN F. WAPLE,
Secretary.

[3] Commissioner Reid not participating.

[FR Doc.71-16155 Filed 11-3-71;8:55 am]

[Docket No. 19086; FCC 71-1104]

EXPANDED USE OF NONVOICE EMISSIONS

Memorandum Opinion and Order

In the matter of expanded use of nonvoice emission under Parts 89, 91, and 93 of the Commission's rules, Docket No. 19086, RM-1458.

1. On August 18, 1971, the Commission adopted a report and order (36 F.R. 16914, August 26, 1971) in the above-entitled matter which amended rules in Parts 89, 91, and 93 to permit regular and expanded operation of nonvoice radio systems on voice channels in the land mobile radio services below 950 MHz. Two petitions for reconsideration of certain of these rule changes have been submitted. One of these concerns rule changes which require that both nonvoice and voice operations must be identified by voice transmission. The Associated Public-Safety Communications Officers, Inc. (APCO), has petitioned for reconsideration of this limitation. Another new provision requires that nonvoice systems employ automatic sensing devices to prevent transmission on an occupied channel. Reconsideration of this requirement has been requested by RYDAX, Inc.

2. APCO's petition requests an exception to the requirement for station identification by voice in order to accommodate "use by certain public safety agencies of International Morse Code for automatic station identification." APCO also asks that the 2-second limitation adopted for duration of nonvoice signals be expanded to 6 seconds to cover the normal transmission time for identification by morse code and notes that it "remains concerned that certain other nonvoice transmission useful in public safety communications may also require more than the permitted 2 seconds."

3. It does not appear to the Commission that automatic morse code identification affords significant advantages which warrant reconsideration of the adopted rule changes. On the contrary, use of morse code and the additional transmitting time required for this mode is inconsistent with purposes for which expanded use of nonvoice techniques is now allowed. These include "speeding-up communications" by encouraging development and use of more efficient digital systems and reducing potential interference by prohibition of methods that utilize excessive air time. These considerations are fully discussed in our report and order and APCO has not presented any new or compelling factors which prompt a different conclusion. Accordingly, we are denying the APCO reconsideration petition.

4. APCO also requested clarification as to the status of Police Radio licensees who were granted special authorizations to use automatic morse code station identification under the former rules. These few licensees have made a substantial investment in equipment for this technique and it was not intended that their special authorizations be voided by the new requirements. Thus, the current authorizations which permit transmissions of the station identification by morse code will be permitted to continue. However, as noted in our report and order, the possibility of automatic identification of land mobile stations is being considered by the staff and present provisions and exceptions may be revised in connection with that action.

5. The other petition, from RYDAX, concerns the following new provision related to preventing interference to voice communications by nonvoice transmissions: "Sensoring or monitoring devices must be employed to minimize interference to cochannel transmissions and shall be incorporated as automatic circuitry in the associated receiver to prevent nonvoice signaling in the presence of another signal."

6. RYDAX, whose position is supported in comments from General Electric Co. (GE), and RCA Corp. (RCA), requests that this requirement be deleted or, in the alternative, that its effective date be stayed "until this matter can be properly considered." RYDAX bases this request on its experience with the development of "automatic circuitry devices for sensoring or monitoring" which it contends shows that the "goal" of such devices "cannot be fulfilled (with a few exceptions) unless or until there is a technical breakthrough • • •" In the same vein, GE refers to the need for further technical development of these devices and states that "it is premature to establish requirements and standards for them or to determine their adequacy for protecting voice transmissions." GE advocates a permissive rather than a mandatory approach to aid in this development stating "we believe that automatic monitoring devices may be appropriate in some systems and that the Commission should allow their use during the immediate future when the Commission is seeking to optimize the nonvoice/voice channel use."

7. The Commission has reevaluated this requirement in the light of the arguments presented by the petitioner and by supporting comments of GE and RCA. It now appears that, while the objective of the sensing device requirement is sound (that it could be an

effective method of enforcing the secondary status of nonvoice communications on land mobile frequencies), significant questions have been raised as to whether use of these devices across the board is practical at this time in the land mobile environment. As mentioned, our basic objective was to protect voice communications against interference from nonvoice transmissions on the same frequencies within the same operating area. However, the petitioner has pointed out that sensing devices would react to the presence of all kinds of signals because they cannot discriminate between cochannel voice transmissions and signals emanating from other sources, such as, intermodulation within the receiver, transmissions from distant stations, and other sources. This would cause unnecessary and in many cases unwarranted "lock out" of the transmitter. Thus, we agree with the comments of GE that the requirement for such devices should not be imposed until this matter is considered after we have had experience with nonvoice communications and until technical operational standards for automatic monitoring and sensing devices have been established. For these reasons, the Commission has determined to grant RYDAX's petition for reconsideration and to delete the immediate requirement for use of these devices. We are also adopting GE's suggestion to permit the use of such devices by licensees who can adapt them to their systems. It should be emphasized, however, that although we are not requiring the use of these devices, we will not accord nonvoice communications "equal priority" with voice communications as advocated by RYDAX. Licensees will be expected, therefore, to employ effective procedures, including sensing devices where feasible, to avoid interference to voice communications.

8. In consideration of the foregoing, the petition for reconsideration submitted by the Associated Public-Safety Communications Officers, Inc., is denied and the petition for reconsideration submitted by RYDAX, Inc., is granted.

9. Accordingly, pursuant to authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended: *It is ordered*, That Parts 89, 91, and 93 of the Commission's rules are amended as set forth below. *It is further ordered*, That, since these amendments relieve licensees of a restriction on the operation of nonvoice radio systems, the effective date provisions of the Administrative Procedure Act (5 U.S.C. 553) do not apply. This amendment shall become effective November 12, 1971. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Adopted: October 28, 1971.

Released: November 1, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE, *Secretary.*

[1] Commissioner Johnson concurring in the result; Commissioner Reid not participating.

Parts 89, 91, and 93 of the Commission's rules are amended as follows:

PART 89—PUBLIC SAFETY RADIO SERVICES

1. Section 89.105(d)(3) is revised to read as follows:

§ 89.105 Types of emission.

* * * * *

(d) * * *

(3) Sensing or monitoring devices may be employed to minimize interference to cochannel transmissions and may be incorporated as automatic circuitry in the associated receiver to prevent nonvoice signaling in the presence of another signal.

PART 91—INDUSTRIAL RADIO SERVICES

2. Section 91.103(b)(3) is revised to read as follows:

§ 91.103 Types of emission.

* * * * *

(b) * * *

(3) Sensing or monitoring devices may be employed to minimize interference to cochannel transmissions and may be incorporated as automatic circuitry in the associated receiver to prevent nonvoice signaling in the presence of another signal.

PART 93—LAND TRANSPORTATION RADIO SERVICES

3. Section 93.103(b)(3) is revised to read as follows:

§ 93.103 Types of emission.

* * * * *

(b) * * *

(3) Sensing or monitoring devices may be employed to minimize interference to cochannel transmissions and may be incorporated as automatic circuitry in the associated receiver to prevent nonvoice signaling in the presence of another signal.

[FR Doc.71-16156 Filed 11-3-71;8:55 am]

Title 49—TRANSPORTATION

Chapter I—Hazardous Materials Regulations Board, Department of Transportation

[Docket No. HM-36; Amdt. Nos. 171-13, 174-11, 175-6, 177-18]

RADIOACTIVE MATERIALS

Reporting Requirements

The purpose of this amendment to the Hazardous Materials Regulations of the Department of Transportation is to make reporting requirements for incidents involving radioactive materials consistent with reporting requirements applicable to other hazardous materials.

On July 9, 1971, the Hazardous Materials Regulations Board published a notice of proposed rule making, Docket No. HM-36; Notice No. 71-22 (36 F.R. 12913), which proposed this amendment. Interested persons were invited to give their views and several comments were received by the Board. Most comments were in support of the proposal.

Several commenters correctly noted that reference to § 173.399 in §§ 174.588, 175.655, and 177.861 should be to § 173.397. These changes have been made.

One commenter was concerned that difficulties might arise with a requirement to report when "suspected" radioactive contamination is involved. This commenter stated that the requirement for reporting should be conditioned upon observed leakage only and cited as a reason the lack of availability of radiation detection equipment to many carriers. The Board is particularly concerned with failures to report because of this lack of detection devices. It recognizes that when radioactive contamination occurs, detailed investigation, extensive tracing, and many contacts with potentially exposed persons may become necessary. The time, effort, and cost incurred in such cases dictate that incidents be reported as quickly as possible to minimize the extent and effect of any possible radioactive contamination. Therefore, suspect situations warrant a carrier ascertaining the facts and reporting them to the Department. He may not have the means to do this without enlisting aid from knowledgeable and properly equipped organizations. Past history has shown that many carriers are aware of the potential seriousness of contamination to persons, equipment, or facilities, and have requested radiological assistance when in doubt about the integrity of a package. Since this reaction is desired, the Board has concluded that the conditions suggested by the commenter are not warranted.

One commenter recommended that notification be required within 48 hours following a radioactive materials incident, instead of at the "earliest practicable moment." The "earliest practicable moment" policy is consistent with § 171.15(a). By this amendment, the Board is establishing the radioactive material incident described in §§ 174.588, 175.655, and 177.861 as immediately reportable, rather than only reportable within some longer time frame. The nature of a radioactive contamination problem indicates to the Board that immediate reporting to the Department and the shipper involved is particularly essential and entirely appropriate with respect to the public's interest.

It should be emphasized that the reporting requirements for radioactive materials transportation incidents as established by the Board in this amendment are in no way intended to replace or impair the existing national system for obtaining emergency radiological assistance in the event of incidents involving radioactive materials. That system, which is intended to provide response capabilities for radiological monitoring in emergencies, is administered by the U.S. Atomic Energy Commission and supported by the capabilities of other Federal and State organizations. Further information on that system may be obtained from the U.S. Atomic Energy Commission, Division of Operational Safety, Washington, D.C. 20545.

In consideration of the foregoing, 49 CFR Parts 171, 174, 175, and 177 are amended as follows:

PART 171—GENERAL INFORMATION AND REGULATIONS

In § 171.15 paragraph (a)(3) is amended, (a)(4) is redesignated (a)(5), and a new (a)(4) is added thereto as follows:

§ 171.15 Immediate notice of certain hazardous materials incidents.

(a) * * *

(3) Estimated carrier or other property damage exceeds $50,000;

(4) Fire, breakage, spillage, or suspected radioactive contamination occurs involving shipment of radioactive material. (See also §§ 174.588(c)(1), 175.655(j)(3), and 177.861(a) of this chapter.); or

* * * * *

PART 174—CARRIERS BY RAIL FREIGHT

In § 174.588, paragraph (c)(1) is amended, Note 2 is canceled as follows:

§ 174.588 Disposition of damaged or astray shipments.

* * * * *

(c) * * *

(1) In addition to the incident reporting requirements of §§ 171.15 and 171.16 of this chapter, the carrier must also notify the shipper at the earliest practicable moment following any incident in which there has been breakage, spillage, or suspected radioactive contamination involving radioactive materials shipments. Vehicles, buildings, areas, or equipment in which radioactive materials have been spilled may not be again placed in service or routinely occupied until the radiation dose rate at any accessible surface is less than 0.5 millirem per hour and there is no significant removable radioactive surface contamination (see § 173.397 of this chapter).

NOTE 2: [Canceled]

* * * * *

PART 175—CARRIERS BY RAIL EXPRESS

In § 175.655, paragraph (j)(3) is amended to read as follows:

§ 175.655 Protection of packages.

* * * * *

(j) * * *

(3) In addition to the incident reporting requirements of §§ 171.15 and 171.16 of this chapter, the carrier must also notify the shipper at the earliest practicable moment following any incident in which there has been breakage, spillage, or suspected radioactive contamination involving radioactive materials shipments. Vehicles, buildings, areas, or equipment in which radioactive materials have been spilled may not be again placed in service or routinely occupied until the radiation dose rate at any accessible surface is less than 0.5 millirem per hour and there is no significant removable radioactive surface contamination (see § 173.397 of this chapter).

* * * * *

PART 177—SHIPMENTS MADE BY WAY OF COMMON, CONTRACT, OR PRIVATE CARRIERS BY PUBLIC HIGHWAY

In § 177.861, paragraph (a) is amended to read as follows:

§ 177.861 Accidents; radioactive materials.

(a) In addition to the incident reporting requirements of §§ 171.15 and 171.16 of this chapter, the carrier must also notify the shipper at the earliest practicable moment following any incident in which there has been breakage, spillage, or suspected radioactive contamination involving radioactive materials shipments. Vehicles, buildings, areas, or equipment in which radioactive materials have been spilled may not be again placed in service or routinely occupied until the radiation dose rate at any accessible surface is less than 0.5 millirem per hour and there is no significant removable radioactive surface contamination (see § 173.397 of this chapter).

* * * * *

This amendment is effective December 31, 1971, however, compliance with the regulations as amended herein is authorized immediately.

(Secs. 831-835, Title 18, U.S.C.; sec. 9, Department of Transportation Act, 49 U.S.C. 1657; Title VI, sec. 902(h), Federal Aviation Act of 1958, 49 U.S.C. 1421-1430 and 1472(h))

Issued in Washington, D.C., on October 29, 1971.

W. F. REA III,
Rear Admiral, Board Member, for the U.S. Coast Guard.

MAC E. ROGERS,
Board Member, for the Federal Railroad Administration.

ROBERT A. KAYE,
Board Member, for the Federal Highway Administration.

JAMES F. RANDOLPH,
Board Member, for the Federal Aviation Administration.

[FR Doc.71-16126 Filed 11-3-71;8:53 am]

[Docket No. HM-46; Amdts. 172-12, 173-56, 174-12, 177-19, 178-21]

RAILWAY AND HIGHWAY FUSEES

Reclassification as Flammable Solids

On April 22, 1970, the Hazardous Materials Regulations Board published Docket No. HM-46; Notice No. 70-7 (35 F.R. 6439), proposing reclassification of railway and highway fuses from explosive C to the flammable solid classification.

The reasons for the Board's decision to propose reclassification were set forth in the notice of proposed rule making. The Board specifically pointed out that it did not agree with a petition that shipments of fusees should be exempted from the labeling and placarding requirements of the Hazardous Materials Regulations. The original petition filed for reclassification did not contain supporting data for such exemptions.

Interested persons were invited to give their views on the proposal. Initially many of the comments received did not question the reclassification but requested withdrawal of the notice because of the labeling and placarding requirements. Subsequently, the commenters amended their requests for withdrawal of the notice, and now agree with the Board's decision. On the basis of the original petition for rule change and the comments received in response to the subject notice, the Board concludes that reclassification and the labeling and placarding requirements are warranted.

The Air Transport Association noted that, as proposed, the new rule would no longer permit fusees to be transported on passenger-carrying aircraft as presently authorized by 14 CFR 103.7(b)(2). The ATA stated it was not aware of difficulties with fusees in air transportation. In response to ATA's comment, a corresponding change is being made in 14 CFR 103.7(b) in this issue of the FEDERAL REGISTER to eliminate this unintended restriction.

In consideration of the foregoing, 49 CFR Parts 172, 173, 174, 177, and 178 are amended as follows:

PART 172—COMMODITY LIST OF HAZARDOUS MATERIALS CONTAINING THE SHIPPING NAME OR DESCRIPTION OF ALL ARTICLES SUBJECT TO PARTS 170-189 OF THIS CHAPTER

In § 172.5 paragraph (a), the commodity list is amended as follows:

§ 172.5 List of hazardous materials.

(a) * * *

Article	Classed as—	Exemptions and packing (see sec.)	Label required if not exempt	Maximum quantity in one outside container by rail express
Cancel				
Highway fusees	Expl. C	No exemption, 173.108		200 pounds.
Railway fusees	do	do		Do.
Add				
Fusees (railway and highway)	F.S	No exemption, 173.154a	Yellow	Do.
* * *	* * *	* * *	* * *	* * *

PART 173—SHIPPERS

(A) In Part 173 Table of Contents § 173.108 is amended; § 173.154a is added to read as follows:

Sec.
173.108 Common fireworks, signal flares, hand signal devices, smoke signals, smoke candles, smoke grenades, smokepots, and Very signal cartridges.
173.154a Fusees.

(B) In § 173.100, paragraph (y) is amended to read as follows:

§ 173.100 Definition of Class C explosives.

• • • • •

(y) Smoke candles, smokepots, smoke grenades, smoke signals, signal flares, hand signal devices, and Very signal cartridges are devices designed to produce visible effects for signal purposes. These devices must contain no bursting charges and no more than 200 grams of pyrotechnic composition each (see note 1), exclusive of smoke composition (see note 2), unless greater weight of composition is approved by the Bureau of Explosives.

• • • • •

(C) In § 173.108 the heading, the introductory text of paragraph (a), and paragraph (a)(5) are amended; paragraph (a)(6) is added; paragraph (b) is canceled; paragraph (d) is amended to read as follows:

§ 173.108 Common fireworks, signal flares, hand signal devices, smoke signals, smoke candles, smoke grenades, smokepots, and Very signal cartridges.

(a) Class C explosives covered by this section must, unless otherwise specifically provided for, be securely packed in packages complying with the following specifications.

• • • • • •

(5) Fireworks, such as sparklers, with match tip or head, or similar ignition point or surface, must have each individual tip, head, or similar ignition point or surface entirely covered and securely protected against accidental contact or friction.

(6) Signal flares may be packed with nonexplosive or nonflammable articles provided the outside packages are marked as prescribed in this section.

(b) [Canceled]

• • • • •

(d) Each outside package must be plainly marked in letters not less than seven-sixteenths of an inch in height "Common Fireworks," "Signal Flares," "Hand Signal Devices," "Smoke Signals," "Smoke Candles," "Smoke Pots," "Smoke Grenades," or "Very Signal Cartridges," as appropriate, and with the additional words "Handle Carefully—Keep Fire Away."

(D) Section 173.154a is added to read as follows:

§ 173.154a Fusees.

(a) A fusee is a device designed to burn at a controlled rate and to produce visible effects for signaling purposes. It consists of a pasteboard or fiber tube containing a colored flare mixture and with or without a means of support. The composition of the fusee must be such that spontaneous ignition does not occur when the moistened composition is exposed to a temperature of 212° F. for 72 consecutive hours. Fusees must have individual tip, head, or similar ignition point or surface entirely covered and securely protected against accidental contact or friction. Fusees must be securely packed in packages complying with the following specifications:

(1) Specifications 15A, 15B, 15C, 16A, 19A, or 19B (§§ 178.168, 178.169, 178.170, 178.185, 178.190, 178.191 of this chapter). Wooden boxes having a gross weight not to exceed 150 pounds for specification 19B boxes; 200 pounds for the other boxes. When specification 15C boxes are used, devices must be packed in airtight inside metal receptacles.

(2) Specification 12B (§ 178.205 of this chapter) fiberboard boxes. Boxes must have reinforced ends proven to be capable of preventing penetration of spikes through the outside box when a sample package, prepared as for shipment, is subjected to two drops from a height of 4 feet onto a solid surface. The package must be dropped so as to strike diagonally with the spikes in a downward position. Gross weight not to exceed 65 pounds except that gross weight not to exceed 75 pounds is authorized in boxes made in accordance with § 178.205–24 of this chapter.

(3) Specification 29 (§ 178.226 of this chapter). Mailing tubes, provided the penetration of the spikes of the fusees through the outside container is prevented by the method specified for fiberboard boxes, specification 12B, in subparagraph (2) of this paragraph. Gross weight not to exceed 5 pounds.

(4) Fusees without spikes when offered for shipment may be packed in packages prescribed in this paragraph, omitting the protection required for these devices when equipped with spikes.

(5) Fusees may be packed with nonexplosive or nonflammable articles provided the outside packages are marked as prescribed in this section.

(b) Each outside package must be plainly marked in letters not less than seven-sixteenths inch in height "Fusees" and with the additional words "Handle Carefully—Keep Fire Away."

PART 174—CARRIERS BY RAIL FREIGHT

(A) In Part 174 Table of Contents, § 174.538 is amended to read as follows:

Sec.
174.538 Loading and storage chart of hazardous materials.

(B) § 174.538 the heading is amended; in paragraph (a) item 9 of the loading and storage chart is amended in both the vertical and horizontal columns to read as follows:

§ 174.538 Loading and storage chart of hazardous materials.

(a) • • •

Item 9—Fireworks, common.

• • • • •

PART 177—SHIPMENTS MADE BY WAY OF COMMON, CONTRACT, OR PRIVATE CARRIERS BY PUBLIC HIGHWAY

(A) In Part 177 Table of Contents, § 177.848 is amended to read as follows:

Sec.
177.848 Loading and storage chart of hazardous materials.

(B) In § 177.848 the heading is amended; in paragraph (a) item 9 of the loading and storage chart is amended in both the vertical and horizontal columns to read as follows:

§ 177.848 Loading and storage chart of hazardous materials.

(a) • • •

Item 9—Fireworks, common.

• • • • •

PART 178—SHIPPING CONTAINER SPECIFICATIONS

(A) In § 178.205–24 the heading and paragraph (a) are amended to read as follows:

§ 178.205 Specification 12B; fiberboard boxes.

§ 178.205–24 Special box; authorized only for fusees.

(a) Must comply with this specification except that the box must be constructed of double faced corrugated fiberboard at least 400-pound test or solid fiberboard of same strength. Lining and pads are not required. Authorized gross weight is 75 pounds. For fusees equipped with spikes, box-end protection as required in § 173.154a(a)(2) of this chapter must be provided.

• • • • •

This amendment is effective December 31, 1971, however, compliance with the regulations, as amended herein, is authorized immediately.

(Secs. 831–835, title 18, U.S.C.; sec. 9, Department of Transportation Act, 49 U.S.C. 1657; title VI, sec. 902(h), Federal Aviation Act of 1958, 49 U.S.C. 1421–1430 and 1472(h))

Issued in Washington, D.C., on October 29, 1971.

W. F. REA III,
Rear Admiral, Board Member, for the U.S. Coast Guard.

MAC E. ROGERS,
Board Member, for the Federal Railroad Administration.

ROBERT A. KAYE,
Board Member, for the Federal Highway Administration.

JAMES F. RUDOLPH,
Board Member, for the Federal Aviation Administration.

[FR Doc.71X16127 Filed 11–3–71;8:53 am]

Chapter X—Interstate Commerce Commission

PART 1033—CAR SERVICE

[S.O. No. 1083]

Southern Pacific Transportation Co. Authorized To Operate Over Tracks of The Texas and Pacific Railway Co.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 28th day of October 1971.

It appearing, that because of severe track damage caused by floods and washouts, the Southern Pacific Transportation Co. is unable to operate over its line from Commerce, Tex., to Paris, Tex., and is unable to continue service to shippers located at various points on this line; that The Texas and Pacific Railway Co. has consented to use of its tracks by the Southern Pacific Transportation Co. between a point of connection between these companies at Texas and Pacific milepost 91.7 at Paris, Tex., and another point of connection at Texas and Pacific milepost 154.5 at Sherman, Tex., a distance of 62.8 miles; that the Commission is of the opinion that operation by the Southern Pacific Transportation Co. over this trackage of The Texas and Pacific Railway Co. is necessary in the interest of the public and the commerce of the people, pending completion of repairs to the line of the Southern Pacific Transportation Co.; that notice and public procedure herein are impractical and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1083 Service Order No. 1083.

(a) *Southern Pacific Transportation Co. authorized to operate over tracks of The Texas and Pacific Railway Co.* The Southern Pacific Transportation Co. be, and it is hereby, authorized to operate over tracks of The Texas and Pacific Railway Co. between a point of connection between these companies at Texas and Pacific milepost 91.7 at Paris, Tex., and another point of connection at Texas and Pacific milepost 154.5 at Sherman, Tex., a distance of 62.8 miles.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the Southern Pacific Transportation Co. over tracks of The Texas and Pacific Railway Co. is deemed to be due to carrier's disability, the rates applicable to traffic moved over the tracks of The Texas and Pacific Railway Co. by the Southern Pacific Transportation Co. shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 11:59 p.m., October 29, 1971.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., December 15, 1971, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1 (10–17), 15(4), and 17(2), 40 Stat. 101, as amended; 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71–16152 Filed 11–3–71;8:54 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Imperial National Wildlife Refuge, Ariz. and Calif.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (11–4–71).

§ 28.28 Special regulations; public access, use, and recreation; for individual wildlife refuge areas.

ARIZONA AND CALIFORNIA

IMPERIAL NATIONAL WILDLIFE REFUGE

Imperial National Wildlife Refuge, Ariz. and Calif., is open to public access, use, and recreation, except where prohibited by appropriate signs, subject to the provisions of Title 50, Code of Federal Regulations, all applicable Federal and State laws and regulations, and the following special regulations:

(a) Camping is limited to five (5) consecutive days per visit, providing that visitors comply with paragraph (c).

(b) Picnicking is permitted throughout the refuge except where restricted by appropriate signs and in those areas closed to public entry.

(c) Dumping of sewage or liquid wastes from campers, trailers, or boats is prohibited.

(d) Campfires are permitted but must be attended at all times.

(e) Pets are permitted only if they are confined or kept on a leash not to exceed ten (10) feet in length one end of which is secured so as to restrict the movements of the animal.

(f) Boating is permitted in all waters of the refuge except where prohibited by appropriate signs and in those areas closed to public entry.

(g) Waterskiing is permitted only in the main channel of the Colorado River and shall be in accordance with applicable Federal and State laws and regulations.

(h) Hiking, sightseeing, and photography are permitted except in those areas closed to public entry.

(i) Blocking of boat ramps or routes of public access is prohibited.

(j) An area on the west end of Martinez Lake consisting of approximately 175 acres shall be closed to public entry during the following periods: January 1 through February 28, 1972; inclusive; and October 1 through December 31, 1972, inclusive. This area shall be designated by a line of buoys across Martinez Lake posted with appropriate signs.

Areas closed to the public are delineated on maps available at refuge headquarters, Yuma, Ariz., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103.

The provisions of this special regulation supplement the regulations which govern public access, use and recreation on national wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1972.

ROBERT W. THORSEN,
Refuge Complex Supervisor, Imperial National Wildlife Refuge, Yuma, Ariz.

OCTOBER 19, 1971.

[FR Doc.71–16068 Filed 11–3–71;8:47 am]

PART 32—HUNTING

National Wildlife Refuges in Certain States

The following special regulations are issued and are effective on date of publication in the FEDERAL REGISTER (11–4–71).

§ 32.12 Special regulations; migratory birds; for individual wildlife refuge areas.

ALABAMA

WHEELER NATIONAL WILDLIFE REFUGE

Hunting of geese, ducks, and coots on the Wheeler National Wildlife Refuge, Ala., is suspended for the 1971–72 season due to a serious decline in numbers of wintering geese in the refuge area.

FLORIDA

CHASSAHOWITZKA NATIONAL WILDLIFE REFUGE

Public hunting of ducks and coots on the Chassahowitzka National Wildlife Refuge, Fla., is permitted only on the area designated by signs as open to hunting. The open area, comprising 2,500 acres, is delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of

Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of ducks and coots subject to the following special conditions:

(1) Hunting will be permitted only on Wednesdays through Sundays.

(2) Only temporary blinds constructed of native vegetation are permitted.

(3) Designated routes of travel must be used for entering or leaving the public hunting area.

(4) A Federal permit is required for the use of airboats in the refuge area. All airboats must be equipped with exhaust mufflers.

(5) All guns must be unloaded and cased while hunters are traveling to and from the hunting area.

(6) Decoys will be retreived by hunters at the end of each day's hunt.

LOXAHATCHEE NATIONAL WILDLIFE REFUGE

Public hunting of ducks and coots on the Loxahatchee National Wildlife Refuge, Fla., is permitted only on the area designated by signs as open to hunting. This open area, comprising 29,000 acres, is delineated on a map available at the refuge headquarters, Delray Beach, Fla., and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks and coots subject to the following special conditions:

(1) Only temporary blinds constructed of native vegetation are permitted.

(2) Hunters must enter and leave the refuge by either the S–39 landing or the headquarters landing and must use the following designated routes of travel to and from the hunting area; those portions of Canal 40 and Canal 39 (Hillsboro Canal) immediately east and south of the hunting area; also the refuge marsh areas near the headquarters landing and the S–30 landing lying between the hunting area and portions of canals described above. No hunting is permitted in or over these designated routes of travel.

(3) While using designated routes of travel to and from the hunting area, hunters must have their shotguns unloaded and dismantled or cased.

(4) Air-thrust boats may be authorized for use only by special permit issued by the Refuge Manager.

(5) The possession or use of shotgun shells with shot size larger than No. 4 shot is prohibited.

(6) All public use within the refuge during the hunting season is limited to the period each day from 1½ hours before sunrise to 1 hour after sunset.

MERRITT ISLAND NATIONAL WILDLIFE REFUGE

Public hunting of ducks and coots on the Merritt Island National Wildlife Refuge, Fla., is permitted only on the areas designated by signs as open to hunting. These open areas, comprising 18,636 acres, are delineated on a map available at the refuge headquarters, Merritt Island National Wildlife Refuge, Fla., and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks and coots subject to the following special conditions:

(1) In Hunting Area No. 1, hunting will be permitted only from one-half hour before sunrise until noon on Sundays, Tuesdays, Thursdays, and Saturdays.

(2) In Hunting Area No. 2, subject to security requirements of the Director, Kennedy Space Center, hunting will be permitted from one-half hour before sunrise to sunset only on Sundays, Tuesdays, Thursdays, and Saturdays.

(3) A refuge permit is required of all hunters in both areas on Holidays, Saturdays, and Sundays. Applications must be received no later than 2 weeks prior to the hunt date. Only one application may be submitted for any 1 day.

(4) Air-thrust boats are not permitted on the refuge.

(5) Hunters under 16 years of age must be accompanied by an adult 21 years of age or older.

(6) In Hunting Area No. 2 no shooting is permitted from or across the railroad right-of-way or any hard-surfaced road.

GEORGIA

EUFAULA NATIONAL WILDLIFE REFUGE

Public hunting of ducks and coots on the Eufaula National Wildlife Refuge, Ga., is permitted only on the area designated by signs as open to hunting. This open area, comprising 770 acres, is delineated on a map available at the refuge headquarters, Eufaula, Ala., and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks and coots subject to the following special conditions:

(1) Hunting will be permitted only on Saturdays with the exception of Christmas and New Years. Wednesday, December 22 and Wednesday, December 29 will be substituted for those days. Hunting hours will be from one-half hour before sunrise to 11:30 a.m. during the waterfowl season.

(2) Hunters must hunt only from designated blinds provided and located by the Bureau. Shooting is not permitted outside of designated blind zones.

(3) Guns must be unloaded while being transported on the refuge and while being carried to and from the blinds.

(4) Each hunter is limited to no more than 15 shells in his possession. Shells with shot larger than No. 4 are prohibited.

(5) Hunters are required to check in and out of the hunt area and must present all bagged game for inspection.

(6) A refuge permit is required. A blind fee of $6 per blind will be charged at the time permits are issued prior to each day's hunt.

(7) Applications for advance reservations for refuge permits must be received by the Refuge Manager, Eufaula Refuge, Eufaula, Ala., prior to 12 noon, November 1, 1971. Successful applicants will be determined by an impartial drawing.

(8) Hunters under 18 years of age must be accompanied by an adult, 21 years of age or older.

(9) Blind reservations are nontransferable.

LOUISIANA

LACASSINE NATIONAL WILDLIFE REFUGE

Public hunting of waterfowl is permitted on Lacassine National Wildlife Refuge, La., only on the area designated by signs as open to hunting. The open area comprises 6,400 acres or approximately 20 percent of the total refuge area and is delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Waterfowl hunting shall be in accordance with applicable State and Federal regulations subject to the following special conditions:

(1) Waterfowl hunting is permitted 5 half-days per week, Wednesday through Sunday, during the periods November 11–28, 1971, and December 11, 1971, through January 9, 1972, except no hunting Christmas Day, December 25.

(2) Shooting hours: One-half hour before sunrise to 12 noon daily. Hunters may enter the refuge 2 hours prior to shooting time and must depart the hunting area by 1 p.m.

(3) Temporary blinds of native vegetation may be constructed or portable blinds can be carried in for each hunt.

(4) During the waterfowl season only, small boats may be left on the area at the owners risk provided they do not block traffic and provided they are removed from the refuge not later than January 9, 1972. Airboats may not be used on the refuge.

(5) The use of retriever dogs is permitted and encouraged but they must be under control at all times.

(6) Hunting is not permitted within refuge waterways and hunters must station themselves a minimum of 50 yards inland from all streams and canals. Hunting along lake and pond edges is permissible.

(7) All guns must be encased or dismantled while traveling through waterways.

(8) Hunters shall not interfere with any refuge trapper during his daily rounds nor disturb any trap or set.

MISSISSIPPI

NOXUBEE NATIONAL WILDLIFE REFUGE

Public hunting of ducks and coots on the Noxubee National Wildlife Refuge, Miss., is permitted only on the area designated by signs as open to hunting. The open area of 520 acres is delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of ducks and coots subject to the following special conditions:

(1) Hunting will be permitted only on Mondays, Wednesdays, and Saturdays from one-half hour before sunrise to 12 noon during the period November 21, 1971, through January 15, 1972.

(2) The use of boats with electric motors is permitted within the hunting area.

(3) The construction of blinds is not permitted.

(4) Hunters will not be permitted to enter the hunting area sooner than 15 minutes before legal shooting hours.

(5) All hunters must enter and leave the waterfowl hunting area by way of the designated access point.

(6) No hunter may take more than 16 shotgun shells into the hunting area.

(7) No shooting will be permitted from the levee or the open water area immediately adjacent to the levee.

(8) All hunters are required to check out at the designated check station before leaving the area.

(9) Bag limits: To be set by flyway.

NORTH CAROLINA

MATTAMUSKEET NATIONAL WILDLIFE REFUGE

Public hunting of ducks, geese, and coots on the Mattamuskeet National Wildlife Refuge, N.C., is permitted only on the area designated by signs as open to hunting. This open area, comprising 11,300 acres, is delineated on a map available at the refuge headquarters, New Holland, N.C., and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, and coots subject to the following special conditions:

(1) Each hunter is limited to 25 shells per day.

(2) Air-thrust boats are prohibited.

SOUTH CAROLINA

SANTEE NATIONAL WILDLIFE REFUGE

Public hunting of geese, ducks, and coots on the Santee National Wildlife Refuge, Lake Moultrie Unit, S.C., is permitted only on the area designated by signs as open to hunting. This open area, comprising approximately 29,500 acres, is delineated on a map available at refuge headquarters, Summerton, S.C., and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of geese, ducks, and coots subject to the following special conditions:

(1) Hunting will be permitted only on Tuesdays, Thursdays, and Saturdays, during the period from December 2, 1971, through January 20, 1972.

(2) Shooting hours are from one-half hour before sunrise until 12 noon. Hunters may not enter the refuge hunting area prior to 1½ hours before sunrise and must be off the hunting area no later than 1 p.m.

(3) Only temporary blinds constructed of native vegetation are permitted. Any blind constructed by a hunter on the hunting area, once vacated, may be occupied by any other hunter on a first come, first served basis.

(4) Boats will not be left in Pinopolis Pool (Hatchery) overnight.

(5) Boat motors of any type, inboard, outboard, gasoline, diesel, air-thrust, or electric are not allowed in Pinopolis Pool (Hatchery).

TENNESSEE

TENNESSEE NATIONAL WILDLIFE REFUGE

Hunting of geese, ducks, and coots on the Tenneseee National Wildlife Refuge, Tenn., is suspended for the 1971–72 season due to a serious decline in numbers of wintering geese in the refuge area.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 20, 1972.

C. EDWARD CARLSON,
Regional Director, Bureau of Sport Fisheries and Wildlife.

OCTOBER 22, 1971.

[FR Doc.71-16069 Filed 11-3-71;8:48 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Special Contingency Reserves of Life Insurance Companies

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by December 6, 1971. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request.

Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by December 6, 1971. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) under sections 805 and 810 of the Internal Revenue Code of 1954 to section 907(a) of the Tax Reform Act of 1969 (83 Stat. 715), such regulations are amended as follows:

PARAGRAPH 1. Section 1.805 is amended by revising paragraph (e)(4) and by revising the historical note. These revised provisions read as follows:

§ 1.805 Statutory provisions; life insurance companies; policy and other contract liability requirements.

SEC. 805. *Policy and other contract liability requirements.* * * *

* * * * *

(e) *Interest paid.* * * *

(4) *Interest on certain special contingency reserves.* Interest for the taxable year on special contingency reserves under contracts of group term life insurance or group health and accident insurance which are established and maintained for the provision of insurance on retired lives, for premium stabilization, or for a combination thereof.

[Sec. 805 as amended by sec. 2, Life Insurance Company Tax Act 1955 (70 Stat. 43); sec. 2, Life Insurance Company Income Tax Act 1959 (73 Stat. 118); sec. 7, Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 828); sec. 907(s), Tax Reform Act 1969 (83 Stat. 715)]

PAR. 2. Section 1.805–8 is amended by revising paragraph (b)(4) to read as follows:

§ 1.805–8 Interest paid.

* * * * *

(b) *Interest paid defined.* * * *

(4) Interest for the taxable year on special contingency reserves under contracts of group term life insurance or group health and accident insurance which are established and maintained for the provision of insurance on retired lives, for premium stabilization, or for a combination thereof.

PAR. 3. Section 1.810 is amended by adding new subsection (c)(6) and by revising the historical note to read as follows:

§ 1.810 Statutory provisions; life insurance companies; rules for certain reserves.

SEC. 810. *Rules for certain reserves.*

* * * * *

(c) *Items taken into account.* * * *

(6) Special contingency reserves under contracts of group term life insurance or group health and accident insurance which are established and maintained for the provision of insurance on retired lives, for premium stabilization, or for a combination thereof.

* * * * * *

[Sec. 810 as added by sec. 2, Life Insurance Company Income Tax Act 1959 (73 Stat. 125); amended by section 907(a), Tax Reform Act 1969 (83 Stat. 715)]

PAR. 4. Section 1.810–2 is amended by adding a new subparagraph (6) to paragraph (b) and by revising examples (1) and (3) of paragraph (d) thereof to read as follows:

§ 1.810–2 Rules for certain reserves.

* * * * *

(b) *Items taken into account.* * * *

(6) Special contingency reserves under contracts of group term life insurance or group health and accident insurance which are established and maintained for the provision of insurance on retired lives, for premium stabilization, or for a combination thereof.

* * * * *

(d) *Illustration of principles.* The provisions of section 810 (a) and (b) and this section may be illustrated by the following examples:

Example (1). Assume the following facts with respect to R, a life insurance company:

Sum of items described in section 810 (c) (1) through (5) at beginning of taxable year	$940
Sum of items described in section 810 (c) (1) through (5) at end of taxable year	1,060
Required interest (as defined in section 809(a)(2))	70
Investment yield (as defined in section 804(c))	100
Amount of investment yield not included in gain or loss from operations for the taxable year by reason of section 809(a)(1)	70

In order to determine the adjustment for decrease or increase in the sum of the items described in section 810(c) for the taxable year, R must first reduce the sum of such items at the end of the taxable year ($1,060) by the amount of investment yield ($70) not included in gain or loss from operations for the taxable year by reason of section 809(a)(1). Since the adjusted sum of such items at the end of the taxable year, $990 ($1,060 minus $70), exceeds the sum of such items at the beginning of the taxable year, $940, the excess of $50 ($990 minus $940) shall be taken into account as a net increase under section 809(d)(2) and paragraph (a)(2) of § 1.809–5 in determining gain or loss from operations.

* * * * *

Example (3). Assume the following facts with respect to S, a life insurance company:

Sum of items described in section 810 (c) (1) through (5) at beginning of taxable year	$1,970
Sum of items described in section 810 (c) (1) through (5) at the end of taxable year	2,040
Required interest (as defined in section 809(a)(2))	60
Investment yield (as defined in section 804(c))	40
Amount of investment yield not included in gain or loss from operations by reason of section 809(a)(1)	40

Under the provisions of section 809(a)(1), since the required interest ($60) exceeds the investment yield ($40), the share of each and every item of investment yield set aside for policyholders and not included in gain or loss from operations for the taxable year shall be 100 percent. Thus, applying the provisions of section 810 (a) and (b), the sum of the items described in section 810(c) at the end of the taxable year ($2,040) must first be reduced by the entire amount of the investment yield ($40) in order to determine the net increase or decrease in the sum of such items for the taxable year. Since the adjusted sum of such items at the end of the taxable year, $2,000 ($2,040 minus $40), is greater than the sum of such items at the beginning of the taxable year, $1,970, the excess of $30 ($2,000 minus $1,970) shall be taken into account as a net increase under section 809(d)(2) and paragraph (a)(2) of § 1.809–5 in determining gain or loss from operations. No additional deduction is allowed under section 809(d) for the amount ($20) by which the required interest exceeds the investment yield for the taxable year.

* * * * *

[FR Doc. 71–16162 Filed 11–3–71;8:55 am]

[26 CFR Part 1]

INCOME TAX

Charitable Remainder Trusts; Notice of Hearing on Proposed Regulations

Proposed regulations under section 664 of the Internal Revenue Code of 1954, relating to charitable remainder trusts, appear in the FEDERAL REGISTER for September 18, 1971 (36 F.R. 18667).

A public hearing on the provisions of these proposed regulations will be held on Wednesday, December 8, 1971, at 10 a.m., e.s.t., in Room 3313, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, DC 20224.

The rules of § 601.601(a)(3) of the Statement of Procedural Rules (26 CFR Part 601) shall apply with respect to such public hearing. Copies of these rules may be obtained by a request directed to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, or by telephoning (Washington, D.C.) 202–964–3935. Under such § 601.601(a)(3), persons who have submitted written comments or suggestions within the time prescribed in the notice of proposed rule making and who desire to present oral comments should by November 24, 1971, submit an outline of the topics and the time they wish to devote to each topic. Such outlines should be submitted to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

Persons who desire a copy of such written comments or suggestions or outlines and who desire to be assured of their availability on or before the beginning of such hearing should notify the Commissioner, in writing, at the above address by December 1, 1971. In such a case, unless time and circumstances permit otherwise, the desired copies are deliverable only at the above address. The charge for copies is twenty-five cents ($0.25) per page, subject to a minimum charge of $1.

K. MARTIN WORTHY,
Chief Counsel.

[FR Doc.71–16222 Filed 11–3–71;9:18 am]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[43 CFR Part 25]

USE OF JOHNNY HORIZON SYMBOL

Notice of Proposed Rule Making

The purpose of this amendment is to provide rules for the commercial manufacture, reproduction, and use of the characterization "Johnny Horizon"—the official symbol for a public service antilitter and environmental cleanup program to maintain the beauty and utility of the Nation's public lands carried on by the Department of the Interior. It also provides guidelines for noncommercial use and for contributions of money and personal property to the "Johnny Horizon" program. These regulations are promulgated in accordance with the Act of September 25, 1970 (82 Stat. 870).

In accordance with the Department's policy on public participation in rule making (36 F.R. 8336) interested parties may submit written comments, suggestions, or objections with respect to the proposed rules to the Director (210), Bureau of Land Management, Washington, D.C. 20240 until December 16, 1971.

A new Part 25 is added to Subtitle A, Title 43 of the Code of Federal Regulations to read as follows:

PART 25—USE OF THE "JOHNNY HORIZON" SYMBOL

§ 25.0–1 Purpose.

This subpart establishes rules for the commercial and noncommercial use of the "Johnny Horizon" symbol and name.

§ 25.0–2 Objectives.

The objectives of these regulations are (a) to maintain the integrity of the name and characterization of "Johnny Horizon"—the official symbol for a public service antilitter and environmental cleanup program to maintain the beauty and utility of the Nation's public lands, (b) to authorize the noncommercial use of the symbol, and (c) to provide for use or royalty fees for the manufacture, reproduction, or use of the symbol for commercial purposes.

§ 25.0–3 Authority.

The Act of September 25, 1970 (84 Stat. 870) authorizes the Secretary of the Interior to establish and collect use or royalty fees for the manufacture, reproduction, or use of the "Johnny Horizon" name and symbol. The Act makes unauthorized manufacture, reproduction, and use a crime (18 U.S.C. 714). The Act also provides that royalty and use fees will be deposited in a special account and used for the purpose of furthering nationwide antilitter campaigns.

§ 25.0–5 Definitions.

As used in this part:

(a) The term "Johnny Horizon" means the name or characterization "Johnny Horizon" originated by the Bureau of Land Management, Department of the Interior, as the official symbol for a public service antilitter and environmental cleanup program, and as described in 18 U.S.C. 714, the representation of a tall, lean man, with strong facial features, who wears slacks and sport shirt buttoned to the collar (both green, when colored), no tie, a field jacket (red, when colored), boot-type shoes (brown, when colored) and who carries a backpack.

(b) "Director" means the Director of the Bureau of Land Management, or the person he delegates to act for him on matters pertaining to the "Johnny Horizon" program.

(c) "Johnny Horizon program" means those activities and supporting services conducted in furtherance of a public service antilitter and environmental cleanup campaign which uses the "Johnny Horizon" name or symbol.

§ 25.1 Commercial use.

(a) *Licenses.* The "Johnny Horizon" name or symbol may be used for commercial purposes only under a license issued pursuant to the regulations in this part. Licenses will be granted to any individual, business, or corporation if the Director determines that the proposed commercial use will promote the purposes of the "Johnny Horizon" program and will not impair the integrity of the name or symbol.

(b) *Terms and conditions.* In order to maintain the integrity of the "Johnny Horizon" program and to regulate the manufacture, reproduction, and use of the "Johnny Horizon" name and symbol licenses will be subject, but not limited, to the following terms and conditions:

(1) Payment of fair return to the United States for its property through negotiation of use or royalty fees.

(2) Licenses are nontransferable.

(3) All proposed products must be approved by the Director prior to manufacture or reproduction by the licensee. Substances inherently dangerous to users shall not be used.

(4) All licenses shall contain Equal Employment Opportunity provisions in compliance with Executive Order 11246, as amended (30 F.R. 12319 (1965)), and regulations issued pursuant thereto (41 CFR Chapter 60 and Part 17 of this chapter).

(5) Alteration of artwork must first be approved by the Director.

(6) Licenses shall be subject to revocation by the Director at any time he finds that (i) the use involved is injurious to the characterization of "Johnny Horizon," or (ii) there has been a violation of the terms and conditions of the license.

§ 25.2 Noncommercial use.

(a) *Permitted uses.* Products bearing the name or symbol of "Johnny Horizon," provided by the Government or acquired from licensed sources, may be used without a license or advance permission by any person or organization for the purpose of furthering antilitter and environmental cleanup campaigns, provided that no charge is made by the unlicensed user for service or products.

(b) *Technical advice.* To the extent possible, technical advice will be given to interested parties upon request to the Director.

(c) *Cooperation.* The Director may enter into cooperative agreements with other Federal agencies for use of the name or symbol of "Johnny Horizon." Agreements shall state the responsibilities of each agency pertaining to (1) maintaining the integrity of the program, (2) supplying materials, (3) assisting other groups or organizations, (4) restrictions of uses of materials, (5) altering artwork, and (6) making arrangements with public personalities engaged in the program.

§ 25.3 Contributions.

The Director may accept contributions of money and personal property by any

person or organization for use in the "Johnny Horizon" program.

§ 25.4 Unauthorized use.

Manufacture, reproduction, or use of the "Johnny Horizon" name or symbol, except as provided for under these regulations in this part is prohibited (18 U.S.C. 714).

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 20, 1971.

[FR Doc.71-16074 Filed 11-3-71;8:48 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 724]

TOBACCO

Notice of Determinations To Be Made for 1972–73, 1973–74, and 1974–75 Marketing Years

Pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq., hereinafter referred to as the "Act"), the Secretary is preparing (1) with respect to Cigar-binder (types 51 and 52) and Cigar-filler and binder (types 42–44, 53–55) tobacco, to proclaim national marketing quotas for the 1972–73, 1973–74, and 1974–75 marketing years, and to conduct within 30 days after the proclamation of such national marketing quotas referenda of farmers engaged in the 1971 production of each of such kinds of tobacco to determine whether they favor or oppose marketing quotas for such years; and (2) with respect to Fire-cured (type 21), Fire-cured (types 22–24), Dark air-cured, Virginia sun-cured, Cigar-binder (types 51 and 52), and Cigar-filler and binder (types 42–44, 53–55) tobacco, to determine and announce the national marketing quotas for the 1972–73 marketing year; to convert such marketing quotas into national acreage allotments and announce such allotments; to apportion such national acreage allotments, less reserves of not to exceed 1 per centum of each respectively, through the local committees among old farms; to apportion the aforementioned reserves for use in (a) establishing acreage allotments for new farms, and (b) making corrections and adjusting inequities in old farm allotments.

The Act (7 U.S.C. 1312(a)) provides that the Secretary shall proclaim not later than February 1 of any marketing year, with respect to these kinds of tobacco, a national marketing quota for any of such kinds of tobacco for each of the next 3 succeeding marketing years whenever he determines with respect to such kind of tobacco—

(1) That a national marketing quota has not previously been proclaimed and the total supply as of the beginning of such marketing year exceeds the reserve supply level therefor;

(2) That such marketing year is the last year of 3 consecutive years for which marketing quotas previously proclaimed will be in effect;

(3) That amendments have been made in provisions for establishing farm acreage allotments which will cause material revision of such allotments before the end of the period for which quotas are in effect; or

(4) That a marketing quota previously proclaimed for such marketing year is not in effect because of disapproval by producers: *Provided*, That if such producers have disapproved national marketing quotas for 3 successive years subsequent to 1952, thereafter a national marketing quota shall not be proclaimed hereunder which would be in effect for any marketing year within the 3-year period for which national marketing quotas previously proclaimed were disapproved by producers, unless prior to November 10 of the marketing year one-fourth or more of the farmers engaged in the production of the crop of tobacco harvested in the calendar year in which such marketing year begins petition the Secretary, in accordance with such regulations as he may prescribe, to proclaim a national marketing quota for each of the next 3 succeeding marketing years.

The Secretary has previously proclaimed quotas and conducted referenda for the various kinds of tobacco with results as follows: Fire-cured for the 1970–71, 1971–72, and 1972–73 marketing years, approved by growers (35 F.R. 4945); Dark air-cured for the 1970–71, 1971–72, and 1972–73 marketing years, approved by growers (35 F.R. 4945); Virginia sun-cured for the 1971–72, 1972–73, and 1973–74 marketing years, approved by growers (36 F.R. 6734); Cigar-binder (types 51 and 52) for the 1969–70, 1970–71, and 1971–72 marketing years, approved by growers (34 F.R. 5903); and Cigar-filler and binder (types 42–44, 53–55) for the 1969–70, 1970–71, and 1971–72 marketing years, approved by growers (34 F.R. 5903).

Section 301(b)(15) of the Act (7 U.S.C. 1301(b)(15)) defines "tobacco" as each one of the kinds of tobacco listed below comprising the types specified as classified in Service and Regulatory Announcement No. 118 (Part 30 of this title) of the former Bureau of Agricultural Economics of the Department:

Flue-cured tobacco, comprising types 11, 12, 13, and 14;
Fire-cured tobacco, comprising type 21;
Fire-cured tobacco, comprising types 22, 23, and 24;
Dark air-cured tobacco, comprising types 35 and 36;
Virginia sun-cured tobacco, comprising type 37;
Burley tobacco, comprising type 31;
Maryland tobacco, comprising type 32;
Cigar-filler and Cigar-binder tobacco, comprising types 42, 43, 44, 45, 46, 51, 52, 53, 54, and 55; and
Cigar-filler tobacco, comprising type 41.

Section 301(b)(15) also provides that any one or more of the types comprising any such kind of tobacco shall be treated as a "kind of tobacco" for the purposes of the Act if the Secretary finds that there is a difference in supply and demand conditions as among such types of tobacco which results in a difference in the adjustments needed in the marketings thereof in order to maintain supplies in line with demand. Pursuant to this authority, the Secretary has determined (15 F.R. 8214) that type 46 tobacco shall be treated as a separate kind of tobacco for purposes of marketing quotas and price supports. Pursuant to such authority, the Secretary has also determined (22 F.R. 367) that Cigar-binder (types 51 and 52) tobacco, beginning with the 1957–58 marketing year, shall be treated as a separate kind of tobacco for purposes of marketing quotas and price supports. Type 45 tobacco is no longer grown.

Section 312(b) of the Act (7 U.S.C. 1312(b)) provides that the Secretary shall determine and announce, not later than the first day of February 1972 with respect to kinds other than Flue-cured tobacco, the amount of the national marketing quota which will be in effect for the 1972–73 marketing year in terms of the total quantity of tobacco which may be marketed which will make available during such marketing year a supply of each kind of tobacco equal to the reserve supply level. Section 312(b) provides further that the amount of the 1972–73 national marketing quota (determined pursuant to such section) may, not later than March 1, 1972, be increased by not more than 20 per centum if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restrictions of marketings in adjusting the total supply to the reserve supply level.

The Act (7 U.S.C. 1301(b)) defines the "total supply" of tobacco for any marketing year as the carryover at the beginning of the marketing year (on January 1 of such marketing year in the case of Maryland tobacco), plus the estimated production in the United States during the calendar year in which such marketing year begins. "Reserve supply level" is defined as the normal supply plus 5 per centum thereof. "Normal supply" is defined as a normal year's domestic consumption and exports, plus 175 per centum of a normal year's domestic consumption and 65 per centum of a normal year's exports. A "normal year's domestic consumption" is defined as the yearly average quantity produced in the United States and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption. A "normal year's exports" is defined as the yearly average quantity produced in the United States which was exported from the United States during the 10 marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

The Act (7 U.S.C 1312(c)) requires that within 30 days after national marketing quotas are proclaimed under section 312(a) of the Act for a kind of tobacco, the Secretary shall conduct a referendum of farmers engaged in the production of the crop of such kind of tobacco harvested immediately prior to the holding of the referendum to determine whether such farmers are in favor of or opposed to quotas for the next 3 succeeding marketing years. If more than one-third of the farmers voting in a referendum for a kind of tobacco oppose the quotas, such results shall be proclaimed by the Secretary and the national marketing quotas so proclaimed shall not be in effect but such results shall in no way affect or limit the subsequent submission to a referendum, as otherwise provided in section 312 of the Act (7 U.S.C. 1312), of national marketing quotas.

The Act (7 U.S.C. 1313(g)) authorizes the Secretary to convert the national marketing quota into a national acreage allotment on the basis of the national average yield for the 5 years immediately preceding the year in which the national marketing quota is proclaimed, and to apportion the national acreage allotment (less a reserve of not to exceed 1 per centum thereof for new farms and for making corrections and adjusting inequities in old farm allotments) among old farms.

The Act (7 U.S.C. 1313(g)) also provides that any acreage of tobacco harvested in excess of the farm acreage allotment for the year 1955 or any subsequent crop shall not be taken into account in establishing * * * farm acreage allotments.

The Act (7 U.S.C. 1313(l)) provides that notwithstanding any other provision of the Act, whenever after investigation the Secretary determines with respect to any kind of tobacco that a substantial difference exists in the usage or market outlets for any one or more of the types comprising such kind of tobacco and that the quantity of tobacco of such type or types to be produced under marketing quotas and acreage allotments established pursuant to this section would not be sufficient to provide an adequate supply for estimated market demands and carryover requirements for such type or types of tobacco, the Secretary shall increase the marketing quotas and acreage allotments for farms producing such type or types of tobacco in the preceding year to the extent necessary to make available a supply of such type or types of tobacco adequate to meet such demands and carryover requirements; the increases in farm marketing quotas and acreage allotments shall be made on the basis of the production of such type or types of tobacco during the period of years considered in establishing farm marketing quotas and acreage allotments for such kind of tobacco; the additional production authorized by section 313(l) shall be in addition to the national marketing quota established pursuant to section 312 of the Act; and the increase in the acreage under section 313(l) shall not be considered in establishing future * * * farm acreage allotments.

The Secretary, may, under section 317 (c) of the Act, in his discretion, offer acreage-poundage quotas on Fire-cured, Dark air-cured, or Virginia sun-cured tobacco for the 1972–73 marketing year if he determines that acreage-poundage quotas would result in more effective marketing quotas than the program on an acreage basis. Should the making of such a determination be considered probable for this kind of tobacco, public hearings will be conducted in the areas where such tobacco is produced for the purpose of ascertaining and taking into consideration the attitudes of producers and other interested persons with respect to acreage-poundage quotas. There is no provision under which acreage-poundage quotas may be offered on Cigar-binder or Cigar-filler and binder tobacco for the 1972–73 marketing year.

The subjects and issues involved in making the determinations described in this notice are:

1. The amount of the national marketing quota for each kind of tobacco for the 1972–73 marketing year.

2. The conversion of the national marketing quotas into national acreage allotments and apportionment of same, less reserve of not to exceed 1 percent thereof, among old farms.

3. The amounts of the national acreage allotments to be reserved for new farms, and for making corrections and adjusting inequities in old farm allotments.

4. The date(s) or period(s) of the two referenda on quotas for the 1972–73, 1973–74, and 1974–75 marketing years for Cigar-binder (types 51 and 52) and Cigar-filler and binder (types 42–44, 53–55) tobacco, and whether any or all of the referenda should be conducted at polling places rather than by mail ballot (31 F.R. 12011).

5. Whether the Secretary should determine that any one or more of the types comprising a kind of tobacco should be treated as a separate kind of tobacco under section 301(b)(15) of the Act.

6. Whether the Secretary should take any action under section 313(l) of the Act.

7. Whether the Secretary should offer acreage-poundage quotas on any kind or kinds of tobacco.

Consideration will be given to data, views, and recommendations pertaining to the proposed determinations covered by this notice which are submitted in writing to the Director, Tobacco Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to the notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)). All submissions must, in order to be sure of consideration, be postmarked not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Signed at Washington, D.C., on November 1, 1971.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.71-16102 Filed 11-3-71;8:51 am]

Commodity Credit Corporation

[7 CFR Part 1464]

TOBACCO

Advance Grade Rates for Price Support on 1971–Crop

Consideration will be given to data, views and recommendations pertaining to the advance rates set out in this notice which are submitted in writing to the Director, Tobacco Division, Agriculture Stabilization and Conservation Service, U.S. Department of Agriculture, Washing, D.C. 20250. All submissions, in order to be sure of consideration, must be received not later than 20 days from the date of publication of this notice in the FEDERAL REGISTER.

Under the Tobacco Loan Program published June 18, 1970 (35 F.R. 1000), and amended June 17, 1971 (36 F.R. 11634, 12509), CCC proposes to establish advance rates by grades for the 1971-crop Ohio filler tobacco, types 42–44, Connecticut Valley broadleaf tobacco, type 51, Connecticut Valley Havana seed tobacco, type 52, New York and Pennsylvania Havana seed tobacco, type 53, and southern Wisconsin tobacco, type 54, northern Wisconsin tobacco, type 55 and Puerto Rican tobacco, type 46, as set forth herein. These proposed rates, calculated to provide the level of support of 49.5 cents per pound for types 51–52, 37.1 cents per pound for type 46 and 35.8 cents per pound for types 42–44, 53–55, as determined under section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445), are as follows:

Sec.
1464.22 1971 Crop—Ohio Filler Tobacco, Types 42–44, Advance Schedule.
1464.23 1971 Crop—Connecticut Valley Broadleaf Tobacco, Type 51, Advance Schedule.
1464.24 1971 Crop—Connecticut Valley Havana Seed Tobacco, Type 52, Advance Schedule.
1464.25 1971 Crop—New York and Pennsylvania Havana Seed Tobacco, Type 53, and Southern Wisconsin Tobacco, Type 54, Advance Schedule.
1464.26 1971 Crop—Northern Wisconsin Tobacco, Type 55, Advance Schedule.
1464.27 1971 Crop—Puerto Rican Tobacco, Type 46, Advance Schedule.

AUTHORITY: The provisions of this Part 1464 issued under sec. 4, 62 Stat. 1070, as amended, sec. 5, 62 Stat. 1072, secs. 101, 106, 401, 408, 63 Stat. 1051, as amended, 1054, sec. 125, 70 Stat. 198, 74 Stat. 6; 7 U.S.C. 1441, 1445, 1421, 1423, 7 U.S.C. 1613, 15 U.S.C. 714b, 714c.

FEDERAL REGISTER, VOL. 36, NO. 213—THURSDAY, NOVEMBER 4, 1971

§ 1464.22 1971 Crop—Ohio Filler Tobacco, Types 42–44, Advance Schedule.[1]

Grade	Advance rate
(Dollars per hundred pounds, farm sales weight)	
Crop run (stripped together):	
X1	36.50
X2	33.50
X3	31.00
X4	28.50
Nondescript:	
N	18.50

§ 1464.23 1971 Crop—Connecticut Valley Broadleaf Tobacco, Type 51, Advance Schedule.[2]

Grade	Advance rate
(Dollars per hundred pounds, farm sales weight)	
Binders:	
B1	71.00
B2	62.00
B3	52.00
B4	43.00
B5	38.00
Non-Binders:	
X1	32.00

§ 1464.24 1971 Crop—Connecticut Valley Havana Seed Tobacco, Type 52, Advance Schedule.[3]

Grade	Advance rate
(Dollars per hundred pounds, farm sales weight)	
Binders:	
B1	66.00
B2	57.00
B3	49.00
B4	42.00
B5	38.00
Non-Binders:	
X1	32.00

[1] The cooperative association through which price support is made available is authorized to deduct from the amount paid the grower 50 cents per hundred pounds to apply against receiving and overhead costs. Only the original producer is eligible to receive advances. No advance is authorized for tobacco designated "No-G" (no grade).

[2] The cooperative association through which price support is made available is authorized to deduct from the amount paid the grower $1 per hundred pounds to apply against receiving and overhead costs. Only the original producer is eligible to receive advances. No advance is authorized for tobacco graded "N1" (first quality nondescript), "N2" (second quality nondescript) or "S" (scrap), or designated "No-G" (no grade).

[3] The cooperative association through which price support is made available is authorized to deduct from the amount paid the grower $1 per hundred pounds to apply against receiving and overhead costs. Only the original producer is eligible to receive advances. No advance is authorized for tobacco graded "N1" (first quality nondescript), "N2" (second quality nondescript) or "S" (scrap), or designated "No-G" (no grade).

§ 1464.25 1971 Crop—New York and Pennsylvania Havana Seed Tobacco, Type 53, and Southern Wisconsin Tobacco, Type 54, Advance Schedule.[1]

Grade	Advance rate
(Dollars per hundred pounds, farm sales weight)	
Crop-Run:	
X1	40.50
X2	36.50
X3	29.50
Farm Fillers:	
Y1	27.50
Y2	25.50
Y3	23.50
Nondescript:	
N1	23.50
N2	17.50

§ 1464.26 1971 Crop—Northern Wisconsin Tobacco, Type 55, Advance Schedule.[2]

Grade	Advance rate
(Dollars per hundred pounds, farm sales weight)	
Binders:	
B1	59.00
B2	54.00
B3	44.00
Strippers:	
C1	41.50
C2	38.00
C3	30.50
Crop-run:	
X1	40.00
X2	36.00
X3	28.00
Farm fillers:	
Y1	32.50
Y2	29.50
Y3	27.50
Nondescript:	
N1	22.50
N2	17.50

§ 1464.27 1971 Crop—Puerto Rican Tobacco, Type 46, Advance Schedule.[3]

Grade	Advance rate
(Dollars per hundred pounds, farm sales weight)	
Price Block I (C1F and C1P)	43.00
Price Block II (X1F, X1P and X1S)	36.00
Price Block III (X2T, X2F, X2P and X2S)	25.00
Price Block IV (N)	13.00

[1] The cooperative association through which price support is made available is authorized to deduct from the amount paid the grower 50 cents per hundred pounds to apply against receiving and overhead costs. Only the original producer is eligible to receive advances. No advance is authorized for tobacco designated "No-G" (no grade).

[2] The cooperative association through which price support is made available is authorized to deduct from the amount paid the grower 50 cents per hundred pounds to apply against receiving and overhead costs. Only the original producer is eligible to receive advances. No advance is authorized for tobacco designated "No-G" (no grade).

[3] The cooperative associations through which price support is made available to growers are authorized to deduct $1 per hundred pounds from the advances to growers to apply against overhead and handling costs. Tobacco is eligible for advance only if consigned by the original producer. No advance is authorized for tobacco graded "S" (scrap) or designated "No-G" (no grade).

All written submissions received pursuant to this notice will be available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Effective date: Date of filing with Office of Federal Register.

Signed at Washington, D.C., on November 1, 1971.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.71-16103 Filed 11-3-71;8:51 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 11473]

CERTAIN DOWTY ROTOL TYPE PROPELLERS

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Dowty Rotol, Ltd., types (c)R130/4–20–4/12E, (c)R186/4–30–4/16, (c)R187/4–30–4/18, (c)R193/4–30–4/50, (c)R184/4–30–4/50, (c)R259/4–40–4.5/17, (c)R148/4–20–4/21E, (c)R175/4–30–4/13E, (c)R179/4–20–4/33, (c)R257/4–30–4/60, (c)R245/4–40–4.5/13, and (c)R209/4–40–4.5/2 propellers. There have been reports of excessive wear on the teeth of the locking segments for the blade bearing retaining bolts that could cause disengagement of the locking segment and loss of preload and result in the loss of a propeller blade. Since this condition is likely to exist or develop in other propellers of the same type design, the proposed airworthiness directive would require the incorporation of Dowty Rotol, Ltd., Modification No. (c) VP.2676 (Rev. 1) which replaces the locking segments with new segments produced from a fully heat treated material on those Dowty Rotol propeller types covered by this directive.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC–24, 800 Independence Avenue SW., Washington, DC 20591. All communications received on or before December 6, 1971, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

In consideration of the foregoing, it is proposed to amend § 39.13 of the Federal Aviation Regulations by adding the following new airworthiness directive:

DOWTY ROTOL, LTD. Applies to Dowty Rotol Propeller Types (c)R130/4–20–4/12E, (c)R186/4–30–4/16, (c)R187/4–30–4/18, (c)R193/4–30–4/50, (c)R184/4–30–4/50, (c)R259/4–40–4.5/17, (c)R148/4–20–4/21E, (c)R175/4–30–4/13E, (c)R179/4–20–4/33, (c)R257/4–30–4–60, (c)R245/4–40–4.5/13, and (c)R209/4–40–4.5/2, installed on, but not limited to, BAC Viscount Models 744, 745D, and 810; Armstrong Whitworth Model Argosy AW.650 Series 101; Fairchild and Fokker Models F27 and F227; Handley Page Model Herald; and Grumman Model Gulfstream G–159 airplanes.

Compliance is required as indicated unless already accomplished.

To prevent failure of a propeller blade due to the disengagement of the blade bearing retaining bolts resulting from excessive wear on the teeth of the locking segments, accomplish the following:

Within the next 2,600 hours' time in service or at the next propeller overhaul, after the effective date of this AD, whichever occurs sooner, incorporate Dowty Rotol Modification No. (c) VP.2676 (Rev. 1) in accordance with Dowty Rotol, Ltd., Service Bulletin No. 61–714, Revision 3, dated July 26, 1971, or an FAA-approved equivalent.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on October 27, 1971.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[FR Doc.71-16109 Filed 11-3-71;8:52 am]

[14 CFR Part 71]

[Airspace Docket No. 71–SO–163]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Chester, S.C., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Chester transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Chester Municipal Airport (lat. 34°47'18" N., long. 81°11'45" W.).

The proposed designation is required to provide controlled airspace protection for IFR operations at Chester Municipal Airport. A prescribed instrument approach procedure to this airport, utilizing the Fort Mill, S.C. VORTAC, is proposed in conjunction with the designation of this transition area.

This amendment is proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on October 27, 1971.

ROBERT O. BLANCHARD,
Acting Director, Southern Region.

[FR Doc.71-16110 Filed 11-3-71;8:52 am]

[14 CFR Part 71]

[Airspace Docket No. 71–GL–9]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Gallipolis, Ohio.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 3166 Des Plaines Avenue, Des Plaines, IL 60018. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Room 18, 3158 Des Plaines Avenue, Des Plaines, IL 60018.

A new instrument approach procedure has been developed for the Gallia-Meigs Airport, Gallipolis, Ohio, utilizing a city-owned NDB and with control to be provided by the Indianapolis Air Route Traffic Control Center. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Gallipolis, Ohio.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (36 F.R. 2140), the following transition area is added:

GALLIPOLIS, OHIO

That airspace extending upward from 700 feet above the surface within an 8½-mile radius of the Gallia-Meigs Regional Airport, Gallipolis, Ohio (latitude 38°50'03" N., longitude 82°09'49" W.).

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Illinois, on October 14, 1971.

LYLE K. BROWN,
Director, Great Lakes Region.

[FR Doc.71-16111 Filed 11-3-71;8:52 am]

Hazardous Materials Regulations Board

[49 CFR Part 195]

[Notice 71–27; Docket No. HM–6D]

PIPELINE LPG TANKS

Testing of Relief Valves

The Hazardous Materials Regulations Board is considering an amendment to § 195.428 that would extend from 6 months to 5 years the interval required of pipeline carriers for testing relief valves on horizontal pressure storage vessels containing liquefied petroleum gas (LPG). The requirement for inspection

of these valves at 6-month intervals would not be changed.

Under the proposed amendment, the frequency of testing relief valves on pipeline LPG tanks would be excepted from paragraph (a) of § 195.428, and a new paragraph (b) would be added to specify the testing interval. As a result of this proposed change, relief valves on pipeline LPG tanks would have to be inspected at 6-month intervals, but tested only once every 5 years.

Extension of the time period for testing appears to be justified for several reasons. First, LPG is a "sweet gas" which has little or no corrosive effect on the metal of the valve. Second, valves are not subjected to temperature variations which could cause a permanent set of the valve springs. Third, industry experience indicates many years of operation at infrequent testing intervals without incident due to improper functioning of relief valves. Finally, in many cases, testing of a valve requires removal of the LPG and depressurization of the tank which exposes the carrier to a potentially hazardous condition that would occur less frequently at longer testing intervals. For these reasons, a 6-month testing interval is an expense for the carrier that does not appear to be warranted by considerations of safety.

If the proposed amendment is adopted, § 195.428 will comport with another departmental regulation, 49 CFR 173.31(c), which requires a 5-year retest of relief valves on tank cars that normally carry LPG.

Interested persons are invited to comment on the proposed amendment by submitting written information, views, or arguments. Communications should be identified by the notice number and docket number and submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, DC 20590. Comments received by December 5, 1971, will be considered before final action is taken on the proposal. All comments received will be available for examination by interested persons in the Rules Docket at the Office of the Secretary of the Hazardous Materials Regulations Board.

This notice is issued under the authority of sections 831–835 of title 18, United States Code; section 6 (e) (4) and (f) (3) (A) of the Department of Transportation Act, 49 U.S.C. 1655 (e) (4) and (f) (3) (A); and § 1.49(f) of the Regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(f).

In consideration of the foregoing, it is proposed to amend § 195.428 of Title 49 of the Code of Federal Regulations to read as follows:

§ 195.428 Overpressure safety devices.

(a) Except as provided in paragraph (b) of this section, each carrier shall, at intervals not exceeding 12 months, or 6 months in the case of pipelines used to carry liquefied gases, inspect and test each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used.

(b) In the case of relief valves on horizontal pressure storage vessels containing liquefied petroleum gas, each carrier shall test each valve at intervals not exceeding 5 years.

Issued in Washington, D.C., on November 1, 1971.

JOHN W. INGRAM,
Administrator,
Federal Railroad Administration.

[FR Doc.71-16114 Filed 11-3-71;8:51 am]

FEDERAL RESERVE SYSTEM

[12 CFR Part 269]

POLICY ON UNIONIZATION AND COLLECTIVE BARGAINING

Objections to Election Procedure

The Board of Governors, pursuant to the authority conferred by section 248 of title 12, United States Code, published in the FEDERAL REGISTER on August 6, 1971 (36 F.R. 14479) a proposal to add a new paragraph (f) to § 269.5.

The purpose of the proposed amendment was stated to be (1) to protect employees from any interference with their making a fair and free choice in selecting or rejecting a bargaining representative even if such interference does not constitute an unfair labor practice within the meaning of § 269.6 and (2) to authorize the Federal Reserve System Labor Relations Panel to establish an expedited procedure for processing charges of interference, to promulgate rules to guide the conduct of all parties, and to provide appropriate remedies when interference has been found to have affected the outcome of the election. Comments on the proposal were to have been received not later than September 7, 1971.

In consideration of the response to the August 6 publication, the Board of Governors has modified its original proposal. The Board believes that offering the modified proposal for public comment will be helpful to its final consideration of this matter. Interested persons are invited to submit relevant data, views, or arguments on the amended proposal. Any such comments or materials should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 18, 1971.

The amended proposal is set forth below:

§ 269.5 Elections.

* * * * *

(f) (1) If at any time prior to an election, an appreciable number of employees of a Federal Reserve bank evidence substantial interest in representation by one or more labor organizations, whether or not a 30 percent interest has yet been shown, it shall be incumbent on the bank, labor organizations, and all others to refrain from any conduct, action or policy that interferes with or restrains employees from making a fair and free choice in selecting or rejecting a bargaining representative.

(2) A bank, labor organizations, or employees are not precluded from exercise of the free speech privileges of § 269.6(c) but such exercise may properly be held to be contrary to the intent of this section even if the conduct, action, or policy in question does not constitute an unfair labor practice under § 269.6(a) (1), (2), or (3) or § 269.6(b) (1) or (2) of this Policy.

(3) The Federal Reserve System Labor Relations Panel may promulgate expedited procedures from prompt disposition of allegations that a violation of this section has affected or is likely to affect the outcome of the election.

(4) The Panel may determine whether there has been a violation of this section and may render appropriate interpretations of this section, and may set forth as guidelines the circumstances the Panel believes necessary for a fair and free election by a Code of Preelection Conduct or by decision in specific cases.

(5) In the event of a proven violation of this section by a bank, by labor organizations, or by other individuals or organizations, found sufficient to affect the outcome of an election, the Panel may take appropriate remedial action such as the setting aside of the results of an election and the ordering of a new election: *Provided, however,* That the Panel may not require a bank to recognize a labor organization without an election unless the violation is found to be an unfair labor practice under § 269.6 that would make a free election unlikely.

By order of the Board of Governors, October 29, 1971.

[SEAL] TYNAN SMITH,
Secretary.

[FR Doc.71-16041 Filed 11-3-71;8:45 am]

[12 CFR Part 291]

LABOR RELATIONS

Preelection and Election Conduct

The Federal Reserve System Labor Relations Panel published in the FEDERAL REGISTER on August 6, 1971 (36 F.R. 14480), a proposed "Code of Preelection Conduct" and "Rules and Regulations Pertaining to Preelection Conduct" to be adopted if the Board of Governors of the Federal Reserve System adopted its proposed new § 269.5(f) of its policy on Unionization and Collective Bargaining for the Federal Reserve banks.

The "Code of Preelection Conduct" would set forth as a matter of policy a general guide to acceptable conduct by a Reserve Bank, a labor organization, or others relating to the selection or rejection by employees of an exclusive bargaining representative.

The need for the issuance of such a guide is premised on the unique approach the Panel contemplates in applying the "objections to election procedure" that would be permitted by the adoption of the proposed amendment to the Board's policy. Just as the policy reflects approaches from both the private sector and the Federal sector, objections to an election would be viewed according to criteria somewhere between those applied under the National Labor Relations Act and the attitude of strict neutrality applied by Federal executive agencies under Executive Order 11491.

In addition, the proposed rules and regulations pertaining to election conduct would (1) establish an objections to election procedure by which charges of misconduct may be quickly judged and remedies, if appropriate, may be effected, and (2) create procedures for correlating and coordinating such matters with the rules pertaining to unfair labor practices, as set forth in Part 292, rules and regulations pertaining to Charges of Unfair Labor Practices.

As the result of comments received and in view of the Board of Governors' revision of its proposed amendment and resubmission of it for public comment, the Panel has revised the proposed Code and rules and regulations, and hereby presents the revisions for public comment. To aid in the Panel's further consideration of this matter, interested persons are invited to submit relevant data, views, or arguments in writing to the Secretary, Federal Reserve System Labor Relations Panel, 20th Street and Constitution Avenue NW., Washington, D.C. 20551, to be received not later than November 18, 1971.

Both the Code of Preelection Conduct and the rules and regulations pertaining to Preelection Conduct which the Panel now proposes to adopt are set forth below.

By order of the Federal Reserve System Labor Relations Panel, October 28, 1971.

CODE OF PREELECTION CONDUCT

AUTHORITY: This "Code of Preelection Conduct" is issued under § 269.5(f)(4) of the Board of Governors' Policy on Unionization and Collective Bargaining for the Federal Reserve banks, 12 CFR 269.5(f).

Introduction. This is a general guide to acceptable conduct by a bank, by labor organizations, or by others after a substantial interest has been shown by an appreciable number of employees that they may wish to be represented by one or more labor organizations, whether or not a 30 percent interest has yet been shown, and continuing until an election has been held and the results have been announced by the American Arbitration Association.

Nonacceptable conduct by a bank, by labor organizations or by others can result in an unfair labor practice (§ 269.6(a) (1), (2), or (3) or § 269.6(b) (1) or (2) of the Policy on Unionization and Collective Bargaining for the Federal Reserve banks (hereinafter referred to as the "Policy")) or interference in a fair election short of an unfair labor practice (§ 269.5(f)), or both.

This is not intended to be applicable to § 269.5(b) (determination by an Arbitrator under AAA auspices as to whether a 30 percent interest in a labor organization exists in a disputed situation) or to § 269.5(c) (conduct of an election by the AAA) except that prohibited practices are not sanctioned at such times. It is primarily intended to apply to conduct of the parties apart from either of the above noted specific events.

While the Panel realizes that the following proposed guidelines are general in nature, and that detailed applications and interpretations will result only upon consideration of the facts in a specific organizational campaign, it is hoped that these general principles and guidelines will be of assistance to the parties with respect to any preelection activity.

General basis for appraisal. The unfair labor practice provisions of the Policy in conjunction with § 269.6(c) (the so-called free speech provision of the Policy) are intended to be interpreted and applied as respects unfair labor practice charges in essentially the same manner that the National Labor Relations Board (hereinafter referred to as the NLRB) and the courts have applied generally comparable language of the National Labor Relations Act (hereinafter referred to as the NLRA).

However, the interference with a fair election section of the Policy is intended to be interpreted and applied so as to establish standards of preelection conduct consistent with the unique position of Federal Reserve banks within a private sector—public sector spectrum. Rulings by the NLRB under the election provisions of the NLRA (section 9) will provide general guidance for minimum standards of conduct. Greater restraint in the exercise of free speech by a Reserve Bank than may be imposed under the NLRA will be required by reason of the general practice of management neutrality in the public sector. However, a Bank position of strict neutrality will not be required. In short, application of § 269.5(f) will provide a Federal Reserve standard of conduct in between the private sector (NLRA) and Federal executive agencies (Executive Order No. 11491).

In any disputed case, the Federal Reserve System Labor Relations Panel (hereinafter referred to as the "Panel") will appraise the totality of conduct of a party. Necessarily, specific allegations of nonacceptable conduct will need to be examined separately and the various segments then combined to obtain a composite picture. Discussion of some likely facets of a total picture that follow should not lead to undue emphasis on any one aspect of a disputed situation.

Most of the subject matters to be noted hereafter will deal with interference with a free election except that an unfair labor practice might also occur if there is adequate evidence of "threat of reprisal or force, or promise of benefit," in exercise of the free speech provision.

Expression of general point of view. If a bank should prefer to deal with its employees without a labor organization, the bank is not prevented from expression of that opinion. Section 269.6(c) affords the bank that right. Moreover, it may well be that many bank representatives have honest and unbiased opinions about employee welfare that do not envision unionization as an integral or necessary aspect of the employer-employee relationship; the bank should be permitted to convey these views to its employees.

These possible opinions of a bank or of bank representatives, voiced or not voiced, may be reflective of "the bank's best interest," as then appraised by the bank. They have no necessary relevance to an employee's concept of "his own best interest." By adoption of the policy, the Board of Governors and the Reserve banks have assured all employees that a bank will deal fairly and constructively with a labor organization, when and if a majority of the employees who vote in an election chooses to be represented by such an organization.

The basic concept of a free election is that each employee should make his own decision as to what is in his best interest. The NLRB's test of requiring "laboratory conditions" for an election envisions "conditions as nearly ideal as possible, to determine the uninhibited desires of the employees." The revised policy, which restricts banks more than NLRB rules would if they were applicable, does not prevent addition of bank management's general point of view to the various inputs that will assist in framing a decision in each employee's mind. It does prevent the bank from a type of input that is coercive or that inhibits free choice.

If a bank couches its own opinions under an "employee's own best interest" umbrella, it is difficult if not impossible to avoid leaving an inference that the bank would be uncooperative with a labor organization selected by the employees, or that the banks would be less liberal in its general personnel policies, or that it would be futile to select a bargaining agent, or that it would in various ways look with disfavor on those employees who support a labor organization. The likelihood of such inferences, however inadvertent, requires avoidance by a bank of an "employee's own best interest" umbrella. To put the matter more directly, adoption of a "you would be better off without a labor organization" campaign by a bank can be more than an exercise of free speech by the bank since it comes from a source of both potential and actual power over employees.

In judging whether expressions of opinion have inhibited employees' freedom of choice, the totality of conduct will be examined, including the intent and content of the expressed opinion, and the manner in which it was said. Benign intent, per se, will not constitute a defense to an objection that free choice has been impaired since the employee's assessment of the remarks will be deemed to be a critical factor. On the other hand, a bank may make every effort to demonstrate that it is a model employer even though such statement

may raise the inference that the employees have no need for representation by a labor organization.

This is not to say that a bank cannot speak on more specific matters or issues as will be noted hereafter.

Factual statements. A bank may clarify and emphasize its existing wages, benefits, and working conditions and may make comparisons with similar provisions elsewhere. It may also indicate its known expectations for the near future: *Provided,* That such future prediction is factual and is based on considerations having nothing to do with the current threat of unionization.

A labor organization may make similar comparisons with wages, benefits, and working conditions elsewhere and it may outline its hopes and aspirations for the bank employees if it should be recognized. However, it should be particularly careful not to misrepresent the areas now subject to mandatory bargaining.

A bank may comment on subject matters such as a merit system vs. seniority rights, or "flexibility" vs. contractual provisions governing overtime distribution or shift preferences, and other questions that may develop as part of a labor organization's preelection campaign. A bank may clarify the areas not now subject to mandatory bargaining as the bank appraises this matter. However, a bank should not speculate about positions that a labor organization might take in negotiations beyond positions made evident by that organization in its preelection statements.

It is unlikely that either a bank or a labor organization will be completely unbiased in presentation of its position. Neither party is likely to emphasize facts that are negative to its own position.

However, all parties have a strong obligation to adhere to facts and to avoid deception, trickery, or misrepresentation. Attempts to present a particular position in the best possible light will be scrutinized carefully by the panel, with particular and due consideration to be given the materiality of the misstatement, the special knowledge of the individuals who made the misstatement, and the lack of independent knowledge on the part of employees as a factor affecting their ability to properly evaluate any alleged misstatement. In addition, the adequacy of opportunity for effective rebuttal will be taken into account.

Who said it? Appraisal of any exercise of free speech must necessarily give cognizance to its source. All representatives of a bank or of labor organizations, employees, and others may speak or write freely. It is the content of what is said or written that may constitute interference with a fair election. The significance of the content and its probable effect on a fair election may be related to the source.

An oral statement or written document originating from a high-ranking bank official may be more significant than the same thing said or written by a low-ranking supervisor.

Similarly, the source of an oral or written comment on the labor organizations side may be taken into account.

This is not to say that lower ranking individuals of a bank or of a labor organization have license to say or do anything. Responsibility exists for all participants. Moreover, as respects some matters, lower ranking supervision may, in fact, have greater power over employees than higher ranking officials of a bank. In addition, no party can properly undertake through use of lesser ranking individuals a campaign that would be improper if it should originate openly at a higher level in the organization.

Written communications. A bank may send letters or distribute other written communications to employees or post notices so long as such material conforms to the intent of these general guides. A labor organization may similarly communicate with employees.

Upon proper request, a bank should provide adequate bulletin board space for use by a labor organization to post such materials. Decisions of the NLRB will provide guidance to the panel in dealing with problems involved in what constitutes a "proper request," the status of the organization needed to make a request, the difficulties encountered when there are competing labor organizations, the location of the bulletin boards, and rules pertaining thereto, and other similar issues.

Upon proper request, a bank should allow bank employees to distribute campaign materials on bank premises during nonworking hours under conditions that will not interfere with the work of the bank, that are in accord with security regulations, that are validly applied in a nondiscriminatory manner, and are generally consistent with rules pertaining to distribution of the bank's own preelection materials, if any, or with other relevant rules, if any, regarding distribution of other materials.

After a labor organization has proven a 30 percent interest and upon proper request, a bank should furnish with reasonable promptness to responsible officials of the labor organizations on the ballot copies of names and addresses of all bank employees eligible to vote in an election.

Oral solicitation on bank premises. Employees of the bank may engage in prounion or antiunion discussion of the election issues on bank premises during nonworking time, free from discriminatory rules as respects the different types of discussion subject to reasonable rules to protect security and to avoid interference with the work of the bank.

This section does not negate other pertinent provisions of this Code such as "Who said it," "Factual statements," and "Outside interference." Moreover, this section is not intended to provide any exceptions to the traditional prohibitions against interrogation, polling or surveillance, especially with regard to conversations between a supervisor and an individual subject to his supervision.

Scheduled meetings. A bank may schedule a meeting or meetings on bank premises during working hours or nonworking hours, the purpose of such meetings being to communicate orally to employees its facts and positions that may be consistent with these general guides. However, attendance at such meetings shall not be compulsory and no stigma or consequence shall accompany nonattendance of any employee. Most important, the size of the meeting, the location of the meeting, and other relevant circumstances shall assure that no atmosphere of coercion or undue pressure exists.

Normally, a labor organization has its own meeting place or places and it is probable that a labor organization will not want or need to hold meetings on bank premises. A labor organization would have no right to hold meetings on bank premises in the absence of bank meetings noted in the preceding paragraph. However, if a bank exercises its rights to conduct such meetings and if it can be shown that one or more labor organizations involved in an upcoming election would be seriously disadvantaged in its efforts to reply to such a bank meeting in the absence of authorized use of bank premises, the bank should allow such labor organization or organizations to use bank facilities for a meeting or meetings to be addressed by officials of the organization during nonworking hours immediately following or preceding working hours. Attendance at such meetings would be noncompulsory and the general tone and atmosphere should be similar to that noted for a bank meeting.

24-hour and 12-hour rules. No meetings of either type discussed in the foregoing section should be held within a 24-hour period immediately prior to the scheduled time for casting the first ballot.

Moreover, to afford the most favorable atmosphere for a free election, there should be no distribution of new literature, bank or labor organization in nature, on or immediately adjacent to bank premises within the 12 hours prior to the scheduled time for balloting to begin.

Racial overtones. Neither a bank nor a labor organization may, under an asserted right of free speech, utilize a mode of expression that would imply racial discrimination or incite racial feelings or prejudices.

Outside interference. Activities of third parties or of individuals, not attributable to either a bank or a labor organization involved in the election, that are violative of these general guides may be grounds for setting aside an election if such activities can properly be considered as having had a material effect on the outcome of the election. Such conduct or activities that would otherwise be violative of these provisions may nevertheless not be grounds for setting aside an election if the party or parties that appear to have been aided thereby effectively refute such conduct or activity.

PART 291—RULES AND REGULATIONS PERTAINING TO PREELECTION CONDUCT

Sec.
291.100 Filing of objections.
291.200 Answer.
291.300 Investigation and hearing.
291.400 Exceptions.
291.500 Decision of the Panel.
291.600 Relationship to unfair labor practice procedure.
291.700 Objections to conduct of the election.

AUTHORITY: The provisions of this Part 291 are issued under § 269.5(f)(3) of the Board of Governors' policy on unionization and collective bargaining for the Federal Reserve banks, 12 CFR 269.5(f).

§ 291.100 Filing of objections.

(a) Within 5 days after the tally of the ballots has been furnished, any party involved in the election may file with the secretary of the panel an original and five copies of objections to conduct affecting the results of the election, pursuant to § 269.5 of the policy in this chapter.

(b) Such objections shall contain a specific statement of the reasons therefor and evidence in support thereof.

(c) Any filing must be timely whether or not challenged ballots are sufficient in number to affect the results of the election.

(d) The party filing objections shall immediately serve copies of the objections on the other parties and shall submit proof of service thereof to the secretary of the panel.

§ 291.200 Answer.

(a) An answer, containing a complete but concise statement of facts refuting the objections, may be filed with the secretary of the panel within 5 days from service of the objections.

(b) The original and five copies of the answer, together with proof of service, shall be filed with the panel and one copy of the answer shall be served on each party.

§ 291.300 Investigation and hearing.

(a) Within 5 days after the answer to objections has been filed, the panel may refer the matter to the National Center for Dispute Settlement of the American Arbitration Association (hereinafter the Center) with direction to conduct an investigation or hearing or both. If there is no issue of fact the panel may rule on the basis of the pleadings.

(b) If no answer has been timely filed, the panel may deem such failure to be an admission to the objections filed and may render a decision thereupon or may direct the Center to conduct an investigation or hearing or both.

(c) Under exceptional circumstances, the panel may order a hearing to be held without investigation and may conduct the hearing rather than referring it to the Center. In such event, the order for hearing shall set forth the exceptional circumstances.

(d) A recommendation by the Center, based on an administrative investigation, that a hearing should not be held is subject to exceptions on the same basis as a hearing officer report (§ 291.400).

(e) A determination by the Center that a hearing should be held is not subject to appeal to the panel.

(f) Any hearing pursuant to this section shall be conducted on an informal basis and all measures compatible with justice and equity shall be employed to bring the matter speedily to hearing, to hear the parties and to render a decision. The rules pertaining to the hearing shall be the same as those applicable to hearings under Part 292 of this chapter (Charges of Unfair Labor Practices) insofar as they may be applicable under such circumstances and except as otherwise provided in this part, and shall be subject to such time limits as the hearing officer may establish: *Provided, however,* That the hearing officer's recommendation shall be transmitted to the panel within 10 working days after his receipt of the official transcript of the hearing.

(g) The objecting party shall bear the burden of proof regarding all matters alleged in its objections to conduct affecting the results of the election.

(h) Matters discovered during investigation or hearing, although not specifically alleged as objections, may nevertheless be considered as grounds for setting aside an election: *Provided, however,* That all parties have been notified of such matters and been given an adequate opportunity to present evidence relating to such matters.

§ 291.400 Exceptions.

(a) If the hearing is conducted by the panel its decision shall be final and binding on the parties.

(b) If the hearing is conducted by the Center, any party may file with the panel exceptions to the hearing officer's report within 10 days from service of that report upon the party.

(c) The original and five copies of the exceptions, together with proof of the service thereof, shall be filed with the panel, and one copy of the exceptions shall be served on each party.

(d) If no exceptions are filed, the decision of the Center shall be final and binding upon the parties.

(e) Answering briefs to exceptions or briefs in support of the hearing officer shall be accepted only under such conditions and time limitations as the panel may establish.

(f) Requests for extensions of time shall be granted only under extraordinary circumstances.

§ 291.500 Decision of the panel.

(a) If no objections are filed within the time set forth above, the panel shall notify the American Arbitration Association (hereinafter the AAA) that it may issue to the parties a certification of the results of the election, including certification of representative, where appropriate, subject to the resolution of any other election disputes which would be pending before other tribunals pursuant to § 269.5 of the policy in this chapter.

(b) The panel shall similarly notify the AAA if it finds, or if the Center finds and no exceptions are timely filed, that there was not conduct sufficient to affect the outcome of the election.

(c) If the panel finds, or if the Center finds and no exceptions are timely filed, that there was conduct which interfered with the free and fair choice by the employees, the panel shall take such action as may be appropriate under § 269.5 (f)(5) of this chapter. If the election is set aside and if a new election is held, and if the parties are the same as for the prior election, it shall be held under the auspices of the AAA and the labor organization or organizations previously on the ballot shall not be required to make a new showing of interest and no additional intervenors shall be permitted on the ballot.

§ 291.600 Relationship to unfair labor practice procedure.

(a) The panel may treat any unfair labor practice charges as objections and may process such objections under the procedures set forth herein if such charges have met the 5-day filing requirement for objections as set forth in § 291.100.

(b) If a party files both objections to an election and unfair labor practice charges arising out of the same circumstances, the panel may consolidate the matter and deal with both aspects under the unfair labor practice procedure, even though separate findings may ultimately be made.

(c) Where appropriate, the panel may sever an unfair labor practice charge and, utilizing the procedure set forth in this part, process that portion of the charge that would constitute objections to conduct affecting the results of an election.

(d) The panel shall provide timely notice to all parties in interest when action has been taken pursuant to paragraphs (a), (b), and (c) of this section.

§ 291.700 Computation of time for filing papers.

(a) In computing time for the filing of papers pursuant to the requirements of this part, there shall be excluded from such computations Saturdays, Sundays, Federal, and bank holidays.

(b) The postmark date on any letter or document shall be construed as the date of filing.

§ 291.800 Objections to conduct of election.

Objections to the conduct of the election, as distinguished from conduct affecting the results of the election, shall not be resolved by the panel, but shall be resolved by the AAA in accordance with its election rules or in accordance with such election agreement as may be applicable to that election. Decisions rendered by the AAA or by other tribunals consented to in an election agreement, shall not be subject to appeal to the panel.

[FR Doc.71-16042 Filed 11-3-71;8:45 am]

may raise the inference that the employees have no need for representation by a labor organization.

This is not to say that a bank cannot speak on more specific matters or issues as will be noted hereafter.

Factual statements. A bank may clarify and emphasize its existing wages, benefits, and working conditions and may make comparisons with similar provisions elsewhere. It may also indicate its known expectations for the near future: *Provided,* That such future prediction is factual and is based on considerations having nothing to do with the current threat of unionization.

A labor organization may make similar comparisons with wages, benefits, and working conditions elsewhere and it may outline its hopes and aspirations for the bank employees if it should be recognized. However, it should be particularly careful not to misrepresent the areas now subject to mandatory bargaining.

A bank may comment on subject matters such as a merit system vs. seniority rights, or "flexibility" vs. contractual provisions governing overtime distribution or shift preferences, and other questions that may develop as part of a labor organization's preelection campaign. A bank may clarify the areas not now subject to mandatory bargaining as the bank appraises this matter. However, a bank should not speculate about positions that a labor organization might take in negotiations beyond positions made evident by that organization in its preelection statements.

It is unlikely that either a bank or a labor organization will be completely unbiased in presentation of its position. Neither party is likely to emphasize facts that are negative to its own position.

However, all parties have a strong obligation to adhere to facts and to avoid deception, trickery, or misrepresentation. Attempts to present a particular position in the best possible light will be scrutinized carefully by the panel, with particular and due consideration to be given the materiality of the misstatement, the special knowledge of the individuals who made the misstatement, and the lack of independent knowledge on the part of employees as a factor affecting their ability to properly evaluate any alleged misstatement. In addition, the adequacy of opportunity for effective rebuttal will be taken into account.

Who said it? Appraisal of any exercise of free speech must necessarily give cognizance to its source. All representatives of a bank or of labor organizations, employees, and others may speak or write freely. It is the content of what is said or written that may constitute interference with a fair election. The significance of the content and its probable effect on a fair election may be related to the source.

An oral statement or written document originating from a high-ranking bank official may be more significant than the same thing said or written by a low-ranking supervisor.

Similarly, the source of an oral or written comment on the labor organizations side may be taken into account.

This is not to say that lower ranking individuals of a bank or of a labor organization have license to say or do anything. Responsibility exists for all participants. Moreover, as respects some matters, lower ranking supervision may, in fact, have greater power over employees than higher ranking officials of a bank. In addition, no party can properly undertake through use of lesser ranking individuals a campaign that would be improper if it should originate openly at a higher level in the organization.

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Upon proper request, a bank should provide adequate bulletin board space for use by a labor organization to post such materials. Decisions of the NLRB will provide guidance to the panel in dealing with problems involved in what constitutes a "proper request," the status of the organization needed to make a request, the difficulties encountered when there are competing labor organizations, the location of the bulletin boards, and rules pertaining thereto, and other similar issues.

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This section does not negate other pertinent provisions of this Code such as "Who said it," "Factual statements," and "Outside interference." Moreover, this section is not intended to provide any exceptions to the traditional prohibitions against interrogation, polling or surveillance, especially with regard to conversations between a supervisor and an individual subject to his supervision.

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Normally, a labor organization has its own meeting place or places and it is probable that a labor organization will not want or need to hold meetings on bank premises. A labor organization would have no right to hold meetings on bank premises in the absence of bank meetings noted in the preceding paragraph. However, if a bank exercises its rights to conduct such meetings and if it can be shown that one or more labor organizations involved in an upcoming election would be seriously disadvantaged in its efforts to reply to such a bank meeting in the absence of authorized use of bank premises, the bank should allow such labor organization or organizations to use bank facilities for a meeting or meetings to be addressed by officials of the organization during nonworking hours immediately following or preceding working hours. Attendance at such meetings would be noncompulsory and the general tone and atmosphere should be similar to that noted for a bank meeting.

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Moreover, to afford the most favorable atmosphere for a free election, there should be no distribution of new literature, bank or labor organization in nature, on or immediately adjacent to bank premises within the 12 hours prior to the scheduled time for balloting to begin.

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Outside interference. Activities of third parties or of individuals, not attributable to either a bank or a labor organization involved in the election, that are violative of these general guides may be grounds for setting aside an election if such activities can properly be considered as having had a material effect on the outcome of the election. Such conduct or activities that would otherwise be violative of these provisions may nevertheless not be grounds for setting aside an election if the party or parties that appear to have been aided thereby effectively refute such conduct or activity.

PART 291—RULES AND REGULATIONS PERTAINING TO PREELECTION CONDUCT

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AUTHORITY: The provisions of this Part 291 are issued under § 269.5(f)(3) of the Board of Governors' policy on unionization and collective bargaining for the Federal Reserve banks, 12 CFR 269.5(f).

§ 291.100 Filing of objections.

(a) Within 5 days after the tally of the ballots has been furnished, any party involved in the election may file with the secretary of the panel an original and five copies of objections to conduct affecting the results of the election, pursuant to § 269.5 of the policy in this chapter.

(b) Such objections shall contain a specific statement of the reasons therefor and evidence in support thereof.

(c) Any filing must be timely whether or not challenged ballots are sufficient in number to affect the results of the election.

(d) The party filing objections shall immediately serve copies of the objections on the other parties and shall submit proof of service thereof to the secretary of the panel.

§ 291.200 Answer.

(a) An answer, containing a complete but concise statement of facts refuting the objections, may be filed with the secretary of the panel within 5 days from service of the objections.

(b) The original and five copies of the answer, together with proof of service, shall be filed with the panel and one copy of the answer shall be served on each party.

§ 291.300 Investigation and hearing.

(a) Within 5 days after the answer to objections has been filed, the panel may refer the matter to the National Center for Dispute Settlement of the American Arbitration Association (hereinafter the Center) with direction to conduct an investigation or hearing or both. If there is no issue of fact the panel may rule on the basis of the pleadings.

(b) If no answer has been timely filed, the panel may deem such failure to be an admission to the objections filed and may render a decision thereupon or may direct the Center to conduct an investigation or hearing or both.

(c) Under exceptional circumstances, the panel may order a hearing to be held without investigation and may conduct the hearing rather than referring it to the Center. In such event, the order for hearing shall set forth the exceptional circumstances.

(d) A recommendation by the Center, based on an administrative investigation, that a hearing should not be held is subject to exceptions on the same basis as a hearing officer report (§ 291.400).

(e) A determination by the Center that a hearing should be held is not subject to appeal to the panel.

(f) Any hearing pursuant to this section shall be conducted on an informal basis and all measures compatible with justice and equity shall be employed to bring the matter speedily to hearing, to hear the parties and to render a decision. The rules pertaining to the hearing shall be the same as those applicable to hearings under Part 292 of this chapter (Charges of Unfair Labor Practices) insofar as they may be applicable under such circumstances and except as otherwise provided in this part, and shall be subject to such time limits as the hearing officer may establish: *Provided, however,* That the hearing officer's recommendation shall be transmitted to the panel within 10 working days after his receipt of the official transcript of the hearing.

(g) The objecting party shall bear the burden of proof regarding all matters alleged in its objections to conduct affecting the results of the election.

(h) Matters discovered during investigation or hearing, although not specifically alleged as objections, may nevertheless be considered as grounds for setting aside an election: *Provided, however,* That all parties have been notified of such matters and been given an adequate opportunity to present evidence relating to such matters.

§ 291.400 Exceptions.

(a) If the hearing is conducted by the panel its decision shall be final and binding on the parties.

(b) If the hearing is conducted by the Center, any party may file with the panel exceptions to the hearing officer's report within 10 days from service of that report upon the party.

(c) The original and five copies of the exceptions, together with proof of the service thereof, shall be filed with the panel, and one copy of the exceptions shall be served on each party.

(d) If no exceptions are filed, the decision of the Center shall be final and binding upon the parties.

(e) Answering briefs to exceptions or briefs in support of the hearing officer shall be accepted only under such conditions and time limitations as the panel may establish.

(f) Requests for extensions of time shall be granted only under extraordinary circumstances.

§ 291.500 Decision of the panel.

(a) If no objections are filed within the time set forth above, the panel shall notify the American Arbitration Association (hereinafter the AAA) that it may issue to the parties a certification of the results of the election, including certification of representative, where appropriate, subject to the resolution of any other election disputes which would be pending before other tribunals pursuant to § 269.5 of the policy in this chapter.

(b) The panel shall similarly notify the AAA if it finds, or if the Center finds and no exceptions are timely filed, that there was not conduct sufficient to affect the outcome of the election.

(c) If the panel finds, or if the Center finds and no exceptions are timely filed, that there was conduct which interfered with the free and fair choice by the employees, the panel shall take such action as may be appropriate under § 269.5 (f)(5) of this chapter. If the election is set aside and if a new election is held, and if the parties are the same as for the prior election, it shall be held under the auspices of the AAA and the labor organization or organizations previously on the ballot shall not be required to make a new showing of interest and no additional intervenors shall be permitted on the ballot.

§ 291.600 Relationship to unfair labor practice procedure.

(a) The panel may treat any unfair labor practice charges as objections and may process such objections under the procedures set forth herein if such charges have met the 5-day filing requirement for objections as set forth in § 291.100.

(b) If a party files both objections to an election and unfair labor practice charges arising out of the same circumstances, the panel may consolidate the matter and deal with both aspects under the unfair labor practice procedure, even though separate findings may ultimately be made.

(c) Where appropriate, the panel may sever an unfair labor practice charge and, utilizing the procedure set forth in this part, process that portion of the charge that would constitute objections to conduct affecting the results of an election.

(d) The panel shall provide timely notice to all parties in interest when action has been taken pursuant to paragraphs (a), (b), and (c) of this section.

§ 291.700 Computation of time for filing papers.

(a) In computing time for the filing of papers pursuant to the requirements of this part, there shall be excluded from such computations Saturdays, Sundays, Federal, and bank holidays.

(b) The postmark date on any letter or document shall be construed as the date of filing.

§ 291.800 Objections to conduct of election.

Objections to the conduct of the election, as distinguished from conduct affecting the results of the election, shall not be resolved by the panel, but shall be resolved by the AAA in accordance with its election rules or in accordance with such election agreement as may be applicable to that election. Decisions rendered by the AAA or by other tribunals consented to in an election agreement, shall not be subject to appeal to the panel.

[FR Doc.71-16042 Filed 11-3-71;8:45 am]

SELECTIVE SERVICE SYSTEM

Office of the Director

[32 CFR Parts 1600, 1604, 1606, 1609, 1613, 1617, 1619, 1621]

OFFICERS AND EMPLOYEES, REGISTRATION, CANCELLATION, AND CLASSIFICATION

Notice of Proposed Rule Making

Pursuant to the Military Selective Service Act, as amended (50 U.S.C. App., sec. 451 et seq.), and § 1604.1 of Selective Service Regulations (32 CFR 1604.1), the Director of Selective Service hereby gives public notice that consideration is being given to the following proposed amendments to the Selective Service Regulations constituting a portion of Chapter XVI of the Code of Federal Regulations. These Regulations implement the Military Selective Service Act, as amended (50 U.S.C. App., sec. 451 et seq.).

All persons who desire to submit views to the Director on the proposals should prepare them in writing and mail them to the Deputy General Counsel, National Headquarters, Selective Service System, 1724 F Street NW., Washington, DC 20435, within 30 days following the publication of this notice in the FEDERAL REGISTER.

The proposed amendments follow:

PART 1600—MAINTENANCE OF HIGH ETHICAL AND MORAL STANDARDS OF CONDUCT BY OFFICERS AND EMPLOYEES OF THE SELECTIVE SERVICE SYSTEM

Section 1600.735–28 is amended to read as follows:

§ 1600.735–28 General conduct prejudicial to the Government.

An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government.

PART 1604—SELECTIVE SERVICE OFFICERS

Paragraph (a) of § 1604.55 *Disqualification* is amended to read as follows:

§ 1604.55 Disqualification.

(a) No member of a local board shall act on his own case or on the case of a registrant who is his first cousin or closer relation, either by blood, marriage, or adoption, or who is an employee or employer, or who is a fellow employee, or stands in the relation of superior or subordinate in connection with any employment, or is a partner or close business associate of the member. If because of this provision a majority of a local board cannot act on the case of a registrant, the local board shall request the State Director of Selective Service to designate another local board to which the registrant shall be transferred for action on his case.

* * * * *

PART 1606—GENERAL ADMINISTRATION

Section 1606.41 *Forwarding mail addressed to a registrant* is amended to read as follows:

§ 1606.41 Addresses of registrants.

The addresses of registrants are confidential information.

PART 1609—EXPENDITURES OTHER THAN FOR PERSONAL SERVICES

Paragraph (a) (2) of § 1609.41 *Travel: authorization* is amended to read as follows:

§ 1609.41 Travel: Authorization.

(a) * * *

(2) The State Director of Selective Service, for the travel of the personnel of the Selective Service System of his State to any point within the boundaries of his State, unless travel beyond such boundaries is required in answer to a subpoena issued by the U.S. District Court, or has been authorized by the Director of Selective Service.

* * * * *

PART 1613—REGISTRATION PROCEDURES

§ 1613.43(a) [Revoked]

Section 1613.43(a) *Preparation and mailing of registration certificate* is revoked.

§ 1613.44 [Revoked]

Section 1613.44 *Person registered more than once* is revoked.

PART 1617—REGISTRATION CERTIFICATE

Section 1617.2 is added to read as follows:

§ 1617.2 Effect of date of birth that appears on Registration Card (SSS Form 1).

The date of birth of the registrant that appears on his Registration Card (SSS Form 1) on the day before the lottery is conducted to establish his random selective sequence will be conclusive as to his date of birth in all matters pertaining to his relations with the Selective Service System.

Section 1617.11 is amended to read as follows:

§ 1617.11 Issuing of duplicate registration certificate.

A duplicate Registration Certificate (SSS Form 2) shall be issued to a registrant by the local board with which he is registered upon receipt of his request therefor made by letter or on a Request for Duplicate Registration Certificate or Notice of Classification (SSS Form 6) and the presentation of satisfactory proof to the local board that the Registration Certificate (SSS Form 2) of the registrant has been lost, destroyed, mislaid, or stolen.

§ 1617.12 [Revoked]

Section 1617.12 *Action by local boards when request for duplicate registration certificate is filed* is revoked.

PART 1619—CANCELLATION OF REGISTRATION

Part 1619 is amended to read:

§ 1619.1 Cancellation of registration by local board.

The local board many cancel the registration of a person who has improperly registered at a time when he was exempt from registration and there has been no subsequent change in his status which would render him liable for registration, except the local board will not cancel the registration of any registrant who is 17 years of age and has volunteered for induction with the written consent of his parents or guardian, or, if such a registrant has been inducted into and remains in the Armed Forces as the result of his premature registration, while he remains in the Armed Forces.

§ 1619.2 When cancellation authorized by director of Selective Service.

The Director of Selective Service may authorize or direct the cancellation by a local board of the registration of any particular registrant or of a registrant who comes within a specified group of registrants. Whenever the Director of Selective Service authorizes or directs the cancellation of the registration of any particular registrant or of a registrant within a specified group of registrants, the local board shall cancel the registration and shall take such other action as the Director of Selective Service may prescribe.

PART 1621—PREPARATION FOR CLASSIFICATION

Paragraph (e) of § 1621.2 *Selective service number* is revised to read as follows:

§ 1621.2 Selective service number.

* * * * *

(e) The fourth element of the selective service number shall be the number assigned to the registrant by his local board among the other registrants of the local board having the same year of birth. Every local board shall assign each

of its registrants who were born in the same year a specific identifying number in numerical sequence beginning with the numeral 1. A separate series of identification numbers shall be so assigned to registrants of each year of birth. Identification numbers shall be assigned to registrants by a method most convenient to the person assigning them, provided that each time a number is assigned the next number in sequence for a given year of birth is used.

§§ 1621.4, 1621.5, 1621.6, 1621.7, and 1621.8 [Revoked]

Section 1621.4 *Placing selective service numbers on registration cards and certificates* is revoked.

Section 1621.5 *Preparation of List of Registrants (SSS Form 3)* is revoked.

Section 1621.6 *Classification Record (SSS Form 102)* is revoked.

Section 1621.7 *Final arangements of registration cards* is revoked.

Section 1621.8 *Preparation of Cover Sheets (SSS Form 101)* is revoked.

CURTIS W. TARR,
Director.

NOVEMBER 2, 1971.

[FR Doc.71-16198 Filed 11-3-71;8:55 am]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ARIZONA

Notice of Filing of Plats of Survey

OCTOBER 28, 1971.

Supplemental plats of survey of the lands described below will be officially filed in the Arizona State Office, Phoenix, Ariz., effective at 10 a.m., December 2, 1971:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 3 N., R. 3 W.,
Tract 37, containing 16,531.85 acres.
T. 1 S., R. 1 W.,
Tract 37, containing 9,608.55 acres.

The above plats were prepared to provide for the conveyance of land to Maricopa County, Ariz., for recreational purposes under the provision of the Recreation and Public Purposes Act of 1926 as amended by Public Law 91-459 approved October 16, 1970.

HELEN E. EDGAR,
Acting Chief, Branch of Records and Data Management.

[FR Doc.71-16119 Filed 11-3-71;8:51 am]

National Park Service

[Order 66]

DIRECTORS OF NATIONAL PARK SERVICE REGIONS

Delegation of Authority

The delegation of authority to the Directors of the National Park Service Regions, published in the FEDERAL REGISTER at 36 F.R. 13802, is hereby revised as set forth below.

SECTION 1. *Delegation.* The Directors of National Park Service Regions, in the administration, operation, and development of areas and offices under their supervision, are authorized to exercise all the authority now or hereafter vested in the Director, National Park Service, except with respect to the following:

(1) Authority to approve changes in policies and to establish new policies.

(2) Authority for final approval of Servicewide or regionwide program and financial plans for construction, professional services, land acquisition, park operations, and other programs.

(3) Authority for final approval of the location of new roads.

(4) Authority to perform the responsibilities set forth in title I and section 205(a) of title II of the Historic Preservation Act of October 15, 1966 (80 Stat. 915), as amended.

(5) Authority to perform the responsibilities with respect to historic preservation set forth in section 4(f) of the Department of Transportation Act of October 15, 1966 (80 Stat. 931), as amended.

(6) Authority to initiate investigations of areas suggested or proposed for inclusion in the National Park System and sites under consideration for National Landmark status.

(7) Authority to determine whether any surplus building proposed by the Administrator of the General Services Administration to be demolished is a historic building of national significance within the meaning of the Act of August 21, 1935 (49 Stat. 666), as amended.

(8) Authority to execute concessions contracts and over all matters which fall within the functions of the Office of Concessions Management, Washington office, and for executing, amending, assigning and terminating concessions permits in excess of 5 years duration or when anticipated annual gross receipts will amount to $100,000 or more.

(9) Authority to issue general travel authorizations as defined in 347 DM .2.2C.

(10) Authority to approve the payment of actual subsistence expenses for travel.

(11) Authority to approve attendance at meetings of societies and associations.

(12) Authority to approve acceptance of payment of travel, subsistence and other expenses incident to attendance at meetings by an organization which is tax exempt.

(13) Authority with respect to making and enforcing rules and regulations for the Government, conduct, and discipline of the U.S. Park Police, under the Act of October 11, 1962 (76 Stat. 907).

(14) Authority to make certifications required in connection with reports made to the Secretary on each appropriation or fund under National Park Service control.

(15) Authority to approve Standard Form 1151, Nonexpenditure Transfer Authorization, in connection with internal transfer of funds.

(16) Authority to conduct archeological investigations and salvage activities.

(17) Authority to approve the use of a Government-owned or leased motor vehicle between domicile and place of employment.

(18) Authority to approve payment of dues for library memberships in societies or associations.

(19) Authority to approve rates for quarters and related services.

(20) Authority over those matters for which specific authority is delegated in internal management directives and unpublished delegations of authority arising in the Washington office.

SEC. 2. *Redelegation.* Except as to master plan approval authority, the Directors of the regions may, in writing redelegate to their officers and employees the authority delegated in this order, and may authorize written redelegations of such authority; except that in the regional offices, procurement and contracting authority may only be redelegated to the Chief, Division of Property Management and General Services and the Chief, Office of Administrative Management. Authority to contract for supplies, equipment, and services may be redelegated by the Directors to Superintendents as follows: Superintendents, Grade GS-12 and below not to exceed $2,000; Superintendents, Grade GS-13 not to exceed $50,000; Superintendents, Grade GS-14 not to exceed $100,000; Superintendents, Grade GS-15 not to exceed $200,000. Authority to contract for acquisition of lands and related property, and options related thereto, may be delegated to the chief land acquisition officer in the regional office and field land acquisition officers. Each redelegation shall be published in the FEDERAL REGISTER.

(205 DM, as amended; 245 DM, as amended; sec. 2 of Reorganization Plan No. 3 of 1950)

Dated: October 29, 1971.

RAYMOND L. FREEMAN,
Acting Director, National Park Service.

[FR Doc.71-16072 Filed 11-3-71;8:48 am]

DEPARTMENT OF COMMERCE

Office of the Secretary

[Dept. Organization Order 20-2]

OFFICE OF AUDITS

Functions and Organization

This material supersedes the material appearing at 35 F.R. 4976 of March 21, 1970.

SECTION 1. *Purpose.* This order prescribes the functions and organization of the Office of Audits.

SEC. 2. *Status and line of authority.* The Office of Audits, a Departmental office, shall be headed by a Director of Audits, who shall report and be responsible to the Assistant Secretary for Administration.

SEC. 3. *Functions.* .01 Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10-5, and subject to such policies and directives as the Assistant Secretary for Administration may prescribe, the Office shall conduct audits of all organizational units of the Department except as the Assistant Secretary for Administration may otherwise determine with respect to particular auditing tasks for designated organizational units. The audits may encompass the operating, administrative, and financial activities of units, or concern selected claims, cost, cost proposals, and cost and pricing data arising from contracts, grants, subsidies, loans, or other similar agreements entered into, or proposed by, organizational units.

.02 The Director of Audits shall be the adviser to, and serve as the representative of, the Assistant Secretary for Administration on all internal and external audit matters of the Department, and shall serve as adviser to other departmental officials with respect to these matters. He shall represent the Department in conferences and negotiations with officials of other Federal agencies or other groups with respect to audit matters.

SEC. 4. *Specified authority.* In addition to the authority implicit in and essential to carrying out the functions assigned the Office, the Director of Audits is expressly delegated the authority to arrange with other Federal, State, and local agencies, and other organizations, to make external audits.

SEC. 5. *Organization.* Under the direction and supervision of the Director, the functions of the Office shall be organized and carried out as provided below:

.01 The Deputy Director of Audits shall be the chief operating aide to the Director of Audits on Substantive audit matters and shall be responsible for managing the audit staff. In consultation and cooperation with the Office of Personnel, he shall be responsible to the Director of Audits for obtaining a high quality professional staff, for developing and prescribing programs designed to further the career development of individual staff members, and for obtaining appropriate recognition of the professional character of the work done by members of the audit staff. He shall perform such other duties and assignments as the Director of Audits may prescribe. He shall also perform the functions of the Director in the latter's absence.

.02 The Audit Policy Staff shall develop Department-wide policies, procedures, and standards for planning, programing, executing, and reporting on all audits. It shall coordinate, review and revise, as appropriate, individual audit programs, and annual and 5-year audit plans prepared by the operating divisions in the Office; maintain surveillance, through reports and conferences, over audits in process to determine compliance with approved plans and programs; postreview selected audits in detail as a quality control; review, reference, edit, and process audit reports; maintain followup on audit findings and recommendations; coordinate responses to and comments on General Accounting Office reports; and carry out such other duties and assignments as the Director of Audits may prescribe.

.03 The Contract, Grant, Loan, and Subsidy Audit Division shall carry out, or arrange for, site audits of documentation in support of claims, costs, cost proposals, and cost and pricing data arising from selected contracts, grants, subsidies, loans, and other similar agreements, entered into or proposed by organizational units. It shall carry out or arrange for site audits of contracts, grant, or similar agreements, or proposals thereto, as requested by the Department officials and agreed to by the Director of Audits. It shall make any necessary arrangements with other Federal, State, and local agencies, or with any other organizations, for the performance of audits of such contracts, grants or other agreements, on a reimbursable or other basis, and shall prescribe the scope of such audits and maintain liaison with the auditing agency or organization.

.04 The Fiscal and Special Internal Audit Division shall carry out audits of the fiscal activities of the operating units and Departmental offices including payroll, travel, property, cash funds, other accounting records and controls, and financial and statistical statements and reports. It shall participate in formulating Departmental accounting principles, standards, and procedures as suggested by audit findings, and shall carry out such special audits and examinations as may be requested by Secretarial Officers and other officials, and agreed to by the Director of Audits or the Assistant Secretary for Administration.

.05 The three Internal Audit Divisions shall carry out, on a cyclical basis, comprehensive audits of the operating, administrative, and financial activities of organizational units. Each Audit Division is assigned, as specified below, a group of organizations of the Department which normally it will audit:

Division	*Organizations to Audit*
Internal Audit Division 1.	National Bureau of Standards. National Oceanic and Atmospheric Administration. National Technical Information Service. Office of Telecommunications. Patent Office.
Internal Audit Division 2.	Bureau of the Census. Bureau of Domestic Commerce. Bureau of International Commerce. Maritime Administration. Office of Business Economics. Office of Foreign Direct Investments. Office of Import Programs. Office of Textiles. U.S. Travel Service.
Internal Audit Division 3.	Economic Development Administration. Office of Minority Business Enterprise. Office of the Secretary.

Effective date: October 12, 1971.

LARRY A. JOBE,
Assistant Secretary for Administration.

[FR Doc.71-16067 Filed 11-3-71;8:47 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

BUCKMAN LABORATORIES, INC.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 2B2731) has been filed by Buckman Laboratories, Inc., Memphis, Tenn. 38108, proposing that § 121.2526 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 121.2526) be amended to provide for the safe use of poly[oxyethylene(dimethylimino)ethylene(dimethylimino)ethylene dichloride], to which has been grafted polyacrylic acid by 2-hydroxypropylene bridges, as a component of paper and paperboard in contact with aqueous and fatty foods.

Dated: October 22, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-16121 Filed 11-3-71;8:51 am]

[Docket No. FDC-D-389; NADA No. 6-993V]

GREEVER'S INC.

Greever's Phenothiazine and Lead Arsenate Drench Powder; Notice of Opportunity for a Hearing

In an announcement in the FEDERAL REGISTER of December 9, 1970 (35 F.R. 18688), the Commissioner of Food and Drugs announced the conclusions of the Food and Drug Administration following evaluation of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Greever's Phenothiazine and Lead Arsenate Drench Powder, NADA (new animal drug application) No. 6-993V. The announcement invited the holder of said NADA, Greever's Inc., Chilhowie, Va. 24319, and any other interested persons to submit pertinent data on the drug's effectiveness.

No data were received in response to the announcement and available information fails to provide substantial evidence that the drug is effective for the removal of tapeworms, nodular worms, hookworms, large and small stomach worms, bankrupt worms, and large-mouth bowelworms from sheep and goats.

Therefore, notice is given to Greever's Inc. and to any other interested person who may be adversely affected, that the Commissioner proposes to issue an order under the provisions of section 512(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b) withdrawing approval of NADA No. 6-993V and all amendments and supplements thereto.

This action is proposed on the grounds that there is a lack of substantial evidence that the drug has the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

In accordance with the provision of section 512 of the act (21 U.S.C. 360b), the Commissioner will give the applicant and any other interested person who would be adversely affected by an order withdrawing such approval an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of NADA No. 6-993V should not be withdrawn. Promulgation of the order will cause any drugs similar in composition to the above cited drug product and recommended for similar conditions of use to be a new animal drug for which an approved new animal drug application is not in effect. Any such drug then on the market will be subject to appropriate regulatory action.

Within 30 days after publication hereof in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Office of the General Counsel, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing. If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner, without further notice, will enter a final order withdrawing approval of the new animal drug application.

Failure of such persons to file a written appearance of election within said 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process which the Commissioner finds is entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for hearing, they must file a written appearance requesting the hearing and giving the reasons why approval of the new animal drug application should not be withdrawn together with a well-organized and full-factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition to the grounds for this notice. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, the Commissioner will enter an order stating his findings and conclusions on such data. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence. The time shall be not more than 90 days after the expiration of said 30 days, unless the hearing examiner and the applicant otherwise agree.

Responses to this notice will be available for public inspection in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under the authority delegated to the Commissioner (21 CFR 2.120).

Dated: October 22, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-16124 Filed 11-3-71;8:52 am]

[Docket No. FDC-D-395; NADA No. 5-733V]

HESS & CLARK

Sulfathiazole-Kaolin-Pectin for Calf Scours; Notice of Opportunity for a Hearing

In an announcement in the FEDERAL REGISTER of August 18, 1970 (35 F.R. 13161, DESI 5733V), the Commissioner of Food and Drugs announced the conclusions of the Food and Drug Administration following evaluation of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group on SKP for Calf Scours, NADA (new animal drug application) No. 5-733V, a product containing sulfathiazole, pectin, kaolin, and ox bile marketed by Hess & Clark, division of Rhodia, Inc. (formerly a division of Richardson-Merrell, Inc.), Ashland, Ohio 44805.

The announcement invited the holder of said new animal drug application and any other interested persons to submit pertinent data on the drug's effectiveness.

No data were received in response to the announcement and available information fails to provide substantial evidence that the drug as a liquid suspension is effective for use in the treatment of calf scours.

Therefore, notice is given to Hess & Clark and to any other interested person who may be adversely affected that the Commissioner of Food and Drugs proposes to issue an order under the provisions of section 512(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(e)) withdrawing approval of NADA No. 5-733V and all amendments and supplements thereto. This action is proposed on the grounds that there is a lack of substantial evidence that the drug has the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

In accordance with the provisions of section 512 of the act (21 U.S.C. 360b), the Commissioner hereby gives the applicant and any interested persons who would be adversely affected by an order withdrawing such approval an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of NADA No. 5-733V should not be withdrawn. Promulgation of the order will cause any drug similar in composition to the above-cited drug product and recommended for similar conditions of use to be a new animal drug for which an approved new animal drug application is not in effect. Any such drug then on the market would be subject to appropriate regulatory action.

Within 30 days after publication hereof in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Office of the General Counsel, Food, Drug, and Environmental Health Division, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852 a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner, without further notice, will enter a final order withdrawing approval of the new animal drug application. Failure of such persons to file a written appearance of election within 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing concerning a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they must file a written appearance requesting the hearing and giving the reasons why approval of the new animal drug application should not be withdrawn together with a well-organized and full-factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition to the grounds for this notice of opportunity for a hearing. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that there is a genuine and substantial issue of fact requiring a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the withdrawal of approval of the application, the Commissioner will enter an order stating his findings and conclusions on such data. If a hearing is requested and justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence. The time shall not be more than 90 days after the expiration of said 30 days, unless the hearing examiner and the applicant otherwise agree.

Responses to this notice will be available for public inspection in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under the authority delegated to the Commissioner (21 CFR 2.120).

Dated: October 22, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-16125 Filed 11-3-71;8:52 am]

[FDC-D-388]

PHILIPS ROXANE, INC.

Certain Drug Products Intended for Use in Treating Diarrhea; Notice of Drugs Deemed Adulterated

An announcement concerning the following drugs manufactured by Philips Roxane, Inc., 2621 North Belt Highway, St. Joseph, Mo. 64502, was published in the FEDERAL REGISTER of August 22, 1970 (35 F.R. 13484, DESI 0044NV):

1. Calf Scour Bolus (Anchor Serum Co.);
2. Neo-Scour Plus Bolus (Bio-Ceutic Laboratories);
3. Skourstop, Calf Scour Bolus (United Co-Operatives, Inc.);
4. Calf Scour Extra (United Co-Operatives, Inc.);
5. Calf Scour Formula (Anchor Serum);
6. Homycin (Bio-Ceutic Laboratories);
7. Pets' Best, Neo-Sorb Tablets (Pets' Best);
8. Temtabs with Pharmasorb (Bio-Ceutic Laboratories);
9. Pets' Best, Neo-Sorb Liquid (Pets' Best);
10. Litter-Mate with Neomycin (Anchor Serum Co.);
11. Master-Mix, Litter-Mate with Neomycin (Central Soya); and
12. Scour Aid with Neomycin (Bio-Ceutic Laboratories).

The announcement set forth the findings of the Food and Drug Administration following review of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, that the above-listed products are probably not effective for: (1) The prevention or treatment of baby pig scours; (2) treatment of pneumo-enteritis complex in swine; or (3) as an aid in the treatment of infectious and noninfectious diarrhea (scours) of calves, colts, cats, and dogs.

Said announcement provided the manufacturer and all interested persons a 6-month period in which to submit new animal drug applications. Philips Roxane, Inc., did not submit new animal drug applications for the above-listed products within the 6-month period provided.

Based on the foregoing and the information before him, the Commissioner of Food and Drugs concludes that the above-named drugs are adulterated within the meaning of section 501(a)(5) of the Federal Food, Drug, and Cosmetic Act in that they are not the subject of approved new animal drug applications pursuant to section 512 of the act. Therefore, notice is given to Philips Roxane, Inc., and all interested persons that all stocks of said drugs within the jurisdiction of the act are deemed adulterated within the meaning of the act and are subject to appropriate regulatory action.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 501(a)(5), 512, 52 Stat. 1049, as amended, 82 Stat. 343-351; 21 U.S.C. 351(a)(5), 360(b)) and under the authority delegated to the Commissioner (21 CFR 2.120).

Dated: October 22, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-16122 Filed 11-3-71;8:51 am]

[FDC-D-392]

PHILIPS ROXANE, INC.

Hydrocortisone Acetate-Neomycin Sulfate-Tetracaine Ointment; Notice of Drugs Deemed Adulterated

An announcement concerning Neo-Cort (ophthalmic ointment) and Pets' Best Cort-I-Mycin (eye and ear ointment) by Philips Roxane, Inc., 2621 North Belt Highway, St. Joseph, Mo. 64502 was published in the FEDERAL REGISTER of August 21, 1970 (35 F.R. 13401, DESI 12-12NV). The announcement set forth the findings of the Food and Drug Administration following review of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, that these products are probably not effective for veterinary use as an aid in the treatment of keratitis, conjunctivitis, and otitis externa.

Said announcement provided the manufacturer and all interested persons a 6-month period in which to submit new animal drug applications. Philips Roxane, Inc., did not submit new animal drug applications for the above-listed products within the 6-month period provided. In their response to the announcement, the manufacturer stated that these drugs were no longer made.

Based on the foregoing and all information before him, the Commissioner of Food and Drugs concludes that the above-named drugs are adulterated within the meaning of section 501(a)(5) of the Federal Food, Drug, and Cosmetic Act in that they are not the subject of approved new animal drug applications pursuant to section 512 of the act. Therefore, notice is given to Philips Roxane, Inc., and all interested persons that all stocks of said drugs within the jurisdiction of the act are deemed adulterated within the meaning of the act, and are subject to appropriate regulatory action.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 501(a)(5), 512, 52 Stat. 1049, as amended, 82 Stat. 343-351; 21 U.S.C. 351(a)(5), 360b) and under the authority delegated to the Commissioner (CFR 2.120).

Dated: October 22, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-16123 Filed 11-3-71;8:52 am]

Office of Education

VOCATIONAL EDUCATION ACT GRANTS

Allotment Ratios

Pursuant to section 103(d)(2) of the Vocational Education Act of 1963, as amended (20 U.S.C. 1243), the following allotment ratios were computed for the purpose of making grants under parts B and C of title I of the Act to each of the States, the District of Columbia, American Samoa, Guam, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the Virgin Islands, and are hereby promulgated for the fiscal year ending June 30, 1973:

Alabama	.6000
Alaska	.4227
Arizona	.5517
Arkansas	.6000
California	.4300
Colorado	.5222
Connecticut	.4000
Delaware	.4430
Florida	.5431
Georgia	.5777
Hawaii	.4401
Idaho	.5944
Illinois	.4232
Indiana	.5084
Iowa	.5260
Kansas	.5098
Kentucky	.6000
Louisiana	.6000
Maine	.5899
Maryland	.4614
Massachusetts	.4489
Michigan	.4683
Minnesota	.5151
Mississippi	.6000
Missouri	.5267
Montana	.5739
Nebraska	.5240
Nevada	.4261
New Hampshire	.5358
New Jersey	.4169
New Mexico	.6000
New York	.4000
North Carolina	.5961
North Dakota	.6000
Ohio	.4889
Oklahoma	.5807
Oregon	.5221
Pennsylvania	.5022
Rhode Island	.4948
South Carolina	.6000
South Dakota	.5940
Tennessee	.6000
Texas	.5523
Utah	.5936
Vermont	.5583
Virginia	.5454
Washington	.4744
West Virginia	.6000

Wisconsin	5273
Wyoming	5504
District of Columbia	4000
American Samoa	6000
Guam	6000
Puerto Rico	6000
Trust Territory of the Pacific Islands	6000
Virgin Islands	6000

Dated: October 27, 1971.

S. P. MARLAND, JR.,
Commissioner of Education.

[FR Doc.71-16066 Filed 11-3-71;8:47 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

FOURTH ANNUAL NATIONAL AVIATION SYSTEM PLANNING REVIEW CONFERENCE

The purpose of this notice is to announce the Fourth Annual National Aviation System Planning Review Conference. (The establishment of annual consultative planning procedures was originally documented and publicized in 33 F.R. 19205, dated December 24, 1968, and 35 F.R. 17798, dated November 19, 1970.)

The Department of Transportation announces that the Fourth Annual National Aviation System Planning Review Conference will be held May 1–3, 1972, at the Twin Bridges Marriott Hotel, Washington, D.C.

The Department of Transportation invites suggestions and comments as to topics and issues for the agenda for the conference. The Department also invites the submission of papers on issue topics or other comments related to the conference. Suggested topics and issues should be properly explained and documented in order to be considered for the agenda. All suggested agenda topics and abstracts of papers should be submitted not later than 6 December 1971 to:

Associate Administrator for Plans, Attention: AV-1, 800 Independence Avenue SW., Washington, D.C. 20591.

If an abstract only is submitted then the final complete paper must be submitted to the FAA not later than February 1, 1972.

A list of tentative issues and topics is provided for use as guidance in preparation of papers or comments:

(1) Human factors and Biomedical factors in aviation;
(2) Optimization of airspace;
(3) National Aviation System of the Future, i.e., Collision Avoidance System/ Proximity Warning Indicator, Role of Primary/ Secondary Radar; Digital Communications;
(4) Airport Development Assistance Program, i.e., Government/State/Municipal role;
(5) Aviation Trust Fund;
(6) Balanced transportation;
(7) New technology;
(8) Environmental factors affecting aviation.

Registration is open to any one interested in attending the conference. A registration fee of $5 is required of those who wish to receive all conference documents, papers, agenda and the 1972 editions of the National Aviation System Policy Summary and 10 Year Plan (Those persons who do not register may purchase the National Aviation System Policy Summary and 10 Year Plan directly from the Government Printing Office).

To register for the Fourth Annual National Aviation System Planning Review Conference, please write to the following address giving (1) name, (2) address, (3) company/association if any, (4) area of interest (Airports, Air Traffic Control, R&D or specify) and enclose a check (if publications are desired) payable to the Federal Aviation Administration:

Federal Aviation Administration, Attention: HQ-200, 800 Independence Avenue SW., Washington, DC 20591.

Issued in Washington, D.C., on October 28, 1971.

RONALD W. PULLING,
Acting Associate Administrator for Plans.

[FR Doc.71-16112 Filed 11-3-71;8:52 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-404; 50-405]

VIRGINIA ELECTRIC AND POWER CO.

Notice of Receipt of Application for Construction Permits and Facility Licenses; Time for Submission of Views on Antitrust Matters

The Virginia Electric and Power Co., 700 East Franklin Street, Richmond, VA 23209, pursuant to section 103 of the Atomic Energy Act of 1954, as amended, has filed an application, dated September 15, 1971, for authorization to construct and operate two additional nuclear reactors, designated as the North Anna Power Station Units No. 3 and No. 4, on the applicant's site in Louisa County, Va.

The site is located south of the North Anna River, approximately 24 miles southwest of Fredericksburg, 40 miles north-northwest of Richmond, Va., and 38 miles east of Charlottesville, Va. The reactors will be located adjacent to North Anna Power Station Units No. 1 and No. 2 on a peninsula in a reservoir that is to be formed when an earthen dam is constructed approximately 5 miles southeast of the site.

The proposed nuclear powerplant will consist of two pressurized water reactors, each of which is designed for initial operation at approximately 2,631 thermal megawatts with a gross electrical output of approximately 950 megawatts.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within sixty (60) days after October 21, 1971.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Office of the Board of Supervisors, Louisa County Courthouse, Louisa, Va. 23093.

Dated at Bethesda, Md., this 5th day of October 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc.71-14808 Filed 10-20-71;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 22628; Order 71-10-129]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order To Show Cause Regarding Service Mail Rate

Issued under delegated authority October 28, 1971.

An agreement has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 1 of the International Air Transport Association (IATA), and adopted by mail vote. The agreement has been assigned the above-designated CAB agreement number.

The agreement permits BWIA to postpone to a date not later than November 30, 1971, the performance of its inaugural flights for new service between Antigua and St. Lucia.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found, on a tentative basis, that resolution 100(Mail 881) 200h, which is incorporated in Agreement CAB 22741 is adverse to the public interest or in violation of the Act.

Accordingly, it is ordered, That:

Action on agreement CAB 22741 be and hereby is deferred with a view toward eventual approval.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-16142 Filed 11-3-71;8:53 am]

[Docket No. 23761; Order 71-10-95]

SEDALIA, MARSHALL, BOONVILLE STAGE LINES, INC.

Order To Show Cause Regarding Service Mail Rate

Issued under delegated authority October 21, 1971.

The Postmaster General filed a notice of intent August 26, 1971, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above captioned air taxi operator, a final service mail rate of 65 cents per great circle aircraft mile for the transportation of mail by aircraft between Chicago, Ill., Des Moines, Iowa, and Omaha, Nebr.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Postal Service and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with two Beech S-18 or equivalent twin-engine aircraft.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Sedalia, Marshall, Boonville Stage Lines, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 65 cents per great circle aircraft mile between Chicago, Ill., Des Moines, Iowa, and Omaha, Nebr., flown with two Beech S-18 or equivalent twin-engine aircraft.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly secitons 204(a) and 406 thereof, and regulations promulgated in 14 CFR Parts 302 and 298, and 14 CFR 385.16(f),

It is ordered, That:

1. Sedalia, Marshall, Boonville Stage Lines, Inc., the Postmaster General, Frontier Airlines, Inc., Ozark Air Lines, Inc., United Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Sedalia, Marshall, Boonville Stage Lines, Inc.

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served on Sedalia, Marshall, Boonville Stage Lines, Inc., the Postmaster General, Frontier Airlines, Inc., Ozark Air Lines, Inc., and United Air Lines, Inc.

This mail rate matter has been reviewed under Order 71-8-78, dated August 17, 1971, as amended by Order 71-9-51, dated September 13, 1971, and is consistent with the stabilization of fares, rates, and charges for passengers and property.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-16143 Filed 11-3-71;8:53 am]

[1] As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

ENVIRONMENTAL PROTECTION AGENCY

AMERICAN CYANAMID CO.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 2H2669) has been filed by American Cyanamid Co., Agricultural Division, Post Office Box 400, Princeton, NJ 08540, proposing that §§ 121.1172 and 121.2504 *Malathion* (21 CFR 121.1172 and 121.2504) be amended:

1. In § 121.1172, by reducing to 100 milligrams per square foot the permitted 200 milligrams per square foot of malathion incorporated into paper trays intended for use only in the drying of grapes (raisins) and by increasing to 12 parts per million the eight parts per million of total residue of malathion permitted on processed ready-to-eat raisins from drying on treated trays and from application to grapes before harvest.

2. In § 121.2504, by reducing to 100 milligrams per square foot the permitted 200 milligrams per square foot of malathion that may be incorporated into paper trays for the safe control of insects during the drying of grapes (raisins) in compliance with § 121.1172.

Dated: October 28, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71-16051 Filed 11-3-71;8:46 am]

ALDRIN AND DIELDRIN

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (e), (m), 68 Stat. 514, 517; 21 U.S.C. 346a (e), (m)) and by virtue of the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623) and delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs of the Environmental Protection Agency (36 F.R. 9038), notice is hereby given that a petition (PP 1E1053) has been filed by the Environmental Defense Fund, Inc., proposing that established finite tolerances for residues of aldrin (§ 420.135) and dieldrin (§ 420.137) be repealed. Since residues of aldrin and dieldrin now in the environment will continue to transfer to raw agricultural commodities, the petitioner proposes that these repeals be accomplished through a stepwise lowering of tolerances on an individual commodity basis, culminating in zero tolerances on all commodities at the earliest possible date.

Any interested person may, within 30 days from the date of publication of this notice in the FEDERAL REGISTER, file with the Objections Clerk, Environmental Protection Agency, Room 3175, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, DC 20460, written comments on this proposal, preferably in quintuplicate. Comments may be accompanied by a memorandum or brief in support thereof. The Administrator explicitly invites comments on alternative pest control procedures and potential hazards of aldrin and dieldrin to human health and the quality of the environment.

Dated: October 27, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71-16052 Filed 11-3-71;8:46 am]

CARBOXIN

Notice of Renewal of Temporary Tolerance

Uniroyal Chemical, Division of Uniroyal, Inc., Bethany, Conn. 06525, was granted temporary tolerances for total negligible residues of the fungicide carboxin (5,6-dihydro-2-methyl-1,4-oxathiin-3-carboxanilide) and its metabolite 5,6-dihydro-3-carboxanilide-2-methyl-1,

4-oxathiin-4-oxide (calculated as carboxin) in or on the raw agricultural commodities barley (grain and forage), peanuts, peanut hay, sorghum (grain and forage), and wheat (grain and forage) at 0.2 part per million on August 8, 1969 (notice was published in the FEDERAL REGISTER of August 15, 1969 (34 F.R. 13286)). The tolerances expired August 8, 1970.

The firm has requested a renewal to obtain additional experimental data and has amended the petition by (1) requesting a temporary tolerance of 0.2 part per million for combined negligible residues of the fungicide on cottonseed and oats (grain and forage) and (2) by withdrawing the tolerance on sorghum (grain and forage). A tolerance of 0.2 part per million was established for combined negligible residues of carboxin and its metabolite in or on cottonseed (notice was published in the FEDERAL REGISTER of August 11, 1971 (36 F.R. 14730)).

It is concluded that such renewal will protect the public health. A condition under which these temporary tolerances are renewed is that the fungicide will be used in accordance with the temporary permit which is being issued concurrently by the Environmental Protection Agency and which provides for distribution under the Uniroyal name.

A renewal has been granted that will expire October 28, 1972.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs of the Environmental Protection Agency (36 F.R. 9038).

Dated: October 28, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71-16053 Filed 11-3-71;8:46 am]

CHEMAGRO CORP.

Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1166) has been filed by Chemagro Corp., Post Office Box 4913, Hawthorn Road, Kansas City, MO 64120, proposing establishment of tolerances (21 CFR Part 420) for residues of the insecticide *O,O*-dimethyl *S*-[4-oxo-1,2,3-benzotriazin-3(4*H*)-ylmethyl] phosphorodithioate in or on the raw agricultural commodities pasture grass hay at 5 parts per million and pasture grass at 2 parts per million.

The analytical method proposed in the petition for determining residues of the insecticide is a gas chromatographic procedure using a potassium chloride thermionic emission flame detector.

Dated: October 28, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71-16054 Filed 11-3-71;8:46 am]

UNION CARBIDE CORP.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 2F1188) has been filed by the Union Carbide Corp., 800 Wyatt Building, Washington, D.C. 20005, proposing establishment of tolerances (21 CFR Part 420) for residues of the insecticide and nematocide aldicarb (2-methyl-2 - (methylthio) propionaldehyde O - (methylcarbamoyl) oxime) and its cholinesterase-inhibiting metabolites 2-methyl - 2-(methylsulfinyl) propionaldehyde *O*-(methylcarbamoyl) oxime and 2-methyl-2-(methylsulfonyl) propionaldehyde *O*-(methylcarbamoyl) oxime in or on the raw agricultural commodities sugarcane fodder and forage at 0.2 part per million and sugarcane and sweet potatoes at 0.02 part per million (negligible residue).

The analytical method proposed in the petition for determining residues of the pesticide is a procedure in which the residues are reacted with peracetic acid to form the sulfone metabolite, which is analyzed by gas chromatography using a flame photometric detector with a filter specific for sulfur.

Dated: October 28, 1971.

WILLIAM M. UPHOLT,
Assistant Deputy Administrator for Pesticides Programs.

[FR Doc.71-16055 Filed 11-3-71;8:46 am]

FEDERAL MARITIME COMMISSION

CUNARD-ONA LTD. AND CUNARD LINE LTD.

Notice of Issuance of Casualty Certificate

Security for the protection of the public; financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Cunard—ONA Ltd. and Cunard Line Ltd., 555 Fifth Avenue, New York, NY 10017.

Dated: November 1, 1971.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-16159 Filed 11-3-71;8:54 am]

CUNARD-ONA LTD. AND CUNARD LINE LTD.

Notice of Issuance of Performance Certificate

Security for the protection of the public; indemnification of passengers for nonperformance of transportation.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Cunard-Ona Ltd. and Cunard Line Ltd., 555 Fifth Avenue, New York, NY 10017.

Dated: November 1, 1971.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-16160 Filed 11-3-71;8:54 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report 568]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

NOVEMBER 1, 1971.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

File number, applicant, call sign, and nature of application

5098-C2-P-71—Radiofone Corp. of New Jersey (New) (Resubmitted), For a new station to be located on Limestone Road, 4 miles northwest of Marshallton, Del., to operate on 454.150 MHz.

2261-C2-P-72—Central Mobil and Paging Service (New), For a new station to be located at 419 Stewart, Lewiston, ID, to operate on 152.03 MHz.

2262-C2-MP-72—Radio Telephone Service (KIJ956), Replace transmitter operating on 454.225 MHz, change the antenna system and relocate facilities at location No. 2 to: 2 Peachtree Street, Atlanta, GA.

2264-C2-MP-(4)-72—Business Communications, Inc. (KAA888), Relocate facilities operating on 454.075, 454.125, 454.175, and 454.225 MHz at location No. 2 to: 7777 Bonhomme Avenue, St. Louis, MO.

2265-C2-P-72—Mobilfone Radio System (KCC802), Replace transmitter operating on 43.22 MHz located at Summit Long Hill, Waterbury, Conn.

2269-C2-P-72—Liberty Communications (KCI310), Replace transmitter operating on 35.58 MHz and change the transmission line. Location: Summit Long Hill, Waterbury, Conn. (one-way).

2272-C2-P-72—Evans Telephone Answering Service (New), For a new one-way station to be located at 1400 Main Street, Columbia, SC, to operate on 152.24 MHz.

2273-C2-P-72—Intra State Telephone Co. (KSJ807), For additional facilities to operate on 152.51 MHz, located at the northeast corner of Seminary and Knox Streets, Galesburg, IL.

2274-C2-P-72—General Telephone Co. of California (KJU806), For additional facilities to operate on 35.58 MHz at a new site described as location No. 5: 1.6 miles northeast of Intersection of Erbes Road and Hillcrest Drive, Thousand Oaks, CA.

2275-C2-P-72—Salinas Valley Radio Telephone Co. (KMA837), For additional facilities to operate on 158.49 MHz at location No. 2: 393 Blanda Street, Salinas, CA.

2276-C2-P-72—Auto Page Northwest (KUA265), Replace transmitter, change the antenna system and relocate control facilities operating on 454.350 MHz at location No. 2 to: 510 Northwest 10th Street, Pendleton, OR.

Major Amendment

2186-C2-P-72—Ratel Communication Co. (New), Amended to change the base frequency to 152.24 MHz. See public notice dated Oct. 26, 1971, Report No. 567.

RURAL RADIO SERVICE

2256-C1-P/ML-72—Continental Telephone Co. of California (KNI47), For additional facilities to operate on frequencies: 157.80, 157.83, 157.86, 157.89, 157.92, 157.95, 157.98, 158.01, 157.04, and 157.07 MHz with (107 units) In any temporary fixed location within the territory of the grantee.

2377-C1-P-72—South Central Bell Telephone Co. (WHB37), Relocate facilities operating on 459.65 MHz to approximately 3 miles southwest of Burrwood, La.

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

[2] The above alternative cutoff rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio, and Local Television Transmission Services (Part 21 of the rules).

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)

2248-C1-P-72—Frank K. Spain doing business as Microwave Service (KOV45). Location: Top of Big Mountain, Mont. at latitude 48°30'08" N. longitude 114°20'35" W. To change location of the Whitefish, Mont. receiving site to latitude 48°22'13" N., longitude 114°17'38" W. Frequencies 6184.5, 6309.5, and 6334.5 MHz on azimuth 186°08'.

2249-C1-MP-72—Mountain Microwave Corp. (WAY226), Location: 2 miles north-northwest of Radfield, S. Dak., at latitude 44°54'40" N., longitude 98°32'05" W. To change frequency from 11,846 MHz to 11,305 MHz on azimuth 01°40'. Applicant is requesting special temporary authority to make this change.

2250-C1-P-72—Mountain Microwave Corp. (KBI23). Location: 12 miles west-southwest of Eads, Colo., at latitude 38°24'39" N., longitude 102°58'29" W. To add frequency 6404.8 MHz on azimuth 136°20'. Applicant proposes to provide the television signal of station KRMA-TV of Denver, Colo., to Media Cable TV Systems, Inc., in Lamar, Colo.

The following applicants proposes to establish omnidirectional facilities for the provision of common carrier "Subscriber-Programed" television service.

2263-C1-P-72—Imperial Communications Corp. (New), New station 110 West C Street, San Diego, CA, latitude 32°43'01" N., longitude 117°09'48" W. Frequencies 2150.300 (aural) and 2162.325 MHz (visual) toward various points of system and 2154.000 MHz (aural) and 2158.500 MHz (visual) toward various points of system.

2274-C1-P-72—Microband Corp. of America (New), New station at Colorado State Bank Building, 16th and Broadway, Denver, CO, latitude 39°44'27" N., longitude 104°59'15" W. Frequencies 2162.325 MHz (visual) and 2150.20 MHz (aural) toward various receiving points of system and 2158.50 MHz (visual) and 2154.00 MHz (aural) toward various receiving points of system.

2408-C1-P-72—American Communications & Electronics Corp. (New), A new station at JANAF Building, JANAF Shopping Center, Norfolk, Va., latitude 36°51'35" N., longitude 76°12'15" W. Frequencies 2152.325 MHz and 2150.20 MHz toward various receiving points of system and 2158.50 & 2154.00 MHz toward various receiving points of system. 2152.325 and 2158.50 MHz (visual) and 2150.20 and 2154.00 (aural).

[FR Doc.71-16158 Filed 11-3-71;8:54 am]

FEDERAL POWER COMMISSION

[Docket No. CP72-106]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

OCTOBER 28, 1971.

Take notice that on October 15, 1971, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, IL 60603, filed in Docket No. CP72-105 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas with Amoco Production Co. (Amoco) and the construction and operation of facilities therefor, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant estimates that deliveries of up to 20,000 Mcf of gas per day will be made by Amoco to Applicant in the Falo Wallow Field area, Hemphill and Wheeler Counties, Tex. Receiveries to Amoco of equivalent volumes of gas will be made at a proposed point of exchange to be constructed by Applicant in Vermilion Parish, La. Applicant proposes to operate exchange facilities in Vermilion Parish, La., and to utilize gas purchase facilities in Hemphill and Wheeler Counties, Tex., constructed under Applicant's budget type purchase facilities certificate issued in Docket No. CP71-83, to effectuate the subject exchange. No monetary compensation is provided for volumes exchanged.

Applicant states that the estimated cost of the proposed facilities in Vermilion Parish, La., is $21,900 for which Applicant will be reimbursed by Amoco.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 16, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the

Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, and if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16056 Filed 11-3-71;8:46 am]

[Docket No. CP72-106]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

OCTOBER 28, 1971.

Take notice that on October 19, 1971, Natural Gas Pipeline Co. of America (applicant), 122 South Michigan Avenue, Chicago, IL 60603, filed in Docket No. CP72-106 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the regulations under said Act, for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1972, and operation of meter stations, lateral pipelines and taps on applicant's existing natural gas transmission system to enable applicant to take into its pipeline system natural gas which will be purchased from producers in the several areas thereof, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The purpose of this budget-type application is to augment applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system new supplies of natural gas in various areas located in the vicinity of its system.

The total costs of all facilities for which authorization is sought herein will not exceed $4 million, with no single project to exceed a cost of $1 million. Applicant states that these costs will be financed from cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 16, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16057 Filed 11-3-71;8:46 am]

[Docket No. RP72-50]

NORTHERN ILLINOIS GAS CO. AND NORTHERN NATURAL GAS CO.

Notice of Complaint

NOVEMBER 1, 1971.

On October 4, 1971, Northern Illinois Gas Co. (NI Gas) filed a complaint pursuant to section 5(a) of the Natural Gas Act and § 1.6 of the Commission's rules of practice and procedure against certain operating practices of Northern Natural Gas Co. (Northern Natural). NI Gas also filed a memorandum in support of tariff complaint, stating that Northern Natural engages in a discriminatory practice in making overrun gas available from its system first to full requirements customers in full satisfaction of their demand before making any overrun gas available to NI Gas, a partial requirements customer.

Any person desiring to be heard or to make any protest with reference to NI Gas' complaint should on or before November 15, 1971, file with the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. NI Gas' complaint is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16164 Filed 11-3-71;8:55 am]

[Docket No. RP72-51]

TENNESSEE GAS PIRELINE CO.

Notice of Proposed Change in FPC Gas Tariff

NOVEMBER 1, 1971.

Take notice that on October 14, 1971, Tennessee Gas Pipeline Co. (Tennessee) (Division of Tenneco, Inc.) tendered for filing changes in its FPC Gas Tariff pursuant to section 4(e) of the Natural Gas Act, to be effective November 14, 1971. The proposed tariff revisions would reflect increases in purchased gas costs in the annual amount of $3,519,775, which result from rate increases filed by producers in the southern Louisiana area pursuant to Commission Opinion Nos. 598 and 598-A. Tennessee states that this amount was calculated on the basis of volumes purchased by Tennessee from the indicated producers during the 12-month period ending July 31, 1971, resulting in an average increase of 0.27 cents per Mcf for Tennessee's sales volume.

Copies of the proposed tariff changes were served on Tennessee's customers and interested state commissions.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 10, 1971, file with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, petitions to intervene or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing herein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

Any order or orders issued in these proceedings will be subject to the Commission's Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38) and Executive Order 11615, including such amendments as the Commission may require.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16165 Filed 11-3-71;8:55 am]

[Docket No. CP72-109]

TENNESSEE GAS PIPELINE CO.

Notice of Application

OCTOBER 28, 1971.

Take notice that on October 19, 1971, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (applicant), Post Office Box 2511, Houston, TX 77001, filed in Docket No. CP72-109 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the regulations under said Act, for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1972, and operation of certain natural gas facilities to enable applicant to take into its pipeline system supplies of natural gas which will be purchased from producers in the general area of said system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment its ability to act with reasonable dispatch in contracting for and connecting supplies of natural gas to its pipeline system. The total cost of the facilities proposed herein will not exceed $7 million, with no single offshore project costing in excess of $1,750,000, and no single onshore project costing in excess of $1 million. Applicant states that these costs will be financed from general funds or from its revolving credit.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 16, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16058 Filed 11-3-71;8:46 am]

[Docket No. CP66-233]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Petition To Amend

OCTOBER 26, 1971.

Take notice that on September 29, 1971, Transcontinental Gas Pipe Line Corp. (petitioner), Post Office Box 1396, Houston, TX 77001, filed in Docket No. CP66-233, a petition to amend the Commission's order issued in said docket pursuant to section 7(c) of the Natural Gas Act on May 19, 1967 (37 FPC 959), as amended, by authorizing elimination of the allocation of natural gas therein granted to North Carolina Natural Gas Corp. (North Carolina), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The order of May 19, 1967, as amended, authorized petitioner to render natural gas service to North Carolina for a term of 5 years, commencing January 1, 1967, in the annual amount of 2 million Mcf under petitioner's rate schedule ACQ-2. Petitioner proposes to terminate such service, effective January 1, 1972, and states that the volume of 2 million Mcf will then be available to support the general gas requirements of its system. Petitioner states that North Carolina has agreed to termination of said service.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 12, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16059 Filed 11-3-71;8:47 am]

FEDERAL RESERVE SYSTEM

BARNETT BANKS OF FLORIDA, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Barnett Banks of Florida, Inc., which is a bank holding company located in Jacksonville, Fla., for prior approval by the Board of Governors of the acquisition by applicant of 80 percent or more of the voting shares of Barnett Bank of Brandon, National Association, Brandon, Fla., a proposed new bank.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Atlanta.

Board of Governors of the Federal Reserve System, October 28, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16060 Filed 11-3-71;8:47 am]

COMMERCIAL BANCORPORATION OF COLORADO

Formation of One-Bank Holding Company

Commercial Bancorporation of Colorado, Sterling, Colo., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of action whereby

applicant would become a bank holding company through acquisition of 94.78 percent of the voting shares of Commercial Savings Bank, Sterling, Colo.

The application may be inspected at the Federal Reserve Bank of Kansas City.

Section 3(c) of the Act requires that the Board consider the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the bank concerned, and the convenience and needs of the communities to be served.

Any person wishing to comment on the application should submit his views in writing to the Reserve bank to be received not later than November 8, 1971.

Pursuant to § 222.3(b) of regulation Y, this application shall be deemed to be approved on November 22, 1971, unless the applicant is notified to the contrary before that time, or is granted approval at an earlier date.

Board of Governors of the Federal Reserve System, October 28, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16061 Filed 11-3-71;8:47 am]

COMMERCE BANCSHARES, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Commerce Bancshares, Inc., which is a bank holding company located in Kansas City, Mo., for prior approval by the Board of Governors of the acquisition by applicant of more than 80 percent of the voting shares of Clay County State Bank, Excelsior Springs, Mo.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Kansas City.

Board of Governors of the Federal Reserve System, October 29, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16062 Filed 11-3-71;8:47 am]

ILLINOIS BANCSHARES, INC.

Formation of One-Bank Holding Company

Illinois Bancshares, Inc., Mascoutah, Ill., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of action whereby applicant would become a bank holding company through acquisition of 89.3 percent of the voting shares of Bank of Mascoutah, Mascoutah, Ill.

The application may be inspected at the Federal Reserve Bank of St. Louis.

Section 3(c) of the act requires that the Board consider the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the bank concerned, and the convenience and needs of the communities to be served.

Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than November 22, 1971.

Pursuant to § 222.3(b) of Regulation Y, this application shall be deemed to be approved on December 6, 1971, unless the applicant is notified to the contrary before that time, or is granted approval at an earlier date.

Board of Governors of the Federal Reserve System, October 28, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16063 Filed 11-3-71;8:47 am]

SOUTHWEST BANCSHARES, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Southwest Bancshares, Inc., which is a bank holding company located in Houston, Tex., for prior approval by the Board of Governors of the acquisition by applicant of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Long Point National Bank of Houston, Houston, Tex.

Section 3(c) of the act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Dallas.

Board of Governors of the Federal Reserve System, October 28, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16064 Filed 11-3-71;8:47 am]

THIRD NATIONAL CORP.

Formation of One-Bank Holding Company

Third National Corp., Nashville, Tenn., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of action whereby applicant would become a bank holding company through acquisition of 100 percent of the voting shares of Third National Bank in Nashville, Nashville, Tenn.

The application may be inspected at the Federal Reserve Bank of Atlanta.

Section 3(c) of the Act requires that the Board consider the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the bank concerned, and the convenience and needs of the communities to be served.

Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than November 18, 1971.

Pursuant to § 222.3(b) of Regulation Y, this application shall be deemed to be approved on December 3, 1971, unless the applicant is notified to the contrary before that time, or is granted approval at an earlier date.

Board of Governors of the Federal Reserve System, October 28, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16065 Filed 11-3-71;8:47 am]

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

CERTAIN COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THAILAND

Entry or Withdrawal From Warehouse for Consumption

NOVEMBER 2, 1971.

On July 3, 1971, there was published in the FEDERAL REGISTER (36 F.R. 12714) a letter of June 25, 1971 from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs directing that the amount of cotton textile products in Category 60, produced or manufactured in Thailand, which may be entered or withdrawn from warehouse for consumption in the United States for the 12-month period beginning April 30, 1971, and extending through April 29, 1972, be limited to a designated level. The designated level has already been exhausted by entries of the cotton textile products in question.

Consultations may be held between the Governments of the United States and Thailand in the near future to determine the disposition of cotton textile products that have been denied entry under the terms of the aforesaid letter. In order to provide the U.S. Government with the information necessary for consultation with the Government of Thailand, all interested parties are advised to report, as soon as possible and no later than 10 days from the date of publication of this notice, to the Office of Textiles, Trade Analysis Division, Department of Commerce, Washington, D.C. 20230, on any cotton textile products in Category 60 produced or manufactured in Thailand and exported from Thailand prior to October 1, 1971, which have been denied entry and are in the United States either in a bonded warehouse, general order warehouse or a foreign trade zone on the date of publication of this notice. Reports should include the following information:

Complete description of the goods.
Date of shipment.
Date of arrival.
Categories under which classified.
Quantities involved, expressed in dozens.
Location of goods including U.S. Customs port.
Bond number and general order lot number or foreign trade zone number and lot number assigned.

Failure to so report within the designated period of time may result in the cotton textile products not being eligible for entry into the United States for consumption.

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.

[FR Doc. 71-16226 Filed 11-3-71;9:58 am]

SECURITIES AND EXCHANGE COMMISSION

[Releases Nos. 33-5204 and 34-9374]

"HOT ISSUES" SECURITIES MARKETS

Preliminary Notice of Public Fact Finding Investigation

The SEC announced today that it has authorized a public fact-finding investigatory proceeding pursuant to section 21(a) of the Securities Exchange Act of 1934 and Rule 4(b) of its rules of practice in the matter of the "hot issues" securities markets, i.e., markets in which new issues of securities have experienced substantial price rises in their aftermarkets. The purpose of this proceeding is to develop a factual basis for determining (1) whether revisions to the Commission's rules, regulations and forms under the Securities Act of 1933 and the Securities Exchange Act of 1934 are necessary in the public interest and for the protection of investors, and (2) whether further legislation should be recommended to Congress.

This public investigatory proceeding is intended as further implementation of the Commission's intention, as expressed in its letter, dated March 10, 1971, transmitting the Institutional Investors Study Report of the Securities and Exchange Commission to the Congress, to continue to evaluate problems created by the new issues security market.

The proceeding will involve an in-depth, historical, factual analysis of past "hot issues" securities markets by means of review of registration statements and reports filed by registrants pursuant to the Securities Act of 1933 and the Securities Exchange Act of 1934 and the analysis of material to be requested from promoters and management of companies registering new issues with the Commission and from underwriters and purchasers of such new issues. The scope of the investigation will include inquiries with respect to: (1) Whether the Commission's rules, regulations and forms under the Securities Act of 1933 result in adequate disclosures that reflect economic reality regarding business and financial operations of registrants offering new "hot issues," and (2) whether the Commission's rules under the Securities Exchange Act of 1934 provide adequate protection to investors in connection with purchases and sales of securities in a "hot issue" market.

At a later date, the Commission intends to set a date for a public hearing relating to this proceeding at which time interested persons will have the opportunity to appear and present their views on this subject. However, during the course of the proceeding, prior to the actual hearing, persons wishing to submit written statements of their views concerning the problems of the "hot issues" security market are invited to do so. Any such comment should be addressed to Alan B. Levenson, Director, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, DC 20549.

By the Commission, October 21, 1971.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71-16087 Filed 11-3-71;8:49 am]

[70-5109]

ALLEGHENY POWER SYSTEM, INC. ET AL.

Notice of Proposed Issue and Sale of Common Stock

OCTOBER 28, 1971.

Notice is hereby given that Allegheny Power System, Inc., 320 Park Avenue, New York, NY 10022 (APS), a registered holding company, and its wholly owned electric utility subsidiary companies, Monongahela Power Co. (Monongahela), The Potomac Edison Co. (Potomac), and West Penn Power Co. (West Penn), have filed a joint application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6, 7, 9, 10, and 12 thereof and rules 43, 44, and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the joint application-declaration, which is summarized below, for a complete statement of the proposed transactions.

APS proposes to issue and sell, pursuant to the competitive bidding requirements of Rule 50 under the act, 2,200,000 additional shares of its authorized but unissued common stock, par value $2.50 per share. The price will be determined by the competitive bidding. The net proceeds, estimated at approximately $48 million based on current market values, will be used to acquire additional shares of common stock of Monongahela, Potomac, and West Penn (the "subsidiary companies") as hereinafter outlined.

Monongahela and Potomac each propose to amend their respective charters to increase their authorized shares of common stock, and each of the subsidiary companies proposes to issue and sell to APS from time to time, prior to December 31, 1972, additional shares of their common stock for cash consideration equal to the aggregate par or stated values thereof, as follows:

Subsidiary company	Proposed increase in authorized shares	Proposed issuance of shares	Cash consideration
Monongahela: Common stock, $50 par value	750,000	400,000	$20,000,000
Potomac: Common stock, No par value (stated value, $20)	1,000,000	1,000,000	20,000,000
West Penn: Common stock, No par value (stated value, $20)		500,000	10,000,000

The net proceeds of these issues, together with other corporate funds, are to be used by the subsidiary companies to finance their construction programs. Construction expenditures for 1972 are estimated at $56 million for Monongahela, $51 million for Potomac, and $78 million for West Penn.

APS proposes to pledge with Chemical Bank, Trustee under Trust Indenture dated as of September 1, 1949, as supplemented, securing its 3½ percent Sinking Fund Collateral Trust Bonds, all of the acquired common stock of Monongahela and Potomac, and 473,179 shares of the acquired common stock of West Penn.

APS also proposes to retire 95 shares of its outstanding common stock which it presently holds in its treasury. These shares were acquired by APS in connection with its Plan under section 11(e) of the Act for the elimination of publicly held minority interests in the common stock of West Penn (Holding Company Act Release No. 15145, November 13, 1964). Upon their retirement, the par value of such shares ($237.50) will be charged to common stock capital and credited to other paid-in capital.

The fees and expenses to be paid in connection with the issue and sale of the additional shares of APS common stock are estimated to total $119,000, including accountant's fees of $48,000 and counsel fees of $12,500. Fees and expenses of counsel for the successful bidders, to be paid by such bidders, are estimated at $13,000. The fees and expenses to be paid in connection with the authorization, issue and sale of the additional shares of the subsidiary companies common stock are estimated at not to exceed $600 per subsidiary company.

It is stated that the Maryland Public Service Commission has jurisdiction over the issue and sale of the common stock of APS and Potomac and the acquisition and pledge by APS of the common stock of Potomac, the Ohio Public Utilities Commission has jurisdiction over the issue and sale of the common stock of Monongahela; and the Pennsylvania Public Utility Commission has jurisdiction over the issue and sale of the common stock of West Penn. No other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than November 19, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit, or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-16088 Filed 11-3-71;8:49 am]

[File No. 7-3846]

CHRYSLER FINANCIAL CORP.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

OCTOBER 27, 1971.

In the matter of application of the Midwest Stock Exchange for unlisted trading privileges in a certain security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder, for unlisted trading privileges in the warrants to purchase common stock of the following company, which security is listed and registered on one or more other national securities exchanges;

Chrysler Financial Corporation, File No. 7-3846. Warrants to purchase common stock of Chrysler Corp.

Upon receipt of a request, on or before November 11, 1971, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-16096 Filed 11-3-71;8:50 am]

[70-5110]

CONNECTICUT LIGHT AND POWER CO.

Notice of Proposed Issue and Sale of First Mortgage Bonds and Preferred Stock at Competitive Bidding

OCTOBER 29, 1971.

Notice is hereby given that the Connecticut Light and Power Co. (CL & P), Selden Street, Berlin, Conn. 06037, a public-utility subsidiary company of Northeast Utilities, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating section 6(b) of the act and rule 50 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

CL & P proposes to issue and sell, subject to the competitive bidding requirements of rule 50 under the act, $30 million principal amount of —— percent First and Refunding Mortgage Bonds, Series X, due December 1, 2001. The interest rate (which shall be a multiple of ⅛ of 1 percent and the price, exclusive of accrued interest, to be paid to CL & P (which shall be not less than 99 percent nor more than 102¾ percent of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under the Indenture of Mortgage and Deed of Trust dated May 1, 1921, between CL & P and Bankers Trust Co., trustee, as heretofore supplemented and amended and as to be further supplemented by a supplemental indenture to be dated as of December 1, 1971, and which contains a prohibition until December 1, 1976, against refunding the issue with the proceeds of funds borrowed at a lower effective interest cost.

CL & P also proposes to issue and sell, subject to the competitive bidding requirements of rule 50 under the act, 400,000 shares of its $— Preferred Stock—Series J, $50 par value. The dividend rate of the preferred stock (which shall be a multiple of $0.04) and the price, exclusive of accrued dividends, to be paid to CL & P (which shall be not less than $50 nor more than $51.375 per share) will be determined by the competitive bidding. The terms of the preferred stock include a prohibition against refunding the issue prior to December 1, 1976, directly or indirectly, with funds derived from the issuance of debt securities at a lower effective interest cost or preferred stock at a lower dividend cost.

It is stated that the net proceeds from the issue and sale of the bonds and preferred stock will be used to repay short-term borrowings incurred in financing CL & P's construction program and which are expected to aggregate $87 million prior to the time of the proposed transactions. Northeast Utilities plans to make a $15 million capital contribution to further reduce short-term borrowings (Holding Company Act Release No. 16979). CL & P's construction program for 1971-72 is estimated to total approximately $269 million.

The fees and expenses incident to the proposed transactions will be filed by amendment. The filing states that the issue and sale of the bonds and preferred stock is subject to the approval of the Connecticut Public Utilities Commission. No other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than November 26, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-16089 Filed 11-3-71;8:49 am]

[811-1891]

DESIGN FUND, INC.

Notice of Application for Order Declaring That Company Has Ceased To Be an Investment Company

OCTOBER 29, 1971.

Notice is hereby given that Design Fund, Inc. (Applicant), 1450 Grant Avenue, Novato, CA 94947, an open-end, diversified, management investment company registered under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company.

All interested persons are referred to the application on file with the Commission for a statement of representations contained therein, summarized below.

At a special meeting of shareholders of applicant on August 24, 1971, the shareholders approved proposals to: (1) Terminate the management contract between the Design Fund, Inc. and Marker Management, Inc., the applicant's investment advisor, and (2) liquidate Applicant's portfolio and distribute the proceeds of the liquidation, less closing costs, to the shareholders as soon as practical. The final closing costs of Applicant were specifically approved in a meeting held by the shareholders on October 1, 1971, and on October 3, 1971, the final costs of Applicant were paid and the remaining proceeds were paid out to the shareholders.

Applicant states that Applicant currently has no shareholders and no assets and that it is the intent of the directors of Applicant to cease business.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than November 18, 1971, 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-16116 Filed 11-3-71;8:51 am]

[File No. 1-3421]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

OCTOBER 28, 1971.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period October 28, 1971 through November 6, 1971.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-16089 Filed 11-3-71;8:49 am]

[811-1891]

DESIGN FUND, INC.

Notice of Application for Order Declaring That Company Has Ceased To Be an Investment Company

OCTOBER 29, 1971.

Notice is hereby given that Design Fund, Inc. (Applicant), 1450 Grant Avenue, Novato, CA 94947, an open-end, diversified, management investment company registered under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company.

All interested persons are referred to the application on file with the Commission for a statement of representations contained therein, summarized below.

At a special meeting of shareholders of applicant on August 24, 1971, the shareholders approved proposals to: (1) Terminate the management contract between the Design Fund, Inc. and Marker Management, Inc., the applicant's investment advisor, and (2) liquidate Applicant's portfolio and distribute the proceeds of the liquidation, less closing costs, to the shareholders as soon as practical. The final closing costs of Applicant were specifically approved in a meeting held by the shareholders on October 1, 1971, and on October 3, 1971, the final costs of Applicant were paid and the remaining proceeds were paid out to the shareholders.

Applicant states that Applicant currently has no shareholders and no assets and that it is the intent of the directors of Applicant to cease business.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than November 18, 1971, 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-16117 Filed 11-3-71;8:51 am]

[812-3023]

EATON & HOWARD STOCK FUND

Notice of Filing of Application

OCTOBER 28, 1971.

Notice is hereby given that Eaton & Howard Stock Fund, 24 Federal Street, Boston, MA 02110 (Applicant), a Massachusetts corporation registered under the Investment Company Act of 1940 (Act) as an open-end diversified management investment company, has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission exempting from the provisions of section 22(d) of the Act a transaction in which Applicant's redeemable securities will be issued at a price other than the current public offering price described in the prospectus, in exchange for the assets of Bob White; Inc. (Bob White). All interested persons are referred to the application on file with the Commission for a statement of Applicant's representations which are summarized below.

Bob White, an Ohio corporation, is an investment company all of the outstanding stock of which is owned beneficially by two persons. Applicant asserts that Bob White is excepted from the definition of an investment company under the Act by reason of the provisions of section 3(c)(1) of the Act.

Pursuant to an agreement between Applicant and Bob White, substantially all of the cash and securities owned by Bob White with a value of $747,716 as of June 30, 1971, will be transferred to Applicant in exchange for shares of Applicant's capital stock. The number of shares of Applicant to be issued is to be determined by dividing the aggregate market value (with certain adjustments as set forth in the application) of the assets of Bob White to be transferred to Applicant by the net asset value per share of the Applicant, both to be determined as of the Valuation time, as defined in the agreements.

Since the exchange is expected to be tax free for Bob White and its stockholders, Applicant's cost-basis for tax purposes for the assets acquired from Bob White will be the same as Bob White's cost basis, rather than the price actually paid by Applicant for the assets. If the valuation under the agreement had taken place on June 30, 1971, Bob White would have received 52,991 shares of Applicant's stock.

When received by Bob White, the shares of Applicant, which are registered under the Securities Act of 1933, are to be distributed to the Bob White stockholders on the liquidation of Bob White. The stockholders of Bob White have no present intentions of redeeming or otherwise transferring any of Applicant's shares following the proposed transactions.

The Applicant represents that no affiliation exists between Bob White or its officers and stockholders and Applicant or any affiliated persons of Applicant and the agreement was negotiated at arm's length by the two companies. Applicant asserts that the proposed acquisition will be beneficial to its shareholders for various reasons, including, among other things, the fact that the resulting increase in assets will tend to reduce per share expenses of Applicant.

Section 22(d) of the Act provides that registered investment companies issuing redeemable securities may sell their shares only at the current public offering price as described in the prospectus. The exchange contemplated by the agreement would be prohibited by section 22(d) as being a sale of a redeemable security by a registered investment company at a price other than a current offering price described in the prospectus, unless exempted by an order under section 6(c) of the Act. Section 6(c) permits the Commission, upon application, to exempt such a transaction if it finds that such an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant contends that the proposed offering of its stock will comply with the provisions of the Act, other than section 22(d), and submits that the granting of the application would be in accordance with the established practice of the Commission, is necessary and appropriate in the public interest, and is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 18, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of this interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-16090 Filed 11-3-71;8:49 am]

[File No. 7-3853]

GREYHOUND CORP.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

OCTOBER 27, 1971.

In the matter of application of the Philadelphia-Baltimore-Washington Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the warrants to purchase common stock of the following company, which security is listed and registered on one or more other national securities exchanges;

Greyhound Corp., Warrants (Expiring May 14, 1980), File No. 7-3853.

Upon receipt of a request, on or before November 11, 1971, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-16097 Filed 11-3-71;8:50 am]

[Files Nos. 7-3848—7-3852]

EQUIMARK CORP. ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

OCTOBER 27, 1971.

In the matter of applications of the Philadelphia-Baltimore-Washington Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Equimark Corp	7-3848
Redman Industries, Inc	7-3849
Ryder System, Inc	7-3850
Topper Corp	7-3851
Winnebago Industries, Inc	7-3852

Upon receipt of a request, on or before November 11, 1971, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-16098 Filed 11-3-71;8:50 am]

[812-2934]

HEDBERG & GORDON FUND, INC.

Notice of Filing of Application

OCTOBER 27, 1971.

Notice is hereby given that Hedberg & Gordon Fund, 1 Station Square, Paoli, PA 19301 (Applicant), an open-end nondiversified management investment company, registered under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 6(c) of the Act for an order of exemption from the provisions of section 22(d) of the Act to permit the sale of Applicant's shares at net asset value and without the usual sales charge, to shareholders of record on August 1, 1971.

All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

From August 31, 1964, to January 31, 1966, Applicant's shares were offered to the public at net asset value per share without sales charge. From February 1, 1966, to January 31, 1969, Applicant's shares were offered to the public with a sales charge of up to 3 percent. Since February 1, 1969, Applicant's shares have been offered to the public at net asset value with no sales charge. A sales charge of up to 8½ percent will be imposed on August 2, 1971. As of June 15, 1971, Applicant had outstanding 1,817,913 shares held by 4,651 shareholders. Net assets on that date were $15,748,405.

Section 22(d) of the Act provides that registered investment companies issuing redeemable securities may sell their shares only at a current offering price described in the prospectus. Section 6(c) permits the Commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant seeks an exemption from section 22(d) to permit the sale of its shares without any sales load to any person who is a shareholder of Applicant as of August 1, 1971. Applicant alleges that permitting shareholders as of August 1, 1971, to continue to purchase Applicant's shares without the imposition of a sales charge will give recognition to whatever reliance those shareholders have placed upon the fact that Applicant presently sells without sales charge. If the application is granted, Applicant undertakes to obtain the written assurance of each purchaser that the purchase is made for investment purposes, not for distribution. Applicant's prospectus will disclose the number of its shares that have been sold at net asset value and the dollar amount represented thereby.

Notice is further given that any interested person may, not later than November 17, 1971, submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-16091 Filed 11-3-71;8:50 am]

[812-2933]

HEDBERG & GORDON LEVERAGE FUND

Notice of Filing of Application

OCTOBER 27, 1971.

Notice is hereby given that Hedberg & Gordon Leverage Fund, 1 Station Square, Paoli, PA 19301 (Applicant), an open-end nondiversified management investment company, registered under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section 6(c) of the Act for an order of exemption from the provisions of section 22(d) of the Act to permit the sale of Applicant's shares at net asset value and without the usual sales charge, to shareholders of record on August 1, 1971.

All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Since its inception in September 1970, Applicant's shares have been offered to the public at net asset value with no sales charge. A sales charge of up to 2 percent will be imposed on August 2, 1971. As of June 15, 1971, Applicant had outstanding 2,058 shares held by 35 shareholders. Net assets on that date were $2,071,348.

Section 22(d) of the Act provides that registered investment companies issuing redeemable securities may sell their shares only at a current offering price described in the prospectus. Section 6(c) permits the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant seeks an exemption from section 22(d) to permit the sale of its shares without any sales load to any person who is a shareholder of Applicant as of August 1, 1971. Applicant alleges that permitting shareholders as of August 1, 1971, to continue to purchase Applicant's shares without the imposition of a sales charge will give recognition to whatever reliance those shareholders have placed upon the fact that Applicant presently sells without sale charge. If the application is granted, Applicant undertakes to obtain the written assurance of each purchaser that the purchase is made for investment purposes not for distribution. Applicant's prospectus will disclose the number of its shares that have been sold at net asset value and the dollar amount represented thereby.

Notice is further given that any interested person may not later than November 17, 1971, submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-16092 Filed 11-3-71;8:50 am]

[File No. 7-3847]

HEUBLEIN, INC.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

OCTOBER 27, 1971.

In the matter of application of the Midwest Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and

Rule 12f–1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Heublein, Inc., File No. 7–3847.

Upon receipt of a request, on or before November 11, 1971, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71–16095 Filed 11–3–71;8:50 am]

[811–1421]

KENT GROWTH FUND, INC.

Notice of Proposal To Terminate Registration

OCTOBER 28, 1971.

Notice is heregy given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 (Act), to declare by order on its own motion that Kent Growth Fund, Inc., 3156 Wilshire Boulevard, Los Angeles, CA 90005 (Fund), has ceased to be an investment company. The Fund filed notification of registration on Form N–8A on August 29, 1966, and was registered under the Act as an open-end diversified management investment company.

Inquiries by the staff have revealed that the principals of the Fund apparently cannot be located. Furthermore, it appears that all monies invested by the 12 original investors in Fund have been returned to those investors and that neither the Fund nor Bonanza Investment Management Co. (Bonanza) have engaged in any activity since January 20, 1970.

In light of the above, the Commission pursuant to Rule 479 under the Securities Act of 1933, declared Fund's registration statement under that Act abandoned, and issued an order to that effect on October 26, 1971. Under Rule 479 the staff was required to send notice by certified mail, return receipt requested, to the registrant and the agent for service reflected in the Securities Act registration statement. The 30-day time period provided by the rule has elapsed and no response has been received to the staff's notice.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on its own motion, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that upon the effectiveness of such order, which may be issued upon the Commission's own motion where appropriate, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than November 17, 1971, at 5:30, submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communications should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the Fund at the address stated above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application unless an order for hearing thereon shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71–16093 Filed 11–3–71;8:50 am]

[70–5084]

METROPOLITAN EDISON CO.

Notice of Proposed Charter Amendment and Order Authorizing Solicitation of Proxies

OCTOBER 28, 1971.

Notice is hereby given that Metropolitan Edison Co., 2800 Pottsville Pike, Muhlenberg Township, Berks County, PA (Met-Ed), a wholly owned electric utility subsidiary company of General Public Utilities Corp. (GPU), a registered holding company, has filed a declaration and amendments thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a); 7, and 12(e) of the Act and Rules 62 and 65 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Met-Ed proposes to amend its corporate charter in order to increase the number of shares of cumulative preferred stock, par value $100 per share, which it is authorized to issue from its present authorization of 400,000 shares (of which 393,912 shares are now outstanding) to 1,400,000 shares. It is stated that the increase in the number of shares is being sought in order that Met-Ed will be in a position to issue and sell, from time to time, additional series of cumulative preferred stock to facilitate the financing of its construction program. The present estimated cost of Met-Ed's construction program is approximately $108 million for 1971, and $125 million annually for 1972 and 1973. Met-Ed anticipates that if the proposed charter amendment is approved, the 1 million shares of preferred stock will be substantially utilized within the next 3 years.

The declaration states that the proposed increase in the authorized cumulative preferred stock of Met-Ed will require the favorable vote of the holders of a majority of the total number of outstanding shares of preferred stock of all series. In addition, the favorable vote of the persons holding the larger amount in value of the preferred and common stocks collectively is also required. GPU has advised Met-Ed that it intends to vote the outstanding common stock in favor of the proposed increase. Met-Ed plans to seek such vote at a special meeting of holders of Met-Ed's preferred and common stock proposed to be held on December 10, 1971, and proposes to solicit proxies for the granting of such consent. Met-Ed is presently limited in the amount of additional funded debt it can issue by the interest coverage requirement contained in its bond and debenture indentures.

The fees and expenses to be incurred in connection with the proposed transactions are estimated at $223,030, including legal fees of $8,000 and State tax and filing fees of $200,030. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Met-Ed has requested that the effectiveness of its declaration with respect to the solicitation of proxies from holders of its preferred stock be accelerated as provided in Rule 62.

Notice is further given that any interested person may, not later than November 16, 1971, request in writing that a hearing be held with respect to the proposed amendment of the charter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective pursuant to Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing that the declaration regarding the proposed solicitation of proxies should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered, That the declaration regarding the proposed solicitation of proxies be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71–16094 Filed 11–3–71;8:50 am]

[70–5105]

NEW ENGLAND ELECTRIC SYSTEM AND MASSACHUSETTS GAS SYSTEM[1]

Notice of Filing of Application for Exception From Competitive Bidding

OCTOBER 28, 1971.

Notice is hereby given that New England Electric System (NEES), a registered holding company, and its subsidiary holding company, Massachusetts Gas Co. (Mass Gas), 20 Turnpike Road, Westborough, MA 01581, have filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), for an exception from competitive bidding, designating Rule 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

The Commission, by order dated March 19, 1964 (Holding Company Act Release No. 15035), which order became effective upon the entry, on April 3, 1968, of a judgment of the U.S. Court of Appeals for the First Circuit affirming the order of the Commission, directed NEES to dispose of all interests, direct or indirect, in its eight gas utility subsidiary companies. As a step in the divestment of its interests therein, NEES formed a new holding company, Mass Gas, which sold its common shares to NEES in exchange for the securities held by NEES in these subsidiary companies (Holding Company Act Release No. 16583, January 19, 1970).

Pursuant to an order dated March 25, 1971 (Holding Company Act Release No. 17066) the Commission granted NEES an exception from the competitive bidding requirements of Rule 50 with regard to the disposition of the four smallest gas utility subsidiary companies. On September 1, 1971, NEES and Mass Gas filed a plan for disposition of these gas utility subsidiary companies (Holding Company Act Release No. 17326).

NEES and Mass Gas now propose as a further step in the divestment to dispose of their interests in the four remaining gas utility subsidiary companies: Lawrence Gas Co. (Lawrence), Lynn Gas Co. (Lynn), Mystic Valley Gas Co. (Mystic), and North Shore Gas Co. (North Shore).[1]

NEES states that, based on its earlier experience with the smaller subsidiary companies, it expects to receive a variety of proposals with regard to the remaining four subsidiary companies, including an offer for assets or securities. NEES also states that an exception from competitive bidding would afford it the necessary flexibility to negotiate the best terms of sale. Any such definitive agreement or agreements will be subject to Commission approval pursuant to the applicable provisions of the Act. There will be no fees and expenses incurred with respect to their application except an estimated amount of $500 to be paid by NEES for services at cost to the system service company.

Notice is further given that any interested person may, not later than November 22, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71–16118 Filed 11–3–71;8:51 am]

[1] NEES owns 100 percent of the common shares of Mass Gas and through Mass Gas owns 90.42 percent of Lawrence, 98.77 percent of Lynn, 99.43 percent of Mystic Valley, and 97.80 percent of North Shore.

[70–5093]

SOUTHERN CO.

Notice of Proposed Issue and Sale of Common Shares by Holding Company

Notice is hereby given that the Southern Co., Perimeter Center East, Post Office Box 720071, Atlanta, GA 30346 (Southern), a registered holding company, has filed a declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, as amended, which is summarized below, for a complete statement of the proposed transaction.

Southern proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, additional shares of its authorized but unissued common stock, par value $5 per share, in an amount which will result in aggregate cash proceeds of approximately $135 million. The precise number of shares of such additional common stock to be issued and sold will be supplied by amendment. At June 30, 1971, Southern had 55,449,500 shares of common stock outstanding. The proceeds of the sale of the common stock, together with other funds, will be invested by Southern in its subsidiary companies in the aggregate amount of $152 million ($68,500,000 had been invested on September 30, 1971) and will be used to pay all outstanding short-term promissory notes of Southern estimated to aggregate approximately $52 million at the time of the sale of the common stock, which notes were issued for the purpose of making such investments, and for other corporate purposes.

Estimates of the fees and expenses to be incurred in connection with the proposed issue and sale of common stock are to be filed by amendment. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than November 24, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being

served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-16099 Filed 11-3-71;8:50 am]

SMALL BUSINESS ADMINISTRATION

[License No. 03/03-5066]

ALLIANCE ENTERPRISE CORP.

Notice of Issuance of License To Operate as Minority Enterprise Small Business Investment Company

On September 21, 1971, a notice was published in the FEDERAL REGISTER (36 F.R. 18765) stating that Alliance Enterprise Corp. had filed an application with the Small Business Administration (SBA), pursuant to section 107.102 of the SBA Rules and Regulations Governing Small Business Investment Companies (13 CFR 107.102 (1971)) for a license to operate as a minority enterprise small business investment company (MESBIC).

Interested parties were given to the close of business October 6, 1971, to submit their written comments to SBA.

Notice is hereby given that, having considered the application and all other pertinent information, SBA has issued License No. 03/03-5066 to Alliance Enterprise Corp., pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended.

Dated: October 22, 1971.

A. H. SINGER,
Associate Administrator for Operations and Investment.

[FR Doc.71-16078 Filed 11-3-71;8:48 am]

[License No. 04/04-0033]

CATAWBA CAPITAL CORP.

Notice of License Surrender

Notice is hereby given that Catawba Capital Corp., 1415 East Boulevard, Charlotte, N.C. 28203, has surrendered its license to operate as a small business investment company pursuant to § 107.105 of the regulations governing small business investment companies (13 CFR 107.105 (1971)).

Catawba Capital Corp. was licensed as a small business investment company on August 9, 1961, to operate solely under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C., 661 et seq.), and the regulations promulgated thereunder.

Under the authority vested by the Act, and pursuant to the cited regulation, the surrender of the license is hereby accepted and all rights, privileges, and the franchises derived therefrom are canceled.

Dated: October 26, 1971.

A. H. SINGER,
Associate Administrator for Operations and Investment.

[FR Doc.71-16079 Filed 11-3-71;8:48 am]

[License No. 05/07-5066]

CEDCO CAPITAL CORP.

Notice of Application for a License as a Minority Enterprise Small Business Investment Company

An application for a license to operate as a minority enterprise small business investment company (MESBIC) under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has been filed by Cedco Capital Corp. (applicant) with the Small Business Administration (SBA) pursuant to § 107.102 of the SBA rules and regulations governing small business investment companies (13 CFR 107.102 (1971)).

The officers and directors of the applicant are as follows:

James W. Howard, 505 Lake Shore Drive, Chicago, IL 60611, Chairman of the Board, Director.
Garland C. Guice, 5327 South Ellis Avenue, Chicago, IL 60615, President.
Julian B. Wilkins, 5640 South Harper Avenue, Chicago, IL 60637, Secretary, Director.
James L. Buckner, 1020 West 76th Street, Chicago, IL 60620, Director.
Dempsey J. Travis, 8001 South Champlain Avenue, Chicago, IL 60619, Director.
Milam P. Fitts, 7019 South Chappel, Chicago, IL 60649, Director.

The applicant, an Illinois corporation with its principal place of business located at 162 North State Street, Chicago, IL 60601, will begin operations with $501,000 of paid-in capital, consisting of 1,600 shares of common stock issued to Chicago Economic Development Corp. for $1,000, 2,000 shares of junior preferred stock (1,500 shares issued to Borg-Warner Corp. for $150,000 and 500 shares issued to Growth Capital, Inc., for $50,000), and 3,000 shares of senior preferred stock issued to Ford Foundation for $300,000. Chicago Economic Development Corp. is a nonprofit organization and the place of business is located at 162 North State Street, Chicago, IL.

Applicant will not concentrate its investments in any particular industry. According to the company's stated investment policy, its investments will be made solely in small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owner and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA rules and regulations.

Any interested person may, not later than 15 days from the date of publication of this notice, submit to SBA, in writing, relevant comments on the proposed MESBIC. Any such communication should be addressed to the Associate Administrator for Operations and Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

A copy of this notice shall be published in a newspaper of general circulation in Chicago, Ill.

Dated: October 18, 1971.

A. H. SINGER,
Associate Administrator for Operations and Investment.

[FR Doc.71-16081 Filed 11-3-71;8:49 am]

[License No. 05/07-0070]

COMMERCE CAPITAL CORP.

Notice of Application for Merger and Reorganization

Notice is hereby given concerning the filing of an application with the Small Business Administration (SBA) pursuant to § 107.903 of the regulations governing Small Business Investment Companies (13 CFR 107.903 (1971)) for the reorganization of Commerce Capital Corp. (Commerce), 6001 North 91st Street, Milwaukee, WI 53225, a licensed small business investment company under the Small Business Investment Act of 1958, as amended (15 U.S.C. section 661 et seq.) (the Act). Commerce is also registered as a closed-end, nondiversified management investment company under the Investment Company Act of 1940 (the 1940 Act), and is subject to the rules and regulations promulgated by the Securities and Exchange Commission (SEC) thereunder.

Commerce has entered into an agreement and plan of reorganization with Management Systems, Inc., (MSI), a corporation engaged in the leasing of data processing and related equipment, pursuant to which Commerce would acquire substantially all of the assets and business (and assume stated liabilities) of MSI in exchange for Commerce Common Stock. At the time such acquisition is consummated, Commerce (the parent company) would transfer virtually all of its present portfolio investments, its SBA note and debenture obligations, and its name and SBIC license to a wholly owned subsidiary (New SBIC), which has been organized for that purpose and which will continue Commerce's SBIC activities as a licensed small business investment company. Thereafter, the parent-company will seek deregistration under the 1940 Act, reincorporate in Delaware, change its name to Commerce Group Corp., and initially engage in the business of leasing data processing equipment acquired through the acquisition of MSI. Officers and directors of Commerce Group Corp., will include:

Edward L. Machulak, 3629 North Knoll Terrace, Wauwatosa, WI 53222, President, Treasurer and Director.
Lawrence J. Kujawski, 5026 South 67th Street, Milwaukee, WI 53220, Vice President.
Harold Duke, Jr., 413 Monticello Drive, Ballwin, MO 63011, Vice President.
James F. McLaughlin, 3305 Harrigan Drive, Brookfield, WI 53005, Secretary.
Richard J. Boulay, 1180 Apache Trail, Brookfield, WI 53005, Assistant Secretary and Assistant Treasurer.

There will be seven directors in addition to Edward Machulak. The officers and directors of New SBIC are:

Edward L. Machulak, President, Treasurer and Director.
Lawrence J. Kujawski, Secretary and Director.
Richard J. Boulay, Assistant Treasurer.
James F. McLaughlin, Assistant Secretary and Director.

New SBIC will be a wholly owned subsidiary of Commerce Group Corp., which will have no 10 percent or more shareholders.

New SBIC will commence operations with a capitalization of approximately $2 million dollars. Its debt to SBA of $3,999,900 as of May 31, 1971, will be guaranteed by the parent company. The principal office of New SBIC will be located at 6001 North 91st Street, Milwaukee, WI 53225, current offices of Commerce. All of the foregoing is subject to the approval of SEC and SBA.

Matters involved in SBA's consideration of the application include the general business reputation and character of the management of New SBIC, and the probability of successful operations of New SBIC under such management and ownership, including adequate profitability and financial soundness, in accordance with the Act and regulations. Notice is further given that any interested person may not later than 15 days from the date of publication of this notice, submit to SBA in writing, relevant comments on the proposed transactions. Any communication should be addressed to Associate Administrator for Operations and Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

A copy of this notice shall be published in a newspaper of general circulation in Milwaukee, Wisconsin.

Dated: October 20, 1971.

A. H. SINGER,
Associate Administrator for Operations and Investment.

[FR Doc.71-16080 Filed 11-3-71;8:48 am]

[License No. 04/05-5099]

ECCO MESBIC, INC.

Notice of Issuance of License To Operate as Minority Enterprise Small Business Investment Company

On July 10, 1971, a notice was published in the FEDERAL REGISTER (36 F.R. 13006) stating that ECCO MESBIC, Inc., 32 Broad Street, Sparta, Ga. 31087, had filed an application with the Small Business Administration, pursuant to § 107.102 of the SBA rules and regulations Governing Small Business Investment Companies (13 CFR 107.102 (1971)) for a license to operate as a minority enterprise small business investment company (MESBIC).

Interested parties were given to the close of business July 20, 1971, to submit their written comments to SBA.

Notice is hereby given that, having considered the application and all other pertinent information, SBA has issued License No. 04/05-5099 to ECCO MESBIC, Inc., pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended.

Dated: October 18, 1971.

A. H. SINGER,
Associate Administrator for Operations and Investment.

[FR Doc.71-16082 Filed 11-3-71;8:49 am]

[License No. 02/02-0128]

NEW YORK ENTERPRISE CAPITAL CORP.

Notice of Approval of Application for Transfer of Control of Licensed Small Business Investment Company

Pursuant to the provision of § 107.701 of the Small Business Administration's (SBA) rules and regulations (13 CFR Part 107, 33 F.R. 236), a notice of filing of an application for transfer of control of New York Enterprise Capital Corp., License No. 02/02-0128, 500 Old Country Road, Garden City, NY 11530, was published in the FEDERAL REGISTER on September 16, 1971 (36 F.R. 18541).

Interested persons were given an opportunity to send their comments to SBA on the proposed transfer of control. No comments were received.

Upon consideration of the application and other relevant information, SBA hereby approves the transfer of control of New York Enterprise Capital Corp.

Dated: October 18, 1971.

A. H. SINGER,
Associate Administrator for Operations and Investment.

[FR Doc.71-16083 Filed 11-3-71;8:49 am]

TARRANT CAPITAL CORP.

Notice of Surrender of License To Operate as Small Business Investment Company

Notice is hereby given that Tarrant Capital Corp. (Tarrant) 800 Main Street, Fort Worth, TX, a wholly owned subsidiary of Fort Worth National Bank, has, pursuant to § 107.105 of the regulations governing small business investment companies (13 CFR 107.105 (1971)), surrendered its license to operate as a small business investment company (SBIC).

Tarrant was incorporated on March 21, 1962, under the laws of the State of Texas to operate solely as an SBIC under the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.) (Act), and it was issued license number 10-0105 by the Small Business Administration on May 11, 1962.

Under the authority vested by the Act, and the regulations promulgated thereunder, the voluntary surrender of the license of Tarrant is hereby accepted and, accordingly, it is no longer licensed to operate as an SBIC.

Dated: October 18, 1971.

A. H. SINGER,
Associate Administrator for Operations and Investment.

[FR Doc.71-16084 Filed 11-3-71;8:49 am]

UTAH CAPITAL CORP.

Notice of Filing of Application for Transfer of Control of Licensed Small Business Investment Company

Notice is hereby given that application has been filed with the Small Business Administration (SBA) pursuant to § 107.701 of the regulations governing Small Business Investment Companies (33 CFR 107.701 (1971)) for transfer of control of the Utah Capital Corp. (Utah), 2510 South State Street, Salt Lake City, UT 84115, a Federal Licensee under the Small Business Investment Act of 1958, as amended (15 U.S.C. section 661 et seq.) (Act), License Number 08/11-0010.

Utah was licensed on December 29, 1961, and the present paid-in capital and paid-in surplus from all sources amounts to $152,500. The proposed transfer of control is subject to and contingent upon the approval of SBA.

In connection with a tender agreement, dated May 15, 1969, Messrs. Thomas F.

Christensen, Ray G. Whiting, Dale L. Christensen, and Richard W. Harper acquired an equal interest in 98 percent of the stock of Utah. The acquired stock was held in escrow by Valley Bank and Trust Co., pursuant to an escrow agreement dated May 1, 1969. On July 29, 1970, Mr. Thomas Christensen sold his stock interest to Mr. Gordon Sloan Smith of Eugene, Oregon. Thereafter, Messrs. Whiting, Dale Christensen, and Harper joined the R. G. Whiting Co., and transferred their stock interest to his partnership. The R. G. Whiting Co., on September 1, 1970, purchased the stock interest held by Mr. Gordon Smith. Thereafter, R. G. Whiting Co's assets and business operations were acquired by Investment Properties, Inc. (Investment).

As a result of this acquisition, Investment, an Idaho real estate company, owns a 98.36-percent interest in the common stock of Utah which as of September 29, 1971, was in the hands of Utah Agency and Register, a transfer agency, pending SBA approval of the transfer.

The principal office of the licensee will be located at 3600 Market Street, Granger, UT 84119, and a branch office will be established at 589 North Water Avenue, Idaho Falls, ID 83401.

The proposed new officers and directors are as follows:

Glenn W. McMurray, 1270 First Street, Idaho Falls, ID 83401, President and Director.
Ray G. Whiting, 965 Westchester, Idaho Falls, ID 83401, Secretary, Treasurer, and Director.
Ellwood V. Bachman, 2831 Kiesel Avenue, Ogden, UT 84401, Director.
Ephraim C. Bell, 315 Lincoln Drive, Idaho Falls, ID 83401, Director.
Wesley L. Clark, 1105 Jefferson, Idaho Falls, ID 83401, Director.
Paul Evans, Sugar City, Idaho 83448, Director.
Thomas V. Huntsman, 4544 Creek View Drive, Salt Lake City, UT 84107, Director.
Delmar R. Jamison, 496 Walnut, Idaho Falls, ID 83401, Director.
John W. Larson, Box 185, Firth, ID 83236, Director.
Dennis Q. Mortensen, 715 Saturn Avenue, Idaho Falls, ID 83401, Director.
Wanda Skousen, 200 North Nebraska, Chandler, AZ 85224, Director.
Melvin L. Smith, 179 North Milton, Shelley, ID 83274, Director.
Rodney W. Tew, Firth, Idaho 83236, Director.
Merlin J. Weekes, 3175 Midway, Idaho Falls, ID 83401, Director.
Robert H. Wilstead, 8600 South 3400 East, Sandy, UT 84020, Director.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new owner and management, and the probability of successful operations of the company under such management (including adequate profitability and financial soundness) in accordance with the act and regulations.

Notice is hereby given that any interested person may, not later than 15 days from the publication of this notice, submit to SBA in writing, relevant comments on the transfer of control. Any such communication should be addressed to the Associate Administrator for Operations and Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

Dated: October 18, 1971.

A. H. SINGER,
Associate Administrator for Operations and Investment.

[FR Doc.71-16085 Filed 11-3-71;8:49 am]

DEPARTMENT OF LABOR

Office of the Secretary

WHITTIER MILLS CO.

Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

Under date of October 12, 1971, the U.S. Tariff Commission made its report of the results of its investigation (TEA-W-103) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to a petition for determination of eligibility to apply for adjustment assistance submitted on behalf of workers of the Whittier Mills Co. located in Atlanta, Ga. In this report, the Commission found that articles like or directly competitive with the cotton osnaburgs and sheetings produced by Whittier Mills are, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of workers at the plant concerned.

Upon receipt of the Tariff Commission's affirmative finding, the Department, through the Director of Foreign Economic Policy, Bureau of International Labor Affairs, instituted an investigation. Following this, the Director made a recommendation to me relating to the matter of certification (Notice of Delegation of Authority and Notice of Investigation, 34 F.R. 18342; 36 F.R. 20268; 29 CFR Part 90). In the recommendation, he noted that imports of osnaburg and other coarse sheeting, like or directly competitive with those produced at Whittier, increased markedly from 83 million square yards in 1966 to 136 million square yards in 1970. Import penetration of the U.S. market increased from 9.7 percent in 1966 to 21.3 percent in 1970. To remain competitive, the company diversified its product line. However, the company suffered losses during 1970-71 and was forced to close the plant. Significant layoffs began the week ending May 7, 1971, and continued until the plant closed in June 1971. As of October 15, 1971, about five workers were still employed at the plant dismantling equipment. As soon as the dismantling is completed, these workers will be terminated. After due consideration, I make the following certification:

All hourly and salaried workers of the Whittier Mills Co. located at Atlanta, Ga., who became or will become unemployed or underemployed after May 3, 1971, are eligible to apply for adjustment assistance under title III, chapter 3, of the Trade Expansion Act of 1962.

Signed at Washington, D.C., this 29th day of October 1971.

DONALD M. IRWIN,
Deputy Under Secretary, International Affairs.

[FR Doc.71-16075 Filed 11-3-71;8:48 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

NOVEMBER 1, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. At attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

RRA MC-1239, Clothing, New Deal Delivery Service, Inc., now assigned November 4, 1971, at New York, N.Y., postponed indefinitely.
MC 128698 Sub 4, Erdner Bros., Inc., now assigned November 10, 1971, at Washington, D.C., postponed to November 17, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 117940 Subs 26 and 45, Nationwide Carriers, Inc., now assigned November 15, at Washington, D.C. is canceled and applications dismissed.
MC 133327 Sub 2, Melburn Truck Lines (Toronto), LTD, now assigned November 1, 1971, at New York, N.Y., postponed indefinitely.
MC 110420 Subs 626 and 630, Quality Carriers, Inc., now assigned November 10, 1971, at Chicago, Ill., canceled and applications dismissed.
MC 123115 Sub 4, Packer Transportation Co., now assigned January 10, 1972, at Carson City, Nev., in a hearing room to be later designated.
MC 10173 Sub 12, Marvin Hayes Lines, Inc., now assigned January 10, 1972, at Nashville, Tenn., in a hearing room to be later designated.
MC 127511 Sub 6, Pratt's Dray & Storage, now assigned November 15, 1971, at Pierre, S. Dak., canceled and application dismissed.
MC-C 7384, Lovelace Truck Service, Inc., et al. v. Nussbaum Trucking now assigned January 10, 1972, at Springfield, Ill. in a hearing room to be later designated.
MC 135620, Viking Coach Lines, now assigned January 10, 1972, at Duluth, Minn., in a hearing room to be later designated.
MC 119669 Sub 18, Tempco Transportation, MC 134922 Sub 2, B. J. McAdams, now assigned November 15, 1971, at Washington, D.C., canceled and application dismissed.
MC 51146 Sub 208, Schneider Transport & Storage, Inc., assigned January 20, 1972, at Chicago, Ill.
MC 107295 Sub 504, Pre-Fab Transit Co., assigned January 21, 1972, at Chicago, Ill.
MC 109994 Sub 42, Sizer Trucking, Inc., assigned January 14, 1972, at Chicago, Ill.
MC 111729 Sub 310, American Courier Corp., assigned January 17, 1972, at Chicago, Ill.
MC 112822 Sub 187, Bray Lines, Inc., assigned January 18, 1972, at Chicago, Ill.
MC 115331 Sub 303, Truck Transport, Inc., assigned January 19, 1972, at Chicago, Ill.
MC 119619 Sub 46, Distributors Service Co., and MC 119669 Sub 19, Tempco Transportation, Inc., assigned January 13, 1972, at Chicago, Ill.
MC 119619 Sub 47, Distributors Service Co., assigned January 10, 1972, at Chicago, Ill.
MC 52460 Sub 108, Hugh Breeding, now assigned December 13, 1971, in Room 4210, Federal Courthouse and Federal Office Building, 200 NW. Fourth Street, Oklahoma City, OK.
MC-C 7411, Al Renk & Sons, Inc., and Superior Shippers Association, Inc.—Investigation and Revocation of Certificates, now assigned January 10, 1972, at Anchorage, Alaska, in a hearing room to be later designated.
MC 113434 Sub 44, Gra-Bell Truck Line, Inc., assigned January 10, 1972, at Chicago, Ill., also MC 118263 Sub 44, Coldway Carriers, Inc.
MC 128273 Sub 91, Midwestern Express, Inc., assigned January 17, 1972, at Chicago, Ill.
MC 133652 Sub 3, Winkoma, Inc., assigned January 14, 1972, at Chicago, Ill.
MC 135154 Sub 1, Badger Lines, Inc., assigned January 11, 1972, at Chicago, Ill.
MC 135318, Grane Trucking Co., Inc., assigned January 13, 1972, at Chicago, Ill.
MC 135415, Schmidt Transit Co., Inc., assigned January 12, 1972, at Chicago, Ill.
MC 120781 Sub 2, Newman Bros. Trucking Co., assigned January 10, 1972, at Austin, Texas, in a hearing room to be designated later.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16147 Filed 11-3-71;8:54 am]

[Sec. 5a Application No. 33; Amdt. 7]

CENTRAL STATES MOTOR COMMON CARRIERS AGREEMENT

Notice of Receipt of Application for Approval

OCTOBER 19, 1971.

The Commission is in receipt of an application in the above-entitled proceeding for approval of amendments to the agreement therein approved.

Filed September 14, 1971 by: H. A. Welty, attorney-in-fact, John W. McFadden, Jr., attorney for applicants, 5440 South Cicero Avenue, Chicago, IL 60638.

The amendments involve: Revision of article XII (regular procedure) to permit the Standing Rate Committee to refer directly to the Central Committee for hearing and disposition proposals relating to general revisions or general increases in rates and charges, or changes in rules or regulations; add a new section 7, article XII, requiring individual members to take independent action from publication of general increases (flagouts) within 7 dates of notice of recommended final disposition, in lieu of the present 15-day period; specifically provide for publication of notice of independent action proposals (article XIV); and make other incidental changes made necessary by the foregoing changes.

The complete application may be inspected at the Office of the Commission in Washington, D.C.

Any person desiring to protest and participate in this proceeding shall notify the Commission in writing within 20 days from the date of publication of this notice in the FEDERAL REGISTER. As provided by the General Rules of Practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigation and determine the matters involved without public hearing.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16144 Filed 11-3-71;8:53 am]

[No. 35478]

AMERON, INC.

Petition for Declaratory Order

OCTOBER 20, 1971.

Notice is hereby given that on August 25, 1971, Ameron, Inc., with principal place of business at Monterey Park, Calif., filed a petition for a declaratory order under section 554(e) of the Administrative Procedure Act, finding that certain products shipped by petitioner are "light poles" and not "lamp posts", both as more fully described in the petition. It is stated in the petition that the National Classification Board advised inquiring carriers that petitioner's products were lamp posts, and that, as a consequence, higher classification ratings were applied.

Any person interested in the subject matter of the petition may, on or before 30 days from the publication of this notice in the FEDERAL REGISTER, file replies to the petition, supporting or opposing the determination sought. An original and 15 copies of such replies must be filed with the Commission and must show service of two copies each upon the following registered practitioner representing petitioner herein: Mr. Peter Steele Labagh, 582 Market Street, Room 1207, San Francisco, CA 94104. Thereafter, the Commission will determine the nature of further proceedings, if any.

Notice, pursuant to statutory requirements, of the filing of the petition will be given by publication hereof in the FEDERAL REGISTER, and a copy will be posted in the Office of the Secretary of the Commission for public inspection. The petition is also available for inspection.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16149 Filed 11-3-71;8:54 am]

[S.O. 1060; Amdt. 1]

NEW ENGLAND FORWARDING CO., INC.

Authorization To Operate Through Halifax, Nova Scotia, and Other Canadian Ports

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 28th day of October 1971.

Upon further consideration of Service Order No. 1080 (36 F.R. 20467), and good cause appearing therefor:

It is ordered, That pursuant to sections 1(16) and 420 of the Interstate Commerce Act, 49 U.S.C. 1(16) and 1020, Service Order No. 1080 be, and it is hereby amended by extending the expiration date thereof from 11:59 p.m., October 31, 1971, to 11:59 p.m., November 20, 1971, unless otherwise modified, changed, or suspended by order of this Commission.

It is further ordered, That copy of this amendment shall be served upon New England Forwarding Co., Inc., and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16151 Filed 11-3-71;8:54 am]

[No. 35288]

KANSAS CITY SOUTHERN RAILWAY CO. AND LOUISIANA AND ARKANSAS RAILWAY CO.

Notice of Investigation Into Management, Business Interrelationships and Transactions

At a General Session of the Interstate Commerce Commission, held at its offices in Washington, D.C., on the 26th day of October, 1971.

Investigation into the management, business interrelationships and transactions of the Kansas City Southern Railway Co. and the Louisiana and Arkansas Railway Co. in relation to their controlling holding company, Kansas City Southern Industries, Inc. and persons under a common control with the carriers.

Upon consideration of the order of the Commission, dated June 26, 1970, instituting this proceeding and directing the Bureau of Enforcement to participate as a party therein; of our order dated October 15, 1971, scheduling hearings and prescribing procedures for the further conduct of this investigation; of a petition for reconsideration of said order of October 15, filed October 22, 1971, by the respondents named in said order of June 26; of the Bureau of Enforcement's

reply to the petition; and of other pertinent matters of record:

It appearing, that by the order of October 15, the Bureau of Enforcement is required to file its direct evidence in the form of verified statements on October 26, 1971, and a hearing before an examiner is scheduled for December 6, 1971, for the purpose of receiving further direct evidence by the Bureau and by intervenors, if any, and for cross-examination of witnesses whose direct evidence has by that time been presented; and that such piecemeal presentation of evidence with the requirement of immediate cross-examination on December 6, would not, in the circumstances of this investigation, be fair to the respondents or in the interest of good order;

It further appearing, that the respondents herein should be apprised of substantially the entire case in chief being presented against them before being called upon for cross-examination and rebuttal, and should be given a reasonable time for preparation of their cross-examination and rebuttal;

It further appearing, that the order of June 26 provides for the taking of depositions and issuance of subpenas duces decum in advance of the oral hearing, and, in the interest of expedition, either process to be with or without notice; and that upon its own motion, the Commission, considering these efforts at expedition to be unduly prejudical to the cause of fairness, concludes that neither subpenas should be issued nor depositions taken herein without due notice being given;

It further appearing, that in view of the Bureau's preparations enabling it to present its extensive evidence on this date, the circumstances warrant that the Bureau's evidence derived from subpoenas and depositions be presented on or before November 30, 1971, and in consideration thereof, the oral hearing now scheduled for December 6, 1971, should be postponed until a later date to be hereafter designated:

It is ordered, That the order of October 15, 1971, be, and it is hereby, amended in the following particulars:

That the Bureau of Enforcement be required to present on or before November 30, 1971, the evidence arising out of such subpoenas as it may obtain and such depositions as it may take, the filing and service to be in the manner and form as was prescribed for the evidence filed on this date; and

That the oral hearing scheduled for December 6, 1971, be postponed until a date hereafter to be designated.

It is further ordered, That the order of June 26, 1970, be, and it is hereby, amended to require that due and reasonable notice be given of requests for subpoenas and of the taking of depositions.

It is further ordered, That, except to the extent modified in the preceding ordering paragraphs, the orders of June 26, 1970, and October 15, 1971, shall remain in full force and effect.

And it is further ordered, That except to the extent relief is granted in the preceding ordering paragraphs, the petition of the respondents filed October 22, 1971, be, and it is hereby, denied.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16148 Filed 11-3-71;8:55 am]

[No. MC-C-7599]

TRAVENOL LABORATORIES, INC.

Notice of Filing of Petition for Institution of Rulemaking Proceeding Regarding Investigation of Protective Service

OCTOBER 29, 1971.

Petitioner: Travenol Laboratories, Inc., 200 Wilmot Road, Deerfield, IL 60015. Petitioner's representative: Thomas G. Baranski, Registered Practitioner. By petition filed September 20, 1971, petitioner seeks institution of a rule making proceeding for the purpose of investigating the practices of motor common carriers with respect to providing protective services and, in particular, for answering the question of whether protective service (not refrigerated service) is a required duty of a general commodities motor common carrier.

Petitioner is a producer of pharmaceutical supplies (including intravenous solutions), most of which are packaged in glass. Petitioner asserts that general commodities carriers have historically handled such products both in the summer and winter months, the latter service being provided to the best of the carriers' ability at no additional charges. Petitioner contends that each year more and more carriers are refusing to handle these products during the winter months, claiming, among other things, that they do not have the equipment available; that they handle single-line traffic only; that they will not accept freezable shipments on Thursday or Friday; or that they simply do not desire the business.

Petitioner further maintains that unofficial embargoes have been placed on freezable commodities. It maintains specifically that carriers in the Detroit, Mich., area embargoed freezables between December 19, 1969, and January 5, 1970, and that they continued acceptance on an erratic basis only throughout January 1970. Petitioner further maintains that in many parts of the country it is required to remove its request for protective service from a bill of lading and ship at its own risk in order to have urgently needed medical supplies moving during cold weather periods.

In support of its petition, petitioner submits as exhibits (1) the National Classification Board's "Proposal for Change in the National Motor Freight Classification" form, containing question 7(p) to the effect of "Does commodity require heat _____, refrigeration _____?", (2) correspondence with the Michigan Public Service Commission allegedly reflecting futile attempts to secure protective service within Michigan, (3) the Eastern Central Motor Carrier Docket, allegedly indicating that protective service will not be provided unless the carrier agrees to provide such service, (4) several bills of lading demonstrating the shipper's risk in shipping freezables, and (5) a letter from a carrier demonstrating difficulties in obtaining protective service.

Petition asks that the Commission investigate the practices, only, and not the charges, of motor common carriers with respect to providing protective service. It raises the tariff issue only to demonstrate that certain rate conferences intend to furnish protective service only at the carrier's option. In conclusion, petitioner argues that motor common carriers' willingness to transport the involved type of commodities during the summer months and unwillingness to handle the same commodities during the winter months, under the same certificate of public convenience and necessity, is a violation of the principles established in Ex Parte No. MC-77, *Restrictions On Service By Motor Common Carriers*, 111 M.C.C. 151 (1970).

Any interested person desiring to participate shall file an original and seven copies of his written representations, views, and arguments in support of, or against, the petition within 30 days from the date of publication in the FEDERAL REGISTER. A copy of such representations should be served upon petitioner at the address indicated above.

Written material or suggestions submitted will be available for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution, Washington, DC, during regular business hours.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16027 Filed 11-2-71;8:51 am]

[Notice 775]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 1, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73180. By order of October 28, 1971, the Motor Carrier Board, on reconsideration, approved the transfer to Robert F. Zapora, doing business as R. F. Zapora Motor Trans., Hooksett, N.H., of the operating rights in certificates Nos. MC-34930, MC-34930 (Sub-No. 18), and MC-34930 (Sub-No. 22), issued October 23, 1961, June 6, 1960, and February 16, 1968, to Prue Motor Transportation, Inc., Dover, N.H., authorizing the transportation of petroleum products, in bulk, in tank trucks, from Portland and South Portland, Maine, to points in that part of New Hampshire bounded by a line beginning at Portsmouth and extending along U.S. Highway 4 to the Connecticut River, thence along the Connecticut River to Haverhill, thence along New Hampshire Highway 25 to the New Hampshire-Maine State line, thence along the New Hampshire-Maine State line to point of beginning, including points on U.S. Highway 4, not including points on New Hampshire Highway 25; and from Portsmouth and Newington, N.H., to specified points in Maine; aviation gasoline and jet fuel, in bulk, in tank vehicles, from Brunswick and Harpswell, Maine, to Pease Air Force Base, Portsmouth and Newington, N.H., and Grenier Air Force Base, Manchester, N.H., and gasoline, in bulk, from South Portland, Maine, to Exeter and New Market, N.H.

Norman H. Stahl, 1838 Elm Street, Manchester, NH 03105, and Kenneth B. Williams, 111 State Street, Boston, MA 02109, attorneys for applicants.

No. MC-FC-73212. By order of October 28, 1971, the Motor Carrier Board approved the transfer to Independent Motor Transport, Inc., Albany, Oreg., of the operating rights in certificate No. MC-115067 (Sub-No. 3) issued June 5, 1970, to Clarence D. Spencer, Jr., and Louise M. Spencer, a partnership, doing business as Independent Motor Transport, Albany, Oreg., authorizing the transportation of used household goods, between points in Linn and Benton Counties, Oreg. Frederick L. Decker, 135 West Fifth Avenue, Post Office Box 516, Albany, OR 97321, attorney for applicants.

No. MC-FC-73237. By order of October 28, 1971, the Motor Carrier Board approved the transfer to Stephen J. Dautcher and Stephen J. Dautcher, Jr., a partnership, doing business as Read's Van Service, Hatboro, N.J., of the operating rights in certificate No. MC-30581 issued September 9, 1949, to Stephen J. Dautcher and Warren Thomas, a partnership, doing business as Read's Van Service, Hatboro, N.J., authorizing the transportation of household goods, as defined by the Commission, between Philadelphia, Pa., and points within 15 miles thereof, on the one hand, and, on the other, points in New York, New Jersey, Pennsylvania, Delaware, and Maryland. James A. Cassel, 512 Swede Street, Norristown, PA 19401, attorney for transferor. Harry J. Liederbach, 539 Street Road, Southampton, PA, attorney for transferee.

No. MC-FC-73240. By order of October 29, 1971, the Motor Carrier Board approved the transfer to Yellow Coach Lines, Inc., Bristol, Va., of the operating rights in certificate No. MC-108963 issued June 30, 1965, to Fuller Bus Line, Inc., Bristol, Va., authorizing the transportation of passengers and their baggage, and express, newspapers, and mail in the same vehicle with passengers, between Bristol, Va.-Tenn., and Saltville, Va., between Abingdon, Va., and Damascus, Va., between Cedarville, Va., and Meadow View, Va., and between junction U.S. Highway 11 and Virginia Highway 609 and Glade Spring, Va., serving all intermediate points. Cecil D. Quillen, Gate City, Va. 24251, attorney for applicants.

No. MC-FC-73271. By order of October 29, 1971, the Motor Carrier Board approved the transfer to Donald K. Vines, doing business as Don Vines Trucking, Los Angeles, Calif., of a portion of the operating rights in certificate No. MC-118127 issued July 29, 1965, to Hale Distributing Co., Inc., Montebello, Calif., authorizing the transportation of specified commodities from points in California to Phoenix, Ariz. Ernest D. Salm, 3846 Evans Street, Los Angeles, CA 90027, representative for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16145 Filed 11-3-71;8:54 am]

[Notice 775-A]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER, 1, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 30 days from the date of service of the order. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73136. By order of October 20, 1971, the Commission, Division 3, approved the transfer to Thomas J. Cerep, Scranton, Pa., of that portion of the operating rights in certificate No. MC-57591 (Sub-No. 4) issued June 2, 1969, to Evans Delivery Co., Inc., Pottsville, Pa., authorizing the transportation of household goods between Ashland, Pa., and points within 25 miles of Ashland, on the one hand, and, on the other, points in Pennsylvania, Ohio, West Virginia, Virginia, Maryland, Delaware, New Jersey, New York, and the District of Columbia. James J. Powell, 700 Mears Building, Scranton, Pa. 18503, attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16146 Filed 11-3-71;8:54 am]

[Notice 88]

MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER APPLICATIONS

OCTOBER 29, 1971.

The following applications are governed by Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER, issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall be meet the requirements of § 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's General Policy Statement Concerning

[1] Copies of Special Rule 1100.247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

Motor Carrier Licensing Procedures, published in the FEDERAL REGISTER, issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 531 (Sub-No. 274), filed September 24, 1971. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, Post Office Box 14048, Houston, TX 77021. Applicant's representative: Wray E. Hughes (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Transformer oil*, in bulk, in tank vehicles and *collapsible containers*, when moving in the same time and on the same vehicle with the transformer oil, from the plantsite of Gulf Oil Co.-U.S., located at West Port Arthur, Tex., to points in Idaho, Indiana, Michigan, Minnesota, Montana, North Dakota and South Dakota. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 8600 (Sub-No. 26), filed September 28, 1971. Applicant: WERNER CONTINENTAL, INC., 2500 West County Road C, St. Paul, MN 55113. Applicant's representative: John A. Vuono, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving the plantsite of PPG Industries, Inc., at or near Mount Holly Springs, South Middleton Township, Cumberland County, Pa., as an off-route point in connection with carrier's authorized regular route operations to and from Pittsburgh, Harrisburg, and Philadelphia, Pa., New York, N.Y., and Baltimore, Md. NOTE: If a hearing is deemed necessary, applicant requests it be held at Pittsburgh or Harrisburg, Pa.

No. MC 8948 (Sub-No. 97), filed September 13, 1971. Applicant: WESTERN GILLETTE, INC., 2550 East 28th Street, Mail: Post Office Box 58267, Los Angeles, CA 90058, Vernon Station. Applicant's representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (1) between Reno, Nev., and Kansas City, Mo.: From Reno, Nev., over Interstate Highway 80 (including temporary Interstate Highway 80) to junction U.S. Highway 34 at or near Lincoln, Nebr., thence over U.S. Highway 34 to junction U.S. Highway 75 at or near Union, Nebr., thence over U.S. Highway 75 to junction U.S. Highway 136 at Auburn, Nebr., thence over U.S. Highway 136 to junction U.S. Highway 59 at Tarkio, Mo., thence over U.S. Highway 59 to junction Interstate Highway 29, thence over Interstate Highway 29 to Kansas City, Mo., and return over the same route; (2) between Reno, Nev., and Springfield, Ill., serving Springfield Ill., for purposes of joinder only: From Reno, Nev., over Interstate Highway 80 (including temporary Interstate Highway 80) to junction U.S. Highway 34 at or near Lincoln, Nebr., thence over U.S. Highway 34 to junction U.S. Highway 75 at or near Union, Nebr., thence over U.S. Highway 75 to junction U.S. Highway 136 at Auburn, Nebr., thence over U.S. Highway 136 to junction U.S. Highway 59 at Tarkio, Mo., thence over U.S. Highway 59 to junction Interstate Highway 29, thence over Interstate Highway 29 to junction U.S. Highway 36 at St. Joseph Mo., thence over U.S. Highway 36 to Springfield, Ill., and return over the same route;

(3) Between Kansas City, Mo., and Springfield, Ill., serving Springfield, Ill., for purposes of joinder only: (a) From Kansas City, Mo., over Interstate Highway 70 to junction U.S. Highway 54 at or near Kingdom City, Mo., thence over U.S. Highway 54 to junction U.S. Highway 36 approximately 4 miles west of Pittsfield, Ill., thence over U.S. Highway 36 to Springfield, Ill., and return over the same route, (b) from Kansas City, Mo., over Interstate Highway 35 to junction U.S. Highway 36 at or near Cameron, Mo., thence over U.S. Highway 36 to Springfield, Ill., and return over the same route; (4) between Reno, Nev., and Joliet, Ill., serving Joliet, Ill., for purposes of joinder only: From Reno, Nev., over Interstate Highway 80 (including temporary Interstate Highway 80) to Joliet, Ill., and return over the same route; and (5) between Kansas City and St. Louis, Mo.: From Kansas City, Mo., over Interstate Highway 70 to St. Louis, Mo., and return over the same route. Restriction: All of the foregoing service is restricted to traffic moving to, from, or through either Reno, Nev., or points in Oklahoma. Routes (1) through (5) are alternate routes for operating convenience only, in connection with carrier's regular route operations. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 13123 (Sub-No. 62), filed September 28, 1971. Applicant: WILSON FREIGHT COMPANY, a corporation, 3636 Follett Avenue, Cincinnati, OH 45223. Applicant's representative: John A. Vuono, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (1) between Reno, Nev., and Kansas City, Mo.: From Reno, Nev., over Interstate Highway 80 (including temporary Interstate Highway 80) to junction U.S. Highway 34 at or near Lincoln, Nebr., thence over U.S. Highway 34 to junction U.S. Highway 75 at or near Union, Nebr., thence over U.S. Highway 75 to junction U.S. Highway 136 at Auburn, Nebr., thence over U.S. Highway 136 to junction U.S. Highway 59 at Tarkio, Mo., thence over U.S. Highway 59 to junction Interstate Highway 29, thence over Interstate Highway 29 to Kansas City, Mo., and return over the same route; (2) between Reno, Nev., and Springfield, Ill., serving Springfield Ill., for purposes of joinder only: From Reno, Nev., over Interstate Highway 80 (including temporary Interstate Highway 80) to junction U.S. Highway 34 at or near Lincoln, Nebr., thence over U.S. Highway 34 to junction U.S. Highway 75 at or near Union, Nebr., thence over U.S. Highway 75 to junction U.S. Highway 136 at Auburn, Nebr., thence over U.S. Highway 136 to junction U.S. Highway 59 at Tarkio, Mo., thence over U.S. Highway 59 to junction Interstate Highway 29, thence over Interstate Highway 29 to junction U.S. Highway 36 at St. Joseph Mo., thence over U.S. Highway 36 to Springfield, Ill., and return over the same route;

(3) Between Kansas City, Mo., and Springfield, Ill., serving Springfield, Ill., for purposes of joinder only: (a) From Kansas City, Mo., over Interstate Highway 70 to junction U.S. Highway 54 at or near Kingdom City, Mo., thence over U.S. Highway 54 to junction U.S. Highway 36 approximately 4 miles west of Pittsfield, Ill., thence over U.S. Highway 36 to Springfield, Ill., and return over the same route, (b) from Kansas City, Mo., over Interstate Highway 35 to junction U.S. Highway 36 at or near Cameron, Mo., thence over U.S. Highway 36 to Springfield, Ill., and return over the same route; (4) between Reno, Nev., and Joliet, Ill., serving Joliet, Ill., for purposes of joinder only: From Reno, Nev., over Interstate Highway 80 (including temporary Interstate Highway 80) to Joliet, Ill., and return over the same route; and (5) between Kansas City and St. Louis, Mo.: From Kansas City, Mo., over Interstate Highway 70 to St. Louis, Mo., and return over the same route. Restriction: All of the foregoing service is restricted to traffic moving to, from, or through either Reno, Nev., or points in Oklahoma. Routes (1) through (5) are alternate routes for operating convenience only, in connection with carrier's regular route operations. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 27817 (Sub-No. 97), filed September 21, 1971. Applicant: H. C. GABLER, INC., Rural Delivery No. 3, Chambersburg, PA 17201. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Carnivorous animal feed*, in packages, from the plant and warehouse facilities of Kal Kan Food, Inc., at Columbus, Ohio, to points in Ohio, Pennsylvania, New York, New Jersey, Massachusetts, Connecticut, Rhode Island, Maine, New Hampshire, Vermont, Virginia, West Virginia, Maryland, Tennessee, Kentucky, Delaware, North Carolina, South Carolina, and the District of Columbia; and (2) *materials and supplies* used in manufacture, sale, and distribution of carnivorous animal feed (except in bulk), from points in the United States (except Alaska and Hawaii), to the plantsite and warehouse facilities of Kal Kan Food, Inc., at Columbus, Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Washington, D.C.

No. MC 34227 (Sub-No. 10), filed October 8, 1971. Applicant: PACIFIC INLAND TRANSPORTATION COMPANY, a corporation, 15 South Broadway, Cortez, CO 81321. Applicant's representative: David R. Parker, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Hides, skins, and pieces thereof*, from Friona and Plainview, Tex., to points in California, Oregon, Washington, and the international boundary line at or near Blaine, Wash., under contract with Missouri Beef Packers, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Albuquerque, N. Mex., or Denver, Colo.

No. MC 55581 (Sub-No. 24), filed October 5, 1971. Applicant: UTAH PACIFIC TRANSPORT COMPANY, a corporation, 1891 West 2100 South Street, Salt Lake City, UT 84119. Applicant's representative: David J. Lister (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Forest products, lumber, and lumber mill products*, from points in Washington and Oregon to points in California and Nevada. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif., or Portland, Oreg.

No. MC 59640 (Sub-No. 25), filed October 1, 1971. Applicant: PAULS TRUCKING CORPORATION, 3 Commerce Drive, Cranford, NJ 07016. Applicant's representative: Charles J. Williams, 47 Lincoln Park, Newark, NJ 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses and in connection therewith, *equipment materials, and supplies* used in the conduct of such business, between Woodbridge Township and Cranford, N.J., on the one hand, and, on the other, points in Hartford and Middlesex Counties, Conn., and Hampden County, Mass. Restriction: The authority sought herein is limited to a transportation service to be performed under a continuing contract, or contracts with Supermarkets General Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 60106 (Sub-No. 2), filed October 12, 1971. Applicant: RICHMOND BEACH FUEL AND TRANSFER, INC., Post Office Box 4, Richmond Beach, WA. Applicant's representative: George R. LaBissonier, 1424 Washington Building, Seattle, Wash. 98101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wine and alcoholic beverages*, from St. Helena, Oakville, Saratoga, Fresno, Guerneville, Modesto, Lodi, Livermore, Sonoma, and San Francisco, Calif., on the one hand, to points in King, Kitsap, Pierce, and Snohomish Counties, Wash., on the other hand for the account of Sid Eland, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 61403 (Sub-No. 214), filed October 6, 1971. Applicant: THE MASON AND DIXON TANK LINES, INC., Eastman Road, Post Office Box 969, Kingsport, TN 37662. Applicant's representative: W. C. Mitchell, Suite 1201, 370 Lexington Avenue, New York, NY 10017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Weed killing compounds* in bulk, in tank vehicles, from Le Moyne, Ala., to Marysville and Salem, Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 61592 (Sub-No. 246), filed October 4, 1971. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, IA 52722. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour, bakery goods, mix, icing powder, and frosting mix*, from Chelsea, Mich., to points in Connecticut, Maine, Maryland, Massachusetts, New Hampshire, Rhode Island, Virginia, Pennsylvania, New York, New Jersey, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 61592 (Sub-No. 247), filed October 8, 1971. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, IA 52722. Applicant's representative: Jack Davis, 1100 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Shakes, shingles, and ridge trim*, (1) from ports of entry on the United States-Canada boundary line at or near Blaine, Sumas, Oroville, and Port Angeles, Wash., to points in Oregon, Washington, California, Nevada, and Arizona; (2) from points in Washington on and west of U.S. Highway 97 to points in California, Nevada, and Oregon; and (3) from points in Oregon on and west of U.S. Highway 97 to points in California, Nevada, and Arizona. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 64994 (Sub-No. 115), filed September 27, 1971. Applicant: HENNIS FREIGHT LINES, INC., Post Office Box 612, Winston-Salem, NC 27102. Applicant's representative: B. M. Shirley, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Greenville, S.C., and Augusta, Ga.; from Greenville over U.S. Highway 25 to Augusta, and return over the same route; (2) between Columbia, S.C., and Charleston, S.C.: from Columbia over Interstate Highway 26 to Charleston, and return over the same route; (3) between junction U.S. Highway 25E and U.S. Highway 11W and Hillsville, Va.; from junction U.S. Highway 25E and U.S. Highway 11W over U.S. Highway 11W to junction Interstate Highway 81, thence over Interstate Highway 81 to junction U.S. Highway 52, thence over U.S. Highway 52 to Hillsville, and return over the same route; (4) between junction U.S. Highway 25E and U.S. Highway 11W and Christianburg, Va.; from junction U.S. Highway 25E and U.S. Highway 11W over U.S. Highway 11W to junction Interstate Highway 81, thence over Interstate Highway 81 to Christianburg, and return over the same route; (5) between junction U.S. Highway 21 and U.S. Highway 60 and Roanoke, Va.; from junction U.S. Highway 21 and U.S. Highway 60 over U.S. Highway 60 to Clifton Forge, Va., thence over U.S. Highway 220 to Roanoke, and return over the same route; (6) between junction U.S. Highway 460 and Virginia Highway 307 and junction Virginia Highway 307 and U.S. Highway 360; from junction U.S. Highway 460 and Virginia Highway 307 over Virginia Highway 307 to junction U.S. Highway 360, and return over the same route;

(7) Between Petersburg, Va., and Portsmouth, Va.; from Petersburg over U.S. Highway 460 to Portsmouth, and return over the same route; (8) between Richmond, Va., and Portsmouth, Va.; from Richmond over U.S. Highway 301 to junction Virginia Highway 10, thence over Virginia Highway 10 to Benns Church, Va., thence over Virginia Highway 32 to junction U.S. Highway 17, thence over U.S. Highway 17 to Portsmouth, and return over the same route; (9) between Pittsburgh, Pa., and Rich Creek, Va.; from Pittsburgh over U.S. Highway 19 (also over U.S. Highway 22 to junction Interstate Highway 79, thence over Interstate Highway 79) to Morgantown, W. Va., thence over West Virginia Highway 92 to Elkins, W. Va., thence over U.S. Highway 219 to Rich Creek, and return over the same route; (10) between Pittsburgh, Pa., and Roanoke, Va.; from Pittsburgh over U.S. Highway 19 (also over U.S. Highway 22 to junction Interstate Highway 79, thence over Interstate Highway 79) to Morgantown, W. Va., thence over West Virginia Highway 92 to Elkins, W. Va., thence over U.S. Highway 219 to junction Interstate Highway 64, thence over Interstate Highway 64 to Clifton Forge, Va., thence over U.S. Highway 220 to Roanoke, and return over the same route; (11) between Cincinnati, Ohio and Corbin, Ky.; from Cincinnati over Interstate Highway 75 to Corbin, and return over the same route; (12) between Fort Wayne, Ind., and Cincinnati, Ohio; from Fort Wayne over U.S. Highway 27 to Cincinnati, and return over the same route; and (13) between Richmond, Ind., and Cincinnati, Ohio; from Richmond over U.S. Highway 27 to Cincinnati, and return over the same route. NOTE: The above routes (1) through (13) are all

alternate routes for operating convenience only, in connection with applicant's authorized regular route operations, serving no intermediate points. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 66753 (Sub-No. 6), filed September 20, 1971. Applicant: CHAIN HAULAGE, INC., 15 Hastings Road, Lexington, MA 02173. Applicant's representative: Frank J. Weiner, 6 Beacon Street, Boston, MA 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses and in connection therewith, *equipment, materials, and supplies* used in the conduct of such business (except in bulk, in tank vehicles), from Marlboro, Mass., to points in Maine, New Hampshire, Vermont, Rhode Island, Connecticut, New York, and New Jersey; returned or damaged shipments of the above-described commodities, from the above-described destination points to Marlboro, Mass., under a continuing contract or contracts with Stop & Shop, Inc. NOTE: No duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 72442 (Sub-No. 36), filed October 4, 1971. Applicant: AKERS MOTOR LINES, INCORPORATED, Post Office Box 579, Gastonia, NC 28052. Applicant's representative: Paul M. Daniell, Post Office Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, tobacco, liquor, commodities in bulk, commodities requiring special equipment, and household goods as defined by the Commission), serving the plantsite of PPG Industries, Inc., at or near Holly Springs, Pa., as an off-route point in connection with applicant's authorized regular route authority. NOTE: If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 77972 (Sub-No. 19), filed October 1, 1971. Applicant: MERCHANTS TRUCK LINE, INC., 100 Summer Street, Post Office Box 908, New Albany, MS 38652. Applicant's representative: Donald B. Morrison, 717 Deposit Guaranty National Bank Building, Post Office Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Forest and Jackson, Miss.: From Forest over U.S. Highway 80 and/or Interstate Highway 20 to Jackson, and return over the same route, serving all intermediate points. NOTE: Applicant states it proposes to join the above-requested authority with its present authority at Forest, Miss. If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss., and Memphis, Tenn.

No. MC 94201 (Sub-No. 98), filed October 5, 1971. Applicant: BOWMAN TRANSPORTATION, INC., 1010 Stroud Avenue, Gadsden, AL 35903. Applicant's representative: John P. Carlton, 327 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the plantsite of the General Tire and Rubber Co., at or near Mayfield, Ky., on the one hand, and, on the other, points in Alabama, Florida, Georgia, Indiana, North Carolina, South Carolina, and Tennessee; all points in that part of Illinois on and bounded by a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 36 to Springfield, Ill., thence along Illinois Highway 29 to Peoria, Ill., thence along Illinois Highway 116 to Metamora, Ill., thence along Illinois Highway 89 to junction U.S. Highway 34, thence along U.S. Highway 34 to Chicago, Ill., thence along Lake Michigan to the Illinois-Indiana State line, and thence along the Illinois-Indiana State line to point of beginning; all points in that part of Ohio on, west, and north of a line beginning at a point on the Ohio-Pennsylvania State line near Sharon, Pa., and extending along U.S. Highway 62 to Columbus, Ohio, thence along U.S. Highway 23 to Circleville, Ohio; and thence along U.S. Highway 22 to Cincinnati, Ohio, Richmond, Va., Washington, D.C., Baltimore, Md., Wilmington, Del., Philadelphia, Pa., and New York, N.Y. NOTE: Applicant states that the requested authority can be tacked with its authority under MC 94201 Subs 52 and 53, wherein applicant is authorized to serve points in New York, Connecticut, New Jersey, Massachusetts, and Rhode Island. Applicant also proposes to tack with the authority under lease from C. Rickard & Sons, Inc., at New York, N.Y. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 95540 (Sub-No. 823), filed September 24, 1971. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, FL 33801. Applicant's representative: Paul E. Weaver (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen bakery products*, from points in Kent County, Mich., to points in Washington, Oregon, and Nevada. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Detroit, Mich.

No. MC 100666 (Sub-No. 200), filed October 12, 1971. Applicant: MELTON TRUCK LINES, INC., Post Office Box 7666, Shreveport, LA 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life, 3535 Northwest 58th, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products, materials and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk), between the plantsites and/or storage facilities of Nekoosa Edwards Paper Co., Inc., in Little River County, Ark., on the one hand, and, on the other, points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, Rhode Island, Vermont, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark.

No. MC 100666 (Sub-No. 201), filed October 5, 1971. Applicant: MELTON TRUCK LINES, INC., Post Office Box 7666, Shreveport, LA 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Center, 3535 Northwest 58th, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber* from Hill City, S. Dak., to points in Arkansas, Oklahoma, and Texas. NOTE: Applicant states that the requested authority could be tacked with its existing authority under MC 100666 Sub 1 and serve Louisiana; tack with its Sub 53 in Arkansas and serve points in Alabama and Tennessee; and, tack with its Sub 58 in Arkansas and serve Mississippi. If a hearing is deemed necessary, applicant requests it be held at Pierre, S. Dak., or Denver, Colo.

No. MC 103993 (Sub-No. 672), filed October 4, 1971. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from points in Kay County, Okla., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Tulsa, Okla.

No. MC 103993 (Sub-No. 673), filed October 12, 1971. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from points in Ohio to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 103993 (Sub-No. 674), filed October 12, 1971. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers, designed to be drawn by passenger automobiles, campers, camp coaches, and motor homes*, in initial movements, in truckaway service, from points in Kossuth County, Iowa, to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 103993 (Sub-No. 675), filed October 12, 1971. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel floor systems and component parts*, from points in Elkhart County, Ind., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant does not specify location.

No. MC 106644 (Sub-No. 129), filed October 1, 1971. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road NW., Post Office Box 916, Atlanta, GA 30301. Applicant's representative: Duane W. Acklie, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soil pipe and fittings, valves, hydrants, meter boxes, and accessories*, from Anniston and Holt, Ala., to points in Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, east of the Mississippi River; Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin. NOTE: Applicant has pending an application in No. MC 104724 Sub-No. 13 for contract carrier authority, therefore dual operations may be involved. Common control may also be involved. Applicant states that the requested authority cannot be tacked with its existing authority. No duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or Atlanta, Ga.

No. MC 106674 (Sub-No. 82), filed October 1, 1971. Applicant: SCHILLI MOTOR LINES, INC., Post Office Box 122, Delphi, IN 46923. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared roofing materials and commodities* used or useful in the construction of roofs (except commodities in bulk), from the plantsite of Phillip Carey Corp. at Wilmington, Ill., to points in Indiana, restricted to traffic originating at said plantsite and destined to the named destination State. NOTE: Applicant states that the restricted authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 107012 (Sub-No. 129), filed October 4, 1971. Applicant: NORTH AMERICAN VAN LINES, INC., Lincoln Highway East and Meyer Road, Post Office Box 988, Fort Wayne, IN 46801. Applicant's representative: Donald C. Lewis, Post Office Box 988, Fort Wayne, IN 46801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper products, cellulose wrapping, cellulose bags, and cellulose pads*, from Salem, Ill., to Benton, Ark. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 107496 (Sub-No. 826), filed September 29, 1971. Applicant: RUAN TRANSPORT CORPCRATION, Keosauqua Way at Third, Post Office Box 855, Des Moines, IA 50304. Applicant's representative: H. L. Fabritz (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Phosphoric acid*, in bulk, from Lawrence, Kans., to points in Arkansas, Nebraska, Iowa, Oklahoma Kentucky, North Dakota Mississippi, Missouri, Colorado, Montana, and Wyoming; (2) *phosphate*, in bulk, from Lawrence, Kans., to points in Texas; (3) *petroleum products*, from Meredosia, Ill., to points in Missouri and Iowa; (4) *liquid fertilizer*, in bulk, in tank vehicles, from West Fargo, and Grand Forks, N. Dak., to points in North Dakota, South Dakota, and Minnesota; (5) *liquid food and liquid animal food supplements*, in bulk, in tank vehicles, from the plantsite of Phillips Petroleum Co., located at or near Audubon, Iowa, to points in Kansas, Minnesota, Missouri, Nebraska, North Dakota and South Dakota; (6) *dry sand*, in bulk from points in St. Louis County, Mo., to Salem, Ill.; (7) *plastic pellets and liquid latex*, in bulk, from Marseilles, Ill., to points in Michigan, Missouri, Kansas, Colorado, Utah, Tennessee, Wisconsin, Ohio, Idaho, Washington, Oregon, California, Texas, Minnesota, West Virginia, Alabama, Kentucky, and Indiana; and (8) *core oil*, in bulk, from Milwaukee, Wis., to points in Ohio, Michigan, and Iowa. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intentions to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Chicago, Ill.

No. MC 108053 (Sub-No. 108), filed October 4, 1971. Applicant: LITTLE AUDREY'S TRANSPORTATION CO., INC., Post Office Box 129, Fremont, NE 68025. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen prepared foods and frozen meats and canned goods*, from St. James, Madelia, and Butterfield, Minn., and Estherville, Iowa, to points in California, Oregon, Washington, Colorado, Arizona, Idaho, Montana, and Salt Lake City, Utah. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 108393 (Sub-No. 52), filed September 29, 1971. Applicant: SIGNAL DELIVERY SERVICE, INC., 930 North York Road, Hinsdale, IL 60521. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, Ohio 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Parts of electrical and gas appliances, and equipment, materials, and supplies* used in the manufacture, distribution, and repair of electrical and gas appliances, from Goshen, Ind., to St. Joseph, Mich., and Clyde, Marion, and Findlay, Ohio, under continuing contract or contracts with Whirlpool Corp. NOTE: Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 108449 (Sub-No. 333), filed October 8, 1971. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, MN 55113. Applicant's representative: Adolph J. Bieberstein, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, from points in Milwaukee County, Wis., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Ohio, Pennsylvania, and Wisconsin. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Minneapolis, Minn.

No. MC 109564 (Sub-No. 12) (Correction), filed September 20, 1971, published FEDERAL REGISTER, issue of October 29, 1971 and republished in part as corrected this issue. Applicant: LYONS TRANSPORTATION LINES, INC., 1701 Parade Street, Erie, PA 16512. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. NOTE: The purpose of this partial republication is to show the correct Docket No. MC 109564 (Sub-No. 12) in lieu of MC 109564 (Sub-No. 42) and also to show the correct filing date as September 20, 1971, in lieu of October 20, 1971, as was erroneously shown in previous publication. The rest of the application remains as previously published.

No. MC 110525 (Sub-No. 1016), filed October 4, 1971. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from the plantsite of Mobay Chemical Co., Chambers County, Tex., to points in the United States (except Alaska and Hawaii), restricted to shipments originating at Mobay Chemical Co.'s plantsite, Chambers County, near Baytown, Tex. (Harris County). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 110525 (Sub-No. 1017), filed October 7, 1971. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Applicant's representative: Thomas J. O'Brien (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, from the plantsite and storage facilities of Monsanto Co. at or near Everett, Mass., to points in Connecticut, Maine, New Hampshire, New York, Vermont, Ohio, Pennsylvania, and Rhode Island, restricted to the transportation of shipments originating at the named plantsite and storage facilities and destined to points in the named destination points. NOTE: Applicant states that no duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Washington, D.C.

No. MC 111401 (Sub-No. 349), filed October 4, 1971. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Road, Enid, OK 73701. Applicant's representative: Alvin L. Hamilton (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Transformer oil*, in bulk, in tank vehicles, and *collapsible containers* when moving at the same time and on the same vehicle with the transformer oil, from the plantsite of Gulf Oil Co.-United States, located at West Port Arthur, Tex., to points in Idaho, Indiana, Michigan, Minnesota, Montana, North Dakota, and South Dakota. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston or Dallas, Tex.

No. MC 111956 (Sub-No. 26), filed September 28, 1971. Applicant: SUWAK TRUCKING COMPANY, a corporation, 1105 Fayette Street, Washington, PA 15301. Applicant's representative: John A. Vuono, 3310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the plantsite of PPG Industries, Inc., at or near Mount Holly Springs, South Middleton Township, Cumberland County, Pa., on the one hand, and, on the other, points in Maryland and Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh or Harrisburg, Pa.

No. MC 113678 (Sub-No. 439), filed October 5, 1971. Applicant: CURTIS, INC., Post Office Box 16004, Stockyards Station, Denver, CO 80216. Applicant's representatives: Duane W. Acklie and Richard A. Peterson, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Downingtown, Lancaster, and Philadelphia, Pa., to points in California, Oregon, Washington, Arizona, New Mexico, Texas, Nebraska, Colorado, and Utah. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Denver, Colo.

No. MC 113843 (Sub-No. 175), filed September 27, 1971. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, MA 02210. Applicant's representative: Lawrence T. Sheils (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Utica, Mich., to points in Ohio, Indiana, Kentucky, Illinois, Iowa, Wisconsin, Minnesota, Missouri, Kansas, and Nebraska. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 114004 (Sub-No. 110), filed October 4, 1971. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, AR 72209. Applicant's representative: Winston Chandler, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles and *buildings*, in sections, mounted on wheeled undercarriages, in initial movements, from points in Noble County, Ohio, to points in the United States, including Alaska, but excluding Hawaii. NOTE: Applicant states that the requesting authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 114004 (Sub-No. 111), filed October 4, 1971. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, AR 72209. Applicant's representative: Winston Chandler, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles and *buildings*, in sections, mounted on wheeled undercarriages, in initial movements, from points in Butts County, Ga., to points in the United States, including Alaska, but excluding Hawaii. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 114019 (Sub-No. 225), filed October 4, 1971. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, IL 60629. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molasses*, in bulk, in tank vehicles, from Hamilton, Ohio, to Beloit, Wis. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 115557 (Sub-No. 9), filed October 1, 1971. Applicant: CHARLES A. McCAULEY, Rural Delivery No. 3, 308 Leasure Way, New Bethlehem, PA 16242. Applicant's representative: H. Ray Pope, Jr., 10 Grant Street, Clarion, PA 16214. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dynamic loud speakers* (in and not in cabinets), *and component parts, iron and steel stampings*, from Du Bois, Pa., to points in Alabama, Arkansas, Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 117956 (Sub-No. 8), filed August 18, 1971. Applicant: HUGH H. SCOTT, doing business as SCOTT TRANSFER CO., 920 Ashby Street, SW., Atlanta, GA 30310. Applicant's representative: William Addams, 1776 Peachtree Street NW., Suite 527, Atlanta, GA 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coin, currency, and commercial paper*, between Cornelia and Clarkesville, Ga., on the one hand, and, on the other, points in Cherokee, Clay, Swain, and Jackson Counties, N.C. NOTE: Applicant states that the requested authority can be tacked with its existing authority under MC 117956 (Sub-No. 5), but does not identify the points or territories which can be served through tacking. Applicant also holds contract carrier authority under MC 116947 and subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 114211 (Sub-No. 162), filed October 4, 1971. Applicant: WARREN TRANSPORT, INC., 324 Manhard, Post Office Box 420, Waterloo, IA 50704. Applicant's representative: Charles W. Singer, Suite 1625, 33 North Dearborn, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wallboard, fiberboard, pulpboard, adhesive cement, plastic and fiberglass plate and sheets, nails, eave filler strips, wood moldings, and aluminum flashing*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the above described commodities, between Bergen County, N.J., on the one hand, and, on the other, points in the United States (including Alaska but excluding Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant does not seek any duplicating authority for the purpose of sale or otherwise. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 116519 (Sub-No. 15), filed October 8, 1971. Applicant: FREDERICK TRANSPORT LIMITED, Rural Route 6, Chatham, ON, Canada. Applicant's representative: S. Harrison Kahn, Suite 733 Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Feed and feed ingredients*, between points in Michigan, Ohio, Indiana, Illinois, and New York, and ports of entry on the international boundary line between the United States and Canada located along the Niagara Frontier and the Detroit and Saint Clair Rivers; (B) *grain, forest products, and horticultural commodities*, between ports of entry on the international boundary line between the United States and Canada located along the Detroit and Saint Clair Rivers and points in Michigan and Ohio; and (C) *wood chips and bark chips, peat moss, stone chips, and marble chips*, between points in the United States (except Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Hawaii, Oregon, Utah, Washington, and Wyoming), and ports of entry on the international boundary line between the United States and Canada located along the Niagara Frontier and the Detroit and Saint Clair Rivers, restricted to foreign commerce transportation only, and to traffic originating at or destined to points in the Province of Ontario, Canada. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 117565 (Sub-No. 48), filed October 1, 1971. Applicant: MOTOR SERVICE COMPANY, INC., Route 3, Post Office Box 448, Coshocton, OH 43812. Applicant's representative: Louis J. Amato, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Structural floor supports, tubular products, anchor bolts and accessories thereof*, from Seville, Ohio, to points in Minnesota, Iowa, and States east of the Mississippi River. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus or Cleveland, Ohio.

No. MC 118292 (Sub-No. 25), filed October 4, 1971. Applicant: BALLENTINE PRODUCE, INC., Box 312, Alma, AR 72921. Applicant's representative: Nancy Pyeatt, 1030 15th Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods and dog food*, from the plantsites and warehouse facilities of Allen Canning Co. at Alma, Van Buren, Gentry, Siloam Springs, and a point approximately 10 miles east of Siloam Springs, Ark., and Proctor and Kansas, Okla., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Montana, Missouri, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, Wisconsin, and Wyoming. NOTE: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack, and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark., or Washington, D.C.

No. MC 118516 (Sub-No. 5), filed September 20, 1971. Applicant: MUKLUK FREIGHT LINES, INC., Box 3-1427, Anchorage, AK 99501. Applicant's representative: Joseph W. Sheehan, Box 2551, Fairbanks, AK 99501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except household goods as defined by the Commission), (1) between ports of entry on the international boundary line between the United States and Canada located at or near Blaine and Sumas, Wash., and Seattle, Wash.; and (2) between Blaine and Sumas, Wash., on the one hand, and, on the other, points in Alaska except those in the Alaska Panhandle south of Haines, Alaska. NOTE: Applicant states that the requested authority will be joined with its Alaska authority, both that which it presently holds and is seeking through transfer proceedings before the Commission, and it seeks to tack and join the sought authority at all points on the Alaska border, except those in the Alaska Panhandle south of Haines, Alaska. If a hearing is deemed necessary, applicant requests it be held at Anchorage or Fairbanks, Alaska.

No. MC 119669 (Sub-No. 27), filed September 27, 1971. Applicant: TEMPCO TRANSPORTATION, INC., 546 South 31A, Columbus, Ind. 47201. Applicant's representative: William J. Boyd, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Lexington, Ky., to points in Ohio, Pennsylvania, New York, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, Maryland, Virginia, West Virginia, Michigan, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119670 (Sub-No. 20), filed September 27, 1971. Applicant: THE VICTOR TRANSIT CORPORATION, Post Office Box 115, Winton Place Station, Cincinnati, OH 45232. Applicant's representative: Robert H. Kinker, Post Office Box 464, Frankfort, KY 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, in containers and related *advertising material*, from Cincinnati, Ohio, to points in Indiana, Kentucky, West Virginia, and the Lower Peninsula of Michigan; and (2) *empty malt beverage containers and pallets*, from points in Indiana, Kentucky, West Virginia, and the Lower Peninsula of Michigan, to Cincinnati, Ohio. NOTE: Applicant states that requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Cincinnati or Columbus, Ohio.

No. MC 119777 (Sub-No. 226), filed October 8, 1971. Applicant: LIGON SPECIALIZED HAULERS, INC., Post Office Drawer L, Highway 85 East, Madisonville, KY 42431. Applicant's representative: William G. Thomas (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bleachers and grandstands, steel or wood, knocked down, and tables*, from the plantsite of American Bleacher Corp., Baton Rouge, La., to points in the United States (except Alaska and Hawaii). NOTE: Applicant holds contract carrier authority under MC 129670, therefore dual operations and common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Jackson, Miss.

No. MC 119792 (Sub-No. 32), filed October 4, 1971. Applicant: CHICAGO SOUTHERN TRANSPORTATION COMPANY, a corporation, 1401 West 43d Street, Chicago, IL 60609. Applicant's representative: Robert P. Sack, Post Office Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal briquets*, from the plantsite of Chuckwagon Briquets, Inc., located 3 miles northwest of Morton, Minn., to points in Connecticut, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Missouri, Nebraska, New Hampshire, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 119988 (Sub-No. 45), filed October 5, 1971. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103 East, Post Office Box 1384, Lufkin, TX 75901. Applicant's representative: Bennie W. Haskins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cups*, from the plantsite or warehouse of Carthage Cup Co., Inc., at or near Carthage, Tex., to points in Kansas; and (2) *dishes, plates, or trays, paper pulpboard, or woodpulp* nested, from the plantsite or warehouse of Holiday Plates, Inc., at or near Gladewater, Tex., to point in Kansas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas or Houston, Tex.

No. MC 123255 (Sub-No. 15), filed October 1, 1971. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, OH 43055. Applicant's representative: C. F. Schnee, Jr., 140 Everett Avenue, Newark, OH 43055. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pet food*, from Bowling Green, Ohio, to points in Indiana, Illinois, and the Lower Peninsula of Michigan. NOTE: applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract carrier authority under MC 8196 and subs, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 123407 (Sub-No. 95), filed October 12, 1971. Applicant: SAWYER TRANSPORT, INC., 2424 South Minnehaha Avenue, Minneapolis, MN 55404. Applicant's representative: Robert W. Sawyer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used lumber and used construction forms and parts thereof*, between points in Illinois, Wisconsin, Iowa, Minnesota, North Dakota, South Dakota, Nebraska, Wyoming, Tennessee, Mississippi, Alabama, Georgia, Florida, and Louisiana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Minneapolis, Minn.

No. MC 126548 (Sub-No. 11), filed October 1, 1971. Applicant: ELMER A. FEHRLE, doing business as FEHRLE TRUCKING, 2329 18th Street SW., Cedar Rapids, IO 52404. Applicant's representative: Kenneth F. Dudley, 611 Church Street, Post Office Box 279, Ottumwa, IO 52501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Air pollution control equipment, parts and accessories*, from Waterloo, Iowa to points in the United States (except Alaska and Hawaii), under contract with Ace Incinerator Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Des Moines, Iowa.

No. MC 127283 (Sub-No. 5), filed September 27, 1971. Applicant: SILICA SAND TRANSPORT, INC., Routes 47 and 71, Post Office Box 208, Yorkville, IL 60560. Applicant's representative: Albert A. Andrin, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Silica sand*, from Wedron, Ill.; Glen Rose, Tex.; Sewanee, Tenn.; Emmett, Idaho; and Lake Majella, Calif., to points in the United States (except Alaska and Hawaii), under contract with Wedron Silica Co. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or San Francisco, Calif.

No. MC 127840 (Sub No. 27), filed October 8, 1971. Applicant: MONTGOMERY TANK LINES, INC., 612 Maple Street, Willow Springs, IL 60480. Applicant's representative: William H. Towle, 127 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Witch hazel*, in bulk, from Essex, Conn., to points in Illinois, Michigan, and Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 128273 (Sub-No. 107), filed October 1, 1971. Applicant: MIDWESTERN EXPRESS, INC., Box 189, Fort Scott, KS 66701. Applicant's representative: Danny Ellis (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products, products produced or distributed by manufacturers and converters of paper and paper products; materials and supplies used in the manufacture and distribution of the foregoing commodities* (except commodities which, because of size or weight, require the use of special equipment and commodities in bulk), between Middletown, Ohio, and points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 128273 (Sub-No. 109), filed October 8, 1971. Applicant: MIDWESTERN EXPRESS, INC., Box 189, Fort Scott, KS 66701. Applicant's representative: Danny Ellis (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, produced or distributed by manufacturers and *converters of paper and paper products; materials and supplies* used in the manufacture and distribution of the foregoing commodities (except commodities which, because of size or weight, require the use of special equipment and commodities in bulk), between Lockport, La., on the one hand and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Washington, D.C.

No. MC 128497 (Sub-No. 11), filed September 27, 1971. Applicant: JACK LINK TRUCK LINE, INC., Post Office Box 127, Dyersville, IA 52040. Applicant's representative: Jack H. Blanshan, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite and storage facilities utilized by Wilson Sinclair Co., located at Des Moines, Iowa, to

points in Indiana, Michigan, and Ohio, restricted to the transportation of traffic originating at the named origin and destined to the named destinations. NOTE: Applicant holds contract authority under MC 124807, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 128497 (Sub-No. 12), filed September 27, 1971. Applicant: JACK LINK TRUCK LINE, INC., Post Office Box 127, Dyersville, IA 52040. Applicant's representative: Jack H. Blanshan, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities of Tama Corp. at or near Tama, Iowa, to points in Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. It holds contract authority under MC 124807, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 129972 (Sub-No. 3), filed October 12, 1971. Applicant: GERALD D. WRIGHT, 1303 10th Street SE., Jamestown, ND 58401. Applicant's representative: Thomas J. Van Osdel, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages or alcoholic liquors* (except beer or malt beverages and commodities in bulk), from Mont La Salle, Lac Jac Station, Reedley, Lodi, Menlo Park, St. Helena, and Saratoga, Calif.; Chicago, Peoria, and Pekin, Ill.; Lawrenceburg, Ind.; Allen Park, Mich.; Duluth, Minn.; Louisville, Ky.; and Philadelphia, Pa., to Bismarck, Fargo, and Grand Forks, N. Dak. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary applicant requests it be held at Fargo, N. Dak., or Minneapolis, Minn.

No. MC 129974 (Sub-No. 4), filed August 20, 1971. Applicant: THOMPSON BROS., INC., Post Office Box 457, Toronto, SD 57268. Applicant's representative: A. R. Fowler, 2288 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Twine*, from New Orleans, La., Houston, Tex., and Milwaukee, Wis., to points in Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, North Dakota, South of the facilities of common carriers by (2) and when in trucking equipment transporting twine from New Orleans, La., Houston, Tex., and Milwaukee, Wis.; between points in Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming, under contract with Paul Dee Co., Marshalltown, Iowa. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Des Moines, Iowa.

No. MC 134323 (Sub-No. 19), filed October 7, 1971. Applicant: JAY LINES, INC., 720 North Grand Street, Amarillo, TX 79105. Applicant's representative: Duane Acklie, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts* as described in section A of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsites and storage facilities of Swift Fresh Meats Co. at Clovis, N. Mex., and Guymon, Okla., to points in Maine, Connecticut, Delaware, Maryland, Massachusetts, New Jersey, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, New Hampshire, New York, North Carolina, Ohio, Pennsylvania, and the District of Columbia, under contract with Swift & Co., Chicago, Ill., restricted to shipments originating at the above-named plantsites and storage facilities and destined to points in the above-named States. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 135118 (Sub-No. 2), filed October 12, 1971. Applicant: MACKLIN MOVING & STORAGE, INC., 842 Champion Street, Lemoore, CA 93245. Applicant's representative: Ernest D. Salm, 3846 Evans Street, Los Angeles, CA 90027. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Used household goods;* and (2) *unaccompanied baggage*, between points in Fresno, Kings, and Tulare Counties, Calif. Restriction: The service proposed to be authorized herein is restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization, and unpacking, uncrating, and decontainerization of such traffic. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 135529 (Sub-No. 4), filed October 6, 1971. Applicant: COOK TRANSPORTS, INC., 303 East Orleans Street, Box 153, Paxton, IL 60957. Applicant's representative: Charles R. Young, 4 West Seminary Street, Danville, IL 61832. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, in bags, from Danville, Ill., to points in Indiana, Kentucky, Nebraska, Missouri, Ohio, Michigan, Wisconsin, Minnesota, and Iowa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Springfield or Chicago, Ill.

No. MC 135608 (amendment), filed May 10, 1971, published in the FEDERAL REGISTER, issue of June 10, 1971, and republished in part, as amended, this issue. Applicant: INMAN TRANSPORT, INC., Post Office Box 666, Inman, SC 29349. Applicant's representative: Edward G. Villalon, Suite 1032, Pennsylvania Building, Pennsylvania Avenue and 13th Street N.W., Washington, DC 20004. NOTE: The sole purpose of this partial republication is to add to part (3) the cities of Bartow and Orlando, Fla., Spartanburg, S.C., Philadelphia, Pa., and North Bergen, N.J., as origin points; add to part (6) the cities of Baltimore, Md., and Atlanta, Ga., as origin points; and to reflect Mr. Edward G. Villalon as applicant's representative in lieu of Mr. Frank A. Graham, Jr., as originally shown. The rest of the application remains as previously published.

No. MC 135753 (Sub-No. 1), filed October 22, 1971. Applicant: WILLIAM TRANSPORT COMPANY, INC., 1815 High Point Avenue, Richmond, VA 23230. Applicant's representative: Roderick B. Mathews, 1200 Mutual Building, Richmond, Va. 23219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment or handling (except bulk commodities in tank vehicles and building materials and construction equipment), between points in Virginia, under contract with Stone and Webster Engineering Corp., agent for Virginia Electric & Power Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Richmond or Charlottesville, Va.

No. MC 135760 (Sub-No. 1), filed October 6, 1971. Applicant: COAST REFRIGERATED TRUCKING CO., INC., Post Office Box 188, Holly Ridge, NC 28445. Applicant's representative: William P. Sullivan, 1819 H Street NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pork products*, in vehicles equipped with mechanical refrigeration, between points in New Hanover and Onslow Counties, N.C., on the one hand, and, on the other, points in the United States (except Hawaii and Alaska), under a continuing contract (or contracts) with Carolina Meat Processors, Inc., of Wilmington, N.C. NOTE: If a hearing is deemed necessary, applicant requests it be held at Raleigh, N.C., or Washington, D.C.

No. MC 135778 (Sub-No. 1), filed October 8, 1971. Applicant: RONALD E. McLEOD, Rural Route No. 2, Ashland, IL 62612. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feeds, and animal and poultry feed ingredients*, between Beardstown, Ill., on the one hand,

and, on the other, points in Indiana, Iowa, and Missouri, under contract with Kent Feeds, Inc. NOTE: If a hearing is deemed necessary applicant requests it be held at Springfield, Ill., St. Louis, Mo., or Chicago, Ill.

No. MC 135795 (Sub-No. 1), filed October 1, 1971. Applicant: WILLIAM J. JAMES, doing business as BILL JAMES, 541 Willow Lane, Hereford, TX 79045. Applicant's representative: Mert Starnes, The 904 Lavaca Building, Post Office Box 2207, Austin, TX 78767. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feeds*, from Hereford, Tex., to points in Oklahoma, New Mexico, Kansas, and Colorado, under a continuing contract with Moorman Manufacturing Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Amarillo, Lubbock, or Austin, Tex.

No. MC 135833 (Sub-No. 5), filed October 7, 1971. Applicant: B & C SPECIALIZED CARRIERS, INC., 6524 Brookville Road, Indianapolis, IN 46219. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precast and prestressed concrete products and materials, equipment, and supplies* used in the installation and erection thereof, from Junction City and Champaign, Ill., to points in Indiana, Kentucky, Ohio, Michigan, Minnesota, Missouri, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Indianapolis, Ind.

No. MC 135992, filed August 24, 1971. Applicant: HIGGINS TRUCKING, LIMITED, Chipman, New Brunswick, Canada. Applicant's representative: Orville Higgins (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal briquetts and other commodities* of Atlantic Forest Products, Ltd., from points of entry on the international boundary line between the United States and Canada located at or near Houlton, Maine, to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, and New Jersey, and *rejected or refused shipments*, on return, under continuing bilateral contract with Atlantic Forest Products, Ltd. NOTE: If a hearing is deemed necessary, applicant requests it be held at Portland, Maine.

No. MC 136051 (Sub-No. 1), filed October 1, 1971. Applicant: RPD, INC., 2701 South Bayshore Drive, Miami, FL 33133. Applicant's representative: Francis W. McInerny, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicle parts, components, materials, supplies, advertising materials, and equipment, materials, and supplies* utilized in the manufacture thereof, between points in Florida on and east of the Jackson-Calhoun-Liberty and Wakulla County lines and points in Appling, Atkinson, Bacon, Berrien, Brantley, Brooks, Camden, Charlton, Clinch, Coffee, Colquitt, Cook, Decatur, Echols, Glynn, Grady, Lanier, Lowndes, McIntosh, Pierce, Seminole, Thomas, Ware, and Wayne Counties, Ga., under contract with General Motors Corp. (General Motors Parts Division). NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Jacksonville or Tallahassee, Fla.

No. MC 136063, filed September 24, 1971. Applicant: ROBERT BYNUM, 504 Miller Street, Clarksville, AR 72830. Applicant's representative: Don Langston, Court House Building, Fort Smith, Ark. 72901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Johnson County, Ark., to Clarksville, Ark., and the Arkansas River Port at New Spadra, Johnson County, Ark., restricted to traffic with a subsequent movement by rail or water. NOTE: If a hearing is deemed necessary, applicant requests it be held at Clarksville, Ark., Fort Smith, Ark., or Little Rock, Ark.

No. MC 136066 (Sub-No. 1), filed September 30, 1971. Applicant: G. P. SULLIVAN COMPANY, a corporation, 2000 South Western Avenue, Chicago, IL 60608. Applicant's representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, Mich. 48933. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise of J. C. Penney Co., Inc.*, sold at retail from their stores and warehouses in Chicago, Elk Grove Village, and Waukegan, Ill., to the residences and places of business of retail customers in points in Kenosha, Walworth, and Racine Counties, Wis., with return of *rejected, repossessed, damaged, exchanged, or trade-in merchandise*, restricted to service to be performed under a continuing contract with J. C. Penney Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Lansing, Mich.

No. MC 136074, filed October 1, 1971. Applicant: L. H. WHITTEN, Box 203, Claysburg, PA 16625. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, between Portage, New Germany, Glen Hope, Mount Union, and Ebensberg, Pa., and Oakland, Md., on the one hand, and, on the other, points in Indiana, Kentucky, Maryland, Michigan, North Carolina, Ohio, Pennsylvania, Virginia, and that part of Tennessee on and east of Interstate Highway 65, under a continuing contract or contracts with Ellsworth A. Van Sickle, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa.

No. MC 136075, filed October 1, 1971. Applicant: EL SEIS DE MAYO EXPRESS, INC., 791 East 149th Street, Bronx, New York, NY 10455. Applicant's representative: Jose Ramon Torres, 261 Broadway, Suite 610, New York, NY 10007. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods and personal effects*, between points in the New York, N.Y., commercial zone wherein operations are exempt from economic regulations. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 136078, filed October 1, 1971. Applicant: E. B. LAW AND SON, INC., Post Office Drawer 1360, Las Cruces, NM 88001. Applicant's representative: William J. Lippman, 1819 H Street NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Mine roof expansion shells*, from El Paso, Tex., to Kansas City, Mo., and points in Arizona, New Mexico, and West Virginia; and (2) *bolts* intended for installation in mine roofs, from Kansas City, Mo., to points in Arizona and New Mexico, under a continuing contract with Frank Investment Company of El Paso, Tex. NOTE: Applicant holds common carrier authority under MC 106278 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at El Paso, Tex., or Albuquerque, N. Mex.

No. MC 136082, filed October 8, 1971. Applicant: DESERT VALLEY MOVING & STORAGE, INC., 842 Champion Street, Lemoore, CA 93245. Applicant's representative: Ernest D. Salm, 3846 Evans Street, Los Angeles, CA 90027. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods and unaccompanied baggage*, between points in Fresno, Kings, and Tulare Counties, Calif., restricted to the transportation of traffic having a prior or subsequent movement in containers beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such traffic. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 136087, filed October 8, 1971. Applicants: JAMES E. CHELF, WILLIAM F. SHARP, JR., ALVIN C. ELLIOTT, AND LOY GENE COKER, a partnership, doing business as JIM CHELF AND ASSOCIATES, 5226 Brighton Boulevard, Denver, CO 80216. Applicant's representative: John J. Conway, 946 Metropolitan Building, 1612 Court Place, Denver, CO 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Telephone and telegraph equipment, materials and supplies*, between points in Colorado, Idaho, Montana, Utah, Wyoming, New Mexico, and Arizona, under contract with Mountain States Telephone & Telegraph Co.-Mountain Bell. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

MOTOR CARRIER OF PASSENGERS

No. MC 3647 (Sub-No. 435), filed October 4, 1971. Applicant: TRANSPORT OF NEW JERSEY, a corporation, 180 Boyden Avenue, Maplewood, NJ 07040. Applicant's representative: Richard Fryling (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, and express and newspapers*, in the same vehicle with passengers, between Flemington and East Amwell, N.J.: From Flemington, N.J., over U.S. Highway 202 (also known as New Jersey Highway 31) to junction of U.S. Highway 202 and New Jersey Highway 31, East Amwell, N.J., and return over the same route, serving all intermediate points. NOTE: If a hearing is deemed necessary, applicant requests it be held at Newark, N.J.

No. MC 3647 (Sub-No. 436), filed October 4, 1971. Applicant: TRANSPORT OF NEW JERSEY, a corporation, 180 Boyden Avenue, Maplewood, NJ 07040. Applicant's representative: Richard Fryling (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, and express, and newspapers* in the same vehicle with passengers, (1) between Ridgefield Park and Teaneck, N.J., from the junction U.S. Highway 46 and Interstate Highway 95 (New Jersey Turnpike), Ridgefield Park, N.J., over Interstate Highway 95 to the junction of De Graw Avenue, Teaneck, N.J., and return over the same route, serving all intermediate points; (2) between Hackensack and Teaneck, N.J., from junction Hudson and Kennedy Streets, Hackensack, N.J., over Kennedy Street and access roads to Interstate Highway 80, thence over Interstate Highway 80 to junction Interstate Highway 95, Teaneck, N.J., and return over the same route, serving all intermediate points; and (3) between Bogota and Teaneck, N.J., from junction Palisade Avenue and East Main Street, Bogota, N.J., over East Main Street to junction of De Graw Avenue, Teaneck, N.J., thence over De Graw Avenue to junction of Teaneck Road, Teaneck, N.J., and return over the same route serving all intermediate points. NOTE: If a hearing is deemed necessary, applicant requests it be held at Newark, N.J.

No. MC 70947 (Sub-No. 23) (Correction), filed August 27, 1971, published FEDERAL REGISTER, issue of October 21, and republished in part as corrected in this issue. Applicant: MT. HOOD STAGES, INC., doing business as PACIFIC TRAILWAYS, 1068 Bond Street, Bend, OR 97701. Applicant's representative: Raymond D. Givens, 500 Washington Street, Box 94, Boise, ID 83701. NOTE: The purpose of this partial republication is to reflect the Docket No. MC 70947 (Sub-No. 23), in lieu of MC 90974 (Sub-No. 23) which was erroneously shown in the previously publication. The rest of the application remains as previously published.

No. MC 106170 (Sub-No. 12), filed October 1, 1971. Applicant: THE GRAY LINE SCENIC TOURS, INC., doing business as CALIFORNIA-NEVADA GOLDEN TOURS, 1675 Mill Street, Post Office Box 1051, Reno, NV 89505. Applicant's representative: Bertram S. Silver, 140 Montgomery Street, San Francisco, CA 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special and charter operations, beginning and ending at San Francisco and Sacramento, Calif., and points in Alameda, San Mateo, Contra Costa, and San Joaquin Counties, Calif., and extending to points in Douglas, Washoe, and Storey Counties, Nev., and Carson City, Nev. This application is accompanied with a motion to dismiss. NOTE: If a hearing is deemed necessary, applicant requests it be held at Reno, Nev., Carson City, Nev., or San Francisco, Calif.

No. MC 113567 (Sub-No. 4), filed October 6, 1971. Applicant: LA CROSS AND WESTERN STAGES, INC., doing business as HIAWATHA COACHES, 2022 Oak Street, La Crosse, WI 54601. Applicant's representative: J. G. Dail, Jr., 1111 E Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers, and their baggage*, in the same vehicle with passengers, in one-way and round-trip charter operations, and in one-way and round-trip special operations consisting of sightseeing and pleasure tours, beginning or ending at points in Buffalo, Crawford, Jackson, Juneau, La Crosse, Monroe, Richland, Sauk, Trempealeau, and Vernon Counties, Wis., and Filmore, Goodhue, Houston, Mower, Wabasha, and Winona Counties, Minn., and extending to points in the United States (except Hawaii). NOTE: Applicant states no duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at La Crosse, Wis.

No. MC 134542 (Sub-No. 5), filed September 14, 1971. Applicant: QUICKLIVICK, INC., 708 C Street, Staunton, VA 24401. Applicant's representative: Earl F. Quick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, and express and newspapers* in the same vehicle with passengers, (a) from junction of Virginia Highway 42 and U.S. Highway 250 at Churchville, Va., over Virginia Highway 42 to Bridgewater, Va.; (b) from Timberville, Va., to Woodstock, Va., over Virginia Highway 42; (c) from junction of Virginia Highway 42 and Virginia Highway 623 at Columbia Furnace, Va., over Virginia Highway 623 to junction of Virginia Highway 623 and Virginia Highway 55 near Lebanon Chuch, Va.; and (d) from junction of Virginia Highway 628 and Virginia Highway 55 at Lebanon Church, Va., to Winchester, Va., over Virginia Highway 628, and return over the same routes serving all intermediate points, except restricted to no service between Woodstock, Va., and Winchester, Va. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Winchester, Va.

APPLICANT FOR FILING FREIGHT FORWARDER

No. FF-67 (Sub-No. 1) (IMPORT FREIGHT CARRIERS, INC.—Extension—Indiana, etc.), filed October 18, 1971. Applicant: IMPORT FREIGHT CARRIERS, INC., 2800 West 38th Street, Chicago, IL 60632. Applicant's representative: H. Neil Garson, Court Square West Building, 1400 North Uhle Street, Arlington, VA 22201. Authority sought under section 410, part IV of the Interstate Commerce Act, for a permit to extend operation as a freight forwarder, in interstate or foreign commerce, through use of the facilities of common carriers by railroad, and motor carrier and water carrier, in the transportation of: *General commodities*, from all ports and points of import in the United States, when moving from points outside the continental limits of the United States and Canada to points in Indiana, and Illinois (except those in Indiana and Illinois in the Chicago, Il., commercial zone as defined by the Commission), Iowa, Michigan, Minnesota, Missouri, Nebraska, Ohio, Wisconsin, and Texas.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16016 Filed 11-3-71;8:45 am]

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PART II

THE NATIONAL ARCHIVES OF THE UNITED STATES * 1934 *

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

■

PROCESSOR WHEAT MARKETING CERTIFICATE REGULATIONS

No. 213—Pt. II——1

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER C—SPECIAL PROGRAMS

PART 777—PROCESSOR WHEAT MARKETING CERTIFICATE REGULATIONS

The following republication of Part 777 of Title 7 of the Code of Federal Regulations is issued to include all amendments to date (33 F.R. 14676; 34 F.R. 5817, 6907, 11412, 13522, 19083; 35 F.R. 11689; 36 F.R. 7657, and 11019). This republication of Part 777 contains minor editorial corrections, but does not include any substantive changes.

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Interpretations.

AUTHORITY: The provisions of this Part 777 issued under secs. 379a to 379j, 52 Stat. 31, as amended by 76 Stat. 626, 78 Stat. 178, and 79 Stat. 1202; 7 U.S.C. 1379 a–j.

§ 777.1 General.

The Agricultural Adjustment Act of 1938, as amended, provides that all persons engaged in the processing of wheat into food products shall, with certain exceptions, prior to marketing any such food products or removing such food products for sale or consumption, acquire domestic wheat marketing certificates equivalent to the number of bushels of wheat contained in such products. The act also provides that upon the giving of a bond or other undertaking satisfactory to the Secretary of Agriculture to secure the purchase of and payment for such marketing certificates as may be required, and subject to such regulation as he may prescribe, any person required to have marketing certificates in order to market the food product may be permitted to market any such product without having acquired marketing certificates in advance. The regulations in this part contain the terms and conditions for implementing these and related requirements of law.

§ 777.2 Administration.

The regulations in this part will be administered by the Agricultural Stabilization and Conservation Service (hereinafter referred to as "ASCS") under the general supervision of the Administrator, ASCS. The Commodity Credit Corporation (hereinafter referred to as "CCC") will assist in carrying out the regulations through the sale and purchase of domestic certificates. Information pertaining to the regulations in this part may be obtained from the Director, Grain Division, ASCS, U.S. Department of Agriculture, Washington, D.C. 20250.

§ 777.3 Definitions.

As used in the regulations in this part and in all instructions, forms, and documents pertaining hereto, the words and phrases defined in this section shall have the meaning assigned to them as follows, unless the context or subject matter otherwise requires:

(a) "Wheat" means wheat (regardless of whether produced in the United States), as defined in the Official Grain Standards of the United States or any wheat contained in any mixed grain or in any other mixture, which if not contained in such mixture would qualify as wheat under such standards.

(b) "Food product" means:

(1) Any product processed in whole or in part from wheat, irrespective of whether such product is actually used for human consumption, except such products as are defined herein as non-food products. Such food products shall, except as provided in paragraph (c)(3) of this section, include but not be limited to the following:

(i) Flour, as defined herein. (See §§ 777.18 and 777.19 for special provisions on flour second clears which are not used for human consumption.)

(ii) Wheat which is boiled, steeped, or commercially sprouted.

(iii) Any breakfast cereal.

(iv) Any beverage.

(v) Cracked wheat (wheat grits), ground wheat, crushed wheat, rolled wheat, pearled wheat, or flaked wheat (toasted or untoasted, other than breakfast cereal) or such other similarly processed wheat as may be designated by the Administrator, except to the extent that the total product of the wheat processed is used in or marketed as animal feed or other nonfood product. To qualify as ground wheat not more than 70 percent of such total product shall pass through a No. 8 sieve, and not more than 30 percent of such total product shall pass through a No. 20 sieve.

(c) "Non-food product" means:

(1) Any of the following products when produced in a single plant from wheat, provided (i) none of the products obtained from the wheat used in the processing of such product is marketed, or removed from the plant for sale or consumption, as a food product, (ii) the product is not manufactured from only a part of the total flour streams obtained in the processing of patent flours, and (iii) the product is labeled or otherwise identified as a non-food product.

(a) Animal feed;

(b) Pet food and poultry feed;

(c) Adhesives and other industrial products unsuitable for human consumption;

(d) Any product marketed or removed from the plant for use as a component of the products listed in subdivisions (a), (b), or (c) of this subparagraph if such product is unsuitable for marketing as a food product because of ingredients added or other action taken during the total course of processing.

(2) Cracked wheat (wheat grits), ground wheat, crushed wheat, rolled wheat, pearled wheat, or flaked wheat (toasted or untoasted, other than breakfast cereal) or other similarly processed wheat designated by the Administrator to the extent that the total product of the wheat processed is used in or marketed as animal feed or other non-food product specified in this paragraph.

(3) Any product which prior to marketing or removal for sale or consumption (whichever occurs first) is determined to be unfit for human consumption by the Food and Drug Administration or any agency of a State or local government, has not been rendered unfit for human consumption by deliberate action on the part of the processor and is destroyed or disposed of for animal feed or other non-food use; or any product processed from wheat determined to be unfit for human consumption by any such agency, if the product is destroyed or disposed of for animal feed or other non-food use.

(4) Any product being manufactured from wheat as a food product which becomes unsuitable for marketing as the food product originally intended to be produced provided the conditions prescribed in subdivisions (i) and (ii) of this subparagraph are met.

(i) The loss is the result of (a) power failure, (b) strike, (c) fire, (d) Act of God, or (e) any unforseen circumstance which, upon application of the processor, is specifically approved in writing by the Director.

(ii) Such product and all other products obtained from the wheat are destroyed or prior to marketing or removal from the plant (whichever occurs first) are rendered unsuitable for marketing as a food product and are used in or marketed as animal feed or other nonfood products specified in this paragraph.

This subparagraph (4) does not, unless the loss is the result of circumstances described in subdivision (i) of this subparagraph, cover undercooked or overcooked products; screenings or other

residue from cleaning the wheat; dust; fines; floor sweepings or spillage collected in the processing plant; or any loss resulting from choke-up, starting up or shutting down processing operations.

(5) Such other products processed from wheat as the Administrator may determine to be non-food products.

(d) "Flour" means all flour (including flour clears) processed in whole or in part from wheat and shall include whole wheat or graham flour, Durum flour, malted wheat flour, stone ground flour, self-rising flour, semolina, farina and bulgur.

(e) "Person" means an individual, corporation, partnership, association, State, State agency, municipality or any other legal entity.

(f) "Food processor" means any person who processes wheat into a food product, irrespective of whether or not his principal business activity is that of a food processor. An individual who processes wheat in his own home for family use in his home is not a food processor.

(g) A "plant" or "processing plant" means collectively all processing units under one roof or located adjacent to each other except that (1) any such unit or units producing animal feed or other nonfood product exclusively shall be considered a separate plant, (2) any such unit or units processing durum wheat exclusively may be considered a separate plant, (3) any such unit in which beverage distilled spirits are placed in barrels for aging shall be considered a separate plant, (4) any such unit in which flour second clears are used in the manufacture of products which are not used for human consumption shall be considered a separate plant, and (5) any such unit in which cereal products are produced may be considered a separate plant. (6) Any such unit in which further processing of the food product first derived from the wheat occurs shall not be considered a part of the plant (for example, a bakery located in the same building or adjacent to a processing plant). The blending of a food product with another product or any other ingredient is not considered further processing for the purpose of this subparagraph (6). In the case of cereal processors where a food product is processed in a continuous operation from wheat which has been pearled or otherwise semiprocessed in the same plant location, all such processing units collectively shall be considered a plant.

(h) "United States" means all the States in the United States, the District of Columbia and Puerto Rico, including any Free Trade zones located therein.

(i) "Bushel" means 60 pounds of wheat, exclusive of dockage as defined in the Official Grain Standards of the United States or 60 pounds of wheat which is contained in mixed grain or in any mixture.

(j) "Domestic certificate" or "certificate" means a Form CCC–145, Wheat Marketing Certificate (domestic) issued by CCC, or a certificate credit established by CCC in its accounts in favor of a food processor for certificates purchased pursuant to these regulations.

(k) "Marketing year" means the twelve months beginning July 1, and ending June 30.

(l) "Director" means the Director, Grain Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, or his designee.

(m) "Commodity office" means the Kansas City ASCS Commodity Office, 8930 Ward Parkway, P.O. Box 205, Kansas City, Missouri 64141.

(n) [Reserved]

(o) "Administrator" means the Administrator, ASCS, or his designee.

(p) "GR–262" means "Announcement GR–262, Terms and Conditions of Contracts for the Acquisition of CCC wheat for Export as Wheat Flour", under which wheat is acquired from CCC for exportation in the form of flour pursuant to a barter transaction, or Export Credit Announcement GSM–1, or any other program under which CCC offers wheat at competitive world prices for export in the form of flour.

(q) "GR–346" means the regulations with respect to the "CCC Flour Export Program—Cash Payment, GR–346" (33 F.R. 15633, and any amendments thereto) under which export payments may be made on flour exports at announced payment rates.

(r) "State or State Agency" means any of the fifty states in the United States, the District of Columbia and Puerto Rico, and any agency thereof.

(s) "Institution" means an organization operating primarily as a charitable or religious institution which provides assistance on a charitable or welfare basis to needy persons and which, for the purpose of these regulations, has been approved in writing by the Administrator as an institution to which the food processor may deliver food products for distribution by donation to needy persons without acquiring certificates, or if the institution is a food processor, which may remove food products from the plant for donation to needy persons without acquiring certificates. Any institution which wishes to apply for such approval shall submit a request in writing to the Administrator specifying its name and address, and describing its activities, including the purpose for which the food products will be used. Such institution must be recognized by the Internal Revenue Service as an institution to which contributions are deductible as charitable contributions for Federal income tax purposes under section 170 of the Internal Revenue Code (26 U.S.C. 170) as evidenced by the listing of such organization in the U.S. Treasury Department's Internal Revenue Service Publication No. 78, "Cumulative List of Organizations Described in Section 170(c) of the Internal Revenue Code of 1954," as revised and supplemented.

(t) [Reserved]

(u) "Flour second clears", means a coproduct of patent flours (including Durum patent flour) which is produced in a 72 percent extraction rate type of milling operation in the United States from wheat produced in the United States and which meets the requirements of this paragraph. Flour second clears produced from Soft Red Winter wheat or White wheat (except the subclass Hard White wheat) or from a mixture which includes at least 80 percent Soft Red Winter or White wheat (except Hard White wheat) shall have an ash content of 0.75 percent or more. Flour second clears produced from Durum wheat, or from a mixture which includes more than 20 percent Durum wheat, shall have an ash content of 1.35 percent or more. Flour second clears produced from any other class or other mixtures shall have an ash content of 1 percent or more. The ash content shall be calculated to a 14 percent moisture basis. Flour second clears shall be a product of the initial milling process and shall not be a product reconstituted by the mixing or blending of the normal byproducts of 72 percent extraction type flour milling operation such as mill run, bran, shorts, middlings, or red dog. When tested for granulation in the manner described below, not less than 98 percent of the product must pass through a cloth having openings not larger than those of woven wire cloth designated "210 micron (No. 70)" in Table I of "Standard Specification for Sieves," published March 1, 1940, in L.C. 584 of the U.S. Department of Commerce, National Bureau of Standards. Granulation shall be determined as follows: Sift 100 grams of the product for 5 minutes over a sieve which is clothed with 7XX silk bolting cloth and equipped underneath with four Type A Carmichael cloth cleaners. The flour sifter shall have 15 x 15 inch sieves, 2½-inch throw and a speed of 120 r.p.m. The Type A Carmichael cloth cleaners shall have tufts of goat hair that brushes against the bottom of the silk screen. Weigh the product remaining on top of the sieve and subtract the weight from 100 to determine the percentage of granulation.

(v) "Industrial user" means any person who uses flour second clears in the United States in the production of any products not used for human consumption.

(w) "Nonqualifying clears" means clears which do not comply with the requirements of paragraph (u) of this section.

(x) "Shrinkage" as used herein, means that loss in weight resulting from normal handling of wheat, including the loss in moisture content, which occurs after the wheat is weighed and unloaded into the plant (including the servicing elevator(s)) and until it is removed for milling (i.e. prior to cleaning and tempering) or other disposition. Shrinkage shall not include the loss of weight resulting from artificial drying, screening, or cleaning, nor shall it include any loss of weight to the extent it is offset by any residue which is recovered in the form of sweepings, bin cleanout, or in similar operations.

(y) "Federal Reserve Bank" or "FRB" means the Federal Reserve Bank or Branch which serves the area in which the processor's remitting office is located or such other Federal Reserve Bank or Branch as is designated by the Kansas City Commodity Office. (See listing of banks in Appendix I.)

§ 777.4 Delegation of authority.

Authority has been delegated to the Administrator to promulgate amendments and revisions to the regulations in this part. (See 32 F.R. 7836, May 30, 1967.)

§ 777.5 Applicability of certificate requirements.

(a) *General.* Any food processor processing wheat into food products, as defined herein, in the United States on or after 12:01 a.m. local time, July 1, 1964, regardless of whether he has legal title to the wheat or the food products processed therefrom, shall for the wheat so processed acquire and surrender certificates to CCC at the time and in the manner hereinafter specified in these regulations. The cost of domestic certificates for the marketing year beginning July 1, 1964, shall be 70 cents per bushel. The cost of domestic certificates shall be 75 cents a bushel during the marketing years covered by the period beginning July 1, 1965, through June 30, 1974. In addition to the foregoing, the cost of domestic certificates shall include interest to the extent provided in other provisions of the regulations in this part.

(b) *Exemptions.* Notwithstanding the foregoing, certificates shall not be required in the circumstances specified in the following subparagraphs:

(1) *Farm-use exemption.* Certificates shall not be required for wheat which is processed into a food product for use on the farm where grown and not for sale or other disposition. To support such exemption, the processor shall, at the time of delivery of the food product, obtain a certificate from the producer, or his authorized agent, on Form CCC–148, Food Product Farm Use Certificate, to cover the quantity of food product delivered. The food processor shall exercise care to ascertain that the exemption is not claimed for a quantity of food products in excess of that actually required for use on the farm where produced. The food processor may without acquiring certificates, deliver to the person from whom he obtained the certification on Form CCC–148, a quantity of the food product not in excess of the quantity of the product processed from a quantity of wheat equivalent to the wheat received by the processor from such person less any such wheat which is received by the processor in payment of processing charges. It is not necessary that the food product be processed from the identical wheat received.

(2) *Wheat processed in bond.* Certificates shall not be required for wheat produced outside the United States which moves into the United States under customs bond, which is processed into food products in a bonded manufacturing warehouse, and which is exported without having been withdrawn from bond for consumption in the United States. To obtain such exemption, the food processor shall obtain authenticated copies of customs Form 7521—a copy evidencing the entry of wheat into a bonded manufacturing warehouse and a copy evidencing the withdrawal from customs bond for export of the food product processed therefrom.

(3) *Processing by educational institutions or other persons for purposes of student training, experimentation, research, analysis or testing.* An educational institution or other person engaged in the processing of wheat at any installation primarily for the purpose of student training, experimentation, research, analysis or testing shall not be required to acquire and surrender certificates on any wheat processed at the installation into a food product for any such purpose if the food product is not marketed or removed for sale or consumption. Food processing reports need not be submitted nor records maintained with respect to wheat exempt under this subparagraph or food products processed therefrom.

(4) *Wheat produced by and processed for use by a State or State agency.* Certificates shall not be required for wheat produced by a State or agency thereof and processed beginning July 1, 1964, for use by the State or any agency thereof. To support such exemption, the processor shall at the time of delivery of the food product or at such other time as may be approved in writing by the Director, obtain a certification from an authorized official of the State or State agency on Form CCC–148–1, to cover the quantity of food product delivered. The food processor may, without acquiring certificates, deliver to the State or agency thereof from which he obtained the certification on Form CCC–148–1 a quantity of the food product processed from a quantity of wheat equivalent to the wheat received by the processor from the State or agency thereof less any such wheat which is received by the processor in payment of processing charges. It is not necessary that the food product be processed from the identical wheat received. Any State or State agency which processes exclusively wheat produced by such State or State agency solely for its own use is not required to submit food processing reports under § 777.12.

(5) *Wheat processed for donation.* Certificates shall not be required for wheat processed beginning July 1, 1964, into a food product for donation to needy persons under a welfare or charitable program operated by an approved institution (see § 777.3(s)). If the institution is not the food processor, to support such exemption, the food processor shall, at the time of delivery of the food product, or such other time as may be approved in writing by the Director, obtain from the institution a certification on Form CCC–148–2 to cover the quantity of food product delivered for donation. The food product upon which the claim for exemption is based shall not be disposed of by the institution other than for donation to needy persons. The provisions of this subparagraph do not apply to purchases by CCC for donation.

(6) *Wheat processed for noncommercial uses.* Certificates shall not be required for wheat processed for noncommercial uses as determined by the Administrator and specified in this paragraph. Any food processor who wishes to petition the Administrator to establish in the regulations in this part an exemption for any such use shall submit to the Administrator, the name and detailed description of the food product, the use which is to be made of the food product, the name and address of the person who will make such use, and any other information deemed relevant by the food processor and as may be required by the Administrator. The exemption shall apply to wheat used in the manufacture of food products for the following uses:

(i) *Wheat processed for use by the producer or person to whom he has donated the food product.* Marketing certificates shall not be required for wheat processed beginning July 1, 1964, into a food product for use by either the producer or a person to whom he has donated the food product outside the farm where the wheat was grown. To support the exemption provided for in this subparagraph (6)(i), the processor shall, at the time of delivery of the food product or, at such other time as may be approved in writing by the Director, obtain a certification on Form CCC–148, Food Product Farm Use Certificate, covering the quantity of food product delivered and describing the use to be made of the food product.

(ii) *Wheat processed by a State or State agency for use by a State or State agency or another agency of that State.* Marketing certificates shall not be required for wheat processed beginning July 1, 1964, into a food product by a State or State agency for purposes of training and rehabilitation. Such food product must be used by the State agency processing such wheat or if the food product is removed, by another agency of that State and must not be marketed by any other person. The State agency processing the wheat must maintain complete records of the quantity of wheat processed and of the disposition of the food product processed, as required by § 777.15. Any State or State agency which processes wheat for use exclusively by such State or State agency or another agency of such State shall not be required to submit food processing reports under § 777.12.

§ 777.6 Registration of processors.

(a) *Time of registration.* Any person who processes wheat into a food product (except a person who processes wheat in his home solely for family use in his home and a person who processes wheat on a farm solely for use on such farm), shall register with the Director by making the report required by paragraph (b) of this section by May 30, 1964. Any such person who begins such processing operations subsequent to May 30, 1964, and who is not registered, shall register not later than the date he commences operations. Any person who has registered with the Director and who modifies his operations, such as by opening and closing plants subsequent to the date of his registration, or beginning to process food products, shall give notice of such change to the Director not later than the date he modifies his operations. Notification shall also be given the Director if there is a change in ownership of the plant, such notification to be made not later than the date the change is effective. An extension in time for registering with the Director or providing the notice required by this paragraph may be approved in writing by the Director for good cause shown.

(b) *Method of registration.* A person who is required to register (hereinafter called "registrant") shall submit to the Director a report on Form CCC–146, Wheat Processor Registration and Report Form. Any person failing to submit such report is subject to criminal penalties. Blank forms may be obtained from the Director or from the Commodity Office listed in paragraph (m) of § 777.3. A separate form in an original and three copies shall be prepared for each processing plant. The original and two copies shall be submitted to the Director and one copy shall be retained by the registrant. The form shall include the following information: (1) Name of the registrant, (2) Central Office address, (3) plant address, (4) list of food products and non-food products processed at each plant, (5) request for any non-food product designation which the registrant may wish to make, (6) such other information on the form as may be required by the Director.

(c) *Notification of registration by Director.* The Director will assign a primary registration number to the person and return one copy of the Form CCC–146 to him. If he operates more than one plant, he will be assigned a sub-number for each plant.

§ 777.7 Refunds or credits for flour exports.

(a) *General.* In order to expand international trade in wheat and wheat flour and promote equitable and stable prices therefor, the Commodity Credit Corporation shall upon the exportation from the United States of any wheat or wheat flour, make a refund to the exporter or allow him a credit against the amount payable by him for marketing certificates, in such amount as is determined will make United States wheat and wheat flour generally competitive in the world market, avoid disruption of world market prices, and fulfill the international obligations of the United States. Refunds shall be made as provided in GR–346. If the amount of the export payment under GR–346 exceeds the cost of the certificates for the flour, a part of the export payment equal to the cost of such certificates shall constitute the refund. If the amount of the export payment does not exceed the cost of the certificates, the entire amount of the payment shall constitute the refund.

(b) *Exports under GR–262.* In the case of wheat acquired from CCC under GR–262 at competitive world prices for export in the form of flour, the exporter will be allowed a credit in the amount of the full cost of certificates required to be acquired and surrendered to CCC for the flour exported in fulfillment of the exporter's obligations under GR–262, or certificates for such amount will be issued to the exporter. When wheat is acquired from CCC under GR–262, CCC will establish a credit or issue certificates in such amount in the exporter's favor which may be transferred to the processor from whom the flour to be exported is acquired. If the exporter does not make exportation as required under GR–262, he shall pay to CCC promptly on demand the amount of the credit or the face value of the certificates applicable to the flour not so exported, together with interest at the rate of 6.5 percent per annum from the date such credit was established or certificates issued.

§ 777.8 Penalties.

(a) *Violation of marketing restrictions—forfeitures.* Any person who beginning July 1, 1964, knowingly violates or attempts to violate or who knowingly participates or aids in the violation of any of the provisions of these regulations with regard to the acquisition of certificates prior to marketing any such food product or removing such food product for sale or consumption shall be subject to section 379i(a) of the Agricultural Adjustment Act of 1938 which provides for the forfeiture to the United States by such person of a sum equal to two times the face value of the certificates involved in such violation. Such forfeiture shall be recoverable in a civil action brought in the name of the United States.

(b) *Violation of marketing restrictions; failure to make reports or maintain records—criminal penalties.* Any person, except a producer in his capacity as a producer, who beginning July 1, 1964, knowingly violates or attempts to violate or who knowingly participates or aids in the violation of any provision of these regulations governing the acquisition, disposition, or handling of certificates or who knowingly fails to make any report or keep any record as required by these regulations shall be subject to the provisions of section 379i (b) of the Agricultural Adjustment Act of 1938 which state that such person shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $5,000 for each violation.

(c) *Fraudulent use of marketing certificates.* Any person who falsely makes, issues, alters, forges or counterfeits any certificate, or with fraudulent intent possesses, transfers, or uses such falsely made, issued, altered, forged or counterfeited certificate, shall be subject to the provisions of section 379i(c) of the Agricultural Adjustment Act of 1938 which state that such person shall be deemed guilty of a felony and upon conviction thereof shall be subject to a fine of not more than ten thousand dollars or imprisonment of not more than ten years, or both.

§ 777.9 Semi-processed wheat.

Any food processor who processes wheat into cracked wheat (wheat grits), ground wheat, crushed wheat, rolled wheat, pearled wheat, or flaked wheat (toasted or untoasted, other than breakfast cereal) or other similarly processed wheat as may be designated in § 777.3 (b)(1)(v) shall not market or remove such processed wheat for sale or consumption without acquiring certificates and surrendering certificates to CCC as provided in these regulations, unless the total product of the wheat processed is used in or marketed as a non-food product. Any person who acquires and further processes cracked wheat (wheat grits), ground wheat, crushed wheat, rolled wheat, pearled wheat, or flaked wheat (toasted or untoasted, other than breakfast cereal) or similarly processed wheat into a food product (including by mixing with a food product or packaging for marketing as a food product) shall be considered a food processor except as otherwise provided in § 777.3(f). Such person shall acquire and surrender certificates and make reports as required by the regulations of this part on the cracked wheat (wheat grits), ground wheat, crushed wheat, rolled wheat, pearled wheat, or flaked wheat (toasted or untoasted, other than breakfast cereal) or other similarly processed wheat used in the processing of the food product, unless prior to marketing the food product, or removing it for sale or consumption, he has obtained a certification from the person who produced the cracked wheat (wheat grits), ground wheat, crushed wheat, rolled wheat, pearled wheat, or flaked wheat (toasted or untoasted, other than breakfast cereal) or similarly processed wheat that he has or will acquire and surrender certificates as required by these regulations. The person processing the cracked wheat (wheat grits), ground wheat, crushed wheat, rolled wheat, pearled wheat, or flaked wheat (toasted or untoasted, other than breakfast cereal) or other similarly processed wheat into a food product shall maintain records of the quantities thereof processed into food products as required by § 777.15 and shall retain any certification obtained by him under the foregoing provisions of this section for a period of three years.

§ 777.10 Wheat Marketing Certificate (Domestic).

(a) *Description.* Wheat Marketing Certificates (Domestic), herein called "domestic certificates" or "certificates", shall be represented by Form CCC–145, Wheat Marketing Certificate (Domestic) issued by CCC, or a certificate credit established by CCC in favor of a food processor for certificates purchased from CCC pursuant to these regulations. Form CCC–145 is a serially numbered form entitled "Wheat Marketing Certificate." A Form CCC–145 domestic certificate will be identified as "domestic", will show date of issuance, bushel quantity, face value, name and address of person to whom issued, and the marketing year to which it applies, and will bear the signature of a representative of CCC authorized to sign certificates.

(b) *Sale by CCC.* CCC will sell certificates to food processors and others who offer to purchase certificates from CCC

and who pay to CCC their cost as may be required by the regulations of this part. Offers to purchase certificates for wheat processed in a specific processing report period may be made by submission of a processing report as provided in § 777.12, with a remittance payable to Commodity Credit Corporation for the cost of the certificates, or by submission of the remittance with advice that it is for purchase of wheat marketing certificates and identification of the processor number of the plant and processing period. Offers to purchase certificates not applicable to a specific processing period shall be made by submission of a remittance with advice that it is for purchase of CCC–145, Wheat Marketing Certificates, and the name and address of the payee to be shown on the certificates. All offers to purchase certificates and related remittances shall be made to the FRB unless the Commodity Office has requested that the remittances be sent to that office. Payment for certificates shall be deemed to have been made when payment is received at the FRB or the Commodity Office, except that if payment is by mail, payment shall be deemed to have been made on the date of mailing. If the Commodity Office is unable to determine the date of mailing from the postmark on the envelope, the Commodity Office will establish the date of mailing from other evidence available to it including such evidence as may be supplied by the processor. If the due date for payment without interest falls on a Saturday, Sunday, or holiday, and payment is received or mailed on the next succeeding workday, it shall be deemed to have been made on the due date. Envelopes containing payments shall, on the face show the statement "CCC Wheat Marketing Certificate Reports". Form CCC–145 will be issued for certificates sold by CCC, except that when certificates are purchased for wheat processed in a specific processing report period, CCC will establish a credit in favor of the food processor for the amount of the certificates purchased in lieu of issuing Form CCC–145.

(c) *Negotiability.* Form CCC–145 certificates may be transferred to any person by endorsement and delivery. A person acquiring certificates by transfer may surrender them to CCC to cover wheat processed into food products or may sell them to CCC.

(d) *Surrender of certificates to CCC.* Food processors shall discharge their obligation to surrender certificates to CCC by endorsing Form CCC–145 certificates and delivering them to CCC at the Commodity Office or by making payment to CCC for certificates required for wheat processed into food products in a specific processing report period. Surrender of certificates to CCC shall be deemed to have been made at the time when payment is made for certificates purchased or at the time delivery of Form CCC–145 certificates is made at the Commodity Office. If Form CCC–145 certificates are received in the Commodity Office by mail the delivery shall be deemed to have been made on the date of mailing. If the Commodity Office is unable to determine the date of mailing from the postmark on the envelope, it shall determine such date from other evidence available to it, including such evidence as may be supplied by the processor. Certificates will be deemed to be canceled by CCC upon their surrender to CCC.

(e) *Balance certificates.* If Form CCC–145 certificates delivered to the Commodity Office have a cost to processors which is more than the certificates required to be surrendered, CCC will issue Form CCC–145 certificates to the food processor for the unused balance.

(f) *Purchase by CCC.* Any valid Form CCC–145 certificates legally held by any person will be purchased by CCC if presented for purchase to the Commodity Office.

§ 777.11 Time and manner of acquiring and surrendering certificates.

(a) *General.* Food processors shall acquire certificates and surrender certificates to CCC as provided in paragraphs (b) and (c) of this section and in the manner specified in § 777.10. The number of certificates acquired by the food processor and surrendered to CCC shall be equivalent to the number of bushels of wheat used in processing the food products for which certificates must be acquired and surrendered. Such quantity of wheat shall be determined and reported to CCC as provided in §§ 777.12 to 777.14 on the basis of the weight of wheat used in processing the food products or by application of conversion factors to the weight of food products obtained in the processing operation.

(b) *Undertaking to secure purchase and payment.* Any food processor may market a food product or remove a food product for sale or consumption without first having acquired and surrendered certificates if he enters into the undertaking with CCC provided in this paragraph and complies with such undertaking. The undertaking shall be entered into by filing with the Commodity Office a properly executed "Food Processor Certificate Undertaking," Form CCC–147. The undertaking shall apply to wheat processed into food products in each plant specified in Form CCC–147 beginning with the first day of the processing report period as determined under § 777.12 in which the undertaking was received by the Commodity Office, except that the undertaking shall apply to wheat processed beginning July 1, 1964, if the undertaking is received in the Commodity Office on or before August 25, 1964. If an undertaking has been filed, it shall remain in effect unless the food processor breaches the undertaking in which event it shall terminate at such time as provided in subparagraph (4) of this paragraph, or unless the food processor notifies CCC that he wishes to withdraw the undertaking in which event it shall expire at such time as may be determined by CCC. By filing Form CCC–147 with the Commodity Office, the food processor agrees, in consideration of the right to market food products and to remove food products for sale or consumption without having first acquired and surrendered certificates as follows:

(1) He will acquire certificates from CCC and surrender the certificates for the wheat processed into food products, as required under the regulations of this part on or before the 45th calendar day after the close of the processing report period during which the wheat was processed or such later date as may be approved by the Administrator for good cause shown by the food processor.

(2) If certificates are acquired and surrendered to CCC later than the 15th calendar day after the close of the processing report period during which the wheat was processed, the cost of certificates acquired from CCC shall include interest at the rate of 6.5 percent per annum starting on the 16th calendar day after the close of the processing report period until the date of surrender of the certificates.

(3) If requested by the Administrator, the food processor will furnish a bond or letter of credit in such form and amount and within such period as may be specified by the Administrator to secure the food processor's obligations hereunder.

(4) The food processor's right to market food products and to remove food products for sale or consumption without first having acquired and surrendered certificates is conditioned on his complying with his obligations under the foregoing provisions of this undertaking. If the food processor breaches his undertaking, his right to market food products and to remove food products for sale or consumption without first acquiring and surrendering certificates shall be deemed terminated as of the first day of the reporting period with respect to which the breach occurred.

(c) *Purchase of certificates in absence of undertaking.* (1) Except as provided in paragraph (b) of this section, the food processor must acquire certificates and surrender such certificates to CCC on or before the 15th calendar day after the end of the processing report period, or such later date as may be approved in writing by the Administrator for good cause shown, for all food products sold, or removed for sale or consumption from the processing plant, during the processing report period. (Where reference is made to all food products sold or removed for sale or consumption in this section, it shall be deemed to refer to all food products sold, removed for sale or removed for consumption from the processing plant (whichever occurred first).)

(2) The cost of certificates acquired from CCC shall be as provided in subdivisions (i) and (ii) of this subparagraph.

(i) The food processor may acquire certificates from CCC without a charge for interest to the extent that he acquires and surrenders certificates not later than the last day of each processing report period (as determined under § 777.12) to cover the estimated quantity of wheat used in the processing of food products sold or removed for sale or consumption during the report period. If the certificates acquired and surrendered as provided in this subparagraph are equal to 90 percent or more of the certificates required to cover the wheat used in processing food products sold or removed for sale or consumption during the report period, any additional certificates may be acquired from CCC without a charge for interest if acquired and surrendered to CCC not later than the 15th calendar day after the end of the processing report period, or such later date as may be approved in writing by the Administrator for good cause shown. The cost of any certificates purchased from CCC after such date to cover wheat used in processing the food products sold or removed for sale or consumption during the report period shall include interest at 6.5 percent per annum starting on the first day of the processing report period in which the food products were sold or removed for sale or consumption until the date of surrender of the certificates.

(ii) If the certificates acquired and surrendered to CCC by the food processor as provided in subdivision (i) of this subparagraph are less than 90 percent of the certificates required to cover the wheat used in processing food products sold or removed for sale or consumption during the processing report period, or if the food processor does not acquire and surrender certificates as provided in subdivision (i) of this paragraph, the cost of any certificates purchased from CCC subsequent to the last day of the processing report period to cover the wheat used in processing food products sold or removed for sale or consumption during the processing report period shall include interest at 6.5 percent per annum from the first day of the report period in which the food products were sold or removed for sale or consumption until the date of surrender of the certificates.

(3) Additional reports in absence of an undertaking:

(i) *Processors reporting on the weight of wheat basis.* Food processors purchasing certificates in accordance with paragraph (c) of this section and reporting the quantity of wheat processed into food products on the basis of the weight of wheat processed shall supplement each Form CCC–160 with a statement showing: (*a*) The quantity (in cwt.) and name of food products processed in the reporting period covered by the form, (*b*) the quantity (in cwt.) and name of food products sold and removed for sale or consumption during such period, (*c*) the reporting period in which the food product(s) specified in (*b*) were processed, and (*d*) the wheat equivalent in bushels of such food product(s) calculated by using the actual conversion factor experienced in the reporting period in which processed (bushels of wheat processed into food products divided by cwt. of food products produced). The processor's Form CCC–160 for the first period not covered by an undertaking shall also include a statement showing the quantity of food products remaining in inventory from the previous reporting period(s) and the wheat equivalent of such product(s). For the purpose of determining the report period in which a food product was processed, sales and removals shall be applied to quantities processed on a first produced, first sold and removed basis.

(ii) *Processors reporting on the conversion factor basis.* Food processors who purchase certificates in accordance with paragraph (c) of this section and who report the quantity of wheat processed into food products on a food product conversion factor basis shall supplement each Form CCC–159 with a statement showing (*a*) the quantity (in cwt.) and name of food products sold or removed for sale or consumption during the period covered by the form, (*b*) the quantity of wheat used in the production of such food products, (*c*) the conversion factor(s) used in making such determinations, and (*d*) the reporting period in which the food products were processed. The processor's Form CCC–159 for the first period not covered by an undertaking shall include a statement showing the products and the wheat equivalent in bushels of the products in inventory at the beginning of the period. For the purpose of determining the report period in which a food product was processed, sales and removals shall be applied to quantities processed on a first produced, first sold and removed basis.

(d) *Wheat acquired from CCC for export as flour under GR–262.* The processor of any food products exported in fulfillment of an exporter's obligation to export under GR–262, shall surrender certificates to CCC on such food products as provided in the foregoing paragraphs of this section. A credit will be allowed or certificates issued to the exporter in the manner provided in § 777.7 for the full cost of certificates required to be acquired and surrendered to CCC on such flour.

(e) *Beverage distilled spirits.* In the case of a food processor who ages beverage distilled spirits which he has manufactured from wheat, the beverage distilled spirits are deemed to be removed from the processing plant for consumption for the purpose of these regulations when the spirits are placed in barrels for aging. Certificates shall be acquired and surrendered as provided in paragraph (c) of this section in an amount equivalent to the number of bushels of wheat used on and after July 1, 1964, in processing the beverage distilled spirits, except that a food processor may age beverage distilled spirits manufactured by him from wheat without first having acquired and surrendered certificates if he enters into the undertaking with Commodity Credit Corporation provided in this paragraph and complies with such undertaking. The undertaking shall be entered into by filing with the Commodity Office a properly executed "Food Processor Certificate Undertaking" Form CCC–147. The undertaking shall apply to wheat processed into beverage distilled spirits in each plant specified in such form beginning with the first day of the processing report period specified in the undertaking. By filing Form CCC–147 with the Commodity Office, the food processor agrees in consideration of the right to age beverage distilled spirits manufactured by him from wheat without having first acquired and surrendered certificates as follows:

(1) He will acquire certificates from Commodity Credit Corporation and surrender the certificates for the wheat processed into beverage distilled spirits and placed in a barrel for aging as required under this part, on or before the 45th calendar day after the end of the month in which such barrel of aged beverage distilled spirits is marketed or removed from the warehouse for sale or consumption or the spirits are removed from such barrel, whichever occurs first, or such later date as may be approved by the Administrator for good cause shown by the food processor. The number of certificates for the wheat used in manufacturing the beverage distilled spirits aged in each barrel shall be determined by dividing (i) the total quantity of wheat used by the processor in manufacturing all the beverage distilled spirits which are produced and placed in barrels for aging in the same marketing year as the particular barrel for which certificates are acquired, by (ii) the total number of barrels of beverage distilled spirits produced and placed in barrels for aging in such marketing year.

(2) If certificates are acquired and surrendered to Commodity Credit Corporation later than the 15th calendar day after the end of the month in which the barrel of aged beverage distilled spirits is marketed or removed from the warehouse for sale or consumption or the spirits are removed from such barrel, whichever occurs first, the cost of certificates acquired from CCC shall include interest at 6.5 percent per annum starting on the day after such 15th calendar day until the date of surrender of the certificates.

(3) The food processor shall furnish a bond or letter of credit in such form and amount and within such period as may be specified by the Administrator to secure the food processor's obligations hereunder.

(4) The food processor's right to age beverage distilled spirits without first having acquired and surrendered certificates is conditioned on his complying with his obligations under the foregoing provisions of this undertaking. If the food processor breaches his undertaking, his right to age the spirits without first acquiring and surrendering certificates shall be deemed terminated as of the first day of the report period with respect to which the breach occurred.

(f) *Inapplicability of interest.* Interest charges under this section will not apply to the extent it is established to the satisfaction of the Administrator, ASCS, that a delay in the acquisition and surrender of certificates resulted from reliance in good faith upon action or advice of an authorized official of the Department. Any processor who wishes to apply for relief under this section shall submit a request in writing supported by documentary evidence necessary to substantiate the basis on which the application is made.

§ 777.12 Food processing reports.

(a) *General.* Processing reports shall be submitted by each food processor as defined in § 777.3(f). Descriptions of the processing reports are set forth in §§ 777.13 and 777.14 and detailed instructions are provided in Appendices II and III. Processing reports which are accompanied by remittances for purchase of certificates shall be submitted to the FRB unless the Commodity Office has requested that the remittance be made directly to that office. Processing reports not accompanied by remittances shall be submitted to the Commodity Office. Addresses of FRB's are listed in Appendix I.

(b) *Processing report period.* (1) The period of processing operations which a processing report shall cover shall be one of the following:

(i) Each calendar month.

(ii) 4 or 5 week periods in combination.

(iii) Each 4 weeks.

(iv) Effective commencing with the marketing year beginning July 1, 1965, each 6-month period in the case of a food processor whose certificate liability during the previous marketing year totalled 300 bushels of wheat or less. The first 6-month report shall cover the 6-month period beginning on 12:01 a.m., July 1, and ending at midnight December 31, and succeeding reports shall cover each 6-month period thereafter. CCC reserves the right to require any processor to report in the period prescribed in (i), (ii), or (iii) above.

(v) Effective commencing with the marketing year beginning July 1, 1968, once annually in the case of a food processor whose certificate liability during the previous marketing year totalled 100 bushels of wheat or less. The report shall cover the period July 1 through June 30. CCC reserves the right to require any processor to report in the period prescribed in subdivision (i), (ii), (iii) or (iv) of this subparagraph.

(2) The food processor shall report to the Commodity Office the processing report periods which he proposes using, by listing specific report periods ending dates for the entire marketing year. The list shall be submitted with Form CCC–147, "Food Processor Certificate Undertaking," if such an undertaking is made, otherwise, with the first processing report. If such list is not submitted, the food processor shall report on a calendar month basis.

(3) Once a processing report period has been established, it shall not be changed for any marketing year except with the approval of the Administrator in writing for good cause shown.

(4) The first report period for any marketing year shall begin on July 1 at 12:01 a.m. If a food processor elects to use a processing report period as provided in paragraph (b)(1) (ii) or (iii) the first report period shall end at such time short of 5 weeks as will make the second report coincide with the plant's established 4- or 5-week reporting period. The last report period for any marketing year shall end with the close of business on June 30. If the first period is less than 7 days, such period need not be reported separately, but may be included in the report for the first full 4- or 5-week period as applicable; similarly, if the last report period is less than 7 days it may be included in the last full 4- or 5-week period as applicable.

(c) *Date of submittal.* The processing report shall be submitted not later than 15 days after the close of the processing report period (or such later date as may be approved by the Administrator for good cause shown by the food processors). If the report is received by mail, it shall be deemed to have been submitted on the date of mailing. If the Commodity Office is unable to determine the date of mailing from the postmark on the envelope, it shall determine such date from other evidence available to it, including such evidence as may be supplied by the processor. If the due date of a report falls on a Saturday, Sunday, or holiday, and the report is submitted on the next succeeding workday, it shall be deemed to have been submitted on the due date.

(d) *Basis of reporting.* The weight of wheat basis of reporting prescribed in § 777.13 shall be used except that if conversion factors are provided in § 777.14 for all the food products processed in the plant (or approved combination of plants as provided in paragraph (e) of this section) covered by the report, the food processor may elect to use the food product conversion factor basis prescribed in § 777.14. The basis of reporting used in a food processor's first report in a marketing year, i.e., weight of wheat or conversion factor basis, shall be deemed to constitute his election to use such basis for the entire marketing year, and all subsequent reports for any marketing year shall be on such basis, unless the Administrator for good cause shown approves in writing a change of the basis of reporting.

(e) *Plant or plants.* Separate processing reports shall be submitted for each plant in which any wheat is processed into a food product, for each processing report period, with the exception that a food processor may apply to the Director in advance for approval of a combination of two or more plants or a division of the plant. Such approval will be given if such change better suits the inventory, operating or records systems applicable to such plants and if the change does not impair verification of quantities processed. If such approval is given, the combination of plants will be assigned a new subnumber in the Director's notification of approval.

(f) *Number of report periods for which submitted.* A processing report shall be submitted for each report period beginning July 1, 1964, regardless of whether there was any wheat processed in the processing plant during the period.

(g) *Corrected processing reports.* If it is found that an incorrect processing report has been submitted, the food processor shall promptly prepare and submit a corrected processing report with the applicable beginning and ending dates for the period involved indicated thereon. A consolidated corrected report may, with the approval of the Director, be submitted to cover more than one processing report period. Such report shall be identified as a "Corrected Report" and transmitted with a letter of explanation. If the processor is entitled to a certificate refund, he shall submit the corrected report to the Commodity Office and indicate whether the amount of the refund should be paid to him or held for application to a subsequent report. If the processor is required to purchase additional certificates, he shall submit the corrected report together with his remittance for such certificates to the FRB, unless the Commodity Office requests that it be submitted directly to that office. If such certificates are surrendered to CCC later than the 15th calendar day after the close of the processing report period in which the wheat was processed into the food products, the cost of any certificates acquired from CCC shall include interest at the rate of 6.5 percent per annum starting on the 16th calendar day after the close of the processing report period until the date of surrender of the certificates. Any food processor, who has made an incorrect processing report, corrected such report as provided in this section, and surrendered any additional certificates due with the corrected report, will not be subject to the forfeitures referred to in § 777.8 to the extent that the Administrator determines that the error in the report was due to an honest mistake and was not intentional or the result of gross negligence.

(h) *Reports from persons engaged in the processing of wheat primarily for student training, experimentation, research analysis or testing.* Notwithstanding the foregoing provision of this section, food processing reports are not required to be submitted with respect to any wheat processed at an installation by an educational institution or other person which processes wheat at the installation primarily for the purpose of student training, experimentation, research, analysis or testing during a processing report period if all the wheat processed during the period is exempt from the requirement for the acquisition of certificates under § 777.5(b)(3). If any wheat processed into food products during the report period is not so exempt, the food processor shall report on Form CCC–159 on a calendar month basis, the quantity of wheat processed into such food products. The name of such food products shall be entered on the form if not preprinted. If conversion factors are specified in § 777.14 for the food products not so exempt, the quantity of food products produced shall be entered in Item 7(a) the applicable conversion factor in Item 7(b), and the wheat equivalent in Item 7(c). If conversion factors are not so specified, the actual number of bushels used in the processing of the food products shall be entered in Item 7(c). Such person shall state in Item 8 "Wheat not exempt under § 777.5(b)(3) processed at an installation by a person

engaged in the processing of wheat at such installation primarily for the purpose of student training, experimentation, research, analysis or testing." The remaining items of the report shall be completed in accordance with Appendix III.

(i) *Beverage distilled spirits.* In the case of a food processor who ages beverage distilled spirits manufactured by him from wheat, the first period of processing operations which a processing report shall cover shall be the period beginning July 1, 1964, and ending June 30, 1965. Thereafter, processing reports shall cover periods as provided in paragraph (b) of this section. In addition, a food processor who has submitted the undertaking provided in § 777.11(e) shall submit not later than the 15th calendar day after the end of the month in which each barrel of aged beverage distilled spirits is marketed or removed from the warehouse for sale or consumption or the spirits are removed from such barrel, whichever occurs first (or such later date as may be approved by the Administrator for good cause shown by the food processor), a report identifying the month in which this occurred, the serial number of the barrel in which such beverage distilled spirits were aged and the processing report period in which the beverage distilled spirits were produced from wheat.

§ 777.13 Weight of wheat basis of reporting.

(a) *General.* Food processors reporting the quantity of wheat processed into food products on the basis of the weight of wheat processed, shall complete Form CCC–160, Processing Report-Weight of Wheat Basis, for each reporting period in accordance with detailed instructions set forth in Appendix II of this part. Determinations of the weight of wheat processed into food products shall be made in the manner prescribed in Appendix II. No deductions may be made for any by-products of a food product obtained in the processing of the wheat.

(b) *Additional reports in absence of an undertaking.* Food processors purchasing certificates in accordance with § 777.11(c) shall supplement each Form CCC–160 with a statement containing the information required by such section.

§ 777.14 Conversion factor basis of reporting.

(a) *Report form.* Food processors reporting the quantity of wheat processed into food products on the basis of the application of conversion factors to the weight of food products obtained in the processing operation (herein called "food product conversion factor basis") shall complete Form CCC–159, Processing Report-Conversion Factor Basis, for each reporting period.

(b) *Additional ingredients.* If the food product conversion factor basis of reporting is used to determine the quantity of the wheat processed, such quantity may be reduced by the weight of any additional ingredient included in the weight of the food products and introduced during the course of processing. "Additional ingredient" for purposes of this paragraph means:

(1) Any flour and other food products including clears and malted wheat flour, which were produced prior to July 1, 1964, or for which certificates have previously been acquired and surrendered to CCC by the processor or for which certificates are required to be acquired and surrendered to CCC by another food processor from which the food product was purchased.

(2) Any nonwheat ingredient including, but not limited to malted barley flour, creta preparata, and self-rising components, but not including moisture used in the tempering of wheat or otherwise introduced in the production of the product.

(c) *Conversion factors.* For purposes of this section, the wheat equivalent of each food product named in column A shall be the number of bushels prescribed as the conversion factor for such product in column B.

A—Food product	B—Bushels of wheat equivalent per 100 pounds of product (conversion factor)
Whole wheat flour or graham flour	1.700
Flour (including clears) derived from conventional milling practices which are generally accepted in the milling industry in the United States as representing a 72 percent extraction rate operation	2.344
Semolina	2.344
Farina	2.344
Malted wheat flour	2.075
Bulgur	2.000
Rolled wheat	1.880
Cracked wheat (wheat grits), ground wheat, or crushed wheat	1.700
Heavy bran, type A (extraction approximately 40 percent heavy bran and 50 percent flour)[1]	1.310
Heavy bran, type B (extraction approximately 57 percent heavy bran and 32 percent flour)[1]	1.640
Whole wheat cereal, including fines (extraction approximately 80 percent cereal and 13 percent fines)[2]	2.090
Wheat bits cereal, including fines (extraction approximately 68 percent cereal and 27 percent fines)[2]	2.440
Cracked wheat for cereal, including fines (extraction approximately 59 percent cracked wheat and 27 percent fines)[2]	2.800
Granular cereal (extraction approximately 21 percent Granular cereal and 55 percent flour)[1]	1.827
Popped wheat (manufactured from wheat that is soaked and then immersed in boiling oil)[3]	1.813
Whole wheat flakes for cereal, including fines (extraction approximately 89 percent cereal and approximately 7 percent fines)[3]	1.870
Wheat flour-middlings blend (extraction rate approximately 80 percent, produced in a continuous operation whereby a portion of the middling streams are fed back into the flour streams; the product contains approximately 90 percent straight grade flour and 10 percent middlings)	2.083

[1] The flour produced is subject to the regular conversion factor applicable to a 72 percent extraction operation.

[2] When certificates are acquired for these products based on the conversion factors specified, certificates will be deemed to have been acquired for the fines derived in connection therewith.

[3] Wheat equivalent of product is predicated on combined nonwheat ingredients equaling approximately 25.4 percent.

(d) *Other conversion factors.* (1) There shall be no conversion factors other than those prescribed in paragraph (c) of this section, except that any food processor may petition the Administrator to establish in the regulations a conversion factor for any additional food product or flour of other rates of extraction.

(2) Any person who wishes to petition for the establishment of a conversion factor for food products other than flour shall submit to the Administrator:

(i) The name and a detailed description of the food product, and

(ii) The conversion factor which is considered to be applicable. (Such factor is to be based upon the quantity of wheat, prior to cleaning, that is required to produce 100 pounds of the particular food product), and

(iii) Evidence to substantiate the recommended conversion factor.

(3) Any person who wishes to petition for the establishment of a conversion factor for flour of other rates of extraction shall submit to the Administrator the rate of extraction for which he desires the establishment of a conversion factor, and a statement to the effect that he mills flour of such rate of extraction.

(e) *Preparation of the report.* Instructions for the preparation of Forms CCC–159 are contained in Appendix III of this part.

(f) *Additional reports in absence of an undertaking.* Food processors who purchase certificates in accordance with § 777.11(c) shall supplement each Form CCC–159 with a statement containing the information required by such section.

§ 777.15 Records.

Food processors shall establish and maintain for each processing plant or approved combination of plants accurate records and documents which are necessary (a) to determine the total quantity of wheat processed into food products based upon the weight of wheat used in processing food products as provided in § 777.13 and Appendix II or based upon the application of conversion factors to the weight of food products obtained in the processing operation as provided in § 777.14 and Appendix III, whichever is applicable and (b) to support all reports required by the regulations in this part. A food processor shall establish and maintain accurate records of all sales of food products and removals of food products for sale and consumption from the processing plant unless he elects to have all wheat processed during each reporting period considered as having been sold or removed for sale or consumption during such reporting period.

The food processor's failure to maintain such records shall constitute his election to have wheat processed during each reporting period considered as having been sold or removed for sale or consumption during such reporting period. Representatives of the U.S. Department of Agriculture may examine the foregoing records and documents and the stocks of wheat and food products in storage or in the processing plant at any time during normal business or working hours. All such records shall be retained for a period of three years.

§ 777.16 Casualty losses.

(a) CCC shall make a refund to the food processor or allow him a credit against the amount payable for certificates to the extent of the cost of certificates acquired and surrendered to CCC on any food products which the food processor establishes to the satisfaction of the Administrator was destroyed or rendered unmarketable for use as a food product as a result of a fire, casualty, or act of God prior to sale or removal for sale or consumption (whichever occurs first).

(b) CCC shall make refund to an industrial user to the extent of the value of certificates acquired and surrendered on wheat used in producing flour second clears when it is established to the satisfaction of the Administrator that flour second clears acquired by the industrial user were destroyed or rendered unfit for human consumption as a result of a fire, casualty, or act of God.

§ 777.17 Payments in dispute.

The making of a payment to CCC for certificates, or the surrender of certificates to CCC by a food processor, or the making of an undertaking by the processor pursuant to § 777.11, shall not deprive the food processor of any right which he might otherwise have to assert a claim in the event of a dispute as to the number of certificates, if any, required to be acquired and surrendered by him to CCC or as to the refunds or credits against the cost of certificates to which he or the exporter of flour is entitled on flour exported.

§ 777.18 Food processors manufacturing flour second clears.

(a) *General.* The food processor is required to purchase and surrender certificates for the wheat used in processing flour second clears in accordance with the other provisions of these regulations. Refunds of the cost of such certificates shall be made only to industrial users of flour second clears as provided in § 777.19.

(b) *Certification.* The processor shall upon request from the buyer, distributor, or other transferee of flour second clears execute and furnish a Form CCC–165, Processor Certification, Flour Second Clears, to establish that the flour second clears produced by him and sold to the buyer meet the definition of flour second clears. A separate invoice and a separate Form CCC–165 is required for each separate railroad car, truckload, or other applicable shipment unit of flour second clears. The processor shall issue only one original Form CCC–165 for each such unit. The processor shall issue only one original Form CCC–165 for each shipment unit of blended flour second clears. If the blend is constituted in whole or in part of flour second clears produced by the processor in a different plant than the plant in which the blending is accomplished, a separate Form CCC–165 must be issued by each plant from which the flour second clears were transferred and such form must be retained in the records of the plant in which the blending is accomplished to identify the use of such flour second clears in the blend.

(c) *Blending by the processor.* (1) Except as provided in subparagraph (2) of this paragraph if a processor blends flour second clears with either nonqualifying clears, other types of flour or any other ingredient, or if the processor blends flour second clears produced by him with flour second clears produced by a different processor, the entire blended quantity shall be ineligible for refund.

(2) A processor may blend flour second clears under any of the following conditions without the blended lot thereby becoming ineligible for refund:

(i) If the processor blends together different quantities of flour second clears produced by him, including quantities of flour second clears produced from different classes of wheat and quantities of flour second clears produced in two or more plants;

(ii) If the processor blends flour second clears with nonqualifying clears, other types of flour or any other ingredient in a plant in which the processor, acting as an industrial user, uses the blended lot in the production of a product not for human consumption; or

(iii) If the processor mixes quantities of flour second clears with nonqualifying clears which, except for ash content, meets the requirements of § 777.3(u): *Provided* (*a*) All of the clears were produced in the same plant as where the mixing occurs, and (*b*) the clears were processed either from the same class of wheat, or if processed from different classes of wheat all of the clears in the mixture are subject to the same minimum ash requirements of § 777.3(u). The resultant product shall qualify as flour second clears if it meets the requirements of § 777.3(u), irrespective of whether all of the clears which constituted the blend conformed to the ash requirements of § 777.3(u) prior to the time the combining occurred.

(d) *Records.* The processor shall retain a copy of all Forms CCC–165 which he issues. Each Form CCC–165 shall be identified to its respective invoice number and the quantity invoiced. To support the certifications, the processor must retain laboratory reports and mill records which identify production runs by date of processing, lot number, type of wheat processed, and which can be identified to the flour second clears covered by an invoice. The laboratory reports shall contain an analysis of the ash content of the flour second clears but need not show the granulation of the clears. In the case of blended flour second clears, it is necessary that (1) all the flour second clears used in the blend be sampled and analyzed at the processor's plant where the flour second clears were produced prior to the blending and issuance of the Forms CCC–165 and (2) the records reflect the quantity of each type of flour second clears used in the blend except that the ash analysis which supports blended clears as described in paragraph (c)(2)(iii) of this section must be based on a composite of samples which are representative of the clears shipped and not on samples of the production runs comprising the shipments. The forms and records required of processors of flour second clears shall be retained and be subject to examination as provided in § 777.15.

§ 777.19 Industrial users of flour second clears.

(a) *General.* Refunds of the certificate cost for wheat used in processing flour second clears shall be made to industrial users who use the flour second clears in producing products not used for human consumption as provided in this section. The refund shall be based on the hundredweight of flour second clears used to produce a product not for human consumption, determined as provided in paragraph (h) of this section, multiplied by the refund rate determined as provided in paragraph (e) of this section.

(b) *Registration of industrial users of flour second clears*—(1) *Requirement.* Refunds will be paid only to industrial users registered with the Director.

(2) *Method of registration.* Industrial users who wish to register shall submit to the Director, Form CCC–149, Industrial User Registration Form, in an original and two copies. Each plant must be registered separately. Forms may be obtained from either the Director or the Commodity Office.

(3) *Notification of registration by the Director.* The Director will assign an industrial user number and return one copy of the Form CCC–149 to notify the industrial user that he is registered and of the number assigned to his plant.

(c) *Reports and claims for refund.* The industrial user shall submit claims for refund to the Commodity Office on Form CCC–161, Industrial Users Production Report and Claim for Refund, except that industrial users producing nonfood products only, from flour second clears and nonqualifying clears, may submit claims for any reporting period described in paragraph (d) of this section in which such production occurred on Form CCC–161–1, Industrial Users Production Report and Claim for Refund (for users who produce nonfood products only). These forms shall be used by the industrial user to report all products manufactured from flour second clears and nonqualifying clears in a plant during a reporting period. Production reports on Form CCC–161 or Form CCC–161–1 must be submitted for each reporting period after the period covered by the first claim for refund even though the period may not involve a claim for refund. Payment will not be made of any claim until the Commodity Office has received from the industrial user Forms CCC–161 or Forms CCC–161–1 covering all prior reporting periods for which the user must file a report. Where reference is made to Form CCC–161 in this section (except in paragraph (h)(3)), it shall also be deemed to refer to Form CCC–161–1.

(d) *Reporting periods.* (1) The period of processing operations which Form(s) CCC–161 must cover shall be one of the following:

(i) Each calendar or fiscal month,

(ii) Each 4- or 5-week period in combination, or

(iii) Each 4 weeks.

(2) The first report shall cover the first processing report period beginning on or after 12:01 a.m., January 1, 1966, for which the industrial user wishes to file a claim for refund. If an industrial user elects to use a reporting period other than the calendar month, the first reporting period shall end at such time short of 5 weeks as will make the second report coincide with the established fiscal month or 4- or 5-week reporting period.

(3) The industrial user of flour second clears shall report to the Commodity Office the reporting periods which he proposes using, by listing specific reporting period ending dates for the entire marketing year. If such list is not submitted, the industrial user shall report on a calendar month basis.

(4) Once a reporting period has been established, it shall not be changed except with the approval of the Administrator in writing for good cause shown.

(e) *Refund rate.* The refund rate for the marketing years beginning July 1, 1965, and July 1, 1966, shall be $1.71 per hundredweight, which was determined on the basis of a conversion factor of 2.283, multiplied by the applicable certificate cost rounded to the nearest cent. The refund rate for the marketing year beginning July 1, 1967, shall be $1.69 per hundredweight, which was determined on the basis of a conversion factor of 2.252, multiplied by the applicable certificate cost rounded to the nearest cent. The refund rate for the marketing year beginning July 1, 1968, and July 1, 1969, shall be $1.68 per hundredweight, which was determined on the basis of a conversion factor of 2.240, multiplied by the applicable certificate cost rounded to the nearest cent. The refund rate for the marketing years covered by the period beginning July 1, 1970, through June 30, 1974, shall be $1.67 per hundredweight, which was determined on the basis of a conversion factor of 2.230 multiplied by the applicable certificate cost rounded to the nearest cent. The refund rate to be used in the rate applicable to the marketing year in which the flour second clears were produced as shown by the processor on Form CCC–165.

(f)(1) *Basis for claiming refund.* Refund of certificate costs may be claimed on flour second clears as provided in this section if the flour second clears were received into the industrial user's plant on and after January 1, 1966, and were either sold by the processor (i.e. title was transferred) or shipped from the processor's plant on or after November 3, 1965. The industrial user may claim the refund only after the flour second clears are used in or manufactured into products which can only be used for other than human consumption or at such time as the nonfood use of the products manufactured has been established by labeling, by identification on the invoice of a product sold or removed from the plant in bulk, or by use.

(2) If a product produced from flour second clears for which an industrial user has received a refund is diverted to food use, the industrial user shall file a corrected Form CCC–161 and reimburse CCC in the amount of the overpayment of refund plus interest at 6.5 percent per annum starting on the date of the CCC sight draft by which refund was made to the date of payment to CCC.

(g) *Invoicing requirement.* Industrial user's invoices covering a product(s) produced from flour second clears on which a refund is requested and which can be utilized as either food or nonfood must include the statement: "This product is not for human consumption."

(h) *Determination of quantity of flour second clears not used for human consumption.* The quantity of flour second clears eligible for a refund shall be determined as provided in this paragraph, unless otherwise specified in these regulations.

(1) If, during a reporting period, an industrial user produces only products not used for human consumption and uses flour second clears either alone or in combination with nonqualifying clears or other ingredients in such production, the quantity of flour second clears eligible for a refund shall be the total number of hundredweight of flour second clears so used.

(2) If, during a reporting period, an industrial user produces both products not used for human consumption and products used for human consumption and uses flour second clears either alone or in combination with nonqualifying clears or other ingredients in such production, the quantity of flour second clears eligible for a refund shall be determined by prorating the flour second clears used between the products produced for human consumption and the products produced for other than human consumption.

(3) If any processing involving flour second clears, nonqualifying clears or other ingredients, either alone or in combination with one another is accomplished separately from any other processing, and such separate processing is supported (in a manner satisfactory to the Administrator) by production records which identify the products to the materials used in such separate processing operation, the industrial user may report the production from such processing operation separately on Form CCC–161. (If the processing involves only other ingredients and no flour second clears or nonqualifying clears are used, such processing need not be reported.) Any period in which such separate processing operation is accomplished is referred to as a "production period" on Form CCC–161. If separate processing is claimed for any period when in fact there was not a physical separation in the production line, from the preceding and succeeding periods, of materials used and products produced, the entire claim is invalid and the industrial user submitting such claim may be subject to penalties under Federal civil and criminal statutes.

(i) *Records.* In submitting Form CCC–161 for a refund, the industrial user agrees:

(1) That he shall maintain accurate records and documents which support the information shown on Form CCC–161 and establish that he is eligible for a refund is claimed. Documents necessary shall include, among other things, Forms CCC–165 received from the processor who produced the flour second clears or Forms CCC–165–1 received from the distributor of the flour second clears which establish that the flour second clears on which a refund is requested meet the requirements of the definition as provided in § 777.3(u), production records which show the quantity of clears utilized and products produced therefrom, and records which establish that the products obtained from the flour second clears for which a refund is claimed were not used for human consumption or were disposed of other than for human consumption.

(2) That representatives of the USDA may examine such records and documents at any time during normal business or working hours.

(3) That all refunds by CCC are subject to verification that the flour second clears for which such refunds are made were produced into products not used for human consumption.

(4) That all such records and documents shall be retained for a period of 3 years.

(j) *Corrected claims for refund.* If an incorrect Form CCC–161 has been submitted to the Commodity Office, the industrial users shall promptly prepare and submit a corrected Form CCC–161. If two or more consecutive reporting periods are involved, a consolidated corrected report may, with the approval of the Director, be submitted to cover more than one reporting period. All corrected reports shall be identified by the original report number(s) and transmitted with a letter of explanation. If the industrial user is entitled to additional refund, payment will be made by the Commodity Office. If an amount is due CCC, the industrial user shall include with the corrected report payment of the amount due CCC, plus interest at 6.5 percent per annum starting on the date of the CCC sight draft by which the excess refund was made to the date of payment to CCC.

(k) *Performance security.* If requested by the Administrator, the industrial user shall furnish a bond or letter of credit in such form and amount as may be specified by the Administrator to

protect the Department from any damages resulting from action by the industrial user.

(l) *Blended flour second clears.* A blended quantity of flour second clears acquired by the industrial user shall be ineligible for refund if:

(1) The quantity had been blended by the processor from flour second clears and nonqualifying clears or any other ingredient unless permitted by § 777.18 (c)(2);

(2) The quantity had been blended by the processor from flour second clears produced by him and flour second clears produced by another processor; or

(3) The quantity had been blended by a distributor or any person other than the processor of the flour second clears. A blended quantity of flour second clears acquired by the industrial user may qualify for a refund if the quantity had been blended by the processor in accordance with the provisions of § 777.18 (c)(2). The industrial user may also blend flour second clears in a plant in which the clears are used in the production of a product not for human consumption. An industrial user who acquires blended flour second clears should exercise care that the blend acquired by him is in compliance with the provisions of § 777.18(c)(2).

§ 777.20 Sales of flour second clears by distributors.

(a) *General.* If flour second clears are sold to an industrial user by a distributor, broker, or agent (herein referred to as a distributor) and the distributor elects not to furnish the industrial user with the Form CCC–165 issued by the processor, the industrial user may qualify for a refund on such clears only if the industrial user has obtained in lieu thereof a Form CCC–165–1 properly executed by a distributor who is registered with the Director.

(b) *Time of registration.* A distributor must be registered prior to issuing to an industrial user any Form CCC–165–1 which is used to support a claim for refund.

(c) *Method of registration.* A distributor who wishes to be registered must submit an application to the Director in writing that he wishes approval to issue to buyers of flour second clears properly executed Forms CCC–165–1 which may be used in lieu of Form CCC–165 as a basis for a claim for refund.

(d) *Conditions for registration.* The distributor shall agree in his application for registration:

(1) That he will properly execute Forms CCC–165–1 and shall maintain accurate records and documents (including Forms CCC–165 and a copy of each related Form(s) CCC–165–1) which verify that the flour second clears shipped to an industrial user for which a Form CCC–165–1 was issued are the flour second clears which he had received supported by a Form CCC–165.

(2) That any pertinent records and documents will be retained for a period of 3 years and that representatives of USDA may examine them at any time during normal business or working hours.

(3) That he will, if requested by the Administrator, furnish a bond or letter of credit in such form and amount as may be specified by the Administrator to protect the Department from any damages that may result from action by the distributor.

(e) *Notification of registration by the Director.* The Director will assign a distributor registration number and notify the distributor in writing that he is registered and give the number assigned to him unless it is determined that to permit such distributor to be registered is not in the best interest of the United States.

(f) *Blending.* If flour second clears supported by more than one Form CCC–165 are blended together or if flour second clears are blended with nonqualifying clears or any other ingredient by the distributor, the entire blended lot shall be ineligible for refund.

APPENDIX I—LIST OF FEDERAL RESERVE BANKS AND BRANCHES

Federal Reserve Bank	*Address*
Boston	30 Pearl Street, Boston, Mass. 02106.
New York	33 Liberty Street, New York, N.Y. 10045.
Buffalo Branch	160 Delaware Avenue, Buffalo, N.Y. 14240.
Philadelphia	925 Chestnut Street, Philadelphia, Pa. 19101.
Cleveland	1455 East Sixth Street, Post Office Box 6387, Cleveland, Ohio 44101.
Cincinnati Branch	105 West Fourth Street, Post Office Box 999, Cincinnati, Ohio 45201.
Pittsburgh Branch	717 Grant Street, Post Office Box 867, Pittsburgh, Pa. 15230.
Richmond	100 North Ninth Street, Richmond, Va. 23213.
Baltimore Branch	114–120 East Lexington Street, Baltimore, Md. 21203.
Charlotte Branch	401 South Tryon Street, Charlotte, N.C. 28201.
Atlanta	104 Marietta Street NW., Atlanta, Ga. 30303.
Birmingham Branch	1801 Fifth Avenue North, Post Office Box 2574, Birmingham, Ala. 35202.
Jacksonville Branch	515 Julia Street, Post Office Box 929, Jacksonville, Fla. 32201.
Nashville Branch	301 Eighth Avenue North, Nashville, Tenn. 37203.
New Orleans Branch	147 Carondelet Street, Post Office Box 61630, New Orleans, La. 70160.
Chicago	230 South La Salle Street, Post Office Box 834, Chicago, Ill. 60690.
Detroit Branch	160 Fort Street West, Post Office Box 1059, Detroit, Mich. 48231.
St. Louis	411 Locust Street, Post Office Box 442, St. Louis, Mo. 63166.
Little Rock Branch	West Capital and Spring Street, Post Office Box 1261, Little Rock, Ark. 72203.
Louisville Branch	410 South Fifth Street, Post Office Box 899, Louisville, Ky. 40201.
Memphis Branch	170 Jefferson Street, Post Office Box 407, Memphis, Tenn. 38101.
Minneapolis	73 South Fifth Street, Minneapolis, Minn., 55440.
Helena Branch	400 North Park Avenue, Helena, Mont. 59601.
Kansas City	925 Grand Avenue, Kansas City, Mo. 64198.
Denver Branch	1111 17th Street, Denver, Colo. 80217.
Oklahoma City Branch	226 Northwest Third Street, Oklahoma City, Okla. 73125.
Omaha Branch	102 South 17th Street, Omaha, Nebr. 68102.
Dallas	400 South Arkard Street, Station K, Dallas, Tex. 75222.
El Paso Branch	301 East Main Street, Post Office Box 100, El Paso, Tex. 79999.
Houston Branch	1701 San Jacinto Street, Post Office Box 2578, Houston, Tex. 77001.
San Antonio Branch	210 West Nueva Street, Post Office Box 1471, San Antonio, Tex. 78206.
San Francisco	400 Sansome Street, San Francisco, Calif. 94120.
Los Angeles Branch	409 West Olympic Boulevard, Post Office Box 2077, Los Angeles, Calif. 90054.
Portland Branch	915 Southwest Stark Street, Post Office Box 3456, Portland, Oreg. 97208.
Salt Lake City Branch	120 South State Street, Post Office Box 780, Salt Lake City, Utah 84110.
Seattle Branch	1015 Second Avenue, Post Office Box 3567, Seattle, Wash. 98124.

Processors are requested to use the Post Office Box number only when sending remittances to the Federal Reserve Bank or Branch for which both the street address and Post Office Box number are shown in Appendix I.

APPENDIX II—INSTRUCTIONS FOR PREPARATION OF PROCESSING REPORT—WEIGHT OF WHEAT BASIS

Food processors reporting on the weight of wheat basis shall submit an original and one copy of Processing Report-Weight of Wheat Basis, Form CCC–160, as set forth in § 777.12(a). Retain a copy of the processing report and all copies of any supporting certifications and documents in your files. Prepare the report as follows:

(1) Enter in Item 1 the processor's name and address.

(2) Enter in Item 2 the processor number.

(3) Enter in Item 3 the processing report period beginning and ending dates.

(4) Enter in Item 4A the inventory of wheat at the processing plant location as of the beginning of the reporting period. Specify the total of all stocks of wheat (including stocks stored for others) in the processing plant and in any elevator operated by the processor at the processing plant location servicing the processing plant which remains in its whole form and has not been pearled, boiled, steeped, or commercially sprouted. Except as of July 1, 1964, use the ending inventory from the previous report. As of July 1, 1964, the quantity of such wheat shall be determined by weighup or by accurate measurement of the wheat stored. Deduct from the uncleaned quantity included in the beginning inventory, any officially determined dockage contained in the equivalent quantity of the last received wheat. If the last received equivalent quantity includes any wheat received on a gross weight basis on which no official dockage determination was made, but the dockage content was unofficially determined in accordance with usually accepted testing methods, the unofficial dockage (rounded down to the nearest half percent) may be deducted from the quantity so received.

(5) Enter in Item 4B the weight of all wheat received in the processing plant and in any elevator operated by the processor at the processing plant location servicing the processing plant (including stocks owned by others) during the reporting period. Such quantity shall be the gross weight received less any officially determined dockage. If any wheat is received on a gross weight basis and no official dockage determination was made, but the dockage content is unofficially determined in accordance with usually accepted testing methods, the unofficial dockage (rounded down to the nearest half percent) may be deducted from such quantity. If any wheat has been artificially dried (through the use of artificial heat) at the elevator operated by the processor at the processing plant location, or at the plant prior to processing in order to permit it to be safely stored, the processor may determine the quantity to be entered in Item 4B by using the gross weight of such wheat after it has been artificially dried less dockage (as determined in this paragraph), except that the weight of wheat artificially dried to less than 12.5 percent moisture shall be adjusted upward to reflect a 12.5 percent moisture. When the weight after artificial drying through the use of artificial heat is used, the processor must show in his records the gross weight and the moisture content of the wheat after drying. If the processor is unable to weigh the wheat as it is removed from the dryer, he may determine the weight which is lost through artificial drying of such wheat on the following basis: Multiply the receiving weight by 1.2 times the percentage difference between the moisture content of the wheat prior to drying and the moisture content of the wheat after drying or 12.5 percent whichever is higher. Processors shall use one of the following moisture meters or methods to determine the moisture content of the wheat: (a) Motomco, (b) Steinlite, (c) Air-oven method, or (d) Tag-heppenstall. When the Tag-heppenstall is used, care should be taken to thoroughly mix the sample prior to testing. If the processor wishes to use any other meter or method to determine moisture, he must first receive approval from the Director.

(6) Enter in Item 4C the total of Items 4A and 4B.

(7) Enter in Item 5A the quantity of wheat processed into food products on which the farm use exemption set forth in § 777.5(b)(1) applies. Enter the actual quantity processed into the food product delivered, or the quantity of wheat obtained by applying the conversion factor provided in § 777.14 to the quantity of food product delivered. Such quantity must be supported by Forms CCC–148 executed by the persons to whom the food product was delivered.

(8) Enter in Item 5B the quantity of wheat processed in bond during the period for which an exemption is claimed under § 777.5 (b)(2). Such quantity must be supported by authenticated copies of Customs Form 7531; (i) a copy evidencing the entry of the wheat into a bonded manufacturing warehouse and (ii) a copy evidencing the withdrawal from customs bond for export of the food product manufactured from such wheat.

(9) Enter in Item 5C the quantity of wheat which was produced by and processed for use by a State or State agency during the period for which an exemption is claimed under § 777.5(b)(4). Such quantity(s) must be supported by Forms CCC–148–1 executed by an authorized official or employee of the State or State agency.

(10) Enter in Item 5D the quantity of wheat processed into food products for donation for which an exemption is claimed under § 777.5(b)(5). Such quantity(s) must be supported by Forms CCC–148–2 executed by an authorized official or employee of the Institution receiving the food product(s).

(11) Enter in Item 5E the quantity of wheat processed into food products which is for noncommercial uses as stated in § 777.5 (b)(6). (Identify use in the remarks section of Form CCC–160.) Such quantity(s) must be supported by a certificate from the user in such form as approved by the Administrator, ASCS, to cover the food product delivered and describing the use to be made of the food product.

(12) Enter in Item 5F the quantity of wheat processed into nonfood products during the period (see § 777.3(c)). Such quantity shall be the gross weight less any officially determined dockage. If any wheat is processed into nonfood products and no official dockage determination was made and if the food processor reduces the quantity of wheat received for unofficially determined dockage, the dockage for which the reduction is made must be determined in accordance with usually accepted testing methods and rounded down to the nearest half percent. Do not include the weight of any byproduct of food products, or the weight of any screenings or other residue from cleaning the wheat used or to be used by the food processor for processing into food products. Also do not include flour second clears which are not used for human consumption. If a deduction is taken for loss due to unsuitable production, pursuant to § 777.3(c)(4), identify in the "remarks" space on Form CCC–160 the cause of such loss.

(13) Enter in Item 5G the weight of all wheat removed from the processing plant and from any elevator operated by the processor at the processing plant location servicing the processing plant for shipment, sale, delivery to the owner, transfer to other plants or other dispositions as wheat. Such quantity shall be the gross weight of the wheat removed less any officially determined dockage. If any wheat is removed and no official dockage determination made, and if the food processor reduces the quantity of wheat received for unofficially determined dockage, the dockage for which the reduction is made must be determined in accordance with usually accepted testing methods and rounded down to the nearest half percent. Also include in Item 5G the quantity of any wheat destroyed. Do not include the weight of any byproducts of food products or the weight of any screenings or other residue from cleaning wheat used or to be used by the food processor for processing into food products.

(14) Enter in Item 5H the quantity of shrinkage, if any (including shrinkage incurred through aeration), applicable to the weight of wheat received at the processing plant location during the processing report period (Item 4B). Such shrinkage quantity shall not exceed three-fifths of 1 percent of the quantity entered in Item 4B. Any shrinkage deducted of one-eighth of 1 percent or less must be determined on a reasonable basis which can be supported by the processor. Any shrinkage deducted in excess of one-eighth of 1 percent must be based on the most recent representative experience for which the processor has records reflecting his average shrinkage per bushel of wheat received. Shrinkage resulting from artificial drying (through the use of artificial heat), cleaning, or screening of wheat is not eligible for deduction as shrinkage. Processors may, however, reflect in the manner prescribed in Item 5 of this appendix, the loss of weight resulting from artificial drying (through the use of artificial heat) prior to processing in order to permit the wheat to be safely stored.

If the processor can establish his actual shrinkage for the 1964 marketing year, he may elect to enter in Item 5H of his processing report for the period ending June 30, 1965, the actual shrinkage for the 1964 marketing year (not to exceed three-fifths of 1 percent of the total weight of wheat received at the processing plant during the marketing year as reported in Item 4B) less the total shrinkage previously reported. In such case he shall enter in the remarks section of the processing report "shrinkage adjusted based on actual experience for the current marketing year."

Shrinkage claimed for the 1965 and subsequent marketing years must be adjusted to actual shrinkage for the marketing year (not to exceed three-fifths of 1 percent of the total weight of wheat received during the marketing year as reported in Item 4B) in the same manner as provided on an optional basis for the 1964 marketing year. Such adjustment shall be made in the processing report for the period ending June 30 of the marketing year involved.

If the processor elects to take a closing inventory as prescribed in the following paragraph (Item 15) as of his fiscal closing date in lieu of taking a closing inventory as of June 30 of each marketing year, the foregoing provisions applicable to June 30 reporting shall apply to the report covering the fiscal closing date.

(15) Enter in Item 5I the inventory of wheat as of the end of the reporting period, including all stocks of wheat in the processing plant, and in any elevator operated by the processor at the processing plant location servicing the processing plant (including stocks stored for others) which remains in its whole form and has not been pearled, boiled, steeped, or commercially sprouted. Deduct from the unclean quantity included in the ending inventory any officially determined dockage contained in the equivalent quantity of the last received wheat. If the last received equivalent quantity includes any wheat received on a gross weight basis and no official dockage determination was made, but the dockage content was unofficially determined in accordance with the usually accepted testing methods, the unofficial dockage (rounded down to the nearest half percent) shall be deducted from the quantity so received.

If accurate book inventory records are maintained, such book quantities may be used except as of June 30, or the processor's own fiscal year closing date, whichever is applicable for each marketing year. As of whichever of such dates is applicable, the quantities of such wheat shall be determined by weighup or by accurate measurement of the wheat stored. Once the ending inventory is determined by weighup, it shall continue to be determined on a weighup basis for each marketing year thereafter unless prior approval to change is received from the Director for good cause shown. The processor may

elect to use a fiscal closing date other than June 30, of each year.

When such an election is taken, the processor must notify the Commodity Office in writing of his election and specify the fiscal closing date to be used. Such notice must be made at least 30 days in advance of the actual fiscal closing date. An inventory as prescribed in the preceding paragraph of this item may be required as of June 30 of any marketing year if there is to be a change in the cost of marketing certificates for the succeeding marketing year.

If accurate book inventory records are not maintained, the quantities of wheat for each reporting period shall be determined by weighup or by accurate measurement of the wheat.

(16) Enter in Item 5J the total of Items 5A through 5I.

(17) Enter in Item 6 the result obtained by deducting the quantity shown in Item 5J from the quantity shown in 4C.

(18) Enter in Item 7D the cost of wheat marketing certificates (domestic) required. Obtain the amount by multiplying the quantity shown in Item 6 by the applicable cost of certificates as specified in § 777.5(a).

(19) Enter in Item 7A the amount of certificates enclosed. Also enter the certificate serial numbers.

(20) Enter in Item 7B the amount of remittance enclosed.

(21) Enter in Item 7C the amount of certificates previously surrendered to CCC for the specific processing report period and the date of surrender.

(22) In the case of a food processor who ages beverage distilled spirits manufactured by him from wheat and who has filed the undertaking provided in § 777.11(e), enter in the remarks section the identifying serial numbers of each barrel in which the beverage distilled spirits are placed for aging. The reverse side of the form may be used if necessary.

(23) The certification shall be executed by an authorized official of the food processor. Also enter the title of the official and the date in the spaces provided.

APPENDIX III—INSTRUCTIONS FOR PREPARATION OF PROCESSING REPORT—CONVERSION FACTOR BASIS

Food processors reporting on a food product conversion factor basis shall submit an original and one copy of the Processing Report-Conversion Factor Basis, Form CCC–159, as set forth in § 777.12(a). Retain a copy of the report and supporting certifications and documents in your files. Prepare the report as follows:

(1) Enter in Item 1 the processor's name and address.

(2) Enter in Item 2 the processor number.

(3) Enter in Item 3 the processing report period beginning and ending dates.

(4) Enter in Item 4 the names of the respective food products processed in the plant during the reporting period, if the names of these products are not preprinted on the form.

(5) Enter in Item 5 for each food product processed during the reporting period the total quantity in hundredweights which was processed. (When flour is produced, include the weight of all clears.) Do not include any food product which prior to marketing or removal from the plant (whichever occurs first) becomes unsuitable as a food product and is not used for human consumption.

(6) Enter in Item 6A the hundredweight of food product processed on which the farm-use exemption set forth in § 777.5(b)(1) applies. Such weight must be supported by Forms CCC–148 executed by the person to whom the food product was delivered.

(7) Enter in Item 6B the hundredweight of the food product processed in bond during the period for which an exemption is claimed under § 777.5(b)(2). Such quantity must be supported by authenticated copies of Customs Form 7521; (i) a copy evidencing the entry of the wheat into a bonded manufacturing warehouse and (ii) a copy evidencing the withdrawal from customs bond for export of the food product manufactured from such wheat.

(8) Enter in Item 6C the hundredweight of food product processed from wheat which was produced by and processed for use by a State or State agency during the period for which an exemption is claimed under § 777.5(b)(4). Such quantity(s) must be supported by Forms CCC–148–1 executed by an authorized official or employee of the State or State agency.

(9) Enter in Item 6D the hundredweight of food product processed for donation for which an exemption is claimed under § 777.5(b)(5). Such quantity(s) must be supported by Forms CCC–148–2 executed by an authorized official or employee of the institution receiving the food product(s).

(10) Enter in Item 6E the hundredweight of food product processed which is for noncommercial uses as stated in § 777.5(b)(6). (Identify use in the remarks section of Form CCC–159.) Such quantity(s) must be supported by a certificate from the user in such form as approved by the Administrator, ASCS, to cover the food product delivered and describing the use to be made of the food product.

(11) If the weight of any additional ingredient set forth in paragraph (b) of § 777.14 is included in the weights entered in Item 5, enter in Item 6F such total weight minus the total weight of any such ingredients included in the weights entered in A, B, C, D, and E of this Item 6. The food processor must maintain records on an individual additional ingredient basis which substantiates any entry in this Item 6F.

(12) Enter in Item 6G the total of Items 6A, B, C, D, E, and F.

(13) Enter in Item 7A the difference between Item 5 and 6G.

(14) Enter in Item 7B the applicable conversion factor from § 777.14.

(15) Enter in Item 7C the result of Item 7A times Item 7B.

(16) Enter the total of Item 7 in the space provided.

(17) Enter in Item 8 any applicable remarks.

(18) Enter in Item 9D the cost of wheat marketing certificates (domestic) required. Obtain the amount by multiplying the quantity shown in Item 7C by the applicable cost of certificates as specified in § 777.5(a).

(19) Enter in Item 9A the amount of certificates enclosed. Also enter the certificate serial numbers.

(20) Enter in Item 9B the amount of remittance enclosed.

(21) Enter in Item 9C the amount of certificates previously surrendered to CCC for the specific processing report period and the date of surrender.

(22) The certification shall be executed by an authorized official of the food processor. Also enter the title of the official and the date in the space provided.

APPENDIX IV—INSTRUCTIONS TO INDUSTRIAL USERS FOR PREPARATION OF INDUSTRIAL USERS PRODUCTION REPORT AND CLAIM FOR REFUND FORMS

Industrial Users wishing to claim a refund of the cost of domestic certificates purchased by processors to cover wheat used in processing flour second clears used in a product not for human consumption shall submit such claims on Form CCC–161, Industrial Users Production Report and Claim for Refund, to the Commodity Office as provided in § 777.19. A copy of each Form CCC–161 shall be retained by the industrial user. Instructions for the completion of Form CCC–161 are as follows:

(The numbers and letters listed below correspond with the numbers and letters on the form.)

(1) Heading. (A) Enter name and mailing address.

(B) Enter the industrial user number assigned on registration Form CCC–149.

(C) Enter the marketing year. Prepare separate Forms CCC–161 for each marketing year. July 1 begins the marketing year. The marketing year shown on Form CCC–165 and/or CCC–165–1 shall determine the marketing year under which the flour second clears are to be reported.

(D) Enter the reporting period dates. (See § 777.19(d).)

(2) *Inventory of flour second clears.* Enter in hundredweights.

(A) Enter the quantity on hand at the end of the preceding reporting period. Bring forward from Item 2I of the preceding Form CCC–161.

(B) Enter the quantity received at the plant during the reporting period covered by the report. Such quantity must not be in excess of the quantity shown on Forms CCC–165 and/or CCC–165–1. If during one reporting period there are involved flour second clears identifiable to more than one marketing year, separate Forms CCC–161 for each marketing year must be prepared.

(C) Enter the total of Items 2A and 2B.

(D) Enter the quantity of shipments which did not enter production.

(E) Enter the quantity used during no-refund production periods as shown in applicable Items 4F.

(F) Enter the quantity of flour second clears used as an additive to products shown in Item 4A. Flour second clears so used must be entered in this item. (Example, addition of flour second clears to gluten.)

(G) Enter quantity of flour second clears used as an additive to products shown in Item 4C. Flour second clears so used must be entered in this item. (Example, addition of flour second clears to animal feed manufactured from starch.)

(H) Enter the quantity which was a casualty loss and did not enter production. (See § 777.16.)

(I) Enter the quantity on hand at the end of the reporting period.

(J) Enter the total of Items 2D through 2I.

(K) Enter the difference between Items 2C and 2J.

(3) *Kind of clears used.* Enter in hundredweight the kind of clears used during the reporting period. If more than one Form CCC–161 is submitted because of the use (during the same reporting period) of clears identified to more than one marketing year, prorate the quantity of each kind of clears used between the marketing years according to the percentage relationship between the quantities shown in Item 2K of each separate marketing year report. Enter the prorated quantities.

(A) Enter the quantity of flour second clears produced from (1) hard wheat, (2) soft wheat, (3) durum, and (4) the total thereof on the basis of information as to type of wheat shown on the Forms CCC–165 and CCC–165–1. The total must agree with the sum of Items 2E, 2F, 2G, and 2K. If blended flour second clears are shown on the Form(s) CCC–161, indicate the quantity of blended clears used.

(B) Enter the quantity of (1) imported clears and (2) other non-qualifying clears.

(4) *Products manufactured from clears—production periods.* Check appropriate box to indicate whether refund or nonrefund period. See § 777.19(h)(3). If more than one production period is reported, also use reverse side of form and show the beginning and ending dates of each production period. If flour second clears used during the reporting period had been processed from wheat in more than one marketing year, prorate the hundredweight of product produced during the reporting period between the Forms CCC–161 prepared for the different marketing years. Use the same percentage as used to distribute the quantities required to be entered in Item 3 of each Form CCC–161.

(A) List the food products produced during the production period in whole or in part from flour second clears and nonqualifying clears. Enter the weight of the food products produced. Determine such weight by subtracting from the gross weight of each food product produced (i) the weight of all ingredients other than clears added to the product produced from clears such as an additive to gluten, (ii) the weight of flour second clears used as an additive (Item 2F), and (iii) the weight of nonqualifying clears used as an additive determined in the same manner as in Item 2F for flour second clears; and adjusting the remainder to a 12% moisture basis.

(B) Enter the total of the weights entered under Item 4A.

(C) List the products not for human consumption produced during the production period in whole or in part from flour second clears and nonqualifying clears. Enter the weight of the products not for human consumption produced. Determine such weight by subtracting from the gross weight of each product not for human consumption produced (i) the weight of all ingredients other than clears added to the product produced from clears such as an additive to starch, (ii) the weight of flour second clears used as an additive (Item 2G), and (iii) the weight of nonqualifying clears used as an additive determined in the same manner as in Item 2G for flour second clears; and adjusting the remainder to a 12% moisture basis.

(D) Enter the total of the weights entered under Item 4C.

(E) Enter the total of Items 4B and 4D.

(F) Enter quantity of flour second clears used for the production period. Total of Items 4F for all refund production periods reported on form must equal the quantity shown in Item 2K. Total of Items 4F for all no-refund production periods reported on form must equal the quantity shown in Item 2E.

(G) Enter the percentage relationship of products not for human consumption to all products produced during the refund period. Item 4D divided by Item 4E.

(H) Enter the quantity of flour second clears for which refund is being applied. Multiply Item 4F by 4G. For refund periods II through V, if applicable, bring the entries forward to applicable period shown under Item 4H of period I on face of form.

(I) Enter quantity shown in Item 2G.

(J) Enter the quantity shown in Item 2H.

(K) Enter total of Items 4H, 4I, and 4J.

(5) *Amount of refund claimed.* Enter amount determined by multiplying Item 4K by the applicable refund rate as specified in § 777.19(e).

(6) *Certification.* The certificate shall be dated and executed by an authorized official of the industrial user.

APPENDIX V—INSTRUCTIONS FOR PREPARATION OF INDUSTRIAL USERS PRODUCTION REPORT AND CLAIM FOR REFUND FORMS (FOR USERS WHO PRODUCE NONFOOD PRODUCTS ONLY)

Industrial users manufacturing nonfood products only, who wish to claim a refund of the cost of domestic certificates purchased by processors to cover wheat used in processing flour second clears used in a product not for human consumption may submit such claims on Form CCC–161–1, Industrial Users Production Report and Claim for Refund (for users who produce nonfood products only), to the Commodity Office as provided in § 777.19. A copy of each Form CCC–161–1, shall be retained by the industrial user. Instructions for the completion of Form CCC–161–1 are as follows:

(The numbers and letters listed below correspond with the numbers and letters on the form.)

(1) *Heading.*

(A) Enter name and mailing address.

(B) Enter the industrial user number assigned on Registration Form CCC–149.

(C) Enter the marketing year. Prepare separate Forms CCC–161–1 for each marketing year. July 1 begins the marketing year. The marketing year shown on Form CCC–165 and/or CCC–165–1 shall determine the marketing year under which the flour second clears are to be reported.

(D) Enter the reporting period dates. (See 777.19(d).)

(2) *Inventory of flour second clears.* Enter in hundredweights.

(A) Enter the quantity on hand at the end of the preceding reporting period. Bring forward from Item 2F of the preceding Form CCC–161–1.

(B) Enter the quantity received at the plant during the reporting period covered by the report. Such quantity must not be in excess of the quantity shown on Forms CCC–165 or CCC–165–1. If during one reporting period there are received flour second clears identifiable to more than one marketing year, separate Forms CCC–161–1 for each marketing year must be prepared.

(C) Enter the total of Items 2A and 2B.

(D) Enter the quantity of shipments which did not enter production.

(E) Enter the quantity which was a casualty loss and did not enter production. (See § 777.16.)

(F) Enter the quantity on hand at the end of the reporting period.

(G) Enter the total of Items 2D through 2F.

(H) Enter the difference between Items 2C and 2G.

(3) *Kind of clears used.* Enter in hundredweight the kind of clears used during the reporting period. If more than one Form CCC–161–1 is submitted because of the use (during the same reporting period) of clears identified to more than one marketing year, prorate the quantity of each kind of clears used between the marketing years according to the percentage relationship between the quantities shown in Item 2H of the report for each separate marketing year report. Enter the prorated quantities.

(A) Enter the quantity of flour second clears used which were produced from (1) hard wheat, (2) soft wheat, (3) Durum or (4) if blended clears are received and used, enter the quantity used. (5) Enter the total of (1), (2), (3), and (4). The quantities shown in (1), (2), (3), and (4) must be on the basis of information as to type of wheat and/or clears shown on the Forms CCC–165 and CCC–165–1. The total must agree with the quantity shown in Item 2H.

(B) Enter the quantity of (1) imported clears and (2) other nonqualifying clears.

(4) *Products manufactured from clears.*

(A) List the products not for human consumption produced during the production period in whole or in part from flour second clears and nonqualifying clears. Enter the weight of the flour second clears used to produce the products not for human consumption.

(B) Enter the total of the weights shown under Item 4A.

(C) Enter the quantity shown in Item 2H.

(D) Enter the quantity shown in Item 2E.

(E) Enter total of Items 4C and 4D.

(5) *Amount of refund claimed.* Enter amount determined by multiplying Item 4E by the refund rate as specified in § 777.19(e).

(6) *Certification.* The certificate shall be dated and executed by an authorized official of the industrial user.

INTERPRETATION

The following interpretation of § 777.13(a) and paragraph 13, Appendix II, of the Processor Wheat Marketing Certificate Regulations (31 F.R. 13502) is issued. The question has been raised by a person processing wheat into cereal products as to whether he may make certain deductions in computing his certificate liability under the regulations. The processor is computing his liability on the weight of wheat basis under § 777.13 of the regulations and has requested permission to make deductions for the weight of small kernels which are separated from the wheat used in his processing operation and then removed from the plant for use as animal feed.

The cereal manufacturer has stated that the operation is carried on as follows: After the wheat received in the cereal plant is cleaned, the kernels are sized by use of special screens. The small kernels separated from the remainder of the wheat are weighed and then transferred from the processing plant to another plant where it is used in the manufacture of animal feed. The question is presented whether the weights so obtained supported by scale tickets or other documentary evidence may be deducted on Form CCC–160, Processing Report—Weight of Wheat Basis, in computing the weight of wheat subject to certificate liability.

It has been concluded that the processor may make a deduction from the weight of wheat subject to certificate liability for the weight of the small kernels obtained in the operation described above and transferred from the plant for use in animal feed. Section 777.13(a) provides:

General. Food processors reporting the quantity of wheat processed into food products on the basis of the weight of wheat processed, shall complete Form CCC–160, Processing Report—Weight of Wheat Basis, for each reporting period in accordance with detailed instructions set forth in Appendix II of this part. Determinations of the weight of wheat processed into food products shall be made in the manner prescribed in Appendix II. No deductions may be made for any byproducts of a food product obtained in the processing of the wheat.

Appendix II provides in paragraph (13) for the processor to enter in Item 5G of Form CCC–160, the weight of all wheat removed from the processing plant (and from any elevator operated by the processor at the processing plant location servicing the plant) for shipment, sale, delivery to the owner, transfer to other plants, or other dispositions as wheat. It further states: "Do not include the weight of any byproducts of food products or the weight of any screenings or other residue from cleaning wheat used or to be used by the food processor for processing into food products."

Our conclusion is based upon the following considerations which apply to the processor's operation: (1) The small kernels comply with the definition of wheat which appears in § 777.3(a), i.e., they are wheat as defined in the Official Grain Standards of the United States; (2) the foreign material, damaged kernels and other defects in the small kernels, are not greater than such defects in the wheat from which such small kernels were removed; and (3) the small kernels can be used commercially in the manufacture of flour and other food products. The small kernels are separated from the wheat used to make cereal because they are not as suitable for the type of cereal product manufactured by the food processor as the remainder of the wheat which was used in the processing operation. Accordingly, from the evidence supplied, it has been determined that the small kernels are not byproducts or screenings or other residues obtained in the cleaning of wheat used in the processing operation. If such kernels were within that category, they would not be eligible to serve as a deduction from the certificate liability of the cereal manufacturer.

INTERPRETATION

The following interpretation of paragraph 13, Appendix II, of the Republication of the Processor Wheat Marketing Certificate Regulations (31 F.R. 13502, as amended) is issued (7 CFR 777.13(a)). This interpretation shall be in addition to the interpretation of this paragraph published in the FEDERAL REGISTER of March 21, 1967 (32 F.R. 4305).

The question has been raised by a processor who calculates his certificate liability on the basis of the weight of wheat processed as to whether in making deductions for the weight of wheat removed for shipment, sale, transfer, or other disposition as wheat he can include in the deduction the loss previously incurred in the weight of such wheat as a result of artificial drying in order to permit it to be safely stored.

Paragraph 13 of Appendix II provides for the deduction from certificate liability of the weight of wheat removed from the plant in the form of wheat in the following language:

(13) Enter in item 5G the weight of all wheat removed from the processing plant and from any elevator operated by the processor at the processing plant location servicing the processing plant for shipment, sale, delivery to the owner, transfer to other plants or other dispositions as wheat. Such quantity shall be the gross weight of the wheat removed less any officially determined dockage • • •.

This question arises with respect to computations in reports for wheat received in the processing plant and any elevator operated by the processor at the plant location servicing the plant prior to the first processing report period beginning on and after February 8, 1968, when Amendment 6 to the regulations became effective. The amendment enables a processor who artificially dried wheat to permit it to be safely stored, to calculate the weight of wheat used in processing a food product on the basis of the gross weight, less dockage, after drying. Thus, the amendment provides for a deduction to be made for losses due to artificial drying on all wheat received beginning with the date specified above.

Prior to such amendment, the processor was not permitted to make deductions for losses in the weight of wheat used in processing food products that resulted from artificial drying. However, it was not the intention to preclude a processor from making a deduction for losses in weight through artificial drying applicable to wheat which was removed from the plant as wheat and not used in the processing operation. Accordingly, a processor may include in the weight of wheat which he deducts from his certificate liability under paragraph 13 of Appendix II prior to the period indicated above an adjustment for losses that previously had occurred to the wheat as a result of artificial drying to permit it to be safely stored.

Any processor who wishes to make such an adjustment should submit to the Director, Kansas City ASCS Commodity Office a corrected report for the processing report period involved. If the processor wishes to make an adjustment for more than one period he may file a consolidated corrected report. He should accompany the corrected report with a letter of explanation, together with any evidence he may wish to provide, showing how the figures were computed and demonstrating that the weight adjustment claimed was actually removed from the wheat referred to in paragraph 13 of Appendix II. This interpretation applies to losses resulting from artificial drying through the rise of artificial heat. Specific provision is made in paragraph 14 of Appendix II for allowances to cover normal shrinkage, including shrinkage incurred through aeration.

INTERPRETATION

The following interpretation is issued of 7 CFR 777.3(u) (§ 777.3(u) of the Republication of the Processor Wheat Marketing Certificate Regulations (33 F.R. 14676, as amended)).

The question has been raised by a processor who produces flour second clears whether clears produced from a blend of wheat grown in the United States and wheat grown outside the United States would be eligible for refund of certificate costs.

The definition of flour second clears (§ 777.3(u)) excludes flour clears produced from wheat grown outside the United States. This definition states in part the following:

"(u) 'Flour second clears,' means a coproduct of patent flours (including Durum patent flour) which is produced in a 72 percent extraction rate type of milling operation in the United States from wheat produced in the United States and which meets the requirements of this paragraph." • • •

Under this definition, in the case of clears produced from a blend of domestic and imported wheat, the portion of the clears attributable to domestic wheat contained in the blend may qualify as flour second clears eligible for a refund if it otherwise meets the requisite provisions of the regulations. The portion of the clears attributable to the imported wheat contained in the blend cannot qualify for a refund since it was not processed from wheat produced in the United States.

Section 777.18(c) of the regulations provides with certain exceptions that if a processor blends flour second clears with nonqualifying clears the entire blended quantity shall be ineligible for a refund. This section is inapplicable to the instant case since it relates only to the blending of clears obtained in the processing operation and not to the blending of wheat which occurs prior to processing.

If a processor who has produced clears from a blend of domestic and imported wheat wishes to make eligible for a certificate refund the quantity of flour second clears obtained from a blend of domestic and imported wheat he must provide a certification on Form CCC–165 for such eligible flour second clears as required in § 777.18(b). The quantity for which the certification is provided shall be determined by multiplying the percentage of the domestic wheat in the blend from which the clears were produced by the total clears obtained in the processing operation which meets the definition of flour second clears including the clears which meet the definition except as to the origin of wheat from which they were produced. For example, if a blended lot of wheat contains 90 percent domestic and 10 percent imported wheat from which are produced a total of 800 cwt. of clears which are sold to an industrial user and which meet the definition of flour second clears (including the clears which meet the definition except as to the origin of wheat from which produced), the processor may provide a certification on the form for 720 cwt. (i.e., 90 percent of the total of 800 cwt.). The processor must also show on the bottom of the form the quantity of domestic and imported wheat contained in the blend from which the clears were produced and the total clears produced from the blend which are delivered with the Form CCC–165 and which meet the requirements of the definition of flour second clears (except as to the origin of the wheat from which the clears were produced).

Section 777.18(d) specifies the records necessary to support each Form CCC–165 issued. This section states in part as follows:

"(d) *Records.* The processor shall retain a copy of all Forms CCC–165 which he issues. Each Form CCC–165 shall be identified to its respective invoice number and quantity invoiced. To support the certifications, the processor must retain laboratory reports and mill records which identify production runs by date of processing, lot number, type of wheat processed, and which can be identified to the flour second clears covered by an invoice." • • •

Accordingly, when blended wheat is processed, the processor must identify the Forms CCC–165 as required above and show in his records the types of wheat contained in the blend, including, if applicable, the quantities or percentages of imported wheat.

If sales are made to distributors, the distributor shall issue Forms CCC–165–1 Distributor Certification, Flour Second Clears, in the same manner as stated above for the processor.

The industrial users are cautioned to show as flour second clears received, on item 2B of the claim forms (Forms CCC–161 or 161–1, Industrial Users Production Report and Claim for Refund) only that quantity covered by the certification on Form CCC–165 or 165–1. (See paragraph (2)(B) of appendices IV and V.)

NOTE: The recordkeeping and reporting requirements of Part 777 have been approved by, and subsequent recordkeeping and reporting requirements will be subject to the approval of the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Signed at Washington, D.C., on October 22, 1971.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.71–16101 Filed 11–3–71;8:45 am]

D IV

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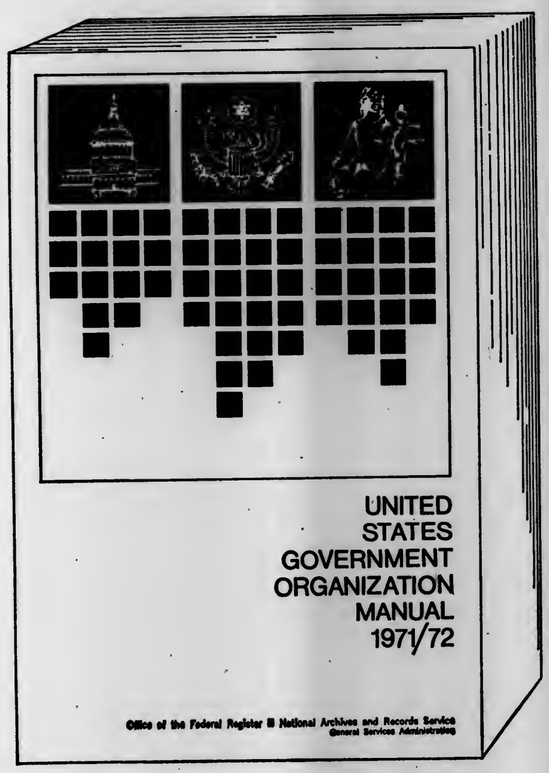

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Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER D—PROVISIONS COMMON TO MORE THAN ONE PROGRAM

PART 796—HARVESTING OF MARIHUANA OR OTHER SUCH DRUG-PRODUCING PLANTS FOR ILLEGAL USE

Sec.
796.1 Applicability.
796.2 Prohibition against payments to producers or participants.

AUTHORITY: The provisions of this Part 796 issued under section 506, Public Law 92-73, 85 Stat. 201 (1971).

§ 796.1 Applicability.

This part is applicable to all programs set forth in this Title 7, administered by the Agricultural Stabilization and Conservation Service, and the Naval Stores Conservation Program (Part 706 of this chapter, as amended), under which production or other payments, including wheat marketing certificates, are made to producers or program participants.

§ 796.2 Prohibition against payments to producers or participants.

Notwithstanding any other provision of the programs to which this part is applicable, no payment or wheat marketing certificate shall be made after August 10, 1971, to any producer or program participant who, after August 10, 1971, harvests or knowingly permits to be harvested for illegal use, marihuana or other such prohibited drug-producing plants on any part of the lands owned or controlled by such producer or participant. Prohibited plants include marihuana (*cannabis sativa*), opium poppies (*papaver somniferum*), coca bushes (*erythroxylum coca*), cactii of the genus *lophophora*, and other drug-producing plants, the planting, growing, or harvesting of which is prohibited by Federal or State law.

Effective date. Since the legislation necessitating the issuance of these regulations was approved by the President on August 10, 1971, it is impracticable and unnecessary to comply with the notice and public procedure provisions of 5 U.S.C. 553. Accordingly, this part is effective as of August 11, 1971.

Proposals for amendment or modification of the regulations insofar as they relate to 1972 are invited. The proposals should be accompanied by a written statement in explanation and support of the proposals and addressed to the Deputy Administrator, State and County Operations, ASCS, U.S. Department of Agriculture, Washington, D.C. 20250. All submissions must, in order to be sure of consideration, be received not later than 30 days from the date of publication of this part in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection in the office of the Deputy Administrator during regular business hours (8:15 a.m. to 4:45 p.m.)

Signed at Washington, D.C., on October 20, 1971.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.71-16195 Filed 11-4-71;8:48 am]

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

[Sugar Reg. 815.12 (Rescission)]

PART 815—ALLOTMENT OF DIRECT CONSUMPTION PORTION OF THE MAINLAND SUGAR QUOTA FOR PUERTO RICO

Calendar Year 1971

This rescission of a regulation is issued under section 205(a) of the Sugar Act of 1948, as amended (hereinafter called the Act), for the purpose of rescinding sugar regulation 815.12 (36 F.R. 11), which established allotments of the direct-consumption portion of the mainland sugar quota for Puerto Rico for the calendar year 1971. It is hereby found and determined to be unnecessary to continue in effect the allotments of the direct consumption portion of the mainland sugar quota for Puerto Rico for 1971 and § 815.12 of this chapter is hereby rescinded.

Bases and considerations. The production of sugar in Puerto Rico for marketing during 1971 was substantially less than that estimated when a finding was made that the allotment of the direct-consumption portion of the mainland quota for Puerto Rico was necessary. In addition the quantity of raw sugar received for refining by Puerto Rican refiners in 1971 was much less than the quantity needed to supply local consumption needs and fill the mainland direct-consumption quota for the area. On the basis of letters recently received from individual allottees less than 91,000 short tons, raw value, will be marketed in 1971 within the 168,000 short tons, raw value, direct-consumption quota established for the area. It is herein found that the rescission of the allotment of the direct-consumption portion of the mainland quota for Puerto Rico will not lead to disorderly marketing and will not prevent all interested persons from having an equitable opportunity to market sugar within the quota.

(Secs. 205, 209, 403; 61 Stat. 926, as amended, 928, as amended, 932; 7 U.S.C. 1115, 1119, 1153)

Effective date. The allotment of the direct-consumption portion of the mainland quota for Puerto Rico currently in effect restricts unnecessarily the marketing of one individual allottee at this time. Therefore, it is hereby determined and found that compliance with the notice, procedure, and effective date requirements of 5 U.S.C. 553 is unnecessary, impracticable, and contrary to the public interest and, this rescission of § 815.12 of this chapter (Sugar regulation 815.12) shall be effective when published in the FEDERAL REGISTER.

Signed at Washington, D.C., November 1, 1971.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.71-16196 Filed 11-4-71;8:48 am]

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

PART 214—NONIMMIGRANT CLASSES

Entertainers

Reference is made to the notice of proposed rule making which was published in the FEDERAL REGISTER on September 23, 1971 (36 F.R. 18870) pursuant to section 553 of Title 5 of the United States Code (80 Stat. 383) and in which there was set out the proposed amendment to § 214.2(h)(8) pertaining to certain nonimmigrant entertainers and their appearance on a bona fide charity show. The representation which was received concerning the proposed rule of September 23, 1971, has been considered. For the purpose of clarification, the proposed rule has been amended by adding immediately after the word "compensation" a comma followed by the words "including reimbursement for expenses,". The proposed rule, as modified, is hereby adopted:

Subparagraph (8) *Special classes* of paragraph (h) *Temporary employees* of

§ 214.2 *Special requirements for admission, extension, and maintenance of status* is amended by inserting the following sentence between the existing third and fourth sentences thereof: "A show shall not be considered as 'a bona fide charity show' within the meaning of this subparagraph if any of the musicians, entertainers, or other performers receive compensation, including reimbursement for expenses, for their performance therein."

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

The basis and purpose of the above-prescribed regulation is to clarify the meaning of "a bona fide charity show" for the purpose of appearance therein of certain nonimmigrant entertainers.

Effective date. This order shall become effective on January 1, 1972.

Dated: November 1, 1971.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[FR Doc.71-16197 Filed 11-4-71;8:48 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 11479; Amdt. Nos. 23-12, 25-30, 27-7, and 29-9]

AIRWORTHINESS STANDARDS

Position Light System Dihedral Angles

The purpose of these amendments to §§ 23.1387, 25.1387, 27.1387, and 29.1387 of the Federal Aviation Regulations is to permit the installation of rear position lights with minor obstructions in the field of coverage.

Sections 23.1387, 25.1387, 27.1387, and 29.1387 presently require, in part, that the rear position light show unbroken light within a dihedral angle formed by two intersecting vertical planes making angles of 70° to the right and left, respectively, of a vertical plane passing through the longitudinal axis. Other related provisions of the regulations require that the rear position light be mounted as far aft as practicable.

In certain aircraft designs incorporating swept vertical tail surfaces, the obstructed visibility requirements may be met only by locating the rear position light on the trailing edge of the rudder. Because this location may cause a number of problems, including complex electrical installation and adverse rudder flutter characteristics, some manufacturers consider the aftmost tip of the fuselage to be a more suitable location. Thus, while the rudder position may be farther aft, the fuselage location is as far aft as is practicable. At the same time, however, the fuselage location does not comply with the obstructed visibility requirements where parts of the rudder and vertical stabilizer of a swept tail project into space required to be unobstructed.

For aircraft having this problem, the obstruction resulting from use of the aft fuselage location would, nevertheless, be relatively small because of the thinness of the vertical stabilizer and rudder. Moreover, the obstruction occurs at a high angle above the longitudinal axis of the aircraft so that except for the near-zenith position, the rear position light shows unbroken light.

Related requirements for position lights allow diminishing light intensity with increasing angle above or below the horizontal. Thus, for angles 40° and more above and below the horizontal plane, the position light intensity need be only 5 percent of the light intensity in the horizontal plane. This provision thus recognizes that the significance of a position light decreases as zenith is approached.

A provision similar to that being here established for the rear position light already exists with respect to the anti-collision light. In this connection, minor visibility obstructions permitted in the rearward direction in the field of coverage of the anticollision light have been determined not to be detrimental to safety.

In light of the foregoing, obstructions within the dihedral angle in which the rear position light must show, which do not exceed 0.04 steradians in coverage and which occur within 30° of a vertical line through the rear position light, would not adversely affect safety. In addition, these amendments permitting minor obstructions in the field of coverage of rear position lights are consistent with the provisions of §§ 23.1385(c), 25.1385(c), 27.1385(c), and 29.1385(c) which recognize practicable considerations in the location of rear position lights.

For the foregoing reasons and since these amendments relieve a restriction and impose no additional burden on any person, I find that notice and public procedure thereon are unnecessary and that good cause exists for making them effective on less than 30 days notice.

In consideration of the foregoing, Parts 23, 25, 27, and 29 of the Federal Aviation Regulations are amended as follows, effective November 5, 1971:

PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, AND ACROBATIC CATEGORY AIRPLANES

1. Section 23.1387 is amended by amending paragraph (a) and adding a new paragraph (e) to read as follows:

§ 23.1387 Position light system dihedral angles.

(a) Except as provided in paragraph (e) of this section, each forward and rear position light must, as installed, show unbroken light within the dihedral angles described in this section.

* * * * *

(e) If the rear position light, when mounted as far aft as practicable in accordance with § 23.1385(c), cannot show unbroken light within dihedral angle A (as defined in paragraph (d) of this section), a solid angle or angles of obstructed visibility totaling not more than 0.04 steradians is allowable within that dihedral angle, if such solid angle is within a cone whose apex is at the rear position light and whose elements make an angle of 30° with a vertical line passing through the rear position light.

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

2. Section 25.1387 is amended by amending paragraph (a) and adding a new paragraph (e) to read as follows:

§ 25.1387 Position light system dihedral angles.

(a) Except as provided in paragraph (e) of this section, each forward and rear position light must, as installed, show unbroken light within the dihedral angles described in this section.

* * * * *

(e) If the rear position light, when mounted as far aft as practicable in accordance with § 25.1385(c), cannot show unbroken light within dihedral angle A (as defined in paragraph (d) of this section), a solid angle or angles of obstructed visibility totaling not more than 0.04 steradians is allowable within that dihedral angle, if such solid angle is within a cone whose apex is at the rear position light and whose elements make an angle of 30° with a vertical line passing through the rear position light.

PART 27—AIRWORTHINESS STANDARDS: NORMAL CATEGORY ROTORCRAFT

3. Section 27.1387 is amended by amending paragraph (a) and adding a new paragraph (e) to read as follows:

§ 27.1387 Position light system dihedral angles.

(a) Except as provided in paragraph (e) of this section, each forward and rear position light must, as installed, show unbroken light within the dihedral angles described in this section.

* * * * *

(e) If the rear position light, when mounted as far aft as practicable in accordance with § 27.1385(c), cannot show unbroken light within dihedral angle A (as defined in paragraph (d) of this section), a solid angle or angles of obstructed visibility totaling not more than 0.04 steradians is allowable within that dihedral angle, if such solid angle is within a cone whose apex is at the rear position light and whose elements make an angle of 30° with a vertical line passing through the rear position light.

PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

4. Section 29.1387 is amended by amending paragraph (a) and adding a new paragraph (e) to read as follows:

§ 29.1387 Position light system dihedral angles.

(a) Except as provided in paragraph (e) of this section, each forward and rear position light must, as installed, show unbroken light within the dihedral angles described in this section.

* * * * *

(e) If the rear position light, when mounted as far aft as practicable in accordance with § 29.1385(c), cannot show unbroken light within dihedral angle A (as defined in paragraph (d) of this section), a solid angle or angles of obstructed visibility totaling not more than 0.04 steradians is allowable within that dihedral angle, if such solid angle is within a cone whose apex is at the rear position light and whose elements make an angle of 30° with a vertical line passing through the rear position light.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, and 1423, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 28, 1971.

K. M. SMITH,
Acting Administrator.

[FR Doc.71-16166 Filed 11-4-71;8:45 am]

[Docket No. 71-CE-13-AD; Amdt. 39-1327]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna Series Airplanes

Amendment 39-1323 (36 F.R. 20417) effective October 23, 1971, applicable to Cessna 150, 172, 175, and 182 series airplanes is an airworthiness directive which requires, in part, immediate replacement of early type nose gear forks on aircraft which have accumulated 1,500 hours time in service. The Agency did not intend to require such replacement prior to January 1, 1972. In addition, after further evaluation it appears that a parts availability problem could develop. Accordingly, Paragraph C is being revised to allow a 300 hour grace period after January 1, 1972, to effect replacement of the discrepant nose gear forks.

Since this amendment is relaxatory in nature, compliance with the notice and public procedure provisions of the Administrative Procedures Act is not necessary and good cause exists to make this amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of part 39 of the FAR's, amendment 39-1323 (36 F.R. 20417), is amended by changing Paragraph C so that it now reads as follows:

C. For those airplanes with 1,500 or more total hours time in service as of January 1, 1972, and for those airplanes upon the accumulation of 1,500 hours total time in service after January 1, 1972, within the first 300 hours time in service thereafter, replace earlier type forks with applicable nose gear fork P/N 0442503-497, 0543043-497, or 0543043-498 or newer nose gear forks identified in current Cessna parts catalogs.

This amendment becomes effective November 9, 1971.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421 and 1423, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on October 27, 1971.

CHESTER W. WELLS,
Acting Director, Central Region.

[FR Doc.71-16168 Filed 11-4-71;8:45 am]

[Docket No. 10982; Amdt. 39-1329]

PART 39—AIRWORTHINESS DIRECTIVES

Hawker-Siddeley Model DH-125 Airplanes

Amendment 39-1251 (36 F.R. 13776), AD 71-16-2 requires modification of the Rotax voltage sensing unit on Hawker-Siddeley Model DH-125 airplanes. After issuing Amendment 39-1251 (AD 71-16-2), the FAA has determined that, through inadvertence, the applicability statement of the AD is erroneous in that it fails to limit applicability of the AD to the specific serial number airplanes that require the modification. Therefore, the AD is being amended to limit its applicability to specific Hawker-Siddeley Model DH-125 series 1A and 1A-522 airplanes.

Since this amendment corrects the applicability statement and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR § 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1251 (36 F.R. 13776), AD 71-16-2, is amended by amending the applicability statement to read:

HAWKER-SIDDELEY AVIATION, LTD. Applies to Hawker-Siddeley Model DH-125 series 1A serial numbers 25013, 25014, 25016, 25018, 25021, 25022, 25026, 25027, 25030, 25031, 25034 through 25039, 25042, 25051 through 25053, 25057, and 25058; and series 1A-522 serial numbers 25017, 25020, 25023, 25029, 20532, 25033, 25043, 25046, 25047, 25060, 25064, 25065, 25066, 25068, 25070, 25073, through 25075, 25076, 25079, 25082 through 25084, 25086, through 25088, 25091, 25093, and 25095 airplanes.

This amendment becomes effective November 5, 1971.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, and 1423, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 29, 1971.

R. S. SLIFF,
Acting Director, Flight Standards Service.

[FR Doc.71-16169 Filed 11-4-71;8:45 am]

[Docket No. 71-SO-115; Amdt. 39-1328]

PART 39—AIRWORTHINESS DIRECTIVES

Grumman G-159 Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring inspection of the wing to fuselage fittings for cracks and repair, if necessary, on Grumman Model G-159 airplanes was published in the FEDERAL REGISTER, 36 F.R. 12696.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive.

GRUMMAN. Applies to all Model G-159 airplanes.

Compliance required as indicated.

To detect cracking in the wing to fuselage attachment fittings at butt line 9 of Grumman Model G-159 airplanes, accomplish the following:

a. Within 6 months time in service after the effective date of this AD, unless already accomplished, inspect the wing to fuselage attachment fittings, P/Ns 159WM10064 and 159WM10065 (P/N 159WM10223 assembly), and P/N 159WM10045 at butt line 9 left and right, wing front beam for cracks, deformation, gaps, or improper shimming in accordance with Grumman Gulfstream I Aircraft Service Change No. 190, dated June 28, 1971, or later FAA approved revision or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Southern Region.

b. If cracks, deformation, gaps, or improper shimming are found when conducting the inspection required by paragraph a., within 100 hours time in service after detection correct in accordance with Aircraft Service Change 190 or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Southern Region.

c. Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA Southern Region, may adjust the inspection time to coincide with inspections for wing corrosion required by AD 67-4-1.

This amendment becomes effective November 26, 1971.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, and 1423, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on October 27, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71-16170 Filed 11-4-71;8:46 am]

[Docket No. 11003; Amdt. 65-19]

PART 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS

Military Air Traffic Control Tower Operators; Experience Requirements for Facility Rating

The purpose of this amendment to Part 65 of the Federal Aviation Regulations is to allow military air traffic control tower operators to meet the practical experience requirements for a facility rating at a particular tower by having at least 6 months of experience as an air traffic control tower operator. However, that experience need not be had (1) at that tower without a facility rating or (2) at a different tower with a facility rating there, as required of other control tower operators.

Interested persons have been afforded an opportunity to participate in the making of this amendment by a notice of proposed rule making (notice 71-11) issued on April 23, 1971, and published in the FEDERAL REGISTER on April 29, 1971 (36 F.R. 8051). Due consideration has been given to all comments presented in response to the notice.

Four of the seven public comments received in response to the notice concurred in the proposal. The other three opposed the proposal. One of these asserted that the proposal would result in a derogation of safety. Another asserted that (1) if an Air Force controller were transferred frequently during the 6-month period, he might not acquire adequate practical experience; (2) under the proposed rule civilian and military controllers at joint-use facilities might not have the same qualifications; and (3) the proposed rule would lower standards without consideration of established air traffic control procedures and the need for maintaining the highest degree of safety in aviation. The third opposing commentator asserted that the facility ratings placed on certificates would be degraded.

The FAA does not agree that any of these asserted results will be caused by this rule. The rule does not entitle an Air Force controller to a facility rating so that he may immediately control air traffic. It only relieves him of waiting 6 months at a particular tower, if he has satisfactorily served elsewhere as an air traffic control tower operator for at least 6 months. He is still required to pass the skill requirements under § 65.37 that are applicable to each operating position in the tower at which the rating is sought. Safety would not be derogated because the rating will not be issued until the individual passes the practical test and demonstrates his competence as an air traffic control tower operator at the particular airport. It has therefore been determined to issue the amendment for the reasons stated in the notice.

In its response to the notice, the Directorate of Operations, U.S. Air Force, recommended changing "air traffic control tower operator" to "air traffic controller" so that the time served by controllers providing only radar approach control service could be applied to the 6 months experience requirement. However, this change is not necessary as to radar approach control service performed as an airport traffic control function of a particular tower. While performing this service a person is serving as an air traffic control tower operator, and the time involved is applied to the 6 months experience requirement.

In consideration of the foregoing, § 65.39 of the Federal Aviation Regulations is amended, effective December 6, 1971, by adding the following flush paragraph at the end thereof:

§ 65.39 Practical experience requirements: facility rating.

* * * * * *

However, an applicant who is a member of an Armed Force of the United States meets the requirements of this section if he has satisfactorily served as an air traffic control tower operator for at least 6 months.

(Secs. 313(a) and 601, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421. Sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 28, 1971.

K. M. SMITH,
Acting Administrator.

[FR Doc.71-16167 Filed 11-4-71;8:45 am]

[Airspace Docket No. 71-RM-8]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zones and Transition Area

On September 15, 1971 a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 18476) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Great Falls, Mont. (International Airport), the Great Falls, Mont. (Malmstrom Air Force Base) control zones and the Great Falls, Mont. transition area.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. These amendments shall be effective 0901 G.m.t., January 6, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a); and of sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

Issued in Aurora, Colo., on October 27, 1971.

M. M. MARTIN,
Director,
Rocky Mountain Region.

In § 71.171 (36 F.R. 2055) the following control zones are amended to read as follows:

GREAT FALLS, MONT. (INTERNATIONAL AIRPORT)

Within a 5-mile radius of the Great Falls International Airport (latitude 47°29'00" N., longitude 111°22'00" W.) within 3½ miles each side of the Great Falls VORTAC 225° radial, extending from the 5-mile radius zone to 10 miles southwest of the VORTAC; within 3½ miles each side of the Great Falls VOR TAC 045° radial, extending from the 5-mile radius zone to 19 miles northeast of the VORTAC.

GREAT FALLS, MONT. (MALMSTROM AIR FORCE BASE)

Within a 5-mile radius of the Malmstrom AFB (latitude 47°30'05" N., longitude 111°11'20" W.); within 3½ miles each side of the Malmstrom AFB VOR 037° radial, extending from the 5-mile-radius zone to 15½ miles northeast of the VOR; within 3½ miles each side of the Malmstrom AFB TACAN 227° radial, extending from the 5-mile-radius zone to 7 miles southwest of the TACAN; excluding those portions within the Great Falls International Airport control zone.

In § 71.181 (36 F.R. 2140) the following transition area is amended to read as follows:

GREAT FALLS, MONT.

That airspace extending upward from 700 feet above the surface within a 17-mile radius of the Malmstrom Air Force Base (latitude 47°30'05" N., longitude 111°11'20" W.) and within 3½ miles each side of the Truly RBN 180° bearing, extending from the 17-mile radius area to 9 miles south of the RBN; and that airspace extending upward from 1,200 feet above the surface within a 40-mile radius of Malmstrom AFB; within 12 miles north and 8 miles south of the Great Falls VOR 074° radial, extending from the 40-mile-radius area to 61 miles east of the VOR; and within 12 miles south and 8 miles north of the Great Falls VOR 272° radial extending from the 40-mile-radius area to 56 miles west of the VOR.

[FR Doc.71-16104 Filed 11-4-71;8:45 am]

[Airspace Docket No. 71-SO-159]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Alexander City, Ala., transition area.

The Alexander City transition area is described in § 71.181 (36 F.R. 2140). In the amendment, an 11-mile extension is predicated on the 171° bearing from Alexander City RBN. Effective November 25, 1971, the procedure turn bearing for the NDB-A Instrument Approach Procedure will be changed to the 161° bearing and the altitude will be increased to 2,300 feet MSL. These changes require that the extension be redesignated to the 181° bearing and reduced to 8.5 miles in length. Since these amendments are minor in nature and reduce the burden on the public, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., November 25, 1971, as hereinafter set forth.

In § 71.161 (36 F.R. 2140), the Alexander City, Ala., transition area is amended as follows:

"* * * 171° bearing * * *" and "* * * 11 miles south * * *" are deleted and "* * * 181° bearing * * *" and "* * * 8.5 miles south * * *" are substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on October 28, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71-16175 Filed 11-4-71;8:46 am]

[Airspace Docket No. 71-SO-148]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

On September 25, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 19037), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the St. Petersburg, Fla. (Albert-Whitted Airport), control zone.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 6, 1972, as hereinafter set forth.

In § 71.171 (36 F.R. 2055), the St. Petersburg, Fla. (Albert-Whitted Airport) control zone is amended to read:

ST. PETERSBURG, FLA. (ALBERT-WHITTED AIRPORT)

Within a 5-mile radius of the Albert-Whitted Airport (lat. 27°45'53" N., long. 82°37'39" W.); within 3.5 miles each side of the St. Petersburg VORTAC 159° radial, extending from the 5-mile radius zone to 1 mile south of the VORTAC, excluding the portion within the St. Petersburg and MacDill AFB control zones. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a), sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on October 29, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71-16176 Filed 11-4-71;8:46 am]

[Airspace Docket No. 71-NW-15]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

On September 10, 1971, a notice of proposed rulemaking was published in the FEDERAL REGISTER (36 F.R. 18214) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Boise, Idaho control zone.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections were received.

In consideration of the foregoing, the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 G.m.t. January 6, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a), and sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Seattle, Wash., on October 27, 1971.

C. B. WALK, Jr.,
Director, Northwest Region.

In § 71.171 (36 F.R. 2055), the description of the Boise, Idaho, control zone is amended as follows:

Add to the text "* * * and within 2 miles west and 5 miles east of the Boise VORTAC 179° radial extending from the 5-mile radius zone to 7 miles south of the VORTAC."

[FR Doc.71-16172 Filed 11-4-71;8:46 am]

[Airspace Docket No. 71-RM-14]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On October 15, 1971, F.R. Doc. 71-14718 was published in the FEDERAL REGISTER (36 F.R. 20035) adopting an amendment to Part 71 of the Federal Aviation Regulations that altered the transition area for Livingston, Mont.

Subsequent to the publication of this document, it was discovered the reciprocal of the 085° radial (265°), needed to describe a 1,200-foot portion of the transition area, was inadvertently omitted in the description of the transition area. Therefore, action is taken herein to correct this omission.

Since this change is minor in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary, and the effective date as originally adopted may be retained.

In consideration of the foregoing, in § 71.181 (36 F.R. 2140) the description of the Livingston, Mont. 1,200-foot transition area as amended by (36 F.R. 20035) is further amended by deleting "* * * the Livingston VORTAC 085° radial * * *" and substituting "* * * the Livingston VORTAC 085° and 265° radials * * *" therefor.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a), and sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Aurora, Colo., on October 29, 1971.

M. M. MARTIN,
Director,
Rocky Mountain Region.

[FR Doc.71-16173 Filed 11-4-71;8:46 am]

[Airspace Docket No. 71-RM-17]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Establishment of Control Zone and Transition Area

On September 9, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 18109) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would establish the Dilon, Mont. control zone and transition area.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendments are hereby adopted without change.

Effective date. These amendments shall be effective 0901 G.m.t., January 6, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a), and sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Aurora, Colo., on October 28, 1971.

M. M. MARTIN,
Director,
Rocky Mountain Region.

In § 71.171 (36 F.R. 2055) the following control zone is added:

DILLON, MONT.

Within a 6-mile radius of the Dillon Airport, Dillon, Mont. (latitude 45°15'20" N., longitude 112°33'10" W.) and within 3 miles each side of the Dillon VORTAC 025° radial, extending from the 6-mile-radius zone to 8.5 miles northeast of the VORTAC.

In § 71.181 (36 F.R. 2140) the following transition area is added:

DILLON, MONT.

That airspace extending upward from 1,200 feet above the surface within 9.5 miles northwest and 6 miles southeast of the Dillon VORTAC 025° radial, extending from the VORTAC to 24 miles northeast; and that airspace extending upward from 11,700 feet MSL within 7.5 miles west and 10.5 miles east of the Dillon VORTAC 168° and 348° radials extending from 4.5 miles north to 19.5 miles south of the VORTAC.

[FR Doc.71-16174 Filed 11-4-71;8:46 am]

[Airspace Docket No. 71-WE-46]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

On September 25, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 19037) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would amend the description of the Fort Ord, Calif., control zone.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 G.m.t., January 6, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a), and sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on October 28, 1971.

ROBERT O. BLANCHARD,
Acting Director,
Western Region.

In § 71.171 (36 F.R. 2055) the description of the Fort Ord, Calif., control zone is amended as follows:

Delete the last sentence of the control zone description and substitute therefor, "This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airmen's Information Manual."

[FR Doc.71-16177 Filed 11-4-71;8:46 am]

[Docket No. 11472; Amdt. No. 781]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Recent Changes and Additions

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAP's) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAP's for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 F.R. 5609).

SIAP's are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20590. Copies of SIAP's adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAP's may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, DC 20590, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $125 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.11 is amended by establishing, revising, or canceling the following L/MF-ADF(NDB)-VOR SIAP's, effective December 2, 1971.

Tonopah, Nev.—Tonopah Airport; VOR-1 Amdt. 4; Canceled.

2. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP's, effective December 2, 1971.

Alabaster, Ala.—Shelby County Airport; VOR-A, Amdt. 2; Revised.
Bettles, Alaska—Bettles Airport; VOR Runway 1, Amdt. 2; Canceled.
Lamar, Colo.—Lamar Municipal Airport; VOR Runway 18, Amdt. 5; Revised.
Picayune, Miss.—Picayune Muncipal Airport; VOR-A, Amdt. 7; Revised.
Toccoa, Ga.—Toccoa Airport; VOR Runway 20, Amdt. 3; Revised.
Tonopah, Nev.—Tonopah Airport; VOR-A, Original; Established.
Bettles, Alaska—Bettles Airport; VORTAC Runway 1, Original; Established.
Fairbanks, Alaska—Fairbanks International Airport; VORTAC Runway 19, Amdt. 2; Canceled.
Indianola, Miss.—Indianola-Legion Field; VOR/DME-A, Amdt. 2; Revised.
Nome, Alaska—Nome Airport; VOR/DME Runway 9, Original; Established.
Nome, Alaska—Nome Airport; VORTAC Runway 9, Amdt. 3; Canceled.
Teterboro, N.J.—Teterboro Airport; VOR/DME-A, Amdt. 3; Revised.

3. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's, effective December 2, 1971.

Gaithersburg, Md.—Montgomery County Airpark; NDB-A, Amdt. 2; Revised.
Grand Junction, Colo.—Walker Field; NDB Runway 11, Amdt. 7; Revised.
Grand Junction, Colo.—Walker Field; NDB-1 Runway 11, Original; Canceled.
Millville, N.J.—Millville Municipal Airport; NDB Runway 14, Amdt. 3; Revised.
Teterboro, N.J.—Teterboro Airport; NDB Runway 6, Amdt. 10; Revised.

4. Section 97.29 is amended by establishing ILS SIAP's, effective December 2, 1971.

Baltimore, Md.—Friendship International Airport; ILS Runway 10, Amdt. 2; Revised.
Baltimore, Md.—Friendship International Airport; ILS Runway 15, Amdt. 4; Revised.
Grand Junction, Colo.—Walker Field; ILS Runway 11, Original; Established.
Teterboro, N.J.—Teterboro Airport; ILS Runway 6, Amdt. 19; Revised.

5. Section 97.31 is amended by establishing, revising, or canceling the following Radar SIAP's, effective December 2, 1971.

Albany, Ga.—Albany-Dougherty County Airport; Radar-1, Amdt. 3; Revised.
Destin, Fla.—Destin-Fort Walton Beach Airport; Radar-1, Amdt. 1; Revised.
Hershey, Pa.—Hershey Airpark; Radar-1, Amdt. 1; Revised.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510; sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c) and 5 U.S.C. 552(a)(1))

Issued in Washington, D.C., on October 27, 1971.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 approved by the Director of the FEDERAL REGISTER on May 12, 1969 (35 F.R. 5610).

[FR Doc.71-16108 Filed 11-4-71;8:45 am]

Title 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 55—GRANTS UNDER THE EMERGENCY EMPLOYMENT ACT OF 1971

Subpart C—Grants for Indian Tribes on Federal or State Reservations

Subtitle A of Title 29, Code of Federal Regulations, is hereby amended by adding thereto a new subpart to Part 55, designated Subpart C, relating to grants for Indian tribes on Federal or State reservations, and by an amendment to Subpart A. The new Subpart C sets forth the regulations of the Secretary of Labor for making such grants under the Emergency Employment Act of 1971 (Public Law 92-54).

The Emergency Employment Act of 1971 was designed to increase employment and was made effective by Congress on an emergency basis. The effective implementation of the program for the benefit of Indian tribes on Federal or State reservations is not possible without regulations to enable the intended recipients of Federal financial assistance to know the requirements and how to proceed. Compliance with the notice and public procedure requirements of 5 U.S.C. 553 would involve a delay in making available the assistance provided by this Act; we find that under the circumstances such delay would be impracticable and contrary to the public interest. Accordingly, the amendments and the new Subpart C shall be effective upon

publication in the FEDERAL REGISTER (11-5-71).

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the provisions of 5 U.S.C. 553. See 29 CFR 2.7 published in the July 10, 1971 FEDERAL REGISTER, 36 F.R. 12976. In accordance with the spirit of the public policy set forth in the above mentioned section, interested parties may submit written comments, suggestions, data, or arguments to the Assistant Secretary for Manpower, U.S. Department of Labor, Washington, D.C. 20210, within 45 days of the publication of the regulations contained in this part. Material thus submitted will be evaluated and acted upon in the same manner as if this document were a proposal. Until it is revised, however, it shall remain effective, thus permitting the public business to proceed expeditiously.

Part 55 is hereby amended as follows:

1. The first sentence of § 55.1(c) is revised, and the revised paragraph reads as follows:

§ 55.1 Definitions.

* * * * *

(c) "Eligible applicant" means any unit of Federal, State or general local government, or any public agency or institution which is a subdivision or consortium of Federal, State, or general local government, or an Indian tribe on a Federal or State reservation. For purposes of this definition, a public agency or institution is deemed to be a subdivision of State or local government even if it is not directly responsible to such unit of government.

* * * * *

2. A new Subpart C is added as follows:

Subpart C—Grants to Indians on Federal or State Reservations

Sec.
55.40 Purpose and scope.
55.41 Definitions.
55.42 Incorporation of sections from other other subparts.
55.43 Applications for grants.
55.44 Distribution and use of funds.
55.45 Employing agencies.
55.46 Selection of participants.
55.47 Action on applications.
55.48 Adjustments in payments; termination of grants.
55.49 Funding.

AUTHORITY: The provision of this Subpart C issued under section 12 of the Emergency Employment Act, and Secretary's Order 20-71.

§ 55.40 Purpose and scope.

This subpart contains the policies, rules, and regulations of the Department of Labor with respect to grants for Indian tribes on Federal and State reservations under the Emergency Employment Act of 1971 (Public Law 92-54, 85 Stat. 146).

§ 55.41 Definitions.

As used in this Subpart C and in grant instruments entered into pursuant to this subpart:

(a) The definitions of "the Act," "compensation," "eligible applicant," "health care," "participant," "poverty level," "professional work," "public service," "Secretary," "special veteran," "subagent or subgrantee," "supportive services," "State," "unemployed person," and "underemployed person" set forth in § 55.1 of Subpart A are hereby incorporated in this subpart.

(b) "Eligible reservation" means the governing body of the Indian tribe or tribes on a Federal or State reservation. An eligible reservation is an eligible applicant.

(c) "Indian tribe on a Federal reservation" means a tribe located on land set aside for Indians and for which the United States is a trustee.

(d) "Indian tribe on a State reservation" means a tribe located on a reservation recognized by the State in which it is located.

(e) "Program agent" means an intertribal council, an organization of Indians, or an eligible applicant which has been designated by the Secretary for requesting, receiving, and administering funds intended for use in the employment of Indians residing on Federal and State reservations.

§ 55.42 Incorporation of sections from other subparts.

Sections 55.10 except for paragraph (a)(1), §§ 55.17, 55.18, and 55.19 of the regulations in Subpart A are hereby incorporated in this Subpart C.

§ 55.43 Applications for grants.

(a) An application for a grant for funds may be submitted by a program agent acting through its highest authorized official. The application shall contain all the information and assurances required by §§ 55.3 and 55.6 of Subpart A, except that no assurance to disregard the race or color of an applicant or participant will be required.

(b) Grant applications must be accompanied by a statement that a copy of the application, including the proposed distribution of funds, has been furnished to the Governor, and that a summary of the application has been published in two newspapers of general circulation in the area for the benefit of units of general local government which may be interested. Notice to the Governor may be given in accordance with the procedures established under the Intergovernmental Cooperation Act of 1968. The published notice shall specify where the application may be examined in full, and invite comment to the program agent and/or the Secretary. Both actual and constructive notice shall state that consideration will be given only to comments received within the time periods specified in § 55.10(b) of Subpart A.

§ 55.44 Distribution and use of funds.

(a) The Secretary will allocate the funds to program agents for distribution to designated eligible reservations in proportion to the total Indian population of each such reservation.

(b) The program agent shall assure all affected eligible reservations an opportunity for participation in all activities and decisions related to the administration of the program.

§ 55.45 Employing agencies.

(a) Either an eligible reservation or an eligible applicant which has been designated by an eligible reservation may be an employing agency.

(b) Activities and services for which financial assistance is granted under this subpart must be administered by or under the supervision of a program agent.

(c) If the program agent is not an eligible applicant both the program agent and any eligible applicant receiving funds directly from the program agent shall be responsible to the Secretary for compliance with the Act, the regulations, and the grant conditions, and for any funds improperly expended.

(d) Program agents may use their funds to purchase administrative and supportive services from public or private organizations, *Provided,* That program agents may not contract with private organizations for the employment of participants, and *Provided further,* That any contract with a private organization in excess of $10,000 shall be approved by the Secretary.

§ 55.46 Selection of participants.

(a) Paragraphs (a), (b), (c), and (e) of § 55.7 are applicable to grants pursuant to this subpart.

(b) Participants shall be selected from resident members of the tribes on the eligible reservation to which funds have been allotted. Wherever possible, employment opportunities shall be provided at jobsites within the geographical boundaries of the reservation, and the public services resulting from the public employment thereby created shall be provided to residents of the reservation.

§ 55.47 Action on applications.

An application for a grant for an Indian tribe under this subpart will be approved if (1) the program agent, or when the program agent is not an eligible applicant, the eligible applicant receiving funds directly through it, has the legal capacity to operate the program proposed, (2) the application meets the requirements of the statute and of the regulations in this subpart, and (3) the Secretary finds in his discretion that the amount requested and the plan for allocation within the area will best serve to reduce unemployment.

(b) The program agent will be notified of action taken on an application in accordance with § 55.11(b). If approved, the grant will be completed as provided in said § 55.11(b); if the application is denied, a notice of denial will be sent to the program agent, accompanied by a brief statement of the reason for denial.

(c) In the event an acceptable application is not filed within the time prescribed by the Secretary or is denied, or a grant is terminated in whole or in part during a fiscal year, the Secretary may make provision for the funds released by such failure to file, denial, or termination, to be used by one or more

alternative eligible applicants in furtherance of the purposes of this subpart.

§ 55.48 Adjustments in payments; termination of grants.

(a) If any funds are expended by a program agent, or an eligible applicant receiving funds directly through a program agent which is not an eligible applicant, in violation of the Act, the regulations, or grant conditions, the Secretary may make necessary or appropriate adjustments in payments to the program agent or may terminate the grant. If the violation is by an eligible applicant receiving grant funds from a program agent which is not an eligible applicant, the Secretary may seek recourse against such eligible applicant.

(b) The methods, provisions, and procedures for adjustments in payments or termination of grants which are set forth in §§ 55.25 and 55.26 shall apply with respect to grants pursuant to this subpart.

§ 55.49 Funding.

(a) Paragraphs (d), (e), and (f) of § 55.15 of Subpart A are incorporated herein.

(b) Federal funds will be granted on the basis of program applications, and only for purposes (1) permitted under the provisions of Subpart 1–15.7 of Title 41 of the Code of Federal Regulations, entitled "Principles for Determining Costs Applicable to Grants and Contracts with State and Local Government," and (2) not barred under the remaining provisions of this part.

(c) Not less than 85 percent of the funds granted to a program agent, or the percent specified by the Secretary, shall be used for compensation and benefits to participants.

(d) It is hereby found that the requirement for non-Federal share would cause a serious hardship for eligible reservations and therefore that requirement is waived with respect to grants under this subpart.

Signed at Washington, D.C., this 29th day of October, 1971.

MALCOLM R. LOVELL, Jr.,
Assistant Secretary for Manpower.

[FR Doc.71–16193 Filed 11–4–71;8:48 am]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter X—Office of Oil and Gas, Department of the Interior

[Oil Import Reg. 1 (Rev. 5)]

OI REG. 1—OIL IMPORT REGULATION

Administrative Reorganization—Oil Imports

The Oil Import Administration has been merged into the Office of Oil and Gas, and the authority formerly vested in the Administrator, Oil Imports Administration, has been delegated to the Director, Office of Oil and Gas.

1. Section 2 of Oil Import Regulation 1 (Revision 5) is amended to read as follows:

Sec. 2 Administration of program.

The Director, Office of Oil and Gas has been empowered to exercise, pursuant to regulations, the authority conferred upon the Secretary by Proclamation 3279, as amended.

2. Oil Import Regulation 1 (Revision 5) and Oil Import Regulation 2 are amended by substituting throughout the regulations "Director" for "Administrator" and "Office of Oil and Gas" for "Oil Import Administration."

3. The chapter heading of Chapter X, Title 32A, Code of Federal Regulations, is amended to read as set forth above.

4. Oil Import Administration bulletins are redesignated as Oil Import bulletins.

HOLLIS M. DOLE,
Assistant Secretary of the Interior.

OCTOBER 29, 1971.

[FR Doc.71–16188 Filed 11–4–71;8:47 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations

SUBCHAPTER E—SUPPLY AND PROCUREMENT

PART 101–26—PROCUREMENT SOURCES AND PROGRAMS

Subpart 101–26.5—GSA Procurement Programs

SUBMISSION OF REQUIREMENTS

Correction

In F.R. Doc. 71–15927 appearing at page 20876 in the issue of Saturday, October 30, 1971, under § 101–26.501–3 (c) a line reading "sion of requisitions as set forth in" should be inserted after the 16th line in the first column of page 20877.

Title 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior

PART 4—DEPARTMENT HEARINGS AND APPEALS PROCEDURES

Subpart D—Special Rules Applicable to Proceedings in Indian Probate, Including Hearings and Appeals

WILLS OF INDIANS

Pursuant to the authority of the Secretary of the Interior contained in 25 U.S.C. 373, the following amendments of the heading of § 4.260 and of the text of paragraph (b) of that regulation in Part 4, Title 43, are made to clarify procedural matters. The amendments eliminate language in the regulation which refers to approval or disapproval, as to form, of wills executed by living Indians by the Secretary and provides for review in the Office of the Solicitor. They do not, however, alter any legal requirements as to the form of such wills. As amended, the heading of § 4.260, and paragraph (b) read as follows:

§ 4.260 Making; review as to form and revocation.

* * * * *

(b) When an Indian executes a will and submits the same to the Superintendent of the Agency, the Superintendent shall forward it to the Office of the Solicitor for examination as to adequacy of form, and for submission by the Office of the Solicitor to the Superintendent of any appropriate comments. The will or codicil or any replacement or copy thereof may be retained by the Superintendent at the request of the testator or testatrix for safekeeping. A will shall be held in absolute confidence, and no person other than the testator shall admit its existence or divulge its contents prior to the death of the testator.

* * * * *

It is the policy of the Department of the Interior, whenver practicable, to afford the public an opportunity to participate in the rulemaking process. However, since this amendment is editorial in nature and merely reflects the applicable practice in this matter, notice and public procedure thereon under 5 U.S.C. 553 are unnecessary and it will be made effective in less than 30 days. Accordingly, this amendment shall become effective upon publication hereof in the FEDERAL REGISTER (11–5–71).

Dated: November 1, 1971.

WARREN F. BRECHT,
Deputy Assistant Secretary of the Interior.

[FR Doc.71–16192 Filed 11–4–71;8:48 am]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER N—DANGEROUS CARGOES

[CGFR 71–127]

PART 146—TRANSPORTATION OR STORAGE OF EXPLOSIVES OR OTHER DANGEROUS ARTICLES OR SUBSTANCES, AND COMBUSTIBLE LIQUIDS ON BOARD VESSELS

Miscellaneous Amendments

Corrosive liquids, n.o.s., wet desensitized pentaerythrite tetranitrate, bromine, hydrochloric acid, sodium chlorite, chromic acid, refrigerant gas, chloropicrin and chloropicrin mixtures, and flammable liquid containers.

This amendment to Part 146 of Title 46 of the Code of Federal Regulations allows the carriage on board vessels of bulk shipments of certain corrosive liquids, n.o.s., in tank cars, motor vehicle tank trucks complying with Department of Transportation regulations (trailerships and trainships only) and portable tanks; wet desensitized pentaerythrite tetranitrate in specification DOT–21C fiberdrums having an inside polyethylene bag; bromide in bottles not over one (1) quart in specification 12A fiberboard boxes; and hydrochloric acid and sodium chlorite solution in specification 2E polyethylene bottles up to one (1) gallon capacity in DOT–12R packaging. In addition, this amendment revises the definition of chromic acid, prohibits its carriage in certain packaging that apparently is no longer in use, and allows its carriage in specification DOT–29 and 33A packaging. This amendment also allows the carriage of chloropicrin and mixtures of chloropicrin containing no compressed gas or class A poisonous liquids in specification 4BW cylinders and increases the quantity that may be carried in authorized cylinders. Refrigerant gases which are nonflammable and nonpoisonous may be carried, as a result of this amendment, in specification DOT–2P and 2Q inside metal containers. This amendment also allows for the carriage of the certain flammable liquids in specification DOT–2S inner polyethylene containers when DOT–2SL containers are authorized. This change applies to acetone; butyraldehyde; ethyl acetate; ethyl methyl ketone; heptane; isopropyl acetate; methyl acetate; methyl acetone; methyl isopropenyl ketone, inhibited; motor fuel, n.o.s.; pentane, methyl petroleum distillate; allyl bromide; antifreeze compounds, liquids; butyl acetate; box toe gum; cement, leather; cigar and cigarette lighter fluid; coal tar distillate; coal tar naphtha; coal tar oil; compounds, cleaning, liquid; compounds, tree or weed killing, liquid; crontonaldehyde; crude oil, petroleum; dimethylamine, aqueous solution; drugs, chemicals, medicines, or cosmetics, n.o.s.; ethylene dichloride; insecticide, liquid; methyl methacrylate monomer; oil; pyridine; resin solution; sodium methylate alcohol mixture; solvents, n.o.s.; toluol; turpentine substitutes vinyl acetate; xylol; inflammable liquids, n.o.s.; insecticide, liquid (vermin exterminator).

At page 21287 of this issue of the FEDERAL REGISTER, the Hazardous Materials Regulations Board of the Department of Transportation amends 49 CFR Parts 172, 173, and 178. This amendment to 46 CFR Part 146 adopts the substantive changes of the Board in its amendment.

For reasons fully stated in that document, the Board did not at this time adopt regulations which would allow the bulk shipment of diethyl phosphorochloridothioate and dimethyl phosphorochloridothioate. The Coast Guard is following the Board's actions with respect to these dangerous cargoes.

The Board's amendment to the hazardous materials regulations of the Department of Transportation in Title 49 applies to shippers by water, air, and land and to carriers by air and land. This amendment to Title 46 applies to carriers by water.

Interested persons were afforded an opportunity to participate in the making of this rule. This amendment was published in a series of notices of proposed rule making (CGFR 71–32, 33, 34, 35, 36, 37, 38, and 40) on Wednesday, May 26, 1971 (36 F.R. 9598) and a hearing was held on this amendment on August 10, 1971 at Washington, D.C. No comments were received.

Accordingly, Part 146 of Title 46, Code of Federal Regulations, is amended as follows:

1. By adding to § 146.04–5—"List of explosives and other dangerous articles and combustible liquids" in column 1 in the proper alphabetical order the following articles:

Ethyl chlorothioiformate. (See: Corrosive liquid, n.o.s.)
Ethyl phosphonothioic dichloride, anhydrous. (See: Corrosive liquid, n.o.s.)
Ethyl phosphorodichloridate. (See: Corrosive liquid, n.o.s.)
Methyl phosphonothioic dichloride, anhydrous. (See: Corrosive liquid, n.o.s.)
Methyl phosphonus dichloride. (See: Corrosive liquid, n.o.s.)
Pentaerythrite tetranitrate, desensitized, wet. (See: High explosives.)

2. In § 146.20–100—"Table A—Classification—Class A; dangerous explosives" for the article "High explosives (*wet with not less than 10 pounds of water to every 90 pounds of dry material*):"

(a) In column 1 by adding in proper alphabetical sequence the following:

Pentaerythrite tetranitrate, desensitized.

(b) In column 4 by deleting the words under "outside containers" and inserting in place thereof the following:

Authorized only for *ammonium picrate, cyclotrimethylene-trinitramine, picric acid, trinitrobenzene, trinitrobenzoic acid, trinitroresorcinol, trinitrotoluene, urea nitrate.*
Wooden barrels or kegs (DOT–10B) not over 50 gal. cap.
Authorized only for *Cyclotrimethylene-trinitramine.*
Fiber drum (DOT–21C) WIC not over 225 lb. net dry wt.
Metal barrels or drums (DOT–5B) WIC not over 300 lb. net wt.
Authorized only for *Pentaerythrite tetranitrate, desensitized.*
Fiber drum (DOT–21C) WIC not over 200 lb. net dry wt.

3. In § 146.21–100—"Table D—Classification Inflammable Liquids:"

(a) For the following articles:

Acetone.
Butyraldehyde.
Ethyl acetate.
Ethyl methyl ketone.
Heptane.
Insecticide, liquid.
Isopropyl acetate.
Methyl acetate.
Methyl acetone.
Methyl iso-propenyl ketone, inhibited.
Motor fuel, n.o.s.
Pentane.
Pentane, methyl.
Petroleum distillate.

by deleting in column 4 the words "Cylindrical steel overpacks: (DOT–6D, 37M(NRC)) WIC DOT–2SL not over 55 gal. cap." and inserting in place thereof "Cylindrical steel overpacks: (DOT–6D, 37M(NRC)) WIC (DOT–2SL) not over 55 gal. cap."

(b) For the following articles:

Allyl bromide.
Anti-freeze compounds, liquid.
Butyl acetate.
Box toe gum.
Cement, leather.
Cigar and cigarette lighter fluid.
Coal tar distillate.
Coal tar naphtha.
Coal tar oil.
Compounds, cleaning, liquid.
Compounds, tree or weed killing, liquid.
Crontonaldehyde.
Crudé oil, petroleum.
Dimethylamine, aqueous solution.
Drugs, chemicals, medicines, or cosmetics, n.o.s.
Ethylene dichloride.
Insecticide, liquid.
Methyl methacrylate monomer.
Oil.
Pyridine.
Resin solution.
Sodium methylate alcohol mixture.
Solvents, n.o.s.
Toluol.
Turpentine substitutes.
Vinyl acetate.
Xylol.

by deleting in columns 4, 5, 6, and 7 the words "Cylindrical steel overpacks: (DOT–6D, 37M(NRC)) WIC DOT–2SL not over 55 gal. cap." and inserting in place thereof "Cylindrical steel overpacks: (DOT–6D, 37M(NRC)) WIC (DOT–2SL, 2S) not over 55 gal. cap."

(c) For the article "Inflammable liquid, n.o.s." in column 4 under outside container section (b) and in columns 5, 6, and 7 by deleting the words "DOT–6D, 37M(NRC)) WIC DOT–2SL not over 55 gal. cap." an inserting in place thereof "DOT–6D, 37M(NRC)) WIC (DOT–2SL) not over 55 gal. cap."

4. In § 146.23–100—"Table F—Classification: Corrosive Liquids" for the article "Corrosive liquid, n.o.s.:"

(a) By adding in column 1 the following:

Ethyl chlorothiolformate.
Ethyl phosphonothioic dichloride, anhydrous.
Ethyl phosphorodichloridate.
Methyl phosphonothioic dichloride, anhydrous.
Methyl phosphonus dichloride.

(b) In columns 4, 6, and 7 by inserting the words "The following outside containers may be used for all corrosive liquids, n.o.s.:" directly under the words "Outside containers."

(c) In column 4 by adding the following:

The following outside containers may be used for ethyl chlorothiolformate; ethyl phosphonothioic dichloride, anhydrous; ethyl phosphonous dichloride, anhydrous; methyl phosphonothioic dichloride, anhydrous; methyl phosphonous dichloride:
Portable tanks (DOT–51) complying with DOT regulations not over 20,000 lb. gr. wt.

(d) In columns 4 and 7 by adding the following:

The following outside containers may be used for ethyl phosphonothioic dichloride, anhydrous; ethyl phosphorodichloridate; methyl phosphonothioic dichloride, anhydrous:

Tank cars complying with DOT regulations (trainships only).

5. By revising § 146.23-100—"Table F—Classification: Corrosive Liquids" as follows:

(a) For the article "Bromine" in column 4 by inserting the words "Fiberboard boxes (DOT-12A) WIC" directly after the words "Outside containers."

(b) For the article "Hydrochloric acid" by deleting in column 4 "Paper-faced expanded polystyrene board boxes (DOT-12R)" and inserting in place thereof "Paper-faced expanded polystyrene board boxes (DOT-12R) WIC (DOT-12E)."

(c) For the article "Sodium chlorite solution (*not exceeding 42 percent sodium chlorite*)" by deleting in columns 4, 5, 6, and 7, "Paper-faced expanded polystyrene board boxes (DOT-12R)," and inserting in place thereof "Paper-faced expanded polystyrene board boxes (DOT-12R) WIC (DOT-12E)."

(d) For the article "Chromic acid solution" by deleting in column 2 the words "A solution of chromic acid" and inserting in place thereof the following:

Solution of chromic acid (chromium trioxide) in water, with or without other acids, containing 35 percent or more of chromic acid. Solutions containing chromic acid in water, in concentration not exceeding 35 percent (other acids may also be present), and which are not otherwise regulated as corrosive liquids in this subpart, must be shipped under the terms of "Corrosive liquids, n.o.s."

Packaging must be of a design and be constructed of materials that will not react dangerously with nor be decomposed by the chemical solution packed therein.

(e) For the article "Chromic acid solution" by deleting in columns 4, 5, 6, and 7, the words:

Carboys, boxed, glass, earthenware, clay, or stone (DOT-1A) not over 13 gal. cap.
Carboys, boxed, lead (DOT-1B) not over 13 gal. cap.
Carboys in kegs, glass, earthenware, clay, or stone (DOT-1C) not over 13 gal. cap.
Carboys, boxed, glass (DOT-1D) not over 6½ gal. cap.
Carboys in plywood drugs, glass (DOT-1E) not over 7 gal. cap.
Carboys, boxed, glass, earthenware, clay, or stone (DOT-1X) STC, for export only not over 6 gal. cap.
Carboys, lead, metal-jacketed (DOT-2S) not over 15 gal. cap.
Steel barrels or drums:
(DOT-5A) not over 110 gal. cap.
(DOT-5C) not over 110 gal. cap.
(DOT-37P) NRC, not over 5 gal. cap.
(DOT-17C, 17E, 17F) STC, not over 55 gal. cap.
(DOT-17H, 37A, 37B) STC, not over 5 gal. cap.
Monel drugs (DOT-5M) not over 55 gal. cap.
Metal drums (DOT-5M) not over 55 gal. cap.
Metal drums, rubber-lined (DOT-5D) not over 110 gal. cap.
Metal drums, lead-lined (DOT-5H) not over 110 gal. cap.
Cylindrical steel over pack:
(DOT-6D, 37M, (NRC)), WIC DOT-2S or 2SL, not over 55 gal. cap.
Rubber drums (DOT-43A) not over 30 gal. cap.
Wooden barrels or kegs:
(DOT-10A) asphalt, paraffin, or wax lined not over 50 gal. cap.
(DOT-11A, 11B), WIC, not over 200 lb. net wt.
Wooden boxes:
(DOT-15A, 15B, 15C, 16A, 19A) WIC, not over 200 lb. gr. wt.
(DOT-16A) WIC polyethylene 2U, not over 200 lb. gr. wt.
(DOT-16D) WIC (DOT-2T, 2TL, 2S, 2SL) not over 15 gal. cap.
Fiberboard boxes:
(DOT-12A, 12B) WIC, not over 65 lb. gr. wt.
(DOT-12P) WIC (DOT-2U polyethylene) not over 5 gal. cap. ea.
Plywood or wooden box or drum (DOT-15P, 22C) WIC (DOT-2T) not over 15 gal. cap.
Fiber drum (DOT-21P) WIC DOT-2S, 2SL or 2U not over 30 gal. cap.

and inserting in place thereof the following:

For solutions containing chromic acid in water, with or without other acids, containing 35 percent or more of chromic acid:
Carboys, boxed (DOT-1A).
Metal barrels or drums (DOT-5, 5A, 5B). Openings cannot exceed 2.3 inches in diameter. Authorized for solution containing chromic acid only.
Steel drums (DOT-17E). Authorized for solution containing chromic acid only.
Fiberboard boxes (DOT-12A, 12B) WIC. Not authorized for solutions containing nitric acid.
Paper-faced expanded polystyrene board boxes (DOT-12R) WIC.
Polystyrene cased (DOT-33A) (NRC) WIC.
Mailing tubes (DOT-29) WIC.

In addition to the outside containers listed above, solutions containing chromic acid in water; in concentrations not exceeding 35 percent (other acids may also be present) may also be packaged as follows:

Carboys, boxed, (DOT-1A) not over 13 gal. cap.
Carboys, boxed, (DOT-1B) not over 13 gal. cap.
Carboys in kegs, (DOT-1C) not over 13 gal. cap.
Carboys, boxed, glass (DOT-1D) not over 6½ gal. cap.
Carboys in plywod drums, (DOT-1E) not over 7 gal. cap.
Carboys, boxed, (DOT-1X) STC, for export only
Carboys, lead, metal-jacketed (DOT-2S) not over 15 gal. cap.
Metal barrels or drums:
(DOT-17H, 37A, 37B) STC, lines, not over 5 gal. cap.
Metal drums, rubber-lined, (DOT-5D) not over 110 gal. cap.
Metal drums, lead-lined, (DOT-5H) not over 110 gal. cap.
Cylindrical steel overpack:
(DOT-6D, 37M(NRC)), WIC DOT-2S or 2SL, not over 55 gal. cap.
Rubber drums, (DOT-43A) not over 30 gal. cap.
Wooden barrels or kegs:
(DOT-10A) asphalt, paraffin, or wax-lined not over 50 gal. cap. (DOT-11A, 11B) WIC.
Wooden boxes:
(DOT-15A, 15B, 15C, 16A, 19A) WIC.
(DOT-15A) WIC polyethylene 2U.
(DOT-16D) WIC (DOT-2T, 2TL, 2S, 2SL)
Fiberboard boxes:
(DOT-12A, 12B) WIC
(DOT-12P) WIC (DOT-2U polyethylene) not over 5 gal. cap. ea.
Plywood or wooden box or drum (DOT-15P, 22C) WIC (DOT-2T)
Fiberdrum (DOT-21P) WIC (DOT-2S, 2SL)
Polyethylene container (DOT-34) not over 30 gal. cap.
Polystyrene case (DOT-33A) (NRC) WIC.

6. By revising § 146.24-15(f) to read as follows:

§ 146.24-15 Containers.

* * * * *

(f) Mixtures containing compressed gases or gases including insecticide which are nonflammable and nonpoisonous may be shipped in inside metal containers DOT-2P equipped with safety devices of a type approved by the Department of Transportation. Refrigerant gases which are nonflammable and nonpoisonous may be shipped in inside metal containers DOT-2P and DOT-2Q. Inside metal container must be packed in strong wooden or fiber boxes of a design that protects the valves from injury or accidental functioning under conditions incident to transportation. Pressure in the container must not exceed 85 p.s.i. absolute at 70° F. Each inside metal container filled for shipment must be heated until the contents reach a minimum temperature of 130° F, without incidence of leakage, distortion, or other defect. Each outside shipping container must be plainly marked "Inside Containers Comply With Prescribed Specification" and shall bear the proper label.

* * * * *

7. By revising § 146.25-200—"Table H—Classification-Class B; less dangerous poisons." for the article "Chloropicrin, liquid" by deleting in column 4 the words "Cylinders (DOT-3A, 3AA, 3B, 3C, 3D, 3E, 4A, 4B, 4BA, 4BW, 4C) not over 25 lb. water capacity:" and inserting in place thereof the following:

Cylinders (DOT-3A, 3AA, 3B, 3C, 3D, 3E, 4A, 4B, 4BA, 4BW, 4C). Each cylinder having a water capacity over 275 pounds must have a minimum design pressure of 225 p.s.i.g. unless the specification requires a higher minimum design pressure. Valves or other closing devices must be protected by screw-on metal caps or by packing the cylinders in boxes or crates, to protect the valves from damage during transportation. A cylinder closed by means of a solid plug may have the closure protected by a metal collar. Cylinders having a wall thickness of less than 0.08 inch must be packed in boxes or crates.

(R.S. 4472, as amended, R.S. 4417a, as amended; sec. 1, 19 Stat. 252, 49 Stat. 1889, sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 170, 391a, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Effective date. This amendment shall become effective on December 31, 1971.

Dated: October 29, 1971.

T. R. SARGENT,
Vice Admiral, U.S. Coast Guard
Acting Commandant.

[FR Doc.71-16181 Filed 11-4-71;8:45 am]

Title 49—TRANSPORTATION

Chapter I—Hazardous Materials Regulations Board, Department of Transportation

[Docket No. HM-85; Amdt. Nos. 172-13, 173-87, 178-22]

MISCELLANEOUS AMENDMENTS TO CHAPTER

The purpose of these amendments to the Hazardous Materials Regulations of the Department of Transportation is (1) to authorize the shipment of wetted, desensitized pentaerythrite tetranitrate (PETN) in a specification 21C drum; (2) to delete unnecessary references to DOT-106A500 tanks; (3) to authorize the shipment of certain flammable liquids in a DOT-109A100ALW tank car and in certain packagings having a specification 2S inner polyethylene container; (4) to authorize the bulk shipment of certain corrosive liquids; (5) to authorize up to 1-quart bottles of bromine in a DOT-12A fiberboard box; (6) to authorize the shipment of bromine in a nickle-clad cargo tank; (7) to authorize the shipment of sodium chlorite solutions in certain cargo tanks; (8) to authorize the shipment of hydrochloric acid and sodium chlorite solutions in DOT-2E bottles packaged within DOT-12R packaging; (9) to revise section 173.287, Chromic acid solution, to clarify and add certain packaging provisions; (10) to delete the requirement that DOT-2P and DOT-2Q metal containers be equipped with safety relief devices for shipment of certain refrigerant gases; (11) to authorize the use of a specification 4BW cylinder and to increase the quantity allowable in currently authorized cylinders for the shipment of chlorpicrin and certain mixtures of chlorpicrin; and (12) to update the DOT-4L cylinder material specification and to prohibit heat treating of this material.

On May 26, 1971, the Hazardous Materials Regulations Board published a notice of proposed rule making, Docket No. HM-85; Notice No. 71-14 (36 F.R. 9602) which proposed these amendments. Interested persons were invited to give their views and several comments were received by the Board.

Two objections were received to the proposal to amend § 173.65 to authorize certain fiber drums for class A explosives. Both comments were based on difficulties reported with fiber drums containing class B propellant explosives in shipments by rail. The Board acknowledges that a problem appears to exist in the transportation of these packages by rail and currently has the matter under active study. However, the Board concludes that the amendment is warranted since the problem appears to be limited to drums containing class B propellant explosives. DOT-21C fiber drums without a requirement for the plastic bag specified herein, are currently authorized for several class A explosives under § 173.65. Review of accident reports filed with the Department fails to reveal any difficulty with these packages. The Board also notes that packages containing class A explosives are required to be given more careful handling by a rail carrier.

A commenter requested that dichlorobutene be added to the table in § 173.245a. According to the rules of procedure, public notice of such an addition must be given. The Board will give consideration to including this request in a future notice of proposed rule making. Additional data are being collected on diethyl phosphorochloridothioate and dimethyl phosphorochloridothioate. These products are therefore not included in this amendment. Another commenter requested that the products listed in § 173.245a also be included in § 172.5 to be more informative. The Board agrees with this comment and has made this change.

A commenter observed that the proposed change to § 173.252(a)(5) did not cover certain larger cargo tanks now covered by special permit. To accomplish the change requested by the commenter, the weight limitation would be required to be changed from 30,000 pounds to 60,000 pounds. Such a change cannot be made without advance notice of the intended change.

One commenter noted that possible confusion might arise in the application of § 173.287 (c) and (c)(1) when read with § 173.287(b). Editorial changes have been made to clarify the intent of the Board.

A commenter expressed an opinion that it was not consistent to require DOT-2P and DOT-2Q packaging for nonflammable and nonpoisonous refrigerant gases and to provide the exemptions described under § 173.306(a)(3). Although preliminary review of the comment indicates a possible need for change, to make such an amendment would result in a substantive change which must receive the benefit of the full rule-making procedure.

As requested by a commenter, § 173.357(b)(1) was changed editorially by inverting the order of the sentences to preclude interpretation of the requirement for valve protection to apply only to cylinders having a water capacity over 275 pounds.

In its proposed changes to § 178.57-21, the Board stated that the purpose was to update the DOT-4L cylinder material specification. One commenter noted that the revision was incorrect in that the nickel content should be changed to "8.00-10.50". Also, this commenter observed that the latest standard ASTM-A480-70 was not reflected by the current table of Check Analysis Tolerances. The Board has incorporated these recommendations since they only update the specification and check analysis tolerances, consistent with recent revisions of ASTM Specifications. Section 178.57-16 has also been editorially corrected.

These amendments do not include the proposed change relating to boron tribromide. The Board has concluded that this proposal requires further study.

In consideration of the foregoing, 49 CFR Parts 172, 173, and 178 are amended as follows:

PART 172—COMMODITY LIST OF HAZARDOUS MATERIALS CONTAINING THE SHIPPING NAME OR DESCRIPTION OF ALL ARTICLES SUBJECT TO PARTS 170-189 OF THIS CHAPTER

In § 172.5 paragraph (a), the Commodity List is amended as follows:

§ 172.5 List of hazardous materials.

(a) * * *

Article	Classed as—	Exemptions and packing (see sec.)	Label required if not exempt	Maximum quantity in 1 outside container by rail express
Change				
Corrosive liquid, n.o.s.	Cor. L.	173.244, 173.245, 173.245a	White	5 pints.
Add				
Ethyl chlorothiolformate. See Corrosive liquid n.o.s.				
Ethyl phosphonothioic dichloride, anhydrous. See Corrosive liquid, n.o.s.				
Ethyl phosphonous dichloride, anhydrous. See Corrosive liquid n.o.s.				
Ethyl phosphorodichloridate. See Corrosive liquid, n.o.s.				
Methyl phosphonothioic dichloride, anhydrous. See Corrosive liquid, n.o.s.				
Methyl phosphonous dichloride. See Corrosive liquid, n.o.s.				
Pentaerythrite tetranitrate, desensitized, wet. See High explosives.				

PART 173—SHIPPERS

(A) In Part 173 Table of Contents, § 173.245a is added to read as follows:

Sec.
173.245a Corrosive liquids n.o.s. shipped in bulk.

(B) In § 173.65(e), the introductory text and subparagraph (1) are amended; subparagraph (4) is added to read as follows:

§ 173.65 High explosives with no liquid explosive ingredient nor any chlorate.

* * * * *

(e) Ammonium picrate, cyclotrimethylenetrinitramine, pentaerythrite tetranitrate (desensitized), picric acid, trinitrobenzene, trinitrobenzoic acid, trinitroresorcinol, trinitrotoluene, or urea nitrate, when wet with not less than 10 pounds of water to each 90 pounds of

dry material must be shipped in packagings as follows:

(1) Specification 10B (§ 178.156 of this chapter) wooden barrel or keg. Not over 50 gallons nominal capacity. Not authorized for wet desensitized pentaerythrite tetranitrate.

• • • • • •

(4) Specification 21C (§ 178.224 of this chapter). Fiber drum with an inside polyethylene bag having 0.004 inch minimum thickness and liquid-tight closure. Net weight not to exceed 200 pounds. Authorized only for wet desensitized pentaerythrite tetranitrate.

• • • • • •

(C) In § 173.119, paragraphs (a) (12), (b) (8), (e) (2), and (f) (3) are amended to read as follows:

§ 173.119 Flammable liquids not specifically provided for.

(a) • • •

(12) Specification 103,[1] 103W, 103ALW, 103DW, 104,[1] 104W, 105A100,[1] 105A100 ALW, 105A100W, 106A500X, 106A800 XNC, 106A800NCI,[1] 109A100ALW, 110A 500W, 111A60ALW, 111A60F1, 111A60W1, 111A100W3, 111A100W4, 111A100W6, 112A200W, 112A400F, 114A340W, ARA–III,[1] ARA–IV,[1] or ARA–IV–A [1] (§§ 179.100, 179.101, 179.200, 179.201, 179.300, 179.301 of this chapter). Tank car. For a car equipped with an expansion dome, the manway closure must be so designed that pressure will be released automatically by starting the operation of removing the manway cover. Openings in tank heads to facilitate application of lining are authorized and must be closed in an approved manner (see §§ 179.3, 179.4 of this chapter) (see § 173.432 for shipping instructions).

• • • • • •

(b) • • •

(8) Specification 6D or 37M (nonreusable container) (§§ 178.102, 178.134 of this chapter). Cylindrical steel overpack with an inside specification 2S or 2SL (§§ 178.35, 178.35a of this chapter) polyethylene container. Authorized only for materials that will not react with polyethylene result in container failure.

• • • • • •

(e) • • •

(2) Specification 103,[1] 103W, 103ALW, 103DW, 104,[1] 104W, 105A100,[1] 105A100 ALW, 105A100W, 106A500X, 106A800 XNC, 106A800NCI,[1] 109A100ALW, 110A 500W, 111A60ALW, 111A60F1, 111A60W1, 111A100W3, 111A100W4, 111A100W6, 112A200W, 112A400F, 114A340W, ARA–III,[1] ARA–IV,[1] or ARA–IV–A [1] (§§ 179.100, 179.101, 179.200, 179.201, 179.300, 179.301 of this chapter). Tank car. A car having an expansion dome must be equipped with a manway closure, identification marks, and dome placards as prescribed in paragraphs (f) (4), (g), (h), and (h) (1) of this section. Openings in tank heads to facilitate application of lining are authorized and must be closed in an approved manner (see §§ 179.3, 179.4 of this chapter) (see Note 1 of paragraph (f) (3) of this section).

• • • • • •

[1] Use of existing tank cars authorized, but new construction not authorized.

(f) • • •

(3) Specification 105A100,[1] 105A100 ALW, 105A100W, 106A500X, 106A800 XNC, 106A800NCI,[1] 109A100ALW, 110A 500W, 111A100W4, 112A200W, 112A400F, 114A340W, ARA–IV–A [1] (§§ 179.100, 179.101, 179.200, 179.201, 179.300, 179.301 of this chapter) (see Note 1). Tank car. Specification 104,[1] 104W, 111A100W3, or ARA–IV (§§ 179.200, 179.201 of this chapter) tank cars are authorized under the conditions prescribed in paragraphs (f) (4), (g), (h), and (h) (1) of this section and Note 3 of this subparagraph. Openings in tank heads to facilitate application of lining are authorized and must be closed in an approved manner (see §§ 179.3 and 179.4 of this chapter). Notes 1, 2, and 3 remain the same.

• • • • • •

(D) Section 173.245a is added to read as follows:

§ 173.245a Corrosive liquids, n.o.s. shipped in bulk.

(a) Corrosive liquids, n.o.s., may not be shipped in bulk in tank cars, tank motor vehicles, or portable tanks except as follows:

Corrosive liquid	Authorized tank car	Authorized portable tank [2]
Ethyl chlorothiolformate.	.....	DOT-51, monel-clad.
Ethyl phosphonothioic dichloride, anhydrous.	103AW.....	DOT-51.
Ethyl phosphonous dichloride, anhydrous.	.....	DOT-51.
Ethyl phosphorodichloridate.	103ANW, 103AW, 111A100F2, 111A100W2 [2]	.....
Methyl phosphonothioic, dichloride, anhydrous.	103AW.....	DOT-51.
Methyl phosphonous dichloride. [1]	.....	DOT-51.

[1] In an unlined tank, must be loaded and shipped under a blanket of nonflammable, dry, inert gas, adequate to displace any significant amount of air.

[2] Specification 103ANW tank car tank must be solid nickel at least 95 percent pure; all cast metal parts of the tank in contact with the lading must have a minimum nickel content of approximately 96.7 percent. Specification 103A tank car tank must be lead-lined steel or must be made of steel at least 10 percent nickel clad; specification 103AW, 111A100F2, or 111A100W2 tank must be lead-lined steel or made of steel with a minimum thickness of nickel cladding 1/16 inch; nickel cladding in tanks must have a minimum nickel content at least 99 percent pure nickel.

[2] Tank must be equipped with a safety-relief valve set at not less than 100 psig. In addition, the relief valve must comply with § 173.315(i)(1).

(E) In § 173.252, paragraph (e) is amended; paragraphs (a) (5) and (g) (3) are added to read as follows:

§ 173.252 Bromine.

(a) • • •

(5) Specification MC 310 or MC 312 (§ 178.343 of this chapter). Tank motor vehicle. The tank must have a shell and head thickness of three-eighths-inch minimum with cladding material on the inside surface comprising at least 20 percent of the total shell or head thickness. The cladding material must conform to requirements of ASTM Specification B–162–69. The composite plate must conform to requirements of ASTM Specification A–265–69. The water weight capacity of the tank must not exceed 10,200 pounds and the maximum quantity of liquid bromine loaded into the tank must not exceed 30,000 pounds or 300 percent of the water weight capacity of the tank, whichever quantity is less. The total quantity loaded must not be less than 98 percent of the quantity the tank is authorized to carry.

• • • • • •

(e) Except as provided in paragraphs (g) (2) and (3) of this section, bottles or jugs must be securely cushioned on all sides with incombustible packaging material, such as whiting, mineral wool, infusorial earth (keiselguhr), sifted ashes, powdered china clay, or similar material, at least 1 inch thick, which will not produce heat when mixed with bromine. The use of hay, sawdust, excelsior, or other organic material, either treated or untreated, as a cushioning or packaging material is prohibited.

• • • • • •

(g) • • •

(3) Specification 12A (§ 178.210 of this chapter). Fiberboard box with inside glass bottles having closures meeting the requirements of paragraph (d) of this section. Each bottle must be enclosed in a tinplate slipcover metal can surrounded by incombustible cushioning material. No box may contain any bottle of a capacity greater than 1 quart. Each box may contain not more than four bottles having a capacity not exceeding 1 quart, or 12 bottles having a capacity not exceeding 8 fluid ounces. The shipper must have established that the completed package closed for shipment, with inside bottles filled with a liquid of the same specific gravity and similar viscosity as bromine, is capable of withstanding the tests prescribed in § 178.210–10 of this chapter.

• • • • • •

(F) In § 173.263(a), subparagraphs (10) and (27) are amended; (29) is added to read as follows:

§ 173.263 Hydrochloric (muriatic) acid, hydrochloric (muriatic) acid mixtures, hydrochloric (muriatic) acid solutions, inhibited, sodium chlorite solutions (not exceeding 42 percent sodium chlorite), and cleaning compounds, liquid, containing hydrochloric (muriatic) acid.

(a) • • •

(10) Specification MC 310, MC 311, or MC 312 (§ 178.343 of this chapter). Tank motor vehicle lined with rubber or equally acid-resistant material of equivalent strength and durability. An unlined specification MC 311 or MC 312 tank motor vehicle made from Type 304L or 316 stainless steel is authorized for sodium chlorite solutions not exceeding 42 percent sodium chlorite only.

• • • • • •

(27) Specification 12R (§ 178.212 of this chapter). Paper-faced expanded polystyrene board box with not more than six inside glass bottles or specification 2E (§ 178.24a of this chapter) inside polyethylene bottles, not over 5 pints capacity each.

• • • • • •

(29) Specification 12R (§ 178.212 of this chapter). Paper-faced expanded polystyrene board box with not more than four specification 2E (§ 178.24a of this chapter) inside polyethylene bottles, not over 1-gallon capacity each.

• • • • • •

(G) Section 173.287 is amended to read as follows:

§ 173.287 Chromic acid solution.

(a) For the purposes of the regulations in this part, a chromic acid solution is a solution of chromic acid (chromium trioxide) in water, with or without other acids, containing 35 percent or more of chromic acid by weight. (For solutions containing less than 35 percent chromic acid, see paragraph (c) of this section.) Packagings authorized must be of a design and be constructed of materials that will not react dangerously with or be decomposed by the chemical solution packaged therein.

(b) Chromic acid solutions must be packaged in specification containers as follows:

(1) Specification 1A (§ 178.1 of this chapter). Glass carboy in a box.

(2) Specifications 5, 5A, 5B (§§ 178.80, 178.81, 178.82 of this chapter). Metal barrel or drum with openings not exceeding 2.3 inches in diameter. Authorized for solutions containing chromic acid only.

(3) Specification 17E (§ 178.116 of this chapter) steel drum. Authorized for solutions containing chromic acid only.

(4) Specification 12A or 12B (§§ 178.210, 178.205 of this chapter). Fiberboard box with one inside glass container not over 4 fluid ounces capacity, packed in a wax-lined cylindrical fiber carton with metal ends. The bottle closure must consist of a tightly secured, fitted, ground glass stopper. Space must remain between the bottle and the inner surface of the fiber cylinder and must be filled with closely packed asbestos in sufficient quantity to completely absorb the contents of the bottle in the event of breakage. Not authorized for solutions containing nitric acid.

(5) Specification 12R (§ 178.212 of this chapter). Paper-faced expanded polystyrene board box with inside glass bottles not over 5 pints capacity each. Not more than six 5-pint bottles may be packaged in one box. Each bottle must be well cushioned. Partitioning and cushioning must be provided to prevent bottles from shifting, or coming in contact with each other, the box wall, or the bottom. Each bottle closure must consist of a tightly secured, fitted, ground glass stopper, or a threaded-type, acid-resistant cap with a gasket or lining impervious to the acid, sufficiently resilient or cushioned to give an acidproof, leakproof closure.

(6) Specification 33A (§ 178.150 of this chapter). Polystyrene case (nonreusable container) with inside glass bottles not over 5 pints capacity each. Not more than four 5-pint bottles may be packaged in one outside container. Each bottle closure must consist of a tightly secured, fitted, ground glass stopper, or a threaded-type, acid-resistant cap with a gasket or lining impervious to the acid, sufficiently resilient or cushioned to give an acidproof, leakproof closure.

(7) Specification 29 (§ 178.226 of this chapter). Mailing tube with glass bottles not over 1 ounce capacity each. Each bottle must be well cushioned. Partitioning and cushioning must be provided to prevent bottles from shifting or coming in contact with each other or the tube wall, bottom, or top.

(c) Solutions containing chromic acid in water in concentration not exceeding 35 percent by weight, with or without other acids, and which are not otherwise regulated by Subpart E of this part, must be described as "Corrosive liquids, n.o.s." In addition to the packaging and the limitations prescribed therefor in paragraph (b) of this section, solutions of this composition may also be packaged as follows:

(1) In packaging as prescribed in § 173.245, except (a) (4), (14), (15), (18), (19), and (24).

(2) Specification 21P (§ 178.225 of this chapter). Fiber drum overpack with inside specification 2S or 2SL (§§ 178.35, 178.35a of this chapter) polyethylene container.

(3) Specifications 5, 5A, 5B (§§ 178.80, 178.81, 178.82 of this chapter). Metal barrel or drum with openings not exceeding 2.3 inches in diameter. Authorized for solutions containing chromic acid only.

(4) Specification 17E (§ 178.116 of this chapter) steel drum. Authorized for solutions containing chromic acid only.

(H) In § 173.304, paragraph (e) (1) is amended to read as follows:

§ 173.304 Charging of cylinders with liquefied compressed gas.

• • • • • •

(e) • • •

(1) Specifications 2P and 2Q (§§ 178.33, 178.33a of this chapter). Inside metal containers packed in a strong wooden or fiberboard box of such design as to protect valves from injury or accidental functioning under conditions incident to transportation. Pressure in the container must not exceed 85 pounds per square inch absolute at 70° F. Each completed metal container filled for shipment must be heated until content reaches a minimum temperature of 130° F. without evidence of leakage, distortion, or other defect. Each outside shipping container must be plainly marked "Inside Containers Comply With Prescribed Specification."

• • • • • •

(I) In § 173.357, paragraph (b) (1) is amended; Note 1 thereto is canceled as follows:

§ 173.357 Chlorpicrin and chlorpicrin mixtures containing no compressed gas or poisonous liquid, class A.

• • • • • •

(b) • • •

(1) Specification 3A, 3AA, 3B, 3C, 3D, 3E, 4A, 4B, 4BA, 4BW, or 4C (§§ 178.36, 178.37, 178.38, 178.40, 178.41 178.42, 178.49, 178.50, 178.51, 178.61, 178.52 of this chapter). Metal cylinder. Valves or other closing devices must be protected by screw-on metal caps, or by packaging the cylinders in boxes or crates, to protect the valves from damage during transportation. A cylinder closed by means of a solid plug may have the closure protected by a metal collar. Cylinders having a wall thickness of less than 0.08 inch must be packaged in boxes or crates. Each cylinder having a water capacity over 275 pounds must have a minimum design pressure of 225 p.s.i.g., unless the specification requires a higher minimum design pressure. [Note 1: Canceled]

PART 178—SHIPPING CONTAINER SPECIFICATIONS

In § 178.57–11, paragraph (a) is amended; in § 178.57–16, paragraph (a) is amended; in § 178.57–21, paragraph (a), Table 1 and Note 1 are amended; footnotes 1 and 3 are canceled, footnote 2 is redesignated footnote 1 as follows:

§ 178.57 Specification 4L; welded cylinders insulated.

§ 178.57–11 Heat treatment.

Not permitted.

• • • • • •

§ 178.57–16 Acceptable results for physical tests.

Physical properties must meet the limits specified in § 178.57–21(a), Table 1, for the particular steel in the annealed condition. The specimens must show at least 20 percent elongation for 2-inch gage length except that the percentage may be reduced numerically by 2 for each 7,500 pounds per square inch increment of tensile strength above 100,000 pounds per square inch to a maximum of 5 such increments. Yield strength and tensile strength must meet the requirements of § 178.57–21(a), Table 1.

• • • • • •

§ 178.57–21 Authorized steels.

(a) Electric furnace steel of uniform quality. Chemical analysis must conform to ASTM A–240, Type 304 Stainless Steel. The following chemical analyses and physical properties are authorized:

TABLE 1—AUTHORIZED MATERIALS

Designation	*Chemical analysis, limits in percent, stainless steel; type 304*
Carbon [1]	0.08 maximum.
Manganese	2.00 maximum.
Phosphorus	0.045 maximum.
Sulphur	0.030 maximum.
Silicon	1.00 maximum.
Nickel	8.00–10.50.

TABLE 1—AUTHORIZED MATERIALS—Continued

Designation	Chemical analysis limits in percent, stainless steel; type 304
Chromium	18.00–20.00.
Molybdenum	
Titanium	
Columbium	
	Physical properties (annealed)
Tensile strength, p.s.i. (minimum)	75,000.
Yield strength, p.s.i. (minimum)	30,000.
Elongation in 2-inch (minimum) (percent)	30.0.
Elongation other permissible gage lengths (percent)	15.0.

[1] The carbon analysis must be reported to the nearest hundredth of 1 percent.

NOTE 1: A heat of steel made under the above specifications is acceptable, even though its check chemical analysis is slightly out of the specified range, if it is satisfactory in all other respects, provided the tolerances shown in the following table are not exceeded except as approved by the Department.

CHECK ANALYSIS TOLERANCES

Elements	Limit or maximum of specified range, percent	Tolerance over the maximum limit or under the minimum limit
Carbon	To 0.030, inclusive	0.005
	Over 0.030 to 0.20, inclusive.	0.01
Manganese	To 1.00, inclusive	0.03
	Over 1.00 to 3.00, inclusive.	0.04
Phosphorus [1]	To 0.040, inclusive	0.005
	Over 0.040 to 0.20, inclusive.	0.010
Sulfur	To 0.040, inclusive	0.005
Silicon	To 1.00, inclusive	0.05
Chromium	Over 15.00 to 20.00, inclusive.	0.20
Nickel	Over 5.00 to 10.00, inclusive.	0.10
	Over 10.00 to 20.00, inclusive.	0.15

[1] Rephosphorized steels not subject to check analysis phosphorus.

This amendment is effective December 31, 1971, however, compliance with the regulations, as amended herein, is authorized immediately.

This amendment is made under the authority of sections 831–835 of title 18, United States Code, section 9 of the Department of Transportation Act (49 U.S.C. 1657), and title VI and section 902(h) of the Federal Aviation Act of 1958 (U.S.C. 1421–1430 and 1472(h)).

Issued in Washington, D.C. on October 29, 1971.

W. F. REA III,
Rear Admiral, Board Member for the U.S. Coast Guard.

MAE E. ROGERS,
Board Member for the Federal Railroad Administration.

ROBERT A. KAYE,
Board Member for the Federal Highway Administration.

JAMES F. RUDOLPH,
Board Member for the Federal Aviation Administration.

[FR Doc.71-16128 Filed 11-4-71;8:45 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Community Trusts and Effect of Restrictions and Conditions Upon Distributions of Net Assets

Proposed amendments to the regulations under sections 170(b)(1)(A)(vi) and 507(b)(1)(A) of the Internal Revenue Code of 1954, relating to community trusts and the effect of restrictions and conditions upon distributions of net assets, appeared in the FEDERAL REGISTER for October 8, 1971 (36 F.R. 19598).

A public hearing on the provisions of these proposed regulations will be held on Tuesday, December 7, 1971, at 10 a.m., e.s.t., in Room 3313, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, DC 20224.

The rules of § 601.601(a)(3) of the Statement of Procedural Rules (26 CFR Part 601) shall apply with respect to such public hearing. Copies of these rules may be obtained by a request directed to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, or by telephoning (Washington, D.C.) 202–964–3935. Under such § 601.601(a)(3), persons who have submitted written comments or suggestions within the time prescribed in the notice of proposed rule making and who desire to present oral comments should by November 23, 1971, submit an outline of the topics and the time they wish to devote to each topic. Such outlines should be submitted to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

Persons who desire a copy of such written comments or suggestions or outlines and who desire to be assured of their availability on or before the beginning of such hearing should notify the Commissioner, in writing, at the above address by November 30, 1971. In such a case, unless time and circumstances permit otherwise, the desired copies are deliverable only at the above address. The charge for copies is twenty-five cents ($0.25) per page, subject to a minimum charge of $1.

K. MARTIN WORTHY,
Chief Counsel.

[FR Doc.71-16287 Filed 11-4-71;9:28 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 780]

DEFINITION AND VERBATIM TRANSCRIPTS

Notice of Proposed Rule Making

Notice is hereby given that the Agricultural Stabilization and Conservation Service proposes to issue an amendment to the Appeal Regulations (Part 780).

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed changes to the Director, Program Performance Division, Agricultural Stabilization and Conservation Service, Washington, D.C. 20250. In order to be assured of consideration, all submissions must be received within 20 days from the date of publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Director at the above address during regular business hours (8:15 a.m. to 4:45 p.m.).

The amendment would revise § 780.2(d) to provide that in Hawaii, appeals under the Sugar program shall be handled by the State and county committees. Presently, this function is vested in the Executive Director of the Hawaii State ASCS Office.

The amendment would also revise § 780.8(d) to provide that State and county committees, as applicable, shall make the arrangements for the services of a stenographic reporter if the appellant requests that a verbatim transcript be made of the hearing.

It is proposed that the amendment to the regulations would read as follows:

1. Section 780.2(d) is revised to read as follows:

§ 780.2 Definitions.

* * * * * *

(d) "State committee" shall have the meaning given to it under the regulations governing Reconstitution of Farms, Farm Allotments, and Bases, Part 719 of this chapter, as amended. In Puerto Rico and the Virgin Islands, the Director of the Caribbean Area ASCS Office shall, insofar as applicable, perform the functions of the State committee.

2. Section 780.8(d) is revised to read as follows:

§ 780.8 Nature of informal hearing.

* * * * * *

(d) The reviewing authority shall have prepared a written record containing a clear, concise statement of the facts as asserted by the producer or participant and material facts found by the reviewing authority. The names of interested persons appearing at the hearing shall be included. Any documents presented in evidence should be identified. A verbatim transcript may be taken if (1) the producer or participant requests the reviewing authority prior to the time the hearing begins to provide for such transcript, and (2) agrees to pay the expense thereof, or (3) the reviewing authority feels that the nature of the case is such as to make such transcript desirable.

* * * * *

Signed at Washington, D.C., on November 1, 1971.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.71-16150 Filed 11-4-71;8:48 am]

Consumer and Marketing Service

[7 CFR Part 984]

WALNUTS GROWN IN CALIFORNIA, OREGON, AND WASHINGTON

Proposed Expenses of Walnut Control Board and Rates of Assessment for 1971–72 Marketing Year

Notice is hereby given of a proposal regarding expenses of the Walnut Control Board and rates of assessment for the 1971–72 marketing year. The year began August 1, 1971. The proposal is pursuant to §§ 984.68 and 984.69 of the marketing agreement, as amended, and Order No. 984, as amended (7 CFR Part 984). The amended marketing agreement and order regulate the handling of walnuts grown in California, Oregon, and Washington, and are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal is based on a recommendation of the Board.

The proposed expenses total $153,300; the proposed assessment rates are 10 cents per pound for inshell walnuts and 25 cents per pound for shelled walnuts. These rates will be applied to all merchantable walnuts handled or declared for handling during the 1971–72 marketing year. Such rates of assessment are expected to provide sufficient funds to meet the estimated expenses of the Board.

Consideration will be given to any written data, views, or arguments pertaining to the proposal which are received by the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than 7 days after the

publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice should be in quadruplicate and will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposal is as follows:

§ 984.323 Expenses of the Walnut Control Board and rates of assessment for the 1971–73 marketing year.

(a) *Expenses.* Expenses in the amount of $153,300 are reasonable and likely to be incurred by the Walnut Control Board during the marketing year beginning August 1, 1971, for its maintenance and functioning, and for such purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

(b) *Rates of assessment.* The rates of assessment for said marketing year, payable by each handler in accordance with § 984.69, are fixed at 10 cents per pound for merchantable inshell walnuts and 25 cents per pound for merchantable shelled walnuts.

Dated: November 2, 1971.

ARTHUR E. BROWNE,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-16217 Filed 11-4-71;8:50 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 52]

GRANTS FOR RESEARCH PROJECTS

Family Planning and Population Research

Notice is hereby given that the Administrator, Health Services and Mental Health Administration, and the Director, National Institutes of Health, with the approval of the Secretary of the Department of Health, Education, and Welfare, jointly propose to amend Part 52 of the Public Health Service regulations (42 CFR Part 52) governing the award of grants for research projects, as set forth below.

The proposed amendments would implement additional authority to make grants for research projects in population and family planning set forth in section 1004 of the Public Health Service Act (42 U.S.C. 300a–2), as added by the Family Planning Services and Population Research Act of 1970 (Public Law 91–572). It is anticipated that the Health Services and Mental Health Administration will make grants under this authority for operational research grants in the area of program implementation and that the National Institutes of Health will make research grants in the biomedical and contraceptive development, and behavioral fields.

There are also several technical changes proposed. This Department no longer administers the research programs under the Clean Air Act (42 U.S.C. 1857b) and the Solid Waste Disposal Act (42 U.S.C. 3253), and the regulations would be amended to eliminate their applicability to these programs.

In addition, an inadvertent remaining reference to the "Surgeon General" is to be changed to the "Secretary", which term was substituted for that of Surgeon General elsewhere in these regulations on July 9, 1968 (33 F.R. 9821).

Written comment concerning the proposed amendments are invited from interested persons. Inquiries may be addressed, and data, views and arguments relating to the proposed regulations may be presented in writing, in triplicate, to the Director, Center for Population Research, Room 2A–50, Building 31, National Institute of Child Health and Human Development, National Institutes of Health, Bethesda, Md. 20014. All comments received in response to this notice will be available for public inspection in the above named office on weekdays between the hours of 8:30 a.m. and 5 p.m. Consideration will be given to all relevant material received not later than 30 days after publictaion of this notice in the FEDERAL REGISTER in preparing the final version of the regulations.

It is therefore proposed to amend, as follows, Part 52 of the Public Health Service regulations.

Dated: September 17, 1971.

VERNON E. WILSON,
Administrator, Health Services and Mental Health Administration.

Dated: September 27, 1971.

ROBERT Q. MARSTON,
Director, National Institutes of Health.

Approved: November 1, 1971.

ELLIOT L. RICHARDSON,
Secretary.

1. Amend the issuing authority for Part 52 by deleting citations to the Clean Air Act and the Solid Waste Disposal Act, and by adding citation to the Family Planning Services and Population Research Act of 1970, as follows:

AUTHORITY: The provisions of this Part 52 issued under sections 215, 58 Stat. 690, as amended, 1066, 84 Stat. 1507; 42 U.S.C. 216, 300a–4. Sections 301, 58 Stat. 691, as amended, 303, 70 Stat. 929, as amended, 304, 81 Stat. 534, as amended, 396, 79 Stat. 1063, 1004, 84 Stat. 1507; 42 U.S.C. 241, 242a, 242b, 280b–6, 300a–2. Reorganization Plan No. 3 of 1966; 3 CFR 1966 Comp.; Reorganization Orders and Delegations of March 13, April 1, 1968 (33 F.R. 4894, 5426) and January 17, 1969 (34 F.R. 1279).

2. Amend § 52.10 by deleting the reference in paragraph (b) to the Clean Air Act, and by deleting paragraph (d) and substituting a new paragraph (d), as follows:

§ 52.10 Nature and purpose of research project grant.

* * * * *

(b) The causes, effects, extent, prevention and control of water pollution or air pollution as authorized by section 301 of the Public Health Service Act, as amended (42 U.S.C. 241);

* * * * *

(d) The biomedical, contraceptive development, behavioral and program implementation fields related to family planning and population, as authorized by section 1004 of the Public Health Service Act (42 U.S.C. 300a–2);

* * * * *

§ 52.33 [Amended]

3. Amend paragraph (c) of § 52.33 by deleting the term "Surgeon General" and substituting in lieu thereof the term "Secretary".

[FR Doc.71-16187 Filed 11-4-71;8:47 am]

[42 CFR Part 73]

BIOLOGICAL PRODUCTS

Test for Hepatitis Associated (Australia) Antigen

Notice is hereby given that the Director, National Institutes of Health, proposes to amend Part 73 of the Public Health Service regulations by (1) adding two new sections which would require testing of donations of human blood, plasma, or serum for the presence of hepatitis associated (Australia) antigen and render ineligible as donors of human blood, plasma, or serum persons testing positive for such antigen; and (2) by amending § 73.601 to prescribe related package labeling requirements.

Inquiries may be addressed, and data, views, and arguments may be presented by interested parties, in writing, in triplicate, to the Director, Division of Biologics Standards, National Institutes of Health, Public Health Service, 9000 Rockville Pike, Bethesda, MD 20014. All comments received in response to this notice are available for public inspection in the Office of the Assistant to the Director, Division of Biologics Standards, Room 122, Building 29, National Institutes of Health, weekdays during regular business hours. All relevant material received not later than 30 days after publication of this notice in the FEDERAL REGISTER will be considered.

Notice is also given that it is proposed to make any amendments that are adopted effective 30 days after publication in the FEDERAL REGISTER.

Dated: November 1, 1971.

ROBERT Q. MARSTON,
Director, National Institutes of Health.

It is therefore proposed to amend Part 73 as follows:

1. Amend Subpart A of the table of contents by inserting in numerical sequence the following:

Sec.
73.755 Test for hepatitis associated (Australia) antigen.
73.756 History of hepatitis associated (Australia) antigen.

2. Amend § 73.601 by adding immediately after paragraph (r) a new paragraph (s) as follows:

§ 73.601 Package label.

* * * * *

(s) For injectable products prepared from human blood, plasma, or serum, indication that the product was prepared from blood that was tested for hepatitis associated (Australia) antigen, that it was nonreactive and the test method used.

3. Amend Subpart A by adding immediately after § 73.750, the following new sections:

§ 73.755 Test for hepatitis associated (Australia) antigen.

Each donation of human blood, plasma, or serum to be used in preparing a biological product shall be tested for the presence of hepatitis associated (Australia) antigen. Such test shall be performed on a sample of blood taken from the donor at the time of collecting the blood, plasma, or serum. Only hepatitis associated antibody (anti-Australia antigen) licensed under, or otherwise meeting the requirements of, the regulations of this part shall be used in performing such test, and the test method(s) used shall be that for which the antibody product is specifically designed to be effective, as recommended by the manufacturer in the package enclosure. The blood, plasma, or serum may not be further used in the manufacture of a biological product unless the test for hepatitis associated (Australia) antigen is nonreactive.

§ 73.756 History of hepatitis associated (Australia) antigen.

A person testing positive, or known to have previously tested positive, for hepatitis associated (Australia) antigen may not serve as a donor of human blood, plasma, or serum to be used in preparing any biological product, except that a person known to have previously tested positive for hepatitis associated (Australia) antigen may serve as a source of hepatitis associated antibody when such antibody is required for the manufacture of a licensed biological product provided such person meets the requirements of § 73.755 at the time of donation.

(Sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216; sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262)

[FR Doc.71-16212 Filed 11-4-71;8:50 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 71–NE–7]

TRANSITION AREAS

Proposed Designation and Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a Greenville, Maine, 700-foot transition area, amend the Millinocket, Maine, 1,200-foot transition area (36 F.R. 2232), and cancel the Bangor, Maine, 5,500-foot transition area (36 F.R. 2150). This action is necessary in order to provide airspace protection for IFR arrivals and departures at the Greenville Municipal Airport and Greenville Seaplane Base, Greenville, Maine. The cancellation of the Bangor, Maine, 5,500-foot transition area will accommodate the procedure turn airspace associated with the Greenville, Maine, standard instrument approach procedures and, additionally, will protect the transition from the Bangor VORTEC to the NDB at Greenville. There is no change to the Bangor, Maine, 700-foot and 1,200-foot transition areas which remain as published (36 F.R. 2150).

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, New England Region, Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, 154 Middlesex Street, Burlington, MA 01803. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Operations Procedures and Airspace Branch, New England Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Federal Aviation Administration, 154 Middlesex Street, Burlington, MA.

The Federal Aviation Administration, having completed a review of the airspace requirement for the terminal of Greenville, Maine, proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a Greenville, Maine, 700-foot transition area described as follows:

That airspace extending upwards from 700 feet above the surface within an 8.5-mile radius of the center (45°27'47" N., 69°33'21" W.), Greenville Municipal Airport, Greenville, Maine, within 3.5 miles each side of a 212° bearing from the Greenville, Maine, NDB, extending from the 8.5-mile-radius area to a point 10 miles southwest of the Greenville NDB, within a 6.5-mile radius of the center (45°28'10" N., 69°36'00" W.), Greenville Seaplane Base, Greenville, Maine, within 3.5 miles each side of a 181° bearing from the Greenville NDB extending from the 6.5-mile-radius area to a point 9.5 miles south of the Greenville NDB.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the coordinates "45°23'00" N., 69°30'00" W." and insert the coordinates "45°15'00" N., 69°50'00" W., to 45°07'30" N., 69°50'00" W., to 45°07'30" N., 69°28'00" W., to 45°12'00" N., 69°23'00" W., in lieu thereof.

3. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Bangor, Maine, 5,500-foot transition area.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348), and section 7(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Burlington, Mass., on October 21, 1971.

W. E. CROSBY, Jr.,
Deputy Director, New England Region.

[FR Doc.71-16171 Filed 11-4-71;8:46 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 18877; RM–1589]

INCLUSION OF CODED INFORMATION IN TRANSMISSIONS OF RADIO AND TV STATIONS

Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of Part 73 of the Commission's rules and regulations to permit the inclusion of coded information in the aural transmissions of radio and TV stations for the purpose of program identification; and possible regulations of the parties preparing or furnishing coded material for broadcast, Docket No. 18877, RM–1589.

1. This proceeding was begun by a further notice of proposed rule making (FCC 71–152) adopted February 10, 1971, released February 16, 1971, and published in the FEDERAL REGISTER February 20, 1971, 36 F.R. 3269. The dates for the submission of comments and reply comments are November 1, 1971, and December 1, 1971, respectively.

2. On October 27, 1971, the National Association of Broadcasters (NAB) filed

a request to extend the time for 45 days for the filing of comments. NAB states that both Audicom Corp. and International Digisonics Corp. submitted tests reports to the Commission on October 1, 1971, but NAB had not actually received copies until approximately 2 weeks later thereby leaving little time to study those reports in the depth necessary to allow preparations of meaningful comments by the current November 1, 1971, filing date. It further states that the 45-day extension would afford interested parties sufficient time for thorough review of the field test reports and the formulation of comments which would address themselves to the data contained in these reports.

3. It appears that the additional time is warranted and would serve the public interest. *Accordingly, it is ordered*, That the request of the National Association of Broadcasters is granted to and including December 15, 1971, for the filing of comments and January 14, 1972, for its filing of reply comments.

4. This action is taken pursuant to authority found in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules and regulations.

Adopted: October 18, 1971.

Released: November 1, 1971.

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.71-16207 Filed 11-4-71;8:50 am]

SELECTIVE SERVICE SYSTEM

Office of the Director

[32 CFR Part 1660]

SELECTIVE SERVICE REGULATIONS

Notice of Proposed Rule Making

Pursuant to sections 6(j) and 13(b) of the Military Selective Service Act, as amended (50 App. U.S. Code, sections 451 et seq.) the Director of Selective Service hereby gives public notice that consideration is being given to the following proposed amendments to the Selective Service Regulations constituting a portion of chapter XVI of the Code of Federal Regulations. These regulations implement section 6(j) of the Military Selective Service Act, as amended (50 App. U.S. Code 456(j)).

All persons who desire to submit views to the Director on the proposals should prepare them in writing and mail them to the Deputy General Counsel, National Headquarters, Selective Service System, 1724 F Street NW., Washington, DC 20435, within 30 days following the publication of this notice in the FEDERAL REGISTER.

The proposed amendments follow:

PART 1660—ALTERNATE SERVICE

Part 1660 *Alternate Service* is added to read as follows:

§ 1660.1 Responsibility for administration.

(a) The State director, under the supervision of the Director, will assure compliance with the law, the regulations, and Selective Service policy concerning the program of alternate service for registrants who have been classified in class 1–O.

(b) The State director of the State in which a registrant is registered will have primary responsibility for the initial placement of the registrant in alternate service. That State director will coordinate any job placement activities in any state outside his own with the State director of that State. In assigning a registrant outside his own State, the assigning State director must have the approval of the "receiving" State director or the Director of Selective Service.

(c) Alternate service to be performed outside the geographical area under the jurisdiction of a State director will be administered by the Director of Selective Service after the assignment to such work has been made by the State director.

§ 1660.2 Examination of registrants.

A registrant classified in class 1–O shall be ordered to report for Armed Forces examination in the same manner as any other registrant. If he fails to report for or submit to this examination, or if he is found to be qualified for service, he shall be ordered to the appropriate alternate service job when his Random Sequence Number is reached.

§ 1660.3 Volunteer for alternate service.

Only registrants classified in class 1–O may volunteer for alternate service in lieu of induction. Any registrant in class 1–O may submit SSS Form 151 (Application of Volunteer for Alternate Service) to his local board. If the volunteer wishes to propose jobs which he feels would be approved for his alternate service he will submit each job on an SSS Form 156 (Employer's Statement of Availability of a Job as Alternate Service) simultaneously with his completed SSS Form 151 (Application of Volunteer for Alternate Service). The State director will approve or disapprove the proposed jobs. If the registrant fails to locate a suitable job or if the jobs submitted on the SSS Form 156 (Employer's Statement of Availability of a Job as Alternate Service) are not approved, the State director will take no action until 60 days after the registrant would have begun processing in accordance with § 1660.4 had he not volunteered. After the 60 days the State director may order the registrant to an available job.

§ 1660.4 Selection of nonvolunteer for alternate service.

(a) A nonvolunteer will not be ordered to perform alternate service in lieu of induction before registrants with his RSN who are classified in class 1–A or 1–A–O are ordered for induction.

(b) When a registrant in the medical, dental, or allied specialist category is classified in class 1–O, he will be ordered to alternate service in lieu of induction at the time that he would have been called for induction if he were in class 1–A or 1–A–O.

(c) When the RSN of a registrant classified in class 1–O is reached ("reached" means the national cutoff number is equal to or higher than the registrant's RSN), the local board will send him SSS Form 155 (Selection for Alternate Service; Rights and Obligations of Conscientious Objectors in the Alternate Service Assignment Process), and retain a copy in the cover sheet of the registrant. SSS Form 152 (Conscientious Objectors Skills Questionnaire) and three copies of SSS Form 156 (Employer's Statement of Availability of a Job as Alternate Service) will also be sent to the registrant at this time.

(d) Mailing of the SSS Form 155 (Selection for Alternate Service; Rights and Obligations of Conscientious Objectors in the Alternate Service Assignment Process) by the local board is the effective beginning of processing for alternate service in lieu of induction for the affected registrant. If within 270 days after the registrant has exhausted his 60-day job search an alternate service job has not been obtained and the registrant has not been ordered to such job, he will be placed in a lower priority selection group. Delays in processing due to litigation instituted by the registrant, litigation pending against the registrant, or a postponement of processing for alternate service granted the registrant under § 1660.7 will not count toward the 270-day time period.

§ 1660.5 Eligible employers of registrants performing alternate service.

(a) Employment which may be considered to be appropriate as alternate service in lieu of induction into the Armed Forces by registrants who have been classified in class 1–O shall be limited to the following:

(1) Employment by the U.S. Government, or by a State, Territory, or possession of the United States or by a political subdivision thereof, or by the District of Columbia;

(2) Employment by a nonprofit organization, association, or corporation which is primarily engaged either in a charitable activity conducted for the benefit of the general public or in carrying out a program for the improvement of the public health or welfare, including educational and scientific activities in support thereof, when such activity or program is not principally for the benefit of the members of such organization, association, or corporation, or for increasing the membership thereof; or

(3) Employment in an activity of an organization, association, or corporation which is either charitable in nature performed for the benefit of the general public or is for the improvement of the public health or welfare, including educational and scientific activities in support thereof, and when such activity or program is not for profit.

§ 1660.6 Eligible jobs for registrants performing alternate service.

(a) Five elements will be considered as a basis for determining whether a specific job is acceptable as alternate service for a registrant classified in class 1–O:

(1) *National health, safety or interest.* The job must fulfill specifications of the law and regulations.

(2) *Noninterference with the competitive labor market.* The registrant cannot be assigned to a job which is applied for by other qualified people who are not registrants in class 1–O. This restriction does not prohibit the approval of special programs such as Peace Corps, VISTA, and Public Health Service for alternate service by registrants in class 1–O.

(3) *Compensation.* The compensation will provide a standard of living to the registrant reasonably comparable to the standard of living the same man would have enjoyed had he gone into the service.

(4) *Skill and talent utilization.* A registrant may utilize his special skills.

(5) *Job location.* A registrant will work outside his community of residence.

Subparagraphs (3), (4), and (5) of this paragraph are waiverable by the State director when such action is determined to be in the national interest and would speed the placement of registrants in alternate service.

§ 1660.7 Assigning alternate service.

(a) Processing of the registrant for assignment to alternate service will continue even though he fails to return SSS Form 152 (Conscientious Objectors Skills Questionnaire) within 15 days.

(b) The registrant will submit SSS Form(s) 156 (Employer's Statement of Availability of a Job as Alternate Service) to the State director, who will determine whether the work is acceptable. A letter from an employer may, at any time, substitute for such SSS Form 156. When a job is approved, the State director will direct he Executive Secretary or clerk, if so authorized, or a local board member of a registrant's local board to issue a work order, SSS Form 153 (Order to Report for Alternate Service). The State director will issue a domestic travel request and provide meals and accommodations for a registrant, upon his request, who has been ordered to alternate service, as would be done for a registrant ordered for induction. Any time the State director disapproves a job proposed on SSS Form 156 (Employer's Statement of Availability of a Job as Alternate Service) submitted by the registrant, he will inform the registrant of his decision within 10 days after the State director receives such form.

(c) At any time following 60 days after a registrant's SSS Form 155 (Selection for Alternate Service; Rights and Obligations of Conscientious Objectors in the Alternate Service Assignment Process) has been mailed, if the registrant has submitted no SSS Form 156 (Employer's Statement of Availability of a Job as Alternate Service) or if the submitted jobs have been disapproved, the State director may direct he Executive Secretary or clerk, if so authorized, or a local board member of a registrant's local board to order him to a job which the State director selects as the registrant's alternate service.

(d) A registrant classified in class 1–O may take a job anticipating that it might later be approved as alternate service. If such a job is approved, the registrant will be credited with having performed acceptable service, when in fact he has performed such service, from the date he started the job, or the date he was classified in class 1–O, whichever is later. No more than 24 months of service will be required. Time spent looking for an initial job is not creditable toward the 24 months of service.

(e) A registrant who prior to the lapse of the 60-day period established in paragraph (c) of this section finds a job (jobs), but whose job(s) is (are) not approved by his State director, may request that the State director's decision(s) be reviewed by the Director prior to his being mailed an SSS Form 153 (Order to Report for Alternate Service). The registrant's case will be considered by the Director on only one occasion prior to his initial assignment to alternate service. However, he may request a review of as many as three such adverse decisions on jobs in this one review. The Director will either approve a job proposed by the registrant or, if the 60 days have elapsed, authorize a mandatory work order. Decisions by the Director will be carried out by the appropriate State director and local boards and their employees.

(f) Any reason for granting a postponement for an induction order is sufficient for granting the postponement of processing for alternate service in lieu of induction.

§ 1660.8 Performance of alternate service.

Any registrant who knowingly fails or neglects to obey an order from his local board to perform alternate service contributing to the maintenance of the national health, safety, or interest in lieu of induction or who constructively fails or neglects to obey such order by his failure to comply with reasonable requirements of an employer shall be deemed to have knowingly failed or neglected to perform a duty required of him under the Military Selective Service Act. The registrant shall have failed to meet the standards or failed to perform satisfactorily if he did not meet the standards of performance demanded by the employer of his other employees in similar jobs.

§ 1660.9 Administration of alternate service.

(a) Whenever a registrant is refused employment by an employer who had previously agreed to hire him, whenever the registrant refuses employment, whenever a registrant's employment is terminated, or whenever he leaves his job, the State director administering the registrant's case will consider the circumstances surrounding the refusal, termination, or departure to determine whether the registrant had failed to perform his job or to conduct himself satisfactorily.

(b) Whenever the State director has reason to believe that a registrant refused or constructively refused employment, or was relieved for cause or left his job unjustifiably he will conduct an investigation which will include the following steps: Obtain a statement from the former employer describing the circumstances; send such statement to the registrant; obtain a statement from the registrant in his defense, if he wishes to make one; and compile any other evidence he feels is relevant. He will then determine whether the termination was for cause or whether the departure was unjustifiable. If he determines that the registrant's departure was without justification he will report the registrant for prosecution.

(c) If the State director finds no failure of the registrant to perform satisfactorily he will order the registrant to another job as quickly as possible. If the registrant complies with the order to report to the new job, the intervening time between jobs will not constitute a break in the required period of alternate service.

(d) The State director may reassign and reorder a working registrant at any time that he determines the original job ceases to be acceptable as alternate service as defined in § 1660.6. Such determination shall be reviewed by the Director upon the request of the registrant. The Director will either authorize the registrant to remain on his job or validate the reassignment.

§ 1660.10 Release from alternate service.

The State director of the State in which a registrant is working or the Director, when the registrant is not under the supervision of a State director, may release a registrant prior to his completion of 24 months of service upon a determination of a hardship, medical, or other bona fide basis for such early release. If the registrant is working outside the State in which he is registered, the decision should be made in consultation with the State director of the State in which the registrant is registered. When such a release takes place prior to completion of 6 months of alternate service, the State director of the State in which the registrant is registered may direct a reopening of the registrant's classification by the local board.

§ 1660.11 Completion of alternate service.

(a) After a registrant has completed his alternate service obligation, the State director will return (through another State director if necessary) the registrant's selective service file to the appropriate local board.

(b) When the local board receives the registrant's selective service file, it shall inform the registrant that he has satisfactorily completed his alternate service. He shall be classified in class 4–W.

§ 1660.12 Information concerning alternate service.

A registrant who is outside the area of his local board may seek information relative to any aspect of processing for alternate service from the local board or State director of his new place of residence. The assisting State director or local board will not assume the responsibility of the State director or local board of jurisdiction.

CURTIS W. TARR,
Director.

NOVEMBER 2, 1971.

[FR Doc.71-16220 Filed 11-4-71;8:50 am]

Notices

DEPARTMENT OF THE INTERIOR

National Park Service

BLUE RIDGE PARKWAY, VA.

Notice of Intention To Issue a Concession Permit

Pursuant to the provisions of section 5, of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Superintendent, Blue Ridge Parkway, proposes to issue a concession permit to Homer Harris authorizing him to provide concession facilities and services for the public at Mabry Mill on the Blue Ridge Parkway for the period from September 17, 1971, through December 31, 1971.

The foregoing concessioner has performed his obligations under a prior permit to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. However, under the Act cited above, the National Park Service is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Superintendent, Blue Ridge Parkway, Post Office Box 1710, Roanoke, VA 24008, for information as to the requirements of the proposed permit.

GRANVILLE B. LILES,
Superintendent,
Blue Ridge Parkway.

AUGUST 2, 1971.

[FR Doc.71-16189 Filed 11-4-71;8:47 am]

NATIONAL CAPITAL PARKS

Notice of Intention To Negotiate a Concession Contract

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Government Services, Inc., authorizing it to provide concession facilities and services for the public within National Capital Parks, and to provide other needed facilities and services in such other areas as may be designated by the Secretary, for a period of twenty (20) years from January 1, 1972, through December 31, 1991.

The foregoing concessioner has performed its obligations under the expiring contract to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Chief, Division of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

LAWRENCE C. HADLEY,
Assistant Director,
National Park Service.

OCTOBER 20, 1971.

[FR Doc.71-16190 Filed 11-4-71;8:47 am]

Office of the Secretary

DIRECTOR, OFFICE OF OIL AND GAS

Delegation of Authority

On October 22, 1971, the Secretary of the Interior signed Departmental Manual Release No. 1349 merging the Oil Import Administration into the Office of Oil and Gas; revoking a delegation of authority to the Administrator, Oil Import Administration, which had been published at 28 F.R. 14318; and approving in its place a delegation of authority to the Director, Office of Oil and Gas, which is set forth below. The numbering is that of the Departmental Manual.

RICHARD R. HITE,
Deputy Assistant Secretary
of the Interior.

NOVEMBER 1, 1971.

Delegation of Authority

Part 211—Other Departmental Offices

Chapter 5—Director, Office of Oil and Gas

1. *General Authority.* The Director, Office of Oil and Gas, Department of the Interior, is empowered to exercise, pursuant to the regulations published in 32A CFR Chapter X, all the authority conferred upon the Secretary by Proclamation 3279 as amended, and the Director may redelegate such authority.

[FR Doc.71-16191 Filed 11-4-71;8:48 am]

DEPARTMENT OF COMMERCE

Maritime Administration

CONSTRUCTION OF LIQUEFIED NATURAL GAS (LNG) VESSELS

Computation of Foreign Cost

Notice is hereby given of the intent of the Maritime Subsidy Board to compute the estimated foreign costs of the construction of Liquefied Natural Gas (LNG) vessels pursuant to the provisions of section 502(b) of the Merchant Marine Act, 1936, as amended.

Any person, firm or corporation having any interest (within the meaning of section 502(b)) in such computations may file written statements by the close of business on November 30, 1971, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20235.

Dated: November 1, 1971.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.71-16221 Filed 11-4-71;8:50 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

GRANTS FOR NONCOMMERCIAL EDUCATIONAL BROADCASTING FACILITIES

Notice of Closing Date and Priorities

Notice is hereby given with respect to the following matters relating to the administration of the Educational Broadcasting Facilities Program, established by part IV of title III of the Communications Act of 1934, as amended (47 U.S.C. 390). Regulations with respect to this program appear as Part 60 of 45 CFR.

Pursuant to 45 CFR 60.12, the Commissioner of Education is authorized to establish and announce cutoff dates for the filing of applications for assistance under the Act for the construction of noncommercial educational television and radio facilities when he deems it necessary for the efficient administration of the program. Under this authority, the Commissioner has determined that it is necessary to establish a cutoff date for the receipt of such applications for fiscal year 1972 funds.

Accordingly, both new applications and documents required to be filed to reactivate pending applications must be received by the Commissioner of Education, Office of Education, 400 Maryland Avenue SW., Washington, DC, postmarked no later than December 4, 1971.

To reactivate any pending application, an applicant must either: (1) Submit a statement that it wishes the application to be reviewed as it stands, together with any new exhibits not included in the original application and required by application form OE-4152 revised as of October 1970, or (2) amend its application, including any new exhibits required by such revised form (47 U.S.C. 392(a); 45 CFR 60.5).

At present, there is a backlog in excess of 100 applications requesting a total amount of Federal assistance substantially in excess of the amount of funds which has been appropriated for noncommercial educational broadcasting facilities grants for fiscal year 1972. Accordingly, with a view to promoting equitable distribution of Federal grants and otherwise promoting the efficient administration of the program, the following policies and procedures will be observed for the current fiscal year:

1. Only one application in radio and one in television by any single applicant in a single State (other than a State radio or television agency which may be permitted to file additional applications upon approval of the Commissioner) will be accepted for filing. Applicants may by the closing date withdraw a pending application and replace it with a new application. Applicants with more than one application on file must indicate by the closing date which application or applications are to be withdrawn (47 U.S.C. 392(d), 394; 45 CFR 60.12).

2. Applicants whose projects require filing for operational authority with the FCC (and the FAA) are urged to recognize and resolve problems related to such authorization as soon as possible. Applications with problems relating to FAA and/or FCC approval which cannot be resolved within a reasonable period of time following December 4, 1971, will be subject to deferral until the following fiscal year (45 CFR 60.6).

3. Applicants who have received grant awards in a given fiscal year may file applications under the foregoing provisions in the next fiscal year. However, in determining grant awards among competitive applications having the same priority, the lapse of time between grant awards to an applicant may be taken into account (47 U.S.C. 392(d), 394).

4. In order to provide adequately for required expansion and improvement of individual stations within the national television system, it is anticipated that the largest portion of television funds will be used for expansion and improvement projects. In radio, the initial funding emphasis will be on the activation of new stations and the expansion of existing low powered stations where substantial audiences remain unserved. In the light of this program emphasis, applications will be considered in accordance with the priorities set forth in Appendix A (47 U.S.C. 392(d), 394; 45 CFR 60.12(a)(2), 60.13).

5. In order to allow for evaluation and priority interrelaton of new applications with those which are pending, at least two-thirds (67 percent) of the appropriation will not be obligated until after the submission deadline.

6. Applicants will be required to prepare a project summary of the application, summarizing essential data and the project justification (47 U.S.C. 392(a); 45 CFR 60.5).

7. Only complete or substantially complete applications filed on or before the closing date will be accepted for filing. It is emphasized that an application must contain information with respect to the proposed operating budget of the applicant, since particular stress in evaluation will be placed upon the adequacy of such budget to provide program services on a scale consistent with the purposes of the Act and regulations (47 U.S.C. 392(a); 45 CFR 60.5, 60.9(e)(3)).

Further information with respect to the Educational Broadcasting Facilities Program including program bulletins and application forms and instructions (for pending as well as for new applications) may be obtained from the Director, Educational Broadcasting Facilities Program, Division of Educational Technology, Bureau of Libraries and Educational Technology, U.S. Office of Education, 400 Maryland Avenue SW., Washington DC 20202.

This notice is given without opportunity for interested persons to submit comments thereon based upon the Commissioner's finding that such opportunity is impracticable in view of the time pressures which dictate publication of a final rule at this time. Such finding is premised on the following reasons:

(1) It is not possible to publish a general notice of proposed rule making to be followed by a 30-day comment period and still afford present and prospective applicants sufficient time for preparation and/or revision of applications between publication of a final rule and the closing date of December 4, 1971; and

(2) It is not feasible to delay the closing date in view of the large number of applications already received and anticipated, the complexities of the application review and grant award processes, and the availability of staff resources.

Effective date. Priorities and procedures prescribed in this notice shall become effective 30 days following the date of publication in the FEDERAL REGISTER.

Dated: October 26, 1971.

S. P. MARLAND, Jr.,
U.S. Commissioner of Education.

Approved: November 2, 1971.

ELLIOT L. RICHARDSON,
Secretary of Health,
Education, and Welfare.

A. PROJECT PRIORITIES

On March 29, 1971, the U.S. Commissioner of Education announced his Fiscal Year 1972 objectives. These include:

(1) Education of the disadvantaged.

(2) Innovation and pluralism in education.

(3) Elimination of racial, ethnic, and cultural barriers to educational opportunities.

(4) Career education development.

(5) Education of the handicapped.

In evaluation of applications the Educational Broadcasting Facilities Program will consider (in addition to the criteria in 45 CFR 60.13) the degree to which projects have the potential of helping achieve these objectives, especially in the area of service to the disadvantaged. Subject to the foregoing, projects will be funded in the order of the priorities and subpriorities listed below except as provided in the limitations described in paragraph 3 of section B of this appendix.

PRIORITY I

A. Proposals to activate new stations in areas currently without a public broadcasting station with appropriate local or State license, to serve populations of 500,000 or more. Proposals to activate the first broadcasting station in a State.

B. Projects to acquire transmitter/antenna apparatus necessary to increase power or otherwise extend station coverage where the in-State population to be served increases substantially, or which are necessary to provide improved signal (including color, SCA, or stereo signals) for larger population groupings, and provide comparability with commercial station coverage.

C. Projects to provide stations with first state-of-the-art reproduction capability. This refers to color capability of a videotape recorder and film chain, stereo capability of an audio turntable and tape recorder and other associated radio or television apparatus.

D. Projects to acquire apparatus for the interconnection of stations in a State network (or a particular geographical region across State lines) where applicant ownership of interconnection facilities can be fully justified as advantageous in comparison with leasing of interconnection services.

PRIORITY II

A. Proposals to activate new stations in areas currently without a public broadcasting station under appropriate local or State license, to serve populations between 250,000 and 500,000.

B. Projects to provide local stations with first state-of-the-art "live" production capability (i.e., first studio color cameras, stereo apparatus) where this need can be justified by proven production requirements to meet identified community needs.

C. Projects to provide production capability for stations providing program services beyond their local requirements for distribution over national, regional, and statewide interconnection. (To qualify in this category, a project justification must be verified by production commitment from recognized national, regional, or State network program clients supporting such production need, the applicant must demonstrate the inability of presently owned apparatus to meet production requirements, and the apparatus requested may not exceed the reasonable requirements of the verified production commitments).

D. Projects to acquire transmitter/antenna apparatus necessary to increase power or otherwise extend or improve station coverage where the increase in population does not justify inclusion in Category IB.

PRIORITY III

A. Projects to activate new stations in areas currently without a public broadcasting station under appropriate local or State license where population to be served is less than 250,000.

B. Projects to augment production and reproduction capabilities of local stations beyond the basic or initial capability. Such proposals will require documentation of local live production requirements in excess of existing capability.

PRIORITY IV

A. Projects to activate second (or more) public broadcasting stations in areas already served by such a station under appropriate local or State licensee.

B. Projects to equip auxiliary studios at other than the main studio.

(Since the existing backlog of applications with higher priorities exceeds the available funds, it is not likely that Priority IV projects can be funded in fiscal year 1972.) (47 U.S.C. 392(d), 394; 45 CFR 60.12.)

B. ASSIGNMENT OF PRIORITIES TO APPLICATIONS

1. Upon receipt of application (or amendment to a pending application), it will be accorded the priority of the lowest component in the project.

For example, an application to relocate a new, more powerful transmitter which increases audience by 300,000 (Priority I–B); which includes the station's first color cameras (Priority II–B); and also requests matching funds for third and fourth color VTR's (Priority III–B) would be assigned a priority of III–B.

2. To avoid low priority rating, applicants should limit their requests to apparatus to meet their most immediate needs at the priority level which in their judgment will qualify within limitations of available funds in relation to the national backlog of needs for equipment.

If an applicant feels it is warranted by his evaluation of the national appropriation, the other demands to be made from within his State, the State maximum limitation, and his awareness of the national backlog of needs, he may file an application with components of lower priorities, provided he indicates clearly the financial parameters of each component and states clearly a willingness to "phase" the project. In that event, the applicant must be prepared to accept a grant award for whatever portion, if any, of the project which the Commissioner determines can be accommodated within funding limitations for the current fiscal year. (In such an application, using the above example, EBFP would rank the application at Priority IB, for the transmitter component, and would fund components of lower priority only if relative priority among applications competing in such lower category would make such a step possible.)

3. To the extent permitted by categorical allowances, projects will be funded in the order of listed priorities.

Proportions of total available funds to be awarded in the various priority categories will be determined, with the counsel of national advisors, after the total requests are known following the cutoff date for submission of applications. It will be an administrative objective to achieve a fair distribution of funds over the major priority categories consistent with the pattern of needs reflected in the fiscal year 1972 applications.

4. Where projects have identical priorities, preference will be given to those having the earlier date of filing, with reasonable allowance for the relative population groupings being served.

5. The order of funding according to the priority structure may be affected by consideration of geographical equity or the State maximum limitation (47 U.S.C. 392 (b) and (d), 394).

[FR Doc.71-16250 Filed 11-4-71;8:50 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-71-127]

REGIONAL ADMINISTRATORS ET AL.

Redelegation of Authority With Respect to Housing Management

The redelegation of authority by the Assistant Secretary for Housing Management published at 35 F.R. 16105, October 14, 1970, amended at 35 F.R. 17964, November 21, 1970, is amended in the following respects:

(1) Section A, paragraph 8c, is amended by adding a new subparagraph iii to read as follows:

iii. Approval of the use of force account for modernization programs.

(2) Section E is amended by adding new paragraphs q and r to read as follows:

q. To approve the End of Initial Operating Period.

r. To waive the provisions of the annual contributions contract with respect to the following:

i. Employment of a former local housing authority Commissioner.

ii. Frequency of reexamination of tenants to permit a local housing authority to change its established reexamination schedule.

iii. Approval of the use of force account for modernization programs.

(Secretary's delegation of authority, 36 F.R. 5005, March 16, 1971)

Effective date. This amendment to the redelegation of authority is effective July 1, 1971.

NORMAN V. WATSON,
Assistant Secretary for Housing Management.

[FR Doc.71-16203 Filed 11-4-71;8:49 am]

[Docket No. D-71-128]

REGIONAL ADMINISTRATORS ET AL.

Redelegation of Authority

Authority redelegated. Each Regional Administrator; Deputy Regional Administrator; Assistant Regional Administrator for Housing Management, Region VIII (Denver); Area Director; Deputy Area Director; Director, Housing Management Division; Director, Insuring Office; Deputy Director, Insuring Office; and Chief, Mortgages and Properties Division is authorized to approve the plan of management pursuant to the Secretary's authority over methods of operation under the National Housing Act (12 U.S.C. 1701).

(Secretary's delegation of authority, 36 F.R. 5005, March 16, 1971, effective March 8, 1971)

Effective date. This amendment to the redelegation of authority is effective as of August 1, 1971.

NORMAN V. WATSON,
Assistant Secretary for Housing Management.

[FR Doc.71-16204 Filed 11-4-71;8:49 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-400, 50-401, 50-402, 50-403]

CAROLINA POWER & LIGHT CO.

Notice of Receipt of Application for Construction Permits and Facility Licenses; Time for Submission of Views on Antitrust Matters

Carolina Power & Light Co., 336 Fayetteville Street, Raleigh, NC 27602, pursuant to section 103 of the Atomic Energy Act of 1954, as amended, filed an application on September 7, 1971, for authorization to construct and operate four pressurized water nuclear reactors designated as Shearon Harris Nuclear Power Plant, units 1, 2, 3, and 4, on the applicant's site in Wake and Chatham Counties, N.C.

The site is located on approximately 18,000 acres of land in the southwest corner of Wake County, and the southeast corner of Chatham County, N.C. The city of Raleigh, N.C., is approximately 20 miles northeast of the site, and Sanford, N.C., is about 10 miles southwest. The applicant will construct a dam on Buckhorn Creek about 1 mile north of its confluence with the Cape Fear River. This dam will create a 10,000 acre reservoir which will be used for cooling water requirements for the plant. The nuclear units will be located on a peninsula on the northwest shore of the reservoir about 3½ miles north of the main dam.

Each of the four units will be designed for an initial power output of 2,785 megawatts thermal, with an equivalent net electrical output of approximately 900 megawatts electrical.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within sixty (60) days after October 22, 1971.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and a copy has been sent to Mr. H. William O'Shea, Director, Wake County Public Libraries, 104 Fayetteville Street, Raleigh, NC 27601.

Dated at Bethesda, Md., this 29th day of September 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director, Division of Reactor Licensing.

[FR Doc.71-14552 Filed 10-21-71;8:45 am]

[Docket No. 40-8102]

HUMBLE OIL & REFINING CO.

Notice of Availability of Applicant's Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations, notice is hereby given that a copy of a report entitled "Applicant's Environmental Report—Highland Uranium Mill" submitted by the Humble Oil & Refining Co. and dated July 1971, is being placed for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20545. A copy of the report is also being placed for public inspection in the Wyoming State Clearinghouse, State Planning Coordinator, Office of the Governor, Capitol Building, Cheyenne, Wyo. 82001 and in the Converse County Library, Douglas, Wyo. 82633. The report involves the application by Humble Oil & Refining Co. for an AEC license to authorize uranium milling activities in Converse County, Wyo. Comments on the report may be submitted by interested persons to the Director, Division of Materials Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

A supplemental report to include information required by the Commission's revised regulation implementing the National Environmental Policy Act of 1969, Appendix D of 10 CFR Part 50, is expected to be submitted by Humble Oil & Refining Co. Notice of availability of the supplemental report will be published in the FEDERAL REGISTER.

After the reports have been reviewed by the Commission's regulatory staff, a draft detailed statement on environmental considerations related to the proposed activity will be prepared. Upon completion of the draft detailed statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of the availability of the Applicant's Environmental Reports and the draft detailed statement. The summary notice will request, within seventy-five (75) days or such longer period as the Commission may determine to be practicable, comments from interested persons on the proposed action and on the draft statement. The summary notice will also contain a statement to the effect that the comments of Federal agencies and State and local officials thereon will be available when received.

Dated at Bethesda, Md., this 29th day of October 1971.

For the Atomic Energy Commission.

RICHARD E. CUNNINGHAM,
Acting Director, Division of Materials Licensing.

[FR Doc.71-16202 Filed 11-4-71;8:49 am]

[Docket No. 40-8064]

RIO ALGOM CORP.

Notice of Availability of Applicant's Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations, notice is hereby given that a copy of a report entitled "Applicant's Environmental Report—Operating License Stage for Uranium Concentrator" submitted by the Rio Algom Corp. and received by the Atomic Energy Commission on August 31, 1971, is being placed for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20545. A copy of the report is being placed for public inspection in the Utah State Clearinghouse, Utah State Planning Coordinator, State Capitol Building, Salt Lake City, Utah 84114 and in the San Juan County Library, Monticello, Utah 84535. The report involves the application by Rio Algom Corp. for an AEC license to authorize uranium milling activities in San Juan County, Utah. Comments on the report may be submitted by interested persons to the Director, Division of Materials Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

A supplemental report to include information required by the Commission's revised regulation implementing the National Environmental Policy Act of 1969, Appendix D of 10 CFR Part 50, is expected to be submitted by Rio Algom Corp. Notice of availability of the supplemental report will be published in the FEDERAL REGISTER.

After the reports have been reviewed by the Commission's regulatory staff, a draft detailed statement on environmental considerations related to the proposed activity will be prepared. Upon completion of the draft detailed statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of the availability of the Applicant's Environmental Reports and the draft detailed statement. The summary notice will request, within seventy-five (75) days or such longer period as the Commission may determine to be practicable, comments from interested persons on the proposed action and on the draft statement. The summary notice will also contain a statement to the effect that the comments of Federal agencies and State and local officials thereon will be available when received.

Dated at Bethesda, Md., this 29th day of October 1971.

For the Atomic Energy Commission.

RICHARD E. CUNNINGHAM,
Acting Director, Division of Materials Licensing.

[FR Doc.71-16179 Filed 11-4-71;8:46 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23314]

NIPPON EXPRESS U.S.A., INC.

Notice of Hearing

Notice is hereby given pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on November 18, 1971, at 10 a.m. (local time) in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned examiner.

Dated at Washington, D.C., November 1, 1971.

[SEAL] LOUIS W. SORNSON,
Hearing Examiner.

[FR Doc.71-16218 Filed 11-4-71;8:50 am]

[Docket No. 23598]

EXPRESS COMPANY, INC.

Notice of Hearing

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceeding will be held on December 13, 1971, at 10 a.m., e.s.t., in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner Ross I. Newmann.

For details of the issues involved in this proceeding, interested persons are referred to the Prehearing Conference Report served on September 22, 1971, the Supplemental Prehearing Conference Report served on October 8, 1971, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., November 2, 1971.

[SEAL] ROSS I. NEWMANN,
Hearing Examiner.

[FR Doc.71-16219 Filed 11-4-71;8:50 am]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 71-1127]

PACIFIC BROADCASTING CO.

Declaratory Ruling

In the matter of Cecil (Cec) Heftel, president, Pacific Broadcasting Co., Honolulu and Hilo, Hawaii; request for declaratory ruling concerning broadcast appearances by candidates for public office.

1. The Commission has before it a request for declaratory ruling filed by Pacific Broadcasting Co. (Pacific) on June 28, 1971. Pacific, licensee of stations KGMB-TV, Honolulu, and KPUA-TV, Hilo, Hawaii, seeks a ruling that a plan it has devised for making time available to candidates for public office in the 1972 election campaigns is in accord with section 315 of the Communications Act of 1934, as amended, 47 U.S.C. section 315, and the licensee's general responsibilities to operate in the public interest. The essence of the plan is to provide specified amounts of free time to candidates in certain races in lieu of the sale of any time in such races. Time would be provided free in both the primary and general elections. Some program segments would be made available for appearances by the candidate or a spokesman and other time periods would be available for use either for questions by independent newsmen or for debates with questions also posed by newsmen. These latter time periods would be lost by any candidate who did not accept the station's proposed format. One-minute spot announcement time would also be available without charge for the candidate or a designated spokesman "to speak to the issues in the

campaign or to the qualifications of the candidate."

2. The proposal before us is supported by way of background by a statement by Cecil Heftel, president of the licensee, explaining that his concern with the high cost of political campaigning, and particularly the significant portion of that cost accounted for by television, led him to seek a way in which qualified candidates without great financial backing could bring their campaigns to the public. In the absence of remedial legislation in this area, the first step for him as a broadcaster appeared to be to work within the restrictions of section 315 of the Act to make time available to candidates without charge as a public service, and it was in this spirit that the proposal was formulated. The pleading further details both the significance and high cost of television in present day political campaigns, and the consequent reliance of candidates upon large campaign contributors who may have special interests to advance. We need not further set forth these details here; they have for some time been a matter of deep public concern, see e.g., "Voters' Time, Report of the Twentieth Century Fund Commission on Campaign Costs in the Electronic Era" (1969), and various legislative remedies have been under active consideration. We do note, however, that the Pacific proposal is directed not merely at the financial problem but also at Pacific's concern that television can be used—through programs and spot announcements—to persuade the public without enlightening it concerning the merits of the candidate or the issues. An "essential ingredient" of the Pacific plan "is to insure that political broadcasting on its stations is conducted on a level which will serve—not deceive—the public." Pacific believes that its plan fully accords with the public interest,[1] but recognizes that it is not clearly free from pitfalls under section 315 and accordingly seeks a Commission ruling.

3. In 1972 the voters of Hawaii will elect candidates to all offices except Governor, the U.S. Senate, the State Senate and the city council of the city and county of Honolulu. In addition, they will of course vote for candidates for President and Vice President of the United States. There will be both primary (not presidential) and general elections. The local campaigns, therefore, are: U.S. House of Representatives, State House of Representatives, mayors of four counties, and the county councils of three counties. No television time will be sold for the two congressional races, the mayor of the county (and city) of Honolulu, and the mayor of Hawaii County.[2] Free time will be made available on the appropriate Pacific station for these four offices on the following basis: During the 6 weeks prior to the October 7, 1972 primary, each race will receive 30 half-hour segments (eight in evening hours, 14 between 11 p.m. and 8 a.m., and eight between 8 a.m. and 6 p.m.), 15 of which would be allocated for use by the candidates or their spokesmen "to speak on behalf of their candidacies or to the issues in the campaigns," and 15 of which are for "either participation in a question and answer period with independent newsmen selected jointly by the candidates and Pacific or for debates between or among opposing candidates with questions also posed by a panel of independent newsmen selected jointly by the candidates and Pacific." [Footnote omitted.][3] In addition, a total of 224 1-minute spot announcements would be made available in various time periods. Pacific has allocated times which appear to it to be adequate, but it cannot of course predict the number of candidates and it expects to be flexible if more time is required.

4. Between the date of the primary and the general election on November 7, 1972 (a period of about 4 weeks), time will be made available free for the same offices upon the same conditions in the following amounts for each race: Six half-hour segments in the evening, 10 half-hour segments between 11 p.m. and 8 a.m., and six such segments between 8 a.m. and 6 p.m., in addition to 149 1-minute spot announcements spread over similar periods of the day.

5. Pacific further states that it will give extensive coverage to important State campaigns through its regular news programs, including news interviews and news documentaries. It would also give free time to candidates in any particularly significant and newsworthy campaigns. With respect to the presidential and vice presidential races, Pacific states that no political broadcasts were ordered for Hawaii in 1968, either on a network or local basis, and that the voters were informed through the news media rather than through political advertising. It expects to carry any political programs and announcements which it receives from the network (these are apparently on a 1-week delayed basis); in addition, if any presidential candidate or supporter of a candidate desires to purchase time, Pacific will give to that candidate and the opposing candidate reasonable amounts of free time subject to the limitations outlined.[4]

6. Pacific recognizes that its proposal may be thought to work to the disadvantage of lesser-known candidates, but believes this is more desirable than permitting an election to be won on the basis of financial resources. It has concluded that its proposal will provide "sufficient exposure of the candidates and their views that the voters will be able to judge the relative merits of the competing candidates irrespective of their comparative degrees of recognition by the public at the outset of the campaign." Pacific requests a specific ruling that the plan is in conformity with Commission policies (including section 315 of the Act) and will provide to a much greater extent than is presently possible extensive, fair, and free exposure of candidates seeking public office.[5] We agree that Pacific has taken a highly commendable approach to the solution of a most pressing problem. Whether the precise amounts of time allocated for the candidates' free use are adequate is a matter within the licensee's informed discretion, and Pacific recognizes that it is not possible to make a definitive commitment without knowledge of the number of candidates and the nature of any particular campaign. Therefore, we see no occasion at this time to make any judgment on that aspect of its proposal.[6] The question presented by the request for a ruling is the conformity of the proposal with section 315 of the Act, for Pacific does intend to place certain restrictions on the use of the time which, however well intentioned, raise serious questions.

7. Thus, one-half of the program segments are for appearances by the candidates or their spokesmen "to speak on behalf of their candidacies or to the issues in the campaigns," and the other segments are for use in formats involving questioning by independent newsmen and, perhaps, debates. Other persons would not be permitted to appear. These restrictions on the use of time by a candidate[7] are said to be premised on the view that every candidate is entitled to substantial blocks of free time to advocate his candidacy to the public. We can accept this premise, but it does not follow that the proposed restrictions are in conformity with the statute. Section 315(a) provides that the "licensee shall have no power of censorship over the material broadcast under the provisions of this section." This has been held to mean that the candidate must have "the freedom to use facilities as he sees fit," that is, "the basic objective of section 315 [is] to permit a

[1] Pacific also believes that its proposal may be adaptable by other broadcasters to fit their local situations and campaigns.

[2] The licensee has advised us orally that time will be sold for the other local offices.

[3] An unopposed candidate in a primary would receive time proportionate to that made available to competing primary candidates.

[4] The purport of this last provision is not entirely clear. However, we need not further consider it in the context of this decision.

[5] Pacific estimates the amount of time allocated to be worth $134,633 contrasting with $124,417 spent on its television facilities in 1970 and $140,579 spent in the 1968 campaign.

[6] While the Commission has stated that reasonable attention to significant political campaigns is an element of the public interest to be served by a licensee, the statute of course does not require the sale of time to any candidate, and Pacific's proposal, to the extent that it involves a decision not to sell time for four races, does not raise a problem.

[7] While the proposal contemplates that the candidate may use a spokesman for the segments not involving questions and answers with newsmen, it is not clear whether a spokesman may also be used in the other segments. We assume not, since there would be little point in such a presentation and the pleading states that the candidates need not make use of these question and answer periods if they do not wish to do so, i.e., they then lose the time.

candidate to present himself to the electorate in a manner wholly unfettered by licensee judgment as to the propriety or content of that presentation." Gray Communications Systems, Inc., 19 FCC 2d 532, 534–535 (1969). In that case, the Commission found a "use" under section 315 although substantial portions of the program were occupied by those other than the candidate and it ruled that the station could not reject the broadcast because of such appearances by other persons. See also, Socialist Labor Party, 40 FCC 241 (1952), holding that the licensee could not require a candidate to relate his broadcasts to the office for which election was sought. While, as Pacific notes, the Gray ruling "focused on the noncensorship aspects of section 315," it is precisely those aspects which are pertinent here. It is not relevant that the licensee may be offering equal opportunities in the sense of putting the same restrictions upon all candidates. Thus, in letter to Senate Committee on Commerce, 40 FCC 357 (1962), where a station offered the opposing candidates free time on a series of joint interview programs, stating that if only one candidate accepted the invitation the full half-hour would be devoted to him, the Commission ruled that the proposed series would fully comply with all requirements of section 315 if all candidates were in agreement as to the format, but that a candidate who did not accept the offer would be entitled to full equal opportunity rights. The Commission stated that the attempt to impose an interview format would constitute prohibited censorship.[8] Although the Commission found that proposal to be a substantial and commendable effort to comply with the licensee's public interest obligations, it could not, under section 315, approve the licensee's terms. It stated (40 FCC at 359):

> In short, it is our view that a licensee should consult with the candidate and reach agreement if possible. If complete agreement cannot be effected with all candidates, the licensee may implement his plans as to candidates who have agreed thereto and, as to any who have not agreed, make available, upon request, opportunities comparable to those accorded his opponents in the program, in accordance with the literal language of section 315.

8. Therefore, while Pacific states that time is not being offered on a take-it-or-leave-it basis, it is our understanding of its proposal that a candidate who does not accept the question and answer format proposed for half of the program segments will indeed lose that time, and we believe the precedents cited above preclude this approach. Similar censorship problems are also presented by the restrictions on context proposed for the other program segments and the spot announcements,[9] and we find them to be similarly in conflict with section 315. This is not to say that we are unsympathetic to Pacific's attempt to insure that the public will be informed rather than used. However, in view of the basic purpose of section 315 to assure the candidate an opportunity to use broadcast facilities unfettered by licensee judgments as to the manner of use, Farmers Union v. WDAY, 360 U.S. 525 (1959), a purpose which serves important public interest values, we see no basis for a departure from our past holdings. We note in this connection an expressed willingness by Pacific to modify its proposal in the event that we do not find it to be in conformity with section 315. We express the hope that it will see fit to do so, in view of the value to candidates and the public of free time for political discussion.[10]

Adopted: October 28, 1971.

Released: November 1, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[10]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-16209 Filed 11-4-71;8:50 am]

[8] This decision and the others cited in the text must be considered as overruling letter to Bob Wilson, 40 FCC 300 (1958), to the extent that decision holds that a licensee requiring a candidate to accept a debate format is in compliance with section 315.

[9] Pacific also asks us to rule that a half-hour or 5-minute program presentation does not give rise to an obligation on the part of the broadcaster to make spot announcement time available to another candidate. We decline to issue a ruling absent the facts of a particular case. We have stated that matters such as these "can be only resolved by good faith negotiations between the parties," and that "determination of equal opportunities must be governed by a rule of reason." See In re Complaint by Bella S. Abzug, 25 FCC 2d 117, 120–121 (1970). In the Abzug case, the complaining candidate sought a ruling that section 315 would require a station to give her forty-five 1-minute spot announcements per day to balance a single 45-minute daily appearance on the station by the other candidate. We found that in such a situation "it would be unreasonable for a licensee to be required to afford an opposing candidate only short time segments such as 60-second announcements when the first use consisted of program length segments."

[10] Commissioner Johnson concurring and issuing a statement, filed as part of the original; Commissioner Reid not participating.

[FCC 71-1128]

KSTP–TV, ST. PAUL, MINN., ET AL.

Memorandum Opinion and Order Regarding "Prime Time Access Rule"

In the matter of requests by individual stations for waiver of § 73.658(k), the "Prime Time Access Rule" (KSTP–TV, St. Paul, Minn., WLKY–TV, Louisville, Ky., and KTHV, Litle Rock, Ark.).

1. The Commission here considers three requests by individual television stations in the "top 50" markets for waiver of § 73.658(k) of the Commission's rules, the "prime time access" rule, which, starting October 1, 1971, in general limits stations in these markets to the presentation of no more than 3 hours of network programing during "prime time" each evening. "Prime time" is defined as 7 to 11 p.m., local time, in all time zones except central, and 6 to 10 p.m., c.t., in the central time zone. The request of KSTP–TV, St. Paul-Minneapolis, is a petition for reconsideration of its request which was denied in a Commission action of October 6, 1971; KTHV, Little Rock, likewise seeks reconsideration of denial although its request is somewhat modified and reduced from that denied earlier; and the request of WLKY–TV, Louisville, is essentially a new one, an earlier request having been denied but also (about the same time) rendered moot by the unavailability of the network program involved.[1]

2. It should be noted that all three of the requests now before us involve only requests for waiver which will leave the stations within the maximum time permitted per week under the rule (21 hours), and essentially are to permit stations to "make up" network programs which are not carried at their times of origination so that nonnetwork material may be presented. Also, each is for waiver only to the extent of 30 minutes one night a week, or less. It is also to be noted that two of the three stations are in the Central time zone, where the hours designated as "prime time" are different from those in the eastern and pacific zones, 6–10 instead of 7–11. KSTP–TV in particular strongly urges this point, since it and other central zone stations, if they wish to present an hour of network and local news each evening (as most stations do at least on weekdays) must present part of it during prime time unless they wish to start their evening news at 5 p.m. (which very few stations do). With regular network prime-time programing beginning at 7 p.m., c.t., five nights a week and 6:30 on Tuesdays and Sundays, this leaves relatively little time early in the evening for local material, and less flexibility.

3. *The KSTP–TV request.* KSTP–TV, now as earlier, requests waiver to permit it to carry 3½ hours of NBC programs in prime time on Tuesdays, the extra half-hour being "The D.A." program, originating on the network at 7 p.m., c.t. on Fridays. KSTP–TV wishes to delay this in order to present an hour-long National Geographic syndicated program from 6:30 to 7:30 Fridays, the only way an hour-long period of prime time can be cleared of both news and network

[1] "Petition for Immediate Reconsideration" filed Oct. 14, 1971, by Hubbard Broadcasting, Inc. (KSTP–TV); "Petition for Waiver" filed Oct. 14, 1971, by WLKY–TV, Inc. (WLKY–TV); letter "Request for Reconsideration Waiver Prime Time Access Rule Decision" filed Oct. 18, 1971, by Arkansas Television Co. (KTHV).

The KSTP–TV and KTHV requests were denied by Commission memorandum opinion and order adopted Oct. 6, 1971, FCC 71–1039. The WLKY–TV earlier request was denied in a memorandum opinion and order adopted Oct. 14, 1971, released Oct. 19, 1971, FCC 71–1074.

material during the week unless network programs are actually dropped. Friday 9:30–10, c.t., might be available, but is to be occupied by a local entertainment program three Fridays a month and a local public affairs program on the fourth. As to the former, it is stated that this will be taped on Tuesdays at a local nightclub and cannot for technical reasons be presented live, cannot be taped on Mondays for Tuesday broadcast because Monday is "opening night" for many nightclub acts with attendant problems, and cannot be presented any other night except Friday because there is no other 9:30 p.m. availability. The public affairs program on the fourth Friday cannot well be presented on Tuesday because another station is presenting similar material at that time. KSTP–TV asserts the value of the programing which the proposed arrangement will make possible (particularly the fourth Friday, when NBC presents 2 hours of public affairs), and asserts that this is the purpose of the request, not avoidance of the rule or assumption that it means only "21 hours a week" rather than 3 hours a day. The station presents all other NBC prime-time material (20½ hours weekly) at its time of origination, and thus seeks readjustment so that it will present 3½ hours on Sundays (as NBC affiliates generally are permitted to do), 3½ hours on Tuesdays under this waiver, and only 2 hours on Friday (7:30–9:30) and 3 hours on the other nights.

4. *The new WLKY–TV request.* WLKY–TV's earlier request, which was denied and anyhow had been rendered moot by the unavailability of the ABC program, was simply to present an extra hour of ABC programs on Sundays so as to clear Wednesdays for a local movie. The present request is for only two Sundays, October 31 and November 7, 1971, to present a half-hour each night of ABC programing regularly carried on Fridays. WLKY–TV wishes to preempt numerous ABC programs on two Friday nights, October 22 and 29, to carry the Kentucky Colonels ABA professional basketball games. A total of 3½ hours of ABC programs will not be cleared on these evenings, of which the station wishes to make up only 1 hour, from 7 to 7:30 on the two Sundays mentioned.[2] In support of its request, WLKY–TV makes the same general arguments set forth earlier, including the need to present something different from its VHF competitors. Thus, it emphasizes the importance to it of being able to carry the Kentucky Colonels "away" games (18 games during 1971–72) asserting that this activity—the only Kentucky major league sports team—is of great appeal in the area and brings it substantial revenues and audience share. At the same time, it asserts the importance to the public of its being able to carry as much ABC programing as possible. It is also pointed out that in general the station only carries 19 hours a week of ABC material in prime time, and in the weeks involved here it will be less even if the waiver is granted. WLKY–TV also calls attention to the statement in the "Prime Time Access Rule" decision of May 1970 (Docket 12782) that the Commission would follow developments under the rule and take remedial action if necessary. It is said that this is the case here.

5. *The KTHV request.* The request of station KTHV, Little Rock, which is before us now, as well as part of its earlier request which was denied, are designed to clear an hour from 6:30 to 7:30 c.t., on Saturdays, for an hour-long syndicated program, by delaying the CBS program "All in the Family" (Saturday 7–7:30, c.t.) to another evening. The earlier proposal was to broadcast it regularly on Wednesdays, which would involve 3½ hours of CBS programing that evening; the present request is to present it on Thursdays. On three Thursdays of the month, CBS presents a movie that evening, which KTHV does not carry, so that no waiver is required. However, on the fourth Thursday, CBS presents public affairs programs which KTHV wishes to present, making waiver necessary to the extent of a half-hour on one Thursday of the month. This would be compensated by presentation of only 2½ hours of CBS on Saturdays and, anyhow, KTHV carries less than the maximum permissible weekly amount because of the movie preemption. KTHV also in the alternative renews its original request, which included both the arrangement mentioned above and a proposal to carry 15 minutes of network news as well as 3 hours of CBS entertainment programing on Sundays. It strongly urges, in support of both, that Little Rock is only marginally in the top 50 markets, has not been so included in the past and probably will not be so in the next ARB ranking (it is now tied for 50th with Wilkes-Barre-Scranton, Pa.).

CONCLUSIONS

6. Upon further and careful consideration of these matters, we believe that all three of the requests (in the case of KTHV, its new request[3]) should be granted, for the 1971–72 season (through October 1, 1972). We do not believe that in these situations literal adherence to § 73.658(k) should be required, rather than the alternative arrangements which have been proposed. We have previously stated that the fact that a proposal would still leave the station within a 21-hour weekly figure does not mean that it should be accepted as sufficient, and we are still definitely of that view. But, in addition, we note that all of these requests are for only 30 minutes on 1 night a week (and in two cases less). Therefore, it does not appear that permitting these arrangements would significantly impinge on the availability of prime time for nonnetwork material on all or most evenings of the week. It appears that in the case of KSTP–TV, at least, denial of waiver could render difficult the presentation of desirable nonnetwork programing; and the same may be true in the other two cases, as to which fewer details are given. We also take into account the fact that two of the three stations are in the Central zone and thus are very limited in flexibility with respect to the arrangement of evening programing, as noted in paragraph 2, above. This is not true of WLKY–TV, Louisville, but in that case the request is so limited—two occasions—that under the circumstances adherence to the letter of the rule does not appear warranted as a requirement. It is emphasized that this decision is limited to the facts of these cases.

7. In view of the foregoing: *It is ordered*, That waiver of the provisions of § 73.658(k) is granted to Stations KSTP–TV, St. Paul, Minn., KTHV, Little Rock, Ark., and WLKY–TV, Louisville, Ky., to permit them to carry up to 3 hours 30 minutes of network programing during prime time, as follows:

(a) KSTP–TV, on Tuesdays during the period through September 26, 1972;

(b) KTHV, on one Thursday of every month (generally the fourth Thursday) through September 1972; and

(c) WLKY–TV, on Sunday, October 31 and Sunday, November 7, 1971.

Adopted: October 28, 1971.

Released: November 2, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[4]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71–16210 Filed 11–4–71;8:50 am]

[2] As originally filed, the request was for Sunday, Oct. 24, as well as the two following Sundays (a half hour each Sunday). However, when it was pointed out that it would be difficult to get Commission consideration before Oct. 24, the request was modified to Oct. 31 and Nov. 7 only.

[3] We do not consider grant of the original KTHV request, even though it is again urged. The part designed to clear Saturday evening has presumably been mooted by the new programing arrangement worked out, involving Thursday rather than Wednesday; and the part concerning carriage of network news in prime time on Sundays we do not believe warrants further consideration, in light of our earlier decisions denying a blanket request by CBS to the same effect, as well as another individual request.

[4] Commissioner Bartley dissenting and issuing a statement in which Commissioner H. Rex Lee joins, filed as part of the original; Commissioner Johnson dissenting.

FEDERAL MARITIME COMMISSION

JAPAN-ATLANTIC AND GULF FREIGHT CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. C. A. Cole, Jr., Chairman, Japan-Atlantic and Gulf Freight Conference, Sumitomo Seimei Yaesu Building, 3, Yaesu 4-Chome, Chuo-ku, Tokyo 104, Japan.

Agreement No. 3103–45 reflects a request from Japan-Atlantic and Gulf Freight Conference to modify Articles 19(c) and 21 of their basic agreement, permitting the Conference to employ a Vice Chairman who can act in the absence of the Chairman and to delete references to certain offices which are no longer necessary.

Dated: November 2, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71–16200 Filed 11–4–71;8:48 am]

TRANS-PACIFIC FREIGHT CONFERENCE OF JAPAN

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. James E. Masure, Chairman, Trans-Pacific Freight Conference of Japan, Second Floor, Sumitomo Seimei Yaesu Building, 3, Yaesu 4-Chome, Chuo-ku, Tokyo 104, Japan.

Agreement No. 150–51 reflects a request from Trans-Pacific Freight Conference of Japan to modify Articles 19(e) and 21 of their basic agreement, permitting the Conference to employ a Vice Chairman who can act in the absence of the Chairman and to delete references to certain offices which are no longer necessary.

Dated: November 2, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71–16201 Filed 11–4–71;8:49 am]

FEDERAL RESERVE SYSTEM

BANKS OF IOWA, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Banks of Iowa, Inc., Cedar Rapids, Iowa, for approval of acquisition of 80 percent or more of the voting shares of Valley Bank and Trust Co., Des Moines, Iowa.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Banks of Iowa, Inc., Cedar Rapids, Iowa, a registered bank holding company, for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of Valley Bank and Trust Co., Des Moines, Iowa (Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Iowa Department of Banking and requested its views and recommendation. The Superintendent of Banking of the State of Iowa recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on July 17, 1971 (36 F.R. 13299), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant is a multibank holding company with deposits of approximately $205 million, representing 3.1 percent of the total commercial bank deposits in the State, and is the fourth largest banking organization in Iowa. The inclusion of applicant's affiliated bank in Cedar Rapids would increase applicant's combined deposits to 3.3 percent of total commercial bank deposits in the State. (All banking data are as of December 31, 1970, and reflect holding company formations and acquisitions approved through September 30, 1971.) Applicant's acquisition of Valley Bank, with deposits of close to $51 million, would increase applicant's share of deposits in the State by 0.8 percentage points.

Valley Bank operates one office and a parking lot branch, located in the city of Des Moines, Iowa, and primarily serves the Des Moines metropolitan area. Applicant states that Bank essentially confines its business to serving the commercial and industrial segments of the community and does not actively solicit consumer deposits and loans. As an independent bank with smaller lending capabilities than its principal competitors, Bank, it appears, has not been able to compete effectively with the larger banks. Valley Bank is the fifth largest banking organization and the fourth largest of 20 banks in the Des Moines SMSA with 5.4 percent of total market deposits. The three largest banking organizations in Des Moines are subsidiaries of the State's first, second, and fifth largest bank holding companies, respectively controlling 32.3, 24.1, and 14.6 percent of deposits in the market.

Applicant has recently received Board approval to acquire Union Bank and Trust Co., which upon consummation would become applicant's subsidiary located closest to Valley Bank, approximately 87 miles southeast of Des Moines. It appears that no significant competition exists between Valley Bank and any of applicant's subsidiaries. On the facts of record, notably, the distances involved, the large number of banks in the intervening areas, and the State's restrictive branching law, there appears to be little likelihood that such competition would develop in the future. The fact that its principal officers have either reached or are reaching retirement age and that adequate management continuity presents a problem suggest that it is unlikely that Bank would form a holding company.

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On the basis of the record before it, the Board concludes that consummation of the proposed acquisition would not adversely affect competition in any relevant area. Applicant plans to have Bank offer a more sophisticated array of commercial and industrial services. In addition, applicant intends to expand Bank's consumer services to include solicitation of consumer and savings deposit accounts, and to make available greater amounts of funds for residential real estate mortgage loans and consumer installment credit. Considerations relating to the convenience and needs of the communities to be served lend some weight toward approval of the application.

Considerations relating to financial and managerial resource and prospects as they relate to applicant, its subsidiaries and Bank, are regarded as satisfactory, except that Bank has not provided adequate successor management for its key officers who are advanced in years. Applicant's capabilities for finding competent and experienced officers for Bank as needed lend some weight in favor of approval. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and that the application should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above: *Provided,* That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order, or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[1] October 29, 1971.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.71-16180 Filed 11-4-71;8:46 am]

PAN AMERICAN BANCSHARES, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Pan American Bancshares, Inc., Miami, Fla., for approval of acquisition of at least 80 percent of the voting shares of Citizens Bank and Trust Co. in Sarasota, Sarasota, Fla.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Pan American Bancshares, Inc., Miami, Fla. (Applicant), for the Board's prior approval of the acquisition of at least 80 percent of the voting shares of Citizens Bank and Trust Co. in Sarasota, Sarasota, Fla. (Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Florida Commissioner of Banking and requested his views and recommendation. The Commissioner recommended approval.

Notice of receipt of the application was published in the FEDERAL REGISTER on August 17, 1971 (36 F.R. 15690) providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant has six subsidiary banks which control $248.9 million in deposits, representing 1.8 percent of total deposits in the State. Upon acquisition of Bank (deposits $29.4 million) and the acquisition of Pan American Bank of Miami Beach approved by the Board today, Applicant would control eight subsidiary banks with aggregate deposits of $278.3 million. (All banking data are as of December 31, 1970, adjusted to reflect holding company acquisitions and formations to date.) Bank, which is the next to the smallest of five banking organizations in the Sarasota banking market, is located approximately 220 miles from Applicant's closest subsidiary bank and there is no existing competition between it and any of Applicant's other subsidiary banks. Based upon the facts of record, consummation of the proposal would have no adverse effects on potential competition and would not have any adverse effects on any competing bank. In fact, consummation of the proposal would have a procompetitive effect by enabling Bank to compete more effectively with the larger banking groups in the county.

There is no evidence that significant banking needs of the community are going unserved, however, consummation of the proposal would facilitate Bank's ability to participate larger loans and make available to its customers the international banking facilities of Applicant's lead bank. Considerations relating to the convenience and needs of the communities to be served thus lend some weight toward approval. Applicant proposes to strengthen Bank's management significantly and considerations relating to the banking factors, therefore, lend some weight toward approval. It is the Board's judgment that the proposed transaction is in the public interest and should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above: *Provided,* That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order, or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] October 29, 1971.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.71-16181 Filed 11-4-71;8:47 am]

PAN AMERICAN BANCSHARES, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Pan American Bancshares, Inc., Miami, Fla., for approval of acquisition of at least 80 percent of the voting shares of Pan American Bank of Miami Beach, Miami Beach, Fla., a proposed new bank.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Pan American Bancshares, Inc., Miami, Fla., for the Board's prior approval of the acquisition of at least 80 percent of the voting shares of Pan American Bank of Miami Beach, Miami Beach, Fla., a proposed new bank (Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Florida Commissioner of Banking and requested his views and recommendation. The Commissioner recommended approval.

Notice of receipt of the application was published in the FEDERAL REGISTER on August 17, 1971 (36 F.R. 15690), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant controls seven subsidiary banks with aggregate deposits of $278.3 million, representing 2 percent of bank deposits in Florida. (Banking data are as of December 31, 1970, and reflect holding company formations and acquisitions to date, including the acquisition of Citizens Bank of Sarasota, also approved by the Board today.) Approval of the acquisition of Bank would not increase the percentage of deposits controlled by applicant since Bank, as stated above, is a proposed new bank.

All of applicant's existing subsidiaries are located within 25 miles of Bank, and the closest, applicant's lead bank, Pan American Bank of Miami, is only 6 miles from Bank. However, the intervening area is heavily populated and contains several highly competitive banks, and applicant does not dominate the area. Consummation of the proposal would eliminate no existing competition nor have any adverse effects on any competing banks.

The financial and managerial resources and future prospects of applicant, its subsidiary banks, and Bank are regarded as satisfactory. Bank's location in a shopping center-apartment complex will provide a convenient source of banking services; considerations relating to the convenience and needs of the communities to be served lend some weight toward approval. It is the Board's judgment that the proposed transaction is in the public interest and should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above: *Provided,* That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order, or (b) later than 3 months after the date of this order, *And provided further,* That (c) Pan American Bank of Miami Beach shall be open for business not later than 6 months after the date of this order. The periods described in (b) and (c) hereof may be extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] October 29, 1971.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.71-16182 Filed 11-4-71;8:47 am]

PATAGONIA CORP.

Proposed Acquisition of Model Finance Co.

Patagonia Corp., Tucson, Ariz., a bank holding company, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(a)(8)) and § 222.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Model Finance Co., Phoenix, Ariz., which owns all of the outstanding shares of Model Finance Co. of Phoenix, Model Finance Co. of E. Van Buren, Model Finance Co. of Camelback, and Model Finance Co. of W. Phoenix, all in Phoenix; Model Finance Co. of Albuquerque and Advance Loan Co. of Albuquerque, both in Albuquerque, N. Mex.; Advance Loan Co. and Advance Loan Co. of Las Vegas, both in Las Vegas, Nev.; Scottsdale Finance Co., Scottsdale, Ariz.; Model Finance Co. of Tucson, Tucson, Ariz.; Advance Loan Co. of Denver, Denver, Colo.; Model Finance Co. of Mesa, Mesa, Ariz.; and Model Finance Co. of Glendale, Glendale, Ariz. Notice of the application was published in newspapers and circulated in:

Denver, Colo.	The Rocky Mountain News.	Aug. 18, 1971
Phoenix, Ariz.	The Arizona Republic.	Aug. 16, 1971
Tucson, Ariz.	The Daily Reporter.	Aug. 18, 1971
Albuquerque, N. Mex.	The Albuquerque Journal.	Aug. 16, 1971
Do.	The Albuquerque Tribune.	Aug. 16, 1971
Las Vegas, Nev.	Las Vegas Review-Journal.	Aug. 15, 1971

The proposed subsidiary would engage, through its subsidiaries, in the activities of making consumer loans and selling credit-related insurance to customers of the subsidiaries. Such activities have been specified by the Board in § 222.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 222.4(b).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 29, 1971.

Board of Governors of the Federal Reserve System, October 29, 1971.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.71-16183 Filed 11-4-71;8:47 am]

SECURITY CORP.

Order Approving Action To Become a Bank Holding Company

In the matter of the application of Security Corp., Duncan, Okla., for approval of action to become a bank holding company through the acquisition of 89.75 percent of the voting shares of The Security National Bank and Trust Company of Duncan, Duncan, Okla.

There has come before the Board of Governors, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Security Corp., Duncan, Okla., for the Board's prior approval of action whereby applicant would become a bank holding company through the acquisition of 89.75 percent of the voting shares of The Security National Bank and Trust Company of Duncan, Duncan, Okla. (Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency and requested his views and recommendation. The Comptroller offered no objection to approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on August 3, 1971 (36 F.R. 14285), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant is a newly organized corporation formed for the purpose of acquiring Bank as a subsidiary. Bank ($38 million in deposits), is the largest of seven banks operating in the Stephens banking market, which is approximated by Stephens County. Bank controls 47.1 percent of the commercial bank deposits in that market. (Banking data are as of December 31, 1970.)

The proposal is part of a plan by which the Halliburton Employees Benefit Fund, an organization that became a bank holding company as a result of the 1970 amendments to the Bank Holding Company Act, plans to divest its interest in Bank. As applicant has no present operations or subsidiaries, consummation of the proposal herein would neither alter existing banking competition nor is it likely to have an adverse effect on potential competition or on other banks in the market.

Applicant's management has been drawn primarily from directors and officers of Bank. The financial and managerial resources and prospects of Bank are considered to be good. It is noted that the purchase of Bank is proposed to be effected in part through a loan. On a number of occasions, the Board has expressed concern with acquisition debt. In the circumstances of this proposal, notably applicant's plans for an early and significant reduction of the debt through

[1] Voting for this action: Chairman Burns and Governors Robertson, Maisel and Sherrill. Absent and not voting: Governors Mitchell, Daane, and Brimmer.

[1] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Brimmer, and Sherrill. Absent and not voting: Governors Robertson and Maisel.

[1] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Brimmer, and Sherrill. Absent and not voting: Governors Robertson and Maisel.

the sale to the public of an issue of common stock and applicant's resources for servicing its debt without impairing Bank's financial condition, the Board concludes that the loan involved does not require denial of this application. Although consummation of the proposal would not have any immediate effects on the convenience and needs of the community, the expansion of bank-related services in the future may be facilitated by the operational structure of a holding company, and applicant apparently has future plans for such expansion. Considerations related to these factors are regarded as consistent with approval. It is the Board's judgment that the proposed transaction is in the public interest and that the application should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above: *Provided*, That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order, or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[1] October 29, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16184 Filed 11-4-71;8:47 am]

TARIFF COMMISSION

[TEA-W-119]

WORKERS' PETITION FOR DETERMINATION OF ELIGIBILITY TO APPLY FOR ADJUSTMENT ASSISTANCE

Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of workers of Dave Aronoff Shoes, Inc., Los Angeles, Calif., the U.S. Tariff Commission on October 29, 1971, instituted an investigation under section 301(c)(2) of the act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with women's and misses' footwear of the type produced by the aforementioned firm, are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of the firm.

The petitioners have not requested a public hearing. A hearing will be held on request of any other party showing a proper interest in the subject matter of the investigation, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, 8th and E Streets NW., Washington, DC, and at the New York City office of the Tariff Commission located in room 437 of the Customhouse.

Issued: November 2, 1971.

By order of the Commission:

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.71-16199 Filed 11-4-71;8:48 am]

[1] Voting for this action: Governors Mitchell, Daane, Brimmer and Sherrill. Absent and not voting: Chairman Burns and Governors Robertson and Maisel.

NATIONAL CREDIT UNION ADMINISTRATION

EMPLOYEE RESPONSIBILITIES AND CONDUCT

Applicability of Regulations

Notice is hereby given that the Administrator, National Credit Union Administration, has received the permission of the Civil Service Commission to adopt the provisions of 5 CFR Part 735. These regulations have been approved by the Civil Service Commission and are hereby made applicable to the employees of the National Credit Union Administration as of November 10, 1971.

This notice is published pursuant to the authority conferred in 5 CFR 735.104(f)(2).

HERMAN NICKERSON, Jr.,
Administrator.

NOVEMBER 1, 1971.

[FR Doc.71-16194 Filed 11-4-71;8:48 am]

DEPARTMENT OF LABOR

Employment Standards Administration

FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Minimum Wages

Modification to area wage determination decisions for specified localities in California, Iowa, Kentucky, Michigan, Ohio, Texas, and Utah.

Area wage determination decisions published in the FEDERAL REGISTER on the following dates:

Decision No.	*Date*
AM-378, AM-385, AM-393, AM-404, AM-405, AM-406, AM-407, AM-408, AM-409, AM-410, AM-411, AM-413, AM-414, AM-415	Aug. 18, 1971
AM-478	Aug. 20, 1971
AM-2454, AM-2555	Aug. 25, 1971
AM-2508	Aug. 27, 1971
AM-2525, AM-2527	Sept. 3, 1971

are hereby modified as set forth below.

These modifications are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since these determinations were issued.

The determinations of prevailing rates and fringe benefits made in these modifications have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of the Code of Federal Regulations, Procedure for Predetermination of Wage Rates, and of Secretary of Labor's Orders 13-71 and 15-71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in the foregoing area wage determination decisions, as hereby modified, shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

The modifications are effective from their date of publication in the FEDERAL REGISTER until the end of the period for which the determinations being modified were issued and are to be used in accordance with the provisions of 29 CFR Part 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule making procedures prescribed in 5 U.S.C. 553 is set forth in the document being modified.

The modifications to the area wage determination decisions listed above are set forth below.

Signed at Washington, D.C., this 29th day of October 1971.

HORACE E. MENASCO,
Administrator,
Employment Standards Administration.

MODIFICATIONS

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-2,525—36 F.R. 17708, the 46 northern California counties are all those located north of Kern and San Luis Obispo Counties and west of Inyo and Mono Counties, Calif. Modification No. 5						
ADD:						
Marble setters	$7.59	$0.60	$0.51	$0.53		
CHANGE:						
Laborers:						
Bridge; brush loaders and piler; cleanup; dumpman; general; landscape; limbers toolroom attendant	5.185	.50	.80	.60	$0.01	
Asphalt shovelers; cement dumper; chipper; choker setter and rigger; chucktender; concrete; gulnea chaser; high pressure nozzleman—hydraulic monitor; nipper; pneumatic-gas-electric tool operator (not otherwise classified); sloper; loading, unloading, handling materials for reinforcing concrete construction	5.285	.50	.80	.60	.01	
Aligners; asphalt ironers and rakers; burker; buggymobile; chainsaw; compactors; concrete saw and pan work; cribber and/or shoring; curb setter; form raiser; faller; headerboard man; post hole digger (air-gas-electric); jackhammer; kettleman; log loader; magnesite and mastic workers; pavement breaker pipelayer; pipewrapper; power broom sweeper; riprap stonepaver and rockslinger; rotary scarifier; roto-tiller; sandblaster; barko, wackers and similar type tampers; tank cleaners; tree climber; vibrator; vibra-screed bull float	5.435	.50	.80	.60	.01	
Burning and welding	5.485	.50	.80	.60	.04	
Pipelayers; caulkers; banders (Contra Costa County only)	5.535	.50	.80	.60	.04	
Blasters; drills (diamond-wagon); high scaler; powderman; tree topper	5.66	.50	.80	.60	.04	
Laborers on general construction work on or in bell hole footings, and shaft	5.985	.50	.80	.60	.04	
Gunite laborers:						
Nozzleman; rodman; gunman; groundman	5.805	.50	.80	.60	.04	
Reboundman	5.305	.50	.80	.60	.01	
WD No. AM-2,527—36 F.R. 17752, 11 southern California counties: Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura Counties, Calif. Modification No. 4						
Inyo County						
CHANGE:						
Plasterers	7.07	.30	.35	.50	.01	
ADD:						
Lathers	6.73	.35	.65	.50		
Kern County						
CHANGE:						
Lathers	6.73	.35	.65	.50		
Plasterers	7.07	.30	.35	.50	.01	
Mono County						
CHANGE:						
Plasterers	7.07	.30	.35	.50	.01	
Santa Barbara County						
CHANGE:						
Electricians (Vandenberg Air Force Base):						
Electricians	9.33	.42	1%+.45		.03	
Cable splicers	10.33	.42	1%+.45		.03	
Electricians (Remainder of county):						
Electricians	8.08	.42	1%+.45		.03	
Cable splicers	9.08	.42	1%+.45		.03	
WD No. AM-2,454—36 F.R. 16816, Polk County (Des Moines), Iowa. Modification No. 1						
CHANGE:						
Laborers:						
General laborers	5.91	.275	$0.275			
Mortar mixers; motor buggies, when pouring concrete; power tool operators (air tools, concrete vibrator, gunite, nozzlemen, electric drills, and hammers)	6.01	.275	.275			
Plasterers' tenders	6.035	.275	.275			
Powdermen	6.06	.275	.275			
Air tool, power tampers and other similar self-powered tools weighing 50 lbs. and over	6.11	.275	.275			
All tunnel work	6.16	.275	.275			
Paving breakers weighing 80 lbs. and over	6.21	.275	.275			
WD No. AM-478—36 F.R. 16427, Boyd County, Ky. Modification No. 1						
CHANGE:						
Cementmasons	7.83					
Plasterers	7.83					
Sheet metal workers	8.13	.36	.30		.04	
WD No. AM-378—36 F.R. 15800, Chippewa and Mackinac Counties, Mich. Modification No. 2						
CHANGE:						
Roofers	6.00		.20	.40		
Sheet metal workers	7.55	.28	.30		.02	
ADD:						
Carpenters—heavy	6.39	.30	.30		.01	
Piledrivermen—heavy	6.39	.30	.30		.01	
WD No. AM-385—36 F.R. 15853, Kalamazoo County, Mich. Modification No. 2						
CHANGE:						
Painters:						
Spray	7.25	.20	.30			
Mechanical pressure collar	7.25	.20	.30			
Piledrivermen (marine construction)	7.05	.35	.40		.01	
ADD:						
Carpenters—heavy	6.55	.30	.30		.01	
WD No. AM-393—36 F.R. 15872, Washtenaw County, Mich. Modification No. 4						
CHANGE:						
Carpenters	8.19	.35	.20		.01	
Painters	8.17	.43	.20			
Spray	8.92	.43	.20			
Scaffold 15 ft. to 35 ft.	8.07	.43	.20			
Scaffold over 35 ft.	9.17	.43	.20			
Steeplejack	10.17	.43	.20			
ADD:						
Carpenters—heavy	6.66	.30	.30		.01	

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-404—36 F.R. 15897, Butler County, Ohio. Modification No. 2						
CHANGE:						
Soft floor layers (northeast corner of county)	$7.70	$0.30	$0.40		$0.025	
OMIT:						
Power equipment operators heavy and highway construction: Trench machines (25 in. wide and under)	6.51	.38	.55		.05	
ADD:						
Power equipment operators heavy and highway construction: Trench machines (24 in. wide and under)	6.51	.28	.55		.05	
WD No. AM-405—36 F.R. 15902, Clark County, Ohio. Modification No. 2						
OMIT:						
Power equipment operators heavy and highway construction: Trench machines (25 in. wide and under)	6.51	.38	.55		.05	
ADD:						
Power equipment operators heavy and highway construction: Trench machines (24 in. wide and under)	6.51	.28	.55		.05	
WD No. AM-406—36 F.R. 15906, Cuyahoga County, Ohio. Modification No. 2						
CHANGE:						
Glaziers	8.36	.25	.30		.01	
Linemen	9.66	.15	1%			
WD No. AM-407—36 F.R. 15911, Franklin and Pickaway Counties, Ohio. Modification No. 2						
CHANGE:						
Asbestos workers	9.27	.25	$0.10		.03	
Linemen—Franklin County, and the remainder of Pickaway County	9.06		1%		¼ of 1%	
OMIT:						
Power equipment operators heavy and highway construction: Trench machines (25 in. wide and under)	6.51	.38	$0.55		$0.50	
ADD:						
Power equipment operators heavy and highway construction: Trench machines (24 in. wide and under)	6.51	.28	.55		.05	
WD No. AM-408—36 F.R. 15915, Green and Montgomery Counties, Ohio. Modification No. 2						
OMIT:						
Power equipment operators heavy and highway construction: Trench machines (25 in. wide and under)	6.51	.38	.55		.05	
ADD:						
Power equipment operators heavy and highway construction: Trench machines (24 in. wide and under)	6.51	.28	.55		.05	
WD No. AM-409—36 F.R. 15920, Hamilton County, Ohio. Modification No. 2.						
OMIT:						
Electricians and linemen—from Hamilton County Courthouse, Cincinnati:						
Up to and including 18 miles radius	8.65	.15	1%+.15		½ of 1%	
18 miles to and including 21 miles	8.95	.15	1%+.15		½ of 1%	
21 miles up to and including 25 miles	9.05	.15	1%+.15		½ of 1%	
Over 25 miles	9.20	.15	1%+.15		½ of 1%	
Power equipment operators heavy and highway construction: Trench machines (25 in. wide and under)	6.51	.38	$0.55		$0.05	
Footnote: d. Per year, per employee.						
ADD:						
Linemen	8.15	.15	1%+.15		1/10 of 1%	
Electricians	8.35	.30	1%+.30		¾ of 1%	
Power equipment operators heavy and highway construction: Trench machines (24 in. wide and under)	6.51	.28	$0.55		$0.05	
CHANGE:						
Roofers	7.51		.30			
Resilient floor layers	7.70	.30	.40		.025	
WD No. AM-410—36 F.R. 15925, Licking County, Ohio. Modification No. 2						
CHANGE:						
Asbestos workers	9.27	.25	.10		.03	
OMIT:						
Power equipment operators heavy and highway: Trench machines (25 in. wide and under)	6.51	.28	.55		.05	
ADD:						
Power equipment operators heavy and highway: Trench machines (24 in. wide and under)	6.51	.28	.55		.05	
WD No. AM-411—36 F.R. 15929, Lucas County, Ohio. Modification No. 4						
OMIT:						
Power equipment operators heavy and highway construction: Trench machines (25 in. wide and under)	6.51	.38	.55		.05	
ADD:						
Power equipment operators heavy and highway construction: Trench machines (24 in. wide and under)	6.51	.28	.55		.05	
WD No. AM-413—36 F.R. 15938, Muskingum County, Ohio. Modification No. 3						
CHANGE:						
Asbestos workers	9.27	.25	.10		.03	
OMIT:						
Power equipment operators heavy and highway construction: Trench machines (25 in. wide and under)	6.51	.38	.55		.05	
ADD:						
Power equipment operators heavy and highway construction: Trench machines (24 in. wide and under)	6.51	.28	.55		.05	
WD No. AM-414—36 F.R. 15943, Portage County, Ohio. Modification No. 3						
CHANGE:						
Glaziers	8.36	.25	.30		.01	

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-415—36 F.R. 15948, Stark County, Ohio. Modification No. 3						
CHANGE:						
Carpenters	$7.075	$0.30	$0.20			
Millwrights and piledrivermen	7.51	.30	.20			
Marble setters	7.45	.20	.25			
Terrazzo workers	7.40	.20	.25			
Terrazzo workers' helpers	6.60	.20	.25			
Terrazzo workers' grinders	6.90	.20	.25			
Tile setters	7.30	.20	.25			
Tile setters' helpers	6.50	.20	.25			
OMIT:						
Power equipment operators heavy and highway construction: Trench machines (25 in. wide and under)	6.51	.38	.55		$0.05	
ADD:						
Power equipment operators heavy and highway construction: Trench machine (24 in. wide and under)	6.51	.28	.55		.05	
WD No. AM-5,555—36 F.R. 16773, Bexar County, Texas Modification No. 2.						
CHANGE:						
Building construction: Plumbers—pipefitters	6.77	.25	.30		.08	
WD No. AM-2508—36 F.R. 17139, statewide, Utah. Modification No. 2						

Add the wording "Modification No. 1" to modification for statewide, Utah, published in 36 F.R. 18089, September 24, 1971. Also change: That area in the State of Utah within 45 road miles of the county seats excluding Daggett County:

Utah-1—LAB-1-2-5-e:

Laborers:

Group I:
Boxman; carpenter tender; cement finisher helper; chat boxman; choker setter; clearing and grading; cleaning of equipment and parts in connection with concrete; concrete crew; dockhand and cleaning man; fence erector and installer (includes installation and erection of fences, guardrails, median rails, reference post, guide post, and right-of-way markers); flagman; form stripper; gardener helper; general laborer; grizzley operator (whether by power or hand); group pump operator; heater tender; helpers (all not herein separately classified); house movers; landscaping helper; laborers on wrecking and demolition; nurseryman helper; prewaterman; riprap man (hand placed); sloper, spreader and weighman; stake jumper; stripping and cleaning of steel and pans; tool dispatcher and checker (full time); unloading and packing of reinforcing steel rods and mesh — 4.705 | .15 | .25 | .04

Group II:
Air track helper; asphalt rakers and ironers; dumpman; gunite reboundman; metal form setter (airport paving and highway); pipe wrapper; pot tender and joint maker; rollers; screen and cleanup man; signal and dumpman on concrete construction; tunnel and beltman — 4.83 | .15 | .25 | .04

Group III:
Barko vibratory roller and similar type, compacting machines; concrete cutting torch; hand and chain saw operator (bucking and falling timbers); high pressure water nozzleman; J tampers and similar type tampers; jackhammer and pavement breaker; mortar and grout mixer; multiplate installer; operators of pneumatic and electric tools and compressors and concrete saw; operators of power-type form cleaner and oiling machine; pipelayer; powderman helper; power-type buggies; pumpcrete operators; refinery tank and vessel cleaners; sand blasters; sandblaster pot tender; vibrator operator; work of all type using cutting torches and tools needed in wrecking — 4.955 | .15 | .25 | .04

Group IV:
Air track and core diamond drillers; drill mechanic (on jobsite); high scaler operating jackhammer or breaker; multi vibrators and similar types—70 lbs.; multiple side boom driller; wagon driller — 5.08 | .15 | .25 | .01

Group V:
Gunite groundman; gunite nozzleman; gunite rodman; powderman — 5.43 | .15 | .25 | .04

Tunnel and shaft work:

Group I (Underground):
Underground laborers — 4.83 | .15 | .25 | .04

Group II (Underground):
Brakeman; chucktender; dumpman; powderman helper; puddler — 4.93 | .15 | .25 | .04

Group III (Underground):
Nipper; screedman; vibrator; tapman — 5.03 | .15 | .25 | .04

Group IV (Underground):
Cutting machine operator; drill doctor; finisher; gunite gunman; miners; powder makeup man; spader and liggers; steelman; timberman — 5.13 | .15 | .25 | .04

Group V (Underground):
Gunite groundman; gunite nozzleman; gunite rodman — 5.43 | .15 | .25 | .04

Group VI (Underground):
Shifter — 5.58 | .15 | .25 | .01

That area in the State of Utah beyond 45 road miles of the county seats and all of Daggett County:

Utah-2—LAB-1-2-3-g:

Laborers:

Group I:
Boxman; carpenter tender; cement finisher helper; chat boxman; choker setter; clearing and grading; cleaning of equipment and parts in connection with concrete; concrete crew; dockhand and cleaning man; fence erector and installer (includes installation and erection of fences, guardrails, median rails, reference post, guide post, and right-of-way markers); flagman; form stripper; gardener helper; general laborer; grizzley operator (whether by power or hand); group pump operator; heater tender; helpers (all not herein separately classified); house movers; landscaping helper; laborers on wrecking and demolition; nurseryman helper; prewaterman; riprap man (hand placed); sloper, spreader and weighman; stake jumper; stripping and cleaning of steel and pans; tool dispatcher and checker (full time); unloading and packing of reinforcing steel rods and mesh — 5.455 | .15 | .25 | .04

Group II:
Air track helper; asphalt rakers and ironers; dumpman; gunite reboundman; metal form setter (airport paving and highway); pipe wrapper; pot tender and joint maker; rollers; screen and cleanup man; signal and dumpman on concrete construction; tunnel and beltman — 5.58 | .15 | .25 | .04

Group III:
Barko vibratory roller and similar type, compacting machines; concrete cutting torch; hand and chain saw operator (bucking and falling timbers); high pressure water nozzleman; J tampers and similar type tampers; jackhammer and pavement breaker; mortar and grout mixer; multiplate installer; operators of pneumatic and electric tools and compressors and concrete saw; operators of power-type form cleaner and oiling machine; pipelayer; powderman helper; power-type buggies; pumperete operators; refinery tank and vessel cleaners; sand blasters; sandblaster pot tender; vibrator operator; work of all type using cutting torches and tools needed in wrecking — 5.705 | .15 | .25 | .04

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Group IV: Air track and core diamond drillers; drill mechanic (on jobsite); high scaler operating jackhammer or breaker; main vibrators and similar types—70 lbs.; multiple side boom driller; wagon driller	$5.83	$0.15	$0.25		$0.04	
Group V: Gunite groundman; gunite nozzleman; gunite rodman; powderman	6.18	.15	.25		.04	
Tunnel and shaft work: Group I (Underground): Underground laborers	5.58	.15	.25		.04	
Group II (Underground): Brakeman; chucktender; dumpman; powderman helper; puddler	5.68	.15	.25		.04	
Group III (Underground): Nipper; screedman; vibrator; tapman	5.78	.15	.25		.04	
Group IV (Underground): Cutting machine operator; drill doctor finisher; gunite gunman; miners; powder make-up man; spader and tuggers; steelman; timberman	5.88	.15	.25		.04	
Group V (Underground): Gunite groundman; gunite nozzleman; gunite rodman	6.18	.15	.25		.04	
Group VI (Underground): Shifter	6.33	.15	.25		.04	

[FR Doc.71-16006 Filed 11-4-71;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs. Temporary Reg. F-127]

SECRETARY OF DEFENSE

Revocation of Delegations of Authority

1. *Purpose.* This regulation revokes delegations of authority to represent the Federal Government in proceedings which have been terminated.

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date.* This regulation expires October 29, 1971.

4. *Revocation.* This revocation identifies those delegations which are no longer in force due to completion of the proceedings for which they were issued. Accordingly, the following FPMR temporary regulations are hereby revoked:

No.	Date	Subject
F-9...	July 25, 1966	Delegation of Authority to Secretary of Defense—Regulatory Proceeding.
F-12..	Sept. 14, 1967	Do.
F-17..	June 11, 1968	Do.
F-30..	Nov. 25, 1968	Do.
F-37..	Jan. 3, 1969	Do.
F-70..	May 11, 1970	Do.
F-97..	Mar. 30, 1971	Do.

Dated: October 28, 1971.

ROBERT L. KUNZIG,
Administrator of General Services.

[FR Doc.71-16185 Filed 11-4-71;8:47 am]

[Federal Property Management Regs., Temporary Reg. G-11]

CHAIRMAN, ATOMIC ENERGY COMMISSION

Revocation of Delegation of Authority

1. *Purpose.* This regulation revokes a delegation of authority to represent the Federal Government in proceedings which have been terminated.

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date.* This regulation expires October 29, 1971.

4. *Revocation.* This revocation identifies a delegation which is no longer in force due to completion of the proceedings for which it was issued. Accordingly, the following FPMR temporary regulation is hereby revoked:

No.	Date	Subject
G-9..	Feb. 12, 1971	Delegation of Authority to Chairman, Atomic Energy Commission—Regulatory Proceeding.

Dated: October 28, 1971.

ROBERT L. KUNZIG,
Administrator of General Services.

[FR Doc.71-16186 Filed 11-4-71;8:47 am]

[Corrected Wildlife Order 89]

FEDERAL CORRECTIONAL INSTITUTION, SANDSTONE, MINN.

Transfer of Property

Pursuant to section 2 of Public Law 537, 80th Congress, approved May 19, 1948 (16 U.S.C. 667c), notice was given that the Federal Correctional Institution in Sandstone, Minn., consisting of approximately 2,405 acres of unimproved land, was transferred from the Department of Justice to the Department of the Interior for use in carrying out the national migratory bird management program, as authorized by the provisions of section 1 of Public Law 537. The notice should have stated that the property involved consisted of a portion of the Federal Correctional Institution in Sandstone, Minn., and the number of acres included in the transfer should have read 2,240 instead of 2,405.

Dated: October 29, 1971.

RICHARD W. AUSTIN,
Assistant Commissioner, Office of Real Property.

[FR Doc.71-16211 Filed 11-4-71;8:49 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

NOVEMBER 2, 1971.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 103435 Sub 215, United-Buckingham Freight Lines, now assigned hearing at Topeka, Kans., on January 10, 1972, in a hearing room to be designated later.

MC 69116 Sub 136, Spector Freight System, MC 117765 Sub 35, C. J. Davis, doing business as St. Louis Freight Lines, now assigned January 11, 1972, at Chicago, Ill., at a place to be designated later.

MC 105566, Subs 30, 31, and 32, San Tanksley Trucking, now assigned January 10, 1972, at Chicago, Ill., at a place to be designated later.

MC 107295 Sub 484, Pre-Fab Transit, now assigned January 14, 1972, at Chicago, Ill., at a place to be designated later.

MC 107299 Sub 8, Roberts Cartage Co., MC 123968 Sub 1, J & J Motor Service, now assigned January 17, 1972, at Chicago, Ill., at a place to be designated later.

MC 112801 Sub 117, Transport Service, now assigned January 13, 1972, at Chicago, Ill., at a place to be designated later.

MC 7860 Sub 7, M. G. Roux Trucking Corp., assigned January 28, 1972, at New York, N.Y., in Room E-2222, 26 Federal Plaza.

MC-F-11263, Paramount Moving & Storage Co., Inc.—Purchase—Charles D. Strang, Inc., assigned January 26, 1972, at New York, N.Y., in Room E-2222, 26 Federal Plaza.

MC 107295 Sub 332, Pre-Fab Transit Co., assigned January 27, 1972, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 133240 Sub 16, West End Trucking Co., Inc., assigned January 27, 1972, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 134542 Sub 4, Quick-Livick, Inc., assigned January 27, 1972, at the offices of the Interstate Commerce Commission, Washington, D.C.

I&S M 22930, Small Shipment Rate Revision—Eastern Central Territory, heard October 26 through October 29, continued to November 3, 1971, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 31389 Sub 134, McLean Trucking Co., assigned continued hearing on January 17, 1972, at Memphis, Tenn., in a hearing room to be later designated.

MC 109397 Sub 252, Tri-State Transit Co., now assigned November 10, 1971, at Washington, D.C., canceled transferred to modified procedure.

MC 121597 Sub 2, Chickasaw Motor Lines, Inc., now assigned hearing January 24, 1972, at Nashville, Tenn., in a hearing room to be designated later.

MC 134788 Sub 2, North Penn Bus Lines, Inc., assigned hearing November 8, 1971, at Philadelphia, is postponed indefinitely.

MC 27356 Sub 4, M–F Express, now assigned January 10, 1972, at Jackson, Miss., hearing room to be designated later.

MC 134886 Sub 2, U & Me Transfer, Inc., now assigned January 17, 1972, at Miami, Fla., in a hearing room to be later designated.

MC 135413, Henry's Transfer, Inc., now assigned January 10, 1972, at Miami, Fla., in a hearing room to be later designated.

MC 25869 Sub 106, Nolte Bros. Truck Line, now assigned January 24, 1972, at Denver, Colo., hearing room to be designated later.

MC 74321 Sub 50, B. F. Walker, now assigned January 21, 1972, at Denver, Colo., in a hearing room to be designated later.

MC 113651 Sub 140, Indiana Refrigerated Lines, now assigned January 10, 1972, at Omaha, Nebr., hearing room to be designated later.

MC 113678 Sub 432, Curtis, now assigned January 17, 1972, at Denver, Colo., hearing room to be designated later.

MC 134063 Sub 3, Frank R. Chullino, doing business as Midwest Transportation Co. now assigned January 11, 1972, at Omaha, Nebr., hearing room to be designated later.

MC 134112, Allen & Spittler, now assigned January 13, 1972, at Omaha, Nebr., hearing room to be designated later.

MC 134153 Sub 9, Great Overland, now assigned January 26, 1972, at Denver, Colo., hearing room to be designated later.

MC 113855 Sub 233, International Transport, now assigned January 20, 1972, at Denver, Colo., hearing room to be designated later.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16215 Filed 11-4-71;8:49 am]

[Notice 389]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 1, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC–67, (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 44639 (Sub-No. 44 TA), filed October 21, 1971. Applicant: L & M EXPRESS CO., INC., 220 Ridge Road, Lyndhurst, NJ 07071. Applicant's representative: Herman B. J. Weckstein, 60 Park Place, Newark, NJ 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials and supplies used in manufacture of wearing apparel*, between Crewe, Va., on the one hand, and, on the other, Lynchburg, Va. for 180 days. NOTE: Applicant states it will tack at Crewe, Va., with existing authority. Supporting shipper: Garlin, Inc., 1300 Main Street, Lynchburg, Va. 24504. Send protests to: District Supervisor Joel Morrows, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 100449 (Sub-No. 30 TA), filed October 21, 1971. Applicant: MALLINGER TRUCK LINE, INC., Otho, Iowa 50569. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nonalcholic beverages*, from Ottumwa, Iowa, to points in Minnesota, Nebraska, North Dakota, South Dakota, and Kansas City, and St. Joseph, Mo., for 150 days. Supporting shipper: Dad's-Clicquot Bottling Co., 4 Industrial Park, Ottumwa, IA 52501. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 109478 (Sub-No. 121 TA), filed October 19, 1971. Applicant: WORSTER MOTOR LINES, INC., Post Office Box 110, Gay Road, North East, PA 16428. Applicant's representative: Joseph F. MacKnell, 23 West 10th Street, Erie, PA 16501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and articles distributed by packinghouses* as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from Dakota City and West Point, Nebr., Denison, Fort Dodge, Le Mars, and Mason City, Iowa; Luverne, Minn., and Emporia, Kans., to ports of entry on the international boundary line between the United States and Canada located in Michigan and New York; restricted to traffic originating at the plantsites of and storage facilities utilized by Iowa Beef Processors, Inc., at or near the named origins and restricted to shipments moving in foreign commerce, for 180 days. Supporting shipper: Iowa Beef Processors, Inc., Dakota City, Nebr. 68731. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 110098 (Sub-No. 119 TA), filed October 21, 1971. Applicant: ZERO REFRIGERATED LINES, Post Office Box 20380, 1400 Ackerman Road, San Antonio, TX 78220. Applicant's representative: T. W. Cothren (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and packinghouse products* as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (Except hides and commodities in bulk), from the plantsite and storage facility of the Rath Packing Co. at Waterloo and Columbus Junction, Iowa, to points in Oklahoma, for 180 days. Supporting shipper: W. D. Day, General Transportation Manager, Rath Packing Co., Post Office Box 330, Waterloo, IA 50704. Send protests to: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 301 Broadway, Room 206, San Antonio, TX 78205.

No. MC 110563 (Sub-No. 74 TA), filed October 21, 1971. Applicant: COLDWAY FOOD EXPRESS, INC., 113 North Ohio Avenue, Post Office Box 747, Ohio Building, Sidney, OH 45365. Applicant's representative: John S. Maurer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts* as defined in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Greeley, Colo., to points in New York, Connecticut, Delaware, New Jersey, Ohio, Pennsylvania, District of Columbia, Maine, Maryland, Massachusetts, and New Hampshire, for 180 days. Supporting shipper: Monfort Packing Co., Box 1407, Greeley, CO 80631. Send protests to: District Supervisor Keith D. Warner, Bureau of Operations, Interstate Commerce Commission, 5234 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 112520 (Sub-No. 249 TA), filed October 21, 1971. Applicant: MCKENZIE TANK LINES, INC., New

Quincy Road, Post Office Box 1200, Tallahassee, FL 32302. Applicant's representative: Sol H. Proctor, 2501 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid animal feed and feed supplements*, in bulk, from Donalsonville, Ga., to points in Alabama, on and south of Interstate Highway 20 and points in Bradford, Duval, Gadsden, Jackson, and Nassau Counties, Fla., for 180 days. Supporting shipper: Cargill, Inc., Donalsonville, Ga. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 113843 (Sub-No. 176 TA), filed October 21, 1971. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, MA 02210. Applicant's representative: Lawrence T. Shells (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh pork products*, from Utica, Mich., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, for 180 days. Supporting shipper: Utica Packing Co., 7655 Chapoton Street, Post Office Box 182, Utica, MI 48087. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, Bureau of Operations, John Fitzgerald Kennedy Federal Building, Room 2211–B, Government Center, Boston, MA 02203.

No. MC 119777 (Sub-No. 227 TA), filed October 20, 1971. Applicant: LIGON SPECIALIZED HAULER, INC., Post Office Drawer L, Madisonville, KY 42431. Applicant's representative: Ronald E. Butler, Post Office Box 477, Madisonville, KY 42431. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Poultry, egg, and livestock supplies, and equipment*, from Athens, Ga., to points in the United States (except Alaska and Hawaii) for 180 days. Supporting shipper: Michael D. Geyer, Traffic Manager, Chore-Time Equipment, Inc., Milford, Ind. 46542. Send protests to: Wayne L. Merilatt, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 123075 (Sub-No. 22 TA), filed October 20, 1971. Applicant: SHUPE & YOST, INC., North U.S. 85 Bypass, Post Office Box 1123, Greeley, CO 80631. Applicant's representative: Harvey D. Shupe (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, from the plantsite of Hardy Salt Co. located at or near Lakepoint, Utah, to points in Colorado, Kansas, those parts of Nebraska and South Dakota on the west of U.S. Highway 83, and Wyoming, with no transportation for compensation on return except as otherwise authorized, under a continuing contract with Carey Salt Co. of Hutchinson, Kans., for 180 days. Supporting shipper: The Carey Salt Co., Post Office Box 1728, Hutchinson, KS 67501. Send protests to: District Supervisor Roger L. Buchanan, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 124151 (Sub-No. 3 TA), filed October 21, 1971. Applicant: VANGUARD TRANSPORTATION INCORPORATED, Post Office Box 157, Lafayette Street, Carteret, NJ 07008. Applicant's representative: Bert Collins, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fluorocarbons*, in bulk, in shipper owned tank vehicles, from Hillside, N.J., to Philadelphia, Pa., for 180 days. Supporting shipper: Kaiser Chemicals, Division of Kaiser Aluminum & Chemical Corp., 300 Lakeside Drive, Oakland, CA 94604. Send protests to: District Supervisor Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 127834 (Sub-No. 68 TA), filed October 21, 1971. Applicant: CHEROKEE HAULING & RIGGING, INC., 540–42 Merritt Avenue, Nashville, TN 37203. Applicant's representative: Fred F. Bradley, County Courthouse, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal racks and shelving*, from Nashville and Springfield, Tenn., to points in the United States (except points in Alaska, Arizona, California, Colorado, Idaho, Hawaii, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming), for 180 days. Supporting shipper: Unarco Industries, Inc., Springfield, Tenn. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 803–1808 West End Building, Nashville, Tenn. 37203.

No. MC 128215 (Sub-No. 8 TA), filed October 20, 1971. Applicant: MARTIN TRAILER TOTERS, INC., 4038 Jefferson Highway, New Orleans, LA 70121. Applicant's representative: Donald B. Morrison, Suite 717, Deposit Guaranty National Bank Building, Post Office Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger vehicles, in initial movements, and buildings, in sections, in initial movements, from points in Warren County, Miss., to points in Louisiana, Texas, Arkansas, Tennessee, and Alabama, for 180 days. Supporting shipper: Magnolia Homes Manufacturing Corp., Post Office Box 230, Vicksburg, MS 39180, M. Cappaert, General Manager. Send protests to: Paul D. Collins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room T–4009, Federal Building, 701 Loyola Avenue, New Orleans, LA 70113.

No. MC 136095 TA, filed October 20, 1971. Applicant: ROBERT L. GILBERT AND LOU E. GILBERT, doing business as GILBERT EXPRESS LINE, 1701 South Federal Highway, Stuart, FL 33494. Applicant's representative: John P. Bond, 30 Giralda Avenue, Coral Gables, FL 33134. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles* having a density of less than 4 pounds per cubic foot, in boxes, between Kent, Ohio, and points in Florida, Georgia, South Carolina, North Carolina, Virginia, West Virginia, Kentucky, Tennessee, Alabama, Maryland, and Washington, D.C., for 180 days. Supporting shipper: Smithers Oasis, Division of the Smithers Co., 919 Marvin Avenue, Kent, OH 44240. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, 5720 Southwest 17th Street, Room 105, Miami, FL 33155.

No. MC 136097 TA, filed October 20, 1971. Applicant: FRANCIS N. WOODMAN, doing business as GLOWOOD CO., North Road, Yarmouth, Maine 04096. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Laundry*, between Yarmouth, Maine, and New Bedford, Mass., for 180 days. Supporting shipper: Coyne Industrial Laundries, Inc., 140 Cortland Avenue, Syracuse, NY 13204. Send protests to: District Supervisor Donald G. Weiler, Interstate Commerce Commission, Bureau of Operations, Room 307, 76 Pearl Street, Post Office Box 167, PSS, Portland, ME 04112.

No. MC 136098 TA, filed October 21, 1971. Applicant: PAUL E. LOBDELL, Box 386, Lena, IL. Applicant's representative: Routman and Lawley, 900 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pepared animal and poultry feed and prepared animal and poultry feed health ingredients*, in mixed shipments, from Lena, Ill., to points in Grant, Green, Iowa, and Lafayette Counties, Wis.; and (2) *animal and poultry feed ingredients*, from points in Grant, Green, Iowa, and Lafayette Counties, Wis., to Lena, Ill., for 180 days. Supporting shipper: Ray Carter, Traffic Manager, Soybean Division, Ralston Purina Co., St. Louis, Mo. Send protests to: Andrew J. Montgomery, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

MOTOR CARRIER OF PASSENGERS

No. MC 135985 (Sub-No. 2 TA), filed October 19, 1971. Applicant: HARRY F. FARR, Rural Route 8, Dunnville, ON, Canada. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers* in special operations, from port of entry on the United States-Canada international boundary line at Niagara Falls, Ontario, Niagara Falls, N.Y., to Buffalo, N.Y., and return. Restriction: Transportation authorized herein is restricted to persons moving in round-trip movements from Dunnville, Ontario, Canada, to Buffalo, N.Y., and return to Dunnville, Ontario, Canada, for 150 days. Supported by: There are approximately 20 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor George M. Parker, Interstate Commerce Commission, Bureau of Operations, 518 Federal Office Building, 121 Ellicott Street, Buffalo, NY 14203.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71–16213 Filed 11–4–71;8:49 am]

[Notice 776]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 2, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–73081. By order of October 29, 1971, the Motor Carrier Board approved the transfer to Coyman Brothers, Inc., Hackensack, N.J., of that portion of the operating rights in certificate No. MC–133841 issued March 16, 1970, to Dan Barclay, Inc., Lincoln Park., N.J., authorizing the transportation of machinery between Scranton, Pa., and points in New York. Robert B. Pepper, 174 Brower Avenue, Edison, N.J. 08817.

No. MC–FC–73119. By order of October 29, 1971, Motor Carrier Board approved the transfer to Valer Transportation Co., Inc., 18615 Dix Road, Melvindale, MI 48122, of the permits in Nos. MC–125608, MC–125608 (Sub-No. 1), MC–125608 (Sub-No. 3), MC–125608 (Sub-No. 4), MC–125608 (Sub-No. 7), MC–125608 (Sub-No. 8) issued August 25, 1964, June 30, 1966, September 7, 1965, November 17, 1965, August 2, 1968 and November 27, 1968 respectively, to Valer Lupu, doing business as Valer Transportation Co., Melvindale, Mich., authorizing the transportation of malt beverages, from and to specified points in Missouri, Michigan, Indiana, and Ohio. Ronald J. Mastej, 900 Guardian Building., Detroit, Mich. 48226.

No. MC–FC–73244. By order of October 29, 1971, the Motor Carrier Board approved the transfer to Film Transportation Co., a corporation, Boston, Mass., of that portion of the operating rights in certificate No. MC–125945 issued July 16, 1964, to Old Colony Film Transfer Corp., Boston, Mass., authorizing the transportation of film and articles associated with the exhibition of motion pictures as described in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, 766, between Boston, Mass., and New Haven, Conn., on the one hand, and, on the other, points in New Hampshire on U.S. Highway 202 south of East Jaffrey, N.H., and those in New Hampshire on and within 15 miles of U.S. Highway 3 south of Laconia, N.H., Frank J. Weiner, 6 Beacon Street, Boston, MA 02108, attorney for applicants.

No. MC–FC–73252. By order of October 29, 1971, the Motor Carrier Board approved the transfer to Clay Transport, Inc., Pittsburgh, Pa., of the operating rights in certificates Nos. MC–125079, MC–125079 (Sub-No. 1), and MC–125079 (Sub-No. 2), issued February 28, 1964, January 25, 1965, and March 16, 1967, respectively, to Arthur A. Freda, Pittsburgh, Pa., authorizing the transportation of brick, from Bessemer, Pa., to points in West Virginia on and south of U.S. Highway 50, from Charleston, W. Va., and Somerset, Va., to points in Allegheny, Westmoreland, Butler, Beaver, and Washington Counties, Pa., and from Rocky Ridge (Thurmont), Md., to points in Allegheny, Beaver, Butler, Armstrong, and Westmoreland Counties, Pa.; brick, face and common, from Baltimore, Md., to the destination points immediately specified above; tile, from West Darlington, Pa., to points in West Virginia on and south of U.S. Highway 50; and stone, from McDermott, Ohio, to Pittsburgh, Pa., and points in Pennsylvania within 50 miles of Pittsburgh. Brenda P. Murray, 530 Grant Building, Pittsburgh, Pa. 15219, attorney for applicants.

No. MC–FC–73260. By order of October 29, 1971, the Motor Carrier Board approved the transfer to Pittsburgh-Greensburg Express, Inc., Greensburg, Pa., of the certificate of registration in No. MC–121192 (Sub-No. 1) issued February 3, 1965, to Mitchell T. Curley, doing business as Pittsburgh-Greensburg Motor Express, Greensburg, Pa. John A. Vuono, 2310 Grant Building, Pittsburgh, Pa. 15219, attorney for applicants.

No. MC–FC–73263. By order of October 29, 1971, the Motor Carrier Board approved the transfer to Iowa-Missouri Express, Inc., Shambaugh, Iowa, of certificates Nos. MC–22509 and MC–22509 (Sub-No. 1), issued September 21, 1966, and April 28, 1966, respectively, to Warren Russell, Shambaugh, Iowa, authorizing the transportation of: Livestock, feed, seed, scrap metal and junk, farm implements, brick, tile, hides, household goods, emigrant movables, general commodities, with the usual exceptions, salt, tankage, agricultural implements, and building materials, from, to, or between specified points in Iowa, Missouri, and Nebraska. Tom B. Kretsinger, 450 Professional Building, Kansas City, Mo. 64106, attorney for applicants.

ROBERT L. OSWALD, *Secretary.*

[FR Doc.71–16214 Filed 11–4–71;8:49 am]

[Rev. S.O. 994; ICC Order 57; Amdt. 5]

PENN CENTRAL TRANSPORTATION CO.

Rerouting or Diversion of Traffic

Upon further consideration of ICC Order No. 57 (Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, Trustees), and good cause appearing therefor:

It is ordered, That:

ICC Order No. 57 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1971, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., October 31, 1971, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., October 29, 1971.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER, *Agent.*

[FR Doc. 71–16211 Filed 11–4–71;8:49 am]

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during November.

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FRIDAY, NOVEMBER 5, 1971
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Volume 36 ■ Number 214

PART II

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

■

HORSE PROTECTION

Notice of Proposed Rule Making

No. 214—Pt. II——1

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

[9 CFR Part 11]

HORSE PROTECTION

Notice of Proposed Rule Making

On July 1, 1971, there was published in the FEDERAL REGISTER (36 F.R. 12586) a notice with respect to the proposed issuance of regulations relating to the protection of certain show horses against the practice of soring, to appear as new Part 11 in Chapter I, Subchapter A, Title 9, Code of Federal Regulations. Interested persons were given an opportunity to submit written data, views, or arguments concerning the proposed regulations for a period of 60 days following publication of said notice. After due consideration of all relevant material submitted in connection with said notice and pursuant to the Act of December 9, 1970 (Public Law 91-540; 84 Stat. 1404; 15 U.S.C. 1821-1831), notice is hereby given in accordance with the administrative provisions of 5 U.S.C. 553 that it is now proposed to issue regulations relating to the protection of certain show horses against the practice of soring, to read as follows:

PART 11—HORSE PROTECTION REGULATIONS

GENERAL

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HORSE SHOW OR EXHIBITION SPONSORS AND MANAGERS

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GENERAL

§ 11.1 Definitions.

For the purposes of this part, unless the context otherwise requires, the following terms shall have the meanings assigned to them in this section and the singular form shall also import the plural and the masculine form shall also import the feminine. Words of art undefined in the following paragraphs shall take the meaning attributed to them by trade usage.

(a) "Act" means the Act of December 9, 1970 (Public Law 91-540; 84 Stat. 1404; 15 U.S.C. 1821-1831) cited as the Horse Protection Act of 1970.

(b) "Department" means the U.S. Department of Agriculture.

(c) "Administrator" means the Administrator of the Agricultural Research Service of the Department, or any officer or employee of said Service to whom authority has heretofore been delegated or to whom authority may hereafter be delegated to act in his stead.

(d) "Division" means the Animal Health Division, Agricultural Research Service, of the Department.

(e) "Director" means the Director of the Division or any other officer or employee of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated to act in his stead.

(f) "Veterinarian in Charge" means the Division veterinarian, who is assigned by the Director to supervise and perform the official work of the Division under the Act in a specified State.[1]

(g) "Veterinarian" means a graduate from a College of Veterinary Medicine, who is licensed in the State in which he practices and has been accredited by the U.S. Department of Agriculture under Part 160 of this title.

(h) "Division Representative" means any inspector employed by the Division who is designated by the Veterinarian in Charge, or any officer or employee of any State agency who is authorized by the Director to perform any function under the Act.

(i) "State" means a State, the District of Columbia, Commonwealth of Puerto Rico, or other possession of the United States.

(j) "Person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or other legal entity.

(k) "Horse" means any member of the species Equus caballus.

(l) Except in §§ 11.22 and 11.23, "horse show" means a public display of any horses, in competition, to which any horse was moved in commerce. In §§ 11.22 and 11.23, "horse show" means a public display of any horses, in competition.

(m) Except in §§ 11.22 and 11.23, "exhibition" means a public display of any horses, singly or in groups, but not in competition, if any horse was moved to such display in commerce: In §§ 11.22 and 11.23, "exhibition" means a public display of any horse or horses, singly or in groups, but not in competition.

(n) "Boot" means any device which encircles the lower extremity of a leg of a horse and which may be made of leather, cloth, felt, or other material.

(o) "Commerce" means commerce between a point in any State and any point outside thereof, or between points within the same State but through any place outside thereof, or within the District of Columbia, or from any foreign country to any point within the United States.

(p) "Inspection" of a horse means an examination of the horse by use of whatever means are reasonably deemed necessary by the inspector to determine whether the horse is sored. This may include, but is not limited to, visual examination, touching, and use of any diagnostic device or instrument, and may include the requirement of the removal of any shoes, pads, and other equipment from the horse.

(q) "Sponsoring organization" means the association or other person under whose auspices a horse show or exhibition is conducted.

(r) "Show manager" means the person who has been delegated primary authority for managing a horse show or exhibition by a sponsoring organization, and has accepted the responsibility involved.

(s) "Exhibitor" means the owner or other person who enters a horse in any horse show or exhibition.

(t) (1) "Sored horse" is a horse that has been subjected, after December 9, 1970, to one or more of the following for the purpose of affecting its gait:

(i) A blistering agent has been applied internally or externally to any of the legs, ankles, feet, or other parts of the horse;

(ii) Burns, cuts, bruises, or lacerations have been inflicted on the horse;

(iii) A chemical agent, or tacks or nails have been used on the horse; or

(iv) Any other cruel or inhumane method or device has been used on the horse, including, but not limited to, chains or boots; which may reasonably be expected (a) to result in physical pain to the horse when walking, trotting, or otherwise moving, (b) to cause extreme physical distress to the horse or, (c) to cause inflammation. However, a horse given therapeutic treatment by a veterinarian, to relieve pain or lameness or to restore a lame or disabled horse's normal gait, shall not thereby be considered sored.

(2) A horse shall be considered sored if the length of the toe measuring from the ground to the hairline does not exceed the height of the heel by more than one inch, and such condition was caused after December 9, 1970, to affect the gait of the horse.

(3) Any blisters, burns, cuts, bruises, lacerations, or other indicators of the use of any cruel or inhumane method or device with respect to any horse, such as but not limited to, raised granulated tissue which will not produce hair, shall constitute evidence that the horse is sored.

EXHIBITORS

§ 11.2 Prohibitions concerning exhibitors.

(a) It is unlawful for any person to show or exhibit, or enter for the purpose of showing or exhibiting, in any horse show or exhibition, any horse which is sored.

(b) No chains, rollers, or other device or method shall be used with respect to any horse at any horse show or exhibition if such use causes the horse to be sored.

(c) No boots other than those permitted under § 11.4 shall be used on any horse at any horse show or exhibition.

(d) Substances such as, but not limited to, greases, dyes, stains or polishes, shall not be used on the extremities, above the hoof but below the fetlock of any horse while being shown or exhibited at any horse show or exhibition, unless the exhibitor furnishes to the Division representative, upon his request, a certification from a veterinarian that this substance was applied for beneficial therapeutic purposes and its presence during such showing or exhibition was required for such purposes.

§ 11.3 Entries.

Each horse owner or other person who intends to show or exhibit any horse at a horse show or exhibition shall complete and submit to the show manager an entry form, approved or furnished by the Department, as prescribed in § 11.26, prior to the calling of the class.

§ 11.4 Boots.

The only boots permitted to be used under the regulations in this part on any horse shall be:

(a) Those boots known to the industry as "fixed boots." These include types such as, but not limited to, heel boots, trotting boots, skid or sliding boots, splint boots, quarter boots, and shoeguard boots.

(b) Hinged Quarter Boots which meet the following requirements: The lower portion of the boot shall be firmly attached by means of a strap and buckle or similar humane device to the foot below the hairline. The upper half of the boot shall be fastened to the lower half in such a manner that there shall be no more than 1-inch separation between the two halves and that such connection does not cause pain or discomfort. The upper half of the boot shall be constructed in such a way that the inside, in contact with the skin, shall be soft, smooth, and free of projections of any nature. No attachments, weights, or other devices shall be affixed to the upper half of the boot, except that a fastening device may be used if it is so designed and used as to avoid physical pain to the horse when moving and to avoid extreme physical distress and inflammation of any part of the horse.

(c) Rubber bell boots.

(d) Leather bell boots provided that:

(1) The inside must be smooth and free of all swellings, projections, or sharp edges;

(2) The lining must be of soft leather, felt or similar material;

(3) The boots shall not weigh in excess of 16 ounces;

(4) The bell portion, exclusive of the soft roll on the top, shall be a minimum of 2½ inches in height.

[1] Information as to the name and address of the Veterinarian in Charge for the State concerned can be obtained by writing to the Director, Animal Health Division, Agricultural Research Service, U.S. Department of Agriculture, Hyattsville, Md. 20782.

§ 11.5 Inspection of horses.

For the effective enforcement of the Act:

(a) Each horse owner and other person having custody of any horses shall allow any Division representative to inspect the horses in his custody at such times and places as the Division representative may designate, while such horses are being moved in commerce or thereafter.

(b) Each horse owner and other person having custody of any horses shall allow any Division representative, the show manager or his representative and/or any veterinarian designated under § 11.20 to inspect such horses at such reasonable times and places as such inspector may require while the horses are at any horse show or exhibition.

(c) When any Division representative, in writing, notifies the owner of any horse or other person having custody of the horse, that inspection of such horse is required to be made after the horse has been shown or exhibited at any horse show or exhibition, such horse shall not be moved from the horse show or exhibition premises unless the owner or other custodian makes the horse available for inspection by a Division representative at a time and place agreeable to the Division representative.

(d) The person having custody of the horses shall render such assistance as the inspector may reasonably request for purposes of such examinations.

§ 11.6 Access to premises for inspection of horses.

Each exhibitor shall, without fee, charge, assessment, or compensation, admit any Division representative, the show manager, and any veterinarian designated under § 11.20, to all areas of barns, compounds, and other portions of the show grounds at any horse show or exhibition or similar areas adjacent to the show grounds, and vans or trucks on any such grounds or areas, where any horse in his custody is located, upon the request and identification of such representative, manager, or veterinarian, for purposes of inspecting any such horse pursuant to the Act.

HORSE SHOW OR EXHIBITION SPONSORS AND MANAGERS

§ 11.20 Prohibition concerning horse show or exhibition sponsors and managers.

It is unlawful for any person to conduct any horse show or exhibition in which there is shown or exhibited any horse which is sored, unless:

(a) The sponsoring organization designates a veterinarian to examine all horses entered in the horse show or exhibition to determine whether they are sored and instructs him that his services are to assure compliance with the Act;

(b) The veterinarian examines the horses entered in any class at a horse show or shown at any exhibition within 4 hours prior to the calling of the class or the exhibiting of the horse, in whatever way is necessary to determine whether any such horse is sored, and he observes such horses while they are performing at the horse show or exhibition and inspects them at such other times as is necessary for determining whether any horse shown or exhibited at the horse show or exhibition was sored.

(c) The veterinarian reports his findings of apparent soring to the show judge and a representative of show management, in writing, before the class is tied or before the conclusion of the exhibition. A copy of his findings is also sent to the Veterinarian in Charge for the State in which the horse show or exhibit is held, within 72 hours following the conclusion of the horse show or exhibition.

(d) The show manager immediately causes to be removed from participation in any class at the horse show or from the exhibition all horses designated by the veterinarian as being sored, or otherwise found by the show manager to be sored.

§ 11.21 Notice of horse show or exhibition.

(a) The sponsoring organization for any horse show or exhibition shall, by use of a form furnished by the Department, give notice to the Veterinarian in Charge for the State where the horse show or exhibition is to be held, no later than 30 days prior to the beginning of the show or exhibition, concerning its intent to conduct such show or exhibition. This form, obtained from the Veterinarian in Charge in the State where the horse show or exhibition is to be held, shall include the following information:

(1) Dates, times, and place of the horse show or exhibition.

(2) Sponsoring organization; and name, address, and telephone number of any person designated by such organization to maintain records as required by § 11.22 on behalf of the organization.

(3) Show manager's name, address, and telephone number.

(4) Statement that the sponsoring organization and the show manager will comply with the Act and the rules and regulations thereunder and will direct all employees and agents of the sponsoring organization to comply with such provisions.

(5) Name, address, and telephone number of the veterinarian, if any, employed to make inspections under § 11.20.

(6) Name and address of show judges and the breeds or classes which they are judging, who have been selected to officiate at the horse show or exhibition.

(b) The notification required by paragraph (a) of this section shall be signed by an officer of the sponsoring organization and by the show manager.

(c) A copy of the official program shall be attached to the notification required by paragraph (a) of this section at time of submission of the notice, or, if not available at that time, mailed to the Veterinarian in Charge as quickly as available.

§ 11.22 Records required; and disposition thereof.

(a) Copies of all entry forms filed by the exhibitors as required by § 11.3 shall be kept by the sponsoring organization of any horse show or exhibition, or by the designee of such organization, for a period of 1 year after the closing date of the horse show or exhibition, unless the Director, in writing, in specific cases authorizes their disposition within such period, or unless furnished to the Department under § 11.25. Further, when the Director notifies the sponsoring organization, or its designee, in writing, that specific records are needed for completion of an investigation or proceeding under the Act, such sponsoring organization, or designee, shall keep such records until their disposition is authorized by the Director.

§ 11.23 Inspection of records.

(a) Upon request and during ordinary business hours, or such other times as may be agreed upon, the sponsoring organization and any designee thereof, shall permit any Division representative to examine all records required to be kept by the regulations in this part, and to make copies of such records. A room, table, or other facilities necessary for proper examination of the records, shall be made available to the Division representative.

§ 11.24 Access to premises for inspection of horses.

The sponsoring organization and the show manager of any horse show or exhibition shall, without fee, charge, assessment, or other compensation, provide unlimited access to the Division representative to the grandstands and all other areas of the show or exhibition grounds and adjacent areas under their control on the request and after identification of such representative for purposes of inspection of horses or records as provided in this part.

§ 11.25 Reporting by show manager.

The show manager of any horse show or exhibition shall send by mail within 72 hours following the conclusion of the horse show or exhibition, to the Veterinarian in Charge for the State where the horse show or exhibition was held, the entry form required by § 11.3 of each horse that was deemed by the veterinarian designated under § 11.20, or by the show manager to be sored, or was found by the show manager to have been handled otherwise in violation of § 11.2; the names and addresses of the owners, riders, and trainers of all such horses, and the classes, if any, in which such horses were entered.

§ 11.26 Entry forms.

(a) The show manager shall require each exhibitor at any horse show or exhibition to execute an entry form approved or furnished by the Department, and obtained from the Veterinarian in Charge in the State where the horse show or exhibition is to be held, showing the following information:

(1) Horse's name; and registration number, if any.

(2) Horse's breed, age, sex, color, and height.

(3) Address of home barn of the horse; and location from which the horse was transported to the horse show or exhibition.

(4) Exhibitor's name and address.

(5) Class(es) entered, if any.

(6) Entry number.

(7) Stall and barn number, if any, or other place where the horse is kept while at the horse show or exhibition.

(8) Name, place, and date of horse show or exhibition.

TRANSPORTATION

§ 11.40 Prohibitions and requirements concerning persons involved in transportation of certain horses in commerce.

(a) It is unlawful for any person to ship, transport, or otherwise move, or deliver or receive for movement, in commerce, for the purpose of showing or exhibition, any horse which such person has reason to believe is sored.

(b) Each person who ships, transports, or otherwise moves, or delivers or receives for movement, in commerce, for the purpose of showing or exhibition, any horse, shall allow and assist in the inspection of any such horse as provided in § 11.5 and shall furnish to any Division representative upon his request and in the manner requested the following information:

(1) Name and address of horse owner and of shipper, if different than the owner or trainer;

(2) Name and address of horse trainer;

(3) Name and address of carrier transporting the horse, and of driver of the means of conveyance used;

(4) Origin of the shipment and date thereof;

(5) Destination of shipment.

ENFORCEMENT

§ 11.41 Violations and penalties.

A violation of any provision of the Act or the regulations in this part is unlawful and any person committing such a violation is subject to a civil penalty up to $1,000 or criminal penalties up to $2,000 and 6 months' imprisonment for each such violation, as prescribed in section 6 of the Act.

Statement of considerations. After passage of the Horse Protection Act of 1970, meetings held with various segments of the affected industry have provided the Department with many divergent views and considerable factual information as to the possible methods of diagnosis of soring and enforcement of the Act. Consideration has been given to the views expressed and the foregoing specified regulations are proposed on the basis of the information presently available in an effort to effectuate the purposes of the Act in a practical manner.

One of the areas of great concern and the most frequently mentioned had to do with the scope of the Act. Since no specific breed was mentioned in the Act, much discussion was had as to what was meant by the word "horse" as used in the Act.

The Act is applicable to all breeds of horses and accordingly the regulations proposed herein would apply to all breeds.

A great deal of information has been offered regarding the use and purpose of boots. There has been considerable debate as to what constitutes a protective device. It appears that those used as a protective boot have been designed to protect a specific area and are, by virtue of this design, fixed in a specific position. Boots meeting these criteria consequently would be permitted under the proposed regulations. Hinged boots, half fixed and half semifixed in nature, appear to be protective devices and would be permitted if there are no weights in the upper half of the boot and the boots meet other requirements. The rubber bell boot, as is presently designed and used, does not seem to cause pain or extreme physical distress. The leather bell boot has received the most comment and consideration. Those containing protrusions such as the knocker boot and roll boot appear to be designed to concentrate the force and the weight on the most sensitive area of the foot and are classified under the proposed regulations as soring devices. The smooth bell boot, flared enough to fit over the coronary band, riding primarily on the hoof wall when the foot is in contact with the ground would be, within certain weight limitation, acceptable under the proposed regulations. If the proposed regulations are adopted, there would be continuous surveillance as to how these various boots are used, with appropriate action to follow if abuses are observed.

Horse show managers have expressed concern since the Act specifies, "It shall be unlawful for any person to conduct any horse show or exhibition in which there is shown or exhibited a horse which is sored." The feeling expressed was that show management would be held responsible for actions done by others. The Department is informed that management has always had the right to excuse or disqualify horses for various reasons and that this requirement of the law does not impose an unusual responsibility. Since it has frequently been said that the "judge" is a qualified person to detect soring and is always present at every horse show, legal methods to transfer responsibility and liability to the judge and be within the scope of the Act were sought. This authority is not granted in the Act. However, it has been pointed out that the sponsoring organization could employ the judge or other qualified person to advise the organization so as to enable it to comply with the Act. No changes were made in the proposed regulations in this respect since the originally proposed regulations would not prohibit such an arrangement.

Statements have been offered relative to horse inspection and methods of accomplishing it. It has been stated that eye-level inspection has been found acceptable and that there are inherent dangers if a stranger to the horse is permitted to handle the feet and legs of a horse. On the contrary, it has been contended that permission to inspect in any manner that the inspector desires is inherent in the Act, and that to authorize inspection and then limit what can be done in the way of inspectional procedures would be self-defeating action. The proposed regulations provide for inspection by any means reasonably deemed necessary by the inspector.

Any person who wishes to submit written data, views, or arguments concerning the proposed regulations may do so by filing them with the Director, Animal Health Division, Agricultural Research Service, U.S. Department of Agriculture, Hyattsville, Md. 20782, within 30 days after publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be made available for public inspection at times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

NOTE: The recordkeeping and/or reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Done at Washington, D.C. this 29th day of October 1971.

F. J. MULHERN,
Acting Administrator,
Agricultural Research Service.

[FR Doc.71-16154 Filed 11-4-71;8:45 am]

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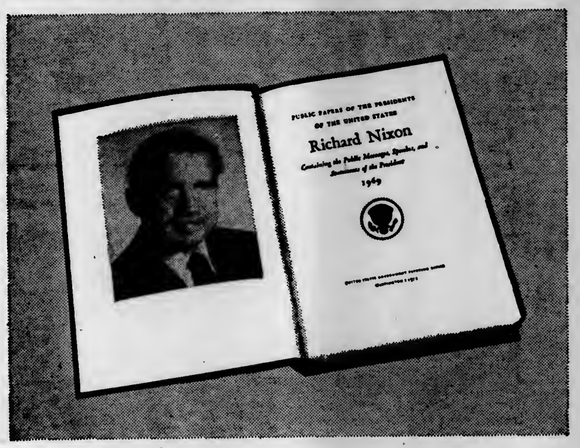

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Title 3—The President

PROCLAMATION 4091

Youth Appreciation Week, 1971

By the President of the United States of America

A Proclamation

Oliver Wendell Holmes, Jr. once said: "I think that, as life is action and passion, it is required of a man that he should share the passion and action of his time at peril of being judged not to have lived."

We can be proud of the extent to which our young men and women today are playing an active role in the continuing growth of our Nation. In organizations as diverse as student governments, vocational education, civic, social, business, religious and social action groups, these young citizens are learning the ideals of America by putting them into practice.

Hard work, cooperation, patriotism, and individual excellence—all of these come to be cherished by those who participate constructively in this building of America. And often this learning has expanded the ideals and conscience of America, refreshing our spirit.

As we move into the third century of our republic, the mantle of responsibility and leadership will be passed to this generation of Americans. I am convinced that the youth of today will wear that mantle proudly, carry out the responsibilities of adulthood and leadership with conviction and concern for their fellow man, and reflect great credit on their country.

In recognition of the national resource America's youth represents, and to promote greater understanding between our generations, the Congress by a joint resolution approved July 2, 1971 (Public Law 92–43), designated the seven-day period beginning November 8, 1971, as Youth Appreciation Week, and requested the President to issue a proclamation calling for the observance of that week.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby call upon the people of the United States to observe the week of November 8 through November 14, 1971, as Youth Appreciation Week with appropriate ceremonies and activities.

I ask the education and social service professions, the communications media, and all other interested persons and groups to unite during the appointed week in public recognition of the youth of this Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of November, in the year of our Lord nineteen hundred seventy-one, and of the Independence of the United States of America the one hundred ninety-sixth.

Richard Nixon

[FR Doc.71–16396 Filed 11–5–71;12:19 pm]

Rules and Regulations

Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Lemon Reg. 506]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.806 Lemon Regulation 506.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 36 F.R. 9061), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 2, 1971.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period November 7, 1971, through November 13, 1971, is hereby fixed at 160,000 cartons.

(2) As used in this section, "handled," and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 4, 1971.

ARTHUR E. BROWNE,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-16345 Filed 11-5-71;8:51 am]

[Grapefruit Reg. 80]

PART 912—GRAPEFRUIT GROWN IN THE INDIAN RIVER DISTRICT IN FLORIDA

Limitation of Handling

§ 912.380 Grapefruit Regulation 80.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 912, as amended (7 CFR Part 912), regulating the handling of grapefruit grown in the Indian River District in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Indian River Grapefruit Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Indian River grapefruit, and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time; are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Indian River grapefruit; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 4, 1971.

(b) *Order.* (1) The quantity of grapefruit grown in the Indian River District which may be handled during the period November 8, 1971, through November 14, 1971, is hereby fixed at 118,750 standard packed boxes.

(2) As used in this section, "handled," "Indian River District," "grapefruit," and "standard packed box" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 5, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-16395 Filed 11-5-71;12:05 pm]

[Grapefruit Reg. 50]

PART 913—GRAPEFRUIT GROWN IN THE INTERIOR DISTRICT IN FLORIDA

Limitation of Handling

§ 913.350 Grapefruit Regulation 50.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 913, as amended (7 CFR Part 913), regulating the handling of grapefruit grown in the Interior District in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Interior Grapefruit Marketing Committee, established under

said marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Interior grapefruit, and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee; and information concerning such provisions and effective time has been disseminated among handlers of such Interior grapefruit; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 3, 1971.

(b) *Order.* (1) The quantity of grapefruit grown in the Interior District which may be handled during the period November 8, 1971, through November 14, 1971, is hereby fixed at 212,500 standard packed boxes.

(2) As used in this section, "handled," "Interior District," "grapefruit," and "standard packed box" have the same meaning as when used in said marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 4, 1971.

ARTHUR E. BROWNE,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-16309 Filed 11-5-71;8:51 am]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Rev. 5]

PART 120—LOAN POLICY

On August 25, 1971, a notice was published in the FEDERAL REGISTER of the intention by the Small Business Administration to comply with the public participation provisions of the Administrative Procedure Act, notwithstanding the exemption given by said Act for matters relating to certain agency activities, including loan making, 5 U.S.C. 553 (36 F.R. 16716). However, prior to August 25, 1971, SBA had modified or revised certain of the loan policies published in Revision 4 of Part 120 (35 F.R. 16163); a number of the revisions were required by the enactment of the Disaster Relief Act of 1970, Public Law 91–606, December 31, 1970. Therefore, it would be impracticable and contrary to the public interest to further delay effective publication of these revised loan policies. Nevertheless, we would welcome and consider the comment of any person on the policies published herein. Send the comment to Jack Eachon, Jr., Associate Administrator for Financial Assistance, Room 801, 1441 L Street NW., Washington, DC 20416. This revision is effective upon publication in the FEDERAL REGISTER (11–6–71).

Sec.

120.1 Introduction.
120.2 Business loans and guarantees.
120.3 Terms and conditions of business loans and guarantees.
120.4 Disaster loans for physical property loss, or for substantial economic injury as a result of major or natural disasters, or inability to process or market a product because of diseases or toxicity through natural or undetermined causes.
120.5 Displaced Business, Coal Mine Health and Safety, Consumer Protection, and Occupational Safety and Health Loans.

AUTHORITY: The provisions of this Part 120 issued under 72 Stat. 387, as amended, 15 U.S.C. 636; sec. 5, 72 Stat. 385, 15 U.S.C. 634(b)(6).

§ 120.1 Introduction.

(a) This part is established by the SBA to set forth principles and policies which will be followed in the granting and denial of financial assistance. Financial assistance includes business loans to small business concerns and loans for disaster relief to individuals, business concerns, and other organizations. It is not intended that this general statement of policy provide answers to all questions which may arise in connection with specific applications.

(b) "Financial assistance" as used in this part shall include direct loans made by SBA, immediate participation loans, and guaranteed loans.

(c) "Financial institutions" as used in this part shall include, but not be limited to, banks and other concerns whose regular course of business entails the making of commercial and industrial loans to the general public.

§ 120.2 Business loans and guarantees.

Basic principles governing the granting and denial of applications for financial assistance:

(a) Applications for financial assistance may be considered only when there is evidence that the desired credit is not otherwise available on reasonable terms. The financial assistance applied for shall be deemed to be otherwise available on reasonable terms, unless it is satisfactorily demonstrated that:

(1) Proof of refusal of the required financial assistance has been obtained from—

(i) The applicant's bank of account;

(ii) If the amount of financial assistance applied for is in excess of the legal lending limit of the applicant's bank or in excess of the amount that the bank normally lends to any one borrower, then a refusal from a correspondent bank or from any other lending institution whose lending capacity is adequate to cover the financial assistance applied for; and

(iii) Not less than two banks in cities where the population exceeds 200,000.

Proof of refusal must contain the date, amount and terms requested, and the reasons for not granting the desired credit. Bank refusals to advance credit should not be considered the full test of unavailability of credit and, where there is knowledge of reasons to believe that credit is otherwise available on reasonable terms from sources other than such banks, the financial assistance applied for cannot be granted notwithstanding the receipt of written refusals from such banks.

(2) The financial assistance required does not appear to be obtainable:

(i) On reasonable terms through the public offering or private placing of securities of the applicant;

(ii) Through the disposal at a fair price of assets not required by the applicant in the conduct of its existing business or not reasonably necessary to its potential healthy growth; and

(iii) Without undue hardship through utilization of the personal credit or resources of the owner, partners, management, or principal shareholders of the applicant;

(iv) Through other applicable Government financing.

(b) It is the policy to stimulate and encourage loans by banks and other lending institutions.

(1) An applicant for a direct SBA loan must show that an immediate participation or guaranteed loan is not available. An applicant for an immediate participation loan must show that a guaranteed loan is not available.

(2) SBA's share of immediate participation loans shall not exceed 75 percent of the loan. Exceptions may be made in cases when the participant's legal lending limit precludes a 25-percent participation. In such cases the participant will be required to share in the loan to the extent of its legal lending limit but in no event less than 10 percent. In guaranteed loans the exposure of SBA under the guaranty may not exceed 90 percent of the unpaid principal balance and accrued interest.

(3) No agreement to extend financial assistance under the Small Business Act shall establish any preferences in favor of a bank or other lending institution.

(c) Assurance of repayment, and change of ownership.

(1) No financial assistance shall be extended unless there exists reasonable assurance that the loan can and will be repaid pursuant to its terms. Reasonable assurance of repayment will exist only where the past earnings record and future prospects indicate ability to repay the loan and other obligations. It will be deemed not to exist when the proposed loan is to accomplish an expansion which is unwarranted in the light of the applicant's past experience and management ability, or when the effect of making the loan is to subsidize inferior management.

(2) Where the purpose of the loan application is to effect a change in the ownership of the applicant small business concern, the loan may usually be approved where there is a reasonable justification for the change in ownership on the ground that the change will promote the sound development or preserve the existence of a small business concern; or will contribute to a well-balanced national economy by facilitating ownership of small business concerns by persons whose participation in the free enterprise system has been prevented or hampered because of economic, physical, or social disadvantages, or because of disadvantages in the business or residential locations.

(d) Financial assistance will not be granted by SBA:

(1) If the direct or indirect purpose or result of granting such assistance would be to—

(i) Pay off a creditor or creditors of the applicant who are inadequately secured and are in position to sustain a loss.

(ii) Provide funds, directly or indirectly, for payment, distribution, or as a loan to owners, partners, or shareholders of the applicant which do not change ownership intereste in applicant. This shall not apply to ordinary compensation for services rendered.

(iii) Refund a debt owed to a Small Business Investment Company.

(iv) Replenish funds theretofore used for such purposes.

(2) If the financial assistance will provide or free funds for speculation in any kind of property, real or personal, tangible or intangible;

(3) If the applicant is an eleemosynary institution or other nonprofit enterprise: *Provided, however,* That this provision shall not be construed to bar financial assistance to a cooperative if it carries on a business activity and the purpose of such activity is to obtain pecuniary benefit for its members in the operation of their otherwise eligible small business concerns.

(4) If the purpose of the financial assistance is to finance the construction, acquisition, conversion, or operation of recreational or amusement facilities, unless such facilities contribute to the health or general well-being of the public;

(5) If the applicant is a newspaper, magazine, book publishing company, radio broadcasting company, television broadcasting company, film production company, or similar enterprise;

(6) If any part of the gross income of the applicant (or of any of its principal owners) is derived from gambling activities;

(7) If the financial assistance is to provide funds to an enterprise primarily engaged in the business of lending or investments or to any otherwise eligible enterprise for the purpose of financing investments not related or essential to the enterprise;

(8) If the purpose of the financial assistance is to finance the acquisition, construction, improvement, or operation of real property which is, or is to be, held primarily for sale or investment;

(9) If the effect of the granting of the financial assistance will be to encourage monopoly or will be inconsistent with the accepted standards of the American system of free competitive enterprise;

(10) Generally, if the financial assistance would be used primarily in a farming or other agricultural activity;

(11) Generally, if the financial assistance to be provided is for use in multilevel sales distribution plans.

§ 120.3 Terms and conditions of business loans and guarantees.

(a) *Maturities.* The maturity of business loans made under the Small Business Act shall be restricted to the minimum consistent with sound business practice. The maturity may not exceed 10 years, except that such portion of a loan made for the purpose of constructing facilities may have a maturity not in excess of 15 years.

(b) *Charges and interest rates* — (1) *Charges.* In guaranteed loans (those made by a financial institution with which SBA has entered into an agreement to guarantee as set forth in the Part 122 of this chapter), a guaranty charge shall be payable by the financial institution to SBA for such agreement. The guaranty charge shall be one-fourth of 1 percent per annum of the portion of the loan which SBA has guaranteed.

(2) *Interest.* (i) Except as provided in subdivision (iii) of this subparagraph, interest on SBA's share of immediate participation loans shall not exceed 5½ percent per annum and where the rate of interest on the share of the loan of the bank or other financial institution is less than 5½ percent per annum then the rate of SBA's share of the loan shall be at the same rate, but not less than 5 percent per annum. Subject to the approval of SBA, a participating financial institution may establish such rate of interest on its share of a loan as shall be legal and reasonable. Subject to the above guidelines, lending institutions may be given the option of utilizing a fluctuating rate of interest.

(ii) Direct loans: Except as provided in subdivision (iii) of this subparagraph, interest on all direct loans which may be made by SBA shall be at the rate of 5½ percent per annum except as may be otherwise required by reason of the provisions of the Servicemen's Readjustment Act of 1944, as amended.

(iii) Interest on SBA's share of financial assistance, which may be extended to Group Corporations shall be at the rate of 5 percent per annum. Subject to the approval of SBA, financial institutions may establish such rate of interest on their share of participation or guaranteed loans as shall be legal and reasonable.

(iv) Except as provided in subdivision (iii) of this subparagraph, the interest rate on guaranteed loans, subject to the approval of SBA, may be established by the participating financial institution at a rate that shall be legal and reasonable. Subject to the above guidelines, lending institutions may be given the option of utilizing a fluctuating rate of interest. When purchased by SBA, the rate of interest to the borrower on SBA's share of the loan shall be 5½ percent per annum, except where the rate of interest on the share of the loan of the financial institution is less than 5½ percent per annum then the rate on SBA's share of the loan shall be at the same rate, but not less than 5 percent per annum. When SBA purchases its guaranteed share, its payment to the guaranteed participant of accrued interest to the date of purchase shall be at the interest rate established by participant but shall not exceed an effective rate of interest of 8 percent per annum, and without any future adjustment for any unpaid accrued interest in excess of 8 percent per annum.

(v) The interest which a financial institution pays SBA for temporary advances under the liquidity privilege in a guaranty loan agreement varies according to the approval date of SBA's guaranty on a given loan.

(vi) From time to time SBA may publish in the FEDERAL REGISTER notices of the maximum rates acceptable to SBA under the immediate participation and guaranty programs.

(3) *Service fees.* In immediate participation loans, and guaranteed loans where SBA has purchased its portion, made and serviced by a financial institution, the financial institution may deduct a service fee only out of interest collected for the account of SBA so long as the bank is servicing the loan: *And provided,* That such fee shall not be added to any amount which borrower is obligated to pay under the loan. Where SBA's share of the loan is 75 percent or less, the service fee shall be three-eighths of 1

percent per annum on the unpaid principal balance of SBA's share of the loan. Where SBA's share is in excess of 75 percent of the loan, the service fee shall be one-fourth of 1 percent per annum on the unpaid principal balance of SBA's portion of the loan.

(4) *Closing fees.* A closing fee equivalent to one-eighth of 1 percent of SBA's approved portion of the loan, or $10, whichever is the greater, shall be imposed upon all direct loans and immediate participation loans made and serviced by SBA which are authorized pursuant to section 7(a) of the Small Business Act, as amended. The fee shall be paid to SBA prior to disbursement of the loan and shall be exclusive of any other closing costs (such as recording fees and taxes, costs of title examination and title insurance, and other charges incident to the transaction) which are customarily paid by the borrower.

§ 120.4 Disaster loans for physical property loss, or for substantial economic injury as a result of major or natural disasters, or inability to process or market a product because of disease or toxicity through natural or undetermined causes.

(a) *Scope of assistance.* Financial assistance for disaster relief will be considered on an individual basis in the light of circumstances of the applicant and of the particular disaster. Such financial assistance will be made as SBA determines to be necessary or appropriate to relieve the distress and hardships attendant upon the disasters.

(b) *Limitations on assistance*—(1) *Farmers, stockmen, and others primarily engaged in agricultural activities.* Farmers, stockmen, and others engaged primarily in agricultural activities are not eligible for SBA disaster loan assistance. No disaster loan funds will be provided to an otherwise eligible applicant which would be used primarily in a farming or other agricultural activity, except, where the disaster area is located beyond the territorial jurisdiction of any other Federal agency otherwise authorized to provide such assistance, such parties shall be eligible for physical-loss disaster assistance.

(2) *Religious, eleemosynary, and nonprofit organizations.* Religious, eleemosynary, and nonprofit organizations are not small business concerns. Persons or firms holding realty for lease or rent for the production of income are not small business concerns. A cooperative association may qualify as a small business concern if each of its members qualify as a small business concern; a consumer cooperative will not qualify as a small business concern. Applicants which do not qualify as small business concerns are ineligible for disaster loan assistance except for physical loss disaster assistance.

(c) *Terms and conditions of financial assistance*—(1) *Participation limitations.* SBA's share of immediate participation disaster loans shall not exceed 90 percent of the loan. In guaranteed disaster loans the exposure of SBA under the guaranty may not exceed 90 percent of the unpaid principal balance and accrued interest.

(2) *Maturities.* The maximum maturity, including renewals and extensions, for disaster loans shall not exceed 30 years.

(3) *Interest.* (i) For disaster relief described under this § 120.4, the interest rate shall be as follows: On SBA's share of financial assistance, interest shall be at a rate determined by the Secretary of Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of 10 to 12 years. In no event will the rate be in excess of 6 percent per annum.

(ii) In any loan made under this § 120.4, deferment may be made in payments of principal or interest, or both, for a period up to the first 3 years of the loan. In participation or guaranteed loans, thei nterest rate on the participating institution's share shall be at a rate considered as reasonable by SBA but not to exceed 8 percent per annum.

(4) *Service fees.* No service fees shall be charged on disaster relief loans described under this § 120.4, and no fee shall be charged financial institutions for the SBA guaranty provided on guaranteed loans.

(d) *Physical-loss disaster assistance*—(1) *Nature of financial assistance.* Financial assistance may be extended to rehabilitate or replace property damaged or lost as a result of disaster declared by SBA, declarations of which are published in the FEDERAL REGISTER. Such financial assistance may not be used for irreplaceable, luxury, or extraordinary expensive items.

(2) *Eligibility.* Assistance may be extended only to applicants determined by SBA to have suffered substantially the disaster loss; it will not be extended (i) if the applicant suffers flood loss as a result of action by a Federal agency which causes flooding of an area where the Government has been held harmless under a lease agreement covering a flowage easement (ii) where a substantial change of ownership occurred after the disaster.

(e) *Substantial economic injury assistance*—(1) *Disaster declaration.* An area must be declared to be a major disaster area by the President, a disaster area by the Administrator of SBA, or declared to be a natural disaster area by the Secretary of Agriculture or his designee.

(2) *Eligibility.* (i) An otherwise eligible small business concern must be located in the disaster area as defined by the disaster declaration made as provided in subparagraph (1) of this paragraph.

(ii) Assistance may be extended only to applicants determined by SBA to have suffered substantial economic injury. It will not be extended if SBA determines from the circumstances that the applicant assumed the loss or possibility of loss from the disaster. Therefore, applicants shall not be eligible, for example, where their concerns have been acquired or established, or where a substantial change of ownership therein occurred, during or following a period of disaster.

(f) *Product disaster assistance*—(1) *Disaster declaration.* The Administrator of SBA makes all product disaster declarations.

(2) *Eligibility.* (i) An otherwise eligible small business concern is eligible for product disaster assistance to continue or reestablish its business if SBA determines that the concern has suffered substantial economic injury as a result of the inability of such concern to process or market a product for human consumption because of disease or toxicity occurring in such product through natural or undetermined causes.

(ii) Assistance may be extended only to applicants determined by SBA to have suffered substantial economic injury. It will not be extended if SBA determines from the circumstances that the applicant assumed the loss or possibility of loss from the disaster. Therefore, applicants shall not be eligible, for example, where their concerns have been acquired or established, or where a substantial change of ownership therein occurred during or following a period of disaster.

(iii) Applicants which do not qualify as small business concerns are not eligible for economic injury assistance. Religious, eleemosynary, and nonprofit organizations are not small business concerns. Persons or firms holding realty for lease or rent for the production of income are not small business concerns. A cooperative association may qualify as a small business concern if each of its members qualify as a small business concern; a consumer cooperative will not qualify as a small business concern.

§ 120.5 Displaced Business, Coal Mine Health and Safety, Consumer Protection, and Occupational Safety and Health Loans

(a) *Displaced Business Loans*—(1) *Limitations on assistance—availability of funds from other sources.* Personal and/or business assets must be used by the applicant to the greatest extent feasible without causing undue hardship to overcome economic injury. In addition, private credit to the extent obtainable on reasonable rates and terms must be used prior to obtaining economic injury assistance.

(2) *Farmers, stockmen, and others primarily engaged in agricultural activities.* Farmers, stockmen, and others engaged primarily in agricultural activities are not small business concerns and, therefore, are not eligible for economic injury loan assistance. No disaster loan funds will be provided which would be used primarily on a farm or other agricultural activity.

(3) *Religious, eleemosynary, and nonprofit organizations.* Religious, eleemosynary, and nonprofit organizations are not small business concerns. Therefore, they are ineligible for disaster assistance except for Physical-Loss Disaster Assistance as described under § 120.4. Persons or firms holding realty for lease or rent for the production of income are not small business concerns. A cooperative association may qualify as a small business concern if each of its members qualify as a small business concern; a consumer cooperative will not qualify as a small business concern.

(4) *Scope of financial assistance.* Financial assistance shall be available to assist any small business concern in continuing in business at its existing location, in reestablishing its business, in purchasing its business, or in establishing a new business, if the Administration determines that such concern has suffered substantial economic injury as the result of its displacement by, location in, or being adjacent to or near a federally aided urban renewal program, a highway project, or any other construction in which funds are provided in whole or in part by the Federal Government. In the discretion of the Administration, the purpose of a loan made pursuant to such project or program may include the purchase or construction of other premises whether or not the borrower owned the premises occupied by the business.

(5) *Substantial economic injury.* Assistance may be extended only to applicants determined by SBA to have suffered substantial economic injury. It will not be extended if SBA determines from the circumstances that the applicant assumed the loss or possibility of loss from the disaster. Therefore, applicants shall not be eligible, for example, where their concerns have been acquired or established, or where a substantial change of ownership therein occurred, during or following a period of disaster.

(b) *Coal Mine Health and Safety Loans (financial assistance coal mine operations)*—(1) *Economic assistance.* SBA is empowered to make such loans as the administration may determine to be necessary or appropriate to assist any small business concern operating coal mine in effecting additions to or alternations in the equipment, facilities, or methods of operation of such mine to requirements imposed by the Federal Coal Mine Health and Safety Act of 1969, if the Administration determines that such concern is likely to suffer substantial economic injury without such a loan. The use of proceeds may not be for working capital purposes.

(2) *Eligibility.* To qualify for a Coal Mine Health and Safety Loan, an applicant must be a small business concern. Coal mine services are not eligible for a Coal Mine Health and Safety Loan since they do not come under the jurisdiction of the Bureau of Mines.

(3) *Inspection of mine by Bureau of Mines.* Based upon its inspection, the Bureau of Mines issues a notice of deficiency or similar notice to the coal mine operator. The notice is the basis upon which the applicant determines the amount and use of proceeds of a Coal Mine Health and Safety Loan necessary to correct the deficiencies cited. A copy of the notice of deficiency from the Bureau of Mines must accompany any formal application for loan. All applications must be supported by sufficient information so that SBA will be able to determine the economic life of the mine.

(c) *Consumer Protection Loans (financial assistance meat, poultry, and egg processing operations)* (1) *Economic assistance.* SBA is empowered to make such loans as the administration may determine to be necessary or appropriate to assist any small business concern engaged in meat, poultry, or egg processing in effecting additions to or alterations in the equipment, facilities, or methods of operation of such firm to meet requirements imposed by the Egg Products Inspection Act, the Wholesome Poultry Products Act, and the Wholesome Meat Act of 1967 or State laws enacted in conforming therewith, if the Administration determines that such concern is likely to suffer substantial economic injury without such a loan.

(2) *Eligibility.* To qualify for a Consumer Protection Loan, an applicant must be a small business concern.

(3) *Plant inspection.* Based upon its inspection, the appropriate Federal or State authority issues a notice of deficiency or similar notice to the firm. The notice is the basis upon which the applicant determines the amount and use of proceeds of a Consumer Protection Loan necessary to correct the deficiencies cited. A copy of the notice of deficiency from the inspection authority must accompany any formal application for loan.

(d) *Occupational Safety and Health Loans (financial assistance)* (1) *Economic assistance.* SBA is empowered to make such loans as the Administration may determine to be necessary or appropriate to assist any small business concern in effecting additions to or alterations in the equipment, facilities, or methods of operation of such concern to meet requirements imposed by the Occupational Safety and Health Act of 1970, if the Administration determines that such concern is likely to suffer substantial economic injury without such a loan.

(2) *Eligibility.* To qualify for an Occupational Safety and Health Loan, an applicant must be a small business concern.

(3) *Plant inspection.* (i) Based upon its inspection, the appropriate Federal or State authority issues a notice of deficiency or similar notice to the firm. The notice is the basis upon which the applicant determines the amount and use of proceeds of an Occupational Safety and Health Loan necessary to correct the deficiencies cited. A copy of the notice of deficiency from the inspection authority must accompany any formal application for loan.

(ii) Plant operators may on own initiative undertake action to meet OSH Act standards. If major construction or reconstruction is needed, the report of a licensed professional engineer and/or architect is required and must be submitted with the loan application.

(e) *Terms and conditions of financial assistance*—(1) *Participation limitations.* SBA's share of immediate participation loans shall not exceed 90 percent of the loan. In guaranteed loans, the exposure of SBA under the guaranty may not exceed 90 percent of the unpaid principal balance and accrued interest.

(2) *Amount of loan.* The amount which SBA may lend to individual applicants has no statutory dollar limitation. However, SBA may not make a loan if funds are available through:

(i) *Personal and/or business assets.* Personal and/or business assets should be used by the applicant to the greatest extent feasible; and/or,

(ii) *Private credit.* To the extent obtainable on reasonable rates and terms, private credit should be used prior to obtaining loan assistance from SBA.

(3) *Maturity.* The maximum maturity, including renewals and extensions, for Displaced Business, Coal Mine Health and Safety, Consumer Protection, and Occupational Safety and Health Loans shall not exceed 30 years.

(4) *Interest rate.* Interest on SBA's share of financial assistance made under the Displaced Business, Coal Mine Health and Safety, Consumer Protection, or the Occupational Safety and Health Loan program shall be at a rate determined by SBA in conformity with the statutory formula set forth in the Small Business Act, as amended.

(5) *Service charges.* A service fee is permitted for those financial institutions servicing immediate participation loans, or deferred participation loans where SBA has purchased its portion, on loans approved on or after July 1, 1969. The participating institution may deduct, only out of interest collected for the account of SBA, a service fee of three-eighths of 1 percent per annum where SBA's share is 75 percent or less or of one-fourth of 1 percent where SBA's share is more than 75 percent. Such fees are permitted only so long as the participating institution is servicing the loan. This fee shall not be added to any amount which borrower is obligated to pay under the loan. Participating institution shall not make a service charge to borrower for handling construction loans or accounts receivable and inventory collateral.

(6) *Guaranty charge.* There will be no guaranty fee charged the lending institution with respect to guaranteed disaster loans.

(7) *Closing fee.* No closing fee will be charged with respect to closing of any disaster loan.

Dated: October 29, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-16260 Filed 11-5-71;8:48 am]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 71-278]

PART 1—GENERAL PROVISIONS

Designation of Progreso, Tex., as Port of Entry

Notice of proposal to designate Progreso, Tex., as a port of entry in the

Customs district of Laredo, Tex. (Region VI), was published in the FEDERAL REGISTER on September 2, 1971 (36 F.R. 17579). The proposal was based upon the need to provide better Customs service in the Laredo, Tex., district. No objections to the proposal were received.

Accordingly, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), which was delegated to the Secretary of the Treasury by the President by Executive Order No. 10289, September 17, 1951 (3 CFR Ch. II), and pursuant to authority provided by Treasury Department Order No. 190, Rev. 7 (34 F.R. 15846), Progreso, Tex., is hereby designated as a port of entry in the Laredo, Tex., district (Region VI).

The geographical limits of the port of Progreso, Tex., include that part of the county of Hidalgo, Tex., encompassed by the following boundaries:

On the north by 26°6' North latitude, on the east by 97°54' West longitude, on the south by the United States-Mexico international boundary, and on the west by 98°00' West longitude.

To reflect this change, the table in § 1.2(c) of the Customs Regulations is amended by inserting in the column headed "Ports of Entry" in the Laredo, Tex., district (Region VI) "Progreso, Tex. (T.D. 71–278)," directly below Hidalgo.

(80 Stat. 379, sec. 1, 37 Stat. 434, sec. 1, 38 Stat. 623, as amended, R.S. 251, as amended, sec. 624, 46 Stat. 759; 5 U.S.C. 301, 19 U.S.C. 1, 2, 66, 1624)

This Treasury Decision shall become effective 30 days after publication in the FEDERAL REGISTER.

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

OCTOBER 26, 1971.

[FR Doc.71-16263 Filed 11-5-71;8:50 am]

[T.D. 71-276]

PART 16—LIQUIDATION OF DUTIES

Sugar Content of Certain Articles From Australia Subject to Countervailing Duties

Net amount of bounty declared for the period October 1970 through September 1971 for products of Australia subject to the countervailing duty order published in T.D. 54582. Section 16.24(f), Customs Regulations, amended.

The Treasury Department is in receipt of official information that the rates of bounties or grants paid or bestowed by the Australian Government within the meaning of section 303, Tariff Act of 1930 (19 U.S.C. 1303), on the exportation during the period October 1970 through September 1971 of approved fruit products and other approved products containing sugar are the amounts set forth in the following table:

MERCHANDISE—APPROVED FRUIT PRODUCTS AND OTHER APPROVED PRODUCTS

Month	*Net amount of bounty per 2,240 lbs. of sugar content (Australian dollars)*
October 1970	73.30
November 1970	72.40
December 1970	70.70
January 1971	70.40
February 1971	54.80
March 1971	56.40
April 1971	67.90
May 1971	65.20
June 1971	66.10
July 1971	67.40
August 1971	69.00
September 1971	65.70

The net amount of bounties or grants on the above-described commodities which are manufactured or produced in Australia is hereby ascertained, determined, and declared to be the rate stated in the above table. Additional duties on the above-described commodities, except those commodities covered by T.D. 55716 (27 F.R. 9595), whether imported directly or indirectly from that country, equal to the net amounts of the bounty shown above shall be assessed and collected.

The table in § 16.24(f) under "Australia—Sugar content of certain articles" is amended (1) by deleting therefrom the reference to T.D. 70–105, and (2) by adding a reference to this Treasury Decision. As amended the last three lines of the table under this commodity will read:

Country	Commodity	Treasury decision	Action
		70-197	New rate.
		70-225	New rate.
		71-273	New rate.

(R.S. 251, secs. 303, 624, 46 Stat. 687, 759; 19 U.S.C. 66, 1303, 1624)

[SEAL] LEONARD LEHMAN,
Acting Commissioner of Customs.

Approved: October 21, 1971.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-16284 Filed 11-5-71;8:50 am]

Title 21—FOOD AND DRUGS

Chapter II—Bureau of Narcotics and Dangerous Drugs, Department of Justice

PART 308—SCHEDULES OF CONTROLLED SUBSTANCES

Removal of Exceptions From Amphetamine and Methamphetamine Combination Products

A notice was published in the FEDERAL REGISTER of September 21, 1971 (36 F.R. 17849), proposing the removal of exceptions from amphetamine and methamphetamine combination products. These exceptions, from application of certain provisions of the Controlled Substances Act (21 U.S.C. 801 et seq.) and the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), were granted under the Drug Abuse Control Amendments of 1965 and were continued under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91–513) for administrative purposes.

All interested persons were given 30 days after publication to submit their objections to and comments on the proposal. No objections were received. The Narcotic and Drug Control Division of the State Board of Health of South Carolina, commented specifically on the product Edrisal, noting that the formula of the drug does not preclude a potential for abuse, that similar drugs (Edrisal with Codeine and Daprisal) are listed in Schedule II, and that as the stringent controls of Schedule II are applied to other stimulants, abuse of Edrisal is likely to increase.

After careful consideration of the comments submitted, in view of the fact that no objections were received, and based upon the investigations of the Bureau of Narcotics and Dangerous Drugs, the Director finds that no compound, mixture, or preparation containing any quantity of amphetamine (or its salts, optical isomers, or salts of its optical isomers) or methamphetamine (or its salts, isomers, or salts of its isomers) and one or more active medicinal ingredients not having a stimulant effect on the central nervous system, contains such ingredients in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the amphetamine or methamphetamine substances.

Therefore, under the authority vested in the Attorney General by section 202 (d) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812(d)), and redelegated to the Director, Bureau of Narcotics and Dangerous Drugs by § 0.100 of Title 28 of the Code of Federal Regulations, the Director hereby orders that:

1. Section 308.13(b)(1) of Title 21 of the Code of Federal Regulations be deleted and replaced with a new paragraph to read:

§ 308.13 Schedule III.

• • • • • •

(b) • • •

(1) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under § 308.32, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances.

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§ 308.32 [Amended]

2. Section 308.32(b) of Title 21 of the Code of Federal Regulations be amended by deleting the following drugs:

Trade name or other designation	Composition	Manufacturer or supplier
Edrisal	Tablet: Amphetamine sulfate 2.5 mg.; aspirin, 162 mg.; phenacetin 162mg.	Smith Kline & French Laboratories.
Genegesic Capsules	Capsule: Methamphetamine hydrochloride, 1.2 mg.; chlorpheniramine maleate, 3.8 mg.; phenacetin, 120.0 mg.; salicylamide, 180.0 mg.; caffeine, 30.0 mg.; ascorbic acid, 50.0 mg.	General Pharmaceutical Products Inc.
Hovizyme	Tablet: Methamphetamine hydrochloride, 0.5 mg.; conjugated estrogens-equine, 0.125 mg.; methyl testosterone, 1.25 mg.; amylase, 10.0 mg.; protease, 5.0 mg.; cellulase, 2.0 mg.; nicotinyl alcohol tartrate, 7.5 mg.; dehydrocholic acid, 50.0 mg.; ascorbic acid, 50.0 mg.; ferrous fumarate, 6.0 mg.	Ayerst Laboratories.
Mediatric	Tablet of capsule: Methamphetamine hydrochloride, 1 mg.; conjugated estrogens-equine, 0.25 mg.; methyl testosterone, 2.5 mg.	Do.
Mediatric Liquid	Solution (15 cc.): Methamphetamine hydrochloride, 1 mg.; conjugated estrogens-equine, 0.25 mg.; methyl testosterone, 2.5 mg.	Do.
Special Formula 711	Tablet: d-Amphetamine sulfate, 2.5mg.; mephenesin, 500 mg.; salicylamine, 300 mg.	Detroit First Aid Co.
Thora-Dex No. 1	Tablet: Dextroamphetamine sulfate, 2 mg., chlorpromazine hydrochloride, 10 mg.	Smith Kline & French Laboratories.
Thora-Dex No. 2	Tablet: Dextroamphetamine sulfate, 5 mg., chlorpromazine hydrochloride, 25 mg.	Do.

• • •

In his order published July 7, 1971, in the FEDERAL REGISTER (36 F.R. 12736), the Director recognized that certain combination products containing amphetamine or methamphetamine exempted under the Drug Abuse Control Amendments of 1965 were not expressly excepted under § 308.32. The Director stated that, as a matter of policy, those substances would be deemed excepted under § 308.32 pending further action by the Bureau. This order applies to those substances as well.

The effect of this order is to subject all compounds, mixtures, or preparations containing amphetamine or methamphetamine, except those now listed in Schedule II, to all of the requirements of sections 305, 307, and 309 of the Controlled Substances Act (relating to labeling, recordkeeping, and prescription requirements for controlled substances), sections 1002, 1003, and 1004 of the Controlled Substances Import and Export Act (relating to importation, exportation, transshipment) and § 301.74(d) of Title 21 of the Code of Federal Regulations (relating to sampling of controlled substances).

This order does not transfer any formerly excepted compounds, mixtures, or preparations containing amphetamine or methamphetamine from Schedule III to Schedule II.

The requirements imposed upon the formerly excepted amphetamine and methamphetamine combination products by virtue of the removal of the excepted status shall become effective as follows:

1. *Labeling.* All labels on commercial containers of, and all labeling of, the above formerly excepted stimulant compounds, which are packaged on and after May 1, 1972, shall comply with the requirements of 21 CFR Part 302.

2. *Records and inventories.* Every registrant who is required to keep records under § 304.03 of Title 21 of the Code of Federal Regulations, and who is manufacturing, distributing or dispensing any of the above formerly excepted stimulant compounds, shall take an inventory of all stocks on hand on January 3, 1972, and thereafter shall keep all required records regarding these compounds.

3. *Prescriptions.* All prescriptions for the above formerly excepted stimulant compounds shall comply with 21 CFR Part 306, as applied to substances listed in Schedule III, on and after January 1, 1972.

4. *Importation and exportation.* All importation, exportation, transshipment, and in-transit shipment of the above formerly excepted stimulant compounds shall comply with the requirements of 21 CFR Part 312 on and after January 1, 1972.

5. *Security.* All of the above formerly excepted stimulant compounds shall be manufactured, stored, distributed and shipped in compliance with §§ 301.71–76 of Title 21 of the Code of Federal Regulations on and after January 1, 1972.

This order is effective on the date of its publication in the FEDERAL REGISTER (11–6–71).

Dated: November 1, 1971.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[FR Doc.71-16208 Filed 11-5-71;8:45 am]

Title 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 55—GRANTS UNDER THE EMERGENCY EMPLOYMENT ACT OF 1971

Subpart D—Grants Under the Secretary's Discretionary Authority

Subtitle A of Title 29, Code of Federal Regulations, is hereby amended by adding thereto a new subpart to Part 55, designated Subpart D, relating to grants under the Secretary's discretionary authority. The new Subpart D sets forth the regulations of the Secretary of Labor for making grants under section 9(a)(2) of the Emergency Employment Act of 1971 (Public Law 92–54).

The Emergency Employment Act of 1971 was designed to increase employment and was made effective by Congress on an emergency basis. The effective implementation of the discretionary grant program is not possible without regulations to enable the intended recipients of Federal financial assistance to know the requirements. Compliance with the notice and public procedure requirements of 5 U.S.C. 553 would involve a delay in making available the assistance provided by this Act; we find that under the circumstances such delay would be impracticable and contrary to the public interest. Accordingly, the new Subpart D shall be effective upon publication in the FEDERAL REGISTER (11–6–71).

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the provisions of 5 U.S.C. 553. See 29 CFR 2.7 published in the July 10, 1971 FEDERAL REGISTER, 36 F.R. 12976. In accordance with the spirit of the public policy set forth in the above mentioned section, interested parties may submit written comments, suggestions, data, or arguments to the Assistant Secretary for Manpower, U.S. Department of Labor, Washington, D.C. 20210, within 45 days of the publication of the regulations contained in this part. Material thus submitted will be evaluated and acted upon in the same manner as if this document were a proposal. Until it is revised, however, it shall remain effective, thus permitting the public business to proceed expeditiously.

Part 55 is hereby amended as follows:

1. A new Subpart D is hereby added as follows:

Subpart D—Grants Under the Secretary's Discretionary Authority

Sec.
55.50 Purpose and scope.
55.51 Incorporation of sections from Subpart A of this part.
55.52 Distribution and use of funds.
55.53 Assurances.
55.54 Selection of participants.
55.55 Action upon application.
55.56 Use of Federal funds.

Sec.
55.57 Maximum compensation.
55.58 Waiver of requirements by Secretary.

AUTHORITY: The provisions of this Subpart D issued under section 12 of the Emergency Employment Act of 1971 and Secretary's Order 20–71.

§ 55.50 Purpose and scope.

This subpart contain the policies, rules and regulations of the Department of Labor with respect to grants, except grants to Indian tribes which are covered by Subpart C, pursuant to the Secretary's discretionary authority under the Emergency Employment Act of 1971. (Public Law 92–54, 85 Stat. 146.)

§ 55.51 Incorporation of sections from Subpart A of this part.

Sections 55.1, 55.3, 55.5, 55.10, 55.16, 55.17, 55.18, 55.19, 55.20, 55.25, and 55.26 of the regulations in Subpart A of this part are hereby incorporated in this Subpart D.

§ 55.52 Distribution and use of funds.

(a) The Secretary will designate the areas in which the discretionary funds shall be expended. These areas will not necessarily be identical with the respective jurisdictions of program agents under other subparts. Only eligible applicants serving such designated areas may receive funds.

(b) Funds granted for high impact demonstration programs shall be allocated equitably by program agents among the county and city levels of government, including public agencies which are independent of supervision by such level of government, in the designated areas covered in its application. (1) When selecting employing agencies, program agents shall give due consideration to the size and severity of unemployment in the particular area, the number of public service jobs at each level of government, the size of the population served by each unit of government, and the ability of each employing agency to employ participants belonging to the groups specified by the Secretary in jobs meeting the Secretary's criteria, if any. (2) Where appropriate, Federal and State agencies may be made employing agencies. When a Federal or State agency is the employing agency, the jobs it creates must be located in the jurisdiction of the program agent from which it receives funds.

(c) Funds granted for welfare demonstration programs shall be allocated among city and county levels of government in designated areas, including public agencies which are independent of supervision by such levels of government, as the program agent deems most likely to assure placement of the eligible welfare recipients in suitable jobs.

§ 55.53 Assurances.

(a) Section 55.6, except for paragraph (d), is hereby incorporated in this Subpart D.

(b) The grant application shall include a commitment by the program agent that it and the employing agencies responsible to it will utilize half the vacancies occurring in suitable occupations in their permanent work force, not financed from funds granted pursuant to the Act, for the purpose of providing participants permanent employment, except where this is prohibited by hiring practices required by law, regulation or collective bargaining agreement and the program agent or employing agency has submitted a statement explaining the prohibition. Failure to abide by this commitment may lead to the withholding or denial of grant funds.

§ 55.54 Selection of participants.

(a) Paragraphs (a) through (e) of § 55.7 are incorporated herein.

(b) Paragraph (f) of § 55.7 is incorporated herein except as to participants in high impact demonstration programs in a Standard Metropolitan Statistical Area who may live anywhere in such area.

(c) Whenever, in order to facilitate a demonstration program, the Secretary announces his intention of allocating the discretionary funds solely for the employment of specified categories of welfare recipients, or for any other limited category of participants, program agents and employing agencies shall select participants from the specified category in accordance with the Secretary's instructions.

§ 55.55 Action upon application.

(a) An application for a grant from funds made available under section 9(a)(2) of the Act will be approved if (1) the program agent has the legal capacity to operate the program proposed, (2) the application meets the requirements of the statute and of the regulations in this subpart, and (3) the Secretary has determined to exercise his discretion to approve the application.

(b) The program agent will be notified of action taken on an application. If approved the grant will be completed as provided in § 55.11(b); if the application is denied, a notice of denial will be sent to the program agent, accompanied by a brief statement of the reason for denial.

(c) In the event an acceptable application is not filed within the time prescribed by the Secretary or is denied, or a grant is terminated in whole or in part during a fiscal year, the Secretary may make provision for the funds released by such failure to file, denial, or termination, to be used by one or more alternative eligible applicants in furtherance of the purposes of this subpart.

§ 55.56 Use of Federal funds.

(a) Paragraphs (a), (b), (d), (e), and (f) of § 55.15 are hereby incorporated in this subpart.

(b) Not less than 85 percent of the funds granted to a program agent, or the percent specified by the Secretary, shall be used for compensation and benefits to participants.

(c) No initial funding will be provided.

§ 55.57 Maximum compensation.

Where the Secretary sets a maximum on the compensation payable for a percentage of the jobs in a demonstration project, at least that percentage of jobs shall pay no more than the specified maximum.

§ 55.58 Waiver of requirements by Secretary.

The Secretary may waive any requirement under this subpart that is not specifically required by the Act if he finds it might impede the conduct of any demonstration program.

Signed at Washington, D.C., this 1st day of November 1971.

MALCOLM R. LOVELL, JR.,
Assistant Secretary for Manpower.

[FR Doc.71–16205 Filed 11–5–71;8:45 am]

Title 31—MONEY AND FINANCE: TREASURY

Chapter IV—Secret Service, Department of the Treasury

PART 405—ILLUSTRATION OF U.S. SAVINGS BONDS

Authority To Make, Hold, Dispose of, and Use

This amendment would eliminate the existing authorization to use illustrations of U.S. savings stamps for publicity purposes in connection with the campaign for the sale of such stamps. The Department has discontinued the issuance of savings stamps so that the use of illustrations to promote their sale is no longer necessary. The Department finds, in accordance with 5 U.S.C. 553, that notice and public procedure on the amendment are not necessary since it involves a matter relating to agency management.

Accordingly, § 405.1 of Part 405 of Chapter IV of Title 31 of the Code of Federal Regulations is amended to read as follows:

§ 405.1 Illustrations authorized.

(a) Authority is hereby given to make, hold, dispose of, and use illustrations of U.S. savings bonds for publicity purposes in connection with the campaign for the sale of such bonds.

(b) The making of any reproduction of a U.S. savings bond in any manner or any form is not permitted other than as provided in this part or pursuant to title 18, United States Code, section 504 (18 U.S.C. 504).

This amendment will be effective upon publication in the FEDERAL REGISTER (11–6–71).

[SEAL] JAMES J. ROWLEY,
Director, U.S. Secret Service.

[FR Doc.71–16238 Filed 11–5–71;8:46 am]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER B—PERSONNEL; MILITARY AND CIVILIAN

PART 61—AUTOMATED OVERSEAS EMPLOYMENT REFERRAL PROGRAM

PART 65—VIETNAM ERA VETERANS' EMPLOYMENT REFERRAL PROGRAM

PART 78—EMPLOYMENT OF RETIRED MEMBERS OF THE UNIFORM SERVICES

PART 141—RULES FOR THE AVOIDANCE OF ORGANIZATIONAL CONFLICTS OF INTEREST

SUBCHAPTER G—CIVIL DEFENSE

PART 187—EMPLOYMENT OF MILITARY RESOURCES IN THE EVENT OF CIVIL DISTURBANCES

Discontinuance of Parts

The following listed parts are no longer in effect and are discontinued:

1. Part 61, based on DOD Instruction 1404.7 dated February 5, 1968.
2. Part 65, based on DOD Instruction 1404.9 dated August 26, 1968.
3. Part 78, based on DOD Directive 1402.1 dated December 1, 1964.
4. Part 141, based on DOD Directive 5500.10 dated June 1, 1963.
5. Part 187, based on DOD Directive 3025.12 dated June 8, 1968.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Administration).

[FR Doc.71–16281 Filed 11–5–71;8:50 am]

Chapter XIV—Renegotiation Board

SUBCHAPTER B—RENEGOTIATION BOARD REGULATIONS UNDER THE 1951 ACT

PART 1467—MANDATORY EXEMPTION OF CONTRACTS AND SUBCONTRACTS FOR STANDARD COMMERCIAL ARTICLES OR SERVICES

Waiver of Commercial Exemption

The Renegotiation Board hereby adopts, without change, the proposed amendments published on September 28, 1971 (36 F.R. 19093). Such regulations, as adopted, read as set forth below.

Dated: November 3, 1971.

RICHARD T. BURRESS,
Chairman.

This part is amended in the following respects:

1. Section 1467.46 *Waiver of exemption* is amended by adding at the end of paragraph (b)(4) thereof, the following sentence: "See in this connection §§ 1467.58 and 1467.59."

2. Section 1467.58 *Grant of exemption* is amended by deleting the second sentence thereof in its entirety, by changing the period at the end of the first sentence to a comma, and by adding the following: "but (a) the Board shall be entitled, in its discretion, to rescind such determination if the Application for Commercial Exemption contained a misstatement of a material fact (see § 1467.57(d)); and (b) the contractor shall be entitled thereafter with the permission of the Board, to withdraw the Application for Commercial Exemption and waive the exemption."

3. Section 1467.59 *Accrual of exemption by failure of Board to act* is amended by deleting "and, except as provided in § 1467.57(d), such exemption shall be fixed and final." and inserting in lieu thereof the following: ", except as provided in § 1467.57(d). Nothing in the preceding sentence shall preclude the contractor, with the permission of the Board, from thereafter withdrawing the Application for Commercial Exemption and waiving the exemption."

[FR Doc.71–16280 Filed 11–5–71;8:49 am]

Title 49—TRANSPORTATION

Chapter I—Hazardous Materials Regulations Board, Department of Transportation

Docket No. HM–89; Amdts. Nos. 173–58, 179–9]

PART 173—SHIPPERS

PART 179—SPECIFICATIONS FOR TANK CARS

Provisions for Shipment of Flammable Liquids

The purpose of this amendment to the Department's Hazardous Materials Regulations is to amend § 173.119(a)(12) and to add new §§ 179.220 and 179.221 to provide for the use of a new DOT specification 115 tank cars for shipment of flammable liquids not otherwise specified (n.o.s.).

On July 21, 1971, the Hazardous Materials Regulations Board published Docket No. HM–89; Notice No. 71–23 (36 F.R. 13405) proposing these changes. Several comments were received.

One commenter requested inclusion of additional requirements to provide for the use of specification 115 cars in low temperature service (service below −20° F.). Since this was not included as subject matter in the present rule-making action and it would introduce substantial changes, the Board is of the opinion that these comments should be subject to a separate rule-making action.

This commenter also noted that the Board apparently was proposing to reject tanks having metal support members extending from inner tank to outer shell. The Board did not intend to restrict the design in this manner. Section 179.220–15 does not contain this limitation. The regulation that "the inner container must be thermally isolated from the outer shell to the best practical extent" is a rule referring to a support system of "approved design." There is no limitation on such a system provided it complies with the specification requirements. The phrase "without metal supports" found in the preamble of Notice 71–23 was meant to be descriptive of the manner in which these specification cars are now being built, and was not intended to be a restriction in future design.

Several comments were received suggesting clarification of various texts and most of these suggestions were adopted. One change relating to § 179.220–18(a)(3), location of bottom unloading valves, was set aside as a matter for separate rule-making. Another suggestion related to the requirement for a locking arrangement on valve-operating mechanisms. This requirement does not mean that exterior actuating mechanisms must be physically connected by means of linkages to the actual seating mechanism of the valve. On valves that might otherwise be open during transportation, some securing device or arrangement must be supplied to insure that positive closure is maintained during transportation and that the valve cannot accidently be opened.

The Bureau of Explosives, Association of American Railroads, objected to the addition of DOT specification 115A type cars to § 173.119(a)(12) on the following bases:

(1) Specification 115A cars were designed primarily for transportation of "time temperature" products as defined in DOT Special Permits for Dichlorobutene, methyl methacrylate monomer. For this service there are restrictions imposed on both the cars and the products which are not contained in the proposal.

(2) Under the special permit system the special restrictions mentioned above can be and are imposed; but the blanket authorization proposed in the instant notice would eliminate all of them, even those demonstrably necessary for safety.

(3) New-time-temperature-sensitive products may be developed that require other and different restrictions for safe transportation. These restrictions likewise could not be imposed under the proposal.

The Board does not believe the 115A car should be singled for restriction. Under the present regulations, transportation of dichlorobutene and methyl methacrylate is authorized in many specification cars that are not required to be insulated. However, this transportation is always subject to § 173.21, which states in part that,

The offering for transportation of any package or container of any liquid, solid, or gaseous material which under conditions incident to transportation may polymerize (combine or react with itself) or decompose so as to cause dangerous evolution of heat or gas is prohibited. Such materials may be offered for transportation when properly stabilized or inhibited. Refrigeration may be used as a means of stabilization only when approved by the Bureau of Explosives.

The effect of this rule would not be changed, i.e., when a time-temperature relationship is involved in safely transporting a product, this means of stabilization may be used only when approved

by the Bureau of Explosives. Therefore, if dichlorobutene not otherwise safely inhibited is proposed to be shipped safely under temperature control, such as by the use of a type 115A tank car or any other insulated car now authorized by § 173.119(a)(12), this method of stabilization or inhibition continues to be subject to the Bureau's approval and any conditions it may impose. This includes use of the car in this service. This section of the regulations presently controls nearly all shipments requiring time-temperature controls due to instability. Any permits now outstanding that involve § 173.119(c)(12) and that include a time-temperature relationship involving safety would not be obviated by this amendment. Rather, control would revert back to the Bureau by virtue of § 173.21(b). Therefore, the Board is of the opinion that the amendment as proposed should be sustained.

In consideration of the foregoing, 49 CFR Parts 173 and 179 are amended as follows:

1. In § 173.119 paragraph (a)(12) is amended to read as follows:

§ 173.119 Flammable liquids not specifically provided for.

(a) • • •

(12) Specification 103,[1] 103W, 103-ALW, 103DW, 104,[1] 104W, 105A100,[1] 105A100ALW, 105A100W, 106A500X, 106A800XNC, 106A800NCI,[1] 109A100ALW, 110A500W, 111A60ALW, 111A60F1, 111A60W1, 111A100W3, 111A100W4, 111A100W6, 112A200W, 112A400F, 114A340W, 115A60W1, 115A60ALW, 115A60W6, ARA–III,[1] ARA–IV,[1] or ARA–IV–A[1] (§§ 179.100, 179.101, 179.200, 179.201, 179.220, 179.300, 179.301 of this chapter). Tank cars. For cars equipped with expansion domes, manway closures must be so designed that pressure will be released automatically by starting the operation of removing the manway cover. Openings in tank heads to facilitate application of lining are authorized and must be closed in an approved manner. (See § 173.432 for shipping instructions.)

• • • • • •

2. In Part 179, Table of Contents, Subpart D heading is amended; §§ 179.220 and 179.221 are added to read as follows:

Subpart D—Specifications for Nonpressure Tank Car Tanks (Classes DOT–103, 104, 111AF, 111AW, and 115AW)

Sec.

179.220 General specifications applicable to nonpressure tank car tanks consisting of an inner container supported within an outer shell (class DOT–115).

179.221 Individual specification requirements applicable to tank car tanks consisting of an inner container supported within an outer shell.

3. Subpart D heading is amended and §§ 179.220 and 179.221 are added to read as follows:

[1] Use of existing tank cars authorized, but new construction not authorized.

Subpart D—Specifications for Nonpressure Tank Car Tanks (Classes DOT–103, 104, 111AF, 111AW, and 115AW)

§ 179.220 General specifications applicable to nonpressure tank car tanks consisting of an inner container supported within an outer shell (class DOT–115).

§ 179.220–1 Tanks built under these specifications must meet the requirements of § 179.220 and § 179.221.

§ 179.220–2 Approval.

For procedures in securing approval, see § 179.3.

§ 179.220–3 Type.

(a) Tanks built under these specifications must consist of an inner container, a support system for the inner container, and an outer shell.

(b) The inner container must be a fusion welded tank of circular cross section with formed heads designed convex outward and must have a manway on top of the tank as prescribed herein. When the inner container is divided into compartments, each compartment must be considered a separate container.

(c) The outer shell must be a fusion welded tank with formed heads designed convex outward.

§ 179.220–4 Insulation.

The annular space between the inner container and the outer shell must contain an approved insulation material.

§ 179.220–5 Bursting pressure.

The minimum required bursting pressure of the inner container is listed in § 179.221–1.

§ 179.220–6 Thickness of plates.

(a) The wall thickness, after forming of the inner container shell and 2:1 ellipsoidal heads must be not less than specified in § 179.221–1, or not less than that calculated by the following formula:

$$t = \frac{Pd}{2SE}$$

where:

d = Inside diameter in inches;
E = 0.9 welded joint efficiency; except E = 1.0 for seamless heads;
P = Minimum required bursting pressure in p.s.i.;
S = Minimum tensile strength of plate material in p.s.i. as prescribed in AAR Specifications for Tank Cars, Appendix M, Table M1;
t = Minimum thickness of plate in inches after forming.

(b) The wall thickness after forming of the inner container heads, if flanged and dished, must be not less than specified in § 179.221–1, or not less than that calculated by the following formula:

$$t = \frac{5PL}{6SE}$$

where:

E = 0.9 welded joint efficiency; except E = 1.0 for seamless heads;
L = Main inside radius to which head is dished, measured on concave side in inches;
P = Minimum required bursting pressure in p.s.i.;
S = Minimum tensile strength of plate material in p.s.i. as prescribed in AAR Specifications for Tank Cars, Appendix M, Table M1;
t = Minimum thickness of plate in inches after forming.

(c) The wall thickness after forming of the cylindrical section and heads of the outer shell must be not less than seven-sixteenths of an inch.

(d) See § 179.220–9 for plate thickness requirements for inner container when divided into compartments.

§ 179.220–7 Materials.

(a) The plate material used to fabricate the inner container and nozzles must meet one of the following specifications and with the indicated minimum tensile strength and elongation in the welded condition.

(b) Carbon steel plate: The maximum allowable carbon content must be 0.31 percent when the individual specification allows carbon content greater than this amount. The plates may be clad with other approved materials.

Specifications	Minimum tensile strength (p.s.i.) welded condition [1]	Minimum elongation in 2 inches (percent) welded condition (longitudinal)
ASTM A 515-70, Gr. 55	55,000	23
ASTM A 515-70, Gr. 60	60,000	25
ASTM A 515-70, Gr. 65	65,000	20
ASTM A 515-70, Gr. 70	70,000	20
ASTM A 285-70a, Gr. A	45,000	29
ASTM A 285-70a, Gr. B	50,000	20
ASTM A 285-70a, Gr. C	55,000	20
ASTM A 516-70a, Gr. 55	55,000	23
ASTM A 516-70a, Gr. 60	60,000	25
ASTM A 516-70a, Gr. 65	65,000	20
ASTM A 516-70a, Gr. 70	70,000	20
AAR TC128-70, Gr. A&B	81,000	19

[1] Maximum stresses to be used in calculations.

(c) Aluminum alloy plate: Aluminum alloy plate must be suitable for welding and comply with one of the following specifications:

Specifications	Minimum tensile strength (p.s.i.) 0 temper, welded condition [2 3]	Minimum elongation in 2 inches (percent) welded condition (longitudinal)
ASTM B 209-70, Alloy 5052 [1]	25,000	18
ASTM B 209-70, Alloy 5083 [3]	38,000	16
ASTM B 209-70, Alloy 5086 [1]	35,000	14
ASTM B 209-70, Alloy 5154 [1]	30,000	18
ASTM B 209-70, Alloy 5204 [1]	30,000	18
ASTM B 209-70, Alloy 5454 [1]	31,000	18
ASTM B 209-70, Alloy 5652 [1]	25,000	18
ASTM B 209-70, Alloy 6061 [4]	[5] 24,000	[5] 5

[1] For fabrication, the parent plate material may be 0, H112, or H32 temper, but design calculations must be based on the minimum tensile strength shown.
[2] 0 temper only.
[3] Weld filler metal 5556 must not be used.
[4] Not authorized for tank shells, manways or domes.
[5] T6 temper only.
[6] Maximum stresses to be used in calculations.

(d) High alloy steel plate: High alloy steel plate must comply with one of the following specifications:

Specifications	Minimum tensile strength (p.s.i.) welded condition [1]	Minimum elongation in 2 inches (percent) welded condition (longitudinal)
ASTM A 240-70, Type 304	75,000	30
ASTM A 240-70, Type 304L	70,000	30
ASTM A 240-70, Type 316	75,000	30
ASTM A 240-70, Type 316L	70,000	30
ASTM A 240-70, Type 430A	65,000	22

[1] Maximum stresses to be used in calculations.

(e) Manganese-molybdenum steel plate: Manganese-molybdenum steel plate must be suitable for fusion welding and must comply with the following specification:

Specifications	Minimum tensile strength (p.s.i.) welded condition [1]	Minimum elongation in 2 inches (percent) welded condition (longitudinal)
ASTM A 302-70a, Gr. B	80,000	20

[1] Maximum stresses to be used in calculations.

(f) Plate materials used to fabricate the outer shell and heads must be those listed in paragraphs (b), (c), (d), or (e) of this section. The maximum allowable carbon content must be 0.31 percent when the individual specification allows carbon content greater than this amount. The plates may be clad with other approved materials.

(g) All appurtenances on the inner container in contact with the lading must be made of approved material compatible with the plate material of the inner container. These appurtenances must not be subject to rapid deterioration by the lading, or must be coated or lined with suitable corrosion resistant material. See AAR Specifications for Tank Cars, Appendix M, M4.05 for approved material specifications for castings for fittings.

§ 179.220–8 Tank heads.

(a) Tank heads of the inner container, inner container compartments and outer shell must be of approved contour, and may be flanged and dished or ellipsoidal for pressure on concave side.

(b) Flanged and dished heads must have main inside radius not exceeding 10 feet and inside knuckle radius must be not less than 3¾ inches for steel and alloy steel tanks nor less than 5 inches for aluminum alloy tanks.

(c) Ellipsoidal heads must be an ellipsoid of revolution in which the major axis must equal the diameter of the shell and the minor axis must be one-half the major axis.

§ 179.220–9 Compartment tanks.

(a) The inner container may be divided into compartments by inserting interior heads, or by fabricating each compartment as a separate container and joining with a cylinder, or by fabricating each compartment as a separate tank without a joining cylinder. Each compartment must be capable of withstanding, without evidence of yielding or leakage, the required test pressure applied in each compartment separately, or in any combination of compartments.

(b) When the inner container is divided into compartments by fabricating each compartment as a separate container and joining with a cylinder, the cylinder must have a plate thickness not less than that required for the inner container shell and must be applied to the outside surface of the straight flange portion of the container head. The cylinder must fit the straight flange tightly for a distance of at least two times the plate thickness, or 1 inch, whichever is greater and must be joined to the straight flange by a full fillet weld. Distance from fillet weld seam to container head seam must be not less than 1½ inches or three times the plate thickness, whichever is greater.

§ 179.220–10 Welding.

(a) All joints must be fusion-welded in compliance with AAR Specifications for Tank Cars, Appendix W. Welding procedures, welders, and fabricators shall be approved.

(b) Radioscopy of the outer shell is not a specification requirement.

(c) Welding is not permitted on or to ductile iron or malleable iron fittings.

§ 179.220–11 Postweld heat treatment.

(a) Postweld heat treatment of the inner container is not a specification requirement.

(b) Postweld heat treatment of the cylindrical portions of the outer shell to which the anchorage or draft sills are attached must comply with AAR Specifications for Tank Cars, Appendix W.

(c) When cold formed heads are used on the outer shell they must be heat treated before welding to shell if postweld heat treatment is not practicable due to assembly procedures.

§ 179.220–12 Tank mounting.

See § 179.10.

§ 179.220–13 Inner container manway nozzle and cover.

(a) Inner container manway nozzle must be of approved design with access opening at least 18 inches inside diameter, or at least 14 inches by 18 inches obround or oval.

(b) Manway covers must be of approved type. Design must provide a secure closure of the manway and must make it impossible to remove the cover while the tank interior is under pressure.

(c) All joints between manway covers and their seats must be made tight against leakage of vapor and liquid by use of suitable gaskets.

(d) Manway covers must be cast, forged, or fabricated metal complying with subsection § 179.220–7(g) of this section.

(e) A seal must be provided between the inner container manway nozzle and the opening in the outer shell.

§ 179.220–14 Openings in the tanks.

Openings in the inner container and the outer shell must be reinforced in compliance with AAR Specifications for Tank Cars, Appendix E. In determining the required reinforcement area for openings in the outer shell, t shall be one-fourth inch.

§ 179.220–15 Support system for inner container.

The inner container must be supported within the outer shell by a support system of adequate strength and ductility at its operating temperature to support the inner container when filled with liquid lading to any level. The support system must be designed to support, without yielding, impact loads producing accelerations of the following magnitudes and directions when the inner container is loaded so that the car is at its rail load limit, and the car is equipped with a conventional AAR Specification M–901 draft gear.

Longitudinal	7G
Transverse	3G
Vertical	3G

The longitudinal acceleration may be reduced to 3G where a cushioning device of approved design, which has been tested to demonstrate its ability to limit body forces to 400,000 pounds maximum at a 10 miles per hour impact, is used between the coupler and the tank structure. The support system must be of approved design and the inner container must be thermally isolated from the outer shell to the best practical extent.

§ 179.220–16 Expansion capacity.

Expansion capacity must be provided in the shell of the inner container as prescribed in § 179.221–1.

§ 179.220–17 Gaging devices, top loading and unloading devices, venting and air inlet devices.

(a) When installed, each device must be of approved design which will prevent interchange with any other fixture and must be tightly closed. Each unloading pipe must be securely anchored within the inner container. Each inner container or compartment thereof may be equipped with one separate air connection.

(b) When the characteristics of the commodity for which the car is authorized require these devices to be equipped with valves or fittings to permit the loading and unloading of the contents, these devices including valves, shall be provided with a protective housing except when plug or ball-type valves with operating handles removed are used. Provision must be made for closing pipe connections of valves.

(c) Inner container may be equipped with a vacuum relief valve of approved design. Protective housing is not required.

(d) When a gaging device is required in § 179.221–1, an outage scale visible through the manway opening must be

provided. If loading devices are applied to permit tank loading with cover closed, a telltale pipe may be provided. The telltale pipe must be capable of determining that required outage is provided. The pipe must be equipped with ¼-inch maximum, NPT control valve mounted outside tank and enclosed within a protective housing. Other approved devices may be used in place of an outage scale or a telltale pipe.

(e) The bottom of the tank shell may be equipped with a sump or siphon bowl, or both, welded or pressed into the shell. These sumps or siphon bowls, if applied, are not limited in size and must be made of cast, forged, or fabricated metal. Each sump or siphon bowl must be of good welding quality in conjunction with the metal of the tank shell. When the sump or siphon bowl is pressed in the bottom of the tank shell, the wall thickness of the pressed section must not be less than that specified for the shell. The section of a circular cross section tank to which a sump or siphon bowl is attached need not comply with the out-of-roundness requirement specified in Appendix W, W14.06 of the AAR Specifications for Tank Cars. Any portion of a sump or siphon bowl not forming a part of a cylinder of revolution must have walls of such thickness and must be so reinforced that the stresses in the walls caused by a given internal pressure are not greater than the circumferential stress which would exist under the same internal pressure in the wall of a tank of circular cross section designed in accordance with §§ 179.220–6(a) and 179.-220–9. In no case shall the wall thickness be less than that specified in § 179.221–1 (a).

(f) Protective housing, when required, must be of approved material and must have cover and sidewalls not less than 0.119 inch in thickness.

§ 179.220–18 Bottom outlets.

(a) The inner container may be equipped with a bottom outlet of approved design and an opening provided in the outer shell for its access. If applied, the bottom outlet must comply with the following requirements:

(1) On newly built empty cars with truck centers through 60 feet, 6 inches, the extreme projection of the bottom outlet equipment including insulated enclosure must be at least 12 inches above the top of the rail on level track. On cars with truck centers greater than 60 feet, 6 inches, the minimum rail clearance must be in accordance with the graph in Appendix E of the AAR Specifications for Tank Cars. Each bottom outlet reducer and closure and their attachments must be secured to the car by at least a ⅜-inch chain or its equivalent. However, outlet closure plugs may be attached by ¼-inch chain. When the bottom outlet closure is of the combination cap and valve type, the pipe connection to the valve must be closed by a plug or cap.

(2) Each bottom outlet must be provided with a liquid tight closure at its lower end.

(3) The valve and its operating mechanism must be applied to the outside bottom of the inner container. The valve operating mechanism must be provided with a suitable locking arrangement to insure positive closure during transportation.

(4) Valve outlet nozzle and valve body must be of cast, fabricated or forged metal. If welded to inner container, they must be of good weldable quality in conjunction with metal of tank.

(5) To provide for the attachment of unloading connections, the bottom of the main portion of the outlet nozzle or valve body, or some fixed attachment thereto, must be provided with threaded cap closure arrangement or bolted flange closure arrangement having minimum 1-inch threaded pipe plug.

(6) If the outlet nozzle and its closure extend below the bottom of the outer shell, a breakage groove or its equivalent must be applied. If a breakage groove is applied, a "V" must be cut (not cast) in the upper part of outlet nozzle at a point immediately below lowest part of valve to a depth that will leave thickness of nozzle wall at the root of the "V" not over one-fourth inch. The outlet nozzle or the valve body may be steam jacketed in which case the breakage groove or its equivalent must be below the steam chamber but above the bottom of the center sill construction. If the outlet nozzle is not a single piece or if exterior valves are applied, provision must be made for the equivalent of the breakage groove. On cars without continuous center sills, the breakage groove or its equivalent must not be more than 15 inches below the outer shell.

(7) The valve body must be of a thickness which will prevent distortion of the valve seat or valve by any change in contour of the shell resulting from expansion of lading, or other causes, and which will insure that accidental breakage of the outlet nozzle will occur at or below the "V" groove, or its equivalent.

(8) The valve must have no wings or stem projection below the "V" groove or its equivalent. The valve and seat must be readily accessible or removable for repairs, including grinding.

(b) Inner container may be equipped with bottom washout of approved design. If applied, bottom washout must comply with the following requirements:

(1) On newly built empty cars with truck centers through 60 feet, 6 inches, the extreme projection of the bottom washout equipment must be at least 12 inches above the top of rail on level track. On cars with truck centers greater than 60 feet, 6 inches, the minimum rail clearance must be in accordance with the graph in Appendix E of the AAR Specifications for Tank Cars.

(2) Bottom washout must be of cast, forged or fabricated metals. If it is welded to the inner container, it must be of good weldable quality in conjunction with metal of tank.

(3) If the washout nozzle extends below the bottom of the outer shell, a "V" groove must be cut (not cast) in the upper part of the nozzle at a point immediately below the lowest part of the inside closure seat or plug to a depth that will leave the wall thickness of nozzle at the root of the "V" not over one-fourth inch. Where the nozzle is not a single piece, provision must be made for the equivalent of the breakage groove. The nozzle must be of a thickness to insure that accidental breakage will occur at or below the "V" groove or its equivalent. On cars without continuous center sills, the breakage groove or its equivalent must not be more than 15 inches below the outer shell. On cars with continuous center sills, the breakage groove or its equivalent must be above the bottom of center sill construction.

(4) The closure plug and seat must be readily accessible or removable for repairs.

(5) The closure of the washout nozzle must be equipped with a ¾-inch solid screw plug. Plug must be attached by at least a ¼-inch chain.

(6) Joints between closures and their seats may be gasketed with suitable material.

§ 179.220–19 Safety relief devices.

(a) Each inner container or compartment must be equipped with safety relief devices of approved design as prescribed in § 179.221–1.

(b) When used, each safety relief valve must be made of metal not subject to rapid deterioration by the lading, and mounted on the top of the inner container. Total valve discharge capacity must be sufficient to prevent building up of pressure in the inner container to more than 10 p.s.i. above the start-to-discharge pressure. See AAR Specifications for Tank Cars, Appendix A, for formula for calculating discharge capacity. The start-to-discharge pressures and vapor tight pressures must comply with § 179.221–1.

(c) Each inner container or compartment used for the transportation of a corrosive liquid, a flammable solid, an oxidizing material, or a poisonous liquid or solid Class B, need not be equipped with a safety relief valve, but if not so equipped, it must have one safety vent at least 1¾ inches inside diameter made of material not subject to rapid deterioration by the lading. Each safety vent must be mounted on the top of the inner container. This vent must be of an approved design which will prevent interchange with fixtures prescribed in § 179.220–17. It must be closed with a frangible disc of lead or other approved material. Vent bursting pressure must comply with § 179.221–1. Tanks equipped with vents must be stenciled "Not for flammable liquids".

§ 179.220–20 Reinforcements, when used, and appurtenances not otherwise specified.

All attachments to inner container and outer shell must be applied by approved means.

§ 179.220–21 Interior heating system.

For heater system inside of inner container see § 179.12.

§ 179.220–22 Closure for openings.

(a) All plugs must be solid, with NPT threads, and must be of a length which will screw at least six threads inside the face of fitting or tank. Plugs, when inserted from the outside of the outer shell tank heads, must have the letter "S" at least three-eighths inch in size stamped with steel stamp or cast on the outside surface to indicate the plug is solid.

(b) Openings in the outer shell used during construction for installation must be closed in an approved manner.

§ 179.220–23 Test of tanks.

(a) Each inner container or compartment must be tested hydrostatically to the pressure specified in § 179.221–1. The temperature of the pressurizing medium must not exceed 100° F. during the test. The container must hold the prescribed pressure for at least 10 minutes without leakage or evidence of distress. Safety relief devices must not be in place when the test is made.

(b) The inner container must be pressure tested before installation within the outer shell. Items which, because of assembly sequence, must be welded to inner container after its installation within outer shell must have their attachment welds thoroughly inspected by a nondestructive dye penetrant method or its equivalent.

(c) Pressure testing of outer shell is not a specification requirement.

§ 179.220–24 Tests of safety relief valves.

Each safety relief valve must be tested by air or gas for compliance with § 179.-221–1 before being put into service.

§ 179.220–25 Stamping.

To certify that the tank complies with all specification requirements, each outer shell must be plainly and permanently stamped in letters and figures at least ⅜-inch high into the metal near the center of both outside heads as follows:

	Examples of required stamping
Specifications	DOT–115A60W6.
Inner container:	
Material	ASTM A240–316L.
Shell thickness	Shell 0.167 in.
Head thickness	Head 0.150 in.
Tank builders initials	ABC.
Date of original test	00–0000.
Outer shell:	
Material	ASTM A285–C.
Tank builders initials	WYZ.
Car assembler (if other than inner container or outer shell builders).	DEF.

§ 179.220–26 Stenciling.

(a) The outer shell, or the jacket if the outer shell is insulated, must be stenciled in compliance with AAR Specifications for Tank Cars, Appendix C.

(b) Stenciling must be applied on both sides of the outer shell or jacket near the center in letters and figures at least 1½ inches high to indicate the safe upper temperature limit, if applicable, for the inner tank, insulation, and the support system.

§ 179.220–27 Certificate of construction.

See § 179.5.

§ 179.221 Individual specification requirements applicable to tank car tanks consisting of an inner container supported within an outer shell.

§ 179.221–1 Individual specification requirements.

In addition to § 179.220, the individual specification requirements for the inner container are as follows:

Specification	115A60W1	115A60ALW	115A60W6
Inner container material (see § 179.220–7)	Steel	Al alloy	Alloy steel.
Bursting pressure, p.s.i. (see § 179.220–8)	240	240	240.
Minimum plate thickness, shell and heads, inches (see § 179.220–6).	½	5/16	½.
Minimum expansion capacity (see § 179.220–16).	2 percent in tank	2 percent in tank	2 percent in tank.
Test pressure, p.s.i. (see § 179.220–23)	60	60	60.
Safety relief device (see § 179.220–19)	Valve or vent	Valve or vent	Valve or vent.
Valve start-to-discharge pressure, p.s.i. (±3 p.s.i.).	35	35	35.
Valve vapor tight pressure (minimum, p.s.i.)	28	28	28.
Valve flow rating pressure (maximum, p.s.i.).	45	45	45.
Vent rupture pressure (maximum, p.s.i.)	45	45	45.
Gaging devices (see § 179.220–17)	Required	Required	Required.
Top loading and unloading devices (see § 179.220–17).	Optional	Optional	Optional.

This amendment is effective December 31, 1971, however, compliance with the regulations as amended herein is authorized immediately.

(Secs. 831–835, title 18, U.S.C.; sec. 9, Department of Transportation Act, 49 U.S.C. 1657)

Issued in Washington, D.C., on October 29, 1971.

G. H. READ,
Captain, Alternate Board Member for the U.S. Coast Guard.

MAC E. ROGERS,
Board Member for the Federal Railroad Administration.

[FR Doc.71–16129 Filed 11–5–71;8:45 am]

[Docket No. HM–90; Amdts. Nos. 173–59, 179–10]

PART 173—SHIPPERS

PART 179—SPECIFICATIONS FOR TANK CARS

Miscellaneous Amendments

The purpose of this amendment to the Department's Hazardous Materials Regulations is to update tank car specification requirements and to add new tank car specifications.

On August 25, 1971, the Hazardous Materials Regulations Board published Docket No. HM–90; Notice No. 71–24 (36 F.R. 16680) proposing these changes. A supplemental notice in this docket was published on September 23, 1971 (36 F.R. 18873), concerning bottom outlets on class 114A tank cars. Several comments were received.

Many of the commenters suggested editorial changes to improve on the language or the format proposed by the Board. These comments were very helpful in clarifying the intent of the regulations. The Board adopted a large portion of them.

Several comments appeared to be presented as editorial in nature but actually were not because the changes suggested would have resulted in substantial revision of materiel or construction requirements. Changes suggested but not adopted were in §§ 179.100–7(a), 197.-200–7(b), 179.200–7(f), and 179.300–7(a) concerning elongation criteria for ASTM materials, § 179.102–1 concerning examination of certain fillet welds, § 179.102–4 concerning vinyl fluoride, § 179.102–18 concerning hydrogen chloride, and § 179.-200–22(c) concerning testing on other than rubber-lined tanks:

Other commenters suggested changes that were not only substantial but actually introduced new factors for evaluation on which the public should be afforded the opportunity to comment. Such changes concerned §§ 179.101–1(a) and 179.201–1(a) regarding steel and aluminum equivalencies, § 179.202–15 regarding certain tank cars in formic acid service, and § 179.300–7(a) regarding the addition of new materials. If after review of these amendments commenters are of the opinion that further consideration should be given to their comments for inclusion in future rule making, they should advise the Board.

Several comments were received regarding the Board's proposal to remove bottom outlets on class 114A tank cars. These outlets are now authorized in the regulations on DOT–114A340W tank cars. The Board now considers this a matter for separate rule making and intends to reopen the issue in a future rule making action. This will enable the Board to clearly present its reasons and conclusions to the public. Therefore, since the Board wants to be certain that proper consideration is given this subject, it is not changing the present construction requirements for the class 114A tank car.

One commenter specifically proposed that the markings "Ethylene Oxide and Propylene Oxide Only" be authorized as well as the individual marking "Ethylene Oxide Only." The Board has not amended the rule as requested but will give consideration to such a petition upon the submission of detailed data on the safe interchangeability of these products including information on cleaning between changes, if such is the practice.

Another commenter requested to know if cold ammonia would continue to be authorized in class 119A (interim proposed designation for a DOT tank car specification) tank cars under special permit since specification 119A was not covered by this docket. This class car was not a subject of this rule making action. By these amendments the Board

does not intend to preclude consideration of class 119A tank cars in ammonia service.

In consideration of the foregoing, 49 CFR Parts 173 and 179 are amended as follows:

1. In § 173.119 paragraphs (a)(12), (e)(2), (f)(4), and the introductory text of paragraph (h), tank car 111A60ALW is deleted and 111A60ALW1 is added in place thereof.

2. In § 173.264, paragraph (b)(2) is amended to read as follows:

§ 173.264 Hydrofluoric acid.

• • • • •

(b) • • •

(2) Specification 105A300W, 112A400W, 114A400W, or ARA–V [1] (§§ 179.100, 179.101, 179.102 of this chapter). Tank car equipped with special valves and appurtenances approved (§ 179.3 of this chapter) for this service. The filling density may not exceed 90 percent of the pounds water weight capacity of the tank.

• • • • •

3. In § 173.314 paragraph (c) table, car "114A400W" is inserted after car 112A400W in the third column of the following entries:

Butadiene (pressure not exceeding 800 pounds per square inch at 115° F.), inhibited.

Liquefied petroleum gas (pressure not exceeding 300 pounds per square inch at 115° F.).

4. In Part 179 Table of Contents, Subpart C and §§ 179.200, 179.300, and 179.302 are amended to read as follows:

Subpart C—Specifications for Pressure Tank Car Tanks (Classes DOT–105, 109, 112, and 114)

Sec.

179.200 General specifications applicable to nonpressure tank car tanks (Classes DOT–103, 104, 111).

179.300 General specifications applicable to multiunit tank car tanks designed to be removed from car structure for filling and emptying. (Classes DOT–106A and 110A–W).

179.302 Special commodity requirements for multiunit tank car tanks.

5. In § 179.2, paragraph (a)(4) is amended to read as follows:

§ 179.2 Definitions and abbreviations.

(a) • • •

(4) "DOT" and "Department" mean Department of Transportation.

• • • • •

6. Section 179.5 is amended to read as follows:

§ 179.5 Certificate of construction.

(a) Except as provided in paragraph (b) of this section, before a tank car is placed in service, the party assembling the completed car shall furnish a Certificate of Construction, Form AAR 4–2 to the owner, the Bureau of Explosives (as required by § 179.5(d)), and the Secretary, Mechanical Division, AAR, certifying that the tank, equipment, and car completed comply with all the requirements of the specification.

(b) Before a tank of Class DOT–106A, 107A, or 110A is placed in service, the builder must furnish a Certificate of Construction, Form AAR 4–2 to the owner, the Bureau of Explosives (as required by paragraph (d) of this section), and the Secretary, Mechanical Division, AAR, in addition to a Certificate of Inspector's Report as required in § 179.300–20 and § 179.500–18 in prescribed form certifying that the tank and appurtenances comply with all the requirements of the specifications.

(c) If the owner elects to furnish the appurtenances such as valves and safety devices, the owner shall furnish to the Bureau of Explosives, and to the Secretary, Mechanical Division, AAR, a report in prescribed form, certifying that the appurtenances comply with all the requirements of the specifications.

(d) When cars or tanks which are covered on one application and are identical in all details are built in series, one certificate shall suffice for each series when submitted to the Secretary. One copy of the Certificate of Construction must be furnished to the Bureau of Explosives for each car number or consecutively numbered group or groups covered by the original application.

7. Section 179.6 is amended to read as follows:

§ 179.6 Repairs and alterations.

For procedure to be followed in making repairs or alterations, see Appendix R of the AAR Specifications for Tank Cars.

8. In § 179.12–2, paragraph (b) is amended to read as follows:

§ 179.12 Interior heater systems.

§ 179.12–2 Materials and dimensions.

• • • • •

(b) Piping must be not less than 2 inches IPS. Tubing must be not less than 2⅜ inches outside diameter and the wall thickness must be at least equivalent to the corresponding pipe size. Material specifications and nominal wall thickness must be as follows:

Material	Nominal thickness minimum [1]		Specifications ASTM
	2 inches	Over 2 inches	
Carbon steel	0.175	Schedule 40	A53–69a, A192–69, A178–70.
Alloy steel	Schedule 40S	Schedule 40S	A312–70, A269–69.
Aluminum	Schedule 80	Schedule 80	B241–69, B210–70, B221–69.
Nickel	Schedule 40	Schedule 40	B161.70.

[1] Thickness must be increased 25 percent or to next higher schedule, whichever is less, when threaded joints are used.

• • • • •

9. Subpart C heading is amended to read as follows:

Subpart C—Specifications for Pressure Tank Car Tanks (Classes DOT–105, 109, 112, and 114)

10. In § 179.100–3 paragraph (a), the last sentence is amended to read as follows: "Other openings in the tank are prohibited, except as provided in Part 173 of this chapter, §§ 179.100–14, 179.101–1(a) Table Note 10, § 179.102 or § 179.103." In § 179.100–4, paragraph (a) is amended; in § 179.100–6, paragraph (a) is amended; §§ 179.100–7 and 179.100–10 are amended; in § 179.100–12, paragraphs (a) and (c) are amended; in § 179.100–13, paragraph (e) is added; in § 179.100–14, paragraphs (a)(1) and (3) are amended, paragraph (a)(5) is redesignated (a)(6), a new paragraph (a)(5) is added; in § 179.100–15, paragraphs (a), (b), and (c) are amended; in § 179.100–16, the heading is amended, paragraph (a) is redesignated paragraph (b), a new paragraph (a) is added; in § 179.100–20 paragraph (a) Table, the second entry is amended to read: "Material • • • ASTM A515–70"; in § 179.100–21, paragraph (b) is added to read as follows:

§ 179.100 General specification applicable to pressure tank car tanks.

§ 179.100–4 Insulation.

(a) If insulation is applied, the tank shell and manway nozzle must be insulated with an approved material. The entire insulation must be covered with a metal jacket of a thickness not less than 11 gage (0.1196 inch) nominal (Manufacturers' Standard Gage) and flashed around all openings so as to be weathertight. The exterior surface of a carbon steel tank, and the inside surface of a carbon steel jacket must be given a protective coating except that a protective coating is not required when foam-in-place insulation that adheres to the tank or jacket is applied.

• • • • •

§ 179.100–6 Thickness of plates.

(a) The wall thickness after forming of the tank shell and heads must not be less than that specified in § 179.101, nor that calculated by the following formula:

$$t = \frac{Pd}{2SE}$$

where:

d = Inside diameter in inches;
E = 1.0 welded joint efficiency; except for heads with seams = 0.9;
P = Minimum required bursting pressure in p.s.i.;
S = Minimum tensile strength of plate material in p.s.i., as prescribed in § 179.100–7;
t = Minimum thickness of plate in inches after forming.

• • • • •

§ 179.100–7 Materials.

(a) Steel plate: Steel plate materials used to fabricate tank shell and manway nozzle must comply with one of the following specifications with the indicated minimum tensile strength and elongation in the welded condition. The maximum allowable carbon content must be 0.31 percent when the individual specification allows carbon greater than this amount. The plates may be clad with other approved materials.

Specifications	Minimum tensile strength (p.s.i.) welded condition [1]	Minimum elongation in 2 inches (percent) welded condition (longitudinal)
ASTM A 515–70, Gr. 55	55,000	23
ASTM A 515–70, Gr. 60	60,000	25
ASTM A 515–70, Gr. 65	65,000	20
ASTM A 515, 70, Gr. 70	70,000	20
ASTM A 285–70a, Gr. A	45,000	29
ASTM A 285–70a, Gr. B	50,000	20
ASTM A 285–70a, Gr. C	55,000	20
ASTM A 516–70a, Gr. 55	55,000	23
ASTM A 516–70a, Gr. 60	60,000	25
ASTM A 516–70a, Gr. 65	65,000	20
ASTM A 516–70a, Gr. 70	70,000	20
AAR TC128–70, Gr. A and B	81,000	19
ASTM A 537–70, Gr. A	70,000	23
ASTM A 302–70a, Gr. B	80,000	20

[1] Maximum stresses to be used in calculations.

(b) Aluminum alloy plate: Aluminum alloy plate material used to fabricate tank shell and manway nozzle must be suitable for fusion welding and must comply with one of the following specifications with its indicated minimum tensile strength and elongation in the welded condition.

Specifications	Minimum tensile strength (p.s.i.) 0 temper, welded condition [1] [2]	Minimum elongation in 2 inches (percent) 0 temper, welded condition (longitudinal)
ASTM B 209–70, Alloy 5052 [3]	25,000	18
ASTM B 209–70, Alloy 5083 [3]	38,000	16
ASTM B 209–70, Alloy 5086 [3]	35,000	14
ASTM B 209–70, Alloy 5154 [3]	30,000	18
ASTM B 209–70, Alloy 5254 [3]	30,000	18
ASTM B 209–70, Alloy 5454 [3]	31,000	18
ASTM B 209–70, Alloy 5652 [3]	25,000	18
ASTM B 209–70, Alloy 6061 [4]	[5] 24,000	[5] 8

[1] For fabrication, the parent plate material may be 0, H112, or H32 temper, but design calculations must be based on minimum tensile strength shown.
[2] 0 temper only.
[3] Weld filler metal 5556 must not be used.
[4] Not authorized for tank shells, manways or domes.
[5] T6 temper only.
[6] Maximum stress to be used in calculations.

(c) All attachments welded to tank shell must be of approved material which is suitable for welding to the tank.

• • • • •

§ 179.100–10 Postweld heat treatment.

(a) After welding is complete, steel tanks and all attachments welded thereto must be postweld heat treated as a unit in compliance with the requirements of AAR Specifications for Tank Cars, Appendix W.

(b) For aluminum tanks, postweld heat treatment is prohibited.

• • • • •

§ 179.100–12 Manway nozzle, cover and protective housing.

(a) Manway nozzles must be of approved design of forged or rolled steel for steel tanks or of fabricated aluminum alloy for aluminum tanks, with access opening at least 16 inches inside diameter, or at least 14 inches by 18 inches obround or oval. Nozzle must be welded to the tank and the opening reinforced in an approved manner in compliance with the requirements of AAR Specifications for Tank Cars, Appendix E, Figure E10.

• • • • •

(c) Except as provided in § 179.103, protective housing of cast, forged or fabricated approved materials must be bolted to manway cover with not less than twenty ¾-inch studs. The shearing value of the bolts attaching protective housing to manway cover must not exceed 70 percent of the shearing value of bolts attaching manway cover to manway nozzle. Housing must have steel sidewalls not less than three-fourths inch in thickness and must be equipped with a metal cover not less than one-fourth inch in thickness that can be securely closed. Housing cover must have suitable stop to prevent cover striking loading and unloading connections and be hinged on one side only with approved riveted pin or rod with nuts and cotters. Openings in wall of housing must be equipped with screw plugs or other closures.

§ 179.100–13 Venting, loading, and unloading valves, measuring and sampling devices.

• • • • •

(e) Bottom of tank shell may be equipped with a sump or siphon bowl, or both, welded or pressed into the shell. Such sumps or siphon bowls, if applied, are not limited in size and must be made of cast, forged or fabricated metal. Each sump or siphon bowl must be of good welding quality in conjunction with the metal of the tank shell. When the sump or siphon bowl is pressed in the bottom of the tank shell, the wall thickness of the pressed section must not be less than that specified for the shell. The section of a circular cross section tank to which a sump or siphon bowl is attached need not comply with the out-of-roundness requirement specified in AAR Specifications for Tank Cars, Appendix W, W14.06. Any portion of a sump or siphon bowl not forming a part of cylinder of revolution must have walls of such thickness and be so reinforced that the stresses in the walls caused by a given internal pressure are no greater than the circumferential stress which would exist under the same internal pressure in the wall of a tank of circular cross section designed in accordance with § 179.100–6(a). In no case less than that specified in § 179.101–1(a).

§ 179.100–14 Bottom outlets.

(a) • • •

(1) On newly built and empty cars with truck centers through 60 feet, 6 inches, the extreme projection of the bottom washout equipment must be at least 12 inches above the top of rail on level track. On cars with truck centers greater than 60 feet, 6 inches, the minimum rail clearance must be in accordance with the graph in Appendix E of the AAR Specifications for Tank Cars.

• • • • •

(3) If bottom washout nozzle extends 6 inches or more from shell of tank, a "V" groove must be cut (not cast) in the upper part of the nozzle at a point immediately below the lowest part of inside closure seat or plug to a depth that will leave wall thickness of nozzle at the root of the "V" not over one-fourth inch. Where nozzle is not a single piece, provision must be made for the equivalent of the breakage groove. The nozzle must be of a thickness to insure that accidental breakage will occur at or below the "V" groove or its equivalent. On cars without continuous center sills, the breakage groove or its equivalent must not be more than 15 inches below the tank shell. On cars with continuous center sills, the breakage groove or its equivalent must be above the bottom of the center sill construction.

• • • • •

(5) The closure of the washout nozzle must be equipped with a ¾-inch solid screw plug. Plug must be attached by at least a ¼-inch chain.

(6) Joints between closures and their seats may be gasketed with suitable material.

• • • • •

§ 179.100–15 Safety relief valves.

(a) The tank must be equipped with one or more safety relief valves of approved design, made of metal not subject to rapid deterioration by the lading. The safety relief valve, or valves, must be mounted on manway cover, except as provided in § 179.103. The total valve discharge capacity must be sufficient to prevent building up pressure in tank in excess of 82½ percent of the tank test pressure or 10 p.s.i. above the start-to-discharge pressure, whichever is higher. The start-to-discharge and vapor-tight pressures must comply with § 179.101 and must not be affected by any auxiliary closure or other combination. For certain commodities, alternate pressures are permitted (see § 179.102–11). See AAR Specifications for Tank Cars, Appendix A, for formula for calculating discharge capacity.

(b) When a safety relief valve is used in combination with a breaking pin device, the breaking pin device must be designed to fail at a pressure of 75 percent of the tank test pressure and safety relief valve must be set for a start-to-discharge pressure of 71 percent of the tank test pressure. However, for spec. DOT–105A500W tanks, the start-to-discharge pressure must be 360 p.s.i. For certain commodities, alternate pressures are permitted (see § 179.102–11).

(c) When a safety relief valve is used in combination with a frangible disc, the frangible disc must be designed to burst at a pressure of 75 percent of the tank test pressure and the safety relief valve

[1] Use of existing tank cars authorized, but new construction not authorized.

must be set for a start-to-discharge pressure of 71 percent of the tank test pressure, as prescribed in § 179.101. Provisions must be made to prevent any accumulation of pressure between the frangible disc and safety relief valve. For certain commodities, alternate pressures are permitted (see § 179.102–11).

§ 179.100–16 Attachments.

(a) Reinforcing pads must be used between external brackets and shells if the attachment welds exceed 6 linear inches of ¼-inch fillet or equivalent weld per bracket or bracket leg. When reinforcing pads are used, they must not be less than one-fourth inch in thickness, have each corner rounded to a 1 inch minimum radius, and be attached to the tank by continuous fillet welds except for venting provisions. The ultimate shear strength of the bracket-to-reinforcing pad weld must not exceed 85 percent of the ultimate shear strength of the reinforcing pad-to-tank weld.

• • • • • •

§ 179.100–21 Stenciling.

• • • • • •

(b) Water capacity stencil is required.

11. In § 179.101–1 paragraph (a), the table is amended in its entirety to read as follows:

§ 179.101 Individual specification requirements applicable to pressure tank car tanks.

§ 179.101–1 Individual specification requirements.

(a) • • •

DOT specifications	105A100ALW	105A100W	105A200ALW	105A200F	105A200W	105A300ALW	105A300W	105A400W	105A500W	105A600W
Material (see 179.100-7)	Al alloy	Steel	Al alloy	Steel	Steel	Al alloy	Steel	Steel	Steel	Steel
Insulation (see 179.100-4)	Required	Required	Required	Required	Required	Required	Required	Required	Required	Required
Bursting pressure, p.s.i. (see 179.100-8)	500	500	500		500	750	750	1,000	1,250	1,500
Minimum plate thickness, inches, shell and heads	5/16	[11] 5/16	5/16	[8] 5/16	[11] 5/16	5/16	[11] 11/16	[11] 11/16	[11] 11/16	[11] 11/16
Test pressure, p.s.i. (see 179.100-10)	100	100	200	See 179.104	200	300	300	400	500	600
Safety relief valves, p.s.i.: [5]	75	75	150	150	150	225	225	300	375	450
Start-to-discharge Pressure, p.s.i.										
Start-to-discharge Tolerance, p.s.i.	±3.0	±3.0	±4.5	±4.5	±4.5	±6.75	±6.75	±9.0	±11.25	±13.5
Vapor tight (minimum) Pressure, p.s.i.	60	60	120	120	120	180	180	240	300	360
Valve flow rating pressure (maximum p.s.i.)	85	85	165	165	165	247.5	247.5	330	412.5	495
Manway cover, thickness, inches (minimum)	[3] 2½	2¼	[3] 2½	2¼	2¼	[3] 2¾	[3] 2¼	[3] 2¼	2¼	2¼
Special references	179.102-3	179.102-3	179.102-3	179.102-3	179.102-3	179.102-3	179.102-2	179.102-3	179.102-1	179.102-1
		179.102-6		179.102-17	179.102-6		179.102-3	179.102-17	179.102-2	179.102-3
		179.102-12			179.104	179.102-17	179.102-5		179.102-3	179.102-4
		179.102-17					179.102-6		179.102-9	179.102-9
		179.102-20					179.102-7		179.102-10	179.102-10
							179.102-8		179.102-14	179.102-17
							179.102-11			
							179.102-13		179.102-16	
							179.102-15			
							179.102-16			
							179.102-17			
Bottom washout	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
Bottom outlet	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited

DOT specifications	109A100ALW	109A200ALW	109A300ALW	109A300W	112A200W	112A340W	112A400F [11]	112A400W	112A500W	114A340W	114A400W
Material (see 179.100-7)	Al alloy	Al alloy	Al alloy	Steel	Steel	Steel	Steel	Steel	Steel	Steel	Steel
Insulation (see 179.100-4)	Optional	Optional	Optional	Optional	[6] None	[6] None		[6] None	[6] None	[6] None	[6] None
Bursting pressure, p.s.i. (see 179.100-8)	500	500	750	750	500	850		1,000	1,250	850	1,000
Minimum plate thickness, inches, shell and heads	5/16	5/16	5/16	[11] 11/16	[11] 5/16	[11] 5/16		[11] 11/16	[11] 11/16	[11] 11/16	[11] 11/16
Test pressure, p.s.i. (see 179.100-10)	100	200	300	300	200	340		400	500	340	400
Safety relief valves, p.s.i.: [5]	75	150	225	225	150	255		300	375	255	300
Start-to-discharge Pressure, p.s.i.											
Start-to-discharge Tolerance, p.s.i.	±3.0	±4.5	±6.75	±6.75	±4.5	±7.65		±9.0	±11.25	±7.65	±9.0
Vapor tight (minimum) Pressure, p.s.i.	60	120	180	180	120	204		240	300	204	240
Valve flow rating Pressure (maximum p.s.i.)	85	165	247.5	247.5	165	280.5		330	412.5	280.5	330
Manway cover, thickness, inches, (minimum)	[3] 2½	[3] 2¾	[3] 2½	2¼	2¼	2¼		2¼	2¼	(7)	(7)
Special references					[10] 179.102-3	[10] 179.102-3		[10] 179.102-3	[10] 179.102-3	179.102-11	179.102-11
					179.102-17	179.102-11		179.102-6	179.102-17	179.103	179.103
						179.102-17		179.102-11		179.102-17	179.102-13
								179.102-13			179.102-17
								179.102-17			
Bottom washout	Optional	Optional	Optional	Optional	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Optional	Optional
Bottom outlet	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Optional	Optional

[1] When steel of 65,000 to 81,000 p.s.i. minimum tensile strength is used, the thickness of plates shall be not less than 5/8 inch, and when steel of 81,000 p.s.i. minimum tensile strength is used, the minimum thickness of plate shall be not less than 9/16 inch.

[2] When approved material other than aluminum alloys are used, the thickness shall be not less than 2¼ inches.

[3] When steel of 65,000 p.s.i. minimum tensile strength is used, minimum thickness of plates shall be not less than 2½ inch.

[4] At least the upper two-thirds of the exterior of the tank, manway nozzle and all appurtenances in contact with this area of the tank shall have a finish coat of white paint.

[5] For inside diameter of 87 inches or less, the thickness of plates shall be not less than ½ inch.

[6] See 179.102-11 for optional sotting for certain commodities.

[7] See AAR specifications for tank cars, appendix E, E4.01 and 179.103-2.

[8] Purposely left blank.

[9] When the use of nickel is required by the lading, the thickness shall not be less than 2 inches.

[10] Each tank head may be equipped with not more than one opening for use in purging tank interior.

[11] Tanks converted to DOT-112A400F from existing forge-welded specification DOT-105A500 tanks by modification using conversion details complying with DOT-112A400W specification requirements, shall be stenciled by substituting the letter "F" for the letter "W" in the specification designation.

12. In § 179.102–1, the introductory text of paragraph (a) and paragraph (a)(1) are amended; in § 179.102–2, paragraph (a)(4) is amended; in § 179.102–3, paragraph (a) is amended; in § 179.102–5, the introductory text of paragraph (a) is amended; in § 179.102–6, paragraph (a) is amended; in § 179.102–7, the introductory text of paragraph (a) is amended; in § 179.102–8, the heading and the introductory text of paragraph (a) are amended; in § 179.102–9 and § 179.102–10, the introductory text of paragraph (a) is amended; § 179.102–11 is amended; §§ 179.102–12 through 179.102–17 and 179.102–20 are added to read as follows:

§ 179.102 Special commodity requirements for pressure tank car tanks.

§ 179.102–1 Liquefied carbon dioxide.

(a) Tank cars used to transport liquefied carbon dioxide must comply with the following special requirements:

(1) All plates for tank, manway nozzle and anchorage of tanks used in the transportation of liquid carbon dioxide must be made of carbon steel complying with ASTM Specification A300–68, Class 1. Impact specimens must be Type A Charpy V-notch as shown in ASTM Specification A370–68 and must meet the impact requirements at minus 50° F. using steel meeting requirements of ASTM Specification A516–70a, Grade 55, 60, 65, or 70, or AAR Specification TC128–70, Grade B. Production-welded test plates prepared as required by W4.00 of AAR Specifications for Tank Cars, Appendix W, must include impact test specimens of weld metal and head-affected zone.

• • • • • •

§ 179.102–2 Chlorine.

(a) • • •

(4) Tanks must be fabricated from carbon steel complying with ASTM Specification A516–70a, Grade 70, or AAR Specification TC–128–70, Grade A or B.

• • • • • •

§ 179.102–3 Liquefied flammable gases.

(a) Any authorized tank car used to transport liquefied flammable gases must comply with the following special requirements:

(1) The interior pipes of the loading and unloading valves and sampling valves, also the gaging device when it provides a means for passage of the lading from the interior to the exterior of the tank, must be equipped with excess flow valves of an approved design. If the opening for passage of lading through the gaging device is not more than 0.060-inch diameter, an excess flow valve is not required.

(2) The protective housing cover must be provided with an opening above each safety relief valve which must be concentric with the discharge of the valve and have an area at least equal to the valve outlet area. Each opening must be provided with a weatherproof cover designed for vertical discharge.

(3) Gaskets for manway cover plates and for mounting of fittings must be asbestos type or approved high-temperature resistant equivalent.

• • • • • •

§ 179.102–5 Nitrosyl chloride.

(a) Tank cars used to transport nitrosyl chloride must comply with the following special requirements:

• • • • • •

§ 179.102–6 Vinyl chloride or vinyl methyl ether, inhibited.

(a) Tank cars used to transport vinyl chloride, or vinyl methyl ether, inhibited, must comply with the following special requirements:

(1) All parts of valves and safety relief devices in contact with the lading must be of a metal or other material suitably treated, if necessary, which will not cause formation of any acetylides.

(2) The interior pipes of the loading and unloading valves and sampling valve, also the gaging device when it provides a means for passage of the lading from the interior to the exterior of the tank, must be equipped with excess flow valves of an approved design. If the opening for passage of lading through the gaging device is not more than 0.060 inch diameter, an excess flow valve is not required.

(3) For vinyl chloride in spec. DOT–105A200W tank cars, openings in tank heads to facilitate nickel lining are authorized if closed in an approved manner.

(4) For alternate safety relief valve settings, see § 179.102–11.

(5) For gasket requirements, see § 179.102–11(b).

§ 179.102–7 Bromine.

(a) Tank cars used to transport bromine must comply with the following special requirements:

• • • • • •

§ 179.102–8 Motor fuel antiknock compound.

(a) Tank cars used to transport motor fuel antiknock compounds must comply with the following special requirements:

• • • • • •

§ 179.102–9 Nitrogen tetroxide or nitrogen tetroxide-nitric oxide mixtures.

(a) Tank cars used to transport nitrogen tetroxide or nitrogen tetroxide-nitric oxide mixtures must comply with the following special requirements:

• • • • • •

§ 179.102–10 Hydrocyanic acid.

(a) Tank cars used to transport hydrocyanic acid must comply with the following special requirements:

• • • • • •

§ 179.102–11 Liquefied petroleum gas, butadiene, anhydrous ammonia, methylacetylene-propadiene, stabilized, or vinyl chloride.

(a) Tank cars used to transport liquefied petroleum gas, butadiene, anhydrous ammonia, methylacetylene-propadiene, stabilized, or vinyl chloride may as an alternate comply with the following special requirements:

(1) Safety relief valves may be set to the following pressures, provided the total valve discharge capacity is sufficient to prevent building up pressure in the tank in excess of 90 percent of the tank test pressure.

Safety relief valves, p.s.i.	DOT specifications 105A300W	112A340W, 114A340W	112A400W, 114A400W
Start-to-discharge pressure	247.5	280.5	330
Start-to-discharge tolerance	±7.5	±8.4	±10
Vapor tight pressure (minimum)	196	224	264
Flow rating pressure	270	306	360

(b) Gaskets for manway covers and for mounting of fittings must be asbestos type or approved high-temperature resistant equivalent.

§ 179.102–12 Ethylene oxide.

Tank cars used to transport ethylene oxide must be registered and jackets stenciled DOT–105A100 or DOT–105A100W and equipped with the safety relief valve required by such specifications. Tanks may have openings in the heads to facilitate nickel lining provided openings are closed in an approved manner. No copper or copper bearing alloys shall be used in any part of the tank or appurtenances if such part is normally in contact with ethylene oxide liquid or vapor. Tank jacket must be stenciled on both sides in letters not less than 1½ inches high "Ethylene Oxide Only."

§ 179.102–13 Hydrofluoric acid, anhydrous.

(a) Tank cars used to transport hydrofluoric acid, anhydrous, must comply with the following special requirements:

(1) Tanks must be equipped with valves and appurtenances approved for this particular service, made of metal not subject to rapid deterioration by the lading. For safety relief valves, see § 179.100–15 (b) and (c).

(2) For spec. DOT–114A400W tanks, valves and fittings must be located on the top of the tank.

(3) Bottom opening in tank prohibited.

§ 179.102–14 Acrolein inhibited.

Tank cars used to transport acrolein inhibited must be spec. DOT–105A300W, or higher rated tanks registered and jackets stenciled DOT–105A200W and must be equipped with the safety relief valve required by that specification. Jackets must be stenciled on both sides in letters not less than 1½ inches high "Acrolein Only."

§ 179.102–15 Sodium, metallic.

Tank cars used to transport metallic sodium must have exterior heater coils fusion welded to tank shell.

§ 179.102–16 Sulfur trioxide stabilized.

Tank cars used to transport sulfur trioxide stabilized must be equipped with

safety relief valves of approved design. Tanks equipped with interior heating coils not permitted.

§ 179.102–17 Flammable liquids not specifically provided for.

Tank cars used to transport flammable liquids not specifically provided for may be equipped with openings in tank heads to facilitate application of lining provided openings are closed in approved manner.

* * * * *

§ 179.102–20 Dimethyl hydrazine unsymmetrical.

Tank cars used to transport dimethyl hydrazine may have openings in the heads to facilitate nickel lining provided openings are closed in an approved manner. Class DOT–105AW tank cars used to transport dimethyl hydrazine unsymmetrical must be stenciled DOT–105A100W. Tanks must be equipped with steel or stainless steel safety relief valves of the type and size used on spec. DOT–105A100W tank cars.

13. In § 179.103–3, paragraphs (b) and (c) are amended; § 179.103–4 is amended; § 179.103–5 is added to read as follows:

§ 179.103 Special requirements for class 114A * * * tank car tanks.

* * * * *

§ 179.103–3 Venting, loading and unloading valves, measuring and sampling devices.

* * * * *

(b) These valves and appurtenances must be grouped in one location and, except as provided in § 179.103–5, must be equipped with a protective housing with cover, or may be recessed into tank shell with cover. An additional set grouped in another location may be provided. Protective housing with cover, when used, must have steel sidewalls not less than three-fourths inch in thickness and a metal cover not less than one-fourth inch in thickness that can be securely closed. Underframe sills are an acceptable alternate to the protective housing cover, provided the arrangement is of approved design. For fittings recessed into tank shell, protective cover must be metal and not less than one-fourth inch in thickness.

(c) When tank car is used to transport liquefied flammable gases, the interior pipes of the loading, unloading, and sampling valves must be equipped with excess flow valves of approved design except when quick closing internal valves of approved design are used. When the interior pipe of the gaging device provides a means for the passage of lading from the interior to the exterior of the tank, it must be equipped with an excess flow valve of approved design or with an orifice not exceeding 0.060 inch.

§ 179.103–4 Safety relief devices and pressure regulators.

(a) Safety relief devices and pressure regulators must be located on top of the tank near the center of the car on a nozzle, mounting plate or recess in the shell. Through or stud bolts, if used, must not enter the tank.

(b) Metal guard of approved design must be provided to protect safety relief devices and pressure regulators from damage.

§ 179.103–5 Bottom outlets.

(a) In addition to or in place of the venting, loading and unloading valves, measuring and sampling devices as prescribed in § 179.103–3, tanks may be equipped with approved bottom outlet valves. If applied, bottom outlet valves must meet the following requirements:

(1) When external bottom outlet valve without interior pipes is used in liquefied flammable gas service, the valve opening must be closed with an internal bolted or self-energizing closure of approved design. Protective housing is not required. On cars with center sills, a ball valve may be welded to the outside bottom of the tank or mounted on a pad or nozzle with a tongue and groove or male and female flange attachment, but in no case shall the breakage groove or equivalent extend below the bottom flange of the center sill. On cars without continuous center sills, a ball valve may be welded to the outside bottom of the tank or mounted with a tongue and groove or male and female flange attachment on a pad attached to the outside bottom of the tank. The mounting pad must have a maximum thickness of 2½ inches measured on the longitudinal centerline of the tank. The valve operating mechanism must be provided with a suitable locking arrangement to insure positive closure during transit.

(2) When internal bottom outlet valve is used in liquefied flammable gas service, the outlet of the valve must be equipped with an excess flow valve of approved design, except when a quick-closing internal valve of approved design is used. Protective housing is not required.

(3) Bottom outlet valve must be equipped with a liquid tight closure at its lower end.

(b) Bottom outlet equipment must be of approved design and must meet the following requirements:

(1) On newly built empty cars with truck centers through 60 feet, 6 inches, the extreme projection of the bottom outlet equipment must be at least 12 inches above the top of rail on level track. On cars with truck centers greater than 60 feet, 6 inches, the minimum rail clearance must be in accordance with the graph in Appendix E of the AAR Specifications for Tank Cars. All bottom outlet reducers and closures and their attachments must be secured to car by at least ⅜-inch chain or its equivalent, except that outlet closure plugs may be attached by ¼-inch chain. When the bottom outlet closure is of the combination cap and valve type, the pipe connection to the valve must be closed by a plug, cap, or approved quick-coupling device.

(2) Bottom outlet must be provided with a liquid tight closure at its lowest end.

(3) The valve operating mechanism must be provided with a suitable locking arrangement to insure positive closure during transit.

(4) If outlet nozzle extends 6 inches or more from shell of tank, a breakage groove or its equivalent must be provided immediately below the lowest part of the valve. Breakage groove, if used, must consist of a "V" groove cut (not cast) in the nozzle to depth that will leave thickness of nozzle wall at the root of the "V" not over one-fourth inch. On cars without continuous center sills, the breakage groove or its equivalent must not be more than 15 inches below the tank shell. On cars with continuous center sills, the breakage groove or its equivalent must be above the bottom of the center sill construction.

(5) The valve body must be of a thickness which will insure that accidental breakage of the outlet nozzle will occur at or below the "V" groove, or its equivalent, and will not cause distortion of the valve seat or valve.

14. In § 179.104–1, the heading is amended to read as follows:

§ 179.104 Special requirements for spec. 105A200F tank car tanks.

§ 179.104–1 Tanks built under these specifications must meet the requirements of §§ 179.100, 179.101, and when applicable, § 179.102 and § 179.104.

* * * * *

15. In §§ 179.200 and 179.200–1, the headings are amended in § 179.200–3, paragraph (a) is amended; in § 179.200–4, paragraph (a) is amended; in § 179.200–6, paragraphs (a), (b), (c), (d), (e), and (f) are amended, paragraph (g) is added; § 179.200–7 is amended; in § 179.200–8, paragraphs (a) and (b) are amended, paragraph (c) is canceled; in § 179.200–9, paragraph (a) is amended; in § 179.200–10, paragraph (b) is added; § 179.200–11 is amended; in § 179.200–13, the introductory text of paragraph (d) is amended; in § 179.200–14, paragraph (e)(3) is amended; in § 179.200–15, paragraph (c) is amended; in § 179.200–16, paragraphs (c) and (e) are amended, paragraphs (f) and (g) are added; in § 179.200–17, paragraph (a) and paragraphs (b)(1), (3), and (4) are amended, paragraph (b)(5) is redesignated (b)(6), a new paragraph (b)(5) is added; in § 179.200–19, paragraph (b) is added; in § 179.200–24, paragraph (b) is added to read as follows:

§ 179.200 General specifications applicable to nonpressure tank car tanks (Classes DOT–103, 104, and 111).

§ 179.200–1 Tanks built under these specifications must meet the requirements of §§ 179.200, 179.201, and when applicable § 179.202.

* * * * *

§ 179.200–3 Type.

Tank built under these specifications must be circular in cross section, with formed heads designed convex outward. When specified in § 179.201–1, the tank must have at least one manway or one expansion dome with manway, and such other external projections as are prescribed herein. When the tank is divided into compartments, each compartment must be treated as a separate tank.

§ 179.200–4 Insulation.

(a) If insulation is applied, the tank shell and expansion dome when used must be insulated with an approved material. The entire insulation must be covered with a metal jacket of a thickness not less than 11 gage (0.1196 inch) nominal (Manufacturer's Standard Gage) and flashed around all openings so as to be weather tight. The exterior surface of a carbon steel tank and the inside surface of a carbon steel jacket must be given a protective coating, except that protective coating is not required when foam-in-place insulation that adheres to the tank or jacket is applied.

* * * * *

§ 179.200–6 Thickness of plates.

(a) The wall thickness after forming of the tank shell, dome shell, and of 2:1 ellipsoidal heads must be not less than specified in § 179.201–1, nor that calculated by the following formula:

$$t = \frac{Pd}{2SE}$$

where:

d = Inside diameter in inches;
E = 0.9 Welded joint efficiency; except E = 1.0 for seamless heads;
P = Minimum required bursting pressure in p.s.i.;
S = Minimum tensile strength of plate material in p.s.i. as prescribed in § 179.200–7;
t = Minimum thickness of plate in inches after forming.

(b) The wall thickness after forming of 3:1 ellipsoidal heads must be not less than specified in § 179.201–1, nor that calculated by the following formula:

$$t = \frac{Pd}{2SE} \times 1.83$$

where:

d = Inside diameter in inches;
E = 0.9 Welded joint efficiency; except E = 1.0 for seamless heads;
P = Minimum required bursting pressure in p.s.i.;
S = Minimum tensile strength of plate material in p.s.i. as prescribed in § 179.200–7;
t = Minimum thickness of plate in inches after forming.

(c) The wall thickness after forming of a flanged and dished head must be not less than specified in § 179.201–1, nor that calculated by the following formula:

$$t = \frac{5PL}{6SE}$$

where:

E = 0.9 Welded joint efficiency; except E = 1.0 for seamless heads;
L = Main inside radius to which head is dished, measured on concave side in inches;
P = Minimum required bursting pressure in p.s.i.;
S = Minimum tensile strength of plate material in p.s.i. as prescribed in § 179.200–7;
t = minimum thickness of plate in inches after forming.

(d) If plates are clad with material having tensile strength properties at least equal to the base plate, the cladding may be considered a part of the base plate when determining thickness. If cladding material does not have tensile strength at least equal to the base plate, the base plate alone must meet the thickness requirements.

(e) For a tank constructed of longitudinal sections, the minimum width of bottom sheet of the tank must be 60 inches measured on the arc, but in all cases the width must be sufficient to bring the entire width of the longitudinal welded joint, including welds, above the bolster.

(f) For a tank built of one piece cylindrical sections, the thickness specified for bottom sheet must apply to the entire cylindrical section.

(g) See § 179.200–9 for thickness requirements for a compartmented tank.

§ 179.200–7 Materials.

(a) Plate material used to fabricate the tank and, when used, expansion dome or manway nozzle material, must meet one of the following specifications with the indicated minimum tensile strength and elongation in the welded condition.

(b) Carbon steel plate: The maximum allowable carbon content must be 0.31 percent when the individual specification allows carbon content greater than this amount. The plates may be clad with other approved materials:

Specifications	Minimum tensile strength (p.s.i.) welded condition [1]	Minimum elongation in 2 inches (percent) welded condition (longitudinal)
ASTM A 515–70, Gr. 55	55,000	28
ASTM A 515–70, Gr. 60	60,000	25
ASTM A 515–70, Gr. 65	65,000	20
ASTM A 515–70, Gr. 70	70,000	20
ASTM A 285–70a, Gr. A	45,000	29
ASTM A 285–70a, Gr. B	50,000	29
ASTM A 285–70a, Gr. C	55,000	28
ASTM A 516–70a, Gr. 55	55,000	28
ASTM A 516–70a, Gr. 60	60,000	25
ASTM A 516–70a, Gr. 65	65,000	20
ASTM A 516–70a, Gr. 70	70,000	20
AAR TC128–70, Gr. A and B	81,000	19

[1] Maximum stresses to be used in calculations.

(c) Aluminum alloy plate: Aluminum alloy plate must be suitabe for welding and comply with one of the following specifications:

Specifications	Minimum tensile strength (p.s.i.) 0 temper welded condition [1] [2]	Minimum elongation in 2 inches (percent) 0 temper welded condition (longitudinal)
ASTM B 209–70, Alloy 5052 [3]	25,000	18
ASTM B 209–70, Alloy 5083 [3]	38,000	16
ASTM B 209–70, Alloy 5086 [3]	35,000	14
ASTM B 209–70, Alloy 5154 [3]	30,000	18
ASTM B 209–70, Alloy 5254 [3]	30,000	18
ASTM B 209–70, Alloy 5454 [3]	31,000	18
ASTM B 209–70, Alloy 5652 [3]	25,000	18
ASTM B 209–70, Alloy 6061 [4]	[5] 24,000	[5] 5

[1] For fabrication, the parent plate material may be 0, H112, or H32 temper, but design calculations must be based on minimum tensile strength shown.
[2] 0 temper only.
[3] Weld filler metal 5556 must not be used.
[4] Not authorized for tank shells, manways or domes.
[5] T6 temper only.
[6] Maximum stresses to be used in calculations.

(d) High alloy steel plate: High alloy steel plate must comply with one of the following specifications:

Specification [1]	Minimum tensile strength (p.s.i.) welded condition [2]	Minimum elongation in 2 inches (percent) welded condition (longitudinal)
ASTM A 240–70, Type 304	75,000	30
ASTM A 240–70, Type 304L	70,000	30
ASTM A 240–70, Type 316	75,000	30
ASTM A 240–70, Type 316L	70,000	30
ASTM A 240–70, Type 430A	65,000	22

[1] Maximum stresses to be used in calculations.
[2] High alloy steel materials used to fabricate tank and expansion dome, when used, must be tested in accordance with the following procedures in ASTM Specification A 262–68 titled, "Recommended Practices for Detecting Susceptibility to Intergranular Attack in Stainless Steels," and must exhibit corrosion rates not exceeding the following:

Test procedure	Material	Corrosion rate i.p.m.
Practice B	Types 304, 304L, 316, and 316L.	0.0040
Practice C	Type 304L	.0020
Practice C	Type 430A	.0060

Type 304L and Type 316L test specimens must be given a sensitizing treatment prior to testing. (A typical sensitizing treatment is 1 hour at 1250° F.)

(e) Nickel plate: Nickel plate must comply with the following specification:

Specification	Minimum tensile strength (p.s.i.) welded condition [1]	Minimum elongation in 2 inches (percent) welded condition (longitudinal)
ASTM B 162–69 [2]	40,000	20

[1] Maximum stresses to be used in calculations.
[2] When used as cladding for carbon steel plate, low carbon nickel is required.

(f) Manganese-molybdenum steel plate: Manganese-molybdenum steel plate must be suitable for fusion welding and comply with the following specification:

Specifications	Minimum tensile strength (p.s.i.) welded condition [1]	Minimum elongation in 2 inches (percent) welded condition (longitudinal)
ASTM A 302–69a, Gr. B	80,000	20

[1] Maximum stresses to be used in calculations.

(g) All parts and items of construction in contact with the lading must be made of material compatible with plate material and not subject to rapid deterioration by the lading, or be coated or lined with suitable corrosion resistant material.

(h) All external projections which may be in contact with the lading and all castings, forgings, or fabrications used for fittings or attachments to tank and expansion dome, when used, in contact with lading must be made of material to

an approved specification. See AAR Specifications for Tank Cars, Appendix M, M4.05 for approved material specifications for castings for fittings.

§ 179.200–8 Tank heads.

(a) All external tank heads must be an ellipsoid of revolution in which the major axis must equal the diameter of the shell and the minor axis must be one-half the major axis.

(b) Internal compartment tank heads may be 2:1 ellipsoidal, 3:1 ellipsoidal, or flanged and dished to thicknesses as specified in § 179.200–6. Flanged and dished heads must have main inside radius not exceeding 10 feet, and inside knuckle radius must not be less than 3¾ inches for steel, alloy steel, or nickel tanks, and not less than 5 inches for aluminum alloy tanks.

(c) [Canceled]

§ 179.200–9 Compartment tanks.

(a) When a tank is divided into compartments, by inserting interior heads, interior heads must be inserted in accordance with AAR Specifications for Tank Cars, Appendix E, E7.00, and must comply with the requirements specified in § 179.201–1. Voids between compartment heads must be provided with at least one tapped drain hole at their lowest point, and a tapped hole at the top of the tank. Top hole must be closed, and the bottom hole may be closed, with not less than three-fourths inch nor more than 1½-inches solid pipe plugs having NPT threads.

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§ 179.200–10 Welding.

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(b) Welding is not permitted on or to ductile iron or malleable iron fittings.

§ 179.200–11 Postweld heat treatment.

After welding is complete, postweld heat treatment must be in compliance with the requirements of AAR Specifications for Tank Cars, Appendix W, when specified in § 179.201.1.

• • • • •

§ 179.200–13 Manway ring or flange, safety relief device flange, bottom outlet nozzle flange, bottom washout nozzle flange and other attachments and openings.

• • • • •

(d) Rivets, if used, must comply with AAR Specification M–110–64 or its equivalent, must be compatible with plate material, and must meet the following additional requirements:

• • • • •

§ 179.200–14 Expansion capacity.

• • • • •

(e) • • •

(3) The dome head, if dished, must be dished to a radius not exceeding 96 inches. Thickness of dished dome head must be calculated by the formula in § 179.200–6(c).

• • • • •

§ 179.200–15 Closures for manways.

• • • • •

(c) Manway covers must be of approved cast, forged, or fabricated metals. Malleable iron, if used, must comply with ASTM A47–68, Grade 35018. Cast iron manway covers must not be used.

• • • • •

§ 179.200–16 Gaging devices, top loading and unloading devices, venting and air inlet devices.

• • • • •

(c) A tank may be equipped with a vacuum relief valve of an approved design. Protective housing is not required.

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(e) Bottom of tank shell may be equipped with a sump or siphon bowl, or both, welded or pressed into the shell. Such sumps or siphon bowls, if applied, are not limited in size and must be made of cast, forged, or fabricated metal. Each sump or siphon bowl must be of good welding quality in conjunction with the metal of the tank shell. When sump or siphon bowl is pressed in the bottom of the tank shell, the wall thickness of the pressed section must not be less than that specified for the shell. The section of a circular cross section tank to which a sump or siphon bowl is attached need not comply with the out-of-roundness requirement specified in Appendix W, W14.06, of the AAR Specifications for Tank Cars. Any portion of a sump or siphon bowl not forming a part of a cylinder of revolution must have walls of such thickness and be so reinforced that the stresses in the walls caused by a given internal pressure are not greater than the circumferential stress which would exist under the same internal pressure in the wall of a tank of circular cross section designed in accordance with § 179.200–6 (a) and (d). In no case shall the wall thickness be less than that specified in § 179.201–1(a).

(f) When top loading and discharge devices, or venting and air inlet devices are installed with exposed piping to a removed location, shutoff valves must be applied directly to reinforcing pads or nozzles at their communication through the tank shell, and must be enclosed in a protective housing with provision for a seal. The piping must include breakage grooves, and suitable bracing. Relief valves must be applied to liquid lines for protection in case lading is trapped. Provision must be made to insure closure of the valves while the car is in transit.

(g) Protective housing, when required, must be fabricated of approved material and have cover and sidewalls not less than 0.119 inch in thickness.

§ 179.200–17 Bottom outlets.

(a) If indicated in § 179.201–1, tank may be equipped with bottom outlet. Bottom outlet, if applied, must comply with the following requirements:

(1) On newly built empty cars with truck centers through 60 feet, 6 inches, the extreme projection of the bottom outlet equipment must be at least 12 inches above the top of rail on level track. On cars with truck centers greater than 60 feet, 6 inches, the minimum rail clearance must be in accordance with the graph in Appendix E of the AAR Specifications for Tank Cars. All bottom outlet reducers and closures and their attachments must be secured to car by at least ⅜-inch chain or its equivalent, except that outlet closure plugs may be attached by ¼-inch chain. When the bottom outlet closure is of the combination cap and valve type, the pipe connection to the valve must be closed by a plug, cap, or approved quick coupling device.

(2) Bottom outlet must be of approved construction, and be provided with a liquid-tight closure at its lower end.

(3) On cars with center sills, a ball valve may be welded to the outside bottom of the tank or mounted on a pad or nozzle with a tongue and groove or male and female flange attachment. In no case shall the breakage groove or equivalent extend below the bottom flange of the center sill. On cars without continuous center sills, a ball valve may be welded to the outside bottom of the tank or mounted with a tongue and groove or male and female flange attachment on a pad attached to the outside bottom of the tank. The mounting pad must have a maximum thickness of 2½ inches measured on the longitudinal centerline of the tank. The valve operating mechanism must be provided with a suitable locking arrangement to insure positive closure during transit.

(4) The valve operating mechanism for valves applied to the interior of the tank, and outlet nozzle construction, must insure against the unseating of the valve due to stresses or shocks incident to transportation.

(5) Bottom outlet nozzle of interior valves and the valve body of exterior valves, must be of cast, fabricated, or forged metal. If welded to tank, they must be of good weldable quality in conjunction with metal of tank.

(6) To provide for the attachment of unloading connections, the bottom of the main portion of the outlet nozzle or valve body of exterior valves, or some fixed attachment thereto, must be provided with threaded cap closure arrangement or bolted flange closure arrangement having minimum 1-inch threaded pipe plug or approved quick-coupling device. When two piece quick-coupling devices (i.e., adapter and dust cap) are used on bottom outlet extensions, an inline auxiliary valve must be applied between the bottom outlet valve and the quick-coupling closure. The quick-coupling closure (dust cap) or outlet nozzle wall must be fitted with a minimum 1-inch threaded plug. The auxiliary valve and dust cap may be omitted when the quick-coupling adapter is threaded internally and fitted with a minimum 1-inch plug.

(7) If outlet nozzle extends 6 inches or more from shell of tank, a "V" groove must be cut (not cast) in the upper part of outlet nozzle at a point immediately below lowest part of valve to a depth that will leave thickness of nozzle wall at the root of the "V" not over one-fourth of an inch. The outlet nozzle on interior valves or the valve body on exterior valves may be steam jacketed, in

which case the breakage groove or its equivalent must be below the steam chamber but above the bottom of center sill construction. If outlet nozzle is not a single piece, or if exterior valves are applied, provision must be made for the equivalent of the breakage groove. On cars without continuous center sills, the breakage groove or its equivalent must be not more than 15 inches below the tank shell. On cars with continuous center sills the breakage groove or its equivalent must be above the bottom of the center sill construction.

(8) The flange on the outlet nozzle or the valve body of exterior valves must be of a thickness which will prevent distortion of the valve seat or valve by any change in contour of the shell resulting from expansion of lading, or other causes, and which will insure that accidental breakage of the outlet nozzle will occur at or below the "V" groove, or its equivalent.

(9) The valve must have no wings or stem projecting below the "V" groove or its equivalent. The valve and seat must be readily accessible or removable for repairs, including grinding.

(10) The valve operating mechanism on interior valves must have means for compensating for variation in the vertical diameter of the tank produced by expansion, weight of the liquid contents, or other causes, and may operate from the interior of the tank, but in the event the rod is carried through the dome, or tank shell, leakage must be prevented by packing in stuffing box or other suitable seals and a cap.

(b) • • •

(1) On newly built empty cars with truck centers through 60 feet, 6 inches, the extreme projection of the bottom washout equipment must be at least 12 inches above the top of rail on level track. On cars with truck centers greater than 60 feet, 6 inches, the minimum rail clearance must be in accordance with the graph in Appendix E of the AAR Specifications for Tank Cars.

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(3) If washout nozzle extends 6 inches or more from shell of tank, a "V" groove must be cut (not cast) in the upper part of the nozzle at a point immediately below the lowest part of inside closure seat or plug to a depth that will leave wall thickness of nozzle at the root of the "V" not over one-fourth inch. Where nozzle is not a single piece, provision must be made for the equivalent of the breakage groove. The nozzle must be of a thickness to insure that accidental breakage will occur at or below the "V" groove or its equivalent. On cars without continuous center sills, the breakage groove or its equivalent must not be more than 15 inches below the tank shell. On cars with continuous center sills the breakage groove or its equivalent must be above the bottom of the center sill construction.

(4) The closure plug and seat must be readily accessible or removable for repairs, including grinding.

(5) The closure of the washout nozzle must be equipped with a ¾-inch solid screw plug. Plug must be attached by at least a ¼-inch chain.

(6) Joints between closures and their seats may be gasketed with suitable material.

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§ 179.200–19 Reinforcements, when used, and appurtenances not otherwise specified.

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(b) Reinforcing pads must be used between external brackets and shells if the attachment welds exceed 2 lineal inches of ¼-inch fillet or equivalent weld per bracket or bracket leg. When reinforcing pads are used, they must not be less than one-fourth inch in thickness, have each corner rounded to a 1 inch minimum radius, and be attached to the tank by continuous fillet welds except for venting provisions. The ultimate shear strength of the bracket to reinforcing pad weld must not exceed 85 percent of the ultimate shear strength of the reinforcing pad to tank weld.

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§ 179.200–24 Stamping.

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(b) On Class DOT–111 tank cars, the last numeral of the specification number may be omitted from the stamping; for example, DOT–111A100W.

16. In § 179.201–1 paragraph (a), the entire table is amended; in § 179.201–2 paragraph (a), the sentence preceding the table is amended; in § 179.201–3, paragraphs (a), (b), and (c) are amended; (d), (e), (f), and (g) are added; § 179.201–4 is amended; §§ 179.201–5 and 179.201–6 are amended; in § 179.201–7, paragraph (a) is amended; § 179.201–9 is amended to read as follows:

§ 179.201 Individual specification requirements applicable to nonpressure tank car tanks.

§ 179.201–1 Individual specifications requirements.

(a) • • •

DOT specifications	103A-ALW	103AW	103ALW	103ANW	103BW	103CW	103DW	103EW
Material (see 179.200-7)	Al alloy	Steel	Al alloy	Nickel	Steel	Alloy steel	Alloy steel	Alloy steel.
Insulation (see 179.200-4)	Optional	Optional	Optional	Optional	Optional	Optional	Optional	Optional.
Bursting pressure p.s.i. (See 179.200-5)	240	240	240	240	240	240	240	240.
Minimum Plate thickness inches:								
Shell (see 179.200-6)	½	179.201-2	½	179.201-2	179.201-2	179.201-2	179.201-2	179.201-2.
Heads (see 179.200-6 and 179.200-8)	½	179.201-2	½	179.201-2	179.201-2	179.201-2	179.201-2	179.201-2.
Dome	Required	Required	Required	Required	Required	Required	Required	Required.
Minimum expansion capacity (see 179.200-14)	1 percent in dome.	1 percent in dome.	2 percent in dome.	1 percent in dome.	1 percent in dome.	1 percent in dome.	2 percent in dome.	1 percent in dome.
Test pressure p.s.i. (see 179.200-22)	60	60	60	60	60	60	60	60.
Safety relief devices (see 179.200-18)	Valve or vent.	179.201-7	Valve or vent.	179.201-7	Vent	Valve	Valve or vent.	Valve or vent.
Valve start-to-discharge pressure p.s.i. (±3 p.s.i.).	35	35	35	35		35	35	35.
Valve vapor tight pressure (minimum p.s.i.)	28	28	28	28		28	28	28.
Valve flow rating pressure (maximum p.s.i.)	45	45	45	45		45	45	45.
Vent bursting pressure (maximum p.s.i.)	45	45	45	45	45	45	45	45.
Gaging devices (see 179.200-16)	Optional	Optional	Optional	Optional	Optional	Optional	Optional	Optional.
Top loading and unloading devices (see 179.200-16).	Required (valves optional).	Required (valves optional).	Optional	Required (valves optional).	Required (valves optional).	Required (valves optional).	Optional	Required (valves optional).
Bottom outlet (see 179.200-17(a))	Prohibited	Prohibited	Optional	Prohibited	Prohibited	Prohibited	Optional	Prohibited.
Bottom washout (see 179.200-17(b))	Optional	Optional	Optional	Optional	Prohibited	Prohibited	Optional	Optional.
Closure for manway (see 179.200-15)			179.201-6(a)	179.201-6(d)	179.201-6(b)	179.201-6(c)	179.201-6(a), 179.201-6(c).	179.201-6(c).
Postweld heat treatment (HT) (see 179.200-11).	Prohibited	HT 179.202-6	Prohibited	Not required	HT	HT 179.201-5	HT 179.201-5	HT 179.201-5.
Special references	179.202-10	179.202-7	179.202-1	179.202-8	179.201-3	179.201-4	179.201-4	179.201-4.
	179.202-14	179.202-8	179.202-21	179.202-11	179.202-9	179.202-14	179.202-1	179.202-11.
				179.202-16	179.202-12	179.202-15		
	179.202-21	179.202-11		179.202-17		179.202-19		179.202-18.
		179.202-12				179.202-21		
		179.202-13						
		179.202-16						
		179.202-17						
		179.202-20						
		179.202-22						

DOT specifications	103W	104W	111A60ALW1	111A60ALW2	111A60W1 [1]	111A60W2	111A60W6	111A60W7
Material (see 179.200-7)	Steel	Steel	Al alloy	Al alloy	Steel	Steel	Steel	Alloy steel.
Insulation (see 179.200-4)	Optional	Required	Optional	Optional	Optional	Optional	Optional	Optional.
Bursting pressure p.s.i. (see 179.200-6)	240	240	240	240	240	240	240	240.
Minimum plate thickness inches:								
Shell (see 179.200-6)	179.201-2	179.201-2	¼	¼	7/16	7/16	7/16	7/16.
Heads (see 179.200-6 and 179.200-8)	179.201-2	179.201-2	¼	¼	7/16	7/16	7/16	7/16.
Dome	Required	Required	None	None	None	None	None	None.
Minimum expansion capacity (see 179.200-14)	2 percent in dome.	2 percent in dome.	2 percent in tank.	1 percent in tank.	2 percent in tank.	1 percent in tank.	1 percent in tank.	1 percent in tank.
Test pressure p.s.i. (see 179.200-22)	60	60	60	60	60	60	60	60.
Safety relief devices (see 179.200-18)	Valve or vent.	Valve or vent.	Valve or vent.	Valve or vent.	Valve or vent.	179.201-7	Vent	Valve or vent.
Valve start-to-discharge pressure p.s.i. (±3 p.s.i.)	35	35	35	35	35	35		35.
Valve vapor tight pressure (minimum p.s.i.)	28	28	28	28	28	28		28.
Valve flow rating pressure (maximum p.s.i.)	45	45	45	45	45	45		45.
Vent bursting pressure (maximum p.s.i.)	45	45	45	45	45	45	45	45.
Gaging devices (see 179.200-16)	Optional	Optional	Required	Required	Required	Required	Required	Optional.
Top loading and unloading devices (see 179.200-16).	Optional	Optional	Optional	Required (valves optional).	Optional	Required (valves optional).	Required (valves optional).	Required (valves optional).
Bottom outlet (see 179.200-17(a))	Optional	Optional	Optional	Prohibited	Optional	Prohibited	Prohibited	Prohibited.
Bottom washout (see 179.200-17(b))	Optional	Optional	Optional	Optional	Optional	Prohibited	Prohibited	Prohibited.
Closure for manway (see 179.200-15)	179.201-6(a)	179.201-6(a)	179.201-6(a)		179.201-6(a)		179.201-6(b)	179.201-6(c).
Postweld heat treatment (HT) (see 179.200-11)	HT	HT	Prohibited	Prohibited	HT	HT	HT	HT 179.201-5.
Special references	179.202-1	179.202-1	179.202-1	179.202-21	179.202-2		179.201-3	179.201-4.
	179.202-2				179.202-3			179.202-21.
	179.202-3				179.202-5			
	179.202-4				179.202-6			
	179.202-5							
	179.202-6							
	179.202-19							

DOT specifications	111A100ALW1	111A100ALW2	111A100W1 [1]	111A100W2 [1]	111A100W3	111A100W4	111A100W5	111A100W6	111A60F1, [1] 111A100F1, [1] 111A100F2 [1]
Material (see 179.200-7)	Al alloy	Al alloy	Steel	Steel	Steel	Steel	Steel	Alloy steel	
Insulation (see 179.200-4)	Optional	Optional	Optional	Optional	Required	Required (179.201-11).	Optional	Optional	
Bursting pressure p.s.i. (see 179.200-6)	500	500	500	500	500	500	500	500	
Minimum plate thickness inches:									
Shell (see 179.200-6)	5/16	5/16	7/16	7/16	7/16	7/16	7/16	7/16	
Heads (see 179.200-6 and 179.200-8)	5/16	5/16	7/16	7/16	7/16	7/16	7/16	7/16	
Dome	None	None	None	None	None	None	None	None	
Minimum expansion capacity (see 179.200-14)	2 percent in tank.	1 percent in tank.	2 percent in tank.	1 percent in tank.	2 percent in tank.	173.314(c)	1 percent in tank.	2 percent in tank.	
Test pressure p.s.i. (see 179.200-22)	100	100	100	100	100	100	100	100	
Safety relief devices (see 179.200-18)	Valve or vent.	Valve or vent.	Valve or vent.	179.201-7	Valve or vent.	Valve	Vent	Valve or vent.	
Valve start-to-discharge pressure p.s.i. (±3 p.s.i.)	75	75	75	75	75	75		75	
Valve vapor tight pressure (minimum p.s.i.)	60	60	60	60	60	60		60	
Valve flow rating pressure (maximum p.s.i.)	85	85	85	85	85	85		85	
Vent bursting pressure (maximum p.s.i.)	75	75	75	75	75		75	75	
Gaging devices (see 179.200-16)	Required	Required	Required	Required	Required	Required (179.201-9).	Required	Required	
Top loading and unloading devices (see 179.200-16)	Optional	Required (valves optional).	Optional	Required (valves optional).	Optional (if used, valves required).	Required (valves required).	Required (valves optional).	Optional (if used, valves required).	
Bottom outlet (see 179.200-17(a))	Optional	Prohibited	Optional	Prohibited	Optional	Prohibited	Prohibited	Optional	
Bottom washout (see 179.200-17(b))	Optional	Optional	Optional	Optional	Optional	Prohibited	Prohibited	Optional	
Closure for manway (see 179.200-15)	179.201-6(a)		179.201-6(a)		179.201-6(a)	179.201-6(a)	179.201-6(b)	179.201-6(a), 179.201-6(c).	
Postweld heat treatment (HT) (see 179.200-11)	Prohibited	Prohibited	HT	HT	HT	HT	HT	HT 179.201-5.	
Special references		179.202-21	179.202-1	179.202-6					
			179.202-2	179.203-7	179.202-1	179.201-8	179.201-3	179.201-4	
			179.202-5	179.202-8		179.201-10	179.202-9	179.202-1	
			179.202-6	179.202-11		179.202-1	179.202-12	179.202-14	
				179.202-12		179.202-18			
				179.202-13		179.202-19			
				179.202-16		179.202-20			
				179.202-17					
				179.202-20					
				179.202-22					

[1] Tanks converted to DOT-111A series from existing forge-welded specification. DOT-105A300, 400, or 500 tanks, by modification using conversion details complying with DOT-111A specification requirements, shall be stenciled by substituting the letter "F" for the letter "W" in the specification designation.

§ 179.201–2 Minimum plate thickness.

(a) The minimum plate thickness after forming must be as follows:

* * * * *

§ 179.201–3 Lined tanks.

(a) Rubber-lined tanks.

(1) Each tank or each compartment thereof must be lined with acid-resistant rubber or other approved rubber compound vulcanized on, bonded directly to the metal tank, to provide a nonporous laminated lining, at least 5/32-inch thick, except overall rivets and seams formed by riveted attachments in the lining must be double thickness. The rubber lining must overlap at least 1½ inches at all edges which must be straight and be beveled to an angle of approximately 45°, or butted edges of lining must be sealed with a 3-inch minimum strip of lining having 45° beveled edges.

(2) As an alternate method, the lining may be joined with a skived butt seam then capped with a separate strip of lining 3 inches wide having 45° beveled edges. An additional rubber reinforcing pad at least 4½ feet square and at least ½-inch thick must be applied by vulcanizing to the lining on bottom of tank directly under the manway opening. The edges of the rubber pad must be beveled to an angle of approximately 45°. An opening in this pad for sump is permitted. No lining must be under tension when applied except due to conformation over rivet heads. Interior of tank must be free from scale, oxidation, moisture, and all foreign matter during the lining operation.

(3) Other approved lining materials may be used provided the material is resistant to the corrosive or solvent action of the lading in the liquid or gas phase and is suitable for the service temperatures.

(b) Before a tank car tank is lined with rubber, or other rubber compound, a report certifying that the tank and its equipment have been brought into compliance with spec. DOT–103B, 103BW, 111A60W5, or 111A100W5 must be furnished by car owner to the party who is to apply the lining. A copy of this report in approved form, certifying that tank has been lined in compliance with all requirements of one of the above specifications, must be furnished by party lining tank to car owner. Reports of the latest lining application must be retained by the car owner until the next relining has been accomplished and recorded.

(c) All rivet heads on inside of tank must be buttonhead, or similar shape, and of uniform size. The under surface of heads must be driven tight against the plate. All plates, castings and rivet heads on the inside of the tank must be calked. All projecting edges of plates, castings and rivet heads on the inside of the tank must be rounded and free from fins and other irregular projections. Castings must be free from porosity.

(d) All surfaces of attachments or fittings and their closures exposed to the lading must be covered with at least ⅛-inch acid resistant material. Attachments made of metal not affected by the lading need not be covered with rubber or other acid resistant material.

(e) Hard rubber or polyvinyl chloride may be used for pressure retaining parts of safety vents provided the material is resistant to the corrosive or solvent action of the lading in the liquid or gas phase and is suitable for the service temperatures.

(f) Polyvinyl chloride lined tanks. Tank car tanks or each compartment thereof may be lined with elastomeric polyvinyl chloride having a minimum lining thickness of three thirty-seconds inch.

(g) Polyurethane lined tanks. Tank car tanks or each compartment thereof may be lined with elastomeric polyurethane having a minimum lining thickness of one-sixteenth inch.

§ 179.201–4 Material.

All fittings, tubes, and castings and all projections and their closures, except for protective housing, must also meet the requirements specified in AAR Specifications for Tank Cars, Appendix M, M3.03 (b) and M4.05(d).

§ 179.201–5 Postweld heat treatment and corrosion resistance.

(a) Tanks and attachments welded directly thereto must be postweld heat treated as a unit at the proper temperature except as indicated below. Tanks and attachments welded directly thereto fabricated from ASTM A240–70 Type 430A, Type 304 and Type 316 materials must be postweld heat treated as a unit and must be tested to demonstrate that they possess the corrosion resistance specified in § 179.200–7(d), Footnote 2. Tanks and attachments welded directly thereto, fabricated from ASTM A240–70 Type 304L or Type 316L materials are not required to be postweld heat treated.

(b) Tanks and attachments welded directly thereto, fabricated from ASTM A240–70 Type 304L and Type 316L materials must be tested to demonstrate that they possess the corrosion resistance specified in § 179.200–7(d), Footnote 2.

§ 179.201–6 Manways and manway closures.

(a) The manway cover for spec. DOT 103ALW, 103DW, 103W, 104W, 111A60-ALW1, 111A60W1, 111A100ALW1, 111A-100W1, 111A100W3, or 111A100W6 must be designed to make it impossible to remove the cover while the interior of the tank is subjected to pressure.

(b) The manway cover for spec. DOT 103BW, 111A60W5, or 111A100W5 must be made of a suitable metal. The top, bottom and edge of manway cover must be acid resistant material covered as prescribed in § 179.201–3. Through-bolt holes must be lined with acid resistant material at least one-eighth inch in thickness. Cover made of metal not affected by the lading need not be acid resistant material covered.

(c) The manway ring and cover for spec. DOT–103CW, 103DW, 103EW, 111A60W7, or 111A100W6 must be made of the metal and have the same inspection procedures specified in AAR Specifications for Tank Cars Appendix M, M3.03.

(d) The manway ring for DOT 103 ANW must be made of cast, forged or fabricated nickel and be a good weldable quality in conjunction with the metal of the dome. Manway cover must be made of nickel.

§ 179.201–7 Safety relief devices.

(a) Each tank or compartment must be equipped with a safety vent unless characteristics of the lading require a safety relief valve. These devices must comply with § 179.200–18.

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§ 179.201–9 Gaging device.

A gaging device of an approved design must be applied to permit determining the liquid level of the lading. The gaging device must be made of materials not subject to rapid deterioration by the lading. When the interior pipe of the gaging device provides a means for passage of the lading from the interior to the exterior of the tank, it must be equipped with an excess flow valve of an approved design. If the opening for passage of lading through the gaging device is not more than 0.060 inch diameter an excess flow valve is not required. The gaging device must be provided with a protective housing.

17. In §§ 179.202–1, 179.202–2, and 179.-202–3, paragraph (a) is amended; in § 179.202–4, paragraph (a) is amended by deleting "Spec. 103–W" at the beginning of the paragraph; in §§ 179.202–5, 179.-202–6, 179.202–7, and 179.202–8, paragraph (a) is amended; in § 179.202–9, the heading and paragraph (a) are amended, paragraph (b) is added; in § 179.202–10, paragraph (a) is amended; § 179.202–11 is amended; in § 179.202–12, paragraph (a) is amended, paragraph (b) is added; in § 179.202–13, paragraph (a) is amended; in § 179.202–14, paragraphs (a), (b), and (c) are amended; §§ 179.202–15 through 179.202–19 paragraph (a) is amended; §§ 179.202–20, 179.202–21, and 179.202–22 are added to read as follows:

§ 179.202 Special commodity requirements for nonpressure tank car tanks.

§ 179.202–1 Flammable liquids not specifically provided for.

Tank cars used to transport flammable liquids not specifically provided for must have manway closures so designed that pressure will be released automatically by starting the operation of removing the manway cover. Openings in tank heads to facilitate application of lining are authorized and must be closed in an approved manner. Specifications ARA–III, ARA–IV and ICC–103, DOT–103W, 103ALW, ICC–104, DOT–104W, 111A60ALW1 or 111A100W3, used to transport flammable liquids not specifically provided for, having a vapor pressure exceeding 27 pounds per square inch absolute at 100° F. but not exceeding 40 p.s.i.a. at 100° F., must have their manway closures equipped with approved safeguards making removal of closures from the manway opening practically impossible while car interior is subjected to vapor pressure of lading. These cars must be stenciled on each side of dome in line with the ladders, and in a color contrasting to the color of the dome with the identification mark as prescribed in AAR Specifications for Tank Cars, Appendix C.

§ 179.202–2 Dimethyl dichlorosilane, ethyl dichlorosilane, ethyl trichlorosilane, methyl trichlorosilane, trimethyl chlorosilane, vinyl trichlorosilane, methyl dichlorosilane and trichlorosilane.

Tank cars used to transport dimethyl dichlorosilane, ethyl dichlorosilane, ethyl trichlorosilane, methyl trichlorosilane, trimethyl chlorosilane, vinyl trichlorosilane, methyl dichlorosilane, and Trichlorosilane, must not be equipped with bottom discharge outlet.

§ 179.202–3 Amyl mercaptan, Butyl mercaptan, Ethyl mercaptan, Isopropyl mercaptan, Propyl mercaptan, and Aliphatic mercaptan mixtures.

Tank cars used to transport amyl mercaptan, butyl mercaptan, ethyl mercaptan, isopropyl mercaptan, propyl mercaptan, and aliphatic mercaptan

mixtures must have bottom outlets effectively sealed. Bottom washout permitted.

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§ 179.202–5 Phosphorus, white or yellow.

Tank cars used to transport phosphorus, white or yellow, must be equipped with approved dome fittings, external heater systems and with insulation at least 4 inches in thickness, except that thickness of insulation may be reduced to 2 inches over external heater coils. Bottom washout nozzle of approved design may be applied. Bottom outlet for discharge of lading prohibited.

§ 179.202–6 Cumene hydroperoxide, diisopropylbenzene hydroperoxide and paramenthane hydroperoxide.

Tank cars used to transport cumene hydroperoxide of strength not exceeding 90 percent in a nonvolatile solvent. Paramenthane hydroperoxide of strength not exceeding 60 percent in a nonvolatile solvent and diisopropylbenzene hydroperoxide of strength not exceeding 60 percent in a nonvolatile solvent, must have bottom outlets effectively sealed from the inside.

§ 179.202–7 Titanium tetrachloride, anhydrous.

Tank cars used to transport titanium tetrachloride, anhydrous, must be equipped with safety relief valves. Safety vents not permitted.

§ 179.202–8 Chloracetyl chloride.

Tank cars used to transport chloracetyl chloride must have a nickel cladding of 1/16-inch minimum thickness. Nickel cladding in tanks must have a minimum nickel content of at least 99 percent pure nickel. Specification DOT–103ANW tank cars used to transport chloracetyl chloride must be of solid nickel at least 99 percent pure and all cast metal parts of the tank in contact with the lading must have a minimum nickel content of 96.7 percent.

§ 179.202–9 Hydrochloric (muriatic) acid, hydrochloric (muriatic) acid mixtures, hydrochloric (muriatic) acid solution, inhibited; sodium chlorite solution (not exceeding 42 percent sodium chlorite), and cleaning compounds, liquid, containing hydrochloric (muriatic) acid.

(a) For acids not over 38 percent strength by weight, except hydrochloric (muriatic) acid of not over 22° Baume strength, tank cars may be equipped with safety vent of approved design having a frangible disc with 1/5-inch breather hole in the center, or a safety vent of approved design using carbon discs[1] permitting continuous venting.

(b) Sodium chlorite solution. Specification DOT–103CW tank cars having tanks of Type 304L stainless steel authorized for sodium chlorite solution not exceeding 42 percent sodium chlorite only.

§ 179.202–10 Hydrogen peroxide solution in water exceeding 52 percent by weight.

Tank cars used to transport hydrogen peroxide solution in water exceeding 52 percent by weight, must be equipped with a venting arrangement approved by the Bureau of Explosives.

§ 179.202–11 Phosphorus oxybromide, phosphorus oxychloride, phosphorus trichloride, and thiophosphoryl chloride.

Specification DOT–103ANW tank cars used to transport phosphorus oxybromide, phosphorus oxychloride, phosphorus trichloride, and thiophosphoryl chloride must be solid nickel at least 99 percent pure and all cast metal parts of the tank in contact with the lading have a minimum nickel content of approximately 96.7 percent. Specification DOT–103A tank cars used to transport phosphorus trichloride must be lead-lined steel, or made of steel at least 10 percent nickel clad. Specifications DOT–103AW, 111A100F2, or 111A100W2 tank cars used to transport phosphorus trichloride must be lead-lined steel or made of steel with a minimum thickness of nickel cladding of one-sixteenth inch. Nickel cladding in tanks must have a minimum nickel content of at least 99 percent pure nickel. Specification DOT–103EW tank cars used to transport phosphorus trichloride and thiophosphoryl chloride must have tanks fabricated from Type 316 stainless steel. Unlined specification DOT–103A, 103AW, 111A100F2, or 111A100W2 tank cars authorized for phosphorus trichloride only.

§ 179.202–12 Sulfuric acid of concentrations 65.25 percent (approximately 1.559 specific gravity) (52° Baume) or greater.

(a) Specifications DOT–103A, 103AW, 111A100F2, or 111A100W2 tank cars used for this service may be equipped with safety vent of approved design having a frangible disc with 1/5-inch breather hole in the center.

(b) Specifications DOT–103A, 103AW, 111A100F2, or 111A100W2 tank cars used in oleum and other fuming acids must be equipped with safety vent of approved design. Breather hole in frangible disc prohibited. Safety valve prohibited.

§ 179.202–13 Sulfur trioxide, stabilized.

Tank cars used to transport sulfur trioxide stabilized must be equipped with safety relief valves of approved design. Tanks equipped with interior heating coils not permitted.

§ 179.202–14 Anhydrous hydrazine and hydrazine solutions containing 50 percent or less of water.

(a) Tank cars used to transport anhydrous hydrazine or hydrazine solutions containing 50 percent or less water, must have tanks fabricated of Type 304L stainless steel with molybdenum content not exceeding one-half of 1 percent. Specification DOT–111A100W6 tanks must not be equipped with bottom outlet.

(b) Safety relief valves for specification DOT–103CW tank cars may have a start-to-discharge pressure of 45 p.s.i. with a tolerance of plus or minus 3 p.s.i. and a vapor tight pressure of 36 p.s.i. Refer to AAR Specifications for Tank Cars Appendix A, A8.05.

(c) Specification 103A–ALW tank cars authorized for transporting anhydrous hydrazine only, may have tanks equipped with a safety relief valve having start-to-discharge pressure of not more than 45 p.s.i. with a tolerance of plus or minus 3 p.s.i. and a vapor tight pressure of 36 p.s.i. Refer to AAR Specifications for Tank Cars Appendix A, A8.05.

§ 179.202–15 Formic acid and formic acid solutions.

Tank cars used to transport formic acid and formic acid solutions must be stenciled "Formic Acid Only." Specification DOT–103EW tank car tanks must be fabricated from Type 316 stainless steel.

§ 179.202–16 Monochloroacetic acid, liquid.

Tank cars used to transport monochloroacetic acid, liquid, must have tanks nickel clad at least 20 percent.

§ 179.202–17 Benzyl chloride.

Specification DOT–103ANW tank cars used to transport benzyl chloride must have all cast metal parts in contact with the lading made from metal having a minimum nickel content of 96.7 percent.

§ 179.202–18 Ethylene oxide.

Specifications ARA–IVA and DOT–111A100W4 tank cars used to transport ethylene oxide may have openings in the heads to facilitate nickel lining provided openings are closed in an approved manner. No copper or copper bearing alloys must be used in any part of the tank or appurtenances if such part is normally in contact with ethylene oxide liquid or vapor. Tank jacket must be stenciled on both sides in letters not less than 1½-inches high "Ethylene Oxide Only."

§ 179.202–19 Dimethylhydrazine, unsymmetrical.

Tank cars used to transport dimethylhydrazine, unsymmetrical, must be equipped with steel safety valves of approved design. Specification DOT–103W tank cars must not be equipped with bottom outlets.

§ 179.202–20 Hydrofluoric acid.

Breather hole in frangible disc prohibited.

§ 179.202–21 Nitric acid.

(a) Tank cars used to transport nitric acid must comply with the following requirements:

(1) Bottom washout or bottom outlet is prohibited unless effectively sealed with an approved arrangement to prevent use during loading and unloading of acid.

(2) Safety vent is prohibited.

§ 179.202–22 Mixed acid (nitric and sulfuric acid) (nitrating acid).

Specifications DOT–103A, 103AW, 111A100F1, or 111A100W2 tank cars used in nitrating and other fuming acids service must be equipped with safety vent of approved design. Breather hole in frangible disc prohibited. Safety value prohibited.

18. In § 179.300, the heading is amended; in § 179.300–6, the text in paragraph (a) preceding the formula and line "t" of the formula's explanation are amended; § 179.300–7 is amended; in § 179.300–8, paragraph (b) is amended; in § 179.300–9, paragraphs (a) and (b) are amended; § 179.300–10 is amended; in § 179.300–14, paragraph (a) is amended; in § 179.300–16, the first sentence of paragraph (a) is amended by substituting "postweld heat treatment" for "stress relieving" in the first line; in § 179.300–17, paragraph (b) is amended; in § 179.300–20, paragraph (b) is amended to read as follows:

§ 179.300 General specifications applicable to multiunit tank car tanks designed to be removed from car structure for filling and emptying (classes DOT–106A and 110A–W).

• • • • • •

§ 179.300–6 Thickness of plates.

(a) For class DOT–110A tanks the wall thickness after forming of the cylindrical portion of the tank must not be less than that specified in § 179.301 nor that calculated by the following formula:

• • • • • •

t = minimum thickness of plate material in inches after forming.

• • • • • •

§ 173.300–7 Materials.

(a) Carbon steel plate material used to fabricate tanks having heads fusion welded to tank shell must comply with the following specifications with the indicated minimum tensile strength and elongation in the welded condition. The maximum allowable carbon content must be 0.31 percent when the individual specification allows carbon content greater than this amount. The plates may be clad with other approved materials.

Specifications	Minimum tensile strength (p.s.i.) welded condition [1]	Minimum elongation in 2 inches (percent) welded condition (longitudinal)
ASTM A 285–69 Gr. A	45,000	29
ASTM A 285–69 Gr. B	50,000	29
ASTM A 285–69 Gr. C	55,000	29
ASTM A 515–69 Gr. 65	65,000	29
ASTM A 515–69 Gr. 70	70,000	29

[1] Maximum stresses to be used in calculations.

(b) Carbon steel plate material used to fabricate tanks with forge welded heads must comply with the following specifications:

Specifications	Minimum tensile strength (p.s.i.) welded condition [1]	Minimum elongation in 2 inches (percent) welded condition (longitudinal)
ASTM A 285–69 Gr. A	45,000	29

[1] Maximum stresses to be used in calculations.

(c) All plates must have their heat number and the name or brand of the manufacturer legibly stamped on them at the rolling mill.

§ 173.300–8 Tank heads.

• • • • • •

(b) Class DOT–106A tanks must have forged-welded heads, formed convex to pressure. Heads for forge welding must be torispherical with an inside radius not greater than the inside diameter of the shell. They must be one piece, hot formed in one heat so as to provide a straight flange at least 4 inches long. They must have snug drive fit into the shell for forge welding. The wall thickness after forming must be sufficient to meet the test requirements of §179.300–16 and to provide for adequate threading of openings.

§ 179.300–9 Welding.

(a) Longitudinal joints must be fusion welded. Head-to-shell joints must be forge welded on class DOT–106A tanks and fusion welded on class DOT–110A tanks. Welding procedures, welders and fabricators must be approved in accordance with AAR Specifications for Tank Cars, Appendix W.

(b) Fusion-welded joints must be in compliance with the requirements of AAR Specifications for Tank Cars, Appendix W, except that circumferential welds in tanks less than 36 inches inside diameter need not be radiotaped.

• • • • • •

§ 179.300–10 Postweld heat treatment.

After welding is complete, steel tanks and all attachments welded thereto, must be postweld heat treated as a unit in compliance with the requirements of AAR Specifications for Tank Cars, Appendix W.

• • • • • •

§ 179.300–14 Attachments not otherwise specified.

Siphon pipes and their couplings on the inside of the tank head and lugs on the outside of the tank head for attaching the valve protective housing must be fusion-welded in place prior to postweld heat treatment. All other fixtures and appurtenances, except as specifically provided for, are prohibited.

• • • • • •

§ 179.300–17 Tests of safety relief devices.

• • • • • •

(b) Frangible discs of safety vents must be tested as prescribed in AAR Specifications for Tank Cars, Appendix A, A5.03.

• • • • • •

§ 179.300–20 Reports.

• • • • • •

(b) For builder's Certificate of Construction, see § 179.5 (b), (c), and (d).

19. In § 179.301 paragraph (a), the table is amended by adding "p.s.i." after the following entries.

Start-to-discharge, or burst maximum p.s.i.
Vapor-tight, minimum p.s.i.

20. Section 179.302 is amended to read as follows:

§ 179.302 Special commodity requirements for multiunit tank car tanks.

(a) In addition to §§ 179.300 and 179.301, the following requirements are applicable:

Commodity	Safety relief device	Valve protective housing	Miscellaneous
Chlorine trifluoride	Prohibited [1]	Gas tight [2]	
Chlorpicrin	Prohibited [1]	Gas tight [2]	
Hydrofluoric acid	Prohibited [1]		(4)
Hydrogen sulfide	Prohibited [1]		
Methyl mercaptan	Prohibited [1]	Gas tight [2]	
Nitrogen dioxide liquid	Prohibited [1]	Gas tight [2]	
Nitrogen peroxide liquid	Prohibited [1]	Gas tight [2]	
Nitrogen tetroxide liquid	Prohibited [1]	Gas tight [2]	
Nitrogen tetroxide-nitric oxide mixtures	Prohibited [1]		(4)
Nitrosyl chloride	Fusible plugs required		
Phosgene	Prohibited [1]	Gas tight [2]	
Titanium tetrachloride (anhydrous)	Prohibited [1]		(3) (4)
Vinyl chloride			(4)
Vinyl methyl ether			

[1] When safety relief devices are prohibited, containers may be equipped with solid steel plugs in the safety device openings.
[2] The detachable protective housing for the loading and unloading valves must withstand tank test pressure without leakage and must be approved by the Bureau of Explosives.
[3] All parts of valves and safety relief devices in contact with the lading must be of a metal or other material, suitably treated if necessary, which will not cause formation of any acetylides.
[4] Tanks for nitrosyl chloride must be nickel-clad.
[5] Valve outlets must have gas tight plugs or caps applied.

This amendment is effective December 31, 1971, however, compliance with the regulations, as amended herein, is authorized immediately.

(Secs. 831–835, title 18, U.S.C.; sec. 9, Department of Transportation Act, 49 U.S.C. 1657)

Issued in Washington, D.C. on October 29, 1971.

W. F. REA, III,
Rear Admiral, Board Member for the U.S. Coast Guard.

MAC E. ROGERS,
Board Member for the Federal Railroad Administration.

[FR Doc.71–16130 Filed 11–5–71;8:45 am]

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 71–20 Notice No. 1]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

New Pneumatic Tires and Tire Selection and Rims for Passenger Cars

This amendment adds certain tire sizes and alternative rim sizes to the passenger car tire standard and tire selection and rim standard.

On October 5, 1968, guidelines were published in the FEDERAL REGISTER (33 F.R. 14964) by which routine additions

could be added to Appendix A, Standard No. 109 and to Appendix A, Standard No. 110. Under these guidelines, the addition becomes effective 30 days from date of publication in the FEDERAL REGISTER, if no objections to the proposed additions are received. If objections to the amendment are received, rulemaking pursuant to the procedures for motor vehicle safety standards (49 CFR Part 553) are followed.

The Rubber Manufacturers Association has petitioned for the following:

(1) The addition of the new GR60–14 tire size designation to Table I, Appendix A of Standard No. 109 and the appropriate test and alternative rims to Table I, Appendix A of Standard No. 110.

(2) The addition of the following alternative rims to Table I, Appendix A of Standard No. 110:

(a) The 9–JJ alternative rim size for the G60–15 tire size designation.

(b) The 5–JJ and 6–JJ alternative rim sizes for the FR78–14 tire size designation.

(c) The 8–JJ alternative rim size for the F70–14 tire size designation.

(d) The 5–JJ alternative rim size for the D70–14 tire size designation.

(e) The 7–JJ alternative rim size for the GR70–15 tire size designation.

(f) The 6½–JJ alternative rim size for the 8.25–15 tire size designation.

The European Tyre and Rim Technical Organisation has petitioned for the following:

(1) The addition of the new 230–15, 245/60 R14 and 255/60 R15 tire size designations to Table I, Appendix A of Standard No. 109 and the appropriate test and alternative rims to Table I, Appendix A of Standard No. 110.

(2) The addition of the following alternative rims to Table I, Appendix A of Standard No. 110:

(a) The 9–L alternative rim size for the HR60–15 tire size designation.

(b) The 8K and 8½–L alternative rim sizes for the 225/70 R15 tire size designation.

(c) The 5½–JJ alternative rim size for the 155 R13 tire size designation.

On the basis of the data submitted by the European Tyre and Rim Technical Organisation and the Rubber Manufacturers Association indicating compliance with the requirements of Federal Motor Vehicle Safety Standards No. 109 and No. 110 and other information submitted in accordance with the procedural guidelines, § 571.21 of Part 571 Federal Motor Vehicle Safety Standards, Appendix A of Standard No. 109 and Appendix A of Standard No. 110 are amended to read as set forth below, effective 30 days from date of publication in the FEDERAL REGISTER. (Secs. 103 and 119, National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1392, 1407; delegations of authority at 49 CFR 1.51 and 501.8)

Issued on October 21, 1971.

ROBERT L. CARTER,
Acting Associate Administrator,
Motor Vehicle Programs.

1. The existing Table I–D is deleted and in its place the following revised Table I–D is inserted.

APPENDIX A—FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 109

TABLE I–D

[Amdt. No. 4]

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR DASH (—) RADIAL PLY TIRES

Tire size designation [1]	Maximum tire loads (pounds) at various cold inflation pressures (p.s.i.)													Test rim width (inches)	Minimum size factor (inches)	Section width [2] (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
145–10	495	525	545	565	585	605	625	640	655	670	685	700	710	4½	24.76	5.79
125–12	405	430	445	465	480	495	505	525	535	550	560	575	580	3½	24.68	6.00
135–12	480	510	530	550	565	585	600	620	635	650	665	676	685	4	25.53	5.39
145–12	570	605	625	650	675	695	715	740	760	775	790	805	815	4	26.09	5.79
155–12	630	670	695	720	745	770	795	820	840	860	875	890	905	4½	27.32	6.18
135–13	515	545	565	590	610	630	650	670	690	705	715	730	740	4	26.53	5.39
145–13	605	640	665	695	720	740	765	790	815	830	845	855	870	4	27.61	5.79
155–13	670	710	735	765	790	815	840	870	895	910	925	940	955	4½	28.44	6.18
165–13	700	750	800	850	890	930	970	1,010	1,050	1,090	1,130	1,170	1,200	4½	29.52	6.57
175–13			810	860	920	980	1,040	1,100	1,150	1,200	1,240	1,300	1,350	4½	30.30	6.75
185–13			870	940	1,010	1,080	1,140	1,210	1,270	1,330	1,390	1,450	1,510	5	31.42	7.26
195–13			970	1,040	1,110	1,180	1,250	1,320	1,400	1,450	1,520	1,580	1,640	5½	32.38	7.70
135–14	555	585	610	635	655	675	695	720	740	760	765	780	790	4	27.54	5.39
145–14	645	680	710	735	760	785	810	840	865	885	905	920	935	4	28.54	5.79
155–14	630	680	720	760	800	840	880	920	950	980	1,010	1,040	1,070	4½	29.45	6.18
165–14	740	790	840	890	940	980	1,020	1,060	1,100	1,140	1,180	1,220	1,250	4½	30.53	6.57
175–14			830	900	960	1,030	1,100	1,160	1,220	1,280	1,350	1,400	1,470	5	31.63	7.00
185–14			920	1,000	1,070	1,140	1,220	1,290	1,360	1,420	1,500	1,560	1,640	5	32.58	7.30
195–14			1,020	1,100	1,180	1,270	1,340	1,420	1,500	1,570	1,650	1,720	1,800	5½	33.69	7.80
205–14			1,100	1,180	1,270	1,360	1,450	1,540	1,620	1,700	1,770	1,850	1,940	6	34.82	8.80
215–14			1,200	1,300	1,390	1,510	1,580	1,670	1,770	1,850	1,920	2,010	2,100	6	35.79	8.80
225–14			1,320	1,420	1,510	1,610	1,710	1,800	1,900	1,970	2,060	2,150	2,230	6½	36.44	8.96
125–15	495	525	545	565	585	605	625	640	655	670	685	700	710	3½	27.60	5.00
135–15	585	620	645	670	695	715	735	755	775	795	810	825	840	4	28.83	5.39
145–15	680	720	750	780	805	830	855	875	895	920	940	960	975	4	29.54	5.79
155–15	740	785	815	850	880	905	930	955	980	1,005	1,025	1,045	1,060	4½	30.45	6.18
165–15	770	820	870	920	970	1,020	1,070	1,110	1,150	1,190	1,220	1,270	1,310	4½	31.45	6.57
175–15			900	1,000	1,100	1,150	1,200	1,250	1,300	1,350	1,400	1,440	1,480	5	32.41	7.00
185–15	925	960	1,020	1,090	1,095	1,130	1,170	1,190	1,230	1,260	1,280	1,305	1,325	4½	32.04	6.62
195–15			1,000	1,070	1,140	1,210	1,280	1,350	1,420	1,480	1,540	1,600	1,660	5½	33.56	7.45
205–15			1,090	1,160	1,240	1,330	1,400	1,470	1,550	1,620	1,690	1,760	1,820	6½	34.22	7.65
215–15			1,190	1,280	1,370	1,450	1,530	1,620	1,700	1,780	1,840	1,920	2,000	6	35.20	8.10
225–15			1,280	1,380	1,480	1,570	1,660	1,760	1,850	1,940	2,020	2,100	2,200	6	36.00	8.35
230–15			1,370	1,470	1,580	1,670	1,780	1,880	1,980	2,060	2,150	2,240	2,340	6½	36.94	8.80
235–15			1,405	1,515	1,625	1,725	1,825	1,925	2,020	2,110	2,190	2,280	2,360	6	37.30	8.60
236–15			1,420	1,540	1,640	1,750	1,860	1,960	2,060	2,160	2,260	2,350	2,450	6½	37.75	9.06
185–16			1,140	1,210	1,270	1,330	1,390	1,450	1,500	1,550	1,600	1,650	1,700	5½	34.14	7.40
165–400	800	860	920	980	1,030	1,080	1,130	1,180	1,220	1,260	1,300	1,340	1,380	4.65	33.04	6.62

1. The letter "H", "S", or "V" may be included in any specified tire size designation adjacent to or in place of the "dash".

2. Actual section width and overall width shall not exceed the specified section width by more than 7 percent.
Changes: New size 230–15 added.

2. The existing Table I–R is deleted and in its place the following revised Table I–R is inserted.

APPENDIX A—FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 109

TABLE I–R

[Amdt. No. 4]

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "60 SERIES" RADIAL PLY TIRES

Tire size designation [1]	Maximum tire loads (pounds) at various cold inflation pressures (p.s.i.)													Test rim width (inches)	Minimum size factor (inches)	Section width [2] (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
G R60–14	1,100	1,180	1,250	1,310	1,380	1,440	1,500	1,560	1,620	1,680	1,730	1,780	1,830	7	35.24	9.55
F R60–15	1,020	1,090	1,160	1,220	1,280	1,340	1,400	1,450	1,500	1,550	1,610	1,660	1,700	7	36.02	9.30
G R60–15	1,100	1,180	1,250	1,310	1,380	1,440	1,500	1,560	1,620	1,680	1,730	1,780	1,830	7	35.81	9.55
H R60–15	1,200	1,290	1,380	1,440	1,510	1,580	1,650	1,715	1,770	1,830	1,890	1,950	2,010	7	36.70	10.05

1 The letter "H", "S", or "V" may be included in any specified tire size designation adjacent to or in place of the "dash."
2 Actual section width and overall width shall not exceed the specified section width by more than 7 percent.
Changes: New size GR60–14 added.

3. The existing Table I–S is deleted and in its place the following revised Table I–S is inserted.

APPENDIX A—FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 109

TABLE I–S

[Amdt. No. 2]

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "60 SERIES" RADIAL PLY TIRES

Tire size designation [1]	Maximum tire loads (pounds) at various cold inflation pressures (p.s.i.)													Test rim width (inches)	Minimum size factor (inches)	Section width [2] (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
185/60 R 13			780	815	845	880	915	945	980	1,010	1,045	1,075	1,110	5	28.61	7.28
245/60 R 14	1,020	1,090	1,160	1,220	1,280	1,340	1,400	1,450	1,500	1,550	1,610	1,650	1,700	6½	34.25	9.35
255/60 R 15	1,200	1,290	1,360	1,440	1,510	1,580	1,650	1,710	1,770	1,830	1,890	1,950	2,010	7	36.70	10.05

1 The letter "H", "S", or "V" may be included in any specified tire size designation adjacent to the "R".
2 Actual section width and overall width shall not exceed the specified section width by more than 7 percent.
Changes: New size 245/60 R 14 and 255/60 R 15 added.

1. Delete Table I of Appendix A and insert the following new Table I of Appendix A.

FMVSS No. 110—APPENDIX A

TABLE I

(Amendment No. 22)

ALTERNATIVE RIMS

Tire size [3]	*Rim* [1 2]
Table I–A	
6.00–13	5–JJ, 6–JJ
7.35–14	6–JJ
6.85–15	4½–JJ, 5½–JJ
7.00–15	*5.00F, 5–K*
8.25–15	5–JJ, 5½–JJ, *6–JJ, 6–K, 6–L,* 6½–JJ
8.55–15	5½–JJ, *6–JJ, 6–K, 6–L,* 6½–JJ
8.90–15	6–JJ, 6½–L, 7–L
9.15–15	5½–JJ, 5½–K
L84–15	5½–JJ, 6–JJ, 6½–JJ, 7–JJ
Table I–B	
A70–13	5–JJ, 5½–JJ, 6–JJ
D70–13	5½–JJ, 5½–K
D70–14	5–JJ
E70–14	7–JJ
F70–14	7–JJ, 8–JJ
G70–14	7–JJ
C70–15	5½–JJ
E70–15	7–JJ, 8–JJ
F70–15	8–JJ
G70–15	7–JJ, 7½–K, 8–JJ
H70–15	8–JJ
Table I–C	
4.80–10	3.50D
5.60–14	4½–JJ
6.40–15	4–JJ, 4½–JJ, 4½–*K, 4.50E,* 5.00E, 5–JJ, 5–K, 5½–JJ
155–13/6.15–13	5–JJ
175–13/6.95–13	5½–JJ
5.0–15	3.50B, 3.50D, 3½–JJ, 4–JJ, *4.00C*
5.5–15	3.50D, 3½–JJ, 4–JJ, 4½–JJ
Table I–D	
145–10	3.50B
145–13	3½–JJ, 4½–JJ
165–13	4½–JJ
135–15	4½–JJ
185–15	4½–JJ
230–15	6–JJ, 6½–JJ, 7–JJ
Table I–E	
6.2–13	4½–JJ
6.5–13	4½–JJ, 5–JJ
Table I–F	
5.20–13	4½–JJ
5.60–13	3½–JJ, 4–JJ
6.00–13	4–JJ
5.60–15	5–K

See footnotes at end of table.

Table I–G	
DR70–13	5½–JJ
CR70–14	5½–JJ
DR70–14	6–JJ, 6½–JJ, 6½–K
FR70–15	5½–JJ, 6½–JJ, 7–JJ, 8–JJ
ER70–15	6–JJ, 6½–JJ, 7–JJ
FR70–15	6½–JJ, 7–JJ, 7½–K, 7½–L
GR70–15	6½–JJ, 7–JJ, 7–L, 7½–K, 8–K, 8½–L
HR70–15	6–JJ
JR70–15	6–JJ
LR70–15	6–JJ
Table I–H	
155 R 12	4–JJ
135 R 13	4½–JJ
145 R 13	4½–JJ, 4.50B
155 R 13	4.50B, 5–JJ, 5½–JJ
165 R 13	4–JJ, 4.50B, 5.50B
175 R 13	4–JJ, 5½–JJ
165 R 14	5½–JJ
175 R 14	4½–JJ
205 R 14	7½–K
135 R 15	4½–JJ
165 R 15	5–JJ, 5–K, 5½–JJ
205 R 15	6½–L, 7–L, 7½–K
Table I–J	
A78–13	4–JJ, 4½–JJ, 5–JJ, 5½–JJ, 6–JJ
B78–13	5–JJ
C78–13	5½–JJ
D78–13	5½–JJ
B78–14	4½–JJ, 4½–*K*, 5–JJ, 5–K, 5½–JJ
C78–14	4½–JJ, 5–JJ, 5–K, 5½–JJ, 6–JJ
D78–14	4½–JJ, 5–JJ, 5–K, 5½–JJ, 6–JJ
E78–14	4½–JJ, 5–JJ, 5–K, 5½–JJ, 5½–K, 6–JJ, 6½–JJ, 7–JJ
F78–14	5–JJ, 5–K, 5½–JJ, 5½–K, 6–JJ, 6–K, 6½–JJ, 7–JJ
G78–14	5–JJ, 5½–JJ, 5½–K, 6–JJ, 6–K, 7–JJ
H78–14	5½–JJ, 6–JJ, 6–K, 6½–JJ, 6½–K, 7–JJ
J78–14	6–JJ, 6–K, 6½–JJ
A78–15	4½–JJ
C78–15	4½–JJ, 4½–K, 5–JJ, 5–K
D78–15	5–JJ, 5–K
E78–15	4½–K, 5–JJ 5–K, 5½–JJ, 5½–K, 6–JJ
F78–15	4½–K, 5–JJ, 5–K, 5½–JJ, 5½–K, 6–JJ
G78–15	5–JJ, 5–K, 5½–JJ, 5½–K, 6–JJ, 6–K, 6–L, 6½–JJ, 7–JJ
H78–15	5½–JJ, 5½–K, 6–JJ, 6–K, 6–L, 6½–K, 6½–JJ, 7–JJ
J78–15	5½–JJ, 6–JJ, 6–K, 6–L, 6½–JJ, 7–JJ
L78–15	5½–JJ, 5½–K, 6–JJ, 6–K, 6–L, 6½–JJ, 7–JJ, 8–JJ
N78–15	6–JJ, 7–JJ

Table I–K	
E60–14	7–JJ
F60–14	7–JJ
G60–14	7–JJ
J60–14	7–JJ, 7½–JJ
H60–14	6½–JJ, 7–JJ
L60–14	8–JJ
E60–15	6–JJ, 7–JJ, 8–JJ
F60–15	6½–JJ, 7–JJ, 8–JJ
G60–15	7–JJ, 8–JJ, 9–JJ
H60–15	7–JJ
J60–15	7–JJ, 7½–JJ
L60–15	7–JJ, 7½–JJ
Table I–L	
E50C–16	3½
F50C–16	3½
G50C–17	3½
H50C–17	3½
L50C–16	3½, 4
Table I–M	
AR78–13	4½–JJ
BR78–13	4½–JJ
CR78–13	5–JJ
BR78–14	4½–JJ
CR78–14	5–JJ
DR78–14	5–JJ, 6–JJ
ER78–14	5–JJ
FR78–14	5–JJ, 5½–JJ, 6–JJ
GR78–14	6–JJ
HR78–14	6–JJ
JR78–14	6½–JJ
AR78–15	4½–JJ
BR78–15	4½–JJ
ER78–15	5½–JJ
FR78–15	5½–JJ
GR78–15	6–JJ
HR87–15	5½–JJ, 6–JJ
JR78–15	6–JJ, 6½–JJ
LR78–15	6–JJ, 6½–JJ
Table I–N	
165/70 R 13	4½–JJ, 5–JJ
175/70 R 13	5–JJ, 5½–JJ
185/70 R 13	4½–JJ, 5–JJ, 5½–JJ
195/70 R 13	5½–JJ, 6–JJ
155/70 R 14	4–JJ
185/70 R 14	4½–JJ, 5–JJ, 5½–JJ
195/70 R 14	5½–JJ, 6–JJ
175/70 R 15	5–JJ
185/70 R 15	5–JJ, 5½–JJ, 6–JJ, 7–K
Table I–O	
140 R 12	*4.00, 400–B,* 4–JJ, 4.50, 4.50–B, 4½–JJ
150 R 12	3½–JJ, *4.00B,* 4–JJ, 4½–JJ
150 R 13	3½–JJ, *4.00B,* 4½–JJ, 5–JJ
160 R 13	4.00B, 4½–JJ, 5–JJ, 5½–JJ
170 R 13	4½–JJ, 5–JJ, 5½–JJ, 6–JJ
150 R 14	4–JJ, 4½–JJ
160 R 15	5–JJ, 5½–JJ

Table I–P

G45C–16	5

Table I–R

GR60–14	7–JJ
FR60–15	7–JJ, 8–JJ
GR60–15	7–JJ, 8–JJ
HR60–15	7–JJ, 9–L

Table I–S

185/60 R 13	5–JJ, 5½–JJ
245/60 R 14	6½–JJ, 7–JJ
255/60 R 15	7–JJ, 9–JJ, 9–L

Table I–T

205/70 R 14	5½–JJ, 6–JJ, 6½–JJ
215/70 R 14	5½–JJ, 6–JJ, 6½–JJ, 7–JJ, 8–JJ
225/70 R 14	6–JJ, 7½–K
195/70 R 15	5½–JJ, 6–JJ
205/70 R 15	5½–JJ, 6–JJ, 6½–JJ, 6½–L, 7–JJ
215/70 R 15	6–JJ, 6½–JJ, 6½–L, 7–JJ, 7–L, 7½–JJ, 7½–L, 7½–K, 8–K
225/70 R 15	6–JJ, 6½–JJ, 7–L, 7½–K, 8–K, 8½–L, 9–L

[1] Italic designations denote test rims.
[2] Where JJ rims are specified in the above Table J and JK rim contours are permissible.
[3] Table designations refer to tables listed in Appendix A of FMVSS No. 109.

Changes:
Table I–A 6.25–15, rim 6½–JJ added.
Table I–B D70–14, rim 5–JJ added, F70–14, rim 8–JJ added.
Table I–D 230–15, rims 6–JJ, 6½–JJ, and 7–JJ added.
Table I–G GR70–15, rim 7–JJ added.
Table I–H 155 R13, rim 5½–JJ added.
Table I–K G60–15, rim 9–JJ added.
Table I–M FR78–14, rims 5–JJ and 6–JJ added.
Table I–R GR60–14, rim 7–JJ added, HR60–15, rim 9–L added.
Table I–S 245/60 R14, rims 6½ and 7–JJ added, 255/60 R15, rims 7–JJ, 9–JJ, and 9–L added.
Table I–T 255/70 R15, rims 8–K and 8½–L added.

[FR Doc.71–16113 Filed 11–5–71;8:45 am]

Chapter I0—Interstate Commerce Commission

[Ex Parte No. MC–19 (Sub No. 5)]

PART 1056—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE OR FOREIGN COMMERCE

Practices of Motor Common Carriers of Household Goods; Determination of Weights

Order. At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 18th day of October 1971.

It appearing, that by report and recommended order, served September 12, 1969, in the above-entitled proceeding, the hearing examiner found that section 3 of part 1056 of the Code of Federal Regulations (49 CFR 1056.3) should be revised and amended as set forth in the recommended order;

It further appearing, that no exceptions were filed to the recommended order, that the effective date thereof was not stayed or postponed by the Commission, and that on October 13, 1969, the recommended order became the order of the Commission;

It further appearing, that by the Commission's order entered on February 26, 1970, served March 5, 1970, in Ex Parte No. MC–19 (Sub-No. 8), Practices of Motor Common Carriers of Household Goods, Part 1056 of the Code of Federal Regulations was substantially revised and such revision included, among other things the renumbering of those regulations;

It further appearing, that in light of the revisions of section 3, now renumbered section 6, of Part 1056, made in the order of February 26, 1970, in Ex Parte No. MC–19, (Sub-No. 8), and of the inadvertent failure of the order of February 26, 1970, to incorporate the said revision and amendment of section 3 of Part 1056 of the Code of Federal Regulations as recommended by the examiner in Ex Parte No. MC–19 (Sub-No. 5), the Commission, on its own motion, by order dated April 28, 1970, reopened this proceeding and modified the order of October 13, 1969, which, as indicated, had become effective by operation of law but had not yet been incorporated into the Code of Federal Regulations, so as to harmonize the revision and amendment recommended by the examiner with the newly adopted regulations;

It further appearing, that by petition filed December 23, 1970, by the Household Goods Carriers' Bureau and the supporting petition filed by the Movers' and Warehousemen's Association of America, Inc., January 5, 1971, the Household Goods Carriers' Bureau seeks further modification of the order of October 13, 1969, as modified by the order of April 28, 1970, in Ex Parte No. MC–19 (Sub-No. 5), which would (1) permit the weighing of containerized shipments on certified scales prior to loading on the vehicle, as with automobiles, and (2) render the present weighing procedures inapplicable to containerized shipments when the shipper is able to certify the weight thereof on the bill of lading, as with shipments of machinery;

And it further appearing, that the modification proposed would relieve household goods carriers from the burden and expense of determining weights of containerized shipments under procedures which are incompatible with the nature of such shipments, thus enabling the carriers to accomplish the transportation involved in a more efficient and expeditious manner without lessening shipper-assurance of fair weighing for which the present procedures are designed; therefore,

It is ordered, That the order entered herein on October 13, 1969, as modified by the order of April 28, 1970, be, and it is hereby, modified further in the following manner:

By deleting the last two sentences of paragraph (b) of § 1056.6 and inserting in lieu thereof the following; and by modifying paragraph (e), to read as follows:

§ 1056.6 Determination of weights.

* * * * * *

(b) * * * Any of the following shipments may be weighed on a certified scale prior to being loaded on the vehicle:

(1) A part load for any one shipper not exceeding 1,000 pounds.

(2) An automobile or other article weighing in excess of 500 pounds which is mounted on wheels.

(3) A shipment which the carrier containerizes for further transportation, in which case the net weight of the shipment shall be the gross weight of the container less the tare weight of the container; the gross weight of the container shall be as packed and prepared for shipment; the tare weight of the container shall include all of the pads, skins, blocking, and bracing used, or to be used, to protect the contents of the container, but not including packing materials used in the preliminary packing of the shipment.

* * * * * *

(e) *Exception.* The provisions of paragraph (a), (b), (c), and (d) of this section shall not apply to shipments tendered to the carrier in containers or to shipments consisting solely of machinery (including auxiliary and component parts thereof) which are being transported by household goods carriers pursuant to the definition of household goods in paragraph (a)(3) of § 1056.1: *Provided,* The weight of each shipment is certified by the shipper thereof on the bill of lading covering such shipment: *And provided further,* That nothing contained herein shall relieve the carrier of the obligation to enter in part B of the vehicle-load manifest the gross and tare weights of the vehicle on which such shipment is transported and the net weight of the shipment.

It is further ordered, That notice of the modification of the order entered on October 13, 1969, as modified by the order of April 28, 1970, and as further modified as ordered herein, be given to the general public by depositing a copy of this order in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy thereof to the Director, Division of the Federal Register, for publication in the FEDERAL REGISTER as notice to all interested persons. All material filed in this proceeding will be available for public inspection at the Office of the Interstate Commerce Commission, 12th and Constitution Avenue, Washington DC, during regular business hours.

And it is further ordered, That the effective date of the modification ordered herein shall be 30 days after date of publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71–16279 Filed 11–5–71;8:51 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER J—BRIDGES

[CGFR 71–81a]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Tensaw River, Ala.

This amendment changes the regulations for the Louisville and Nashville railroad bridge across the Tensaw River, mile 15, at Hurricane, Ala., to permit the draw to remain closed from 12 midnight at 8 a.m. This amendment was circulated as a public notice dated August 25, 1971, by the Commander, Eighth Coast Guard District and was published in the FEDERAL REGISTER as a notice of proposed rule making (CGFR 71–81) on August 21, 1971 (36 F.R. 16521). No comments were received.

Accordingly, Part 117 of Title 33, Code of Federal Regulations is amended by revising § 117.245(i) (17) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of drawtenders is not required.

* * * * *

(i) * * *

(17) Tensaw River, Ala.; Louisville and Nashville railroad bridge, mile 15.

(i) The draw shall open on signal from 8 a.m. to 12 midnight. The draw need not open from 12 midnight to 8 a.m.

(ii) During periods of severe storms or hurricanes from the time the U.S. Weather Bureau sounds an "alert" for the area until the "all clear" is sounded drawtenders shall be constantly on duty and the draw shall open on signal for the passage of vessels.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(c)(4))

Effective date. This revision shall become effective on December 10, 1971.

Dated: November 1, 1971.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment, and Systems.

[FR Doc.71–16248 Filed 11–5–71;8:47 am]

Proposed Rule Making

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 404]

[Reg. No. 4]

FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

Reduction of Disability Benefit Based on Receipt of Workmen's Compensation

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 552 et seq.) that the amendment to the regulations set forth in tentative form is proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendment to the regulations specifies that in computing the reduction of a disability insurance benefit on account of receipt of a workmen's compensation benefit, amounts paid or incurred, or to be incurred, for medical, legal, or related expenses, which are not counted for purposes of the reduction, may be evidenced by the workmen's compensation award, compromise agreement, or court order, or by such other evidence as the administration may require.

Prior to the final adoption of the proposed amendment to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, D.C. 20201, within a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 3193, 330 Independence Avenue SW., Washington, DC 20201.

The proposed amendment is to be issued under the authority contained in sections 205, 224, and 1102, 53 Stat. 1368, as amended, 79 Stat. 406, as amended, 49 Stat. 647, as amended; section 5, Reorganization Plan No. 1 of 1953, 67 Stat. 18, 631; 42 U.S.C. 405, 424, and 1302.

Dated: September 24, 1971.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: November 1, 1971.

ELLIOT L. RICHARDSON,
Secretary of Health, Education, and Welfare.

Subpart E of Regulations No. 4 is amended as set forth below.

Section 404.408 is amended by revising paragraph (d) to read as follows:

§ 404.408 Reduction of benefits based on disability on account of receipt of workmen's compensation.

* * * * *

(d) *Items not counted for reduction.* Amounts paid or incurred, or to be incurred, by the individual for medical, legal, or related expenses in connection with his workmen's compensation claim, or the injury or occupational disease on which his workmen's compensation award or settlement agreement is based, are excluded in computing the reduction under paragraph (a) of this section to the extent that they are consonant with State law. Such medical, legal, or related expenses may be evidenced by the workmen's compensation award, compromise agreement, or court order in the workmen's compensation proceeding, or by such other evidence as the administration may require. Such other evidence may consist of:

(1) A detailed statement by the individual's attorney, physician, or the employer's insurance carrier; or

(2) Bills, receipts, or canceled checks; or

(3) Other clear and convincing evidence indicating the amount of such expenses; or

(4) Any combination of the foregoing evidence from which the amount of such expenses may be determinable.

Any expenses not established by evidence required by the administration will not be excluded.

* * * * *

[FR Doc.71-16251 Filed 11-5-71;8:47 am]

DEPARTMENT OF TRANSPORTATION

Hazardous Materials Regulations Board

[49 CFR Part 173]

[Docket No. HM-93; Notice No. 71-28]

TRANSPORTATION OF HAZARDOUS MATERIALS

Class B Propellant Explosives in Fiber Drums

The Hazardous Materials Regulations Board is considering amendment of §173.93 of the Hazardous Materials Regulations to prohibit the shipment of Class B propellant explosives in specification 21C fiber drums by rail freight transportation.

Several instances of serious accidents and gross container failures involving Class B propellant explosives packed in DOT-21C fiber drums have been brought to the Board's attention. These instances appear to be directly related to transportation handling practices. Although these problems are reported to have existed in rail and highway transportation, the Board has no evidence that shippers by highway transportation are now experiencing difficulties. Rail carrier representatives together with involved shippers and Federal officials have been unable to resolve the difficulties associated with the rail transportation of this commodity in the packaging. Significantly, on June 8, 1971, the Department of Defense, a major shipper of this Class B propellant explosives, issued an order to all U.S. Army Ammunition Depots to discontinue such shipments by rail box car. Therefore, in view of the continuing seriousness of the situation, the Board is proposing to prohibit the shipment of Class B propellant explosives in DOT-21C fiber drums in rail transportation.

In consideration of the above, it is proposed to amend 49 CFR Part 173 as follows:

In § 173.93, paragraph (a) (10) would be amended to read as follows:

§ 173.93 Propellant explosives (solid) for cannon, small arms, rockets, guided missiles, or other devices, and propellant explosives (liquid).

(a) * * *

(10) Spec. 21C (§ 178.224 of this chapter). Fiber drum. Each drum having any wooden head must be provided with a strong, sift-proof liner. Net weight may not exceed 225 pounds. Not authorized for shipment by rail freight.

* * * * *

Interested persons are invited to give their views on this proposal. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, DC 20590. Communications received on or before January 4, 1972, will be considered before final action is taken on this proposal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

This proposal is made under the authority of sections 831-835 of title 18, United States Code, and section 9 of the Department of Transportation Act (49 U.S.C. 1657).

Issued in Washington, D.C., on November 2, 1971.

MAC E. ROGERS,
Board Member for the Federal Railroad Administration.

[FR Doc.71-16240 Filed 11-5-71;8:46 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 245]

[Docket No. 23962; EDR-216]

REPORTS OF OWNERSHIP OF STOCK AND OTHER INTERESTS

Proposed Expansion of Reports Regarding Stock Ownership

NOVEMBER 3, 1971.

Notice is hereby given that the Civil Aeronautics Board has under consideration proposed amendments to Part 245 of the economic regulations to more precisely define which persons are required to report stock ownership in air carriers and to expand the contents of such reports. The principal features of the proposed amendments are described in the attached Explanatory Statement, and the proposed amendments are set out in the attached proposed rule. The amendments are proposed under the authority of sections 204(a) and 407 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 766; 49 U.S.C. 1324, 1377).

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before December 6, 1971, will be considered by the Board before taking action on the proposal. Copies of communications will be available for examination by interested persons in the Docket Section, Room 712 Universal Building, 1825 Connecticut Avenue NW., Washington, D.C. upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

EXPLANATORY STATEMENT

In ER-630 (35 F.R. 11781) the Board added Subpart B to Part 245 of the Economic Regulations, effective August 1, 1970, to implement the reporting obligations imposed on stockholders of air carriers by the 1969 amendments to section 407(b) of the Act. As the Board stated in EDR-178,[1] the amendment to section 407(b) was intended by Congress to complement the Board's already existing power to obtain information from the carriers with respect to 5 percent shareholders by enabling the Board to obtain the information directly from the shareholder. In its present form, Subpart B requires every person owning either beneficially or as trustee more than 5 percent of any class of the capital stock or capital of an air carrier to file with the Board annually, and within 10 days of the acquisition of such percentum of stock ownership, a report describing the shares of stock or other interest owned by such person and the amount thereof. In sum, the shareholder reports are designed to identify those owners of substantial portions of the equity capital of air carriers who may be in a position to influence individual carrier management or who may have acquired, or be likely to acquire, "control" of an air carrier within the meaning of section 408 of the Act.

Our first year of experience with the subpart, however, indicates that the true ownership of substantial portions of air carrier securities remains obscured from the Board's view as a result of procedures employed by banks, brokers, and other financial intermediaries to facilitate stock trading, and involving transfer of various "rights of ownership" in the stock itself (e.g., the power to vote, sell, and receive dividends) to persons other than the record owner, and the use of multiple entities to veil the gradual accumulation of significant amounts of carrier stock by individuals or groups.[2]

More specifically, there are gaps in the present stock disclosure system arising from (1) conflicts in interpretation of the key terms and phrases used in the subpart, and (2) the absence of an effective verification procedure to insure that beneficial shareholders who acquire the prescribed percentage of a class of a carrier's stock timely file reports with the Board. Thus, questions have arisen concerning the scope of the terms "trustee" and "beneficial owner," with narrow interpretations being urged which would limit the Board's access to information concerning the ownership of stock. Another question has been raised as to whether a trustee holding more than 5 per centum of airline stock must report all beneficial interests therein or only those beneficial interests which themselves involve the requisite percentage. In addition, since the subpart does not presently require a reporting corporation to identify or describe its principal shareholders, most of the information received from corporations does not satisfy the reporting objectives previously stated.

Accordingly, while the Board is aware that a more comprehensive scheme of stock disclosure requirements may cause a slight increase in the reporting burden on certain beneficial and record shareholders of air carriers, the public interest in assuring full disclosure of the identity of substantial holders of airline stocks requires that we take immediate steps to clarify and strengthen existing regulations. We think it clear that, by amending section 407(b) in 1969 so as to require direct reporting by carrier shareholders, Congress intended to achieve full disclosure of substantial interests in carrier securities, regardless of the various forms and devices for separating beneficial from record ownership which could be used by persons covertly seeking to acquire control of an air carrier.

Essentially, the proposed amendments enlarge and realine the shareholder reporting requirements to provide the Board with more detailed and better quality information as to the identity of persons who hold the prescribed percentage of carrier stocks and the location of the various rights of ownership, in cases where such rights are separated from the record ownership of the securities. As elsewhere explained, the proposed rules also clarify the reporting role of banks and brokerage firms to the extent that they merely hold blocks of stock for their clients.

The salient features of the proposed rules are as follows:

1. We first propose broadly to define trustee to include any person other than a beneficial owner who holds record ownership of securities, or who possesses or exercises one or more rights of ownership, such as the right to vote the stock and rights with respect to control of disposition of the stock. Such a broad definition is, we believe, consistent with the congresional purposes embodied in section 407(b) and should insure that persons subject to the disclosure rules do not avoid detection at the threshold of regulation.

2. In view of the deficiencies in the stock reporting system earlier discussed, we propose to expand significantly the contents of the reports required under Subpart B. Specifically the annual report and report of acquisition would additionally include, inter alia, the identity of the reporting corporation and of stockholders which hold 10 percent or more of the capital stock of such corporation, along with a description of the business activities of each reporting corporation or other person named in the report. It would also include the identity of the person, if other than the person reporting, who possesses the right to vote, sell, prevent sale, or otherwise dispose of the reported securities, or who receives dividends from the stock.

The new information, which is modeled after the descriptive data reported by carrier "affiliates" under Part 246 of the Board's regulations (14 CFR Part 246) is intended to assist the Board in determining whether the reporting entity may be controlled by or in a common control relationship with persons obliged to further competing interests, and to isolate the various rights

[1] 35 F.R. 5626, Apr. 1, 1970.

[2] For example, our records show that Cede and Co., a nominee partnership for the Stock Clearing Corp., which is a subsidiary of the New York Stock Exchange, is the leading record stockholder of five of 12 trunkline carriers (American Airlines, Inc., Continental Airlines, Inc., Eastern Air Lines, Inc., Northwest Airlines, Inc., and Trans World Airlines, Inc.) and a significant record holder in Braniff Airlines, Inc., and Western Air Lines, Inc. Yet Cede merely holds the securities to perform clearinghouse functions for such brokerage firms, which may, in turn, hold the stocks in trust for other undisclosed persons. On the other hand, over 5 percent of Northwest's stock is owned by six different mutual funds affiliated under the control of one corporation. This illustrates that a related group of accounts held by a broker may be used to accumulate substantial shareholdings in a carrier subject to the control of one person or group. Finally, by spreading stock holdings among several different brokers or banks, an individual can anonymously hold a significant amount of carrier stock through numerous accounts, each consisting of less than 5 percent of the carrier's outstanding equity.

of ownership which could be utilized to exercise behind-the-scenes control of carrier operations.

3. We also propose to require a report of transactions wherein persons subject to the disclosure rules transfer an interest in more than 5 percent of their stock to another person as security for a loan. Since, upon default of the loan agreement, the holder of the security interest may possess the power to vote, or influence the voting of the pledged securities, this report should provide a valuable tool for the Board to uncover potential accumulations of the power to vote carrier securities. As more fully described in § 246.16, the report will require a statement of the rights accruing to the pledgee, the term of the security agreement, and the remedies available upon default of the loan.

4. As previously indicated, we propose broadly to define trustee to include banks, brokers, and other persons who hold air carrier securities as a matter of record. A special problem, however, exists in the case of banks and brokers to the extent that they hold air carrier securities in accounts for customers. Under the existing regulation, each bank or broker subject to its provisions would be required to disclose beneficial holdings of all customers regardless of the size of the individual holdings. Obviously, this requirement would impose undue burdens on the reporting institutions, who may have thousands of accounts to screen. In addition, due to the frequent changes in the amount of stock held in customer accounts it is also burdensome for banks and brokers to determine the maximum number and class of shares held and the percentage of such shares to total outstanding capital of the carrier during the year covered by the annual report. On the other hand, large blocks of carrier stocks may be split up into several separate accounts in one financial house, or spread among several financial houses in accounts of less than 5 percent of the carrier's outstanding securities. Thus, in order to insure that the reporting requirements are not evaded by beneficial owners, identification of accounts holding significant blocks of air carrier stocks is desirable.

Cohsidering the foregoing matters, it is proposed to relieve banks and brokers covered by the regulation from the burden of filing an annual report and report of acquisition and to require them to file instead a quarterly report with respect to any accounts which include one-half of 1 percent (0.5%) or more of a reported security as of the end of each quarter. This report would elicit most of the information contained in the annual and acquisition reports.

While this proposal would in a sense require more detailed information from banks and brokers than that required of certificated carriers under Part 241 (14 CFR Part 241), we tentatively conclude that section 407(b), in conjunction with the Board's general powers under section 204(a) of the Act, gives the Board broad authority to require trustee shareholders to disclose all beneficial interests, regardless of size, so long as the trustee is covered by section 407(b). To otherwise interpret the statute would frustrate the intention, previously noted, of insuring to the maximum extent possible that beneficial ownership is reported. Moreover, in light of the considerable number of shares required to achieve a 0.5 percent stock interest in most trunkline carriers, this requirement should not prove burdensome.[4]

It should be emphasized that the proposed exception for brokers and banks is not intended to apply to other trustees holding the requisite per centum of carrier stock. However, in cases where the requirement would cause hardship to the reporting shareholder, the Board would consider granting a waiver upon application and proper showing by the trustee.

Finally, we intend to make appropriate implementing amendments to Subpart B to require air carriers to include in their annual reports to shareholders notice of the additional reporting requirements proposed herein.

Accordingly, it is proposed to amend Part 245 of the Economic Regulations (14 CFR Part 245) as follows:

1. Amend the Table of Contents to Subpart B to read as follows:

Subpart B—Reports of Owners or More Than 5 Per Centum of Any Class of Capital Stock or Capital of an Air Carrier

Sec.
245.11 Definitions.
245.12 Annual report.
245.13 Report of acquisition.
245.14 Quarterly report by banks and brokers.
245.15 Report of security transactions.
245.16 Responsibility of carriers.

§ 245.1 [Amended]

2. Amend the footnote to § 245.1 to read as follows:

[4] See § 298.11(f) of Part 298, § 373.3 of Part 373, § 378.3 of Part 378 and § 378.3a of Part 378a of this chapter exempting air taxi operators, study group charterers, inclusive tour operators, and bulk inclusive tour operators, respectively.

3. Amend Supart B to read as follows:

Subpart B—Reports of Owners of More Than 5 Percent of Any Class of Capital Stock or Capital of an Air Carrier

§ 245.11 Definitions.

As used in this subpart, unless the context otherwise requires:

"Air carrier" means "air carrier" as defined in section 101(3) of the Act, except air carriers relieved or exempted from section 407(b) of the Act.[7]

"Bank" means any person primarily engaged in business as a commercial bank or trust company, or both, and subject to regulation or examination under the laws of the United States or any State.

"Broker" means any person engaged in the business of effecting transactions in securities for the account of others, but not a bank.

"Person" means an individual, firm, partnership, corporation, company, association, or any two or more persons acting in concert or under common control or direction.

"Shares" and shareholdings" shall include any interest in the capital or capital stock of an air carrier.

"Trustee" means any person, other than a beneficial owner, who holds record ownership of shares, or who possesses or exercises one or more of the rights of ownership such as the right to vote, receive dividends from, sell, or otherwise dispose of, or to prevent the sale or disposition of such shares.

§ 245.12 Annual report.

(a) *Time for reporting.* On or before April 1 of each year, every person owning either beneficially or as trustee, more than 5 per centum of any class of the capital stock or capital, as the case may be, of an air carrier including the right to vote, receive dividends from, sell or otherwise dispose of, or to prevent sale or disposition of such shares, shall file a report covering such shares or rights therein owned as of December 31 of the preceding year.

(b) *Contents of annual report.* (1) Name of air carrier in which stockholdings are being reported.

(2) Name and address of person reporting.

(3) Number and class of shares covered and percentage of such shares to total outstanding capital, or a description of any other interest held, as of December 31 of the preceding year.

(4) Maximum number and class of shares covered and percentage of each such shares to total outstanding capital during the preceding year.

(5) Name and address of each person for whose account any such shares or other interest is held and the number and class of shares so held in each account, if the person reporting is not the beneficial owner of all shares or other interests covered by the report.

(6) Name and address of each person holding record ownership of any such shares or other interest and the number and class of shares so held by each owner of record, if the person reporting is not the record owner of all shares or other interests covered by the report.

(7) Name and address of each person, other than the beneficial owner or record owner of any of the shares covered by the report, who possesses or exercises the right to vote, receive dividends from, sell or otherwise dispose of, or prevent the sale or disposition of such shares, and the number and class of shares as to which his rights extend.

(8) Name and address of each person, if the person reporting is itself a corporation, holding more than 10 per centum of the beneficial or record ownership of any class of its capital stock, and a description of the percentage of its shares of any class held by each such shareholder and indicating whether such class is voting, nonvoting, common or preferred.

(9) Names and addresses of all partners, associates or joint venturers and a description of their respective interests in the person reporting, if the person reporting is a partnership, association or a joint venture.

(10) A description of the principal occupation or business activity of each person named in the report, including the person reporting. Such description shall include, with respect to any named person performing common carrier service, the geographical area authorized to be served, and the nature of any license held by such person to perform such service.

(c) *Exception.* A bank or broker, to the extent that this section applies to it as trustee, or an officer or director who has complied with Subpart A of this part, need not file an annual report.

§ 245.13 Report of acquisition.

(a) *Time for reporting.* Every person acquiring ownership, either beneficially or as trustee, of more than 5 percent, in the aggregate, of any class of the capital or capital stock of an air carrier, as the case may be, including the right to vote, receive dividends from, sell, or otherwise dispose of, or to prevent sale or disposition of such shares, shall, within 10 days after acquiring such ownership, file a report covering the shares or rights therein acquired.

(b) *Contents of report of acquisition.* A report filed under this section shall contain the information specified in § 245.12(b), except that the information required by paragraph (b) (3) thereof shall be computed as of the date of acquisition.

(c) *Exceptions.* (1) A bank or broker, to the extent that this section applies to it as trustee, need not file a report of acquisition.

(2) A person who owns, either beneficially or as trustee, more than 5 percent of any class of the capital stock or capital of an air carrier and has filed a report of acquisition under this section, or an annual report under § 245.12, need not file a report under this section with respect to an additional acquisition of shares of such carrier.

§ 245.14 Quarterly report by banks and brokers.

(a) *Time for reporting.* A bank or broker who holds as trustee more than 5 percent of any class of the capital stock or capital of an air carrier shall file, within 10 days after the last day of each calendar quarter (i.e. March 31, June 30, September 30, and December 31), a report covering the shares held on the last day of such quarter.

(b) *Contents of quarterly report.* (1) Name of air carrier in which stockholdings are being reported.

(2) Name and address of bank or broker reporting.

(3) Number and class of shares held as trustee.

(4) Number of accounts for which it holds such shares.

(5) As to any account for which it holds shares amounting to one-half of 1 percent (0.5 percent), or more, of any class of the capital stock or capital of the air carrier covered by the report, there shall be disclosed:

(i) The name and address of each person for which such account is held.

(ii) The number and class of shares held for each such account and the percentage of such shares to the total outstanding capital of the air carrier as of the last day of the quarter covered by the report.

(iii) The name and address of any person, other than the person named in subdivision (i) of this subparagraph, who possesses or exercises the right to vote, receive dividends from, sell or otherwise dispose of, or prevent the sale or disposition of, the shares held in such account.

§ 245.15 Report of security transactions.

Any person subject to this subpart who has granted, pledged, assigned, hypothecated or otherwise transferred a security interest in more than 5 percent of any class of the capital stock or capital of an air carrier to another person shall, within 30 days after such transaction, file a report containing the following information:

(a) The name and address of the person to whom the security interest was granted.

(b) The term of the security agreement.

(c) A brief description of the rights accruing to the holder of the security interest, including the remedies available to him in the event of a default by the person reporting.

§ 245.16 Responsibility of carriers.

It shall be the responsibility of every air carrier, as defined in § 245.11:

(a) To notify each shareholder of record owning more than 1 percent of any class of its capital stock, or capital, of the requirements of this part by mailing to such persons a copy of this subpart on or before March 1 of each year; and

(b) To include in its annual report to shareholders a notice that (1) any person who owns as of December 31st of the year preceding issuance of such annual report or who thereafter acquires ownership, either beneficially or as trustee, of more than 5 per centum, in the aggregate, of any class of the capital stock or capital of the air carrier shall file with the Board a report containing the information required by § 245.12, on or before April 1, as to the capital stock or capital owned as of December 31 of the preceding year, and in the case of stock acquired under § 245.13 within 10 days of such acquisition, unless such person has otherwise filed with the Board a report covering such acquisition or ownership, (2) any bank or broker covered by subparagraph (1) of this paragraph to the extent that it holds shares as trustee on the last day of any quarter of a calendar year, shall file with the Board within 10 days of the quarter a report in accordance with the provisions of § 245.14, and (3) any person required to report under this subpart who grants a security interest in more than 5 percent of any class of the capital stock or capital of the air carrier shall file with the Board a report containing the information required in § 245.15. The notice shall also state that any shareholder who believes that he may be required to file such a report may obtain further information by writing to the Director, Bureau of Operating Rights, Civil Aeronautics Board, Washington, D.C. 20428.

[FR Doc.71-16266 Filed 11-5-71;8:50 am]

[7] For example, 0.5 percent of the outstanding common stock of American Airlines equals 104,878 shares, or a total investment, as per the closing exchange price of American common on Oct. 28, 1971, of 3,880,486.

[7] See footnote 6 of § 245.1.

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 545]

[No. 71-1149]

FEDERAL SAVINGS AND LOAN SYSTEM

Mobile Facilities

OCTOBER 28, 1971.

Resolved that the Federal Home Loan Bank Board considers it desirable to amend § 545.14-4 of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.14-4) for the purpose of allowing a Federal association to maintain a mobile facility at the same location for a maximum of 3 days in each week, instead of 2 days. Accordingly, the Federal Home Loan Bank Board hereby proposes to amend said § 545.14-4 by revising paragraph (c) (3) thereof to read as follows:

§ 545.14-4 Mobile facility.

* * * * *

(c) *Action by the Board.* Each application by a Federal association which is an eligible association under the provisions of paragraph (b) of this section will be considered or processed pursuant to the provisions of this section. The Board's approval of any such application will be subject to the following provisions and any other conditions, requirements, and limitations the Board may specify in a particular case:

* * * * *

(3) Any such facility shall be open for business at the same location on the same day or days (not to exceed 3 days) of each week, during such hours, aggregating a total of not less than 4 hours a day, as the association's board of directors may from time to time determine;

* * * * * *

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

Resolved further, That interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, DC 20552, by December 10, 1971, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary.

[FR Doc.71-16252 Filed 11-5-71;8:47 am]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

ELEMENTAL SULPHUR FROM MEXICO

Withholding of Appraisement Notice

Information was received on March 2, 1971, that elemental sulphur from Mexico was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of April 6, 1971, on page 6526. The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), notice is hereby given that there are reasonable grounds to believe or suspect that the purchase price (section 203 of the Act; 19 U.S.C. 162) or the exporter's sales price (section 204 of the Act; 19 U.S.C. 163), as applicable, of elemental sulphur from Mexico is less, or likely to be less, than the foreign market value (section 205 of the Act; 19 U.S.C. 164).

STATEMENT OF REASONS

The information before the Bureau tends to indicate the probable basis of comparison will be between purchase price or exporter's sales price and the home market price.

Preminary analysis suggests that purchase price will probably be calculated on a C & F, landed U.S. destination price, or on a delivered U.S. terminal price, with appropriate deductions for terminal charges, ocean freight, and inland freight.

Exporter's sales price will probably be calculated on the delivered price in the United States, with appropriate deductions for home market inland freight, net Mexican export tax, ocean freight, brokerage, terminal charges, inland freight from terminal to U.S. customer, and selling expenses.

Home market price will probably be based on a f.o.b. plant price.

Using the above criteria, there are reasonable grounds to believe or suspect that purchase price or exporter's sales price, as appropriate, will be lower than home market price.

Customs officers are being directed to withhold appraisement of elemental sulphur from Mexico in accordance with § 153.46, Customs regulations (19 CFR 153.48).

In accordance with §§ 153.32(b) and 153.37, Customs regulations (19 CFR 153:32(b), 153.37), interested parties may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, DC 20226, in time to be received by his office not later than 10 calendar days from the date of publication of this notice in the FEDERAL REGISTER.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

This notice, which is published pursuant to § 153.34(b), Customs regulations, shall become effective upon publication in the FEDERAL REGISTER (11-6-71). It shall cease to be effective at the expiration of 6 months from the date of this publication, unless previously revoked.

[SEAL] LEONARD LEHMAN,
Acting Commissioner of Customs.

Approved: November 2, 1971.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-16237 Filed 11-5-71;8:46 am]

Internal Revenue Service

GRANTS OF RELIEF

Notice is hereby given that pursuant to 18 U.S.C. 925(c) the following named persons have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding 1 year.

It has been established to my satisfaction that the circumstances regarding the convictions and each applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public safety.

Carlisle, Winston DeWitt, 4238 West Van Buren Street, Chicago, IL, convicted on November 21, 1947, in the Cook County Circuit Court, Chicago, Ill.

Cofer, Johnny L., 1714 Serene Lane, Birmingham, AL, convicted on April 18, 1961, in the Circuit Court of Elmore County, Ala.

Floyd, Robert Lee, Route 2, Box 874, Pineville, KY, convicted on November 10, 1965, in the U.S. District Court for the Eastern District of Kentucky.

Hacker, William D., Rural Route 2, Shawano, WI, convicted on December 30, 1963, and on April 1, 1969, in the Shawano County Court, Shawano, Wis.

Hardin, Lee Somerville, 6025 Dias Avenue, Space 134, Sacramento, CA, convicted on November 25, 1957, in the U.S. District Court, Seattle, Washington.

Heredia, Michael, 923 North Third Street, Saginaw, MI, convicted on July 5, 1947, in the Bay County, Mich., Circuit Court.

Hering, John L., 12498 Neff Road, Clio, MI, convicted on December 21, 1954, in the Genesee County Circuit Court, Michigan.

Jensen, Aksel Elon, 425 Clocks Boulevard, Amityville, NY, convicted on January 26, 1962, in the Supreme Court of Nassau County, N.Y.

Krukonis, Richard A., Ritchie Avenue, Milton, Vt., convicted on April 18, 1969, in the Chittenden District Court, Burlington, Vt.

Perkins, Donald, Sr., 18845 Riopelle Street, Detroit, MI, convicted on February 26, 1954, in the Recorder's Court of the city of Detroit, Mich.

Rak, Noel, 1317 150th Place, Hammond, IN, convicted on March 3, 1966, in the Criminal Court of Lake County, at Crown Point, Ind.

Taylor, Allen, 1323 Janes Street, Saginaw, MI, convicted on June 14, 1938, in the Criminal Court of Shelby County, Memphis, Tenn.

Taylor, Howard F., 1323 Janes Street, Saginaw, MI, convicted on October 17, 1940, in the Criminal Court of Shelby County, Memphis, Tenn.

Signed at Washington, D.C., this 29th day of October 1971.

[SEAL] REX D. DAVIS,
Director, Alcohol, Tobacco, and Firearms Division.

[FR Doc.71-16285 Filed 11-5-71;8:50 am]

Office of the Secretary

[T.D. 71-277]

CERTAIN PLASTIC FASTENERS

Tariff Classification

On the basis of a petition filed by an American manufacturer under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), it has been determined that the classification of certain plastic fasteners in item 774.60, Tariff Schedules of the United States, as articles of plastic not specially provided for is not correct.

The fasteners in question consist of plastic filaments of various lengths, with both ends in the shape of a "T". They are produced in "clips" consisting of numerous units of fasteners, and are inserted into garments, cloth, or other materials by use of a special gun-like hand tool having a needle designed with a channel or groove running the length of the needle.

The fasteners are used in retail stores and elsewhere to attach labels to garments or to hold articles together and are also used for a variety of other purposes, including attaching linings to outer garments, joining various layers of insulating materials for use in air conditioning and other similar equipment, and attaching or replacing buttons, fasteners, and belt loops on clothing. Most of these operations are sewing operations.

The petitioner has been notified that the plastic fasteners in question are clasps within the meaning of the superior heading preceding item 745.63, Tariff Schedules of the United States, and are properly classifiable as sew-on fasteners under that item number. This ruling will result in a higher rate of duty for this merchandise than would be assessed under item 774.60.

In accordance with section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), all merchandise of this kind entered, or withdrawn from warehouse, for consumption more than 30 days after publication of this notice in the weekly Customs Bulletin shall be classified in accordance with this determination.

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-16239 Filed 11-5-71;8:46 am]

POSTAL SERVICE

Designation of Instruments for Exemption Under the Securities Exchange Act of 1934

NOVEMBER 3, 1971.

Paragraph 12 of section 3(a) of the Securities Exchange Act of 1934, as amended, provides in part that when used in title I thereof, unless the context otherwise requires, the term "exempted security" or "exempted securities" shall include such securities issued or guaranteed by corporations in which the United States has a direct or indirect interest as shall be designated for exemption by the Secretary of the Treasury as necessary or appropriate in the public interest or for the protection of investors.

Notice is hereby given that under that authority I have today designated for exemption any obligations of the U.S. Postal Service issued pursuant to section 2005 of title 39, United States Code.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary of the Treasury.

[FR Doc.71-16286 Filed 11-5-71;8:51 am]

DEPARTMENT OF DEFENSE

Department of the Army

[Interchange Order 2]

CAVE RUN DAM AND RESERVOIR, KY.

Joint Order Interchanging Administrative Jurisdiction

By virtue of the authority vested in the Secretary of Agriculture and the Secretary of the Army by the Act of July 26, 1956 (70 Stat. 656; 16 U.S.C. 505(a), 505(b)), it is ordered as follows:

(1) The land under the jurisdiction of the Department of the Army described in Exhibit A, as set forth below and made a part hereof, which lands are within and adjacent to the exterior boundaries of the Daniel Boone National Forest, Ky., are hereby transferred from the jurisdiction of the Secretary of the Army to the jurisdiction of the Secretary of Agriculture, subject to outstanding rights or interests of record and to such continued use by the Corps of Engineers as is necessary for the construction, protection, and unrestricted operation, maintenance, and administration of the water storage and flood-control facilities and functions of the Cave Run Reservoir.

(2) The National Forest lands described in Exhibit B, as set forth below and made a part hereof, which are a part of the Daniel Boone National Forest, Ky., are hereby transferred from the jurisdiction of the Secretary of Agriculture to the jurisdiction of the Secretary of the Army.

Pursuant to section 2 of the aforesaid Act of July 26, 1956, the National Forest lands transferred to the Secretary of the Army by this order are hereafter subject only to laws applicable to Department of the Army lands comprising the Cave Run Reservoir Project. The Department of the Army lands transferred to the Secretary of Agriculture by this order are hereafter subject to the laws applicable to lands acquired under the Act of March 1, 1911 (36 Stat. 961), as amended.

Effective date. This order will be effective as of date of publication in the FEDERAL REGISTER (11-6-71).

ROBERT F. FROEHLKE,
Secretary of the Army.

AUGUST 9, 1971.

CLIFFORD M. HARDIN,
Secretary of Agriculture.

SEPTEMBER 10, 1971.

EXHIBIT A

LANDS TRANSFERRED FROM THE SECRETARY OF THE ARMY TO THE SECRETARY OF AGRICULTURE

The following listed tracts acquired by the Department of the Army for or in connection with the Cave Run Dam and Reservoir Project in Bath, Rowan, Menifee, and Morgan Counties, Ky.:

Segment 1: All of Tracts 104, 106, 107, 108, 109, 110, 111, 113, 114, 116, 117, 118, 125, 126, 127, 133, 134, and portions of Tracts 105, 121, 122, 124, 135.
Segment 2: All of Tracts 202, 203, 204, 205–1, 205–2.
Segment 4: All of Tracts 402, 405, 407, 409.
Segment 5: All of Tracts 501, 502, 503, 504, 505, 506, 508, 510.
Segment 8: All of Tract 805.
Segment 9: All of Tracts 919, 923, 927.
Segment 11: All of Tracts 1100, 1101, 1102, 1103, 1104, 1105, 1106, 1107, 1108, 1109, 1110.
Segment 12: All of Tracts 1200, 1201, 1202, 1203, 1204, 1205, 1206, 1209, 1210.
Segment 13: All of Tracts 1302–1, 1302–2, 1302–1, 1303–2.
Segment 14: All of Tracts 1400, 1401, 1402, 1403, 1404–1, 1404–2, 1404–3, 1404–4, 1405, 1406, 1407, 1408, 1409, 1410, 1411.
Segment 15: All of Tracts 1500, 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508, 1509, 1510.
Segment 16: All of Tracts 1603, 1605, 1606, 1607, 1608, 1610.
Segment 17: All of Tracts 1700, 1701, 1702, 1703, 1704, 1705, 1706, 1707, 1708, 1710, 1711, 1712, 1713.
Segment 18: All of Tracts 1800, 1801.
Segment 19: All of Tracts 1900, 1901, 1902, 1904, 1905.
Segment 20: All of Tracts 2000, 2001, 2002, 2003, 2004, 2005, 2006.
Segment 21: All of Tracts 2100–1, 2100–2, 2100–3, 2101–1, 2101–2, 2102, 2103–1, 2103–2, 2104, 2105–1, 2105–2, 2105–3, 2107, 2109, 2111, 2112, 2113.
Segment 22: All of Tracts 2200, 2201, 2202, 2203–1, 2203–2, 2203–3, 2204–1, 2204–2, 2205–1, 2205–2, 2206, 2207–1, 2207–2, 2208, 2210, 2211, 2212, 2213, 2214, 2215–1.
Segment 23: All of Tracts 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307–1, 2307–2, 2308, 2309, 2310, 2311–1, 2311–2, 2312.
Segment 24: All of Tracts 2400, 2401, 2402.
Segment 25: All of Tracts 2501, 2503, 2504, 2505–1, 2505–2, 2509.
Segment 26: All of Tracts 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2610.
Segment 27: All of Tracts 2700, 2701, 2702–1, 2702–2, 2703, 2704, 2705.
Segment 28: All of Tracts 2800–1, 2800–2, 2801, 2802.
Segment 29: All of Tracts 2900, 2901, 2902, 2903, 2904, 2905, 2906, 2907, 2908, 2909, 2910, 2911, 2912.
Segment 30: All of Tracts 3000, 3001, 3002.
Segment 32: All of Tracts 3200, 3201, 3202, 3203, 3205, 3206.
Segment 35: All of Tracts 3500, 3501, 3502, 3503, 3505.
Segment 36: All of Tracts 3600, 3601, 3602, 3603, 3604, 3605, 3606, 3607, 3608, 3609, 3610, 3611, 3612, 3613.
Segment 38: All of Tracts 3800, 3801, 3808, 3804, 3805, 3806, 3807, 3810.
Segment 39: All of Tracts 3900, 3901, 3904, 3905, 3906, 3907.
Segment 40: All of Tracts 4000, 4001, 4002, 4003, 4004, 4005, 4006, 4007, 4008, 4009, 4010, 4011, 4012, 4013, 4014, 4015, 4016.
Segment 41: All of Tracts 4103, 4107, 4108, 4112.
Segment 43: All of Tracts 4300, 4301.
Segment 47: All of Tracts 4700, 4701, 4702, 4703.
Segment 53: All of Tracts 5305, 5306, 5307, 5308.
Segment 54: All of Tracts 5402, 5403, 5404–1, 5404–2, 5405–1, 5405–2, 5406, 5407, 5410, 5413.

The lands listed above consist of 16,743.72 acres, more or less. Legal descriptions of the transferred tracts and Real Estate Segment Maps depicting their location are on file in the office of the District Engineer, U.S. Army Engineer District, Louisville, Ky., and the office of the Forest Supervisor, Daniel Boone National Forest, Winchester, Ky.

EXHIBIT B

LAND TRANSFERRED FROM THE SECRETARY OF AGRICULTURE TO THE SECRETARY OF THE ARMY

Tract 393–II, consisting of 8.35 acres, more or less.

Complete legal description of the transferred tract and survey plat depicting their locations are on file in the Office of the District Engineer, U.S. Army Corps of Engineers, Louisville District, Louisville, Ky.; and the Office of the Forest Supervisor, Daniel Boone National Forest, Winchester, Ky.

[FR Doc.71-16243 Filed 11-5-71;8:47 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA

Delegation of Authority Regarding Contracts and Leases

OCTOBER 18, 1971.

A. Pursuant to the redelegation of authority contained in BLM Manual 1510.03C, the Chief, Division of Management Services and Chief, Branch of Administrative Management, State Office, are authorized to enter into contracts for supplies and services within the limits of procurement authority delegated to the State Director in BLM Manual 1510.03B2d.

B. Pursuant to the redelegation of authority contained in BLM Manual 1510.03C, the District Managers and Chief, Division of Administration, District Offices are authorized, excluding capitalized equipment and major noncapitalized property:

1. To procure supplies and services available from established sources of supply regardless of amount.

2. To enter into contracts pursuant to section 302(c)(3) of the FPAS Act, for supplies, services, and rental of equipment and aircraft not to exceed $2,500 per transaction; and for construction not to exceed $2,000 per transaction: *Provided*, That the requirement is not available from established sources of supply.

3. To enter into contracts pursuant to section 302(c)(2) of the FPAS Act, regardless of amount. This authority is to be used for rental of equipment and aircraft and for procurement of supplies and services required for emergency fire suppression and presuppression, where the order exceeds $2,500.

C. The District Managers may redelegate the authority for use of Standard Form 44 Order-Invoice-Voucher to any qualified employees under their jurisdiction. The redelegation must be in writing by name designation and subject to monetary and other limitations as may be prescribed by the District Managers. The designated employee, State Office, and the Service Centers shall be furnished with a copy of all such redelegations.

D. Contracts or other procurement entered into under delegated authority must conform with applicable regulations and statutory requirements and are subject to availability of appropriations.

E. All redelegated authority shall be exercised in accordance with the applicable limitations in the FPAS Act and in accordance with applicable policies, procedures, and controls prescribed by the General Services Administration and as set forth by the Department of the Interior and the Bureau of Land Management.

F. Delegation of authority regarding contracts and leases published in the FEDERAL REGISTER on September 18, 1971, page 18679, is hereby revoked.

ROLAND A. RUSH,
Acting State Director.

[FR Doc.71-16259 Filed 11-5-71;8:48 am]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

CAVE RUN DAM AND RESERVOIR, KY.

Joint Order Interchanging Administrative Jurisdiction

CROSS REFERENCE: For a document issued jointly by the Department of Defense and the Department of Agriculture regarding interchange of administrative jurisdiction of certain lands, see F.R. Doc. 71-16243, Department of Defense, *supra*.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

GROUNDFISH FISHERIES

Closure of Season

Notice is hereby given pursuant to § 240.8(a)(3), Title 50, Code of Federal Regulations, as follows:

On November 2, 1971, the Executive Secretary of the International Commission for the Northwest Atlantic Fisheries notified each contracting government having vessels operating in the regulatory area known as Subarea 5, defined in § 240.1(b)(5) that the accumulative landings of yellowtail flounder in the division east of 69° West longitude have reached 80 percent of a catch limit of 16,000 metric tons as provided in § 240.6(b)(1). (See announcement of the catch limit established for yellowtail flounder from Subarea 5 published in the FEDERAL REGISTER of January 6, 1971, 36 F.R. 158.)

I hereby announce that the 1971 season for the taking of yellowtail flounder from the division east of 69° West Longitude in Subarea 5 without restriction as to quantity by persons and vessels subject to the jurisdiction of the United States will terminate at 0001 hours, local time, November 13, 1971.

Issued at Washington, D.C., and dated November 3, 1971.

ROBERT W. SCHONING,
Acting Director, National Marine Fisheries Service.

[FR Doc.71-16241 Filed 11-5-71;8:47 am]

Office of the Secretary

[Dept. Organization Order 40-1B]

BUREAU OF DOMESTIC COMMERCE

Organization and Functions

This material supersedes the material appearing at 36 F.R. 4554 of March 9, 1971, and 36 F.R. 13172 of July 15, 1971, except as noted in section 10 "Savings Provision" of this order.

SECTION 1. *Purpose.* This order prescribes the organization and assignment of functions within the Bureau of Domestic Commerce.

SEC. 2. *Organization and structure.* The organization structure and line of authority of the Bureau of Domestic Commerce (the "Bureau") shall be as depicted in the attached organization chart. (A copy of the organization chart is on file with the original of this document with the Office of the Federal Register.)

SEC. 3. *Office of the Bureau Head.* .01 The Deputy Assistant Secretary and Director, Bureau of Domestic Commerce, shall determine the objectives of the Bureau, formulate policies and programs for achieving those objectives, and direct execution of the Bureau's programs.

.02 The Deputy Director shall assist in the direction of the Bureau and perform the functions of the Director in his absence. He shall also provide direction and guidance to the staff offices.

SEC. 4. *Staff offices.* .01 The Office of Management Resources shall provide the administrative management services, set forth below and shall serve as the Bureau's point of coordination with departmental elements directly providing other administrative management services to the Bureau. The Office shall be headed by a Director who shall direct all activities of the Office, as set forth below:

a. The Budget Division shall perform the budget function and exercise fiscal control.

b. The Management Information Division shall develop and provide, on a regular basis, tabulations, analyses, and reports of project dollars and manpower costs, and shall develop and maintain a project control system in order for management to assess accomplishments, assign priorities, and plan for future needs.

c. The Management Analysis and Administrative Services Division shall perform the following functions: Management and organization analysis; directives, correspondence, files, and forms management; committee management; and property, supply, and space management.

.02 The Office of Public Affairs shall plan and conduct an information program for the Bureau and shall provide technical guidance and control in the preparation and issuance of Bureau publications. The Office shall be headed by a Director who shall direct all activities of the Office.

SEC. 5. *Office of Domestic Business Policy.* The Office of Domestic Business Policy shall provide analyses of current and developing industry and trade conditions; recommend policies and program objectives to stimulate balanced growth of U.S. industry; prepare analyses of policy issues involving specific industries and business segments for use by other operating units of the Department, other Federal agencies, the Congress, and business and industry in developing policies, plans, and programs; and serve as the principal office within the Bureau for examining issues of specific industries and business segments as these might affect the economic and technological growth of the economy. The Office shall be organized as set forth below:

.01 The Office shall be headed by a Director who shall direct all activities of the Office. He shall be immediately assisted by a Deputy Director who shall also perform the functions of the Director in his absence.

.02 The Marketing and Consumer Affairs Division shall coordinate intradepartment consumer matters. It shall identify, analyze, and conduct or sponsor research on issues and problems with respect to the marketing sector and consumer affairs matters; develop related policy recommendations on governmental plans, programs and legislation; and consult with industry on the impact of such proposals.

.03 The Industrial Relations and Economics Division shall analyze Federal policies and industry practices which affect industrial efficiency and develop such policy options as will promote optimal utilization of industrial resources. The Division's area of responsibility shall include policy matters relating to industrial taxation, insurance, labor, capital, and use of technology.

.04 The Business and Community Growth Division shall analyze current and projected urban business problems and propose actions to facilitate business involvement in the development and growth of new and existing communities.

.05 The Legislation Division shall prepare or coordinate within the Bureau the preparation of responses to legislative inquiries, and shall develop and review proposed legislation on business-related issues. The Division shall coordinate its activities with the Office of the General Counsel.

.06 The Marine Resources and Environmental Affairs Division shall analyze and develop policy options to promote industrial development of marine resources and to insure a balanced approach to the solution of industrial pollution problems.

SEC. 6. Office of Trade Adjustment Assistance. The Office of Trade Adjustment Assistance shall recommend policies and procedures of adjustment assistance to minimize the adverse effects on industry of import competition and shall administer the trade adjustment assistance program.

.01 The Office shall be headed by a Director who shall direct all activities of the Office. He shall be immediately assisted by a Deputy Director who shall also perform the functions of the Director in his absence.

.02 The Office shall also perform the following specific functions:

a. Establish guidelines and procedures to govern submission and processing of requests by firms for certification of eligibility to apply for adjustment assistance under section 302(b)(1) of the Trade Expansion Act of 1962 (19 U.S.C. 1801 et seq., "the Act");

b. Prepare recommendations for action by the Assistance Secretary for Domestic and International Business on requests from firms for certification of eligibility to apply for adjustment assistance under section 302(b)(1) and (c) of the Act;

c. Establish guidelines and procedures to govern submission and processing of applications by firms for adjustment assistance under section 311 of the Act;

d. Render guidance and assistance to firms in the preparation of proposals for adjustment assistance under section 311 of the Act;

e. Prepare recommendations for action by the Secretary on proposals for adjustment assistance submitted by firms under sections 311 and 317 of the Act;

f. As appropriate, refer certified adjustment proposals to Federal agencies for action and maintain followup on such referrals;

g. Furnish financial and/or technical assistance to firms whose adjustment proposals have been certified by the Secretary, if an agency to which an adjustment proposal has been referred notifies the Director of its determination not to furnish technical or financial assistance;

h. Establish procedures for investigation of a firm's progress in implementing adjustment proposals for which adjustment assistance has been provided under the Act;

i. Perform investigations as necessary to insure compliance by firms receiving adjustment assistance with requirements of the Act and implementing regulations; and

j. Administer such regulations as may be necessary to assure the adequacy and effectiveness of the program for trade adjustment assistance, subject to applicable provisions of title III of the Act and such directions as the Secretary or the Assistant Secretary for Domestic and International Business may prescribe.

SEC. 7. *Office of Business Research and Analysis.* The Office of Business Research and Analysis shall serve as a principal source within Government for data and industry/commodity analyses and shall establish and maintain a data base for use by Government, industry, and others in analyzing and assessing developments and trends in selected industry areas and in establishing appropriate policy and program recommendations. The Office shall be organized as set forth below:

.01 The Office shall be headed by a Director who shall direct all activities of the Office. He shall be immediately assisted by a Deputy Director who shall also perform the functions of the Director in his absence. In addition, the Deputy Director shall provide direction to the following staff units:

a. The Data Forecasting Staff shall develop techniques and methods for improving forecasting of measures of activity for specific industries and business segments, and shall be responsible for publication of industrial outlook reports covering economic and industry analysis and trends for major industries.

b. The Special Reports Staff shall compile special-purpose tabulations and reports involving more than one industry or business segment.

.02 The industry divisions, as listed below, shall collect, evaluate, categorize, and analyze statistical data on an assigned group of industries; and shall otherwise prepare such data and analyses for dissemination:

Metals and Minerals Division.
Chemicals, Petroleum, and Rubber Division.
Construction, Water Resources, and Engineering Division.
Forest Products, Packaging, Printing, and Publishing Division.
Business, Photographic, and Scientific Equipment Division.
Consumer Products Division.
Transportation Equipment Division.
Communications and Electronics Division.
General Industries Division.
Service Industries Division.

In carrying out these responsibilities, each Division shall:

a. Obtain industry data from established governmental sources, major industry sources, trade associations, and other primary statistical data collection organizations, or directly from industries, journals, trade publications, or any other sources of potential business information and data;

b. Evaluate, categorize, analyze, and maintain economic, business, industry, trade, finance, and technology data; and

c. Publish and disseminate commodity/industry data to a wide range of users within and outside Government, as well as provide data in readily usable formats for the specialized needs of individual users.

SEC. 8. *Office of Industrial Mobilization.* The Office of Industrial Mobilization shall carry out the Bureau's assigned industrial mobilization and readiness responsibilities; assure readiness of industrial resources for national emergencies and an adequate flow of materials essential for national defense, atomic energy, and other critical programs; provide policy guidance and coordinate industrial mobilization activities within the Department; and maintain liaison with other agencies of the Government and with friendly foreign governments on industrial mobilization matters. The Office shall be organized as set forth below:

.01 The Office shall be headed by a Director who shall direct all activities of the Office. He shall be immediately assisted by a Deputy Director who shall also perform the functions of the Director in his absence.

.02 The Mobilization Readiness Division shall develop and test the organizational plans and procedures for the Bureau to assume the responsibility for industrial production, construction, and distribution in the event of national emergencies; assist and guide industry in preparing for the conduct of emergency operations to assure the continuity of required production; and recruit and train Executive Reservists to be prepared to assume major responsibilities in the event of a national emergency.

.03 The Industrial Resources Division shall provide guidance and recommendations to the Office of Emergency Preparedness on matters relating to the National Stockpile Program, including the establishment of objectives, development of procurement programs, and purchase specifications, special instructions, disposal programs, storage manuals, and special studies; provide staff support for the Chairman, NATO Industrial Planning Committee and the cochairman, United States/Canada Emergency Industrial Production and Materials Committee; and investigate and report on alleged impact of imports on national security.

.04 The Industrial Evaluation Division shall identify industrial facilities of exceptional importance to mobilization readiness, the national security, and postattack and recovery; specify standards for assessing and evaluating their production capabilities; supervise the preparation of industrial analyses of critically important products and industrial services, including essential survival items; conduct industrial feasibility studies to determine capabilities to meet national emergencies; and provide liaison between the Bureau and the National Resources Analysis Center of the Office of Emergency Preparedness.

.05 The Mobilization Plans Division shall support current national defense requirements by administering the Defense Materials System and Priorities Program under Title I of the Defense Production Act, and plan for and maintain emergency measures for regulating the production and distribution of materials during emergency situations.

SEC. 9. *Office of Business Services.* The Office of Business Services shall serve as the Department's principal medium of contact with the business community for:

a. Ascertaining the needs and desires for information relevant to the private economy that falls within the scope of Commerce's responsibilities, arranging or participating in the effective delivery of Commerce's business-related information products, and assisting in the planning and design of additional business information;

b. Aiding businesses in the utilization of such information services; and

c. Promoting participation of the general business community in the resolution of economic, technological and socioeconomic business problems of the Nation.

Through Business Services Field Offices, located throughout the country, the Office shall, in particular, provide assistance and service to business communities in utilizing information and related business programs of Commerce and of other agencies; shall perform the field work and services involved in the programs of the Bureau and the Bureau of International Commerce; and shall perform services for other organizations of Commerce as may be mutually agreed upon. The Office shall also carry out the domestic trade fairs and the domestic international exposition functions of the Bureau; and shall provide staff support for the National and Regional Export Expansion Councils. The Office shall be organized as set forth below:

.01 The Office shall be headed by a Director who shall plan and direct the activities of the Office, and a Deputy Director who shall assist in direction of the Office and perform the functions of the Director in his absence.

.02 The Program Management Division shall provide administrative, logistical, budgetary, and personnel services; develop and prescribe systems and procedures for the Office; coordinate workload requirements with resources; evaluate performance and recommend appropriate measures for continuous improvement of professional proficiency; and service requirements for publication sales and library business reference facilities.

.03 The Business Cooperation Division shall develop and maintain liaison and communication with national, State, and local business and trade organizations, State and local governmental entities, professional groups, and institutions to effect the exchange of ideas and to develop the framework for promoting Government/business participation in the resolution of economic, technological, and socioeconomic problems; provide staff support for the National and Regional Export Expansion Councils; and provide support and guidance to field offices in these endeavors.

.04 The Program Development Division shall in cooperation with the Program Managers of the Bureau, other units of the Department, and other agencies, identify, adapt, and develop substantive programs, information, and services to meet the needs of the business community and be responsible for overall program planning and review to create greater awareness, utilization, and effectiveness of the business-related services of the Department.

.05 The Business Opportunities Division shall promote and deliver to the business community the international, technological, and socioeconomic programs, information, and services of the Bureau, the Department, and other Federal agencies; develop and disseminate both domestic and international business opportunities; and publish the Commerce Business Daily and provide general supervision of publication sales and library business reference services.

.06 The Trade Fairs and Expositions Division shall provide information, promotional assistance, and certification services to industry associations, business, and civic groups and other operators of domestic trade fairs; arrange trade fair and industry visits for foreign businessmen; develop, schedule, and arrange for exhibits and displays to promote Bureau and Department programs and services at selected domestic trade fairs; review requests and prepare recommendations on U.S. Government recognition of international expositions to be held in the United States; plan, develop, construct, and operate Federal pavilions and exhibitions at such international expositions; and publicize scheduled domestic trade fairs and Federal exhibitions.

.07 The Business Services Field Offices, as listed in Appendix B, shall perform the following functions for the geographic areas pertinent to their respective locations:

a. Represent the Bureau of Domestic Commerce and the Bureau of International Commerce with business, industry, community groups, and local governments;

b. Provide representation or particular services in their respective localities for the Office of the Secretary or for any operating unit of the Department as may be mutually agreed;

c. Create awareness of and disseminate marketing information business opportunities, technological data, and other information products of the Department applicable to business and counsel on their uses and application;

d. Obtain information on business, industry, and community conditions and trends to assist the Bureau in formulating and recommending policies, plans, and programs on such matters;

e. Implement the Department's domestic trade and export expansion programs at the regional and local levels;

f. Serve as a general source of information on all Commerce programs; facilitate contacts and communication, as may be needed, between State and local groups and individuals on the one hand and appropriate offices and officials of the Department on the other; and otherwise serve as a focal point for effective relations with various segments of the local communities on major developments involving Commerce programs that affect business and economic growth; and

g. Carry out the Department's industrial mobilization and emergency programs at the regional and local levels.

SEC. 10. *Savings provision.* Appendices A and B of February 14, 1971, are not superseded (36 F.R. 4555–4557 of Mar 9, 1971).

Effective date: October 18, 1971.

LARRY A. JOBE,
Assistant Secretary for Administration.

[FR Doc.71-16227 Filed 11-5-71;8:45 am]

[Dept. Administrative Order 216-6]

STATEMENTS ON PROPOSED FEDERAL ACTIONS AFFECTING THE ENVIRONMENT

Policies and Procedures

The following order was issued by the Secretary of Commerce on October 23, 1971. This material supersedes the material appearing at 35 F.R. 19532 of December 23, 1970, including all attachments.

SECTION 1. *Purpose.* .01 This order prescribes the policies and procedures to be followed throughout the Department in the preparation of statements and comments on proposals for legislation and other major actions significantly affecting the quality of the environment. This order is intended to supplement present Council on Environmental Quality Guidelines which are attached as Attachment A.[1]

.02 This revision reflects changes in the recently issued guidelines of the Council on Environmental Quality. It also contains additional information and procedures that should assist the Department in meeting the requirements of the National Environmental Policy Act of 1969. The clarification of procedures reflects the experience to date in meeting those requirements.

SEC. 2. *General.* .01 Section 102(2)(c) of the National Environmental Policy Act of 1969 requires all Federal agencies to include in every recommendation or report on proposals for legislation and other major Federal action significantly affecting the quality of the human environment a detailed statement by the responsible official on:

a. The environmental impact of the proposed action;

b. Any adverse environmental effects which cannot be avoided;

c. Alternatives to the proposed action;

d. The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and,

e. Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

.02 The section of the law cited above further prescribes that prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement, and the comments and views of the appropriate Federal State, and local agencies which are authorized to develop and enforce environmental standards, shall be made available to appropriate officials, as well as the pubic, and shall accompany the proposal through the existing agency review processes.

SEC. 3. *Policies.* .01 The Department shall, to the maximum extent possible, cooperate fully in the national effort to improve environmental quality, including extending its services to other Federal, State, and local agencies for assistance in evaluating the impact of Federal actions on the environment.

.02 No major action, including legislative matters, shall be taken or approved within the Department that significantly affects the environment unless a detailed environmental statement has been prepared and approved, as provided herein.

.03 Heads of operating units shall establish procedures to assure that all relevant program matters within their respective areas of responsibility are reviewed to assess the need for statements on the impact of environmental quality.

.04 The Department is responsible for the preparation of environmental statements on those actions related to responsibilities formally delegated or assigned to the Department. Environmental statements shall normally not be prepared in support of matters which are the primary responsibility of other agencies.

.05 The Department shall fulfill its responsibility for commenting on statements referred to it by other departments and agencies, pursuant to section 102(2)(c) of the Act and Executive Order 11514.

SEC. 4. *Scope and responsibilities.* .01 Heads of operating units shall:

a. Determine whether proposed major actions of their operating unit have, or are likely to have, a significant impact on the environment;

b. Prepare an intradepartmental discussion paper on these actions and submit it for comment and review. These discussion papers should primarily contain relevant factual information and include economic and technical considerations as well as environmental values;

c. Review statements prepared by other agencies which have been referred to them for that purpose; and

d. Keep the Assistant Secretary for Science and Technology advised of (1) future actions that will have or be likely to have a significant impact on the environment and (2) other matters that affect his assigned responsibilities in the environmental area.

.02 Department Organization Order 10-1 assigns the Assistant Secretary for Science and Technology certain Department-wide responsibilities for carrying out the National Environmental Policy Act and Executive Order 11514, and in connection with environmental matters generally. In discharging these responsibilities the Assistant Secretary shall:

a. Prepare, review, evaluate, and approve both draft and final environmental statements and transmit approved statements and related material to the Council on Environmental Quality, in accordance with Council guidelines;

b. Conduct departmental coordination and clearance of environmental impact statements. Draft and final environmental impact statements shall be so designated only after departmental review and clearance are completed;

c. Arrange for draft environmental impact statements to be made available to other agencies and the public;

d. Receive for review draft environmental statements prepared by other departments and agencies and referred to the Department for that purpose; and whenever appropriate prepare the DOC comments;

e. Interpret and supplement guidelines established by the Council, and otherwise provide guidance to operating units in preparing and commenting on environmental statements; and

f. Supplement procedures for preparation, review and coordination of statements contained in this order or issued by the Council and the Office of Management and Budget, except as noted in paragraph .03 below.

.03 The General Counsel and Assistant Secretary for Administration shall supplement procedures for preparation, review, and coordination of environmental statements contained in this order or issued by the Council on Environmental Quality and Office of Management and Budget, as follows:

General Counsel: Statements required in connection with legislative proposals or reports; and

Assistant Secretary for Administration: Statements required in connection with budget material.

.04 a. For the purposes of this order the term "major actions" shall include:

1. Legislative actions including:

(a) Recommendations or favorable reports relating to legislation including that for appropriations initiated by the Department of Commerce.

(b) Favorable recommendations or reports by the Department of Commerce on legislative proposals initiated outside the Department of Commerce and for which the Department of Commerce has or would have primary authority.

2. Projects and continuing activities. Such projects and continuing activities include those directly undertaken by the Department of Commerce or supported in whole or in major part by the Department of Commerce through technical assistance, contracts, grants, cost sharing, subsidies, loans or other forms of funding support. They include grants and loans for public works and development facilities, economic development planning assistance, or economic development technical assistance, as provided in Attachment D to OMB Circular A-95 revised (February 9, 1971).

3. Policy changes or new procedures that may have a significant impact on the environment.

4. Research projects and activities when:

(a) Research is to be conducted in a manner which would have direct impact on the environment, however localized such impact may be (e.g., cloud seeding experiments), or

(b) Research is intended to form the basis for development of future projects which would be considered major actions under this order.

b. The dollar and physical size of a project are not necessarily a reliable guide to determine whether it is a "major" action. The following shall not be considered major actions under this order:

1. Legislative proposals, program or budget proposals or actions which provide for the continuation of existing programs at approximately current levels and without material change in their environmental effects provided that an environmental statement has been prepared previously on the program.

2. Normal housekeeping functions including personnel actions, procurement of general supplies and contracts for personal services.

3. Amendments to actions, including increases in cost, which do not alter the environmental impact of the actions.

4. Other actions specifically determined by the Deputy Assistant Secretary for Environmental Affairs not to fall under the requirement of this order.

Where a series of related projects under a program have substantially similar environmental impacts, the program, rather than the individual projects, may be considered as major actions for the purposes of this order, unless the proposed projects are to be conducted under widely varying geographic or environmental conditions.

SEC. 5. *Preparation, review and coordination of departmental statements.* .01 All major actions shall be reviewed by heads of operating units or their delegates at the earliest opportunity to determine whether such actions have a significant impact upon the environment.

a. Where it is determined that the major action may, individually or in

[1] Attachment A filed as part of the original document. See 36 F.R. 7724, Apr. 23, 1971.

combination with other actions, have a significant impact on the environment, a discussion paper shall be prepared.

b. The term "significant impact" shall include major actions of the Department of Commerce which may have both a beneficial and detrimental effect, even if on balance it is believed to have a beneficial effect. A significant environmental impact may exist depending upon the extent to which there is a potential for: (1) An alteration of an ecosystem, or (2) measurably affecting existing or future population of man or other forms of life, or (3) a major commitment of natural resources or major change in land use.

Actions which, in themselves, would not involve significant environmental impact as contemplated in this order none-the-less shall be considered as having a significant impact if they can reasonably be expected to set a precedent for a series of actions which, when considered cumulatively, would involve a significant impact.

.02 A draft environmental statement shall be prepared for each action which, individually or in combination with other actions, will likely have a significant impact on environment and will include the information required in Attachment A. The usual sequence shall be that a discussion paper will be furnished the Deputy Assistant Secretary for Environmental Affairs. He will circulate it within the Department. After appropriate internal review and clearance, if it is determined that a draft environmental impact statement is required, he will prepare the draft statement which will be sent to the Council on Environmental Quality and to appropriate Federal, State, and local agencies. After comments are received a final statement will be prepared and sent to the Council on Environmental Quality. Comments on the draft statement will be forwarded with the final statement. Specifically, it shall be the responsibility of heads of operating units to:

a. Provide the Deputy Assistant Secretary for Environmental Affairs with a discussion paper for review and evaluation. This submission shall include a list of suggested agencies from which it is proposed to seek comments. A letter transmitting the proposed statement to these agencies should be prepared for the signature of the Deputy Assistant Secretary for Environmental Affairs. See Attachment B[3] for a sample letter. The Deputy Assistant Secretary's office may request additions to or deletions from the distribution list.

b. Give careful consideration to comment from outside the Department in the preparation of final environmental statements and assure that copies of any comments accompany the environmental statements.

c. Review and certify that proposed final environmental statements comply with the requirements provided by law and regulation. Fifteen (15) copies of final statements shall be furnished to the Deputy Assistant Secretary for Environmental Affairs.

d. Assure that the latest statement accompany the action item through any reviews required by existing Departmental procedures.

e. Statements should be circulated with ample lead time for comments to be received and reviewed before actions such as obligation of funds are required. The timing should also recognize the review times required by the new CEQ guidelines (Attachment A).

.03 The Assistant Secretary for Science and Technology shall transmit the draft and final environmental statements and comments to the Council on Environmental Quality as provided in section 10(b) of the guidelines. In addition, he shall make the statements, and the comments and views obtained with respect to them, available to the public as provided by 5 U.S.C. 552 (the Freedom of Information Act). Final environmental impact statements together with agency comments on the draft statement will be readily available to the public. Arrangements have been made by the Council on Environmental Quality to utilize the National Technical Information Service (NTIS) as the means by which environmental impact statements are made available to the public. Requests for copies of statements and comments should be referred to NTIS.

SEC. 6. *Implementation of actions requiring departmental statements.* To the maximum extent practicable, no proposals for legislation or administrative actions subject to section 102(2)(c) are to be taken sooner than ninety (90) days after a draft environmental statement has been circulated for comment or sooner than thirty (30) days after the final text of an environmental statement has been made available to the Council and the public. When actions must be taken sooner than the above guidance permits, a full report of the reason for earlier actions should be prepared to supplement the environmental impact statement and the CEQ should be consulted in advance whenever possible.

SEC. 7. *Comments on nondepartmental statements.* .01 Operating units shall review all environmental statements referred to them by the Assistant Secretary for Science and Technology. They shall submit the results of their review to the Assistant Secretary to assist him in preparation of comments.

.02 Operating units shall forward to the Assistant Secretary all requests for comments made directly to them by other departments or agencies as soon as received. However, this does not preclude field offices providing a preliminary response to an impact statement they receive locally, as long as it is made clear that the official DoC position will be forthcoming at a later date.

.03 The Assistant Secretary shall develop and coordinate the Department's comments with the office or offices of primary concern. The Assistant Secretary shall then transmit the comments to the requesting department or agency.

SEC. 8. *Other requests for comments.* In order to prevent lead agencies from being bypassed and to minimize duplication and avoid unnecessary work, the Department will only review draft environmental impact statements referred by Federal agencies having lead agency assignments for preparation of statements. When requests for comments are received from other than Federal agencies, a letter, similar to the example in Attachment C,[4] should be sent to the originator stating that the draft statements are referred to the Department by the Federal agency having the responsibility for preparation of an environmental impact statement. A copy of the letter should be sent to the Deputy Assistant Secretary for Environmental Affairs office and where the lead agency can be identified a copy should be sent to that agency.

SEC. 9. *Monthly report of major actions reviewed and environmental impact statements to be prepared.* The heads of operating units shall submit a report to the Deputy Assistant Secretary (Science and Technology) for Environmental Affairs on the 5th working day of each month. This report shall list all major actions or proposals reviewed during the previous month for environmental impact. The actions reviewed should be limited to those that might reasonably be expected to have environmental impact. The list should include both items found not to significantly affect the quality of the human environment as well as those for which environmental impact statements were or will be prepared. Only new items need to be reported each month. The first report will be due October 5, 1971. After 1 year, the requirement for this report will be reviewed.

SEC. 10. *Special cases.* The CEQ guidelines state "Proposed actions, the environmental impact of which is likely to be high controversial, should be covered in all cases." A proposed action shall be considered controversial where a substantial number of persons are known to believe that the proposed action will have an adverse environmental impact or where actions of a similar nature have been opposed on environmental grounds in the past.

SEC. 11. *Savings provision.* Nothing in this order shall be construed to limit or alter authority of the General Counsel as chief law officer of the Department with respect to construction or interpretation of laws and regulations.

Effective date: October 23, 1971.

LARRY A. JOBE,
Assistant Secretary for Administration.

[FR Doc.71-16245 Filed 11-5-71;8:47 am]

[3] Attachment B filed as part of original document.

[4] Attachment C filed as part of original document.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Housing Administration

[Docket No. N-71-105]

CLOSING COSTS AND SETTLEMENT CHARGES

Notice of Public Participation in Study

Pursuant to section 701 of the Emergency Home Finance Act of 1970 (U.S.C. 701) the Secretary of Housing and Urban Development and the Administrator of Veterans Affairs are presently conducting a joint study of closing costs and settlement charges designed to develop recommendations for legislative and administrative actions which could be taken to reduce such costs and standardize them.

All persons who are interested in suggesting standards governing the amounts of settlement costs in connection with housing financed or assisted under the National Housing Act or chapter 37 of title 38 United States Code or otherwise commenting on the above subject matter are invited to submit written comments or suggestions in triplicate on or before November 23, 1971, referring to the above matter by docket number and addressed to the Programs Division, Office of the Assistant Commissioner for Programs, Housing Production and Mortgage Credit—FHA, Room 6134, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. All relevant material will be considered before submission of the final report. A copy of each communication will be available for public inspection at regular business hours at the above address.

Issued at Washington, D.C., November 2, 1971.

EUGENE A. GULLEDGE,
Assistant Secretary-Commissioner.

[FR Doc.71-16282 Filed 11-5-71;8:50 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 71-124]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Termination of Approval Notice

1. Certain laws and regulations (46 CFR Ch. I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been terminated as herein described during the period from October 15, 1969, to April 15, 1971 (List No. 12-71). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 290b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. Notwithstanding the termination of approval listed in this document, the equipment affected may be used as long as it remains in good and serviceable condition.

HATCHETS (LIFEBOAT AND LIFE RAFT) FOR MERCHANT VESSELS

The Mann Edge Tool Co., Lewistown, Pa., no longer manufactures certain hatchets and Approval No. 160.013/2/2 was therefore terminated effective April 1, 1971.

BUOYS, LIFE, RING, UNICELLULAR PLASTIC

The Style-Crafters, Inc., Post Office Box 8277, Station A, Greenville, SC 29604, Approval Nos. 160.050/39/0, 160.050/40/0 and 160.050/41/0 expired and were terminated effective April 8, 1971.

BUOYANT VESTS, UNICELLULAR PLASTIC FOAM

NOTE: For motorboats of Class A, 1, or 2 not carrying passengers for hire.

The Tuffy Products Co., 540 West Third Street, Bloomsburg, PA 17815, no longer manufactures certain unicellular plastic foam buoyant vests and Approval Nos. 160.052/368/0, 160.052/369/0 and 160.052/370/0 were therefore terminated effective April 6, 1971.

FIRE-PROTECTIVE SYSTEMS

The Fyr-Fyter Co., Newark Branch Office, Post Office Box 2750, Newark, NJ 07114, Approval No. 161.002/4/3 expired and was terminated effective October 15, 1969.

BOILERS, AUXILIARY, AUTOMATICALLY CONTROLLED, PACKAGED, FOR MERCHANT VESSELS

The Seattle Boiler Works, 5237 East Marginal Way South, Seattle, WA, Approval No. 162.026/7/0 expired and was terminated effective April 15, 1971.

STRUCTURAL INSULATIONS FOR MERCHANT VESSELS

The Keene Corp., Industrial Insulation Division, 500 Breunig Avenue, Trenton, NJ 08602, no longer manufactures certain structural insulations and Approval No. 164.007/19/0 was therefore terminated effective April 2, 1971.

INCOMBUSTIBLE MATERIALS FOR MERCHANT VESSELS

The Keene Corp., Industrial Insulation Division, 500 Breunig Avenue, Trenton, NJ 08602, no longer manufactures certain incombustible materials and Approval No. 164.009/50/0 was therefore terminated effective April 2, 1971.

The Raybestos-Manhattan, Inc., Asbestos Textile Division, Manheim, Pa. 17545, no longer manufactures certain incombustible materials and Approval No. 164.009/84/0 was therefore terminated effective April 8, 1971.

Dated: October 27, 1971.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.71-16246 Filed 11-5-71;8:47 am]

[CGFR 71-125]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

1. Certain laws and regulations (46 CFR Ch. I) require that various items of lifesaving, firefighting, and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the Outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from April 2, 1971, to April 7, 1971 (List No. 11-71). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard, with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard, for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner canceled or suspended by proper authority.

WORK VESTS, UNICELLULAR PLASTIC FOAM

Approval No. 160.053/12/0, Models 211-SF-17.5 and 231-SF-17.5 unicellular plastic foam work vests, dwgs. 61D821 and 61D823 with bills of material dated June 21, 1961, manufactured by Gentex Corp., Carbondale, Pa. 18407, effective April 7, 1971. (It is an extension of Approval No. 160.053/12/0 dated May 24, 1966.)

STRUCTURAL INSULATIONS FOR MERCHANT VESSELS

Approval No. 164.007/18/0, "B–E–H 6-pound felt," mineral wool type structural insulation identical to that described in National Bureau of Standards letter, File III–6/36, dated July 16, 1943, approved for use without other insulating material to meet Class A–60 requirements in a 4-inch thickness and 6 pounds per cubic foot density, manufactured by Keene Corp., Ceiling and Insulation Division, Princeton Service Center, U.S. Route 1, Princeton, N.J. 08540, Plant: Huntington, Ind., effective April 2, 1971. (It supersedes Approval No. 164.007/18/0 dated February 25, 1969; to show change of name and address of manufacturer.)

Approval No. 164.007/22/0, "B–E–H 8-pound felt," mineral wool type structural insulation identical to that described in National Bureau of Standards letter, File III–6/36, dated July 16, 1943, approved for use without other insulating material to meet Class A–60 requirements in a 3-inch thickness and 8 pounds per cubic foot density, manufactured by Keene Corp., Ceiling and Insulation Division, Princeton Service Center, U.S. Route 1, Princeton, N.J. 08540, Plant: Huntington, Ind., effective April 2, 1971. (It supersedes Approval No. 164.007/22/0 dated February 25, 1969; to show change of name and address of manufacturer.)

Approval No. 164.007/23/0, "B–E–H Mono-Block," mineral wool type structural insulation identical to that described in National Bureau of Standards Test Reports Nos. TG3619–47:FR1820 dated January 7, 1941, and TG3610–1493:FP2569 dated November 10, 1947, boards approved for use without other insulating material to meet Class A–60 requirements in a 2-inch thickness and 18 pounds per cubic foot density, manufactured by Keene Corp., Ceiling and Insulation Division, Princeton Service Center, U.S. Route 1, Princeton, N.J. 08540, Plant: Kalamazoo, Mich., effective April 2, 1971. (It supersedes Approval No. 164.007/23/0 dated February 25, 1969; to show change of name and address of manufacturer.)

BULKHEAD PANELS FOR MERCHANT VESSELS

Approval No. 164.008/62/0, Marinite, Ltd., bulkhead panel "Marinite–45" identical to that described in the National Bureau of Standards report No. FR3743 dated January 25, 1971, and Marinite's letter dated August 29, 1969; approved as meeting Class B–15 requirements in a density of 45 lbs. per cubic foot in a ¾-inch thickness, manufactured by Marinite, Ltd., Cape Universal House Exchange Road, Watford Herts, England, Plant: Marinite, Ltd., Germiston Works, Pertershell Road, Springburn, Glasgow No. 1, Scotland, effective April 2, 1971. (It supersedes Approval No. 164.008/62/0 dated February 5, 1971; to show minor change.)

INCOMBUSTIBLE MATERIALS FOR MERCHANT VESSELS

Approval No. 164.009/28/1, "B–E–H Spun Felt," mineral wool insulation type incombustible material identical to that described in National Bureau of Standards Reports Nos. TG10210–1921:FP3257 dated December 16, 1954, and TG10210–2021:FP3448 dated May 6, 1958, approved in a density of from 2½ to 4 pounds per cubic foot, manufactured by Keene Corp., Ceiling and Insulation Division, Princeton Service Center, U.S. Route 1, Princeton, N.J. 08540, Plant: Huntington, Ind., effective April 2, 1971. (It supersedes Approval No. 164.009/28/1 dated February 25, 1969; to show change of name and address of manufacturer.)

Approval No. 164.009/49/0, "Thermasil," asbestos-hydrous calcium silicate type pipe and block insulation identical to that described in Ehret Magnesia Manufacturing Co.'s letter of October 18, 1957, to the Commandant, U.S. Coast Guard, manufactured by Keene Corp., Ceiling and Insulation Division, Princeton Service Center, U.S. Route 1, Princeton, N.J. 08540, Plant: Valley Forge, Pa., effective April 2, 1971. (It supersedes Approval No. 164.009/49/0 dated February 25, 1969; to show change of name and address of manufacturer.)

Approval No. 164.009/65/1, "Kaylo 20" asbestos-hydrous calcium silicate type incombustible material without factory applied covering, identical to that described in Owens-Corning Fiberglas Corp. letter dated December 30, 1960, approved in a density of 12.5 pounds per cubic foot, manufactured by Owens-Corning Fiberglas Corp., Toledo, Ohio 43601, effective April 5, 1971. (It is an extension of Approval No. 164.009/65/1 dated April 22, 1966.)

Dated: October 27, 1971.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.71–16247 Filed 11–5–71;8:47 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23956, Order 71–11–18]

AMERICAN AIRLINES, INC.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 3d day of November 1971.

By tariff revision[1] marked to become effective November 4, 1971, American Airlines, Inc. (American), proposes to establish reduced charter rates of $3.26 per charter mile and $3 per ferry mile for application between the continental United States and Hawaii on its B–707–323 aircraft having 160 to 175 seats.

Continental Air Lines, Inc. (Continental), and World Airways, Inc. (World), have filed complaints requesting investigation and suspension of American's proposed rates. Continental alleges that the proposed reductions (ranging from 16 percent between Honolulu and New York to 22 percent between Honolulu and Los Angeles) are so drastic as to require the strongest justification, but that American has failed to supply any cost information, thereby making it impossible to determine whether the proposed rates are economical even on an incremental basis. Continental further alleges that American's proposed operation is not incremental in nature, as it is designed to enable American to fulfill its contract with the American International Air Service (AITS) announced in July 1971 which calls for American to dedicate an aircraft to the operation of three flights per week between the mainland and Hawaii for split charter groups. Continental contends that, in light of American's low-load factors in the Hawaii market this past summer, ranging from 35.1 percent in June to 40.8 percent in July, American can ill afford to lower its rates in a market where charters will be in direct competition with its own scheduled service as well as with the services of its competitors.

World asserts that the proposed rates are without economic justification making their suspension and investigation a necessity.

In support of its proposal and in answer to the complaints American asserts that the proposed rates are designed to match lower rates now offered by other carriers for affinity group charters in the market concerned; that the rates will apply only to charters operated with high density aircraft, and that charter rates which are even lower on a per-seat mile basis are presently being offered by Overseas National Airways (ONA) and Trans International Airlines (TIA). It further asserts its rates are in line with those applicable to MAC charters and that other carriers have comparable plane load rates in the transatlantic market.

AITS has filed an answer to Continentals' complaint asserting that suspension of the proposal would frustrate and delay implementation of its tour program with serious economic consequences to AITS and to the State of Hawaii.

Upon consideration of the tariff proposal and other relevant matters, the Board finds that the proposal may be unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial or otherwise unlawful and should be investigated. The Board further concludes that the tariff in question should be suspended pending investigation.

The rates proposed by American reflect significant reductions from its present charter rates, and from charter rates of other carriers operating comparable aircraft types. We note, also, that American's reported domestic direct aircraft operating costs for B–707 aircraft in calendar 1970 were 1.334 cents per available seat-mile, and that general industry experience indicates that total costs before return on investment tend to be about double direct aircraft operating costs. For this reason, and in the absence of any cost data which would indicate the contrary, we seriously question whether they are adequate to fully cover the cost of providing the service.

[1] Revision to American Airlines, Inc., tariff CAB No. 65.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 401, 404, and 1002 thereof,

It is ordered, That:

1. An investigation be instituted to determine whether the charter rate of $3.26 per mile and ferry rate of $3 per mile applicable to B–707–323 aircraft and the Explanation of Notes "C" and "E" on 27th Revised Page 5 of American Airlines, Inc.'s CAB No. 65, and rules, regulations, and practices affecting such rates and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful rates and provisions, and rules, regulations, or practices affecting such rates and provisions;

2. Pending hearing and decision by the Board, the charter rate of $3.26 per mile and ferry rate of $3 per mile applicable to B–707–323 aircraft and the Explanation of Notes "C" and "E" on 27th Revised Page 5 of American Airlines, Inc.'s, CAB No. 65, are suspended and their use deferred to and including February 1, 1972, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. Except to the extent granted herein, the complaints of Continental Air Lines, Inc., in Docket 23914 and of World Airways, Inc., in Docket 23932 are hereby dismissed;

4. This investigation be assigned for hearing before an Examiner of the Board at a time and place hereafter to be designated; and

5. A copy of this order be filed with the above-named tariff and served upon American Airlines, Inc., Continental Air Lines, Inc., World Airways, Inc., and American International Air Service which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[2]

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71–16268 Filed 11–5–71;8:50 am]

[Docket No. 23949; Order 71–113]

NORTHEAST AIRLINES, INC.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of November 1971.

By tariff revisions[1] marked to become effective November 15, 1971, Northeast Airlines, Inc. (Northeast) proposes to extend the availability of its southbound weekend and 7–21 day excursion fares to points in Florida and return through January 31, 1972. These fares are presently set to expire with December 15, 1971. The proposal would, however, black out the fares on certain peak days, and would restrict the applicability of the 7–21 day excursion fares to Tuesdays, Wednesdays, and Thursdays.

In support of its proposal, Northeast alleges that it is extending the fares to coincide with its decision to operate its fall schedules through January, instead of changing to peak winter schedules on December 16, in view of last year's disappointing traffic picture. The carrier has provided summary traffic data showing that it carried more southbound passengers in November of 1970 than in January 1971. Northeast alleges that restricting the application of the 7–21 day excursion fares to Tuesday, Wednesday, and Thursday will even out traffic flow and compliment the proposed extension of the weekend fares. With respect to the weekend fares, Northeast alleges that, although Friday is a peak travel day, there is room for further traffic stimulation in January as indicated by the fact that its January 1971 Friday load factor was 51.3 percent. The carrier estimates a 30-percent generation factor and a net revenue gain of $80,164.

Eastern and National have filed complaints[2] requesting suspension and investigation of Northeast's proposals. It is alleged that a comparison of summary traffic data is meaningless in judging the reasonableness of the fares, and that the fares' generative effect in November as a part of an inexpensive Florida trip would not be the case in January where the fare has much less impact on the total trip price. The complainants allege further that extension of the fares into the peak season will merely be a windfall gain for traffic accustomed to paying normal fares.

In answer to the complaints, Northeast contends that since fewer passengers traveled last January than in the preceding November, the 7–21 day excursion fares would be as reasonable this upcoming January as they are in the present off-peak period. With respect to the weekend fares, the carrier alleges that, while there has been a lack of inclination in the past to develop new traffic after December 15 because of high load factors, there is sufficient capacity this season, even on weekends, to accommodate additional traffic. Further, Northeast asserts that the argument that the air fare is a small part of total trip costs is without merit. It is alleged that, while the traditional winter vacation is sufficiently lengthy as to render the air fare a small proportion of total cost, the short-stay weekend passenger will respond to availability of a low air fare.

Upon consideration of the tariff filing, the complaints and answer thereto, and all relevant matters, the Board has determined that the proposed extension of the southbound weekend and 7–21 day excursion fares to Florida may be unjust or unreasonable or unjustly discriminatory, or unduly preferential, or unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the proposed extension of the fares should be suspended pending investigation.

The winter season is critically important to the financial well being of the major Florida carriers and we believe that the offering of widely available discount fares during this period should be permitted only if a fairly clear expectation of profit improvement can be shown. In our opinion, this showing has not been made. Northeast alleges that it anticipates a 30-percent generation of new traffic and that its experienced Friday load factors (51.3 percent) evidence an ability to accommodate this additional traffic. On the other hand, this load factor approaches a level twice that experienced on Tuesdays (26.7 percent) and it appears to us that the proposal could very well aggravate the already pronounced peaking in traffic demand. As we have previously noted, promotional fares available during heavy travel periods will tend to create pressure towards an inherently uneconomic increase in capacity during those times.

With respect to the 7–21 day excursion fares, Northeast has provided no generation/diversion estimates and relies almost wholly on the fact that the total number of passengers carried last year in the months of November and January is about the same. We are inclined to agree that such a summary comparison of traffic is of limited value, and believe that the more important consideration is how much diversion as compared to generation is likely to occur.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That:

1. An investigation be instituted to determine whether the provisions described in Appendix A hereto,[1] and rules, regulations, and practices affecting such provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful provisions, and rules, regulations, or practices affecting such provisions;

2. Pending hearing and decision by the Board, the provisions described in Appendix A hereto are suspended and their use deferred to and including February 12, 1972, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. Except to the extent granted herein, the complaints of Eastern Air Lines, Inc., in Docket 23899, and National Airlines, Inc., in Docket 23902, are hereby dismissed;

4. The proceeding ordered herein be assigned for hearing before an Examiner of the Board at a time and place hereafter to be designated; and

[1] Filed as part of the original document.

[2] Concurring statement of Member Miretti filed as part of the original document.

[1] Revisions to Airline Tariff Publishers, Inc., Agent, Tariffs C.A.B. Nos. 166 and 142, and Northeast Airlines, Inc., Tariff C.A.B. No. 127.

[2] Eastern's complaint is directed only at the 7–21 day fares.

5. Copies of this order be filed with the aforesaid tariffs and be served upon Eastern Air Lines, Inc., National Airlines, Inc., and Northeast Airlines, Inc., which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[3]

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.71-16267 Filed 11-5-71;8:50 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report 566]

COMMON CARRIER SERVICES INFORMATION[1]

Domestic Public Radio Services Applications Accepted for Filing[2]

OCTOBER 18, 1971.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed below if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE, *Secretary.*

APPENDIX

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

1970-C2-P-72—Airsignal International, Inc. (New), New one-way station to be located at the First National Bank Building, 165 Madison, Memphis, TN, to operate on 158.70 MHz.

1971-C2-P-(2)-72—Western Mobilphone, Inc. (New), New one-way station to be located at Sandia Mountain Crest, 9 miles northeast of Albuquerque, N. Mex., to operate on 152.24 MHz.

1972-C2-P-(2)-72—United Telephone Co. of Florida (KRM968), Add frequency 152.66 MHz, replace transmitter operating on 152.72 MHz and change the antenna system located at 823 Fifth Avenue South, Naples, FL.

1994-C2-AL-72—Communication Specialists Co., Inc., Consent to assignment of license from Communication Specialists Co., Inc., Assignor, to Mobile Communications Service, Inc., Assignee. Station: KFL919 Longview, Wash.

1995-C2-P-(4)-72—Pacific Northwest Bell Telephone Co. (KON911), Reduce transmitter power operating on 152.840 and 158.100 MHz at location No. 6: Northeast 91st Street and Roosevelt Way NE., Seattle, WA, and location No. 9: 3520 Southwest Othello Street, Seattle, WA.

1996-C2-P-72—Northern Mobile Telephone Co. (New), New one-way station to be located at 648 North Main Street, Akron, OH, to operate on 35.22 MHz.

1997-C2-P-72—Northern Mobile Telephone Co. (New), New one-way station to be located at 5595 Goodell Road, Freedom, OH, to operate on 35.22 MHz.

2029-C2-(2)-72—General Telephone Co. (KON912), For additional facilities to operate on 454.475 and 454.600 MHz located at 426 Casino Road, Everett, WA.

2030-C2-P/ML-72—Ira Magod (KEC928), Replace transmitter operating on 152.09 MHz located at 143 East State Street, Trenton, NJ.

2031-C2-P-(6)-72—Empire Communications Co. (KOP306), Replace transmitter operating on 152.21 MHz base, relocate facilities operating on 152.03 MHz base at location No. 1 to: 8.7 miles southeast Coos Bay, Blue Ridge Lookout, Oreg., also at location No. 1 add 459.20 MHz repeater and relocate repeater facilities operating on 459.05 MHz, at location No. 2 change control frequency to 454.20 MHz, replace transmitter for same and relocate facilities operating on 454.05 MHz control to a new location No. 2: 501 North 10th Street, Coos Bay, OR.

Major Amendment

7222-C2-P/ML-71—Newark Radiotelephone Co. (New), Amended to change base frequency to 454.325 MHz. See PN dated June 28, 1971, Report No. 550.

INFORMATIVE: It appears that the following applications may be mutually exclusive and subject to the Commission's rules regarding ex parte presentations, by reason of potential electrical interference:

Massachusetts

6738-C2-P-71—Sherman M. Wolf, doing business as Zipcall (New).
614-C2-P-72—North Shore Communications, Inc. (KCC483).

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)

1968-C1-MP-72—Florida Telephone Corp. (KIO44), To replace transmitter with General Electric UT-10-B. Station location: 33 North Main Street, Winter Garden, FL. Frequencies: 5974.8 MHz and 6093.5 MHz toward Orlando, Fla.

2028-C1-P/L-72—Cascade Utilities, Inc. (KGG59), To reinstate expired station. Frequencies: 10,795 MHz and 11,035 MHz. Location: 2,500 feet east of end of Oregon Highway No. 224 by Alder Flat Forest Camp, Oreg.

LOCAL TELEVISION TRANSMISSION SERVICE

2000-C1-P/L-72—Video Microwave, Inc. (New), C.P. and license for a new mobile television station operating in the frequency bands 6425 to 6525 MHz and 11,700 to 12,200 MHz. Area of operation is the State of Florida.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)

The following applicants propose to establish omnidirectional facilities for the provision of common carrier "Subscriber-Programed" television service:

1977-C1-P-72—Microband Corp. of America (New), New station at 11th and J Streets, Elks Tower Building, Sacramento, CA; latitude 38°34'48" N., longitude 121°29'27" W. Frequencies: 2152.325 MHz (visual) and 2150.20 MHz (aural) toward various receiving points of system and 2158.50 MHz (visual) and 2154.00 MHz (aural) toward various receiving points of system.

1978-C1-P-72—Microband Corp. of America (New), New station at Marine Midland Center, Main Street and Seneca, Buffalo, NY; latitude 42°52'51" N., longitude 78°52'30" W. Frequencies: 2152.325 MHz (visual) and 2150.20 MHz (aural) toward various receiving points of system and 2158.50 MHz (visual) and 2154.00 MHz (aural) toward various receiving points of system.

[3] Concurring and dissenting statement of Members Minetti and Murphy filed as part of the original document.

[1] All applications listed below are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

[2] The above alternative cutoff rules apply to those applications listed below as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)—Continued

2011-C1-P-72—Video Microwave, Inc. (New), C.P. for new station 1.4 miles northeast of Hilolo at latitude 27°28'13", longitude 80°46'12". Frequencies 6226.9V, 6286.2V, 6345.5V, 6404.8V, 6197.2H, 6286.8H on azimuth 135°42' toward Allapattah; 6226.9V, 6286.2V, 6404.8V on azimuth 334°43' toward Lokosee, Fla.

2012-C1-P-72—Video Microwave, Inc. (New), C.P. for new station 12.6 miles north of Indian Town at latitude 27°12'16", longitude 80°28'49". Frequencies 5974.8H, 6034.2H, 6093.5H, 6152.8H, 6004.5V, 6063.8V on azimuth 202°06' toward Canal Point; 5974.8H, 6034.2H, 6093.5H on azimuth 315°50' toward Hilolo, Fla.

2013-C1-P-72—Video Microwave, Inc. (New) C.P. for a new station 0.4 mile southwest of Canal Point at latitude 26°51'26", longitude 80°38'15". Frequencies 6226.9V, 6286.2V, 6345.5V, 6404.8V, 6315.9H, 6375.2H on azimuth 169°03' toward Shawano Fields; 6197.2H, 6286.8H, 6375.2H on azimuth 22°01' toward Allapattah, Fla.

2014-C1-P-72—Video Microwave, Inc. (New), C.P. for new station 0.08 mile south-southeast of Shawano Fields at latitude 26°52'35", longitude 80°30'14". Frequencies 5945.2H, 6004.5H, 6063.8H, 6123.1H, 5974.8V, 6034.2V on azimuth 131°41' toward West Dixie Bend; 6945.2V, 6034.2H, 6152.8H, on azimuth 339°06' toward Canal Point; 11,010V, 10,935V on azimuth 80°13' toward Greenacres City, Fla.

2015-C1-P-72—Video Microwave, Inc. (New), C.P. for new station near Greenacres City and Lantana Road at latitude 26°36'17", longitude 80°12'42". Frequency 11,245V on azimuth 64°58' toward WEAT Studio, Congress Avenue and Lark Road, West Palm Beach, FL. Frequency 11,265V on azimuth 46°06' toward WPTV Studio, Post Office Box 510, Palm Beach, FL.

2016-C1-P-72—Video Microwave, Inc. (New), C.P. for new station 3.5 miles northwest of West Dixie Bend at latitude 26°30'28", longitude 80°15'06". Frequencies 6226.9H, 6286.2H, 6345.5H, 6404.8H, 6256.5V, 6375.2V on azimuth 108°42' toward Hallandale; 6197.2H, 6286.2V, 6404.8V on azimuth 311°47' toward Shawano Fields, Fla.

2017-C1-P-72—Video Microwave, Inc. (New), C.P. for new station 1.8 miles northwest of Hallandale Post Office at latitude 25°59'37", longitude 80°10'29". Frequencies 5974.8H, 6093.5H, 6152.8H on azimuth 348°44' toward West Dixie Bend; 11,425V on azimuth 172°57' toward WCKT Studio, 1401 79th Street Causeway, Miami; 11,345V on azimuth 188°16' toward WPLG Studio, 3900 Biscayne Boulevard, Miami; 11,265V on azimuth 184°31' toward WTVJ Studio, 316 North Miami Avenue, Miami; 11,385H on azimuth 222°59' toward WLTV Studio, 695 Northwest 199th Street, Miami; 11,305H on azimuth 183°44' toward WCIX Studio, 1111 Brickell Avenue, Miami; 11,545H on azimuth 41°12' toward WKID Studio, 606 East Sheridan Street, Miami, Fla.

2018-C1-P-72—Video Microwave, Inc. (New), C.P. for new station at WPLG Studio, 3900 Biscayne Boulevard, Miami at latitude 25°48'48", longitude 80°11'35". Frequency 10,935V on azimuth 5°15' toward Hallandale, Fla.

2019-C1-P-72—Video Microwave, Inc. (New), C.P. for new station at WTVJ Studio, 316 North Miami Avenue, Miami at latitude 25°46'37", longitude 80°11'37". Frequency 10,855V on azimuth 4°30' toward Hallandale, Fla.

2020-C1-P-72—Video Microwave, Inc. (New), C.P. for new station at WCKT Studio, 1401 79th Street Causeway, Miami, at latitude 25°50'58", longitude 80°09'18". Frequency 11,015V on azimuth 352°57' toward Hallandale, Fla.

2021-C1-P-72—Video Microwave, Inc. (New), C.P. for new station 1.5 miles north of Kissimmee at latitude 28°19'45.7", longitude 81°24'09.3". Frequencies 6226.9V, 6286.2V, 6404.8V, 6197.2H, 6286.2H on azimuth 251°20' toward Polk City; 6226.9H, 6286.2H on azimuth 44°55' toward Bithlo, Fla.

2022-C1-P-72—Video Microwave, Inc. (New), C.P. for new station 2.7 miles northeast of Polk City at latitude 28°12'48.8", longitude 81°47'19". Frequencies 5945.2V, 6063.8H, 6152.8H, 6034.2V, 6093.5V on azimuth 256°10' toward Morieville; 5945.2V, 6063.8V on azimuth 71°09' toward Kissimmee, Fla.

2023-C1-P-72—Video Microwave, Inc. (New), C.P. for new station 1.1 miles north-northwest of Morieville at latitude 28°07'58", longitude 82°09'20". Frequencies 6197.2V, 6315.9V, 6226.9H, 6345.5H, 6404.8H on azimuth 210°40' toward Adamsville; 6286.2V, 6404.8V on azimuth 78°00' toward Polk City, Fla.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)—Continued

1979-C1-P-72—Microband Corp. of America (New), New station at 1001 Howard Avenue, Plaza Tower Building, New Orleans, LA; latitude 29°56'46" N., longitude 90°04'35" W. Frequencies: 2152.325 MHz (visual) and 2150.20 MHz (aural) toward various receiving points of system and 2158.50 MHz (visual) and 2154.00 MHz (aural) toward various receiving points of system.

1980-C1-P-72—Tekkom, Inc. (New), New station at temporary fixed locations in San Diego County, Calif. Frequencies 2154.776 MHz (visual) and 2150.276 MHz toward various receiving points of system.

1981-C1-P-72—Tekkom, Inc. (New), New station at temporary fixed locations in Denver, Colo. Frequencies: 2154.776 MHz (visual) and 2150.276 MHz (aural) toward various receiving points of system.

(INFORMATIVE: Applicant proposes a microwave network for the purpose of providing two-way switched terminal-to-terminal common carrier video transmission service for television broadcast stations in the State of Florida.)

2001-C1-P-72—Video Microwave, Inc. (New), C.P. for new station 3.3 miles north-northeast of Bithlo, Fla., at latitude 28°30'08", longitude 81°05'38". Frequencies 5974.8H, 6093.5H, 6004.5V, 6123.1V, 6034.2H, 6152.8H on azimuth 173°56' toward Holopaw; frequencies 6063.8V, 6004.5V, 6946.2V on azimuth 1°12' toward Alamana; 5974.8V, 6034.2V, 6093.5V, 6004.5H, 6123.1H on azimuth 225°04' toward Kissimmee; 11,265V on azimuth 266°48' toward WESH Studio at 1501 Minnesota Avenue (Winter Park), Orlando, FL, 11,425V on azimuth 260°19' toward WDBO Studio at 30 South Ivanhoe Boulevard, Orlando, FL; 11,345V on azimuth 257°02' toward WFTV Studio at 639 West Central Street, Orlando, Fla.

2002-C1-P-72—Video Microwave, Inc. (New), C.P. for a new station 2.4 miles north-northeast of Alamana, Fla., at latitude 28°58'23", longitude 81°06'06". Frequencies 6226.9V, 6286.2V, 6345.5V, 6404.8V, 6256.5H, 6375.2H on azimuth 329°11' toward Pierson, Fla.

2003-C1-P-72—Video Microwave, Inc. (New), C.P. for new station 8 miles east of Pierson, Fla., at latitude 29°13'48", longitude 81°19'46". Frequencies 5974.8V, 6034.2V, 6093.5H, 6152.8H, 5945.2V, 6063.8V on azimuth 140°04' toward Alamana, Fla.; 5974.8V, 6034.2V, 6152.8V on azimuth 349°55' toward Gopher Ridge, Fla.

2004-C1-P-72—Video Microwave, Inc. (New), C.P. for new station 0.53 mile south of Gopher Ridge, Fla., at latitude 29°39'30", longitude 81°28'00". Frequencies 6286.2V, 6404.8V, 6197.2H, 6256.5H, 6315.9H, 6375.2H on azimuth 169°52' toward Pierson, Fla. Frequencies 6197.2H, 6315.9H, 6375.2H on azimuth 3°43' toward St. Augustine, Fla.

2005-C1-P-72—Video Microwave, Inc. (New), C.P. for new station 7.5 miles north-northwest of St. Augustine, Fla., at latitude 30°00'40", longitude 81°23'25". Frequencies 5945.2H, 6004.5H, 6063.8H, 6123.1H, 6034.2V, 6152.8V on azimuth 183°44' toward Gopher Ridge, Fla.; 5946.2V, 6004.5V, 6063.8V on azimuth 330°33' toward Jacksonville, Fla.

2006-C1-P-72—Video Microwave, Inc. (New), C.P. for new station 9117 Hogan Road, Jacksonville, FL, at latitude 30°16'36", longitude 81°33'47". Frequencies 6226.9H, 6286.2H, 6345.5H, 6404.8H, 6197.2V, 6315.9V on azimuth 160°28' toward St. Augustine, Fla.; 11,425V on azimuth 303°42' toward WFGA Studio, Television Park, 1070 East Adams Street, Jacksonville, FL, 11,345V on azimuth 295°36' toward WJXT Studio, 1851 Southampton Road, Jacksonville, FL.

2007-C1-P-72—Video Microwave, Inc. (New), C.P. for new station at WJXT Studio, 1851 Southampton Road, Jacksonville, FL, at latitude 30°18'46", longitude 81°39'00". Frequency at 10,935V on azimuth 115°33' toward Jacksonville, Fla.

2008-C1-P-72—Video Microwave, Inc. (New), C.P. for new station at WFGA Studio, Television Park, 1070 East Adams Street, Jacksonville, FL, at latitude 30°19'22", longitude 81°38'34". Frequency 11,015V on azimuth 123°40' toward St. Augustine, Fla.

2009-C1-P-72—Video Microwave, Inc. (New), C.P. for new station 4.3 miles north-northeast of Holopaw, Fla., at latitude 28°11'34", longitude 81°02'41". Frequencies 6197.2H, 6315.9H, 6226.9V, 6286.2V, 6345.5V, 6404.8V on azimuth 166°17' toward Lokosee; 6197.2H, 6315.9H, 6376.2H on azimuth 353°57' toward Bithlo, Fla.

2010-C1-P-72—Video Microwave, Inc. (New), C.P. for new station 5.7 miles northwest of Lokosee at latitude 27°49'34", longitude 80°57'33". Frequencies 5974.8H, 6034.2H, 6093.5H, 6152.8H, 6004.5V, 6123.1V on azimuth 154°37' toward Hilolo; 5974.8H, 6034.2H, 6152.8H on azimuth 348°19' toward Holopaw, Fla.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)—Continued

2024–C1–P–72—Video Microwave, Inc. (New), C.P. for new station 0.7 mile south-southeast of Adamsville at latitude 27°48'02", longitude 82°22'27". Frequencies 5945.2V, 6063.8V on azimuth 30°34' toward Moricsville; 5974.8H on azimuth 138°56' toward Myakka Head; 11,265V on azimuth 335°54' toward WFLA Studio, 905 Jackson Street, Tampa; 11,585V on azimuth 288°15' toward WLCY Studio, 11450 Gandy Boulevard, St. Petersburg; 11,345V on azimuth 323°33' toward WTVT Studio, 3213 John F. Kennedy Boulevard, Tampa; 11,425V on azimuth 286°39' toward WTOG Studio, 365 105th Terrace NE., St. Petersburg, FL.

2025–C1–P–72—Video Microwave, Inc. (New), C.P. for new station 1.4 miles east of Myakka Head at latitude 27°28'09", longitude 82°03'13". Frequencies 6226.9V on azimuth 153°50' toward Nocatee, Fla.

2026–C1–P–72—Video Microwave, Inc. (New), C.P. for new station 4 miles south-southeast of Nocatee at latitude 27°06'20", longitude 81°51'15". Frequency 6123.1H on azimuth 165°11' toward Tucker's Corner, Fla.

2027–C1–P–72—Video Microwave, Inc. (New), C.P. for new station Route 31, 3.8 miles south of Tucker's Corner at latitude 26°48'08", longitude 81°45'53". Frequency 11,425V on azimuth 209°07' toward WINK Studio, 2824 Palm Beach Boulevard, Fort Myers, FL.

It appears that the following applications may be mutually exclusive and subject to the Commission's rules regarding ex parte presentations, by reasons of potential electrical interference.

California

Tekkom, Inc. (New), File No. 1985–C1–P–72.

COMMUNICATIONS SATELLITE SERVICE

97–CSG–P–72—Communications Satellite Corp. (New), C.P. for a new developmental earth station at Clarksburg, Md., at latitude 39°13'16" N., longitude 77°16'33" W. Proposed station will use a 300-watt transmitter and a 15-foot diameter antenna (43.86 db gain) to communicate with Intelsat IV satellites over the Atlantic. Transmissions will be made at any of a number of discrete frequencies in the band 5925–6425 MHz with emissions 38F9, 1770F9, or 7050F9 with a maximum e.i.r.p. of 65.9 dbW/4 kHz. Minimum antenna elevation angle will be 16.6°.

12–CSS–P–72—Lockheed Aircraft Co. (New), C.P. for a developmental space station to be located in Sunnyvale, Calif., at latitude 37°24'57" N., longitude 122°01'38" W. Transmissions will be at 3948 MHz (153F9), 6175 MHz (975F9), and 11,725, 11,885, 12,775, 12,935, 14,025, 14,185 MHz (all 36000F9) with maximum e.i.r.p. of 56 watts. Operations of this space station will be for developmental and demonstrational purposes and will be confined within a steel reinforced concrete building to minimize possibilities of interference.

(INFORMATIVE: This application was originally filed on July 13, 1971, with the experimental branch where it was assigned the File No. 5663–ED–PL–71. This public notice is made for informative purposes only and the 30-day waiting period for this application is waived.)

Applications filed pursuant to section 214 of the Communications Act of 1934, as amended:

TELEPHONE WIRE FACILITIES

P–C–8242—Northwestern Bell Telephone Co., Informal (section 63.03), To supplement facilities between Hudson, Wis. and Stillwater, Minn.; and Hudson; Wis., and Minneapolis, Minn.; Hudson, Wis. and St. Paul, Minn.; New Richmond, Wis., and St. Paul, Minn.

[FR Doc.71–16157 Filed 11–5–71;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RP71–131]

ALGONQUIN GAS TRANSMISSION CO.

Notice of Filing of Proposed Tariff Provision Relating to Demand Charge Adjustment

NOVEMBER 3, 1971.

Take notice that on October 29, 1971, Algonquin Gas Transmission Co. (Algonquin) filed as part of its FPC Gas Tariff, Original Volume No. 1, Original Sheet Nos. 27–A and 27–B, Fourth Revised Sheet No. 8, Ninth Revised Sheet No. 15–K, and Fourth Revised Sheet No. 15–P.

Algonquin states that it "has been advised by its sole natural gas supplier, Texas Eastern Transmission Corp., that curtailments due to supply shortages may be required. In further consideration of the matter Algonquin has reached the conclusion that it is desirable to set forth as part of its tariff, in specific detail, the precise procedures it will employ to implement the prorationing provision contained in its presently effective tariff." Algonquin further states that the subject filing is to accomplish said purpose.

Algonquin proposes that the tariff sheets become effective November 1, 1971, and accordingly requests waiver of compliance with the applicable Commission rules and regulations.

Any order issued in this proceeding is subject to our Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91–379, 84 Stat. 799, as amended by Public Law 92–15, 85 Stat. 38) and Executive Order No. 11615, including such amendments as the Commission may require.

Any person desiring to be heard or make any protest with reference to said filing should on or before November 12, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.18 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The filing which was made with the Commission is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71–16307 Filed 11–5–71;8:51 am]

[Dockets Nos. RP71–106, RP71–129]

CITIES SERVICE GAS CO.

Supplemental Notice of Proposed Changes in Rates and Charges

NOVEMBER 3, 1971.

On April 22, 1971, Cities Service Gas Co. (Cities Service) tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1, including inter alia a change in the applicability and character of service provisions related to Rate Schedule LVS–2. Notice of these changes for which an effective date of May 23, 1971, was requested was issued by the Commission on April 28, 1971. By order issued May 21, 1971, the Commission suspended the proposed tariff changes and deferred their use until October 23, 1971, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

Take further notice that on October 22, 1971, Cities Service filed certain modified tariff sheets and a motion requesting that the aforesaid tariff changes as thus modified be made effective as of October 23, 1971. The tariff changes proposed to be made effective are modified to include certain substitute tariff sheets (replacing corresponding ones in the April 22, 1971 filing) purporting to reflect an agreement reached at conferences among Cities Service and other parties on revised provisions of Rate Schedule LVS–2 and Article 13 of the general terms and conditions relating to priority of service under that rate schedule.

Pursuant to the provisions of the aforementioned substitute tariff sheets, the following order of service priority would be observed:

(1) Interruptible deliveries under Rate Schedule LVS–2 would first be limited to the aggregate daily demand specified in Paragraph 4 of Rate Schedule LVS–2 or be completely curtailed if the monthly availability limits there specified have been exceeded. Paragraph 4 of Rate Schedule LVS–2 in the October 22, 1971, filing provides that if curtailment is required under that rate schedule, computation of the required system curtailment shall reflect: (a) for the billing months June, July, August, and September of each year, the aggregate daily demand shall be 120,000 Mcf per day and the monthly availability shall not exceed 2 million Mcf in any of such months; and (b) for the billing months October through the following May, the aggregate daily demand shall be 50,000 Mcf per day and the monthly availability shall not exceed 750,000 Mcf in any of such months.

(2) Interruptible deliveries for industrial consumers and remaining deliveries under Rate Schedule LVS–2 would first be curtailed to the maximum extent practicable; and then interruptible deliveries for commercial consumers would be curtailed to the maximum extent practicable.

(3) Simultaneous and equitable curtailment of deliveries for firm consumers.

Cities Service requests that the Commission grant such waivers of its rules and regulations as may be required to make the aforementioned substitute tariff sheets effective as of October 23, 1971. In the event that the settlement of this proceeding, which is the basis for the substitute tariff sheets, is not made fully effective, Cities Service reserves the right to refile the tariff sheets originally filed and to support the provisions of Rate Schedule LVS–2 and Article 13 as originally filed in any hearing in this proceeding.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make protest with reference to the above-described filing should on or before November 12, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. Cities Service's motion to make effective suspended tariff sheets modified as set forth above is on file with the Commission and available for public inspection.

Any order issued in this proceeding is subject to our Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91–379, 84 Stat. 799, as amended by Public Law 92–15, 85 Stat. 38) and Executive Order No. 11615, including such amendments as the Commission may require.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71–16305 Filed 11–5–71;8:51 am]

[Docket No. RP64–9, etc. (1971 Phase)]

CITIES SERVICE GAS CO., ET AL

Proposed Settlement of Refund Issues

NOVEMBER 3, 1971.

Cities Service Gas Co., Amoco Production Co., Atlantic Richfield Co., Cities Service Oil Co., Cities Service Oil Co., Graham-Michaelis Drilling Co. (Operator) et al., W. L. Hartman, Humble Oil & Refining Co., Kansas Natural Gas, Inc., Kerr-McGee Industries, Inc., Northern Pump Co. (Operator) et al., Petroleum, Inc. (Operator) et al., Sun Oil Co., Sun Oil Co., Warren Petroleum Corp. (Operator), Cities Service Oil Co., Gulf Oil Corp., W.C. McBride, Inc., et al., RP65–21, G9279, etc., G9283, etc., RI63–485, etc., G–14101, etc., RI65–427, RI65–428, RI63–15, G–9287, etc., RI63–71, G–20479, etc., RI63–9, etc., RI63–391, etc., G–8288, etc., G–6822, etc., G–20478, etc., G–20302, etc., G–10615, etc., G–16890, etc.

Take notice that on October 28, 1971, Cities Service Gas Co. (Cities Service) filed a stipulation and agreement proposing a settlement of the issue of equitable entitlement of certain refundable amounts currently being retained by suppliers of Cities Service pending further order of the Commission in the captioned proceedings.

The settlement proposal is an outgrowth of the hearing and conferences held on October 6 and 7, 1971, in Docket No. RP64–9. The same issues of fact and law which were the subject of the aforementioned hearings and conferences being present in all the subject proceedings, it appeared appropriate to discuss and resolve the matter of equitable entitlement of Cities Service and its customers to the refundable amounts being retained by the subject companies pursuant to orders of the Commission in such proceedings.

The tender provides that, subject to the terms and conditions therein set forth, Cities Service shall refund $334,000 to its jurisdictional customers and the distribution thereof shall be in proportion to the volumes of gas purchased from Cities Service during the period beginning December 23, 1962, and ending December 22, 1965.

Any person desiring to be heard or to make protest with respect to said filing should on or before November 12, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Persons wishing to become parties therein must file petitions to intervene in accordance with the Commission's rules. The tender is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71–16306 Filed 11–5–71;8:51 am]

[Docket No. CP72–104]

COLUMBIA GULF TRANSMISSION CO.

Notice of Application

OCTOBER 29, 1971.

Take notice that on October 13, 1971, Columbia Gulf Transmission Co. (applicant), Post Office Box 683, Houston, TX 77001, filed in Docket No. CP72–104 an application pursuant to section 7(b) of the Natural Gas Act for permission for and approval of the abandonment of certain natural gas purchase facilities located in Louisiana which were heretofore employed for the receipt of natural gas for the account of United Fuel Gas Co. (United Fuel), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization for the abandonment of certain of its field lines and appurtenances constructed to take natural gas for the account of United Fuel from properties in Louisiana as set forth below.

Applicant states that the wells to which these facilities have been connected are depleted and that production therefrom has ceased.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 16, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Field	Parish	Producer	Facilities to be abandoned	Facility authorization docket No.
North Bourg	Lafourche	Forest Oil Co. et al	1,180 feet of 6-inch supply line and measuring station.	G-2088.
Branch	Acadia	Continental Oil Co., Sun Oil Co.	2,630 feet of 4-inch supply line and measuring station.	G-9900
Longview	Franklin	Phillips Petroleum Co.	Measuring station	CP66-184.
Southwest Mermentau	Acadia	American Natural Gas Production Co.	do	G-20422.
Thornwell (West delivery point).	Jefferson Davis.	Amoco Production Co.	do	G-9900.
Valentine (Delivery point No. 3).	Lafourche	Texaco, Inc.	do	CP63-139.
North Crowley	Acadia	Columbia Gas Development Corp.	0.7 mile of 6-inch supply line and measuring station; 0.2 mile of 4-inch supply line.	CP62-109.

[FR Doc.71-16255 Filed 11-5-71;8:47 am]

[Docket No. CI71-219]

HUMBLE OIL & REFINING CO.

Order Granting Intervention, Setting Hearing Date and Prescribing Procedures

NOVEMBER 1, 1971.

On April 16, 1971, Humble Oil & Refining Co. (Humble) filed an application to amend its permanent certificate issued in the above docket to authorize the sale of natural gas to Florida Gas Transmission Co. (Florida Gas) From additional acreage in the Jay Field, Santa Rossa and Escambia Counties, Fla., and Escambia County, Ala. The application also sought approval of a contract amendment that would enable Humble to exchange gas with Florida Gas by receiving volumes from the latter's pipeline facilities in Texas and/or Louisiana and delivering an equivalent quantity to Florida Gas at the Jay Field delivery point. Humble can exercise its right to exchange any time during the 5-year period following the date of initial delivery to Florida Gas: *Provided*, That total deliveries exceed 7,500 Mcf per day from acreage under the contract. Citing excessive hardship, Humble also requested temporary authorization to sell the gas produced from the added acreage at the contract rate of 30 cents per Mcf. By letter-order dated May 18, 1971, the Commission issued a conditioned temporary certificate.

Notice of the application was issued April 29, 1971 (published on May 11, 1971, 36 F.R. 8708), providing that May 26, 1971 would be the final date for the filing of protests or petitions to intervene. On that date a petition to intervene was timely filed by the Fuels Committee of the Florida Municipal Utilities Association on its own behalf and on behalf of the utilities departments of eight Florida cities (Cities) that purchase gas from Florida Gas for generation of electricity. The petition asserted that dedication of the additional acreage to Florida Gas would not serve the public convenience and necessity and that Florida Gas' pricing policies had an unfair, discriminatory, and anticompetitive impact on the Cities. The petition was later supplemented by an amendment thereto filed June 2, 1971, which raised no additional issues. On June 7, 1971, Humble filed an answer in opposition to Cities' petition to intervene.

The Commission finds: (1) It is desirable and in the public interest to allow the Fuels Committee of the Florida Municipal Utilities Association to intervene in this proceeding in order that it may establish the facts and law from which the nature and validity of its alleged rights and interests may be determined and show what further action may be appropriate under the circumstances in the administration of the Natural Gas Act.

(2) The arguments advanced with respect to the gas pricing policies of Florida Gas Transmission Co. are in the nature of a rate complaint and, consequently, this certificate proceeding is an inappropriate forum for their disposition.

(3) The expeditious disposition of this proceeding will be effectuated by the submission of the prepared testimony and exhibits of Humble Oil & Refining Co., and the Fuels Committee of the Florida Municipal Utilities Association on or before November 18, 1971.

(4) The expeditious disposition of this proceeding will be further effectuated by holding a hearing on December 14, 1971.

The Commission orders: (A) The Fuels Committee of the Florida Municipal Utilities Association is hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however*, That its participation shall be limited to matters affecting those asserted rights and interests set forth in its petition to intervene concerned with whether dedication of the additional acreage to Florida Gas Transmission Co. would serve the public convenience and necessity: *And provided, further*, That the admission of such intervenor shall not be construed as recognition by the Commission that said intervenor might be aggrieved because of any order or orders of the Commission entered in these proceedings.

(B) Humble Oil & Refining Co. and the Fuels Committee of the Florida Municipal Utilities Association shall file with the Commission and serve on all parties to the proceeding, including the Staff of the Commission, all direct testimony and exhibits in support of their respective positions on or before November 18, 1971.

(C) A public hearing will be held in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC, commencing at 10 a.m., e.s.t., on December 14, 1971.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.71-16233 Filed 11-5-71;8:46 am]

[Docket No. E-7672]

IOWA POWER AND LIGHT CO.

Notice of Application

NOVEMBER 1, 1971.

Take notice that on October 26, 1971, Iowa Power and Light Co. (applicant) of Des Moines, Iowa, filed an application seeking an order pursuant to section 204 of the Federal Power Act authorizing the issuance of $15 million principal amount of first mortgage bonds due 2001, and 450,000 shares of additional common stock, par value $10 per share.

Applicant proposes to issue the aforesaid first mortgage bonds under the indenture of mortgage and deed of trust dated August 1, 1943, to Harris Trust and Savings Bank and R. H. Long, Trustees, such indenture to be supplemented by an 11th supplemental indenture to be dated as of December 1, 1971. The interest rate of the bonds will be determined by competitive bidding pursuant to the Commission's regulations under the Federal Power Act. The bonds will not be redeemable prior to December 1, 1976, at the option of the company through a refunding which has an interest cost to the company less than the interest cost of the bonds.

Applicant proposes to issue the aforesaid 450,000 shares of common stock, par value $10 per share, under competitive bidding pursuant to the Commission's regulations under the Federal Power Act.

The purpose for which the bonds and common stock are to be issued is the refunding of certain obligations consisting of a portion of short-term borrowings from commercial banking institutions and from the sale of commercial paper aggregating $28,500,000 at September 30, 1971, and expected to aggregate approximately the same amount at the time of the sale of the bonds and the common stock.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 15, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.71-16234 Filed 11-5-71;8:46 am]

[Docket No. CP72-97]

MISSISSIPPI RIVER TRANSMISSION CORP. AND TEXAS GAS TRANSMISSION CORP.

Notice of Application

OCTOBER 29, 1971.

Take notice that on October 7, 1971, Mississippi River Transmission Corp. (Mississippi), 9900 Clayton Road, St. Louis, MO 63124, and Texas Gas Transmission Corp. (Texas Gas), 3800 Frederica Street, Owensboro, KY 42301, filed in Docket No. CP72-97 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas between applicants, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to exchange natural gas at the outlets of gasoline plants of Union Texas Petroleum in Bossier Parish, La., and of Southwest Gas Producing Co. in Lincoln Parish, La., where both applicants receive gas produced in fields in northern Louisiana. In addition, applicants state that they receive substantial quantities of gas from United Gas Pipe Line Co. (United) at delivery points in the vicinity of Monroe Ouachita Parish, La. Applicants state that the proposed exchange of gas can be effected at the gasoline plant outlets and by dispatching arrangements with United without the construction of additional facilities.

Applicants state that circumstances may occur on the systems of one or both parties which make exchanges of gas highly desirable to assist in system operations and the maintenance of service to customers. Applicants contemplate that deliveries of gas from one party to the other at an exchange point would ordinarily be offset by the simultaneous return of a like quantity of gas at another exchange point. However, provision is made for later return of the gas if simultaneous return is not practicable because of an emergency or for other reasons.

Applicants state that the primary purpose of the proposed exchange of gas is to enable Mississippi to effect a limited reduction in the adverse impact of severe supplier curtailment during the winter season through increased withdrawals from its West Unionville Storage Field. Texas Gas has agreed to the exchange primarily as an accommodation to Mississippi, although certain benefits will also be available to the former as a result of the arrangement. For example, during hydrostatic testing of certain of its facilities scheduled for next summer, Texas Gas will be able to continue receiving quantities of gas available to it at the aforesaid plant outlets by means of the proposed exchanges with Mississippi.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 16, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.71-16256 Filed 11-5-71;8:48 am]

[Docket No. CP72-96]

MONTANA-DAKOTA UTILITIES CO.

Notice of Application

OCTOBER 28, 1971.

Take notice that on October 6, 1971, Montana-Dakota Utilities Co. (applicant), filed in Docket No. CP72-96 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon natural gas pipeline facilities and pursuant to section 7(c) of said Act for a certificate of public convenience and necessity authorizing construction and operation of natural gas pipeline and metering and regulating facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate the following facilities for the purposes indicated:

(1) Approximately 141.7 miles of 3½-inch to 8⅝-inch pipeline to provide natural gas service to the Department of the Army's Perimeter Acquisition Radar Site (PAR) and the Missile Site Radar (MSR), and to the communities of Cavalier, Grafton, Langdon, Park River, and Walhalla, all in North Dakota;

(2) Metering and regulating facilities to serve the above PAR and MSR sites;

(3) City gate stations to serve the above five communities; and

(4) An additional automated Solar 1,100 hp. centrifugal compressor unit in 1973 at its existing Bismarck Compressor Plant, North Dakota.

Applicant proposes to abandon 31 miles of 12¾-inch pipeline on its Cabin Creek to Bismarck line, located in North Dakota, and to replace it in 1973 with an equal length of 16-inch pipeline.

Applicant states that the proposed new facilities will be used to provide natural gas service to areas presently not provided with such service and that the proposed abandonment and replacement of facilities will increase the gas flow capacity on its existing system to meet the requirements of the proposed new markets.

Applicant states that the estimated cost of the proposed facilities is $5,971,600, which it will finance by internally generated funds and/or short-term bank loans. Total cost of removal of the facilities proposed to be abandoned is estimated by applicant to be $155,496, with an estimated salvage value of $215,753.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 15, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16257 Filed 11-5-71;8:46 am]

[Docket No. CP71-235]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Order Setting Date for Formal Hearing and Prescribing Procedures

NOVEMBER 1, 1971.

On March 31, 1971, Natural Gas Pipeline Company of America (Natural) filed an application pursuant to section 7(c) of the Natural Gas Act for the issuance of a certificate of public convenience and necessity authorizing the sale and delivery of an additional 6,500 Mcf/d of natural gas to Interstate Power Co. (Interstate), and to operate the facilities necessary therefor.[1]

Within the past year Natural reported a severe shortage of natural gas on its system and as a consequence purchased emergency volumes of gas above area ceilings as permitted by the Commission's Order No. 431. Additionally, for 1971 curtailments have been effected pursuant to a settlement agreed to by Natural's customers and other interested parties and approved by Commission order issued April 7, 1971, in Docket No. RP70-42. Curtailment procedures for 1972 and subsequent years are the subject of further proceedings in that docket. Consequently, an increase in sales in the face of curtailments on Natural's system may not be in the public interest.[2]

The Commission finds: It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that a public hearing be held on the issues presented by Natural Gas Pipeline Company of America's application in Docket No. CP71-235 ordered hereinafter.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 7 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Ch. I), a public hearing on the issues presented by Natural Gas Pipeline Company of America's application in Docket No. CP71-235 will be held in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, commencing at 10 a.m., e.s.t., on December 7, 1971. The applicant shall file with the Commission and serve on the Commission staff and the Presiding Examiner its proposed direct presentation in support of its application, including the prepared testimony of witnesses and exhibits, on or before November 17, 1971.

(B) A Presiding Examiner to be designated by the Chief Examiner for the purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding and shall prescribe relevant procedural matters not herein provided.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16235 Filed 11-5-71;8:46 am]

[Project 108]

NORTHERN STATES POWER CO.

Notice of Extension of Time

NOVEMBER 1, 1971.

On October 12, 1971, counsel for Northern States Power Co. filed a request for an extension of time to and including November 15, 1971, within which to answer the petitions to intervene in the above-designated proceedings. By notice issued October 5, 1971, the time for filing protests and petitions to intervene was extended to and including November 4, 1971.

Upon consideration, notice is hereby given that the time is extended to and including November 15, 1971, within which answers may be filed to the petitions to intervene which have been filed or which may be filed in the above-designated proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16236 Filed 11-5-71;8:46 am]

[Docket No. RP72-59]

TENNESSEE NATURAL GAS LINES, INC.

Notice of Proposed Increase in Rates and Charges

NOVEMBER 3, 1971.

Take notice that on October 20, 1971, Tennessee Natural Gas Lines, Inc. (Tennessee Natural) tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1, to track the rate increase filed by Tennessee Gas Pipeline Co. (Tennessee Gas) which is subject to further order of the Commission in Docket No. RP72-51. Tennessee Natural requests an effective date of November 13, 1971, concurrently with that requested by its supplier, Tennessee Gas. The increased rates reflected in the filing are stated to increase Tennessee Natural's revenues from jurisdictional customers by approximately $84,000 per year based on sales volumes experienced during the year 1970.

Any person desiring to be heard or to make protest with respect to said filing should on or before November 10, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons wishing to become parties or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The tender is on file with the Commission and available for public inspection.

Any order or orders issued in this proceeding shall be subject to the Commission's Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38), and Executive Order No. 11615, including such amendments as the Commission may require.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16304 Filed 11-5-71;8:51 am]

[Docket No. RP72-45]

TEXAS GAS TRANSMISSION CORP.

Order Rejecting Revised Tariff Sheets, Providing for Hearing, Suspending Proposed Alternate Revised Tariff Sheets and Providing Hearing Procedures

OCTOBER 29, 1971.

Texas Gas Transmission Corp. (Texas Gas), on October 1, 1971, tendered for filing proposed changes in its FPC Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2[1], to become effective on November 1, 1971.[2] The proposed rate changes would increase charges for jurisdictional sales and transportation services by $36,095,217 annually, based on volumes for the 12 months ended June 30, 1971, as adjusted. The proposed increase would be applicable to all of the rate schedules in Third Revised Volume No. 1 of Texas Gas' tariff and to rate schedules X-29 and X-32 of Original Volume No. 2 of the tariff.

Texas Gas' filing consists of two alternate sets of revised tariff sheets, the first of which contains a proposed new section, to be included in the general terms and conditions of the tariff, providing for monthly billing adjustments to reflect current changes in Texas Gas' unit cost of purchased gas. Texas Gas requests that, if the Commission finds that the proposed purchased gas adjustment provision is prohibited by § 154.38(d)(3) of the Commission's regulations under the Natural Gas Act and does not waive the terms of that section for purposes of Texas Gas' filing the Commission accept for filing the alternate set of revised tariff sheets, which do not have reference to a purchased gas adjustment provision.

Texas Gas states that the principal reasons for the proposed rate increase are: (1) Increases in cost of gas purchased as a result of purchase of new supplies of gas under new higher priced contracts, as well as increases in the cost of gas under existing contracts; (2) costs related to transportation of gas by others for the delivery of new offshore gas supplies; (3) Advance payments related to purchase of potential supplies of gas; (4) An increase in depreciation rates; (5) Salary and wage increases and (6) The need for a 9.25 percent rate of return.

The reasonableness of including a purchased gas adjustment provision in Texas Gas' tariff has not been tested in any evidentiary proceeding. If accepted at this time, this provision would become operative after suspension. The purchased gas adjustment provision raises a number of substantive issues which should be fully explored and resolved before the rates and charges to Texas Gas' customers are subjected to changes by application of this proposed adjustment provision. Accordingly, we deem it inappropriate at this time to waive the provisions of § 154.38(d)(3) of the Commission's regulations under the Natural Gas Act to permit the filing of Texas Gas' set of revised tariff sheets containing a purchased gas adjustment provision. During the pendency of this proceeding, and prior to the determination of this issue, however, Texas Gas will not be precluded from requesting permission to track supplier rate increases which increase the purchased gas costs filed by Texas Gas in this proceeding.

Review of the filing indicates that certain issues are raised which require development in evidentiary proceedings. The proposed increased rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Texas Gas' FPC Gas Tariff, as proposed to be amended herein, and that the proposed alternate tariff sheets be suspended and the use thereof be deferred as herein provided.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the disposition of this proceeding be expedited in accordance with the provisions set forth below.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Ch. I), a public hearing commencing with a prehearing conference shall be held on February 23, 1972, at 10 a.m. e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, concerning the lawfulness of the rates, charges, classifications, and services contained in Texas Gas' FPC Gas Tariff, as proposed to be amended herein.

(B) Pending such hearing and decision thereon, Texas Gas' proposed alternate revised tariff sheets are hereby suspended and the use thereof is deferred until April 1, 1972, or such later date as may be authorized under the Executive Order No. 11615, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Texas Gas' revised tariff sheets proposing a purchased gas adjustment provision are hereby rejected. These proposed tariff sheets may be made a part of the record herein, to be considered along with any modifications thereof or alternative provisions submitted by the parties or the Commission Staff, as a proposed purchased gas adjustment provision to be included in Texas Gas' tariff.

(D) At the hearing on February 23, 1972, Texas Gas' prepared testimony (Statement P), filed and served on October 18, 1971, together with its entire rate filing as submitted and served on October 1, 1971, be admitted to the record as Texas Gas' complete case-in-chief as provided by § 154.63(e)(1) of the Commission's regulations under the Natural Gas Act, and Order No. 254, 28 FPC 495, subject to appropriate motions, if any, by parties to the proceeding.

(E) Following the admission of Texas Gas' complete case-in-chief, the parties shall proceed to effectuate the intent and purpose of § 2.59 of the Commission's rules of practice and procedure and of this order, as set forth above.

(F) On or before February 16, 1972, the Commission Staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of any and all intervenors shall be served on or before March 1, 1972. Any rebuttal evidence by Texas Gas shall be served on or before March 16, 1972. Cross-examination of the evidence shall commence on March 29, 1972.

(G) A Presiding Examiner to be designated by the Chief Examiner for that purpose (see Delegation of Authority, 18 CFR 3.5(d)) shall preside at the hearing in this proceeding; shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in § 2.59 of the Commission's rules of practice and procedure.

This order does not relieve Texas Gas Transmission Corp. of any responsibility imposed by, and is expressly subject to, the Commission's Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38), including such amendments as the Commission may require, and Executive Order No. 11615.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16258 Filed 11-5-71;8:46 am]

FEDERAL RESERVE SYSTEM

AMERICAN BANCORPORATION, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by American Bancorporation, Inc., which is a bank holding company located in St. Paul, Minn., for prior approval by the Board of Governors of the acquisition by applicant of 100 percent of the voting shares (less directors' qualifying shares) of Lake City State Bank, Lake City, Minn.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Minneapolis.

[1] Interstate's existing contract demand under Natural's Rate Schedule CD-1 is 44,272 Mcf/d.

[2] Natural relies on the gas reserves attached in Dockets Nos. CP71-231 and CP71-266 to provide the necessary gas supply. At those dockets, Natural received authorization by Commission order issued July 26, 1971, to construct pipeline facilities located offshore Louisiana to attach newly acquired gas reserves and to install additional compression on its Louisiana 30-inch extension to move the additional gas into its transmission system. In the applications filed in those dockets, Natural stated that it did not propose any change in sales and service then rendered.

[1] The proposed tariff sheets are Second Revised Sheet No. 7 and Original Sheets Nos. 101-107 of Third Revised Volume No. 1 and Third Revised Sheets Nos. 333 and 363 of Original Volume No. 2. Texas Gas' Alternate Second Revised Sheet No. 7 excludes any reference to the purchased gas adjustment clause contained in Original Sheets Nos. 101-107.

[2] Texas Gas states that pursuant to Article VIII of its Stipulation and Agreement in Docket No. RP60-41 et al., as amended, Texas Gas may not file a general rate increase which becomes effective, after statutory suspension, prior to March 1, 1972. The company says that despite the November 1, 1971 date on the tariff sheets, the proposed increased rate will not be made effective earlier than March 1, 1972, allowing for statutory suspension.

Board of Governors of the Federal Reserve System, November 1, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16228 Filed 11-5-71;8:45 am]

BTNB CORP.

Proposed Acquisition of Cobbs, Allen & Hall Mortgage Company, Inc.

Notice of receipt of the application of BTNB Corp., Birmingham, Ala., a registered bank holding company, for permission to acquire voting shares of Cobbs, Allen & Hall Mortgage Co., Inc., Birmingham, Ala., was published in the FEDERAL REGISTER on August 4, 1971 (36 F.R. 14357).

Applicant has notified the Board of its intent, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8), and § 222.4(b)(2) of the Board's Regulation Y, to republish its notice to clarify that, in addition to mortgage lending, it proposes to engage in the following activities: (1) group accident and health insurance, group credit life insurance, and group fire and casualty insurance, all as agent in connection with the mortgage lending activities of Cobbs, Allen & Hall Mortgage Co., Inc., and (2) to a limited extent in property management of the kinds described in the Board's regulatory proposal relating to that line of activity (36 F.R. 18427).

Any comments on the insurance and property management aspects of the proposed acquisition should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 23, 1971.

Board of Governors of the Federal Reserve System, November 1, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16229 Filed 11-5-71;8:45 am]

CARLTON AGENCY, INC.

Proposed Acquisition of First National Bank Insurance Agency

Carlton Agency, Inc., Carlton, Minn., a proposed bank holding company, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 22.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of First National Bank Insurance Agency, Carlton, Minn. Notice of the application was published on September 30, 1971, in the Pine Knot-News Graphic, a newspaper circulated in Carlton, Minn.

The proposed subsidiary would perform the activity of a general insurance agency in a community that has a population of less than 5,000. Such activity has been specified by the Board in § 222.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 222.4(b).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 1, 1971.

Board of Governors of the Federal Reserve System, November 1, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16230 Filed 11-5-71;8:46 am]

JACOB SCHMIDT CO.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Jacob Schmidt Co., which is a bank holding company located in St. Paul, Minn., for prior approval by the Board of Governors of the acquisition by applicant of 100 percent of the voting shares (less directors' qualifying shares) of Lake City State Bank, Lake City, Minn.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Minneapolis.

Board of Governors of the Federal Reserve System, November 1, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16231 Filed 11-5-71;8:46 am]

NATIONAL COMMISSION ON STATE WORKMEN'S COMPENSATION LAWS

STATE WORKMEN'S COMPENSATION LAWS

Preliminary Notice of Public Hearing

The National Commission on State Workmen's Compensation Laws plans to hold a public hearing in Washington, D.C., during the week of January 24, 1972. To assist the Commission in scheduling sufficient time for all interested individuals and organizations to be heard, the Commission invites all persons, who would plan to make an oral presentation at this hearing, to inform the Commission of their interest.

Communications may be addressed to the Chairman, National Commission on State Workmen's Compensation Laws, 1825 K Street NW., Washington, DC 20006, and should state, where possible, the subject matter to be discussed and the approximate length of time required for the presentation. Based on the response to this request the Commission will publish an official announcement of the dates and place of the hearing in the early part of December 1971.

The Commission has published official announcements of public hearings to be held in San Francisco, November 15–17, in Dallas, November 29 and 30, and in Washington, D.C., December 13. An announcement of a public hearing to be held in Atlanta on January 10 and 11 will be published shortly.

Signed at Washington, D.C., this 3d day of November 1971.

JOHN F. BURTON, Jr.,
Chairman.

[FR Doc.71-16249 Filed 11-5-71;8:47 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 854 (Class B)]

COLORADO

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of October 1971, because of the effects of certain disasters damage resulted to residences and business property located in Colorado;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Associate Administrator for Operations and Investment of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in the town of Wray, Colo., suffered damage or destruction resulting from a tornado occurring on October 17, 1971.

OFFICE

Small Business Administration Regional Office, 721 19th Street, Room 426A, Denver, CO 80202.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to April 30, 1972.

Dated: October 26, 1971.

A. H. SINGER,
Associate Administrator for Operations and Investment.

[FR Doc.71-16261 Filed 11-5-71;8:48 am]

[Declaration of Disaster Loan Area 853 (Class B)]

KANSAS

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of October 1971, because of the effects of certain disasters, damage resulted to business property located in the State of Kansas;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Associate Administrator for Operations and Investment of the Small Business Adminitration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Cherryvale, Kans., suffered damage or destruction resulting from fire on October 10, 1971.

OFFICE

Small Business Administration Regional Office, 911 Walnut Street, Kansas City, MO 64106.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to April 30, 1972.

Dated: October 26, 1971.

A. H. SINGER,
Associate Administrator for Operations and Investment.

[FR Doc.71-16262 Filed 11-5-71;8:48 am]

[Declaration of Disaster Loan Area 852 (Class B)]

MONTANA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of October 1971, because of the effects of a certain disaster, damage resulted to residences and business property located in the State of Montana;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitutes a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Associate Administrator for Operations and Investment of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in the town of Harrison, Mont., suffered damage or destruction resulting from a fire occurring on October 5, 1971.

OFFICE

Small Business Administration District Office, Corner Main and Sixth Avenue, Helena, MT 59601.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to April 30, 1972.

Dated: October 26, 1971.

A. H. SINGER,
Associate Administrator for Operations and Investment.

[FR Doc.71-16263 Filed 11-5-71;8:48 am]

[Declaration of Disaster Loan Area 855 (Class B)]

TEXAS

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of October 1971, because of the effects of certain disasters damage resulted to residences and business property located in the State of Texas;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Associate Administrator for Operations and Investment of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below-indicated from persons or firms whose property situated in Dallas and Tarrant Counties, Tex., and adjacent areas suffered damage or destruction resulting from floods and tornadoes occurring on October 19, 1971.

OFFICE

Small Business Administration Regional Office, 1100 Commerce Street, Dallas TX 75202.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to April 30, 1972.

Dated: October 26, 1971.

A. H. SINGER,
Associate Administrator for Operations and Investment.

[FR Doc.71-16264 Filed 11-5-71;8:48 am]

[Declaration of Disaster Loan Area 856 (Class B)]

VIRGINIA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of October 1971, because of the effects of a certain disaster, damage resulted to business property located in the town of Onley, Va.;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitutes a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Associate Administrator for Operations and Investment of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Onley, Va., suffered damage or destruction resulting from a fire occurring on October 19, 1971.

OFFICE

Small Business Administration District Office, Federal Building, Room 3015, 400 North Eighth Street, Richmond, VA 23240.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to April 30, 1972.

Dated: October 26, 1971.

A. H. SINGER,
Associate Administrator for Operations and Investment.

[FR Doc.71-16265 Filed 11-5-71;8:48 am]

DEPARTMENT OF LABOR

Manpower Administration

EMERGENCY EMPLOYMENT ASSISTANCE

Notice of Determinations of Allocations

Listed below as required by sections 6(d) and 9(c) of the Emergency Employment Act of 1971, are the amounts which the Secretary of Labor has allocated for the employment of eligible unemployed and underemployed resident members of Indian tribes on Federal or State reservations.

The total funds amount to $8,420,000 and include $3,420,000 under section 9(a)(1) of the Act, $1,829,600 under section 6 of the Act, and $3,170,400 from the Secretary's discretionary fund under section 9(a)(2) of the Act. Of the total allocated $7,043,600 represents the distribution to 106 tribes. The balance of the funds will be distributed at a later date for Indian tribes not listed herein.

Funds will be made available to intertribal councils and to organizations of Indians that will act as the Department's Program Agents. Two tribes have designated the State of Colorado as their Program Agent. The money has been apportioned among the Program Agents for distribution to eligible reservations within the jurisdiction of the Program Agent in proportion to the total Indian population of each reservation.

	Allocation (in thousands)
Arizona, Indian Development District of:	
Ak-Chin	$5.3
Camp Verde	14.0
Colorado River	38.5
Fort Apache	135.0
Fort McDowell	7.6
Fort Mohave	11.8
Fort Yuma	27.7
Gila River	174.2
Havasupai	5.0
Hopi	135.5
Hualapai	23.7
Papago	143.3
Salt River	52.6
San Carlos	107.8
Cocopah, Kaibab, Yavapai	6.3
Subtotal	888.3
Program Agent Administration	79.4
Total	967.7
Colorado, State of:	
Southern Ute	13.8
Ute Mountain	26.4
Subtotal	40.2
Program Agent Administration	3.6
Total	43.8
Great Lakes Intertribal Council (Wisconsin):	
Bad River	9.7
Lac Courte Orielles	19.8
Lac du Flambeau	18.5
Red Cliff	6.9
St. Croix	6.7
Oneida	38.5
Potawatomi	5.3
Stockbridge-Munsee	10.6
Winnebago	30.7
Subtotal	146.7
Program Agent Administration	13.1
Total	159.8
Michigan Indians, Intertribal Council of (Michigan):	
Bay Mills	7.0
Isabella	5.7
L'Anse	10.0
Subtotal	22.7
Program Agent Administration	2.0
Total	24.7
Minnesota Council of Chippewas:	
Fond du Lac	17.2
Leech Lake	64.5
Mille Lacs	19.1
Nett Lake	15.5
Red Lake	63.1
White Earth	60.0
Grand Portage, Lower Sioux, Prairie Island, Prior Lake, Upper Sioux	11.8
Subtotal	251.2
Program Agent Administration	22.4
Total	273.6
Montana, Intertribal Policy Board of (Montana/Wyoming):	
Blackfeet	143.5
Crow	88.6
Flathead	52.7
Fort Belknap	39.0
Fort Peck	138.4
Northern Cheyenne	57.4
Rocky Boy's	34.8
Wind River	93.7
Subtotal	648.1
Program Agent Administration	57.9
Total	706.0
Navajo Reservation (Parts of Arizona, New Mexico, and Utah):	
Navajo	$2,756.9
Subtotal	2,756.9
Program Agent Administration	246.3
Total	3,003.2
Nebraska Indian Industrial Development Office:	
Omaha	31.5
Santee	5.6
Winnebago	17.2
Subtotal	54.3
Program Agent Administration	4.9
Total	59.2
Nevada Community Action Agency, Intertribal Council of:	
Duck Valley	22.8
Fallon Colony and Reservation	7.6
Fort McDermitt	8.1
Pyramid Lake	20.7
Reno-Sparks	12.3
Walker River	8.7
Battle Mountain Colony, Carson Colony, Dresslerville Colony, Duckwater, Elko Colony, Ely Colony, Goshute, Las Vegas Colony, Lovelock Colony, Moapa, Nevada Public Domain, Ruby Valley, South Fork, Summit Lake, Winnemucca Colony, Yerington Reservation and Colony, Yomba	35.6
Subtotal	115.8
Program Agent Administration	10.3
Total	126.1
Osage Reservation Reservation (Oklahoma):	
Osage	73.6
Subtotal	73.6
Program Agent Administration	6.6
Total	80.2
Passamaquoddy Community Action Agency (Maine):	
Penobscot	9.2
Pleasant Point and Peter Dana Point	13.0
Subtotal	22.2
Program Agent Administration	2.0
Total	24.2
Seneca Nation (New York):	
Allegany	27.7
Cattaraugus	55.3
Onondaga	35.7
St. Regis Mohawk	50.7
Tonawanda	18.5
Tuscarora	$15.0
Subtotal	197.9
Program Agent Administration	17.7
Total	215.6
South Dakota, United Sioux of (North Dakota/South Dakota):	
Cheyenne River	95.2
Crow Creek	26.5
Fort Berthold	61.8
Fort Totten	40.3
Lower Brule	13.4
Pine Ridge	257.2
Rosebud	165.6
Sisseton	44.7
Standing Rock	108.7
Turtle Mountain	162.3
Yankton	26.8
Subtotal	1,004.5
Program Agent Administration	89.7
Total	1,094.2
Southeastern Tribes, United (Florida, Louisiana, Mississippi, North Carolina):	
Big Cypress	7.3
Brighton	6.3
Cherokee	107.0
Chitimacha	6.0
Choctaw	73.4
Hollywood	8.5
Catawba, Miccosukee	5.7
Subtotal	214.2
Program Agent Administration	19.1
Total	233.3
Uintah and Ouray (Utah):	
Uintah and Ouray	29.4
Subtotal	29.4
Program Agent Administration	2.6
Total	32.0
Grand total	7,043.6

NOTE: This represents approximately 84 percent of the total allocation for Indians on Federal and State reservations. The remainder will be allocated at a later date for Indian tribes not listed herein.

Signed at Washington, D.C. this 1st day of November 1971.

MALCOLM R. LOVELL, Jr.,
Assistant Secretary of Labor for Manpower.

[FR Doc.71-16206 Filed 11-5-71;8:45 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

NOVEMBER 1, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 115841 Sub 386, Colonial Refrigerated Transportation, Inc., now being assigned hearing on January 10, 1972, at Omaha, Nebr., in a hearing room to be later designated.

MC 115841 Sub 387, Colonial Refrigerated Transportation, Inc., now being assigned hearing on January 17, 1972, at Omaha, Nebr., in a hearing room to be later designated.

MC 128879 Sub 16, C-B Truck Lines, Inc., now assigned January 10, 1972, at Santa Fe, N. Mex., in a hearing room to be later designated.

MC 128879 Sub 18, C-B Truck Lines, Inc., now assigned January 10, 1972, at Santa Fe, N. Mex., in a hearing room to be later designated.

MC 114191 Sub 161, Kreider Truck Service, now assigned January 10, 1972, at St. Louis, Mo., hearing room to be designated later.

MC 118959 Sub 90, Jerry Lipps, now assigned January 11, 1972, at St, Louis, Mo., hearing room to be designated later.

MC 128273 Sub 68, Midwestern Express, now assigned January 12, 1972, at St. Louis, Mo., hearing room to be designated later.

MC-F-10063, L. A. Tucker Truck Lines-Investigation of Control—Sam Tanksley Trucking, now assigned January 17, 1972, at St. Louis, Mo., a hearing room to be designated later.

MC 73165 Sub 299, Eagle Motor Lines, Inc., assigned January 12, 1972, at Chicago, Ill., along with MC 111545 Sub 157, Home Transportation Co., Inc., MC 115162 Sub 219, Poole Truck Line, Inc., and MC 123407 Sub 80, Sawyer Transport, Inc.

MC 119600 Sub 21, Tempco Transportation, Inc., assigned January 14, 1972, at Chicago, Ill.

MC 123048 Sub 188, Diamond Transportation System, Inc., assigned January 13, 1972, at Chicago, Ill.

MC 123639 Sub 132, J. B. Montgomery, Inc., assigned January 10, 1972, at Chicago, Ill.

MC 11207 (Sub 309) Deaton, Inc., assigned for hearing on December 13, 1971, instead of December 3, 1971, at Atlanta, Ga., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16276 Filed 11-5-71;8:49 am]

ASSIGNMENT OF HEARINGS

NOVEMBER 3, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

Correction:

MC 11207 (Sub 309) Deaton, Inc., assigned for hearing on December 13, 1971, instead of December 3, 1971, at Atlanta, Ga., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16276 Filed 11-5-71;8:49 am]

FOURTH SECTION APPLICATION FOR RELIEF

NOVEMBER 3, 1971.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42294—*Soda ash from points in Wyoming.* Filed by Western Trunk Line Committee, agent (No. A-2650), for interested rail carriers. Rates on soda ash, in bulk, in hopper cars, as described in the application, from Alchem, Stauffer, and Westvaco, Wyo., to Decatur and Kankakee, Ill.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 391 to Western Trunk Line Committee, agent, tariff ICC A-4411. Rates are published to become effective on December 10, 1971.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16274 Filed 11-5-71;8:49 am]

[Notice 390]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 2, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER

MC 125777 Sub 133, Jack Gray Transport, Inc., assigned January 19, 1972, at Chicago, Ill.

MC 135334, Lilliam Koppel, doing business as USA Driveaway, assigned January 17, 1972, at Chicago, Ill.

MC 135395 Sub 1, Warehouse & Terminal Cartage Co., assigned January 11, 1972, at Chicago, Ill.

MC 135529 Sub 2, Cook Transports, Inc., assigned January 24, 1972, at Indianapolis, Ind., in a hearing room to be later designated.

MC 151 Sub 45, Lovelace Truck Service, Inc., assigned January 10, 1972, at Indianapolis, Ind., in a hearing room to be later designated.

No. 35435 Sub 6, TOFC Rates, Between the South and IFA Territory, now assigned hearing January 10, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 9644 Sub 1, B. T. L., Inc., assigned November 8, 1971, cancelled and application dismissed.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16275 Filed 11-5-71;8:49 am]

publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 70083 (Sub-No. 20 TA), filed October 26, 1971. Applicant: DRAKE MOTOR LINES, INC., 20 Olney Avenue, Cherry Hill, NJ 08034. Applicant's representative: Joseph W. Watson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except explosives and inflammable commodities), moving on a through air bill of lading of direct air carrier or air freight forwarders, between New York, N.Y., and points in Nassau, Suffolk, Westchester, and Rockland Counties, N.Y.; Newark, N.J., and points in Hunterdon, Mercer, Middlesex, Burlington, Camden, Gloucester, Salem, Somerset, Morris, Passaic, Bergen, Monmouth, Essex, and Union Counties, N.J.; Philadelphia, Pa., and points in Bucks, Montgomery, Chester, and Delaware Counties, Pa., Wilmington, Del., points in Fairfield County, Conn., Boston, Mass., and points in Middlesex, Plymouth, Essex, Bristol, Suffolk, and Norfolk Counties, Mass., and Providence, R.I., and points in Providence County, R.I., on the one hand, and, on the other, Chicago, Ill., and points in Will, Kankakee, Cook, Kendall, Kane, Du Page, Lake, and McHenry Counties, Ill., and points in Lake and Porter Counties, Ind., for 180 days. Supporting shipper: Shulman Air Freight, Inc., 20 Olney Avenue, Cherry Hill, NJ 08034. Send protests to: Richard M. Regan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 88594 (Sub-No. 22 TA), filed October 20, 1971. Applicant: CARLETON G. WHITAKER, INC., Post Office Box 93, Route 17, Exit 84, Deposit, NY 13754. Applicant's representative: Martin Werner, 2 West 45th Street, New York NY 10036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products*, in vehicles equipped with mechanical refrigeration, from Wayne Township, N.J., to Vestal and Syracuse, N.Y., for 180 days. Supporting shipper: Drake Bakeries, Borden Foods Division, 21–30 44th Avenue, Long Island City, NY 11101. Send protests to: Charles F. Jacobs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 New Federal Building, Albany, N.Y. 12207.

No. MC 109708 (Sub-No. 54 TA), filed October 26, 1971. Applicant: INDIAN RIVER TRANSPORT CO., doing business as, INDIAN RIVER TRANSPORT, INC., Post Office Box 1749, Fort Pierce, FL 33450. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cider stock*, in bulk, in tank vehicles, from North Rose, N.Y., to St. Paul, Minn., Kansas City, and Marionville, Mo., and Paris, Tex., for 180 days. Supporting shipper: Speas Co., 2400 Nicholson Avenue, Kansas City, MO 64120. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, 5720 Southwest 17th Street, Room 105, Miami, FL 33155.

No. MC 119399 (Sub-No. 30 TA), filed October 26, 1971. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, Post Office Box 1375, Joplin, MO 64801. Applicant's representative: David L. Sitton (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, 1 gallon or less capacity, from Jonesboro, Ark., to points in Illinois, Indiana, Kansas, Kentucky, Louisiana, Missouri, Oklahoma, Tennessee, and Texas, for 180 days. Supporting shippers: Arkansas Glass Container Corp., 516 West Johnson, Jonesboro, AR 72401; Underwood & Associates, Post Office Box 16007, Memphis, TN 38116. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 126291 (Sub-No. 18 TA), filed October 20, 1971. Applicant: QUIRION TRANSPORT, INC., La Guadeloupe (Frontenac), PQ, Canada. Applicant's representative: Frank J. Weiner, 6 Beacon Street, Boston, MA 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste paper, waste cardboard, waste corrugated, and rags*, from points in Massachusetts to ports of entry on the international boundary lines between the United States and Canada located at or near Jackman and Coburn Gore, Maine, restricted to traffic destined to points in Frontenac County, PQ, Canada, for 180 days. Supporting shipper: Exodus Enterprises Inc., 4516 Laval Street, Lac-Megantic, PQ, Canada. Send protests to: District Supervisor Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, 424 Federal Building, Concord, N.H. 03301.

No. MC 127892 (Sub-No. 1 TA), filed October 26, 1971. Applicant: DONALD E. HIRTLE TRANSPORT, LIMITED, Blockhouse, NS, Canada. Applicant's representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Bananas, and fresh fruit, and vegetables* when moving in the same vehicle with bananas, from Chelsea, Mass., to ports of entry on the United States-Canada boundary line located at or near Calais and Houlton, Maine and (b) *fresh and processed fish* from ports of entry on the United States-Canada boundary line at or near Calais and Houlton, Maine to Boston, and Gloucester, Mass., New York, N.Y., Jersey City, N.J., and Philadelphia, Pa., for 180 days. Supporting shippers: Cutter Brokerage, Inc., 215 Williams Street, Chelsea, MA; National Seaproducts, Ltd., Post Office Box 2130, Scotia Square Towers, Halifax, NS, Canada. Send protests to: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 307, 76 Pearl Street, Post Office Box 1677, PSS, Portland, ME 04112.

No. MC 128007 (Sub-No. 36 TA), filed October 26, 1971. Applicant: HOFER, INC., Post Office Box 583 (4032 Parkview Drive), Pittsburg, KS 66762. Applicant's representative: John Jandera, 641 Harrison, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry feed ingredients*, from the plant and warehouse facilities of Farmland Industries, Inc., and/or Farmers Chemical Co., located in Jasper County, Mo., to points in New Mexico, Colorado, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Arkansas, Louisiana, Wisconsin, Illinois, Kentucky, Tennessee, and Indiana, restricted however to traffic originating at the plant and warehouse facilities of Farmland Industries, Inc., and/or Farmers Chemical Co., in Jasper County, Mo., for 180 days. Supporting shipper: Farmland Industries, Inc., 3315 North Oak Street, Kansas City, MO. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 128375 (Sub-No. 71 TA), filed October 19, 1971. Applicant: CRETE CARRIER CORPORATION, Box 249, 1444 Main, Crete, NE 68333. Applicant's representative: Howard C. Peterson (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tobacco and tobacco products and related items*, from Durham, N.C., to points in Iowa, Minnesota, Missouri, Wisconsin, and El Paso, Tex., except redried tobacco to points in Missouri, for 180 days. Supporting shipper: R. C. Hendricks, Distribution Manager, Liggett & Myers, Inc., Post Office Box 3868, Durham, NC 27702. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 320 Federal Building and Courthouse, Lincoln, Nebr. 68508.

No. MC 134906 (Sub-No. 4 TA), filed October 26, 1971. Applicant: CADDO EXPRESS, INC., 1016 Southwest Second, Oklahoma City, OK 73125. Applicant's representative: David D. Brunson, 419 Northwest Sixth Street, Oklahoma City, OK 73102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, between Richards Spur, Okla., and Wichita Falls, Tex., from Richards Spur, Okla., over U.S. Highway 281 to Wichita Falls, Tex., and return over the same route serving all intermediate points, for 180 days. NOTE: Authority will be tacked with applicant's regular route operations at Richards Spur, Okla. Supported by: There are approximately 14 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 135095 (Sub-No. 1 TA), filed October 26, 1971. Applicant: SUDDATH OF SAVANNAH, INC., 5003 Liberty Parkway, Post Office Box 1885, Savannah, GA 31405. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods, unaccompanied baggage and personal effects*, between points in Bryan, Bulloch, Candler, Chatham, Effingham, Evans, Liberty, Long, Tattnall, and Toombs Counties, Ga., restricted to the transportation of traffic having a prior or subsequent movement in containers beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, for 180 days. Supporting shipper: Department of Defense, Washington, D.C. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 135488 (Sub-No. 2 TA), filed October 26, 1971. Applicant: RICHARD CARLTON, doing business as DICK CARLTON TRUCKING, 11693 Main Road, Akron, NY 14001, 257 West Royal Parkway, Williamsville, NY 14221. Applicant's representative: Raymond A. Richards, 23 West Main Street, Webster, NY 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods, such as nondairy coffee cream and nondairy whipping cream*, from Fredonia, N.Y., to points in Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, and Wilmington, Del., and from North Abington, Mass., to points in Connecticut, Maine, Maryland, New Hampshire, New Jersey, Rhode Island, and New York, N.Y., Philadelphia, Pa., and Wilmington, Del., for 180 days. Supporting shipper: Mitchell Foods, Inc., Fredonia, N.Y. 14063. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Office Building, 121 Ellicott Street, Buffalo, NY 14203.

No. MC 135786 (Sub-No. 1 TA), filed October 21, 1971. Applicant: NORRIS E. BASS, doing business as N. E. BASS, 9223 Timberlake Road, Lynchburg, VA 24502. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Altavista and Rocky Mount, Va., to points in Arizona, California, Nevada, and Utah, for 150 days. Supporting shipper: The Lane Co., Altavista, Va. Send protests to: Clatin M. Harmon, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 215 Campbell Avenue SW., Roanoke, VA 24011.

No. MC 136055 (Sub-No. 1 TA), filed October 19, 1971. Applicant: THEO KELLY, doing business as HODGEN BUTANE COMPANY, Post Office Box 7, Hodgen, OK 74939. Applicant's representative: Don A. Smith, Post Office Box 43, Fort Smith, AR 72901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand, gravel, crushed stone, and coated aggregates*, between points in Crawford, Sebastian, Scott, and Polk Counties, Ark., and Le Flore, Latimer, Sequoyah, Pushmataha, McCurtain, Adair, and Haskell Counties, Okla., for 180 days. Supporting shipper: J. O. B. Construction Co., Sulphur, Okla. Send protests to: William H. Land, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 136101 TA, filed October 22, 1971. Applicant: J. M. LECLAIRE CO., INC., Post Office Box 272, Oconomowoc, WI 53066. Applicant's representative: Ruth C. Lembcke (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and related cheese products*, from Mayville, Wis., to Chicago, Ill., for 180 days. Supporting shipper: Red Rooster Cheese Co., Inc., 331 South Main Street, Mayville, Wis. 53050 (Joseph Haupert, Controller). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

MOTOR CARRIER OF PASSENGERS

No. MC 136094 TA, filed October 20, 1971. Applicant: WILLIAM A. OLSEN, doing business as BRANDYWINE LIMOUSINE, 34 Montpelier Boulevard, New Castle, DE 19720. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in charter operations limited to transportation of not more than seven passengers, not including the driver, not children under the age of 10 years, when not occupying a single seat, in any one vehicle, between New Castle, Del., on the one hand, and, on the other, John F. Kennedy International Airport, Jamaica, Long Island, N.Y., Friendship Airport, Anne Arundel County, Md., New York, N.Y., Philadelphia, Pa., Baltimore, Md., and Washington, D.C., for 180 days. Supporting shippers: The American Legion Department, of Delaware, Post Office Box 1965, Wilmington, DE 19899; Brandywine Travel, Inc., 1601 Concord Pike, Independence Mall, Wilmington, DE 19803; Marshall & Greenplate Travel Associates, Inc., 1003 West Street, Wilmington, DE 19801; Ed R. Markowitz, 18 Pendelton Court, New Castle, DE 19720; John J. Reynolds, 212 Spruceglen Drive, Meadowwood, Newark, DE 19711; George A. Walker, 26 South Independence Boulevard, Jefferson Farms, New Castle, DE 19720. Send protests to: Peter R. Guman, District Supervisor, Bureau of Operations, Interstate Commerce Commmission, 1518 Walnut Street, Room 1600, Philadelphia, Pa. 19102.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16271 Filed 11-5-71;8:49 am]

[Notice 777]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 3, 1971.

Synopses of orders entered pursuant to Section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-35442. By order of October 29, 1971, the Motor Carrier Board approved the lease to Stuart Express Co., Inc., New York, N.Y., of the operating rights in certificate No. MC-37292 issued April 25, 1950, to Direct Delivery Service, Inc., New York, N.Y., authorizing the transportation of Ready-made garments and piece goods between New York, N.Y., on the one hand, and, on the other, Elizabeth, Newark, and Paterson, N.J., Jerome G. Greenspan, 404 Clarendon Road, Uniondale, NY 11553 attorney for transferee.

No. MC-FC-73262. By order of October 29, 1971, the Motor Carrier Board approved the transfer to Lynn Towing, Inc., St. Louis, Mo., of the operating rights in certificate No. MC-96093 issued April 7, 1965 to Metropolitan Towing Co., a corporation, St. Louis, Mo., authorizing the transporttion of abandoned, wrecked, disabled, or repossessed motor vehicles, by towaway method, between points in Missouri in the St. Louis, Mo.-East St. Louis, Ill., commercial zone, on the one hand, and, on the other, points in Illinois, Kansas, Ohio, Indiana, Tennessee, Arkansas, Kentucky, and Iowa, within 350 miles of St. Louis, Mo., Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16272 Filed 11-5-71;8:49 am]

[Notice 777-A]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 3, 1971.

Application filed temporary authority under section 210(a) (b) in connection with transfer application under section 212(b) and transfer rules, 49 CFR Part 1132:

No. MC-FC-73262. By application filed November 1, 1971, LYNN TOWING, INC., 1125 Montgomery, St. Louis, MO 63107, seeks temporary authority to lease the operating rights of METROPOLITAN TOWING COMPANY, 3916 Duncan, St. Louis, MO 63110, under section 210a(b). The transfer to LYNN TOWING, INC., of the operating rights of METROPOLITAN TOWING COMPANY, is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16273 Filed 11-5-71;8:49 am]

RESTRICTIVE AMENDMENTS IN CASES ASSIGNED FOR ORAL HEARING

Procedures

The Interstate Commerce Commission is revising its procedures for handling restrictive amendments in operating authority application cases assigned for oral hearing. The effective date of the change has been set for January 3, 1972.

As of that date, all notices in the FEDERAL REGISTER pertaining to applications for operating authority involving motor carriers, brokers, water carriers and freight forwarders will contain the following statement:

Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Subsequently, when the date for hearing is published in the FEDERAL REGISTER, the notice will also contain the following statement:

No amendments will be entertained after the date of this publication.

The purpose of the revisions is to require parties to application cases to agree on all amendments promptly and thereby reduce the case to the real issues before the proceeding is assigned for hearing.

In the past, the Commission has experienced difficulty in estimating the time to be allowed for oral hearing due to the tendency of some parties to postpone until the last minute agreement upon amendments which eliminate the interest of protestants. Even in instances where agreements are reached before the actual date of hearing, they often come too late for any change in case assignments and this, in turn, leaves the hearing examiner with open days on his schedule.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16270 Filed 11-5-71;8:50 am]

[No. MC-28572 (Sub-No. 2)]

BURLINGTON NORTHERN INC.

Request for Revocation of Certificate

Present: Rupert L. Murphy, Commissioner to whom the matter which is the subject of this order has been assigned for action thereon.

It appearing, that applicant holds certificate No. MC-28572 (Sub-No. 2), authorizing the transportation of passengers from and to the points and in the manner set forth below;

It further appearing, that by request dated May 25, 1971, applicant asks that the said certificate be revoked for the reason that the operations conducted thereunder are no longer profitable;

It further appearing, that the said request for revocation properly may not be given consideration until such time as the affected members of the public have been given notice thereof and an opportunity to express their positions thereon; and good cause appearing therefor:

It is ordered, That within 30 days of the service date of this order, applicant shall submit to this Commission written proof that notice of the proposed discontinuance of service together with a facsimile of this order (a) has been posted for 7 consecutive days in any bus presently operated over the routes sought to be abandoned, and (b) has been published for 6 consecutive days in newspapers of general circulation in Whitefish, Kalispell, Great Falls, Harve, Scobey, and Plentywood, Mont., and Williston, N. Dak.

It is further ordered, That within 45 days of the service date of this order any person-in-interest may submit to this Commission its written statement, verified under oath, as to why it believes that certificate No. MC-28572 (Sub-No. 2), should not be revoked.

It is further ordered, That further consideration of this matter be, and it is hereby, deferred until expiration of the time period for filing of written statements.

It is further ordered, That notice of the request for revocation and of this order be published in the FEDERAL REGISTER.

It is further ordered, That a copy of this order be served upon the North Dakota Public Service Commission and Montana Public Service Commission.

Dated at Washington, D.C., this 1st day of October 1971.

By the Commission, Commissioner Murphy.

[SEAL] ROBERT L. OSWALD,
Secretary.

Regular Routes:

Passengers and their baggage, and mail, newspapers, and express in the same vehicle with passengers, and baggage, mail, newspapers, and express in separate vehicles,

Between Whitefish, Mont., and Kalispell, Mont., serving no intermediate points:

From Whitefish over U.S. Highway 93 to Kalispell, and return over the same route.

Passengers and their baggage, and mail, newspapers, and express in the same or in a separate vehicle,

Between Great Falls, Mont., and Havre, Mont., and all intermediate points:

From Great Falls over U.S. Highway 87 to Havre, and return over the same route.

Restriction: The service authorized hereinabove is subject to the following conditions:

Carrier's service by motor vehicle shall be limited to the transportation of passengers, baggage, mail, newspapers, and express having a prior or subsequent movement by rail.

Carrier's service by motor vehicle shall be limited to service which is auxiliary to or supplemental of its rail service.

Carrier shall not render service by motor vehicle from or to any point other than a station on its rail lines.

Such further conditions as the Commission may find necessary to impose in order to insure that carrier's service by motor vehicle shall be auxiliary to, or supplemental of, its rail service.

Passengers and their baggage, and express and newspapers, in the same vehicle with passengers,

Between Williston, N. Dak., and Scobey, Mont., serving all intermediate points which are stations on the rail line of the Burlington Northern Inc., and serving the junction of Montana Highway 16 and unnumbered highway, near Homestead, Mont., and the junction of Montana Highway 16 and unnumbered highway, near Reserve, Mont., for purposes of joinder only with the routes described below:

From Williston over U.S. Highway 2 to Culbertson, Mont., thence over Montana Highway 16 to Plentywood, Mont., thence over Montana Highway 5 to junction Montana Highway 13, and thence over Montana Highway 13 to Scobey, and return over the same route.

Between junction Montana Highway 16 and unnumbered highway, and Homestead, Mont., serving no intermediate points:

From junction Montana Highway 16 and unnumbered highway over unnumbered highway to Homestead, and return over the same route.

Between junction Montana Highway 16 and unnumbered highway, and Reserve, Mont., serving no intermediate points:

From junction Montana Highway 16 and unnumbered highway over unnumbered highway to Reserve, and return over the same route.

[FR Doc.71-16277 Filed 11-5-71;8:49 am]

[Rev. S.O. 994; ICC Order 62]

CHESAPEAKE AND OHIO RAILWAY CO.

Rerouting or Diversion of Traffic

In the opinion of Robert D. Pfahler, agent, The Chesapeake and Ohio Railway Co. is unable to transport traffic over its car ferries between its eastern car ferry terminal at Ludington, Mich., and its western car ferry terminals at Kewaunee, Manitowoc, and Milwaukee, Wis., because of its inability to obtain adequate supplies of coal as a result of prolonged work stoppages at bituminous coal mines.

It is ordered, That:

(a) The Chesapeake and Ohio Railway Co., being unable to transport traffic over its car ferries between its eastern car ferry terminal at Ludington, Mich., and its western car ferry terminals at Kewaunee, Manitowoc, and Milwaukee, Wis., because of its inability to obtain adequate supplies of coal as a result of prolonged work stoppages at bituminous coal mines, that line is hereby authorized to reroute and divert such traffic via any available route, to expedite the movement.

(b) *Concurrence of receiving road to be obtained.* The railroad diverting the traffic shall receive the concurrence of the lines over which the traffic is rerouted or diverted before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic by said agent is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 9 a.m., November 2, 1971.

(g) *Expiration date.* This order shall expire at 11:59 p.m., December 15, 1971, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., November 1, 1971.

INTERSTATE COMMERCE COMMISSION,
[SEAL] ROBERT D. PFAHLER,
Agent.

[FR Doc.71-16269 Filed 11-5-71;8:49 am]

[No. MC-84690 (Sub-Nos. 16, 20, 23)]

NORTHERN PACIFIC TRANSPORT CO.

Request for Revocation of Certificate

Present: Rupert L. Murphy, Commissioner, to whom the matter which is the subject of this order has been assigned for action thereon.

It appearing, that applicant holds certificates No. MC-84690 (Sub-No. 18), No. MC-84690 (Sub-No. 20), and No. MC-84690 (Sub-No. 23), authorizing the transportation of passengers from and to the points and in the manner set forth below.

It further appearing, that by request dated May 25, 1971, applicant asks that the said certificates be revoked for the reason that the operations conducted thereunder are no longer profitable;

It further appearing, that the said request for revocations properly may not be given consideration until such time as the affected members of the public have been given notice thereof and an opportunity to express their positions thereon; and good cause appearing therefor:

It is ordered, That within 30 days of the service date of this order, applicant shall submit to this Commission written proof that notice of the proposed discontinuance of service together with a facsimile of this order (a) has been posted for 7 consecutive days in any bus presently operated over the routes sought to be abandoned, and (b) has been published for 6 consecutive days in newspapers of general circulation in Bozeman, Butte, East Glacier Park, Gardiner, Garrison, Helena, Logan, Silver Gate, West Glacier, and West Yellowstone, Mont.

It is further ordered, That within 45 days of the service date of this order any person-in-interest may submit to this Commission its written statement, verified under oath, as to why it believes that any or all of the above-specified certificates should not be revoked.

It is further ordered, That further consideration of this matter be, and it is hereby, deferred until expiration of the time period for filing of written statements.

It is further ordered, That notice of the request for revocation and of this order be published in the FEDERAL REGISTER.

It is further ordered, That a copy of this order be served upon the Montana Public Service Commission.

Dated at Washington, D.C., this 1st day of October, 1971.

By the Commission, Commissioner Murphy.

[SEAL] ROBERT L. OSWALD,
Secretary.

No. MC-84690 (Sub-No. 18)

Regular Routes:

Passengers and their baggage, and express and newspapers in the same vehicle with passengers,

Between Butte, Mont., and Garrison, Mont., serving all intermediate and off-route points which are stations on the rail line of the Northern Pacific Railway Co.:

From Butte over U.S. Highway 10S to Garrison, and return over the same route.

No. MC-84690 (Sub-No. 20)

Irregular Routes:

Passengers and their baggage, in round-trip charter operations, restricted to tour parties of passengers entering Glacier National Park via the Great Northern Railway, in seasonal operations between April 1 and September 30 of each year, both inclusive,

Beginning and ending at the West Glacier and East Glacier, Mont., entrances of Glacier National Park, Mont., and extending to the West Yellowstone, Gardiner, and Silver Gate, Mont., entrances of Yellowstone National Park, Wyo.

No. MC-84690 (Sub-No. 23)

Regular Routes:

Passengers and their baggage, and express and newspapers in the same vehicle, with passengers,

Between Bozeman and Logan, Mont., serving no intermediate points:

From Bozeman over Interstate Highway 90 to Logan, and return over the same route.

[FR Doc.71-16278 Filed 11-5-71;8:49 am]

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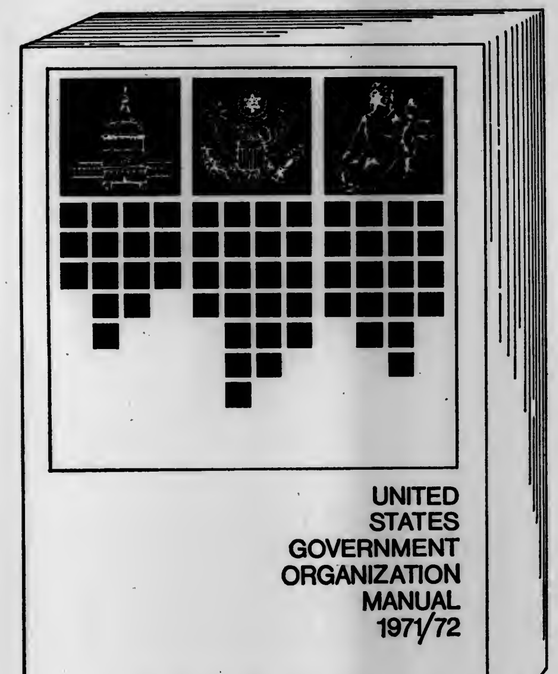

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Title 3—The President

PROCLAMATION 4092

Modifying Proclamation No. 3279, Relating to Imports of Petroleum and Petroleum Products

By the President of the United States of America

A Proclamation

The Director of the Office of Emergency Preparedness, with the advice of the Oil Policy Committee, has found that the national security will not be adversely affected by changes in the oil import program which would

—extend indefinitely the provision permitting the importation of No. 2 fuel oil into District I,

—enable holders of allocations made pursuant to this program to obtain No. 2 fuel oil manufactured in Puerto Rico, and

—authorize the suspension, from time to time, of the requirement that such No. 2 fuel oil be manufactured in the Western Hemisphere from crude oil produced in that hemisphere.

The Director, with the advice of the Oil Policy Committee, has recommended that Proclamation No. 3279 [1], as amended, be further amended to adjust imports and to improve the administration of the program in conformity with these findings.

I agree with the findings and recommendations of the Director and deem it necessary and consistent with the security objectives of Proclamation No. 3279, as amended, to adjust the imports of petroleum and petroleum products, and to improve the administration of the program, as hereinafter provided.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, acting under and by virtue of the authority vested in me by the Constitution and laws of the United States, including section 232 of the Trade Expansion Act of 1962, do hereby proclaim

[1] 24 F.R. 1781; 3 CFR, 1959–1963 Comp., p. 11.

that, effective as of the date of this Proclamation, Proclamation No. 3279, as amended, is further amended as follows:

1. Subparagraph (1) of paragraph (a) of section 2 is amended to read as follows:

"Except as otherwise provided in this proclamation, the maximum level of imports (exclusive of imports from Canada provided for in paragraph (a) of section 1A), subject to allocation, of crude oil, unfinished oils, and finished products (other than residual fuel oil to be used as fuel) into Districts I–IV for a particular allocation period, shall be an amount equal to the difference between (i) 960,000 barrels per day during that allocation period and (ii) the quantity of crude oil and unfinished oils which may be imported pursuant to paragraph (h) of section 1A of this proclamation during the particular allocation period plus the quantity estimated by the Secretary by which shipments of unfinished oils and finished products (other than residual fuel oil to be used as fuel) from Puerto Rico to Districts I–IV during that allocation period will exceed the quantity (as adjusted by the Secretary as he may determine to be consonant with the objectives of this proclamation) so shipped during a comparable base period in the year 1965. Within this maximum level, imports of unfinished oils and imports of finished products (other than residual fuel oil to be used as fuel) shall not exceed such levels as the Secretary may determine to be consonant with the objectives of this proclamation. In addition to the imports permitted under the first sentence of this paragraph, for the period January 1, 1971 through December 31, 1971, and for each allocation period thereafter, there may be imported into District I, an average of 45,000 barrels per day of No. 2 fuel oil, manufactured in the Western Hemisphere from crude oil produced in the Western Hemisphere, for allocation, under regulations of the Secretary, to persons in the business in District I of selling No. 2 fuel oil who do not have crude oil import allocations into Districts I–IV and who operate deep water terminals in District I or have through-put agreements with deep water terminal operators in District I who do not have crude oil import allocations into Districts I–IV, on a fair and equitable basis, to the extent possible, in relation to such persons' inputs of No. 2 fuel oil to such terminals, having regard to any product import allocations into Districts I–IV made to such persons. No person who manufactures in Puerto Rico No. 2 fuel oil from crude oil produced in the Western Hemisphere shall incur a reduction of an allocation or be deemed to have violated a condition of an allocation by reason of a shipment of such oil to a person who holds an allocation under the preceding sentence and who relinquishes an amount of the allocation equal to the amount so shipped, so long as the total of all such shipments from Puerto Rico during a particular allocation period does not exceed an average of 5,000 barrels per day. Whenever the Director of the Office of Emergency Preparedness, as a result of his surveillance under paragraph (a) of section 6, finds that because of supply, price or other considerations, the requirement that such No. 2 fuel oil be manufactured and produced in the Western Hemisphere is restricting the availability of such oil for importation into District I and is not required for the national security, he shall so advise the Secretary who may then suspend such requirement by appropriate regulation. No such suspension shall be renewed except upon a new finding by the Director of the Office of Emergency Preparedness as required under the preceding sentence. The Secretary may, by regulation, provide that a holder of an allocation for the importation of No. 2 fuel oil under the provisions of this subparagraph may import crude oil produced in the Western Hemisphere in lieu of No. 2 fuel oil, barrel for barrel, and exchange such crude oil for No. 2 fuel oil."

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of November, in the year of our Lord nineteen hundred and seventy one, and of the Independence of the United States of America the one hundred and ninety-sixth.

Richard Nixon

[FR Doc.71-16470 Filed 11-8-71;11:02 am]

PROCLAMATION 4093

Thanksgiving Day, 1971

By the President of the United States of America

A Proclamation

One of the splendid events which shape man's destiny occurred when a small band of people, believing in the essential sanctity of their own being, went in search of a land in which their individuality might be the highest national value, before any arbitrary limitation or duty placed upon some men by the whim or design of others.

They went in search of a land where they might live out their own commitment to their own ideal of human freedom. In the purpose of their search, the human spirit found its ultimate definition, and in the product of their search, its ultimate expression. They found the land they sought, and it was a difficult land, but it was rich. With their sacrifices they brought forth its riches, and laid the foundation for a new nation.

But more than that, they revealed a new possibility for the expression of man's spirit. In the sure unfolding of that possibility man has begun to experience a world in which he may do justice, love mercy and walk humbly with his God forever.

For what those early settlers established, we give thanks in a way which began with them. In their first years on the hard cold edge of man's bright golden dream, they were tried and their faith was tested. But when their bodies failed, their faith did not.

The stark simple words on a sarcophagus in a little village on the seacoast of Massachusetts tell the story well: "This monument marks the first burying-ground in Plymouth of the passengers of the Mayflower. Here, under cover of darkness, the fast dwindling company laid their dead; leveling the earth above them lest the Indians should learn how many were the graves."

Yet, because mankind was not created merely to survive, in the face of all hardship and suffering, these men and women—and those of the other early settlements—prevailed. And the settlers gathered to give thanks for God's bounty, for the blessings of life itself, and for the freedom which they so cherished that no hardship could quench it. And now their heritage is ours.

What they dared to imagine for this land came to pass.

What they planted here prospered.

And for our heritage—a land rich with the bountiful blessings of God, and the freedom to enjoy those rich blessings—we give thanks to God Almighty in this time, and for all time.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, in accordance with the wish of the Congress

as expressed in Section 6103 of Title 5 of the United States Code, do hereby proclaim Thursday, November 25, 1971, as a day of national thanksgiving. I call upon all Americans to share this day, to give thanks in homes and in places of worship for the many blessings our people enjoy, to welcome the elderly and less fortunate as special participants in this day's festivities and observances, thereby truly showing our gratitude to God by expressing and reflecting His love.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of November, in the year of our Lord nineteen hundred seventy-one, and of the Independence of the United States of America the one hundred ninety-sixth.

Richard Nixon

[FR Doc.71-16471 Filed 11-8-71;11:02 am]

Rules and Regulations

Title 7—AGRICULTURE

Chapter VI—Soil Conservation Service, Department of Agriculture

PART 601—GREAT PLAINS CONSERVATION PROGRAM

Cost-Share Payments

The regulations governing the Great Plains Conservation Program, 22 F.R. 6851, as amended, are further amended as provided herein. As this amendment constitutes a mandate of Congress, notice of proposed rule making and public participation therein is not required. This amendment will become effective upon publication in the FEDERAL REGISTER (11-9-71).

Section 601.12, *Cost-share payment*, is amended by the addition of paragraph (c), as follows:

§ 601.12 Cost-share payments.

* * * * *

(c) No funds appropriated after June 30, 1971, for cost sharing under the Great Plains Conservation Program may be used to make production or other payments, to producers who after such date harvests, or knowingly permits to be harvested for illegal use, marihuana or other such prohibited drug-producing plant on any part of lands owned or controlled by such producer. For the purpose of the regulations in this part the following plants in addition to marihuana are prohibited; opium poppies, coco bushes, and cactii of the genus lophophra.

(Sec. 4, 49 Stat. 164, as amended, 16 U.S.C., 590d)

Done at Washington, D.C., this 2d day of November 1971.

KENNETH E. GRANT,
Administrator.

[FR Doc.71-16350 Filed 11-8-71;8:50 am]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 906—ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

Expenses, Rate of Assessment and Carryover of Unexpended Funds

On October 22, 1971, notice of rule making was published in the FEDERAL REGISTER (36 F.R. 20439) regarding proposed expenses and the related rate of assessment for the period August 1, 1971, through July 31, 1972, and the carryover of unexpended funds, pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. This notice allowed interested persons 10 days during which they could submit written data, views, or arguments pertaining to these proposals. None were submitted. This regulatory program is effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Texas Valley Citrus Committee (established pursuant to said amended marketing agreement and order), it is hereby found and determined that:

§ 906.211 Expenses, rate of assessment, and carryover of unexpended funds.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Texas Valley Citrus Committee during the period August 1, 1971, through July 31, 1972, will amount to $735,000.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 906.34, is fixed at $0.045 per seven-tenths bushel carton, or an equivalent quantity of oranges and grapefruit.

(c) *Reserve.* Unexpended assessment funds, in excess of expenses incurred during the fiscal period ended July 31, 1971, shall be carried over as a reserve in accordance with applicable provisions of § 906.35 (a) (2) of the said marketing agreement and order.

It is hereby found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of oranges and grapefruit are now being made; (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment fixed for a particular fiscal period shall be applicable to all assessable fruit from the beginning of such period; and (3) the current fiscal period began on August 1, 1971, and the rate of assessment herein fixed will automatically apply to all assessable oranges and grapefruit beginning with such date.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: November 4, 1971.

ARTHUR E. BROWNE,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-16346 Filed 11-8-71;8:50 am]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. J]

PART 210—COLLECTION OF CHECKS AND OTHER ITEMS BY FEDERAL RESERVE BANKS

Designation of Federal Reserve District for American Samoa

The Board of Governors has amended footnote 1 in § 210.2 by adding the words "and American Samoa" immediately following the word "Guam". The purpose of the amendment is to designate American Samoa as being in or of the 12th Federal Reserve District for check collection purposes.

Effective date. October 26, 1971.

By order of the Board of Governors, October 26, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16303 Filed 11-8-71;8:47 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 71-SO-91]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On September 4, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 17876) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Pensacola, Fla., transition area.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. Comments were received from the Air Transport Association of America (ATA) and the commanding officer, Naval Air Station, Ellyson Field, Pensacola, Fla.

The ATA's comment concurred with the proposal, while the comment received from the Navy requested an adjustment to the floor of the transition

area in the immediate vicinity of Hellcopter Training Site 8A. The Navy expressed concern that the proposed uniform floor of 700 feet above the surface would have an adverse effect on the autorotation training conducted by hellcopters at Training Site 8A.

A review and discussion by the FAA with Navy officials at Ellyson Field disclosed that all operations of the autorotation training are conducted only in visual flight rule conditions, accordingly, it has been determined that the designation of the transition area floor at 700 feet above the surface would have no adverse effect on the helicopter autorotation training.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 6, 1972, as hereinafter set forth.

In § 71.181 (36 F.R. 2140) "Pensacola, Fla." is amended to read:

PENSACOLA, FLA.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Pensacola Regional Airport (lat. 30°28'25" N., long. 87°11'20" W.); within 3 miles each side of the ILS localizer north course, extending from the 8.5-mile radius area to 8.5 miles north of Brent LOM; within a 9-mile radius of Forrest Sherman Field (lat. 30°20'53" N., long. 87°19'04" W.); within 7 miles each side of Forrest Sherman Field Runways 4/24 and 18/36 extended centerlines, extending from the 9-mile radius area to 12 miles northeast, south and southwest of the airport; within a 6-mile radius of NAS Saufley Field (lat. 30°26'15" N., long. 87°20'30" W.); within 9.5 miles southeast and 4.5 miles northwest of the 214° bearing from NAS Saufley/UHF RBN, extending from the RBN to 18.5 miles southwest; within 9.5 miles southeast and 4.5 miles northwest of NAS Saufley VOR 234° radial, extending from the VOR to 18.5 miles southwest.

(Sec. 307(a) and 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348(a) and 1510, Executive Order 10854, 24 F.R. 9565, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 1, 1971.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-16323 Filed 11-8-71;8:48 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 135—NEW ANIMAL DRUGS

Subpart C—Sponsors of Approved Applications

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Methocarbamol

The Commissioner of Food and Drugs has evaluated a new animal drug application (45-715V) filed by A. H. Robins Co., Research Laboratories, 1211 Sherwood Avenue, Richmond, VA 23220, proposing the safe and effective use of methocarbamol tablets for the treatment of dogs and cats. The application is approved.

To facilitate referencing, A. H. Robins & Co. is being assigned a code number and placed in the list of firms in § 135.501 (21 CFR 135.501).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135 and 135c are amended as follows:

1. Section 135.501 is amended in paragraph (c) by adding a new code number 060, as follows:

§ 135.501 Names, addresses, and code numbers of sponsors of approved applications.

• • • • •

(c) • • •

Code No.	Firm name and address
• • •	• • •
060	A. H. Robins Co., Research Laboratories, 1211 Sherwood Avenue, Richmond, VA 23220.

2. Part 135c is amended by adding the following new section:

§ 135c.51 Methocarbamol tablets.

(a) *Chemical name.* 3-(O-Methoxyphenoxy)-1,2-propanediol 1-carbamate.

(b) *Specifications.* Each tablet contains 500 milligrams of methocarbamol.

(c) *Sponsor.* See code No. 060 in § 135.501(c) of this chapter.

(d) *Conditions of use.* (1) The drug is administered to dogs and cats as an adjunct to therapy for acute inflammatory and traumatic conditions of the skeletal muscles in order to reduce muscular spasms.

(2) Dosage is based upon severity of symptoms and response noted. The usual initial dose is 60 milligrams per pound of body weight in two or three equally divided doses followed by 30 to 60 milligrams per pound of body weight each following day, usually not to exceed 14 to 21 days.

(3) For use only by or on the order of a licensed veterinarian.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (11-9-71).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: October 28, 1971.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.71-16317 Filed 11-8-71;8:47 am]

PART 135a—NEW ANIMAL DRUGS FOR OPHTHALMIC AND TOPICAL USE

Neomycin Sulfate-Thiabendazole-Dexamethasone Solution, Veterinary.

The Commissioner of Food and Drugs has evaluated a new animal drug application (42-633V) filed by Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc., Rahway, N.J. 07065, proposing the safe and effective use of neomycin sulfate-thiabendazole-dexamethasone solution, veterinary, for topical use on dogs and cats. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)), and under authority delegated to the Commissioner (21 CFR 2.120), Part 135a is amended by adding the following new section:

§ 135a.18 Neomycin sulfate-thiabendazole-dexamethasone solution, veterinary.

(a) *Specifications.* Each cubic centimeter of neomycin sulfate-thiabendazole-dexamethasone solution, veterinary, contains: 40 milligrams of thiabendazole, 3.2 milligrams of neomycin (from neomycin sulfate), and 1 milligram of dexamethasone.

(b) *Sponsor.* See code No. 023 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) The drug is recommended for use as an aid in the treatment of bacterial, mycotic, and inflammatory dermatoses and otitis externa in dogs and cats.

(2) In treating dermatoses affecting areas other than the ear, the surface of the lesions should be well moistened (two to four drops per square inch) twice daily. In treating otitis externa, five to 15 drops of the drug should be instilled in the ear twice daily. The drug is limited to 7 days maximum duration of administration.

(3) For use only by or on order of a licensed veterinarian.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (11-9-71).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360(i))

Dated: October 28, 1971.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.71-16297 Filed 11-8-71;8:46 am]

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Sulfadimethoxine Injection

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (41-245V) filed by Hoffman-La Roche, Inc., Nutley, N.J. 07110, proposing the safe and effective use of sulfadimethoxine injection for the treatment of cats. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), § 135b.15 is amended by revising paragraphs (b) and (c) as follows:

§ 135b.15 Sulfadimethoxine injection.

• • • • • •

(b) *Sponsor.* See code No. 020 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) It is intended for use in dogs and cats for the treatment of respiratory, genitourinary tract, enteric, and soft tissue infections when caused by Streptococci, Staphylococci, Escherichia, Salmonella, Klebsiella, Proteus, or Shigella organisms sensitive to sulfadimethoxine.

(2) It is administered by intravenous or subcutaneous injection at an initial dose of 55 milligrams per kilogram of body weight followed by 27.5 milligrams per kilogram of body weight every 24 hours. Length of treatment depends upon the clinical response. In most cases, treatment for 3 to 5 days is adequate. Treatment should be continued until the patient is asymptomatic for 48 hours.

(3) For use only by or on the order of a licensed veterinarian.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (11-9-71).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: October 28, 1971.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.71-16316 Filed 11-8-71;8:47 am]

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Neomycin Sulfate Sterile Solution, Veterinary

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (11-953V) filed by The Upjohn Co., Kalamazoo, Mich. 49001, proposing the safe and effective use of neomycin sulfate sterile solution, veterinary, for parenteral injection in dogs and cats. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)), and under authority delegated to the Commissioner (21 CFR 2.120), Part 135b is amended by adding the following new section:

§ 135b.40 Neomycin sulfate sterile solution, veterinary.

(a) *Specifications.* Neomycin sulfate sterile solution, veterinary, contains 50 milligrams of neomycin sulfate in each milliliter of solution (equivalent to 35 milligrams neomycin base). The neomycin sulfate used in preparing the drug conforms to the standards of identity, strength, quality, and purity prescribed by § 148i.1(a)(1) of this chapter.

(b) *Sponsor.* See code No. 037 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) The drug is used in dogs and cats in the treatment of acute and chronic bacterial infections due to organisms susceptible to neomycin.

(2) It is administered intramuscularly or intravenously for a period of 3 to 5 days in a total daily dosage of 5 milligrams per pound of body weight. The total daily dosage is divided into portions that are administered every 6 to 8 hours.

(3) Its label shall bear an appropriate expiration date and the statement that neomycin must not be used parenterally in food-producing animals because of prolonged residues of the antibiotic in edible tissues.

(4) For use only by or on the order of a licensed veterinarian.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (11-9-71).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: October 28, 1971.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.71-16296 Filed 11-8-71;8:46 am]

PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Levamisole Hydrochloride (Equivalent)

The Commissioner of Food and Drugs has evaluated a new animal drug application (44-015V) filed by American Cyanamid Co., Post Office Box 400, Princeton, NJ 08540, proposing an amendment to the regulations to provide for safe and effective use of levamisole hydrochloride (equivalent) as an anthelmintic in cattle feed. The application is approved.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512 (i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under the authority delegated to the Commissioner (21 CFR 2.120), Part 135e is amended by adding a new § 135e.59 as follows:

§ 135e.59 Levamisole hydrochloride (equivalent).

(a) *Chemical name.* (−)-2,3,5,6-Tetrahydro-6-phenylimidazo [2,1-b] thiazole monohydrochloride.

(b) *Specifications.* Assay of not less than 98 percent of nonaqueous titration with 0.1*N* potassium isopropoxide; 1 isomer minimum 95 percent pure by optical rotation.

(c) *Approvals.* Premix level 227 grams per pound granted to code No. 004 in § 135.501(c) of this chapter.

(d) *Assay limits.* Finished feed 95–125 percent of labeled amount.

(e) *Related tolerances.* See § 135g.63 of this chapter.

(f) *Conditions of use.* It is used as follows:

Principal ingredient	Grams per pound	Limitations	Indications for use
1. Levamisole hydrochloride (equivalent).	3.6 (0.8%)	For cattle, withhold feed from cattle overnight then administer medicated feed mixed thoroughly in one half the daily ration the following morning; when medicated feed is consumed resume normal feeding; medicated feed is to be fed at the rate of 0.1 pound per 100 lbs. of body weight; conditions of constant helminth exposure may require retreatment within 2 to 4 weeks after the first treatment; do not slaughter for food within 48 hours of treatment; consult veterinarian before using in severely debilitated animals; do not administer to dairy animals of breeding age; for use in pelleted feeds only; the label shall bear the warning, "Muzzle foam may be observed. However, this reaction will disappear within a few hours. If this condition persists, a veterinarian should be consulted. Follow recommended dosage carefully."	For treating cattle infected with the following gastrointestinal worms and lungworms: stomach worms (*Haemonchus, Trichostrongylus, Ostertagia*), intestinal worms (*Trichostrongylus Cooperia, Nematodirus, Bunostomum, Oesophagostomum*), and lungworms (*Dictyocaulus*).

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (11-9-71).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: October 28, 1971.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.71-16295 Filed 11-8-71;8:46 am]

Title 30—MINERAL RESOURCES

Chapter I—Bureau of Mines, Department of the Interior

SUBCHAPTER O—COAL MINE HEALTH AND SAFETY

PART 81—PROCEDURES FOR IDENTIFICATION OF REPRESENTATIVES OF MINERS AT MINES

Pursuant to the authority vested in the Secretary of the Interior under sections 5(f)(1), 101(c), 101(d), 101(k), 103(g), 103(h), 104(d)(3), 104(h)(1), 105(a), 107(b), 109(a)(4), 110(b)(1), 110(b)(2), 301(c), 301(d), 302(a), 305(b), 312(b), and 505 of the Federal Coal Mine Health and Safety Act of 1969 (Public Law 91-173), and in accordance with section 508 of the Act, there was published in the FEDERAL REGISTER for April 21, 1971 (36 F.R. 7513-14), a notice of proposed rule making setting forth a proposal to add Part 81, to Subchapter O, Chapter I, Title 30, Code of Federal Regulations, which shall apply to all coal mines and which provide procedures for the identification of persons or organizations representing miners at a coal mine.

Interested persons were afforded a period of 45 days from the date of publication of the notice in which to submit written comments, suggestions, or objections to the proposed Part 81. All comments, suggestions, and objections received have been fully considered. Several comments were received stating

that the United Mine Workers of America is the collective bargaining representative for the employees of most of the coal mines throughout the United States on wages, hours, and other conditions of employment including safety and the United Mine Workers of America should be recognized as the representative of the miners under the act. Part 81 does not preclude the United Mine Workers of America from being a representative of the miners under the act. On the other hand, however, in the Conference Report (H.R. Rept. No. 91-761, p. 67), Congress indicated, "[I]t should be noted that, as used there and throughout the act, the term 'representative of the miners' includes any individual or organization that represents any group of miners at a given mine and does not require that the representative be a recognized representative under other labor laws."

Part 81, Subchapter O, Chapter I, Title 30, Code of Federal Regulations is hereby adopted as set forth below and shall be effective upon date of publication in the FEDERAL REGISTER (11-9-71).

HOLLIS M. DOLE,
Assistant Secretary of the Interior.

NOVEMBER 1, 1971.

Sec.
81.1 Definitions.
81.2 Filing procedures.
81.3 Posting of certificate at mine.
81.4 Withdrawal of certificate.
81.5 Effect of filing of certificate.
81.6 Multiple representatives.

AUTHORITY: The provisions of this Part 81 issued under sections 5(f)(1), 101(c), 101(d), 101(k), 103(g), 103(h), 104(d)(3), 104(h)(1), 105(a), 107(b), 109(a)(4), 110(b)(1), 110(b)(2), 301(c), 301(d), 302(a), 305(b), 312(b), 505, and 506 of the Federal Coal Mine Health and Safety Act of 1969 (Public Law 91-173).

§ 81.1 Definitions.

As used in this Part 81:

(a) "Act" means the Federal Coal Mine Health and Safety Act of 1969.

(b) "Representative of the miners" means any person or organization which represents two or more miners at a coal mine for purpose of the Act.

§ 81.2 Filing procedures.

(a) Any person or organization which desires to be a representative of miners shall file with the Director, Bureau of Mines, Department of the Interior, Washington, D.C. 20240, and serve upon the operator of the coal mine a notarized certificate setting forth:

(1) The name and mailing address of the person or organization.

(2) The name and address of the coal mine in which the miners represented are working and the Bureau of Mines' identification number for the mine, if known.

(3) A statement that he is the representative of the miners at the mine for purposes of collective bargaining or that he has written authorization from two or more miners at the mine to represent them under the Act.

(4) A statement that a copy of the certificate was served upon the operator.

(b) Each certificate shall be kept by the Bureau of Mines in an open file for public inspection. The Bureau of Mines shall maintain a complete and current list of the names and mailing address of each representative of the miners and the mine in which the miners are working.

(c) The Bureau of Mines may require a representative of the miners to submit evidence of representation, including authorization from the miners.

§ 81.3 Posting of certificate at mine.

Each certificate shall be permanently posted by the operator on the mine bulletin board until withdrawn under § 81.4.

§ 81.4 Withdrawal of certificate.

(a) A certificate shall be withdrawn by a representative of the miners who is no longer able to comply with the requirements of § 81.2. A certificate may be withdrawn by a representative of the miners at any time. Notice of withdrawal shall be given to the Bureau, in writing, and a copy furnished to the operator by the representative of the miners.

(b) The Bureau may strike a certificate from its files for noncompliance with these procedures.

§ 81.5 Effect of filing of certificate.

Representatives who file the certificate under this part shall be entitled to receive notice and exercise the rights of a representative of miners under the Act.

§ 81.6 Multiple representatives.

More than one representative of miners at a particular mine may file a certificate of representation. Where the presence of multiple representatives at an inspection, investigation or administrative proceeding may impair performance of the enforcement responsibilities of the Department of the Interior, the representatives may be required to designate a single representative.

[FR Doc.71-16301 Filed 11-8-71;8:46 am]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart D—Administration of Educational Benefits; 38 U.S.C. Chapters 34, 35, and 36

DEFICIENCY AND/OR REMEDIAL COURSES

This regulation allows the service education officer to certify as to the need of a serviceman for deficiency and/or remedial courses in basic English language skills and mathematic skills under PREP and defines such courses.

In § 21.4235, paragraph (e) is amended and paragraphs (f) and (g) are added so that the amended and added material reads as follows:

§ 21.4235 Predischarge education program (PREP) and special assistance for educationally disadvantaged veterans; chapter 34.

* * * * *

(e) *Certifications.* Certifications as to the serviceman's need for deficiency and/or remedial courses in basic English language skills and mathematic skills under paragraph (a)(1) of this section may be made by either the service education officer or by the educational institution administering the course, or to which the student has made application for admission. Certifications as to other course requirements under paragraph (a)(1), (2), and (3) of this section are to be made by the educational institution administering the course, or to which the student has made application for admission.

(f) *Basic skills.* Basic English language courses or mathematic courses will be authorized when it is found by accepted testing methods that the serviceman is lacking in basic reading, writing, speaking or essential mathematics.

(g) *Deficiency course.* A deficiency course is any secondary level course or subject not previously completed satisfactorily which is specifically required for pursuit of a postsecondary program of education.

(72 Stat. 1114; 38 U.S.C. 210)

This VA Regulation is effective the date of approval.

Approved: October 28, 1971.

[SEAL] DONALD E. JOHNSON,
Administrator.

[FR Doc.71-16337 Filed 11-8-71;8:49 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 5A—Federal Supply Service, General Services Administration

PART 5A-2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 5A-2.2—Solicitation of Bids

BID SAMPLES

Section 5A-2.202-4 is revised as follows:

§ 5A-2.202-4 Bid samples.

(a) As provided in § 1-2.202-4(b), bid samples shall be required only when certain characteristics of the item to be procured cannot be adequately described in the applicable specification or purchase description such as workmanship, balance, and finish. However, where it has been determined that bid samples are to be required, the invitation for bids may list any required characteristics, whether or not such characteristics are adequately described in the specification.

(b) Invitations for bids shall list and clearly set forth those characteristics for which bid samples will be examined. Normally only subjective characteristics will be listed. Objective characteristics may be listed when it has been determined, on the basis of past procurement experience or other valid considerations, that examination of such characteristics is essential in the procurement of an acceptable product. Where objective characteristics are listed in the invitation for bids, the listed characteristics shall be separately shown under the following two headings: (1) Subjective Characteristics and (2) Objective Characteristics. Products furnished under any resultant contract shall strictly comply with the listed subjective characteristics of the approved bid sample and shall conform to the specifications as to all other characteristics whether or not listed.

(c) When bid samples are to be required, the following provision shall be included in the invitation for bids. This provision may be modified to cover special circumstances, such as those described in § 1-2.202-4.

BID SAMPLES

(a) Bid samples, in the quantities, sizes, etc., required for the items so indicated in this invitation for bids, must be (1) furnished as a part of the bid, (2) from the production of the manufacturer whose product is to be supplied, and (3) received before the time set for opening bids. Samples will be evaluated to determine compliance with all characteristics listed for examination in the Invitation.

(b) Failure of samples to conform to all such characteristics will require rejection of the bid. Failure to furnish samples by the time specified in the invitation for bids will require rejection of the bid, except that a late sample transmitted by mail will be considered under the provisions for considering late bids, as set forth elsewhere in this invitation for bids.

(c) Products delivered under any resulting contract shall strictly comply with the approved sample as to the subjective characteristics listed for examination and shall conform to the specifications as to all other characteristics.

(d) Samples received with bids being considered for award must be from the production of the manufacturer whose product is to be supplied and shall be evaluated with respect to the characteristics listed in the solicitation by the buying activity and the appropriate quality control activity. A written record of the evaluation findings shall be made. If the samples do not meet the listed characteristics, the bid shall be rejected.

(e) If the samples meet the listed characteristics but there is doubt as to whether the sample meets all of the characteristics required by the specifications, arrangements shall be made for technical evaluation and/or testing by the appropriate Quality Control Division. A report of the evaluation of the sample, showing results with respect to all characteristics examined, shall be furnished promptly to the contracting officer.

(f) If the bid sample is found to conform to the characteristics listed in the solicitation, determination of the prospective contractor's responsibility shall be made in accordance with normal procedures.

(g) If the bid sample has been found to conform to all of the characteristics listed in the solicitation, but found deficient with respect to one or more of the unlisted characteristics, a plant facilities report shall be requested as provided in § 5A-1.310-7. A copy of the sample evaluation report shall be attached to the GSA Form 353 which shall include a request that special attention be given to the prospective contractor's ability (notwithstanding the deficiencies noted in the bid sample with respect to the characteristics not listed in the solicitation which were evaluated) to produce supplies fully conforming to applicable specifications. For example, can the noted deficiencies be corrected by fairly simple production or process control adjustments or would expensive and time-consuming retooling be involved? The plant facilities report shall include a specific statement regarding the prospective contractor's ability or inability to correct each noted deficiency as well as an overall appraisal of his capability.

(h) If the plant facilities report is not favorable, a determination of nonresponsibility shall be made based upon the facts and evaluation contained in the report together with any other evidence that may be obtained in a given case bearing on the bidder's inability to meet the standards of responsibility in Subpart 1-1.12.

(i) If the plant facilities report is favorable, award may be made if otherwise proper to the low bidder whose samples conform to the characteristics listed in the solicitations. However, concurrently with award the contracting officer shall specifically, in writing, call to the attention of the contractor the inadequacies of the sample with respect to unlisted characteristics and advise him of his responsibilities to furnish items conforming to all of the requirements of the specification. A letter format for this purpose is illustrated in § 5A-76.119. A copy of such letter shall be furnished to the appropriate Quality Control Division, for use when making subsequent inspection.

(j) For instructions regarding disposition of samples, see § 5A-2.407-76.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 5-1.101(c))

Effective date. These regulations are effective 30 days after the date shown below but may be observed earlier.

Dated: November 2, 1971.

L. E. SPANGLER,
Acting Commissioner, Federal Supply Service.

[FR Doc. 71-16335 Filed 11-8-71;8:48 am]

Chapter 5B—Public Buildings Service, General Services Administration

PART 5B-2—PROCUREMENT BY FORMAL ADVERTISING

PART 5B-18—PROCUREMENT OF CONSTRUCTION

Charges and Deposits for Bidding Documents

Pursuant to the requirements of § 1-18.105 relating to time of performance and to the requirements for charges and deposits for bidding documents, Subpart 5B-2.2 is amended and Subpart 5B-18.2 is added as set forth below.

The table of contents for Part 5B-2 is amended to delete § 5B-2.202-75.

Subpart 5B-2.2 Solicitation of Bids

Sec.
5B-2.202-75 [deleted].

A new Part 5B-18, Procurement of Construction is added as follows:

Subpart 5B-18.2 Formal Advertising

Sec.
5B-18.203 Invitations for bids.
5B-18.203-70 Charges and deposits for bidding documents.

AUTHORITY: The provisions of this Part 5B-18 issued under Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c)

Subpart 5B-18.2 Formal Advertising

§ 5B-18.203 Invitations for bids.

§ 5B-18.203-70 Charges and deposits for bidding documents.

(a) Generally, a nonrefundable bid document charge or a bid document deposit will be required for advertised construction contracts estimated to exceed $100,000. The amount will be determined by the contracting officer. There will be no charge or deposit on documents for any negotiated construction contract regardless of the amount of the estimate.

(b) Bidding documents will be furnished at no charge to plan rooms, contractor service facilities, and other similar places where the documents are made available for review.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This amendment is effective upon publication in the FEDERAL REGISTER (11-9-71).

Dated: October 29, 1971.

A. F. SAMPSON,
Commissioner, Public Buildings Service.

[FR Doc.71-16300 Filed 11-8-71;8:46 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Necedah National Wildlife Refuge, Wis.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (11-9-71).

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

WISCONSIN

NECEDAH NATIONAL WILDLIFE REFUGE

Sport fishing on the Necedah National Wildlife Refuge, Necedah, Wis., is permitted from December 15, 1971, through

December 31, 1971, but only on that area designated as open to fishing. The open area, comprising approximately 38,000 acres, is delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Sport fishing on the entire Necedah National Wildlife Refuge, Necedah, Wis., is permitted from January 1, 1972 through March 15, 1972. Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through March 15, 1972.

GERALD H. UPDIKE,
Refuge Manager, Necedah National Wildlife Refuge, Necedah, Wis.

NOVEMBER 1, 1971.

[FR Doc.71-16334 Filed 11-8-71;8:48 am]

Title 24—HOUSING AND HOUSING CREDIT

Chapter VII—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Eligible Communities

Section 1914.4 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1914.4 List of eligible communities.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
• • •	• • •	• • •	• • •	• • •	• • •	• • •
California	Contra Costa	Walnut Creek	I 06 013 4070 16 through I 06 013 4070 38	Department of Water Resources, Post Office Box 388, Sacramento, CA 95802. California Insurance Department, 107 South Broadway, Los Angeles, CA 90012, and 1407 Market St., San Francisco, CA 94103.	Public Works Department, 1501 North California Blvd., Walnut Creek, CA 94596.	November 5, 1971.
Do	Santa Barbara	Carpinteria				Do.
Do	Riverside	San Jacinto				Do.
Florida	Palm Beach	Jupiter Inlet Colony.				Do.
Illinois	Alexander	Cairo				Do.
Kentucky	Harlan	Cumberland				Do.
Maryland	Caroline	Federalsburg				Do.
Minnesota	Washington	Stillwater				Do.
Missouri	Scotland	Memphis				Do.
New Jersey	Essex	Livingston Township.				Do.
North Dakota	Stark	Unincorporated areas.	I 38 089 0000 03 through I 38 089 0000 06	State Water Commission, Bismarck, N. Dak. 58501. North Dakota Insurance Department, State Capitol, Bismarck, ND 58501.	City Auditor's Office, Stark County Courthouse, Dickinson, N. Dak. 58601.	Do.
Oklahoma	Rogers	do	I 40 131 0000 02 through I 40 131 0000 27	Oklahoma Water Resources Board, 2241 Northwest 40th St., Oklahoma City, OK 73112. Oklahoma Insurance Department, Room 408 Will Rogers Memorial Bldg., Oklahoma City, Okla. 73105.	Metropolitan Area Planning Commission City of Claremore-Rogers County, Rogers County Courthouse, Post Office Box 904, Claremore, OK 74017	Do.
Pennsylvania	Cumberland	New Cumberland				Do.
Do	Berks	Shillington Borough.				Do.
Do	Chester	West Whiteland Township.				Do.
South Carolina	Horry	North Myrtle Beach.				Do.
Tennessee	Sevier	Gatlinburg	I 47 155 0020 02 through I 47 155 0020 05	Tennessee State Planning Commission, Room C2-208, Central Services Bldg., Nashville, Tenn. 37219. Tennessee Department of Insurance and Banking, 114 State Office Bldg., Nashville, Tenn. 37219.	City Hall, 175 Airport Rd., Gatlinburg, Tenn. 37738.	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: November 2, 1971.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.71-16223 Filed 11-8-71;8:45 am]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
• • •	• • •	• • •	• • •	• • •	• • •	• • •
California	Contra Costa	Walnut Creek	H 06 013 4070 16 through H 06 013 4070 38	Department of Water Resources, Post Office Box 388, Sacramento, CA 95802. California Insurance Department, 107 South Broadway, Los Angeles, CA 90012, and 1407 Market St., San Francisco, CA 94103.	Public Works Department, 1501 North California Blvd., Walnut Creek, CA 94596.	February 9, 1971
Do	Santa Barbara	Carpinteria				November 5, 1971.
Do	Riverside	San Jacinto				Do.
Florida	Palm Beach	Jupiter Inlet Colony.				Do.
Illinois	Alexander	Cairo				Do.
Kentucky	Harlan	Cumberland				Do.
Maryland	Caroline	Federalsburg				Do.
Minnesota	Washington	Stillwater				Do.
Missouri	Scotland	Memphis				Do.
New Jersey	Essex	Livingston Township.				Do.
North Dakota	Stark	Unincorporated areas.	H 38 089 0000 03 through H 38 089 0000 06	State Water Commission, Bismarck, N. Dak. 58501. North Dakota Insurance Department, State Capitol, Bismarck, ND 58501.	City Auditor's Office, Stark County Courthouse, Dickinson, N. Dak. 58601.	January 15, 1971.
Oklahoma	Rogers	do	H 40 131 0000 02 through H 40 131 0000 27	Oklahoma Water Resources Board, 2241 Northwest 40th St., Oklahoma City, OK 73112. Oklahoma Insurance Department, Room 408 Will Rogers Memorial Bldg., Oklahoma City, Okla. 73105.	Metropolitan Area Planning Commission, City of Claremore-Rogers County, Rogers County Courthouse, Post Office Box 904, Claremore, OK 74017.	November 6, 1970.
Pennsylvania	Cumberland	New Cumberland				November 5, 1971.
Do	Berks	Shillington Borough.				Do.
Do	Chester	West Whiteland Township.				Do.
South Carolina	Horry	North Myrtle Beach.				Do.
Tennessee	Sevier	Gatlinburg	H 47 155 0920 02 through H 47 155 0920 05	Tennessee State Planning Commission, Room C2-208, Central Services Bldg., Nashville, Tenn. 37219. Tennessee Department of Insurance and Banking 114 State Office Bldg., Nashville, Tenn. 37219.	City Hall, 175 Airport Rd., Gatlinburg, Tenn. 37738.	October 30, 1970.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: November 2, 1971.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.71-16224 Filed 11-8-71;8:45 am]

Title 45—PUBLIC WELFARE

Chapter II—Social and Rehabilitation Service (Assistance Programs), Department of Health, Education, and Welfare

PART 249—AMOUNT, DURATION, AND SCOPE OF MEDICAL ASSISTANCE

Early and Periodic Screening, Diagnosis, and Treatment of Individuals Under Age 21

Notice of proposed regulations was published in the FEDERAL REGISTER of December 11, 1970 (34 F.R. 18878) pertaining to early and periodic screening, diagnosis, and treatment of individuals under 21 years of age provided for under a State plan for medical assistance under title XIX of the Social Security Act. After consideration of the views presented by interested persons, the regulation retains all proposed requirements on screening and diagnosis, and has been changed as follows: (1) States must provide only the amount, duration, and scope of treatment included under the State plan, and in addition, (a) eyeglasses, hearing aids, and other kinds of treatment for visual and hearing defects, and (b) at least such dental care as is necessary for relief of pain and infection and for restoration of teeth and maintenance of dental health, must be provided, whether or not otherwise included under the State plan, subject, however, to such utilization controls as may be imposed by the State agency. (2) The existing regulation on Federal financial participation has been changed to make clear that States may provide and obtain Federal matching for all services recognized under title XIX for individuals under age 21, without regard to the amount, duration, and scope of care and services made available to individuals 21 years of age or older.

Section 249.10 of Chapter II of Title 45 of the Code of Federal Regulations is amended by redesignating paragraphs (a)(3)-(9), inclusive, as paragraphs (a)(4)-(10), inclusive. Paragraph (a)(7) as herein redesignated is amended by striking out "subparagraph (5)" and inserting in lieu thereof "subparagraph (6)"; and by adding paragraph (a)(3); and by revising paragraph (b)(4)(ii), to read as follows:

§ 249.10 Amount, duration, and scope of medical assistance.

(a) • • •

(3) In carrying out the requirements in subparagraphs (1) and (2) of this paragraph with respect to the item of care set forth in paragraph (b)(4)(ii) of this section, provide:

(i) For establishment of administrative mechanisms to identify available screening and diagnostic facilities, to assure that individuals under 21 years of age who are eligible for medical assistance may receive the services of such facilities, and to make available such services as may be included under the State plan;

(ii) For identification of those eligible individuals who are in need of medical or remedial care and services furnished throughout title V grantees, and for assuring that such individuals are informed of such services and are referred to title V grantees for care and services, as appropriate;

(iii) For agreements to assure maximum utilization of existing screening, diagnostic, and treatment services provided by other public and voluntary agencies such as child health clinics, OEO Neighborhood Health Centers, day care centers, nursery schools, school health programs, family planning clinics, maternity clinics, and similar facilities;

(iv) That early and periodic screening and diagnosis to ascertain physical and mental defects, and treatment of conditions discovered within the limits of the State plan on the amount, duration, and scope of care and services, will be available to all eligible individuals under 21 years of age; and that, in addition, eyeglasses, hearing aids, and other kinds of treatment for visual and hearing defects, and at least such dental care as is necessary for relief of pain and infection and for restoration of teeth and maintenance of dental health, will be available, whether or not otherwise included under the State plan, subject, however, to such utilization controls as may be imposed by the State agency. If such screening, diagnosis, and such additional treatment are not available by the effective date of these regulations to all eligible individuals under 21 years of age, the State plan must provide that screening, diagnosis, and such additional treatment will be available to all eligible children under 6 years of age, and must specify the progressive stages by which screening, diagnosis, and such additional treatment will be available to all eligible individuals under 21 no later than July 1, 1973.

(b) • • •

(4) • • •

(ii) *Early and periodic screening and diagnosis of individuals under 21 years of age, and treatment of conditions found.* Early and periodic screening and diagnosis of individuals under the age of 21 who are eligible under the plan to ascertain their physical or mental defects, and health care, treatment, and other measures to correct or ameliorate defects and chronic conditions discovered thereby. Federal financial participation is available for any item of medical or remedial care and services included under this section for individuals under the age of 21, such care and services may be provided under the plan to individuals under the age of 21, even if such care and services are not provided, or are provided in lesser amount, duration or scope to individuals 21 years of age or older.

• • • • • •

(Section 1102, 49 Stat. 647, 42 U.S.C. 1302)

Effective date. These regulations shall become effective 90 days following the date of publication in the FEDERAL REGISTER.

Dated: November 4, 1971.

JOHN D. TWINAME,
Administrator, Social and Rehabilitation Service.

Approved: November 4, 1971.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc.71-16398 Filed 11-8-71;8:50 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 32]

AREAS OPEN TO HUNTING OF BIG GAME

Proposed Addition of Catahoula National Wildlife Refuge, La.

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Migratory Bird Conservation Act of February 18, 1929, as amended (45 Stat. 1222; 16 U.S.C. 715), and the National Wildlife Refuge System Administration Act of 1966 (80 Stat. 927 as amended; 16 U.S.C. 668dd), it is proposed to amend 50 CFR part 32 by the addition of Catahoula National Wildlife Refuge, La., to the list of areas open to the hunting of big game as legislatively permitted.

It has been determined that regulated hunting of big game may be permitted as designated on the Catahoula National Wildlife Refuge without detriment to the objectives for which the area was established.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objection, with respect to the proposed amendment, to the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

Section 32.31 is amended by the following addition:

§ 32.31 List of open areas; big game.

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LOUISIANA

Catahoula National Wildlife Refuge

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J. P. LINDUSKA,
Acting Director, Bureau of Sport Fisheries and Wildlife.

NOVEMBER 4, 1971.

[FR Doc.71-16336 Filed 11-8-71;8:49 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 929]

CRANBERRIES GROWN IN CERTAIN DESIGNATED STATES

Notice of Proposed Rule Making

Notice is hereby given that the Department is considering a proposed amendment, as hereinafter set forth, of § 929.105 *Reporting* (Subpart—Rules and Regulations 7 CFR 929.100—929.150) currently in effect pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 929, as amended (7 CFR Part 929), regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington and Long Island in the State of New York, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The amendment of said rules and regulations was proposed by the Cranberry Marketing Committee, established under said amended marketing agreement and order, as the agency to administer the terms and provisions thereof. The amendment is designed to remove obsolete filing dates and provide for the continued submission of current reports and information from handlers.

Therefore, it is proposed that paragraph (b) of § 929.105 be amended to read as follows:

§ 929.105 Reporting.

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(b) Certified reports shall be submitted to the committee by each handler not later than the 11th day of November, February, May, and August of each fiscal period showing (1) the total quantity of cranberries the handler acquired and the total quantity of cranberries the handler handled during the 3-month period ending the last day of the month preceding the date the report is due, and (2) the respective quantities of cranberries and cranberry products held by the handler on the first day of each of the specified months.

All persons who desire to submit written data, views, or arguments in connection with the proposed amendment should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112–A, Administration Building, Washington, D.C. 20250, not later than the 10th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: November 4, 1971.

ARTHUR E. BROWNE,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-16347 Filed 11-8-71;8:49 am]

Proposed Rule Making

[7 CFR Part 982]

[Docket No. AO-205-A3]

FILBERTS GROWN IN OREGON AND WASHINGTON

Notice of Recommended Decision and Opportunity To File Written Exceptions With Respect to Proposed Amendment of the Marketing Agreement, as Amended, and Order, as Amended

Pursuant to the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk, U.S. Department of Agriculture, of this recommended decision with respect to a proposed amendment of the marketing agreement, as amended, and Order No. 982, as amended (7 CFR Part 982), regulating the handling of filberts grown in Oregon and Washington (hereinafter collectively referred to as the "order"). The order is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674), hereinafter referred to as the "act," and any amendment which may result from this proceeding also will be effective pursuant to the act.

Interested persons may file written exceptions to this recommended decision with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the close of business on the 10th day after publication of this recommended decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Preliminary statement. The public hearing on the record of which the proposed amendment is formulated was held in Portland, Oreg., on July 8, 1971. Notice of the hearing was published in the FEDERAL REGISTER on June 23, 1971 (36 F.R. 11942). The proposals in the notice of hearing were submitted by the Filbert Control Board and by the Consumer and Marketing Service, U.S. Department of Agriculture.

Material issues. The material issues presented on the record of the hearing involve amendatory actions relating to:

(1) Making reference to the proper State of Oregon publication which contains grade and size standards for Oregon filberts;

(2) Providing that handlers who fail to pay their assessments within a prescribed time may be subjected to a late payment or interest charge, or both;

(3) Providing for transfer, among handlers, of credits in excess of the transferring handler's restricted obligation; and

(4) Expressing the right of the Secretary to have access to handler's premises, filberts, and records.

Findings and conclusions. The findings and conclusions on the aforementioned material issues (1) to (4), inclusive, all of which are based on the evidence adduced at the hearing and the record thereof, are as follows:

(1) The grade and size requirements for inshell filberts prescribed in §§982.45(a) and 982.51 of the order refer to the "Oregon Grades and Standards for Walnuts and Filberts." However, effective November 1, 1970, such standards for inshell filberts have been set forth in a publication entitled "Oregon Grade Standards Filberts In Shell". So as to refer to the proper State of Oregon publication containing the official grade and size standards for filberts effective under the order, §§ 982.45(a) and 982.51 should be amended by revising the parenthetical references therein "(as defined in the Oregon Grades and Standards for Walnuts and Filberts)" to read "(as defined in the Oregon Grade Standards Filberts In Shell)."

(2) Section 982.61 should be revised by adding at the end of such section the following sentences:

"The Board shall impose a late payment charge on any handler who fails to pay his assessment within the time prescribed by the Board. In the event the handler thereafter fails to pay the amount outstanding, including the late payment charge, within the prescribed time, the Board shall impose an additional charge in the form of interest on such outstanding amount. The rate of such charges shall be prescribed by the Board, with the approval of the Secretary." Under the order there is no provision whereby handlers may be charged a late payment or interest charge on delinquent assessments. The evidence of record states that recent high interest rates have caused a considerable amount of assessment money to be paid late. As a consequence, handlers who pay their assessments promptly are placed in an unfair situation relative to other handlers. That is, delinquent handlers can invest money which should be paid to the Board as assessments and receive interest thereon.

Handlers are normally billed weekly during the peak shipping season and monthly thereafter. If a handler does not pay all of his assessments within a reasonable time to be prescribed by the Board, with approval of the Secretary, the unpaid portion of the account should be considered past due and under the order be subjected to a late payment charge. The Board should then advise the handler of the late payment charges under the order. The Board should also advise the handler that failure to pay the assessment and late payment charge prior to a date specified will result in an interest charge of a certain percent on the unpaid balance being applicable each month thereafter. Hence, handlers should first be charged a late payment charge and then a monthly interest charge until the total obligation is paid. However, no specific amount or rate of either late payment charge or interest charge should be included in the order to permit needed flexibility in determining charges according to the then existing conditions. The Board, with the approval of the Secretary, should establish rules and regulations to implement this provision so as to provide for uniformity in applicability to handlers and to assure that handlers are aware of the manner in which such charges are to be made, thereby tending to maximize prompt payments of assessments during the fiscal year. The amount of late payment or interest charge should, in part, reflect the current interest rate on money. These charges are not intended as a substitute for the Board's authority and obligation to collect assessments from handlers. Instead these charges are intended to encourage handlers to pay their assessments to the Board promptly, thereby avoiding the necessity for the Board to incur additional and unnecessary costs in seeking their payment. Such rates should continue in effect from fiscal year to fiscal year, but may be modified yearly but once such rates are established, they should not be changed during the applicable fiscal year so as to avoid inequities among handlers.

(3) A new paragraph (d) should be added to § 982.52 to provide that during a fiscal year, the Board shall transfer any or all of a handler's restricted credits in excess of his restricted obligation to such other handler or handlers as he may designate upon receipt of the written request of such handler. This would permit any handler who during a fiscal year disposes of, in restricted outlets, a quantity of certified merchantable filberts in excess of his restricted obligation, to have any or all of such excess transferred to such other handler or handlers as he may designate for crediting such other handler's restricted obligation incurred in the same fiscal year.

Such a provision would authorize credits arising from excess disposition of certified merchantable filberts in restricted outlets (i.e., export and shelling) during a particular fiscal year and make such credits transferrable among handlers during the fiscal year. This would better relate the filbert supply position of the individual handler to his respective outlets and demand for filberts, and would contribute to increased total sales and consumption of filberts. Some handlers have little or no export or shelling business and at times could be forced to have their filberts custom shelled in order to meet their restricted obligation. Usually, this outlet does not return as much money as the inshell market. The same is applicable to the export market.

Certain handlers have shelling facilities and export business and may at times dispose of more shelled filberts in such restricted outlets than are necessary to meet their restricted obligations. Hence, the provision hereinafter set forth would enable handlers with an excess of such disposition to increase their returns from such disposition in the export and shelled outlets by transferring such credits to handlers who do not have sufficient outlets to dispose of all of their restricted filberts. The handlers to whom credits are transferred could apply the credits to their restricted obligations in lieu of diverting filberts to lower return outlets and could ship such filberts to high-return in-shell markets. Furthermore, handlers would have greater flexibility in meeting the commercial requirements of their individual markets and could increase their sales returns. This would also result in greater financial benefits to producers.

These credits should only be effective during the fiscal year in which they are accrued. If such procedure is not followed, no meaningful volume control percentages could be established for the next fiscal year because any carryover credits would distort the allocation of filberts to the various outlets.

The handler desiring to transfer such excess credits should make a written request to the Board so as to enable the Board to adjust the respective accounts of the buying and selling handlers. Since the Board will receive written requests for transfer of credits, it could act as a clearinghouse and inform handlers as to which handlers have excess credits for transfer and which handlers desire to secure such credits. The Board, with the approval of the Secretary, should establish procedural rules and regulations for the transfer of such excess credits.

No price should be established under the order for excess credits nor should the Board make any charge for their transfer. Maximum flexibility should be obtained by leaving the determination of any value and payment therefor to the discretion of participating handlers.

(4) Section 982.69 should be revised by inserting in the first sentence in lieu of "the Board" the words "the Secretary, and the Board" and by inserting in the second sentence immediately prior to "the Board" the words "the Secretary or." This revision would expressly state the Secretary's right, for the purpose of checking compliance with recordkeeping requirements and verifying reports filed by handlers, to have access to any premises where filberts are held, and, at any time during reasonable business hours, to be permitted to examine any filberts held and any and all records with respect to matters within the purview of this part. The Secretary's right is vested in him by the act, is implicit in the current provisions of the order which confer such a right on the Board—the Secretary's agency for administration of the regulatory program—and has been so construed since the inception of the order.

Ruling on proposed findings and conclusions. The Presiding Officer announced at the hearing that interested persons would be allowed to and including August 4, 1971, to file with the Hearing Clerk proposed findings and conclusions, and written arguments or briefs, based upon evidence received at the hearing. A brief was filed by Norpac Growers, Inc. Every point in the brief has been considered carefully, in light of the scope of the notice and the evidence of record, in making the findings and reaching the conclusions herein set forth. To the extent that any suggested findings and conclusions contained in the brief are inconsistent with the findings and conclusions set forth herein, they are denied on the basis of the facts found and stated in connection with this recommended decision.

General findings. (1) The findings hereinafter set forth are supplementary, and in addition to the previous findings and determinations which were made in connection with the issuance of the marketing agreement and order and each subsequent amendment thereof; and all of the said previous findings and determinations are hereby ratified and affirmed except insofar as such previous findings and determinations may be in conflict with the findings and determinations set forth herein (for prior findings and determinations see 14 F.R. 5964; 19 F.R. 1163; 24 F.R. 6185);

(2) The marketing agreement and order, as amended and as hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(3) The marketing agreement and order, as amended and as hereby proposed to be further amended, regulate the handling of filberts grown in Oregon and Washington in the same manner as, and are applicable only to persons in the respective classes of industrial or commercial activity specified in, the marketing agreement and order upon which hearings have been held;

(4) The marketing agreement and order, as amended and as hereby proposed to be further amended, are limited in their application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several marketing agreements and orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(5) There are no differences in the production and marketing of filberts in the production area covered by the marketing agreement and order, as amended and as hereby proposed to be further amended, which require different terms applicable to different parts of such area; and

(6) All handling of filberts grown in Oregon and Washington is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Recommended further amendment of the marketing agreement and order. The following further amendment of the marketing agreement and order is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

§§ 982.45(a) and 982.51 [Amended]

1. Sections 982.45(a) and 982.51 are amended by revising the parenthetical references therein "(as defined in the Oregon Grades and Standards for Walnuts and Filberts)" to read "(as defined in the Oregon Grade Standards Filberts In Shell)."

2. A new paragraph (d) is added to § 982.52 to read:

§ 982.52 Disposition of restricted filberts.

* * * * *

(d) *Restricted credits.* During any fiscal year, handlers who dispose of a quantity of certified merchantable filberts, in restricted outlets, in excess of their restricted obligation, may transfer such excess credits to another handler or handlers. Upon a handler's written request to the Board during a fiscal year, the Board shall transfer any or all of such excess restricted credits to such other handler or handlers as he may designate. The Board, with the approval of the Secretary, shall establish rules and regulations for the transfer of excess restricted credits.

§ 982.61 [Amended]

3. Section 982.61 is revised by adding the following sentences after the last sentence:

The Board shall impose a late payment charge on any handler who fails to pay his assessment within the time prescribed by the Board. In the event the handler thereafter fails to pay the amount outstanding, including the late payment charge, within the prescribed time, the Board shall impose an additional charge in the form of interest on such outstanding amount. The rate of such charges shall be prescribed by the Board, with the approval of the Secretary.

§ 982.69 [Amended]

4. Section 982.69 is revised by inserting in the first sentence in lieu of "the Board", the words "the Secretary, and the Board" and by inserting in the second sentence immediately prior to the words "the Board" the words "the Secretary or."

Dated: November 4, 1971.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.71-16348 Filed 11-8-71;8:50 am]

[7 CFR Part 1030]

MILK IN CHICAGO REGIONAL MARKETING AREA

Notice of Proposed Temporary Revision of Shipping Percentage

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the provisions of § 1030.11(b)(6) of the order, the temporary revision of a certain provision of the order regulating the handling of milk in the Chicago regional marketing area is being considered for the month of November 1971.

All persons who desire to submit written data, views, or arguments in connection with the proposed revision should file the same with the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 3 days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be in quadruplicate.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provision proposed to be revised is the supply plant shipping percentage of 40 percent set forth in § 1030.11(b)(4), that is applicable during the month of November. Pursuant to the provisions of § 1030.11(b)(6) the supply plant shipping percentages set forth in § 1030.11(b)(4) shall be increased or decreased by up to 10 percentage points during the months of August–December, if necessary to obtain needed shipments or to prevent uneconomic shipments.

To fulfill their fluid milk requirements, distributing plants obtain milk from supply plants to supplement their receipts of milk directly from producers. During the seasonally short production months of September–November more than one-half of the receipts of milk at distributing plants in this market are obtained from supply plants.

Many operators of distributing plants in the market have arrangements with specific supply plants to obtain supplemental supplies. Over one-half of the shipments of supply plant milk in the market, however, is coordinated through one agent. Most of the milk supply for distributing plants in the metropolitan Chicago segment of the market is obtained through such agent. The agent arranges the shipments from among a large group of supply plants so as to qualify such plants for pool status. Most of these plants are operated by cooperative associations that handle much of the reserve milk supplies associated with the market.

During October 1971 distributing plants utilized 37.8 percent of the milk associated with this group of supply plants. However, the October supply plant shipping percentage was reduced from 40 percent to 30 percent to prevent handlers from engaging in uneconomic marketing practices for the purpose of qualifying such plants. The agent estimates that for November shipments of milk from such plants to pool distributing plants will also fall below 40 percent of the receipts at the supply plants.

In this circumstance handlers might engage in uneconomic marketing practices to meet the 40 percent shipping requirement for November. For instance, a handler might route direct receipts of producer milk at his distributing plant through his supply plant to insure the proportion of milk shipped from the supply plant is sufficient to qualify the supply plant.

Preliminary investigation shows that it may be appropriate to decrease the shipping percentage by 10 percentage points

for the month of November 1971 to prevent uneconomic shipments.

Signed at Washington, D.C., on November 4, 1971.

JOHN R. HANSON,
Acting Director,
Dairy Division.

[FR Doc.71-16349 Filed 11-8-71;8:50 am]

[9 CFR Part 309]

MEAT INSPECTION REGULATIONS

Diethylstilbestrol

Notice is hereby given in accordance with the administrative provisions in 5 U.S.C. 553, that the Consumer and Marketing Service is considering amending Part 309 of the Federal meat inspection regulations (9 CFR Part 309) as indicated below, pursuant to the authority contained in the Federal Meat Inspection Act, as amended (21 U.S.C. sec. 601 et seq.).

Statement of considerations: This proposed amendment of the regulations would revise the provisions of the regulations that now specify requirements for handling livestock suspected of being adulterated with biological residues on ante-mortem inspection.

The slaughter of livestock whose edible tissues may be adulterated because of a biological residue must be prevented until the residue is reduced to a level where the tissues are again fit for use as human food and otherwise not adulterated.

In view of the recent findings in the Meat and Poultry Inspection's monitoring program of residues of the synthetic hormonelike substance diethylstilbestrol (DES) in the livers of several steer and sheep carcasses, and to strengthen consumer protection from biological residues in meat, § 309.16 of the regulations would be amended to read as set forth below.

§ 309.16 Biological residues.

(a) Except as provided in paragraph (b) or (c) of this section, no cattle or sheep shall be slaughtered at any official establishment until they have been held thereat as described in this paragraph for a minimum of 7 days before slaughter and the following conditions are met:

(1) The animals must be fed a ration free of diethylstilbestrol (DES) throughout the holding period.

(2) Suitable facilities as specified in § 307.2(a) of this chapter must be provided for holding the animals.

(3) During such period the animals shall be identified as "U.S. Condemned."

(b) In lieu of holding as required by paragraph (a) of this section, cattle or sheep may be handled as provided in this paragraph (b).

(1) Cattle or sheep may, subject to other restrictions under this subchapter, be slaughtered at any official establishment if they are accompanied by a certificate or certificates as prescribed in this paragraph, signed by the owner, feedlot manager, feeder, or other person, who had custody of the animals prior to their delivery to the official establishment. The certificates must accompany the animals and be delivered to a Program inspector at the official establishment prior to their presentation for slaughter. Each certificate must show:

(i) The number and kind of animals covered by the certificate;

(ii) Whether the animals did or did not receive feed containing DES while in the custody of the person making the certification;

(iii) The date of withdrawing from DES if the animals received feed containing DES; and

(iv) A statement that the regulations under the Federal Food, Drug, and Cosmetic Act were followed when feed containing DES was used in the production of the animals.

If it appears from such certifications that there was compliance with the condition specified in subdivision (iv) of this subparagraph and that the animals were held for the period of time specified in paragraph (a) of this section immediately prior to their presentation for slaughter, without receiving any feed containing DES, they may be slaughtered subject to any other restrictions in this subchapter. The Administrator may, in specific cases, require the collection by Program employees and analysis by a Department laboratory of tissue samples from such animals to determine whether they contain any DES residue. Any person who knowingly makes a false statement in any such certificate is subject to criminal prosecution.

(2) In those instances where such certificates indicate that the animals had been fed feed containing DES and, upon arrival at an official establishment, had not been held for the time period specified in paragraph (a) of this section, the animals shall be held as described in paragraph (a) of this section until the entire time period has elapsed.

(c) In lieu of holding as prescribed in paragraph (a) of this section or of certification as prescribed in paragraph (b) of this section, cattle or sheep may be slaughtered at any official establishment upon the condition that all the carcasses and edible organs and other parts thereof shall be designated as "U.S. Retained" and held until samples of the tissues have been subjected to laboratory analyses for DES residues in accordance with the following procedure and the results of the analyses have been furnished to the Program inspector, and the articles have been released by the inspector from retention or condemned under paragraph (e) of this section.

(1) A specified number of random samples as prescribed in the Manual of Meat Inspection Procedures must be collected by the Program inspector. A sufficient quantity of tissue must be collected to provide a duplicate of each sample.

(2) The operator of the official establishment must submit one set of the duplicate samples to a laboratory, other than a Department laboratory, that is acceptable to the Administrator and have such sample analyzed for DES residue. Expenses incurred in connection with such analyses shall be paid by the official establishment.

(3) The Program inspector must submit one set of the duplicate samples to a Department laboratory for monitoring.

(d) Livestock suspected of having been treated with or exposed to any substance that may impart a biological residue which would make the edible tissues unfit for human food or otherwise adulterated shall comply with the provisions of this paragraph in addition to any applicable requirements of paragraph (a) of this section. They shall be identified at official establishments as "U.S. Condemned." These livestock may be held under the custody of a Program employee or other official designated by the Administrator until metabolic processes have reduced the residue sufficiently to make the tissues fit for human food and not otherwise adulterated. When the required time has elapsed, the livestock, if returned for slaughter, must be reexamined on ante-mortem inspection. To aid in determining the amount of residue present in the tissues, officials of the Program may permit the slaughter of any such livestock to collect tissues for analysis for the residue.

(e) All carcasses and edible organs and other parts thereof, in which are found any biological residues which render such articles adulterated, shall be marked as "U.S. Condemned" and disposed of in accordance with § 314.1 or § 314.3 of this chapter.

* * * * * *

Any person who wishes to submit data, views, or arguments concerning the proposed amendments may do so by filing them, in writing, in duplicate, with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, within 15 days after the date of publication of this notice in the FEDERAL REGISTER. All written submissions shall be made available for public inspection at the office of the Hearing Clerk during the regular business hours (7 CFR 1.27(b)). Comments on the proposal should bear a reference to the date and page number of this issue of the FEDERAL REGISTER.

Done at Washington, D.C., on November 5, 1971.

G. R. GRANGE,
Acting Administrator.

[FR Doc.71-16433 Filed 11-8-71;8:51 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 47]

[Docket No. 11480; Notice 71-36]

IDENTIFICATION NUMBER FOR AIRCRAFT LAST PREVIOUSLY REGISTERED IN A FOREIGN COUNTRY

Proposed Aircraft Registration

The Federal Aviation Administration is considering amending Part 47 of the Federal Aviation Regulations to provide for the assignment of a U.S. identification number for an aircraft last previously registered in a foreign country before the issue of a Certificate of Aircraft Registration, and to allow the operation of that aircraft under temporary authority.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC-24, 800 Independence Avenue SW., Washington, DC 20591. All communications received on or before January 10, 1972, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

The U.S. identification number for an aircraft last previously registered in a foreign country is now issued with the Certificate of Aircraft Registration (§ 47.15(a)(3)). This delays the owner's placing the identification number on the aircraft and generates additional workload for the FAA Aircraft Registry. Recognizing the owner's problem, the FAA Aircraft Registry handles certificate applications for such an aircraft and the accompanying documents required by § 47.37, on a priority basis. Special handling is required because the documents do not show an identification number. It is necessary to check cross-reference serial card files, and maintain a separate file system for the documents until registration is completed.

The proposed amendments would permit the FAA Aircraft Registry to issue an identification number upon receipt of the owner's request with either the owner's affidavit that the number will not be used on the aircraft until foreign registration has ended, or either evidence of termination of foreign registration in accordance with § 47.37(b) (statement of termination or invalidity by a foreign official or foreign court judgment or decree) or the applicant's affidavit showing that foreign registration has ended. This would eliminate the delay inherent under the current rule and reduce the workload of the FAA Aircraft Registry. To insure proper control of the number, authority to use the identification number would expire 90 days after it is issued, unless the applicant both submits an Aircraft Registration Application, AC Form 8050-1, and complies with § 47.37 within that period of time.

These amendments would also change § 47.31(b) to authorize the use of the pink copy of the application under § 47.37 for registration of an aircraft last previously registered in a foreign country, as temporary authority to operate the aircraft without registration until the certificate of registration is received but not to exceed 90 days. Section 47.31(b) now specifically excludes this use. This also causes additional workload for the FAA Aircraft Registry and possibly unauthorized operation of an aircraft. Since there is no authority to operate the aircraft, even for the purpose of obtaining an airworthiness certificate, until the aircraft is registered and the registration certificate issued, the FAA Aircraft Registry provides priority handling of the registration documents, and also prepares the registration certificate separately by typewriter instead of by the usual computer method. Unauthorized operation of an aircraft can result where the owner, not familiar with the regulations, places a reserved identification number on his aircraft and application, and unknowingly uses the pink copy as authority to operate the aircraft.

These amendments would also provide for the expiration of authority to use an identification number issued for an aircraft not previously registered anywhere 90 days after the date it is issued, unless the applicant both submits an Aircraft Registration Application, AC Form 8050-1, and complies with § 47.33 within that period of time. Under § 47.15(a)(1), the FAA Aircraft Registry has difficulty in maintaining proper control of the identification numbers issued for aircraft not previously registered anywhere. Thus, an amateur builder may obtain a number during the building of his aircraft, and if he decides to abandon his project the number assignment will continue indefinitely in the records unless he notifies the FAA Aircraft Registry. At the present time, there actually are many identification numbers issued for amateur-built aircraft that are still not registered.

In consideration of the foregoing, it is proposed to amend Part 47 of the Federal Aviation Regulations as follows:

1. Section 47.15 is amended by amending the first sentence in paragraph (a); by adding a sentence at the end of paragraph (a)(1) and by amending paragraph (a)(3) to read as follows:

§ 47.15 Identification number.

(a) *Number required.* An applicant for Aircraft Registration must place a U.S. identification number (registration mark) on his Aircraft Registration Application, AC Form 8050-1, and on any evidence submitted with the application. * * *

(1) *Aircraft not previously registered anywhere.* * * * Authority to use the identification number expires 90 days after it is issued unless the applicant submits an Aircraft Registration Application, AC Form 8050-1, and complies with § 47.33 within that period of time.

* * * * * *

(3) *Aircraft previously registered in a foreign country.* The applicant must obtain a U.S. identification number from the FAA Aircraft Registry by submitting a request in writing describing the aircraft by make, model, and serial number, accompanied by—

(i) Evidence of termination of foreign registration in accordance with § 47.37(b) of this part or the applicant's affidavit showing that foreign registration has ended; or

(ii) If foreign registration has not ended, the applicant's affidavit stating that the number will not be placed on the aircraft until foreign registration has ended.

Authority to use the identification number expires 90 days after the date it is issued unless the applicant submits an Aircraft Registration Application, AC Form 8050-1, and complies with § 47.37 within that period of time.

* * * * * *

2. By striking out the last sentence in paragraph (b) of § 47.31.

These amendments are proposed under sections 313(a), 501, and 503 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1401, 1403), section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)), and § 1.47(a) of the Regulations of the Office of the Secretary of Transportation.

Issued in Oklahoma City, Okla., on October 22, 1971.

STAN HENCEROTH,
Acting Director,
Aeronautical Center.

[FR Doc.71-16330 Filed 11-8-71;8:48 am]

[14 CFR Part 71]

[Airspace Docket No. 71-GL-10]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Eau Claire, Wis.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 3166 Des Plaines Avenue, Des Plaines, IL 60018. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 3166 Des Plaines Avenue, Des Plaines, IL 60018.

Three new public use instrument approach procedures have been developed for the Eau Claire Municipal Airport, Eau Claire, Wis., utilizing the Eau Claire VORTAC as a navigational aid. Accordingly, it is necessary to alter the Eau Claire transition area to adequately protect the aircraft executing the new approach procedures.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

EAU CLAIRE, WIS.

That airspace extending upward from 700 feet above the surface within a 11½-mile radius of Eau Claire Municipal Airport (latitude 44°51'54" N., longitude 91°29'02" W.); and within 2 miles each side of the 202° radial of the Eau Claire VORTAC extending from the 11½-mile-radius area to 14 miles southwest of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 20-mile radius of the Eau Claire VORTAC; and within 9½ miles northwest and 4½ miles southeast of the 45° bearing from the Colburn LOM extending from the 20-mile-radius area to 18½ miles northeast of the Colburn LOM; and within 9½ miles east and 4½ miles west of the 202° radial of the Eau Claire VORTAC extending from the 20-mile-radius area to 24½ miles southwest of the VORTAC; and that airspace extending upward from 4,000 feet MSL southwest of Eau Claire bounded on the east by V–129, on the southwest by V–2N, and on the north by V–265.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Ill., on October 21, 1971.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc.71-16331 Filed 11-8-71;8:48 am]

[14 CFR Part 71]

[Airspace Docket No. 71-GL-11]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Pontiac, Mich.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 3166 Des Plaines Avenue, Des Plaines, IL 60018. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 3166 Des Plaines Avenue, Des Plaines, IL 60018.

A new public use instrument approach procedure has been developed for the Oakland-Pontiac Airport, Pontiac, Mich., utilizing the Pontiac VORTAC as a navigational aid. Accordingly, it is necessary to alter the Pontiac, Mich., control zone and transition area to adequately protect aircraft executing the new procedure.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation regulations as hereinafter set forth:

In § 71.171 (36 F.R. 2055), the following control zone is amended to read:

PONTIAC, MICH.

Within a 5-mile radius of the Oakland-Pontiac Airport (latitude 42°39'53" N., longitude 83°25'01" W.); within 3 miles each side of the Pontiac VORTAC 116° and 272° radial, extending from the 5-mile-radius zone to 8.5 miles west of the VORTAC. This control zone is effective from 0600 to 2400 hours local time daily.

In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

PONTIAC, MICH.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Oakland-Pontiac Airport (latitude 42°39'53" N., longitude 83°25'01" W.); within 4.5 miles each side of the 112° radial of the Pontiac VORTAC extending from the 10-mile-radius area to 22.5 miles southeast of the VORTAC; within 3.5 miles each side of the 272° radial of Pontiac VORTAC extending from the 10-mile-radius area to 11.5 miles west of the VORTAC.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Ill., on October 21, 1971.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc.71-16332 Filed 11-8-71;8:48 am]

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Circular; Public Debt Series No. 13–71]

4⅞ PERCENT TREASURY NOTES OF SERIES D–1973

Offering of Notes

NOVEMBER 5, 1971.

I. *Offering of notes.* 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites tenders at a price not less than 99.76 percent of their face value for $2,750 million, or thereabouts, of notes of the United States, designated 4⅞ percent Treasury Notes of Series D–1973. An additional amount of the notes will be allotted by the Secretary of the Treasury to Government accounts and Federal Reserve banks at the average price of accepted tenders in exchange for Treasury notes and bonds maturing November 15, 1971. Tenders will be received up to 1:30 p.m., e.s.t., Tuesday, November 9, 1971, under competitive and noncompetitive bidding, as set forth in section III hereof. The 5⅝ percent Treasury Notes of Series B–1971, 7¾ percent Treasury Notes of Series G–1971, and 3⅞ percent Treasury Bonds of 1971 maturing November 15, 1971, will be accepted at par in payment, in whole or in part, to the extent tenders are allotted by the Treasury.

II. *Description of notes.* 1. The notes will be dated November 15, 1971, and will bear interest from that date at the rate of 4⅞ percent per annum, payable on a seminannual basis on February 15 and August 15, 1972, and February 15, 1973. They will mature February 15, 1973, and will not be subject to call for redemption prior to maturity.

2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000 and $1 million. Provision will be made for the interchange of notes of different denominations and of coupon and registered notes, and for the transfer of registered notes, under rules and regulations prescribed by the Secretary of the Treasury.

5. The notes will be subject to the general regulations of the Department of the Treasury, now or hereafter prescribed, governing U.S. notes.

III. Tenders and allotments. 1. Tenders will be received at Federal Reserve banks and branches and at the Office of the Treasurer of the United States, Washington, D.C. 20220, up to the closing hour, 1:30 p.m., e.s.t., Tuesday, November 9, 1971. Each tender must state the face amount of notes bid for, which must be $1,000 or a multiple thereof, and the price offered, except that in the case of noncompetitive tenders the term "noncompetitive" should be used in lieu of a price. In the case of competitive tenders, the price must be expressed on the basis of 100, with two decimals, e.g., 100.00. Tenders at a price less than 99.76 will not be accepted. Fractions may not be used. Noncompetitive tenders from any one bidder may not exceed $400,000. It is urged that tenders be made on the printed forms and forwarded in the special envelopes marked "Tender for Treasury Notes," which will be supplied by Federal Reserve banks on application therefor.

2. Commercial banks, which for this purpose are defined as banks accepting demand deposits, may submit tenders for account of customers provided the names of the customers are set forth in such tenders. Others than commercial banks will not be permitted to submit tenders except for their own account. Tenders will be received without deposit from banking institutions for their own account, federally-insured savings and loan associations, States, political subdivisions or instrumentalities thereof, public pension and retirement and other public funds, international organizations in which the United States holds membership, foreign central banks and foreign states, dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, Federal Reserve banks and Government accounts. Tenders from others must be accompanied by payment (in cash or the securities referred to in section I which will be accepted at par) of 5 percent of the face amount of notes applied for.

3. Immediately after the closing hour tenders will be opened, following which public announcement will be made by the Department of the Treasury of the amount and price range of accepted bids. Those submitting tenders will be advised of the acceptance or rejection thereof. In considering the acceptance of tenders, those at the highest prices will be accepted to the extent required to attain the amount offered. Tenders at the lowest accepted price will be prorated if necessary. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders, in whole or in part, and his action in any such respect shall be final. Subject to these reservations, noncompetitive tenders for $400,000 or less without stated price from any one bidder will be accepted in full at the average price [1] (in two decimals) of accepted competitive tenders.

4. All bidders are required to agree not to purchase or to sell, or to make any agreements with respect to the purchase or sale or other disposition of any notes of this issue at a specific rate or price, until after 1:30 p.m., e.s.t., Tuesday, November 9, 1971.

5. Commercial banks in submitting tenders will be required to certify that they have no beneficial interest in any of the tenders they enter for the account of their customers, and that their customers have no beneficial interest in the banks' tenders for their own account.

IV. *Payment.* 1. Settlement for accepted tenders in accordance with the bids must be made or completed on or before November 15, 1971, at the Federal Reserve bank or branch or at the Office of the Treasurer of the United States, Washington, D.C. 20220, in cash, securities referred to in section I (interest coupons dated November 15, 1971, should be detached) or other funds immediately available by that date. Payment will not be deemed to have been completed where registered notes are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. In every case where full payment is not completed, the payment with the tender up to 5 percent of the amount of notes allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. When payment is made with eligible securities a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities submitted and the amount payable on the notes allotted.

V. *Assignment of registered securities.* 1. Registered securities tendered as deposits and in payment for notes allotted hereunder should be assigned by the registered payees or assignees thereof, in accordance with the general regulations of the Department of the Treasury, in one of the forms hereafter set forth. Securities tendered in payment should be surrendered at the Federal Reserve bank or branch or at the Office of the Treasurer of the United States, Washington, D.C. 20220. The securities must be delivered at the expense and risk of

[1] Average price may be at, or more or less than 100.00.

the holder. If the notes are desired registered in the same name as the securities surrendered, the assignment should be to "The Secretary of the Treasury for 4⅞ percent Treasury Notes of Series D–1973;" if the notes are desired registered in another name, the assignment should be to "The Secretary of the Treasury for 4⅞ percent Treasury Notes of Series D–1973 in the name of _____;" if notes in coupon form are desired, the assignment should be to "The Secretary of the Treasury for 4⅞ percent Treasury Notes of Series D–1973 in coupon form to be delivered to _____."

VI. *General provisions.* 1. As fiscal agents of the United States, Federal Reserve banks are authorized and requested to receive tenders, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of notes on full-paid tenders allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve banks.

[SEAL] CHARLS E. WALKER,
Acting Secretary of the Treasury.

[FR Doc.71-16376 Filed 11-8-71;8:50 am]

DEPARTMENT OF THE INTERIOR

National Park Service

BADLANDS NATIONAL MONUMENT, SOUTH DAKOTA

Notice of Public Hearing Regarding Wilderness Proposal

Notice is hereby given in accordance with the provisions of the Act of September 3, 1964 (78 Stat. 890, 892; 16 U.S.C. 1131, 1132), and in accordance with departmental procedures as identified in 43 CFR 19.5 that a public hearing will be held beginning at 1 p.m. on January 12, 1972, at the Wall High School Auditorium, Wall, S. Dak., for the purpose of receiving comments and suggestions as to the appropriateness of a proposal for the establishment of wilderness comprising about 41,000 acres within the Badlands National Monument. The monument is located in Pennington, Jackson, and Shannon Counties in southwestern South Dakota.

A packet containing a draft master plan, preliminary wilderness study report, and draft environmental impact statements, and providing additional information about the proposal may be obtained from the Superintendent, Badlands National Monument, Box 72, Interior, SD 57750, or from the Director, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, NE 68102.

A description of the preliminary boundaries and a map of the area proposed for establishment as wilderness are available for review in the above offices and in Room 1013 of the Department of the Interior Building at 18th and C Streets NW., Washington, D.C.

Interested individuals, representatives of organizations and public officials are invited to express their views in person at the aforementioned public hearing, provided they notify the Hearing Officer, in care of the Superintendent, Badlands National Monument, Box 72, Interior, SD 57750, by January 10, of their desire to appear. Those not wishing to appear in person may submit written statements to the Hearing Officer, at that address for inclusion in the official record, which will be held open for 30 days following conclusion of the hearing.

Time limitations may make it necessary to limit the length of oral presentations and to restrict to one person the presentation made in behalf of an organization. An oral statement may, however, be supplemented by a more complete written statement which may be submitted to the Hearing Officer at the time of presentation of the oral statement. Written statements presented in person at the hearing will be considered for inclusion in the transcribed hearing record. However, all materials so presented at the hearing shall be subject to determinations that they are appropriate for inclusion in the transcribed hearing record. To the extent that time is available after presentation of oral statements by those who have given the required advance notice, the Hearing Officer will give others present an opportunity to be heard.

After an explanation of the proposal by a representative of the National Park Service, the Hearing Officer, insofar as possible, will adhere to the following order in calling for the presentation of oral statements.

1. Governor of the State or his representative.
2. Members of Congress.
3. Members of the State Legislature.
4. Official representatives of the counties in which the proposed wilderness is located.
5. Officials of other Federal agencies or public bodies.
6. Organizations in alphabetical order.
7. Individuals in alphabetical order.
8. Others not giving advance notice, to the extent there is remaining time.

Dated: October 22, 1971.

THOMAS FLYNN,
Deputy Director, National Park Service.

[FR Doc.71-16073 Filed 11-8-71;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

REGIONAL FORESTER FOR ALASKA

Delegation of Authority

Pursuant to (a) the Delegation of Authority and Assignment of Functions by the Secretary of Agriculture, dated November 27, 1964 (29 F.R. 16210), and (b) the delegation of authority by the Chief, Forest Service, dated June 5, 1968 (33 F.R. 8552), authority is hereby delegated to the Regional Forester for Alaska to perform the functions granted to the Secretary of Agriculture by the Act of July 7, 1958 (72 Stat. 339, 340), as amended by the Act of October 8, 1963 (77 Stat. 223). However, said delegation of authority to the Regional Forester shall be limited to performing only those functions granted to the Secretary of Agriculture for the selection of an approximate 802-acre industrial site in the vicinity of the Port of Valdez, Alaska.

Effective date. This delegation of authority shall be effective upon publication in the FEDERAL REGISTER (10–9–71).

EDWARD W. SCHULTZ,
Deputy Chief, Forest Service.

NOVEMBER 2, 1971.

[FR Doc.71-16310 Filed 11-8-71;8:47 a.m.]

Office of the Secretary

MISSOURI

Designation of Area for Emergency Loan

For the purpose of making Emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961) and section 232 of the Disaster Relief Act of 1970 (Public Law 91–606), it has been determined that in the following county in the State of Missouri, a natural disaster has caused a general need for agricultural credit:

COUNTY

Butler.

Emergency loans will not be made in the above-named county under this designation pursuant to applications received after June 30, 1972, except subsequent loans to qualified borrowers who received initial loans under this designation.

The urgency of the need for an Emergency loan in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 4th day of November 1971.

J. PHIL CAMPBELL,
Under Secretary.

[FR Doc.71-16311 Filed 11-8-71;8:47 am]

NORTH CAROLINA

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961) and section 232 of the Disaster Relief Act of 1970 (Public Law 91–606), it has been determined that in the following counties in the State of North Carolina, natural disasters have caused a general need for agricultural credit:

COUNTIES

Beaufort.	Jones.
Bertie.	Lenoir.
Bladen.	Martin.
Brunswick.	Moore.
Camden.	Nash.
Carteret.	New Hanover.
Chowan.	Northampton.
Columbus.	Onslow.
Craven.	Pamlico.
Cumberland.	Pasquotank.
Currituck.	Pender.
Dare.	Perquimans.
Duplin.	Pitt.
Edgecombe.	Robeson.
Franklin.	Sampson.
Gates.	Tyrrell.
Granville.	Vance.
Greene.	Wake.
Halifax.	Warren.
Hertford.	Washington.
Hoke.	Wayne.
Hyde.	Wilson.
Johnston.	

Emergency loans will not be made in the above-named counties under this designation pursuant to applications received after June 30, 1972, except subsequent loans to qualified borrowers who received initial loans under this designation.

The urgency of the need for emergency loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 4th day of November 1971.

J. PHIL CAMPBELL,
Under Secretary.

[FR Doc.71-16312 Filed 11-8-71;8:47 am]

VIRGINIA

Designation of Areas for Emergency Loans

For the purpose of making Emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961) and section 232 of the Disaster Relief Act of 1970 (Public Law 91–606), it has been determined that in the following counties in the State of Virginia natural disasters have caused a general need for agricultural credit:

COUNTIES

Dinwiddie.	Prince George.
Greensville.	Southampton.
Isle of Wight.	Surry.
Nansemond.	Sussex.

Emergency loans will not be made in the above-named counties under this designation pursuant to applications received after June 30, 1972, except subsequent loans to qualified borrowers who received initial loans under this designation.

The urgency of the need for Emergency loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 4th day of November 1971.

J. PHIL CAMPBELL,
Under Secretary.

[FR Doc.71-16313 Filed 11-8-71;8:47 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

FOOD ADDITIVES

Removal of New Animal Drugs From Food Additive Listing

The New Animal Drug Amendments of 1968 provided among other things that a food additive as defined in section 201(s) of the Federal Food, Drug, and Cosmetic Act does not include a new animal drug. Prior to enactment of the new animal drug amendments, certain new drug applications submitted for approval of drugs for use in animals were also considered to be petitions for the issuance of food additive regulations and under the provisions of section 409 of the act appropriate notices of filing were published in the FEDERAL REGISTER.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 201(s), 72 Stat. 1784 as amended, 21 U.S.C. 321(s)) and under authority delegated to the Commissioner (21 CFR 2.120), notice is given that the following submissions are no longer considered as pending under section 409 of the act:

Additive	Petitioner	Date of filing publication
Amprolium, ethopabate, arsanilic acid, chlortetracycline.	American Cyanamid Co.	Mar. 22, 1967 (32 F.R. 4366).
Buquinolate, 3-nitro-4-hydroxyphenylarsonic acid, and bacitracin methylene disalicylate.	Norwich Pharmacal Co.	Aug. 22, 1969 (34 F.R. 13559).
Chlortetracycline	American Cyanamid Co.	Mar. 17, 1966 (31 F.R. 4529).
Chlortetracycline and sulfamethazine	do.	June 25, 1969 (34 F.R. 9619).
Clopidol, 3-nitro-4-hydroxyphenylarsonic acid, and penicillin (as procaine penicillin).	Dow Chemical Co.	June 10, 1969 (34 F.R. 9139).
Copper from copper sulfate or copper oxide	Ralston Purina Co.	Jan. 18, 1968 (33 F.R. 651).
Decoquinate and procaine penicillin	Hess & Clark	Jan. 22, 1969 (34 F.R. 946).
Diethylstilbestrol	Amdal Co.	Apr. 17, 1969 (34 F.R. 6625).
Do.	Hess & Clark	Oct. 10, 1969 (34 F.R. 15725).
Erythromycin thiocyanate	Amdal Co.	Feb. 21, 1970 (35 F.R. 3302).
Erythromycin phosphate	do.	Apr. 9, 1966 (31 F.R. 5643).
Famphur	American Cyanamid Co.	Sept. 17, 1969 (34 F.R. 14482).
Furazolidone	Hess and Clark	Nov. 7, 1964 (29 F.R. 15096). Dec. 7, 1965 (30 F.R. 15108).
Hexachlorophene, Phenothiazine	William Cooper & Nephews, Inc.	Apr. 21, 1966 (31 F.R. 6142).
Melengestrol acetate	Upjohn Co.	Nov. 6, 1968 (33 F.R. 16307).
Nifursol	Salsbury Laboratories	Aug. 9, 1969 (34 F.R. 12969).
Nihydrazone	Hess & Clark	Oct. 1, 1968 (33 F.R. 14658).
Nitromide and Roxarsone	Salsbury Laboratories	July 24, 1968 (33 F.R. 10536).
4-Nitrophenyl-arsonic acid	do.	May 5, 1965 (30 F.R. 6283).
Ronnel	Dow Chemical Co.	Apr. 8, 1969 (34 F.R. 6259).
Spectinomycin	Amdal Co.	Oct. 1, 1969 (34 F.R. 15314).
Sulfamethazine	American Cyanamid	Mar. 15, 1966 (31 F.R. 4424).
Testosterone propionate estradiol benzoate	Syntex Laboratories, Inc.	July 18, 1969 (34 F.R. 12114).
0-(4-Tert-Butyl-2-Chloro-phenyl) 0-Methyl N-Methylphosphoramidate.	Dow Chemical Co.	Oct. 30, 1965 (30 F.R. 13836).

Dated: October 27, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-16298 Filed 11-8-71;8:46 am]

[Docket No. FDC–D–394; NADA No. 7–477V]

M & M LIVESTOCK PRODUCTS CO.

M & M Noctol 600; Notice of Opportunity for Hearing

Notice is hereby given to M & M Livestock Products Co., Eagle Grove, Iowa 50533, and to any interested persons who may be adversely affected that the Commissioner of Food and Drugs proposes to issue an order under section 512(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(e)) withdrawing approval of NADA (new animal drug application) No. 7–477V, M & M Noctol 600 (a product containing sodium arsanilate).

Data available to the Commissioner fails to establish the absence of unsafe residues of this product in the edible tissue of swine when this product is administered in accordance with conditions of use prescribed, recommended, or suggested in its labeling.

The Commissioner, on the basis of an evaluation of new information before him with respect to such drug together with evidence available to him when the application was approved, concludes that the drug is not shown to be safe under the conditions of use upon the basis of which the application was approved.

In accordance with the provisions of section 512 of the act (21 U.S.C. 360b), the Commissioner hereby gives the applicant and any interested person who would be adversely affected by an order withdrawing such approval an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of NADA No. 7–447V should not be withdrawn. Promulgation of the order will cause any drug similar in composition to the above-listed drug product and recommended for similar conditions of use to be a new animal drug for which an approved new animal drug application is not in effect. Any such drug then on the market would be subject to appropriate regulatory action.

Within 30 days after publication hereof in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health,

Education, and Welfare, Office of the General Counsel, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner, without further notice, will enter a final order withdrawing approval of the new animal drug application.

Failure of such persons to file a written appearance of election within said 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing concerning a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they must file a written appearance requesting the hearing and giving the reasons why approval of the new animal drug application should not be withdrawn together with a well-organized and full-factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition to the grounds for this notice of opportunity for a hearing. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that there is a genuine and substantial issue of fact requiring a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the withdrawal of approval of the application, the Commissioner will enter an order stating his findings and conclusions upon such data. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence. The time shall not more than 90 days after the expiration of said 30 days unless the hearing examiner and the applicant otherwise agree.

Responses to this notice will be available for public inspection in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under the authority delegated to the Commissioner (21 CFR 2.120).

Dated: October 27, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-16299 Filed 11-8-71;8:46 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-71-129]

ACTING REGIONAL ADMINISTRATOR REGION VII (KANSAS CITY)

Designation

The following persons are hereby designated to serve as Acting Regional Administrator, Region VII (Kansas City), during the present vacancy in that position, with all of the powers, functions, and duties designated or assigned to the Regional Administrator: *Provided*, That no official named herein is authorized to serve as Acting Regional Administrator unless all other officials whose names precede his in this designation are unable to act by reason of absence or vacancy in the position:

1. Harry L. Sharrott, Deputy Regional Administrator.
2. P. A. Townsend, Regional Counsel.
3. Thomas Lawler, Assistant Regional Administrator for Administration.

(Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Effective date. This designation shall be effective as of August 19, 1971.

GEORGE ROMNEY,
Secretary of Housing and Urban Development.

[FR Doc.71-16302 Filed 11-8-71;8:47 am]

DEPARTMENT OF TRANSPORTATION

Hazardous Materials Regulations Board

SPECIAL PERMITS ISSUED OR DENIED

NOVEMBER 3, 1971.

Pursuant to Docket No. HM-1, rule making procedures of the Hazardous Materials Regulations Board, issued May 22, 1968 (33 F.R. 8277) 49 CFR Part 170, following is a list of new DOT special permits upon which Board action was completed during October 1971:

Special permit No.	Issued to—Subject	Mode or modes of transportation
6530	Shippers registered with this Board to ship hydrogen in DOT 3A, 3AA, 3AX or 3AAX cylinders charged to a pressure 10% in excess of their marked service pressure.	Rail, Highway.
6531	Shippers registered with this Board to ship nitrogen or air in non-DOT specification, non-refillable steel inside containers.	Rail, Highway, Cargo-only Aircraft.
6538	Shippers registered with this Board to ship butane in inside metal containers complying with DOT specification 2P except for excessive inside diameter.	Highway, Water.
6539	Independent Supply Co., Oklahoma City, Oklahoma to ship certain compressed gases in DOT-3A, 3AA cylinders having a 10-year hydrostatic retest.	Rail, Highway.
6540	Apex Welding Gases & Supplies, Inc., Muskegon Heights, Michigan to ship certain compressed gases in DOT-3A & 3AA cylinders having a 10-year hydrostatic retest.	Rail, Highway.
6541	Fuhrman Welding Supply Co., Inc., Erie, Pa., to ship certain compressed gases in DOT-3A, 3AA cylinders having a 10-year hydrostatic retest.	Rail, Highway.
6542	Consolidated Edison Co. of New York, Inc., Astoria, N.Y., to ship certain compressed gases in DOT-3A, 3AA cylinders having a 10-year hydrostatic retest.	Rail, Highway.
6544	Shippers registered with this Board to ship hydraulic accumulators in strong outside wooden or fiberboard boxes or installed, as an integral part, on vehicle equipment under certain exemptions.	Rail, Highway, Water, Cargo-only Aircraft.
6547	Babcock & Wilcox Co., Lynchburg, Va., to make five shipments of radioactive material, described as plutonium contaminated gloveboxes, under specified conditions.	Highway.
6548	Shippers registered with this Board to ship Type B quantities of fissile radioactive materials in the National Lead Co. Model 6502 shipping cask.	Highway.
6549	Shippers registered with this Board to ship fissile radioactive material in the "Nuclear Furnace" shipping container.	Highway.
6550	Shippers registered with this Board to ship Type B quantities of radioactive material, n.o.s. in Model 6-GS-1 Neutron Shipping Container System.	Rail, Highway, Cargo-only Aircraft.
6552	U.S. Atomic Energy Commission, Argonne, Illinois, to make one shipment of metallic sodium in an insulated, non-DOT specification stainless steel tank.	Highway.
6553	Shippers registered with this Board to ship fissile radioactive material shipped in a ten-ton, heavy wall, Type F, Model 48A cylinder.	Highway.
6554	Shippers registered with this Board to ship certain oxidizing materials, n.o.s., in single-trip, open-head, molded polyethylene containers without overpack, not exceeding 5 gallons capacity.	Rail, Highway.

Following is a list of requests for special permits which were denied during October, 1971:

Denied—Subject:

1. Request from Inmont Corp., New York, N.Y., for authorization to ship certain flammable liquids in 55 gallon specification 17E metal drums converted to comply with specification 17H except for top head gauge and corrugation features.

2. Bureau of Mines, U.S. Department of Interior, Washington, D.C., for authorization to extend the periodic hydrostatic retest interval for certain 3AA and 3AAX cylinders mounted on vehicle chassis and used exclusively in helium service.

3. Pennwalt Corp., Philadelphia, Pa., for authorization to ship certain refrigerant gases in non-DOT specification steel cylinders that would comply with DOT specification 4BA except for deviations from requirements pertaining to steel composition, wall thickness and maximum stress levels.

ALAN I. ROBERTS,
Secretary.

[FR Doc.71-16333 Filed 11-8-71;8:48 am]

ATOMIC ENERGY COMMISSION

[Docket No. PRM-40-15]

NL INDUSTRIES, INC.

Filing of Petition

Notice is hereby given that NL Industries, Inc., 1130 Central Avenue, Albany, NY, by letter dated September 29, 1971, has filed with the Atomic Energy Commission a petition for rule making to amend § 40.13 of 10 CFR Part 40 by addition of the following exemption from the licensing requirements of Part 40:

Uranium contained in shielding installed in medical X-ray units, or stored or handled in connection with installation or removal of such X-ray units: *Provided*, That:

(i) The shielding is manufactured in accordance with a specific license issued by the Commission authorizing distribution by the licensee pursuant to this subparagraph;

(ii) Each shield has been impressed with the following legend clearly legible through any plating or other covering "Depleted Uranium";

(iii) Each shield is durably and legibly labeled or marked with the identification of the manufacturer and the statement: "Unauthorized Alterations Prohibited";

(iv) The exemption contained in this subparagraph shall not be deemed to authorize the chemical, physical, or metallurgical treatment or processing of any such shield other than repair or restoration of any plating or other covering.

A copy of the petition for rule making, including the petitioner's statement of the basis and justification for the petition, is available for public inspection in the Commission's Public Document Room at 1717 H Street NW., Washington, DC.

Dated at Germantown, Md., this 2d day of November 1971.

For the Atomic Energy Commission.

W. B. MCCOOL,
Secretary of the Commission.

[FR Doc.71-16339 Filed 11-8-71;8:49 am]

[Docket No. 50-309]

MAINE YANKEE ATOMIC POWER CO.

Notice of Hearing on a Facility Operating License

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," and Part 2, "Rules of Practice," notice is hereby given that a hearing will be held at a time and place to be set in the future by the Atomic Safety and Licensing Board designated herein, in the vicinity of Wiscasset, Maine, to consider the application filed under section 104b of the Act by the Maine Yankee Atomic Power Co. (applicant) for a facility operating license which would authorize the operation of a pressurized water reactor (facility), identified as the Maine Yankee Atomic Power Station, at steady-state power levels up to a maximum of 2,440 megawatts thermal at the applicant's site in Wiscasset, Maine.

The hearing will be conducted by an Atomic Safety and Licensing Board (Board) designated by the Atomic Energy Commission (Commission), consisting of Dr. Clarke Williams, Dr. Walter H. Jordan, and Robert M. Lazo, Esq., chairman. Dr. J. M. B. Kellogg has been designated as a technically qualified alternate, and Edward Diamond, Esq., has been designated as an alternate qualified in the conduct of administrative proceedings.

Construction of the facility was authorized by Provisional Construction Permit No. CPPR-55, issued by the Commission on October 21, 1968, following a public hearing.

A notice of consideration of issuance of an operating license for the facility was published by the Commission on May 13, 1971 (36 F.R. 8821). The notice provided that, within 30 days from the date of publication, any person whose interest may be affected by the issuance of the license could file a petition for leave to intervene in accordance with the requirements of 10 CFR Part 2, "Rules of Practice." Petitions for leave to intervene were thereafter filed by the following: The State of Maine; the Citizens for Safe Power and the Audubon Naturalist Council, as joint petitioners; and the Natural Resources Council of Maine. Answers to these petitions were filed by the applicant and by the AEC regulatory staff.

By memorandum and order dated November 4, 1971, the Commission has determined that a public hearing will be held and that these petitioners should be admitted as parties to this proceeding.

A prehearing conference will be held by the Board, at a date and place to be set by it, to consider pertinent matters in accordance with the Commission's "Rules of Practice," 10 CFR Part 2, including section II of appendix A. The date and place of the hearing will be set by the Board at or after the prehearing conference. Notices as to the dates and places of the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

The issues to be considered at the hearing will be any matters in controversy within the purview of the following:

1. Whether construction of the facility has been substantially completed in conformity with the construction permit and the application, as amended, the provisions of the Act, and the rules and regulations of the Commission.

2. Whether the facility will operate in conformity with the application, as amended, the provisions of the Act, and the rules and regulations of the Commission.

3. Whether there is reasonable assurance (i) that the activities authorized by the operating license can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the regulations of the Commission.

4. Whether the applicant is technically and financially qualified to engage in the activities authorized by the operating license in accordance with the regulations of the Commission.

5. Whether the applicable provisions of 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements," of the Commission's regulations have been satisfied.

6. Whether the issuance of the license will be inimical to the common defense and security or to the health and safety of the public.

In its initial decision, the Board will decide any such matters in controversy among the parties and make findings on items 1-6.

The Commission has recently issued revised regulations for the implementation in its licensing proceedings of the National Environmental Policy Act of 1969 (NEPA), Appendix D to 10 CFR Part 50. The instant proceeding is covered by section D.1 of said appendix D (a draft statement of environmental considerations has been circulated prior to the effective date of revised appendix D but the requirements of section A.1 through 9 of that appendix have not been completed for this application). In accordance with the provisions of section D.1, the Board will proceed expeditiously with consideration of the matters covered by items 1-6 above pending compliance with the requirements specified in said appendix D.

While the matter of the full power operating license is pending before the Board, the applicant may make a motion in writing pursuant to § 50.57(c) of 10 CFR Part 50 for an operating license authorizing low power testing (operation at not more than 1 percent of full power for the purpose of testing the facility), and further operations short of full power operation. The Board may grant the motion upon a finding that the proposed licensing action will not have a significant, adverse impact on the quality of the environment and upon satisfaction of the requirements of § 50.57(c) of 10 CFR Part 50. In addition, the Board may grant a motion, pursuant to § 50.57(c) of 10 CFR Part 50, upon satisfaction of the requirements of that paragraph, after consideration and balancing of the following factors:

(a) Whether it is likely that limited operation during the prospective review period will give rise to a significant, adverse impact on the environment; the nature and extent of such impact, if any; and whether redress of any such adverse environmental impact can reasonably be effected should modification or termination of the limited license result from the ongoing NEPA environmental review.

(b) Whether limited operation during the prospective review period would foreclose subsequent adoption of alternatives in facility design or operation of the type that could result from the ongoing NEPA environmental review.

(c) The effect of delay in facility operation upon the public interest. Of primary importance under this criterion are the power needs to be served by the facility; the availability of alternative sources, if any, to meet those needs on a timely basis; and delay costs to the licensee and to consumers.

Operation beyond twenty percent (20%) of full power will not be authorized except on specific approval of the Commission, upon the Commission's

finding that there exists an emergency situation or other situation requiring such operation in the public interest.

Prior to taking any action on a motion pursuant to § 50.57(c) of 10 CFR Part 50 which any party opposes, the Board shall, with respect to the contested activity sought to be authorized, make findings on the issues specified in items 1 through 6, hereinabove, and determine whether the proposed licensing action will have a significant, adverse impact on the quality of the environment or make findings on the factors specified in the paragraph preceding the one above, as appropriate, in the form of an initial decision. If the license is one which requires the specific approval of the Commission, the Board will certify directly to the Commission for determination, without ruling thereon, the matter of whether operation beyond twenty percent (20%) of full power should be authorized.

Any license issued pursuant to the foregoing will be without prejudice to subsequent licensing action which may be taken by the Commission with regard to the environmental aspects of the facility, and any license issued will be conditioned to that effect.

The Maine Yankee Atomic Power Station is subject to the provisions of section E of appendix D to 10 CFR Part 50, which sets forth procedures and criteria for determining, inter alia, whether construction should be suspended on facilities within specified categories pending completion of the NEPA environmental review provided for in appendix D. No license will be issued in the instant proceeding in advance of or in conflict with the determination as to suspension vel non under said section E.

As they become available, the application, the proposed operating license, the applicant's summary of the application, the report of the Commission's Advisory Committee on Reactor Safeguards (ACRS), the safety evaluation by the Commission's regulatory staff, the applicant's environmental report, the AEC's detailed statement on environmental considerations, and the transcripts of the prehearing conference and of the hearing, will be placed in the Commission's Public Document Room, 1717 H Street NW., Washington, DC, where they will be available for inspection by members of the public. Copies of those documents will also be made available at the Wiscasset Public Library, High Street, Wiscasset, Maine, for inspection by members of the public between the hours of 2 p.m. to 5:30 p.m. Monday through Saturday, and also on Thursdays from 7 p.m. to 9 p.m. Copies of the proposed operating license, the ACRS report, the regulatory staff's safety evaluation, the applicant's environmental report, and the Commission's detailed statement on environmental considerations may be obtained, when available, by request to the Director of the Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Any person who wishes to make an oral or written statement in this proceeding setting forth his position on the issues specified, but who has not filed either a petition for leave to intervene or a request for a hearing as noted above, may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715 of the Commission's rules of practice. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above. A member of the public does not have the right to participate unless he has been granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705 of the Commission's rules of practice, must be filed by the parties to this proceeding (other than the regulatory staff) not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708 of the Commission's rules of practice, an original and 20 conformed copies of each such paper with the Commission.

With respect to this proceeding, the Commission has delegated to the Atomic Safety and Licensing Appeal Board the authority and the review function which would otherwise be exercised and performed by the Commission. The Commission has established the Appeal Board pursuant to 10 CFR 2.785 of the Commission's rules of practice, and has made the delegation pursuant to subparagraph (a)(1) of this section. The Appeal Board is composed of the chairman and vice-chairman of the Atomic Safety and Licensing Board Panel and a third member who is technically qualified and designated by the Commission. The Commission has designed Dr. Lawrence Quarles, dean of the School of Engineering and Applied Science, The University of Virginia, as this third member.

Dated at Germantown, Md. this 4th day of November 1971.

UNITED STATES ATOMIC ENERGY COMMISSION
F. T. HOBBS,
Acting Secretary of the Commission.

[FR Doc.71-16403 Filed 11-8-71;8:51 am]

URANIUM ENRICHMENT SERVICES CRITERIA

Charge for Enriching Services

The U.S. Atomic Energy Commission (AEC) hereby announces revisions to the notice entitled "Uranium Enrichment Services Criteria" as published in the FEDERAL REGISTER on December 23, 1966 (31 F.R. 16479), as amended in 35 F.R. 13546 of August 25, 1970, and in 36 F.R. 4562 of March 9, 1971 (referred to herein as the notice).

1. Subparagraph 5(h) of the notice is revised to read as follows:

(h) *Termination by Customer.* The customer may terminate the contract in whole or in part. In such instances the customer will be required to pay a termination charge for those enriching services which would have been furnished but for such termination. No termination charges shall apply to amounts of separative work which would have been furnished at times 5 years or more subsequent to the date of receipt of the notice of termination of such amounts. The termination charge shall apply to each unit of separative work that would have been furnished but for such termination and for which 5 years' advance notice was not given, and shall be equal to 40 percent of the charge per unit of separative work. The units of separative work and enriching services charges applicable to the enriching services terminated shall be determined in accordance with the established Commission standard table of enriching services and established charges for enriching services which, on the date of the receipt of the notice of termination, are in effect and/or are to become effective within 180 days after receipt of the notice of termination. From time to time, the Commission may, at its discretion, review the estimated costs to the Commission which may arise from terminations by customers. If the Commission determines on the basis of such review that the estimated costs are significantly less than the termination charges specified herein, the Commission will make an appropriate reduction in such charges prospectively. Such reduced charge will remain in effect until increased or reduced by a subsequent review and determination (based upon significant changes in the estimated costs as compared with the termination charge then in effect). In no case, however, will any revised charge so determined exceed 40 percent of the charge per unit of separative work. Any revised charges so determined shall be final for all purposes except as they may be changed by subsequent determinations made in accordance herewith. Upon the request of the customer prior to its delivery of a notice of termination, the AEC will advise the customer of the approximate amount of termination charges which would be payable.

Effective date. This notice is effective upon publication in the FEDERAL REGISTER (11-9-71).

Dated at Germantown, Md., this 5th day of November 1971.

UNITED STATES ATOMIC ENERGY COMMISSION,
F. T. HOBBS,
Acting Secretary of the Commission.

[FR Doc.71-16404 Filed 11-8-71;8:51 am]

FEDERAL POWER COMMISSION

[Docket No. G-10757, etc.]

SUN OIL CO. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

OCTOBER 28, 1971.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 22, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-10757 D 10-14-71	Sun Oil Co., Post Office Box 2880, Dallas, TX 75221 (partial abandonment).	Cities Service Gas Co., Hardtner Field, Barber County, Okla.	Depleted	
G-12748 E 11-9-70	Albert A. Thornbrough (successor to Mary E. Thornbrough), Lakin, Kans. 67860	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Hugoton Field, Kearny County, Kans.	11.6128	14.65
G-15153 D 10-12-71	Texaco, Inc. (Operator), et al., Post Office Box 2100, Denver, CO 80201.	El Paso Natural Gas Co., Aneth Field, San Juan County, Utah.	(3)	
G-16075 E 10-5-71	United States Oil of Louisiana, Ltd. (successor to John W. Mecom et ux., and United States Oil of Louisiana, Inc.), Post Office Box 2566, Houston, TX 77001.	Trunkline Gas Co., Alta Loma Area, Galveston County, Tex.	[2] 20.0 [3] 18.0	14.65
CI60-328 D 10-12-71	The Superior Oil Co., Post Office Box 1521, Houston, TX 77001.	El Paso Natural Gas Co., acreage in Beaver County, Okla.	Assigned	
CI63-80 E 10-15-71	Clayton Lee (successor to J. M. Huber Corp.), 313 Hightower Bldg., Oklahoma City, Okla. 73102.	Michigan Wisconsin Pipe Line Co., Laverne Field, Harper County, Okla.	[4] 19.48	14.65
CI65-407 D 10-12-71	Texaco, Inc., Post Office Box 2100, Denver, CO 80201.	El Paso Natural Gas Co., Tocito Dome Field, San Juan County, N. Mex.	(3)	
CI68-314 E 2-19-71	Cleary Petroleum Corp. et al. (successor to Petrodyne, Inc., et al.), 310 Kermac Bldg., Oklahoma City, Okla. 73102.	Arkansas Louisiana Gas Co., Star Field, Blaine County, Okla.	[5] 17.8	14.65
CI68-315 E 2-19-71	do	do	[5] 17.815	14.65
CI69-509 E 2-19-71	Cleary Petroleum Corp. et al. (successor to Cleary Funds, Inc., et al.), 310 Kermac Bldg., Oklahoma City, Okla. 73102.	Panhandle Eastern Pipe Line Co., acreage in Ellis County, Okla.	[7] 18.0	14.65
CI70-986 E 2-19-71	do	Panhandle Eastern Pipe Line Co., Salon Field, Ellis County, Okla.	[8] 20.0	14.65
CI71-606 E 10-4-71	Jerome P. McHugh (successor to Thomas A. Dugan), 930 Petroleum Club Bldg., Denver, Colo. 80202.	El Paso Natural Gas Co., San Juan Basin, Rio Arriba County, N. Mex.	[9] 15.0619	15.025
CI71-758 C 10-7-71 [10]	Humble Oil & Refining Co., Post Office Box 2180, Houston, TX 77001.	Columbia Gas Transmission Corp., Lake Sand Field, St. Mary and Iberia Parishes, La.	[11] 26.0	15.025
CI72-185 A 10-8-71	Helmerich & Payne, Inc., 1579 East 21st St., Tulsa, OK 74114.	Michigan Wisconsin Pipe Line Co., Northwest Quinlan Field, Woodward County, Okla.	[2] 22.47	14.65
CI72-186 A 10-8-71	Atlantic Richfield Co., Post Office Box 2819, Dallas, TX 75221.	Transcontinental Gas Pipe Line Corp., East Lake Decade Field, Terrebonne Parish, La.	[12] 26.0	15.025
CI72-187 A 10-6-71	Amoco Production Co., Post Office Box 50879, New Orleans, LA 70150.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., West Delta Block 36 Field, Offshore Louisiana.	[8] 30.0	15.025
CI72-188 B 10-8-71	Apache Corp., Box 2299, Tulsa, OK 74101.	Cities Service Gas Co., acreage in Noble County, Okla.	Depleted	
CI72-189 (C867-6) F 10-4-71	Bass Enterprises Production Co. (successor to Kermit Oil Co.), 2100 First City National Bank Bldg., Houston, Tex. 77002.	El Paso Natural Gas Co., Midkiff Area, Regan County, Tex.	14.5	14.65
CI72-190 A 10-6-71	Humble Oil & Refining Co., Post Office Box 2180, Houston, TX 77001.	Columbia Gas Transmission Corp., West Delta Block 117 Field, Offshore Louisiana.	[11] 30.0	15.025
CI72-191 A 10-7-71	do	Columbia Gas Transmission Corp., Grand Isle Block 16 Field, Offshore Louisiana.	[11] 30.0	15.025
CI72-192 A 10-8-71	Continental Oil Co., Post Office Box 2197, Houston, TX 77001.	Trunkline Gas Co., West Half of South Timbalier Block 148, Offshore Louisiana.	[12] 26.0	15.025
CI72-193 10-1-71 [13]	Oklahoma Natural Gas Co., Post Office Box 871, Tulsa, OK 74102.	Cities Service Gas Co., Eureka Field, Grant County Okla.	[12] 15.0	14.65
CI72-194 (G-10748) F 10-1-71	LVO Corp. (successor to I. J. Newlin), Post Office Box 2848, Tulsa, OK 74101.	Cities Service Gas Co., NE¼ sec. 30, T. 28 N., R. 5 W., Grant County, Okla.	12.75	14.65
CI72-195 A 10-12-71	Union Oil Co. of California, Post Office Box 7600, Los Angeles, CA 90054.	Valley Gas Transmission, Inc., North Sweet Lake Field, Cameron Parish, La.	18.0	15.025
CI72-196 A 10-12-71	Atlantic Richfield Co. (Operator) et al., Post Office Box 2819, Dallas, TX 75221.	Montana-Dakota Utilities Co., Gillette Gas Plant, Campbell County, Wyo.	22.75	15.025
CI72-197 B 10-12-71	Gulf Oil Corp., Post Office Box 1589, Tulsa, OK 74102.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Lower Mud Lake Field, Cameron Parish, La.	Depleted	
CI72-198 B 10-8-71	Mobil Oil Corp., Post Office Box 1774, Houston, TX 77001.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Frank Field, Colorado County, Tex.	Depleted	
CI72-199 B 10-12-71	Placid Oil Co., 2500 First National Bank Bldg., Dallas, Tex. 75202.	Tennessee Gas Transmission Co., Bay LeFleur Field, Terrebonna Parish, La.	Depleted	

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
C172-200 (G-20016) F 10-7-71	J and J Operating Co. (successor to Atlantic Richfield Co.), Post Office Box 519, Corpus Christi, TX 78403.	Transcontinental Gas Pipe Line Corp., Longhorn et al. Fields, Duval County Tex.	[16] 19.0 [17] 21.0 [18] 25.0	14.65
C172-201 (C161-475 and C167-1371) F 10-7-71	Jack Robin Co. (successor to Fitzpatrick Drilling Co. et al.), Post Office Box 10084, Corpus Christi, TX 78410.	United Gas Pipe Line Co., Bethke Area, Goliad County, Tex.	[19] 14.0 [20] 14.1792	14.65
C172-202 A 10-6-71	Texas Gas Corp. (Operator). Post Office Box 2806, Corpus Christi, TX 78403.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., El Oro Field, Duval County, Tex.	24.0	14.65
C172-203 (G-16740) F 10-7-71 as amended 10-12-71	Texaco, Inc. (successor to Champlin Petroleum Co.), Post Office Box 2420, Tulsa, OK 74102.	Northern Natural Gas Co., Hugoton Field, Finney County, Kans.	[21] 9.2438	14.65
C172-204 B 10-12-71	Lone Star Producing Co., 301 South Harwood St., Dallas, TX 75201.	Panhandle Eastern Pipeline Co., secs. 12-6 N. 23 ECM and 13-6 N. 23 ECM, Beaver County, Okla.	[22]	.....
C172-205 A 10-12-71	Tenneco Oil Co., Post Office Box 2511, Houston, TX 77001.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., West Delta Block 35 Field, Offshore Louisiana.	[23] 26.0	15.025
C172-206 A 10-12-71	James M. Forgotson, Sr., 1407 Main St., Suite 1300, Dallas, TX 75202.	United Gas Pipe Line Co., Marg Tex. Sand Units, Lafayette Parish, La.	[3] 26.0	14.70
C172-207 (G-11041) F 10-7-71	Skelly Oil Co. (successor to Petroleum Management, Inc. (Operator), et al.), Post Office Box 1650, Tulsa, OK 74102.	Florida Gas Transmission Co., East Aransas Pass Field, Aransas County, Tex.	19.0	14.65
C172-208 10-12-71 [24]	Oklahoma Natural Gas Co., Post Office Box 871, Tulsa, OK 74102.	Northern Natural Gas Co., Northeast Gate Lake Field, Harper County, Okla.	[25] 19.021	14.65
C172-209 (G-4360) F 10-12-71	Ragars Oil & Gas Co. (successor to Sun Oil Co.), Post Office Box 2030, Alice, TX 78332.	United Gas Pipe Line Co., Boyce and Brandt Field, Goliad County, Tex.	18.34575	14.65
C172-210 (G-2454) F 10-12-71	do	United Gas Pipe Line Co., Boyce Field, Goliad County, Tex.	18.34575	14.67
C172-211 (G-2453) F 10-12-71	do	United Gas Pipe Line Co., Boyce Field Common Point No. 1, Ida E. Tipton Lease, Goliad County, Tex.	18.34575	14.65
C172-212 (G-2064) F 10-12-71	do	United Gas Pipe Line Co., Cabeza Creek Field, Goliad County, Tex.	19.0	14.65
C172-213 (C170-973) F 10-8-71	Petroleum Inc. (successor to Aikman Bros. Corporation), 300 West Douglas, Wichita, KS 67202.	Northern Natural Gas Co., Lorena West Field, Texas County, Okla.	[3] 20.33	14.65
C172-217 [26] B 7-26-71	Reading & Bates Production Co., (Operator), et al., c/o Robert Earl McCormack, attorney at Law, Suite 102, 5963 East 31st St., Tulsa, OK 74135.	Northern Natural Gas Co., Northeast Harmon Field, Woodward County, Okla.	Depleted	.....

[1] Acreage is nonproductive.
[2] For sales under base contract.
[3] For sales under Mar. 7, 1963, amendment.
[4] Includes 0.60 cent per Mcf upward B.t.u. adjustment.
[5] Rate in effect subject to refund in Docket No. RI68-426.
[6] Rate in effect subject to refund in Docket No. RI70-992.
[7] Subject to upward and downward B.t.u. adjustment. Rate in effect subject to refund in Docket No. RI68-382.
[8] Subject to upward and downward B.t.u. adjustment.
[9] Rate in effect subject to refund in Docket No. RI69-627.
[10] Amendment to pending application.
[11] Applicant is willing to accept a permanent certificate in conformance with Opinion No. 598.
[12] Contract provides for initial price of 28 cents per Mcf; however, pursuant to Opinion No. 598, initial rate will be 26 cents per Mcf adjusted for quality.
[13] Contract provides for an initial price of 30 cents per Mcf, subject to upward and downward B.t.u. adjustment; however, pursuant to Opinion No. 598 the initial rate will be 26 cents per Mcf.
[14] Applicant proposes to continue the sale of natural gas from its own interests heretofore authorized in Docket No. G-10843 to be made pursuant to Thomas N. Berry & Co. FPC Gas Rate Schedule No. 7.
[15] Less 0.75 cent for dehydration and 1.5 cents for compression.
[16] Gas produced from reservoirs discovered prior to Sept. 28, 1960.
[17] Gas produced from reservoirs discovered between Sept. 28, 1960 and June 17, 1970.
[18] Gas produced from reservoirs discovered after June 17, 1970.
[19] For sales from Fitzpatrick Drilling Co. Rate in effect subject to refund in Docket No. RI70-1328.
[20] For sales from Humble Oil & Refining Co.
[21] Applicant is willing to accept a certificate at the adjusted area ceiling rate of 9.2438 cents per Mcf; 12.5+(0.0125×0.75)−3.2656 cents downward adjustment for heat content; however, the contract price is 10.2453 cents per Mcf.
[22] Low production.
[23] Applicant is willing to accept a certificate at an initial rate of 26 cents per Mcf; however, the contract price is 30 cents per Mcf, subject to upward and downward B.t.u. adjustment.
[24] Applicant proposes to continue the sale of natural gas from its own interests heretofore authorized in Docket No. G-12966 to be made pursuant to Keating-Parker Drilling Co. FPC Gas Rate Schedule No. 6.
[25] Includes 2.006 cents per Mcf upward B.t.u. adjustment.
[26] Application previously noticed Aug. 3, 1971, in Docket No. CS66-57 et al., under Docket No. CS71-590. The Docket No. should be C172-217.

[FR Doc.71-16253 Filed 11-8-71;8:45 am]

[Dockets Nos. RI72-120, etc.]

SKELLY OIL CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

OCTOBER 28, 1971.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in docket No.
RI72-120..	Skelly Oil Co.	46	[3] 23	El Paso Natural Gas Co. (Blanco Field, San Juan County and Rio Arriba County, N. Mex.) (San Juan Basin).	$23,030	9-28-71	.....	3-29-72	13.0551	22.0	RI71-20.
									[4] 15.0593	22.0	RI71-20.
		140	[5] 10	El Paso Natural Gas Co. (Ignacio-Blanco Field, La Plata, Colo.) (San Juan Basin).	8,921	9-29-71	.....	3-30-72	[4] 15.0	22.0	RI69-362.
RI70-830..	Atlantic Richfield Co.	612	1 to 1	Montana-Dakota Utilities Co. (Gillette Gas Plant, Campbell County, Wyo.).	(1,947)	9-29-71	[6] 9-29-71	[7] Accepted	.....	.....	RI70-830.
RI70-829	do	50	1 to 20	Northern Utilities, Inc., and Kansas Nebraska Natural Gas Co. (Riverton Dome Field, Fremont County, Wyo.).	(3,462)	9-29-71	[6] 9-29-71	[7] Accepted	.....	.....	RI70-829.
RI70-1190.	Marathon Oil Co.	87	2 to 4	Colorado Interstate Gas Co. (Wamsutter Unit Area, Sweetwater County, Wyo.).	(612)	9-29-71	[6] 8-16-71	[7] Accepted	.....	.....	

[*] Unless otherwise stated, the pressure base is 15.025 p.s.i.a.
[1] Gallegos-Gallup Sand Unit.
[2] Marshall Gentle Well No. 1 and Blanco 27-9 Gas Unit.
[3] Excludes gas produced from acreage added by Supplements Nos. 10, 11, 12, 14, and 15.
[4] Includes 1-cent minimum liquids payment.
[5] Excludes gas produced from acreage added by Supplements Nos. 3, 4, 5, 6, and 8.
[6] Date requested.
[7] The pressure base is 14.65 p.s.i.a.
[8] Accepted, subject to the existing suspension proceedings in Dockets Nos. RI70-830, RI70-829, and RI70-1190, respectively, to be effective as shown in the "Effective Date" column.

The proposed increases for sales to El Paso in San Juan Basin are based on favored-nation clauses which were allegedly activated by Aztec Oil & Gas Co.'s unilateral rate increase to 29.23 cents per Mcf which became effective subject to refund in Docket No. RI71-744 on August 1, 1971. El Paso Natural Gas Co. and Southern California Gas Co. are expected to protest this favored-nation increase on the basis that it is not contractually authorized. In view of the contractual problem presented, the hearing herein shall concern itself with the contractual basis for this favored-nation filing as well as the justness and reasonableness of the proposed increased rate. The proposed increases exceed the corresponding rate filing limitations imposed in southern Louisiana and therefore are suspended for 5 months.[1]

Atlantic Richfield Co. and Marathon Oil Co. have been collecting a double amount of the contractually due reimbursement for taxes applicable to future production as well as back to January 1, 1968. Since tax reimbursement applicable to past production has been recovered, Respondents have filed rate decreases reducing their rates so as to provide for tax reimbursement for future production only. Consistent with Commission action on similar filings, the proposed decreases are accepted for filing subject to refund in existing suspension proceedings to be effective as of the requested effective dates.

Each supplement listed in this appendix is effective as of the date provided in the "Date Suspended Until" column or such later date as may be authorized under Executive Order No. 11615. This order does not relieve any producer herein of any responsibility imposed by, and is expressly subject to, the Commission's Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38), including such amendments as the Commission may require, and Executive Order No. 11615.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR 2, 2.56).

[1] Even if these proposed increases did not exceed the applicable ceiling, they would be suspended for 5 months in these special circumstances. See order issued Sept. 3, 1971 in Shell Oil Co., Docket No. RI-72-64 et al.

[FR Doc.71-16254 Filed 11-8-71;8:45 am]

[Docket No. RI72-121, etc.]

SKELLY OIL CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

OCTOBER 29, 1971.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A below.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and §154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in docket No.
RI72-121	Skelly Oil Co.	47	25	El Paso Natural Gas Co. (Fulcher-Kutz, Ballard, Gavilan, and South Blanco Fields, San Juan and Rio Arriba Counties, N. Mex., San Juan Basin).	$110,645	10-4-71		4-4-72	[1] 13.0551	22.0	RI69-389.
	do	90	19	El Paso Natural Gas Co. (South Blanco Field, Rio Arriba County, N. Mex., San Juan Basin).	60,419 18,035	10-4-71 10-4-71		4-4-72 4-4-72	[1] 13.0551 [2] [3] 15.0593	22.0 22.0	RI69-362. RI69-362.
	do	116	6	El Paso Natural Gas Co. (Ignacio-Blanco Field, La Plata County, Colo.).	4,001	10-4-71		4-4-72	[3] 15.0	22.0	RI69-362.
	do	141	[4] 19	El Paso Natural Gas Co. (San Juan and Rio Arriba Counties, N. Mex.) (San Juan Basin).	14,251	10-4-71		4-4-72	[3] 15.0593	22.0	RI69-362.
RI72-122	Texaco, Inc.	458	1	Texas Eastern Transmission Corp. (Wampum Field, Oktibbeha County, Miss.).	6,650	10-4-71		4-4-72	[5] 25.2	29.0	
RI72-123	Clinton Oil Co.	[6] 1	9	Cities Service Gas Co. (Kay County, Okla. Other Area).	487	10-6-71		11-6-71	[7] [8] 1314.0	[7] [8] 14.0	
RI72-124	Texaco, Inc.	103	5	Lone Star Gas Co. (Doyle Field, Stephens County, Okla. Other Area).	1,843	10-4-71		4-4-72	[8] 20.9	[8] [9] 25.0	RI71-1078.
RI72-125	Atlantic Richfield Co.	433	13	H. L. Hunt et al. (North Lansing Field, Harrison County, Tex., RR. District No. 6).	157	9-29-71		11-30-71	[10] [11] 16.57875	[10] [11] 16.77975	RI71-353.
RI72-126	do	436	5	Texas Gas Transmission Corp. (Calhoun Field, Jackson, Lincoln, and Ouachita Parishes, Northern Louisiana).	2,963	10-4-71		12-5-71	20.25	22.375	RI69-706.
	do	227	[12] 4		814	10-4-71		12-5-71	[11] 19.75	[7] 22.375	RI68-302.

* Unless otherwise stated, the pressure base is 15.025 p.s.i.a.
[1] Pictured Cliffs and Chacra Formations and certain Gallup wells in the Canyon Largo Unit.
[2] Below Pictured Cliffs Formation.
[3] Pertains to gas produced from the Mesa Verde Formation only.
[4] Excludes gas produced from acreage added by Supplements Nos. 7, 8, 9, 10, 11, 12, 14, and 16.
[5] Includes 1-cent minimum guarantee for liquids.
[6] Per temporary certificate in Docket No. C171-763, subject to a refund floor of 3.2 cents per Mcf.
[7] Subject to Downward B.t.u. adjustment.
[8] Contract is dated after Sept. 28, 1960 and the proposed rate does not exceed the initial rate ceiling.
[9] Unilateral rate increase. Primary term of contract has expired.
[10] Buyer deducts 0.75 cent per Mcf from rate shown for compression.
[11] Includes 1.75-cents tax reimbursement.
[12] Applicable only to acreage dedicated under basic contract.
[13] The pressure base is 14.65 p.s.i.a.

The proposed increases by Skelly Oil Co. for sales to El Paso in San Juan Basin are based on favored-nation clauses which were allegedly activated by Aztec Oil & Gas Co.'s unilateral rate increase to 29.23 cents which became effective subject to refund in Docket No. RI71-744 on August 1, 1971. El Paso Natural Gas Co. and Southern California Gas Co. are expected to protest these favored nation increases as they have previous filings, on the basis that they are not contractually authorized. In view of the contractual problem presented, the hearings herein shall concern themselves with the contractural basis for these favored-nation filings as well as the justness and reasonableness of the proposed increased rates. The proposed increases exceed the corresponding rate filing limitations imposed in southern Louisiana and therefore are suspended for 5 months.[1]

The basic contract related to the proposed increase of Clinton Oil Co. is dated after September 28, 1960, the date of issuance of General Policy Statement No. 61-1, and the proposed rate does not exceed the area initial rate ceiling. The proposed increase is suspended for one day from expiration of the 30 day notice period.

Texaco, Inc., requests effective dates as of the date of filing or the earliest date permitted by law. Atlantic Richfield Co. requests effective dates for which adequate notice has not been given. Good cause has not been shown for granting these requests and they are denied.

[1] Even if these proposed increases did not exceed the applicable ceiling, they would be suspended for 5 months in these special circumstances. See order issued Sept. 3, 1971 in Shell Oil Co., Docket No. RI72-64 et al.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR 2.56).

Each supplement listed in this appendix is effective as of the date provided in the "Date Suspended Until" column or such later date as may be authorized under Executive Order No. 11615. This order does not relieve any producer herein of any responsibility imposed by, and is expressly subject to, the Commission's Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38), including such amendments as the Commission may require, and Executive Order No. 11615.

[FR Doc.71-16232 Filed 11-4-71;8:45 am]

[Docket No. CP72-35]

ALGONQUIN SNG, INC.

Notice Modifying Procedural Dates

NOVEMBER 2, 1971.

On October 7, 1971, Algonquin SNG, Inc. (Algonquin), filed a motion for, inter alia, an acceleration of the dates for the filing of their direct evidence and the commencement of the hearing, pursuant to the order issued October 6, 1971, in the above-designated matter.

Upon consideration, notice is hereby given that Algonquin shall file its direct case on or before November 15, 1971; the hearing shall commence on December 6, 1971, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426. The request for an early prehearing conference will be disposed of by the Presiding Examiner.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16306 Filed 11-8-71;8:47 am]

[Docket No. RP72-61]

ALGONQUIN GAS TRANSMISSION CO.

Notice of Filing of Proposed Tariff Provision Relating to Demand Charge Adjustment

NOVEMBER 2, 1971.

Take notice that on October 21, 1971, Algonquin Gas Transmission Co. (Algonquin) submitted for filing as a part of its FPC Gas Tariff, Original Volume No. 1, First Revised Sheet No. 27 pertaining to the demand charge adjustment provisions of Texas Eastern's rate schedules, tracking similar relief requested by Texas Eastern Transmission Company (Texas Eastern) by filing made on October 19, 1971.

Algonquin states in its filing that "In light of Texas Eastern's recent announcement that it intends to curtail substantial volumes of gas to its customers, including Algonquin, during the period November 1, 1971, through April 30, 1972, and inasmuch as Algonquin's currently effective demand charge adjustment provisions of its FPC Gas Tariff follow closely that of its sole supplier, Texas Eastern, equity requires that Algonquin be afforded demand charge adjustment relief comparable to that which may ultimately be granted to Texas Eastern if Algonquin is to avoid substantial and irreparable financial loss in the event of the imposition of the expected curtailment by Texas Eastern commencing November 1, 1971.

Any order issued in this proceeding is subject to our Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38) and Executive Order No. 11615, including such amendments as the Commission may require.

Any person desiring to be heard or make any protest with reference to said filing should on or before November 11, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.16 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The filing which was made with the Commission is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16288 Filed 11-8-71;8:45 am]

[Docket No. CS71-177]

DONALD W. JACKSON

Notice of Petition for Waiver of Regulations

NOVEMBER 2, 1971.

Take notice that by letter dated September 15, 1971, and filed with the Commission on September 17, 1971, Donald W. Jackson, 1411 North Carlton, Liberal, KS 67901, requests to be prmitted to sell natural gas pursuant to his small producer certificate issued in Docket No. CS71-177 from certain properties acquired from Cities Service Oil Co. (Cities Service), a large producer. Mr. Jackson states that he has acquired from Cities Service seven wells in the Hugoton Field used for jurisdictional sales to Northern Natural Gas Co. which were scheduled to be sold, plugged, or abandoned by Cities Service because of their inability to produce at their economical rate. Mr. Jackson states further that due to the small capacity of these wells, they will not survive the expense of filing separate certificate applications for authorization to continue the sales.

Section 157.40 of the regulations under the Natural Gas Act provides in part that sales may not be made pursuant to a small producer certifcate from reserves acquired by a small producer by purchase of developed reserves in place from a large producer. Mr. Jackson's letter, which is on file with the Commission and open to public inspection, is being construed as a petition for waiver of the aforementioned proscription of §157.40 (c).

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than November 24, 1971, views and comments in writing concerning the petition for waiver. An original and 14 conformed copies should be filed with the Secretary of the Commission. The Commission will consider all such written submittals before acting on the petition.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16289 Filed 11-8-71;8:45 am]

[Docket No. CP72-103]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Notice of Application

NOVEMBER 2, 1971.

Take notice that on October 13, 1971, Kansas-Nebraska Natural Gas Co., Inc. (applicant), 300 North St. Joseph Avenue, Hastings, NE 68901, filed in Docket No. CP72-103 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction, acquisition, and operation of pipeline facilities to connect to its pipeline systems newly discovered supplies of natural gas from the Lightning Creek Area of Niobrara County, Wyo., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant estimates that there are 49.2 million Mcf of proven and semiproven reserves and 36.2 million Mcf of recoverable possible reserves available from the Lightning Creek Area. Applicant states that it has entered into an agreement with Marathon Pipe Line Co. (Marathon) for the purchase of approximately 65.5 miles of 6-inch liquids pipeline and proposes to convert 50.3 miles of this line to natural gas service for the purpose of transporting gas produced from the Lightning Creek Field to applicant's existing 16-inch mainline near Fort Laramie, Wyo., and to provide the town of Lusk, Wyo., with natural gas service. Estimated peak day and annual natural gas requirements for Lusk during the third year of operation are 665 Mcf and 75,000 Mcf, respectively.

Applicant has determined that the facilities initially required to connect most economically the Lightning Creek gas supply with the acquired 6-inch pipeline and with applicant's existing main transmission facilities at Fort Laramie and provide service to Lusk, Wyo., are as follows:

(1) Approximately 11 miles of 6⅝-inch gathering line.

(2) Approximately 0.25 mile of 6⅝-inch interconnecting line at Fort Laramie.

(3) Approximately 800 horsepower compressor unit and dehydration equipment at junction of field gathering line and 6-inch acquired line.

(4) Approximately 700 horsepower compressor unit at the junction of the 6-inch line and applicant's existing 16-inch main transmission line at Fort Laramie, Wyo.

Applicant states that the estimated cost of the construction of the additional facilities will be $566,000, and that approximately $64,000 will be spent for the rehabilitation and conversion of the acquired 6-inch liquid pipeline to natural gas service. The acquisition of the 6-inch pipeline will be in exchange for 12,300 shares of applicant's common stock.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 16, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16290 Filed 11-8-71;8:45 am]

[Docket No. CP70-163]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Petition To Amend

NOVEMBER 2, 1971.

Take notice that on October 18, 1971, Michigan Wisconsin Pipe Line Co. (petitioner), 1 Woodward Avenue, Detroit, MI 48226, filed in Docket No. CP70-163 a petition to amend the order of the Commission issued on August 4, 1970 (44

FPC ——), as amended, in said docket, by authorizing the turbocharging of two existing compressor units at its Calumet Compressor Station, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The order of August 4, 1970, authorized, inter alia, the installation and operation of a third 750 horsepower compressor unit at petitioner's Calumet Compressor Station to enable petitioner to deliver natural gas to Texas Gas Transmission Corp. (Texas Gas) at the required delivery pressure of 1,000 p.s.i.g. Petitioner has determined that by turbocharging the two existing 750 horsepower units the capacity of these units will be increased to 1,000 horsepower and that such increase is adequate to deliver the increased volumes of gas to Texas Gas.

Petitioner states that the estimated cost of the new 750 horsepower unit would be $356,000, whereas the estimated cost of turbocharging the two existing units is $131,000, resulting in an indicated net savings of $225,000. Therefore, petitioner requests that the Commission's order in said docket be amended to permit the turbocharging of the two existing units at the Calumet Station in lieu of the installation of a new 750 horsepower unit.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 16, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16291 Filed 11-8-71;8:45 am]

[Docket No. CP72-95]

TEXAS GAS TRANSMISSION CORP.

Notice of Application

NOVEMBER 2, 1971.

Take notice that on October 6, 1971, Texas Gas Transmission Corp. (applicant), Post Office Box 1160, Owensboro, KY 42301, filed in Docket No. CP72-95 a budget-type application pursuant to section 7(c) of the Natural Gas Act and § 157.7(d) of the regulations thereunder for a certificate of public convenience and necessity authorizing construction and operation of facilities for the testing and development of reservoirs for underground storage of natural gas for a 3-year period commencing on the date of Commission authorization, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to permit it to engage in a continuing program of testing and further developing reservoirs for the underground storage of natural gas whenever such additional storage will benefit its system operations and service to its customers.

Applicant states that the total volumes of natural gas to be injected into the prospective underground storage projects during the 3-year period of authorization will not exceed 10 million Mcf, with not more than 2 million Mcf injected in any single project. Only gas available during offpeak periods will be used for testing. No new sales or service are involved.

Applicant states that total expenditures for the 3-year period will not exceed $3 million, and will not exceed $1 million in any 1 year. The facilities will be financed by applicant from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 16, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to interevene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16292 Filed 11-8-71;8:46 am]

[Docket No. RP72-58]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Filing of Proposed Tariff Provision Relating to Demand Charge Adjustment

NOVEMBER 2, 1971.

Take notice that on October 19, 1971, Texas Eastern Transmission Corp. (Texas Eastern) submitted for filing as a part of its FPC Gas Tariff, Second Revised Volume No. 1, Second Revised Sheet No. 76, pertaining to the demand charge adjustment provisions of Texas Eastern's rate schedules.

The purpose of the filing, as stated by Texas Eastern, "is to make new section 12.4 part of Texas Eastern's General Terms and Conditions applicable to all its rate schedules." Texas Eastern further states that the new § 12.4 proposed to become effective on November 1, 1971, will modify the demand charge adjustment provisions of Texas Eastern's rate schedules by eliminating demand charge adjustment credits for curtailment of deliveries due to a shortage of gas on Texas Eastern's system.

Any order issued in this proceeding is subject to our Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38) and Executive Order No. 11615, including such amendments as the Commission may require.

Any person desiring to be heard or make any protest with reference to said filing should on or before November 11, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.18 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The filing which was made with the Commission is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16293 Filed 11-8-71;8:46 am]

[Docket No. CP72-102]

WESTERN GAS INTERSTATE CO.

Notice of Application

NOVEMBER 2, 1971.

Take notice that on October 12, 1971, Western Gas Interstate Co. (applicant), 1500 Fidelity Union Tower, Dallas, Tex. 75201, filed in Docket No. CP72-102 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the regulations under said Act, for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing on the date of Commission authorization, and operation of certain natural gas facilities to enable applicant to take into its pipeline system supplies of natural gas which will be purchased from producers in the general area of said system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment its ability to act with the reasonable dispatch in contracting for and connecting supplies of natural gas to its pipeline system. The total cost of the facilities proposed herein will not exceed $100,000, with no single project costing in excess of $25,000. Applicant states that these costs will be financed from funds on hand and short-term borrowings from its parent, Southern Union Gas Co.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 16, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16294 Filed 11-8-71;8:46 a.m.]

[Docket No. CI72-253]

SHELL OIL CO.

Notice of Application

NOVEMBER 4, 1971.

Take notice that on October 26, 1971, Shell Oil Co. (applicant), Post Office Box 2643, Houston TX 77001, filed in Docket No. CI72-253 an application for an order of the Commission exempting from regulation certain sales of natural gas to Oklahoma Natural Gas Co. (ONG) or, in the alternative, pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing said sales to ONG, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

By order issued August 23, 1971, in Docket No. CP71-220 the Commission granted a certificate to ONG within the contemplation of § 2.70 of the general policies and interpretations (18 CFR 2.70) authorizing the sale of natural gas to Natural Gas Pipeline Company of America (Natural) for 2 years commencing the date of the order. Applicant proposes to sell natural gas to ONG, during the same 2-year period, within the contemplation of § 2.70, for resale to Natural. The locations of and rates for applicant's sales are as follows:

Location	Rate (cents per Mcf at 14.65 p.s.i.a.)
Dover-Hennessey Plant, Kingfisher County, Okla.	19.0
Canton Field, Blaine, Kingfisher, and Major Counties, Okla.	19.30
Kinta Field, Haskell County, Okla. (two contracts)	17.18
Cleo West Field, Major County, Okla.	16.17
Vining Field, Alfalfa County, Okla.	14.75
Ringwood Field, Major County, Okla.	16.17
Red Oak Field, Latimer County, Okla.	17.18

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 19, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16320 Filed 11-8-71;8:48 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-4692]

FAS INTERNATIONAL, INC.

Order Suspending Trading

NOVEMBER 3, 1971.

The common stock, 2 cents par value, and the 5 percent convertible subordinated debentures due 1989 of FAS International, Inc., being traded on the New York Stock Exchange, Inc., pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of FAS International, Inc., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above-mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 3, 1971, through November 12, 1971.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71-16320 Filed 11-8-71;8:48 am]

[70-5107]

GENERAL PUBLIC UTILITIES CORP.

Notice of Proposed Issue and Sale by Holding Company of Common Stock at Competitive Bidding

NOVEMBER 2, 1971.

Notice is hereby given that General Public Utilities Corp. (GPU), 80 Pine

Street, New York, NY 10005, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a) and 7 of the Act and Rule 50 thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

GPU proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, 1,400,000 shares of its authorized but unissued common stock, par value $2.50 per share. GPU proposes to use the proceeds of the sale of the common stock in payment of its outstanding short-term promissory notes, the proceeds of which have been or will be used for investment in its subsidiary companies. At December 31, 1970, GPU had 29,792,689 shares of common stock outstanding.

The declaration states that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. Fees and expenses incident to the proposed transaction are to be supplied by amendment.

Notice is further given that any interested person may, not later than November 29, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-16319 Filed 11-8-71;8:47 am]

[811-1933]

MERIDIAN INVESTING & DEVELOPMENT CORP.

Notice of Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company

NOVEMBER 2, 1971.

Notice is hereby given that Meridian Investing & Development Corp. (Applicant), 250 Bird Road, Coral Gables, FL 33146, which was incorporated under the laws of the State of Delaware on August 26, 1969, and is registered as a nondiversified, closed-end investment company under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order declaring that Applican has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein which are summarized below.

Applicant registered under the Act by filing both a notification of registration on Form N-8A on August 29, 1969, and a registration statement on Form N-8B-1 on August 29, 1969. Applicant states that on December 3, 1969, it received approximately $40 million from a public offering of its common stock, and, immediately thereafter, commenced operations as an investment company seeking investments in securities of companies engaged in real estate and real estate related activities. Applicant states its primary objective from inception has been capital appreciation through investments in companies newly formed, or, with the assistance of Applicant, restructured to develop opportunities in the real estate field.

At a shareholder's meeting held on October 20, 1971, pursuant to section 13(a)(4) of the Act, and of 2,175,435 shares of common stock outstanding and entitled to vote, 1,432,080 shares were voted in favor of and 114,725 shares were voted against: (1) A program to amend Applicant's certificate of incorporation to delete all references to an investment company and the Act; (2) an amendment to Applicant's registration statement under the Act to change its fundamental policies and its policies with respect to security investments; and (3) a program to authorize management of Applicant to seek an order from the Commission terminating its registration as an investment company. Immediately subsequent to the stockholder's meeting, Applicant amended its certificate of incorporation and registration statement under the Act in accordance with shareholder authorization.

Applicant asserts it is no longer engaged in the business of investing, reinvesting, or trading in securities, and is not holding itself out as an investment company, but rather is engaged in creating, structuring, developing, and controlling operating companies with the purpose of improving consolidated income. Applicant states that as of October 22, 1971, its total assets amounted to $44,498,185. Of this amount, investments in wholly owned and majority-owned subsidiaries amounted to $19,133,750; investments in noncontrolled companies amounted to $2,670,995; bankers acceptances amounted to $5,312,835; certificates of deposit amounted to $16,073,527; $933,939 was in cash; and $373,509 was in accrued interest.

Thus, on October 22, 1971, less than 50 percent of Applicant's total assets were devoted to operating businesses. Applicant further states, however, that from its nonwholly owned or majority owned assets, it will make investments aggregating at least $4 million in Cableton Corp. (Cableton) and Newport Corp. (Newport), both wholly owned subsidiaries of Applicant. The investment in Cableton will permit Cableton to acquire 50 percent of the common stock of Universal Restaurants, Inc., pursuant to an option which Cableton has given notice of its intention to exercise. The investment in Newport will enable it to take advantage of its position to acquire certain real estate for use in the development, construction, and sale of condominiums. These investments will be made either prior to or immediately after the issuance of an order pursuant to section 8(f) of the Act. On such date, Applicant's operating assets will equal $23 million and all other assets will total $21 million. Thus, more than 50 percent of Applicant's total assets will be in operating assets.

Applicant further states that for the year ended December 31, 1970, its unaudited pro forma combined statement of income and expense stated as an operating company discloses that gross income from operations equaled approximately $16.6 million as opposed to income of $3.7 million from interest and equity investment in nonmajority owned companies. Thus, Applicant asserts it is primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities.

Section 8(f) as here pertinent, provides that whenever the Commission upon application finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the taking effect of such order the registration of such company shall cease to be in effect. If necessary for the protection of investors, such order may be made upon appropriate conditions.

As a condition to deregistration, Applicant consents to the retention of jurisdiction by the Commission over any of the following transactions between Applicant, on the one hand, and Realty Resources Management Corp. (Adviser), Applicant's investment adviser, or any affiliated person of the Adviser, on the other hand, to the extent that any such transaction required approval of the Commission under section 17(b) of the Act: (a) Any direct or indirect merger or consolidation of the Adviser with Applicant; (b) any direct or indirect sale of 75 percent or more in value of the assets of the Adviser to Applicant; (c) any direct or indirect exchange of securities issued by Applicant for outstanding securities issued by the Adviser; or (d) any direct or indirect exchange of securities issued by the Adviser for securities by Applicant.

Notice is further given that any interested person may, not later than November 11, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing thereon shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-16321 Filed 11-8-71;8:48 am]

[54-247]

MIDDLE SOUTH UTILITIES, INC., AND ARKANSAS-MISSOURI POWER CO.

Notice of Filing and Order for Hearing on Plan Filed and Order Instituting Proceedings and Directing Hearing

NOVEMBER 2, 1971.

I. Notice is hereby given that Middle South Utilities, Inc. (Middle South), 280 Park Avenue, New York, NY 10017, a registered holding company, has filed a plan pursuant to section 11(e) of the Public Utility Holding Company Act of 1935 (Act) providing for the issuance by Middle South of its common shares in exchange for the publicly held shares of capital stock of its public utility subsidiary company, Arkansas-Missouri Power Co. (Ark-Mo). All interested persons are referred to the plan, which is summarized below, for a complete statement of the proposed terms and transactions.

As of September 16, 1971, Middle South owned 2,181,963 (95.2 percent of the total of 2,291,988 outstanding shares of Ark-Mo capital stock, the remaining 110,005 shares (4.8 percent) being publicly held. The plan provides for the issuance by Middle South of its shares of common stock, par value $5 per share, in exchange for the publicly held shares of the capital stock of Ark-Mo on the basis of 0.7 share of Middle South for each share of Ark-Mo. No certificates for fractional common shares of Middle South will be issued. Any holder of shares of Ark-Mo common stock who would otherwise be entitled to a fractional Middle South common share may sell such fractional share interest through an exchange agent or he may purchase through the exchange agent any available fractional interest sufficient to entitle him to an additional full Middle South common share. No charge will be made for this service.

The plan will become effective on the earliest practicable date (consummation date) after the entry of an order by a District Court of the United States approving and enforcing the plan. The carrying out of the plan is subject to all necessary approvals by the Commission under the Act, and to its approval and enforcement by a District Court of the United States having jurisdiction, as fair and equitable and as necessary and appropriate to effectuate the provisions of section 11 of the Act.

II. The Commission has been advised by its Division of Corporate Regulation (Division) that the Division, pursuant to section 11(a), 18(a), and 18(b) of the Act, has made a preliminary examination of the corporate structure of Middle South and the relationship between such company and the other companies in the Middle South holding-company system; and it appears to the Division from such examination that:

1. Middle South is a registered holding company. As of August 31, 1971, it had outstanding 40,202,815 shares of common stock, par value $5 per share, all of which are held by the public. The common stock has sole voting rights.

2. The principal operating subsidiary companies are Arkansas Power & Light Co. (AP&L), Louisiana Power & Light Co. (Louisiana), Mississippi Power & Light Co. (Mississippi), New Orleans Public Service Co. (New Orleans), and Crossett Electric Co. (Crossett), and are public utilities principally engaged in the production, purchase, transmission, distribution, and sale of electricity to residential, commercial, industrial, and municipal customs in eastern Arkansas, Louisiana, and Mississippi. New Orleans also distributes natural gas and operates a passenger transit system in that city. Middle South also has a wholly owned subsidiary service company, Middle South Services, Inc. Ark-Mo distributes electricity and natural gas at retail in northeast Arkansas and an adjoining area of southeastern Missouri. Ark-Mo's wholly owned subsidiary company, Associated Natural Gas Company (Associated), is engaged in the distribution of natural gas at retail in other areas of Missouri. The electric service areas of the Middle South subsidiary companies and Ark-Mo are geographically contiguous and are physically interconnected through AP&L.

III. It being the duty of the Commission, pursuant to section 11(b)(2) of the Act, to require by order, after notice and opportunity for hearing, that each registered holding company and each subsidiary company thereof take such steps as the Commission shall find necessary to insure that the corporate structure or continued existence of any company in a holding-company system does not, among other things, unfairly or inequitably distribute voting power among security holders of such holding-company system; and

The Commission being required by the provisions of section 11(e) of the Act, before approving any plan filed thereunder, to find, after notice and opportunity for hearing, that such plan, as submitted or as modified, is necessary to effectuate the provisions of section 11(b) and is fair and equitable to the persons affected thereby; and

The Commission deeming it appropriate that notice be given and a hearing be held for the purpose of determining what action should be ordered under section 11(b)(2) and for the purpose of ascertaining whether the plan should be approved; and

It appearing that common issues of fact and law arise in connection with the section 11(e) plan and in connection with the issues involved under section 11(b)(2), making it appropriate that the two proceedings be consolidated and that Middle South and Ark-Mo should be made parties to the consolidated proceeding:

It is hereby ordered,

(a) That a proceeding be, and it hereby is, instituted in respect of Middle South and Ark-Mo pursuant to section 11(b)(2) of the Act.

(b) That said proceeding be, and it hereby is, consolidated with the proceeding in connection with the section 11(e) plan of Middle South.

(c) That Middle South and Ark-Mo be, and they hereby are, made parties to said consolidated proceeding.

It is further ordered, That the hearing in the consolidated proceeding be held on December 15, 1971, at the office of the Securities and Exchange Commission, 500 North Capitol Street NW., Washington, DC 20549, in such room as may be designated on such date by the hearing room clerk. Any person desiring to be heard in connection with this proceeding or proposing to intervene therein shall file with the Secretary of the Commission, on or before December 10, 1971, a written request relative thereto as provided in Rule 9 of the Commission's rules of practice. Persons filing an application to participate or be heard will receive notice of any adjournment of the hearing as well as other actions

of the Commission involving the subject matter of these proceedings.

It is further ordered, That a Hearing Examiner, hereafter to be designated, shall preside at said hearing. The officer so designated is hereby authorized to exercise all the powers granted to the Commission under section 18(c) of said Act and to a hearing officer under the Commission's rules of practice.

The Division having advised the Commission that, upon the basis of its preliminary examination of the affairs and of the corporate structures of Middle South and Ark-Mo and of a preliminary study of said plan of Middle South, the following matters and questions are presented for consideration at such hearing, without prejudice, however, to the presentation of additional matters and questions upon further examination:

1. Whether the allegations contained in Part II hereof are true and correct;

2. Whether the voting power is unfairly and inequitably distributed among the holders of the capital stock of Ark-Mo, and, if so, what steps if any, are necessary and should be required to be taken to distribute fairly and equitably the voting power among such holders;

3. Whether the plan of Middle South, as submitted or as it may be modified or amended, is necessary to effectuate the provisions of section 11(b) of the Act;

4. Whether the plan is fair and equitable to the persons affected thereby;

5. Whether, in general, the transactions proposed in the plan satisfy the applicable provisions of the Act; and

6. Whether the accounting entries proposed to be made in connection with the plan are proper and in accord with sound accounting principles.

It is further ordered, That at said hearing evidence shall be adduced with respect to the foregoing matters and questions.

It is further ordered, That jurisdiction be, and it hereby is, reserved to separate, in whole or in part, either for hearing or for disposition, any issues or questions which may arise in these proceedings and to take such other action as may appear conducive to an orderly, prompt, and economical disposition of the matters involved.

It is further ordered, That the Secretary of the Commission shall serve notice of such hearing by mailing a copy of this notice and order by registered mail to Middle South and Ark-Mo, to the Federal Power Commission, and to the Arkansas Public Service Commission, and the Missouri Public Service Commission; that Middle South mail a copy of this notice and order to all public holders of record of the capital stock of Ark-Mo at least 15 days prior to the date herein fixed as the date for hearing; and that notice of said hearing be given to all other interested persons by a general release of the Commission and by publication of this notice and order in the FEDERAL REGISTER.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-16322 Filed 11-8-71;8:48 am]

TARIFF COMMISSION

[AA1921-78/80]

SHEET GLASS FROM FRANCE, ITALY AND WEST GERMANY

Determinations of Injury

The Assistant Secretary of the Treasury advised the Tariff Commission on August 3, 1971, that clear sheet glass weighing over 28 ounces per square foot from France and West Germany and clear sheet glass weighing over 16 ounces per square foot from Italy is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. In accordance with the requirements of section 201(a) of the Antidumping Act (19 U.S.C. 160(a)), the Tariff Commission instituted joint investigations Nos. AA1921-78/80 to determine whether an industry in the United States is being, or is likely to be, injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing was held on September 22-23, 1971. Notice of the joint investigations and hearing was published in the FEDERAL REGISTER of August 11, 1971 (36 F.R. 14787).

In arriving at its determinations, the Commission gave due consideration to all written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the joint investigations, the Commission has determined by a vote of 3 to 3[1] that an industry in the United States is being injured by reason of the importation of clear sheet glass weighing over 28 ounces per square foot from France and West Germany and clear sheet glass weighing over 16 ounces per square foot from Italy, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

STATEMENT OF REASONS FOR AFFIRMATIVE DETERMINATIONS OF CHAIRMAN BEDELL AND COMMISSIONERS SUTTON AND MOORE

In our opinion, an industry in the United States is being injured by reason of the importation of clear sheet glass weighing over 28 ounces per square foot from France and West Germany and clear sheet glass weighing over 16 ounces per square foot from Italy, which is being sold at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended.

The industry. In making these determinations, we have considered the injured industry to consist of the facilities of the United States producing sheet glass. Sheet glass currently is being produced domestically by five firms at 11 establishments;[2] the establishments are engaged exclusively, or almost so, in the manufacture of that product.

Conditions of competition. The determination of whether imports of sheet glass sold at LTFV are causing injury to the domestic sheet glass industry is no longer a novel matter. During this year the Commission has already determined that the domestic industry is being injured by LTFV imports of clear sheet glass from Japan[3] and Taiwan.[4] The Treasury Department has now determined that certain sheet glass of the weights specified is also being imported at LTFV from France, Italy, and West Germany. Thus, Treasury has now determined that clear sheet glass is being sold at LTFV in at least five of the major glass exporting countries of the world and it is evident that there is an international price war on sheet glass which is intensified by sales at LTFV.

In the recent dumping investigations of clear sheet glass from Japan and Taiwan, it was pointed out that the U.S. market for sheet glass has been sluggish since the mid-1960's. Although annual U.S. consumption of such glass has fluctuated somewhat from year to year, it has generally contracted, rather than expanded, from the peak 1965 level. In 1970, for example, apparent U.S. consumption of sheet glass was equivalent to 91 percent of the volume used in 1965. Domestic shipments declined more proportionately than imports in the late 1960's; imports in 1970 were equal in quantity to 93 percent of 1965 entries, and the domestic producers' shipments in 1970 were equal to 88 percent of those in 1965.

U.S. market demand for sheet glass is dependent in great part on the levels of residential and nonresidential construction and motor vehicle production. Since 1965, residential construction and motor vehicle production have been materially below the level set in that year; nonresidential construction has been a little above the 1965 level, but has generally declined since a 1966 peak. The stagnation in these end uses has in turn affected the markets for sheet glass.

While demand for sheet glass has been sluggish, the competition in the United States for sales of such glass has intensified. Although published prices were increased several times after 1965 (but are lower currently than a year earlier), the practice of discounting below published prices, especially in coastal markets, grew markedly. Until about 1967 the domestic producers were able to sell consistently at their published prices. As competition became more severe, various suppliers of

[1] Chairman Bedell and Commissioners Sutton and Moore determined in the affirmative and Vice Chairman Parker and Commissioners Leonard and Young determined in the negative. Pursuant to section 201(a) of the Antidumping Act, 1921, as amended, the Commission is deemed to have made an affirmative determination when the Commissioners voting are equally divided.

[2] One domestic plant began to shut down in September and is not included herein.

[3] "Clear Sheet Glass and Clear Plate and Flat Glass from Japan," Investigations Nos. AA1921-69/70, TC Publication 382, April 1971.

[4] "Clear Sheet Glass from Taiwan," Investigation No. AA1921-76, TC Publication 406, July 1971.

imported glass increasingly discounted the published prices; the domestic producers attempted to meet such discounts to the degree necessary to hold their customers. In 1967 the extent of selling below published prices by the domestic producers was moderate—about 2 percent of their total sales of sheet glass. In 1970 more than a fourth of all domestic sheet glass marketed in the United States was discounted below published prices.

The imported products. Treasury's determinations of sales at LTFV of clear sheet glass the subject of this joint investigation are limited to glass weighing over 28 ounces per square foot from France and West Germany and to glass weighing over 16 ounces per square foot from Italy. In this regard it should be noted that approximately one-third of all U.S. consumption of clear sheet glass consists of glass weighing over 28 ounces per square foot and by far the bulk of all clear sheet glass consumed in the United States weighs over 16 ounces per square foot. The U.S. consumption of clear sheet glass weighing less than 16 ounces is very small. Thus, the LTFV imports are in those weights sold in the mainstream of the domestic market.

Dumping margins support extensive underselling. The Treasury found that not all exports of the subject glass were sold at LTFV from each of the three named countries. However, the quantities of LTFV glass imported from each country were substantial, if not the major bulk of such exports. The margins of dumping[5] varied according to sizes, ranging as high as 59 percent of the foreign market values. The average was quite large. The delivered price patterns of the LTFV imports, both in the subject investigations and the two recent cases of LTFV imports from Japan and Taiwan, indicate a general price leadership by the importers of such LTFV imports who methodically undersold domestic producers of such glass until it became evident that action might be taken under the Antidumping Act. Such underselling was supported entirely by the dumping margins in virtually all instances.[6]

Impact of LTFV imports. As a result in substantial part of the LTFV imports from France, Italy, and West Germany, which have generally been sold at prices substantially lower than the prices for comparable domestic glass, published prices of such domestic glass have been suppressed in that they have been able to rise at only half the rate of the increased costs of production. Moreover, it has been necessary with respect to over 25 percent of the sales by domestic producers to discount their published prices to prevent losses of sales. These factors have effectively caused a substantially large block of the sales of domestic glass to be made at prices below industry costs. Such a condition is anticompetitive and, if allowed to continue, would be monopolistic in result. The Antidumping Act is designed to help prevent such conditions.

Conclusion. In summary, the foregoing circumstances indicate that LTFV imports of clear sheet glass from France, Italy, and West Germany, whether considered cumulatively or individually, have had a substantial disruptive effect on the domestic market for such glass. They have contributed substantially to a price suppression on a national scale and to a price depression in those market areas where the sales of LTFV imports were most heavily concentrated. Moreover, the LTFV sales in the international market have influenced other foreign sources of sheet glass to lower their export prices on shipments of such glass to the United States to the further detriment of our domestic price levels. If these dumping practices are allowed to continue there is adequate capacity among other nations of the world to threaten the continued existence of our clear sheet glass industry.

STATEMENT OF REASONS FOR NEGATIVE DETERMINATION OF VICE CHAIRMAN PARKER AND COMMISSIONERS LEONARD AND YOUNG

In our opinion no industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of clear sheet glass weighing over 28 ounces per square foot from France, West Germany, and Italy, or of clear sheet glass weighing over 16 ounces per square foot from Italy, found by the Treasury Department to be, or likely to be, sold in the United States at less than fair value (LTFV).

For an affirmative determination under the Antidumping Act, 1921, any injury that may have occurred to a domestic industry must be at least in part by reason of the importation of the LTFV merchandise. In the instant investigations, if there is any injury to the industry in the United States, which we define as 11 establishments (formerly 13) owned by five firms producing clear sheet glass, it is not caused to any recognizable degree by LTFV imports of heavy sheet glass from France, West Germany, and Italy, or of window glass from Italy. In making this determination, we have looked at the tests most frequently employed by the Commission in linking injury with LTFV sales. Those tests include an examination of the extent to which LTFV sales can be shown to have increased foreign producers' penetration of the U.S. market, disrupted the market, or depressed the prices realized by U.S. producers.

Health of the U.S. industry. Heavy sheet glass is one product of the sheet glass industry, which in turn is a part of the glass industry. The three largest producers of sheet glass are multiproduct corporations whose total sales amounted to $1.6 billion in 1970. Sheet glass in 1970 represented from 4 to 28 percent of each company's total sales in that year, having declined in recent years as a percentage of total sales. The largest sales of sheet glass in the period 1966-70 were in 1968, after which they declined but began to pick up in 1971. Profits in 1970 were adversely affected by a decline in new construction, a prolonged strike in the automotive industry, and general economic conditions. Two of the companies had losses in certain years on sheet glass operations; they explained, in their reports to stockholders, that obsolete plants were being phased out and written off against current earnings. Float glass was taking the place of plate glass and, to an increasing extent, of heavy sheet glass as well.

The ASG sheet glass plant at Arnold, Pa., was closed in 1969, and the LOF sheet glass plant at Shreveport, La., was closed in 1971, but the PPG sheet glass plant at Fresno, Calif., is being expanded. Although, as claimed, import competition may have had some effect on the plant closings, changes in technology and labor problems appear to have played a larger part. Total plant capacity is said to be adequate to meet expected demand, but at the present time the factories are several weeks behind in filling orders because of heavy demand prompted by brisk activity in the construction and automotive industries. Buyers of glass are also ordering ahead of actual requirements because of the expiration of labor contracts in the domestic industry, and some are shifting their orders from foreign to domestic suppliers because of the dock strikes.

Preliminary reports for the first three quarters of 1971 indicate improved profits for all three companies, but these reports do not analyze sheet glass operations separately. Among the numerous factors that affect growth in the sheet glass industry, it is very difficult to pinpoint the exact extent and impact of LTFV sales of heavy sheet glass from France, West Germany, and Italy, and of window glass from Italy. Although extensive statistical data bearing on this question have been collected and analyzed, it has not been established that such sales are causing injury to a U.S. industry.

We have limited our consideration of LTFV sales of specified types of sheet glass from France, West Germany, and Italy to the effect of such sales on the U.S. establishments producing sheet glass. Finding no injurious effect on these establishments, we have refrained from examining the possible effect on processors and users of sheet glass, since the effect on the latter would be less injurious than on the producing establishments.

Imports are a safety valve. Sheet glass is produced by a continuous flow process and the plants are normally closed down only at infrequent intervals for cleaning and reconstruction. The supply, therefore, does not always vary with demand. Facilities for storage are extensive but not unlimited, and the only possibility for overcoming a temporary shortage is

[5] The term "margin of dumping" means the difference between the foreign market price and the export price.

[6] Recognition is given to the fact that about half of one country's shipments were purchased at fair value. However, the margins on those imported at LTFV were large enough to effectively subsidize underselling U.S. producers on all sizes of the glass imported from that country.

to ask customers to wait. Further expansion or duration of storage is expensive, as are long waits by customers.

Imports have generally varied with the demand for glass, increasing or decreasing at a faster rate than domestic production and diminishing the need for any sudden changes in production schedules or large standby capacity. The level of imports has also been affected by changes of demand in the various supplying countries, where local requirements do not always move in the same direction as in the United States. In addition, the volume of international shipments has been affected by financial considerations, multinational corporate affiliations, and tariff policies. All these factors influence the changes that occur both in the general price level and in temporary differences between prices of competing suppliers in the U.S. market. The process of adjustment may involve instances of LTFV sales, but these are not, in the instant case, causes.

Market penetration. European glass has always supplied a considerable part of the U.S. market, especially in areas near ports. The opening of the St. Lawrence Seaway in 1959 permitted small quantities of European sheet glass to be sold in some interior cities. What is new, however, is not the penetration of European glass, but imports from developing countries such as Turkey, Colombia, and Taiwan.

Turning first to heavy sheet glass, we find that imports of such glass from all countries, as well as the imports from France, West Germany, and Italy, have varied from year to year and have not shown any general upward trend; since 1968 the trend has been downward. While rivalries between one foreign supplier and another, and the varying success of one sales agent in competition with another, have from time to time shifted patterns of shipments, it still remains true that French, West German, and Italian producers of heavy sheet glass have not increased their generally peripheral penetration of the U.S. market.

LTFV quantities are small and declining. In 1970, imports of sheet glass weighing over 26 ounces per square foot from France supplied 0.9 percent of apparent U.S. consumption; imports of such glass from West Germany, 5.1 percent; and those from Italy, 1.9 percent of consumption. To summarize the Treasury Department's calculations, based on a 4-month representative period in 1970 for France and Italy and a 6-month representative period in 1969 for West Germany, about two-thirds of the heavy sheet glass from France was sold to importers at a margin average of 12 percent below fair value; about half of the imports from Italy were sold at a margin averaging 14 percent. Although the Treasury noted that some French, West German, and Italian glass was exported to the United States at prices higher than home prices, it excluded such exports from its calculations.

Imports of sheet glass in 1970 came from 32 countries. The average unit values of the imports from France, West Germany, and Italy (8.1, and 7.7 cents per pound) were higher than the general average (7.4 cents). Imports of heavy sheet glass from France, West Germany, and Italy declined from 50 million pounds in 1968 (last full year before the time selected by Treasury for its examination of transactions) to 44 million pounds in 1969 and to 41 million pounds in 1970. They further declined from 24 million pounds in the first half of 1970 to 8 million pounds in the first half of 1971. Clearly, the occurrence of LTFV sales, whether so intended or not, did not result in the sale of larger quantities of French, West German, and Italian heavy sheet glass in the U.S. market.

No consistent pattern of underselling. The Tariff Commission's data on prices of foreign and domestic heavy sheet glass show no consistent pattern of underselling related to the LTFV sales found by the Treasury. The Commission's questionnaire requesting net delivered prices paid for French, West German, and Italian sheet glass in the years 1968–70 and in January–September 1971 was returned with records of purchases by 58 direct-factory buyers. For purposes of comparison the buyers also reported the prices they paid for Belgian glass (not sold at LTFV) and domestic glass of an identical representative description during the period. An average, weighted by the quantities reported, was computed for each country and each year. The percentage of difference between the average price of the glass from each country and that of the domestic glass purchased by the same buyers was then computed for each year. We have made an allowance of 5 percentage points to allow for what all parties generally concede to be approximately the normal market disadvantage of the foreign glass, due to foreign producers' inability to provide all the services, including prompt delivery, usually offered by domestic producers. By this method it was found that in 1968, before the time selected by the Treasury for its examination of transactions, West German heavy sheet glass was underselling U.S. glass by about 11 percent, the Italian and Belgian glass was underselling by about 5 percent, and the French by about 2 percent. However, in 1969 there was no underselling of French or West German heavy sheet glass, and Italian heavy sheet was underselling the U.S. product by about 8 percent. In 1970 there was no underselling of French or Italian heavy sheet glass, and West German heavy sheet glass was underselling the U.S. product by about 4 percent. The Commission, on the basis of its questionnaire, found that, beginning in the second half of 1970 and continuing to the present time, all the specified foreign heavy sheet glass was either selling for a higher average price than comparable domestic glass or was not being purchased at all.

Many factors, of which the selling at LTFV found by the Treasury is probably only a minor one, have affected the U.S. market for heavy sheet glass in recent years. Float glass, a superior product, has increasingly become available at prices approaching those of heavy sheet glass. Dock strikes in 1968 and 1971 and wage contract negotiations at about the same time in the domestic flat glass industry, caused accumulation of stocks at some places and times and shortages at other places and times. The revaluation of the mark in 1969 and the suspension of gold payments by the United States in 1971, with consequent floating of the mark and the lira, caused fluctuations in price adjustments.

The mere presence of foreign heavy sheet glass in the U.S. market has, of course, affected the present level of prices. We are of the opinion, however, that this level of prices has been determined by the overall economic situation, the U.S. demand, and the supply of heavy sheet glass available from all sources at the prevailing prices to an immeasurably greater degree than it has been affected by temporary differences between home and export prices in particular countries.

Market disruption? A number of events have disturbed, but not disrupted the U.S. market for heavy sheet glass in recent years. Technological change, inflation, strikes, and threats of strikes in the glass, construction, automobile, and railroad industries have affected the internal situation. Foreign trade has been affected by dock strikes, changes in monetary valuations, and, to an uncertain extent, by imposition of the import surcharge.

Price depression. Data supplied by three domestic producers indicate that the average prices they realized from sales of heavy sheet glass in 1970 were on the whole about the same as in 1966 and intervening years. Data supplied by 58 direct-factory buyers confirm this statement, but show a subsequent decline in the net price of about 13 percent in January–September 1971 compared with the year 1970. At this time, however, the average prices paid for West European glass are increasing and are higher than the prices of comparable domestic glass.

The published price of 3/16-inch domestic sheet glass in the 10 to 25 square foot bracket on May 1, 1970, was 15 percent higher than on May 1, 1966, but on May 1, 1971, the published price was slightly reduced, to a point 14 percent higher than in 1966. The difference between published prices (which increased) and average net realized prices (which did not increase) is reflected in the increased extent of discounting practiced by the industry, and is characterized as price depression since it has prevented realization of the price increases thought necessary to keep up with the general rise of prices and wages.

Improvements in productivity and in efficiency of distribution achieved by the industry have offset in part its inability to realize higher net prices, but these have been less important than the tendency to substitute float glass for heavy sheet glass by those companies licensed to produce float glass (which, incidentally, are the ones realizing profits). We think that in this case the LTFV sales that occurred have not resulted in prices

persistently lower than U.S. prices, nor have they resulted in any increase in sales of French, West German, or Italian heavy sheet glass in the U.S. market.

Discounting. Two of the complaining U.S. producers have offered testimony which indicates that an increasing proportion of their sales of heavy sheet glass has been sold at discounts from list price which have increased considerably since 1967, specifically in order to meet the price competition of French, West German, and Italian heavy sheet glass. The necessity of discounting to this extent in order to make sales, especially in coastal areas, is regarded by these producers as injury since it deprives them of sales at list prices even though it prevents to some extent the loss of customers. This indicates that the two companies' revenue in 1970 (when the greatest amount of discounting took place) from sales of heavy sheet glass was about 0.9 percent less, in order to meet the specified competition, than it would have been if all their sales of such glass could have been made at list prices.

We fail to see, however, that any company has a right to realize list prices under all circumstances, or that the failure to do so constitutes injury, or that the imputed injury can be traced to LTFV sales identified by the Treasury. Discounting as a method of pricing is an established practice in a number of industries and is not necessarily incompatible with free competition. We note, moreover, that beginning in 1967 with discount offers by the Ford Motor Co., which at that time began to sell heavy sheet glass on the open market, the practice of discounting has generally increased in the sheet glass industry, in order to meet the competition of domestic as well as foreign producers.

No industry likely to be injured by further LTFV imports. The import surcharge imposed by Presidential proclamation on August 15, 1971, adds 6 to 10 percentage points to the ad valorem burden of U.S. duties paid on imported sheet glass. The duties now being paid on sheet glass from France, West Germany, and Italy, including the surcharge, are in some cases one-third or one-half more than, and in other cases double, the regular duties previously payable. Since the surcharge can only be passed on to the U.S. buyer to the extent he is willing to pay it, or can only be absorbed by the foreign producer to the extent he can afford a lower net return, the surcharge is likely to discourage further importation of French, West German, and Italian sheet glass and to make sales at less than fair value, if such sales were under consideration, unprofitable and improbable.

Window glass. The finding by the Treasury that window glass from Italy (though not from West Germany or France) is being or is likely to be sold at LTFV necessitates a supplementary consideration of this product. Unlike heavy sheet glass, production of which has decreased by 26 percent since 1965, window glass production has moved, with ups and downs, to 3 percent greater production in 1970 than in 1965. The total sales of this product are also much larger than those of heavy sheet glass.

Despite some underselling by foreign (chiefly Italian) producers in certain port areas, the average realized net price of domestic 19-ounce window glass, nationwide, has hardly been affected at all; it was $11.57 per 100 square feet in July–September 1971, compared with $11.13 in July–December 1968, while the corresponding published prices were $12.01 and $11.58. The share of U.S. consumption of window glass supplied by Italy (not all sold at LTFV) increased from 0.7 percent in 1965 to 3.3 percent in 1968 but decreased thereafter to 2.7 percent in 1970. We feel that, although there may have been some underselling of Italian window glass, the total effect of this practice, and the degree to which it reflected LTFV sales have not been of a magnitude to be characterized as injurious.

There is no evidence that the LTFV sales were the cause of the underselling that may have occurred. The relatively low net prices of Italian window glass have been due in large part to the lower cost of delivery where inland transportation is not involved. The imports of Italian window glass, viewed together with Italian heavy sheet glass in the terms described by the Treasury (clear sheet glass weighing over 16 ounces per square foot) involve, on the average, less underselling than when viewed separately. Moreover, the quantities imported have been decreasing and are likely to decrease further as a result of the import surcharge and pending changes in the lira/dollar exchange rate.

Summary. The domestic sheet glass industry is confronted with problems of technological change, adjustment of capacity and inability to increase realized prices, especially for heavy sheet glass. It also faces import competition, especially in areas near seaports. It has nevertheless remained, on the whole, profitable, and imports have decreased since 1968. The import surcharge and changes in money rates will discourage further imports and render improbable any further sales of French, West German, and Italian sheet glass at LTFV in the foreseeable future. Little, if any, correlation has been found between the LTFV sales found by the Treasury and actual underselling in the U.S. market, and the extent of underselling has been small since 1968, a year prior to Treasury's investigation. Indeed, the average U.S. prices of imported glass of the kinds covered by these investigations have increased and currently exceed domestic prices.

In view of these considerations, as set forth in greater detail above, we find no U.S. industry is injured or is likely to be injured, or is prevented from being established by reason of the importation at less than fair value of clear sheet glass weighing over 26 ounces per square foot from France and West Germany and clear sheet glass weighing over 16 ounces per square foot from Italy.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.71-16338 Filed 11-8-71;8:49 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

NOVEMBER 4, 1971.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

Ex Parte No. 270, Sub 1, Investigation of Railroad Freight Rate Structure Export-Import Rates and Charges, assigned for hearing on November 1, 1971, in Chicago, Ill., and November 30, 1971, in San Francisco, Calif., is postponed indefinitely.

Investigation and Suspension Docket No. 8657, increased rates and charges, July 1971, Freight Forwarders, assigned November 9, 1971, at Washington, D.C., postponed indefinitely.

MC 135602, Road Hog, Inc., assigned January 17, 1972, at New York, N.Y., postponed to January 24, 1972, at New York, N.Y., hearing room to be later designated.

No. 35435 Freight all kinds, official territory, No. 35435 Sub 1, freight all kinds, official territory, No. 35435 Sub 2, freight all kinds, southern territory, No. 35435 Sub 3, freight all kinds, Louisville & Nashville RR., No. 35435 Sub 4, freight all kinds, between Chicago and Jersey City, No. 35435 Sub 5, freight all kinds, between Maryland, New Jersey, and Pennsylvania and central States and No. 35435 Sub 6, TOFC Rates, between the South and IFA territory, assigned January 10, 1972, at Washington, D.C., canceled.

Investigation and Suspension Docket No. 8657, assigned November 9, 1971, at Washington, D.C., is postponed indefinitely.

MC 51146 Subs 158, 161, Schneider Transport & Storage, Inc., assigned November 30, 1971, at Washington, D.C., is canceled and application dismissed.

MC 119531 Subs 141, 146, Dieckbrader Express, Inc., assigned November 30, 1971, at Washington, D.C., is canceled and application dismissed.

MC–C 7297, Suwak Trucking Co., revocation of certificate, assigned January 17, 1972, at Washington, D.C., is canceled.

Investigation and Suspension Docket No. 8671, meats and packinghouse products, Midwest to the East, now being assigned hearing December 6, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC–F–10934, Northeastern Trucking Co.—Purchase (Portion)—Parrish Dray Line, Inc., MC–F–10949, Guignard Freight Lines, Inc.—Purchase (Portion)—Parrish Dray Line, Inc., MC–F–11053 Mercury Freight Lines, Inc.—Purchase (Portion)—Parrish Dray Line, Inc., now assigned January 11, 1972, at Washington, D.C., postponed to January 12, 1972, at the Offices of Interstate Commerce Commission, Washington, D.C.

No. 34543, Increased Suburban Fares—New Jersey and New York Railroad Co. and Erie Lackawanna Railroad Co., now assigned hearing December 6, 1971, in Room 2222, 26 Federal Plaza, New York, N.Y.
MC 22254 Sub 56, Trans-American Van Service, Inc., assigned January 31, 1972, at Chicago, Ill.
MC 29886 Sub 270, Dallas & Mavis Forwarding Co., Inc., assigned February 3, 1972, at Chicago, Ill.
MC 114457 Sub 108, Dart Transit Co., assigned January 24, 1972, at Chicago, Ill.
MC 114569 Subs 93 and 94, Shaffer Trucking, Inc., assigned January 27, 1972, at Chicago, Ill.
No. 35473, Flour, Arkansas City, Kans., to Memphis, Tenn., assigned hearing November 17, 1971, in Washington, D.C., canceled and reassigned for hearing November 30, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC-F-11169, International Cartage, Inc.—Purchase (Portion)—Mohawk Motor, Inc., assigned January 25, 1972, at Chicago, Ill.
MC 115891 Sub 4, Inter-County Motor Coach, now assigned hearing January 17, 1972, at New York, N.Y., will be held in room E 2222, 26 Federal Plaza.
MC 76032 Sub 274, Navajo Freight Lines, application dismissed Murphy order.
MC 107409 Sub 36, Ratliff and Ratliff, Inc., now assigned November 8, 1971, at Washington, D.C., postponed to December 7, 1971, at the Office of the Interstate Commerce Commission, Washington, D.C.
MC 105773 Sub 43, H. R. Ritter Trucking Co., Inc., now assigned November 9, 1971, at Washington, D.C., is postponed to November 11, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 113267 Sub 254, Central & Southern Truck Lines, Inc., now assigned November 15, 1971, at Washington, D.C., canceled and application dismissed.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16340 Filed 11-8-71;8:49 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 4, 1971.

Protests to the granting of an application must be prepared in accordance with § 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42295—*Paper and paper boxes to points in southern territory.* Filed by Southwestern Freight Bureau, agent (No. B-269), for interested rail carriers. Rates on boxes, fiberboard, pulpboard, or strawboard, also paper, pulpboard, or fiberboard, in carloads, as described in the application, from points in southwestern territory, to points in southern territory.

Grounds for relief—Market competition.

Tariff—Supplement 30 to Southwestern Freight Bureau, agent, tariff ICC 4891. Rates are published to become effective on December 7, 1971.

FSA No. 42296—*Lumber and related articles between points in southwestern and southern territories.* Filed by Southwestern Freight Bureau, agent (No. B-266), for interested rail carriers. Rates on lumber and related articles, in carloads, as described in the application, between points in southwestern territory, including Mississippi River crossings Memphis, Tenn., and south.

Grounds for relief—Carrier competition.

Tariffs—Supplement 124 to Southwestern Freight Bureau, agent, tariff ICC 4819, and supplement 80 to Texas-Louisiana Freight Bureau, agent, tariff ICC 983. Rates are published to become effective on December 10, 1971.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16341 Filed 11-8-71;8:49 am]

[Notice 391]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 3, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67, (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 36556 (Sub-No. 23 TA), filed October 22, 1971. Applicant: BLACKMON TRUCKING, INC, 111 120th Avenue, Post Office Box 186, Somers, WI 53171. Applicant's representative: Earle Munger, Schwartz Building, 520 58th Street, Kenosha, WI 53140. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rendered meat scraps*, from the plantsite of Kenosha Packing Co., Kenosha, Wis., to the plantsite of Swift & Co., Rochelle, Ill., for 180 days. Supporting shipper: Kenosha Packing Co., Post Office Box 639, Kenosha, WI 53141 (Donald Jenkins, Traffic Manager/Fleet Supervisor). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 42688 (Sub-No. 7 TA), filed October 22, 1971. Applicant: JOHN WELLER SCHROCK, doing business as SCHROCK TRANSFER, 234 West Patriot Street, Somerset, PA 15501. Applicant's representative: Stephen T. Wardzinski, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Phenolic plastic articles*, from Mansfield and Urbana, Ohio, to the facilities of The DeVilbiss Co. in Somerset, Pa., for 180 days. Supporting shipper: The DeVilbiss Co., Somerset, Pa. 15501. Send protests to: James C. Donaldson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 75302 (Sub-No. 10 TA), filed October 26, 1971. Applicant: DOUDELL TRUCKING COMPANY, Post Office Box 842, 545 Queens Row, San Jose, CA 95106. Applicant's representative: Raymond A. Greene, Jr., 405 Montgomery Street, San Francisco, CA 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, between Needles, Calif., on the one hand, and Topock, Ariz., on the other, traversing Interstate Highway 40 with service at Topock restricted to handling interchange traffic only, for 180 days. Supported by: Supported by applicant's statement and abstract of shipments. Send protests to: Claud W. Reeves, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 450 Golden Gate Avenue, Box 36004, San Francisco, CA 94102. NOTE: Applicant does intend to tack the authority in Docket No. MC-75302 (Sub-No. 8 TA) at Topock, Ariz.

No. MC 107002 (Sub-No. 410 TA), filed October 22, 1971. Applicant: MILLER TRANSPORTERS, INC., Post Office Box 1123 (U.S. Highway 80 West), Jackson, MS 39205. Applicant's representative: John J. Borth (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Jacksonville, and Lynn Haven, Fla., to points in Jackson County, Miss., for 180 days. Supporting shippers: Ingalls Nuclear Shipbuilding, Division Litton Systems, Inc., Pascagoula, Miss., 39567; Litton Ship Systems, Litton Systems, Inc., Pascagoula, Miss. 39567. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 107295 (Sub-No. 563 TA), filed October 26, 1971. Applicant: PRE-FAB TRANSIT CO., Post Office Box 146, 100 South Main Street, Farmer City, IL 61842. Applicant's representative: Bruce J. Kinnee (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel pallet racks and accessories*, from the plantsite and warehouse facilities of Speedrack, Inc., at Quincy and Rock Island, Ill., to Rockville and Camp Springs, Md., Merrifield, Va., and Fairfield (Essex County), N.Y., for 180 days. Supporting shipper: Robert E. Tofall, Traffic Manager, Speedrack, Inc., Skokie, Ill. 60076. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 325 West Adams Street, Room 476, Springfield, IL 62704.

No. MC 128866 (Sub-No. 27 TA), filed October 22, 1971. Applicant: B & B TRUCKING, INC., Post Office Box 128, 9 Brade Lane, Cherry Hill, NJ 08034. Applicant's representative: J. Michael Farrell, Federal Bar Building, Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum food containers* for the account of Penny Plate, Inc., from Cherry Hill, NJ, and Searcy, Ark., to the plantsites of Teddy's Frozen Food, Byram, Conn., Heidi Bakery, Silver Spring, Md., Entemann's Bakery, Inc., Bay Shore, Long Island, N.Y. The Great Atlantic & Pacific Tea Co., Flushing, N.Y., Teddy's Frosted Foods, Highland, N.Y., Tony's Empty Package Warehouse, Milton, N.Y., R.J.R. Foods, Inc., Jackson, Ohio, McMillin & Co., Northeast, Pa., Oehme's Bakery, Inc., Lititz, Pa., Stouffer Frozen Foods, King of Prussia, Pa., Boulevard Baking, Philadelphia, Pa., Bond Baking Co., Philadelphia, Pa., Hanscom Retail Foods, Philadelphia, Pa., Blue Grass Foods, Philadelphia Pa., Elm Tree Frozen Foods, Appleton, Wis.; and *aluminum food containers*, for the account of Penny Plate, Inc., at Searcy, Ark., to Seabrook Farms, Frozen Food Division, Seabrook, N.J. Supporting shipper: Penny Plate, Inc., Post Office Box 458, Haddonfield, NJ 08034. Send Protests to: Richard M. Regan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 133240 (Sub-No. 26 TA), filed October 22, 1971. Applicant: WEST END TRUCKING CO., INC., 530 Duncan Avenue, Jersey City, NJ 07306. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by discount or department stores, between the facilities of Unishops, Inc., their divisions and subsidiaries located in Jersey City, N.J., and Bayonne, N.J., on the one hand, and, on the other, Bedford, Madison, Seymour, and Vincennes, Ind., Mount Vernon and Taylorville, Ill., Ann Arbor, Mich., Bedford and Euclid, Ohio, Waldorf, Md., Sayre, Pa., Hales Corner and Brookfield, Wis., for 180 days. Supporting shipper: Unishops, Inc., 21 Caven Point Avenue, Jersey City, NJ 07306. Send protests to: District Supervisor Robert E. Johnston, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 135206 (Sub-No. 2 TA), filed October 22, 1971. Applicant: NORMAN KRUCKENBERG, doing business as N. K. TRUCKING, 204 Fifth Avenue East, Kalispell, MT 59901. Applicant's representative: Ray F. Koby, Post Office Box 2567, Great Falls, MT 59401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points in Flathead, Lincoln, and Lake Counties, Mont., to points in North Dakota, South Dakota, Minnesota, Iowa, Illinois, Wisconsin, and Nebraska, for 180 days. Supporting shippers: St. Regis Paper Co., Libby, Mont. 59923; Plum Creek Lumber Co., Plant No. 1, Columbia Falls, Mont. 59912; Forest Products Co., Kalispell, Mont. 59901; Kalispell Pole & Timber Co., Box 1039, Kalispell, MT 59901; H. E. Simpson Lumber Co., Post Office Box 1097, Kalispell, MT 59901; Plum Creek Lumber Co., Plant No. 2, Pablo, Mont. 59855; Dupuis Brothers Lumber Co., Inc., Polson, Mont. 59860. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 251 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 135117 (Sub-No. 4 TA) (Amendment), filed September 1971, published FEDERAL REGISTER, issues of September 17, 1971, and, October 2, 1971, respectively, amended and republished in part as amended this issue. Applicant: SPECIALIZED HAULING, INC., 1500 Omaha Street, Sioux City, IA 51103. Applicant's representative: Wallace W. Huff, 314 Security Building, Sioux City, Iowa. NOTE: The purpose of this partial republication is to add an additional shipper, F. B. Foote Tanning Co. of Red Wing, Minn., which was inadvertently omitted in previous publication. The rest of the notice remains the same.

No. MC 136020 (Sub-No. 1 TA), filed October 22, 1971. Applicant: PACIFIC STATES EXPRESS, 660 Riverside Road, Watsonville, CA 95076. Applicant's representative: Martin J. Rosen, 140 Montgomery Street, San Francisco, CA 94104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by wholesale, retail, and general grocery and food business houses, and in connection therewith, *equipment, materials, and supplies* used in the conduct of such business and commodities which are exempt from economic regulation, when moving in mixed shipments with the commodities specified above, between points in California, Oregon, and Washington, restricted to shipments having an origin or destination at a Safeway Stores, Inc., distribution center warehouse, retail store, or manufacturing or processing plant; (2) *cooked, cured, or preserved meats and sausage*, moving in vehicles equipped with mechanical refrigeration, from the plantsite of Safeway Stores, Inc., meat processing plant at Stockton, Calif., to the Safeway Stores, Inc., distribution center warehouses at Salt Lake City, Utah, and Butte, Mont.; and (3) *frozen foods*, moving in vehicles equipped with mechanical refrigeration, from points in Idaho to points in California, for 180 days. Supporting shipper: Safeway Stores, Inc., Post Office Box 2225, Fitchburg Station, Oakland, CA 94621. Send protests to: Claud W. Reeves, District Supervisor, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, CA 94102.

No. MC 136099 TA, filed October 21, 1971. Applicant: BECANCOUR TRANSPORT EXPRESS ENRG., Lotbiniere County, Deschaillons, Province of Quebec, Canada. Applicant's representative: Adrien R. Paquette, 200 Rue St. Jacques, Suite 1010, Montreal 126, PQ, Canada. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Terra cotta products*, from Deschaillons, Lotbiniere County, Province of Quebec, Canada, to points in Maine, Massachusetts, Rhode Island, Connecticut, Vermont, and New Hampshire, for 180 days. Supporting shipper: Montreal Terra Cotta (1966) Ltee., 1010 Ste-Catherine St., West Montreal, PQ, Canada. Send protests to: District Supervisor Martin P. Monaghan, Jr., Interstate Commerce Commission, Bureau of Operations, 52 State Street, Room 5, Montpelier, VT 05602.

No. MC 136103 TA, filed October 26, 1971. Applicant: JOHN J. SAMMON, 45-64 157th Street, Flushing, NY 11355. Applicant's representative: Arthur J. Piken, 1 Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electro plating, materials and supplies*, except in bulk, in tank vehicles, from Nutley, N.J., to points in that part of the New York, N.Y., commercial zone, as defined in the 5th Supplemental Report in commercial zones and terminal areas, 53 M.C.C. 451, within which operations may be conducted pursuant to the partial exemption in section 203(b)(8) of the Interstate Commerce Act (the "exempt" zone), for 180 days. Supporting shipper: The Udylite Corp., Detroit, Mich. 48234. Send protests to: Anthony Chiusano, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, NY 10007.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16342 Filed 11-8-71;8:49 am]

[Notice 392]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 4, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days

after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 45387 (Sub-No. 1 TA), filed October 22, 1971. Applicant: BADGER CARTAGE CO., doing business as BADGER & ERVIN'S VAN SERVICE, 2300 West Greenfield Avenue, Milwaukee, WI 53215. Applicant's representative: Ed H. Semrad (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass aquariums and versa tops*, uncrated, from points in Milwaukee County, Wis., to points in Illinois, Indiana, Ohio, Michigan, Minnesota, Iowa, Pennsylvania, Missouri, Kansas, Kentucky, Tennessee, West Virginia, and New York, for 180 days. Supporting shipper: All-Glass Aquarium Co., Inc. 4758 Kingan Avenue, Cudahy, Wis. 53110 (Roger C. Ritzow). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 103494 (Sub-No. 22 TA), filed October 28, 1971. Applicant: EASLEY HAULING SERVICE, INC., Gun Club Road, Post Office Box 1261, Yakima, WA 98907. Applicant's representative: Normand Richardson (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper shipping containers*, from Yakima and Longview, Wash., to points in Idaho, for 180 days. Supporting shipper: Longview Fibre Co., Post Office Box 639, Longview, WA 98632. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 113678 (Sub-No. 440 TA), filed October 28, 1971. Applicant: CURTIS, INC., Post Office Box 16004, Stockyards Station, Denver, CO 80216, Office: 4810 Pontiac Street, Commerce City, CO 80022. Applicant's representative: David L. Metzler (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials and supplies* used in the manufacture of aquariums and household pet cages, from Harleysville, Pa., to Gardena and Mountain View, Calif., for 180 days. Supporting shipper: Metaframe Corp., 87 Route 17, Maywood, NJ 07607. Send protests to: District Supervisor Herbert C. Ruoff, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 119657 (Sub-No. 14 TA), filed October 27, 1971. Applicant: GEORGE TRANSIT LINE, INC., 760–764 Northeast 47th Place, Des Moines, IA 50313. Applicant's representative: Kenneth F. Dudley, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bags and containers*, from Des Moines, Iowa, to points in Colorado, Illinois, Iowa, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin, for 180 days. Supporting shipper: Great Plains Bag Co., 2201 Bell Avenue, Des Moines, IA 50321. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 124383 (Sub-No. 10 TA), filed October 28, 1971. Applicant: STAR LINE TRUCKING CORPORATION, 18460 West Lincoln Avenue, New Berlin, WI 53151. Applicant's representative: Michael Wagner (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand, gravel aggregates*, from Antioch, Ill., to Kenosha, Wis., for 180 days. Supporting shippers: Kenosha Material, Inc., 919 50th Street (Curt Swigart, Manager); Ken-Crete Products Co., Inc., 7900 75th Street, Kenosha, WI 53140 (Arnold W. Johnson, President); Thomas G. Thompson, President, Thompson Concrete Products Co., Inc., 3506 67th Street, Kenosha, WI 63140. Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 124679 (Sub-No. 45 TA), filed October 28, 1971. Applicant: C. R. ENGLAND & SONS, INC., 975 West 2100 South Street, Salt Lake City, UT 84119. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Blood plasma, human*, from Harrisburg, Pa., and Cleveland, Ohio, to Berkeley, Calif., for 180 days. Supporting shipper: Cutter Laboratories, Inc., Fourth and Parker Streets, Berkeley, CA 94710 (Lester T. Fitzsimmons, Traffic Manager). Send protests to: John T. Vaughan, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5239 Federal Building, Salt Lake City, Utah 84111.

No. MC 135046 (Sub-No. 7 TA), filed October 28, 1971. Applicant: ARLINGTON J. WILLIAMS, INC., Rural Delivery 3, South Dupont Highway, Smyrna, DE 19977. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic resin powder*, in bags and containers, from Perryville, Md., to Advance, Mo., for 180 days. Supporting shipper: G. E. Hooven, Traffic Manager, the Firestone Tire & Rubber Co., Post Office Box 699, Pottstown, PA 19464. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 814–B Federal Building, Baltimore, Md. 21201.

No. MC 135789 (Sub-No. 2 TA), filed October 29, 1971. Applicant: GASOLINE TANK SERVICE, INC., 1424 Washington Building, Seattle, Wash. 98101. Applicant's representative: George R. LaBissoniere (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bulk asphalt and residual fuel oils*, from Pasco, Wash., to points in Oregon north of Highway 26 and east of Highway 97, for 180 days. Supporting shipper: Western Fuel Co., South First Avenue and Walnut Street, Yakima, WA 98901. Send protests to: E. J. Casey, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 136025 (Sub-No. 1 TA), filed October 29, 1971. Applicant: C. A. MARTIN, doing business as C. A. MARTIN TRUCKING, Box 175, Bowling Green, VA 22427. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed stone*, in bulk, in dump vehicles, from the facilities of Culpeper Stone Co., at or near Culpeper and Fredericksburg, Va., to Wicomico Shores, Md., for 180 days. Supporting shipper: Culpeper Stone Co., Box 650, Culpeper, VA 22701. Send protests to: Robert W. Waldron, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 10–502 Federal Building, Richmond, Va. 23240.

No. MC 136042 (Sub-No. 1 TA), filed October 27, 1971. Applicant: ALVIN BURKE & DARRELL BURKE, doing business as BURKE TRUCKING, Box 46, Isabel, SD 57633. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, from Savage, Minn., to Isabel, S. Dak., for 180 days. Supporting shipper: Isabel Exchange, Inc., Isabel, S. Dak., R. S. Fleming, Manager. Send protests to: J. L. Hammond, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 136068 (Sub-No. 1 TA), filed October 22, 1971. Applicant: TRIPPER OVERLAND CARRIER, INC., Post Office Box 445, Applegate, CA 95703. Applicant's representative: Raymond A. Naylor (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automobile sleeper kits*, from Calexico, Calif., to points in the continental United States, and *returned shipments* from all points in the continental United States to Calexico, Calif., under contract with Tripper Industries, Inc., for 180 days. Supporting shipper: Tripper Industries, Inc., 1533 Monrovia, Newport Beach, CA 92660. Send protests to: District Supervisor Wm. E. Murphy,

Bureau of Operations, Interstate Commerce Commission, 450 Golden Gate Avenue, Box 36004, San Francisco, CA 94102.

No. MC 136100 TA, filed October 21, 1971. Applicant: K & K TRANSPORTATION CORP., 4515 Number 24 Street, Omaha, NE 68110. Applicant's representative: Einar Viren, 904 City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic film other than cellulose, cotton twine, pressure-sensitive tape, poly bags, plastic trays, electrical tools, heat seal labels, pressure-sensitive labels, register and detail register tapes, marking pens, sawdust, gummed paper tapes, staples, aluminum trays, paper clips, cotton caps, plastic aprons, metal bag closures, moulding paper in rolls and sheets*, (a) from Omaha, Nebr., to Little Rock, Ark., Phoenix, Ariz., Los Angeles, Merced, Sacramento, and San Francisco, Calif., Denver, Colo., Jacksonville, Fla., Atlanta, Ga., Chicago, Ill., Shreveport, La., Kansas City, Mo., Butte, Mont., Las Vegas, Nev., Oklahoma City and Tulsa, Okla., Portland, Oreg., Dallas and El Paso, Tex., Seattle and Spokane, Wash., Washington, D.C., Salt Lake City, Utah, (b) and on return, *plastic film, wrapping aids, cutting tables, bag closures, caps, adding machine tape, register and detail paper, twine, hamburger paper, waxfold, lettuce sheets, berry covers, platter paper, vexar netting, paper clips, zip netting, silicone spray, poultry pads and cellu lines, poly bags, cellophene tapes, masking tapes, filoment tapes, meat trays, staples, cellophane sheets and rolls, frozen potatoes, and frozen vegetables*, from Los Angeles and Sanger, Calif.; American Falls and Nampa, Idaho; Chicago and Jacksonville, Ill.; Fort Madison and Olewine, Iowa; Port Austin, Mich.; St. Louis, Mo.; Long Island City and New Rochelle, N.Y.; Hoboken, N.J.; Hickory and Patterson, N.C.; Akron and Cleveland, Ohio; Milton Freewater, Oreg.; Dowington and Marcus Hook, Pa.; and Fredricksburg, Va., to Omaha, Nebr., under contract with Midwest Supply Co., a division of the Alger Corp.;

(2) From Omaha, Nebr., to Blytheville and Hope, Ark., Phoenix, Ariz., Nassau, Bahamas; Los Angeles, Oakland, Redwood City, Berkeley, Sacramento, San Diego, and San Francisco, Calif.; Denver Colo.; Wethersfield, Conn.; Daytona Beach, Jacksonville, Miami, and Tampa, Fla.; Honolulu, Hawaii; Kansas City and Wichita, Kans.; Bloomington, Chicago, Elk Grove Village, Champaign, Rockford, and Schiller Park, Ill.; Indianapolis, Ind.; Davenport, Des Moines, Marshalltown, Sioux City, and Waterloo, Iowa; Natick, Mass.; Detroit and Livonia, Mich.; Duluth, Hopkins, Rochester, St. Paul, and Winona, Minn.; Boonville, Cape Girardeau, Hazelwood, Jefferson City, Kansas City, North Kansas City, Rolla, St. Joseph, and St. Louis, Mo.; East Orange, N.J.; Bronx, Brooklyn, New York, Norwich, Rye and Syracuse, N.Y.; Fargo and Grand Forks, N. Dak.; Charlotte and High Point, N.C.; Albuquerque and Gallup, N. Mex.; Cincinnati, Cleveland, Columbus, Marion, Martel, Toledo and Youngstown, Ohio; Pago Pago, POE San Francisco, Calif.; McKeesport, Pa.; Rapid City and Sioux Falls, S. Dak.; Chattanooga and Memphis, Tenn.; Dallas, Tex.; Ogden, Utah; Vernoa, Va.; Seattle, Wash.; Washington, D.C.; Bluefield, W. Va.; Barren, Eau Claire, La Crosse, and Milwaukee, Wis., under contract with Malnove Specialty Box Co. NOTE: To be delivered to the port of embarkation to these points; (3) *Carton forming machinery*, to and from Omaha, Nebr., to the aforesaid destinations and between the aforesaid destinations; and (4) *plastic film*, from Chicago, Ill., and Bridgeport, Conn., to Omaha, Nebr., for 180 days. Supporting shipper: Midwest Supply Co., a division of the Alger Corp., 4515 North 24th Street, Omaha, NE 68110; Malnove Specialty Box Co., 915 North 20th Street, Omaha, NE 68102. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 711 Federal Office Building, Omaha, Nebr. 68102.

MOTOR CARRIER OF PASSENGERS

No. MC 136102 TA, filed October 26, 1971. Applicant: CAROLINA BLUE BIRD EXPRESS, INC., Route 2, Box 13, Ridgeland, SC 29936. Applicant's representative: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, S.C. 29201. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers, baggage, and express*, between Hilton Head Island, S.C., and Savannah, Ga., serving all intermediate points, over U.S. Highway 278 to junction of South Carolina Highway 46, thence southwesterly to junction of U.S. Highway 170, thence southerly to junction of unnumbered State road, thence southerly over the unnumbered State road to its junction with U.S. Highway 17A, thence southerly over U.S. Highway 17A to destination, and return over the same route, for 180 days. Supporting shippers: Malphrus Construction Co., Post Office Box 5151, Hilton Head Island, SC; Colonna Shell Service, Bluffton, S.C.; Hilton Head Shell Service, Inc., Highway 278, Hilton Head Island, S.C.; Graves Construction Co., Inc., Post Office Box 5126, Hilton Head Island, SC; Roller's Texaco, Hilton Head Island, S.C.; Capin's Plaza Pharmacy, Hilton Head Island, SC.; Marke's AC Heat Refrigi, Post Office Box 5021, Hilton Head Island, SC. Send protests to: E. E. Strotheid, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 300 Columbia Building, 1200 Main Street, Columbia SC 29201.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16343 Filed 11-8-71;8:49 am]

[Notice 778]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 4, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–73225. By order of October 19, 1971, the Motor Carrier Board approved the transfer to Distillery Transfer Service, Inc., Bardstown, Ky., of certificate No. MC–32633 issued June 20, 1961, to Fred E. Sadler, doing business as Sadler Truck Line, Shepardsville, Ky., authorizing the transportation of: General commodities, with exceptions, between specified points solely within the State of Kentucky. Robert H. Kinker, attorney, Box 464, Frankfort, KY 46001.

No. MC–FC–73256. By order of October 29, 1971, the Motor Carrier Board approved the transfer to Merit Freight, Inc., Cambridge, Mass., of certificate No. MC–15936 issued April 5, 1971, to Boston & Springfield Despatch, Inc., Dansbury, Conn., authorizing the transportation of: General commodities, usual exceptions, between specified points and areas in Massachusetts, Connecticut, and Rhode Island. Kenneth B. Williams, attorney, 111 State Street, Boston, MA 02109.

No. MC–FC–73270. By order of October 29, 1971, the Motor Carrier Board approved the transfer to P. Salvino Transport, Inc., Seattle, Wash., of permit No. MC–74647, issued May 24, 1955, to Pasco Salvino, doing business as P. Salvino Transport, Seattle, Wash., authorizing the transportation of: Matches, fiberboard boxes, paper boxes, pulpboard boxes, paperboard boxes, strawboard boxes, dividers, factory materials, factory supplies, canned, and cold packed fruits and vegetables, cannery supplies, pulpboard, and paperboard, and canned goods, from, to, or between specified points in Washington, Oregon, and Idaho. Joseph O. Earp, 607 Third Avenue, Seattle, WA 98104, representative for applicants.

No. MC–FC–73275. By order of October 29, 1971, the Motor Carrier Board approved the transfer to the Bridgeport Storage Co., a corporation, Bridgeport, Conn., of the operating rights in certificate No. MC–34078 issued March 5, 1968,

to James M. Crossin, doing business as Arnold Movers, Bridgeport, Conn., authorizing the transportation of household goods between Bridgeport, Conn., and points within 10 miles thereof, on the one hand, and, on the other, points in New York, New Jersey, Pennsylvania, Massachusetts, Rhode Island, Maryland, and Delaware. Paul J. Goldstein, 109 Church Street, New Haven, CT 06510, attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16344 Filed 11-8-71;8:49 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23267; Order 71-11-23]

AIRLINES INDUSTRIAL RELATIONS CONFERENCE

Order Regarding Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 3d day of November 1971.

Investigation of the Airlines Industrial Relations Conference, Docket No. 23267, agreements CAB 22367 and 22368.

By Order 71-4-167 the Board established a procedural framework for the submission of comments concerning the two agreements described therein.[1] In response to this order the Airline Industrial Relations Conference (the Conference) and its members submitted opening and closing comments. Opposition comments were filed by the Flight Engineers' International Association; by the Air Line Dispatchers Association, the Brotherhood of Railway and Airline Clerks, the International Association of Machinists and Aerospace Workers, and the Transport Workers Union of America (jointly); by the Allied Pilots Association and the Aircraft Mechanics Fraternal Association (jointly); by the Air Line Employees Association, International; and by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America. The Air Line Pilots Association submitted a motion for an evidentiary hearing.

After considering the importance of the proposed agreements, the complexity of the questions involved, the widespread opposition to the agreements and the multiple requests for a hearing from the opposition parties,[2] the Board has concluded that the matter should be set for expedited hearing.

In our view, the following questions, among others, are relevant in determining whether the agreements are consistent with the public interest and do not violate any provisions of the Act, and should be considered more fully in the hearing:

1. Do the agreements by themselves, or in conjunction with the operation of the Mutual Aid Pact, violate any applicable provisions of the Railway Labor Act?[3]

2. Will the operation of the agreements improve or impair labor-management relations in the industry?

3. Will the agreements discriminate in restraint of trade against certificated carriers not party to the agreements, or in any way violate antitrust laws?[4]

4. What effect, if any, will the agreements have upon the bargaining balance between labor and management?

5. What are the implications and effects of Phase II of the Wage-Price Freeze as it pertains to these agreements?

The Conference and its members individually, together with the objecting unions, will be made parties to the investigation.

Accordingly, it is ordered, That:

1. Agreements CAB 22367 and 22368 (Docket 23267) be and they hereby are set for expedited hearing before an examiner of the Board at a time and place to be hereafter designated;

2. The Airline Industrial Relations Conference and each of its members, and each union named on pages 1-2, supra, be and they hereby are made parties to this proceeding and each shall be served with a copy of this order; and

3. Participation in this proceeding by the Departments of Justice, Labor, and Transportation is invited. In order to facilitate that participation, each of those Departments is hereby made a party to this proceeding and shall be served with a copy of this order.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.71-16351 Filed 11-8-71;8:50 am]

[1] The agreements creating the Airline Industrial Relations Conference have been amended three times since Order 71-4-167. The sole purpose of one amendment was to substitute the words "the Conference" for the word "Airco" whenever the latter appeared in the agreements. By two separate amendments Ozark Air Lines, Inc., and Texas International Airlines, Inc., were made parties to the agreements.

[2] In addition to the motion for a hearing submitted by the Air Line Pilots Association, requests for a hearing were made by the Air Line Dispatchers Association et al. and the International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers.

[3] Agreement CAB 21445, Docket 9977.

[4] As an issue relevant to this question, is the present tiered system of representation on the Board of Directors (one director for each trunk and Pan American, and up to three directors for all other certificated carriers combined) in the public interest?

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

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to James M. Crossin, doing business as Arnold Movers, Bridgeport, Conn., authorizing the transportation of household goods between Bridgeport, Conn., and points within 10 miles thereof, on the one hand, and, on the other, points in New York, New Jersey, Pennsylvania, Massachusetts, Rhode Island, Maryland, and Delaware. Paul J. Goldstein, 109 Church Street, New Haven, CT 06510, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16344 Filed 11-8-71;8:49 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23267; Order 71-11-23]

AIRLINES INDUSTRIAL RELATIONS CONFERENCE

Order Regarding Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 3d day of November 1971.

Investigation of the Airlines Industrial Relations Conference, Docket No. 23267, agreements CAB 22367 and 22368.

By Order 71-4-167 the Board established a procedural framework for the submission of comments concerning the two agreements described therein.[1] In response to this order the Airline Industrial Relations Conference (the Conference) and its members submitted opening and closing comments. Opposition comments were filed by the Flight Engineers' International Association; by the Air Line Dispatchers Association, the Brotherhood of Railway and Airline Clerks, the International Association of Machinists and Aerospace Workers, and the Transport Workers Union of America (jointly); by the Allied Pilots Association and the Aircraft Mechanics Fraternal Association (jointly); by the Air Line Employees Association, International; and by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America. The Air Line Pilots Association submitted a motion for an evidentiary hearing.

After considering the importance of the proposed agreements, the complexity of the questions involved, the widespread opposition to the agreements and the multiple requests for a hearing from the opposition parties,[2] the Board has concluded that the matter should be set for expedited hearing.

In our view, the following questions, among others, are relevant in determining whether the agreements are consistent with the public interest and do not violate any provisions of the Act, and should be considered more fully in the hearing:

1. Do the agreements by themselves, or in conjunction with the operation of the Mutual Aid Pact, violate any applicable provisions of the Railway Labor Act?[3]

2. Will the operation of the agreements improve or impair labor-management relations in the industry?

3. Will the agreements discriminate in restraint of trade against certificated carriers not party to the agreements, or in any way violate antitrust laws?[4]

4. What effect, if any, will the agreements have upon the bargaining balance between labor and management?

5. What are the implications and effects of Phase II of the Wage-Price Freeze as it pertains to these agreements?

The Conference and its members individually, together with the objecting unions, will be made parties to the investigation.

Accordingly, it is ordered, That:

1. Agreements CAB 22367 and 22368 (Docket 23267) be and they hereby are set for expedited hearing before an examiner of the Board at a time and place to be hereafter designated;

2. The Airline Industrial Relations Conference and each of its members, and each union named on pages 1-2, supra, be and they hereby are made parties to this proceeding and each shall be served with a copy of this order; and

3. Participation in this proceeding by the Departments of Justice, Labor, and Transportation is invited. In order to facilitate that participation, each of those Departments is hereby made a party to this proceeding and shall be served with a copy of this order.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-16351 Filed 11-8-71;8:50 am]

[1] The agreements creating the Airline Industrial Relations Conference have been amended three times since Order 71-4-167. The sole purpose of one amendment was to substitute the words "the Conference" for the word "Airco" whenever the latter appeared in the agreements. By two separate amendments Ozark Air Lines, Inc., and Texas International Airlines, Inc., were made parties to the agreements.

[2] In addition to the motion for a hearing submitted by the Air Line Pilots Association, requests for a hearing were made by the Air Line Dispatchers Association et al. and the International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers.

[3] Agreement CAB 21445, Docket 9977.

[4] As an issue relevant to this question, is the present tiered system of representation on the Board of Directors (one director for each trunk and Pan American, and up to three directors for all other certificated carriers combined) in the public interest?

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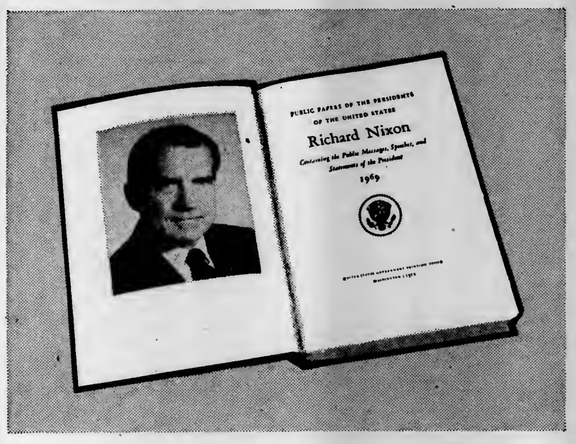

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18–50 21507
18–51 21508
18–52 21513

45 CFR
213 21520

46 CFR
PROPOSED RULES:
542 21524
546 21524

49 CFR
1033 21452
1048 21452
PROPOSED RULES:
1048 21524

50 CFR
33 21520

Rules and Regulations

Title 7—AGRICULTURE

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER I—DETERMINATION OF PRICES

PART 874—SUGARCANE; LOUISIANA

Fair and Reasonable Prices for 1971 Crop

Correction

In F.R. Doc. 71-15179 appearing at page 20287 in the issue for Wednesday, October 20, 1971, the following changes should be made in the table entitled "Standard Sugarcane Purity Factor" in § 874.36(b):

1. In the fourth column, the last figure should read "1.062".

2. In the fifth column, the third figure from the bottom should read "1.049".

3. In the sixth column, the fifth figure from the bottom should read "1.036".

4. In the last column, the last six figures should read ".995", ".998", "1.000", "1.004", "1.007", and "1.010", respectively.

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 966—TOMATOES GROWN IN FLORIDA

Limitation of Shipments

Findings. (a) Pursuant to Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR Part 966), regulating the handling of tomatoes grown in the production area, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and upon the basis of the recommendation and information submitted by the Florida Tomato Committee, established pursuant to said marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments hereinafter set forth will tend to effectuate the declared policy of the act.

(b) It is hereby found that it is impracticable to give preliminary notice, or engage in public rule making procedure, and that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because (1) the time intervening between the date when the information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient since the shipping season has already begun, (2) more orderly marketing than would otherwise prevail will be promoted by regulating the handling of tomatoes in the manner set forth in this section, (3) compliance with this regulation will not require any special preparation by handlers which cannot be completed by the effective date, (4) reasonable time is permitted, under the circumstances, for such preparation, (5) information regarding the committee's recommendation has been made available to producers and handlers in the production area, and (6) this regulation applies only to shipments of tomatoes grown in the Florida production area. It does not apply to imports.

Statement of consideration. Standardization of size classification and container weights as well as inspection requirements are necessary for orderly marketing. Such requirements will contribute to the prevention of deceptive packing practices and will thus provide a basis for informed sale and purchase decisions on the part of both handlers and consumers.

Shipments may be made to certain special purpose outlets without regard to the above requirements: *Provided*, That safeguards are used to prevent such tomatoes from reaching unauthorized outlets. Tomatoes for canning are so exempted because the needs of this outlet differ substantially from those of fresh market shipments. Likewise shipments for relief or charity are exempt from all requirements; to do otherwise would serve no useful purpose.

Inasmuch as there is a special demand for small sizes of tomatoes for processing into pickles and since such outlets can utilize shipments in bulk or other container form, shipments of tomatoes for such purpose which are $2\frac{4}{32}$ inches in diameter or smaller are exempt from container requirements. Shipments for export are exempted from size classification and container requirements in order to accommodate the different preferences which may occur in export outlets.

Up to 60 pounds of tomatoes per day may be handled without regard to size classification, container, or inspection requirements in order to avoid placing an unreasonable burden on persons handling noncommercial quantities of tomatoes.

§ 966.309 Limitation of shipments.

From the effective date hereof through June 30, 1972, the following regulations shall be effective with respect to all varieties of tomatoes handled, except elongated types, commonly referred to as pear shaped or paste tomatoes and including, but not limited to, San Marzano, Red Top, and Roma varieties; cerasiform-type tomatoes, commonly referred to as cherry tomatoes; hydroponic tomatoes; and greenhouse tomatoes.

(a) *Size classifications.* (1) No person shall handle any lot of tomatoes unless they are sized in one or more of the following ranges of diameters (expressed in terms of minimum and maximum). Measurement of minimum and maximum diameter shall be in accordance with the methods prescribed in the U.S. Standards for Grades of Fresh Tomatoes (§§ 51.1855 to 51.1877 of this title).

Size classification:	*Diameter (inches)*
7 x 8 and smaller.	$2\frac{4}{32}$ and smaller.
7 x 7 -------	Over $2\frac{4}{32}$ to $2\frac{9}{32}$, inclusive.
6 x 7 -------	Over $2\frac{9}{32}$ to $2\frac{17}{32}$, inclusive.
6 x 6 -------	Over $2\frac{17}{32}$ to $2\frac{25}{32}$, inclusive.
5 x 6 -------	Over $2\frac{25}{32}$.

(2) Tomatoes of designated sizes may not be commingled unless they are over $2\frac{17}{32}$ inches in diameter and each container shall be marked to indicate the designated size.

(3) To allow for variations incident to proper sizing, not more than a total of ten (10) percent, by count, of the tomatoes in any lot may be smaller than the specified minimum diameter or larger than the maximum diameter.

(b) *Containers.* (1) No person shall handle any lot of tomatoes unless they are packed within one of the following net weight ranges:

Container net weight	Minimum net weight	Maximum net weight
	Pounds	
20	20	$21\frac{1}{2}$
30	30	$31\frac{1}{2}$
40	40	$41\frac{1}{2}$
60	60	$61\frac{1}{2}$

(2) To allow for variations incident to proper packing, not more than a total of 10 percent, by count, of the containers in any lot may vary from the net weight specified.

(c) *Inspection.* No person shall handle any lot of tomatoes unless such tomatoes are inspected and certified pursuant to the provisions of § 966.60. Each handler who applies for inspection shall be registered with the committee pursuant to § 966.7. Annual certificates of registration will be issued to known handlers and to new handlers upon application to the committee and each will be assigned a registration number. Registered handlers are the first handlers of tomatoes and shall pay assessments as provided in § 966.42.

(d) *Truck shipments.* For purposes of these regulations, the rule, § 966.140, relating to truck shipments of tomatoes grown in the Florida production area, shall continue in effect.

(e) *Minimum quantity.* For purposes of these regulations, each person subject thereto may handle, pursuant to § 966.53,

up to, but not to exceed, 60 pounds of tomatoes per day without regard to the requirements of this part, but this exception shall not apply to any shipment or any portion thereof of over 60 pounds of tomatoes.

(f) *Special pack requirements.* The tomato size classifications of paragraph (a) of this section and the container weight requirements of paragraph (b) of this section shall not be applicable to tomatoes packed in cupped trays, or when in containers customarily packed for the retail trade, if such tomatoes are handled in accordance with the reporting requirements of paragraph (g) of this section.

(g) *Reporting requirements.* Each handler making shipments of tomatoes pursuant to this section shall report to the committee on forms furnished by the committee such information on the shipments as may be required by the committee pursuant to § 966.80. Such reports shall be made within 10 days after shipment.

(h) *Special purpose shipments.* (1) The requirements of paragraphs (a), (b), and (c) of this section shall not be applicable to shipments of tomatoes for canning, relief or charity if the handler thereof complies with the safeguard requirements of paragraph (i) of this section. Shipments for canning are exempt from the assessment requirements of this part.

(2) The requirements of paragraphs (a) and (b) of this section shall not be applicable to shipments of tomatoes which are 2 2/32 inches in diameter or smaller for processing into pickles if the handler thereof complies with the safeguard requirements of paragraph (i) of this section.

(3) The requirements of paragraphs (a) and (b) of this section shall not be applicable to shipments of tomatoes for export if the handler thereof complies with the safeguard requirements of paragraph (i) of this section.

(i) *Safeguards.* Each handler making shipments of tomatoes for processing into pickles, for canning, for relief or charity, or for export in accordance with paragraph (h) of this section shall:

(1) First apply to the committee for and obtain a certificate of privilege to make such shipments;

(2) Prepare, on forms furnished by the committee, a report in quadruplicate on each individual shipment to such outlets authorized in paragraph (h) of this section;

(3) Bill or consign each shipment directly to the designated applicable receiver; and

(4) Forward one copy of such report to the committee office, and two copies to the receiver for signing and returning one copy to the committee office. Failure of the handler or receiver to report such shipments by signing and returning the applicable report to the committee office within 10 days after shipment shall be cause for cancellation of such handler's certificate and/or the receiver's eligibility to receive further shipments pursuant to such certificate. Upon cancellation of any such certificate the handler may appeal to the committee for reconsideration.

(j) *Definitions.* "Hydroponic Tomatoes" means tomatoes grown in solution without soil. "Greenhouse Tomatoes" means tomatoes grown indoors. Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 125, as amended, and this part.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: Dated November 8, 1971, to become effective upon publication (11–10–71).

ARTHUR E. BROWNE,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71–16434 Filed 11–9–71;8:52 am]

Chapter XVIII—Farmers Home Administration, Department of Agriculture

SUBCHAPTER G—MISCELLANEOUS REGULATIONS

[AL–50(400)]

PART 1890p—NONDISCRIMINATION IN CONSTRUCTION FINANCED WITH A FARMERS HOME ADMINISTRATION LOAN OR GRANT

Subchapter G is amended by adding a new Part 1890p, supplementing certain preceding parts of this chapter. New Part 1890p reads as follows:

Sec.
1890p.1 Purpose.
1890p.2 Definitions.
1890p.3 Scope.
1890p.4 Exemptions.
1890p.5 Requirements.
1890p.6 Compliance reviews.
1890p.7 Complaints.

AUTHORITY: The provisions of this Part 1890p issued under sec. 339, 75 Stat. 318, 7 U.S.C. 1989, sec. 510, 63 Stat. 437, 42 U.S.C. 1480, sec. 4, 64 Stat. 100, 40 U.S.C. 442, sec. 602, 78 Stat. 528, 42 U.S.C. 2942, sec. 301, 80 Stat. 379, 5 U.S.C. 301; Orders of Secretary of Agriculture, 29 F.R. 16210, 32 F.R. 6650, 33 F.R. 9677; Order of Director, OEO, 29 F.R. 14764.

§ 1890p.1 Purpose.

This part supplements parts 1804, 1821, Subparts A, C, D, E, F, G, and J of Part 1822, Subparts A, B, D, E, F, H, I, J, K, and L of Part 1823, and Subpart A of Part 1832 of this chapter, and implements the regulations of the Secretary of Labor under Executive Order 11246, as amended. These regulations assure equal employment opportunity without regard to race, color, religion, sex, or national origin and the elimination of all facilities segregated on the basis of race, color, religion, or national origin on construction work financed by the Farmers Home Administration (FHA).

§ 1890p.2 Definitions.

(a) "Applicant" means an applicant for an FHA direct or insured loan or an FHA grant and includes such an applicant after reciving an FHA loan or grant.

(b) "Construction work" means the construction, rehabilitation, alteration, conversion, extension, demolition, or repair of buildings, roads, or other changes or improvements to real property, including facilities providing utility services.

(c) "Contractor" means the prime party who performs construction work.

(d) "Construction contract" means a legally binding agreement for construction work paid for in whole or in part with an FHA loan or grant. This agreement may be between the applicant and a contractor, a contractor and subcontractor, or the Government and the applicant in the case of construction by the borrower method.

(e) "Subcontract" means an agreement or purchase order between a contractor and another party for supplies, services, or the use of real or personal property which is necessary for the performance of a construction contract.

(f) "Subcontractor" means any party holding a subcontract whether from the prime contractor or another subcontractor.

§ 1890p.3 Scope.

This part applies to any FHA loan or grant which may involve a construction contract of over $10,000. Applicability will be determined on the estimated value of the construction contract not on the amount of the loan. If construction work of over $10,000 is partially financed through the participation of another Federal agency, the County Supervisor will try to reach an agreement on which agency will administer the nondiscrimination regulations. If he is unable to reach agreement, he will refer the case to the State Director who will try to reach such agreement. Any questions on whether a particular contract is subject to this part should be referred to the State Director.

§ 1890p.4 Exemptions.

(a) Any applicant whose loan will not be used even partially to finance construction work.

(b) Any construction contract of $10,000 or less.

(c) Any agency of a State or local government which does not actually participate in work under a construction contract or subcontract.

(d) Construction performed by the borrower method which does not involve a subcontract of $10,000 or more.

§ 1890p.5 Requirements.

(a) *The applicant.* Before loan closing, each applicant whose loan or grant involves a construction contract of more than $10,000 will execute Form FHA 400–1, "Equal Opportunity Agreement," which includes an Equal Employment clause. If the applicant is an incorporated association, a resolution of the governing body will have to authorize the execution of this form. Municipalities or other public bodies will incorporate references to this form in the loan resolution before it is adopted.

(b) *The contractor or subcontractor—*(1) *Contracts or subcontracts of over $10,000.* (i) Before or as a part of the bid or negotiation, the prospective contractor or subcontractor must submit Form FHA 400–6, "Compliance Statement." No prospective contractor will be eligible for an FHA financed contract until he has filed all the compliance reports required of him under previous contracts.

(ii) An Equal Opportunity Clause will be part of each contract and subcontract. This clause has been incorporated in Form FHA 424–6, "Construction Contract."

(iii) With the notification of the contract award, the contractor will receive:

(*a*) Form FHA 400–3, "Notice to Contractors and Applicants," with an attached Equal Employment Opportunity Poster. Posters in Spanish will be provided and displayed where a significant portion of the population is Spanish speaking.

(*b*) Form AD–425, "Contractor's Affirmative Action Plan for Equal Employment Opportunity Under Executive Order 11246 and Executive Order 11375," if the contractor is subject to the requirements of subparagraph (3) of this paragraph.

(2) *Contractor or subcontractor has 100 or more employees and a contract of $10,000 or more.* In addition to meeting the requirements of subparagraph (1) of this paragraph, each contractor or subcontractor must file Standard Form 100, "Employer Information Report EEO–1," with the Joint Reporting Committee within 30 days of the contract award unless this report has already been submitted within the last 12 months. An annual report will be filed on or before March 31 as long as the contractor holds FHA financed contracts equal to $10,000 or more. Failure to file timely, complete, and accurate reports constitutes noncompliance with the Equal Opportunity Clause. Report forms are distributed by the Joint Reporting Committee and any questions on this Form should be addressed by the contractor to the Joint Reporting Committee, 1800 G Street NW., Washington, DC 20506.

(3) *Contracts or subcontracts of $50,000 or more where the contractor or subcontractor has 50 or more employees.* In addition to the requirements of subparagraph (1) of this paragraph, each *such contractor or subcontractor must* develop a written affirmative action compliance program for each of his establishments and put it on file in each personnel office within 120 days of the commencement of the contract. Form AD–425 provides guidelines for the contractor in developing such a program.

§ 1890p.6 Compliance reviews.

(a) During construction inspections the County Supervisor will check to see that the required posters are displayed; the facilities are not segregated; and, there is no evidence of discrimination in employment. Findings will be reported on Form FHA 424–12, "Inspection Report." If there is any evidence of noncompliance, the County Supervisor will try to achieve voluntary compliance. If he fails, he will report all the facts to the State Director who will also attempt to achieve compliance. If these attempts fail, the State Director will report all the facts to the National Office.

(b) The Department Contracts Compliance Officer may request special compliance reviews at any time.

§ 1890p.7 Complaints.

Any employee of or applicant for employment with a contractor or subcontractor subject to this part may file a written complaint of discrimination with the County Supervisor or State Director.

(a) A written complaint of alleged discrimination must be signed by the complainant and should include the following information:

(1) The name and address (including telephone number) of the complainant.

(2) The name and address of the person committing the alleged discrimination.

(3) A description of the acts considered to be discriminatory.

(4) Any other pertinent information that will assist in the investigation and resolution of the complaint.

(b) If a complaint does not include all the required information, the official receiving the complaint will help the complainant provide the additional information.

(c) Such complaint must be filed not later than 180 days from the date of the alleged discrimination unless the time for filing is extended by the State Director for good cause shown.

(d) All complaints will immediately be sent to the National Office. The County Supervisor or State Director will include the amount of the contract, whether or not the contractor has submitted the required Forms, and any other pertinent information in the memorandum transmitting the complaint.

Dated: November 3, 1971.

JOSEPH HASPRAY,
Deputy Administrator, Farmers Home Administration.

[FR Doc.71–16393 Filed 11–9–71;8:48 am]

Title 12—BANKS AND BANKING

Chapter I—Bureau of the Comptroller of the Currency, Department of the Treasury

PART 11—SECURITIES ACT DISCLOSURE RULES

Forms for Annual Report of Bank and Statements of Beneficial Ownership of Equity Securities

These amendments are issued under the authority of section 12(i) (15 U.S.C. 781–(i)) of the Securities Exchange Act of 1934. Since the amendments are for clarification and correction of the regulation describing the form for annual report of bank and forms relative to statements of beneficial ownership of equity securities, notice and public procedure are found to be unnecessary and not in the public interest. Accordingly, the amendments will become effective upon publication (11–10–71). Sections 11.42, 11.61, and 11.62 referred to in these amendments were published as part of the Securities Act Disclosure Rules in FEDERAL REGISTER Volume 36, No. 156, Thursday, August 12, 1971 (36 F.R. 14997).

Section 11.42, *Form for annual report of bank (Form F–2)* is hereby amended as follows:

Paragraph B is deleted in its entirety. Paragraph C is redesignated as paragraph B and is revised to read as follows:

§ 11.42 Form for annual report of bank (Form F–2).

* * * * * *

B. *Annual reports to stockholders.* Every bank that files an annual report on this form shall furnish to the Comptroller for his information four copies of any annual report to security holders covering such registrant bank's latest fiscal year, unless copies thereof are furnished to the Comptroller pursuant to § 11.5. Such report shall be mailed to the Comptroller not later than the date on which it is first sent or given to security holders, but shall not be deemed to be "filed" with the Comptroller or otherwise subject to the liabilities of section 18 of the Act, except to the extent that the bank specifically requests that it be treated as a part of its annual report on the form or incorporates it herein by reference. If no annual report is submitted to security holders for the bank's latest fiscal year, the Comptroller shall be so advised. Information contained in an annual report to security holders furnished to the Comptroller pursuant to this paragraph may be incorporated by reference in answer or partial answer to any item of this form. In addition, any financial statements contained in any such annual report may be incorporated by reference if such financial statements substantially meet the requirements of this form.

* * * * * *

§ 11.61 [Amended]

Section 11.61, *Form for initial statement of beneficial ownership of equity securities (Form F–7):* Under "Instructions," paragraph 2, *When statements are to be filed,* delete subparagraph designation "(a)" and delete subparagraphs 2 (b) and (c) in their entirety.

Instruction 3, *Where and how statements are to be filed.* The first sentence is amended to read as follows: "One signed copy and three reproduced copies of each statement shall be filed with the Comptroller of the Currency, Washington, D.C. 20220."

§ 11.62 [Amended]

Section 11.62, *Form for statement of changes in beneficial ownership of equity securities (Form F–8):* Instruction 3, *Where statements are to be filed.* The first sentence is amended to read as follows: "One signed copy and three reproduced copies of each statement shall be filed with the Comptroller of the Currency, Washington, D.C. 20220."

Instruction 6, *Transactions and holdings to be reported,* is amended to read as follows:

Persons required to file statements on this form shall include in their statements all changes during the calendar month in their beneficial ownership, and their beneficial ownership at the end of the month, of all classes of equity securities of the bank, even though one or more such classes may not be registered pursuant to section 12 of the Act.

Any director or officer who is required to file a statement on Form F-8 with respect to any change in his beneficial ownership of equity securities which occurs within 6 months after he became a director or officer of the issuer of such securities, or within 6 months after equity securities of such issuer first become registered pursuant to section 12 of the Act, shall include in the first such statement the information called for by Form F-8 with respect to all changes in his beneficial ownership of equity securities of such issuer which occurred within 6 months prior to the date of the changes which requires the filing of such statement.

Any person who has ceased to be a director or officer of an issuer which has equity securities registered pursuant to section 12 of the Act, or who is a director or officer of an issuer at the time it ceased to have any equity securities so registered, shall file a statement on Form F-8 with respect to any change in his beneficial ownership of equity securities of such issuer which shall occur on or after the date on which he ceased to be such director or officer, or the date on which the issuer ceased to have any equity securities so registered, as the case may be, if such change shall occur within 6 months after any change in his beneficial ownership of such securities prior to such date. The statement on Form F-8 shall be filed within 10 days after the end of the month in which the reported change in beneficial ownership occurs.

Every change in beneficial ownership shall be reported even though purchases and sales during the month are equal or the change involves only the nature of beneficial ownership (for example from direct to indirect ownership or from one type of indirect ownership to another). Beneficial ownership at the end of the month of all classes of equity securities of the bank shall be shown even though there has been no reportable change during the month in the ownership of equity securities of a particular class.

Dated: November 4, 1971.

[SEAL] WILLIAM B. CAMP,
Comptroller of the Currency.

[FR Doc.71-16394 Filed 11-9-71;8:49 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Dichlorvos

The Commissioner of Food and Drugs has evaluated a new animal drug application (43-606V) filed by Shell Chemical Co., Agricultural Chemicals Division, 110 West 51st Street, New York, N.Y. 10020, proposing the safe and effective use of dichlorvos as an anthelmintic in swine. The application is approved.

A safe tolerance for residues of dichlorvos in food has previously been established.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), a new section is added to Part 135c, as follows:

§ 135c.50 Dichlorvos.

(a) *Chemical name.* 2,2-Dichlorvinyl dimethyl phosphate.

(b) *Specifications.* Contains 90–110 percent of labeled amount of dichlorvos.

(c) *Sponsor.* See code No. 033 in § 135.501(c) of this chapter.

(d) *Related tolerances.* See § 135g.75 of this chapter.

(e) *Conditions of use.* (1) It is recommended for the removal and control of sexually mature (adult), sexually immature and/or 4th stage larvae of the whipworm (*Trichuris suis*), nodular worms (*Oesophagostomum* sp.), large round-worm (*Ascaris suum*), and the mature thick stomach worm (*Ascarops strongylina*) occurring in the lumen of the gastrointestinal tract of pigs, boars, and open or bred gilts and sows.

(2) The preparation should be added to the indicated amount of feed as set forth in this subparagraph and administered shortly after mixing, as follows:

Weight of animal in pounds	Pounds of feed to be mixed with each 0.08 ounce of dichlorvos	Pounds of mixed feed to be administered to each pig as a single treatment	Number of pigs to be treated per 0.08 ounce of dichlorvos
20-30	4	0.33	12
31-40	5	0.56	9
41-60	6	1.00	6
61-80	5	1.00	5
81-100	4	1.00	4
Adult Gilts, Sows, and Boars	16	4.00	4

(3) Do not use this product on animals either simultaneously or within a few days before or after treatment with or exposure to cholinesterase inhibiting drugs, pesticides, or chemicals. The preparation should be mixed thoroughly with the feed on a clean, impervious surface. Do not allow swine access to feed other than that containing the preparation until treatment is complete. Do not treat pigs with signs of scours until these signs subside or are alleviated by proper medication. Resume normal feeding schedule afterwards. Swine may be retreated in 4 to 5 weeks.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (11-10-71).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: October 28, 1971.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.71-16315 Filed 11-9-71;8:45 am]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order 1077-A]

PART 1033—CAR SERVICE

Kansas City Southern Railway Co. Authorized To Operate Over Certain Trackage of Southern Pacific Transportation Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 29th day of October 1971.

Upon further consideration of Service Order No. 1077 (36 F.R. 13927 and 17344) and good cause appearing therefor:

It is ordered, That: Section 1033.1077 *Service Order No. 1077* (The Kansas City Southern Railway Co. authorized to operate over certain trackage of Southern Pacific Transportation Co.) be, and it is hereby, vacated and set aside.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1 (10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2))

It is further ordered, That this order shall become effective at 11:59 p.m., November 1, 1971; that copies of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16413 Filed 11-9-71;8:50 am]

[Ex Parte No. MC-37 (Sub-No. 1)]

PART 1048—COMMERCIAL ZONES

Syracuse, N.Y., Commercial Zone

At a session of the Interstate Commerce Commission, Review Board No. 3, members Bilodeau, Beddow, and Grossman, held at its office in Washington, D.C., on the 15th day of October 1971.

It appearing, that on June 30, 1961, the Commission, division 1, made and filed its report and order on petition in 92 M.C.C. 100, in this proceeding, specifically defining the limits of the zone adjacent to and commercially a part of Syracuse, N.Y., contemplated by section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8));

It further appearing, that by petition filed August 17, 1971, the Greater Syracuse Chamber of Commerce, Inc., seeks modification of the limits of the Syracuse, N.Y., commercial zone so as to include points within an additional specified portion of the town of Van Buren, Onodaga County, N.Y. (a New England type township);

It further appearing, that pursuant to section 553 of the Administrative Procedure Act, notice of the said petition was published in the FEDERAL REGISTER, which notice stated that no oral hearings were contemplated; that persons desiring to participate in the proceeding were invited to file representations supporting or opposing the proposal; that 35 representations were filed in support of the proposal; and that no representations were filed in opposition thereto;

It further appearing, that the area sought for inclusion within the limits of Syracuse, N.Y., commercial zone is, in fact, economically and commercially a part of Syracuse, N.Y.;

Wherefore, and good cause appearing therefor:

It is ordered, That the proceeding be, and it is hereby, reopened for reconsideration.

It is further ordered, That the report and order entered herein on June 30, 1961 (49 CFR 1048.20) be, and it is hereby, vacated and set aside and the following revision is hereby substituted in lieu thereof:

§ 1048.20 Syracuse, N.Y.

The zone adjacent to and commercially a part of Syracuse, N.Y., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuing carriage to or from a point beyond the zone is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)), includes and is comprised of all points as follows:

(a) The municipality of Syracuse, N.Y. itself;

(b) All other municipalities and unincorporated areas within 5 miles of the corporate limits of Syracuse, N.Y., and all of any other municipality any part of which lies within 5 miles of such corporate limits;

(c) Those points in the town of Geddes, Onondaga County, N.Y., which are not within 5 miles of the corporate limits of Syracuse, N.Y.;

(d) Those points in the town of Van Buren, Onondaga County, N.Y., not within 5 miles of the corporate limits of Syracuse, N.Y., and within an area bounded by a line beginning at the intersection of Van Buren Road with the line described in paragraph (b) of this section, thence northwesterly along Van Buren Road to its intersection with New York Highway 48, thence southeasterly along New York Highway 48 to its intersection with Seneca Beach Drive, thence northeasterly along Seneca Beach Drive and an imaginary extension thereof to the point where such an imaginary line intersects the Van Buren-Lysander town line, thence southeasterly along the Van Buren-Lysander town line to its intersection with the Van Buren-Geddes Town line, thence southeasterly along the Van Buren-Geddes town line to the line described in paragraph (b) of this section.

(49 Stat. 543, as amended, 49 U.S.C. 302, 303, and 304)

It is further ordered, That this order shall become effective on December 31, 1971, and shall continue in effect until further order of the Commission.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Review Board No. 3.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16414 Filed 11-9-71;8:50 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 1—Federal Procurement Regulations

PART 1-16—PROCUREMENT FORMS

Revision of Forms

This amendment of the Federal Procurement Regulations authorizes the incorporation by reference of Standard Form 33A, Solicitation Instructions and Conditions, where Standard Form 33, Solicitation, Offer, and Award, is used and provides for the modification of Standard Form 19-B, Representations and Certifications (Construction Contract), to add the size standard for concerns bidding on dredging contracts to the small business representation on the form.

The table of contents for Part 1-16 is changed to prescribe a modified entry as follows:

Sec.
1-16.105 Incorporation of Standard Forms 32 and 33A by reference.

Subpart 1-16.1—Forms for Advertised Supply Contracts

1. Section 1-16.101(a) is revised as follows:

§ 1-16.101 Contract forms.

* * * * *

(a) Solicitation, Offer, and Award (Standard Form 33, November 1969 edition). Pending the publication of a new edition of the form, Block 9 may be modified by deleting the present provision of Item 1 and by substituting therefor the following provision to permit Standard Form 33A to be incorporated by reference:

(1) Solicitation Instructions and Conditions, SF 33A ------ edition, which is attached or incorporated herein by reference.

* * * * *

2. Section 1-16.105 is revised as follows:

§ 1-16.105 Incorporation of Standard Forms 32 and 33A by reference.

Since Standard Forms 32 and 33A may be incorporated by reference in the solicitation portion of Standard Form 33, it is not necessary to attach Standard Forms 32 and 33A each time solicitations are issued to concerns regularly doing business with the Government. However, when new editions of Standard Forms 32 and 33A are issued, it is essential that agencies distribute copies thereof to all prospective bidders on their mailing lists and request that the forms be retained for future reference. When interim modifications to the forms have substantive contractual effects, information necessary for use of the forms as modified shall be included in solicitations until new editions are issued. Copies of the forms (and any information as to interim modifications, if appropriate) shall be made available promptly to prospective bidders on request.

Subpart 1-16.4—Forms for Advertised Construction Contracts

Section 1-16.401(c) is revised as follows:

§ 1-16.401 Forms prescribed.

* * * * *

(c) Representations and Certifications (Construction Contract) (Standard Form 19-B, October 1969 edition). Pending the publication of a new edition of the form, the present provision of Item 1 may be deleted and the following provision substituted therefor to indicate the small business size standard which is applicable to concerns bidding on dredging contracts:

1. Small business.

He [ ] is, [ ] is not, a small business concern. (For this purpose, a small business concern is a business concern, including its affiliates, which (a) is independently owned and operated, (b) is not dominant in the field of operation in which it is bidding on Government contracts, and (c) had average annual receipts for the preceding 3 fiscal years not exceeding $7,500,000 if bidding on a construction contract or $5 million if bidding on a dredging contract. For additional information see governing regulations of the Small Business Administration (13 CFR Part 121).)

* * * * *

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This amendment is effective December 1, 1971, but may be observed earlier.

Dated: November 2, 1971.

ROBERT L. KUNZIG,
Administrator of General Services.

[FR Doc.71-16420 Filed 11-9-71;8:52 am]

Chapter 18—National Aeronautics and Space Administration

MISCELLANEOUS AMENDMENTS TO CHAPTER

The following revisions to Chapter 18 of Title 41 are prescribed as set forth below. These revisions to Chapter 18 covering changes made by Revision 2 of the NASA Procurement Regulation were effective 60 days from June 1, 1971, except for interim changes made by Procurement Regulation Directives.

PART 18–1—GENERAL PROVISIONS

1. Section 18–1.114 revised in its entirety as follows:

§ 18–1.114 Reporting of identical bids.

(a) *General.* Executive Order 10936 dated April 24, 1961, as implemented by the Department of Justice, requires a report to be submitted to the Attorney General on each formally advertised procurement (including small business restricted advertising) over $10,000 which involves identical bids. Identical bids are two or more bids for the same line item which:

(1) Are identical on their face (regardless of such evaluation factors as discount, transportation, etc.) either as to unit price or total line item amount; or

(2) Are identical as evaluated as to either unit price or total line item amount.

A line item is an item of supply or service which independently can be made the subject of an award by the Government. However, the reporting requirements herein established for line items shall be applicable to invitations calling for line item bidding even though the invitations or bids contained qualifying or restrictive limitations on award (e.g., all or none bids or award on one item being conditioned on award of other items). This reporting requirement is in addition to the reports required by § 18–1.111.

(b) *Information to be obtained from bidders.* Each invitation for bids for a procurement estimated to exceed $10,000 will include substantially the following:

PARENT COMPANY AND EMPLOYER IDENTIFICATION NUMBER (MARCH 1963)

(a) Bidder represents that he ☐ is, ☐ is not, owned or controlled by a parent company. For this purpose a parent company is defined as one which either owns or controls the activities and basic business policies of the bidder. To own another company means the parent company must own at least a majority (more than 50 percent) of the voting rights in that company. To control another company such ownership is not required; if another company is able to formulate, determine or veto basic business policy decisions of the bidder, such other company is considered the parent of the bidder. This control may be exercised through the use of dominant minority voting rights, use of proxy voting, contractual arrangements, or otherwise.

(b) If the bidder is owned or controlled by a parent company, insert in the space below the name and main office of the parent company.

Name	Address

(c) Bidder will provide in the applicable space below, if he has no parent company, his own Employer's Identification Number (E.I. No.) (Federal Social Security Identification Number as used on Federal Tax Return); or, if he has a parent company, the E.I. No. of his parent company.

Bidder's E.I. No._____
Parent Company's E.I. No._____

If a bidder fails to provide the above information on an invitation for bids and if identical bids are involved, one inquiry will be made in an effort to obtain the information. Failure to provide information concerning the parent company or the employer's identification number is not a basis for rejection of bids.

(c) *Reportable bids.* An identical bid report shall be submitted when identical bids are received and the bid value of all line items covered by the invitation for bids exceeds $10,000 (based on the apparent low bid for each line item) except that reports will not be submitted when:

(1) They were the low bids;
(2) Award is made on the line item;
(3) The invitation was canceled; or
(4) Any other disposition was made subsequent to public opening of the bids.

(d) *Submission of reports.* Identical bid reports shall be submitted for all reportable bids on Department of Justice Form DJ–1500 (Federal Stock No. 7540–823–7870), available from General Services Administration stores depots. Instructions for filling out this form are printed as the cover sheet of each pad of these forms. Reports shall be made within 20 days following the disposition of all of one or more contracts or other action. Two completed copies of the report, a copy of the invitation for bids and a copy of the completed abstract of bids shall be sent to the Attorney General, Ref: AT–IBR, Washington, D.C. 20530. The abstract of bids need not be furnished when the number of line items on an invitation exceeds 100; in which event, the identical bid report shall be annotated to indicate (1) the number of line items, and (2) the number of bidders on the invitation. A copy of the identical bid report shall be retained by the purchasing activity.

(e) *Completion of reports.* All bids for each line item on which reportable identical bids have been disclosed shall be reported regardless of whether the identical bids were the low bids. Reports are required on reportable identical bids regardless of whether an award is made on the line item, the invitation is canceled, or any other disposition is made subsequent to the public opening of the invitation.

§ 18–1.115 [Amended]

2. In § 18–1.115 add the following sentence to paragraph (a): "When the solicitation authorizes the submission of oral offers and requires that such offers be confirmed in writing, it shall require that the certification be included with or be expressly incorporated by reference in and thereby made a part of the confirmation."

§ 18–1.211 [Amended]

3. In § 18–1.211 delete reference to Electronics Research Center.

§§ 18–1.214, 18–1.217 [Amended]

4. In § 18–1.214 and § 18–1.217, change title of Germantown Installation from: AEC–NASA Space Nuclear Propulsion Office to: AEC–NASA Nuclear Systems Office.

5. Sections 18–1.302 and 18–302–1 are revised to change titles as follows:

§ 18–1.302 Sources of supply and services.

§ 18–1.302–1 Existing Government assets.

§ 18–1.302–2 [Amended]

6. In § 18–1.302–2, change line seven to read: "proposals or quotations" in the case of procurement; change the last line to read: requirements and thereby obtain for the Government the most advantageous contract—prices, quality and other factors considered.

§ 18–1.302–3 [Amended]

7. In § 18–1.302–3(a), after "(see Subpart 18–2.6)." Add: "Information on types of small business production pools, their purpose, and procedures for establishing such pools and for securing their approval by the Small Business Administration (SBA) is contained in the SBA publication 'Small Business Production Pools for Defense.'"

Section 18–1.302–3(f) is added as follows:

(f) *Small Business Status.* Approval of an organization as a defense production or research and development pool under the Defense Production Act of 1950, as amended, does not confer upon such pool the preferences and privileges accorded to "small business concerns". Such preferences and privileges shall be accorded only to those pools which have been approved under the Small Business Act, Public Law 85–536, as amended.

8. Section 18–1.302–4 is added:

§ 18–1.302–4 Contracts between the Government and its employees or business organizations substantially owned or controlled by Government employees.

(a) Contracts shall not knowingly be entered into between the Government and employees of the Government or business organizations which are substantially owned or controlled by Government employees, except for the most compelling reasons, such as cases where the needs of the Government cannot reasonably be otherwise supplied.

(b) When a contracting officer has reason to believe that an exception as described in paragraph (a) of this section should be made, approval of the Director of Procurement shall be obtained prior to entering into any such contract.

9. Section 18–1.302–50 is revised to read as follows:

§ 18–1.302–50 Proposed subcontracts between NASA contractors and Government employees.

In the approval of subcontracts under NASA prime contracts, NASA contracting officers shall consider the policy restrictions of § 18–1.302–6 to apply to subcontracts.

10. Section 18–1.302–51 is revised to read as follows:

§ 18–1.302–51 New sources of scientific and technical competence.

As a Government agency whose mission calls for substantial Federal expenditures and use of substantial national resources, NASA has a strong interest in assisting in the accomplishment of collateral national economic goals within the framework of applicable statutory and administrative authority in such manner as will not impair program effectiveness. Utilization and the accompanying development of the potential of all geographical regions in the space program will effectively contribute to achieving national goals. To advance the further development of competence and capacity of sources, it is NASA's policy to encourage the placing of subcontracts over wider geographic areas. To carry out these objectives, the following clause shall be inserted in all research and development contracts of $500,000 and over to be performed within the United States.

GEOGRAPHIC PARTICIPATION IN THE AEROSPACE PROGRAM (JUNE 1966)

(a) It is the policy of the National Aeronautics and Space Administration to advance a broad participation by all geographic regions in filling the scientific, technical, research and development, and other needs of the aerospace program.

(b) The Contractor agrees to use his best efforts to solicit subcontract sources on the broadest feasible geographic basis, consistent, with efficient contract performance, and without impairment of program effectiveness or increase in program cost.

(c) The Contractor further agrees to insert this clause in all subcontracts of $100,000 and over.

§ 18–1.302–52 [Deleted]

11. Section 18–1.302–52 is deleted.

12. Section 18–1.303 is added:

§ 18–1.303 Exchange of purchase information.

(a) Where the same item or class of items is being purchased by more than one Government agency, or by more than one NASA procurement office, the exchange and coordination of pertinent information, particularly cost and pricing data, promotes uniformity of treatment of major issues and the resolution of particulary difficult or controversial issues. Such exchange and cordination of information is particularly beneficial during the period of procurement planning, presolicitation, evaluation, and preaward survey.

(b) Where purchases of major items are involved or where a procurement office deems it desirable, it should request appropriate information (on both the end item and on major subcontracted components) from other procurement offices responsible for buying similar items. Each office receiving such requests shall furnish the information requested. The contracting officer, early in a negotiation of a contract, or in connection with the review of a subcontract, shall request the contractor to furnish information as to the contractor's or subcontractor's previous Government contracts and subcontracts for the same or similar end items and major subcontractor components.

13. Section 18–1.310(b) and (d) is revised to read as follows:

§ 18–1.310 Liquidated damages.

* * * * *

(b) When a liquidated damages clause is used, the contract shall set forth the amount which is to be assessed against the contractor for each calendar day of delay. The rate of assessment of liquidated damages must be reasonably considered in the light of procurement requirements on a case-by-case basis, since liquidated damages fixed without reference to probable actual damages may be held to be a penalty and therefore unenforceable. If appropriate to reflect the probable damages, considering that the Government can terminate for default or take other appropriate action, the rate of assessment of liquidated damages may be in two or more increments which provide a declining rate of assessment as the delinquency continues. The contract may also include an overall maximum dollar amount or period of time, or both, during which liquidated damages may be assessed, to assure that the result is not an unreasonable assessment of liquidated damages.

* * * * *

(d) Whenever any contract includes a provision for liquidated damages for delay, the Comptroller General, on the recommendation of the Administrator, is authorized and empowered to remit the whole or any part of such damages as he may consider to be just and equitable. Recommendations concerning remissions of liquidated damages will be forwarded by the contracting officer, with appropriate documentation, via the head of the field installation to the Director of Procurement for submission to the Administrator.

§ 18–1.319–3 [Amended]

14. In § 18–1.319–3, delete subparagraph (ix) (N).

§ 18–1.327–2 [Amended]

15. In § 18–1.327–2, change title of contract clause to read as follows:

REQUIRED SOURCE FOR ALUMINUM INGOT (JUNE 1971)

16. In § 18–1.327–2, paragraph (i) is revised to read as follows:

(i) All purchases made pursuant to this clause, other than from GSA, are required to be rated (ACM, DO or DX) in accordance with DMS Regulation 1, NPA Order M–5A and BDSA Regulation 2, and are subject to the provisions of those regulations concerning the maintenance of records, rights of inspection and audit, and the penalty provisions contained therein for willful noncompliance.

17. Section 18–1.355(d) is revised to read as follows:

§ 18–1.355 Civil Rights Act of 1964—Nondiscrimination in federally assisted programs.

* * * * *

(d) Requests for proposals subject to Title VI shall include a copy of the "Assurance of Compliance" (NASA Form 1206) and shall require the proposer either to execute such an assurance as part of his proposal or to identify and refer to a prescribed assurance previously submitted. All assurances will be forwarded promptly to the Headquarters Contracts Division, NASA Headquarters (Code DHC). Copies of the assurance should be retained for the contract file.

* * * * *

18. Section 18–1.357(a) is revised to read as follows:

§ 18–1.357 Procurement of liquid hydrogen.

(a) To ensure that adequate supplies of liquid hydrogen are readily available to meet current and future program requirements, NASA has established contractual arrangements with primary supply sources located at Michoud, La., and Ontario, Calif. These contracts will be used to the maximum extent practicable in supplying both in-house and contractor requirements for liquid hydrogen.

* * * * *

§ 18–1.601–50 [Amended]

19. In § 18–1.601–50(a) change reference "NASA Management Instruction 5101.11," to read: "NASA Management Delegation 5101.11A."

20. Sections 18–1.700, 18–1.701, and 18–1.701–1 are revised to read as follows:

§ 18–1.700 Scope of subpart.

This Subpart 18–1.7, which applies only in the United States, its possessions, Puerto Rico, and the Trust Territory of the Pacific Islands implements the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2451–2459), and the Small Business Act, as amended (15 U.S.C. 631 et seq.), and sets forth policy and procedures governing (a) contract awards to small business concerns, (b) relationships with the Small Business Administration (SBA), (c) small business set-asides, and (d) small business subcontracting.

§ 18–1.701 Definitions.

The definitions of small business concerns are promulgated by the Small Business Administration. As used throughout this subpart, the following terms shall have the meanings set forth in this section. When a procurement office is in doubt as to the specific small business definition that should apply to a particular procurement, a written determination from the Small Business Administration regional office having jurisdiction over

the geographical area in which the contracting officer is located will be requested for inclusion in the procurement file.

18–1.701–1 Small business concern.

(a) (1) *General definition.* A small business concern is a concern that is independently owned and operated, is not dominant in the field of operation in which it is bidding on Government contracts, and with its affiliates, can further qualify under the criteria set forth in this section. "Concern" means any business entity organized for profit with a place of business in the United States, its possessions, Puerto Rico, or the Trust Territory of the Pacific Islands, including but not limited to an individual, partnership, corporation, joint venture, association, or cooperative. For the purpose of a procurement of a product classified into two or more industries with different size standards, the smallest of such size standards shall be used in determining a bidder's size status.

(2) *Industry small business size standards.* In addition to being independently owned and operated, and not dominant in the field of operation in which it is bidding on Government contracts, a small business concern in order to qualify as such must meet the criteria established for the industries set forth below. "Annual receipts" means the gross income (less returns and allowances, sales of fixed assets and interaffiliate transactions) of a concern (and its affiliates) from sales of products and services, interest, rents, fees, commissions, and/or from whatever other source derived, as entered on its regular books of account for its most recently completed fiscal year (whether on a cash, accrual, completed contracts, percentage of completion, or other acceptable accounting basis) and reported or to be reported to the U.S. Treasury Department, Internal Revenue Service, for Federal income tax purposes. If a concern has been in business less than 1 year, its annual receipts shall be computed by determining its average weekly receipts for the period in which it has been in business and multiplying such figure by 52. If a concern has 50 percent or more of its annual receipts attributable to business activity within Alaska, then whenever the size criterion of "annual receipts" is used in any size definition contained in this subpart, the stated dollar limitation for the purpose of qualifying as a small business concern shall be increased by 25 percent of the indicated amount.

• • • • • •

(ii) *Manufacturing industries—(a) Food canning and preserving industry.* For food canning and preserving, the number of employees of the concern and its affiliates must not exceed 500 persons, exclusive of "agricultural labor" as defined in 26 U.S.C. 3306(k).

(b) *Refined petroleum products.* Any concern bidding on a contract for a refined petroleum product other than paving mixture and blocks, asphalt felts and coatings, lubricating oils and greases, or products of petroleum and coal, not elsewhere classified, is classified as small if (1) (i) its number of employees does not exceed 1,000 persons; (ii) it does not have more than 30,000 barrels-per-day crude oil or bona fide feed stock capacity from owned or leased facilities or from facilities made available to such concern under an arrangement such as, but not limited to, an exchange agreement (except one on a refined product for refined product basis), or a throughput or other form of processing agreement with the same effect as though such facilities had been leased; and (iii) the product to be delivered in the performance of the contract will contain at least 90 percent components refined by the bidder from either crude oil or bona fide feed stocks: *Provided, however,* That a petroleum refining concern which meets the requirements in (i) and (ii) of this subparagraph may furnish the product of a refinery not qualified as small business if such product is obtained pursuant to a bona fide exchange agreement, in effect on the date of the bid or offer, between the bidder or offeror and the refiner of the product to be delivered to the Government which require exchanges in a stated ratio on a refined petroleum product for a refined petroleum product basis, and precludes a monetary settlement, and that the products exchanged for the products offered and to be delivered to the Government meet the requirement in (iii) of this subparagraph: *And, provided further,* That the exchange of products for products to be delivered to the Government will be completed within 90 days after expiration of the delivery period under the Government contract; or (2) its number of employees does not exceed 500 persons and the product to be delivered to the Government has been refined by a concern which qualifies under this subparagraph (b) (1).

• • • • • •

(iii) *Nonmanufacturing industries.* For a product not manufactured by the concern submitting a bid or proposal, other than a construction or service contract, the number of employees of that concern must not exceed 500 persons, and in the case of a procurement set aside for small business (see § 18–1.706) or involving equal low bids (see § 18–2.407–6), or otherwise involving the preferential treatment of small business, it must agree to furnish in the performance of the contract end items manufactured or produced in the United States, its possessions, Puerto Rico, or the Trust Territory of the Pacific Islands by small business concerns. However, if the goods to be furnished are wool, worsted, knitwear, duck, or webbing, nonmanufacturers (dealers and converters), shall furnish such products which have been manufactured or produced by a small weaver (small knitter for knitwear) and, if finishing is required, by a small finisher. If the product to be furnished is thread, nonmanufacturers (dealers and converters) shall furnish thread which has been finished by a small finisher. (Finishing of thread is defined as all dyeing, bleaching, glazing, mildew proofing, coating, waxing, and other applications required by the pertinent specification, but excluding mercerizing, spinning, throwing, or twisting operations.)

(iv) *Service industries.* (a) For services not elsewhere defined in this subpart the average annual receipts of the concern and its affiliates for the preceding 3 fiscal years must not exceed $1 million.

(b) Any concern bidding on a contract for engineering services (other than marine engineering services), motion picture production, or motion picture services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $5 million.

(c) Any concern bidding on a contract for naval architectural and marine engineering services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $6 million.

(d) Any concern bidding on a contract for janitorial and custodial services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $3 million.

(e) Any concern bidding on a contract for base maintenance is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $5 million. Base maintenance is defined in footnote 7 at the end of § 18–1.701–4.

(f) Any concern bidding on contracts for marine cargo handling services is classified as small if its annual receipts do not exceed $5 million for the preceding 3 fiscal years.

(g) Any concern bidding on a contract for food services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $3 million.

(h) (1) Any concern bidding on a contract for laundry services including linen supply, diaper services, and industrial laundering, is classified small if its average annual receipts for its preceding 3 fiscal years do not exceed $3 million.

(2) Any concern bidding on a contract for cleaning and dyeing including rug cleaning services is classified small if its average annual receipts for its preceding 3 fiscal years do not exceed $1 million.

(i) Any concern bidding on a contract for computer programing services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $3 million.

(j) Any concern bidding on a contract for flight training services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $5 million.

(k) Any concern bidding on a contract for motorcar rental and leasing services or truck rental and leasing services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $5 million.

(l) Any concern bidding on a contract for tire recapping services is classified as small if its average annual receipts for its preceeding 3 fiscal years do not exceed $3 million.

(m) Any concern bidding on a contract for data processing services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $3 million.

(n) Any concern bidding on a contract for computer maintenance services is classified as small if its average annual receipts for its preceding 3 fiscal years do not exceed $5 million.

§ 18–1.701–4 [Amended]

21. In § 18–1.701–4, footnote 7, appearing at end of table, is revised to read as follows:

• • • • • •

[7] Base maintenance means furnishing at an installation within the several States, Commonwealth of Puerto Rico, Virgin Islands, the Trust Territory of the Pacific Islands or the District of Columbia three or more services which may include but are not limited to such maintenance activities as janitorial and custodial services, protective guard services, commissary services, base housing maintenance, fire prevention services, refuse collection services, safety engineering services, messenger services, grounds maintenance and landscaping services, and air conditioning and refrigeration maintenance: *Provided, however,* That whenever the contracting officer determines prior to the issuance of bids that the estimated value of one of the foregoing services constitutes more than 50 percent of the estimated value of the entire contract, the contract shall not be classified as base maintenance but in the industry in which such service is classified.

22. Section 18–1.703 is revised to read as follows:

§ 18–1.703 Determination of status as small business concern.

(a) *General*—(1) *Prior to solicitation.* If a contracting officer or a small business specialist requires information from SBA concerning the size status of a concern in order to make a determination concerning (i) the initiation of a small business set-aside, or (ii) the forwarding of a small business restricted solicitation to such concern but time considerations preclude obtaining a formal SBA small business size determination, he may request informal advice on the matter from the SBA regional office having jurisdiction of the geographical area in which the contracting officer is located. While a contracting officer or a small business specialist may take action on the basis of such informal advice, such advice shall not be binding with respect to the final establishment of the eligibility of a concern as a small business for the purpose of a particular procurement; nor shall it be considered a formal SBA small business size determination (see paragraph (b) (3) and (4) of this section).

(2) *Subsequent to solicitation.* Except as provided in paragraph (b) of this section, the contracting officer shall accept at face value for the particular procurement involved, a representation by the bidder or offeror that it is a small business concern.

(b) *Representation by a bidder or offeror.* Representation by a bidder or offeror that it is a small business concern shall be effective, even though questioned in accordance with the terms of this paragraph (b), unless the SBA, in response to such question and pursuant to the procedures in paragraph (b) (3) of this section, determines that the bidder or offerer in question is not a small business concern. If a procurement calls for more than one item and the solicitation permits bids on any or all items, the offeror must meet the small business size standard for each item it is awarded. If the procurement calls for more than one item and the solicitation requires bid on an all or none basis, the offeror can qualify as small business for such procurement if it meets the size standard for the item accounting for the greatest percentage of the total contract value. The controlling point in time for a determination concerning the size status of a questioned bidder or offeror shall be the date of award, except that no bidder or offeror shall be eligible for award as a small business concern unless he has, or unless he could have (in those cases where a representation as to size of business has not been made), in good faith represented himself as small business prior to the opening of bids or closing date for submission of offers (see § 18–2.405(b) with respect to minor informalities and irregularities in bids). A representation by a bidder or offeror that it is a small business concern will not be accepted by the contracting officer if it is known that (1) such concern has previously been finally determined by SBA to be ineligible as a small business for the item or service being procured, and (2) such concern has not subsequently been certified by SBA as being a small business. If SBA has determined that a concern is ineligible as a small business for the purpose of a particular procurement, it cannot thereafter become eligible for the purpose of such procurement by taking affirmative action to constitute itself as small business.

(1) *Protest of small business status.* Any bidder, offeror, or any other interested party may, in connection with a contract involving small business set-aside or otherwise involving small business preferential consideration, question the small business status of any apparently successful bidder or offeror by sending a written protest to the contracting officer responsible for the particular procurement. The protest shall contain the basis for the protest together with specific detailed evidence supporting the protestant's claim that such bidder or offeror is not a small business. Such protest must be received by the contracting officer prior to the close of business on the fifth working day exclusive of Saturday, Sunday, and Federal legal holidays (hereinafter referred to as a working day) after bid opening date or closing date for the receipt of proposals. A protest received after such time shall be considered timely, if in the case of (i) a mailed protest, it is sent by registered or certified mail and the postmark thereon indicates that it would have been delivered within the time limit except for delays beyond the control of the protestant, or (ii) a telegraphic protest, the telegram date and time line indicates that it would have been delivered within the time limit except for delays beyond the control of the protestant. The following procedures shall apply:

(a) *Timely protest received prior to award.* When the contracting officer receives a timely protest prior to award, he shall forward the protest record to the Small Business Administration regional office serving the area in which the protested concern is located. The Small Business Administration will promptly notify the contracting officer of the date of its receipt of any such protest and will advise the bidder or offeror in question that his small business status is under review;

(b) *Untimely protests received prior to award.* A protest which is not timely, even though received before award, shall be forwarded to the Small Business Administration regional office serving the area in which the protested concern is located, with a notation thereon that the protest is not timely. The protestant shall be notified that his protest cannot be considered on the instant procurement but has been referred to SBA for its consideration in any future actions; however, see paragraph (b) (2) below for authority of contracting officer to question small business status of an apparently successful offeror at any time prior to award;

(c) *Action on protests received after award.* A protest received after award of a contract shall be forwarded to the Small Business Administration regional office serving the area in which the protested concern is located with a notation thereon that award has been made. The protestant shall be notified that award has been made and that his protest has been forwarded to SBA for its consideration in future actions.

(2) *Questioning of status by contracting officer or procurement officer.* A contracting officer may, any time prior to award, question the small business status of the apparently successful bidder or offeror by sending a written notice to the SBA regional office of the region in which the bidder or offeror has his principal place of business. Such notice shall contain a statement of the basis for the question, together with available supporting facts. SBA will advise the bidder or offeror in question that his small business status is under review. The Procurement Officer may, at any time subsequent to award, challenge the eligibility of the contractor on the instant procurement by sending a written notice to the SBA regional office of the region in which the contractor has his principal place of business.

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(5) *Award of set-aside procurements.* When the contracting officer determines in writing that award must be made without delay to protect the public interest, award will not be made prior to (i) 5 working days after the bid opening date for procurements placed through small business restricted advertising, or (ii) the deadline date for submitting a protest set forth in the notification to the

apparently unsuccessful offeror(s) for small business set-aside procurements placed through conventional negotiation.

(c) *Product classification*—(1) *Determination by contracting officer.* The contracting officer shall determine the appropriate classification of a product establishing the small business definition to be used in a specific procurement. If different products are being procured on the same solicitation, an appropriate small business size standard shall be established for each product. Both the classification and the applicable size standard (number of employees, average annual receipts, etc.), pursuant to § 18–1.701, shall be set forth in the schedule of each solicitation which anticipates an expenditure in excess of $2,500. The contracting officer's determination shall be final unless appealed in accordance with subparagraph (2) of this paragraph (c).

* * * * *

23. Section 18–1.704–3 is revised to read as follows:

§ 18–1.704–3 Small business specialists.

The small business specialist appointed pursuant to § 18–1.704–2, shall perform the following duties, as determined appropriate to the installation by the Procurement Officer:

(a) He shall maintain a program designed to locate capable small business sources for current and future procurements, through SBA or other methods.

(b) He shall coordinate inquiries and requests for advice from small business concerns on procurement matters.

(c) Prior to issuance of solicitations or contract modification for additional supplies or services in excess of $2,500, he shall determine that small business concerns will receive adequate consideration including initiation of set-asides (§ 18–1.706). This determination may be made jointly with the contracting officer or may be in the form of a recommendation to him. Disagreements between the small business specialist and the contracting officer on proposed set-aside action shall be resolved by the Procurement Officer whose decision shall be final except in those cases where an SBA representative intervenes as an interested party. (See § 18–1.706–3 as to resolution of disagreements with SBA recommendations on set-asides.) See § 18–1.308 as to the required record of contract actions.)

(d) If small business concerns cannot be given an opportunity to compete because adequate specifications or drawings are not available, unless there are sufficient and valid reasons to the contrary, initiate action, in writing, with appropriate technical and contracting personnel to ensure that necessary specifications or drawings for the current or future procurements, as appropriate, are available.

(e) He shall review procurement programs for possible breakout of items suitable for procurement from small business concerns.

(f) He shall advise small business concerns with respect to the financial assistance available under existing law and regulations and assist such concerns in applying for financial assistance. He shall also assure that requests by small business concerns for proper assistance are not treated as a handicap in securing the award of contracts.

(g) He shall participate in determinations concerning responsibility of a prospective contractor (see § 18–1.904), including determinations involving tenacity, perseverance, and integrity factors, whenever small business concerns are involved.

(h) He shall participate in the evaluation of a prime contractor's small business subcontracting program (see § 18–1.707–4).

(i) He shall review and make appropriate recommendations to the contracting officer on any proposal to furnish Government-owned facilities to a contractor if such action may hurt the small business program.

(j) He shall assure that participation of small business concerns is accurately reported.

(k) He shall bring to the attention of the Procurement Officer possible contracting opportunities in or near sections of concentrated unemployment or underemployment and of areas of persistent or substantial labor surplus.

(l) He shall make available to SBA copies of solicitations when so requested.

(m) He shall act as liaison between the contracting officer and SBA field offices and representatives in connection with set-asides, certificates of competency and any other matters in which the Small Business Program may be involved. Procurements in which certificates of competency are requested, shall be reported to the Director of Procurement, NASA Headquarters. The report should contain a description of the requirement, a list of the bidders or proposers, and the contract prices specified in the bids or proposals as submitted and the reason for the proposed rejection of an otherwise acceptable small business bid or proposal. Pertinent dates such as the required date for the completion of the procurement, the date of the request for the certificate of competency, etc., should also be furnished.

(n) He shall, in cooperation with the contracting officer and technical personnel, seek and develop information on the technical competence of small business concerns for research and development contracts. He shall regularly bring to the attention of the contracting officers and technical personnel descriptive data, brochures, and other information as to small business concerns that are apparently competent to perform research and development work in fields in which NASA is interested.

(o) When a small business firm's bid has been rejected for nonresponsiveness or nonresponsibility, the small business specialist, upon request, shall aid, counsel and assist that small business firm in understanding requirements for responsiveness and responsibility so that the firm may be able to qualify for future awards.

24. Section 18–1.705–4(c) is revised to read as follows:

§ 18–1.705–4 Certificates of competency.

* * * * *

(c) If a bid or proposal of a small business concern is to be rejected solely because the contracting officer has determined the concern to be nonresponsible as to capacity or credit, the matter shall be referred to the appropriate SBA field office having the authority to process the referral in the geographical area involved. If required, guidance as to the location of the appropriate SBA field office may be obtained from an SBA representative assigned to the procurement office or the nearest SBA field office. This procedure applies only to the proposed awards exceeding $2,500. For proposed awards exceeding $2,500, but not exceeding $10,000, its use is within the discretion of the contracting officer. A preaward survey (see § 18–1.905) shall be made prior to a determination by a contracting officer that a small business concern is not responsible because of a lack of capacity or credit on a proposed award of more than $10,000. Concurrent referrals of two or more bids or proposals, rejected because of lack of capacity or credit for a proposed award, shall not be made to SBA by the contracting officer. Final processing of a case, including possible issuance of certificate of competency, must be completed by SBA on each referral before the contracting officer may proceed with an additional referral on the proposed award to SBA. If a partial set-aside is involved and the bid of a small business concern on the unreserved portion is to be rejected for lack of capacity or credit and the same small business concern is entitled to consideration on the reserved portion of the set-aside if a certificate of competency is issued by the SBA, the entire quantity of the procurement (reserved and unreserved) for which that small business concern may be entitled, if competent, shall be referred to SBA and the referral papers so noted. The SBA may then certify the small business concern for the maximum quantity of the procurement for which it is eligible. The award shall be withheld until SBA action concerning issuance of a certificate of competency, or until 15 working days after the SBA is so notified, whichever is earlier, subject to the following:

(1) Under no circumstances will a referral be made to the SBA prior to a determination by the contracting officer that the bid or proposal of the small business concern is responsive. Except for procurements resulting in construction or service contracts, a bid or proposal of an otherwise eligible nonmanufacturer shall not be referred to the SBA for Certificate of Competency action unless such nonmanufacturing meets the definition of small business for preferential treatment purposes as prescribed in § 18–1.701–1(a)(2)c.

(2) The activity performing the preaward survey shall furnish such survey to the contracting officer. If the contracting officer determines, in accordance with § 18–1.904, that the small business concern is not responsible solely by reason of a lack of capacity or credit, he will refer the matter direct to the SBA, or he may notify the preaward survey activity to refer the matter to the SBA, whichever is the more expeditious (e.g., where the surveying activity is substantially closer to the cognizant SBA office than the procurement office, it may be more expeditious to have the surveying activity refer the matter to the Small Business Administration). A copy of the communication referring the matter to SBA shall be forwarded to the Director of Procurement, NASA Headquarters.

(3) Upon making a determination to refer the matter to the SBA, the contracting officer shall furnish to the SBA, or to the surveying activity, whichever is consistent with the action taken under subparagraph (2) of this paragraph (c) the data prescribed in paragraph (d) of this section. The procurement office that refers the matter to the SBA shall maintain close liaison with the SBA to assure compliance with paragraph (e) of this section. If the procurement office does not hear from the cognizant SBA field office within 5 working days after the matter has been referred, the procurement office will contact the SBA Office to which the matter was referred to determine whether a certificate of competency is being processed. When, in accordance with subparagraph (2) of this paragraph (c), the contracting officer has requested the preaward survey activity to refer the matter to SBA, that activity shall keep the contracting officer advised of significant developments, including the results of any inquiry to the SBA at the end of the 5 working day period, and any new or additional facts, learned from the SBA, that warrant reversal of the preaward survey activity's negative finding. The Director of Procurement shall be promptly informed in writing of all cases where (i) the small business concern elects not to file an application for a certificate of competency, or (ii) SBA declines to issue a certificate of competency, or (iii) the procurement office reverses the preaward survey negative finding concerning capacity or credit.

(4) A referral need not be made to the SBA if the contracting officer, with the approval of the Procurement Officer, certifies in writing that the award must be made without delay, includes such certificate and supporting documentation in the contract file, and promptly furnishes a copy to the SBA. Contracting officers shall, immediately upon receipt of sufficient information, make a determination concerning the responsibility of the low responsive prospective small business contractor. If a contracting officer makes a determination of nonresponsibility, and if only capacity or credit considerations are involved, he shall promptly refer to SBA for Certificate of Competency consideration unless he executes a documented certificate of urgency indicating the specific reasons why an award must be made without the delay incident to referral to SBA. Referral of a case to SBA or execution of a certificate of urgency shall not be deferred pending investigation and determination of the responsibility of other offerors.

(5) A referral need not be made to the SBA if a contracting officer determines a small business concern nonresponsible pursuant to § 18–1.903–1(e) and such determination is approved by the head of the installation or his designee.

(6) A determination by a contracting officer that a small business concern is not responsible pursuant to § 18–1.903–1 (c) and (d), must be supported by substantial evidence documented in the contract files. These factors of responsibility are not covered by the certificate of competency procedure, but are for determination by the contracting officer, and approval by the Procurement Officer or his designee. Concurrent with the contracting officer's submission of such determination of nonresponsibility to the Procurement Officer or his designee for approval, the contracting officer shall transmit a copy of the documentation supporting the determination that a small business concern is not responsible for reasons other than deficiencies in capacity or credit to the appropriate SBA Regional Office and to the Director of Procurement, Attention: Small Business Advisor identified in § 18–1.704–2. The documentation transmitted to the SBA shall include: two copies of the solicitation, and one copy of the preaward survey findings, pertinent technical and financial information, the abstract of bids, if available, and other pertinent information which supported the contracting officer's determination of nonresponsibility for reasons other than capacity and credit. The appropriate SBA regional office receiving the documentation shall, within 5 working days, notify the contracting officer in writing of the SBA's intent to appeal to the head of the procuring activity or his designee with information and recommendations which would materially bear on any approval action being considered by the Procurement Officer or his designee. Within 10 working days of the SBA's written notification to the contracting officer, the SBA shall present to the Procurement Officer or his designee the appeal in writing. Such appeal shall contain the basis for the SBA position, and include statements from the small business concern as to tenacity, integrity and perseverance and how deficiencies noted in the contracting officer's determination have been or will be eliminated. After consideration of the appeal, the decision by the Procurement Officer or his designee shall be final. If the contracting officer does not receive notification within 5 working days specified above that the SBA intends to appeal, it shall be deemed that the SBA does not intend to file such an appeal. The procedures of subparagraph (4) of this paragraph apply if the award must be made without delay.

25. Section 18–1.705–5 is revised to read as follows:

§ 18–1.705–5 Performance of contract by Small Business Administration.

In accordance with section 8a of the Small Business Act (15 U.S.C. 637(a)), in any case in which the Administrator, SBA, certifies to the Administrator, NASA, that the SBA is competent to perform any specific contract, the contracting officer is authorized, in his discretion, to award the contract to the SBA upon such terms and conditions of this section and such others as may be agreed upon between the SBA and the contracting officer.

§ 18–1.706–5 [Amended]

26. In § 18–1.706–5, the "Notice of Total Small Business Set-aside," is revised to read as follows:

NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE (SEPTEMBER 1970)

(a) *Restriction.* Bids or proposals under this procurement are solicited from small business concerns only and this procurement is to be awarded only to one or more small business concerns. This action is based on a determination by the contracting officer, alone or in conjunction with a representative of the Small Business Administration, that it is in the interest of maintaining or mobilizing the Nation's full productive capacity, or in the interest of assuring that a fair proportion of Government procurement is placed with small business concerns. Bids or proposals received from firms which are not small with small business concerns shall be considered non-responsive and shall be rejected.

(b) *Definition.* A *"small business concern"* is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is bidding on Government contracts, and can further qualify under the criteria set forth in regulations of the Small Business Administration (Code of Federal Regulations, Title 13, section 121.3–8). In addition to meeting these criteria, a manufacturer or a regular dealer submitting bids or proposals in his own name must agree to furnish in the performance of the contract end items manufactured or produced by small business concerns: *Provided*, That this additional requirement does not apply in connection with construction or service contracts.

27. Section 18–1.706–6 is revised to read as follows:

§ 18–1.706–6 Partial set-asides.

(a) Subject to any applicable preference for labor surplus area set-asides as provided in § 18–1.803(a)(2), a portion of a procurement, not including construction, shall be set aside for exclusive small business participation (see § 18–1.706–1) where:

(1) The procurement is not appropriate for total set-aside pursuant to § 18–1.706–5;

(2) The procurement is severable into two or more economic production runs or reasonable lots (see § 18–1.804–1(a)); and

(3) One or more small business concerns are expected to have the technical competency and productive capacity to

furnish a severable portion of the procurement at a reasonable price, except that a partial set-aside shall not be made if there is a reasonable expectation that only two concerns (one large and one small) with technical competency and productive capacity will respond with bids or proposals. Before reaching this conclusion the contracting officer shall consult with the small business specialist and may make advanced inquiries to determine the number of interested concerns. Any deviation from this partial set-aside procedure must be approved by the Procurement Officer on a case-by-case basis.

Similarly, a class of procurements, not including construction, may be partially set-aside in accordance with § 18–1.706–1(c).

(b) Where a portion of a procurement is to be set aside for small business pursuant to paragraph (a) of this section, the procurement shall be divided into a set-aside portion and a non-set-aside portion, each of which shall be not less than an economic production run or reasonable lot. Insofar as practical, the set-aside portion will be such as to make the maximum use of small business capacity. Delivery and other terms applicable to the set-aside portion of an item and those applicable to the non-set-aside portion of that item shall be comparable.

(c) (1) In advertised procurements involving partial set-asides for small business, each invitation for bids shall contain substantially the following notice. The applicable size standards shall be set forth in the schedule. In negotiated procurements the notice shall be appropriately modified for use with request for proposals.

NOTICE OF PARTIAL SMALL BUSINESS SET-ASIDE (SEPTEMBER 1970)

(a) *General.* A portion of this procurement, as identified elsewhere in the schedule has been set aside for award only to one or more small business concerns. Negotiations for award of this set-aside portion will be conducted only with small business concerns who have submitted responsive bids on the non-set-aside portion at a unit price within 130 percent of the highest unit price at which an award is made on, the non-set-aside portion. Negotiations shall be conducted with such small business concerns in the following order of priority:

Group 1. Small business concerns which are also certified-eligible concerns with a first preference.

Group 2. Small business concerns which are also certified-eligible concerns with a second preference.

Group 3. Small business concerns which are also persistent or substantial labor surplus area concerns.

Group 4. Small business concerns which are not labor surplus area concerns. Within each of the above groups, negotiations with such concerns will be in the order of their bids on the non-set-aside portion, beginning with the lowest responsive bid. The set-aside shall be awarded at the highest unit price awarded on the non-set-aside portion, adjusted to reflect transportation and other cost factors which are considered in evaluating bids on the non-set-aside portion, except where a responsive bid has been submitted on the non-set-aside portion at a unit price which when so adjusted is lower than the adjusted highest unit price awarded on the non-set-aside portion but could not be accepted because of quantity limitations or other consideration (such as the bidder's responsibility). In the latter case if the quantity limitation or other considerations do not preclude consideration of the unit price of such unaccepted bid at the time of negotiation for the set-aside portion, a quantity of the set-aside portion equal to the quantity of such unaccepted bid shall be offered to eligible concerns in their order of priority at the adjusted unit price of such unaccepted bid. If no eligible bidder will take the entire quantity so offered at the adjusted unit price of the unaccepted bid, then all eligible concerns in their order of priority shall be offered any lesser portion at the same price. (In the event more than one such unaccepted bid is involved, the same procedure shall be applied successively to each such bid on negotiation for the set-aside portion.) Subject to the conditions set forth below any remaining quantity of the set-aside portion shall be offered to eligible concerns in their order of priority at the adjusted highest unit price awarded on the non-set-aside portion. If such an unaccepted bid is submitted by a concern eligible to participate in the set-aside, such concern must accept a quantity of the set-aside portion equal to the quantity of the unaccepted bid at the adjusted unit price of the unaccepted bid before any portion of the set-aside may be awarded to that concern at a higher price. If such an unaccepted bid is submitted by a concern not eligible to participate in the set-aside a quantity of the set-aside portion equal to the quantity of the unaccepted bid must be awarded at the adjusted unit price of such unaccepted bid before any portion of the set-aside is awarded to any eligible concern at a higher price. The Government reserves the right not to consider token bids or other devices designed to secure an unfair advantage over other bidders eligible for the set-aside portion. The partial set-aside of this procurement for small business concerns is based on a determination by the Contracting Officer, alone or in conjunction with a representative of the Small Business Administration, that it is in the interest of maintaining or mobilizing the Nation's full productive capacity, or in the interest of assuring that a fair portion of Government procurement is placed with small business concerns.

(b) *Definitions.* (1) A "small business concern" is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is bidding on Government contracts, and can further qualify under the criteria set forth in regulations of the Small Business Administration (Code of Federal Regulations, Title 13, Section 121.3–8). In addition to meeting these criteria, a manufacturer or a regular dealer submitting bids or proposals in his own name must agree to furnish in the performance of the contract end items manufactured or produced by small business concerns:

Provided, That this additional requirement does not apply in connection with construction or service contracts.

(2) A "labor surplus area" is a geographical area which is:

(i) an appropriate section of a City, State or an Indian Reservation classified by the Secretary of Labor as a "section of concentrated unemployment or underemployment" (cities and States with classified sections of unemployment or underemployment, as well as eligible Indian Reservations are listed by the Department of Labor in its publication "Area Trends in Employment and Unemployment."); or

(ii) classified by the Department of Labor as an "Area of Substantial Unemployment" (herein referred to as an area of substantial labor surplus) and listed as such by that Department in its publication "Area Trends in Employment and Unemployment"; or

(iii) classified by the Department of Labor as "Area of Persistent Unemployment" (herein referred to as an area of persistent labor surplus) and listed as such by that Department in its publication "Area Trends in Employment and Unemployment"; or

(iv) not classified as in (ii) or (iii) above, but which is individually certified as an area of persistent or substantial unemployment by the appropriate State Employment Security Agency or the Department of Labor at the request of a prospective contractor.

(3) The term "labor surplus area concern" includes certified-eligible concerns with a first or second preference, and persistent or substantial labor surplus area concerns as defined below:

(i) "Certified-eligible concern with a first preference" means a concern (located in or near a section of concentrated unemployment or underemployment or in an area of persistent or substantial labor surplus) which has been certified by the Secretary of Labor in accordance with 29 CFR 8.7(b) and 8.9(c) with respect to the employment of disadvantaged individuals residing within such sections or areas and which will agree to perform, or cause to be performed by certified concerns with a first preference, a substantial proportion of a contract in or near such sections or in such area; it includes a concern which, though not so certified, agrees to have a substantial proportion of a contract performed by certified concerns with a first preference in or near such sections or in such areas. A concern shall be deemed to perform a substantial proportion of the contract in or near sections of concentrated unemployment or underemployment or in persistent or substantial labor surplus areas if the costs that the concern will incur on account of manufacturing or production in or near such sections or in such areas (by itself if a certified concern, or by certified concerns with a first preference acting as first tier subcontractors) amount to more than 25 percent of the contract price.

(ii) "Certified-eligible concern with a second preference" means a concern (located in any area) which has been certified by the Secretary of Labor in accordance with 29 CFR 8.7(c) and 8.9(d) with respect to the employment of disadvantaged individuals, and which will agree to perform or cause to be performed by certified concerns with a first or second preference a substantial proportion of the contract; it includes a concern which, though not so certified, agrees to have a substantial proportion of a contract performed by such certified concerns. A concern shall be deemed to perform a substantial proportion of the contract if the costs that the concern will incur on account of manufacturing or production (by itself if a certified concern, or by certified concerns with a first or second preference acting as first tier subcontractors) amount to more than 25 percent of the contract price.

(iii) "Persistent or substantial labor surplus area concern" means a concern that agrees to perform or cause to be performed, a substantial proportion of a contract in persistent or substantial labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in persistent or substantial labor surplus areas if the aggregate costs that will be incurred by the concern or its first tier subcontractors on account of manufacturing or production performed in persistent or substantial labor surplus areas and in any area, by itself if a certified concern or by its first tier certified subcontractors, amount to more than 50 percent of the contract price.

(4) "Unit price" shall include evaluation factors added for the rent-free use of Government property.

(c) *Identification of Areas of Performance.* Each bidder desiring to the considered for award as a small business labor surplus area concern on the set-aside portion of this procurement shall identify in his bid the geographical areas in which he proposes to perform, or cause to be performed, a substantial proportion of the production of the contract. If the Department of Labor classification of any such area changes after the bidder has submitted his bid, the bidder may change the areas in which he proposes to perform: *Provided*, That he so notifies the Contracting Officer before award of the set-aside portion. Priority for negotation will be based upon the labor surplus classification of the designated production areas as of the time of the proposed award.

(d) *Agreement.* The bidder agrees that (1) if awarded a contract as a certified-eligible small business concern with a first preference under the set-aside portion of this procurement, he will perform, or cause to be performed, a substantial proportion of the contract in or near sections of concentrated unemployment or underemployment or in persistent or substantial labor surplus areas; and, in the performance of such contract, will employ or require certified first tier subcontractors with a first preference to employ a proportionate number of disadvantaged individuals, as defined by the Department of Labor in 29 CFR 8.2(d), residing within such sections or areas in accordance with plans approved by the Secretary of Labor; (ii) if awarded a contract as a certified-eligible small business concern with a second preference under the set-aside portion of the procurement, he will perform or cause to be performed a substantial proportion of the contract, in certified facilities and in the performance of such contract will employ, or require certified first tier subcontractors with a first or second preference to employ, disadvantaged individuals in accordance with plans approved by the Secretary of Labor; and (iii) if awarded a contract as a small business persistent or substantial labor surplus area concern under the set-aside portion of this procurement, he will perform or cause to be performed a substantial proportion of the contract (A) in areas classified at the time of award or at the time of performance of the contract as persistent or substantial labor surplus areas, or (B) in any area by himself if a certified concern or by first tier certified subcontractors.

(e) *Eligibility Based on Certification.* Where eligibility for preference is based upon the status of the bidder as a "certified-eligible concern," the bidder shall furnish with his bid evidence of its certification or its first tier subcontractors' certification by the Secretary of Labor.

(2) In requirements contracts involving a partial small business set-aside add the following to the above clause.

(f) *Requirements Contract.* Only one award will be made for each item or subitem of the non-set-aside portion and only one award will be made for each item or subitem of the set-aside portion. For the purpose of equitably distributing orders in accordance with this "Notice of partial Small Business Set-Aside," the Government will apportion the quantities to be ordered as equally as possible between the non-set-aside Contractor and the set-aside contractor to whom the awards are made.

(d) (1) After the award price for the non-set-aside portion has been determined, negotiations may be conducted for the set-aside portion. Procurement of the set-aside portion shall in all instances be effected by negotiation. Negotiations shall be conducted only with those bidders or offerors who have submitted responsive bids or proposals on the non-set-aside portion of a unit price no greater than 130 percent of the highest award made or to be made on the non-set-aside portion, taking into account the evaluation factors for rent-free use of Government property pursuant to Subpart 18–13.5 provided, however, where the successful bidder which establishes the highest award price on the non-set-aside portion is a foreign bidder, the 130-percent rule shall be applied to the evaluated price on the non-set-aside portion. Negotiations shall be conducted with small business concerns in the order of priority as indicated in the foregoing notices: *Provided*, That, where equal low bids are received on the non-set-aside portion from concerns which are equally eligible for the set-aside portion, the concern which is awarded the non-set-aside portion (under the equal low bid procedure of § 18–2.407–6) shall have first priority with respect to negotiations for the set-aside portion. The set-aside portion will be awarded at the highest unit price awarded or to be awarded for the non-set-aside portion. A bidder or offeror entitled to receive an award for quantities of an item under the non-set-aside portion and who accepts the award of additional quantities under the set-aside portion shall not be requested to accept a lower price because of the increased quantities of the award, nor shall negotiation be conducted with a view to obtaining such a lower price based solely upon receipt of award of both portions of the set-aside. This does not prevent acceptance by the contracting officer of voluntary reductions in price from the low eligible offeror prior to award, acceptance of voluntary refunds (see § 18–1.312), or the change of prices after award by negotiation of a contract modification.

(2) When the award price for the non-set-aside portion has been determined and where an award will be made to a small business concern and the same small business concern is entitled to receive the set-aside portion of a solicitation, the set-aside portion may be added to the basic contract by supplemental agreement. The supplemental agreement shall include the Examination of Records clause, applicable to the set-aside portion only.

28. Section 18–1.706–7 is revised to read as follows:

§ 18–1.706–7 Automatic dissolution of set-asides.

If the entire set-aside portion is not procured by the method set forth in § 18–1.706–5, as to total set-asides, or in § 18–1.706–6, as to partial set-asides, the determination referred to in § 18–1.706–1 is automatically dissolved as to the unawarded portion of the set-aside and such unawarded portion may be procured by advertising or negotiation, as appropriate, in accordance with existing regulations. Since a considerable time may have elapsed since the initiation of the requirement, contracting officers, prior to issuing a new solicitation, shall review the required delivery schedule (see 1305–2) to insure that it is realistic in the light of all relevant factors including the capabilities of small business concerns.

29. Section 18–1.707–3(a) is revised to read as follows:

§ 18–1.707–3 Required clauses.

(a) The "Utilization of Small Business Concerns" clause set forth below shall be included in all contracts in amounts which may exceed $5,000 except contracts which, including all subcontracts thereunder, are to be performed entirely outside the United States, its possessions, Puerto Rico, and the Trust Territory of the Pacific Islands:

UTILIZATION OF SMALL BUSINESS CONCERNS (JULY 1962)

(a) It is the policy of the Government as declared by the Congress that a fair proportion of the purchases and contracts for supplies and services for the Government be placed with small business concerns.

(b) The Contractor agrees to accomplish the maximum amount of subcontracting to small business concerns that the Contractor finds to be consistent with the efficient performance of this contract.

* * * * *

30. Section 18–1.707–4(b) is revised to read as follows:

§ 18–1.707–4 Responsibility for reviewing the subcontracting program.

* * * * *

(b) In those instances in which subcontractors are required to establish such a program in accordance with the clause in § 18–1.707–3 (b) and (c), reviews of the subcontractor's program shall be made in the same manner as the review of the prime contractor's program.

* * * * *

31. Sections 18–1.800, 18–1.801, and 18–1.802 are revised to read as follows:

§ 18–1.800 Scope of subpart.

This subpart sets forth NASA policy and procedures with respect to encouraging increased hiring of disadvantaged individuals and aiding areas of persistent or substantial labor surplus and sections of concentrated unemployment or underemployment, hereinafter referred to as "labor surplus areas," in the United States, its possessions, Puerto Rico, and the Trust Territory of the Pacific Islands. This part implements Defense Manpower Policy No. 4 (Revised), October 16, 1967 (32A CFR Chapter 1), and U.S. Department of Labor Regulations, 29 CFR Part 8, as amended. Defense Manpower Policy No. 4 states the policy of the Government to encourage the placing of contracts and facilities in labor surplus areas and to assist such areas in making the best use of their available resources.

§ 18–1.801 Definitions.

§ 18–1.801–1 Labor surplus area concern.

The term "labor surplus area concern" includes certified-eligible concerns with a

first or second preference, and persistent or substantial labor surplus concerns as defined in this section:

(a) The term "certified-eligible" is derived from 29 CFR Part 8, which makes a firm eligible for a first or second preference in the award of certain contracts on the basis that such firm agrees to employ disadvantaged individuals in the performance of a substantial proportion of the contract; and that such employment and performance must be provided by a certified firm, whether such firm be the prime or a first tier subcontractor. A certified-eligible concern is eligible for first preference in the award of certain contracts if it is:

(1) Located in or near a section of concentrated unemployment or underemployment or in an area of persistent or substantial labor surplus;

(2) Agrees to employ disadvantaged individuals in such sections or areas in accordance with plans approved by the Secretary of Labor (see 29 CFR 8.7(b) and 8.9(c)), representing at least 25 percent of the total number of new hires each month beginning with the date of certification and continuing until the expiration of the validity period or completion of an awarded contract or subcontract, whichever is later; and

(3) Will perform or cause to be performed by first tier certified subcontractors with a first preference a substantial proportion of the contract, amounting to more than 25 percent of the contract price, in or near a section of concentrated unemployment or underemployment, or in an area of persistent or substantial labor surplus. A certified-eligible concern is eligible for a second preference if it is located in any area of the United States; agrees to employ disadvantaged individuals in accordance with plans approved by the Secretary of Labor (see 29 CFR 8.7(c) and 8.9(d)), representing at least 15 percent of the total number of new hires each month beginning with the date of certification and continuing until the expiration of the validity period or completion of an awarded contract or subcontract; and will perform or cause to be performed by any first tier certified subcontractors a substantial portion of the contract, amounting to more than 25 percent of the contract price, in any area of the United States.

(i) The term "certified-eligible concern with a first preference" means a concern (located in or near a section of concentrated unemployment or underemployment or in an area of persistent or substantial labor surplus) which has been certified by the Secretary of Labor in accordance with 29 CFR 8.7(b) and 8.9(c) with respect to the employment of disadvantaged individuals residing within such sections or areas and which will agree to perform or cause to be performed by certified concerns with a first preference a substantial proportion of a contract in or near such sections or in such areas; it includes a concern which, though not so certified, agrees to have a substantial proportion of a contract performed by certified concerns with a first preference in or near such sections or in such areas. A concern shall be deemed to perform a substantial proportion of the contract in or near sections of concentrated unemployment or underemployment or in persistent or substantial labor surplus areas if the costs that the concern will incur on account of manufacturing or production in or near such sections or in such areas (by itself if a certified concern, or by certified concerns with a first preference acting as first tier subcontractors) amount to more than 25 percent of the contract price.

(ii) The term "certified-eligible concern with a second preference" means a concern (located in any area) which has been certified by the Secretary of Labor in accordance with 29 CFR 8.7(c) and 8.9(d), with respect to the employment of disadvantaged individuals, and which will agree to perform or cause to be performed by certified concerns with a first or second preference a substantial proportion of the contract; it includes a concern which, though not so certified, agrees to have a substantial proportion of a contract performed by such certified concerns. A concern shall be deemed to perform a substantial proportion of a contract if the costs that the concern will incur on account of manufacturing or production (by itself if a certified concern, or by certified concerns with a first or second preference acting as first tier subcontractors) amount to more than 25 percent of the contract price.

(b) The term "persistent or substantial labor surplus area concern" means a concern that agrees to perform or cause to be performed a substantial proportion of a contract in persistent or substantial labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in persistent or substantial labor surplus areas if the aggregate costs that will be incurred by the concern or its first tier subcontractors, on account of manufacturing or production performed in persistent or substantial labor surplus areas and in any area, by itself if a certified concern or by its first tier certified subcontractors, amount to more than 50 percent of the contract price.

Example A. JOHN DOE Co., manufacturing in or near a section of concentrated unemployment or underemployment and holding a current Certificate of Eligibility issued by the Secretary of Labor in accordance with 29 CFR 8.7(b) and 8.9(c) with respect to an agreement to employ disadvantaged individuals residing in such section, bids on a contract at $1,000. John Doe Co. will incur the following costs:

Direct Labor	$100
Overhead	100
Purchase of materials from NOP Co. which manufactures the materials in a section of concentrated unemployment and underemployment and holds a current Certificate of Eligibility issued by the Secretary of Labor in accordance with 29 CFR 8.7(b) and 8.9(c)	200
Purchase of materials from RST Co., which manufactures the materials in a full employment area	500

John Doe Co. qualifies as a labor surplus area concern (certified-eligible concern with a first preference) since costs to be incurred by John Doe, the certified-eligible prime with a first preference and NOP Co., its first tier certified subcontractor with a first preference, amount to more than 25 percent of the contract price.

Example B. ABC Co., manufacturing in a full employment area and holding no current Certificate of Eligibility issued by the Secretary of Labor, bids on a contract at $1,000. ABC Co. will incur the following costs:

Direct labor	$200
Overhead	200
Purchase of materials from XYZ, which manufactures the materials in a full employment area but holds a current Certificate of Eligibility in accordance with 29 CFR 8.7(c) and 8.9(d) issued by the Secretary of Labor	400
Purchase of materials from NOP Co. which manufactures the materials in a labor surplus area not classified as a section of concentrated unemployment or underemployment but holds no current Certificate of Eligibility issued by the Secretary of Labor with respect to an agreement to employ disadvantaged individuals in such area	110

ABC Co. qualifies as a labor surplus area concern (certified-eligible concern with a second preference) since costs to be incurred by XYZ, its first tier certified subcontractor with a second preference, amount to more than 25 percent of the contract price.

Example C. DEF Co., manufacturing in a persistent labor surplus area but holds no current Certificate of Eligibility issued by the Secretary of Labor, bids on a contract at $1,000. DEF Co. will incur the following costs:

Direct labor	$200
Overhead	200
Purchase of materials from UVW, which is located in a labor surplus area but which merely distributes the materials from stocks on hand (the materials having been manufactured by UVW's supplier)	550

DEF Co. does not qualify as a persistent or substantial labor surplus area concern since its manufacturing and production costs do not exceed 50 percent of the contract price regardless of whether UVW's supplier manufactures in a labor surplus area.

Example D. GHI Co., manufacturing in a substantial labor surplus area, but holds no current Certificate of Eligibility issued by the Secretary of Labor bids on a contract at $1,000. GHI Co. will incur the following costs:

Direct labor	$230
Overhead	275
Purchase of materials from RST, which manufactures the materials in a full employment area	425

GHI Co. qualifies as a substantial labor surplus area concern since it will incur costs in a labor surplus area amounting to more than 50 percent of the contract price.

§ 18–1.801–2 Labor surplus area.

The term "labor surplus area" means a geographic area which at the time of award is:

(a) An appropriate section of a city, State, or an Indian Reservation classified by the Secretary of Labor as a "section of concentrated unemployment or underemployment" (cities and States with classified sections of unemployment or underemployment, as well as eligible Indian Reservations are listed by the Department of Labor in its publication "Area Trends in Employment and Unemployment."); or

(b) Classified by the Department of Labor as an "Area of Persistent Unemployment" (herein referred to as an area of persistent labor surplus) and listed as such by that Department in its publication "Area Trends in Employment and Unemployment," or

(c) Classified by the Department of Labor as an "Area of Substantial Unemployment" (herein referred to as an area of substantial labor surplus) and listed as such by that Department in its publication "Area Trends in Employment and Unemployment," or

(d) Not classified as in paragraph (b) or (c) of this section, but which is individually certified as an area of persistent or substantial unemployment by the appropriate State Employment Security Agency or the Department of Labor at the request of a prospective contractor.

§ 18–1.801–3 Small business concern.

See § 18–1.701.

§ 18–1.802 General policy.

Except as provided in §18–1.806 with respect to depressed industries, it is the policy of NASA to aid labor surplus areas and encourage increased hiring of disadvantaged individuals by placing contracts with labor surplus area concerns, to the extent consistent with procurement objectives and when such contracts can be awarded at prices no higher than those obtainable from other concerns and by encouraging prime contractors to place subcontracts with labor surplus area concerns. In carrying out this policy, to accommodate the small business policies of Subpart 18–1.7, preference shall be given in the following order of priority to (a) certified-eligible concerns with a first preference which are also small business concerns, (b) other certified-eligible concerns with a first preference, (c) certified-eligible concerns with a second preference which are also small business concerns, (d) other certified-eligible concerns with a second preference, (e) persistent or substantial labor surplus area concerns which are also small business concerns, (f) other persistent or substantial labor surplus area concerns; and (g) small business concerns which are not labor surplus area concerns. But in no case will price differentials be paid for the purpose of carrying out this policy. Heads of installations and procurement officers are responsible for the effective implementation of the Labor Surplus Area Program within their respective installations. The contracting officer is responsible for compliance with the policy and procedures relating to labor surplus areas and for determining the final action to be taken with respect to individual procurement actions. The labor surplus area functions should generally be performed by the small business specialist or the individual designated to perform the small business functions where a full-time small business specialist is not warranted (see § 18.1.704–2).

32. Section 18–1.804–2 is revised to read as follows:

§ 18–1.804–2 Set-aside procedures.

(a) Where a portion of a procurement is to be set aside pursuant to § 18–1.804–1, the procurement shall be divided into a nonset-aside portion and a set-aside portion, each of which shall be not less than an economic production run or reasonable lot. Insofar as practical, the set-aside portion will be such as to make the maximum use of the capacity of labor surplus area concerns. Delivery terms and other terms applicable to the set-aside portion of an item and those applicable to the nonset-aside portion of that item shall be comparable.

(b) (1) In advertised procurements involving set-asides pursuant to this subpart, each invitation for bids shall contain substantially the following notice. In negotiated procurements, the notice shall be appropriately modified for use with requests for proposals. The notice shall be made a part of each contract under the set-aside portion of the procurement.

NOTICE OF LABOR SURPLUS AREA SET-ASIDE (SEPTEMBER 1970)

(a) *General.* A portion of this procurement, as identified elsewhere in the Schedule has been set aside for award only to one or more labor surplus area concerns, and, to a limited extent, to small business concerns which do not qualify as labor surplus area concerns. Negotiations for award of the set-aside portion will be conducted only with labor surplus area concerns (and small business concerns to the extent indicated below) who have submitted responsive bids or proposals on the nonset-aside portion at a unit price no greater than 130 percent of the highest unit price at which an award is made on the nonset-aside portion. Negotiations for the set-aside portion will be conducted with such bidders in the following order of priority:

Group 1. Certified-eligible concerns with a first preference which are also small business concerns.

Group 2. Other certified-eligible concerns with a first preference.

Group 3. Certified-eligible concerns with a second preference which are also small business concerns.

Group 4. Other certified-eligible concerns with a second preference.

Group 5. Persistent or substantial labor surplus area concerns which are also small business concerns.

Group 6. Other persistent or substantial labor surplus area concerns.

Group 7. Small business concerns which are not labor surplus area concerns.

Within each of the above groups negotiations with such concerns will be in the order of their bids on the non-set-aside portion, beginning with the lowest responsive bid. The set-aside portion shall be awarded at the highest unit price awarded on the non-set-aside portion, adjusted to reflect transportation and other cost factors which are considered in evaluating bids on the non-set-aside portion except where a responsive bid has been submitted on the non-set-aside portion at a unit price which when so adjusted is lower than the adjusted highest unit price awarded on the non-set-aside portion but could not be accepted because of quantity limitations or other consideration (such as the bidder's responsibility). In the latter case if the quantity limitation or other considerations do not preclude consideration of the unit price of such unaccepted bid at the time of negotiation for the set-aside portion, a quantity of the set-aside portion equal to the quantity of such unaccepted bid shall be offered to eligible concerns in their order of priority at the adjusted unit price of such unaccepted bid. If no eligible bidder will take the entire quantity so offered at the adjusted unit price of the unaccepted bid, then all eligible concerns in their order of priority shall be offered any lesser portion at the same price. (In the event more than one such unaccepted bid is involved, the same procedure shall be applied successively to each such bid on negotiation for the set-aside portion.) Subject to the conditions set forth below any remaining quantity of the set-aside portion shall be offered to eligible concerns in their order of priority at the adjusted highest unit price awarded on the non-set-aside portion. If such an unaccepted bid is submitted by a concern eligible to participate in the set-aside, such concern must accept a quantity of the set-aside portion equal to the quantity of the unaccepted bid at the adjusted unit price of the unaccepted bid before any portion of the set-aside may be awarded to that concern at a higher price. If such an unaccepted bid is submitted by a concern not eligible to participate in the set-aside, a quantity of the set-aside portion equal to the quantity of the unaccepted bid must be awarded at the adjusted unit price of such unaccepted bid before any portion of the set-aside is awarded to any eligible concern at a higher price. The Government reserves the right not to consider token bids or other devices designed to secure an unfair advantage over other bidders eligible for the set-aside portion.

(b) *Definitions.* (1) The term "labor surplus area" means a geographical area which is a section of concentrated unemployment or underemployment, a persistent labor surplus area, or a substantial labor surplus area, as defined below:

(i) "Section of concentrated unemployment or underemployment" means appropriate sections of a city, State, or an Indian Reservation so classified by the Secretary of Labor. (Cities and States with classified sections of unemployment and underemployment, as well as eligible Indian Reservations are listed by the Department of Labor in its publication "Area Trends in Employment and Unemployment.")

(ii) "Persistent labor surplus area" means an area which (A) is classified by the Department of Labor as an "Area of Persistent Labor Surplus" (also called "Area of Persistent Unemployment") and is listed as such by that Department in conjunction with its publication "Area Trends in Employment and Unemployment," or (B) is certified as an area of persistent labor surplus by the appropriate State Employment Security Agency or Department of Labor pursuant to a request by a prospective Contractor.

(iii) "Substantial labor surplus area" means an area which (A) is classified by the Department of Labor as an "Area of Substantial Labor Surplus" (also called "Area of Substantial Unemployment") and which is listed as such by that Department in conjunction with its publication "Area Trends in Employment and Unemployment," or (B) is certified as an area of substantial labor surplus by the appropriate State Employment Agency or Department of Labor pursuant to a request by a prospective Contractor.

(2) The term "labor surplus area concern" includes certified-eligible concerns with a first or second preference and persistent or substantial labor surplus area concerns as defined below:

(i) "Certified-eligible concern with a first preference" means a concern (located in or near a section of concentrated unemployment or underemployment or in an area of persistent or substantial labor surplus) which has been certified by the Secretary of Labor in accordance with CFR 8.7(b) and 8.9(c), with respect to the employment of disadvantaged individuals residing within such sections or areas, and which will agree to perform or cause to be performed by certified concerns with a first preference a substantial proportion of a contract in or near such sections or in such areas; it includes a concern which, though not so certified, agrees to have a substantial proportion of a contract performed by certified concerns with a first preference in or near such sections or in such areas. A concern shall be deemed to perform a substantial proportion of the contract in or near sections of concentrated unemployment or underemployment or in persistent or substantial labor surplus area if the costs that the concern will incur on account of manufacturing or production in or near such section or in such areas (by itself if a certified concern, or by certified concerns with a first preference acting as first tier subcontractors) amount to more than 25 percent of the contract price.

(ii) "Certified-eligible concern with a second preference" means a concern (located in any area) which has been certified by the Secretary of Labor in accordance with 29 CFR 8.7(c) and 8.9(d), with respect to the employment of disadvantaged individuals, and which will agree to perform or cause to be performed by certified concerns with a first or second preference a substantial proportion of the contract; it includes a concern which, though not so certified, agrees to have a substantial proportion of a contract performed by such certified concerns. A concern shall be deemed to perform a substantial proportion of the contract if the costs that the concern will incur on account of manufacturing or production (by itself if a certified concern, or by certified concerns with a first or second preference acting as first tier subcontractors) amount to more than 25 percent of the contract price.

(iii) "Persistent or substantial labor surplus area concern" means a concern that agrees to perform or cause to be performed a substantial proportion of a contract in persistent or substantial labor surplus areas. A concern shall be deemed to perform substantial proportion of a contract in persistent or substantial labor surplus areas if the aggregate costs that will be incurred by the concern or its first tier subcontractors on account of manufacturing or production performed in persistent or substantial labor surplus areas and in any area, by itself if a certified concern or by its first tier certified subcontractors, amount to more than 50 percent of the contract price.

(3) A "small business concern" is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is bidding on Government contracts, and can further qualify under the criteria set forth in regulations of the Small Business Administration (Code of Federal Regulations, Title 13, Section 121.3–8). In addition to meeting these criteria, a manufacturer or a regular dealer submitting bids or proposals in his own name must agree to furnish in the performance of the contract end items manufactured or produced by small business concerns: *Provided*, That this additional requirement does not apply in connection with construction or service contracts.

(4) "Unit price" shall include evaluation factors added for the rent-free use of Government property.

(c) *Identification of Areas of Performance.* Each bidder desiring to be considered for award as a labor surplus area concern on the set-aside portion of this procurement shall identify in his bid the geographical areas in which he proposes to perform, or cause to be performed, a substantial proportion of the production of the contract. If the Department of Labor classification of any such area changes after the bidder has submitted his bid, the bidder may change the areas in which he proposes to perform, *provided*, that he so notifies the Contracting Officer before award of the set-aside portion. Priority for negotiation will be based upon the labor surplus classification of the designated production areas as of the time of the proposed award.

(d) *Eligibility Based on Certification.* Where eligibility for preference is based upon the status of the bidder as a "certified-eligible concern," the bidder shall furnish with his bid evidence of its certification or its first tier subcontractors' certification by the Secretary of Labor.

(e) *Agreement.* The bidder agrees that (i) if awarded a contract as a certified-eligible concern with a first preference under the set-aside portion of this procurement, he will perform or cause to be performed a substantial proportion of the contract in or near sections of concentrated unemployment or underemployment or in persistent or substantial labor surplus areas and, in the performance of such contract, will employ or require certified first tier subcontractors with a first preference to employ a proportionate number of disadvantaged individuals, as defined by the Department of Labor in 29 CFR 8.2(d), residing within such sections or areas in accordance with plans approved by the Secretary of Labor; (ii) if awarded a contract as a certified-eligible concern with a second preference under the set-aside portion of the procurement, he will perform or cause to be performed a substantial proportion of the contract, in certified facilities and in the performance of such contract will employ or require certified first tier subcontractors with a first or second preference to employ disadvantaged individuals in accordance with plans approved by the Secretary of Labor; and (iii) if awarded a contract as a persistent or substantial labor surplus area concern under the set-aside portion of this procurement, he will perform or cause to be performed a substantial proportion of the contract in (A) areas classified at the time of award or at the time of performance of the contract as persistent or substantial labor surplus areas, or (B) in any area, by himself if a certified concern or by its first tier certified subcontractors.

(2) In requirements contracts involving a labor surplus area set-aside add the following to the above clause:

(f) *Requirements Contract.* Only one award will be made for each item or subitem of the nonset-aside portion and only one award will be made for each item or subitem of the set-aside portion. For the purpose of equitably distributing orders in accordance with this "Notice of Labor Surplus Area Set-Aside," the Government will apportion the quantities to be ordered as equally as possible between the nonset-aside Contractor and the set-aside Contractor to whom the awards are made.

(c)(1) After the award price for the nonset-aside portion has been determined, negotiations may be conducted for the set-aside portion. Procurement of the set-aside portion shall in all instances be effected by negotiation. Negotiations shall be conducted only with those bidders or offerors who have submitted responsive bids or proposals on the nonset-aside portion at a unit price no greater than 130 percent of the highest award made or to be made on the nonset-aside portion, taking into account the evaluation factors for rent-free use of Government property pursuant to Subpart 18–13.5 (provided, however, where the successful bidder which establishes the highest award price on the nonset-aside portion is a foreign bidder, the 130 percent rule shall be applied to the evaluated price on the nonset-aside portion (see § 18–6.104.4)). Negotiations shall be conducted in the order of priority indicated in the foregoing notice: *Provided*, That, where equal low bids are received on the nonset-aside portion from concerns which are equally eligible for the set-aside portion, the concern which is awarded the nonset-aside portion (under the equal low bid procedures of § 18–2.407–6) shall have first priority with respect to negotiations for the set-aside portion. The set-aside portion shall be awarded at the highest unit price awarded or to be awarded for the nonset-aside portion except that where the successful bidder which establishes the highest award price on the nonset-aside portion is a foreign bidder, the award price for the set-aside portion shall be the highest evaluated price (used for the purpose of determining eligibility of the foreign bidder for award) on the nonset-aside portion. A bidder or offer entitled to receive the award for quantities of an item under the nonset-aside portion and who accepts the award of additional quantities under the set-aside portion shall not be requested to accept a lower price because of the increased quantities of the award, nor shall negotiation be conducted with a view to obtaining such a lower price based solely upon receipt of award of both portions of the procurement. This does not prevent acceptance by the contracting officer of voluntary reductions in price prior to award, acceptance of refunds, or the change of prices after award by negotiation of a contract modification. If the entire set-aside portion cannot be awarded by the method described herein, any unawarded portion may be procured by advertising or negotiations, as appropriate, in accordance with existing regulations (see §§ 18–3.201–2(a) and 18–3.210–3 as to negotiation). Since a considerable time may have elapsed since the initiation of the requirement, contracting officers, prior to issuing a new solicitation, shall review the required delivery schedule (see § 18–1.305–2) to insure that it is realistic in the light of all relevant factors including the capabilities of labor surplus concerns.

(2) When the award price for a nonset-aside portion has been determined and where an award will be made to a labor surplus area concern and the same labor surplus area concern is entitled to receive a set-aside portion of the solicitation, the set-aside portion may be added

to the basic contract by supplemental agreement. The supplemental agreement shall include the "Examination of Records" clause, applicable to the set-aside portion only.

33. Section 18–1.805–3 is revised to read as follows:

§ 18–1.805–3 Required clauses.

(a) The Utilization of Labor Surplus Area Concerns clause set forth below shall be inserted in all contracts which may exceed $5,000, except—

(1) Contracts with foreign contractors which, including all subcontracts thereunder, are to be performed entirely outside the United States, its possessions, Puerto Rico, and the Trust Territory of the Pacific Islands;

(2) Contracts for construction; and

(3) Contracts with the petroleum and petroleum products industry.

UTILIZATION OF LABOR SURPLUS AREA CONCERNS (SEPTEMBER 1970)

(a) It is the policy of the Government to award contracts to labor surplus area concerns, that (1) have been certified by the Secretary of Labor (hereafter referred to respectively as certified concerns with a first or second preference) regarding the employment of a proportionate number of disadvantaged individuals and have agreed to perform substantially (i) in or near sections of concentrated unemployment or underemployment or in persistent or substantial labor surplus areas or (ii) in other areas of the United States; or (2) are noncertified concerns which have agreed to perform substantially in persistent or substantial labor surplus areas, where this can be done consistent with the efficient performance of the contract and at prices no higher than are obtainable elsewhere. The Contractor agrees to use his best efforts to place his subcontracts in accordance with this policy.

(b) In complying with paragraph (a) of this clause and with paragraph (b) of the clause of this contract entitled "Utilization of Small Business Concerns," the Contractor in placing his subcontracts shall observe the following order of preference: (1) certified concerns with a first preference which are also small business concerns, (2) other certified concerns with a first preference, (3) certified concerns with a second preference which are also small business concerns, (4) other certified concerns with a second preference, (5) persistent or substantial labor surplus area concerns which are also small business concerns, (6) other persistent or substantial labor surplus area concerns, and (7) small business concerns which are not labor surplus area concerns.

(b) The "Labor Surplus Area Subcontracting Program" clause below shall be included in all contracts which may exceed $500,000, but which contain the clause required by paragraph (a) of this section and which, in the opinion of the contracting officer, offer substantial subcontracting possibilities. Prime contractors who are to be awarded contracts that do not exceed $500,000, which in the opinion of the contracting officer offer substantial subcontracting possibilities, shall be urged to accept the following clause:

LABOR SURPLUS AREA SUBCONTRACTING PROGRAM (SEPTEMBER 1970)

(a) The Contractor agrees to establish and conduct a program which will encourage labor surplus area concerns to compete for subcontracts within their capabilities. In this connection, the Contractor shall—

(1) Designate a liaison officer who will (i) maintain liaison with duly authorized representatives of the Government on labor surplus area matters, (ii) supervise compliance with the "Utilization of Concerns in Labor Surplus Areas" clause, and (iii) administer the Contractor's Labor Surplus Area Subcontracting Program;

(2) Provide adequate and timely consideration of the potentialities of labor surplus area concerns in all "make-or-buy" decisions;

(3) Assure that labor surplus area concerns will have an equitable opportunity to compete for subcontracts, particularly by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of labor surplus area concerns;

(4) Maintain records showing procedures which have been adopted to comply with the policies set forth in this clause; and

(5) Include the "Utilization of Concerns in Labor Surplus Areas" clause in subcontracts which offer substantial labor surplus area subcontracting opportunities.

(b) For subcontracting purposes, a "labor surplus area concern" is a concern that (1) has been certified by the Secretary of Labor (hereafter referred to as a certified concern) regarding the employment of a proportionate number of disadvantaged individuals and has agreed to perform substantially in or near sections of concentrated unemployment or underemployment, in persistent or substantial labor surplus areas, or in other areas of the United States; or (2) is not a certified concern but has agreed to perform substantially in persistent or substantially labor surplus areas. A certified concern shall be deemed to perform a substantial proportion of a contract in or near sections of concentrated unemployment or underemployment, in persistent or substantial labor surplus areas, or in other areas of the United States if the costs that the concern will incur on account of manufacturing or production in or near such sections or in such areas amount to more than 25 percent of the price of such contracts; a concern shall be deemed to perform a substantial proportion of a contract in a persistent or substantial labor surplus area if the costs that the concern will incur on account of manufacturing or production in such areas amount to more than 50 percent of the price of such contract.

(c) The Contractor further agrees, with respect to any subcontract hereunder which is in excess of $500,000 and which contains the clause entitled "Utilization of Labor Surplus Area Concerns" that he will insert provisions in the subcontract which will conform substantially to the language of this clause, including this paragraph (c), and that he will furnish the names of such subcontractors to the Contracting Officer.

34. Section 18–1.901 is revised to read as follows:

§ 18–1.901 Applicability.

This subpart applies to procurements from contractors located in the United States, its possessions, and Puerto Rico; and will be applied in other places except where it is inconsistent with the laws and customs of the place where the prospective contractor is located. It is not applicable to procurements from:

(a) Other governments, including State and local governments;

(b) Other U.S. Government agencies or their instrumentalities (such as Federal Prison Industries, Inc.); or

(c) National Industries for the Blind.

35. Sections 18–1.903–1 and 18–1.903–2 are revised to read as follows:

§ 18–1.903 Minimum standards for responsible prospective contractors.

§ 18–1.903–1 General standards.

Except as otherwise provided in this § 18–1.903, a prospective contractor must:

(a) Have adequate financial resources or the ability to obtain such resources as required during performance of the contract (see §§ 18–1.904(d) and 18–1.905–2, and for Small Business Administration (SBA) certificates of competency, see § 18–1.705–4);

(b) Be able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing business commitments, commercial as well as governmental (for SBA certificates of competency, see § 18–1.705–4);

(c) Have a satisfactory record of performance (contractors who are seriously delinquent in current contract performance, when the number of contracts and the extent of delinquencies of each are considered, shall, in the absence of evidence to the contrary or circumstances properly beyond the control of the contractor, be presumed to be unable to fulfill this requirement). Past unsatisfactory performance, due to failure to apply necessary tenacity or perseverance to do an acceptable job, shall be sufficient to justify a finding of nonresponsibility. (In the case of small business concerns, see §§ 18–1.705–4(c)(6) and 18–1.905–2);

(d) Have a satisfactory record of integrity (in the case of a small business concern, see § 18–1.705–4(c)(6)); and

(e) Be otherwise qualified and eligible to receive an award under applicable laws and regulations, e.g., §§ 18–12.6 and 18–12.8 (in the case of a small business concern, see § 18–1.706–4(c)(5)).

§ 18–1.903–2 Additional standards—Standards for production, maintenance, construction, and research and development contracts.

In addition to the standards in § 18–1.903–1, in procurement involving production, maintenance, construction, or research and development work (and in other procurement as appropriate), a prospective contractor must:

(a) Have the necessary organization, experience, operational controls and technical skills, or the ability to obtain them (including where appropriate, such elements as production control procedures, property control system and quality assurance measures applicable to materials produced or services performed by the prospective contractor and subcontractors (see § 18–1.903–4)); and

(b) Have the necessary production, construction, and technical equipment and facilities, or the ability to obtain them. Where a prospective contractor proposes to use the facilities or equipment of another concern, not a subcontractor, or of his affiliate, all existing business arrangements, firm or contingent, for the use of such facilities or

equipment shall be considered in determining the ability of the prospective contractor to perform the contract; see also § 18–1.904–2.

36. Section 18–1.904 is revised to read as follows:

§ 18–1.904 Determinations of responsibility and nonresponsibility.

§ 18–1.904–1 Requirement.

No purchase shall be made from, and no contract shall be awarded to, any person or firm unless the contracting officer first makes an affirmative determination that the prospective contractor is responsible within the meaning of § 18–1.902. The signing of the contract by the contracting officer constitutes such a determination; therefore, he must assure himself that the applicable requirements of § 18–1.903 are met before signing the contract or order. When a certificate of competency has been issued, the factors covered by the certificate of competency may be accepted by the contracting officer without further inquiry. When a bid or offer on which an award would otherwise be made is rejected because the prospective contractor is found to be nonresponsible, a determination of nonresponsibility shall be made, signed, and placed in the file. The determination of nonresponsibility shall set forth the basis of the determination. In making a determination of responsibility or nonresponsibility for purchase or contract awards of $100,000 and over, contractor performance information and other performance data should be acquired and considered when the contracting officer deems it necessary. Supporting documents or reports, including any preaward survey reports (see § 18–1.905–4) and SBA certificate of competency (see § 18–1.705–4), shall be included in the contract file.

§ 18–1.904–2 Affiliated concerns.

(a) Affiliated concerns (see § 18–1.701–1(c)) shall be considered as separate entities in determining whether the one of them which is to perform the contract meets the applicable standards for a responsible prospective contractor (but see § 18–1.701–1 with respect to status as a small business concern).

(b) Notwithstanding the above, the record of performance and integrity of affiliated concern which may adversely affect the responsibility of the prospective contractor shall be considered by the contracting officer when making a determination of responsibility.

37. Sections 18–1.905–1, 18–1.905–2, 18–1.905–3, 18–1.905–4, and 18–1.905–50 are revised to read as follows:

§ 18–1.905 Procedures for determining responsibility of prospective contractors.

§ 18–1.905–1 General.

(a) Before making a determination of responsibility (see § 18–1.904), the contracting officer shall have in his possession or obtain information sufficient to satisfy himself that a prospective contractor currently meets the minimum standards set forth in § 18–1.903, to the extent that such standards are applicable to a specific procurement.

(b) *Maximum practicable use* shall be made of currently valid information on file or within the knowledge of personnel in NASA. Each installation shall at such level and manner as it deems appropriate, maintain useful records and experience data for the guidance of contracting officers in the placement of new procurement, and shall inform its contracting officers of the means of access thereto.

(c) Generally, information necessary to make determinations of responsibility shall be obtained only concerning prospective contractors within range for an award.

§ 18–1.905–2 When information will be obtained.

Generally, information regarding the responsibility of a prospective contractor (including preaward surveys (see § 18–1.905–4) when deemed necessary) shall be obtained promptly after bid opening, or receipt of proposals. However, in negotiated procurements, especially those involving research and development, such information may be obtained before the issuance of requests for proposals. Notwithstanding the foregoing, information regarding financial resources (see § 18–1.903–1) and performance capability (see § 18–1.903–1(b)) shall be obtained on as current a basis as feasible with relation to the date of contract award.

§ 18–1.905–3 Source of information.

Information regarding the responsibility of prospective contractors shall be sought among the following sources:

(a) The Joint Consolidated List of Debarred, Ineligible, and Suspended Contractors (see § 18–1.601).

(b) From the prospective contractor—including representations and other information contained in or attached to bids and proposals; replies to questionnaires on financial data, such as balance sheets, profit and loss statements, cash forecasts, financial history of the contractor and affiliated concerns; current and past production records; personnel records; lists of tools, equipment, and facilities; written statements or commitments concerning financial assistance and subcontracting arrangements; and analyses of operational control procedures. Where it is considered necessary by the contracting officer to prevent practices prejudicial to fair and open competition or for other reasons, prospective contractors may be required to submit affidavits concerning their ability to meet any of the minimum standards set forth in § 18–1.903 and company ownership and control (see § 18–2.201–1(a)(23)).

(c) Existing information within NASA and other Government agencies—including records on file and knowledge of personnel within procurement office making the procurement, other procurement offices, related activities, contract administration offices, audit activities, reliability and quality assurance offices, and offices concerned with contract financing;

(d) Publications—including credit ratings, trade and financial journals, business directions and registers;

(e) Other sources—including suppliers, subcontractors and customers of the prospective contractor; banks and financial companies; commercial credit agencies; Government departments and agencies; purchasing and trade associations; better business bureaus and chambers of commerce.

§ 18–1.905–4 Preaward surveys.

(a) *General.* A preaward survey is an evaluation by a NASA installation or a contract administration office (DCASR, AFPRO, etc.) of a prospective contractor's capability to perform under the terms of a proposed contract. Such evaluation shall be used by the contracting officer in determining the prospective contractor's responsibility. The evaluation may be accomplished by use of (1) data on hand, (2) data from other Government agency or commercial source, (3) an on-site inspection of plant and facilities to be used for performance on the proposed contract or (4) any combination of the above. Preaward surveys shall be requested and conducted in accordance with appendix K, Preaward Survey Procedures.

(b) *Circumstances under which performed.* A preaward survey shall be required when the information available to the procurement office is not sufficient to enable the contracting officer to make a determination regarding the responsibility of a prospective contractor (but see paragraph (c) of this section). A preaward survey is mandatory prior to determination that a small business concern is not responsible because of lack of capacity or credit on a proposed award of more than $10,000 (see § 18–1.705–4(c)).

(c) *Workload and financial capacity.* Regardless of the apparent sufficiency of information available to the procurement office indicating responsibility with respect to the standards set forth in § 18–1.903–1 (a) and (b), in procurements which are significant either in dollar value or in the critical nature of the requirement, consideration shall be given to requesting the survey activity to verify information regarding current workload and financial capacity.

(d) *Conducting activity.* A preaward survey may be conducted by a NASA installation, by one NASA installation for another, by another Government agency for NASA or jointly by a NASA installation and another Government agency. In this regard, NASA activities will give primary consideration to maximum utilization of the Defense Contract Administration Services Regions, or a military department as appropriate, for performance of preaward surveys (see Subpart § 18–51.3). This will usually be the most efficient and economical means available to NASA for accomplishing a preaward survey.

§ 18–1.905–50 Procedures for requesting preaward surveys.

(a) When the contracting officer determines that a preaward survey is required, he shall request a survey on DD Form 1524 in the detail commensurate with the dollar value and complexity of the procurement. In requesting a preaward survey, the contracting officer shall call to the attention of the survey activity any factors which should receive special emphasis. The factors selected by the contracting officer shall be applicable to all firms responding to the solicitation and shall be considered in all preaward surveys performed for the same solicitation. In the absence of specific instructions from the contracting officer, the scope of the preaward survey shall be determined by the survey activity and a normal time frame of seven working days after receipt of request shall be allowed for conducting the survey and submitting the report, recognizing that in unusual circumstances exception from the normal time frame may be requested.

(b) If a complete survey of financial responsibilities is required, the appropriate blocks in part I, section III of DD Form 1524 will be checked.

(c) Requests for surveys may be submitted to the NASA installation located nearest to the prospective contractor, to the military department, or the appropriate Defense Contract Administration activity with which NASA has a service agreement (see § 18–1.905–4). The survey shall be requested on Preaward Survey of Prospective Contractor (DD Form 1524) indicating in part I, section III thereof the scope of the survey desired. Factors requiring emphasis not enumerated in part I, section III should be listed by the procurement office under item "14" of that section. A survey may be requested by telegraphic communication containing the data required by part I, sections I, II, and III of the Form. A survey may be requested by telephone but shall be confirmed immediately on DD Form 1524. Unless previously furnished, a copy of the solicitation and such drawings and specifications as deemed necessary by the procurement office, shall be supplied with the preaward survey request. The procurement office shall forward any information indicating previous unsatisfactory contract performance with the preaward survey request, except where it is known that the survey activity already has this information.

38. Sections 18–1.5100, 18–1.5101, 18–1.5102, 18–1.5103, 18–1.5104, 18–1.5105, and 18–1.5106 are revised to read as follows:

§ 18–1.5100 Scope of subpart.

This subpart establishes procedures for implementing the reliability policies prescribed in NASA Policy Directive 5300.7, "Basic Policy for Reliability and Quality Assurance" by (a) establishing general principles of systematic reliability assurance actions on NASA procurements; (b) detailing the application of NASA Reliability Publication "Reliability Program Provisions for Aeronautical and Space Systems Contractors" (NHB 5300.4(1A)); and (c) defining the level at which reliability program requirements are to be placed on contractors.

§ 18–1.5101 Policy.

NASA reliability and quality assurance policy, as reflected in NPD 5300.7 is to (a) utilize every practical means to achieve levels of reliability and quality commensurate with mission objectives; (b) assign responsibility for establishing and achieving reliability and quality assurance (R&QA) requirements for products and services which are developed and fabricated within NASA installations or acquired from contractors; and (c) to review and evaluate plans, systems, and activities related to establishing and meeting reliability and quality requirements by contractors and within NASA installations to ensure that desired objectives are effectively achieved.

§ 18–1.5102 Definitions.

For the purpose of this subpart, the following terms have the meanings set forth below.

(a) *Reliability.* A characteristic or a system or any element thereof which is expressed as the probability that it will perform its required functions under defined conditions at designated times and for specified operating periods.

(b) *Reliability program.* A series of tasks, systematized under a comprehensive plan, which is designed to achieve the required level or reliability in the design, development, fabrication, test and use of a hardware end item.

(c) *Reliability assurance.* A planned and systematic pattern of actions necessary to provide adequate confidence that a space or aeronautical system or portion thereof (including test equipment) will perform reliably in actual operation. This includes actions to:

(1) Plan for achievement of satisfactory reliability when formulating procurement documents;

(2) Plan and execute reliability programs pertinent to each phase of the work from design through end use of the system hardware;

(3) Monitor and guide contractor reliability efforts; and

(4) Assess to determine whether the necessary level of reliability is being attained and maintained.

§ 18–1.5103 Application.

(a) The procedures prescribed in this subpart are applicable to:

(1) New procurements of complete space or aeronautical systems; principal systems making up a complete system (e.g., launch vehicles, spacecraft, test equipment, critical ground support equipment, experiments, etc.); critical subsystems or critical components where the total cost of the procurement is estimated to exceed $1 million. (See paragraph (b) of this section, for smaller procurements of critical items.) It is not necessarily applicable for procurements which do not entail design responsibility (e.g., "off-the-shelf" items); and

(2) Amendments to existing contracts of the types stated in paragraph (a)(1) of this section if the total contract value exceeds $1 million after amendment. In applying NHB 5300.4(1A) to existing contracts, cognizant personnel shall exercise discretion to prescribe reliability program requirements in such a manner as to be timely in contract performance and reasonable in cost in light of project completion status.

(b) For procurements of $1 million or less where the contractor has design responsibility for an aeronautical or space system or for critical hardware end items, or equipment to serve as part of such a system (including critical test and ground support equipment), the cognizant NASA installation shall (1) determine and impose applicable reliability program requirements (e.g., design review, design specifications, failure reporting and correction, parts and materials program, qualification and flight acceptance testing); and (2) follow those procedures set forth in § 18–1.5104(a) considered by the installation to be applicable.

§ 18–1.5104 Responsibilities.

(a) *Originators of procurement requests.* Originators of procurement requests shall consult as early as possible with appropriate reliability assurance personnel to determine the extent of applicability of NASA reliability publication NHB 5300.4(1A) to the procurement and to ensure that these reliability personnel develop detailed reliability program requirements. They shall also:

(1) Generally define in the procurement request the extent to which reliability program provisions of NHB 5300.4 (1A) will be invoked in the contract;

(2) Cite in the procurement request appropriate specifications, standards, design reliability criteria, or other documents or provisions which further establish or define reliability requirements;

(3) Recomended in the procurement request the manner in which reliability assurance requirements should be phased relative to over-all procurement phasing, and specify the time at which the contractor's reliability program plan is to be incorporated in the contract;

(4) Provide for the Statement of Work, details on the extent of applicability or necessary amplification of the provisions of NHB 5300.4(1A) and any other reliability documents to be invoked in the contract (for technical factors requiring definitization, see § 18–1.5106); and

(5) Provide the contracting officer the necessary copies of items described in subparagraph (2) of this paragraph, or advice as to where they can be obtained.

(b) *Contracting Officers.* Contracting officers, with or through appropriate reliability assurance personnel, shall:

(1) Review the reliability assurance requirements established for each procurement;

(2) Question those reliability assurance provisions which appear to be inadequate or have not been included (this will be accomplished in coordination with, and with verification by, the originator of the procurement request and reliability assurance personnel);

(3) Advise all prospective contractors of reliability assurance and program requirements for the procurement;

(4) Insure, whenever practicable, that the contractor's reliability program plan is incorporated in the contract at the time of award of Phase C and/or Phase D contracts; in multiple phase contracts, which include Phase B, negotiate as a minimum the scope of the reliability program by reliability task for this project phase prior to contract award and provide for definitization of the reliability program plan prior to the start of Phase C (see NHB 7121.2 "Phased Project Planning Guidelines");

(5) Insure that the provisions of the contract are clear as to the contractor's responsibility for meeting reliability requirements; and

(6) Insure that the contractor meets the terms and conditions of the contract relative to reliability requirements.

(c) *Reliability assurance personnel.* Reliability assurance personnel shall:

(1) Advise and assist originators of procurement requests in performing the functions described in paragraph (a) of this section;

(2) Advise and assist contracting officers in the functions described in paragraph (b) of this section;

(3) Assist contracting officers in the preparation of procurement plans to insure that the plans contain necessary provisions for reliability assurance;

(4) Assist the originators of procurement requests in evaluating and scoring the reliability program provisions of contract proposals;

(5) Advise and assist in guidance and monitoring, and other actions necessary to assure the contractor's compliance with the contract reliability program requirements;

(6) Take other actions as necessary to ensure that the system, hardware end item, or equipment being procured meets required levels of reliability; and

(7) Advise contracting officers and originators of procurements as necessary to assist them in evaluating and negotiating proposed reliability program costs and in monitoring of these costs during reliability program execution.

§ 18–1.5105 Procedures.

(a) *Processing of procurement documents for procurements of systems expected to exceed $1 million*—(1) *Procurement requests.* The procurement requests will include in the description of the procurement a statement of reliability requirements, in accordance with § 18–1.5104(a) (1) through (4).

(2) *Procurement plans.* The procurement plan will contain a discussion of the proposed provisions for reliability assurance, including a summary of reliability program requirements and an indication of the time phasing for negotiating and monitoring the reliability assurance provisions relative to overall procurement phasing. The plan will also contain estimates by fiscal year of planned funding for the contract reliability program.

(3) *Requests for proposals.* Requests for proposals will include:

(i) A clear description of the reliability program requirements for the contract including extent of applicability of NHB 5300.4(1A) and of any other pertinent documents or information which define reliability program requirements and goals. (For technical factors requiring decisions or elaboration in the Statement of Work, see §§ 18–1.5104(a) (4) and 18–1.5106);

(ii) A requirement that offerors furnish, as a part of their proposal, a reliability program plan in compliance with paragraph 1A201 of NHB 5300.4(1A) which will define how the reliability requirements to be invoked in the resulting contract will be accomplished; and

(iii) Directions for obtaining additional copies (if available) of documents provided in accordance with § 18–1.5104 (a) (2) and a statement that copies of NHB 5300.4(1A) or other reliability documents referenced in the solicitation or contract will be provided upon request.

(4) *Proposal evaluation and documentation.* In any procurement involving the reliability provisions of NHB 5300.4(1A), the contract file documentation of the technical evaluation of proposals shall include an evaluation of each bidder's or offeror's method of achieving the reliability required. Evaluation of the reliability assurance portion of technical proposals should be accomplished with the assistance of reliability assurance personnel.

(5) *Reliability representation on Source Evaluation Boards.* Paragraph 300 of the Source Evaluation Board Manual (NPC 402) provides for the participation of the designee of the Director of Reliability and Quality Assurance, NASA Headquarters, in Source Evaluation Board proceedings, whenever the Administrator of NASA is the Source Selection Official.

(b) *Monitoring of reliability effort.* At the discretion of the installation, one or more of the following methods will be used to monitor contractor reliability efforts:

(1) Use, when available, of resident NASA technical representatives (including reliability representatives) in hardware contractor facilities (or, as a minimum, use of periodic reliability surveys by nonresident NASA teams). When resident NASA representatives are assigned the reliability assurance functions, an outline of their duties will be furnished to the contracting officer in compliance with NASA PR 51.303(e);

(2) Use of delegations to plant resident contract administration offices of other Government agencies;

(3) Conducting reviews of contractor and supplier documentation to assess reliability program effectiveness and reliability status of project hardware; and

(4) Use of independent reliability assessment contractors to assist NASA in assessment of system reliability and/or evaluation of the effectiveness of the contractor's reliability program.

(c) *Inclusion of NHB 5300.4(1A), "Reliability Program Provisions for Aeronautical and Space Systems Contractors" in the contract.* When NHB 5300.4(1A) is to be invoked in the contract, a clause substantially as follows will be set forth in the schedule of the contract.

RELIABILITY ASSURANCE PROGRAM (JUNE 1971)

In performance of work under the contract, the Contractor shall to the extent provided for in the Statement of Work, implement a reliability program in accordance with NASA Reliability and Quality Assurance Publication, NHB 5300.4(1A) (indicate date of publication here), "Reliability Program Provisions for Aeronautical and Space System Contractors," and any other reliability assurance requirements set forth elsewhere herein or in the Statement of Work. Government surveillance over the Contractor's reliability effort and any required review and approval of reliability program documentation, shall be the responsibility of the Contracting Officer or his designated representative.

§ 18–1.5106 Technical factors (Statement of Work).

NHB 5300.4(1A) prescribes general reliability program requirements and guidelines essential to effective accomplishment of the task. Within these bounds, it is required that the contractor specify in detail the methods he proposes to use, the phasing of effort, and the resources he intends to program to implement each task. However, it is often necessary to provide further definition and guidance on scope, phasing, or method of implementing various tasks in order for the contractor to meet the requirements of a particular procurement. Therefore, the Statement of Work should provide additional definitization of pertinent factors in the appropriate paragraphs of NHB 5300.4(1A). Guidance for most of these is provided in Appendix F of NHB 5300.4(1A). However, in regard to paragraph 1A301–3 of that publication, the Statement of Work should also specify NASA's rights of approval or review of contractor design specifications.

39. Section 18–1.5204 is revised to read as follows:

§ 18–1.5204 Contract provisions.

(a) Specific system safety requirements which are to be included in the contract for the purpose of procuring system safety engineering services shall be defined in the contract schedule in cordance with § 18–1.5202 (a) (2) and (b) (3).

(b) Any unique facility safety or health requirements, which are in addition to the general provisions of the "Safety and Health" clause required herein, shall be prescribed as required by § 18–1.5202(b) (3).

(c) The following clause shall be included in:

(1) All negotiated contracts of $1 million or more, unless the contracting officer makes a written determination in accordance with § 18–1.5202(b) that, under the circumstances of the procurement, the clause is not necessary;

(2) All construction, repair, or alteration contracts in excess of $10,000;

(3) All contracts having, within their total requirement, construction, repair or alteration tasks in excess of $10,000; and

(4) In any procurement regardless of dollar amount when: (*a*) The deliverable

contract end items are of a hazardous nature; (*b*) during the life of the contract it can reasonably be expected that hazards will be generated within the operational environment, and the contracting officer determines that the hazards in the procurement warrant the inclusion of the clause.

(d) This clause may, however, be excluded from any contract which is subject to either the Walsh-Healy Public Contracts Act (§ 18–12.601) or the Services Contract Act of 1965 (§ 18–12.1004) and in which the application of either Act and any regulations thereumder constitute adequate safety and health protection.

SAFETY AND HEALTH (JUNE 1971)

(a) The Contractor shall take all reasonable safety and health measures in performing under this contract and shall, to the extent set forth in the schedule of the contract, submit a safety plan and a health plan for the Contracting Officer's approval. The Contractor is subject to (i) all applicable Federal, state and local laws, regulations, ordinances, codes and orders relating to safety and health in effect on the date of this contract; and (ii) shall comply with the Safety and Health Standards, specifications and issuances, reporting requirements, and provisions as set forth in the schedule of the contract.

(b) Further, the Contractor shall take or cause to be taken such other safety and health measures as the Contracting Officer shall direct. To the extent that the Contractor is entitled to an equitable adjustment under the terms and conditions of this contract, or any other obligations of the parties, such equitable adjustment shall be determined pursuant to the procedures of the clause of this contract entitled "Changes:" *Provided*, That no adjustment shall be made under this clause for any change for which an equitable adjustment is expressly provided under any other provision of this contract.

(c) The Contractor shall immediately notify and promptly report to the Contracting Officer or his representative, any accident or incident or exposure resulting in fatality, disabling injury or occupational disease as defined by United States of America Standards Institute (Standard Method for Reporting and Recording Occupational Injuries, Z16.1), or contamination of property beyond stated acceptable threshold limits set forth in the Schedule of the contract, or property loss of $10,000 or more arising out of work performed under this contract: *Provided, however*, the Contractor will not be required to include in any report an expression of opinion as to the fault or negligence of any employee. In addition, the Contractor shall comply with any illness, incident and injury experience reporting requirements set forth in the Schedule of the contract. The Contractor will investigate all such work related incidents or accidents to persons and property to the extent necessary to positively conclude what cause or causes resulted in said accident or incident, and furnish the Contracting Officer with a report, in such form as the Contracting Officer may require, of the investigative findings, together with proposed and/or completed corrective actions.

(d) (1) The Contracting Officer may, from time to time, notify the Contractor in writing of any noncompliance with the provisions of this clause and may specify corrective actions to be taken. The Contractor shall, after receipt of such notice, immediately take corrective action.

(2) If the Contractor fails or refuses to institute prompt corrective action in accordance with (d) (1) above, the Contracting Officer may invoke the provisions of the clause in the contract entitled "Stop Work," or may invoke whatever other rights are available to the Government under the terms and conditions of this contract or at common law, to remedy such failure or refusal to institute prompt corrective action.

(e) The Contractor (or subcontractor or supplier) shall cause the substance of this clause including this paragraph (e) and any applicable Schedule Provisions, with appropriate changes of designations of the parties, to be inserted in subcontracts of every tier which: (i) amount to $1,000,000 or more unless the Contracting Officer makes a written determination that this is not required; (ii) require construction, repair, or alteration in excess of $10,000; or (iii) the Contractor, regardless of dollar amount, determines that hazardous materials or operations are involved.

(f) The Contractor agrees that authorized Government representatives of the Contracting Officer shall have access to and the right to examine the sites or areas where work under this contract is being performed to determine the adequacy of the Contractor's safety and health measures under this clause.

PART 18–2—PROCUREMENT BY FORMAL ADVERTISING

40. Section 18–2.201–1 is revised to read as follows:

§ 18–2.201–1 Supply and service contracts.

(a) *Supply and service contracts, including construction.* For supply and service contracts, *including construction*, invitation for bids shall contain the following information if applicable to the procurement involved.

(1) Invitation number.

(2) Name and address of issuing installation.

(3) Date of issuance.

(4) Date, hour, and place of opening. (Prevailing local time shall be used. See § 18–2.202–1 concerning bidding time.) The exact location of the bid depository, including the room and building numbers, and a statement that hand-carried bids must be deposited therein.

(5) Number of pages.

(6) Requisition or other purchase authority and appropriation and accounting data.

(7) A description of supplies or services to be furnished under each item, in sufficient detail to permit full and free competition. Reference to specifications shall include identification of all amendments or revisions thereof, applicable to the procurement and dates of both the specifications and the revisions (see § 18–1.1201(a)). Such description shall comply with Subpart 18–1.12, relating to specifications.

(8) The time of delivery or performance (see § 18–1.305).

(9) Permission, if any, to submit telegraphic bids (see § 18–2.202–2).

(10) Permission, if any, to submit alternate bids, including alternate materials or design and the basis upon which award will be made in such case.

(11) The "Patent Royalties" clause set forth in § 18–9.102–2(f) (1);

(12) Bid guarantee, performance bond, and payment bond requirements, if any (see Subpart 18–10.1, and 18–16.805). If a bid bond or other form of bid guarantee is required, the solicitation shall include the provisions required by § 18–10.102–4.

(13) Any offer by the Government to provide Government production and research property for the performance of the contract, and any special provisions relating thereto (see Subpart 18–13.3).

(14) Description of the procedures to be followed in obtaining permission to use Government production and research property and in eliminating competitive advantage from the rent-free use thereof (see Subparts 18–13.4 and 18–13.5).

(15) When considered necessary by the contracting officer, a requirement that all bids must allow a period for acceptance by the Government of not less than a minimum period stipulated in the invitation for bids, and that bids offering less than the minimum stipulated acceptance period will be rejected. The minimum period so stipulated should be no more than reasonably required for evaluation of bids and other preaward processing. To accomplish the foregoing, a paragraph substantially as follows may be included in the schedule or other appropriate place in the Invitation for Bids:

BIDS ACCEPTANCE PERIOD (JULY 1965)

Bids offering less than ------ days for acceptance by the Government from the date set for opening of bids will be considered nonresponsive and will be rejected.

In construction contracts, a 30-day bid acceptance period is normal, but may be less, and in unusual circumstances a period of 60 days may be specified.

(16) In unusual cases, where bidders are required to have special technical qualifications due to the complexity of the equipment being purchased or for some other special reason, a statement of such qualifications.

(17) Any authorized special provisions, necessary for the particular procurement, relating to such matters as progress payments, patent licenses, liquidated damages, "Buy American Act," etc.

(18) Any additional contract clauses, provisions or conditions required by law or this chapter.

(19) Any applicable wage determinations of the Secretary of Labor (in the case of procurement of supplies which also involve the performance of construction, alteration or repair work, see § 18–12.402; in the case of service contracts, see Subpart 18–12.11).

(20) A statement of the exact basis upon which bids will be evaluated and award made, to include any Government costs or expenditures (other than bid prices) to be added or deducted, or any provision for escalation as factors for evaluation.

(21) If the schedule contains a price escalation clause, the following provision:

Evaluation of bids subject to escalation. Notwithstanding the provisions of the clause entitled "Price Escalation," bids shall be

evaluated on the basis of quoted prices without the allowable escalation being added. Bids which provide for a ceiling lower than that stipulated in the clause will also be evaluated on this basis. Bids which provide for escalation that may exceed the maximum escalation stipulated in the clause, or which limit or delete the downward escalation stipulated in the clause shall be rejected as nonresponsive. (July 1968)

(22) Where Standard Form 33 (Solicitation, Offer, and Award) is not used and where not contained elsewhere in the invitation, a provision as follows:

ORDER OF PRECEDENCE (JULY 1968)

In the event of an inconsistency between provisions of this invitation for bids, the inconsistency shall be resolved by giving precedence in the following order: (a) the schedule; (b) bidding instructions, terms and conditions of the invitation for bids; (c) general provisions; (d) other provisions of the contract, whether incorporated by reference or otherwise; and (e) the specifications.

(23) When considered necessary by the contracting officer to prevent practices prejudicial to fair and open competition, such as improper kinds of multiple bidding, a requirement that each bidder submit with his bid an affidavit concerning his affiliation with other concerns. To accomplish the foregoing, a paragraph substantially as follows may be included in the Schedule or other appropriate place in the invitation for bids:

AFFILIATED BIDDERS (JULY 1968)

(a) Business concerns are affiliates of each other when either directly or indirectly (i) one concern controls or has the power to control the other, or (ii) a third party controls or has the power to control both.

(b) Each bidder shall submit with his bid an affidavit containing information as follows:

(i) Whether the bidder has any affiliates;

(ii) The names and addresses of all affiliates of the bidder; and

(iii) The names and addresses of all persons and concerns exercising control or ownership of the bidder and any or all of his affiliates, and whether as common officers, directors, stockholders holding controlling interest, or otherwise.

Failure to furnish such an affidavit may result in rejection of the bid.

Failure to furnish such an affidavit shall be treated as a minor informality or irregularity (see § 18–2.405).

(24) Directions for obtaining copies of any documents, such as plans, drawings, and specifications, which have been incorporated by reference (see § 18–1.1203).

(25) Where Standard Form 33 (Solicitation, Offer, and Award) is not used, a requirement for inclusion of "county" as part of bidder's address will be inserted.

(26) A provision covering the required source for jeweled bearings (see § 18–1.315).

(27) [Reserved]

(28) Information regarding bidding material which shall include instructions to bidders, the bid form, the contract form, the general provisions, any conditions, the specifications and drawings (see § 18–1.1203).

(29) Where Standard Form 33 (Solicitation, Offer, and Award) is not used, a provision covering parent company and employer identification number (see § 18–1.114).

(30) If the contract is to be conditioned on the availability of funds, a clear statement of such condition (see § 18–1.318).

(31) If the contract is to involve construction work (subject to the Davis-Bacon Act) at Cape Kennedy, Patrick Air Force Base, or Merritt Island Launch Area, the "Employee Compensation" clause and "Table of Employee Compensation".

(32) In accordance with § 18–1.1208, a provision concerning the use of new material (except in the case of construction) and a provision concerning the use of former Government surplus property.

(33) The Certificate of Independent Price Determination as required by § 18–1.115.

(34) Quality assurance requirements applicable to the procurement in accordance with Subpart 18–1.50.

(35) [Reserved]

(36) A statement that prospective bidders may submit inquiries by writing or calling (collect calls not accepted) (*insert name and address; telephone area code, number, and extension*).

(37) When using Standard Form 33, on the face thereof or on a cover sheet, a grief description of the items being procured, unless the contracting officer considers such to be unnecessary or impractical.

(38) A statement that prospective bidders should indicate in the bid the address to which payment should be mailed, if such address it different from that shown for the bidder. (Contracting officers shall include this information in all resultant contracts which are to be administered by a Defense Contract Administration Services Regional Office.)

(39) A provision covering the required source for aluminum (see § 18–1.327).

(40) [Reserved]

(41) Time of delivery or performance requirements (see § 18–1.305).

(42) A statement that the "Contract Work Hours Standards Act—Overtime Compensation" clause is not applicable to contracts if the aggregate amount of the bid is $2,500 or less (see § 18.12. 302–2).

(43) [Reserved]

(44) In procurements involving total set-asides for small business, the Notice set forth in § 18–1.706–5(c).

(45) In procurements involving partial set-asides for small business, the notice requirements as set forth in § 18–1.706–6(c).

(46) In procurements involving partial set-asides for labor surplus area concerns, the notice requirements as set forth in § 18–1.804–2(b).

(47) When the procurement involves a set-aside for small business concerns, the following provision:

This is a ------% set-aside for small business concerns.

(48) When the procurement involves a set-aside for labor surplus area concerns, the following provision:

This is a ------% set-aside for labor surplus area concerns.

(49) If the resulting contract is expected to exceed $100,000, the "Contractor and Subcontractor Certified Cost or Pricing Data" clause (see § 18–3.807–4).

(50) Statement that the selected contractor will or will not require access to classified information (see NASA Management Issuance 1650.1, paragraph 12).

(51) Statement that special instructions for waived inventions will not be applied) (see § 18–9.101–3(a)).

(52) If leases are involved, the "Facilities Nondiscrimination" clause set forth in §§ 18–1.350–2 and 18–1.350–4.

(53) If the "Equal Employment" clause is not applicable to the proposed procurement (see § 18–12.803), or if the proposed procurement is exempted from the clause (see § 18–12.804), include a statement substantially as follows:

Representation No. 6, "Equal Opportunity" of Standard Form 33 is not applicable to this Procurement. (July 1965)

(54) A reference prominently placed in the invitation to Paragraph 8 entitled, "Late Offers and Modifications or Withdrawals", of Standard Form 33A.

(55) The "Certification of Nonsegregated Facilities" set forth in § 18–12.802–4(c).

(56) The notice regarding the requirement for "Certification of Nonsegregated Facilities" as prescribed in § 18–12.802–4(b).

(57) Where Standard Form 33 (Solicitation, Offer, and Award) or Standard Form 19–B (Representations and Certifications) (Construction Contract) is not used, insert the "Equal Opportunity" representation set forth in § 18–12.802–4(a).

(58) Invitation for Bid which will result in the placement of rated orders or Authorized Controlled Material Orders shall contain the following statement.

Contracts or purchase orders to be awarded as a result of this solicitation shall be assigned a (DX or DO as appropriate) rating or DMS allotment number (as appropriate) in accordance with the provisions of BDSA Regulation 2 and/or DMS Regulation 1.

(b) *Supply and service contracts, excluding construction.* For supply and service contracts, excluding construction, invitation for bids shall contain the following in addition to the information required by paragraph (a) of this section, if applicable to the procurement involved.

(1) Discount provisions (see § 18–2.407–3).

(2) The quantity of supplies or services to be supplied under each item, and any provision for extent of quantity variation.

(3) Any requirement for prior testing and qualification of a product.

(4) Where needed for the purpose of bid evaluation, preaward surveys, or inspection, a requirement that all bidders state the place (including the street address) from which the supplies will be furnished or where the services will be performed. Where it is reasonably anticipated that producing facilities will be

used in the performance of the contracts, or where the Government requires the information, bidders will be required to state (i) the full address of principal producing facilities (if designation of such address is not feasible, a full explanation will be required), and (ii) names and addresses of owner and operator if other than bidder.

(5) Place and method of delivery (see Subpart 18–1.13 and § 18–2.202–3).

(6) Preservation, packaging, packing, and marking requirements, if any (see § 18–1.1204).

(7) Place, method, and conditions of inspection.

(8) If no award will be made for less than the full quantities advertised a statement to that effect.

(9) If award is to be made by specified groups of items or in the aggregate, a statement to that effect.

(10) If the contract is to include option provisions, a clear statement of such provisions (see Subpart 18–1.15 and § 18–12.1106–2).

(11) Any applicable requirements for samples or descriptive literature (see §§ 18–2.202–4 and 18–2.202–5).

(12) When minimum size of shipment requirements are appropriate, a provision substantially as set forth in § 18–2.202–3(b)(2).

(13) When the shipping weights (and dimensions if applicable) of an item are a factor in determining transportation costs for bid evaluation, a provision substantially as set forth in § 18–2.202–3(b)(3).

(14) If the procurement includes the furnishing of electrosensitive initiating devices (squibs) or any other item or component designated in the procurement request as a potentially hazardous item, the requirements set forth in § 18–1.351.

(15) The number of copies of sellers' invoices desired, including original, if more or less than four.

(16) Any requirement for preproduction samples or tests, including a statement that the Government reserves the right to waive the requirement as to those bidders offering a product which has been previously procured or tested by the Government, and a statement that bidders offering such products, who wish to rely on such prior procurement or tests, must furnish with the bid information from which it may be clearly established that prior Government approval is presently appropriate for the pending procurement.

(17) In accordance with § 18–1.1208, a provision concerning the use of new material.

(18) [Reserved]

(19) When the contracting officer determines that it is necessary to consider the advantages or disadvantages to the Government that might result from making more than one award (multiple awards) (see § 18–2.407–5(c)), a provision substantially as follows:

EVALUATION OF BIDS (JULY 1965)

In addition to other factors, bids will be evaluated on the basis of advantages or disadvantages to the Government that might result from making more than one award (multiple awards). For the purpose of making this evaluation, it will be assumed that the sum of $50 would be the administrative cost to the Government for issuing and administering each contract awarded under this invitation, and individual awards will be for the items and combination of items which result in the lowest aggregate price to the Government, including such administrative costs.

(20) If the contract involves performance of services on a Government installation, the following provision.

SITE VISIT (JULY 1968)

Bidders are urged and expected to inspect the site where services are to be performed and to satisfy themselves as to all general and local conditions that may affect the cost of performance of the contract, to the extent such information is reasonably obtainable. In no event will a failure to inspect the site constitute grounds for withdrawal of a bid after opening or for a claim after award of the contract.

(21) To insure timely distribution of Material Inspection and Receiving Reports (DD Form 250), include distribution instructions in the Schedule or as an attachment to the contract (see appendix I).

(22) Where liquidated damages are to be assessed, insert the clause as prescribed by § 18–7.105–5 (see § 18–1.310).

(23) In the procurement of supplies where the award may amount to $1 million or more, include the provision relating to preaward Equal Opportunity Compliance reviews set forth in § 18–12.802–4(d).

41. Sections 18–2.407–5 and 18–2.407–6 are revised to read as follows:

§ 18–2.407–5 Other factors to be considered.

The factors set forth below, among others, may be for consideration in evaluating bids for award:

(a) Foreseeable cost or delays to the Government resulting from differences in inspection, location of supplies, transportation, etc. If bids are on an FOB origin basis, transportation costs to the designated destination points shall be considered in determining the lowest cost to the Government.

(b) Changes made or requested by the bidder in any of the provisions of the invitation for bids to the extent that any such change does not constitute ground for rejection of the bid under the provisions of § 18–2.404.

(c) Advantages or disadvantages to the Government that might result from making multiple awards. (See § 18–2.201–1(b)(19).)

(d) Federal, State and local taxes (see Part 18–11).

(e) Origin of supplies, whether domestic or foreign, and, if foreign, the application of the Buy American Act or any other prohibition on foreign purchases (see Part 18–6).

(f) Royalties the Government will be required to pay under patent license agreements. (See § 18–9.102.)

§ 18–2.407–6 Equal low bids.

(a) (1) Where two or more low bids are equal in all respects, considering all factors except the priorities set forth in paragraph (a)(2) of this section, award shall be made in accordance with the order of priorities therein. Where two or more low bids are equal in all respects, considering all factors including the priorities set forth in paragraph (a)(2) of this section, award shall be made by a drawing by lot which shall be witnessed by at least three persons and which may be attended by the bidders or their representatives, subject to paragraph (a)(3) of this section.

(2) For the purpose of paragraph (a)(1) of this section, preference shall be given in the following order of priority:

(i) Certified-eligible concerns with a first preference (§ 18–1.801) that are also small business concerns (§ 18–1.701);

(ii) Other certified-eligible concerns with a first preference;

(iii) Certified-eligible concerns with a second preference (§ 18–1.801) that are also small business concerns (§ 18–1.701);

(iv) Other certified-eligible concerns with a second preference;

(v) Persistent or substantial labor surplus area concerns (§ 18–1.801) that are also small business concerns (§ 18–1.701);

(vi) Other persistent or substantial labor surplus area concerns; and

(vii) Other small business concerns.

(3) If the application of the priorities in paragraph (a)(2) of this section results in two or more bidders being eligible for award, the award shall be made to the concern that will make the most extensive use of small business subcontractors, rather than by drawing lots. If two or more bidders still remain eligible for award, the award shall be made by a drawing by lot limited to such bidders.

(b) When award is to be made by drawing by lot and the information available shows that the product of a particular manufacturer has been offered by more than one bidder, a preliminary drawing by lot shall be made to ascertain which of the bidders offering the product of a particular manufacturer will be included in the final drawing to determine the award.

(c) When an award is determined by drawing by lot, the names and addresses of the three witnesses and the person supervising the drawing shall be placed on all copies of the abstract of bids or otherwise recorded.

(d) In each award where preference is to be given under this part, the contracting officer shall, prior to award, obtain from such concern a written statement that it will perform, or cause to be performed, the contract in accordance with the circumstances justifying the priority.

PART 18–3—PROCUREMENT BY NEGOTIATION

42. Sections 18–3.101 and 18–3.102 are revised to read as follows:

§ 18–3.101 Factors to be considered in negotiated procurements.

(a) In all negotiated procurements in excess of $2,500 in which rates or prices are not fixed by law or regulation and in which time of delivery will permit, proposals shall be solicited from the maximum number of qualified sources consistent with the nature and requirements of the supplies or services to be procured. In any procurement publicized under § 18–1.1003, sources which have not been solicited, but which are not otherwise barred by law or regulation, shall be promptly furnished a copy of the solicitation on request; and shall be permitted to submit a proposal in response thereto. All proposals shall be supported by statements and analyses of estimated costs or other evidence of reasonable prices and other matters deemed necessary by the contracting officer. In all such negotiated procurements, including those subject to Source Evaluation Board procedures (see § 18–3.804–3), written or oral discussions shall be conducted with all responsible offerors who submit proposals within a competitive range, price and other factors considered: *Provided, however,* That written or oral discussions need not be conducted for:

(1) Procurements in implementation of authorized set-aside programs; or

(2) Procurements where it can be clearly demonstrated, from the existence of adequate competition or accurate prior cost experience with the product, that acceptance of an initial proposal without discussion would result in fair and reasonable prices and where the request for proposals notifies all offerors of the possibility that award may be made without discussion.

For procurements of $2,500 or less, see Subpart 18–3.6.

(b) During the course of negotiations, contracting officers and their negotiators shall give due attention to the following and any other appropriate factors:

(1) Comparison of prices quoted, and consideration of other prices for the same or similar supplies or services, with due regard to production costs, including extra-pay shift, multi-shift and overtime costs, and any other factor relating to price, such as profits, costs of transportation, and cash discounts;

(2) Comparison of the business reputations, capabilities, and responsibilities of the respective persons or firms who submit proposals;

(3) Consideration of the quality of the supplies or services offered, or of the quantity of the same or similar supplies or services previously furnished, with particular regard to the satisfaction of technical requirements;

(4) Consideration of delivery requirements;

(5) Discriminating use of price and cost analyses;

(6) Investigation of price aspects of any important subcontract;

(7) Individual bargaining, by mail or by conference;

(8) Consideration of cost sharing;

(9) Effective utilization in general of the most desirable type of contract;

(10) Consideration of the size of the business concern;

(11) Consideration as to whether the prospective supplier requires expansion or conversion of plant facilities;

(12) Consideration as to whether the prospective supplier is located in a surplus labor area;

(13) Consideration as to whether the prospective supplier will have an adequate supply of qualified labor;

(14) Consideration of the extent of subcontracting;

(15) Consideration of the existing and potential workload of the prospective supplier;

(16) Consideration of broadening the industrial base by the development of additional suppliers;

(17) Consideration of whether the contractor requires Government-furnished property, machine tools, or facilities; or Government-operated test facilities;

(18) Advantages or disadvantages to the Government that might result from making multiple awards;

(19) Consideration of the rules for the avoidance of organizational conflicts of interest (see § 18–1.113–2 and appendix G); and

(20) Royalties the Government will be required to pay under patent license agreements. (See § 18–9.102.)

§ 18–3.102 General requirements for negotiation.

(a) Procurement shall be made by formal advertising whenever such method is feasible and practicable under the existing conditions and circumstances, even though negotiation may be authorized under Subpart 18–3.2. Among the factors to be considered in determining whether formal advertising is feasible and practicable are:

(1) The number and location of potential suppliers;

(2) The adequacy of the specifications for advertising;

(3) The nature of the items being purchased;

(4) The time available; and

(5) The type of contract contemplated.

(b) No contract shall be entered into by negotiation unless or until the following requirements have been satisfied:

(1) Formal advertising is not feasible and practicable;

(2) The contemplated procurement comes within one of the circumstances permitting negotiation set forth in 10 U.S.C. 2304(a);

(3) Any necessary determinations and findings have been made;

(4) Prescribed clearances or approvals have been obtained;

(5) The prospective contractor has been determined to be responsible; and

(6) Other requirements of this chapter have been met.

(c) Negotiated procurements shall be on a competitive basis to the maximum practical extent. When a proposed procurement appears to be necessarily noncompetitive, the procurement office is responsible not only for assuring that competitive procurement is not feasible, but also for acting whenever possible to avoid the need for subsequent noncompetitive procurements. This action should include both examination of the reasons for the procurement being noncompetitive and steps to foster competitive conditions for subsequent procurements, particularly as to the availability of complete and accurate data, reasonableness of delivery requirements, and possible breakout of components for competitive procurement. Contracts shall not be negotiated on a noncompetitive basis without prior review and approval as provided in § 18–3.802–3. This restriction does not apply to those procurements listed in § 18–3.802–3(b).

§ 18–3.200 Scope of subpart.

Subject to the limitations prescribed in Subpart 18–3.1, and pursuant to the authority of 10 U.S.C. 2304(a), procurement may be effective by negotiation under any one of the exceptions contained in 10 U.S.C. 2304(a) (1) through (17) set forth and discussed in this Subpart 18–3.2, subject, in the case of construction contracts, to the further restrictions of 10 U.S.C. 2304(c). Each negotiated contract shall contain a reference to the authority under which it was negotiated.

44. Section 18–3.212 is revised in its entirety as follows:

§ 18–3.212 Classified purchases.

§ 18–3.212–1 Authority.

Pursuant to 10 U.S.C. 2304(a)(12), purchases and contracts may be negotiated if: "for property or services whose procurement he [the Administrator] determines should not be publicly disclosed because of their character, ingredients, or components."

§ 18–3.212–2 Application.

This authority may be used for purchases or contracts classified "Confidential" or higher, or where because of other considerations, the contract should not be publicly disclosed.

§ 18–3.212–3 Limitation.

In order for this authority to be used, the required determination must be made in accordance with the requirements of Subpart 18–3.3. The determination shall set forth those facts and circumstances that are clearly illustrative of the conditions described for use of this authority, and convincingly establish that formal advertising would not be feasible and practicable. This authority shall not be used when negotiation is authorized by any other authority set forth in § 18–3.201 through § 18–3.217.

45. Sections 18–3.404–6 and 18–3.404–7 are revised to read as follows:

§ 18–3.404–6 Retroactive price redetermination after completion.

(a) *Description.* This type of contract provides for a ceiling price and retroactive price redetermination after completion of the contract. The redetermined price should be negotiated so as to give weight to the management effectiveness and ingenuity exhibited by the contractor during performance, and the basis for such negotiation should be fully discussed with the contractor when this type of contract is negotiated. Because the price is redetermined on a completely retroactive basis, this contract type (except for the price ceiling) does not provide the contractor with a calculable incentive for effective cost control. Once established, the ceiling price is subject to adjustment only if required by the operation of other contract clauses (see § 18–3.404–1).

(b) *Application.* This type of contract is appropriate in procurements where it is established at the time of negotiation that a fair and reasonable firm fixed price cannot be negotiated and the amount involved is so small or the time for performance so short that use of any other type of contract is impracticable. Even in these situations, however, it should be used only after negotiation of a billing price as fair and reasonable as the circumstances of the particular procurement permit. Based on an evaluation of the circumstances involved in contract performance, and their possible impact on cost, the ceiling price should be negotiated at a level which represents contractor assumption of a reasonable degree of risk.

(c) *Limitations.* This type of contract shall not be used unless the procurement is for research and development at an estimated cost of $100,000 or less, and

(1) The contractor's accounting system is adequate for price redetermination purposes;

(2) Reasonable assurance exists that price redetermination action will be taken promptly at the time specified;

(3) A ceiling price is established; and

(4) Written approval has been received from the Procurement Officer.

§ 18–3.404–7 Firm fixed-price level of effort term contract.

(a) *Description.* The firm fixed-price level of effort term contract describes the scope of work in general terms, usually calling for investigation or study in a specific research and development area. It obligates the contractor to devote a specified level of effort over a stated period of time for a fixed dollar amount. Normally, the contract requires submission by the contractor of reports which show the results achieved through application of the required level of effort; however, payment is based on effort expended rather than on results achieved. This type of contract can be a useful tool, particularly when the work cannot be clearly defined and the level of effort desired can be identified and agreed upon in advance of performance.

(b) *Limitations.* The firm fixed-price level of effort term contract may be used only when:

(1) The work to be performed cannot otherwise be clearly defined;

(2) The level of effort desired can be identified and agreed upon in advance of performance;

(3) There is reasonable assurance that the result desired cannot be achieved by expenditure of less than the stipulated effort; and

(4) The contract price does not exceed $100,000 unless approved by the Procurement Officer or his designee.

46. Sections 18–3.405–5 and 18–3.405–6 are revised to read as follows:

§ 18–3.405–5 Cost-plus-award-fee contract.

(a) *Description.* The cost-plus-award-fee contract is a cost reimbursement type contract with incentive fee provision which includes:

(1) A target cost;

(2) A base fee commensurate with minimum acceptable performance;

(3) Criteria against which the contractor's performance will be evaluated;

(4) An additional adjustment to the base fee, not to exceed a stipulated maximum, which is awarded on the basis of the subjective evaluation by NASA of contractor performance; and

(5) Specific provision that the determination of fee adjustment shall not be subject to the contract article entitled "Disputes."

(b) *Application.* The cost-plus-award-fee contract is suitable for use when:

(1) A cost reimbursement type of contract is found necessary in accordance with § 18–3.405–1;

(2) The work to be performed is such that specific quantitative or objective measurement is not feasible and effective incentive arrangements cannot be devised on the basis of cost (§ 18–3.405–4), performance (§ 18–3.407–2) or schedule (§ 18–3.407–2);

(3) NASA procurement objectives will be advanced if the contractor is effectively motivated to exceptional performance; and

(4) Any added administrative effort and costs required to monitor and evaluate performance are justified by the benefits expected.

(c) *Considerations of concept.* The opportunity for increase in earned fees is intended to motivate the contractor to effectively manage the required work, to control costs, and to improve the timeliness, quality, and quantity of performance. Where cost is of primary concern to NASA, the contract may provide for a combination incentive fee—award fee arrangement by setting forth a cost-based incentive separately stated from the award fee arrangement, which would then be concentrated on performance aspects. The award fee should be earned by the contractor by exceptional performance, surpassing minimum acceptable levels, and should be commensurate with the benefits accruing to NASA from the contractor's performance. The contract terms generally obligate the contractor to devote a specified level of effort for a stated period of time to satisfy the various areas of the scope of the work; it follows that the award of additional fee for exceptional performance in designated areas should be contingent upon an acceptable level of performance for all other contract requirements. Although the determination of the amount of award fee earned is a unilateral one based on subjective evaluations, the decision may be aided by such quantifying devices as adjectival ratings, point systems, or percentages of achievement. Ordinarily, the award fee adjustments will be increases only, and contract arrangements for decrease adjustment of base fee (e.g., if certain criteria or levels of performance are not met) must be carefully scrutinized prior to approval for use. Such arrangement must provide that the contractor will be informed of the reasons for decrease in fee, and will be given specific opportunity to submit information in his behalf prior to decision by the official responsible for adjustment of fee.

(d) *Limitations.* (1) The cost-plus-award-fee contract shall not be used (i) in procurements in which all factors affected by the incentive (e.g., cost, delivery performance) can be measured or objectively evaluated, or (ii) where the contract amount, term of performance or the benefits expected of the incentive are insufficient to warrant the additional administrative effort or cost.

(2) The maximum fee, which is the total of base fee, award fee, and any other incentive fee payable under the contract, is subject to the administrative limitations in § 18–3.450(f).

(e) *Cost Plus Award Fee Contracting Guide (NHB 5104.4.)* Additional guidance on the negotiation and administration of cost-plus-award-fee contracts is contained in the "Cost Plus Award Fee Contracting Guide" (NHB 5104.4).

§ 18–3.405–6 Cost-plus-a-fixed-fee contract.

(a) *Description.* The cost-plus-a-fixed-fee contract is a cost reimbursement type of contract which provides for the payment of a fixed fee to the contractor. The fixed fee once negotiated does not vary with actual cost, but may be adjusted as a result of any subsequent changes in the work or services to be performed under the contract. Because the fixed fee does not vary in relation to the contractor's ability to control costs, the cost-plus-a-fixed-fee contract provides the contractor with only a minimum incentive for effective management control of costs.

(b) *Application.* The cost-plus-a-fixed-fee contract is suitable for use when:

(1) A cost-reimbursement type of contract is found necessary in accordance with § 18–3.405–1(b);

(2) The parties agree that the contract should be fee bearing;

(3) The contract is for the performance of research, or preliminary exploration or study, where the level of effort required is unknown; or

(4) The contract is for development and test where the use of a CPIF is not practical.

(c) *Limitations.* (1) This type of contract normally should not be used in the development of space systems and equipment, once preliminary exploration and studies have indicated a high degree of probability that the development is feasible and the Government generally has determined its desired performance objectives and schedule of completion (see § 18–3.405–4).

(2) 10 U.S.C. 2306(d) provides that in the case of a cost-plus-a-fixed-fee contract the fee shall not exceed ten percent (10%) of the estimated cost of the contract, exclusive of the fee, as determined by the Administrator at the time of entering into such contract (except that a fee not in excess of fifteen percent (15%) of such estimated cost is authorized in any such contract for experimental, developmental, or research work and that a fee inclusive of the contractor's cost and not in excess of six percent (6%) of the estimated cost, exclusive of fees, as determined by the Administrator at the time of entering into the contract, of the project to which such fee is applicable, is authorized in contracts for architectural or engineering services relating to any public works or utility projects).

(3) In addition to the statutory limitations, fees under cost-plus-a-fixed-fee type contracts, except for Architect-Engineer contracts, are subject to the administrative limitations set forth below:

(i) 10 percent of the estimated cost, exclusive of fee, of any cost-plus-a-fixed-fee contract for experimental, developmental, or research work; and

(ii) 7 percent of the estimated cost, exclusive of fee, of any other cost-plus-a-fixed-fee contract.

(4) Fixed fees within the limitations imposed by 10 U.S.C. 2306(d) and in excess of those cited in subparagraph (3) of this paragraph will be submitted to the Director of Procurement for approval. The request for approval shall include a detailed justification setting forth the rationale supporting the proposed fee in terms of the factors prescribed in § 18–3.808–2.

(5) Pursuant to 10 U.S.C. 2311, authority to make the determinations of the estimated costs of a contract or project on which the allowable fee percentage is measured, has been delegated to the contracting officer (see § 18–3.304(e)).

(6) The administrative limitations on subcontract fees are set forth in § 18–3.807–10(d).

(d) *Completion or Term form.* The cost plus-a-fixed-fee contract can be drawn in one of two basic forms, Completion or Term.

(1) The Completion form is one which describes the scope of work to be done as a clearly-defined task or job with a definite goal or target expressed and with a specific end-product required. This form of contract normally requires the contractor to complete and deliver the specified end-product (in certain instances, a final report of research accomplishing the goal or target) as a condition for payment of the entire fixed-fee established for the work and within the estimated cost if possible; however, in the event the work cannot be completed within the estimated cost, the Government can elect to require more work and effort from the contractor without increase in fee provided it increases the estimated cost.

(2) The Term form is one which describes the scope of work to be done in general terms and which obligates the contractor to devote a specified level of effort for a stated period of time for the conduct of research and development. Under this form, the fixed-fee is payable at the termination of the agreed period of time on certification of the contractor that he has exerted the level of effort specified in the contract in performing the work called for, and such performance is considered satisfactory by the Government. Renewals for further periods of performance are new procurement and involve new fee and cost arrangements.

(3) The Completion form of contract, because of differences in obligation assumed by the contractor, is to be preferred over the Term form whenever the work itself or specific milestones can be defined with sufficient precision to permit the development of estimates within which prospective contractors can reasonably be expected to complete the work. A milestone is a definable point in a program when certain objectives can be said to have been accomplished.

(4) In the case of research and exploratory development work, it is rarely possible to define the scope of work with the degree of precision necessary for contracting on a Completion basis because of the nature of the work to be performed. Hence, in such cases, the Term form of contract may be considered preferable in that it provides more flexibility for effective conduct of the research effort.

(5) In no event should the Term form of contract be used unless the contractor is obligated by the contract to provide a specific level-of-effort within a definite period of time.

47. Section 18–3.410–1 is revised to read as follows:

§ 18–3.410 Other types of agreements.

§ 18–3.410–1 Basic agreement.

(a) *Description.* A basic agreement is not a contract. It is a written instrument of understanding executed between NASA and a contractor which sets forth the negotiated contract clauses which shall be applicable to future procurements entered into between the parties while the basic agreement is in effect. A basic agreement will apply to a particular procurement by the execution of a formal contractual document which will provide for the scope of the work, price, delivery, and additional matters peculiar to the requirements of the specific procurement involved, and shall incorporate by reference or append the contract clauses agreed upon in the basic agreement as required or applicable and incorporate by reference the provisions of the basic agreement which provide for the accelerated incorporation of the required NASA implementation of Executive orders and statutes. Basic agreements may be used with fixed-price or cost-reimbursement type contracts.

(b) *Applicability.* (1) Basic agreements are appropriate for use when (i) past experience and future plans indicate that a substantial number of separate contracts may be entered into with a contractor during the life of the basic agreement and (ii) substantial recurring negotiating problems exist with a particular contractor.

(2) Except for the effect of accelerated implementation of statutory and Executive order requirements, a basic agreement shall be modified only by a modification of the basic agreement itself and shall not be modified or superseded by individual contracts or purchase orders entered into under and subject to the terms of such basic agreement (see subparagraph (6) of this paragraph). Basic agreements may be modified at any time; however, it is generally desirable to modify them as infrequently as possible. Changes to clauses or new clauses resulting from statutes or Executive orders should be incorporated in the basic agreement as soon after issuance as feasible. Other changes should be incorporated on an annual basis unless one of the parties specifically requests earlier consideration. As a minimum, basic agreements should be reviewed annually before the anniversary of their effective date and revised to conform with the current requirements of this chapter. Modifications shall not have retroactive effect except as provided for in the accelerated incorporation of statutory and Executive order requirements.

(3) Basic agreements shall continue in effect until terminated or superseded and shall provide for termination upon 30 days written notice by either party except that the agreements shall provide for termination by the Government at any time should there be a failure to agree upon any deletion, amendment or addition required by statute, Executive order or this chapter. Termination of a basic agreement will not affect any individual contract referencing or appending the basic agreement entered into prior to the effective date of termination.

(4) A basic agreement shall be used to cover all subsequent procurements which fall within its scope. Provisions of the basic agreement, including supplements thereto, shall be incorporated into the formal contractual document covering a particular procurement by referring therein to the number of the basic agreement and each of its supplements. When an existing contract is amended to effect new procurement, the contract modification shall incorporate the most recent

basic agreement, including supplements thereto, to apply only to the work added by the contract modification.

(5) Contract modifications negotiated pursuant to the terms of an existing contract and not involving new procurement may, by mutual agreement of the parties and if determined to be in the interest of the Government, amend the existing contract to conform to a subsequently executed or supplemented basic agreement.

(6) Clauses pertaining to subjects not covered in a basic agreement but applicable to the contract or modifications to contracts being negotiated, and clauses required by statute or Executive order, if any, which have become effective after the last modification to the basic agreement shall be included in the contract and modifications as if no basic agreement existed. In addition to the foregoing, basic agreements shall provide for accelerated incorporation, in subsequent contracts and new work supplements, of the latest clauses implementing statutory or Executive order requirements which have become effective after the last modification to the agreement.

(7) Where a clause which was included in the basic agreement pursuant to a deviation must be replaced by a revised clause, the revised clause may deviate to the same extent as the original clause if the revision is not related to the deviation, and if the deviation has not expired or been rescinded.

(8) If a letter contract has been entered into under a basic agreement which thereafter was superseded by a new basic agreement, or amended by supplemental agreement, the contractual instrument which definitizes such letter contract shall incorporate the superseding basic agreement or supplemental agreement, as applicable. If the basic agreement has been terminated without being superseded, the definitive contract which supersedes the letter contract shall incorporate, the clauses required by statute, Executive order, and this chapter.

(9) Basic agreements may include negotiated overhead rates for cost reimbursement type contracts. Where negotiated rates are included the bases to which the rates apply and the period of applicability must also be stated. All pertinent provisions such as final rates for past periods, provisional rates for current or future periods, ceilings, and any specific items to be treated as indirect costs shall also be included as appropriate.

(10) Normally a basic agreement will continue in effect until terminated or superseded. Basic agreements for a specified term are not, however, precluded.

(c) *Content and form.* Basic agreements shall contain a set of "General Provisions." These general provisions shall include three groups of clauses. The first group, identified as "Section A," shall include all of the clauses made mandatory by statute, Executive Order, and this Regulation for use in negotiated research and development contracts. The second group, identified as "Section B", shall add clauses and/or modifications to the "Section A" clauses made mandatory by statute, Executive Order, and this chapter for use in negotiated supply contracts. The third group, identified as "Section C", shall consist of clauses which may be made a part of each formal contractual document, depending upon their applicability to the particular procurement. The format set forth below may be adapted to fit specific circumstances.

BASIC AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND _____

1. This agreement is entered into as of the _____ day of _____ 19__ between the United States of America, hereinafter called the "Government," represented by the Contracting Officer and _____, a corporation organized and existing under the laws of the State of _____, hereinafter called "Contractor."

2. The clauses and provisions of sections A, B, and C hereinafter set forth have been agreed upon by the parties hereto for use in negotiated _____ type contracts between the parties, entered into on or after the date of this Agreement, and prior to its termination.

3. The clauses set forth in section A shall apply to cost-reimbursement research and development contracts whereas cost-reimbursement supply contracts shall include the clauses in section A modified by the clauses in section B. These clauses are mandatory and shall, by reference or attachment, be incorporated in every such contract which makes reference to this agreement. The clauses set forth in section C are to be incorporated in individual contracts only when applicable and agreed to by the parties. In addition, every contract subject to this agreement shall incorporate by reference the accelerated incorporation provisions that are stated in paragraphs 3(b) and 4 of this agreement.

4. This agreement, including sections A, B, and C hereof, may be amended only by mutual agreement of the parties, and the agreement may be terminated in its entirety by either party upon thirty (30) days written notice to the other party, except that this agreement may be terminated by the Government at any time if the parties fail to agree upon any deletion, amendment, or addition to this agreement which is required by statute, Executive Order, or the NASA Procurement Regulation. No deletion, modification, addition to, or termination of this agreement shall affect any contracts theretofore entered into between the parties in which this agreement or a portion thereof has been incorporated except that (a) letter contracts citing this agreement shall, when formalized, contain the latest modification hereto and any required NASA implementations of Executive Orders and Federal Statutes; and (b) contracts and new work supplements entered into during the acceptance/rejection period stated below for accelerated incorporation of required NASA implementations of Executive Orders and Federal statutes, shall be deemed to include such implementations if the required implementation date falls within the acceptance/rejection period and the contractor has not rejected the implementation.

5. It is the intent of the parties to this agreement that this agreement be carried out in consonance with requirements established by Federal statutes and Executive Orders. When a statute or Executive Order is implemented by a new NASA clause or by a change to a clause already contained in the agreement, the Contracting Officer shall furnish the Contractor five (5) copies of such implementation by registered mail, return receipt requested. If the Contractor desires to reject the clause he shall so inform the Contracting Officer within ____ days from receipt thereof. If notice of rejection is not received by the Contracting Officer within such time period, the implementation shall be deemed to have been accepted by the Contractor and incorporated in all individual contracts and new work supplements to contracts entered into thereafter. However, in the event that the required effective date of the implementation falls within the period stated above for acceptance/rejection and if the Contractor has not rejected the implementation it is further agreed, as stated above, that the implementation shall be deemed to be retroactive to such required effective date and that individual contracts and new work supplements incorporating this agreement and entered into on or after the effective date, within the acceptance/rejection period, shall also be deemed to incorporate the implementation.

6. This agreement shall continue in effect until terminated in accordance with paragraph three (3) above or until superseded by another agreement. This agreement should be reviewed, as a minimum, annually before the anniversary of its effective date, and revised to conform with all requirements of statutes, Executive Orders, and the NASA Procurement Regulations. Such revision shall be evidenced by an agreement modifying this agreement or by the issuance of a superseding basic agreement.

7. This agreement shall not be referred to by the Contractor in bids submitted in response to invitations for bids nor become a part of any contract placed through the process of formal advertising.

In witness whereof, the parties hereto have executed this agreement as of the day and year first above written:

_____
(Name of company)

By _____
(Signature of authorized individual)

_____
(Typed or printed name)

Title _____

UNITED STATES OF AMERICA

By _____
(Signature of contracting officer)

_____
(Typed or printed name)

(d) *Limitations.* (1) Basic agreements shall neither cite appropriations to be charged nor be used alone for the purpose of obligating funds.

(2) Basic agreements shall not in any manner provide for or imply any agreement on the part of the Government to place future orders or contracts with the contractor involved, nor shall they be used in any manner to restrict competition.

(e) The Director of Procurement, NASA Headquarters, is responsible for negotiation of all basic agreements and amendments thereto. Procurement offices may not enter into basic agreements nor alter existing basic agreements without the prior written authorization of the Director of Procurement.

(f) Where a procurement office is authorized to enter into a basic agreement with a particular contractor, an introductory paragraph to the basic agreement shall include the "Approval of Contract" clause set forth in § 18–7.104–51 with the word "contract" deleted from the title and text of the clause and the

words "basic agreement" inserted in lieu thereof.

(g) Prior to the negotiation for renewal of a basic agreement or of a special clause requested by a contractor, each field installation procurement office, and concerned Headquarters offices will be informed and will be asked to comment on any special items to be discussed.

(h) Basic agreements submitted to the Director of Procurement for approval, shall include the following information:

(1) A memorandum of negotiation describing each deviation from the NASA Procurement Regulation as it appears in the basic agreement together with supporting data required by § 18–1.109–3 (a), (b), (d), (e), and (f);

(2) A listing of all nonstandard clauses used, the genesis of such clauses, and the reasons for use in the basic agreement;

(3) A résumé of all salient features of the agreement which will facilitate the review and approval consideration, and

(4) Documentation of the coordination effected between the negotiator and the procurement offices of other NASA field installations.

48. Section 18–3.501 is revised to read as follows:

§ 18–3.501 Preparation of request for proposals or request for quotations.

(a) Forms used for requesting proposals or quotations on negotiated procurements shall be in accordance with Part 18–16 (see also § 18–1.309).

(b) Generally, requests for proposals or quotations shall be in writing. Solicitations shall contain the information necessary to enable a prospective offeror to prepare a proposal or quotation properly. Written requests shall be as complete as possible and normally should contain the following information if applicable to the procurements involved:

(1) Request for proposals or request for quotations number and date of issuance;

(2) Title and/or number of the program or project (e.g., "Apollo S–IC Instrumentation");

(3) Name and address of procurement office issuing the request; identification of the individual responsible for supplying additional information or answering inquiries; complete address of person to receive proposals; number of copies of proposal required to be submitted;

(4) Closing date and time;

(5) With respect to late proposals or modifications, include the provision set forth in § 18–3.802–4(c) (this provision will be appropriately modified in the case of request for quotations); where Standard Form 33 (Solicitation, Offer, and Award) is used, the following notice shall be prominently set forth in the request for proposals:

NOTICE TO OFFERORS—LATE OFFERS AND MODIFICATIONS (JULY 1968)

Paragraph 8, "Late Offers and Modifications or Withdrawals," of Standard Form 33A does not apply to this solicitation. See the special provision in this solicitation entitled, "Late Proposals."

(6) Requirement for stipulation of a time within which the Government may accept the proposal;

(7) Number of pages and list of enclosures;

(8) Item description or statement of work;

(9) Type of contract contemplated (see § 18–3.803);

(10) Requirement for statement on contingent fees (see § 18–1.506(c));

(11) Statement on Buy American Act (§ 18–6.104–2) and requirement for Buy American Certificate (§ 18–6.104–3);

(12) Requirement that the offeror state whether he operates as an individual, partnership, or corporation (showing State where incorporated);

(13) Statement that the selected contractor will or will not require access to classified information (see NASA Management Instruction 1650.1, "Industrial Security Policies and Procedures");

(14) Time of delivery or performance requirements (see § 18–1.305);

(15) Requirement that the proposal or quotation state the intended place of performance, including the street address, and the names and addresses of owner and operator of producing facilities, if other than offeror, when it is reasonably expected that such facilities will be used in the performance of the contract;

(16) Place and method of delivery;

(17) Provisions to be made for reliability assurance (see § 18–1.5105);

(18) A description of the quality assurance system to be used (see § 18–1.5003);

(19) Place, method, and conditions of inspection, test, and acceptance (see § 18–14.101 et seq.);

(20) Identification of the special factors, such as Government cost or other expenditures, including reliability and maintainability requirements, which will be considered in evaluating the proposals, together with an indication of the relative importance to be given these factors, where applicable (see § 18–3.804–2);

(21) Method and format of price quotation desired (fixed-price or cost type, if known at the time), including a reference to the necessity for cost or price breakdown (see § 18–3.501(c)(2)(ix));

(22) Description of information required to support proposed prices; e.g., subcontract structure, purchasing system, royalty, and cost and price information (see Subparts 18–3.8, 18–3.9, 18–9.1 and Part 18–23);

(23) Information as to requirements for Certificate of Current Cost or Pricing Data (see § 18–3.807–3);

(24) Statement that special instructions for waived inventions will not be applied, or requirement for statement as to waived inventions (see § 18–9.101–3(a) or § 18–9.101–3(e));

(25) Notice to offerors of the Government's desires as to the use of incentive considered applicable, objectives of the incentive performance goals, schedule milestones, critical delivery parameters, and similar information intended to elicit contractor response to the procurement objectives but without premature disclosures prejudicial to the Government's pre-negotiation position (see § 18–3.450);

(26) Notice to offerors of the possibility that award may be made without discussion of proposals (see § 18–3.102);

(27) The Certification of Independent Price Determination required by § 18–1.115;

(28) Contract clauses required by law or this chapter, copies of applicable standard or NASA forms which will form a part of the contract, and any report forms or handbooks required to be used or followed in complying with the terms of the contract;

(29) Directions for obtaining copies of any documents, such as plans, drawings and specifications, which have been incorporated by reference (see § 18–1.1201);

(30) Instructions for disposition of drawings and specifications supplied with the request for proposals or request for quotations;

(31) Statement of information required to facilitate evaluation of technical and financial capabilities and a statement covering special technical capabilities which offerors must possess (see § 18–3.804);

(32) Instruction reflecting desirability of a separation between the contractor's "Business Management Quotation" and "Technical Quotation." For evaluation purposes separate quotations, where time permits, should be received; therefore, the format should be flexible enough to permit separate requirements (see § 18–3.802–4(a));

(33) List of any Government-furnished property (showing location and condition) including Government-owned tooling, which will be furnished for the performance of the contract, and any special provisions relating thereto;

(34) Requirement that information be furnished with respect to any Government-owned facilities, industrial equipment, or special tooling intended to be used in the performance of the contract, the value thereof, identification of the Government contract under which acquired, rental provisions, and other relevant information;

(35) Requirement that additional facilities to be provided by the Government be described and identified by category, such as "Land," "Buildings," "Machinery," "Equipment," etc. (see § 18–13.5105 for format);

(36) Requirement that additional special test equipment to be provided by the Government be described and its intended use, estimated cost, and proposed location be shown;

(37) Clear statement of option provisions (see Subpart 18–1.15 and § 18–12.1108–2);

(38) Requirement for the contractor to furnish data, when the requirement for data is known in advance of making the contract and delivery of data is definitely to be required in the performance of the contract (see Subpart 18–9.2 for detailed instructions and required clauses; see also § 18–3.852–3);

(39) Special provisions necessary for the particular procurement, relating to such matters as patents, data, copyrights (see Part 18–9); liquidated damages (see § 18–1.310); progress payments (see § 18–7.104–35);

(40) Requirement for information to be furnished on management engineering and consultant services specified in § 18–4.5205–2;

(41) When the NASA PERT System is to be applicable to the procurement (see § 18–7.204–55), inclusion of the following provision:

NASA PERT SYSTEM (APRIL 1962)

A proposed time schedule for performance of the work should be set out by phases or parts of the project, and show interrelationships among phases. This proposed schedule should be supported by an accompanying PERT network, prepared in general conformity with the instructions of the NASA PERT Handbook.

Prospective contractors are advised that the successful contractor will be required to implement the NASA PERT System and report program progress biweekly.

(42) A statement as follows:

UNNECESSARILY ELABORATE CONTRACTOR'S PROPOSALS (NOVEMBER 1965)

Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective proposal are not desired and may be construed as an indication of the offeror's lack of cost consciousness. Elaborate art work, expensive paper and bindings and expensive visual or other presentation aids are neither necessary nor desired.

The above statement shall be appropriately modified where included in a request for quotations;

(43) If the contract is to be conditioned on the availability of funds, a clear statement of such condition (see § 18–1.318);

(44) Requirement for submission of a proposed "Make or Buy" program (see Subpart 18–3.9);

(45) In accordance with the policy of § 18–3.109, the following statement and legend shall be included in all requests for proposals and requests for quotations:

The proposal submitted in response to this request may contain technical data which the offeror, or his subcontractor offeror, does not want used or disclosed for any purpose other than evaluation of the proposal. The use and disclosure of any such technical data may be so restricted: *Provided*, The offeror marks the cover sheet of the proposal with the following legend, specifying the pages of the proposal which are to be restricted in accordance with the conditions of the legend:

Technical data contained in pages _____ of this proposal furnished in connection with RFP No. _____ shall not be used or disclosed, except for evaluation purposes, provided that if a contract is awarded to this offeror as a result of or in connection with the submission of this proposal, the Government shall have the right to use or disclose this technical data to the extent provided in the contract. This restriction does not limit the Government's right to use or disclose any technical data obtained from another source without restriction.

Proposals submitted with restrictive legends or statements differing from the above legend will be treated under the terms of the above legend. The Government assumes no liability for disclosure or use of unmarked technical data and may use or disclose the data for any purpose. (February 1966)

(46) Requests for Proposal which will result in the placement of rated orders or Authorized Controlled Material Orders (see § 18–1.307) shall contain the following statement.

Contracts or purchase orders to be awarded as a result of this solicitation shall be assigned a (DX or DO as appropriate) rating or DMS allotment number (as appropriate) in accordance with the provisions of BDSA Regulation 2 and/or DMS Regulation 1.

(47) Requirements for furnishing the equal opportunity representation (see § 18–12.802–4);

(48) If leases are involved, the facilities nondiscrimination paragraph set forth in § 18–1.350–4;

(49) When the use of Automatic Data Processing Equipment is applicable to the procurement (see § 18–3.804–2(c)(2) and Subpart 18–3.11), inclusion of the following provision:

"The Government reserves the right to require the preparation and submission of feasibility and lease versus purchase studies by the successful contractor if the use of Automatic Data Processing Equipment is proposed."

(50) [Reserved]

(51) Statement as to requirement for jewel bearings (see § 18–1.315);

(52) Requirements set forth in § 18–1.351, if the procurement includes the furnishing of electro-sensitive initiating devices (squibs) or any other item or component designated in the procurement request as a potentially hazardous item;

(53) Requirement for representation as to small business and statement whether or not the offeror has previously been denied a Small Business Certificate (see § 18–1.903);

(54) Instructions that offeror promptly acknowledge receipt of the request for proposal or request for quotation and advise whether he intends to submit a proposal or offer;

(55) Statement that this request for proposal or request for quotation does not commit the Government to award a contract, the Government reserving the right to reject any or all proposals, or to negotiate separately with any source considered qualified; and that the contracting officer is the only individual who can legally commit the Government to the expenditure of public funds in connection with the proposed procurement (see § 18–3.801);

(56) Statement that this request for proposal or request for quotation does not commit the Government to pay any costs incurred in the submission of the quotation or in making necessary studies or designs for the preparation thereof, nor to procure or contract for services or supplies. Further, no costs may be incurred in anticipation of a contract with the exception that any such costs incurred at the proposer's risk may later be charged to any resulting contract to the extent that they would have been allowable if incurred after the date of the contract and to the extent authorized by the contracting officer (see § 18–15.205–30);

(57) The following provision shall be included in all requests for proposals to be evaluated pursuant to NASA Source Evaluation Board procedures, when award of a cost-reimbursement type contract (with or without incentive arrangements) is contemplated:

Once the prospective contractor has been selected, the estimated costs submitted with its proposal shall not be subject to increase, except for changes in certified cost or pricing data submitted with the proposal, unless changes are made in the requirements of the request for proposals. Furthermore, increases shall be considered only in regard to those requirements that are actually affected by the changes (whether the changes result in an increase or decrease in the requirements and whether they are initiated by the Government or the offeror), and then only to the extent that such changes are specifically identified and justified. Negotiation of such increases will be conducted separately, and not as part of a combined overall negotiation of the estimated cost and fee of the proposed contract. (February 1967)

(58) A statement requesting prospective offerors to list the names and telephone numbers of persons authorized to conduct negotiations;

(59) Requirements for performance and payment bonds (see Subpart 18–10.1).

(60) Requests for proposals and requests for quotations for contracts in excess of $1 million, where the conduct of research, experimental, design, engineering, or developmental work is contemplated, and in such contracts of lesser dollar value if deemed appropriate by the contracting officer and the technology utilization officer of the installation concerned, shall contain the following requirement:

PLAN FOR NEW TECHNOLOGY REPORTING (JUNE 1966)

Each offeror shall submit with his proposal a plan which he proposes to use in carrying out the provisions of the "New Technology" clause of the contracts. The plan shall describe:

(a) The size and nature of the scientific and technological efforts in which inventions, discoveries, improvements and innovations may be expected. Include the scientific disciplines involved in these efforts, and summarize the technical problems to be solved which you feel are most likely to generate new technology.

(b) The emphasis given to new technology reporting by the top levels of management of the organization, and the specific means (e.g., company directives, newsletters, briefings) to be used to communicate such emphasis to the organization.

(c) The organizational placement and qualifications of (1) the individual(s) assigned as Company Technology Utilization/New Technology Representative(s), and their staffs, and of (11) any others having substantial and specific responsibilities for new technology reporting. Describe all significant organizational relationships.

(d) Plans for both the initial and the continuing indoctrination of senior project

personnel, supervision, and of other appropriate technical personnel in the benefits, responsibilities and details of new technology reporting.

(e) The plans for conducting the "frequent periodic reviews" required by the "New Technology" Clause. Include plans for supplementing existing Company invention reporting system(s) to insure reporting of that "new technology," which does not constitute invention (any new or improved products, devices, materials, processes, methods, scientific or technical computer programs, techniques, compositions, systems, machines, apparatuses, articles, fixtures, and tools, are reportable, whether or not they constitute invention).

(f) The details of actual documentation of reportable items, and the methods by which they will be reported. Include plans for (i) submission of sufficient detail to permit evaluation of the novelty and potential usefulness of the reportable items, (ii) avoiding unnecessary redocumentation by inclusion of existing documents or abstracts therefrom.

(g) Level of effort anticipated. (Quarterly/monthly rates and estimated disclosure output rates are desirable.)

(61) [Reserved]

(62) Where Standard Form 33 (Solicitation, Offer, and Award) is not used, a statement as follows:

ORDER OF PRECEDENCE (JULY 1968)

In the event of an inconsistency between provisions of this solicitation, the inconsistency shall be resolved by giving precedence in the following order: (a) The Schedule; (b) Terms and Conditions of the solicitation; (c) General Provisions; (d) other provisions of the contract, where attached or incorporated by reference; and (e) the Specifications.

The foregoing statement may be modified to change the order or to add or delete items to meet the needs of a particular procurement;

(63) Where neither Standard Form 33 (Solicitation, Offer, and Award) nor Standard Form 18 (Request for Quotations) is used, a statement that prospective offerors may submit inquiries by writing or calling (collect calls not accepted) (insert name and address, telephone area code, number, and extension);

(64) Where Standard Form 33 (Solicitation, Offer, and Award) is not used, a statement on the first sheet or on a cover sheet of the Request for Proposals that:

"Proposals must set forth full, accurate, and complete information as required by this request for proposal (including attachments). The penalty for making false statements in proposals is prescribed in 18 U.S.C. 1001."

This statement shall be suitably modified when Quotations are requested;

(65) Where neither Standard Form 33 (Solicitation, Offer, and Award) nor Standard Form 18 (Request for Quotations) (July 1966 edition) is used, a requirement for inclusion of "county" as part of quoter's/offeror's address will be inserted;

(66) Where Standard Form 33 (Solicitation, Offer, and Award) is not used, a statement that prospective offerors should indicate in the offer the address to which payment should be mailed, if such address is different from that shown for the offeror (Contracting officers shall include this information in all resultant contracts which are to be administered by a Defense Contract Administration Services Regional Office.);

(67) Any applicable wage determination of the Secretary of Labor (for construction contracts, see Subpart 18–12.4; for service contracts, see Subpart 18–12.11);

(68) If the contract is to involve construction work (subject to the Davis-Bacon Act) at the Cape Kennedy, Patrick Air Force Base, or Merritt Island Launch Area complex, the "Employee Compensation" clause and "Table of Employee Compensation";

(69) [Reserved].

(70) The "Patent Royalties" clause set forth in § 18–9.102–2(f)(2);

(71) To insure timely distribution of Material Inspection and Receiving Reports (DD Form 250), include distribution instructions in the Schedule or as an attachment to the contract (see Appendix I);

(72) The "Certification of Nonsegregated Facilities" set forth in § 18–12.802–4(c);

(73) The notice regarding the requirement for "Certification of Nonsegregated Facilities" as prescribed in § 18–12.802–4(b);

(74) Where Standard Form 33 (Solicitation, Offer, and Award) of Standard Form 19–B (Representations and Certifications) (Construction Contract) is not used, insert the "Equal Opportunity" representation set forth in § 18–12.802–4(a);

(75) If the contract involves performance of services on a Government installation, the following provision:

SITE VISIT (JULY 1968)

Offerors are urged and expected to inspect the site where services are to be performed and to satisfy themselves as to all general and local conditions that may affect the cost of performance of the contract, to the extent such information is reasonably obtainable. In no event will a failure to inspect the site constitute grounds for a claim after award of the contract.

(76) When the procurement involves a set-aside for small business concerns, the following provision:

This is a ____% set-aside for small business concerns.

(77) When the procurement involves a set-aside for labor surplus area concerns, the following provision:

This is a ____% set-aside for labor surplus area concerns.

(c) In addition to the information specified in § 18–3.501(b), for contracts in excess of $1 million the request for proposal should contain requirements for the following information to be furnished by the offeror in his proposal, if applicable. This information may be required in the request for proposal for inclusion in contracts of lesser dollar value if deemed appropriate.

(1) *Technical proposal.* (i) Method by which offeror proposes to solve the technical problems of the project; descriptions, sketches, and plans of attack in sufficient detail to permit engineering evaluation of the proposal;

(ii) Specification of exceptions to proposed technical requirements;

(iii) Statement of background experience in fields relating to the procurement;

(iv) Names and résumés of experience of key technical personnel who will be employed on the project and extent to which each will participate in the performance of the project; an organization chart of the segment of offeror's organization which will be directly assigned to the project, listing names and job categories;

(v) Description and location of the company-owned research, test and production equipment and facilities which will be available for use on the project; separate list of any additional facilities or equipment required in the performance of the work; separate list of existing Government facilities available to the contractor and required for use on the project; and

(vi) Hourly time estimates (without pricing information) by labor class for each phase or segment of the project; extent to which these estimates are based on the use of employees presently on the offeror's payrolls who will be available for the work as required; indication of number and types of personnel necessary to be hired and arrangements made to obtain them.

(2) *Business management proposal.* (i) Organization proposed for carrying out the project, including organization charts showing interrelationship of business management, technical management and subcontract management; indication of all levels of operation and management, from lower levels through intermediate management to top level management.

(ii) Résumé of experience of all key personnel who will conduct the managerial affairs of the project;

(iii) Contractual procedures proposed for the project to effect administrative and engineering changes, describing differences from existing procedures;

(iv) Extent to which offeror has invested corporate funds in research and development work in the project area or directly related areas and plans for future expenditures for such work; extent, if any, to which offeror is willing to participate in the cost of the project (see § 18–3.405–3);

(v) Statement as to capacity at which company-owned research, test, and production equipment and facilities required in the performance of the work are currently working; extent to which such facilities and equipment could handle the additional workload imposed by this project; cost of any additional facilities or equipment required in the performance of the work with information as to whether such additional facilities or equipment will be contractor-furnished or Government-furnished; statement of value of existing Government facilities available to offeror and required for use on the project, showing the Government agencies and facilities contracts involved;

(vi) Statement of past performance and experience including:

(a) List of Government contracts in excess of $1 million received in past three years or currently in negotiation involving mainly research and development work, showing each contract number, Government agency placing the contract, type of contract, and brief description of the work;

(b) For each cost-type contract, specify amounts of cost overruns or underruns, reasons therefor, and percentage of fixed fee;

(c) For each contract, give record of contract completion as against completion date anticipated at time of entering into contract, giving explanations for completion delays;

(d) Identify and explain any terminations for default or Government convenience;

(vii) Balance sheet for offeror's last fiscal year, accompanied by profit and loss statement;

(viii) Detailed cost or price proposal, furnished as a separate, detachable element of the business management proposal;

(ix) In soliciting proposals for support services requiring price quotations for a cost reimbursement type contract the request for proposals should set forth available data respecting the quantity and quality of supplies and services required. These data should be set forth in terms of man-hours of identifiable categories of labor, including experience and related qualifications, and in terms of quantities of supplies, all exclusive of costs. To be responsive, a proposer must submit a detailed cost or price proposal based on the effort described or estimated in the request for proposals. If the proposer feels that the work can be accomplished more efficiently with organizational plans, staffing, management, or equipment other than those indicated in the request for proposal, he may also submit an alternate proposal, supported by a detailed cost or price proposal;

(d) Requests for proposals, which are subject to the review and approval of a Source Evaluation Board, should be developed in accordance with the above paragraphs and the requirements of paragraph 512 of the NASA Source Evaluation Board Manual (NPC 402).

(e) Request for proposals for procurements which are subject to Title VI of the Civil Rights Act of 1964 (Public Law 88–352; 42 U.S.C. 2000 d–1), shall include a requirement for obtaining an "Assurance of Compliance" (NASA Form 1206) in accordance with the provisions of § 18–1.355.

49. Section 18–3.604–2 is revised to read as follows:

§ 18–3.604–2 Competiton in purchases in excess of $250.

(a) The procedures in paragraphs (b), (c), and (d) of this section apply to purchases in excess of $250 made pursuant to this Subpart 18–3.6.

(b) Solicitation of quotations from a reasonable number of qualified sources of supply shall be made to assure that the procurement is to the advantage of the Government, price and other factors considered, including the administrative cost of the purchase. Generally, solicitation shall be made of at least three suppliers and, to the maximum extent possible, shall be restricted to the local trade area of either the purchasing or the receiving activity. If practicable, two sources not included in the previous solicitation should be requested to furnish quotations. Quotations should generally be solicited orally. Written solicitations should be used when (1) the suppliers are located outside the local area, (2) special specifications are involved, (3) a large number of line items are included in a single proposed procurement, or (4) obtaining oral quotations is not considered economical or possible.

(c) Reasonableness of a proposed price should be based on competitive quotations. If only one response is received, or the price variance between multiple responses reflects lack of adequate competition, a statement shall be included in the contract file setting forth the basis of the determination of fair and reasonable price. This determination may be based on a comparison of the proposed price with prices found reasonable on previous purchases, current price lists, catalogs, advertisements, similar items in a related industry, value analysis, the contracting officer's personal knowledge of the item being procured, or any other means. Written records of solicitation may be limited to notes or abstracts to show vendor or vendors contacted, prices, delivery, and any other informal historical data. If a separate form is used for documentation of price reasonableness, DD Form 1784, Small Purchase Pricing Memorandum, shall be based. If this form is not used, the price reasonableness statement shall be used on one or more of the criteria set forth on the form. (Local reproduction of DD Form 1784 is authorized.) In any case, the contracting officer should gain as much knowledge as practicable of the physical and material characteristics and intended use of the item to be purchased. When only one source is solicited, a justification, in the form prescribed by § 18–3.802–3(d)(1), must be made a part of the file to explain the absence of competition, except for procurement of utility services available only from one source or of educational services from non-profit institutions. Notification to unsuccessful suppliers shall be given only if requested.

(d) Occasionally an item can be obtained only from a supplier who quotes a minimum order price or quantity, which either unreasonably exceeds stated quantity requirements, or results in an unreasonable price for the quantities required. If practicable before placing the order, the requiring activity should be informed in such cases of all facts regarding the quotation and requested to confirm or alter its requirement for the item or items under consideration. The file shall be documented to support the final action taken.

§ 18–3.604–3 [Deleted]

49a. Section 18–3.604–3 is deleted.

50. Section 18–3.802–3 is revised to read as follows:

§ 18–3.802–3 Noncompetitive procurement.

(a) While competition must be obtained whenever possible, there are circumstances where one institution or company has exclusive or predominate capability by reason of experience, specialized facilities, or technical competence to perform the work within the time required and at reasonable prices. In such a circumstance, the initiating technical office may recommend, for approval by the appropriate authority listed in paragraph (d) of this section, that only one institution or company is qualified to perform the work or services and that a proposal be solicited only from this source. This recommendation shall be in writing and will be contained in a separate document entitled "Justification for Noncompetitive Procurement" and shall set forth full and complete justification for the selection in accordance with paragraph (c) of this section, except as otherwise authorized by paragraph (d)(1) of this section. In those cases where the initiating technical office does not make such a recommendation, the recommendation may be made by the procurement office, if deemed appropriate. In such a case, the recommendation will be prepared for the signature of an appropriate individual, consistent with the approval requirements of paragraph (d) of this section, and shall have the concurrence of the cognizant technical office before submission to the approving authority specified in paragraph (d) of this section, except that such concurrence may be waived in the case of small purchases (see paragraph (d)(1) of this section).

(b) The provisions of this § 18–3.802–3 do not apply to: (1) procurements of $250 or less; (2) procurements from or through other Government agencies; (3) procurements of utility services where the services are available from only one source; (4) procurements of architect-engineer services; (5) procurements of industrial facilities required in support of related procurement contracts; (6) procurements of scientific experiments, based on unsolicited proposals, where selection is made pursuant to NASA Management Instruction 7100.1, "Conduct of Space Science Program—Selection and Support of Scientific Investigations and Investigators" (§ 18–4.403(d)); or (7) procurements based on unsolicited proposals where a "Justification for Acceptance of Unsolicited Proposal" is provided in accordance with Subpart 18–4.4.

(c) Justification for Noncompetitive Procurement:

(1) The document entitled "Justification for Noncompetitive Procurement" shall:

(i) Fully express the circumstances which operate to make competitive negotiation impractical or not feasible;

(ii) Explain with particularity the exclusive or predominant capability the

personnel, supervision, and of other appropriate technical personnel in the benefits, responsibilities and details of new technology reporting.

(e) The plans for conducting the "frequent periodic reviews" required by the "New Technology" Clause. Include plans for supplementing existing Company invention reporting system(s) to insure reporting of that "new technology," which does not constitute invention (any new or improved products, devices, materials, processes, methods, scientific or technical computer programs, techniques, compositions, systems, machines, apparatuses, articles, fixtures, and tools, are reportable, whether or not they constitute invention).

(f) The details of actual documentation of reportable items, and the methods by which they will be reported. Include plans for (i) submission of sufficient detail to permit evaluation of the novelty and potential usefulness of the reportable items, (ii) avoiding unnecessary redocumentation by inclusion of existing documents or abstracts therefrom.

(g) Level of effort anticipated. (Quarterly/monthly rates and estimated disclosure output rates are desirable.)

(61) [Reserved]

(62) Where Standard Form 33 (Solicitation, Offer, and Award) is not used, a statement as follows:

ORDER OF PRECEDENCE (JULY 1968)

In the event of an inconsistency between provisions of this solicitation, the inconsistency shall be resolved by giving precedence in the following order: (a) The Schedule; (b) Terms and Conditions of the solicitation; (c) General Provisions; (d) other provisions of the contract, where attached or incorporated by reference; and (e) the Specifications.

The foregoing statement may be modified to change the order or to add or delete items to meet the needs of a particular procurement;

(63) Where neither Standard Form 33 (Solicitation, Offer, and Award) nor Standard Form 18 (Request for Quotations) is used, a statement that prospective offerors may submit inquiries by writing or calling (collect calls not accepted) (insert name and address, telephone area code, number, and extension);

(64) Where Standard Form 33 (Solicitation, Offer, and Award) is not used, a statement on the first sheet or on a cover sheet of the Request for Proposals that:

"Proposals must set forth full, accurate, and complete information as required by this request for proposal (including attachments). The penalty for making false statements in proposals is prescribed in 18 U.S.C. 1001."

This statement shall be suitably modified when Quotations are requested;

(65) Where neither Standard Form 33 (Solicitation, Offer, and Award) nor Standard Form 18 (Request for Quotations) (July 1966 edition) is used, a requirement for inclusion of "county" as part of quoter's/offeror's address will be inserted;

(66) Where Standard Form 33 (Solicitation, Offer, and Award) is not used, a statement that prospective offerors should indicate in the offer the address to which payment should be mailed, if such address is different from that shown for the offeror (Contracting officers shall include this information in all resultant contracts which are to be administered by a Defense Contract Administration Services Regional Office.);

(67) Any applicable wage determination of the Secretary of Labor (for construction contracts, see Subpart 18–12.4; for service contracts, see Subpart 18–12.11);

(68) If the contract is to involve construction work (subject to the Davis-Bacon Act) at the Cape Kennedy, Patrick Air Force Base, or Merritt Island Launch Area complex, the "Employee Compensation" clause and "Table of Employee Compensation";

(69) [Reserved].

(70) The "Patent Royalties" clause set forth in § 18–9.102–2(f)(2);

(71) To insure timely distribution of Material Inspection and Receiving Reports (DD Form 250), include distribution instructions in the Schedule or as an attachment to the contract (see Appendix I);

(72) The "Certification of Nonsegregated Facilities" set forth in § 18–12.802–4(c);

(73) The notice regarding the requirement for "Certification of Nonsegregated Facilities" as prescribed in § 18–12.802–4(b);

(74) Where Standard Form 33 (Solicitation, Offer, and Award) of Standard Form 19–B (Representations and Certifications) (Construction Contract) is not used, insert the "Equal Opportunity" representation set forth in § 18–12.802–4(a);

(75) If the contract involves performance of services on a Government installation, the following provision:

SITE VISIT (JULY 1968)

Offerors are urged and expected to inspect the site where services are to be performed and to satisfy themselves as to all general and local conditions that may affect the cost of performance of the contract, to the extent such information is reasonably obtainable. In no event will a failure to inspect the site constitute grounds for a claim after award of the contract.

(76) When the procurement involves a set-aside for small business concerns, the following provision:

This is a ____% set-aside for small business concerns.

(77) When the procurement involves a set-aside for labor surplus area concerns, the following provision:

This is a ____% set-aside for labor surplus area concerns.

(c) In addition to the information specified in § 18–3.501(b), for contracts in excess of $1 million the request for proposal should contain requirements for the following information to be furnished by the offeror in his proposal, if applicable. This information may be required in the request for proposal for inclusion in contracts of lesser dollar value if deemed appropriate.

(1) *Technical proposal.* (i) Method by which offeror proposes to solve the technical problems of the project; descriptions, sketches, and plans of attack in sufficient detail to permit engineering evaluation of the proposal;

(ii) Specification of exceptions to proposed technical requirements;

(iii) Statement of background experience in fields relating to the procurement;

(iv) Names and résumés of experience of key technical personnel who will be employed on the project and extent to which each will participate in the performance of the project; an organization chart of the segment of offeror's organization which will be directly assigned to the project, listing names and job categories;

(v) Description and location of the company-owned research, test and production equipment and facilities which will be available for use on the project; separate list of any additional facilities or equipment required in the performance of the work; separate list of existing Government facilities available to the contractor and required for use on the project; and

(vi) Hourly time estimates (without pricing information) by labor class for each phase or segment of the project; extent to which these estimates are based on the use of employees presently on the offeror's payrolls who will be available for the work as required; indication of number and types of personnel necessary to be hired and arrangements made to obtain them.

(2) *Business management proposal.* (i) Organization proposed for carrying out the project, including organization charts showing interrelationship of business management, technical management and subcontract management; indication of all levels of operation and management, from lower levels through intermediate management to top level management.

(ii) Résumé of experience of all key personnel who will conduct the managerial affairs of the project;

(iii) Contractual procedures proposed for the project to effect administrative and engineering changes, describing differences from existing procedures;

(iv) Extent to which offeror has invested corporate funds in research and development work in the project area or directly related areas and plans for future expenditures for such work; extent, if any, to which offeror is willing to participate in the cost of the project (see § 18–3.405–3);

(v) Statement as to capacity at which company-owned research, test, and production equipment and facilities required in the performance of the work are currently working; extent to which such facilities and equipment could handle the additional workload imposed by this project; cost of any additional facilities or equipment required in the performance of the work with information as to whether such additional facilities or equipment will be contractor-furnished or Government-furnished; statement of value of existing Government facilities available to offeror and required for use on the project, showing the Government agencies and facilities contracts involved;

(vi) Statement of past performance and experience including:

(a) List of Government contracts in excess of $1 million received in past three years or currently in negotiation involving mainly research and development work, showing each contract number, Government agency placing the contract, type of contract, and brief description of the work;

(b) For each cost-type contract, specify amounts of cost overruns or underruns, reasons therefor, and percentage of fixed fee;

(c) For each contract, give record of contract completion as against completion date anticipated at time of entering into contract, giving explanations for completion delays;

(d) Identify and explain any terminations for default or Government convenience;

(vii) Balance sheet for offeror's last fiscal year, accompanied by profit and loss statement;

(viii) Detailed cost or price proposal, furnished as a separate, detachable element of the business management proposal;

(ix) In soliciting proposals for support services requiring price quotations for a cost reimbursement type contract the request for proposals should set forth available data respecting the quantity and quality of supplies and services required. These data should be set forth in terms of man-hours of identifiable categories of labor, including experience and related qualifications, and in terms of quantities of supplies, all exclusive of costs. To be responsive, a proposer must submit a detailed cost or price proposal based on the effort described or estimated in the request for proposals. If the proposer feels that the work can be accomplished more efficiently with organizational plans, staffing, management, or equipment other than those indicated in the request for proposal, he may also submit an alternate proposal, supported by a detailed cost or price proposal;

(d) Requests for proposals, which are subject to the review and approval of a Source Evaluation Board, should be developed in accordance with the above paragraphs and the requirements of paragraph 512 of the NASA Source Evaluation Board Manual (NPC 402).

(e) Request for proposals for procurements which are subject to Title VI of the Civil Rights Act of 1964 (Public Law 88–352; 42 U.S.C. 2000 d–1), shall include a requirement for obtaining an "Assurance of Compliance" (NASA Form 1206) in accordance with the provisions of § 18–1.355.

49. Section 18–3.604–2 is revised to read as follows:

§ 18–3.604–2 Competiton in purchases in excess of $250.

(a) The procedures in paragraphs (b), (c), and (d) of this section apply to purchases in excess of $250 made pursuant to this Subpart 18–3.6.

(b) Solicitation of quotations from a reasonable number of qualified sources of supply shall be made to assure that the procurement is to the advantage of the Government, price and other factors considered, including the administrative cost of the purchase. Generally, solicitation shall be made of at least three suppliers and, to the maximum extent possible, shall be restricted to the local trade area of either the purchasing or the receiving activity. If practicable, two sources not included in the previous solicitation should be requested to furnish quotations. Quotations should generally be solicited orally. Written solicitations should be used when (1) the suppliers are located outside the local area, (2) special specifications are involved, (3) a large number of line items are included in a single proposed procurement, or (4) obtaining oral quotations is not considered economical or possible.

(c) Reasonableness of a proposed price should be based on competitive quotations. If only one response is received, or the price variance between multiple responses reflects lack of adequate competition, a statement shall be included in the contract file setting forth the basis of the determination of fair and reasonable price. This determination may be based on a comparison of the proposed price with prices found reasonable on previous purchases, current price lists, catalogs, advertisements, similar items in a related industry, value analysis, the contracting officer's personal knowledge of the item being procured, or any other means. Written records of solicitation may be limited to notes or abstracts to show vendor or vendors contacted, prices, delivery, and any other informal historical data. If a separate form is used for documentation of price reasonableness, DD Form 1784, Small Purchase Pricing Memorandum, shall be based. If this form is not used, the price reasonableness statement shall be used on one or more of the criteria set forth on the form. (Local reproduction of DD Form 1784 is authorized.) In any case, the contracting officer should gain as much knowledge as practicable of the physical and material characteristics and intended use of the item to be purchased. When only one source is solicited, a justification, in the form prescribed by § 18–3.802–3(d)(1), must be made a part of the file to explain the absence of competition, except for procurement of utility services available only from one source or of educational services from non-profit institutions. Notification to unsuccessful suppliers shall be given only if requested.

(d) Occasionally an item can be obtained only from a supplier who quotes a minimum order price or quantity, which either unreasonably exceeds stated quantity requirements, or results in an unreasonable price for the quantities required. If practicable before placing the order, the requiring activity should be informed in such cases of all facts regarding the quotation and requested to confirm or alter its requirement for the item or items under consideration. The file shall be documented to support the final action taken.

§ 18–3.604–3 [Deleted]

49a. Section 18–3.604–3 is deleted.

50. Section 18–3.802–3 is revised to read as follows:

§ 18–3.802–3 Noncompetitive procurement.

(a) While competition must be obtained whenever possible, there are circumstances where one institution or company has exclusive or predominate capability by reason of experience, specialized facilities, or technical competence to perform the work within the time required and at reasonable prices. In such a circumstance, the initiating technical office may recommend, for approval by the appropriate authority listed in paragraph (d) of this section, that only one institution or company is qualified to perform the work or services and that a proposal be solicited only from this source. This recommendation shall be in writing and will be contained in a separate document entitled "Justification for Noncompetitive Procurement" and shall set forth full and complete justification for the selection in accordance with paragraph (c) of this section, except as otherwise authorized by paragraph (d)(1) of this section. In those cases where the initiating technical office does not make such a recommendation, the recommendation may be made by the procurement office, if deemed appropriate. In such a case, the recommendation will be prepared for the signature of an appropriate individual, consistent with the approval requirements of paragraph (d) of this section, and shall have the concurrence of the cognizant technical office before submission to the approving authority specified in paragraph (d) of this section, except that such concurrence may be waived in the case of small purchases (see paragraph (d)(1) of this section).

(b) The provisions of this § 18–3.802–3 do not apply to: (1) procurements of $250 or less; (2) procurements from or through other Government agencies; (3) procurements of utility services where the services are available from only one source; (4) procurements of architect-engineer services; (5) procurements of industrial facilities required in support of related procurement contracts; (6) procurements of scientific experiments, based on unsolicited proposals, where selection is made pursuant to NASA Management Instruction 7100.1, "Conduct of Space Science Program—Selection and Support of Scientific Investigations and Investigators" (§ 18–4.403(d)); or (7) procurements based on unsolicited proposals where a "Justification for Acceptance of Unsolicited Proposal" is provided in accordance with Subpart 18–4.4.

(c) Justification for Noncompetitive Procurement:

(1) The document entitled "Justification for Noncompetitive Procurement" shall:

(i) Fully express the circumstances which operate to make competitive negotiation impractical or not feasible;

(ii) Explain with particularity the exclusive or predominant capability the

proposed contractor possesses which meet the requirements of the procurement; and

(iii) Contain, in the first sentence of the document, an appropriate recommendation (e.g., "I recommend that we negotiate with the _____ only for
(Name of company)
the detailed documentation and fabrication of _____.").
(Item being procured)

(2) Each "Justification" shall reflect the degree of consideration which has been given to other sources in the particular field and the reasons they lack the capability which the proposed contractor evidences. The following illustrations represent factors which should be considered, as appropriate, in preparing the "Justification":

(i) What capability does the proposed contractor have which is important to the specific effort and makes him clearly more desirable than another firm in the same general field?

(ii) What prior experience of a highly specialized nature does he possess which is vital to the proposed effort?

(iii) What facilities and test equipment does he have which are specialized and vital to the effort?

(iv) Does he have a substantial investment of some kind which would have to be duplicated at Government expense by another source entering the field?

(v) If schedules are involved, why are they critical and why can the proposed contractor best meet them?

(vi) If lack of drawings or specifications is a guiding factor, why is the proposed contractor best able to perform under these conditions? Why are drawings and specifications lacking? What is the leadtime required to get drawings and specifications suitable for competition?

(vii) Are Government-owned facilities involved?

(viii) Is the effort a continuation of previous effort performed by the proposed contractor?

(ix) Does the proposed contractor have personnel considered predominant experts in the particular field?

(x) Is competition precluded because of the existence of patent rights, copyrights or secret processes?

(xi) Are parts or components being procured as replacement parts in support of equipment specially designed by a manufacturer, where data available is not adequate to assure that the parts or components will perform the same function in the equipment as those parts or components being replaced?

(d) *Review and approval.* The "Justification" shall, as a minimum requirement, be reviewed and approved as follows:

(1) For small purchases in excess of $250, but not in excess of $2,500, the "Justification" may be in the form of a statement and shall be submitted for the approval of the contracting officer.

(2) For procurements in excess of $2,500, but not in excess of $100,000, the "Justification" shall be submitted for the approval of the Procurement Officer or his designees after prior review and written concurrence by the initiating technical individual's immediate superior. (For the purpose of this requirement, the term "or his designees" shall mean the individuals authorized by the Procurement Officer to sign the "Justification." Such authorization shall be in writing and shall not be delegated beyond the first level of supervision below the Procurement Officer.)

(3) For procurements in excess of $100,000, but less than the dollar amount set forth below for the installation concerned, the "Justification" shall be submitted for the approval of the Procurement Officer or his designee after prior review and written concurrence by the head of the cognizant technical division or laboratory, as applicable. (For the purpose of this requirement, the term "or his designee" shall mean the individual authorized by the Procurement Officer to sign the "Justification." Such authorization shall be in writing and shall not be delegated to more than one individual.)

(i) $250,000:

Flight Research Center.
Wallops Station.

(ii) $500,000:

Headquarters Contracts Division.
Kennedy Space Center.
NASA Pasadena Office.

(iii) $1,000,000:

Ames Research Center.
Goddard Space Flight Center.
Langley Research Center.
Lewis Research Center.
Manned Spacecraft Center.
Marshall Space Flight Center.
Space Nuclear Systems Office (Germantown).

(4) For procurements within the range of the dollar amounts set forth below for the installation concerned, the "Justification" shall be submitted for the approval of the Head of the Installation, his Deputy or Associate Director (the title "Associate Director" means a full Associate Director and not an Associate Director for _____) after prior review and written concurrences by the Director or Assistant Director of the cognizant technical directorate, cognizant Program Manager, or cognizant staff official, as applicable, who reports directly to the Head of the Installation, and by the Procurement Officer.

(i) $250,00 but less than $500,000:

Flight Research Center.
Wallops Station.

(ii) $500,000 but less than $1,000,000:

Headquarters Contracts Division.
Kennedy Space Center.
NASA Pasadena Office.

(iii) $1,000,000 but less than $2,500,000:

Ames Research Center.
Goddard Space Flight Center.
Langley Research Center.
Lewis Research Center.
Manned Spacecraft Center.
Marshall Space Flight Center.
Space Nuclear Systems Office (Germantown).

(5) For procurements that equal or exceed the dollar amounts set forth below for the installation concerned, the "Justification" shall be submitted for the signature of the Head of the Installation after prior review and written concurrences by the Director or Assistant Director of the cognizant technical directorate, cognizant Program Manager, or cognizant staff official, as applicable, who reports directly to the Head of the Installation, and by the Procurement Officer. The "Justification" shall contain additional signature blocks for approval by the Administrator and for concurrences by the Director of Procurement, the cognizant Program Associate Administrator, the Assistant Administrator for Industry Affairs and Technology Utilization, the Assistant Administrator for Administration, the Associate Administrator for Organization and Management, and the Deputy Administrator.

(i) $500,000 and over:

Flight Research Center.
Wallops Station.

(ii) $1,000,000 and over:

Headquarters Contracts Division.
Kennedy Space Center.
NASA Pasadena Office.

(iii) $2,500,000 and over:

Ames Research Center.
Goddard Space Flight Center.
Langley Research Center.
Lewis Research Center.
Manned Spacecraft Center.
Marshall Space Flight Center.
Space Nuclear Systems Office (Germantown).

51. Section 18-3.804-2 is revised to read as follows:

§ 18-3.804-2 Evaluation procedures not involving source evaluation board.

The evaluation procedures set forth in paragraphs (a) through (c) of this section shall be utilized except where the procedures set forth in § 18-3.804-3 apply.

(a) *Responsibility of contracting officer.* (See § 18-3.801-2.)

(b) *Technical evaluation.* Generally, procurement personnel are not qualified to evaluate proposals from a technical viewpoint and must rely on scientific and engineering personnel for this function. In research and development contracting, awards should usually be made to those companies that have the highest competence in the specific field of science or technology involved, although awards should not be made on the basis of research and development capabilities that exceed those needed for the successful performance of the work. It is imperative therefore that technical evaluations and recommendations be fully documented and reviewed by responsible personnel. Technical evaluation should include the following:

(1) The contractor's understanding of the scope of the work as shown by the scientific and technical approach proposed;

(2) Availability and competence of experienced engineering, scientific, or other technical personnel;

(3) Availability of necessary research, test, and production facilities;

(4) Experience or pertinent novel ideas in the specific branch of science or technology involved;

(5) The contractor's willingness to devote his resources to the proposed work with appropriate diligence; and

(6) The contractor's proposed method of achieving the reliability required.

In making this evaluation, technical personnel may be given access to portions of the business proposals upon request. After evaluation and preparation of written recommendations as to selection of source by the technical personnel, proposals shall be returned to the negotiator. The contracting officer is responsible for reviewing the justification in support of the recommendations of technical personnel to determine that the justification is adequate and that the documentation is complete.

(c) *Business evaluation*—(1) *Price and cost analysis.* Each proposal requires some form of price or cost analysis. The contracting officer must exercise judgment in determining the extent of analysis in each case. On high-dollar value procurements, particularly where effective competition has not been obtained, the analysis should be thorough, and the record carefully documented to disclose the extent to which the various elements of costs, fixed fee, or profit contained in the contractor's proposals were analyzed. The negotiation memorandum should also reflect the consideration given to the recommendations of the price analyst and the basis for nonacceptance or departure from the recommendations during the course of negotiations.

(2) *Automatic data processing equipment.* In evaluating proposals containing a significant amount of cost for Automatic Data Processing Equipment (ADPE) the contracting officer should obtain from the prospective contractor a feasibility study and a lease-versus-purchase study covering the acquisition of such equipment or service. The contracting officer will obtain the recommendations of the price analyst and appropriate ADPE technical personnel as to the adequacy of the studies and the prospective contractor's determinations resulting from the studies. Particular attention should be given to those proposals containing a high dollar amount for rental of ADPE or complete systems to be used solely for performance of the contract. Current Office of Management and Budget criteria (NASA Handbook 2410.1, "Management Procedures for Automatic Data Processing Equipment") should be used, where applicable, as a guide in evaluating the contractor's studies (also see Subpart 18-3.11). Prospective contractors should be encouraged to:

(i) Use ADPE machine time available within a reasonable geographic distance;

(ii) Use tele-communications links to remote Government-owned or leased ADPE systems, and

(iii) Purchase ADPE in preference to leasing the equipment where the financial advantage is the sole or overriding factor.

(3) *Other factors.* The contracting officer must appraise the management capability of the offeror to perform the required work in a timely manner. In making this appraisal, he must consider such factors as the company's management organization, past performance, reputation for reliability, availability of the required facilities, and cost controls.

52. Section 18-3.807-2 is revised to read as follows:

§ 18-3.807-2 Requirement for Price or Cost Analysis.

(a) *General.* Some form of price or cost analysis is required in connection with every negotiated procurement action. The method and degree of analysis, however, is dependent on the facts surrounding the particular procurement and pricing situation. Cost analysis shall be performed in accordance with paragraph (c) of this section when cost or pricing data is required to be submitted under the conditions described in §18-3.807-3; however, the extent of the cost analysis should be that necessary to assure reasonableness of the pricing result, taking into consideration the amount of the proposed contract and the cost and time needed to accumulate the necessary data for analysis. Price analysis shall be used in all other instances to determine the reasonableness of the proposed contract price. Price analysis may also be useful in corroborating the overall reasonableness of a proposed price where the determination of reasonableness was developed through cost analysis.

(b) *Price analysis.* (1) Price analysis is the process of examining and evaluating a prospective price without evaluation of the separate cost elements and proposed profit of the individual prospective supplier whose price is being evaluated. Price analysis may be accomplished in various ways including the following:

(i) The comparison of the price quotations submitted;

(ii) The comparison of prior quotations and contract prices with current quotations for the same or similar end items (to provide a suitable basis for comparison, appropriate allowances must be made for differences in such factors as specifications, quantities ordered, time for delivery, Government-furnished materials, and experienced trends of improvements in production efficiency; it must also be recognized that such comparison may not detect an unreasonable current quotation unless the reasonableness of the prior price was established and unless changes in the general level of business and prices have been considered);

(iii) The use of rough yardsticks (such as dollars per pound, per horsepower, or other units) to point up apparent gross inconsistencies which should be subjected to greater pricing inquiry;

(iv) The comparison of prices set forth in published price lists issued on a competitive basis, published market prices of commodities and similar indices, together with discount or rebate arrangements; and

(v) The comparison of proposed prices with estimates of cost independently developed by personnel within the procurement office.

(2) Price analysis techniques should be used to support or supplement cost analysis wherever appropriate.

(c) *Cost analysis.* (1) Cost analysis is the review and evaluation of a contractor's cost or pricing data (§ 18-3.807-3) and of the judgmental factors applied in projecting from the data to the estimated costs, in order to form an opinion on the degree to which the contractor's proposed costs represent what performance of the contract should cost, assuming reasonable economy and efficiency. It includes the appropriate verification of cost data, the evaluation of specific elements of costs (see § 18-16.202), and the projection of these data to determine the effect on prices of such factors as:

(i) The necessity for certain costs;

(ii) The reasonableness of amounts estimated for the necessary costs;

(iii) Allowances for contingencies;

(iv) The basis used for allocation of overhead costs; and

(v) The appropriateness of allocations of particular overhead costs to the proposed contract.

(2) Cost analysis shall also include appropriate verification that the contractor's cost submissions are in accordance with the Part 18-15, Contract Cost Principles and Procedures.

(3) Among the evaluations that should be made where the necessary data are available, are comparisons of a contractor's or offeror's current estimated costs with:

(i) Actual costs previously incurred by the contractor or offeror;

(ii) His last prior cost estimate for the same or similar item or a series of prior estimates;

(iii) Current cost estimates from other possible source; and

(iv) Prior estimates or historical costs of other contractors manufacturing the same or similar items.

(4) Forecasting future trends in costs from historical cost experience is of primary importance. In periods of either rising or declining costs, an adequate cost analysis must include some evaluation of the trends. In cases involving production of recently developed, complex equipment, even in periods of relative price stability, trend analysis of basic labor and materials costs should be undertaken, and in contracts extending over a period of several years, trend analysis should be made of overhead forecasts for life of the contract.

53. Section 18-3.807-3(a) is revised to read as follows:

§ 18-3.807-3 Cost or pricing data.

(a) The contracting officer shall require the contractor to submit, either actually or by specific identification in writing, cost or pricing data in accordance with § 18-16.202 and to certify, by use of the certificate in paragraph (b) of the clause set forth in § 18-3.807-4, that, to the best of his knowledge and belief,

the cost or pricing data he submitted was accurate, complete, and current prior to:

(1) The award of any negotiated contract (other than a letter contract) expected to exceed $100,000 in amount;

(2) The pricing of any contract modification expected to exceed $100,000 in amount to any formally advertised or negotiated contract whether or not cost or pricing data was required in connection with the initial pricing of the contract when the modification involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed $100,000. (For example, the requirement applies to a $30,000 modification resulting from a reduction of $70,000 and an increase of $40,000, or as another example, when the modification results in no change in contract price because there is an increase of $200,000 and a reduction of $200,000. However, this requirement shall not apply when unrelated and separately priced changes for which cost or pricing data would not be required are included in the same modification for administrative convenience);

(3) The award of any negotiated contract not expected to exceed $100,000 in amount or any contract modification not expected to exceed $100,000 in amount to any formally advertised or negotiated contract whether or not cost or pricing data was required in connection with the initial pricing of the contract, provided the contracting officer considers that the circumstances warrant such action in accordance with paragraph (d) of this section;

unless the contracting officer determines in writing, that the price negotiated is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. The requirements under subparagraphs (1) and (2) of this paragraph may be waived in exceptional cases where the Associate Administrator for Organization and Management, or in the case of a contract with a foreign government or agency thereof, the Assistant Administrator for Industry Affairs and Technology Utilization or the Director of Procurement authorizes such waiver and states in writing his reasons for such determination. The determination will set forth the procedures followed in attempting to obtain cost and pricing data, including any direct requests therefor, the contractor's reasons for refusing to submit cost or pricing data or reasons why data submitted by the contractor could not be used, and other efforts made by NASA to obtain confirmation of the accuracy of pricing from sources other than the contractor. Whenever the Contractor and Subcontractor Certified Cost of Pricing Data clause set forth in § 18–3.807–4 is to be included in the contract, it should also be included in the request for proposals, the invitation for bids, or the request for quotations.

• • • • •

54. Section 18–3.807–5 is revised to read as follows:

§ 18–3.807–5 Defective cost or pricing data.

(a) Where any price to the Government must be negotiated largely on the basis of cost or pricing data submitted by the contractor, it is essential that the data be accurate, complete and current and in appropriate cases so certified by the contractor (see §§ 18–3.807–3 and 18–3.807–4). If such certified cost or pricing data is subsequently found to have been inaccurate, incomplete or noncurrent as of the effective date of the certificate, the Government is entitled to an adjustment of the negotiated price, including profit or fee, to exclude any significant sum by which the price was increased because of the defective data. Paragraph (g) of the Contractor and Subcontractor Certified Cost of Pricing Data clause set forth in § 18–3.807–4 gives the Government in such case an enforceable contract right to a price adjustment, that is, to a reduction in the price to what it would have been if the contractor had submitted accurate, complete and current data. In arriving at a price adjustment under this clause, the contracting officer should, after review of the record of the contract negotiation (see § 18–3.811), consider the following:

(1) *The time when cost or pricing data was reasonably available to the contractor.* Certain data such as overhead expenses and production records may not be reasonably available except on normal periodic closing dates. Also, the data on numerous minor material items each of which by itself would be insignificant may be reasonably available only as of a cutoff date prior to agreement on price because the volume of transactions would make the use of any later date impracticable. Furthermore, except where a single item is used in substantial quantity, the net effect of any changes to the prices of such minor items would likely be insignificant. Closing or cutoff dates should be included as a part of the data submitted with the contractor's proposal and should be updated by the contractor to the latest closing or cutoff dates, preceding agreement on price, for which such data is available. The contracting officer and contractor are encouraged to reach a prior understanding on criteria for establishing closing or cutoff dates, and to the extent possible the understanding should relate to an approved estimating system. Notwithstanding the foregoing, matters which are significant to contractor management and to Government and any related data, would be expected to be current on the date of agreement on price and therefore will be treated as reasonably available as of that date. Although changes in the labor base or in prices of major material items are generally significant matters, no hard and fast rule can be laid down since what is significant can depend upon such circumstances as the size and nature of the procurement.

(2) In establishing that the defective data caused an increase in the contract price, the contracting officer is not expected to reconstruct the negotiation by speculating as to what would have been the mental attitudes of the negotiating parties if the correct data had been submitted at the time of agreement on price. In the absence of evidence to the contrary, the natural and probable consequence of defective data is an increase in the contract price in the amount of the defect plus related burden and profit or fee; therefore, unless there is a clear indication that the defective data was not used, or was not relied upon, the contract price should be reduced in that amount.

(3) (i) Properly supported and verified claims of understated cost or pricing data will be recognized if such data has been submitted in support of price negotiations for the same pricing action (e.g., for the initial pricing of the same contract or for pricing the same change order) up to the amount of the Government's claim for overstated cost or pricing data arising out of the same pricing action. Such offsets do not need to be in the same cost groupings (e.g., material, labor, and overhead).

(ii) Although the Government has no duty to uncover contractor understated cost or pricing data, such understatements, when discovered, will be considered in arriving at the amount of a price reduction for overstated cost or pricing data.

(b) If, at any time prior to agreement on price, the contracting officer learns through audit or otherwise that any cost or pricing data submitted is inaccurate, incomplete, or noncurrent, he shall immediately call it to the attention of the contractor whether that defective data tends to increase or decrease the contract price. Thereafter, the contracting officer shall negotiate on the basis of any new data submitted, or on a basis which in his opinion makes satisfactory allowance for the incorrect data as he considers appropriate and shall reflect these facts in his record of negotiation.

(c) After award, if the contracting officer obtains information which leads him to believe that the data furnished may not have been accurate, complete, or current, or if he considers that the data may not have been adequately verified as of the time of negotiation, he should request an audit to evaluate the accuracy, completeness, and currency of such data. In the case of negotiated firm fixed-price contracts, post-award cost performance audit, pursuant to paragraph (c) of the clause set forth in § 18–3.807–4, shall be limited to the single purpose of determining whether or not defective cost or pricing data were submitted. Such audits shall not be for the purpose of evaluating profit-cost relationships, nor shall any repricing of such contracts be made because the realized profit was greater than was forecast, or because some contingency cited by the contractor in his submission failed to materialize—unless the audit reveals that the cost or pricing data certified by the contractor were, in fact, defective.

(d) Under 10 U.S.C. 2306(f), as implemented by the Contractor and Subcontractor Certified Cost or Pricing Data

clause set forth in § 18–3.807–4, the Government's right to reduce the prime contract price extends to cases where the prime contract price was increased by any significant sums because of subcontractor furnished defective cost or pricing data in connection with a subcontract where a certificate of cost or pricing data was or should have been furnished. In some cases, as where the defective nature of a subcontractor's data is only disclosed by Government audit, the information necessary to support a reduction in prime contract and subcontract prices may be available only from the Government. In effecting a prime contract price reduction, the contracting officer should make such necessary information available upon request, to the prime contractor or higher tier subcontractors; however, if the release of such information would compromise security or disclose trade secrets or other confidential business information, it shall be made available only under conditions that will fully protect it from improper disclosure, as may be prescribed or authorized by the Director of Procurement. Information made available pursuant to this paragraph shall be limited to that used as the basis for the prime contract price reduction.

(e) Inasmuch as price reductions under the "Contractor and Subcontractor Certified Cost or Pricing Data" clause may involve first- and lower-tier subcontractors as well as the prime contractor, the contracting officer should give the prime contractor reasonable advance notice before making a determination to reduce the contract price under such clause, in order to afford the prime contractor an opportunity to take any action deemed advisable by him, particularly in connection with any subcontracts that may be involved.

55. Section 18–3.807–12 is added:

§ 18–3.807–12 Forward pricing rate agreements.

(a) *Definition.* A forward pricing rate agreement is a written understanding negotiated between a contractor and the Government to make certain rates available for use during a specified period of time in pricing contracts or modifications. Such rates represent reasonable projections of specific costs to be incurred in future periods that are not easily estimated for, identified to, or generated by a specific contract, contract end item or task such as but not limited to labor rates, overhead rates, material obsolescence and usage, spare parts provisioning, and material handling.

(b) *Establishment.* Forward pricing rate agreements may be negotiated by the contracting officer on his own initiative or on request of the contractor. Normally, these agreements shall be negotiated by a Department of Defense administrative contracting officer (ACO). In determining whether or not to establish such an agreement, the contracting officer should consider whether the benefits to be derived from the existence of the agreement are commensurate with the effort necessary to establish and monitor it. Normally, these agreements are warranted at contractor locations where a significant volume of proposals is processed.

(c) *Use.* The rates specified in the agreement are not binding but are available for use by the contractor and Government personnel during the period of the agreement. In deciding whether to use such rates in pricing contracts or modifications, the contracting officer should consider: (1) the type of contract contemplated; (2) whether the dollar amount of the proposed contract action would significantly change the rates in the agreement; (3) whether the performance period of the proposed contract action is significantly different from the period to which the rate agreement applies; and (4) any new data or other information that may raise a question as to the acceptability of the rates. However, in the absence of any specific reason to question the rates, the contracting officer may rely upon and use them, subject to paragraph (d)(1) of this section, without revalidation of the data, negotiations or judgments that lead to the establishment of the forward pricing rate agreement.

(d) *Procedure.* Prior to entering into a forward pricing rate agreement, the contracting officer will obtain a proposal from the contractor which contains cost or pricing data which is accurate, complete and current as of the date of submission. However, a certificate is not required at this time. The contracting officer will conduct a review and analysis. Advice and recommendations of other contracting officers having a particular interest in the forward pricing rate agreement should be solicited. Upon completion of negotiation, a memorandum of negotiation will be prepared.

(1) The forward pricing rate agreement shall provide specific terms and conditions covering expiration, application and data requirements for systematic monitoring of the agreement to assure the validity of the rates. The agreement shall provide for cancellation at the option of either party. The duration of the agreement normally should not exceed 1 year. As a minimum, the agreement shall require the contractor to submit to the contracting officer and to the cognizant contract auditor any significant change in cost or pricing data.

(2) Note 10 on the DD Form 633 requires offerors to describe, in their procurement proposals, any forward pricing rate agreement. When the forward pricing rate agreement is used, offerors are required to identify the latest cost or pricing data already submitted in accordance with the rate agreement. All data submitted in connection with the forward pricing rate agreement, updated as necessary, form a part of the total data that the contractor certifies to be accurate, complete and current at the time of agreement on price of a contract or contract modification.

56. Section 18–3.808–2(j) is revised to read as follows:

§ 18–3.808–2 Factors for determining fee or profit.

• • • • •

(j) *Cost reduction accomplishments.* Accomplishments of contractors who successfully reduce the cost of space research, development, and procurement should be taken into account in determining the amount of fee or profit.

57. Section 18–3.808–5 is revised to read as follows:

§ 18–3.808–5 Fee limitation for experimental, developmental, or research work.

In connection with the administrative and statutory limitations on fixed fees set forth in § 18–3.405–6(c)(2) the existence of the administrative limitation of 10 percent for research and development work should not prevent the negotiation of fixed fees up to the level of the statutory limitation of 15 percent in the appropriate circumstances. Such cases, however, shall be fully documented through factual support including specific details of prior experience with the contractor, the complexity of the work to be performed, and the details in connection with all of the above factors. Contractors proposing such fees should be required to support their proposals in a similar manner.

58. Section 18–3.809(c) is revised to read as follows:

§ 18–3.809 Contract audit as a pricing aid.

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(c) *Additional functions of the contract auditor.* (1) Under cost-reimbursement type contracts, the cost-reimbursement portion of fixed-price contracts, letter contracts which provide for reimbursement of costs, time and material contracts, and labor-hour contracts:

(i) The contract auditor is the authorized representative of the contracting officer for the purpose of examining reimbursement vouchers received directly from contractors, transmitting those vouchers approved for provisional payment (see (ii)) to the cognizant fiscal or financial management officer and issuing NASA Form 456, "Notice of Contract Costs Suspended and/or Disapproved," through the cognizant contracting officer to the contractor, with respect to costs claimed but not considered allowable. In the case of costs suspended, if the contractor disagrees with the suspension action, the contractor may appeal in writing through the auditor (who shall add appropriate comments) to the contracting officer, who will make his determination promptly in writing. If the contractor appeals in writing to the contracting officer from a disallowance action within the 60-day period mentioned above, the contracting officer will make his determination in writing, as promptly as practicable, as a final decision of the contracting officer (see § 18–1.314 regarding decisions under the Disputes clause) and mail or otherwise

furnish a copy to the contractor. Normally, the NASA Form 456, "Notice of Contract Costs Suspended and/or Disapproved," is issued by the auditor; however, the contracting officer also may issue or direct the issuance of NASA Form 456 with respect to any cost he has reason to believe should be suspended or disapproved. The contract auditor will examine and approve (except see (ii)) separate fee vouchers and fee portions of vouchers for provisional payment in accordance with the contract schedule and any instructions received from the contracting officer. After examination by the auditor, completion vouchers shall be forwarded to the contracting officer for approval and transmittal to the cognizant fiscal or financial management officer.

(ii) When delegating audit functions (see Subpart 18–51.3), special instructions may be issued to the contract auditor:

(*a*) Requiring submission of separate vouchers for reimbursable costs and for payment of earned fee.

(*b*) Reserving to the contracting officer approval of separate fee vouchers and all vouchers submitted by contractors performing on a NASA installation.

(iii) Unless otherwise notified, the contractor shall submit public vouchers to the auditor in accordance with the following normal requirements:

1—Original SF 1034, SF 1035 or equivalent
Contractor's attachment
7—Copies SF 1034a, SF 1035a or equivalent
Contractor's attachment

The contractor shall mark on copies 1, 2, 3, 4 and such other copies as may be directed by the contracting officer, of the foregoing SF 1034a, by insertion in memorandum block, the name and address of the following parties to facilitate distribution of paid copies of vouchers by the fiscal or financial management office:

NASA Contracting Officer (Copy 1).
Defense Contract Audit Agency Auditor (Copy 2).
Contractor (Copy 3).
Contract Administration Office (Copy 4).
Project Management Office (Copy 5, when required by the NASA contracting officer).

The auditor will retain an unpaid copy of the voucher. When a voucher contains one or more individual direct freight charges of $100 or more, an additional copy of SF 1034a and SF 1035a shall be submitted and marked for return to the contractor after payment. This copy shall me transmitted quarterly by the contractor with the freight bills to the General Accounting Office. When a voucher is identified as the "Completion Voucher," an additional copy shall be submitted for transmittal to the NASA contracting officer.

(iv) Following a prompt and careful review of the facts and circumstances leading the auditor to issue the NASA Form 456 and after coordination with other NASA and DOD contracting officers administering contracts with the same contractor where a NASA Form 456, or a DCAA Form 1 in the case of a DOD contract, has been issued for the same items of cost, the contracting officer shall take one of the following actions:

(*a*) Countersign the NASA Form 456 disapproving the costs; or

(*b*) Countersign the NASA Form 456 suspending the costs;

(*c*) Issue a new NASA Form 456 suspending the costs rather than disapproving them, pending resolution of the issues;

(*d*) Have the contractor issue a new voucher removing the costs in question from his claim and return the NASA Form 456 to the auditor unsigned;

(*e*) Return the NASA Form 456 unsigned to the auditor with a detailed explanation of why the suspension or disapproval is not being countersigned and process the contractor's claim for payment.

Where the contracting officer is in agreement with the NASA Form 456 issued by the auditor, he shall assign a notice number and shall countersign the form. An original and three copies (which includes two acknowledgement copies, one each for return to the contracting officer and the auditor) of the form shall be sent to the contractor by certified mail, return receipt requested; one copy shall be attached to the SF 1034 and each copy of the SF 1034a (see iii) on which the deduction is made, and one copy shall be sent to the auditor. The total amount suspended and/or disapproved as shown on the NASA Form 456 shall be inserted in the "differences" block of the public voucher, SF 1034 and SF 1034a, as follows:

NASA Form 456 No.---------- $--------
Net Amount Approved---------- $--------

When the contracting officer does not agree with a NASA Form 456 as issued by the auditor, he shall state his reasons for disagreement and shall furnish the auditor a copy of his statement, with an unsigned and unnumbered copy of the applicable NASA Form 456. Subsequent thereto, he should consult with the auditor and other Government personnel, as may be necessary, and the contractor, if appropriate, to dispose of any remaining items in question. If the amount of the deduction is more than the amount of the public voucher, the installment method of deduction shall be applied to this and subsequent public vouchers, until the amount is fully liquidated against the contractor's claim. The deductions on any voucher shall not exceed the amount thereof to avoid processing of a voucher in a credit amount. Public voucher(s) with zero amounts must be forwarded to the fiscal or financial management office for appropriate action. If deductions are in excess of contractor claims, recovery may be made through a direct refund from the contractor, in the form of a check payable to the Treasurer of the United States, or by a set-off deduction from the voucher(s) submitted by the contractor under any other contract, except where precluded by a "no set-off provision. If a set-off is effected, the voucher(s) from which the deduction is made should be annotated to identify the contract and appropriation affected and the applicable NASA Form 456.

(v) When necessary, the contracting officer should consult with the auditor or the financial management officer (see FMM 9630) concerning preparation, examination, and payment of vouchers. Functions to be performed by auditors and financial management and fiscal office personnel during the examination of vouchers is set forth in FMM 9630–20b(1).

(vi) The contract auditor shall be responsible for making appropriate recommendations to the contracting officer concerning the establishment of interim overhead billing rates, when such rates are provided for in the contract.

(2) Under cost-reimbursement type contracts with Canadian contractors:

(i) On contracts with the Canadian Commercial Corp., audits are automatically arranged by the Department of Defence Production (Canada) (DDP) in accordance with agreement between the National Aeronautics and Space Administration and Department of Defence Production (Canada). Audit reports are furnished to the DDP. Upon advice from DDP, the Canadian Commercial Corp. (CCC) will certify the invoice and forward it with Standard Form 1034 (Public Voucher) to the contracting officer for further processing and transmittal to the fiscal or financial management officer.

(ii) On contracts placed directly with Canadian firms, audits are requested by the contracting officer from the Audit Services Branch, Comptroller of the Treasury, Department of Finance, Ottawa, Ontario, Canada. Invoices are approved by the auditor on a provisional basis pending completion of the contract and final audit. These invoices, accompanied by Standard Form 1034 (Public Voucher), are forwarded to the contracting officer for further processing and transmittal to the fiscal or financial management officer. Periodic advisory audit reports are furnished directly to the contracting officer. In the event that costs claimed are suspended or disapproved, the contracting officer shall issue the NASA Form 456, Notice of Contract Costs Suspended and/or Disapproved" to the contractor. NASA Form 456 will be processed in the same manner as indicated in subparagraph (1) (i) of this paragraph with regard to contractor appeals, and shall contain the statement prescribed therein with respect to costs disapproved.

(iii) Audits performed by the Audit Services Branch are normally conducted in accordance with Department of Defense Production regulations.

59. Section 18–3.852–2 is revised to read as follows:

§ 18–3.852–2 Approval of procurement plans.

(a) Procurement plans, whether for competitive or noncompetitive procurement action, shall, as a minimum requirement, be reviewed and approved in accordance with the procedures set forth below, whenever the estimated cost of the procurement, including the aggregate amount of follow-on contracts under the same program (see paragraph (b) of this section), is within the applicable dollar amounts set forth in subparagraphs (1), (2), or (3) of this paragraph.

(1) For procurements in excess of $100,000, but less than the dollar amount set forth below for the installation concerned, the procurement plan shall be submitted for the approval of the Procurement Officer or his designee after prior review and written concurrence by the head of the cognizant technical division or laboratory, as applicable. (For the purpose of this requirement, the term "or his designee" shall mean the individual authorized by the Procurement Officer to sign the procurement plan. Such authorization shall be in writing and shall not be delegated to more than one individual.)

(i) $250,000:

Flight Research Center.
Wallops Station.

(ii) $500,000:

Headquarters Contracts Division.
Kennedy Space Center.
NASA Pasadena Office.

(iii) $1,000,000:

Ames Research Center.
Goddard Space Flight Center.
Langley Research Center.
Lewis Research Center.
Manned Spacecraft Center.
Marshall Space Flight Center.
Space Nuclear Systems Office (Germantown).

(2) For procurements within the range of the dollar amounts set forth below for the installation concerned, the procurement plan shall be submitted for the approval of the Head of the Installation, his Deputy or Associate Director (the title "Associate Director" means a full Associate Director and not an Associate Director for ----------) after prior review and written concurrences by the Director or Assistant Director of the cognizant technical directorate, cognizant Program Manager, or cognizant staff official, as applicable, who reports directly to the Head of the Installation, and by the Procurement Officer.

(i) $250,000 but less than $500,000:

Flight Research Center.
Wallops Station.

(ii) $500,000 but less than $1,000,000:

Headquarters Contracts Division.
Kennedy Space Center.
NASA Pasadena Office.

(iii) $1,000,000 but less than $2,500,000:

Ames Research Center.
Goddard Space Flight Center.
Langley Research Center.
Lewis Research Center.
Manned Spacecraft Center.
Marshall Space Flight Center.
Space Nuclear Systems Office (Germantown).

(3) For procurements that equal or exceed the dollar amounts set forth below for the installation concerned, the procurement plan shall be submitted for the signature of the Head of the Installation after prior review and written concurrences by the Director or Assistant Director of the cognizant technical directorate, cognizant Program Manager, or cognizant staff official, as applicable, who reports directly to the Head of the Installation, and by the Procurement Officer. The procurement plan shall contain additional signature blocks for approval by the Associate Administrator for Organization and Management and for concurrences by the Director of Procurement, the cognizant Program Associate Administrator, the Assistant Administrator for Industry Affairs and Technology Utilization, and the Assistant Administrator for Administration.

(i) $500,000 and over:

Flight Research Center.
Wallops Station.

(ii) $1,000,000 and over:

Headquarters Contracts Division.
Kennedy Space Center.
NASA Pasadena Office.

(iii) $2,500,000 and over:

Ames Research Center.
Goddard Space Flight Center.
Langley Research Center.
Lewis Research Center.
Manned Spacecraft Center.
Marshall Space Flight Center.
Space Nuclear Systems Office (Germantown).

The original and 20 copies of the procurement plan shall be submitted in the case of those procurements under the cognizance of the Office of Manned Space Flight. In all other instances, the original and 10 copies shall be submitted. The position title will be shown for each individual signing the procurement plan as required by subparagraphs (1) through (3) of this paragraph.

(b) Examples of what is meant by the phrase "including the aggregate amount of follow-on contracts under the same program" appearing in paragraph (a) of this section are: (1) options as defined in Subpart 18–1.15; (2) agreements-to-agree, wherein the parties agree to negotiate for the extension of the supplies or services being procured; and (3) later phases of the same project subject to the Phased Project Planning concept prescribed by NHB 7121.2.

60. Section 18–3.853 is revised to read as follows:

§ 18–3.853 Award and preparation of the contract.

(a) In determining to whom the contract shall be awarded, the contracting officer shall consider not only technical competence, but all other pertinent factors including management capabilities, cost controls, and past performance in adhering to contract requirements, weighing each factor in accordance with the requirements of the particular procurement (see § 18–1.903).

(b) Except as authorized in § 18–16.102–3(b)(3), a contract embodying the agreement will be prepared by the procurement office for execution by the contractor and the contracting officer when negotiations have been completed.

PART 18–5—INTERDEPARTMENTAL PROCUREMENT

61. Section 18–5.507 is added; section 18–5.550 is deleted.

§ 18–5.507 Procurement of services from agencies for the blind.

(a) Services, as distinguished from supplies, shall not be procured pursuant to the procedure in § 18–5.501 which does not apply to labor or services or anything other than tangible articles produced by the blind.

(b) Agencies for the blind may be solicited in connection with proposed procurements of services but contracts must be awarded pursuant to normal contracting procedures.

(c) When it is known that agencies for the blind are qualified to furnish services, requests for bids or proposals shall be forwarded to: National Industries for the Blind, 1511 K Street NW., Washington, DC 20005. Phone: (202) 347–5119.

62. Section 18–5.701 is revised to read as follows:

§ 18–5.701 Procuring materials from the Department of the Air Force Missile Procurement Fund.

The Department of the Air Force has assigned the operational authority and responsibility for the procurement and distribution of missile propellants and related items to the San Antonio Air Materiel Area (SAAMA), Kelly Air Force Base, Texas. Propellants, oxidizers, fuels pressurants, and related materials are financed under a single Air Force appropriation designated the "Missile Procurement Fund" (MPF). Supplies are obtained by SAAMA from Government-owned contractor-operated plants and by consolidated procurements from industry. NASA and its contractors (where materials are Government-furnished) may acquire from SAAMA the items listed in § 18–52.508 of this chapter (except for liquid hydrogen, see § 18–1.357) on a reimbursable basis. The Air Force MPF shall be utilized as a supply source for propellants whenever there are economic or other advantages to the Government. Field installations and offices obtaining supplies from the Missile Procurement Fund shall comply with the reporting requirements of § 18–52.500.

PART 18–6—FOREIGN PURCHASES

63. Section 18–6.705 is revised to read as follows:

§ 18–6.705 Assignment of contract administration.

(a) *General.* Assignment of contract administration responsibility will be made by agreement between the initiating office and the Headquarters Contracts Division. Since principal responsibility for the monitoring of contractor progress and performance generally rests with a field installation, the Headquarters Contracts Division normally will designate the procurement officer of the cognizant

field installation as his authorized representative for purposes of contract administration.

(b) *Contracts performed in Canada.* (1) When, in accordance with the provisions of Subpart 18–51.3, contract administration and related support service functions of the Defense Contract Administration Services are desired on a contract to be performed in Canada (whether placed with Canadian Commercial Corp. or direct with a Canadian firm), a letter of delegation shall be issued to: Defense Contract Administration Services Office, Ottawa, Gillin Building, 141 Laurier Avenue, Ottawa 4, ON Canada.

(2) In order that DCASO, Ottawa may utilize the capabilities of the Canadian Government agencies in the performance of contract administration services functions, each letter of delegation shall provide that the DCASO, Ottawa is delegated authority to act as the contracting officer's representative with power of further delegation for the performance of the requested services.

PART 18–7—CONTRACT CLAUSES

64. Section 18–7.103–54 is added.

§ 18–7.103–54 Pricing of adjustments.

Insert the following clause in all contracts which contain the "Changes" clause or provisions for adjustment of the contract price:

PRICING OF ADJUSTMENTS (AUGUST 1970)

When costs are a factor in any determination of a contract price adjustment pursuant to the "Changes" clause or any other provision of this contract, such costs shall be in accordance with Part 15 of the NASA Procurement Regulation as in effect on the date of this contract.

65. Section 18–7.104–20 is revised to read as follows:

§ 18–7.104–20 Utilization of labor surplus area concerns.

In accordance with the requirements of § 18–1.805–3(a), insert the clause set forth therein.

§ 18–7.104–63 [Deleted]

66. Section 18–7.104–63 is deleted.

67. Section 18–7.106 is revised to read as follows:

§ 18–7.108 Incentive price revision clause.

When, in accordance with the provisions of Subpart 18–3.4, of this chapter, the fixed-price incentive contract described in § 18–3.404–4(a)(2) is to be used, the following clause shall be made a part of the contract. As to each item which is to be subject to incentive price revision, the contract schedule shall set forth the target cost, target profit, and target price. Subparagraph (d)(2) of the following clause may be modified to provide, within the price ceiling, for a ceiling, a floor, or both on the final profit.

INCENTIVE PRICE REVISION (AUGUST 1970)

(a) *Definitions.* As used in this clause, the following terms shall have the meanings set forth below:

(i) The term "cost" or "costs" means allowable cost in accordance with Part 15 of the NASA Procurement Regulation as in effect on the date of this contract.

(ii) The term "target price" means the unit price of any supplies or services under this contract, which is subject to adjustment in accordance with this clause, and is composed of "target cost" and "target profit."

(iii) The term "target cost" means that part of the target price which, at the time of its negotiation, was agreed to as the estimate of the unit cost of the supplies or services being procured.

(iv) The term "target profit" means that part of the target price which, at the time of its negotiation, was agreed to as the unit profit for furnishing the supplies or services at a cost equal to the target cost.

(v) The term "total target price" means the sum of the target prices.

(vi) The term "total target cost" means the sum of the target costs.

(vii) The term "total target profit" means the sum of the target profits.

(viii) The term "total adjusted cost" means the final negotiated cost of all supplies or services which are subject to price revision under this clause.

(ix) The term "total adjusted price" means the final contract price, as computed in accordance with this clause, for all supplies or services which are subject to price revision under this clause.

(b) *General.* The supplies or services identified in the Schedule as Items _____ are subject to price revision in accordance with the provisions of this clause: *Provided*, That in no event shall the total adjusted price of such items exceed _____ percent (_____ %) of the total target cost. Any supplies or services which are to be ordered separately under, or otherwise added to, this contract, and which are to be subject to price revision in accordance with the provisions of this clause, shall be identified as such in a modification of this contract.

(c) *Submission of Data.* Within _____ (_____) days after the end of the month in which the Contractor has delivered the last unit of supplies and completed the services called for by those items listed in paragraph (b) above, the Contractor shall submit, in such form as the Contracting Officer may require, (i) a detailed statement of all costs incurred up to the end of that month in performing all work under such items, and (ii) an estimate of costs of such further performance, if any, as may be necessary to complete performance of all work with respect to such items.

(d) *Price Revision.* Upon submission of the data required by paragraph (c) above, the Contractor and the Contracting Officer shall promptly establish the total final price in accordance with the following:

(1) On the basis of the information required by paragraph (c) above, together with any other pertinent information, there shall be established by negotiation the total final cost incurred or to be incurred for and properly allocable to the supplies delivered (or services performed) and accepted by the Government, which are subject to price revision under this clause.

(2) The total adjusted price shall be established by adding to the total adjusted cost an allowance for profit determined as follows:

WHEN THE TOTAL ADJUSTED COST IS:	THE ALLOWANCE FOR PROFIT IS:
Equal to the total target cost	Total target profit.
Greater than the total target cost	Total target profit less ____ percent (____%) of the amount by which the total adjusted cost exceeds the total target cost.
Less than the total target cost	Total target profit plus ____ percent (____%) of the amount by which the total adjusted cost is less than the total target cost.

(e) *Records.* (1) The Contractor shall maintain books, records, documents, and other evidence, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this contract. The Contractor shall segregate the costs of any supplies or services for which the price is fixed and not subject to revision under this clause. Each subcontract placed by the Contractor hereunder on other than a firm fixed-price basis in connection with the furnishing of the supplies or services identified in paragraph (b) above as being subject to price revision (i) shall provide that the subcontractor shall maintain books, records, documents, and other evidence, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of such subcontract, and (ii) shall require each such subcontractor to insert the entire substance of this subparagraph, including this (ii), in all his subcontracts which are on other than a firm fixed-price basis.

(2) The Government may at all reasonable times make such examination or audit as the Contracting Officer may require of the Contractor's books, records, documents, and other evidence, pertinent to the performance of this contract.

(f) *Certification.* An authorized responsible official of the Contractor shall certify on each statement of costs submitted to the Contracting Officer pursuant to (c) above that the incurred costs are based upon records of the Contractor, that such records reflect generally accepted accounting principles and practices normally followed by the Contractor, that such costs are correct to the best of his knowledge and belief, and that the accompanying estimate of costs to complete is considered reasonable.

(g) *Subcontracts.* (1) No subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis; and the Contractor shall not, without the prior written consent of the Contracting Officer, place any subcontract which is on a cost-plus-a-fee basis and which would involve a total price in excess of $10,000, including the fee. The Contracting Officer may, in his discretion, ratify in writing any such cost-plus-a-fee subcontract and such action shall constitute the consent of the Contracting Officer as required by this subparagraph (1).

(2) Each subcontract placed by the Contractor hereunder (i) shall provide that the Government may at all reasonable times make such examination or audit as the Contracting Officer may require of the subcontractor's books, records, documents, and other evidence, pertinent to the performance of the subcontract, and (ii) shall require each such subcontractor whose subcontract is on other than a firm fixed-priced basis to insert the entire substance of this subparagraph, including this (ii), in all his subcontracts. The term "subcontract," as used in this subparagraph (2) only, excludes firm fixed-price subcontracts not in excess of $2,500 and subcontracts for utility services at rates established for uniform application to the general public.

(h) *Contract Modifications.* The total adjusted price, as determined in accordance with paragraph (d) above, shall be evidenced by a modification to this contract signed by the Contractor and the Contracting Officer and shall apply to supplies delivered and to services performed under this contract.

(i) *Adjustment of Payments.* Pending execution of the contract modification referred to in paragraph (h) above, the Contractor shall submit invoices or vouchers in accordance with billing prices as provided in this paragraph. The billing prices shall be the target prices set forth in this contract; *provided*, that if at any time it appears that the then current billing prices do not provide for payments consistent with the provisions of subparagraph (j)(3) below, the parties may agree to revise billing prices, which shall be reflected in a modification to this contract. Billing prices are for the sole purpose of providing for interim payments and shall not affect the determination of the total adjusted price under paragraph (d) above. After execution of the contract modification referred to in paragraph (h) above, the total amount paid or to be paid on all invoices or vouchers shall be adjusted to reflect the total adjusted price and any additional payments, refunds, or credits resulting therefrom shall be promptly made.

(j) *Limitation on Payments.* (1) This paragraph (j) shall not apply after final price revision to the full extent permitted by this contract.

(2) Within forty-five (45) days after the end of each quarter of the Contractor's fiscal year, beginning for the quarter in which a delivery is first made (or services are first performed) and accepted by the Government under this contract, and as of the end of each quarter, the Contractor shall submit to the Contracting Officer a cumulative statement setting forth:

(i) The total contract price of all supplies delivered (or services performed) and accepted by the Government for which final prices have been established;

(ii) The total costs (estimated to the extent necessary) reasonably incurred for and properly allocable solely to the supplies delivered (or services performed) and accepted by the Government for which final prices have not been established;

(iii) That portion of the total target profit which is in direct proportion to the supplies delivered (or services performed) and accepted by the Government for which final prices have not been established, increased or decreased in accordance with the incentive profit formula set forth in (d)(2) above when the amount of costs stated under (ii) above differs from the aggregate target costs of such supplies or services; and

(iv) The total amount of all invoices or vouchers for supplies delivered (or services performed) and accepted by the Government (including amounts applied or to be applied to liquidate progress payments).

(3) Notwithstanding any provision of this contract authorizing greater payments, if on any quarterly statement the amount of (2)(iv) above exceeds the sum of (2)(i), (ii), and (iii) above, the Contractor shall immediately refund or credit to the Government against existing unpaid invoices or vouchers covered by such statement the amount of such excess less (i) the cumulative total of any previous refunds or credits under this clause (exclusive of any tax credits under Section 1481 of the Internal Revenue Code of 1954) and (ii) any applicable tax credits under Section 1481 of the Internal Revenue Code of 1954. If any portion of such excess has been applied to the liquidation of progress payments, such amount (less all tax credits under the Internal Revenue Code) may be added or restored to the unliquidated progress payment account, to the extent consistent with the progress payments clause of this contract, instead of direct refund thereof.

(4) The Contractor shall (i) insert in each price redetermination or incentive price revision subcontract hereunder the substance of this "Limitation on Payments" provision, including this subparagraph (4), modified to omit mention of the Government and reflect the position of the Contractor as purchaser and of the subcontractor as vendor, and to omit that portion of subparagraph (3) relating to tax credits, and (ii) include in each cost-reimbursement type subcontractor hereunder a requirement that each price redetermination and incentive price revision subcontract thereunder will contain the substance of this "Limitation on Payments" provision, including this subparagraph (4) modified as outlined in (i) above.

(k) *Disagreements.* If the Contractor and the Contracting Officer fail to agree upon the total adjusted price within 60 days after the date on which the data required by (c) above are to be submitted, or within such further time as may be specified by the Contracting Officer, such failure to agree shall be deemed to be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes," and the Contracting Officer shall promptly issue a decision thereunder.

(l) *Termination.* If this contract is terminated prior to establishment of the total adjusted price, prices of supplies or services subject to price revision under this clause shall be established pursuant to this clause for (i) completed supplies accepted by the Government and services performed and accepted by the Government, and (ii) in the event of a partial termination, supplies and services which are not terminated. All other elements of the termination shall be resolved pursuant to other applicable provisions of this contract.

In the event the contract calls for spare parts or other supplies or services, which are to be ordered under a provisioning document or Government option, and the prices of such supplies or services are to be made subject to incentive price revision in accordance with the above clause, the following provision (m) shall be included in such clause:

(m) *Spare Parts.* Spare parts, other supplies, or services, which are to be furnished under this contract pursuant to a provisioning document or Government option, shall be subject to price revision in accordance with the provisions of this clause, and any prices established for such spare parts, other supplies, or services, pursuant to such provisioning document or Government option, shall be deemed to be target prices. Target cost and profit covering such spare parts, other supplies, or services may be established either separately, in the aggregate, or in any combination thereof, as the parties may agree.

68. Section 18–7.109–2 is revised to read as follows:

§ 18–7.109–2 Prospective periodic price redetermination at stated intervals.

(a) *Description, applicability, and limitations.* See § 18–3.404–5.

(b) *Clause.*

PRICE REDETERMINATION (TYPE A) (AUGUST 1970)

(a) *General.* The unit prices and the total price set forth in this contract shall be periodically redetermined in accordance with the provisions of this clause.[1] The prices for supplies delivered and services performed prior to the first effective date of price redetermination shall remain fixed.

(b) *Price Redetermination Periods.* For the purpose of price redetermination the performance of this contract is divided into successive periods. The first period shall extend from the date of this contract to _____,[2] and the second and each succeeding period shall extend for _____ (____) months from the end of the last preceding period, except that the final period may be varied by agreement of the parties. The first day of the second and each succeeding period shall be the effective date of price redetermination for the period.

(c) *Price Redetermination.* Not more than _____ [3] days nor less than _____ [3] days before the end of each redetermination period, except the last, and as otherwise provided in (iii) below, the Contractor shall submit:

(i) Proposed prices for supplies which may be delivered or services which may be performed in the next succeeding period under this contract, together with—

(A) An estimate and breakdown of the costs of such supplies or services on DD Form 784 or in any other form on which the parties may agree;

(B) Sufficient data to support the accuracy and reliability of such estimate; and

(C) An explanation of the differences between such estimate and the original (or last preceding) estimate for the same supplies or services;

(ii) A statement of all costs incurred in the performance of this contract through the end of the _____ [4] month prior to the date of the submission of proposed prices, on DD Form 784 or in any other form on which the parties may agree, together with sufficient supporting data to disclose unit costs and cost trends for—

(A) Supplies delivered and services performed; and

(B) Inventories of work in process and undelivered contract supplies on hand (estimated to the extent necessary);

(iii) Supplemental statements of costs incurred subsequent to the date set forth in (ii) above for—

(A) Supplies delivered and services performed; and

(B) Inventories of work in process and undelivered contract supplies on hand (estimated to the extent necessary);

as and to the extent that such information becomes available prior to the conclusion of negotiations on redetermined prices; and

(iv) Any other relevant data which may reasonably be required by the Contracting Officer.

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[1] Where a ceiling is applicable, the following proviso shall be added: "*provided*, that in no event shall the total amount paid under this contract exceed _____ dollars ($_____)". Alternatively, the contract may provide ceiling amounts for each or any of the price redeterminations under the contract.

[2] This point may be expressed in terms of units delivered, or as a calendar date, but in either case the period shall generally end on the last day of a month.

[3] Insert in the blanks numbers of days so that the Contractor's submission will be late enough to reflect recent cost experience (having in mind the Contractor's accounting system), but early enough to permit review, audit if necessary, and negotiation prior to the start of prospective period.

[4] Insert the word "first," except the word "second" may be inserted if necessary to achieve compatibility with the contractor's accounting system.

For the purpose of the foregoing submission, "costs" means allowable costs in accordance with Part 15 of the NASA Procurement Regulation as in effect on the date of this contract.

Upon receipt of the data required by this subparagraph (c), the Contractor and the Contracting Officer shall promptly negotiate to redetermine fair and reasonable contract prices for supplies which may be delivered and services which may be performed in the period following the effective date of price redetermination. Where the Contractor fails to submit the data as required above within the time specified, payments under this contract may be suspended by the Contracting Officer until the data are furnished.

(d) *Subcontracts.* No subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis; and the Contractor shall not, without the prior written consent of the Contracting Officer, place any subcontract which is on a cost-plus-a-fee basis and which would involve an estimated amount in excess of $10,000, including the fee. The Contracting Officer may, in his discretion, ratify in writing any such cost-plus-a-fee subcontract and such action shall constitute the consent of the Contracting Officer as required by this paragraph (d).

(e) *Contract Modifications.* Each negotiated redetermination of prices shall be evidenced by a modification to this contract, signed by the Contractor and the Contracting Officer, setting forth the redetermined prices for supplies delivered and services performed hereunder during the applicable price redetermination period.

(f) *Adjustment of payments.* Pending execution of the contract modification referred to in paragraph (e) above, the Contractor shall submit invoices or vouchers in accordance with billing prices as provided in this paragraph. The billing prices shall be the prices set forth in this contract: *Provided* That, if at any time it appears that the then current billing prices do not provide for payments consistent with the provisions of subparagraph (g) (3) below, the parties may agree to greater or lesser billing prices, which shall be reflected in an amendment or supplemental agreement to this contract. Billing prices are for the sole purpose of providing for interim payments and shall not affect the redetermination of prices under this clause. After execution of the contract modification referred to in paragraph (e) above, the total amount paid or to be paid on all invoices or vouchers shall be adjusted to reflect the agreed prices, and any additional payments, refunds, or credits, resulting therefrom shall be promptly made.

(g) *Limitation on Payments.* (1) This paragraph (g) shall apply only during a period for which firm prices have not been established.

(2) Within 45 days after the end of each quarter of the Contractor's fiscal year, beginning for the quarter in which a delivery is first made (or services are first performed) and accepted by the Government under this contract, and as of the end of each quarter, the Contractor shall submit to the Contracting Officer a statement cumulative from the inception of the contract, setting forth:

(i) The total contract price of all supplies delivered (or services performed) and accepted by the Government for which final prices have been established;

(ii) The total costs (estimated to the extent necessary) reasonably incurred for and properly allocable solely to the supplies delivered (or services performed) and accepted by the Government for which final prices have not been established;

(iii) That portion of the total interim profit (used in establishing the initial contract price or agreed to for the purpose of this paragraph (g), Limitation on Payments), which is in direct proportion to the supplies delivered (or services performed) and accepted by the Government for which final prices have not been established; and

(iv) The total amount of all invoices or vouchers for supplies delivered (or services performed) and accepted by the Government (including amounts applied or to be applied to liquidate progress payments);

provided, that such statement need not be submitted for any quarter for which either no costs are to be reported under (ii) above or revised billing prices have been established in accordance with paragraph (g) above and do not exceed the existing contract price, the Contractor's price-redetermination offer, or a price based on the most recent quarterly statement, whichever is least.

(3) Notwithstanding any provision of this contract authorizing greater payments, if on any quarterly statement the amount of (2) (iv) above exceeds the sum of (2) (i), (ii), and (iii) above, the Contractor shall immediately refund or credit to the Government against existing unpaid invoices or vouchers covered by such statement the amount of such excess less (i) the cumulative total of any previous refunds or credits under this clause (exclusive of any applicable tax credits under Section 1481 of the Internal Revenue Code of 1954) and (ii) any applicable tax credits under Section 1481 of the Internal Revenue Code of 1954. If any portion of such excess has been applied to the liquidation of progress payments, such amount (less all tax credits under the Internal Revenue Code) may be added or restored to the unliquidated progress payment account, to the extent consistent with the progress payments clause of this contract, instead of direct refund thereof.

(4) The Contractor shall (i) insert in each price redetermination or incentive price revision subcontract hereunder the substance of this "Limitation on Payments" provision, including this subparagraph (4), modified to omit mention of the Government and reflect the position of the Contractor as purchaser and of the subcontractor as vendor, and to omit that portion of subparagraph (3) relating to tax credits, and (ii) include in each cost-reimbursement type subcontract hereunder a requirement that each price redetermination and incentive price revision subcontract thereunder will contain the substance of this "Limitation on Payments" provision, including this subparagraph (4), modified as outlined in (i) above.

(h) *Disagreements.* If the Contractor and the Contracting Officer fail to agree upon redetermined prices for any price redetermination period within sixty (60)* days after the date on which the data required by (c) above is to be filed, or within such further time as may be agreed upon by the parties, the failure to agree upon redetermined prices shall be deemed to be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes," and the Contracting Officer shall promptly issue a decision thereunder. For the purpose of (e), (f), and (g) above, and pending final settlement of the disagreement on appeal, or by failure to appeal, or by agreement, such a decision shall be treated as an executed contract modification. Pending such final settlement, price redetermination for subsequent periods, if any, shall continue to be negotiated as hereinbefore provided.

(i) *Termination.* If this contract is terminated, prices shall continue to be established pursuant to this clause (i) for completed supplies accepted by the Government and services performed and accepted by the Government, and (ii) in the event of a partial termination, for supplies and services which are not terminated. All other elements of the termination shall be resolved pursuant to other applicable provisions of this contract.

69. Section 18–7.203–21 is revised to read as follow:

§ 18–7.203–21 Government property.

In accordance with the requirements of § 18–13.703, insert the clause set forth therein.

70. Section 18–7.203–26 is revised to read as follows:

§ 18–7.203–26 Utilization of labor surplus area concerns.

In accordance with the requirements of § 18–1.805–3(a), insert the clause set forth therein.

71. Section 18–7.204–53 is revised to read as follows:

§ 18–7.204–53 Limitation of Government's obligation.

The clause set forth below is authorized for use under the following conditions:

(a) The total value of the contract is $1 million or more;

(b) The period of performance under the contract is in excess of 12 months or the period of performance overlaps the succeeding fiscal year; and

(c) Funds are not available to fully fund the total contract value at the time of entering into the contract.

Authority to use the clause shall not be construed as an approval to incrementally fund the contract.

LIMITATION OF GOVERNMENT'S OBLIGATION (SEPTEMBER 1962)

(a) It is estimated that the total cost to the Government, inclusive of any fixed fee for the performance of this contract will not exceed the estimated cost and fixed fee set forth in the schedule, and the Contractor agrees to use his best efforts to perform the work specified in the schedule and all obligations under this contract within such estimated cost. The fixed fee for complete performance of this contract is specified in the schedule.

(b) The sum presently available for payment and allotted to this contract, the items covered thereby, and the period of performance which it is estimated the allotted amount will cover, are specified in the schedule. It is anticipated that from time to time additional funds will be allotted to this contract up to the full estimated cost, including any fixed fee. When additional funds are allotted from time to time for continued performance of the work, the parties shall agree as to the applicable estimated period of contract performance which shall be covered by such funds and the contract schedule amended accordingly. The Contractor agrees to perform or have performed work on this contract up to the point at which in the event of termination of this contract for the convenience of the Government pursuant to the clause of this contract entitled "Termination," the total amount paid and payable by the Government pursuant to any settlement including cost and fixed fee under paragraph (e) of such clause would, in the exercise of reasonable judgement by the Contractor, approximate the total amount at the time allotted to this contract. The Contractor shall not be obligated to continue performance of the work beyond such point.

(c) The Government shall not be obligated to reimburse the Contractor for costs incurred (including amounts payable in respect to subcontracts and termination settlement costs) and to pay any fixed fee to which the Contractor may be entitled in excess of the total amount from time to time allotted to this contract. However, when and to the extent that the total amount allotted to this contract has been increased, any costs incurred by the Contractor and any fixed fee to which the Contractor may be entitled, prior to the increase and in excess of the amount previously allotted, shall be allowable to the same extent as if such costs had been incurred and fee earned after such increase in amount allotted.

(d) In the event funds allotted are considered by the Contractor to be inadequate to cover the work to be performed for the period set forth in the schedule, the Contractor shall notify the Contracting Officer in writing when within the next thirty (30) days the work will reach a point at which, in the event of termination of this contract for the convenience of the Government pursuant to the clause of this contract entitled "Termination," the total amount paid and payable by the Government pursuant to a settlement including cost and fixed fee under paragraph (e) of such clause will approximate eighty-five percent (85%) of the total amount then allotted to the contract. The notice shall state the estimated date when such point will be reached and the estimated amount of additional funds required to continue performance for the period set forth in the schedule. The Contractor shall, thirty (30) days prior to the end of the period specified in the schedule, advise the Contracting Officer in writing as to the estimated amount of additional funds which will be required on the basis of the obligation for performance in accordance with paragraph (b) of this clause for the timely performance of the work under the contract for such further period as may be specified in the schedule or otherwise agreed to by the parties. If, after such notification, additional funds are not allotted by the end of the period set forth in the schedule, or an agreed date in substitution therefor, the Contracting Officer will, upon written request of the Contractor, terminate this contract on such date, or on a date to be specified in such request, on which the Contractor, in the exercise of his reasonable judgment, estimates that he will have discharged his obligation to perform hereunder in accordance with paragraph (b) of this clause, whichever is later, pursuant to the provisions of the clause of this contract entitled "Termination."

(e) When additional funds are allotted from time to time for continued performance of the work under this contract, the parties shall agree as to the applicable period of contract performance which shall be covered by such funds, and the provisions of paragraphs (b), (c), and (d) of this clause shall apply in like manner to such additional allotted funds and substituted date pertaining thereto, and the contract shall be amended accordingly.

(f) The Government may at any time prior to termination allot additional funds for this contract, and, with the consent of the Contractor, after notice of termination, may rescind such termination in whole or in part, and allot additional funds for this contract.

(g) In the event that sufficient amounts are not allotted to this contract to allow completion of the work contemplated by this contract, the Contractor shall be entitled, subject to the limitations of paragraph (c) of this clause, to a percentage of the fixed fee set forth in the schedule equivalent to the percentage of completion of the work contemplated by this contract.

(h) Nothing in this clause shall affect the right of the Government to terminate this contract pursuant to the clause of this contract entitled "Termination."

(i) For the purpose of this clause, the allotment or allotments specified in the schedule shall not be decreased without the consent of the Contractor.

(j) This clause shall be applicable and the clause of this contract entitled "Limitation of Cost" inapplicable until such time as an amount equal to the total estimated cost and fee set forth in the schedule is allotted to this contract, and thereafter the clause of this contract entitled "Limitation of Cost" shall be applicable and this clause inapplicable.

§ 18–7.204–63 [Deleted]

72. Section 18–7.204–63 is deleted.

73. Section 18–7.302–26 is revised to read as follows:

§ 18–7.302–26 Utilization of labor surplus area concerns.

In accordance with the requirements of § 18–1.805–3(a), insert the clause set forth therein.

74. Section 18–7.303–63 is revised to read as follows:

§ 18–7.303–63 Pricing of adjustments.

In accordance with the requirements of § 18–7.103–54, insert the clause set forth therein.

75. Section 18–7.350–4 is revised to read as follows:

§ 18–7.350–4 Government-furnished property.

In accordance with the requirements of § 18–13.710, insert the clause set forth therein.

76. Section 18–7.402–25 is revised to read as follows:

§ 18–7.402–25 Government property.

In accordance with § 18–13.703, insert the clause set forth therein.

77. Section 18–7.402–27 is revised to read as follows:

§ 18–7.402–27 Utilization of labor surplus area concerns.

In accordance with the requirements of § 18–1.805–3(a), insert the clause set forth therein.

§ 18–7.403–63 [Deleted]

78. Section 18–7.403–63 is deleted.

79. Section 18–7.451–24 is revised to read as follows:

§ 18–7.451–24 Security requirements.

Insert the clause set forth below only in contracts without fee with educational institutions. In contracts with nonprofit institutions which are not educational institutions, insert the clause set forth in § 18–7.204–12.

SECURITY REQUIREMENTS (JUNE 1971)

(a) The provisions of this clause shall apply to the extent that this contract involves access to information classified "Confidential," or higher.

(b) NASA shall notify the Contractor of the security classification of this contract and the elements thereof, and of any subsequent revisions in such security classification, by the use of a Security Requirements Check List (DD Form 254), or other written notification.

(c) To the extent the Government has indicated as of the date of this contract, or thereafter indicates, security classification under this contract as provided in paragraph (b) above, the Contractor shall safeguard all classified elements of this contract and shall provide and maintain a system of security controls within his own organization in accordance with the requirements of:

(i) The Security Agreement (DD Form 441), including the Department of Defense Industrial Security Manual for Safeguarding Classified Information as in effect on the date of this contract, and any modification to the Security Agreement for the purpose of adapting the Manual to the Contractor's business; and

(ii) Any amendments to said Manual made after the date of this contract, notice of which has been furnished to the Contractor by the Security Office of the Military Department having security cognizance over the facility.

(d) Representatives of the Military Department having security cognizance over the facility and representatives of NASA shall have the right to inspect at reasonable intervals the procedures, methods, and facilities utilized by the Contractor in complying with the security requirements under this contract. Should the Government, through these representatives, determine that the Contractor is not complying with the security requirements of this contract, the Contractor shall be informed in writing by the Security Officer of the cognizant Military Department of the proper action to be taken in order to effect compliance with such requirements.

(e) In the event a change in security requirements, as provided in paragraphs (b) and (c), results (i) in a change in the security classification of this contract or any element thereof from a nonclassified status to a classified status or from a lower classification to a higher classification or (ii) in more restrictive area controls than previously required, the Contractor shall exert every reasonable effort compatible with his established policies to continue the performance of work under the contract in compliance with such change in security classification or requirements. If, despite such reasonable efforts, the Contractor determines that the continuation of work

* This period may be varied by the parties at the time of negotiating the contract.

under this contract is not practicable because of such change in security classification or requirements, he shall so notify the Contracting Officer in writing.

(f) After receiving such written notification, the Contracting Officer shall explore the circumstances surrounding the proposed change in security classification or requirements and shall endeavor to work out a mutually satisfactory method whereby the Contractor can continue performance of the work under this contract.

(g) If, upon the expiration of fifteen (15) days after receipt by the Contracting Officer of the notification of the Contractor's stated inability to proceed, (i) the application to this contract of such change in security classification or requirements has not been withdrawn, or (ii) a mutually satisfactory method for continuing performance of work under this contract has not been agreed upon, the Contractor may request the Contracting Officer to terminate the contract in whole or in part. Thereupon, the Contracting Officer shall terminate the contract in whole or in part, as may be appropriate, and such termination shall be deemed a termination under the provisions of the clause of this contract entitled "Termination for the Convenience of the Government."

(h) The Contractor agrees to insert, in all subcontracts hereunder which involve access to classified information, provisions which shall conform substantially to the language of this clause, including this paragraph (h) but excluding paragraphs (e), (f), and (g) of this clause. In addition, the Contractor may insert in any subcontract, not involving fee or profit, with an educational institution, and any like lower-tier subcontract entered into thereunder may contain, in lieu of paragraphs (e), (f), and (g) of this clause, appropriate provisions extending to such subcontracts relief consistent with that provided for in those paragraphs, on account of changes in security classifications or requirements made under the provisions of this clause subsequent to the date of the subcontract involved. With respect to subcontracts other than those covered by the preceding sentence, "the mutually satisfactory method" provided for in paragraph (f) above may include a provision amending this contract to provide for an equitable adjustment on account of changes in security classifications or requirements made under the provisions of this clause subsequent to the date of the subcontract involved; and the Contractor may insert in any such subcontract, and any like lower-tier subcontract entered into thereunder may contain, in lieu of paragraphs (e), (f), and (g) of this clause, appropriate provisions with respect to such equitable adjustment. Failure of the Contractor and Contracting Officer to agree to any adjustment pursuant to the preceding sentence shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(i) The Contractor also agrees that he shall determine that any subcontractor proposed by him for the performance of a subcontract hereunder which will involve access to classified information in the Contractor's custody has been granted an appropriate facility security clearance which is still in effect, prior to being accorded access to such classified information.

80. Section 18–7.451–27 is revised to read as follows:

§ 18–7.451–27 Utilization of labor surplus area concerns.

In accordance with the requirements of § 18–1.805–3(a), insert the clause set forth therein.

§ 18–7.452–63 [Deleted]

81. Section 18–7.452–63 is deleted.

82. Section 18–7.460–3 is revised to read as follows:

§ 18–7.460–3 Government property.

In accordance with the requirements of § 18–13.707, insert the clause set forth therein.

83. Section 18–7.702–35 is revised to read as follows:

§ 18–7.702–35 Utilization of labor surplus area concerns.

Insert the clause set forth in § 18–1.805–3(a).

84. Section 18–7.703–27 is revised to read as follows:

§ 18–7.703–27 Utilization of labor surplus area concerns.

Insert the clause set forth in § 18–1.805–3(a).

85. Sections 18–7.901–4 and 18–7.901–5 are revised to read as follows:

§ 18–7.901–4 Termination.

TERMINATION (JUNE 1966)

(a) The performance of work under the contract may be terminated by the Government in accordance with this clause in whole, or from time to time, in part:

(i) Whenever the Contractor shall default in performance of this contract in accordance with its terms (including in the term "default" any such failure by the Contractor to make progress in the prosecution of the work hereunder as endangers such performance), and shall fail to cure such default within a period of ten (10) days (or such longer periods as the Contracting Officer may allow) after receipt from the Contracting Officer of a notice specifying the default; or

(ii) Whenever for any reason the Contracting Officer shall determine that such termination is in the best interest of the Government.

Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying whether termination is for the default of the Contractor or for the convenience of the Government, the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective. If, after notice of termination of this contract for default under (i) above, it is determined for any reason that the Contractor was not in default pursuant to (i), or that the Contractor's failure to perform or to make progress in performance is due to causes beyond the control and without the fault or negligence of the Contractor pursuant to the provisions of the clause of this contract relating to excusable delays, the Notice of Termination shall be deemed to have been issued under (ii), above, and the rights and obligations of the parties hereto shall in such event be governed accordingly.

(b) After receipt of a Notice of Termination and except as otherwise directed by the Contracting Officer, the Contractor shall:

(i) Stop work under the contract on the date and to the extent specified in the Notice of Termination;

(ii) Place no further orders or subcontracts for materials, services, or facilities, except as may be necessary for completion of such portion of the work under the contract as is not terminated;

(iii) Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;

(iv) Assign to the Government, in the manner and to the extent directed by Contracting Officer, all right, title, and interest of the Contractor under the orders or subcontracts so terminated, in which case the Government shall have the right in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

(v) With the approval or ratification of the Contracting Officer, to the extent he may require, which approval or ratification shall be final and conclusive for all purposes of this clause, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, the cost of which would be payable by the Government in whole or in part, in accordance with the provisions of this contract;

(vi) Transfer title (to the extent that title has not already been transferred) and in the manner, to the extent, and at the times directed by the Contracting Officer, deliver to the Government (A) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in respect of the performance of, the work terminated by the Notice of Termination, (B) the completed or partially completed plans, drawings, information, and other property which, if the contract had been completed, would be required to be furnished to the Government, and (C) the jigs, dies, fixtures, and other special tools and tooling acquired or manufactured for the performance of this contract for the cost of which the Contractor has been or will be reimbursed under this contract;

(vii) Use his best efforts to sell in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Contracting Officer, any property of the types referred to in (vi) above; provided, however, that the Contractor (A) shall not be required to extend credit to any purchaser, and (B) may acquire any such property under the conditions prescribed by and at a price or prices approved by the Contracting Officer; and provided further that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this contract or shall otherwise be credited to the price or cost of the work covered by this contract or paid in such other manner as the Contracting Officer may direct;

(viii) Complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and

(ix) Take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to this contract, which is in the possession of the Contractor and in which the Government has or may acquire an interest.

The Contractor shall proceed immediately with the performance of the above obligations notwithstanding any delay in determining or adjusting any amount due or owing under this clause. At any time after expiration of the plant clearance period, as defined in Part 8, NASA Procurement Regulation, as it may be amended from time to time, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of—exclusive of items the disposition of which has been directed or authorized by the Contracting Officer—and may request the Government to remove such items or enter into a storage agreement covering them. Not later than fifteen (15) days thereafter, the Government will accept such items and remove them or enter into a storage agreement covering the same; *provided*, that the list submitted shall be subject to verification by the Contracting Officer upon removal of the items, or if the items are stored, within forty-five (45) days from the date of submission of the list. Any necessary adjustment to correct the list as submitted shall be made prior to final settlement.

(c) After receipt of a Notice of Termination, the Contractor shall submit to the Contracting Officer his termination claim in the form and with the certification prescribed by the Contracting Officer. Such claim shall be submitted promptly but in no event later than 1 year from the effective date of termination, unless one or more extensions in writing are granted by the Contracting Officer, upon request of the Contractor made in writing within such 1-year period or authorized extension thereof. However, if the Contracting Officer determines that the facts justify such action, he may receive and act upon any such termination claim at any time after such 1-year period or any extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the Contracting Officer may, subject to any Settlement Review Board approvals required by Part 8 of the NASA Procurement Regulation in effect as of the date of execution of this contract, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.

(d) Subject to the provisions of paragraph (c), and subject to any Settlement Review Board approvals required by Part 8 of the NASA Procurement Regulation in effect as of the date of execution of this contract, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this clause. The contract shall be amended accordingly, and the Contractor shall be paid the agreed amount.

(e) In the event of the failure of the Contractor and the Contracting Officer to agree in whole or in part, as provided in paragraph (d) above, as to the amounts to be paid to the Contractor in connection with the termination of work pursuant to this clause, the Contracting Officer shall, subject to any Settlement Review Board approvals required by Part 8 of the NASA Procurement Regulation in effect as of the date of execution of this contract, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination, and shall pay to the Contractor the amount determined as follows:

(i) If the termination of the contract is determined to be for the convenience of the Government, there shall be included—

(A) An amount for direct labor hours (as defined in the schedule of the contract) which shall be determined by multiplying the number of direct labor hours expended prior to the effective date of the Notice of Termination by the hourly rate or rates set forth in the schedule, less any hourly rate payments theretofore made to the Contractor;

(B) An amount (computed pursuant to the provisions of the contract providing for payment for materials) for material expenses incurred prior to the effective date of the Notice of Termination, not previously paid to the Contractor for the performance of this contract;

(C) An amount for labor and material expenses computed as if the expenses were incurred prior to the effective date of the termination reasonably incurred after the effective date of the Notice of Termination with the approval of or as directed by the Contracting Officer: *Provided*, That the Contractor shall discontinue such expenses as rapidly as practicable;

(D) To the extent not included in (A), (B), and (C) above, the cost of settling and paying claims arising out of the termination of work under subcontracts or orders, as provided in paragraph (b) (v) above, which are properly chargeable to the terminated portion of this contract; and

(E) The reasonable costs of settlement, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the contract and for the termination and settlement of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of termination inventory; or

(ii) If the termination of the contract is for the default of the Contractor, there shall be included the amounts computed in accordance with (i) above except there shall not be included—

(A) Any amount for the preparation of the Contractor's settlement proposal; or

(B) The portion of the hourly rate allocable to profit for any direct labor hours expended in furnishing materials and services not delivered to and accepted by the Government.

(f) The Contractor shall have the right of appeal, under the "Disputes" clause of this contract, from any determination made by the Contracting Officer under paragraphs (c) or (e), above, except that if the Contractor has failed within the time provided in paragraph (c), above, to request extension of such time, he shall have no such right of appeal. In any case where the Contracting Officer has made a determination of the amount due under paragraph (c) or (e) above, the Government shall pay to the Contractor the following: (i) if there is no right of appeal hereunder, or if no timely appeal has been taken, the amount so determined by the Contracting Officer; or (ii) if an appeal has been taken, the amount finally determined on such appeal.

(g) In arriving at the amount due to the Contractor under this clause, there shall be deducted (i) all unliquidated advance or other payments theretofore made to the Contractor, applicable to the terminated portion of this contract; (ii) any claim which the Government may have against the Contractor in connection with this contract; and (iii) the agreed price for, or the proceeds of sale of, any materials, supplies, or other things acquired by the Contractor or sold pursuant to the provisions of this clause and not otherwise recovered by or credited to the Government.

(h) In the event of a partial termination, the hourly rates for direct labor hours with respect to the work under the continued portion of the contract shall be equitably adjusted by agreement between the Contractor and the Contracting Officer, and such adjustment shall be evidenced by an amendment to this contract.

(i) The Government under such terms and conditions as it prescribes may make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of the contract, whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand, together with interest computed at the rate of six (6) percent per annum, for the period from the date such excess payment is received by the Contractor to the date on which such excess is repaid to the Government; *provided, however*, that no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until ten (10) days after the date of such retention or disposition, or such later date as determined by the Contracting Officer by reason of the circumstances.

§ 18–7.901–5 Government property.

In accordance with the requirements of § 18–13.703, insert the clause set forth therein except that:

(a) The phrase "estimated cost, fixed-fee or delivery or performance dates, or all of them," appearing in lines 14, 15, 23 and 24 of paragraph (a) shall be deleted and the phrase "ceiling price, hourly rate, the delivery or performance date, or all of them," substituted therefor;

(b) Paragraph (i) shall be deleted, and paragraph (j) of the clause set forth in § 18–13.702(a) substituted therefor; and

(c) Add to the end of (g)(3), the following: "For any such repairs or renovations so directed, the Contracting Officer shall, upon written request of the Contractor, equitably adjust the ceiling price, hourly rate, delivery or performance date, or all of them in accordance with the procedures provided for in the clause of this contract entitled "Changes". In any such equitable adjustment due regard shall be given to the liability of the Contractor as determined under (1) above."

86. Section 18–7.902–2 is revised to read as follows:

§ 18–7.902–2 Utilization of labor surplus area concerns.

In accordance with § 18–1.805–3(a), insert the clause set forth therein.

PART 18–8—TERMINATION OF CONTRACTS

87. Section 18–8.208 is revised to read as follows:

§ 18–8.208 Audit of prime contract settlement proposals and of subcontract settlements.

(a) Each settlement proposal of $10,000 or over submitted by a prime contractor shall be referred by the TCO to the cognizant audit office for appropriate examination and recommendation. The TCO may, when circumstances indicate the necessity therefor, refer settlement proposals of less than $10,000 to such office. The TCO's referral shall be in writing, indicate any specific information or data which the TCO desires to have developed, and include any facts or circumstances within the knowledge of the TCO which will assist the cognizant audit office in the accomplishment of its function. The auditor shall develop such information and may make such further accounting review as he deems appropriate. The cognizant audit office shall submit written comments and recommendations to the TCO. In claims of less than $10,000 where a formal examination of the settlement proposal is not warranted, a desk review will be performed by the TCO or a qualified member of his staff. A written summary of the review will be incorporated in the termination case file.

(b) Subcontract settlements submitted by a contractor to the TCO for approval or ratification in accordance with § 18–8.209 shall be referred to the cognizant audit office for review and recommendations if (1) the settlement involves $25,000 or more unless an accounting review of the settlement proposal has been performed by the cognizant audit office; or (2) the TCO considers an accounting review in whole or in part, desirable. The requirement for review under subparagraph (1) or (2) of this paragraph does not relieve the prime contractor or higher tier subcontractor of the responsibility for performing an accounting review. The audit office shall submit written comments and recommendations to the TCO.

(c) The responsibility of the contractor set forth in § 18–8.209–1 for settlement of immediate subcontractors' settlement proposals applies equally to prime contractors and subcontractors and includes responsibility for performing accounting reviews and any necessary field audits. However, in the situations outlined below, the audit office generally should be requested to perform the accounting review of a subcontractor's settlement proposal where:

(1) A subcontractor objects to an accounting review of his records by an upper-tier contractor for competitive reasons;

(2) The cognizant audit office is currently performing audit work at the subcontractor's plant, or where it can be performed more economically or efficiently;

(3) Audit by the cognizant audit office is necessary for consistent audit treatment and orderly administration; or

(4) The contractor has a substantial or controlling financial interest in the subcontractor.

Duplication by the audit office of accounting reviews performed by the upper tier contractor on subcontractor settlement proposals will be avoided to the extent possible. However, when appropriate, the Government will make additional reviews. Where the contractor is performing accounting reviews in accordance with this paragraph, the TCO should request the cognizant audit office periodically to examine the contractor's accounting review procedures (including but not limited to audit programs, cost principles applied, working papers, and audit reports) and performance thereunder and make such comments and recommendations to the contracting officer as may be deemed appropriate.

(d) The audit report is an advisory document rendered to the TCO for his use in negotiating a settlement or issuing a unilateral determination. Due care and prudence will be exercised by Government personnel in the handling of audit reports covering a contractor's or subcontractor's settlement proposals so as not to reveal privileged information or information that will jeopardize the negotiation position of the Government, prime contractor, or a higher tier subcontractor. Consistent with the foregoing and when considered in the Government's interest, accounting reviews under paragraph (c) of this section may be made available to prime and higher tier subcontractors for their use in settling subcontract claims.

88. Section 18–8.214 is revised to read as follows:

§ 18–8.214 Cost principles.

The cost principles and procedures set forth in the applicable Subpart of Part 18–15 shall, subject to the general policies set forth in § 18–8.301, (a) be used in claiming, negotiating, or determining costs relevant to termination settlements under fixed-price and cost-reimbursement type contracts with other than educational institutions; and (b) be a guide for the negotiation of settlements under fixed-price or cost-reimbursement type contracts for experimental, developmental or research work with educational institutions (but see §18–15.103(c)).

§ 18–8.302 [Deleted]

89. Section 18–8.302 is deleted.

90. Section 18–8.701 is revised to read as follows:

§ 18–8.701 Termination clause for fixed-price contracts.

(a) Except as otherwise permitted by §18–8.705, the following clause shall be used in any fixed-price contract in excess of $2,500 for supplies or experimental, developmental, or research work other than experimental, developmental, or research work with educational or nonprofit institutions, where no profit is contemplated. The following clause shall be used in all fixed-price construction contracts in excess of $10,000 except that paragraphs (e) and (f) thereof shall be deleted and the paragraphs in (b) below shall be used.

TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (AUGUST 1970)

(a) The performance of work under this contract may be terminated by the Government in accordance with this clause in whole, or from time to time in part, whenever the Contracting Officer shall determine that such termination is in the best interest of the Government. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective.

(b) After receipt of a Notice of Termination, and except as otherwise directed by the Contracting Officer, the Contractor shall:

(i) Stop work under the contract on the date and to the extent specified in the Notice of Termination;

(ii) Place no further orders or subcontracts for materials, services, or facilities, except as may be necessary for completion of such portion of the work under the contract as is not terminated;

(iii) Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;

(iv) Assign to the Government, in the manner, at the times, and to the extent directed by the Contracting Officer, all of the

right, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Government shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

(v) Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Contracting Officer, to the extent he may require, which approval or ratification shall be final for all the purposes of this clause;

(vi) Transfer title and deliver to the Government, in the manner, at the times, and to the extent, if any, directed by the Contracting Officers, (A) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of, the work terminated by the Notice of Termination, and (B) the completed or partially completed plans, drawings, information, and other property which, if the contract had been completed, would have been required to be furnished to the Government;

(vii) Use his best efforts to sell, in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Contracting Officer, any property of the types referred to in (vi) above; *Provided, however,* That the Contractor (A) shall not be required to extend credit to any purchaser, and (B) may acquire any such property under the conditions prescribed by and at a price or prices approved by the Contracting Officer; and provided further that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this contract or shall otherwise be credited to the price or cost of the work covered by this contract or paid in such other manner as the Contracting Officer may direct;

(viii) Complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and

(ix) Take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the Government has or may acquire an interest.

At any time after expiration of the plant clearance period, as defined in Part 8, NASA Procurement Regulation as it may be amended from time to time, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the Contracting Officer, and may request the Government to remove such items or enter into a storage agreement covering them. Not later than fifteen (15) days thereafter, the Government will accept title to such items and remove them or enter into a storage agreement covering the same: *Provided,* That the list submitted shall be subject to verification by the Contracting Officer upon removal of the items, or, if the items are stored, within forty-five (45) days from the date of submission of the list, and any necessary adjustment to correct the list as submitted shall be made prior to final settlement.

(c) After receipt of a Notice of Termination, the Contractor shall submit to the Contracting Officer his termination claim, in the form and with certification prescribed by the Contracting Officer. Such claim shall be submitted promptly but in no event later than one (1) year from the effective date of termination, unless one or more extentions in writing are granted by the Contracting Officer, upon request of the Contractor made in writing within such one (1) year period or authorized extension thereof. However, if the Contracting Officer determines that the facts justify such action, he may receive and act upon any such termination claim at any time after such one (1) year period or any extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the Contracting Officer may, subject to any Settlement Review Board approvals required by Part 8 of the NASA Procurement Regulation in effect as of the date of execution of this contract, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.

(d) Subject to the provisions of paragraph (c), and subject to any Settlement Review Board approvals required by Part 8 of the NASA Procurement Regulation in effect as of the date of execution of this contract, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this clause, which amount or amounts may include a reasonable allowance for profit on work done: *Provided,* That such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total contract price, as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. The contract shall be amended accordingly, and the Contractor shall be paid the agreed amount. Nothing in paragraph (e) of this clause, prescribing the amount to be paid to the Contractor in the event of failure of the Contractor and the Contracting Officer to agree upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this clause, shall be deemed to limit, restrict, or otherwise determine or affect the amount or amounts which may be agreed upon to be paid to the Contractor pursuant to this paragraph (d).

(e) In the event of the failure of the Contractor and the Contracting Officer to agree as provided in paragraph (d) upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this clause, the Contracting Officer shall, subject to any Settlement Review Board approvals required by Part 8 of the NASA Procurement Regulation in effect as of the date of execution of this contract, pay to the Contractor the amount determined by the Contracting Officer as follows, but without duplication of any amounts agreed upon in accordance with paragraph (d):

(i) For completed supplies accepted by the Government (or sold or acquired as provided in paragraph (b)(vii) above) and not theretofore paid for, a sum equivalent to the aggregate price for such supplies computed in accordance with the price or prices specified in the contract, appropriately adjusted for any saving of freight or other charges;

(ii) The total of—

(A) The costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but exclusive of any costs attributable to supplies paid or to be paid for under paragraph (e)(i) hereof;

(B) The cost of settling and paying claims arising out of the termination of work under subcontracts or orders, as provided in paragraph (b)(v) above, which are properly chargeable to the terminated portion of the contract (exclusive of amounts paid or payable on account of supplies or materials delivered or services furnished by subcontractors or vendors prior to the effective date of the Notice of Termination, which amounts shall be included in the costs payable under (A) above); and

(C) A sum, as profit on (A) above, determined by the Contracting Officer pursuant to 8.303 of the NASA Procurement Regulation, in effect as of the date of execution of this contract, to be fair and reasonable; provided, however, that if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, no profit shall be included or allowed under this subdivision (C) and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss; and

(iii) The reasonable costs of settlement, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the contract and for the termination and settlement of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to this contract.

The total sum to be paid to the Contractor under (i) and (ii) of this paragraph (e) shall not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. Except for normal spoilage, and except to the extent that the Government shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor as provided in (e)(i) and (ii)(A) above, the fair value, as determined by the Contracting Officer, of property which is destroyed, lost, stolen, or damaged so as to become undeliverable to the Government, or to a buyer pursuant to paragraph (b)(vii).

(f) Costs claimed, agreed to, or determined pursuant to (c), (d), and (e) hereof shall be in accordance with Part 15 of the NASA Procurement Regulation as in effect on the date of this contract.

(g) The Contractor shall have the right of appeal, under the clause of this contract entitled "Disputes," from any determination made by the Contracting Officer under paragraph (c) or (e) above, except that if the Contractor has failed to submit his claim within the time provided in paragraph (c) above and has failed to request extension of such time, he shall have no such right of appeal. In any case where the Contracting Officer has made a determination of the amount due under paragraph (c) or (e) above, the Government shall pay to the Contractor the following: (1) if there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by

the Contracting Officer, or (ii) if an appeal has been taken, the amount finally determined on such appeal.

(h) In arriving at the amount due the Contractor under this clause there shall be deducted (i) all unliquidated advance or other payments on account theretofore made to the Contractor, applicable to the terminated portion of this contract, (ii) any claim which the Government may have against the Contractor in connection with this contract, and (iii) the agreed price for, or the proceeds of sale of, any materials, supplies, or other things acquired by the Contractor or sold, pursuant to the provisions of this clause, and not otherwise recovered by or credited to the Government.

(i) If the termination hereunder be partial, prior to the settlement of the terminated portion of this contract, the Contractor may file with the Contracting Officer a request in writing for an equitable adjustment of the price or prices specified in the contract relating to the continued portion of the contract (the portion not terminated by the Notice of Termination), and such equitable adjustment as may be agreed upon shall be made in such price or prices.

(j) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of this contract whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand, together with interest computed at the rate of 6 percent per annum, for the period from the date such excess payment is received by the Contractor to the date on which such excess is repaid to the Government; *Provided, however,* That no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until 10 days after the date of such retention or disposition, or such later date as determined by the Contracting Officer by reason of the circumstances.

(k) Unless otherwise provided for in this contract, or by applicable statute, the Contractor, from the effective date of termination and for a period of 3 years after final settlement under this contract, shall preserve and make available to the Government at all reasonable times at the office of the Contractor but without direct charge to the Government, all his books, records, documents, and other evidence bearing on the costs and expenses of the Contractor under this contract and relating to the work terminated hereunder, or, to the extent approved by the Contracting Officer, photographs, microphotographs, or other authentic reproductions thereof.

(b) The following paragraphs shall be used in place of (e) of the above clause when the contract is for construction in excess of $10,000.

(e) In the event of the failure of the Contractor and the Contracting Officer to agree, as provided in paragraph (d) upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this clause, the Contracting Officer shall, subject to any Settlement Review Board approvals required by Part 8 of the NASA Procurement Regulation in effect as of the date of execution of this contract, pay to the Contractor the amounts determined by the Contracting Officer as follows, but without duplication of any amounts agreed upon in accordance with paragraph (d):

(i) With respect to all contract work performed prior to the effective date of the Notice of Termination, the total (without duplication of any items) of—

(A) The cost of such work;

(B) The cost of settling and paying claims arising out of the termination of work under subcontracts or orders as provided in paragraph (b) (v) above, exclusive of the amounts paid or payable on account of supplies or materials delivered or service furnished by the subcontractor prior to the effective date of the Notice of Termination of Work under this contract, which amounts shall be included in the cost on account of which payment is made under (A) above; and

(C) A sum, as profit on (A) above, determined by the Contracting Officer pursuant to 8.303 of the NASA Procurement Regulation, in effect as of the date of execution of this contract, to be fair and reasonable; provided, however, that if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, no profit shall be included or allowed under this subdivision (C) and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss; and

(ii) The reasonable cost of the preservation and protection of property incurred pursuant to paragraph (b)(ix); and any other reasonable cost incidental to termination of work under this contract, including expense incidental to the determination of the amount due to the Contractor as the result of the termination of work under this contract.

The total sum to be paid to the Contractor under (i) above shall not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. Except for normal spoilage, and except to the extent that the Government shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor under (i) above, the fair value, as determined by the Contracting Officer, of property which is destroyed, lost, stolen, or damaged so as to become undeliverable to the Government, or to a buyer pursuant to paragraph (b)(vii).

91. Section 18–8.702 is revised to read as follows:

§ 18–8.702 Termination Clause for Cost-Reimbursement Type Contracts.

(a) The following clause shall be used in any cost-reimbursement type contract, as defined in § 18–3.405, for supplies and experimental, developmental, or research work other than experimental, developmental, or research work with educational or nonprofit institutions where no fee is contemplated. The following clause shall be used in all cost-reimbursement type construction contracts except that paragraph (e) (i) (D) (II) thereof shall be deleted and the paragraph in (b) below substituted therefor:

TERMINATION (AUGUST 1970)

(a) The performance of work under the contract may be terminated by the Government in accordance with this clause in whole, or from time to time in part:

(i) Whenever the Contractor shall default in performance of this contract in accordance with its terms (including in the term "default" any such failure by the Contractor to make progress in the prosecution of the work hereunder as endangers such performance), and shall fail to cure such default within a period of 10 days (or such longer periods as the Contracting Officer may allow) after receipt from the Contracting Officer of a notice specifying the default; or

(ii) Whenever for any reason the Contracting Officer shall determine that such termination is in the best interest of the Government.

Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying whether termination is for the default of the Contractor or for the convenience of the Government, the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective. If, after notice of termination of this contract for default under (i) above, it is determined for any reason that the Contractor was not in default pursuant to (i), or that the Contractor's failure to perform or to make progress in performance is due to causes beyond the control and without the fault or negligence of the Contractor pursuant to the provisions of the clause of this contract relating to excusable delays, the Notice of Termination shall be deemed to have been issued under (ii) above, and the rights and obligations of the parties hereto shall in such event be governed accordingly.

(b) After receipt of a Notice of Termination and except as otherwise directed by the Contracting Officer, the Contractor shall:

(i) Stop work under the contract on the date and to the extent specified in the Notice of Termination;

(ii) Place no further orders or subcontracts for materials, services, or facilities, except as may be necessary for completion of such portion of the work under the contract as is not terminated;

(iii) Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;

(iv) Assign to the Government, in the manner and to the extent directed by the Contracting Officer, all of the right, title, and interest of the Contractor under the orders or subcontracts so terminated, in which case the Government shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

(v) With the approval or ratification of the Contracting Officer, to the extent he may require, which approval or ratification shall be final and conclusive for all purposes of this clause, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, the cost of which would be reimbursable in whole or in part, in accordance with the provisions of this contract;

(vi) Transfer title (to the extent that title has not already been transferred) and in the manner, to the extent, and at the times directed by the Contracting Officer, deliver to the Government (A) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in respect of the performance of, the work terminated by the Notice of Termination, (B) the completed or partially completed plans, drawings, information, and other property which, if the contract had been completed, would be required to be furnished to the Government, and (C) the jigs, dies, and fixtures, and other special tools and tooling acquired or manufactured for the performance of this contract for the cost of which the Contractor has been or will be reimbursed under this contract;

(vii) Use his best efforts to sell in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Contracting Officer, any property of the types referred to in (vi) above; *Provided, however,* That the Contractor (A) shall not be required to extend credit to any purchaser, and (B) may acquire any such property under the conditions prescribed by and at a price or prices approved by the Contracting Officer: *And provided further,* That the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this contract or shall otherwise be credited to the price or cost of the work covered by this contract or paid in such other manner as the Contracting Officer may direct;

(viii) Complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and

(ix) Take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the Government has or may acquire an interest.

The Contractor shall proceed immediately with the performance of the above obligations notwithstanding any delay in determining or adjusting the amount of the fee, or any item of reimbursable cost, under this clause. At any time after expiration of the plant clearance period, as defined in Part 8, NASA Procurement Regulation, as it may be amended from time to time, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the Contracting Officer, and may request the Government to remove such items or enter into a storage agreement covering them. Not later than fifteen (15) days thereafter, the Government will accept such items and remove them or enter into a storage agreement covering the same: *Provided,* That the list submitted shall be subject to verification by the Contracting Officer upon removal of the items, or if the items are stored, within forty-five (45) days from the date of submission of the list, and any necessary adjustment to correct the list as submitted shall be made prior to final settlement.

(c) After receipt of a Notice of Termination, the Contractor shall submit to the Contracting Officer his termination claim in the form and with the certification prescribed by the Contracting Officer. Such claim shall be submitted promptly but in no event later than one (1) year from the effective date of termination, unless one or more extensions in writing are granted by the Contracting Officer, upon request of the Contractor made in writing within such one (1) year period or authorized extension thereof. However, if the Contracting Officer determines that the facts justify such action, he may receive and act upon any such termination claim at any time after such one (1) year period or any extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the Contracting Officer may, subject to any Settlement Review Board approvals required by Part 8 of the NASA Procurement Regulation in effect as of the date of execution of this contract, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.

(d) Subject to the provisions of paragraph (c), and subject to any Settlement Review Board approvals required by Part 8 of the NASA Procurement Regulation in effect as of the date of execution of this contract, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid (including an allowance for the fee) to the Contractor by reason of the total or partial termination of work pursuant to this clause. The contract shall be amended accordingly, and the Contractor shall be paid the agreed amount.

(e) In the event of the failure of the Contractor and the Contracting Officer to agree in whole or in part, as provided in paragraph (d), as to the amounts with respect to costs and fee, or as to the amount of the fee, to be paid to the Contractor in connection with the termination of work pursuant to this clause the Contracting Officer shall, subject to any Settlement Review Board approvals required by Part 8 of the NASA Procurement Regulation in effect as of the date of execution of this contract, determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall pay to the Contractor the amount determined as follows:

(i) If the settlement includes cost and fee—

(A) There shall be included therein all costs and expenses reimbursable in accordance with this contract, not previously paid to the Contractor for the performance of this contract prior to the effective date of the Notice of Termination, and such of these costs as may continue for a reasonable time thereafter with the approval of or as directed by the Contracting Officer; provided, however, that the Contractor shall proceed as rapidly as practicable to discontinue such costs;

(B) There shall be included therein, so far as not included under (A) above, the cost of settling and paying claims arising out of the termination of work under subcontracts or orders, as provided in paragraph (b) (v) above, which are properly chargeable to the terminated portion of the contract;

(C) There shall be included therein the reasonable costs of settlement, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the contract and for the termination and settlement of subcontracts thereunder, together with reasonable storage transportation, and other costs incurred in connection with the protection or disposition of termination inventory; provided, however, that if the termination is for default of the Contractor there shall not be included any amounts for the preparation of the Contractor's settlement proposal; and

(D) There shall be included therein a portion of the fee payable under the contract determined as follows—

(I) In the event of the termination of this contractor for the convenience of the Government and not for the default of the Contractor, there shall be paid a percentage of the fee equivalent to the percentage of the completion of work contemplated by the contract, less fee payments previously made hereunder; or

(II) In the event of the termination of this contract for the default of the Contractor, the total fee payable shall be such proportionate part of the fee (or, if this contract calls for articles of different types, of such part of the fee as is reasonably allocable to the type of article under consideration) as the total number of articles delivered to and accepted by the Government bears to the total number of articles of a like kind called for by this contract;

if the amount determined under this subparagraph (i) is less than the total payment theretofore made to the Contractor, the Contractor shall repay to the Government the excess amount; or

(ii) If the settlement includes only the fee, the amount thereof will be determined in accordance with subparagraph (i) (D) above.

(f) Costs claimed, agreed to, or determined pursuant to (c), (d), and (e) hereof shall be in accordance with the Part 15 Contract Cost Principles and Procedures of the NASA Procurement Regulation as in effect on the date of this contract.

(g) The Contractor shall have the right of appeal, under the clause of this contract entitled "Disputes," from any determination made by the Contracting Officer under paragraph (c) or (e) above, except that if the Contractor has failed to submit his claim within the time provided in paragraph (c) above and has failed to request extension of such time, he shall have no such right of appeal. In any case where the Contracting Officer has made a determination of the amount due under paragraph (c) or (e) above, the Government shall pay to the Contractor the following: (i) if there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Contracting Officer, or (ii) if an appeal has been taken, the amount finally determined on such appeal.

(h) In arriving at the amount due the Contractor under this clause there shall be deducted (i) all unliquidated advance or other payments theretofore made to the Contractor, applicable to the terminated portion of this contract, (ii) any claim which the Government may have against the Contractor in connection with this contract, and (iii) the agreed price for, or the proceeds of sale of, any materials, supplies, or other things acquired by the Contractor or sold pursuant to the provisions of this clause and not otherwise recovered by or credited to the Government.

(i) In the event of a partial termination, the portion of the fee which is payable with respect to the work under the continued portion of the contract shall be equitably adjusted by agreement between the Contractor and the Contracting Officer, and such adjustment shall be evidenced by an amendment to this contract.

(j) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of the contract whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally determined to be due under this clause such excess shall be payable by the Contractor to the Government upon demand, together with interest computed at the rate of 6 percent per annum, for the period from the date such excess payment is received by the Contractor to the date on which such excess is repaid to the Government; provided, however, that no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until ten (10) days after the date of such retention or disposition, or such later date as determined by the Contracting Officer by reason of the circumstances.

(k) The provisions of this cause relating to the fee shall be inapplicable if this contract does not provide for payment of a fee.

(b) In all cost-reimbursement type construction contracts paragraph (e) (i) (D) (II) above should be deleted and the following substituted:

(II) In the event of the termination of this contract for the default of the Contractor, the total fee payable shall be such proportionate part of the fee as the actual work in place bears to the total work in place required by the contract; (OCTOBER 1969)

PART 18–9—PATENTS DATA, AND COPYRIGHTS

92. Sections 18–9.102–1 and 18–9.102–2 and revised to read as follows:

§ 18–9.102 Procurement of patented items by NASA.

§ 18–9.102–1 Purchase of patented items when Government is a licensee.

NASA occasionally becomes licensed under privately held patents as a result of infringement claims, direct license proffers, or preprocurement license agreements as set forth in § 18–9.102–2. When it is known that a specific procurement will be covered by a privately held patent and NASA is licensed under the patent prior to award, an amount equal to the royalty which the Government will be required to pay under the license agreement will be added as an evaluation factor to each bid or offer unless the bidder or offeror is licensed under the patent. Before any such royalty payments are considered for evaluation purposes, each bidder or offeror will be given an opportunity to show that he is licensed under the patent or that performance of the contract in accordance with his bid or offer will not result in infringement of the patent.

§ 18–9.102–2 Procurement license agreements.

(a) Upon timely written notice by a patent owner, hereinafter interpreted to mean any party legally entitled to license the patent, that a proposed NASA procurement, either formally advertised or negotiated, will infringe his privately owned U.S. patent, and upon a determination by patent counsel that the procurement will infringe the patent, NASA may enter into a license agreement with the patent owner prior to the procurement using NASA Form 1333, Patent License Agreement. This procedure shall be applicable only in those solicitations where bids or offers are received from both licensed and unlicensed sources, where the following conditions are satisfied:

(1) The pertinent claim or claims of the patent have not been held invalid by a final determination of a court of competent jurisdiction, or determined to be unenforceable against the Government by any department or agency in an administrative claim procedure, or form the basis of an unresolved administrative claim against any Government department or agency;

(2) The patent owner demonstrates that his patent is respected commercially as evidenced by one or more royalty-bearing commercial licenses under the patent, or the patent owner shows that his patent has been held valid by a final determination of a court of competent jurisdiction;

(3) The patent owner agrees to license NASA for the proposed procurement at a rate which is reasonable under the circumstances. Generally, such rate should not exceed the lowest rate at which the patent owner has licensed a private concern. If the contracting officer agrees to a higher rate, he shall document the reasons for such agreement.

(4) The contracting officer, in consultation with NASA patent counsel, determines that entering into the license agreement will not unduly delay the procurement.

(b) If the conditions of paragraph (a) of this section are satisfied and a preprocurement license agreement is entered into, royalties which will be payable to the patent owner under the agreement, if a contract is awarded to an unlicensed supplier, will be considered by the contracting officer as a factor in determining which bid or proposal is most advantageous to the Government. The preprocurement license agreement will apply only to contracts to be awarded under the proposed procurement, and under the agreement, royalties will be payable to the patent owner only if the patented items are procured from an unlicensed source, and only upon acceptance by NASA of the patented item.

(c) Notice that a proposed NASA procurement will infringe a privately owned patent and an offer by the patent owner to enter into a preprocurement license agreement with NASA will be considered by the contracting officer only if the patent owner:

(1) Gives timely notice to the contracting officer in writing of the alleged infringement, identifying the proposed procurement or those portions thereof which he believes will infringe his patent;

(2) Submit a copy of his patent to the contracting officer together with a brief explanation outlining the claim or claims of his patent which he believes will be infringed by the proposed procurement;

(3) Submits evidence showing that his patent is respected commercially including applicable royalty rates, or that it has been held to be valid by a final determination of a court of competent jurisdiction;

(4) Establishes his interest in the patent and that he has the right to enter into a license agreement with NASA; and

(5) Specifies the terms, including the royalty, upon which he will license NASA for the proposed procurement,

(d) If the contracting officer, in consultation with patent counsel, determines that entering into a preprocurement license agreement would not unduly delay the procurement, he shall refer the matter to patent counsel who shall determine whether the proposed procurement would infringe the patent. If the determination is affirmative, patent counsel shall negotiate the terms of such agreement at a royalty rate which is considered reasonable under the circumstances. Negotiations regarding the terms of such an agreement shall be coordinated with the Office of General Counsel, NASA Headquarters, and in the case of formally advertised procurements, a mutually acceptable royalty rate must be established prior to bid opening. Each nonlicensed bidder or offeror shall have an opportunity to demonstrate that his performance of the contract will not infringe the asserted patent. Preprocurement licenses will be binding upon NASA only upon execution thereof by the General Counsel of NASA.

(e) When the date for bid opening is imminent and there does not appear to be sufficient time to evaluate a preprocurement license request, the contracting officer may delay bid opening for a specified period of time to allow evaluation of the request. In the event of such delay, all bidders will be notified, by amending the invitation for bid (see § 18–2.207), and will be advised of the reason therefor. If the contracting officer determines that it is not in the best interests of the Government to delay bid opening, he shall document his reasons for such determination.

(f) *Solicitations provisions*—(1) *Formal advertising.* In order to notify prospective bidders in formally advertised procurements that royalties payable to a patent owner may be a factor in evaluating their bids, the following "Patent Royalties" notification shall be inserted in all invitations for bids; except (i) when each contract to be awarded is not likely to exceed $2,500; (ii) when the invitation calls for nonpersonal services.

PATENT ROYALTIES (FORMAL ADVERTISING) (NOVEMBER 1970)

I. *Purchase of Patented Items When Government Is a Licensee.* Award of a contract shall not be refused to a bidder merely because he is not the owner or a licensee under any patent involved in the procurement. If, at the time an invitation for bids is issued, the Government is obligated to pay royalties applicable to the proposed procurement because of a preexisting license agreement between the Government and a patent owner, an amount equal to the royalty which the Government will be required to pay under the license agreement will be added as an evaluation factor to each bid unless the bidder is licensed under the patent. Before any such royalty payments are considered for evaluation purposes, each bidder will be given an opportunity to show that he is licensed under the patent or that performance of the contract in accordance with his bid will not result in infringement of the patent.

II. *Procurement License Agreements.* (a) Upon timely written notice by a patent owner, hereinafter interpreted to mean any party legally entitled to license the patent, to the Contracting Officer that this procurement will infringe his privately owned U.S. patent, and upon a determination by NASA Patent Counsel that this procurement will infringe the patent, NASA may enter into a patent license agreement with the patent owner prior to award of a contract pursuant to this invitation for bids, provided the following conditions are satisfied:

(i) The pertinent claim or claims of the patent have not been held invalid by a final determination of a court of competent jurisdiction or determined to be unenforceable against the Government by any department or agency in an administrative claim procedure, or form the basis of an unresolved administrative claim against any Government department or agency;

(ii) The patent owner demonstrates that his patent is respected commercially as evidenced by one or more royalty-bearing commercial licenses under the patent, or the patent owner shows that his patent has been held valid by a final determination of a court of competent jurisdiction;

(iii) The patent owner agrees to license NASA for the proposed procurement at a rate which is reasonable under the circumstances. Generally, such rate should not exceed the lowest rate at which the patent owner has licensed a private concern;

(iv) A mutually acceptable royalty rate is established prior to bid opening; and

(v) The Contracting Officer, in consultation with NASA Patent Counsel, determines that entering into the license agreement will not unduly delay the procurement.

(b) Under the agreement, royalties will be payable to the patent owner if the patented item is procured from an unlicensed source and only upon acceptance by NASA of the patented item. These royalties will be considered by NASA as a factor in the evaluation of bids of unlicensed suppliers in determining the bid which is most advantageous to the Government. Before any royalty payments are considered for evaluation purposes, each bidder will be given an opportunity to show that he is licensed under the patent determined by NASA Patent Counsel to be infringed by the procurement or that performance of the contract in accordance with this bid will not result in infringement of the asserted patent. In the latter instance, each bidder shall have 10 days from the date of notification in which to submit evidence sufficient to show that his contract performance will not infringe the patent, specifically pointing out how his article or process is distinct from the claimed subject matter. In the event that the Contracting Officer, after consulting Patent Counsel, determines that the bidder's performance will not infringe the patent in question, and the bidder is to be awarded the contract, a patent indemnity clause shall be included in the contract, specifically identifying the asserted patent. This clause shall be included at no additional cost to the Government. Any bidder who fails to show that he is licensed under such patent or that his performance will not result in infringement of the patent, will be regarded as an unlicensed supplier for evaluation purposes.

(c) When the date for bid opening is imminent and there does not appear to be sufficient time to evaluate a preprocurement license request, the Contracting Officer may delay bid opening for a specified period of time to allow evaluation of the request. In the event of such delay, all bidders will be notified and advised of the reason therefor.

(2) *Negotiated.* In negotiated procurements wherein the delivery of hardware or use of a specific process is contemplated, the following "Patent Royalties" shall be included in the request for proposals in order to notify prospective offerors that royalties payable to a patent owner may be a factor in evaluating their offers; except (i) when the contract to be awarded is not likely to exceed $2,500; or (ii) when the request calls for nonpersonal services.

PATENT ROYALTIES (NEGOTIATED) (NOVEMBER 1970)

I. *Purchase of Patented Items When Government Is a Licensee.* Award of a contract shall not be refused to an offeror merely because he is not the owner or a licensee under any patent involved in the procurement. If, at the time a solicitation is issued, the Government is obligated to pay royalties applicable to the proposed procurement because of a preexisting license agreement between the Government and a patent owner, an amount equal to the royalty which the Government will be required to pay under the license agreement will be added as an evaluation factor to each offer unless the offeror is licenced under the patent. Before any such royalty payments are considered for evaluation purposes, each offeror will be given an opportunity to show that he is licensed under the patent or that performance of the contract in accordance with his offer will not result in infringement of the patent.

II. *Preprocurement License Agreements.* (a) Upon timely written notice by a patent owner, hereinafter interpreted to mean any party legally entitled to license the patent, to the Contracting Officer that this procurement will infringe his privately owned U.S. patent, and upon a determination by NASA Patent Counsel that this procurement will infringe the patent, NASA may enter into a patent license agreement with the patent owner prior to award of a contract pursuant to this request provided the following conditions are satisfied:

(i) The pertinent claim or claims of the patent have not been held invalid by a final determination of a court of competent jurisdiction or determined to be unenforceable against the Government by any department or agency in an administrative claim procedure, or form the basis of an unresolved administrative claim against any Government department or agency;

(ii) The patent owner demonstrates that his patent is respected commercially as evidenced by one or more royalty-bearing commercial licenses under the patent, or the patent owner shows that his patent has been held valid by a final determination of a court of competent jurisdiction;

(iii) The patent owner agrees to license NASA for the proposed procurement at a rate which is reasonable under the circumstances. Generally, such rate should not exceed the lowest rate at which the patent owner has licensed a private concern;

(iv) The Contracting Officer, in consultation with NASA Patent Counsel, determines that entering into the license agreement will not unduly delay the procurement.

(b) Under the agreement, royalties will be payable to the patent owner if the patented item is procured from an unlicensed source and only upon acceptance by NASA of the patented item. These royalties will be considered by NASA as a factor in determining the proposal which is most advantageous to the Government. Before any royalty payments are considered for evaluation purposes, each offeror will be given an opportunity to show that he is licensed under the patent determined by NASA Patent Counsel to be infringed by the procurement or that performance of the contract in accordance with his offer will not result in infringement of the asserted patent. In the latter instance, each offeror will have 10 days from the date of notification in which to submit evidence to show that his contract performance will not infringe the patent, specifically pointing out how his article or process is distinct from the claimed subject matter. In the event that the Contracting Officer, after consulting Patent Counsel determines that the offeror's performance will not infringe the patent in question, and the offeror is to be awarded the contract, a patent indemnity clause shall be included in the contract, specifically identifying the asserted patent. This clause shall be included at no additional cost to the Government. Any offeror who fails to show that he is licensed under such patent or that his performance will not result in infringement of the patent, will be regarded as an unlicensed supplier for evaluation purposes.

(c) If NASA does not enter into a preprocurement license agreement with a patent owner prior to the procurement of patented items, competing bids, proposals or quotations will be evaluated without regard to royalties or compensation which may ultimately be payable to the patent owner. In such event, the patent owner may bring a claim for patent infringement in accordance with § 18–9.106.

93. Sections 18–9.150, 18–9.151 and 18–9.152 are revised to read as follows:

§ 18–9.150 Designation of representative for new technology and for patents.

(a) (1) When a NASA contract contains the clause entitled "New Technology" set forth in § 18–9.101–4 (hereinafter referred to as "the clause"), the contracting officer shall designate representatives (hereinafter referred to as the "New Technology Representative" and the "Patent Representative") to administer the clause.

(2) When a NASA contract contains the Property Rights in Inventions clause set forth in § 18–9.101–5, the contracting officer shall designate a New Technology Representative and a Patent Representative to administer that clause. The respective responsibilities and authorities of these representatives in administering that clause shall be as set forth in paragraphs (c) and (f) of this section and §§ 18–9.151, 18–9.152 and 18–9.153 with respect to the "New Technology" clause, to the extent applicable in view of the more limited requirements of the "Property Rights in Inventions" clause.

(b) Designation of these representatives shall be accomplished by incorporation of a provision into the contract schedule containing the following or similar statements:

DESIGNATION OF NEW TECHNOLOGY REPRESENTATIVE AND PATENT REPRESENTATIVE (AUGUST 1969)

(a) For purposes of facilitating administration of the clause of this contract entitled "New Technology" or "Property Rights in Inventions," whichever is included, the following named representatives are hereby designated by the contracting officer to administer the clause:

Title	*Address Code*	*Address*
New Technology Representative	(Office Code)	(Address including zip code).
Patent Representative	(Office Code)	(Address including zip code).

(b) Correspondence with respect to the clause should be directed to the New Technology Representative unless transmitted in response to correspondence from the Patent Representative.

(c) For contracts containing the New Technology clause, the requirement to identify the contracting officer in subcontracts set forth in paragraph (d) (1) of the clause may be satisfied by the inclusion of this entire provision.

(c) The New Technology Representative shall be the Technology Utilization

Officer or the staff member (by titled position) having cognizance of technology utilization matters for the NASA installation concerned; and the Patent Representative shall be the Patent Counsel or the staff member (by titled position) having cognizance of patent matters for the NASA installation concerned.

(d) The New Technology Representative shall be furnished a copy of the contract, modifications thereto, progress reports, and other pertinent material by the contracting officer, and shall be notified by the contracting officer of the organizational unit of the NASA installation having technical cognizance of the contract.

(e) The Patent Representative shall be furnished a copy of the contract, and modifications thereto, by the contracting officer, as well as copies of findings pursuant to § 18–9.101–3.

(f) The New Technology Representative and the Patent Representative shall maintain complete files of correspondence and other actions involving their respective administration of the clause. Copies of documents which are appropriate for inclusion in the general contract files shall be furnished the contracting officer.

§ 18–9.151 Contract review.

(a) The New Technology Representative shall review, as necessary, the technical progress of work performed under the contract to ascertain whether the contractor and his subcontractors, where appropriate, are complying with paragraphs (b), (c), (d), and (e) contained in section II of the clause.

(b) The New Technology Representative shall forward to the Patent Representative copies of all contractors' and subcontractors' written reports of reportable items and inventions, and a copy of the written statement, if any, submitted with the report of the reportable item. All correspondence relating to inventions and waivers will also be forwarded to the Patent Representative.

(c) Consultations will be held by the New Technology Representative and the Patent Representative with cognizant technical personnel and others concerned, where required, to determine the relationship of inventions, discoveries, improvements and innovations made under contracts and subcontracts to work performed under the contract, and the value thereof to NASA or other Government agencies.

(d) No action shall be taken by either the New Technology Representative or the Patent Representative which would involve a change or increase in the work required to be performed under the contract, or which otherwise is outside the scope of obligations imposed upon the contractor by the contract. Any written decision pursuant to paragraph (r) of the New Technology clause or other correspondence relating thereto shall be prepared for and signed by the contracting officer.

(e) Upon completion of the contract work, the New Technology Representative shall determine whether the contractor and his subcontractors, where appropriate, have complied with paragraphs (b), (c), (d), and (e), contained in section II of the clause. Such determinations generally will require consultation with the cognizant technical personnel.

(f) Upon completion of the contract work, the Patent Representative shall determine whether the contractor, and his subcontractors, where appropriate, have complied with paragraph (h) and section III of the clause.

§ 18–9.152 Contract clearance.

(a) Upon submission by the contractor of the final reports required by paragraphs (c) and (d)(4) of the clause, the New Technology Representative shall determine whether the contractor has complied with paragraphs (b), (c), and (d) of the clause, and, if so, shall certify such compliance promptly to the contracting officer, with copy to the Patent Representative.

(b) Upon receipt of the copy of the New Technology Representative's certification of compliance, the Patent Representative shall determine whether the contractor has complied with paragraph (h) of the clause, and, if so, shall certify such compliance to the contracting officer.

(c) Pursuant to the withholding provisions of the clause, final payment under the contract shall not be approved by the contracting officer until he has received the certifications of compliance referred to in paragraphs (a) and (b) of this section.

PART 18–11—FEDERAL, STATE, AND LOCAL TAXES

94. Section 18–11.102–4 is revised to read as follows:

§ 18–11.102–4 Lubricating oils.

(a) *General.* A tax of 6 cents per gallon is imposed on lubrication oil (other than cutting oils) sold by the manufacturer or producer unless sold to another manufacturer or producer of lubricating oils for resale. Lubricating oil means all oils which are either sold for use as a lubricant or are suitable for use as a lubricant. The tax applies unless—

(1) The sale is exempt from tax under § 18–11.202; or

(2) The oil has been determined by the Commissioner of Internal Revenue to be "seldom used as a lubricant" and is sold for a nonlubricating use; or

(3) The oil is sold as cutting oil under the procedure described in paragraph (c) of this section.

(b) *"Seldom used as a lubricant."* The following oils have been determined by the Commissioner of Internal Revenue to be "seldom used as a lubricant" and, thus, may be sold tax free: castor oil, petroleum white oil of certain specifications, crude neatsfoot oil, transformer or insulating oil, and a certain product used as an additive to the fuel used in internal combustion engines.

(c) *Cutting oils.* Oil sold as cutting oil is not subject to the tax if the manufacturer or producer follows one of three procedures:

(1) Lubricating oils may be sold tax free by the manufacturer or producer as cutting oil in any case where:

(i) The manufacturer or producer packages the oil in containers of 5 gallons or less furnished by it and labeled by it to indicate use of the oil only in cutting and machining operations on metals;

(ii) Any advertising of the oil so packaged and labeled indicates that the oil is for use only in cutting and machining operations on metals; and

(iii) The oil so packaged and labeled is sold by the manufacturer or producer to a purchaser for such use by him or for resale by him for such use.

(2) Where the Commissioner of Internal Revenue has determined oil to be suitable for use as a lubricant only in cutting and machining operations on metals, the oil may be sold tax free by the manufacturer or producer as cutting oils, unless the manufacturer has definite knowledge, prior to or at the time of the sale, that the oil is not being purchased for use, or resale for use, in cutting and machining operations on metals. Oils as to which the Commissioner has made such a determination may be sold tax free whether in bulk or otherwise. However, the Commissioner may require that the oil be specifically represented to the purchaser, whether by labeling or otherwise, as being suitable for use only in cutting and machining operations on metals.

(3) Lubricating oils which are sold for use, or for resale for use in cutting and machining operations on metals, but which may not be sold tax free under one of the procedures described above, may be sold tax free, provided the manufacturer obtains from the purchaser a properly executed cutting oil certificate. The form set forth in § 18–11.501–3 shall be utilized for this purpose.

(d) *Refunds.* The ultimate purchaser of lubricating oil (other than cutting oils, imported lubricating oils, or rerefined oil) is entitled to a refund of 6 cents per gallon on oil purchased tax paid which is used otherwise than as a lubricant in a highway motor vehicle. However, activities of NASA will not apply for such refunds.

95. Section 18–11.203 is revised to read as follows:

§ 18–11.203 Supplies and services for the exclusive use of the United States.

By virtue of action taken by the Secretary of the Treasury, pursuant to Section 4293 of the Internal Revenue Code, exemption is available, and shall be obtained, from the Federal excise taxes on communication services and facilities furnished directly to the United States (as distinguished from being furnished to a Government contractor) and paid for directly by the Government (such exemption is obtained without any exemption certificate).

96. Section 18–11.250 is revised to read as follows:

§ 18–11.250 Exemptions from other Federal taxes.

Distilled spirits of 160 degrees or more proof alcohol, and specially denatured alcohol, may be withdrawn tax free by the United States or any Government agency thereof.

(a) The authority to sign applications to the Treasury Department, Commissioner of Internal Revenue, for permits to procure, tax free, spirits and specially denatured alcohol (TD Form 1444, "Tax Free Spirits for Use of United States," and TD Form 1486, "Specially Denatured Spirits for Use of United States") has been delegated by the Administrator to certain officers of NASA installations.

(b) TD Forms 1444 and 1486 shall be submitted to the Treasury Department in accordance with the instructions printing thereon. The letter of transmittal shall contain the following information:

(1) That the appropriate form is submitted in triplicate according to Internal Revenue Regulations for permit to procure tax-free or specially denatured alcohol;

(2) Name and location of supplier;

(3) Name and location of consignee;

(4) Purpose for which alcohol will be used; and

(5) Address to which permit is to be sent (requesting installation).

97. Section 18–11.301 is revised to read as follows:

§ 18–11.301 Applicability.

(a) As a general rule, purchases made by the Government itself are exempt from State and local sales and use taxes; similarly, personal and real property is exempt from State and local property taxes when the property is both owned and possessed by the Government. These exemptions shall be made use of to the fullest extent available when Government property is located in a State or local tax jurisdiction, or when purchases are made directly by the Government, by asserting the Government's immunity from taxation of its property by States and localities, and in case of purchases, by executing an approved tax exemption certification. (See §§ 18–3.607–4 and 18–11.502.

(b) However, when purchases are not made by the Government itself, but by a prime contractor of the Government or by a subcontractor under a prime contract, the right to an exemption of the transaction from a sales or use tax may not rest on the Government's immunity from direct taxation by States and localities. It may rest instead on provisions of the particular State or local law involved, or in some cases, the transaction may not in fact be expressly exempt from the tax. Similary, when property is owned by the Government, but the property is in the possession of a contractor or subcontractor on tax day, situations may arise where States or localities believe they may have the right to tax the property directly or to tax the contractor's or subcontractor's possession of, interest in, or use of that property.

(c) Wherever there is any doubt as to the availability of the Government's immunity or exemption from any State or local tax, the matter shall be handled in accordance with § 18–11.001.

98. Sections 18–11.500 and 18–11.501 are revised to read as follows:

§ 18–11.500 General.

(a) This Subpart prescribes forms and procedures to provide evidence appropriate to establish exemption from Federal, State, and local taxes, and the form required to purchase cutting oil at the tax rate of 3 cents per gallon rather than 6 cents per gallon.

(b) Unless the contract otherwise requires, evidence of exemption shall not be issued if the amount of taxes on any one invoice or purchase is $1 or less.

(c) With respect to the form set out in § 18–11.503–3, the Internal Revenue Service will accept one certificate covering all orders under a single contract for a specified period not exceeding 4 calendar quarters.

§ 18–11.501 Federal excise taxes.

The forms of certificates set forth in §§ 18–11.501–1 and 18–11.501–3 may be reproduced locally.

§ 18–11.501–1 Certificate of export to a possession or to Puerto Rico.

The following form of exemption certificate shall be used as proof of exportation or shipment to a possession or Puerto Rico, in accordance with §§ 18–11.201(b) and 18–11.202(b).

CERTIFICATE OF EXPORT

(For use by purchasers of articles for export or shipment to a possession under section 4056 and 4221(a)(2), Internal Revenue Code of 1954)

----------, 19--

(Name of Contractor)

The undersigned does hereby certify that

(Quantity and description of supplies)

which were purchased for export, or for shipment to a possession of the United States or to Puerto Rico, under Contract No. ------, were in fact exported to a foreign country, or shipped to a possession of the United States or to Puerto Rico, and a copy of the export bill of lading No. ------ or loading manifest No. ------ pursuant to which the supplies were shipped, is being retained in the files of ----------

----
(Official address of office)

Signature

Title

Address

This certificate is not intended for use as proof in claiming drawback of import taxes.

99. Section 18–11.501–3 is added as follows:

§ 18–11.501–3 Cutting oil certificate.

The following form of certificate shall be used by the purchaser of cutting oil, in accordance with, § 18–11.102–4(c).

CUTTING OIL CERTIFICATE

(For use by purchaser of lubricating oil subject to tax under Section 4091 of the Internal Revenue Code of 1954, for use by purchaser in cutting and machining operations on metals)

Certificate Serial No.----------

(Date)

Contract No.:
Contractor:
Product:
End Use:

The undersigned hereby certifies that he is officially authorized to issue tax-exemption certificates for the National Aeronautics and Space Administration under the above described contract, and that the product indicated above, being purchased under said contract, is purchased for the following use as a lubricant in cutting and machining operations on metals:

The undersigned understands that the National Aeronautics and Space Administration must be prepared to establish by satisfactory evidence the actual use or disposition made of such oil, and that upon his use of the oil for a lubricating purpose other than in cutting and machining operations on metals, or upon his sale or other disposition of oil, he is required to notify the manufacturer.

The undersigned understands that he and all guilty parties will, for fraudulent use of this certificate for the purpose of purchasing oils tax free rather than at the rate of 6 cents a gallon, be subject to a fine of not more than $10,000 or imprisonment for not more than 5 years, or both, together with the costs of prosecution.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Contract Period---------- By--------

Name
Title
Address
Identification Card No.

§ 18–11.501–4 [Deleted]

99a. Section 18–11.501–4 is deleted.

PART 18–13—GOVERNMENT PROPERTY

100. Section 18–13.5002 is revised to read as follows:

§ 18–13.5002 Procedure.

(a) *Requests for idle industrial plant equipment.* Requests for item(s) of equipment to be acquired by screening availability from DIPEC idle inventories shall be submitted on DD Form 1419 (DOD Industrial Plant Equipment Requisition) in an original and three (3) copies to the Procurement Office, NASA Headquarters (Code KDP–3) for processing.

(b) *Instructions for preparation of DD Form 1419.* A separate DD Form 1419 will be completed for each item of equipment required, i.e. if sixteen (16) lathes of the same type and model are required, sixteen (16) DD Form 1419's will be completed as follows:

Requisition number. A requisition number will be assigned to each DD Form 1419 request by the NASA installation. Each number assigned will be coded for Automatic Data Processing by DIPEC. It will also identify the requiring installation and provide a serial number and date of submission for

subsequent reference. The requisition number will begin with the appropriate NASA Installation Symbol Identification set forth below:

Langley Research Center	XNAS01
Ames Research Center	XNAS02
Lewis Research Center	XNAS03
Flight Research Center	XNAS04
Goddard Space Flight Center	XNAS05
Wallops Station	XNAS06
NASA Pasadena Office	XNAS07
George C. Marshall Space Flight Center	XNAS08
Manned Spacecraft Center	XNAS09
John F. Kennedy Space Center	XNAS10
Headquarters Contracts Division	XNASOW
SNSO Germantown	XSNSOG
SNSO Cleveland Extension	XSNSOC
SNSO Nevada Extension	XSNSON

Next will be a four-digit entry comprised of the last digit of the current calendar year and the Julian date of the year, i.e. 9035 for February 4, 1969. The last entry will be a four digit number from 0001 to 9999, to sequentially number requisition forms prepared on the same date. For example: the ninth requisition prepared on February 1, 1969 would be 9032–0009 preceded by the Field Installation Symbol Identification, an example being Langley—"XNAS01 3032–0009". When submitting subsequent DD Forms 1419 related to the item requested, the same requisition number is to be used and alpha code added to the end of the requisition number to indicate a second or third action on the basic request. Alpha "A" would indicate a second request, "B" a third, etc. In this manner, all actions, correspondence, etc., relative to a given request can be identified at all levels of processing, by the use of the requisition number.

SECTION I

Item description. It is necessary to provide a complete description of the item desired, to obtain maximum screening results. Requests for single purpose or general purpose equipment with special features must contain detailed descriptive data as to the size and capacities, setting forth special operating features or particular operations required to be performed by the item.

Block 1. Enter the complete 12-digit Production Equipment Code (PEC) (see NASA PR 13.312 or Defense Industrial Plant Equipment Center Operations Manual DSAM 4215.1, Appendix 1C, Index of Industrial Plant Equipment Handbooks). If not available, enter the applicable 11-digit Federal Stock Number (FSN).

Block 2. Enter the manufacturer's name and Federal supply code for manufacturer's (Cataloging Handbook H4–1) of the item requested.

Block 2a. Enter the manufacturer's model, style or catalog number assigned to the equipment being requisitioned. Always use the model number if available. The style number is the next preference. Insert "NONE" in this block if the model, type or catalog number is not known.

Block 3. Activities using Federal Stock Numbers (FSN) as the identifying number will enter that number. When the FSN is known, it will be included in all reports in addition to the commodity code.

Block 4. Enter the two-digit power code described in Appendix 1D of Defense Industrial Plant Equipment Center Operations Manual DSAM 4215.1. These codes designate the voltage, current, phase and cycle by which the item requested will be operated.

Block 5. Self-explanatory.

Block 6. Place an "X" in the applicable block to indicate whether physical inspection is or is not desired, prior to acceptance.

Block 7. Self-explanatory.

Block 8. Enter the complete description of the item, including the major group, class, subclass, type, subtype, size group, specifying size, etc., as selected from the appropriate directory or handbook. (See § 18–13.312, "Index of Industrial Plant Equipment Handbooks" for descriptive information.) Continue the item description in Block 51 if additional space is required to describe the item desired.

* * * * *

PART 18–15—CONTRACT COST PRINCIPLES AND PROCEDURES

101. Sections 18–15.000 and 18–15.102 are revised to read as follows:

§ 18–15.000 Scope of part.

This Part 18–15 contains general cost principles and procedures for the pricing of contracts and contract modifications whenever cost analysis is performed (see § 18–3.807–2), and for the determination, negotiation, or allowance of costs when such action is required by a contract clause.

§ 18–15.102 Negotiated supply, service and research contracts, and contract changes with concerns other than educational institutions.

This category includes all contracts and contract modifications for supplies, services, or experimental, developmental, or research work with other than educational institutions negotiated on the basis of costs. It does not include facilities contracts (see § 18–15.105), construction contracts (see § 18–15.104) or contracts for research work with educational institutions (see § 18–15.103). The cost principles and procedures set forth in Subpart 18–15.2 shall be used in the pricing of negotiated supply, service and research contracts and contract modifications with concerns other than educational institutions whenever cost analysis is to be performed pursuant to § 18–3.807–2. In addition, the cost principles and procedures set forth in Subpart 18–15.2 shall be incorporated by reference in cost-reimbursement and fixed-price type supply, service and research contracts with other than educational institution as the basis—

(a) For determination of reimbursable costs under cost-reimbursement type contracts (§ 18–3.405) including cost-reimbursement type subcontracts thereunder, and the cost-reimbursement portion of time and materials contracts (§ 18–3.406–1) except in such contracts where material is priced on a basis other than at cost in accordance with § 18–3.406–1(d);

(b) For the negotiation of overhead rates (Subpart 18–3.7);

(c) For claiming, negotiating, or determining costs under terminated fixed-price and cost-reimbursement type contracts (§§ 18–8.204 and 18–8.214);

(d) For the price revision of fixed-price incentive contracts (§ 18–3.404–4);

(e) For price redetermination of prospective and retroactive price redetermination contracts § 18–3.404–5 and § 18–3.404–7); and

(f) For pricing changes and other contract modifications (§§ 18–7.103–54 and 18–7.303–64).

102. Section 18–15.104 is revised to read as follows:

§ 18–15.104 Construction contracts.

This category includes all contracts for the construction, alteration, or repair of buildings, bridges, roads, or other kinds of real property. It also includes contracts for architect-engineer services related to such construction. It does not include contracts for vessels, aircraft, or other kinds of personal property. The cost principles and procedures set forth in Subpart 18–15.4 shall be used in the pricing of negotiated construction contracts and contract modifications with concerns other than educational institutions whenever cost analysis is to be performed pursuant to § 18–3.807–2. In addition, the cost principles and procedures set forth in Subpart 18–15.4 shall be incorporated by reference in cost-reimbursement and fixed-price type construction contracts as the basis—

(a) For determination of reimbursable costs under cost-reimbursement type contracts, including cost-reimbursement type subcontracts thereunder (§ 18–3.405);

(b) For the negotiation of overhead rates (Subpart 18–3.7);

(c) For claiming, negotiating, or determining costs under terminated fixed-price and cost-reimbursement type contracts (§§ 18–8.204 and 18–8.214);

(d) For the price revision of fixed-price incentive contracts (§ 18–3.404–4);

(e) For price redetermination of prospective and retroactive price redetermination contracts § 18–3.404–5 and § 18–3.404–7); and

(f) For pricing changes and other contract modifications (§§ 18–7.103–54 and 18–7.303–64).

103. Sections 18–15.106 and 18–15.107 are revised to read as follows:

§ 18–15.106 Fixed-price type contracts.

This Part 18–15 shall be used in the pricing of fixed-price type contracts and contract modifications whenever cost analysis is performed. It also will be used whenever a fixed-price type contract clause requires the determination or negotiation of costs. However, application of these cost principles to fixed-price type contracts shall not be constructed as a requirement to negotiate agreements on individual elements of cost in arriving at agreement on the total price. The final price accepted by the parties reflects agreement only on the total price. Further, notwithstanding the mandatory use of these cost principles, the objective will continue to be to negotiate prices that are fair and reasonable, cost and other factors considered.

§ 18–15.107 Advance understandings on particular cost items.

The extent of allowability of the selected items of cost covered in Subparts 18–2 through 18–5 has been stated to apply broadly to many accounting systems in varying contract situations. Thus, as to any given contract, the reasonableness and allocability of certain items of cost may be difficult to determine, particularly in connection with firms or separate divisions thereof which may not be subject to effective competitive restraints. In order to avoid possible subsequent disallowance or dispute based on unreasonableness or nonallocability, it is important that prospective contractors, particularly those whose work is predominantly or substantially with the Government, seek agreement with the Government in advance of the incurrence of special or unusual costs in categories where reasonableness or allocability is difficult to determine. Such agreement may also be initiated by contracting officers individually or jointly, for all NASA work of the contractor, as appropriate. Any such agreement should be incorporated in cost-reimbursement type contracts, or made a part of the contract file in the case of negotiated fixed-price type contracts, and should govern the cost treatment covered thereby throughout the performance of the contract. But the absence of such an advance agreement on any element of cost will not, in itself, serve to make that element either allowable or unallowable. Examples of costs on which advance agreements may be particularly important are:

(a) Compensation for personal services, including but not limited to allowances for off-site pay, incentive pay, location allowances, hardship pay, and cost of living differential;

(b) Use charge for fully depreciated assets;

(c). Deferred maintenance costs;

(d) Precontract costs;

(e) Research and development costs;

(f) Royalties;

(g) Selling and distribution costs; and

(h) Travel costs, as related to special or mass personnel movement;

(i) Idle facilities and idle capacity;

(j) Leasing of automatic data processing equipment (ADPE); and

(k) Rental costs (other than ADPE);

(l) Severance pay to employees on support service contracts.

104. In § 18–15.205–6, paragraph (a) (1) is revised to read as follows:

§ 18–15.205–6 Compensation for personal services.

(a) *General.* (1) Compensation for personal services includes all remuneration paid currently or accrued, in whatever form and whether paid immediately or deferred, for services rendered by employees to the contractor during the period of contract performance. It includes, but is not limited to, salaries, wages, directors' and executive committee members' fees, bonuses (including stock bonuses), incentive awards, employee stock options, employee insurance, fringe benefits, and contributions to pension, annuity, and management employee incentive compensation plans, allowances for off-site pay, incentive pay, location allowances, hardship pay and cost of living differential. Except as otherwise specifically provided in this § 18–15.205–6, such costs are allowable to the extent that the total compensation of individual employees is reasonable for the services rendered and they are not in excess of those costs which are allowable by the Internal Revenue Code and regulations thereunder.

* * * * *

105. Section 18–15.400 is revised to read as follows:

§ 18–15.400 Scope of subpart.

This subpart prescribes general principles and procedures for the evaluation and determination of costs in connection with contracts and subcontracts for construction and architect-engineer services related to construction. The applicability of this subpart to cost-reimbursement and fixed-price type contracts is set forth in § 18–15.104. In addition, because of the unique nature of certain aspects of construction contracts, guidance is provided with respect to some elements of cost wherein the basis for determination of cost under cost-reimbursement type contracts differs from that used for evaluation of cost under fixed-price type contracts.

§ 18–15.6 [Deleted]

106. Subpart 18–15.6 is deleted.

PART 18–16—PROCUREMENT FORMS

107. Section 18–16.001 is revised to read as follows:

§ 18–16.001 Index of Procurement Forms for NASA Use.

Listed below in numerical sequence are NASA forms, U.S. standard forms, DOD forms, and certain miscellaneous forms that are authorized for use by this chapter. The current edition of each form is shown in parentheses under the column headed "Date." References to form numbers in this chapter are to the current editions of the forms identified in the list below, unless otherwise specifically indicated.

(a) *NASA Forms.*

Number	Date	Title
147	May 1968	Proposal and Acceptance (Negotiated Supply Contract).
246	November 1970	General Provisions for Short Form Fixed-Price Contract with Nonprofit Institutions.
247	September 1969	General Provisions for Fixed-Price Research and Development Contract.
250	November 1970	Additional General Provisions to U.S. Standard Form 32 (6–64 Ed.).
362	November 1958	Agreement for Use of NASA Unitary Plan Wind Tunnel Facilities.
404	June 1968	Procurement Request.
417	November 1970	General Provisions for Cost-Reimbursement Research and Development Contract.
418	do	General Provisions for Cost-Plus-a-Fixed-Fee Supply Contract.
419	do	General Provisions for Cost-Reimbursement Research and Development Contracts with Educational or Nonprofit Institutions.
446	August 1960	Request for Contractor Clearance.
456	November 1968	Notice of Contract Costs Suspended and/or Disapproved.
456–1	do	Notice of Contract Costs Suspended and/or Disapproved—Continuation Sheet.
507	June 1963	Individual Procurement Action Report.
523	July 1969	NASA—Defense Purchase Request.
524	July 1965	NASA Small Business Subcontracting Program Quarterly Report of Participating Large Company on Subcontract Commitments to Small Business Concerns.
533	February 1967	Contractor Financial Management Report.
533a	do	Monthly Contractor Financial Management Report.
533b	do	Contractor Financial Management Report—Contracts Under $500,000.
533c	do	Contractor Financial Management Report—Support Services Contracts.
534	do	Contract Fiscal Year Functional Cost/Hour Report.
534a	do	Contract Progress Curve Report.
534b	February 1967	Annual Direct, Relatively Fixed Recurring Costs Report.
543	November 1966	Justification for Negotiation.
550	January 1963	Negotiated Utility Service Contract.
550S	do	Negotiated Utility Service Contract (Short Form).
550A	July 1965	General Provisions for Negotiated Utility Service Contract.
550A–1	January 1963	Electric Service Specifications.
550A–2	do	Gas Service Specifications
550A–3	do	Water Service Specifications.
550A–4	do	Steam Service Specifications.
550A–5	do	Sewage Service Specifications.
550B	do	Signature Page.
551	April 1962	Cover Page for Letter Contracts.
551–1	do	Letter of Transmittal for Letter Contracts.
551–2	September 1962	Schedule Format for Letter Contracts.
551–3	1963	General Provisions for Letter Contracts.
558	February 1964	Materials Requirements Report.
604	March 1971	Additional General Provisions to U.S. Standard Form 23A (10–69 Ed.).
667	November 1966	Report on NASA Subcontracts.
746	January 1971	General Provisions for Cost-Reimbursement Facilities Acquisition Contract.
747	do	General Provisions for Facilities Use Contract.
748	do	General Provisions for Cost-Reimbursement Consolidated Facilities Contract.

Number	Date	Title
778	April 1968	Contractor's Release.
779	do	Assignee's Release.
780	January 1963	Contractor's Assignment of Refunds, Rebates, Credits, and Other Amounts.
781	do	Assignee's Assignment of Refunds, Rebates, Credits, and Other Amounts.
811	December 1962	Determination for Classification of Property as Scrap or Salvage.
812	do	Determination & Authorization to Abandon or Destroy Surplus Property.
1017	June 1968	Government-Owned/Contractor-Held Space Hardware Report.
1018	do	Analysis of Government-Owned/Contractor-Held Property Other Than Space Hardware.
1057	October 1966	Forecast of Propellant Requirements.
1098	June 1964	Check List for Contract File Content.
1129	May 1969	Incentive Contracts Currently Under Administration.
1132	do	Incentive Contracts Evaluation of Incentive Effectiveness.
1162	June 1966	New Technology.
1168	October 1964	Procurement Plan Contents Checklist.
1206	April 1965	Assurance of Compliance with the National Aeronautics and Space Administration Regulations Under Title VI of the Civil Rights Act of 1964.
1214	do	MSF Procurement Milestone Status Report.
1333	September 1966	Patent License Agreement.
1334	February 1971	General Provisions (Time and Material and Labor Hour Contracts).
1350	May 1967	NASA Contracting Officer's Certificate of Appointment.
1379	September 1968	Order for Supplies or Services.
1379 (Reverse).	do	Terms and Conditions.
1379A	do	Order for Supplies or Services (Continuation Sheet).
1379B	do	Additional General Provisions, Modification, and Acceptance.
1412	September 1969	Termination Authority.
1413	do	Termination Docket Checklist.

(b) *U.S. Standard Forms.*

Number	Date	Title
18	July 1966	Request for Quotations.
19	October 1969	Invitation, Bid, and Award (Construction, Alteration, or Repair).
19-A	April 1965	Labor Standards Provisions Applicable to Contracts in Excess of $2,000.
19-B	October 1969	Representations and Certifications (Construction Contracts).
20	January 1961	Invitation for Bids (Construction Contract).
21	December 1965	Bid form (Construction Contract).
22	October 1969	Instructions to Bidders (Construction Contract).
23	January 1961	Construction Contract.
23-A	October 1969	General Provisions (Construction Contract).
24	June 1964	Bid Bond.
25	June 1967	Performance Bond.
25-A	June 1964	Payment Bond.
25-B	do	Continuation Sheet (For Standard Forms 24, 25 and 25-A).
26	July 1966	Award/Contract.
28	June 1966	Affidavit of Individual Surety.
30	July 1966	Amendment of Solicitation/Modification of Contract.
32	November 1969	General Provisions (Supply Contract).
33	do	Solicitation, Offer, and Award.
33-A	March 1969	Solicitation Instructions and Conditions.
34	June 1964	Annual Bid Bond.
35	do	Annual Performance Bond.
36	July 1966	Continuation Sheet.
38	October 1964	Notice of Nondiscrimination in Employment.
44	June 1964	Purchase Order—Invoice—Voucher.
97	September 1961	The U.S. Government Certificate of Release of a Motor Vehicle.
97-A	do	Agency Record Copy of The U.S. Government Certificate of Release of a Motor Vehicle.
98	June 1966	Notice of Intention to Make a Service Contract and Response to Notice.
99	May 1968	Notice of Award of Contract.
100	January 1967	Employer Information Report EEO-1.
119	December 1952	Contractor's Statement of Contingent or Other Fees.
120	April 1957	Report of Excess Personal Property.
125	December 1959	Report of Strategic and Critical Materials.
129	January 1966	Bidder's Mailing List Application.
147	June 1964	Order for Supplies or Services.
148	do	Continuation Sheet for Standard Form 147.
251	June 1961	Architect-Engineer Questionnaire.
1034	(Undated)	Public Voucher for Purchases and Services Other than Personal.
1034a	do	Public Voucher for Purchases and Services Other than Personal—Memorandum Copy.
1035	do	Public Voucher for Purchases and Services Other than Personal, Continuation Sheet.
1035a	do	Public Voucher for Purchases and Services Other than Personal, Continuation Sheet—Memorandum.
1080	do	Voucher for Transfers Between Appropriations and/or Funds.
1093	do	Schedule of Withholdings under the Davis-Bacon Act.
1094	do	U.S. Tax Exemption Certificate.
1165	March 1952	Receipt for Cash—Subvoucher.

(c) *Department of Defense Forms.*

Number	Date	Title
250	November 1968	Material Inspection and Receiving Report.
250c	October 1966	Material Inspection and Receiving Report—Continuation Sheet.
254	October 1964	Security Requirements Checklist.
346	July 1962	Raw (Basic Processed) and Semifabricated Stock Form.
347	do	Bill of Materials for Subcontracted Parts—Purchased Parts—Government-Furnished Property.
441	May 1954	Security Agreement.
448-2	March 1961	Acceptance of MIPR.
492	December 1960	Report of Allotments and Authorized Controlled Materials Orders (Cumulative).
529	January 1960	Allocation Determination.
530	do	Return of Controlled Materials Allocations.
540	April 1957	Settlement Proposal (Inventory Basis).
541	April 1957	Settlement Proposal (Total Cost Basis).
542	June 1968	Inventory Schedule A (Metals in Mill Product Form).
542c	April 1957	Inventory Schedule A (Continuation Sheet).
543	June 1968	Inventory Schedule B (Raw Materials, Purchased Parts, Finished Components, Finished Products, Miscellaneous)
543c	April 1957	Inventory Schedule B (Continuation Sheet).
544	June 1968	Inventory Schedule C (Work in Process).
544c	April 1967	Inventory Schedule C (Continuation Sheet).
545	June 1968	Inventory Schedule D (Dies, Jigs, Fixtures, etc., and Special Tools).
545c	April 1957	Inventory Schedule D (Continuation Sheet).
546	do	Schedule of Accounting Information.
547	do	Settlement Proposal for Cost-Reimbursement Type Contracts.
548	July 1958	Application for Partial Payment.
614	June 1957	Materials Requirements—Steel and Nickel Alloys.
614-1	do	Materials Requirements—Copper and Aluminum.
633	April 1968	Contract Pricing Proposal.*
633-1	do	Contract Pricing Proposal (Technical Services).*
633-2	do	Contract Pricing Proposal (Technical Publications).*
633-3	do	Contract Pricing Proposal (Motion Pictures).*
633-4	do	Contract Pricing Proposal (Research and Development).*
633-5	do	Contract Pricing Proposal (Change Orders).*
783	July 1961	Royalty Report (Foreign and Domestic).
784	April 1959	Cost and Price Analysis for Contract Price Redetermination.
831	October 1959	Settlement Proposal (Short Form).
832	March 1969	Termination Inventory Schedule E (Short Form for Use With DD Form 831 Only).
1114	October 1959	Instructions for Use of Contract Termination Settlement and Inventory Schedule Forms.*
1115	February 1968	Instructions in Preparing Inventory Schedules of Contractor Inventory.*
1149	March 1959	Requisition and Invoice/Shipping Document.
1342	February 1968	DOD Property Record.
1419	do	DOD Industrial Plant Equipment Requisition.
1524	January 1966	Pre-Award Survey of Prospective Contractor—General.
1598	February 1967	Contract Termination Status Report.
1635	January 1968	Plant Clearance Case Register.
1636	do	Inventory Disposal Report.
1637	do	Notice of Acceptance of Inventory.
1639	do	Scrap Warranty.
1641	do	Disposal Determination/Approval.
1642	do	Inventory Verification Survey.
1784	November 1970	Small Purchase Pricing Memorandum.

(d) *Miscellaneous Forms.*

Number	Date	Title
AF-15		Monthly Report of Letter Contracts.
AF-857	August 1962	USAF Propellant Sale, Return Slip.
BDSAF-123	January 1967	Request for Special Priorities Assistance.
CB 16-19	February 1962	Construction Contract Award Notification.

*NASA Edition.

Number	Date	Title
DB 11	July 1964	Request for Determination.
DJ 1500	June 1961	Identical Bid Report for Procurement.
DMS-10	July 1969	Allotment of Controlled Materials (Production).
DMS-11	do	Allotment Decrease (Production).
DMS-12	do	Applicant's Return of Allotment.
DMS-13	do	Allotment of Controlled Materials (Construction).
DMS-14	do	Allotment Decrease (Construction).
GSA-457	October 1966	Request for Federal Supply Schedules and Contractors' Catalogs.
GSA-2084		Clearance to Acquire Correspondence Filing Cabinets.
PC-13	1968	Combination Letter-Poster re Walsh-Healey Public Contracts Act.
PC-16	February 1968	Minimum Wage Determinations Under the Walsh-Healey Public Contracts Act.
SC-1	1966	Notice to Employees Working on Goverment Service Contracts.
SOL-155	July 1961	Wage Rate Information.
SOL-184, SOL-185		Optional Payroll Forms for Use on Federal Construction Contracts Subject to the Davis-Bacon Act and Related Acts.
TD 720	July 1964	Quarterly Federal Excise Tax Return.
TD 1444	September 1969	Tax Free Spirits for Use of United States.
TD 1486	November 1969	Specially Denatured Spirits for Use of United States.

108. Section 16.101–1 is revised to read as follows:

§ 18–16.101–1 General.

The following contract forms shall be used effecting procurements of supplies or services by formal advertising:

(a) Solicitation, Offer, and Award (Standard Form 33), and the reverse side (Representations, Certifications and Acknowledgments);

(b) Solicitation Instructions and Conditions (Standard Form 33A);

(c) General Provisions (Supply Contract) (Standard Form 32);

(d) NASA Form 250 (Additional General Provisions to U.S. Standard Form 32), and any other special terms for the solicitation or additional contract provisions which are prescribed by this chapter;

(e) Continuation Sheet (Standard Form 36);

(f) Amendment of Solicitation/Modification of Contract (Standard Form 30) when needed (see § 18–16.103);

(g) Award/Contract (Standard Form 26) when needed.

109. Section 18–16.201–2 is revised to read as follows:

§ 18–16.201–2 Proposal and acceptance (NASA Forms 147 and 1379).

NASA Form 147 will normally be used in negotiated supply contracts for standard or commercial type items unless a purchase order form (NASA Form 1379) is appropriate for use.

110. Sections 18–16.201–4, 18–16.201–5, 18–16.201–6, and 18–16.201–7 are revised to read as follows:

§ 18–16.201–4 General provisions—fixed-price research and development contracts (NASA Form 247).

Except when NASA Form 246 is used, NASA Form 247 shall be used in all fixed-price research and development contracts, together with Standard Form 26 (Award/Contract).

§ 18–16.201–5 General provisions—fixed-price research contracts with nonprofit institutions—short form (NASA Form 246).

The General Provisions contained in NASA Form 246 are authorized for use in fixed-price contracts for basic or applied research with nonprofit institutions of higher education, or with nonprofit institutions whose primary purpose is the conduct of scientific research, when a short form is desired. Additional clauses may be added to or substituted for the clauses contained in NASA Form 246 in accordance with § 18–7.350–19. Standard Form 26 (Award/Contract) used with NASA Form 246.

§ 18–16.201–6 General provisions—cost-reimbursement research and development contracts (NASA Form 417).

Except when NASA Form 419 is used pursuant to § 18–16.201–7, NASA Form 417 shall be used in cost-reimbursement type research and development contracts. Standard Form 26 (Award/Contract) shall be used with NASA Form 417.

§ 18–16.201–7 General provisions—cost-reimbursement research and development contracts with educational or nonprofit institutions (NASA Form 419).

NASA Form 419 shall be used in cost-reimbursement type research and development contracts with educational or nonprofit institutions which involve no fee or profit, together with either Standard Form 26 (Award/Contract.).

111. Section 18–16.201–9 is added as follows:

§ 18–16.201–9 General provisions—time and material and labor hour contracts.

The general provisions contained in NASA Form 1334 shall be used in all time and material and labor hour contracts together with Standard Form 26 (Award/Contract).

112. Section 18–16.401–1 is revised to read as follows:

§ 18–16.401 Advertised construction contract forms.

§ 18–16.401–1 General.

The following forms are prescribed for use in formally advertised construction contracts where the work is to be performed in the United States, its possessions, or Puerto Rico:

(a) Standard Form 19—Invitation, Bid and Award (Construction, Alteration, or Repair).

(b) Standard Form 19–A—Labor Standards Provisions—Applicable to Contracts in Excess of $2,000.

(c) Standard Form 19–B—Representations and Certifications (Construction Contract).

(d) Standard Form 20—Invitation for Bids (Construction Contract).

(e) Standard Form 21—Bid Form (Construction Contract).

(f) Standard Form 22—Instructions to Bidders (Construction Contract).

(g) Standard Form 23—Construction Contract.

(h) Standard Form 23–A—General Provisions (Construction Contract).

(i) NASA Form 604—Additional General Provisions to U.S. Standard Form 23–A.

(j) Standard Form 30—Amendment of Solicitation/Modification of Contract (see § 18–16.103).

(k) *Continuation sheet.* There is no prescribed form of Continuation Sheet for construction contracts. A blank sheet, incorporating (1) the contract or invitation number, as appropriate; (2) page number and number of pages; and (3) name of bidder or contractor may be used for this purpose. Standard Form 36, Continuation Sheet (Supply Contract), shall not be used for construction contracts.

113. Section 18–16.401–3 is revised to read as follows:

§ 18–16.401–3 Terms, conditions, and provisions.

(a) The use of additional contract provisions consistent with those contained in the above forms is authorized, and, where required elsewhere in this Regulation, the use of such additional provisions is mandatory. NASA Form 604 shall be used to supplement Standard Form 23–A. The NASA "New Technology" and "Property Rights in Inventions" clauses shall be used as additional required clauses under the circumstances set forth in §§ 18–9.101–2 and 18–9.101–5.

(b) Changes or additional provisions inconsistent with those contained in the standard forms shall be incorporated when required by this chapter, and may be incorporated when authorized by this Regulation, or when approved pursuant to § 18–1.109. A copy of such approval pursuant to § 18–1.109–2 shall be forwarded by the Procurement Office, NASA Headquarters, to the General Services Administration.

(c) The provisions of paragraphs (a) and (b) of this section shall not be construed to authorize the reinstatement in Standard Form 19 of clauses which appear in Standard Form 23–A and which have either been condensed or omitted in the development of Standard Form 19 in the interests of simplification and uniformity. Where such reinstatement is deemed essential, the matter shall be handled as a deviation as provided in § 18–1.109. Deviations are not required for use with Standard Form 19 of clauses which, although not properly a part of Standard Form 23–A, may accompany it when printed for use within NASA.

(d) The "Disputes" clause of Standard Form 19, may be altered by inserting in

the Schedule or in the Specifications, the following:

Alterations. As used in the "Disputes" clause of the General Provisions, "head of the Federal Agency" means the "Administrator, NASA." (May 1965)

(e) During a period of national emergency, paragraph (d) (1) of the "Termination for Default—Damages for Delay—Time Extensions" clause of Standard Form 23–A has been changed by the "Alterations" clause in NASA Form 604 by deleting the words "unforeseeable causes" in the two places where they appear in the first sentence and substituting therefor the words "causes, other than normal weather."

(f) Deletion or modification of provisions in the above forms shall be accomplished in the "Alterations" paragraph added in the Schedule of Standard Form 19, or in the "Alterations" paragraph in NASA Form 604, or in the Specifications, as may be appropriate.

114. Section 18–16.804 is revised to read as follows:

§ 18–16.804 U.S. tax exemption certificate (Standard Form 1094).

(a) The U.S. Tax Exemption Certificate, Standard Form 1094, shall be used as prescribed in § 18–11.502–1.

(b) Treasury Department Form 1444 (Tax Free Spirits for Used of United States) and Treasury Department Form 1486 (Specially Denatured Spirits for Use of United States) shall be used in accordance with the provisions of § 18–11.250.

115. Section 18–16.813 is revised to read as follows:

§ 18–16.813 Small purchase pricing memorandum.

Small Purchase Pricing Memorandum (DD Form 1784) shall be used to document purchase order files as to reasonableness of price when a separate form is used for that purpose (see § 18–3.604–2). Local reproduction of DD Form 1784 is authorized.

116. Section 18–16.868 is added:

§ 18–16.868 Letters of delegation.

The forms set forth in this paragraph are prescribed for use, in accordance with the provisions of Subpart 18–51, 3, in requesting contract administration, audit, and other related support functions from another NASA installation or Government agency.

117. Sections 18–16.902 and 18–16.903 are revised to read as follows:

§ 18–16.902 Geographic distribution of NASA subcontracts (NASA Form 667).

In order to obtain information relating to the geographic distribution of subcontracts awarded under certain NASA contracts, the following clause will be inserted in all NASA contracts of $500,000 or more and in all contracts where a modification increases the amount of a contract to $500,000 or more. In the latter instance, the clause will be inserted at the time of the applicable modification but will not be retroactive so as to require the reporting of subcontracts awarded prior to such modification.

REPORT ON NASA SUBCONTRACTS (MARCH 1970)

(a) The Contractor agrees to submit information on NASA Form 667 to the National Aeronautics and Space Administration (Code: KD), Washington, D.C. 20546, substantially as follows with respect to each subcontract or modification thereof exceeding $10,000 as soon as possible after execution thereof:

(i) The name and address of the prime contractor and the NASA prime contract number;

(ii) The name and address of the subcontractor;

(iii) Whether the subcontractor is a large or small business concern;

(iv) Whether the type of effort being performed involves research and development;

(v) A brief description of the subcontract work;

(vi) The amount of the subcontract; and

(vii) The principal location where the subcontract work is to be performed, if known.

(b) The Contractor and his subcontractors will submit negative reports annually, when applicable, on each prime contract and first-tier subcontract subject to this reporting requirement. The negative reports will be submitted not later than July 31 for the 12 months' period ending June 30th of each year. The negative reporting will be continued until the contract or subcontract has been physically completed and the National Aeronautics and Space Administration (Code KD), Washington, D.C. 20546, so notified by the contractor or subcontractor.

(c) The term "subcontract" as used herein means procurement in excess of $10,000 by the Contractor or first-tier subcontractor of articles, materials, or services entering into the performance of this contract, except purchases, regardless of amount, of stock items, materials, or services which cannot be specifically identified with this contract.

(d) The term "research and development" as used herein means basic and applied research, and design and development of prototypes and processes to (1) pursue a planned search for new knowledge, with or without reference to a specific application, (2) apply existing knowledge in the creation of new products or processes and (3) apply existing knowledge in the improvement or modification of present products and processes. It excludes subcontracts for the purchase of standard commercial items and services.

(e) The Contractor further agrees to insert the provisions of paragraphs (a), (b), (c) and (d) of this clause in each subcontract in excess of $50,000. The Contractor will instruct his subcontractors to submit their reports directly to the National Aeronautics and Space Administration (Code: KD), Washington, D.C. 20546, and will provide his subcontractors with the number of the NASA prime contract.

§ 18–16.903 NASA small business subcontracting program quarterly report (NASA Form 524).

This report is designed to furnish statistics on the extent to which small business concerns are performing work or services as subcontractors under NASA prime contracts through implementation of the "Small Business Subcontracting Program." Complete instructions covering the preparation and submissions of this report are provided on the face of the report form.

§ 18–16.904 [Deleted]

117a. Section 18–16.904 is deleted.

PART 18–26—CONTRACT MODIFICATIONS

118. Section 18–26.400 is added.

§ 18–26.400 Scope of subpart.

This subpart prescribes the policy and procedures for (a) recognition of a successor in interest to Government contracts when such interests are acquired incidental to a transfer of all the assets of a contractor or such part of his assets as is involved in the performance of the contracts, (b) a change of name of a contractor, (c) single installation execution of novation agreements and change of name agreements affecting more than one installation, and (d) execution of novation agreements and change of name agreements by the Department of Defense (DOD) on behalf of NASA.

§ 18–26.401 [Deleted]

119. Section 18–26.401 is deleted.

120. Sections 18–26.402, 18–26.403, and 18–26.404 are revised to read as follows:

§ 18–26.402 Agreement to Recognize a Successor in Interest.

(a) The transfer of a Government contract is prohibited by law (41 U.S.C. 15). However, the Government may recognize a third party as the successor in interest to a Government contract where the third party's interest is incidental to the transfer of all the assets of the contractor, or all of that part of the contractor's assets involved in the performance of the contract. Examples include, but are not limited to:

(1) Sale of such assets;

(2) Transfer of such assets pursuant to merger or consolidation of corporation; and

(3) Incorporation of a proprietorship or partnership.

(b) When a contractor requests that the Government recognize a successor in interest the contractor should be advised that, if there is an affected contract between the contractor and any element of the DOD, the cognizant DOD Administrative Contracting Officer (ACO) should be contacted who will process the necessary agreement on behalf of NASA. If the contractor has no affected contract with an agency of the DOD, the contractor shall be required to provide the NASA installation designated (see § 18–26.404) with one copy of each of the following, as applicable:

(1) A properly authenticated copy of the instrument by which the transfer of assets was effected, as for example, a bill of sale, certificate of merger, indenture of transfer, or decree of court;

(2) A list of all contracts and purchase orders which have not been finally settled between NASA and the transferor, showing for each contract the contract number, the name and address of the installation involved, the total dollar value of each contract as amended, the type of contract involved, and the balance remaining unpaid;

(3) A certified copy of the resolutions of the Boards of Directors of the corporate parties authorizing the transfer of assets;

(4) A certified copy of the minutes of any stockholders' meetings of the corporate parties necessary to approve the transfer of assets;

(5) A properly authenticated copy of the certificate and articles of incorporation of the transferee if such corporation was formed for the purpose of receiving the assets involved in the performance of the Government contracts;

(6) Opinion of counsel for the transferor and transferee that the transfer was properly effected in accordance with applicable law and the effective date of transfer;

(7) Evidence of the capability of the transferee to perform the contracts;

(8) Balance sheets of the transferor and the transferee as of dates immediately prior to and after the transfer of assets;

(9) Evidence of security clearance requirements; and

(10) Consent of sureties on all contracts listed under (subparagraph (2) of this paragraph) where bonds were required, or a statement that none is required.

(c) When it is consistent with the Government's interest to recognize a successor in interest to a Government contract, the installation designated shall execute an agreement with the transferor and the transferee, which shall ordinarily provide in part that:

(1) The transferee assumes all the transferor's obligations under the contract;

(2) The transferor waives all rights under the contract as against the Government;

(3) The transferor guarantees performance of the contract by the transferee (a satisfactory performance bond may be accepted in lieu of such guarantee); and

(4) Nothing in the agreement shall relieve the transferor or the transferee from compliance with any Federal law.

All agreements, prior to execution, shall be reviewed by Government counsel for legal sufficiency. A form for such an agreement for use when the transferor and transferee are corporations, and the assets of the transferor are transferred, is set forth herein. This form may be adapted to fit specific cases and may be used as a guide in preparing similar agreements for use in other situations.

AGREEMENT

This Agreement, entered into as of (date upon which the transfer of assets became effective pursuant to applicable State law) 19---, by and between the ABC Corporation, a corporation duly organized and existing under the laws of the State of -------- with its principal office in the City of -------- (hereinafter referred to as the "Transferor"); the XYZ Corporation add if appropriate (formerly known as the LMN Corporation), a corporation duly organized and existing under the laws of the State of -------- with its principal office in the City of -------- (hereinafter referred to as the "Transferee"); and the United States of America (hereinafter referred to as the "Government").

WITNESSETH

1. Whereas, the Government, represented by various Contracting Officers of the National Aeronautics and Space Administration has entered into certain contracts and purchase orders with the Transferor, [namely: ----------] or as set forth in the attached list marked "Exhibit A" to this Agreement and herein incorporated by reference; and the term "the contracts" as hereinafter used means the above contracts and purchase orders, and all other contracts and purchase orders, including modifications thereto, heretofore made between the Government, represented by various Contracting Officers of the National Aeronautics and Space Administration, and the Transferor (whether or not performance and payment have been completed and releases executed, if the Government or the Transferor has any remaining rights, duties or obligations thereunder), and including modifications thereto hereafter made in accordance with the terms and conditions of such contracts and purchase orders between the Government and the Transferee;

2. Whereas, as of --------, 19---, the Transferor assigned, conveyed, and transferred to the Transferee all the assets of the Transferor by virtue of a [term descriptive of the legal transaction involved] between the Transferor and the Transferee;

3. Whereas, the Transferee, by virtue of said assignment, conveyance and transfer, has acquired all the assets of the Transferor;

4. Whereas, by virtue of said assignment, conveyance and transfer, the Transferee has assumed all the duties, obligations and liabilities of the Transferor under the Contracts;

5. Whereas, the Transferee is in a position fully to perform the Contracts, and such duties and obligations as may exist under the Contracts;

6. Whereas, it is consistent with the Government's interest to recognize the Transferee as the successor party to the Contracts;

7. Whereas, there has been filed with the Government evidence of said assignment, conveyance or transfer, as required by NASA Procurement Regulation 26 402(b); [Where a change of name is also involved, such as prior or concurrent change of name of the transferee, an appropriate recital shall be used; for example:

8. Whereas, there has been filed with the Government a certificate dated --------, 19---, signed by the Secretary of State of the State of -------- to the effect that the corporate name of LMN Corporation was changed to XYZ Corporation on --------, 19---];

Now, therefore, in consideration of the premises, the parties hereto agree as follows:

9. The Transferor hereby confirms said assignment, conveyance and transfer to the Transferee, and does hereby release and discharge the Government from, and does hereby waive, any and all claims, demands, and rights against the Government which it now has or may hereafter have in connection with the Contracts.

10. The Transferee hereby assumes, agrees to be bound by, and undertakes to perform each and every one of the terms, covenants, and conditions contained in the Contracts. The Transferee further assumes all obligations and liabilities of, and all claims and demands against, the Transferor under the Contracts, in all respects as if the Transferee were the original party to the Contracts.

11. The Transferee hereby ratifies and confirms all actions heretofore taken by the Transferor with respect to the Contracts with the same force and effect as if the action had been taken by the Transferee.

12. The Government hereby recognizes the Transferee as the Transferor's successor in interest in and to the Contracts. The Transferee hereby becomes entitled to all right, title, and interest of the Transferor in and to the Contracts in all respects as if the Transferee were the original party to the Contracts. The term "Contractor" as used in the Contracts shall be deemed to refer to the Transferee rather than to the Transferor.

13. Except as expressly provided herein, nothing in this Agreement shall be construed as a waiver of any rights of the Government against the Transferor.

14. Notwithstanding the foregoing provisions, all payments and reimbursements heretofore made by the Government to the Transferor and all other action heretofore taken by the Government, pursuant to its obligations under any of the Contracts, shall be deemed to have discharged pro tanto the Government's obligations under the Contracts. All payments and reimbursements made by the Government after the date of this Agreement in the name of or to the Transferor shall have the same force and effect as if made to said Transferee and shall constitute a complete discharge of the Government's obligations under the Contracts, to the extent of the amounts so paid or reimbursed.

15. The Transferor and the Transferee hereby agree that the Government shall not be obligated to pay or reimburse either of them for, or otherwise give effect to, any costs, taxes or other expenses, or any increases therein, directly or indirectly arising out of or resulting from (i) said assignment, conveyance and transfer, or (ii) this Agreement, other than those which the Government, in the absence of said assignment, conveyance and transfer, or this Agreement, would have been obligated to pay or reimburse under the terms of the Contracts.

16. The Transferor hereby guarantees payment of all liabilities and the performance of all obligations which the Transferee (i) assumes under this Agreement, or (ii) may hereafter undertake under the Contracts as they may hereafter be amended or modified; and the Transferor hereby waives notice of and consents to any such amendment or modification.

17. Except as herein modified, the Contracts shall remain in full force and effect.

In witness whereof, each of the parties hereto has executed this Agreement as of the day and year first above written.

United States of America
By ----------
Title ----------
(Corporate Seal) ABC corporation
By ----------
Title ----------
(Corporate Seal) XYZ corporation
By ----------
Title ----------

CERTIFICATE

I, ----------, certify that I am the Secretary of ABC Corporation, named above; that ----------, who signed this Agreement on behalf of said corporation, was then ---------- of said corporation; and that this Agreement was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

Witness my hand and seal of said corporation this ---------- day of ----------, 19-----.
(Corporate Seal) By----------

CERTIFICATE

I, ----------, certify that I am the Secretary of XYZ Corporation, named above; that ----------, who signed this Agreement on behalf of said corporation, was

then ---------- of said corporation; and that this Agreement was duly signed for and in behalf of said corporation by authority of its governing body and within the scope of its corporate powers.

Witness my hand and seal of said corporation this ------ day of --------, 19----- 19-----.

By----------

(Corporate Seal)

[End of Agreement]

§ 18–26.403 Agreement to recognize change of name of contractor.

(a) Except as provided in paragraph (c) of this section where only a change of name is involved, so that the rights and obligations of the parties remain unaffected, an agreement between the designated installation (see § 18–26.404) and the contractor shall be executed effecting the amendment of all existing contracts between the contractor and NASA so as to reflect the contractor's change of name. Prior to the execution of such agreement, one copy of each of the following shall be deposited by the contractor with the installation designated:

(1) A copy of the instrument by which the change of name was effected, authenticated by a proper official of the State having jurisdiction;

(2) Opinion of counsel for the contractor as to the effective date of the change of name and that it was properly effected in accordance with applicable law; and

(3) A list of all contracts and purchase orders which have not been finally settled between the National Aeronautics and Space Administration and the transferor, showing the contract number, the name and address of the installation involved, the total dollar value of each contract as amended and the balance remaining unpaid.

(b) All agreements, prior to execution, shall be reviewed by Government counsel for legal sufficiency. A format for such an agreement which shall be adapted for specific cases is set forth below.

AGREEMENT

This Agreement, entered into as of ---------, 19---- by and between the ABC Corporation (formerly the XYZ Corporation and hereinafter sometimes referred to as the "Contractor"), a corporation duly organized and existing under the laws of the State of ----------, and the United States of America, represented by the National Aeronautics and Space Administration (hereinafter referred to as the "Government").

WITNESSETH

1. Whereas, the Government, represented by various Contracting Officers of the National Aeronautics and Space Administration has entered into certain contracts and purchase orders with the XYZ Corporation, [namely: ----------] *or* [as set forth in the attached list marked "Exhibit A" to this agreement and herein incorporated by reference;] and the term "the Contracts" as hereinafter used means the above contracts and purchase orders, and all other contracts and purchase orders, including modifications thereto, entered into between the Government, represented by various Contracting Officers of the National Aeronautics and Space Administration, and the Contractor (whether or not performance and payment have been completed and releases executed, if the Government or the Contractor has any remaining rights, duties, or obligations thereunder);

2. Whereas, the XYZ Corporation, by an amendment to its certificate or incorporation, dated ----------, 19---- has changed its corporate name to ABC Corporation;

3. Whereas, a change of corporate name only is accomplished by said amendment, so that rights and obligations of the Government and of the Contractor under the Contracts are unaffected by said change; and

4. Whereas, there has been filed with the Government documentary evidence of said change in corporate name;

Now Therefore, in consideration of the premises, the parties hereto agree that the Contracts covered by this agreement are hereby amended by deleting therefrom the name "XYZ Corporation" wherever it appears in the Contracts and substituting therefor the name "ABC Corporation."

In Witness Whereof, each of the parties hereto has executed this Agreement as of the day and year first above written.

United States of America
By ----------
Title ----------

(Corporate Seal)

ABC Corporation
By ----------
Title ----------

CERTIFICATE

I, ----------, certify that I am the Secretary of ABC Corporation, named above; that ---------- who signed this Agreement on behalf of said corporation, was then ---------- of said corporation; and that this Agreement was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

Witness my hand and seal of said corporation this ------ day of ------, 19-----.

By----------

(Corporate Seal)

[End of Agreement]

(c) Agreements to recognize a change of name of a contractor will be entered into by DOD on behalf of NASA if the contractor also has an affected DOD contract (see § 18–26.451). Contractors shall be advised to contact the cognizant DOD ACO when both NASA and DOD contracts will be affected.

§ 18–26.404 Processing novation agreements and change of name agreements.

(a) Any NASA installation, upon being notified of a successor in interest to, or change in name of, one of its contractors, shall promptly communicate with the contractor in writing. Except in those instances where there is an existent contract between the contractor and any element of the DOD (see §§ 18–26.402(b), 18–26.403(c) and 18–26.451) the contractor shall be requested to furnish the pertinent documentation enumerated in § 18–26.402(b) or § 18–26.403(a) as required, to the NASA installation with which it has the largest amount of unliquidated obligations. This installation shall be the "designated installation" for the purpose of processing and executing novation agreements and change of name agreements with the contractor. The installation shall immediately notify the Procurement Office, NASA Headquarters (Code KDP–3) of the request to execute a successor in interest or change in name agreement. The notification shall include (1) the names of the firms involved, (2) the name of the installation which will execute the agreement, and (3) the type of agreement contemplated.

(b) To avoid duplication of effort on the part of NASA installations in preparing and executing agreements to recognize a change of name or successor in interest, only one supplemental agreement will be prepared to effect necessary changes for all contracts between NASA and the contractor involved. The designated installation shall take all necessary and appropriate action with respect to either recognizing or not recognizing the successor in interest, or recognizing a change of name, including without limitation the following:

(1) Drafting and executing a supplemental agreement to one of the contracts affected but covering all applicable outstanding and incomplete contracts affected by the transfer of assets or change of name, and

(2) Instituting and monitoring procedures for security clearance. A supplemental agreement number need not be obtained for contracts other than for the one under which the supplemental agreement is written. Each supplemental agreement will contain a list of the contracts affected and, for distribution purposes, the names and addresses of the installations having contracts subjects to the supplemental agreement.

(c) Prior to execution, the agreement and supporting documents shall be reviewed for legal sufficiency by the legal office at the designated installation.

(d) After execution of the supplemental agreement, the designated installation shall:

(1) Forward three authenticated copies of the supplemental agreement to the Procurement Office, NASA Headquarters (Code KDP–3), and

(2) Advise each of the affected installations, by letter (see § 18–26.451), of the consummation of the supplemental agreement and request that an administrative change (see § 18–26.452) be issued for each affected contract. A copy of the supplemental agreement should be enclosed.

(e) For each such affected contract, the contracting officer shall prepare an administrative change (see § 18–26.452) acknowledging the change in name or successor in interest. The administrative change will receive the same distribution as the affected contract. It will indicate the nature of the transaction, the result attained, and will cite the number of the contract with which the original relevant documents and supplemental agreement are filed.

121. Sections 18–26.450 and 18–26.451 are revised to read as follows:

§ 18–26.450 Processing novation agreements and change of name agreements by the Department of Defense on behalf of NASA.

(a) The agreement between the National Aeronautics and Space Administration and the Department of Defense for the performance of contract administration services and contract audit services has been amended by the addition of Appendix E concerning the accomplishment of novation agreements and change of name agreements by DOD on behalf of NASA. (See Ch. 1 to Attachment A, NMI 1052.12A.)

(b) Installations shall be notified by the Procurement Office, NASA Headquarters (Code KDP–3) when DOD is processing a proposed novation agreement on behalf of NASA. Within 20 days after receipt of such notice the installation shall submit comments to the Procurement Office, NASA Headquarters for transmittal to DOD. If an installation indicates a desire to consummate a separate agreement with the contractor, and the Procurement Office, NASA Headquarters concurs in the rationale presented, DOD shall be so notified. The Procurement Office, NASA Headquarters (Code KDP–3) will notify the designated NASA installation and a separate agreement shall be processed in accordance with § 18–26.404.

(c) After execution and distribution of an agreement three copies of an administrative change (Standard Form 30) for each contract will be prepared (Blocks 7, 8, 11 & 12) by the DOD ACO and transmitted to the cognizant NASA Procurement Office. Upon receipt of the administrative changes the contracting officer will complete and execute the Standard Form 30 and distribute in accordance with existing procedures.

(d) Copies of agreements entered into by DOD on behalf of NASA will be maintained in the Procurement Office, NASA Headquarters (Code KDP–3).

§ 18–26.451 Sample letter requesting issuance of administrative change.

The following sample letter format is appropriate to give notice of execution of a novation agreement and to request issuance of an administrative change in accordance with § 18–26.404(d)(2):

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

GODDARD SPACE FLIGHT CENTER

Greenbelt, Maryland

March 15, 1970.

Subject: Novation Agreement.
To: Procurement Officer, Langley Research Center.

1. Your attention is invited to the attached supplemental agreement wherein a transfer of the business of ABC Corp. to XYZ Corp. is recognized.

2. In accordance with NASA Procurement Regulation 26.404 contracting officer(s) presently responsible for affected contracts placed by your installation, which are listed in the supplemental agreement, should immediately issue an Administrative change to each such contract to reflect the change.

JOHN J. JONES,
PROCUREMENT OFFICER,
GODDARD SPACE FLIGHT CENTER.

122. Section 18–26.452 is added:

§ 18–26.452 Sample administrative change format.

National Aeronautics and Space Admifilistration

Administrative Change

Contract No:

Change No:

Date:

Contractor:

Subject:
(Insert type of transaction—merger, etc.)

Pursuant to the provisions of the clause of Modification No. --------- of Contract No. --------- (This reference will be to the Modification actually recognizing the transfer.)

It is hereby acknowledged that said Contract Modification (insert, as appropriate, "effecting recognition of XYZ Corporation as a successor in interest applies in accordance with all of its terms and conditions to this contract," or "effecting recognition of a change of the contractor's name from ABC Corporation to XYZ Corporation applies in accordance with all of its terms and conditions to this contract").

Except as hereby modified, all the terms, covenants, and conditions of said contract as heretofore modified or amended shall remain in full force and effect.

The United States of America

By ----------
(Signature)

(Contracting Officer)

PART 18–50—ADMINISTRATIVE POLICIES AND PROCEDURES

123. Section 18–50.104 and 18–50.105 are revised to read as follows:

§ 18–50.104 Advance Information.

The procedures set forth below in this paragraph shall be followed by procurement offices in connection with procurements expected to exceed $10,000. (The information required is used primarily for the purpose of carrying out the policies described in Subpart 18–1.10, of this chapter.)

(a) A copy of each unclassified pre-invitation notice, invitation for bids (IFB), request for proposals (RFP), or request for quotations (RFQ), including specifications but not drawings, shall be forwarded to the Procurement Office, NASA Headquarters (Code KD–4) and the Defense Contract Administration Services Region, Los Angeles, 11099 South La Cienega Boulevard, Los Angeles, CA 90045 (Attn: DCRL–BS), at the time the notice is issued or bids, proposals or quotations are solicited. If the proposed procurement is classified, only a copy of the notice or solicitation of bids, proposals or quotations shall be forwarded to NASA Headquarters.

(b) The preinvitation notice will contain the information prescribed by § 18–2.205–4(c). Each copy of the IFB, RFP, or RFQ shall be accompanied by a statement of the estimated cost of the proposed procurement and a complete list of firms or persons solicited or invited to submit bids or proposals. This information is for internal NASA use only.

(c) Changes in, or amendments to, the original preinvitation notice, IFB, RFP, or RFQ will be distributed in the same manner as the original documents.

§ 18–50.105 Approval of contracts and supplemental agreements.

(a) *General.* All contractual documents, regardless of dollar value, require a complete review by the contracting officer, notwithstanding that further review and approval may be required.

(b) *Contracts and supplemental agreements.* Proposed contracts and supplemental agreements in the following categories shall be submitted to the Director of Procurement, NASA Headquarters (Code KDR) for approval:

(1) For utility services when an area-wide contract is not used and either (i) the annual cost of the services to be procured is estimated by the using installation, at the time of the initiation of the service or annual renewal of the expenditure, to exceed $50,000; or (ii) when, except for communication services, a proposed connection charge, termination liability, or any other facilities charge to be paid (whether or not refundable) is estimated to exceed $5,000.

(2) For architect-engineer services when:

(i) The total dollar value is $250,000, or

(ii) The work to be performed under a cost-plus-fixed-fee or fixed-price contract includes services of the type described in § 18–4.201(b) (2), (3), or (4), and the fee, inclusive of the architect-engineer's costs, to be paid to the architect-engineer for the performance of such services exceeds 6 percent of the estimated cost of the related construction project, exclusive of the amount of such fee.

(3) Providing facilities having a total acquisition value exceeding $250,000, or providing real property regardless of amount (see § 18.302(b)); and

(4) Each negotiated definitive contract or supplemental agreement, which by itself would equal or exceed the dollar value set forth in subdivision (iii) of this subparagraph for the installation making the award. This includes:

(i) A contract or supplemental agreement which contains an option provision, as authorized by Subpart 18–1.15, when the total dollar value, including the option(s), equals or exceeds the dollar value set forth in subdivision (iii) of this subparagraph below for the installation making the award.

(ii) A supplemental agreement (except one which provides only for the addition or deletion of funds for incremental funding purposes) which:

(*a*) Definitizes either one or more debit change orders or one or more credit change orders when the total dollar value of either the debit change order(s) or credit change order(s) equals or exceeds the dollar value set forth in subdivision (iii) of this subparagraph below for the installation making the award;

(*b*) Definitizes and consolidates one or more debit and one or more credit change orders when the total dollar value of either the debit change order(s) or the credit change order(s) before consolidation equals or exceeds the dollar value set forth in subdivision (iii) of this subparagraph below for the installation making the award, or

(*c*) Adds new work and definitizes and consolidates one or more debit and one or more credit change orders when the total dollar value of either the new work and debit change order(s), or either the new work or the credit change order(s) equals or exceeds the dollar value set forth in subdivision (iii) of this subparagraph below for the installation making the award.

(iii) (*a*) $500,000:

Flight Research Center.
Wallops Station.

(*b*) $1,000,000:

Headquarters Contracts Division.
Kennedy Space Center.
NASA Pasadena Office.

(*c*) $2,500,000:

Ames Research Center.
Goddard Space Flight Center.
Langley Research Center.
Lewis Research Center.
Manned Spacecraft Center.
Marshall Space Flight Center.
Space Nuclear Systems Office (Germantown).

(c) *Letter contracts.* All letter contracts require advance authorization for issuance by the Administrator or Deputy Administrator, NASA Headquarters. Requests for authority to issue letter contracts shall be processed in accordance with the procedures set forth in § 18–3.408.

(d) *Leases.* Leases, and extensions thereto, for the rental of real property by the Government where the annual rental is more than $25,000 or where a certificate of necessity under 40 U.S.C. 278b is required shall be submitted to the Director of Procurement for approval.

(e) *Approval provisions.* All negotiated definitive instruments which require the approval of the Director of Procurement, pursuant to this paragraph, shall contain the clause set forth in § 18–7.104–51.

124. Section 18–50.302–3 is revised to read as follows:

§ 18–50.302–3 Assigned contract or agreement prefixes.

Approved prefixes for NASA contract or agreement numbers are as follows:

Headquarters	*Prefix*
Headquarters Administration Office:	
All contracts, *except* those with universities	NASW
University contracts	NSR
Procurement Office (Basic Agreements)	NASP
Space Nuclear Systems Offices:	
SNSO, Germantown	SNS
SNSO, Cleveland Extension	SNSC
SNSO, Nevada Extension	SNSN
Field Installations and Offices	
Langley Research Center	NAS1
Ames Research Center	NAS2
Lewis Research Center	NAS3
Flight Research Center	NAS4
Goddard Space Flight Center	NAS5
Wallops Station	NAS6
NASA Pasadena Office	NAS7
George C. Marshall Space Flight Center	NAS8
Manned Spacecraft Center	NAS9
John F. Kennedy Space Center	NAS10

125. Section 18–50.303–2 is revised to read as follows:

§ 18–50.303–2 Assigned purchase order or request prefixes.

Approved letter prefixes for NASA purchase orders (including blanket purchase agreements) or requests to other Government agencies are as follows:

(a) *Headquarters.*	*Prefix*
Headquarters Administration Office	W
Space Nuclear Systems Office:	
SNSO, Germantown	SN
SNSO, Cleveland Extension	SNC
SNSO, Nevada Extension	SNN
(b) *Field installations and offices.*	
Ames Research Center	A
Flight Research Center	E
George C. Marshall Space Flight Center	H
Goddard Space Flight Center	S
John F. Kennedy Space Center	CC
Langley Research Center	L
Lewis Research Center	C
Manned Spacecraft Center	T
NASA Pasadena Office	WO
Wallops Station	P

PART 18–51—CONTRACT MANAGEMENT PROCEDURES

126. Subpart 18–51.3 is revised in its entirety as follows:

Subpart 18–51.3—Contract Management and Delegation of Contract Administration Services and Related Field Support Functions.

Sec.
18–51.300 Scope.
18–51.301 Definitions.
18–51.302 Policy.
18–51.303 General.
18–51.304 Implementation.
18–51.305 Contractor performance on NASA installation.
18–51.306 Contract administration by DOD personnel on a NASA installation.
18–51.307 Assignment of NASA personnel at contractor plants.
18–51.308 Delegations to contract administration offices.
18–51.309 Delegations to audit offices.
18–51.310 Reliability and quality assurance.
18–51.311 Production surveillance and reporting.
18–51.312 Transportation and packaging.
18–51.313 Industrial security.
18–51.314 Services not requiring letters of delegation.
18–51.315 Reimbursement for contract administration service.
18–51.316 Contract correspondence.
18–51.317 Visits to contractors plants.
18–51.318 Reporting requirements.
18–51.319 Functional management responsibility.[4]

AUTHORITY: This Subpart 18–51.3 issued under 42 U.S.C. 2473(b)(1).

Subpart 18–51.3—Contract Management and Delegation of Contract Administration Services and Related Field Support Functions

§ 18–51.300 Scope.

This subpart prescribes policies and procedures to be followed by NASA installations (including resident offices located in contractors' plants) in delegating and redelegating contract administration and audit functions to the Department of Defense (DOD), to other Government agencies, and to other NASA installations. The provisions of this subpart apply to both prime contracts and subcontracts, except for architect-engineer contracts and construction of facilities contracts.

§ 18–51.301 Definitions.

The terms used in this subpart have the meanings as set forth below.

(a) *Contract administration.* "Contract administration" is the process by which the Government, acting through a contracting officer, assures contractor and Government performance of contractual obligations.

(b) *Contract administration office.* A "contract administration office" is an office of NASA, the Defense Supply Agency, the military departments of DOD or of other Government agencies performing contract administration function on Government contracts. A contract administration office may also perform related services, such as preaward survey and price analyses.

(c) *Contract administration functions.* "Contract administration functions" are those actions accomplished by the Government at or near a contractor's plant, at test and launch sites or other prescribed places of contract performance, to assure that the contractor's total performance is in accordance with the contract requirements and that the obligations of the Government are fulfilled.

(d) *Delegation of contract administration functions.* "Delegation of contract administration functions" is the process whereby a contract administration office is given the authority and responsibility by a contracting officer within the authorized scope of his authority to perform identified function necessary to assure effective performance of specific contract requirements.

(e) *Redelegation of contract administration functions.* "Redelegation of contract administration functions" is the process whereby a contract administration office is given the authority and responsibility by another contract administration office to perform identified functions necessary to assure effective performance of the requirements of a specific contract or subcontract.

§ 18–51.302 Policy.

It is NASA policy to make optimum use of the contract administration and related support functions available from the DOD and other Government agencies. The contract administration functions that are available from DOD, and that will be accomplished by DOD for NASA when requested, are listed in §§ 18–51.304(c) and 18–51.304(d).

§ 18–51.303 General.

(a) NASA agreements with Government agencies which relate to the delegation and performance of contract administration and related field support functions are published in the 1050 series of the NASA Management Instructions.

(b) Contractors are responsible for managing their subcontracts; therefore, contract administration functions shall be performed by the Government for subcontracts only as necessary to meet specific NASA requirements. Delegations for contract administration at subcontractors' plants normally shall be made by or through contract administration offices that are responsible for the prime contractors. Where a direct delegation is made for performance of contract administration functions at a subcontractor's plant (such as for quality assurance), advance coordination with the contract administration office that is responsible for the prime contractor shall be accomplished and copies of the delegation shall subsequently be provided to that office.

(c) Delegations of contract administration functions to be performed at another NASA installation shall be in compliance with §§ 18–51.305 and 18–51.306.

(d) DOD contract administration and audit offices will accomplish the delegated functions in accordance with DOD regulations and procedures, except that the following shall take precedence over DOD regulations and procedures:

(1) NASA letters of delegation, including any special instructions attached thereto;

(2) Applicable requirements of NASA Quality Publication NHB 5300.4 "Quality Assurance Provisions for Government Agencies"; and

(3) Any special procedures contained in written agency agreements between NASA and DOD.

(e) NASA shall retain technical direction of all NASA contracts on which the DOD is performing contract administration services. NASA may also assign technical personnel (such as quality assurance, reliability, or engineering representatives) to contractors' plants or laboratories for the purpose of providing direct liaison with NASA, and technical assistance and guidance to the contractor and DOD. The duties and responsibilities of the technical representatives assigned shall be clearly defined and shall not conflict, duplicate or overlap functions delegated to DOD personnel. All DOD and contractor organizations shall be advised of duties and responsibilities of NASA technical personnel with whom they will be concerned. Where such NASA technical personnel are performing any of the contract administration functions listed in § 18–51.304(d), the provisions of § 18–51.307 apply.

§ 18–51.304 Implementation.

(a) The delegation of contract administration functions is optional for the contracts and situations listed below.

(1) Research and development study contracts not involving deliverable hardware or Government property in the hands of contractors;

(2) All contracts with delivery schedules of 90 days or less;

(3) Purchase orders having no Government source inspection requirements;

(4) Contract work performed on the installation awarding the contract; and

(5) Contract work performed in the vicinity of the installation awarding the contract and for which DOD contract administration services are not reasonably available.

(b) The functions listed below are the responsibility of the NASA contracting officer and shall not be delegated to DOD or to another Government agency.

(1) Execution of supplemental agreements involving new procurements, terminations, or spare parts;

(2) Issuance of decisions subject to the provisions of the "Disputes" clause;

(3) Termination for default or for convenience of the Government;

(4) Issuance of change orders under the contract;

(5) Countersigning NASA Form 456, "Notice of Contract Costs Suspended and/or Disapproved";

(6) Approval of the completion voucher; and

(7) Contract payment.

(c) The functions listed below may be delegated to DOD or to another Government agency at the option of the NASA contracting officer. When delegation of the functions or any part of the functions listed below is desired, the work requested of DOD or of another Government agency shall be set forth in written special instructions accompanying the letter of delegation:

(1) Negotiate supplemental agreements resulting from change orders issued under the "Changes" clause and forward for the signature of the NASA Contracting Officer. (Prior to completion of negotiations, any delivery schedule change shall be approved by the NASA contracting officer);

(2) Negotiate prices and execute priced exhibits for unpriced orders issued by the NASA contracting officer under basic ordering agreements;

(3) Negotiate settlement agreements involving partial and complete contract terminations for convenience, upon request of the NASA contracting officer, and forward for the signature of the NASA contracting officer;

(4) Negotiate supplemental agreements for spare parts and other items selected through provisioning procedures, and forward for the signature of the NASA contracting officer;

(5) Issue work request under maintenance, overhaul and modification contracts insofar as such work requests do not constitute obligation of funds which are not available under the contract;

(6) In connection with classified contracts, administer those portions of the Industrial Security Program designated as administrative contracting officer responsibilities in Appendix C, Industrial Security Regulation, DOD 5220.22R;

(7) Assure compliance with the "New Technology" clause of the contracts;

(8) Consent to placement of subcontracts;

(9) Perform transportation and packaging functions;

(10) Perform reliability and quality assurance functions including reliability and quality assurance engineering functions;

(11) Perform systems support engineering functions (as differentiated from production and reliability, and quality assurance engineering); and

(12) Maintain surveillance of aircraft flight operations.

(d) Expect where approved by the Procurement Officer in accordance with paragraph (e) of this section, when a delegation is made to DOD or to another Government agency, the NASA contracting officer shall delegate all of the functions set forth below, even though one or more of the functions may not be applicable to the performance of the contract:

(1) Review of contractor's compensation structure;

(2) Review of contractor's insurance plans;

(3) Review and approve or disapprove contractor's requests for payments under the progress payments clause;

(4) Negotiate provisional overhead rates, or determine billing rates. Negotiate final overhead rates when the contract contains a negotiated overhead rate clause and when the contractor is not under the negotiation overhead rate procedure pursuant to § 18–3.705.

(5) Negotiate advance understandings on particular cost items for the signature of the NASA contracting officer, except when responsibility is placed elsewhere;

(6) Review and evaluate contractor's proposals for contract changes and furnish comments and recommendations to the NASA contracting officer. Negotiate with the contractor when requested by the NASA contracting officer;

(7) Manage special bank accounts;

(8) Assure timely notification by the contractor of any anticipated overrun or underrun of the estimated cost under cost-type contracts;

(9) Review, approve or disapprove, and maintain surveillance of the contractor's procurement system when consent to the placement of subcontracts has been delegated;

(10) Monitor contractor's financial condition and advise the NASA contracting officer when contract performance is jeopardized thereby;

(11) Issue tax exemption certificates when applicable, and assure that the contractor advises NASA of changes in contract price, if any;

(12) Assist in the conduct of postaward orientation conferences;

(13) Prepare findings of fact under the "Disputes" clause and forward with recommendations to the NASA contracting officer;

(14) Assure processing of duty-free entry certificates for execution by the NASA contracting officer;

(15) Assure contractor compliance with small business and labor surplus area subcontracting and set-aside requirements, and provide advice on small business and labor surplus area matters as required;

(16) Issue cure and show cause letters after approval of the NASA contracting officer;

(17) Monitor the contractor's system for control of overtime;

(18) Assure that overtime compensation is in accordance with the terms of the contract, or in the absence of contractual coverage, any expected overtime charged is reasonable and properly allocable;

(19) Perform property administration;

(20) Perform plant clearance officer functions, assuring screening of contractor inventory by NASA prior to additional screening, redistribution and disposal;

(21) Evaluate contractor's requests for facilities and changes to existing facilities, and provide the NASA contracting officer with appropriate recommendations;

(22) Assure required screening of facility items before acquisition by contractor;

(23) Evaluate contractor's request for approval to use facilities in accordance with the "Use and Charges" clause and provide the NASA contracting officer with appropriate recommendations;

(24) Assure collection of any rental due for use of facilities;

(25) Assure reporting of NASA facilities no longer needed by the contractor;

(26) Perform production support and surveillance (including production engineering), and status reporting of potential and actual slippages in contract schedules;

(27) Monitor compliance with labor and industrial relations matters under the contract, apprising the NASA contracting officer of actual or potential labor disputes, and remove material from strikebound contractors' plants upon instructions from the NASA contracting officer;

(28) Assure contractor compliance with applicable safety requirements of the contract, including the handling of hazardous and dangerous materials and processes;

(29) Make appropriate comments to the NASA contracting officer on any inadequacies noted in specifications; and

(30) Assure timely submission of required reports.

(e) When the performance of any of the functions in paragraph (d) of this section is necessary to the administration of a contract and that function is retained for administration or modified by the NASA contracting officer, the NASA contracting officer shall: (1) justify, in writing, the retention or modification of that function, (2) obtain written approval of the justification from the Procurement Officer of the installation making the delegation, or from his designee, and (3) assure that the approved justification becomes a permanent part of the contract file. The NASA contracting officer shall then advise the contract administration office of the retention or modification of the function by means of written special instructions on NASA Form 1430A (see § 18-16.868) accompanying the letter of delegation. No notice of the retention of a function shall be issued to the contract administration office for any function listed in paragraph (d) of this section that is not necessary to the administration of the contract. The provisions of this paragraph do not apply to contracts and situations described in §§ 18-51.304(a), 18-51.305 and 18-51.306.

(f) NASA contracting officers shall request contract administration, audit or other services from other NASA installations and cognizant DOD offices through the use of the NASA Forms set forth in § 18-16.868.

(g) NASA Form 1430 shall be used by NASA installations for the delegation and redelegation of contract administration functions and for amending existing delegations. NASA Form 1430A, "Letter of Contract Administration Delegation, Special Instructions," shall be used to supplement NASA Form 1430 under any or all of the following circumstances:

(1) To delegate functions other than those listed in paragraph (d) of this section;

(2) To modify functions listed in paragraph (d) of this section;

(3) To retain the administration of functions listed in paragraph (d) of this section;

(4) To provide additional or peculiar information concerning the contract that may assist the contract administration office to more effectively perform the delegated contract administration responsibilities (except see paragraph (h) of this section).

Prior to making a delegation which involves additional or modified functions, the NASA contracting officer shall assure that sufficient resources to perform such functions are available at the contract administration office receiving the delegation.

(h) Letters of delegation and special instructions shall not be used in lieu of, or to repeat, provisions and requirements that are or should be contained in the contract, and shall not:

(1) Repeat the functions covered in paragraph (d) of this section;

(2) Repeat or cite administrative procedures, restrictions on administrative contracting officers, or other information covered in DOD issuances (when known);

(3) Include references to NASA issuances, unless specific written NASA/DOD agreements exist which include references to such issuances, or unless the NASA issuances are a requirement of the contract.

Where it is appropriate to cite DOD issuances in a letter of delegation, the NASA contracting officer shall assure that the issuances are applicable to the contract administration office concerned (i.e., that Air Force issuances are not cited in delegations made to Navy or DCAS contract administration offices).

§ 18-51.305 Contractor performance on a NASA installation.

When a NASA contract requires contractor performance on another NASA installation or NASA-controlled launch site, a delegation shall be made to the procurement office of the NASA installation on which performance will take place. Normally, delegations shall include the functions listed in § 18-51.304(d), and shall include the contracting officer security functions (when required in the performance of the contract on the installation or site), and the administration of any NASA support to be provided to the contractor. Retention by the delegating contracting officer of any of the functions listed in § 18-51.304(d) is authorized, provided the functions retained are made known to the contracting officer receiving the delegation.

§ 18-51.306 Contract administration by DOD personnel on a NASA installation.

When it is contemplated that the presence of DOD personnel will be required on a NASA installation for the purposes of performing contract administration functions, the NASA contracting officer of the NASA installation on which contract performance will take place shall obtain prior approval for the use of such personnel from the Head of his Installation and shall obtain the concurrence of the Director of Procurement,

NASA Headquarters (Code KDP-3). Such approvals will normally be governed by the following criteria:

(a) The delegation of any functional area (i.e., production, property administration, quality assurance, etc.) shall include all of the administrative responsibilities pertaining to that functional area that are listed in § 18-51.304(d), that the DOD contract administration office is capable of performing; and

(b) The functions so delegated are to be accomplished under the direction of the contract administration office to which the delegation will be made.

§ 18-51.307 Assignment of NASA personnel at contractor plants.

(a) NASA personnel normally shall not be assigned at or near a contractor's facility for the purpose of performing any contract administration functions listed in § 18-51.304(d). Prior to making such an assignment, a written request shall be forwarded to the cognizant Institutional Director for his approval and the concurrence of the Director of Procurement. The following supporting information shall be forwarded with the request to make the assignment:

(1) A statement of the special circumstances which necessitate the assignment;

(2) The contract administration services to be performed;

(3) A summary of any discussions held with the cognizant contract administration organization; and

(4) A staffing plan for a 3-year period or such shorter period as may be appropriate.

The provisions of this paragraph do not apply to NASA audit personnel assigned to the field installations, to NASA technical personnel covered by § 18-51.303(e), unless they are performing any of the contract administration functions listed in § 18-51.304(d), or to personnel assigned to contractors' plants that are located on either NASA or other Government agency installations.

(b) Personnel assignments made at or near a contractor's facility for the purpose of performing the contract administration functions listed in § 18-51.304(d) shall be reviewed annually by the cognizant NASA installation, and a justification for the proposed continuance of such assignments shall be furnished to the Director of Procurement and the appropriate Institutional Director by October 1 of each year, except that annual justification is not required for those offices located on NASA or other Government agency installations.

(c) When a NASA resident office and a DOD contract administration office are performing contract administration functions on NASA contracts at the same contractor's facility, a written agreement between the two offices shall be entered into which will clearly delineate the interface of the two organizations with each other and with the contractor. The agreement should eliminate duplication in the performance of contract administration functions, and should minimize procedural misunderstandings between the two organizations. Such agreements shall be consistent with existing delegations to the contract administration offices concerned, and shall include the relationship of NASA nonprocurement resident personnel with their DOD and contractor counterparts when such personnel are, or intend to be, involved in any aspect of contract administration such as surveillance of the safety requirements of the contract, contractor use of NASA facilities, or contractor schedule performance.

§ 18-51.308 Delegations to contract administration offices.

The procedures set forth below shall apply when delegations to contract administration offices are contemplated and subsequently accomplished. (For delegations to audit offices, see § 18-51.309.)

(a) NASA contracting officers shall review contract performance requirements as early as possible in the procurement cycle to determine the nature and extent of contract administration functions to be performed. This review shall be coordinated with appropriate installation activities, including program managers, to insure that all essential requirements are incorporated in the delegation. A similar review shall be made prior to the issuance of amendments to letters of delegation pursuant to paragraph (e) of this section.

(b) A planning conference shall be held with representatives of the contract administration office, when any of the following circumstances exist:

(1) A contract is expected to exceed $5 million;

(2) When contract performance is required at or near another NASA installation or NASA-controlled launchsite;

(3) When it is evident that the delegation will impose an abnormal demand on the resources of the contract administration office receiving the delegation;

(4) When the circumstances indicate that complex contract management problems are anticipated; or

(5) At any other time the NASA contracting officer considers such a conference advisable.

(c) Letters of delegation shall be prepared and issued as soon as practicable, but not later than 15 days after award of the contract.

(d) Delegations and amendments thereto should be accompanied by documentation and supporting information which will ensure a complete understanding of the contract administration services to be performed. Contract administration offices shall be kept fully informed of all actions which may affect the performance of the delegated functions. Copies of all significant documents should be furnished to the contract administration office throughout the period of performance of the contract. Significant documents include but are not limited to:

(1) All contractual documents such as the contract, specifications and drawings, change orders, supplemental agreements, and contractor proposals when referenced in the contract;

(2) Negotiation memoranda covering negotiations of contracts or contract changes in excess of $100,000;

(3) Copies of any delegation and amendments thereto sent to other contract administration offices which have a bearing on the contract, including those issued pursuant to § 18-51.303(b); and

(4) Any other correspondence affecting contract performance under the contract.

(e) Amendments to letters of delegation shall be issued when amendments to the contract are of a nature that will change the scope of functions previously delegated, when additional functions are required to be delegated, or when previously delegated functions are to be terminated in whole or part. However, when a contract administration office has retired the original letter of delegation with the records of a physically completed but administratively open contract, a new letter of delegation shall be issued to support any additional reimbursable services required under the delegation. In order to minimize the need for a duplicate delegation to be issued at a later date on a contract that is nearing closeout, the NASA contracting officer shall advise the contract administration office to hold the contract in open status, when conditions exist or are anticipated, that justify extension of the contract period of performance. Appropriate NASA Forms listed in § 18-16.868 shall be used in the amendment process. The forms shall be clearly annotated as an amendment to the original delegation.

(f) NASA Form 1431, "Letter of Acceptance of Contract Administration Delegation," shall be forwarded with each NASA form 1430 and amendment thereto. The form, when returned, shall be used by the NASA contracting officer as evidence that the delegation has been received and accepted by the contract administration office, and as a reference for points of contact for each of the functional areas delegated.

(g) Delegations shall be sent to DOD contract administration offices in accordance with the instructions contained in the DOD Directory of Contract Administration Services Components (DOD 4105.59H).

(h) The distribution of copies of the contract and letters of delegation for contract administration (including amendments thereto) shall be as follows:

(1) Contract Administration Office when two or more functional areas are delegated: six copies of the contract; six NASA forms 1430; six NASA forms 1430A (when applicable); three NASA forms 1431.

(2) Contract Administration Office when a single functional area is delegated: two copies of the contract; two NASA Forms 1430; two NASA Forms 1430A (when applicable); three NASA Forms 1431.

(3) Contractor: one NASA form 1430; one NASA Form 1430A (when applicable).

§ 18–51.309 Delegations to audit offices.

The procedures set forth in this section and in § 18–51.308(a) shall apply when delegations are made to audit offices.

(a) NASA installations shall utilize the services of other Government audit organizations for performance of contract cost audit and other audit functions except in those instances where audit is to be performed by NASA auditors. The Defense Contract Audit Agency (DCAA) has been designated as the DOD agency responsible for the performance of audit functions for all NASA contracts, except those awarded to educational institutions for which other agencies have audit cognizance pursuant to Bureau of the Budget Circular Number A–88 and those accomplished by NASA. To ensure that audit services are performed expeditiously, audit delegations shall be sent to the appropriate audit office immediately after execution of all cost-reimbursement, labor-hour, time and material type contracts, and fixed-price contracts containing cost-reimbursement or price adjustment provisions. Audit functions include but are not limited to the contract cost and pricing auditing, estimating systems surveys, review of accounting systems, and approval of vouchers for provisional payment.

(b) Delegations shall be sent to cognizant audit offices as listed in the Defense Contract Audit Agency Directory, Headquarters and Field Offices, or in other Government agency directories, as appropriate.

(c) NASA Form 1433, "Letter of Audit Delegation," shall be used to delegate the audit function and to amend previous delegations when necessary. The distribution of copies of the contract and NASA Form 1433 shall be as follows:

(1) Audit Office: one copy of the contract; three NASA Forms 1433.

(2) Cognizant NASA Regional Audit Office: one NASA Form 1433.

(3) Contractor: one NSA Form 1433.

(4) Cognizant NASA Fiscal or Financial Management Office: one NASA Form 1433.

(d) NASA contracting officers may request assistance from NASA audit representatives when required. Special audits or additional audit functions may be requested by the NASA audit representative. Arrangements for such audits are the responsibility of the NASA audit representative, unless processed through the NASA contracting officer. NASA contracting officers shall provide the cognizant auditor with negotiation memoranda and information on all other actions which have an affect on cost or which may otherwise influence the effective accomplishment of the audit responsibility.

§ 18–51.310 Reliability and quality assurance.

When special instructions for reliability or quality assurance are necessary, the requirements shall be clearly identified by the NASA installation personnel responsible for the reliability and quality assurance function and shall be furnished to the contracting officer on NASA Form 1430A, "Letter of Contract Administration Delegation, Special Instructions," for inclusion in the letter of delegation. The procedures for arranging, preparing, and finalizing such delegations and the requirements for NASA direction and management of these functions are contained in NHB 5330.7, "Management of Government Quality Assurance Functions for Supplier Operations."

§ 18–51.311 Production surveillance and reporting.

(a) *Production surveillance.* To assist the DOD contract administration office in accomplishing the production surveillance function when delegated, NASA contracting officers shall specify the degree of surveillance desired in accordance with the criteria set forth below. The surveillance category number selected shall be inserted in the space provided on NASA Form 1430. This paragraph does not apply to delegations made to Government agencies other than DOD, nor to delegations made to other NASA installations.

Surveillance category No.	*Criteria*
1	Surveillance at a technical level sufficient to provide continuous knowledge of problems which may cause a delinquency.
2	Verification and inquiry by technical or clerical personnel, at least monthly, sufficient to detect a delinquency in advance of scheduled delivery or completion date.
3	Verification and inquiry as necessary to detect a delinquency, but in no event less than once in advance of the scheduled delivery or completion date.
4	Verification and inquiry limited to fact finding, at a technical or clerical level, after a failure to meet the contract delivery or performance schedule has occurred.

(b) *Production progress reporting.* When a NASA contracting officer determines that a need exists for a contractor to initiate production progress reports, the requirement shall be set forth in the contract schedule. If it is desired that a contract administration office initiate production progress reports, the requirement shall be set forth in the special instructions to the letter of delegation, NASA form 1430A. Nonrecurring reports, such as advice of shipment and status of delivery, may be requested as required, and by any means of communication commensurate with the urgency of the situation.

§ 18–51.312 Transportation and packaging.

(a) Transportation and packaging functions may be delegated at the option of the NASA installation personnel responsible for the transportation and packaging function. When such delegations are contemplated on a particular contract, special instructions will be furnished to the NASA contracting officer on NASA form 1430A. The form shall also specify the limit of the value of Government bills-of-lading that may be issued without further consent of the NASA contracting officer and shall provide appropriate funding information.

§ 18–51.313 Industrial security.

NASA industrial security policies and procedures are set forth in NASA Management Instruction 1650.1, "Industrial Security Policy and Procedures" which stipulates that the industrial security function on NASA contracts will be performed automatically by DOD. The basis for DOD performance of this function is the NASA–DOD Agreement, NASA Management Instruction 1052.12A. Non-industrial security functions, which are the responsibility of the NASA contracting officer, may be delegated to DOD at the option of the NASA contracting officer, and shall be delegated when contract performance is to be accomplished at another NASA installation (see § 18–51.305). These contracting officer security functions, when delegated to DOD or to another NASA installation, shall be specifically identified on NASA Form 1430A, "Letter of Contract Administration Delegation, Special Instructions."

§ 18–51.314 Services not requiring letters of delegation.

(a) When it is desired that a contract administration or audit office perform services which precede the award of a contract such as cost, price, or technical evaluations (but exclusive of preaward surveys), NASA Form 1434, "Letter of Request for Pricing-Audit-Technical Evaluation Services," shall be used. Preaward surveys shall be requested on DD Form 1524, "Preaward Survey of Prospective Contractors" (see § 18–1.905). Oral requests made to contract administration offices to expedite these services are authorized but shall be confirmed in writing immediately through the use of NASA form 1434 or DD form 1524 as appropriate.

(b) Preaward and post award services such as verification of labor and overhead rates, and similar information which is readily available within contract administration and audit offices and which is not normally subject to reimbursement by NASA, may be obtained either orally without written confirmation or through the use of NASA form 1434, as appropriate.

§ 18–51.315 Reimbursement for contract administration service.

The basis for reimbursement to DOD for contract administration and related support services is the NASA–DOD agreement, NASA Management Instruction 1052.12A. Budgeting, funding, and payment for these services will be accomplished in accordance with NASA Management Instruction 7410.1, "Budgeting, Funding and Payment for Contract Administration and Related Field Services Performed by Others." Budgeting, funding, and payment of carrier bills of lading for transportation performed as a result of a traffic management delegation are the responsibility of the NASA installation issuing the delegation.

§ 18–51.316 Contract correspondence.

Generally correspondence to a contractor relating to contract administration functions which have been delegated under a contract should be forwarded through the cognizant contract administration or audit office. When correspondence is forwarded directly to the contractor, a copy shall be furnished concurrently to the appropriate contract administration or audit office. All contract correspondence shall identify the contractor and the contract number to which the correspondence applies.

§ 18–51.317 Visits to contractors' plants.

Prior to visits by NASA personnel to a contractor's facility to discuss or review matters previously delegated to DOD, the DOD contract administration office shall be provided the following information:

(a) Name, official position, and activity represented by the visitor;

(b) Date of intended visit;

(c) Name and address of contractor and personnel to be contacted;

(d) Contract number, the program involved, the purpose of the visit, and whether or not access to classified information is involved;

(e) Security clearance; and

(f) If desired, a request that a representative of the contract administration office accompany the visitor.

§ 18–51.318 Reporting requirements.

(a) NASA installations semiannually shall assess their delegation activity in relation to DOD, to determine changes in delegation patterns that could result in significant increases or decreases in future DOD manpower requirements, or that could have other important impacts on DOD contract administration activities. Events such as major program cutbacks or expansions, changes in locations of major programs, and sizeable new procurements should be considered in the assessment. The results of these semiannual surveys, whether or not a significant change in the delegation pattern is detected or anticipated, shall be submitted to the Procurement Office, NASA Headquarters (Code KDP–3) not later than February 1 and August 1 of each year.

(b) When a significant change in a delegation pattern as described in paragraph (a) of this section is detected or anticipated, the results of the semiannual survey shall include at least the following:

(1) A description of the change in work requirements or delegation pattern;

(2) An estimate of the period of time that the impact will be felt; and

(3) An estimate of the magnitude of the impact on DOD in terms of changes in manpower requirements or other costs.

The anticipated impact on the DOD shall be discussed with the DOD contract administration offices concerned and the results of these discussions, such as DOD agreement or disagreement with the estimated impact, shall be included in the report.

§ 18–51.319 Functional management responsibility.

NASA contracting officers shall retain functional management responsibility for their contracts. Utilization of the contract administration services of another Government agency or NASA installation in no way relieves the NASA contracting officer of his ultimate responsibility for the proper and effective management of the contract. Therefore, the NASA contracting officer must ensure that complete understanding has been achieved with the contract administration office as to the respective duties and responsibilities of each office in connection with each NASA contract. NASA contracting officers shall also keep themselves fully informed on contractor performance and progress by the establishment and maintenance of effective communications with contract administration offices.

PART 18–52—PRIORITIES AND ALLOCATIONS

127. Section 18–52.502 is revised to read as follows:

§ 18–52.502 Reporting responsibility.

(a) *Scope of report.* Field installations shall submit periodic estimates of requirements for materials listed in § 18–52.508 for all programs under their cognizance, including in-house and contractor requirements. Headquarters Program Offices shall submit periodic estimates of requirements for any existing or potential programs which may not be known to, or not under the cognizance of, a field installation. Reports shall be submitted in duplicate on NASA Form 558, Materials Requirements Report.

(b) *Report due dates—NASA Headquarters.* (1) The reports required by § 18–52.502 shall be forwarded so as to reach the Procurement Office, NASA Headquarters (Code KDP–3) no later than June 1 and December 1. Supplemental reports which advise of additions to or significant changes in previous reports shall be submitted at any time.

(2) The reports, covering all materials listed in § 18–52.508 due in June and December shall begin with requirements as of the following July 1 and January 1, respectively, and shall cover a 3-year period. Requirements shall be shown by month for the first 6 months, and by quarters for the remaining two and one-half year period.

(c) *Report due dates—Air Force.* (1) The reports required by § 18–52.502 shall be forwarded so as to reach Headquarters San Antonio Air Materiel Area, Kelly Air Force Base, Tex., Attention: SAOS, no later than February 28, June 1, August 28, and December 1. Supplemental reports which advise of additions to or significant changes in previous reports shall be submitted at any time.

(2) The reports covering all materials (listed in § 18–52.508) which are obtained pursuant to § 18–5.701 that are due in June and December shall begin with requirements as of the following July 1 and January 1 respectively, and shall cover a 3-year period. Requirements shall be shown by month for the first 6 months, and by quarters for the remaining two and one-half year period.

(3) The reports due in February and August shall begin with the following April 1 and October 1, respectively and cover a 6-months period by month. These reports shall be limited to requirements for liquid oxygen, liquid nitrogen, hydrazine, UDMH, MMH, UDMH/hydrazine mix, and nitrogen tetroxide that are obtained pursuant to § 18–5.701.

128. Appendix I, Subpart 3 is revised in its entirety as follows:

SUBPART 3—PREPARATION OF THE DD FORM 250 AND DD FORM 250c

I.301 Preparation Instructions. DD Form 250 (MIRR) and DD Form 250c (Continuation Sheet) shall be prepared as follows:

(a) General.

(i) The date, where required, shall utilize seven spaces consisting of the last two digits of the year, three alphabtic month abbreviation, and two digits for the day. For example, 67 AUG 07, 67 SEP 24;

(ii) The address, where required, shall consist of the name, street address/P.O. Box, city, state and ZIP code;

(iii) When the DD Form 250c is used, the data entered in the blocks at the top of the form shall be identical to the comparable entries as shown in Blocks 1, 2, 3 and 6 of the DD Form 250;

(iv) Overflow data of the DD Form 250 shall be entered in Block 16 or in the body of the DD Form 250c with appropriate block cross reference. Additional DD Form 250c sheets, solely for continuation of Block 23 data, shall not be numbered or distributed as part of the MIRR.

(b) *Classified information.* Classified information shall not be included in or appear on the MIRR, nor shall the MIRR be classified.

Block 1—Contract number.

(a) Enter the contract number as contained in the contractual document, including the applicable call/order number if any.

(b) Enter the name of the procurement office immediately below the contract number. This requirement may be satisfied by inclusion of the approved prefix used in the contract number to identify the procurement office.

Block 2—Shipment no.

(a) The shipment number is composed of a three alpha character prefix and a four numeric or alpha-numeric serial number.

(1) The shipment number prefix shall be controlled and assigned by the prime contractor and shall consist of three alphabetic characters for each "Shipped From" address (Block 11).

(2) The first shipment under a prime contract from each "Shipped From" address shall be numbered 0001; all subsequent shipments under that prime contract shall be consecutively numbered.

a. Alpha-numeric serial numbers shall be used when more than 9,999 numbers are required. Alpha-numeric numbers shall be serially assigned with the alpha in the first

position followed by the three position numeric serial number. The following alphanumeric sequence shall be used (the letters I and O shall not be used):

A001 through A999 (10,001 through 10,999), B001 through B999 (11,001 through 11,999) through Z001 through Z999 (34,001 through 34,999).

b. When this series is completely used, numbering shall revert to 0001.

(b) The shipment number of the initial shipment shall be reassigned where a "Replacement Shipment" is involved (Block 16 (b) (4)).

(c) The prime contractor shall control deliveries and on the last shipment of the contract shall suffix the shipment number with a "Z" in addition to that required for line items (see Block 17). Where the contract final shipment is from other than the prime contractor's plant, the prime contractor may elect either to direct the subcontractor to suffix the "Z", or, on receipt of the subcontractor final shipment information, to correct the DD Form 250 (see I.305) covering the last shipment from the prime contractor's plant by addition of a "Z" to that shipment number.

Block 3—Date shipped. Enter the date the shipment is released to the carrier or the date of completion of services. If the shipment will be released after the date of PQA and/or Acceptance, enter the estimated date of release. When the date is estimated, enter an "E" after the date. Distribution of the MIRR shall not be delayed for entry of the actual shipping date. Reissuance of the MIRR is not required to show the actual shipping date.

Block 4—B/L TCN. When applicable enter:

(a) The commercial or Government bill of lading number after "B/L"; and

(b) The Transportation Control Number after "TCN".

Block 5—Discount terms. The discount, in terms of percentages and corresponding days allowed, shall be entered as described below:

(a) The contractor may, as his option, enter the discount terms on all copies of the MIRR.

(b) When the MIRR is used as an invoice, see I.306.

Block 6—Invoice No./Date. Enter the invoice number and date as described below:

(a) The contractor may, at his option, enter the invoice number and date on all copies of the MIRR.

(b) When the MIRR is used as an invoice, see I.306.

Block 7—Page/of. Consecutively number the pages comprising the MIRR. On each page enter the total number of pages of the MIRR.

Block 8—Acceptance point. Enter an "S" for Origin or "D" for Destination as specified in the contract as the point of acceptance. Enter an alphabetic "O" for Other if the point of acceptance is not specified in the contract.

Block 9—Prime contractor. Enter the address.

Block 10—Administered by. Enter the address of the Procurement Office cited in the contract.

Block 11—Shipped from//f.o.b.

(a) Enter the code and address of the "Shipped From" location. If identical to Block 9, enter "See Block 9."

(b) Enter on the same line and to the right of "FOB" and "S" for Origin or "D" for Destination as specified in the contract. Enter an alphabetic "O" if the "FOB" point cited in the contract is other than origin or destination.

Block 12—Payment will be made by. Enter the address of the payment office cited in the contract.

Block 13—Shipped to. Enter the address of the consignee as contained in the contract or shipping instructions.

Block 14—Marked for. Enter the "Marked For" address and/or other designation as contained in the contract or shipping instructions.

Block 15—Item number. Enter the contrast line item, subline line, exhibit line or exhibit subline identification as set forth in the contract. If four or less digits are used, they will be positioned to the left of the vertical dashed line. Where a six-digit identification is used, enter the last two digits to the right of the vertical dashed line.

Block 16—Stock/part number/description.

(a) Enter, as applicable, for each line item, using single spacing between each line item:

(1) The Federal Stock Number (FSN) or noncatalog number and, if applicable, prefix or suffix; when a number is not provided or it is necessary to supplement the number, include other identification, e.g., manufacturer's name or Federal Supply Code, as published in Cataloging Handbook H4–1, and part number; additional part numbers may be shown in parentheses; the descriptive noun of the item nomenclature and, if provided, the Government assigned management/material control code.

The following technique may be used in the case of equal kind supply items: the first entry shall be the description without regard to kind. For example: "Resistor," "Vacuum Tube," etc. Below this description, enter the contract line item number in Block 15 and stock/part number followed by the size or type in Block 16.

(2) On the next printing line if required by the contract for control purposes enter: the make, model, serial number, lot, batch, hazard indicator and/or similar description.

(3) On the next printing line; the FEDSTRIP requisition number(s) when provided in the contract or shipping instructions.

(b) In addition to entries required above, enter on the next line the following as appropriate. Where applicable to all line item numbers identified in the MIRR, enter such data only once after the last line item entry. Entries may be extended through Block 20.

(1) Enter in capital letters any special handling instructions/limits for material environmental control, e.g., temperature, humidity, aging, freezing, shock, etc.

(2) When a FSN is required by but not cited in a contract and has not been furnished by the Government, shipment may be made without such FSN at the direction of the contracting officer. Enter the authority for such shipment.

(3) When Government furnished property (GFP) is included with or incorporated into the line item, enter the letters "GFP".

(4) When shipment consists of replacements for supplies previously furnished, enter in capital letters "Replacement Shipment." (See I.301, Block 17 for replacement indicators.)

(5) For items shipped with missing components, enter and complete the following: "Item(s) shipped short of the following component(s): FSN or comparable Identification ------, Quantity ------, Estimated Value ------, Authority -------."

(6) When shipment is made of components which were short on a prior shipment, enter and complete the following: "These components were listed as shortages on shipment number ------, date shipped -------."

(7) When shipments involve drums, cylinders, reels, containers, skids, etc., designated as returnable under contract provisions, enter and complete the following: "Return to ----------, Quantity ------, Item ------, Ownership (Government/contractor)."

(8) Enter shipping container number(s), the type, and the total number of the shipping container(s) included in the shipment.

(9) The MIRR shall be used to record and report the waivers and deviations from contract specifications, including the source and authority for the waiver or deviation. For example, the procuring installation authorizing the waiver or deviation and the identification of the authorizing document.

(10) For shipments involving discount terms, enter "Discount expedite" in at least 1-inch outline type style letters.

(11) When test/evaluation results are a condition of acceptance and are not available prior to shipment, the following note shall be entered if the shipment is approved by the contracting officer: "NOTE: Acceptance and payment are contingent upon receipt of approved test/evaluation results". The contracting officer shall advise (a) the consignee of the results (approval/disapproval) and (b) the contractor to withhold invoicing pending attachment to his invoice of the approved test/evaluation results.

(12) The copy of the DD Form 250 required to support payment for destination acceptance (top copy of the four with shipment) or ARP origin acceptance (additional copy furnished to the QAR) shall be identified as follows: enter "Payment Copy" in approximately 1½-inch outline type style letters with "Forward To Block 12 Address" in approximately 1¼-inch letters immediately below. Do not obliterate any other entries.

(13) A double line shall be drawn completely across the form following the last entry.

Block 17—Quantity shipped/received.

(a) Enter the quantity shipped, using the unit of measure indicated in the contract for payment. When a second unit of measure is used for purposes other than payment, enter the appropriate quantity directly below in parentheses.

(b) Enter a "Z" below the first digit of the quantity when:

(1) the total quantity of the line item is delivered, including variations within contract terms.

(2) all shortages on items previously shipped short are delivered.

(c) If a replacement shipment is involved, enter below the first digit of the quantity, the letter "A" to designate first replacement, "B" for second replacement, etc. The final shipment indicator "Z" shall not be used when a final line item shipment is replaced.

Block 18—Unit. Enter the abbreviation of the unit of measure as indicated in the contract for payment. Where a second unit of measure is indicated in the contract for purposes other than payment or used for shipping purposes, enter the second unit of measure directly below in parenthesis. Authorized abbreviations are listed in MIL–STD–129 (Marketing and Storage). For example: LB for pound; SH for sheet.

Block 19—Unit price. The contractor may, at his option, enter unit prices on all MIRR copies when the MIRR is used as an invoice.

Block 20—Amount. Enter the extended amount when the unit price is entered in Block 19.

Block 21—Procurement quality assurance. The words "conform to contract" contained in the printed statements in Blocks A and B relate to contract obligations pertaining to quality, and to the quantity of the items on the report. The statements shall not be modified. Notes taking exception shall be entered in Block 16 or on attached supporting documents with appropriate block cross reference.

"A. Origin."

(1) The authorized Government representative shall:

a. Place an "X" when applicable in the appropriate PQA and/or Acceptance box(es) to evidence origin Procurement Quality Assurance and/or Acceptance. When the contract requires PQA at destination in addition to origin PQA, an asterisk will be entered at the end of the statement and an explanatory note entered in Block 16;

b. Enter the date of signature;

c. Sign; and

d. Enter the typed, stamped, or printed name of the signer and office code.

"B. Destination."

(1) When acceptance at origin is indicated in Block 21A, no entries shall be made in Block 21B.

(2) When PQA and Acceptance or Acceptance is at destination, the authorized Government representative shall:

(a) Place an "X" in the appropriate box(es);

(b) Enter the date of signature;

(c) Sign; and

(d) Enter typed, stamped, or printed name and title.

Block 22—Receiver's use. This block shall be used by the receiving activity (Government or contractor) to denote receipt, quantity and condition. The receiving activity shall enter in this block the date the supplies arrived. For example, when off-loading or inchecking occurs subsequent to the day of arrival of the carrier at the installation, the date of the carrier's arrival is the date received for purposes of this block.

Block 23—Contractor use only. This block is provided and reserved for Contractor use.

I.302 [*Reserved*]

I.303 *Consolidated Shipments.* When individual shipments are held at the contractor's plant for authorized transportation consolidation to a single destination on a single bill of lading, the applicable DD Forms 250 may be prepared at the time of Procurement Quality Assurance or Acceptance prior to the time of actual shipment. (See Block 3.)

I.304 [*Reserved*]

I.305 *Correction Instructions.* When, because of errors or omissions, it is necessary to correct the MIRR after distribution has been made, a revised MIRR shall be effected by correcting the original master and distributing the corrected form. The corrections shall be made as follows:

(i) Circle the error and place the corrected information in the same block; if space is limited, enter the corrected information in Block 16 referencing the error page and block.

(ii) The words "Corrections Have Been Verified" shall be entered on page 1. The authorized Government representative shall place the date and sign immediately below the statement.

(iii) MIRRs shall not be corrected for Blocks 19 and 20 entries.

(iv) Pages of the MIRR requiring correction shall be clearly marked "Corrected Copy", avoiding obliteration of any other entries. Where corrections are made only on continuation sheets, page number 1 shall also be marked "Corrected Copy."

(v) Page 1 and only those continuation pages marked "Corrected Copy" shall be distributed to the initial distribution. A complete MIRR with corrections shall be distributed to new addressee(s) created by error corrections.

I.306 *Invoice Instructions.* Contractors are encouraged to use copies of the MIRR as an invoice, in lieu of a commercial form, but are not required to do so. When used as an invoice, four copies shall be prepared and forwarded to the payment office as follows:

(i) Complete Blocks 5, 6, 19, and 20.

(ii) Mark in letters approximately 1 inch high, first copy: "Original Invoice"; three copies: "Invoice Copy".

(iii) Forward the four copies to the payment office (Block 12 address).

I.307 *Packing List Instructions.* Copies of the MIRR may be used as a packing list. When they are used, the packing list copies shall be in addition to the copies of the MIRR required for distribution (I.401) and shall be marked "Packing List".

I.308 *Receiving Instructions.* When the MIRR is used for receiving purposes, procedures shall be as prescribed by local directives. If PQA and Acceptance or Acceptance of supplies is required upon arrival at destination, see Block 21B for instructions.

129. Appendix K is added:

APPENDIX K—PREAWARD SURVEY PROCEDURES

SUBPART 1—INTRODUCTION

K.100 *Scope of Appendix.* This appendix establishes procedures for requesting and accomplishing preaward surveys. It includes preaward surveys conducted by NASA, those conducted by another agency for NASA, and those jointly conducted.

K.101 *Applicability of Appendix.* This appendix is applicable to all activities of the National Aeronautics and Space Administration concerned with preaward surveys.

K.102 *Definitions.* As used in this appendix, the following terms have the meanings set forth below.

K.102–1 *Monitor* means the person designated to administer the preaward survey from the receipt of the request through the issuance of the final report.

K.102–2 *Team Coordinator* means the person designated by the monitor to coordinate the onsite survey, make arrangements for plant visits, and conduct team conferences as necessary before, during, or after the plant visit.

K.102–3 *Preaward Survey Review Board* means a board established to review and approve or disapprove preaward survey reports.

SUBPART 2—GENERAL PROVISIONS

K.200 *Scope of Subpart.* This subpart sets forth the procedure for requesting and conducting a preaward survey, and applicable administrative controls.

K.201 *Procedure for Requesting Preaward Survey.*

(a) A preaward survey shall be requested on "Preaward Survey of Prospective Contractor" (DD Form 1524) indicating in section III thereof, the scope of the survey desired. Factors requiring emphasis not enumerated in section III should be listed under item "14" of that section. A survey may be requested by telegraphic communication containing the data required by sections I, II, and III of the Form. A survey may be requested by telephone but shall be immediately confirmed on DD Form 1524. Unless previously furnished, a copy of the solicitation, and such drawings and specifications as deemed necessary by the procurement office, shall be supplied with the preaward survey request.

(b) Any information indicating previous unsatisfactory contract performance shall be furnished the survey activity with the preaward survey request, except where it is known that the survey activity already has this information.

(c) The request for preaward survey shall be forwarded in an original and three copies to the responsible survey activity. If the survey activity is a DOD agency, the request is to be sent to the appropriate office shown in the DOD Directory of Contract Administration Services Components, DOD 4105.59–H, Attention: Preaward Survey Monitor. (See Part 51, Subpart 3.) The date on which the completed survey report is desired should be indicated; however, the DOD normally allows 7 working days in which to conduct a full survey and submit the report to the requesting agency.

K.202 *Scope of Survey.*

(a) A complete survey encompasses investigation, to the extent applicable to the proposed contract, of the factors listed in section III of DD Form 1534, together with other requirements of special inquiry as requested by the contracting officer, and submission of appropriate findings thereon.

(b) A partial survey encompasses investigation of those factors referenced in (a) above which are specifically requested by the contracting officer and any other factors considered advisable by the activity conducting the survey, and submission of appropriate findings thereon.

K.203 *Procurement Office Procedure.*

K.203–1 *General.*

(a) Preaward surveys will be conducted within the normal time frame of seven working days after receipt of request and in the detail requested by the contracting officer. In unusual procurement situations, reports of such surveys may be requested in a shorter time if the situation so warrants. Qualified specialists responsible for the factors referenced in K.202(a) shall participate as required.

(b) Representatives of the procurement office and other activities will participate in preaward surveys when requested by the contracting officer or as desired by the procurement office.

(c) If the preaward survey cannot be accomplished within the time allowed, the contracting officer shall be so notified. If the date is not extended the preaward survey monitor shall supply a definite recommendation by the date required, based on the material at hand or developed by that time. The basis for the recommendation and the factors for which no data or only partial data could be obtained, shall be indicated.

K.203–2 *Designation of Preaward Survey Monitor.* An individual within each procurement office performing preaward surveys shall be designated as the preaward survey monitor. The monitor shall administer the preaward survey from the receipt of the request through the issuance of the final report to assure appropriate coverage and maximum efficiency. The monitor shall:

(i) Receive all incoming preaward survey requests;

(ii) Ascertain whether the prospective contractor is included on the Consolidated List of Debarred, Ineligible, and Suspended Contractors for any reason, including those attributable to equal employment opportunity practices. (Where the prospective contractor is so listed, the contracting officer shall be promptly advised and the preaward survey shall not be completed, unless specifically requested by the contracting officer.);

(iii) Compare the survey request with the requirements of the solicitation;

(iv) Determine the need for an onsite survey after reviewing the type and quantity of items or services involved; previous experience with the firm; technical and schedule requirements; and the extent of other information currently available. (If an onsite survey has been requested and sufficient data is already available in the procurement or other offices (e.g., DOD Contract Administration Officer), the monitor shall ask the contracting officer whether an onsite survey must nevertheless be conducted, and for the specific elements to be covered);

(v) Determine and advise the organizational segments of the installation (e.g., engineering, production, reliability and quality

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assurance, and contract administration), that will furnish team members;

(vi) Provide team members the following information—

(A) the date on which the information is required from each organizational segment;

(B) the portion of the survey for which each organizational segment is responsible;

(C) whether an on-site survey of the prospective contractor's facility is contemplated. (This is subject to later modification based on information supplied by team members.);

(D) any special terms and conditions noted in the solicitation; and

(E) any other information or guidance the particular request may require;

(vii) After discussion with appropriate organizational segments, designate the team coordinator;

(viii) Arrange for required audit and other external assistance. (For example, in those cases where contract award is dependent upon the contractor having an adequate cost accounting system for proper postaward administration of the contract, the cognizant audit agency shall be responsible for the system review, evaluation, and conclusive recommendation. DD Form 1524–4 is provided for this purpose.);

(ix) Coordinate any participation where the preaward survey is being performed for another NASA installation;

(x) Receive and review reports of the individual team members for completeness and adequate substantiation;

(xi) Resolve questions regarding technical details with responsible specialists;

(xii) Report those applicable procedures of the prospective contractor which have been reviewed by Government personnel (e.g., procurement system, estimating system, accounting system, control of Government property, and quality program); and

(xiii) Assemble all necessary survey data into a report and submit it to the Chairman of the Preaward Survey Review Board.

K.203–3 *Designation and Responsibilities of Team Coordinator and Members.*

(a) When an onsite survey by a team is necessary, members should include specialists qualified to evaluate all appropriate phases of the firm's capabilities. The team coordinator shall:

(i) Arrange for the team's visit to the site;

(ii) Conduct team conferences for the purpose of—

(A) Arriving at uniform interpretations prior to holding discussions with the prospective contractor's management;

(B) Briefing team members on their interviews and discussions with officials of the firm prior to making an onsite survey. (Members shall not make reference or comment relative to the possibility that the award will or will not be made to the prospective contractor. This does not preclude discussion with a prospective contractor of questionable areas which in the opinion of the team member require clarification. Information obtained during the survey will be treated in strict confidence and divulged only to those Government representatives having a need to know.); and

(C) Arranging for discussions among members during and after the on-site survey to assure that evaluations by individual specialists are integrated, coordinated, and complete; and

(iii) Otherwise direct the efforts of the team.

(b) When an on-site survey is required for only one aspect of the prospective contractor's capability, a qualified specialist will be designated to conduct the on-site portion of the survey. One specialist may be designated to investigate more than one aspect when it is within his capability.

K.203–4 *Preaward Survey Review Board.*

(a) A Preaward Survey Review Board shall be formally established to review and approve survey reports prior to transmittal to the contracting officer.

(b) The Board shall be composed of senior specialists from each of the major functions normally concerned with preaward surveys, one of whom shall be designated Chairman. Flexibility of membership shall be provided by designating alternates for membership and by establishing the criteria or conditions governing the need for occasional special technical representation. Membership on the Board shall be in addition to the members' regular duties.

Subpart 3—Survey

K.300 *Steps for survey performance.* The three steps in performing a preaward survey are the:

(i) Preliminary analysis;

(ii) Development and evaluation of information; and

(iii) Preparation and review of the preaward survey report.

K.301 *Preliminary Analysis.* The request (DD Form 1524, sections I, II, and III) shall be reviewed to establish basic administrative information and the factors to be investigated. The solicitation shall then be reviewed to ascertain those general and special requirements which have a significant bearing on determining contractor responsibility. Examples are the nature of the product or services, applicable specifications, delivery schedule, documentation requirements, property contract requirements and financing aspects.

K.302 *Development of Information.*

(a) *Review of Available Data.* The information already available in the procurement office pertaining to the prospective contractor and his past performance shall be reviewed. Prior preaward survey reports and contractor performance records shall be examined and considered in support of preaward survey recommendations. If the prospective contractor has current or contemplated Government contracts, the files should be checked for information regarding similarity of product, current status of contracts, quality control experience, and financial status.

(b) *Development of additional data.*

(1) When appropriate, the procurement office shall supplement the data on hand with any additional information required from other Government sources and from commercial sources, such as banks, business associates, and credit rating and reporting agencies.

(2) An onsite survey shall be performed when required by § 18–1.905–4(a), or when sufficient information is not developed as a result of (a) and (b) (1) above.

(3) In each case where review of available data discloses previous unsatisfactory contractor performance in any regard, the preaward survey shall specifically cover the extent to which action has been taken or planned by the contractor to avoid repetition. A narrative discussion shall be referenced in Section III of DD Form 1524 and appended to the form covering each deficiency area and furnishing details on the effect of each deficiency area on the contractor's ability to perform the prospective contract involved, together with reasons for all stated conclusions. Lack of evidence that the contractor was responsible for a failure to meet past contractual requirements does not necessarily indicate satisfactory performance. A persistent pattern of the contractor's need for costly and burdensome Governmental assistance (engineering, inspection, testing) that was provided in the Government's interest but not contractually required, shall be treated in the preaward survey as an element for separate narrative discussion to be appended to the Form.

K.303 *Onsite Surveys.*

K.303–1 *Interview, Investigation and Review.*

(a) *General.* An onsite survey will consist of an interview with representatives of the prospective contractor and, normally, an investigation of his resources and procedures.

(b) *Interview with management.* Management officials of the appropriate level authorized to represent the prospective contractor should be interviewed. The prospective contractor's background shall be reviewed and as much history recorded as necessary to reflect the soundness and reputation of the firm's operation.

(1) The organizational structure of the facility is the basis for management's control and must be reviewed. Assignment of definite tasks and responsibilities should be checked.

(2) Lack of understanding or misinterpretation of the solicitation often results in delinquent contracts and leads to default actions. Therefore, the solicitation shall be discussed with the prospective contractor to assure that he understands its requirements, including its technical aspects, such as drawings, specifications, prototype, technical data, testing, and packaging. Any misinterpretations of the requirements of the solicitation which could adversely affect performance, or refusal by the prospective contractor to furnish required data, should be brought to the immediate attention of the monitor by the team coordinator. The monitor shall, in turn, promptly advise the team coordinator. The monitor shall, in turn, promptly advise the contracting officer.

(c) *Investigation of resources and review of procedures.* The resources which the prospective contractor intends to utilize shall be inspected, analysed, and compared with his overall plans for performing. His procedures relating to performance of the proposed contract shall be reviewed for adequacy.

(d) *Specific factors to be considered.* In the course of developing information, those factors described in K.303–2 through K.303–4 below and all others needed to provide the report and recommendations in the detail and to the extent required by the contracting officer shall be considered.

K.303–2 *Production.*

(a) *General.* The production portion of the onsite survey consists of an evaluation of the prospective contractor's ability to manufacture the product(s) or accomplish the tasks in accordance with the specifications and delivery schedule of the proposed contract. To achieve the objectives of this portion of the onsite survey, the performance plan shall be reviewed, production resources ascertained, and the plan related to such resources.

(b) *Obtaining the performance plan.* The prospective contractor's performance plan for meeting the delivery schedule specified in the proposed contract shall be ascertained. The principal milestones within the plan shall be established, along with target dates for achievement. These target dates must support the delivery schedule of the proposed contract. The controls which will be utilized in order to meet the target dates for the principal milestones shall be analyzed for suitability.

(c) *Ascertaining production resources.* The information necessary to prepare DD Form 1524–1 shall be obtained by discussion with appropriate management personnel of the prospective contractor. This information shall be verified, when necessary, by physical inspection of the manufacturing plant and evaluated in terms of suitability to manufacture the required item(s).

(d) *Relating performance plans to production resources.* When necessary, representatives of the prospective contractor shall be requested to advise how the production resources described in sections III, IV, V, and VI of DD Form 1524–1 will be allocated and utilized in order to achieve the target dates for the principal milestones. This shall include both in-house and subcontractor production resources. Pertinent to this is an analysis of projects and contracts which will compete for utilization of those resources within the same time frame as that specified by the prospective contractor's performance plan. The information developed as a result of equating the performance plan and production resources of the prospective contractor should enable the procurement office to:

(i) Conclude whether the resources which the prospective contractor is planning to use are suitable for the job;

(ii) Determine whether the prospective contractor will be capable of properly controlling, maintaining, protecting and using Government property;

(iii) Determine whether the planning and scheduling of effort will result in timely accomplishment of the principal milestones; and

(iv) Conclude whether achievement of the principal milestones will result in timely delivery.

K.303–3 *Quality assurance.*

(a) The standing of the quality assurance organization in the prospective contractor's overall organization must be evaluated. An inspection or quality control function which reports to some other organizational segment (such as production) instead of top management may be undesirable. The experience of the company inspection or quality control personnel with the same or similar items shall be evaluated.

(b) To evaluate the prospective contractor's ability to comply with quality control or inspection requirements, the following areas shall be reviewed:

(1) Methods currently utilized to control product quality as reflected by a documented or verifiable inspection system or quality program plan;

(ii) Personnel on hand and available (report both trained and untrained);

(iii) Inspection and test equipment on hand and available;

(iv) Quality, identification, and storage of materials;

(v) Physical arrangement of plant;

(vi) Tool and gauge control; and

(vii) Test and inspection records.

K.303–4 *Financial.*

(a) *General.* The normal procedure for determining a prospective contractor's financial capability shall be initial pre-survey planning, followed by verification of financial data as required. The extent of the review and analysis of financial matters shall be governed by the nature of the proposed contract. In certain instances, a sound decision may be possible after a relatively simple review of a company's financial position and production commitments. Under other circumstances, a more comprehensive review and analysis will be required.

(b) *Procedure.* Aspects to be considered in determining the prospective contractor's financial capability (DD Form 1524–3) include the following:

(1) The latest balance sheet and profit and loss statement shall be reviewed. The following are indicative of the soundness of the prospective contractor's financial structure:

(i) Rates and ratios;

(ii) Working capital as represented by current assets over current liabilities; and

(iii) Financial trends such as net worth, sales and profit.

(2) The method of financing the contract shall be evaluated. Where sources of outside financing other than the Government, are indicated, their availability should be verified.

(3) When financial aid from the Government is to be obtained, the necessity should be verified. Review shall be made concerning the applicability of such financing as progress payments or guaranteed loans.

K.304 *Evaluating Data and Preparing the Report.*

(a) *Findings of team members.* When the required information has been gathered, each individual participant shall analyze it and evaluate the prospective contractor's capability to perform with respect to the functions element(s) investigated. Each participant shall then provide his findings to the monitor on the appropriate part(s) of DD Form 1524. Where a negative reply is recorded, or where doubt exists, an explanation must substantiate the entry. If a detailed analysis is needed or additional significant information is pertinent, the Form should be supplemented by a narrative report.

(b) *Monitor's evaluation and recommendation.* Based on all the information received from the team members, the monitor shall thoroughly review and evaluate the findings and recommendations, and forward the report to the Chairman of the Review Board with (i) a summary of his findings, and (ii) his recommendation concerning award. A recommendation for partial or no award shall be supported by a statement of justification and shall, where the prospective contractor is a small business concern, be coordinated with the cognisant small business specialist.

(c) *Review board action.* Upon receipt of each pre-award report, the Chairman of the Review Board shall determine the extent of Review Board action. The requirements of K.203–4 above may be satisfied at the discretion of the Chairman by any of the following:

(i) Action by the Chairman alone;

(ii) Informal contact by the Chairman with one or more of the Board members; or

(iii) Formal action by the entire Board.

(d) *Final actions.* Following the action by the Review Board, the monitor shall forward the report direct to the contracting officer. When advance reports are made by telegraphic communication or telephone, they shall be confirmed by mail without delay. The monitor shall follow up on any requirements for the submission of supplemental reports.

RICHARD J. KEEGAN,
Acting Director of Procurement, National Aeronautics and Space Administration.

[FR Doc. 71–16357 Filed 11–9–71;8:45 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 251—GUIDE CONCERNING USE OF THE WORD "FREE" AND SIMILAR REPRESENTATIONS

Miscellaneous Amendments

The following guide has been adopted by the Federal Trade Commission to encourage those who make "Free" and similar offers in connection with the sale of a product or service, to comply voluntarily with the Federal Trade Commission Act. The Act makes illegal unfair methods of competition and unfair or deceptive acts or practices in commerce. Adherence to the guide will insure that the consuming public is not deceived by offers of nonexistent bargains or bargains that will be misunderstood.

While the guide is interpretative of laws administered by the Commission and thus advisory in nature, proceedings, as appropriate, to enforce the requirements of law as explained in the guide may be brought under the Federal Trade Commission Act (15 U.S.C. sections 41–58) or the Robinson-Patman amendment to the Clayton Act (15 U.S.C. section 13).

The provisions of the guide will have application to all "Free" and similar representations however made, including but not limited to, all forms of advertising and any offer of free merchandise (or services) and other offers covered by the provisions of the guide made on any package or on any tag or label affixed thereto or affixed to the goods themselves.

The guide supersedes the trade practice rule on use of the word "Free," released by the Commission on December 3, 1953. In addition, provisions of all existing guides and trade practice rules that include coverage of use of the term "Free" or similar representations will be construed in the light hereof.

The guide becomes effective thirty (30) days after the date of promulgation.

Inquiries and requests for copies of the guide should be directed to the Division of Rules and Guides, Federal Trade Commission, Washington, D.C. 20580.

§ 251.1 The guide.

(a) *General.* (1) The offer of "Free" merchandise or service is a promotional device frequently used to attract customers. Providing such merchandise or service with the purchase of some other article or service has often been found to be a useful and valuable marketing tool.

(2) Because the purchasing public continually searches for the best buy, and regards the offer of "Free" merchandise or service to be a special bargain, all such offers must be made with extreme care so as to avoid any possibility that consumers will be misled or deceived. Representative of the language frequently used in such offers are "Free", "Buy 1-Get 1 Free", "2-for-1 Sale", "50% off with purchase of Two", "1¢ Sale", etc. (Related representations that raise many of the same questions include "_____ Cents-Off", "Half-Price Sale", "½ Off", etc. See the Commission's "Fair Packaging and Labeling Regulation Regarding 'Cents-Off' and Guides Against Deceptive Pricing.")

(b) *Meaning of "Free".* (1) The public understands that, except in the case of introductory offers in connection with the sale of a product or service (See paragraph (f) of this section), an offer of "Free" merchandise or service is based upon a regular price for the merchandise or service which must be purchased by consumers in order to avail themselves

assurance, and contract administration), that will furnish team members;

(vi) Provide team members the following information—

(A) the date on which the information is required from each organizational segment;

(B) the portion of the survey for which each organizational segment is responsible;

(C) whether an on-site survey of the prospective contractor's facility is contemplated. (This is subject to later modification based on information supplied by team members.);

(D) any special terms and conditions noted in the solicitation; and

(E) any other information or guidance the particular request may require;

(vii) After discussion with appropriate organizational segments, designate the team coordinator;

(viii) Arrange for required audit and other external assistance. (For example, in those cases where contract award is dependent upon the contractor having an adequate cost accounting system for proper postaward administration of the contract, the cognizant audit agency shall be responsible for the system review, evaluation, and conclusive recommendation. DD Form 1524–4 is provided for this purpose.);

(ix) Coordinate any participation where the preaward survey is being performed for another NASA installation;

(x) Receive and review reports of the individual team members for completeness and adequate substantiation;

(xi) Resolve questions regarding technical details with responsible specialists;

(xii) Report those applicable procedures of the prospective contractor which have been reviewed by Government personnel (e.g., procurement system, estimating system, accounting system, control of Government property, and quality program); and

(xiii) Assemble all necessary survey data into a report and submit it to the Chairman of the Preaward Survey Review Board.

K.203–3 *Designation and Responsibilities of Team Coordinator and Members.*

(a) When an onsite survey by a team is necessary, members should include specialists qualified to evaluate all appropriate phases of the firm's capabilities. The team coordinator shall:

(i) Arrange for the team's visit to the site;

(ii) Conduct team conferences for the purpose of—

(A) Arriving at uniform interpretations prior to holding discussions with the prospective contractor's management;

(B) Briefing team members on their interviews and discussions with officials of the firm prior to making an onsite survey. (Members shall not make reference or comment relative to the possibility that the award will or will not be made to the prospective contractor. This does not preclude discussion with a prospective contractor of questionable areas which in the opinion of the team member require clarification. Information obtained during the survey will be treated in strict confidence and divulged only to those Government representatives having a need to know.); and

(C) Arranging for discussions among members during and after the on-site survey to assure that evaluations by individual specialists are integrated, coordinated, and complete; and

(iii) Otherwise direct the efforts of the team.

(b) When an on-site survey is required for only one aspect of the prospective contractor's capability, a qualified specialist will be designated to conduct the on-site portion of the survey. One specialist may be designated to investigate more than one aspect when it is within his capability.

K.203–4 *Preaward Survey Review Board.*

(a) A Preaward Survey Review Board shall be formally established to review and approve survey reports prior to transmittal to the contracting officer.

(b) The Board shall be composed of senior specialists from each of the major functions normally concerned with preaward surveys, one of whom shall be designated Chairman. Flexibility of membership shall be provided by designating alternates for membership and by establishing the criteria or conditions governing the need for occasional special technical representation. Membership on the Board shall be in addition to the members' regular duties.

SUBPART 3—SURVEY

K.300 *Steps for survey performance.* The three steps in performing a preaward survey are the:

(i) Preliminary analysis;

(ii) Development and evaluation of information; and

(iii) Preparation and review of the preaward survey report.

K.301 *Preliminary Analysis.* The request (DD Form 1524, sections I, II, and III) shall be reviewed to establish basic administrative information and the factors to be investigated. The solicitation shall then be reviewed to ascertain those general and special requirements which have a significant bearing on determining contractor responsibility. Examples are the nature of the product or services, applicable specifications, delivery schedule, documentation requirements, property contract requirements and financing aspects.

K.302 *Development of Information.*

(a) *Review of Available Data.* The information already available in the procurement office pertaining to the prospective contractor and his past performance shall be reviewed. Prior preaward survey reports and contractor performance records shall be examined and considered in support of preaward survey recommendations. If the prospective contractor has current or contemplated Government contracts, the files should be checked for information regarding similarity of product, current status of contracts, quality control experience, and financial status.

(b) *Development of additional data.*

(1) When appropriate, the procurement office shall supplement the data on hand with any additional information required from other Government sources and from commercial sources, such as banks, business associates, and credit rating and reporting agencies.

(2) An onsite survey shall be performed when required by § 18–1.905–4(a), or when sufficient information is not developed as a result of (a) and (b)(1) above.

(3) In each case where review of available data discloses previous unsatisfactory contractor performance in any regard, the preaward survey shall specifically cover the extent to which action has been taken or planned by the contractor to avoid repetition. A narrative discussion shall be referenced in Section III of DD Form 1524 and appended to the form covering each deficiency area and furnishing details on the effect of each deficiency area on the contractor's ability to perform the prospective contract involved, together with reasons for all stated conclusions. Lack of evidence that the contractor was responsible for a failure to meet past contractual requirements does not necessarily indicate satisfactory performance. A persistent pattern of the contractor's need for costly and burdensome Governmental assistance (engineering, inspection, testing) that was provided in the Government's interest but not contractually required, shall be treated in the preaward survey as an element for separate narrative discussion to be appended to the Form.

K.303 *Onsite Surveys.*

K.303–1 *Interview, Investigation and Review.*

(a) *General.* An onsite survey will consist of an interview with representatives of the prospective contractor and, normally, an investigation of his resources and procedures.

(b) *Interview with management.* Management officials of the appropriate level authorized to represent the prospective contractor should be interviewed. The prospective contractor's background shall be reviewed and as much history recorded as necessary to reflect the soundness and reputation of the firm's operation.

(1) The organizational structure of the facility is the basis for management's control and must be reviewed. Assignment of definite tasks and responsibilities should be checked.

(2) Lack of understanding or misinterpretation of the solicitation often results in delinquent contracts and leads to default actions. Therefore, the solicitation shall be discussed with the prospective contractor to assure that he understands its requirements, including its technical aspects, such as drawings, specifications, prototype, technical data, testing, and packaging. Any misinterpretations of the requirements of the solicitation which could adversely affect performance, or refusal by the prospective contractor to furnish required data, should be brought to the immediate attention of the monitor by the team coordinator. The monitor shall, in turn, promptly advise the team coordinator. The monitor shall, in turn, promptly advise the contracting officer.

(c) *Investigation of resources and review of procedures.* The resources which the prospective contractor intends to utilize shall be inspected, analyzed, and compared with his overall plans for performing. His procedures relating to performance of the proposed contract shall be reviewed for adequacy.

(d) *Specific factors to be considered.* In the course of developing information, those factors described in K.303–2 through K.303–4 below and all others needed to provide the report and recommendations in the detail and to the extent required by the contracting officer shall be considered.

K.303–2 *Production.*

(a) *General.* The production portion of the onsite survey consists of an evaluation of the prospective contractor's ability to manufacture the product(s) or accomplish the tasks in accordance with the specifications and delivery schedule of the proposed contract. To achieve the objectives of this portion of the onsite survey, the performance plan shall be reviewed, production resources ascertained, and the plan related to such resources.

(b) *Obtaining the performance plan.* The prospective contractor's performance plan for meeting the delivery schedule specified in the proposed contract shall be ascertained. The principal milestones within the plan shall be established, along with target dates for achievement. These target dates must support the delivery schedule of the proposed contract. The controls which will be utilized in order to meet the target dates for the principal milestones shall be analyzed for suitability.

(c) *Ascertaining production resources.* The information necessary to prepare DD Form 1524–1 shall be obtained by discussion with appropriate management personnel of the prospective contractor. This information shall be verified, when necessary, by physical inspection of the manufacturing plant and evaluated in terms of suitability to manufacture the required item(s).

(d) *Relating performance plans to production resources.* When necessary, representatives of the prospective contractor shall be requested to advise how the production resources described in sections III, IV, V, and VI of DD Form 1524–1 will be allocated and utilized in order to achieve the target dates for the principal milestones. This shall include both in-house and subcontractor production resources. Pertinent to this is an analysis of projects and contracts which will compete for utilization of those resources within the same time frame as that specified by the prospective contractor's performance plan. The information developed as a result of equating the performance plan and production resources of the prospective contractor should enable the procurement office to:

(i) Conclude whether the resources which the prospective contractor is planning to use are suitable for the job;

(ii) Determine whether the prospective contractor will be capable of properly controlling, maintaining, protecting and using Government property;

(iii) Determine whether the planning and scheduling of effort will result in timely accomplishment of the principal milestones; and

(iv) Conclude whether achievement of the principal milestones will result in timely delivery.

K.303–3 *Quality assurance.*

(a) The standing of the quality assurance organization in the prospective contractor's overall organization must be evaluated. An inspection or quality control function which reports to some other organizational segment (such as production) instead of top management may be undesirable. The experience of the company inspection or quality control personnel with the same or similar items shall be evaluated.

(b) To evaluate the prospective contractor's ability to comply with quality control or inspection requirements, the following areas shall be reviewed:

(i) Methods currently utilized to control product quality as reflected by a documented or verifiable inspection system or quality program plan;

(ii) Personnel on hand and available (report both trained and untrained);

(iii) Inspection and test equipment on hand and available;

(iv) Quality, identification, and storage of materials;

(v) Physical arrangement of plant;

(vi) Tool and gauge control; and

(vii) Test and inspection records.

K.303–4 *Financial.*

(a) *General.* The normal procedure for determining a prospective contractor's financial capability shall be initial pre-survey planning, followed by verification of financial data as required. The extent of the review and analysis of financial matters shall be governed by the nature of the proposed contract. In certain instances, a sound decision may be possible after a relatively simple review of a company's financial position and production commitments. Under other circumstances, a more comprehensive review and analysis will be required.

(b) *Procedure.* Aspects to be considered in determining the prospective contractor's financial capability (DD Form 1524–3) include the following:

(1) The latest balance sheet and profit and loss statement shall be reviewed. The following are indicative of the soundness of the prospective contractor's financial structure:

(i) Rates and ratios;

(ii) Working capital as represented by current assets over current liabilities; and

(iii) Financial trends such as net worth, sales and profit.

(2) The method of financing the contract shall be evaluated. Where sources of outside financing other than the Government, are indicated, their availability should be verified.

(3) When financial aid from the Government is to be obtained, the necessity should be verified. Review shall be made concerning the applicability of such financing as progress payments or guaranteed loans.

K.304 *Evaluating Data and Preparing the Report.*

(a) *Findings of team members.* When the required information has been gathered, each individual participant shall analyze it and evaluate the prospective contractor's capability to perform with respect to the functions element(s) investigated. Each participant shall then provide his findings to the monitor on the appropriate part(s) of DD Form 1524. Where a negative reply is recorded, or where doubt exists, an explanation must substantiate the entry. If a detailed analysis is needed or additional significant information is pertinent, the Form should be supplemented by a narrative report.

(b) *Monitor's evaluation and recommendation.* Based on all the information received from the team members, the monitor shall thoroughly review and evaluate the findings and recommendations, and forward the report to the Chairman of the Review Board with (i) a summary of his findings, and (ii) his recommendation concerning award. A recommendation for partial or no award shall be supported by a statement of justification and shall, where the prospective contractor is a small business concern, be coordinated with the cognizant small business specialist.

(c) *Review board action.* Upon receipt of each pre-award report, the Chairman of the Review Board shall determine the extent of Review Board action. The requirements of K.203–4 above may be satisfied at the discretion of the Chairman by any of the following:

(i) Action by the Chairman alone;

(ii) Informal contact by the Chairman with one or more of the Board members; or

(iii) Formal action by the entire Board.

(d) *Final actions.* Following the action by the Review Board, the monitor shall forward the report direct to the contracting officer. When advance reports are made by telegraphic communication or telephone, they shall be confirmed by mail without delay. The monitor shall follow up on any requirements for the submission of supplemental reports.

RICHARD J. KEEGAN,
Acting Director of Procurement, National Aeronautics and Space Administration.

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Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 251—GUIDE CONCERNING USE OF THE WORD "FREE" AND SIMILAR REPRESENTATIONS

Miscellaneous Amendments

The following guide has been adopted by the Federal Trade Commission to encourage those who make "Free" and similar offers in connection with the sale of a product or service, to comply voluntarily with the Federal Trade Commission Act. The Act makes illegal unfair methods of competition and unfair or deceptive acts or practices in commerce. Adherence to the guide will insure that the consuming public is not deceived by offers of nonexistent bargains or bargains that will be misunderstood.

While the guide is interpretative of laws administered by the Commission and thus advisory in nature, proceedings, as appropriate, to enforce the requirements of law as explained in the guide may be brought under the Federal Trade Commission Act (15 U.S.C. sections 41–58) or the Robinson-Patman amendment to the Clayton Act (15 U.S.C. section 13).

The provisions of the guide will have application to all "Free" and similar representations however made, including but not limited to, all forms of advertising and any offer of free merchandise (or services) and other offers covered by the provisions of the guide made on any package or on any tag or label affixed thereto or affixed to the goods themselves.

The guide supersedes the trade practice rule on use of the word "Free," released by the Commission on December 3, 1953. In addition, provisions of all existing guides and trade practice rules that include coverage of use of the term "Free" or similar representations will be construed in the light hereof.

The guide becomes effective thirty (30) days after the date of promulgation.

Inquiries and requests for copies of the guide should be directed to the Division of Rules and Guides, Federal Trade Commission, Washington, D.C. 20580.

§ 251.1 The guide.

(a) *General.* (1) The offer of "Free" merchandise or service is a promotional device frequently used to attract customers. Providing such merchandise or service with the purchase of some other article or service has often been found to be a useful and valuable marketing tool.

(2) Because the purchasing public continually searches for the best buy, and regards the offer of "Free" merchandise or service to be a special bargain, all such offers must be made with extreme care so as to avoid any possibility that consumers will be misled or deceived. Representative of the language frequently used in such offers are "Free", "Buy 1-Get 1 Free", "2-for-1 Sale", "50% off with purchase of Two", "1¢ Sale", etc. (Related representations that raise many of the same questions include "------ Cents-Off", "Half-Price Sale", "½ Off", etc. See the Commission's "Fair Packaging and Labeling Regulation Regarding 'Cents-Off' and Guides Against Deceptive Pricing.")

(b) *Meaning of "Free".* (1) The public understands that, except in the case of introductory offers in connection with the sale of a product or service (See paragraph (f) of this section), an offer of "Free" merchandise or service is based upon a regular price for the merchandise or service which must be purchased by consumers in order to avail themselves

of that which is represented to be "Free". In other words, when the purchaser is told that an article is "Free" to him if another article is purchased, the word "Free" indicates that he is paying nothing for that article and no more than the regular price for the other. Thus, a purchaser has a right to believe that the merchant will not directly and immediately recover, in whole or in part, the cost of the free merchandise or service by marking up the price of the article which must be purchased, by the substitution of inferior merchandise or service, or otherwise.

(2) The term "regular" when used with the term "price", means the price, in the same quantity, quality and with the same service, at which the seller or advertiser of the product or service has openly and actively sold the product or service in the geographic market or trade area in which he is making a "Free" or similar offer in the most recent and regular course of business, for a reasonably substantial period of time, i.e., a 30-day period. For consumer products or services which fluctuate in price, the "regular" price shall be the lowest price at which any substantial sales were made during the aforesaid 30-day period. Except in the case of introductory offers, if no substantial sales were made, in fact, at the "regular" price, a "Free" or similar offer would not be proper.

(c) *Disclosure of conditions.* When making "Free" or similar offers all the terms, conditions and obligations upon which receipt and retention of the "Free" item are contingent should be set forth clearly and conspicuously at the outset of the offer so as to leave no reasonable probability that the terms of the offer might be misunderstood. Stated differently, all of the terms, conditions and obligations should appear in close conjunction with the offer of "Free' merchandise or service. For example, disclosure of the terms of the offer set forth in a footnote of an advertisement to which reference is made by an asterisk or other symbol placed next to the offer, is not regarded as making disclosure at the outset. However, mere notice of the existence of a "Free" offer on the main display panel of a label or package is not precluded provided that (1) the notice does not constitute an offer or identify the item being offered "Free", (2) the notice informs the customer of the location, elsewhere on the package or label, where the disclosures required by this section may be found, (3) no purchase or other such material affirmative act is required in order to discover the terms and conditions of the offer, and (4) the notice and the offer are not otherwise deceptive.

(d) *Supplier's responsibilities.* Nothing in this section should be construed as authorizing or condoning the illegal setting or policing of retail prices by a supplier. However, if the supplier knows, or should know, that a "Free" offer he is promoting is not being passed on by a reseller, or otherwise is being used by a reseller as an instrumentality for deception, it is improper for the supplier to continue to offer the product as promoted to such reseller. He should take appropriate steps to bring an end to the deception, including the withdrawal of the "Free" offer.

(e) *Resellers' participation in supplier's offers.* Prior to advertising a "Free" promotion, a supplier should offer the product as promoted to all competing resellers as provided for in the Commission's "Guides for Advertising Allowances and Other Merchandising Payments and Services." In advertising the "Free" promotion, the supplier should identify those areas in which the offer is not available if the advertising is likely to be seen in such areas, and should clearly state that it is available only through participating resellers, indicating the extent of participation by the use of such terms as "some", "all", "a majority", or "a few", as the case may be.

(f) *Introductory offers.* (1) No "Free" offer should be made in connection with the introduction of a new product or service offered for sale at a specified price unless the offeror expects, in good faith, to discontinue the offer after a limited time and to commence selling the product or service promoted, separately, at the same price at which is was promoted with a "Free" offer.

(2) In such offers, no representation may be made that the price is for one item and that the other is "Free" unless the offeror expects, in good faith, to discontinue the offer after a limited time and to commence selling the product or service promoted, separately, at the same price at which is was promoted with a "Free" offer.

(g) *Negotiated sales.* If a product or service usually is sold at a price arrived at through bargaining, rather than at a regular price, it is improper to represent that another product or service is being offered "Free" with the sale. The same representation is also improper where there may be a regular price, but where other material factors such as quantity, quality, or size are arrived at through bargaining.

(h) *Frequency of offers.* So that a "Free" offer will be special and meaningful, a single size of a product or a single kind of service should not be advertised with a "Free" offer in a trade area for more than 6 months in any 12-month period. At least 30 days should elapse before another such offer is promoted in the same trade area. No more than three such offers should be made in the same area in any 12-month period. In such period, the offeror's sale in that area of the product in the size promoted with a "Free" offer should not exceed 50 percent of the total volume of his sales of the product, in the same size, in the area.

(i) *Similar terms.* Offers of "Free" merchandise or services which may be deceptive for failure to meet the provisions of this section may not be corrected by the substitution of such similar words and terms as "gift", "given without charge", "bonus", or other words or terms which tend to convey the impression to the consuming public that an article of merchandise or service is "Free".

(38 Stat. 717, as amended; 15 U.S.C. 41–58)

Promulgated by the Federal Trade Commission, November 16, 1971.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-16400 Filed 11-9-71;8:49 am]

PART 410—DECEPTIVE ADVERTISING AS TO SIZES OF VIEWABLE PICTURES SHOWN BY TELEVISION RECEIVING SETS

The Federal Trade Commission pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41, et seq., and the provisions of Part I, Subpart B of the Commission's procedures and rules of practice, 16 CFR 1.11, et seq., has conducted a proceeding for the amendment of the Trade Regulation Rule relating to the advertising of television picture sizes (31 F.R. 3342), which rule became effective on January 1, 1967.

Notice of the amendment proceeding was published in the FEDERAL REGISTER on April 21, 1971 (36 F.R. 7536). Interested parties were thereafter afforded opportunity to participate in the proceeding through the submission of written data, views, and arguments as to the proposed amendment and to express their approval or disapproval of the proposed amendment or to recommend revisions thereof.

The Commission has now considered all matters of fact, law, policy and discretion, including the data, views, and arguments submitted for the record by interested parties in response to the notice, as prescribed by law, and has determined that the amended Trade Regulation Rule and the statement of its basis and purpose as set forth herein is in the public interest and should be adopted.

In connection with the sale of television receiving sets, in commerce, as "commerce" is defined in the Federal Trade Commission Act, it is an unfair method of competition and an unfair and deceptive act or practice to use any figure or size designation to refer to the size of the picture shown by a television receiving set or the picture tube contained therein unless such indicated size is the actual size of the viewable picture area measured on a single plane basis. If the indicated size is other than the horizontal dimension of the actual viewable picture area such size designation shall be accompanied by a statement, in close connection and conjunction therewith, clearly and conspicuously showing the manner of measurement.

NOTE 1: For the purposes of this part, measurement of the picture area on a single plane basis refers to a measurement of the distance between the outer extremities (sides) of the picture area which does not take into account the curvature of the tube.

NOTE 2: Any referenced or footnote disclosure of the manner of measurement by means of the asterisk or some similar symbol does not satisfy the "close connection and conjunction" requirement of this part.

Examples of proper size descriptions when a television receiving set shows a 20-inch picture measured diagonally, a 19-inch picture measured horizontally, a 15-inch picture measured vertically, and a picture area of 262 square inches include:

"20 inch picture measured diagonally" or
"19 inch x 15 inch picture" or
"19 inch picture" or
"19 inch" or
"262 square inch picture."

Examples of improper size descriptions of a television set showing a picture of the size described above include:

"21 inch set" or
"21 inch diagonal set" or
"21 inch over-all diagonal—262 square inch picture" or
"Brand Name 21."

(38 Stat. 717, as amended; 15 U.S.C. 41–58)

Effective date. This rule, as amended, becomes effective December 10, 1971.

Promulgated: November 10, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

STATEMENT OF BASIS AND PURPOSE

I. *Background of proceeding to amend Rule.* During the compliance program for subject rule, with effective date of January 1, 1967, the need for further clarification of two aspects thereof became apparent. First, the term "single plane" as applied to picture size measurements lacked a precise definition. Secondly, use of the asterisk in effecting the disclosures required by the rule, while consistently held by staff interpretation to be inadequate under the "close connection and conjunction" disclosure requirement of the rule, was not specifically mentioned anywhere in the rule.

The Commission announced its affirmative interest in an industrywide proceeding for amendment of the Trade Regulation Rule relating to the advertising of television picture sizes by publishing in the FEDERAL REGISTER on April 21, 1971, a notice of rule amendment (36 F.R. 7536).

II. *Views regarding the proceeding to amend.* The City of New York, Department of Consumer Affairs, proposed that the amendment be expanded to include provisions to prevent alleged questionable advertising tactics, such as failure to designate picture size, in the case of some less expensive television sets, together with no mention of the manufacturer and other identifying features such as model number, etc.

It was further suggested that the sizes of television pictures should be expressed only in horizontal linear measurements. The Record, which is meager, also contains a letter from a consumer supporting this view.

Although one consumer argued that it is deceptive to specify picture area as the primary indication of size rather than linear picture height, another consumer fully supported the rule as fair not only to the consumer but to the retailer

III. *Summary and conclusions.* The Commission has considered the above arguments and finds that such arguments are not directed to the proposed amendments as such but rather are arguments for revision of the rule proper.

Accordingly, the Commission concludes that such objections fall without the scope of this proceeding and that there is no basis for reconsideration or for a reopening of the initial rule since the arguments advanced were considered in the initial rulemaking proceeding.

IV. *The effective date of the amendment.* The effective date of the amendment will be thirty (30) days after the date of promulgation. The rule, as amended, supercedes the Trade Regulation Rule relating to the deceptive advertising as to sizes of viewable pictures shown by television receiving sets adopted Februray 24, 1966.

[FR Doc.71-16161 Filed 11-9-71;8:45 am]

Title 32—NATIONAL DEFENSE

Chapter VI—Department of the Navy

SUBCHAPTER C—PERSONNEL

PART 713—NAVAL RESERVE AND MARINE CORPS RESERVE

Subpart A—Naval Reserve

PROMOTION POLICY

1. The table of contents for Part 713 is amended to delete the current entries for §§ 713.372, 713.373, 713.374, 713.375, and 713.376, and to insert the following new entries:

Sec.
713.372 Selection Boards; Naval Examining Boards.
713.373 Eligibility for consideration by selection boards.
713.374 Promotion.
713.375 Physical standards for promotion.
713.376 Promotion of ensigns.

and to delete the following:

Sec.
713.377 Duties of selection boards.
713.378 Promotion lists.
713.379 Professional and physical qualifications.
713.379a Appointment of selectees.
713.379b Temporary and permanent appointments.
713.379c Failure of selection and promotion.
713.379d Promotion of ensigns to lieutenant (junior grade).

2. Section 713.371 is amended to read as follows:

§ 713.371 General promotion policy.

(a) Chapter 549 of title 10, United States Code, governs the promotion of eligible Reserve officers not on extended active duty and of those Reserve officers serving on extended active duty for the purpose of administering and training the Naval Reserve.

(b) Notwithstanding paragraph (a) of this section, the promotion of Reserve officers to grades above lieutenant (junior grade) under regulations prescribed by the Secretary of the Navy is authorized by section 5910 of title 10, United States Code, wherever any part of the law governing the promotion of a Reserve officer's running mate is suspended. Further, the cited statute also authorizes promotions to the grade of lieutenant (junior grade) under regulations prescribed by the Secretary of the Navy whenever ensigns of the Regular Navy on the active list are promoted with less than 3 years of service in grade.

(c) On January 5, 1970, the Secretary of the Navy approved regulations to govern the temporary promotions of officers of the Naval Reserve as well as regulations to govern attrition of such officers when required by sections 6389 and 6403 of title 10, United States Code.

3. Section 713.372 is amended to read as follows:

§ 713.372 Selection boards; naval examining boards.

Promotions above the grade of lieutenant (junior grade) will be upon recommendation of selection boards convened by the Secretary of the Navy or such other official as the Secretary may direct. From among those officers who are eligible for consideration for promotion, each selection board shall recommend those officers whom it considers best fitted, fitted, or qualified for promotion in accordance with the applicable criteria prescribed in 10 U.S.C. 5896. Each board shall also report the names of officers, among those eligible for consideration, whose reports and records in its opinion indicate their unsatisfactory performance of duty in their present grades and in its opinion indicate that they would not satisfactorily perform duties of a higher grade. Upon completion of its selections for promotion, each board shall constitute itself as a naval examining board and may recommend for promotion to the next higher grade those selected officers who, in the opinion of the board, are morally and professionally qualified. Each board shall serve until its recommendations have received presidential approval or disapproval.

4. Section 713.373 is amended to read as follows:

§ 713.373 Eligibility for consideration by selection boards.

Eligibility for consideration for promotion of Reserve officers of the Navy whose names are not on a lineal list will be as prescribed in 10 U.S.C. 5891 and 5899, except that captains in an active status who are members of the Standby Reserve are not eligible for consideration for promotion to the grade of rear admiral. Eligibility for consideration for promotion and appointment of Reserve officers of the Navy whose names are on a lineal list will be governed by the applicable sections of title 10, United States Code.

5. Section 713.374 is amended to read as follows:

§ 713.374 Promotion.

Officers whose names are placed on a promotion list following selection will have been determined by a naval examining board to be morally qualified. Subject to earning, during the year preceding their appointments, the number of retirement points (computed in accordance with 10 U.S.C. 1332) required to maintain an active status; they will also have been determined to be professionally qualified. Upon confirmation of their physical qualifications, and at such time as their running mates become eligible for promotion, these officers will be appointed. All such appointments will be considered as accepted upon their issuance, unless expressly declined.

6. Section 713.375 is amended to read as follows:

§ 713.375 Physical standards for promotion.

The physical standards for promotion of Reserve officers of the Navy shall be the same as those which are at that time prescribed for retention in the Naval Reserve. Such physical standards are promulgated in the Bureau of Naval Personnel Manual and the Manual of the Medical Department. The procedures governing physical examinations and certification of physical qualification will be as prescribed by the Chief of the Bureau of Medicine and Surgery.

7. Section 713.376 is amended to read as follows:

§ 713.376 Promotion of ensigns.

Ensigns of the Naval Reserve on inactive duty are eligible for temporary promotion to the grade of lieutenant (junior grade) upon completion of service-in-grade in an active status, computed from date of rank, equal to the service-in-grade requirement that may be prescribed for ensigns of the Regular Navy for eligibility for temporary promotion to the grade of lieutenant (junior grade).

§§ 713.377–713.379d [Deleted]

8. Part 713 is amended by deleting the following sections: §§ 713.377 *Duties of selection boards*, 713.378 *Promotion lists*, 713.379 *Professional and physical qualifications*, 713.379a *Appointment of selectees*, 713.379b *Temporary and permanent appointments*, 713.379c *Failure of selection and promotion*, and 713.379d *Promotion of ensigns to lieutenant (junior grade)*.

9. In § 713.411 paragraph (f) is amended and new paragraphs (f–1), (f–2), and (f–3) are added so that the amended and added material reads as follows:

§ 713.411 Separation of officers on inactive duty.

* * * * *

(f) In the implementation of 10 U.S.C. 6389(a) and 10 U.S.C. 6389(b), an officer in an active status in the Naval Reserve in the permanent grade of lieutenant or lieutenant (junior grade) who is considered, in accordance with 10 U.S.C. 5903, as having twice failed of selection for promotion shall be afforded an opportunity to transfer to the Retired Reserve, if qualified, and, if not so transferred, he may:

(1) If he accepted, prior to 19 January 1961, his original appointment in a grade above chief warrant officer, W–4, in the Navy or Naval Reserve, be retained in an active status until he completes 20 years of total commissioned service, computed in accordance with 10 U.S.C. 6389 (d), at which time he shall be retired or discharged unless he is otherwise qualified for retention in an active status by reason of some provision of law; or,

(2) If he accepted, on or after 19 January 1961, his original appointment in a grade above chief warrant officer, W–4, in the Navy or Naval Reserve, be retained in an active status until he has actually served 6 years in a commissioned grade above chief warrant officer, W–4, at which time he shall, if originally appointed from warrant officer or enlisted grade, be afforded an opportunity for appointment or enlistment—as applicable—in such former grade or be retired or discharged unless he is otherwise qualified for retention in an active status by reason of some provision of law.

(f–1) In the implementation of 10 U.S.C. 6403, women Naval Reserve officers in an active status in the line and staff corps, other than those appointed under 10 U.S.C. 5581 or Nurse Corps officers, and who are not on active duty, and not serving on an extension, or eligible in that fiscal year to be extended under 10 U.S.C. 1006, will be considered by a board to be convened as directed for elimination from an active status in the fiscal year in which the following will occur:

Captains—Permanent in grade and will complete at least 30 years' commissioned service.

Commanders—Name not on a promotion list, permanent in grade, and will complete at least 26 years' commissioned service.

Lieutenant Commanders—Name not on a promotion list, permanent in grade, and will complete at least 20 years' commissioned service.

Lieutenants—Name not on a promotion list, permanent in grade, and will complete at least 13 years' commissioned service.

Lieutenants (junior grade)—Name not on a promotion list, permanent in grade, and will complete at least 7 years' commissioned service.

(f–2) The number of women officers in the Naval Reserve not on active duty, to be eliminated will be as the Secretary of the Navy directs and will be those officers who, in the board's opinion, are considered to be "least fitted" for continuation in the Naval Reserve.

(f–3) Boards convened for the purpose of recommending women Naval Reserve officers not on active duty for elimination from an active status shall be composed of at least five members, the majority of whom will be Reserve officers senior in permanent grade to those officers being considered. Women officers will be represented on the board where practicable. Whenever staff corps officers are being considered, the board will contain appropriate staff corps membership where practicable.

[SEAL] MERLIN H. STARING,
Rear Admiral, JAGC, U.S. Navy,
Acting Judge Advocate General.

NOVEMBER 3, 1971.

[FR Doc.71-16364 Filed 11-9-71;8:47 am]

Title 45—PUBLIC WELFARE

Chapter II—Social and Rehabilitation Service (Assistance Programs), Department of Health, Education, and Welfare

PART 213—PRACTICE AND PROCEDURE FOR HEARINGS TO STATES ON CONFORMITY OF PUBLIC ASSISTANCE PLANS TO FEDERAL REQUIREMENTS

Decisions Following Hearing; Correction

The document revising Part 213 of Chapter II of Title 45 of the Code of Federal Regulations, published in the FEDERAL REGISTER on January 29, 1971, at 36 F.R. 1454, is corrected by changing the reference in § 213.32(d) from "§ 213.7" to "§ 201.7 of this chapter."

Approved: November 3, 1971.

R. H. BRADY,
Assistant Secretary for Administration and Management.

[FR Doc.71-16383 Filed 11-9-71;8:47 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Upper Souris National Wildlife Refuge, N. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (11–10–71).

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

NORTH DAKOTA

UPPER SOURIS NATIONAL WILDLIFE REFUGE

Sport fishing on the Upper Souris National Wildlife Refuge, N. Dak., is permitted only on the areas designated by signs as open to fishing. These open areas comprise 7,000 acres and are delineated on maps available at refuge headquarters and from the Office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Sport fishing shall be in accordance with all applicable State laws and regulations subject to the following special conditions:

(1) Refuge areas shall be open and closed to the taking of fish during calendar year 1972 in accordance with North Dakota State laws and regulations governing sport fishing. Boat fishing shall be permitted only from the opening day of the summer fishing season through September 30, 1972.

(2) The use of once frozen smelt, perch eyes and commercially pickled minnows is permitted.

(3) One outboard motor of not more than 10 horsepower may be attached to any boat or floating craft and is to be used for fishing purposes only. Speed limit on the Souris River above the Mouse River Park not to exceed 5 miles per hour.

(4) Legal hook and line equipment for each fisherman shall consist of one pole equipped with one line to which is attached one hook or lure.

(5) Fish houses and vehicles will not be permitted on river areas below the Lake Darling dam.

(6) Snowmobiles may be used on ice surfaces of Lake Darling from the Lake Darling dam to the Grano Road crossing only. Snowmobiles prohibited on all other parts of the refuge.

(7) Refuge is open to public use between the hours of 5 a.m. to 10 p.m. daily.

(8) All owners of watercraft stored on refuge public use areas must secure a special use permit for this purpose. Special use permits are available at the refuge headquarters office. All watercraft must be removed from refuge areas within three (3) days after the close of the boating season on September 30, 1972.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33, and are effective through December 31, 1972.

DON R. PERKUCHIN,
Refuge Manager, Upper Souris National Wildlife Refuge, Foxholm, N. Dak.

NOVEMBER 3, 1971.

[FR Doc.71-16372 Filed 11-9-71;8:46 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 913]

GRAPEFRUIT GROWN IN INTERIOR DISTRICT IN FLORIDA

Proposed Expenses and Rate of Assessment for Fiscal 1971–72

Consideration is being given to the following proposals submitted by the Interior Grapefruit Marketing Committee, established under the marketing agreement, as amended, and Order No. 913, as amended (7 CFR Part 913), regulating the handling of grapefruit grown in the Interior District in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(a) That the expenses that are reasonable and likely to be incurred by the Interior Grapefruit Marketing Committee, during the fiscal period August 1, 1971, through July 31, 1972, will amount to $30,400.

(b) That the rate of assessment for such period, payable by each handler in accordance with § 913.31, be fixed at $0.005 per standard packed box.

Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: November 5, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-16429 Filed 11-9-71;8:51 am]

Rural Electrification Administration

[7 CFR Part 1701]

ACCOUNTING SYSTEM FOR REA ELECTRIC BORROWERS

Prescribed System of Accounts

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue revised REA Bulletin 181–1, Uniform System of Accounts for Rural Electric Borrowers. This REA bulletin prescribes the accounting and records system to be established and maintained by REA electric borrowers. On final issuance of this revised REA bulletin, appendix A to part 1701 will be modified accordingly.

Persons interested in the provisions of revised REA Bulletin 181–1 may submit written data, views, or comments to the Director, Borrowers' Financial Management Division, Room 4307, South Building, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 30 days from the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Borrowers' Financial Management Division during regular business hours.

A copy of proposed REA Bulletin 181–1 may be secured in person or by written request from the Director, Borrowers' Financial Management Division.

A summary of the changes proposed in the system of accounts prescribed by REA for its electric borrowers is as follows:

REVISED REA BULLETIN 181–1

REA's current mortgage requires each borrower at all times to keep, and safely preserve proper books, records, and accounts in which full and true entries will be made of all the dealings, business, and affairs of the borrower, in accordance with the methods and principles prescribed by the Uniform System of Accounts.

The REA Uniform System of Accounts has not been revised since it was issued in 1961. Numerous changes and revisions have been effected through the issuance of accounting interpretations. A revision of the system of accounts is needed to incorporate these changes. For many years the REA Uniform System of Accounts and the Uniform System of Accounts prescribed by the Federal Power Commission for class A and B electric utilities have been similar in most respects except for those accounts reflecting loan transactions and the equity section applicable to cooperative-type borrowers. It seems reasonable that wherever practicable all other differences should be eliminated. Therefore, REA has adopted as its Uniform System of Accounts the Federal Power Commission's Uniform System of Accounts for class A and B public utilities, as modified by this bulletin. Some of the modifications arise from the nonprofit nature of the rural electric cooperative, while others result from the manner in which the REA loan program is administered. All questions concerning the interpretation of the system of accounts shall be referred to REA.

Beginning January 1, 1972, all REA borrowers are to follow the FPC System of Accounts prescribed for A and B electric utilities as modified by this bulletin.

Changes from time to time in the FPC System of Accounts will also be considered changes in the REA System of Accounts except in those cases where REA specifically prescribes other accounting. The currently prescribed account numbers and titles are set forth in the appendix to the bulletin.

The following principal accounting changes in the REA System of Accounts are to conform to the Uniform System of Accounts of the Federal Power Commission.

1. Account 180, Retirement Work in Progress, has been changed to a subaccount (108.8) of Account 108, Accumulated Provision for Depreciation of Electric Plant in Service.

2. Account 185, Temporary Facilities, has been added. This will eliminate the need for preparing construction and retirement work orders for temporary facilities as previously required and will, therefore, simplify the accounting.

3. The accounting for current and potential transformers, meter sockets, and other metering equipment, listed in Account 370, Meters, has been changed to provide for capitalization upon purchase.

Also, voltage regulators are to be capitalized on purchase. These changes will bring REA into agreement with FPC Uniform System of Accounts.

4. Account 451, Miscellaneous Service Revenues, has been added. Previously this account was consolidated with Account 456, Other Electric Revenues. This eliminates the difference between REA and FPC System of Accounts.

5. Account 420, Installation Loan Income, has been eliminated. The entries formerly made to this account are to be included in Account 419, Interest and Dividend Income. There is no longer any need for a segregation of installation loan income.

6. Account 419.1, Allowance for Funds Used During Construction, has been added. This account replaces former Account 432, Interest Charged to Construction—Credit, and conforms to the recent accounting change prescribed by FPC.

7. Some account numbers or titles have been changed to conform to the FPC System of Accounts. These include:

(a) All cash accounts are now a subdivision of Account 131, Cash.

(b) All long-term debt accounts are now a subdivision of Account 224, Other Long-Term Debt.

8. Some FPC accounts now prescribed are accounts that are either seldom used or used by few borrowers.

9. Some subaccounts which are not in the FPC System of Accounts are no longer prescribed. This leaves the use of certain subaccounts optional with the borrower.

Other principal accounting changes in the REA System of Accounts are:

1. Account 220, Operations—Clearing, has been deleted. To simplify closing the books at yearend operating revenue and expense accounts are to be closed directly to Account 219.1, Operating Margins.

2. The use of accounts for recording loans available from REA is now optional. It is not necessary to record these amounts until notes are executed, unless it is considered necessary by the borrower for proper control.

3. Account 422, Nonoperating Taxes, has been added to segregate in a separate account all taxes relating to nonoperating margins. This segregation is needed in order to determine operating margins and nonoperating margins.

Dated: November 4, 1971.

JAMES N. MYERS,
Assistant Administrator—Electric.

[FR Doc.71-16392 Filed 11-9-71;8:48 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 199]

[CGFR 71-135]

INTERIM LIFESAVING EQUIPMENT REQUIREMENTS FOR BOATS

Notice of Proposed Rule Making

The Coast Guard is considering issuing new regulations to require the carriage of lifesaving devices on certain boats as defined in the Federal Boat Safety Act of 1971. Any interested person may submit written data, views, comments, suggestions, and arguments to U.S. Coast Guard (CMC/82), Room 8234, 400 Seventh Street SW., Washington, DC 20590. All communications received within 45 days after the date of publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed regulations. Each person submitting comments should include his name and address, identify this notice (CGFR 71–135) and give reasons and supporting data for his recommendations. All comments will be available for examination in Room 8234.

On Thursday, December 16, 1971, at 2 p.m., a public hearing to receive the views of interested persons on the proposed regulations will be held in Room 2230, 400 Seventh Street SW., Washington, DC. Each person who wishes to make an oral statement is requested to notify the U.S. Coast Guard (CMC/82), Room 8234, 400 Seventh Street SW., Washington, DC 20590, before December 16, 1971, and indicate the amount of time required for initial statement. The hearing will be an informal hearing conducted by a designated representative of the U.S. Coast Guard. It will not be a judicial or evidentiary type hearing, so there will be no cross-examinations of persons presenting statements. After all initial statements have been completed, those persons who wish to make rebuttal statements will be given an opportunity to do so in the same order in which they made their initial statements.

Part 25 of Title 46 of the Code of Federal Regulations presently prescribes lifesaving equipment requirements for motorboats and certain motor vessels and barges carrying passengers when towed by motorboats or motor vessels. "Motorboat" as used in Part 25, means vessels propelled by machinery. Present Federal regulations do not require lifesaving equipment for such kinds of boats as canoes, sailboats, and rowboats when they are not propelled by machinery.

In 1970, 364 drownings resulted from the use of boats which were not required by Federal regulations to be equipped with life preservers or other lifesaving devices. In 42 percent of these cases, no lifesaving equipment was available for use.

The effect of this proposed amendment would be to extend the requirements for boats propelled by machinery to boats propelled or controlled by oars, paddles, sails, poles, or by another vessel. The regulations in Part 46 and all other Coast Guard regulations pertaining to lifesaving equipment remain in effect. Under the proposed amendment, for example, a 16-foot boat propelled by an outboard motor would be covered by 46 CFR 25.25–10(b) and that boat, when equipped only with oars, would be covered by these proposed regulations. The lifesaving equipment requirements would be identical. These regulations are proposed under the authority of section 5 of the Federal Boat Safety Act of 1971 (85 Stat. 213), which was delegated to the Commandant of the Coast Guard on October 5, 1971 (36 F.R. 19593). These regulations are interim in nature pending an overall revision of lifesaving equipment requirements.

Section 5(b) of the Act requires, among other things, that a regulation specify an effective date which is not earlier than 180 days from the date of issuance, unless there exists a boating safety hazard so critical as to require an earlier effective date. The Coast Guard considers these lifesaving equipment requirements to be so critical as to require an earlier effective date. The effective date is subject to final determination after considering comments received. However, it is anticipated that the rule can be made effective before April 1, 1972.

Section 6 of the Federal Boat Safety Act of 1971 requires that the Boating Safety Advisory Council be consulted in prescribing regulations and standards under the authority of section 5 of the Act. The Boating Safety Advisory Council is now being formed and will be consulted during the comment period of this proposal.

In consideration of the foregoing, the Coast Guard proposes to amend Chapter I of Title 33 of the Code of Federal Regulations by adding a new Subchapter X and a new Part 199 to read as follows:

SUBCHAPTER X—INTERIM REGULATIONS

PART 199—INTERIM REGULATIONS FOR BOATS

Subpart A—General

Sec.
199.1 Applicability.
199.3 Purpose.
199.5 Definitions.

Subpart B—Lifesaving Equipment

199.11 Applicability of subpart.
199.13 Lifesaving equipment required.
199.15 Stowage.
199.17 Approval; condition; marking.

AUTHORITY: The provisions of this Part 199 issued under the Act of August 10, 1971, Public Law 92–75, section 5, 85 Stat. 213, 215; 49 CFR 1.46(o)(1) (36 F.R. 19593).

Subpart A—General

§ 199.1 Applicability.

This part prescribes rules governing the use of boats on waters subject to the jurisdiction of the United States and on the high seas beyond the territorial seas for boats owned in the United States, except—

(a) Foreign boats temporarily using waters subject to United States jurisdiction;

(b) Military or public boats of the United States, except recreational-type public vessels;

(c) A boat whose owner is a State or subdivision thereof, which is used principally for governmental purposes, and which is clearly identifiable as such; and

(d) Ship's lifeboats.

§ 199.3 Purpose.

The purpose of this part is to prescribe boating regulations and standards that are so critical as to require an early effective date during the interim before comprehensive boating safety regulations can be promulgated under the Federal Boating Safety Act of 1971.

§ 199.5 Definitions.

As used in this part:

(a) "Boat" means any vessel—

(1) Manufactured or used primarily for noncommercial use.

(b) "Vessel" includes every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on the water.

(c) "Use" means operate, navigate, or employ.

Subpart B—Lifesaving Equipment

§ 199.11 Applicability of subpart.

This subpart applies to boats that are propelled or controlled by oars, paddles, poles, or sails or by another vessel.

§ 199.13 Lifesaving equipment required.

(a) No person may use a boat less than 40 feet long unless there is at least one of the following on board for each person:

(1) Life preserver.

(2) Ring life buoy.

(3) Buoyant vest.

(4) Special purpose water safety buoyant device.

(5) Buoyant cushion.

(b) No person may use a boat 40 feet long and less than 65 feet long unless there is at least one of the following on board for each person:

(1) Life preserver.

(2) Ring life buoy.

(c) No person may use a boat 65 feet long or longer unless there is at least one life preserver on board for each person.

§ 199.15 Stowage.

No person may use a boat unless each item of lifesaving equipment required by § 199.13 is readily accessible.

§ 199.17 Condition; approval; marking.

No person may use a boat unless each item of lifesaving equipment required by § 199.13 is—

(a) Approved by the Commandant under 46 CFR 160.

(b) In good and serviceable condition; and

(c) Is legibly marked with the markings specified in 46 CFR Part 160 for that item.

Dated: November 4, 1971.

C. R. BENDER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.71-16476 Filed 11-9-71;8:50 am]

FEDERAL MARITIME COMMISSION

[46 CFR Part 542]

[Docket No. 71-84]

FINANCIAL RESPONSIBILITY FOR OIL POLLUTION CLEANUP

Clarifying Language in Certificate of Insurance Form

On September 30, 1970, the Federal Maritime Commission published in the FEDERAL REGISTER (35 F.R. 15216) regulations to implement the financial responsibility provisions of section 11(p)(1) of the Federal Water Pollution Control Act, as amended by the Water Quality Improvement Act of 1970 (84 Stat. 97). These regulations (Commission General Order 27), including subsequent amendments, set forth the procedures whereby the owner or operator of every vessel over 300 gross tons, including certain barges of equivalent size, using any port or place in the United States or the navigable waters of the United States must evidence financial responsibility to meet the liability to the United States to which such vessel could be subjected for the discharge of oil into or upon the waters of the United States. The regulations set forth the qualifications required by the Commission for issuance of certificates, including master certificates, evidencing such financial responsibility.

Section 11(p)(1) of the Federal Water Pollution Control Act, as amended, provides that every subject vessel shall establish and maintain, under regulations to be prescribed from time to time by the President, evidence of financial responsibility of $100 per gross ton, or $14 million, whichever is the lesser, to meet the liability to the United States to which such vessel could be subjected under this section. Such evidence of financial responsibility may be established by insurance among other means.

As provided in the regulations, a master certificate will be issued by the Commission only for vessels held solely for purposes of construction, scrapping or sale. The term "construction" includes the repair and/or conversion of vessels. Section 542.5(a)(5) of General Order 27 (36 F.R. 5703; issue of March 26, 1971) permits the filing of Certificate of Insurance Form FMC-225A as evidence of insurance coverage for vessels held solely for purposes of construction, scrapping or sale. Forms FMC-225A, therefore, are executed by underwriters only on behalf of those vessel owners and operators who apply to the Commission for master certificates.

Certain underwriters consider that the currently worded Form FMC-225A may be subjected to some misinterpretation regarding the maximum amount of liability being underwritten. They request that the current provisions of the form be clarified to make it absolutely clear that the amount of insurance granted to owners and operators will not in any event exceed $100 per gross ton of a given vessel or a maximum amount to be stated on the form, whichever is the lesser.

While the Commission is of the view that the present language of Form FMC-225A is sufficiently clear in this regard, it is willing to accept and include clarifying modifications to the present language. Since no substantive change is involved, the Commission would continue to view as valid any Form FMC-225A currently on file with the Commission until such documents are terminated in the normal course of events or are substituted by new Forms FMC-225A containing the herein proposed clarifications.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 552), and sections 11(p)(1) and 11(p)(2) of the Federal Water Pollution Control Act, as amended by the Water Quality Improvement Act of 1970 (84 Stat. 97), notice is hereby given that the Federal Maritime Commission is considering amending Part 542 of Title 46 CFR as follows:

It is proposed that the following language be substituted for the current language of Certificate of Insurance Form FMC-225A:

---------- (hereinafter called "the
(Name of Insurer)
Insurer"), in accordance with the provisions of section 11(p)(1) of the Federal Water Pollution Control Act, as amended (hereinafter called "the Act"), hereby certifies that ----------
---------- (hereinafter called "the Assured"), with respect to any vessel which the Assured may from time to time hold, as owner or operator, during the life of this Certificate of Insurance, for purposes of construction, scrapping or sale (hereinafter called "the Vessel"), is insured by the Insurer in the amount of $100 per gross ton of the Vessel or $--------, whichever is the lesser, against liability to the United States Government arising under section 11(f) of the Act.

The Insurer consents to be sued directly by the U.S. Government in respect of any claim against the Assured, arising with respect to the Vessel under section 11(f) of the Act; provided, however, that in any such direct action (a) its liability shall not exceed $100 per gross ton of the tonnage of the Vessel in respect of which the claim is made or the amount stipulated above, whichever is the lesser, and (b) it shall be entitled to invoke all rights and defenses as set forth in section 11(f)(1) of the Act which would have been available to the Assured if the action had been brought against the Assured by the U.S. Government, and shall also be entitled to invoke all rights and defenses which would have been available to the Insurer if the action had been brought against the said Insurer by the Assured.

---------- with offices at
---------- is hereby designated as the legal agent of the Insurer for service of process in any direct action.

This Certificate of Insurance shall be applicable only in relation to events giving rise to a claim by the U.S. Government against the said Assured under section 11(f) of the Act in respect of the Vessel, occurring on or after the below specified effective date of this Certificate of Insurance and before the expiration date of this Certificate of Insurance, which shall be the earlier of the following:

(a) The date whereon Federal Maritime Commission (FMC) withdraws its master Certificate of Financial Responsibility (Oil Pollution) covering the Vessel.

(b) A date 30 days after the date of receipt by FMC of notice in writing that the Insurer has elected to terminate the insurance evidenced by this Certificate of Insurance and has so notified the Assured.

(c) The date substitute evidence of financial responsibility has been accepted by FMC.

Interested persons may participate in this rulemaking proceeding by filing with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days of the publication of this notice in the FEDERAL REGISTER, an original and 15 copies of their views or arguments pertaining to the proposed clarification. All suggestions for changes in the proposed text should be accompanied by drafts of the language thought necessary to accomplish the desired clarification.

By order of the Federal Maritime Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-16401 Filed 11-9-71;8:49 am]

[46 CFR Part 546]

[Docket No. 71-74]

QUARTERLY REPORT OF FREIGHT LOSS AND DAMAGE CLAIMS

Further Enlargement of Time To File Replies

Upon request of Hearing Counsel and good cause appearing, time within which they shall file replies to comments in this proceeding is enlarged to and including December 3, 1971. Answers to Hearing Counsel's replies shall be submitted on or before December 20, 1971.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-16402 Filed 11-9-71;8:49 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1048]

[No. MC-C-1 (Sub-No. 11); Ex Parte No. MC MC-37]

ST. LOUIS, MO.-EAST ST. LOUIS, ILL., COMMERCIAL ZONE

Proposed Reinstatement of Exemption

NOVEMBER 5, 1971.

Notice of proposed rule making, namely reinstatement of the commercial zone exemption as to Belleville, Ill., a point within the limits of the St. Louis, Mo.-East St. Louis, Ill., commercial zone heretofore defined in No. MC-C-1 (Sub-No. 9) St. Louis, Mo.-East St. Louis, Ill., commercial zone, 111 M.C.C. 325. Petitioner: Belle Valley Industrial Village, Inc. Petitioner's representative: Jim D. Keehner, 111 West Washington Street, Belleville, IL 62220.

By petition filed October 26, 1971, the above-named petitioner requests the Commission to reopen the above proceedings for the purpose of restoring the partial exemption under section 203(b)(8) of the Interstate Commerce Act at Belleville, Ill., a point within the St. Louis, Mo.-East St. Louis, Ill., commercial zone.

No oral hearing is contemplated at this time, but anyone wishing to make representations in favor of, or against the above-proposed specific redefinition of the limits of the St. Louis, Mo.-East St. Louis, Ill., commercial zone, may do so by the submission of written data, views, or arguments. An original and 15 copies of such data, views, or arguments shall be filed with the Commission on or before January 5, 1972. A copy of each should be served upon petitioner's representative. Written material or suggestions submitted will be available for public inspection at the Offices of The Interstate Commerce Commission, 12th and Constitution, Washington, DC, during regular business hours.

Notice to the general public of the matter herein under consideration will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16415 Filed 11-9-71;8:50 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-9380]

ESTABLISHMENT AND OPERATION OF FACILITIES FOR CLEARING AND SETTLING TRANSACTIONS

Notice of Proposed Rule Making

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposal to adopt Rule 15Aj-3 (17 CFR 240.15Aj-3) under the Securities Exchange Act of 1934 (the Act). Proposed Rule 15Aj-3 prescribes certain requirements applicable to a national securities association which establishes and operates facilities for clearing and settling securities transactions, including the requirement that the applicable rules of the Association incorporate as guides to interpretation and application certain public interest standards set forth in the Act and also that such rules of the Association provide fair procedures for consideration of requests for or refusals of access to such system by customers, issuers, brokers, and dealers. The proposed rule would also provide for Commission review of adverse action by the Association with respect to such requests for or refusals of access.

While the proposed rule is applicable to action that may be taken by any securities association registered under section 15A of the Act, it has been formulated in light of the National Association of Securities Dealers, Inc.'s (NASD) establishment of the National Clearing Corporation (NCC) as a wholly owned subsidiary to provide a nationwide system to clear and settle over-the-counter transactions in securities and the NCC's and NASD's proposals to adopt rules governing the operation of and access to such a system.

The NASD has submitted to the Commission amendments to its by-laws and a proposed new schedule thereunder which, among other things, would provide complaint and hearing procedures for aggrieved persons who may be adversely affected by NCC action. The NASD has also submitted to the Commission proposed rules which, among other things, provide standards regarding who may obtain access to the system and the applicable rates to be charged those who clear through the system; standards for the inclusion or exclusion of securities from the system; standards for suspending or deleting securities from the list of cleared securities (i.e., those securities qualified for clearance through the system), and for suspension or exclusion of those who clear through the system for failure to comply with applicable regulatory standards.

THE PROPOSED RULE AND ITS STATUTORY BASIS

Rule 15Aj-3 would be adopted pursuant to various provisions of the Act, including the power conferred by section 23(a) to adopt "such rules and regulations as may be necessary for the execution of the functions vested" in the Commission by the Act.[1] The rule relates specifically to the Commission's function to make sure that rules of a national securities association, among other things, "are designed to * * * remove impediments to and perfect the mechanism of a free and open market; and are not designed to permit unfair discrimination between customers or issuers, or brokers or dealers".

Discharge of this function in the context of reviewing rules of an association (or its subsidiary) governing the operation of and access to a system of clearing and settling securities transactions is a novel problem in the administration of section 15A. The Commission, however, dealt with a similar problem when the Association proposed to establish the NASDAQ system, its system for providing automated quotations to members and the investing public. See Securities Exchange Act Release No. 8470 of December 16, 1968, and the FEDERAL REGISTER for December 24, 1968 at 33 F.R. 19167 announcing the adoption of Rule 15Aj-2 (17 CFR 240.15Aj-2). As the Commission indicated at that time, existing rules of the NASD (other than those of an organizational or procedural character) relate primarily to standards of business conduct or to conditions of membership. Apart from the possibility that the Commission may disapprove rules of this type which are on their face unlawful and/or in violation of the standards of the Act, the statute spells out a procedure whereby persons aggrieved as a result of the application of rules of conduct or rules limiting membership may have appropriate consideration of their grievance within the association and on review by the Commission. Rule 15Aj-3 would provide a similar procedure where application of a rule of a national securities association or its subsidiary denies access to a facility for clearing and settling transactions which is maintained by the collective action of the association. The requirement of a fair and orderly procedure for consideration of specific access requests and grievances appears to the Commission essential to assure that such rules conform, in their actual operation, to the statutory requirements.

The text of proposed § 240.15Aj-3 of Chapter II of Title 17 of the Code of Federal Regulations is as follows:

§ 240.15Aj-3 Rules for a national securities association relating to a facility for clearing and/or settling securities transactions.

(a) Any national securities association which directly or indirectly adopts, or proposes to adopt, any rules providing for or regulating a system for the clearance and/or settlement of securities transactions shall incorporate in such rules a provision to the effect that insofar as such rules prescribe the conditions of access to such system, such rules shall be applied and interpreted in accordance with the standards of paragraph (b)(8) and paragraph (h)(2) of section 15A of the Act, including the requirement that rules of such an association shall be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and not to permit unfair discrimination between customers or issuers, or brokers or dealers, and to assure that any disciplinary action pursuant to such rules shall not be excessive or oppressive, having due regard to the public interest.

(b) Such rules shall also provide a fair and orderly procedure with respect to the determination of whether any customer or issuer or broker or dealer may be excluded or limited in respect of requested access to such system including provisions:

(1) For notice of and opportunity to be heard upon the specific grounds for exclusion or limitation which are under consideration;

(2) That a record shall be kept; and

(3) That the determination shall set forth the specific grounds upon which the exclusion or limitation is based.

[1] Other pertinent provisions are in section 15A.

(c) In the event of any such exclusion or limitation, such action shall be subject to review by the Commission, on its own motion, or upon application by any person aggrieved thereby filed within 30 days after such action has been taken or within such longer period as the Commission may determine. In any proceeding for such review, if the Commission, after appropriate notice and opportunity for hearing, and upon consideration of the record before the association and such other evidence as it may deem relevant, determines that the specific grounds on which such action is based exist in fact and are in accord with the applicable rules of the association (including the provisions thereof required to be included by paragraph (a) of this section), the Commission shall by order dismiss the proceeding. Otherwise, the Commission shall by order set aside the action of the association and require the association to accord the aggrieved person access to such system or to take such other action as may be appropriate, subject to such terms and conditions as the Commission determines to be in accordance with the public interest and consistent with the rules of such association.

All interested persons may submit their views and comments on the above proposal in writing to the Securities and Exchange Commission, Washington, D.C. 20549 on or before December 14, 1971. All such communications will be considered available for public inspection.

(Secs. 15A(j), 23(a), 52 Stat. 1070, 48 Stat. 901, as amended, 49 Stat. 1379, Sec. 8, 15 USC 78o-3(j), 78w)

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-16375 Filed 11-9-71;8:48 am]

Notices

DEPARTMENT OF JUSTICE

Bureau of Narcotics and Dangerous Drugs

SCHEDULES OF CONTROLLED SUBSTANCES

Petition To Transfer Pentazocine to Schedule III Accepted for Filing

On October 5, 1971, the Bureau of Narcotics and Dangerous Drugs received a petition for the initiation of proceedings to transfer any injectable liquid which contains any quantity of Pentazocine, including its salts, isomers and salts of its isomers to Schedule III of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91-513). The petitioners are Joseph L. Fink III, R. Ph., a student at Georgetown University Law Center and six other persons.

By letter dated October 28, 1971, the Bureau notified the petitioners that their petition had been accepted for filing in accordance with 21 CFR 308.44(c). The Bureau is presently reviewing and evaluating the petition in order to determine whether the grounds upon which the petitioners rely are sufficient to justify the initiation of the requested proceedings.

If and when the Director determines that proceedings should be initiated, a general notice of any proposed rule making will be published in the FEDERAL REGISTER.

Dated: October 28, 1971.

JOHN E. INGERSOLL, *Director, Bureau of Narcotics and Dangerous Drugs.*

[FR Doc.71-16389 Filed 11-9-71;8:48 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA

Notice of Proposed Withdrawal and Reservation of Lands

NOVEMBER 2, 1971.

The Department of the Navy has filed an application, Serial Number Riverside 06454, for the withdrawal of the lands described below from all forms of appropriation under the public land laws, including the mining laws, subject to valid existing rights. The lands have previously been withdrawn by Executive Orders Nos. 8790 and 8791 of June 14, 1941 for use of the Department of the Navy in connection with a Marine Corps combat and training area. The lands were transferred to the jurisdiction of the Department of the Air Force by Public Land Order No. 2748 of August 8, 1962, and to the jurisdiction of the National Aeronautics and Space Administration by Public Land Order No. 3749. The applicant agency desires the land for use in connection with the Miramar Naval Air Station, San Diego, Calif.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, objections in connection with the proposed withdrawal may present their view in writing to the undersigned officer of the Bureau of Land Management, U.S. Department of the Interior, 1414 University Avenue, Post Office Box 723, Riverside, CA 92502.

The Department's regulations (43 CFR 2351.4(c)) provides that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's need, to provide for the maximum utilization of the lands for purposes other than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

SAN BERNARDINO MERIDIAN, CALIF.

T. 14 S., R. 1 W.,
Sec. 31, N½NE¼;
Sec. 32, NW¼NW¼, N½SW¼, SE¼SW¼, and S½SE¼;
Sec. 33, W½W½.
T. 15 S., R. 1 W.,
Sec. 4, lots 4, 5, and 10;
Sec. 5, lots 1, 2, 3, 5, S½NE¼, SE¼NW¼, E½SW¼, SW¼SE¼, and N½SE¼;
Sec. 6, lots 1, 6, 7, E½SW¼, and W½SE¼;
Sec. 7, lot 1, NW¼NE¼, and SE¼NE¼.
T. 15 S., R. 2 W.,
Sec. 11, lot 1;
Sec. 12, N½NE¼ and NE¼NW¼.

The areas described aggregate 1,674.86 acres in San Diego County, Calif.

WALTER F. HOLMES, *Assistant Land Office Manager.*

[FR Doc.71-16373 Filed 11-9-71;8:46 am]

OREGON DISTRICT MANAGERS, ET AL.

Delegation of Authority Regarding Procurement

NOVEMBER 3, 1971.

State Director, Oregon Supplement to Bureau of Land Management Manual 1510.

Redelegation of authority. Pursuant to the delegation of authority contained in Bureau Manual 1510.03C, the purchasing authorities delegated to the Oregon State Director in BLM 1510.03B2d are redelegated as follows:

2. *Open market purchasing.* The following classes of employees may enter into contracts pursuant to section 302(c)(3) of the FPAS Act, as amended, for supplies and services, excluding capitalized property, not to exceed $2,500; and contracts for construction not to exceed $2,000; *Provided*, That the requirement is not available from established sources of supply. The same classes of employees may procure necessary supplies and services, except capitalized property, available from established sources of supply regardless of amount. The classes of employees who may make such procurements are:

District Managers.
Chief, Division of Management Services, State Office.
Chief, Branch of Administrative Management, State Office.
Chief, Division of Administration, District Offices.
Area Manager, Tillamook Resource Area Headquarters, Salem District.

This publication amends the Delegation of Authority published in the FEDERAL REGISTER on February 27, 1971, F.R. Doc. 71-2688.

ARCHIE D. CRAFT, *State Director.*

[FR Doc.71-16421 Filed 11-9-71;8:50 am]

[Power Site Classification 463]

TAZIMINA RIVER AND LAKES, ALASKA

Classification of Power Site

Correction

In F.R. Doc. 71-15915 appearing on page 20994 in the issue of Tuesday, November 2, 1971, the fourth land description under T. 2 S., R. 30 W., reading "Sec. 9, S½NE¼, SE¼NW¼, and S½;" should read "Sec. 9, S½NE¼, SE¼NW¼, and S½;".

Bureau of Reclamation

[Int Fes 71-20]

COLORADO RIVER STORAGE PROJECT, COLORADO

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for an addition to the authorized Colorado River Storage Project (Proposed Archer-Weld 230-KV Transmission Line and Weld Substation). The

environmental statement concerns a proposed transmission line for the purpose of furnishing electrical energy to power market centers. The line also will provide a strong interconnection between hydro and thermal generation systems, enhancing reliability of service. Copies are available for inspection at the following locations:

Office of Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, telephone: (202) 343-4991

Office of the Regional Director, Bureau of Reclamation, Denver, Colo., Building 20, Denver Federal Center, telephone: (303) 233-6719

Single copies of the final environmental statement may be obtained on request to the Commissioner of Reclamation and the Regional Director. In addition copies are available from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151 for $3 each. Please refer to the statement number above.

Dated: November 2, 1971.

JOHN W. LARSON,
Assistant Secretary of the Interior.

[FR Doc.71-16374 Filed 11-9-71;8:47 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

ACREAGE ALLOCATIONS FOR NEW CONTINENTAL CANE SUGAR AREAS

Notice of Hearing

Notice is hereby given that the Secretary of Agriculture, acting pursuant to the Sugar Act of 1948, as amended by Public Law 92-138, is preparing to consider the allocation of sugarcane acreage which he determines is necessary to enable any new cane sugar producing area or areas to fill the quota of 100,000 short tons, raw value, that is to be established for 1973 or as soon thereafter as it can be used. The statutory language and pertinent legislative history is quoted herein. An informal public hearing on the matter will be held in Room GE 086, James Forrestal Building, 1000 Independence Avenue SW., Washington, DC, beginning at 10 a.m., on December 2, 1971.

(1) *Submittal of requests for acreage.* Requests for acreage shall be addressed to the Director, Sugar Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, and shall be submitted in triplicate at the hearing. Interested persons will be given the opportunity at the hearing to submit data, views, and arguments in regard to such requests. Provisions for submitting written arguments and briefs after the hearing will be announced at the hearing.

(2) *Specifications to be covered in requests.* Requests for acreage should include all relevant information, including the following:

(a) The location of the processing facility and concise delineation of the area wherein the cane for the new facility will be grown;

(b) The acreage desired and its sugar equivalent, including the bases for estimating the sugar equivalent; also the crop year when the new facility would commence processing sugarcane;

(c) The daily grinding capacity and the contemplated grinding period together with a description of the proposed facilities;

(d) A complete description of the arrangements made for capital financing. The firmness of the capital commitment is an important consideration in evaluating the requests. Whenever possible, the applicant should establish that financing for the project has been irrevocably committed contingent only upon the commitment of an acreage by the Secretary;

(e) The suitability of the area for growing sugarcane, as evidenced by any commercial production records, results of plantings on test plots which were performed and supervised by competent authorities, a showing of the availability of irrigation water or of adequate rainfall, availability of suitable land, and other evidence relating to the economic feasibility of growing the required quantity of sugarcane in the locality, including proof of interest of farmers in entering into sugarcane production.

SUGAR MARKETING ALLOTMENTS

The submission of views, data, or evidence with respect to sugar marketing allotments under section 205(a) of the Sugar Act of 1948, as amended, should be made at such hearings as will be held for establishing marketing allotments. Public notice of such hearings will be given by publication in the FEDERAL REGISTER.

Provisions of the Sugar Act and legislative history. Section 202(a) of such Act was amended to include the following:

• • • (4) Beginning with 1973 or as soon thereafter as the quota or quotas can be used, there shall be established for any new continental cane sugar producing area or areas a quota or quotas of not to exceed a total for all such areas of 100,000 short tons, raw value, subject to the requirements of section 302 of this Act.

Section 302 was amended to include the following:

• • • (c) In order to enable any new cane sugar producing area to fill the quota to be established for such area under section 202 (a)(4), the Secretary shall allocate an acreage which he determines is necessary to enable the area to meet its quota and provide a normal carryover inventory. Such acreage shall be fairly and equitably distributed to farms on the basis of land, labor, and equipment available for the production of sugarcane, and the soil and other physical factors affecting the production of sugarcane. The acreage allocation for any year shall be made as far in advance of such year as practicable, and the commitment of such acreage to the area shall be irrevocable upon issuance of such determination by publication thereof in the FEDERAL REGISTER, except that, if the Secretary finds in any case that construction of sugarcane facilities and the contracting for processing of sugarcane has not proceeded in substantial accordance with the representation made to him as a basis for his determination of distribution of acreage, he shall revoke such determination in accordance with and upon publication in the FEDERAL REGISTER of such findings. In making his determination for the establishment of a quota and the allocation of the acreage required in connection with such quota, the Secretary shall base such determination upon the firmness of capital commitment and the suitability of the area for growing sugarcane and, where two or more areas are involved, the relative qualifications of such areas under such criteria. If proportionate shares are in effect in such area in the 2 years immediately following the year for which the sugarcane acreage allocation is committed for any area, the total acreage of proportionate shares established for farms in such areas in each such 2 years, shall not be less than the larger of the acreage committed to such area or the acreage which the Secretary determines to be required to enable the area to fill its quota and provide for a normal carryover inventory.

The following contains information relating to the legislative history of this provision of the Act. H.R. Report No. 92-245, 92d Congress, first sess., on page 16 states: "The Secretary is authorized to allocate an acreage to any new continental cane sugar producing area in an amount necessary to enable the area to meet its quota to be established under subsection 202(a)(4) of the amended Act. The acreage would be allocated as far as possible in advance of the year when production is scheduled to begin. Selection of the locality for new production would be based upon the firmness of capital commitment and suitability for growing sugarcane. The total acreage of proportionate shares established for farms in the new area would be guaranteed for 3 years at not less than the acreage originally committed to the area and not more than that needed to enable the area to fill its quota and provide a normal carryover. The acreage for localities would be distributed to farms fairly and equitably on the basis of land, labor, and equipment available for the production of sugarcane, the soil and other physical factors affecting sugarcane production."

Senate Report No. 92-302, 92d Congress, first sess., on page 4 states: "An additional quota of as much as 100,000 tons would be provided for a new continental cane sugar area or areas beginning in 1973 or as soon thereafter as it can be used. When established, the quotas for foreign countries other than the Philippines and Ireland would be reduced by an equivalent amount.

This new cane quota would be in addition to the mainland cane quota reserved for Louisiana and Florida. The language of the bill is specifically designed to permit the Secretary to administratively commit prior to 1973 a new quota to an area that so qualifies even though the actual quota allocation would not be in effect until 1973 or later. Thus, any time after enactment of H.R. 8866 the Secretary could commit the new quota to a specific area such as, for example, the Lower Rio Grande Valley of Texas (Cameron, Willacy, Hidalgo, and Starr Counties) if the appropriate criteria were met."

Signed at Washington, D.C., on November 3, 1971.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.71-16391 Filed 11-9-71;8:48 am]

Commodity Credit Corporation

[Amdt. 7]

SALES OF CERTAIN COMMODITIES

Monthly Sales List

The CCC Monthly Sales List for the fiscal year ending June 30, 1972, published in 36 F.R. 13044, is amended as follows:

1. The first sentence of section 44 entitled "Linseed Oil (Raw)—Unrestricted Use Sales" is revised to read as follows: "Market price but not less than $0.09 per pound, basis in tanks, Minneapolis."

Effective date: 2:30 p.m., (e.d.t.), October 29, 1971.

Signed at Washington, D.C., on November 3, 1971.

CARROLL G. BRUNTHAVER,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.71-16390 Filed 11-9-71;8:48 am]

Office of the Secretary

ORGANIZATION AND DELEGATIONS

Statement Regarding Redelegations on Temporary Basis

Notice is hereby given that all delegations of authority to Department agencies and staff offices which report to the Secretary through an Assistant Secretary or Director are withdrawn and redelegated to the respective Assistant Secretaries and Directors, who are authorized to further delegate authorities back to the agencies on a temporary basis. Delegations of authority to those agencies and offices reporting directly to the Secretary or Under Secretary are hereby reconfirmed on a temporary basis for a 90 day period.

Effective date: October 20, 1971.

J. PHIL CAMPBELL,
Acting Secretary of Agriculture.

NOVEMBER 5, 1971.

[FR Doc.71-16428 Filed 11-9-71;8:51 am]

DIRECTOR, OFFICE OF BUDGET AND FINANCE, ET AL.

Delegation of Authority

Pursuant to the authority delegated to me by the Secretary in 36 F.R. 21529, I hereby delegate on a temporary basis, to the Director, Office of Budget and Finance, the Director, Office of Information, the Director, Office of Management Services, the Director, Office of Management Improvement, the Director, Office of Personnel, the Director, Office of Plant and Operations, and the Chief, Office of Hearing Examiners all authorities relating to their respective offices so delegated to me by the Secretary. The Directors and Chief shall carry out such functions and responsibilities in accordance with and subject to sections 1 through 40 of the Secretary's "Statement of Organization and Delegations," 29 F.R. 16210, as amended in 32 F.R. 11895, and any other applicable directives of the Secretary of Agriculture or the Assistant Secretary for Administration. All prior delegations of authority from the Directors and Chief shall continue in force until superseded or revoked.

Effective date: October 20, 1971.

FRANK B. ELLIOTT,
Assistant Secretary for Administration.

NOVEMBER 5, 1971.

[FR Doc.71-16422 Filed 11-9-71;8:50 am]

ADMINISTRATOR, AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE, ET AL.

Delegation of Authority

Pursuant to the authority delegated to me by the Secretary in 36 F.R. 21529, I hereby delegate on a temporary basis, to the Administrator, Agricultural Stabilization and Conservation Service, the General Sales Manager, Export Marketing Service, the Manager, Federal Crop Insurance Corporation, the Administrator, Foreign Agricultural Service, and the Director, International Organization Staff all authorities relating to their respective agencies so delegated to me by the Secretary. The Administrators, General Sales Manager, Manager and Director shall carry out such functions and responsibilities in accordance with and subject to sections 1 through 40 of Secretary's "Statement of Organization and Delegations," 29 F.R. 16210, as amended in 32 F.R. 11895, and any other applicable directives of the Secretary of Agriculture or the Assistant Secretary for International Affairs and Commodity Programs. All prior delegations of authority from the Administrators, General Sales Manager, Manager and the Director shall continue in force until superseded or revoked.

Effective date: October 20, 1971.

CLARENCE D. PALMBY,
Assistant Secretary for International Affairs and Commodity Programs.

NOVEMBER 5, 1971.

[FR Doc.71-16423 Filed 11-9-71;8:51 am]

ADMINISTRATOR, COOPERATIVE EXCHANGE AUTHORITY, ET AL.

Delegation of Authority

Pursuant to the authority delegated to me by the Secretary in 36 F.R. 21529, I hereby delegate on a temporary basis, to the Administrator, Cooperative Exchange Authority, the Administrator, Consumer and Marketing Service, the Administrator, Food and Nutrition Service, and the Administrator, Packers and Stockyards Administration all authorities relating to their respective agencies so delegated to me by the Secretary. The Administrators shall carry out such functions and responsibilities in accordance with and subject to sections 1 through 40 of the Secretary's "Statement of Organization and Delegations," 29 F.R. 16210, as amended in 32 F.R. 11895, and any other applicable directives of the Secretary of Agriculture or the Assistant Secretary for Marketing and Consumer Services. All prior delegations of authority from the Administrators shall continue in force until superseded or revoked.

Effective date: October 20, 1971.

RICHARD E. LYNG,
Assistant Secretary for Marketing and Consumer Services.

NOVEMBER 5, 1971.

[FR Doc.71-16424 Filed 11-9-71;8:51 am]

ADMINISTRATOR, FARMER COOPERATIVE SERVICE ET AL.

Delegation of Authority

Pursuant to the authority delegated to me by the Secretary in 36 F.R. 21529, I hereby delegate on a temporary basis, to the Administrator, Farmer Cooperative Service, Administrator, Farmers Home Administration, the Chief, Forest Service, the Administrator, Rural Electrification Administration, and the Administrator, Soil Conservation Service all authorities relating to their respective agencies so delegated to me by the Secretary. The Administrators and Chief shall carry out such functions and responsibilities in accordance with and subject to sections 1 through 40 of the Secretary's "Statement of Organization and Delegations," 29 F.R. 16210, as amended in 32 F.R. 11895, and any other applicable directives of the Secretary of Agriculture or the Assistant Secretary for Rural Development and Conservation. All prior delegations of authority from the Administrators and Chief shall continue in force until superseded or revoked.

Effective date: October 20, 1971.

T. K. COWDEN,
Assistant Secretary for Rural Development and Conservation.

NOVEMBER 5, 1971.

[FR Doc.71-16425 Filed 11-9-71;8:51 am]

ADMINISTRATOR, ECONOMIC RESEARCH SERVICE ET AL.

Delegation of Authority

Pursuant to the authority delegated to me by the Secretary in 36 F.R. 21529, I hereby delegate on a temporary basis,

to the Administrator, Economic Research Service, the Administrator, Foreign Economic Development Service, the Administrator, Statistical Reporting Service, and the Director, Staff Economists Group all authorities relating to their respective agencies so delegated to me by the Secretary. The Administrators and the Director shall carry out such functions and responsibilities in accordance with and subject to sections 1 through 40 of the Secretary's "Statement of Organization and Delegations," 29 F.R. 16210, as amended in 32 F.R. 11895, and any other applicable directives of the Secretary of Agriculture or the Director of Agricultural Economics. All prior delegations of authority from the Administrators or Director, Staff Economists Group shall continue in force until superseded or revoked.

Effective date: October 20, 1971.

DON PAARLBERG,
Director of Agricultural Economics.

NOVEMBER 5, 1971.

[FR Doc.71-16426 Filed 11-9-71;8:51 am]

ADMINISTRATOR, AGRICULTURAL RESEARCH SERVICE ET AL.

Delegation of Authority

Pursuant to the authority delegated to me by the Secretary in 36 F.R. 21529, I hereby delegate on a temporary basis, to the Administrator, Agricultural Research Service, the Administrator, Cooperative State Research Service, the Administrator, Extension Service, the Director, National Agricultural Library, and the Director, Science and Education Staff all authorities relating to their respective agencies so delegated to me by the Secretary. The Administrators and the Directors shall carry out such functions and responsibilities in accordance with and subject to sections 1 through 40 of the Secretary's "Statement of Organization and Delegations," 29 F.R. 16210, as amended in 32 F.R. 11895, and any other applicable directives of the Secretary of Agriculture or the Director of Science and Education. All prior delegations of authority from the Administrators and Directors shall continue in force until superseded or revoked.

Effective date: October 20, 1971.

NED D. BAYLEY,
Director of Science and Education.

NOVEMBER 5, 1971.

[FR Doc.71-16427 Filed 11-9-71;8:51 am]

DEPARTMENT OF COMMERCE

Maritime Administration

CONSTRUCTION OF LIQUEFIED NATURAL GAS (LNG) VESSELS

Computation of Foreign Cost; Notice of Intent

Notice is hereby given of the intent of the Maritime Subsidy Board, pursuant to the provisions of section 502(b) of the Merchant Marine Act, 1936, as amended, to compute the estimated foreign costs of the construction of (a) 125,000 cubic meter liquefied natural gas (LNG) vessels of either the gas transport or Moss-Rosenberg design, and (b) any other LNG vessels whose estimated foreign construction costs may be relevant to or helpful in computing the estimated foreign construction costs of the LNG vessels described in (a).

Any person, firm, or corporation having any interest (within the meaning of section 502(b)) in such computations may file written statements by the close of business on November 30, 1971, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th and E Streets NW., Washington, DC 20235.

This notice supersedes the one contained in F.R. Doc. 71-16221 appearing in the FEDERAL REGISTER issue of November 5, 1971 (36 F.R. 21296).

Dated: November 8, 1971.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.71-16508 Filed 11-9-71;8:50 am]

National Oceanic and Atmospheric Administration

YELLOWFIN TUNA

Increase in Incidental Catch Rate

Notice of an increase in the incidental catch rate is hereby given pursuant to the proviso to § 280.6(c), Title 50, Code of Federal Regulations as follows:

Upon publication of this notice in the FEDERAL REGISTER, the 50 percent (50%) incidental catch rate of yellowfin tuna for all purse seine vessels of 300 short tons carrying capacity or less set forth in Title 50 CFR 280.6(c)(3) is hereby increased to 65 percent (65%), due to the fact that the catch of yellowfin tuna during the closed season by such purse seine vessels has been well below the expected catch rate and the allotment provided in said title has not been utilized.

Issued at Washington, D.C., and dated November 5, 1971.

T. P. GLEITER,
Assistant Administrator for Administration.

[FR Doc.71-16399 Filed 11-9-71;8:49 am]

Office of Import Programs

ATOMIC ENERGY COMMISSION ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 71-00617-75-40600. Applicant: U.S. Atomic Energy Commission, Los Alamos, N. Mex. 87544. Article: Mass separator. Manufacturer: Nucletec S. A., Switzerland. Intended use of article: The article will be used for the investigations of nuclear cross sections needed for the development of breeder reactors to meet the Nation's future power requirements. Application received by Commissioner of Customs: June 28, 1971.

Docket No. 71-00618-90-46040. Applicant: University of Washington, Department of Genetics, Seattle, Wash. 98105. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: The article will be used in structural analysis of ribosome crystals from chick embryos, and the chromosomes of mitotic and meiotic yeasts and molds. The article will also be used in the development of high-resolutioin electron-dense markers for the specific localization of macromolecular species. Application received by Commissioner of Customs: June 28, 1971.

Docket No. 71-00619-33-46040. Applicant: V.A. Hospital No. 614, 1030 Jefferson Avenue, Memphis, TN 38104. Article: Electron microscope, Model HU-12. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used in an intensive research program underway to identify an enzyme produced by basal cell epithelioma important to the cure of this the most common skin cancer; investigation of various keratinizing tissues of the skin such as hair and nail; and train residents in electron microscopy. Application received by Commissioner of Customs: June 28, 1971.

Docket No. 71-00620-33-90000. Applicant: Purdue University, Lafayette, Ind. 47907. Article: Anode X-ray diffraction system, Model GX-6. Manufacturer: Elliott Automatic Radar Systems, Ltd., United Kingdom. Intended use of article: The article will be used in research analyzing the detailed molecular structures of nucleic acid, polysaccharides, globular proteins and viruses. Application received by Commissioner of Customs: June 28, 1971.

Docket No. 71-00621-33-46040. Applicant: Emory University, Anatomy Department, Atlanta, Ga. 30322. Article: Electron microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used for the teaching and training of graduate students, medical students, and postdoctoral fellows as well as for research on the structure and function of normal and dystrophic developing skeletal muscles; studies on the structure of normal and myopathic cardiac (heart) muscle; and studies on the autoimmune destruction of sperm. Application received by Commissioner of Customs: June 28, 1971.

Docket No. 71-00622-01-77030. Applicant: University of Vermont, Burlington, Vt. 05401. Article: NMR spectrometer, Model JNM-C-60HL. Manufacturer: JEOLCO, Ltd., Japan. Intended use of article: The article will be used in the following research studies:

1. Phosphorous-nitrogen chemistry; structure and bonding from ^{19}F and ^{31}P nmr data.
2. Structural chemistry via ^{13}C nmr with proton noise decoupling.
3. Bonding studies involving phenylphosphorus bonding studied by ^{13}C nmr;
4. 60 MHz proton nmr experiments;
5. Organic stereochemistry by ^{19}F nmr of induced $-CF_3$ groups; and
6. Stereochemistry of six-coordinate tin complexes with fluorinated ligands.

The article will also be used for Education in Chemistry courses for graduate and undergraduate students. Application received by Commissioner of Customs: June 30, 1971.

Docket No. 71-00623-01-77030. Applicant: University of Vermont, Burlington, Vt. 05401. Article: NMR spectrometer, Model JNM-MH-100. Manufacturer: JEOLCO, Ltd., Japan. Intended use of article: The article will be used in a variety of research projects such as:

1. Elucidation of the structure of natural products;
2. Conformational studies based on splitting patterns of ring systems at low temperatures;
3. Variable temperature, kinetic and structural studies of organo sulfur reaction mechanisms.
4. Structural and kinetic studies of molecular complexes and aniomic sigma complexes; and
5. Pmr studies of molecules with protons near the fact of cyclopropane rings.

The article will be used primarily by students in graduate and undergraduate courses in chemistry as a part of masters and doctoral programs. Application received by Commissioner of Customs: June 30, 1971.

Docket No. 71-00624-40-30600. Applicant: Southern Illinois University, Carbondale, Ill. 62901. Article: Fluid mechanics apparatus. Manufacturer: Armfield Engineering Ltd., United Kingdom. Intended use of article: The article will be used in the course Intermediate Mechanics of Fluids (Engr 413 A&B (3,3)) to expand and add to the subject matter presented at the elementary level in the core program (Engr 313 A&B) and thus bring the student's level of understanding of the fundamentals to a degree which would enable him to approach with confidence diverse problems involving fluid mechanics. Application received by Commissioner of Customs: June 30, 1971.

Docket No. 72-00001-01-46040. Applicant: Cornell University, Ithaca, N.Y. 14850. Article: Electron microscope, Model EM 802. Manufacturer: Associated Electrical Industries, United Kingdom. Intended use of article: The article will be used in research concerning (a) chemical analysis of microstructure; (b) energy loss studies of solids on a small scale and at high angular resolution; and (c) contrast studies of defects using elastically scattered radiation. Application received by Commissioner of Customs: July 1, 1971.

Docket No. 72-00002-58-46070. Applicant: University of South Carolina, Columbia, S.C. 29208. Article: Scanning electron microscope, Model JSM-U3. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used as a research program which includes the following projects:

1. Mechanisms of calcification in aquatic invertebrates, and the effects of environmental factors on calcification and physiology of the organisms.
2. Study of history of sedimentation over the past million years of the Antarctica Convergence area.
3. Rock mechanics research.
4. In addition the instrument will be used in the graduate course of electron microscopy given to train students in ultrastructural studies of a selected organism. Application received by Commissioner of Customs: July 1, 1971.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-16362 Filed 11-9-71;8:46 am]

BLUEFIELD STATE COLLEGE ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6 (c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 72-00044-20-37450. Applicant: Bluefield State College, Bluefield, W. Va. 24701. Article: Glass sided tilting flume and accessories. Manufacturer: Armfield Engineering Ltd., United Kingdom. Intended use of article: The article will be used in teaching and research studies of typical open channel experiments such as Weir sluice experiments; studies of syphon spillway and design; and studies of critical depth and wave trains. Application received by Commissioner of Customs: July 20, 1971.

Docket No. 72-00045-33-07700. Applicant: University of California, Los Alamos Scientific Laboratory, Post Office Box 990, Los Alamos, NM 87544. Article: Streak camera. Manufacturer: John Hadland Ltd., United Kingdom. Intended use of article: The article will be used to photograph the motion of the high temperature plasma column in the Scyllac theta-pinch device. Application received by Commissioner of Customs: July 20, 1971.

Docket No. 72-00046-33-46500. Applicant: West Virginia University Medical Center, Morgantown, W. Va. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used in experiments on the changes in the behavior of cultured cells and tissues, primarily neural elements as a result of prolonged exposure to high O_2 concentrations and anesthetic gases and vapors. Application received by Commissioner of Customs: July 20, 1971.

Docket No. 72-00047-33-46040. Applicant: Georgetown University School of Medicine, Microbiology Department, 3900 Reservoir Road NW., Washington, DC 20007. Article: Electron microscope, Model EM 300. Manufacture: Philip Electronic Instruments, The Netherlands. Intended use of article: The article will be used for high resolution studies of bacteria, viruses, biological macromolecules such as DNA and RNA, isolated components of viruses and bacterial cells, virus-infected cells, and isolated cell components. The article will also be used to teach the ultrastructure of cells and viruses to medical students, graduate students and other personnel involved in medical research. Application received by Commissioner of Customs: July 23, 1971.

Docket No. 72-00048-33-46040. Applicant: Medical University of South Carolina, Department of Pathology, 80 Barre Street, Charleston, SC 29401. Article: Electron microscope, Model HU-12. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used in research projects which include:

(a) A study of central nervous system fine structure in healthy rat brain and in experimental animals subjected to varying hyperbaric pressures and varying oxygen tensions;

(b) Electron microscopic enumeration of fibrous particles in human and experimental lung tissue;

(c) Comparison of polychlor-biphenol-treated animals with DDT-treated animals and combination of the two compared with normal tissue.

The educational purposes include training of graduate and undergraduate students in electron microscopy. Application received by Commissioner of Customs: July 23, 1971.

Docket No. 72-00049-00-46040. Applicant: University of California, Scripps Institution of Oceanography, Post Office Box 109, La Jolla, CA 92037. Article: Anticontamination device. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is an accessory for an existing electron microscope. Application received by Commissioner of Customs: July 23, 1971.

Docket No. 72-00050-33-77040. Applicant: The Salk Institute, Post Office 1809, San Diego, CA 92112. Article: Mass spectrometer, Model CH-5. Manufacturer: Varian Mat GmbH, West Germany. Intended use of article: The article will be used for research in population control, specifically in structural studies of peptides, particularly those derived from the hypothalamus. Pursuant to the structural studies of peptides, the mass spectrometer will be used for qualitative identification of the synthetic as well as natural peptides. Application received by Commissioner of Customs: July 23, 1971.

Docket No. 72-00051-56-17500. Applicant: University of Washington, Department of Oceanography, Seattle, Wash. 98195. Article: Recording current meter, Model 4. Manufacturer: Ivar Aanderaa, Norway. Intended use of article: The article will be used in studies on the vertical and horizontal water structure off the Washington coast, estuarine circulation in Puget Sound and flow in the Columbia River and adjacent areas. In addition the instrument will be used for educational purposes in an oceanographic course to familiarize students with methods of measuring oceanographic environmental parameters. Application received by Commissioner of Customs: July 26, 1971.

Docket No. 72-00052-65-90000. Applicant: Northwestern University, 619 Clark Street, Evanston, IL 60201. Article: Rotating anode X-ray generator, GX-6. Manufacturer: Elliott Automatic Radar Systems, Ltd., United Kingdom. Intended use of article: The article will be used for topographical studies of dislocation arrangements and contents in deformed metals; effects of high pressure in structure; and atomic arrangements in crystalline polymers DNA. Application received by Commissioner of Customs: July 26, 1971.

Docket No. 72-00053-99-46040. Applicant: State University of New York at Stony Brook, Stony Brook, N.Y. 11790. Article: Electron microscope, Model HU-12. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used for (a) the training of graduate students and postdoctorates in the techniques and application of electron microscopy and (b) M.D.'s and Ph. D.'s whose major interest is to obtain results as rapidly and as simply as possible without the need to become an experienced microscopist. Application received by Commissioner of Customs: July 26, 1971.

Docket No. 72-00054-99-46040. Applicant: State University of New York at Stony Brook, Stony Brook, N.Y. 11790. Article: Electron microscope, HS-8. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used to instruct students, residents and fellows in the principles of electron microscopy. Application received by Commissioner of Customs: July 26, 1971.

Docket No. 72-00055-33-46500. Applicant: Georgetown University School of Medicine, 3900 Reservoir Road NW., Washington, DC 20007. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used in studies of materials of a diverse biological nature; mainly mammalian tissues derived from human biopsy specimens and various experimental laboratory animals in the various research projects to be performed. In addition, the article will be used to instruct beginning graduate students in the principles of ultramicrotomy and electron microscopy and to provide an opportunity to gain essential laboratory experience. Application received by Commissioner of Customs: July 26, 1971.

Docket No. 72-00056-33-46500. Applicant: West Virginia University, Department of Anatomy, Room 4052 BSB, Medical Center, Morgantown, W. Va. 26506. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used in the preparation of tissues for a variety of projects which include:

1. An ultrastructural comparison of human basal cell carcinomas of different etiologies;

2. An electron microscopic study of developing mechanotransducers in certain insects;

3. An electron microscopic study of developing teeth in frogs;

4. An electron microscopic study of coal dust deposition in the lungs of mice;

5. An electron miscroscopic study of microtubule development in a variety of tissues; and

6. An ultrastructural study of calcification in developing Amphibia. Application received by Commissioner of Customs: July 26, 1971.

Docket No. 72-00057-33-20700. Applicant: University of Iowa, Iowa City, Iowa 52240. Article: Distansense, proximity probe. Manufacturer: Beta Engineering Co., Israel. Intended use of article: The article will be used in research studies of patients with disease of the right hemisphere who show a specific deficit in controlling movements under a condition in which they have to depend on "muscle sense" rather than vision for guidance. This research will be replication and extension of a study of impaired utilization of kinesthetic feedback in the right hemispheric lesion done by an Israeli neurologist. Application received by Commissioner of Customs: July 26, 1971.

Docket No. 72-00058-01-46070. Applicant: The Institute of Paper Chemistry, 1043 East South River Street, Appleton, WI 54911. Article: Scanning electron microscope, Model JSM-U3 and accessories. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used to determine internal and/or external structure of materials involved in the processing of pulp and paper; including size and shape; natural variation and any alternations in natural morphology as a result of chemical and/or physical treatments directly related to the papermaking process. The article will also be used in teaching a course, Wood Anatomy and Properties, and in special and thesis studies. Application received by Commissioner of Customs: July 29, 1971.

Docket No. 72-00059-00-46040. Applicant: Northeastern University, 360 Huntington Avenue, Boston, MA 02115. Article: Charge neutralizer and control box. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The articles are accessories for an existing electron microscope. Application received by Commissioner of Customs: July 29, 1971.

Docket No. 72-00060-99-46040. Applicant: Mankato State College, Mankato, Minn. 56001. Article: Electron microscope, HS-8. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used investigating mammalian sperm surfaces and surface reactions using ruthenium red staining techniques, in investigating the effect of various hormones in the fine structure of the caput epidiymus, and in investigating centrifugally prepared cell fractions employed in metabolism studies of selected insecticides. The article will also be used to train students in the operation and use of the electron microscope as a part of courses of zoology, botany, and microbiology. Application received by Commissioner of Customs: July 29, 1971.

Docket No. 72-00061-33-43780. Applicant: County of Sacramento Medical Center, 2315 Stockton Boulevard, Sacramento, CA 95816. Article: Isotron stand, Model C6011-2. Manufacturer: Conuclear, Ltd., Canada. Intended use of article: The article is intended to be used to study effective myocardial capillary blood flow, total coronary blood flow, and cardiac output in patients with heart disease. The article will also be used to train medical students and fellowship trainees in cardiology. Application received by Commissioner of Customs: July 29, 1971.

Docket No. 72-00062-75-44500. Applicant: University of California, Los Alamos Scientific Laboratory, Post Office Box 990, Los Alamos, NM 87544. Article: Metallograph, Model MM-5RT. Manufacturer: Ernst Leitz GMBH, West Germany. Intended use of article: The article will be used in the study of radiation effects, mechanical stress, the microstructural properties and parameters of materials, and their relationship to temperature and other factors. Application received by Commissioner of Customs: July 29, 1971.

Docket No. 72-00063-01-77030. Applicant: University of Florida, Gainesville, Fla. 32601. Article: NMR spectrometer, Model JNM-C60-HL. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used for the study of biological materials such as lipid proteins, hormones, vitamins, and membranes as well as engineering materials such as asphalt, crude oils, surfactants, pigments, and various colloids by means of nuclear magnetic resonance spectroscopy. The article will also be used for demonstration and training purposes in various chemical engineering courses. Application received by Commissioner of Customs: July 29, 1971.

Docket No. 72-00064-75-40600. Applicant: University of California, Los Alamos Scientific Laboratory, Post Office Box 990, Los Alamos, NM 87544. Article: Isotope separator. Manufacturer: Nuclетec SA, Sweden. Intended use of article: The article will be used to separate the radioisotopes of selected elements for the study of neutron reactions phenomena, as part of a nuclear weapons program. The article will also provide isotopically pure sources of neutron-deficient radioisotopes produced by the proton spallation process with the Los Alamos Meson Physics Facility accelerator. Application received by Commissioner of Customs: July 29, 1971.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-16359 Filed 11-9-71;8:45 am]

STANFORD RESEARCH INSTITUTE ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6 (c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 71-00602-33-11000. Applicant: Stanford Research Institute, 333 Ravenswood Avenue, Menlo Park, CA 94025. Article: Gas chromatograph mass spectrometer, Model LKB 9000. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used in research studies on the biosynthesis of antibiotics, terpenes, and other microbial metabolites by the use of stable isotope-labeled precursors, and for identification of metabolites of drugs administered to experimental animals and humans. Application received by Commissioner of Customs: June 22, 1971.

Docket No. 71-00608-33-46500. Applicant: Eastman Dental Center, 800 East Main Street, Rochester, NY 14603. Article: Ultramicrotome, "OmU2". Manufacturer: C. Reichert Optische Werke A.G., West Germany. Intended use of article: The article will be used in a research directed toward better treatment and prevention of periodontal disease. The article will also be used for training research investigators in the preparation of ultra thin sections. Application received by Commissioner of Customs: June 22, 1971.

Docket No. 71-00609-33-46040. Applicant: University of Hawaii, School of Medicine, 3675 Kilauea Avenue, Honolulu, HI 96816. Article: Electron microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used for research in a study of guinea pig (tuberculoid analagous) and mouse (lepromatous analagous) peritoneal macrophage response (immunized and unimmunized) to *M. lepraemurium* and to step-wise defatted bacilli fractions to be conducted in tandem with, and as a prototype of, a similar evaluation of tuberculoid and lepromatous macrophage reaction to *M. leprae* in human patients utilizing the Rebuk window technique. The article will also be used in teaching (1) pathology courses, and (2) to train medical students and postdoctoral residents and associates in a research project requiring the use of an electron microscope. Application received by Commissioner of Customs: June 23, 1971.

Docket No. 71-00610-40-30600. Applicant: Monroe Community College, 1000 East Henrietta Road, Rochester, NY 14623. Article: Fluid mechanics apparatus. Manufacturer: Armfield Engineering, Ltd., United Kingdom. Intended use of article: The article will be used to demonstrate flow fluid mechanics principles including cavitation to students. Application received by Commissioner of Customs: June 24, 1971.

Docket No. 71-00611-90-46070. Applicant: University of Kentucky, College of Agriculture, Lexington, Ky. 40506. Article: Scanning electron microscope, Model Mark IIA. Manufacturer: Cambridge Instruments, United Kingdom. Intended use of article: The article will be used as a research tool in a variety of programs which involve bone and muscle strucure, wearing potential of the alloy and tooth enamel; behavior of wood fiber after chemical treatment and relationships of fiber geometry to tensile rupture; morphological and structure/function studies of leafhoppers and acarina; cracks and fractions in ceramics, fracture behavior of titanium alloys, topography of radiation damages in silicon and precipitate effect on aluminum/copper alloys. The educational uses of the article will consist of demonstrations of a variety of phenomena in both Engineering and Biology in undergraduate and graduate courses. Application received by Commissioner of Customs: June 24, 1971.

Docket No. 71-00612-33-46500. Applicant: University of Minnesota, Minneapolis, Minn. 55455. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used in experiments designed to study the ultrastructure of globoid cells from cats with globoid leukodystrophy. It is also planned to characterize them from analytical and enzymatic viewpoints to find out if this is another enzymatically authentic animal model of human globoid leukodystrophy. Application received by Commissioner of Customs: June 24, 1971.

Docket No. 71-00613-98-26000. Applicant: Anaheim Union High School, 221 North Illinois Street, Anaheim, CA 92803. Article: Standard construction device for theory of electricity. Manufacturer: Dr. Clemenz, West Germany. Intended use of article: The article will be used to teach the basic theory of electricity to students. Application received by Commissioner of Customs: June 24, 1971.

Docket No. 71-00614-65-72000. Applicant: Michigan State University, East Lansing, Mich. 48823. Article: Single drive unit for Weissenberg rheogoniometer. Manufacturer: Farol Research Engineers, United Kingdom. Intended use of article: The article will be used in a research program related to the rheology of fluids. The research involves systematic cataloging of the complete rheological response of non-Newtonian, viscoelastic fluid system in terms of their molecular parameters as well as the influence which deformation of fluid exerts on molecular structure of fluids; especially solutions of blood and high polymeric substances. Application received by Commissioner of Customs: June 28, 1971.

Docket No. 71-00615-01-16050. Applicant: University of Miami, Post Office Box 8184, Coral Gables, FL 33124. Article: Low level gas counter. Manufacturer: Lars Engstrand, Sweden. Intended use of article: The article will be used to determine radiocarbon and tritium accurately in large numbers of selected samples. Application received by Commissioner of Customs: June 28, 1971.

Docket No. 71-00616-98-34040. Applicant: Yale University, Purchasing Department, 260 Whitney Avenue, New Haven, CT 06520. Article: Millimeter carcinotron, Model CO 40B. Manufacturer: Compagnie Generale de Telegraphie Sans Fil, France. Intended use of article: The article will be used in conjunction with a polarized proton target to perform an experiment which will involve measurement of the resultant asymmetries in the scattering of K+, K− mesons and anti protons upon polarized protons when the direction of

polarization is reversed. Application received by Commissioner of Customs: June 28, 1971.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-16360 Filed 11-9-71;8:45 am]

STATE UNIVERSITY COLLEGE ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 72-00023-33-46040. Applicant: State University College, Department of Biological Sciences, Brockport, N.Y. 14420. Article: Electron microscope, Model HS-8. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used in research involving anomalous mitosis in mammalian cell lines, ultrastructure of algae, cell membrane dynamics, ultrastructure of antennae of various crustacea, adrenergic innervation of the heart, morphogenetic changes in cells due to growth regulators, enzyme inhibition in chick lens development. The article will also be utilized as a tool to determine causes of desiccation and heat resistance in unicellular algae. In addition the article will be used in teaching programs at several levels. Application received by Commissioner of Customs: July 14, 1971.

Docket No. 72-00024-01-77040. Applicant: University of California, Purchasing Department, 1438 South 10th Street, Richmond, CA 94804. Article: Mass spectrometer, Model MS 1201. Manufacturer: Associated Electrical Industries, Ltd., United Kingdom. Intended use of article: The article will be used in direct and collaborative research involving isolation and identification of submicrogram quantities (to 10^{-6}g) of Cannabis drugs and their metabolites and organic air pollutants. Application received by Commissioner of Customs: July 14, 1971.

Docket No. 72-00025-00-11000. Applicant: St. Louis University, 221 North Grand Boulevard, St. Louis, MO 63103. Article: Mass market, Model LKB 9010. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is an accessory for an existing mass spectrometer. Application received by Commissioner of Customs: July 14, 1971.

Docket No. 72-00026-33-46500. Applicant: Veterans Administration Hospital, 300 East Roosevelt Road, Little Rock, AR 72206. Article: Ultramicrotome, model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used in the investigation of the alterations of ultrastructural changes in biopsy and experimental materials which have been induced by alterations of metabolic process. Application received by Commissioner of Customs: July 14, 1971.

Docket No. 72-00027-33-46040. Applicant: The Neuropsychiatric Institute at UCLA, Department of Mental Hygiene, 760 Westwood Plaza, Los Angeles, CA 90024. Article: Electron microscope, Model Elmiskop IA. Manufacturer: Siemens AG, West Germany. Intended use of article: The article will be used to delineate and assess the extent of development and/or variation in synaptic patterns, changes in dendritic arborization, general membrane disruptions and other abnormalities relevant to the study of mental retardation. The article will also be used by post doctoral and predoctoral students for training in neurobiology research. Application received by Commissioner of Customs: July 14, 1971.

Docket No. 72-00028-72-46040. Applicant: University of Maryland, Baltimore County, 5401 Wilkens Avenue, Catonsville, MD 21228. Article: Electron microscope, EM-9S02. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used for routine specimen examination and selection of favorable specimens which will then bo examined at high resolution in a larger research microscope. The specimens employed will be primarily thin tissue or cell sections with some whole mount microbial and viral preparations, as well. The article will also be used as an educational microscope in a course for advanced undergraduate and graduate students. Application received by Commissioner of Customs: July 14, 1971.

Docket No. 72-00029-33-46040. Applicant: The University of Texas at Arlington, Arlington, Tex. 76010. Article: Electron microscope, Model EM 9S. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used in the investigation of spermatogenesis, spermeogenesis, and the fine structure and cytochemistry of the reproductive ducts and androgenic glands of certain crustaceans; the cytopathology of virus-infected drosophila. In addition the article will be used for training students in a course entitled "Biological Electron Microscopy." Application received by Commissioner of Customs: July 15, 1971.

Docket No. 72-00030-00-43780. Applicant: The Johns Hopkins University, Purchasing Department, Charles and 34th Streets, Baltimore, MD 21218. Article: Bronchofiberscope accessories. Manufacturer: Machida Co., Japan. Intended use of article: The articles are replacement parts for an existing bronchofiberscope. Application received by Commissioner of Customs: July 15, 1971.

Docket No. 72-00031-33-46040. Applicant: Veterans Administration Hospital, West Spring Street, West Haven, Conn. 06516. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: The article is intended to be used to examine three general types of specimens: (1) Cancer cells from human patients and experimental animals, (2) tissue and cell cultures prepared from human patients and experimentally infected laboratory animals, and (3) cell, tissues, and organ cultures experimentally infected with virus agents. The article will allow an intensive research program in the study of virus-cell interaction in vivo and in vitro. In addition, postdoctoral students will be trained on the instrument in a course entitled "Experimental and Diagnostic Methods in Medical Virology." Application received by Commissioner of Customs: July 15, 1971.

Docket No. 72-00032-36-46070. Applicant: University of Maine, Orono, Maine 04473. Article: Scanning electron microscope, Model S4. Manufacturer: Kent Cambridge Scientific, Inc., United Kingdom. Intended use of article: The article will be used to study (1) morphology of wood fibers; (2) phase distribution and fracture characteristics of mixed polymer films formed on solvent removal from a common solution; (3) interface conversion for adhesion and grafting of polymers to surfaces; (4) ultrastructure of Coelenterate Polyps; (5) identifying Streptomyces Spores; and (6) the structure and development of Echinoderms. The educational uses consist of instruction for students in operating and applying scanning electron microscopy in pulp and paper technology, materials engineering, forestry, zoology, botany, entomology, geological sciences, and chemistry. Application received by Commissioner of Customs: July 15, 1971.

Docket No. 72-00033-99-03400. Applicant: The University of Tennessee, Knoxville, Tenn. 37916. Article: Audio training unit, Model SUVA I and II. Manufacturer: Societe Sedi Monsieur Germe, France. Intended use of article: The article will be used to train the residual hearing of deaf children after determining the auditory field of all defective ears including all the congenitally deaf. Application received by Commissioner of Customs: July 15, 1971.

Docket No. 72-00034-33-66700. Applicant: Thomas S. Clarkson Memorial College of Technology, Potsdam, N.Y. 13676. Article: Teleprinter projector, Model 2510T. Manufacturer: I. P. Sharp Associates, Ltd., Canada. Intended use of article: The article will be used to project information from a teleprinter on a screen for teaching students courses in computer science, statistics, and statistical quality control. Application received by Commissioner of Customs: July 1, 1971.

Docket No. 72-00035-33-46040. Applicant: Duke University Medical Center, Department of Pathology, Post Office Box 3712, Durham, NC 27710. Article: Electron microscope, Model JEM-100B. Manufacturer: Japan Electron Optics Lab. Co., Ltd., Japan. Intended use of article: The article will be used in research to determine the ultrastructure of a number of biological materials notably various cell membranes, especially those of heart muscle; and of viruses, in order to correlate these anatomical observations with functional biological phenomenon. The article will also be used in teaching medical students a course in ultrastructural and molecular pathology and in training residents, postdoctoral fellows and graduate students in electron microscopy. Application received by Commissioner of Customs: July 19, 1971.

Docket No. 72-00036-99-07700. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, MA 02139. Article: 16 mm. camera. Manufacturer: Eclair Corp., France. Intended use of article: The article will be used in the courses, "Workshop in synchronous sound filming" and "Special projects in film," to acquaint students with methods of reporting complex events of news or human value. Application received by Commissioner of Customs: July 19, 1971.

Docket No. 72-00037-33-43780. Applicant: University of Rochester, River Station, Rochestser, N.Y. 14627. Article: Mingograf. Manufacturer: Elema-Schonander, Sweden. Intended use of article: The article will be used in medical research to measure simultaneously the patient's phonocardiogram, electrocardiogram, and carotid pulse tracing with a direct writing record to gain a better understanding of acute myocardial infarction (heart attack). Application received by Commissioner of Customs: July 19, 1971.

Docket No. 72-00038-99-03400. Applicant: The University of Tennessee, Knoxville, Tenn. 37916. Article: Virbrators, Suvag Model 73. Manufacturer: Mecanique Generale, France. Intended use of article: The articles will be used to transmit acoustic energy to preschool deaf children on an experimental project in teaching preschool children. Application received by Commissioner of Customs: July 19, 1971.

Docket No. 72-00039-99-03400. Applicant: The University of Tennessee, Knoxville, Tenn. 37916. Article: Mini Suvag hearing aids. Manufacturer: Societe Sedi, France. Intended use of article: The articles will be used in training preschool deaf children. Application received by Commissioner of Customs: July 19, 1971.

Docket No. 72-00040-63-46500. Applicant: USDA Forest Service, 359 Main Road, Delaware, OH 43015. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to produce ultra-thin sections of woody and fungus tissues for electron microscope in investigations of virus and mycoplasma disease of woody plants and several fungus diseases. The articles will also be used to instruct graduate students in the use of the ultramicrotome. Application received by the Commissioner of Customs: July 19, 1971.

Docket No. 72-00041-33-46040. Applicant: Medical College of Georgia, Procurement Division, Augusta, Ga. 30902. Article: Electron microscope, Model EM-9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used in various research projects which include: (a) A study of cultured liver cells treated with various carcinogenic agents, (b) studies of skin biopsies from patients with dermatological diseases, and (c) quantitative studies on the changes in zymogen granules in pancreatic cells in rats treated with pilocarpine. The article will also be used in teaching a course entitled "Anatomy 814, Electron Microscopy and Cell Ultrastructure." Application received by Commissioner of Customs: July 19, 1971.

Docket No. 72-00042-65-46070. Applicant: Drexel University, Department of Metallurgical Engineering, 32d and Chestnut Streets, Philadelphia, PA 19104. Article: Scanning electron microscope, Model JSM-2. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used in studies of the structure-property relationship of metals and alloys, ceramics and polymers. In particular, examination of the initiation and propagation of fracture in processing and service conditions (limits of deformation of powder materials; failure of composite materials; degradation of polymers). Educational uses include training junior and senior students in electron microscopy techniques. Application received by Commissioner of Customs: July 20, 1971.

Docket No. 72-00043-00-46040. Applicant: National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20014. Article: Spare parts kit for electron microscope. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is an accessory for an existing electron microscope. Application received by Commissioner of Customs: July 20, 1971.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-16361 Filed 11-9-71;8:46 am]

UNIVERSITY OF TEXAS AT AUSTIN ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 72-00003-33-90000. Applicant: The University of Texas at Austin, Purchasing Office, Box 7306, University Station, Austin, TX 78712. Article: Anode X-ray diffraction generator. Manufacturer: Elliot Automation Radar Systems Ltd., United Kingdom. Intended use of article: The article will be used in research experiments to obtain X-ray diffraction patterns from crystals of and/or solutions of the enzymes, pyruvate dehydrogenase and a-ketoglutarate dehydrogenase, which are large biological molecules having dimensions over 200 Angstroms. Application received by Commissioner of Customs: July 1, 1971.

Docket No. 72-00004-33-46500. Applicant: Veterans Administration Hospital, 150 South Huntington Avenue, Boston, MA 02130. Article: Ultramicrotone, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used in research experiments on the normal, physiological behavior of cells and tissues in regard to the development of ataxia, tremor, and seizures. In addition, variations in the behavior of cells and tissues under experimental and genetically induced pathological conditions will be studied. Application received by Commissioner of Customs: July 2, 1971.

Docket No. 72-00005-33-46500. Applicant: Veterans Administration Hospital, 3350 La Jolla Village Drive, San Diego, CA 92161. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to produce serial sections of high quality which will be used in research concerned with the elucidation of the mechanism of demyelination and remyelination by hymen and experimental disease. The article will also be used in teaching electron microscopy of nerve tissue to medical and post graduate students. Application received by Commissioner of Customs: July 2, 1971.

Docket No. 72-00006-33-46500. Applicant: DHEW, PHS, HSMA, Center for Disease Control, 255 East Paces Ferry Road NE., Atlanta, GA 30305. Article: Ultramicrotome, LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The instruments will be used in research for ultrathin sectioning of plastic embedded virologic materials, including infected tissues, tissue cultures, and autopsy specimens,

Application received by Commissioner of Customs: July 2, 1971.

Docket No. 72–00007–33–46500. Applicant: Medical University of South Carolina, 80 Barre Street, Charleston, SC 29401. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to study human and animal intestinal mucosa and liver to determine (a) the cellular pathology in various disease and experimental states, and (b) the distribution of certain cellular enzymes during human and animal nutritional experiments. The article will also be used in a course "Laboratory Research in Gastroenterology" for preclinical and clinical medical students. Application received by Commissioner of Customs: July 2, 1971.

Docket No. 72–00008–37–46500. Applicant: Ohio Agricultural Research and Development Center, Wooster, Ohio 44691. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to prepare ultrathin sections of various tissues in projects ranging from the investigation of plant virus pathology of soybean, corn, and wheat involving local lesion formation mechanisms, virus location within the tissue and general ultrastructural phenomena resulting from the infection, to pathological conditions in animals such as TGE virus in swine. Application received by Commissioner of Customs: July 2, 1971.

Docket No. 72–00009–33–02700. Applicant: University of Miami, Post Office Box 8184, Coral Gables, FL 33124. Article: Arthroscope Set No. 21. Manufacturer: Kamiya Tsusan Kaisha, Japan. Intended use of article: The article will be used to examine the interior of the knee joint to establish a correct diagnosis in the "difficult" knee. Specifically the article will be used for visual diagnosis of suspected internal derangements; synovial biopsy from visually selected sites; and punch biopsy in the research of rheumatoid arthritis. Application received by Commissioner of Customs: July 7, 1971.

Docket No. 72–00010–33–46500. Applicant: University of California, 405 Hilgard Avenue, Los Angeles, CA 90024. Article: Ultramicrotome, Model "OmU2". Manufacturer: C. Reichert Optische Werke AG, West Germany. Intended use of article: The article will be used to make ultrathin sections for use in electron microscopy of a variety of biological tissue specimens. In addition to routine methods of sectioning, it will be required to provide serial sections for three-dimensional reconstructions, as well as to provide uniformity of section thickness which is important in the special application of electron microscopic autoradiography methods. Application received by Commissioner of Customs: July 7, 1971.

Docket No. 72–00012–98–20700. Applicant: The Johns Hopkins University, Purchasing Department, Charles and 34th Streets, Baltimore, MD 21218. Article: Glass, 100 pieces Type PEHG4 (SF5) 673321. Manufacturer: Ohara Optical Glass Manufacturing, Ltd., Japan. Intended use of article: The article will be used to construct a detector which will allow measurement of gamma energy by electromagnetic shower production and subsequent observation of that shower via emitted Cerenkov radiation. The gamma rays are manifestations of exotic phenomena such as magnetic monepole formation or parton annihilation. Application received by Commissioner of Customs: July 7, 1971.

Docket No. 72–00013–33–46040. Applicant: Erie Country Laboratory, 100 City Hall, Buffalo, N.Y. 14221. Article: Electron microscope, Model EM–9S–2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used to study the ultrastructure of tumors and diseased organs compared with the findings of light-microscopic examinations. The materials involved in these studies are taken from humans and animals and subject to gross, histologic and electron-microscopic studies in order to get new understanding of disease and the mechanics of disease. Application received by Commissioner of Customs: July 7, 1971.

Docket No. 72–00014–33–46500. Applicant: U.S. Veterans' Administration Hospital, BO Monacillos, Rio Piedras, P.R. 00927. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to cut ultrathin sections of a variety of tissues. Application received by Commissioner of Customs: July 8, 1971.

Docket No. 72–00015–88–23600. Applicant: The University of Tennessee, Department of Geology, Knoxville, Tenn. 37916. Article: Winkie portable rock drill. Manufacturer: J. K. Smit & Sons International, Canada. Intended use of article: The article will be used for teaching and research in subsurface geologic exploration and research methods obtaining fresh rock cores for student research. Application received by Commissioner of Customs: July 8, 1971.

Docket No. 72–00016–33–46040. Applicant: Veterans Administration Hospital, Supply Division, East Orange, N.J. 07019. Article: Electron microscope, Model HU–12. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used to study enzymes in the healthy human brain and in diseased patients affected by multiple sclerosis and cerebral infarcts. The study is aimed at correlating biochemical alterations in certain cells in the brain preceding the appearance of clinical symptoms and anatomical alterations with these patients. Application received by Commissioner of Customs: July 8, 1971.

Docket No. 72–00017–33–90000. Applicant: Children's Cancer Research Foundation, 35 Binney Street, Boston, MA. 02115. Article: Rotating anode X-ray generator, Model GX–6. Manufacturer: Elliot Automation Radar Systems Ltd., U.K. Intended use of article: The foreign article will be used in medical research on virus structure studies. Application received by Commissioner of Customs: July 8, 1971.

Docket No. 72–00018–33–46500. Applicant: Georgetown University Medical School, Department of Obstetrics-Gynecology, 3800 Reservior Road NW., Washington, DC 20007. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used for a study of the physiologic and pathologic changes in the spiral arteries, maternal and festal parts of the placenta in an attempt to clarify the relationship between complicated pregnancy and the placental changes. The article will also be used in the theory and practice of electron microscopy and training of post doctoral fellows and Ph. D. degree candidates on electron microscopic techniques. Application received by Commissioner of Customs: July 8, 1971.

Docket No. 72–00019–56–17500: Applicant: University of Washington, Department of Oceanography WB–10, Seattle, Wash. 98195. Article: Recording current meter, Model 4. Manufacturer: Ivar Aanderaa, Norway. Intended use of article: The article will be used to study the vertical and horizontal water structure off the Washington coast, estuarine circulation in Puget Sound and flow in the Columbia River and adjacent areas. It is necessary to measure the water temperature, salinity, and pressure to calculate density differences and, finally, the horizontal pressure gradients at various levels above some arbitrary datum plane. Application received by Commissioner of Customs: July 9, 1971.

Docket No. 72–00020–33–46040. Applicant: University of Pennsylvania, Biology Department, 27th and Hamilton Walk, Philadelphia, PA 19104. Article: Electron microscope, Model JEM–100B and accessories. Manufacturer: Japan Electron Optics Laboratory, Ltd., Japan. Intended use of article: The article will be used in research studies of the membrane systems in muscle cells and in an educational course teaching the electron microscope. Application received by Commissioner of Customs: July 9, 1971.

Docket No. 72–00021–98–16600. Applicant: New York University, 100 Washington Square East, NY 10003. Article: Air separation column and cryogenic transfer pump. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: The article will be used to study electron and atom collision phenomena. Experiments to be performed include (1) molecular beam experiments in which individual collisions are induced and observed, and (2) plasma experiments in which bulk collision phenomena are studied. Application received by Commissioner of Customs: July 9, 1971.

Docket No. 72–00022–33–46040. Applicant: University of Kansas, Lawrence, Kans. 66044. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: The article will be used to study the structure of materials of biological origin in the form of (1) "negatively-stained" components of cells and macromolecules and (2) ultra thin sections of experimentally treated tissues. Application Received by Commissioner of Customs: July 9, 1971.

SETH M. BODNER,
Director, Office of Import Programs.

[FR Doc.71–16363 Filed 11–9–71;8:46 am]

Office of the Secretary

[Dept. Organization Order 30–2B]

NATIONAL BUREAU OF STANDARDS

Organization and Functions

This material further amends the material appearing at 35 F.R. 18550 of December 5, 1970, 36 F.R. 5809 of March 27, 1971, and 36 F.R. 18428 of September 14, 1971.

Department Organization Order 30–2B, dated November 16, 1970, is hereby further amended as follows:

1. In section 9 *Institute for Basic Standards*, subparagraph .02d. is revised as follows:

d. The administrative divisions reporting to the Deputy Director, Institute for Basic Standards/Boulder include:

Supply Services Division.
Plant Division.
Instrument Shops Division.

2. In section 11 *Institute for Applied Technology:* a. Paragraph .05, the Office of Flammable Fabrics is deleted.

b. A new paragraph .05 is added to read:

.05 The Office of Fire Programs shall (a) conduct data gathering, research, education and demonstration programs on fire, its causes, prevention, and control, and on the flammability of products, fabrics, and materials; (b) develop test methods and standards in flammability; and (c) coordinate all other fire research and safety activities of the National Bureau of Standards.

3. The organization chart of August 22, 1971, attached to Amendment 2, is superseded by the organization chart attached to this amendment. (A copy of the organization chart is on file with the original of this document with the Office of the Federal Register.)

Effective date: October 27, 1971.

LARRY A. JOBE,
Assistant Secretary for Administration.

[FR Doc.71–16356 Filed 11–9–71;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 740; Docket No. FDC–D–327; NDA 740 etc.]

CERTAIN ESTROGENS FOR ORAL OR PARENTERAL USE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs:

1. *Preparations containing dienestrol.* a. Restrol tablets; The Central Pharmacal Co., 116–128 East Third Street, Seymour, IN 47274 (NDA 6–428). (Two reports.)

b. Synestrol tablets; White Laboratories, Inc., Kenilworth, N.J. 07033 (NDA 5–991).

2. *Preparations containing diethylstilbestrol.* a. Diethylstilbestrol Enseals; Eli Lilly and Co., Post Office Box 618, Indianapolis, IN 46204 (NDA 4–039 and 4–040). (Two reports.)

b. Diethylstilbestrol tablets; Eli Lilly and Co., (NDA 4–041).

c. Diethylstilbestrol tablets; Vale Chemical Co., Inc., 1201 Liberty Street, Allentown, PA 18102 (NDA 4–638).

d. Diethylstilbestrol (Stilbestrol) tablets; Rexall Drug Co., 3901 North Kingshighway Boulevard, St. Louis, MO 63115 (NDA 6–603).

e. Diethylstilbestrol tablets; S. F. Durst and Co., Inc., 5317 North Third Street, Philadelphia, PA 19120 (NDA 4–297).

f. Stilbestrol tablets; High Chemical Co., 1760 North Howard Street, Philadelphia, PA 19122 (NDA 5–233).

g. Stilbetin tablets and Enteric coated tablets; E. R. Squibb and Sons, Inc., Georges Road, New Brunswick, N.J. 08903 (NDA 4–056).

h. Diethylstilbestrol Perles; The Upjohn Co., 7171 Portage Road, Kalamazoo, MI 49002 (NDA 4–073).

i. Diethylstilbestrol in oil injection; Eli Lilly and Co. (NDA 1–221).

j. Diethylstilbestrol in ethyl oleate injection; Eli Lilly and Co. (NDA 7–844).

3. *Preparations containing other diethylstilbestrol derivatives.* a. D.S.D. tablets and Enteric coated tablets, containing diethylstilbestrol dipropionate; The Blue Line Chemical Co., 302 South Broadway, St. Louis, MO 63102 (NDA 5–159).

b. Stilphostrol ampules and tablets; containing diethylstilbestrol diphosphate; Dome Laboratories, Division of Miles Laboratories, Inc., 400 Morgan Lane, West Haven, CT 06516 (NDA 10–010).

4. *Preparations containing promethestrol dipropionate.* a. Meprane Dipropionate tablets; Reed and Carnrick Pharmaceuticals, 30 Boright Avenue, Kenilworth, NJ 07033 (NDA 6–042).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such drug without approval.

The Food and Drug Administration is prepared to approve new drug aplications and supplements to previously approved new drug applications for these drugs under the conditions described in this announcement.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that these drugs are:

1. Effective or probably effective for the indications described in the labeling conditions which follow. The probably effective indication is "in selected cases of osteoporosis."

2. Possibly effective for disturbances of the menstrual cycle (hypomenorrhea, oligomenorrhea, irregular cycles); suppression of lactation; to minimize blood loss at surgery; to lessen the incidence of postoperative hemorrhage; and to avoid the risk of multiple transfusions; and to reduce capillary hemorrhage; to reduce the oozing following multiple transfusions; and to prevent or arrest delayed hemorrhage.

3. Diethylstilbestrol preparations were classified as possibly effective for the indication "Prevention of accidents of pregnancy" (threatened abortion and habitual abortion, in diabetic women this includes eclampsia, premature delivery, and death of the fetus). However, in view of the fact that a statistically significant association has been demonstrated between the use of diethylstilbestrol in early pregnancy and the occurrence of adenocarcinoma of the vagina in the offspring, this drug, along with all closely related congeners (including hexestrol, dienestrol, benzestrol, and promethestrol), is contraindicated for use in pregnancy.

4. Lacks substantial evidence of effectiveness when labeled for "relief of pregnancy bleeding;" advanced cases of prostatic carcinoma resistant to other estrogens; hemorrhagic emergencies due to spontaneous bleeding; reducing bleeding due to capillary hemorrhage during and after oral surgery and after dental extraction; pulmonary bleeding and use in hyphema during and after ocular surgery.

B. *Conditions for approval and marketing*—1. *Form of drug.* These preparations are in tablet, enteric coated tablet, or capsule form suitable for oral administration; or are sterile preparations in a form suitable for parenteral administration.

2. *Labeling conditions.* a. The labels bear the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drugs are labeled to comply with all requirements of the Act and regulations. The labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" sections are as follows (the possibly effective indications may also be included for 6 months):

INDICATIONS

These drugs are indicated for replacement therapy of estrogen deficiency associated with: Menopausal syndrome, female hypogonadism (hypogenitalism), amenorrhea, female castration, or primary ovarian failure. They are also indicated for the prevention of postpartum breast engorgement; abnormal uterine bleeding due to hormonal imbalance in the absence of organic pathology; and in osteoporosis-depending upon the etiology and then only when used in conjunction with other important therapeutic measures such as diet, calcium, physiotherapy, and good general health promoting measures.

The following indications may be included provided the recommended dosage schedules of these preparations are reevaluated to establish the optimal dosage:

Senile vaginitis; kraurosis vulvae with or without pruritus; inoperable progressing prostatic cancer (for palliation only when castration is not feasible or when castration failures or delayed escape following a response to castration have not occurred); breast cancer (for palliation only in women with progressing inoperable or roentgen resistant disease who are more than 5 years postmenopausal; and in men, in those inoperable cases in which bilateral orchidectomy cannot be performed because of an independent surgical contraindication).

c. The labeling for all diethylstilbestrol preparations, as well as all closely related congeners (including dienestrol, hexestrol, benzestrol, and promethestrol), must contain the following as a Contraindication:

CONTRAINDICATION

A statistically significant association has been reported between maternal ingestion during pregnancy of diethylstilbestrol and the occurrence of vaginal carcinoma in the offspring. The use of diethylstilbestrol or any of its closely related congeners is contraindicated in pregnancy.

3. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study," published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling, an abbreviated supplement for updating information, and adequate data to show the biologic availability of the drug in the formulation which is marketed as described in paragraphs (a)(1)(i), (ii), and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application, to include adequate data to assure the biologic availability of the drug in the formulation which is or is intended to be marketed as described in paragraph (a)(3)(ii) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

d. For indications for which the drug has been classified as probably effective (included in the "Indications" sections above) and possibly effective (not included in the "Indications" sections above), continued use as described in paragraphs (c), (d), (e), and (f) of that notice.

C. *Opportunity for a hearing.* 1. The Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of all new drug applications and all amendments and supplements thereto providing for the indications for which substantial evidence of effectiveness is lacking, as described under A. *Effectiveness classification* of this announcement. An order withdrawing approval of the applications will not issue if such applications are supplemented in accord with this notice, to delete such indications. Any related drug for human use, not the subject of an approved new drug application, offered for the indications for which substantial evidence of effectiveness is lacking may be affected by this action.

2. In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the holders of any such applications, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why such indications should not be deleted from the labeling. A request for a hearing must be filed within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

3. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing together with a well-organized and full factual analysis of the clinical and other investigational data that the objector is prepared to prove in a hearing. Any data submitted in response to this notice must be previously unsubmitted and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

4. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

A copy of the Academy's report has been furnished to each firm referred to above. Communications forwarded in response to this announcement should be identified with the reference number DESI 740, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

Request for Hearing (identify with Docket number): Hearing Clerk, Office of General Counsel (GC-1), Room 6-88, Parklawn Building.

Requests for the Academy's report: Drug Efficacy Study Information Control (BD-67), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

Received requests for a hearing may be seen in the office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: November 5, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.71-16446 Filed 11-9-71;8:52 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-71-131]

REGIONAL ADMINISTRATORS ET AL.

Redelegation of Authority Regarding Housing Management

The redelegation of authority by the Assistant Secretary for Housing Management to Regional Administrators et al., published at 35 F.R. 16105, October 14, 1970, amended at 35 F.R. 17964, November 21, 1970, is amended in the following respects:

1. A new section H is added to read as follows:

SEC. H. *Authority redelegated to Directors, Housing Management Division, Area Offices.* Each Director, Housing Management Division, is authorized to exercise the powers and authorities redelegated to the Directors, Housing Services and Property Management Division, in section E.

2. A new section I is added to read as follows:

SEC. I. *Authority redelegated to Chiefs, Housing Programs Management Branch, Area Offices.* Each Chief, Housing Programs Management Branch, is authorized to exercise the powers and authorities redelegated to the Chiefs, Housing Management and Tenant Services Branch, in section F.

3. The present section H is redesignated as section J.

4. The present section I is redesignated as section K and is revised to read as follows:

SEC. K. *Exercise of redelegated authority.* Redelegations of authority made under sections A through I shall not be construed to modify or otherwise affect the administrative and supervisory powers of the Regional Admnilistrator, Area Director, HUD-FHA Insuring Office Director, or any of them, to whom a delegate is responsible.

(Secretary's delegation of authority to redelegate published at 36 F.R. 5005, March 16, 1971)

Effective date. This amendment to redelegation of authority is effective as of July 1, 1971.

NORMAN V. WATSON,
Assistant Secretary for Housing Management.

[FR Doc.71-16370 Filed 11-9-71;8:46 am]

[Docket No. D-71-130]

REGIONAL ADMINISTRATORS ET AL.

Redelegation of Authority Regarding Loan and Contract Servicing

The redelegation of authority by the Assistant Secretary for Housing Management to Regional Administrators et al., published at 35 F.R. 16104, October 14, 1970, amended at 36 F.R. 1488, January 30, 1971, is amended in the following respects:

1. A new section D is added to read as follows:

SEC. D. *Authority redelegated to Directors, Housing Management Division, Area Offices.* Each Director, Housing Management Division, is authorized to exercise the powers and authorities redelegated in this document to the Directors, Housing Services and Property Management Division.

2. The present section D is redesignated as section E and is revised to read as follows:

SEC. E. *Exercise of redelegated authority.* Redelegations of authority made under sections A through D shall not be construed to modify or otherwise affect the administrative and supervisory powers of the Regional Administrator, Area Director, and HUD-FHA Insuring Office Director, or any of them, to whom a delegate is responsible.

(Secretary's delegation of authority to redelegate published at 36 F.R. 5005, March 16, 1971)

Effective date. This amendment to redelegation of authority is effective as of July 1, 1971.

NORMAN V. WATSON,
Assistant Secretary for Housing Management.

[FR Doc.71-16369 Filed 11-9-71;8:46 am]

[Docket No. D-71-132]

REGIONAL ADMINISTRATORS ET AL.

Redelegation of Authority Regarding Property Disposition

The redelegation of authority by the Assistant Secretary for Housing Management to Regional Administrators et al., published at 35 F.R. 16106, October 14, 1970, amended at 36 F.R. 13854, July 27, 1971, is amended in the following respects:

1. A new section B is added to read as follows:

SEC. B. *Authority redelegated to Directors, Housing Management Division and to Chiefs, Property Disposition Branch or Chiefs, Loan Management and Property Disposition Branch, Area Offices.* Each Director, Housing Management Division, and each Chief, Property Disposition Branch, or Chief, Loan Management and Property Disposition Branch is authorized to exercise the powers and authorities redelegated in section A.

2. The present section B is redesignated as section C and is revised to read as follows:

SEC. C. *Exercise of redelegated authority.* Redelegations of authority in sections A and B shall not be construed to modify or otherwise affect the administrative and supervisory powers of the Regional Administrator, Area Director, and HUD-FHA Insuring Office Director, or any of them, to whom a delegate is responsible.

(Secretary's delegation of authority to redelegate published at 36 F.R. 5005, March 16, 1971)

Effective date. This amendment to redelegation of authority is effective as of July 1, 1971.

NORMAN V. WATSON,
Assistant Secretary for Housing Management.

[FR Doc.71-16371 Filed 11-9-71;8:46 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 71-131]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Termination of Approval Notice

1. Certain laws and regulations (46 CFR Ch. I) require that various items of lifesaving, firefighting, and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been terminated as herein described during the period from April 28, 1971 to May 24, 1971 (List No. 18-71). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. Notwithstanding the termination of approval listed in this document, the equipment affected my be used as long as it remains in good and serviceable condition.

TELEPHONE SYSTEMS, SOUND-POWERED

The Tele-Dynamics Division, American Bosch Arma Corp., 5000 Parkside Avenue, Philadelphia, PA 19131, no longer manufactures certain sound powered telephone stations and Approval Nos. 161.005/42/0, 161.005/43/1, 161.005/44/0, 161.005/45/0, 161.005/46/1, 161.005/47/0, 161.005/48/0, 161.005/49/0, and 161.005/50/0 were therefore terminated effective May 27, 1971.

Dated: November 2, 1971.

W. F. REA III,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.71-16384 Filed 11-9-71;8:48 am]

[CGFR 71-133]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Termination of Approval Notice

1. Certain laws and regulations (46 CFR Ch. I) require that various items of lifesaving, firefighting, and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been terminated as herein described during the period from April 28, 1971 to May 24, 1971 (List No. 16-71). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50. United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. Notwithstanding the termination of approval listed in this document, the equipment affected my be used as long as it remains in good and serviceable condition.

LIGHTS, WATER: SELF-IGNITING (CALCIUM CARBIDE—CALCIUM PHOSPHIDE TYPE), FOR MERCHANT VESSELS

The Harbak, Inc., 19th Street and Long Island Avenue, Wyandanch, NY 11798, Post Office Box 246, Approval No. 160.012/4/1 expired and was terminated effective May 24, 1971.

WATER, EMERGENCY DRINKING (IN HERMETICALLY SEALED CONTAINERS), FOR MERCHANT VESSELS

The MacDonald-Bernier Co., Inc., 305 Main Street, Charlestown, MA 02129, no longer manufactures certain containers for emergency provisions and Approval Nos. 160.026/28/1 and 160.026/29/1 were therefore terminated effective April 30, 1971.

BUOYANT VESTS, KAPOK, OR FIBROUS GLASS

For Motorboats of Classes A, 1, or 2 Not Carrying Passengers for Hire.

The J. C. Penney Co., Inc., 1301 Avenue of the Americas, New York, NY 10019, Approval Nos. 160.047/572/0 and 160.047/573/0 expired and were terminated effective April 26, 1971.

BUOYANT CUSHIONS, KAPOK, OR FIBROUS GLASS

NOTE: For Motorboats of Classes A, 1, or 2 Not Carrying Passengers for Hire.

The J. C. Penney Co., Inc., 1301 Avenue of the Americas, New York, NY 10019, Approval No. 160.048/233/0 expired and was terminated effective April 28, 1971.

The Martin Industries, Post Office Box 423, Clayton, AL 36016, no longer manufactures certain kapok buoyant cushions and Approval No. 160.048/254/0 was therefore terminated effective May 10, 1971.

BUOYANT CUSHIONS UNICELLULAR PLASTIC FOAM

NOTE: Approved for Use on Motorboats of Classes A, 1, or 2 Not Carrying Passengers for Hire.

The Martin Industries, Post Office Box 423, Clayton, AL 36016, no longer manufactures certain unicellular plastic foam buoyant cushions and Approval Nos. 160.049/70/0, 160.049/74/0, 160.049/75/0, and 160.049/78/0 were therefore terminated effective May 10, 1971.

BUOYANT VESTS, UNICELLULAR PLASTIC FOAM

NOTE: For Motorboats of Classes A, 1, or 2 Not Carrying Passengers for Hire.

The Martin Industries, Post Office Box 423, Clayton, AL 36016, no longer manufactures certain unicellular plastic foam buoyant vests and Approval Nos. 160.052/353/0, 160.052/354/0, and 160.052/355/0 were therefore terminated effective May 10, 1971.

TELEPHONE SYSTEMS, SOUND-POWERED

The Hose-McCann Telephone Co., Inc., 25th Street and Third Avenue, Brooklyn, NY 11232, Approval No. 161.005/41/0 expired and was terminated effective May 24, 1971.

BOILERS (HEATING)

The York-Shipley, Inc., York, Pa., Approval No. 162.003/116/1 expired and was therefore terminated effective May 15, 1971.

Dated: November 2, 1971.

W. F. REA III,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.71-16385 Filed 11-9-71;8:48 am]

[CGFR 71-134]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

1. Certain laws and regulations (46 CFR Ch. I) require that various items of lifesaving, firefighting, and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the Outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from May 18, 1971, to May 26, 1971 (List No. 17-71). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner canceled or suspended by proper authority.

BOUYANT CUSHIONS, KAPOK, OR FIBROUS GLASS

NOTE: For motorboats of classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.048/144/0, group approval for rectangular and trapezoidal kapok bouyant cushions, USCG Specification Subpart 160.048, sizes and weights of kapok filling to be as per Table 160.048-4(c)(1)(i), manufactured by Miltco Products Corp., 139 Emerson Place, Brooklyn, NY 11205, effective May 26, 1971. (It supersedes Approval No. 160.048/144/0 dated January 9, 1969.)

BUOYANT CUSHIONS, UNICELLULAR PLASTIC FOAM

NOTE: Approved for use on motorboats of classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.049/68/0, special approval for 23" x 13" x 2⅛" rectangular, vinyl-dipped, unicellular plastic foam bouyant cushion, dwg. No. 5335-X, revision 1 dated August 14, 1964, manufactured by Goodenow Manufacturing, 1301 West 18th Street, Erie, PA 16501, for White Bear Water Ski Co., 440 Lakeview Avenue, St. Paul, MN 55119, effective May 26, 1971. (It is an extension of Approval No. 160.049/68/0 dated June 3, 1966, and change of address of distributor.)

BUOYANT VESTS, UNICELLULAR PLASTIC FOAM

NOTE: For motorboats of classes A, 1, or 2, not carrying passengers for hire.

Approval No. 160.052/331/0, Type II, Model LV-A, adult molded vinyl-dipped unicellular plastic foam buoyant vest, Goodenow Dwg. No. 5581-E, Rev. 1 dated December 22, 1964, manufactured by Goodenow Manufacturing, 1301 West 18th Street, Erie, PA 16502, for White Bear Water Ski Co., 440 Lakeview Avenue, St. Paul, MN 55119, effective May 26, 1971. (It supersedes Approval No. 160.052/331/0 dated May 7, 1971, to show change of address of distributor.)

Approval No. 160.052/332/0, Type II, Model LV-M, child medium molded vinyl-dipped unicellular plastic foam buoyant vest, Goodenow Dwg. No. 5622-C, Rev. 1 dated December 22, 1964, manufactured by Goodenow Manufacturing, 1301 West 18th Street, Erie, PA 16502, for White Bear Water Ski Co., 440 Lakeview Avenue, St. Paul, MN 55119, effective May 26, 1971. (It supersedes Approval No. 160.052/332/0 dated May 7, 1971, to show change of address of distributor.)

Approval No. 160.052/333/0, Type II, Model LV-S, child small molded vinyl-dipped unicellular plastic foam buoyant vest, Goodenow Dwg. No. 5623-C, Rev. 1 dated December 22, 1964, manufactured by Goodenow Manufacturing, 1301 West 18th Street, Erie, PA 16502, for White Bear Water Ski Co., 440 Lakeview Avenue, St. Paul, MN 55119, effective May 26, 1971. (It supersedes Approval No. 160.052/333/0 dated May 7, 1971, to show change of address of distributor.)

FLAME ARRESTERS FOR TANK VESSELS

Approval No. 162.016/30/2, Oceco Type E21B flame arrester, cast iron body, fixed bank assembly, aluminum arrester plates, bolted end covers, approved for sizes 3", 4", 6", 8", and 10", formerly with extensible bank assembly, dwg. No. HOC-195-A, manufactured by The Johnston and Jennings Co., 4700 West Division Street, Chicago, IL 60651, effective May 19, 1971. (It supersedes Approval No. 162.016/30/1 dated November 3, 1970, to show elimination of the extensible feature of the aluminum banks.)

BACKFIRE FLAME CONTROL, GASOLINE ENGINES: ENGINE AIR AND FUEL INDUCTION SYSTEMS; FOR MERCHANT VESSELS AND MOTORBOATS

Approval No. 162.042/6/0, JLO Model LB600/2, two cycle 25.5 hp. engine with a reed valve fuel induction system provides backfire flame protection equivalent to that of an effective backfire flame arrester, uses Reed Valve Air Induction, manufactured by Air Cushion Vehicles, Inc., Rural Delivery 5, Box 85, Troy, NY 12180, effective May 18, 1971.

Dated: November 2, 1971.

W. F. REA III,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.71-16386 Filed 11-9-71;8:48 am]

Federal Aviation Administration

AIR TRAFFIC CONTROL TOWER AT MORGANTOWN MUNICIPAL AIRPORT, MORGANTOWN, W. VA.

Notice of Commissioning

Notice is hereby given that a mobile Air Traffic Control Tower will be commissioned at Morgantown Municipal Airport, Morgantown, W. Va., on or about November 18, 1971. It will improve operational flow of terminal traffic consisting predominantly of general aviation aircraft. Communications to the Air Traffic Control Tower should be addressed as follows:

Air Traffic Control Tower, Department of Transportation, Federal Aviation Administration, Morgantown Municipal Airport, Morgantown, W. Va. 26505.

(Sec. 313(a), 72 Stat. 752; 40 U.S.C. 1354)

Issued in New York, N.Y., on October 14, 1971.

GEORGE M. GARY,
Director, Eastern Region.

[FR Doc.71-16354 Filed 11-9-71;8:45 am]

[OE Docket No. 71-RM-1]

KBMR RADIO, INC.

Notice of Petition for and Grant of Review

On September 6, 1971, the Federal Aviation Administration, Rocky Mountain Region issued a Determination of Hazard to Air Navigation under Aeronautical Study No. 71-RM-16-OE. The determination concerns a proposal by KBMR Radio, Inc., Bismarck, N. Dak., to increase the height of its radio antenna tower near Bismarck, at latitude 46°48'-37" north, longitude 100°44'10" west. The overall height of the structure would be 302 feet above ground level, 1,967 feet above mean sea level.

KBMR Radio, Inc., by its attorney, Mr. George R. Borsari, Jr., petitioned the Administrator for a review of the determination pursuant to § 77.37 of the Federal Aviation Regulations. The petitioner cites the following grounds for a reversal of the determination:

1. The ground elevation approximately three-quarters of a mile northwest of the proposed site is 1,905 feet AMSL.

2. Between the proposed tower site and the Bismarck Airport is a 1,900-foot AMSL water tower.

3. Approximately three-quarters of a mile west northwest of the proposed tower site is a 243-foot AGL, 2,148 feet AMSL television tower.

4. Runway 31 is the main instrument runway at the Bismarck Airport and the only runway stressed for larger aircraft.

5. A new back course approach to Runway 13 has been implemented.

6. Runway 35 of the Bismarck Airport is used only for departures of convair type aircraft and smaller during high wind conditions.

Our examination of the petition and the determination discloses that neither document provides sufficient facts in support of their respective claims. In the absence of this information, we are unable to ascertain the validity of either claim.

Therefore, a review will be conducted. The review will be on the basis of written materials pursuant to FAR, Section 77.37(c)(1). Interested persons may within 30 days of the date of issuance of this notice submit information relevant to the question of whether the proposed construction would have an adverse effect on the safe and efficient use of airspace. Sufficient detail must be provided to establish a clear understanding of the reasons for any claims made. Submissions should be in triplicate and sent to the Chief, Airspace Obstruction and Airports Branch, AT-240, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

Pending final disposition of the petition, the Determination of Hazard to Air Navigation issued by the Rocky Mountain Region under Aeronautical Study No. 71-RM-16-OE is not and will not be a final determination.

Issued in Washington, D.C., on November 1, 1971.

WILLIAM M. FLENER,
Director, Air Traffic Service.

[FR Doc.71-16355 Filed 11-9-71;8:45 am]

[OE Docket No. 71-SW-4]

RADIO STATION KXYZ, INC.

Notice of Petition for and Grant of Review

On September 13, 1971, the Federal Aviation Administration, Southwest Region, issued a Determination of Hazard to Air Navigation under Aeronautical Study No. 70-HOU-460-OE. The Determination concerns a proposal by Radio Station KXYZ, Inc., Houston, Tex., to erect a radio antenna tower near Houston at latitude 29°48'16" north, longitude 95°12'23" west. The overall height of the structure would be 1,014 feet above ground level and 1,049 feet above mean sea level.

On October 13, 1971, Mr. Vernon L. Wilkinson, attorney for Radio Station KXYZ, Inc., petitioned the Administrator for a review of the Determination pursuant to § 77.37 of the Federal Aviation Regulations.

The petition questions the validity of the Determination in the following respects:

1. Insufficient weight was given to the fact that the proposed structure would not be within the geographical area defined as VFR flyways.

2. Inadequate consideration was given to the fact that the procedural adjustments needed to accommodate the structure are not major in character.

With respect to the above, the Determination sets forth the changes in instrument flight rules procedures that would be necessary to accommodate the proposed tower without indicating the extent to which the changes would adversely affect their use. The Determination also states that the proposed tower would be located in airspace subject to a substantial volume of traffic without a showing of the material developed during the study to substantiate the statement.

Examination of this matter disclosed that the petition is inadequate in that it makes no showing as to why aeronautical operations would not be adversely affected. On the other hand, the Determination lacks substantive material on which a review may be denied.

Therefore, a review will be conducted on the basis of written materials in accordance with FAR, § 77.37(c)(1). Interested persons may, within 30 days of the issuance of this notice, submit information in writing to the Chief, Airspace Obstruction and Airports Branch, AT-240, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Submissions must be filed in triplicate and be relevant to the question of whether the proposed construction would have an adverse effect on the safe and efficient use of airspace. Sufficient detail must be provided to establish a clear understanding of the reasons for any claims made.

Pending final disposition of the petition, the Determination of Hazard to Air Navigation issued by the Southwest Region under Aeronautical Study No. 70-HOU-460-OE is not and will not be a final determination.

Issued in Washington, D.C., on November 1, 1971.

WILLIAM M. FLENER,
Director, Air Traffic Service.

[FR Doc.71-16356 Filed 11-9-71;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 20993; Order 71-11-20]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority, November 3, 1971.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Joint Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement, adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated October 28, 1971, names additional specific commodity rates which reflect significant reductions from the general cargo rates, as set forth in the attachment hereto.

Pursuant to authority duly delegated by the Board in the Board's economic regulations, 14 CFR 385.14, it is not

found, on a tentative basis, that the subject agreement is adverse to the public interest or in violation of the Act, provided that tentative approval thereof is conditioned as hereinafter ordered.

Accordingly, it is ordered, That:

Action on Agreement CAB 22332, R–47 through R–49, be and hereby is deferred with a view toward eventual approval: *Provided,* That approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication; *Provided further,* That tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71–16430 Filed 11–9–71;8:51 am]

[Docket No. 23486; Order 71–11–19]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Currency Matters

Issued under delegated authority, November 3, 1971.

By Order 71–10–58, dated October 14, 1971, action was deferred, with a view toward eventual approval, on an agreement adopted by the Traffic Conferences of the International Air Transport Association (IATA). The agreement, insofar as it affects air transportation, permits the establishment of special Contract Bulk Inclusive Tour (CBIT) fares in Japanese yen, exclusively for travel originating in Japan to U.S. points. Application of the current exchange rate of 360 Japanese yen=1 US$ renders the current level of CBIT fares unchanged.

In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period and the tentative conclusions in Order 71–10–58 will herein be made final.

Accordingly, it is ordered, That:

Agreement C.A.B. 22723 be and hereby is approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71–16431 Filed 11–9–71;8:51 am]

[Docket No. 22626; Order 71–11–9]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Delayed Inaugural Flights

Issued under delegated authority, November 2, 1971.

By Order 71–10–73, dated October 18, 1971, action was deferred, with a view toward eventual approval, on an agreement adopted by Joint Conference 1–2 of the International Air Transport Association (IATA). The agreement permits El Al to postpone to a date not later than January 28, 1972, the performance of its inaugural flights for new service on B–747 aircraft between New York and Tel Aviv.

In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period and the tentative conclusions in Order 71–10–73 will herein be made final.

Accordingly, it is ordered, That:

Agreement C.A.B. 22733 be and hereby is approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71–16432 Filed 11–9–71;8:51 am]

FEDERAL HOME LOAN BANK BOARD

[H.C. 113]

FOX VALLEY CORP.

Notice of Receipt of Application for Permission To Acquire Control of First Savings of Downer's Grove

NOVEMBER 5, 1971.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from the Fox Valley Corp., Batavia, Ill., for approval of acquisition of control of the First Savings of Downer's Grove, Downer's Grove, Ill., an insured institution, under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and § 584.4 of the regulations for savings and loan holding companies, said acquisition to be effected by the purchase by cash of the shares of First Savings of Downer's Grove. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, within 30 days of the date this notice appears in the FEDERAL REGISTER.

[SEAL] GRENVILLE L. MILLARD, Jr.,
Assistant Secretary,
Federal Home Loan Bank Board.

[FR Doc.71–16388 Filed 11–9–71;8:47 am]

[H.C. 112]

GULF REPUBLIC FINANCIAL CORP.

Notice of Receipt of Application for Permission To Acquire Control of Certain Savings Associations

NOVEMBER 5, 1971.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from the Gulf Republic Financial Corp., Houston, Tex., for approval of acquisition of control of the Home Savings Association, Houston, Tex., Temple Savings Association, Temple, Tex., Beaumont Savings and Loan Association, Beaumont, Tex., and Panhandle Savings and Loan Association, Amarillo, Tex., under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and § 584.4 of the regulations for savings and loan holding companies, said acquisitions to be effected by the exchange of cash and/or stock of Gulf Republic Financial Corp. for stock of Home Savings Association, Temple Savings Association, Beaumont Savings and Loan Association, and Panhandle Savings and Loan Association. Comments on the proposed acquisitions should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, within 30 days of the date this notice appears in the FEDERAL REGISTER.

[SEAL] GRENVILLE L. MILLARD, Jr.,
Assistant Secretary,
Federal Home Loan Bank Board.

[FR Doc.71–16387 Filed 11–9–71;8:47 am]

FEDERAL POWER COMMISSION

[Docket No. CS72–319 etc.]

J AND J OPERATING CO. ET AL.

Notice of Applications for "Small Producer" Certificates [1]

NOVEMBER 3, 1971.

Take notice that each of the applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 22, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date filed	Name of applicant
CS72–319	10– 7–71	J and J Operating Co., Post Office Box 519, Corpus Christi, TX 78403.
CS72–320	10– 7–71	Jack Robin Co. et al., Post Office Box 10084, Corpus Christi, TX 78410.
CS72–321	10–12–71	Zeigler Coal Co., 208 South La Salle St., Chicago, IL 60604.
CS72–322	10–12–71	P. R. Rutherford, Jr., 2100 First City National Bank Bldg., Houston, Tex. 77002.
CS72–323	10–12–71	Michael O. Rutherford, 2100 First City National Bank Bldg., Houston, Tex. 77002.
CS72–324	10–13–71	Norval L. Covington, Northwest 63d and Harvey, Oklahoma City, OK 73114.
CS72–325	10–13–71	Calvert Drilling & Producing Co. (Operator), Post Office Box 1436, Bismarck, ND 58501.
CS72–326	10–14–71	E. C. Brown, Post Office Box 391, Henderson, KY 42420.
CS72–327	10–14–71	D. B. Barter, Post Office Box 4171, Midland, TX 79701.
CS72–328	10–14–71	The NBS Corp., Box 1006, Midland, TX 79701.
CS72–329	10–14–71	John Norris, Box 4023, Midland, TX 79701.
CS72–330	10–14–71	Stanley N. Staples, Box 1006, Midland, TX 79701.
CS72–331	10–14–71	Stanley S. Beard, Box 549, Midland, TX 79701.
CS72–332	10–14–71	Jim R. Sale, Box 4, Midland, TX 79701.
CS72–333	10–14–71	J. Woodford Sale, Box 4, Midland, TX 79701.
CS72–334	10–14–71	David Bancom, Box 4, Midland, TX 79701.
CS72–335	10–14–71	Sale & Bancom Oil Investments, Box 4, Midland, TX 79701.
CS72–336	10–14–71	D. J. Simmons Estate, 3815 McCart St., Fort Worth, Tex. 76110.
CS72–337	10–14–71	Robert J. Beams, 2128 Republic National Bank Tower, Dallas, Tex. 75201.
CS72–338	10–15–71	Bill Forney, 307 Milam Bldg., San Antonio, Tex. 78205.
CS72–339	10–15–71	Miller & Stanley Operating Co., Box 7586, Amarillo, TX 79109.
CS72–340	10–13–71	The First National Bank of Shreveport, Trustee for the Gaye Anne, Michael Brian, and Ralph R. Glister, Jr., Trusts No. 1, Post Office Box 1116, Shreveport, LA 71164.
CS72–341	10–13–71	Arno R. Dalby, 1603 Broadway, Lubbock, TX 79401.
CS72–342	10–13–71	Bounty Production Co., 900 Northeast Loop 410, San Antonio, TX 78209.
CS72–343	10–15–71	Guy R. Campbell, Jr. and Co., 15804 Gulf Blvd., Redington Beach, FL 33706.
CS72–344	10–15–71	Occidental Petroleum Sales Corp., 1120 Hibernia Bank Bldg., New Orleans, LA 83312.
CS72–345	10–14–71	D. J. Oil Co., Post Office Box 648, Sterling, CO 80751.
CS72–346	10–18–71	J. Evans Attwell, 2100 First City National Bank Bldg., Houston, TX 77002.
CS72–347	10–18–71	Herman Binger d.b.a. Inca Oil Co., Post Office Box 3569, Tulsa, OK 74152.
CS72–348	10–18–71	Lynco Oil Corp., 4101 East Louisiana Ave., Denver, CO 80222.
CS72–349	10–18–71	Newport Industries, Inc., d.b.a. Allied Petroleum Co., 4341 Birch St., Suite 206, Newport Beach, CA 92660.
CS72–350	10–18–71	Plaza Oil of California, 16444 Bolsa Chica, Space 17, Huntington Beach, CA 92649.
CS72–351	10–18–71	Less Whitaker, Route 3, Box 443–W, Amarillo, TX 79107.
CS72–352	10–19–71	The Petroleum Corp., 3303 Lee Parkway, Dallas, TX 75219.
CS72–353	10–19–71	Genmar Oil & Gas, Inc., 203 Carondelet St., New Orleans, LA 70130.
CS72–354	10–18–71	D. W. Stiles, Box 842, Aztec, NM 87410.
CS72–355	10–18–71	Harold A. Yaffee, Box 842, Aztec, NM 87410.
CS72–356	10–18–71	Elvis L. Roberts, Box 842, Aztec, NM 87410.
CS72–357	10–18–71	B. H. Keyes, Box 842, Aztec, NM 87410.
CS72–358	10–18–71	Alex N. Campbell, Box 842, Aztec, NM 87410.
CS72–359	10–18–71	J. R. Abraham, Box 842, Aztec, NM 87410.
CS72–360	10–18–71	R. N. Usher, Box 842, Aztec, NM 87410.
CS72–361	10–18–71	A. K. Barbour, Box 842, Aztec, NM 87410.
CS72–362	10–18–71	John L. Morrison, Box 842, Aztec, NM 87410.
CS72–363	10–18–71	Frank Yockey, Box 842, Aztec, NM 87410.
CS72–364	10–18–71	R. N. and Polly Usher, Box 842, Aztec, NM 87410.
CS72–365	10–18–71	Jerome P. McHugh, 930 Petroleum Club Bldg., Denver, Colo. 80220.

[FR Doc.71–16314 Filed 11–9–71;8:45 am]

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

FEDERAL RESERVE SYSTEM

CONNECTICUT BANCSHARES CORP.

Formation of One-Bank Holding Company

Connecticut Bancshares Corp., New York, N.Y., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of action whereby applicant would become a bank holding company through acquisition of 50.9 percent of the voting shares of Northern Connecticut National Bank, Windsor Locks, Conn.

The application may be inspected at the Federal Reserve Bank of Boston.

Section 3(c) of the Act requires that the Board consider the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the bank concerned, and the convenience and needs of the communities to be served.

Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than November 29, 1971.

Pursuant to § 222.3(b) of Regulation Y, this application shall be deemed to be approved on December 13, 1971, unless the applicant is notified to the contrary before that time, or is granted approval at an earlier date.

Board of Governors of the Federal Reserve System, November 4, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71–16417 Filed 11–9–71;8:50 am]

MID-AMERICA FIDELITY CORP.

Proposed Acquisition of Ann Arbor Trust Company

Mid-America Fidelity Corp., Ann Arbor, Mich., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(a)(8)) and § 222.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Ann Arbor Trust Co., Ann Arbor, Mich. Notice of the application was published on September 23, 1971, in The Ann Arbor News, a newspaper circulated in Ann Arbor, Mich.

Applicant states that the proposed subsidiary would perform the activities of a trust company. Such activities have been specified by the Board in § 222.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 222.4(b).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 3, 1971.

Board of Governors of the Federal Reserve System, November 3, 1971.

[SEAL] TYNAN SMITH,
Secretary.

[FR Doc.71–16418 Filed 11–9–71;8:50 am]

MID-AMERICA FIDELITY CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), by Mid-America Fidelity Corp., Ann Arbor, Mich., for prior approval by the Board of Governors of action whereby applicant would become a bank holding company through the acquisition of 80 percent or more of the voting shares of Ann Arbor Bank, Ann Arbor, Mich.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Chicago.

Board of Governors of the Federal Reserve System, November 3, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16419 Filed 11-9-71;8:50 am]

FEDERAL TRADE COMMISSION

FLAMMABLE FABRICS

Enforcement Policy

I. *Enforcement policy.* As a public safety statute, the Flammable Fabrics Act must be enforced vigorously, effectively and without compromise. Every reasonable means for enforcement must be promptly employed, every alternative must be fully explored, and every available resource must be brought to bear. The efforts of the Federal Trade Commission to enforce the Act must be unyielding, unequivocal, aimed solely to discharge with optimum effectiveness its responsibilities under the Act to protect the public from the threat to health, life, and property that inheres in potentially dangerous flammable products covered by the Act.

II. *Enforcement objectives.* To accomplish the foregoing enforcement policy, resolute and expeditious enforcement of the Act will be premised upon the following objectives:

a. To prevent the entry into the channels of commerce of any products, fabrics, or related material, hereinafter referred to as "flammable fabrics," which fail the applicable flammability standards set pursuant to the Flammable Fabrics Act (15 U.S.C. 1191).

b. Immediately upon discovery of flammable fabrics, to stop, by the most effective means available, the sale and distribution of such fabrics which have reached the channels of commerce;

c. To notify the consuming public and all other parties in the channels of commerce of the potential danger of such fabrics;

d. To cause all flammable fabrics to be taken out of the channels of commerce by any means available by law; and

e. To prevent the reentry of flammable fabrics into the channels of commerce.

III. *Enforcement procedure*—a. *Voluntary procedures.* In effecting immediate removal of flammable fabrics from commerce, and alerting all levels of distribution of the hazard involved in such fabrics, the Commission seeks and encourages the voluntary cooperation and assistance of affected parties in terminating the sale and distribution and obtaining removal of the flammable fabric from commerce.

In specific instances where products have been tested and failed, the staff is directed by the Commission to proceed as follows:

The manufacturer, importer, distributor, or retailer of the flammable fabric, or any combination of such persons, is to be contacted immediately and notified orally of the results of the applicable flammability test. Written confirmation of such notice will also be made. Such person or persons will be asked to voluntarily (1) stop the sale and distribution of the flammable fabric, (2) furnish to the Commission staff a list of customers who have purchased the product, (3) notify those customers of the test results, (4) seek removal and/or recall of the flammable fabric from commerce, and (5) supply inventory data showing the amount of the flammable fabric purchased on hand and in the channels of commerce. Except for good cause shown, these voluntary procedures must be completed within 5 days of notification by the Commission staff.

Such person or persons voluntarily complying with the foregoing procedures will be provided the opportunity to execute a consent order agreement pursuant to § 2.14 of the Commission's rules. This settlement offer, containing an agreed-upon complaint and order incorporating among other things the foregoing procedures, will be forwarded to the Commission for final disposition in accordance with its rules of practice. This is pursuant to the policy of the Commission which is to require issuance of a formal cease and desist order in every case where a violation of the Flammable Fabrics Act is found and not to accept assurances of voluntary compliance in these cases. Such person or persons will be informed that a press release will issue pursuant to this voluntary agreement announcing that advice regarding the distributors, retailers, and other handlers of the product in question can be secured from the Commission by the use of the toll-free number listed in the press release or by writing to the Assistant Director for Textiles and Furs. If the party complies and the Commission accepts the proffered agreement, the press release will be issued immediately.

Such person or persons will be informed that if it fails to comply voluntarily with the procedures set forth above, the staff will proceed immediately to utilize all appropriate compulsory processes available to it to accomplish its enforcement objectives and to protect the public interest. Each person or persons will be informed as to the nature of those compulsory processes.

b. *Compulsory processes.* If any person or persons reject a § 2.14 settlement or refuse to cooperate entirely in each of the above-described voluntary procedures, he will be orally informed, with this information confirmed in a subsequent letter, that the staff intends to recommend to the Commission the issuance of a complaint under part III of the rules, and that the staff will recommend that the Commission commence proceedings in the district court seeking all relevant information or data previously withheld, a court injunction against further distribution of the product, and seizure by Federal marshalls of the product. In such event, a press release shall issue announcing issuance of the Commission's administrative complaint instituting formal proceedings and the commencement of proceedings in the district court. The staff will further advise such person or persons that these enforcement procedures also will be taken, where appropriate, against the distributors or retailers of the product.

c. *Other enforcement procedures.* In-house test results of such person or persons indicating that offending products meet flammability standards will not be sufficient to suspend implementation of the above enforcement procedure so long as the test, relied upon by the Commission, performed in accordance with the applicable flammability standard, shows failure of the product. If reliable tests by independent laboratories ordered by the party show that the product meets flammability standards, the staff will confirm the results of the tests previously relied upon by the Commission before determining whether to pursue the foregoing procedure.

By direction of the Commission dated November 3, 1971.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.71-16368 Filed 11-9-71;8:47 am]

SECURITIES AND EXCHANGE COMMISSION

[70-5104]

MICHIGAN WISCONSIN PIPE LINE CO., AND AMERICAN NATURAL GAS CO.

Notice of Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding and Increase in Authorized Shares of Common Stock and Issue and Sale to Holding Company

NOVEMBER 3, 1971.

Notice is hereby given that American Natural Gas Co. (American Natural), 30 Rockefeller Plaza, Suite 4950, New York, NY 10020, a registered holding company, and one of its subsidiary companies, Michigan Wisconsin Pipe Line Co. (Michigan Wisconsin), have filed an application-declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(b), 9, 10, and 12(f) of the Act and Rules 43 and 50 thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Michigan Wisconsin proposes to issue and sell, pursuant to the competitive bidding requirements of Rule 50 under the Act, $40 million principal amount of First Mortgage Pipe Line Bonds, — percent Series due December 15, 1991. The interest rate on the bonds (which shall be a multiple of ⅛ of 1 percent) and the price, exclusive of accrued interest, to be received by Michigan Wisconsin (which shall be not less than 98½ percent nor more than 101½ percent of the principal amount thereof) are to be determined by the competitive bidding. The bonds are to be issued under Michigan Wisconsin's mortgage and deed of trust dated as of September 1, 1948, between Michigan Wisconsin and First National City Bank, trustee, as heretofore supplemented and as to be further supplemented by a 24th supplemental indenture to be dated as of December 1, 1971, and which includes a prohibition until December 15, 1976, against refunding the issue with the proceeds of funds borrowed at lower interest cost.

Michigan Wisconsin also proposes to increase its authorized shares of common stock, par value $100 per share (all of which are owned by American Natural), from 1,695,000 to 1,795,000 shares. Michigan Wisconsin further proposes to issue and sell, and American Natural proposes to acquire, 100,000 additional shares of common stock of Michigan Wisconsin at a price of $100 per share, or for an aggregate price of $10 million.

Michigan Wisconsin proposes to use the net proceeds from the sale of the bonds and the common stock to retire $50 million of borrowings estimated to be outstanding under lines of credit with banks at the time of the sale of the bonds. Said borrowings were incurred principally for interim financing of 1971 construction, estimated at $56 million.

The fees and expenses to be paid in connection with the proposed transactions are estimated at $2,000 for the common stock, including counsel fees of $500, and $174,000 for the bonds, including counsel fees of $50,000, accounting fee of $11,000, gas consultants' fees of $12,000, and rating agency's fees of $4,000. The fee of counsel for the purchasers of the bonds is estimated at $16,000 and is to be paid by the successful bidders. It is represented that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than November 23, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71-16378 Filed 11-9-71;8:47 am]

[812-3032]

CONDREN HOUSING PARTNERS

Notice of Filing of Application for Exemption From All Provisions of the Act

NOVEMBER 3, 1971.

Notice is hereby given that Condren Housing Partners (Applicant), 767 Fifth Avenue, New York, NY 10022, a New York limited partnership, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 (Act) for an order exempting Applicant from all sections of the Act and the rules and regulations promulgated thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Applicant was formed on September 2, 1971, to provide private investors a means to acquire equity interests in governmentally assisted low or moderate income housing projects. The general partners of Applicant are William J. Condren and Condren Mangement Corp. (Management), a corporation all of the capital stock of which is owned by Mr. Condren. Applicant has filed a registration statement (Registration Statement) on Form S-11 with the Commission under the Securities Act of 1933 covering $15 million of its limited partnership interests.

Applicant states that because Federal and State laws limit the cash return which owners may receive from subsidized housing projects, the primary investment incentive which Applicant offers is in the form of tax benefits. Tax losses, resulting primarily from interests expense and the utilization of the accelerated methods of depreciation available with respect to such projects, are available to investors in high tax brackets to offset taxable income from other sources. For this reason, Applicant will sell its limited partnership interests, in minimum amounts of $5,000, only to corporations or to individuals each of whom represents in the subscripton form that he has either a net worth of $200,000 or more, or a net worth of $50,000 or more and taxable income subject to Federal income tax at a rate of 50 percent or more.

Applicant proposes to make investments in housing projects through the acquisition of limited partnership interests in other limited partnerships (Local Partnerships) organized to own all or part of the equity interest in projects meeting Applicant's investment criteria. The projects will be subject to substantial regulation by the Federal Housing Authority (FHA) or other governmental agency granting assistance.

The general partner of each Local Partnership, which will usually be the developer of the project, will operate the project or oversee the activities of an independent management company. Applicant states that Management will make periodic inspections of the project and will review the performance of the

general partner of the Local Partnership. Neither Management nor Mr. Condren will, however, take any action or participate in the operation or affairs of any Local Partnership in a manner which would jeopardize Applicant's status as a limited partner in such Local Partnership.

Applicant will furnish to its limited partners annual financial statements certified by independent accountants, and will distribute at least annually any funds available for distribution. Under the limited partnership agreement, upon the sale or other disposition of Applicant's interest in any Local Partnership or the sale or refinancing or other liquidation of a project, the net proceeds received by Applicant must be distributed to the partners (subject to the payment of any management fees payable to the general partners) and may not be reinvested. The partnership will terminate on or before December 31, 1996.

Limited partners in Applicant may, by vote of the holders of interests representing two-thirds of the total capital then invested, either expel a general partner of Applicant or dissolve Applicant. Moreover, the general partners are required to make investments in accordance with certain fundamental investment criteria, which may not be changed without such a two-thirds vote of the partners.

Applicants state that the general partners have agreed not to invest personally or manage or arrange investments by others in projects that might be suitable for investment by Applicant until all of the available funds of Applicant have been invested or committed. Except as contemplated by the prospectus contained in the Registration Statement, neither of the general partners will transact business for its own account with the Applicant or with any projects in which Applicant invests.

Applicant submits that if the provisions of the Act are made applicable to it, the purposes of the 1968 Housing Act could be frustrated. For example, if Applicant were required to conform to the Act, investors might be required to have voting rights more extensive than those provided for Applicant's limited partners. Such rights might destroy the limited nature of the liability of investors for debts of Applicant and could eliminate the capacity to pass tax benefits on to investors. Either event would seriously hamper the ability to attract investors.

Applicant states that complete and detailed information concerning the activities will be available to its investors. Each investor will initially receive a copy of the prospectus contained in the Registration Statement. Moreover, as a condition to the granting of the exemption sought hereby, Applicant undertakes to comply, for as long as such exemption is in effect, with the reporting and information requirements of the Securities Exchange Act of 1934. Pursuant to the limited partnership agreement, Applicant is required to maintain full and true books of account and make them open to inspection by the limited partners. Audited financial statements must be furnished to all limited partners annually and upon dissolution.

Applicant states that interests in the partnership will not be freely transferable, and there is very little likelihood that a secondary trading market will develop for them, particularly since there are substantial tax disadvantages to be incurred by investor if he resells his interest prior to 10 years after completion of a project.

Applicant further states that since residual proceeds or proceeds from the disposition of Local Partnership interests or from the liquidation of projects may not be reinvested but must be distributed, Applicant is precluded from engaging in any "trading" activity with respect to its investments.

The projects in which the general partners invest funds will be subject to substantial regulation by the FHA or other governmental agency granting assistance. Such regulation includes approval of construction plans and specifications, rules for residency, limitations or rent rates, maintenance and repair requirements, record keeping and reporting requirements, and regulation of fees, wages and other matters relating to the operation of a project and its disposition.

It is submitted that the capital structure of Applicant is not complex. The general partners and the limited partners each share in the profits and losses on the same basis in the respect of their investments. The borrowing authority of the general partners is limited by the limited partnership agreement and in no event can Applicant's interests in Local Partnerships be pledged or mortgaged to secure indebtedness.

Applicant submits that exemption from the provisions of the Act is necessary in the public interest in order to permit the application of substantial private funds to the achievement of important national goals. It is further submitted that in view of the nature of the prospective investors, the structure of Applicant, and the goals of the investors therein, such exemption will be consistent with the protection of investors and the policy and purposes of the Act.

Section 6(c) of the Act provides, as here pertinent, that the Commission, by order upon application, may conditionally or unconditionally exempt any person from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 26, 1971, submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted or he may request he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71–16377 Filed 11–9–71;8:46 am]

[812–2995]

MINBANC CAPITAL CORP.

Notice of Filing Application for Exemption

NOVEMBER 3, 1971.

Notice is hereby given that Minbanc Capital, Inc. (Applicant), % American Bankers Association, 1120 Connecticut Avenue NW., Washington, DC 20036, registered under the Investment Company Act of 1940 (Act) as a closed-end, nondiversified, management investment company, has filed an application pursuant to section 6(c) of the Act for an order exempting from section 17(d) of the Act certain transactions between banks affiliated with any of Applicant's officers, directors or advisory board members, and minority-owned or managed banks in which Applicant is, or subsequently becomes invested. All interested persons are referred to the application on file with the Commission for a statement of the representation contained therein, which is summarized below.

Applicant, which was incorporated in Delaware on June 16, 1971, was created at the instance of the Urban Affairs Committee of the American Bankers Association for the purpose of making capital funds available by means of direct and indirect investment to eligible minority-owned banks. An eligible minority-owned bank is one at least 50 percent of whose voting securities are owned, or which is managed, by individuals from minority groups in the United States which are underrepresented in its free enterprise system, and which has an operating history of 3 years or more.

To obtain the capital required for the purposes for which it was organized, Applicant proposes to make a public offering exclusively to banks which are members of the American Bankers Association, or in certain circumstances to bank holding companies, of 20,000 shares of its $1 par value common stock (constituting Applicant's entire authorized capital) at $500 per share. No person will be permitted to purchase, pursuant to this public offer, 5 percent or more of the number of shares of Applicant which become outstanding as a result of such offer. The transfer or other disposition of shares of Applicant will be subject to Applicant's assignable right of first refusal. Whenever possible, Applicant intends to assign its right of first refusal to a member bank of the American Bankers Association (or to the parent of such a bank). It is not contemplated that the right of first refusal will be assigned to any person other than a bank or a bank holding company, or that Applicant would itself exercise the right of first refusal unless it is impossible to arrange an assignment to a bank or a bank holding company within 30 days.

Applicant intends to use its ability to make equity investments in eligible minority-owned banks as an inducement to other banks to furnish additional capital to such banks in other forms. It is also contemplated that Applicant may make loans to, or investments in, eligible minority-owned banks in which other banks may be or become invested, through loans or other transactions.

In order to permit such other banks, which may be under the control of, and thus affiliated with, Applicant's officers, directors, or advisory board members, to make loans or other investments in minority-owned banks in which Applicant has become or may become invested, Applicant requests that such transactions be exempted from the provisions of section 17(d) of the Act to the same extent that such class of transactions would be exempt pursuant to Rule 17d–1 if Applicant were a small business investment company (SBIC) licensed under the Small Business Investment Act of 1958.

Pertinent provisions of section 17(d) of the Act and Rule 17d–1 thereunder, provide that persons affiliated with officers, directors, or members of an advisory board of a registered investment company are prohibited from effecting any transaction in connection with any joint enterprise or other joint arrangement or profit-sharing plan in which such registered company is a participant unless the Securities Exchange Commission has, on application, granted a request that such transaction be permitted. Rule 17d–1, further provides, that in passing upon such application, the Commission will consider whether the participation of such registered company in such joint enterprise, joint arrangement or profit-sharing plan on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Under paragraph (d)(3) of Rule 17d–1 and Rule 17d–2, no such application is required to be filed with respect to loans to or investments in small business concerns by a bank and an SBIC licensed under the Small Business Investment Act of 1958, whether such transactions are contemporaneous or separated in time, where the bank is an affiliated person of either (i) the SBIC, or (ii) an affiliated person of the SBIC. Reports containing pertinent details as to investments and transactions relating thereto are, however, required to be made on Form N–17D–1.

Section 6(c) authorizes the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from the provisions of the Act and Rules promulgated thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant contends that the exemption requested will permit the effective financing of minority-owned banks and will be consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act since all of the investors in Applicant will be banks (or bank-holding companies) which will have invested in Applicant for the purpose of participating in the provision of capital funds to qualifying minority-owned banks.

As a condition of the exemption requested, Applicant undertakes to file within 30 days of the last day of each 6-month period in which any such transaction shall have occurred, reports in substantially the form prescribed by Rule 17d–2, including all of the information which would be required to be reported on Form N–17D–1 if Applicant were an SBIC. Applicant also consents to such further conditions as the Commission may deem appropriate.

Notice is further given that any interested person may, not later than November 23, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71–16379 Filed 11–9–71;8:47 am]

[812–3006]

SYNERCON CORP.

Notice of Application for Order of Temporary Exemption

NOVEMBER 4, 1971.

Notice is hereby given that Synercon Corp. (Applicant), 318 Murfreesboro Road, Nashville, TN 37210, a Tennessee corporation, has applied pursuant to sections 6(c) and 6(e) of the Investment Company Act of 1940 (Act) for an order of the Commission temporarily exempting it from the provisions of section 7 of the Act. Applicant, in requesting such temporary exemption, has agreed that applicant and other persons in their transactions and relations with it shall be subject to all other provisions of the Act and the respective rules and regulations promulgated under each of such provisions as though applicant were a registered investment company, other than the following: section 8; subsection (a) of section 10; subsection (a)(2) of section 13; subsections (f), (g), and (h) of section 17; section 18; section 23; section 30 (except subsection (f) thereof); and section 31 of the Act and the rules and regulations thereunder. All interested persons are referred to the application which is on file with the Commission for a statement of applicant's representations, which are summarized below:

This request has been made as an amendment to an application filed by applicant pursuant to section 3(b)(2) of the Act for an order of the Commission declaring that it is not an investment company. Section 3(b)(2) provides that the filing of an application thereunder shall exempt the applicant for a period of 60 days from all provisions of the Act applicable to investment companies as such.

The 60-day period of exemption provided in section 3(b)(2) expired in applicant's case on October 17, 1971. Applicant, which has not registered as an investment company under the Act, has asked that it be exempted as requested until the Commission has acted upon the application under section 3(b)(2) of the Act.

Notice is further given that, in respect to the application pursuant to sections 6(c) and 6(e) of the Act for an order of temporary exemption, any interested person may, not later than November 24, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a

statement as to the nature of his interest, the reasons for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application for an order of temporary exemption may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing thereon shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71–16381 Filed 11–9–71;8:47 am]

[811–1723]

TRAVELERS EQUITIES ACCUMULATION PLAN

Notice of Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company

NOVEMBER 3, 1971.

Notice is hereby given that Travelers Equities Accumulation Plan (Applicant), 1 Tower Square, Hartford, CT 06115, registered as a unit investment trust under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein which are summarized below.

Applicant, which was sponsored by Travelers Equity Sales, Inc. (Sponsor), registered under the Act by filing a notification of registration on form N–8A and a registration statement on Form N–8B–2 on August 22, 1968. On the same date a registration statement on Form S–6 was filed with the Commission under the Securities Act of 1933 which has not become effective. Following an amendment reducing the amount of securities registered, applicant requested, and has been granted, withdrawal of the registration statement.

Applicant represents that it was designed as a vehicle for making shares of Travelers Equities Fund, Inc. (Fund), a diversified open-end management investment company registered under the Act, available to employees and agents of the Travelers Insurance Companies (Travelers) without a sales charge. It states further that Sponsor and the Fund ultimately obtained an order of exemption from section 22(d) of the Act pursuant to section 6(c) thereunder (Investment Company Act Release No. 5948) to permit sales of Fund shares without sales charge to certain employees and agents of Travelers without the use of Applicant. Applicant represents further that as a result of the adoption by the Commission of Rule 22d–1(h), and a determination by the Sponsor and Travelers not to pursue the matter further, Fund shares are no longer available to a broad list of employees and agents of Travelers.

Applicant states that Travelers and Sponsor have no plans to implement sales without sales charge by use of Applicant and that it has never had any assets or made any commitments and that it has incurred no expenses or taken any further organization steps other than as described above.

Section 3(c)(1) of the Act excepts from the definition of investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons, and which is not making and does not presently propose to make a public offering of its securities.

Section 8(f) of the Act provides in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than November 24, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in the case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71–16380 Filed 11–9–71;8:47 am]

SELECTIVE SERVICE SYSTEM

[Local Board Memorandum No. 99]

RANDOM SELECTION SYSTEM

Procedures for Implementation

The following document is deemed to be of sufficient public interest to warrant publication.

I. *Introduction.* This memorandum instructs local boards on the implementation of random selection procedures established by section 1631, Selective Service Regulations. Particular attention is given here to various transitional questions arising at the end of each calendar year as registrants are transferred from one priority group to another.

II. *Random sequence number.* A. Each registrant shall be assigned a random sequence number (RSN) which will be determined by a lottery drawing of birth dates, and shall retain this random sequence number as long as he is registered with the Selective Service System. A registrant's random sequence number shall be established based upon the birth date given by him at the time of registration and entered on his Registration Card (SSS Form 1). However, should a registrant furnish documentation establishing a new date of birth, prior to the lottery drawing, effect will be given to this change, and it will be entered on the registration card.

B. All registrants born in the years 1944 through 1950 shall be assigned a birth date sequence based upon the results of the drawing held on December 1, 1969, identified as 1970 Random Selection Sequence. Registrants born during 1951 shall be assigned a similar sequence based on the drawing of July 1, 1970, identified as 1971 Random Selection Sequence, while those born in 1952 shall receive a number from the drawing of August 5, 1971, identified as 1972 Random Selection Sequence. Charts showing the random selection sequence for each of these years have been previously issued, and are to be attached to this Local Board Memorandum. A drawing will be held annually to establish the random sequence numbers for each succeeding year of birth.

C. The applicable random selection sequence number is to be placed on the Cover Sheet (SSS Form 101) above the registrant's name; for example, (70) 041. The number in parentheses ( ) is used by the local board for administrative convenience and refers to the year after the year in which the drawing was held that established the registrant's random sequence number.

Example 1. Michael O'Brien was born on December 10, 1950. His assigned RSN is (70) 041.

Example 2. Manuel Gomez was born on June 13, 1951. His assigned RNS is (71) 342.

D. When the Director of Selective Service issues an induction call, he will establish a random sequence number cutoff in a given priority group, and subgroup, if any, which will apply nationally. All registrants with RSN's equal to or below that number will be subject to induction under that call.

E. A registrant's random sequence number will be deemed to have been "reached" if it is not higher than the highest random sequence cutoff number established by the Director of Selective Service for induction of registrants in the same priority selection group and subgroup in that calendar year.

III. *Identification of selection groups.* A. Each registrant in Class 1–A, 1–A–O, or 1–O shall be assigned to a selection group, from January 1 of the year in which he attains the age of 20 until the 26th anniversary of his date of birth. If a registrant receives a deferment or exemption while a member of any priority selection group and is subsequently reclassified 1–A, 1–A–O, or 1–O, he shall, upon such reclassification, be reassigned to the priority selection group to which he was assigned when he received his deferment or exemption, provided he has not attained the age of 26; except that a registrant who was in the Extended Priority Selection Group (EPSG) at the time he was granted a deferment or exemption will be returned to the EPSG only if his RSN is not higher than the RSN cutoff which was applicable to his subgroup of the EPSG in the year in which he left the EPSG. If his RSN is higher than such RSN cutoff, he shall be assigned to the Second Priority Selection Group. (See Examples 4 and 5.)

B. There shall be subgroups within the Extended Priority Selection Group. Registrants who first entered the Extended Priority Selection Group in 1971 shall be assigned to Subgroup A. Registrants who first enter the Extended Priority Selection Group in 1972 shall be assigned to Subgroup B. A new subgroup shall be established in this manner each succeeding year. Subgroup A registrants will be the first called after volunteers for induction, then the subgroups following will be called until all Extended Priority Group men are called, after which men in the First Priority Group will be called. A registrant who returns to the Extended Priority Selection Group after having been in a deferred or exempt classification shall be placed in a subgroup according to the year in which he first entered the Extended Priority Selection Group.

Example 3. Carl Nelson is reclassified 1–D in 1971 when he is a member of the Second Priority Selection Group. In 1972, he is reclassified 1–A. He should be reassigned to the Second Priority Selection Group for 1972.

Example 4. On January 1, 1972, Malcolm MacLeod became a member of Subgroup B of the Extended Priority Selection Group, with RSN (71) 124. He was placed in Class 1–D on January 20, 1972. The cutoff RSN for March 1972 inductions was RSN 120 within Subgroup B of the Extended Priority Selection Group. Malcolm was classified into Class 1–A on September 19, 1972. He is assigned to the Second Priority Selection Group, because his RSN is above the Extended Priority Selection Group cutoff for that year.

Example 5. Biagi Petrello, RSN (71) 114, became a member of the Extended Priority Selection Group, Subgroup B, on January 1, 1972. In February 1972, he received a deferment and was withdrawn from the Extended Priority Group. His RSN was reached in Subgroup B of the EPSG in 1972. In 1973, Biagi lost his deferment. Since he has not attained age 26, he shall be returned to the Extended Priority Group, Subgroup B.

Example 6. Sidney Cohen, RSN (70) 002, entered the Extended Priority Selection Group on January 1, 1971, and was classified into Class 3–A on February 3, 1971. Upon being classified 1–A on January 12, 1972, he would return to the Extended Priority Selection Group, and would be assigned to Subgroup A, because he had first entered the Extended Priority Selection Group in 1971.

Example 7. Vernon Fowler, RSN (70) 120, was in Class 2–S from November 1969 until July 15, 1971, when he was reclassified 1–A and entered the First Priority Selection Group. The reached RSN for that year was 125. If Vernon retained his 1–A classification for the remainder of the year, but was not reached for induction, he would, on January 1, 1972, enter the Extended Priority Selection Group. He would be assigned to Subgroup B, because he first entered the Extended Priority Selection Group in 1972. To deliver men for induction in 1972, the local board will call Subgroup A men, lowest RSN first, and then Subgroup B men, lowest RSN first, up to the national cutoff number. When RSN 120 is reached, Vernon will be issued an induction order.

C. *The First Priority Selection Group*—(1) *1970.* Consisted of nonvolunteers in Class 1–A, 1–A–O, or 1–O born on or after January 1, 1944, and on or before December 31, 1950, who had not attained their 26th birthday.

(2) *1971 and later years.* Consists of two groups: Nonvolunteers in Class 1–A, 1–A–O, or 1–O who in the preceding year attained the age of 19 years; and those who have attained the age of 20 but not 26 who during the calendar year are classified into Class 1–A, 1–A–O, or 1–O and who were not in the First Priority Selection Group on December 31 of any previous year.

Example 8. Burton Barton was born on April 18, 1952. He is in Class 1–A. He will enter the 1972 First Priority Selection Group on January 1, 1972.

Example 9. Casimir Lenski was born on January 11, 1949. He was placed in Class 2–S in 1967. After completing college, he was reclassified 1–A on June 20, 1971. He was assigned to the 1971 First Priority Selection Group.

D. *Transfer From First Priority Selection Group to Second Priority Selection Group.* Any registrant who was a member of a First Priority Selection Group on December 31 of any calendar year, whose random sequence number was not reached, shall on January 1 of the succeeding year be placed in the Second Priority Selection Group, even if he has not been previously found physically qualified and even if he is in the process of exercising his procedural rights at the end of the year.

Example 10. Peter Van Der Meer RSN (71) 215, became a member of the First Priority Selection Group upon being classified 1–A on August 30, 1971. His RSN was not reached for induction that year. On January 1, 1972, he will be assigned to the Second Priority Selection Group.

Example 11. Joseph Davis, RSN (70) 215, was a member of the First Priority Selection Group on October 3, 1970. On that date he was classified 2–S. On February 14, 1971, he is reclassified 1–A because he left school. He would be assigned to the First Priority Selection Group. He would not be assigned to the Second Priority Selection Group, because he was not in Class 1–A on December 31, 1970. On December 31, 1971, he was assigned to the Second Priority Selection Group because his RSN was above 125.

E. *Transfer from First Priority Selection Group to Extended Priority Selection Group.* (1) Any registrant in the First Priority Selection Group on December 31 of any calendar year, whose random sequence number was reached during that year, but who was not issued an SSS Form 252 or an SSS Form 153 with a scheduled reporting date within that calendar year, shall on January 1 of the following year, be assigned to the Extended Priority Selection Group.

Example 12. Robert DuMont has RSN (71) 110. He is classified into Class 1–A from a deferred class on September 28, 1971, and he appeals. Although his RSN was reached, he was not issued an induction order because his appeal was pending. On January 1, 1972, he is assigned to the Extended Priority Selection Group, Subgroup B. On January 13, 1972, he is classified unanimously into Class 1–A by the appeal board. He is then available for induction as a member of the Extended Priority Selection Group, Subgroup B.

(2) In order to fill the January call by issuing orders in November, registrants in the Extended Priority Selection Group shall be tentatively identified and issued orders by RSN in November. If such a registrant is reclassified into a deferred class before the end of the year, he will not be identified as a member of the extended group, as deferred registrants are not in a priority group.

Example 13. In November 1971, Harold Osborn is tentatively identified by his local board as a member of the Extended Priority Selection Group, Subgroup B, and is ordered for induction in January 1972. On December 15, 1971, Harold presents information to his board which would qualify him for a 3–A classification. If Harold's board in its December meeting reclassifies him 3–A, his order for induction in January will be canceled. If he is eventually reclassified 1–A before his 26th birthday, he would then be placed in the First Priority Selection Group in that year.

(3) A registrant in the First Priority Selection Group who has been issued an order to report for induction or alternate service with a reporting date within the calendar year in which the order was issued, and after the end of that calendar year has his order canceled, or for other reasons fails to complete his

military service or alternate service, shall, upon thereafter becoming eligible for selection for induction or alternate service, be placed in the Extended Priority Selection Group.

Example 14. Kurt Baumann, RSN (71) 121, a member of the 1971 First Priority Selection Group, is issued an order to report for induction in October 1971, to report in December 1971. His induction is postponed at the request of the State director to have his file reviewed. In January 1972, the local board, at the request of the State director, reopens and classifies Kurt anew into Class 1-A. He should be placed in the Extended Priority Selection Group, Subgroup B.

F. *Transfer from Extended Priority Selection Group to Second Priority Selection Group.* Any member of the Extended Priority Selection Group who was not issued an SSS Form 252 or an SSS Form 153 with a reporting date prior to April 1 of the year in which he entered the Extended Priority Selection Group shall forthwith be assigned to the Second Priority Selection Group, with the following exception: Any member who would have been so issued an SSS Form 252 or an SSS Form 153, but could not be issued one, shall remain in the Extended Priority Selection Group, and shall be issued an SSS Form 252 or SSS Form 153 as soon as practicable. Circumstances which could prevent such an order shall include but not be limited to those arising from a personal appearance, appeal, preinduction examination, judicial proceeding of inability of the local board to act. However, any registrant in the Extended Priority Selection Group who is fully available to be issued an SSS Form 252 or SSS Form 153 for 270 consecutive days and to whom the local board has not issued such form during such 270 consecutive days, shall be assigned to the Second Priority Selection Group.

Example 15. The cutoff number for March inductions is set at RSN 100 within Subgroup B of the Extended Priority Selection Group. John Williams has RSN 82 in that subgroup. He is involved in an appeal which was not decided until March 15. This was too late to issue an induction order for delivery prior to April 1. Consequently, he will remain in the Extended Priority Selection Group and be ordered as soon as practicable.

Example 16. The cutoff number for March inductions is set at RSN 100 within Subgroup B of the Extended Priority Selection Group. Sam Samuels has RSN 104 in that subgroup. As his random sequence number is above the ceiling number, on April 1 he would be assigned to the Second Priority Selection Group.

Example 17. Tetsu Nagata is classified 1-A and enters the Extended Priority Selection Group on July 10, 1973. He remains in the Extended Priority Selection Group, fully available for induction, for 270 consecutive days. During this time, no induction calls are placed upon the Selective Service System. At the end of the 270 days, not having been issued an induction order, he is placed in the Second Priority Selection Group.

G. *Selection of 26-year-old registrants.* Any registrant assigned to the Extended Priority, First Priority, or a reduced priority selection group shall upon his 26th birthday be removed from that group unless he has previously been ordered to report for induction and also has extended liability because of a previous deferment. See Local Board Memorandum No. 38. If no such order has been issued and he has extended liability, he shall be placed in the selection group consisting of registrants between the ages of 26 and 35, who have extended liability.

Example 18. Robert Brown, RSN (70) 120, born on October 15, 1945, having been unanimously reclassified from Class 2-A to Class 1-A by the appeal board on September 15, 1971, is a member of the 1971 First Priority Selection Group. His local board on October 8, 1971, issues an order for Robert to report for induction on November 29, 1971. That order is valid since Robert had extended liability and the local board issued the order to report for induction prior to his 26th birthday.

Example 19. Chong Lee, RSN (70) 120, was born on October 15, 1945. He was reclassified from 2-A to 1-A by his local board on October 5, 1971, and entered the 1971 First Priority Selection Group. His rights to appear or appeal prevent his being issued an induction order before his 26th birthday (on October 15). Since he was not issued an induction order before he reached the age of 26, he then would be placed in the selection group consisting of registrants between the ages of 26 and 35, who have extended liability.

Example 20. David Anderson, RSN (71) 250, is in Class 1-O and is a member of the First Priority Selection Group. If his random sequence number has not been reached by December 31, David shall be reassigned to the Second Priority Selection Group. He shall not thereafter be ordered for civilian work unless RSN 250 in his reduced priority group is reached for induction.

IV. *Administrative processing of selection groups.* Each phase of local board administration—reclassification, orders for preinduction physical examination, personal appearance, appeals, and so forth—shall be done in order of random sequence number and priority group and subgroup insofar as practicable, so that registrants will be processed in the order of their vulnerability for induction.

To achieve fundamental fairness for registrants, it is important that local boards swiftly process all registrants who submit information which merits reclassification of the registrant into or out of the First Priority Selection Group, especially that information sent to the board late in the calendar year. The local board shall also promptly consider for reclassification any registrant who requests in writing that his current deferment be ended and who is currently classified in one of the following classes: Class 1-S, Class 2-A, Class 2-C, Class 2-D, Class 2-S, or Class 3-A. It is equally critical that local boards give rapid and fair consideration to members of the Extended Priority Selection Group to insure that their vulnerability to selection is continued no longer than necessary.

Information or requests received by the local board after its last meeting in the calendar year but before January 1 of the new year or enclosed in an envelope postmarked after the last meeting in the calendar year but before January 1 of the new year, and information or requests submitted prior to the last meeting in the calendar year and upon which the local board has not completed action shall be considered by the local board at its first meeting in the new year. Local board actions with respect to information submitted or requests made in accordance with the provisions of this section, will be effective as of December 31 in the year in which submitted. Annotate the Minutes of Action, page 8 of the Classification Questionnaire (SSS Form 100) following the classification action with the legend, "Effective 31 December (year) as per LBM 99."

Other circumstances which may prevent consideration prior to December 31 in any calendar year of information which may merit reclassification of a registrant shall be referred to the Director of Selective Service for his decision. If the Director of Selective Service, or a State Director of Selective Service with respect to registrants of his State, determines that a registrant has been improperly assigned to a priority selection group, he may direct the reassignment of the registrant to a designated priority selection group.

V. *Recision.* The attachments to Local Board Memorandums Nos. 100 and 108 become parts of this Local Board Memorandum; other parts of Local Board Memorandums Nos. 100 and 108 are rescinded. Local Board Memorandum No. 117 is also rescinded.

Issued: November 26, 1969.

As amended: November 3, 1971.

CURTIS W. TARR,
Director.

NOVEMBER 3, 1971.

[FR Doc.71-16397 Filed 11-9-71;8:52 am]

SUBVERSIVE ACTIVITIES CONTROL BOARD

[Dockets Nos. E72-001—E72-025]

ATTORNEY GENERAL'S LIST OF ORGANIZATIONS

Notice of Hearings

John N. Mitchell, Attorney General of the United States, Petitioner, v.

Abraham Lincoln Brigade, Respondent in Docket No. E72-001.

Abraham Lincoln School, Chicago, Ill. (AKA: Chicago Workers School), Respondent in Docket No. E72-002.

Action Committee to Free Spain now, respondent in Docket No. E72-003.

Alabama People's Educational Association (See Communist Political Association), Respondent in Docket No. E72-004.

American Association for Reconstruction in Yugoslavia, Inc., Respondent in Docket No. E72-005.

American Branch of the Federation of Greek Maritime Unions, Respondent in Docket No. E72-006.

American Christian Nationalist Party, Respondent in Docket No. E72-007.

American Committee for European Workers' Relief (AKA: American Council for European Workers' Relief), Respondent in Docket No. E72-008.

American Committee for the Settlement of Jews in Birobidjan, Inc. (AKA: The American Committee for the Settlement of German Jewish Refugees in the U.S.S.R.; AMBIJAN Committee for Emergency Aid to the Soviet Union; AMBIJAN Committee), Respondent in Docket No. E72-009.

American Committee to Survey Labor Conditions in Europe, Respondent in Docket No. E72-010.

American Council for a Democratic Greece, formerly known as the Greek American Council; Greek American Committee for National Unity, Respondent in Docket No. E72-011.

American Jewish Labor Council, Respondent in Docket No. E72-012.

American League Against War and Fascism (AKA: American League for Peace and Democracy), Respondent in Docket No. E72-013.

American League for Peace and Democracy, Respondent in Docket No. E72-014.

American National Labor Party, Respondent in Docket No. E72-015.

American Nationalist Party (AKA: American National Socialist League; American National Labor Party; Freunde Des Neuen Deutschland), Respondent in Docket No. E72-016.

American National Socialist League (AKA: American National Socialist Party; American National Labor Party), Respondent in Docket No. E72-017.

American National Socialist Party, Respondent in Docket No. E72-018.

American Patriots, Inc., Respondent in Docket No. E72-019.

American Peace Crusade, Respondent in Docket No. E72-020.

American Peace Mobilization (AKA: American People's Mobilization; American League Against War and Fascism; American League for Peace and Democracy), Respondent in Docket No. E72-021.

American Poles for Peace (AKA: Polish American Committee for Peace; Current Events Forum), Respondent in Docket No. E72-022.

American Polish Labor Council, Respondent in Docket No. E72-023.

American Polish League (AKA: American Friends of Polish Unity; Polish-American League; American Polish Cultural Group; Polonia Club; American Polish Club), Respondent in Docket No. E72-024.

American Rescue Ship Mission (A project of the United American Spanish Aid Committee), Respondent in Docket No. E72-025.

On October 1, 1971, the Attorney General petitioned the Subversive Activities Control Board for a determination that the above organizations now on the Attorney General's List have ceased to exist. The petitions are published in accordance with the Rules of the Subversive Activities Control Board.

Notice is hereby given pursuant to Executive Order 11605 and the Rules of the Subversive Activities Control Board issued in accordance therewith that hearings on the petitions will be held Monday, November 22, 1971, at 11 a.m., in Room 500, 2120 L Street NW., Washington, DC 20037.

JOHN W. MAHAN,
Chairman,
Subversive Activities Control Board.

[Docket No. E72-001]

In regard Abraham Lincoln Brigade, petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Abraham Lincoln Brigade ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about October 1938. There is no record of any known activity since that date.

The last known address of the above named organization was c/o Veterans of the Abraham Lincoln Brigade, Room 233, 799 Broadway, New York City, NY.

Therefore the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the Abraham Lincoln Brigade has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on Proceedings Under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971 to the Abraham Lincoln Brigade, at the following last known address: c/o Veterans of the Abraham Lincoln Brigade, Room 233, 799 Broadway, New York City, N.Y.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

[Docket No. E72-002]

In regard Abraham Lincoln School, Chicago, Ill. (AKA: Chicago Workers School), petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Abraham Lincoln School, Chicago, Ill., ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about August 1948.

There is no record of any known activity since that date.

The last known address of the above named organization was 180 West Washington Boulevard, Chicago, IL.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the Abraham Lincoln School, Chicago, Ill. has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice, does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on Proceedings Under Executive Order No. 11605 issued July 2, 1971, a copy of the foregoing petition has been mailed this 1st day of October 1971 to Abraham Lincoln School, Chicago, Ill., at the following last known address: 180 West Washington Boulevard, Chicago, IL.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

[Docket No. E72-003]

In regard Action Committee to Free Spain Now, petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Action Committee to Free Spain Now ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about November 1946.

There is no record of any known activity since that date.

The last known address of the above named organization was 55 West 42d Street, New York City, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the Action Committee to Free Spain Now has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the foregoing petition has been mailed this 1st day of October 1971 to the Action Committee to Free Spain Now, at the following last known address: 55 West 42d Street, New York City, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

[Docket No. E72-004]

In regard Alabama People's Educational Association (see Communist Political Association), petition for a determination pursuant to section 12(1) of Executive Order

No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the Alabama People's Educational Association ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist prior to 1945.

There is no record of any known activity since that date and there is no known address.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the Alabama People's Educational Association has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

[E72–005]

In regard American Association for Reconstruction in Yugoslavia, Inc., petition for a determination pursuant to section 12 (1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American Association for Reconstruction in Yugoslavia, Inc., ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about February 1948. There is no record of any known activity since that date.

The last known address of the above named organization was Room 21, 465 Lexington Avenue, New York City, N.Y.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American Association for Reconstruction in Yugoslavia, Inc., has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the foregoing petition has been mailed this 1st day of October 1971, to the American Association for Reconstruction in Yugoslavia, Inc. at the following last known address: Room 21, 465 Lexington Avenue, New York City, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

[Docket No. 72–006]

In regard American Branch of the Federation of Greek Maritime Unions, petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605,

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American Branch of the Federation of Greek Maritime Unions ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about April 1960. There is no record of any known activity since that date.

The last known address of the above named organization was 24 Stone Street, New York City, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American Branch of the Federation of Greek Maritime Unions has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the foregoing petition has been mailed this 1st day of October 1971 to the American Branch of the Federation of Greek Maritime Unions, at the following last known address: 24 Stone Street, New York City, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

[Docket No. E72–007]

In regard American Christian Nationalist Party, petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American Christian Nationalist Party ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1939.

There is no record of any known activity since that date and there is no known address.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American Christian Nationalist Party has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

[Docket No. E72–008]

In regard American Committee for European Workers' Relief (AKA: American Council for European Workers' Relief), petition for a determination pursuant to section 12 (1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American Committee for European Workers' Relief ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about October 1950.

There is no record of any known activity since that date.

The last known address of the above named organization was 130 West 23d Street, New York City, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American Committee for European Workers' Relief has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the foregoing petition has been mailed this 1st day of October 1971 to the American Committee for European Workers' Relief, at the following last known address: 130 West 23d Street, New York City, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

[Docket No. E72–009]

In regard American Committee for the Settlement of Jews in Birobidjan, Inc. (AKA: The American Committee for the Settlement of German Jewish Refugees in the U.S.S.R.; AMBIJAN Committee for Emergency Aid to the Soviet Union; AMBIJAN Committee), petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American Committee for the Settlement of Jews in Birobidjan, Inc., ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about March 1951. There is no record of any known activity since that date.

The last known address of the above named organization was 103 Park Avenue, New York City, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that American Committee for the Settlement of Jews in Birobidjan, Inc., has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, D.C. 20037), on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the foregoing petition has been mailed this 1st day of October 1971 to American Committee for the Settlement of Jews in Birobidjan, Inc., at the following last known address: 103 Park Avenue, New York City, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

[Docket No. E72–010]

In regard American Committee to Survey Labor Conditions in Europe, petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American Committee to Survey Labor Conditions in Europe ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about October 1952. There is no record of any known activity since that date.

The last known address of the above named organization was 1265 Broadway, New York City, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American Committee to Survey Labor Conditions in Europe has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the foregoing petition has been mailed this 1st day of October 1971 to the American Committee to Survey Labor Conditions in Europe, at the following last known address: 1265 Broadway, New York City, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

[Docket No. E72–011]

In regard American Council for a Democratic Greece, formerly known as the Greek American Council; Greek American Committee for National Unity, petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American Council for a Democratic Greece ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about December 1949.

There is no record of any known activity since that date.

The last known address of the above named organization was 152 West 42d Street, New York City, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American Council for a Democratic Greece has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971 to the American Council for a Democratic Greece at the following last known address: 152 West 42d Street, New York City, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

[Docket No. E72–012]

In regard American Jewish Labor Council, petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American Jewish Labor Council ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about June 1951.

There is no record of any known activity since that date.

The last known address of the above named organization was Room 601, 22 East 17th Street, New York City, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American Jewish Labor Council has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037) on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971 to the American Jewish Labor Council at the following last known address: Room 601, 22 East 17th Street, New York City, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

[Docket No. E72–013]

In regard American League Against War and Fascism (AKA: American League for Peace and Democracy), petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American League Against War and Fascism ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1939.

There is no record of any known activity since that date.

The last known address of the above-named organization was 268 Fourth Avenue, New York City, N.Y.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American League Against War and Fascism has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971 to the American League Against War and Fascism at the following last known address: 268 Fourth Avenue, New York City, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

[Docket No. E72-014]

In regard American League for Peace and Democracy, petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American League for Peace and Democracy ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about February 1940.

There is no record of any known activity since that date.

The last known address of the above-named organization was 268 Fourth Avenue, New York City, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American League for Peace and Democracy has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971 to the American League for Peace and Democracy at the following last known address: 268 Fourth Avenue, New York City, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

[Docket No. E72-015]

In regard American National Labor Party, petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American National Labor Party ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1939. There is no no record of any known activity since that date.

The last known address of the above-named organization was 113 West 57th Street, New York City, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American National Labor Party has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037) on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971 to the American National Labor Party at the following last known address: 113 West 57th Street, New York City, NY.

For the Attorney General.

ORAN H. WATERMAN,
Attorney,
Department of Justice.

[Docket No. E72-016]

In regard American Nationalist Party (AKA: American National Socialist League; American National Labor Party; Freunde Des Neuen Deutschland), petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney. General, by counsel, petitions this Board for a determination that the American Nationalist Party ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1939. There is no record of any known activity since that date.

The last known address of the above named organization was 113 West 57th Street, New York City, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American Nationalist Party has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971 to the American National Labor Party at the following last known address: 113 West 57th Street, New York City, NY.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

[Docket No. E72-017]

In regard American National Socialist League (AKA: American National Socialist Party; American National Labor Party), petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American National Socialist League ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1939. There is no record of any known activity since that date.

The last known address of the above named organization was 113 West 57th Street, New York City, NY.

Therefore the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American National Socialist League has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971 to the American National Socialist League, at the following last known address: 113 West 57th Street, New York City, NY.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

[Docket No. E72-018]

In regard American National Socialist Party, petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American National Socialist Party ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1939. There is no record of any known activity since that date.

The last known address of the above named organization was 113 West 57th Street, New York City, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American National Socialist Party has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971 to the American National Socialist Party, at the following last known address: 113 West 57th Street, New York City, NY.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

[Docket No. E72-019]

In regard American Patriots, Inc., petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American Patriots, Inc., ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1939. There is no record of any known activity since that date.

The last known address of the above named organization was c/o Allan A. Zoll, 2223 Massachusetts Avenue NW., Washington, DC.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American Patriots, Inc., has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971 to the American Patriots, Inc., at the following last known address: c/o Allan A. Zoll, 2223 Massachusetts Avenue NW., Washington, DC.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

[Docket No. E72-020]

In regard American Peace Crusade, petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American Peace Crusade ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about September 1955. There is no record of any known activity since that date.

The last known address of the above-named organization was Room 312, 166 West Washington Street, Chicago, IL.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American Peace Crusade has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971 to the American Peace Crusade, at the following last known address: Room 312, 166 West Washington Street, Chicago, IL.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

[Docket No. E72-021]

In regard American Peace Mobilization (AKA: American People's Mobilization; American League Against War and Fascism; American League for Peace and Democracy), petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American Peace Mobilization ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about February 1942. There is no record of any known activity since that date.

The last known address of the above-named organization was 268 Fourth Avenue, New York City, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American Peace Mobilization has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037) on proceedings under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971 to the American Peace Mobilization at the following last known address: 268 Fourth Avenue, New York City, NY.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

[Docket No. E72-022]

In regard American Poles for Peace (AKA: Polish American Committee for Peace; Current Events Forum), petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American Poles for Peace ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about September 1953. There is no record of any known activity since that date.

The last known address of the above named organization was 1547 North Leavitt Street, Chicago, IL.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American Poles for Peace has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on Proceedings Under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971 to the American Poles for Peace at the following last known address: 1547 North Leavitt Street, Chicago, IL.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

[Docket No. E72–023]

In regard American Polish Labor Council, petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American Polish Labor Council ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about 1947. There is no record of any known activity since that date.

The last known address of the above named organization was 144 Bleecker Street, New York City, NY.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American Polish Labor Council has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on Proceedings Under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971 to the American Polish Labor Council at the following last known address: 144 Bleecker Street, New York City, NY.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

[Docket No. E72–024]

In regard American Polish League (AKA: American Friends of Polish Unity; Polish-American League; American Polish Cultural Group; Polonia Club; American Polish Club), petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American Polish League ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about November 1960. There is no record of any known activity since that date.

The last known address of the above named organization was 1251 South Saint Andrews Place, Los Angeles, CA.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American Polish League has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on Proceedings Under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971 to the American Polish League at the following last known address: 1251 South Saint Andrews Place, Los Angeles, CA.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

[Docket No. E72–025]

In regard American Rescue Ship Mission (A project of the United American Spanish Aid Committee), petition for a determination pursuant to section 12(1) of Executive Order No. 10450 as amended by Executive Order 11605.

Pursuant to section 12(1) of Executive Order 10450 as amended by Executive Order No. 11605, issued July 2, 1971, 36 F.R. 12831, the Attorney General, by counsel, petitions this Board for a determination that the American Rescue Ship Mission ceased to exist more than 10 years prior to the filing of this petition and has not existed during said period.

Records of the Department of Justice reflect that the aforementioned organization ceased to exist on or about February 1941. There is no record of any known activity since that date.

The last known address of the above named organization was 200 Fifth Avenue, New York City, N.Y.

Therefore, the Government petitions this Board for a determination in accordance with section 12(1) of Executive Order 10450, as amended, that the American Rescue Ship Mission has ceased to exist.

In the absence of a specific request from the Board, at least 10 days prior to any hearing date that may be set for this matter, the Department of Justice does not plan to make any further factual showing with respect to this petition.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

CERTIFICATE OF SERVICE

Pursuant to § 201.56 of the regulations of the Subversive Activities Control Board (Room 500, 2120 L Street NW., Washington, DC 20037), on Proceedings Under Executive Order No. 11605 issued July 2, 1971, a copy of the attached petition has been mailed this 1st day of October 1971, to the American Rescue Ship Mission at the following last known address: 200 Fifth Avenue, New York City, NY.

For the Attorney General.

THOMAS E. MARUM,
Attorney,
Department of Justice.

[FR Doc.71–16382 Filed 11–9–71;8:48 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

NOVEMBER 5, 1971.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 107515 Sub 763, Refrigerated Transport Co., Inc., assigned December 13, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 112822 Sub 200, Bray Lines, Inc., assigned December 13, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 11220 Sub 122, Gordons Transport, MC 75320 Sub 156, Campbell Sixty-Six Express, now assigned November 8, 1971, at Atlanta, Ga., postponed to December 6, 1971, in Room 305, 1252 West Peachtree Street, Northwest, Atlanta, GA.

MC 107993 Sub 20, J. J. Willis Trucking Co., assigned December 6, 1971, at Phoenix, is postponed to January 31, 1972, at Phoenix, Ariz. in a hearing room to be designated later.

MC 135387, Harbor Transfer, Inc., now assigned November 15, 1971, at Philadelphia, Pa., will be held in the Civil Service Conference Room 313, U.S. Customhouse, Second and Chestnut Streets, instead of U.S. Customs Courtroom, Third Floor, U.S. Courthouse.

MC 124078 Sub 476, Schwermen Trucking, MC 125474 Sub 29, bulk haulers, now assigned for continued hearing on November 17, 1971, at Washington, D.C.

MC–F–10976, Oneida Motor Freight, Inc.—purchase (portion)—Somco Freight Lines, Inc., MC–F–10977, P. Callahan, Inc.—purchase (portion)—Somco Freight Lines, Inc., MC–F–10984, Matco Transportation, Inc.—purchase (portion) Somco Freight Lines, MC–FC Taylor Services, Inc., transferee Somco Freight Lines, Inc., transferor, assigned November 8, 1971, at New York, N.Y., canceled and reassigned to November 8, 1971, in Room 212, 1100 Raymond Boulevard, Newark, NJ.

MC 107227 Sub 118, Insured Transporters, now assigned November 29, 1971, at Santa Fe, New Mex., canceled and application dismissed.

MC 2284 Sub 24, Boulevard Transit Lines, Inc.—revocation of certificate, assigned December 4, 1971, in Room E–2222, 26 Federal Plaza, New York, NY.

MC 134915 Sub 2, Refrigerated Distributing, assigned January 17, 1972, at Jefferson City, Mo., hearing room to be later designated.

MC 135825, Panhandle Freight System, Inc., assigned January 17, 1972, at Oklahoma City, hearing room to be designated later.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71–16412 Filed 11–9–71;8:50 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 5, 1971.

Protests to the granting of an application must be prepared in accordance with § 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42297—*Fluorspar to Deepwater (Carney's Point), N.J.* Filed by Southwestern Freight Bureau, agent (No. B–260), for interested rail carriers. Rates on fluorspar, in carloads, as described in the application, from specified Rio Grande River crossings, to Deepwater (Carney's Point), N.J.

Grounds for relief—Private water-motor competition.

Tariff—Supplement 159 to Southwestern Freight Bureau, agent, tariff ICC 4834. Rates are published to become effective on December 5, 1971.

FSA No. 42298—*Liquefied carbon dioxide to St. Louis, Mo.* Filed by M. B. Hart, Jr., agent (No. A6287), for and on behalf of the Illinois Central Railroad Co. Rates on carbon dioxide, liquefied, in tank carloads, as described in the application, from Yazoo City, Miss., to St. Louis, Mo.

Grounds for relief—Market competition.

Tariff—Supplement 155 to Southern Freight Association, agent, tariff ICC S–800. Rates are published to become effective on December 15, 1971.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71–16411 Filed 11–9–71;8:50 am]

[Notice 35]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

NOVEMBER 5, 1971.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC–41432 (Deviation No. 13), EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, Post Office Box 10125, Dallas, TX 75207, filed October 26, 1971. Carrier's representative: Rollo E. Kidwell, same address as applicant. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From El Paso, Tex., over Interstate Highway 10 to Las Cruces, N. Mex., thence over U.S. Highway 70 to Alamogordo, N. Mex., thence over U.S. Highway 54 to Vaughn, N. Mex., thence over U.S. Highway 285 to Clines Corners, N. Mex., thence over U.S. Highway 66 to Albuquerque, N. Mex., thence over Interstate Highway 25 (and access road) to Bernalillo, N. Mex., thence over New Mexico Highway 44 to Bloomfield, N. Mex., thence over New Mexico Highway 17 to Farmington, N. Mex., thence over U.S. Highway 550 to Shiprock, N. Mex., thence over U.S. Highway 666 to Montecello, Utah, thence over U.S. Highway 163 to Crescent Junction, Utah, thence over U.S. Highway 50 to Thistle, Utah, thence over U.S. Highway 89 to Provo, Utah, thence over Interstate Highway 15 to Salt Lake City, Utah, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From El Paso, Tex., over U.S. Highway 80 to Las Cruces, N. Mex., thence over U.S. Highway 70 to Phoenix, Ariz., thence over U.S. Highway 89 to junction Arizona Highway 69, thence over Arizona Highway 69 to junction U.S. Highway 89, thence over U.S. Highway 89 to junction Alternate U.S. Highway 89, thence over Alternate U.S. Highway 89 to Flagstaff, Ariz., thence over U.S. Highway 89 to Salt Lake City, Utah, and return over the same route.

No. MC–121218 (Sub-No. 1), (Deviation No. 1), A–O K MOTOR LINES, INC. (Samuel Kaufman, Trustee), Industrial Site, Opp, Ala. 36467, filed October 29, 1971. Carrier's representative: Robert G. Olterman, Post Office Box 969, Kingsport, TN 37662. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Birmingham, Ala., over U.S. Highway 11 (Interstate Highway 20) to junction Alabama Highway 5, thence over Alabama Highway 5 to junction U.S. Highway 43, thence over U.S. Highway 43 to Mobile, Ala., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: Between Birmingham, Ala., and Mobile, Ala., over U.S. Highway 31.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71–16407 Filed 11–9–71;8:49 am]

[Notice 89]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

NOVEMBER 5, 1971.

The following publications are governed by the new Special Rule 247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

MOTOR CARRIERS OF PROPERTY

No. MC 44984 (Sub-No. 4) (Republication) filed November 30, 1970, published in the FEDERAL REGISTER issue of January 7, 1971, and republished this issue. Applicant: BROWN'S MOVING AND STORAGE COMPANY, INC., 1215 State Fair Boulevard, Syracuse, NY 13209.

Applicant's representative: John A. Barnaba, 244 Harrison Street, Suite, 609, Syracuse, NY 13202. A supplemental order of the Commission, Operating Rights Board, dated September 30, 1971, and served October 27, 1971, finds that the present and future public convenience and necessity require operation by applicant in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of used household goods, between points in Oswego, Cayuga, Oneida, Onondaga, Madison, and Cortland Counties, N.Y., on the one hand, and, on the other, points in New York, restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic. Because it is possible that other parties who have relied upon the notice in the FEDERAL FEGISTER of the application as originally published may have an interest in and would be prejudiced by the lack of proper notice of the grant of authority in the findings herein, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of the certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in the proceeding setting forth in detail the precise manner in which it has been prejudiced.

No. MC 109028 (Sub-No. 10) (Republication), filed February 10, 1971, published in the FEDERAL REGISTER issue of March 18, 1971, and republished this issue. Applicant: S & W TRANSFER, INC., 2505 North Mayfair Road, 1050 East Bay Street, Milwaukee, WI 53226. Applicant's representative: William P. Sullivan, 1819 H Street NW., Washington, DC 20006. A report and order of the Commission, Review Board Number 2 decided October 20, 1971, and served October 29, 1971, finds; that operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of meat, meat products, and meat byproducts, and such commodities as are used by meatpackers in the conduct of their business when destined to and for use by meatpackers, as described in sections A and D of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, between Gibbon, Nebr., on the one hand, and, on the other, Chicago, Ill., and Milwaukee, Wis., under a continuing contract or contracts with Gibbon Packing Corp., of Gibbon, Nebr., will be consistent with the public interest and the national transportation policy. Because it is possible that other persons, who have relied upon the notice of the application as published may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings of this report, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such application, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 109397 (Sub-No. 177) (Republication), filed September 2, 1969, published in the FEDERAL REGISTER issue of October 2, 1969, and republished this issue. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, Post Office Box 113, Joplin, MO 64801. Applicant's representative: Max C. Morgan, 600 Leininger Building, Oklahoma City, Okla. 73112. An order of the Commission, Division 1, acting as an appellate division, dated October 21, 1971, and served October 29, 1971, finds: That the present and future public convenience and necessity require operation by applicant in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, of commodities bearing a security classification by the U.S. Government, between points in the United States (except Alaska and Hawaii), restricted against the transportation of shipments weighing in the aggregate more than 5,000 pounds from one consignor to one consignee on any one day; that applicant is fit, willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who may have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 129808 (Sub-No. 6) (Republication), filed December 21, 1970, published in the FEDERAL REGISTER issue of February 4, 1971, and republished this issue. Applicant: GRAND ISLAND CONTRACT CARRIER, INC., 410 West Second Street, Box 399, Grand Island, NE. Applicant's representative: Charles J. Kimball, 300 NSEA Building, Post Office Box 82028, Lincoln, NE 68501. A report and order of the Commission, Review Board No. 1, decided September 30, 1971, and served October 26, 1971, finds: That operation by applicant as a *contract carrier* by motor vehicle, over irregular routes, of breading meal and batter mix (1) in interstate or foreign commerce, from the plantsite and storage facilities utilized by Modern Maid Food Products at or near Ponchatoula, La., and Jamaica, N.Y., to the plantsite and storage facilities of Delicious Foods Co. at or near Grand Island, Nebr., and (2) in foreign commerce, from the ports of entry on the international boundary line between the United States and Canada at or near Detroit, Mich., and Buffalo, N.Y., to the plantsite and storage facilities of Delicious Foods Co. at or near Grant Island, Nebr., under a continuing contract or contracts with Delicious Foods Co., of Grand Island, Nebr., will be consistent with the public interest and the national transportation policy. Because it is possible that other parties who have relied on the notice of the application as published in the FEDERAL REGISTER, may have an interest in and would be prejudiced by the lack of proper notice of the actual authority herein described in findings, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit herein will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene herein or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

NOTICE OF FILING PETITIONS

No. MC 2056 (Notice of Filing of Petition for Modification of Certificate), filed October 19, 1971. Petitioner: HOPLA TRUCKING CO., INC., Post Office Box 241, U.S. Highway 1 North, Edison, NJ 08817. Petitioner's representative: Alexander Markowitz, 1180 Karin Street, Post Office Box 793, Vineland, NJ. Petitioner holds certificate No. MC 2056, issued September 28, 1971, authorizing the transportation, over irregular routes, of (1) *General commodities*, except those of unusual value, classes A and B explosives, livestock, fibre conduit, junction boxes and fittings, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, (a) between Closter, N.J., and Secaucus, N.J., (b) between Harrison, N.J., and points in Bergen County, N.J. (2) *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, restricted to shipments moving on bills of lading of freight forwarders, between points in Ocean, Middlesex, and Monmouth Counties, N.J. (3) *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between those points in New York in that part of the New York, N.Y., commercial zone as defined in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Interstate Commerce Act (the "exempt zone") and those points in New Jersey within 5 miles of New York, N.Y., and all of any municipality in New Jersey any part of which is within 5 miles of New York, N.Y., on the one hand, and, on the other, points in Essex, Hudson, Bergen, Middlesex, Monmouth, and Union Counties, N.J.

By the instant petition, Petitioner states it seeks modification of its authority in MC 2056 and issuance of a certificate which will be subject to a single uniform acceptable commodity description already widely employed, and a territorial grant which will be no greater than the sum of the operating rights it now holds, with all extraneous matter removed, and all restrictions likewise. Petitioner proposes its operating authority in MC 2056 to be modified to read as follows: *"General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between New York, N.Y., and points in New Jersey within 5 miles of New York, N.Y., on the one hand, and, on the other, points and places in Essex, Hudson, Bergen, Middlesex, Monmouth, Ocean, and Union Counties, N.J." Any interested person desiring to participate may file an original and six copies of his written representations, views, or arguments, in support of, or against the petition within 30 days from the date of this publication in the FEDERAL REGISTER.

Nos. MC 30319 (Sub-No. 24) and MC 30319 (Sub-No. 25) (Notice of Filing of Petition for Modification of Certificates by Removal of Service Restrictions Relating to Smiley and Nixon, Tex.), filed October 22, 1970. Petitioner: SOUTHERN PACIFIC TRANSPORT COMPANY OF TEXAS AND LOUISIANA (formerly Southern Pacific Transport Co.), Dallas, Tex. Petitioner's attorneys: Damon R. Capps, Edwin N. Bell, 1600 Esperson Building, Houston, Tex. 77002. Petitioner is a *common carrier* of general commodities, operating in Texas and Louisiana, only, over regular routes. It is a wholly-owned subsidiary of Southern Pacific Transportation Co. (formerly Southern Pacific Co.), and its routes parallel that railroad's lines in the two named States. Petitioner's Certificate No. MC 30319 (Sub-No. 24), dated May 18, 1949, authorizes service between San Antonio and Smiley, Tex., and Certificate No. MC 30319 (Sub-No. 25), dated January 16, 1952, authorizes service between Smiley and Victoria, Tex. Service is authorized at all intermediate points in both cases. (Nixon, Tex., is an intermediate point on the route between Smiley and San Antonio.) Several restrictions appear in both certificates, including as pertinent:

The service by motor vehicle to be performed by carrier shall be limited to service which is auxiliary to, or supplemental of, rail service of the railroad. Carrier shall not serve any point not a station on the rail line of the railroad.

By the instant petition, petitioner requests that the involved restrictions be modified to read as follows:

The service to be performed by said carrier shall be limited to service which is auxiliary, or supplemental of the train service of the Southern Pacific Transportation Co., hereinafter the railroad, except at Smiley and Nixon (in Sub-No. 24), and except at Smiley (in Sub-No. 25).

Said carrier shall not render any service to or from any point not a station on the rail line of the railroad, except at Smiley and Nixon (in Sub-No. 24), and except at Smiley (in Sub-No. 25).

Any interested person or persons desiring to participate and to be heard in the matter may file an original and six copies of his written representations, views or argument in support of or against the petition within 30 days from the date of this publication in the FEDERAL REGISTER.

No. MC 116316 (Sub-No. 2) (Notice of filing of petition to add an additional contracting shipper), filed October 15, 1971. Petitioner: ARMORED MOTOR SERVICE OF ARIZONA, INC., Phoenix, Ariz. Petitioner's representative: Earl H. Carroll, 363 North First Avenue, Phoenix, AZ 85003. Petitioner, as herein pertinent states it was originally issued a permit as a motor contract carrier authorizing the transportation in Interstate or Foreign commerce, in the transportation of Coin, Currency and Securities, between Los Angeles, Calif., on the one hand, and, on the other, points in Arizona. The operations then authorized were limited to a transportation service to be performed, under a continuing contract, or contracts, with two specified member banks of the Federal Reserve System located in Phoenix, Ariz. Petitioner states that in the Recommended report and order regarding said application which was originally filed on February 8, 1963, the joint board found and stated that although the Federal Reserve Bank paid the transportation charges with the service being performed between the Arizona destinations and the Federal Reserve Bank of San Francisco, Los Angeles Branch, the contract was negotiated between the carrier and the above said member banks. Petitioner further states that thereafter it was issued an amended permit pursuant to application filed by Petitioner authorizing service to additional specified banks located in various points in Arizona, the service still being shipments between the destinations and the Federal Reserve Bank of San Francisco, with the transportation charges being paid by the Federal Reserve Bank of San Francisco. By the instant petition, Petitioner requests the said Federal Reserve Bank of San Francisco be named as an additional shipper under its existing contract carrier permit, so as to remove any questions or doubts regarding the arrangements with the above said Federal Reserve Bank of San Francisco and the fact that it is providing service pursuant to the directions and requirements of said Federal Reserve Bank. Any interested person or persons desiring to participate and to be heard in the matter may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of this publication in the FEDERAL REGISTER.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 119914 (Sub-No. 19), filed October 20, 1971. Applicant: MINNESOTA-WISCONSIN TRUCK LINES, INC., 965 Eustis Street, St. Paul, MN 55114. Applicant's representative: William Rosen, Room 630, Osborn Building, St. Paul, Minn. 55101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Carver and Chaska, Minn., and Minneapolis and St. Paul over U.S. Highway 212 with the limitation that no local service shall be rendered between St. Paul and Minneapolis and Excelsior and intermediate points. This application is identical to that contained in certificate of registration MC 98287 (Sub-No. 1) Carl Schoen, doing business as Chaska-Carver Motor Express, Chaska, Minn., and the instant application is also directly related to MC-F 11352 published in the FEDERAL REGISTER issue November 3, 1971. NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn., Minneapolis, Minn., or Washington, D.C.

No. MC 112713 (Sub-No. 134) (Correction), filed September 10, 1971, published FEDERAL REGISTER issue of October 6, 1971, and republished in part as corrected this issue. Applicant: YELLOW FREIGHT SYSTEM, INC., 92d Street at State Line Road, Kansas City, Mo. 64114. Applicant's representative: Richard K. Andrews, 1500 Commerce Bank Building, Kansas City, Mo. 64106. NOTE: The sole purpose of this partial republication is to show that the instant application is a matter directly related to MC-F 11316 in lieu of MC-F 11326, published in the FEDERAL REGISTER issue of September 22, 1971, which was in eror in previous publication. The rest of the application remains as previously published.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice the United States. Such comments must of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-11355. Authority sought for control by THOMAS FULKERSON AND K. SUSAN EDMUNDS (non carriers), 7878 I Street, Omaha, NE 68127, of GREAT PLAINS TRANSPORTATION COMPANY, also of Omaha, Nebr. 68127. Applicants' attorney: Donald L. Stern, 530 Univac Building, Omaha, Nebr.

68106. Operating rights sought to be controlled: *General commodities*, as a *common carrier* over regular routes, between Omaha, and McCook, Nebr., serving the intermediate points of Lincoln and Hastings, Nebr., and intermediate points of West Hastings, between Holdrege, Eustis, Elwood, and Maywood, Nebr., between Hastings and Grand Island, Nebr., serving all intermediate points and the off-route point of Orafino, Nebr., with restriction; *general commodities*, over irregular routes, between points in Nebraska within 60 miles of Wilsonville, Nebr., on the one hand, and, on the other, points in Nebraska; over one alternate route for operating convenience only. THOMAS FULKERSON AND K. SUSAN EDMUNDS, hold no authority from this Commission. However, they control HOLMES FREIGHT LINES, INC., also of Omaha, Nebr. 68127, which is authorized to operate as a *common carrier* in Iowa, Illinois, and Nebraska. Application has been filed for temporary authority under section 210a(b).

No MC–F–11356. Authority sought for purchase by MOMSEN TRUCKING CO., Highways 71 and 18 North, Spencer, Iowa 51301, of the operating rights of BRUCE W. CLARK, 300 Ohio St., Buffalo, NY 14204, and for acquisition by KARL E. MOMSEN, 8210 Poppleton, Omaha, NE, of control of such rights through the purchase. Applicants' attorneys: Robert D. Gunderman, 1708 Statler Hilton, Buffalo, NY 14202, and Marshall D. Becker, 7100 West Center Road, Omaha, NE. Operating rights sought to be transferred: *Wallboard*, as a *contract carrier* over irregular routes, from Lockport, N.Y., to points in Pennsylvania, Ohio, Indiana, the Lower Peninsula of Michigan, and points in Illinois, north and east of a line beginning at the Indiana-Illinois State line and extending west along U.S. Highway 24 to junction U.S. Highway 51, thence along U.S. Highway 51 to the Illinois-Wisconsin State line. Vendee is authorized to operate as a *common carrier* in Iowa, Nebraska, Illinois, Missouri, Minnesota, Kansas, Wisconsin, South Dakota, Arkansas, North Dakota, Indiana, Pennsylvania, Maryland, New York, Michigan, New Jersey, Ohio, Maine, New Hampshire, Georgia, Massachusetts, Delaware, Kentucky, Tennessee, West Virginia, Vermont, Colorado, Oklahoma, Tennessee, Texas, Virginia, Kentucky, North Carolina, and Wyoming. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11357. Authority sought for purchase by INTERCITY TRANSPORTATION CO., 600 Turnpike Street, South Easton, MA 02375, of a portion of the operating rights of AL'S AUTO EXPRESS CORP., 524 West 29th Street, New York, NY 10001, and for acquisition by HAROLD F. BERGERON, STANLEY L. BERGERON, NORMAN S. BERGERON, G. IRVING BERGERON, AND MARIE C. KEARNEY, all of South Easton, Mass. 02375, of control of such rights through the purchase. Applicants' attorneys: Frank J. Weiner, 6 Beacon Street, Boston, MA 02108, and Martin Werner, 2 West 45th Street, New York, NY 10036. Operating rights sought to be transferred: *General commodities*, except those of unusual value, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment as a *common carrier* over irregular routes, between New York, N.Y., on the on hand, and, on the other, points in Nassau and Suffolk Counties, N.Y. Vendee is authorized to operate as a *common carrier* in Massachusetts, New York, New Jersey. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11358. Authority sought for purchase by CEDAR RAPIDS STEEL TRANSPORTATION, INC., 3930 16th Avenue SW., Post Office Box 68, Cedar Rapids, IA 52406, of a portion of the operating rights of LEE BROS., INC., 3659 South Normal Avenue, Chicago, IL 60609, and for acquisition by HERALD A. SMITH, JR., 536 Valley Brook Drive SE., Cedar Rapids, IA, MIRIAM G. SMITH, 536 Valley Brook Drive SE., Cedar Rapids, IA, and PAUL R. SHAWVER, 2314 Blake Boulevard, Cedar Rapids, IA, of control of such rights through the purchase. Applicants' attorney: Robert E. Konchar, Suite 315, Commerce Exchange Building, 2720 First Avenue NE., Cedar Rapids, IA 52402. Operating rights sought to be transferred: *General commodities*, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, as a *common carrier*, over irregular routes, from certain specified points in Illinois, to certain specified points in Indiana, between certain specified points in Illinois, on the one hand, and, on the other, certain specified points in Ohio and Michigan; *soda ash, caustic soda, and other cleaning compounds*, from Detroit and Wyandotte, Mich., to certain specified points in Indiana; and *meats, meat products, meat byproducts, dairy products, and articles distributed by meat packinghouses*, as described in sections A, B, and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except liquid commodities in bulk, in tank vehicles, between the plantsite of Swift & Co., at Rochelle, Ill., on the one hand, and, on the other, certain specified points in Ohio and certain specified points in Michigan, from the plantsite of Swift & Co., at Rochelle, Ill., to points in that part of Indiana on and north of U.S. Highway 20, with restriction. Vendee is authorized to operate as a *common carrier* in all States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC–F–11359. Authority sought for purchase by OHIO EASTERN EXPRESS, INC., Post Office Box 2297, 300 West Perkins Avenue, Sandusky, OH 44870, of the operating rights of J. MITCHELL TRUCKING CO., INC., 1 Scout Street, Kearny, NJ 07032, and for acquisition by THOMAS FEICK, 1230 Wayne Street, Sandusky, OH 44870, and KENNETH TONE, 333 East Washington Street, Sandusky, OH 44870, of control of such rights through the purchase. Applicants' attorney: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Operating rights sought to be transferred: *Live and dressed poultry*, as a *common carrier* over irregular routes, from Baltimore, Md., to New York, N.Y., and points within 20 miles of New York; *barrel staves*, from Fredericksburg, Va., to Baltimore, Md.; *seafood*, from Baltimore, Md., to Peoria, Ill., and New Haven, Conn., between Baltimore, Md., and Port Norris, N.J.; *fruit and vegetables*, between Baltimore, Md., on the one hand, and, on the other, Richmond, Va., Washington, D.C., Philadelphia, Pittsburgh, and Elizabeth, Pa., and New York, N.Y., and points within 20 miles of New York; *butter, coffee, tea, and spices*, between Baltimore, Md., and New York, N.Y.; *theatrical equipment*, between Baltimore, Md., and Washington, D.C.; *bananas*, from Baltimore, Md., to Harrisburg, Philadelphia, Pittsburgh, and Pottsville, Pa., Rochester and New York, N.Y., and points in Maryland, Virginia, Delaware, and the District of Columbia; *bananas, and agricultural commodities* exempt from economic regulation under section 203(b)(6) of the Act, when transported in mixed loads with bananas, from Wilmington, Del., to points in Connecticut, Delaware, Massachusetts, Maryland, New York, New Jersey, Pennsylvania, Virginia, and the District of Columbia. Vendee is authorized to operate as a *common carrier* in Ohio, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Vermont, Illinois, Connecticut, Delaware, Florida, Rhode Island, Virginia, North Carolina, South Carolina, Maine, West Virginia, Michigan, New Hampshire, Indiana, Kentucky, Wisconsin, Missouri, and the District of Columbia. Application has been filed for temporary authority under Section 210a(b).

No. MC–F–11360. Authority sought for merger into CROUCH BROS., INC., U.S. Highway 36 West, Elwood, Kans. 66024, of the operating rights and property of MIDWEST FREIGHT FORWARDING COMPANY, INC., also of Elwood, Kans. 66024, and for acquisition by ARTHUR F. CROUCH, CLEO CROUCH and ROGER CROUCH all of Elwood, Kans. 66024, of control of such rights and property through the transaction. Applicants' attorney: Jack Goodman, 39 South La Salle Street, Chicago, IL 60603. Operating rights sought to be merged: *General commodities*, excepting among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Chicago and Bridgeport, Conn., serving certain intermediate and off-route points; from Chicago, Ill., to Boston, Mass., serving no intermediate points, but serving the off-route points of North Chicago and Great Lakes, Ill., between Chicago, Ill., and New York, N.Y., serving points in New York and New Jersey within 20 miles of New York, N.Y., as intermediate or off-route points, and serving North Chicago and Great Lakes, Ill., as off-route points; *empty equipment*, between Boston, Mass., and Bridgeport, Conn., serving no intermediate points; *general commodities*, excepting among others, household goods and commodities in bulk, over irregular routes, between Bridgeport, Conn., on the one hand, and, on the other, points in Connecticut, between points in Illinois within a 50 mile radius of 706–708 West Harrison Street, Chicago, Ill., including Chicago, with restriction; *fish*, from Boston, Mass., to Chicago, Ill.; drugs, from Bridgeport, Conn., to Peoria, Ill. CROUCH BROS., INC., is authorized to operate as a *common carrier* in Iowa, Illinois, Missouri, Kansas, Nebraska, Oklahoma, Arkansas, Indiana, and Minnesota. Application has not been filed for temporary authority under section 210a(b). NOTE: CROUCH BROS., INC., controls MIDWEST FREIGHT FORWARDING COMPANY, INC., through ownership of capital stock pursuant to authority granted in MC–F–10305, by order of March 14, 1969 as supplemented by orders of September 1, 1969 and September 1, 1970.

No. MC–F–11361. Authority sought for purchase by ANDERSON MOTOR LINES, INC., 86 Washington Street, Plainville, MA 02762, of a portion of the operating rights of GLOSSON MOTOR LINES, INC., Post Office Box 1328, Lexington, NC 27292, and for acquisition by ROBERT F. ANDERSON, 37 Woodruff Road, Walpole, MA 02081, of control of such rights through the purchase. Applicants' attorneys: Frederick T. O'Sullivan, 372 Granite Avenue, Milton, MA 02186 and James Wilson, Suite 1032 Pennsylvania Building, Pennsylvania Avenue, and 13th Street, NW., Washington, DC 20004. Operating rights sought to be transferred: *Frozen sea food*, as a *common carrier* over irregular routes, from Boston and Gloucester, Mass., to points in Florida, Georgia, Louisiana, North Carolina, South Carolina, Tennessee, Virginia, Alabama, and West Virginia; *frozen foods*, from Watertown, Mass., to points in North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, and Louisiana, from Boston, Mass., to points in Mississippi, from Washington, D.C., to points in North Carolina, South Carolina, Georgia, and Alabama; *frozen foods*, except frozen sea foods, from Boston, Mass., to points in North Carolina, South Carolina, Georgia, Florida, Alabama, and Louisiana; *frozen fruits and frozen vegetables*, from Macon, Ga., to Baltimore, Md., certain specified points in Massachusetts, New Jersey, New York, N.Y., certain specified points in Pennsylvania, Richmond and Norfolk, Va., certain specified points in Connecticut, Providence, R.I., Wilmington, Del., and the District of Columbia; *cheese*, from Heuvelton and Chateaugay, N.Y., to points in Alabama, Florida, Georgia, North Carolina, South Carolina, Virginia, and West Virginia;

Frozen citrus juice concentrate, and citrus products not canned and not frozen, in vehicles equipped with mechanical refrigeration, from points in Florida, to certain specified points in Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Petersburg, Va., Huntington, W. Va., and points in Maine, New Hampshire, and Vermont; *frozen fruits and frozen vegetables*, only when moving in mixed shipments with frozen citrus juice concentrate, from Plant City, Fla., to points in Maryland, Pennsylvania, and Virginia, from Jacksonville, Fla., to certain specified points in Massachusetts, Connecticut, New York, New Jersey, and Huntington, W. Va.; *frozen fruits*, from Tampa, Fla., to Canajoharie and Rochester, N.Y., Richmond, Va., Baltimore, Md., Washington, D.C., and Jersey, N.J.; *frozen vegetable juice concentrates*, with additives, in mixed shipments with frozen citrus products, from certain specified points in Florida, to Watertown and Worcester, Mass., certain specified points in Connecticut, New York, New Jersey, Pennsylvania, Petersburg, Va., Huntington, W. Va., and points in Maine, New Hampshire, and Vermont. Vendee is authorized to operate as a *common carrier* in Massachusetts, Delaware, New Jersey, Virginia, Maryland, Connecticut, Michigan, Illinois, Maine, New York, Pennsylvania, Ohio, Georgia, Kentucky, Indiana, Wisconsin, Mississippi, Texas, Louisiana, Alabama, South Carolina, Tennessee, Florida, North Carolina, Arkansas, Iowa, Kansas, Minnesota, Missouri, New Hampshire, Oklahoma, Vermont, West Virginia, Rhode Island, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11362. Authority sought for purchase by McVEY TRUCKING, INC., Rural Route No. 1, Oakwood, IL 61858, of the operating rights of LLOYD McVEY, doing business as McVEY TRUCKING, of Oakwood, Ill. 61858, and for acquisition by LLOYD McVEY and NORMA McVEY both of Oakwood, Ill. 61858, of control of such rights through the purchase. Applicant's attorney: Clyde Meachum, 41 North Vermilion, Danville, IL 61832. Operating rights sought to be transferred: (A) *Dry fertilizer*, in bulk, as a *common carrier* over irregular routes, from Danville, Ill., to points in Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, Tennessee, and Wisconsin; *feed*, in bulk and in bags, from Danville, Ill., to points in Indiana; *feed*, from Danville, Ill., to Owensboro, Ky., and points in Wisconsin, Ohio, and Michigan; and (B) *brick and cement building blocks*, as a *contract carrier*, from Danville, Ill., to points in Indiana. Vendee is authorized to operate as a *common carrier* in Illinois and Indiana. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16406 Filed 11-9-71;8:49 am]

[Notice 393]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 5, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC–67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 22229 (Sub-No. 69 TA), filed October 26, 1971. Applicant: TERMINAL TRANSPORT COMPANY, 248 Chester Avenue, SE., Mailing: Post Office Box 1918, 30301, Atlanta, GA 30316. Applicant's representative: L. H. Kerlin (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from Indianapolis, Ind., to St. Louis, Mo., and return over the same route, serving Indianapolis, Ind., as a point of joinder only, from Indianapolis, Ind., over Interstate Highway 70 (and U.S. Highway 40 where I–70 is incomplete) to St. Louis, Mo., and return over the same route, serving no intermediate points, as an alternate route, for operating convenience only, for 180 days. NOTE: Applicant states it will tack at Indianapolis, Ind., with authority held under Docket No. MC 22229 and at Chicago, Ill., with authority granted under Docket No. MC–F–11185; and interline at Milwaukee, Wis., and Rock Island, Ill., and St. Louis, Mo. Supporting shipper: L. H. Kerlin, vice-president, Operations, Terminal Transport Co., Inc. 248 Chester Avenue SE., Atlanta, GA 30315. Send protests to: William L. Scroggs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC 30319 (Sub-No. 140), filed October 26, 1971. Applicant: SOUTHERN PACIFIC TRANSPORT OF TEXAS AND LOUISIANA, a corporation, 7600 South Central Expressway, Post Office Box 6187, Dallas, TX 75222. Applicant's representative: D. Humphrey (same address as applicant). Authority sought to operate as a *common carrier*, by motor

vehicle, over regular routes, transporting: *General commodities* (except household goods as described by the Commission, commodities in bulk and those requiring special equipment), between Nixon, Smiley, San Antonio, and Cuero, Tex., over U.S. Highway 87, for 180 days. NOTE: Carrier is currently authorized to serve. The intent of application is to remove restriction in MC–30319 Subs 24 and 25 requiring auxiliary or supplemental to train service of the Southern Pacific Co., a rail carrier. Applicant intends to tack with existing authority at San Antonio and Cuero, Tex. Supporting shipper: There are approximately 15 statements of supports attached to the application which may be examined here at the Interstate Commerce Commission in Washington, D.C. or copies thereof which may be examined at the field offices named below. Send protests to: E. K. Willis, Jr., District Supervisor, Room 13C12 Federal Building, 100 Commerce Street, Interstate Commerce Commission, Bureau of Operation, Dallas, Tex. 75202.

No. MC 54567 (Sub-No. 10 TA), filed October 29, 1971. Applicant: RELIANCE TRUCK COMPANY, 2500 North 24th Avenue, Phoenix, AZ 85009. Applicant's representative: A. Michael Bernstein, 1327 United Bank Building, Phoenix, Ariz. 85012. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Reinforcing steel bar and fabricated and unfabricated steel*, from Phoenix, Ariz., and Tempe, Ariz. to points in California south of the northern boundaries of San Bernardino, San Luis Obispo, and Kern Counties, for 180 days. Supporting shipper: Allison Steel Manufacturing Co., Post Office Box 6598, Phoenix, AZ 85005. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 3427 Federal Building, 230 North First Avenue, Phoenix, AZ.

No. MC 76032 (Sub-No. 288 TA), filed October 28, 1971. Applicant: NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, CO 80223. Applicant's representative: Ira E. Neal (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from San Ysidro, Calif., on the United States-Mexican boundary, and imported through the port of Ensenade, Mex., to points in California, Arizona, New Mexico, Colorado, Nevada, Wyoming, Montana, Oregon, Idaho, Utah, and Washington, for 180 days. NOTE: Carrier does intend to tack with existing authority at Los Angeles, Calif. Supporting shipper: Chiquita Brands, 1250 Broadway, New York, NY 10001. Send protests to: District Supervisor, Roger L. Buchanan, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 94201 (Sub-No. 99 TA), filed October 26, 1971. Applicant: BOWMAN TRANSPORTATION, INC., Post Office Box 2188, 1010 Stroud Avenue, Gadsden, AL 35903. Applicant's representative: M. Bishop, 325–29 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal litter, chopped, alfalfa pellets*, from the plantsite and storage facilities of The Clorox Co. at or near Atlanta, Ga., to points in Alabama, Florida, Mississippi, and Tennessee, with no transportation for compensation on return except as otherwise authorized; and (2) *cleaning and bleaching compounds*, except in bulk, from the plantsite and storage facilities of Clorox Co. at or near Atlanta, Ga., to points in Mississippi, with no transportation for compensation on return except as otherwise authorized, for 180 days. Supporting shipper: The Clorox Co., 7901 Oakport Street, Oakland, CA 94621. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 814–2121 Building, Birmingham, Ala. 35203.

No. MC 100623 (Sub-No. 30 TA), filed October 29, 1971. Applicant: HOURLY MESSENGERS, INC., doing business as H. M. PACKAGE DELIVERY SERVICE, 20th and Indiana Avenue, Philadelphia, PA 19132. Applicant's representative: V. Baker Smith, 123 South Broad Street, Philadelphia, PA 19109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by manufacturers and distributors of greeting cards, party supplies, and related commodities, from Philadelphia, Pa., to points in Maryland, Virginia, the counties of Berks, Bucks, Carbon, Chester, Delaware, Duaphin, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Monroe, Montgomery, Northampton, Schuylkill and York, Pa., the counties of Atlantic, Ocean, Cape May, Burlington, Camden, Cumberland, Gloucester, Hunterdon, Mercer, Salem, and Warren, N.J., the county of New Castle, Del., and the District of Columbia. Restriction: The service authorized herein is subject to the following conditions: No service shall be rendered in the transportation of any package or article weighing more than 50 pounds or exceeding 108 inches in length and girth combined and each package or article shall be considered as a separate and distinct shipment. No service shall be provided in the transportation of packages or articles weighing in the aggregate more than 500 pounds from one consignor at one location to one consignee at one location on any day. Service is limited to shipments which have a prior movement from out of State by motor common carrier, for 150 days. Supporting shipper: American Greetings Corp., 10500 American Road, Cleveland, OH 44144. Send protests to: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 109490 (Sub-No. 7 TA), filed October 29, 1971. Applicant: H. W. HEDING, doing business as HEDING TRUCK SERVICE, Post Office Box 43, Union Center, WI 53962. Applicant's representative: Edward Solie, Executive Building, Suite 100, 4513 Vernon Boulevard, Madison, WI 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal and poultry feeds and animal and poultry feed ingredients*, from Union Center, Wis., to points in Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, and Ohio; and (2) *materials, equipment and supplies* used in the manufacture, sale, or distribution of animal and poultry feeds and animal poultry feed ingredients, from points in Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, and Ohio, to Union Center, Wis. Restriction: Restricted to traffic originating at or destined to the plantsite and facilities of Merrick Dry Milk, Co., Inc. at Union Center, Wis., for 180 days. Supporting shipper: Merrick Dry Milk Co., Inc., 633 South La Grange Road, La Grange, IL 60525. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 139 West Wilson Street, Room 206, Madison, WI 53703.

No. MC 111545 (Sub-No. 166 TA), filed October 26, 1971. Applicant: HOME TRANSPORTATION COMPANY, INC., 1425 Franklin Road, Southeast, Post Office Box 6426, Station A, Marietta, GA 30060. Applicant's representative: Robert E. Born (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, from Tifton, Ga., to points in Alabama, Florida, Mississippi, North Carolina, South Carolina, and Tennessee, for 180 days. Supporting shipper: Bowen Mobile Homes, Inc., Tifton, Ga. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street, Northwest, Atlanta, GA 30309.

No. MC 112205 (Sub-No. 10 TA), filed October 26, 1971. Applicant: ELLSWORTH LAMOTTE RABON, doing business as RABON TRANSFER, Route 2, Box 235, Shadbourn, NC 28431. Applicant's representative: Vaughan S. Winborne, Capitol Club Building, Raleigh, N.C. 27602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Forest products, lumber* (which includes plywood), *and veneer*, from Tabor City, N.C., to points in Florida, Georgia, South Carolina, West Virginia, Tennessee, Kentucky, Ohio, Indiana, Illinois, and Connecticut, for 180 days. Supporting shipper: Tabor City Lumber Co., Post Office Box 37, Tabor City, NC 28463. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 26896, Raleigh, NC 27611.

No. MC 116561 (Sub-No. 4 TA), filed October 29, 1971. Applicant: KELLER-WEBER TRUCKING, INC., 235 Old Tote Road, Mountainside, NJ 07092. Applicant's representative: Thomas C. Dorsey,

Suite 622, 1625 Eye Street NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business house, and in connection therewith, *equipment, materials and supplies* used in the conduct of such business, from Lancaster, Pa., to areas in northern New Jersey and southeastern New York, and return, from Lancaster, Pa., to points in that part of New Jersey north and east of a line beginning at the Atlantic Ocean and extending along the southern and western boundaries of Ocean County, N.J., to junction with the western boundary of Monmouth County, N.J., thence along the western boundary of Monmouth County to junction with the southern boundary of Mercer County, N.J., and thence along the southern boundary of Mercer County to the New Jersey-Pennsylvania State line, and points in that of New York south of a line beginning at the New York-Pennsylvania State line and extending along the northern boundary of Sullivan County, N.Y., to the northern boundary of Ulster County, N.Y., thence along the northern boundary of Ulster County to the northern boundary of Dutchess County, N.Y., and thence along the northern boundary of Dutchess County to the New York-Connecticut State line, including New York, N.Y., and points on Long Island, N.Y., and including points on the above-specified boundary lines, and from points in described area of New Jersey and New York to Lancaster, Pa., for 180 days. Supporting shipper: Acme Markets, Inc., 124 North 15th Street, Philadelphia, PA 19101. Send protests to: District Supervisor Robert E. Johnston, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 117565 (Sub-No. 49 TA), filed October 29, 1971. Applicant: MOTOR SERVICE COMPANY, INC., Route 3, Post Office Box 448, Coshocton, OH 43812. Applicant's representative: John R. Hafner (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *All terrain vehicles*, from Norwalk, Ohio, to points in Alabama, Arizona, California, Florida, Georgia, Louisiana, North Carolina, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Mississippi, for 180 days. Supporting shipper: Alsport, Inc., 84 Whittlesey, Norwalk, OH 44857. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 255 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

No. MC 117565 (Sub-No. 50 TA), filed October 29, 1971. Applicant: MOTOR SERVICE COMPANY, INC., Route 3, Post Office Box 448, Coshocton, OH 43812. Applicant's representative: John R. Hafner (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor homes*, in truckaway service, from Cincinnati, Ohio, to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Vanguard Motor Homes, Inc., 2530 Spring Grove Avenue, Cincinnati, OH 45214. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 255 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

No. MC 119991 (Sub-No. 2 TA), filed October 29, 1971. Applicant: YOUNG TRANSPORT, INC., 1915 East Broadway, Logansport, IN 46947. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Hides and skins*, from Chester, Fort Plain, Buffalo, and New York, N.Y., Newark and Trenton, N.J., West Chester, Boyertown, and Philadelphia, Pa.; Wilmington, Del., Baltimore, Md., and Springfield, Mass., to Girard, Ohio; Chicago, Ill., Racine, Milwaukee, South Milwaukee, Sheboygan, and Fond du Lac, Wis., St. Louis, Mo., and Grand Rapids and Grand Haven, Mich., (2) *hides*, from the facilities of M. Aschheim Co., Inc., at Chicago, Ill., to the facilities of M. Aschheim Co., Inc., at New York, N.Y., (3) *chemicals* used in the tanning of hides and skins, in containers, when transported in the same vehicle with hides and skins (otherwise authorized), from New York, N.Y., Newark, N.J., and Philadelphia, Pa., to Milwaukee, Wis., (4) *hides* from Chester, Buffalo, and New York, N.Y., Newark and Trenton, N.J., West Chester, Boyertown, and Philadelphia, Pa., and Baltimore Md., to Girard, Ohio; and (5) *scrap leather*, from Girard, Ohio, to Oak Creek, Wis., for 180 days. Supporting shippers: Western Hide, Inc., 3612 South Iron Street, Chicago, Ill.; A. F. Gallun & Sons Corp., 1818 North Warer Street, Milwaukee, WI; Remis Industries, Inc., 429 Adams Street, Newark, NJ 07114, and 141 Lynnfield Street, Peabody, MA 01960; Aschheim Co., Inc., 116 Nassau Street, New York, NY 10038. Send protests to: Acting District Supervisor John E. Ryden, Bureau of Operations, Interstate Commerce Commission, Room 204, 345 West Wayne Street, Fort Wayne, IN 46802.

No. MC 123282 (Sub-No. 9 TA), filed October 27, 1971. Applicant: McKINLAY TRANSPORT LIMITED, Highway 401 at 25, Milton, Ontario, P.Q., Canada. Applicant's representative: Walter N. Bieneman, Suite 1700, 1 Woodward Avenue, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment, between the port of entry on the international boundary line between the United States and Canada at or near Port Huron, Mich., and Detroit, Mich., as an alternate route on Canadian traffic between the Sarnia-Port Huron gateway and Detroit, Mich., over Interstate Highway 94, serving no intermediate points, for 180 days. NOTE: Applicant proposes to interline with existing U.S. carriers at Detroit in the same fashion as it now interlines on traffic moving across the Windsor-Detroit gateway. Supporting shipper: Ford Motor Co., The American Road, Dearborn, Mich. 48121. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Office Building, 121 Ellicott Street, Buffalo, NY 14203.

No. MC 128273 (Sub-No. 110 TA), filed October 28, 1971. Applicant: MIDWESTERN EXPRESS, INC., Post Office Box 189, 121 Humboldt Street, Ft. Scott, KS 66701. Applicant's representative: Harry Ross, 848 Warner Building, Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Warren Glen, Hughesville, Riegelsville, and Milford, N.J., and Riegelwood and Cape Fear, N.C., to points in California, Oregon, Washington, and Texas, for 180 days. Supporting shipper: Riegel Paper Corp., Milford, N.J. 08848. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 134145 (Sub-No. 12 TA) (Correction), filed October 15, 1971, published FEDERAL REGISTER October 29, 1971, corrected and republished in part as corrected this issue. Applicant: NORTH STAR TRANSPORT, INC., Post Office Box 51, Thief River Falls, MN 56701. Applicant's representative: Robert P. Sack, Post Office Box 6010, West St. Paul, MN 55118. NOTE: The purpose of this partial republication is to set forth the correct No. MC 134145 (Sub-No. 12 TA), in lieu of No. MC 134286 (Sub-No. 12 TA), shown erroneously in previous publication. The rest of the notice remains the same.

No. MC 135007 (Sub-No. 9 TA), filed October 28, 1971. Applicant: AMERICAN TRANSPORT, INC., Post Office Box 37406, Millard, NE 68137. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Floor covering and floor tile and materials, equipment and supplies* used in the installing and maintaining such floor covering and floor tile, from Lancaster, Pa., to points in Washington, Oregon, California, Arizona, Utah, Nevada, Idaho, Montana, and South Dakota, (2) *carpet lining*, from Torrington, Conn., to points specified above; and (3) *carpet*, from Ware, Mass., to points specified above, for 180 days. Supporting shipper: William Volker & Co., 945 California Drive, Post Office Box 529, Burlingame, CA 94010. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 711 Federal Office Building, Omaha, Nebr. 68102.

No. MC 135032 (Sub-No. 1 TA), filed October 29, 1971. Applicant: HIAWATHA PRODUCE COMPANY, 3850

Fourth Street, Winona, MN 55987. Applicant's representative: Allan B. Torhorst, Post Office Box 307, Burlington, WI 53105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products, and other commodities*, distributed by dairies (except commodities in bulk), from the plantsites, warehouses, storage, and production facilities utilized by Land O'Lakes, Inc., in Minnesota, Wisconsin, and Chicago, Ill., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, for 180 days. Supporting shipper: Land O'Lakes, Inc., Post Office Box 116, Minneapolis, MN 55440. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 136065 TA (Correction), filed October 15, 1971, published in the FEDERAL REGISTER October 29, 1971, corrected and republished in part as corrected this issue. Applicant: B & M CARRIERS LIMITED, Post Office Box 4040, Station E, Ottawa, ON, Canada. Applicant's representative: Herbert M. Canter, 345 South Warren Street, Syracuse, NY 13202. NOTE: The purpose of this partial republication is to set forth the correct No. MC 136065 TA, in lieu of No. MC 136005 TA, shown erroneously in previous publication. The rest of the notice remains the same.

No. MC 136111 (Sub-No. 1 TA), filed October 28, 1971. Applicant: JOSEPH W. HUNKEN & ROBERT F. HUGHES, a partnership, doing business as H & H TRUCKING COMPANY, 104 Maplewood Drive, Bolingbrook, IL 60439. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Microfoam*, from the plantsite of Tekra Corp. at Milwaukee, Wis., to points in Iowa; (2) *plastic air caps*, from Chicago, Ill. to the plantsites and warehouse facilities of Tekra Corp. at Milwaukee, Wis., and St. Paul-Minneapolis, Minn., (3) *microfoam*, from Wurtland, Ky., to the plantsites and warehouse facilities of Tekra Corp. at Milwaukee, Wis., and St. Paul-Minneapolis, Minn.; and (4) *paper wadding*, from Salem, Ill., to points in Wisconsin, for 180 days. Supporting shipper: Frederic Johnson, Tekra Corp., 204 West Vogel Avenue, Milwaukee, WI. Send protests to: District Supervisor Robert G. Anderson, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16409 Filed 11-9-71;8:49 am]

[Notice 779]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 5, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73209. By order of November 1, 1971, the Motor Carrier Board approved the transfer to Ray D. Simmons, doing business as Simmons Trucking Co., Carthage, Mo., of certificate No. MC-125745 (Sub-No. 1), issued March 11, 1969, to Vivian V. Simmons, doing business as Simmons Trucking Co., Carthage, Mo., authorizing the transportation of: Crushed and ground limestone, from Carthage, Mo., to points in Arkansas, Kansas, and Oklahoma and from the quarry and plantsite of The Independent Gravel Co. near Sulphur Springs, Ark., to points in Arkansas, Kansas, Missouri, and Oklahoma; and flint chats, sand, and asphalt concrete, from Webb City, Mo., to points in Illinois, Iowa, Kansas, Oklahoma, Arkansas, and specified areas in Mississippi. Louisiana, Texas, Alabama, Tennessee, Kentucky, and Indiana. Turner White, 805 Woodruff Building, Springfield, Mo. 65806, attorney for applicants.

No. MC-FC-73245. By order of November 3, 1971, the Motor Carrier Board approved the transfer to MJR Enterprises, a corporation, Hawthorne, Calif., of permit No. MC-129275 (Sub-No. 1) issued July 22, 1971, to Jack Roberts, doing business as F & H Trucking Co., Hawthorne, Calif., authorizing the transportation of: Store fixtures and equipment, from points in Los Angeles County, Calif., to points in the United States, except Alaska, Hawaii, Arizona, Nevada, New Mexico, and Texas. Donald Murchison, attorney, 9454 Wilshire Boulevard, Beverly Hills, CA 90212.

No. MC-FC-73249. By order of November 1, 1971, the Motor Carrier Board approved the transfer to Glenn E. Carlson, Grantsburg, Wis., of certificate No. MC-110379, issued July 29, 1959, to Orville Murphy, Frederic, Wis., authorizing the transportation of: General commodities, livestock and agricultural commodities, from, to, or between specified points in Wisconsin and Minnesota, A. R. Fowler, 2288 University Avenue, St. Paul, MN 55114, representative for applicants.

No. MC-FC-73272. By order of November 2, 1971, the Motor Carrier Board approved the transfer to Steiger Bros. Express Co., Inc., Middle Village, Long Island, N.Y., of the operating rights in certificate No. MC-64301 issued March 26, 1962, to A. Greenberg Trucking Corp., New York, N.Y., authorizing the transportation of new luggage, enamelware, cooking utensils, shoes, dolls, imitation leather, card tables, and chairs, between New York, N.Y., on the one hand, and, on the other, points in Essex, Hudson, Middlesex, Morris, Passaic, Somreset, Bergen, and Union Counties, N.J. Dual operations were authorized. Bert Collins, registered practitioner, 140 Cedar Street, New York, N.Y. 10006, representative for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc. 71-16410 Filed 11-9-71;8:49 am]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

NOVEMBER 5, 1971.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. CC-7108, filed October 26, 1971. Applicant: INTERCITY BUS LINES, INC., Route 1, Box 316, Roanoke, VA 24012. Applicant's representative: Jno. C. Goddin, 200 West Grace Street, Richmond, VA 23220. Certificate of public convenience and necessity sought to operate a service as a common carrier for the handling of *passengers and their baggage, mail, newspapers, and express*, between Lynchburg and Lexington, Va., via Buena Vista, Va. Both intrastate and interstate authority sought.

HEARING: January 18, 1972, 10 a.m., Blanton Building, Richmond, Va. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Commonwealth of Virginia, State Corporation Commission, Box 1197, Richmond, VA 23209 and should not be directed to the Interstate Commerce Commission.

State Docket No. 69-338-MP/A, filed October 12, 1971. Applicant: ROY M. PAYNE, doing business as MT. McKINLEY BUS LINES, 118 East Sixth Avenue, Anchorage, AK. Applicant's representative: David J. Pree, 101 Christensen Drive, Anchorage, AK. Certificate of public convenience and necessity sought to operate a service as follows: Transportation of *Passengers, their baggage and express shipments*, as a common carrier by bus, in intrastate and interstate commerce: Between Homer, Alaska and Fairbanks, Alaska via Alaska State Highway 1 to its junction with Alaska State Highway 3, thence via Alaska State Highway 3 to Fairbanks and return over the same route serving all intermediate and off-route points including, but not limited to Seward via Alaska Highway 9, Kenai, Palmer, and Talkeetna, Alaska, and the off-route points of Petersville and Hope on a nonscheduled basis via Alaska Highway No. 1, secondary route. All express shipments must be transported in conjunction with the above interurban bus service in vehicles used for the transportation of passengers. Special services of tour and sightseeing over the regular routes defined above and charter service between points on the above routes on the one hand, and, points in Alaska on the other hand. Both intrastate and interstate authority sought.

HEARING: Date, time, and place unknown. Requests for procedural information including the time for filing protests concerning this application should be addressed to the State of Alaska, Department of Commerce, Alaska Transportation Commission, 750 MacKay Building, 338 Denali Street, Anchorage, AK 99501 and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16406 Filed 11-9-71;8:49 am]

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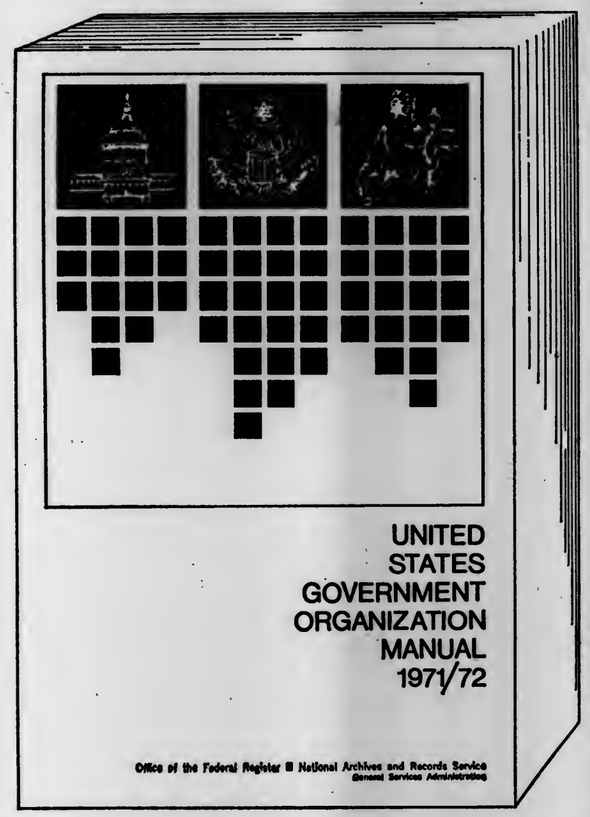

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EXECUTIVE ORDER 11631

Inspection of Income, Estate, and Gift Tax Returns by the Committee on Public Works, House of Representatives

By virtue of the authority vested in me by section 6103(a) of the Internal Revenue Code of 1954, as amended (26 U.S.C. 6103(a)), it is hereby ordered that any income, estate, or gift tax return for the years 1960 to 1972, inclusive, shall, during the Ninety-second Congress, be open to inspection by the Committee on Public Works, House of Representatives, or any duly authorized subcommittee thereof, in connection with its investigation of the policies, procedures, and practices involved in the administration of programs affecting the Committee on Public Works, pursuant to House Resolution 142, 92nd Congress, agreed to March 2, 1971. Such inspection shall be in accordance and upon compliance with the rules and regulations prescribed by the Secretary of the Treasury in Treasury Decision 6132, relating to the inspection of returns by committees of the Congress, approved by the President on May 3, 1955.

Richard Nixon

THE WHITE HOUSE,
November 9, 1971.

[FR Doc.71-16565 Filed 11-9-71;3:12 pm]

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Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Temporary Boards and Commissions

Section 213.3199 is amended to show that until November 30, 1973, a total of 50 positions in grades GS–12 and above in the Cost of Living Council, the Price Commission, and the Pay Board are excepted under schedule A when it is determined that existing registers are not appropriate or do not permit appointment expeditiously.

Effective on publication in the FEDERAL REGISTER (11–11–71), paragraph (m) is added to § 213.3199 as set out below.

§ 213.3199 Temporary Boards and Commissions.

* * * * * *

(m) Cost of Living Council and Related Organizations. * * *

(1) Until November 30, 1973, not to exceed 50 positions in grades GS–12 and above when it is determined that existing registers are not appropriate or do not permit appointment expeditiously.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71–16472 Filed 11–10–71;8:46 am]

Title 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture

[Amdt. 8]

PART 20—LIMITATION ON IMPORTS OF MEAT

Subpart—Section 204 Import Regulations

RESTRICTION ON THE IMPORTATION OF MEAT FROM MEXICO, COSTA RICA AND HONDURAS

Section 20.4 is amended by adding three new paragraphs prohibiting the importation of meat in excess of 79.5 million pounds from Mexico, 40.4 million pounds from Costa Rica and 17.0 million pounds from Honduras during the calendar year 1971. Meat subject to this restriction is that covered by items 106.10 (relating to fresh, chilled, or frozen cattle meat) and 106.20 (relating to fresh, chilled, or frozen meat of goats and sheep (except lambs)) of the Tariff Schedules of the United States.

This regulation is issued with the concurrence of the Secretary of State and the Special Representative for Trade Negotiations to carry out bilateral agreements negotiated with the Governments of Mexico, Costa Rica, and Honduras pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854). The Commissioner of Customs has been requested to take such action as is necessary to implement this regulation. Since the action taken herewith has been determined to involve foreign affairs functions of the United States, this amendment and the request to the Commissioner of Customs, being necessary to the implementation of such action, fall within the foreign affairs exception to the notice and effective date provision of 5 U.S.C. 553.

The subpart, Section 204 Import Regulations of Part 20, Subtitle A of Title 7 (35 F.R. 10837, as amended), is amended by adding to § 20.4 the following new paragraphs:

§ 20.4 Restrictions for 1971.

* * * * * *

(b) *Imports from Mexico.* No more than 79.5 million pounds of meat which is the product of Mexico may be entered, or withdrawn from warehouse, for consumption in the United States during the calendar year 1971.

(c) *Imports from Costa Rica.* No more than 40.4 million pounds of meat which is the product of Costa Rica may be entered, or withdrawn from warehouse, for consumption in the United States during the calendar year 1971.

(d) *Imports from Honduras.* No more than 17.0 million pounds of meat which is the product of Honduras may be entered, or withdrawn from warehouse, for consumption in the United States during the calendar year 1971.

Effective date. The regulations contained in the amendment shall become effective upon publication in the FEDERAL REGISTER (11–11–71), but meat released under the provisions of section 448(b) of the Tariff Act of 1930 (19 U.S.C. 1448(b)) prior to such date shall not be denied entry.

(Sec. 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854) and E.O. 11539.)

Issued at Washington, D.C., this 5th day of November 1971.

J. PHIL CAMPBELL,
Acting Secretary of Agriculture.

[FR Doc.71–16475 Filed 11–10–71;8:49 am]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Navel Orange Reg. 239]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.539 Navel Orange Regulation 239.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907, 35 F.R. 16359), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among

handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 9, 1971.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period November 12, 1971, through November 18, 1971, are hereby fixed as follows:

(i) District 1: 444,064 cartons;
(ii) District 2: Unlimited;
(iii) District 3: 165,003 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 10, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71–16601 Filed 11–10–71;11:28 am]

[Valencia Orange Reg. 374]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 908.674 Valencia Orange Regulation 374.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908, 35 F.R. 16625), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 9, 1971.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period November 12, 1971, through November 18, 1971, are hereby fixed as follows:

(i) District 1: 68,000 cartons;
(ii) District 2: 332,000 cartons;
(iii) District 3: Unlimited.

(2) As used in this section, "handler", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 10, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71–16600 Filed 11–10–71;11:28 am]

Chapter X—Consumer and Marketing Service (Marketing Agreements and Orders: Milk), Department of Agriculture

[Milk Order 36]

PART 1036—MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

Order Suspending Certain Provisions

This suspension order is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the eastern Ohio-western Pennsylvania marketing area.

Notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 20440) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon. None were filed in opposition.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that for the months of November 1971 through April 1972 the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In § 1036.41(c)(6)(iv), "and bulk cream;"
2. In § 1036.41(c)(6)(vii), "and bulk cream;" and
3. In § 1036.42(b)(1), "and bulk cream."

STATEMENT OF CONSIDERATION

This suspension will change the amount of allowable class III shrinkage on bulk cream transferred from a pool plant to other plants. It continues the same effect of a suspension order effective for the months of May through October 1971. The present order limits class III shrinkage on cream derived from a handler's receipts of producer milk to 0.5 percent of the cream. Suspension will increase the allowable class III shrinkage to 2 percent.

A cooperative association which handles at its pool balancing plant a substantial portion of the market's reserve supplies of milk requested suspension of the provisions set forth hereinbefore. The cooperative receives producer milk, at farm weights and tests, separates such milk, and transfers the cream to other plants for churning. The activities performed by the cooperative usually result in more than one-half percent loss of product on the cream transfers involved.

A greater loss (or shrinkage) of product occurs in handling cream than in handling fluid milk. However, the present shrinkage provisions do not distinguish between cream and fluid milk on the amount of class III shrinkage allowed. In view of the manner in which surplus cream is being handled in this market, the class III shrinkage allowance under the order should be modified to reflect actual experience of cream shrinkage. Immediate action is necessary since the previous suspension expired October 31, 1971.

The cooperative has requested a public hearing to consider, among other things, appropriate modification of the order provisions relating to cream shrinkage. Suspension for the period of November 1971 through April 1972 will provide reasonable time for consideration of any amendatory action that may be desirable to reflect current marketing conditions.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that the present class III shrinkage provisions do not reflect operating experience in the handling of cream.

(b) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rule making was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this suspension.

Therefore, good cause exists for making this order effective on November 1, 1971.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the months of November 1971 through April 1972.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: November 1, 1971.

Signed at Washington, D.C. on November 5, 1971.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.71–16473 Filed 11–10–71;8:49 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER E—VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS; ORGANISMS AND VECTORS

PART 101—GENERAL PROVISIONS

PART 102—LICENSES AND PERMITS FOR BIOLOGICAL PRODUCTS

PART 112—LABELS

PART 113—STANDARD REQUIREMENTS

PART 114—MISCELLANEOUS REQUIREMENTS FOR LICENSED ESTABLISHMENTS

PART 117—ANIMALS

PART 120—APPROVED FEED LOTS

Miscellaneous Amendments

Pursuant to the authority contained in the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151–158) Subchapter E, Chapter I, Title 9 of the Code of Federal Regulations is hereby amended as follows:

1. Part 120 of Chapter I of Title 9 of the Code of Federal Regulations is revoked.

2. Wherever in Parts 101, 102, 112, 113, 114, and 117, the phrase "Parts 101 through 121" appears, the phrase "Parts 101 through 117" is substituted therefore.

Effective date. The foregoing amendments shall become effective upon publication in the FEDERAL REGISTER (11–11–71).

Due to the decreased need for hog cholera products, all licenses for these products have been terminated. Therefore, there is no further need for approved feed lots. Subsequently, all approved feed lots have been deleted in accordance with § 120.5. Since there are no longer any approved feed lots, there is no longer any need for Part 120.

Accordingly, it is hereby found that it is impractical and unnecessary to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), and good cause exists for making the provisions hereof effective as hereinabove set forth.

With the revocation of Part 120, and the prior revocation of Parts 118, 119 (34 F.R. 18120), and 121 (35 F.R. 16041), the regulations need to be revised by deleting references thereto in Parts 101 through 117.

Done at Washington, D.C., this 5th day of November 1971.

G. H. WISE,
Acting Administrator, Agricultural Research Service.

[FR Doc.71–16506 Filed 11–10–71;8:53 am]

PART 132—GENERAL REGULATIONS

Miscellaneous Amendments

Pursuant to the provisions of sections 56–60 of Public Law 320, 74th Congress, approved August 24, 1935, as amended (Sec. 56–60, 49 Stat. 781, as amended; 7 U.S.C. 851–855), Subchapter E, Chapter I, Title 9, of the Code of Federal Regulations is hereby amended as follows:

Part 132 of Chapter I of Title 9 of the Code of Federal Regulations is revoked.

Effective date. The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER (11–11–71).

The aforesaid General Regulations (Part 132) pertain to the Rules of Practice and Procedure Governing Proceedings to Formulate Marketing Agreements and Marketing Orders applicable to Anti-Hog-Cholera Serum and Hog-Cholera Virus (Subpart A), and Rules of Practice Governing Proceedings on Petitions to Modify or to be Exempted From Marketing Orders (Subpart B). An order was issued by the Assistant Secretary of Agriculture on December 13, 1966 (31 F.R. 16185), terminating the provisions of the Marketing Agreement Regulating Handling of Anti-Hog-Cholera Serum and Hog-Cholera Virus, as amended, and the Marketing Order Regulating Handling of Anti-Hog-Cholera Serum and Hog-Cholera Virus, as amended (9 CFR Part 131), effective midnight on December 31, 1966. Since termination in 1966, no marketing agreement and order have been in effect with respect to regulating the handling of anti-hog-cholera serum and hog-cholera virus, nor are any being contemplated. In the circumstances, it is hereby found and determined that there is no need for the aforesaid General Regulations (9 CFR Part 132) to continue in effect.

Accordingly, it is hereby found that it is impractical and unnecessary to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), and good cause exists for making the provisions hereof effective as herein above set forth.

Done at Washington, D.C., this 5th day of November 1971.

G. H. WISE,
Acting Administrator, Agricultural Research Service.

[FR Doc.71–16506 Filed 11–10–71;8:53 am]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Implementation of the National Environmental Policy Act of 1969

On September 9, 1971, the Atomic Energy Commission published in the FEDERAL REGISTER (36 F.R. 18071) a revision of Appendix D of its regulation in 10 CFR Part 50, effective on publication. Revised Appendix D as published is an interim statement of Commission policy and procedure for the implementation of the National Environmental Policy Act of 1969 (NEPA) in accordance with the decision of the U.S. Court of Appeals for the District of Columbia Circuit in "Calvert Cliffs' Coordinating Committee, Inc., et al. v. United States Atomic Energy Commission, et al.," Nos. 24,839 and 24,871. The procedures in Appendix D apply to licensing proceedings for nuclear power reactors; testing facilities; fuel reprocessing plants; and other production and utilization facilities whose construction or operation may be determined by the Commission to have a significant impact on the environment. The procedures also apply to proceedings involving certain specified activities subject to materials licensing.

The Commission adopted certain minor amendments to revised Appendix D, published in the FEDERAL REGISTER on September 30, 1971.

The Commission has adopted additional amendments to revised Appendix D that clarify the intent of the Commission with respect to proceedings subject to section D.

In section 4, Procedures Applicable to Pending Hearings or Proceedings to be Noticed in the Near Future, paragraph 1 has been amended to make the provisions of paragraphs 1 and 2 of that section applicable to proceedings in which hearings are pending as of September 9, 1971, or in which a draft or final detailed statement of environmental considerations prepared by the Director of Regulation or his designee has been circulated

prior to said date, in the case of an application for a construction permit, or in which a notice of opportunity for hearing on the application has been issued prior to October 31, 1971, in the case of an application for an operating license. A conforming amendment has been made to section C.1 of Appendix D.

Paragraph 3 of section D of Appendix D has been amended to make clear that, in cases where a notice of opportunity for hearing on an operating license application was issued prior to October 31, 1971, and no hearing has been requested, the environmental review procedures set out in section A of Appendix D, will, with respect to such proceedings, be subject to the limitation that comments will be requested, and must be received, within 30 days from Federal agencies, State and local officials and interested persons on environmental reports and draft detailed statements. This change conforms paragraph 3 of section D to paragraph 1 of section D in this respect.

Because these amendments relate solely to correction and clarification, the Commission has found that good cause exists for omitting notice of proposed rule making and public procedure thereon as unnecessary. The Commission has also found that since the amendments correct and clarify previous amendments which have already become effective, good cause exists for making the amendments effective without the customary 30 day notice.

Accordingly, pursuant to the National Environmental Policy Act of 1969, the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 50, are published as a document subject to codification to be effective upon publication in the FEDERAL REGISTER (11-11-71).

In Appendix D, sections C.1, D.1, and D.3 are amended to read as follows:

APPENDIX D—INTERIM STATEMENT OF GENERAL POLICY AND PROCEDURE: IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (PUBLIC LAW 91-190)

• • • • •

C. Procedures for review of certain construction permits for production or utilization facilities issued prior to January 1, 1970, for which operating licenses or notice of opportunity for hearing on the operating license applications have not been issued. 1. Each holder of a permit to construct a production or utilization facility of the type described in section A.1 issued prior to January 1, 1970, for which neither an operating license nor a notice of opportunity for hearing on the operating license application had been issued prior to October 31, 1971, shall submit the appropriate number of copies of an Environmental report as specified in sections A.1-4 of this appendix as soon as possible, but no later than sixty (60) days after September 9, 1971, or such later date as may be approved by the Commission upon good cause shown. If an environmental report had been submitted prior to September 9, 1971, a supplement to that report, covering the matters described in sections A.1-4 to the extent not previously covered, may be submitted in lieu of a new environmental report.

• • • • •

D. Procedures applicable to pending hearings or proceedings to be noticed in the near future. 1. In proceedings in which hearings are pending as of September 9, 1971, or in which a draft or final detailed statement of environmental considerations prepared by the Director of Regulation or his designee has been circulated prior to said date[1] in the case of an application for a construction permit, or in which a notice of opportunity for hearing on the application has been issued prior to October 31, 1971, in the case of an application for an operating license, the presiding Atomic Safety and Licensing Board will, if the requirements of paragraphs 1-9 of section A have not as yet been met, proceed expeditiously with the aspects of the application related to the Commission's licensing requirements under the Atomic Energy Act pending the submission of environmental reports and detailed statements as specified in section A and compliance with other applicable requirements of section A. A supplement to the environmental report, covering the matters described in sections A.1-4 to the extent not previously covered, may be submitted in lieu of a new environmental report. Upon receipt of the supplemental environmental report, the procedures set out in sections A.6-9 will be followed, except that comments will be requested, and must be received, within thirty (30) days from Federal agencies, State and local officials, and interested persons on environmental reports and draft detailed statements. If no comments are submitted within thirty (30) days by such agencies, officials, or persons, it will be presumed that such agencies, officials, or persons have no comment to make. In any subsequent session of the hearing held on the matters covered by this appendix, the provisions of sections A.10 and 11 will apply to the extent pertinent. The Commission or the presiding Atomic Safety and Licensing Board, as appropriate, may prescribe the time within which the proceeding, or any portion thereof, will be completed.

• • • • •

3. This paragraph applies to proceedings on an application for an operating license for which a notice of opportunity for hearing was issued prior to October 31, 1971, and no hearing has been requested. In such proceedings an environmental report or a supplement to the environmental report, covering the matters described in sections A.1-4 to the extent not previously covered, shall be submitted. Upon receipt of the supplemental environmental report, the procedures set out in sections A.6-9 will be followed, except that comments will be requested, and must be received, within thirty (30) days from Federal agencies, State and local officials, and interested persons on environmental reports and draft detailed statements. If no comments are submitted within thirty (30) days by such agencies, officials, or persons, it will be presumed that such agencies, officials, or persons have no comment to make. When the requirements of the pertinent provisions of paragraphs 1-9 of section A have been met, the provisions of section B.3 will be followed. If in such proceedings, the requirements of paragraphs 1-9 of section A have not as yet been met, the Commission may issue a license authorizing the loading of fuel in the reactor core and limited operation within the scope of § 50.57(a), upon a showing that such licensing action will not have a significant, adverse impact on the quality of the environment and upon making the appropriate findings on the matters specified in § 50.57(a). In addition, the Commission recognizes that there may be other circumstances where, consistent with appropriate regard for environmental values, limited operation may be warranted during the period of the ongoing NEPA environmental review. Such circumstances include testing and vertification of plant performance and other limited activities where operation can be justified without prejudice to the ends of environmental protection. Accordingly, the Commission may issue a license for limited operation after consideration and balancing of the factors described in paragraph 2. of this section and upon making the appropriate findings on the matters specified in § 50.57(a): *Provided, however*, That operation beyond twenty percent (20%) of full power will not be authorized except in emergency situations or other situations where the public interest so requires. Any license so issued will be without prejudice to subsequent licensing action which may be taken by the Commission with regard to the environmental aspects of the facility, and any license issued will be conditioned to that effect.

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(Sec. 102, 83 Stat. 853; secs. 3, 161; 68 Stat. 922, 948, as amended; 42 U.S.C. 2013, 2201)

Dated at Germantown, Md., this 29th day of October 1971.

For the Atomic Energy Commission.

W. B. MCCOOL,
Secretary of the Commission.

[FR Doc.71-16469 Filed 11-10-71;8:48 am]

PART 140—FINANCIAL PROTECTION AND INDEMNITY AGREEMENTS

Waivers of Defenses Endorsement

On May 6, 1971, the Atomic Energy Commission published in the FEDERAL REGISTER proposed amendments to 10 CFR Part 140, Financial Protection Requirements and Indemnity Agreements, and a proposed endorsement to the facility form of nuclear liability insurance policy furnished as financial protection, to clarify the waivers of defenses provisions in the facility form and in the AEC indemnity agreement forms (36 FR 8451). Interested persons were invited to submit written comments and suggestions for consideration in connection with the proposed amendments within 30 days after publication of the notice of proposed rule making in the FEDERAL REGISTER. After consideration of the material submitted in response to the notice of proposed rule making and other factors involved, the Commission has adopted the amendments and approved the endorsement as proposed. The endorsement to the facility form and the amendments to the Commission indemnity agreement forms clarify that a licensee's workers who are employed at an indemnified site exclusively in connection with the construction of a nuclear reactor with respect to which no operating license has been issued by the Atomic Energy Commission, and who are not employed in connection with the possession, storage, use or transfer of nuclear material at the facility, will maintain their rights under the waivers of defenses provisions of the facility form and of the indemnity agreement. The waivers of defenses provisions in the event of an "extraordinary nuclear occurrence" are also intended to be available to an indemnified licensee's employees engaged at an indemnified location in the construction of a follow-on production or utilization facility (nuclear power reactor) for which no operating license has been issued.

It is the intention of the insurers and the Commission that claimants employed exclusively in connection with the construction of a nuclear reactor include those employees engaged in maintaining a facility, the construction of which is essentially complete in an appropriate state of readiness pending the receipt by the applicant of the operating license, even though the maintenance duties in connection with the facility may not be full time.

The insurers who provide nuclear liability insurance, Nuclear Energy Liability Insurance Association and Mutual Atomic Energy Liability Underwriters, have agreed to the addition of the clarifying endorsement to the forms of insurance policies issued by them. The amendments reflect that agreement and correspondingly amend the Commission forms of indemnity agreement.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to 10 CFR Part 140 are published as a document subject to codification, to be effective 30 days after publication in the FEDERAL REGISTER.

1. Section 140.91 is amended by adding to the Waiver of Defenses Endorsement a new paragraph 6 to read as follows:

§ 140.91 Appendix A—Form of nuclear energy liability policy for facilities.

• • • • •

6. It is agreed that in construing the application of paragraph 2.(b) of the Waiver of Defenses Endorsement (NE-33) with respect to an extraordinary nuclear occurrence occurring at the facility, a claimant who is employed at the facility in connection with the construction of a nuclear reactor with respect to which no operating license has been issued by the Atomic Energy Commission shall not be considered as employed in connection with the activity where the extraordinary nuclear occurrence takes place if:

(1) The claimant is employed exclusively in connection with the construction of a nuclear reactor, including all related equipment and installations at the facility, and

(2) No operating license has been issued by the AEC with respect to the nuclear reactor, and

(3) The claimant is not employed in connection with the possession, storage, use or transfer of nuclear material at the facility.

2. Section 140.92 is amended by adding a proviso at the end of subparagraph 5(c) of Article II to read as follows:

§ 140.92 Appendix B—Form of indemnity agreement with licensees furnishing proof of financial protection.

• • • • •

Provided, however, That with respect to an extraordinary nuclear occurrence occurring at the facility, a claimant who is employed at the facility in connection with the construction of a nuclear reactor with respect to which no operating license has been issued by the Atomic Energy Commission shall not be considered as employed in connection with the activity where the extraordinary nuclear occurrence takes place if:

(1) The claimant is employed exclusively in connection with the construction of a nuclear reactor, including all related equipment and installations at the facility, and

(2) No operating license has been issued by the AEC with respect to the nuclear reactor, and

(3) The claimant is not employed in connection with the possession, storage, use or transfer of nuclear material at the facility.

• • • • •

3. Section 140.93 is amended by adding a proviso at the end of subparagraph 5(c) of Article II to read as follows:

§ 140.93 Appendix C—Form of indemnity agreement with licensees furnishing proof of financial protection in the form of licensee's resources.

• • • • •

Provided, however, That with respect to an extraordinary nuclear occurrence occurring at the facility, a claimant who is employed at the facility in connection with the construction of a nuclear reactor with respect to which no operating license has been issued by the Atomic Energy Commission shall not be considered as employed in connection with the activity where the extraordinary nuclear occurrence takes place if:

(1) The claimant is employed exclusively in connection with the construction of a nuclear reactor, including all related equipment and installations at the facility, and

(2) No operating license has been issued by the AEC with respect to the nuclear reactor, and

(3) The claimant is not employed in connection with the possession, storage, use or transfer of nuclear material at the facility.

• • • • •

4. Section 140.94 is amended by adding a proviso at the end of subparagraph 5(c) of Article II to read as follows:

§ 140.94 Appendix D—Form of indemnity agreement with Federal agencies.

• • • • •

Provided, however, That with respect to an extraordinary nuclear occurrence occurring at the facility, a claimant who is employed at the facility in connection with the construction of a nuclear reactor with respect to which no operating license has been issued by the Atomic Energy Commission shall not be considered as employed in connection with the activity where the extraordinary nuclear occurrence takes place if:

(1) The claimant is employed exclusively in connection with the construction of a nuclear reactor, including all related equipment and installations at the facility, and

(2) No operating license has been issued by the AEC with respect to the nuclear reactor, and

(3) The claimant is not employed in connection with the possession, storage, use or transfer of nuclear material at the facility.

• • • • •

5. Section 140.95 is amended by adding a proviso at the end of subparagraph 3(c) of article II to read as follows:

§ 140.95 Appendix E—Form of indemnity agreement with nonprofit educational institutions.

• • • • •

Provided, however, That with respect to an extraordinary nuclear occurrence occurring at the facility, a claimant who is employed at the facility in connection with the construction of a nuclear reactor with respect to which no operating license has been issued by the Atomic Energy Commission shall not be considered as employed in connection with the activity where the extraordinary nuclear occurrence takes place if:

(1) The claimant is employed exclusively in connection with the construction of a nuclear reactor, including all related equipment and installations at the facility, and

(2) No operating license has been issued by the AEC with respect to the nuclear reactor, and

(3) The claimant is not employed in connection with the possession, storage, use, or transfer of nuclear material at the facility.

• • • • •

(Secs. 161, 170, 68 Stat. 948, 71 Stat. 576; 80 Stat. 891; 42 U.S.C. 2201, 2210)

Dated at Germantown, Md., this 5th day of November 1971.

For the Atomic Energy Commission.

F. T. HOBBS,
Acting Secretary of the Commission.

[FR Doc.71-16455 Filed 11-10-71;8:47 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 11423; Amdt. 39-1333]

PART 39—AIRWORTHINESS DIRECTIVES

Turbine Engine Powered Aircraft With Certain Type Batteries Installed

Amendment 39-1302 (36 F.R. 19075), AD 71-21-5 applies to turbine engine powered aircraft with a primary electrical system equipped with a nickel-cadmium battery containing any polystyrene cell cases that is capable of being used to start the aircraft's engine or APU, except aircraft that have the charging rate of such a battery automatically controlled as a function of battery temperature and except Learjet Models 23, 24, and 25 airplanes. It requires, in part, replacement of the polystyrene cell cases, or installation of a battery overtemperature warning system, or installation of a battery temperature controlled battery charging system. For batteries rated at 34 or more amp-hours, paragraph (d) of the AD requires the replacement or installation to be accomplished within 1,500 hours' time in service, or before April 15, 1972, whichever occurs sooner. Subsequent to the issuance of the AD, the FAA has determined that neither batteries or cells having nylon cases, nor replacement batteries that meet the requirements of the AD are available for batteries rated at 50 or more amp-hours. Based on further investigation of the electrical systems of the aircraft in which these batteries are installed, the operating loads placed on these batteries, and the service experience of operators with these batteries, the FAA has determined that batteries rated at 50 or more amp-hours are less likely to overheat than smaller batteries, and that the compliance times for these batteries may be safely extended. Therefore, the AD is

being amended to require, for these batteries, compliance with the replacement or installation provisions of the AD within 2,500 hours' time in service, or before December 31, 1972, whichever occurs sooner.

Since this amendment relieves a restriction, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR § 11.89), § 39.13 of part 39 of the Federal Aviation Regulations, Amendment 39–1302 (36 F.R. 19075), AD 71–21–5, is amended as follows:

1. By amending paragraph (c) to read:

(c) Comply with paragraph (e)—

(1) For any battery rated at 33 or less amp-hours, within the next 500 hours' time in service after the effective date of this AD, or before April 15, 1972, whichever occurs sooner.

(2) For any battery rated at 34 or more but less than 50 amp-hours, within the next 1,500 hours' time in service after the effective date of this AD, or before April 15, 1972, whichever occurs sooner.

(3) For batteries rated at 50 or more amp-hours, within the next 2,500 hours' time in service after the effective date of this AD, or before December 31, 1972, whichever occurs sooner.

2. By deleting paragraph (d).

This amendment becomes effective November 16, 1971.

This amendment is made under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on November 3, 1971.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[FR Doc.16447 Filed 11–10–71;8:46 am]

[Airspace Docket No. 71–CE–83]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On page 15453 of the FEDERAL REGISTER dated August 14, 1971, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation regulations so as to alter the transition area at Clintonville, Wis.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., January 6, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on October 27, 1971.

CHESTER W. WELLS,
Acting Director,
Central Region.

In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

CLINTONVILLE, WIS.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Clintonville Municipal Airport (latitude 44°36'50" N., longitude 88°43'52" W.).

[FR Doc.71–16437 Filed 11–10–71;8:45 am]

[Airspace Docket No. 71–CE–89]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On page 15453 of the FEDERAL REGISTER dated August 14, 1971, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation regulations so as to alter the transition area at Webster City, Iowa.

Interested persons were given 45 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., January 6, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on October 27, 1971.

CHESTER W. WELLS,
Acting Director,
Central Region.

In § 71.181 (36 F.R. 2150), the following transition area is amended to read:

WEBSTER CITY, IOWA

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Webster City Municipal Airport (latitude 42°26'15" N., longitude 93°52'15" W.); and that airspace extending upward from 1,200 feet above the surface within 4½ miles southwest and 9½ miles northeast of the 157° and 337° bearings from Webster City Municipal Airport, extending from 6 miles northwest to 18½ miles southeast of the airport, excluding the portions which overlie the Fort Dodge, Iowa, and Boone, Iowa, transition areas.

[FR Doc.71–16438 Filed 11–10–71;8:46 am]

[Airspace Docket No. 71–CE–92]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On page 15452 of the FEDERAL REGISTER dated August 14, 1971, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation regulations so as to designate a transition area at Gibson City, Ill.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the amendment as so proposed is hereby adopted, subject to the following change:

Line 6 of the Gibson City, Ill., Municipal Airport transition area designation should be changed in part from "VORTAC 222° radial" to read "VORTAC 220° radial."

This amendment shall be effective 0901 G.m.t., January 6, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on October 27, 1971.

CHESTER W. WELLS,
Acting Director,
Central Region.

In § 71.181 (36 F.R. 2140), the following transition area is added:

GIBSON CITY, ILL.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Gibson City Municipal Airport, latitude 40°29'00" N., longitude 88°16'00" W., and within 2 miles either side of the Roberts VORTAC 220° radial extending from the 5-mile radius northeast to Roberts VORTAC.

[FR Doc.71–16439 Filed 11–10–71;8:46 am]

[Airspace Docket No. 71–CE–93]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On pages 15451 and 15452 of the FEDERAL REGISTER dated August 14, 1971, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation regulations so as to designate a transition area at Ontonagon, Mich.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., January 6, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on October 27, 1971.

CHESTER W. WELLS,
Acting Director,
Central Region.

In § 71.181 (36 F.R. 2140), the following transition area is added:

ONTONAGON, MICH.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Ontonagon County Airport (latitude 46°50'47" N., longitude 89°21'29" W.); and within 3 miles each side of a 042° bearing from Ontonagon County Airport, extending from the 6-mile-radius area to 7.5 miles northeast of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles northwest and 9½ miles southeast of the 042° bearing from Ontonagon County Airport, extending from the airport to 18½ miles northeast of the airport.

[FR Doc.71–16440 Filed 11–10–71;8:46 am]

[Airspace Docket No. 71–CE–95]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Areas

On pages 17653 and 17654 of the FEDERAL REGISTER dated September 3, 1971, the Federal Aviation Administration published a notice of proposed rule making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Duluth, Minn., and alter the transition area at Cloquet, Minn.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendments.

No objections have been received and the amendments as so proposed are hereby adopted, subject to the following changes:

(1) Line 5 of the Duluth, Minn., International Airport control zone alteration recited as "extending from the 5-mile radius zone to" should be changed to read "extending from the 6.5-mile radius zone to".

(2) Line 13 of the Duluth, Minn., International Airport transition area alteration recited as "VORTAC 023° radial, extending from the 15-" should be changed to read "VORTAC 023° radial, extending from the 17.5-."

These amendments shall be effective 0901 G.m.t., January 6, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on October 29, 1971.

CHESTER W. WELLS,
Acting Director,
Central Region.

In § 71.171 (36 F.R. 2055), the following control zone is amended to read:

DULUTH, MINN.

Within a 6.5-mile radius of Duluth International Airport (latitude 46°50'30" N., longitude 92°11'25" W.); and within 3 miles each side of the Duluth VORTAC 197° radial extending from the 6.5-mile radius zone to 11 miles south of the VORTAC.

In § 71.181 (36 F.R. 2140), the following transition areas are amended to read:

DULUTH, MINN.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Duluth International Airport (latitude 46°50'30" N., longitude 92°11'25" W.); within a 17.5-mile radius of the Duluth International Airport, extending from the Duluth VOR 262° radial clockwise to the Duluth VOR 058° radial; within 4½ miles north and 9½ miles south of Duluth localizer west course, extending from 4 miles east to 18½ miles west of the OM; and within 4½ miles east and 9½ miles west of the Duluth VORTAC 023° radial, extending from the 17.5-mile radius area to 28 miles northeast of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 35-mile radius of Duluth International Airport; within 8 miles northwest and 5 miles southeast of the Duluth VORTAC 051° radial, extending from the 35-mile radius area to 41 miles northeast of the VORTAC; and within 4½ miles northwest and 9½ miles southeast of the Duluth VORTAC 244° radial, extending from the 35-mile radius area to 41 miles southwest of the VORTAC; excluding the portions which overlie the Hibbing, Minn., and Cloquet, Minn., transition areas.

CLOQUET, MINN.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Cloquet-Carlton County Airport (latitude 46°42'10" N., longitude 92°30'20" W.); within 3 miles each side of the 355° bearing from the Cloquet-Carlton County Airport extending from the 6½-mile radius to 8 miles north of the airport; within 3 miles each side of the 175° bearing from the Cloquet-Carlton County Airport extending from the 6½-mile radius area to 8 miles south of the airport.

[FR Doc.71–16441 Filed 11–10–71;8:46 am]

[Airspace Docket No. 71–CE–101]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On page 17654 of the FEDERAL REGISTER dated September 3, 1971, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at West Branch, Mich.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., January 6, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on October 29, 1971.

CHESTER W. WELLS,
Acting Director, Central Region.

In § 71.181 (36 F.R. 2140), the following transition area is added:

WEST BRANCH, MICH.

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of West Branch Community Airport (latitude 44°14'36" N., longitude 84°10'58" W.); and within 8 miles each side of the 87° bearing from West Branch Community Airport, extending from the 5½-mile radius area to 13 miles east of the airport.

[FR Doc.71–16443 Filed 11–10–71;8:46 am]

[Airspace Docket No. 71–CE–104]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On pages 17654 and 17655 of the FEDERAL REGISTER dated September 3, 1971, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Charlevoix, Mich.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the amendment as so proposed is hereby adopted, subject to the following change:

(1) Add the following to the Charlevoix, Mich., Municipal Airport, transition area designation "excluding the portion which overlies the Pellston, Mich., transition area.".

(2) The coordinates recited in the Charlevoix, Mich., Municipal Airport, transition area designation as "latitude 45°18'15" N., longitude 85°16'00" W." are changed to read "latitude 45°18'17" N., longitude 85°16'08" W.".

This amendment shall be effective 0901 G.m.t., January 6, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on October 29, 1971.

CHESTER W. WELLS,
Acting Director, Central Region.

In § 71.181 (36 F.R. 2140), the following transition area is added:

CHARLEVOIX, MICH.

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Charlevoix Municipal Airport (latitude 45°18'17" N., longitude 85°16'08" W.) and within 3 miles each side of the 270° bearing from Charlevoix Municipal Airport, extending from the 5½-mile-radius area to 8 miles west of the airport, and within 3 miles each side of the 69° bearing from Charlevoix Municipal Airport, extending from the 5½-mile-radius area to 8 miles east of the airport; that airspace extending upward from 1,200 feet above the surface within 4½ miles south and 9½ miles north of the 270° and 90° bearings from Charlevoix Municipal Airport, extending from the airport to 18½ miles west and 6 miles east of the airport, and within 4½ miles south and 9½ miles north of the 69° and 249° bearings from Charlevoix Municipal Airport, extending from the airport to 18½ miles east and 8 miles west of the airport, excluding the portion which overlies the Pellston, Mich., transition area.

[FR Doc.71-16443 Filed 11-10-71;8:46 am]

[Airspace Docket No. 71-CE-105]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On page 17655 of the FEDERAL REGISTER dated September 3, 1971, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Woodsfield, Ohio.

Interested persons were given 45 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., January 6, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on October 29, 1971.

CHESTER W. WELLS,
Acting Director, Central Region.

In § 71.181 (36 F.R. 2140), the following transition area is added:

WOODSFIELD, OHIO

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Monroe County Airport (latitude 39°46'45" N., longitude 81°06'15" W.).

[FR Doc.71-16444 Filed 11-10-71;8:46 am]

[Airspace Docket No. 71-CE-109]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation regulations is to amend the Pratt, Kans., transition area.

With the relocation of the Pratt, Kans., nondirectional beacon it is necessary to make a minor adjustment to the Pratt transition area description so that adequate airspace protection will continue to be provided aircraft executing instrument approaches at the Pratt Municipal Airport. Action is taken herein to reflect this change.

Since this alteration is minor in nature, notice and public procedure hereon are neither necessary nor practicable.

In consideration of the foregoing, Part 71 of the Federal Aviation regulations is amended effective January 6, 1972, as hereinafter set forth:

In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

PRATT, KANS.

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the Pratt Municipal Airport (latitude 37°42'13" N., longitude 98°44'47" W.); and within 3 miles each side of the 360° bearing from the Pratt nondirectional beacon (NDB), extending from the 6.5 mile radius area to 8 miles north of the NDB; and that airspace extending upward from 1,200 feet above the surface within 4.5 miles east and 9.5 miles west of the 360° bearing from the NDB; extending from the NDB to 18.5 miles north of the NDB, and within 5 miles each side of the 256° bearing from the NDB, extending from the NDB to 8 miles west.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on October 27, 1971.

CHESTER W. WELLS,
Acting Director, Central Region.

[FR Doc.71-16445 Filed 11-10-71;8:46 am]

[Airspace Docket No. 71-WA-20]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Area High Routes

On June 5, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 10984) stating that the Federal Aviation Administration was considering an amendment to Part 75 of the Federal Aviation regulations that would designate six area high routes in the United States.

One of the six routes has been successfully flight inspected and is being designated in this rule. Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No adverse comments have been received to these six routes.

Subsequent to the publication of the notice, it has been determined that adjustment of routes and waypoint locations is necessary for them to be compatible with terminal procedures and waypoints on other routes. Since these changes are minor in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary.

In consideration of the foregoing, Part 75 of the Federal Aviation regulations is amended, effective 0901 G.m.t., January 6, 1972, as hereinafter set forth.

In § 75.400 (36 F.R. 2370) the following area high route is added:

Route No.	Waypoint name	Latitude-longitude	Reference facility
J982R LOS ANGELES, CALIF. TO KANSAS CITY, MO.			
	Parker, Calif.	34°06'07"/114°40'53"	Needles, Calif.
	Prescott, Ariz.	34°42'09"/112°28'46"	Phoenix, Ariz.
	Two Wells, N. Mex.	35°13'50"/106°47'53"	St. Johns, Ariz.
	Torreon, N. Mex.	35°41'34"/107°03'49"	Albuquerque, N. Mex.
	Springer, N. Mex.	36°15'07"/104°46'52"	Las Vegas, N. Mex.
	Larrabee, Kans.	37°10'46"/100°29'50"	Garden City, Kans.
	Wichita, Kans.	37°43'40"/97°27'11"	Ponca City, Okla.
	Factory, Kans.	38°57'48"/95°05'22"	Salina, Kans.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a), sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 4, 1971.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-16448 Filed 11-10-71;8:46 am]

[Airspace Docket No. 71-WA-3A]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Area High Routes

On March 4, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 4299) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 75 of the Federal Aviation Regulations that would designate 22 area high routes in the western and southwestern United States.

On August 21, 1971, a rule was published in the FEDERAL REGISTER (36 F.R. 16506) stating that five of the area high routes (J901R, J902R, J903R, J904R, and J912R) would be effective October 14, 1971. Five additional routes—J907R, J909R, J911R, J914R, and J917R—have been successfully flight inspected and

are being designated in this rule. Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No adverse comments have been received to these five routes. The ATA commented that the segment of J907R proposed betwen Fort Stockton, Tex., and San Simon, Ariz., would be 3 miles farther than J2 via El Paso, Tex. That statement is correct; however, J907R was purposely aligned north of El Paso to provide a parallel routing laterally separated from J2. The ATA suggested further that the parallel routing could be established and the mileage decreased as well by alignment of J907R in part from Houston, Tex., via great circle course to Gila Bend, Ariz. Such alignment would conflict with Intensive Student Jet Training Areas (ISJTAs) at Webb AFB, Tex., and Williams AFB, Ariz.

The FAA is progressing toward integration of activities within ISJTAs so that en route aircraft may transit an ISJTA while it is being used for intensive student jet training. However, at this time, more frequent use can be made of J907R if it is aligned so as to avoid the ISJTAs at Webb AFB and Williams AFB.

The remaining routes listed in Airspace Docket No. 71-WA-3 will be issued in a final rule as soon as a successful flight inspection is performed.

Waypoints have been refined in J911R, J914R, and J917R to more precisely define the routes described in the notice of proposed rule making or to improve navigational service. Since these refinements are minor in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary, and good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 6, 1972, as hereinafter set forth.

In § 75.400 (36 F.R. 2370) the following area high routes are added:

Waypoint name	LOCATION N. Lat./W. Long. (In degrees, minutes and seconds)	Reference facility
J907R DENVER, COLO., TO SAN FRANCISCO, CALIF.		
Golden, Colo.	39 48 15/105 04 05	Denver, Colo.
Hog Back, Colo.	39 41 23/107 53 25	Meeker, Colo.
Hill Creek, Utah	39 33 51/109 38 03	Myton, Utah.
Nebo, Utah	39 16 43/111 38 27	Fairfield, Utah.
Grafton, Nev.	38 43 06/114 32 58	Wilson Creek, Nev.
Coaldale, Nev.	38 00 12/117 46 10	Coaldale, Nev.
J911R PORTLAND, OREG., TO DENVER, COLO.		
Sherwood, Oreg.	45 21 06/122 59 00	Portland, Oreg.
Dayville, Oreg.	44 35 59/119 26 41	Pendleton, Oreg.
Horseshoe, Idaho	43 46 40/116 08 13	Boise, Idaho
McCammon, Idaho.	42 38 23/112 12 05	Malad City, Idaho.
Rock Springs, Wyo.	41 35 25/109 00 53	Rock Springs, Wyo.
J914R DALLAS, TEX., TO NEW ORLEANS, LA.		
Greater Southwest, Tex.	32 49 10/97 02 28	Greater Southwest, Tex.
Tenaha, Tex.	31 52 49/94 14 33	Shreveport, La.
Alexandria, La.	31 15 23/92 30 02	Alexandria, La.
New Orleans, La.	30 01 47/90 10 20	New Orleans, La.
J917R SAN FRANCISCO, CALIF., TO PHOENIX, ARIZ.		
Logan, Calif.	36 59 13/121 43 57	Fresno, Calif.
Easton, Calif.	36 45 17/119 49 48	Fresno, Calif.
Wild Rose, Calif.	36 19 37/116 51 41	Beatty, Nev.
Boulder City, Nev.	35 59 45/114 51 46	Needles, Calif.
Sycamore, Ariz.	34 37 25/112 55 26	Needles, Calif.
Phoenix, Ariz.	33 25 53/111 53 17	Gila Bend, Ariz.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 1, 1971.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-16324 Filed 11-10-71;8:45 am]

[Airspace Docket No. 71-WA-8]

PART 75—ESTABLISHMENT OF JET ROUTES, AND AREA HIGH ROUTES

Designation of Area High Routes

On March 12, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 4790) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 75 of the Federal Aviation Regulations that would designate area high routes in the United States.

Two of the 22 proposed routes, J935R and J939R, have been successfully flight inspected and are being designated in this rule. Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable. The remaining routes listed in Airspace Docket No. 71-WA-8 will be issued in a rule as soon as a successful flight inspection is performed.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 6, 1972, as hereinafter set forth.

In § 75.400 (36 F.R. 2370) the following area high routes are added:

Waypoint name	LOCATION N. Lat./W. Long. (In degrees, minutes and seconds)	Reference facility
J907R HOUSTON, TEX., TO LOS ANGELES, CALIF.		
Humble, Tex.	29 57 24/95 20 44	Houston, Tex.
Austin, Tex.	30 23 11/97 41 56	San Antonio, Tex.
Junction, Tex.	30 35 52/99 49 02	San Angelo, Tex.
Fort Stockton, Tex.	30 57 07/102 56 31	Wink, Tex.
Toyah, Tex.	31 31 23/104 03 00	Wink, Tex.
Organ, N. Mex.	32 14 48/106 52 20	Truth or Consequences, N. Mex.
Willcox, Ariz.	32 23 21/109 50 08	San Simon, Ariz.
Eloy, Ariz.	32 46 04/111 37 04	Phoenix, Ariz.
Kofa, Ariz.	33 20 56/113 53 17	Yuma, Ariz.
Beaumont, Calif.	34 06 40/116 44 17	Thermal, Calif.

In § 75.400 (36 F.R. 2370) the following area high routes are added:

Waypoint name	LOCATION N. Lat./W. Long. (In degrees, minutes and seconds)	Reference facility
J935R TUCSON, ARIZ. TO ALBUQUERQUE, N. MEX.		
Willcox, Ariz.	32 23 21/109 50 08	San Simon, Ariz.
Jewett, N. Mex.	33 46 00/108 18 15	St. Johns, Ariz.
Albuquerque, N. Mex.	35 02 38/106 48 57	Albuquerque, N. Mex.
J939R CHICAGO, ILL. TO SEATTLE, WASH.		
O'Hare, Ill.	41 59 16/87 54 17	Joliet, Ill.
Elberon, Iowa	42 00 53/92 15 40	Dubuque, Iowa.
Corwith, Iowa	42 58 37/93 54 48	Fort Dodge, Iowa.
Heidy, Minn.	44 07 06/96 00 04	Sioux Falls, S. Dak.
Turtle Creek, S. Dak.	44 45 05/98 39 52	Aberdeen, S. Dak.
Reva, S. Dak.	45 39 50/103 12 58	Dickinson, N. Dak.
Klein, Mont.	46 27 51/108 26 58	Billings, Mont.
Holter, Mont.	46 51 21/111 54 03	Helena, Mont.
Avery, Idaho	47 10 05/115 41 12	Mullan Pass, Idaho.
Amber, Wash.	47 17 02/117 39 24	Spokane, Wash.
Seattle, Wash.	47 26 08/122 18 30	Seattle, Wash.

(Sec. 307(a), Federal Aviation Act of 1958, U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 2, 1971.

EDWARD J. MALO,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-16325 Filed 11-10-71;8:45 am]

[Airspace Docket No. 71-WA-9A]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Area High Routes

On March 12, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 4791) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 75 of the Federal Aviation Regulations that would designate 23 area high routes as part of the overall program to establish an area navigation route structure.

Recently, two of the proposed routes were designated in a rule. Additional proposed routes J865R, J874R, J875R, and J876R have now been successfully flight inspected and are being designated in this rule. Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No adverse comments were received to the four routes.

Reference facilities were changed for three waypoints on J865R, and for one waypoint each on J874R and J875R. These changes were made to improve signal coverage on the routes. Also, small latitude/longitude changes were made to the third waypoint on J865R to

make it coincident with a waypoint presently charted. A small route alignment was made to J876R to effect better service. Both of these realignments are minor in nature.

Remaining routes in Airspace Docket No. 71–WA–9 will be issued in one or more final rules soon after flight inspection has been completed.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 6, 1972, as hereinafter set forth.

In § 75.400 (36 F.R. 2370) the following area high routes are added:

Waypoint name	N. Lat./W. Long. (in degrees, minutes, and seconds)	Reference facility
J865R (WASHINGTON, D.C., TO CHICAGO, ILL.)		
Martinsburg, W. Va.	39 23 08/77 50 55	Philipsburg, Pa.
Balsam, Ohio	40 29 20/81 04 05	Appleton, Ohio
Shiloh, Ohio	40 57 44/82 30 16	Appleton, Ohio
Plant, Ill.	41 37 29/87 15 57	Lafayette, Ind.
J874R (MEMPHIS, TENN., TO ATLANTA, GA.)		
Whitehaven, Tenn.	35 03 00/89 59 00	Greenwood, Miss.
Rockmart, Ga.	34 16 03/85 05 51	Birmingham, Ala.
J875R (ATLANTA, GA., TO MEMPHIS, TENN.)		
Bremen, Ga.	33 39 32/85 12 55	Montgomery, Ala.
Birmingham, Ala.	33 40 12/86 53 59	Montgomery, Ala.
Red Banks, Miss.	34 46 20/89 29 51	Memphis, Tenn.
J876R (ATLANTA, GA., TO SAVANNAH, GA.)		
Social Circle, Ga.	33 37 10/83 36 42	Augusta, Ga.
Springfield, Ga.	32 29 07/81 21 16	Augusta, Ga.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 1, 1971.

T. McCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-16326 Filed 11-10-71;8:45 am]

[Airspace Docket No. 71-WA-16]

PART 75—ESTABLISHMENT OF JET ROUTES, AND AREA HIGH ROUTES

Designation of Area High Routes

On May 21, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 9258) stating that the Federal Aviation Administration was considering an amendment to Part 75 of the Federal Aviation Regulations that would designate area high routes in the United States.

Two of the 11 routes, J933R and J975R, have been successfully flight inspected and are being designated in this rule. Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

Subsequent to the publication of the notice, it was determined that the eastern terminal of J975R should be located at the Acton, Tex., VORTAC to be more compatible with the Dallas, Tex., terminal procedures. Since this alteration is minor in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 6, 1972, as hereinafter set forth.

In § 75.400 (36 F.R. 2370) the following area high routes are added:

Waypoint name	N. Lat./W. Long. (in degrees, minutes and seconds)	Reference facility
J933R DALLAS, TEX., TO LOS ANGELES, CALIF.		
Greater Southwest, Tex.	32 49 10/97 02 28	Greater Southwest, Tex.
Wichita Falls, Tex.	33 59 14/98 35 35	Wichita Falls, Tex.
Texico, Tex.	34 29 42/102 50 21	Texico, Tex.
Vaughn, N. Mex.	34 37 10/105 12 02	Las Vegas, N. Mex.
Terrace, Ariz.	34 43 28/109 08 57	Gallup, N. Mex.
Manila, Ariz.	34 48 42/110 48 56	Gallup, N. Mex.
Drake, Ariz.	34 56 54/112 32 15	Prescott, Ariz.
Morrow, Calif.	34 02 51/117 14 54	Oceanside, Calif.
J975R DALLAS, TEX., TO EL PASO, TEX.		
Acton, Tex.	32 26 04/97 39 49	Waco, Tex.
Maryneal, Tex.	32 17 42/100 31 47	San Angelo, Tex.
Jal, N. Mex.	32 06 40/103 06 09	Fort Stockton, Tex.
El Paso, Tex.	31 48 57/106 16 52	El Paso, Tex.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 2, 1971.

T. McCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-16327 Filed 11-10-71;8:45 am]

[Airspace Docket No. 70-WA-43A]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Area High Routes

On February 3, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 1912) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 75 of the Federal Aviation Regulations that would designate 10 area high routes in the western United States as part of the overall program to establish an area navigation route structure.

Three of the proposed routes, J850R, J853R and J861R, have been successfully flight inspected and are being designated in this rule. Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

Subsequent to issuance of the notice, the terminal procedures in the San Francisco/Oakland area were revised. To be more compatible with the revised procedures, J850R is terminated approximately 15 miles short of the proposed offshore terminal described. The ATA suggestion that the intermediate waypoints be eliminated in J850R, for chart and navigation simplification, has been adopted in this rule. As these changes are minor in nature, and do not alter the alignment of the route nor change the operational procedures for the control of air traffic, notice and public procedure are deemed unnecessary and these changes are incorporated in this rule.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 6, 1972, as hereinafter set forth.

In § 75.400 (36 F.R. 2370) the following area high routes are added:

Waypoint Name	N. Lat./W. Long. (in degrees, minutes and seconds)	Reference Facility
J850R LOS ANGELES, CALIF. TO SAN FRANCISCO, CALIF.		
Ventura, Calif.	34 06 54/119 02 55	Bakersfield, Calif.
Piers, Calif.	36 34 28/121 55 13	Fresno, Calif.
J853R LOS ANGELES, CALIF. TO PHOENIX, ARIZ.		
Seal Beach, Calif.	33 47 05/118 06 03	Oceanside, Calif.
Kofa, Ariz.	33 30 58/113 55 17	Yuma, Ariz.
Phoenix, Ariz.	33 25 53/111 53 17	Gila Bend, Ariz.
J861R EL PASO, TEX. TO LOS ANGELES, CALIF.		
El Paso, Tex.	31 48 57/106 16 52	El Paso, Tex.
Willcox, Ariz.	32 23 21/109 50 06	San Simon, Ariz.
Elroy, Ariz.	32 46 04/111 37 04	Phoenix, Ariz.
Kofa, Ariz.	33 30 58/113 53 17	Yuma, Ariz.
Beaumont, Calif.	34 06 40/116 44 17	Thermal, Calif.

(Sec. 307(a) Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 2, 1971.

EDWARD J. MALO,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-16328 Filed 11-10-71;8:45 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 8729 o.]

PART 13—PROHIBITED TRADE PRACTICES

School Services, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections:* 13.15–70 Financing activities; 13.15–80 Government connection; § 13.85 *Government approval, action, connection or standards;* § 13.115 *Jobs and employment service.* Subpart—Misrepresenting oneself and goods—Business status, advantages or connections: § 13.1417 *Financing activities;* § 13.1425 *Government connection;* § 13.1632 *Government endorsement or recommendation;* § 13.1670 *Jobs and employment.* Subpart—Securing signatures wrongfully: § 13.2175 *Securing signatures wrongfully.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, School Services, Inc., et al., Washington, D.C., Docket No. 8729, Oct. 4, 1971]

In the Matter of School Services, Inc., a Corporation, and Cinderella Career and Finishing Schools, Inc., a Corporation, and Stephen Corp., a Corporation Trading as Cinderella Career College and Finishing School, and Vincent Melzac, Individually and as an Officer of School Services, Inc., and as Controlling Stockholder of Respondents Cinderella Career and Finishing Schools, Inc., and Stephen Corp.

Upon remand by the U.S. Court of Appeals, District of Columbia Circuit, 425 F. 2d 583, and in view of the change in the composition of the Commission, an oral reargument was ordered. The respondents, operators of a Washington, D.C., trade school and the school's franchisees, were ordered to cease misrepresenting that they extend loans to students, that the schools have any relation with the government, that the offered courses qualify students as airline stewardesses or buyers for retail stores, that respondents find jobs for students, using false inducements to obligate enrollees to pay money, and failing to furnish any franchisee with a copy of this order. The existing order against School Services, Inc., 33 F.R. 17852, is dismissed, and the motion of Vincent Melzac to dismiss complaint is denied.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Cinderella Career and Finishing Schools, Inc., a corporation, and Stephen Corp., a corporation trading as Cinderella Career College and Finishing School, or under any other name, and their officers, and Vincent Melzac, individually and as an officer or controlling stockholder of the aforesaid corporations, and said respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale, or distribution of courses of instruction or any other service or product in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that they or any of them extend loans to students when in fact only credit is extended to an enrollee through an installment contract.

2. Representing, through the use of the name School Services, Inc., Washington, D.C., or any other name or names similar thereto, or otherwise, that any of respondents are in any way connected with a governmental or nonprofit organization, or that any of respondents' schools or any course offered by any such schools have been approved by any government agency or nonprofit organization.

3. Representing, directly or by implication, that respondents or any of them offer courses of instruction which qualify students to be airline stewardesses, and misrepresenting, directly or by implication, that respondents or any of them offer courses of instruction which qualify students to be buyers for retail stores.

4. Representing, directly or by implication, that respondents or any of them find jobs for almost all of their students or graduates, or otherwise misrepresenting the availability of jobs through any job placement service, or through respondents' contacts in the business world.

5. Using any false inducements or representations to obtain enrollees for any of respondents' courses or to obtain the signature of any such enrollee on documents which obligate any such enrollee to expend or pay any money.

6. Entering into any agreement or arrangement with any franchisee or establishing any franchise unless such franchisee is furnished with a copy of the order herein and finstructed in writing that a condition of his franchise is the refraining from engaging in any of the acts prohibited by the within order.

It is further ordered, That the complaint against School Services, Inc., a corporation, be, and it hereby is, dismissed.

It is further ordered, That the allegations contained in paragraph 5, subparagraphs 3, 7, 8 and 9, and paragraph 7, subparagraph 2 of the complaint be, and they hereby are, dismissed.

It is further ordered, That respondents' request to file a supplemental brief be, and it hereby is, denied.

It is further ordered, That respondent Vincent Melzac's motion to dismiss the complaint be, and it hereby is, denied.

It is further ordered, That respondents Cinderella Career and Finishing Schools, Inc., a corporation, and Stephen Corp., a corporation trading as Cinderella Career College and Finishing School, and Vincent Melzac shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist set forth herein.

Issued: October 4, 1971.

By the Commission, Commissioner Dixon not participating.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.71-16492 Filed 11-10-71;8:50 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER A—GENERAL

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

Use of Secondhand Crates and Bags for Shipment and Storage of Food and Animal Feed

Section 3.61 (21 CFR 3.61) established in the FEDERAL REGISTER of April 11, 1968 (33 F.R. 5617), regards as adulterated within the meaning of section 402(a) of the Federal Food, Drug, and Cosmetic Act, shipments of vegetables or other edible foods in used crates or containers that may render the contents injurious to health.

Similar practices have come to the attention of the Commissioner of Food and Drugs in which bags, previously used for the shipment or storage of poisonous substances such as pesticide-treated seeds, were reused to ship or store food or animal feed. These practices have caused the contents of the reused bags to become contaminated. In one instance, contamination was extended to the milk supply because a dairy herd was given feed from bags previously used to ship pesticide-treated seeds.

The Commissioner calls attention to the applicability of the Federal Food, Drug, and Cosmetic Act to the contamination of food and animal feed by such reused containers. Accordingly, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 402(a), 701(a), 52 Stat. 1046, as amended, 1055; 21 U.S.C. 342(a), 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), § 3.61 is revised to read as follows:

§ 3.61 Use of secondhand containers for the shipment or storage of food and animal feed.

(a) Investigations by the Food and Drug Administration, the National Communicable Disease Center of the U.S. Public Health Service, the Consumer and Marketing Service of the U.S. Department of Agriculture, and by various State public health agencies have revealed practices whereby food and animal feed stored or shipped in secondhand containers have been rendered dangerous to health. Such contamination has been the result of the original use of these containers for the storage and shipment of articles containing or bearing disease organisms or poisonous or deleterious substances.

(b) The Commissioner concludes that such dangerous or potentially dangerous practices include, but are not limited to, the following:

(1) Some vegetable growers and packers employ used poultry crates for shipment of fresh vegetables, including cabbage and celery. Salmonella organisms are commonly present on dressed poultry and in excreta and fluid exudates from dressed birds. Thus wooden crates in which dressed poultry has been iced and packed are potential sources of Salmonella or other enteropathogenic microorganisms that may contaminate fresh vegetables which are frequently consumed without heat treatment.

(2) Some potato growers and producers of animal feeds use secondhand bags for shipment of these articles. Such bags may have originally been used for shipping or storing pesticide-treated seed or other articles bearing or containing poisonous substances. Thus these secondhand bags are potential sources of contamination of the food or animal feed stored or shipped therein.

(c) In a policy statement issued April 11, 1968, the Food and Drug Administration declared adulterated within the meaning of section 402(a) of the Federal Food, Drug, and Cosmetic Act shipments of vegetables or other edible food in used crates or containers that may render the contents injurious to health. This policy statement is extended so that the Food and Drug Administration will regard as adulterated within the meaning of section 402(a) of the act shipments of vegetables, other edible food, or animal feed in used crates, bags, or other containers that may render the contents injurious to health.

(Secs. 402(a), 701(a), 52 Stat. 1046 as amended, 1055; 21 U.S.C. 342(a), 371(a))

Dated: October 27, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-16491 Filed 11-10-71;8:51 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

ANTIOXIDANTS AND/OR STABILIZERS FOR POLYMERS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP OB2566) filed by Geigy Industrial Chemicals, Division of Geigy Chemical Corp., Ardsley, N.Y. 10502, and other relevant material, concludes that the food additive regulations should be amended as set forth below to provide for an additional safe use of octadecyl 3, 5-di-*tert*-butyl-4-hydroxyhydrocinnamate as an antioxidant and/or stabilizer in polystyrene and/or rubber-modified polystyrene.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 as amended; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2566(b) is amended by adding a third limitation to the subject item as follows:

§ 121.2566 Antioxidants and/or stabilizers for polymers.

(b) • • •

List of substances	Limitations
• • •	• • •
Octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate.	For use only:
	• • •
	3. At levels not exceeding 0.25 percent by weight of polystyrene and/or rubber-modified polystyrene polymers complying with § 121.2510, except that the finished basic rubber-modified polystyrene polymers in contact with fatty foods shall contain not less than 85 weight percent of total polymer units derived from styrene monomer.
• • •	• • •

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (11-11-71).

(Sec. 409(c)(1), 72 Stat. 1786 as amended; 21 U.S.C. 348(c)(1))

Dated: November 1, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-16490 Filed 11-10-71;8:51 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 18—National Aeronautics and Space Administration

PART 18-16—PROCUREMENT FORMS

Subpart 18-16.8—Miscellaneous Forms

LETTERS OF DELEGATION

The following was omitted from the Miscellaneous Amendments which appeared in the issue for Wednesday, November 10, 1971: Sections 18-16.868-1 through 18-16.868-6 are added to read as follows:

§ 18-16.868-1 Letter of Contract Administration Delegation, General (NASA Form 1430).

NASA Form 1430 shall be used for the delegation and redelegation of contract administration functions to other Government agencies and NASA installations.

§ 18-16.868-2 Letter of Contract Administration Delegation, Special Instructions (NASA Form 1430A).

NASA Form 1430A shall be used to provide special instructions to NASA Forms 1430 and 1432, when necessary. (See § 18-51.304(g).)

§ 18-16.868-3 Letter of Acceptance of Contract Administration Delegation (NASA Form 1431).

NASA Form 1431 shall accompany NASA Form 1430 for use by the recipient contract administration office in evidencing acceptance of the delegation.

§ 18-16.868-4 Letter of Contract Administration Delegation—Termination (NASA Form 1432).

NASA Form 1432 shall be used to delegate certain contract termination functions to the cognizant contract administration office when the NASA contracting officer has issued a Notice of Termination.

§ 18-16.868-5 Letter of Audit Delegation (NASA Form 1433).

NASA Form 1433 shall be used to delegate contract audit functions to other Government audit agencies. (See § 18-51.309(c).)

§ 18-16.868-6 Letter of Request for Pricing-Audit Technical Evaluation Services (NASA Form 1434).

NASA Form 1434 shall be used to request specific one-time services or information from other Government agencies when NASA Forms 1430, 1432, and 1433 are not appropriate. (See § 18-51.314.)

RICHARD J. KEEGAN,
Acting Director of Procurement, National Aeronautics and Space Administration.

[FR Doc.71-16557 Filed 11-10-71;8:53 am]

Title 24—HOUSING AND HOUSING CREDIT

Chapter VII—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Eligible Communities

Section 1914.4 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1914.4 List of eligible communities.

• • • • • • • •

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
• • •	• • •	• • •	• • •	• • •	• • •	• • •
Arkansas	Garland	Hot Springs				Nov. 12, 1971.
Delaware	Sussex	Bethany Beach				Do.
Indiana	Jefferson	Madison				Do.
Missouri	Clay and Ray	Excelsior Springs				Do.
New Hampshire.	Coos	Lancaster				Do.
New Jersey	Ocean	Lacey Township				Do.
Do.	Essex	Maplewood Township.				Do.
Do.	do.	West Orange				Do.
Do.	Passaic	Paterson				Do.
Do.	Bergen	Ridgewood				Do.
Pennsylvania	Northampton	Hellertown				Do.
Do.	Delaware	Nether Providence.				Do.
Do.	Bucks	Tinicum Township.				Do.
Do.	Montgomery	Whitemarsh Township.				Do.
Tennessee	Sevier	Pigeon Forge				Do.
Texas	Jackson	Edna	1 48 239 2120 02 through 1 48 239 2120 05	Texas Water Development Board, Post Office Box 12386, Capital Station, Austin, TX 78701. Texas Insurance Department, 1110 San Jacinto St., Austin, TX 78701.	Edna City Hall, 105 North Allen, Edna, TX 77957.	Do.
Utah	Utah	Unincorporated areas.				Do.
Wisconsin	Winnebago	Oshkosh				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969; and designation of Acting Federal Insurance Administrator effective Aug. 13, 1971, 36 F.R. 16701, Aug. 25, 1971)

Issued: November 4, 1971.

CHARLES W. WIECKING,
Acting Federal Insurance Administrator.

[FR Doc.71-16352 Filed 11-10-71;8:45 am]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
• • •	• • •	• • •	• • •	• • •	• • •	• • •
Arkansas	Garland	Hot Springs				Nov. 12, 1971.
Delaware	Sussex	Bethany Beach				Do.
Indiana	Jefferson	Madison				Do.
Missouri	Clay and Ray	Excelsior Springs				Do.
New Hampshire	Coos	Lancaster				Do.
New Jersey	Ocean	Lacy Township				Do.
Do.	Essex	Maplewood Township.				Do.
Do.	do.	West Orange				Do.
Do.	Passaic	Paterson				Do.
Do.	Bergen	Ridgewood				Do.
Pennsylvania	Northampton	Hellertown				Do.
Do.	Delaware	Nether Providence.				Do.
Do.	Bucks	Tinicum Township.				Do.
Do.	Montgomery	Whitemarsh Township.				Do.
Tennessee	Sevier	Pigeon Forge				Do.
Texas	Jackson	Edna	H 48 239 2120 02 through H 48 239 2120 05	Texas Water Development Board, Post Office Box 12386, Capital Station, Austin, TX 78701. Texas Insurance Department, 1110 San Jacinto St., Austin, TX 78701.	Edna City Hall, 105 North Allen, Edna, TX 77967.	Feb. 9, 1971.
Utah	Utah	Unincorporated areas.				Nov. 12, 1971.
Wisconsin	Winnebago	Oshkosh				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 406–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969; and designation of Acting Federal Insurance Administrator effective Aug. 13, 1971, 36 F.R. 16701, Aug. 25, 1971)

Issued: November 4, 1971.

CHARLES W. WIECKING,
Acting Federal Insurance Administrator.

[FR Doc.71–16353 Filed 11–10–71;8:45 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER J—BRIDGES

[CGFR 71–80a]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Drawbridges in the State of Oregon Where Constant Attendance Is Not Required

This amendment changes the regulations for the Oregon State Highway Division bridge at mile 24, Coquille River and establishes a new section for listing drawbridges in the State of Oregon which are not required to have drawtenders in constant attendance. This amendment was circulated as a public notice dated August 19, 1971, by the Commander, Thirteenth Coast Guard District and was published in the FEDERAL REGISTER as a notice of proposed rule making (CGFR 71–80) on August 26, 1971 (36 F.R. 16937). No objections to the proposal were received.

Accordingly, Part 117 of Title 33, Code of Federal Regulations is amended as follows:

(1) Revoke § 117.720 (c) and (d), 117.730(b), 117.745, 117.750(b)(5)(iii), 117.755(b) and 117.759.

(2) Add a new § 117.759b immediately after § 117.759a to read as follows:

§ 117.759b Drawbridges across navigable waters in Oregon where constant attendance is not required.

Drawtenders are not required to be in constant attendance at the bridges listed in this section.

(b) The owner of or agency controlling each bridge shall keep conspicuously posted on both the upstream and downstream sides of the bridge or elsewhere, in such manner that they may be readily read from an approaching vessel, a resume of the regulations of this section pertaining to each bridge, together with information as to whom notice should be given when an opening is required and directions for communicating with such persons by telephone or otherwise.

(c) Prompt openings of the draw shall be made at the time agreed upon.

(d) Test openings shall be made frequently enough to ascertain that the operating machinery of the draws is in serviceable condition.

(e) Signals:

(1) Opening signal. One long blast followed by one short blast.

(2) Acknowledging signal. One long blast followed by one short blast.

(3) When the draw cannot open immediately or is to close. Four short blasts.

(f) The bridges to which this section applies and the regulations applicable in each case are as follows:

(1) Railroad bridge across Coalbank Slough. The draw shall open on signal if at least 24 hours' notice has been given.

(2) Highway bridge across Coalbank Slough. The draw shall open on signal if at least 24 hours' notice has been given.

(3) Railroad bridge across Siuslaw River at Cushman. The draw shall open on signal if at least 24 hours' notice has been given.

(4) Highway bridge across John Day River. The draw shall open on signal if at least 12 hours' notice has been given.

(5) Burlington Northern railroad bridge at North Portland Harbor (Oregon Slough). The draw shall open on signal if at least one-half hour notice has been given.

(6) Southern Pacific railroad bridge across the Willamette River at Albany. The draw shall open on signal, if at least 6 hours' notice has been given.

(7) Benton County highway bridge across the Willamette River at Corvallis. The draw shall open on signal if at least 6 hours' notice has been given.

(8) Highway bridge across the Columbia River between Hood River, Oreg. and White Salmon, Wash. The draw shall open on signal if at least 12 hours' notice has been given.

(9) Highway bridge across the Coquille River at Coquille. The draw shall open on signal if at least 48 hours' notice has been given.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Effective date. This revision shall become effective on December 17, 1971.

Dated: November 4, 1971.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.71–16477 Filed 11–10–71;8:49 am]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5116]

[Utah 10287]

UTAH

Addition to National Forest

Correction

In F.R. Doc. 71–13687 appearing at page 18646 in the issue of Saturday, September 18, 1971, the entry under Privately Owned Lands, T. 10 S., R. 1 E., reading "Secs. 25 and 26." should read "Secs. 25 and 36."

Title 45—PUBLIC WELFARE

Chapter II—Social and Rehabilitation Service (Assistance Programs), Department of Health, Education, and Welfare

PART 249—SERVICES AND PAYMENT IN MEDICAL ASSISTANCE PROGRAMS

PART 250—ADMINISTRATION OF MEDICAL ASSISTANCE PROGRAMS

Subpart A—General Administration

REIMBURSEMENT OF INDIVIDUAL PRACTITIONERS

An interim policy setting forth regulations to implement section 1902(a)(30) of the Social Security Act with respect to reasonable charges for individual practitioner services was published in the FEDERAL REGISTER of July, 1969 (34 F.R. 11098). After consideration of views presented by interested persons, the following changes in the regulations are being made: (1) Interim policy section 1(a) has been revised to indicate that the policy applies to payments for the services of doctors of medicine, dentistry, osteopathy, and podiatry. Other individual practitioner services may be included at the option of the State (§ 250.30(b)(3)(i)(*a*)). (2) The upper limits established in the revised regulations do not apply to payments made under title XIX for deductibles or coinsurance imposed under title XVIII (§ 250.30(b)). (3) Interim policy section 1(b) concerning descriptions of payment structures, has been deleted. (4) Interim policy section 1(c) has been deleted, thus eliminating the requirement for prior approval by the Secretary of changes in a payment structure. (5) Interim policy section 1(d)(2) has been revised to eliminate the need for States to submit sensitive fee data (§ 250.30(a)(7)(ii)). (6) Interim policy section 2 has been revised so that the requirements therein allow a payment structure which equates to no more than the highest of the 75th percentile of the range of weighted customary charges in the same localities established under the title XVIII during the calendar year preceding the start of the fiscal year in which the determination is made; or the prevailing charge recognized under part B, title XVIII, for similar services in the same locality on December 31, 1970; or the prevailing charges recognized under part B, title XVIII (§ 250.30(b)(3)(i)(*a*)(2)). (7) Interim policy section 2(a)(2) has been revised to indicate specific methods for determination of the customary charge of the individual practitioner (§ 250.20(b)(3)(i)(*a*)(*1*)). (8) Interim policy sections 2(b) and 3 have been deleted. (9) Paragraph (b) has been revised to indicate the effect of the wage-price freeze announced by the President on August 15, 1971 (Executive Order 11615), and any similar future issuances. Certain other changes of an editorial and clarifying nature have been made.

In addition to the provisions concerning reasonable charges for individual practitioner services, the regulations incorporate certain provisions of the Handbook of Public Assistance Administration (Supplement D) and the requirements of 45 CFR 249.31, which is vacated.

Accordingly, the regulations are amended and codified as set forth below. Parts 249 and 250 are amended as follows:

§ 249.31 [Reserved]

1. Section 249.31 is vacated and reserved, as its content is hereby transferred to and set forth in § 250.30(a)(6).

2. Section 250.30(a) is amended by adding new subparagraphs (4), (5), (6), and (7) and § 250.30(b)(3) is revised to read as follows:

§ 250.30 Reasonable charges.

(a) *State plan requirements.* • • •

(4) Provide assurance that the State agency has access to data identifying the maximum charges allowed and that such data will be made available to the Secretary of Health, Education, and Welfare upon request.

(5) Provide that fee structures will be established which are designed to enlist participation of a sufficient number of providers of services in the program so that eligible persons can receive the medical care and services included in the plan at least to the extent these are available to the general population.

(6) Provide that participation in the program will be limited to providers of service who accept, as payment in full, the amounts paid in accordance with the fee structure, except that, with respect to payment for care furnished in skilled nursing homes, existing supplementation programs are permitted where the State has determined and advised the Secretary of Health, Education, and Welfare that its payments for skilled nursing home services furnished under the plan are less than the reasonable cost of such services permitted under Federal regulations, and the State has prior to January 1, 1971, provided the Secretary with a plan for phasing out such supplementation within a reasonable period after that date.

(7) Provide that any increase in a payment structure that applies to individual practitioner services shall be documented in State manuals or other official files by:

(i) An estimate of the percentile of the range of customary charges to which the revised payment structure equates and a description of the methods used in arriving at the estimate.

(ii) An estimate of the composite average percentage increase of the revised fee structure over its predecessor.

Criteria for meeting Federal requirements pertaining to such payment structures are set forth in paragraph (b)(3)(i)(*a*) of this section.

(b) *Upper limits.* The upper limits for payments for care and services under a medical assistance plan are as follows: The State agency may pay less than the upper limits, except that, in the case of inpatient hospital services, a State may pay less only with prior approval of the Secretary. These upper limits do not apply to payments made under the State plan for deductibles and coinsurance imposed under title XVIII of the Social Security Act. Such payments may be made up to the reasonable charge under title XVIII. The upper limits with respect to any item of medical care and services provided under the State plan shall not exceed the amounts established as the ceilings for the prices of such item pursuant to nationally-imposed economic controls or limitations on the prices of goods and services, including those imposed pursuant to Executive Order 11615 of August 15, 1971, 36 F.R. 15727, or any subsequent issuance.

• • • • • •

(3) *Other services.*—(i) *Noninstitutional services.*—(*a*) *Payments to individual practitioners.* (This applies to services of doctors of medicine, dentistry, osteopathy, and podiatry. At the option of the State, other individual practitioner services may be included.) A payment structure will meet Federal requirements if (as documented in State manuals or other official files):

(*1*) Payment to the individual practitioner is limited to the lowest of

(*i*) His actual charge for service;

(*ii*) The median of his charge for a given service derived from claims

processed or from claims for services rendered during all of the calendar year preceding the start of the fiscal year in which the determination is made; or

(iii) His reasonable charge recognized under part B, title XVIII.

(2) In no case may payment exceed the highest of

(i) Beginning July 1, 1971, the 75th percentile of the range of weighted customary charges in the same localities established under title XVIII during the calendar year preceding the fiscal year in which the determination is made;

(ii) The prevailing charge recognized under part B, title XVIII, for similar services in the same locality on December 31, 1970 and found acceptable by the Secretary; or

(iii) The prevailing reasonable charge recognized under part B, title XVIII.

(b) *Other noninstitutional services.* The upper limits for payment shall be customary charges which are reasonable. The prevailing charges in the locality for comparable services under comparable circumstances shall set the upper limits for payments. In reviewing prevailing charges for reasonableness, the State agency should consider the combined payments received by providers (for furnishing comparable services under comparable circumstances) from the carriers under part B, title XVIII of the Act and beneficiaries under such title, and the combined payments received from other third-party insuring organizations and their regular policy holders and subscribers, using whichever of these criteria or other criteria are appropriate to the specific provider service.

• • • • •

(Sec. 1102, 49 Stat. 647, 42 U.S.C. 1302)

Effective date. These amendments shall be retroactive to July 1, 1969.

Dated: October 22, 1971.

JOHN D. TWINAME,
Administrator, Social and Rehabilitation Service.

Approved: November 4, 1971.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc.71-16468 Filed 11-10-71;8:49 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 19160; FCC 71-1138]

PART 73—RADIO BROADCAST SERVICES

Second Report and Order

In the matter of amendment of § 73.202, *Table of Assignments, FM Broadcast Stations.* (Muskegon Heights, Mich.; Newport, R.I.; Pennington Gap, Va.; Heath, Ohio; Columbus, Tex.; Middlebury, Vt.; Three Rivers, Mich.; Ashdown, Ark.; Vandalia, Ill.; Lincoln, Maine; Bossier City, La.; Vevay, Ind.; Bonita Springs, Fla.; Jenkins, Ky.; Peterborough, N.H.; Santa Paula, Calif.; Crown Point, Ind.; Luverne, Minn.; Red Bank-White Oak, Tenn.; North Myrtle Beach, S.C.; Napoleon, Ohio; Central City, Pa.; Waseca, Minn.; Quebradillas, P.R.; Security, Colo.; Ord, Nebr.; and Vail, Colo.) Delphos and Georgetown, Ohio., Docket No. 19160, *RM-1618*, RM-1634, RM-1641, *RM-1642*, RM-1647, RM-1649, RM-1657, RM-1662, RM-1663, RM-1664, *RM-1668*, RM-1669, RM-1671, RM-1672, *RM-1565*, *RM-1673*, RM-1676, RM-1690, *RM-1692*, *RM-1699*, RM-1704, *RM-1705*, *RM-1707*, RM-1708, RM-1717, RM-1718, RM-1720, *RM-1721*, RM-1730, *RM-1582*.

1. The Commission has under consideration its notice of proposed rule making issued February 26, 1971 (FCC 71-191) inviting comments on a number of requests for first FM channel assignments. The first report and order, issued May 21, 1971, considered the 19 proposals about which no questions were raised in the notice. This second report and order will consider the remaining 11 proposals for assignment of channels to 10 communities. Except for Vail, Colo., there is one proposal for each of the 9 communities for a Class A channel. In the case of Vail, there are two proposals: One for a Class A channel and one for a Class C channel. Comments were received on all of the proposals, which satisfactorily answered the questions raised in the notice, and they will be considered individually. Three of the proposals considered herein would require selection of transmitter sites a few miles removed from the city reference points.[1] Assignments to these communities are made on the basis that they can and will be used at standard separations with respect to other assignments and stations. Except as noted, all population figures are from the 1970 U.S. Census (preliminary or final) reports.

2. *Muskegon Heights, Mich.* (*RM-1618*). Muskegon Heights Broadcasting Co., licensee of daytime-only AM station WKJR, seeks assignment of Channel 269A at Muskegon Heights, Michigan. Muskegon Heights, with a population of 17,304, is located in Muskegon County (156,077 population) and is part of Muskegon-Muskegon Heights SMSA. It is located south of and adjacent to Muskegon (population 44,377). There is only one AM station in Muskegon Heights. The preclusion study indicates that the assignment of the channel as requested would not have adverse impact on the six adjacent channels. The precluded area for Channel 269A itself would involve a narrow area along the east shore of Lake Michigan, where there are three populated zones in which Channel 269A could be assigned. In the Muskegon-Muskegon Heights area (96,625 population), there are two FM and four AM stations; in the Holland-Zeeland area (33,785 population), three FM and two AM stations; and Grand Haven-Spring Lake area (17,074 population), one FM and one AM station. From this information it appears that there is a greater need for additional FM assignment in the Muskegon-Muskegon Heights area, especially one which would provide a first FM channel to Muskegon Heights. Accordingly, we have concluded that the public interest would be served by making the requested assignment.

3. *Heath, Ohio* (*RM-1642*). Runnymede, Inc., requests assignment of Channel 269A at Heath, Ohio. Heath, with a population of 6,768, is located in Licking County (population 106,547). Heath is situated southwest of and adjacent to Newark, Ohio (population 42,836). There is one daytime-only AM station in Heath. Runnymede asserts that Heath is a growing community, the center of commerce in Licking County, and submits information on the characteristics of the community. The Runnymede preclusion study shows that its proposal would not have impact on the six adjacent channels. On Channel 269A, there are four communities to which this channel can be utilized. As to these communities, Newark and Lancaster, Ohio (population 42,838 and 32,911, respectively) each has an FM and a daytime-only AM station; Granville, Ohio, (population 3,963) is located in the same general area of Heath and is within four miles of Heath's assumed transmitter site, and New Lexington, Ohio (population 4,921), has no local aural broadcast facilities but Channels 224A or 292A could be assigned there. On the basis of this information it appears that there is a need for another FM station in this area. If the channel were assigned to Heath, it would foreclose its use in Newark which itself has only one FM station. Accordingly, we believe that the public interest would best be served by assigning the channel to Newark, thus also permitting its use in Heath or any other unlisted community in the vicinity.

4. *Bossier City, La.* (*RM-1668*). Joel E. Wharton proposes assignment of Channel 261A to Bossier City, La. Bossier City, with a population of 43,066, is located northeast of and adjacent to Shreveport, La., in Bossier Parish (population 64,379). Bossier City does not have any local aural broadcast facility, but there are four FM and seven AM stations in Shreveport (population 178,061). Wharton asserts that there are many factors showing that Bossier City is a separate community and is the largest community in the parish. The preclusion study shows that the proposed assignment would not have any impact on the six adjacent channels. The precluded area on Channel 261A involves five communities where a channel could be assigned, which are much smaller than Bossier City. Each of these communities has either an AM station or both AM and FM stations. It would also foreclose the otherwise possible assignment of this channel to Shreveport. As with Newark/Heath, Ohio, we believe the better approach would be to assign the channel to the central city (Shreveport) which presently has allocated four channels, an approach which would permit application for its use in Bossier City.

5. *Bonita Springs, Fla.* (*RM-1673*). Carl Richard Buckner, licensee of FM Station WCOF-FM, Immokalee, Fla., operating on Channel 240A, seeks to move his station to Bonita Springs, Fla., 23 miles west. His AM Station WCOF will remain in Immokalee. Immokalee, an unincorporated community of 3,764, is located in Collier County; Bonita Springs, with a population of 1,932 is an unincorporated community located in Lee County (102,473 population). The notice invited comments on the requested move and stated that, if no other party expressed interest in the channel at Bonita Springs, we proposed to modify the license of Station WCOF-FM. Numerous letters supporting the move of the station were received. Except for Mr. Buckner, none expressed interest in the station. Adoption of the proposal would provide a first local outlet for Bonita Springs, a result we believe to be in the public interest. Therefore, we will amend the FM Table of Assignments to reflect this change in the location, and the license of Station WCOF-FM will be modified accordingly.[2]

6. *Santa Paula, Calif.* (*RM-1692*). Jerry Lawrence requests assignment of Channel 244A at Santa Paula, Calif. Santa Paula, with a population of 17,652 is located in Ventura County (374,410 population) and is part of Oxnard-Ventura SMSA. There is a full-time Class IV AM station in Santa Paula. The preclusion study indicates that the proposed assignment at Santa Paula would not have adverse impact on the six adjacent channels, but on Channel 244A itself, there are several communities within the precluded area. However, these communities already have FM assignments, the numbers of which comport with the allocation criteria. The requested channel would be the first local FM assignment in Santa Paula and the sixth assignment to the Oxnard-Ventura area. Thus it would be in the public interest to assign Channel 244A to Santa Paula, California.

7. *Crown Point, Ind.* (*RM-1699*). John Meyer requests assignment of Channel 280A at Crown Point, Ind. Crown Point, with a population of 10,931, is the seat of Lake County, Ind. (546,253 population). The portion of Lake County in which Crown Point is located is a part of the Gary-Hammond-East Chicago SMSA but not part of the Chicago, Ill.-Northwestern Indiana Urbanized Area. Although there are a number of broadcast services available within Crown Point, it has no local aural broadcast facility. Meyer's preclusion study shows that there are no areas that would be precluded on the six adjacent channels. On Channel 280A, there is a precluded area in which a number of communities are located. However, it is noted that these communities either have an FM assignment or assignments or are located close to larger communities which have at least one assignment.

8. At the time the notice in this proceeding was issued, there was outstanding a proposal to assign Channel 296A at Lowell, Ind.[3] A question was thus raised as to the appropriateness of making two channel assignments to the same county. In response, Meyer states that both assignments should be made, that there is only one commercial FM station in the county, i.e., at Hammond, and that southern part of the county, in which Crown Point and Lowell are located, is nonurbanized and where the greatest population and industrial growth is taking place. Meyer asserts that, if a choice must be made, Crown Point would be a logical place for a Lake County station, because it is the county seat and the community is larger than Lowell. William J. Dunn, proponent for the assignment at Lowell, opposes the Crown Point proposal. He argues that, since the Crown Point station would have to be located 5 miles south from the center of the community, it would serve the same rural area as that of a Lowell station, and suggests, without specifying, an assignment of another channel that would permit selection of a site north of Crown Point where it would be closer to the industrial and urban areas, to which, he contends, Crown Point is closely related. Since no choice must be made, it is not necessary to decide this issue.

9. We are of the view that the assignment of Channel 280A at Crown Point would be in the public interest and would result in more efficient utilization of the FM channels. Because of the proximity of Crown Point to larger communities, Channel 280A remains the only channel that could be assigned there without extensive readjustment of other assignments. While this channel must be utilized about 5 miles south of Crown Point, we believe that the resulting diversity of progam service to Lowell would be in the public interest. As to communities in the precluded area on Channel 280A, we are persuaded that they they do not have as great a need for an additional channel, or because they are located near the communities which have channel assignments, they do not have an equal need for a first assignment.

10. *Red Bank-White Oak, Tenn.* (*RM-1705*). Roy Davis seeks assignment of Channel 232A at Red Bank-White Oak, Tenn.[4] Red Bank-White Oak (11,914 population) is located north of and adjacent to Chattanooga (population 113,003). It is located in Hamilton County (242,782 population) and is part of the Chattanooga urbanized area and the Chattanooga, Tennessee-Georgia SMSA (293,034 population). The preclusion study shows that there will be no areas which will be precluded on the six adjacent channels if Channel 232A were to be assigned there. On Channel 232A, the precluded area contains three communities where the channel could be assigned. Petitioner shows that two communities are much smaller than Red Bank-White Oak and each has a local aural broadcast facility, and the third community is located in the Chattanooga urbanized area. Davis contends that Channel 232A is the only channel that could be assigned to this community. Since the requested channel would provide Red Bank-White Oak with its first aural facility and the Chattanooga area with its fifth FM channel, we find that it would be in the public interest to assign Channel 232A to Red Bank-White Oak, Tenn.[5]

11. *North Myrtle Beach, S.C.* (*RM-1707*). North Myrtle Beach Broadcasting Corp. requests assignment of Channel 288A to the town of North Myrtle Beach, S.C. (population 1,671). The community is located in Horry County (population 67,804) on the Atlantic coast, approximately 15 miles northeast of Myrtle Beach, S.C. There are no local aural broadcast facilities in North Myrtle Beach. The preclusion study indicates that the proposed channel assignment would not preclude the use of the six adjacent channels. On Channel 288A, there are four communities in the precluded area, but the communities, except for Southport, N.C., are not as large as North Myrtle Beach, and there is a daytime-only AM station in two of the communities. As to Southport, it is located approximately 20 miles south of Wilmington, N.C., where there are four FM and four AM stations in operation. In view of the above, we find that the assignment of Channel 288A to North Myrtle Beach, S.C., would be in the public interest.

12. *Security, Colorado* (*RM-1721*). Edward J. Patrick proposes assignment of Channel 288A to Security, Colo. Security (9,017 population, 1960 Census) is an unincorporated community located in El Paso County (228,572 population), about 7 miles southeast of Colorado Springs (124,856 population). Petitioner contends that Security is a growing community with an estimated 1970 population of 20,000, and submits information on the characteristics of the community. The preclusion study indicates that there will be no adverse impact on the six adjacent channels. On Channel 288A, the precluded area includes a number of communities where an assignment could be made. However, these communities have FM assignments and do not appear to have the need for an additional channel. Further, the petitioner has shown that there are other channels available for assignment to these communities. On this basis we agree that it would be in the public interest to assign Channel

[1] The assignments which must be used outside the communities in question are Crown Point, Ind., 6 miles south; Heath, Ohio, 3 miles southwest; and Red Bank City, Tenn., 1 mile north.

[2] Because of the distance of the move involved it will be necessary for Buckner to request new call letters.

[3] By report and order, FCC 71-376, adopted April 8, 1971, Channel 296A was assigned to Lowell, Ind.

[4] 1970 U.S. Census lists this community as Red Bank City.

[5] Unlike the Heath/Newark and Bossier City/Shreveport situations, it does not appear that this channel would be able to provide the requisite signal to Chattanooga. For this reason we have followed a different approach in this instance.

288A to Security, Colo., the sixth assignment to the Colorado Springs area.

13. *Vail, Colo. (RM–1565 and RM–1582).* Aspen Broadcasting Co., Inc. (Aspen), and Nathaniel B. Harris (Harris) request assignment of Channel 272A and Channel 268, respectively, to Vail, Colo. The notice observed that, from the technical standpoint, either or both channels might be assigned to Vail. In response to the notice, Armstrong Broadcasting Corp., licensee of Station KOSI–FM, Denver, Colo. (Armstrong), filed comments, stating that its then pending application (BPH–7505),[4] to relocate its transmitter site to Lookout Mountain conflicted with the Harris proposal for assignment of Channel 268 at Vail, and suggesting that Channel 229 could be assigned to vail instead, if the assignments were to be changed at Craig, Colo., from Channel 229 to Channel 270 and Leadville, Colo., from Channel 228A to Channel 276A.

14. In urging the assignment of Channel 272A, Aspen contends that assignment of Class C channel to Vail would conflict with the basic assignment policy of restricting wide-coverage Class C assignments to principal cities of substantial population in metropolitan areas; that the area could not support a large high-powered FM facility, and that the allegation of "a broad economic base" appears to be more speculation than fact. Aspen opposes the Armstrong proposal, contending that it would disrupt the existing Table of Assignments and would provide a channel with marginal utility to Leadville, Colo. Harris on the other hand supports the assignment of either Channel 268 or Channel 229 as proposed by Armstrong. Harris contends that there is a need for a Class C channel to provide service not only to one of the most rapidly developing permanent resort areas in the United States but also to a large number of Colorado ski and recreational areas and to some 30 communities which would otherwise be without FM service because the mountainous terrain separates them from existing stations.

15. Although there is a dispute as to whether there is a sound economic basis upon which a Class C station would be able to operate in this area, we believe that assignment of a Class C channel would be in the public interest because it would provide for a first FM service to a wide area. Since Station KOSI–FM has been authorized to operate from Lookout Mountain, assignment of Channel 268 to Vail would not comply with section 73.207 of the rules unless a site is selected much farther removed from Vail than assumed by Harris. As proposed by Armstrong, Channel 229 could be assigned to Vail. However, Aspen raised the question of marginal utilization of the channel proposed for Leadville, Colo. Our study indicates that channel 284 could be assigned to Vail without the infirmity raised by Aspen, and it also would not require shifting of any of the existing assignments. Thus, we will assign Channel 284 to Vail, Colo., and deny the request for a Class A channel there. In making this assignment, and in order to provide the service on which it is premised, it is to be understood that any applicant must be prepared to construct and operate a station with a power of at least 75 kw, and antenna height of at least 1,000 feet above average terrain or their equivalent.

16. In view of the foregoing, and pursuant to sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, effective December 17, § 73.202(b) of the Commission's rules, the Table of FM Assignments, is amended, by the addition of the following entries:

City	Channel No.
Santa Paula, Calif.	244A.
Security, Colo.	288A.
Vail, Colo.	[1] 284.
Bonita Springs, Fla.	240A.
Immokalee, Fla.	---.
Crown Point, Ind.	280A.
Shreveport, La.	229, 233, 243, 261A, 266.
Muskegon Heights, Mich.	269A.
Newark, Ohio.	262, 269A.
North Myrtle Beach, S.C.	288A.
Red Bank City, Tenn.	232A.

[1] Any application for this channel must specify an effective radiated power of 75 kw. and antenna height of 1,000 feet above average terrain or equivalent.

17. *It is further ordered,* That, effective December 17, 1971, the license of Station WCOF–FM, Immokalee, Fla., operating on Channel 240A, is modified to specify Bonita Springs, Fla., subject to the following conditions:

(a) That the licensee of Station WCOF–FM shall submit to the Commission by December 30, 1971, the technical information called for by sections V–B and V–G of Form 301, to demonstrate compliance with all applicable technical requirements and in order to prepare a modified authorization to cover construction at the new location, and a survey made to ascertain the needs, interests and problems of Bonita Springs, Fla., as if it were an applicant for a permit to construct a new FM station in that community.

(b) That the licensee may continue to operate with its present authorization until ready to commence operation at the new location in accordance with this modification, and that upon completion of construction of its new facilities in accordance with the terms of the modified authorization, the licensee shall submit in triplicate, proof of performance measurement data necessary to demonstrate compliance with the applicable technical performance requirements of the rules, of the type normally required to be furnished in an application for FM license, at least 10 days prior to the date on which the licensee desires to begin program operations at the new location, with the proviso that program operations are not to be commenced until specifically authorized by the Commission after its evaluation and acceptance of this data.

18. *It is further ordered,* That the request (RM–1565) to assign Channel 272A to Vail, Colo., is denied.

19. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1062, 1083; 47 U.S.C. 154, 303, 307)

Adopted: November 3, 1971.

Released: November 5, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[7]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71–16512 Filed 11–10–71;8:52 am]

[4] Granted July 20, 1971.

[7] Commissioner Johnson absent.

Title 49—TRANSPORTATION

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 70–23; Notice 4]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Motor Vehicle Brake Fluids

Motor Vehicle Safety Standard No. 116, establishing requirements for motor vehicle brake fluids and containers was amended on June 24, 1971 (36 F.R. 11987). Corrections were published on August 11, 1971 (36 F.R. 14742) and August 17, 1971. (36 F.R. 15534). Pursuant to 49 CFR 553.35 (35 F.R. 5119) petitions for reconsideration of the amendment were filed by Automotive Parts and Accessories Association, Inc., Citroen S.A., General Motors Corp., R. M. Hollingshead Corp., Union Carbide Corp., and Wagner Electric Corp. Subsequently, requests for rule making were received from Gold Eagle Products, Co., and Union Carbide.

In response to information contained in several of the petitions, and to data recently available to the Administrator, the standard is being amended. The Administrator has declined to grant requested relief from other requirements of the standard.

1. *Deletion of grade DOT 4 fluid.* Wagner Electric petitioned for the deletion of grade DOT 4 fluid, and the adoption of a single minimum standard with the viscosity requirements of grade DOT 4 and the boiling point characteristics of grade DOT 3.

As the Administration noted in the June 24 amendment to Standard No. 116, "there is a need for two grades of brake fluid until an all-weather fluid is developed with viscosity and boiling point characteristics suitable for use in all braking systems." Temperatures of fluids in use in western mountain driving have reached 295° F., and the Administration deems it essential to retain the DOT 4 fluid, with its minimum wet equilibrium reflux boiling point (ERBP) of 311° F. Accordingly, Wagner's petition is denied.

2. *Deletion or modification of wet ERBP requirements.* Wagner, Union Carbide, and Hollingshead petitioned for the deletion of the wet ERBP requirements on the grounds that the test procedure is not sufficiently reproducible, and that vapor lock temperature is a more appropriate factor to use for determination of operational characteristics of a brake fluid.

The wet ERBP test is based primarily upon the SAE test for determination of the as received boiling point of brake fluid, a test that has been used by industry for years. The major problems in determining water content have been resolved. While the wet ERBP test procedure does not measure actual vapor lock temperature, which is often substantially below that of the wet boiling point, it provides a basis for measuring the service capacity of the fluid to resist vapor lock. The petitions are denied.

3. *Petroleum-based and silicone-based fluids.* Standard No. 116 as in effect until March 1, 1972, specifically excludes petroleum-based fluids from its applicability. The amendment of June 24, however, applies to "all brake fluid for use in hydraulic brake systems of motor vehicles," and effectively prohibits the manufacture of petroleum-based and silicone-based fluids whose performance characteristics differ from conventional brake fluids. Although we have asked for comments on appropriate performance requirements for nonhygroscopic fluids (Docket No. 71–13, Notice 1, 36 F.R. 12032), to be incorporated into a standard with a proposed effective date of January 1, 1973, there will be, at a minimum, a 10-month period during which manufacture of these fluids is effectively prohibited. General Motors and Citroen have asked us to reconsider this point, the latter stating that all its vehicles use a petroleum-based fluid, and that its sales in the United States will be effectively curtailed during the hiatus between the two standards.

In the absence of a demonstrable safety problem concerning the use of petroleum-based and silicone-based fluids, the petitions are deemed to have merit and Standard No. 116 is being amended to exclude these fluids from its ambit. We urge manufacturers, however, to take precautions to assure that adverse cross-contamination with hygroscopic fluids does not occur in the absence of appropriate regulations intended to eliminate this hazard.

4. *Labeling requirements.* Automotive Parts and Accessories, General Motors, Hollingshead, Union Carbide, and Wagner Electric petitioned for reconsideration of various portions of the labeling requirements. Gold Eagle also apprised us of problems with labeling requirements.

The petitioners have brought to our attention that packagers may use more than one manufacturer as a source for brake fluid packaged under a single brand name, and that under the present regulation requiring manufacturer identification on the can, packagers will either have to stock duplicate cans or purchase from one source. We initially considered manufacturer identification to be necessary in the event of brake fluid defect notification campaigns. However, it has been determined that the serial number identifying the packaged lot and date of packaging will be sufficient for the packager to identify the manufacturer of any defective fluid, and paragraph S5.2.2.2(b) is being amended to delete manufacturer identification. In response to requests for alternate location of the serial number, S5.2.2.2(d) is being amended to allow the number to be placed below the information required by S5.2.2.2(c). An alternate location has also been specified for the information required by S5.2.2.2(b) if it is in code form.

Two petitioners voiced the fear that the safety warning of paragraph S5.2.2.2 (g)(1), to follow the vehicle manufacturer's recommendations in adding brake fluid, might result in the promotion by automobile dealers of specified brand names, possibly creating an unfair trade practice. The agency views this possibility as unrelated to motor vehicle safety since presumably all brake fluid will conform to Standard No. 116. In any event, a change of wording cannot eliminate this possibility, and the petitions are denied.

Petitions were also received requesting that the safety warnings against refilling containers (S5.2.2.2(g)(4)) not apply to storage containers with a capacity in excess of 5 gallons, since containers (30 and 50 gallon sizes, tank cars, etc.) differ from retail sale size cans and are reused for shipping purposes after cleaning. These petitions are granted and S5.2.2.2 (g)(4) is being amended accordingly.

5. *Applicability to motor vehicles.* Union Carbide asked whether brake fluid in a vehicle must meet the requirements of Standard No. 116 when the vehicle is sold, pointing out that in extreme cases as long as a year may pass between its manufacture and sale. The NHTSA recognizes that original dry boiling points and viscosity of brake fluid may degrade due to the permeability of the brake system when a vehicle is exposed to the atmosphere over a period of time prior to its first sale for purposes other than resale, and that it is impracticable to require that brake fluid meet Standard No. 116 at time of sale when the "container" is a motor vehicle. Therefore, the standard is being amended so that the main portion applies only to brake fluid, with an added requirement applicable to motor vehicles, that they be equipped either with brake fluid manufactured and packaged in conformity with Standard No. 116, or with petroleum-based or silicone-based brake fluid (new paragraph S5.3).

6. *Resistance to oxidation: Preparation.* An amendment to paragraph S6.11.4 (b) specifies that the oxidation resistance test is to be conducted not later than 24 hours after the test mixture has been removed from the oven.

7. *Effect on SBR cups: Procedure and calculation.* The SAE has also proposed a reduction of the time that the cups and fluid are exposed to oven heat at 70° C. The NHTSA is amending S6.12.4 to reduce exposure time to 70±2 hours, as it has been found that virtually all rubber swell occurs at this temperature during the first 48 hours.

The SAE has also concluded that cups should be retested and remeasured when the base diameters of the tested cups differ by more than 0.10 mm. This agency has determined that averaging four values as the change in base diameter, when a spread greater than 0.10 mm. occurs, will result in a more precise determination of whether the requirements of paragraph S5.1.12(a) have been met, and is amending paragraph S6.12.5(a) appropriately.

8. *Typographical errors.* An erroneous standard barometric pressure figure of 750 mm. appeared in the subscript of Table III and is being corrected to 760 mm. SAE Standard J1703a, referred to in S7.6, is corrected to read "J1703b."

9. *Interpretations.* Several petitions evidenced confusion over whether sale of fluids manufactured prior to March 1, 1972, will be allowed after that date. Sale of such fluids is permissible on and after March 1, 1972, until supplies are exhausted, with the legal requirement that they conform at time of sale to Standard No. 116 as in effect prior to March 1, 1972.

The agency was also asked whether name of city and ZIP code is acceptable as the complete mailing address of the distributor, required by paragraph S5.2.2.2(c). A mailing address is considered complete only if it is sufficient for the delivery of mail by the U.S. Postal Service, and containers must be marked accordingly.

Several petitioners asked for a delay to July 1, 1972, of various portions of the labeling requirements of paragraph S5.2.2.2 because of the logistics involved in modifying, in one instance, as many as 90 different labels. A delay in the effective date has not been found to be in the public interest, and the petitions on this point are denied. Gummed labels meeting the requirements of S5.2.2.2, however, may be affixed to these cans until new cans are available.

Finally, several petitioners requested clarification of the container sealing terminology in paragraph S5.2.1. The "inner seal" is the cap liner. Examples of "tamper-proof features" are devices such as a metal insert in the neck of the container, a plastic over-wrap, or a twist-off aluminum cap with a breakaway portion.

In consideration of the foregoing, Motor Vehicle Safety Standard No. 116 in 49 CFR 571.21 is revised as follows:

1. Paragraph S3 is amended to read:

S3. *Application.* This standard applies to all brake fluid for use in hydraulic brake systems of motor vehicles, except for petroleum-based and silicone-based brake fluids. In addition, S5.3 applies to passenger cars, multipurpose passenger vehicles, trucks, buses, trailers, and motorcycles.

2. Paragraph S5.2.2.2(b) is amended to read:

(b) The name of the packager of the brake fluid. The information may be in code form and, if coded, shall be placed beneath the distributor's name and mailing address or on the bottom of the container.

3. Paragraph S5.2.2.2(d) is amended to read:

(d) A serial number identifying the packaged lot and date of packaging that shall be legible and stamped on the bottom of the container or beneath the information required in paragraph (c) of this section.

4. Paragraph S5.2.2.2(g)(4) is amended by adding at the end thereof: "(Not required for containers with a capacity in excess of 5 gallons)."

5. S5.3 is added to read as follows:

S5.3 *Motor vehicle requirement.* Each passenger car, multipurpose passenger vehicle, truck, bus, trailer, and motorcycle that has a hydraulic service brake system shall be equipped either with brake fluid that has been manufactured and packaged in conformity with the requirements of this standard, or with petroleum-based or silicone-based brake fluid.

6. The figure "750" appearing at the end of the first line in subscript a of Table III (paragraph S6.1.5(b)) is amended to read "760".

7. The following sentence is added at the end of paragraph S6.11.4(b): "Begin testing according to paragraph S6.11.5 not later than 24 hours after removal of tube from oven."

8. The third sentence of paragraph S6.12.4 is changed to read: "Place one jar in an oven held at 70°±2° C. (158±3.6° F.) for 70±2 hours."

9. Paragraph S6.12.5(a) is changed to read:

(a) Calculate the change in base diameter for each cup. If the two values, at each temperature, do not differ by more than 0.10 mm. (0.004 inch) average them to the nearest 0.02 mm. (0.001 inch). If the two values differ by more than 0.10 mm., repeat the test at the appropriate temperature and average the four values as the change in base diameter. 10. The reference to "SAE J1703a" in paragraph S7.6 is amended to read "SAE J1703b."

Effective date: March 1, 1972.

(Secs. 103, 112, 114, and 119, National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1392, 1401, 1403, and 1407, and delegation of authority from Secretary of Transportation to National Highway Traffic Safety Administrator, 49 CFR 1.51)

Issued on November 8, 1971.

CHARLES H. HARTMAN,
Acting Administrator.

[FR Doc.71-16521 Filed 11-10-71;8:52 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. MC-85]

PART 1062—SPECIAL REGULATIONS FOR FOR-HIRE MOTOR CARRIERS ENGAGED IN THE TRANSPORTATION FOR RECYCLING OR REUSE OF "WASTE" PRODUCTS IN FURTHERANCE OF RECOGNIZED POLLUTION CONTROL PROGRAMS

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 30th day of September 1971.

It appearing, that the Commission, on the date hereof, has made and filed its report in this proceeding setting forth its conclusions and findings and its reasons therefor, which report is hereby referred to and made a part hereof;

It further appearing, that based upon the explanation set forth in the said report, this proceeding was instituted under the authority of part II of the Interstate Commerce Act, and particularly sections 204, 206, 207, 208, and 210 thereof, and 5 U.S.C. 553 and 559 (the Administrative Procedure Act), for the purpose of determining whether the present or future public convenience and necessity require the adoption of certain procedures which would implement pollution control programs described in the said report;

It is ordered, That the petitions filed jointly by Dieckbrader Express, Inc., and Schneider Transport and Storage, Inc., and individually by the Western Railroad Traffic Association for modification of procedures, and the separate requests for oral hearing filed by the National Tank Truck Carriers, Inc., and Chemical Leaman Tank Lines, Inc., be, and they are hereby, denied for the reasons set forth in the appended report.[1]

It is further ordered, That Subchapter A of Chapter X of Title 49 of the Code of Federal Regulations be, and it is hereby, amended by adding a new Part 1062 reading as follows:

§ 1062.1 Special procedures for for-hire motor carriers engaged in transportation for recycling or reuse of "waste" products in furtherance of recognized pollution control programs.

(a) *Scope of special rules.* These special rules govern the filing and handling of applications seeking the right to operate pursuant to a special certificate of public convenience and necessity authorizing operations, in interstate or foreign commerce, by motor vehicle, over irregular routes, of "waste" products for recycling or reuse in furtherance of recognized pollution control programs, between all points in the United States (including Alaska and Hawaii), subject to certain terms, conditions, and restrictions set forth in the certificate embodied in paragraph (d) of this section.

(b) *Applications for a special certificate.* Motor carriers desiring to perform operations pursuant to the special certificate of public convenience and necessity set forth in paragraph (d) of this section must file with this Commission a sworn and notarized request (which may be in letter form) containing the following: (1) The name and address of the carrier's representative to whom inquiries may be made, (2) the designation of the carrier's statutory agent for service of process within each of the States in or through which operations are proposed to be conducted (Form BOC-3), (3) evidence of the carrier's insurance coverage (Forms BMC-90 and BMC-91) or a statement that such evidence is already on file at this Commission, (4) a copy of the carrier's tariff (in addition to the three copies filed with this Commission's Bureau of Traffic) pursuant to which the service authorized by these rules will be performed, which tariff must specify (i) the territory or points to be served, (ii) the specific commodities to be transported, and (iii) the rates to be charged (said tariff cannot be made effective for at least 30 days after the date such tariff is filed with this Commission unless special permission has been granted), (5) a statement that all State regulatory agencies in those States in or through which operations are proposed to be conducted have been notified of the carrier's application to become a party to the special certificate embodied in paragraph (d) of this section, (6) a statement describing the pollution control program or programs in which the carrier intends to participate, and (7) a statement demonstrating the applicant's fitness (including a demonstration of applicant's familiarity with the applicable safety requirements and statement of the proposed method of operation and equipment available for such service) to perform the involved service.

(c) *Waiver of certain filing requirements.* The filing of annual reports provided in section 220(a) of the Interstate Commerce Act is suspended as to the operations authorized in the special certificate set forth in paragraph (d) of this section.

(d) *Certification.* Appropriate acknowledgement letters will be issued to notify motor carriers that they have been found eligible to operate pursuant to the special certificate of public convenience and necessity which reads as follows:

SPECIAL CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

[Ex Parte No. MC-85]

DESIGNATED MOTOR CARRIERS PARTICIPATING IN THE TRANSPORTATION OF "WASTE" PRODUCTS FOR RECYCLING OR REUSE IN FURTHERANCE OF RECOGNIZED POLLUTION CONTROL PROGRAMS

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 30th day of September 1971.

After due investigation, it appearing that the described carriers have complied with all applicable provisions of the Interstate Commerce Act, and the requirements, rules, and regulations prescribed thereunder, and, having complied with all the requirements established by the Commission in its report in Ex Parte No. MC-85, are, therefore, entitled to receive authority from this Commission to engage in transportation in interstate or foreign commerce as motor carriers; and the Commission so finding:

It is ordered, That the said carriers be, and they are hereby, granted this special certificate of public convenience and necessity as evidence of the authority of the holders to engage in transportation in interstate or foreign commerce as common carriers by motor vehicle; subject, however, to such terms, conditions, and limitations as are now, or may hereafter be, attached to the exercise of the privileges herein granted to the said carriers.

It is further ordered, And is made a condition of this certificate that the holders thereof shall render reasonably continuous and adequate service to the public in pursuance of the authority herein granted, and that failure so to do shall constitute sufficient grounds for suspension, change, or revocation of this certificate as to any such holder.

And it is further ordered, That the transportation service to be performed by the said carriers in interstate or foreign commerce shall be as follows:

Between all points as indicated in appropriately filed tariffs in the transportation of "waste" products for recycling or reuse in the furtherance of recognized pollution control programs.

TERMS, CONDITIONS, AND LIMITATIONS

The authority granted herein to the extent that it duplicates any authority heretofore granted to or now held by the said participating carrier shall not be construed as conferring more than one operating right.

Any motor carrier holding a contract carrier permit authority in the transportation of commodities similar to those authorized in the above-described certificate for any of the shippers participating in pertinent pollution control programs shall not be permitted to transport the involved commodities for the same shipper as a common carrier under the authority granted herein. The right of the Commission to impose in the future such terms, conditions, or limitations as may be necessary to insure that any participating carrier's operations conform to the requirements of the Interstate Commerce Act, including section 210 thereof, is hereby expressly reserved.

To the extent that any eligible holder of this special certificate also holds a certificate of registration issued by this Commission and would become ineligible to operate pursuant to that certificate of registration because of multi-State operations authorized by this special certificate, this special certificate will authorize the continuation of the registered operations pursuant to the same terms, conditions, or limitations embraced in the certificate of registration.

The authority granted herein does not authorize the transportation of newly manufactured commodities or commodities not in the recycling process in furtherance of a recognized pollution control program.

The authority granted herein shall not hereafter be severed by sale or otherwise.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

(Secs. 204, 206, 207, 208, and 210; 49 Stat. 546, as amended, 551, as amended, 552, as amended, 554, as amended; 49 U.S.C. 304, 306, 307, 308, and 310)

It is further ordered, That this order shall become effective on December 15, 1971, and shall continue in effect until further order of the Commission.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy of this notice in the Office of the Secretary of the Commission at Washington, D.C., for public inspection and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16498 Filed 11-10-71;8:51 am]

[1] Report filed as part of the original document.

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Savannah National Wildlife Refuge, Ga.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (11-11-71).

§ 32.12 Special regulations; migratory birds; for individual wildlife refuge areas.

GEORGIA

SAVANNAH NATIONAL WILDLIFE REFUGE

Public hunting of ducks, coots, and snipe on the Savannah National Wildlife Refuge, Ga., is permitted only on the area designated by signs as open to hunting. This open area, comprising 3,600 acres, is delineated on the map which is available at the refuge headquarters, Hardeeville, S.C., and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, coots, and snipe, subject to the following conditions:

(1) Hunting will be permitted only on Thursdays, Fridays, and Saturdays, from one-half hour before sunrise to 2 p.m. during the period November 22, 1971, through January 20, 1972. Snipe hunting from December 11, 1971, through January 20, 1971.

(2) Hunting will not be permitted in or on Front, Middle, and Back Rivers, nor closer than 50 yards to the shoreline of these rivers.

(3) Hunters will not be permitted to enter the hunting area sooner than 1½ hours before sunrise.

(4) Guns must be unloaded while being carried to and from the hunting area, and shot size larger than No. 4 will not be permitted on the refuge.

(5) Only temporary blinds constructed of native materials are permitted. Hunters must build their own blinds, furnish their own boats and decoys.

(6) Dogs used to retrieve waterfowl must be under complete control at all times.

(7) Before entering the hunting area hunters are required to obtain a permit at the refuge check station located on U.S. Highway 17 at the Middle River bridge. All hunters must check out at the check station as soon as possible after completing their hunt and must present all bagged game for inspection.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 20, 1971.

C. EDWARD CARLSON,
Regional Director, Bureau of Sport Fisheries and Wildlife.

NOVEMBER 3, 1971.

[FR Doc.71-16450 Filed 11-10-71;8:47 am]

PART 33—SPORT FISHING

De Soto National Wildlife Refuge, Iowa and Nebr.

The following special regulation is effective on date of publication in the FEDERAL REGISTER (11-11-71).

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

IOWA AND NEBRASKA

DE SOTO NATIONAL WILDLIFE REFUGE

Sport fishing on the De Soto National Wildlife Refuge, Iowa and Nebr., is permitted on the lake area within the refuge. This open area, comprising 850 acres, is delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Sport fishing is subject to the following conditions:

(1) All fishermen shall conform with the regulations of the State in which they are properly licensed, either Iowa or Nebraska, subject to more restrictive regulations that may be included herein.

(2) Open season: Daylight hours January 1, 1972, through February 26, 1972, and 6 a.m. to 9 p.m., April 15, 1972, through September 15, 1972.

(3) Trot lines and float lines are not permitted.

(4) Archery fishing is not permitted.

(5) Digging or seining for bait is not permitted.

(6) No more than two lines with two hooks on each line may be used for fishing.

(7) Motor or wind driven conveyances are not permitted on the lake during the period January 1 to February 28.

(8) The use of boats, with or without motors, is permitted during the period April 15 to September 15.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through September 15, 1972.

JAMES W. SALYER,
Refuge Manager, De Soto National Wildlife Refuge, Missouri Valley, Iowa.

NOVEMBER 3, 1970.

[FR Doc.71-16451 Filed 11-10-71;8:47 am]

PART 33—SPORT FISHING

Horicon National Wildlife Refuge, Wis.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (11–11–71).

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

WISCONSIN

HORICON NATIONAL WILDLIFE REFUGE

Sport fishing on the Horicon National Wildlife Refuge, Mayville, Wis., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 15 acres, are delineated on maps available at refuge headquarters and from the Office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from January 1, 1972, through February 29, 1972, inclusive.

(2) Permit is required to take carp for sale.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33, and are effective through February 29, 1972.

ROBERT G. PERSONIUS,
Refuge Manager, Horicon National Wildlife Refuge, Mayville, Wis.

NOVEMBER 3, 1971.

[FR Doc.71-16459 Filed 11-10-71;8:47 am]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter I—Office of Emergency Preparedness

[OEP Economic Stabilization Reg. 1, Circular No. 25]

SUPPLEMENTARY GUIDANCE FOR APPLICATION

Economic Stabilization Circular No. 25

This circular is designed for general information only. The statements herein are intended solely as general guides drawn from OEP Economic Stabilization Regulation No. 1 and from specific determinations and policy statements by the Cost of Living Council and do not constitute legal rulings applicable to cases which do not conform to the situations clearly intended to be covered by such guides.

NOTE: Provisions of this and subsequent circulars are subject to clarification, revision, or revocation.

This 25th circular covers determinations and policy statements by the Council through November 10, 1971.

APPENDIX I

ECONOMIC STABILIZATION CIRCULAR NO. 25

100. *Purpose.* (1) On August 15, 1971, President Nixon issued Executive Order No. 11615, as amended, providing for stabilization of prices, rents, wages, and salaries, and establishing the Cost of Living Council, a Federal agency. The order delegated to the Council all of the powers conferred on the President by the Economic Stabilization Act of 1970, as amended. The effective date of the order was 12:01 a.m., August 16, 1971.

(2) By its Order No. 1, the Council delegated to the Director of the Office of Emergency Preparedness authority to administer the program for the stabilization of prices, rents, wages, and salaries as directed by section 1 of Executive Order No. 11615, as amended.

(3) Executive Order No. 11627 was issued on October 15, 1971, to further implement the President's stabilization program. The order superseded Executive Order No. 11615 of August 15, 1971, but provided in section 13 that all orders, regulations, circulars, or other directives issued and all other actions taken pursuant to Executive Order No. 11615, as amended, are hereby confirmed and ratified, and shall remain in full force and effect, as if issued under this order, unless and until altered, amended, or revoked by the Council or by such competent authority as the Council may specify.

(4) The purpose of this circular, the 25th in a series to be issued, is to furnish further guidance to Federal officials and the public in order to promote the program.

200. *Authority.* (1) Relevant legal authority for the program includes the following:

The Constitution.
Economic Stabilization Act of 1970, Public Law 91-379, 84 Stat. 799; Public Law 92-15, 85 Stat. 38.
Executive Order No. 11615, as amended, 36 F.R. 15127, August 17, 1971.
Cost of Living Council Order No. 1, 36 F.R. 16215, August 20, 1971.
OEP Economic Stabilization Regulation No. 1, as amended, 36 F.R. 16515, August 21, 1971.
Executive Order No. 11627, as amended, 36 F.R. 20139, October 16, 1971.

(2) Because of the need for prompt determinations, notice of proposed rule making and public procedure thereon have been found to be impracticable and contrary to the public interest.

(3) The rules and guidelines established by regulation, order, directive or circular provisions for stabilization of wages, prices, and rents will not expire automatically on November 13. Changes will occur only through explicit action by the Pay Board, the Price Commission, the Cost of Living Council, or other competent authority.

Executive Order No. 11627 of October 15, 1971, superseded Executive Order No. 11615 of August 14, 1971. The new Executive order contains no expiration date, and section 1(a) states, in part:

Pending action under this order, and except as otherwise provided in section 202 of the Economic Stabilization Act of 1970, as amended, prices, rents, wages, and salaries are stabilized effective as of August 16, 1971, at levels not greater than the highest of those pertaining to a substantial volume of actual transactions by each individual, business, firm, or other entity of any kind during the 30-day period ending August 14, 1971, for like or similar commodities or services. If no transactions occurred in that period, the ceiling will be the highest price, rent, salary, or wage in the nearest preceding 30-day period in which transactions did occur. No person shall charge, assess, or receive, directly or indirectly, in any transaction, prices or rents in any form higher than those permitted hereunder, and no person shall, directly or indirectly, pay or agree to pay, in any transaction, wages or salaries in any form, or to use any means to obtain payment of wages and salaries in any form, higher than those permitted hereunder, whether by retroactive increase or otherwise.

300. *General guidelines.* (1) The guidance provided in this circular is in the nature of additions to or clarifications of previous determinations and policy statements by the Cost of Living Council covered in previous OEP Economic Stabilization Circulars.

(2) The numbering system used in this circular corresponds to that used in OEP Economic Stabilization Circulars Nos. 101 and 102.

500. *Wage and salary guidelines.*

502. *Specific.* (1) During the freeze, increases in the amount of paid vacation given to employees after they have completed a specific length of employment (e.g., an increase in vacation from 2 to 3 weeks upon completion of 10 years' service) may be credited to employee vacation accounts and may be used.

NOTE: This subparagraph supersedes subparagraph 502(2) of OEP Economic Stabilization Circular No. 102.

504. *Fringe benefits.* (1) Employers, as part of the compensation for a particular job, may issue stock options to employees for the same number of shares as in the base period (adjusted, if necessary, for stock splits and stock dividends) and under the same terms and conditions.

NOTE: This subparagraph supersedes subparagraph 504(3) of OEP Economic Stabilization Circular No. 101.

1001. *Effective date.* (1) This circular shall continue in full force and effect unless and until altered, amended, or revoked by the Cost of Living Council or by such competent authority as the Council may specify.

Dated: November 10, 1971.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[FR Doc.71-16609 Filed 11-10-71;2:48 pm]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 989]

RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Proposed Additional Provisions for Minimum Grade and Condition Standards for Natural Condition Raisins

Notice is hereby given of a proposal to amend the minimum grade and condition standards for natural condition Thompson Seedless raisins by the addition of provisions to permit handlers, subject to prior agreement between handler and tenderer, to acquire or receive lots of such raisins containing less than 45 percent but not less than 35 percent, by weight, of B maturity, or better, raisins. Such additional provisions would continue in effect through the remainder of the current 1971–72 crop year ending August 31, 1972. The minimum grade and condition standards are established under, and this change would be made pursuant to, the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California, hereinafter referred to collectively as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "act". The proposal was recommended by the Raisin Administrative Committee, established pursuant to the order.

The minimum grade and condition standards for natural condition raisins are set forth in § 989.97 (Exhibit B) of the order, as changed by § 989.201 of the Subpart—Supplementary Orders Regulating Handling.

Section 989.201 requires, among other things, that standard natural condition Thompson Seedless raisins contain not less than 45 percent, by weight, of B maturity, or better, raisins (raisins showing development characteristic of raisins prepared from well-matured or reasonably well-matured grapes).

Pursuant to § 989.58(b) of the order, the proposal would amend the provisions of § 989.201 with respect to maturity for producer deliveries of natural condition Thompson Seedless raisins in order to permit greater flexibility in their application under the order. Under the proposal, any lot of natural condition Thompson Seedless raisins containing less than 45 percent, by weight, but not less than 35 percent, by weight, of raisins having B maturity, or better, could be considered as an acceptable lot for handler acquisition as standard raisins with a determinable weight meeting the maturity requirements for standard raisins. Subject to prior agreement between handler and tenderer, any lot of natural condition Thompson Seedless raisins failing within such limits would have the weight credited as standard raisins determined by multiplying the weight of raisins in the lot by the appropriate dockage factor. The dockage factor would reduce the creditable weight of the lot by an amount approximately equal to the weight of the immature raisins to be removed from the lot to bring the remaining portion of the lot up to the specified maturity requirement. Since this removal could occur during normal processing, producers would not incur the costs for reconditioning.

Data collected by the inspection service with respect to the maturity level of the 1971 production of natural condition Thompson Seedless raisins indicate that 15.15 percent of handler receipts of such raisins have failed to meet the minimum maturity requirement and are being held by handlers as off-grade raisins. Such receipts covered the period September 1 through October 23, 1971. In the 1968–69, 1969–70, and 1970–71 crop years, the percent of handler receipts of natural condition Thompson Seedless raisins failing to meet minimum maturity requirements were about 5.95 percent, 4.67 percent, and 4.03 percent, respectively.

Handlers customarily process natural condition Thompson Seedless raisins into packed raisins to meet widely varying market requirements and customer specifications. To meet these demands, the handler normally has available many lots of standard raisins containing different levels of maturity. Thus, by blending various lots of standard raisins, the handler is able to pack raisins to meet the needs of his market.

As stated herein, excessive immature raisins in a lot can be removed during normal processing. However, since any such lot would be off-grade raisins under current order requirements, it could not be processed simultaneously with a lot of standard raisins. The proposal would amend the maturity standards for producer deliveries of natural condition Thompson Seedless raisins to permit handlers to acquire or receive as standard raisins rather than as off-grade raisins, lots of such raisins in accordance with the maturity level as proposed to be modified herein. This would afford handlers greater flexibility in processing raisins.

Consideration will be given to any written data, views, or arguments pertaining to this proposal which are received by the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than 5 days after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice should be in quadruplicate and will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposal is as follows:

Amend § 989.201 of Subpart—Supplementary Orders Regulating Handling to read:

§ 989.201 Changes in minimum grade and condition standards for natural condition raisins.

* * * * * *

A. Thompson Seedless raisins.

* * * * * *

2. a. * * *

b. Shall contain not less than 45 percent, by weight, of B maturity, or better, raisins (raisins showing development characteristic of raisins prepared from well-matured or reasonably well-matured grapes) and not more than 12 percent, by weight, of substandard raisins (raisins that show development less than that characteristic of raisins prepared from fairly well-matured grapes): *Provided*, That, for the 1971–72 crop year ending August 31, 1972, with respect to natural condition Thompson Seedless raisins and subject to prior agreement between handler and tenderer, any lot containing less than 45 percent, but not less than 35 percent, by weight of raisins having B maturity or better, may be considered as meeting the maturity requirement for handler acquisition as standard raisins but the creditable weight of the lot as standard raisins shall be that obtained by multiplying the total weight of the lot by the appropriate dockage factor selected from the following table:

B Maturity or Better	*Dockage Factor*
44.9–44.5	.989
44.4–44.0	.978
43.9–43.5	.967
43.4–43.0	.956
42.9–42.5	.944
42.4–42.0	.933
41.9–41.5	.922
41.4–41.0	.911
40.9–40.5	.900
40.4–40.0	.889
39.9–39.5	.878
39.4–39.0	.867
38.9–38.5	.856
38.4–38.0	.844
37.9–37.5	.833
37.4–37.0	.822
36.9–36.5	.811
36.4–36.0	.800
35.9–35.5	.789
35.4–35.0	.778

* * * * * *

Dated: November 8, 1971.

ARTHUR E. BROWNE,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-16507 Filed 11-10-71;8:51 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 170]

FINANCIAL ASSISTANCE FOR CONSTRUCTION OF HIGHER EDUCATION FACILITIES

Notice of Proposed Rule Making

Notice is hereby given in accordance with 5 U.S.C. 553 to institutions of higher education and other interested parties that the U.S. Commissioner of Education, pursuant to the authority vested in him under section 306 of the Higher Education Facilities Act of 1963 (20 U.S.C. 746), proposes to amend § 170.7 of Title 45 of the Code of Federal Regulations by revising paragraph (c)(2) thereof and adding to it a new paragraph (d), so as to provide an exception to the exclusion from eligible development costs of any cost incurred under a construction contract or a contract for the purchase and installation of built-in equipment which was entered into before the date of concurrence by the Commissioner. The exception would be applicable in connection with the consideration of applications for annual interest grants submitted under Subpart E of Part 170 of Title 45 of the Code of Federal Regulations and would be authorized only under unusual circumstances where an applicant had entered into a contract for or had otherwise incurred a cost in connection with the construction of an academic facility prior to the Commissioner's concurrence in the award of such contract or the incurrence of such costs, and where the applicant can demonstrate under criteria set forth in the amended regulation that it is financially hard pressed and that the facility with respect to which an annual interest grant is requested provides significant additional enrollment capacity for disvantaged students.

Interested persons are invited to submit written comments regarding the proposed amendment to the Division of Academic Facilities, Bureau of Higher Education, U.S. Office of Education, Washington, D.C. 20202, within 30 days after the date of publication of this notice in the FEDERAL REGISTER. Comments received will be available for public inspection in the Office of the Director of the Division of Academic Facilities, Room 3682, Regional Office Building No. 3, Seventh and D Streets SW., Washington, DC, between the hours of 8 a.m. and 4:30 p.m.

In its revised form, § 170.7 would read as follows:

§ 170.7 Determination of costs eligible for Federal participation.

* * * * *

(c) For a project for which an application is filed for the first time (under any title of the Act) on or after July 1, 1966, the following shall be excluded from the eligible development cost:

* * * * *

(2) Except as provided for in paragraph (d) of this section, any cost incurred under a construction contract or a contract for the purchase and installation of built-in equipment which was entered into before the date or concurrence by the Commissioner in the award of such contract. While such concurrence normally will be given only after a grant or loan for a project has been approved, circumstances occasionally may warrant the beginning of construction in advance of grant or loan approval in order to meet scheduled needs for expansion of enrollment capacity. In any such case, where an application for a project has been filed and the applicant can justify the necessity of beginning construction in advance of the award of the grant or approval of the loan, the Commissioner may, after an appropriate review of the bidding documents, authorize bidding and concur in the award of the contract. However, such concurrence shall in no way provide any advantage for the project in priority determinations by a State commission under Title I and shall in no way commit the Commissioner subsequently to approve a grant or loan under any title for any such application.

(d) With respect to applications for annual interest grants submitted under Subpart E, where the construction contract or contract for the purchase or installation of built-in equipment was entered into on or before July 1, 1966, an exception to the general rule set forth in paragraph (c)(2) of this section may be made by the Commissioner in unusual cases where he finds that the applicant is financially hard pressed and has secured only short-term (not in excess of 5 years) financing of the academic facilities with respect to which the annual interest grant is requested, which short-term financing must be replaced in order to reduce the financial hardships, and where such academic facilities provide significant additional enrollment capacity for disadvantaged students. In making the foregoing findings the Commissioner will take into account:

(1) The number of disadvantaged students enrolled by the college and the percentage of the total enrollment represented by that number.

(2) The number of low-income families residing in the area served by the college and the average family income in that area,

(3) The immediacy of the college's need to obtain new financing, the availability of financing from other sources, and the effect of the burden of the present and proposed new financing on the college's ability to continue serving disadvantaged students,

(4) The number of disadvantaged students who benefit from the facilities for which the college is seeking financing, and

(5) The extent of programs offered by the college to assist disadvantaged students in taking maximum advantage of their education opportunity.

In no event will an exception be made by the Commissioner pursuant to this paragraph unless the applicant produces evidence that the provisions of §§ 170.2, 170.3, and 170.4 have been met and has satisfied the Commissioner that the reasons for the applicant not having secured the Commissioner's advance concurrence as provided for in § 170.7(c)(2) were not due to any unwillingness on the part of the applicant to meet such conditions.

Dated: September 16, 1971.

PETER P. MUIRHEAD,
Acting U.S. Commissioner of Education.

Approved: November 4, 1971.

ELLIOT L. RICHARDSON,
Secretary of Health, Education and Welfare.

[FR Doc.71-16467 Filed 11-10-71;8:48 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 71-SO-133]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Hopkinsville, Ky., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Hopkinsville transition area described in § 71.181 (36 F.R. 2140 and 12843) would be amended as follows:

"* * * long. 87°24'52" W.) * * *" would be deleted and "* * * long. 87°24'52" W.); within a 6.5-mile radius of Hopkinsville-Christian County Airport (lat. 36°51'25" N., long. 87°27'25" W.); within 3 miles each side of the 061° bearing from Christian RBN (lat. 36°52'07" N., long. 87°22'18" W.), extending from the 6.5-mile-radius area to 8.5 miles east of the RBN * * *" would be substituted therefor.

The proposed alteration is required to provide controlled airspace protection for IFR operations at Hopkinsville-Christian County Airport. A prescribed instrument approach procedure to this airport, utilizing the Christian (private) Nondirectional Radio Beacon, is proposed in conjunction with the alteration of this transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on November 1, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71-16435 Filed 11-10-71;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 71-NW-17]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Pasco, Wash., Transition Area.

Interested parties may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Operations, Procedures and Airspace Branch, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Wash. 98108. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash., 98108.

The proposed change in transition area would provide additional controlled airspace for radar vectoring of en route traffic to/from Pasco, Wash.

In consideration of the foregoing, the FAA proposes the following airspace action:

In § 71.181 (36 F.R. 15113) the description of the Pasco, Wash. transiiton area is amended as follows:

Add: "* * * that airspace extending upward from 1,200 feet above the surface, southwest of Pasco, Wash., bounded on the north by the south edge of V-298, on the east by the west edge of V-112W and on the southwest by the northeast edge of V-4."

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued at Seattle, Wash., on November 2, 1971.

C. B. WALK, Jr.,
Director, Northwest Region.

[FR Doc.71-16436 Filed 11-10-71;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 225]

[Docket No. 23967; EDR-217]

AIRLINE TRADE AGREEMENTS

Proposed Extension of Time for Comments

NOVEMBER 5, 1971.

Notice is hereby given that the Civil Aeronautics Board has under consideration an amendment to Part 225 of its economic regulations which would extend the part for an additional 2 years. The amendment is discussed in the attached explanatory statement.

The amendment is proposed under authority of sections 204(a), 403, 404, and 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758 (as amended by 74 Stat. 445), 760 and 771; 49 U.S.C. 1324, 1373, 1374, and 1386.

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material in communications received on or before November 29, 1971, will be considered by the Board before taking final action upon the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

EXPLANATORY STATEMENT

Section 403(a) of the Act requires that rates, fares and charges shown in any tariff be stated in terms of lawful money. This provision, together with the requirement of adherence to tariffs in section 403(b), prohibits air carriers from bartering air transportation for goods or services. However, acting under its exemption powers, the Board has, in Part 225 of the economic regulations, authorized local service and certain other categories of carriers to exchange transportation for advertising goods or services up to maximum specified amounts for each category. This authority is now scheduled to expire on December 18, 1971.

In December of 1969, when the Board extended the effectiveness of the trade agreement provisions of Part 225 to the present expiration date, the Board determined to postpone a review of Part 225 in light of the deteriorating financial condition of the local carriers and attendant subsidy requirements.[1] We then stated that an extension for 2 years would allow the carriers to plan effective long-range advertising programs without unduly postponing the time for Board consideration of the need for trade agreements in the light of changing conditions in the industry.

It now appears that the considerations which underlay our action in ER-603 continue to prevail, and we are thus of the tentative view that a further extension of Part 225 for 2 years without modification is warranted at this time.

It is proposed to amend Part 225 of the economic regulations (14 CFR Part 225), as follows:

1. Amend paragraph (a) of § 225.2 to read as follows:

§ 225.2 Filing of notice of trade agreements and cancellation of such agreement.

(a) *Notice of trade agreement.* Any airline may at any time prior to December 18, 1973, file with the Board a notice of its intention to furnish air transportation in exchange for services or goods for advertising purposes. Every such notice shall be accompanied by an executed counterpart of a written agreement, containing all the terms of the agreement between the parties thereto, duly entered into by such air carrier with the supplier, and by an affidavit by the chief financial officer or other responsible officer of the airline having knowledge of the transaction in the form required by § 225.4. Every such notice shall be filed at least 14 days prior to the effective date specified in the trade agreement. Within the meaning of this part, air transportation shall be deemed to be furnished when the passenger is actually enplaned.

* * * * * *

2. Amend paragraph (a) of § 225.5 to read as follows:

§ 225.5 Provisions of agreement.

Each trade agreement entered into by an airline hereunder shall provide:

(a) That it shall become effective on a specified day, on or before January 1, 1974;

* * * * * *

[FR Doc.71-16502 Filed 11-10-71;8:53 am]

[1] ER-603, Dec. 30, 1969, p. 3.

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19316]

FM BROADCAST STATIONS

Table of Assignments; Wisconsin Dells, Wis., etc.; Extension of Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.202, *Table of Assignments, FM Broadcast Stations.* (Wisconsin Dells, Wis.; Ocean City, Md.; Fulton, Ky.; Cabo Rojo, P.R.; Lobelville, Tenn.; Jacksonville, Fla.; and Steamboat Springs, Colo.), Docket No. 19316, RM–1716, RM–1719, RM–1726, RM–1732, RM–1738, RM–1745, RM–1749.

1. This proceeding was begun by notice of proposed rule making (FCC 71–955) adopted September 8, 1971, released September 13, 1971, and published in the FEDERAL REGISTER September 18, 1971, 36 F.R. 18661. The dates presently designated for filing comments and reply comments are November 1, 1971 and November 12, 1971, respectively.

2. On October 28, 1971, Mel-Lin, Inc., filed a request to extend the time for filing comments to and including November 9, 1971. It states that it has been advised by its consulting engineer that the engineering statement now under preparation cannot be completed to permit filing prior to the deadline date.

3. It appears that the additional time is warranted and would serve the public interest. *Accordingly, it is ordered,* That the request of Mel-Lin, Inc., is granted to and including November 9, 1971, for the filing of comments and November 19, 1971 for the filing of reply comments in Docket No. 19316, RM–1745 only.

4. This action is taken pursuant to authority found in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules and regulations.

Adopted November 2, 1971.

Released November 3, 1971.

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.71-16514 Filed 11-10-71;8:52 am]

[47 CFR Part 73]

[Docket No. 19347; FCC 71–1137]

TIME OF OPERATION OF FM STATIONS

Notice of Proposed Rule Making

In the matter of § 73.261 of the Commission's rules and regulations, time of operation of FM stations; Docket No. 19347.

1. The Commission here gives notice of proposed rule making concerning § 73.261 of the Commission's rules and regulations, which deals with the time of operation of FM broadcast stations. We are particularly concerned with the minimum number of hours of operation, which paragraph (a) presently provides as "36 hours per week during the hours 6 a.m. to midnight, consisting of not less than 5 hours in any one day, except Sunday."

2. This portion of § 73.261 was first adopted effective January 3, 1956, by amendment to then § 3.261. An earlier provision required at least 6 hours daily—3 hours between 6 a.m. and 6 p.m. local time and 3 hours between 6 p.m. and midnight local time.[1] Despite the fact that FM has become economically more viable, we find that a number of stations are operating at or near the minimum permitted under the rule. When there are needs for more aural service in many places, this appears hardly consistent with the public interest.[2]

3. In the circumstances, we believe that a minimum hours requirement for FM more consistent with the public interest, convenience, and necessity should be adopted. To the extent that FM and unlimited AM are alike, it would appear that the same standard should apply in both instances, and we propose to amend § 73.261(a) along the lines of § 73.71(a), as set forth below.

4. In particular, it is our intention to have an FM station provide a proportionate part of its service in the 6 p.m. to midnight (local time) part of the broadcast day. In this connection, we consider both the general limited coverage of full-time AM stations at night and the fact that many FM stations in smaller markets are affiliated with daytime-only AM stations.

5. Authority for such action is set forth in sections 4 (i) and (j) and 303 (g) and (r) of the Communications Act of 1934, as amended.

6. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested parties may file comments on or before December 17, 1971, and reply comments on or before December 28, 1971. All revelant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision as to this rule of general applicability which is proposed herein, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

7. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission. Copies of these documents will be available for public inspection during regular business hours in the Commission's Broadcast and Docket Reference Room at its Headquarters in Washington, D.C.

Adopted: November 3, 1971.

Released: November 5, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[3]
BEN F. WAPLE,
Secretary.

Section 73.261(a) is amended to read as follows:

§ 73.261 Time of operation.

(a) All FM broadcast stations will be licensed for unlimited time operation. All FM stations are required to maintain an operating schedule of not less than 8 hours between 6 a.m. and 6 p.m., local time, and not less than 4 hours between 6 p.m. and midnight, local time, each day of the week except Sunday.

* * * * *

[FR Doc.71-16515 Filed 11-10-71;8:52 am]

[47 CFR Parts 81, 83]

[Docket No. 19343; FCC 71–1133]

VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE ACT

Notice of Proposed Rule Making

In the matter of amendment of Parts 81 and 83 of the Commission's rules to implement the provisions of the Vessel Bridge-to-Bridge Radiotelephone Act (Public Law 92–63), Docket No. 19343.

1. The "Vessel Bridge-to-Bridge Radiotelephone Act" (Public Law 92–63) was approved August 4, 1971. The purpose of this Act is "to provide a positive means whereby the operators of approaching vessels can communicate their intentions to one another through voice radio, located convenient to the operator's navigation station. To effectively accomplish this, there is a need for a specific frequency or frequencies dedicated to the exchange of navigational information, on navigable waters of the United States."

2. The responsibility for implementing the provisions of this Act rests with the U.S. Coast Guard and the Federal Communications Commission. This Commission's area of responsibility is delineated in section 8 of the Act. Under this section the Commission is charged with the responsibility of prescribing "regulations necessary to specify operating and technical conditions and characteristics including frequencies, emission, and power" of the required radiotelephone equipment. The standards finally adopted by this Commission will be applicable to all U.S. vessels (Government and non-Government) subject to the Act as well as foreign vessels operating in waters of the United States subject to the Act.

3. Set forth below is our proposal for carrying out the statutory responsibility

[1] From June 1940, when the FM minimum time requirement was first added, until 1949, one of the three hours in each segment had to be nonduplicated programming.

[2] We have stated before that FM and AM are parts of a single broadcast service. See, e.g., Notice of Proposed Rule Making, etc. in Docket No. 18651, adopted September 4, 1969 (FCC 69–960; 34 F.R. 14386); see also Notice of Proposed Rule Making in Docket No. 15084, adopted May 15, 1963, paragraphs 15–17, 25 R.R. 1615, 1622, 1623 (1969); and Cherokee Broadcasting Co., 17 FCC 2d 121 (1969), reversed on other grounds, 18 FCC 2d 466 (1969).

[3] Commissioner Johnson absent.

placed on this Commission by the Vessel Bridge-to-Bridge Radiotelephone Act. Specific and detailed technical specifications for the transmitter and receiver are included. Under the proposal the station must be operated by a person holding at least a restricted radiotelephone operator permit. Portable equipment may be used; however, if portable equipment is used to fulfill the Bridge-to-Bridge requirements then it must be continuously associated with the vessel except in the case of foreign vessels subject to the Act. To allow otherwise, would make in effective our inspection program.

4. The proposed amendments to the rules, as set forth below, are issued pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and section 8(a) of the Vessel Bridge-to-Bridge Radiotelephone Act.

5. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before December 17, 1971, and reply comments on or before December 28, 1971. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

6. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all statements, briefs, or comments filed shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Broadcast and Docket Reference Room at its Headquarters in Washington, D.C.

Adopted: November 3, 1971.

Released: November 8, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES

1. In § 81.3, new paragraph (s) is added to read as follows:

§ 81.3 Maritime Mobile Service.

* * * * *

(s) Port Operations Service. A maritime mobile service in or near a port, or in locks or waterways, between coast stations and ship stations or between ship stations, in which messages are restricted to those relating to the operational handling, the movement and the safety of ships and, in emergency, to the safety of persons. Messages which are of a public correspondence nature shall be excluded.

2. In § 81.356, paragraph (b)(10) is is amended to read as follows:

[1] Commissioner Johnson absent.

§ 81.356 Assignable frequencies in the band 156–162 Mc/s.

* * * * *

(b) * * *

(10) Primarily, ship to ship. On a secondary basis, available for coast to ship. Use of this frequency is limited exclusively to navigational communications.

* * * * *

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. In § 83.1, paragraph (a) is amended to read as follows:

§ 83.1 Basis and purpose.

(a) The basis for the rules following in this part is the Communications Act of 1934, as amended, the Vessel Bridge-to-Bridge Radiotelephone Act, and applicable treaties and agreements to which the United States is a party.

* * * * *

2. In § 83.2, paragraph (o), new subparagraphs (5) and (6) are added to read as follows:

§ 83.2 General.

* * * * *

(o) * * *

(5) Power-driven vessel. Any vessel propelled by machinery.

(6) Towing vessel. Any commercial vessel engaged in towing another vessel astern, alongside or by pushing ahead.

* * * * *

3. In § 83.3, paragraphs (c), (d), (e), (f), (g), (h), (i), and (j) are redesignated (d), (e), (f), (g), (h), (i), (j), and (k), respectively, and new paragraphs (c), (l), and (m) are added to read as follows:

§ 83.3 Maritime Mobile Service.

* * * * *

(c) *Port Operations Service.* A maritime mobile service in or near a port, or in locks or waterways, between coast stations and ship stations or between ship stations, in which messages are restricted to those relating to the operational handling, the movement and the safety of ships and, in emergency, to the safety of persons. Messages which are of a public correspondence nature shall be excluded.

(d) *Mobile station.* A station in the mobile service intended to be used while in motion or during halts at unspecified points.

(e) *Ship station.* A mobile station in the maritime mobile service located on board a vessel, other than a survival craft, which is not permanently moored.

(f) *Public ship station.* (1) A ship station open to public correspondence.

(2) Public ship stations authorized for public correspondence are further classified according to their hours of service as designated in this section:

(i) *First category.* These stations carry on a continuous service for public correspondence.

(ii) *Second category.* These stations maintain a service of 16 hours per day for public correspondence as designated in Appendix 12, Radio Regulations, Geneva, 1968 or, in cases of voyages of short duration, as otherwise designated by the Commission in accordance with those regulations.

(iii) *Third category.* These stations maintain a service of eight hours per day for public correspondence as designated in Appendix 12, Radio Regulations, Geneva, 1968 or, in cases of voyages of short duration, as otherwise designated by the Commission in accordance with those regulations.

(iv) *Fourth category.* These stations maintain a service of public correspondence, the duration of which is prescribed but is less than that of stations of the third category, or is not prescribed but is determined by the master of the vessel pursuant to his authority under section 360 of the Communications Act.

(g) *Limited ship station.* A ship station not open to public correspondence.

(h) *Marine-utility ship station.* A ship station, readily portable for use as a limited ship station on mobile vessels within a designated local area.

(i) *Marine-utility coast station.* A coast station, readily portable for use as a limited coast station at unspecified points ashore within a designated local area.

(j) *Marine-utility station.* A coast or ship station in the maritime mobile service having a frequency assignment which is available for both marine-utility coast stations and marine-utility ship stations, and licensed under one station authorization to operate as either a marine-utility coast station or a marine-utility ship station according to its location, pursuant to the provisions of paragraphs (h) and (i) of this section, at the time it is being operated.

(k) *Survival craft station.* A mobile station in the maritime or aeronautical mobile service intended solely for survival purposes and located on any lifeboat, liferaft or other survival equipment.

(l) *Coast station.* A land station in the maritime mobile service.

(m) *Bridge-to-bridge station.* A ship station operating in the Port Operations Service in which messages are restricted to navigational communications and which is capable of operation from the ship's navigational bridge or, in the case of a dredge, from its main control station operating on frequency or frequencies in the 156–162 MHz band.

§ 83.6 [Amended]

4. In § 83.6, paragraph (h) is deleted and designated [Reserved].

5. In § 83.46, a new paragraph (e) is added to read as follows:

§ 83.46 Application for inspection and certification.

* * * * *

(e) The FCC Forms specified in paragraphs (b), (c), and (d) of this section shall be used to apply for inspections of bridge-to-bridge radio stations on board vessels which are also subject to the provisions of the Vessel Bridge-to-Bridge Radiotelephone Act.

6. In § 83.49, a new paragraph (d) is added to read as follows:

§ 83.49 Application for exemption.

• • • • •

(d) This Commission does not have statutory authority to issue exemptions from the provisions of the Vessel Bridge-to-Bridge Radiotelephone Act. Applications for exemption from the provisions of the Vessel Bridge-to-Bridge Radiotelephone Act should be forwarded directly to the Commandant, U.S. Coast Guard, Washington, D.C. 20591, for action.

7. In § 83.115, paragraph (c) is amended and a new paragraph (e) is added, to read as follows:

§ 83.115 Retention of radio station logs.

• • • • •

(c) Ship station logs shall be fully completed at the end of each voyage and before the operator(s) (or other person(s) resporisible under the applicable provisions of this part) leave the ship. Unless otherwise authorized by the applicable provisions of this part, the radio log currently in use shall be kept by the licensed operator(s) of the station and during use shall be located at the principal radio operating room of the vessel. At the conclusion of each ocean voyage terminating at a port of the United States (includes Puerto Rico, and Virgin Islands), the original radio log (or a duplicate thereof) dating from the last departure of the vessel from a U.S. port shall be retained under proper custody on board the vessel for a sufficient period of time (not more than 24 hours) to be available for inspection by duly authorized representatives of the Commission. After retention on board the vessel as herein stipulated, the original log (and the duplicate log if provided) may be filed at an established shore office of the station licensee, and shall be retained as stipulated by paragraph (a) of this section.

• • • • •

(e) The log of the bridge-to-bridge station shall be retained at the principal operating position of the bridge-to-bridge station on board the vessel for a period of not less than 1 month from the date of entry. After the 30-day period the log may be removed from the bridge-to-bridge station and be filed at a place where it will be readily available to an authorized representative of the Commission upon request, and shall be retained as stipulated by paragraph (a) of this section.

8. A new § 83.158 is added to read as follows:

§ 83.158 Qualified operator required for ships subject to Radiotelephone Act.

Each ship of the United States which in accordance with the provisions of the Vessel Bridge-to-Bridge Radiotelephone Act is equipped with a radiotelephone installation, shall have a qualified operator at all times in attendance at the principal operating position of the required bridge-to-bridge station while the watch is required. Such operator shall, as a minimum, hold a restricted radiotelephone operator permit or higher class of operator authorization.

9. A new § 83.207 is added to read as follows:

§ 83.207 Watch required by the Vessel Bridge-to-Bridge Radiotelephone Act.

All vessels, dredges, and floating plants subject to the Vessel Bridge-to-Bridge Radiotelephone Act shall, while being navigated upon the navigable waters of the United States, inside the lines established pursuant to section 2 of the Act of February 19, 1895 (28 Stat. 672), as amended, keep a continuous and efficient watch on the designated navigational frequency. Such watch shall be maintained by the master or person in charge of the vessel or the person designated by the master or person in charge to pilot or direct the movement of the vessel. The person standing watch may perform other duties provided such other duties do not interfere with the effectiveness of the watch.

10. A new § 83.251 is added to read as follows:

§ 83.251 Bridge-to-bridge communication procedure.

(a) Vessels, dredges, and floating plants subject to the Vessel Bridge-to-Bridge Radiotelephone Act transmitting on the designated navigational frequency shall initiate all communications on this frequency with one of the following two messages:

(1) Security, Security, Security. This is the (name of vessel). My position is (give readily identifiable position and, if useful, course and speed) about to (describe contemplated action).

(2) Calling the vessel ------ miles (yards) on a true bearing of ------. This is the (name of vessel) located at (position of vessel) planning to ------.

(b) Vessels acknowledging receipt shall answer "(Name of vessel calling). This is (Name of vessel answering). Received your call" and follow with an indication of their intentions. Communications shall terminate when each ship is satisfied that the other no longer poses a threat to its safety.

(c) Use of power greater than 1 watt in a bridge-to-bridge station shall be limited to the following three situations:

(1) Emergency.

(2) Failure of the vessel being called to respond to a second call at low power.

(3) A broadcast call as in paragraph (a)(1) of this section in a blind situation, e.g., rounding a bend in a river.

10. In § 83.351, paragraph (b)(59) is amended to read as follows:

§ 83.351 Frequencies available.

• • • • •

(b) • • •

(59) Primarily, ship to ship. On a secondary basis, available for ship to coast. Use of this frequency is limited exclusively to navigational communications.

• • • • •

11. In § 83.368, paragraphs (e) and (f) are redesignated (f) and (g) and a new paragraph (e) is added to read as follows:

§ 83.368 Radiotelephone station log.

• • • • •

(e) The log of the bridge-to-bridge station required by the Vessel Bridge-to-Bridge Radiotelephone Act shall include the following entries:

(1) All radiotelephone distress and alarm signals and communications transmitted, the text in as complete form as possible of distress messages and distress communications, and any information connected with the radio service which may appear to be of importance to maritime safety, together with the time of such observation or occurrence, the frequencies used, and the position of the ship or other mobile unit in need of assistance if this can be determined.

(2) The times when the required watch is begun, interrupted, and ended. When the required watch is interrupted for any reason the reason for such interruption shall be stated.

(3) A daily statement concerning the operating condition of the required radiotelephone equipment, as determined by either normal communication or test communication. Where the equipment is found not to comply with the applicable provisions of this part, the log shall contain a statement as to the time the condition was discovered and the time it was brought to the master's attention.

(4) Pertinent details of all installation, service, or maintenance work performed which may affect the proper operation of the station. The entry shall be made, signed, and dated by the responsible licensed operator who supervised or performed the work, and unless such operator is employed on a full-time basis and his operator license is properly posted at a station on board the ship, such entry shall include his mail address and the class, serial number, and expiration date of his operator license.

(f) The log of ship radiotelephone stations not required by law to be provided shall include the following entries:

(1) The entries specified by subparagraph (1) of paragraph (d) of this section;

(2) The entries specified by subparagraphs (2) and (10) of paragraph (b) of this section.

(g) The log of marine utility stations on board ships shall include the entry specified by subparagraph (10 of paragraph (b) of this section.

12. A new Subpart X is added to read as follows:

Subpart X—Radiotelephone Stations Provided for Compliance With the Vessel Bridge-to-Bridge Radiotelephone Act

§ 83.701 Applicability.

The vessel Bride-to-Bridge Radio telephone Act and the regulations of this part made pursuant thereto, apply to:

(a) Every power-driven vessel of 300 gross tons and upward while navigating;

(b) Every vessel of 100 gross tons and upward carrying one or more passengers for hire while navigating;

(c) Every towing vessel of 26 feet or over in length, measured from end to end over the deck excluding sheer, while navigating; and

(d) Every dredge and floating plant engaged, in or near a channel or fairway, in operations likely to restrict or affect navigation of other vessels.

§ 83.703 Bridge-to-bridge station.

Vessels subject to the Vessel Bridge-to-Bridge Radiotelephone Act shall be provided with a bridge-to-bridge station comprising a bridge-to-bridge radiotelephone installation and such accessories as may be needed to enable the vessel to participate fully, efficiently, and readily in navigational communications. This required radiotelephone installation shall be associated continuously with the ship even though a portable installation is used: *Provided, however,* Foreign vessels coming in U.S. waters where a bridge-to-bridge station is required may fulfill this requirement by use of portable equipment brought on board by the pilot.

§ 83.705 Inspection of bridge-to-bridge station.

The required bridge-to-bridge radiotelephone station will be inspected on vessels subject to regular inspections pursuant to the requirements of title III, parts II and III of the Communications Act, the Safety Convention or the Great Lakes Agreement at the time of the regular inspection. If after such inspection the Commission determines that all relevant provisions of the Bridge-to-Bridge Radiotelephone Act, the rules of the Commission made pursuant thereto and the station license are compiled with, an endorsement will be made on the appropriate document. The validity of the endorsement will run concurrently for the period of the regular inspection. Each vessel so inspected shall carry a certificate with a valid endorsement while subject to the Bridge-to-Bridge Act. All other required bridge-to-bridge stations will be inspected from time to time.

§ 83.709 Bridge-to-bridge radiotelephone installation.

(a) The bridge-to-bridge radiotelephone installation required by § 83.703 shall include a transmitter, receiver, antenna, and source of energy.

(b) Use of the bridge-to-bridge transmitter on the navigational frequency shall be restricted to the master or person in charge of the vessel, or the person designated by the master or person in charge to pilot or direct the movement of the vessel. Communications shall be of a navigational nature exclusively.

(c) Nonportable equipment, when used, shall be arranged to facilitate repair. Adequate protection shall be provided for all equipment against the effects of vibration, moisture, and temperature, as well as such excessive currents and voltages as might cause damage to the components thereof.

§ 83.711 Principal operating position.

The principal operating position of the vessel's bridge-to-bridge station shall be the vessel's navigational bridge or, in the case of dredges, its main control station. If the radiotelephone installation can be operated from any location other than the principal operating position, a direct and positive means shall be provided at the principal operating position to take immediate and full control of the installation at all times

§ 83.713 Bridge-to-bridge transmitter.

(a) The transmitter referred to in § 83.709 shall be capable of effective transmission of F3 emission on the navigational frequency specified in § 83.351(a)(5).

(b) Each nonportable transmitter shall have a carrier power of at least 8 watts. Each portable transmitter shall have a carrier power of at least 0.75 watt. Each nonportable transmitter, and each portable transmitter having more than 1-watt carrier power, shall have provision for readily reducing the carrier power to a value not less than 0.75 watt and not more than 1 watt. The maximum power of all transmitters shall be not more than 25 watts.

(c) The transmitter shall be adjusted so that the transmission of speech normally produces peak modulation within the limits 75 percent and 100 percent.

(d) A nonportable transmitter shall be considered as capable of complying with the power output requirement specified in paragraph (b) of this section when:

(1) The transmitter is capable of being adjusted for efficient use with an actual ship station transmitting antenna meeting the requirements of § 83.719; and

(2) The transmitter has been demonstrated, or is of a type which has been demonstrated, to the satisfaction of the Commission as capable, with normal operating voltages applied, of delivering not less than 8 watts of carrier power into 50 ohms effective resistance on the navigational frequency specified in § 83.351(a)(5): *Provided, however,* That an individual demonstration of the power output capability of the transmitter, with the radiotelephone installation normally installed on board ship, may be required whenever in the judgemen of the Commission this is deemed necessary.

(e) Portable transmitters shall be certified by the manufacturer to comply with the applicable provisions of this part (This certification may be included in the application for type acceptance required under § 83.140.): *Provided, however,* That an individual demonstration of the communication capability of the transmitter may be required whenever, in the judgement of the Commission, this is deemed necessary.

§ 83.715 Bridge-to-bridge receiver.

(a) The receiver used for maintaining the watch required by § 83.207 shall be capable of effective reception of class F3 emission (emission designator 16F3) on the navigational frequency specified in § 83.351(a)(5); in the case of nonportable installations, it shall be connected to the antenna system specified by § 83.719.

(b) The receiver referred to in paragraph (a) of this section shall be capable of efficient operation when energized by the bridge-to-bridge energy source.

(c) The receiver referred to in paragraph (a) of this section shall comply with the following technical requirements:

(1) The frequency stability shall be within 0.001 percent;

(2) The usable sensitivity shall be 0.5 microvolt, maximum, for nonportable receivers, and 1.0 microvolt, maximum, for portable receivers;

(3) The adjacent channel selectivity and desensitization shall be 70 db, minimum, for nonportable receivers, and 40 db, minimum, for portable receivers;

(4) The modulation acceptance bandwidth shall be ±7 kHz, minimum;

(5) Spurious response attenuation shall be 85 db, minimum, for nonportable receivers and 50 db, minimum, for portable receivers;

(6) The intermodulation spurious response attenuation shall be as follows:

Desired input microvolts, signal reference level at receiver input terminals	Minimum requirement: Intermodulation spurious response attenuation	
	Nonportable	Portable
At usable sensitivity of receiver	60 dB	40 dB
26 dB above usable sensitivity of receiver	43 dB	.....
46 dB above usable sensitivity of receiver	30 dB	.....

(7) Audio frequency response shall be as follows:

(i) In nonportable receivers normally used with a loudspeaker it shall not vary more than +2 to −8 db from a standard 6 db per octave deemphasis curve over the frequency range 300 to 3000 Hz;

(ii) In nonportable receivers normally used with a headphone or to feed a line it shall not vary more than +1 to −3 db from a standard 6 db per octave deemphasis curve over the frequency range 300 to 3000 Hz. The reference frequency shall be 1000 Hz.

(iii) In portable receivers it shall not vary more than +2 to −8 db from a standard 6 db per octave deemphasis curve over a frequency range of 300 to 3000 Hz. The reference frequency shall be 1000 Hz.

(iv) In receivers intended to operate with special devices, such as selective signaling apparatus, it shall be adequate to assure proper operation of the specific apparatus, in addition to the response required by subdivision (i), (ii), or (iii) of this subparagraph, as appropriate.

(d) The technical characteristics for receivers as specified in paragraph (c) of this section, and other terms used in specifying these characteristics are defined and measured as follows:

(1) The terms "standard input signal source" and "input microvolts," as used in this section, are defined as follows: A

standard input signal source is a calibrated radio frequency signal generator, together with any associated output transmission line and connectors. (Such a system used for testing nonportable receivers has a total resistance (internal resistance of the generator plus resistance of the transmission line) equal to 50 ohms. For portable receivers, the internal impedance of the signal generator is equal to the input impedance of the receiver at the antenna terminal or is built out to this impedance with an external resistor.) Its output voltage is measured across the output terminals of the system when they are open-circuited. One-half of the open-circuit output voltage so measured is called "input microvolts" to the receiver when the input terminals of the receiver are connected to the system. Unless otherwise specified, the frequency of the generator is adjusted to the center frequency of the channel on which the receiver is intended to operate. A standard input signal source cannot be used on receivers which are not provided with an external antenna connection.

(2) The term SINAD as used in this section is defined as follows: The term SINAD is an abbreviation for "signal plus noise plus distortion to noise plus distortion ratio," expressed in db, normally measured at the audio output terminals of a radio receiver. It is a measure of audio output signal quality for a given receiver audio power output level.

(3) Frequency stability of a radio receiver is a measure of its ability to remain tuned to a specified desired radio channel or frequency, and is the maximum excursion of the resonant frequency of the receiver from the center frequency of the channel on which the receiver is intended to operate. The receiver frequency stability is expressed either as a percentage, or in parts per million, with reference to the center frequency of the channel on which the receiver is intended to operate. The frequency stability is measured with variation in primary supply voltage over the range from 85 percent to 115 percent of the rated value and over the ambient temperature range from −20° to +50° centigrade.

(4) The usable sensitivity of a radio receiver is the minimum value of modulated radio frequency input signal which will produce at least 50 percent of the receiver's rated audio frequency power output with a 12 db SINAD under the following test conditions: A standard input signal source is connected to the input terminals of the receiver, with 1000 input microvolts to the receiver, and 1000 Hz modulation at ±3.33 kHz frequency deviation. Connected to the receiver output terminals are a matched, resistive load, an output indicator and a distortion meter incorporating a 1000 Hz, band elimination filter. These conditions being achieved, the receiver volume control is adjusted for rated power output, after which the attenuation of the input signal is adjusted until the SINAD is 12 db. No further adjustment of the volume control is to be made. Under these conditions, the value of the input microvolts to the receiver is specified as the usable sensitivity of the receiver. However, if at least 50 percent of the rated audio output power is not being produced, the radio frequency input signal must be increased until 50 percent of the rated audio output power is obtained; in this case, the value of input microvolts needed to produce 50 percent of the rated audio output power is specified as the usable sensitivity.

(5) Adjacent channel selectivity and desensitization is a measure of the ability of a radio receiver to receive a desired, modulated signal in the presence of undesired, modulated signals differing in frequency from the desired signal by the width of one radio frequency channel (25 kHz in the maritime services in the band 156–162 MHz). It is the ratio, expressed in db, of the power of the undesired signal to the power of the desired signal at which the SINAD ratio is degraded from 12 db to 6 db in the following test procedure: The receiver output is terminated in a matched, resistive load, provided with an output indicator. Two signal generators are equally coupled to the receiver input terminals through a suitable matching network. Signal generator number 1, modulated ±3.33 kHz at 1000 Hz, is set up in the manner described in subparagraph (2) of this paragraph (for determining the usable sensitivity of the receiver). Signal generator number 2, modulated ±3.3 kHz at 400 Hz, is then turned on and tuned first to the high, then to the low adjacent channel. Its signal level as provided to the receiver input terminals is adjusted until the SINAD is 6 db. The adjacent channel selectivity is the ratio, in db, of the amplitude of signal number 2 to signal number 1. If the ratios for the high side and low side adjacent channels are different, the smaller ratio is specified.

(6) Modulation acceptance bandwidth is a measure of the frequency deviation of a received signal which a radio receiver will accept, without excessive degradation, at a radio frequency input signal level 6 db greater than its measured usable sensitivity. The following test procedure is used: A standard input signal source is connected to the input terminals of the receiver. The signal generator, adjusted to the receiver resonant frequency, is set for 1,000 input microvolts to the receiver, 1000 Hz modulation, with frequency deviation ±3.33 kHz. Connected to the receiver output are a matched, resistive load, an output indicator, and a distortion meter incorporating a 1000 Hz, band elimination filter. These conditions being achieved, the receiver volume control is adjusted for 10 percent rated power output, after which the attenuation of the input signal is adjusted until the SINAD is 12 db. The radio frequency input signal to the receiver is then increased 6 db, and the frequency deviation is increased until the SINAD is again 12 db. The frequency deviation which exists under this final condition is the modulation acceptance bandwidth.

(7) Spurious response attenuation is the ability of a radio receiver to distinguish between a specified, desired signal and an undesired signal at any other frequency to which it is also responsive. The following test procedure is used: An unmodulated standard input signal source is connected to the receiver input terminals. The receiver output terminals are connected to a matched, resistive load and an output indicator. The receiver volume control is adjusted until 25 percent of rated audio frequency power output is achieved (noise). Then, the attenuator of the signal generator is adjusted for the minimum amount of signal to produce 20 dB of noise quieting (audio noise output power reduction). The signal generator frequency is then varied over the continuous frequency range from the lowest radio frequency amplified in the receiver to 1000 MHz and all responses are noted. (Harmonics of the signal generator and frequencies between the adjacent channels are excluded.) The ratio of the signal generator voltage required to produce 20 dB of noise quieting at any spurious response frequency to the signal generator voltage required to produce 20 dB of noise quieting at the receiver resonant frequency, expressed in dB, is the receiver's attenuation of the spurious response. The spurious response requiring the least signal input to produce 20 dB of noise quieting is used in specifying the receiver's spurious response attenuation.

(8) Intermodulation spurious response attenuation is a measure of the ability of a radio receiver to receive a desired signal in the presence of two interfering signals so separated in frequency from the desired signal and from each other that N^{th} order mixing of the interfering signals can occur in nonlinear elements of the receiver, producing a third signal having a frequency equal to that of the desired signal. The following test procedure is used: With the output of the receiver terminated in a matched, resistive load with an output indicator, three signal generators are equally Signal generator No. 1 is modulated at coupled to the receiver input terminals through a suitable matching network. 1000 Hz at ±3.33 kHz frequency deviation; signal generator No. 2 is unmodulated; and signal generator No. 3 is modulated at 400 Hz at ±3.33 kHz frequency deviation. With signal generators No. 2 and No. 3 turned off, the frequency of signal generator No. 1 is set to the center frequency of the radio channel on which the receiver is intended to operate, and the output adjusted for a value of input microvolts to the receiver equal to the measured usable sensitivity of the receiver. Signal generator No. 2 is now set to the adjacent channel above the desired frequency and signal generator No. 3 is set to the alternate channel above the desired frequency. Signal generators No. 2 and No. 3 should be on the same side of the desired frequency. The equivalent outputs of signal generators No. 2 and No. 3 are maintained at equal levels and these levels are increased until the SINAD is 6 dB.

The frequency of signal generator No. 3 is adjusted slightly to produce the maximum interfering signal before the final measurement is made. The ratio of the signal from signal generators No. 2 and No. 3 to the signal from signal generator No. 1, expressed in dB, is the measure of intermodulation spurious response attenuation. The test is repeated twice, first with the output of signal generator No. 1 adjusted for "input microvolts" to the receiver 26 dB above usable sensitivity and again with the output of signal generator No. 1 adjusted for "input microvolts" 46 dB above usable sensitivity, respectively.

(9) Audio frequency response of a radio receiver denotes the degree of closeness to which the audio output follows a 6 dB per octive deemphasis curve with constant frequency deviation over a given continuous frequency range. Test procedure is as follows: A standard input signal source providing input microvolts of 1000, modulated at 1000 Hz with ±3.33 kHz frequency deviation is connected to the receiver input terminals. The receiver output is terminated in a matched, resistive load and an output indicator. The receiver volume control is adjusted for 50 percent of rated power audio frequency power output. The modulation is then reduced to ±1 kHz, and with frequency deviation held constant at this value, the modulating frequency is varied from 300 to 3000Hz and the audio frequency output is noted.

§ 83.717 Bridge-to-Bridge source of energy.

(a) There shall be readily available for use under normal load conditions, at all times when required by the Vessel Bridge-to-Bridge Radiotelephone Act, including times of inspection of the ship's bridge-to-bridge station by a Commission representative, a source of energy sufficient to simultaneously energize the bridge-to-bridge transmitter at its required antenna power, and the bridge-to-bridge receiver. Under this load condition the potential of the source of energy at the power input terminals of the bridge-to-bridge radiotelephone installation shall not deviate from its rated potential by more than 10 percent on vessels completed on or after March 1, 1957, nor by more than 15 percent on vessels completed before that date.

(b) When the source of energy for a nonportable bridge-to-bridge radiotelephone installation consists of or includes batteries, they shall be installed as high above the bilge as practicable, secured against shifting with motion of the vessel, and accessible with not less than 10 inches headroom.

(c) Means shall be provided for adequately charging any rechargeable batteries used in the vessel's bridge-to-bridge radiotelephone installation. There shall be provided a device which, during charging of the batteries, will give a continuous indication of the rate and polarity of the charging current.

§ 83.719 Bridge-to-bridge antenna system.

An antenna shall be provided for nonportable bridge-to-bridge radiotelephone installations, in accordance with the applicable requirements of § 83.107, which is as nondirectional and as efficient as is practicable for the reception of radio groundwaves. The construction and installation of this antenna shall be such as to insure, insofar as is practicable, proper operation in time of an emergency.

§ 83.721 Antenna radio frequency indicator.

Effective January 1, 1974, each bridge-to-bridge transmitter shall be equipped with a device which will provide visual indication whenever the transmitter is supplying power to the antenna.

§ 83.723 Name plate.

A durable name plate shall be mounted on the required radiotelephone transmitting and receiving equipment or shall be made an integral part thereof. When the transmitter and receiver comprise a single unit, one name plate shall be sufficient. The name plate shall show at least the name of the manufacturer and the type or model number.

§ 83.725 Test of radiotelephone installation.

Unless the normal use of the required radiotelephone installation demonstrates that the equipment is in proper operating condition, a test communication for this purpose shall be made by a qualified operator each day the vessel is navigated. When this test is performed by a person other than the master and the equipment is found not to be in proper operating condition, the master shall be promptly notified thereof.

[FR Doc.71-16516 Filed 11-10-71;8:52 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 436]

DISCLOSURE REQUIREMENTS AND PROHIBITIONS CONCERNING FRANCHISING

Notice of Public Hearing and Opportunity To Submit Data, Views or Arguments

Notice is hereby given that the Federal Trade Commission, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41, et seq., the provisions of Part 1, Subpart B of the Commission's procedures and rules of practice, 16 CFR 1.11, et seq., and section 553 of the Administrative Procedure Act, has initiated a proceeding for the promulgation of a Trade Regulation Rule concerning franchising.

Accordingly, the Commission proposes the following Trade Regulation Rule:

Sec.
436.1 The Rule.
436.2 Definitions.

AUTHORITY: The provisions of this Part 436 issued under 38 Stat. 717, as amended; 15 U.S.C. 41–58.

§ 436.1 The Rule.

In connection with the advertising, offering, contracting, sale, or other promotion of any franchise in commerce, as "commerce" is defined in the Federal Trade Commission Act, it is an unfair method of competition and an unfair or deceptive act or practice within the meaning of section 5 of that Act:

(a) To fail to furnish any prospective franchisee with all of the following information, in a clear, permanent, and straight-forward form, at the time when contact is first established between such prospective franchisee and the franchisor or its representative:

(1) The trade name(s) or trademark(s) under which the franchisor and the prospective franchisee will be doing business; the official name(s) and address(es) and principal place(s) of business of the franchisor, the parent firm or holding company of the franchisor, if any, all affiliated companies that will engage in business with the franchisees, and all companies which employ the franchise salesmen (if they are not employed by the franchisor itself).

(2) A factual description of the franchise offered or to be sold.

(3) The business experience stated individually, of each of the franchisor's directors, stockholders owning more than 10 percent of the stock, and the chief executive officers for the past 10 years; and biographical data concerning all such persons.

(4) The business experience of the franchisor, including the length of time the franchisor has conducted a business of the type to be operated by the franchisee; has granted franchises for such business; and has granted franchises in other lines of business.

(5) Where such is the case, a statement that the franchisor or any of its directors, stockholders owning more than 10 percent of the stock, or chief executive officers:

(i) Has been held liable in a civil action, convicted of a felony, or pleaded nolo contendere to a felony charge, in any case involving fraud, embezzlement, fraudulent conversion, or misappropriation of property; or

(ii) Is subject to any currently effective injunctive or restrictive order or ruling relating to business activity as a result of action by any public agency or department; or

(iii) Has filed bankruptcy or been associated with management of any company that has been involved in bankruptcy or reorganization proceedings; or

(iv) Is or has been a party to any cause of action brought by franchisees against the franchisor.

Such statement shall set forth the identity and location of the court, date of conviction or judgment, any penalty imposed or damages assessed, and the date, nature, and issuer of each such order or ruling.

(6) The financial history of the franchisor, including balance sheets and profit and loss statements for the most recent 5-year period; and a statement of any material changes in the financial condition of the franchisor since the date of such financial statements.

(7) A description of the franchise fee; and a statement indicating whether all or part of the franchise fee may be returned to the franchisee and the conditions under which the fee will be refunded.

(8) The formula by which the amount of such franchise fee is determined if the fee is not the same in all cases.

(9) A statement of the number of franchises presently operating and the number proposed to be sold, indicating which existing franchises, if any, are company owned and their addresses.

(10) A statement of the number of franchises, if any, that operated at a loss during the previous year.

(11) A statement that the prospective franchisee may inspect the profit and loss statements of all existing franchisees. (The names and addresses of the franchisees may be deleted from these profit and loss statements, which must be provided to any prospective franchisee requesting to inspect them.)

(12) A statement whether, by the terms of the franchise agreement or by other device or practice, the franchisee is required to purchase or lease from the franchisor or affiliated persons or their designee, services, supplies, products, signs, fixtures, or equipment relating to the establishment or operation of the franchise business.

(13) A statement describing any payments or fees other than franchise fees that the franchisee is required to pay to the franchisor or affiliated persons, including royalties and payments, fees, or markups on land, buildings, leases, signs, equipment, or supplies, and the average total amount of all such fees paid by all franchisees in operation during the preceding year, expressed both as a dollar amount and as a percentage of gross sales of such average franchisee. If no franchisee has been in operation for the past year, this fact must be stated, and an estimate must be disclosed, computed in accordance with accepted accounting principles, of the maximum anticipated percentage figure.

(14) A statement of the amount and basis for any revenue received by the franchisor from suppliers to its franchisees during the past 12 months.

(15) A statement of the conditions under which the franchise agreement may be terminated or renewal refused, or repurchased at the option of the franchisor, and a statement of the number of franchisees that fell into each of these categories during the past 12 months.

(16) A statement of the conditions and terms under which the franchisor allows the franchisee to sell, lease, assign, or otherwise transfer his franchise, or any interest therein.

(17) A statement whether, by the terms of the franchise agreement or other device or practice, the franchisee is limited in the goods or services he may offer for sale.

(18) A statement whether the franchisor requires the franchisee to participate personally in the direct operation of the franchise.

(19) A statement of the terms and conditions of any financing arrangements offered directly or indirectly by the franchisor or affiliated persons, and a description of any payments received by the franchisor from any person for the placement of financing with such person.

(20) A list of at least 10 representative operating franchisees with addresses and telephone numbers, similarly situated to the franchise offered and located in the same geographic area, if possible.

(21) A statement of the territorial protection granted by the franchisor, in which the franchisor will not establish another franchisee who is permitted to use the same trade name or trademark; in which the franchisor will not establish a company-owned outlet using the same trade name or trademark; and in which the franchisor or its parent will not establish other franchises or company-owned outlets selling or leasing similar products or services under a different trade name or trademark.

(22) If the franchisor uses the name of a "public figure," a statement of the promotional assistance the "public figure" is committed to provide to the franchisor for the next year and the promotional assistance that the "public figure" will provide specifically to the new franchisee, and a description of any fees or conditions attendant upon such assistance.

(23) A statement of the number of persons who have signed franchise agreements for whom a site has not yet been agreed upon by both franchisor and franchisee.

(24) A statement of the average length of time between the signing of a franchise agreement and the opening of the franchisee's outlet.

(25) A statement of the average length of service of personnel who are responsible for assisting the franchisee at his location, and the average number of hours such personnel spent during the past year with each franchisee that was in business for less than 1 year.

(26) If the franchisor informs the prospective franchisee that it intends to provide him with training, the franchisor must state the number of hours of instruction and furnish the prospective franchisee with a brief biography of the instructors who will conduct the training.

(27) A statement explaining clearly the terms and effects of any covenant not to compete which a franchisee may be required to enter into.

All of the foregoing information (1) to (27) is to be contained in a single disclosure statement, which shall not contain any promotional claims or other information not required by this section or required by State law. The statement shall carry a distinctive and conspicuous cover sheet with the following notice (and no other) imprinted thereon in boldface type of not less than 10-point size:

INFORMATION FOR PROSPECTIVE FRANCHISEES REQUIRED BY FEDERAL TRADE COMMISSION

This information is provided for your own protection. It is in your best interest to study it carefully before making any commitment. If you do sign a contract, you may cancel it, and obtain a full refund of any money paid, for any reason within 10 business days after either signing such contract or receiving this disclosure statement, whichever occurs later. Details appear on the contract itself.

The information contained herein has not been reviewed or approved by the Federal Trade Commission, but any misrepresentation constitutes a violation of Federal law. If you feel you have been misled, you should contact the Federal Trade Commission in Washington, or the FTC Regional Office nearest you.

(b) To fail to furnish the Commission, no later than December 31 of each year, copies of all disclosure statements or other materials used at any time during the preceding 12 months to provide to prospective franchisees the information specified in paragraph (a) of this section.

(c) (1) To make any oral or written representation of a prospective franchisee's potential income or gross or net profits not based upon the actual average figures for all franchisees not owned or operated by the franchisor or an affiliate thereof in operation during the entire preceding 12-month period, and not disclosing clearly and conspicuously immediately adjacent to any such representation that "Representations are based on the average earnings or profits of all independent franchisees in operation during the past year. These figures should not be considered as accurate representations of potential earnings or profits of any specific franchisee." Or,

(2) Where no independently owned and operated franchisees have been in operation during the entire preceeding 12-month period, to make any representation of potential income or gross or net profits without a clear and conspicuous disclosure immediately adjacent to any such representation that "All representations of potential earnings or profits are merely estimates; no franchisee has been in operation long enough to indicate what, if any, actual earnings or profits may result," or, in any case, to make any such representation not based upon sound accounting practices.

(d) (1) To make any claim in any advertising, promotional material, or disclosure statement, or in any oral sales presentation, solicitation, or discussion between a franchisor's representatives and prospective franchisees, for which the franchisor does not have substantiation in its possession, which substantiation shall be made available to prospective franchisees or the Commission or its staff upon demand. This provision applies, but is not limited, to statements concerning the experience or qualifications, or lack of experience or qualifications, needed for success as a franchisee.

(2) To make any claim in any advertising or promotional material, or in any oral sales presentation, solicitation, or discussion between a franchisor's representatives and prospective franchisees, which (directly or by implication) contradicts or exceeds any of the statements required to be disclosed by paragraph (a) of this section.

(e) To fail to include immediately above and on the same page as the franchisee's signature line of any contract establishing or confirming a franchise agreement, the following statement in bold face print at least 50 percent larger than any other print in the body of such contract, or in bold face print of a contrasting color:

NOTICE: You are entitled to certain important information concerning this transaction entitled, "Information for prospective franchisees required by Federal Trade Commission." It is in your best interest to demand and study such information. *You may cancel this contract for any reason within 10 business days after either signing this contract or receiving the required information, whichever occurs later.* If you do choose to cancel, you will be entitled to receive a full refund within 10 business days after franchisor receives notice of your cancellation. You may use any reasonable method to notify franchisor of your cancellation within the grace period. For your own protection you may wish to use certified mail with return receipt requested, or a telegram, either of which should be sent to the address below. [Franchisor will insert here the address and telephone number to which such notices should be sent.]

(f) To fail to cancel any contract for which a notice of cancellation was sent by any reasonable means within 10 business days after either the contract's execution, or the franchisee's receipt of all required information, whichever occurs later, or to fail to refund any money paid by franchisee within 10 business days after the date of receipt of such notice of cancellation.

(g) To fail to furnish the prospective franchisee, upon request at any time and, in the absence of any request, before consummation of any agreement, with a copy of the franchise agreement proposed to be used.

(h) To take, accept, or negotiate any promissory note or other instrument of indebtedness which contains:

(1) Any waiver of rights or remedies which the franchisee may have against the franchisor or other holder of the instrument, or other person acting in his behalf; or

(2) Any provision by which the franchisee agrees not to assert against a franchisor a claim or defense arising out of the transaction or agrees not to assert against an assignee such a claim or defense.

This paragraph (h) shall apply to any transaction in which the franchisor or any of its agents or representatives took any part whatsoever, including, but not by way of limitation, the actual negotiation of such instrument, or any referral to or arrangement with any other person with whom a franchisee negotiates such instrument, but does not apply to any transaction entered into between a franchisee and another person wholly free of any involvement by the franchisor or its agents or representatives.

(i) To fail to have inscribed upon the face of any note or other instrument of indebtedness falling within the scope of the preceding paragraph (f) of this section, in 10-point boldface type, the following statement:

NOTICE

Any holder of this instrument takes this instrument subject to all defenses and claims of the maker hereof which would be available to the maker in any action arising out of the transaction which gave rise to the execution of this instrument, notwithstanding any agreement to the contrary.

NOTE I: This section does not deal with the question of whether any practice dealt with herein may be improper as contributing to unlawful restraints of trade connected with the enforcement of the Antitrust Laws or the Federal Trade Commission Act, and a provision for disclosure of a given fact should not be construed as a condonation or approval thereof, nor as an indication that the Commission will not take whatever action may be appropriate to the enforcement of those laws. Nor is it intended to abrogate or supercede any State laws imposing the same or more stringent requirements than those contained herein.

NOTE II: The franchisor will be held liable for violations caused by the franchisor's sales representatives, such as by a representative's failure to furnish prospective franchisees with the required dialosure statement, or by a representative's oral statements and representations in violation of paragraphs (c) and (d) of this section.

§ 436.2 Definitions.

As used in this part, the following shall apply:

(a) "Franchise" means every aspect of the relationship between a franchisor and a franchisee by an oral or written agreement or understanding, or series of agreements or understandings, or transactions which involve or result in a continuing commercial relationship by which a franchisor is granted or permitted to offer, sell, or distribute the goods or commodities manufactured, processed, or distributed by the franchisor, or the right to offer or sell services established, organized, directed, or approved by the franchisor, under circumstances where the franchisor continues to exert any control over the method of operation of the franchisee, particularly, but not exclusively, through trademark, trade name, or service mark licensing, or structural or physical layout of the franchisee's business;

(b) "Person" means any individual, group, association, limited or general partnership, corporation, or any other business entity;

(c) "Franchisor" means any person granting or offering to grant franchises, including subfranchises, and includes a franchisee disposing of a franchise, or any part thereof, for his own account; (in connection with the sale of a franchise or any part thereof by a franchisee for his own account, the selling franchisee's franchisor shall be deemed the franchisor and the selling franchisee shall be deemed the franchisor's representative).

(d) "Franchisee" means any person to whom a franchise is granted;

(e) "Prospective franchisee" means any person who approaches, or is approached by, a franchisor or its agent or representative for the purpose of investigating the prospect of establishing a franchise between such person and such franchisor;

(f) "Time when contact is first established" means the earlier of the time when—

(1) A direct personal meeting first occurs between a franchisor or its agent or representative and a prospective franchisee, or

(2) Any document or promotional literature is distributed to a prospective franchisee;

(g) "Business day" means any day other than Saturday, Sunday, or the following holidays: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving, and Christmas.

All interested persons, including the consuming public, are hereby notified that they may file written data, views, or arguments concerning the proposed rule with the Assistant Director for Division of Rules and Guides, Federal Trade Commission, Washington, D.C., 20580, not later than February 7, 1972. To the extent practicable, persons wishing to file written presentations in excess of two pages should submit 20 copies.

All interested persons are also given notice of opportunity to orally present data, views, or arguments with respect to the proposed rule at a public hearing to be held commencing at 10 a.m., e.s.t., each day, February 14, 15, and 16, 1972, in room 532 of the Federal Trade Commission Building, Pennsylvania Avenue and Sixth Street NW., Washington, D.C.

Any person desiring to orally present his views at the hearing should so inform the Assistant Director for Rules and Guides not later than February 7, 1972, and state the estimated time required for his oral presentation. Reasonable limitations upon the length of time allotted to any person may be imposed. In addition, all parties desiring to deliver a prepared statement at the hearing should file such statement with the Assistant Director for Rules and Guides on or before February 7, 1972.

The data, views, or arguments presented with respect to the practices in question will be available for examination by interested parties in room 130 of the Division of Legal and Public Records, Federal Trade Commission, Washington, D.C., and will be considered by the Commission in the establishment of a Trade Regulation Rule.

All persons, firms, corporations, or others engaged in franchising, or in the financing of franchise transactions, in commerce, as "commerce" is defined in

the Federal Commission Act, may be subject to the requirements of any Trade Regulation Rule promulgated in the course of this proceeding.

All interested persons, including the general public, are urged to express their approval or disapproval of the proposed rule, or to recommend revisions thereof, and to give a full statement of their views in connection therewith.

Comments are invited with respect to any aspect of this proposed rule, but the Commission invites comment particularly with respect to the following aspects:

1. The proposed definition of "franchisor", and the possible need for exceptions or exemptions from this definition.

2. The proposed disclosures of financial history, and the possible need for greater specificity with regard to the manner of compliance with subparagraphs (6) and (11) of paragraph (a) of the proposed rule.

3. The extent to which, and the manner in which, the rule should abrogate or supersede State laws which impose similar obligations upon franchisors. (See Note I.)

Issued: November 10, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-16479 Filed 11-10-71;8:49 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1252]

[No. 34364 (Sub-No. 1)]

RAIL AND MOTOR PIGGYBACK FORMS

Proposed Traffic Statistics; Extension of Time for Filing Comments

Present: George M. Stafford, Chairman, to whom the matter which is the subject of this order has been assigned for action.

It appearing, that actual notice of the institution of this proceeding has been given to all class I railroads, other than switching and terminal companies, and to all class I intercity motor carriers of property, and that public notice has been given by publication in the FEDERAL REGISTER on September 29, 1971, at page 19125;

It further appearing, that the time for filing statements of facts, views, and arguments was designated in the notice as 30 days from the date of said publication;

And it further apearing, that on October 26, 1971, the Association of American Railroads filed a petition requesting leave to file a late statement of comments; and good cause appearing therefor,

It is ordered, That, the petition be, and it is hereby, granted, and that the time within which the petitioner may file comments be, and it is hereby, extended to November 22, 1971;

It is further ordered, That, a copy of this order be deposited in the Office of the Secretary of the Commission, and a copy be delivered to the Director of the Federal Register for publication therein.

Dated at Washington, D.C., this 5th day of November 1971.

By the Commission, Chairman Stafford.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16499 Filed 11-10-71;8:51 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR 3000, 3045, 3104, 3200]

GEOTHERMAL RESOURCES LEASING AND OPERATIONS ON PUBLIC, ACQUIRED, AND WITHDRAWN LANDS

Extension of Time for Filing Comments

The time within which written comments may be submitted on the proposed rule making to implement the Geothermal Steam Act of December 24, 1970 (84 Stat. 1566), published in the FEDERAL REGISTER, Volume 36, No. 142, Part II, on July 23, 1971, is hereby extended from November 12, 1971, to November 22, 1971.

The time for submission of written comments was previously extended from September 21, 1971, to November 12, 1971. That time period is now extended to coincide with the closing date for submission of written comments on the Draft Environmental Impact Statement on the Geothermal Leasing Program prepared in accordance with the provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 and released on October 6, 1971. Accordingly, interested parties may submit written comments, suggestions, or objections with respect to the proposed regulations to the Geothermal Coordinator, Department of the Interior, Washington, D.C. 20240 at any time prior to the close of business, November 22, 1971.

HOLLIS M. DOLE, *Assistant Secretary of the Interior.*

NOVEMBER 8, 1971.

[FR Doc.71-16567 Filed 11-10-71;12:36 pm]

Geological Survey

[30 CFR Part 270]

GEOTHERMAL RESOURCES LEASING AND OPERATIONS ON PUBLIC, ACQUIRED, AND WITHDRAWN LANDS

Extension of Time for Filing Comments

CROSS REFERENCE: For a document issued jointly by the Bureau of Land Management and the Geological Survey regarding geothermal resources leasing and operations on public, acquired, and withdrawn lands, see F.R. Doc. 71-16567, Bureau of Land Management, *supra*.

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA

Notice of Filing of Plat of Survey

NOVEMBER 2, 1971.

1. A plat of survey for the following described land, accepted September 21, 1971, will be officially filed in the California State Office, Sacramento, Calif., effective 10 a.m. on December 7, 1971:

MOUNT DIABLO MERIDIAN

T. 29 N., R. 3 W.,
Bloody Island in secs. 22 and 23.

2. This plat represents a dependent resurvey of a portion of the subdivisional lines, designed to restore the corners in their true original locations according to the best available evidence, and the survey of Bloody Island in the Sacramento River in secs. 22 and 23.

3. The area surveyed contains 39.81 acres.

4. Inquiries concerning the land should be addressed to the California State Office, Bureau of Land Management, E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, Calif. 95825.

JOHN E. CLUTE, *Chief, Branch of Records and Data Management.*

[FR Doc.71-16463 Filed 11-10-71;8:49 am]

Geological Survey

[Power Site Cancellation 221]

BOISE RIVER, IDAHO

Cancellation of Power Site

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31) and 220 Departmental Manual 6.1, Power Site Classification 255 of June 11, 1930, is hereby canceled to the extent that it affects the following described land:

BOISE MERIDIAN

T. 5 N., R. 8 E.,
Sec. 9, lots 1, 2, and 5, and NE¼SW¼;
Sec. 10, lots 1 to 8, inclusive, NE¼SE¼, and NW¼SE¼;
Sec. 11, lots 1 to 8, inclusive, SW¼NE¼, NW¼SW¼, and SW¼SE¼;
Sec. 12, lots 1 to 8, inclusive, and NW¼SW¼;
Sec. 16, NW¼NE¼;
Sec. 17, SE¼NE¼;
Sec. 18, SW¼NE¼ and NE¼SW¼;
Sec. 19, NE¼NE¼.
T. 6 N., R. 8 E.,
Sec. 2, lot 4;
Sec. 3, lots 1, 2, and 3, SW¼NE¼, S½NW¼, N½SW¼, and NW¼SE¼;
Sec. 4, SE¼;
Sec. 9, SW¼NE¼.
T. 7 N., R. 8 E.,
Sec. 35, S½SW¼, NE¼SE¼, and S½SE¼.
T. 5 N., R. 9 E.,
Sec. 3, lots 1 to 5, inclusive;
Sec. 4, lot 1 and lots 5 to 8, inclusive, and S½N½;
Sec. 5, lot 8, S½NE¼, SW¼, N½SE¼, and SW¼SE¼;
Sec. 6, lot 11, SE¼SW¼ and E½SE¼;
Sec. 7, lot 1, N½NE¼, SW¼NE¼, and E½NW¼.
T. 6 N., R. 9 E.,
Sec. 25, SE¼NE¼, SE¼SW¼, and SE¼;
Sec. 34, SE¼SW¼ and S½SE¼;
Sec. 35, NE¼, E½NW¼, SW¼NW¼, and SW¼;
Sec. 36, NW¼NE¼ and NW¼.
T. 7 N., R. 9 E.,
Sec. 22, SE¼SW¼ and S½SE¼;
Sec. 23, S½SW¼ and SW¼SE¼;
Sec. 24, S½SW¼ and SE¼;
Sec. 25, NW¼NE¼ and N½NW¼;
Sec. 26, N½N½;
Sec. 27, N½NW¼ and SW¼NW¼;
Sec. 28, E½NE¼, SW¼NE¼, NW¼NW¼, SE¼NW¼, N½SW¼, and NW¼SE¼;
Sec. 29, NE¼SW¼, S½SW¼, N½SE¼, and SW¼SE¼;
Sec. 30, SE¼SE¼;
Sec. 31, lot 2, NE¼NE¼, W½NE¼, and E½NW¼.
T. 6 N., R. 10 E.,
Sec. 25, S½S½;
Sec. 26, S½S½;
Sec. 27, S½S½;
Sec. 29, SW¼NE¼, SW¼NW¼, SE¼NW¼, NE¼SW¼, and W½SE¼;
Sec. 30, lots 2 and 3, S½NE¼, SE¼NW¼, NE¼SW¼, and N½SE¼;
Sec. 32, NE¼;
Sec. 33, SW¼NE¼, S½NW¼, N½SW¼, SE¼SW¼, and SE¼;
Sec. 34, NE¼NE¼, W½NW¼, and NW¼SW¼;
Sec. 35, N½N½;
Sec. 36, N½N½.
T. 7 N., R. 10 E.,
Sec. 19, lots 3 and 4, S½NE¼, SE¼NW¼, NE¼SW¼, and N½SE¼.
T. 3 N., R. 11 E.,
Sec. 8, SE¼NE¼;
Sec. 11, S½NW¼.
T. 5 N., R. 11 E.,
Sec. 3, lots 1 to 5, inclusive, and S½NW¼;
Sec. 4, lots 4 to 9, inclusive, SW¼NE¼, and S½NW¼;
Sec. 5, lots 1 to 8, inclusive, and S½NE¼;
Sec. 6, lots 1, 2, 3, 7, and 8.
T. 6 N., R. 11 E.,
Sec. 30, lot 4 and SE¼SW¼;
Sec. 31, lots 1 to 4, inclusive, SW¼NE¼, E½W½, and SE¼;
Sec. 32, S½S½;
Sec. 33, SW¼SW¼;
Sec. 34, lots 4, 6, and 7;
Sec. 35, lots 6 to 11, inclusive;
Sec. 36, lot 2, NE¼, SE¼NW¼, and N½S½.
T. 3 N., R. 12 E.,
Sec. 7, lot 2, SW¼NE¼, SE¼NW¼, and NE¼SE¼;
Sec. 8, W½SW¼ and SE¼SE¼;
Sec. 13, S½SW¼ and NW¼SE¼;
Sec. 14, S½SW¼ and SE¼SE¼;
Sec. 15, N½S½;
Sec. 16, NW¼NW¼, SE¼NW¼, and N½SE¼;
Sec. 17, SW¼NE¼ and SE¼NW¼;
Sec. 18, lot 1, NW¼NE¼, SE¼NE¼, and NE¼NW¼;
Sec. 21, NE¼NW¼;
Sec. 22, S½NE¼ and N½NW¼;
Sec. 23, N½NE¼ and N½S½.
T. 6 N., R. 12 E. (Unsurveyed),
Every smallest legal subdivision any portion of which, when surveyed, will be within ¼ mile of Middle Fork Boise River below Mattingly Cr. Protraction of public land surveys indicates that the land described above, when surveyed, will be wholly within Secs. 28, 29, 30, 31, 32, and 33.
T. 3 N., R. 13 E.,
Sec. 7, E½SW¼ and E½SE¼;
Sec. 18, lot 3, E½NW¼ and E½E½;
Sec. 19, lot 2 and NE¼NW¼.
T. 4 N., R. 13 E.,
Sec. 3, lots 2 to 8, inclusive, SW¼NE¼, S½NW¼, NW¼SW¼, and E½SE¼;
Sec. 10, lots 1 to 8, inclusive, and E½E½;
Sec. 15, lots 1 to 8, inclusive;
Sec. 22, lots 1, 2, 3, 4, and 6;
Sec. 27, W½SE¼.
T. 5 N., R. 13 E. (Unsurveyed),
Every smallest legal subdivision any portion of which, when surveyed, will be within ¼ mile of South Fork of Boise River. Protraction of public land surveys indicates that the land described above, when surveyed, will be wholly within Secs. 10, 15, 22, 26, 27, 34, and 35.
Every smallest legal subdivision any portion of which, when surveyed, will be within ¼ mile of Johnson Creek. Protraction of public land surveys indicates that the land described above, when surveyed, will be wholly within Secs. 2, 3, 10, and 11.
T. 3 N., R. 14 E.,
Sec. 26, SW¼SW¼;
Sec. 27, S½;
Sec. 28, W½NE¼, E½NW¼, and S½;
Sec. 29, W½W½;
Sec. 31, NE¼NE¼;
Sec. 32, N½ and N½S½;
Sec. 33, NW¼NE¼, NE¼NW¼, W½NW¼, and NW¼SW¼;
Sec. 34, NE¼NE¼;
Sec. 35, NW¼NW¼.

The area described aggregates about 19,034 acres.

W. A. RADLINSKI, *Acting Director.*

NOVEMBER 4, 1971.

[FR Doc.71-16452 Filed 11-10-71;8:47 am]

[Power Site Cancellation 267]

BOISE RIVER, IDAHO

Cancellation of Power Site

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31) and 220 Departmental Manual 6.1, Power Site Classification 325 of May 12, 1941, is hereby canceled to the extent that it affects the following described land:

BOISE MERIDIAN

T. 3 N., R. 11 E.,
Sec. 4, SE¼SW¼;
Sec. 5, S½NW¼;
Sec. 7, lot 4;
Sec. 8, NW¼NW¼;
Sec. 14, SW¼NE¼ and NW¼SE¼.

The area described aggregates about 276 acres.

W. A. RADLINSKI,
Acting Director.

NOVEMBER 4, 1971.

[FR Doc.71-16454 Filed 11-10-71;8:47 am]

[Power Site Cancellation 247]

SPOKANE RIVER, WASH.

Cancellation of Power Site

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31) and 220 Departmental Manual 6.1, Power Site Classification 61 of March 12, 1924, is hereby canceled to the extent that it affects the following described land:

WILLAMETTE MERIDIAN, WASHINGTON

T. 28 N., R. 36 E.,
Sec. 11, lots 19 and 21.

The area described aggregates about 21 acres.

W. A. RADLINSKI,
Acting Director.

NOVEMBER 4, 1971.

[FR Doc.71-16453 Filed 11-10-71;8:47 am]

[Power Site Classification 463]

TAZIMINA RIVER AND LAKES, ALASKA

Classification of Power Site

Correction

The headings for the correction appearing on page 21527 in the issue of Wednesday, November 10, 1971, should appear as set forth above.

Office of Hearings and Appeals

KAISER STEEL CORP.

Petition for Modification of Mandatory Safety Standard

Notice. In re petition of Kaiser Steel Corp. for modification of mandatory safety standard (30 CFR 75.803), Docket No. M 72-17.

In accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. § 861(c) (1970)), notice is given that Kaiser Steel Corp. has filed a petition to modify the application of 30 CFR 75.803 to petitioner's No. 2 mine, located in Sunnyside, Carbon County, Utah.

30 CFR 75.803 reads as follows:

On and after September 30, 1970, high-voltage, resistance grounded systems shall include a fail safe ground check circuit to monitor continuously the grounding circuit to assure continuity and the fail safe ground check circuit shall cause the circuit breaker to open when either the ground or pilot check wire is broken, or other no less effective device approved by the Secretary or his authorized representative to assure such continuity, except that an extension of time, not in excess of 12 months, may be permitted by the Secretary on a mine-by-mine basis if he determines that such equipment is not available.

This regulation is practically identical with section 308(d) of the Act, 30 U.S.C. section 868(d) (1970).

Petitioner asks that the standard be modified in its application to the hoist in its No. 2 mine for the reason that the system in effect at the mine will afford the same measure of protection to the miners as the standard. Petitioner states that the hoist in its No. 2 mine is located approximately 900 feet underground and is operated by 2,300 volts a.c. The transformer supplying the power is a 44,000 to 2,300 volts Delta primary and Delta secondary hookup. The hoist is the only equipment that is operated on this voltage so that the circuit is independent of everything else in or out of the mine. There are 900 feet of No. 2 rubber covered primary cable from the substation outside to the hoist. This cable does not have ground wires in it. The hoist frame, motors, etc., are grounded to the mine ground system. Petitioner is running an insulated ground wire, parallel to the primary cable, outside to be grounded at the transformer. A disconnect switch is being installed on this circuit.

Petitioner states that because the distance is so short and the hoist is the only equipment operating on the circuit it should not have to set up a fail safe ground check system as required by the safety standard.

Parties interested in this petition should file their answers or comments within 30 days from the date of publication of this notice in the FEDERAL REGISTER with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 6432 Federal Building, Salt Lake City, Utah 84111. Copies of the petition are available for inspection at that address.

JAMES M. DAY,
Director,
Office of Hearings and Appeals.

NOVEMBER 4, 1971.

[FR Doc.71-16480 Filed 11-10-71;8:49 am]

Office of the Secretary

CARROL M. BENNETT

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) Sold: Recognition equipment.
(2) Bought: SMC Industries.
(3) None.
(4) None.

This statement is made as of October 11, 1971.

Dated: October 26, 1971.

CARROL M. BENNETT.

[FR Doc.71-16482 Filed 11-10-71;8:49 am]

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

CHICAGO-JOLIET LIVESTOCK MARKETING CENTER, INC., ET AL.

Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), on the respective dates specified below, it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302.

Name, location of stockyard, and date of posting

ILLINOIS

Chicago-Joliet Livestock Marketing Center, Inc., Joliet, Oct. 27, 1971.

IOWA

Cascade Sales Barn, Cascade, Nov. 2, 1971.

MISSISSIPPI

Southwest Livestock, Inc., Lorman, Aug. 31, 1971.

NEW YORK

Mohawk Valley Beef Sales, Inc., Westernville, Oct. 14, 1971.

TEXAS

Kennedale Auction Barn, Kennedale, Oct. 20, 1971.
Winnie Livestock Exchange, Winnie, Sept. 18, 1971.

Done at Washington, D.C., this 5th day of November 1971.

G. H. HOPPER,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

NOVEMBER 8, 1971.

[FR Doc.71-16509 Filed 11-10-71;8:51 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 4725]

CERTAIN SURGICAL SUTURES

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following absorbable and nonabsorbable surgical sutures:

1. Mersilene nonabsorbable surgical sutures of polyester fiber; Ethicon, Inc., U.S. Highway 22, Somerville, New Jersey 08876 (NDA 12-815).

2. Nonabsorbable surgical sutures of braided silk; Ethicon, Inc. (NDA 11-397).

3. Absorbable surgical sutures of chromic beef serosa collagen gut; Ethicon, Inc. (NDA 8-536).

4. Absorbable surgical sutures of plain gut; Ethicon, Inc. (NDA 10-389).

5. Nonabsorbable surgical sutures of braided nylon; Davis & Geck, Division of American Cyanamid Co., Danbury, Connecticut 06810 (NDA 4-725).

Such articles are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such articles without approval.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy reports, as well as other available evidence, and concluded that these surgical sutures are effective for use as suture material.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* Absorbable and nonabsorbable surgical suture preparations are in strand form suitable for suturing or ligating.

2. *Labeling conditions.* The articles are labeled to comply with all requirements of the act and regulations. The labeling bears adequate information for safe and effective use of the article and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" sections are as follows:

INDICATIONS

This article is indicated for use wherever suture material may be required.

3. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study" published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling and an abbreviated supplement for updating information as described in paragraph (a)(1) (i) and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application as described in paragraph (a)(3)(i) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

A copy of the Academy's report has been furnished to each firm referred to above. Communications forwarded in response to this announcement should be identified with the reference number DESI 4725, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.
Original abbreviated new drug applications (identify as such): Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.
Requests for the Academy's report: Drug Efficacy Study Information Control (BD-67), Bureau of Drugs.
All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: October 14, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-16486 Filed 11-10-71;8:50 am]

[DESI 10690]

CERTAIN INHALATION ANESTHETICS CONTAINING FLUROXENE, HALOTHANE, OR METHOXYFLURANE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following anesthetic drugs for inhalation administration:

1. Fluoromar liquid containing fluroxene; Ohio Medical Products, Division of Air Reduction Co., Murray Hill, New Jersey 07974 (NDA 10-690).

2. Fluothane liquid containing halothane; Ayerst Laboratories, Division of American Home Products Corp., 685 Third Avenue, New York, New York 10017 (NDA 11-338).

3. Penthrane liquid containing methoxyflurane; Abbott Laboratories, Inc., 14th and Sheridan Road, North Chicago, Illinois 60064 (NDA 13-056).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such drug without approval.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that these drugs are effective for the induction and maintenance of surgical anesthesia.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve for the drugs fluroxene and halothane abbreviated new drug applications and abbreviated supplements, and for the drug methoxyflurane new drug applications and supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* These preparations are in a form suitable for inhalation administration.

2. *Labeling conditions.* a. The labels bear the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drugs are labeled to comply with all requirements of the Act and regulations. The labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section is as follows:

INDICATIONS

For the induction and maintenance of general anesthesia.

3. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study" published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

FLUROXENE AND HALOTHANE

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling and an abbreviated supplement for updating information as described in paragraph (a)(1) (i) and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application as described in paragraph (a)(3)(i) of that notice.

METHOXYFLURANE

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling and a supplement for updating information as described in paragraphs (a)(1) (i) and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of a full new drug application as described in paragraph (a)(3)(iii) of that notice.

c. For any distributor of any of the drugs, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

A copy of the Academy's report has been furnished to each firm referred to above. Communications forwarded in response to this announcement should be identified with the reference number DESI 10690, directed to the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD–100), Bureau of Drugs.
Requests for the Academy's report: Drug Efficacy Study Information Control (BD–67), Bureau of Drugs.
Original abbreviated new drug applications (identify as such): Drug Efficacy Study Implementation Project Office (BD–60), Bureau of Drugs.
Original new drug applications: Office of Scientific Evaluation (BD–100), Bureau of Drugs.
All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD–60), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: October 6, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71–16487 Filed 11–10–71;8:50 am]

EAGLE-PICHER INDUSTRIES, INC.

Notice of Filing of Petition for Food Additive Diatomaceous Earth

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a food additive petition (MF 3427) has been filed by Eagle-Picher Industries, Inc., American Building, Cincinnati, Ohio 45202, proposing that § 121.322 *Diatomaceous earth* (21 CFR 121.322) be amended to change the specifications for the additive to provide for the use of diatomaceous earth having not more than 20 parts per million arsenic as As. It is used or intended for use as an inert carrier or anticaking agent in animal feeds.

Dated: November 3, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71–16484 Filed 11–10–71;8:50 am]

W. R. GRACE & CO., DEWEY AND ALMY CHEMICAL DIVISION

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 2B2714) has been filed by W. R. Grace & Co., Dewey and Almy Chemical Division, 62 Whittemore Avenue, Cambridge, Mass. 02140, proposing that § 121.2514 *Resinous and polymeric coatings* be amended to provide for the safe use of urea in the manufacture of resinous and polymeric food contact coatings.

Dated: October 13, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71–16485 Filed 11–10–71;8:50 am]

[Docket No. FDC–D–391; NADA No. 38–293V]

UPJOHN CO.

Lincocin Forte; Notice of Opportunity for Hearing

Notice is given to The Upjohn Co., Kalamazoo, Mich. 49001, and to any interested persons who may adversely affected that the Commissioner of Food and Drugs proposes to issue an order under the provisions of section 512(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(e)) withdrawing approval of NADA (new animal drug application) No. 38–293V with respect to Lincocin Forte, an udder infusion product for the treatment of bovine mastitus which contains in each 10 cubic centimeters: Lincomycin hydrochloride monohydrate equivalent to 200 milligrams of lincomycin base, neomycin sulfate equivalent to 200 milligrams of neomycin base, and 5 milligrams of methylprednisolone N.F.

The Commissioner, on the basis of an evaluation of new information before him with respect to such drug together with the evidence available to him when the application was approved, concludes that the drug is not shown to be safe under the conditions of use upon the basis of which the application was approved.

Information available to the Commissioner has established that residues of neomycin exceeding the tolerance of 0.15 part per million (negligible residue provided by 21 CFR 135g.25) are present in milk taken from animals in which the drug has been used as labeled.

In accordance with the provisions of section 512 of the act (21 U.S.C. 360b), the Commissioner will give the applicant and any interested person who would be adversely affected by an order withdrawing such approval an opportunity for a hearing at which time such perosns may produce evidence and arguments to show why approval of NADA No. 38–293V should not be withdrawn. Promulgation of the proposed order will cause any such preparation to be a new animal drug for which no approved new animal drug application is in effect. Any such drug then on the market would be subject to regulatory proceedings.

Within 30 days after publication hereof in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Office of the General Counsel, Room 6–88, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner, without further notice, will enter a final order withdrawing approval of the new animal drug application.

Failure of such persons to file a written appearance of election within 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing concerning a method or process that the Commissioner finds is entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they must file a written appearance requesting the hearing and giving the reasons why the approval of the new animal drug application should not be withdrawn together with a well organized and full factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition to the grounds for the notice of opportunity for a hearing. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of this application, the Commissioner will enter an order stating his findings and conclusions on such data. If the hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence. The time shall be not more than 90 days after the expiration of said 30 days unless the hearing examiner and the applicant otherwise agree.

Responses to this notice will be available for public inspection in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343–51; 21 U.S.C. 360b) and under the authority delegated to the Commissioner (21 CFR 2.120).

Dated: November 1, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71–16489 Filed 11–10–71;8:50 am]

[DESI 11287]

SODIUM POLYSTYRENE SULFONATE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Kayexalate containing sodium polystyrene sulfonate; Winthrop Laboratories, Division of Sterling Drug Inc., 90 Park Avenue, New York, N.Y. 10016 (NDA 11–287).

Such drug is regarded as a new drug (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such drug without approval.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that this drug is effective for the symptomatic treatment of hyperkalemia.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* Sodium polystyrene sulfonate preparations are in fine powder form suitable for oral or rectal administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the Act and regulations. The labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section is as follows: (Labeling guidelines for the drug are available from the Administration on request.)

INDICATIONS

SYMPTOMATIC TREATMENT OF HYPERKALEMIA

3. Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study," published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling and an abbreviated supplement for updating information as described in paragraphs (a)(1)(i) and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application as described in paragraph (a)(3)(i) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

A copy of the Academy's report has been furnished to the firm referred to above. Communications forwarded in response to this announcement should be identified with the reference number DESI 11287, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD–100), Bureau of Drugs.
Original abbreviated new drug applications (identify as such): Drug Efficacy Study Implementation Project Office (BD–60), Bureau of Drugs.
Requests for the Academy's report: Drug Efficacy Study Information Control (BD–67), Bureau of Drugs.
All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD–60), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: October 14, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71–16488 Filed 11–10–71;8:50 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50–404; 50–405]

VIRGINIA ELECTRIC AND POWER CO.

Notice of Receipt of Application for Construction Permits and Facility Licenses; Time for Submission of Views on Antitrust Matters

The Virginia Electric and Power Co., 700 East Franklin Street, Richmond, VA 23209, pursuant to section 103 of the Atomic Energy Act of 1954, as amended, has filed an application, dated September 15, 1971, for authorization to construct and operate two additional nuclear reactors, designated as the North Anna Power Station Units No. 3 and No. 4, on the applicant's site in Louisa County, Va.

The site is located south of the North Anna River, approximately 24 miles southwest of Fredericksburg, 40 miles north-northwest of Richmond, Va., and 38 miles east of Charlottesville, Va. The reactors will be located adjacent to North Anna Power Station Units No. 1 and No. 2 on a peninsula in a reservoir that is to be formed when an earthen dam is constructed approximately 5 miles southeast of the site.

The proposed nuclear powerplant will consist of two pressurized water reactors, each of which is designed for initial operation at approximately 2,631 thermal megawatts with a gross electrical output of approximately 950 megawatts.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within sixty (60) days after October 21, 1971.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Office of the Board of Supervisors, Louisa County Courthouse, Louisa, Va. 23093.

Dated at Bethesda, Md., this 5th day of October 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director, Division of Reactor Licensing.

[FR Doc.71–14508 Filed 10–20–71;8:45 am]

[Docket No. 50–360]

BATTELLE MEMORIAL INSTITUTE

Notice of Proposed Issuance of Facility License

The Atomic Energy Commission ("the Commission") is considering the issuance of a facility license to the Battelle Memorial Institute, Richland, Wash. The license would authorize Battelle to operate the Plutonium Recycle Critical Facility (PRCF), which is owned by the Commission and located near Richland, Wash., at steady-state power levels not to exceed 10 kilowatts (thermal) in accordance with the provisions of the proposed license and the Technical Specifications appended thereto.

The operation of the facility started in 1963 with the General Electric Co. as the contractor. Since January 1965, the facility has been operated by the Battelle Memorial Institute for the Commission. The Commission has granted to Battelle a Use Permit which contemplates, among other things, the use of the PRCF by Battelle in conducting research and development activities for its own account. Such use requires a license pursuant to section 104c of the Atomic Energy Act of 1954, as amended ("the Act"), and 10 CFR Part 50.

The Commission has found that the application, as amended, for the facility license complies with the requirements of the Act, and the Commission's regulations published in 10 CFR Chapter I. The license will be issued after the Commission makes the findings required by the Act and the Commission's regulations, which are set forth in the proposed license, and concludes that the issuance of this license will not be inimical to the common defense and security or to the health and safety of the public. In addition, Battelle Memorial Institute will be required to execute an indemnity agreement as required by section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

Within 15 days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the Commission's "Rules of Practice" in 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this proposed license, see (1) the application

notarized April 27, 1970, and amendments thereto dated July 6, 1970, and December 28, 1970, and (2) the proposed facility license, including the Technical Specifications, and (3) a related Safety Evaluation prepared by the Division of Reactor Licensing, all of which are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, DC. A copy of each of items (2) and (3) above may be obtained upon request sent to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 4th day of November 1971.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[FR Doc.71-16571 Filed 11-10-71;8:53 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23837]

BASLER FLIGHT SERVICE, INC., ENFORCEMENT PROCEEDING

Notice of Hearing

Notice is hereby given pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on December 1, 1971, at 10 a.m. (local time) in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner Richard M. Hartsock.

Dated at Washington, D.C., November 5, 1971.

[SEAL] RALPH L. WISER,
Chief Examiner.

[FR Doc.71-16503 Filed 11-10-71;8:51 am]

[Docket No. 23910]

NIGERIA AIRWAYS, LTD. FOREIGN AIR CARRIER PERMIT APPLICATION

Notice of Postponement of Prehearing Conference and Hearing

Notice is hereby given that the prehearing conference now scheduled for November 26, 1971, is hereby postponed to December 9, 1971, at 10 a.m. (local time) in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned examiner.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before December 2, 1971.

Dated at Washington, D.C., November 5, 1971.

[SEAL] JOSEPH L. FITZMAURICE,
Hearing Examiner.

[FR Doc.71-16504 Filed 11-10-71;8:51 am]

[Dockets Nos. 23780, 23919, Order 71-11-30]

STUDENT, YOUTH, AND SENIOR-CITIZENS FARES IN U.S. AND FOREIGN AIR TRANSPORTATION

Order of Consolidation

Student, youth, and senior-citizen fares in foreign air transportation, Docket 23780; international student and youth fares applying to U.S. residents in air transportation, Docket 23780; senior-citizen fares in foreign air transportation, Docket 23919.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 5th day of November 1971.

By Order 71-9-3, dated September 1, 1971, the Board ordered an investigation of student and youth fares in foreign air transportation. By Order 71-10-71, dated October 18, 1971, an investigation was ordered into the lawfulness of senior-citizen fares in foreign air transportation.[1] Both investigations are currently awaiting the assignment of an examiner and a prehearing conference.

Upon consideration of the substantial identity of the issues and other factors, the Board finds that consolidation of Docket 23919 into Docket 23780 will be conducive to the proper dispatch of the Board's business and to the ends of justice and will not unduly delay the proceedings.

Accordingly, pursuant to the Federal Aviation Act of 1958, *It is ordered*, That:

1. Docket 23919 is consolidated into Docket 23780, which is redesignated as "Student, Youth, and Senior-Citizen Fares in Foreign Air Transportation."

2. Copies of this order shall be served upon all parties to Dockets 23919 and 23780.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-16500 Filed 11-10-71;8:53 am]

[Docket No. 21866-9; Order 71-11-29]

NORTHWEST AIRLINES, INC.

Order Denying Petition for Reconsideration

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 5th day of November 1971.

Proposal by Northwest Airlines, Inc., revised application of night coach fares, Docket 21866-9.

By Order 71-9-99, dated September 27, 1971, the Board suspended and set for investigation a proposal made by Northwest Airlines, Inc. (Northwest) to revise the applicability of its deluxe night coach and night coach fares so as to apply on flights departing Miami for Chicago, Milwaukee, and Minneapolis between the hours of 9 p.m. and 3:59 a.m., instead of the present 10 p.m. and 3:59 a.m. On October 15, 1971, Northwest filed a petition for reconsideration requesting that the Board reverse its decision and permit it to implement the change as proposed.

In support of its petition, Northwest alleges that, effective December 15, 1971, Delta Air Lines, Inc. (Delta) plans to operate a night coach service departing Miami at 9 p.m. for Chicago. Accordingly, Northwest requests either that the Board permit it to match this service or that it order Delta to charge the appropriate day coach fare for the flight in question.

The Board finds that Northwest's petition sets forth no new facts which warrant a reversal of our decision in Order 71-9-99. Delta has now filed a change in its official schedules which cancels the Miami departure in question and in lieu thereof provides a night coach flight departing Ft. Lauderdale at 10 p.m. Consequently, the issue of competitive necessity appears to have been resolved.

Accordingly, pursuant to the Federal Aviation Act of 1958, *It is ordered*, That:

1. The request by Northwest Airlines, Inc. for reconsideration of Order 71-9-99 is hereby denied.

2. Copies of this order be served upon Delta Air Lines, Inc., Eastern Air Lines, Inc., and Northwest Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-16501 Filed 11-10-71;8:53 am]

[1] Subsequent to the date of the latter order, Sabena Belgian World Airlines filed senior-citizen fares applicable between New York and Belgium which match the KLM senior-citizen fares. These fares are automatically included in Docket 23919.

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs. Temporary Reg. F-128]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in an electric service rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the New Jersey Board of Public Utility Commissioners in a proceeding (Docket Nos. 719-627 and 719-628) involving the applications of New Jersey Power and Light Co., and its affiliate, Jersey Central Power and Light Co., for a rate increase.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

ROD KREGER,
Acting Administrator, General Services Administration.

NOVEMBER 5, 1971.

[FR Doc.71-16481 Filed 11-10-71;8:49 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report 569]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

NOVEMBER 8, 1971.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

2415-C2-P-72—Empire Communications Co. (New), For a new one-way station to be located at the KPIC Tower, 3 miles northeast of Roseberg, Oreg., to operate on 152.24 MHz.
2416-C2-MP-72—Maureen L. Smith (KRS715), To replace transmitter operating on 158.70 MHz located at 606 Wisconsin Avenue, Milwaukee, WI.
2417-C2-P-72—Monroe Radiotelephone Co. (KKX711), To replace transmitter operating on 152.06 MHz, located at 0.5 mile northwest of Petal, Miss.
2418-C2-P-72—Monroe Radiotelephone Co. (KKM574), To replace transmitter operating on 152.03 MHz, located at 468 South 14th Avenue, Laurel, MI.
2419-C2-P-72—All City Telephone Answering Service, Inc. (KRS716), For additional facilities to operate on 152.24 MHz, at location No. 2: 20600 West National Avenue, New Berlin, WI.
2420-C2-AL-72—Lee Telephone Co., Consent to transfer of control from Lee Telephone Co., Assignor, to: New Lee, Inc., Assignee. Station: KJU797 Martinsville, Va.
2422-C2-AL-(2)-72—Southeastern Telephone Co., Consent to assignment of license from Southeastern Telephone Co., Assignor, to: New Southeastern, Inc., Assignee. Stations: KIN646 Tallahassee, Fla., and KIY737 Crestview, Fla.
2437-C2-P-72—Paging, Inc. (New), For a new two-way station to be located at Brosh Mountain, 2.8 miles northwest of Blacksburg, Va., to operate on 152.18 MHz.
2438-C2-P-72—Paging, Inc. (New), For a new two-way station to be located at Route No. 57, 0.2 mile east of Martinsville, Va., to operate on 152.18 MHz.
2439-C2-AL-(2)-72—Allegheny Mobile Communications, Consent to assignment of license from Nicholas Mervos, Jr., Ben Farkas and Edith M. Miller, Administratrix of Estate of Joseph S. Miller (Deceased), doing business as Allegheny Mobile Communications, Assignors, to: Allegheny Mobile Telephone Co., Inc., Assignee. Stations: KGA252 McKeesport, Pa., and KWB370 Pittsburgh, Pa. (one-way).
2442-C2-P-(2)-72—Radio Dispatch Co. (New), For a new one-way station to be located at 2.5 miles east-northeast of Bridgeton, N.J., to operate on frequencies 152.240 and 158.700 MHz.
2443-C2-P-72—Unita Basin Telephone Association, Inc. (KON909), Replace transmitter and change the antenna system operating on 152.54 MHz, located 1 mile northeast of Randlett, Utah.
2444-C2-P-(2)-72—New York Telephone Co. (KED350), Replace transmitters and add antenna for facilities operating on 454.675 and 454.750 MHz, located at Southport Hill, Comfort Road—5.75 miles south of Elmira, N.Y. (Air-Ground).
2445-C2-ML-72—Imperial Communications Corp. (KLF644), Interchange frequencies of the 152.24 MHz base station at location No. 1: Mount Soledad, San Diego, Calif., with the 158.70 MHz base station at location No. 3: Mount Woodson, Calif.
2446-C2-ML-72—Imperial Communications Corp. (KMA262), Interchange frequencies of the 152.03 MHz base station at location No. 1: Mount Soledad, San Diego, Calif., with the 152.18 MHz at location No. 4: Mount Woodson, Calif.
2447-C2-MP-72—Mobilfone Communications (KLB500), Change base frequency to 152.18 MHz; replace transmitter operating on same; change the antenna system and relocate facilities to 200 West Capitol Street, Little Rock, AR.
2448-C2-MP-(4)72—Capital Telephone Co. (KEC937), Add repeater facilities to operate on 454.200 MHz and 454.275 MHz at Helderberg 2, 2.2 miles west-northwest of New Salem, New Scotland, N.Y., and add control facilities to operate on 459.200 MHz and 459.275 MHz at 611 Union Street, Schenectady, NY.
2523-C2-P-72—Telephone Answering Exchange (KGI761), Replace transmitter and change the power for facilities operating on 152.24 MHz, located at WWSL-FM, Bald Mountain, Scranton, Pa.
2562-C2-P-72—Montana Communications (KOF914), Replace transmitter and change the power for facilities operating on 454.05 MHz at location No. 1: 3200 Clark Street, Missoula, MT.
2563-C2-P-72—South Central Bell Telephone Co. (KIY600), For additional facilities to operate on 158.04 MHz (auxiliary test), at 810 Kentucky Avenue, Paducah, KY.
2564-C2-P-72—Kidd's Communications, Inc. (KMA257), Relocate control facilities operating on 459.325 MHz from location No. 9 to location No. 3: 105 Asher Street, Taft, CA.
2570-C2-P-72—New Jersey Mobile Telephone Co., Inc. (KEK290), For additional facilities to operate on 454.200 MHz at location No. 2: Prospect Street, Mountainside, N.J.
2587-C2-P-72—Southwestern Bell Telephone Co. (New), For a new two-way station to be located at 209-11 East Fourth Street, Sweetwater, TX, to operate on 152.69 MHz.
2588-C2-P-72—Southwestern Bell Telephone Co. (KKT401), Replace transmitter and change the antenna system operating on 152.75 MHz, located at 8.7 miles southeast of Colorado City, TX.
2589-C2-P-72—Two-Way Radio of Carolina, Inc. (KIY754), Relocate facilities operating on 454.05 MHz control, at location No. 2: 203 Main Street, Hamlet, NC.

[1] All applications listed below are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

[2] The above alternative cutoff rules apply to those applications listed below as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)—Continued

5926-C1-P-70—MCI St. Louis-Texas, Inc. (New), Site No. 5: Station location: 4.3 miles south-southwest of Freeburg, Mo. Delete frequencies 6226.9 and 6345.5 MHz on azimuth 58°37' and 6197.2 MHz and 6315.9 MHz on azimuth 213°51'. Add frequency 6345.5 MHz on azimuth 57°19' and 6197.2 MHz on azimuth 215°16'. Relocate site to latitude 38°15'15" N., longitude 91°55'53" W.

5927-C1-P-70—MCI St. Louis-Texas, Inc. (New), Site No. 6: Station location: 1.5 miles northeast of Hancock, Mo. Delete frequencies 5974.8 and 6093.5 MHz on azimuth 33°43' and 6004.5 and 6123.1 MHz on azimuth 228°55'. Add frequency 6093.5 MHz on azimuth 35°08' and 6152.8 MHz on azimuth 228°55'. Relocate site to latitude 37°59'50" N., longitude 92°09'39" W.

5928-C1-P-70—MCI St. Louis-Texas, Inc. (New), Site No. 7: Station location: 2.2 miles east-southeast of Lebanon, Mo. Delete frequencies 6286.2 and 6404.8 MHz on azimuth 48°39' and 6226.9 and 6345.5 MHz on azimuth 207°29'. Add frequency 6315.9 MHz on azimuth 48°39' and 6375.2 MHz on azimuth 216°47'. Relocate site to latitude 37°40'35" N., longitude 92°37'21" W.

5929-C1-P-70—MCI St. Louis-Texas, Inc. (New), Site No. 8: Delete name Fordland, add name Sparkle Brook. Delete frequencies 5945.2 and 6063.8 MHz on azimuth 27°17' and 5974.8 and 6093.5 MHz on azimuth 273°00'. Add frequencies 6152.8 MHz on azimuth 36°36' and 6004.5 MHz on azimuth 245°40'. Relocate site to latitude 37°25'08" N., longitude 92°51'49" W.

5930-C1-P-70—MCI St. Louis-Texas, Inc. (New), Site No. 9: Station location: Landers Building, Public Square, Springfield, Mo. Delete frequencies 6256.5 and 6375.2 MHz on azimuth 92°47' and 6226.9 MHz and 6345.2 MHz on azimuth 238°45'. Add frequency 6034.2 MHz on azimuth 48°44' and 6093.5 MHz on 238°43'.

5931-C1-P-70—MCI St. Louis-Texas, Inc. (New), Site No. 10: Station location: 3.5 miles north-northeast of Marionville, Mo. Delete frequencies 6004.5 and 6123.1 MHz on azimuth 58°33'. Add frequency 6286.2 MHz on azimuth 58°31'. Relocate site to latitude 37°03'07" N., longitude 93°36'52" W. All other particulars same as reported on public notice dated Apr. 13, 1970.

[FR Doc.71-18510 Filed 11-10-71;8:51 am]

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)

The following applicants proposes to establish omnidirectional facilities for the provision of common carrier "Subscriber-Programed" television service.

2440-C1-P-72—Microwave Transmission Corp. (New), A new station at 530 B Street, San Diego, CA. Latitude 32°43'06" N., longitude 117°09'32" W. Frequencies: 2162.325 (visual) 2150.20 MHz (aural) toward various receiving points of system and 2158.50 (visual) 2154.00 MHz (aural) toward various receiving points of system.

2441-C1-P-72—American Communications & Electronics Corp. (New), A new station at 104 West Franklin Street, Richmond, VA. Latitude 37°32'41" N., longitude 77°26'40" W. Frequencies: 2162.325 MHz (visual) and 2150.20 MHz (aural) toward various receiving points of system and 2158.50 MHz (visual) and 2154.00 MHz (aural) toward various receiving points of system.

2560-C1-P-72—Microband Corp. of America (New), A new station at First and Merchants National Bank Building, Atlantic and Plume Streets, Norfolk, VA. Latitude 36°50'43" N., longitude 76°17'26" W. Frequencies 2162.325 MHz (visual) and 2150.20 MHz (aural) toward various receiving points of system and 2158.50 MHz (visual)) and 2154.00 MHz (aural) toward various receiving points of system.

2561-C1-P-72—Microband Corp. of America (New), A new station at Industrial National Bank Building, 111 Westminster Street, Providence, RI. Latitude 41°49'25" N., longitude 71°27'06" W. Frequencies: 2162.325 MHz (visual) and 2150.20 MHz (aural) toward various receiving points of system and 2158.50 MHz (visual) and 2154.00 MHz (aural) toward various receiving points of system.

[FR Doc.71-18511 Filed 11-10-71;8:51 am]

Major Amendment

7519-C2-P-70—Curtin Call Communications (New), Amended to change base frequency to 158.70 MHz and class of station to one-way signaling. See public notice dated May 25, 1970, Report No. 493.

5026-C2-P-71—City Answering Service (New), Amended to change location and antenna height above terrain. See public notice dated Mar. 29, 1971, Report No. 537.

RURAL RADIO SERVICE

2490-C1-AL-72—Lee Telephone Co., Consent to assignment of license from Lee Telephone Co., Assignor, to: New Lee, Inc., Assignee. Station: WAD71 Temp-Fixed.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)

2421-C1-AL-(3)-72—Lee Telephone Co., Consent to assignment of license from Lee Telephone Co., Assignor, to New Lee, Inc., Assignee. Stations: KJH24 Martinsville, Va.; KJH25 Figsboro, Va.; KTO78 Rocky Mount, Va.

2423-C1-AL-(15)-72—Southeastern Telephone Co., Consent to assignment of license from Southeastern Telephone Co., Assignor, to New Southeastern, Inc., Assignee. Stations: KIQ63 Monticello, Fla.; KIQ83 Tallahassee, Fla.; KIQ64 Crestview, Fla.; KIQ65 Gobbler Hill, Fla.; KIQ66 Fort Walton Beach, Fla.; KIT39 Eglin Air Force Base, Fla.; KJA73 Crestview, Fla.; KJH43 Forrest Beach, Fla.; KJK35 Crawfordville, Fla.; KKU97 Temporary Fixed Location; KYC77 Eglin Air Force Base, Fla.; KYC78 De Funiak Springs, Fla.; KYC79 Mosy Head, Fla.; KYN97 Madison, Fla.; KYN98 Greenville, Fla.

2565-C1-P-72—South Central Bell Telephone Co. (KLT46), Location: 333 North Sixth Street, Baton Rouge, La. Latitude 30°26'59" N., longitude 91°11'06" W. To add frequency 11,245 MHz toward WRBT-TV Studios, Baton Rouge, La., and change street address from 555 Florida Street, to 333 North Sixth Street.

2598-C1-P-72—MCI St. Louis-Texas, Inc. (New), A new station at 7900 Van Buren Street, St. Louis, MO, at latitude 38°32'30" N., longitude 90°15'19" W. Frequencies 6375.2 MHz on azimuth 242°30'. Frequency 10,735 MHz and 11,135 MHz on azimuth 29°59'.

2599-C1-P-72—MCI St. Louis-Texas, Inc. (New), A new station 3 miles north of Stafford, Mo, at latitude 37°19'19" N., and longitude 93°07'53" W. Frequency 6315.9 MHz on azimuth 65°31' and 6256.5 MHz on azimuth 228°50'.

Major Amendment

5922-C1-P-70—MCI St. Louis-Texas, Inc. (New), Site No. 1: Station location: 720 Olive Street, St. Louis, MO. To delete frequencies 6212.0 MHz and 6380.3 MHz add frequencies 11,225 MHz and 11,625 MHz. Correct azimuth to 210°01'.

5923-C1-P-70—MCI St. Louis-Texas, Inc. (New), Site No. 2: Station location: 2 miles southeast of High Ridge, Mo. Delete Frequencies 5960.0 and 6078.6 MHz on azimuth 58°22' and 6034.2 MHz and 6152.8 MHz at 270°10'. Add frequencies 6004.5 MHz on azimuth 62°20' and 6152.8 MHz on azimuth 273°36'. Relocate site to latitude 38°26'16" N., longitude 90°30'30" W.

5924-C1-P-70—MCI St. Louis-Texas, Inc. (New), Site No. 3: Station location: 3.6 miles northwest of Union, Mo. Delete frequencies 6197.2 and 6315.9 MHz on azimuth 89°50' and 6256.5 and 6375.2 MHz on azimuth 274°42'. Add frequencies 6256.5 MHz on azimuth 93°17' and 6404.8 MHz on azimuth 274°46'. Relocate site to latitude 38°27'50" N., longitude 91°08'30" W.

5925-C1-P-70—MCI St. Louis-Texas, Inc. (New), Site No. 4: Station location: 2 miles north of Drake, Mo. Delete frequencies 6004.5 and 6123.1 MHz on azimuth 94°27' and 5945.2 and 6063.8 MHz on azimuth 238°55'. Add frequencies 6152.8 MHz on azimuth 94°31' and 6152.8 MHz on azimuth 237°36'. Relocate site to latitude 38°29'23" N., longitude 91°-27'45" W.

[Docket No. 19339; FCC 71-1113]

DUBUQUE COMMUNICATIONS CORP.

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In regard application of Dubuque Communications Corp. (KDUB-TV), Dubuque, Iowa, for license to cover construction permit, Docket No. 19339, File No. BLCT-2002.

1. We have before us for consideration: (1) The captioned license application of Dubuque Communications Corp., licensee of television Station KDUB-TV, Dubuque, Iowa; and (2) matters coming to our attention as a result of an investigation in Docket No. 18811,[1] which raise a substantial question as to Dubuque Communications Corp.'s qualifications to be a licensee of the Commission.

2. In view of the evidence adduced in Docket No. 18811 with respect to the actions of Gerald Green, president of Dubuque Communications Corp. and general manager of Station KDUB-TV, we are unable to conclude that a grant of the captioned application would serve the public interest. Accordingly, it is necessary to designate the application for hearing.

3. *Accordingly, it is ordered*, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the captioned application is designated for hearing at Washington, D.C., at a time to be specified in a subsequent order, upon the following issues;

1. To determine all of the facts and circumstances surrounding the payments made by Gerald Green to a representative of the American Broadcasting Co.

2. To determine in light of the evidence adduced pursuant to the above issue, whether Dubuque Communications Corp. possesses the requisite qualifications to be a licensee of the Commission.

3. To determine in light of the evidence adduced pursuant to the above issues, whether a grant of the application would serve the public interest, convenience and necessity.

4. *It is further ordered*, That the Chief of the Broadcast Bureau shall serve upon the captioned applicant, within sixty (60) days of the release of this order, a bill of particulars setting forth the basis for the adoption of the above hearing issue (1).

5. *It is further ordered*, That the Broadcast Bureau shall proceed with the initial introduction of evidence with respect to issue (1) and the applicant shall have the burden of proof with respect to all the issues.

6. *It is further ordered*, That to avail itself of the opportunity to be heard, the applicant, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within twenty (20) days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

7. *It is further ordered*, That the applicant shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing within the time and in the manner specified in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: October 28, 1971.

Released: November 4, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-16518 Filed 11-10-71;8:52 am]

[Docket No. 19340; FCC 71-1114]

LOOK TELEVISION CORP.

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In regard application of Look Television Corp. (WJJY-TV), Jacksonville, Ill., for renewal of license, Docket No. 19340, File No. BRCT-663.

1. We have before us for consideration: (1) The captioned application of Look Television Corp. for renewal of the license of television station WJJY-TV, Jacksonville, Ill.; and (2) matters coming to our attention as a result of an investigation in Docket No. 18811,[1] which raise a substantial question as to Look Television Corp.'s qualifications to be a licensee of the Commission.

2. In view of the evidence adduced in Docket No. 18811 with respect to the actions of Keith Moyer, president of Look Television Corp., we are unable to conclude that a grant of the captioned application would serve the public interest. Accordingly, it is necessary to designate the renewal application for hearing.

3. *Accordingly, it is ordered*, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the captioned application is designated for hearing at Washington, D.C., at a time to be specified in a subsequent order, upon the following issues:

1. To determine all of the facts and circumstances surrounding the payment made by Keith Moyer to a representative of the American Broadcasting Co. and the changes in the Station WJJY-TV affiliation agreement.

2. To determine in light of the evidence adduced pursuant to the above issue, whether Look Television Corp. possess the requisite qualifications to be a licensee of the Commission.

3. To determine in light of the evidence adduced pursuant to the above issues, whether a grant of the application would serve the public interest, convenience, and necessity.

4. *It is further ordered*, That the Chief of the Broadcast Bureau shall serve upon the captioned applicant, within sixty (60) days of the release of this order, a bill of particular setting forth the basis for the adoption of the above hearing issue (1).

5. *It is further ordered*, That the Broadcast Bureau shall proceed with the initial introduction of evidence with respect to issue (1) and the applicant shall have the burden of proof with respect to all the issues.

6. *It is further ordered*, That to avail itself of the opportunity to be heard, the applicant, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within twenty (20) days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

7. *It is further ordered*, That the applicant shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing within the time and in the manner specified in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: October 28, 1971.

Released: November 4, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-16519 Filed 11-10-71;8:52 am]

[FCC 71-1149]

SCREEN GEMS STATIONS, INC.

Memorandum Opinion and Order Regarding Prime Time Access Rule Waiver

In the matter of request for waiver of the "prime time access" rule, § 73.658(k)

[1] In Docket No. 18611, the Commission, pursuant to sections 403 and 409(1) of the Communications Act of 1934, as amended, instituted an inquiry to determine whether broadcast licensees or permittees, or any principal, agent or employee thereof, made payments to employees or principals of networks for the purpose of obtaining affiliation with such networks. The Commission emphasized that any such payment raises questions as to the particular party's qualifications to remain a licensee or permittee of the Commission, FCC 70-267, released Mar. 16, 1970.

[2] Commissioner Reid not participating.

[1] In Docket No. 18611, the Commission, pursuant to sections 403 and 409(1) of the Communications Act of 1934, as amended, instituted an inquiry to determine whether broadcast licensees or permittees, or any principal, agent or employee thereof, made payments to employees or principals of networks for the purpose of obtaining affiliation with such networks. The Commission emphasized that any such payment raises questions as to the particular party's qualifications to remain a licensee or permittee of the Commission, FCC 70-267, released March 16, 1970.

[2] Commissioner Reid not participating.

by Station KCPX–TV, Salt Lake City, Utah.

1. The Commission has received from Screen Gems Stations, Inc. a request for waiver of the "prime time access" rule, § 73.658(k), which, after October 1, 1971, in general limits TV stations in the top 50 markets to the presentation of no more than 3 hours of network programing during "prime time" (7–11 p.m., local time, except 6–10 p.m., c.t. in the central time zone). The request is on behalf of Station KCPX–TV, Salt Lake City, Utah, and is for permission to present 3 hours 15 minutes of ABC programs during prime time on Saturday, November 6, 1971. This would include 3 hours of ABC's NCAA football game that evening (which begins at 9:30 e.t., or 7:30 m.t.), plus 15 minutes of ABC late news, which the station wishes to present from 10:30 to 10:45 p.m., m.t.

2. In support of its request, Screen Gems asserts that the waiver request is for only 15 minutes on one date only, "results from" the presentation of a live sports event of widespread interest (citing footnote 35 of the report and order in Docket 12782, 23 FCC 2d 382), and reflects the unique situation of stations in the mountain time zone. Viewers in the eastern and central zones can watch both the entire game and the following ABC news without any problem, with half the game and the news occurring after prime time ends, but this is not true in the mountain zone. It is also asserted that KCPX–TV has made a number of changes in its schedule to comply with the new "prime time access" rule; from an earlier request by this station (which was denied) it appears that its weekly total of network programing during prime time is somewhat under the 21 hours weekly limit which the rule in effect imposes on such presentation.

3. We are of the view that waiver is warranted in this instance. This is not on the basis of "footnote 35," which is limited to situations where waiver is required to permit the completion of a live sports broadcast which does not normally, but may occasionally, run over the allotted time. Rather, our decision is based on the fact that this is a "one-time" request, involving only 15 minutes, and, also, it results from circumstances peculiar to the mountain time zone and the few stations in the three "top 50" markets located therein. We also note the fact that the station appears to be presenting less than 21 hours a week of network material during prime time, and are conditioning the waiver on a corresponding reduction in such presentation during the next 7 days following Saturday, November 6.

4. In view of the foregoing: *It is ordered*, That, Station KCPX–TV, Salt Lake City, Utah, is granted waiver of § 73.658(k) of the rules, to permit the presentation of the ABC football game plus 15 minutes of ABC news on the evening of Saturday, November 6, 1971: *Provided*, That the station carry no more than a total of 20¾ hours of network programs during prime time on the following 7 days.

Adopted: November 3, 1971.

Released: November 5, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Secretary

[FR Doc.71–16511 Filed 11–10–71;8:52 am]

TUNG BROADCASTING CO. AND ANDRES CALANDRIA

[Dockets Nos. 19345, 19346; FCC 71–1136]

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of Tung Broadcasting Co., Picayune, Miss., Requests: 106.3 mcs, No. 292; 3 kw. (H); 3 kw. (V); 177 feet, Docket No. 19345, File No. BPH–7285; Andres Calandria, Picayune, Miss., Requests: 106.3 mcs, No. 292; 3 kw.; 300 feet, Docket No. 19346, File No. BPH–7331; for construction permits.

1. The Commission has under consideration (a) the above-captioned and described applications which are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference; (b) "Petition to Deny" the Calandria application, filed by Tung Broadcasting Co.; (c) Calandria's "Reply to Petition to Deny"; and, (d) "Response of Tung Broadcasting Company".[1]

2. In its petition, Tung Broadcasting attempts to raise three issues against Andres Calandria. At considerable length, it argues that Calandria's financial and staffing proposals are totally inadequate. It contends that Calandria's estimates are either too low or do not include all necessary items, and in any event, that the availability of the funds necessary to construct and operate have not been demonstrated. Calandria's answer is that all of the points raised in the pleading were satisfied by the supplemental financial showing contained in his amendment. Tung Broadcasting's response does not question Calandria's financial qualifications as such, so much as it does the absence of an explanation of the basis for the differences in the figures specified in the amended financial showing. Moreover, in its view, Calandria is dependent on outside financing and expertise, and at least as to the matter of anticipated revenues, his showing is not consistent with reasonable expectations for the market.

3. We have carefully reviewed Calandria's financial showing and on the basis of his amended application conclude that an issue on this aspect of his proposal is not required. Calandria's primary source of funds is a $100,000 loan from his mother, Challis Walker de Calandria. Tung Broadcasting alleges that this loan is not acceptable because it does not set forth specific terms of repayment, but in light of the fact that Mrs. Calandria has stated that the loan shall be free of both interest charges and collateral requirements, and that repayment shall be made only out of the net profits of the station, we have credited Calandria with the entire $100,000. Thus, Mr. Calandria has shown that he has available a cushion of more than $37,000 above his stated needs of $63,462, which includes $32,982 for first-year operation. What Tung Broadcasting considers as the lack of explanation for the change in Calandria's cost estimates and his lack of managerial and sales experience in radio are not only irrelevant to the need for a financial issue—which we reject—but also to the other questions it seeks to raise about the Calandria application.

4. The other questions which Tung Broadcasting has petitioned to be put in issue are directed to the bona fides of Calandria's application. Specifically, Tung Broadcasting asserts that doubt exists that Calandria is the true party in interest in what it contends is a strike application. In support of these assertions, Tung Broadcasting contends that Calandria is closely associated with Ben O. Griffin, the licensee of WRPM(FM), Poplarville, Miss., some 25 miles away. According to Tung Broadcasting, that station, in significant measure, directs its programing and advertising solicitation efforts towards Picayune. Thus, Tung Broadcasting asserts, the expectation would be that the licensee of WRPM (FM) would be affected by grant of a first nighttime service in Picayune. Yet, according to the petition, the licensee not only has not opposed Calandria's efforts to obtain such a station, it has cooperated by agreeing to sell land for a transmitter site, by letting Calandria use his drugstore for a mailing address and even by letting his daughter assist Calandria in conducting the community survey. Tung Broadcasting also states that Calandria utilized the services of Mr. Griffin's consulting engineer and, in fact, began his broadcasting career at WRPM(FM) as a part-time announcer. None of these connections are said to be mentioned in Calandria's application. While the facts are said to be within the personal knowledge of Griffin and Calandria, these matters suggest to Tung Broadcasting that Griffin may be the real party in interest and that Calandria's application may have been filed at least for the incidental purpose of delaying or impeding the Tung Broadcasting application.

5. Calandria's answer to these allegations is that he was interested in applying for the channel 5 months before the Tung Broadcasting application was filed. This assertion, he states, is supported by his request for FAA clearance 12 days before Tung Broadcasting filed. Attached to his pleading, Calandria included a copy of a letter from his consulting engineer regarding filing which was dated well before Tung Broadcasting filed, and a statement from Ben O. Griffin denying interest in Calandria's application.

6. In its response, Tung Broadcasting takes issue with the unexplained lateness of Calandria's answer and argues that this pleading should be disregarded. Although Calandria's answer was untimely filed, we have nonetheless decided to consider it on its merits, which Tung Broadcasting characterizes as incomplete and inadequate. Tung particularly points out that it had originally sought rule making to assign channel 292 to Picayune and had indicated its intention to file an application at that time, so that Calandria's arguments concerning the strike application and real-party-in-interest questions should be considered to be totally unpersuasive.

7. In our view, Calandria has not resolved the questions raised by the pleadings. No attempt has been made to rebut the extent of Griffin's advertising efforts in Picayune or his cooperative efforts in connection with Calandria's application. The additional assertions regarding use of Griffin's drug store as a mailing address and his land for a transmitted site along with the help rendered by Griffin's daughter in connection with Calandria's survey do not appear consistent with ordinary expectations of how a licensee would treat a prospective competitor. While Calandria's interest in filing may have predated the Tung Broadcasting filing, it certainly did not predate their expression of interest in filing after having the channel assigned. The brief, incomplete, and unresponsive disclaimers provided by Griffin and Calandria are insufficient to resolve the matter. Serious questions remain which require the addition of issues in the hearing on these applications.

8. Tung Broadcasting proposes to duplicate the programing of its companion AM station approximately one-third of the time while Andres Calandria proposes independent operation. Therefore, evidence regarding program duplication will be admissible under the standard comparative issue. When duplicated programing is proposed, the showing permitted under the standard comparative issue will be limited to evidence concerning the benefits and detriments to be derived from the proposed duplicate the programing of its companion's program proposals will not be permitted in the absence of a specific programing inquiry—Jones T. Sudbury, 8 FCC 2d 360, FCC 67–614 (1967).

9. Both applicants have requested authority under § 73.210(a)(3) of the Commission's rules to locate their main studio outside the city limits of Picayune at their respective transmitter sites. These locations are easily accessible by highway and are not likely to diminish the ability of either station to operate as an effective outlet of local self-expression. Because Picayune is the only sizeable community in the area, there is no possibility of the proposed main studio locations contributing to a de facto reallocation of the stations. We therefore conclude that each applicant has demonstrated good cause to locate its main studio beyond the city limits of Picayune, Miss., in the event its application should be granted.

10. Since Federal Aviation Administration approval has not been obtained for Calandria's antenna structure, an air menace issue has been specified and the FAA has been made a party to this proceeding.

11. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

12. *It is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the facts and circumstances regarding ownership and control of the Calandria proposal and whether Calandria is the sole party in interest.

2. To determine whether the Calandria proposal was filed with the principal or incidental purpose of impeding or delaying the Tung Broadcasting proposal.

3. To determine in light of the evidence adduced in response to the foregoing issues whether Calandria possesses the requisite legal qualifications to be a licensee of the Commission.

4. To determine whether there is a reasonable possibility that the tower height and location proposed by Calandria would constitute a manace to air navigation.

5. To determine which of the proposals would, on a comparative basis, better serve the public interest.

6. To determine in the light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications for construction permit should be granted.

13. *It is further ordered*, That the "Petition to Deny" filed by Tung Broadcasting Co. is granted to the extent indicated and in all other respects is denied.

14. *It is further ordered*, That in the event either application is granted, Commission consent pursuant to § 73.210(a)(3) of the Commission's rules, to locate that station's main studio outside the city limits of Picayune, Miss., shall be granted.

15. *It is further ordered*, That the Federal Aviation Administration is made a party to this proceeding with respect to the Calandria application.

16. *It is further ordered*, That to avail themselves of the opportunity to be heard, the applicants and the FAA, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney shall, within twenty (20) days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

17. *It is further ordered*, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: November 3, 1971.

Released: November 5, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[2]

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71–16520 Filed 11–10–71;8:52 am]

[Dockets Nos. 19336–19338; FCC 71–1112]

UNITED TELEVISION CO. ET AL.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In the matter of revocation of license of United Television Co. of New Hampshire for television Station WMUR, Manchester, N.H., Docket No. 19336; in regard applications of United Television Co. of Eastern Maryland, Inc. for television Station WMET, Baltimore, Md., Docket No. 19337, File No. BRCT–635; for renewal of license KECC Television Corp. for license to cover construction permit (BPCT–3079) as modified, authorizing a new television station (KECC–TV) at El Centro, Calif., Docket No. 19338, File No. BLCT–2099.

1. We have before us for consideration (1) the above captioned applications and (2) the Commission's inquiry in Docket No. 18811.[1] The Commission's inquiry in Docket No. 18811 has raised serious questions as to the above licensees' and permittee's qualifications to remain as licensees and a permittee of this Commission.

2. In view of the evidence adduced in Docket No. 18811 concerning a "consultancy" agreement between Richard Eaton, president of United Broadcasting Co., Inc., the parent corporation of all of the above-listed corporations, and Carmine Patti, an employee of American Broadcasting Co., Inc., we are unable to

[1] Commissioners Bartley and H. Rex Lee dissenting; Commissioner Johnson absent.

[1] On Oct. 4, 1971, Tung Broadcasting Co. filed a supplement to petition to deny. The Commission's rules do not provide for the filing of such supplemental pleadings and in addition, Tung has failed to present any material allegations which warrant consideration in this order.

[2] Commissioner Johnson absent.

[1] In Docket No. 18811, the Commission, pursuant to sections 403 and 409(1) of the Communications Act of 1934, as amended, instituted an inquiry to determine whether broadcast licensees or permittees, or any principal, agent, or employee thereof, made payments to employees or principals of networks for the purpose of obtaining affiliation with such networks. The Commission emphasized that any such payments raises questions as to the particular party's qualifications to remain a licensee or permittee of the Commission, FCC 70–267, released Mar. 16, 1970.

conclude that the grant of the captioned applications would serve the public interest. Accordingly, it is necessary to designate the applications for hearing.

3. Information relating to this consultancy has come to the attention of the Commission since the last renewal of license of WMUR–TV. This information raises serious questions as to the requisite qualifications of United Television Co. of New Hampshire. Accordingly, it is also necessary to designate the license of WMUR for a revocation hearing.

4. All of the questions raised in Docket No. 18811 deal with the actions of Richard Eaton. In view of this, we believe that the orderly dispatch of the Commission's business would be served by having all of the above-captioned matters heard at one time in a consolidated proceeding.[2]

5. *Accordingly, it is ordered,* That, pursuant to the provisions of section 312(a) (1) and (2) of the Communications Act of 1934, as amended, United Television Co. of New Hampshire is directed to show cause why an order revoking the license of Station WMUR, Manchester, N.H., should not be issued and to appear at a hearing to be held in Washington, D.C. at a time to be specified in a subsequent order.

6. *It is further ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications for licenses are designated for a hearing to be held in Washington, D.C. at a time to be specified in a subsequent order, upon the following issues:

1. To determine all of the facts and circumstances surrounding the payments made by Richard Eaton to a representative of the American Broadcasting Co. and the changes in WMUR–TV, KECC–TV, and WMET–TV affiliation agreements.

2. To determine in light of the evidence adduced pursuant to the above issue, whether the above-named licensees and permittee have the requisite qualifications to be licensees or a permittee of the Commission.

3. To determine in light of the evidence adduced pursuant to the above issues, whether a grant of the applications would serve the public interest, convenience and necessity.

7. *It is further ordered,* That the Commission's order (18 FCC 2d 363) designating the applications of United Television Co., Inc. (WFAN–TV), Washington, D.C. and United Broadcasting Co., Inc. (WOOK) (Docket Nos. 18559, et al.) is amended to provide that in the event it is found the applications should be granted, final action on such applications will be withheld until dispositive action is taken in the instant proceeding and that action in the instant proceeding shall be determinative as to the applications named above.

8. *It is further ordered,* That the Chief, Broadcast Bureau, is directed to serve upon the above-named licensees and permittee, within 60 days of the release of this order, a bill of particulars setting forth the basis for the adoption of hearing issue (1).

9. *It is further ordered,* That to avail themselves of the opportunity to be heard, each of the parties herein, pursuant to § 1.221 of the Commission's rules, in person or by attorney, shall within twenty (20) days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

10. *It is further ordered,* That the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Commission with respect to that portion of the proceeding relating to the revocation of WMUR–TV.[3] With respect to the proceeding relating to the applications, the Broadcast Bureau shall proceed with the initial introduction of evidence with respect to issue (1) and the applicants shall have the burden of proof with respect to all the issues.

11. *It is further ordered,* That the renewal and license applicants shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing within the time and in the manner specified in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: October 28, 1971.

Released: November 4, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[4]

[SEAL] BEN F. WAPLE, *Secretary.*

[FR Doc.71-16517 Filed 11-10-71;8:52 am]

[2] The Commission's resolution of these issues will be binding on Richard Eaton and will be res judicata as to him and the licensees controlled by him.

[3] The renewal application of WMUR–TV is due to be filed January 3, 1972. When filed it shall be consolidated with this proceeding. Since revocation is a procedure for terminating an operation prior to the specified license term, there would be no point in pursuing that remedy once the specified term has expired. At that time the proper burden will be on WMUR–TV to show that renewal of its license for another term would be in the public interest and the revocation proceeding will be terminated. At that time the Broadcast Bureau will only have the burden of the initial introduction of evidence on issue (1) and WMUR–TV will have the burden of proof on all issues. Seaboard Broadcasting Corp., FCC 70–1245, released Dec. 1, 1970.

[4] Commissioner Reid not participating.

FEDERAL RESERVE SYSTEM

BRENTON BANKS, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

NOVEMBER 4, 1971.

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Brenton Banks, Inc., which is a bank holding company located in Des Moines, Iowa, for prior approval by the Board of Governors of the acquisition by applicant of 99 percent of the voting shares of Brenton Bank and Trust Co. of Cedar Rapids, Cedar Rapids, Iowa, a proposed new bank.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Chicago.

Board of Governors of the Federal Reserve System, November 4, 1971.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.71-16460 Filed 11-10-71;8:48 am]

FIRST NATIONAL CHARTER CORP.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of First National Charter Corp., Kansas City, Mo., for approval of acquisition of 80 percent or more of the voting shares of The North Side Bank, Jennings, Mo.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by First National Charter Corp., Kansas City, Mo., for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of The North Side Bank, Jennings, Mo. ("Bank").

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Commissioner of Finance for the State of Missouri, and requested his views and recommendation. The Commissioner responded that his office had no objection to approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on September 8, 1971 (36 F.R. 18035), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant has five subsidiary banks with total deposits of $444.2 million, representing 3.9 percent of the total commercial bank deposits in the State, and is the fifth largest banking organization and bank holding company in Missouri. (All banking data are as of December 31, 1970, adjusted to reflect holding company formations and acquisitions approved by the Board through September 30, 1971.)

Bank (deposits $31.6 million), located approximately 8 miles northwest of downtown St. Louis, is the second largest of three banks in Jennings, and the fifth largest of the 11 banks within its service area, which is approximated by the surrounding 30-square-mile area. Applicant's closest subsidiary (deposits $36.5 million) is located about 17 miles southwest of Bank, and neither it nor any other of Applicant's subsidiaries compete with Bank to any significant extent. Nor does it appear likely that such competition would develop in the future in light of the presence of numerous alternative banking sources, the distances separating Applicant's subsidiaries from Bank, and Missouri's restrictive branching law. On the basis of the record before it, the Board concludes that consummation of the proposed acquisition would not adversely affect competition in any relevant area.

Considerations relating to the financial and managerial resources as they relate to applicant, its subsidiaries, and Bank are regarded as consistent with approval of the application. Considerations relating to the convenience and needs of the communities to be served lend weight in support of approval since affiliation with Applicant would enable Bank to expand its mortgage lending and trust services. It is the Board's judgment that the proposed transaction would be in the public interest, and that the application should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above, provided that the action so approved shall not be consummated (a) before the thirtieth calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[1] November 4, 1971.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.71-16461 Filed 11-10-71;8:41 am]

FIRST SECURITY NATIONAL CORP.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the applications of First Security National Corp., Beaumont, Tex., for approval of acquisition of (1) 37.5 percent of the voting shares of Gateway National Bank of Beaumont, Beaumont; (2) 56.95 percent or more of the voting shares of Sour Lake State Bank, Sour Lake; (3) 51 percent or more of the voting shares of Peoples State Bank of Kountze, Kountze; (4) 24 percent of the voting shares of The Village State Bank, Beaumont, all of Texas.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), applications by First Security National Corp., Beaumont, Tex., for the Board's prior approval of the acquisition through merger with its affiliate First Beaumont Corp. ("First Beaumont") of (1) 37.5 percent of the voting shares of Gateway National Bank of Beaumont ("Gateway"); (2) 56.95 percent or more of the voting shares of Sour Lake State Bank, Sour Lake ("Sour Lake"); (3) 51 percent or more of the voting shares of Peoples State Bank of Kountze ("Peoples Bank"); (4) 24 percent of the voting shares of The Village State Bank, Beaumont ("Village Bank"), all of Texas.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the applications to the Comptroller of the Currency and the Texas Commissioner of Banking and requested their views and recommendations. Both recommended approval of the applications.

Notices of receipt of the applications were published in the FEDERAL REGISTER on July 23, 1971 (36 F.R. 13709) and August 3, 1971 (36 F.R. 14283), providing an opportunity for interested persons to submit comments and views with respect to the proposals. Copies of the applications were forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the applications in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisitions on competition, the financial and managerial resources and future prospects of the applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant, a one bank holding company by virtue of its ownership of First Security National Bank ("First Bank"), Beaumont, Tex. ($138.8 million in deposits) is the largest banking organization in the Beaumont banking market controlling approximately 24.4 percent of deposits in that area and 0.5 percent of the commercial bank deposits in the State. (All banking data are as of December 31, 1970 and reflect holding company formations and acquisitions approved through September 30, 1971.) Consummation of applicant's proposals will increase its share of the Beaumont banking market by approximately 3 percent to 27.4 percent of commercial bank deposits in the area and will have no meaningful effect on concentration of bank resources in the State.

Applicant proposes to restructure its existing multicorporate organization by means of a merger with its affiliate, Frist Beaumont and, as an incident to the merger, to acquire the voting shares of Gateway, Sour Lake, Peoples, and Village banks presently held by First Beaumont.[1] In addition, applicant proposes to acquire additional shares of Sour Lakes and Peoples Bank held by two corporations organized by applicant's management in 1967 and 1968 to hold stock of the respective banks and will make an equal offer to remaining shareholders of those banks. The stock of applicant and its affiliate First Beaumont is "stapled" and the two corporations have identical stockholders, officers and directors. Since the stock of these banks is held by applicant's "stapled" affiliate and two associated corporations, the Board views acquisition of stock owned by the affiliate as neither an expansion of the group nor an increase in the banking resources controlled by applicant.

Gateway Bank ($9.7 million in deposits), 15th largest of 19 banks in the Beaumont banking market, located approximately 3 miles west of First Bank, was organized in 1959 by individuals associated with First Bank and has been continuously associated with that bank through First Beaumont since that time.

Village Bank ($7.3 million in deposits), 17th largest of 19 banks in the Beaumont banking market, located approximately 4.5 miles northwest of First Bank, was organized in 1960 by individuals associated with that bank. These banks have operated on a cooperative basis through First Beaumont since 1960.

Sour Lake Bank ($5 million in deposits), the third largest of four banks in

[1] Voting for this action: Governors Mitchell, Daane, Maisel, Brimmer, and Sherrill. Absent and not voting: Chairman Burns and Governor Robertson.

[1] Applicant plans to dispose of First Beaumont's present interest in Lamar State Bank, Beaumont, Tex., soon after consummation of the present proposal.

Harden County, controlling approximately 20 percent of area deposits, is located 19 miles west of First Bank. A majority of the voting shares of Sour Lake Bank was acquired in 1967 by First Beaumont and a corporation organized by persons associated with First Bank for the purpose of holding shares in the bank.

Peoples Bank ($3.2 million in deposits), smallest of four banks in Harden County, is located 25 miles northwest of First Bank and controls approximately 12.6 percent of commercial bank deposits in that area. A majority of the voting shares of Peoples Bank was acquired in 1968 by First Beaumont and a corporation organized by persons associated with First Bank for the purpose of holding shares in the bank.

Although some service overlap exists among applicant's present banking subsidiary and the four proposed subsidiary banks, it appears that insofar as Gateway Bank and Village Bank, the proposed transaction is essentially a corporate reorganization of established interests and relationship. Insofar as Sour Lake Bank and Peoples Bank, since the banks are small and there appears to be little likelihood of discontinuance of the present relationship, no meaningful existing or potential competition would be eliminated or foreclosed by consummation of applicant's proposed acquisitions.

On the basis of the record before it, the Board concludes that consummation of applicant's proposals would not have significant adverse effects on competition in any relevant area. Considerations relating to financial and managerial resources and prospects as they relate to applicant, First Bank and the four proposed subsidiary banks are consistent with approval of the applications. Although applicant proposes no significant changes in services to the public as a result of the proposed acquisitions, the convenience and needs of the communities involved should benefit from the improved economies and efficiencies of operation expected to result from the proposed restructuring of applicant into a coordinated multibank holding company organization. Convenience and needs considerations are therefore consistent with approval. It is the Board's judgment that the proposed transactions would be in the public interest and that the applications should be approved.

It is hereby ordered, On the basis of the record, that said applications be and hereby are approved for the reasons summarized above, provided that the acquisitions so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

It is further ordered, That upon the consummation of the proposed transaction, applicant shall not retain or acquire any nonbank shares or engage in any nonbanking activities to a greater extent or for a longer period than would apply in the case of a bank holding company which became such on the date of such consummation, except to the extent otherwise permitted in any regulation of the Board hereafter adopted specifically relating to the effect of the acquisition of an additional bank on the status of nonbank shares and activities of a one bank holding company formed prior to 1971, or unless the Board fails to adopt any such regulation before the expiration of 2 years after the consummation of the proposed acquisition.

By order of the Board of Governors,[2] November 4, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16462 Filed 11-10-71;8:48 am]

GRAND BANKS CORP.

Order Denying Action To Become a Bank Holding Company

In the matter of the application of The Grand Banks Corp., Milwaukee, Wis., for approval of action to become a bank holding company through the acquisition of 80 percent or more of the voting shares of Bank of North Lake, North Lake, Wis.

There has come before the Board of Governors, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by The Grand Banks Corp., Milwaukee, Wis., for the Board's prior approval of action whereby applicant would become a bank holding company through the acquisition of 80 percent or more of the voting shares of Bank of North Lake, North Lake, Wis. (Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Wisconsin Commissioner of Banking and requested his views and recommendation. The Deputy Commissioner recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on July 17, 1971 (36 F.R. 13300), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

It is hereby ordered, On the basis of the record, that said application be and hereby is denied for the reasons set forth in the Board's statement[1] of this date.

By order of the Board of Governors,[2] November 4, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16463 Filed 11-10-71;8:48 am]

MARSHALL & ILSLEY BANK STOCK CORP.

Proposed Acquisition of First National Leasing Corp.

Marshall & Ilsley Bank Stock Corp., Milwaukee, Wis., a bank holding company, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(a)(8)) and § 222.4 (b)(2) of the Board's Regulation Y, for permission to acquire voting shares of First National Leasing Corp., Milwaukee, Wis. Notice of the application was published on September 13, 1971, in The Daily Reporter, a newspaper circulated in Milwaukee, Wis.

Applicant states that the proposed subsidiary would engage in the activity of leasing equipment to business and manufacturing customers on a noncancelable, full-payout basis. Such activity has been specified by the Board in § 222.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 222.4(b).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 6, 1971.

Board of Governors of the Federal Reserve System, November 4, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16466 Filed 11-10-71;8:48 am]

[2] Voting for this action: Governors Mitchell, Daane, Maisel, Brimmer, and Sherrill. Absent and not voting: Chairman Burns and Governor Robertson.

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Chicago. Dissenting Statement of Governor Maisel filed as part of the original document and available upon request.

[2] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Brimmer, and Sherrill. Voting against this action: Governors Daane and Maisel. Absent and not voting: Chairman Burns.

PERRY COUNTY BANK

Order Approving Application for Merger of Banks Under Bank Merger Act

In the matter of the application of The Perry County Bank, New Lexington, Ohio, for approval to merge with The Peoples Bank, Thornville, Ohio.

There has come before the Board of Governors, pursuant to the Bank Merger Act (12 U.S.C. 1828(c)), an application by The Perry County Bank ("Applicant"), New Lexington (population 4,877), Ohio, a member State bank of the Federal Reserve System, for the Board's prior approval of the merger of that bank with The Peoples Bank, Thornville (population 679), Ohio ("Thornville Bank"), under the charter and title of Applicant. As an incident to the merger the sole office of Thornville Bank would become a branch of the resulting bank. Notice of the proposed merger, in form approved by the Board, has been published pursuant to said Act.

In accordance with the Act, the Board requested reports on the competitive factors involved from the Attorney General, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation. The Board has considered all relevant material contained in the record in the light of the factors set forth in the Act, including the effect of the proposal on competition, the financial and managerial resources and prospects of the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant, a subsidiary of BancOhio Corp., Columbus, Ohio ("BancOhio"), is a unit bank with deposits of $8.2 million. (All banking data are as of December 31, 1970, adjusted to reflect holding company formations and acquisitions approved by the Board through September 30, 1971.) BancOhio is the second largest banking organization in Ohio with 28 subsidiary banks holding aggregate deposits in excess of $1.5 billion, representing 7.2 percent of State commercial bank deposits. Thornville Bank, with deposits of $5.0 million, is located 18 miles northwest of Applicant. Although Applicant and Thornville Bank are both located in Perry County, there is little existing competition between them because they serve essentially separate banking markets. However, within a radius of 10 miles from Thornville Bank, there are three branches of BancOhio subsidiaries which compete to some extent with Thornville Bank. They are the Buckeye Lake office of The First National Bank of Newark (located 6 miles northwest of Thornville), and the Pleasantville and Baltimore offices of The Hocking Valley National Bank of Lancaster (located within Fairfield County, 8 miles southwest and 10 miles west of Thornville, respectively).

Thornville Bank is located at the periphery of the Newark banking market, the relevant market, which is approximated by Licking County and the extreme northwestern section of Perry County. The First National Bank of Newark, with six offices, all located in Licking County, and total deposits of $44.6 million, has the second largest share (23.7 percent) of commercial bank deposits within the relevant market. Thornville Bank has 2.7 percent of market deposits; approval of the application will increase BancOhio's share of market deposits to 26.3 percent and it would remain the second largest banking organization in the market.

BancOhio subsidiaries hold at least 20 percent of commercial bank deposits in areas contiguous to the relevant market in Fairfield County, in Muskingum County, and in Perry County. In addition, BancOhio subsidiaries hold approximately 42 percent of commercial bank deposits in an eight county area surrounding Columbus, Ohio, and may be considered the dominant banking organization in central Ohio. Because of the increased concentration within the relevant market and the substantial shares held by BancOhio subsidiaries in nearby markets, the Board concludes that the proposed merger would have an adverse effect on competition. However, the Board is required to consider whether other aspects of the instant proposal are such that approval would be in the public interest despite the adverse competitive finding.

The Thornville Bank has serious management problems. Despite efforts to recruit successor management, Thornville Bank has been without a chief executive officer of its own since early 1970. It has relied on management assistance provided by BancOhio since April, 1970. Prior to seeking management assistance from BancOhio, Thornville Bank had had severe management problems which had left bank in a weakened financial condition. The bank's condition improved only with BancOhio's assistance. Since Ohio law permits only county-wide branching, merger with a bank outside Perry County is not feasible. Because of the relatively small size of all other banks located within Perry County, a merger with any of these banks would not appear to be the solution to Thornville Bank's management problems. Acquisition by a holding company other than BancOhio might alleviate Thornville Bank's management problems, but other holding companies in the area contacted by Thornville Bank expressed no interest in acquiring the bank.

In the light of Thornville Bank's prior difficulty in securing a chief executive officer on its own, there is no assurance that capable management can be attracted to the bank in the absence of approval of the proposed transaction. Consequently, the Board has concluded that the financial and managerial factors lend substantial weight for approval. Since approval of the proposed transaction appears the only method whereby the continued existence of banking facilities in Thornville can be assured, the convenience and needs of the community outweigh the adverse competitive consequences of this proposed merger. Based upon the foregoing, it is the Board's judgment that consummation of the proposal would be in the public interest and that the application should be approved.

It is hereby ordered, on the basis of the findings summarized, above, that said application be and hereby is approved, provided that the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Cleveland pursuant to delegated authority.

By order of the Board of Governors,[1] November 4, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16464 Filed 11-10-71;8:48 am]

SHOREBANK, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Shorebank, Inc., Quincy, Mass., for approval of acquisition of 80 percent or more of the voting shares of Attleboro Trust Co., Attleboro, Mass.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Shorebank, Inc., Quincy, Mass., for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of Attleboro Trust Co., Attleboro, Mass. (Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Massachusetts Commissioner of Banks and requested his views and recommendation. The Commissioner offered no objection to approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on September 8, 1971 (36 F.R. 18037), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant controls South Shore National Bank, Quincy, Mass. ($167.1 million in deposits) and, thus, is the ninth

[1] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Maisel, and Brimmer. Absent and not voting: Chairman Burns and Governor Sherrill.

largest banking organization in Massachusetts, controlling 1.5 percent of the State's total deposits. Bank ($23.9 million in deposits) is the fourth largest of 17 banking organizations in the Attleboro area (approximated by the 12 townships in Massachusetts northeast of Providence, R.I.). Affiliation with applicant should enhance Bank's ability to compete with the larger organizations in the area, the two largest of which control over 55 percent of area deposits. At the same time, consummation of the proposal would contribute to applicant's emergence as a significant competitor on the statewide level with the larger Boston-based organizations; the five largest such organizations control 63.8 percent of the State's total deposits. Although applicant's lead bank has two branches within 9 miles of an office of Bank, the competitive overlap is not considered significant, and intervening banking alternatives are present. Thus, little existing competition would be eliminated by consummation of the proposal. In view of the number of intervening banks, Massachusetts' restrictions on branches, and other facts of record, it appears unlikely that significant potential competition would be eliminated.

Applicant plans to assist Bank in offering specialized services such as leasing, international banking, and trust services. Therefore, considerations relating to the convenience and needs of the community to be served lends some support for approval.

The financial and managerial resources and future prospects of applicant, of applicant's lead bank, and of Bank are satisfactory and consistent with approval. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above, provided that the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Boston pursuant to delegated authority.

It is further ordered, That upon the consummation of the proposed transaction, applicant shall not retain or acquire any nonbank shares or engage in any nonbanking activities to a greater extent or for a longer period than would apply in the case of a bank holding company which became such on the date of such consummation, except to the extent otherwise permitted in any regulation of the Board hereafter adopted specifically relating to the effect of the acquisition of an additional bank on the status of nonbank shares and activities of a one bank holding company formed prior to 1971, or unless the Board fails to adopt any such regulation before the expiration of 2 years after the consummation of the proposed acquisition.

By order of the Board of Governors,[1] November 4, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16465 Filed 11-10-71;8:48 am]

SECURITIES AND EXCHANGE COMMISSION

[811-1995]

CITIZENS INVESTMENT FUND

Notice of Application for Order of the Act Declaring Company Has Ceased To Be an Investment Company

NOVEMBER 5, 1971.

Notice is hereby given that Citizens Investment Fund (Applicant), 1 Northwest Highway, Park Ridge, IL 60068, an Illinois corporation registered as a diversified open-end management investment company under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment ocmpany as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations as set forth therein, which are summarized below.

Applicant registered under the Act on January 5, 1970, by filing a notification or registration on Form N-8A. On February 11, 1970, the fund filed with the Commission a registration statement on Form N-8B-1, and on the same date a registration statement on Form S-5 was filed with the Commission under the Securities Act of 1933.

Applicant abandoned its intended public offering of its units because of the decision of the U.S. Supreme Court in "Investment Company Institute v. Camp.", 401 U.S. 617 (1971), which held that the operation of a fund such as Applicant for the collective investment of funds held by a national bank as managing agent would be illegal under the certain provisions of the Federal banking laws.

Applicant represents that it has assets of $50 and one investor, and that no public offering or sale of its investment units has been made or is intended to be made. Applicant has also filed an amendment to its registration statement under the Securities Act of 1933 reducing the number of investment units registered thereby, and has requested withdrawal of its registration statement pursuant to Rule 477 under the Securities Act of 1933.

Section 3(c)(1) of the Act excepts from the definition of investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons, and which is not making and does not presently propose to make a public offering of its securities.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than November 26, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted or he may request he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of attorney at law by certificate) shall be filed contemporaneously with the request. At any time later than said date as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in such application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the division of corporate regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71-16456 Filed 11-10-71;8:47 am]

[File No. 1-4847]

ECOLOGICAL SCIENCE CORP.

Order Suspending Trading

NOVEMBER 5, 1971.

The common stock, 2-cent par value, of Ecological Science Corp. being traded on the American Stock Exchange, the Philadelphia - Baltimore - Washington Stock Exchange and the Pacific Coast Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Ecological Science Corporation being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such security on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 5, 1971 through November 14, 1971.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71-16457 Filed 11-10-71;8:47 am]

[70-5096; 37-63]

MIDDLE SOUTH UTILITIES, INC. AND MIDDLE SOUTH SERVICES, INC.

Notice of Proposed Increase in Notes Which May Be Issued and Sold by Service Company and Acquired by Holding Company

NOVEMBER 5, 1971.

Notice is hereby given that Middle South Services, Inc. (Services), 225 Baronne Street, New Orleans, LA 70160, a subsidiary service company of Middle South Utilities, Inc. (Middle South), 280 Park Avenue, New York, NY 10017, a registered holding company, have filed with this Commission an application-declaration pursuant to the Public Utility Holding Company Act of 1935 (Act) designating sections 6(a), 7, 9(a), 10, 12, and 13(b) of the Act and Rules 40(b), 42(b)(2) and 43 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By orders dated March 6, 1963, April 24, 1968, and March 19, 1971 (Holding Company Act Release Nos. 14816, 16944, and 17056) the Commission, among other things, authorized Services to issue and sell to Middle South for cash, and Middle South to acquire up to $5,100,000 aggregate principal amount of its subordinated long-term unsecured notes to be outstanding at any one time.

Services anticipates expansion of its electronic data processing functions, personnel and facilities. In order to provide for such services, it now proposes to issue and sell to Middle South for cash, and Middle South to acquire, during a 5-year period commencing with the date the proposed transactions are authorized, its unsecured subordinated long-term notes of up to $1 million principal amount. The additional notes will mature within 25 years, will be prepayable without penalty, and will bear interest at the prevailing prime rate, adjusted monthly.

The pro forma capitalization and surplus of Services would consist of $6,400,000 principal amount of bank notes (51 percent) heretofore authorized (Holding Company Act Release No. 17056), and $6,100,000 principal amount of subordinated notes to Middle South plus $20,000 of common stock (49 percent). The issue and sale of the proposed additional notes to Middle South is to be made in such manner so that the aggregate capital of Services, including its outstanding notes and capital stock, will be maintained at all times at an amount approximately equal to the sum of 2 months' operating expenses and the depreciated cost of Services' fixed assets, including prepayment and petty cash working funds, less any unpaid indebtedness for funds borrowed from sources other than associate companies for the acquisition of fixed assets.

It is stated that no fees and expenses are to be paid by Services or Middle South in connection with the proposed transactions. It is also stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than November 29, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71-16458 Filed 11-10-71;8:47 am]

INTERSTATE COMMERCE COMMISSION

[Notice 90]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

NOVEMBER 5, 1971.

The following applications are governed by Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined

[1] Voting for this action: Governors Mitchell, Deane, Maisel, Brimmer, and Sherrill. Absent and not voting: Chairman Burns and Governor Robertson.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 111 (Sub-No. 10), filed October 4, 1971. Applicant: VIGEANT MOTOR FREIGHT, INC., Post Office Box 157, Castleton-on-Hudson, NY 12033. Applicant's representative: Wilmot E. James, Jr., Post Office Box 1319, Albany, NY 12201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pharmaceutical products* (except in bulk), from Chicago, Ill., to Lenexa, Kans., Mesquite, Tex.; Seattle, Wash.; and Los Angeles, Calif. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Plattsburgh or Albany, N.Y.

No. MC 4943 (Sub-No. 33), filed October 15, 1971. Applicant: CENTRAL EXPRESS INC., 303 South 12th Street, (Post Office Box 238), Waco, TX 76703. Applicant's representative: Phillip Robinson, Post Office Box 2207, Austin, TX 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, and commodities requiring special equipment), between junction U.S. Highway 67 and Texas Highway 35 and junction Texas Highway 35 and Texas Highway 185, as follows: From junction U.S. Highway 85 and Texas Highway 35, over Texas Highway 35 to junction Texas Highways 35 and 185, and return over the same route, serving no intermediate points as an alternate route for operating convenience only. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas, Houston, or San Antonio, Tex.

No. MC 8948 (Sub-No. 98), filed October 12, 1971. Applicant: WESTERN GILLETTE, INC., 2550 East 28th Street, Los Angeles, CA 90058. Applicant's representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Oklahoma City, Okla., and Memphis, Tenn., over Interstate Highway 40 (including temporary Interstate Highway 40), as an alternate route for operating convenience only in connection with applicant's presently authorized regular route authority, restricted against the transportation of traffic originating at, destined to, or interlined at any point in Oklahoma or Texas, other than El Paso, Tex. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 18088 (Sub-No. 54), filed October 12, 1971. Applicant: FLOYD & BEASLEY TRANSFER COMPANY, INC., Post Office Drawer 8, Sycamore, AL 35149. Applicant's representatives: Paul M. Daniell and Alan E. Serby, Post Office Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* with usual exceptions, serving points within a 15 mile radius of Atlanta, Ga., as off-route points in connection with carrier's otherwise authorized regular routes; or, in the alternative, serving an area within approximately 15 miles of Atlanta as off-route points in connection with carrier's otherwise authorized regular routes, as follows: All points lying on and within the area embraced by a line beginning at Dallas, Ga., and the junction of Georgia Highway 92 Spur and U.S. Highway 278, thence over Georgia Highway 92 Spur and Georgia Highway 92 in a southerly direction to junction Georgia Highway 54 at or near Fayetteville, Ga., thence over Georgia Highway 54 to junction Georgia Highway 138 at or near Jonesboro, Ga., thence over Georgia Highway 138 to junction Georgia Highway 81 at or near Walnut Grove, Ga., thence over Georgia Highway 81 to junction Georgia Highway 20 near Loganville, Ga., thence over Georgia Highway 20 to Lawrenceville, Ga., thence over Georgia Highway 120 to Alpharetta, Ga., thence over an unnumbered highway westerly to junction Georgia Highway 92 near Mountain Park, Ga., thence over Georgia Highway 92 to junction Georgia Highway 92 Spur at or near New Hope, Ga., thence over Georgia Highway 92 Spur to the point of beginning, restricted against the transportation of traffic, direct or interline, between Atlanta, on the one hand, and, on the other, the points named herein. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 26739 (Sub-No. 70), filed October 6, 1971. Applicant: CROUCH BROS., INC., Elwood, KS, Post Office Box 1059. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rubber pneumatic tires, tubes, and tread rubber*, from the plantsite of the Goodyear Tire & Rubber Co., located at Topeka, Kans., to LeRoy, Austin, and Albert Lea, Minn. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 29120 (Sub-No. 130), filed October 4, 1971. Applicant: ALL-AMERICAN TRANSPORT, INC., 1500 Industrial Avenue, Sioux Falls, SD 57101. Applicant's representative: Carl L. Steiner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, livestock, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (a) from Chicago, Ill., over Interstate Highway 55 to junction Interstate Highway 80; thence over Interstate Highway 80 to junction Interstate Highway 80N; thence over Interstate Highway 80N to junction Interstate Highway 29; thence over Interstate Highway 29 to Omaha, Nebr., and return over the same route; (b) from Chicago, Ill., over Interstate Highway 57 to junction Interstate Highway 80; thence over Interstate Highway 80 to junction Interstate Highway 80N; thence over Interstate Highway 80N to junction Interstate Highway 29; thence over Interstate Highway 29 to Omaha, Nebr. and return over the same route. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 30844 (Sub-No. 372), filed October 13, 1971. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA 50704. Applicant's representative: Truman A. Stockton, Jr., 1650 Grant Street Building, Denver, CO. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Cheriton, Va., to points in Illinois, Indiana, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Texas, West Virginia and Wisconsin. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 35320 (Sub-No. 129), filed October 6, 1971. Applicant: T.I.M.E.-DC, INC., 2598 74th Street, Post Office Box 2550, Lubbock, TX 79408. Applicant's representative: Frank M. Garrison, Post Office Box 2550, Lubbock, TX 79408. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Textile and textile products and machinery, machinery parts, equipment, materials and supplies,*

used in or in connection with the operation of textile mills and warehouses (except commodities the transportation of which because of size or weight, require the use of special equipment for the transportation thereof), serving the plantsite and storage facilities of Monsanto Co. at or near Sand Mountain, Marshall County, Ala., as an off-route point in connection with applicant's presently held authority to serve Chattanooga, Tenn. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Memphis, Tenn.

No. MC 35320 (Sub-No. 130), filed October 1, 1971. Applicant: T.I.M.E.-DC, INC., 2598 74th Street (Post Office Box 2550), Lubbock, TX 79406. Applicant's representative: Frank M. Garrison (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives and ammunition and components parts of ammunition, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Dallas and Odessa, Tex.; from Dallas over U.S. Highway 80 (also Interstate Highway 20 as completed), to Odessa, Tex., and return over the same route, serving no intermediate points, as an alternate route for operating convenience only in conjunction with carrier's otherwise authorized routes, restricted to the transportation of traffic moving to, from, or through El Paso, Tex. NOTE: Common control may be involved. No duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Washington, D.C.

No. MC 35628 (Sub-No. 323), filed October 4, 1971. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, a corporation, 134 Grandville, Southwest, Grand Rapids, MI 49502. Applicant's representative: Leonard D. Verdier, Jr., 900 Old Kent Building, Grand Rapids, Mich. 49502. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products, and articles distributed by meat packinghouses* as described in sections A, B, and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, and *foodstuffs* when being transported with the above commodities (except hides and commodities in bulk), from the plantsite and/or storage facilities of Wilson Certified Foods, Inc., at or near Oklahoma City, Okla., to points in Kansas, Missouri, and Nebraska, restricted to traffic originating at said plantsite and/or storage facilities and destined to the above-named States. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 42487 (Sub-No. 776), filed October 1, 1971. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION, OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Applicant's representative: Robert M. Bowden, Post Office Box 3062, Portland, OR 97208. Authority sought to operate as a *common carrier*, by motor vehicle over regular routes, transporting: *General commodities* (except household goods as defined by the Commission, classes A and B explosives, commodities in bulk, motor vehicles, livestock, commodities requiring special equipment) and commodities in vehicles equipped with mechanical refrigeration, serving only those intermediate points specifically named below, as alternate routes in connection with carriers presently authorized regular-route operations. (1) between San Luis Obispo and Salinas, Calif., serving the intermediate junctions of U.S. Highway 101 and California State Highway 56, U.S. Highway 101 and California State Highway 41, U.S. Highway 101 and California State Highway 46 and U.S. Highway 101 and California State Highway 198, for the purpose of joinder only: From San Luis Obispo, over U.S. Highway 101 to Salinas and return over the same route; (2) between the junction of California State Highways 246 and 154, at or near Santa Ynez, Calif., and the junction of California State Highway 1 and California State Highway 246, at or near Lompoc, Calif., serving the intermediate junctions of U.S. Highway 101 and California State Highway 246 for the purpose of joinder only. From the junction of California State Highways 246 and 154, over California State Highway 246 to its junction with California State Highway 1 and return over the same route;

(3) Between the junction of U.S. Highway 101 and California State Highway 154, approximately 5 miles north of Buellton, Calif., and the junction of California State Highway 154 and combined California State Highway 1 and U.S. Highway 101 at or near Goleta, Calif., serving the intermediate junction of California State Highways 154 and 246 for the purpose of joinder only. From the junction of U.S. Highway 101 and California State Highway 154, over California State Highway 154 to its junction with combined California State Highway 1 and U.S. Highway 101 and return over the same route; (4) between the junction of U.S. Highway 101 and California State Highway 135, at or near Los Alamos, Calif., and the junction of California State Highway 135 and California State Highway 1, serving no intermediate points. From the junction of California State Highway 135 and U.S. Highway 101 over California State Highway 135 to its junction with California State Highway 1 and return over the same route; (5) between Santa Maria, Calif., and the junction of California State Highway 1 and California State Highway 135, serving no intermediate points. From Santa Maria over California State Highway 135 to its junction with California State Highway 1 at or near Orcutt, Calif., and return over the same route; (6) between Santa Maria, Calif., and the junction of California State Highway 1, serving no intermediate points. From Santa Maria over California State Highway 166 to its junction with California State Highway 1, at or near Gaudalupe, Calif., and return over the same route. Routes described in (2), (3), (4), and (5) above are in connection with carriers authorized service route between Las Cruces and Pismo Beach, Calif., over California State Highway 1, with off route service authorized at Vandenburg Air Force Base;

(7) Between junction of California State Highway 166 and U.S. Highway 101 and junction California State Highway 166 and California State Highway 33, at or near Maricopa, Calif., serving no intermediate points. From the junction of California State Highway 166 and U.S. Highway 101 over California State Highway 166 to its junction with California State Highway 33, at or near Maricopa and return over the same route; (8) between Ventura, Calif., and the junction of California State Highway 33 with California State Highway 166, serving no intermediate points. From Ventura over California State Highway 33 to its junction with California State Highway 166 and return over the same route; (9) between the junction of California State Highway 58 and U.S. Highway 101, at or near Santa Margarita, Calif., and the junction of California State Highways 58 and 33, at or near McKittrick, Calif., serving no intermediate points. From the junction of California State Highway 58 and U.S. Highway 101 over California State Highway 58 to its junction with California State Highway 33 and return over the same route; (10) between the junction of California State Highway 46 and U.S. Highway 101 and the junction of California Highways 46 and 33 serving no intermediate points. From the junction of California Highway 46 and U.S. Highway 101 over California Highway 46 to its junction with California State Highway 33 and return over the same route;

(11) Between the junction of California State Highway 41 and U.S. Highway 101 and the junction of California State Highway 41 and U.S. Highway 99, at Fresno, Calif., serving the intermediate junctions of California State Highways 41 and 33 and California State Highways 41 and 198 for the purpose of joinder only. From the junction of California State Highway 41 and U.S. Highway 101 over California State Highway 41 to its junction with U.S. Highway 99 and return over the same route; (12) between the junction of California State Highway 198 and U.S. Highway 101, at or near San Lucas, Calif., and the junction of California State Highways 198 and 33, at or near Coalinga, Calif., serving no intermediate points. From the junction of California State Highway 198 and U.S. Highway 101 over California State Highway 196 to its junction with California State Highway 33 and return over the same route, and (13) between the junction of California State Highways 198 and 33 and the junction of California State Highway 198 and U.S. Highway 99, at or near Hanford, Calif., serving the intermediate junction of California Highways 198 and 33 for the purpose of joinder only. From

the junction of California State Highways 198 and 33 over California State Highway 198 to its junction with U.S. Highway 99 and return over the same route. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles or San Francisco, Calif.

No. MC 47109 (Sub-No. 7) (Correction), filed August 25, 1971, published in the FEDERAL REGISTER issue of October 15, 1971, and republished in part, as corrected this issue. Applicant: SULLIVAN LINES, INC., 250 Fulton Avenue, Garden City Park, NY 11040. Applicant's representative: S. S. Eisen, 370 Lexington Avenue, New York, NY 10017. The purpose of this partial republication is to include Spokane, Wash., to the radial territory in part (1), which point was inadvertently omitted in the previous publication. The rest of the application remains as previously published.

No. MC 48958 (Sub-No. 113), filed October 14, 1971. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, Denver, CO 80216. Applicant's representative: Morris G. Cobb, Post Office Box 9050 (601 Ross Street), Amarillo, TX 79105. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Denver, Colo., and Barstow, Calif.; from Denver over U.S. Highways 40 and 6 (Interstate Highway 70) to Idaho Springs, Colo., thence over U.S. Highway 6 (Interstate Highway 70) to Green River, Utah, thence over Interstate Highway 70 (Utah Highway 4 and U.S. Highway 89) to junction of Interstate Highway 70 (Utah Highway 4) with U.S. Highway 91 (Interstate Highway 15) at or near Cove Fort, Utah, thence over U.S. Highway 91 (Interstate Highway 15) to Barstow, Calif., and return over the same route, serving no intermediate points, as an alternate route for operating convenience only in connection with applicant's presently authorized regular route authority. NOTE: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 50069 (Sub-No. 448), filed October 7, 1971. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon (Toledo), OH 43616. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, Ohio 44114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petroleum and petroleum products*, in bulk, in tank vehicles, from Hamilton, Ohio, to points in Ohio, Michigan, Indiana, Illinois, Kentucky, and Tennessee. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 59640 (Sub-No. 26), filed October 8, 1971. Applicant: PAULS TRUCKING CORPORATION, 3 Commerce Drive, Cranford, NJ 07016. Applicant's representative: Charles J. Williams, 47 Lincoln Park, Newark, NJ 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, *equipment materials and supplies* used in the conduct of such business, between Woodbridge Township and Cranford, N.J., on the one hand, and, on the other, points in Dauphin, Montgomery, Cumberland and York Counties, Pa. Restriction: The authority sought herein is limited to a transportation service to be performed under a continuing contract, or contracts, with Supermarkets General Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 69116 (Sub-No. 141), filed October 8, 1971. Applicant: SPECTOR FREIGHT SYSTEM, INC., 205 West Wacker Drive, Chicago, IL 60606. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment), serving the plantsite of PPG Industries, Inc., located near Mount Holly Springs, Pa., as an off-route point in connection with applicant's presently authorized regular-route operations. NOTE: If a hearing is deemed necessary applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 73165 (Sub-No. 305), filed October 13, 1971. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd Street, Post Office Box 11086, Birmingham, AL 35202. Applicant's representative: Louis J. Amato, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pipe, fittings, valves, hydrants, gaskets and accessories*, from Holt, Ala., to points in the United States (except Alaska and Hawaii) and (2) *materials, supplies and equipment* used in the operations of a foundry, from points in the United States (except Alaska and Hawaii) to Holt, Ala. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala.

No. MC 82841 (Sub-No. 85), filed October 1, 1971. Applicant: HUNT TRANSPORTATION, INC., 801 Livestock Exchange Building, Omaha, Nebr. 68107. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Laminated plastic products, millwork, hardware, and related accessories*, from Holstein, Iowa, to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it held at Omaha, Nebr.

No. MC 83835 (Sub-No. 84), filed September 29, 1971. Applicant: WALES TRANSPORTATION, INC., Post Office Box 6186, Dallas, TX 75222. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting, (1) *Electrostatic precipitators and electrostatic precipitator parts*, and (2) *steel siding and roofing, and materials and supplies* moving in connection therewith, from Warrenton, Mo., to points in the United States (except Alaska, Missouri, and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Kansas City, Mo.

No. MC 88161 (Sub-No. 84), filed October 6, 1971. Applicant: INLAND TRANSPORTATION CO., INC., 6737 Corson Avenue South, Seattle, WA 98108. Applicant's representative: Stephen A. Cole (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt, dust oil, road oil, and residual fuel oil*, in bulk, in tank vehicles, from Spokane, Wash., to points in that part of Idaho in and north of the southern boundary of Idaho County. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant now holds contract carrier authority under its No. MC 128203 Sub-No. 1, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Spokane or Seattle, Wash.

No. MC 93393 (Sub-No. 16), filed October 13, 1971. Applicant: NIGHTWAY TRANSPORTATION CO., INC., 4108 South Emerald Avenue, Chicago, IL. Applicant's representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food, food preparations and foodstuffs*, from Champaign, Ill., to points in

Indiana, Kentucky, and Ohio. Restriction: Restricted to the transportation of traffic originating at Champaign, Ill., and destined to Indiana, Kentucky, and Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 94350 (Sub-No. 296), filed October 4, 1971. Applicant: TRANSIT HOMES, INC., Post Office Box 1628, Haywood Road at Transit Drive, Greenville, SC 29602. Applicant's representative: Mitchell King, Jr. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, from points in Izard County, Ark., to points in Texas, Oklahoma, Missouri, Kansas, Louisiana, New Mexico, Illinois, Tennessee, Mississippi, and Kentucky. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark.

No. MC 95540 (Sub-No. 822), filed September 24, 1971. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, FL 33801. Applicant's representative: Paul E. Weaver (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the plantsite and storage facilities of Chef-Pierre, Inc., located at or near Traverse City, Mich., to points in Louisiana, Arkansas, Missouri, Illinois, Indiana, Iowa, Pennsylvania, New Jersey, New York, Connecticut, Ohio, Kentucky, Tennessee, Mississippi, Alabama, Florida, Georgia, North Carolina, South Carolina, Virginia, West Virginia, Delaware, Maryland, Massachusetts, Vermont, New Hampshire, Rhode Island, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Detroit, Mich.

No. MC 96498 (Sub-No. 33), filed October 1, 1971. Applicant: BONIFIELD BROS. TRUCK LINES, INC., Post Office Box 40, West Frankfort, IL 62896. Applicant's representative: R. W. Burgess, 8514 Midland Boulevard, St. Louis, MO 63114. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the Smithland Locks jobsite at Dog Island, Ky., as an off-route point in connection with applicant's regular route between Paducah, Ky., and St. Louis, Mo. NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Springfield, Ill.

No. MC 97874 (Sub-No. 2) (Amendment), filed July 28, 1971, published in the FEDERAL REGISTER issue of September 2, 1971, and republished as amended this issue. Applicant: WINTER BROS., INC., 1840 R Street, Lincoln, NE 68508. Applicant's representative: J. Max Harding, Post Office Box 82028, 605 South 14th Street, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading. Regular route operations: Between Omaha and Lincoln, Nebr., over U.S. Highway 6, serving no intermediate points. Irregular route operations: Between points within a 30-mile radius of Seward, Nebr., and between points within said radial area, on the one hand, and, on the other, points in Nebraska within a 250 mile radius of Seward, Nebr. NOTE: The purpose of this republication is to broaden the scope of authority sought and to convert the certificate of registration held by the carrier in MC 97874 (Sub-No. 1) to a Certificate of Public Convenience and Necessity. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 99334 (Sub-No. 4), filed October 12, 1971. Applicant: TARHEEL EXPRESS, INC., Post Office Box 1177, Hickory, NC 28601. Applicant's representative: Wilmer B. Hill, 705 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture and furniture parts, new*, between points in Iredell County, N.C., and points in North Carolina. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Raleigh or Charlotte, N.C.

No. MC 102616 (Sub-No. 866), filed October 12, 1971. Applicant: COASTAL TANK LINES, INC., Post Office Box 7211, 215 East Waterloo Road, Akron, OH 44319. Applicant's representative: Harold G. Hernly, Jr., 2030 North Adams Street, Suite 510, Arlington, VA 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* in bulk, in tank vehicles, from sites of Bulk Distribution Centers, Inc., at or near Cleveland, Ohio, to points in Indiana, Kentucky, Michigan, New York, Ohio, Pennsylvania, and West Virginia, restricted to movement having prior movement by rail. NOTE: Applicant states it can tack the proposed authority to the existing authority to serve points beyond the proposed destination territories but no tacking is intended. Persons interested in the tacking possibilities are cautioned that failure to oppose application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 105457 (Sub-No. 74), filed October 14, 1971. Applicant: THURSTON MOTOR LINES, INC., 600 Johnston Road, Post Office Box 10638, Charlotte, NC 28201. Applicant's representative: Everett Hutchinson, 1140 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, with the usual exceptions, serving the plantsite and storage facilities of Monsanto Co. located at Sand Mountain, Marshall County, Ala., as an off-route point in connection with carrier's regular route authority between Greenville, S.C., and Memphis, Tenn., as authorized in MC 105457 Sub 44. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Charlotte, N.C.

No. MC 106398 (Sub-No. 561), filed October 18, 1971. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements and *buildings*, in sections, mounted on wheeled undercarriages, from points in El Paso County, Colo., to points in the United States (except Alaska and Hawaii). NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 106433 (Sub-No. 5), filed October 12, 1971. Applicant: ANTRIM TRANSPORTATION CO., INC., 7011 Suffern Place, Suffern, NY 10901. Applicant's representative: Edward M. Alfano, 2 West 45th Street, New York, NY 10036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, and (2) *materials and supplies* used in the manufacture of malt beverages (except in bulk, in tank vehicles), between Fogelsville, Pa., on the one hand, and, on the other, points in Connecticut, Massachusetts, New Jersey, New York, Rhode Island, and Vermont. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 106497 (Sub-No. 61), filed October 7, 1971. Applicant: PARKHILL TRUCK COMPANY, a corporation, Post Office Box 912, Joplin, MO 64801. Applicant's representative: A. N. Jacobs, Post Office Box 113, Joplin, MO 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe and tubing*, between points in California, on the one hand, and, on the other, points in the United States (except Hawaii). NOTE: Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at San Francisco, or Los Angeles, Calif.

No. MC 107012 (Sub-No. 130), filed October 4, 1971. Applicant: NORTH AMERICAN VAN LINES, INC., Lincoln Highway East and Meyer Road, Post Office Box 988, Fort Wayne, IN 46801. Applicant's representative: Donald C. Lewis (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor covering, carpet, and carpet pads or cushions*, uncrated, from Columbus, Miss., to points in Arkansas. NOTE: Dual operations and common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 107012 (Sub-No. 131), filed October 6, 1971. Applicant: NORTH AMERICAN VAN LINES, INC., Lincoln Highway East and Meyer Road, Post Office Box 988, Fort Wayne, IN 46801. Applicant's representative: Donald C. Lewis, Post Office Box 988, Fort Wayne, IN 46801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor covering and carpeting*, uncrated, from Greenville and York, S.C.; Athens and Ringgold, Ga., and Laurel Hills, N.C., to West Haven, Conn. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107012 (Sub-No. 132), filed October 7, 1971. Applicant: NORTH AMERICAN VAN LINES, INC., New Haven Avenue and Meyer Road, Post Office Box 988), Fort Wayne, IN 46801. Applicant's representative: Donald C. Lewis (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Transportation seats and parts thereof*, from Menominee, Mich., to points in the United States (except Alaska and Hawaii). NOTE: Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 107515 (Sub-No. 781), filed October 14, 1971. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, Forest Park, GA 30050. Applicant's representative: Paul M. Daniell, Post Office Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuff* (except in bulk), from points in Adair County, Okla., to points in Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee (except Memphis, Tenn., and points in its commercial zone), Kentucky, Virginia, West Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Massachusetts, Rhode Island, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla.

No. MC 108473 (Sub-No. 34), filed October 14, 1971. Applicant: ST. JOHNSBURY TRUCKING COMPANY, INC., 38 Main Street, St. Johnsbury, VT 05819. Applicant's representative: Francis E. Barrett, 60 Adams Street, Milton, MA 02187. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Hartford, Conn., and Newburgh, N.Y., from Hartford, Conn., over Interstate Highway 84 to Newburgh, N.Y., and return over the same route, serving no intermediate points, as an alternate route for operating convenience only. NOTE: If a hearing is deemed necessary, applicant requests it be held at Hartford, Conn., or Boston, Mass.

No. MC 108835 (Sub-No. 19), filed October 18, 1971. Applicant: HYMAN FREIGHTWAYS, INC., 2690 Prior Avenue North, St. Paul, MN 55113. Applicant's representative: William S. Rosen, 630 Osborn Building, St. Paul, Minn. 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, high explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), serving LeSueur, Mankato, Fairmont, Jackson, Worthington, Windom, St. James, and Luverne, Minn., as intermediate or off-route points in connection with presently authorized regular route authority under MC 108835 authorizing operations between LeSueur, Mankato, Fairmont, Jackson, Worthington, Windom, St. James, and Luverne, Minn., and Minneapolis-St. Paul (the Twin Cities). Applicant states it now provides service between LeSueur, Mankato, Fairmont Jackson, Worthington, Windom, St. James, and Luverne, Minn., and all of the Iowa points included under MC 108835, and Omaha, Nebr., via the Twin Cities Gateway. The purpose of this application is to eliminate the gateway. Applicant further states that any authority granted pursuant to this application shall be restricted against the transportation of freight originating at, or destined to, any point in South Dakota that applicant is presently authorized to serve. NOTE: Common control may be involved. Applicant states that it intends to tack any authority granted by this application with all of its existing authority, regular and irregular. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Des Moines, Iowa.

No. MC 109462 (Sub-No. 16), filed October 12, 1971. Applicant: LUMBER TRANSPORT, INC., Post Office Box 6181, South Station, Fort Smith, AK 72901. Applicant's representative: Robert G. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Antipollution systems equipment and parts; environmental control and protective systems equipment and parts and equipment, material, and supplies*, used in the construction or installation of antipollution and environmental control or protective systems between Fort Smith, Ark., on the one hand, and points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Fort Smith or Little Rock, Ark.

No. MC 110420 (Sub-No. 643), filed October 15, 1971. Applicant: QUALITY CARRIERS, INC., Post Office Box 186, Pleasant Prairie, WI 53158. Applicant's representative: Allan B. Torhorst, Post Office Box 307, Burlington, WI 53105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from points in Texas to Janesville, Wis. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis.

No. MC 110420 (Sub-No. 644), filed October 15, 1971. Applicant: QUALITY CARRIERS, INC., Post Office Box 186, Pleasant Prairie, WI 53158. Applicant's representative: Allan B. Torhorst, Post Office Box 307, Burlington, WI 53105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from points in Tennessee, to Janesville, Wis. NOTE: Common control may be involved. Applicant states

that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis.

No. MC 111383 (Sub-No. 32), filed October 18, 1971. Applicant: BRASWELL MOTOR FREIGHT LINES, INC., 3925 Singleton Boulevard, Dallas, TX 75206. Applicant's representative: Ronald R. Slaughter, Post Office Box 447, 3925 Singleton Boulevard, Dallas, TX 75208. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, livestock, classes A and B explosives, household goods, commodities in bulk, and those requiring special equipment), between Columbus and West Point, Ga., from Columbus over Georgia Highway 103 to West Point, and return over the same route as an alternate route for operating convenience only, in connection with applicant's presently authorized regular route operations and serving no intermediate points. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ga., or Dallas, Tex.

No. MC 111594 (Sub-No. 53), filed October 6, 1971. Applicant: C W TRANSPORT, INC., 610 High Street, Wisconsin Rapids, WI 54494. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum and aluminum articles*, from the plantsite of Amax Aluminum Mill Products, Inc., in Grundy County, Ill., to points in Kentucky, Minnesota, Missouri, and Wisconsin and (2) *commodities* used in the manufacturing and distribution of aluminum and aluminum articles and *return of damaged or rejected shipments of aluminum and aluminum articles*, from points in Kentucky, Minnesota, Missouri, and Wisconsin to the plantsite of Amax Aluminum Mill Products, Inc., in Grundy County, Ill. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 111812 (Sub-No. 433), filed August 17, 1971. Applicant: MIDWEST COAST TRANSPORT, INC., 405½ East Eighth Street, Post Office Box 1233, Sioux Falls, SD 57101. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Cheriton, Va., to points in Ohio, Michigan, Indiana, Illinois, Missouri, Iowa, Minnesota, Nebraska, North Dakota, South Dakota, Wisconsin, and Kansas. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Norfolk, Va., Richmond, Va., or Washington, D.C.

No. MC 111868 (Sub-No. 3), filed October 12, 1971. Applicant: JOHN HENNES TRUCKING COMPANY, a corporation, 320 South 19th Street, Milwaukee, WI 53233. Applicant's representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by Stanley Home Products, Inc., from the plantsite of said shipper at Dubuque, Iowa, to dealers of Stanley Home Products, Inc., located at points in Jo Daviess, Stephenson, Winnebago, Boone, Carroll, Ogle, De Kalb, Whiteside, Lee, Henry, Bureau, La Salle, Knox, Stark, Marshall, Livingston, Peoria, Woodford, Tazewell, McLean, and Putnam Counties, Ill., for the account of Stanley Home Products, Inc., of Westfield, Mass. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Milwaukee or Madison, Wis.

No. MC 112148 (Sub-No. 54), filed October 4, 1971. Applicant: POWERS TRANSPORTATION, INC., Post Office Box 87, Storm Lake, IA 50588. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Traverse City, Mich., to points in Indiana, Missouri, Nebraska, and Kansas City, Kans., restricted to traffic originating at the plantside and storage facilities of Chef Pierre Co. at Traverse City and destined to the above named points. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 112205 (Sub-No. 9), filed October 13, 1971. Applicant: ELLSWORTH LAMOTTE RABON, doing business as RABON TRANSFER, Route 2, Box 235, Chadbourn, NC 28431. Applicant's representative: Vaughan S. Winborne, 1108 Capital Club Building, Raleigh, N.C. 27601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Forest products, lumber (which includes plywood) and veneer*, from points in Columbus County, N.C., to points in Florida, Georgia, South Carolina, West Virginia, Tennessee, Kentucky, Ohio, Indiana, Illinois, and Connecticut, with no transportation for compensation on return except as otherwise authorized. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Raleigh or Wilmington, N.C.

No. MC 112801 (Sub-No. 130), filed October 4, 1971. Applicant: TRANSPORT SERVICE CO., a corporation, Post Office Box 50272, Chicago, IL 60650. Applicant's representative: L. F. Abel (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils and shortenings*, in bulk, in tank vehicles, from Louisville, Ky., to points in Ohio and those in the lower peninsula of Michigan. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 112822 (Sub-No. 217), filed October 12, 1971. Applicant: BRAY LINES INCORPORATED, Post Office Box 1191 (1401 North Little Street), Cushing, OK 74023. Applicant's representative: Thos. Lee Allman, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs*, in vehicles equipped with mechanical refrigeration, from the plantsite and warehouse facilities of Miami Margarine Co. at or near Albert Lea, Minn., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Nebraska, Nevada, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, South Carolina, Tennessee, Texas, Utah, Washington, Wisconsin, and Wyoming, and (2) *materials, supplies, and equipment* used in the manufacturing of foodstuffs, from points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin, and Wyoming, to the plantsite and warehouse facilities of Miami Margarine Co. at or near Albert Lea, Minn. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Milwaukee, Wis.

No. MC 113362 (Sub-No. 223), filed October 12, 1971. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Applicant's representative: James Ellsworth, 4500 North State Line Road, Texarkana, AR 75501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal and charcoal products and lighter fluid*, from Paris, Ark., and Jacksonville, Tex., to points in Colorado, Illinois, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wisconsin (except from Jacksonville, Tex., to points in Texas). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Memphis or Nashville, Tenn.

No. MC 113495 (Sub-No. 51), filed October 12, 1971. Applicant: GREGORY

HEAVY HAULERS, INC., 51 Oldham Street, Post Office Box 60628, Nashville, TN 37206. Applicant's representative: Wilmer B. Hill, 705 McLachlen Bank Building, 666 First Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, between points in Knox, Anderson, and Loudon Counties, Tenn., and Lauderdale County, Miss., on the one hand, and, on the other, points in Texas, Oklahoma, Kansas, Nebraska, and Minnesota and points in States east thereof. NOTE: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Knoxville or Nashville, Tenn., or Washington, D.C.

No. MC 113514 (Sub-No. 110), filed October 12, 1971. Applicant: SMITH TRANSIT, INC., 1200 Simons Building, Dallas, Tex. 75201. Applicant's representative: William D. White, Jr., 2505 Republic National Bank Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Catalyst*, in bulk, from Cinizia, N. Mex., to points in Texas. NOTE: Applicant states that the requested authority will be tacked with its entire operating authority. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 113666 (Sub-No. 60), filed October 4, 1971. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractory products, materials and supplies* used in the production and installation of refractory products, (1) from Jackson, Massillon, and Oak Hill, Ohio to points in Pennsylvania, and (2) from Porter Township, Clarion County, Pa., and the Borough of Taretum, Allegheny County, Pa., to points in North Carolina, South Carolina, Georgia, Tennessee, Alabama, Minnesota, Upper Peninsula of Michigan, points on and east of West Virginia Highway 92 and north of Highway 50 in West Virginia; points on and north of U.S. Highway 33 in Virginia, Maryland, except Baltimore, and Sparrows Point; Delaware except Wilmington and Claymont; Burlington, Camden, Atlantic, Cape May, Cumberland, Gloucester and Salem Counties, N.J., and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held a Washington, D.C.

No. MC 113855 (Sub-No. 249), filed October 6, 1971. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road Southeast, Rochester, MN 55901. Applicant's representative: Alan Foss, 502 First National Bank Building, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road rollers and scarifiers and parts and attachments of road rollers and scarifiers*, from Minneapolis, Minn., to points in Colorado, Idaho, Illinois, Iowa, Kansas, Louisiana, Maryland, Missouri, Montana, Nebraska, New Jersey, New Mexico, North Dakota, Ohio, Oregon, Pennsylvania, South Dakota, Texas, Washington, West Virginia, Wisconsin, Wyoming, and the District of Columbia. NOTE: Applicant states that the requested authority can be tacked with its authority in sub 84, but indicates that it has no present intention to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 114273 (Sub-No. 106), filed October 4, 1971. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., Post Office Box 68, Cedar Rapids, IA 52406. Applicant's representative: Robert E. Konchar, Suite 315, Commerce Exchange Building, 2720 First Avenue Northwest, Cedar Rapids, IA 52402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy, confectionary, and confectionary products* (except commodities in bulk, in tank vehicles), from Reading, Pa., to points in Colorado, Illinois, Michigan, Minnesota, Missouri, Ohio, Tennessee, Texas, and Wisconsin, restricted to traffic originating at Reading, Pa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114533 (Sub-No. 239), filed October 6, 1971. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, IL 60632. Applicant's representative: Arnold Burke, 2220 Brunswick Building, 69 West Washington Boulevard, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Exposed and processed film and prints, complimentary replacement film, and incidental dealer handling supplies* (except motion picture film and materials and supplies used in connection with commercial and television motion pictures), (1) between Kansas City, Kans., on the one hand, and, on the other, points in Missouri; (2) between St. Louis, Mo., on the one hand, and, on the other, Miami, Okla., and (3) between Parsons, Kans., on the one hand, and, on the other, points in Ottawa, Delaware, and Tulsa Counties, Okla. NOTE: Applicant holds contract carrier authority under MC 128616, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City or St. Louis, Mo.

No. MC 115793 (Sub-No. 13), filed October 15, 1971. Applicant: CALDWELL FREIGHT LINES, INC., U.S. Highway 321 South, Post Office Box 672, Lenoir, NC 28645. Applicant's representative: Charles Ephraim, 1250 Connecticut Avenue NW., Suite 600, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts*, from the plantsite of American Bed Co. in St. Louis, Mo., to Cleveland and Chattanooga, Tenn. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 115826 (Sub-No. 225), filed October 14, 1971. Applicant: W. J. DIGBY, INC., Post Office Box 5088, T.A., 1960 31st Street, Denver, CO 80217. Applicant's representative: Ezekial Gomez (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Gallup, N. Mex., to points in Oklahoma, New Mexico, Colorado, Utah, Wyoming, Idaho, Oregon, and Washington. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Phoenix, Ariz.

No. MC 115826 (Sub-No. 229), filed October 18, 1971. Applicant: W. J. DIGBY, INC., Post Office Box 5088, T.A., 1960 31st Street, Denver, CO 80217. Applicant's representative: Ezekial Gomez, 1960 31st Street, Denver, CO 80217. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766, from Luverne, Minn., Denison, Ft. Dodge, LeMars and Mason City, Iowa, Dakota City and West Point, Nebr., and Emporia, Kans., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Delaware, Virginia, West Virginia, North Carolina, South Carolina, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Omaha, Nebr.

No. MC 115871 (Sub-No. 5), filed October 12, 1971. Applicant: EVART ISAAC, doing business as EVART ISAAC TRUCK LINE, Post Office Box 1315, Fort Dodge Road, Dodge City, KS 67801. Applicant's representative: John J. Keller, 145 West Wisconsin Avenue, Neenah, WI 54956. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat scraps and packinghouse waste products*, loose, in containers, or in bulk, in tank vehicles, from Dodge City, Garden City, Great Bend, Kansas City, and Pratt, Kans., to points in Arkansas, Colorado, Missouri, Nebraska, New Mexico, Oklahoma, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dodge City or Wichita, Kans.

No. MC 115975 (Sub-No. 14), filed October 14, 1971. Applicant: C.B.W. TRANSPORT SERVICE, INC., Old Edwardsville Road, Mail: Post Office Box 48, Wood River, IL. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, for the account of American Oil Co., (1) from Wood River, Ill., to points in Missouri, Indiana, Kentucky, and Ohio; and (2) from Joliet, Ill., to points in Wisconsin Indiana, Michigan, and Ohio, under contract with American Oil Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 116063 (Sub-No. 126), filed September 24, 1971. Applicant: WESTERN - COMMERCIAL TRANSPORT, INC., 2400 Cold Springs Road, Post Office Box 270, Fort Worth, TX 76101. Applicant's representative: W. H. Cole (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Transformer oil*, in bulk, in tank vehicles, and *collapsible containers* when moving at the same time and on the same vehicle with transformer oil, from the plantsite of Gulf Oil Co.-United States, located at West Port Arthur, Tex., to points in Idaho, Indiana, Michigan, Minnesota, Montana, North Dakota, and South Dakota. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston or Dallas, Tex.

No. MC 116254 (Sub-No. 128), filed October 12, 1971. Applicant: CHEM-HAULERS, INC., Post Office Drawer M, Sheffield, AL 35660. Applicant's representative: Walter Harwood, 1822 Parkway Towers, Nashville, TN 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, (1) from Clanton, Ala., to points in Georgia, North Carolina, South Carolina, and Tennessee; (2) from Cullman, Ala., to points in Georgia, North Carolina, South Carolina, and Tennessee and (3) from Selmer, Tenn., to points in Missouri. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., Birmingham, Ala., or Memphis, Tenn.

No. MC 116877 (Sub-No. 5), filed September 17, 1971. Applicant: GARMENT CARRIERS, INC., 2645 Nevin Avenue, Los Angeles, CA 90011. Applicant's representative: Daniel W. Baker, 405 Montgomery Street, San Francisco, CA 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Hanging or cartoned garments, clothing and wearing apparel, and component parts used in the manufacture thereof*, as defined in 61 M.C.C. 288 and 289 (except natural furs and natural fur or fur trimmed garments), *handbags and costume jewelry*. (A) Between the points in California on and in the following routes and area, as follows: (1) All points on Interstate Highway 5 between San Fernando and San Juan Capistrano; (2) all points on Interstate Highway 10 between Santa Monica and Redlands; (3) all points on Interstate Highway 405 between San Fernando and junction with Interstate Highway 5 near Irvine; (4) serving all points in the Los Angeles Basin territory, as described in paragraph G set forth hereafter, as off-route points; and, the points in California on and in the following routes and area, as follows: (5) all points on U.S. Highway 101 between Ignacio and San Jose; (6) all points on State Highway 17 between Richmond and San Jose, and (7) serving all points in the San Francisco territory, as described in paragraph H set forth hereafter, as off-route points.

(B) Between all points included in subparagraphs A 1 through A 4 above, on the one hand, and points in California on the following routes as follows: (1) All points on Interstate Highway 80 between San Francisco and North Sacramento; (2) all points along U.S. Highway 101, California Highways 37, 12, and 29 between the northerly boundary of the San Francisco territory and junction of State Highway 29 and U.S. Highway 40 and the off-route points of Belvedere, Tiburon, Mill Valley, San Anselmo, Fairfax, Novato, Sonoma, Fort Berry, Fort Baker, Fort Cronkhite, Sausalito, Marin City, Corte Madera, Larkspur, Kentfield, San Rafael, Terra Linda, San Benetia, Marinwood, Ignacio, Ignacio Junction, Black Point, Hamilton AF Base, Waldo and Napa; (3) all points on U.S. Highway 50 between Oakland and Sacramento and the off-route point of Pleasanton; (4) all points on U.S. Highway 99 between Stockton and Modesto; (5) all points on State Highway 4 between junction thereof with U.S. Highway 40 and Stockton and the off-route points of Port Chicago and Byron; (6) all points on State Highway 24 between Oakland and Pittsburg and the off-route point of Moraga; (7) all points on Interstate Highway 680 between Warm Springs and Martinez, and (8) all points on State Highways 33 and 132 between Tracy and Modesto. (C) Between all points included in paragraphs A and B above, on the one hand, and, on the other hand, the following California points: (1) Fresno, Bakersfield, and Modesto; from Los Angeles to Modesto over State Highway 99, thence over State Highway 132 to junction with Interstate Highway 580 to Oakland, and return over the same route and (2) Santa Barbara, Ventura, and Oxnard; from Los Angeles to San Francisco over U.S. Highway 101 and return over the same route.

(D) Between all points included in paragraphs A, B, and C above, on the one hand, and points in Arizona along the following routes as follows: (1) All points on U.S. Highway 80, between Avondale and Mesa, inclusive, including the off-route points of Alhambra, Chandler, Glendale, and Scottsdale, and (2) all points on Interstate Highways 10 and 19 and U.S. Highway 89, between Phoenix and Nogales, including the off-route point of Casa Grande, from Los Angeles, Calif., to Nogales, Ariz., over Interstate Highway 10 and U.S. Highway 60 to Blythe, Calif.; thence over U.S. Highway 60 and Interstate Highway 10 to Phoenix, Ariz.; thence over Interstate Highway 10 to Tucson, Ariz.; thence over Interstate Highway 19 and U.S. Highway 89 to Nogales, Ariz., and return over the same route. (E) Between all points included in paragraphs A, B, and C above, on the one hand, and on the other hand, the following points in Nevada: (1) Las Vegas with service to points in Clark County as off-route points, from Los Angeles, Calif., along Interstate Highway 10 to junction with Interstate Highway 15 near Colton, Calif., thence over Interstate Highway 15 to Las Vegas, Nev., and return over the same routes. (F) For operating convenience only, the following alternate routes shall be utilized: (1) From junction with State Highway 99 near Chowchilla, Calif., to Gilroy, Calif., over State Highway 152 and return over the same route; (2) from Los Angeles, Calif., to junction with U.S. Highway 50, near Tracy, Calif., over Interstate Highway 5 and return over the same route and (3) From Indio, Calif., to junction with Interstate Highway 10 near Casa Grande, Ariz., over California Highway 86, U.S. Highway 80 and Interstate Highway 8 and return over the same route.

(G) Los Angeles Basin Territory, Calif., includes all points within the following boundaries: Beginning at the intersection of the westerly boundary of the city of Los Angeles and the Pacific Ocean, thence along the westerly and northerly boundaries of said city to its point of first intersection with the southerly boundary of Angeles National Forest, thence along the southerly boundary of Angeles and San Bernardino National Forests to the point of intersection of said southerly boundary of the San Bernardino National Forest and the San Bernardino-Riverside County line, thence in a southerly and westerly direction along said county boundary to a point thereon distant 5 miles east of the intersection of said county boundary and U.S. Highway 91, thence generally southerly and southwesterly along a line generally paralleling and distant 5 miles from U.S. Highway 91, State Highway 55, U.S. Highway 101, Laguna Canyon Road and the prolongation thereof to the Pacific Ocean,

thence along the coastline of the Pacific Ocean to the point of beginning, and (H) San Francisco Territory, Calif., includes all of the city of San Jose and all points within the following boundaries: Beginning at the point the San Francisco-San Mateo County boundary line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway 101 to its intersection with Southern Pacific Co. right-of-way at Arastradero Road; southeasterly along the Southern Pacific Co. right-of-way to Pollard Road, including industries served by the Southern Pacific Co. spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to West Parr Avenue; easterly along West Parr Avenue to Capri Drive; southerly along Capri Drive to East Parr Avenue; easterly along East Parr Avenue to the Southern Pacific Co. right-of-way; southerly along the Southern Pacific Co. right-of-way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U.S. Highway 101; northwesterly along U.S. Highway 101 to Tully Road; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road);

Northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway over Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbor Drive, and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway 40 (San Pablo Avenue); northerly along U.S. Highway 40 to and including the city of Richmond; southwesterly along the highway extending from the city of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning. NOTE: Applicant holds interstate authority in Docket No. MC 116877 to operate between all points in California included in the instant application. However, the existing right provides for "irregular" route operations and, by this application, that authority will be converted to "regular" route service. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.; Las Vegas, Nev., Phoenix, and Tucson, Ariz.

No. MC 117574 (Sub-No. 209), filed October 12, 1971. Applicant: DAILY EXPRESS, INC., Post Office Box 39, Carlisle, PA 17013. Applicant's representative: James W. Hagar, 100 Pine Street, Post Office Box 11666, Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Turbines, steam condensers, feed water heaters and parts thereof, iron and steel castings and forgings*, between points in Chester, Eddystone, Easington, and Philadelphia, Pa., and Wilmington, Del., on the one hand, and, on the other, points in the United States (except Alaska and Arizona, California, Hawaii, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming). NOTE: Applicant states that the authority requested herein can be tacked with applicant's existing authority. It is not however applicant's present intention to tack, therefore the tackable authorities are not identified herein. Persons interested in the tacking possibilities are cautioned that failure to oppose the applicant may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 117574 (Sub-No. 210), filed October 12, 1971. Applicant: DAILY EXPRESS, INC., Post Office Box 39, Carlisle, PA 17013. Applicant's representative: E. S. Moore, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Transformers*, which because of size or weight require the use of special equipment and (2) *transformers*, which because of size or weight do not require the use of special equipment, when moving in mixed shipments with the items in (1) above, between Pittsburgh, Pa., on the one hand, and, on the other, points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 117664 (Sub-No. 7), filed October 6, 1971. Applicant: DENTON TRUCKING, INC., Post Office Box 33, Denton, MD 21629. Applicant's representative: Howard M. Mezick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Untreated lumber, ties and wood chips*, from Denton, Md., to points in Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, Maine, and Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 118038 (Sub-No. 4), filed October 7, 1971. Applicant: EASLEY HAULING SERVICE, INC., Post Office Box 1261 (Gun Club Road), Yakima, WA 98907. Applicant's representative: Norman Richardson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Expanded polystyrene forms and shapes, expanded or formed and nested*, between Wenatchee, Wash., and points in Multnomah, Hood River, Wasco, Jackson, Clackamas, Umatilla, Malhuer, Marion, and Washington Counties, Oreg. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Yakima, Wash.; Portland, Oreg., or Seattle, Wash.

No. MC 118518 (Sub-No. 7), filed September 20, 1971. Applicant: MUKLUK FREIGHT LINES, INC., Box 3-4127, Anchorage, AK 99501. Applicant's representative: Joseph W. Sheehan, 330 Wendell Street, Suite A, Teamsters Building (Post Office Box 2551), Fairbanks, AK 99707. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except household goods as defined by the Commission), between Sweetgrass, Mont., on the one hand, and, on the other, points in Alaska (except those in the Alaska Panhandle south of Haines, Alaska). NOTE: Applicant states that it intends to tack the requested authority with both its existing Alaska authority, and that which it is presently seeking through transfer proceedings before the Alaska Transportation Commission, and further that it seeks to tack and join the sought authority at any and all points on the Alaska border, except those in the Alaska Panhandle south of Haines, Alaska: If a hearing is deemed necessary, applicant requests it be held at Anchorage or Fairbanks, Alaska.

No. MC 119815 (Sub-No. 11), filed October 1, 1971. Applicant: INTERSTATE HIGHWAY EXPRESS, INC., 814 Norton Avenue, Bedford, IN 47421. Applicant's representative: Walter F. Jones, Jr., Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated metal pipe and corrugated metal sheets*, from the plantsite of Kaiser Aluminum & Chemical Corp. at Bedford, Ind., to points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Louisiana, Indiana, South Carolina, Virginia, Connecticut, Massachusetts, Rhode Island, Vermont, Maine, New Hampshire, and Colorado, and returned shipments of corrugated metal pipe and corrugated metal sheets, from points in North Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Louisiana, Indiana, South Carolina, Virginia, Connecticut, Massachusetts, Rhode Island, Vermont, Maine, New Hampshire, Colorado, West Virginia, Ohio, Michigan, Kentucky, Tennessee, and Illinois to Bedford, Ind., under contract with Kaiser Aluminum & Chemical Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Indianapolis, Ind.

No. MC 120800 (Sub-No. 45), filed October 12, 1971. Applicant: CAPITOL TRUCK LINE, INC., 2500 North Alameda, Compton, CA 90222. Applicant's representative: David P. Christianson, 825 City National Bank Building, 606 South Olive Street, Los Angeles, CA 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbon monoxide*, in bulk, in tank vehicles, from the plantsite of Air Products and Chemicals, La Porte, Tex., to Los Angeles, Calif. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 123407 (Sub-No. 96), filed October 7, 1971. Applicant: SAWYER TRANSPORT, INC., 2424 Minnehaha Avenue South, Minneapolis, MN 55404. Applicant's representative: Robert W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardwood flooring systems, hardwood flooring, lumber, lumber products, and accessories* used in the installation thereof, from Dollar Bay, Mich., to points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 123502 (Sub-No. 38), filed October 15, 1971. Applicant: FREE STATE TRUCK SERVICE, INC., Post Office Box 760, 10 Vernon Avenue, Glen Burnie, MD 21061. Applicant's representative: W. Wilson Corroum (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metals and metal alloys*, in dump vehicles, from points in Virginia to Baltimore, Md.; and Bristol, Philadelphia, and Tullytown, Pa. NOTE: Applicant states it intends to tack at Baltimore, Md., with existing authorities to provide a through service. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 123805 (Sub-No. 7), filed October 8, 1971. Applicant: G. H. LOMAX, Rural Route No. 1, Hannibal, MO 63401. Applicant's representative: Thomas P. Rose, Jefferson Building, Post Office Box 205, Jefferson City, MO 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alfalfa meal and pellets*, from the plantsite of Marion County Milling Co., located near Hannibal, Mo., to points in Illinois and Indiana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Jefferson City or St. Louis, Mo.

No. MC 123885 (Sub-No. 6), filed October 7, 1971. Applicant: C & R TRANSFER CO., a corporation, 1315 West Blackhawk Street, Sioux Falls, SD 57101. Applicant's representative: James R. Becker, 412 West Ninth Street, Sioux Falls, SD 57104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cement*, in bags or bulk, (a) from Aberdeen, S. Dak., to points in Minnesota located on and east of U.S. Highway 59, on the one hand, and, on the other, on and west of U.S. Highway 65 from the Minnesota-Iowa State line to and including the Minneapolis-St. Paul commercial zone, and Minnesota Highway 65 from the Minneapolis-St. Paul commercial zone to the Minnesota-Canadian border, and points in Iowa located on and west of U.S. Highway 65 and on and north of U.S. Highway 30; and (b) from points in Minnehaha County, and Rapid City, S. Dak., to points in North Dakota located on and east of U.S. Highway 83; points in Minnesota located on and west of U.S. Highway 65 from the Minnesota-Iowa State line to and including the Minneapolis-St. Paul commercial zone and points in Minnesota on and west of Minnesota State Highway 65 from the Minneapolis-St. Paul commercial zone to the Minnesota-Canadian border; points in Iowa located on and west of U.S. Highway 65 and on and north of U.S. Highway 30, and points in Nebraska located on and north of U.S. Highway 30, and on and east of U.S. Highway 83; (2) *Concrete products*, from points in Minnehaha County, Mitchell, Watertown, and Rapid City, S. Dak., to points in Minnesota located on and west of U.S. Highway 65 from the Minnesota-Iowa State line to and including the Minneapolis-St. Paul commercial zone and points in Minnesota on and west of Minnesota State Highway 65 from the Minneapolis-St. Paul commercial zone to the Minnesota-Canadian border, and points in Iowa located on and west of U.S. Highway 65 and on and north of U.S. Highway 30; and (3) *rock*, in bags or bulk, from Canon City, Colo., to Sioux Falls, S. Dak. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant now holds contract carrier authority under its No. MC 112306 Subs 7 and 14, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Sioux Falls, S. Dak., Minneapolis, Minn., or Omaha, Nebr.

No. MC 123905 (Sub-No. 11), filed October 15, 1971. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22-A, Philadelphia, MS 39350. Applicant's representative: Donald B. Morrison, 717 Deposit Guaranty National Bank Building, Post Office Box 22628, Jackson, MS 39205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, poles, timbers, and cross-ties*, treated or untreated, from points in Alabama, Louisiana, Arkansas, and Mississippi, to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and Mississippi, under contract with Klumb Lumber Co., Inc., Thomasson Lumber Co., Hankins Lumber Co., and Edward Hinds Lumber Co. of Louisiana. NOTE: If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss.

No. MC 124111 (Sub-No. 32), filed October 4, 1971. Applicant: OHIO EASTERN EXPRESS, INC., Post Office Box 2297, 300 Perkins Avenue, Sandusky, OH 44870. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, (a) from Baltimore, Md., to Youngstown, Cleveland, and Toledo, Ohio, and Detroit and Grand Rapids, Mich., and (b) from New York, N.Y., to Toledo, Ohio, and Detroit, Mich. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 124315 (Sub-No. 4), filed October 1, 1971. Applicant: ROBERT LUKENBILL, doing business as J. & L. Co., 6517 North Smith, Spokane, WA 99207. Applicant's representative: Hugh A. Dressel, 702 Old National Bank Building, Spokane, Wash. 99201. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Bakery goods* on palletized racks with wheels, from Seattle, Wash., to Lewiston, Idaho, and Spokane, Wash., serving the intermediate points of Yakima, Tri Cities Area (Richland, Kennewick, Pasco) and Walla Walla, Wash., under contract with Langendorf Bakeries of Seattle in conjunction with present three shippers. NOTE: If a hearing is deemed necessary, applicant requests it be held at Spokane, Wash.

No. MC 124327 (Sub-No. 1), filed October 12, 1971. Applicant: BYFORD CONTRACT CARRIER CORPORATION, Post Office Box 261, Selmer, TN 38375. Applicant's representative: Walter Harwood, 1822 Parkway Towers, Nashville, Tenn. 37219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salad dressing*, moving in insulated trailers, from Nashville, Tenn., to points in Arizona, California, Oklahoma, and Texas, and (2) *canned tomato products*, from points in Califronia to Nashville, Tenn., under contract with Mike Rose Foods Manufacturing, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Nashville or Memphis, Tenn.

No. MC 124692 (Sub-No. 82), filed October 4, 1971. Applicant: SAMMONS TRUCKING, a corporation, Post Office Box 1447, Missoula, MT 59801. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, Ind. 42604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plant and warehouse facilities of Northwestern Steel and Wire Co., at Sterling, Ill., to points in Montana, Wyoming, Idaho, Utah, Washington, and Oregon, restricted to traffic originating at Northwestern Steel and Wire Co. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or St. Paul, Minn.

No. MC 124692 (Sub-No. 83), filed October 14, 1971. Applicant: SAMMONS TRUCKING, a corporation, Post Office Box 1447, Missoula, MT 59801. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, Ind. 42604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plants and warehouse facilities of Keystone Steel and Wire Co., at Peoria, Ill. and Chicago Heights, Ill., to points in Montana, Wyoming, Idaho, Utah, Washington, and Oregon, restricted to traffic originating at the plant and warehouse facilities of Keystone Steel and Wire Co. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or St. Paul, Minn.

No. MC 124796 (Sub-No. 89), filed October 12, 1971. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 East Salt Lake Avenue, Post Office Box 1257, City of Industry, CA 91747. Applicant's representative: William J. Monheim (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between points in the United States (except Alaska and Hawaii). Restriction: The operation sought herein is limited to a transportation service to be performed under a continuing contract, or contracts with W. R. Grace & Co. NOTE: Common control may be involved. Applicant states no duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 125010 (Sub-No. 11), filed October 12, 1971. Applicant: GIBCO MOTOR EXPRESS, INC., 3405 North 33d Street, Terre Haute, IN 47808. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ferroalloys*, in dump vehicles and in containers, from Calvert City, Ky., to Saginaw, Mich., under contract with Airco Alloys and Carbide, a division of Air Reduction Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Washington, D.C.

No. MC 125023 (Sub-No. 13), filed October 5, 1971. Applicant: SIGMA-4 EXPRESS, INC., Post Office Box 9117, Erie, PA 16504. Applicant's representative: Paul F. Sullivan, 711 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, and *advertising materials* moving therewith, and *empty beverage containers*, on return, from Fort Wayne, Ind., to points in Pennsylvania. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 125023 (Sub-No. 14), filed October 13, 1971. Applicant: SIGMA-4 EXPRESS, INC., Post Office Box 9117, Erie, PA 16504. Applicant's representative: Paul F. Sullivan, 711 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers and related advertising material moving therewith, from Pittsburgh, Pa., to points in Illinois, Indiana, Michigan, and Wisconsin and *empty containers* on return. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. No duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 125433 (Sub-No. 30), filed October 12, 1971. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1891 West 2100 South Street, Salt Lake City, UT 84119. Applicant's representative: David J. Lister (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as described in Ex Parte No. MC 45, *Descriptions in Motor Carrier Certificates*, appendix V (61 M.C.C. 276), between points in Colorado on the one hand, and, on the other, points in Utah, Idaho, and Nevada. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority but does not identify the points or territories which can be served through tacking. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, or Denver, Colo.

No. MC 125497 (Sub-No. 14), filed October 15, 1971. Applicant: L. WOODS & SON TRANSPORT LIMITED, 5005 Irwin Avenue, La Salle, PQ, Canada. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Structural steel*, from ports of entry on the United States-Canada boundary line to points in New Jersey and Pennsylvania, with no transportation for compensation on return except as otherwise authorized. Restriction: The authority granted herein is restricted to transportation of traffic originating in Canada. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 125918 (Sub-No. 12), filed October 12, 1971. Applicant: JOHN A. DE MEGLIO, White Horse Pike, Ancora, N.J. 08037. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick and clay products*, from York, Pa., to points in Orange, Rockland, Westchester, Nassau, Suffolk, and Putnam Counties, N.Y., and New York, N.Y., and points in Hudson, Bergen, Essex, Passaic, and Union Counties, N.J., under contract with Glen Gery Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Philadelphia, Pa.

No. MC 125985 (Sub-No. 9), filed October 1, 1971. Applicant: AUTO DRIVEAWAY COMPANY, a corporation, 343 South Dearborn Street, Chicago, IL 60604. Applicant's representative: Daniel B. Johnson, 716 Perpetual Building, 1111 E Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Recreational vehicles and motor homes* (not mobile homes) in driveaway service, between points in Indiana and points in the United States. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 126119 (Sub-No. 1), filed October 6, 1971. Applicant: EASTERN MOTOR TRANSPORT, INCORPORATED, Post Office Box 501, 508 Gordon Avenue, Richmond, VA 23204. Applicant's representative: G. C. Kirkmyer, Jr., Post Office Box 501, Richmond, VA 23204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Packinghouse by-products*, in bulk, in tank vehicles, except chemicals and animal oils, from Smithfield, Va., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Richmond, Va.

No. MC 126246 (Sub-No. 4) (correction), filed September 13, 1970, published in the FEDERAL REGISTER issue of October 15, 1971, and republished as corrected this issue. Applicant: AMERICAN TRANSFER AND STORAGE COMPANY, a corporation, 905 West Mockingbird Lane, Dallas, TX 75247. Applicant's representative: Phillip Robinson, The 904 Lavaca Building, Austin, Tex. 75247. NOTE: The purpose of this republication is to correct the docket number assigned thereto as shown above, in lieu of No. MC 126247 which was in error. The rest of the notice remains as previously published.

No. MC 127003 (Sub-No. 3), filed October 6, 1971. Applicant: JOHN W. LANKFORD, Rural Delivery No. 1, Pocomoke City, MD 21851. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Beer*, from Williamsburg, Va., to points in Wicomico and Worcester Counties, Md., and (2) *empty bottles and containers*, on return. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 127042 (Sub-No. 89), filed October 4, 1971. Applicant: HAGEN, INC., 4120 Floyd Boulevard, Post Office Box 98, Leeds Station, Sioux City, IA 51108. Applicant's representative: Joseph W. Harvey (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Kalona, Iowa, to points in Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, Oregon, South Dakota, Utah, Washington, Wisconsin, and Wyoming. NOTE: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., St. Paul, Minn., or Chicago, Ill.

No. MC 127834 (Sub-No. 66), filed October 8, 1971. Applicant: CHEROKEE HAULING & RIGGING, INC., 540-42 Merritt Avenue, Nashville, TN 37203. Applicant's representative: Fred F. Bradley, 213 St. Clair Street, Frankfort, KY 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles and fabricated steel items*, from Anniston, Ala., to points in Arkansas, Missouri, Kentucky, Tennessee, Wisconsin, Illinois, Indiana, Ohio, West Virginia, Virginia, Maryland, District of Columbia, Delaware, New Jersey, Pennsylvania, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, and Michigan. NOTE: Applicant states it does not intend to tack at present but would do so if applicable appropriate authority is received now or in the future. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., Louisville, Ky., or Frankfort, Ky.

No. MC 127834 (Sub-No. 67), filed October 8, 1971. Applicant: CHEROKEE HAULING & RIGGING, INC., 540-42 Merritt Avenue, Nashville, TN 37203. Applicant's representative: Fred F. Bradley, 213 St. Clair Street, Frankfort, KY 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plumbing and roofing supplies and sheet metal products*, from Federal Copper and Aluminum Co., Inc., near College Grove, Tenn., to points in Montana, Wyoming, Colorado, New Mexico, and all States east thereof, and (2) *materials, equipment, and supplies* used in the manufacture and/or distribution of the commodities in (1) above, from points in Montana, Wyoming, Colorado, New Mexico, and all States east thereof, to Federal Copper and Aluminum Co., Inc., near College Grove, Tenn. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., Louisville or Frankfort, Ky.

No. MC 126205 (Sub-No. 18), filed October 15, 1971. Applicant: BULKMATIC TRANSPORT COMPANY, a corporation, 4141 George Street, Schiller Park IL 60176. Applicant's representative: Irving Stillerman, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, from Toledo, Ohio, to Chicago and Naperville, Ill. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 128247 (Sub-No. 21), filed October 1, 1971. Applicant: BURSAL TRANSPORT, INC., Rural Route 1, Bunker Hill, IN 46914. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rock wool insulating material* (asbestos or magnesia, mineral wool, mineral wool and cotton cloth or paper combined, in forms other than solid flat blocks or sheets; asbestos, felt, paper, magnesia or mineral wool, separate or combined, in solid flat blocks or solid flat sheets; rock or slag mineral wool, metal reinforced; mineral wool, in batts and also other than batts), from points in Madison County, Ind., to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia, under contract with Indiana Rockwool Division of Susquehanna Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Washington, D.C.

No. MC 128338 (Sub-No. 1) filed October 15, 1971. Applicant: RINGER TRUCKING, INC., Route No. 1, Box 54, Markleysburg, PA 15459. Applicant's representative: Arthur J. Diskin, 806 Frick Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in containers, between Morgantown, W. Va., on the one hand, and, on the other, points in Rhode Island, Connecticut, New Hampshire, Vermont, Illinois, Virginia, and North Carolina, under continuing contract with Weston Chemical Co., Inc., of Morgantown, W. Va. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Pittsburgh, Pa.

No. MC 128375 (Sub-No. 64) (Correction), filed July 29, 1971, published in the FEDERAL REGISTER issue of August 26, 1971, and republished in part as corrected this issue. Applicant: CRETE CARRIER CORPORATION, Box 249, Crete, NE 68333. Applicant's representative: Duane W. Acklie, Post Office Box 80806, Lincoln, NE 68501. NOTE: The sole purpose of this partial republication is to reflect the addition of Arkansas as a destination State that was inadvertently omitted in the original publication. The rest of the application remains as previously published.

No. MC 128940 (Sub-No. 17), filed October 12, 1971. Applicant: RICHARD A. CRAWFORD, doing business as R. A. TRUCKING SERVICE, Post Office Box 722, Adelphi, MD 20783. Applicant's representative: Charles E. Creager, Suite 523, 816 Easley Street, Silver Spring, MD 20910. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen bakery goods, baking and freezing apparatus and equipment*, from points in Washington County, Md., to points in

Pennsylvania, West Virginia, Virginia, Kentucky, Ohio, Indiana, Illinois, Missouri, Iowa, Kansas, Minnesota, Wisconsin, and Michigan and (2) *Plastic film, cardboard, and corrugated cartons*, from Muncie, Ind., St. Louis, and Hazelwood, Mo., and Harrisonburg, Va., to points in Washington County, Md., under contract with Dutchie, Inc., Hagerstown, Md. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 133800 (Sub-No. 1), filed October 15, 1971. Applicant: RAYMOND SANDLIN, JR. AND JANICE SANDLIN, a partnership, doing business as SANDLIN TRUCKING, Rural Route No. 1, Greensburg, IN. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, from Detroit, Mich., to Greensburg, Ind., and (2) *used empty malt beverage containers*, from Greensburg, Ind., to Detroit, Mich., to be performed under a continuing contract with Tree City Beverage Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 134069 (Sub-No. 5), filed October 12, 1971. Applicant: B AND D TRANSPORT, INC., Post Office Box 1113, Palmer Plaza, Deming, NM 88030. Applicant's representative: V. Lee Vesely, Post Office Box 1056, Silver City, NM 88061. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products, fruit juices, fruit concentrates, and animal fats*, in vehicles equipped with mechanical refrigeration, from points in New Mexico to points in Texas on and west of U.S. Highway 83, under contract with Price's Creameries, Inc. NOTE: Applicant states that tacking would be made with its Sub-No. 2 between Texas and New Mexico at points common to existing authority and the proposed authority. If a hearing is deemed necessary, applicant requests it be held at El Paso, Tex., Silver City or Deming, N. Mex.

No. MC 134282 (Sub-No. 4), filed October 1, 1971. Applicant: ENNIS TRANSPORTATION CO., INC., Post Office Box 447, Ennis, TX 75119. Applicant's representative: William D. White, Jr., 2505 Republic National Bank Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum board paper*, (1) from the plantsite and warehouse of Georgia Pacific Co. at or near Pryor, Okla., to the plantsite and/or warehouse of the Celotex Corp. at or near Hamlin, Fisher County, Tex.; and (2) from the plantsite and warehouses of National Paper Co. at or near Pryor, Okla., to the plantsite and/or warehouse of the Flintkote Co. at or near Sweetwater, Tex. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas or Houston, Tex.

No. MC 134336 (Sub-No. 4), filed October 12, 1971. Applicant: TOM BOWEN, INC., Box 689, Sturgis, SD 57785. Applicant's representative: A. Milton Evans, Box 1286, Rapid City, SD 57701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from Sturgis, S. Dak., to points in Nebraska. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Rapid City; Pierre or Sioux Falls, S. Dak.

No. MC 134617 (Sub-No. 1), filed October 13, 1971. Applicant: TRUCK TRAILER LEASING COMPANY, a corporation, 248 Ohio River Boulevard, Sewickley, PA 15143. Applicant's representative: Arthur J. Diskin, 806 Frick Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles and materials, supplies and equipment* used in the manufacture and distribution of plastic articles (except commodities in bulk), between the plantsites of Cities Service Co., Fesco Operations, at McKees Rocks, Pa., Kankakee, Ill., and Tustin, Calif., on the one hand, and, on the other, points in California, Arizona, New Mexico, Texas, Oklahoma, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, Tennessee, Kentucky, Virginia, Maryland, Delaware, West Virginia, Ohio, Indiana, Illinois, Wisconsin, Michigan, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, Vermont, Maine, and the District of Columbia, under continuing contract with Cities Service Co., Fesco Operations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Pittsburgh, Pa.

No. MC 135007 (Sub-No. 8), filed October 12, 1971. Applicant: AMERICAN TRANSPORT, INC., Millard, Nebr. 68137. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as *contract carrier*, by motor vehicle, over irregular routes, transporting: *New finished furniture*, from Taylor and San Marcos, Tex., to points in Louisiana, Arkansas, Missouri, Iowa, Minnesota, Wisconsin, Illinois, Mississippi, Alabama, Tennessee, Kentucky, Indiana, Michigan, Ohio, Florida, Georgia, South Carolina, North Carolina, Virginia, West Virginia, Maryland, Delaware, New Jersey, New York, Massachusetts, Connecticut, Rhode Island, New Hampshire, Vermont, Maine, Pennsylvania, the District of Columbia, Oklahoma, Colorado, Kansas, and Nebraska, under a continuing contract with William P. Volker & Co., Kerr-Ban Furniture Manufacturing Co. Division. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr., or Dallas, Tex.

No. MC 135012 (Sub-No. 1), filed October 8, 1971. Applicant: AERO DISTRIBUTING CO., a corporation, 834 West Main Street, Lowell, MI 49331. Applicant's representative: Daniel J. Kozera, Jr., 715 McKay Tower, Grand Rapids, Mich. 49502. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gases and natural gasoline*, in bulk, in tank vehicles, from points in St. Clair County, Mich., to points in Indiana and Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Lansing, Mich., Chicago, Ill., or Detroit, Mich.

No. MC 135283 (Sub-No. 5), filed October 18, 1971. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., Box 1665, Grand Island, NE 68801. Applicant's representative: Gailyn L. Larsen, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, from the plantsite and storage facilities of Swift & Co. at or near Grand Island, Nebr., to points in Iowa, Illinois, Missouri, Minnesota, Wisconsin, and Vermont, restricted to traffic originating at the named origin and destined to the named States. NOTE: Applicant requests concurrent handling with F-11351, published in the FEDERAL REGISTER issue of November 3, 1971. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Lincoln or Grand Island, Nebr.

No. MC 135621 (Sub-No. 2), filed October 15, 1971. Applicant: MOLER-WAY FREIGHT LINES, INC., 1931 Broadwater Avenue, Billings, MT 59102. Applicant's representative: Donald R. Herndon, Post Office Box 20779, 1216 16th Street West, Billings, MT 59102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except household goods and articles of unusual value or those requiring the use of special equipment), (1) between Billings and Forsyth, Mont.: (a) From Billings over U.S. Highway 87 to Roundup, Mont., thence over U.S. Highway 12 to Forsyth and return over the same route, serving all intermediate points; (b) From Billings to Forsyth over U.S. Highway 10 and return over the same route, serving all intermediate points. NOTE: If a hearing is deemed necessary, applicant requests it be held at Billings, Mont.

No. MC 135803 (Sub-No. 1), filed October 7, 1971. Applicant: WALLACE TRANSPORT, a corporation, Post Office Box 212, Planada, CA 95365. Applicant's representative: Boris H. Lakusta, 310 Sansome Street, San Francisco, CA 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Groceries and other commodities dealt in by wholesale or retail grocery establishments*

foods and food products requiring temperature control service; meats, meat products—including cooked and cured meats, meat byproducts and articles distributed by meat packinghouses; dairy products; and fish and agricultural commodities, otherwise exempt under section 203(b)(6) of the Interstate Commerce Act, in mixed shipments with regulated commodities, (a) between points in California (excluding pickup and delivery service within (1) the cities of Alameda, Albany, Berkeley, Emeryville, El Cerrito, Hayward, Piedmont, Richmond, Oakland, San Leandro, South San Leandro, San Francisco, and South San Francisco, (2) the commercial zones of Los Angeles County and/or Los Angeles Harbor), and (b) between points in California on the one hand, and, on the other, points in Washoe County, Nev. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at San Francisco or Los Angeles, Calif.

No. MC 135812 (Amendment), filed July 6, 1971, published FEDERAL REGISTER issue of August 19, 1971, and republished as amended this issue. Applicant: PROFESSIONAL DRIVER SERVICES, INC., 146 Seventh Avenue, North, Nashville, TN 37203. Applicant's representative: Walter Harwood, 1622 Parkway Towers, Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trucks, tractors, semi-trailers, and tractor trailer units*, in driveaway service, between points in Metropolitan Nashville and Davidson Counties, Tenn., Knoxville, Tenn., and Mobile, Ala., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted on return to said named points against initial driveaway service. NOTE: Application is accompanied with a motion to dismiss. The purpose of this republication is to show that the application has been amended to add Knoxville, Tenn., and Mobile, Ala. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 135865 (Sub-No. 1), filed October 12, 1971. Applicant: APPLEGATE DRAYAGE COMPANY, a corporation, 325 North Fifth Street, Sacramento, CA 95812. Applicant's representative: John Paul Fischer, 140 Montgomery Street, San Francisco, CA 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (1) between Sacramento and Vinton, Calif., over California Highway 70, serving all intermediate points, and off-route points within 10 miles of said highway between Jarbo Gap and Vinton, Calif., and (2) between the junction of California Highways 89 and 70 and Greenville, Calif., over California Highway 89, serving all intermediate points and off-route points within 10 miles of said highway and the off-route point of Taylorsville, Calif. NOTE: If a hearing is deemed necessary, applicant requests it be held at Sacramento or San Francisco, Calif.

No. MC 135909 (Correction), filed August 2, 1971, published in the FEDERAL REGISTER issue of October 15, 1971 and republished in part as corrected this issue. Applicant: WALTER V. BAKER AND WILLIS D. W. BAKER, a partnership doing business as BAKER BROS., 304 South Main, Ellington, MO 63638. Applicant's representative: Walter V. Baker (same address as applicant). NOTE: The purpose of this partial republication is to reflect *between* points in Missouri, Iowa, Illinois, Alabama, Arkansas, and Kansas in lieu of "from points in" as was shown in the previous publication. The rest of the application remains as previously published.

No. MC 135936 (Sub-No. 2), filed October 4, 1971. Applicant: LIEBMANN TRANSPORTATION CO., INC., U.S. Highway 65 North, also Post Office Box 1022, Iowa Falls, IA 50126. Applicant's representative: Robert R. Rydell, 900 Savings and Loan Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Tama, Iowa, to Chicago, Ill.; Milwaukee, Wis., and Detroit, Mich. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Chicago, Ill.

No. MC 135955, filed August 11, 1971. Applicant: BAKKER SERVICE STATION, INC., 730–750 East 241st Street, Bronx, NY 10470. Applicant's representative: William D. Traub, 10 East 40th Street, New York, NY 10016. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Disabled or wrecked passenger and commercial vehicles, fork-lift trucks, and other disabled or wrecked self-propelled articles requiring the use of wrecker equipment, and replacements for such disabled or wrecked commodities*, between points in the United States east of and including North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 135987 (Sub-No. 1), filed September 10, 1971. Applicant: CARBOL TRAILWAYS (LTD), 300–444 Seventh Avenue SW., Calgary 2, AB, Canada. Applicant's representative: Reginald A. Carbol, 2124 Chambers Street, Victoria, BC, Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Wilmington, Calif., and Seattle, Wash. to the international boundary between the United States and Canada at or near Blaine, Lynden, Sumas, and Oroville, Wash., Eastport, Idaho, and Sweetgrass, Mont. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 135994, filed August 26, 1971. Applicant: MOLASSES HAULERS, INC., Box 621, West Highway 26, Scottsbluff, NE 69361. Applicant's representative: Robert G. Simmons, Jr., 1620 Avenue A, Scottsbluff, NE 69361. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tallow, animal oils, and animal fats*, as described by the Commission, in tank vehicles, from the plantsite of Swift & Co., at Gering, Nebr., to points in Nebraska and South Dakota, on and west of U.S. Highway 281 and points in Colorado and Wyoming, on and east of U.S. Highway 87. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Scottsbluff or Gering, Nebr.

No. MC 135997 (Amendment), filed August 24, 1971, published in the FEDERAL REGISTER issue of October 7, 1971, and republished as amended this issue. Applicant: TEXAS TANK LEASING, INC., Route 10, Box 501 N., Houston, TX 77040. Applicant's representative: William D. Lynch, 1005 Nueces, Austin, TX 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass fiber reinforced plastic storage vessels, vessel parts, and attachments* thereto when moving with the vessels and pipe, from points in Texas to points in Oklahoma, Louisiana, Kansas, Missouri, Arkansas, Mississippi, Alabama, Tennessee, Texas, Florida, and Georgia. NOTE: The purpose of this republication is to redescribe the authority sought. If a hearing is deemed necessary, applicant requests it be held at Houston or Fort Worth, Tex.

No. MC 136002 (Sub-No. 1), filed October 4, 1971. Applicant: DANIELSON AVIATION, INC., Danielson Airport, Danielson, Conn. 06239. Applicant's representative: Reubin Kaminsky, Post Office Box 17–067, 342 North Main Street, West Hartford, CT 06117. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, commodities contaminating or injurious to other lading, and articles of unusual value), between Killingly Township, Conn., and Bradley International Airport at Windsor Locks, Conn., (1) from Danielson located in Killingly Township, over Connecticut Highway 52 to its junction with Connecticut Highway 101, thence over Connecticut Highway 101 to its junction with U.S. Highway 44, thence over U.S. Highway 44 to its junction with Interstate Highway 86, thence over Interstate Highway 86 to its junction with Interstate Highway 84, thence over Interstate Highway 84 to its junction with Interstate Highway 91, thence over Interstate Highway 91 to its junction with Connecticut Highway 20,

Pennsylvania, West Virginia, Virginia, Kentucky, Ohio, Indiana, Illinois, Missouri, Iowa, Kansas, Minnesota, Wisconsin, and Michigan and (2) *Plastic film, cardboard, and corrugated cartons,* from Muncie, Ind., St. Louis, and Hazelwood, Mo., and Harrisonburg, Va., to points in Washington County, Md., under contract with Dutchie, Inc., Hagerstown, Md. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 133800 (Sub-No. 1), filed October 15, 1971. Applicant: RAYMOND SANDLIN, JR. AND JANICE SANDLIN, a partnership, doing business as SANDLIN TRUCKING, Rural Route No. 1, Greensburg, IN. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, from Detroit, Mich., to Greensburg, Ind., and (2) *used empty malt beverage containers*, from Greensburg, Ind., to Detroit, Mich., to be performed under a continuing contract with Tree City Beverage Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 134069 (Sub-No. 5), filed October 12, 1971. Applicant: B AND D TRANSPORT, INC., Post Office Box 1113, Palmer Plaza, Deming, NM 88030. Applicant's representative: V. Lee Vesely, Post Office Box 1056, Silver City, NM 88061. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products, fruit juices, fruit concentrates, and animal fats*, in vehicles equipped with mechanical refrigeration, from points in New Mexico to points in Texas on and west of U.S. Highway 83, under contract with Price's Creameries, Inc. NOTE: Applicant states that tacking would be made with its Sub-No. 2 between Texas and New Mexico at points common to existing authority and the proposed authority. If a hearing is deemed necessary, applicant requests it be held at El Paso, Tex., Silver City or Deming, N. Mex.

No. MC 134282 (Sub-No. 4), filed October 1, 1971. Applicant: ENNIS TRANSPORTATION CO., INC., Post Office Box 447, Ennis, TX 75119. Applicant's representative: William D. White, Jr., 2505 Republic National Bank Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum board paper*, (1) from the plantsite and warehouse of Georgia Pacific Co. at or near Pryor, Okla., to the plantsite and/or warehouse of the Celotex Corp. at or near Hamlin, Fisher County, Tex.; and (2) from the plantsite and warehouses of National Paper Co. at or near Pryor, Okla., to the plantsite and/or warehouse of the Flintkote Co. at or near Sweetwater, Tex. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas or Houston, Tex.

No. MC 134336 (Sub-No. 4), filed October 12, 1971. Applicant: TOM BOWEN, INC., Box 689, Sturgis, SD 57785. Applicant's representative: A. Milton Evans, Box 1286, Rapid City, SD 57701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from Sturgis, S. Dak., to points in Nebraska. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Rapid City; Pierre or Sioux Falls, S. Dak.

No. MC 134617 (Sub-No. 1), filed October 13, 1971. Applicant: TRUCK TRAILER LEASING COMPANY, a corporation, 248 Ohio River Boulevard, Sewickley, PA 15143. Applicant's representative: Arthur J. Diskin, 806 Frick Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles and materials, supplies and equipment* used in the manufacture and distribution of plastic articles (except commodities in bulk), between the plantsites of Cities Service Co., Fesco Operations, at McKees Rocks, Pa., Kankakee, Ill., and Tustin, Calif., on the one hand, and, on the other, points in California, Arizona, New Mexico, Texas, Oklahoma, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, Tennessee, Kentucky, Virginia, Maryland, Delaware, West Virginia, Ohio, Indiana, Illinois, Wisconsin, Michigan, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, Vermont, Maine, and the District of Columbia, under continuing contract with Cities Service Co., Fesco Operations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Pittsburgh, Pa.

No. MC 135007 (Sub-No. 8), filed October 12, 1971. Applicant: AMERICAN TRANSPORT, INC., Millard, Nebr. 68137. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as *contract carrier*, by motor vehicle, over irregular routes, transporting: *New finished furniture*, from Taylor and San Marcos, Tex., to points in Louisiana, Arkansas, Missouri, Iowa, Minnesota, Wisconsin, Illinois, Mississippi, Alabama, Tennessee, Kentucky, Indiana, Michigan, Ohio, Florida, Georgia, South Carolina, North Carolina, Virginia, West Virginia, Maryland, Delaware, New Jersey, New York, Massachusetts, Connecticut, Rhode Island, New Hampshire, Vermont, Maine, Pennsylvania, the District of Columbia, Oklahoma, Colorado, Kansas, and Nebraska, under a continuing contract with William P. Volker & Co., Kerr-Ban Furniture Manufacturing Co. Division. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr., or Dallas, Tex.

No. MC 135012 (Sub-No. 1), filed October 8, 1971. Applicant: AERO DISTRIBUTING CO., a corporation, 834 West Main Street, Lowell, MI 49331. Applicant's representative: Daniel J. Kozera, Jr., 715 McKay Tower, Grand Rapids, Mich. 49502. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gases and natural gasoline*, in bulk, in tank vehicles, from points in St. Clair County, Mich., to points in Indiana and Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Lansing, Mich., Chicago, Ill., or Detroit, Mich.

No. MC 135283 (Sub-No. 5), filed October 16, 1971. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., Box 1665, Grand Island, NE 68801. Applicant's representative: Gailyn L. Larsen, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, from the plantsite and storage facilities of Swift & Co. at or near Grand Island, Nebr., to points in Iowa, Illinois, Missouri, Minnesota, Wisconsin, and Vermont, restricted to traffic originating at the named origin and destined to the named States. NOTE: Applicant requests concurrent handling with F-11351, published in the FEDERAL REGISTER issue of November 3, 1971. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Lincoln or Grand Island, Nebr.

No. MC 135621 (Sub-No. 2), filed October 15, 1971. Applicant: MOLER-WAY FREIGHT LINES, INC., 1931 Broadwater Avenue, Billings, MT 59102. Applicant's representative: Donald R. Herndon, Post Office Box 20779, 1216 16th Street West, Billings, MT 59102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except household goods and articles of unusual value or those requiring the use of special equipment), (1) between Billings and Forsyth, Mont.: (a) From Billings over U.S. Highway 87 to Roundup, Mont., thence over U.S. Highway 12 to Forsyth and return over the same route, serving all intermediate points; (b) From Billings to Forsyth over U.S. Highway 10 and return over the same route, serving all intermediate points. NOTE: If a hearing is deemed necessary, applicant requests it be held at Billings, Mont.

No. MC 135803 (Sub-No. 1), filed October 7, 1971. Applicant: WALLACE TRANSPORT, a corporation, Post Office Box 212, Planada, CA 95365. Applicant's representative: Boris H. Lakusta, 310 Sansome Street, San Francisco, CA 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Groceries and other commodities dealt in by wholesale or retail grocery establishments*

foods and food products requiring temperature control service; meats, meat products—including cooked and cured meats, meat byproducts and articles distributed by meat packinghouses; dairy products; and fish and agricultural commodities, otherwise exempt under section 203(b)(6) of the Interstate Commerce Act, in mixed shipments with regulated commodities, (a) between points in California (excluding pickup and delivery service within (1) the cities of Alameda, Albany, Berkeley, Emeryville, El Cerrito, Hayward, Piedmont, Richmond, Oakland, San Leandro, South San Leandro, San Francisco, and South San Francisco, (2) the commercial zones of Los Angeles County and/or Los Angeles Harbor), and (b) between points in California on the one hand, and, on the other, points in Washoe County, Nev. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at San Francisco or Los Angeles, Calif.

No. MC 135812 (Amendment), filed July 6, 1971, published FEDERAL REGISTER issue of August 19, 1971, and republished as amended this issue. Applicant: PROFESSIONAL DRIVER SERVICES, INC., 146 Seventh Avenue, North, Nashville, TN 37203. Applicant's representative: Walter Harwood, 1822 Parkway Towers, Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trucks, tractors, semitrailers, and tractor trailer units*, in driveaway service, between points in Metropolitan Nashville and Davidson Counties, Tenn., Knoxville, Tenn., and Mobile, Ala., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted on return to said named points against initial driveaway service. NOTE: Application is accompanied with a motion to dismiss. The purpose of this republication is to show that the application has been amended to add Knoxville, Tenn., and Mobile, Ala. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 135865 (Sub-No. 1), filed October 12, 1971. Applicant: APPLEGATE DRAYAGE COMPANY, a corporation, 325 North Fifth Street, Sacramento, CA 95812. Applicant's representative: John Paul Fischer, 140 Montgomery Street, San Francisco, CA 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (1) between Sacramento and Vinton, Calif., over California Highway 70, serving all intermediate points, and off-route points within 10 miles of said highway between Jarbo Gap and Vinton, Calif., and (2) between the junction of California Highways 89 and 70 and Greenville, Calif., over California Highway 89, serving all intermediate points and off-route points within 10 miles of said highway and the off-route point of Taylorsville, Calif. NOTE: If a hearing is deemed necessary, applicant requests it be held at Sacramento or San Francisco, Calif.

No. MC 135909 (Correction), filed August 2, 1971, published in the FEDERAL REGISTER issue of October 15, 1971 and republished in part as corrected this issue. Applicant: WALTER V. BAKER AND WILLIS D. W. BAKER, a partnership doing business as BAKER BROS., 304 South Main, Ellington, MO 63638. Applicant's representative: Walter V. Baker (same address as applicant). NOTE: The purpose of this partial republication is to reflect *between* points in Missouri, Iowa, Illinois, Alabama, Arkansas, and Kansas in lieu of "from points in" as was shown in the previous publication. The rest of the application remains as previously published.

No. MC 135936 (Sub-No. 2), filed October 4, 1971. Applicant: LIEBMANN TRANSPORTATION CO., INC., U.S. Highway 65 North, also Post Office Box 1022, Iowa Falls, IA 50126. Applicant's representative: Robert R. Rydell, 900 Savings and Loan Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Tama, Iowa, to Chicago, Ill.; Milwaukee, Wis., and Detroit, Mich. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Chicago, Ill.

No. MC 135955, filed August 11, 1971. Applicant: BAKKER SERVICE STATION, INC., 730–750 East 241st Street, Bronx, NY 10470. Applicant's representative: William D. Traub, 10 East 40th Street, New York, NY 10016. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Disabled or wrecked passenger and commercial vehicles, fork-lift trucks, and other disabled or wrecked self-propelled articles requiring the use of wrecker equipment, and replacements for such disabled or wrecked commodities*, between points in the United States east of and including North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 135987 (Sub-No. 1), filed September 10, 1971. Applicant: CARBOL TRAILWAYS (LTD), 300–444 Seventh Avenue SW., Calgary 2, AB, Canada. Applicant's representative: Reginald A. Carbol, 2124 Chambers Street, Victoria, BC, Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Wilmington, Calif., and Seattle, Wash. to the international boundary between the United States and Canada at or near Blaine, Lynden, Sumas, and Oroville, Wash., Eastport, Idaho, and Sweetgrass, Mont. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 135994, filed August 26, 1971. Applicant: MOLASSES HAULERS, INC., Box 621, West Highway 26, Scottsbluff, NE 69361. Applicant's representative: Robert G. Simmons, Jr., 1620 Avenue A, Scottsbluff, NE 69361. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tallow, animal oils, and animal fats*, as described by the Commission, in tank vehicles, from the plantsite of Swift & Co., at Gering, Nebr., to points in Nebraska and South Dakota, on and west of U.S. Highway 281 and points in Colorado and Wyoming, on and east of U.S. Highway 87. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Scottsbluff or Gering, Nebr.

No. MC 135997 (Amendment), filed August 24, 1971, published in the FEDERAL REGISTER issue of October 7, 1971, and republished as amended this issue. Applicant: TEXAS TANK LEASING, INC., Route 10, Box 501 N., Houston, TX 77040. Applicant's representative: William D. Lynch, 1005 Nueces, Austin, TX 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass fiber reinforced plastic storage vessels, vessel parts, and attachments* thereto when moving with the vessels and pipe, from points in Texas to points in Oklahoma, Louisiana, Kansas, Missouri, Arkansas, Mississippi, Alabama, Tennessee, Texas, Florida, and Georgia. NOTE: The purpose of this republication is to redescribe the authority sought. If a hearing is deemed necessary, applicant requests it be held at Houston or Fort Worth, Tex.

No. MC 136002 (Sub-No. 1), filed October 4, 1971. Applicant: DANIELSON AVIATION, INC., Danielson Airport, Danielson, Conn. 06239. Applicant's representative: Reubin Kaminsky, Post Office Box 17–067, 342 North Main Street, West Hartford, CT 06117. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, commodities contaminating or injurious to other lading, and articles of unusual value), between Killingly Township, Conn., and Bradley International Airport at Windsor Locks, Conn., (1) from Danielson located in Killingly Township, over Connecticut Highway 52 to its junction with Connecticut Highway 101, thence over Connecticut Highway 101 to its junction with U.S. Highway 44, thence over U.S. Highway 44 to its junction with Interstate Highway 86, thence over Interstate Highway 86 to its junction with Interstate Highway 84, thence over Interstate Highway 84 to its junction with Interstate Highway 91, thence over Interstate Highway 91 to its junction with Connecticut Highway 20,

thence over Connecticut Highway 20 to its junction with the Bradley Field Connector, thence over the Bradley Field Connector to Bradley International Airport at Windsor Locks, Conn., and return over the same route; and

(2) From Danielson located in Killingly Township, Conn., over Connecticut Highway 52 to its junction with Connecticut Highway 101, thence over Connecticut Highway 101 to its junction with U.S. Highway 44, thence over U.S. Highway 44 to its junction with Interstate Highway 86, thence over Interstate Highway 86 to its junction with Connecticut Highway 30, thence over Connecticut Highway 30 to its junction with Interstate Highway 291, thence over Interstate Highway 291 to its junction with Interstate Highway 91, thence over Interstate Highway 91 to its junction with Connecticut Highway 20, thence over Connecticut Highway 20 to its junction with the Bradley Field Connector, thence over the Bradley Field Connector to Bradley International Airport, at Windsor Locks, Conn., and return over the same route, serving no intermediate points, but serving the terminal points and the off-route points of Brooklyn, Canterbury, Eastford, Griswold, Killingly, Lisbon, Plainfield, Pomfret, Putnam, Sprague, Sterling, Thompson, and Woodstock, Conn., and point within 2 miles of Bradley International Airport at Windsor Locks, Conn., with such service restricted to traffic originating at or destined to airline carriers or air freight forwarders, and all service restricted to traffic having an immediately prior or subsequent movement by air. NOTE: If a hearing is deemed necessary, applicant requests it be held at Hartford, Conn., or Providence, R.I.

No. MC 136041, filed September 7, 1971. Applicant: STANLEY HUNT AND DOMINIC NAPOLITAN, a partnership, doing business as BAGLEY TRUCKING CO., 4550 Richmond Street, Philadelphia, PA. 19137. Applicant's representative: Stanley Hunt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines, and milk food*, from the plantsite of Wyeth International, Ltd., at Malvern, Pa., to steamship piers at Philadelphia, Pa., and Camden, N.J. for subsequent movement by water. NOTE: If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 136071 (Sub-No. 1), filed October 7, 1971. Applicant: KISSNER TRANSPORT, LTD., 525 12th Avenue East, Regina, SK, Canada. Applicant's representative: A. R. Fowler, 2288 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt (sodium chloride) and salt products*, from Williston, N. Dak., to ports of entry on the United States-Canadian international boundary line in Montana and North Dakota, on traffic destined to the Provinces of Alberta, Manitoba, and Saskatchewan, under contract with Dakota Salt & Chemical Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Williston, Minot, Bismarck, or Fargo, N. Dak.

No. MC 136080 (Sub-No. 1), filed October 12, 1971. Applicant: ELIZABETH S. LAFOE AND BERNIE L. LAFOE, a partnership, doing business as E. S. LAFOE, Box 32, Monkton, Vt. 04589. Applicant's representative: Elizabeth S. Lafoe (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned and bottled nonalcoholic beverages, empty bottles, fiberboard containers, syrup, liquid sugar, vending machines, paper labels, caps, and materials and supplies* used in the soft drink bottling industry, from points in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Pennsylvania, West Virginia, Virginia, and Maryland, on the one hand, and on the other, Rutland, Montpelier, and Burlington, Vt., under contract with Louis E. Farrell Bottling Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Burlington or Montpelier, Vt.

No. MC 136083, filed October 7, 1971. Applicant: FONT TRANSPORT CORP., 234 Southlawn Avenue, Central Islip, NY 11722. Applicant's representative: Arthur J. Piken, 1 Lefrak City Plaza, Flushing, NY 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Structural and architectural tubing*, from the facilities of American Flagpole, Division of Kearney-National, Inc., at East Setauket, N.Y., and the piers and wharves in that part of the New York commercial zone as defined in the 5th Supplemental Report in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Interstate Commerce Act (The "exempt" zone), on the one hand, and, on the other, points in Arizona, California, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, Wisconsin, and the District of Coumbia. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 136095 (Sub-No. 1), filed October 12, 1971. Applicant: ROBERT L. GILBERT AND LOU E. GILBERT, a partnership, doing business as GILBERT EXPRESS LINE, 1701 South Federal Highway, Stuart, FL 33494. Applicant's representative: John P. Bond, 30 Giralda Avenue, Coral Gables, FL 33134. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles* having a density of less than 4 pounds per cubic feet in boxes, between Kent, Ohio, and points in Florida, Georgia, South Carolina, North Carolina, Virginia, West Virginia, Kentucky, Tennessee, Alabama, Maryland, and Washington, D.C., under contract with The Smithers Co., Kent, Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Miami or Tampa, Fla.

No. MC 136108, filed October 18, 1971. Applicant: 4 JAY LEASING CORPORATION, 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Applicant's representative: Martin Sack, Jr. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rags and used clothing and wearing apparel*, from points in New York and New Jersey to points in the United States (except Alaska and Hawaii). NOTE: If a hearing is deemed necessary, applicant requests it be held at New York City, N.Y.

MOTOR CARRIER OF PASSENGERS

No. MC 668 (Sub-No. 95), filed October 4, 1971. Applicant: INTER-CITY TRANSPORTATION CO., INC., DONALD A. ROBINSON, TRUSTEE, 419 Anderson Avenue, Fairview, NJ 07022. Applicant's representative: Edward F. Bowes, 744 Broad Street, Newark, NJ 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage and newspapers and express* in the same vehicle with passengers, (1) Between Hackensack, N.J., and Hackensack, N.J., (A) from junction of Essex Street and Polifly Road in Hackensack, N.J., then over Polifly Road to junction Interstate Highway 80 access road, then over Interstate Highway 80 access road to Interstate Highway 80 in Hackensack, N.J., and return over the same routes, using Interstate Highway 80 exit road at Polifly Road, serving all intermediate points; (B) from junction Summit Avenue and Essex Street in Hackensack, N.J., over Essex Street to junction Polifly Road, and return over the same routes serving intermediate points; (C) from junction New Jersey Highway 17 and Interstate Highway 80 in Hackensack, N.J., over Interstate Highway 80 access road to Interstate Highway 80 in Hackensack, N.J., and return over the same routes using Interstate Highway exit road at New Jersey Highway 17, serving all intermediate points;

(D) From the junction of Court Street and River Street in Hackensack, N.J., over River Street to junction South River Street, then over South River Street to junction Kennedy Street, then over Kennedy Street to junction Interstate Highway 80 access road, then over Interstate Highway 80 access road to Interstate Highway 80 in Hackensack, N.J., and return over the same routes using Interstate Highway 80 exit road at Kennedy Street serving all intermediate points; and (E) from the junction of Summit Avenue and Mary Street in Hackensack, N.J., over Mary Street to junction Polifly Road, then over Polifly Road to junction of Interstate Highway

80 access road, then over Interstate Highway 80 access road to Interstate Highway 80 in Hackensack, N.J., and return over the same routes using Interstate Highway 80 exit road at Polifly Road, serving all intermediate points; (2) Between Hasbrouck Heights, N.J., and Hackensack, N.J.; from the junction of Boulevard and Williams Avenue in Hasbrouck Heights, N.J., over Williams Avenue to junction Terrace Avenue, then over Terrace Avenue to junction Polifly Road, then over Polifly Road to Interstate Highway 80 access road, then over Interstate Highway 80 access road to Interstate Highway 80 in Hackensack, N.J., and return over the same routes using Interstate Highway 80 exit road at Polifly Road, serving all intermediate points; (3) Between Paramus, N.J., and Hackensack, N.J.; from junction of New Jersey Highway 17 and New Jersey Highway 4 in Paramus, N.J., over New Jersey Highway 17 to junction Interstate Highway 80 access road, then over Interstate Highway 80 access road to Interstate Highway 80 in Hackensack, N.J., and return over the same routes using Interstate Highway 80 exit road, at New Jersey Highway 17, serving no intermediate points; (4) Between Hackensack, N.J., and South Hackensack, N.J.;

(A) From junction Mercer Street and State Street in Hackensack, N.J., over State Street to junction South State Street, then over South State Street to junction Huyler Street in South Hackensack, then over Huyler Street to junction North Street in Teterboro, N.J., then over North Street to junction Interstate Highway 80 access road, then over Interstate Highway 80 access road to Interstate Highway 80 in South Hackensack, N.J., and on return Interstate Highway 80 exit road at Wesley Street in South Hackensack, N.J., to junction Wesley Street, then over Wesley Street to junction Huyler Street in South Hackensack, N.J., then over Huyler Street to junction South State Street in Hackensack, N.J., then over South State Street to State Street, then over State Street to Center Street in Hackensack, N.J., serving all intermediate points; and (B) from junction of Mercer Street and State Street in Hackensack, N.J., over State Street to junction South State Street, then over South State Street to junction Huyler Street in South Hackensack, N.J., then over Huyler Street to junction Leunning Street, then over Leunning Street to junction Green Street in South Hackensack, N.J., and Hackensack, N.J., then over Green Street to junction North Street, then over North Street to junction Interstate Highway 80 access road, then over Interstate Highway 80 access road to Interstate Highway 80 in South Hackensack, N.J., and return over Interstate Highway 80 exit road at Wesley Street in South Hackensack, N.J., to junction Wesley Street in Hackensack, N.J., then over Wesley Street to junction Green Street in South Hackensack, N.J., and Hasbrouck Heights, N.J.; then over Green Street to junction Leunning Street, then over Leunning Street to junction Huyler Street, then over Huyler Street to junction South State Street at South Hackensack, N.J., and Hackensack, N.J., boundary line, then over South State Street to junction State Street then over State Street to junction Mercer Street in Hackensack, N.J., serving all intermediate points;

(5) Between Teaneck, N.J., and Teaneck, N.J.; from the junction of Fort Lee Road and Teaneck Road in Teaneck, N.J., over Teaneck Road to DeGraw Avenue; then over DeGraw Avenue to junction Interstate Highway 95 access road, then over Interstate Highway 95 access road to junction Interstate Highway 95 in Teaneck, N.J., and return over the same routes using Interstate Highway 95 exit road and Glenwood Avenue to DeGraw Avenue, serving all intermediate points; (6) Between Rochelle Park, N.J., Lodi, N.J., and Lodi, N.J.; from junction Essex Street and Riverview Road in Lodi, N.J., at the Rochelle Park, N.J., boundary line, over Riverview Road to junction Interstate Highway 80 access road, then over Interstate Highway 80 access road to Interstate Highway 80 in Lodi, N.J., and return over the same routes to Rochelle Park, N.J., at the Lodi, N.J.-Rochelle Park, N.J., boundary line using Interstate Highway 80 exit road at Riverview Road in Lodi, N.J., serving all intermediate points; (7) Between Rochelle Park, N.J., and Lodi, N.J.; from junction of Passaic Street and Rochelle Avenue in Rochelle Park, N.J., over Rochelle Avenue to junction Essex Street, then over Essex Street to junction Riverview Avenue at the Rochelle Park, N.J., and Lodi, N.J., boundary line then over Riverview Avenue to junction Interstate Highway 80 access road, then over Interstate Highway 80 access road to junction Interstate Highway 80 in Lodi, N.J., and return over the same routes, using Interstate Highway 80 exit road at Riverview Avenue, serving all intermediate points; (8) Between Fairlawn, N.J., and Saddle Brook, N.J.; from junction Plaza Road and Broadway in Fairlawn, N.J., then over Broadway to junction Midland Avenue, then over Midland Avenue to junction Pehle Avenue, then over Pehle Avenue to junction Interstate Highway 80 access road, then over Interstate Highway 80 access road to Interstate Highway 80 in Saddle Brook, N.J., and return over the same routes using Interstate Highway 80 exit road at Pehle Avenue, serving all intermediate points;

(9) Between Paterson, N.J., and Lodi, N.J.; from junction Broadway and 30th Street in Paterson, N.J., over Broadway to junction Boulevard in East Paterson, then over Boulevard to junction Market Street, then over Market Street to junction Essex Street, then over Essex Street to junction Riverview Avenue, then over Riverview Avenue to junction Interstate Highway 80 access road, then over Interstate Highway 80 access road to Interstate Highway 80 in Lodi, N.J., and return over the same routes using Interstate Highway 80 exit road at Riverview Avenue, serving all intermediate points; (10) Between Paterson, N.J., and Paterson, N.J.; (A) from junction of Market Street and Church Street in Paterson, N.J., over Church Street to junction Ellison Street, then over Ellison Street to junction Straight Street, then over Straight Street to junction Market Street, then over Market Street to junction Madison Avenue, then over Madison Avenue to junction Interstate Highway 80 access road, then over Interstate Highway 80 access road to Interstate Highway 80, Paterson, N.J., and return from Interstate Highway 80 over Interstate Highway 80 exit road at Madison Avenue to junction Madison Avenue, then over Madison Avenue to junction 16th Avenue, then over 16th Avenue to junction Market Street, then over Market Street to junction Church Street, serving all intermediate points; (B) from the junction of Market Street and Church Street in Paterson, N.J., over Church Street to junction Ellison Street, then over Ellison Street to junction Straight Street, then over Straight Street to junction Market Street, then over Market Street to junction Lakeview Avenue, then over Lakeview Avenue to Junction New Jersey Highway 20, then over New Jersey Highway 20 to junction Interstate Highway 80 access road, then over Interstate Highway 80 access road to junction Interstate Highway 80 in Paterson, N.J., and return from Interstate Highway 80 over Interstate Highway 80 exit road at Madison Avenue, then over Interstate Highway 80 exit road to junction Madison Avenue, then over Madison Avenue to junction 16th Avenue, then over 16th Avenue to junction Market Street, then over Market Street to junction Church Street, serving all intermediate points; and (C) from junction of Main Avenue and Madison Avenue in Paterson, N.J., over Madison Avenue to junction Interstate Highway 80 access road, then over Interstate Highway 80 in Paterson, N.J., and return over the same routes, serving all intermediate points; and

(11) Between Paterson, N.J., and New York, N.Y.; (A) from Paterson, N.J., over Interstate Highway 80 in Paterson, N.J., to junction Interstate Highway 95 at the Teaneck, N.J., and Ridgefield Park boundary line, then over Interstate Highway 95 and the George Washington Bridge to New York, N.Y., serving the intermediate point of Fort Lee, N.J., and for purpose of joinder to the proposed routes described herein before in paragraphs 1 to 10, serving the intermediate points of Saddle Brook, Rochelle Park, Lodi, Hackensack, South Hackensack, and Teaneck; and (B) from Paterson, N.J., over Interstate Highway 80 in Paterson, N.J. to junction Interstate Highway 80 exit road, then over Interstate Highway 80 exit road to junction Interstate Highway 95 access road at the Teaneck, N.J., and Ridgefield Park, N.J., boundary line, then over Interstate Highway 95 access road to junction Interstate Highway 95, then over Interstate Highway 95 to junction Interstate Highway 95 exit road in Ridgefield Park, N.J., then over Interstate Highway 95 exit road to junction New Jersey Turnpike access road, then over New Jersey Turnpike access road to junction New Jersey Turnpike, then over New Jersey Turnpike to

junction New Jersey Turnpike exit road in Secaucus, N.J., then over New Jersey Turnpike exit road to Interstate Highway 495, also known as New Jersey Highway 3, in North Bergen, N.J., also over New Jersey Turnpike exit road in Secaucus, N.J., to junction Paterson Road, then over Paterson Road to Interstate Highway 495, also known as New Jersey Highway 3, in North Bergen, N.J., then over Interstate Highway 495, also known as New Jersey Highway 3, to New York, N.Y., via the Lincoln Tunnel, and return over the same routes, using the New Jersey Turnpike access road in North Bergen, N.J., and its exit road in Ridgefield Park, N.J., and Interstate Highway 95 access road in Ridgefield Park, N.J., and its exit road and Interstate Highway 80 access road at the Ridgefield Park, N.J., and Teaneck, N.J., boundary line, serving the intermediate points of Secaucus, North Bergen, Union City and Weehawken, N.J., and for purposes of joinder to the proposed routes described hereinbefore in paragraphs 1 to 10, serving the intermediate points of Saddle Brook, Rochelle Park, Hackensack, South Hackensack, and Teaneck. NOTE: Applicant states it proposes to join the above-described proposed routes to all of its existing routes in Docket MC 668 and sub numbers thereunder and to provide service between all points on such routes and New York, N.Y., via the George Washington Bridge and the Lincoln Tunnel and requests lifting of its existing restrictions on New Jersey Highway 17 to permit joinder at the junction of routes 80 and 17 in Hackensack, N.J. Specifically, points which the applicant proposes to serve via the proposed routes are Oakland, Franklin Lakes, Wyckoff, Paterson, East Paterson, Midland Park, Ridgewood, Hohokus, Glen Rock, Hawthorne, Fair Lawn, Paramus, River Edge, Saddle Brook, Rochelle Park, Maywood, Hackensack, Hasbrouck Heights, Bogota, and Teaneck, N.J. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Newark, N.J.

No. MC 1515 (Sub-No. 170), filed October 15, 1971. Applicant: GREYHOUND LINES, INC., 1400 West Third Street, Cleveland, OH 44113. Applicant's representative: Barrett Elkins (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage and express and newspapers* in the same vehicle with passengers, (1) between Spartanburg, S.C., and Asheville, N.C., from Spartanburg, S.C., over U.S. Highway 176 to junction of Interstate Highway 26, thence over Interstate Highway 26 to the junction of North Carolina Highway 191 and Interstate Highway 40, thence over North Carolina Highway 191 to Asheville, N.C., and return over the same route, serving no intermediate points but serving the junction of U.S. Highway 176 and Interstate Highway 85 and the junction of Interstate Highway 26 and Interstate Highway 40 for the purpose of joinder only; (2) between the junction of Interstate Highway 26 and North Carolina Highway 108 and the junction of Interstate Highway 26 Connector and Interstate Highway 26, from the junction of Interstate Highway 26 and North Carolina Highway 108 over North Carolina Highway 108 to junction North Carolina Secondary Highway 1121, thence over North Carolina Secondary Highway 1121 to junction U.S. Highway 176, thence over U.S. Highway 176 to junction Interstate Highway 26 Connector, thence over Interstate Highway 26 Connector to junction Interstate Highway 26 and return over the same route, serving no intermediate points but serving the termini for the purpose of joinder only; (3) between Hendersonville, N.C., and the junction of U.S. Highway 64 and Interstate Highway 26, from Hendersonville, N.C., over U.S. Highway 64 to the junction of Interstate Highway 26 and return over the same route, serving no intermediate points but serving the junction of U.S. Highway 64 and Interstate Highway 26 for the purpose of joinder only; and (4) between Hendersonville, N.C., and the junction of U.S. Highway 176 and Interstate Highway 26 Connector, from Hendersonville, N.C., over U.S. Highway 25 to junction U.S. Highway 176, thence over U.S. Highway 176 to junction Interstate Highway 26 Connector and return over the same route, serving no intermediate points but serving the junction of U.S. Highway 176 and Interstate Highway 26 Connector for the purpose of joinder only. Restriction: No passenger may be carried whose entire trip is between Asheville, N.C., on the one hand, and Spartanburg, S.C., Gastonia, N.C., and Charlotte, N.C., on the other, or between Hendersonville, N.C., on the one hand, and, Spartanburg, S.C., Gastonia, N.C., and Charlotte, N.C., on the other, or reverse. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C.

No. MC 85819 (Sub-No. 5), filed October 12, 1971. Applicant: GULF COAST MOTOR LINES, INC., 105 South Myrtle Avenue, Clearwater, FL 33516. Applicant's representative: S. Harrison Hahn, Suite 733, Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Passengers and their baggage*, in round-trip charter operations and in round-trip sightseeing and pleasure tours, beginning and ending at points in Pinellas, Hillsborough, Pasco, Hernando, Sumpter, Lake, and Orange Counties, Fla., and extending to points in the United States (except Hawaii) and (b) *passengers and their baggage* in charter operations from points on the applicant's regular routes in Florida to points in the United States (except Hawaii) and return, to WIt: (1) Between Weeki Wachee and St. Petersburg, Fla., serving all intermediate points; over U.S. Highway 19 (also over alternate route U.S. Highway 19) and (2) between Weeki Wachee, Fla., and Orlando, Fla., serving all intermediate points; from Weeki Wachee over Florida Highway 50 to Orlando and return over the same route. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Petersburg or Tampa, Fla.

No. MC 118848 (Sub-No. 14), filed October 8, 1971. Applicant: DOMENICO BUS SERVICE, INC., 75 New Hook Access Road, Bayonne, NJ 07102. Applicant's representative: Charles J. Williams, 47 Lincoln Park, Newark, NJ 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, between the Borough of Richmond (Staten Island), N.Y., and the Borough of Manhattan, N.Y., serving all intermediate points (except those in New Jersey and those in Port Richmond, (Staten Island), N.Y.: From junction Barrett Avenue and Forest Avenue in West New Brighton, Staten Island, N.Y., over Forest Avenue to access roads to the Willow Brook Expressway, thence over the Willow Brook Expressway to the Bayonne Bridge, thence over the Bayonne Bridge to Kennedy Boulevard, in Bayonne, N.J., thence over North Street to Avenue C, thence over Avenue C to 54th Street, thence over 54th Street to Broadway, thence over Broadway to 53d Street, thence over 53d Street to Interchange 14A of the New Jersey Turnpike, thence over the New Jersey Turnpike to Interchange 14C of the New Jersey Turnpike, in Jersey City, N.J., thence exit roads to 12th Street (also known as Entrance Plaza), thence over 12th Street to the Holland Tunnel, thence through the Holland Tunnel to Manhattan, N.Y., and return over the same route (except (1) that on return on leaving the Holland Tunnel operations will be conducted over 14th Street (also known as Exit Plaza) to Interchange 14C of the New Jersey Turnpike, (2) that on leaving the New Jersey Turnpike at 14A, in Bayonne, N.J., operations will be conducted over 53d Street to Broadway, thence over Broadway to 55th Street, thence over 55th Street to Avenue C, and (3) that on leaving Willow Brook Expressway in Staten Island, N.Y., operations will be conducted over exit roads to Forest Avenue in Port Richmond, Staten Island, N.Y., subject to the restriction that passengers shall be transported only between Staten Island, N.Y., on the one hand, and, on the other, Manhattan, N.Y.). NOTE: Applicant states that it proposes to tack the authority sought with its existing authority in lead docket No. 118848 Sub 4, and subs thereto, so as to provide service between Staten Island, N.Y., and Manhattan, N.Y., via the above described route. If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

APPLICATION FOR WATER CARRIER

No. W-586 (Sub-No. 4) (PUGET SOUND TUG & BARGE COMPANY—Extension—INTERCOASTAL) (2), filed October 28, 1971. Applicant: PUGET SOUND TUG & BARGE COMPANY, a corporation, 1102 Southwest Massachusetts Street, Seattle, WA 98134. Applicant's representative: John Cunningham, Tower Building, 1401 K Street NW., Washington, DC 20005. By application filed October 28, 1971, applicant seeks

revision of certificate (No. W-586) to cover the following proposed changes in service: Operation as a common carrier by water, in interstate or foreign commerce, by towing vessels in the performance of towage and by non-self-propelled vessels with the use of separate towing vessels in the transportation of *commodities* exceeding 19 feet in height, 12 feet in width, 90 feet in length or 100 tons in weight, *component parts thereof, and related equipment*, between ports and points on the Atlantic and Gulf of Mexico coasts and tributary waterways, on the one hand, and, on the other, ports and points along the Pacific Coast and tributary waterways.

APPLICATION FOR FREIGHT FORWARDER

No. FF-260 (Sub-No. 3) TRIPLE R TRUCKING COMPANY, INC.—EXTENSION—MAINE, filed October 27, 1971. Applicant: TRIPLE R TRUCKING COMPANY, INC., 101 Flamingo Street, Atlantic Beach, NY 11509. Applicant's representative: Morris Honig, 150 Broadway, New York, NY 10038. Authority sought under section 410, Part IV of the Interstate Commerce Act, for a permit to extend operation as a freight forwarder, in interstate or foreign commerce, through the use of the facilities of common carriers by motor vehicle in the transportation of: *Baggage and personal effects of campers*, between New York, N.Y., and points in Nassau, Suffolk, Westchester, and Rockland Counties, N.Y.; and Bergen Essex, Passaic, Union, Hudson, Mercer, Monmouth, Ocean, Burlington, Camden, Gloucester, Salem, and Atlantic Counties, N.J.; Bucks, Chester, Montgomery, and Philadelphia Counties, Pa.; Fairfield, New Haven, and Hartford Counties, Conn.; Baltimore County, Md.; Washington, D.C., New Castle and Kent Counties, Del., and Fairfax County, Va., on the one hand, and, on the other, points in Maine, New Hampshire, and Vermont.

No. FF-341 (Sub-No. 3) INTERMOUNTAIN FAST FREIGHT—EXTENSION—WESTERN STATES, filed October 27, 1971. Applicant: INTERMOUNTAIN FAST FREIGHT, 1426 East Fourth Street, Los Angeles, CA. Applicant's representative: Martin J. Rosen, 140 Montgomery Street, San Francisco, CA 94104. Authority sought under section 410, Part IV of the Interstate Commerce Act, for a permit to extend operation as a freight forwarder, in interstate or foreign commerce, through use of the facilities of common carriers by railroad, express, water and motor vehicle in the transportation of: *General commodities*, between points in Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Illinois, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, Washington, and Wyoming.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16405 Filed 11-10-71;8:45 am]

ASSIGNMENT OF HEARINGS

NOVEMBER 8, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 73686 Sub 45, Southern Trucking Corp., assigned January 17, 1972, at Kansas City, Mo., in a hearing room to be later designated.
MC 111231 Sub 160, Jones Truck Lines, Inc., assigned January 17, 1972, at Kansas City, Mo.
MC 111729 Sub 319, American Courier Corp., assigned January 13, 1972, at Kansas City, Mo.
MC 119493 Sub 65, Monkem Co., Inc., assigned January 17, 1972, at Kansas City, Mo.
MC 134066 Sub 1, Clear Water Truck Co., Inc., assigned January 11, 1972, at Kansas City, Mo.
MC 120098 Sub 19, Uintah Freightways, assigned November 8, 1971, cancelled and application dismissed.
MC 116947 Sub 16, Hugh H. Scott, doing business as Scott Transfer Co., and MC 126276 Sub 45, Fast Motor Service, Inc., assigned January 10, 1972, in Room 309, 1252 West Peachtree Street NW., Altanta, GA.
MC 115496 Sub 13, Lumber Transport, Inc., assigned January 11, 1972, in Room 309, 1252 West Peachtree Street NW., Atlanta, GA.
MC 135425 Sub 1, Cycles, Limited, assigned January 12, 1972, in Room 309, 1252 West Peachtree Street NW., Atlanta, GA.
MC 133937 Sub 5, Carolina Cartage Co., Inc., assigned January 13, 1972, in Room 309, 1252 West Peachtree Street NW., Atlanta, GA.
MC-F-11187, Motek Corp.—Control—C. S. I., Inc., assigned November 11, 1971, canceled and transferred to Modified procedure.
MC 114239 Sub 26, Farris Truck Line, assigned January 10, 1972, at Kansas City, Mo.
MC 59680 Sub 190, Strickland Transportation Co., assigned November 29, 1971, at Washington, D.C., is postponed indefinitely.
MC 40915 Sub 46, Boat Transit, Inc., assigned December 1, 1971, is postponed to January 26, also at Washington, D.C., at the Offices of the Interstate Commerce Commission.
MC 134928, Donald L. Myers doing business as L & D Cartage, bow being assigned hearing January 17, 1972, in Room 309, 1252 West Peachtree Street NW., Atlanta, GA.
MC-F-11133, MC 128944 Sub 9, Reliable Truck Lines MC-F-11134, MC 55889 Sub 39, Cooper Transfer Co., MC-F-11143, MC 11220 Sub 123, Gordon Transport, MC-F-11150, MC 59583 Sub 130, The Mason & Dixon Lines, now assigned December 6, 1971, at Montgomery, Ala., will be held in the GSA Conference Room, 2d Floor Aronov Building.
MC 107839 Sub 146, Denver-Albuquerque Motor Transport, now assigned December 14, 1971, at Atlanta, Ga., will be held in Room 305, 1252 West Peachtree Street NW.
MC 107515 Sub 752, Refrigerated Transport, now assigned December 15, 1971, at Atlanta, Ga., will be held in Room 305, 1252 West Peachtree Street NW.
MC 83539 Sub 317, C & H Transportation, now assigned December 17, 1971, at Atlanta, Ga., will be held in Room 305, 1252 West Peachtree Street NW.
MC 11207 Sub 309, Deaton, Inc., now assigned December 13, 1971, at Atlanta, Ga., will be held in Room 305, 1252 West Peachtree Street NW.
MC-C-7566, W. T. Mayfield, Sons Trucking, now assigned December 16, 1971, at Atlanta, Ga., will be held in Room 305, 1252 West Peachtree Street NW.
MC 98952 Sub 25, General Transfer Co., now assigned November 10, 1971, at Indianapolis, Ind., is postponed indefinitely.
MC 51146 Sub 209, Schneider Transport & Storage, Inc., assigned January 24, 1972, at Chicago, Ill.
MC 107295 Sub 505, Pre-Fab Transit, assigned January 28, 1972, at Chicago, Ill.
MC 119619 Sub 50, Distributors Service Co., assigned February 1, 1972, at Chicago, Ill.
MC 126346 Sub 9, Haupt Contract Carriers, Inc., assigned January 26, 1972, at Chicago, Ill.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16495 Filed 11-10-71;8:50 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 8, 1971.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42299—*Soda ash to Freeport, Tex.* Filed by Southwestern Freight Bureau, agent (No. B-264), for interested rail carriers. Rates on soda ash, in bulk in covered hopper cars, as described in the application, from Alchem, Stauffer, and Westvaco, Wyo., to Freeport, Tex.

Grounds for relief—Rate relationship.

Tariff—Supplement 106 to Southwestern Freight Bureau, agent, tariff ICC 4832. Rates are published to become effective on December 13, 1971.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16494 Filed 11-10-71;8:50 am]

[Notice 780]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 8, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(b) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order

in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–73090. By order of November 2, 1971, the Motor Carrier Board approved the transfer to Super-Rite Freightways, Inc., a corporation, Rock Island, Ill., of the operating rights in Certificate No. MC–6806, issued March 17, 1947, to W. B. Simmon, Rock Island, Ill., authorizing the transportation of (1) walnut logs, from points in Scott County, Iowa, to Rock Island and Mendota, Ill.; (2) general commodities with exceptions, and excluding household goods as defined by the Commission, between points in Illinois and Iowa within 25 miles of Rock Island, Ill., including Rock Island; and (3) household goods as defined by the Commission, between Rock Island, Ill., and points in Illinois and Iowa within 25 miles of Rock Island on the one hand, and, on the other, points in Indiana, Illinois, and Iowa, James T. Londrigan, Attorney at Law, 620 East Edwards Street, Springfield, IL 62705.

No. MC–FC–73220. By order of November 2, 1971, the Motor Carrier Board approved the transfer to Perdue Incorporated, Salisbury, Md., of Certificate No. MC–134415 (Sub–No. 2), issued June 8, 1971, to Perdue Foods, Inc., Salisbury, Md., authorizing the transportation of: Passengers, in special operations, from points in Northampton and Accomack Counties, Va., to the plant site of Perdue Foods, Inc., at Salisbury, Md., and return, Al Lynch, Perdue Incorporated Box 21, Accomac, Va., representative for applicants.

No. MC–FC–73236. By order of November 3, 1971, the Motor Carrier Board approved the transfer to Earo, Inc., Fort Meade, Fla., of Certificate No. MC–134411, issued August 20, 1970, to Honey Transport, Inc., Eustis, Fla. authorizing the transportation of: Canned citrus products, canned juices, canned beverages, and canned beverage preparations, from the plantsite of Tropicana Products Sales, Inc., at Bradenton, Fla., to points in Kentucky, Ohio, Indiana, Michigan, Tennessee, West Virginia, Pennsylvania, Virginia, Maryland, and the District of Columbia, restricted to the transportation of traffic originating at the above-named origin point and destined to the above-named destination points and further restricted against the transportation of commodities in bulk. Frank L. Kunberger, 40 Langford Street, Fort Meade, FL 33841 and William P. Jackson, Jr., 919 18th Street NW., Washington, DC 20006, attorney for applicants.

No. MC–FC–73246. By order of November 3, 1971 the Motor Carrier Board approved the transfer to Riteway Transport, Inc., Phoenix, Ariz., of the operating rights in Certificate No. MC–134350 issued February 22, 1971, to System Transport Corp., Phoenix, Ariz., and MC–134350 (Sub-No. 2) issued June 24, 1969 in the name of Riteway Transport, Inc., Phoenix, Ariz., in No. MC–1334 (Sub-No. 7) and acquired by transferor herein pursuant to MC–FC–72825, approved by the Commission, Motor Carrier Board, by order entered July 22, 1971, authorizing the transportation of general commodities, with exceptions, and specified commodities between specified points and areas in Colorado and New Mexico. Robert R. Digby, 217 Luhrs Tower, Phoenix, AZ 85003, attorney for applicants.

No. MC–FC–73250. By order of November 2, 1971, the Motor Carrier Board approved the transfer to Law Express, Inc., Los Angeles, Calif., of a portion of Certificate of Registration No. MC–120058 (Sub-No. 2) issued June 1, 1964, to Same Day Delivery Service, a corporation, Santa Fe Springs, Calif., authorizing the transportation of: General commodities, with certain exceptions, between points in that area of California known as the Los Angeles basin territory. Donald Murchison, attorney, 9454 Wilshire Boulevard, Beverly Hills, CA 90212.

No. MC–FC–73251. By order of November 2, 1971, the Motor Carrier Board approved the transfer to Auto Fast Freight, Inc., San Bernardino, Calif., of a portion of Certificate of Registration No. MC 120058 (Sub-No. 2) issued June 1, 1964, to Same Day Delivery Service, a corporation, Santa Fe Springs, Calif., authorizing the transportation of: General commodities, with certain exceptions, between points in those areas of California known as the Los Angeles basin territory and the San Diego territory. Donald Murchison, attorney, 9454 Wilshire Boulevard, Beverly Hills, CA 90212.

No. MC–FC–73254. By order of November 2, 1971, the Motor Carrier Board approved the transfer to Pat's Van Lines, Inc., Kansas City, Mo., of that portion of certificate No. MC–129385 (Sub-No. 1), issued July 9, 1971, to American Freight Lines, Inc., Kansas City, Mo., authorizing the transportation of: Household goods, between Polo, Mo., and points within 20 miles of Polo, Mo., on the one hand, and, on the other, points in Iowa and Kansas. Donald J. Quinn, Suite 900, 1012 Baltimore Avenue, Kansas City, Mo. 64105, attorney for applicants.

No. MC–FC–73261. By order of November 2, 1971, the Motor Carrier Board approved the transfer to Gary Skoug, doing business as Skoug Trucking, Gilmanton, Wis., of the operating rights in certificate No. MC–102903 issued April 29, 1970, to Jeffrey M. Reglin, Alma, Wis., authorizing the transportation of animal and poultry feed, and seed, from Minneapolis, St. Paul, South St. Paul, Newport, Hastings, Red Wing, Lake City, and Wabasha, Minn., to points in the towns of Maxville, Nelson, Modena, and Alma, in Buffalo County, Wis.; and livestock and unprocessed agricultural commodities, between South St. Paul, Newport, Hastings, Red Wing, Lake City, and Wabasha, Minn., on the one hand, and, on the other, points in the above-specified Wisconsin towns. A. R. Fowler, registered practitioner, 2288 University Avenue, St. Paul, MN 55114, representative for applicants.

No. MC–FC–73265. By order of November 2, 1971, the Motor Carrier Board approved the transfer to Robert N. George, New Castle, Pa., of certificate Nos. MC–113709 (Sub-No. 1) and MC–113709 (Sub-No. 3), issued February 11, 1955 and September 9, 1970, to W. D. Rubright Co., a corporation, Zelienople, Pa., authorizing the transportation of: Corn syrup and condensed milk, in bulk, in tank vehicles, from Pittsburgh and Titusville, Pa., to points in West Virginia, New York and Ohio. Jerome Solomon, attorney, 1020 Grant Building, Pittsburgh, PA 15219.

No. MC–FC–73267. By order of November 3, 1971, the Motor Carrier Board approved the transfer to Paul A. Johnson, Fort Worth, Tex., of the operating rights in certificates Nos. MC–118130, MC–118130 (Sub-No. 11), MC–118130 (Sub-No. 15), MC–118130 (Sub-No. 18), MC–118130 (Sub-No. 26), MC–118130 (Sub-No. 27), MC–118130 (Sub-No. 31), MC–118130 (Sub-No. 34), MC–118130 (Sub-No. 47), MC–118130 (Sub-No. 55), MC–118130 (Sub-No. 56), and MC–118130 (Sub-No. 62) issued March 4, 1965, March 4, 1965, July 25, 1966, May 9, 1966, August 12, 1966, March 31, 1967, July 6, 1966, November 29, 1966, May 6, 1968, February 10, 1969, January 8, 1968 and July 15, 1971, respectively to Ben Hamrick, Inc., Fort Worth, Tex., authorizing the transportation of various commodities from and to points in Alabama, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Montana, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, Washington, West Virginia, Wisconsin, and Wyoming. Lawrence A. Winkle, 2005 One Elm Place, Dallas, TX 75250, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71–16493;Filed 11–10–71;8:50 am]

of consignor, consignee, or other places designated by consignor, consignee, subject to the following provisions:

SEC. 1. *General Provisions:*

(a) This item applies only to vehicles which have been ordered or used to transport shipments subject to truckload rates. If the shipment is moving on a rate subject to a stated minimum weight of 12,000 pounds or more; and such rate is not designated as a truckload rate, it will be considered a truckload rate for the purpose of applying this item.

(b) This item applies only when vehicles are delayed or detained at the places of pickup or delivery and only when such delay or detention is attributable to consignor, consignee, or others designated by them.

(c) Free time for each vehicle will be as provided in sec. 3.

(d) After the expiration of free time as herein provided, charges as provided in sec. 4 will be assessed against the shipment.

In support of the request, petitioners aver (1) that Hermann, a motor common carrier, picks up less-than-truckload (LTL) shipments of motor vehicle tires and tire materials at Goodyear's distribution center at North Brunswick, N.J., for peddle delivery at various points served by Hermann's terminal at Pennsauken, N.J., (2) that since most of these shipments weight 12,000 pounds or more, they move part of the way at truckload rates as provided under pool truck distribution privileges; (3) that in order to avoid unnecessary terminal handling expense, the driver remains with his line-haul tractor and trailer at Goodyear's North Brunswick facility while sorting and loading the freight in such a manner as to permit each lot to be unloaded in a reverse sequence upon delivery to numerous consignees; (4) that this sorting and rehandling service would otherwise have to be performed at Hermann's terminals at North Brunswick or Pennsauken at a considerably greater expense; (5) that upon investigating detention practices at Goodyear's facility, the Commission's field representative instructed Hermann that with respect to LTL shipments accorded commodity rates under pool truck distribution privileges, detention charges were applicable under tariff item 50 for all detention time in excess of the tariff free time allowance and that Goodyear should be billed for such detention; and (6) that Hermann reluctantly complied with those instructions.

Petitioners take the position that under section 1(b) of item 50, as heretofore quoted, no detention charges are applicable since the above facts clearly indicate that any delay or detention of carrier's equipment is not attributable to consignor Goodyear, or any of the consignees or any others designated by then, and that the delay is attributable to Hermann's efforts to avoid unnecessary handling of freight. Petitioners therefor request the Commission to enter an order formally resolving the conflicting interpretations with respect to the application of detention charges upon the facts recited in the petition.

A copy of this notice will be served upon the petitioners; and notice of the filing of this petition will be given to the general public by depositing a copy of this notice in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication therein.

Any person interested in any of the matters in the petition, and desiring to participate in any further proceedings may, on or before 30 days from the date of publication of this notice in the FEDERAL REGISTER, file replies to the petition indicating whether they support or oppose the determination sought. An original and 15 copies of such replies must be filed with the Office of Proceedings of this Commission (Room 5354) and must show service of two copies thereof upon petitioners' attorney, Maxwell A. Howell, 1120 Investment Building, 1511 K Street NW., Washington, D.C. 20005. Thereafter, the nature of further proceedings herein, if any, will be designated. The petition and written material or suggestions submitted will be available for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C., during regular business hours.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71–16497 Filed 11–10–71;8:51 am]

[No. 35416]

DETENTION RULES

Petition for Interpretation

OCTOBER 29, 1971.

Notice is hereby given that Hermann Forwarding Co. and The Goodyear Tire & Rubber Co. filed a joint petition on May 4, 1971, seeking a determination, upon the facts presented therein, of the applicability of the detention rules published in items 50 and 530–14B, Supplement 26, Middle Atlantic Conference Tariff 10–U, MF–ICC No. A–2081,[1] to less-than-truckload (LTL) pool truck distribution shipments handled by Hermann for Goodyear at North Brunswick, N.J.

As here pertinent, item 50 provides:

This item applies when carriers' vehicles (Note A) are delayed or detained at premises

[1] The detention rules published under item 50, which relates to truckload traffic, were prescribed by the Commission in Detention of Motor Vehicles—Middle Atlantic and New England, 325 ICC 336 (1965). The detention rules published under item 530–14B apply on less-than-truckload traffic.

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THURSDAY, NOVEMBER 11, 1971
WASHINGTON, D.C.
Volume 36 ■ Number 218

PART II

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

■

HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Notice of Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

[9 CFR Part 76]

HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Notice of Proposed Rule Making

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to the provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114a, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), the Department of Agriculture is considering revising the regulations relating to hog cholera and other communicable diseases of swine (9 CFR Part 76) to read as follows:

GENERAL PROVISIONS

Sec.

76.1 Definitions.
76.2 Notice relating to existence of contagion of hog cholera and other swine diseases; prohibition of movement of any hog cholera virus, exceptions; spread of disease through raw garbage; regulations; quarantines; eradication States; free States.
76.3 General restrictions.
76.4 Interstate movement of hog cholera virus prohibited, except as provided.
76.5 Interstate movement of swine affected with or exposed to hog cholera.
76.6 Interstate movement of certain swine not affected with or exposed to hog cholera.
76.7 Interstate movement of vaccinated swine.
76.8 Interstate movement of swine from a quarantined area.
76.9 Interstate movement of swine products from a quarantined area.
76.10 Movement of swine and swine products from a quarantined area to a nonquarantined area of the same State.
76.11 Movement of swine and swine products through quarantined areas.
76.12 Schedules of restrictions and conditions.
76.13 Interstate movement of specially processed swine products.
76.14 Special processing of swine products.
76.15 Special requirements for interstate movement of swine fed raw garbage and products from swine fed raw garbage.
76.16 Authorization of other movements.
76.17 Serum prophylaxis treatment of swine.
76.18 Approval of livestock markets.
76.30 Cleaning and disinfecting of means of conveyance.
76.31 Cleaning and disinfecting livestock markets and other facilities.
76.32 Disinfectants to be used.

GENERAL PROVISIONS

§ 76.1 Definitions.

As used in this part, the following terms shall have the meanings set forth in this section.

(a) *Administrator.* The Administrator of the Animal and Plant Health Service, U.S. Department of Agriculture, or any other official of such Service to whom authority has heretofore been delegated or may hereafter be delegated to act in his stead.

(b) *Division.* The Animal Health Division, Animal and Plant Health Service, U.S. Department of Agriculture.

(c) *Director.* The Director of the Division or any other official of the Division to whom authority has heretofore been delegated or may hereafter be delegated to act in his stead.

(d) *Hog cholera.* The contagious, infectious, and communicable disease of swine commonly known as hog cholera.

(e) *Exposed swine.* Any swine that have been in contact with animals known to be or suspected of being affected with hog cholera; any swine which have been inoculated with modified live virus vaccine after January 1, 1970; any swine which have been inoculated with any other virulent hog cholera virus at any time; any swine which have been inoculated with killed or inactivated hog cholera virus vaccine other than as provided in § 76.1(w); or any swine which have been in contact with such vaccinates.

(f) *Virulent hog cholera virus.* The living agent capable of causing hog cholera found:

(1) In the clear serum, plasma, defibrinated blood, whole blood or other tissue derived from pigs affected with hog cholera; or

(2) In any material used as a medium for perpetuating such living agent; or

(3) In living hog cholera virus vaccine commonly known as modified live virus vaccine.

(g) *Modified live virus vaccine.* A living hog cholera virus vaccine produced from a modified or attenuated strain of hog cholera virus and prepared under license from the Secretary of Agriculture, issued pursuant to Subchapter E of this chapter.

(h) *Killed or inactivated hog cholera virus vaccine.* A vaccine produced from killed or inactivated hog cholera virus and prepared under license from the Secretary of Agriculture, issued pursuant to Subchapter E of this chapter.

(i) *Garbage.* Waste consisting in whole or in part of animal waste, including any animal carcasses or the offal from such carcasses, or parts thereof, but excluding waste from ordinary household operations which is fed directly to swine on the same premises where such household is located.

(j) *Raw garbage.* Garbage that has not been heated throughout to boiling or equivalent temperature (usually 212° F. at sea level) for 30 minutes, or heated according to a method approved in specific cases by the Director[1] as adequate to prevent the spread of hog cholera.

(k) *Food waste.* Edible waste (for animal use) derived from garbage that has been heated throughout to boiling or equivalent temperature (usually 212° F. at sea level) for 30 minutes, or heated according to a method approved in specific cases by the Director[1] as adequate to prevent the spread of hog cholera.

(l) *State.* Any State, Puerto Rico, or the District of Columbia.

(m) *Interstate.* From one State into or through any other State.

(n) *Quarantined area.* A State, or portion of a State, quarantined under § 76.2(e) because of hog cholera or other contagious, infectious, or communicable disease of swine.

(o) *Nonquarantined area.* Any State, or portion of a State, not quarantined under this part.

(p) *Person.* Any individual, corporation, company, association, firm, partnership, society, or joint stock company or other legal entity.

(q) *Moved.* Shipped, transported, or otherwise moved, or delivered or received for movement, by any person, by land, water, or air.

(r) *Approved livestock market.* A stockyard, livestock market, buying station, concentration point, or any other premises, under State or Federal veterinary supervision where swine are assembled for sale or sale purposes, and which has been approved by the Director under § 76.18.

(s) *Nonapproved livestock market.* A stockyard, livestock market, buying station, concentration point, or any other premises, other than an approved livestock market, where swine are assembled for sale or sale purposes.

(t) *Recognized slaughtering establishment.* A slaughtering establishment where State or Federal meat inspection is available.

(u) *Swine product.* Any carcass, part, or offal of swine, or product thereof.

(v) *Special processing.* Subjecting a swine product to heat treatment in accordance with the requirements contained in § 76.14.

(w) *Official vaccinates.* Swine which are permanently identified as official vaccinates; were reported at the time of vaccination to the appropriate State or Federal agency; have never received official serum prophylaxis; were vaccinated against hog cholera prior to July 1, 1969, with a modified live virus hog cholera vaccine approved under this part prior to July 1, 1969, administered in accordance with the recommendations on the vaccine label; or were vaccinated prior to January 1, 1970, with a killed or inactivated hog cholera virus vaccine administered in accordance with the recommendations on the vaccine label.

(x) *Official serum prophylaxis.* The inoculation of swine with anti-hog-cholera serum or hog cholera antibody concentrate, as prescribed in § 76.17, under the supervision of a Federal or State veterinary official, with permanent identification of such swine as having been so inoculated.

[1] Requests for approval of other methods may be made to the Veterinarian in Charge, Animal Health Division, Animal and Plant Health Service, U.S. Department of Agriculture, for the State in question.

(y) *Farm of origin.* A farm where the swine to be shipped interstate were born and which has not been used within the 6 months prior to such shipment to assemble, buy, or sell swine brought in from other sources.

(z) *Slaughter market.* An approved livestock market in a quarantined area, the approval of which has been suspended as provided in § 76.18(c), or an approved livestock market at which swine for sale and shipment for slaughter are handled only on days when no swine are handled for sale and shipment for feeding or breeding purposes, and which is cleaned and disinfected in accordance with the requirements of this part, before any swine for feeding or breeding purposes are handled thereat.[2]

(aa) *Eradication state.* Any State listed in § 76.2(f) of this part.

(bb) *Free state.* Any State listed in § 76.2(g) of this part.

(cc) *Division inspector.* A veterinarian or livestock inspector of the Animal and Plant Health Service, U.S. Department of Agriculture, authorized to perform the function involved.

(dd) *State inspector.* A veterinarian or livestock inspector regularly employed in animal health activities by a State or a political subdivision thereof, authorized by such State or political subdivision to perform the function involved under a cooperative agreement with the U.S. Department of Agriculture.

(ee) *Accredited veterinarian.* An accredited veterinarian as defined in Part 160 of this chapter.

§ 76.2 Notice relating to existence of contagion of hog cholera and other swine diseases; prohibition of movement of any hog cholera virus, exceptions; spread of disease through raw garbage; regulations; quarantines; eradication States; free States.

(a) Notice is hereby given that the contagion of hog cholera exists in each area specified in paragraph (e) of this section and that the contagion of hog cholera and other communicable diseases of swine may exist in each State.

(b) Notice is hereby given that the Administrator has determined that the prohibition of the interstate movement of any hog cholera virus, except as specified in § 76.4, is necessary in order to effectuate the eradication of hog cholera.

(c) Notice is hereby given that there is reason to believe raw garbage is one of the primary media through which the contagion of hog cholera, swine erysipelas, trichinosis, tuberculosis, and other contagious, infectious, or communicable diseases of swine is disseminated. Further, there is reason to believe that if certain foreign diseases, such as foot-and-mouth disease and African swine fever, gain entrance into the United States, the contagion of such diseases may be spread through the medium of raw garbage. Therefore, the regulations in this part are deemed necessary in order to more effectually prevent, suppress and extirpate such diseases, to prevent the interstate spread thereof, and to guard against the dissemination of diseases from foreign countries.

(d) Notice is hereby given that in order to effectually suppress and extirpate hog cholera and other contagious, infectious, and communicable diseases of swine, to prevent the spread and dissemination of the contagion thereof and to protect the livestock of the United States, the regulations in this part are promulgated to govern the interstate movement of swine and swine products.

(e) *Notice of quarantine.* Notice is hereby given that because of the existence of the contagion of hog cholera in the following areas of the State of Pennsylvania and the Commonwealth of Puerto Rico, such areas are quarantined because of said disease:

Pennsylvania—Huston Township, Blair County.
The Commonwealth of Puerto Rico—Entire Commonwealth.

(Additional quarantine area detail will be provided in final publication of these proposed amendments.)

(f) Notice is hereby given that systematic procedures have been in effect to detect and eradicate the disease of hog cholera for more than 3 months in the following States; that there is no clinical evidence that the contagion of the disease exists within such States, except in primary unrelated instances where the infected herd has been depopulated; and that such States are hereby designated as hog cholera eradication States:

Alabama.	New Mexico.
Arkansas.	New York.
Illinois.	North Carolina.
Indiana.	Ohio.
Louisiana.	Oklahoma.
Massachusetts.	Rhode Island.
Minnesota.	South Carolina.
Mississippi.	Tennessee.
Missouri.	Virginia.
New Hampshire.	Commonwealth of Puerto Rico.
New Jersey.	

(g) Notice is hereby given that systematic procedures have been in effect to detect and eradicate the disease of hog cholera for more than 1 year in the following States; that a period of more than 1 year has passed since there has been clinical evidence that the contagion of the disease exists within such States, except in primary unrelated instances where the infected herd has been depopulated; and that such States are hereby designated as hog cholera free States: *Provided,* That any States which are removed from the listing in this paragraph (g) may requalify for such listing when application of systematic procedures for 6 consecutive months has not detected clinical evidence of the contagion of hog cholera:

Alaska.	Georgia.
Arizona.	Hawaii.
California.	Idaho.
Colorado.	Iowa.
Connecticut.	Kansas.
Delaware.	Kentucky.
Florida.	Maine.
Maryland.	South Dakota.
Michigan.	Utah.
Montana.	Vermont.
Nebraska.	Washington.
Nevada.	West Virginia.
North Dakota.	Wisconsin.
Oregon.	Wyoming.
Pennsylvania.	District of Columbia.

§ 76.3 General restrictions.

Swine or swine products referred to in this part may not be moved interstate except in accordance with the regulations in this part.

§ 76.4 Interstate movement of hog cholera virus prohibited, except as provided.

Virulent hog cholera virus shall not be moved interstate, except that:

(a) In specific cases and under such conditions as he may impose to prevent the interstate spread of hog cholera and to effectuate the hog cholera eradication program, the Director may authorize the interstate movement of stated quantities of virulent hog cholera virus and modified live hog cholera virus for particular purposes if he determines that such movement will not endanger swine or impair the hog cholera eradication program. When so moved, such virus shall be accompanied by a permit from the appropriate official of the State of destination and a certificate issued by the Animal Health Division, Animal and Plant Health Service, U.S. Department of Agriculture, specifying any conditions imposed regarding the specific shipment.

(b) In specific cases and under such conditions as he may impose to prevent the interstate spread of hog cholera and to effectuate the hog cholera eradication program, the Director of the Veterinary Biologics Division or his representative may authorize the interstate movement of stated quantities of virulent hog cholera virus for export, research, or biologics production if he determines that such movement will not endanger swine or impair the hog cholera eradication program. When so moved for purposes other than export, such virus shall be accompanied by a permit from the appropriate official of the State of destination and shall in all cases, including export, be accompanied by a certificate issued by the Director of the Veterinary Biologics Division or his representative specifying any such conditions imposed regarding the specific shipment.

§ 76.5 Interstate movement of swine affected with or exposed to hog cholera.

(a) Swine affected with hog cholera may not be moved interstate for any purpose.

(b) Exposed swine (as defined in § 76.1(e)) may be moved interstate as provided in this paragraph (b) from any State to a recognized slaughtering establishment for immediate slaughter and special processing in accordance with Schedule A of § 76.12.

§ 76.6 Interstate movement of certain swine not affected with or exposed to hog cholera.

(a) Swine not known to be affected with or exposed to hog cholera, may be

[2] Information concerning slaughter markets can be obtained from the Veterinarian in Charge, Animal Health Division, Animal and Plant Health Service, U.S. Department of Agriculture, for the State in question.

moved interstate from any nonquarantined area to a recognized slaughtering establishment for immediate slaughter, or to an approved livestock market for sale for immediate slaughter without further restriction under this part.

(b) Swine not known to be affected with or exposed to hog cholera, may be moved interstate from any nonquarantined area for feeding and breeding purposes as provided in this paragraph (b):

(1) From an approved livestock market in any State:

(i) To an approved livestock market in accordance with Schedule B of § 76.12.

(ii) To any point other than a nonapproved livestock market in accordance with Schedule B of § 76.12.

(2) From a farm of origin in any State:

(i) To an approved livestock market in accordance with Schedule C of § 76.12.

(ii) To any point other than a nonapproved livestock market in accordance with Schedule C of § 76.12.

(3) From any premises in any State, other than a farm of origin or an approved or nonapproved livestock market:

(i) To an approved livestock market in accordance with Schedule D of § 76.12.

(ii) To any point other than a nonapproved livestock market in accordance with Schedule D of § 76.12.

(4) From an approved livestock market in an eradication or free State which receives swine only from eradication or free States:

(i) To an approved livestock market in accordance with Schedule E of § 76.12.

(ii) To any point other than a nonapproved livestock market in accordance with Schedule E of § 76.12.

(5) From a farm of origin in an eradication or free State:

(i) To an approved livestock market in accordance with Schedule F of § 76.12.

(ii) To any point other than a nonapproved livestock market in accordance with Schedule F of § 76.12.

(6) From any premises in an eradication or free State, other than a farm of origin, or an approved or nonapproved livestock market:

(i) To an approved livestock market in accordance with Schedule G of § 76.12.

(ii) To any point other than a nonapproved livestock market in accordance with Schedule G of § 76.12.

(c) Swine not known to be affected with or exposed to hog cholera may be moved interstate from any nonquarantined area for exhibition purposes as provided in paragraph (b) of this section.

§ 76.7 Interstate movement of vaccinated swine.

(a) Official vaccinates may be moved interstate in accordance with the same restrictions and conditions which apply to nonvaccinated swine under the provisions of this part.

(b) Notwithstanding any other provisions of this part, swine treated with approved modified live virus vaccine after July 1, 1969, but prior to January 1, 1970, or treated with other virulent hog cholera virus prior to April 1, 1966, may be moved interstate only from a nonquarantined area and if they are not known to be affected with or otherwise exposed to hog cholera and if they are consigned to a recognized slaughtering establishment for immediate slaughter.

§ 76.8 Interstate movement of swine from a quarantined area.

Swine may be moved interstate from a quarantined area in accordance with the provisions of this section.

(a) Exposed swine (as defined in § 76.1(e)) may be moved interstate as provided in § 76.5(b).

(b) Swine not known to be affected with or exposed to hog cholera may be moved interstate from a quarantined area as provided in this paragraph only for immediate slaughter or for sale and shipment for immediate slaughter. Such swine may be so moved interstate:

(1) From any point other than an approved or nonapproved livestock market:

(i) To a recognized slaughtering establishment in accordance with Schedule H of § 76.12.

(ii) To a slaughter market (as defined in § 76.1(z)) in accordance with Schedule H of § 76.12.

(2) From a slaughter market (as defined in § 76.1(z)):

(i) To a recognized slaughtering establishment in accordance with Schedule H of § 76.12.

§ 76.9 Interstate movement of swine products from a quarantined area.

Swine products not derived from swine affected with or exposed to hog cholera may be moved interstate from a quarantined area if they were produced in a federally inspected slaughtering establishment operating under the provisions of the Federal Meat Inspection Act, as amended (21 U.S.C. 601 et seq.).

§ 76.10 Movement of swine and swine products from a quarantined area to a nonquarantined area of the same State.

Swine and swine products moved from the quarantined area of a State to a nonquarantined area of the same State may be moved interstate only as specified in §§ 76.8 and 76.9.

§ 76.11 Interstate movement of swine and swine products through quarantined areas.

(a) Swine and swine products may be moved interstate from nonquarantined areas through quarantined areas without compliance with §§ 76.8 and 76.9 if (1) such movement is continuous and direct and such swine and swine products are not unloaded in the quarantined areas; or (2) if all facilities used in connection with the unloading have been approved for such purpose by a Division inspector as having been cleaned and disinfected before such use, as prescribed in §§ 76.31–76.32, under the supervision of a person authorized for the purpose by the inspector.

§ 76.12 Schedules of restrictions and conditions.[3]

SCHEDULE A

Schedule A applies to the interstate movement of swine for immediate slaughter and special processing as provided in §§ 76.5(b) and 76.15 and requires that:

1. The swine must be moved to a recognized slaughtering establishment for immediate slaughter and special processing.

2. The recognized slaughtering establishment must be designated by the Director to slaughter specific shipments of exposed swine.

3. The means of conveyance must be sealed during transit with Department seals or accompanied by a Division representative or a person specifically authorized for the purpose by the Director.

4. The seals must not be removed or broken except by an inspector employed by the Consumer and Marketing Service of the U.S. Department of Agriculture or other persons specifically authorized for this purpose by the Director.

5. The swine must be accompanied by a certificate of a Division inspector showing that the establishment to which the animals are consigned has been specifically approved by the Director, that the inspector has inspected all swine on the premises of origin within 48 hours of shipment interstate and that the swine are apparently free of hog cholera and other contagious, infectious or communicable diseases.

SCHEDULE B

Schedule B applies to the interstate movement of feeder and breeder swine as provided in § 76.6(b)(1) and requires that:

1. The swine must be permanently identified to the premises of origin by individual ear tag, ear notch, tattoo, or similar individual identification.

2. The swine must be inspected by a Division or State inspector or an accredited veterinarian at the point of origin of the interstate shipment immediately prior to such shipment, and found to be apparently free of hog cholera and other contagious, infectious or communicable diseases.

3. The swine must be accompanied by an inspection certificate issued by the Division or State inspector or accredited veterinarian showing:

(a) Place and date of issuance.

(b) Consignee and consignor.

(c) Record of official vaccination or official serum prophylaxis, when applicable.

(d) The permanent and individual identification of the swine to the premises of origin.

(e) That the swine have been inspected by the Division or State inspector or accredited veterinarian and found to be apparently free of hog cholera and other contagious, infectious or communicable diseases.

4. A copy of the inspection certificate must be forwarded to the appropriate Animal Health official of the State of destination.

5. The interstate movement must be to a State of destination which provides for the segregation or quarantine of imported feeder and breeder swine for not less than 21 days.[4]

6. Swine moved from a approved livestock market must be transported in a means of conveyance which has been cleaned and disinfected as provided in §§ 76.30 and 76.32; *Provided, however*, That if the means of conveyance is not regularly used to transport livestock, disinfection is not required.

7. The owner and shipper must maintain for 1 year after the interstate movement a record of the origin, destination and identification of all such swine and shall afford access to such records at any reasonable time to Division and State inspectors designated by the Director.

SCHEDULE C

Schedule C applies to the interstate movement of feeder and breeder swine as provided in § 76.6(b)(2) and requires that:

1. The interstate movement must be continuous.

2. The interstate movement must be in the same means of conveyance in its entirety.

3. The interstate movement must be to a State of destination which provides for the segregation or quarantine of imported feeder or breeder swine for not less than 21 days.[4]

4. The swine must be permanently identified to the farm of origin by individual ear tag, ear notch, tattoo, or similar individual identification.

5. The swine must be inspected by a Division or State inspector or an accredited veterinarian at the point of origin of the interstate shipment immediately prior to such shipment and found to be apparently free of hog cholera and other contagious, infectious or communicable diseases.

6. The swine must be accompanied by an inspection certificate issued by the Division or State inspector or accredited veterinarian showing:

(a) Place and date of issuance.

(b) Consignee and consignor.

(c) Record of official vaccination or official serum prophylaxis, when applicable.

(d) The permanent and individual identification of the swine to the farm of origin.

(e) That the swine have been inspected by the Division or State inspector or accredited veterinarian and found to be apparently free of hog cholera and other contagious, infectious or communicable diseases.

(f) That the swine are being moved interstate from the farm where they were born and such farm has not been used within the past 6 months to buy, sell or assemble swine brought in from other sources and that all swine on the farm of origin at the time of shipment have been located there for not less than 21 days.

7. A copy of the inspection certificate must be forwarded to the appropriate Animal Health official of the State of destination.

SCHEDULE D

Schedule D applies to the interstate movement of feeder and breeder swine as provided in § 76.6(b)(3) and requires that:

1. The interstate movement must be continuous.

2. The interstate movement must be in the same means of conveyance in its entirety.

3. The interstate movement must be to a State of destination which provides for the segregation or quarantine of imported feeder or breeder swine for not less than 21 days.[4]

4. The swine must be permanently identified to the premises of origin by individual ear tag, ear notch, tattoo, or similar individual identification.

5. The swine must be inspected by a Division or State inspector or an accredited veterinarian at the point of origin of the interstate shipment immediately prior to such shipment, and found to be apparently free of hog cholera and other contagious, infectious or communicable diseases.

6. The swine must be accompanied by an inspection certificate issued by the Division or State inspector or accredited veterinarian showing:

(a) Place and date of issuance.

(b) Consignee and consignor.

(c) Record of official vaccination or official serum prophylaxis, when applicable.

(d) The permanent and individual identification of the swine to the premises of origin.

(e) That the swine have been inspected by the Division or State inspector or accredited veterinarian, and found to be apparently free of hog cholera and other contagious, infectious or communicable diseases.

7. A copy of the inspection certificate must be forwarded to the appropriate animal health official of the State of destination.

8. The owner and shipper must maintain for 1 year after the interstate movement a record of the origin, destination, and identification of all such swine and shall afford access to such records at any reasonable times to Division and State inspectors designated by the Director.

SCHEDULE E

Schedule E applies to the interstate movement of feeder and breeder swine as provided in § 76.6(b)(4), and requires that:

1. The interstate movement must be continuous.

2. The interstate movement must be in the same means of conveyance in its entirety.

3. The swine must be inspected by a Division or State inspector or an accredited veterinarian at the point of origin of the interstate shipment immediately prior to such shipment and found to be apparently free of hog cholera and other contagious, infectious or communicable diseases.

4. The swine must be accompanied by an inspection certificate issued by the Division or State inspector or accredited veterinarian showing:

(a) Place and date of issuance.

(b) Consignee and consignor.

(c) Record of official vaccination or official serum prophylaxis, when applicable.

(d) That the swine have been inspected by the Division or State inspector or accredited veterinarian and are apparently free of hog cholera and other contagious, infectious, or communicable diseases.

5. A copy of the inspection certificate must be forwarded to the appropriate animal health official of the State of destination.

6. The approved livestock market from which the shipment originates must handle swine only from eradication or free States.

7. The swine must not be brought into contact with swine from noneradication or nonfree States.

8. Swine moved from an approved livestock market must be transported in a vehicle cleaned and disinfected as provided in §§ 76.30 and 76.32: *Provided however*, That, if the vehicle is not regularly used to transport livestock, disinfection is not required.

SCHEDULE F

Schedule F applies to the interstate movement of feeder and breeder swine as provided in § 76.6(b)(5) and requires that:

1. The interstate movement must be continuous.

2. The interstate movement must be in the same means of conveyance in its entirety.

3. The swine must not be brought into contact with swine from noneradication or nonfree States.

SCHEDULE G

Schedule G applies to the interstate movement of feeder and breeder swine as provided in § 76.6(b)(6) and requires that:

1. The interstate movement must be continuous.

2. The interstate movement must be in the same means of conveyance in its entirety.

3. The swine must be inspected by a Division or State inspector or accredited veterinarian at the point of origin of the interstate shipment immediately prior to such shipment and found to be apparently free of hog cholera and other contagious, infectious, or communicable diseases.

4. The swine must not be brought into contact with swine from noneradication or nonfree States.

5. The premises of origin must not have been used in the 21 days preceding the interstate movement to receive, buy or sell swine from a noneradication or nonfree State.

6. The swine must be accompanied by an inspection certificate issued by the Division or State inspector or accredited veterinarian showing:

(a) Place and date of issuance.

(b) Consignee and consignor.

(c) Record of official vaccination or official serum prophylaxis, when applicable.

(d) That the swine have been inspected by the Division or State inspector or accredited veterinarian, and are apparently free from hog cholera and other contagious, infectious, or communicable diseases.

7. A copy of the inspection certificate must be forwarded to the appropriate animal health official of the State of destination.

SCHEDULE H

Schedule H applies to the movement of swine from a quarantined area for slaughter purposes as provided in § 76.8(b) and requires that:

1. A permit for the movement must be obtained from the appropriate animal health official of the State of destination.

2. (a) The swine must be identified by an individual ear tag to the premises of origin, or by a red mark at least 4" x ½" above the shoulder on the back of each animal, or (b) the means of conveyance in which the swine are moved interstate must be sealed with Department seals.

3. If the means of conveyance are sealed, the seals must not be removed or broken except by an inspector employed by the Consumer and Marketing Service of the U.S. Department of Agriculture or by other persons authorized for this purpose by the Director.

4. All swine on the premises of origin, including the swine to be moved interstate, must be inspected on the premises of origin by a Division or State inspector or an accredited veterinarian within 24 hours prior to the time the interstate movement is to begin, and all swine on the premises must be found to be apparently free of hog cholera and other contagious, infectious, and communicable diseases, and known exposure thereto.

5. The swine must be moved for immediate slaughter directly to a federally inspected slaughtering establishment operating under the provisions of the Federal Meat Inspection Act, as amended (21 U.S.C. 601 et seq.), or to a State inspected slaughtering establishment which has inspection by a State inspector at the time of slaughter, or to a slaughter market (as defined in § 76.1(a)) for sale and shipment for immediate slaughter; they must be moved without contact at any point with feeding or breeding swine; they shall not be unloaded en route; and they shall not be diverted.

6. The swine must be accompanied by an inspection certificate issued by a Division or State inspector or an accredited veterinarian showing:

(a) That all swine on the premises of origin, including those covered by the certificate, were inspected by him as prescribed in paragraph 4 of this Schedule H and found to be apparently free from hog cholera and

[3] In each instance the regulations of the State of destination should be consulted.

[4] Information as to the rules of States of destination can be obtained from the Veterinarian in Charge, Animal Health Division, Animal and Plant Health Service, United States Department of Agriculture, for such State.

other contagious diseases, and from known exposure thereto.

(b) Consignee and consignor.

(c) Number of swine covered by the certificate.

(d) The individual eartag identification numbers of the swine or the existence of the red color mark on each animal covered by the certificate as prescribed in paragraph 2 of this Schedule H.

(e) That the swine covered by the certificate must be moved directly to the federally or State inspected slaughtering establishment or slaughter market specified on the certificate.

(f) That the swine must be moved without contact at any point with feeding or breeding swine; and shall not be unloaded or diverted en route.

7. A copy of the inspection certificate must be forwarded to the appropriate animal health official of the State of destination.

8. The means of conveyance used to transport the swine interstate must be placarded by affixing conspicuously thereto a durable placard not less than 5 x 8 inches in size on which are printed in block bold faced letters not less than 1½ inches in height, the words "Swine For Slaughter Only."

9. The means of conveyance must be cleaned and disinfected in accordance with § 76.30 and 76.32 under supervision by a Division or State inspector immediately following unloading, except that the Director may, in specific cases, approve other points for such cleaning and disinfection when he finds that such procedure will not hamper the hog cholera eradication program.

§ 76.13 Movement of specially processed swine products.

Except as provided in §§ 76.9, 76.10, 76.11, and 76.15, swine products which have been specially processed may be moved interstate without restrictions under this part.

§ 76.14 Special processing of swine products.

All swine products required under the regulations of this part to be specially processed shall be heated to an internal temperature of at least 156° F for 30 minutes or to an internal temperature of 177° F. for 3 minutes.

§ 76.15 Special requirements for interstate movement of swine fed raw garbage and products from swine fed raw garbage.

(a) *Movement of swine.* Swine which have been fed any raw garbage may be moved interstate under this part only in accordance with Schedule A of § 76.12 to a slaughtering establishment specifically approved for the purpose by the Director in each case, for immediate slaughter and special processing at such establishment in a manner approved by the Director as adequate to prevent the spread of communicable livestock diseases.

(b) *Movement of swine products.* (1) Swine products produced at an establishment operating under the Federal Meat Inspection Act, as amended (21 U.S.C. 601 et seq.), which handles products of swine fed raw garbage, but specially processes all such products separate and apart from other swine products, keeps the products properly identified; and otherwise handles the products in a manner approved by the Director as adequate to prevent the spread of communicable livestock diseases, may be moved interstate without further restriction under this section, but in accordance with the other provisions of this part.

(2) Swine products produced at an establishment operating under the Federal Meat Inspection Act, as amended, (21 U.S.C. 601 et seq.), which handles any products of swine fed any raw garbage and does not handle all such products as specified in subparagraph (1) of this paragraph, may be moved interstate only if accompanied by a certificate signed by an inspector of the Consumer and Marketing Service, U.S. Department of Agriculture (i) identifying the products to be moved interstate and stating that, insofar as he has been able to determine, the particular products were derived from swine which had not been fed any raw garbage, or (ii) identifying the products to be moved interstate and stating that the particular products have been handled as specified in subparagraph (1) of this paragraph.

§ 76.16 Authorization of other movements.

The Director, in specific cases, may authorize the interstate movement of swine or swine products, not otherwise authorized under this part, under such conditions as he may prescribe to prevent the spread of hog cholera or other contagious, infectious, or communicable diseases, and when so moved, the swine or swine products must be accompanied by a permit from the appropriate official of the State of destination and a permit from the Division specifying any conditions imposed regarding such movement.

§ 76.17 Serum prophylaxis treatment of swine.

Although there is no requirement under this part that swine be treated with anti-hog-cholera serum or hog cholera antibody concentrate prior to interstate movement, if swine do receive serum prophylaxis prior to interstate movement they shall be inoculated with anti-hog-cholera serum or hog cholera antibody concentrate prepared under license from the Secretary of Agriculture issued pursuant to Subchapter E of this chapter; they shall meet all other applicable provisions of this part; and the permitted dosage of anti-hog-cholera serum or hog cholera antibody concentrate shall be as follows:

Weight of swine (pounds)	Minimum dose of serum (cubic centimeters)	Minimum dose of antibody concentrate (cubic centimeters)
Under 20	20	10
20 to 40	30	15
40+ to 90	35	18
90+ to 120	45	23
120+ to 150	55	28
150+ to 180	65	33
Over 180	75	38

NOTE: Except for swine under 30 pounds in weight, the dosage of serum should not exceed 1 cc. per pound body weight, or one-half cc. per pound body weight if antibody concentrate is used.

§ 76.18 Approval of livestock markets.

(a) Notices containing lists of livestock markets approved for the purposes of the regulations in this part will be published in the FEDERAL REGISTER. Information with respect to those livestock markets may also be obtained from the Division.

(b) The Director is authorized to approve any livestock market for the purposes of the regulations in this part when he determines that the operator of such livestock market has executed an appropriate agreement as set forth in subparagraph (1) or (2) of this paragraph and that the livestock market meets the standards specified in such agreement. Request for such approval may be made to the Veterinarian in Charge, Animal Health Division, Animal and Plant Health Service, U.S. Department of Agriculture, for the State in which the livestock market is located, and the executed agreement shall be filed with said Veterinarian in Charge. The Director is authorized to promulgate notices listing approved livestock markets in accordance with paragraph (a) of this section. The Director may withdraw approval and remove any livestock market from such list when he determines that such livestock market no longer complies with the requirements of the agreement applicable to its operations or that the operator has terminated such agreement.[5]

(1)

AGREEMENT FOR APPROVAL TO HANDLE INTERSTATE SHIPMENTS OF ANY CLASS OF SWINE

To: Animal Health Division, Animal and Plant Health Service, U.S. Department of Agriculture:

The undersigned operator of the livestock market known as _____, (Name) located at _____, (Address) hereby requests approval to handle interstate shipments of feeder or breeder and/or slaughter swine in accordance with the regulations in 9 CFR Part 76 (from any State) (from hog cholera eradication States currently listed in § 76.2(f) or free States currently listed in § 76.2(g) of the regulations).[6] Said operator agrees to:

1. Provide said Division with a schedule of sale days and cooperate with the Division in obtaining compliance by livestock shippers with applicable State and Federal regulations.

2. Provide well-constructed and well-lighted imperviously surfaced pens, alleys, and sales rings for holding, inspecting, and otherwise handling swine, and other swine handling facilities that are clean and in good repair.

3. Require all swine received at the livestock market to be given an inspection by a Division or State inspector or an accredited veterinarian, and refuse to sell any swine that show any signs of any infectious, contagious, or communicable disease upon such inspection, except as authorized by a Division or State inspector or an accredited veterinarian.

4. Separate from the other swine all swine found upon inspection to be, or suspected of being, affected with any contagious, infectious, or communicable disease and immediately notify a Division or State inspector, or an accredited veterinarian of the presence of such swine at the livestock market.

5. Maintain feeder and breeder swine separately from slaughter swine, and if these two classes of swine are yarded in adjoining pens, separate the classes by solid partitions with no drainage from the slaughter swine pens into the feeder and breeder swine pens.[7]

6. Sell feeder and breeder swine before the sales ring is used for slaughter swine if the sales ring is used for both purposes on the same day.[7]

7. Permit no feeder or breeder swine to remain in the livestock market for more than 72 hours and permit no slaughter swine to remain in the livestock market for more than 120 hours.

8. Issue no release for removal of feeder and breeder swine from the livestock market until the swine are identified [7] in accordance with applicable requirements of Federal or State regulations and have been inspected by a Division or State inspector or an accredited veterinarian and certified in accordance with applicable Federal or State regulations.

9. Issue no releases for removal of slaughter swine from the livestock market unless consigned for immediate slaughter and identify the consignee on the release document.

10. Clean pens, alleys, sales rings, docks, and scales before each day's sale of feeder or breeder swine and disinfect such facilities when required under § 71.4 or § 76.31 with a disinfectant specified in § 76.32.[7]

11. Provide facilities and service for cleaning and disinfecting means of conveyance as prescribed in §§ 76.30 and 76.32.

12. Permit no swine to be inoculated at the livestock market with any modified live virus hog cholera vaccine or any other virulent hog cholera virus.

13. Maintain, for 1 year after the transaction involved, a record of the origin and destination of all swine, and also of the identification [7] of all swine, other than slaughter swine, handled through the livestock market and afford Division and State inspectors access to such records at all reasonable times.

_____ (Name of operator of livestock market)

_____ (Address)

_____ (Signature and title)

_____ (Date)

The Animal Health Division, Animal and Plant Health Service, U.S. Department of Agriculture, has approved this application effective _____ (Date)

_____ (Veterinarian in charge)

_____ (Address)

_____ (Date)

[5] The standards contained in these agreements are minimal and agreements within individual States may be adjusted to conform to more restrictive State laws or regulations.

[6] Delete inapplicable term.

AGREEMENT FOR APPROVAL TO HANDLE INTERSTATE SHIPMENTS OF SLAUGHTER SWINE

To: Animal Health Division, Animal and Plant Health Service, U.S. Department of Agriculture:

The undersigned operator of the livestock market known as _____, (name) located at _____, (address) hereby requests approval to handle interstate shipments of slaughter swine only, in accordance with the regulations in 9 CFR Part 76. Said operator agrees to:

1. Provide the Division with a schedule of sale days and cooperate with the Division in obtaining compliance by livestock shippers with applicable State and Federal regulations.

2. Separate from other swine all swine suspected of being affected with any contagious, infectious, or communicable disease and immediately notify a Division or State inspector, or an accredited veterinarian, of the presence of such swine at the livestock market.

3. Issue no releases for removal of any swine from the livestock market unless consigned for immediate slaughter and identify the consignee on the release document.

4. Permit no swine to be inoculated at the livestock market with any modified live virus hog cholera vaccine or any other virulent hog cholera virus.

5. Maintain, for 1 year after the transaction involved, a record of the origin and destination of all swine handled through the livestock market and afford Federal and State inspectors access to such records at all reasonable times.

_____ (Name of operator of livestock market)

_____ (Address)

_____ (Signature and title)

_____ (Date)

The Animal Health Division, Animal and Plant Health Service, U.S. Department of Agriculture, has approved this application effective _____ (Date)

_____ (Veterinarian in charge)

_____ (Address)

_____ (Date)

(c) *Approval of livestock markets in a quarantined area.* The approved status of all livestock markets approved, for the purposes of the regulations in this part, under this section, which are located in an area placed under quarantine because of hog cholera, shall be suspended (only for purposes of this part) when such area is placed under quarantine and shall be restored when such area is released from quarantine only upon compliance with all provisions of this section: *Provided,* That such livestock markets which qualify under § 76.1(z) may operate as slaughter markets for the purpose of receiving interstate shipments of slaughter swine and releasing slaughter swine for interstate shipment, in accordance with § 76.8, directly to a federally inspected slaughtering establishment operating under the provisions of the Federal Meat Inspection Act, as amended (21 U.S.C. 601 et seq.), or to a State inspected slaughtering establishment which has inspection by a State inspector at the time of slaughter.

§ 76.30 Cleaning and disinfecting of means of conveyance.

(a) All means of conveyance and their associated equipment used for receiving, shipping, loading, unloading and delivering swine and for feeding, watering and resting swine, in connection with the interstate movement of swine, shall be kept clean.

(b) Any means of conveyance and its associated equipment which has been used to move swine interstate which are affected with any contagious, infectious or communicable disease shall be cleaned and disinfected under the supervision of a Division or State inspector or an accredited veterinarian as follows: Remove all litter, feed and manure from all portions of each means of conveyance including all ledges and framework inside and outside, and handle such litter, feed and manure in such manner as not to expose livestock to any disease contained therein; clean the interior and the exterior of such vehicle or other means of conveyance and its associated equipment; and saturate the entire interior surface, including all doors, endgates, portable chutes and similar equipment, with a disinfectant prescribed in § 76.32.

(c) The Director may, in specific cases, require the thorough cleaning and disinfecting, under the supervision of a Division or State inspector or an accredited veterinarian, in the manner provided in paragraph (b) of this section, of any means of conveyance which has been used to move interstate any swine which have been fed any raw garbage, or any swine products derived from such swine, or swine exposed to hog cholera or other contagious, infectious or communicable livestock disease, or which the Director has reason to believe may have been otherwise infected with or exposed to such a disease, when he determines that such cleaning and disinfecting is necessary to guard against the spread of any such disease.

(d) The carrier shall be responsible for cleaning and disinfecting all means of conveyance and associated equipment as required by this section and such cleaning and disinfecting shall be done without expense to the Department of Agriculture.

(e) Such cleaning and disinfecting shall be done before the means of conveyance is moved from the place where the swine or swine products are unloaded, unless the Director, in specific cases, authorizes its movement to another location and cleaning and disinfecting is carried out at such location in accordance with this section.

§ 76.31 Cleaning and disinfecting livestock markets and other facilities.

(a) All livestock markets and other facilities, including facilities for receiving, shipping, loading, unloading and delivering swine and for feeding, watering and resting swine, used in connection with the interstate movement of swine, shall be kept clean.

[7] The requirements of paragraphs 5, 6, and 10 and the identification requirements of paragraphs 8 and 13 do not apply to livestock markets that are located in a hog cholera eradication or free State and that receive swine only from eradiction or free States. If any livestock market is approved to handle swine under the lesser requirements provided by this footnote on the basis of being located in, and handling only swine from a hog cholera eradication or free State and if any such State involved loses its status as an eradication or free State, all of the requirements of this agreement shall apply to such livestock market until the State regains its status as an eradication or free State.

(b) All livestock markets and other facilities, or any portion thereof, which have been used in connection with the movement interstate of swine which are affected with any contagious, infectious, or communicable disease shall be cleaned and disinfected under the supervision of a Division or State inspector or an accredited veterinarian as follows: Empty all troughs and other feeding and watering appliances; remove all litter, feed and manure from the floors, posts, or other parts, and handle such litter, feed, and manure in such manner as not to expose livestock to any disease contained therein; and saturate the entire surface of the fencing, troughs, chutes, floors, walls and all other parts with a disinfectant as prescribed in § 76.32.

(c) The Director, in specific cases, may require the thorough cleaning and disinfecting, under the supervision of a Division or State inspector or an accredited veterinarian, in the manner provided in paragraph (b) of this section, of any livestock market and other facility, or any portion thereof, which has been used in connection with the interstate movement of any swine which have been fed any raw garbage or swine products derived from such swine, or swine exposed to hog cholera or other contagious, infectious or communicable disease, or which the Director has reason to believe may have been otherwise infected with or exposed to such a disease, when he determines that such cleaning and disinfecting is necessary to guard against the spread of any such disease.

(d) The owner of such livestock markets and other facilities shall be responsible for cleaning and disinfecting as required under this section, and the cleaning and disinfecting shall be done without expense to the Department of Agriculture.

(e) All livestock markets or other facilities, or any portion thereof, required to be cleaned and disinfected under this section shall not be used for handling swine until after the cleaning and disinfecting has been done.

§ 76.32 Disinfectants to be used.

Disinfection required under the regulations in this Part shall be performed with one of the following:

(a) A permitted brand of sodium orthophenylphenate used in a proportion of at least 1 pound to 12 gallons of water, as prescribed in § 71.12 of this chapter.

(b) A permitted cresylic disinfectant in the proportion of at least 4 fluid ounces to 1 gallon of water, as prescribed under §§ 71.10(b) and 71.11 of this chapter.

(c) A permitted general disinfectant (which meets the specifications of § 71.10(a)(5) of this chapter) which has been shown to be virucidal, against the virus of hog cholera, as determined by the Director,[*] may be used at the dilution and otherwise in accordance with specifications for use as shown on the label of such disinfectant.

The proposed revision would clarify, modify, and update the regulations in 9 CFR Part 76. Certain changes in format would be made in the major swine movement sections (§§ 76.5 through 76.12) to provide a clear, concise statement of each permitted interstate movement and a separate, carefully detailed schedule of restrictions and conditions for each such movement. In § 76.1, the proposed revision (1) substitutes the term "food waste" for "cooked garbage"; (2) defines "nonapproved livestock market," "Eradication State," "Free State," "Division inspector," "accredited veterinarian" and "State inspector"; (3) redefines "garbage," "exposed swine," "approved livestock market" (to include livestock auction markets, public stockyards, and any other approved assembly point), "swine products," "slaughter markets," and "official vaccinates"; and (4) deletes the term "clean stockyards", and the salvage provision of the present § 76.6(c). In § 76.2 this proposed revision would redefine "Eradication States" and "Free States" to allow any such State to retain classification as an eradication or free State notwithstanding occurrence of a primary isolated case of hog cholera if the infected herd has been depopulated. In § 76.4 the words "in all cases, including export," would be added to clarify the long-standing intent that all export and interstate shipments of virulent or modified hog cholera virus shall be accompanied by a permit issued by the Director, Veterinary Biologics Division. In § 76.14 the temperature and holding time required for special processing would be changed to conform with available research findings.

Any person who wishes to submit data, views, or arguments concerning the proposed amendments may do so by filing them with the Deputy Administrator, Veterinary Services, Animal and Plant Health Service, U.S. Department of Agriculture, Washington, D.C. 20250, within 30 days after publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be made available for public inspection at times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 5th day of November 1971.

G. H. WISE,
Acting Administrator, Animal and Plant Health Service, United States Department of Agriculture.

[FR Doc.71-16474 Filed 11-10-71;8:49 am]

[*] Information as to the name of such disinfectants may be obtained from the Veterinarian in Charge or a Division inspector.

DTL

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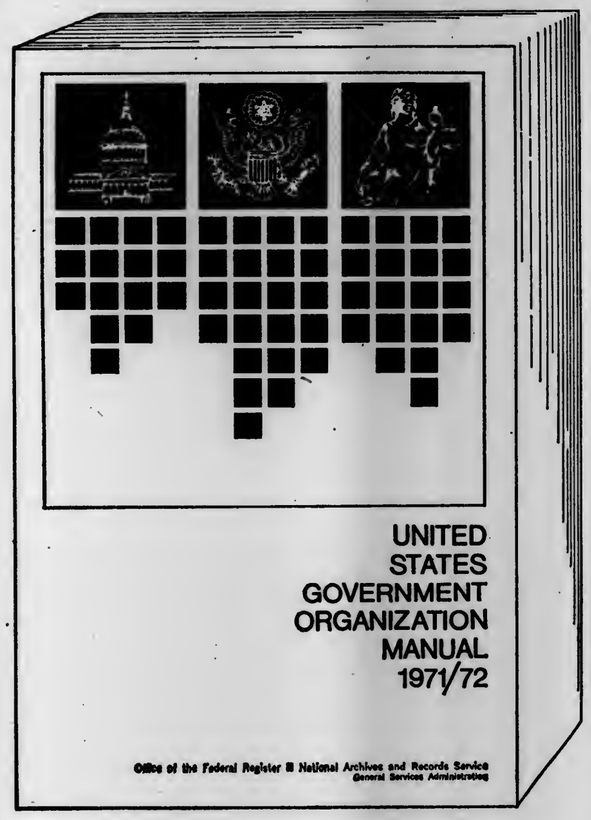

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PART 213—EXCEPTED SERVICE

Department of Commerce

Section 213.3114 is amended to show that the positions of Security Control Officer, Deputy Security Control Officer, and Chief, Personnel Security Division, are no longer excepted under Schedule A.

Effective on publication in the FEDERAL REGISTER (11–12–71), subparagraph (1) of paragraph (b) of § 213.3114 is revoked.

§ 213.3114 Department of Commerce.

• • • • • •

(b) *Office of the Secretary.*

(1) [Revoked]

• • • • • •

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71–16576 Filed 11–11–71;8:50 am]

PART 213—EXCEPTED SERVICE

Department of Justice

Section 213.3310 is amended to show that (1) two positions of Special Assistant to the Director, Community Relations Service, are excepted under Schedule C; (2) one position of Private Secretary to the Director, Community Relations Service, is no longer excepted under schedule; and (3) the title of the Private Secretary to the Special Assistant to the Director, Community Relations Service, has been changed to Private Secretary to the Special Assistant and Chief Counsel to the Director.

Effective on publication in the FEDERAL REGISTER (11–12–71), subparagraphs (1) and (3) are amended and subparagraph (5) is added to paragraph (r) of § 213.3310 as set out below.

§ 213.3310 Department of Justice.

• • • • • •

(r) *Community Relations Service.*

(1) One Private Secretary to the Director.

• • • • • •

(3) One Private Secretary to the Special Assistant and Chief Counsel to the Director.

• • • • • •

(5) Two Special Assistants to the Director.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71–16575 Filed 11–11–71;8:50 am]

PART 213—EXCEPTED SERVICE

Department of the Interior

Section 213.3312 is amended to show that one position of Confidential Assistant to the Assistant Secretary for Program Policy is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (11–12–71), subparagraph (35) is added to paragraph (a) of § 213.3312 as set out below.

§ 213.3312 Department of the Interior.

(a) *Office of the Secretary.* • • •

(35) One Confidential Assistant to the Assistant Secretary for Program Policy.

• • • • • •

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71–16574 Filed 11–11–71;8:50 am]

PART 213—EXCEPTED SERVICE

Department of the Interior

Section 213.3312 is amended to show that one position of Associate Director for Programs, Bureau of Outdoor Recreation, is excepted under Schedule C. This section is further amended to show that the position of Special Assistant to the Director, Bureau of Outdoor Recreation, is no longer excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (11–12–71), subparagraph (3) is revoked and subparagraph (4) is added to paragraph (m) of § 213.3312 as set out below.

§ 213.3312 Department of the Interior.

• • • • • •

(m) *Bureau of Outdoor Recreation.* • • •

(3) [Revoked]

(4) One Associate Director for Programs.

• • • • • •

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71–16572 Filed 11–11–71;8:50 am]

PART 213—EXCEPTED SERVICE

National Labor Relations Board

Section 213.3341 is amended to show that the positions of Chief Counsel to the Chairman and Chief Counsel to a Board Member are no longer excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (11–12–71) paragraphs (f) and (g) are revoked under § 213.3341.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71–16577 Filed 11–11–71;8:50 am]

PART 213—EXCEPTED SERVICE

Export-Import Bank of the United States

Section 213.3342 is amended to reflect the following title changes: from Private Secretary to the Executive Vice President to Confidential Assistant to the Executive Vice President and from Confidential Assistant to the Vice President for Export Expansion to Private Secretary to the Vice President for Export Expansion.

Effective on publication in the FEDERAL REGISTER (11–12–71) paragraphs (f) and (g) are amended under § 213.3342 as set out below.

§ 213.3342 Export-Import Bank of the United States.

• • • • • •

(f) One Private Secretary to the Vice President for Export Expansion.

(g) One Confidential Assistant to the Executive Vice President.

• • • • • •

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71–16573 Filed 11–11–71;8:50 am]

Title 7—AGRICULTURE

Chapter XVIII—Farmers Home Administration, Department of Agriculture

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FHA Instruction 442.1]

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

Subpart A—Loans and Grants for Community Domestic Water and Waste Disposal Systems

LOCATION OF FACILITIES IN FLOOD PLAIN AREA

Section 1823.19 is amended by adding a new paragraph (e) to implement the provisions of Executive Order 11296, dated August 10, 1966, regarding locating facilities in a flood plain area.

Subpart A of Part 1823, Title 7, Code of Federal Regulations (35 F.R. 15091), § 1823.19 as amended reads as follows:

§ 1823.19 Affect of special programs—regulations.

• • • • •

(e) *Location of facilities in flood plain area.* Executive Order 11296 dated August 10, 1966, requires that all executive agencies responsible for administration of Federal grant, loan, or mortgage insurance programs involving the construction of buildings, structures, and other facilities, evaluate flood hazards, and, as far as practicable, preclude the use of flood plains. In the event it is necessary to consider locating facilities in a flood plain area, the State Director, will evaluate the proposal from the standpoint of special design and additional initial cost as well as maintenance costs. Facilities may be located in flood plain areas only after a careful evaluation of the proposal by the State Director and a determination that flood damage will not likely occur. Normally, the Corps of Engineers or the Soil Conservation Service of the U.S. Department of Agriculture will be in a position to provide information concerning the likelihood of flooding and the possibility of damage to the proposed facility. The evaluation and determination will be recorded and made a part of the docket.

(Sec. 339, 75 Stat. 318, 7 U.S.C. 1989; Orders of Secretary of Agriculture, 29 F.R. 16210, 32 F.R. 6650; E.O. 11296, 31 F.R. 10663)

Dated: November 3, 1971.

JOSEPH HASPRAY,
Deputy Administrator,
Farmers Home Administration.

[FR Doc.71-16554 Filed 11-11-71;8:48 am]

[FHA Instruction 442.9]

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

Subpart I—Processing Loans to Associations (Except for Domestic Water and Waste Disposal)

LOCATION OF FACILITIES IN FLOOD PLAIN AREA

Section 1823.263 is amended by adding a new paragraph (d) to implement the provisions of Executive Order 11296, dated August 10, 1966, regarding locating facilities in a flood plain area.

Subpart I of Part 1823, Title 7, Code of Federal Regulations (35 F.R. 15091), § 1823.263 as amended reads as follows:

§ 1823.263 Affect of special programs—regulations.

• • • • •

(d) *Location of facilities in flood plain area.* Executive Order 11296, dated August 10, 1966, requires that all executive agencies responsible for administration of Federal grant, loan, or mortgage insurance programs involving the construction of buildings, structures, and other facilities, evaluate flood hazards, and, as far as practicable, preclude the use of flood plains. In the event it is necessary to consider locating facilities in a flood plain area, the State Director will evaluate the proposal from the standpoint of special design and additional initial cost as well as maintenance costs. Facilities may be located in flood plain areas only after a careful evaluation of the proposal by the State Director and a determination that flood damage will not likely occur. Normally, the Corps of Engineers or the Soil Conservation Service of the U.S. Department of Agriculture will be in a position to provide information concerning the likelihood of flooding and possibility of damage to the proposed facility. The evaluation and determination will be recorded and made a part of the docket.

(Sec. 339, 75 Stat. 318, 7 U.S.C. 1989; Orders of Secretary of Agriculture, 29 F.R. 16210, 32 F.R. 6650; E.O. 11296, 31 F.R. 10663)

Dated: November 3, 1971.

JOSEPH HASPRAY,
Deputy Administrator,
Farmers Home Administration.

[FR Doc.71-16553 Filed 11-11-71;8:48 am]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Bighorn Canyon National Recreation Area; Designated Airstrip

Pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3), the Act of October 15, 1966 (80 Stat. 913, 16 U.S.C. 460t), 245 DM 1 (27 F.R. 6395) and National Park Service Order No. 21 (27 F.R. 7903), as amended, Part 7 of Title 36 of the Code of Federal Regulations is hereby amended to add § 7.92 as set forth below.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule making process. However, since this regulation relaxes restrictions on the public, comment thereon is deemed unnecessary and not in the public interest. The amendment will thus take effect immediately upon its publication in the FEDERAL REGISTER (11-12-71).

Section 7.92 is added as follows:

§ 7.92 Bighorn Canyon National Recreation Area.

(a) *Aircraft-designated airstrip.* (1) Fort Smith landing strip, located at approximate latitude 45°19' N., approximate longitude 107°55'41'' W. in the S½S½SE¼ sec. 8, and the S½SW¼ SW¼ sec. 9, T. 6 S., R. 31 E., Montana Principal Meridian.

LAWRENCE C. HADLEY,
Assistant Director,
National Park Service.

[FR Doc.71-16541 Filed 11-11-71;8:47 am]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Y]

PART 222—BANK HOLDING COMPANIES

PART 225—BANK HOLDING COMPANIES

Miscellaneous Amendments

The Board of Governors has amended Part 22 (Regulation Y) extensively during 1971, to implement the provisions of the Bank Holding Company Act Amendments of 1970, and is now in the process of printing the amended regulation in its entirety. Copies of the newly printed Regulation Y will be available to the public on or about December 1, 1971. Requests for the regulation should be directed to Publications Services, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

In connection with the printing of the amended regulation the Board of Governors redesignates Part 222 as Part 225. Part 225, "Bank Holding Companies," will continue to be designated as Regulation Y. The redesignation of sections within Part 222 are as follows:

1. Sections 222.1 through 222.4 are redesignated as §§ 225.1 through 225.4.

2. Sections 222.5, 222.6, and 222.7 are combined and redesignated as § 225.5 and are amended to read as follows:

§ 225.5 Administration.

(a) *Effective date of registration.* The date of registration of a bank holding company shall be the date on which its registration statement is filed with the Federal Reserve bank.

(b) *Reports and examinations.* Each bank holding company shall furnish to the Board in a form prescribed by the Board a report of the company's operations for the fiscal year in which it becomes a bank holding company, and for each fiscal year thereafter until it ceases to be a bank holding company. Each such annual report shall be filed with the Federal Reserve bank. Each bank holding company shall furnish to the Board additional information at such times as the Board may require. The Board may examine any bank holding company or any of its subsidiaries and the cost of any such examination shall be assessed against and paid by such bank holding company. As far as possible the Board will use reports of examinations made by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the appropriate State bank supervisory authority.

3. The interpretations contained in Part 222 are hereby redesignated as follows: § 222.101 as § 225.101; § 222.102 as § 225.102; § 222.103 as § 225.103; § 222.104 as § 225.104; § 222.107 as § 225.107; § 222.109 as § 225.109; § 222.111 as § 225.111; § 222.112 as § 225.112; § 222.113 as § 225.113; § 222.115 as § 225.115; § 222.118 as § 225.118; § 222.121 as § 225.121; § 222.122 as § 225.122; and § 222.123 as § 225.123.

Effective date: December 1, 1971.

Board of Governors of the Federal Reserve System, November 5, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16537 Filed 11-11-71;8:47 am]

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[71-1174]

PART 563—OPERATIONS

PART 572—ACCOUNTING STATEMENTS OF POLICY

Federal Insurance Reserve Requirements and Accounting for Net Income

NOVEMBER 4, 1971.

Resolved that the Federal Home Loan Bank Board considers it advisable to amend Parts 563 and 572 of the rules and regulations for Insurance of Accounts (12 CFR Parts 563, 572) for the following purposes:

1. To provide that required transfers to the Federal insurance reserve account shall be computed by multiplying the applicable "bench mark" percentage by the average of an insured institution's savings account balances on the annual closing date and on the two immediately preceding annual closing dates; and

2. To delete the definition of "net income" contained in § 563.14 of such regulations and to require reporting of net income in accordance with a new definition of such term which comports more closely with generally accepted accounting principles.

Accordingly, on the basis of such consideration and for such purposes, the Federal Home Loan Bank Board hereby amends said Parts 563 and 572 as follows, effective November 12, 1971:

1. Said Part 563 is amended as follows:

a. By revising paragraph (a)(1) of § 563.13 thereof to read as follows:

§ 563.13 Required amounts and maintenance of Federal insurance reserve.

(a) *Minimum reserve level.* (1) After the fiscal year in which a certificate of insurance is issued, an insured institution shall build up its Federal insurance reserve account so that, as of the close of business on the annual closing date following each anniversary of the date of insurance of accounts, such reserve account shall be at least equal to the amount obtained by multiplying (i) the average of the institution's savings account balances on the annual closing date and on the two immediately preceding annual closing dates by (ii) the percentage corresponding to such anniversary date, as set forth in the following table:

Anniversary	*Percentage*
2	0.50
3	0.75
4	1.00
5	1.25
6	1.50
7	1.75
8	2.00
9	2.25
10	2.50
11	2.75
12	3.00
13	3.25
14	3.50
15	3.75
16	4.00
17	4.25
18	4.50
19	4.75
20 and thereafter	5.00

• • • • •

b. By revising § 563.14 thereof to read as follows:

§ 563.14 Charging of losses and payment of dividends.

No insured institution which has charged losses to its Federal insurance reserve account shall declare any dividends or pay any interest on savings unless the amount standing to the credit of such account, after deduction of all charges, is equal to at least the amounts required under § 563.13: *Provided*, That, for any year dividends may be declared or interest on savings paid when losses are charged to such reserve, if the declaration of such dividends or the payment of such interest on savings is first approved by the Corporation: *And provided further*, That the Corporation hereby approves, for any such insured institution which has been insured for a period of 20 years or more and whose Federal insurance reserve account, prior to the charging of such losses, equaled at least 5 percent of all insured accounts, the declaration of dividends and the payment of interest on savings if such insured institution shall have first transferred not less than 25 percent of its net income for the same dividend period to its Federal insurance reserve account.

2. Said Part 572 is amended by adding a new § 572.3 thereto, to read as follows:

§ 572.3 Accounting for net income.

(a) *General.* Section 563.23-3 of this chapter provides that each insured institution shall employ such specific principles or procedures on particular accounting or reporting matters as the Corporation may require by regulation or otherwise. This statement specifies the Corporation's requirement with respect to the calculation and reporting of net income.

(b) *Definition of net income.* The term "net income" means gross income of all kinds from all sources less all expenses, including interest on Federal Home Loan Bank advances and borrowed money, interest or dividends on withdrawable or nonwithdrawable accounts (except capital stock), Federal, State, or local income taxes, if any, and losses of every kind and nature.

(c) *Reporting of net income.* All reports submitted to the Corporation by or for an insured institution (including reports of audit) which include therein data relating to net income for any quarterly period ending on or after October 31, 1971, shall report net income in accordance with the definition contained in paragraph (b) of this section.

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

Resolved further that, since affording notice and public procedure on the above amendments would delay them from becoming effective for a period of time and since it is in the public interest that such amendments become effective as soon as possible, the Board hereby finds that notice and public procedure thereon are contrary to the public interest under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and the Board also finds, for the same reason, that publication for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of the amendments is unnecessary; and the Board hereby provides that the amendments shall become effective as hereinbefore set forth.

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER,
Secretary.

[FR Doc.71-16590 Filed 11-11-71;8:51 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 70-CE-21-AD; Amdt. 39-1332]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Model 65-90 Airplanes

Amendment 39-1121, published in the FEDERAL REGISTER on December 4, 1970 (35 F.R. 18452, 18453), AD 70-25-4, applicable to Beech Model 65-90 airplanes is an Airworthiness Directive which requires repetitive inspection of specific wing components to detect cracks.

After issuing Amendment 39-1121, the agency determined that reference to paragraph E in paragraph A(1) of the AD is in error and should be deleted. In addition, the repetitive inspection interval required after a crack is found as specified in paragraph A(1) of the AD is being increased to 300 hours to provide relief for its operators with 75- to 100-hour inspection cycles. Clarification of the inspections required of the inboard and outboard wing attach fittings as specified in paragraphs B and D of the AD and correct call out of the four inspection holes in paragraph D(6) is necessary. Finally, paragraph F is being amended to permit operators to report information regarding cracks to the agency through normal M or D procedures. Accordingly, it is necessary to amend paragraphs A (1), B, D, and F of AD 70-25-4 to effect these changes.

Due to the many changes in AD 70-25-4 it is being amended and reissued in its entirety.

Since this amendment is in the interest of safety, corrects an error, provides clarification, relieves a reinspection cycle and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than thirty (30) days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of the Federal Aviation regulations, Amendment 39-1121 (35 F.R. 18452, 18453), AD 70-25-4, is amended so that it now reads as follows:

BEECH. Applies to Model 65-90 (serial Nos. LJ-1 through LJ-67) airplanes with 5,000 or more hours' time in service.

Compliance: Required as indicated.

To detect any cracking of certain wing center section and other wing panel front spar carry through structural components, within the next 100 hours' time in service after December 5, 1970, unless already accomplished, accomplish the following:

(A) Visually inspect the lower wing skin area adjacent to each outer wing panel front spar attachment fitting for cracks in accordance with Beechcraft Service Instruction No. 0394-018 or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region, and thereafter repeat the inspection at intervals not to exceed 100 hours' time in service.

(1) If wing panel skin cracks are found at the most outboard screw hole as noted in Figure 1 of Beechcraft Service Instruction No. 0394-018, the wing structure must be inspected in accordance with paragraphs B and D of this AD prior to returning the aircraft to service. In addition, if a skin crack is found at the most outboard screw hole, as indicated in said Figure 1, the paragraph B inspections must be performed at intervals of not more than 300 hours, and the paragraph D inspections must be performed at intervals of not more than 500 hours.

(B) Inspect by visual and dye penetrant methods, the right and left lower forward outboard wing attachment fittings for cracks in accordance with Beechcraft Service Instruction No. 0394-018 or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region, and thereafter repeat the inspection at intervals not to exceed 500 hours' time in service, except as noted in paragraph A(1).

(C) If fatigue cracks are found in either wing attach fitting during the inspections required by paragraph B, prior to further flight—

(1) Both right and left outer wing panel lower forward spar caps including the wing attachment fittings and the skin panels adjacent to the outer panel wing attachment fittings must be replaced with new parts in accordance with the procedures, limitations, and reinspection intervals specified in Beechcraft Service Instruction No. 0394-018, or later revision approved by the FAA.

(2) After one replacement of the assemblies listed in paragraph C(1), replace the wing center section lower forward spar cap and fittings with new parts in accordance with Beechcraft Service Instruction No. 0394-018, or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

(D) Inspect the structural components set forth below and in Beechcraft Service Instruction No. 0394-018, or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region, by visual, eddy current and dye penetrant methods, as specified in the service instructions, and thereafter repeat the inspection at intervals not to exceed 1,000 hours' time in service, except as noted in paragraphs A(1) and D(8). The structural components to be inspected are as follows:

(1) Right and left lower forward wing attachment fitting of the center section main spar.

(2) Lower forward wing fitting-to-spar attachment area and the edges of the forward and aft flanges on the lower forward spar cap in the center section (outboard of each main gear wheel well).

(3) Lower forward spar cap in each main gear wheel well.

(4) Lower surface of the lower forward spar cap in the nacelle inboard of each main gear wheel well.

(5) Lower surface of the lower forward spar cap between each nacelle and the fuselage.

(6) The four universal rivet holes in the forward flange of the lower forward spar cap inboard of each nacelle in the area of the wing root rib.

(7) The lower forward spar cap within the fuselage.

(8) The centerline skin splice in the area between the forward and aft center section spars, and the fuselage formers along the centerline between the forward and aft center section spars. If fuselage former cracks are found in this area, they must be repaired in accordance with said service instruction prior to return to service and the 1,000 hour inspection interval must be reduced to not more than 500 hours.

(E) If cracks are found during the inspections required by paragraph D, except cracks located in the areas specified in paragraph D(8), prior to further flight, replace the wing center section lower forward spar cap, both the right and left outer wing panel lower front spar caps including the wing attachment fittings and the skin panels adjacent to the outer panel wing attachment fittings with new production parts in accordance with Beechcraft Service Instruction No. 0394-018, or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

(F) Aircraft logbook entries must be made and notification in writing must be sent to Chief, Engineering and Manufacturing Branch, FAA, Central Region, of the location and length of any cracks found during inspections required by this AD and also the total time in service of the component at the time the crack was discovered. Malfunction or, defect report, FAA Form 8330-2, may be used for this purpose. (Report approved by the Bureau of the Budget under BOB No. 04-R0174.)

(G) Replacement of parts required by paragraphs C and E will permit the owner/operator to establish new initial inspection times in compliance with paragraphs A and B.

(H) Equivalent methods of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

NOTE: The eddy current inspections required by this AD should be performed by certificated personnel trained and qualified in the operation of eddy current equipment. The replacement of critical parts such as the spar caps and wing attach fittings required by this AD should be performed by certificated personnel or facilities properly equipped to perform such repairs.

This amendment becomes effective November 16, 1971.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on November 4, 1971.

JOHN M. CYROCKI,
Director, Central Region.

[FR Doc.71-16496 Filed 11-11-71;8:45 am]

[Docket No. 70-CE-20-AD; Amdt. 39-1331]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Models 65, 65-80, 65-A80 and 65-B80 Airplanes

Amendment 39-1120, published in the FEDERAL REGISTER on December 4, 1970 (35 F.R. 18451, 18452), AD 70-25-1, applicable to Beech Models 65, 65-80, 65-A80 and 65-B80 airplanes, is an AD which requires repetitive inspection of specific wing components to detect fatigue cracks.

After issuing Amendment 39-1120, the agency determined that the repetitive inspection interval required after a crack is found as specified in paragraph A(1) of the AD may be increased to 300 hours to provide relief for its operators with 75 to 100 hour inspections. Clarification of the inspections required of the inboard and outboard wing attach fittings as specified in paragraph B of the AD is also necessary. Additionally, reference to paragraphs D, E, and F in paragraph I is misplaced and must be corrected. Paragraph H is being amended to permit operators to report information regarding cracks to the agency through normal M or D procedures. Finally, a group of military aircraft serial numbers has been added to the applicability statement and to the applicable portions of AD paragraphs A, B, C(2), C(4), and D. Accordingly, it is necessary to amend the applicability statement and all alphabetically listed paragraphs of AD 70-25-1, with the exception of paragraphs E, F, and J.

Due to the many changes to AD 70-25-1, it is being amended and reissued in its entirety.

Since this amendment is in the interest of safety, corrects an error, provides clarification and is in part relaxatory in nature, it imposes no additional burden on any person. Consequently, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than thirty (30) days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of the Federal Aviation regulations, Amendment 39-1120 (35 F.R. 18451, 18452), AD 70-25-1, is amended so that it now reads as follows:

BEECH. Applies to Models 65 (Military U-8F) (serial Nos. L-1, L-2, L-6, LF-7 thru LF-76 and LC-1 thru LC-180) and 65-B80 (serial Nos. LD-270 and up) airplanes with 5,000 or more hours' time in service; and Models 65-80, 65-A80 (serial Nos. LD-1 thru LD-244) airplanes with 3,000 or more hours' time in service.

Compliance: Required as indicated.

To detect cracking of certain wing center section and other wing panel front spar carry through structural components, within the next 100 hours' time in service after December 5, 1970, except that Beech Model 65 (Military U-8F) serial Nos. LF-9 thru LF-76, commence compliance within the next 100 hours' time in service after the effective date of this amendment, unless already accomplished, accomplish the following:

(A) On Beech Models 65 (Military U-8F) (serial Nos. L-1, L-2, L-6, LF-7 through LF-76 and LC-1 through LC-180) and 65-B80 (serial Nos. LD-270 and up) airplanes with 5,000 or more hours' time in service, or upon accumulation of 5,000 hours' time in service; and Beech Models 65-80, 65-A80 (serial Nos. LD-1 through LD-244) airplanes with 3,000 or more hours' time in service or upon accumulation of 3,000 hours' time in service, and thereafter on all aircraft listed in this AD at intervals not to exceed 100 hours, visually inspect the lower wing skin area adjacent to each outer wing panel front spar attachment fitting for cracks in accordance with Beechcraft Service Instruction No. 0393-018 or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

(1) If wing panel skin cracks are found at the most outboard screw hole, as indicated in Figure 1 of Beechcraft Service Instruction No. 0393-018, the paragraphs B and F inspections must be performed thereafter at not more than 300-hour intervals, and paragraph D inspections must be performed thereafter at not more than 500-hour intervals.

(B) On Beech Models 65 (Military U-8F) (serial Nos. L-1, L-2, L-6, LF-7 through LF-76 and LC-1 through LC-180), 65-B80 (serial Nos. LD-270 and up) airplanes with 5,000 or more hours' time in service or upon accumulation of the first 5,000 hours' time in service, and Beech Models 65-80, 65-A80 (serial Nos. LD-1 through LD-244) airplanes with 3,000 or more hours' time in service, or upon accumulation of the first 3,000 hours' time in service, and thereafter on all aircraft listed in this AD, at intervals not to exceed 500 hours, except as noted in paragraph A(1), inspect by visual and dye penetrant methods, the right and left lower forward outboard wing attachment fittings for cracks in accordance with Beechcraft Service Instruction No. 0393-018 or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

(C) If fatigue cracks are found in either wing attach fitting during the inspections required by paragraph B, prior to further flight:

(1) On all aircraft, both right and left outer wing panel lower forward spar caps including the wing attachment fittings and the skin panels adjacent to the outer panel wing attachment fittings must be replaced with new parts in accordance with the procedures, limitations and reinspection intervals specified in Beechcraft Service Instruction No. 0393-018 or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

(2) On Beech Models 65 (Military U-8F) (serial Nos. L-1, L-2, L-6, LF-7 through LF-76 and LC-1 through LC-180), 65-80 and 65-A80 (serial Nos. LD-1 through LD-244) airplanes, the inspection intervals for the structural components specified in paragraph D must be reduced to 500 hours and,

(3) On Beech Models 65-B80 (serial Nos. LD-270 and up) airplanes the wing center section lower forward spar cap and fittings must be replaced with new parts in accordance with Beechcraft Service Instruction No. 0393-018 or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

(4) On Beech Models 65 (Military U-8F) (serial Nos. L-1, L-2, L-6, LF-7 through LF-76 and LC-1 through LC-180), 65-80 and 65-A80 (serial Nos. LD-1 through LD-244) airplanes, after one replacement of the assemblies listed in paragraph C(1), replace the wing center section lower forward spar cap and fittings with new parts in accordance with Beechcraft Service Instruction No. 0393-018 or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

(D) On Beech Model 65 (Military U-8F) (serial Nos. L-1, L-2, L-6, LF-7 through LF-76 and LC-1 through LC-180) airplanes with 5,000 or more hours' time in service or upon accumulation of the first 5,000 hours' time in service and thereafter at intervals not to exceed 1,000 hours, except as noted in paragraph A(1), inspect the structural components set forth below and in Beechcraft Service Instruction No. 0393-018 or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region, by visual, eddy current and dye penetrant methods, as specified in the service instruction. The structural components to be inspected are as follows:

(1) Right and left lower forward wing attachment fitting of the center section main spar.

(2) Lower forward wing fitting-to-spar attachment area and the edges of the forward and aft flanges on the lower forward spar cap in the center section (outboard of each main gear wheel well).

(3) Lower forward spar cap in each main gear wheel well.

(4) Lower surface of the lower forward spar cap in the nacelle inboard of each main gear wheel well.

(5) Lower surface of the lower forward spar cap between each nacelle and the fuselage.

(6) The two 7/16-inch rivet holes in the forward flange of the lower forward spar cap inboard of each nacelle in the area of the wing root rib.

(7) The lower forward spar cap within the fuselage.

(8) The centerline skin splice in the area between the forward and aft center section spars, and the fuselage bulkhead along the centerline between the forward and aft center section spars. If fuselage bulkhead cracks are found in this area, they must be repaired in accordance with said service instruction prior to return to service.

(E) On Beech Models 65-80, 65-A80 (serial Nos. LD-1 through LD-244) airplanes with 3,000 or more hours' time in service or upon accumulation of the first 3,000 hours' time in service and thereafter at intervals not to exceed 1,000 hours except as noted in paragraph A(1), inspect the structural components as required in paragraph D.

(F) On Beech Model 65-B80 (serial Nos. LD-270 and up) airplanes with 5,000 or more hours' time in service or upon accumulation of the first 5,000 hours' time in service and thereafter at intervals not to exceed 500 hours, except as noted in paragraph A(1), inspect the structural components as required in paragraph D.

(G) If cracks are found during the inspections required by paragraphs D, E, and F above, except cracks located in the areas specified in paragraph D(8), prior to further flight, replace the wing center section lower forward spar cap including wing attachment fittings, both the right and left outer wing panel lower forward spar caps including the wing attachment fittings and the skin panels adjacent to the outer panel wing attachment fittings with new production parts in accordance with Beechcraft Service Instruction No. 0393-018 or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

(H) Aircraft logbook entries must be made and notification in writing must be sent to Chief, Engineering and Manufacturing Branch, FAA, Central Region, or the location and length of any cracks found during inspections required by this AD and also the total time in service of the components at the time the crack was discovered. Malfunction or defect report, FAA Form 8330-2, may be used for this purpose. (Report approved by the Bureau of the Budget under BOB No. 04-R0174.)

(I) On all aircraft, regardless of time in service, replacement of parts required by paragraphs C and G will permit the owner/operator to establish new initial inspection time in compliance with paragraphs A, B, D, E, and F.

(J) Equivalent methods of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

NOTE: The eddy current inspections required by this AD should be performed by certificated personnel trained and qualified in the operation of eddy current equipment. The replacement of critical parts such as the spar caps and wing attach fittings required by this AD should be performed by certificated personnel or facilities properly equipped to perform such repairs.

This amendment becomes effective November 16, 1971.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec.

6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on November 4, 1971.

JOHN M. CYROCKI,
Director, Central Region.

[FR Doc.71-16522 Filed 11-11-71;8:45 am]

[Airspace Docket No. 71-CE-14]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On September 10, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 18214) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation regulations that would amend the Roseau, Minn., transition area.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. The only comment received offered no objection.

A small portion of airspace east of the airport was inadvertently omitted in the transition area description published in the notice of proposed rule making. Action to correct this oversight is taken herein. Since this amendment is minor in nature and no substantive change in regulation is effected, notice and public procedure thereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation regulations is amended, effective 0901 G.m.t., January 6, 1972, as hereinafter set forth.

In § 71.181 (36 F.R. 2140) the Roseau, Minn., transition area is amended to read:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Roseau Municipal Airport (lat. 48°51'25" N., long. 95°41'40" W.); within 2½ miles each side of the 163° bearing from Roseau Municipal Airport, extending from the 5-mile radius area to 7 miles south of the airport; and within 2½ miles each side of the 341° bearing from Roseau Municipal Airport, extending from the 5-mile radius area to 7 miles north of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles west and 9½ miles east of the 163° bearing from Roseau Municipal Airport, extending from the airport to 18½ miles south of the airport; and within 4½ miles west and 9½ miles east of the 341° bearing from Roseau Municipal Airport, extending from the airport to 18½ miles north of the airport, including that airspace east of and within a 9½ mile radius of the airport between the 71° and 73° bearings from the airport, and excluding the portions outside the United States.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 5, 1971.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-16523 Filed 11-11-71;8:45 am]

[Airspace Docket No. 71-SO-129]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airway Segments

On August 11, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 14763) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation regulations that would alter segments of VOR Federal airways V-39, V-56, and V-296.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. Comments received were favorable except for the U.S. Air Force's objection to the proposed alteration of V-39. Although the Seymour Johnson AFB aerobatic maneuver area has been relocated, that airspace overlying V-39 between Myrtle Beach, S.C., and Fayetteville, N.C., is continuously required for Myrtle Beach AFB fighter aircraft aerobatic and formation maneuvers. In view of this, the current maximum authorized altitude restriction on V-39 between Myrtle Beach, S.C., and Fayetteville, N.C., will be retained.

In consideration of the foregoing, Part 71 of the Federal Aviation regulations is amended, effective 0901 G.m.t., January 6, 1972, as hereinafter set forth.

1. In § 71.123 (36 F.R. 2010 and 18076) V-56 is amended by deleting "The airspace at and above 5,000 feet MSL is excluded from Fayetteville to Wallace INT; and the airspace at and above 9,000 feet MSL is excluded from Wallace INT to New Bern."

2. In § 71.123 (36 F.R. 2010 and 11905) V-296 is amended by deleting "The airspace at and above 5,000 feet MSL is excluded from Fayetteville to Wilmington."

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 5, 1971.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-16524 Filed 11-11-71;8:46 am]

[Airspace Docket No. 71-CE-98]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On page 17654 of the FEDERAL REGISTER dated September 3, 1971, the FAA published a notice of proposed rule making which would amend § 71.181 of the Federal Aviation Regulations so as to designate a transition area at Xenia, Ohio.

Interested persons were given 45 days to submit written comments, objections, or views concerning the proposed amendment. Two comments were received. The Air Transport Association offered no objections to the proposal. The United States Parachute Association, Mid-Eastern Conference objected to the proposal because it would interfere with parachute jumping operations conducted by the Greene County Sport Parachute Center, Inc., at Port Xenia, Xenia, Ohio. Subsequent to the issuance of this proposal an agreement was reached by representatives of the Dayton RAPCON, the controlling facility for the Xenia, Ohio, area and the Greene County Sport Parachute Center, Inc., which will permit both IFR operations and parachute jumping operations to be safely conducted. Since the parachutist's concern has been satisfied, the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., January 6, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on November 1, 1971.

JOHN M. CYROCKI,
Director, Central Region.

In § 71.181 (36 F.R. 2140), the following transition area is added:

XENIA, OHIO

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Greene County Airport (latitude 39°41'30" N., longitude 83°59'25" W.); and within 3.5 miles each side of the 063° bearing from the Greene County Airport extending from the 5.5-mile radius to 14.5 miles northeast of the airport excluding that airspace that overlies the Dayton, Ohio transition area.

[FR Doc.71-16525 Filed 11-11-71;8:46 am]

[Airspace Docket No. 70-WA-42]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Area High Routes

On June 19, 1971, F.R. Doc. 71-8675 was published in the FEDERAL REGISTER (36 F.R. 11807) which amends Part 75 of the Federal Aviation regulations, effective 0901 G.m.t., August 19, 1971, by adding area high routes J813R, J814R, and J816R. Route alignments and waypoints from New Orleans, La., up to Montgomery, Ala., are identical on routes J813R and J814R. At Montgomery, Ala., a small turn is involved concerning J813R and the two routes diverge at that point. Due to the turn involved, the "Montgomery" waypoint was designated on J813R only. However, to reduce charting complexity and preclude possible pilot misunderstanding, the "Montgomery" waypoint should apply to both routes involved. Therefore, action is taken herein to designate the "Montgomery" waypoint on J814R.

Since this amendment is minor in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary, and good cause exists for making this amendment effective on less than 30 days' notice.

In consideration of the foregoing, effective upon publication in the FEDERAL REGISTER (11-12-71), F.R. Doc. 71-8675 (36 F.R. 11807) is amended as hereinafter set forth.

In J814R add new waypoint "Montgomery, Ala.," at Lat. "32°13'20"," Long. "86°19'11"," and Reference Facility "Montgomery, Ala.," between existing waypoints "Monroeville, Ala.," and "Texas, Ga."

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 5, 1971.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-16526 Filed 11-11-71;8:46 am]

[Airspace Docket No. 70-EA-73]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Area High Routes

On September 17, 1971, F.R. Doc. 71-13615 was published in the FEDERAL REGISTER (36 F.R. 18575) which amends Part 75 of the Fereral Aviation regulations, effective 0901 G.m.t., November 11, 1971, by adding area high route J810R between O'Hare Airport at Chicago, Ill., and La Guardia Airport at New York City. Due to route variations applied in terminal area departure handling, from flight to flight, it is more practical to begin J810R at the Kinderhook, Mich., waypoint. Therefore, action is taken herein to delete the O'Hare, Ill., waypoint and that portion of the J810R route to the succeeding waypoint.

Since this amendment is minor in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary, and good cause exists for making this amendment effective on less than 30 days' notice.

In consideration of the foregoing, effective upon publication in the FEDERAL REGISTER, F.R. Doc. 71-13615 (36 F.R. 18575) is amended as hereinafter set forth.

In J810R, delete waypoint "O'Hare, Ill.," and Lat. "41°58'58"," Long. "87°53'55" " and Reference Facility "Pullman, Mich."

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 5, 1971.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-16527 Filed 11-11-71;8:46 am]

[Reg. Docket No. 11477; Amdt. 95-213]

PART 95—IFR ALTITUDES

Miscellaneous Amendments

The purpose of this amendment to Part 95 of the Federal Aviation regulations is to make changes in the IFR altitudes at which all aircraft shall be flown over a specified route or portion thereof. These altitudes, when used in conjunction with the current changeover points for the routes or portions thereof, also assure navigational coverage that is adequate and free of frequency interference for that route or portion thereof.

As a situation exists which demands immediate action in the interest of safety, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 95 of the Federal Aviation regulations is amended, effective December 9, 1971, as follows:

1. By amending Subpart C as follows:

From, to, and MEA

Section 95.101 *Amber Federal airway 1* is amended to read in part:

McGrath, Alaska, LFR; Unalakleet, Alaska, LFR; *6,000. *5,800—MOCA.
Unalakleet, Alaska, LFR; Darby INT, Alaska; *3,000. *2,800—MOCA.

Section 95.115 *Amber Federal airway 15* is amended to read in part:

Sagwon, Alaska, LF/RBN; Deadhorse, Alaska, LF/RBN; 3,000.

Section 95.47 *Green Federal airway 7* is amended to read in part:

Nome, Alaska, LFR; Norton Bay, Alaska; LF/RBN; *5,000. *4,200—MOCA.
Norton Bay, Alaska, LF/RBN; Koyuk INT, Alaska; 4,000.
Birch INT, Alaska; Nenabank INT, Alaska; 4,100.
Nenabank INT, Alaska; Fairbanks, Alaska, LFR; 4,100.

Section 95.240; *Red Federal airway 40* is amended to read in part:

Skilak INT, Alaska; Anchorage, Alaska, LFR; 2,500.

Section 95.1001 *Direct routes—United States* is amended to delete:

Fort Lauderdale, Fla., VOR; New River INT, Fla.; *1,500. *1,400—MOCA.
Miami, Fla., VOR; Plantation, Fla., LF/RBN; *1,500. *1,400—MOCA.
Miami, Fla., VOR; Fort Lauderdale, Fla., VOR; 2,000.
Plantation, Fla., LF/RBN; New River INT, Fla.; *1,500. *1,400—MOCA.
Flaxman, Alaska, NDB; Barter Island, Alaska, NDB; *2,000. *1,200—MOCA.
Fort Yukon, Alaska, VOR; Flaxman Island, Alaska LF/RBN; [1] 12,000.
NDB; *2,000. *1,300—MOCA.

[1] MEA is established with a gap in navigation signal coverage.
Oliktok, Alaska, NDB; Flaxman, Alaska,

Section 95.1001 *Direct routes—United States* is amended by adding:

From, to, and MEA

Deadhorse, Alaska, LF/RBN; Barter Island, Alaska, LF/RBN; *2,000. *1,200—MOCA.

From/to; total distance; changeover point; distance, from, geographic location; track angle; MEA; and MAA

J803R is amended to read in part:
Mina, Nev., W/P, Bristol, Nev., W/P; 157.4; 30.0, Mina, 38°43'41" N., 117°25'42" W.; 54°/234° to COP, 57°/237° to Bristol; 18,000; 45,000.

J824R is added to read:
Jerseyville, Ill., W/P, Kappa, Ill., W/P; 124.3; 62.1, Jerseyville, 39°57'23" N., 89°36'51" W.; 028°/208° to COP, 027°/207° to Kappa; 18,000; 45,000.
Kappa, Ill., W/P, Joliet, Ill., VORTAC; 50.0; 00.0, Kappa, 40°50'22" N., 88°54'07" W.; 030°/210° to Joliet; 18,000; 45,000.
Joliet, Ill., VORTAC, Warren, Ill., W/P; 16.0; 006°/186° to Warren; 18,000; 45,000.

J832R is amended to read in part:
Calumet, Ky., W/P, Carlos, Ohio, W/P; 115.7; 57.8, Calumet, 39°03'04" N., 84°25'B" W.; 000°/180° to COP, 001°/181° to Carlos; 18,000; 45,000.
Carlos, Ohio, W/P, Milan, Mich., W/P; 125.4; 013°/193° to Milan; 18,000; 45,000.

Section 95.6006 *VOR Federal airway 6* is amended to read in part:

Wellman INT, Iowa; Iowa City, Iowa, VOR; *2,400. *1,900—MOCA.
Touhy INT, Nebr.; Yutan INT, Nebr.; *3,000. *2,800—MOCA.
Yutan INT, Nebr.; Richfield INT, Nebr.; 3,000.

Section 95.6008 *VOR Federal airway 8* is amended to read in part:

Touhy INT, Nebr.; Yutan INT, Nebr.; *3,000. *2,800—MOCA.
Yutan INT, Nebr.; Richfield INT, Nebr.; 3,000.
Wellman INT, Iowa; Iowa City, Iowa, VOR; *2,400. *1,900—MOCA.

Section 95.6012 *VOR Federal airway 12* is amended to read in part:

Zuni, N. Mex., VOR; *McCarty INT, N. Mex.; **11,000. *10,000—MCA McCarty INT, westbound. **10,700—MOCA.
McCarty INT, N. Mex.; *Albuquerque, N. Mex., VOR; 9,000. *10,700—MCA Albuquerque VOR, eastbound.
Zuni, N. Mex., VOR via S alter.; Acoma INT, N. Mex., via S alter.; *11,500. *10,800—MOCA.
Acoma INT, N. Mex., via S alter.; Lava INT, N. Mex., via S alter.; 9,000.
Lava INT, N. Mex., via S alter.; Albuquerque, N. Mex., VOR via S alter.; *9,000. *8,400—MOCA.

Section 95.6014 *VOR Federal airway 14* is amended to read in part:

Fallis INT, Okla.; Tulsa, Okla., VOR; *3,000. *2,500—MOCA.

Section 95.6015 *VOR Federal airway 15* is amended to read in part:

Humble, Tex., VOR, via E alter.; Whitehall INT, Tex., via E alter.; 1,700.
Whitehall INT, Tex., via E alter.; Navasota, Tex., VOR, via E alter.; *1,900. *1,600—MOCA.

Section 95.6018 *VOR Federal airway 18* is amended to read in part:

Hokes Bluff INT, Ala., via N alter.; Rome, Ga., VOR, via N alter.; 5,000.

Section 95.6020 *VOR Federal airway 20* is amended to read in part:

From, to, and MEA

Gibson INT, Ala., via N alter.; Felton INT, Ala., via N alter.; *6,000. *3,400—MOCA.
Felton INT, Ala., via N alter.; Gore INT, Ala. via N alter.; *5,000. *4,000—MOCA.
Gore INT, Ala., via N alter.; Rome, Ga., VOR, via N alter.; 5,000.
Palacios, Tex., VORTAC; Markham INT, Tex.; 1,500.
Markham INT, Tex.; Key INT, Tex.; *1,800. *1,400—MOCA.

Section 95.6021 *VOR Federal airway 21* is amended to read in part:

Salt Lake City, Utah, VOR; Ogden, Utah, VOR; 7,000.

Section 95.6033 *VOR Federal airway 33* is amended to read in part:

Greenpark INT, Pa.; Walnut INT, Pa.; *4,000. *3,700—MOCA.
Walnut INT, Pa.; Reedsville INT, Pa.; *4,000. *3,400—MOCA.
Reedsville INT, Pa.; Philipsburg, Pa., VOR; *4,000. *3,900—MOCA.

Section 95.6035 *VOR Federal airway 35* is amended to read in part:

Macon, Ga., VOR; Sinclair INT, Ga.; *2,500. *2,200—MOCA.
Sinclair INT, Ga.; Madison INT, Ga.; *2,500. *2,000—MOCA.
Madison INT, Ga.; Athens, Ga., VOR; *2,500. *2,300—MOCA.

Section 95.6036 *VOR Federal airway 36* is amended to read in part:

Lake Henry, Pa., VOR; Pecks Pond INT, Pa.; *4,000. *3,800—MOCA.

Section 95.6067 *VOR Federal airway 67* is amended to delete:

Waterloo, Iowa, VOR; *Shell Rock INT, Iowa; **2,600. *3,500—MRA. **2,300—MOCA.
Shell Rock INT, Iowa; *Aredale INT, Iowa; **2,800. *3,500—MRA. **2,300—MOCA.
Aredale INT, Iowa; Mason City, Iowa, VOR; *2,900. *2,500—MOCA.
Mason City, Iowa, VOR; Rochester, Minn., VOR; *3,000. *2,600—MOCA.
Mason City, Iowa, VOR via W alter.; Oakland INT, Minn., via W alter.; 3,000.
Oakland INT, Minn., via W alter.; Rochester, Minn., VOR via W alter.; *3,000. *2,700—MOCA.

Section 95.6067 *VOR Federal airway 67* is amended by adding:

Waterloo, Iowa, VOR; Waverly INT, Iowa; *2,600. *2,300—MOCA.
Waverly INT, Iowa; New Hampton INT, Iowa; *2,800. *2,300—MOCA.
New Hampton INT, Iowa; Rochester, Minn., VOR; *3,000. *2,700—MOCA.

Section 95.6077 *VOR Federal airway 77* is amended by adding:

Des Moines, Iowa, VOR; *Mitchellville INT, Iowa; 2,700. *4,000—MRA.
Mitchellville INT, Iowa; Newton, Iowa, VOR; 2,700.
Newton, Iowa, VOR; Dunbar INT, Iowa; *2,800. *2,300—MOCA.
Dunbar INT, Iowa; *Reinbeck INT, Iowa; **2,800. *2,700—MRA. **2,300—MOCA.
Reinbeck INT, Iowa; Waterloo, Iowa, VOR; *2,500. *2,300—MOCA.

See footnotes at end of document.

Section 95.6101 *VOR Federal airway 101* is amended to read in part:

From, to, and MEA

*Salt Lake City, Utah, VOR; Ogden, Utah, VOR; 7,000. *11,000—MCA Salt Lake City VOR, eastbound.

Section 95.6108 *VOR Federal airway 108* is amended to read in part:

Kettle INT, Colo.; Rush INT, Colo.; 9,000.
Rush INT, Colo.; Hugo, Colo., VOR; 9,000.
Hanover INT, Colo., via S alter.; Hugo, Colo., VOR via S alter.; 8,000.
Hugo, Colo., VOR; Goodland, Kans., VOR; *7,000. *8,200—MOCA.

Section 95.6120 *VOR Federal airway 120* is amended by adding:

Mason City, Iowa, VOR; *Aredale INT, Iowa; **2,900. *3,500—MRA. **2,500—MOCA.
Aredale INT, Iowa; *Shell Rock INT, Iowa; **2,800. *3,500—MRA. **2,300—MOCA.
Shell Rock INT, Iowa; Waterloo, Iowa, VOR; *2,600. *2,300—MOCA.

Section 95.6128 *VOR Federal airway 128* is amended to read in part:

Crown City INT, Ohio; Milton INT, W. Va.; 3,100.
Milton INT, W. Va.; Charleston, W. Va., VOR; 3,000.

Section 95.6153 *VOR Federal airway 153* is amended to read in part:

Stillwater, N.J., VOR; Pecks Pond INT, Pa.; *4,000. *3,100—MOCA.
Pecks Pond INT, Pa.; Lake Henry, Pa., VOR; *4,000. *3,800—MOCA.
Lake Henry, Pa., VOR; Hancock, N.Y., VOR; *4,400. *4,200—MOCA.

Section 95.6161 *VOR Federal airway 161* is amended to delete:

Des Moines, Iowa, VOR; *Mitchellville INT, Iowa; 2,700. *4,000—MRA.
Mitchellville INT, Iowa; Newton, Iowa, VOR; 2,700.
Newton, Iowa, VOR; Dunbar INT, Iowa; *2,800. *2,300—MOCA.
Dunbar INT, Iowa; *Reinbeck INT, Iowa; **2,800. *2,700—MRA. **2,400—MOCA.
Reinbeck INT, Iowa; Waterloo, Iowa, VOR; *2,500. *2,300—MOCA.
Waterloo, Iowa, VOR; Waverly INT, Iowa; *2,600. *2,300—MOCA.
Waverly INT, Iowa; New Hampton INT, Iowa; *2,800. *2,300—MOCA.
New Hampton INT, Iowa; Rochester, Minn., VOR; *3,000. *2,700—MOCA.

Section 95.6161 *VOR Federal airway 161* is amended by adding:

Des Moines, Iowa, VOR; Ankeny INT, Iowa; 2,500.
Ankeny INT, Iowa; Nevada INT, Iowa; 4,000.
Nevada INT, Iowa; Mason City, Iowa, VOR; *3,000. *2,500—MOCA.
Mason City, Iowa, VOR; Rochester, Minn., VOR; *3,000. *2,600—MOCA.
Mason City, Iowa, VOR via W alter.; Oakland INT, Minn., via W alter.; 3,000.
Oakland INT, Minn., via W alter.; Rochester, Minn., VOR via W alter.; *3,000. *2,700—MOCA.

Section 95.6169 *VOR Federal airway 169* is amended to read in part:

Tobe, Colo.; VOR; Hugo, Colo., VOR; *8,000. *7,700-MOCA.

Section 95.6184 *VOR Federal airway 184* is amended to read in part:

From, to, and MEA

Philipsburg, Pa., VOR; Reedsville INT, Pa.; *4,000. *3,900—MOCA.
Reedsville INT, Pa.; Walnut INT, Pa.; *4,000. *3,400—MOCA.
Walnut INT, Pa.; Greenpark INT, Pa.; *4,000. *3,700—MOCA.
Harrisburg, Pa., VOR; Delroy INT, Pa.; *3,000. *2,900—MOCA.
Paradise INT, Pa.; Modena, Pa., VOR; *2,500. *2,400—MOCA.

Section 95.6190 *VOR Federal airway 190* is amended to read in part:

St. Johns, Ariz., VOR; Acoma INT, N. Mex.; *11,500. *10,800—MOCA.
Acoma INT, N. Mex.; Lava INT, N. Mex.; 9,000.
Lava INT, N. Mex.; *Albuquerque, N. Mex., VOR; **9,000. *11,500—MCA Albuquerque VOR, northeastbound. **8,400—MOCA.
St. Johns, Ariz., VOR via S alter.; Stony INT, N. Mex., via S alter.; *12,000. *11,100—MOCA.
Stony INT, N. Mex., via S alter.; Albuquerque, N. Mex., VOR via S alter.; 9,000.

Section 95.6194 *VOR Federal airway 194* is amended to read in part:

McComb, Miss., VOR; Bay Spring INT, Miss.; *3,000. *2,700—MOCA.
Bay Spring INT, Miss.; *Rose Hill INT, Miss.; **3,000. *3,000—MRA and MCA Rose Hill INT, southwestbound. **2,000—MOCA.

Section 95.6205 *VOR Federal airway 205* is amended to read in part:

Meadow INT, Conn.; *Leroy INT, Mass.; **6,500. *4,500—MRA. **2,300—MOCA.

Section 95.6244 *VOR Federal airway 244* is amended to read in part:

Tonopah, Nev., VOR; Wilson Creek, Nev., VOR; 12,200.

Section 95.6263 *VOR Federal airway 263* is amended to read in part:

Lamar, Colo., VOR; Hugo, Colo., VOR; *6,900. *6,200—MOCA.
Hugo, Colo., VOR; Byers INT, Colo.; *9,000. *8,000—MOCA.
Byers INT, Colo.; Gill, Colo., VOR; *9,000. *8,000—MOCA.

Section 95.6264 *VOR Federal airway 264* is amended to read in part:

St. John, Ariz., VOR; *Socorro, N. Mex., VOR; **12,000. *10,000—MCA Socorro VOR, westbound. **11,100—MOCA.

Section 95.6265 *VOR Federal airway 265* is amended to read in part:

Greenpark INT, Pa.; Walnut INT, Pa.; *4,000. *3,700—MOCA.
Walnut INT, Pa.; Reedsville INT, Pa.; *4,000. *3,400—MOCA.
Reedsville INT, Pa.; Philipsburg, Pa., VOR; *4,000. *3,900—MOCA.

Section 95.6289 *VOR Federal airway 289* is amended to read in part:

Lufkin, Tex., VOR; Pinehill INT, Tex.; *2,400. *2,000—MOCA.
Pinehill INT, Tex.; Gregg Co., Tex., VOR; *2,000. *1,800—MOCA.

Section 95.6291 *VOR Federal airway 291* is amended to read in part:

Winslow, Ariz., VOR; Flagstaff, Ariz., VOR; *10,500. *9,300—MOCA.

From, to, and MEA

Winslow, Ariz., VOR via N alter.; *Frisco INT, Ariz., via N alter.; **9,000. *10,500—MCA Frisco INT, westbound. **8,600—MOCA.
Frisco INT, Ariz., via N alter.; *Flagstaff, Ariz., VOR via N alter.; 11,500. *11,000—MCA Flagstaff VOR, northeastbound.

Section 95.6237 *VOR Federal airway 327* is amended to read in part:

Oak Creek INT, Ariz.; Flagstaff, Ariz., VOR; *10,500. *10,000—MOCA.

Section 95.6345 *VOR Federal airway 345* is amended to read in part:

Williston INT, Wis.; Augusta INT, Wis.; *3,500. *3,300—MOCA.
Augusta INT, Wis.; Eau Claire, Wis., VOR; 2,800.

Section 95.6430 *VOR Federal airway 430* is amended to read in part:

Thief River Falls, Minn., VOR via N alter.; Bemidji, Minn., VOR via N alter.; *3,000. *2,700—MOCA.

Section 95.6438 *VOR Federal airway 438* is amended to read in part:

Kodiak, Alaska, VOR; Shuyak DME Fix, Alaska; 4,000.
Shuyak DME Fix, Alaska; Homer, Alaska, VOR; *6,000. *5,900—MOCA.
Kodiak, Alaska, VOR via W alter.; Barren DME Fix, Alaska, via W alter.; *6,000. *4,200—MOCA.
Barren DME Fix, Alaska, via W alter.; Homer, Alaska, VOR via W alter.; *10,000. *5,900—MOCA.
Homer, Alaska, VOR; Skilak INT, Alaska; *5,000. *4,900—MOCA.
Skilak INT, Alaska; Naptowne INT, Alaska; *2,500. *2,300—MOCA.
Naptowne INT, Alaska; Anchorage, Alaska, VOR; *2,000. *1,400—MOCA.
Anchorage, Alaska, VOR; *Big Lake, Alaska, VOR; **2,000. *4,700—MCA Big Lake VOR, northbound. **1,300—MOCA.
Cantwell INT, Alaska; Liberty INT, Alaska; *10,000. *8,700—MOCA.
Liberty INT, Alaska; *Gold INT, Alaska; **7,500. *4,800—MCA Gold INT, southbound. **6,800—MOCA.
Gold INT, Alaska; Fairbanks, Alaska, VOR; 2,500.
Fairbanks, Alaska, VOR; *Chatanika DME Fix, Alaska; **7,500. *7,000—MRA. **5,000—MOCA.
Chatanika DME Fix, Alaska; Fort Yukon DME Fix, Alaska, 183 rad/25NM, *8,000. *7,200—MOCA.
Fort Yukon DME Fix, Alaska, 183 rad/25NM; Fort Yukon, Alaska, VOR; 2,200.
Fairbanks, Alaska, VOR via W alter.; Fort Yukon DME Fix, Alaska, 198 rad/25NM via W alter.; *7,000. *6,800—MOCA.
Fort Yukon DME Fix, Alaska, 198 rad/25NM via W alter.; Fort Yukon, Alaska, VOR via W alter.; 2,200.
Fairbanks, Alaska, VOR via E alter.; Fort Yukon DME Fix, Alaska, 168 rad/25NM via E alter.; *8,000. *7,300—MOCA.
Fort Yukon DME Fix, Alaska, 168 rad/25NM via E alter.; Fort Yukon, Alaska, VOR via E alter.; 2,200.

Section 95.6440 *VOR Federal airway 440* is amended to read in part:

McGrath, Alaska, VOR; Ganes Creek DME Fix, Alaska; 6,000.
Ganes Creek DME Fix, Alaska; Yukon INT, Alaska; *8,000. *6,000—MOCA.
Yukon INT, Alaska; Unalakleet, Alaska, VOR; 4,500.
Unalakleet, Alaska, VOR; Nome, Alaska, VOR; 3,000.

See footnotes at end of document.

Section 95.6444 *VOR Federal airway 444* is amended to read in part:

From, to, and MEA

Northway, Alaska, VOR; Big Delta, Alaska, VOR; *8,000. *6,800—MOCA.
Livengood INT, Alaska; *Circle DME Fix, Alaska; **9,000. *4,400—MCA Circle DME Fix, southeastbound. **5,200—MOCA.
Circle DME Fix, Alaska; Bettles, Alaska, VOR; 3,500.
Tolovana INT, Alaska, via S alter.; Rampart INT, Alaska, via S alter.; *7,000. *6,600—MOCA.
Rampart INT, Alaska, via S alter.; *Kanuti DME Fix, Alaska, via S alter.; **7,000. *4,400—MCA Kanuti DME Fix, southeastbound. **6,400—MOCA.
Kanuti DME Fix, Alaska, via S alter.; Bettles, Alaska, VOR; via S alter.; *3,500. *3,200—MOCA.

Section 95.6449 *VOR Federal airway 449* is amended to read in part:

Oak Hill INT, N.Y.; Albany, N.Y., VOR; *4,400. *3,700—MOCA.

Section 95.6452 *VOR Federal airway 452* is amended to delete:

Nome, Alaska, VOR, via N alter.; Moses Point, Alaska, VOR, via N alter.; *6,000. *4,200—MOCA.

Section 95.6454 *VOR Federal airway 454* is amended to read in part:

Sinclair INT, Ga.; Madison INT, Ga.; *2,500. *2,000—MOCA.

Section 95.6455 *VOR Federal airway 455* is amended to read in part:

Hattiesburg, Miss., VOR, via W alter.; Bay Spring INT, Miss., via W alter.; *3,000. *2,700—MOCA.
Bay Spring INT, Miss., via W alter. *3,000—MRA and MCA Rose Hill INT, southwestbound. **2,000—MOCA.

Section 95.6474 *VOR Federal airway 474* is amended to read in part:

Paradise INT, Pa.; Modena, Pa., VOR; *2,500. *2,400—MOCA.

Section 95.6484 *VOR Federal airway 484* is amended to read in part:

Grand Junction, Colo., VOR; Gunnison, Colo., VOR; *14,000. *13,500—MOCA.

Section 95.6504 *VOR Federal airway 504* is amended to read in part:

Rampart INT, Alaska; *Kanuti DME Fix, Alaska; **7,000. *4,400—MCA Kanuti DME Fix, southeastbound. **6,400—MOCA.
Kanuti DME Fix, Alaska; Bettles, Alaska, VOR; *3,500. *3,200—MOCA.

From, to, MEA, and MAA

Section 95.7086 *Jet Route No. 86* is amended to read in part:

Winslow, Ariz., VORTAC; El Paso, Tex., VOTAC; [1] 25,000; 45,000.

Section 95.7123 *Jet Route No. 123* is amended to read in part:

Marble DME Fix, Alaska; Kodiak, Alaska, VORTAC; 18,000; 45,000.
Kodiak, Alaska, VORTAC; King Salmon, Alaska, VORTAC; 18,000; 45,000.

Section 95.7125 *Jet Route No. 125* is amended to read in part:

Kodiak, Alaska, VORTAC; Anchorage, Alaska, VORTAC; 18,000; 45,000.

[1] MEA is established with a gap in navigation signal coverage.

2. By amending Subpart D as follows:

From; to—Changeover point: Distance from

Section 95.8003 *VOR Federal airway changeover points:*

V–15 is amended to read in part:
Humble, Tex., VOR via E alter.; Navasota, Tex., VOR via E alter.; 30; Humble.
V–222 is amended by adding:
Humble, Tex., VOR via N alter.; Daisetta, Tex., VOR via N alter.; 30; Humble.

Section 95.8005 *Jet routes changeover points:*

J–125 is amended to read in part:
Kodiak, Alaska, VORTAC; Anchorage, Alaska, VORTAC; 120; Anchorage.

(Sec. 307 and 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348, 1510)

Issued in Washington, D.C., on November 1, 1971.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[FR Doc.71–16329 Filed 11–11–71;8:45 am]

[Docket No. 11481; Amdt. 782]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAP's) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAP's for the changes and additions covered by this amendment are described in FAA Form 3139, 8260–3, 8260–4, 8260–5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97–696 (35 F.R. 5609).

SIAP's are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Copies of SIAP's adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAP's may be purchased from the FAA Public Document Inspection Facility, HQ–405, 800 Independence Avenue SW., Washington, DC 20590, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $125 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Since a situation exists that requires immediate adoption of this amendment,

I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by establishing, revising, or canceling the following VOR–VOR/DME SIAP's, effective December 9, 1971.

Anniston, Ala.—Anniston-Calhoun County Airport; VOR–A, Amdt. 3; Revised.
Baudette, Minn.—Baudette International Airport; VOR Runway 30, Amdt. 2; Revised.
Big Lake, Alaska—Big Lake No. 2 Airport; VOR Runway 6, Amdt. 2; Revised.
Burlington, Wis.—Burlington Municipal Airport; VOR Runway 29, Original; Established.
Centerville, Tenn.—Centerville Municipal Airport; VOR Runway 2, Amdt. 1; Revised.
Chicago, Ill.—Chicago-Hammond Airport; VOR–A, Amdt. 1, Revised.
Clarksburg, W. Va.—Benedum Airport; VOR Runway 3, Amdt. 6; Revised.
Duluth, Minn.—Duluth International Airport; VOR Runway 3, Amdt. 9; Revised.
Elkhart, Ind.—Elkhart Municipal Airport; VOR Runway 27, Amdt. 4; Revised.
Emporia, Kans.—Emporia Municipal Airport; VOR–A, Amdt. 7; Revised.
Flint, Mich.—Bishop Airport; VOR Runway 27L, Amdt. 7; Revised.
Fort Wayne, Ind.—Smith Field; VOR Runway 13, Amdt. 2; Revised.
Fort Worth, Tex.—Greater Southwest International Dallas-Fort Worth Field; VOR Runway 13, Amdt. 12; Revised.
Fort Yukon, Alaska—Fort Yukon Municipal Airport; VOR Runway 3, Amdt. 3; Canceled.
Fort Yukon, Alaska—Fort Yukon Municipal Airport; VOR Runway 21, Amdt. 3; Canceled.
Harlingen, Tex.—Harlingen Industrial Airpark; VOR Runway 13, Amdt. 1; Revised.
Indianapolis, Ind.—Indianapolis Metropolitan Airport; VOR Runway 32, Original; Established.
Koloa, Kauai, Hawaii—Poipu Airport; VOR Runway 8, Amdt. 1; Canceled.
Manning, S.C.—Clarendon County Airport; VOR–A, Amdt. 2; Revised.
Monroe, N.C.—Monroe Airport; VOR–A, Amdt. 1; Revised.
New York, N.Y.—John F. Kennedy International Airport; VOR Runway 13L/R, Amdt. 9; Revised.
Niles, Mich.—Jerry Tyler Memorial Airport; VOR Runway 3, Amdt. 1; Revised.
O'Neill, Nebr.—O'Neill Municipal Airport; VOR Runway 13, Amdt. 1; Revised.
Reed City, Mich.—Miller Field; VOR Runway 17, Amdt. 3; Revised.
Rockford, Ill.—Greater Rockford Airport; VOR Runway 12, Amdt. 10; Revised.
Roseau, Minn.—Roseau Municipal Airport; VOR Runway 16, Original; Established.
Roseau, Minn.—Roseau Municipal Airport; VOR Runway 34, Original; Established.
Roswell, N. Mex.—Roswell Industrial Air Center; VOR–A, Original; Established.
Roswell, N. Mex.—Roswell Industrial Air Center; VOR Runway 12, Original; Canceled.
St. Louis, Mo.—Spirit of St. Louis Airport; VOR–A, Amdt. 3; Revised.
Sioux City, Iowa—Sioux City Municipal Airport; VOR Runway 31, Original; Established.
Talladega, Ala.—Talladega Municipal Airport; VOR–A, Amdt. 4; Revised.
Traverse City, Mich.—Cherry Capital Airport; VOR–A, Amdt. 8; Revised.
Urbana, Ill.—Illini Airport; VOR–A, Amdt. 4; Revised.
Duluth, Minn.—Duluth International Airport; VOR/DME Runway 21, Amdt. 4; Revised.
Fort Yukon, Alaska—Fort Yukon Municipal Airport; VORTAC Runway 3, Original; Established.
Fort Yukon, Alaska—Fort Yukon Municipal Airport; VORTAC Runway 21, Original; Established.
Hilo, Hawaii—General Lyman Field; VOR TAC–A, Original; Established.
Hilo, Hawaii—General Lyman Field; VOR/DME–A, Amdt. 4; Canceled.
Manning, S.C.—Clarendon County Airport; VOR/DME–A, Original; Established.
Monroe, N.C.—Monroe Airport; VOR/DME–A, Original; Established.
New Madrid, Mo.—County Memorial Airport; VOR/DME–A, Original; Established.
Port Lavaca, Tex.—Calhoun County Airport; VOR/DME Runway 23, Original; Established.
St. Louis, Mo.—Spirit of St. Louis Airport; VOR/DME Runway 7, Amdt. 4; Revised.
Sioux City, Iowa—Sioux City Municipal Airport; VORTAC Runway 13, Amdt. 8; Revised.
Sioux City, Iowa—Sioux City Municipal Airport; VORTAC Runway 31, Amdt. 17; Revised.
Talladega, Ala.—Talladega Municipal Airport; VOR/DME Runway 3, Amdt. 2; Revised.

2. Section 97.25 is amended by establishing, revising, or canceling the following SDF–LOC–LDA SIAP's, effective December 9, 1971.

Anniston, Ala.—Anniston-Calhoun Airport; LOC Runway 5, Amdt. 3; Revised.
Duluth, Minn.—Duluth International Airport; LOC (BC) Runway 27, Amdt. 5; Revised.
Flint, Mich.—Bishop Airport; LOC (BC) Runway 27L, Amdt. 5; Revised.
Grand Rapids, Mich.—Kent County Airport; LOC (BC) Runway 8, Amdt. 7; Revised.
Rockford, Ill.—Greater Rockford Airport; LOC (BC) Runway 18, Amdt. 5; Revised.
Sioux City, Iowa—Sioux City Municipal Airport; LOC (BC) Runway 13, Amdt. 12; Revised.
Washington, D.C.—Dulles International Airport; LOC (BC) Runway 1L, Amdt. 1; Revised.
Norfolk, Va.—Norfolk Regional Airport; LOC/DME (BC) Runway 22, Amdt. 1; Canceled.

3. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's, effective December 9, 1971.

Anniston, Ala.—Anniston-Calhoun County Airport; NDB Runway 5, Amdt. 8; Revised.
Columbus, Ga.—Columbus Metropolitan Airport; NDB Runway 5, Amdt. 19; Revised.
Columbus, Ind.—Columbus Municipal Airport; NDB Runway 5, Amdt. 1; Canceled.
Duluth, Minn.—Duluth International Airport; NDB Runway 9, Amdt. 12; Revised.
Elkhart, Ind.—Elkhart Municipal Airport; NDB Runway 9, Amdt. 4; Revised.
Flint, Mich.—Bishop Airport; NDB Runway 9R, Amdt. 12; Revised.
Fort Worth, Tex.—Greater Southwest International Dallas-Fort Worth Field; NDB Runway 13, Amdt. 17; Revised.
Fort Yukon, Alaska—Fort Yukon Municipal Airport; NDB Runway 21, Amdt. 3; Revised.
Franklin, Pa.—Chess-Lamberton Airport; NDB Runway 29, Amdt. 6; Revised.
Freeport, Ill.—The Albertus Airport; NDB Runway 24, Amdt. 3; Revised.
Harlingen, Tex.—Harlingen Industrial Airpark; NDB Runway 17R, Amdt. 1; Revised.
Oxford, Ohio—Miami, University Airport; NDB Runway 4, Amdt. 2; Revised.
Port Huron, Mich.—St. Clair County Airport; NDB–A, Amdt. 2; Revised.
Port Huron, Mich.—St. Clair County Airport; NDB Runway 4, Amdt. 2; Revised.
Reed City, Mich.—Miller Field; NDB Runway 17, Amdt. 5; Canceled.
Rockford, Ill.—Greater Rockford Airport; NDB Runway 36, Amdt. 11; Revised.
St. Louis, Mo.—Spirit of St. Louis Airport; NDB Runway 7, Amdt. 1; Revised.
Salem, Ill.—Salem-Leckrone Airport; NDB Runway 18, Amdt. 1; Revised.
Salem, Ill.—Salem-Leckrone Airport; NDB (ADF) Runway 18, Original; Canceled.
Washington, D.C.—Dulles International Airport; NDB Runway 1R, Amdt. 8; Revised.

4. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's, effective December 9, 1971.

Albuquerque, N. Mex.—Albuquerque International Airport; ILS Runway 35, Amdt. 29; Revised.
Columbus, Ga.—Columbus Metropolitan Airport; ILS Runway 5, Amdt. 14; Revised.
Duluth, Minn.—Duluth International Airport; ILS Runway 9, Amdt. 6; Revised.
Flint, Mich.—Bishop Airport; ILS Runway 9R, Amdt. 4; Revised.
Fort Worth, Tex.—Greater Southwest International Dallas-Fort Worth Field; ILS Runway 13, Amdt. 17; Revised.
Norfolk, Va.—Norfolk Regional Airport; ILS Runway 4, Amdt. 13; Revised.
New York, N.Y.—John F. Kennedy International Airport; ILS Runway 4R, Amdt. 18; Revised.
Rockford, Ill.—Greater Rockford Airport; ILS Runway 36, Amdt. 14; Revised.
St. Louis, Mo.—Spirit of St. Louis Airport; ILS Runway 7, Amdt. 1; Revised.
Wake Island—Wake Island Airport; ILS/DME Runway 10, Amdt. 9; Revised.

5. Section 97.31 is amended by establishing, revising, or canceling the following Radar SIAP's effective December 9, 1971.

Duluth, Minn.—Duluth International Airport; Radar–1, Amdt. 6; Revised

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510, sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c) and 5 U.S.C. 552(a)(1))

Issued in Washington, D.C. on November 3, 1971.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 F.R. 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.71-16449 Filed 11-11-71;8:45 am]

Title 24—HOUSING AND HOUSING CREDIT

Chapter II—Federal Housing Administration, Department of Housing and Urban Development

SUBCHAPTER Q–1—MORTGAGE INSURANCE FOR HOSPITALS

[Docket No. R–71–127]

PART 242—HOSPITALS

Subpart A—Eligibility Requirements

INCLUSION OF PROPRIETARY HOSPITALS

Notice of a proposal to amend the regulations for Part 242 governing mortgage insurance for nonprofit hospitals to include proprietary hospitals was published at 36 F.R. 13158 (July 15, 1971).

Interested persons were given the opportunity to participate in the rule making through submission of written comments or suggestions on or before August 17, 1971. Two comments were received. The first comment suggested that the terms "profit mortgagor" and "nonprofit mortgagor" be changed to "subsidized or nontax paying mortgagor" and "nonsubsidized or tax paying mortgagor," respectively. This suggestion has not been adopted since Part 242 does not provide for a distinction between profit and nonprofit mortgagor on the basis of payment of taxes or receiving a subsidy.

The National League Program on Health Problems of the Poor and the National Tenant Organization joined in the second comment. Their first suggestion expressed concern that proprietary hospitals would not be responsive to community needs, and would not be approved and regulated in the same manner as the Department of Health, Education, and Welfare approves and regulates Hill-Burton hospitals. This suggestion has not been accepted since HUD operates the hospital mortgage insurance program in conjunction with the Department of Health, Education, and Welfare by memorandum of agreement between the Departments. Project approval and processing are two of the several items which are the responsibility of HEW.

Their second suggestion was to preclude participation in the program by a proprietary hospital where physicians practicing in the service area of the facility have a financial interest in the hospital. This suggestion has not been adopted since neither the statute nor the legislative history indicates that it was intended that physicians were to be excluded from participating as an investor in the mortgagor. Further, questions of conflict of interest are more properly the function of the professional society or organization which regulates the conduct and ethics of the members of the profession.

After consideration of all such relevant matter, the amendment as proposed is hereby adopted without change and is set forth below.

I hereby find that it is in the public interest to make the benefits of these regulations available to the public at the earliest possible date. Therefore, these regulations shall be effective upon publication in the FEDERAL REGISTER (11–12–71).

EUGENE A. GULLEDGE,
Federal Housing Commissioner.

The principal revisions are as follows:

The title of the subchapter, "Subchapter Q–1—Mortgage insurance for Nonprofit Hospitals", is changed to "Subchapter Q–1—Mortgage Insurance for Hospitals".

The title of the part, "Part 242—Nonprofit Hospitals", is changed to "Part 242—Hospitals".

Subpart A, "Eligibility Requirements", is being revised as follows:

In § 242.1(b)(3), the definition of "Hospital" is revised to include a proprietary facility.

Section 242.23 is amended to add a profit mortgagor as a mortgagor eligible for mortgage insurance.

Section 242.51 is revised to provide separate procedures with respect to prepayment privilege and prepayment charges for profit mortgagors, under paragraph (a), and nonprofit mortgagors, under paragraph (b). Paragraph (b)(1) permits, with the prior written approval of the Commissioner, partial prepayments by nonprofit mortgagors for the purpose of reducing succeeding monthly payments of the remaining balance as recast over the remaining portion of the original mortgage term, and paragraph (b)(2)(iii) provides that no prepayment charge shall be made where the prepayment is made from the proceeds of a Federal grant.

Section 242.51(c), regarding late charges, is redesignated as § 242.52.

Section 242.57(b) is revised to provide separate procedures with respect to the use of a letter of credit in lieu of certain cash deposits for profit mortgagors, under subparagraph (1), and nonprofit mortgagors, under subparagraph (2).

Section 242.67(b), relating to waiver of compliance with certain labor standards in the case of donated services, has been amended to limit its applicability to private nonprofit hospitals.

Subpart B, "Contract Rights and Obligations", is revised as follows:

Section 242.251, regarding incorporation by reference, is amended to delete the word "nonprofit".

Section 242.260 is amended to delete the word "nonprofit" in order to make the insurance benefits applicable to all hospitals.

The amendments to Part 242 are set out in full below:

Sec.
242.51 Prepayment privilege and prepayment charges.
242.52 Late charge.

§ 242.1 Definitions.

* * * * *

(b) "Hospital" means a facility—

* * * * *

(3) Which is a proprietary facility, or facility of a private nonprofit corporation or association, licensed or regulated by the State (or, if there is no State law providing for such licensing or regulation by the State, by the municipality or other political subdivision in which the facility is located).

* * * * *

§ 242.23 Eligible mortgagors.

The mortgagor shall be either a private nonprofit corporation or association or a profit mortgagor, shall be approved by the Commissioner, and shall possess the powers necessary and incidental to operating a hospital.

§ 242.51 Prepayment privilege and prepayment charges.

(a) *Profit mortgagors.* In the case of a profit mortgagor, the following provisions shall be applicable:

(1) *Prepayment privilege.* The mortgage shall contain a provision permitting the mortgagor to prepay the mortgage in whole or in part upon any interest payment date after giving the mortgagee 30 days' notice in writing in advance of its intention to so prepay.

(2) *Prepayment charge.* The mortgage may contain a provision for such charge, in the event of prepayment of principal, as may be agreed upon between the mortgagor and the mortgagee subject to the following:

(i) The mortgagor shall be permitted to prepay up to 15 percent of the original principal amount of the mortgage in any 1 calendar year without any such charge.

(ii) Any reduction in the original principal amount of the mortgage which the Commissioner may require pursuant to § 242.29(c) shall not be construed as a prepayment of the mortgage.

(iii) No charge shall be made where the prepayment is made from the proceeds of a Federal grant.

§ 242.52 Late charge.

The mortgage may provide for the collection by the mortgagee of a late charge, not to exceed 2 cents for each dollar of each payment to interest or principal more than 15 days in arrears, to cover the expense involved in handling delinquent payments. Late charges shall be separately charged to and collected from the mortgagor and shall not be deducted from any aggregate monthly payment.

§ 242.57 Funds and finances—insured advances—general requirements.

* * * * *

(b) *Letter of credit*—(1) *Profit mortgagors.* In the case of a profit mortgagor, the mortgagee may accept a letter of credit in lieu of the cash deposit required by paragraph (a)(2) of this section.

(2) *Nonprofit mortgagors.* In the case of a nonprofit mortgagor, the mortgagee may accept a letter of credit in lieu of the

cash deposit required by paragraphs (a) (1) and (2) of this section. If a letter of credit is accepted in lieu of the cash deposit required by paragraph (a) (1) of this section, the mortgage proceeds may be advanced prior to any demand being made on the letter of credit.

§ 242.67 Labor standards.

* * * * *

(b) *Waiver of compliance with contract requirements—nonprofit mortgagors.* In the case of a nonprofit mortgagor, the Commissioner may waive the requirement for compliance with the contract provisions prescribed in paragraph (a) of this section in cases or classes of cases where laborers or mechanics, not otherwise employed at any time in the construction or rehabilitation of the hospital, voluntarily donate their services without compensation for the purpose of lowering the costs of construction and where the Commissioner determines that full credit has been received by the mortgagor for any amounts saved through such donated services.

§ 242.251 Incorporation by reference.

All of the provisions of Subpart B, Part 207 of this chapter covering mortgages insured under section 207 of the National Housing Act apply to mortgages on hospitals insured under section 242 of the National Housing Act, except the following: Section 207.259 *Insurance benefits.*

§ 242.260 Insurance benefits.

All of the provisions of § 207.259 of this chapter relating to insurance benefits apply to mortgages on hospitals insured under this subpart, except that in a case where the mortgage involves the financing or refinancing of an existing hospital pursuant to § 242.93 and the commitment for insuring such mortgage is issued on or after April 1, 1969, the insurance claim shall be paid in cash unless the mortgagee files a written request for payment in debentures. If such a request is made, the claim shall be paid in debentures issued in multiples of $50, with any balance less than $50 to be paid in cash.

[FR Doc.71-16534 Filed 11-11-71;8:47 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 5A—Federal Supply Service, General Services Administration

PART 5A-1—GENERAL

Delegations of Authority and Selection and Appointment of Contracting Officers' Representatives

The table of contents for Part 5A-1 is amended to add the following entries:

Sec.
5A-1.402 Authority of contracting officers.
5A-1.404-70 Selection and appointment of contracting officers' representatives.

Subpart 5A-1.4—Procurement Responsibility and Authority

1. Section 5A-1.402 is added as follows:

§ 5A-1.402 Authority of contracting officers.

Delegations of authority to Federal Supply Service contracting officers are contained in the GSA Delegations of Authority Manual, Chap. 7 (ADM P 5450.39).

2. Section 5A-1.404-70 is added as follows:

§ 5A-1.404-70 Selection and appointment of contracting officers' representatives.

(a) *Designation.* A contracting officer may designate any Government employee who is appropriately qualified to act as his authorized representative. A contracting officer's representative may be designated by name and position title, or such designation may be by position title only, so long as the designation is unambiguous and understandable to all concerned. Each designation shall be in writing and shall define the scope and limitations of the authorized representative's authority. Designation of contracting officer's representative will remain in effect throughout the life of the contract unless (1) sooner revoked by the contracting officer, or (2) revoked by transfer of a contracting officer's representative who has been designated by name and position title. The authority of an individual designated as a representative by position title only is terminated upon his transfer from that position. Copies of designations of contracting officer's representatives shall be placed in appropriate contract files. A copy of each designation and any change or termination thereof shall be furnished promptly to each contractor concerned, except under the following circumstances. Nothing in this section will be construed to require designation as a contracting officer's representative of each individual of an activity responsible for accomplishment of broad functions of contract administration (e.g., engineering evaluation, testing, quality control, inspection). (Also see § 5A-53.472 of this chapter.)

(b) *Authority.* A contracting officer's representative may, if so designated, represent the contracting officer with respect to one or more contracts and may, to the extent not specifically prohibited by the terms of the contract concerned, be authorized to take any or all action thereunder which could be lawfully taken by the contracting officer, except that in no event shall an authorized representative, by virtue only of his designation as such, be empowered to execute or agree to any contract or modification thereof. However, the contracting officer may empower his authorized representatives to issue change orders under the Changes clause, provided such change orders do not involve a change in unit price, total contract price, quantity, quality, or delivery schedule. Change orders issued by authorized representatives shall contain the following statement: "In accepting this change order the contractor agrees that the price and all other terms and conditions of the contract remain unchanged." The contractor shall also be instructed not to proceed under the change order until he has executed (as accepted) the quoted statement and returned it to the authorized representative.

(c) *Personnel assigned to a procurement office.* A person assigned to and performing his primary duty within a procurement office, and who is under the supervision of a contracting officer, does not require designation as a representative nor designation in a contractual document to perform his assigned duties. Such a person is considered to be a subordinate of the contracting officer, acting in his behalf and as such has the inherent authority to perform acts as assigned by the contracting officer. The contracting officer cannot authorize subordinates who are not formally designated contracting officers (§ 5A-1.404) to sign any contractual document or letter where the signature of a contracting officer is required.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); and 41 CFR 5-1.101(c))

Effective date. These regulations are effective November 3, 1971.

Dated: November 3, 1971.

L. E. SPANGLER,
Acting Commissioner,
Federal Supply Service.

[FR Doc.71-16570 Filed 11-11-71;8:50 am]

Chapter 8—Veterans Administration

PART 8-2—PROCUREMENT BY FORMAL ADVERTISING

PART 8-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Miscellaneous Amendments

Chapter 8 is amended as follows:

1. Section 8-2.202-50 is added to read as follows:

§ 8-2.202-50 Acknowledgement of receipt of amendments to invitations for bids.

Each invitation for bids for supplies, equipment or services shall contain on the face of the bid the following notice:

If it is necessary to amend this invitation, amendments forwarded by mail will be forwarded by certified mail, return receipt requested. The signature of an employee of the bidder authorized to sign bids on the return receipt for such amendment will be the acknowledgement of receipt of the amendment. Amendments may also be forwarded by telegram or other means. The bidder shall acknowledge such amendment(s) as provided for elsewhere in the invitation.

2. Section 8-4.5003-4 is added to read as follows:

§ 8-4.5003-4 Application of 6 percent architect-engineer fee limitation.

(a) The 6 percent fee limitation on architect-engineer services set forth in section 304(b) of the Federal Property and Administrative Services Act of 1949, as amended, applies to those services generally required in preparing the working drawings and specifications which form the basis for bidding and for the award of construction contract. The fixed fee limitation will not include the following services:

(1) Investigative services including but not limited to:

(i) Determination of program requirements including schematic or preliminary plans and estimates.

(ii) Determination of feasibility of proposed project.

(iii) Preparation of measured drawings of existing facility.

(iv) Subsurface investigation.

(v) Structural, electrical, and mechanical investigation of existing facility.

(vi) Surveys: Topographic, boundary, utilities, etc.

(2) Special consultant services not normally available in organizations of architects or architect-engineers not specifically applied to the actual preparation of working drawings or specifications of the project for which the services are required.

(3) Other:

(i) Reproduction of approved designs through models, color renderings, photographs, or other presentation media.

(ii) Travel and per diem allowances other than those required for the development and review of working drawings and specifications.

(iii) Supervision or inspection of construction, review of shop drawings or samples and other services performed during the construction phase.

(iv) All other services that are not integrally a part of the production and delivery of plans, designs, and specifications.

(4) The cost of reproducing drawings and specifications for bidding and their distribution to prospective bidders and plan file rooms.

(b) The total cost of the architect-engineer services contracted for may not exceed 6 percent of the estimated cost of the construction project plus the estimated cost of related services and activities such as those shown in paragraph (a) of this section. To support project submissions, VA Form 10-6031, Application for Construction Project and Initial Equipment, or VA Form 10-1193, Minor Improvement, Building Service Equipment Replacement, and Nonrecurring Maintenance and Repair Proposal, and VA Form 08-6238, Construction Cost Estimate, will be used and the applicable proposed technical services shown in detail.

(c) The policy set forth in this section will allow more latitude in the negotiation of architect-engineer services; it does not, however, relieve the contracting officer of his responsibility to determine that the fee negotiated is consistent with the services to be performed and the nature of the project. In negotiating such contracts and modifications thereto, the contracting officer will utilize all technical, fiscal, and engineering services available to him. The architect-engineer contract ordinarily will cover all services to be rendered by the contractor. To assure that the intent of the statute is not violated, the contracting officer will maintain suitable records to be able to isolate the amount in the total fee which applies only to the development of plans and specifications to which the 6 percent applies.

(Sec. 205(c), 63 Stat. 389, as amended, 40 U.S.C. 486(c); sec. 210(c), 72 Stat. 1114, 38 U.S.C. 210(c))

These regulations are effective December 10, 1971.

Approved: November 8, 1971.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[FR Doc.71-16555 Filed 11-11-71;8:48 am]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

[Circular No. 2316]

PART 2780—SPECIAL AREAS

Subpart 2785—Sales of Unintentional Trespass Lands

The purpose of this amendment is to delete from the regulations those that implemented the Act of September 26, 1968 (43 U.S.C. 1431-35). This act authorized the sale of certain land that was affected by unintentional trespass on or before September 26, 1968. The Act expired on September 26, 1971. Subpart 2785 is being deleted in its entirety. The regulations contained therein will be applied to sales initiated under the regulations prior to September 26, 1971, and which, in accordance with section 5 of the Act, may still be completed. No other substantive changes are intended.

It is the policy of the Department of the Interior to give notice of proposed rule making and to invite the public to participate in rule making except where such participation would be impracticable, unnecessary, or contrary to the public interest and a specific finding to this effect is published with the rules or regulations (36 F.R. 8336, May 4, 1971). Public participation is unnecessary in this case since the amendment simply removes provisions from the regulations, the legal effect of which has expired by operation of law.

Subpart 2785 of Chapter II, Title 43 of the Code of Federal Regulations is deleted in its entirety.

Effective date: November 12, 1971.

HARRISON LOESCH,
Assistant Secretary
of the Interior.

NOVEMBER 8, 1971.

[FR Doc.71-16564 Filed 11-11-71;8:49 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 19150; FCC 71-1123]

PART 1—PRACTICE AND PROCEDURE

PART 21—DOMESTIC PUBLIC RADIO SERVICES (OTHER THAN MARITIME MOBILE)

PART 74—EXPERIMENTAL, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

PART 89—PUBLIC SAFETY RADIO SERVICES

PART 91—INDUSTRIAL RADIO SERVICES

PART 93—LAND TRANSPORTATION RADIO SERVICES

PART 95—CITIZENS RADIO SERVICE

Spectrum Management

First report and order. In the matter of spectrum management; establishment of first Regional Spectrum Management Center in Chicago, Ill.; and amendment of Parts 1, 21, 74, 89, 91, 93, and 95 of the Commission's rules relating to Land Mobile allocations and assignments.

1. This proceeding commenced with the adoption of a notice of proposed rule making on February 3, 1971. That notice was published in (1) the February 10, 1971, edition of the FEDERAL REGISTER at Volume 36, Page 2793 (36 F.R. 2793); and (2) in Volume 27 (2d) of the Commission's reports at Page 400 (27 FCC (2d) 400). Comments and reply comments were invited; and received within the times specified in the notice. All comments and reply comments were carefully read and considered before arriving at the conclusions noted herein.

2. Our proposal in this proceeding concerned the establishment of new systems, techniques, and methodologies for the more efficient management of that portion of the radio spectrum allocated for Land Mobile purposes—as reflected in Part 2 of the Commission's rules. It was geographically confined in its applicability to an area of approximately 96,000 square miles with Chicago, Ill., at the approximate center.

3. Intimately tied to the establishment of new systems, techniques, and methodologies was the proposed establishment of the data base deemed necessary for an effective frequency management system. It is with respect to establishing a data base and the means, methods, and times for so doing that this first report and order is basically directed. In subsequent reports and orders, the other substantive issues raised in this proceeding will be resolved.

4. All persons commenting agreed that an adequate data base is an absolute prerequisite to any meaningful systems,

techniques, or methodologies of frequency management. This means, in short, that certain critical items of information concerning radio systems—assigned frequencies, power, antenna heights, transmitter locations, for example—must be collected and verified at specified time intervals in order that the soundest judgment possible may be exercised in the process of licensing Land Mobile radio stations and systems in the public interest.

5. To assist in establishing or constructing a data base, it was pointed out in our notice that a new ADP-oriented application form to replace the existing FCC Form 400 would be devised.[1] A new form has in fact been devised and is designated FCC Form No. 425. The form has been approved by the Office of Management and Budget pursuant to that agency's authority under Public Law 90–620, 82 Stat. 1302 (Oct. 22, 1968), 44 U.S.C. 3501 et seq. It was also proposed in our notice that data base collection be geared to license renewals and that license terms be reduced to 1 year rather than the present 5 years. In view of industry's strong opposition to this approach, no change in license terms is being ordered at this time, nor will our data base collection efforts be tied to license renewals. All licensees (as will appear more clearly hereinafter) in the Chicago area will be required by virtue of our order in this document to cooperate in the establishment of a data base—by completing portions of the new Form 425 which is being approved and adopted in this report and order.

6. With the new Form 425, construction of an adequate data base for the Chicago Regional Spectrum Management operation is now practicable. At the same time, it is also practicable to begin accumulating data with the new form in areas of the country other than Chicago. By so doing, a uniform implementation of Regional Spectrum Management concepts in these areas at some later date can be effected more efficiently and expeditiously. Thus, in addition to using the new Form 425 for the construction of the Chicago Regional data base, which encompasses an initial information gathering process as well as use of the form in applying for new, modified, and renewal licenses, the form will also be used by persons applying for the new frequencies made available by the Commission in its order in Docket No. 18261, that is, 470–512 MHz frequencies in the cities of New York, Boston, Los Angeles, San Francisco, Cleveland, Washington, D.C., Detroit, Philadelphia, and Pittsburgh.

7. The appendices[2] to this document contain a facsimile of the new form, together with its instructions and the full text of the rules amendments concerning use of the form. To briefly synthesize the terms of use, the new Form 425 will be required to be used in the Chicago Region (as defined in the various affected parts of the rules) as follows:

For new and modified licenses and for renewal of existing licenses. Persons applying for new, modified, or renewed Land Mobile licenses that specify operations in the Chicago Regional Area must file their applications together with appropriate fees at the Commission's offices in Washington beginning April 1, 1972. After January 1, 1973, however, all persons in this category will file their applications—with fees—at the Commission's Regional Spectrum Management Offices in Chicago.[3]

Data base collection. All Land Mobile licensees in the Chicago Region—with the exception of persons whose licenses expire at any time between April 1, 1972, and December 31, 1972—are required to file a copy of the 425—completed in accordance with the supplemental instructions relating to data base collection pursuant to the time schedule specified in the supplemental instructions. Persons whose licenses expire between April 1, 1972, and December 31, 1972, should file for license renewal on the Form 425 in Washington—with the appropriate fee. After December 31, 1972, renewals will be filed in Chicago.[4]

8. The rules adopted herein, together with the new Application Form 425 and its instructions constitute the initial ordering step in implementing our regional approach to spectrum management. A second report and order (and perhaps others) will be forthcoming in this docket proceeding. In summary, the Commission finds that it is in the public interest to adopt the rules, form, and instructions contained in the appendices. By so doing, more effective management of the spectrum will be enhanced.

9. In view of the foregoing and pursuant to the authority contained in sections 4(i), 301, 303, 307, and 308 of the Communications Act of 1934, as amended: *It is ordered*, That effective December 23, 1971, Parts 1, 21, 74, 89, 91, 93, and 95 of the Commission's rules are amended in the manner set forth below.

(Secs. 4, 303, 307, 308; 48 Stat., as amended, 1066, 1082, 1083, 1084; 47 U.S.C. 154, 303, 307, 308)

Adopted: October 28, 1971.

Released: November 10, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[5]
[SEAL] BEN F. WAPLE,
Secretary.

[1] It was also pointed out that use of the form would commence on July 1, 1971. For a variety of reasons it was impracticable to adhere to the July 1, 1971, schedule. As the remainder of this report and order will reveal, a mandatory use date of Apr. 1, 1972, is being ordered.

[2] Appendices B–D filed as part of the original document.

[3] Except Domestic Public Land Mobile and Rural Radio Services, which will continue to file at the Commission's offices in Washington, D.C.

[4] Except Domestic Public Land Mobile and Rural Radio Services, which will continue to file FCC Form 405 at Washington, D.C.

[5] Commissioner Reid not participating.

APPENDIX A

Parts 1, 21, 74, 89, 91, 93, and 95 are amended as follows:

A. Part 1—Practice and Procedure:

1. In § 1.533, paragraph (a)(3) is amended and subparagraph (10) is added to read as follows:

§ 1.533 Application forms for authority to construct a new station or make changes in existing station.

(a) • • •

(3) FCC Form 313 "Application for Authorization in the Auxiliary Broadcast Services" except as provided in subparagraph (10) of this paragraph.

• • • • •

(10) FCC Form 425 "Application for Radio Station Authorization." Beginning April 1, 1972, this form shall be used by applicants who propose to operate Remote Pickup Broadcast Stations on certain frequencies in the Chicago, Ill., Regional Area. The frequencies and the Regional Area are defined in Subpart D of Part 74 of this chapter.

• • • • •

2. In § 1.536, paragraph (b) is amended and subparagraph (9) is added to read as follows:

§ 1.536 Application for license to cover construction permit.

• • • • •

(b) • • •

(3) FCC Form 313 "Application for Authorization in the Auxiliary Broadcast Services" except as provided in subparagraph (9) of this paragraph.

• • • • •

(9) FCC Form 425 "Application for Radio Station Authorization." Beginning April 1, 1972, this form shall be used by applicants who propose to operate Remote Pickup Broadcast Stations on certain frequencies in the Chicago, Ill., Regional Area. The frequencies and the Regional Area are defined in Subpart D of Part 74 of this chapter.

3. In § 1.539, paragraph (d)(3) is amended and subparagraph (9) is added to read as follows:

§ 1.539 Application for renewal of license.

• • • • •

(d) • • •

(3) FCC Form 313 "Application for Authorization in the Auxiliary Broadcast Services." To be used for all applications for renewal of regular licenses of auxiliary broadcasting stations, except as provided in subparagraph (9) of this paragraph.

• • • • •

(9) FCC Form 425 "Application for Radio Station Authorization." To be used by licensees to renew licenses for Remote Pickup Broadcast Stations which operate on certain frequencies in the Chicago, Ill., Regional Area, beginning April 1, 1972. The frequencies and the Regional Area are defined in Subpart D of Part 74 of this chapter.

4. In § 1.922, a new form number and title are added in appropriate numerical sequence to read as follows:

§ 1.922 Forms to be used.

• • • • •

425 Application for Radio Station Authorization (Industrial, Public Safety, Land Transportation, Broadcast Remote Pickup and Citizens Class A).

• • • • •

5. In § 1.924, paragraph (b)(2)(i) is amended and subdivision (iv) is added to read as follows:

§ 1.924 Assignment or transfer of control, voluntary and involuntary.

• • • • •

(b) • • •

(2) • • •

(i) FCC Form 400: for assignment of station authorization in services under Parts 89, 91, and 93 of this chapter, except as provided in subdivisions (ii) and (iv) of this subparagraph. Attached thereto shall be a signed letter from proposed assignor stating his desire to assign his current authorization in accordance with the rules governing the particular service involved.

• • • • •

(iv) FCC Form 425: for assignment of station authorizations for base, mobile, and fixed stations authorized to operate on frequencies below 950 MHz in services under Parts 89, 91, and 93 of this chapter in the Chicago, Ill., Regional Area, and for assignment of authorization for all stations operating in the band 470–512 MHz. The Chicago Regional Area is defined in Parts 89, 91, 93, and 95 of this chapter.

• • • • •

6. In § 1.926, paragraph (b) is amended to add a new subparagraph (5) as follows:

§ 1.926 Application for renewal of license.

• • • • •

(b) • • •

(5) Beginning April 1, 1972, applications for renewal of licenses for base, mobile and fixed stations operating on frequencies below 950 MHz in the Public Safety, Industrial, Land Transportation Radio Services, and for Class A Citizens Stations which are located in the Chicago, Ill., Regional Area (defined in Parts 89, 91, 93, and 95 of this chapter) shall be filed on FCC Form 425. Such applications shall be filed at the Commission's Washington, D.C., office until January 1, 1973. After January 1, 1973, they shall be filed at the Commission's Chicago Regional Office.

• • • • •

7. In § 1.951, a new paragraph (d) is added as follows:

§ 1.951 How applications are distributed.

• • • • •

(d) Chicago, Ill., Regional Office (beginning January 1, 1973); applications for base, mobile and fixed stations to operate on frequencies below 950 MHz within the Chicago, Ill., Region (defined in Parts 89, 91, 93, and 95 of this chapter) filed in the Public Safety, Land Transportation, and Industrial (excluding Industrial Radiolocation) Services, and for Class A Citizens Radio stations.

B. Part 21—Domestic Public Radio Services (other than Maritime Mobile):

1. In § 21.14, paragraph (a), a note is added to read as follows:

§ 21.14 Forms to be used.

(a) • • •

NOTE: Beginning April 1, 1972, all applicants filing FCC Form 401 pursuant to the foregoing or following paragraphs of this section and proposing to operate stations in the Domestic Public Land Mobile or Rural Radio Services, including frequencies made available in the bands 470–512 MHz, and located in the Chicago Regional Area as defined below must accompany Form 401 with FCC Form 425 in order to be considered a complete application. The Chicago Regional Area consists of the counties listed below:

ILLINOIS

1. Boone.
2. Bureau.
3. Carroll.
4. Champaign.
5. Christian.
6. Clark.
7. Coles.
8. Cook.
9. Cumberland.
10. De Kalb.
11. De Witt.
12. Douglas.
13. Du Page.
14. Edgar.
15. Ford.
16. Fulton.
17. Grundy.
18. Henry.
19. Iroquois.
20. Jo Daviess.
21. Kane.
22. Kankakee.
23. Kendall.
24. Knox.
25. Lake.
26. La Salle.
27. Lee.
28. Livingston.
29. Logan.
30. Macon.
31. Marshall.
32. Mason.
33. McHenry.
34. McLean.
35. Menard.
36. Mercer.
37. Moultrie.
38. Ogle.
39. Peoria.
40. Piatt.
41. Putnam.
42. Rock Island.
43. Sangamon.
44. Shelby.
45. Stark.
46. Stephenson.
47. Tazewell.
48. Vermilion.
49. Warren.
50. Whiteside.
51. Will.
52. Winnebago.
53. Woodford.

INDIANA

1. Adams.
2. Allen.
3. Benton.
4. Blackford.
5. Boone.
6. Carroll.
7. Cass.
8. Clay.
9. Clinton.
10. De Kalb.
11. Delaware.
12. Elkhart.
13. Fountain.
14. Fulton.
15. Grant.
16. Hamilton.
17. Hancock.
18. Hendricks.
19. Henry.
20. Howard.
21. Huntington.
22. Jasper.
23. Jay.
24. Kosciusko.
25. Lake.
26. Lagrange.
27. La Porte.
28. Madison.
29. Marion.
30. Marshall.
31. Miami.
32. Montgomery.
33. Morgan.
34. Newton.
35. Noble.
36. Owen.
37. Parke.
38. Porter.
39. Pulaski.
40. Putnam.
41. Randolph.
42. St. Joseph.
43. Starke.
44. Steuben.
45. Tippecanoe.
46. Tipton.
47. Vermillion.
48. Vigo.
49. Wabash.
50. Warren.
51. Wells.
52. White.
53. Whitley.

IOWA

1. Cedar.
2. Clinton.
3. Dubuque.
4. Jackson.
5. Jones.
6. Muscatine.
7. Scott.

MICHIGAN

1. Allegan.
2. Barry.
3. Berrien.
4. Branch.
5. Calhoun.
6. Cass.
7. Clinton.
8. Eaton.
9. Hillsdale.
10. Ingham.
11. Ionia.
12. Jackson.
13. Kalamazoo.
14. Kent.
15. Lake.
16. Mason.
17. Mecosta.
18. Montcalm.
19. Muskegon.
20. Newaygo.
21. Oceana.
22. Ottawa.
23. St. Joseph.
24. Van Buren.

OHIO

1. Defiance.
2. Mercer.
3. Paulding.
4. Van Wert.
5. Williams.

WISCONSIN

1. Adams.
2. Brown.
3. Calumet.
4. Columbia.
5. Dane.
6. Dodge.
7. Door.
8. Fond du Lac.
9. Grant.
10. Green.
11. Green Lake.
12. Iowa.
13. Jefferson.
14. Juneau.
15. Kenosha.
16. Kewaunee.
17. Lafayette.
18. Manitowoc.
19. Marquette.
20. Milwaukee.
21. Outagamie.
22. Ozaukee.
23. Racine.
24. Richland.
25. Rock.
26. Sauk.
27. Sheboygan.
28. Walworth.
29. Washington.
30. Waukesha.
31. Waupaca.
32. Waushara.
33. Winnebago.

• • • • •

C. Part 74—Experimental, Auxiliary, and Special Broadcast, and Other Program Distributional Services:

1. A new § 74.404 is added to read as follows:

§ 74.404 Use of FCC Form 425.

(a) Beginning April 1, 1972, applications on FCC Form 425 in lieu of FCC Form 313 shall be submitted by applicants proposing to operate on the frequencies specified in paragraph (c) of this section and who propose to operate such stations in the Chicago, Ill., Regional Area defined in paragraph (d) of this section. Form 425 shall be used to apply for new facilities or to apply for modification, renewal, or assignment of existing authorizations.

(b) Applications on FCC Form 425 shall be submitted to the Commission's office at Washington, D.C. 20554, until January 1, 1973, at which time they shall be submitted to the Commission's Chicago Regional Office. The address of the Regional Office will be published at a later date.

(c) FCC Form 425 must be used to file for the following frequencies in the Chicago Regional Area:

(1)

GROUP				
D	E	F	G	H
(Mc/s)	(Mc/s)	(Mc/s)	(Mc/s)	(Mc/s)
26.15	26.17	26.19	26.21	26.23
26.25	26.27	26.29	26.31	26.33
26.35	26.37	26.39	26.41	26.43

(2)	GROUP	
I	J	K
(Mc/s)	(Mc/s)	(Mc/s)
26.11	26.13	152.87
26.45	26.47	152.93
		152.99
		153.05
		153.11
		153.17
		153.23
		153.29
		153.35

(d) The Chicago, Ill., Region is defined to consist of the counties listed below:

ILLINOIS

1. Boone.
2. Bureau.
3. Carroll.
4. Champaign.
5. Christian.
6. Clark.
7. Coles.
8. Cook.
9. Cumberland.
10. De Kalb.
11. De Witt.
12. Douglas.
13. Du Page.
14. Edgar.
15. Ford.
16. Fulton.
17. Grundy.
18. Henry.
19. Iroquois.
20. Jo Daviess.
21. Kane.
22. Kankakee.
23. Kendall.
24. Knox.
25. Lake.
26. La Salle.
27. Lee.
28. Livingston.
29. Logan.
30. Macon.
31. Marshall.
32. Mason.
33. McHenry.
34. McLean.
35. Menard.
36. Mercer.
37. Moultrie.
38. Ogle.
39. Peoria.
40. Piatt.
41. Putnam.
42. Rock Island.
43. Sangamon.
44. Shelby.
45. Stark.
46. Stephenson.
47. Tazewell.
48. Vermilion.
49. Warren.
50. Whiteside.
51. Will.
52. Winnebago.
53. Woodford.

INDIANA

1. Adams.
2. Allen.
3. Benton.
4. Blackford.
5. Boone.
6. Carroll.
7. Cass.
8. Clay.
9. Clinton.
10. De Kalb.
11. Delaware.
12. Elkhart.
13. Fountain.
14. Fulton.
15. Grant.
16. Hamilton.
17. Hancock.
18. Hendricks.
19. Henry.
20. Howard.
21. Huntington.
22. Jasper.
23. Jay.
24. Kosciusko.
25. Lake.
26. Lagrange.
27. La Porte.
28. Madison.
29. Marion.
30. Marshall.
31. Miami.
32. Montgomery.
33. Morgan.
34. Newton.
35. Noble.
36. Owen.
37. Parke.
38. Porter.
39. Pulaski.
40. Putnam.
41. Randolph.
42. St. Joseph.
43. Starke.
44. Steuben.
45. Tippecanoe.
46. Tipton.
47. Vermillion.
48. Vigo.
49. Wabash.
50. Warren.
51. Wells.
52. White.
53. Whitley.

IOWA

1. Cedar.
2. Clinton.
3. Dubuque.
4. Jackson.
5. Jones.
6. Muscatine.
7. Scott.

MICHIGAN

1. Allegan.
2. Barry.
3. Berrien.
4. Branch.
5. Calhoun.
6. Cass.
7. Clinton.
8. Eaton.
9. Hillsdale.
10. Ingham.
11. Ionia.
12. Jackson.
13. Kalamazoo.
14. Kent.
15. Lake.
16. Mason.
17. Mecosta.
18. Montcalm.
19. Muskegon.
20. Newaygo.
21. Oceana.
22. Ottawa.
23. St. Joseph.
24. Van Buren.

OHIO

1. Defiance.
2. Mercer.
3. Paulding.
4. Van Wert.
5. Williams.

WISCONSIN

1. Adams.
2. Brown.
3. Calumet.
4. Columbia.
5. Dane.
6. Dodge.
7. Door.
8. Fond du Lac.
9. Grant.
10. Green.
11. Green Lake.
12. Iowa.
13. Jefferson.
14. Juneau.
15. Kenosha.
16. Kewaunee.
17. Lafayette.
18. Manitowoc.
19. Marquette.
20. Milwaukee.
21. Outagamie.
22. Ozaukee.
23. Racine.
24. Richland.
25. Rock.
26. Sauk.
27. Sheboygan.
28. Walworth.
29. Washington.
30. Waukesha.
31. Waupaca.
32. Waushara.
33. Winnebago.

D. Part 89—Public Safety Radio Services:

1. In § 89.55, paragraph (b) is revised to read as follows:

§ 89.55 Filing of applications.

• • • • •

(b) Except for applicants in the Chicago, Ill., Regional Area filing on FCC Form 425, any application for radio station authorization and all correspondence relating thereto shall be submitted to the Commission's office at Washington, D.C. 20554, directed to the attention of the Secretary. Applicants for base, mobile, and fixed stations to operate on frequencies below 950 MHz in the Chicago Region shall file FCC Form 425 at the Commission's Washington, D.C., office until January 1, 1973; after January 1, 1973, the form is to be filed at the Commission's Chicago Regional Office. An application for commercial radio operator permit or license may be submitted to any of the Commission's engineering field offices, or to the Commission's office at Washington, D.C. 20554.

• • • • •

2. In § 89.59 the introductory text of paragraph (a) is amended to read as follows:

§ 89.59 Standard forms to be used.

(a) Except as provided in § 89.60 and in paragraph (h) of this section, a separate application shall be submitted on FCC Form 400 for the following:

• • • • •

E. Part 91—Industrial Radio Services:

1. In § 91.54, paragraph (b) is amended to read as follows:

§ 91.54 Filing of applications.

• • • • •

(b) Except for applicants in the Chicago, Ill., Regional Area filing on FCC Form 425, any application for radio station authorization and all correspondence relating thereto shall be submitted to the Commission's office at Washington, D.C. 20554, directed to the attention of the Secretary. Applicants for base, mobile, and fixed stations to operate on frequencies below 950 MHz in the Chicago Region shall file FCC Form 425 at the Commission's Washington, D.C., office until January 1, 1973; after January 1, 1973, the form is to be filed at the Commission's Chicago Regional Office. An application for commercial radio operator permit or license may be submitted to any of the Commission's engineering field offices, or to the Commission's office at Washington, D.C. 20554.

• • • • •

2. In § 91.56 the introductory text of paragraph (a) is amended to read as follows:

91.56 Standard forms to be used.

(a) Except as provided in § 91.57 and in paragraph (h) of this section, a separate application shall be submitted on FCC Form 400 for the following:

• • • • •

F. Part 93—Land Transportation Radio Services:

1. In § 93.54, paragraph (b) is amended to read as follows:

§ 93.54 Filing of applications.

• • • • •

(b) Except for applicants in the Chicago, Ill., Regional Area filing on FCC Form 425, any application for radio station authorization and all correspondence relating thereto shall be submitted to the Commission's office at Washington, D.C. 20554, directed to the attention of the Secretary. Applicants for base, mobile, and fixed stations to operate on frequencies below 950 MHz in the Chicago Region shall file FCC Form 425 at the Commission's Washington, D.C., office until January 1, 1973; after January 1, 1973, the form is to be filed at the Commission's Chicago Regional Office. An application for commercial radio operator permit or license may be submitted to any of the Commission's engineering filed offices, or to the Commission's office at Washington, D.C. 20554.

• • • • •

2. In § 93.56, the introductory text of paragraph (a) is amended to read as follows:

§ 93.56 Standard forms to be used.

(a) Except as provided in § 93.57 and in paragraph (h) of this section, a separate application shall be submitted on FCC Form 400 for the following:

• • • • •

3. New rules §§ 89.60, 91.57, and 93.57 are added to Parts 89, 91, and 93 to read identically as § 89.60 below:

§ 89.60 Use of FCC Form 425.

(a) Beginning April 1, 1972, separate applications on FCC Form 425 in lieu of Form 400 shall be submitted by the following persons:

(1) Applicants proposing to operate new base, mobile, and fixed stations on frequencies below 950 MHz (excluding

applications in the Industrial Radiolocation Service) in the Chicago, Ill., Regional Area defined in paragraph (b) of this section, and applicants proposing to modify, renew, or assign existing authorizations for such stations located in the Chicago Region. Such applications shall be submitted to the Commission's office at Washington, D.C. 20554, until January 1, 1973; after January 1, 1973, they shall be submitted to the Commission's Chicago Regional Office. The address of the Regional Office will be published at a later date.

(2) Applicants proposing to operate base, mobile, or fixed stations on frequencies in the band 470–512 MHz within 50 miles of the center of the following nine urbanized areas:

1. Boston, Mass.
2. Cleveland, Ohio.
3. Detroit, Mich.
4. Los Angeles, Calif.
5. New York—Northeast New Jersey.
6. Philadelphia, Pa.
7. Pittsburgh, Pa.
8. San Francisco-Oakland, Calif.
9. Washington, D.C.-Maryland-Virginia.

(b) The Chicago, Ill., Region is defined to consist of the counties listed below:

ILLINOIS

1. Boone.
2. Bureau.
3. Carroll.
4. Champaign.
5. Christian.
6. Clark.
7. Coles.
8. Cook.
9. Cumberland.
10. De Kalb.
11. De Witt.
12. Douglas.
13. Du Page.
14. Edgar.
15. Ford.
16. Fulton.
17. Grundy.
18. Henry.
19. Iroquois.
20. Jo Daviess.
21. Kane.
22. Kankakee.
23. Kendall.
24. Knox.
25. Lake.
26. La Salle.
27. Lee.
28. Livingston.
29. Logan.
30. Macon.
31. Marshall.
32. Mason.
33. McHenry.
34. McLean.
35. Menard.
36. Mercer.
37. Moultrie.
38. Ogle.
39. Peoria.
40. Piatt.
41. Putnam.
42. Rock Island.
43. Sangamon.
44. Shelby.
45. Stark.
46. Stephenson.
47. Tazewell.
48. Vermilion.
49. Warren.
50. Whiteside.
51. Will.
52. Winnebago.
53. Woodford.

INDIANA

1. Adams.
2. Allen.
3. Benton.
4. Blackford.
5. Boone.
6. Carroll.
7. Cass.
8. Clay.
9. Clinton.
10. De Kalb.
11. Delaware.
12. Elkhart.
13. Fountain.
14. Fulton.
15. Grant.
16. Hamilton.
17. Hancock.
18. Hendricks.
19. Henry.
20. Howard.
21. Huntington.
22. Jasper.
23. Jay.
24. Kosciusko.
25. Lake.
26. Lagrange.
27. La Porte.
28. Madison.
29. Marion.
30. Marshall.
31. Miami.
32. Montgomery.
33. Morgan.
34. Newton.
35. Nobel.
36. Owen.
37. Parke.
38. Porter.
39. Pulaski.
40. Putnam.
41. Randolph.
42. St. Joseph.
43. Starke.
44. Steuben.
45. Tippecanoe.
46. Tipton.
47. Vermillion.
48. Vigo.
49. Wabash.
50. Warren.
51. Wells.
52. White.
53. Whitley.

IOWA

1. Cedar.
2. Clinton.
3. Dubuque.
4. Jackson.
5. Jones.
6. Muscatine.
7. Scott.

MICHIGAN

1. Allegan.
2. Barry.
3. Berrien.
4. Branch.
5. Calhoun.
6. Cass.
7. Clinton.
8. Eaton.
9. Hillsdale.
10. Ingham.
11. Ionia.
12. Jackson.
13. Kalamazoo.
14. Kent.
15. Lake.
16. Mason.
17. Mecosta.
18. Montcalm.
19. Muskegon.
20. Newaygo.
21. Oceana.
22. Ottawa.
23. St. Joseph.
24. Van Buren.

OHIO

1. Defiance.
2. Mercer.
3. Paulding.
4. Van Wert.
5. Williams.

WISCONSIN

1. Adams.
2. Brown.
3. Calumet.
4. Columbia.
5. Dane.
6. Dodge.
7. Door.
8. Fond du Lac.
9. Grant.
10. Green.
11. Green Lake.
12. Iowa.
13. Jefferson.
14. Juneau.
15. Kenosha.
16. Kewaunee.
17. Lafayette.
18. Manitowoc.
19. Marquette.
20. Milwaukee.
21. Outagamie.
22. Ozaukee.
23. Racine.
24. Richland.
25. Rock.
26. Sauk.
27. Sheboygan.
28. Walworth.
29. Washington.
30. Waukesha.
31. Waupaca.
32. Waushara.
33. Winnebago.

G. Part 95—Citizens Radio Service:

1. In § 95.15, paragraph (b) is amended, in part, to read as follows:

§ 95.15 Filing of applications.

• • • • •

(b) All formal applications for Class C or Class D new, modified, or renewal station authorizations and for Class B renewal station authorizations[1] shall be submitted to the Commission's office at 334 York Street, Gettysburg, PA 17325. Applications for Class A station authorizations, applications for consent to transfer of control of a corporation holding any citizens radio station authorization, requests for special temporary authority or other special requests and correspondence relating to an application for any class citizens radio station authorization shall be submitted to the Commission's Office at Washington, D.C. 20554, and should be directed to the attention of the Secretary. Beginning January 1, 1973, applicants for Class A stations in the Chicago Regional Area, defined in § 95.19, shall submit their applications to the Commission's Chicago Regional Office. The address of the Regional Office will be announced at a later date. Applications involving Class A or Class D station equipment which is neither type approved nor crystal controlled, whether of commercial or home construction, shall be accompanied by supplemental data describing in detail the design and construction of the transmitter and methods employed in testing it to determine compliance with the technical requirements set forth in Subpart C of this part.

[1] Effective Mar. 18, 1968, applications for new Class B station authorizations or modification of existing authorizations will not be accepted for filing.

• • • • •

2. In § 95.19, the introductory text of paragraph (b) is amended and a new paragraph (d) is added to read as follows:

§ 95.19 Standard forms to be used.

• • • • •

(b) FCC Form 400, Application for Radio Station Authorization in the Safety and Special Radio Services: Except as provided in paragraph (d) of this section, this form shall be used when:

• • • • •

(d) Beginning April 1, 1972, FCC Form 425 shall be used in lieu of FCC Form 400, applicants for Class A stations located in the Chicago Regional Area defined to consist of the counties listed below:

ILLINOIS

1. Boone.
2. Bureau.
3. Carroll.
4. Champaign.
5. Christian.
6. Clark.
7. Coles.
8. Cook.
9. Cumberland.
10. De Kalb.
11. De Witt.
12. Douglas.
13. Du Page.
14. Edgar.
15. Ford.
16. Fulton.
17. Grundy.
18. Henry.
19. Iroquois.
20. Jo Daviess.
21. Kane.
22. Kankakee.
23. Kendall.
24. Knox.
25. Lake.
26. La Salle.
27. Lee.
28. Livingston.
29. Logan.
30. Macon.
31. Marshall.
32. Mason.
33. McHenry.
34. McLean.
35. Menard.
36. Mercer.
37. Moultrie.
38. Ogle.
39. Peoria.
40. Piatt.
41. Putnam.
42. Rock Island.
43. Sangamon.
44. Shelby.
45. Stark.
46. Stephenson.
47. Tazewell.
48. Vermilion.
49. Warren.
50. Whiteside.
51. Will.
52. Winnebago.
53. Woodford.

INDIANA

1. Adams.
2. Allen.
3. Benton.
4. Blackford.
5. Boone.
6. Carroll.
7. Cass.
8. Clay.
9. Clinton.
10. De Kalb.
11. Delaware.
12. Elkhart.
13. Fountain.
14. Fulton.
15. Grant.
16. Hamilton.
17. Hancock.
18. Hendricks.
19. Henry.
20. Howard.
21. Huntington.
22. Jasper.
23. Jay.
24. Kosciusko.
25. Lake.
26. Lagrange.
27. La Porte.
28. Madison.
29. Marion.
30. Marshall.
31. Miami.
32. Montgomery.
33. Morgan.
34. Newton.
35. Noble.
36. Owen.
37. Parke.
38. Porter.
39. Pulaski.
40. Putnam.
41. Randolph.
42. St. Joseph.

INDIANA—Continued

43. Starke.
44. Steuben.
45. Tippecanoe.
46. Tipton.
47. Vermillion.
48. Vigo.
49. Wabash.
50. Warren.
51. Wells.
52. White.
53. Whitley.

IOWA

1. Cedar.
2. Clinton.
3. Dubuque.
4. Jackson.
5. Jones.
6. Muscatine.
7. Scott.

MICHIGAN

1. Allegan.
2. Barry.
3. Berrien.
4. Branch.
5. Calhoun.
6. Cass.
7. Clinton.
8. Eaton.
9. Hillsdale.
10. Ingham.
11. Ionia.
12. Jackson.
13. Kalamazoo.
14. Kent.
15. Lake.
16. Mason.
17. Mecosta.
18. Montcalm.
19. Muskegon.
20. Newaygo.
21. Oceana.
22. Ottawa.
23. St. Joseph.
24. Van Buren.

OHIO

1. Defiance.
2. Mercer.
3. Paulding.
4. Van Wert.
5. Williams.

WISCONSIN

1. Adams.
2. Brown.
3. Calumet.
4. Columbia.
5. Dane.
6. Dodge.
7. Door.
8. Fond du Lac.
9. Grant.
10. Green.
11. Green Lake.
12. Iowa.
13. Jefferson.
14. Juneau.
15. Kenosha.
16. Kewaunee.
17. Lafayette.
18. Manitowoc.
19. Marquette.
20. Milwaukee.
21. Outagamie.
22. Ozaukee.
23. Racine.
24. Richland.
25. Rock.
26. Sauk.
27. Sheboygan.
28. Walworth.
29. Washington.
30. Waukesha.
31. Waupaca.
32. Waushara.
33. Winnebago.

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Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

[9 CFR Part 201]

LIVE POULTRY

Instructions on Weighing and Testing Scales Used in Purchase, Sale, or Acquisition

Notice is hereby given in accordance with administrative procedure provisions of 5 U.S.C. section 553 that pursuant to sections 402 and 407 of the Packers and Stockyards Acts, as amended (7 U.S.C., 222, 228), the Packers and Stockyards Administration is proposing to promulgate the following instructions for weighing live poultry and testing scales used for weighing live poultry.

The majority of all live poultry produced under contract or otherwise entering the marketing channel must be weighed for the purpose of arriving at the proceeds due the grower or seller. It is, therefore, important that all weighing facilities used in the marketing of poultry be accurate. This can only be assured through an adequate scale testing program. The testing shall be conducted by a competent agency in accordance with standards acceptable to the Department. It is also important that weighing procedures followed in the actual weighing process assure accurate weights.

The proposed instructions for testing vehicle scales used for weighing live poultry conform basically with the requirements for testing and accuracy recommended by the National Bureau of Standards and are in conformity with National Bureau of Standards Handbook 44, 3d edition, with amendments through July 31, 1971. This publication has been promulgated in whole or in part by 48 States. The instructions would implement and interpret §§ 201.105; 201.106; 201.107; 201.108; 201.109; 201.110 of the regulations which require that scales used for weighing live poultry be tested properly and operated by competent weighmasters.

§ 201.106–1 Instructions for testing vehicle scales used for weighing live poultry.

(a) *Adoption of National Bureau of Standards Codes in Handbook 44.* Insofar as they are applicable to vehicle scales, the specifications, tolerances, and other technical requirements for commercial weighing devices, as published in the National Bureau of Standards Handbook 44, 3d edition, with amendments through July 31, 1971, shall be applied to all vehicle scales under the supervision of the Packers and Stockyards Administration, except insofar as different provisions are set forth in this § 201.106–1. In the following instructions, citations to corresponding paragraphs of Handbook 44 material appear in parenthesis:

(b) *Definitions.* (1) A vehicle scale is one adapted to weighing highway vehicles, loaded or unloaded. (S–D)

(2) A proper test is one which fully discloses the accuracy and other performance characteristics of the scale and all mechanisms and devices attached thereto under all conditions which may prevail during actual use. It includes the application of loads of standard test weights and tests of individual components such as fractional bars, poises, notches, dials, digital indicators, recording elements, unit weights and main levers or sections which independently may affect weighing accuracy; it demands a reasonably exact determination of the errors which develop; finally, it requires the recording in permanent form of all pertinent data developed during the test.

(3) A competent testing agency is one which employs experienced personnel and utilizes a sufficient amount of standard test weights to conduct tests in accordance with the procedure described in the instructions which follow. Agencies which the Administration considers competent on that basis include State and local weights and measures departments and commercial scale repair and service companies having adequate test equipment and employing qualified service personnel.

(4) A suitable interval between tests is a period of approximately 6 months. In instances where tests and inspections disclose that a scale does not maintain its accuracy between tests or is otherwise undependable, or is mechanically deficient as to construction, installation or maintenance, more frequent tests may be required.

(5) Zero-load balance: A correct weight indication or representation of zero when there is no load on the load-receiving element. (S–D)

(6) Sensitivity response or SR: The change in load required to change the position of rest of the indicating element or elements of a nonautomatic-indicating scale a definite amount at any load.

(7) Increasing-load test: The normal basic performance test for a scale in which observations are made as increments of test-weight load are successively added to the load-receiving element of the scale. (S–D)

(8) Shift test: A test intended to disclose the weighing performance of a scale under off-center loading. (S–D)

(9) Decreasing-load test: A special supplementary test for automatic-indicating scales only, during which the performance of the scale is tested when the load is being reduced. In this test, an observation is made with the test weight load equal to one-half of the maximum applied test load. (S–D)

(10) Strain-load test: A test which involves the application of a relatively large load of unknown weight value as a "strain load" and then noting the increase in weight indication resulting from the application of available test-weight load.

(c) *Tests for sensitiveness (SR) for nonautomatic-indicating scale.* The test for sensitiveness shall be conducted on all nonautomatic-indicating scales. SR tests shall be made at zero load and at the maximum test load applied to the scale by either increasing or decreasing the test-weight load on the load-receiving element of the scale. The response of the scale shall be as follows:

(1) *On a scale with a trig loop but without a balance indicator.* The position of rest of the weighbeam shall change from the center of the trig loop to the top or bottom, as the case may be.

(2) *On a scale with a balance indicator.* The position of rest of a single indicator on a vehicle scale shall change at least 0.25 (¼) inch or the width of the central target area, whichever is greater.

(d) *SR requirements for vehicle scales.* (1) Application: The SR applicable to a scale is the same whether acceptance or maintenance tolerances apply. (SR.1)

(2) The SR on a scale not equipped with a balance indicator shall not exceed the value of two of the minimum graduated intervals on the weighbeam.

(3) The SR on a scale equipped with a balance indicator shall be the value of the minimum graduated interval on the weighbeam.

(e) *Tolerances.* (Applicable with respect to the performance or accuracy of vehicle scales). (G.T.)

(1) *Acceptance tolerances.* Acceptance tolerances shall apply as follows:

(i) To any equipment about to be put into commercial use for the first time.

(ii) To equipment that has been placed in commercial service within the preceeding 30 days and is being officially tested for the first time.

(iii) To equipment that has been returned to commercial service following official rejection for failure to conform to performance requirements and is being officially tested for the first time within 30 days after corrective service.

(iv) To equipment that is being officially tested for the first time within 30 days after major reconditioning or overhaul. (1966, G.T.1)

(2) *Maintenance tolerances.* Maintenance tolerances shall apply to equipment in use, except as provided in subparagraph (1) of this paragraph. (G.T.2)

(3) *Tolerance applications*—(i) *To errors of underregistration and overregistration.* The tolerances hereinafter prescribed shall be applied equally to

errors of underregistration and errors of overregistration. (T.1.1)

(ii) *To scales with multiple elements.* Tolerances shall be applied independently to each indicating and recording element of a scale. However, the following requirements pertaining to analog and digital elements shall also apply:

(*a*) All analog indications within the same element shall not differ from one another and all digital elements shall not differ from one another.

(*b*) All analog indications and recorded representations shall not differ from digital indications and recorded representations by an amount greater than the value of the minimum graduated interval on the device except the elements shall not differ under a no-load zero balance condition.

(*c*) All components of the same element used in combination (such as a dial and unit weight) shall not differ by an amount greater than the applicable tolerance at a given test load. (T.1.2)

(iii) *To tests involving digital indications or representations.* To the tolerances that would otherwise be applied there shall be added an amount equal to one-half the minimum value that can be indicated or recorded. (T.1.3)

(iv) *To increasing-load tests.* Basic tolerances shall be applied. (T.1.5)

(v) *To shift tests.* Basic tolerances shall be applied. (T.1.4)

(vi) *To decreasing-load tests on automatic-indicating scales.* One and one-half (1.5) times basic tolerances shall be applied. (T.1.6)

(4) *Minimum tolerance values.* (The smallest tolerance that may be applied to a scale.) The minimum maintenance and acceptance tolerance applied to a vehicle scale shall be not smaller than one-half the value of the minimum graduated interval. (T.2)

(5) *Basic tolerance values.* (i) Application: Basic tolerance values shall be applied to weighbeam, reading face, and unit-weight indications and to recorded representations. (T.1)

(ii) The basic maintenance tolerance on vehicle scales shall be 2 pounds per 1,000 pounds of test load (0.2 percent). The acceptance tolerance shall be one-half the basic maintenance tolerance (0.1 percent). (T.3.5)

(f) *Suitability of equipment.* (1) Commercial equipment shall be suitable for the service in which it is used with respect to elements of its design, including, but not limited to, its weighing capacity, the character, number, size, and location of its indicating or recording elements and the value of its minimum graduated interval. (G.UR1.1)

(2) For vehicle scales: Vehicle scales shall be equipped with a type-registering weighbeam, a dial with a mechanical ticket printer, or similar device, such as a digital indicator with a printer, which shall be used for printing or stamping weight values on scale tickets. Automatic-indicating scales equipped with recording elements shall be designed to indicate and record weight values to the nearest minimum graduated interval.

(3) Value of minimum graduated intervals on primary indicating and recording elements: The value of the minimum graduated interval on vehicle scales shall be not greater than 20 pounds. (UR 1.1.6)

(4) Installation requirements:

(i) *General.* A device shall be installed in accordance with the manufacture's instructions, including any instructions marked on the device. A vehicle scale shall be so installed that neither its operation nor its performance will be adversely affected by any characteristic of the foundation, supports, or any other detail of the installation. (G.UR 2.1)

(ii) *Protection against wind and weather effects.* The indicating elements, the lever system or load cells, and the under side of the load-receiving element of a vehicle scale shall be adequately protected against wind and weather effects. (UR 2.3)

(iii) *Foundation, supports, and clearance.* The foundation and supports of any vehicle scale shall be such as to provide strength, rigidity, and permanence of all components, and clearance shall be provided around all live parts to the extent that no contacts may result when the load-receiving element is empty and throughout the weighing range of the scale. (UR 2.4)

(iv) *Access to pit.* Adequate provision shall be made for ready access to the pit of a vehicle scale for purposes of inspection and maintenance. (UR 2.5)

(5) Maintenance requirements:

(i) *Maintenance of equipment.* All equipment in commercial service and all mechanisms and devices attached thereto or used in connection therewith shall continuously be maintained in proper operating condition throughout the period of such service. (G.UR 4.1)

(ii) *Use of adjustments.* Weighing elements that are adjustable shall be adjusted only to correct those conditions that such elements are designed to control and shall not be adjusted to compensate for defective or abnormal installation or accessories or for badly worn, or otherwise defective parts, of the assembly. Any faulty installation conditions shall be corrected, and any defective parts shall be renewed or suitably repaired, before adjustments are undertaken. Whenever equipment is adjusted, the adjustment shall be so made as to bring performance errors as close as practicable to zero value. (G.UR 4.2)

(iii) *Balance condition.* A scale shall be maintained in zero-load balance.

(iv) *Method of operation.* Equipment shall be operated only in the manner that is obviously indicated by its construction or that is indicated by instructions on the equipment. (G.UR 3.1)

(g) *Official inspection and test procedures for vehicle scales.* Vehicle scales shall be inspected and tested in accordance with the following procedures or such other procedures as may be approved by the Administrator in specific instances.

(1) *Inspection procedure.* Before the actual test of a vehicle scale is begun, a thorough visual inspection is to be made of the scale installation. Adequate clearance must be maintained between the deck of the scale and the pit wall. The weighbeam shelf pillars and/or dial cabinet must be firmly anchored to a solid foundation. The scale platform shall be cleaned of debris and foreign matter which might adhere to the test weights or otherwise be removed during the test causing a change in the zero-load balance. No other change or cleaning may be performed since it is important for the scale to be tested "as found" if the results are to truly indicate characteristic weighing performance.

(2) *Test procedure—weighbeam scales*—(i) *Error determination.* The most precise method of determining the errors during the test of a vehicle scale equipped with a weighbeam is known as the error-weight procedure. This method is explained in the following paragraphs.

(ii) *Zero-load balance.* With all poises at zero, accurately balance the scale at zero with at least 50 pounds of small denomination weights on the platform. These error weights will be used to accurately measure errors and balance changes during the test.

(iii) *The SR (sensitivity response).* The SR value at zero load shall be determined by increasing or decreasing the amount of error weights on the platform until the appropriate change in the rest point of the weighbeam or balance indicator is obtained. On scales equipped with balance indicators a change in load equal to the minimum weighbeam graduation shall change the position of rest of the balance indicator 0.25 (¼) inch or the width of the central target area, whichever is greater. On scales not equipped with a balance indicator a change in load not to exceed the value of two minimum weighbeam graduations shall move the weighbeam from a position of rest in the center of the trig loop to a position of rest either at the top or bottom of the trig loop.

(iv) *Increasing-load test.* (*a*) Shift or section test: A minimum of 10,000 pounds of standard test weights shall be used in conducting this test. An increasing-load test should be made with not less than two different test loads centered successively over each section of the lever system. At each test load applied increase or decrease the amount of error weights as required to produce a correct balance of the weighbeam or balance indicator. Any difference between the value of the error weights at zero load and at any given test load will represent the error at that particular test load. During this test, check the printed weight values for accuracy and legibility by operating the weight-recording device at representative loads. The fractional bar may also be tested at this time by comparison with the main bar or by a separate test of the fractional bar if sufficient small denomination test weights are available. After the sections have been tested, remove the test weights and check the zero-load balance carefully to determine the amount of balance change, if any. Any shift in the zero-load balance must be recorded. A new zero-load balance is then obtained by increasing or decreasing the amount of error weights or by using the balance ball.

(*b*) Strain-loan test: Next, the empty test truck is weighed with the rear axles centered successively as nearly as possible on each section of the scale and the weight value determined by the use of error weights and recorded for each section. The test weights are then loaded on the truck and the weight of the loaded truck determined on each section and recorded. In evaluating the strain-load test, any difference in the weight of the loaded truck and the weight of the empty truck, plus the test weights, is the amount of error. The appropriate tolerance is applied only to the amount of standard test weights used.

(*c*) The SR (sensitivity response) value at the full test load must now be determined as described in subdivision (iii) of this subparagraph.

(*d*) The truck is then removed from the scale and any zero-load balance shift determined by utilizing the error weights.

(*e*) Remove error weights and rebalance scale at zero load.

(3) *Test procedure—automatic-indicating scales.* (The testing procedure for automatic-indicating or dial scales corresponds basically to the procedure for testing weighbeam scales.)

(i) *Method of determining errors.* The use of error weights is also recommended when testing automatic-indicating scales. These error weights are used on scales equipped with automatic-weight recorders that will not print at dial capacity, or if overregistration is indicated at chart capacity without the application of a unit weight. This is also applicable on scales which are underregistering at zero when a unit weight is applied and when checking the zero-load balance. On all other weight determination made during the test, error weights are not removed or added since the actual printed weight determines the error.

(ii) *Section and strain-load test.* An increasing-load test and a strain-load test must be made with the test weights applied over each section of the scale as required in the test procedure for weighbeam scales.

(iii) *Dial and unit-weight test.* If sufficient test weights are available, automatic-indicating scales shall be tested at least at the four points representing each quarter of the reading face, and all unit weights normally used. This procedure has particular merit since it helps to determine if the errors developed during the test are in the dial, unit weight, or lever system.

(iv) *Zero-load balance.* After making the strain-load test, remove the truck from the scale platform and recheck the zero-load balance. Any balance shift at zero must be recorded. The error weights used to ascertain errors in the scale during the test are then removed and the scale restored to a correct zero-load balance.

(4) *Alternate test procedure—weighbeam and automatic-indicating scales.* Another accepted test procedure, which is approved by the Packers and Stockyards Administration, consists of conducting the increasing-load test by concentrating the known test load, within prescribed load limits, over each main load bearings of the scale. This procedure has considerable merit on scales having a nominal capacity greater than the total test load. The available test load is used to the greatest advantage by concentrating it over the main load bearings of the vehicle scale.

(5) *Test procedure—dual weighing installations.* Dual weighing systems usually consist of a weighbeam and dial connected to a single lever system and installed to function independently of each other. These installations are to be tested by observing and recording separately the performance of each unit. Such tests may be conducted and recorded simultaneously. Each unit is allowed appropriate tolerances, independently.

(h) *Record of test results.* (1) The results of each test must be recorded in full detail on official Form No. P&SA-216 provided by the Administration. (An exception may be made by the Administrator in the case of a State, county, or municipal agency which utilizes forms supplying substantially the same information as is provided for on the official Administration form.) Essential information to be recorded includes:

(i) Identification of the scale by ownership, location, and address of the poultry processor or dealer using the scale, if different from the scale owner.

(ii) Identification and address of the scale testing agency and the signature of the local Administration representative present during the test.

(iii) Identification of the scale manufacturer, scale capacity, kind of weighbeam or other indicating elements, serial number, and the value of the minimum graduation on the weighbeam or indicating unit.

(iv) The identification of the balance indicator manufacturer, size of the scale platform, balance condition on arrival, the type of levers and pit depth.

(v) The date of the present test, date of the preceding test, and the year the scale was installed.

(vi) Data showing the SR at zero and capacity loads.

(vii) The test-load position, amount of test load applied and errors indicated or printed when conducting an increasing-load test.

(viii) The weight and position of the empty test truck, amount of test weights added, indicated weight of test truck and weights on each scale section and the error on the test weights added when conducting a strain-load test.

(2) At the conclusion of the test, the scale must be inspected thoroughly and any faulty condition of installation, construction, or maintenance which may affect the weighing performance recorded on the test report. There shall also be included on the report a record of any adjustments or repairs made at the time of test and of any recommendations made for future repairs, maintenance, or replacements.

(3) The test results and other observations are to be recorded on the report under the proper headings as the test proceeds and immediately after observations are made. An original and at least two carbon copies of the report should be prepared. A copy of the test report must be forwarded to the area supervisor of the Packers and Stockyards Administration. One copy is for the scale owner, and one is for the scale testing agency.

§ 201.106–2 Instructions for testing scales other than vehicle scales used for weighing live poultry.

Scales other than vehicle scales used to weigh live poultry shall be inspected and tested in accordance with the examination procedure outlines of the National Bureau of Standards or such other procedures as may be approved by the Administrator in specific instances.

§ 201.108–1 Instructions for weighing live poultry.

Packers, live poultry dealers and handlers who operate scales on which live poultry is weighed for purposes of purchase, sale, acquisition, or settlement shall supply copies of the instructions in this section to all persons who perform weighing operations for them and direct such persons to familiarize themselves with the instructions and to comply with them at all times. This section shall also apply to any additional weighers who are employed at any time. The following instructions shall be applicable to the weighing of live poultry on all scales except paragraph (c)(1) of this section which is only applicable to the weighing of live poultry on vehicle scales.

(a) *Balancing the empty scale.* (1) The scale shall be maintained in zero balance at all times. The empty scale shall be balanced each day before weighing begins and thereafter its zero balance shall be verified before any poultry is weighed. In addition, the zero balance of the scale shall be verified whenever a weigher resumes weighing duties after an absence from the scale.

(2) Before balancing the empty scale, the weigher shall notify parties outside the scale house of his intention and shall assure himself that no persons or vehicles are in contact with the platform. When the empty scale is balanced and ready for weighing, he shall so indicate by appropriate signal.

(3) Weighbeam scales shall be balanced by first seating each poise securely in its zero notch and then moving the balance ball to such position that a correct zero balance is obtained. A scale equipped with a balance indicator is correctly balanced when the indicator comes to rest in the center of the target area. A scale not equipped with a balance indicator is correctly balanced if the weighbeam, when released at the top or bottom of the trig loop, swings freely in the trig loop in such manner that it will come to rest at the center of the trig loop.

(4) Dial scales shall be balanced by releasing all drop weights and operating

the balance ball or other balancing device to obtain a correct zero balance. The indicator must visibly indicate zero on the dial reading face and the ticket printer must record a correct zero balance. "Balance tickets" shall be filed with other scale tickets issued on that date.

(5) A balance ball or other balancing device shall be operated only when balancing the empty scale and shall not be operated at any other time or for any other purpose.

(6) The time at which the empty scale is balanced or its zero balance verified shall be marked on scale tickets or other permanent records.

(b) *Sensitivity control.* (1) A scale must be sensitive in response to platform loading if it is to yield accurate weights. It, therefore, is the duty of a weigher to assure himself that interferences, weighbeam friction, or other factors do not impair sensitivity. He shall satisfy himself, at least twice each day, that the scale is sufficiently sensitive, and, if the following requirements are not met, he must report the facts to his superior or employer immediately.

(2) A weighbeam scale with a balance indicator is sufficiently sensitive if, when the scale is balanced with the indicator at the center of the target, movement of the fractional poise one graduation will change the indicator rest point (¼) inch (0.25) or the width of the central target area, whichever is greater.

(3) A weighbeam scale without a balance indicator is sufficiently sensitive if, when the scale is balanced with the weighbeam at the center of the trig loop, movement of the fractional poise two graduations will cause the weighbeam to come to rest at the bottom of the trig loop.

(4) Adjustable damping devices are incorporated in balance indicators and in dial scales to absorb the effects of load impact and to bring the indicator to rest. The weigher must be familiar with the location and adjustment of these damping devices and keep them so adjusted that when the indicator is displaced from a position of rest, it will oscillate freely through at least one complete cycle of movement before coming to rest at its original position.

(5) Friction at weighbeam bearings may reduce the sensitiveness of the scale, cause sluggish weighbeam action and affect weighing accuracy. A weigher must inspect the weighbeam assembly daily to make certain that there is clearance between the weighbeam and the pivot bearings.

(6) Interferences or binding of the scale platform, or other "live" parts of the scale, are common causes of weighing inaccuracy. A weigher shall satisfy himself, at the beginning of each weighing period, that all such "live" parts have sufficient clearance to prevent interference.

(c) *Weighing the load.* (1) Vehicle scales used to weigh live poultry shall be of sufficient length and capacity to weigh an entire vehicle as a unit: *Provided,* That a trailer may be uncoupled from a tractor and weighed as a single unit. Before weighing a vehicle, either coupled or uncoupled, the weigher shall assure himself that the entire vehicle is on the scale platform and that no persons are on the scale platform.

(i) On a weighbeam scale with a balance indicator the weight of a vehicle shall be determined by moving the poises to such positions that the indicator will come to rest within the central target area.

(ii) On a weighbeam scale without a balance indicator the weight shall be determined by moving the poises to such positions that the weighbeam, when released from the top or bottom of the trig loop, will swing freely in the trig loop and come to rest at the approximate center of the trig loop.

(iii) On a dial scale the weight of a vehicle is indicated automatically when the indicator revolves around the dial face and comes to rest.

(2) The correct weight is the value in pounds indicated by a weighbeam or dial when correct load balance is obtained. In any case the weigher should concentrate his attention upon the beam tip, balance indicator or dial indicator while weighing and not concern himself with reading the visible weight indications until correct load balance is obtained.

(d) *Recording the weight.* (1) The gross or tare weight shall be recorded immediately after the load balance is obtained and before any poises are moved or load removed from the scale platform. The weigher shall make certain that the printed weight record agrees with the weight value visibly indicated on the weighbeam or dial when correct load balance is obtained. He shall also assure himself that the printed weight value is sufficiently distinct and legible.

(2) The weight printing device on a scale shall be operated only to produce a printed or impressed record of weight while the load is on the scale and correctly balanced. If the weight is not printed clearly and correctly, the ticket shall be marked void and a new one printed before the load is removed from the scale.

(e) *Weigher's responsibilities.* (1) The primary responsibility of a weigher is to determine and record the true weight of live poultry without prejudice or favor to any person or agency and without regard for poultry ownership, price, condition, shrink, or other considerations. A weigher shall not permit the representations or attitudes of any persons or agencies to influence his judgment or action in performing his duties.

(2) Unused scale tickets or those which are partially executed shall not be left exposed or accessible to other parties. All such tickets shall be kept under lock when the weigher is not at his duty station.

(3) Accurate weighing and weight recording require that a weigher shall not permit his operations to be hurried to the extent that inaccurate weights or incorrect weight records may result. The gross, tare and net weights must be determined accurately to the nearest minimum graduation. Manual operations connected with balancing, weighing, and recording shall be performed with the care necessary to prevent damage to the accurately machined and adjusted parts of weighbeams, poises, and printing devices. Rough handling of these parts shall be avoided.

(4) Poultry growers, sellers, packers, dealers, and handlers, or others having legitimate interest in a load of poultry are entitled to observe the balancing, weighing, and recording procedures. A weigher shall not deny that right or withhold from them any information pertaining to the weight. He shall check the zero balance of the scale or reweigh a load of poultry when requested by such parties or duly authorized representatives of the Administrator.

(f) *General precautions.* (1) The poises of weighbeam scales are carefully adjusted and sealed to a definite weight at the factory and any change in that weight seriously affects weighing accuracy. A weigher, therefore, shall observe if poise parts are broken, loose or lost or if material is added to a poise and shall report any such condition to his superior or employer. Balancing or weighing shall not be performed while a scale ticket is in the slot of a weighbeam poise.

(2) Stops are provided on scale weighbeams to prevent movement of poises back of the zero graduation when balancing or weighing. When the stops become worn or broken and allow a poise to be set behind the zero position, this condition must be reported by the weigher to his superior or employer and corrected without delay.

(3) Foreign objects or loose material in the form of nuts, bolts, washers, or other material on any part of the weighbeam assembly, including the counterbalance hanger or counter-balance weights, are potential sources of weighing error. Loose balancing material must be enclosed in the shot cup of the counter-balance hanger and counterbalance weights must not be of the slotted type which can readily be removed.

(4) Whenever, for any reason, a weigher has reason to believe that a scale is not functioning properly or not yielding correct weight values, he shall discontinue weighing, report the facts to the parties responsible for scale maintenance and request inspection, test or repair of the scale.

(5) When a scale has been adjusted, modified, or repaired in any manner which can affect the accuracy of weighing or weight recording, the weigher shall not use the scale until it has been tested and inspected and found to be accurate.

Any person who wishes to submit written data, views, or arguments concerning the proposed instructions may do so by filing them in duplicate with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, within 60 days from the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 5th day of November 1971.

ODIN LANGEN,
Administrator, Packers and Stockyards Administration.

[FR Doc.71-16589 Filed 11-11-71;8:51 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1904]

RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

Use of Data-Processing Equipment; Additional Time for Completing Forms; Posting of Annual Summary

Part 1904 of Title 29, Code of Federal Regulations, was established on July 2, 1971 (36 F.R. 8693). Since that date the Department of Labor has received a number of petitions for recordkeeping exceptions. Many petitions concerned the following two particular situations: (1) Employers with many small establishments wish to have the required records prepared in a central place; and (2) employers with large establishments or many establishments, or both, believe that the required records would be more efficiently maintained through use of data-processing equipment. Proposals to afford the requested relief are set forth below. In addition, other proposals are set forth which would provide additional time for making record entries and which would provide for a specific period for posting the annual summary of occupational injuries and illnesses. Pursuant to sections 8(c) (1), (2), 8(g)(2), and 24 (e) (84 Stat. 1599, 1600, 1615; 29 U.S.C. 657, 673), and Secretary of Labor's Order No. 12-71 (36 F.R. 8754), it is proposed to amend Part 1904 of Title 29, Code of Federal Regulations, in the manner set forth below.

Interested persons are invited to submit written data, views, and comments concerning the proposed amendments. Such written matter may be mailed to the Assistant Secretary for Occupational Safety and Health, Department of Labor, 14th Street and Constitution Avenue NW., Washington, DC 20210, within 20 days after the publication of this notice in the FEDERAL REGISTER.

Also written submissions made pursuant to this notice will be made available for public inspection at the Office of Occupational Safety and Health Statistics, Bureau of Labor Statistics, U.S. Department of Labor, 441 G Street NW., Room 3818, Washington, DC 20212, except where the person making the submission requests that the submission be considered confidential and the Commissioner of BLS determines that the making of the submission public would disclose trade secrets, or other processes or operations which are privileged or confidential.

1. Section 1904.2 would be amended as follows:

§ 1904.2 Log of occupational injuries and illnesses.

(a) Each employer shall maintain in each establishment a log of all recordable occupational injuries and illnesses, except that under the circumstances described in paragraph (b) of this section an employer may maintain the log of occupational injuries and illnesses at a place other than the establishment. Each employer shall enter each recordable occupational injury and illness on the log within 6 working days after receiving information that a recordable case has occurred. For this purpose, Occupational Safety and Health Administration OSHA Form No. 100 or any private equivalent may be used. OSHA Form No. 100 or its equivalent shall be completed in the detail provided in the form and the instruction contained in OSHA Form No. 100. If an equivalent to OSHA Form No. 100 is used, such as a printout from data-processing equipment, the information shall be as readable and comprehensible to a person not familiar with the data-processing equipment as the OSHA Form No. 100 itself.

(b) Any employer may maintain the log of occupational injuries and illnesses at a place other than the establishment under the following circumstances:

(1) There is available at the place where the log is maintained sufficient information to complete the log to a date within 6 working days after a recordable case has occurred, as required by paragraph (a) of this section.

(2) A copy of the log, complete and current to a date within 45 calendar days, is available at each of the employer's establishments.

2. Section 1904.4 would be amended to read as follows:

§ 1904.4 Supplementary record.

In addition to the log of occupational injuries and illnesses provided for under § 1904.2, each employer shall have available for inspection at each establishment within 6 working days from the occurrence of a recordable case, a supplementary record for each occupational injury or illness. The record shall be completed in the detail prescribed in the instructions accompanying Occupational Safety and Health Administration Form OSHA No. 101. Workmen's compensation, insurance, or other reports are acceptable alternative records if they contain the information required by Form OSHA No. 101. If no acceptable alternative record is maintained for other purposes, Form OSHA No. 101 shall be used or the necessary information shall be otherwise maintained.

3. Section 1904.5 would be amended to read as follows:

§ 1904.5 Annual summary.

(a) Each employer shall compile an annual summary of occupational injuries and illnesses for each establishment. Each annual summary shall be based on the information contained in the log of occupational injuries and illnesses for the particular establishment. Form OSHA No. 102 shall be used for this purpose, and shall be completed in the form and detail as provided in the instructions contained therein.

(b) The summary shall be completed no later than 1 month after the close of each calendar year beginning with calendar year 1971.

(c) Each employer, or the officer or employee of the employer who supervises the preparation of the annual summary of occupational injuries and illnesses, shall certify that the annual summary of occupational injuries and illnesses is true and complete. The certification shall be accomplished by affixing the signature of the employer, or the officer or employee of the employer who supervises the preparation of the annual summary of occupational injuries and illnesses, to the lower right hand corner of the annual summary or by appending a separate statement to the annual summary certifying that the annual summary is true and complete.

(d) (1) Each employer shall post a copy of the establishment's summary in each establishment in the same manner that notices are required to be posted under § 1903.2(a) of this chapter. The summary shall be posted no later than February 1 and shall remain in place for 30 calendar consecutive days thereafter.

(2) A failure to post a copy of the establishment's annual summary may result in the issuance of citations and assessment of penalties pursuant to sections 9 and 17 of the Act.

4. Section 1904.9 would be amended as follows:

§ 1904.9 Falsification, or failure to keep records or reports.

(a) Section 17(g) of the Act provides that "Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Act shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment, for not more than 6 months or both."

(b) Failure to maintain records or file reports required by this part, or in the details required by forms and instructions issued under this part, may result in the issuance of citations and assessment of penalties as provided for in sections 9, 10, and 17 of the Act.

5. Section 1904.13 would be amended to read as follows:

§ 1904.13 Petitions for recordkeeping exceptions.

(a) *Submission of petition.* Any employer who wishes to maintain records in a manner different from that required by this part may submit a petition containing the information specified in paragraph (c) of this section to the Regional Director of the Bureau of Labor Statistics wherein the establishment involved is located.

* * * * *

(c) *Contents of petition.* A petition filed under paragraph (a) of this section shall include:

(1) The name and address of the applicant;

(2) The address of the place or places of employment involved;

(3) Specifications of the reasons for seeking relief;

(4) A description of the different recordkeeping procedures which are proposed by the applicant;

(5) A statement that the applicant has informed his affected employees of the petition by giving a copy thereof to them or to their authorized representative and by posting a statement giving a summary of the petition and by other appropriate means. A statement posted pursuant to this subparagraph shall be posted in each establishment in the same manner that notices are required to be posted under § 1903.2(a) of this chapter. The applicant shall also state that he has informed his affected employees of their rights under paragraph (b) of this section;

(6) In the event an employer has more than one establishment he shall submit a list of the States in which such establishments are located and the number of establishments in each such State. In the further event that certain of the employer's establishments would not be affected by the petition, the employer shall identify every establishment which would be affected by the petition and give the State in which they are located.

(Secs. 8(c), 8(g), 24, 84 Stat. 1599, 1600, 1615; 29 U.S.C. 657, 673; Secretary's Order No. 12–71, 36 F.R. 8754)

Signed at Washington, D.C. this 9th day of November 1971.

GEOFFREY H. MOORE,
Commissioner,
Bureau of Labor Statistics.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.71-16584 Filed 11-11-71;8:51 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 3]

MANUFACTURE AND PROCESSING OF CANNED FOODS

Proposed Statement of Policy

Notice is given that a petition has been filed by the National Canners Association, 1133 20th Street NW., Washington, DC 20036, proposing that the following statement of policy, accompanied by index and appendix, be published for comment. The proposal relates to commercially processed foods for human consumption manufactured, processed, or packed in hermetically sealed containers which are processed by heat either before or after being sealed in the container.

STATEMENT OF POLICY

APPLICATION OF EMERGENCY PERMIT PROVISIONS OF SECTION 404 OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT, AS AMENDED

§ 3.____ Commercial processing of foods in hermetically sealed containers.

(a) Inadequate processing of low-acid foods in hermetically sealed containers may result in the distribution in interstate commerce of processed foods that may be injurious to health and such injurious nature may not always be adequately determinable after those foods have entered into interstate commerce. The Commissioner of Food and Drugs therefore finds that the use of inadequate processing procedures for this class of foods may necessitate the institution in appropriate circumstances of emergency permit control under section 404 of the Federal Food, Drug, and Cosmetic Act, as amended. The Commissioner has determined that the failure of any commercial processor of low-acid foods in hermetically sealed containers, in any establishment, to fulfill all of the requirements of this section, which are intended to insure safe processing procedures and to permit the Food and Drug Administration to verify that these procedures are being followed, shall constitute a prima facie basis for the immediate application of the emergency permit control provisions of section 404 to that establishment. The Commissioner further finds that the implementation of this section and the enforcement of section 404 of the Federal Food, Drug, and Cosmetic Act, as amended, within the resources available to the Food and Drug Administration, require that paragraphs (c) and (d) of this section, relating to the registration of commercial processing establishments and required coding, be applicable to all processed foods in hermetically sealed containers. The failure of any commercial processor of these products to fulfill any such requirement shall likewise constitute a prima facie basis for the immediate application of the emergency permit control provisions of section 404 to the particular establishment.

(b) For the purposes of this section:

(1) "Commercial processor" shall include any person, as defined in section 201(e) of the Act, engaged in commercial, custom, and so-called sportsman processing or institutional (church, school, penal, or other organization) processing of food for human consumption.

(2) "Commercially processed food manufactured, processed, or packed" shall include all foods for human consumption in hermetically sealed containers which are processed by heat either before or after being sealed in the container to protect the health of the consumer.

(3) "Container" shall include cans, jars, pouches, barrels, or any other type of processed food container which is hermetically sealed and the contents of which are processed by heat either before or after being sealed in the container.

(4) "Low-acid foods" means any food with finished equilibrium pH value greater than 4.6, and shall also include any food in which for the purpose of processing the pH value is reduced by acidification.

(c) Every person first engaging in the commercial manufacture, processing, or packing of any processed food in any State, as defined in section 201(a)(1) of the Act, shall not later than ten (10) days after first so engaging register with the Food and Drug Administration his name, principal place of business, and the location of each establishment in which such processing is carried on. Every person presently so engaged shall not later than sixty (60) days from the effective date of this section similarly register. Every person duly registered in accordance with this section shall not later than ten (10) days following the commencement of operations register with the Food and Drug Administration any additional establishments which he owns or operates in any State at which he begins the commercial manufacture, processing, or packing of processed foods. Every person duly registered in accordance with this section shall notify the Food and Drug Administration not later than ninety (90) days after such person ceases or discontinues the commercial manufacture, processing, or packing of processed foods in any establishment: *Provided*, That such notification shall not be required as to the temporary cessation in accordance with the seasonal character of the particular establishment's production.

(d) Every commercially processed food manufactured, processed, or packed in an establishment registered pursuant to this section shall be marked with an identifying code, which shall be permanently indicated on each food container by embossing, inking, or label perforation, so as to provide in code adequate indication of the establishment and the date of processing.

(e) The processing of low-acid foods shall be subject to the following additional requirements:

(1) Every person engaged in the commercial processing of low-acid foods who registers under paragraph (c) of this section shall, at the time of registration, file with the Food and Drug Administration on forms specified by the Commissioner (i) a list of the low-acid foods commercially manufactured, processed, or packed in each establishment, and (ii) such further information as to the equipment to be employed in the processing of each such low-acid food, as is specified in Appendix A.

(2) Every person engaged in the commercial processing of low-acid foods in any registered establishment shall not later than sixty (60) days after the effective date of this section, or as to seasonal operations prior to commencing such processing, file, on the forms specified in Appendix A(with the Food and Drug Administration, the processes to be employed, specifying the retort equipment, minimum initial temperature, time, and temperature of processing for each such low-acid food in each container size.

(3) Every person engaged in the processing of low-acid foods in any registered establishment shall process each low-acid food in each container size in accordance with the procedures and processes filed in accordance with subparagraph (2) of this paragraph.

(4) Low-acid foods shall be coded in accordance with paragraph (d) of this section and the period code shall be changed every four (4) hours or less. The processing records covering all low-acid foods, including the coding applied, shall be retained for five (5) years.

(5) Whenever any inadvertent underprocessing of any low-acid food is disclosed from processing records, by processor check or otherwise, the commercial processor of such low-acid food shall set aside the lot or lots involved for further evaluation as to any potential health significance of such underprocessing, and upon completion of such evaluation and any determination that no potential health significance has resulted, shall report to the Food and Drug Administration that determination, and the basis for it, not less than ten (10) days in advance of any distribution of the whole or any part of any lot involved.

(6) Irrespective of any underprocessing disclosed by processing records, every commercial processor of any low-acid food shall, in accordance with present industry practice, promptly report to the Food and Drug Administration all instances of spoilage having a potential health significance where any lot has in whole or in part entered distribution.

(7) Upon demand by any duly authorized employee of the Food and Drug Administration, every person commercially manufacturing, processing, or packing low-acid foods shall permit the inspection and copying by such employee of the processing records specified in Appendix A, to verify that adequate processing and coding of each such low-acid food was performed.

(8) All retort equipment used for the commercial processing of low-acid food shall, not later than ninety (90) days after the effective date of this section, or as to seasonal operations prior to beginning date of processing thereafter, be equipped with appropriate temperature recording devices.

(9) All retorts used in the commercial manufacture, processing, or packing of low-acid foods shall be operated at all times, and all can seam inspectors performing the can seam inspections for low-acid foods prescribed in Appendix A shall function, under the direct personal supervision of a person who has attended a certified school for retort operators or can seam inspectors, as the case may be, and has been certified by that school as having satisfactorily completed the prescribed course of instruction in retort operation or can seam inspection: *Provided*, That this requirement shall not apply for a period of 1 year to the present operators of retorts and can seam inspectors in establishments registered pursuant to this section. The Commissioner will issue in the near future lists of approved schools for retort operators and for can seam inspectors qualified to certify such operators and inspectors as having satisfactorily completed the prescribed courses of instruction in retort operation and can seam inspection.

(10) Any data, report, or other information supplied by any commercial processor pursuant to subparagraphs (5), (6), and (7) of this paragraph (e) will not be used directly or indirectly as evidence in any criminal prosecution under the Federal Food, Drug, and Cosmetic Act of the person from whom obtained.

(f) Wherever any State regulates the commercial processing of low-acid foods, in accordance with effective regulations specifying at least the requirements of paragraph (e) of this section, compliance with such State regulations shall constitute compliance with paragraph (e) of this section. All other provisions of this section shall be applicable to the commercial processing of foods in such State.

(g) This section shall not apply to the comemrcial processing of any food processed under the continuous inspection of the Meat Inspection Service or the Poultry Inspection Service of the Consumer and Marketing Service of the Department of Agriculture under the Federal Meat Inspection Act (Public Law 90–201, 81 Stat. 584, 21 U.S.C. Section 601 et seq.) and the Poultry Products Inspection Act (Public Law 90–492, 82 Stat. 791, 21 U.S.C. Section 451 et seq.).

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APPENDIX A

SECTION 1.1 *Definitions.*

(a) "Low-acid foods" means any food with a finished equilibrium pH value greater than 4.6 and shall also include any food in which for the purpose of processing the pH value is reduced by acidification.

(b) "Hermetically-sealed container" means a container which is secure against the entrance to, or escape from, the container of air, gases, or liquids, at any point of closure, seams or other area of the container surface.

(c) "Initial temperature" means the average temperature of the contents of the coldest product to be processed at the time the sterilization cycle begins, as determined after thorough stirring or shaking.

(d) "Commercial sterility" means the condition achieved by application of heat which renders the food free of viable forms of microorganisms having public health significance, as well as more heat resistant microorganisms of nonhealth significance capable of reproducing under normal conditions of storage and distribution.

(e) "Process" means the application of heat to food in containers, either before or after sealing, for a period of time and at a temperature scientifically determined to be adequate to achieve commercial sterility.

(f) "Retort" or "cooker" means any enclosed vessel or other machinery used for heat processing canned foods.

(g) "Vents" mean 1 inch or larger, gate, plug cock, or other valve controlled openings in retorts used for elimination of air during the venting period as required to achieve the processing temperature.

SEC. 1.2 *Coding of containers.*

(a) Each container of low-acid food manufactured, processed, or packed in any registered establishment shall be marked with an identifying code which shall be permanently indicated on the cover, or other visible surface, of each can, jar, pouch, barrel, or other container. When the container does not permit the code to be embossed or ink stamped thereon, it will be permissible to legibly perforate, or ink stamp the required code on the label, provided the label is securely affixed to the product container.

(b) The required indication to be affixed to each container shall identify in code the establishment where packed, the product contained therein, the year packed, the day packed, and the period of the day packed. The packing period code shall be changed every 4 hours or less.

SEC. 1.3 *Filing with FDA of processes to be employed for low-acid foods.*

(a) Every person engaged in the commercial processing of low-acid foods in any registered establishment shall not later than sixty (60) days after registration, or as to seasonal operations prior to commencing such processing, file, on the following or similar, forms with the Food and Drug Administration, the processes to be employed, specifying the processing method, minimum initial temperature, time, and temperature of

processing, and source of process for each such low-acid food in each container size; provided that the filing of such information, or the failure of the Food and Drug Administration to challenge the process shall not constitute approval of the process by the Food and Drug Administration.

(b) *Suggested filing form.*

Processing method [1] _____

Product and [2] product form	Container type and size (dimensions)	Minimum initial temp.	Process: Time: temp.	Source of process

[1] NOTE: For agitating processes include rotational speed and/or speed in cans per minute, minimum headspace, and in the case of thickened products, maximum product consistency.
[2] Where acidification is followed, specify the maximum finished product equilibrium pH.

(c) Each low-acid food in each container size shall be processed in accordance with the method and for at least the minimum times and temperatures filed in accordance with subsection 1.3(a) above.

SEC. 1.4 *Acidification.*

In instances in which products must be acidified sufficiently to permit safe processing at low temperatures, such as in boiling water, there shall be careful supervision to insure that the finished product equilibrium pH does not exceed the specified maximum as filed under section 1.3(b).

SEC. 1.5 *Processing and production records.*

(a) All processors of low-acid canned foods shall maintain the record specified herein and in other sections of this appendix.

(b) Daily processing and production information shall be entered by the retort operator on record forms which shall include the product, the code number, retort number, the size of container in each code, the approximate number of containers, and the initial temperature, processing time and temperature (time steam on; time temperature up; time steam off; and thermometer readings). The recording thermometer chart shall be identifiable with the lots processed.

(c) Each entry on the record shall be made by the retort operator at the time the specific retort condition or operation occurs and the retort operator shall sign each record form.

(d) A qualified representative of plant management shall review all processing and production records for adequacy not later than 1 working day after the actual process occurred and before the product is shipped. This management representative shall affix his or her signature to the records including the recording thermometer chart.

(e) The processing and products records required under this appendix A shall be retained for a period of not less than five (5) years, except those records specified in section 1.6.

SEC. 1.6 *Examination of container closures.*

(a) *Visual examination of containers.* (1) During regular production runs constant observation shall be maintained for gross closure defects such as deadheads, cutovers, fractured embossing, and other container closure defects. Any such defects shall be recorded. Such observations shall be performed under the direct personal supervision of a container closure inspector certified as having attended an approved course of instruction in closure inspection.

(2) The operator, closure supervisor, or other qualified container closure inspection personnel shall visually examine, at intervals of not more than 30 minutes, the top seam of a randomly selected can from each seaming head, or the closure of the container being used, and shall record his observations. Additional visual closure inspections shall be made immediately following a jam in a closure machine, or after startup of a machine following a prolonged shutdown.

(3) All pertinent observations shall be recorded. If irregularities are found, the corrective action taken shall be noted.

(b) *Teardown examinations for cans.* (1) Teardown examinations shall be made at a frequency of at least one can per seaming station every 4 hours of operation. Such examinations shall be made as soon as possible after starting up following prolonged shutdown, waiting only long enough for the machine to "warm up."

(2) The results of the teardown examinations shall be recorded.

(3) Required and optional can seam measurements:

(i) Micrometer measurement system.

Required	*Optional*
Cover hook.	Overlap (by calculation).
Body hook.	Countersink.
Width (length, height).	
Tightness (observation for wrinkle).	
Thickness.	

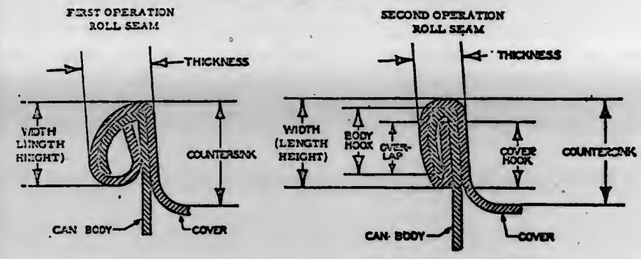
(ii) Optional system (use of seam scope or projector).

Required	*Optional*
Body hook.	Width (length, height).
Overlap.	Cover hook.
Tightness (observation for wrinkle).	Countersink.
	Thickness.

(4) Two measurements shall be made for each double seam characteristic if a seam scope or seam projector is used. If a micrometer is used, three measurements shall be made at points approximately 120° apart, excluding the side seam.

(5) Can double seam terminology.

DOUBLE SEAM TERMINOLOGY



Minimum measurements

Width [2] (not essential if overlap is measured optically).
Thickness [1] (required for micrometer measurement).
Countersink (desirable but not essential).
Body hook.[1]
Cover hook.[1] (required if micrometer is used).
Overlap [1] (essential if optical system used).
Tightness [1] or wrinkle.

[1] Essential requirements.

Calculation of overlap length

Overlap length = CH + BH + T − W
Where
CH = cover hook
BH = body hook
T [3] = cover thickness, and
W = seam width

[2] In general practice 0.010 may be used for the tinplate thickness.

(6) With regard to measurement limits, the processor shall follow the working limits recommended by the can and/or closing machine supplier.

(7) Overlap length can be calculated by the following formula: The theoretical overlap length = CH + BH + T − W
where

CH = cover hook
BH = body hook
*T = cover thickness, and
W = seam width (height, length)

*In general practice, 0.010 may be used for the tinplate thickness.

(c) *Records.* (1) Written records shall be made on all seam examinations, and the time of visual and teardown inspections, and the measurements made.

(2) The records shall show the date and the measurements made.

(3) The records of seam inspection shall be retained for a period of not less than two (2) years.

SEC. 1.7 *Retort room operations.*

(a) The retort room operations shall be under the direct personal supervision of a supervisor or manager certified as having attended an approved course of instruction in retort operation.

(b) Processes and venting procedures to be used for each product and container size being packed shall be posted in a conspicuous place near the retorts.

(c) All retort baskets, trucks, cars, or crates containing unretorted material, or some of the containers on the top of such baskets, shall be plainly and conspicuously marked with a heat sensitive indicator which will visually indicate to all cookroom personnel whether or not each such unit has been retorted. If several products are being packed at the same time, units of each product shall be plainly indicated.

(d) Accurate timing devices which can be easily read to the nearest minute shall be used by retort operators in recording process time information.

SEC. 1.8 *Still retorts.*

(a) *Definitions.* (1) "Still retorts" mean discontinuous (batch type), nonagitating vertical or horizontal enclosed vessels used for processing low-acid foods.

(2) "Coming-up-time" means the time which elapses between turning on the steam into the closed retort and the time when the retort reaches and maintains the required processing temperature.

(b) *Equipment and installation for pressure processing in steam in still retorts—*(1) *Indicating mercury-in-glass thermometer.* Still retorts shall be equipped with at least one mercury-in-glass thermometer having a temperature range of not more than 100° F. on a scale at least 7 inches in length. The scale divisions should be no more than 2° F. Thermometers shall be tested for accuracy against a known accurate standard once a year thereafter or at any time their accuracy is questioned. Bulbs of indicating thermometers may be installed within the retort shell or in external wells attached to the retort through at least a ¾-inch-diameter opening, and be equipped with one-sixteenth inch or larger bleeder opening so located as to provide a full flow of steam past the length of the thermometer bulb. The bleeder for external wells must emit steam continuously during the entire processing period. Thermometers shall be installed where they are illuminated so that they can be accurately and easily read. A thermometer with a divided mercury column shall be replaced. The mercury thermometer, not the recorder chart, shall be the reference instrument for indicating the processing temperature.

(2) *Recording thermometer.* There shall be a recording thermometer on each still which shall not exceed 2° F. within a range of 10° F. of the processing temperature. All charts shall have a working scale of not less than 3 inches. This recorder may be combined with the steam controller and be a recording-controlling instrument. The recording bulb may be installed within the retort shell or in a thermometer well attached to the shell. The well shall be capable of accommodating both the recorder bulb and a mercury-in-glass thermometer. A thermometer well must have a one-sixteenth inch or larger bleeder opening emitting steam continuously during the processing period. The recording thermometer shall in no instance read higher than the accurate mercury-in-glass thermometer.

(3) *Pressure gages.* Each retort should be equipped with a pressure gage graduated in one pound divisions.

(4) *Steam controller.* Each still retort shall be equipped with an automatic steam controller to maintain the retort temperature. This may be a recording-controlling instrument when combined with a recording thermometer.

(5) *Steam inlet.* The steam inlet to each still retort must be large enough to provide sufficient steam for proper venting of the retort. Steam may enter either the top or the bottom of the retort, but must enter the end or side opposite the vent.

(6) *Crate supports (or baffle plates).* Some type of bottom crate support shall be provided in vertical still retorts. Baffle plates shall not be used in the bottom of still retorts.

(7) *Steam spreaders.* Steam spreaders, which are perforated continuations of the steam line inside the retort, should be not larger than the steam inlet line. Spreaders are necessary in all installations except for vertical still retorts vented at the top of the retort where the steam enters at the top of the retort.

(i) *Horizontal still retorts.* In horizontal still retorts the perforated pipe shall extend along the bottom for the entire length of the retort, and the perforations should be along the top 90° of this pipe. For still retorts over 90 feet long it is desirable to have two inlets connected to the spreader.

(ii) *Vertical still retorts.* In vertical still retorts the perforated pipe should preferably be in the form of a cross with the perforations along the top or sides of the pipe.

NOTE: The number of perforations in spreaders should be such that the total cross sectional area of the perforations is equal to 1½ to two times the cross sectional area of the steam inlet line. The following table may be used as a guide:

NUMBER OF HOLES IN STEAM SPREADERS FOR STEAM INLET PIPE SIZES

Size holes (inches)	1 inch pipe	1¼ inch pipe	1½ inch pipe	2 inch pipe	2½ inch pipe
⅛	47-62	81-108	111-148	185-244	260-346
¼	27-36	46-61	63-84	102-136	146-194
⅜		26-34	36-48	59-78	83-110
½		17-23	23-30	38-50	54-72

(8) *Bleeders for retorts or cookers.* Bleeders are ⅛- to ¼-inch openings used to remove air entering the retort with the steam and to provide circulation of steam in the retort. Bleeders for thermometer wells may be one-sixteenth inch or larger openings. Bleeders must be wide open and emit steam continuously during the entire process, including the coming-up-time. All bleeder openings shall be arranged in such a way that the operator can observe that steam is escaping during the process. In cases of top steam inlet and bottom venting, an adequately sized bleeder opening shall be installed in the bottom of the retort to insure complete removal of condensate. Its discharge shall be above the retort platform or so located as to be easily observable.

(i) Horizontal still retorts shall have at least one bleeder opening within about 1 foot of each end and additional bleeder openings not more than 8 feet apart along the top.

(ii) Vertical still retorts shall have at least one bleeder opening at the end opposite to that at which steam is admitted.

(9) *Vents.* Vents shall be installed in such a way that all air is removed from the retort before timing of the process is started. Vents must be controlled by gate or plug cock type valves which must be fully open to permit rapid discharge of air from the retort during the venting period. Vents shall not be connected directly to the drain system. If the overflow is used as a vent, there must be an atmospheric break in the line before it connects to the drain. The vent shall be located in the extreme end or side of the retort from that through which the steam is admitted.

(10) *Stacking equipment.* (i) Stacking equipment (baskets, trays, gondolas, etc.) for all types of containers in still retorts, when containers are stacked in a vertical position, shall preferably be of strap iron. When perforated sheet metal baskets are used, the perforations in the bottom shall be approximately 1-inch holes on 2-inch centers or their equivalent.

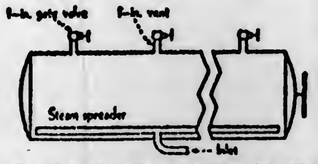
(ii) If dividers between layers of containers are used, they shall be of material such as strap iron, sheet metal, or plastic having perforations of approximately the equivalent of 1-inch holes on 2-inch centers.

(11) *Venting of still retorts for processing in steam.* Retort loading systems employing divider plates between each layer of containers require increased venting schedules. Consult a competent laboratory connected with the canning industry for the necessary venting time and temperature. Timing of the process shall not begin until the retort has been properly vented and the processing temperature requirements determined for particular retort installations shall be met.

(ii) *Venting and vent manifolds.* Air removal is best accomplished by venting directly to the atmosphere from the gate or plug cock valve controlling the vent. However, it is often desirable to remove the steam vapor from the retort room by connecting the vent pipes to a suitably sized retort manifold and manifold header. A retort manifold connects several vent pipes from a single still retort and is controlled by a gate or plug cock type valve. The retort manifold must be of a size such that the cross sectional area of the pipe is larger than the total cross sectional area of all connecting vents and shall be at least one pipe size larger than the steam inlet. The discharge shall not be directly connected to a drain without an atmospheric break in the line. A manifold header connects vents or manifolds from several still retorts and leads to the atmosphere. The manifold header is not controlled by a valve and must be sized so that the cross sectional area is at least equal to the total cross sectional area of all connecting retort manifold pipes from all still retorts venting simultaneously. If the header is of excessive length, it shall be increased by at least one pipe size.

(iii) Some typical installations and operating procedures are given in the following subparagraph (a) through (f). There are other installations and operating procedures which will result in adequate air removal. Individuals connected with the canning industry who shall specify venting schedules to provide adequate air removal. In the following detailed venting procedures the vent valve, method given requires that the steam valve, and all the water and air valves are completely closed.

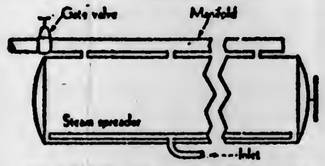
(a) Venting horizontal still retorts through multiple 1-inch vents discharging directly to atmosphere.



Specifications. One 1-inch vent for every 5 feet of retort length equipped with a gate or quick spring valve discharging to atmosphere. End vents not more than 2½ feet from ends of retort.

Venting method. Vent valves shall be wide open for at least 5 minutes and to at least 225° F. or at least 7 minutes and to at least 220° F.

(b) Venting horizontal still retorts through multiple 1-inch vents discharging through a manifold to atmosphere.

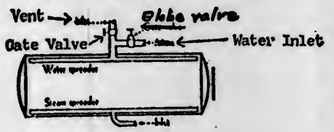


Specifications. One 1-inch vent for every 5 feet of retort length. End vents not over 2½ feet from end of retort.

	Retort length, in feet	
	Under 15	Over 15
	inches	*inches*
Size of manifold	2½	3

Venting method. Manifold vent gate valve shall be wide open for at least 6 minutes and to at least 225° F. or at least 8 minutes and to at least 220° F.

(c) Venting horizontal still retorts through water spreaders.



Specifications.

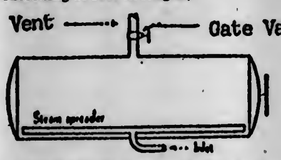
	Retort length, in feet	
	Under 15	Over 15
	inches	*inches*
Size of water and vent valve	2	2½
Size of water spreader	1½	2

Venting method. Water spreader vent gate valve shall be wide open for at least 5 minutes and to at least 225° F. or at least 7 minutes and to at least 220° F. The number of holes in the water spreader shall be such that their total cross sectional area is equal to the cross sectional area of the water inlet line. The following table may be used as a guide:

NUMBER OF HOLES IN WATER SPREADER FOR WATER INLET PIPE SIZES

Hole size (inches)	1¼ in. pipe	1½ in. pipe	2 in. pipe	2½ in. pipe	3 in. pipe	3½ in. pipe
3/16	54	74	122	173	266	358
7/32	40	54	89	127	197	263
1/4	30	42	68	97	150	201
5/16	14	18	30	44	67	90
3/8	10	17	24	34	38	50

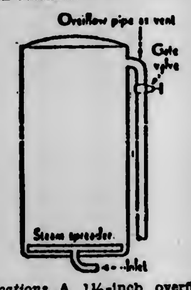
(d) Venting horizontal still retorts through a single 2½-inch top vent (for retorts not exceeding 15 feet in length).



Specifications. A 2½-inch vent equipped with a 2½-inch gate valve located within 2 feet of the center of the retort.

Venting method. Vent gate valve shall be wide open for at least 4 minutes and to at least 220° F.

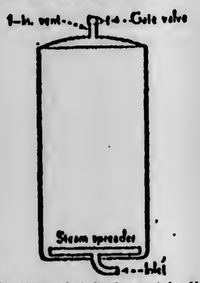
(e) Venting vertical still retorts through a 1½-inch overflow.



Specifications. A 1½-inch overflow pipe equipped with a 1½-inch gate valve and not more than 6 feet of 1½-inch pipe beyond the valve before break to atmosphere.

Venting method. Vent gate valve shall be wide open for at least 4 minutes and to at least 215° F. or at least 5 minutes and to at least 215° F.

(f) Venting vertical still retorts through a single 1-inch side or top vent.



Specifications. A 1-inch vent in lid or top side equipped with a 1-inch gate valve and discharging directly to the atmosphere.

Venting method. Vent gate valve shall be wide open for at least 5 minutes and to at least 230° F. or at least 7 minutes and to at least 220° F.

(c) *Equipment and installation for pressure processing in water in still retorts.* Processing under water with superimposed air pressure is generally practiced for glass containers and requires adequate water circulation to insure uniform temperatures.

(1) *Indicating mercury-in-glass thermometers.* Each still retort shall be equipped with at least one mercury-in-glass thermometer having a temperature range of not more than 100° F. on a scale at least 7 inches in length. The scale divisions shall be no more than 2° F. Thermometers shall be tested for accuracy against a known accurate standard thermometer upon installation and at least once a year thereafter or at any time their accuracy is questioned. The thermometer bulbs shall be located in such a position that they are beneath the surface of the water throughout the process. On horizontal retorts this entry should be made in the side at the center, and the thermometer bulbs shall be inserted directly into the shell. In both vertical and horizontal retorts, the thermometer bulb shall extend directly into the water a minimum of at least 2 inches without a separable well or sleeve. Thermometers shall be installed where they are illuminated so that they can be accurately and easily read. A thermometer with a divided mercury column shall be replaced. The mercury thermometer, not the recorder chart, shall be the reference instrument for indicating the processing temperature.

(2) *Recording thermometer.* There shall be a recording thermometer on each still retort. The chart graduations shall not exceed 2° F., within a range of 10° F. of the processing temperature. All charts shall have a working scale of not less than 3 inches. This recorder may be combined with the steam controller and be a recording-controlling instrument. The recording thermometer bulb should be located adjacent to the bulb of the mercury-in-glass thermometer except in the case of a vertical retort equipped with a combination controller-recorder. In such vertical retorts the temperature recorder-control bulb shall be located at the bottom of the retort below the lowest crate rest in such a position that the steam does not strike it directly. In horizontal retorts the temperature recorder-control bulb shall be located between the water surface and the horizontal plane passing through the center of the retort so that there is no opportunity for direct steam impingement upon the control bulb. The recording thermometer shall in no instance read higher than the accurate mercury-in-glass thermometer.

(3) *Pressure control and indicating equipment.* Automatic controls are required. (i) Water level and pressure controller. The top layer of jars shall be covered with about 6 inches of water and the overflow located accordingly. The opening of the overflow shall be larger than the water supply line. An adjustable pressure relief, or control valve shall be installed in the overflow line of a capacity sufficient to prevent increase in retort pressure when the water valve is wide open.

(ii) *Indicating pressure gage.* The pressure gage shall be graduated in not more than 2 p.s.i. divisions. In a vertical retort the gage shall be located at the thermometer pocket. In a horizontal retort the gage may be either in this position or at the top of the retort.

(iii) *Recording pressure indicator or controller.* The chart shall be easily readable and shall cover the normal operating range.

(4) *Steam supply and introduction.* The general requirement is for a good steam distributor in the bottom of the retort to provide uniform heat distribution throughout the retort. (i) In vertical retorts uniform steam distribution can be achieved by any of several methods. One method is an assembly of six pipes radiating from a center coupling with fish-tail nozzles at the end of each pipe which direct the steam up the walls of the retort outside the crates. Another method is a four-legged cross in which each pipe leg is perforated with holes along one side only. The legs are arranged in opposing pairs to give alternative live and dead quadrants.

(ii) In horizontal retorts the steam distributor shall run the full length of the bottom of the retort with perforations distributed uniformly along the upper part of the pipe.

(5) *Crate supports.* Lugs, tracks, or a saddle type support shall be used. A ring support is satisfactory for vertical retorts. In no case shall baffle plates be used in the bottom of the retort.

(6) *Stacking equipment.* (i) Crates, trays, gondolas, etc., for holding containers shall be made of strap iron or adequately perforated sheet metal. When perforated sheet metal is used for bottom of crates, the perforations shall be at least 1-inch holes on 2-inch centers, or their equivalent.

(ii) If divider plates are used between each layer of jars, they shall be perforated as above.

(7) *Drain valve.* A nonclogging, watertight valve of at least 125 p.s.i. capacity is required. Screens shall be installed over all drain openings.

(8) *Water level indicator.* (i) A means of determining the water level in the retort shall be provided. This can be accomplished by using a gage water glass or series of petcocks at different levels on the retort.

(ii) The water level shall be maintained at approximately 6 inches above the top layer of jars during the entire coming-up-time, process, and cool.

(9) *Air supply and controls.* (i) There shall be a reliable supply of compressed air at the proper pressure and a means of introducting it into the retort at an adequate rate. An automatic pressure control unit is required for both vertical and horizontal still retorts. In both, the air shall be introduced with the steam at the bottom and close to the retort.

(ii) Air circulation shall be maintained continuously during the coming-up-time, process, and cool.

(iii) A check valve shall be provided in the air supply line to prevent water from entering the system.

(10) *Container cooling water.* (i) A check valve should be included in the cooling waterline to prevent drop of pressure in the retort in case the water pressure should fall below the retort pressure.

(ii) In vertical retorts the cooling water should be introduced at the top of the retort below the water level and above the jar level, either through a minimum of four openings equally spaced around the circumference of the retort or through a perforated ring.

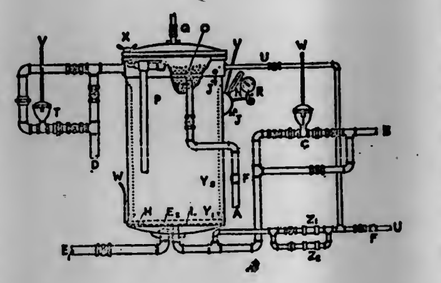
(iii) In horizontal retorts at the start of the cool, water should be introduced into the suction side of the pump.

(11) *Retort and crate diameters.* There shall be a minimum of 1½-inch clearance between the sidewall of the crate and the retort wall. Centering guides should be installed to assure proper clearance between the sidewall of the crate and the retort wall.

(12) *Retort headspace.* A minimum of 4 inches headspace shall be maintained between the top water level and the top of the retort shell.

(13) *Still retort details for pressure processing in water in still retorts.* (i) Vertical retorts shall follow the arrangement in the following diagram, or be equivalent.

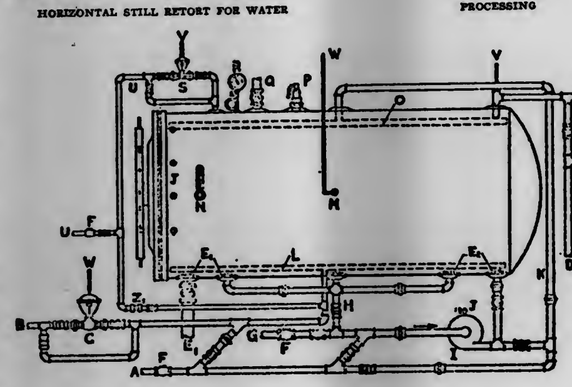
VERTICAL STILL RETORTS FOR WATER PROCESSING



A Water line
B Steam line
C Temperature control
D Overflow line
E1 Drain line
E2 Screens
F Check Valves
G Line from hot water storage
H Suction line and manifold
I Circulating pump
J Petcocks
K Recirculating line
L Steam distributor
M Temperature controller bulb
N Thermometer
O Water spreader
P Safety valve
Q Vent valve for steam processing
R Pressure guage
S Inlet air control
T Pressure control
U Air line
V To pressure control instrument
W To temperature control instrument
X Wing nuts—8 required
Y1 Crate support
Y2 Crate guides
Z1 Constant flow orifice valve used during come-up
Z2 Constant flow orifice valve used during cook

(ii) Horizontal still retorts shall follow the arrangement in the following diagram, or be equivalent.

HORIZONTAL STILL RETORT FOR WATER PROCESSING



A Water line
B Steam line
C Temperature control
D Overflow line
E1 Drain line
E2 Screens
F Check Valves
G Line from hot water storage
H Suction line and manifold
I Circulating pump
J Petcocks
K Recirculating line
L Steam distributor
M Temperature controller bulb
N Thermometer
O Water spreader
P Safety valve
Q Vent valve for steam processing
R Pressure guage
S Inlet air control
T Pressure control
U Air line
V To pressure control instrument
W To temperature control instrument
X Wing nuts—8 required
Y1 Crate support
Y2 Crate guides
Z1 Constant flow orifice valve used during come-up
Z2 Constant flow orifice valve used during cook

(a) *Water circulating system.* A water circulating system is required for heat distribution. This system shall be installed in such a way that water will be drawn from the bottom of the retort through a suction manifold and discharged through a spreader which extends the full length of the top of the retort. The holes in the water spreader shall be uniformly distributed and shall have an aggregate area not greater than the cross-section area of the outlet line from the pump. The suction outlets shall be protected with nonclogging screens to keep debris from entering the circulating system. The pump shall be equipped with a pilot light or other signaling device to warn the operator when it is not running, and with a bleeder to remove air when starting operations. The size of the suction manifold, circulating system, pump, and water spreader will depend on the size of the retort. The following are suggested as minimum sizes for use:

FOR STILL RETORTS UNDER 18 FEET IN LENGTH

Size of suction manifold.	2 inches.
Number and size of suction outlets from retort to manifold.	Two 1½ inch, equally spaced.
Size of circulating line and pump.	2 inches.
Size of water spreader	2 inches.

FOR STILL RETORTS OVER 16 FEET IN LENGTH	
Size of suction manifold.	2½ inches.
Number and size of suction outlets from retort to manifold.	One 2-inch outlet for each 8 feet of retort length or fraction thereof.
Size of circulating line and pump.	2½ inches.
Size of water spreader---	2½ inches.

SEC. 1.9 *Continuous agitating cookers.*

(a) *Definition.* In continuous agitating cookers, the containers are conveyed through a steam pressure chamber by means of a rotating reel and a spiral which is affixed to the shell. Entrance and exit of the containers from the pressure shell is accomplished by means of mechanical valves.

(b) *Equipment and installation for pressure processing in steam.*—(1) *Indicating mercury-in-glass thermometer.* Each cooker shell must be equipped with at least one mercury-in-glass thermometer having a temperature range of not more than 100° F. on a scale at least 7 inches in length. The scale divisions should be no more than 2° F. Thermometers shall be tested for accuracy against a known accurate standard thermometer upon installation and at least once a year thereafter or at any time their accuracy is questioned. Bulbs of indicating thermometers may be installed within each cooker shell or in external wells attached to each cooker shell. External wells or pipes shall be connected to each cooker shell through at least a ¾-inch diameter opening, and be equipped with one-sixteenth inch or larger bleeder openings so located as to provide a full flow of steam past the length of the thermometer bulb. The bleeder for external wells must emit steam continuously during the entire processing period. Thermometers shall be installed where they are illuminated so that they can be accurately and easily read. A thermometer with a divided mercury column shall be replaced. The mercury thermometer, not the recorder chart, shall be the reference instrument for indicating the processing temperature.

(2) *Recording thermometer.* A recording thermometer is required on each cooker shell. The chart graduations shall not exceed 2° F., within a range of 10° F. of the processing temperature. All charts should have a working scale of not less than 3 inches. This recorder may be combined with the steam controller and be a recording-controlling instrument. The recording thermometer shall in no instance read higher than the accurate mercury-in-glass thermometer.

(3) *Pressure gages.* Each cooker shell must be equipped with a pressure gage.

(4) *Steam controller.* Each cooker shell must be equipped with an accurate automatic steam controller.

(5) *Bleeders.* Bleeders (one-eighth inch or larger openings) shall be located within approximately 1 foot of each end and additional bleeders not more than 8 feet apart along the top of cooker shells. These bleeders shall be wide open during come-up-time and operating periods.

(6) *Venting and condensate removal.* All air in each cooker shell must be removed before processing is started. The top vent or vents shall be wide open to at least 220° F. and for at least 7 minutes from the time steam is turned on. At the time steam is turned on the drain shall be opened for a time sufficient to remove steam condensate from the cooker and provision shall be made for continuing drainage of condensate during operation. The condensate bleeder in the bottom of the shell serves as an indicator of continuous condensate removal.

(7) *Cooker speed timing.* The continuous pressure cooker supervisor shall adjust and record the speed on all continuous cookers when they are started and at least every four (4) hours during the operating period. Speed drives should be locked to prevent unauthorized speed changes.

(c) *Critical factors involved in this processing method.* (1) The minimum headspace shall be specified and maintained for each process. The specified minimum headspace shall be measured and recorded periodically after the filler at or above the specified initial temperature and before processing.

(2) Maximum consistency for thickened products shall be specified either on the basis of slowest heat penetration data or by objective measurements on the product taken from the filler before processing.

(3) Minimum speed of the cooker must be specified as part of the individual product heat processes.

SEC. 1.10 *Discontinuous agitating cookers.*

(a) *Definition.* Discontinuous agitating cookers involve batch operation with agitation provided during the process. Agitation is imparted to the contents of the containers by one of two methods: (1) The container is carried by a reel and rotates as the reel revolves; (2) The containers are in baskets and are rotated around a central axis.

(b) *Equipment and installation for pressure processing in steam.* (1) *Indicating mercury-in-glass thermometer.* Each cooker shall be equipped with at least one mercury-in-glass thermometer having a temperature range of not more than 100° F. on a scale at least 7 inches in length. The scale divisions shall be no more than 2° F. Thermometers shall be tested for accuracy against a known accurate standard thermometer upon installation and at least once a year thereafter or at any time their accuracy is questioned. Bulbs of indicating thermometers may be installed within the retort shell or in external wells attached to the retort through at least a ¾-inch diameter opening, and shall be equipped with one-sixteenth inch or larger openings so located as to provide a full flow of steam past the length of the thermometer bulb. The opening for external wells must emit steam continuously during the entire processing period. Thermometers shall be installed where they are illuminated so that they can be accurately and easily read. A thermometer with a divided mercury column shall be replaced. The mercury thermometer, not the recorder chart, shall be the reference instrument for indicating the processing temperature.

(2) *Recording thermometer.* There shall be a recording thermometer on each cooker. The chart graduations shall not exceed 2° F., within a range of 10° F. of the processing temperature. All charts shall have a working scale of not less than 3 inches. This recorder may be combined with the steam controller and be a recording-controlling instrument. The bulb may be installed within the cooker shell or in a thermometer well attached to the shell. The well shall be capable of accommodating both the recorder bulb and a mercury-in-glass thermometer. The recording thermometer shall in no instance read higher than the accurate mercury-in-glass thermometer.

(3) *Pressure gages.* Each discontinuous pressure cooker for pressure processing in steam should be equipped with a pressure gage.

(4) *Steam controller.* Each discontinuous pressure cooker shall be equipped with an automatic steam controller to accurately maintain the retort temperature.

(5) *Bleeders.* Bleeders are ⅛- to ¼-inch openings used to remove air entering the retort with the steam and to provide circulation of steam in the retort. Bleeders for thermometer wells may be openings one-sixteenth inch or larger. Bleeders must be wide open and emit steam continuously during the entire process, including the coming-up-time. All bleeders shall be arranged in such a way that the operator can observe that steam is escaping during the process. In cases of top steam inlet and bottom venting, an adequately sized bleeder shall be installed in the bottom of the retort to insure complete removal of condensate. Its discharge shall be so located as to be easily observable.

(6) *Venting and condensate removal.* All air in each cooker shall be removed before processing is started. At the time steam is turned on the drain shall be opened for a time sufficient to remove steam condensate from the cooker and provision shall be made for continuing drainage of condensate during the cooker operation. The condensate bleeder in the bottom of the shell serves as an indicator of continuous condensate removal.

(7) *Cooker speed timing.* The reel speed shall be adjusted as necessary and reel speed as well as process time shall be recorded for each retort load processed. Speed drives should be locked to prevent unauthorized speed changes.

(8) *Critical factors involved in this processing method.* (i) The minimum headspace shall be specified and maintained for each process. The specified minimum headspace shall be measured and recorded periodically after the filler at or above the specified initial temperature and before processing.

(ii) Maximum consistency for thickened products shall be specified either on the basis of slowest heat penetration data or by objective measurements on the product taken from the filler before processing.

(iii) Minimum rotational speed of the cooker shall be specified as part of the individual product heat processes.

(c) *Equipment and installation for pressure processing in water.* (1) *Indicating mercury-in-glass thermometer.* Each cooker shall be equipped with at least one mercury-in-glass thermometer having a temperature range of not more than 100° F. on a scale at least 7 inches in length. The scale divisions shall be no more than 2° F. Thermometers shall be tested for accuracy against a known accurate standard thermometer upon installation and at least once a year thereafter or at any time their accuracy is questioned. Bulbs of indicating thermometers may be installed within the retort shell or in external wells attached to the retort. Thermometers shall be installed where they are illuminated so that they can be accurately and easily read. A thermometer with a divided mercury column shall be replaced. The mercury thermometer, not the recorder chart, shall be the reference instrument for indicating the processing temperature.

(2) *Recording thermometer.* There shall be a recording thermometer on each cooker. The chart graduations shall not exceed 2° F., within a range of 10° F. of the processing temperature. All charts shall have a working scale of not less than 3 inches. This recorder may be combined with the steam controller and be a recording-controlling instrument. The bulb may be installed within the cooker shell or in a thermometer well attached to the shell. The well shall be capable of accommodating both the recorder bulb and a mercury-in-glass thermometer. The recording thermometer shall in no instance read higher than the accurate mercury-in-glass thermometer.

(3) *Pressure gages.* Each discontinuous pressure cooker for pressure processing in water shall be equipped with a pressure gage.

(4) *Steam controller.* Each discontinuous pressure cooker shall be equipped with an automatic steam controller to accurately maintain the retort temperature.

(5) *Cooker speed timing.* The reel speed shall be adjusted as necessary and reel speed as well as process time shall be recorded for each retort load processed. Speed drives should be locked to prevent unauthorized speed changes.

(6) *Critical factors involved in this processing method.* (i) The minimum headspace shall be specified and maintained for each process. The specified minimum headspace shall be measured and recorded periodically after the filler at or above the specified initial temperature and before processing.

(ii) Maximum consistency for thickened products shall be specified either on the basis of slowest heat penetration data or by objective measurements on the product taken from the filler before processing.

(iii) Minimum rotational speed of the cooker must be specified as part of the individual product heat processes.

SEC. 1.11 *Hydrostatic cookers.*

(a) *Definition.* A hydrostatic cooker consists of a vertical chamber or chambers which serve as a steam-pressure cooker connected at the base to hydrostatic water legs. The head of water in these legs exerts a counter-balancing pressure on the steam chamber. Adjusting the height of the water column controls the inside steam chamber pressure and, hence, the temperature of sterilization. One or more continuous conveyor chains carry filled containers into the steam chamber through the inlet water leg and out again through an exit water leg. One water leg may serve as both the inlet and exit legs.

(b) *Equipment and installation for pressure processing in steam.* (1) *Indicating mercury-in-glass thermometers.* Each hydrostatic cooker shall be equipped with at least three accurate mercury-in-glass thermometers having a temperature range of not more than 100° F. on a scale of at least 7 inches in length. The scale divisions shall be no more than 2° F. At least one thermometer shall be located in the steam dome near the steam-water interface and at least one thermometer shall be located in each hydrostatic leg in positions and illuminated so that they can be accurately and easily read by the operator. A thermometer with a divided mercury column shall be replaced. The mercury thermometer, not the recorder chart, shall be the reference instrument for indicating the processing temperature.

(2) *Temperature recorders and controllers.* Each hydrostatic cooker shall be equipped with accurate automatic temperature recorders which shall give a record of temperatures on a time reference. The chart graduations shall not exceed 2° F. within a range of 10° F. of the processing (or hydrostatic leg) temperatures. All charts shall have a working scale of not less than 3 inches. The recorders may be combined with steam controllers and be recording-controlling instruments. The bulb may be installed within the steam dome or in a thermometer well attached to the dome. The well shall be capable of accommodating both the recorder bulb and a mercury-in-glass thermometer. The recording thermometers shall in no instance read higher than the accurate mercury-in-glass thermometers.

(3) *Recording of temperatures.* Temperatures indicated by the accurate mercury-in-glass thermometers shall be entered on a suitable form during processing operations. Temperatures shall be recorded by accurate automatic recorders at the following points:

(i) In the side of the steam chamber near the center of the dome height.

(ii) In the steam chamber between the steam-water interface and the lowest container position.

(iii) Near the top and the bottom of each hydrostatic water leg.

(4) *Venting.* Before the start of processing operations the hydrostatic cooker steam chamber or chambers shall be vented to insure complete removal of air.

(5) *Bleeders.* Bleeders are ⅛- to ¼-inch openings used to remove air entering the steam chamber or chambers with the steam and to provide circulation of steam in the chamber or chambers. Bleeders for thermometer wells may be openings one-sixteenth inch or larger. Bleeder openings (one-fourth inch or larger) shall be located at the end of the steam chamber or chambers opposite from the point of steam entry. Bleeders must be wide open and emit steam continuously during the entire process, including the coming-up-time. All bleeders shall be arranged in such a way that the operator can observe that steam is escaping during the process.

(6) *Cooker speed.* The container conveyor chain speed shall be determined and recorded at the start of processing and at least every 4 hours during the operating period. Chain speed controls should be locked to prevent unauthorized speed changes.

(7) *Container control.* Operation shall be such that there is no opportunity for unprocessed containers to become mixed with processed containers.

SEC. 1.12 *Aseptic canning systems.*

(a) *Definition.* Aseptic canning is the filling of sterilized product into presterilized containers, followed by aseptic hermetical sealing, with a presterilized lid, if applicable, in an atmosphere free of microorganisms.

(b) *Equipment for product presterilization.* (1) Timing device. A suitable device shall be used to give the constant desired rate of product flow. The timing device should be locked to prevent unauthorized changes in the rate of product flow.

(2) *Indicating mercury-in-glass thermometer.* Each product presterilizer shall be equipped with at least one mercury-in-glass thermometer having a temperature range of not more than 100° F. on a scale at least 7 inches in length. The scale divisions should be no more than 2° F. within 10° F. of the product sterilization operating range. The thermometer shall be installed in the presterilized product holding tube outlet between the holding tube and the cooler inlet. Thermometers shall be tested for accuracy against a known accurate standard thermometer upon installation and at least once a year thereafter or at any time their accuracy is questioned. Mercury-in-glass thermometers shall be installed where they are illuminated so that they can be accurately and easily read. A thermometer with a divided mercury column shall be replaced. The mercury thermometer, not the recorder chart, shall be the reference instrument for indicating the presterilization temperature.

(3) *Temperature recording thermometers.* There shall be an automatic recording thermometer on each product presterilizer located in the presterilized product holding tube outlet between the holding tube and the cooler inlet. The chart graduations shall not exceed 2° F., within a range of 10° F. of the desired product sterilization temperature. All charts shall have a working scale of not less than 3 inches. The recording thermometer shall in no instance read higher than the accurate mercury-in-glass thermometer.

(4) *Temperature recorder controller.* An accurate temperature recorder controller shall be located in the product sterilizer heater just prior to the inlet of the product holding tube. It shall be capable of maintaining the desired product temperature. The chart graduations shall not exceed 2° F., within a range of 10° F. of the desired heater outlet temperature.

(5) *Product holding tube.* The holding tube shall be designed to give continuous holding of every particle of food for at least the minimum required holding time. The holding tube shall be designed so that no portion between the product inlet and the product outlet can be heated.

(c) *Operation.* (1) Before starting aseptic processing operations the entire system shall be sterilized.

(2) *Operating records.* Temperatures at the following points are to be observed and recorded at the start of aseptic canning operations and at least every hour during such operations:

(i) Mercury thermometer in holding tube outlet between holding tube and cooler inlet;

(ii) Product temperature recorder controller at heater outlet;

(iii) Product temperature recorder at end of holding tube;

(iv) Container sterilization chambers;

(v) Cover sterilizer chambers (if applicable);

(vi) Filler housing; and

(vii) Closure housing.

(3) In the event production is stopped due to a temperature drop, container jam, or for any other reason, the time and reason shall be recorded in the operation record. If the reason for the shutdown necessitates the opening of any part of the aseptic equipment, the parts thus exposed shall be resterilized before resuming operations.

SEC. 1.13 *Flame sterilizers.*

(a) *Definition.* Flame sterilizers are atmospheric pressure units in which hermetically sealed containers are agitated, by either continuous, discontinuous, or reciprocating movement, over gas flames to achieve sterilization temperatures. A holding period in a heated chamber may follow the initial heating period, prior to cooling.

(b) *Operating conditions.* (1) The container conveyor speed shall be timed and recorded at the start of operations and at least every 4 hours during operation.

(2) The surface temperature of at least one container from each conveyor channel shall be measured by a suitable device and recorded at the end of the holding period at a minimum of every sixty (60) minutes of operation.

(3) The records shall be entered on a suitable form to indicate time of process, final container temperature before cooling, product, code, nature of container, and container size.

SEC. 1.14 *New systems for processing low-acid foods.*

Each new system intended for achieving commercial sterility for low-acid foods shall meet the following requirements.

(a) The critical processing conditions shall be determined by acceptable scientific methods. These include monitoring and recording of process time, temperature, and speed (if the system involves continuous or discontinuous agitation of the containers).

(b) Temperature and time, accuracy of instrumentation and any other pertinent factors shall be recorded as substantiation of the proposed system.

SEC. 1.15 *Cooling requirements.*

(a) All container cooling water, except cooling water used in retorts or cookers, shall be chlorinated as necessary by the processor to a point so that there is at least 0.5 p.p.m. free chlorine residual at the water discharge point of the container cooler. If cooling is accomplished in the retorts or cookers, potable water may be used without additional chlorination.

(b) In pressure cooling, adequate pressure shall be maintained for a time sufficient to prevent permanent distortion of the container.

(c) Duration of cooling should be sufficient to bring the average temperature of the container contents to about 95°±5° F. If external rusting is a problem, the containers should be dried, or water cooling should be carried to an average product temperature of approximately 120° F. and subsequent cooling of such containers should be in air to an average product temperature of approximately 95°±5° F. before they are cased for storage.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 701, 52 Stat. 1055; 21 U.S.C. 371) and under authority delegated to the Commissioner (21 CFR 2.120), interested persons are invited to submit their comments in writing (preferably in quintuplicate) regarding this proposal within 60 days after its date of FEDERAL REGISTER publication. Such views and comments should be addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852, and may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: October 28, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.71-16318 Filed 11-11-71;8:45 am]

Public Health Service

[42 CFR Part 73]

BIOLOGICAL PRODUCTS

Periodic Check on Sterile Technique for Human Whole Blood

During the inspection of establishments licensed for whole blood (human), the records of the tests performed on units of whole blood (human) as a periodic check on sterile technique, presently required by § 73.3004(b), have been carefully examined. These inspection reports indicate that the percentage of positive results is very small, and when the test is repeated as required, the results almost invariably indicate that the contamination was caused by the testing technique itself, rather than inherent contamination of the unit tested. Further, the widespread use of blood collecting containers with integral donor sets has greatly diminished the possible ways of contaminating the unit.

In view of the above, notice is hereby given that the Director, National Institutes of Health, proposes to amend Part 73 of the Public Health Service regulations by requiring that a periodic check on sterile technique need only be performed when blood components are prepared in an open or vented system, as when glass blood collecting containers are used.

Inquiries may be addressed and data, views, and arguments may be presented by interested parties, in writing, in triplicate, to the Director, Division of Biologics Standards, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20014. All comments received in response to this notice are available for public inspection in the Office of the Assistant to the Director, Division of Biologics Standards, Room 122, Building 29, National Institutes of Health, weekdays during regular business hours. All relevant material received not later than 30 days after publication of this notice of proposed rule making in the FEDERAL REGISTER will be considered.

Notice is also given that it is proposed to make any amendments that are adopted effective 30 days after date of publication in the FEDERAL REGISTER.

It is therefore proposed to amend Part 73 as set forth below:

Dated: November 8, 1971.

ROBERT Q. MARSTON,
Director,
National Institutes of Health.

Amend § 73.3004(b) by revising the first sentence to read as follows:

§ 73.3004 General requirements.

* * * * * *

(b) *Periodic check on sterile technique.* Where blood is collected in a vented or open system, such as glass containers, at least one container of such blood that upon visual examination appears normal shall be tested each month between the 18th and 24th day after collection, as a continuing check on technique of blood collection, as follows:

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(Sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216, sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262)

[FR Doc.71-16569 Filed 11-11-71;8:49 am]

Social Security Administration

[20 CFR Part 404]

[Reg. No. 4]

FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

Evidence of Adoption

Notice is hereby given pursuant to the Administrative Procedure Act (5 U.S.C. 552 et seq.) that the regulation set forth in tentative form below is proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed regulation would make a birth certificate issued as the result of an adoption adequate evidence of the adoption.

Prior to final adoption of the proposed regulation, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, DC 20201, within a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 3193, 330 Independence Avenue SW., Washington, DC 20201.

The proposed regulation is to be issued under the authority contained in sections 205 and 1102, 53 Stat. 1368 as amended, 49 Stat. 647, as amended; section 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 18, 631; 42 U.S.C. 405 and 1302.

Dated: October 8, 1971.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: November 7, 1971.

ELLIOT L. RICHARDSON,
Secretary of Health, Education, and Welfare.

Regulations No. 4 of the Social Security Administration (20 CFR Part 404) are further amended as follows:

Paragraph (a) of § 404.714 is revised to read as follows:

§ 404.714 Evidence as to adoption.

(a) *General.* If the relationship is by adoption, the applicant shall submit evidence to establish the adoption. A birth certificate issued as the result of the adoption proceedings will be considered adequate evidence of the adoption. Other evidence of probative value will also be acceptable to establish the adoption. Where the date of adoption is material, evidence of probative value establishing such date shall be submitted.

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[FR Doc.71-16559 Filed 11-11-71;8:49 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 71-RM-21]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation regulations that would alter the description of the Butte, Mont. control zone and transition area.

Interested persons may participate in the proposed rule-making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, Park Hill Station, Post Office Box 7213, Denver, CO 80207. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 10255 East 25th Avenue, Aurora, CO 80010.

The airspace requirements for Butte, Mont. have been reviewed in accordance with the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). As a result of the review, it has been determined that the control zone and transition area must be altered to provide controlled airspace protection for the instrument procedures.

In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.171 (36 F.R. 2055) the following control zone is amended to read as follows:

BUTTE, MONT.

Within a 5-mile radius of the Silver Bow County Airport, Butte, Mont. (latitude 45° 57'15" N., longitude 112°29'50" W.) and within 2 miles each side of the Butte VORTAC 115° radial extending from the 5-mile-radius zone to the VORTAC.

In § 71.181 (36 F.R. 2140) the following transition area is amended to read as follows:

BUTTE, MONT.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Butte VORTAC and within 6 miles southwest and 10 miles northeast of the VORTAC 325° radial, extending from the VORTAC to 11 miles northwest of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within 4½ miles southwest and 9½ miles northeast of the VORTAC 325° radial extending from the VORTAC to 18.5 miles northwest of the VORTAC, and within 4½ miles west and 9½ miles east of the VORTAC 002° radial extending from the VORTAC to 18.5 miles north of the VORTAC.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Aurora, Colo., on November 4, 1971.

M. M. MARTIN,
Director, Rocky Mountain Region.

[FR Doc.71-16528 Filed 11-11-71;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 71-WE-54]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the descriptions of the Flagstaff, Ariz. (Pulliam Airport), control zone and transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 5651 West Manchester Boulevard, Post Office Box 92007, Worldway Postal Center, Los Angeles, CA 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 5651 West Manchester Boulevard, Los Angeles, CA 90045.

The current VOR-radial 070 instrument approach procedure to Pulliam Airport, Flagstaff, Ariz., will be canceled. A new VOR–A instrument approach has been developed utilizing the 127° T (113° M) radial of the Flagstaff VOR for final approach course, procedure turn and holding procedure. These changes require amending the currently designated airspace for Pulliam Airport.

In consideration of the foregoing, the FAA proposes the following airspace actions.

In § 71.171 (36 F.R. 2055) the description of the Flagstaff, Ariz. (Pulliam Airport), control zone is amended to read as follows:

FLAGSTAFF, ARIZ. (PULLIAM AIRPORT)

Within a 7-mile radius of Pulliam Airport (latitude 35°08'16" N., longitude 111°40'17" W.) and within 2 miles each side of the Flagstaff VOR 127° radial, extending from the 7-mile-radius zone to 10 miles southeast of the VOR.

In § 71.181 (36 F.R. 2140) the description of the Flagstaff, Ariz. (Pulliam Airport), transition area is amended to read as follows:

FLAGSTAFF, ARIZ. (PULLIAM AIRPORT)

That airspace extending upward from 700 feet above the surface within an 11.5-mile radius of Pulliam Airport (latitude 35°08'16" N., 111°40'17" W.), and that airspace extending upward from 1,200 feet above the surface within 9.5 miles each side of the Flagstaff VOR 127° and 307° radials, extending from 8 miles northwest to 19 miles southeast of the VOR, excluding that portion within R-2302.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Los Angeles, Calif., on November 4, 1971.

ROBERT O. BLANCHARD,
Acting Director, Western Region.

[FR Doc.71-16529 Filed 11-11-71;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 71-WE-55]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amendments to Part 71 of the Federal Aviation regulations that would alter the descriptions of the Needles, Calif., control zone and transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 5651 West Manchester Boulevard, Post Office Box 92007, Worldway Postal Center, Los Angeles, CA 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 5651 West Manchester Boulevard, Los Angeles, CA 90045.

A new instrument approach procedure (VOR–A), departure and holding procedures have been developed at Needles Airport, Calif. These new procedures will require a small amount of additional 1,200 foot transition area and allow deletion of the control zone extension.

In consideration of the foregoing, the FAA proposes the following airspace actions.

In § 72.171 (36 F.R. 2055) the description of the Needles, Calif., control zone is amended to read as follows:

NEEDLES, CALIF.

Within a 5-mile radius of Needles Airport (latitude 34°46'05" N., longitude 114°37'30" W.).

In § 71.181 (36 F.R. 2140) the description of the Needles, Calif. transition area is amended to read as follows:

NEEDLES, CALIF.

That airspace extending upward from 1,200 feet above the surface within 9 miles south

and 13 miles north of the Needles VORTAC 092° and 272° radials, extending from 11 miles west to 24 miles east of the VORTAC.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Los Angeles, Calif. on November 5, 1971.

ROBERT O. BLANCHARD,
Acting Director, Western Region.

[FR Doc.71-16530 Filed 11-11-71;8:46 am]

Office of Pipeline Safety

[49 CFR Part 192]

[Notice No. 71-5; Docket No. OPS-5]

CORROSION PITTING

Withdrawal of Notice of Proposed Rule Making

The purpose of this notice is to withdraw NPRM 71-3 (36 F.R. 12309) which would amend §§ 192.485 and 192.487 of the natural gas pipeline safety regulations.

On July 20, 1971, a public hearing was held to give interested persons an opportunity to present new material on corrosion pitting or to demonstrate that the proposed criteria set out in NPRM 71-3 were inappropriate. After analyzing the material and comments presented it became apparent that the amendments as proposed were inappropriate for several reasons. As a result, the Department has reevaluated the proposal and decided by this action to withdraw the proposed amendments in NPRM 71-3.

The present §§ 192.485(b) and 192.487(b) include general criteria on corrosion pitting, and leave to the operator's discretion to determine the severity of pitting that requires remedial action. They were issued as interim regulations only. The Department plans to initiate more definitive standards, but until more appropriate criteria can be developed the present §§ 192.485(b) and 192.487(b) will remain in effect.

The withdrawal herein of NPRM 71-3 is made under the authority of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1671 et seq.); Part 1, Regulation of the Office of the Secretary of Transportation, 49 CFR Part 1; and the delegation of authority to the Director, Office of Pipeline Safety (33 F.R. 16468).

Issued in Washington, D.C., on November 8, 1971.

JOSEPH C. CALDWELL,
Acting Director,
Office of Pipeline Safety.

[FR Doc.71-16558 Filed 11-11-71;8:49 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1115]

[Ex Parte No. 279]

ISSUANCE OF SECURITIES, ASSUMPTION OF OBLIGATIONS, AND FILING OF CERTIFICATES AND REPORTS

Proposed Form of Offering Circular Required for Public Sales of Securities

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 29th day of October 1971.

Securities issued pursuant to Commission authority under section 20a or 214 of the Act are subject to "such terms and conditions as the Commission may deem necessary and appropriate in the premises * * *" (section 20a(3)). In those instances where carriers desire to issue securities to the public at large, it has been the standard practice of the Commission to require the applicant to sell such securities by prospectus or offering circular only, in the general form and manner prescribed by the Securities and Exchange Commission.

Currently, the volume of these public offerings has reached a sufficient number so that, in the interests of convenience and standardization, the Commission proposes to amend its form BF-6, Item 7, to set forth its required form and procedure in these matters. Our proposed new Item 7 is contained in Appendix I attached to this notice and order.

The information required in the ICC "prospectus," termed "Offering Circular of Security by Transportation Company," is essentially styled after the Securities and Exchange Commission S-1 form. Bold type statements with regard to ICC jurisdiction will notify the public that the Securities and Exchange Commission does not have jurisdiction over the issue. Persons concerned with securities matters should carefully review the tendered regulation to note other departures from standard SEC practices.

Anyone wishing to present their views and evidence, either in support of, or in opposition to, the action proposed in this order may do so by the submission of written data, views, or arguments.

It is ordered, That a proceeding be, and it is hereby, instituted under the authority of the Interstate Commerce Act and the Administrative Procedure Act (60 Stat. 237, as amended; 5 U.S.C.A. secs. 553 and 559) for the purpose above described; that any views to be expressed by persons interested in this matter shall be filed with this Commission within 30 days of the publication of this order in the FEDERAL REGISTER; and that such views should specifically show any objection to these proposed regulations, with such responses to be presented on any item-by-item basis.

It is further ordered, That an original and 15 copies of such data, views, or arguments shall be filed with the Commission on or before December 11, 1971, and a copy thereof shall be served simultaneously upon each of the Commission's regional headquarters identified in Appendix II of this notice and order. All statements will be a part of the record of this proceeding and will be available for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, DC, during regular business hours.

It is further ordered, That notice to the general public of the matter here under consideration will be given by depositing a copy of this notice in the Office of the Secretary of this Commission, and in each of this Commission's regional headquarters identified in Appendix II to this notice for public inspection and by filing a copy with the Director, Office of the Federal Register.

And it is further ordered, That these proposed regulations shall become effective 60 days from their publication in the FEDERAL REGISTER, unless otherwise ordered by this Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

APPENDIX I

PROPOSED ITEM 7 OF FORM BF-6

ITEM 7. *Contracts, underwritings, and other arrangements; public offerings.*

(a) How and to whom, and by or through whom, it is proposed to issue the securities, with copies of all contracts, underwritings, and other arrangements made or proposed to be made in connection with the issue. The applicant must require the underwriter to undertake to provide copies of any required offering circular to prospective investors and persons directly solicited to invest their funds in the security

(b) If applicant is effecting, causing to be effected, or has arranged for, the public offering of a transportation security, and said offer will be tendered to 25 or more prospective investors at a total price of not less than $100,000, applicant must submit an offering circular for consideration by this Commission. Separate issuances made within one year will be considered as one issuance for the purposes of this paragraph.

(1) General instructions:

(i) The financial representations contained in the offering circular should conform to generally-accepted principles of accounting. However, where there is a dissimilarity between a figure computed pursuant to generally-accepted accounting principles, and the figure produced under the Commission's Uniform System of Accounts, 49 CFR 1200-1219, the differences should be explained by footnoting the item under consideration. Any such footnote should be in language which adequately explains the reason for the difference to the ordinary investor.

(ii) A copy of any advertisement connected with the issue, such as "tombstone" or "red herring" advertisement, shall be attached to the application.

(iii) In the event the price of the security will not be determined by an existing market, or a formula relevant to market prices, as in the case of new issuances, the offering circular shall be made available to prospective investors, and likewise shall be furnished to those directly solicited to invest their funds in the security, when the order of the Commission authorizing the issuance of the securities becomes effective; but no sales or contracts to sell the securities, except to underwriters, may be made until 14 days, or as otherwise ordered, after the distribution of the authorized offering circular has taken place, this time period beginning from midnight of the day the distribution was initiated, including weekends and holidays. In all other cases, the same requirements as those in the above portion of this paragraph shall be applicable, except the waiting period will run for a period of 3 days, or as otherwise ordered by the Commission. Where an applicant elects to take the shorter 3-day period, the reasons for the inapplicability of the 14-day period shall be specified.

(iv) The information presented in the offering circular should be presented in plain and concise language. Excessively verbose or complex descriptions may confuse the investor and should be avoided. Inapplicable items may be omitted and cross-references, unless otherwise indicated, may be employed.

(v) The offering circular shall contain an opinion of a Certified Public Accountant as to the financial representations contained therein.

(vi) For purposes of this form, and as a term of art limited in its application to these particular regulations, a "speculation" or "speculative security" is one where applicant has not had any substantial gross revenues or receipts from transportation or from the sale of services, or any substantial net income from any source, for any fiscal year ended the past 5 years, has not succeeded and does not intend to succeed such a concern, and does not have and does not intend to have any subsidiaries other than inactive subsidiaries with no more than nominal assets. If this offering is a speculation, an introductory statement shall be made in the offering circular summarizing the factors which make the offering a speculation and setting forth such matters as a comparison, in percentages, of the securities being offered to the public for cash and those issued or to be issued to promoters, directors, officers, controlling persons and underwriters for cash, property, and services. Such applicants will follow the special instructions in the offering circular.

(vii) Attach to the offering circular, for the use of the Commission, a check list of the items required in the offering circular form. Identify the page(s) at which the item appears in the draft offering circular.

(2) Form and content of offering circular:

I. *Caption and distribution spread.* The outside front cover of the offering circular shall contain the information below in substantially the form indicated.

OFFERING CIRCULAR OF SECURITY BY TRANSPORTATION COMPANY

Distribution of this offering circular was initiated ---------- (Date). Investors may not buy, nor contract to buy this issue until ---------- (See General Instructions (iii)).

(number of shares)
(name of issuer as it appears on securities)
(type of security; description)

The issuance of these securities has been authorized by the Interstate Commerce Commission which does not pass upon the investment merit of these securities nor upon the accuracy of the information therein.

This offering circular is an integral part of issuer's application under section 20(a) or 214 of the Interstate Commerce Act. This issue is not subject to the jurisdiction of Securities and Exchange Commission.

	Price to public	Underwriting discounts and commissions	Proceeds to registrant or other persons
Per unit			
Total			

Instructions. 1. Only commissions paid by the applicant or selling security holders in cash are to be included in the table. Commissions paid by other persons, and other considerations to the underwriters, shall be set forth following the table with a reference thereto in the second column of the table. Any finder's fee or similar payments shall be appropriately disclosed.

2. If the securities are to be offered at the market, or if the offering price is to be determined by a formula related to market prices, indicate the market involved and the market price as of the latest practicable date. Otherwise, the authorized offering circular must contain the sales price and commissions.

II. *Plan of distribution.* (a) If the securities are to be offered through underwriters, give the names of the principal underwriters, and state the respective amounts underwritten. Identify each such underwriter having a material relationship to the issuer and state the nature of the relationship. State briefly the nature of the underwriters' obligation to take the securities.

Instruction. The description of the nature of the underwriters' obligation shall disclose whether the underwriters are, or will be, committed to take and to pay for all of the securities if any are taken, or whether it is merely an agency or "best efforts" arrangement under which the underwriters are required to take and pay for only such securities as they may sell to the public. Conditions precedent to the underwriters' taking the securities, including "market outs", need not be described except in the case of an agency or "best efforts" arrangement. All purchase agreements, underwriting agreements and agreements among underwriters must be submitted as part of the application.

(b) State briefly the discounts and commissions to be allowed or paid to dealers, including all cash, securities, contracts or other consideration to be received by any dealer in connection with the sale of the securities.

Instruction. If any dealers are to act in the capacity of sub-underwriters and are to be allowed or paid any additional discounts or commissions for acting in such capacity, a general statement to that effect will suffice without giving the additional amounts to be so paid.

(c) Outline briefly the plan of distribution of any securities to be applied which are to be offered otherwise than through underwriters.

III. *Use of proceeds accruing to applicant.* State the principal purposes for which the net proceeds from the securities to be offered are intended to be used, and the approximate amount intended to be used for each such purpose.

Instructions. 1. Details of proposed expenditures need not be emphasized; for example, it is necessary to furnish only a brief outline of any program of construction or addition of equipment. If any material amount of other funds is to be used in conjunction with the proceeds, state the amount and sources of such other funds. If any material amount of the proceeds is to be used to acquire assets, otherwise than in the ordinary course of business, briefly describe the assets and give the names of the persons from whom they are to be acquired. State the cost of the assets to the registrant and the principle followed in determining such cost.

2. In the case of speculative securities, include a statement as to the use of the actual proceeds if they are not sufficient to accomplish all of the purposes set forth, whether or not the funds will be returned to subscribers in such case and, if not, the order of priority in which the proceeds will be used for the respective purposes.

IV. *Sales to current holders.* If any of the securities are to be offered for the account of security holders, name each such security holder and state the amount of securities of the class owned by him, the amount to be offered for his account and the percentage of the class (if 1 percent or more) to be owned by him after completion of the offering.

V. *Capital structure.* Furnish the information called for by the following table, in substantially the tabular form indicated, as to each class of securities of the applicant and each class of securities, other than those owned by the applicant or its totally-held subsidiaries, of all subsidiaries whose financial statements are filed with the offering circular on either a consolidated or individual basis:

Title of class	Amount authorized or to be authorized	Amount outstanding as of a specified date within 90 days	Amount to be outstanding if all securities being registered are sold

Instructions. 1. Securities held by or for the account of the issuer thereof are not to be included in the amount outstanding, but the amount so held shall be stated in a note to the table.

2. Indebtedness evidenced by drafts, bills of exchange, bankers' acceptances, or promissory notes may be set forth in a single aggregate amount under an appropriate caption such as "Sundry Indebtedness."

3. Applicant may, at its option, include in the table the capital share liability in dollars, as well as the amount, of each class of shares shown in the table, together with surplus attributed to each class of stock. Surplus shall be shown in the same manner as in the balance sheet of applicant, or in the consolidated balance sheet of the applicant and subsidiaries, if such a consolidated balance sheet is included in the offering circular.

VI. *Sales other than for cash.* If any of the securities are to be offered otherwise than for cash, state briefly the general purposes of the distribution, the basis upon which the securities are to be offered, the amount of compensation and other expenses of distribution, and by whom they are to be borne.

Instruction. If the distribution is to be made pursuant to a plan of acquisition, reorganization, readjustment or succession, describe briefly the general effect of the plan and state when it became or is to become operative. If any of the securities are to be offered in exchange for securities of any other issuer, the offering circular shall contain a description of the exchange. State the relationship of the recipient of the securities to the company, including any promoter.

VII. *Information regarding issuer.* State the year in which applicant was organized, its form of organization, and the name of the State or other jurisdiction under the laws of which it was organized, and each of the States under above laws it is authorized to operate.

List all the parents of applicant showing the basis of control and, as to each parent, the percentage of voting securities owned or other basis of control.

Briefly describe the parent's business activities, other than those of applicant. If applicant's parent is, in turn, controlled by another parent company, etc., describe that relationship.

Instructions. What is required is information that will describe any complex control situation to the prospective investor. And will inform him as to any proposed plans, such as acquisitions, sales, intercorporate transfers, dividend payments, spinoffs, etc., by the management of the parent corporation that will have a direct bearing on the financial wellbeing of the carrier subsidiary in which the investor is being asked to invest.

Briefly describe the business actually done and intended to be done (not merely relating the powers authorized in the charter). The relative importance and size of various service and manufacturing endeavors should be furnished specifying those areas subject to regulation under the Interstate Commerce Act.

If the applicant and its subsidiaries are engaged in more than one line of business, state, for each of the applicant's last 5 fiscal years, the approximate amount or percentage of (i) total sales and revenues, and (ii) income (or loss) before income taxes and extraordinary losses, attributable to each line of business which during either of the last 2 fiscal years accounted for—

(A) 10 percent or more of total sales and revenues,

(B) 10 percent or more of income before income taxes and extraordinary items computed without deduction of loss resulting from operations of any line of business, or

(C) a loss which equalled or exceeded 10 percent of the amount of income specified in (B) above.

If it is impracticable to state the contribution to income (or loss) before income taxes and extraordinary items for any line of business, state the contribution thereof to the result of operations most closely approaching such income, together with a brief explanation of the reasons why it is not practicable to state the contribution to such income or loss.

Instructions. 1. If the number of lines of business for which information is required exceeds 10, the applicant may, at its option, furnish the required information only for the 10 lines of business deemed most important to an understanding of overall operations. In such event, a statement to that effect shall be set forth.

2. In grouping products or services as lines of business, appropriate consideration shall be given to all relevant factors, including rates of profitability of operations, degrees of risk and opportunity for growth. The basis for grouping such products or services and any material changes between periods in such groupings shall be briefly described.

3. Where material amounts of products or services are regularly transferred from one line of business to another, the receiving and transferring lines may be considered a single line of business for the purpose of reporting the operating results thereof.

4. If the method of pricing intracompany transfers of products or services or the method of allocation of common or corporate costs materially affects the reported contribution to income of a line of business, such methods and any material changes between periods in such methods and the effect thereof shall be described briefly.

5. Information regarding sales or revenues or income (or loss) from different classes of products or services in operations regulated by Federal, State or municipal authorities may be limited to those classes of products or services required by any uniform system of accounts prescribed by such authorities.

VIII. *Description of property.* Briefly describe carrier revenue equipment, trackage, terminals, and other material tangible equipment and properties. Also describe trackage rights, certificates of public convenience and necessity, and other intangible operating authorities.

Separately describe other properties not used for providing transportation by applicant or its subsidiaries.

Instructions. Provide information which will fairly appraise the potential investor of the scope and potential of applicant's business. Detailed descriptions of the physical characteristics of tangible properties or reproductions of operating authorities are not required and should not be given. Maps, when instructive, should be employed.

IX. *Business conditions: regulation.* Indicate briefly, to the extent material, the general competitive conditions applicant faces in its transportation services and, where applicable, in its nontransportation enterprises. Discuss any important changes in the technology or type of service applicant or its subsidiaries render to the public. Separate consideration should be given to different regions or modes.

List any material financial restrictions imposed upon applicant or its subsidiaries by the Interstate Commerce Commission to which it may be presently subject. Specify any such restrictions imposed in connection with this issue.

Reproduce the order of the Commission authorizing this issue.

X. *Pending legal proceedings.* Briefly describe any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the applicant or any of its subsidiaries is a party or of which any of their property is the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted and the principal parties thereto. Include similar information as to any such proceedings known to be contemplated by governmental authorities.

Instructions. If the business ordinarily results in actions for negligence or other claims, no such action or claim need be described unless it departs from the normal kind of such actions. Any material bankruptcy, receivership, or similar proceeding with respect to the issuer or any of its significant subsidiaries shall be described. Any material proceedings to which any director, officer, or affiliate of the applicant, or any associate of any such director, officer, or security holder, is a party adverse to the applicant or any of its subsidiaries shall also be described.

XI. *Statement of income and earned surplus.* Furnish in comparative columnar form a statement of income for each of the last 5 fiscal years of the applicant and for any interim period between the end of the latest of such fiscal years and the date of the latest balance sheet furnished herein, and for the corresponding interim period of the preceding fiscal year. Include comparable data for any additional fiscal years necessary to keep the statement from being misleading. Where necessary, include information or explanation of material significance to investors in appraising the results shown, or refer to such information or explanation set forth elsewhere in the offering circular. An analysis of earned surplus shall be furnished for each period covered by an income statement, as a continuation thereof or elsewhere in the offering circular.

Instructions. 1. If common stock is to be offered, the statements shall be prepared to show earnings applicable to common stock. Per share earnings and dividends declared for each period of the statement shall also be included and the basis of computation stated.

2. If preferred stock is to be offered, there shall be shown the annual dividend requirements on such preferred stock. To the extent that an issue represents refinancing, only the additional dividend requirements shall be stated.

3. If debt securities are to be issued, the applicant shall show in tabular form for each fiscal year or other period the ratio of earnings to fixed charges. A pro forma ratio of earnings to fixed charges, adjusted to give effect to the issuance of the securities to be registered, and any presently proposed issuance, retirement or redemption of securities, shall also be shown for the latest fiscal year or 12-month period.

4. Statements of income and earned surplus conforming to the foregoing may be furnished on a consolidated basis, but applicant must also present, for the most recent fiscal year, statements of income for each subsidiary (or appropriate groups of subsidiaries).

XII. *Description of securities to be issued.* If capital stock is to be issued, state the title of the class and furnish the following information:

(a) Outline briefly (1) dividend rights; (2) voting rights; (3) liquidation rights; (4) preemptive rights; (5) conversion rights; (6) redemption provisions; (7) sinking fund provisions; and (8) liability to further calls or to assessment by the applicant.

(b) If the rights of holders of such stock may be modified otherwise than by a vote of a majority or more of the shares outstanding, voting as a class, so state and explain briefly.

(c) If preferred stock is to be issued, outline briefly any restriction on the repurchase or redemption of shares by the issuer while there is any arrearage in the payment of dividends or sinking fund installments. If there is no such restriction, so state.

Instructions. 1. This item requires only a brief summary of the provisions which are pertinent from an investment standpoint. A complete legal description of the provisions referred to is not required and should not be given. Do not set forth the provisions of the governing instruments verbatim; only a succinct résumé is required.

2. If the rights evidenced by the securities are materially limited or qualified by the rights of any other class of securities, include such information regarding such other securities as will enable investors to understand the rights evidenced by the securities to be registered. No information need be given, however, as to any class of securities all of which will be redeemed and retired, provided appropriate steps to assure such redemption and retirement will be taken prior to or upon delivery of the securities to be issued.

3. If the securities described are to be offered pursuant to warrants or rights, state the amount of securities called for by such warrants or rights, the period during which and the price at which the warrants or rights are exercisable.

If debt securities are to be issued, outline briefly such of the following as are relevant:

(a) Provisions with respect to interest, conversion, maturity, redemption, amortization, sinking fund, or retirement.

(b) Provisions with respect to the kind and priority of any lien securing the issue, together with a brief identification of the principal properties subject to such lien.

(c) Provisions with respect to the subordination of the rights of holders of the securities registered to other security holders or creditors of the registrant.

(d) Provisions restricting the declaration of dividends or requiring the maintenance of any ratio of assets, the creation or maintenance of reserves or the maintenance of properties.

(e) Provisions permitting or restricting the issuance of additional securities, the withdrawal of cash deposited against such issuance, the incurring of additional debt, the release or substitution of assets securing the issue, the modification of the terms of the security, and similar provisions.

Instructions. 1. In the case of secured debt, there should be stated (i) the approximate amount of unsecured property available for use against the issuance of bonds, as of the most recent practicable date, and (ii) whether the securities being issued are to be issued against such property, against the deposit of cash, or otherwise.

2. Provisions permitting the release of assets upon the deposit of equivalent funds or the pledge of equivalent property, the release of property no longer required in the business, obsolete property or property taken by eminent domain, the application of insurance moneys, and similar provisions, need not be described.

(f) The name of the trustee, if any, and the nature of any material relationship with the applicant or any of its affiliates; the percentage of securities of the class necessary to require the trustee to take action, and what indemnification the trustee may require before proceeding to enforce the lien.

(g) The general type of event which constitutes a default and whether or not any periodic evidence is required to be furnished as to the absence of default or as to compliance with the terms of the indenture.

Instruction. The instructions regarding capital stock, as pertinent, shall apply to debt securities.

If securities other than capital stock or debt are to be issued, outline briefly the rights evidenced thereby. If subscription warrants or rights are to be issued, state the title and amount of securities called for, the period during which and the price at which the warrants or rights are exercisable.

Instruction. The instructions regarding capital stock shall also apply to this item.

XIII. *Directors and executive officers.* List the names of all directors and executive officers of the applicant and all persons chosen to become directors or executive officers. Indicate all positions and offices with the applicant held by each person named, and the principal occupations during the past 5 years of each executive officer and each person chosen to become an executive officer.

Instructions. 1. If any person chosen to become a director or executive officer has not consented to act as such, so state.

2. For the purpose of this item, the term "executive officer" means the president, vice president, secretary and treasurer, and any other officer who performs similar policy-making functions for the applicant.

XIV. *Remuneration of directors and officers.* (a) Furnish the following information in substantially the tabular form indicated below as to all direct remuneration paid by the applicant and its subsidiaries during the applicant's last fiscal year to the following persons for services in all capacities:

(1) Each director, and each of the three highest paid officers, of the applicant whose aggregate direct remuneration exceeded $30,000, naming each such person.

(2) All directors and officers of the applicant as a group, without naming them.

(A)	(B)	(C)
Name of individual or identity of group	Capacities in which remuneration was received	Aggregate direct remuneration

Instructions. 1. This item applies to any person who was a director or officer of the applicant at any time during the period specified. However, information need not be given for any portion of the period during which such person was not a director or officer of the applicant.

2. The information is to be given on an accrual basis if practicable. The tables required by this paragraph and paragraph (b) may be combined if the applicant so desires.

3. Do not include remuneration paid to a partnership in which any director or officer was a partner, but see item XVII.

4. If the applicant has not completed a full fiscal year since its organization or if it acquired or is to acquire the majority of its assets from a predecessor within the current fiscal year, the information shall be given for the current fiscal year, estimating future payments, if necessary. To the extent that such remuneration is to be computed upon the basis of a percentage of profits, it will suffice to state such percentage without estimating the amount of such profits to be paid.

5. If any part of the remuneration shown in response to this item was paid pursuant to a material bonus or profit-sharing plan, briefly describe the plan and the basis upon which directors or officers participate therein. See instructions 1 to paragraph (b) for the meaning of the term plan.

(b) Furnish the following information, in substantially the tabular form indicated below, as to all pension or retirement benefits proposed to be paid under any existing plan in the event of retirement at normal retirement date, directly or indirectly, by the applicant or any of its subsidiaries to each director or officer named in answer to paragraph (a)(1) above:

(A)	(B)	(C)
Name of individual	Amounts set aside or accrued during applicant's last fiscal year	Estimated annual benefits upon retirement

Instructions. 1. The term "plan" in this item includes all plans, contracts, authorizations, or arrangements, whether or not set forth in any formal document.

2. Column (B) need not be answered with respect to amounts computed on an actuarial basis under any plan which provides for fixed benefits in the event of retirement at a specified age or after a specified number of years of service.

3. The information called for by Column (C) may be given in a table showing the annual benefits payable upon retirement to persons in specified salary classifications.

4. In the case of any plan (other than those specified in Instructions 2) where the amount set aside each year depends upon the amount of earnings of the applicant or its subsidiaries for such year or a prior year, or where it is otherwise impracticable to state the estimated annual benefits upon retirement, there shall be set forth, in lieu of the information called for by Column (C), the aggregate amount set aside or accrued to date, unless it is impracticable to do so, in which case there shall be stated the method of computing such benefits.

(c) Describe briefly all remuneration payments (other than payments reported under paragraph (a) or (b) of this item) proposed to be made in the future, directly or indirectly, by the applicant or any of its subsidiaries pursuant to any existing plan or arrangement to (i) each director or officer named in answer to paragraph (a)(1), naming each such person, and (ii) all directors and officers of the applicant as a group, without naming them.

Instruction. Information need not be included as to payments to be made for, or benefits to be received from, group life or accident insurance, group hospitalization or similar group payments or benefits. If it is impracticable to state the amount of remuneration payments proposed to be made, the aggregate amount set aside or accrued to date in respect of such payments should be stated, together with an explanation of the basis for future payments.

XV. *Options to purchase securities.* Furnish the following information as to options to purchase securities from the applicant or any of its subsidiaries, which are outstanding as of a specified date within 30 days prior to the date of filing.

(a) Describe the options, stating the material provisions including the consideration received and to be received for such options by the grantor thereof and the market value of the securities called for on the granting date. If, however, the options are "qualified stock options," or "restricted stock options" or options granted pursuant to a plan qualifying as an "employee stock purchase plan," as those terms are defined in sections 422 through 424 of the Internal Revenue Code of 1954, as amended, only the following is required: (i) A statement to the effect, (ii), a brief description of the terms and conditions of the options or of the plan pursuant to which they were issued, and (iii) a statement of the provisions of the plan or options with respect to the relationship between the option price and the market price of the securities at the date when the options were granted, or with respect to the terms of any variable price option.

(b) State (i) the title and amount of securities called for by such options; (ii) the purchase prices of the securities called for and the expiration dates of such options; and (iii) the market value of the securities called for by such options as of the latest practicable date.

Instruction. In case a number of options are outstanding having different prices and expiration dates, the options may be grouped by prices and dates. If this produces more than five separate groups then there may be shown only the range of the expiration dates and the average purchase prices, i.e., the aggregate purchase price of all securities of the same class called for by all outstanding options to purchase securities of that class divided by the number of securities of such class so called for.

(c) Furnish separately the information called for by paragraph (b) above for all options held by (i) each director or officer named in answer to paragraph (a)(1) of item XIV naming each such person, and (ii) all directors and officers as a group without naming them.

Instructions. 1. The term "options" as used in this item includes all options, warrants and rights other than those issued to security holders as such on a pro rata basis.

2. The extension of options shall be deemed the granting of options within the meaning of this item.

3. Where the total market value of securities called for by all outstanding options as of the specified date referred to in this item does not exceed $10,000 for any officer or director named in answer to paragraph (a)(1) of Item 17, or $30,000 for all officers and directors as a group, or for all option holders as a group, this item need not be answered with respect to options held by such person or group.

XVI. *Principal holders of securities.* Furnish the following information as of a specified date within 90 days prior to the date of filing in substantially the tabular form indicated:

(a) As to the voting securities of the applicant owned of record or beneficially by each person who owns of record, or is known by the applicant to own beneficially, more than 10 percent of any class of such securities. Show in Column (3) whether the securities are owned both of record and beneficially, of record only, or beneficially only, and show in Columns (4) and (5) the respective amounts and percentages owned in each such manner:

(1) Name and address	(2) Title of class	(3) Type of ownership	(4) Amount owned	(5) Percent of class

(b) As to each class of equity securities of the applicant or any of its parents or subsidiaries, other than directors' qualifying shares, beneficially owned directly or indirectly by all directors and officers of the applicant, as a group, without naming them.

(1) Title of class	(2) Amount beneficially owned	(3) Percent of class

Instructions. 1. The percentages are to be calculated on the basis of the amount of outstanding securities, excluding securities held by or for the account of the issuer. In any case where the amount owned by directors and offers as a group is less than 1 percent of the class, the percent of the class owned by them may be omitted.

2. If the equity securities are being issued in connection with, or pursuant to, a plan of acquisition, reorganization, readjustment or succession, indicate, as far as practicable, the status to exist upon consummation of the plan on the basis of present holdings and commitments.

3. If any of the securities being issued are to be offered for the account of security holders, name each such security holder and state the amount of the securities owned by him, the amount to be offered for his account, and the amount to be owned after the offering.

4. If, to the knowledge of the applicant or any principal underwriter of the securities being issued, more than 10 percent of any class of voting securities of the applicant are held or are to be held subject to any voting trust or other similar agreement, state the title of such securities, the amount held or to be held and the duration of the agreement. Give the names and addresses of the voting trustees and outline briefly their voting rights and other powers under the agreement.

XVII. *Interest of management and others in certain transactions.* Describe briefly, and where practicable, state the approximate amount of any material interest, direct or indirect, of any of the following persons in any material transaction during the last 3 years, or in any material proposed transactions, to which the applicant, or a person in control of applicant as defined in Item VII or any of its subsidiaries was, or is to be, a party:

(a) Any director or officer of the applicant;

(b) Any security holder named in answer to XVI(a);

(c) Any person listed in Item VII.

(d) Any associate of any of the foregoing persons.

Instructions. 1. See Instruction 1 to Item XIV(a). Include the name of each person whose interest in any transaction is described and the nature of the relationship by reason of which such interest is required to be described. Where it is not practicable to state the approximate amount of the interest, the approximate amount involved in the transaction shall be indicated.

2. As to any transaction involving the purchase or sale of assets by or to the applicant or any subsidiary, otherwise than in the ordinary course of business, state the cost of the assets to the purchaser and the cost thereof to the seller if acquired by the seller within 2 years prior to the transaction.

3. This item does not apply to any interest arising from the ownership of securities of the applicant where the security holder receives no extra or special benefit not shared on a pro rata basis by all other holders of the same class.

4. No information need be given in answer to this item as to any remuneration not received during the applicant's last fiscal year or as to any remuneration or other transaction disclosed in response to Items XIV or XV.

5. Information should be included as to any material underwriting discounts and commissions upon the sale of securities by the applicant where any of the specified persons was or is to be a principal underwriter or is a controlling person, or member, of a firm which was or is to be a principal underwriter. Information need not be given concerning ordinary management fees paid by underwriters to a managing underwriter pursuant to an agreement among underwriters the parties to which do not include the applicant or its subsidiaries.

6. No information need be given in answer to this item as to any transaction or any interest therein where:

(i) The rates or charges involved in the transaction are fixed by law or determined by competitive bids;

(ii) The interest of the specified persons in the transaction is solely that of a director of another unaffiliated corporation which is a party to the transaction;

(iii) The transaction involves services as a bank depository of funds, transfer agent, registrar, trustee under a trust indenture, or other similar services;

(iv) The interest of the specified persons, including all periodic installments in the case of any lease or other agreement providing for periodic payments or installments, does not exceed $30,000;

(v) The transaction does not involve remuneration for services, directly or indirectly, and (a) the interest of the specified persons arises from the ownership individually and in the aggregate of less than 10 percent of any class of equity securities of another corporation which is a party to the transaction, (b) the transaction is in the ordinary course of business of the applicant or its subsidiaries, and (c) the amount of such transaction or series of transactions is less than 10 percent of the total sales or purchases, as the case may be, of the applicant and its subsidiaries.

7. Information shall be furnished in answer to this item with respect to transactions not excluded above which involve remuneration, directly or indirectly, to any of the specified persons for services in any capacity unless the interest of such persons arises solely from the ownership individually and in the aggregate of less than 10 percent of any class of equity securities of another corporation furnishing the services to the applicant or its subsidiaries.

8. This item does not require the disclosure of any interest in any transaction unless such interest and transaction are material.

XVIII. *Other financial statements and "balance sheets" schedules.* (a) There shall be furnished a balance sheet of the applicant and a consolidated balance sheet of the applicant and its subsidiaries as of a date within 6 months prior to the date of filing the application.

Instructions. The individual balance sheets of the applicant may be omitted if (i) consolidated balance sheets of the applicant and one or more of its subsidiaries are furnished, (ii) either one of the following conditions is met, and (iii) the Commission is advised as to the reasons for such omission:

(1) The applicant is primarily an operating company and all subsidiaries included in the consolidated balance sheets furnished are totally-held subsidiaries; or

(2) The applicant's total assets, exclusive of investments in and advances to the consolidated subsidiaries, constitute 85 percent or more of the total assets shown by the consolidated balance sheets filed and the applicant's total gross revenues for the period for which its profit and loss statements would be filed, exclusive of interest and dividends received from the consolidated subsidiaries, constitute 85 percent or more of the total gross revenue shown by the consolidated profit and loss statements filed.

(b) There shall be furnished for each majority-owned subsidiary of the applicant not included in the consolidated statements, the balance sheets which would be required if the subsidiary were itself an applicant. If the applicant owns, directly or indirectly, approximately 50 percent of the voting securities of any person and approximately 50 percent of the voting securities of such person is owned, directly or indirectly, by another single interest, there shall be filed for each such person the balance sheets which would be required if it were an applicant. The statements filed for each such person shall identify the other single interest. Where appropriate, group statements may be filed for such persons.

Instructions. 1. Insofar as practicable, these balance sheets shall be as of the same dates as those of the applicant.

2. There may be omitted all balance sheets of any one or more unconsolidated subsidiaries or 50 percent owned persons if all such subsidiaries and persons whose balance sheets are so omitted, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary.

(c)(1) There shall be filed for any business directly or indirectly acquired by the applicant after the date of the latest balance sheet filed pursuant to (a) above and for any business to be directly or indirectly acquired by the applicant, the financial statements which would be required if such business were an applicant.

(2) The acquisition of securities shall be deemed to be the acquisition of a business if such securities give control of the business or combined with securities already held give such control.

(3) No financial statements need be filed, however, for any business acquired or to be acquired from a totally-held subsidiary. In addition, the statements of any one or more business may be omitted if such businesses, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary.

APPENDIX II

REGION 1

Regional Manager Robert L. Abare, Interstate Commerce Commission, John Fitzgerald Kennedy Building, Government Center, Room 2211B, Boston, Mass. 02203.

REGION 2

Regional Manager Fred E. Cochran, Interstate Commerce Commission, 16th Floor, 1518 Walnut Street, Philadelphia, PA 19102.

REGION 3

Regional Manager James B. Weber, Interstate Commerce Commission, 1252 West Peachtree Street, Northwest, Room 300, Atlanta, GA 30309.

REGION 4

Regional Manager Charles W. Haas, Interstate Commerce Commission, Everett McKinley Dirksen Building, Room 1086, 219 South Dearborn Street, Chicago, IL 60604.

REGION 5

Regional Manager Harold M. Gregory, Interstate Commerce Commission, 9A27 Fritz Garland Lanham, Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

REGION 6

Regional Manager Ernest D. Murphy, Interstate Commerce Commission, 13001 Federal Building, 450 Golden Gate Avenue, Post Office Box 36004, San Francisco, CA 94102.

[FR Doc.71-16478 Filed 11-11-71;8:45 am]

Notices

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

BANK OF CALIFORNIA, N. A.

Notice of Application for Unlisted Trading Privileges

NOVEMBER 8, 1971.

Notice is hereby given that the Philadelphia-Baltimore-Washington Stock Exchange, 17th Street and Stock Exchange Place, Philadelphia, PA 19103, has filed an application with the Comptroller of the Currency, pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934, as amended, for unlisted trading privileges in the common stock of the Bank of California, N. A., San Francisco, Calif., which securities are listed and registered on the New York Stock Exchange.

Notice is hereby given that any interested person may, not later than November 30, 1971, at 5:30 p.m., submit to the Comptroller of the Currency in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Comptroller should order a hearing thereon. Any such communication should be addressed: Office of the Comptroller of the Currency, Attention: Mr. Robert Bloom, Chief Counsel, Treasury Building, Washington, D.C. 20220. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or in case of attorney at law by certificate) shall be filed contemporaneously within the request. At any time after said date, an order disposing of the application herein may be issued by the Comptroller of the Currency upon the basis of the information stated in the application, unless an order for hearing upon said application shall be issued upon request or upon the Comptroller's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

[SEAL] WILLIAM B. CAMP,
Comptroller of the Currency.

[FR Doc.71-16585 Filed 11-11-71;8:51 am]

Fiscal Service

BUREAU OF ACCOUNTS

Statement of Organization, Functions and Procedures

In order to reflect organizational changes in the Bureau of Accounts since publication of the Statement of Organization, Functions and Procedures Available published in the FEDERAL REGISTER of September 24, 1969 (34 F.R. 14738-39), section 3 thereof is revised to read as follows:

SEC. 3. *Bureau of Accounts*—(a) *Generally.* (1) The Bureau of Accounts, under the Commissioner of Accounts, was created and established as a part of the Fiscal Service by Reorganization Plan No. III, effective June 30, 1940, with the responsibility for a variety of fiscal activities of Government-wide scope.

(2) The Bureau maintains principal offices in Washington, D.C.; they include the Division of Disbursement, the Division of Financial Management, the Division of Government Financial Operations, and the Division of Cash Management. The field offices of the Division of Disbursement are set forth in paragraph (b).

(3) The regulations of the Bureau are codified at 31 CFR, Subtitle B, Chapter II, Subchapter A.

(b) *Division of Disbursement.* The Division is responsible for the function of disbursement of moneys of the United States in relation to all civilian agencies of the executive branch, except the Postal Service, U.S. Marshals, and certain Government corporations, pursuant to section 4 of Executive Order 6166 of June 10, 1933, as amended (5 U.S.C.A. 901 note). Disbursing activities are carried out (i) through eight major disbursing centers, and four regional disbursing offices of the Division located in the United States and Manila, Philippine Islands, and (ii) by delegation, through facilities of the Department of State and other agencies located in certain foreign countries. The disbursing centers are as follows:

Disbursing center	Address	Director
Austin, Tex. 78741	1619 East Woodward St.	George L. Clark.
Birmingham, Ala. 35203.	2225 3rd Ave., North.	Randolph Mobbs.
Chicago, Ill. 60680	536 South Clark St.	Robert Pacheco.
Denver, Colo. 80225.	Bldg. 53, Denver Federal Center.	G. Lewis Frazer.
Kansas City, Mo. 64142	811 Grand Ave.	Robert L. Larson.
Philadelphia, Pa. 19101.	5000 Wissahickon Ave.	Robert L. Langdon.
San Francisco, Calif. 94105.	390 Main St.	P. Edward Frowd.
Washington, D.C. 20013.	411 G Street NW.	Henry H. Eades.

Regional disbursing office	Address	Disbursing officer
Honolulu, Hawaii 96813.	335 South King St.	Elsie H. Chang.
Anchorage, Alaska 99501.	Federal Bldg., 4th and F Sts.	Patricia I. Handelin.
Manila, Philippine Island, 96528.	200 New Office Bldg., American Embassy.	Richard W. Homer.
New York, N.Y. 10001.	341 9th Ave.	Louis Kirschner.

(c) *Division of Financial Management.* (1) The Division performs the comptrollership functions of the Bureau. In addition it furnishes representation of the Department of the Treasury on the Steering Committee for the Joint Financial Management Improvement program in the Federal Government (31 U.S.C. 65(f)) and provides staff assistance to the Committee on joint program projects.

(2) The Division conducts the liquidation of certain programs which were transferred to the Secretary of the Treasury under the provisions of the Reconstruction Finance Corporation Liquidation Act, as amended (67 Stat. 230), Executive Order 10489 of September 26, 1953 (18 F.R. 6201), and Reorganization Plan No. 1 of 1957 (5 U.S.C.A. App.). These involve the lending programs conducted under section 409 of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2261), and section 302 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2092), consisting of business loans with individual balances of $250,000 or more, securities of and loans to railroads, and securities of financial institutions.

(3) In accord with 31 CFR Parts 223-226, the Division supervises matters arising under title 6 of the United States Code relating to surety companies authorized as acceptable sureties on Federal bonds, including the examination of applications of companies requesting authority from the Secretary of the Treasury to write such bonds, and the review of the financial statements of companies so authorized, in order to determine their compliance with Treasury requirements and related underwriting limitations.

(4) 31 CFR Part 256 sets forth the Division's functions in receiving applications from and making payments to persons entitled to sums appropriated by the Congress in private relief acts and, in conjunction with the Division of Disbursement, in making payments to persons securing money judgments against the United States in the Court of Claims or in the Federal district courts.

(5) The Division performs duties relating to foreign obligations, consisting generally of the collection of the principal and interest on obligations due from foreign governments under lend-lease (Executive Order 9726, dated May 17, 1946), surplus property and other agreements, and the keeping of related accounts.

(6) The Division performs the Department's duties relating to awards under the Settlement of War Claims Act of 1928, as amended (45 Stat. 254), the War Claims Act of 1948, as amended (50 U.S.C. App. 2001 et seq.), and the International Claims Settlement Act of 1949, as amended (22 U.S.C. 1621 et seq.). The duties include payment on such awards and the keeping of accounts therefor. Department Circular 881 (31 CFR Part 250) and 31 CFR Part 251 set forth the regulations under the 1949 Act, as amended.

(7) Pursuant to the Act of March 26, 1966 (80 Stat. 92), providing for the discontinuance of the Postal Savings System, postal savings funds are held in a trust fund account subject to claims by depositors or their successors in interest. The Division processes these claims and effects payment thereof.

(8) The Division administers certain of the duties of the Secretary of the Treasury, relating to shipment of valuables and handling claims for losses, under the Government Losses in Shipment Act, as amended (40 U.S.C. 721 et seq.).

(d) *Division of Government Financial Operations.* (1) The Division administers a unified system of central accounting for the Government under the Accounting and Auditing Act of 1950, as amended (31 U.S.C. 65 et seq.). Through this system, the central accounts of the Government provide the accounting basis for compiling receipt and expenditure data for financial statements of the Government as a whole.

(2) The Division plans and develops for publication periodic and special reports presenting the results of the financial operations of the Government and handles the accounting and reporting for those foreign currencies acquired by the Government without purchase with dollars.

(3) The Division maintains the investment accounts of the Government and processes loans to Government agencies made pursuant to statute. In connection therewith, it arranges for the custody of investments and securities held by the Treasurer and by Federal Reserve Banks for which the Secretary of the Treasury is responsible.

(4) The Division also works with staff of the Office of Management and Budget and the General Accounting Office in the Joint Financial Management Improvement Program on Government-wide matters relating to accounting systems.

(e) *Division of Cash Management.* (1) The Division provides direction and technical guidance for cash flow of the Federal Government, including the oversight function of management and utilization of foreign currencies acquired by the U.S. Government.

(2) The Division prescribes fiscal requirements and approves agency systems for the financing of Federal advances by letter of credit; it also oversees cash procedures of agencies and accountable officers in the application of the letter-of-credit procedure.

(3) The Division administers matters relating to the designation and qualification of Government depositaries and the deposit of Government funds with them. The depositaries include banks which are depositaries under Department Circular 176 (31 CFR Part 202), or special depositaries under Department Circular 92 (31 CFR Part 203); and foreign depositaries.

(4) The Division supervises, in conjunction with the Federal Reserve banks in their capacity as fiscal agents of the United States, the designation and qualification of banks, as Depositaries for Federal Taxes, to receive deposits of certain Federal taxes on employers and employees and withheld income taxes on wages; and the authorization of such depositaries to receive deposits of Federal corporate income taxes, all under Department Circular 1079 (31 CFR Part 214); the Division also handles certain administrative matters in connection with the Federal Tax Deposit System.

Dated: November 2, 1971.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[FR Doc.71-16586 Filed 11-11-71;8:51 am]

Internal Revenue Service

[Order 120]

APPELLATE CONFEREES

Delegation of Authority in Protested Cases and in Tax Court Cases

1. Pursuant to the authority vested in the undersigned it is ordered that:

a. Each appellate conferee in Houston and New Orleans appellate branch offices in Southwest region, Boston, Buffalo, and New Haven appellate branch offices in North Atlantic region, and Baltimore, Philadelphia, and Richmond appellate branch offices in mid-Atlantic region is authorized to exercise the authorities granted to appellate officials in the following delegation orders (as revised):

Delegation order No.	*Subject*
8	Authority to sign agreements as to liability for personal holding company tax
35	Agreements as determinations under section 1313(a)(4) of the Internal Revenue Code of 1954
66	Authorities of regional appellate division and of regional counsel in protested cases and in tax court cases
75	Authority of regional appellate division in offers in compromise
77	Authority to issue statutory notices of deficiency
98	Authority to consent to a redetermination of aggregations by a taxpayer in the case of invalid basic aggregations or invalid additions
97	Closing agreements concerning internal revenue tax liability
107	Authority to determine that certain "savings institutions" do not intend to avoid taxes by paying dividends or interest for periods representing more than 12 months
109	Authority to sign agreements determining inapplicability of exclusion under section 963 of Internal Revenue Code of 1954

2. The authority delegated herein may not be redelegated.

Date of issue: November 11, 1971.

Effective date: January 1, 1972.

[SEAL] JOHNNIE M. WALTERS,
Commissioner.

[FR Doc.71-16556 Filed 11-11-71;8:49 am]

DEPARTMENT OF THE INTERIOR

Geological Survey

[Powersite Cancellation 306]

COWLITZ RIVER, WASH.

Powersite Cancellation

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and 220 Departmental Manual 6.1, Powersite Classification 75 of June 6, 1924, is hereby canceled to the extent that it affects the following described land:

WILLAMETTE MERIDIAN

T. 13 N., R. 9 E.,
Sec. 1, lot 1.

The area described aggregates about 2 acres.

Dated: November 5, 1971.

W. A. RADLINSKI,
Acting Director.

[FR Doc.71-16538 Filed 11-11-71;8:47 am]

[Powersite Cancellation 309]

NEW FORK RIVER BASIN, WYO.

Powersite Cancellation

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and 220 Departmental Manual 6.1, Powersite Classification 8 of November 3, 1921, is hereby canceled to the extent that it affects the following described land:

SIXTH PRINCIPAL MERIDIAN

T. 33 N., R. 108 W.,
Sec. 10, SW¼SW¼.
T. 34 N., R. 108 W.,
Sec. 26, S½SE¼;
Sec. 34, lot 3, S½NE¼, SE¼NW¼, NE¼SW¼, and N½SE¼;
Sec. 35, SW¼NW¼.

The area described aggregates about 402 acres.

Dated: November 5, 1971.

W. A. RADLINSKI,
Acting Director.

[FR Doc.71-16539 Filed 11-11-71;8:47 am]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

ADMINISTRATOR, AGRICULTURAL RESEARCH SERVICE

Delegation of Authority to Appoint Uniformed Armed Guards as Special Policemen

In accordance with the authority delegated to me by the Secretary of Agriculture, the Administrator of the Agricultural Research Service is hereby authorized to appoint uniformed armed guards as special policemen, to make all needful rules and regulations, and to annex to such rules and regulations such reasonable penalties, not to exceed those prescribed in 40 U.S.C. 318c, as will ensure their enforcement, for the protection of the buildings and grounds of the Arboretum, Washington, D.C., the U.S. Meat Animal Research Center, Clay Center, Nebr., and the U.S. Agricultural Research Center, Beltsville, Md., over which the United States has exclusive or concurrent criminal jurisdiction. The Administrator may redelegate the authority to appoint uniformed armed guards to any Agricultural Research officer or employee.

Any rules or regulations promulgated under the authority herein granted shall be approved by the Director of Plant and Operations and the General Counsel prior to issuance.

This authority shall be exercised in accordance with the limitations and requirements of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, the Act of June 1, 1948 (62 Stat. 281), as amended, and the policies, procedures and controls prescribed by the General Services Administration.

NED D. BAYLEY,
Director, Science and Education.

NOVEMBER 9, 1971.

[FR Doc.71-16587 Filed 11-11-71;8:51 am]

DIRECTOR, SCIENCE AND EDUCATION

Delegation of Authority To Appoint Uniformed Armed Guards as Special Policemen

In accordance with authorities delegated to me by the Administrator of the General Services Administration (34 F.R. 6406) (36 F.R. 1293) and (36 F.R. 18440) on April 4, 1969, January 20, 1971, and September 8, 1971, the Director of Science and Education is hereby authorized to appoint uniformed armed guards as special policemen, to make all needful rules and regulations, and to annex to such rules and regulations such reasonable penalties, not to exceed those prescribed in 40 U.S.C. 318c, as will insure their enforcement, for the protection of the buildings and grounds of the Arboretum, Washington, D.C., and the U.S. Meat Animal Research Center, Clay Center, Nebr., and the U.S. Agricultural Research Center, Beltsville, Md., over which the United States has exclusive or concurrent criminal jurisdiction. The Director may redelegate this authority to any officer or employee under his jurisdiction.

Any rules or regulations promulgated under the authority herein granted shall be approved by the Director of Plant and Operations and the General Counsel prior to issuance.

This authority shall be exercised in accordance with the limitations and requirements of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, the Act of June 1, 1948 (62 Stat. 281), as amended, and the policies, procedures and controls prescribed by the General Services Administration.

This delegation supersedes the delegation to the Administrator, Agricultural Research Service, dated May 2, 1969, and appearing at 34 F.R. 7389 on May 7, 1969.

J. PHIL CAMPBELL,
Acting Secretary of Agriculture.

NOVEMBER 3, 1971.

[FR Doc.71-16568 Filed 11-11-71;8:51 am]

SOUTH CAROLINA

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961) and section 232 of the Disaster Relief Act of 1970 (Public Law 91-606), it has been determined that in the following county in the State of South Carolina natural disasters have caused a general need for agricultural credit:

COUNTY

Lee

Emergency loans will not be made in the above-named county under this designation pursuant to applications received after June 30, 1972, except subsequent loans to qualified borrowers who received initial loans under this designation.

The urgency of the need for emergency loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 9th day of November 1971.

J. PHIL CAMPBELL,
Acting Secretary.

[FR Doc.71-16552 Filed 11-11-71;8:48 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-400, 50-401, 50-402, 50-403]

CAROLINA POWER & LIGHT CO.

Notice of Receipt of Application for Construction Permits and Facility Licenses; Time for Submission of Views on Antitrust Matters

Carolina Power & Light Co., 336 Fayetteville Street, Raleigh, NC 27602, pursuant to section 103 of the Atomic Energy Act of 1954, as amended, filed an application on September 7, 1971, for authorization to construct and operate four pressurized water nuclear reactors designated as Shearon Harris Nuclear Power Plant, units 1, 2, 3, and 4, on the applicant's site in Wake and Chatham Counties, N.C.

The site is located on approximately 18,000 acres of land in the southwest corner of Wake County, and the southeast corner of Chatham County, N.C. The city of Raleigh, N.C., is approximately 20 miles northeast of the site, and Sanford, N.C., is about 10 miles southwest. The applicant will construct a dam on Buckhorn Creek about 1 mile north of its confluence with the Cape Fear River. This dam will create a 10,000 acre reservoir which will be used for cooling water requirements for the plant. The nuclear units will be located on a peninsula on the northwest shore of the reservoir about 3½ miles north of the main dam.

Each of the four units will be designed for an initial power output of 2,785 megawatts thermal, with an equivalent net electrical output of approximately 900 megawatts electrical.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within sixty (60) days after October 22, 1971.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and a copy has been sent to Mr. H. Williams O'Shea, Director, Wake County Public Libraries, 104 Fayetteville Street, Raleigh, NC 27601.

Dated at Bethesda, Md., this 29th day of September 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc.71-14552 Filed 10-21-71;8:45 am]

SAFETY GUIDES

Notice of Issuance

The Atomic Energy Commission has issued five new safety guides which have been developed to provide guidance on the acceptability of specific safety-related features of water cooled nuclear power plants and one supplement to a previously-issued guide that provides guidance concerning possible backfitting.

A total of 18 safety guides has been completed since the Commission, on November 13, 1970, announced development of a series of these guides. Four were made available then and nine more on April 9, 1971.

The primary purpose of the safety guides is to make available to the industry positions that have been developed by the Regulatory Staff and the Commission's Advisory Committee on Reactor Safeguards on safety issues. Although the safety guides are not regulatory requirements, they do specifically identify safety issues that should be considered in the design and in the evaluation of water cooled nuclear power plants and describe a set of principles and specifications which will represent an acceptable solution to the Regulatory Staff and Advisory Committee on Reactor Safeguards on these issues. Their use by an applicant will expedite the licensing review process.

Titles of the new guides are:

Safety Guide 14—Reactor Coolant Pump Flywheel Integrity.
Safety Guide 15—Testing of Reinforcing Bars for Concrete Structures.
Safety Guide 16—Reporting of Operating Information.
Safety Guide 17—Protection Against Industrial Sabotage.
Safety Guide 18—Structural Acceptance Test for Concrete Primary Reactor Containments.
Supplement to Safety Guide 7—Control of Combustible Gas Concentrations in Containment Following a Loss of Coolant Accident—Backfitting Considerations.

Other safety guides currently being developed include the following:

Assumptions Used for Evaluating the Potential Radiological Consequences of a Fuel Handling Accident for Boiling and Pressurized Water Reactors.
Vibration Monitoring.
Radioactive Gas Storage Tank Failure Assumptions.
Reactor Coolant Pressure Boundary Leakage Detection.
Measuring and Reporting of Effluents from Nuclear Power Plants.
Quality Assurance for Design of Nuclear Power Plants.
Nondestructive Examination of Primary Reactor Containment Liners.
Ultimate Heat Sink.

Comments and suggestions for improvements in the guides are encouraged. Comments and requests for copies of the guides should be sent to the Director, Division of Reactor Standards, U.S. Atomic Energy Commission, Washington, D.C. 20545.

(5 U.S.C. 552(a))

Dated at Bethesda, Md., this 4th day of November 1971.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.71-16531 Filed 11-11-71;8:46 am]

INFORMATION GUIDES

Notice of Issuance

The Atomic Energy Commission has issued a new series of information guides to identify specific technical information needed in the AEC's licensing review.

In the reactor licensing process, applicants are requested by the regulatory staff to submit additional technical information needed in the licensing review that has not been submitted in the original application. Much of this information must be requested of each applicant after the application has been reviewed to determine if the needed information has been supplied. The process of reviewing each application for this missing information and requesting its submission from each individual applicant is time consuming. There is need for an expeditious means to provide additional guidance to prospective applicants as to information needed in the review process.

To help solve this problem, the Director of Regulations has established a new series of information guides that will specify much of the information requested repeatedly of all applicants for water-cooled nuclear powerplants. The purpose of the information guides is to provide guidance to applicants and prospective applicants concerning certain of the information that will be needed as part of the licensing review of all power reactor applications.

Comments on the guides are encouraged. Comments and requests for copies should be addressed to the Director, Division of Reactor Standards, U.S. Atomic Energy Commission, Washington, D.C. 20545.

(5 U.S.C. 552(a))

Dated at Bethesda, Md., this 4th day of November 1971.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.71-16532 Filed 11-11-71;8:46 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-71-133]

DEPUTY REGIONAL ADMINISTRATOR, ET AL., REGION III (PHILADELPHIA)

Designation To Serve as Acting Regional Administrator

The officials appointed to the following listed positions in Region III (Philadelphia) are hereby designated to serve as Acting Regional Administrator, Region III (Philadelphia), during the absence of the Regional Administrator, with all the powers, functions, and duties redelegated or assigned to the Regional Administrator: *Provided*, That no official is authorized to serve as Acting Regional Administrator unless all other officials whose titles precede his in this designation are unable to act by reason of absence or vacancy in the position:

1. Deputy Regional Administrator.
2. Regional Counsel.
3. Assistant Regional Administrator for Administration.
4. Assistant Regional Administrator for Housing Management.
5. Assistant Regional Administrator for Community Planning and Management.
6. Assistant Regional Administrator for Community Development.
7. Assistant Regional Administrator for Housing Production and Mortgage Credit.
8. Assistant Regional Administrator for Equal Opportunity.

This designation supersedes the designation effective March 25, 1969 (34 F.R. 6708, April 19, 1969).

(Redelegation of authority to take final action with respect to certain positions and employees effective as of May 4, 1969.)

Effective as of the 1st day of October 1971.

THEODORE R. ROBB,
Regional Administrator,
Region III.

[FR Doc.71-16566 Filed 11-11-71;8:49 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF THE INTERIOR

Notice of Revocation of Authority to Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Assistant to the Secretary, Office of the Secretary, Secretary's Immediate Office.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc.71-16579 Filed 11-11-71;8:50 am]

DEPARTMENT OF THE INTERIOR

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Interior to fill by

noncareer executive assignment in the excepted service the position of Associate Director, Office of Water Resources Research, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-16580 Filed 11-11-71;8:50 am]

DEPARTMENT OF TRANSPORTATION

Notice of Grant of Authority to Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Transportation to fill by noncareer executive assignment in the excepted service the position of Director, Office of Congressional Relations, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-16580 Filed 11-11-71;8:50 am]

ENVIRONMENTAL PROTECTION AGENCY

2-ETHYLAMINO-4-ISOPROPYLAMINO-6-METHYLTHIO-s-TRIAZINE

Notice of Establishment of Temporary Tolerance

Geigy Agricultural Chemicals, Division of Ciba-Geigy Corp., Ardsley, N.Y. 10502, submitted a petition requesting a temporary tolerance for residues of the herbicide 2-ethylamino-4-isopropylamino-6-methylthio-*s*-triazine in or on the raw agricultural commodities citrus fruits at 0.25 part per million.

It has been determined that a temporary tolerance of 0.25 part per million for residues of the herbicide in or on citrus fruits is safe and will protect the public health. It is therefore established on condition that the herbicide be used in accordance with the temporary permit being issued concurrently by the Environmental Protection Agency and which provides for distribution under the Geigy Agricultural Chemicals Corp. name.

This temporary tolerances expires November 4, 1972.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs of the Environmental Protection Agency (36 F.R. 9038).

Dated: November 4, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71-16533 Filed 11-11-71;8:46 am]

NACA INDUSTRY TASK FORCE

Notice of Amended Filing of Petition Regarding Pesticide Chemical

Notice was given in the FEDERAL REGISTER of June 4, 1971 (36 F.R. 10900), that a petition (PP 1F1102) had been filed by the National Agricultural Chemicals Association's Industry Task Force on Phenoxy Herbicide Tolerances, 1155 15th Street NW., Washington, DC 20005, proposing establishment of tolerances for residues of the herbicide 2,4,5-T (2,4,5-trichlorophenoxyacetic acid) in or on the raw agricultural commodities grass at 300 parts per million and apples, barley, blueberries, corn, oats, rice, rye, sugarcane, and wheat at 0.2 part per million (negligible residue) from application of the herbicide in either the acid form or in the form of one or more of the following salts or esters:

1. The amine salts: Alkyl (C–12), alkyl (C–13), alkyl (C–14), *N,N*-dimethyloleylamine, *N,N*-dimethyllinoleylamine, *N*-oleyl-1,3-propylenediamine, triethanolamine, and triethylamine.

2. The esters: Alkyl (C_1H_1–C_7H_5), amyl, butyl, butoxyethyl, butoxypropyl, dipropylene glycol isobutyl ether, 2-ethylhexyl (isooctyl), propylene glycol butyl ether, propylene glycol isobutyl ether, and tripropylene glycol isobutyl ether.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 409(b)(5), 68 Stat. 512, 72 Stat. 1786; 21 U.S.C. 346a(d)(1), 348(b)(5)), notice is given that said petition has been amended by:

a. Withdrawing the request for tolerances regarding barley, corn, oats, rye, and wheat.

b. Adding the commodities rice straw at 1 part per million; meat and meat byproducts of cattle, goats, and sheep at 0.1 part per million (negligible residue; and milk at 0.05 part per million (negligible residue).

c. Reducing the proposed 0.2 part per million tolerance on apples, blueberries, rice, and sugarcane to 0.1 part per million (negligible residue).

Notice is also given that the same association has filed a related food additive petition (FAP 2H2670), proposing establishment of a food additive tolerance (21 CFR Part 121) of 0.5 part per million for residues of the herbicide in or on sugarcane bagasse resulting from application of the herbicide to sugarcane fields.

Dated: November 4, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71-16568 Filed 11-11-71;8:49 am]

FEDERAL RESERVE SYSTEM

[Reg. Y]

BANK HOLDING COMPANIES

Notice of Hearing Regarding Rhode Island Thrift Institutions Investments in Commercial Banks

Newport Savings and Loan Association, Newport, R.I., has applied for the Board's approval to become a registered bank holding company through acquisition of voting shares of the Island Trust Co., Newport, a proposed new bank.

Old Colony Cooperative Bank, Providence, R.I., has applied for the Board's approval to become a registered bank holding company through retention of voting shares of the Newport National Bank, Newport.

The Rhode Island legislature, in 1970, specifically authorized such associations to establish a bank or trust company or to purchase and hold a majority of the issued and outstanding stock of a bank or trust company. In the 1970 Amendments to the Bank Holding Company Act, Congress took special note of a situation similar to that contemplated by the proposals. Section 2(a)(5)(F) of the Act generally exempts from the purview of the Act federally insured mutual savings banks that directly or indirectly own one bank, if such ownership or control existed on the date of enactment of the 1970 Amendments and is specifically authorized by applicable State law. Each mutual savings bank in Rhode Island owns a commercial bank subsidiary.

Notice of receipt of the Newport application was published in the FEDERAL REGISTER on June 19, 1971 (36 F.R. 11832). Notice of receipt of the Old Colony application is published simultaneously with this document. In response to the Newport notice, the Board received several letters of comment objecting to approval of Newport's application.

In view of the substantial interest in the similar issues presented by the two applications, the Board has decided to conduct a hearing on the applications before available members of the Board in the Board Room of its building at 20th Street and Constitution Avenue, Washington, DC, on November 29, 1971, beginning at 10 a.m. Interested persons are invited to participate, but they need not participate by presenting material orally at the hearing to have their views

considered. All views expressed in written comments on the matter that are received before December 15, 1971, will be given consideration. Such material will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's rules regarding availability of information.

Following the hearing the Board expects to issue an order on each application. The orders will resolve the question of the parent company engaging in the activities of a thrift institution while at the same time engaging in commercial banking activities through a subsidiary.

This hearing is not designed to consider the general question whether operating a thrift institution is an activity that is "so closely related to banking or managing or controlling banks as to be a proper incident thereto" within the meaning of section 4(c)(8) of the Bank Holding Company Act. So far as the hearing concerns the relationship of a thrift institution to a bank holding company, the issue is limited to the type of structural and competitive circumstances existing in Rhode Island.

Persons interested in participating in the hearing by presenting material orally should inform the Secretary of the Board in writing not later than November 18, 1971. Each person admitted as a party to the proceeding will be given up to 30 minutes to present his views.

By order of the Board of Governors, November 4, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16581 Filed 11-11-71;8:49 am]

FIRST VIRGINIA BANKSHARES CORP.

Order Approving Acquisition of Bank Stock By Bank Holding Company

In the matter of the application of First Virginia Bankshares Corp., Arlington, Va., for approval of acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the First Commercial Bank, Orange, Va., a proposed new bank.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by First Virginia Bankshares Corp., Arlington, Va., a registered bank holding company, for the Board's prior approval of the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of First Commercial Bank, Orange, Va. ("Bank"), a proposed new bank.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Virginia Commissioner of Banking, and requested his views and recommendation. The Commissioner recommended approval.

Notice of receipt of the application was published in the FEDERAL REGISTER on September 8, 1971 (36 F.R. 18036), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant presently controls 16 banks with aggregate deposits of approximately $478.5 million, representing 6 percent of the total commercial bank deposits in the State, and is the sixth largest banking organization in Virginia. (All banking data are as of December 31, 1970, and reflect holding company formations and acquisitions approved through September 30, 1971.) Since Bank is a proposed new bank, no existing competition would be eliminated nor would concentration be increased in any relevant area.

Bank will be located in the town of Orange, the county seat of Orange County. The largest and 12 largest banks in the State have six offices in Orange County and control virtually all area deposits. Applicant's closest subsidiary to Bank is located 30 miles southwest, on the outskirts of Charlottesville in Albemarle County. It appears that none of applicant's subsidiary banks derives a significant amount of banking business from the area to be served by Bank. Consummation of the proposal would represent the entry of a third large banking organization in the area, and should stimulate competition without having an undue adverse effect on other banks in the market.

The financial and managerial resources of applicant and its subsidiary banks are generally satisfactory and the prospects for the group appear favorable. Bank has no operating financial history. It will open with satisfactory capital, and it will be able to draw on applicant for its management. Its prospects are favorable. The banking factors are consistent with approval. Although there is no evidence that existing needs of the area are not being served adequately, the proposed location of Bank, one block from the heart of Orange's business district, is expected to serve the convenience of the area businesses and residents. Further, the establishment of Bank would provide an additional banking alternative to residents of the Orange area. Thus, considerations relating to convenience and needs of the community lend some weight in favor of approval of the application. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and that the application should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above, provided that the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order; and provided further that (c) First Commercial Bank shall be opened for business not later than 6 months after the date of this order. Each of the periods described in (b) and (c) hereof may be extended for good cause by the Board, or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Board of Governors,[1] November 4, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16535 Filed 11-11-71;8:47 am]

FIRST VIRGINIA BANKSHARES CORP.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of First Virginia Bankshares Corp., Arlington, Va., for approval of acquisition of 100 percent of the voting shares of the successor by merger to The Bank of Westmoreland, Colonial Beach, Va.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by First Virginia Bankshares Corp., Arlington, Va., a registered bank holding company, for the Board's prior approval of the acquisition of 100 percent of the voting shares of the successor by merger to The Bank of Westmoreland, Colonial Beach, Va. ("Bank"). The bank into which Bank is to be merged has no significance except as a means of acquiring all of the shares of Bank. Accordingly, the proposed acquisition of the shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Virginia Commissioner of Banking, and requested his views and recommendation. The Commissioner recommended approval.

Notice of receipt of the application was published in the FEDERAL REGISTER on September 8, 1971 (36 F.R. 18035), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of

[1] Voting for this action: Governors Mitchell, Daane, Maisel, Brimmer, and Sherrill. Absent and not voting: Chairman Burns and Governor Robertson.

the applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant, the sixth largest banking organization in Virginia, controls 16 banks with deposits of $478.5 million, representing 6.0 percent of total commercial bank deposits in the State. (All banking data are as of December 31, 1970, and reflect holding company formations and acquisitions approved through September 30, 1971.) The acquisition of Bank ($21.5 million deposits), would increase applicant's share of deposits in the State by only 0.3 percentage points, representing no significant increase in applicant's control of deposits in the State, or change in its present ranking.

Bank, with five offices, is the largest of five organizations operating in its service area, which is approximated by King George, Westmoreland, and Northumberland Counties, where it holds 47.4 percent of area deposits. Bank does not appear to exert a dominant competitive influence in the area, and its share of area deposits has actually declined slightly in recent years. Due to the distances separating each of Bank's offices within this three-county area, Bank's head office and each branch have developed distinct service areas of their own. The closest office of any of applicant's subsidiary banks is located 35 miles from the King George Branch of Bank. No present competition exists between Bank and this office, or any of applicant's other offices. It also appears unlikely that consummation of this proposal would preclude potential competition because of Virginia's restrictive branching laws, the wide separation between applicant's offices and Bank, and the low population-to-bank ratio in Bank's service area. Based on the foregoing, and the record before it, the Board concludes that consummation of the proposed acquisition would not have an adverse effect on competition in any relevant market.

The banking factors, as they relate to applicant, its subsidiaries, and Bank are satisfactory and consistent with approval of the application. Considerations relating to the convenience and needs of the area lend some weight toward approval. The major banking needs of the area are being served at the present time; however, as a result of its affiliation with applicant, Bank would be able to offer expanded and improved services, including auditing, trust and data processing services, and greater mortgage lending capability. It is the Board's judgment that the proposed transaction is in the public interest and should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above, provided that the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Board of Governors,[1] November 4, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16536 Filed 11-11-71;8:47 am]

OLD COLONY CO-OPERATIVE BANK

Notice of Applications for Approval to Become a Registered Bank Holding Company Through the Retention of Shares of Bank and to Continue to Engage in the Activities of a Thrift Institution

Notice is hereby given that applications have been made, pursuant to section 3(a)(1) and section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1) and 12 U.S.C. 1843 (a)(8)), by Old Colony Co-operative Bank, Providence, R.I., for approval by the Board of Governors to become a registered bank holding company through the retention of voting shares of The Newport National Bank, Newport, R.I., and to continue thereafter to engage in the activities of a thrift institution.

Notice of the Board's decision to conduct a hearing in connection with these applications is published simultaneously with this document. Not later than December 15, 1971, written comments and views regarding the applications may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The applications may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Boston.

Board of Governors of the Federal Reserve System, November 8, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16560 Filed 11-11-71;8:49am]

SECURITIES AND EXCHANGE COMMISSION

[70-5112]

ALABAMA POWER CO.

Notice of Proposed Issue and Sale of First Mortgage Bonds and Preferred Stock at Competitive Bidding

NOVEMBER 8, 1971.

Notice is hereby given that Alabama Power Co. (Alabama), 600 North 18th Street, Birmingham, AL 35202, an electric utility subsidiary company of The Southern Co., a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Alabama proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $25,500,000 principal amount of its First Mortgage Bonds, _____ percent Series, to mature not less than 5 years and not more than 30 years from the second day of the calendar month within which the bonds are issued. Alabama will decide on the maturity of the bonds and notify prospective bidders not less than 72 hours prior to the time of the bidding. The interest rate (which shall be a multiple of one-eighth percent) and the price, exclusive of accrued interest, to be paid to Alabama (which shall be not less than 99 percent nor more than 102 percent of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under an Indenture, dated as of January 1, 1942, between Alabama and Chemical Bank, as Trustee, as heretofore supplemented and as to be further supplemented by a Supplemental Indenture to be dated as of January 1, 1972, which includes a prohibition until January 1, 1977, against refunding the bonds with the proceeds of funds borrowed at a lower effective interest cost.

Alabama also proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, 380,000 shares of its _____ percent Cumulative Preferred Stock, par value $100 per share. The dividend rate of the preferred stock (which shall be a multiple of 0.04 percent), and the price, exclusive of accrued dividends, to be paid to Alabama (which shall be not less than $100 nor more than $102 per share) will be determined by the competitive bidding. The terms of the preferred stock include a prohibition until January 1, 1977, against refunding the stock, directly or indirectly, with funds obtained from the issuance of debt securities at a lower effective interest cost or of preferred stock at a lower effective dividend cost. The proceeds from the sales of the bonds and preferred stock will be applied to the repayment of $63,715,000 principal amount of First Mortgage Bonds, 3½ percent Series, which mature on January 1, 1972.

It is stated that the Alabama Public Service Commission has jurisdiction over the proposed issuance and sale of the bonds and preferred stock by Alabama and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. The fees and expenses to be incurred in connection with the transactions will be supplied by amendment.

[1] Voting for this action: Governors Mitchell, Daane, Maisel, Brimmer, and Sherrill. Absent and not voting: Chairman Burns and Governor Robertson.

Notice is further given that any interested person may, not later than December 1, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71-16542 Filed 11-11-71;8:47]

[812-3031]

BUTCHER & SHERRERD

Notice of Filing of Application for Exemption

NOVEMBER 8, 1971.

Notice is hereby given that Butcher and Sherrerd (Applicant), 1500 Walnut Street, Philadelphia, PA 19102, a Pennsylvania limited partnership and a prospective representative, with Thomson & McKinnon Auchincloss, Inc., of a group of underwriters to be formed in connection with a proposed public offering of shares of Federated Income and Private Placement Fund (Fund), a registered closed-end investment company has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 (Act) for an order exempting Applicant and its co-underwriters from the provisions of section 30(f) of the Act to the extent that section adopts section 16(b) of the Securities Exchange Act of 1934 (Exchange Act) with respect to their transactions incidental to the distribution of Fund shares.

All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Shares of the Fund are to be purchased by the underwriters pursuant to an Underwriting Agreement to be entered into between the representatives of the underwriters, Fund, Income Research Corp., the Fund's investment adviser, and Federated Research Corp., the Fund's subadviser.

It is also contemplated that one or more dealers will offer and sell certain of the shares and will enter into Selected Dealer Agreements in connection therewith. It is intended that the several underwriters will make a public offering of all the Fund shares which such underwriters are to purchase under the Underwriting Agreement at the price therein specified, as soon on or after the effective date of the Fund's Registration Statement under the Securities Act of 1933 as the Applicant deems advisable, and such shares are initially to be offered to the public in accordance with the formula for the determination of the per share public offering price and underwriting commissions to be specified in the Underwriting Agreement, and the formulae for determination of dealer concessions to be specified in the Selected Dealer Agreements, at the time the Registration Statement becomes effective under the Securities Act of 1933. Although 2,100,000 shares have been included in the Registration Statement, the actual number of shares which may be the subject of the proposed public offering may be increased or decreased by the Applicant and the Fund shortly before the proposed public offering, and depending upon the exercise of an overallotment option granted to the underwriters.

Section 30(f) of the Act, in pertinent part, provides that every person who is directly or indirectly the beneficial owner of more than 10 per centum of any class of outstanding securities of which a registered closed-end company shall in respect of his transactions in the securities of such company be subject to the same duties and liabilities as those imposed by section 16 of the Exchange Act upon certain beneficial owners in respect of transactions in certain equity securities. Section 16(b) provides, in pertinent part, that for the purpose of preventing the unfair use of information which may have been obtained by such beneficial owner by reason of his relationship to the issuer, any profit realized by him from any purchase and sale, or sale and purchase, of any equity security of such issuer within any period of less than 6 months shall inure to and be recoverable by the issuer.

Rule 16b-2 under the Exchange Act exempts certain transactions in connection with a distribution of securities from the operation of section 16(b) thereof. One such requirement, stated in Rule 16b-2(a)(3), is that the aggregate participation of persons not within the purview of section 16(b) of the Exchange Act be at least equal to the aggregate participation of all persons exempted from the provisions of section 16(b) by Rule 16b-2.

Although it is anticipated that the requirements of paragraphs (a)(1) and (a)(2) of Rule 16b-2 will be met it is possible that the condition in paragraph (a)(3) described above, will not be met in that one or more underwriters, even though they are obligated through the Underwriting Agreement to purchase 10 percent or less of the aggregate number of shares of the Company's Common Stock to be outstanding upon completion of the initial public offering of the shares, may, as a consequence of defaults by other underwriters who do not purchase their respective Underwriting Commitments, become obligated to purchase on the Closing Date more than 10 percent of the aggregate number of shares of the Company's Common Stock to be outstanding after the closing and that one or more of the Underwriters becoming so obligated may, as underwriters and as Selected Dealers, distribute more than 50 percent of the aggregate number of shares being offered.

In addition to purchases from the Fund and sales to customers, there may be the usual transactions of purchase or sale incident to a distribution such as stabilizing purchases, purchases to cover overallotments or other short positions created in connection with such distribution, and sales of shares purchased in stabilization.

Applicant states there is no inside information in existence since the Fund, prior to the initial distribution of its shares, will have no assets (other than cash) or business of any sort, and all material information will be set forth in the prospectus. Therefore, the underwriters will not be privy to "inside information." Applicant states that the purpose of the purchase of the shares by the underwriters will be for resale in connection with the initial distribution of the shares, and submits that those purchases and sales will therefore be transactions effected in connection with a distribution of a substantial block of securities within the purpose and spirit of Rule 16b-2.

Applicant requests an order exempting the proposed transactions in the securities of the Fund, as described in the application, from the provisions of section 30(f) of the Act on the ground that such exemption is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant further contends that the transactions sought to be exempted cannot lend themselves to the practices which section 16(b) of the Exchange Act and section 30(f) of the Act is intended to prevent.

Section 6(c) authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities, or transaction, or any class or classes of persons, securities, or transactions, from the provisions of the Act and Rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public

interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 25, 1971 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing thereon shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing, (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71-16543 Filed 11-11-71;8:47 am]

[70-5111]

EAST OHIO GAS CO. ET AL.

Notice of Proposed Intrasystem Sale of Gas Pipe Line Assets to Affiliated Gas Utility Companies and Related Transactions

NOVEMBER 8, 1971.

Notice is hereby given that Consolidated Natural Gas Co. (Consolidated Natural), 30 Rockefeller Plaza, New York, NY 10020, a registered holding company, and three of its wholly owned subsidiary companies, the East Ohio Gas Co. (East Ohio), Lake Shore Pipe Line Co. (Lake Shore), and Consolidated Gas Supply Corp. (Supply Corporation), have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 9(a), 10, 12(f), and 12(g) of the Act and Rules 43, 44, and 45 thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Lake Shore is engaged in the business of purchasing, producing, gathering, transporting, and selling natural gas at wholesale to its sole customer, East Ohio. The principal facilities operated by Lake Shore consist of approximately 43.5 miles of a 10¾-inch transmission pipeline located in Pennsylvania where it connects with facilities of Tennessee Gas Pipeline Co. and in Ohio where it connects with purchase facilities of East Ohio. All of the gas delivered to East Ohio through this transmission pipeline is for the account of Supply Corp.

An Agreement and Plan of Liquidation has been entered into by the above-named companies pursuant to which Lake Shore proposes to sell all of its operating properties and certain other assets to two affiliated companies, East Ohio and Gas Supply, in exchange for the assumption by them of Lake Shore's long-term debt to Consolidated Natural in amounts equal to the net book value of the assets of Lake Shore acquired by East Ohio and Supply Corp., respectively. Such debt to be assumed will amount to $313,000 in the case of East Ohio and $526,000 in the case of Supply Corp. All of Lake Shore's properties in Ohio are to be sold to East Ohio, which operates solely in Ohio, and all of its properties in Pennsylvania are to be sold to Supply Corp., which, among other things, operates a natural gas pipeline system in Pennsylvania. Following consummation of the proposed acquisitions, Lake Shore is to be dissolved. Supply Corp. will continue to make gas deliveries through the facilities presently belonging to Lake Shore, except that deliveries through the transmission pipeline will be at the Ohio-Pennsylvania border.

It is stated that the proposed sale of facilities constitutes the final step in the discontinuance of Lake Shore's operations in the simplification and realignment of the operating companies of the Consolidated System and is in accord with a commitment made to the Federal Power Commission in 1962.

The fees and expenses to be incurred in connection with the proposed transactions are estimated at $12,750, including service company charges, at cost, of $7,750.

The filing states that the Public Utilities Commission of Ohio has jurisdiction over the assumption by East Ohio of the long-term debt of Lake Shore, that the Federal Power Commission has jurisdiction over the abandonment of the facilities proposed to be sold by Lake Shore and over the acquisition of a substantial portion of such facilities by Supply Corp., and that no other State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than November 29, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71-16544 Filed 11-11-71;8:47 am]

[File No. 2-7749 (22-816); 2-26429 (22-4453)]

NEW BEDFORD GAS AND EDISON LIGHT CO. AND CAPE & VINEYARD ELECTRIC CO.

Notice of Application and Opportunity for Hearing

NOVEMBER 8, 1971.

Notice is hereby given that New Bedford Gas and Edison Light Co. (New Bedford) has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeship of State Street Bank and Trust Company of Boston, Mass. (State Street), under certain indentures of New Bedford and of Cape & Vineyard Electric Co. (Cape) is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify State Street from acting as trustee under any of such indentures.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall within 90 days after ascertaining that it has such a conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of this section provides, with certain exceptions, that a trustee under a qualified indenture shall be deemed

to have a conflicting interest if such trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the same issuer are outstanding. However, under clause (ii) of section (1), there may be excluded from the operations of this provision another indenture or indentures under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under a qualified indenture and another indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under one of such indentures.

New Bedford alleges that:

(1) New Bedford has outstanding the following five series of notes, under indentures under which State Street is trustee:

(a) $3,800,000 principal amount of its 3 percent notes, Series A, due November 1, 1973, which were issued under an indenture of trust dated November 1, 1948.

(b) $2,952,000 principal amount of its 2⅝ percent notes, Series B, due October 1, 1975, which were issued under the first supplemental indenture to the New Bedford indenture.

(c) $4,496,000 principal amount of its 4½ percent notes, Series C, due April 1, 1986, which were issued under the second supplemental indenture to the New Bedford indenture.

(d) $9,500,000 principal amount of its 5⅝ percent notes, Series D, due April 1, 1992, which were issued under the fourth supplemental indenture to the New Bedford indenture.

(e) $8,970,000 principal amount of its 8⅛ percent notes, Series E, due December 1, 1995, which were issued under the fifth supplemental indenture to the New Bedford indenture.

(2) Cape has outstanding the following two series of notes under indentures under which State Street is trustee:

(a) $3,010,000 principal amount of its 4.90 percent notes, due April 1, 1987, which were issued under an indenture of trust date April 1, 1957.

(b) $5,760,000 principal amount of its 6½ percent notes, Series B, due June 1, 1997, which were issued under the first supplemental indenture to the Cape indenture.

(3) Pursuant to an agreement of merger dated April 23, 1971, it is expected that on or about December 1, 1971, Cape will be merged into New Bedford in accordance with the requirements of the provisions of Chapter 164 of the General Laws of Massachusetts.

(4) The agreement of merger provides, among other things, that upon consummation of the merger, New Bedford will thenceforth be responsible for all debts, liabilities, and obligations of Cape.

(5) Thereupon, in accordance with the terms of both the New Bedford indenture and the Cape indenture, New Bedford will execute and deliver to State Street a supplemental indenture, pursuant to which New Bedford will assume the due and punctual payment of the principal of, premium, if any, and interest on the Series A notes and the Series B notes outstanding under the Cape indentures according to their terms, and the due and punctual performance and observance of all terms, covenants, and conditions of the Cape indenture to be kept or performed by Cape.

(6) The obligations under the New Bedford indenture and the obligations under the Cape indenture represent general obligations ranking pari passu one with another and without preference of one over the other of any kind.

(7) Both the New Bedford notes and the Cape are wholly unsecured.

(8) Aside from inherent differences between the New Bedford indenture and the Cape indenture as to amounts, dates, interest rates, and sinking fund established with respect to each series of notes, most of the provisions of said indentures, including the particular covenants of the respective issuers which apply to the future, are substantially identical.

(9) New Bedford is not in default under the New Bedford indenture, and Cape is not in default under the Cape indenture and the consummation of the merger will not constitute a default under either of said indentures.

(10) It is the opinion of New Bedford that the differences between the New Bedford and Cape indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify State Street from acting as trustee under both of the indentures as supplemented.

(11) New Bedford waives notice of hearing, and any and all rights to specify procedures under the rules of practice of the Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to such application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, DC 20549.

Notice is further given that any interested person may, not later than November 28, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance (pursuant to delegated authority).

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71-16545 Filed 11-11-71;8:48 am]

[70-5090]

OHIO POWER CO. AND CAPTINA OPERATING CO.

Notice of Proposed Issue and Sale of Common Stock by Subsidiary Company and Acquisition by Parent Utility Company

NOVEMBER 8, 1971.

Notice is hereby given that Ohio Power Co. (Ohio Power), 301 Cleveland Avenue SW., Canton, OH 44701, an electric utility subsidiary company of American Electric Power Co., Inc. (AEP), a registered holding company, and Captina Operating Company (Captina), Post Office Box K, Moundsville, WV 26041, a presently inactive wholly owned subsidiary company of Ohio Power, have filed an application and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(b), 9, and 10 of the Act as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Captina, a West Virginia corporation, organized in 1956 to, among other things, develop, mine, and sell coal and manage, operate, and maintain steam electric generating stations, has been inactive since December 31, 1966. Captina has 5,000 shares of common stock (par value $1) authorized and 1,000 such shares outstanding and as of June 30, 1971, had total assets of $1,681. Upon authorization of the transactions proposed herein, the name of Captina will be changed to Southern Ohio Coal Co. (Southern Ohio) and Southern Ohio will take the necessary steps to qualify to do business in the State of Ohio and develop and mine such coal reserves either owned by Ohio Power, or which Ohio Power may transfer to it.

Ohio Power has under construction three 1,300,000 kilowatt coal-fired steam electric generating units. In order to assure a reliable supply of coal for these generating facilities, a financing program for Southern Ohio is proposed to permit it to develop and mine various reserves of coal owned or controlled by Ohio Power in southern and eastern Ohio. Southern Ohio proposes to issue and sell, on or before July 1, 1973, 4,000 shares of its common stock, and Ohio Power proposes to acquire such stock for a consideration of $2,500 per share ($10 million).

Ohio Power's three 1,300,000 kilowatt units will require in aggregate over 10 million tons of coal per year. It is stated that the most significant coal reserve to be developed and mined by Southern Ohio is Ohio Power's Wellston Coal Field, which has an estimated 270 million tons of recoverable coal. In addition to the Wellston reserve, Southern Ohio will initially commence development and mining of certain other coal reserves, which have an estimated 137 million tons of recoverable coal. All of these coal reserves must be "deep mined." None of the coal to be mined by Southern Ohio will be sold to anyone other than public utility companies in the AEP system.

It is estimated that the development of such coal reserves will require capital expenditures of approximately $20 million through 1973. Additional financing requirements will be the subject of future applications. The charges for coal by Southern Ohio will be based on an amount equal to the actual cost of Southern Ohio in developing the reserve and mining such coal, including all appropriate overheads and interest charges and including a reasonable rate of return on Ohio Power's equity investment in Southern Ohio. Such rate of return will be no greater than the return then being earned by Ohio Power on equity invested in electric plant as determined pursuant to the then effective Uniform System of Accounts prescribed by the Federal Power Commission for electric utility companies.

It is stated that no fees or commissions will be paid in connection with the proposed transactions with the exception of miscellaneous expenses estimated not to exceed $500. It is further stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than November 30, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application as amended or as it may be further amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulations, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-16546 Filed 11-11-71;8:48 am]

[811-1707]

PROFESSIONAL RETIREMENT EQUITY FUND, INC.

Notice of Filing of Application Declaring That Company Has Ceased To Be an Investment Company

NOVEMBER 8, 1971.

Notice is hereby given that an application has been filed pursuant to section 8(f) of the Investment Company Act of 1940 (Act) for an order of the Commission declaring that Professional Retirement Equity Fund, Inc. (Applicant), 245 Park Avenue, New York, NY 10017, has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Applicant was organized on April 10, 1968, under the laws of the State of Delaware, and registered under the Act on August 8, 1968. The application represents that Applicant presently has no shareholders. It has not made nor does it propose to make a public offering of its securities. Applicant has no assets of any kind.

The application further represents that Applicant has not engaged in any business activity and does not propose at any time in the future to engage in any business including the business of investing, reinvesting, holding or trading in securities.

Section 3(c)(1) of the Act excepts from the definition of investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons and which is not making and does not presently propose to make a public offering of its securities.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order, the registration of such company shall cease to be in effect, and that, if necessary for the protection of investors, such order may be made upon appropriate conditions.

Notice is further given that any interested person may, not later than November 30, 1971, submit to the Commission in writing a request for hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after said date as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request. At any time after said date as pro a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-16547 Filed 11-11-71;8:48 am]

[File No. 1-5906]

ROYAL ATLAS CORP.

Notice of Application To Withdraw from Listing and Registration

NOVEMBER 5, 1971.

The above named issuer (Common Stock—$1 par value) has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the National Stock Exchange.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The board of directors has determined that the interests of the company's shareholders can best be served by joining the NASDAQ quotation system. In a letter dated October 27, 1971, which is on file with the delisting application, the exchange disagrees with the company's reasons, and opposes the delisting application.

Any interested person may, on or before November 22, 1971, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.

For the Commission (pursuant to delegated authority).

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-16548 Filed 11-11-71;8:48 am]

[File No. 24D-3011]

SYDNOR-BARENT SCANNER CORP.

Order Temporarily Suspending Exemption, Statement of Reasons, and Notice of Opportunity for Hearing

NOVEMBER 2, 1971.

Sydnor-Barent Scanner Corp. (issuer), 5404 Coal, Southeast, Albuquerque, NM, a New Mexico corporation with offices located at Albuquerque, N. Mex., filed with this Commission, on August 26, 1970, a notification on a Form 1-A and an offering circular relating to an offering of 200,000 shares of capital stock at $1.50 per share for an aggregate of $300,000 for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) thereof, and Regulation A adopted thereunder. Doherty & Co., 209 Gold Avenue, Albuquerque, NM, was designated as underwriter for the issuer and would receive a 10 percent commission. The offering commenced on October 29, 1970.

Based on information reported by the staff, the Commission has reason to believe:

A. The offering circular contains untrue statements of material facts and omits to state material facts necessary to make the statements made, in the light of the circumstances under which they were made, not misleading, particularly with respect to:

1. Representations to the effect that the Flying Spot Scanner (Scanner) was to be the issuer's principal product and that the bulk of the proceeds of the offering were to be used to manufacture and market the Scanner.

2. The failure to disclose that a substantial amount of the proceeds of the offering were to be allocated to affiliated companies and persons.

3. The failure to disclose that the initial sales offers of the issuer were not successful.

B. The terms and conditions of Regulation A were not complied with, in that:

1. The issuer failed to describe accurately and adequately the issuer's business and proposed business as required by Schedule I.

2. The issuer failed to set forth accurately and adequately the use to which proceeds of the offering would be allocated as required by Schedule I.

C. The offering was made in violation of section 17(a) of the Securities Act of 1933, as amended, by reason of the activities described above.

D. The issuer, its officers, directors, underwriter, and attorneys failed to cooperate with the staff of the Commission in that they acquiesced in the filing of false and misleading information with the Commission subsequent to requests for information made by the staff.

It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be temporarily suspended.

It is ordered, Pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption of the issuer under Regulation A be, and it hereby is, temporarily suspended.

It is further ordered, Pursuant to Rule 7 of the Commission's rules of practice, that the issuer file an answer to the allegations contained in this order within 30 days of the entry hereof.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing within 30 days after the entry of this order; that within 20 days after receipt of such request, the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for said hearing will be promptly given by the Commission. If no hearing is requested and none is ordered by the Commission, the order shall become permanent on the 30th day after its entry and shall remain in effect unless it is modified or vacated by the Commission.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-16550 Filed 11-11-71;8:48 am]

TARIFF COMMISSION

[AA1921-83]

ICE CREAM SANDWICH WAFERS FROM CANADA

Notice of Investigation and Hearing

Having received advice from the Treasury Department on November 1, 1971, that ice cream sandwich wafers from Canada are being, or are likely to be, sold in the United States at less than fair value, the U.S. Tariff Commission has instituted an investigation under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Hearing. A public hearing in connection with the investigation will be held in the Tariff Commission's Hearing Room, Tariff Commission Building, 8th and E Streets NW., Washington, DC, beginning at 10 a.m., e.s.t., on December 7, 1971. All parties will be given opportunity to be present, to produce evidence, and to be heard at such hearing. Interested parties desiring to appear at the public hearing should notify the Secretary of the Tariff Commission, in writing, at its offices in Washington, D.C., at least 5 days in advance of the date set for the hearing.

Issued: November 8, 1971.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.71-16551 Filed 11-11-71;8:48 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

NOVEMBER 9, 1971.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 109994 Sub 39, Sizer Trucking, Inc., assigned February 1, 1972, at Chicago, Ill.

MC 668 Sub 94, Inter-City Transportation Co., Inc., assigned January 24, 1972, at Newark, N.J., in a hearing room to be later designated.

MC 119619 Sub 45, Distributors Service Co., assigned January 31, 1972, at Chicago, Ill.

MC-F-11102, The Aetna Freight Lines, Inc.—Control and Merge—Watson Bros. Van Lines and Heavy Hauling Co., assigned February 2, 1972, at Chicago, Ill.

MC 30844 Sub 358, Kroblin Refrigerated Express, MC 107295 Sub 464, Pre-Fab Transit, now assigned for continued January 12, 1972, at the offices of Interstate Commerce Commission, Washington, D.C.

MC 134163 Sub 3, Joseph Richardson, now assigned December 6, 1971, at Philadelphia, Pa., hearing room transferred to Courtroom 8, Third Floor, U.S. courthouse, Ninth and Chestnut Streets, instead of Courtroom No. 7.

MC 134163 Sub 4, Joseph Richardson, now assigned December 8, 1971, at Philadelphia, Pa., hearing room transferred to Courtroom 8, Third Floor, U.S. Courthouse, Ninth and Chestnut Streets, instead of Courtroom No. 7.

MC-C-7182, Illinois-California Express, Inc.—Investigation and Revocation of Certificates—assigned November 15, 1971, at Denver, is postponed indefinitely.

MC 119789 Sub 70, Caravan Refrigerated Cargo, Inc., now assigned hearing December 14, 1971, in Committee Room No. 5, State Capitol Building, North Third Street, Baton Rouge, LA.

MC 70083 Sub 19, Drake Motor Lines, now assigned January 19, 1972, at Miami, Fla., hearing room to be designated later.
MC 116763 Sub 196, Carl Subler Trucking, now assigned January 13, 1972, at Miami, Fla., hearing room to be designated later.
MC 127957 Sub 2, Dominick Spinelli, doing business as Direct Way Auto Shippers, now assigned January 11, 1972, at Miami, Fla., hearing room to be designated later.
MC 135544, Harley Davidson of Miami and Orlando, now assigned January 17, 1972, at Miami, Fla., hearing room to be designated later.
MC-F-10863, L. A. Tucker Truck Lines—Investigation of Control—Sam Tanksley Trucking, now assigned January 17, 1972, at St. Louis, Mo., canceled and application dismissed.
MC 111875 Sub 48, Pirkle Refrigerated Freight Lines, Inc., assigned January 28, 1972, at Chicago, Ill.
MC 112822 Sub 194, Bray Lines, Inc., assigned January 27, 1972, at Chicago, Ill.
MC 113678 Sub 422, Curtis, Inc., assigned January 24, 1972, at Chicago, Ill.
MC 117574 Sub 201, Daily Express, Inc., assigned January 25, 1972, at Chicago, Ill.
MC 124211 Sub 184, Hilt Truck Line, Inc., assigned January 26, 1972, at Chicago, Ill.
MC 3700 Sub 64, Manhattan Transit Co., assigned January 31, 1972, at Newark, N.J., hearing room to be later designated.
MC-F-11160, Chicago Kansas City Freight Line, Inc.—Purchase—Pride Motors, Inc., and MC 3005 Sub 10, Chicago Kansas City Freight Line, Inc., assigned January 31, 1972, at Chicago, Ill.
MC-F-10502, Ringsby Truck Lines, Inc.—Control—United Buckingham Freight Lines, Inc., et al., MC-F-10536, Central Transport, Inc.—Purchase (Portion)—Norwalk Truck Lines, Inc., MC-F-10537, International Cartage, Inc.—Purchase (Portion)—Norwalk Truck Lines, Inc., MC-F-11052, United Buckingham Freight Lines, Inc.—Merger—Norwalk Truck Lines, Inc., Norwalk Truck Lines, Inc.—Merger—Norwalk Truck Lines, of Delaware, now being assigned hearing January 17, 1972, at Denver, Colo., in a hearing room to be later designated.
MC 120080 Sub 4, Morgan Express, Inc., assigned January 17, 1972, at the Holiday Inn, 1015 Elm Street, Dallas, TX.
MC 115162 Sub 212, Poole Truck Line, Inc., assigned November 29, 1971, at New Orleans, La., postponed indefinitely.
MC 46280 Sub 70, Key Line Freight, Inc., assigned January 31, 1972, at Chicago, Ill.
MC 95084 Sub 81, Hove Truck Line, assigned January 24, 1972, at Chicago, Ill.
MC 116073 Sub 165, Barrett Mobile Home Transport, Inc., assigned January 26, 1972, at Chicago, Ill.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16583 Filed 11-11-71;8:51 am]

[Sec. 5a Application 38; Amdt. 1]

CALIFORNIA HOUSEHOLD GOODS CARRIERS' BUREAU

Notice of Agreement Filed

NOVEMBER 1, 1971.

The Commission is in receipt of a supplemental application, in lieu of a prior application filed September 24, 1968, in the above-entitled proceeding for approval of amendments to the agreement therein approved.

Filed September 20, 1971 by:

R. Y. Schureman, Robert W. Hancock, 1545 Wilshire Boulevard, Los Angeles, CA 90017.

The amendments involve: Revision of the entire agreement between and among motor common carriers of household goods to reflect incorporation of the carrier-member group and proposed broadening of the territorial scope for collective ratemaking activity in interstate or foreign commerce presently limited only between points in California to embrace service between all points in the United States including Hawaii, but excluding Alaska.

The complete application may be inspected at the Office of the Commission in Washington, D.C.

Any person desiring to protest and participate in this proceeding shall notify the Commission in writing within 20 days from the date of publication of this notice in the FEDERAL REGISTER. As provided by the general rules of practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigation and determine the matters involved without public hearing.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16582 Filed 11-11-71;8:51 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23780 etc.]

STUDENT, YOUTH, AND SENIOR-CITIZEN FARES IN FOREIGN AIR TRANSPORTATION

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on December 16, 1971, at 10 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner Edward T. Stodola.

In order to facilitate the conduct of the conference parties are instructed to submit to the examiner and other parties (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statement of positions of parties; and (5) proposed procedural dates. Bureau Counsel will circulate his material on or before November 30, 1971, and the other parties on or before December 7, 1971. The submissions of the other parties shall be limited to points on which they differ with Bureau Counsel.

Dated at Washington, D.C., November 8, 1971.

[SEAL] RALPH L. WISER, *Chief Examiner.*

[FR Doc.71-16581 Filed 11-11-71;8:51 am]

DEPARTMENT OF COMMERCE

Maritime Administration

CONSTRUCTION OF LIQUEFIED NATURAL GAS (LNG) VESSELS

Computation of Foreign Cost; Notice of Intent

Correction

In F.R. Doc. 71-16508 appearing on page 21530 in the issue of Wednesday, November 10, 1971, the phrase "gas transport or Moss-Rosenberg design" appearing in the eighth and ninth lines of the first paragraph should read "Gas Transport or Moss-Rosenberg design".

[Docket No. S-271]

STATES STEAMSHIP CO.

Notice of Application

Notice is hereby given that States Steamship Co. has applied for operating-differential subsidy for a minimum of 20 and a maximum of 36 sailings per year and up to two additional vessels in addition to the vessels and sailings now authorized on its subsidized services on Trade Route No. 29 (U.S. Pacific/Far East).

Any person, firm, or corporation having any interest in such application and desiring a hearing on issues pertinent to section 605(c) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1175), should by the close of business on November 19, 1971, notify the Secretary, Maritime Subsidy Board in writing, in triplicate, and file petition for leave to intervene in accordance with the rules of practice and procedure of the Maritime Subsidy Board.

In the event a section 605(c) hearing is ordered to be held, the purpose thereof will be to receive evidence relevant to (1) whether the application is one with respect to a vessel to be operated on a service, route, or line served by citizens of the United States which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of U.S. registry in such service, route, or line is inadequate, and (2) whether in the accomplishment of the purpose and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may be deemed appropriate.

By Order of the Maritime Subsidy Board/Maritime Administration.

Dated: November 10, 1971.

JAMES S. DAWSON, Jr. *Secretary.*

[FR Doc.71-16623 Filed 11-11-71;8:51 am]

Office of the Secretary

CHILDREN'S SLEEPWEAR

Notice of Standard; Correction

In F.R. Doc. 71-10925 appearing at pages 14062-14073 in the issue for Thursday, July 29, 1971, the following nonsubstantive corrections are made:

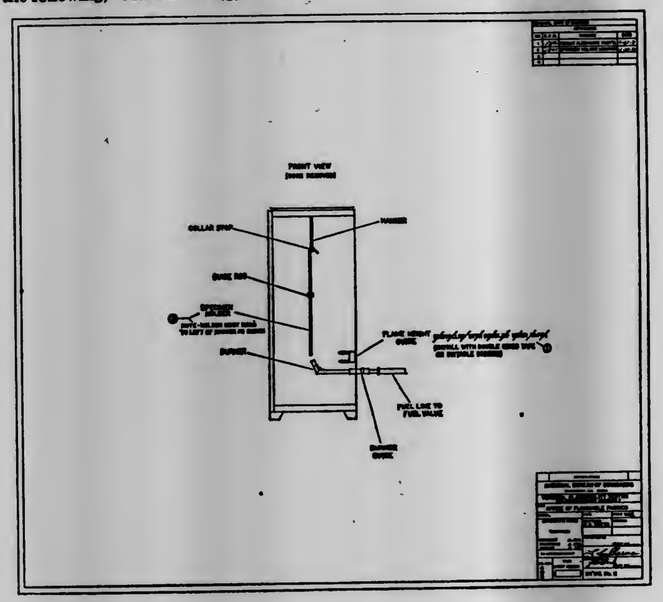
In paragraph .4(a)(1) of the Standard for the Flammability of Children's Sleepwear (Doc. FF 3-71) on page 14063, in the first sentence, after the words "dimensions of" delete the remainder of the sentence and substitute the following, "32.9 cm. (12 15/16 in.) wide, 32.9 cm. (12 15/16 in.) deep, and 76.2 cm. (30 in.) high."

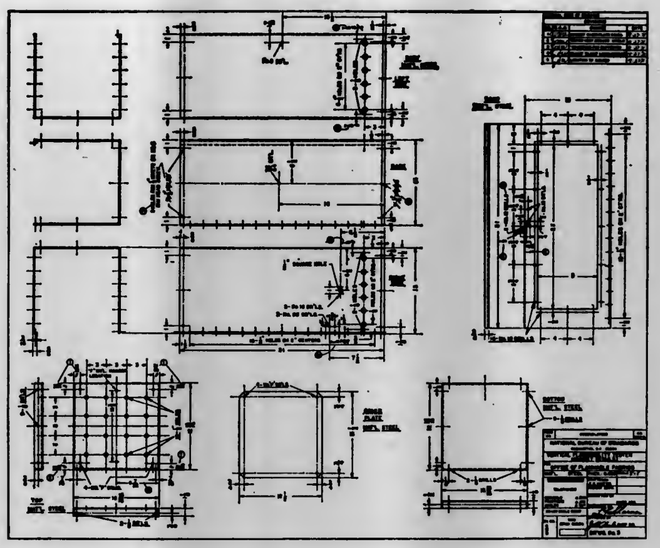
In paragraph .4(a)(2) on page 14064, delete the second sentence in the paragraph and substitute the following sentence in lieu thereof, "It shall consist of two U-shaped 0.20 cm. (14 ga USS) thick steel plates, 42.2 cm. (16⅝ in.) long, and 6.9 cm. (3.5 in.) wide, with aligning pins."

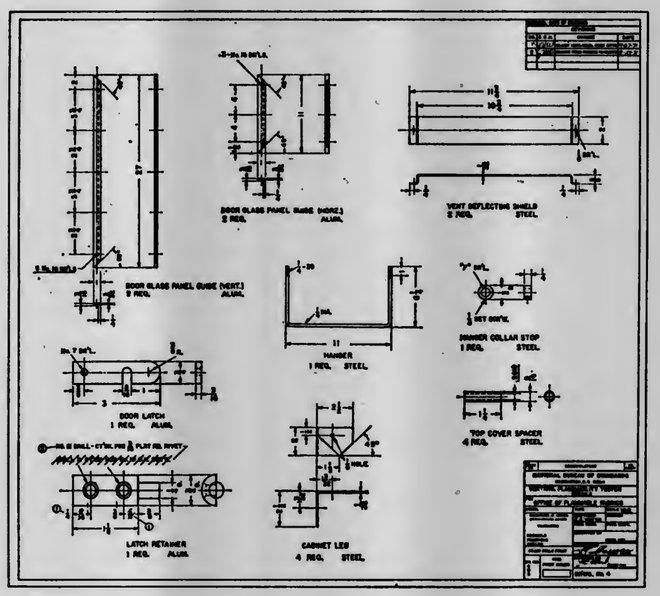
On pages 14068, 14069, 14070, 14071, and 14072, delete Drawings Nos. 2, 3, 4, 5, and 6 respectively and substitute therefor the hereto attached Drawings Nos. 2, 3, 4, 5, and 6.

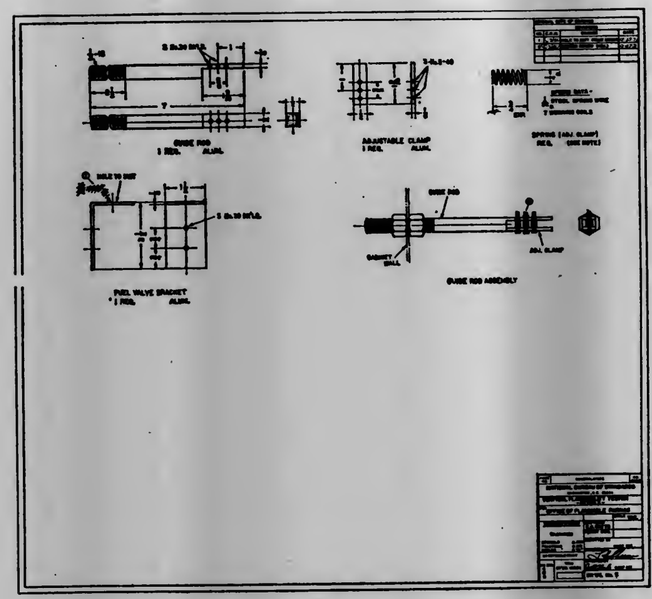
Issued: November 4, 1971.

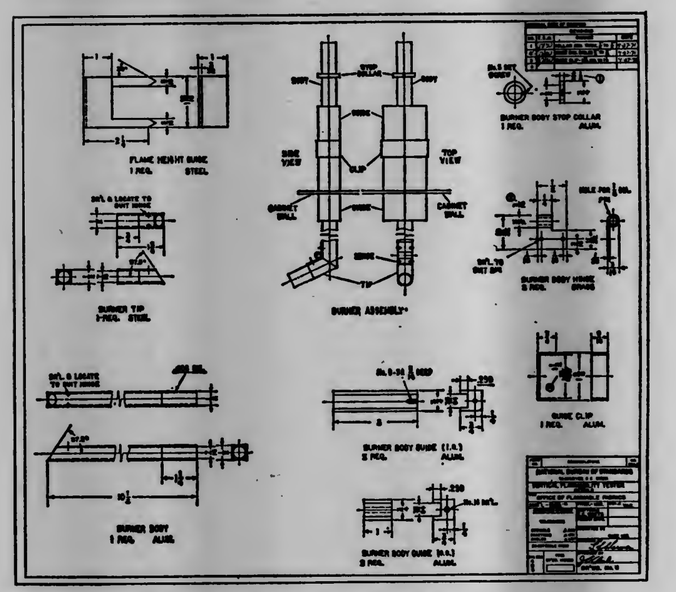
MAURICE H. STANS, *Secretary of Commerce.*











[FR Doc.71-16366 Filed 11-11-71;8:45 am]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Area Wage Determination Decisions and Modifications; New Determinations

There are set forth below general Area Wage Determination Decisions Nos. AM-6116, AM-6130, AM-6131, AM-6140, AM-6141, AM-6142, AM-7487, AM-7488, and AM-7489 of the Secretary of Labor. These decisions specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein. The decisions are applicable to Federal and federally assisted construction in described localities situated within the States of Arizona, California, Nebraska, South Dakota, and Texas.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of the Code of Federal Regulations, Procedure for Predetermination of Wage Rates, and of Secretary of Labor's Orders 12-71 and 15-71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal or federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 533, and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determinations frequently and in large volume causes such procedures to be impractical and contrary to the public interest.

These wage determinations are effective for a period of 120 days from the date of publication in the FEDERAL REGISTER and are to be used in accordance with the provisions of 29 CFR Part 5. Accordingly, the applicable determination together with any modification issued subsequent to this date during this 120-day period, shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

The area wage determination decisions for localities within the above States are set forth below.

MODIFICATION TO AREA WAGE DETERMINATION DECISIONS

Modification to area wage determination decisions for specified localities in Colorado, Michigan, Missouri, Pennsylvania, and Texas, and Washington, D.C.

Area wage determination decisions published in the FEDERAL REGISTER on the following dates:

Decision No.	Date
AM-376, AM-377, AM-379, AM-381, AM-382, AM-383, AM-384, AM-386, AM-387, AM-388, AM-389, AM-390, AM-391	Aug. 18, 1971
AM-1843, AM-1852, AM-1860, AM-1862	Aug. 20, 1971
AM-3567, AM-3616	Aug. 25, 1971
AM-3630, AM-3631, AM-3632	Aug. 27, 1971

are hereby modified as set forth below.

These modifications are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since these determinations were issued.

The determinations of prevailing rates and fringe benefits made in these modifications have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended 46 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following the Secretary of Labor's Order No. 24-70) containing provisions for payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of the Code of Federal Regulations, Procedure for Predetermination of Wage Rates, and of Secretary of Labor's Orders 13-71 and 15-71 (36 F.R. 8755, 8756). The prevailing rates and finge benefits determined in the foregoing area wage determination decisions, as hereby modified, shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

The modifications are effective from their date of publication in the FEDERAL REGISTER until the end of the period for which the determinations being modified were issued and are to be used in accordance with the provisions of 29 CFR Part 5. The modifications to the area wage determination decisions listed above are set forth below.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. section 553 is set forth in the document being modified.

Signed at Washington, D.C., this 5th day of November 1971.

HORACE E. MENASCO,
Administrator,
Employment Standards Administration.

DEPARTMENT OF LABOR

State: Arizona; County: Maricopa; Decision No. AM-6116; date of decision: November 12, 1971.

Description of work: Residential construction consisting of single family homes and garden-type apartments up to and including four stories.

MODIFICATIONS

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
Phoenix, Glendale, Mesa, Scottsdale, Tempe, Luke AFB, and Williams AFB						
7-Arizona—MARI—1-2-3—p:	$7.93	$0.35	$0.40			
Asbestos workers	7.20	.30	.70	$0.45	$0.02	
Boilermakers	6.90	.30	.70	.45	.02	
Boilermakers' helpers	8.35	.35	.30		.03	
Bricklayers and stonemasons						
Carpenters:	7.45	.30	.45		.025	
Carpenters	7.825	.30	.45		.025	
Millwrights	7.70	.30	.45		.025	
Piledrivermen	7.285	.30	.60		.025	
Cementmasons	6.00	.225				
Drywall tapers	6.10	.225				
Drywall texture sprayment	6.35	.20	1½		1½	
Electricians (including Luke AFB)	7.00	.20	1½		1½	
Electricians (Williams AFB)	7.58	.185	$0.20	2%+a		
Elevator constructors	70%JR	.185	.20	2%+a		
Elevator constructors' helpers	50%JR					
Elevator constructors' helpers (prob.)						
Ironworkers:	8.58	.43	.425		.04	
Ornamental-structural	8.58	.43	.425		.04	
Reinforcing	5.84	.25	.20		.01	
Marble and tile setters						
Painters:	6.25	.275	.20	$0.15	.02	
Brush	6.60	.275	.20	.15	.02	
Steel and bridge, brush	6.50	.275	.20	.15	.02	
Spray	5.81	.20	.30		.035	
Plasterers						
Plumbers; pipefitters; steamfitters (zone bases: Phoenix, Tucson, Douglas, Flagstaff, Yuma):	7.74	.45	.70		.06	
Zone I—(0-15 miles)	8.04	.45	.70		.06	
Zone II—(15-30 miles)	8.30	.45	.70		.06	
Zone III—(30-45 miles)	9.49	.45	.70		.06	
Zone IV—(45 miles and beyond)	7.59	.27	.32		.02	
Sheet metal workers	5.35	.275	.20		.02	
Soft floor layers	7.95	.25	.40		.08	
Sprinkler fitters	6.21					
Terrazzo and mosaic workers						
Line construction:	7.66	.23	1%+4%b		1½	
Cable splicer	7.40	.23	1%+4%b		1½	
Linemen	6.96	.23	1%+4%b		1½	
Equipment operator	6.04	.23	1%+4%b		1½	
Groundman						
1-Arizona—LAB—1-2-3—m:						
Laborers:						
Group I:						
All helpers not herein separately classified; cesspool diggers and installers; chat box man; checker, tool dispatcher; concrete dump manbelt, pipe and/or hoseman; dumpman and/or spotter; fence builder, guardrail builder highway; form strippers; labor, general, or construction; landscape gardener and nurseryman; packing rod steel and pans; riprap stoneman	5.23	.30	.45		.05	
Group II:						
Cement finisher tender; concrete curer (impervious membrane); cutting torch operator; fine grader (highway, engineering and sewer work only); kettleman-tarman; power type concrete buggy	5.34	.30	.45		.05	
Group III:						
Bander; chucktender (except tunnel); creosote tieman; guinea chaser; powderman helper; riprap stone paver; sandblaster (pot tender); spikers and wrencher	5.45	.30	.45		.05	
Group IV:						
Cement dumpers (Skip-type mixer or handling bulk cement); chain saw machines (on clearing and grubbing); concrete vibrating machines; cribber and shorer (except tunnel); floor sanders—concrete; hydraulic jacks, and similar mechanical tools not separately herein classified; operators and tenders of pneumatic and electric tools; pipe caulker and/or backup man (pipeline); pipe wrapper; pneumatic gopher; rigger/signalman (pipeline).	5.53	.30	.45		.05	
Group V:						
Air and water washout nozzleman; asphalt rakers and ironers; driller; grade setter (pipeline); hand guided trencher and similar operated equipment; jackhammer and/or pavement breakers; pipelayer (including but not limited to nonmetallic, transite and plastic pipe, water pipe, sewer pipe, drain pipe, underground tile and conduit); rock slinger; scaler (using bos'ns chair of safety belt); tampers (mechanical—all types)	5.67	.30	.45		.05	
Group VI:						
Concrete cutting torch; concrete saw (hand guided); driller (core, diamond, wagon or air track); drill doctor and/or air tool repairman; gunman and mixerman (gunite); sandblaster (nozzleman)	5.975	.30	.45		.05	
Group VII:						
Concrete road form setter; gunite nozzleman or rodman; drillers, joy mustang, PR 143, 2200 Gardner-Denver, hydrasonic; powderman; scaler (drillers); welders and/or pipe layers installing process piping	6.485	.30	.45		.05	
Mason tenders	5.935	.30	.45		.05	
Plasterers' tenders	6.15	.30	.45		.05	
Employees working underground shall receive twenty cents (20¢) per hour additional above the regular rate, except where herein specifically covered.						
Laborers employed where they may have a free fall over thirty (30) feet or on construction scaffolds above thirty (30) feet or bos'n chair above thirty (30) feet, or where gas masks are necessary, shall receive fifty cents (50¢) per hour in addition to their regular rate, except where inherent in classifications.						

See footnotes at end of table.

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
1-Arizona—LAB-1-2-3-m—Continued						
Laborers—Continued						
Tunnel and Shaft workers:						
Group I:						
Bull gang, muckers, trackman; dumpmen; concrete crew (includes rodders and spreaders); grout crew; swamper (brakeman and switchmen on tunnel work)	5.425	.30	.45		.05	
Group II:						
Nipper; chucktender, cabletender; vibratorman, jackhammer, pneumatic tools (except driller)	5.56	.30	.45		.05	
Group III:						
Grout gunman	6.66	.30	.45		.05	
Group IV:						
Timberman, retimberman—wood or steel blaster, driller powderman; cherry pickerman; powderman—primer house; steel form raiser and setter; kemper and other pneumatic concrete placer operator; miner—finisher	5.76	.30	.45		.05	
Group IV-A:						
Miners—Tunnel (hand or machine)	5.96	.30	.45		.05	
Group V:						
Diamond drill	6.095	.30	.45		.05	
Group V-A:						
Shaft and raise miner welder	6.295	.30	.45		.05	
1-Arizona—PEO-1-2-3-p:						
Power equipment operators:						
Group I:						
Air compressor operator; field equipment servicemen helper; heavy-duty repair helper; heavy-duty welder helper; oiler; pump operator	5.98	.40	.50		.02	
Group II:						
Conveyor operator; generator operator—portable; power grizzly operator; self-propelled chip spreading machine-conveyor operator; watch fireman; welding machine operator—gasoline and diesel power	6.28	.40	.50		.02	
Group III:						
Concrete mixer operator—skip type; dinky operator (under 20 tons weight); driver—motor paver, slurry seal machine, and similar type equipment; motor crane driver; power sweeper operator—self-propelled; Ross carrier or forklift operator; skip loader operator, all types with rated capacity 1½ cu. yds. or less; wheel-type tractor operator (Ford, Ferguson, or similar type) with attachments such as fresno, push blade, post hole auger, mower, etc., excluding compacting equipment	6.66	.40	.50		.02	
Group IV:						
A-frame boom truck or winch truck operator; asphalt plant firemen; elevator hoist operator (including Tuskey hoist or similar types); grade checker (excluding civil engineer); multiple power concrete saw operator; pavement breaker, mechanical compactor operator, power propelled; roller operator, all types except as otherwise classified; screed operator; self-propelled chip spreading machine operator (including slurry seal machine operator) stationary pipewrapping and cleaning machine operator; tugger operator	7.12	.40	.50		.02	
Group V:						
Aggregate plant operator (including crushing, screening and sand plants, etc.); asphalt laydown machine operator; asphalt plant mixer operator; beltcrete machine; boring machine operator; concrete mechanical tamping, spreading or finishing machine (including Clary, Johnson or similar types); concrete pump operator; concrete batch plant operator, all types and sizes; conductor, brakeman, or handler; drilling machine operator, including water wells; elevating grader operator, all types and sizes (except as otherwise classified); field equipment serviceman; highline cableway signalman; Koiman belt loader operator or similar type, w/belt width 48 in. or over; locomotive engineer (including Dinky—20 tons weight and over); moto-paver and similar type equipment operator; operating engineer rigger; pneumatic-tired scraper operator (Turnapull, Euclid, Cat, D-W, Hancock and similar equipment) up to and including 12 cu. yds.; power jumbo form setter operator; pressure grout machine operator (as used in heavy engineering construction); road oil mixing machine operator; roller operator—on all types asphalt pavement; self-propelled compactor, with blade; skip loader operator—all types with rated capacity over 1½ but less than 4 cu. yds.; slip form operator (power-driven lifting device for concrete forms); soil cement road mixing machine operator—single pass type; stationary central generating plant operator—rated 300 kw. or more; surface heater and planer operator; traveling pipewrapping machine operator	7.56	.40	.50		.03	
Group V-A:						
Heavy duty mechanic and/or welder; pneumatic tired scraper, all sizes and types over 12 cu. yds. up to and including 45 cu. yds. MRC (Turnapull, Euclid, Cat, D-W, Hancock, and similar equipment); tractor operator (pusher, bulldozer, scraper) up to 400 net horsepower rating; trenching machine operator	7.82	.40	.50		.03	
Group VI:						
Auto-grade machine (CMI and similar equipment); boring machine operator (including Mole, Badger and similar type); concrete mixer operator-paving type, and mobile mixer; concrete pump operator with boom attachment (truck mounted); crane operator-crawler and pneumatic type, under 100-ton capacity MRC; crawler type tractor operator—with boom attachment; derrick operator; forklift operator for hoisting personnel; Grade all operator; helicopter hoist; highline cableway operator (less than 20 tons rated capacity); mass excavator operator (150 Bucyrus Erie and similar types); mechanical hoist operator (2 or more drums); motor grade operator—any type power blade; motor grader operator with elevating grader attachment; mucking machine operator; overhead crane operator; piledriver engineer (portable, stationary or skid rig); pneumatic-tired scraper operator—all sizes and types (Turnapull, Euclid, Cat, D-W, Hancock and similar equipemnt over 45 cu. yds. MRC); power driven ditch lining or ditch trimming machine operator; skip loader operator—all types with rated capacity 4 cu. yds. but less than 8 cu yds.; slip form paving machine operator (including Gunnert, Zimmerman and similar types); specialized power digger operator—attached to Wheel-type tractor; tower crane (or similar type) operator; tractor operator (pusher, bulldozer, scraper) 400 net horsepower and over; tugger operator (2 or more); universal equipment operator—shovel, backhoe, dragline, clam-shell, etc. up to 8 cu. yds.	8.10	.40	.50		.03	
Group VII:						
Crane operator—pneumatic or crawler (100-ton hoisting capacity and over MRC rating); helicopter pilot—FAA qualified when used in construction work; highline cableway operator, over 20-ton rated capacity and using traveling head and tail tower; remote-control earth moving equipment operator; skip loader operator—all types with rated capacity of 8 cu. yds. or more; universal equipment—shovel, backhoe, dragline, clamshell, etc., 8 cu. yds. and over	8.60	.40	.50		.03	
Multiple-unit earth moving equipment:						
Tractor operator, pneumatic-tired or track-type, 2 units—fifty cents (50¢) per hour more than the base single-unit rate established in group V, group V-A, or group VI, and one dollar ($1.00) per hour for each additional unit.						
All operators, oiler, and motor crane drivers on equipment with booms of 80 and over, including jib shall receive $0.0075 (three-fourths of a cent) per foot, per hour, premium pay additional to the regular rate of pay.						
Oiler shall be required on all track or crawler-type cranes, backhoes, shovels, clamshells, draglines, gradalls, etc.						
Oiler drivers shall be required on all truck mounted or self-propelled excavating and/or hoisting equipment having the configuration for 2 men.						

See footnotes at end of table.

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
1-Arizona—TD-1-2-3-d:						
Truckdrivers:						
Group I:						
Pickup; station wagon; teamsters	5.37	.30	.45		.02	
Group II:						
Buggymobile, 1 cu. yd. or less; bulk cement spreader (2- or 3-axle); bus driver; dump (2- or 3-axle); flatrack (2- or 3-axle); water (under 2,500 gal.)	5.48	.30	.45		.02	
Group III:						
Bulk cement spreader (4 axle); dump (4 axle); dumptor or dumpeter, less than 7 cu. yds.; flatrack (4 axle); water (2,500 gal. but less than 4,000 gal.)	5.64	.30	.45		.02	
Group IV:						
Bulk cement spreader (5 axle); dump (5 axle); dumptor or dumpster, 7 cu. yds. but less than 16 cu. yds.; Flaherty spreader or similar type equipment or leverman; flatrack (5 axle); slurry-type equipment or leverman; transit mix, 8 cu. yds. or less mixer capacity	5.93	.30	.45		.02	
Group V:						
Bulk cement spreader (6 axle); dump (6 axle); flatrack (6 axle); rock truck (Dart, Euclid and other similar type end dumps, single unit) less than 16 cu. yds	6.06	.30	.45		.02	
Group V-A:						
Oil tanker or spreader truck driver and/or bootman, retortman or leverman	6.20	.30	.45		.02	
Group VI:						
Bulk cement spreader (7-axle); concrete pump truck driver, (when integral part of transit mix truck); dump (7-axle); flat track (7-axle); hydrollft, Swedish crane, Iowa 300 and similar types; Ross carrier forklift or lift truck; transit mix over 10.5 cu. yds. but less than 14 cu. yds. mixer capacity	6.31	.30	.45		.02	
Group VII:						
Bulk cement spreader (8-axle); dump (8-axle); flatrack (8-axle)	6.65	.30	.45		.02	
Group VIII:						
Off-highway equipment driver (2- or 4-wheel power unit, i.e. Cat DW series. Euclid, International, and similar type equipment, transporting material when top loaded or by external means, including pulling water tanks, fuel tanks, or other Teamsters classifications; bulk cement spreader (9-axle); dump (9-axle); dumptor or dumpeter, 16 cu. yds. and over; eject-alls; flat-rack (9-axle); rock truck (Dart, Euclid, or other similar end dump types) 16 cu. yds. and over	7.065	.30	.45		.02	
Heavy-duty mechanic welder	7.94	.30	.45		.02	
Heavy-duty mechanic/welder helper	6.10	.30	.45		.02	
Field equipment servicemen or fuel truck driver	7.68	.30	.45		.02	
Combination man—30 cents over the highest rated work.						
Multiple-unit equipment driver—2 units 50 cents per hour more than the base single unit rate established in group 8 above; and $1 per hour for each additional unit.						

Paid holidays:
A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.

Footnotes:
a. Employer contributes 4 percent of basic hourly rate for 5 years' service and 2 percent of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six paid holidays: A through F.
b. Of gross labor payroll, employer contributes 1 percent to NEBF and 4 percent to Management Pension Fund.

State: California; County: San Diego; Decision No. AM-6,130, date of decision: November 12, 1971.

Description of work: Residential construction consisting of single-family homes and garden-type apartments up to and including four stories.

MODIFICATIONS

Classifications	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
San Diego County						
87-California—SDI-1-2-3-4:						
Asbestos workers	$9.77	$0.48	$0.35		$0.025	
Boilermakers	7.20	.30	.70	$0.45	.02	
Boilermakers' helpers	6.50	.30	.70	.45	.02	
Bricklayers; stonemasons	6.35	.37	.40	.35	.01	
Brick, block and stonemasons' tenders	5.56	.30	.35	.35		
Carpenters:						
Carpenters	6.81	.56	.65	.45	.015	
Piledrivermen	6.54	.56	.65	.45	.015	
Millwrights	6.76	.56	.65	.45	.015	
Pneumatic nailer; hardwood floor layers	6.76	.56	.65	.45	.015	
Cementmasons:						
Cementmasons	6.52	.45	.43	.55	.005	
Cementmason color work-curb machine operator	6.645	.45	.43	.55	.005	
Composition, mastic or epoxy finishing machine operator	6.77	.45	.43	.55	.005	
Drywall installers	7.25	.56	.65	.50	.04	
Electricians:						
Electricians	8.75	.20	1½% a			
Cable splicer	9.05	.20	1½% a			
Sound technicians	6.45		1% a			
Elevator constructors	7.68	.185	$0.20	2½% a		
Elevator constructors' helpers	70% JR	.185	.20	2½% a		
Elevator constructors' helpers (prob.)	50% JR					
Glaziers	$6.19	.16	.20	b		
Ironworkers:						
Reinforcing	7.98	.43	.425	.50	.02	
Fence erectors	7.89	.43	.425	.50	.02	
Ornamental; structural	8.03	.43	.425	.50	.02	
Irrigation and lawn sprinklers	6.50	10%	10%	13%	1%	
Lathers (northern portion of San Diego County from center of city of Del Mar)	8.92	$0.30	$0.75	$0.60		
Lathers (remainder of county)	6.41	.20	.15		.03	
Line construction:						
Groundmen	6.74	.20	1½% .23			
Linemen	8.75	.20	1½% .23			
Cable splicers	9.05	.20	1½% .23			
Marble setters	6.46	.20	$0.45	.60		
Marble setters' helpers	6.69	.20	.45	.60		
Painters:						
Brush	6.93	.30	.30	.60	.03	
Paperhangers; sandblasters; tapers	7.43	.30	.30	.60	.03	
Sandblaster, swing stage, iron, steel and bridge painter, swing stage spray; spray, climbing steel and bridge	7.68	.30	.30	.60	.08	
Steeplejack	8.33	.30	.30	.60	.03	

See footnotes at end of table.

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
37-California—SDI-1-2-3-4—Continued						
Painters—Continued						
Parking lot striping work and/or highway markers	4.88	.20	.20	c		
Parking lot striping work and/or highway markers' helpers; sandblaster	4.38	.20	.20	c		
Plasterers	7.50	.40	.30			
Plasterers' tenders	6.70	.25	.25	.25		
Plumbers; steamfitters; lead burners	8.30	10%	16%	13%	1%	
Roofers	5.25	$0.19		$0.85		
Sheet metal workers	8.30	.30	$0.40			
Soft floor layers	6.70	.40	.30	.35	$0.05	
Sprinkler fitters	10.55	.25	.40		.08	
Terrazzo workers	6.46	.20	.45	.66		
Tile setters	6.46	.20	.45	.60		
Tile setters' helpers	5.69	.20	.45	.60		
Riggers; welders: Receive rate prescribed for craft performing operation to which rigging or welding is incidental.						
3-California—SDL-LAB-1-2-3-e:						
Laborers:						
Laborers (general, construction, toolshed checker, using dry pack), gas and oil pipeline	4.83	.30	.35	.35		
Cutting torch operator (demolition), scaler	4.88	.30	.35	.35		
Guinea chaser	4.91	.30	.35	.35		
Fine grader on highways, streets, and airports paving (sewer and drainage lines), landscape gardener and nurseryman	4.94	.30	.35	.35		
Laborer (packing rod steel and pans), tank sealer and cleaner	4.95	.30	35	.35		
Caisson driller's helper (including bellowers), boring machine helper	4.96	.30	.35	.35		
Window cleaner, chuck tender (except tunnels), septic tank digger and installer (leadmen)	4.98	.30	.35	.35		
Cesspool digger and installer	5.01	.30	.35	.35		
Concrete curer, impervious membrane, riprap stonepaver, sandblaster (pot tenders), making and caulking nonmetallic pipe joints, tarmen, mortarmen, potmen	5.02	.30	.35	.35		
Pneumatic and electric tools, concrete pump, vibrating machine and similar mechanical tools not separately classified herein; concrete saw (excluding tractor-type, rotospacer; chipping hammer, concrete core cutter and form blower), asphalt raker, ironer, spreader-buggymobile-cement dumper (1 yd. or larger mixers and handling bulk cement), gas and oil pipeline wrapper, pot tender and form man, tree climber (mechanical tools)	5.04	.30	.35	.35		
Rock slinger, sealer (boo'n chair, safety belt, power tools)	5.09	.30	.35	.35		
Driller (not otherwise classified where drilling is for explosives)	5.12	.30	.35	.35		
Pipelayer (nonmetallic pipe including sewer, drain and underground tile)	5.14	.30	.35	.35		
Gas and oil pipeline wrapper (6 in. pipe and over)	5.17	.30	.35	.35		
Cribber-shorer	5.19	.30	.35	.35		
Steel headerboard man	5.25	.30	.35	.35		
Driller (core, diamond or wagon, Joy Model TWM-2A, Gardner Denver-Model DM 143 and similar drills), sandblaster (nozzleman)	5.28	.30	.35	.35		
Powdermen	5.31	.30	.35	.35		
Head rock slinger	5.35	.30	.35	.35		
3-California—SDI-PEO-1-2-3-d:						
Power equipment operators:						
Group I:						
Brakeman; compressor engineer oiler; generator; heavy-duty repairman helper; pump; signalman; switchman	6.23	.45	.80	.30	.02	
Group II:						
Concrete mixer, skip-type; conveyor; fireman; generator, pump or compressor; 2-5 inclusive, hydrostatic pump; plant operator, generator, pump or compressor; skiploader—wheel-type up to ¾ yd. w/o attachments; soils field technicians; tar pot fireman; temporary heating plant; trenching machine oiler; well point pump	6.47	.45	.80	.30	.02	
Group III:						
Elevator (inside); Ford Ferguson -w/drag; helicopter radioman (ground); oiler-crusher (asphalt or concrete plant); power concrete curing machine operator; power concrete saw; power-driven jumbo form setter; stationary pipe wrapping and cleaning machine; truck crane oiler	6.71	.45	.80	.30	.02	
Group IV:						
Asphalt plant fireman; boring machine; chip spreading machine; concrete pump; concrete pump (truck mounted); dinky locomotive or motorman (10 ton); helicopter hoist; hilcopter radioman; highline cableway signalman; power sweeper; screed; rodman and chainman; trenching machine (up to 6 ft.)	6.82	.45	.80	.30	.02	
Group V:						
A-frame winch truck; Asphalt plant or concrete batch plant; asphalt spreading machine (spreader bar and similar); bit sharpener; boxman or mixerman (asphalt or concrete); concrete joint machine (canal and similar type); concrete planer; drilling machine (water wells); equipment greaser (mobile and grease rack); Ford Ferguson or similar type (w/drag-type attachments); forklift (under 5-ton capacity); hydra-hammer-aero stomper; hydrographic seeder machine (straw, pump or seed); instrumentman; machine tool; maginnis internal full slab vibrator; mechanical berm, curb or gutter (concrete or asphalt); mechanical finisher (concrete, Clary-Johnson-Bidwell or similar); pavement breaker (truck mounted); road oil mixing machine; roller; Ross carrier (jobelte); self-propelled tar pipelining machine; skiploader (wheel- or track-type over ¾ yd. up to and including 1½ yds.); slip form pump (power-driven hydraulic lifting device for concrete forms); stinger crane (Austin-Western or similar type); traveling pipe wrapping, cleaning and bending machine; truck-type loader; tugger hoist (1-drum)	7.01	.45	.80	.30	.02	
Group VI:						
Asphalt or concrete plant engineer; asphalt or concrete spreading (tamping or finishing); asphalt paving machine (Barber Greene or similar type); belt spicer or vulcanizer; BHL Lima road pactor, Wagner Factor or similar; bridge crane; bridge-type unloader and turntable; cast-in-place pipelaying machine; combination mixer and compressor (gunite work); concrete mixer-paving; crane (up to and including 25-ton cap—long boom pay applicable); crushing plant; deck engine drill doctor; elevating grader; forklift (over 5 tons); gradall; grade checker; grouting machine; heading shield; heavy-duty repairman; hoist (single drum, buck hoist, Chicago boom and similar type); hoist (2- or 3-drum); Koiman belt loader and similar type; LeTourneau blob compactor or similar type; lift mobile; lift slab machine (Vagtborg and similar types); material hoist (1 drum); mucking machine (¾ yd., rubber-tired, rail- or track-type); pliedriver; pheumatic concrete placing machine (Hackley-Presswell or similar type); pneumatic heading shield (tunnel), pumpcrete gun; rotary drill (excluding Caisson-type); rubber-tired earth moving equipment (single engine, Caterpillar, Euclid, Athey wagon, Water Pulls and similar types with any and all attachments up to 80 cu. yds. struck); rubber-tired scraper (self-loading paddle wheel type, John Deere, 1040 and similar single unit); skiploader (wheel- or track-type, over 1½ yds. up to and including 6¼ yds.); surface heaters and planer; tractor compressor drill combination; tractor (bulldozer, tamper, scraper and push tractor, single engine); trenching machine (over 6 ft. depth capacity, manufacturers rating); tunnel locomotive (10 to 30 tons); universal equipment (shovel, backhoe, dragline, clamshell, up to and including 1 cu. yd. MRC) (long boom pay applicable)	7.11	.45	.80	.30	.02	

See footnotes at end of table.

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
3-California—SDI-PEO-1-2-3-d—Continued						
Power equipment operators—Continued						
Group VII:						
Crane (over 25 tons up to and including 100-ton MRC) (long boom pay applicable); derrick barge; dual drum mixer; hoist (2 or 3 drum w/boom attachment); hoist (stiff legs, guy derricks or similar type up to 100-ton capacity—oiler or long boom pay applicable); loader (Athey, Euclid, Sierra, or similar type); monorail locomotive (diesel, gas, or electric); motor patrol, blade; multiple engine tractor (Euclid and similar type, except Quad 9 cat); party chief; rubber-tired earth moving equipment (multiple engine, Euclid, Caterpillar, and similar type up to 50 cu yds. struck); tractor (boom attachments—over 40 ft. boom); tractor loader (crawler and wheel-type over 6¼ yds.); tower crane (2 operators required); tower crane repairman; universal equipment (shovel, backhoe, dragline, clamshell, over 1 cu. yd. MRC); welder (heavy-duty repairman) combination; wood mixer and other similar pugmill equipment	7.21	.45	.80	.30	.02	
Group VIII:						
Auto grader; automatic slip form crane, over 100 tons (long boom pay applicable); hoist (stiff legs, guy derricks or similar types, capable of hoisting over 100 tons, long boom pay applicable); mass excavator (less than 750 cu. yds.); mechanical finishing machine; mobile from traveler; motor patrol (multiengine); pipe mobile machine; rubber-tired earth moving equipment (multiple engine, Euclid, Caterpillar, and similar type over 50 cu. yds. struck); rubber-tired scraper (pushing one another, w/o push cat, push-pull—$0.50 per hour additional to base rate); rubber-tired self-loading scraper (paddle wheel, auger-type self-loading, 2 or more units); tandem equipment (2 units only); tandem tractor (Quad 9 or similar type) (Art. XV-V.10); tunnel mole boring machine	7.35	.45	.80	.30	.02	
Group IX:						
Canal liner operator; canal trimmer operator; helicopter pilot; highline cableway; remote controlled earth moving equipment ($1 per hour additional to base rate); wheel excavator operator (over 750 cu. yds)	7.70	.45	.80	.30	.02	
3-California—SDI-TD-1-2-3-d:						
Truck Drivers:						
Pickup (¾ ton and under); traffic control pilot car (excluding moving heavy equipment)	4.97	.55	.55	.80		
Truck repairman or welder helper	5.17	.55	.55	.80		
Industrial lift	5.30	.55	.55	.80		
Dump (less than 8 yds.); dump or flat bed (2 axles); concrete pumping; forklift (under 15,000 lbs.)	5.33	.55	.55	.80		
Water truck (under 2,500 gals.)	5.36	.55	.55	.80		
Dump (8 to and including 11 yds.); dump or flat bed (3 axles); bunkers	5.38	.55	.55	.80		
Ross carrier; fork lift (15,000 lbs. and over)	5.45	.55	.55	.80		
Dump (12 to and including 15 yds.); dump or flat bed (3 axles, semi)	5.46	.55	.55	.80		
Water truck (2,500 to 4,000 gals.); pipeline working trucks (including winch and all sizes)	5.48	.55	.55	.80		
Dumpcrete (less than 6¼ yds. water level)	5.54	.55	.55	.80		
Water truck (4,000 gals. and over)	5.60	.55	.55	.80		
Fuel truck or dynamite and explosives	5.63	.55	.55	.80		
Dump (16 to and including 24 yds.); dump (4 axles or more); low bed truck and trailer; transit mix (under 8 yds.); dumpcrete (6¼ yds. or over, water level); dumpster	5.68	.55	.55	.80		
Dump (25 to and including 34 yds.)	5.73	.55	.55	.80		
DW 10's or DW 20's or Euclid-type equipment or LeTourneau pulls or Terra Cobras of similar types of equipment regardless of types of attachments when performing work in the teamsters' jurisdiction or PB or similar types of dump trucks with loading attachments	5.75	.55	.55	.80		
Truck greaser	5.76	.55	.55	.80		
7 axles or double gooseneck lowbed or combination of vehicles when under permit load	5.805	.55	.55	.80		
Transit-mix (8 yds. and over)	5.82	.55	.55	.80		
Tireman	5.89	.55	.55	.80		
Dump (35 to and including 49 yds.)	5.88	.55	.55	.80		
Water pull tankers; A-frame or Swedish crane	5.95	.55	.55	.80		
Dump (50 to and including 64 yds.)	6.03	.55	.55	.80		
Truck repairman	6.05	.55	.55	.80		

Paid holidays:
A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.

FOOTNOTES:
a. Employer contributes 4 percent of basic hourly rate for 5 years' service and 2 percent of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six paid holidays: A through F.
b. 80 hours' paid vacation after 1 year's continous service with same employer. Upon termination, after 30 days' continous service, employee receives Vacation Pay prorated at 154 percent of 1 hour's pay for every previous 40-hour workweek employed. After 30 days' service, employees are eligible for 6 paid holidays; A through F.
c. Employer contributes $0.17 per hour to Holiday Fund plus $0.10 per hour to Vacation for 1 year's service, $0.20 per hour after 1 year but less than 5 years' service; $0.30 per hour after 5 years but less than 10 years' service, $0.40 per hour after 10 years' service.

State: California; Counties: Amador, Contra Costa, Marin, Sacramento, San Francisco, San Joaquin, Santa Clara, Solano, Sonoma; Decision No. AM-6, 131, date of decision: November 12, 1971.

Description of work: Residential construction consisting of single-family homes and garden-type apartments up to and including four stories.

MODIFICATIONS

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
Amador County						
3-California—AMA-1-2-3-m:	$8.62	$0.60	$0.40	$0.90	$0.04	
Asbestos workers	7.20	.30	.70	.45	.02	
Boilermakers	6.90	.30	.70	.45	.02	
Boilermakers' helpers	7.80	.25	.15	.75		
Bricklayers and stonemasons	5.355	.245	.60	.60		
Brick tenders	7.50	.60	.50	.50c	.02	
Carpenters:						
Carpenters	7.55	.60	.50	.50c	.02	
Hardwood floor layers; powersaw operators; saw filers, shinglers; steel scaffold erectors and/or steel shoring erectors	7.90	.60	.50	.50c	.02	
Millwrights	7.63	.60	.50	.50c	.02	
Piledrivermen; bridge, wharf, and dock builders						
Cementmasons:	5.94	.36	.75	.75		
Cementmasons	6.19	.36	.75	.75		
Marble; magnesite; all composition masons	6.19	.36	.75	.75		
Men working from swinging or slip form scaffolds	7.25	.45	.60	.80	.04	
Drywall installers						
Electricians:	6.88	.31	1%+.55		.045	
Electricians	7.57	.31	1%+.55		.045	
Cable splicers						
Electricians (tunnel):	7.01	.31	1%+.55		.045	
Electricians	7.71	.31	1%+.55		.045	
Cable splicers						

See footnotes at end of table.

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
3-California—AMA-1-2-3-m—Continued						
Elevator constructors	8.15	.185	$0.20	2%+a		
Elevator constructors' helpers	70%JR	.185	.20	2%+a		
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	$7.605	.16	.25	8%		
Ironworkers:						
Reinforcing	7.98	.43	.425	$0.50	.02	
Fence erectors	7.89	.43	.425	.50	.02	
Ornamental; structural	8.03	.43	.425	.50	.02	
Lathers	6.40	.195	.20			
Line construction:						
Line equipment operator	6.19	.31	1%+.55		.045	
Linemen	6.88	.31	1%+.55		.045	
Cable splicers	7.67	.31	1%+.55		.045	
Marble setters	7.89	.69	$0.51	.53		
Painters:						
Parking lot striping work and/or highway markers	6.37	.35	.20	b		
Plasterers	6.445	.25				
Plasterers' tenders	5.75	.295	.50	.70		
Plumbers; steamfitters (northern half of county)	8.68	.65	1.05		.06	
Plumbers; steamfitters (southern half of county)	7.84	.77	.70		.03	
Roofers:						
Roofers	6.67	.48	.40			
Enameler and pitch	7.42	.48	.40			
Sheet metal workers	6.21	.36	.53		.07	
Soft floor layers (linoleum)	6.895	.405	.30	.82	.07	
Sprinkler fitters	10.55	.25	.40		.05	
Tile setters	6.60	.25		.68		
Tile setters' helpers	5.00	.22		.26		
Riggers; welders: Receive rate prescribed for craft performing operation to which rigging or welding is incidental.						

Paid holidays:
A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.

Footnotes:
a. Employer contributes 4 percent basic hourly rate for 5 years' service and 2 percent basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six paid holidays: A through F.
b. Employer contributes $0.17 per hour to Holiday Fund plus $0.10 per hour to Vacation in first years' service, $0.20 per hour after 1 year's service but less than 5 years' service, $0.30 per hour after 5 years' service but less than 10 years' service, and $0.40 per hour after 10 years' service.
c. Employer contributes $0.38 per hour to Holiday Fund and $0.15 per hour to Vacation Fund.

Contra Costa County

7-California—CCO-1-2-3-p:						
Asbestos workers	8.62	.60	.40	.90	.04	
Boilermakers	7.20	.30	.70	.45	.02	
Boilermakers' helpers	6.90	.30	.70	.45	.02	
Bricklayers; blocklayers; stonemasons	8.37	.40	.36	.40		
Brick tenders	6.50	.50	.50		.10	
Carpenters:						
Carpenters	7.50	.60	.50	.50g	.02	
Hardwood floor layers; powersaw operators; saw filers; shinglers; steel scaffold erectors and/or steel shoring erectors	7.65	.60	.50	.50g	.02	
Millwrights	7.90	.60	.50	.50g	.02	
Piledrivermen; bridge, wharf, and dock builders	7.63	.60	.50	.50g	.02	
Cementmasons:						
Cementmasons	5.94	.36	.75	.75		
Mastic; magnesite; all composition masons	6.19	.36	.75	.75		
Men working from swinging or slip form scaffolds	6.19	.36	.75	.75		
Drywall installers	7.25	.45	.50	.50	.04	
Electricians:						
Electricians	8.80	.40	1%+.50		.02	
Cable splicers	9.90	.40	1%+.50		.02	
Electricians (tunnel):						
Electricians	8.80	.40	1%+.50		.02	
Cable splicers	9.90	.40	1%+.50		.02	
Elevator constructors	8.15	.185	$0.20	2%+a		
Elevator constructors' helpers	70%JR	.185	.20	2%+a		
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	$8.225	.25	.25	6%	.01	
Ironworkers:						
Reinforcing	7.98	.43	.425	$0.50	.02	
Fence erectors	7.89	.43	.425	.50	.02	
Ornamental; structural	8.03	.43	.425	.50	.02	
Lathers	7.84	.34	.385		.025	
Line construction:						
Groundmen	6.80	.40	1%+.50		.02	
Line equipment operators	7.02	.40	1%+.50		.02	
Linemen	8.80	.40	1%+.50		.02	
Cable splicers	9.90	.40	1%+.50		.02	
Marble setters	7.59	.69	$0.51	.53		
Painters:						
Brush	6.67	.39	.40	.80		
Spray	6.82	.39	.40	.80		
Tapers	7.07	.39	.40	.80		
Parking lot striping work and/or highway markers	6.37	.35	.20	d		
Plasterers	8.24	.675	.45		.01	
Plasterers' tenders	7.22	.50	.60		.10	
Plumbers; pipefitters	9.57	.53	1.00		.07	
Roofers:						
Journeymen	7.20	.43	.50		.01	
Mastic workers; kettlemen (2 kettles w/o pumps)	7.58	.43	.60		.01	
Journeymen roofers bitumastic, enamelers, pipewrapper, coal tar, built-up	8.30	.43	.60		.01	
Sheet metal workers	7.25	.39	.605	10%b	.015	
Soft floor layers	7.10	.36	.30	e+.28f	.05	
Sprinkler fitters	8.115	.11	.20		.02	
Steamfitters	9.415	.30	.85		.005	
Terrazzo workers	6.94	.43	.88			
Tile setters	7.56	.49	.60		.015	
Riggers; welders: Receive rate prescribed for craft performing operation to which rigging or welding is incidental.						

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
Paid holidays: A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.						

Footnotes:
a. Employer contributes 4 percent of basic hourly rate for 5 years' service and 2 percent of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six paid holidays: A through F.
b. Four paid holidays: C, D, E, and Washington's Birthday.
c. First year of employment employer contributes $0.14 per hour to Vacation; second through fifth year $0.30 per hour; sixth year and thereafter $0.40 per hour.
d. Employer contributes $0.17 per hour to Holiday Fund plus $0.10 per hour to Vacation in first year's service, $0.20 per hour after 1 year's service but less than 5 years' service, $0.30 per hour after 5 years' service but less than 10 years' service, and $0.40 per hour after 10 years' service.
e. Employer contributes $0.35 per hour to Holiday Fund and $0.15 per hour to Vacation Fund.
f. Employer contributes $0.28 per hour to Holiday Fund.
g. Employer contributes $0.35 per hour to Holiday Fund and $0.15 per hour to Vacation Fund.

Marin County

21-California—MARIN-1-2-3-s:						
Asbestos workers	8.62	.60	.40	.90	.04	
Boilermakers	7.20	.30	.70	.45	.02	
Boilermakers' helpers	6.90	.30	.70	.45	.02	
Bricklayers; stonemasons	8.20	.78	.58	.55		
Bricklayers bod carriers	6.90	.40	.30			
Carpenters:						
Carpenters	7.50	.60	.50	.50a	.02	
Hardwood floor layers; powersaw operators; saw filers; shinglers; steel scaffold erectors and/or steel shoring erectors	7.65	.60	.50	.50a	.02	
Millwrights	7.90	.60	.50	.50a	.02	
Piledrivermen; bridge, wharf, and dock builders	7.63	.60	.50	.50a	.02	
Cementmasons:						
Cementmasons	5.94	.36	.75	.75		
Mastic; magnesite; all composition masons	6.19	.36	.75	.75		
Men working from swinging or slip form scaffolds	6.19	.36	.75	.75		
Drywall installers	7.25	.45	.50	.50	.04	
Electricians:						
Cable splicers	7.92	.23	1%+.10		.02	
Electricians	7.10	.22	1%+.10		.02	
Elevator constructors	8.15	.185	$0.20	2%+b		
Elevator constructors' helpers	70%JR	.185	.20	2%+b		
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	$8.225	.25	.25	6%	.01	
Ironworkers:						
Reinforcing	7.98	.43	.425	$0.50	.02	
Fence erectors	7.89	.43	.425	.50	.02	
Ornamental; structural	8.03	.43	.425	.50	.02	
Lathers	8.23	.46	.65	1.00	.01	
Marble setters	7.59	.69	.51	.53		
Painters:						
Brush	7.37	.39	.40			
Spray on erected steel; bridges; tanks	7.62	.39	.40			
Plasterers	7.45	.43	.25		.01	
Plasterers' tenders	6.70	.40	.30			
Plumbers; steamfitters	8.03	1.44	.705	.735	.065	
Roofers:						
Roofers; slate; tile; composition	7.37	.30	.55		.01	
Mastic workers; kettlemen (2 kettles without pumps)	7.62	.30	.55		.01	
Bitumastic; enamelers; pipewrappers; coal tar	8.37	.30	.55		.01	
Sheet metal workers	8.55	.36	.44		.15	
Soft floor layers	7.10	.41	.30	c+.28d	.04	
Sprinkler fitters	8.115	.11	.20		.02	
Terrazzo workers	6.94	.43	.88			
Tile setters	7.56	.49	.60		.015	
Welders; riggers: Receive rate prescribed for craft performing operation to which rigging or welding is incidental.						

Paid holidays:
A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.

Footnotes:
a. Employer contributes $0.35 per hour to Holiday Fund and $0.15 per hour to Vacation Fund.
b. Employer contributes 4 percent of basic hourly rate for 5 years' service and 2 percent of basic hourly rate for 6 months, to 5 years' service as Vacation Pay Credit. Six paid holidays: A through F.
c. First year of employment, employer contributes $0.14 per hour to Vacation; second through fifth year, $0.295 per hour; sixth year and thereafter, $0.45 per hour.
d. Employer contributes $0.28 per hour to Holiday Fund.

Sacramento County

84-57-California—SAC-YOL-1-2-3-q:						
Asbestos workers	8.62	.60	.40	.90	.04	
Boilermakers	7.20	.30	.70	.45	.02	
Boilermakers' helpers	6.90	.30	.70	.45	.02	
Bricklayers; stonemasons	7.73	.25	.20		1.00p/mo	
Brick tenders	8.355	.245	.60	.50		
Carpenters:						
Carpenters	7.50	.60	.50	.50d	.02	
Hardwood floor layers; powersaw operators; saw filers; shinglers; steel scaffold erectors and/or steel shoring erectors	7.65	.60	.50	.50d	.02	
Millwrights	7.90	.60	.50	.50d	.02	
Piledrivermen; bridge, wharf, and dock builders	7.63	.60	.50	.50d	.02	
Cementmasons:						
Cementmasons	5.94	.36	.75	.75		
Mastic; magnesite; all composition masons	6.19	.36	.75	.75		
Men working from swinging or slip form scaffolds	6.19	.36	.75	.75		
Drywall installers	7.25	.45	.50	.50	.04	
Electricians:						
Electricians	6.88	.31	1% & .55		.045	
Cable splicers	7.57	.31	1% & .55		.045	
Electricians (tunnel):						
Electricians	7.01	.31	1% & .55		.045	
Cable splicers	7.71	.31	1% & .55		.045	
Elevator constructors	8.15	.185	$0.20	2% & a		
Elevator constructors' helpers	70% JR	.185	.20	2% & a		
Elevator constructors' helpers (prob.)	50% JR					
Glaziers	$7.605	.15	.25	5%		

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
34-57-California—SAC-YOL-1-2-3-q—Continued						
Ironworkers:						
Reinforcing	7.98	.43	.425	$0.50	.02	
Fence erectors	7.89	.43	.425	.50		
Ornamental; structural	8.03	.43	.425	.50	.02	
Lathers	6.40	.195	.20			
Line construction:						
Line equipment operators	6.19	.31	1% & .55		.045	
Linemen	6.88	.31	1% & .55		.045	
Cable splicers	7.57	.31	1% & .55		.045	
Marble setters	7.59	.69	$0.51	.53		
Painters:						
Brush	6.57	.39	.40	.80		
Spray	6.82	.39	.40	.80		
Tapers	7.07	.39	.40	.80		
Parking lot striping work and/or highway markers (Sacramento County only)	6.37	.35	.20	c		
Plasterers	7.65	.245	.25	.65		
Plasterers' tenders	5.75	.295	.50	.70		
Plumbers; steamfitters	8.58	.65	1.05		.06	
Roofers:						
Slate; tile; composition	6.67	.48	.40			
Enameler and pitch	7.42	.48	.40			
Felt machine operator and helpers, spudding machine operator, all types	6.92	.48	.40			
Sheet metal workers	8.21	.36	.53		.07	
Soft floor layers (linoleum)	6.895	.405	.30	.82	.07	
Sprinkler fitters	10.55	.25	.40		.05	
Terrazzo workers	7.73	.25	.20		1.00p/mo	
Tile setters	6.40	.42	.35	.80	b	
Tile setters' helpers	5.00	.22		.26		
Riggers; welders: Receive rate prescribed for craft performing operation to which rigging or welding is incidental.						

Paid holidays:
A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.
Footnotes:
a. Employer contributes 4 percent of basic hourly rate for 5 years' service and 2 percent of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six paid holidays: A through F.
b. Employer contributes $2 per month per apprentice employed.
c. Employer contributes $0.17 per hour to Holiday Fund plus $0.10 per hour to Vacation in first year's service, $0.20 per hour after 1 year's service but less than 5 years' service, $0.30 per hour after 5 years' service but less than 10 years' service, and $0.40 per hour after 10 years' service.
d. Employer contributes $0.35 per hour to Holiday Fund and $0.15 per hour to Vacation Fund.

San Francisco County

38-California—SFR-1-2-3-s:						
Asbestos workers	8.62	.60	.40	.90	.04	
Boilermakers	7.20	.30	.70	.45	.02	
Boilermakers' helpers	6.90	.30	.70	.45	.02	
Bricklayers; stonemasons	8.20	.78	.58	.55		
Brick hod carriers	7.05	.25	.40	.60		
Carpenters:						
Carpenters	7.50	.50	.50	.50d	.02	
Hardwood floor layers; powersaw operators; saw filers; shinglers; steel scaffold erectors and/or steel shoring erectors	7.65	.60	.50	.50d	.02	
Millwrights	7.90	.60	.50	.50d	.02	
Piledrivermen; bridge, wharf, and dock builders	7.63	.60	.50	.50d	.03	
Cementmasons:						
Cementmasons	5.94	.36	.75	.75		
Mastic; magnesite; all composition masons	6.19	.36	.75	.75		
Men working from swinging or slip form scaffolds	6.19	.36	.75	.75		
Drywall installers	7.25	.45	.50	.50	.04	
Electricians:						
Electricians	7.975	.395	1%+.35		.04	
Cable splicers	8.97	.395	1%+.35		.04	
Electricians (tunnel):						
Electricians	7.975	.395	1%+.35		.04	
Cable splicers	8.97	.395	1%+.35		.04	
Elevator constructors	8.15	.185	$0.20	2%+a		
Elevator constructors' helpers	70%JR	.185	.20	2%+a		
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	$8.225	.25	.25	6%	.01	
Ironworkers:						
Reinforcing	7.98	.43	.425	$0.50	.02	
Fence erectors	7.89	.43	.425	.50	.02	
Ornamental; structural	8.03	.43	.425	.50	.02	
Lathers	8.23	.46	.65	1.00	.01	
Line construction:						
Groundmen	6.78	.395	1%+.35		.04	
Linemen	7.975	.395	1%+.35		.04	
Cable splicers	8.97	.395	1%+.35		.04	
Marble setters	7.59	.69	$0.51	.53		
Painters:						
Brush	7.37	.39	.40			
Spray	7.62	.39	.40			
Plasterers	7.77	.33	.21			
Plasterers' tenders	7.00	.25	.40	.95		
Plumbers; steamfitters	8.03	1.44	.705	.735	.065	
Roofers:						
Roofers; slate; tile; composition; and built-up	$7.26	.35	.60		.01	
Mastic workers and kettlemen (2 kettles) without pumps	7.51	.35	.60		.01	
Bitumastic; enamelers; pipewrappers; coal tar	8.26	.35	.60		.01	
Extra men helpers	70%JR					
Sheet metal workers	$7.75	.38	.45		.005	
Soft floor layers (linoleum)	7.10	.41	.30	b+.28c	.04	
Sprinkler fitters	8.115	.11	.20		.02	
Terrazzo workers	6.94	.43	.58			
Tile setters	7.56	.49	.60		.015	
Riggers; welders: Receive rate prescribed for craft performing operation to which rigging or welding is incidental.						

Paid holidays:
A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.
Footnotes:
a. Employer contributes 4 percent of basic hourly rate for 5 years' service and 2 percent of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six paid holidays: A through F.
b. First year of employment, employer contributes $0.14 per hour to Vacation Fund; second through fifth year, $0.295 per hour; sixth year and thereafter $0.46 per hour.
c. Employer contributes $0.28 per hour to Holiday Fund.
d. Employer contributes $0.35 per hour to Holiday Fund and $0.15 per hour to Vacation Fund.
e. Eight paid holidays: A through F, Washington's Birthday and Admission Day.

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other

San Joaquin County

5-39-California—SJO-1-2-3-w:						
Asbestos workers	8.62	.60	.40	.90	.04	
Boilermakers	7.20	.30	.70	.45	.02	
Boilermakers' helpers	6.90	.30	.70	.45	.02	
Bricklayers; block layers; Stonemasons	7.80	.25	.15	.75		
Brick tenders	5.20	.50	.60	.60		
Carpenters:						
Carpenters	7.50	.60	.50	.50c	.02	
Hardwood floor layers; powersaw operators; saw filers; shinglers; steel scaffold erectors and/or steel shoring erectors	7.65	.60	.50	.50c	.02	
Millwrights	7.90	.60	.50	.50c	.02	
Piledrivermen; bridge, wharf and dock builders	7.63	.60	.50	.50c	.02	
Cementmasons:						
Cementmasons	5.94	.36	.75	.75		
Mastic; magnesite; all composition	6.19	.36	.75	.75		
Swinging or slip form scaffolds	6.19	.36	.75	.75		
Drywall installers	7.25	.45	.50	.50	.04	
Electricians:						
Electricians; technicians	7.21	.26	1%		.01	
Cable splicers	8.11	.26	1%		.01	
Elevator constructors	8.15	.185	$0.20	2%+a		
Elevator constructors' helpers	70%JR	.185	.20	2%+a		
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	$7.605	.15	.25	8%		
Ironworkers:						
Reinforcing	7.98	.43	.425	$0.50	.02	
Fence erectors	7.89	.43	.425	.50	.02	
Ornamental; structural	8.03	.43	.425	.50	.02	
Lathers	7.20	.25	.20	.80		
Line construction:						
Linemen	6.61	.23	1%		.01	
Cable splicers	7.44	.23	1%		.01	
Marble setters	7.59	.69	$0.51	.53		
Painters:						
Parking lot striping work and/or highway markers	6.37	.35	.20	b		
Plasterers	6.445	.25				
Plasterers' tenders	5.525	.50	.60			
Plumbers; steamfitters	7.84	.77	.79		.03	
Roofers:						
Composition; slate; tile; built-up	6.64	.45	.20	.75		
Sheet metal workers	6.375	.36	.50	1.00		
Soft floor layers (carpet, linoleum, and soft tile)	6.895	.405	.30	.82	.07	
Sprinkler fitters	10.55	.25	.40		.05	
Tile setters	6.60	.25		.65		
Tile setters' helpers	5.00	.22		.26		
Riggers; welders: Receive rate prescribed for craft performing operation to which welding is incidental.						

Paid holidays:
A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.
Footnotes:
a. Employer contributes 4 percent of basic hourly rate for 5 years' service and 2 percent of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six paid holidays: A through F.
b. Employer contributes $0.17 per hour to Holiday Fund plus $0.10 per hour to Vacation in first year's service, $0.20 per hour after 1 year's service but less than 5 years' service, $0.30 per hour after 5 years' service but less than 10 years' service, and $0.40 per hour after 10 years' service.
c. Employer contributes $0.35 per hour to Holiday Fund and $0.15 per hour to Vacation Fund.

Santa Clara County

35-43-California—SBEN-SCL-1-2-3-t:						
Asbestos workers	8.62	.60	.40	.90	.04	
Boilermakers	7.20	.30	.70	.45	.02	
Boilermakers' helpers	6.90	.30	.70	.45	.02	
Bricklayers; cement block layers; stonemasons	7.45	.54	.50	.50	.01	
Brick tenders	6.58	.45	.40			
Carpenters:						
Carpenters	7.50	.60	.50	.50c	.02	
Hardwood floor layers; Powersaw operators; saw filers; shinglers; steel scaffold erectors and/or steel shoring erectors	7.65	.60	.50	.50c	.02	
Millwrights	7.90	.60	.50	.50c	.02	
Piledrivermen; bridge, wharf, and dock builders	7.63	.60	.50	.50c	.02	
Cementmasons:						
Cementmasons	5.94	.36	.75	.75		
Mastic; magnesite; all composition masons	6.19	.36	.75	.75		
Men working from swinging or slip form scaffolds	6.19	.36	.75	.75		
Drywall installers	7.26	.45	.50	.50	.04	
Electricians:						
Electricians	8.72	.45	1%			
Cable splicers	9.81	.45	1%			
Electricians (tunnel or shaft):						
Electricians	8.59	.28	1%			
Cable splicers	9.66	.28	1%			
Elevator constructors	8.15	.185	$0.20	2%+a		
Elevator constructors' helpers	70%JR	.185	.20	2%+a		
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	$8.225	.25	.25	6%	.01	
Ironworkers:						
Reinforcing	7.98	.43	.425	$0.50	.02	
Fence erectors	7.89	.43	.425	.50	.02	
Ornamental; structural	8.03	.43	.425	.50	.02	
Lathers	7.73	.30	.25			
Line construction:						
Linemen	6.41	.15	1%			
Cable splicers	7.21	.15	1%			
Marble setters	7.59	.69	$0.51	.53		
Painters:						
Brush	7.37	.39	.40			
Spray	7.62	.39	.40			
Spray on erected steel bridge, tanks	6.37	.35	.20	b		
Parking lot striping work and/or highway markers	6.56	.46	.30	.70	.01	
Plasterers	6.95	.60	.15			
Plasterers' tenders	5.83	.96	.65		.06	
Plumbers; steamfitters						

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
35–43–California—SBEN–SCL–1–2–3–t—Continued						
Roofers:						
Roofers; kettlemen (1 kettle)	6.71	.36	.53	1.00		
Coal tar, bitumastic enamelers; mastic workers; kettlemen (2 kettles) pitch	7.21	.36	.53	1.00		
Soft floor layers (linoleum)	7.19	.35	.30	.55	.05	
Sprinkler fitters (San Benito County)	10.55	.25	.40		.05	
Sprinkler fitters (Santa Clara County)	8.115	.11	.20		.02	
Terrazzo workers	7.45	.54	.50	.50	.01	
Tile setters	7.56	.49	.60		.015	
Riggers; welders: Receive rate prescribed for craft performing operation to which rigging or welding is incidental.						
Paid holidays: A—New Years' Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.						
Footnotes: a. Employer contributes 4 percent of basic hourly rate for 5 years' service and 2 percent of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six paid holidays: A through F. b. Employer contributes $0.17 per hour to Holiday Fund plus $0.10 per hour to Vacation in first year's service, $0.20 per hour after 1 year's service but less than 5 years' service, $0.30 per hour after 5 years' service but less than 10 years' service, and $0.40 per hour after 10 years' service. c. Employer contributes $0.35 per hour to Holiday Fund and $0.15 per hour to Vacation Fund.						
Solano County						
48–California—SOL–1–2–3–p:						
Asbestos workers	8.62	.60	.40	.90	.04	
Boilermakers	7.20	.30	.70	.45	.02	
Boilermakers' helpers	6.90	.30	.70	.45	.02	
Bricklayers; stonemasons	8.20	.78	.58	.55		
Bricktenders	5.55	.50	.60	.60		
Carpenters:						
Carpenters	7.50	.60	.50	.50e	.02	
Hardwood floor layers; powersaw operators; saw filers; shinglers; steel scaffold erectors and/or steel shoring erectors	7.65	.60	.50	.50e	.02	
Millwrights	7.90	.60	.50	.50e	.02	
Piledrivermen; bridge, wharf, and dock builders	7.63	.60	.50	.50e	.02	
Cementmasons:						
Cementmasons	5.94	.36	.75	.75		
Mastic; magnesite; all composition	6.19	.36	.75	.75		
Swinging or slip form scaffolds	6.19	.36	.75	.75		
Drywall installers	7.25	.45	.50	.50	.04	
Electricians:						
Electricians; technicians	8.43	.35	1%+.25		.02	
Cable splicers	8.93	.35	1%+.25		.02	
Elevator constructors	8.15	.185	.20	2%+a		
Elevator constructors' helpers	70%JR	.185	.20	2%+a		
Elevator constructors' helpers (prob.)	50%JR					
Glaziers (southwestern part of county)	$8.225	.25	.25	6%	.01	
Ironworkers:						
Reinforcing	7.98	.43	.425	$0.50	.02	
Fence erectors	7.89	.43	.425	.50	.02	
Ornamental; structural	8.03	.43	.425	.50	.02	
Line construction:						
Groundmen	6.32	.35	1%+.25		.02	
Line equipment operators	7.59	.35	1%+.25		.02	
Linemen	8.43	.35	1%+.25		.02	
Cable splicers	8.93	.35	1%+.25		.02	
Marble setters	7.59	.69	$0.51	.53		
Painters:						
Brush	6.57	.39	.40	.80		
Spray	6.82	.39	.40	.80		
Tapers	7.07	.39	.40	.80		
Parking lot striping work and/or highway markers	6.37	.35	.20	c		
Plasterers	7.45	.43	.25		.01	
Plasterers' tenders	5.55	.50	.60	.60		
Plumbers; steamfitters	8.50	.35	.58		.07	
Roofers	6.45	.20	.40	.35		
Sheet metal workers	8.55	.36	.44		.15	
Soft floor layers	7.10	.36	.30	b+.28d	.05	
Sprinkler fitters	8.115	.11	.20		.02	
Terrazzo workers	6.94	.43	.58			
Tile setters	7.56	.49	.60		.015	
Riggers; welders: Receive rate prescribed for craft performing operation to which rigging or welding is incidental.						
Paid holidays: A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.						
Footnotes: a. Employer contributes 4 percent of basic hourly rate for 5 years' service and 2 percent of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid holidays: A through F. b. First year of employment employer contributes $0.14 per hour to Vacation; second through fifth year $0.30 per hour; sixth year and thereafter $0.46 per hour. c. Employer contributes $0.17 per hour to Holiday Fund plus $0.10 per hour to Vacation in first year of service, $0.20 per hour after 1 year's service but less than 5 years' service; $0.30 per hour after 5 years' service but less than 10 years' service, $0.40 per hour after 10 years' service. d. Employer contributes $0.28 per hour to Holiday Fund. e. Employer contributes $0.35 per hour to Holiday Fund and $0.15 per hour to Vacation Fund.						
Sonoma County						
49–California—SON–1–2–3–r:						
Asbestos workers	8.62	.60	.40	.90	.04	
Boilermakers	7.20	.30	.70	.45	.02	
Boilermakers' helpers	6.90	.30	.70	.45	.02	
Bricklayers; stonemasons	8.20	.78	.58	.55		
Brick hod carriers	5.44	.40	.50	.50		
Carpenters:						
Carpenters	7.50	.60	.50	.50d	.02	
Hardwood floor layers; powersaw operators; saw filers; shinglers; steel scaffold erectors and/or steel shoring erectors	7.65	.60	.50	.50d	.02	
Millwrights	7.90	.60	.50	.50d	.02	
Piledrivermen; bridge, wharf and dock builders	7.63	.60	.50	.50d	.02	
Cementmasons:						
Cementmasons	5.94	.36	.75	.75		
Mastic; magnesite; all composition	6.19	.36	.75	.75		
Swinging or slip form scaffolds	6.19	.36	.75	.75		
Drywall installers	7.25	.45	.50	.50	.04	

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
49–California—SON–1–2–3–r—Continued						
Electricians:						
Electricians	7.10	.23	1%+.10		.02	
Cable splicers	7.02	.23	1%+.10		.02	
Elevator constructors	8.15	.185	$0.20	2%+a		
Elevator constructors' helpers	70%JR	.185	.20	2%+a		
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	$8.225	.25	.25	6%	.01	
Ironworkers:						
Reinforcing	7.98	.43	.425	$0.50	.02	
Fence erectors	7.89	.43	.425	.50	.02	
Ornamental; structural	8.03	.43	.425	.50	.02	
Lathers	8.35	.25	.40	.50		
Marble setters	7.89	.69	.51	.53		
Painters:						
Brush	7.37	.39	.40			
Spray	7.62	.39	.40			
Plasterers	7.45	.43	.25		.01	
Plasterers' tenders	5.44	.40	.50	.50		
Plumbers; steamfitters	8.03	1.44	.705	.735	.065	
Roofers; slate; tile	7.34	.38	.50		.01	
Roofers; bituminastic, enamelers, pipewrappers, coal tar, pitch, built-up	8.34	.38	.50		.01	
Roofers, mastic workers; kettlemen (2 kettles without pumps)	7.59	.38	.50		.01	
Sheet metal workers	8.55	.36	.44		.15	
Soft floor layers	7.10	.41	.30	b+.28c	.04	
Sprinkler fitters	8.115	.11	.20		.02	
Terrazzo workers	6.94	.43	.58			
Tile setters	7.56	.49	.60		.015	
Welders: Receive rate prescribed for craft performing operation to which welding is incidental.						
Paid holidays: A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.						
Footnotes: a. Employer contributes 4 percent of basic hourly rate for 5 years' service and 2 percent of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six paid holidays: A through F. b. First year of employment, employer contributes $0.14 per hour to Vacation; second through fifth years, $0.296 per hour; sixth year and thereafter $0.46 per hour. c. Employer contributes $0.28 per hour to Holiday Fund. d. Employer contributes $0.35 per hour to Holiday Fund and $0.15 per hour to Vacation Fund.						
1–California–NCAL–LAB–1–2–3–t:						
Laborers:						
Bridge; brush loaders and piler; cleanup; dumpman; general; landscape; limbers toolroom attendant	5.185	.50	.80	.60	.04	
Asphalt shovelers; cement dumper; chipper; choker setter and rigger; chucktender; concrete; guinea chaser; high pressure nozzleman-hydraulic monitor; nipper; pneumatic-gas-electric tool operator (not otherwise classified); sloper; loading, unloading, handling materials for reinforcing concrete construction	5.285	.50	.80	.60	.04	
Aligners; asphalt ironers and rakers; bucker; buggymobile; chain saw; compactors; concrete saw and pan work; cribber and/or shoring; curb setter; form raiser; faller; headerboard man; post hole digger (air-gas-electric); jack-hammer; kettleman; log loader; magnesite and mastic workers; pavement breaker pipelayer; pipewrapper; power broom sweeper; riprap stonepaver and rock slinger; rotary scarifier; roto-tiller; sandblaster; barko, wackers, and similar type tampers; tank cleaners; tree climber; vibrator; vibra-screed bull float	5.435	.50	.80	.60	.04	
Burning and welding	5.485	.50	.80	.60	.04	
Pipelayers; caulkers; banders (Contra Costa County only)	5.535	.50	.80	.60	.04	
Blasters; drills (diamond-wagon); high scaler; powderman; tree topper	5.66	.50	.80	.60	.04	
Laborers on general construction work on or in bell hole footings and shaft	5.985	.50	.80	.60	.04	
Gunite Laborers:						
Nozzleman; rodman; gunman; groundman	5.395	.50	.80	.60	.04	
Reboundman	5.305	.50	.80	.60	.04	
1–California–NCAL–PEO–1–2–3–e:						
Power equipment operators:						
Operator of helicopter (when used in erection work); remote controlled earthmoving equipment	8.80	.475	.65	.50	.14	
Loader (over 18 cu. yds.)	8.60	.475	.65	.50	.14	
Loader (over 12 cu. yds. up to and including 18 cu. yds.); rubber-tired multipurpose earthmoving machines (2 units) (over 75 cu. yds. "struck" m.r.c.); power shovels and draglines (over 7 cu. yds. m.r.c.); band wagons (in conjunction with wheel excavator); (over 750 cu. yds. per hour)	8.41	.475	.65	.50	.14	
Automatic concrete slip form paver; automatic railroad car dumper; canal finger drain in backfiller; canal trimmer; rubber-tired earthmoving machines (multiple propulsion power units and two or more scrapers) up to and including 75 cu. yds. "struck" m.r.c.); highline cableway (over 5 tons); loader (over 4 yds., up to and including 12 cu. yds.); power shovels, clamshells, draglines, backhoes, gradalls (over 1 yd. up to and including 7 cu. yds. m.r.c.); self-propelled compactor (with multiple propulsion power units); slip form paver (concrete or asphalt); tandem cats; trencher (pulling attached shield); tower cranes mobile; single engine rubber-tired earthmoving machine (with tandem scrapers); cranes (over 25 tons); Universal Liebher and tower cranes (and similar types); wheel excavator (up to and including 750 cu. yds. per hour); Whirley crane (over 25 tons)	7.65	.475	.65	.50	.14	
Cranes (not over 25 tons, hammerhead and gantry); power shovels, clamshells, draglines, backhoes, gradalls (up to and including 1 cu. yd. m.r.c.); power blade	7.54	.475	.65	.50	.14	
Boom-type backfilling machine; bridge crane; Carry-lift (or similar); chemical grouting machine; chief of party; combination backhoe and loader (up to and including ¾ yd.); derricks (2 operators required when swing engine remote from hoist); derrick barges (except excavation work); Do-more loader and Adams Elegrader; elevating grader operator; Euclid loader and similar types; rubber-tired scraper, self-loading (paddle wheels, etc.); heavy-duty rotary drills rigs (including caisson foundation work and Robbins-type drills); Koehring skooper (or similar); lift slab machine (Vagtborg and similar types); loader (2 yds. up to and including 4 yds.); locomotive (over 100 tons) (single or multiple units); multiple engine earthmoving machine (euclids, dozers, etc.) (no tandem scraper); prestress wire wrapping machine; shuttle car (reclaim station); soil stabilizer (P & H or equal); subgrader (gurries or other automatic type); track laying type, earthmoving machine (single engine with tandem scrapers); tractor, compressor drill comb; train loading station; vacuum cooling plant; single engine scraper over 45 yds; whirley crane (up to and including 25 tons)	7.46	.475	.65	.50	.14	
Canal finger drain digger; Chicago boom; combination mixer and compressor (gunite); combination slurry mixer and/or cleaner; highline cableway (5 tons and under); hull hi-lift or similar (20 ft. or over); mucking machine; tractor (with boom) (D–6 or larger and similar)	7.32	4.75	.65	.50	.14	

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
1-California—NAC-PEO-1-2-3-e—Continued						
Power equipment operators—Continued						
Armor-coater (or similar); asphalt plant engineer; cast-in-place pipelaying machine; combination slusher and motor operator; concrete batch plant (multiple units); dozer; heavy-duty repairman and/or welders; Ken seal machine (or similar); Kolman loader; loader (up to 2 yds.); mechanical shield operator (or similar); mechanical trench shield; portable crushing and screening plants; push cat; rubber-tired earthmoving equipment (up to and including 45 cu. yds. "struck" m.r.c., euclids, T pulls, DW-10, 20, 21, and similar; tractor-drawn scraper; self-propelled compactor with dozer; sheepfoot; tractor; trenching machine; tribatch paver; tunnel mole boring machine operator; welder; woods mixer (and other similar pugmill equipment)	7.16	.475	.65	.50	.14	
Concrete conveyor or concrete pump, truck or equipment mounted (boom length to apply); concrete conveyor, building site; deck engineers; dual drum mixer; Fuller Kenyon pump and similar types; instrumentman; material hoist (2 or more drums); mechanical finishers or spreader machine (asphalt, Barber-Greene and similar); mine or shaft hoist; mixer-mobile; pavement breaker with or without compressor combination; pavement breaker, truck mounted with compressor combination; pipe bending machine (pipelines only); pipe cleaning machine (tractor propelled and supported); pipewrapping machine (tractor propelled and supported); refrigeration plant; self-propelled boom-type lifting device; self-propelled elevating grade planer; slusher operator; small tractor (with boom); soil tester; truck-type loader	6.88	.475	.65	.50	.14	
BLH Lima road pactor or similar; boom truck or dual purpose A-frame truck; concrete batch plants (wet or dry); concrete saws (self-propelled unit) on streets, highways, airports, and canals; drilling and boring machinery, vertical and horizontal (not to apply to waterliners, wagon drills or jackhammers); gradesetter, grade checker (mechanical or otherwise); highline cableway signalman; locomotives (steam or over 30 tons) Maginnis internal full slab vibrator (on airports, highways, canals, and warehouses); mechanical finishers (concrete) (Clary, Johnson, Bidwell Bridge Deck or similar types); mechanical brum, curb and/or curb and gutter machine, concrete or asphalt; portable crushers; power jumbo operator (setting slip forms, etc., in tunnels); roller; screedman (Barber-Greene and similar) (asphaltic concrete paving); self-propelled compactor (single engine); self-propelled pipeline wrapping machine (Perasit, CRC, or similar types); slip form pumps (power-driven hydraulic lifting device for concrete forms); small rubber-tired tractors; surface heater	6.78	.475	.65	.50	.14	
Compressor operator (2 to 7) (electric, diesel, or gas powered); concrete mixers (over 1 yd.); concrete pumps or pumperete guns; generators, gasoline, diesel or electric drive (100 kw.); press-weld (air-operated); pumps (2 to 7); welding machines (gasoline or diesel) (2 to 7)	6.68	.475	.65	.50	.14	
Ballast jack tamper; ballast regulator; ballast tamper multipurpose; boxman (asphalt plant); forklift or lumber stacker (construction job site); line master; lubrication and service engineer (mobile and grease rack); material hoist (1-drum); shuttlecar; tie spacer; towermobile	6.53	.475	.65	.50	.14	
Box operator (bunker); locomotive; motorman; oiler; rodman or chainman; ross carrier (construction jobsite); rotomist operator; screedman (except asphaltic concrete paving); self-propelled, automatically applied concrete curing machine (on streets, highways, airports and canals); trenching machine (maximum digging capacity 3 ft. depth); tugger hoist, single drum	6.13	.475	.65	.50	.14	
Compressor operator, electrically diesel or gas powered, etc.; concrete mixer (up to and including 1 yd.); conveyor belt operator (tunnel); fireman hot plant; hydraulic monitor; mechanical conveyor (handling building materials); mixer box operator (concrete plant); pump operator; spreader boxman (with screeds); tar pot fireman (power agitated)	5.99	.475	.65	.50	.14	
Assistants to engineers (brakeman; fireman; heavy-duty repairman helper; oiler; deckhand; signalman; switchman; tar pot fireman); partsman (heavy-duty repair shop parts room)	5.75	.475	.65	.50	.14	
1-California—NCAL-TD-1-2-3-f:						
Truckdrivers:						
Bulk cement spreader (w/wo auger, over 80 yds. and including 95 yds. water level); dump (over 80 yds. and including 95 yds. water level); dumperete truck (over 80 yds. and including 95 yds. water level); dumpster (over 80 yds. and including 95 yds. water level); skid truck (debris box over 80 yds. and including 95 yds. water level); trucks (dry prebatch concrete mix, over 80 yds. and including 95 yds. water level)	7.01	.565	.40	.65		
Bulk cement spreader (w/wo auger, over 65 yds. and including 80 yds. water level); dump (65 yds. and including 80 yds. water level); dumperete truck (65 yds. and including 80 yds. water level); dumpster (65 yds. and including 80 yds. water level); skid truck (debris box, 65 yds. and including 80 yds. water level); trucks (dry prebatch concrete mix, 65 yds. and including 80 yds. water level)	6.86	.565	.40	.65		
Bulk cement spreader (w/wo auger, over 50 yds. and under 65 yds. water level); dump (over 50 yds. and under 65 yds. water level); dumperete truck (over 50 yds. and under 65 yds. water level); dumpster (over 50 yds. and under 65 yds. water level); helicopter pilot (when transporting men or materials); skid truck (debris box, over 50 yds. and under 65 yds. water level); trucks (dry prebatch concrete mix, over 50 yds. and under 65 yds. water level)	6.71	.565	.40	.65		
Bulk cement spreader (w/wo auger, over 35 yds. and including 50 yds. water level); dump (over 35 yds. and including 50 yds. water level); dumperete truck (over 35 yds. and including 50 yds. water level); dumpster (over 35 yds. and including 50 yds. water level); skid truck (debris box, over 35 yds. and including 50 yds. water level); trucks (dry prebatch concrete mix, over 35 yds. and including 50 yds. water level)	6.56	.565	.40	.65		
Bulk cement spreader (w/wo auger, over 24 yds. and including 35 yds. water level); dump (over 24 yds. and including 35 yds. water level); dumperete truck (over 24 yds. and including 35 yds. water level); dumpster (over 24 yds. and including 35 yds. water level); DW 10's, 20's, 21's, and other similar cat-type, Terra Cobra, LeTourneau Pulls, Tournorocker, Euclid, and similar type equipment when pulling Aqua/Pak, water tank trailers and fuel and/or grease tank trailers or other miscellaneous trailers; skid truck (debris box, over 24 yds. and including 35 yds. water level); trucks (dry prebatch concrete mix, over 24 yds. and including 35 yds. water level)	6.41	.565	.40	.65		
Bulk cement spreader (w/wo auger, over 18 yds. and including 24 yds. water level); combination dump truck and dump trailer; dump (over 18 yds. and including 24 yds. water level); dumperete truck (over 18 yds. and including 24 yds. water level); dumpster (over 18 yds. and including 24 yds. water level); skid truck (debris box, over 18 yds. and including 24 yds. water level); transit mix, agitator (over 14 yds. through 16 yds.); trucks (dry prebatch concrete mix, over 18 yds. and including 24 yds. water level)	6.355	.565	.40	.65		
Truck repairman	6.345	.565	.40	.65		
P. B. or similar type self-loading truck	6.81	.565	.40	.65		
Bulk cement spreader (w/wo auger, over 12 yds. and including 18 yds. water level); dump (over 12 yds. and including 18 yds. water level); dumperete truck (over 12 yds. and including 18 yds. water level); dumpster (over 12 yds. and including 18 yds. water level); skid truck (debris box, over 12 yds. and including 18 yds. water level); trucks (dry prebatch concrete mix, over 12 yds. and including 18 yds. water level)	6.25	.565	.40	.65		
Transit mix, agitator (over 12 yds. through 14 yds.)	6.225	.565	.40	.65		
Bulk cement spreader (w/wo augers, 8 yds. and including 12 yds. water level); dump (8 yds. and including 12 yds. water level); dumperete (8 yds. and including 12. yds. water level); dumpster (8 yds. and including 12 yds. water level); self-propelled street sweeper with self-contained refuse bin; skid truck (debris box, 8 yds. and including 12 yds. water level); snowgo and/or snowplow; trucks (dry prebatch concrete mix, 8 yds. and including 12 yds. water level)	6.21	.565	.40	.65		
Transit mix, agitator (over 10 yds. through 12 yds.)	6.125	.565	.40	.65		
Heavy-duty transport (gooseneck low bed)	6.22	.565	.40	.65		
Jetting truck and water truck (5,000 and under 7,000 gals.)	6.065	.565	.40	.65		
Vacuum truck (5,000 gals. and under 7,500 gals.)	6.035	.565	.40	.65		
Transit mix, agitator (8 yds. through 10 yds.)	6.025	.565	.40	.65		
Ross hyster, similar straddle carrier	6.015	.565	.40	.65		
Heavy-duty transport (high bed)	5.99	.565	.40	.65		
"A" frame drivers, winch truck; buggymobile; hydrolift, Swedish crane-type (including when Swedish crane is used for jetting); jetting truck and water truck (4,000 and under 5,000 gals.); rubber-tired truck jumbo	5.985	.565	.40	.65		

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
1-California—NCAL-TD-1-2-3-f—Continued						
Truckdrivers—Continued						
Bulk cement spreader (w/wo augers, 6 yds. and under 8 yds. water level); dump (6 yds. and under 8 yds. water level); dumperete truck (6 yds. and under 8 yds. water level); dumpster (6 yds. and under 8 yds. water level); skid truck (debris box, 6 yds. and under 8 yds. water level); trucks (dry prebatch concrete mix, 6 yds. and under 8 yds. water level)	5.97	.565	.40	.65		
Rubber-tired muck car (not self-loaded)	5.945	.565	.40	.65		
Vacuum truck (3,500 gals. and under 5,500 gals.)	5.935	.565	.40	.65		
Combination winch truck with hoist-transit mix, agitator (6 yds. and under 8 yds.)	5.925	.565	.40	.65		
Jetting truck and water truck (2,500 gals. under 4,000 gals.)	5.895	.565	.40	.65		
Scissor truck; single unit flat rack (3-axle unit, industrial lift truck, mechanical tailgate); small rubber-tired tractor (when used within teamsters jurisdiction)	5.87	.565	.40	.65		
Vacuum truck (under 3,500 gals.)	5.855	.565	.40	.65		
Truck repairman helper	5.845	.565	.40	.65		
Transit mix, agitator (under 6 yds.)	5.825	.565	.40	.65		
Lift jitneys, forklift	5.805	.565	.40	.65		
Jetting truck and water truck (under 2,500 gals.)	5.785	.565	.40	.65		
Bulk cement spreader (w/wo auger, 4 yds. and under 6 yds. water level); dump (4 yds. and under 6 yds. water level); dumperete truck (4 yds. and under 6 yds. water level); dumpster (4 yds. and under 6 yds. water level); skid truck (debris box, 4 yds. and under 6 yds. water level); single unit flat rack (2-axle unit, industrial lift truck, mechanical tailgate); trucks (dry prebatch concrete mix, 4 yds. and under 6 yds. water level)	5.77	.565	.40	.65		
Bulk cement spreader (w/wo auger, under 4 yds. water level); bus or manhaul driver; concrete pump machine; concrete pump truck (when flat rack truck is used appropriate flat rack rate shall apply); dump (under 4 yds. water level); dumperete truck (under 4 yds. water level); dumpster (under 4 yds. water level); escort or pilot car driver; nipper truck (when flat rack truck is used appropriate flat rack rate shall apply); pickup trucks; skid trucks (debris box, under 4 yds. water level); team drivers; trucks (dry prebatch concrete mix, under 4 yds. water level); vacuum truck helpers; warehousemen	5.675	.565	.40	.65		

State: California; County: Los Angeles; Decision No. AM-6, 142, date of decision: November 12, 1971.

Description of work: Residential construction consisting of single family homes and garden-type apartments up to and including four stories.

MODIFICATIONS

19-California-LAN-1-2-3-p:

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
Los Angeles County						
Asbestos workers	$6.77	$0.43	$0.25		$0.025	
Boilermakers	7.20	.30	.70	$0.45	.02	
Boilermakers' helpers	6.90	.30	.70	.45	.02	
Bricklayers; stonemasons; tuckpointers	7.20	.40	.40	.20	.05	
Brick tenders	5.85	.45	.65	.20		
Carpenters:						
Carpenters	6.33	.61	.75	.50	.01	
Saw filers	6.41	.61	.75	.50	.01	
Table powersaw operators	6.43	.61	.75	.50	.01	
Shinglers	6.46	.61	.75	.50	.01	
Hardwood floor layers; millwrights	6.53	.61	.75	.50	.01	
Pneumatic nailer	6.56	.61	.75	.50	.01	
Piledriverman:						
Rock slinger	6.44	.61	.75	.50	.01	
Bridge, dock carpenters; derrick bargemen	6.46	.61	.75	.50	.01	
Head rock slingers	6.56	.61	.75	.50	.01	
Cementmasons:						
Cementmasons	6.77	.50	.85	.60	.0225	
Cement floating and finishing operators	6.02	.50	.85	.60	.0225	
Drywall installers	7.25	.46	.56	.50	.04	
Electricians:						
Electricians	8.95	.30	1%+.45		.02	
Cable splicers	9.25	.30	1%+.45		.02	
Sound technicians (new building construction)	6.83		1%		20.00p/y	
Sound technicians (modification of existing buildings and structures)	6.31		1%		20.00p/y	
Electricians (tunnel):						
Electricians	9.85	.30	1%+.45		.02	
Cable splicers	10.15	.30	1%+.45		.02	
Elevator constructors	7.58	.185	$0.20	2%+a		
Elevator constructors' helpers	70%JR	.185	.20	2%+a		
Elevator constructors' helpers (prob.)	80%JR					
Glaziers	$7.08	.30	.30		.04	
Ironworkers:						
Reinforcing	7.98	.43	.425	$0.50	.02	
Fence erectors	7.80	.43	.425	.50	.02	
Ornamental; structural	8.08	.43	.425	.50	.02	
Irrigation and lawn sprinklers	6.50	10%	10%	12%	1%	
Lathers (except city of Lancaster):						
Metal furring	7.12	$0.39	$0.50		$0.03	
Nail on (Area I)*	6.985	.29	.35		.045	
Nail on (Area II; III; IV)**	7.12	.39	.50		.03	
Line construction:						
Groundmen	6.74		1%			
Linemen	8.98		1%			
Cable splicers	9.28		1%			
Painters (except Pomona area):						
Brush	6.75	.305	.30	$0.25		
Bridge; paint burner; steel; taper	6.87	.305	.30	.25		
Brush swing stage (13 stories or less); Paperhanger; sandblasters; spray	7.00	.305	.30	.25		
Bridge swing stage; steel swing stage	7.15	.305	.30	.25		
Spray, sandblaster swing stage (13 stories or less)	7.25	.305	.30	.25		
Steeplejack work	8.00	.305	.30	.25		
Painters (eastern portion—Pomona area):						
Brush, paint burner	6.93	.30	.30	.60	.03	
Paperhangers; sheetrock taper; swing stage iron, steel and bridge; sandblasters; iron, steel, and bridge, spray (groundwork)	7.43	.30	.30	.60	.03	
Brush swing stage; spray	7.15	.30	.30	.60	.03	
Steeplejack	8.38	.30	.30	.60	.03	

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
Painters:						
Parking lot stripping work and/or highway markers	4.88	.20	.20	b		
Parking lot stripping work and/or highway markers' helpers; sandblaster	4.38	.20	.20	b		
Plasterers	7.495	.53	1.25	.50	.07	
Plumbers; steamfitters; lead burners	8.30	10%	16%	13%	1%	
Roofers	6.29	$0.33	$0.35		$0.02	
Sheet metal workers (that portion of Los Angeles County north of a straight line drawn between Gorman and Big Pines)	7.07	.39	.23			
Sheet metal workers (remaining portion)	6.27	.39	.40		.025	
Soft floor layers	7.29	.29	.29	$0.39	.015	
Sprinkler fitters (Los Angeles and area within 25 miles); Pomona	8.69	.29	.25	1.40	.02	
Terrazzo workers	6.42	.15		.15		
Terrazzo workers' helpers:						
Floor machine operator and helper	5.58	.15		.45		
Tile setters	6.95	.145	.35		.02	
Tile setters' helpers	5.46	.145	.50		.08	
Riggers; welders: Receive rate prescribed for craft performing operation to which rigging or welding is incidental.						
2-California—SCAL-LAB-1-2-3-f:						
Laborers:						
Cleaning and handling of panel forms; concrete screeding for rough strike off; concrete, water curing; demolition laborer, the cleaning of brick and lumber; dry packing of concrete, plugging, filling of shee-bolt holes; fire watcher, limbers, brush loaders, pilers, and debris handler; gas and oil pipeline; laborers, general or construction; laborer, temporary water and air lines; material hoseman (walls, slab, floors, and decks); mixer-truck chuteman (walls, slabs, decks, floors foundations, and footing-curb and gutter and sidewalks); rigging and signaling; slip form raisers; window cleaner	5.045	.45	.85	.30		
Cutting torch (demolition); scaler; tarman; mortarman	5.095	.45	.85	.30		
Guinea chaser	5.225	.45	.85	.30		
Asphalt shoveler; fine grader, highway and street paving, airports, runways, and similar type heavy construction; landscape gardener and nurseryman	5.145	.45	.85	.30		
Packing rod steel and pans; tanks scaler and cleaner	5.17	.45	.85	.30		
Underground (including caisson bellower)	5.175	.45	.85	.30		
Chucktender; septic tank digger and installer	5.195	.45	.85	.30		
Cesspool digger and installer	5.225	.45	.85	.30		
Concrete curer-impervious membrane and form oiler: riprap stonepaver placing stone or sacked concrete; sandblaster (pot tender)	5.235	.45	.85	.30		
Pipelayers' backup man, coating, grouting, making of joints, sealing, caulking	5.335	.45	.85	.30		
Buggymobile man; cement dumper (on 1 yd. or larger mixer and handling bulk cement); gas and oil pipeline wrapper, pot tender; power broom sweepers (small); roto scraper and tiller; tree climber, faller, chain saw operator, Pittsburgh chipper and similar type brush shredders; trenching machine, hand propelled	5.255	.45	.85	.30		
Asphalt raker, luteman and ironer; concrete core cutter, grinder or sender concrete saw man, cutting, scoring old or new concrete; impact wrench, multiplate; pneumatic, gas, electric tools, vibrating machines and similar mechanical tools not separately classified herein; tampers, Barko Wacker and similar type	5.355	.45	.85	.30		
Rock slinger	5.305	.45	.85	.30		
Driller, jackhammer—2½ drill steel or longer	5.435	.45	.85	.30		
Concrete vibrator operator, 70 lbs. and over	5.455	.45	.85	.30		
Pipelayer (nonmetallic including sewer, drain, and underground tile); prefabricated manhole installer	5.455	.45	.85	.30		
Gas and oil pipeline wrapper (6 in. and over; kettlemen, potmen, and men applying asphalt, lay-kold, creosote, lime caustic, and similar type materials	5.385	.45	.85	.30		
Cribber, shorer, lagging, sheeting, and trench bracing, hand-guided lagging hammer	5.505	.45	.85	.30		
Blaster powderman	5.505	.45	.85	.30		
Steel headerboard man and guideline setter	5.47	.45	.85	.30		
Sandblaster (nozzleman)	5.495	.45	.85	.30		
Driller (core-diamond-wagon)	5.595	.45	.85	.30		
Head rock slinger	5.565	.45	.85	.30		
Gunite laborers:						
Nozzlemen and rodmen	6.37	.45	.85	.30		
Gunmen	5.87	.45	.85	.30		
Reboundmen	5.11	.45	.85	.30		
2-California—SCAL-PEO-1-2-3-d:						
Power equipment operators:						
Group I:						
Brakeman; compressor operator; deckhand; engineer oiler; generator operator; heavy-duty repairman helper; pump operator; signalman; switchman	6.03	.45	.80	.30	.02	
Group II:						
Concrete mixer, skip-type; conveyor; fireman; generator, pump or compressor (2-5 inclusive) portal units—over 5 units, 10 cents per hour for each additional unit up to 9 units; hydrostatic pump; oiler crusher (asphalt or concrete plant); plant operator, generator, pump or compressor; skiploader, wheel-type up to ¾ yd. without attachment; tar pot fireman; temporary heating plant operator; trenching machine oiler; truck crane oiler	6.27	.45	.80	.30	.02	
Group III:						
A-frame or winch truck; chainman; elevator (inside); equipment greaser (rack); Ford Ferguson (with drag-type attachments); power concrete curing machine; power concrete saw; power-driven jumbo form setter; Ross carrier (jobsite); stationary pipe wrapping and cleaning machine	6.51	.45	.80	.30	.02	
Group IV:						
Asphalt plant fireman; boring machine; boxman or mixerman (asphalt or concrete); chip spreading machine; concrete pump (small portable); bridge-type unloader and turntable); dinky locomotive or motorman (up to and including 10 tons); equipment greaser (grease truck); helicopter hoist operator; highline cableway signalman; hydra-hammer-sero stomper; power sweeper; roller (compacting); screed (asphalt or concrete); rodman; trenching machine (up to 6 ft.)	6.62	.45	.80	.30	.02	
Group V:						
Asphalt plant engineer; concrete batch plant operator (oiler or journeyman-trainee required); backhoe (up to and including ¾ yds.); bit sharpener; concrete joint machine operator (canal and similar type); concrete planer; derrickman (oilfield-type); deck engine operator; drilling machine (including water wells); forklift (under 5-ton capacity); hydrographic seeder machine (straw, pulp, or seed); machine tool; maginnis internal full slab vibrator; mechanical berm, curb or gutter (concrete or asphalt); mechanical finisher operator (concrete Clary-Johnson-Bidwell or similar); pavement breaker (truck mounted, oiler) road oil mixing machine; roller operator (asphalt or finish); rubber-tired earthmoving equipment (single engine, up to and including 25 yds. struck); self-propelled tar pipelining machine operator; slip form pump (power-driven hydraulic lifting device for concrete forms); tugger hoist (1-drum); tunnel locomotive operator (over 10 and up to and including 30 tons); stinger crane (Austin-Western or similar type); skipleader operator (Crawler and wheel-type over ¾ yd. and up to and including 1½ yds.); tractor operator-bulldozer, tamper scraper (single engine, up to 100 hp. flywheel and similar types, up to and including D-5 and similar types)	6.81	.45	.80	.30	.02	

2-California—SCAL-PEO-1-2-3-d—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
2-California—SCAL-PEO-1-2-3-d—Continued						
Power equipment operators—Continued						
Group VI:						
Asphalt or concrete spreader (tamping or finishing); asphalt paving machine (Barber Green or similar type—2 screedmen required); BHL lima road pactor, Wagner pactor or similar; bridge crane operator; cast in place pipelaying machine operator; combination mixer and compressor (gunite work); concrete pump (truck mounted) (oiler required); concrete mixer operator—paving; crane operator (up to and including 25-ton capacity); crushing plant operator; elevating grader forklift (over 5 tons); grade checker; gradall operator; grouting machine; heading shield; heavy-duty repairman; hoist operator (Chicago boom and similar type); Koiman belt loader and similar type; LeTourneau blob compactor or similar type; lift slab machine (Vagtburg and similar types); lift mobile operator; loader operator (Athey, Euclid, Sierra, and similar type); material hoist; mucking machine (¾ yd. rubber-tired, rail- or track-type); pneumatic concrete placing machine (Hackley-Presswell or similar type); pneumatic heading shield (tunnel); pumperete gun; rotary drill (excluding Calweld-type); rubber-tired earthmoving equipment (single engine—Caterpillar, Euclid, Athey Wagon, and similar types with any and all attachments over 25 yds. and up to and including 50 cu. yds. struck); rubber-tired scraper (self-loading—paddle wheel type; skiploader (crawler and wheel-type—over 1½ yds., up to and including 6½ yds.); surface heaters and planer; rubber-tired earthmoving equipment, multiple engine (up to and including 25 yds. struck); trenching machine (over 6 ft. depth capacity, manufacturers rating); tower crane; tractor compressor drill combination; tractor (any type larger than D-5—100 flywheel hp. and over, or similar) (bulldozer, tamper, scraper, and push tractor, single engine); tractor (boom attachments); traveling pipe wrapping, cleaning and bending machine; tunnel locomotive (over 30-ton); shovel, backhoe, dragline, clamshell (over ¾ yds. and up to 5 cu. yds. m.r.c.	6.91	.45	.80	.30	.02	
Group VII:						
Crane—Over 25 tons up to and including 100 tons; derrick barge; dual drum mixer; monorail locomotive (diesel, gas, or electric); motor patrol—blade (single engine); multiple engine tractor (Euclid and similar type, except Quad 9 Cat); rubber-tired earthmoving equipment, single engine over fifty (50) yds. struck; rubber-tired earthmoving equipment (multiple engine, Euclid, Caterpillar, and similar) (over 25 yds. and up to 50 cu. yds. struck); tractor loader (crawler and wheel-type over 6½ yds.); tower crane repairman; shovel, backhoe, dragline, clamshell (over 5 cu. yds., m.r.c.; woods mixer and similar pugmill equipment; heavy-duty repairman—welder combination	7.01	.45	.80	.30	.02	
Group VIII:						
Auto grader operator; automatic slip form; crane—over 100 tons; hoist, stiff legs, guy derricks or similar types (capable of hoisting 100 tons or more); mass excavator; mechanical finishing machine; motor patrol (multiengine); pipe mobile machine; rubber-tired earthmoving equipment (multiple engine, Euclid, Caterpillar, and similar type over 50 cu. yds. struck); rubber-tired scraper (push-pull) (50 cents per hour additional to base rate); tandem equipment operator (2 units only); tandem tractor operator (Quad 9 or similar type); tunnel mole boring machine operator	7.15	.45	.80	.30	.02	
Group IX:						
Canal liner; canal trimmer; helicopter pilot; highline cableway; rubber-tired self-loading scraper (paddle wheel—Auger-type self-loading—2 or more units); wheel excavator (over 750 cu. yds.); remote controlled earth moving equipment operator ($1 per hour additional)	7.25	.45	.80	.30	.02	
2-California—SCAL-TD-1-2-3-i:						
Truckdrivers:						
Truck repairman (welder)	6.115	.65	.45	.55		
Dump (40 yds. or more water level, single unit or combination of vehicles); DW 10 and DW 20 Euclid-type equipment, LeTourneau pulls, Terra Cobras and similar types of equipment; also PB and similar type truck when performing work within Teamsters jurisdiction regardless of types of attachments and when pulling aqua pak and water tank trailer; truck repairman	5.89	.65	.45	.55		
Dump (25 yds. but less than 40 yds. water level)	6.015	.65	.45	.55		
A-frame or swedish crane, or similar type equipment driver; forklift; Ross carrier (highway)	5.735	.65	.45	.55		
Dump (16 yds., but less than 25 yds. water level); legal payload capacity (20 tons or more); dumpster or dumptor truck; transit-mix (3 yds. or more); dumperete (6½ yds. water level and over)	5.43	.65	.45	.55		
Truck greaser and fireman	5.38	.65	.45	.55		
Water or tank-type truck driver (4,000 gals. and over)	5.35	.65	.45	.55		
Transit-mix truck (under 3 yds.); dumperete truck (less than 6½ yds. water level)	5.29	.65	.45	.55		
Truck repairman helper	5.285	.65	.45	.55		
Cement distributor truck; fuel truck; water or tank-type (2,500 gals. to 4,000 gals.)	5.23	.65	.45	.55		
Dump (12 yds. but less than 16 yds. water level); legal payload capacity (15 tons to 20 tons)	5.21	.65	.45	.55		
Dump (8 yds. but less than 12 yds. water level); legal payload capacity (10 tons to 15 tons)	5.13	.65	.45	.55		
Truck mounted power broom; warehouseman—clerk; water or tank-type (under 2,500 gals.)	5.11	.65	.45	.55		
Dump (4 yds. but less than 8 yds. water level); legal payload capacity (6 tons to 10 tons)	5.08	.65	.45	.55		
Dump (less than 4 yds. water level); traffic-control pilot car, excluding moving heavy equipment; legal payload capacity (less than 6 tons)	5.05	.65	.45	.55		
Warehouseman and teamster	4.97	.65	.45	.55		

Paid holidays:
A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.

Footnotes:
a. Employer contributes 4 percent basic hourly rate for over 5 years' service and 2 percent basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six paid holidays: A through F.
b. Employer contributes $0.17 per hour to Holiday Fund plus $0.10 per hour to Vacation for 1 year's service, $0.20 per hour after 1 year but less than 5 years' service, $0.30 per hour after 5 years but less than 10 years' service, $0.40 per hour after 10 years' service.
*Area I—That portion of Los Angeles County including the cities of Burbank, Castaic, Chatsworth, Cornell, Glendale, Hermosa Beach, Hollywood, Los Angeles, Malibu Beach, Redondo Beach, San Fernando, Santa Monica, Torrance, Van Nuys, Whittier, and Zuma Beach.

**Areas II; III; and IV:
Area II—That portion of Los Angeles County including the cities of Pomona, El Monte, Covina, Alhambra, Pasadena, South Pasadena, La Canada, to line that intersects Acton, east to San Bernardino County line, then south along the San Bernardino County line.
Area III—Beginning at the edge of Reeves Field, north along Long Beach City limits to 223d Street, west to Avalon Boulevard, north to Torrance Boulevard, west to Pacific Ocean, including Santa Catalina Island.
Area IV—Beginning at the edge of Reeves Field, north along Long Beach City limits to 223d Street, west to Avalon Boulevard, north to Rosecrans Avenue, east to Atlantic Avenue, north to Imperial Highway, east to the Orange County line, south along County line to Western Avenue, south to Lincoln Avenue, east to Highway 39 (Beach Boulevard), south to the Pacific Ocean, including San Clemente Island.

State: Nebraska; County: Lancaster; Decision No. AM-6140, date of decision: November 12, 1971.

Description of work: Residential construction consisting of single family homes and garden-type apartments up to and including four stories.

MODIFICATIONS

Classifications	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
55-Nebraska—LAN-Res:						
Carpenters	$3.70	$0.07				
Cementmasons	3.92	.07				
Electricians	7.05	.20				
Laborers:						
Laborers	2.25	.07				
Painters, brush	3.57	.07				
Plumbers	6.77	.58	$0.58	$0.25	$0.08	
Roofers	3.00	.07				
Sheet metal workers	4.85	.02	.06	.28		
Truckdrivers	2.75	.07				
Power equipment operators:						
Bulldozers	3.95	.07				

State: South Dakota; County: Minnehaha; Decision No. AM-6, 141, date of decision: November 12, 1971.

Description of work: Residential construction consisting of single family homes and garden-type apartments up to and including four stories.

MODIFICATIONS

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
49-South Dakota—MINN-Res:						
Bricklayers	$6.75					
Carpenters	5.85					
Cementmasons	4.85					
Electricians	4.75					
Laborers	3.80					
Painters, brush	4.45					
Plumbers	5.04	$0.15	$0.10	$0.07	$0.01	
Roofers	4.00					
Power equipment operators:						
Bulldozer	3.00					

State: Texas; Dallas, Denton, Collin, Hunt, Rockwall, Kaufman, and Ellis Counties; Decision No. AM-7, 487, date of decision: November 12, 1971.

Description of work: Residential construction consisting of single family homes and garden-type apartments up to and including four stories.

MODIFICATIONS

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
11-Texas—4R v:						
Bricklayers	$4.00					
Carpenters	4.50				$0.02	
Cementmasons	3.50					
Concrete finisher (paving)	2.90					
Concrete finisher helper (paving)	2.05					
Electricians	3.25					
Form setter (paving and curb)	2.25					
Laborers:						
Laborers, unskilled	1.75					
Laborer, utility man	1.75					
Asphalt rakers	2.25					
Asphalt hesterman	1.75					
Mason tenders	2.00					
Mortar mixers	2.00					
Pipelayers (Concrete and clay)	1.75					
Tile setters	4.00					
Tile setters' helpers	2.25					
Painters, brush	3.25					
Plumbers	4.00					
Reinforced steel setter	2.00					
Roofers	3.00					
Sheet metal workers	3.50					
Soft floor layers	3.00					
Tape and bedmen	3.50					
Truck drivers	1.75					
Welder	3.25					
Power equipment operators:						
Asphalt paving machine	2.00					
Bulldozers	2.50					
Concrete paving saw	1.875					
Forklift	3.00					
Motor graders	2.50					
Backhoes	2.50					
Mixers	2.50					
Front end loaders	2.85					
Oilers	1.75					
Rollers	2.125					
Foundation boring machine	3.00					
Tractor, pneumatic (over 80 hp.)	2.75					
Scrapers	2.50					
Trenching machines	2.47					

State: Texas; County: *See below; Decision No. AM-7,488, date of decision: November 12, 1971.

Description of work: Residential construction consisting of single family homes and garden-type apartments up to and including four stories.

MODIFICATIONS

Classifications	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
14-Texas—4R:						
Bricklayers	$5.00					
Bricklayers' helpers	3.00					
Carpenters	4.40					
Carpenters' helpers	2.50					
Cementmasons	3.25					
Electricians	4.48					
Electricians' helpers	2.54					
Ironworkers, reinforcing	3.00					
Laborers	2.25					
Painters, brush	3.50					
Painters, spray	4.335					
Plumbers	5.05	$0.22	$0.37	$0.50	$0.06	
Plumbers' helpers	3.15					
Roofers	3.50					
Tile setters	3.50					
Tile setters' helpers	2.50					
Power equipment operators:						
Asphalt distributor	3.00					
Asphalt paving machine	2.65					
Bulldozer, 80 hp. and less	3.25					
Bulldozer, over 80 hp	3.50					
Concrete paving curing machine	3.35					
Concrete paving finishing machine	3.00					
Concrete paving longitudinal float	3.15					
Concrete paving mixer	3.50					
Concrete paving saw	2.75					
Concrete paving spreader	3.25					
Concrete paving subgrader	3.50					
Crane, clamshell, backhoe, derrick, dragline, shovel (less than 1½ cu. yds.)	3.40					
Crane, clamshell, backhoe, derrick, dragline, shovel (1½ cu. yds. and over)	3.50					
Crusher and screening plant operator	3.10					
Foundation drill operator (crawler mounted)	3.75					
Foundation drill operator (truck mounted)	3.15					
Foundation drill operator helper	2.75					
Front end loader (1 cu. yd. and less)	2.70					
Front end loader (over 1 cu. yd.)	3.20					
Mixer (over 16 cu. ft.)	3.50					
Motor grader operator, fine grade	3.75					
Motor grader operator	3.00					
Roller, steel wheel (plant-mix pavements)	2.70					
Roller, steel wheel (other)	2.75					
Roller, pneumatic (self-propelled)	2.50					
Scrapers (7 cu. yds. and less)	2.85					
Scrapers (over 7 cu. yds.)	2.90					
Self-propelled-hammer	2.60					
Tractor (crawler-type) 80 hp. and less	2.25					
Tractor (crawler-type) over 80 hp	3.00					
Tractor (pneumatic) 80 hp. and less	2.35					
Tractor (pneumatic) over 80 hp	2.50					
Traveling plant (stabilization)	3.40					
Truckdrivers:						
Single axle, light	2.50					
Single axle, heavy	2.50					
Tandem axle or semitrailer	2.50					
Transit-mix	2.75					
Winch	2.55					
Weighman (truck scales)	2.25					

*Harris, Walker, Montgomery, Austin, Fort Bend, Brazoria, and Matagorda Counties.

State: Texas; County: Harris; Decision No. AM-7,489, date of decision: November 12, 1971.

Description of work: Building construction (excluding single family homes and garden-type apartments up to and including four stories).

MODIFICATIONS

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
14-Texas—1-q:						
Building construction:						
Asbestos workers	$6.32	$0.275	.30			
Boilermakers	6.50	.30	.40		$0.01	
Bricklayers	6.50	.175	.30		.03	
Carpenters:						
Carpenters	5.70	.25	.22		.015	
Millwrights	5.87	.33	.22		.015	
Piledrivermen	5.70	.25	.22			
Cementmasons	5.75	.30	.35		.02	
Electricians	6.66	.25	1%+.15	$0.225	.01	
Elevator constructors	6.60	.195	$0.20	2%+a+b		
Elevator constructors' helper	70%JR	.195	.20	2%+a+b		
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	$5.80	.125	.10		.01	
Ironworkers:						
Structural; ornamental; reinforcing	6.575	.25	.40		.03	
Laborers:						
Common	4.55	.18	.10		.02	
Air tool operator (jackhammer—vibrator)	4.725	.18	.10		.02	
Mason tenders	4.725	.18	.10		.02	
Pipelayers (concrete and clay)	4.725	.18	.10		.02	
Sandblasters	4.725	.18	.10		.02	
Power buggy operator	4.725	.18	.10		.02	
Lather tender	4.825	.18	.10		.02	
Mortar mixers	4.825	.18	.10		.02	
Well driller	5.10	.18	.10		.02	
Well driller helpers	4.675	.18	.10		.02	
Blaster, powderman	4.975	.18	.10		.02	
Plaster tender and hod carrier	4.825	.18	.10		.02	

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
14-Texas—1-q—Continued						
Building construction—Continued						
Lathers	6.35	.20	.15		.02	
Painters:						
Brush	5.585	.175	.25	$0.10	.015	
Roller, steam cleaning, pneumatic tools	5.585	.175	.25	.10	.015	
Spray	5.96	.175	.25	.10	.015	
Sandblasting—waterblasting	5.96	.175	.25	.10	.015	
Steeplejack work, hot materials	6.21	.175	.25	.10	.015	
Pipefitters	5.925	.225	.35		.035	
Plasterers	6.125	.17			.015	
Plumbers	6.20	.22	.42	.50	.06	
Roofers:						
Roofers	5.59	.20	.10	.15	.03	
Kettlemen	4.68	.20	.10	.15	.03	
Helpers	3.48	.20	.10	.15	.03	
Sheet metal workers	5.585	.125	.125	.15	.015	
Soft floor layers	6.00				.03	
Sprinkler fitters	7.60	.25	.40		.05	
Tile setters, marblemasons, mosaic and terrazzo workers	5.00					
Truckdrivers:						
Under 1½ tons; wash, grease, tireman, furl pump operation when used on construction jobs	5.05					
1½ through 2½ tons; dump truck less than 7 yds	5.34					
Over 2½ tons; farm tractors; forklifts, floats	5.50					
Euclids (not self-loading)	5.60					
Warehousemen	5.24					
Material checkers; pickup drivers	6.01					
Welders—receive rate prescribed for craft performing operation to which welding is incidental.						
14-Texas—PEO-1 j:						
Building construction:						
Asphalt plant mixer operator; back filler; blade grader (self-propelled); building elevator (used on construction); bull clam; bulldozer and all types cat tractors; cable way; clam shells, draglines, backhoe; concrete batch plant operator; concrete mixer (14 cu. ft. or more); crane—power operated (all types); crusher operator; derrick—power operated (all types); DW-10 caterpillar, S-18 euclid and similar tractors; elevating grader (self-propelled); forklift used on construction (not including warehousing); foundation boring machine; gasoline or diesel-driven welding machines (7 or more); gradall; heavy-duty mechanic; high-lift; hoist (motor driven, 2 drums or more); locomotive crane; mix mobile; paving mixer (all types); piledriver; pneumatic rollers (self-propelled); pumperete machine operator; push cat operator; scoopmobiles; scraper (heavy type, over 3 cu. yds.); shovel (power operated); trenching machine (all sizes); tug boat operator (assigned to construction); turnapulls; water well drilling machines (used on construction); well point pump; winch truck; all other equipment of similar nature coming under the heavy equipment class, when power operated	6.10	.20	.30		.01	
Air compressors; blade grader (towed); concrete mixer (less than 14 cu. ft.); conveyor; flex plant; form grader; gasoline- or diesel-driven welding machines (on 3 or more, up to 6 machines); generator (gasoline or diesel driven over 1,500 watts); hoist (single drum); pulsometer; pumps; rubber-tired farm tractor with attachments; scraper (3 cu. yds. or less); truck crane driver; wagon drill operator; a light equipment operator may run 1 or 2 106 c.f.m. compressors. All other equipment of similar nature coming under the light equipment class, when power operated	5.52	.20	.30		.01	
Fireman	5.12	.20	.30		.01	
Oiler	5.01	.20	.30		.01	
14-Texas—3 e:						
Incidental paving and utilities:						
Air tool man	2.00					
Asphalt raker	2.75					
Asphalt shoveler	2.50					
Batching plant scaleman	2.60					
Carpenter	3.75					
Carpenter helper	2.95					
Concrete finisher (paving)	3.75					
Concrete finisher helper (paving)	2.50					
Concrete finisher (structures)	3.40					
Concrete finisher helper (structures)	3.00					
Concrete rubber	3.00					
Electrician	4.65					
Fireman	3.00					
Form builder (structures)	3.00					
Form builder helper (structures)	2.75					
Form liner (paving and curb)	3.35					
Form setter (paving and curb)	3.25					
Form setter helper (paving and curb)	2.75					
Form setter (structures)	3.35					
Form setter helper (structures)	2.50					
Laborer, common	2.00					
Laborer, utility man	2.55					
Manhole builder, brick	3.25					
Mechanic	3.75					
Mechanic helper	3.00					
Oiler	2.90					
Painter (structures)	3.90					
Painter helper (structures)	2.80					
Piledriverman	3.60					
Pipelayer	3.00					
Pipelayer helper	2.50					
Reinforcing steel setter (paving)	2.75					
Reinforcing steel setter (structures)	3.40					
Reinforcing steel setter helper	2.60					
Steel worker (structural)	3.00					
Steel worker helper (structural)	2.45					
Sign erector	3.00					
Spreader box man	3.50					
Power equipment operators:						
Asphalt distributor	3.25					
Asphalt paving machine	3.50					
Broom or sweeper operator	2.75					
Bulldozer, 150 hp. and less	3.25					
Bulldozer, over 150 hp	3.50					

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
14-Texas—3 e—Continued						
Incidental paving and utilities—Continued						
Concrete paving curing machine	2.75					
Concrete paving finishing machine	3.25					
Concrete paving mixer	3.90					
Concrete paving saw	3.00					
Concrete paving spreader	3.25					
Crane, clamshell, backhoe, derrick, dragline, shovel (less than 1½ cu. yds.)	3.50					
Crane, clamshell, backhoe, derrick, dragline, shovel (1½ cu. yds. and over)	4.00					
Crusher or screening plant operator	3.25					
Foundation drill operator (truck mounted)	3.50					
Front end loader (2½ cu. yds. and less)	3.15					
Front end loader (over 2½ cu. yds.)	3.50					
Motor grader operator, fine grade	4.00					
Motor grader operator	3.50					
Roller, steel wheel (plant—mix pavements)	2.75					
Roller, steel wheel (other—flat wheel or tamping)	2.75					
Roller, pneumatic (self-propelled)	3.00					
Scrapers (17 cu. yds. and less)	3.00					
Scrapers (Over 17 cu. yds.)	3.25					
Tractor (crawler-type) 150 hp. and less	2.75					
Tractor (crawler-type) over 150 hp	3.15					
Tractor (pneumatic) 80 hp. and less	2.55					
Tractor (pneumatic) over 80 hp	2.75					
Traveling mixer	2.50					
Trenching machine, heavy	4.00					
Wagon drill, boring machine, or post hole driller operator	3.00					
Truckdrivers:						
Single axle, light	2.50					
Single axle, heavy	2.75					
Tandem axle or semitrailer	2.50					
Lowboy—float	2.75					
Winch	3.00					
Vibrator man (hand-type)	2.00					
Welder	4.60					
Welder helper	3.00					

Footnotes:
a. First 6 months—none; 6 months to 5 years—2 percent; over 5 years—4 percent of basic hourly rates.
b. Paid holidays—A through F.

Paid holidays:
A—New Years' Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.

MODIFICATIONS

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-3,630—36 F.R. 17087, Adams, Arapahoe, southeast portion of Boulder (including city of Boulder) Denver, northern portion of Douglas, northern portion of Elbert, Jefferson, and the southwestern portion of Weld Counties, Colo. Modification No. 2						
CHANGE:						
Heavy and highway construction:						
Carpenters:						
Carpenters	$5.72	$0.35	$0.35	$0.20	$0.015	
Carpenters used underground	5.87	.35	.35	.20	.015	
Carpenters working on creosoted material—highwork, 40 ft. above ground on exposed scaffold or boatswains chair	5.97	.35	.35	.20	.015	
Piledriving work—sawmen continuously assigned to 1½ hp. saws at jobsite	5.97	.35	.35	.20	.015	
Colorado 1—PEO 1, 2, 3:						
Power equipment operators (other than for work in tunnels, shafts, and raises):						
Group I:						
Asphalt screed operator; brakeman; drill operator—William MF, similar and smaller; helper to heavy-duty mechanic and/or welder; tractor operator (under 70 hp.); oiler (assistant to engineer)	4.80	.26	.25		.03	
Group II:						
Air compressor operator; ditch witch trenching machine and similar; equipment lubricating and service engineer; forklift operator; haulage motorman (brakeman); operators of 1 or more light plants, welding machines, compressors 360 c.f.m. or less, pumps, generators; pugmill operator; pugmill (more than 1); pump operator; portable screening plant with or without a spray bar; screening plants—with classifier; self-propelled rollers—5 tons and under	5.15	.26	.25		.03	
Group III:						
Asphalt plant operator; backfiller operator; bituminous spreader or laydown machine; cableway signalman; caissons drill operator (William MF, similar and larger); C.M.I. and similar operator; concrete finish machine; concrete gang, saws on concrete paving; concrete mixer (less than 1 yd.); concrete placement pumps (under 8 in.); conveyor (handling building materials); distributors, bituminous surfaces; drill operators (diamond or core); drill rigs (rotary, churn or cable tool); elevating graders; engineer fireman; fireman or tank heater, road; grout machine; gunnite machine; hoists operator (1 drum); loader operator (Barber Greene, etc.); loader (up to and including 6 cu. yd.); machine doctor mechanic; motor grader (blade) operator; road stabilization machine; rollers—self-propelled—all types over 5 tons; sandblasting machine; scrapers—single bowl—under 40 cu. yd.; single unit portable crusher—with or without washer; tile tamper, wheel mounted; tractor operator (70 hp. and over) (with or without attachments); trenching machine operator rigged to dig 7 ft. or over; welder; winch operator on truck; concrete batching plants	5.50	.26	.25		.03	
Group IV:						
Concrete mixer (over 1 cu. yd.); concrete paver 34 E or similar; concrete placement pumps (8 in. and over); crane operator (50 tons and under); hoists (2 drums); loader—over 6 cu. yd.; mechanic—welder (heavy-duty); mixermobile; multiple unit portable crusher—with or without washer; piledriver; power shovels, draglines, clamshells, and backhoes (6 cu. yd. and under) (¾ cu. yd. or over); scooper; scraper—all tandem bowls; scraper—single bowl including pups 40 cu. yd. and over; self-propelled hydrocrane; tractor with side boom; truck mounted hydrocrane	5.65	.26	.25		.03	
Group V:						
Climbing tower crane; crane operator—over 50 tons; derrick; electric rail-type tower crane; hoist (2-drum or more); power shovels, draglines, clamshells, and Backhoes (over 5 cu. yd.); quad mine and similar push unit	5.80	.26	.25		.03	
Group VI:						
Cableway operator; crawler or truck mounted tower crane; wheel excavator	5.95	.26	.25		.03	

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
CHANGE—Continued						
Colorado 1—PEO 1, 2, 3—Continued						
Power equipment operators (for work in tunnels, shafts, and raises):						
Air tractors	5.65	.26	.25		.03	
Brakeman	4.95	.26	.25		.03	
Compressor operator (servicing tunnels, shafts and raises)	5.40	.26	.25		.03	
Concrete placement pumps—8 in. and over discharge	5.80	.26	.25		.03	
Concrete placement pump under 8 in. discharge	5.65	.26	.25		.03	
Grout machine	5.65	.26	.25		.03	
Gunnite machine	5.65	.26	.25		.03	
Jumbo form operator	5.65	.26	.25		.03	
Mole operator	6.20	.26	.25		.03	
Motorman (brakeman)	5.30	.26	.25		.03	
Mucking machines and front end loaders underground	5.80	.26	.25		.03	
Slusher	5.80	.26	.25		.03	
WD No. AM-3,651—36 F.R. 17074, El Paso County, Colo. Modification No. 2						
CHANGE:						
Carpenters (heavy and highway):						
Carpenters	5.72	.35	.35	.20	.015	
Carpenters used underground	5.87	.35	.35	.20	.015	
Carpenters working on creosoted material—highwork, 40 ft. above ground on exposed scaffold or boatswains chair	5.97	.35	.35	.20	.015	
Piledriving work—sawmen continously assigned to 1½ hp. saws at jobsite	5.97	.35	.35	.20	.015	
Colorado 1—PEO 1, 2, 3:						
Power equipment operators (other than for work in tunnels, shafts, and raises)						
Group I:						
Asphalt screed operator; brakeman; drill operator—William MF, similar and smaller; helper to heavy-duty mechanic and/or welder; tractor operator (under 70 hp.); oiler (assistant to engineer)	4.80	.26	.25		.03	
Group II:						
Air compressor operator; ditch witch trenching machine and similar; equipment lubricating and service engineer; forklift operator; haulage motorman (brakeman); operators of 1 or more light plants, welding machines, compressors 300 c.f.m. or less, pumps, geuerators; pugmill operator; pugmill (more than 1); pump operator; portable screening plant with or without a spray bar; screening plants—with classifier; self-propelled rollers—5 tons and under	5.15	.26	.25		.03	
Group III:						
Asphalt plant operator; backfiller operator; bituminous spreader or laydown machine; cableway signalman; caissons drill operator (William MF, similar and larger; C.M.I. and similar operator; concrete finish machine; concrete gang, saws on concrete paving; concrete mixer (less than 1 yd.); concrete placement pumps (under 8 in.); conveyor (handling building materials); distributors, bituminous surfaces; drill operators (diamond or core); drill rigs (rotary, churn or cable tool); elevating graders; engineer firemen; fireman or tank heater, road; grout machine; gunnite machine; hoists operator (1 drum); loader operator (Barber, Greene, etc.); loader (up to and including 6 cu. yd.); machine doctor mechanic; motor grader (blade) operator; road stabilization machine; rollers—self-propelled—all types over 5 tons; sandblasting machine; scrapers—single bowl—under 40 cu. yd.; single unit portable crusher—with or without washer; tile tamper, wheel mounted; tractor operator (70 hp. and over) (with or without attachments); trenching machine operator rigged to dig 7 ft. or over; welder; winch operator on truck; concrete batching plants	5.50	.26	.25		.03	
Group IV:						
Concrete mixer (over 1 cu. yd.); concrete paver 34 E or similar; concrete placement pumps (8 in. and over); crane operator (50 tons and under); hoists (2 drums); loader—over 6 cu. yd.; mechanic—welder (heavy-duty); mixermobile; multiple unit portable crusher—with or without washer; piledriver; power shovels, draglines, clamshells, and backhoes (5 cu. yd. and under) (¾ cu. yd. or over); scooper; scraper—all tandem bowls; scraper—single bowl including pups 40 cu. yd. and over; self-propelled hydrocrane; tractor with side boom; truck mounted hydrocrane	5.65	.26	.25		.03	
Group V:						
Climbing tower crane; crane operator—over 50 tons; derrick; electric rail-type tower crane; hoist (3-drum or more); power shovels, draglines, clamshells, and backhoes (over 5 cu. yd.); quad mine and similar push unit	5.80	.26	.25		.03	
Group VI:						
Cableway operator; crawler or truck mounted tower crane; wheel excavator	5.95	.26	.25		.03	
Power equipment operators (for work in tunnels, shafts, and raises):						
Air tractors	5.65	.26	.25		.03	
Brakeman	4.95	.26	.25		.03	
Compressor operator (servicing tunnels, shafts and raises)	5.40	.26	.25		.03	
Concrete placement pumps—8 in. and over discharge	5.80	.26	.25		.03	
Concrete placement pump under 8 in. discharge	5.65	.26	.25		.03	
Grout machine	5.65	.26	.25		.03	
Gunnite machine	5.65	.26	.25		.03	
Jumbo form operator	5.65	.26	.25		.03	
Mole operator	6.20	.26	.25		.03	
Motorman (brakeman)	5.30	.26	.25		.03	
Mucking machines and front end loaders underground	5.80	.26	.25		.03	
Slusher	5.80	.26	.25		.03	
WD No. AM-3,652—36 F.R. 17079, statewide counties, Colorado. Modification No. 2						
CHANGE:						
Carpenters	5.72	.35	.35	.20	.015	
Colorado 1—PEO 1, 2, 3:						
Power equipment operators (other than for work in tunnels, shafts, and raises):						
Group I:						
Asphalt screed operator; brakeman; drill operator—William MF, similar and smaller; helper to heavy-duty mechanic and/or welder; tractor operator (under 70 hp.); oiler (assistant to engineer)	4.80	.26	.25		.03	
Group II:						
Air compressor operator; ditch witch trenching machine and similar; equipment lubricating and service engineer; forklift operator; haulage motorman (brakeman); operators of 1 or more light plants, welding machines, compressors 300 c.f.m. or less, pumps, generators; pugmill operator; pugmill (more than 1); pump operator; portable screening plant with or without a spray bar; screening plants—with classifier; self-propelled rollers—5 tons and under	5.15	.26	.25		.03	

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
CHANGE—Continued						
Colorado 1—PEO 1, 2, 3—Continued						
Power equipment operators (other than for work in tunnels, shafts, and raises)—Continued						
Group III:						
Asphalt plant operator; backfiller operator; bituminous spreader or laydown machine; cableway signalman; caissons drill operator (William MF, similar and larger); C.M.I. and similar operator; concrete finish machine; concrete gang, saws on concrete paving; concrete mixer (less than 1 yd.); concrete placement pumps (under 8 in.); conveyor (handling building materials); distributors, bituminous surfaces; drill operators (diamond or core); drill rigs (rotary, churn, or cable tool); elevating graders; engineer fireman; fireman or tank heater, road; grout machine; gunnite machine; hoists operator (1 drum); loader operator (Barber Greene, etc.); loader (up to and including 6 cu. yd.); machine doctor mechanic; motor grader (blade) operator; road stabilization machine; rollers—self-propelled—all types over 5 tons; sandblasting machine; scrapers—singlebowl—under 40 cu. yd.; single unit portable crusher—with or without washer; tile tamper, wheel mounted; tractor operator (70 hp. and over) (with or without attachments); trenching machine operator rigged to dig 7 ft. or over; welder: winch operator ou truck; concrete batching plants	5.50	.26	.25		.03	
Group IV:						
Concrete mixer (over 1 cu. yd.); concrete paver 34 E or similar; concrete placement pumps (8 in. and over); crane operator (50 tons and under); hoists (2 drums); loader—over 6 cu. yd.; mechanic—welder (heavy-duty); mixermobile; multiple unit portable crusher—with or without washer; piledriver; power shovels, draglines, clamshells, and backhoes (5 cu. yd. and under) (¾ cu. yd. or over); scooper; scraper—all tandem bowls; scraper—single bowl including pups 40 cu. yd. and over; self-propelled hydrocrane; tractor with side boom; truck mounted hydrocrane	5.65	.26	.25		.03	
Group V:						
Climbing tower crane; crane operator—over 50 tons; derrick; electric rail type tower crane; hoist (3 drum or more); power shovels, draglines, clamshells and backhoes (over 5 cu. yd.); quad mine and similar push unit	5.80	.26	.25		.03	
Group VI:						
Cableway operator; crawler or truck mounted tower crane; wheel excavator	5.95	.26	.25		.03	
Power equipment operators (for work in tunnels, shafts, and raises):						
Air tractors	5.65	.26	.25		.03	
Brakeman	4.95	.26	.25		.03	
Compressor operator (servicing tunnels shafts and raises)	5.40	.26	.25		.03	
Concrete placement pumps—8 in. and over discharge	5.80	.26	.25		.03	
Concrete placement pump under 8 in. discharge	5.65	.26	.25		.03	
Grout machine	5.65	.26	.25		.03	
Gunnite machine	5.65	.26	.25		.03	
Jumbo form operator	5.65	.26	.25		.03	
Mole operator	6.20	.26	.25		.03	
Motorman (brakeman)	5.30	.26	.25		.03	
Mucking machines and front end loaders underground	5.80	.26	.25		.03	
Slusher	5.80	.26	.25		.03	
WD No. AM-376—36 F.R. 15791, Calhoun County, Mich., Modification No. 4						
CHANGE:						
Piledrivermen (marine)	7.05	.35	.40		.01	
ADD:						
Carpenters—heavy	6.55	.30	.30		.01	
Piledrivermen—heavy	6.65	.30	.30		.01	
WD No. AM-377—36 F.R. 15795, Charlevoix County, Mich., Modification No. 3						
ADD:						
Carpenters—heavy	6.44	.30	.30		.01	
Piledrivermen—heavy	6.44	.30	.30		.01	
WD No. AM-379—36 F.R. 15804, Emmet County, Mich., Modification No. 3						
ADD:						
Carpenters—heavy	6.39	.30	.30		.01	
Piledrivermen—heavy	6.39	.30	.30		.01	
WD No. AM-381—36 F.R. 15813, Gogebic County, Mich., Modification No. 2						
ADD:						
Carpenters—heavy	6.39	.30	.30		.01	
Piledrivermen—heavy	6.39	.30	.30		.01	
WD No. AM-382—36 F.R. 15817, Grand Traverse and Leelanau Counties, Mich., Modification No. 3						
ADD:						
Carpenters—heavy	6.44	.30	.30		.01	
Piledrivermen—heavy	6.44	.30	.30		.01	
WD No. AM-383—36 F.R. 15822, Huron County, Mich., Modification No. 2						
ADD:						
Carpenters—heavy	6.68	.30	.30		.01	
Piledrivermen—heavy	6.68	.30	.30		.01	
WD No. AM-384—36 F.R. 15828, Ingham County, Mich. Modification No. 2						
CHANGE:						
Carpenters	7.70	.35	.20		.01	
Piledrivermen	7.70	.35	.20		.01	
WD No. AM-386—36 F.R. 15837, Kent County, Mich. Modification No. 4						
ADD:						
Carpenters—heavy	6.55	.30	.30		.01	
Piledrivermen—heavy	6.55	.30	.30		.01	
WD No. AM-387—36 F.R. 15842, Keweenaw, Houghton, Baraga, Ontonagon Counties, Mich. Modification No. 2						
ADD:						
Carpenters—heavy	6.39	.30	.30		.01	
Piledrivermen—heavy	6.39	.30	.30		.01	
WD No. AM-388—36 F.R. 15845, Marquette County, Mich. Modification No. 2						
ADD:						
Carpenters—heavy	6.39	.30	.30		.01	
Piledrivermen—heavy	6.39	.30	.30		.01	
WD No. AM-389—36 F.R. 15850, Mason County, Mich. Modification No. 3						
CHANGE:						
Carpenters	7.10	.35	.40		.01	
Soft floor layers	7.10	.35	.40		.01	
Piledrivermen (marine construction)	7.05	.35	.40		.01	
ADD:						
Carpenters—heavy	6.55	.30	.30		.01	
Piledrivermen—heavy	6.65	.30	.30		.01	

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-390—36 F.R. 15855, Muskegon and Oceana Counties, Mich. Modification No. 3						
CHANGE:						
Piledrivermen (marine construction)	7.05	.35	.40		.01	
Carpenters (heavy)	6.55	.30	.30		.01	
Piledrivermen (heavy)	6.55	.30	.30		.01	
WD No. AM-391—36 F.R. 15861, Saginaw County, Mich. Modification No. 3						
ADD:						
Carpenters—heavy	6.68	.30	.30		.01	
Piledrivermen—heavy	6.68	.30	.30		.01	
WD No. AM-3,616—36 F.R. 16863, Clay, Jackson, Platte, and Ray Counties, Mo., Modification No. 3						
CHANGE:						
Building construction:						
Sheet metal workers	8.225	.25	.25			
WD No. AM-1,858—36 F.R. 16866, Delaware County, Pa. Modification No. 2						
Change:						
Pennsylvania—51-LAB-1-S:						
Building construction:						
Laborers:						
Stripping and dismantling concrete form work, loading, unloading, carrying and handling of all reinforced steel and steel mesh, handling lumber and other building materials, operating jackhammers, paving breakers and all other pneumatic tools, building scaffolds, raking, shoveling and tamping of asphalt, spading and concrete pit work, grading, form pinning, shoring, demolition except burners, laying conduits and ducts, sheathing, lagging, laying nonmetallic pipe and caulking, all other types of laborers	5.55	.20	.10			
Mason tender, power buggies, burners on demolition	5.65	.20	.10			
Wagon drill operator (single)	5.70	.20	.10			
Powdermen, wagon drill operator (multiple)	5.85	.20	.10			
Circular caissons excavation:						
Caisson groundmen	5.85	.20	.10			
Caisson bottomman	5.95	.20	.10			
Underpinning excavation:						
Laborers, working at depth of 8 ft. or under	5.85	.20	.10			
Yard workers	5.49	.20	.10			
ADD:						
Pennsylvania—51-LAB-2-3-E:						
Heavy and highway construction laborers:						
Powdermen, multiple wagon drill operators	5.85	.15	.10			
Finished surface asphalt rakers, operators, pipelayers, caulkers, conduct and duct layers	5.65	.15	.10			
Other pneumatic tool operators, laborers stripping concrete forms, carrying or handling lumber, steel and steel mesh and other concrete materials, form pinners, toolroom men, mortar mixers, concrete pitmen and spaders, grademen, asphalt shovelers, men working in sheeting, men working in shoring, men working in lagging, laborers assisting in the setting of cut stone, granite, or artificial stone, hod carriers, scaffold builders	5.55	.15	.10			
Wagon drill operators	5.70	.15	.10			
Yard workers:						
Laborers, scale mixermen, burnermen, dustmen, feeders	5.45	.15	.10			
Free air tunnels:						
Miners, miners bore driver, blasters, drillers, pneumatic shield operators, welders, and burners	5.975	.15	.10			
Miners' helpers, form setters	5.825	.15	.10			
Trackmen, brakemen, groutmen, bottom shaft men, all others in free air tunnels	5.675	.15	.10			
Circular caisson excavation bottommen	5.95	.15	.10			
Underpinning excavation bottommen	5.85	.15	.10			
All other laborers on construction work, with the exception of workers in compressed air	5.55	.15	.10			
WD No. AM-1,860—36 F.R. 16906, Montgomery County, Pa. Modification No. 2						
CHANGE:						
Pennsylvania—51-LAB-1-S:						
Building construction:						
Laborers:						
Stripping and dismantling concrete form work, loading, unloading, carrying, and handling of all reinforced steel and steel mesh, handling lumber and other building materials, operating jackhammers, paving breakers and all other pneumatic tools, building scaffolds, raking, shoveling, and tamping of asphalt, spading and concrete pit work, grading, form pinning, shoring, demolition except burners, laying conduits and ducts, sheathing, lagging, laying nonmetallic pipe and caulking, all other types of laborers	5.55	.20	.10			
Mason tender, power buggies, burners on demolition	5.65	.20	.10			
Wagon drill operator (single)	5.70	.20	.10			
Powdermen, wagon drill operator (multiple)	5.85	.20	.10			
Circular caissons excavation:						
Caisson groundmen	5.85	.20	.10			
Caisson bottomman	5.95	.20	.10			
Underpinning excavation:						
Laborers, working at depth of 8 ft. or under	5.85	.20	.10			
Yard workers	5.49	.20	.10			
Pennsylvania—51-LAB-2-3-E:						
Heavy and highway construction laborers:						
Powdermen, multiple wagon drill operator	5.85	.15	.10			
Finished surface asphalt rakers, operators, pipelayers, caulkers, conduct and duct layers	5.65	.15	.10			
Other pneumatic tool operators, laborers stripping concrete forms, carrying or handling lumber, steel and steel mesh and other concrete materials, form pinners, toolroom men, mortar mixers, concrete pitmen and spaders, grademen, asphalt shovelers, men working in sheeting, men working in shoring, men working in lagging, laborers assisting in the setting of cut stone, granite, or artificial stone, hod carriers, scaffold builders	5.55	.15	.10			
Wagon drill operators	5.70	.15	.10			
Yard workers:						
Laborers, scale mixermen, burnermen, dustmen, feeders	5.45	.15	.10			
Free air tunnels:						
Miners, miners bore driver, blasters, drillers, pneumatic shield operators, welders, and burners	5.975	.15	.10			
Miners' helpers, form setters	5.825	.15	.10			
Trackmen, brakemen, groutmen, bottom shaft men, all others in free air tunnels	5.675	.15	.10			
Circular caisson excavation bottommen	5.95	.15	.10			
Underpinning excavation bottommen	5.85	.15	.10			
All other laborers on construction work, with the exception of workers in compressed air	5.55	.15	.10			

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-1, 862—36 F.R. 16314, Philadelphia County, Pa. Modification No. 2						
CHANGE:						
Pennsylvania—51-LAB-1-S:						
Building construction:						
Laborers:						
Stripping and dismantling concrete form work, loading, unloading, carrying, and handling of all reinforced steel and steel mesh, handling lumber and other building materials, operating jackhammers, paving breakers and all other pneumatic tools, building scaffolds, raking, shoveling, and tamping of asphalt, spading and concrete pit work, grading, form pinning, shoring, demolition except burners, laying conduits and ducts, sheathing, lagging, laying nonmetallic pipe and caulking, all other types of laborers	5.55	.20	.10			
Mason tender, power buggies, burners on demolition	5.65	.20	.10			
Wagon drill operator (single)	5.70	.20	.10			
Powdermen, wagon drill operator (multiple)	5.85	.20	.10			
Circular caissons excavation:						
Caisson groundmen	5.85	.20	.10			
Caisson bottomman	5.95	.20	.10			
Underpinning excavation:						
Laborers, working at depth of 8 ft. or under	5.85	.20	.10			
Yard workers	5.49	.20	.10			
Pennsylvania—51-LAB-2-3-E:						
Heavy and highway construction laborers:						
Powdermen, multiple wagon drill operator	5.85	.15	.10			
Finished surface asphalt rakers, operators, pipelayers, caulkers, conduct and duct layers	5.65	.15	.10			
Other pneumatic tool operators, laborers stripping concrete forms, carrying or handling lumber, steel and steel mesh and other concrete materials, form pinners, toolroom men, mortar mixers, concrete pitmen and spaders, grademen, asphalt shovelers, men working in sheeting, men working in shoring, men working in lagging, laborers assisting in the setting of cut stone, granite, or artificial stone, hod carriers, scaffold builders	5.55	.15	.10			
Wagon drill operators	5.70	.15	.10			
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Laborers, scale mixermen, burnermen, dustmen, feeders	5.45	.15	.10			
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Miners, miners bore driver, blasters, drillers, pneumatic shield operators, welders, and burners	5.975	.15	.10			
Miners' helpers, form setters	5.825	.15	.10			
Trackmen, brakemen, groutmen, bottom shaft men, all others in free air tunnels	5.675	.15	.10			
Circular caisson excavation bottommen	5.95	.15	.10			
Underpinning excavation bottommen	5.85	.15	.10			
All other laborers on construction work, with the exception of workers in compressed air	5.55	.15	.10			
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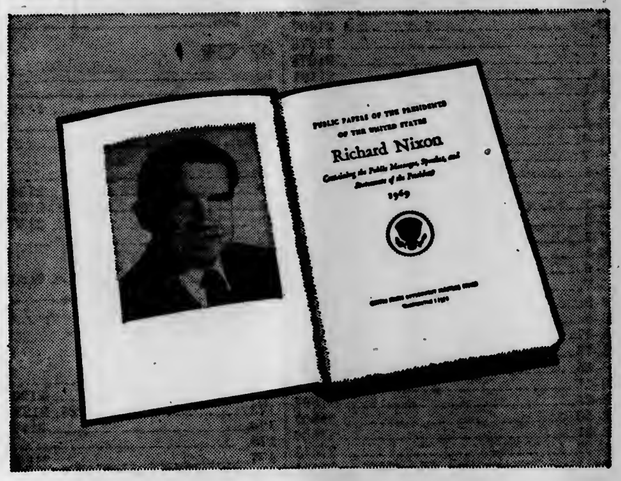

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SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 722—COTTON

Subpart—1972 Crop of Upland Cotton; Base Acreage Allotments and National Production Goal

Sections 722.463 to 722.465 are issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.) (referred to as the "act"), with respect to the 1972 crop of upland cotton (referred to as "cotton"). The purpose of these provisions is to (1) proclaim a national production goal; (2) establish a national base acreage allotment; and (3) apportion the national base acreage allotment to States. Section 722.466 is issued pursuant to the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.). This section establishes the cropland set-aside percentage. The latest available statistics of the Federal Government have been used in making determinations under these provisions.

Notice that the Secretary was preparing to make determinations with respect to these provisions was published in the FEDERAL REGISTER on September 14, 1971 (36 F.R. 18412), in accordance with 5 U.S.C. 553. The views and recommendations received in response to such notice have been duly considered.

In order that State and county ASC committees may complete the necessary work for issuing farm allotment notices in a timely manner for cotton producers to complete their plans for the 1972 crop of cotton, it is essential that these provisions be made effective as soon as possible. Accordingly, §§ 722.463 to 722.466 shall be effective upon filing this document with the Director, Office of the Federal Register. The material previously appearing in these sections under centerhead "1971 Crop of Upland Cotton; Base Acreage Allotments" remains in full force and effect as to the crop to which it was applicable.

§ 722.463 National production goal for the 1972 crop of cotton.

The national production goal for the 1972 crop of cotton is hereby proclaimed to be in the amount of 12,949,000 standard bales of cotton determined in accordance with the formula prescribed under section 342a of the act, based on the following data:

	Running bales
(1) Estimated domestic consumption, 1972–73 marketing year	8,000,000
(2) Estimated exports, 1972–73 marketing year	3,300,000
(3) Allowance for market expansion (5 percent of sum of (1) and (2))	565,000
(4) Adjustments to assure adequate stocks	1,084,000
Total	12,949,000
(5) 50 percent of the average offtake for the preceding 3 marketing years (1969, 1970, and estimated 1971)	5,549,000

§ 722.464 National base acreage allotment for the 1972 crop of cotton.

The national base acreage allotment for the 1972 crop of cotton shall be 11,500,000 acres, determined in accordance with section 350(a) of the act.

§ 722.465 Apportionment of national base acreage allotment to the States.

The national base acreage allotment of 11,500,000 acres is apportioned to the States in accordance with section 350(b) of the act as follows:

States:	*State allotment (acres)*
Alabama	677,414
Arizona	238,783
Arkansas	955,002
California	531,264
Florida	22,154
Georgia	582,506
Illinois	2,068
Kansas	8
Kentucky	4,922
Louisiana	400,355
Mississippi	1,099,926
Missouri	256,925
Nevada	2,530
New Mexico	123,711
North Carolina	312,235
Oklahoma	534,493
South Carolina	477,239
Tennessee	381,846
Texas	4,885,568
Virginia	11,051

§ 722.466 Cropland set-aside percentage.

The cropland set-aside percentage for the 1972 crop of cotton shall be 20 percent determined in accordance with section 103(e)(4)(A) of the Agricultural Act of 1949, as amended.

(Secs. 301, 342a, 350, 103, 52 Stat. 38, as amended, 84 Stat. 1358; 63 Stat. 1051; 7 U.S.C. 1301, 1342a, 1350, 1421)

Effective date: Date of filing this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on November 10, 1971.

J. PHIL CAMPBELL,
Acting Secretary.

[FR Doc.71-16631 Filed 11-11-71;9:48 am]

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Limitation of Handling

§ 910.807 Lemon Regulation 507.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 36 F.R. 9061), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy

of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 9, 1971.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period November 14 through November 20, 1971, is hereby fixed at 175,000 cartons.

(2) As used in this section, "handled" and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 11, 1971.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-16728 Filed 11-12-71;11:48 am]

[Grapefruit Reg. 81]

PART 912—GRAPEFRUIT GROWN IN THE INDIAN RIVER DISTRICT IN FLORIDA

Limitation of Handling

§ 912.381 Grapefruit Regulation 81.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 912, as amended (7 CFR Part 912), regulating the handling of grapefruit grown in the Indian River District in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Indian River Grapefruit Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Indian River grapefruit, and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time; are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Indian River grapefruit; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 11, 1971.

(b) *Order.* (1) The quantity of grapefruit grown in the Indian River District which may be handled during the period November 15, 1971 through November 21, 1971, is hereby fixed at 145,000 standard packed boxes.

(2) As used in this section, "handled," "Indian River District," "grapefruit," and "standard packed box" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 12, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-16731 Filed 11-12-71;11:48 am]

[Grapefruit Reg. 51]

PART 913—GRAPEFRUIT GROWN IN THE INTERIOR DISTRICT IN FLORIDA

Limitation of Handling

§ 913.351 Grapefruit Regulation 51.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 913, as amended (7 CFR Part 913), regulating the handling of grapefruit grown in the Interior District in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Interior Grapefruit Marketing Committee, established under said marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such grapefruit as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Interior grapefruit, and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee; and information concerning such provisions and effective time has been disseminated among handlers of such Interior grapefruit; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 11, 1971.

(b) *Order.* (1) The quantity of grapefruit grown in the Interior District which may be handled during the period November 15, 1971, through November 21, 1971, is hereby fixed at 225,000 standard packed boxes.

(2) As used in this section, "handled," "Interior District," "grapefruit," and "standard packed box" have the same meaning as when used in said marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 12, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-16729 Filed 11-12-71;11:48 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 71-SW-63; Amdt. 39-1330]

PART 39—AIRWORTHINESS DIRECTIVES

Bell Models 206A and 206A-1 Helicopters

Amendment 39-1190 (36 F.R. 6826, AD 71-8-3), imposes a limitation against flight into falling or blowing snow on all Bell Model 206A-1 helicopters and on Bell Model 206A helicopters equipped with Particle Separator Kit, Self Purging, P/N 206-706-201-1 or P/N 206-706-200-1, certificated in all categories. After issuing Amendment 39-1190, further redesign, testing, and evaluation revealed that helicopters of these types could be expected to operate safely during flight into snow providing certain operating limitations are observed in conjunction with installation of a modified engine induction system particle separator. Therefore, AD 71-8-3 is being amended to recognize this capability.

Since this amendment to AD 71-8-3 provides a means of relief of a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1190 (36 F.R. 6826), AD 71-8-3, is amended to provide alternate limitations and configurations eligible for these helicopters, and to limit the applicability of this directive to those helicopters requiring modification to be eligible for the alternate limits.

BELL: Applies to Model 206A-1 helicopters, serial numbers 39998 through 40994 and to all Model 206A helicopters equipped with Particle Separator Kit, Self Purging, P/N 206-706-201-1, or P/N 206-706-200-1, certificated in all categories.

Compliance required before further flight in snow, but no later than 25 hours time in service after the effective date of this airworthiness directive, unless already accomplished.

1. To prevent power interruption caused by ingestion into the engine of snow or ice which may have accumulated in the engine inlet during flight, crew notification of a limitation against flight into snow must be accomplished as follows:

a. Install a permanent type placard in full view of the pilot as near as possible to the basic limitations placard, worded as follows:

"FLIGHT INTO FALLING OR BLOWING SNOW IS NOT PERMITTED"

b. If approved placards are unavailable, the owner or operator may make and use a placard containing the above words. Letters must be at least one-eighth inch in height.

2. Alternatively, upon accomplishment of modifications listed below, the placard required by paragraph 1. may be removed and flight operations may be conducted in falling or blowing snow for periods not in excess of 90 minutes, provided flight visibility due to snow is not less than one-half mile.

a. For the Model 206A-1, S/N 39998 through 40994, install Particle Separator Assembly, P/N 206-062-819-5 in accordance with Bell Helicopter Company Drawing 206-062-800-5. Incorporate revised pages A, 7, 13, 15, and 20, approved and dated October 26, 1971, into the Model 206A-1 Flight Manual, approved and dated May 5, 1969.

b. For Model 206A helicopters equipped with Particle Separator Kit, Self Purging, P/N 206-706-201-1 or P/N 206-706-200-1, modify and/or replace particle separator system components as indicated in applicable sections of Bell Service Instruction No. 206-89, revised October 25, 1971, or later FAA approved revision. Incorporate revised pages A, B, and D, approved and dated October 18, 1971, into the Model 206A Flight Manual, approved and dated October 20, 1966, or later FAA approved reissues. Incorporate revised pages 1, 2, and 5, approved and dated October 18, 1971, into the Model 206A Flight Manual Supplement titled "Snow Particle Separator—Engine Air Induction System", approved and dated July 23, 1970.

Alternate means of compliance or equivalent replacement parts may be acceptable if approved by the Chief, Engineering and Manufacturing Branch, Flight Standards Division, Southwest Region, Federal Aviation Administration, Fort Worth, Tex.

Amendment 39-1190 became effective April 12, 1971.

This amendment becomes effective November 18, 1971.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Fort Worth, Tex., on November 4, 1971.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.71-16604 Filed 11-12-71;8:46 am]

Chapter V—National Aeronautics and Space Administration

PART 1204—ADMINISTRATIVE AUTHORITY AND POLICY

Subpart 1204.11—Environmental Quality and Control

1. New Subpart 1204.11 is added as follows:

Sec.
1204.1100 Scope.
1204.1101 Policy.
1204.1102 Implementation.
1204.1103 Guidelines for the preparation of environmental statements.

AUTHORITY: The provisions of this Subpart 1204.11 are issued pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); section 2(f) of Executive Order 11514 (35 F.R. 4247, March 5, 1970); the guidelines issued by the Council on Environmental Quality (36 F.R. 7724, April 23, 1971); and the Office of Management and Budget Bulletin No. 72-6 (September 14, 1971).

§ 1204.1100 Scope.

This Subpart 1204.11 sets forth the National Aeronautics and Space Administration (NASA) policy guidelines concerning administering agency activities for the protection and enhancement of environmental quality and the preparation of environmental statements.

§ 1204.1101 Policy.

It is NASA policy to:

(a) Use all practicable means, consistent with NASA's statutory authority, available resources, and national policy, to protect and enhance the quality of the environment.

(b) Provide for proper and adequate attention to environmental protection and enhancement in all NASA activities, including those performed under contract or grant.

(c) Use organized, systematic, timely, and effective approaches to meet NASA's responsibilities in environmental matters.

(d) Pursue appropriate research and development which may identify and develop the potential for application of technologies useful in the protection and enhancement of environmental quality.

(e) Cooperate as fully as possible with State, local, and regional authorities in the pursuit of environmental protection and enhancement objectives wherever NASA facilities are located.

(f) Instill an environmental awareness in all NASA employees and contractors.

§ 1204.1102 Implementation.

(a) The Associate Administrator, NASA, or his designee, shall:

(1) Coordinate the formulation and revision of NASA policies and positions on matters pertaining to environmental protection and enhancement; and

(2) In cooperation with the Assistant Administrator for DOD and Interagency Affairs, represent NASA in working with other governmental agencies and interagency organizations in the formulation, revision, and uniform understanding and application of Government-wide policies relating to the environment.

(b) Consistent with Government-wide and NASA policies and positions developed in accordance with paragraph (a) of this § 1204.1102, the Assistant Administrator for Administration or his designee shall:

(1) Develop and insure the implementation of Agencywide standards and procedures for protection and enhancement of environmental quality, including those necessary to insure NASA compliance with applicable laws and regulations;

(2) Determine the resources needed by NASA to comply with applicable laws and regulations and to implement the Agency's policies on protection and enhancement of environmental quality;

(3) Establish and maintain appropriate working relationships with the Council on Environmental Quality, Environmental Protection Agency, the Departments of Health, Education, and Welfare and of the Interior, and other national, State, and local governmental agencies; and

(4) Acquire information for and prepare NASA reports on environmental matters and NASA comments on other agency reports required by law and regulation.

(c) Officials in charge of headquarters offices are responsible for identifying, within their respective areas, all matters which may have an effect on protection and enhancement of environmental quality, and insuring that necessary actions are taken to meet the requirements of applicable laws and regulations. Program and institutional directors are additionally responsible for giving high priority in the pursuit of program objectives to the identification, analysis, and proposal of research and development which if conducted by NASA or other agencies may contribute to the achievement of beneficial environmental objectives.

(d) Each NASA Field Installation Director is responsible for:

(1) Implementing Agency-wide policies, standards, and procedures on protection and enhancement of environmental quality, and supplementing them as appropriate in local circumstances.

(2) Specifically assigning responsibilities for environmental activities under the installation's cognizance to appropriate subordinates, while providing for the coordination of all such activities.

(3) Establishing and maintaining appropriate working relationships with national, State, regional, and local governmental agencies responsible for environmental regulation in localities in which the field installation conducts its activities.

§ 1204.1103 Guidelines for the preparation of environmental statements.

(a) *Criteria.* (1) The basic criteria to be used in determining whether proposed legislation, projects, or activities have the potential to have a significant effect on the quality of the human environment are contained in the guidelines issued by the Council on Environmental Quality (hereafter referred to as "CEQ Guidelines") and published in the FEDERAL REGISTER (36 F.R. 7724, April 23, 1971) and the Office of Management and Budget Bulletin 72–6 (September 14, 1971).

(2) In accordance with paragraph 5(b) of the CEQ Guidelines, the statutory clause "major Federal actions significantly affecting the quality of the human environment" is to be construed with a view to the overall, cumulative impact of the action proposed (and to further actions contemplated). Such actions may be localized in their impact, but if there is potential that the environment of a local area may be significantly affected, the statement is to be prepared. Proposed actions, the environmental impact of which is likely to be highly controversial, should be covered in all cases.

(3) Section 101(b) of the National Environmental Policy Act of 1969 (42 U.S.C. 4331(b)) indicates the broad range of aspects of the environment to be surveyed in any assessment of significant effect. Significant effects on the quality of the human environment include both those that directly affect human beings and those that indirectly affect human beings through effects on the environment.

(b) *NASA activities which may require environmental assessments and statements*—(1) *Activities now underway.* All agency activities must be evaluated for environmental impact on a continuing basis and assessments conducted and statements prepared as needed. Most of NASA's activities and facilities are now covered by statements. Therefore, changes in ongoing activities or discovery of a hitherto unrecognized environmental effect stemming from ongoing activities, which warrant a reassessment, may require a supplement to an existing statement.

(2) *New activities.* Awareness of the effects which any action may have on the quality of man's environment is a continuing responsibility of all NASA employees and contractors. Thus, the consideration of environmental impact must be a part of the formulation and definition of all new or revised agency activities. In view of the variety of activities in which NASA engages, these guidelines are necessarily flexible in their specification of the timing of environmental assessment related to proposed actions (see paragraph (d) of this § 1204.1103). The important point is that the assessment be completed and documented as soon as definition of the activity is complete enough to permit the reasonable understanding of probable effects. In the case of flight programs or projects, this frequently will be as a part of program/project definition. In the case of some systems and components, however, it may be as a part of design. In the case of real estate acquisitions or leases, it should be tied to considerations of the uses which would be made of the property, and should be closely related to facility planning and design. In the case of operations, the assessment could be needed prior to acquisition of the necessary technology or it could be made in planning, in the more routine operation of facilities and installations, for the use of already acquired technology. In each of these cases, it must be recognized that NASA must allow at least 60 days from the issuance of the draft before a statement may be issued in final form, and further, NASA must allow at least 30 days from the issuance of the final statement before taking action on the activity proposed therein. Thus, 90 days is the minimum leadtime for actions requiring the issuance of an environmental statement. A continuing awareness is essential if NASA is to meet its obligations in environmental protection and enhancement without unnecessarily deferring other program action.

(c) *Content of an environmental statement.* Paragraph 6 of the CEQ Guidelines presents a detailed discussion on the expected content of an environmental statement. The CEQ Guidelines in paragraph 6(a) detail seven particular items which should be considered in drafting the environmental statement. These seven items are to be regarded as the format of the statement; if an item is not applicable, a statement to that effect should be made. In brief, the seven items as prescribed in the CEQ Guidelines paragraph 6(a) are:

(1) A description of the proposed action.

(2) The probable total impact of the proposed action on the environment.

(3) Any probable adverse environmental effects which cannot be avoided should the proposal be implemented.

(4) Alternatives to the proposed action, including a rigorous exploration and objective evaluation of the alternatives and their costs and effects on the environment.

(5) The relationship between the local short-term uses of the environment and the maintenance and enhancement of long-term productivity.

(6) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

(7) Where appropriate, a discussion of problems and objections raised by other Federal, State, and local agencies and by private organizations and individuals in the review process and the disposition of the issues involved.

In addition, pursuant to paragraph 6(e) of the CEQ Guidelines, the attachment of a summary sheet as prescribed, is required.

(d) *Processing environmental statements*—(1) *Assessment.* The Official in charge of each headquarters office shall provide for an assessment, as required by section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) and paragraph 2 of the CEQ Guidelines and as discussed in paragraph (b) of this § 1204.1103, of the environmental impact of each major action (as that term is contemplated by the National Environmental Policy Act and the CEQ Guidelines) which he proposes or which is to be taken under his programmatic or institutional cognizance.

(2) *Documentation required.* If the assessment indicates the need for a new or revised environmental statement, it shall be prepared in accordance with paragraph (c) of this § 1204.1103. But when there is a substantive change in an ongoing program or in the recognition of the environmental effects of an ongoing program (as discussed in paragraph (b)(1) of this § 1204.1103) or a new activity is to be undertaken (as discussed in paragraph (b)(2) of this § 1204.1103) and the assessment indicates that no environmental statement is necessary, then the official responsible for the assessment shall notify the Assistant Administrator for Administration, in writing, that the assessment has been conducted and that either (i) no environmental statement is considered necessary, or (ii) an existing statement adequately covers the proposed action. If no environmental statement is considered necessary, but if the proposed action or legislation involves the authorities of the Administrator of the Environmental Protection Agency with respect to water and air quality, solid waste, pesticides, radiation, noise, etc., and if it may be considered to come within the scope of section 309 or title IV of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), then the proposal for the action, or the proposed legislation, is to be submitted to the Assistant Administrator for Administration for transmittal when appropriate to the Environmental Protection Agency for comment under paragraph 8 of the CEQ Guidelines.

(3) *Preparation and submission of statement.* If the assessment indicates that (i) a significant environmental effect may result from the proposed action or proposed legislation, or (ii) a proposed action is likely to be highly controversial with respect to environmental effects, the official providing for the assessment shall have prepared a seven-point environmental statement as described in paragraph (c) of this

§ 1204.1103, and solicit comments thereon from other appropriate elements of NASA. Fifty copies of this statement and all of its attachments shall be submitted to the Assistant Administrator for Administration, in draft, together with—

(*a*) Five copies of any comments thereon, and

(*b*) A plan for coordination with appropriate State and local agencies, organization, and individuals.

This submission shall be accomplished prior to any formal review outside NASA.

(4) *Review of draft statement and plan for coordination with State and local agencies, organizations, and individuals by Assistant Administrator for Administration.* The Assistant Administrator for Administration shall review (i) the plan for coordination with State and local agencies, organization, and individuals, and (ii) the draft statement and its attachments and obtain additional comments from other elements of NASA, as appropriate, and communicate with the originating official, indicating concurrence or recommending changes in these documents.

(5) *Submission of draft statement to the Council on Environmental Quality.* Subsequent to review and revision, if necessary, of the draft, the Assistant Administrator for Administration shall submit 10 copies of the draft statement with appropriate attachments to the Council on Environmental Quality. The originating NASA official shall also be sent a copy of the draft statement as submitted to the Council on Environmental Quality.

(6) *Review of draft statement by other national governmental agencies.* Upon submission of the draft statement to the Council on Environmental Quality, and in accordance with paragraph 8 of the CEQ Guidelines, the Assistant Administator for Administration shall provide for solicitation of the views of other national governmental agencies having jurisdiction by law or special expertise with any of the environmental problems associated with the proposed action. Any such views shall be provided to the originating official for consideration in preparing the final statement.

(7) *Review of draft statement by State and local agencies, organizations, and individuals.* Upon approval by the Assistant Administrator for Administration of the plan for State and local coordination, the originating NASA official shall provide for solicitation of comments on the draft statement from affected State and local agencies concurrent with the solicitation of national agencies by the Assistant Administrator for Administration. Comments on the draft environmental statement may be obtained directly, through State and local clearinghouses (see Office of Management and Budget Circular No. A–95), and by notice in the FEDERAL REGISTER. This notice should specify that replies are required no later than 60 days from publication date.

(8) *Preparation and submission of final statement to Council on Environmental Quality.* After conclusion of the review process with other national, State, and local agencies, the originating NASA official shall consider all suggestions and revise the statement as may be appropriate. He shall at this time complete the seventh item of the statement which is a discussion of the problems and objections raised by other Federal, State, and local agencies and by private organizations and individuals and a report on NASA's disposition of the issues involved. Fifty copies of the final environmental statement and summary sheet and 15 copies of all comments received shall be forwarded to the Assistant Administrator for Administration who will thereupon obtain any additional approvals which circumstances may warrant and officially submit the final statement to Council on Environmental Quality. The final statement shall accompany the proposal through the normal NASA review process and shall be considered by NASA officials in the course of their review.

(9) *Public availability of environmental statements.* Each draft and final environmental statement prepared and submitted under this subpart and the related documents prescribed by law and regulation will be available for public review and copying in the NASA Information Center, 600 Independence Avenue SW., Washington, DC 20546, and at information centers at appropriate field installations and where appropriate (see Office of Management and Budget Circular No. A–95) at State and local clearinghouses, on and after the date of its submission to the Council on Environmental Quality, or, in the case of any statement relating to legislative proposals, on and after the date of its submission to the Congress.

(10) *Questions and information.* Questions relating to the need for, or scope of, environmental assessments and statements should be referred to the Assistant Administrator for Administration. Copies of all laws and regulations referenced in this subpart have been provided to all NASA field installations and headquarters offices by the Office of the General Counsel.

(e) *Processing environmental statements originated by other governmental agencies.* Requests for review and comments on any environmental statement prepared by another governmental agency will be directed to the Assistant Administrator for Administration for appropriate action within NASA. The Assistant Administrator for Administration shall determine which NASA elements should review the statement based on the nature of the environmental impact, shall solicit their comments and consolidate them, obtain any additional approvals which may be warranted, and return the review report with NASA's comments to the originating agency.

(f) *Processing of legislative actions.* NASA is responsible for identifying those of its legislative proposals, or reports on bills for which it is the principal agency concerned, that would require the preparation of the environmental statements and receipts of comments from other national, State, and local agencies. This process, discussed in the Office of Management and Budget Bulletin No. 72–6, and paragraph 5(a)(i) of the CEQ Guidelines will be handled by NASA headquarters, under the direction of the Assistant Administrator for Administration, through coordination with the Office of Legislative Affairs, Office of Policy and University Affairs, and the Office of General Counsel.

(g) *Implementing actions.* NASA officials will provide the Assistant Administrator for Administration with three copies of any instructions which they issue to implement or supplement this subpart.

Effective date. The provisions of § 1204.1100–1204.1102 were effective October 13, 1970; the provisions of § 1204.1103 except paragraphs (a)(1), (c) (6), (7), and (8), and (f) were effective June 30, 1971; and the provisions of paragraphs (a)(1), (c) (6), (7), and (8), and (f) of § 1204.1103 are effective October 31, 1971.

GEORGE M. LOW,
Deputy Administrator.

[FR Doc.71-16608 Filed 11-12-71;8:46 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Service,[1] Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 75—COMMUNICABLE DISEASES IN HORSES, ASSES, MULES, AND ZEBRAS

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, and the Act of March 3, 1905, as amended (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126), Part 75, Title 9, Code of Federal Regulations, restricting the interstate movement of horses, asses, mules, and zebras, is hereby amended in the following respects:

In § 75.4, paragraph (a) is amended to read:

§ 75.4 Notice relating to existence of Venezuelan equine encephalomyelitis and/or the vector of said disease, quarantine and conditions of interstate movement.

(a) Notice is hereby given that Venezuelan equine encephalomyelitis, a communicable disease of horses, asses, mules, and zebras, and/or the vector of said disease, exists in the States of Louisiana and Texas and that said States are quarantined because of the existence of said disease and/or the vector thereof.

* * * * * *

[1] The functions prescribed in Part 75 of Chapter I, 9 CFR, have been transferred from the Agricultural Research Service, U.S. Department of Agriculture, to the Animal and Plant Health Service of the Department (36 F.R. 20707).

(Secs. 4–7, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791–792, as amended, secs. 1–4, 33 Stat. 1264, 1265, as amended 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126; 29 F.R. 16210, as amended)

Effective date. The foregoing amendment shall become effective upon issuance.

Venezuelan equine encephalomyelitis is a viral disease of horses and other equidae. The disease is transmitted primarily through several species of mosquitoes and may be transmitted to humans. The mosquito population acquires the infection from horses which are in the incubative stage of the disease and disseminates the infection to new localities.

The disease entered the United States from Mexico and was disseminated extensively in Texas.

The State of Texas was quarantined because of Venezuelan equine encephalomyelitis, effective July 13, 1971 (36 F.R. 13202); the States of Arkansas, Louisiana, New Mexico, and Oklahoma were quarantined because of the existence of vectors of the disease, effective July 19, 1971 (36 F.R. 13677); and the State of Mississippi was quarantined because of the existence of vectors of the disease, effective August 2, 1971 (36 F.R. 14631). The States of Arkansas, New Mexico, and Oklahoma were released from quarantine effective September 10, 1971 (36 F.R. 18507).

In view of the fact that more than 96 percent of the susceptible equine population has now been vaccinated against Venezuelan-equine encephalomyelitis in the State of Mississippi, thus providing a vaccination buffer zone north of the area in Texas where the disease is known to exist, and in view of the fact that extensive, prolonged, and exhaustive investigation in that State has failed to disclose any evidence indicative of Venezuelan equine encephalomyelitis, the State of Mississippi is hereby released from quarantine.

The amendment relieves certain restrictions presently imposed but no longer deemed necessary to prevent the spread of Venezuelan equine encephalomyelitis, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to this Department. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 9th day of November 1971.

F. J. MULHERN,
Acting Administrator,
Animal and Plant Health Service.

[FR Doc.71–16602 Filed 11–12–71;8:45 am]

Title 30—MINERAL RESOURCES

Chapter I—Bureau of Mines, Department of the Interior

SUBCHAPTER O—COAL MINE HEALTH AND SAFETY

PART 75—MANDATORY SAFETY STANDARDS, UNDERGROUND COAL MINES

Fire Suppression Devices and Fire-Resistant Hydraulic Fluids on Underground Equipment; Correction

In F.R. Doc. 71–14735, appearing on pages 19583–19586 of the issue for Friday, October 8, 1971, the following changes should be made:

1. In § 75.1107–4(a) on page 19584 change March 30, 1971 to March 30, 1972.

2. In § 75.1107–5(a)(2) on page 19584 change March 30, 1971 to March 30, 1972 in both sentences.

3. In § 75.1107–5(c) on page 19584 the word "protective" should read "protected."

4. In § 75.1107–5(e) on page 19584 delete the comma and the words "test arrangement."

5. In § 75.1107–8(d) on page 19585 delete the comma after the word "saturated" in parenthesis, delete the word "minimum" in that part of the first sentence after the semicolon, and in the fourth sentence delete the words "Hose couplings shall be of a type that" and capitalize the following word "The."

6. In § 75.1107–8(h) on page 19585 add the words "except as provided in (d), above." to the last sentence.

7. In § 75.1107–9(c) on page 19585 change March 30, 1971 to March 30, 1972.

8. In § 75.1107–13 on page 19585 insert the word "unattended" between the first two words "All underground."

HOLLIS M. DOLE,
Assistant Secretary of the Interior.

NOVEMBER 8, 1971.

[FR Doc.71–16591 Filed 11–12–71;8:45 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

[CGFR 71–136]

PART 110—ANCHORAGE REGULATIONS

Mississippi River Below Baton Rouge, La.

This amendment to the anchorage regulations revises the description of the Baton Rouge General Anchorage. This change in description is based on a 1962 Army Corps of Engineers survey that determined a change in the position of the Head of Passes.

Since this amendment reflects the change in description and imposes no additional burden on any person, notice and public procedure thereon is unnecessary and the amendment may be made effective in less than 30 days after publication in the FEDERAL REGISTER.

Accordingly, § 110.195(a) is amended by revising subparagraph (7) to read as follows:

§ 110.195 Mississippi River below Baton Rouge, La., including South and Southwest Passes.

(a) • • •

(7) *Baton Rouge general anchorage.* An area, 1,400 feet wide, between Mile 225.8 and Mile 227.3 above Head of Passes with its west limit along the low water line.

• • • • • •

(Sec. 7, 38 Stat. 1053, as amended, sec. 6(g)(A), 80 Stat. 937; 33 U.S.C. 471, 49 U.S.C. 1655(g)(1)(A); 49 CFR 1.46(c)(1), 33 CFR 1.05–1(c)(1) (36 F.R. 19160))

Effective date. This amendment shall become effective on November 15, 1971.

Dated: November 10, 1971.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Marine Environment and Systems.

[FR Doc.71–16613 Filed 11–12–71;8:46 am]

Title 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior

PART 4—DEPARTMENT HEARINGS AND APPEALS PROCEDURES

Subpart H—Special Procedural Rules Applicable to Proceedings Conducted Pursuant to Enforcement of Executive Order 11246, as Amended by Executive Order 11375, and Rules, Regulations, and Orders Issued Thereunder

On August 31, 1971, there was published in the FEDERAL REGISTER (36 F.R. 17439–17443), pursuant to delegated authority, and in accordance with Executive Order No. 11246, as amended by Executive Order No. 11375, and rules and regulations implementing said order, as amended, a notice and text of proposed rules of practice and procedure to be used in proceedings for the imposition of sanctions under section 209(a) (1), (5), and (6) of Executive Order No. 11246, as amended, for violations of the Executive order, as amended, and rules, regulations, and orders thereunder.

Interested persons were given 30 days within which to participate in the rule making through submission of written comments, suggestions or objections. Written comments were received and after due consideration of the views presented, the proposed rules are hereby adopted, subject to the following change:

In the last sentence of § 4.771(a), the words "or their representatives" are inserted between the word "parties" and the word "shall" so that the sentence reads: "Depositions of persons other than parties or their representatives shall be upon consent of the deponent."

Effective date. These regulations shall be effective upon this publication in the FEDERAL REGISTER (11–13–71).

Dated: November 8, 1971.

WARREN F. BRECHT,
Deputy Assistant Secretary of the Interior.

Subpart H—Special Procedural Rules Applicable to Proceedings Conducted Pursuant to Enforcement of Executive Order 11246, as Amended by Executive Order 11375, and Rules, Regulations and Orders Issued Thereunder

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AUTHORITY: The provisions of this Subpart H issued under Executive Order No. 11246 of September 24, 1965 (30 F.R. 12319), as amended by Executive Order No. 11375 of October 13, 1967 (32 F.R. 14303), and 41 CFR 60–1.26(b), 33 F.R. 7804 (May 28, 1968).

CROSS REFERENCE: See Subpart A for the organization, authority and jurisdiction of the Office of Hearings and Appeals, including its Hearings Division. To the extent they are not inconsistent with these special rules, the general rules applicable to all types of proceedings before the Hearings Division and the several Appeals Boards of the Office of Hearings and Appeals, contained in Subpart B of this part, are applicable also to proceedings under these regulations.

Subpart H—Special Procedural Rules Applicable to Proceedings Conducted Pursuant to Enforcement of Executive Order 11246, as Amended by Executive Order 11375, and Rules, Regulations and Orders Issued Thereunder

GENERAL

§ 4.750 Authority.

These rules of procedure supplement, and are established pursuant to, the provisions of 41 CFR 60–1.26(b).

§ 4.751 Scope of rules.

These rules govern the practice and procedure for proceedings conducted, and decisions made, by the Department precedent to the imposition of sanctions under section 209(a) (1), (5), and (6) of Executive Order 11246, as amended by Executive Order 11375, for violations of the Executive Order 11246, as amended, and rules, regulations and orders thereunder.

§ 4.752 Definitions.

Except as otherwise indicated in the context in which it appears in these regulations, the term

(a) "Department" means the Department of the Interior.

(b) "Secretary" means the Secretary of the Interior.

(c) "Director" means the Director, Office for Equal Opportunity, Department of the Interior.

(d) "Office for Equal Opportunity" means the Office for Equal Opportunity in the Department of the Interior.

(e) "Office of Federal Contract Compliance" means the Office of Federal Contract Compliance, U.S. Department of Labor.

(f) "Office of Hearings and Appeals" means the Office of Hearings and Appeals in the Office of the Secretary, Department of the Interior.

(g) "Hearing examiner" means a hearing examiner appointed by the Director, Office of Hearings and Appeals.

(h) "Executive Order" means Executive Order 11246, 30 F.R. 12319, as amended by Executive Order 11375, 32 F.R. 14303.

(i) "Notice" means a notice of hearing in a proceeding instituted under 41 CFR 60–1.26(b) and these regulations.

(j) "Party" means a respondent; the Director; and any person or organization participating in a proceeding pursuant to § 4.757.

(k) "Respondent" means a person or organization against whom sanctions are proposed because of alleged violations of Executive Order 11246, as amended, and rules, regulations, and orders thereunder.

§ 4.753 Time computation.

Except as otherwise provided by law, in computing any period of time under these rules or in an order issued hereunder, the time begins with the day following the act or event, and includes the last day of the period, unless it is a Saturday, Sunday, or Federal legal holiday, or other nonbusiness day, in which event it includes the next following day which is not a Saturday, Sunday, Federal legal holiday, or other nonbusiness day. When the period of time prescribed or allowed is 7 days or less, intermediate Saturdays, Sundays, Federal legal holidays and other nonbusiness days shall be excluded in the computation.

DESIGNATION AND RESPONSIBILITIES OF HEARING EXAMINER

§ 4.754 Designation.

Hearings shall be held before a hearing examiner designated by the Chief Hearing Examiner, Hearings Division, Office of Hearings and Appeals.

§ 4.755 Authority and responsibilities.

(a) The hearing examiner shall have all powers necessary to preside over the parties and the proceedings, conduct the hearing, and enter recommended findings and conclusions and a recommended determination. His powers shall include, but not be limited to, the power to:

(1) Hold conferences to settle, simplify, or fix the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding.

(2) Require parties to state their position with respect to the various issues in the proceedings.

(3) Establish rules for media coverage of the proceedings.

(4) Rule on motions and other procedural items in matters before him.

(5) Regulate the course of the hearing, the conduct of counsel, parties, witnesses and other participants.

(6) Administer oaths, call witnesses on his own motion, examine witnesses and direct witnesses to testify.

(7) Receive, rule on, exclude, or limit evidence.

(8) Fix time limits for submission of written documents in matters before him.

(9) Take any action authorized by these regulations or in conformance with the provisions of applicable law.

(b) The hearing examiner shall recommend a determination of the issues on the basis of the record before him. Together with his recommended determination, he shall recommend findings of fact

and conclusions of law to the Director, Office of Hearings and Appeals.

APPEARANCE AND PRACTICE

§ 4.756 Participation by a party.

Subject to the provisions contained in Part 1 of this subtitle, a party may appear in person, by representative, or by counsel, and participate fully in any proceeding held pursuant to these regulations.

§ 4.757 Determination of parties.

(a) The Respondent and the Director are the initial parties to the proceeding. To the extent that proceedings hereunder are based in whole or in part on matters subject to a collective bargaining agreement, any labor organization which is signatory to such agreement shall also have the right to participate as a party.

(b) Other persons or organizations shall have the right to participate as parties if the final decision could directly and adversely affect them or the class they represent, and if they may contribute materially to the disposition of the proceedings.

(c) Any person or organization wishing to participate as a party under this section shall submit a petition to the hearing examiner within 15 days after the notice has been served. The petition should be filed with the hearing examiner and served on Respondent, on the Director, and on any other person or organization who has been made a party at the time of filing. Such petition shall concisely state: (1) Petitioner's interest in the proceeding, (2) how his participation as a party will contribute materially to the disposition of the proceeding, (3) who will appear for petitioner, (4) the issues on which petitioner wishes to participate, and (5) whether petitioner intends to present witnesses.

(d) The hearing examiner shall promptly ascertain whether there are objections to the petition. He shall then determine whether petitioners have the requisite interest to be a party in the proceedings, as defined in paragraphs (a) and (b) of this section, and shall permit or deny participation accordingly. Where petitions to participate as parties are made by individuals or groups with common interests, the hearing examiner may request all such petitioners to designate a single representative, or he may recognize one or more of such petitioners to represent all such petitioners; provided that the representative of a labor organization qualifying to participate under paragraph (a) of this section shall be permitted to participate as a party. The hearing examiner shall give each such petitioner written notice of the decision on his petition. If the petition is denied, he shall briefly state the grounds for denial and shall then treat the petition as a request for participation as amicus curiae. The hearing examiner shall give written notice to each party of each petition granted.

(e) Persons or organizations whose petition for party participation is denied may appeal the decision to the Director, Office of Hearings and Appeals, within 7 days of receipt of denial. The Director, Office of Hearings and Appeals, will make the final decision for the Department to grant or deny the petition.

§ 4.758 Determination and participation of amici.

(a) Any interested person or organization wishing to participate as amicus curiae in the proceeding shall file a petition before the commencement of the hearing. Such petition shall concisely state the petitioner's interest in the hearing and who will represent petitioner.

(b) The hearing examiner will grant the petition if he finds that the petitioner has an interest in the proceedings and may contribute materially to the disposition of the proceedings. The hearing examiner shall give the petitioner written notice of the decision on his petition.

(c) An amicus curiae is not a party but may only participate as provided in paragraph (d) of this section.

(d) An amicus curiae may submit a written statement of position to the hearing examiner at any time prior to the beginning of a hearing, and shall serve a copy on each party. He may also file a brief or written statement at such time as the parties submit proposed findings and conclusions and supporting briefs to the hearing examiner and at such time as the parties file exceptions to the recommended determination of the hearing examiner.

FORM AND FILING OF DOCUMENTS

§ 4.759 Form.

Documents filed pursuant to a proceeding herein shall show the docket description and title of the proceeding, the party or amicus submitting the document, the date signed, and the title, if any, and address of the signatory. The original will be signed in ink by the party representing the party or amicus. Copies need not be signed, but the name of the person signing the original shall be reproduced.

§ 4.760 Filing and service.

(a) All documents submitted in a proceeding shall be served on all parties. The original and two copies of each document shall be submitted for filing. Filings shall be made with the hearing examiner, at the address stated in the notice. With respect to exhibits and transcripts of testimony, only originals need be filed.

(b) Service upon a party or amicus shall be made by delivering one copy of each document requiring service in person or by certified mail, return receipt requested, properly addressed with postage prepaid, to the party or amicus or his attorney, or designated representative. Filing will be made in person or by certified mail, return receipt requested, to the hearing examiner, at the address stated in the notice of scheduled hearing.

(c) The date of filing or of service shall be the day when the matter is deposited in the United States mail or is delivered in person.

§ 4.761 Certificate of service.

The original of every document filed and required to be served upon parties shall be endorsed with a certificate of service signed by the party or amicus curiae making service or by his attorney or representative, stating that such service has been made, the date of service, and the manner of service.

PROCEDURES

§ 4.762 Notice of hearing.

In response to Respondent's request for a hearing, the Director shall serve on the Respondent, pursuant to 41 CFR 60-1.26(b), a notice of hearing by registered mail, return receipt requested, to Respondent's last known address. Such notice shall contain the time and place of the hearing; the legal authority under which the proceedings are to be held; and the matters pursuant to which sanctions or other actions are proposed.

§ 4.763 Answer to notice.

Within 15 days after receipt of the notice of hearing, Respondent may file an answer. This answer shall admit or deny specifically and in detail matters set forth in each allegation of the notice unless Respondent is without knowledge, in which case his answer should so state, and the statement shall be deemed a denial. Matters not specifically denied shall be deemed admitted. Matters alleged in the answer as affirmative defenses shall be separately stated and numbered. Failure of Respondent to file an answer within the 15-day period following receipt of the notice may be deemed an admission of all facts recited in the notice.

§ 4.764 Amendments.

The Director may amend his notice once as a matter of course before an answer is filed, and Respondent may amend its answer once as a matter of course not later than 15 days after it is filed. Other amendments of the notice or of the answer to the notice shall be made only by leave of the hearing examiner. An amended notice shall be answered within 10 days of its service, or within the time for filing an answer to the original notice, whichever period is longer.

§ 4.765 Motions.

Motions and petitions shall state the relief sought, the basis for relief and the authority relied upon. If made before or after the hearing itself, these matters shall be in writing. If made at the hearing, they may be stated orally; but the hearing examiner may require that they be reduced to writing and filed and served on all parties. Within 8 days after a written motion or petition is served, any party may file a response to a motion or petition. An immediate oral response may be made to an oral motion. Oral argument on motions will be at the discretion of the hearing examiner.

§ 4.766 Disposition of motions.

The hearing examiner may not grant a written motion or petition prior to

expiration of the time for filing responses thereto, but may overrule or deny such motion or petition without awaiting response: *Provided, however,* That prehearing conferences, hearings, and decisions need not be delayed pending disposition of motions or petitions. Oral motions and petitions may be ruled on immediately.

§ 4.767 Interlocutory appeals.

No interlocutory appeals will be permitted from an adverse ruling except as specifically provided in these rules.

§ 4.768 Exhibits.

Proposed exhibits shall be exchanged at the prehearing conference, or otherwise prior to the hearing, if the hearing examiner so directs. Proposed exhibits not so exchanged in accordance with the hearing examiner's order may be denied admission as evidence. The authenticity of all exhibits submitted prior to the hearing, under direction of the hearing examiner, will be deemed admitted unless written objection thereto is filed and served on all parties, or unless good cause is shown for failure to file such written objection.

§ 4.769 Admissions as to facts and documents.

Not later than 25 days prior to the date of the hearing any party may serve upon an opposing party a written request for the admission of the genuineness and authenticity of any relevant documents described in, and exhibited with, the request, or for the admission of the truth of any relevant matters of fact stated in the request. Each of the matters as to which an admission is requested shall be deemed admitted, unless within a period of 20 days, the party to whom the request is directed serves upon the requesting party a statement either (a) denying specifically the matters as to which an admission is requested, or (b) setting forth in detail the reasons why he cannot truthfully either admit or deny such matters.

§ 4.770 Discovery.

(a) *Methods.* Parties may obtain discovery as provided in these rules by depositions, written interrogatories, production of documents, or other items; or by permission to enter property, for inspection and other purposes.

(b) *Scope.* Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the hearing.

(c) *Protective orders.* Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the hearing examiner may make any order which justice requires to limit or condition discovery in order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense.

(d) *Sequence and timing.* Methods of discovery may be used in any sequence. The fact that a party is conducting discovery shall not operate to delay any other party's discovery.

(e) *Time limit.* Discovery by all parties will be completed within such time as the examiner directs, from the date the notice of hearing is served on Respondent.

§ 4.771 Depositions.

(a) A party may take the testimony of any person, including a party, by deposition upon oral examination. This may be done by stipulation or by notice, as set forth in paragraph (b) of this section. On motion of any party or other person upon whom the notice is served, the hearing examiner may for cause shown enlarge or shorten the time for the deposition, change the place of the deposition, limit the scope of the deposition or quash the notice. Depositions of persons other than parties or their representatives shall be upon consent of the deponent.

(b)(1) The party will give reasonable notice in writing to every other party of the time and place for taking depositions, the name and address of each person to be examined, if known, or a general description sufficient to identify him or the particular class or group to which he belongs.

(2) The notice to a deponent may be accompanied by a request for the production of documents and tangible things at the taking of the deposition.

(3) A party may name as the deponent a corporation, partnership, association, or governmental agency and may designate a particular person within the organization whose testimony is desired and the matters on which examination is requested. If no particular person is named, the organization shall designate one or more agents to testify on its behalf, and may set forth the matters on which each will testify. The persons so designated shall testify as to matters known or reasonably available to the organization.

(c) Examination and cross-examination of witnesses may proceed as permitted at the hearing. The witness shall be placed under oath by a disinterested person qualified to administer oaths by the laws of the United States or of the place where the examination is held, and the testimony taken by such person shall be recorded verbatim.

(d) During the taking of a deposition a party or deponent may request suspension of the deposition on grounds of bad faith in the conduct of the examination, annoyance, embarrassment, oppression of a deponent or party or improper questions propounded. The deposition will then be adjourned. However, the objecting party or deponent must immediately move the hearing examiner for a ruling on his objections to the deposition conduct or proceedings. The hearing examiner may then limit the scope or manner of the taking of the deposition.

(e) The officer shall certify the deposition and promptly file it with the hearing examiner. Documents or true copies of documents and other items produced for inspection during the examination of the witness shall, upon the request of a party, be marked for identification and annexed to the deposition.

(f) The party taking the deposition shall give prompt notice of its filing to all other parties.

§ 4.772 Use of depositions at hearing.

(a) Any part or all of a deposition, so far as admissible under § 4.780 applied as though the witness were then present and testifying, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice thereof as follows:

(1) Any deposition may be used for contradiction or impeachment of the deponent as a witness.

(2) The deposition of a party, or of an agent designated to testify on behalf of a party, may be used by an adverse party for any purpose.

(3) The deposition of any witness may be used for any purpose if the party offering the deposition has been unable to procure the attendance of the witness because he is dead; or if the witness is at a greater distance than 100 miles from the place of hearing, or is out of the United States, unless it appears that the absence of the witness was procured by the party offering the deposition; or if the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or, upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open hearing, to allow the deposition to be used.

(b) If only part of a deposition is offered in evidence, the remainder becomes subject to introduction by any party.

(c) Objection may be made at the hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

§ 4.773 Interrogatories to parties.

(a) Any party may serve upon any other party written interrogatories after the notice of hearing has been filed. If the party served is a corporation, partnership, association, or governmental agency, an agent shall furnish such information as is available to the party.

(b) Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections signed by the attorney or other representative making them. Answers and objections shall be made within 30 days after the service of the interrogatories. The party submitting the interrogatories may move for an order under § 4.775 with respect to any objection to or other failure to answer an interrogatory.

(c) Interrogatories shall relate to any matter not privileged which is relevant to the subject matter of the hearing.

§ 4.774 Production of documents and things and entry upon land for inspection and other purposes.

(a) After the notice of hearing has been filed, any party may serve on any other party a request to produce and/or permit the party, or someone acting on his behalf, to inspect and copy any designated documents, phonorecords, and other data compilations from which information can be obtained and which are in the possession, custody or control of the party upon whom the request is served. If necessary, translation of data compilations shall be done by the party furnishing the information.

(b) After the notice of hearing has been filed, any party may serve on any other party a request to permit entry upon designated property in the possession or control of the party upon whom the request is served for the purpose of inspection, measuring, surveying or photographing, testing, or sampling the property or any designated object.

(c) Each request shall set forth with reasonable particularity the items to be inspected and shall specify a reasonable time, place, and manner of making the inspection and performing the related acts.

(d) The party upon whom the request is served shall respond within 15 days after the service of the request. The response shall state, with respect to each item, that inspection and related activities will be permitted as requested, unless there are objections in which case the reason for each objection shall be stated. The party submitting the request may move for an order under § 4.775 with respect to any objection to or other failure to respond.

§ 4.775 Sanctions.

(a) A party, upon reasonable notice to other parties and all persons affected thereby, may move for an order as follows:

(1) If a deponent fails to answer a question propounded or submitted under § 4.771(c), or a corporation or other entity fails to make a designation under § 4.771(b)(3), or a party fails to answer an interrogatory submitted under § 4.773, or if a party, under § 4.774 fails to respond that inspection will be permitted or fails to permit inspection, the discovering party may move for an order compelling an answer, a designation, or inspection.

(2) An evasive or incomplete answer is to be treated as a failure to answer.

(b) If a party or an agent designated to testify fails to obey an order to permit discovery, the hearing examiner may make such orders as are just, including:

(1) That the matters regarding which the order was made or any other designated facts shall be established in accordance with the claim of the party obtaining the order;

(2) Refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting him from introducing designated matters in evidence.

(c) If a party or an agent designated to testify fails after proper service (1) to appear for his deposition, (2) to serve answers or objections to interrogatories submitted under § 4.773, or (3) to serve a written response to a request for inspection, submitted under § 4.774, the hearing examiner on motion may make such orders as are just, including those authorized under subparagraphs (1) and (2) of paragraph (b) of this section.

§ 4.776 Ex parte communications.

(a) Written or oral communications involving any substantive or procedural issue in a matter subject to these proceedings, directed to the hearing examiner, the Director, the Director, Office of Federal Contract Compliance, or the Director, Office of Hearings and Appeals, shall be deemed ex parte communications and are not to be considered part of any record or the basis for any official decision, unless the communication is made by motion pursuant to these rules.

(b) The hearing examiner shall not consult any person, or party, on any fact in issue or on the merits of the matter before him unless upon notice and opportunity for all parties to participate.

(c) No employee or agent of the Federal Government engaged in the investigation and prosecution of a proceeding governed by these rules shall participate or advise in the rendering of the recommended or final decision, except as witness or counsel in the proceeding.

PREHEARING

§ 4.777 Prehearing conferences.

(a) Within 15 days after the answer has been filed the hearing examiner will establish a prehearing conference date for all parties including persons or organizations whose petition requesting party status has not been ruled upon. Written notice of the prehearing conference shall be sent by the hearing examiner.

(b) At the prehearing conference the following matters, among others, shall be considered: (1) Simplification and delineation of the issues to be heard; (2) stipulations; (3) limitation of number of witnesses; and exchange of witness lists; (4) procedure applicable to the proceeding; (5) offers of settlement; and (6) scheduling of the dates for exchange of exhibits. Additional prehearing conferences may be scheduled at the discretion of the hearing examiner, upon his own motion or the motion of a party.

HEARING

§ 4.778 Appearances.

In the event that a party appears at the hearing and no party appears for the opposing side, the party who is present shall have an election to present his evidence in whole or such portion thereof sufficient to make a prima facie case before the hearing examiner. Failure to appear at a hearing shall not be deemed to be a waiver of the right to be served with a copy of the hearing examiner's proposed decision and to file exceptions to it.

§ 4.779 Purpose.

(a) The hearing is directed primarily to receiving factual evidence and expert opinion testimony related to the issues in the proceeding. A hearing will be held in order to determine whether Respondent has failed to comply with one or more applicable requirements of Executive Order 11246, and rules, regulations, and orders thereunder. However, this shall not prevent the parties from entering into a stipulation of the facts.

(b) If all facts are stipulated, the proceedings shall go to conclusion in accordance with §§ 4.787 to 4.792.

§ 4.780 Evidence.

Formal rules of evidence will not apply to the proceeding. Irrelevant, immaterial, unreliable, and unduly repetitious evidence will be excluded from the record of a hearing. Hearsay evidence shall not be inadmissible as such.

§ 4.781 Official notice.

Whenever a party offers a public document, or part thereof, in evidence, and such document, or part thereof, has been shown by the offeror to be reasonably available to the public, such document need not be produced or marked for identification, but may be offered for official notice as a public document item by specifying the document or relevant part thereof. Official notice may also be taken of other matters, at the discretion of the hearing examiner.

§ 4.782 Testimony.

Testimony shall be given under oath by witnesses at the hearing. A witness shall be available for cross-examination, and, at the discretion of the hearing examiner, may be cross-examined without regard to the scope of direct examination as to any matter which is material to the proceeding.

§ 4.783 Objections.

Objections to evidence shall be timely, and the party making them shall briefly state the ground relied upon.

§ 4.784 Exceptions.

Exceptions to rulings of the hearing examiner are unnecessary. It is sufficient that a party, at the time the ruling of the hearing examiner is sought, makes known the action which he desires the hearing examiner to take, or his objection to an action taken, and his ground therefor.

§ 4.785 Offer of proof.

An offer of proof made in connection with an objection taken to any ruling of the hearing examiner excluding proffered oral testimony shall consist of a statement of the substance of the evidence which counsel contends would be adduced by such testimony. If the excluded evidence consists of evidence in written form or consists of reference to documents, a copy of such evidence shall be marked for identification and shall accompany the record as the offer of proof.

§ 4.786 Official transcript.

An official reporter will be designated for all hearings. The official transcripts of testimony and argument taken, together with any exhibits, briefs, or memoranda of law filed therewith, shall be filed with the hearing examiner. Transcripts may be obtained by the parties and the public from the official reporter at rates not to exceed the applicable rates fixed by the contract with the reporter. Upon notice to all parties, the hearing examiner may authorize such corrections to the transcript as are necessary to accurately reflect the testimony.

POSTHEARING PROCEDURES

§ 4.787 Proposed findings of fact and conclusions of law.

Within 30 days after the close of the hearing each party may file, or the hearing examiner may request, proposed findings of fact and conclusions of law together with supporting briefs. Such proposals and briefs shall be served on all parties and amici. Reply briefs may be submitted within 15 days after receipt of the initial proposals and briefs. Reply briefs should be filed and served on all parties and amici.

§ 4.788 Record for decision.

The hearing examiner will make his recommended findings, conclusions, and recommended decision upon the basis of the record before him. The transcript of testimony, exhibits, and all papers, documents, and requests filed in the proceedings, except the correspondence section of the docket, shall constitute the record.

§ 4.789 Recommended determination.

The hearing examiner shall, in an expeditious manner, rule on proposed findings and conclusions submitted by the parties; and shall make recommended findings, conclusions, and decision. These rulings and recommendations shall be certified, together with the record for decision, to the Director, Office of Hearings and Appeals, for his decision. The rulings, recommended findings, conclusions, and decision of the hearing examiner shall be served on all parties and amici curiae to the proceedings.

§ 4.790 Exceptions to recommended determination.

Within 30 days after receipt of the recommended determination, all parties to the proceeding may file with the Director, Office of Hearings and Appeals, exceptions to the recommended findings, conclusions and decision of the hearing examiner, together with supporting briefs. Service of such exceptions and briefs shall be made on all parties and amici. Such briefs may be responded to within 15 days of their receipt by the other parties. Responses shall be filed with the Director, Office of Hearings and Appeals, and served on all parties and amici.

§ 4.791 Record.

After expiration of the time for filing briefs and exceptions, the Director, Office of Hearings and Appeals, shall make a decision on the basis of the record before him. The record includes the record before the hearing examiner, the rulings, the recommended findings, conclusions and decision of the hearing examiner, and the exceptions and briefs filed subsequent to the hearing examiner's decision.

§ 4.792 Final decision.

The Director, Office of Hearings and Appeals, may affirm, modify, or set aside in whole or in part, the recommended findings, conclusions, and decision of the hearing examiner. The decision of the Director, Office of Hearings and Appeals, shall not be final without the approval of the Director, Office of Federal Contract Compliance, Department of Labor.

[FR Doc.71-16592 Filed 11-12-71;8:45 am]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter I—Office of Emergency Preparedness

[Economic Stabilization Reg. No. 1; Amdt. 6]

E.S. REG. 1—STABILIZATION REGULATIONS FOR PRICES, RENTS, WAGES, AND SALARIES

Exemption from Normal Rule Making Procedures

SECTION 1. The purpose of the amendment contained in section 2 is to recognize the continuing need for prompt determinations under OEP Economic Stabilization Regulation No. 1, hereinafter referred to as the regulation, by formalizing the finding that notice of proposed rule making and public procedure thereon were and are impracticable and contrary to the public interest.

SEC. 2. Section 7 of the regulation is hereby amended by adding a second paragraph thereto to read as follows:

Because of the need for prompt determinations, notice of proposed rule making and public procedure thereon have been found to be impracticable and contrary to the public interest.

Effective date. This regulation shall continue in full force and effect unless and until altered, amended, or revoked by the Cost of Living Council or by such competent authority as the Council may specify.

Dated: November 12, 1971.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[FR Doc.71-16755 Filed 11-12-71;3:59 pm]

[OEP Economic Stabilization Reg. 1, Circular No. 26]

SUPPLEMENTARY GUIDANCE FOR APPLICATION

Economic Stabilization Circular No. 26

This circular is designed for general information only. The statements herein are intended solely as general guides drawn from OEP Economic Stabilization Regulation No. 1 and from specific determinations and policy statements by the Cost of Living Council and do not constitute legal rulings applicable to cases which do not conform to the situations clearly intended to be covered by such guides.

NOTE: Provisions of this and subsequent circulars are subject to clarification, revision, or revocation.

This 26th circular covers determinations and policy statements by the Council through November 12, 1971.

APPENDIX I

ECONOMIC STABILIZATION CIRCULAR NO. 26

100. *Purpose.* (1) On August 15, 1971, President Nixon issued Executive Order No. 11615, as amended, providing for stabilization of prices, rents, wages, and salaries and establishing the Cost of Living Council, a Federal agency. The order delegated to the Council all of the powers conferred on the President by the Economic Stabilization Act of 1970, as amended. The effective date of the order was 12:01 a.m., August 16, 1971.

(2) By its Order No. 1, the Council delegated to the Director of the Office of Emergency Preparedness authority to administer the program for the stabilization of prices, rents, wages, and salaries as directed by section 1 of Executive Order No. 11615, as amended.

(3) Executive Order No. 11627 was issued on October 15, 1971, to further implement the President's stabilization program. The order superseded Executive Order No. 11615 of August 15, 1971, but provided in section 13 that all orders, regulations, circulars, or other directives issued and all other actions taken pursuant to Executive Order No. 11615, as amended, are hereby confirmed and ratified, and shall remain in full force and effect, as if issued under this order, unless and until altered, amended, or revoked by the Council or by such competent authority as the Council may specify.

(4) The purpose of this circular, the 26th in a series to be issued, is to furnish further guidance to Federal officials and the public in order to promote the program.

200. *Authority.* (1) Relevant legal authority for the program includes the following:

The Constitution.
Economic Stabilization Act of 1970, Public Law 91-379, 84 Stat. 799; Public Law 92-15, 85 Stat. 38.
Executive Order No. 11615, as amended, 36 F.R. 15127, August 17, 1971.
Cost of Living Council Order No. 1, 36 F.R. 16215, August 20, 1971.
OEP Economic Stabilization Regulations No. 1, as amended, 36 F.R. 16515, August 21, 1971.
Executive Order No. 11627, as amended, 36 F.R. 20139, October 16, 1971.

(2) Because of the need for prompt determinations, notice of proposed rule making and public procedure thereon have been found to be impracticable and contrary to the public interest.

(3) The rules and guidelines established by regulation, order, directive, or circular provisions for stabilization of wages, prices, and rents will not expire

automatically on November 13. Changes will occur only through explicit action by the Pay Board, the Price Commission, the Cost of Living Council or other competent authority.

Executive Order No. 11627 of October 15, 1971, superseded Executive Order No. 11615 of August 15, 1971. The new Executive order contains no expiration date, and section 1(a) states, in part:

Pending action under this order, and except as otherwise provided in section 202 of the Economic Stabilization Act of 1970, as amended, prices, rents, wages, and salaries are stabilized effective as of August 16, 1971, at levels not greater than the highest of those pertaining to a substantial volume of actual transactions by each individual, business, firm, or other entity of any kind during the 30-day period ending August 14, 1971, for like or similar commodities or services. If no transactions occurred in that period, the ceiling will be the highest price, rent, salary, or wage in the nearest preceding 30-day period in which transactions did occur. No person shall charge, assess, or receive, directly or indirectly, in any transaction, prices or rents in any form higher than those permitted hereunder, and no person shall, directly or indirectly, pay or agree to pay, in any transaction, wages or salaries in any form, or to use any means to obtain payment of wages and salaries in any form, higher than those permitted hereunder, whether by retroactive increase or otherwise.

300. *General guidelines.* (1) The guidance provided in this circular is in the nature of additions to or clarifications of previous determinations and policy statements by the Cost of Living Council covered in previous OEP Economic Stabilization Circulars.

(2) The numbering system used in this circular corresponds to that used in OEP Economic Stabilization Circulars Nos. 101 and 102.

500. *Wage and salary guidelines.*

502. *Specific.* (1) Severance pay for an employee leaving a job during the freeze—including pay for accrued sick and vacation time—shall not be prejudiced by the freeze and should be paid on the basis of the terms of employment that would have applied if the freeze had not occurred.

503. *Promotions and increased training.* (1) The Council has previously ruled that increases in pay are permitted during the freeze for bona fide promotions that constitute an advancement to an established job with greater responsibility. Accordingly, pay increases are permitted for reclassification of an existing job—i.e., a change in title—only where such reclassification represents a bona fide promotion. That is

(a) The change must be accomplished through a formal reclassification program that was in place before the freeze,

(b) The new job title of the employee must already be in existence in the organization (i.e., with a ceiling wage attached to it), and

(c) The duties and responsibilities of the employee under the new title must be significantly greater than those required under the previous title.

504. *Fringe benefits.* (1) Employers, as part of the compensation for a particular job, may issue stock options to employees for the same number of shares as in the base period (adjusted, if necessary, for stock splits and stock dividends) and under the same terms and conditions.

NOTE: This subparagraph supersedes subparagraph 502(14) of OEP Economic Stabilization Circular No. 102 and subparagraph 504(1) of OEP Economic Stabilization Circular No. 22, as well as subparagraph 504(3) of OEP Economic Stabilization Circular No. 101.

(2) In a firm where new employees are informed that after they complete 1 year's service they are entitled to 2 weeks' vacation with pay, this 1-year requirement is being met, in many cases, during the freeze period. These employees may receive and use such 2 weeks' vacation during the freeze period.

NOTE: This subparagraph supersedes subparagraph 504(8) of OEP Economic Stabilization Circular No. 102.

1001. *Effective date.* (1) This circular shall continue in full force and effect unless and until altered, amended, or revoked by the Cost of Living Council or by such competent authority as the Council may specify.

Dated: November 12, 1971.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[FR Doc.71-16754 Filed 11-12-71;3:59 pm]

Proposed Rule Making

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGFR 71-137]

NEUSE AND TRENT RIVERS, N.C.

Proposed Drawbridge Operation Regulations

The Coast Guard is considering amending the regulations for the Route 17 highway bridge across the Neuse River and the Route 70 highway bridge across the Trent River, both at New Bern, to add closed periods on Sundays from May 30 through September 7 and Memorial Day, Fourth of July, and Labor Day. This amendment is being considered because of heavy vehicular traffic during Sundays and the holidays named.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, VA 23705. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Fifth Coast Guard District.

The Commander, Fifth Coast Guard District, will forward any comments received before December 17, 1971, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising § 117.352 and § 117.353 to read as follows:

§ 117.352 Neuse River, N.C.; U.S. 17 highway bridge at New Bern.

(a) The draw shall open on signal as prescribed in § 117.240, except that from May 30 through September 7, the draw may remain closed—

(1) From Monday through Friday from 6:30 a.m. to 7:30 a.m. and 4:30 p.m. to 5:30 p.m., and

(2) Sundays and Federal holidays from 2 p.m. to 7 p.m., except that the draw shall open at 4 p.m. and 6 p.m. for any vessels waiting to pass.

(b) The draw shall open at any time on the signal of four short blasts for public vessels of the United States, State, or local vessels used for public safety, tugs with tows and vessels in distress.

§ 117.353 Trent River, N.C.; U.S. 70 highway bridge at New Bern.

(a) The draw shall open on signal as prescribed in § 117.240 except that from May 30 through September 7, the draw may remain closed—

(1) From Monday through Friday from 6:30 a.m. to 7:30 a.m. and 4:30 p.m. to 5:30 p.m., and

(2) Sundays and Federal holidays from 2 p.m. to 7 p.m., except that the draw shall open at 4 p.m. and 6 p.m. for any vessels waiting to pass.

(b) The draw shall open at any time on the signal of four short blasts for public vessels of the United States, State, or local vessels used for public safety, tugs with tows and vessels in distress.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4)).

Dated: November 5, 1971.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Marine Environment and Systems.

[FR Doc.71-16606 Filed 11-12-71;8:46 am]

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 71-RM-28]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Hugo, Colo., transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, Park Hill Station, Post Office Box 7213, Denver, CO 80207. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10255 East 25th Avenue, Aurora, CO 80010.

An additional 9,500-foot MSL transition area is necessary for maximum utilization of radar capability in vectoring aircraft to and from the terminal areas at Denver, Colorado Springs, and Pueblo, Colo. Also, radar service will be provided high performance military aircraft conducting training activities within the area at altitudes 10,000 MSL and above.

The 9,500-foot MSL transition area will replace the 8,500-foot MSL transition area presently designated east of Hugo VOR.

In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.181 (36 F.R. 2140) the description of the Hugo, Colo., transition area is amended by deleting all after "• • •" and that airspace east of Hugo, • • •" and substitute "extending upward from 9,500 feet MSL, bounded on the north by V-4, on the east by V-17, on the southeast by V-216, on the southwest by V-263, and on the northwest by V-169, excluding the airspace within Federal airways and the Pueblo and Colorado Springs, Colo., transition areas • • •" therefor.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Aurora, Colo., on November 5, 1971.

M. M. MARTIN,
Director, Rocky Mountain Region.

[FR Doc.71-16605 Filed 11-12-71;8:46 am]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES 9001]

MISSOURI

Notice of Filing of Plat of Survey

1. The plat of survey of the following described land will be officially filed in the Eastern States Land Office, Silver Spring, Md., effective at 10 a.m. on December 14, 1971.

FIFTH PRINCIPAL MERIDIAN

T. 34 N., R. 14 E.,
Sec. 20, lot 5.

The area described contains 0.70 acres.

2. This plat represents the survey of Grand Tower Rock Island located along the western bank of the Mississippi River. This island of rock resembles hard slate and has an elevation of approximately 90 feet above mean high water level. Small pine trees grow on the top of this rock. There is no evidence of improvements, present use or occupancy of this island.

3. Although it was not included in the original township surveys made in 1817 and 1818, this island is depicted upon the official plat of those surveys approved March 3, 1853. The character of the island attests to its existence on August 10, 1821, when Missouri was admitted into the Union, and at all times since. It is well over 50 percent upland within the interpretation of the Swamp Land Act of September 28, 1850.

4. Grand Tower Rock Island was reserved for public purposes by order of the President of the United States dated February 24, 1871. In addition, all islands in the Mississippi River were withdrawn by the Secretary of the Interior on April 10, 1891, at the request of the Secretary of War, in the interest of navigation.

5. All inquiries relating to this land should be sent to the Manager, Eastern States Land Office, Bureau of Land Management, 7981 Eastern Avenue, Silver Spring, Md. 20910.

DORIS A. KOIVULA,
Manager.

NOVEMBER 8, 1971.

[FR Doc.71-16607 Filed 11-12-71;8:46 am]

[ES 9478]

WISCONSIN

Notice of Filing of Plat of Survey

1. The plat of survey of the following described land will be officially filed in the Eastern States Land Office, Silver Spring, Md., effective at 10 a.m. on December 11, 1971.

FOURTH PRINCIPAL MERIDIAN

T. 33 N., R. 10 E.,
Sec. 36, lot 20.

The area described contains 0.24 acre.

2. This is a supplemental plat prepared to give area and designation to an island in Lower Bass Lake not previously shown on an official plat. This plat is based entirely on the record of an island survey in section 36 made by C. M. Pidgeon, U.S. Surveyor, in 1911, and a dependent resurvey and extension survey in section 36 made by A. W. Brown, U.S. Cadastral Engineer, in 1931.

3. In accordance with the field notes of the survey made by C. M. Pidgeon, approved January 3, 1913, the island is classified as being over 50 percent upland in character within the interpretation of the Swamp Land Act of September 28, 1850.

4. Except for valid existing rights, this land will not be open to any applications for use or disposition under the public land laws until it has been classified and a further order is issued.

5. All inquiries relating to this land should be sent to the Manager, Eastern States Land Office, Bureau of Land Management, 7981 Eastern Avenue, Silver Spring, Md. 20910.

DORIS A. KOIVULA,
Manager.

NOVEMBER 8, 1971.

[FR Doc.71-16610 Filed 11-12-71;8:46 am]

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

WALKERTON LIVESTOCK SALES, INC., ET AL.

Proposed Posting of Stockyards

The Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards Administration, U.S. Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

Walkerton Livestock Sales, Inc., Etna Green, Ind.
Johnson Livestock Market, Webster City, Iowa.
Herington Livestock Auction Co., Inc., Herington, Kans.
Lockhart Auction, Incorporated, Lockhart, Tex.
Menard County Commission Company, Inc., Menard, Tex.

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), proposes to issue a rule designating the stockyards named above as posted stockyards subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule, may do so by filing them with the Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards Administration, U.S. Department of Agriculture, Washington, D.C. 20250, within 15 days after publication in the FEDERAL REGISTER.

All written submissions made pursuant to this notice shall be made available for public inspection at such times and places in a manner convenient to the public business (7 U.S.C. 1.27(b)).

Done at Washington, D.C., this 9th day of November, 1971.

G. H. HOPPER,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc.71-16622 Filed 11-12-71;8:47 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-270]

AMERICAN PRESIDENT LINES, LTD.

Notice of Application

Notice is hereby given that American President Lines, Ltd., has filed an application requesting written permission under section 805(a) of the Merchant Marine Act, 1936, as amended, to carry passengers, their baggage, and automobiles in domestic trade between any U.S. ports in connection with cruises authorized pursuant to section 613 of the Act. The application was dated October 19, 1971.

Interested parties may inspect this application on the Office of Subsidy Administration, Maritime Administration, Room 4888, Department of Commerce Building, 14th and E Streets NW., Washington, DC.

Any person, firm, or corporation having any interest, within the meaning of section 805(a), in such application and desiring to be heard on issues pertinent to section 805(a), or desiring to submit comments or views concerning the application must, by close of business on November 26, 1971, file same with the Secretary, Maritime Subsidy Board/Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied upon for relief.

If no petitions for leave to intervene are received within the specified time, or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board/Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled for December 1, 1971, in Room 4896, Department of Commerce Building, 14th and E Streets NW., Washington, DC. The purpose of the hearing will be to receive evidence under section 805 (a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act.

By order of the Maritime Subsidy Board/Maritime Administration.

Dated: November 9, 1971.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 71-16624 Filed 11-12-71;8:47 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 71-140]

SAN FRANCISCO BAY

Security Zone

By virtue of the authority vested in the Commandant, U.S. Coast Guard, by Executive Order 10173, as amended (33 CFR Part 6), sec. 6(b)(1), 80 Stat. 937, 49 U.S.C. 1655(b)(1), 49 CFR 1.46(b) and the redelegation of authority to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters as contained in the FEDERAL REGISTER of September 30, 1971 (36 F.R. 19160), I hereby affirm for publication in the FEDERAL REGISTER the order of Mark A. Whalen, Rear Admiral, U.S. Coast Guard, Commander, Twelfth Coast Guard District, who has exercised authority as District Commander, such order reading as follows:

SAN FRANCISCO BAY

SECURITY ZONE

My order of June 16, 1971, published at 36 FEDERAL REGISTER 11822, June 19, 1971, established a security zone in the waters of San Francisco Bay around Alcatraz Island commencing at 1200 P.d.t., June 16, 1971. That security zone is terminated at 1200 P.s.t., November 15, 1971.

Dated: November 11, 1971.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.71-16655 Filed 11-12-71;8:48 am]

CIVIL AERONAUTICS BOARD

[Dockets Nos. 22990, 23741; Order 71-11-35]

EASTERN AIR LINES, INC.

Order To Show Cause and Granting Temporary Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 9th day of November 1971.

By application in Docket 22990, Eastern Air Lines, Inc. (Eastern), has requested amendment of its certificate of public convenience and necessity for route 10 so as to delete Albany, Ga., therefrom.[1] On August 20, 1971, Eastern filed a combined motion for issuance of a show cause order and application for authority to suspend service temporarily pendente lite.[2]

Upon consideration of Eastern's request and other relevant facts, we have decided to issue an order to show cause, proposing to grant the requested deletion, and to grant Eastern authority to suspend service at Albany, pendente lite.

We tentatively find and conclude that the public convenience and necessity require the amendment of Eastern's route 10 so as to delete Albany, Ga., therefrom. In support of our ultimate conclusion, we tentatively find and conclude as follows:

Deletion of Eastern's service will not leave Albany without certificated air service. Southern, the principal carrier at Albany, increased its Albany operations on May 1, 1971, when Eastern reduced its service.[3] Southern has indicated its intent to further increase service by four nonstop flights in the Atlanta market on October 31, 1971, and to add an additional nonstop round trip if Eastern's service is terminated. It appears that Southern has and would continue to fill any service void created by Eastern's reduction or elimination of service.[4] Since the objections of the Albany parties have been withdrawn, it appears that they are satisfied that the service provided by Southern will be sufficient for their needs. Finally, it appears that both Eastern and Southern will be financially benefited by our proposed action. Eastern estimates a $138,000 saving by elimination of its Atlanta-Albany service. If the proposed deletion were granted, Southern forecasts a calendar 1972 net profit after return and taxes of $51,567, according to prescribed Subpart K methodology. These estimates appear reasonable.[5]

Interested persons will be given 20 days following service of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to support their objections, if any, with detailed answers, specifically setting forth the findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If an evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant and material facts he would expect to establish through such a hearing. General, vague, or unsupported objections will not be entertained.

Turning to the application for temporary relief, we find that it is in the public interest to permit Eastern to temporarily suspend service at Albany, pendente lite. For reasons set forth above, we believe that Eastern has made a sufficient preliminary showing that its suspension, coupled with Southern's planned service expansion, will not have an adverse effect on the overall service at Albany and that suspension will result in savings to Eastern.[6]

Accordingly, it is ordered, That:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein, and amending Eastern Air Lines, Inc.'s, certificate of public convenience and necessity for route 10 so as to delete Albany, Ga., from segments 2 and 5;

2. Any interested persons having objections to the issuance of an order making final the proposed findings, conclusions, and certificate amendments set forth herein shall, within 20 days after service of a copy of this order, file with the Board and serve upon all persons made parties to this proceeding a statement of objections together with a summary of testimony, statistical data, and

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[1] Answers were filed by the city of Albany and Dougherty County, Ga. (Albany Parties), objecting to the deletion and requesting a public hearing in Albany. On Aug. 18, and Aug. 27, 1971, after consultations among Eastern, the Albany parties and Southern Airways, Inc. (Southern), the Albany parties withdrew their objections.

[2] In an answer to Eastern's motion filed Sept. 9, 1971, Southern supports deletion of Eastern's authority.

[3] As of May 1, 1971, Eastern reduced its service between Albany and Atlanta from three daily round trips to a single daily Atlanta round trip. In contrast, Southern provides nine daily flights in the Albany-Atlanta market, six of which are nonstop. In addition, Air South, an air taxi, provides two daily round trips between Albany and Atlanta.

[4] Deletion of Eastern would result in the elimination of certificated air service between Albany and Macon. However, Eastern indicated that traffic in that market amounted to less than one passenger per day in June 1971.

[5] We find that both carriers are fit, willing, and able properly to perform the air transportation resulting herein and to conform to the provisions of the Act and the Board's rules, regulations, and requirements thereunder.

[6] We shall authorize Eastern to suspend service for a temporary period terminating no later than 60 days following final Board decision on Eastern's application filed in Docket 22990.

other evidence expected to be relied upon to support the stated objections; [7]

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein;

5. Eastern Air Lines, Inc., be and it hereby is authorized to suspend service temporarily at Albany, Ga., for 2 years, or until 60 days following final action in Docket 22990, whichever occurs first;

6. A copy of this order shall be served upon Eastern Air Lines, Inc., Southern Airways, Inc., Mayor, city of Albany, Ga., County Administrator, Dougherty County, Ga., Mayor, city of Macon, Ga., Mayor, city of Atlanta, Ga., and Governor, State of Georgia; and

7. This order may be amended or revoked at any time in the discretion of the Board without a hearing.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-16616 Filed 11-12-71;8:46 am]

[Docket No. 23694]

SERVICIO AEREO DE HONDURAS, S.A. (SAHSA)

Foreign Air Carrier Permit; Notice of Postponement of Prehearing Conference

Notice is hereby given that the prehearing conference in the above-entitled proceeding now assigned to be held on November 17, 1971, is postponed indefinitely. The postponement is at the request of the applicant.

Dated at Washington, D.C., November 9, 1971.

[SEAL] WILLIAM H. DAPPER,
Hearing Examiner.

[FR Doc.71-16614 Filed 11-12-71;8:46 am]

[Docket No. 23785; Order 71-11-36; Amdt. 3]

ALL U.S. AND FOREIGN AIR CARRIERS

Order Stabilizing Fares, Rates, and Charges for Passengers and Property

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 10th day of November 1971.

By Order 71-8-78 dated August 17, 1971, the Board issued its order stabilizing fares, rates, and charges for passengers and property, so as to assure the implementation of Executive Order 11615 with respect to air transportation. By Order 71-9-51 dated September 13, 1971, the Board issued Amendment No. 1 to its stabilization order to reflect subsequent economic stabilization regulations and rulings that (1) prices need not be established at levels less than those prevailing May 25, 1970, and (2) the period of the freeze imposed by the Executive Order is deemed to expire November 13, 1971. On October 27, 1971, the Board issued Amendment No. 2 to its stabilization order (Order 71-10-121) to reflect rulings of the Cost of Living Council that foreign air carrier rates are not subject to the freeze and that rates of U.S. air carriers, both inbound and outbound, may be raised to reflect increased costs arising from currency revaluation.

Subsequent to the issuance of these Board orders, Economic Stabilization Regulation No. 1, freezing prices, rents, and wages, was amended to extend the effective date of that regulation beyond November 13, 1971, and to continue such regulation in full force and effect until altered, amended, or revoked by the Cost of Living Council or by such competent authority as the council may specify.[1] The Cost of Living Council announced that the provisions of the economic stabilization program, which have been in force since August 15, 1971, will continue until they are specifically modified by the Pay Board, Price Commission, or the Cost of Living Council, that changes will occur only through explicit action taken by competent authority, and that it is anticipated that initial modifications to the freeze rules will be announced prior to November 13, 1971. In this circumstance, the rates of air carriers remain frozen unless and until explicit action is taken to modify or remove such freeze. In view of the President's Executive Order of October 15, 1971, Amendment No. 5 to Economic Stabilization Regulation No. 1 and announcements by the Cost of Living Council, the Board finds that further amendments are required in its stabilization order to assure the implementation of the Executive order and applicable regulations by air carriers and to assure that the air carriers' tariffs are consistent therewith.

There presently are on file with the Board various tariffs containing rate increases marked for effectiveness on or after November 14, 1971. These rates cannot take effect if the freeze continues or unless permitted under subsequent modifications therein. Furthermore, it may not be possible to determine immediately whether a particular proposed rate increase will conform to the modifications. In these circumstances the Board has concluded that it should extend the present moratorium on tariff filings beyond November 14, 1971, and it will accept only those filings which conform to those permitted under the freeze and any subsequent modifications.

To achieve this purpose, the Board will continue to permit carriers to withdraw tariffs inconsistent with the stabilization regulations on 1 day's notice, and will keep in effect the delegation to the Chief, Tariffs Section, to issue such rejection notices and take such other action as is necessary to implement its order.

In recognition of the fact that modifications may be made to the freeze regulations at any time, and to provide the necessary flexibility to meet such situations without the necessity for additional amendments to our stabilization order for each modification as may be made to the freeze regulations, the amended order will permit, with Board authorization, tariffs to be filed containing rates above the level of the base period, if consistent with modified freeze regulations and the Board's tariff filing regulations. This will provide flexibility to the Board and the carriers to meet changing circumstances consistent with the Government's stabilization program.[2]

The amendments described above will modify the existing provisions of ordering paragraph 1 of the Board's stabilization order, as amended. For the convenience of all concerned this order will set forth in full the ordering paragraphs of our stabilization order, as now amended.

Accordingly, it is ordered, That:

The ordering paragraphs of Order 71-8-78, as amended by Orders 71-9-51 and 71-10-121 are hereby amended to read in their entirety as follows:

1. Unless otherwise authorized by the Board, each air carrier shall:

a. Make no increases directly or indirectly, in fares, rates, and charges in air transportation services above the highest in effect during the 30-day period ending August 14, 1971: *Provided,* That fares, rates, and charges need not be established at levels less than those prevailing May 25, 1970: *And provided,* That rates, fares, and charges of U.S. air-carriers, both inbound and outbound, may be raised to reflect increased costs arising from currency revaluation.

b. Withdraw all proposed tariffs or effective tariffs, including expiry provisions, which would directly or indirectly effect an increase in fares, rates, and charges, except as may be permitted pursuant to ordering paragraph 1a, above the highest in effect during the 30-day period ending August 14, 1971: *Provided,* That this requirement shall not apply to tariffs which would establish rates, fares, and charges at levels the same as or less than those prevailing May 25, 1970, for service of the same class.

2. Special tariff permission is hereby granted to effect such withdrawals on 1 day's notice.

3. The Chief, Tariffs Section, is hereby authorized and directed to issue such rejection notices and to take such other action as is necessary to implement this order.

4. This order shall be served upon all air carriers and foreign air carriers.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-16617 Filed 11-12-71;8:47 am]

[7] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further such motions, requests, or petitions for reconsideration of this order will be entertained.

[1] Amendment 5 dated Oct. 29, 1971, to reflect Executive Order No. 11627 of Oct. 15, 1971, which superseded Executive Order 11615.

[2] It is the intention of this amendment that the Board's authorization for such tariff filings will be granted only where it clearly appears that the tariff filing is consistent with a modification to the freeze regulations, and that such authorization may be granted by the Chief, Tariffs Section, pursuant to ordering paragraph 3 of the Board's stabilization order. This amendment is for the purpose of enabling air carriers to file tariffs consistent with the applicable stabilization regulations. The Board, of course, will evaluate such tariffs consistent with its rate-making criteria.

CIVIL SERVICE COMMISSION

DEPARTMENT OF THE INTERIOR

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Deputy Director, Policy and Plans, National Park Service.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-16611 Filed 11-12-71;8:46 am]

DEPARTMENT OF THE INTERIOR

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Assistant to the Under Secretary for Environmental Planning, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-16612 Filed 11-12-71;8:46 am]

FEDERAL POWER COMMISSION

[Docket No. E-7676]

CITIES OF LAFAYETTE AND PLAQUEMINE, LA. ET AL.

Order Accepting Complaint and Prescribing Hearing Procedures

NOVEMBER 4, 1971.

The cities of Lafayette and Plaquemine, La., versus Gulf States Utilities Co., Louisiana Power and Light Co., Central Louisiana Electric Co.

On September 30, 1971, the cities of Lafayette and Plaquemine, La. (cities), filed a protest and petition to intervene in the matter of Gulf States Utilities Co., Docket No. E-7663, which involves an application to issue and sell securities pursuant to section 204 of The Federal Power Act.

The cities incorporate by reference the protest and petition to intervene filed by the cities on November 2, 1970, in Docket No. E-7567. Among other things the cities set forth the following allegations:

The cities allege that Gulf States Utilities Co. along with Louisiana Power and Light Co. and Central Louisiana Electric Co. engaged in a conspiracy to suppress and defeat an interconnection and pooling agreement between the cities, Dow Chemical Co. and Louisiana Electric Corporative, Incorporation (LEC). LEC, a generating and transmission cooperative financed by The Rural Electrification Administration, is made up of 12 electric distribution cooperatives, all of which operate in Louisiana.

In September 1964, the REA undertook to make $56.5 million loan to LEC for construction of a 200 MW generating station with 1,611 miles of transmission lines through which the LEC could serve eight of its 12 member cooperatives. Prior to this time, the three companies had been selling power to those cooperatives. According to cities the companies succeeded in delaying the actuarial use of the funds thus provided for more than 5 years, through a series of lawsuits filed by the companies themselves and by the companies' attorneys on behalf of other putative plaintiffs.

Cities alleged that in August 1968, the cities, Dow and LEC executed an interconnection and pooling agreement providing for the interconnection of their generating systems and a long term pooling and coordination arrangement, with a minimum term of 10 years. The agreement, approved by the REA administrator on November 19, 1968, provided for a combined planning of load requirements for the cities, the LEC members and Dow. It meant, according to cities, assurance of a market for all surplus capacity and secondary energy, as well as coordination, and substantial savings, in the construction of new generators, in sum, economics of scale, plus benefits in the form of backup for each system and energy interchanges.

Cities stated that by engaging in frivolous and repetitive litigation, and by mounting a public relations drive and lobbying effort against LEC, the three companies were able to hold up disbursement of the loan money until January, 1969, when a new REA administrator was sworn into office. This prevented the members of the new pool from going ahead with their agreement. Furthermore, a rise in costs during the 5-year delay raised a serious question whether the original loan would suffice to finance all of the LEC's generation and transmission needs. Therefore, the new Administrator advanced funds only for the LEC generating station, but not for transmission lines, and LEC was left to negotiate with the three companies for use of their transmission lines.

Cities contend that the conspiracy continued during these negotiations. They say that the companies, while willing to supply transmission of power to some of the LEC members, refused to supply transmission services between pool members. They further say that the companies demanded that LEC limit its power capacity to the 200 MW already planned, and that the companies supply all further power needs of the 12 cooperatives, thus precluding further LEC expansion to serve its members' expanding load.

On October 12, 1971, the applicant answered the protest and petition to intervene denying violations of anti-trust laws, the Federal Power Act, or the Public Utilities Holding Company Act of 1935 and stating further that the allegations of the cities did not allege circumstances or activities other than those raised in their petition to intervene in Docket No. E-7567, which were unresolved under the Appeal by the cities to the U.S. Court of Appeals for the District of Columbia Circuit. Applicant further stated that if the Courts ultimately sustain the Commission's action in Docket No. E-7567, then such action would also be proper in the present proceeding.

On October 12, 1971, the U.S. Court of Appeals for the District of Columbia Circuit remanded the Commission's order in Docket No. E-7567.

Upon review of the cities' petition, and the reply thereto by Gulf States and in accordance with our order issued simultaneously herewith in Docket No. E-7663, it is our view that the matter raised by the cities should be handled as a complaint under section 306 of the Federal Power Act.

The cities should be afforded the opportunity to present evidence in support of their allegations and to show under Part II of the Federal Power Act what prospective relief the Commission can grant, assuming cities sustains the burden of proving such allegations. Accordingly, the above-mentioned protest and petition and reply of Gulf States Utilities Co. will be treated as a complaint and answer thereto, respectively, and a public hearing will be held in order to afford all parties an opportunity to present evidence on the issues raised therein.

At such a hearing, the cities, as proponents, shall have the burden of proving that such acts and practices of Gulf States Utilities Co. are continuing or are likely to continue, and to what extent the Commission has jurisdiction to remedy such acts and practices.

The Commission finds:

(1) It is necessary and appropriate in the proper exercise of the Commission's responsibilities under the Federal Power Act that the above described issues raised by the cities in their protest and petition filed in Docket No. E-7663 be investigated in the context of a complaint proceeding to determine what relief, if any, may be granted by the Commission under Part II of the Federal Power Act.

(2) The expeditious disposition of this proceeding will be furthered by the submission of prepared testimony and exhibits by the cities in support of their allegation on or before January 3, 1972.

(3) The expeditious disposition of this proceeding will be further effectuated by holding a hearing on February 8, 1972.

The Commission orders:

(A) Pursuant to the authority of The Federal Power Act, particularly sections 202, 306 and 307 thereof and the Commission's rules of practice and procedure, an investigation is hereby instituted to determine the justification of the protest by the cities and, if necessary, to prescribe such relief as is appropriate within the boundaries of the Federal Power Act.

(B) Inasmuch as cities' allegations are directed to Louisiana Power and Light Co. and Central Louisiana Electric Co., as well as to Gulf States Utilities Co., these public utilities are named parties to this proceeding. A copy of the cities' complaint shall be served on Louisiana Power and Light Co. and Central Louisiana Electric Co. and their response thereto shall be filed with the Commission within 15 days from the date of issuing this order.

(C) Any person desiring to be heard or to make any protest with reference to the matters presented in this proceeding should, on or before December 1, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing herein must file petitions to intervene in accordance with the Commission's rules.

(D) The cities shall file with the Commission and serve on all parties to the proceeding, including the Staff of the Commission, direct testimony and exhibits in support of its allegations on or before January 3, 1972.

(E) A public hearing on the issues presented will be held in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC, commencing at 10 a.m. (e.s.t.), on February 8, 1972.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.71-16594 Filed 11-12-71;8:45 am]

FEDERAL RESERVE SYSTEM

AMERICAN HOLDING CORPORATION OF NEW JERSEY

Order Approving Action To Become Bank Holding Company

In the matter of the application of American Holding Corporation of New Jersey, Princeton, N.J., for approval to become a bank holding company through the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to American National Bank & Trust, Montclair, N.J., and 100 percent of the voting shares of Princeton Bank and Trust Co., Princeton, N.J.

There has come before the Board of Governors, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by American Holding Corporation of New Jersey, Princeton, N.J., for the Board's prior approval of action to become a bank holding company through the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to American National Bank & Trust, Montclair, N.J. (American Bank), and 100 percent of the voting shares of Princeton Bank and Trust Co., Princeton, N.J. (Princeton Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency and the Commissioner of Banking of the State of New Jersey. The Comptroller offered no objection to approval of the application and the Commissioner recommended approval.

Notice of receipt of the application was published in the FEDERAL REGISTER on September 18, 1971 (36 F.R. 18686), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant is a newly organized corporation. Consummation of this proposal herein would result in applicant controlling $418.9 million in deposits, representing 2.8 percent of total commercial bank deposits in the State, and applicant would become the ninth largest banking organization and the seventh largest bank holding company in New Jersey. (Unless otherwise noted, all banking data are as of December 31, 1970, adjusted to reflect holding company formations and acquisitions approved by the Board through September 30, 1971.)

American Bank ($341.4 million deposits), the 12th largest bank in New Jersey, has 32 banking offices and operates throughout the First Banking District. American Bank operates primarily in the Newark banking market, which is approximated by Essex County, a small part of Hudson County, most of Union County and the eastern half of Morris County. American Bank controls 7.5 percent of commercial bank deposits, and is the fourth largest bank in that market. (Banking data concerning market control and size are as of June 30, 1971.)

Princeton Bank ($77.5 million deposits), headquartered in the Second Banking District, has eight banking offices, and operates in the Trenton banking market. Princeton Bank controls 7.7 percent of commercial bank deposits and is the fourth largest bank in the Trenton banking market, which is approximated by Mercer County, plus the communities adjacent to Mercer County located in Hunterdon, Somerset, Middlesex, Monmouth, and Burlington Counties in New Jersey and Bucks County in Pennsylvania. (Banking data concerning market control and size are as of June 30, 1971.)

American Bank and Princeton Bank do not compete with each other to any significant extent, and the development of such competition in the future appears unlikely. The nearest offices of the two banks are 28 miles apart, and New Jersey law prohibits either bank from branching or merging across Banking District lines. It appears that the affiliation of the two banks in a holding company would not have any adverse effects on other banks in the Newark or Princeton markets, and may promote competition in the Princeton market by enabling Princeton Bank to become a more effective competitor. On the basis of the record before it, the Board concludes that consummation of the proposal would not have an adverse effect on competition in any relevant area.

The financial and managerial resources of each bank appears satisfactory. It appears that applicant would begin operations in satisfactory condition and with competent management. Applicant's future prospects, which are largely dependent upon those of its two subsidiaries, also appear favorable. Although there is no evidence that the existing banking needs of the communities involved are not being met, affiliation of Princeton Bank in the holding company would enable it to increase its lending limit and offer a wider range of specialized banking services. These considerations relative to the convenience and needs of the communities to be served lend some weight toward approval. It is the Board's judgment that the proposed transaction is in the public interest and should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above: *Provided*, That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order, or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of New York pursuant to delegated authority.

By order of the Board of Governors,[1] November 9, 1971.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.71-16596 Filed 11-12-71;8:45 am]

COMMERCE BANCSHARES, INC.

Order Approving Acquisition of Bank Stock By Bank Holding Company

In the matter of the applicatoin of Commerce Bancshares, Inc., Kansas City, Mo., for approval of acquisition of more than 80 percent of the voting shares of Blue Hills Bank of Commerce, Kansas City, Mo.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Commerce Bancshares, Inc., Kansas City, Mo., a registered bank holding company, for the Board's prior approval of the acquisition of more than 80 percent of the voting shares of Blue Hills Bank of Commerce, Kansas City, Mo. (Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Commissioner of Finance of the State of Missouri and requested his views and recommendation. The Commissioner indicated that his office had no objection to approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on August 12, 1971 (36 F.R. 15074), providing an opportunity for interested persons to submit comments and views with respect to the proposed transaction. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. The time for filing comments and views has expired and all those received have been considered by the Board.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources of the applicant and the banks concerned, and the convenience and needs of the communities to be served. Upon such consideration, the Board finds that:

Applicant, the third largest bank holding company and third largest banking organization in Missouri, controls 19 banks with aggregate deposits of $880.8 million, representing 7.7 percent of the total commercial bank deposits in the State. (All banking data are as of December 31, 1970, adjusted to reflect bank holding company formations and acquisitions approved by the Board through August 31, 1971.) Upon consummation of the proposal herein, applicant's share of deposits in the State would increase only slightly, and its position relative to the State's other banking organizations would remain unchanged.

Bank ($12.3 million deposits), one of the smaller banks in the Kansas City banking market, is the eighth largest of 11 banks in its primary service area, which is approximated by a 25-square-mile area just south of downtown Kansas City. Applicant's lead bank, Commerce Bank of Kansas City, is located downtown 6½ miles from Bank, and its service area fully encompasses that of Bank. Such factors would usually indicate that competitive considerations would weigh for denial of the application; however, other facts in the record provide evidence that there is no meaningful competition between Bank and any of applicant's subsidiary banks. Shareholders of applicant control approximately 78 percent of Bank's stock. This close relationship has existed since Bank's inception, and it appears that the relationship would continue to exist regardless of the Board's action on the present application. Additionally, Bank, which has experienced slow growth during the last several years, has not been an effective competitor to the other area banks due to its small size. On the basis of the foregoing, the Board concludes that consummation of the proposed acquisition would not adversely affect competition in any relevant area.

Considerations relating to financial and managerial resources and prospects as they relate to applicant and its subsidiaries are satisfactory and consistent with approval of the application and lend some weight toward approval as they relate to Bank, since applicant would be able to solve Bank's management succession problem by providing it with greater management depth. Although the major banking needs of the Bank's service area are being met by existing institutions, a portion of that area has experienced economic decline, and applicant intends to assist Bank in offering a full range of banking services, including urban and business development services, in an attempt to revitalize the area. Thus, considerations relating to the convenience and needs lend additional weight toward approval. It is the Board's judgment that the proposed transaction would be in the public interest, and that the application should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above: *Provided*, That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order, or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[1] November 9, 1971.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.71-16597 Filed 11-12-71;8:45 am]

[1] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Maisel, Brimmer, and Sherrill. Absent and not voting: Governor Robertson.

[1] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Maisel, Brimmer, and Sherrill. Absent and not voting: Governor Robertson.

CONNECTICUT BANK AND TRUST CO.

Order Approving Application for Merger of Banks Under Bank Merger Act

In the matter of the application of the Connecticut Bank and Trust Co., Hartford, Conn., for approval to merge with the North Side Bank and Trust Co., Bristol, Conn.

On November 5, 1970, the Board of Governors issued an order denying the application of the Connecticut Bank and Trust Co. for prior approval of a merger with the North Side Bank and Trust Co. pursuant to the Bank Merger Act (12 U.S.C. 1828(c)), and, incident thereto, for approval under section 9 of the Federal Reserve Act (12 U.S.C. 321) of the establishment of branches. 1970 Federal Reserve Bulletin 826.

On June 25, 1971, the Board granted a request for reconsideration filed with the Board by the Connecticut Bank and Trust Co. The request for reconsideration, which was filed pursuant to § 262.3 (f)(6) of the Board's rules of procedure (12 CFR 262.2(f)(6)), was granted because the request presented relevant facts (concerning the relevant market in which the banks operate) that, for good cause shown, were not previously presented to the Board, and reconsideration otherwise appeared appropriate.

It is hereby ordered, For the reasons set forth in the accompanying statement,[1] that the order of November 5, 1970, be and hereby is vacated, and

It is further ordered, That the application be and hereby is approved: *Provided*, That the merger so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Boston pursuant to delegated authority.

By order of the Board of Governors,[2] November 4, 1971.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.71-16598 Filed 11-12-71;8:45 am]

HURON COUNTY BANKING CO.

Order Approving Application for Merger of Banks Under Bank Merger Act

In the matter of the application of The Huron County Banking Co., Norwalk, Ohio, for approval of merger with the Savings and Loan Banking Co., New London, Ohio.

There has come before the Board of Governors, pursuant to the Bank Merger

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Boston. Dissenting statement of Governors Robertson, Maisel, and Brimmer filed as part of the original document and available upon request.

[2] Voting for this action: Chairman Burns and Governors Mitchell, Daane, and Sherrill. Voting against this action: Governors Robertson, Maisel, and Brimmer.

Act (12 U.S.C. 1828(c)), an application by the Huron County Banking Co., Norwalk, Ohio (Norwalk Bank), a member State bank of the Federal Reserve System, for the Board's prior approval of the merger of that bank with the Savings and Loan Banking Co., New London, Ohio (New London Bank), under the charter and name of Huron Bank. As an incident to the merger the present office of New London Bank would become a branch of Norwalk Bank. Notice of the proposed merger, in form approved by the Board, has been published as required by said Act.

In accordance with the Act, the Board requested reports on competitive factors involved from the Attorney General, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation. The Board has considered all relevant material contained in the record in the light of the factors set forth in the Act, including the effect of the proposal on competition, the financial and managerial resources and prospects of the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Norwalk Bank, with deposits of $32 million, and two banking offices, is located in Huron County and operates in the Sandusky banking market which consists of all of Erie County and the northern portion of Huron County. Norwalk Bank is the fourth largest of 13 banks headquartered in the Sandusky banking market, holding 11.1 percent of the deposits in that market. (All banking data are as of December 31, 1970.) New London Bank, with deposits of $9 million, operates its sole office in New London. New London Bank, although located in Huron County, operates in a separate banking market consisting of New London and its immediate surroundings. The nearest offices of Norwalk Bank to New London Bank are 17 miles distant from one another. Although there are no banking offices in the territory between New London and Norwalk, there are offices of other banks which provide alternative banking services to residents of New London and which are located closer to New London Bank than is Norwalk Bank.

There is no substantial existing competition between New London Bank and Norwalk Bank. Although Norwalk Bank could branch de novo into the New London banking market, substantial potential competition would not be foreclosed by consummation of this proposal because of the small size of New London Bank and because of the rural nature and modest growth prospects of the New London area which make branching into that market by Norwalk Bank unlikely. Consummation of the proposed transaction would not result in a substantial increase in concentration levels in any relevant area. Based upon all the facts revealed in the record, the Board concludes that the merger would not have an adverse effect on competition in any relevant area.

The financial and managerial resources and future prospects of the merging banks and the resulting bank are satisfactory and consistent with approval of the application. Considerations relating to the convenience and needs of the community lend some weight toward approval since the merger would increase the lending limit of New London Bank. New London Bank would, as a result, be able to serve more adequately the credit needs of the New London community. Based upon the foregoing, it is the Board's judgment that consummation of the proposal would be in the public interest and that the application should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above, provided that the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Cleveland pursuant to delegated authority.

By order of the Board of Governors,[1] November 9, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16599 Filed 11-12-71;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 4.4-1 (Region III), Disaster No. 849]

MANAGER, DISASTER BRANCH OFFICE, PHILADELPHIA

Delegation of Authority

I. Pursuant to the authority delegated to the Regional Director by Delegation of Authority No. 4.4 (Revision 1) (36 F.R. 7291), the following authority is hereby redelegated to the position as indicated herein:

A. *Manager, (Philadelphia, Pa.) Disaster Branch Office.* 1. To decline direct disaster and immediate participation disaster loans in any amount and to approve such loans up to the total SBA funds of (a) $50,000 per household for repairs or replacement of the home and/or not to exceed an additional $10,000 allowable for household goods and personal items, but in no event may the money loaned exceed $55,000 for a single disaster on home loans, except for funds to refinance prior liens or mortgages, which may be approved in addition to the foregoing limits for amounts up to $50,000; and (b) $350,000 on disaster business loans except to the extent of refinancing of a previous SBA disaster loan.

2. To approve disaster guaranteed loans up to an SBA guarantee of $350,000 and to decline such loans in any amount.

3. To execute loan authorizations for central, regional, and district office approved loans and disaster loans approved under delegated authority, said execution to read as follows:

"(Name), Administrator

By ----------
Manager, Disaster Branch
Office (No. 849)"

4. To cancel, reinstate, modify, and amend authorizations for disaster loans approved under delegated authority.

5. To disburse unsecured disaster loans.

6. To extend the disbursement period on disaster loan authorizations or undisbursed portions of disaster loans.

II. The authority delegated herein may not be redelegated.

III. All authority delegated herein to a specific position may be exercised by an SBA employee designated as acting in that position.

Effective date: September 20, 1971.

RUSSELL HAMILTON, JR.,
Regional Director,
Bala Cynwyd, Pa.

[FR Doc.71-16593 Filed 11-12-71;8:45 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

NOVEMBER 10, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

FD 26630 Sub 1, Baltimore & Eastern Railroad Co., assigned November 15, 1971, at Denton, MD, is canceled.

MC 126537 Sub 23, Kent I. Turner, Kenneth E. Turner & Ervin L. Turner a partnership doing business as Turner Expediting Service now assigned January 19, 1972, at Louisville, Ky., a hearing room to be designated later.

MC 112304 Sub 46, Ace Doran Hauling & Rigging, now assigned January 17, 1972, at Louisville, Ky., a hearing room to be designated later.

FD 26525, Chicago Milwaukee, St. Paul & Pacific Railroad Co.—Trackage Rights—Louisville & Nashville Railroad Co. Between Bedford, Ind., and New Albany, Ind., Also over Kentucky & Indiana Terminal Railroad Co., Between New Albany, Ind., and Louisville, Ky. FD 26526, Chicago Milwaukee, St. Paul & Pacific Railroad Co., Assumption of obligation and liability, now assigned January 24, 1972, at Louisville, Ky., a hearing room to be designated later.

[1] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Maisel, Brimmer and Sherrill. Absent and not voting: Governor Robertson.

MC 113459 Sub 68, H. J. Jeffries Truck Line, Inc., assigned December 2, 1971, in Room 1430, Federal Building, 1961 Stout Street, Denver, CO.

MC-C 7598, Brown Transport Corp. v. Terminal Transport Co., Inc., assigned January 17, 1972, at Atlanta, Ga., hearing room to be designated later.

MC 72442 Sub. 35, Akers Motor Lines, Inc., assigned February 14, 1972, at Atlanta, Ga., in a hearing room to be later designated.

MC 27965 Sub. 3, Davis Transportation Co., Inc., assigned February 24, 1972, at Boston, Mass.

MC 115162 Sub. 223, Poole Truck Line, Inc., assigned February 22, 1972, at Boston, Mass.

MC 119777 Sub. 206, Ligon Specialized Hauler, Inc., assigned January 10, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 124211 Sub. 179, Hilt Truck Line, Inc., Now assigned November 29, 1971, at Omaha, Nebr. canceled and application dismissed.

MC-F 10831, Engel Trucking, Inc.—Control & Merger—M and M Heavy Haulers Corp., now being assigned hearing January 4, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16620 Filed 11-12-71;8:47 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 10, 1971.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42302—*Class and commodity rates between points in Texas.* Filed by Texas-Louisiana Freight Bureau, agent (No. 651), for interested rail carriers. Rates on imitation sour cream and various commodities, in carloads and tank carloads, as described in the application, from, to, and between points in Texas, over interstate routes through adjoining States.

Grounds for relief—Intrastate rates and maintenance of rates from and to points in other States not subject to the same competition.

Tariff—Supplement 124 to Texas-Louisiana Freight Bureau, agent, tariff ICC 998. Rates are published to become effective on December 15, 1971.

AGGREGATE OF INTERMEDIATES

FSA No. 42303—*Class and commodity rates between points in Texas.* Filed by Texas-Louisiana Freight Bureau, agent (No. 652), for interested rail carriers. Rates on imitation sour cream and various commodities, in carloads and tank carloads, as described in the application, from, to, and between points in Texas, over interstate routes through adjoining States.

Grounds for relief—Maintenance of depressed rates published to meet intrastate competition without use of such rates as factors in constructing combination rates.

Tariff—Supplement 124 to Texas-Louisiana Freight Bureau, agent, tariff ICC 998. Rates are published to become effective on December 15, 1971.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16619 Filed 11-12-71;8:47 am]

[Notice 394]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 8, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 9050 (Sub-No. 31 TA), filed October 26, 1971. Applicant: SEEGER BROS., Hillside Avenue, Kenvil, N.J. 07847. Applicant's representative: James J. Farrell, 206 North Boulevard, Belmar, NJ 07719. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Classes A, B, and C explosives*, between McAdory, Ala., on the one hand, and, on the other, points in Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia, for 180 days. Supporting shipper: Hercules Inc., 910 Market Street, Wilmington, DE 19899. Send protests to: District Supervisor Joel Morrows, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 30887 (Sub-No. 169 TA), filed October 28, 1971. Applicant: SHIPLEY TRANSFER, INC., 49 Main Street, Post Office Box 55, Reisterstown, MD 21136. Applicant's representative: William B. Eckels (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polypropylene*, in bulk, in tank vehicles, from (1) Neal, W. Va., to Sayreville, N.J.; and (2) from Sayreville, N.J., to Auburn, N.Y., for 180 days. Supporting shipper: Richard G. Ingersoll, Traffic Manager, Essex Chemical Corp., 1401 Broad Street, Clifton, NJ 07102. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 814-B Federal Building, Baltimore, Md. 21201.

No. MC 97310 (Sub-No. 8 TA), filed November 1, 1971. Applicant: BELL TRANSFER COMPANY, INC., Post Office Box 5636, Meridian, Miss. 39301. Applicant's representative: Jerry H. Blount (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, (1) between Marion and Birmingham, Ala., and including points in Adamsville, Mulga, Westfield, Woodward, Bessemer, Docena, Edgewater, Dolomite, Fairfield, Brighton, Bay View, Pleasant Grove, Hueytown, Midfield, Lipscomb, Shannon, Ishkooda, Vestavia Hills, Irondale, Alton, Tarrant City, Watson, Leeds, Brookside, Oxmoor, Smythe, Spaulding, Homewood, Overton, Center Point, Fultondale, Trussville, Pinson, Pelham Redding, Megalla, Mountain Brook, Weems, Sayreton, Argo, Gardendale, Huffman, and Wenonah, located within 15 miles of Birmingham, Ala., from Marion over Alabama Highway 5, thence over U.S. Highway 11 and Interstate Highways 20 and 59 to Birmingham, and return over the same route, serving all intermediate points; (2) between Greensboro and Tuscaloosa, Ala., from Greensboro over Alabama Highway 69 to Tuscaloosa, and return over the same route, serving all intermediate points; (3) between Greensboro and Eutaw, Ala., from Greensboro over Alabama Highway 14 to Eutaw and return over the same route, serving all intermediate points; (4) between Demopolis and Tuscaloosa, Ala., from Demopolis over U.S. Highways 43 and 11, to Tuscaloosa and return over the same route, serving all intermediate points; (5) between Eutaw and the intersection of U.S. Highways 11 and 80, near Cuba, Ala., from Eutaw over U.S. Highway 11 to the intersection of U.S. Highway 80 and return over the same route, serving all intermediate points;

(6) Between the intersection of U.S. Highway 80 and Alabama Highway 28 and Livington, Ala., from the intersection of U.S. Highway 80 and Alabama Highway 28, over Alabama Highway 28 to Livington and return over the same route, serving all intermediate points; (7) between Tuscaloosa, Ala., and the intersection of Alabama Highway 5 and U.S. Highway 11 and Interstate Highways 20 and 59; from Tuscaloosa over U.S. Highway 11 and Interstate Highways 20 and 59 to the intersection of Alabama Highway 5, and return over the same route, serving all intermediate points; (8) between Tuscaloosa, and Prattville, Ala., from Tuscaloosa over

U.S. Highway 82 to Prattville and return over the same route, serving all intermediate points; (9) between Selma and Maplesville, Ala., from Selma over Alabama Highway 22 to Maplesville and return over the same route, serving all intermediate points; and (10) between Catherine, Ala., and the intersection of Alabama Highway 28 and U.S. Highway 80; from Catherine over Alabama Highway 28 to the intersection of U.S. Highway 80 and return over the same route, serving all intermediate points, for 180 days. NOTE: This authority is restricted to traffic originating at, destined to, or moving through points in Alabama. Applicant intends to tack this authority with certificate No. MC-97310 and subs thereunder and interline at all terminal sites. Supported by: There are approximately 51 statements attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Alan C. Tarrant, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 117765 (Sub-No. 136 TA), filed October 29, 1971. Applicant: HAHN TRUCK LINE, INC., 5315 Northwest Fifth, Post Office Box 75267, Oklahoma City, OK 73107. Applicant's representative: R. E. Ragen (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-frozen preserved foodstuffs*, in containers, from the plantsite of Lakeside Packing Co., Plainview, Minn., to points in Alabama, Arkansas, Kansas, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, and Texas, for 180 days. Supporting shipper: Lakeside Packing Co., E. James Kraska, General Traffic Manager, Post Office Box 186, Manitowoc, WI 54220. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 128235 (Sub-No. 8 TA) (amendment), filed October 12, 1971, published FEDERAL REGISTER, October 27, 1971, amended and republished in part as amended this issue. Applicant: ALVIN JOHNSON, 137 13th Avenue NE., Minneapolis, MN 55413. Applicant's representative: Earl Hacking, 503 11th Avenue South, Minneapolis, MN 55415. NOTE: The purpose of this partial republication is to include the applicant's representative, which was inadvertently omitted in previous publication. The rest of the application remains as previously published.

No. MC 129558 (Sub-No. 4 TA), filed October 27, 1971. Applicant: ROY ROSS, doing business as ROY ROSS TRUCKING COMPANY, 297 Spruce Street, Post Office Box 405, Gallipolis, OH 45631. Applicant's representative: James R. Stiverson, Suite 2240, Leveque-Lincoln Tower, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Prepared, processed and packaged meat and meat products*, in refrigerated equipment, from Bidwell (Gallia County) and Xenia (Greene County), Ohio, to Washington and Pittsburgh, Pa., for 180 days. Supporting shipper: Bob Evans Frams, 3776 South High Street, Post Office Box No. 7863, Station G, Columbus, OH 43207, Attention: Mr. Daniel E. Evans, Chairman of the Board. Send protests to: H. R. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 3108 Federal Office Building, 500 Quarrier Street, Charleston, WV 25301.

No. MC 136114 TA, filed October 29, 1971. Applicant: P. & H. TRANSPORT, INC., North 2128 Waterworks Street, Spokane, WA 99202. Applicant's representative: George R. LaBissoniere, 1424 Washington Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points in Washington on and east of U.S. Highway 97 and points in Idaho north of the southern boundary of Idaho and Lemhi Counties, Idaho, to points in Wyoming, North Dakota, South Dakota, Nebraska, Minnesota, Iowa, Missouri, Illinois, Wisconsin, Indiana, Michigan, Ohio, Pennsylvania, New York, Kansas, and Oklahoma, for 180 days. Supported by: There are approximately 15 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: E. J. Casey, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 136118 TA, filed November 1, 1971. Applicant: CERNI TRANSPORTATION CORP., 18-20 Parsons Boulevard, Whitestone, NY 11357. Applicant's representative: Paul J. Keeler, Post Office Box 253, South Plainfield, NJ 07080. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Forms or molds, concrete construction, and materials and equipment* used in the installation and removal of the same, *plywood, steel scaffolding*, (1) Between the plantsites and warehouses of Symons Manufacturing Co., a division of Symons Corp., located in Des Plaines, Ill., Victor, N.Y., King of Prussia, Pa., Fairfield, N.J., and Baltimore, Md., and (2) between the warehouse of Symons Manufacturing Co., a division of Symons Corp., located in Fairfield, N.J., on the one hand, and, on the other, points in New York, N.Y., points in Nassau, Suffolk, Westchester, Putnam, Dutchess, Columbia, Greene, Ulster, Sullivan, Orange, and Rockland Counties, N.Y., for 180 days. Supporting shipper: Symons Manufacturing Co., Division of (S) Symons Corp., 200 East Touhy Avenue, Des Plaines, IL 60018. Send protests to: Anthony Chiusano, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, NY 10007.

No. MC 136119 TA, filed October 29, 1971. Applicant: D. H. S., INC., 112½ Main Street, Parsons, TN 38363. Applicant's representative: R. Connor Wiggins, Jr., 909 100 North Main Building, Memphis, Tenn. 38103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Refrigeration and freezer equipment, and parts components, attachments, and accessories therefor*, from the plantsites of Kolpak Industries, Inc., at or near Decaturville and Flat Woods, Tenn., to points in the United States (except Alaska and Hawaii) and *materials components, supplies, parts, attachments, and accessories* used in the manufacture, erection, installation, shipment, and testing of refrigeration and freezer equipment and parts, components, attachments and accessories therefor, from points in the United States (except Alaska and Hawaii) to the plantsite of Kolpak Industries, Inc., at or near Decaturville and Flat Woods, Tenn., the Service would be performed pursuant to a continuing contract between applicant and Kolpak Industries, Inc., for 180 days. Supporting shipper: Kolpak Industries, Inc., Post Office Box 7, Decaturville, Tenn. 38329. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 933 Federal Office Building, 167 North Main Street, Memphis, TN 38103.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16618 Filed 11-12-71;8:47 am]

[Rev. S.O. 994; ICC Order 63]

LOUISVILLE AND NASHVILLE RAILROAD CO. AND BIRMINGHAM SOUTHERN RAILROAD CO.

Rerouting and Diversion of Traffic

In the opinion of R. D. Pfahler, agent, the Louisville and Nashville Railroad Co. and the Birmingham Southern Railroad Co. are unable to transport certain carload traffic, loaded to excessive dimensions, over their lines in the vicinity of Bessemer, Ala., due to restricted clearances at their normal interchange points.

It is ordered, That:

(a) *Rerouting traffic.* The Louisville and Nashville Railroad Co. and the Birmingham Southern Railroad Co. being unable to transport certain carload traffic, loaded to excessive dimensions, over their lines in the vicinity of Bessemer, Ala., due to restricted clearances at their normal interchange points, are hereby authorized to reroute or divert such traffic over any available route to expedite the movement.

(b) *Concurrence of receiving road to be obtained.* The Louisville and Nashville Railroad Co. shall receive the concurrence of the Birmingham Southern Railroad Co. before the rerouting or diversion is ordered.

(c) In executing the directions of the Commission and of such agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(d) *Effective date.* This order shall become effective at 12:01 a.m., November 15, 1971.

(e) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1971, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement; and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register

Issued at Washington, D.C., November 8, 1971.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER, *Agent.*

[FR Doc.71-16621 Filed 11-12-71;8:47 am]

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federal register

SATURDAY, NOVEMBER 13, 1971
WASHINGTON, D.C.
Volume 36 ■ Number 220

PART II

DEPARTMENT OF LABOR

Wage and Hour Division

■

Exemption from Maximum Hours

Provisions for Certain Employees of Motor Carriers

No. 220—Pt. II——1

Title 29—LABOR

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SUBCHAPTER B—STATEMENTS OF GENERAL POLICY OR INTERPRETATION NOT DIRECTLY RELATED TO REGULATIONS

PART 782—EXEMPTION FROM MAXIMUM HOURS PROVISIONS FOR CERTAIN EMPLOYEES OF MOTOR CARRIERS

Part 782 of Title 29 of the Code of Federal Regulations is hereby revised to adapt it to the changes made by the "Department of Transportation Act," Public Law 89-670 (80 Stat. 931 et seq.) (49 U.S.C. 1651 et seq.), in which certain functions were transferred from the Interstate Commerce Commission to the Department of Transportation and which amended section 13(b)(1) of the Fair Labor Standards Act to conform to this transfer of functions. The format also is amended to incorporate into the text many references heretofore set forth as footnotes including additional citations.

The administrative procedure provisions of 5 U.S.C. 553 which require notice of proposed rule making, opportunity for public participation, and delay in effective date are not applicable because these are interpretive rules. I do not believe such procedures will serve a useful purpose here. Accordingly, this amendment revising Part 782 shall become effective immediately.

The revised 29 CFR Part 782 reads as follows:

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782.6 Mechanics.
782.7 Interstate commerce requirements of exemption.
782.8 Special classes of carriers.

AUTHORITY: The provisions of this Part 782 issued under 52 Stat. 1060, as amended; 29 U.S.C. 201 et seq.

§ 782.0 Introductory statement.

(a) Since the enactment of the Fair Labor Standards Act of 1938, the views of the Administrator of the Wage and Hour Division as to the scope and applicability of the exemption provided by section 13(b)(1) of the act have been expressed in interpretations issued from time to time in various forms. This part, as of the date of its publication in the FEDERAL REGISTER, supersedes and replaces such prior interpretations. Its purpose is to make available in one place general interpretations of the Administrator which will provide "a practical guide to employers and employees as to how the office representing the public interest in enforcement of the law will seek to apply it." (Skidmore v. Swift & Co., 323 U.S. 134)

(b) The interpretations contained in this part indicate, with respect to the scope and applicability of the exemption provided by section 13(b)(1) of the Fair Labor Standards Act, the construction of the law which the Secretary of Labor and the Administrator believe to be correct in the light of the decisions of the courts, the Interstate Commerce Commission, and since October 15, 1966, its successor, the Secretary of Transportation, and which will guide them in the performance of their administrative duties under the act unless and until they are otherwise directed by authoritative decisions of the courts or conclude upon reexamination of an interpretation that it is incorrect.

(c) Public Law 89-670 (80 Stat. 931) transferred to and vested in the Secretary of Transportation all functions, powers, and duties of the Interstate Commerce Commission (1) under section 204(a)(1) and (a)(2) to the extent they relate to qualifications and maximum hours of service of employees and safety of operations and equipment, and (2) under section 204(a)(5) of the Motor Carrier Act. The interpretations contained in this part are interpretations on which reliance may be placed as provided in section 10 of the Portal-to-Portal Act (Public Law 49, 80th Cong., first sess. (61 Stat. 84), discussed in Part 790, statement on effect of Portal-to-Portal Act of 1947), so long as they remain effective and are not modified, amended, rescinded, or determined by judicial authority to be incorrect.

§ 782.1 Statutory provisions considered.

(a) Section 13(b)(1) of the Fair Labor Standards Act provides an exemption from the maximum hours and overtime requirements of section 7 of the act, but not from the minimum wage requirements of section 6. The exemption is applicable to any employee with respect to whom the Secretary of Transportation has power to establish qualifications and maximum hours of service pursuant to the provisions of section 204 of the Motor Carrier Act of 1935. (Part II of the Interstate Commerce Act, 49 Stat. 546, as amended; 49 U.S.C. 304, as amended by Public Law 89-670, section 8e which substituted "Secretary of Transportation" for "Interstate Commerce Commission"—Oct. 15, 1966) except that the exemption is not applicable to any employee with respect to whom the Secretary of Transportation has power to establish qualifications and maximum hours of service solely by virtue of section 204(a)(3a) of Part II of the Interstate Commerce Act. (Public Law 939, 84th Cong., second sess., Aug. 3, 1956, secs. 2 and 3) The Fair Labor Standards Act confers no authority on the Secretary of Labor or the Administrator to extend or restrict the scope of this exemption. It is settled by decisions of the U.S. Supreme Court that the applicability of the exemption to an employee otherwise entitled to the benefits of the Fair Labor Standards Act is determined exclusively by the existence of the power conferred under section 204 of the Motor Carrier Act to establish qualifications and maximum hours of service with respect to him. It is not material whether such qualifications and maximum hours of service have actually been established by the Secretary of Transportation; the controlling consideration is whether the employee comes within his power to do so. The exemption is not operative in the absence of such power, but an employee with respect to whom the Secretary of Transportation has such power is excluded, automatically, from the benefits of section 7 of the Fair Labor Standards Act. (Southland Gasoline Co. v. Bayley, 319 U.S. 44; Boutell v. Walling, 327 U.S. 463; Levinson v. Spector Motor Service, 330 U.S. 649; Pyramid Motor Freight Corp. v. Ispass, 330 U.S. 695; Morris v. McComb, 332 U.S. 422)

(b) Section 204 of the Motor Carrier Act, 1935, provides that it shall be the duty of the Interstate Commerce Commission (now that of the Secretary of Transportation (see § 782.0(c)) to regulate common and contract carriers by motor vehicle as provided in that act, and that "to that end the Commission may establish reasonable requirements with respect to * * * qualifications and maximum hours of service of employees, and safety of operation and equipment." (Motor Carrier Act, sec. 204(a)(1), (2), 49 U.S.C. sec. 304(a)(1), (2)) Section 204 further provides for the establishing of similar regulations with respect to private carriers of property by motor vehicle, if need therefor is found. (Motor Carrier Act, sec. 204(a)(3), 49 U.S.C. sec. 304(a)(3))

(c) Other provisions of the Motor Carrier Act which have a bearing on the scope of section 204 include those which define common and contract carriers by motor vehicle, motor carriers, private carriers of property by motor vehicle (Motor Carrier Act, sec. 203(a)(14), (15), (16), (17), 49 U.S.C. sec. 303(a)(14), (15), (16), (17)) and motor vehicle (Motor Carrier Act, sec. 203(a)(13)); those which confer regulatory powers with respect to the transportation of passengers or property by motor carriers engaged in interstate or foreign commerce (Motor Carrier Act, sec. 202(a)), as defined in the Motor Carrier Act, sec. 203(a)(10), (11), and reserve to each State the exclusive exercise of the power of regulation of intrastate commerce by motor carriers on its highways (Motor Carrier Act, sec. 202(b)); and those which expressly make section 204 applicable to certain transportation in interstate or foreign commerce which is in other respects excluded from regulation under the act. (Motor Carrier Act, sec. 202(c))

§ 782.2 Requirements for exemption in general.

(a) The exemption of an employee from the hours provisions of the Fair Labor Standards Act under section 13(b)(1) depends both on the class to which his employer belongs and on the class of work involved in the employee's

job. The power of the Secretary of Transportation to establish maximum hours and qualifications of service of employees, on which exemption depends, extends to those classes of employees and those only who (1) are employed by carriers whose transportation of passengers or property by motor vehicle is subject to his jurisdiction under section 204 of the Motor Carrier Act (Boutell v. Walling, 327 U.S. 463; Walling v. Casale, 51 F. Supp. 520; and see Ex parte Nos. MC-2 and MC-3, in the Matter of Maximum Hours of Service of Motor Carrier Employees, 28 M.C.C. 125, 132), and (2) engage in activities of a character directly affecting the safety of operation of motor vehicles in the transportation on the public highways of passengers or property in interstate or foreign commerce within the meaning of the Motor Carrier Act. United States v. American Trucking Assns., 310 U.S. 534; Levinson v. Spector Motor Service, 330 U.S. 649; Ex parte No. MC-28, 13 M.C.C. 481; Ex parte Nos. MC-2 and MC-3, 28 M.C.C. 125; Walling v. Comet Carriers, 151 F. (2d) 107 (C.A. 2).

(b) (1) The carriers whose transportation activities are subject to the Secretary of Transportation jurisdiction are specified in the Motor Carrier Act itself (see § 782.1). His jurisdiction over private carriers is limited by the statute to private carriers of property by motor vehicle, as defined therein, while his jurisdiction extends to common and contract carriers of both passengers and property. See also the discussion of special classes of carriers in § 782.8. And see paragraph (d) of this section. The U.S. Supreme Court has accepted the Agency determination, that activities of this character are included in the kinds of work which has been defined as the work of drivers, driver's helpers, loaders, and mechanics (see §§ 782.3 to 782.6) employed by such carriers, and that no other classes of employees employed by such carriers perform duties directly affecting such "safety of operation." Ex parte No. MC-2, 11 M.C.C. 203; Ex parte No. MC-28, 13 M.C.C. 481; Ex parte No. MC-3, 23 M.C.C. 1; Ex parte Nos. MC-2 and MC-3, 28 M.C.C. 125; Levinson v. Spector Motor Service, 330 U.S. 649; Pyramid Motor Freight Corp. v. Ispass, 330 U.S. 695; Southland Gasoline Co. v. Bayley, 319 U.S. 44. See also paragraph (d) of this section and §§ 782.3-782.8.

(2) The exemption is applicable, under decisions of the U.S. Supreme Court, to those employees and those only whose work involves engagement in activities consisting wholly or in part of a class of work which is defined (i) as that of a driver, driver's helper, loader, or mechanic, and (ii) as directly affecting the safety of operation of motor vehicles on the public highways in transportation in interstate or foreign commerce within the meaning of the Motor Carrier Act. Pyramid Motor Freight Corp. v. Ispass, 330 U.S. 695; Levinson v. Spector Motor Service, 330 U.S. 649; Morris v. McComb, 332 U.S. 442. Although the Supreme Court recognized that the special knowledge and experience required to determine what classifications of work affects safety of operation of interstate motor carriers was applied by the Commission, it has made it clear that the determination whether or not an individual employee is within any such classification is to be determined by judicial process. (Pyramid Motor Freight Corp. v. Ispass, 330 U.S. 695; Cf. Missel v. Overnight Motor Transp., 40 F. Supp. 174 (D. Md.), reversed on other grounds 126 F. (2d) 98 (C.A. 4), affirmed 316 U.S. 572; West v. Smoky Mountains Stages, 40 F. Supp. 296 (N.D. Ga.); Magann v. Long's Baggage Transfer Co., 39 F. Supp. 742 (W.D. Va.); Walling v. Burlington Transp. Co. (D. Nebr.), 5 W.H. Cases 172, 9 Labor Cases par. 62,576; Hager v. Brinks, Inc., 6 W.H. Cases 262 (N.D. Ill.)) In determining whether an employee falls within such an exempt category, neither the name given to his position nor that given to the work that he does is controlling (Pyramid Motor Freight Corp. v. Ispass, 330 U.S. 695; Porter v. Poindexter, 158 F. (2d) 759 (C.A. 10); Keeling v. Huber & Huber Motor Express, 57 F. Supp. 617 (W.D. Ky.); Crean v. Moran Transp. Lines (W.D. N.Y.), 9 Labor Cases, par. 62,416 (see also earlier opinion in 54 F. Supp. 765)); what is controlling is the character of the activities involved in the performance of his job.

(3) As a general rule, if the bona fide duties of the job performed by the employee are in fact such that he is (or, in the case of a member of a group of drivers, driver's helpers, loaders, or mechanics employed by a common carrier and engaged in safety-affecting occupations, that he is likely to be) called upon in the ordinary course of his work to perform, either regularly or from time to time, safety-affecting activities of the character described in subparagraph (2) of this paragraph, he comes within the exemption in all workweeks when he is employed at such job. This general rule assumes that the activities involved in the continuing duties of the job in all such workweeks will include activities which have been determined to affect directly the safety of operation of motor vehicles on the public highways in transportation in interstate commerce. Where this is the case, the rule applies regardless of the proportion of the employee's time or of his activities which is actually devoted to such safety-affecting work in the particular workweek, and the exemption will be applicable even in a workweek when the employee happens to perform no work directly affecting "safety of operation." On the other hand, where the continuing duties of the employee's job have no substantial direct effect on such safety of operation or where such safety-affecting activities are so trivial, casual, and insignificant as to be de minimis, the exemption will not apply to him in any workweek so long as there is no change in his duties. (Pyramid Motor Freight Corp. v. Ispass, 330 U.S. 695; Morris v. McComb, 332 U.S. 422; Levinson v. Spector Motor Service, 330 U.S. 649; Rogers Cartage Co. v. Reynolds, 166 F. (2d) 317 (C.A. 6); Opelika Bottling Co. v. Goldberg, 299 F. (2d) 37 (C.A. 5); Tobin v Mason & Dixon Lines, Inc., 102 F. Supp. 466 (E.D. Tenn.)) If in particular workweeks other duties are assigned to him which result, in those workweeks, in his performance of activities directly affecting the safety of operation of motor vehicles in interstate commerce on the public highways, the exemption will be applicable to him in those workweeks, but not in the workweeks when he continues to perform the duties of the non-safety-affecting job.

(4) Where the same employee of a carrier is shifted from one job to another periodically or on occasion, the application of the exemption to him in a particular workweek is tested by application of the above principles to the job or jobs in which he is employed in that workweek. Similarly, in the case of an employee of a private carrier whose job does not require him to engage regularly in exempt safety-affecting activities described in subparagraph (1) of this paragraph and whose engagement in such activities occurs sporadically or occasionally as the result of his work assignments at a particular time, the exemption will apply to him only in those workweeks when he engages in such activities. Also, because the jurisdiction of the Secretary of Transportation over private carriers is limited to carriers of property (see subparagraph (1) of this paragraph) a driver, driver's helper, loader, or mechanic employed by a private carrier is not within the exemption in any workweek when his safety-affecting activities relate only to the transportation of passengers and not to the transportation of property.

(c) The application of these principles may be illustrated as follows:

(1) In a situation considered by the U.S. Supreme Court, approximately 4 percent of the total trips made by drivers employed by a common carrier by motor vehicle involved the hauling of interstate freight. Since it appeared that the employer, as a common carrier, was obligated to take such business, and that any driver might be called upon at any time to perform such work, which was indiscriminately distributed among the drivers, the Court considered that such trips were a natural, integral, and apparently inseparable part of the common carrier service performed by the employer and driver employees. Under these circumstances, the Court concluded that such work, which directly affected the safety of operation of the vehicles in interstate commerce, brought the entire classification of drivers employed by the carrier under the power of the Interstate Commerce Commission to establish qualifications and maximum hours of service, so that all were exempt even though the interstate driving of particular employees was sporadic and occasional, and in practice some drivers would not be called upon for long periods to perform any such work. (Morris v. McComb, 332 U.S. 422)

(2) In another situation, the U.S. Court of Appeals (Seventh Circuit) held that the exemption would not apply to truckdrivers employed by a private carrier on intrastate routes who engaged in no safety-affecting activities of the character described above even though other drivers of the carrier on interstate

routes were subject to the jurisdiction of the Motor Carrier Act. The court reaffirmed the principle that the exemption depends not only upon the class to which the employer belongs but also the activities of the individual employee. (Goldberg v. Faber Industries, 291 F. (2d) 232)

(d) The limitations, mentioned in paragraph (a) of this section, on the regulatory power of the Secretary of Transportation (as successor to the Interstate Commerce Commission) under section 204 of the Motor Carrier Act are also limitations on the scope of the exemption. Thus, the exemption does not apply to employees of carriers who are not carriers subject to his jurisdiction, or to employees of noncarriers such as commercial garages, firms engaged in the business of maintaining and repairing motor vehicles owned and operated by carriers, firms engaged in the leasing and renting of motor vehicles to carriers and in keeping such vehicles in condition for service pursuant to the lease or rental agreements. (Boutell v. Walling, 327 U.S. 463; Walling v. Casale, 51 F. Supp. 520) Similarly, the exemption does not apply to an employee whose job does not involve engagement in any activities which have been defined as those of drivers, drivers' helpers, loaders, or mechanics, and as directly affecting the "safety of operation" of motor vehicles. (Pyramid Motor Freight Corp. v. Ispass, 330 U.S. 695; Levinson v. Spector Motor Service, 330 U.S. 649; United States v. American Trucking Assn., 310 U.S. 534; Gordon's Transports v. Walling, 162 F. (2d) 203 (C.A. 6); Porter v. Poindexter, 158 F. (2d) 759 (C.A. 10)) Except in so far as the Commission has found that the activities of drivers, drivers' helpers, loaders, and mechanics, as defined by it, directly affect such "safety of operation," it has disclaimed its power to establish qualifications or maximum hours of service under section 204 of the Motor Carrier Act. (Pyramid Motor Freight Corp. v. Ispass, 330 U.S. 695) "Safety of operation" as used in section 204 of the Motor Carrier Act means "the safety of operation of motor vehicles in the transportation of passengers or property in interstate or foreign commerce, and that alone." (Ex parte Nos. MC–2 and MC–3 (Conclusions of Law No. 1), 28 M.C.C. 125, 139) Thus, the activities of drivers, drivers' helpers, loaders, or mechanics in connection with transportation which is not in interstate or foreign commerce within the meaning of the Motor Carrier Act provide no basis for exemption under section 13(b)(1) of the Fair Labor Standards Act. (Walling v. Comet Carriers, 151 F. (2d) 107 (C.C.A. 2); Hansen v. Salinas Valley Ice Co. (Cal. App.) 144 P. (2d) 896; Reynolds v. Rogers Cartage Co., 71 F. Supp. 870 (W.D. Ky.), reversed on other grounds, 166 F (d) 317 (C.A. 6); Earle v. Brinks, Inc., 54 F. Supp. 676 (S.D. N.Y.); Walling v. Villaume Box & Lumber Co., 58 F. Supp. 150 D. Minn.); Hager v. Brinks, Inc., 11 Labor Cases, par. 63,296 (N.D. Ill.), 6 W.H. Cases 262; Walling v. DeSoto Creamery & Produce Co., 51 F. Supp. 938 (D. Minn.); Dallum v. Farmers Cooperative Trucking Assn., 46 F. Supp. 785 (D. Minn.); McLendon v. Bewley Mills (N.D. Tex.); 3 Labor Cases, par. 60,247, 1 W.H. Cases 934; Gibson v. Glasgow (Tenn. Sup. Ct.), 157 S.W. (2d) 814; cf. Morris v. McComb, 332 U.S. 422. See also § 782.1 and §§ 782.7–782.8.)

(e) The jurisdiction of the Secretary of Transportation under section 204 of the Motor Carrier Act relates to safety of operation of motor vehicles only, and "to the safety of operation of such vehicles on the highways of the country, and that alone." (Ex parte Nos. MC–2 and MC–3, 28 M.C.C. 125, 192. See also United States v. American Trucking Assns., 319 U.S. 534, 548.) Accordingly, the exemption does not extend to employees merely because they engage in activities affecting the safety of operation of motor vehicles operated on private premises. Nor does it extend to employees engaged solely in such activities as operating freight and passenger elevators in the carrier's terminals or moving freight or baggage therein or the docks or streets by hand trucks, which activities have no connection with the actual operation of motor vehicles. (Gordon's Transport v. Walling, 162 F. (2d) 203 (C.A. 6), certorari denied 322 U.S. 774; Walling v. Comet Carriers, 57 F. Supp. 1018, affirmed, 151 F. (2d) 107 (C.A. 2), certiorari dismissed, 382 U.S. 819; Gibson v. Glasgow (Tenn. Sup. Ct.), 157 S.W. (2d) 814; Ex parte Nos. MC–2 and MC–3, 28 M.C.C. 125, 128. See also Pyramid Motor Freight Corp. v. Ispass, 330 U.S. 695; Levinson v. Spector Motor Serv., 330 U.S. 949.)

(f) Certain classes of employees who are not within the definitions of drivers, drivers' helpers, loaders, and mechanics are mentioned in §§ 782.3–782.6, inclusive. Others who do not come within these definitions include the following, whose duties are considered to affect safety of operation, if at all, only indirectly; stenographers (including those who write letters relating to safety or prepare accident reports); clerks of all classes (including rate clerks, billing clerks, clerks engaged in preparing schedules, and filing clerks in charge of filing accident reports, hours-of-service records, inspection reports, and similar documents); foremen, warehousemen, superintendents, salesmen, and employees acting in an executive capacity. (Ex parte Nos. MC–2 and MC–3, 28 M.C.C. 125; Ex parte No. MC–28, 13 M.C.C. 481. But see §§ 782.5(b) and 782.6(b) as to certain foremen and superintendents.) Such employees are not within the section 13(b)(1) exemption. (Overnight Motor Transp. Co. v. Missel, 316 U.S. 572 (rate clerk who performed incidental duties as cashier and dispatcher); Levinson v. Spector Motor Service, 330 U.S. 649; Porter v. Poindexter, 158 F. (2d) 759 (C.A. 10) (checker of freight and bill collector); Potashnik, Local Truck System v. Archer (Ark. Sup. Ct.), 179 S.W. (2d) 696 (night manager who did clerical work on waybills, filed day's accumulation of bills and records, billed out local accumulation of shipments, checked mileage on trucks and made written reports, acted as night dispatcher, answered telephone calls, etc.).)

§ 782.3 Drivers.

(a) A "driver," as defined for Motor Carrier Act jurisdiction (49 CFR Parts 390–395; Ex parte No. MC–2, 3 M.C.C. 665; Ex parte No. MC–3, 23 M.C.C. 1; Ex parte No. MC–4, 1 M.C.C. 1), is an individual who drives a motor vehicle in transportation which is, within the meaning of the Motor Carrier Act, in interstate or foreign commerce. (As to what is considered transportation in interstate or foreign commerce within the meaning of the Motor Carrier Act, see § 782.7.) This definition does not require that the individual be engaged in such work at all times; it is recognized that even full-duty drivers devote some of their working time to activities other than such driving. "Drivers," as thus officially defined, include, for example, such partial-duty drivers as the following, who drive in interstate or foreign commerce as part of a job in which they are required also to engage in other types of driving or nondriving work: Individuals whose driving duties are concerned with transportation some of which is in intrastate commerce and some of which is in interstate or foreign commerce within the meaning of the Motor Carrier Act; individuals who ride on motor vehicles engaged in transportation in interstate or foreign commerce and act as assistant or relief drivers of the vehicles in addition to helping with loading, unloading, and similar work; drivers of chartered buses or of farm trucks who have many duties unrelated to driving or safety of operation of their vehicles in interstate transportation on the highways; and so-called "driver-salesmen" who devote much of their time to selling goods rather than to activities affecting such safety of operation. (Levinson v. Spector Motor Service, 330 U.S. 649; Morris v. McComb, 332 U.S. 422; Richardson v. James Gibbons Co., 132 F. (2d) 627 (C.A. 4), affirmed 319 U.S. 44; Gavril v. Kraft Cheese Co., 42 F. Supp. 702 (N.D. Ill.); Walling v. Craig, 53 F. Supp. 479 (D. Minn.); Vannoy v. Swift & Co. (Mo. S. Ct.), 201 S.W. (2d) 350; Ex parte No. MC–2, 3 M.C.C. 665; Ex parte No. MC–3, 23 M.C.C. 1; Ex parte Nos. MC–2 and MC–3, 28 M.C.C. 125; Ex parte No. MC–4, 1 M.C.C. 1. Cf. Colbeck v. Dairyland Creamery Co. (S.D. Supp. Ct.), 17 N.W. (2d) 262, in which the court held that the exemption did not apply to a refrigeration mechanic by reason solely of the fact that he crossed State lines in a truck in which he transported himself to and from the various places at which he serviced equipment belonging to his employer.)

(b) The work of an employee who is a full-duty or partial-duty "driver," as the term "driver" is above defined, directly affects "safety of operation" within the meaning of section 204 of the Motor Carrier Act whenever he drives a motor vehicle in interstate or foreign commerce within the meaning of that act. (Levinson v. Spector Motor Service, 330 U.S. 649, citing Richardson v. James Gibbons Co., 132 F. (2d) 627 (C.A. 4); affirmed 319 U.S. 44; Morris v. McComb, 332 U.S. 422; Ex parte No MC–28, 13 M.C.C. 481, 482, 488; Ex parte Nos. MC–2 and MC–3, 28 M.C.C. 125, 139 (Conclusion of Law No. 2). See also Ex parte No. MC–2, 3 M.C.C. 665; Ex parte No. MC–3, 23 M.C.C. 1; Ex parte No. MC–4, 1 M.C.C. 1.) The

Secretary has power to establish, and has established, qualifications and maximum hours of service for such drivers employed by common and contract carriers of passengers or property and by private carriers of property pursuant to section 204 of the Motor Carrier Act. (See Ex parte No. MC–4, 1 M.C.C. 1; Ex parte No. MC–2, 3 M.C.C. 665; Ex parte No. MC–3, 23 M.C.C. 1; Ex parte No. MC–28, 13 M.C.C. 481; Levinson v. Spector Motor Service, 330 U.S. 649; Southland Gasoline Co. v. Bayley, 319 U.S. 44; Morris v. McComb, 332 U.S. 422; Safety Regulations (Carriers by Motor Vehicle), 49 CFR Parts 390, 391, 395.) In accordance with principles previously stated (see § 782.2), such drivers to whom this regulatory power extends are, accordingly, employees exempted from the overtime requirements of the Fair Labor Standards Act by section 13(b)(1). (Southland Gasoline Co. v. Bayley, 319 U.S. 44; Levinson v. Spector Motor Service, 330 U.S. 649; Morris v. McComb, 332 U.S. 422; Rogers Cartage Co. v. Reynolds, 166 F. (2d) 317 (C.A. 6). This does not mean that an employee of a carrier who drives a motor vehicle is exempted as a "driver" by virtue of that fact alone. He is not exempt if his job never involves transportation in interstate or foreign commerce within the meaning of the Motor Carrier Act (see §§ 782.2 (d) and (e), 782.7, and 782.8), or if he is employed by a private carrier and the only such transportation called for by his job is not transportation of property. (See § 782.2. See also Ex parte No. MC–28, 13 M.C.C. 481. Cf. Colbeck v. Dairyland Creamery Co. (S. Ct. S.D.), 17 N.W. (2d) 262 (driver of truck used only to transport himself to jobsites, as an incident of his work in servicing his employer's refrigeration equipment, held nonexempt).) It has been held that so-called "hostlers" who "spot" trucks and trailers at a terminal dock for loading and unloading are not exempt as drivers merely because as an incident of such duties they drive the trucks and tractors in and about the premises of the trucking terminal. (Keegan v. Ruppert (S.D. N.Y.), 7 Labor Cases, par. 61,726 6 Wage Hour Rept. 676, cf. Walling v. Silver Fleet Motor Express, 67 F. Supp. 846)

§ 782.4 Driver's helpers.

(a) A driver's "helper," as defined for Motor Carrier Act jurisdiction (Ex parte Nos. MC–2 and MC–3, 28 M.C.C. 125, 135, 136, 138, 139), is an employee other than a driver, who is required to ride on a motor vehicle when it is being operated in interstate or foreign commerce within the meaning of the Motor Carrier Act. (The term does not include employees who ride on the vehicle and act as assistants or relief drivers. Ex parte Nos. MC–2 and MC–3, supra. See § 782.3.) This definition has classified all such employees, including armed guards on armored trucks and conductorettes on buses, as "helpers" with respect to whom he has power to establish qualifications and maximum hours of service because of their engagement in some or all of the following activities which, in his opinion, directly affect the safety of operation of such motor vehicles in interstate or foreign commerce (Ex parte Nos. MC–2 and MC–3, 28 M.C.C. 125, 135–136): Assist in loading the vehicles (they may also assist in unloading (Ex parte Nos. MC–2 and MC–3, supra), an activity which has been held not to affect "safety of operation," see § 782.5(c); as to what it meant by "loading" which directly affects "safety of operation," see § 782.5(a)); dismount when the vehicle approaches a railroad crossing and flag the driver across the tracks, and perform a similar duty when the vehicle is being turned around on a busy highway or when it is entering or emerging from a driveway; in case of a breakdown, (1) place the flags, flares, and fuses as required by the safety regulations, (2) go for assistance while the driver protects the vehicle on the highway, or vice versa, or (3) assist the driver in changing tires or making minor repairs; and assist in putting on or removing chains.

(b) An employee may be a "helper" under the official definition even though such safety-affecting activities constitute but a minor part of his job. Thus, although the primary duty of armed guards on armored trucks is to protect the valuables in the case of attempted robberies, they are classified as "helpers" where they ride on such trucks being operated in interstate or foreign commerce, because, in the case of an accident or other emergency and in other respects, they act in a capacity somewhat similar to that of the helpers described in the text. Similarly, conductorettes on buses whose primary duties are to see to the comfort of the passengers are classified as "helpers" whose such buses are being operated in interstate or foreign commerce, because in instances when accidents occur, they help the driver in obtaining aid and protect the vehicle from oncoming traffic.

(c) In accordance with principles previously stated (see § 782.2), the section 13(b)(1) exemption applies to employees who are, under the Secretary of Transportation's definitions, engaged in such activities as full- or partial-duty "helpers" on motor vehicles being operated in transportation in interstate or foreign commerce within the meaning of the Motor Carrier Act. (Ispass v. Pyramid Motor Freight Corp., 152 F. (2d) 619 (C.A. 2); Walling v. McGinley Co. (E.D. Tenn.), 12 Labor Cases, par. 63,731, 6 W.H. Cases 916. See also Levinson v. Spector Motor Service, 330 U.S. 649; Pyramid Motor Freight Corp. v. Ispass, 330 U.S. 695; Dallum v. Farmers Coop. Trucking Assn., 46 F. Supp. 785 (D. Minn.).) The exemption has been held inapplicable to so-called helpers who ride on motor vehicles but do not engage in any of the activities of "helpers" which have been found to affect directly the safety of operation of such vehicles in interstate or foreign commerce. (Walling v. Gordon's Transports (W.D. Tenn.), 10 Labor Cases par. 62,934, 6 W.H. Cases 831, affirmed 162 F. (2d) 203 (C.A. 6), certiorari denied, 332 U.S. 774 (helpers on city "pickup and delivery trucks" where it was not shown that the loading in any manner affected safety of operation and the helpers' activities were "in no manner similar" to those of a driver's helper in over-the-road operation).) It should be noted also that an employee, to be exempted as a driver's "helper" under the Secretary's definitions, must be "required" as part of his job to ride on a motor vehicle when it is being operated in interstate or foreign commerce; an employee of a motor carrier is not exempted as a "helper" when he rides on such a vehicle, not as a matter of fixed duty, but merely as a convenient means of getting himself to, from, or between places where he performs his assigned work. (See Pyramid Motor Freight Corp. v. Ispass, 330 U.S. 695, modifying, on other grounds, 152 F. (2d) 619 (C.A. 2).)

§ 782.5 Loaders.

(a) A "loader," as defined for Motor Carrier Act jurisdiction (Ex parte Nos. MC–2 and MC–3, 28 M.C.C. 125, 133, 134, 139), is an employee of a carrier subject to section 204 of the Motor Carrier Act (other than a driver or driver's helper as defined in §§ 782.3 and 782.4) whose duties include, among other things, the proper loading of his employer's motor vehicles so that they may be safely operated on the highways of the country. A "loader" may be called by another name, such as "dockman," "stacker," or "helper," and his duties will usually also include unloading and the transfer of freight between the vehicles and the warehouse, but he engages, as a "loader," in work directly affecting "safety of operation" so long as he has responsibility, when such motor vehicles are being loaded, for exercising judgment and discretion in planning and building a balanced load or in placing, distributing, or securing the pieces of freight in such a manner that the safe operation of the vehicles on the highways in interstate or foreign commerce will not be jeopardized. (Levinson v. Spector Motor Service, 330 U.S. 649; Pyramid Motor Freight Corp. v. Ispass, 330 U.S. 695; Walling v. Gordon's Transport (W.D. Tenn.), 10 Labor Cases, par. 62,934, affirmed 162 F. (2) 203 (C.A. 6), certiorari denied 332 U.S. 774; Walling v. Huber & Huber Motor Express, 67 F. Supp. 855; Ex parte Nos. MC–2 and MC–3, 28 M.C.C. 125, 133, 134)

(b) The section 13(b)(1) exemption applies, in accordance with principles previously stated (see § 782.2), to an employee whose job involves activities consisting wholly or in part of doing, or immediately directing, a class of work defined (1) as that of a loader, and (2) as directly affecting the safety of operation of motor vehicles in interstate or foreign commerce within the meaning of the Motor Carrier Act, since such an employee is an employee with respect to whom the Secretary of Transportation has power to establish qualifications and maximum hours of service. (Levinson v. Spector Motor Service, 330 U.S. 649; Pyramid Motor Freight Corp. v. Ispass, 330 U.S. 695; Walling v. Silver Fleet

Motor Express, 67 F. Supp. 846; Walling v. Huber & Huber Motor Express, 67 F. Supp. 855; Walling v. Gordon's Transports (W.D. Tenn.); 10 Labor Cases, par. 62,934, affirmed 162 F. (2d) 203 (C.A. 6), certiorari denied 332 U.S. 774; Tinerella v. Des Moines Transp. Co., 41 F. Supp. 798.) Where a checker, foreman, or other supervisor plans and immediately directs the proper loading of a motor vehicle as described above, he may come within the exemption as a partial-duty loader. (Levinson v. Spector Motor Service, 330 U.S. 649; Walling v. Gordon's Transports (W.D. Tenn.), 10 Labor Cases, par. 62,934; affirmed 162 F. (2d) 203 (C.A. 6), certiorari denied 332 U.S. 774; Walling v. Huber & Huber Motor Express, 67 F. Supp. 885; Walling v. Silver Fleet Motor Express, 67 F. Supp. 846; Crean v. Moran Transportation Lines, 57 F. Supp. 212 (W.D. N.Y.). See also 9 Labor Cases, par. 62,416; Walling v. Commercial Motor Freight (S.D. Ind.), 11 Labor Cases, par. 63,451; Hogla v. Porter (E.D. Okla.), 11 Labor Cases, par. 63,389, 6 W.H. Cases 808.)

(c) An employee is not exempt as a loader where his activities in connection with the loading of motor vehicles are confined to classes of work other than the kind of loading described above, which directly affects "safety of operation." (Pyramid Motor Freight Corp. v. Ispass, 330 U.S. 695; Levinson v. Spector Motor Service, 330 U.S. 649) The mere handling of freight at a terminal, before or after loading, or even the placing of certain articles of freight on a motor carrier truck may form so trivial, casual, or occasional a part of an employee's activities, or his activities may relate only to such articles or to such limited handling of them, that his activities will not come within the kind of "loading" which directly affects "safety of operation." Thus, the following activities have been held to provide no basis for exemption: Unloading; placing freight in convenient places in the terminal, checking bills of lading; wheeling or calling freight being loaded or unloaded; loading vehicles for trips which will not involve transportation in interstate or foreign commerce within the meaning of the Motor Carrier Act; and activities relating to the preservation of the freight as distinguished from the safety of operation of the motor vehicles carrying such freight on the highways. (Pyramid Motor Freight Corp. v. Ispass, 330 U.S. 695; Levinson v. Spector Motor Service, 330 U.S. 649; Porter v. Poindexter, 158 F. (2d) 759 (C.A. 10); McKeown v. Southern Calif. Freight Forwarders, 49 F. Supp. 543; Walling v. Gordon's Transports (W.D. Tenn.), 10 Labor Cases, par. 62,934, affirmed 162 F. (2d) 203 (C.A. 6), certiorari denied 332 U.S. 774; Walling v. Huber & Huber Motor Express, 67 F. Supp. 855; Walling v. Silver Fleet Motor Express, 67 F. Supp. 846; Crean v. Moran Transp. Lines, 50 F. Supp. 107, 54 F. Supp. 765 (cf. 57 F. Supp. 212); Gibson v. Glasgow (Tenn. Sup. Ct.), 157 S.W. (2d) 814. See also Keeling v. Huber & Huber Motor Express, 57 F. Supp. 617.) As is apparent from opinion in Ex Parte Nos. MC-2 and MC-3, 28 M.C.C. 125, red caps of bus companies engaged in loading baggage on buses are not loaders engaged in work directly affecting safety of operation of the vehicles. In the same opinion, it is expressly recognized that there is a class of freight which, because it is light in weight, probably could not be loaded in a manner which would adversely affect "safety of operation." Support for this conclusion is found in Wirtz v. C & P Shoe Corp., 335 F. (2d) 21 (C.A. 5), wherein the court held the loading of boxes of shoes, patterned on the last in, first out principle clearly was not of a safety affecting character "in view of the light weight of the cargo involved." In the case of coal trucks which are loaded from stockpiles by the use of an electric bridge crane and a mechanical conveyor, it has been held that employees operating such a crane or conveyor in the loading process are not exempt as "loaders" under section 13(b)(1). (Barrick v. South Chicago Coal & Dock Co. (N.D. Ill.), 8 Labor Cases, par. 62,242, affirmed 149 F. (2d) 960 (C.A. 7)). It seems apparent from the foregoing discussion that an employee who has no responsibility for the proper loading of a motor vehicle is not within the exemption as a "loader" merely because he furnishes physical assistance when necessary in loading heavy pieces of freight, or because he deposits pieces of freight in the vehicle for someone else to distribute and secure in place, or even because he does the physical work of arranging pieces of freight in the vehicle where another employee tells him exactly what to do in each instance and he is given no share in the exercise of discretion as to the manner in which the loading is done. (See Pyramid Motor Freight Corp. v. Ispass, 330 U.S. 695; Yellow Transit Freight Lines Inc. v. Balven, 320 F. (2d) 495 (C.A. 8); Foremost Dairies v. Ivey, 204 F. (2d) 186 (C.A. 5); Ispass v. Pyramid Motor Freight Corp., 78 F. Supp. 475 (S.D. N.Y.); Mitchell v. Meco Steel Supply Co., 183 F. Supp. 779 (S.D. Tex.); Garton v. Sanders Transfer & Storage Co., 124 F. Supp. 84 (M.D. Tenn.); McKeown v. Southern Calif. Freight Forwarders, 49 F. Supp. 543; Walling v. Gordon's Transports (W.D. Tenn.), 10 Labor Cases, par. 62,934, affirmed 162 F. (2d) 203 (C.A. 6), certiorari denied 332 U.S. 774; Crean v. Moran Transportation Lines, 50 F. Supp. 107 (see also further opinion in 54 F. Supp. 765, and cf. the court's holding in 57 F. Supp. 212 with Walling v. Gordon's Transports, cited above). See also Levinson v. Spector Motor Service, 330 U.S. 649.) Such activities would not seem to constitute the kind of "loading" which directly affects the safety of operation of the loaded vehicle on the public highways, under the official definitions. (See Ex parte Nos. MC-2 and MC-3, 28 M.C.C. 125, 133, 134.)

§ 782.6 Mechanics.

(a) A "mechanic," for purposes of safety regulations under the Motor Carrier Act is an employee who is employed by a carrier subject to the Secretary's jurisdiction under section 204 of the Motor Carrier Act and whose duty it is to keep motor vehicles operated in interstate or foreign commerce by his employer in a good and safe working condition. (Ex parte Nos. MC-2 and MC-3, 28 M.C.C. 125, 132, 133. Ex parte No. MC-40 (Sub. No. 2), 88 M.C.C. 710 (repair of refrigeration equipment). See also Morris v. McComb, 332 U.S. 422.) It has been determined that the safety of operation of such motor vehicles on the highways is directly affected by those activities of mechanics, such as keeping the lights and brakes in a good and safe working condition, which prevent the vehicles from becoming potential hazards to highway safety and thus aid in the prevention of accidents. The courts have held that mechanics perform work of this character where they actually do inspection, adjustment, repair, or maintenance work on the motor vehicles themselves (including trucks, tractors and trailers, and buses) and are, when so engaged, directly responsible for creating or maintaining physical conditions essential to the safety of the vehicles on the highways through the correction or prevention of defects which have a direct causal connection with the safe operation of the unit as a whole. (Walling v. Silver Bros., 136 F. (2d) 168 (C.A. 1); McDuffie v. Hayes Freight Lines, 71 F. Supp. 755; Walling v. Silver Fleet Motor Express, 67 F. Supp. 846; Keeling v. Huber & Huber Motor Express, 57 F. Supp. 617; Walling v. Huber & Huber Motor Express, 67 F. Supp. 855; Tinerella v. Des Moines Transp. Co., 41 F. Supp. 798; Robbins v. Zabarsky, 44 F. Supp. 867; West v. Smoky Mt. Stages, 40 F. Supp. 296; Walling v. Cumberland & Liberty Mills Co. (S.D. Fla.), 6 Labor Cases, par. 61,184; Esibill v. Marshall (D. N.J.), 6 Labor Cases, par. 61,256; Keegan v. Ruppert (S.D. N.Y.), 7 Labor Cases, par. 61,726; Baker v. Sharpless Hendler Ice Cream Co. (E.D. Pa.), 10 Labor Cases, par. 62,956; Kentucky Transport Co. v. Drake (Ky. Ct. App.), 182 S.W. (2d) 960.) The following activities performed by mechanics on motor vehicles operated in interstate or foreign commerce are illustrative of the specific kinds of activities which the courts, in applying the foregoing principles, have regarded as directly affecting "safety of operation": The inspection, repair, adjustment, and maintenance for safe operation of steering apparatus, lights, brakes, horns, windshield wipers, wheels and axles, bushings, transmissions, differentials, motors, starters and ignition, carburetors, fifth wheels, springs and spring hangers, frames, and gasoline tanks. (McDuffie v. Hayes Freight Lines, 71 F. Supp. 755; Walling v. Silver Fleet Motor Express, 67 F. Supp. 846; Wolfe v. Union Transfer & Storage Co., 48 F. Supp. 855; Mason & Dixon Lines v. Ligon (Tenn. Ct. App.), 7 Labor Cases, par. 61,962; Walling v. Palmer, 67 F. Supp. 12; Kentucky Transport Co. v. Drake (Ky. Ct. App.), 182 S.W. (2d) 960.) Inspecting and checking air pressure in tires, changing tires, and repairing and rebuilding tires for immediate replacement on the vehicle from which they were removed have also been held to affect safety of operation directly. (Walling v. Silver Fleet Motor Express, 67 F. Supp. 846; Walling v. Palmer, 67 F. Supp. 12. See also McDuffie v. Hayes Freight Lines, 71 F. Supp. 755.) The same is true of hooking up tractors and trailers, including light and brake connections, and the inspection of such hookups. (Walling v. Silver Fleet Motor Express, 67 F. Supp. 846; Walling v. Palmer, 67 F. Supp. 12. See also Walling v. Gordon's Transports (W.D. Tenn.), 10 Labor Cases, par. 62,934, affirmed 162 F. (2d) 203 (C.A. 6), certiorari denied 332 U.S. 744.)

(b) The section 13(b)(1) exemption applies, in accordance with principles previously stated (see § 782.2), to an employee whose job involves activities consisting wholly or in part of doing, or immediately directing, a class of work which, under the definitions referred to above, is that of a "mechanic" and directly affects the safety of operation of motor vehicles on the public highways in interstate or foreign commerce within the meaning of the Motor Carrier Act. The power under the Motor Carrier Act to establish qualifications and maximum hours of service for such an employee has been sustained by the courts. (Morris v. McComb, 332 U.S. 422. See also Pyramid Motor Freight Corp. v. Ispass, 330 U.S. 695; Levinson v. Spector Motor Service, 330 U.S. 649; Walling v. Silver Bros., 136 F. (2d) 168 (C.C.A. 1).) A supervisory employee who plans and immediately directs and checks the proper performance of this class of work may come within the exemption as a partial-duty mechanic. (Robbins v. Zabarsky, 44 F. Supp. 867; Mason & Dixon Lines v. Ligon (Tenn. Ct. App.), 7 Labor Cases par. 61,962; cf. Morris v. McComb, 332 U.S. 422 and Levinson v. Spector Motor Service, 330 U.S. 649)

(c) (1) An employee of a carrier by motor vehicle is not exempted as a "mechanic" from the overtime provisions of the Fair Labor Standards Act under section 13(b)(1) merely because he works in the carrier's garage, or because he is called a "mechanic," or because he is a mechanic by trade and does mechanical work. (Wirtz v. Tyler Pipe & Foundry Co., 369 F. 2d 927 (C.A. 5).) The exemption applies only if he is doing a class of work defined as that of a "mechanic," including activities which directly affect the safety of operation of motor vehicles in transporation on the public highways in interstate or foreign commerce. (Morris v. McComb, 332 U.S. 422; Keeling v. Huber & Huber Motor Express, 57 F. Supp. 617; Walling v. Huber & Huber Motor Express, 67 F. Supp. 855; Walling v. Silver Fleet Motor Express, 67 F. Supp. 846; McDuffie v. Hayes Freight Lines, 71 F. Supp. 755; Anuchick v. Transamerican Freight Lines, 46 F. Supp. 861; Walling v. Burlington Transp. Co. (D. Nebr.), 9 Labor Cases, par. 62,576. Compare Ex parte No. MC-40 (Sub. No. 2), 88 M.C.C. 710 with Colbeck v. Dairyland Creamery Co. (S.D. Sup. Ct.), 17 N.W. (2d) 262. See also Pyramid Motor Freight Corp. v. Ispass, 330 U.S. 695.) Activities which do not directly affect such safety of operation include those performed by employees whose jobs are confined to such work as that of dispatchers, carpenters, tarpaulin tailors, vehicle painters, or servicemen who do nothing but oil, gas, grease, or wash the motor vehicles. (Ex parte Nos. MC-2 and MC-3, 28 M.C.C. 125, 132, 133, 135) To these may be added activities such as filling radiators, checking batteries, and the usual work of such employees as stockroom personnel, watchmen, porters, and garage employees performing menial nondiscretionary tasks or disassembling work. Employees whose work is confined to such "nonsafety" activities are not within the exemption, even though the proper performance of their work may have an indirect effect on the safety of operation of the motor vehicles on the highways. (Morris v. McComb, 332 U.S. 422; Campbell v. Riss & Co. (W.D. Mo.), 5 Labor Cases, par. 61,092 (dispatcher); McDuffie v. Hayes Freight Lines, 71 F. Supp. 755 (work of janitor and caretaker, carpentry work, body building, removing paint, preparing for repainting, and painting); Walling v. Silver Fleet Motor Express, 67 F. Supp. 846 (body building, construction work, painting and lettering); Hutchinson v. Barry, 50 F. Supp. 292 (washing vehicles); Walling v. Palmer, 67 F. Supp. 12 (putting water in radiators and batteries, oil and gas in vehicles, and washing vehicles); Anuchick v. Transamerican Freight Lines, 46 F. Supp. 861 (body builders, tarpaulin worker, stockroom boy, night watchman, porter); Bumpus v. Continental Baking Co. (W.D. Tenn.), 1 Wage Hour Cases 920 (painter), reversed on other grounds 124 F. (2d) 549; Green v. Riss & Co., 45 F. Supp. 648 (night watchman and gas pump attendant); Walling v. Burlington Transp. Co. (D. Nebr.), 9 Labor Cases, par. 62,576 (body builders); Keegan v. Ruppert (S.D. N.Y.), 7 Labor Cases, par. 61,726 (greasing and washing); Walling v. East Texas Freight Lines (N.D. Tex.), 8 Labor Cases, par. 62,083 (menial tasks); Collier v. Acme Freight Lines, unreported (S.D. Fla., Oct. 1943) (same); Potashnik Local Truck System v. Archer (Ark. Sup. Ct.), 179 S.W. (2d) 696 (checking trucks in and out and acting as night dispatcher, among other duties); Overnight Motor Corp. v. Missel, 316 U.S. 572 (rate clerk with part-time duties as dispatcher).) The same has been held true of employees whose activities are confined to construction work, manufacture or rebuilding of truck, bus, or trailer bodies, and other duties which are concerned with the safe carriage of the contents of the vehicle rather than directly with the safety of operation on the public highways of the motor vehicle itself. (Anuchick v. Transamerican Freight Lines, 46 F. Supp. 861; Walling v. Silver Fleet Motor Express, 67 F. Supp. 846; McDuffie v. Hayes Freight Lines, 71 F. Supp. 755; Walling v. Burlington Transp. Co. (D. Nebr.), 9 Labor Cases, par. 62,576. Compare Colbeck v. Dairyland Creamery Co. (S.D. Sup. Ct.), 17 N.W. (2d) 262 with Ex parte No. MC-40 (Sub. No. 2), 88 M.C.C. 710.)

(2) The distinction between direct and indirect effects on safety of operation is exemplified by the comments in rejecting the contention in Ex parte Nos. MC-2 and MC-3, 28 M.C.C. 125, 135, that the activities of dispatchers directly affect safety of operation. It was stated: "It is contended that if a dispatcher by an error in judgment assigns a vehicle of insufficient size and weight-carrying capacity to transport the load, or calls a driver to duty who is sick, fatigued, or otherwise not in condition to operate the vehicle, or requires or permits the vehicle to depart when the roads are icy and the country to be traversed is hilly, an accident may result. While this may be true, it is clear that such errors in judgment are not the proximate causes of such accidents, and that the dispatchers engage in no activities which directly affect the safety of operation of motor vehicles in interstate or foreign commerce."

(3) Similarly, the exemption has been held inapplicable to mechanics repairing and rebuilding parts, batteries, and tires removed from vehicles where a direct causal connection between their work and the safe operation of motor vehicles on the highways is lacking because they do no actual work on the vehicles themselves and entirely different employees have the exclusive responsibility for determining whether the products of their work are suitable for use, and for the correct installation of such parts, on the vehicles. (Keeling v. Huber & Huber Motor Express, 57 F. Supp. 617; Walling v. Huber & Huber Motor Express, 67 F. Supp. 855) Mechanical work on motor vehicles of a carrier which is performed in order to make the vehicles conform to technical legal requirements rather than to prevent accidents on the highways has not been regarded by the courts as work directly affecting "safety of operation." (Kentucky Transport Co. v. Drake (Ky. Ct. App.), 182 S.W. (2d) 960; Anuchick v. Transamerican Freight Lines, 46 F. Supp. 861; Yellow Transit Freight Lines Inc. v. Balsen 320 F. (2d) 495 (C.A. 8)) And it is clear that no mechanical work on motor vehicles can be considered to affect safety of operation of such vehicles in interstate or foreign commerce if the vehicles are never in fact used in transportation in such commerce on the public highways. (Baker v. Sharpless Hendler Ice Cream Co. (E.D. Pa.), 10 Labor Cases, par. 62,956)

§ 782.7 Interstate commerce requirements of exemption.

(a) As explained in preceding sections of this part, section 13(b)(1) of the Fair Labor Standards Act does not exempt an employee of a carrier from the act's overtime provisions unless it appears, among other things, that his activities as a driver, driver's helper, loader, or mechanic directly affect the safety of operation of motor vehicles in transportation in interstate or foreign commerce within the meaning of the Motor Carrier Act. What constitutes such transportation in interstate or foreign commerce, sufficient to bring such an employee

within the regulatory power of the Secretary of Transportation under section 204 of that act, is determined by definitions contained in the Motor Carrier Act itself. These definitions are, however, not identical with the definitions in the Fair Labor Standards Act which determine whether an employee is within the general coverage of the wage and hours provisions as an employee "engaged in (interstate or foreign) commerce." For this reason, the interstate commerce requirements of the section 13(b)(1) exemption are not necessarily met by establishing that an employee is "engaged in commerce" within the meaning of the Fair Labor Standards Act when performing activities as a driver, driver's helper, loader, or mechanic, where these activities are sufficient in other respects to bring him within the exemption. (Hager v. Brinks, Inc. (N.D. Ill.), 11 Labor Cases, par. 63,296, 6 W.H. Cases 262; Earle v. Brinks, Inc., 54 F. Supp. 676 (S.D. N.Y.); Thompson v. Daugherty, 40 F. Supp. 279 (D. Md.). See also, Walling v. Villaume Box & Lbr. Co., 58 F. Supp. 150 (D. Minn.). And see in this connection paragraph (b) of this section and § 782.8.) To illustrate, employees of construction contractors are, within the meaning of the Fair Labor Standards Act, engaged in commerce where they operate or repair motor vehicles used in the maintenance, repair, or reconstruction of instrumentalities of interstate commerce (for example, highways over which goods and persons regularly move in interstate commerce). (Walling v. Craig, 53 F. Supp. 479 (D. Minn.). See also Engbretson v. E. J. Albrecht Co., 150 F. (2d) 602 (C.A. 7); Overstreet v. North Shore Corp., 318 U.S. 125; Pedersen v. J. F. Fitzgerald Constr. Co., 318 U.S. 740, 742.) Employees so engaged are not, however, brought within the exemption merely by reason of that fact. In order for the exemption to apply, their activities, so far as interstate commerce is concerned, must relate directly to the transportation of materials moving in interstate or foreign commerce within the meaning of the Motor Carrier Act. Asphalt distributor-operators, although not exempt by reason of their work in applying the asphalt to the highways, are within the exemption where they transport to the road site asphalt moving in interstate commerce. See Richardson v. James Gibbons Co., 132 F. (2d 627 (C.A. 4), affirmed 319 U.S. 44 (and see reference to this case in footnote 18 of Levinson v. Spector Motor Service, 330 U.S. 649); Walling v. Craig, 53 F. Supp. 479 (D. Minn.).

(b) (1) Highway transportation by motor vehicle from one State to another, in the course of which the vehicles cross the State line, clearly constitutes interstate commerce under both acts. Employees of a carrier so engaged, whose duties directly affect the safety of operation of such vehicles, are within the exemption in accordance with principles previously stated. (Southland Gasoline Co. v. Bayley, 319 U.S. 44; Plunkett v. Abraham Bros., 129 F. (2d) 419 (C.A. 6); Vannoy v. Swift & Co. (Mo. Sup. Ct.), 201 S.W. (2d) 350; Nelson v. Allison & Co. (E.D. Tenn.), 13 Labor Cases, par. 64,021; Reynolds v. Rogers Cartage Co. (W.D. Ky.), 13 Labor Cases, par. 63,978, reversed on other grounds 166 F. (2d) 317 (C.A. 6); Walling v. McGinley Co. (E.D. Tenn.), 12 Labor Cases, par. 63,731; Walling v. A. H. Phillips, Inc., 50 F. Supp. 749, affirmed (C.A. 1) 144 F. (2d) 102, 324 U.S. 490. See §§ 782.2–782.8.) The result is no different where the vehicles do not actually cross State lines but operate solely within a single State, if what is being transported is actually moving in interstate commerce within the meaning of both acts; the fact that other carriers transport it out of or into the State is not material. (Morris v. McComb, 68 S. Ct. 131; Pyramid Motor Freight Corp. v. Ispass, 330 U.S. 695; Walling v. Silver Bros. Co. 136 F. (2d) 168 (C.A. 1); Walling v. Mutual Wholesale Food & Supply Co., 141 F. (2d) 331 (C.A. 8); Dallum v. Farmers Cooperative Trucking Assn., 46 F. Supp. 785 (D. Minn.); Gavril v. Kraft Cheese Co., 42 F. Supp. 702 (N.D. Ill.); Keegan v. Rupport (S.D. N.Y.), 7 Labor Cases, par. 61,726, 3 W.H. Cases 412; Baker v. Sharpless Hendler Ice Cream Co. (E.D. Pa.), 10 Labor Cases, par. 62,956, 5 W.H. Cases 926) Transportation within a single State is in interstate commerce within the meaning of the Fair Labor Standards Act where it forms a part of a "practical continuity of movement" across State lines from the point of origin to the point of destination. (Walling v. Jacksonville Paper Co., 317 U.S. 564; Walling v. Mutual Wholesale Food & Supply Co., 141 F. (2d) 331 (C.A. 8); Walling v. American Stores Co., 133 F. (2d) 840 (C.A. 3); Baker v. Sharpless Hendler Ice Cream Co. (E.D. Pa.), 10 Labor Cases, par. 62,956, 5 W.H. Cases 926) Since the interstate commerce regulated under the two acts is not identical (see paragraph (a) of this section), such transportation may or may not be considered also a movement in interstate commerce within the meaning of the Motor Carrier Act. Decisions of the Interstate Commerce Commission prior to 1966 seemingly have limited the scope of the Motor Carrier Act more narrowly than the courts have construed the Fair Labor Standards Act. (See § 782.8.) It is deemed necessary, however, as an enforcement policy only and without prejudice to any rights of employees under section 16(b) of the Act, to assume that such a movement in interstate commerce under the Fair Labor Standards Act is also a movement in interstate commerce under the Motor Carrier Act, except in those situations where the Commission has held or the Secretary of Transportation or the courts hold otherwise. (See § 782.8(a); and compare Beggs v. Kroger Co., 167 F. (2d) 700, with the Interstate Commerce Commission's holding in Ex parte No. MC-48, 71 M.C.C. 17, discussed in paragraph (b)(2) of this section.) Under this enforcement policy it will ordinarily be assumed by the Administrator that the interstate commerce requirements of the section 13(b)(1) exemption are satisfied where it appears that a motor carrier employee is engaged as a driver, driver's helper, loader, or mechanic in transportation by motor vehicle which, although confined to a single State, is a part of an interstate movement of the goods or persons being thus transported so as to constitute interstate commerce within the meaning of the Fair Labor Standards Act. This policy does not extend to drivers, driver's helpers, loaders, or mechanics whose transportation activities are "in commerce" or "in the production of goods for commerce" within the meaning of the act but are not a part of an interstate movement of the goods or persons carried (see, e.g., Wirtz v. Crystal Lake Crushed Stone Co., 327 F. 2d 455 (C.A. 7)). Where, however, it has been authoritatively held that transportation of a particular character within a single State is not in interstate commerce as defined in the Motor Carrier Act (as has been done with respect to certain transportation of petroleum products from a terminal within a State to other points within the same State—see subparagraph (2) of this paragraph), there is no basis for an exemption under section 13(b)(1), even though the facts may establish a "practical continuity of movement" from out-of-State sources through such in-State trip so as to make the trip one in interstate commerce under the Fair Labor Standards Act. Of course, engagement in local transportation which is entirely in intrastate commerce provides no basis for exempting a motor carrier employee. (Kline v. Wirtz, 373 F. 2d 281 (C.A. 5). See also paragraph (b) of this section.)

(2) The Interstate Commerce Commission held that transportation confined to points in a single State from a storage terminal of commodities which have had a prior movement by rail, pipeline, motor, or water from an origin in a different State is not in interstate or foreign commerce within the meaning of part II of the Interstate Commerce Act if the shipper has no fixed and persisting transportation intent beyond the terminal storage point at the time of shipment. See Ex parte No. MC-48 (71 M.C.C. 17, 29). The Commission specifically ruled that there is no fixed and persisting intent where (i) at the time of shipment there is no specific order being filled for a specific quantity of a given product to be moved through to a specific destination beyond the terminal storage, and (ii) the terminal storage is a distribution point or local marketing facility from which specific amounts of the product are sold or allocated, and (iii) transportation in the furtherance of this distribution within the single State is specifically arranged only after sale or allocation from storage. In Baird v. Wagoner Transportation Co., 425 F. (2d) 407 (C.A. 6), the court found each of these factors to be present and held the intrastate transportation activities were not "in interstate commerce" within the meaning of the Motor Carrier Act and denied the section 13(b)(1) exemption. While Ex parte No. MC-48 deals with petroleum and petroleum products, the decision indicates that the same reasoning applies to general commodities moving interstate into a warehouse for distribution (71 M.C.C. at 27). Accordingly, employees engaged in

such transportation are not subject to the Motor Carrier Act and therefore not within the section 13(b)(1) exemption. They may, however, be engaged in commerce within the meaning of the Fair Labor Standards Act. (See in this connection, Mid-Continent Petroleum Corp. v. Keen, 157 F. 2d 310 (C.A. 8); DeLoach v. Crowley's Inc., 128 F. 2d 378 (C.A. 5); Walling v. Jacksonville Paper Co., 69 F. Supp. 599, affirmed 167 F. 2d 448, reversed on another point in 336 U.S. 187; and Standard Oil Co. v. Trade Commission, 340 U.S. 231, 238).

(c) The wage and hours provisions of the Fair Labor Standards Act are applicable not only to employees engaged in commerce, as defined in the act, but also to employees engaged in the production of goods for such commerce. Employees engaged in the "production" of goods are defined by the act as including those engaged in "handling, transporting, or in any other manner working on such goods, or in any closely related process or occupation directly essential to the production thereof, in any State." (Fair Labor Standards Act, sec. 3(j), 29 U.S.C., sec. 203(j), as amended by the Fair Labor Standards Amendments of 1949, 63 Stat. 910. See also the Division's Interpretative Bulletin, Part 776 of this chapter on general coverage of the wage and hours provisions of the act.) Where transportation of persons or property by motor vehicle between places within a State falls within this definition, and is not transportation in interstate or foreign commerce within the meaning of the Motor Carrier Act because movement from points out of the State has ended or because movement to points out of the State has not yet begun, the employees engaged in connection with such transportation (this applies to employees of common, contract, and private carriers) are covered by the wage and hours provisions of the Fair Labor Standards Act and are not subject to the jurisdiction of the Secretary of Transportation. Examples are: (1) Drivers transporting goods in and about a plant producing goods for commerce; (2) chauffeurs or drivers of company cars or buses transporting officers or employees from place to place in the course of their employment in an establishment which produces goods for commerce; (3) drivers who transport goods from a producer's plant to the plant of a processor, who, in turn, sells goods in interstate commerce, the first producer's goods being a part or ingredient of the second producer's goods; (4) drivers transporting goods between a factory and the plant of an independent contractor who performs operations on the goods, after which they are returned to the factory which further processes the goods for commerce; and (5) drivers transporting goods such as machinery or tools and dies, for example, to be used or consumed in the production of other goods for commerce. These and other employees engaged in connection with the transportation within a State of persons or property by motor vehicle who are subject to the Fair Labor Standards Act because engaged in the production of goods for commerce and who are not subject to the Motor Carrier Act because not engaged in interstate or foreign commerce within the meaning of that act, are not within the exemption provided by section 13(b)(1). (Walling v. Comet Carriers, 151 F. (2d) 107 (C.A. 2); Griffin Cartage Co. v. Walling, 153 F. (2d) 587 (C.A. 6); Walling v. Morris, 155 F. (2d) 832 (C.A. 6), reversed on other grounds in Morris v. McComb, 332 U.S. 422; West Kentucky Coal Co. v. Walling, 153 F. (2d) 582 (C.A. 6); Hamlet Ice Co. v. Fleming, 127 F. (2d) 165 (C.A. 4); Atlantic Co. v. Walling, 131 F. (2d) 518 (C.A. 5); Chapman v. Home Ice Co., 136 F. (2d) 353 (C.A. 6); Walling v. Griffin Cartage Co., 62 F. Supp. 396 (E.D. Mich.), affirmed 153 F. (2d) 587 (C.A. 6); Dallum v. Farmers Coop. Trucking Assn., 46 F. Supp. 785 (D. Minn.); Walling v. Villaume Box & Lbr. Co., 58 F. Supp. 150 (D. Minn.); Walling v. DeSoto Creamery & Produce Co., 51 F. Supp. 938 (D. Minn.); Reynolds v. Rogers Cartage Co., 71 F. Supp. 870 (W.D. Ky.), reversed on other grounds 166 F. (2d) 317 (C.A. 6), Hansen v. Salinas Valley Ice Co. (Cal. App.), 144 P. (2d) 896)

§ 782.8 Special classes of carriers.

(a) The Interstate Commerce Commission consistently maintained that transportation within a State of consumable goods (such as food, coal, and ice) to railroad, docks, etc., for use on trains and steamships is not such transportation as is subject to its jurisdiction. (New Pittsburgh Coal Co. v. Hocking Valley Ry. Co., 24 I.C.C. 244; Corona Coal Co. v. Secretary of War, 69 I.C.C. 389; Bunker Coal from Alabama to Gulf Ports, 227 I.C.C. 485.) The intrastate delivery of chandleries, including cordage, canvas, repair parts, wire rope, etc., to ocean-going vessels for use and consumption aboard such vessels which move in interstate or foreign commerce falls within this category. Employees of carriers so engaged are considered to be engaged in commerce, as that term is used in the Fair Labor Standards Act. These employees may also be engaged in the "production of goods for commerce" within the meaning of section 3(j) of the Fair Labor Standards Act. See cases cited in § 782.7(c), and see Mitchell v. Independent Ice Co., 294 F. 2d 186 (C.A. 5), certiorari denied 368 U.S. 952, and Part 776 of this chapter. Since the Commission has disclaimed jurisdiction over this type of operation (see, in this connection § 782.7(b)), it is the Division's opinion that drivers, driver's helpers, loaders, and mechanics employed by companies engaged in such activities are covered by the wage and hours provisions of the Fair Labor Standards Act, and are not within the exemption contained in section 13(b)(1). (See Hansen v. Salinas Valley Ice Co. (Cal. App.), 144 P. (2d) 896.)

(b) The Interstate Commerce Commission disclaimed jurisdiction under the Motor Carrier Act of employees engaged in the transportation of mail under contract with the Post Office Department in vehicles used exclusively for that purpose. (See 3 M.C.C. 694, 697.) It would thus appear that such employees of mail contractors are not within the exemption provided by section 13(b)(1) of the Fair Labor Standards Act. Employees of mail contractors are not employees of the United States within the meaning of section 3(d) of the Fair Labor Standards Act. (Fleming v. Gregory, 36 F. Supp. 776; Thompson v. Daugherty, 40 F. Supp. 279; Mangann v. Long's Baggage Transfer Co. 39 F. Supp. 742.) Since they are considered "engaged in commerce" within the meaning of the act, it is the position of the Division that they are entitled to overtime compensation under section 7 of the Fair Labor Standards Act. (Repsher v. Streepy (E.D. Pa.), 7 Wage Hour Cases 769; 14 Labor Cases, par. 64,364; Thompson v. Daugherty, 40 F. Supp. 279; Mitchell v. Steinmetz et al., 36 Labor Cases par. 65,274, affirmed 268 F. (2d) 501; Mitchell v. Raines (E.D. Pa.), 30 Labor Cases, par. 70,015, 12 Wage Hour Cases 856; Mitchell v. Steinmetz (N.D. Ga.) 37 Labor Cases, par. 65,562, 14 Wage Hour Cases 202; Mitchell v. Blackburn (D. Md.), 37 Labor Cases, par. 65,399, 14 Wage Hour Cases 146. But see Magann v. Long's Baggage Transfer Co., 39 F. Supp. 742, contra.)

(c) Section 202(c)(2) of the Motor Carrier Act, as amended on May 16, 1942, makes section 204 of that act "relative to qualifications and maximum hours of service of employees and safety of operations and equipment," applicable "to transportation by motor vehicle by any person (whether as agent or under a contractual arrangement) for a * * * railroad * * * express company * * * motor carrier * * * water carrier * * * or a freight forwarder * * * in the performance within terminal areas of transfer, collection, or delivery service." Thus, drivers, drivers' helpers, loaders, and mechanics of a motor carrier performing pickup and delivery service for a railroad, express company, or water carrier are to be regarded as within the 13(b)(1) exemption. (See Levinson v. Spector Motor Service, 330 U.S. 649 (footnote 10); cf. Cedarblade v. Parmelee Transp. Co. (C.A. 7), 166 F. (2d) 554, 14 Labor Cases, par. 64,340.) The same is true of drivers, drivers' helpers, loaders, and mechanics employed directly by a railroad, a water carrier or a freight forwarder in pickup and delivery service. Section 202(c)(1) of the Motor Carrier Act, as amended on May 16, 1942, includes employees employed by railroads, water carriers, and freight forwarders, in transfer, collection, and delivery service in terminal areas by motor vehicles within the Interstate Commerce Commission's regulatory power under section 204 of the same act. See Morris v. McComb, 332 U.S. 422 and § 782.2(a). (Such employees of a carrier subject to part I of the Interstate Commerce Act may come within the exemption from the overtime requirements provided by section 13(b)(2). Cf. Cedarblade v. Parmelee Transp. Co. (C.A. 7), 166 F. (2d) 554, 14 Labor Cases, par. 64,340. Thus, only employees of a railroad, water carrier,

or freight forwarder outside of the scope of part I of the Interstate Commerce Act and of the 13(b)(2) exemption are affected by the above on and after the date of the amendment.) Both before and after the amendments referred to, it has been the Division's position that the 13(b)(1) exemption is applicable to drivers, drivers' helpers, loaders, and mechanics employed in pickup and delivery service to line-haul motor carrier depots or under contract with forwarding companies, since the Interstate Commerce Commission had determined that its regulatory power under section 204 of the Motor Carrier Act extended to such employees.

(d) The determinations of the Interstate Commerce Commission discussed in paragraphs (a), (b), and (c) of this section have not been amended or revoked by the Secretary of Transportation. These determinations will continue to guide the Administrator of the Wage and Hour Division in his enforcement of section 13(b)(1) of the Fair Labor Standards Act.

Signed at Washington, D.C., this 19th day of October 1971.

HORACE E. MENASCO,
Administrator, Wage and Hour Division, U.S. Department of Labor.

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PART III

COST OF LIVING COUNCIL

PAY BOARD

PRICE COMMISSION

■

Economic Stabilization

Title 6—ECONOMIC STABILIZATION

Chapter I—Cost of Living Council

PART 101—COVERAGE, EXEMPTIONS AND CLASSIFICATION OF ECONOMIC UNITS

Part 101—Coverage, Exemptions and Classification of Economic Units is added to Title 6, Chapter I, Code of Federal Regulations.

Since the immediate implementation of Executive Order No. 11627 is required, the Council finds that notice and public procedure with respect to these regulations is impracticable and that good cause exists for making the regulations effective in less than 30 days. Therefore, Title 6 of the Code of Federal Regulations is amended by adding a new Title 6, by adding a new Chapter I, and by adding a new Part 101, as set forth below, effective at 12:01 a.m. on November 14, 1971.

DONALD RUMSFELD,
Director, Cost of Living Council.

Subpart A—General

Sec.
101.1 Purpose and scope.

Subpart B—Price Adjustments—Classification and Procedures

101.11 Price category I firms; prenotification and reporting requirements.
101.13 Price category II firms; reporting requirements.
101.15 Price category III firms; monitoring and spot checks.
101.17 Reclassification.

Subpart C—Pay Adjustments—Classification and Procedures

101.21 Category I pay adjustments; construction pay adjustments; prenotification requirements.
101.23 Category II pay adjustments; reporting requirements.
101.25 Category III pay adjustments; monitoring and spot checks.
101.27 Reclassification.

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101.31 General.
101.32 Exemptions.
101.33 Items not included in coverage.

Subpart E—Definitions

101.51 Definitions.

Subpart F—Special Temporary Provisions

101.101 Special provisions applicable from Nov. 14, 1971–Jan. 1, 1972.

AUTHORITY: The provisions of this Part 101 issued pursuant to Economic Stabilization Act of 1970, as amended, Public Law 91–379, 84 Stat. 799; Public Law 91–558, 84 Stat. 1468; Public Law 92–8, 85 Stat. 13; Public Law 92–15, 85 Stat. 38; Executive Order No. 11627, October 15, 1971, 36 F.R. 20139.

Subpart A—General

§ 101.1 Purpose and scope.

(a) The purpose of this part is to establish the economic units and transactions which are covered by, and exempt from, the controls, standards and criteria established for the post-freeze economic stabilization period. The purpose is also to establish categories of economic units which must comply with the prenotification, reporting, and other procedural requirements prescribed by the Cost of Living Council. In general, such controls, standards and criteria are applicable to all price adjustments and to all pay adjustments, unless otherwise provided, regardless of the category into which any such adjustment falls. However, the procedural requirements vary depending upon the category.

(b) This part applies to all price adjustments and all pay adjustments which occur during the post-freeze economic stabilization period, except those which are specifically exempt under this part.

(c) This part does not apply to economic transactions which are not prices, rents, wages, and salaries within the meaning of the Economic Stabilization Act of 1970, as amended. Examples of transactions not within the meaning of the Act are:

(1) State or local income, sales and real estate taxes;

(2) Workmen's compensation payments;

(3) Welfare payments;

(4) Child support payments; and

(5) Alimony payments.

(d) The Cost of Living Council may allow such exceptions or permit such exemptions as it deems appropriate with respect to the coverage, classification, and other procedural requirements prescribed in this part. Requests for exceptions to and exemptions from the coverage, classification, and other procedural requirements of this part shall be submitted to the Cost of Living Council through procedures established by the Internal Revenue Service.

Subpart B—Price Adjustments—Classification and Procedures

§ 101.11 Price category I firms; prenotification and reporting requirements.

(a) A price category I firm is a firm with annual sales or revenues of $100 million or more.

(b) Each price category I firm shall submit a prenotification to the Price Commission of each proposed price adjustment in accordance with regulations issued by the Price Commission.

(c) No proposed price adjustment shall be put into effect by any price category I firm unless such price adjustment has been approved or permitted to take effect in accordance with regulations issued by the Price Commission.

(d) Each price category I firm shall submit quarterly reports to the Price Commission with information on prices, costs, and profits in accordance with regulations issued by the Price Commission.

§ 101.13 Price category II firms; reporting requirements.

(a) A price category II firm is a firm with annual sales or revenues from $50 million to $100 million.

(b) Each price category II firm shall submit quarterly reports to the Price Commission with information on prices, costs, and profits in accordance with regulations issued by the Price Commission.

§ 101.15 Price category III firms; monitoring and spot checks.

(a) A price category II firm is a firm with annual sales or revenues of less than $50 million.

(b) The price adjustments of price category III firms are not subject to prenotification or reporting. However, they are subject to monitoring and spot checks, as are price adjustments by firms in other categories.

§ 101.17 Reclassification.

(a) Upon the recommendation of the Price Commission, the Director of the Cost of Living Council has authority to reclassify firms so as to subject a price category II firm to the procedures applicable to price category I firms, and to subject price category III firms to the procedures applicable to price category I firms or price category II firms.

(b) If the pay adjustments of a firm are classified as category I pay adjustments, the Director of the Cost of Living Council has authority to reclassify the firm, for price adjustment purposes, as a price category I firm. If the pay adjustments of a firm are classified as category II pay adjustments and, for price adjustment purposes, the firm is classified in category III, the Director of the Cost of Living Council has authority to reclassify the firm as a price category II firm.

Subpart C—Pay Adjustments—Classification and Procedures

§ 101.21 Category I pay adjustments; construction pay adjustments; prenotification requirements.

(a) A category I pay adjustment means a pay adjustment which applies to or affects 5,000 or more employees or which applies to or affects employees who are engaged in construction as defined by section 11(a) of Executive Order No. 11588, March 29, 1971.

(b) Prenotification of each proposed category I pay adjustment shall be submitted to the Pay Board in accordance with regulations issued by the Pay Board.

(c) No proposed category I pay adjustment shall be put into effect unless such pay adjustment has been approved or permitted to take effect in accordance with regulations issued by the Pay Board.

§ 101.23 Category II pay adjustments; reporting requirements.

(a) A category II pay adjustment means a pay adjustment which applies to or affects from 1,000 to 5,000 employees.

(b) Each category II pay adjustment shall be reported to the Pay Board in accordance with regulations issued by the Pay Board.

§ 101.25 Category III pay adjustments; monitoring and spot checks.

(a) A category III pay adjustment means a pay adjustment which applies to or affects less than 1,000 employees.

(b) Category III pay adjustments are not subject to prenotification and reporting. However, they are subject to monitoring and spot checks as are pay adjustments by firms in other categories.

§ 101.27 Reclassification.

(a) Upon the recommendation of the Pay Board, the Director of the Cost of Living Council has authority to reclassify category II pay adjustments to category I pay adjustments, and to reclassify category III pay adjustments to category I pay adjustments or category II pay adjustments.

(b) If a firm is a price category I firm, the Director has the authority to classify all pay adjustments of the firm as category I pay adjustments. If a firm is a price category II firm, the Director has the authority to classify all pay adjustments of the firm as pay category II pay adjustments, unless that firm's pay adjustments are already classified as category I pay adjustments.

Subpart D—Exemptions; Items Not Included in Coverage

§ 101.31 General.

Price adjustments with respect to the property and services set forth in this subpart are exempt from or not included in the coverage of the economic stabilization program established pursuant to the Economic Stabilization Act of 1970 and Executive Order No. 11627, October 15, 1971.

§ 101.32 Exemptions.

(a) *Raw agricultural products.* Agricultural products which retain their original physical form and have not been processed. Processed agricultural products are products which have been canned, frozen, slaughtered, milled, or otherwise changed in their physical form. Packaging is not considered a processing activity. Examples:

Exempt	*Nonexempt*
Live cattle, calves, hogs, sheep and lambs.	Carcasses and meat cuts.
Live Poultry	Dressed broilers and turkeys.
Raw milk	Pasteurized milk and processed products such as butter, cheese, ice cream.
Shell eggs, packaged or loose.	Frozen, dried or liquid eggs.
Sheared or pulled wool.	Wool products.
Raw honeycomb honey.	Processed and blended honeybutter product.
Mohair.	
Hay: bulk, pelleted, cubed or baled.	Dehydrated alfalfa meal or alfalfa meal pellets.
Wheat	Flour.
Feed grains including:	
Corn	Mixed feed.
Sorghum	Cracked corn.
Barley	Rolled barley.
Oats	Rolled oats.
Soybean	Soybean meal and oil.
Leaf tobacco	Cigarettes and cigars.
Baled cotton, cottonseed, cotton lint.	Cotton yarn, cottonseed oil, cottonseed meal.

Exempt	*Nonexempt*
Fresh potatoes, packaged or not.	Frozen french fries, dehydrated potatoes.
Unmilled rice	Milled rice.
All raw nuts—shelled and unshelled.	Roasted, salted or otherwise processed nuts.
Fresh mushrooms	Canned or freeze dried mushrooms.
Fresh mint	Mint oil.
Fresh hops.	
Dried beans, peas, and lentils.	
Sugar beets and sugar cane.	Refined sugar.
Maple sap	Maple syrup and sugar.
All seeds for planting.	Seeds processed for other uses.
Raw coffee bean	Roasted coffee bean.
All fresh vegetables and melons including:	Canned and frozen vegetables.
Tomatoes.	
Lettuce.	
Sweet corn.	
Onions.	
Green beans.	
Cantaloupe.	
Cucumbers	Dill pickles.
Cabbage	Packaged slaw.
Carrots.	
Watermelons.	
Green peas.	
Asparagus.	
Pepper.	
Broccoli.	
Cauliflower.	
Spinach.	
Green lima beans.	
Honeydews.	
Escarole.	
Garlic.	
Artichokes.	
Eggplant.	
Brussel sprouts.	
Beets.	
Unpopped popcorn	Popped popcorn.
Stumpage, or trees cut from the stump.	Milled lumber.
All fresh or naturally dried fruits, packaged or not, including:	Canned, artificially dried frozen fruit or juices.
Fresh oranges	Glazed citrus peel.
Grapes and raisins.	Canned grapes, wine.
Apples	Applesauce.
Peaches	
Strawberries	
Grapefruit	
Pears	
Lemons	
Plums and prunes.	Canned prunes and prune juice.
Cherries	
Cranberries	
Avocados	
Blueberries	
Apricots	
Tangerines	
Olives, uncured.	Canned olives.
Nectarines	
Raspberries	
Blackberries	
Figs	
Tangelos	
Limes	
Dates	
Papayas	
Bananas	
Pomegranates	
Currants	
Persimmons	
Garden plants and cut flowers.	Floral wreath.

(b) *Seafood products.* Raw seafood products including those which have been shelled, shucked, iced, skinned, scaled, eviscerated, or decapitated.

(c) *Custom products and services.* (1) The following products when custom made to individual order:

(i) Leather goods;

(ii) Wigs and toupees;

(iii) Fur apparel;

(iv) Jewelry.

(2) The following custom services when provided to individual order:

(i) Tailoring of clothing;

(ii) Framing of pictures and mirrors;

(iii) Taxidermy.

(d) *Exports, imports, and shipping rates.* (1) Exports, including products sold to a domestic purchaser who certifies that the product is for export.

(2) Imports, but only the first sale into U.S. commerce.

(3) International ocean shipping rates.

(e) *Damaged and used products.* Damaged products and used products other than rebuilt products.

(f) *Government property.* (1) Abandoned or confiscated property sold by a government agency (Federal, State or local) pursuant to authorization of a court.

(2) Property sold by the United States, including lease-sales.

(g) *Real estate.* (1) Sales:

(i) Unimproved real estate.

(ii) Real estate with improvements completed prior to August 15, 1971.

(iii) Real estate with improvements completed on or after August 15, 1971, if

(a) The sales price is determined after the completion of construction; or

(b) The wage rates are known to the builder and are not altered by actions of the Pay Board after the sales price is established.

(2) Rentals:

(i) Industrial, farm, and nonresidential commercial property.

(a) Rental units, including houses, apartments, or any other residential rental property, on which construction is completed, and which are offered for rent for the first time, after August 15, 1971.

(b) Rehabilitated dwellings for which the cost of rehabilitation exceeds one-third of the total value of the rehabilitated property (including the cost of rehabilitation), offered for rent in the newly rehabilitated condition for the first time after August 15, 1971.

(h) *Securities and financial instruments.* (1) Securities as defined in § 101.51.

(2) Property subject to net leases as defined in 26 United States Code 163(4)(a).

(3) Commercial paper.

(4) Commodity futures sold on an organized commodities exchange but not including the commodity (unless otherwise exempt).

(i) *Miscellaneous.* (1) Royalties and other payments from the sale of copyrights, manuscripts, and like materials prepaid for publication.

(2) Dues paid to nonprofit organizations.

(3) Wages below the minimum wage established by Federal law.

(4) Insurance premiums charged for all new life insurance policies including ordinary, term, and group policies, and individual endowments and annuities (fixed and variable), but excluding credit-life insurance.

(5) Antiques.

(6) Art objects including paintings, etchings, and sculpture.

(7) Collectors' coins and stamps.

(8) Precious stones and mountings into which precious stones are set.

(9) Rock and stone specimens.

(10) Handicraft objects.

§ 101.33 Items not included in coverage.

The following items are not covered by this part or Executive Order No. 11627, October 15, 1971, on and after the effective date of this part.

(a) *Federal pay adjustments.* Federal Government employees' pay adjustments which are based upon Federal law and regulations and are determined by Presidential directives and adjustments in the compensation and allowances of members of the Armed Forces.

(b) *Raw sugar prices.* Raw sugar price adjustments, which are controlled under the provisions of the Sugar Act of 1948, as amended.

Subpart E—Definitions

§ 101.51 Definitions.

As used in this part—

"Annual sales or revenues" means the total income of a firm during its most recent fiscal year from whatever source derived.

"Cost of Living Council" means the Council established pursuant to Executive Order No. 11615, August 15, 1971, as amended, and continued under the provisions of Executive Order No. 11627, October 15, 1971.

"Employer" means a firm which employs one or more persons who receive a wage or salary.

"Exception" means a waiver in a particular case of the requirements of any order or regulation issued pursuant to the Economic Stabilization Act of 1970, as amended.

"Exemption" means a general waiver with respect to a certain class of property, services, or economic transactions set forth in Executive Order No. 11627, October 15, 1971, or these regulations and which excludes such property, services, or economic transactions from the application of the Economic Stabilization Act of 1970, as amended.

"Firm" means any person, croporation, partnership, joint-venture, or sole proprietorship or any other entity however organized, including charitable, educational, or other eleemosynary institutions and any Federal, State, or local governmental entity.

"Pay adjustment" means a change in wages and salaries which includes all forms of direct or indirect remuneration or inducement to employees by their employers for personal services, which are reasonably subject to valuation, including but not limited to: Vacation and holiday payments; bonus; layoff and severance pay plans; supplemental unemployment benefits; night shift, overtime, production; and incentive pay; employer contributions for insurance plans (but not including public plans, e.g. old age, survivors, health, and disability insurance under the Social Security system, Railroad Retirement Acts, Federal Insurance Contributions Act, Federal Unemployment Tax Acts, Civil Service Retirement Acts and the Carriers and Employees Tax Act); savings, pension, profit sharing, annuity funds, and other deferred compensation and welfare benefits; payments in kind, job perquisites; housing allowances; uniform and other work clothing allowances (but not including employer-required uniforms and work clothing whether or not for safety purposes); cost-of-living allowances; commission rates, stock options, and other fringe benefits; and benefits which result in more pay per hour or other unit of work or production (e.g. by shortening the workday without a proportionate decrease in pay).

"Pay Board" means the Board established pursuant to section 7, Executive Order No. 11627, October 15, 1971.

"Prenotification" means notice submitted to the Price Commission or Pay Board relating to a proposed price adjustment or pay adjustment.

"Price adjustment" means a change in the unit price of property or services or a decrease in the quality of substantially the same property or services, unless exempt or outside the scope of the Economic Stabilization Act of 1970, as amended.

"Price Commission" means the Commission established pursuant to section 8, Executive Order No. 11627, October 15, 1971.

"Security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to our purchase, any of the foregoing.

Subpart F—Special Temporary Provisions

§ 101.101 Special provisions applicable from Nov. 14, 1971–Jan. 1, 1972.

Notwithstanding the provisions of §§ 100.11 and 100.21:

(a) Pay adjustments scheduled to take effect between November 14, 1971 and January 1, 1972 pursuant to existing contracts or pay practices in effect before November 14, 1971, need not be prenotified to, or approved by, the Pay Board, but must be reported to the Pay Board in accordance with its regulations and will be otherwise subject to such regulations. The provisions of this subparagraph shall not apply to pay adjustments which are subject to the provisions of Executive Order No. 11588, March 29, 1971.

(b) After November 14, 1971 and until January 1, 1972, a price category I firm is not required to submit a prenotification and obtain approval of a proposed price adjustment if it meets the criteria of § 300.51 of this title.

[FR Doc.71-16762 Filed 11-12-71;7:06 pm]

Chapter II—Pay Board

PART 201—STABILIZATION OF WAGES AND SALARIES

On August 15, 1971 the President announced a freeze on prices, rents, wages, and salaries for a period of 90 days ending midnight, November 13, 1971. By Executive Order No. 11627 of October 15, 1971, the President provided for an orderly transition from the 90-day general freeze to a more flexible system of economic restraints. Under that Order, the President established a Pay Board to be composed of 15 members (i.e., five representatives each from labor, business, and the general public) to be appointed by him. On November 8, 1971, the Pay Board adopted policies governing pay adjustments to be effective after the 90-day general freeze. A statement of that policy is set forth below as an appendix to regulations prescribed by the Pay Board.

Pursuant to the authority vested in the Pay Board by the Economic Stabilization Act of 1970, as amended (Public Law 91-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, Stat. 38), Executive Order No. 11627 (36 F.R. 20139, October 16, 1971), and Cost of Living Council Order No. 3 (36 F.R. 20202, October 16, 1971), the Pay Board hereby adopts the following regulations (including the policy statement) in implementation of the President's economic program. A new Chapter II—Pay Board is hereby established in title 6—Economic Stabilization of the Code of Federal Regulations and a new Part 201—Stabilization of Wages and Salaries is added thereto.

Because of the need for immediate guidance from the Pay Board with respect to the provisions contained in these regulations, it is hereby found impracticable to issue such regulations with notice and public procedure thereon under 5 U.S.C., sec. 553(b), or subject to the effective date limitation of 5 U.S.C., sec. 553(d).

Effective date. This part shall be effective at 12:01 a.m. on November 14, 1971.

GEORGE H. BOLDT,
Chairman of the Pay Board.

Subpart A—Introduction

Sec.
201.1 Purpose.
201.2 Extent to which the regulations under this chapter supersede or affect prior regulations and other published matter.
201.3 Definitions.

Subpart B—Pay Stabilization

201.10 General wage and salary standard.
201.11 Review of new contracts and pay practices in relation to the wage and salary standard.
201.12 Reduction of wages and salaries.
201.13 Scheduled increases in wages and salaries for services rendered after August 15, 1971, and before November 14, 1971.
201.14 Wage and salary increases effective after November 13, 1971.
201.15 Unaffected wages and salaries.

Appendix—Policies Governing Pay Adjustments Adopted by the Pay Board November 8, 1971

AUTHORITY: The provisions of this Part 201 issued under Economic Stabilization Act of 1970, as amended (Public Law 91-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, Stat. 38), Executive Order No. 11627 (36 F.R. 20139, Oct. 16, 1971), and Cost of Living Council Order No. 3 (36 F.R. 20202, Oct. 16, 1971).

Subpart A—Introduction

§ 201.1 Purpose.

The purpose of these regulations is to establish rules and standards to stabilize wages and salaries, as defined in § 201.3, in accordance with the provisions of Executive Order No. 11627, and to provide guidance and procedures for an orderly transition from the 90-day general freeze imposed by Executive Order No. 11615. All persons are required by law to comply with the provisions of the Economic Stabilization Act of 1970 as amended, and all Executive orders, regulations (including this regulation), circulars, and orders issued thereunder, and all persons are expected to comply voluntarily with such law, orders, and regulations. The policies governing pay adjustments, adopted by the Pay Board on November 8, 1971, are attached as an appendix to this part.

§ 201.2 Extent to which the regulations under this chapter supersede or affect prior regulations and other published matter.

(a) To the extent that any provision of Economic Stabilization Regulation No. 1, as amended, or any provision of the circulars issued pursuant thereto is inconsistent with the provisions set forth in this chapter, the provisions of this chapter shall be controlling.

(b) To the extent that neither the Cost of Living Council nor the Pay Board issues regulations with respect to specific matters concerning wages and salaries, such matters shall continue to be subject to Economic Stabilization Regulation No. 1, as amended, and the circulars issued pursuant thereto.

§ 201.3 Definitions.

For purposes of this part—

"Party at interest" means:

(1) A bargaining representative of employers who could be required to pay the wages and salaries in question, or in the absence of such bargaining representative, an employer who could be required to pay the wages and salaries in question; or

(2) A bargaining representative of employees who could receive payment of wages and salaries in question, or in the absence of such bargaining representative, an employee who could receive payment of wages and salaries in question.

"Wages and salaries" includes all forms of direct and indirect remuneration or inducement to employees by their employers for personal services, which are reasonably subject to valuation, including but not limited to: Vacation and holiday payments; bonuses; layoff and severence pay plans; supplemental unemployment benefits; night shift, overtime, and incentive pay; employer contributions for insurance plans (but not including public plans, e.g. old-age, survivors, health, and disability insurance under the Social Security system, Railroad Retirement Acts, Federal Insurance Contributions Acts, Federal Unemployment Tax Acts and Civil Service Retirement Acts); savings, pension, profit sharing, annuity funds, and other deferred compensation and welfare benefits; payments in kind; job prerequisites; housing allowances; uniform and other work clothing allowances (but not including employer-required uniforms and work clothing whether or not for safety purposes); cost-of-living allowances; commission rates, stock options, and other fringe benefits; and benefits which result in more pay per hour or other unit of work or production (e.g. by shortening the workday without a proportionate decrease in pay).

Subpart B—Pay Stabilization

§ 201.10 General wage and salary standard.

On and after November 14, 1971, the general wage and salary standard shall be applicable to new labor agreements and, where no labor agreement is in effect, to existing pay practices. On and after such date, permissible annual aggregate increases will be those normally considered supportable by productivity improvement and cost of living trends. Initially, the general wage and salary standard is established as 5.5 percent. The appropriateness of this figure will be reviewed periodically by the Pay Board, taking into account such factors as the long-term productivity trend of 3 percent, cost of living trends, and the objective of reducing inflation.

§ 201.11 Review of new contracts and pay practices in relation to the wage and salary standard.

In reviewing new contracts and pay practices, the Pay Board will consider ongoing collective bargaining and pay practices, and the equitable position of the employees involved, including the impact of recent changes in the cost of living upon the employees' compensation.

§ 201.12 Reduction of wages and salaries.

No reduction in wages and salaries being paid November 13, 1971, will be required pursuant to this part unless and to the extent that such wages and salaries were increased in violation of the Economic Stabilization Act of 1970, as amended, and orders and regulations issued pursuant thereto.

§ 201.13 Scheduled increases in wages and salaries for services rendered after August 15, 1971, and before November 14, 1971.

Payments of scheduled increases in wages and salaries for services rendered by employees after August 15, 1971, and before November 14, 1971, which were not made because prohibited by the freeze, may be made retroactively only if approved by the Pay Board. The Pay Board may approve such payments in the following circumstances applicable to individual cases or categories of cases:

(a) It is demonstrated that the employer of the employees on whose behalf such payment is being sought raised the prices for his products or services prior to August 16, 1971, in anticipation of wage and salary increases scheduled to be paid to such employees after August 15, 1971.

(b) It is demonstrated that a wage and salary agreement or pay schedule or practice adopted after August 15, 1971, succeeded an agreement, schedule, or practice that expired or terminated prior to August 16, 1971, and retroactivity is demonstrated to be an established past practice of an employer and his employees or retroactivity had been agreed to prior to November 14, 1971.

(c) It is demonstrated that the proposed retroactive payment satisfies such further criteria as the Pay Board may hereafter establish to remedy severe inequities.

§ 201.14 Wage and salary increases effective after November 13, 1971.

Existing contracts and pay practices previously set forth will be allowed to operate according to their terms except that specific contracts or pay practices are subject to review, when challenged by a party at interest or by five or more members of the Pay Board, to determine whether any increase is unreasonably inconsistent with the criteria established by this Board. In reviewing existing contracts and pay practices, the Pay Board will consider ongoing collective bargaining and pay practices and the equitable position of the employees involved, including the impact of recent changes in the cost of living upon the employee's compensation.

§ 201.15 Unaffected wages and salaries.

Until further action of the Pay Board, those classes of wages and salaries which were held by the Cost of Living Council not to be subject to control by the freeze shall not be affected by this part. However, this section shall not exempt any contracts subject to Executive Order No. 11588 of March 29, 1971, relating to the stabilization of wages and prices in the construction industry, as amended by Executive Order No. 11627 of October 16, 1971, further providing for the stabilization of the economy, from the general wage and salary standards in this part.

APPENDIX

POLICIES GOVERNING PAY ADJUSTMENTS ADOPTED BY THE PAY BOARD NOVEMBER 8, 1971

1. Millions of workers in the Nation are looking to the Pay Board for guidance with respect to permissible changes in wages, salaries, various benefits and all other forms of employee total compensation. It is imperative to have a simple standard with as broad a coverage as possible at as early a date as possible. There is probably a need for exceptions and for individual consideration of special situations as soon as practical, and guidance to the millions whose pay relations are relatively simple is an early essential.

2. This general pay standard is intended, in conjunction with other needed measures, to meet the objectives which led to the establishment of this Board.

3. The general pay standard should be applicable to:

(1) Changes that need approval before becoming effective;

(2) Changes that must be reported when they become effective; and

(3) All other changes requiring compliance but not requiring specific approval or reporting.

4. (a) Effective November 14, 1971, the general pay standard shall be applicable to new labor agreements and, where no labor agreement is in effect, to existing pay practices. The general pay standard would provide:

On and after November 14, 1971, permissible annual aggregate increases would be those normally considered supportable by productivity improvement and cost of living trends. Initially, the general pay standard is established as 5.5 percent. The appropriateness of this figure will be reviewed periodically by the Board, taking into account such factors as the long-term productivity trend of 3 percent, cost of living trends, and the objective of reducing inflation.

In reviewing new contracts and pay practices, the Pay Board shall consider ongoing collective bargaining and pay practices and the equitable position of the employees involved, including the impact of recent changes in the cost of living upon the employees' compensation.

(b) Existing contracts and pay practices previously set forth will be allowed to operate according to their terms except that specific contracts or pay practices are subject to review, when challenged by a party at interest or by five or more members of the Board, to determine whether any increase is unreasonably inconsistent with the criteria established by this Board. In reviewing existing contracts and pay practices, the Pay Board shall consider ongoing collective bargaining and pay practices and the equitable position of the employees involved, including the impact of recent changes in the cost of living upon the employees' compensation.

(c) Scheduled increases in payment for services rendered during the "freeze" of August 16 through November 13, 1971, may be made only if approved by the Board in specific cases. The Board may approve such payments in cases which are shown to meet any of the following criteria:

(i) Prices were raised in anticipation of wage increases scheduled to occur during the "freeze."

(ii) A wage agreement made after August 15, 1971 succeeded an agreement that had expired prior to August 16, 1971, and retroactivity was an established practice or had been agreed to by the parties.

(iii) Such other criteria as the Board may hereafter establish to remedy severe inequities.

5. Following approval of special procedures by the Pay Board with respect to hearing "prior approval" cases and other special situations, application may be made for an exception to the general pay standard and for a hearing on such matters as inequities and sub-standard conditions.

6. No retroactive downward adjustment of rates now being paid will be required by operation of the general pay standard unless the rates were raised in violation of the freeze or of the general pay standard.

7. Provisions may be considered for vacation plans, in-plant adjustments of wages and salaries, in-grade and length of service increases, payments under compensation plans, transfers and the like.

[FR Doc.71-16753 Filed 11-12-71;4:43 pm]

Chapter III—Price Commission

PART 300—PRICE AND RENT STABILIZATION

It is the purpose of the regulations hereby adopted to provide guidance and procedures for the implementation of Price Commission policies designed to achieve a goal of holding average price increases across the economy to a rate of no more than 2½ percent per year. It is expected that all persons will voluntarily comply with the provisions contained in these regulations and all orders and other guidance issued hereunder.

In order to prescribe regulations for the stabilization of prices and rents after November 13, 1971, a new Chapter III—Price Commission is hereby established in Title 6—Economic Stabilization of the Code of Federal Regulations, and a new Part 300—Price and Rent Stabilization is added thereto and the following regulations are hereby adopted effective November 14, 1971:

Subpart A—General

Sec.
300.001 Summary.
300.011 General rule.
300.012 Manufacturers.
300.013 Retailers and wholesalers.
300.014 Service organizations.
300.015 Rental of real property.
300.016 Regulated public utilities.
300.051 Prenotification firms.
300.052 Reporting firms.
300.060 Other considerations.
300.101 Definition of terms.
300.201 Seasonal patterns.
300.202 Taxes.
300.203 Contracts entered into prior to August 15, 1971.
300.204 Formula-determined rentals.
300.401 Exemptions.
300.498 May 25, 1970, limitation date.
300.499 Price Commission address.

Subparts B–E [Reserved]

Subpart F—Base Price

Sec.
300.501 In general.
300.505 Sales and leases of personal property and services.
300.507 Sales and leases of real property.
300.509 New property and new services.
300.511 Geographic limitation.
300.513 Definitions.

Subpart G—Procedures and Administration

300.601 Records and ceiling price lists.
300.612 Exceptions by ruling.
300.613 Rulings.
300.614 Adverse determinations and appeal.
300.615 Failure to obtain relief.
300.616 Reports of alleged violations.
300.651 Penalties.

AUTHORITY: The provisions of this Part 300 issued under the Economic Stabilization Act of 1970, as amended (Public Law 91-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38), Executive Order No. 11627 (36 F.R. 20139, October 16, 1971), and Cost of Living Council Order No. 4 (36 F.R. 20202, October 16, 1971).

Subpart A—General

§ 300.001 Summary.

The rules contained in this subpart relate to increases in prices and rents which are allowable after November 13, 1971, with respect to:

(a) Sales and leases of personal property,

(b) The furnishing of services, and

(c) Sales and leases of real property.

See § 300.011 for the general rule regarding increases in prices with respect to sales and leases for property and with respect to services. For special rules applicable to—

(d) Manufacturers, see § 300.012,

(e) Retailers and wholesalers, see § 300.013,

(f) Service organizations, see § 300.014,

(g) Rental property, see § 300.015,

(h) Regulated industries, see § 300.016.

For rules relating to firms required to notify the Price Commission before a price and rent increase can take effect, see § 300.051. For rules relating to firms required to make periodic reports to the Price Commission, see § 300.052. See § 300.101 for definitions of terms used in this subpart. For rules with respect to certain special situations, see § 300.201 and following. For rules exempting certain transactions from the operation of this subpart, see § 300.401.

§ 300.011 General rule.

Except as otherwise provided in this subpart, no person may charge a price or rent, with respect to any transaction involving sales or leases of property or services occurring after November 13, 1971, which exceeds the base price as determined under the rules prescribed in Subpart F of this part.

§ 300.012 Manufacturers.

A manufacturer may charge a price in excess of the base price (as determined under Subpart F of this part), to reflect allowable cost increases in effect on or after November 14, 1971, reduced to reflect productivity gains; provided, however, that the effect of all of a manufacturer's price changes is not to increase its profit margin as a percentage of sales, before income taxes, over that which prevailed during the base period (as defined in § 300.101).

§ 300.013 Retailers and wholesalers.

(a) *In general.* A person engaged in retailing or wholesaling may charge a price in excess of the base price where—

(1) The customary initial percentage markup with respect to the property sold is equal to or less than such person's customary initial percentage markup which prevailed during the base period (as defined in § 300.101), provided

(2) The effect of all such person's price changes is not to increase its profit margin as a percentage of sales, before income taxes, over that which prevailed during the base period.

(b) *Posting Requirement.* (1) a retailer is required to display prominently at the place of sale, base prices with respect to:

(i) All food products (except those which are exempt under the provisions of § 300.401); and

(ii) Those 40 items in each department which have the highest sales volume, or those items which account for 50 percent of total sales in each department, whichever is less.

Such base prices must be posted on or before January 1, 1972. No increase in price is allowable under paragraph (a) of this section until such base prices have been posted.

(2) A retailer must utilize the following interim procedure until base prices are posted under subparagraph (1) of this paragraph, with respect to base prices for all products (except for those exempted under § 300.401), and thereafter, with respect to base prices not posted under subparagraph (1) of this paragraph:

(i) There shall be posted on each floor of his establishment at least one sign (minimum of 22" x 28"), as specified below, announcing availability of base price information:

BASE PRICE INFORMATION

Information regarding the lawful base price for any item sold by this store not posted may be obtained by filling in a Base Price Information Request Form available at (specify location) and by handing it to (fill in). You will receive a speedy answer by mail.

(ii) There shall be made available in at least one location on each selling floor, Base Price Information Request Forms, as specified below:

BASE PRICE INFORMATION REQUEST FORMS

Please furnish me with your base price for the following item sold in your store:

Item _____
(Describe)
Retail price _____
Style No. _____
Department where sold _____
Name _____
Address _____
_____ Zip _____

(c) The retailer shall respond to each such written request for base price information within 48 hours from receipt of the request using a letter, in substance similar to the one specified below, and signed by the owner or by an officer of the company:

To: (Name, Address, City, Zip)

Dear _____:

In reply to your request, we are pleased to inform you that our base price for _____ _____ is $_____.

Sincerely,

_____
Owner or company officer

§ 300.014 Service organizations.

A person which is a service organization may charge a price in excess of the base price with respect to the furnishing of services or the leasing of personal property only to reflect allowable cost in effect on November 14, 1971, and cost increase incurred after November 14, 1971, reduced to reflect productivity gains: *Provided, however,* That such increased price shall not result in an increase in such person's profit margin as a percentage of sales, before income taxes, which prevailed during the base period.

§ 300.015 Rental of real property.

(a)–(c) [Reserved]

(d) *Special record requirement.* Persons leasing or offering to lease any real property shall maintain records showing—

(1) The base price (as defined in Subpart F of this part) charged with respect to each unit of real property,

(2) The reason for any difference in the price described in subparagraph (1) of this paragraph and the price allowable on or after November 14, 1971, and

(3) The reason for any difference between the price described in subparagraph (1) of this paragraph and the maximum price allowable during the period beginning August 15, and ending November 13, pursuant to Executive Order 11615.

Such records shall be made available upon the request of any tenant, prospective tenant, or representative of the Price Commission.

§ 300.016 Regulated public utilities.

(a) *In general.* A person which is a regulated public utility as defined in section 7701(a)(33) of the Internal Revenue Code of 1954 (26 U.S.C. section 7701(a)(33)) may charge a price, rate, or tariff in excess of the base price if such increase has been approved by a regulatory agency. A regulated person who had gross receipts of $100 million or more during its most recent fiscal year ending on or before November 13, 1971, shall inform the Price Commission of all requests for rate increases and immediately notify the Commission in writing of any agency order granting an increase and of any other authorized increase. A regulated person who had gross receipts between $50 and $100 million during its most recent fiscal year ending on or before November 13, 1971, shall immediately notify the Commission in writing of any agency order granting an increase and of any other authorized increase.

(b) *Special rule.* In the case of rate increases which were approved by a regulatory agency before November 14, 1971, but which were not permitted to take effect due to Executive Order 11615, such rate increase may take effect with respect to transactions occurring after November 13, 1971. However, before such increases may take effect, such regulatory agency shall review such increases with regard to their consistency with the purposes of the Economic Stabilization Act of 1970, as amended.

§ 300.051 Prenotification firms.

(a) *In general.* A person which is a prenotification firm (as defined in § 300.101) may not charge a price in excess of the base price before the Price Commission has approved such increased price. However, in the event the Price Commission does not act upon a requested price increase within 30 days after receipt by the Price Commission of the request for such increase, such increase may go into effect.

(b) *Exceptions.* Prenotification requirements are not applicable:

(1) For wholesalers and retailers.

(2) With respect to price changes resulting from calculation of a base price under Subpart F of this part or from the operation of § 300.203, relating to contracts entered into prior to August 15, 1971.

(3) In respect of any price increase which reflects increases in costs of labor which become effective during the period November 14, 1971, through December 31, 1971.

(c) *Manner of notification.* Such person shall notify the Price Commission of its intention to raise the price of a product or service on forms to be prescribed by the Commission and shall provide information sufficient to enable the Commission to make a determination with respect to such proposed increase. If the Commission finds that the information submitted is not sufficient to make such a determination it shall notify the person and the 30-day period provided in paragraph (a) of this section shall begin to run from the time the additional information is submitted.

(d) *Reporting requirement.* Such person shall file a quarterly report with the Price Commission within 15 days after the end of each fiscal quarter commencing with its first fiscal quarter ending after November 13, 1971. Such quarterly reports shall be made on forms to be prescribed by the Commission and shall contain the information required by such forms.

§ 300.052 Reporting firms.

(a) *In general.* A person which is a reporting firm shall file a quarterly report with the Price Commission in the form provided in paragraph (b) of this section within 15 days after the end of each fiscal quarter commencing with its first fiscal quarter ending after November 13, 1971.

(b) *Manner of filing.* The quarterly report required under paragraph (a) of this section shall be made on forms to be prescribed by the Commission and shall

contain the information required by such forms.

§ 300.080 Other considerations.

In making any determination, the Price Commission will take into account whatever factors it considers relevant to an equitable resolution of the case and considers necessary to achieve the overall goal of holding average increases across the economy to a rate of no more than 2½ percent per year.

§ 300.101 Definition of terms.

(a) *In general.* Except as otherwise provided, the definitions contained in this section shall only apply for purposes of Subpart A of this part.

(b) *Organizations subject to freeze*—(1) *Manufacturer.* The term "manufacturer" means a person who carries on the trade or business of making, fabricating, or assembling a product or commodity by manual labor or machinery for sale to another person or persons.

(2) *Retailer and wholesaler*—(i) *Retailer.* The term "retailer" means a person who carries on the trade or business of selling property to ultimate consumers.

(ii) *Wholesaler.* The term "wholesaler" means a person who carries on the trade or business of purchasing property and, without substantially changing the form of such property, reselling it to another person who is not the ultimate consumer.

(3) *Service organization.* The term "service organization" means a person who carries on the trade or business of selling or making available services, including the leasing of property to another person or persons. The term also includes nonprofit organizations, governments and governmental instrumentalities which carry on such activities. The term also includes a person which provides professional services.

(4) *Person.* The term "person" includes any individual, trust, estate, partnership, association, company, corporation, or instrumentality of a governmental unit. However, such term does not include a foreign government, an instrumentality of a foreign government or an international organization.

(c) *Accounting terms*—(1) *Customary initial percentage markup.* The term "customary initial percentage markup," means, the customary initial percentage markup, determined on an item, product line, department, store or other pricing unit basis according to the person's customary pricing practice. For these purposes, the initial markup is that markup which is applied to merchandise when first offered for sale.

(2) *Allowable cost.* The term "allowable cost" means any cost, direct or indirect, unless disallowed by the Price Commission.

(3) *Profit margins.* The term "profit margin," means the ratio that net profits (determined before taxes) bears to gross sales as reported on the person's published financial statement and in accordance with generally accepted accounting principles consistently applied. For purposes of determining net profits, extraordinary items and taxes on income shall not be taken into account.

(d) *Reporting requirements*—(1) *Firm.* The term "firm" means a person whose gross income, in whole or in part, is derived from sales. For purposes of this section, if a firm or firms are controlled directly or indirectly by another firm, the controlled firm or firms and the controlling firm shall be treated as a single firm.

(2) *Reporting firms.* The term "reporting firm" means a firm subject to the requirements of § 101.13 of Chapter I, Part 101 of this title.

(3) *Prenotification firms.* The term "prenotification firm" means a firm subject to the requirements of § 101.11 of Chapter I, Part 101 of this title.

(e) *Base period*—(1) *Base period.* The term "base period" means the average of any two of a person's last 3 fiscal years ended prior to August 15, 1971, the selection of such 2 fiscal years to be made by such person.

(2) *Markup base period.* The term "markup base period" shall mean, at the person's option, either

(i) The last customary initial markup prior to November 14, 1971, or

(ii) The person's last fiscal year ending prior to August 14, 1971.

(f) *Base price.* The term "base price" means base price as defined in Subpart F of this part.

(g) *Other definitions*—(1) *Product.* The term "product" means an item of tangible personal property offered for sale to another person or persons.

(2) *Product line.* The term "product line," means an aggregation of products of the same manufacturer or different manufacturers, substantially similar as to intended function, usage, and structure, and offered for sale simultaneously, or within the same commercial season, by a person or persons.

(3) *United States.* The term "United States" means the States, the District of Columbia, the Commonwealth of Puerto Rico.

§ 300.201 Seasonal patterns.

(a) *In general.* Notwithstanding any provisions of this subpart, prices (including rents) which normally fluctuate in distinct seasonal patterns may be adjusted subject to the provisions of this section.

(b) *Distinct fluctuation.* Prices must show a large or otherwise distinct fluctuation at a specific, identifiable point in time. Such distinct fluctuation must be an established practice that has taken place in each of the past 3 years. New persons may determine their qualifications from those generally prevailing with respect to persons similarly situated, selling or leasing in the same marketing area. If there are no such similar persons in the immediate area, qualification may be established by reference to the nearest similar marketing area.

(c) *Time of price fluctuation.* The price fluctuation referred to in paragraph (b) of this section may not take place at a time other than the time at which such fluctuation took place in the preceding year unless the date of the price fluctuation is tied to a specific event such as a previously planned introduction of new models.

(d) *Allowable price.* If the requirements of paragraphs (b) and (c) of this section are met, the maximum price which may be charged by such person shall be either—

(1) The base price determined under the provisions of Subpart F of this part, or

(2) The price charged by such person during the first 30 days of the period following the seasonal price adjustment in the preceding year, whichever is greater. For purposes of this subparagraph (2), the price charged during such 30-day period shall be the weighted average of the prices charged on all transactions occurring during such period.

(e) *Limitation.* Notwithstanding the provisions of paragraph (d), of this section, the price charged by such person may not result in an increase of its profit margin as a percentage of sales, before income taxes, over that prevailing during the base period.

(f) *Return to nonseasonal prices.* Prices must be adjusted downward at the same date or identifiable point in time as in the previous season.

§ 300.202 Taxes.

Notwithstanding any other provision of this subpart, prices with respect to transactions occuring after November 13, 1971, may be increased dollar-for-dollar to reflect increases in excise taxes (including sales and use taxes), and duties on imports (including the import surcharge imposed by the President on August 15, 1971), but not increased franchise, gross receipts, property, or income taxes.

§ 300.203 Contracts entered into prior to August 15, 1971.

Notwithstanding any other provisions of this subpart, the price specified in any binding contract for the sale of property or services entered into prior to August 15, 1971, with respect to any delivery or performance occurring after November 13, 1971, shall be allowable provided that the contract price shall not exceed that amount which would result in an increase in the person's profit margin as a percentage of sales, before income taxes, over that prevailing during the base period.

§ 300.204 Formula-determined rentals.

Leases of personal or real property entered into prior to August 15, 1971, in which the periodic rental price is determined by means of a formula specified in the lease agreement may continue with such formula in effect. However, any increases in the periodic rental price due to the passage of time or increases in the consumer price index shall not be allowed.

§ 300.401 Exemptions.

The provisions of this Part 300 shall apply to all transactions involving the sale or lease of property and services except those enumerated in Subpart D of Part 10 of this title.

§ 300.498 May 25, 1970, limitation date.

No provision in this subpart shall operate to require a person to establish a price or rent which is lower than the average price which was received by the person in arms-length transactions involving the property or service on May 25, 1970. In cases where there were no arms-length transactions on May 25, 1970, involving the person, the nearest date preceding May 25, 1970, on which such a transaction did occur shall deemed to be May 25, 1970, for purposes of this section. However, the rules contained in this section shall not apply if the person did not offer the property or service on May 25, 1970, due to causes other than the temporary closing of his business.

§ 300.499 Price Commission address.

Any document, report, or other information required by these regulations to be sent directly to the Price Commission shall be addressed to—Price Commission, 2000 M Street NW., Washington, DC 20508.

Subparts B—E [Reserved]

Subpart F—Base Price

§ 301.501 In general.

The rules in this subpart relate to the determination of the base price for the purposes of applying the provisions contained in Subpart A of this part, after November 13, 1971, with respect to:

(a) Sales and leases of personal property,

(b) The furnishing of services, and

(c) Sales and leases of real property.

The base price is either (1) the ceiling price permitted for the period beginning August 15, 1971, and ending November 13, 1971, or (2) such ceiling price as adjusted in accordance with the rules provided in this subpart, which shall then constitute the base price. See § 300.505 for rules relating to the determination of the base prices with respect to sales and leases of personal property and with respect to services, § 300.507 for rules relating to the determination of base prices with respect to sales and leases of real property, and § 300.509 for rules relating to the determination of base prices with respect to sales and leases of new property and with respect to new services, as therein defined.

§ 300.505 Sales and leases of personal property and services.

(a) *Sales of personal property and services.* The base price with respect to sales of personal property and services is the highest price charged by the person to a specific class of purchasers in a substantial number of transactions involving such personal property or services during the freeze base period (as defined in § 300.513).

(b) *Leasing of personal property.* The base price with respect to the leasing of personal property is the highest price charged to a specific class of purchasers with respect to leases of the same or substantially identical personal property in a substantial number of transactions during the freeze base period.

(c) *Ten-percent rule.* For purposes of paragraphs (a) and (b) of this section and paragraph (b) of § 300.507, the highest price in a substantial number of transactions during the freeze base period shall be the highest price at or above which 10 percent of the units were priced in transactions with a specific class of purchasers during the freeze base period.

§ 300.507 Sales and leases of real property.

(a) *Sales of real property.* This section applies to sales of real property not exempted under § 300.401. The base price with respect to the sale of any interest in real property which is held by the person for sale in the ordinary course of trade or business is the highest price received with respect to the same type of interest in similar real property during the freeze base period. In the case of a sale of an interest in real property which is not held for sale in the ordinary course of a trade or business, such interest shall be deemed to be new property for purposes of paragraph (d) of § 300.509.

(b) *Leases of real property*—(1) *In general.* The base price for a lease of an interest in real property is the highest price charged by the person with respect to the same or substantially identical rental units in a substantial number of transactions during the freeze base period. A provision is a lease of an interest in real property executed prior to August 15, 1971, which provides for an increased rental to take effect August 14, 1971, may take effect after November 13, 1971, to the extent such increased rental does not exceed the base price for the rental of such real property.

(2) *Property vacant during freeze base period.* If the property had been vacant for more than 1 year prior to the beginning of the lease period, the provisions of § 300.509(b) relating to new real property shall apply.

§ 300.509 New property and new services.

(a) *In general.* For purposes of this section, new property or new services means property or services which the person has not offered for sale (or lease in the case of property) at any time during the 1-year period immediately preceding the date on which the person is offering the property or service for sale (or lease).

(b) *Lease of real property.* In the case of a person offering real property for lease which was never previously leased, the base price shall be determined by a computation based on the average arms-length price received by persons leasing comparable property in the same marketing area. For purposes of determining the average price referred to in the preceding sentence, only a quantity of transactions which is not insubstantial in relation to the total number of such transactions need be taken into consideration. A property, or part thereof, which undergoes a substantial capital improvement shall be treated as new property for purposes of a lease. For purposes of this paragraph a substantial capital improvement means a permanent improvement or betterment made to increase the value of the property or to restore the property or part thereof, the cost of which equals or exceeds at least 3 months' rent and exceeds $250.

(c) *Personal property or services.* Personal property or service shall be deemed new if substantially different from other property or services in purpose, function, quality, or technology or if the use of such property or service effects a substantially different result. Property or services that differ from other property or services only in appearance, arrangement, combination, or function shall not be considered as new. A change in fashion, style, form, or packaging will not ordinarily be deemed to create a new property of service. A property, or part thereof, which undergoes a substantial capital improvement shall be treated as new property for purposes of a lease. For purposes of this paragraph a substantial capital improvement means a permanent improvement or betterment made to increase the value of the property or to restore the property, the cost of which equals or exceeds at least 3 months' rent and which exceeds $100.

(d) *Base price determination.* In the case of a person offering new property or new services, the base price shall be deemed to be, at the election of such person, either—

(1) The price determined under the method prescribed in paragraph (e) of this section, or

(2) The price determined under the method prescribed in paragraph (f) of this section.

(e) *First method.* The method referred to in paragraph (d)(1) of this section is a method by which a person may determine the price with respect to new property or services by a computation based on the unit cost (including direct and indirect costs) of a similar property or services of such person plus a factor for profit (before income taxes) which equals the profit rate actually earned with respect to such similar property or services. The rules in this paragraph shall not be applicable to transactions involving property or services with respect to which the person offers no other property or services which are similar thereto.

(f) *Second method.* The method referred to in paragraph (d)(2) of this section is a method by which a person may determine the price with respect to new property or services by a computation based on the average prices received in a substantial number of arms-length transactions by persons selling or leasing comparable property or services in the same marketing area.

§ 300.511 Geographic limitation.

The provisions of this subpart shall not be applicable to transactions for sales,

leases, or services occuring outside the United States. For purposes of this paragraph, a transaction shall be deemed to occur outside the United States if delivery of the property or rendering of the service which is the subject matter of the transaction occurs outside the United States, or if real estate which is the subject matter of the transaction is located outside the United States. If personal property which is the subject of a lease is used both inside and outside the United States during the period of the lease, the transaction shall be deemed to have occurred exclusively in the United States and the provisions of this subpart shall apply. Similarly, if services are partially rendered in the United States and partially outside the United States, the services shall be deemed to have been performed exclusively in the United States.

§ 300.513 Definitions.

(a) *In general.* Unless otherwise indicated, the definitions contained in this section shall apply for purposes of Subparts F and G of this part.

(b) *Transaction.* A "transaction" shall be deemed to occur at the time and place a binding contract is entered into between the parties to the transaction. A "transaction" shall mean an arms-length transaction, and shall include only transactions between unrelated persons which are not members of a controlled group.

(c) *United States.* The term "United States" means the States, the District of Columbia, and the Commonwealth of Puerto Rico.

(d) *Person.* The term "person" includes any individual, estate, trust, partnership, association, company, corporation, governmental unit, or instrumentality of a governmental unit. However, such term does not include a foreign government, an instrumentality of a foreign government, an international organization.

(e) *Freeze base period.* The term "freeze base period" means either—

(1) The period beginning July 16, 1971, and ending August 14, 1971, or

(2) If a person had no transaction during the period specified in subparagraph (1) of this paragraph, the nearest preceding 30-day period in which he had a transaction.

(f) *Unrelated person.* The term "unrelated person" refers to a person other than a person described in 26 U.S.C. section 267(b), as amended.

(g) *Controlled group.* The term "controlled group" means a controlled group of corporations as defined in 26 U.S.C. section 1563(a).

(h) *Price.* The term "price" includes commissions, membership dues, margins, rates, fees, charges, tariffs, and premiums without regard to the form in which paid. The term also includes rents for the lease of real or personal property.

(i) *Service.* The term "service" includes all services rendered by one person for another person other than in an employment relationship (determined under the normal common law rules). The term also includes for example, professional services of any kind and services rendered by membership associations for which dues are charged.

(j) *Sale.* The term "sale" includes all sales, exchanges, transfers, and dispositions.

(k) *Lease.* The term "lease" includes any contract for the use of real or personal property of any description.

(l) *Rent.* The term "rent" means any price for the use of real or personal property of any description. The term also includes any charge, no matter how denominated in the lease or other agreement, for the use of any property or for any service in connection with the use of leased property.

(m) *Class of purchasers.* The term "class of purchasers" means purchasers to whom a person has charged a comparable price for comparable property or service during the freeze base period pursuant to customary price differentials between those purchasers and other purchasers. The term "customary price differentials" includes, but is not limited to, price distinctions based on discounts, allowances, add-ons, premiums, and extras based on differences in volume, grade, quality, or location or type of purchaser, or terms or conditions of sale or delivery.

Subpart G—Procedure and Administration

§ 300.601 Records and ceiling price lists.

(a) *In general.* Any person who sells property or services, or leases property subject to the price and rent stabilization requirements of this Part 300 shall keep such permanent books of account or records as are sufficient to establish the base prices for all such property or services offered for sale or lease by such person and the prices at which such property or services were actually sold or leased.

(b) *Inspection of records or lists.* Records required to be maintained under paragraph (a) of this section shall be made available for inspection at any time upon the request of an officer or employee of the Internal Revenue Service for the purpose of ensuring compliance with the requirements of this part.

(c) *Special rule for imported items.* In addition to the records and lists required to be maintained under paragraphs (a) and (b) of this section, any item which has been imported into the United States and upon which an import surcharge has been imposed by the President in conjunction with other measures taken under the Economic Stabilization Act of 1970, as amended, shall, when sold, clearly have indicated upon the accompanying sales ticket or invoice the exact amount of the import surcharge the seller is passing on to the customer or that such an import surcharge though so imposed, is not being passed on.

(d) *Period for keeping records.* All records required to be kept under this section shall be maintained and preserved by the person required to keep such records for at least 4 years after the last day of the calendar year in which the transactions or other events recorded in such accounts or records occurred or the property was acquired by such person, whichever is later.

§ 300.612 Exceptions by ruling.

(a) *In general.* The Chairman of the Price Commission, or his delegate, will by rulings make such exceptions from the operation of this Part 300 as the Price Commission deems necessary for the purpose of preventing or correcting gross inequities.

(b) *Requests for exceptions.* Except as otherwise prescribed by the Price Commission, persons requesting exceptions from the operation of this Part 300 should submit their request, in writing, to the District Director of Internal Revenue for the district in which such person has his residence or principal place of business. The request should state the reason why the exception is being requested and should contain sufficient information to establish to the satisfaction of the Price Commission that—

(1) The application of the provisions of this part to such person would result in a serious hardship or gross inequity, and

(2) That the request for exception is not part of a plan having as one of its principal purposes the avoidance of the purposes of the Economic Stabilization Act of 1970, as amended, and this Part 300. (See § 300.613 for a more detailed description of the manner in which a request for determination by the Price Commission should be made.)

§ 300.613 Rulings.

(a) *In general.* In the interest of sound administration of the Economic Stabilization Act of 1970, as amended, and this Part 300, the Internal Revenue Service will answer inquiries of persons regarding their status for price and rent stabilization purposes and as to the applicability of this Part 300 to their proposed acts or transactions.

(b) *Price stabilization ruling.* A "Price Stabilization Ruling" is an official interpretation of the law by the Internal Revenue Service which has been published in the Price Stabilization Bulletin. Price Stabilization Rulings are published for the information and guidance of the Price Commission, Internal Revenue Service officials and others concerned.

(c) *Ruling guidelines.* (1) Rulings will be issued only with respect to prospective transactions,

(2) Rulings will not be issued on alternative plans of proposed transactions or on hypothetical situations.

(3) A ruling will not be issued if the national office of the Internal Revenue Service knows or has reason to believe that the same or identical issue in connection with a possible violation of this part by the person who is the subject of the ruling request is before any field office of the Service or any other agency charged with enforcement of this part.

(4) Further, a ruling will not be issued with respect to a matter upon which a recent court decision adverse to the Government has been handed down until the Government has decided whether to follow the decision or litigate further.

(d) *Instructions.* Any person requesting a ruling should direct such request, in writing to the District Director of Internal Revenue for the district in which such person has his residence or principal place of business. Each request for a ruling must include—

(1) A complete statement of all such information as is relevant to the status of the person and proposed transaction under this Part 300,

(2) Copies of all relevant documents affecting such status or transaction, and

(3) A statement, executed under penalty of perjury, that such statements and documents, to the knowledge of the person making the request, are true and accurate. Only one ruling request may be made with respect to a particular transaction, and no ruling request may be made with respect to an issue described in paragraph (c)(3) of this section.

(e) *Determination letters.* In the discretion of the Internal Revenue Service the request of the person may be answered with a determination letter directed solely to the attention of the person in cases in which the Service deems the question not of sufficient importance to the Price Commission, the Internal Revenue Service, or the public in general to warrant the issuance of a ruling.

§ 300.614 Adverse determinations and appeal.

If a person receives an adverse determination letter (as described in paragraph (e) of § 300.613) he may, within 10 days, file a written request for a conference with the district director who issued such adverse determination letter. If the district director fails to reverse his initial determination following such conference, the person affected may, within 10 days after notice of such final determination, file written application for an appeal, together with a brief outlining the basis for such appeal, with the Price Commission. A copy of the application for appeal and the brief shall, at the same time, be directed to the Internal Revenue Service, Attention: Assistant Chief Counsel (Stabilization), Washington, D.C. 20224.

§ 300.615 Failure to obtain relief.

If a person is denied relief by the Price Commission, either because of an adverse determination or because of the Price Commission's refusal to grant an appeal, such person may, within 30 days, file an action for relief in the appropriate U.S. District Court.

§ 300.616 Reports of alleged violations.

Whenever any person has reason to believe that a violation of these regulations has taken place, such person should contact the nearest office of the Internal Revenue Service. Such cooperation on the part of every citizen will insure that the price stabilization program achieves its maximum and intended effect.

§ 300.651 Penalties.

(a) *Illegal practices.* Any person who, by means of inducements, commissions, kickbacks, retroactive increases, transportation arrangements, premiums, discounts, special privileges, tie-in agreements, trade understandings, the falsification of records, the substitution of inferior commodities, the failure to provide the same services and equipment previously sold or leased, or in any other manner seeks to obtain a higher price or rent than is permitted by this part shall be subject to the provisions of paragraphs (b) and (c) of this section.

(b) *Injunctions.* Whenever it appears that any person is engaged, or is about to engage, in any act or practice described in paragraph (a) of this section, the U.S. Government may, in its discretion, bring an action in the proper district court of the United States to enjoin such acts or practices. Upon a proper showing, a permanent or temporary injunction or restraining order may be granted. In addition, upon proper applications, such court may issue mandatory injunctions commanding any person to comply with any provision of this Part 300.

(c) *Fines.* Any person who willfully violates the provisions of this Part 300 shall, upon conviction thereof, be subject to a fine of not more than $5,000 for each violation. See section 204 of title 2 of Public Law 91-379 (84 Stat. 800).

Because the purpose of this Price Commission regulation is to provide immediate guidance as to the price and rent stabilization rules applicable after November 13, 1971, it is hereby found impracticable to issue this Price Commission regulation with notice and public procedure thereon under 5 U.S.C., section 533(b), or subject to the effective date limitation of 5 U.S.C., section 553 (d).

C. JACKSON GRAYSON, JR.,
Chairman of the Price Commission.

[FR Doc.71-16759 Filed 11-12-71;4:43 pm]

COST OF LIVING COUNCIL

[Order No. 5]

SECRETARY OF THE TREASURY

Delegation of Authority Concerning Implementation of Stabilization of Prices, Rents, Wages, and Salaries

Pursuant to the Economic Stabiliinafter referred to as the Act), and the authority delegated to the Cost of Living Council by Executive Order No. 11627 (hereinafter referred to as the Executive order) it is hereby ordered as follows:

1. There is hereby delegated to the Secretary of the Treasury (hereinafter referred to as the Secretary), subject to the general policy guidance of and coordination with the Cost of Living Council (hereinafter referred to as the Council) and in accordance with the general policy of the Act, authority to interpret, implement, administer, monitor, and enforce the stabilization of prices, rents, wages, and salaries pursuant to the coverage, classifications, and implementation procedures established by the Council. Such functions will include, but not be limited to, the following:

(a) Operation and maintenance of local service and compliance centers established in support of the economic stabilization program in Standard Metropolitan Statistical Areas and such other places as the Secretary may determine;

(b) Dissemination of information and guidance to the public;

(c) Issuance of rulings and the receiving, analyzing, and responding to inquiries relating to the application of regulations and other guidance issued by the Council and the establishment and operation of an appeal procedure;

(d) Receiving, analyzing, investigating, and preparing and forwarding recommendations upon applications for exceptions and exemptions from coverage, classifications, and the implementation procedures to the Council for decision;

(e) Conducting monitoring investigations as to the effectiveness of the stabilization program;

(f) Receiving, investigating, and resolving by obtaining compliance, where possible, complaints received with respect to program violations and recommending enforcement action to the Council, where necessary;

(g) Making factual determinations on behalf of the Council in furtherance of any functions herein delegated; and

(h) Maintaining adequate records and the making of periodic reports to the Council.

2. All executive departments and agencies shall furnish such necessary assistance to the Secretary as may be authorized by law.

3. The Secretary may redelegate to any agency, instrumentality, or official of the United States any authority under this order, and may, in carrying out the functions delegated by this order, utilize the services of any other agencies, Federal or State, as may be available and appropriate.

4. The Director, Office of Emergency Preparedness, shall continue to exercise responsibility and authority under Council Order No. 1 as necessary to complete actions in process and to effectuate an orderly transfer of functions to the Pay Board established by section 7 of the Executive order and the Price Commission established by section 8 of the Executive order.

5. Nothing in this order shall be construed to limit or otherwise supersede the authority heretofore delegated to the Pay Board by Council Order No. 3 or to the Price Commission by Council Order No. 4.

6. This order shall be effective at 12:01 a.m., November 14, 1971.

By direction of the Council.

DONALD RUMSFELD,
Director.

[FR Doc. 71-16760 Filed 11-12-71; 4:43 am]

PRICE COMMISSION

[Order No. 1]

SECRETARY OF THE TREASURY

Delegation of Authority Concerning Implementation of Stabilization of Prices and Rents

Pursuant to Executive Order 11627 and the authority delegated to the Price Commission (hereinafter referred to as the Commission) by Cost of Living Council Order No. 4 (hereinafter referred to as the order), it is hereby ordered as follows:

1. There is hereby delegated to the Secretary of the Treasury (hereinafter referred to as the Secretary), subject to the general policy guidance of and coordination with the Commission and consistent with the general policy of Executive Order 11627 as developed by the Cost of Living Council, authority to interpret, implement, administer, monitor, and enforce the stabilization of prices and rents pursuant to the criteria, standards, and implementation procedures established by the Commission. Such functions will include, but not be limited to, the following:

(a) Operation and maintenance of local service and compliance centers established in support of the economic stabilization program in Standard Metropolitan Statistical Areas and such other places as the Secretary may determine;

(b) Dissemination of information and guidance to the public;

(c) Issuance of rulings and the receiving, analyzing, and responding to inquiries relating to the application of regulations and other guidance issued by the Commission and the establishment and operation of an appeal procedure;

(d) Receiving analyzing, investigating, and preparing and forwarding to the Commission for decision recommendations upon applications for exceptions from the criteria, standards, and the implementation procedures;

(e) Conducting monitoring investigations as to the effectiveness of the stabilization program;

(f) Receiving, investigating, and resolving by obtaining compliance, where possible, complaints received with respect to program violations and recommending enforcement action to the Commission, where necessary;

(g) Making factual determinations on behalf of the Commission or in furtherance of any functions herein delegated; and

(h) Maintaining adequate records and the making of periodic reports to the Commission.

2. All executive departments and agencies shall furnish such necessary assistance to the Secretary as may be authorized by law.

3. The Secretary may redelegate to any agency, instrumentality, or official of the United States any authority under this order, and may, in carrying out the functions delegated by this order, utilize the services of any other agencies, Federal or State, as may be available and appropriate.

4. This order shall be effective at 12:01 a.m., November 14, 1971.

By direction of the Commission.

C. JACKSON GRAYSON, JR.,
Chairman.

[FR Doc.71-16761 Filed 11-12-71;4:43 pm]

PAY BOARD

[Order No. 1]

SECRETARY OF THE TREASURY

Delegation of Authority Concerning Implementation of the Stabilization of Wages and Salaries

Pursuant to Executive Order 11627 and the authority delegated to the Pay Board (hereinafter referred to as the Board) by Cost of Living Council Order No. 3 (hereinafter referred to as the order), it is hereby ordered as follows:

1. There is hereby delegated to the Secretary of the Treasury (hereinafter referred to as the Secretary), subject to the general policy guidance of and coordination with the Board and consistent with the general policy of Executive Order 11627 as developed by the Cost of Living Council, authority to interpret, implement, administer, monitor, and enforce the stabilization of wages and salaries pursuant to the criteria, standards, and implementation procedures established by the Board. Such functions will include, but not be limited to, the following:

(a) Operation and maintenance of local service and compliance centers established in support of the economic stabilization program in Standard Metropolitan Statistical Areas and such other places as the Secretary may determine;

(b) Dissemination of information and guidance to the public;

(c) Issuance of rulings and the receiving, analyzing, and responding to inquiries relating to the application of regulations and other guidance issued by the Board and the establishment and operation of an appeal procedure;

(d) Receiving, analyzing, investigating, and preparing and forwarding to the Board for decision recommendations upon applications for exceptions from the criteria, standards, and the implementation procedures;

(e) Conducting monitoring investigations as to the effectiveness of the stabilization program;

(f) Receiving, investigating, and resolving by obtaining compliance, where possible, complaints received with respect to program violations and recommending enforcement action to the Board, where necessary;

(g) Making factual determinations on behalf of the Board or in furtherance of any functions herein delegated; and

(h) Maintaining adequate records and the making of periodic reports to the Board.

2. All executive departments and agencies shall furnish such necessary assistance to the Secretary as may be authorized by law.

3. The Secretary may redelegate to any agency, instrumentality, or official of the United States any authority under this order, and may, in carrying out the functions delegated by this order, utilize the services of any other agencies, Federal or State, as may be available and appropriate.

4. This order shall be effective at 12:01 a.m., November 14, 1971.

By direction of the Board.

GEORGE H. BOLDT,
Chairman of the Pay Board.

[FR Doc.71-16763 Filed 11-12-71;7:18 pm]

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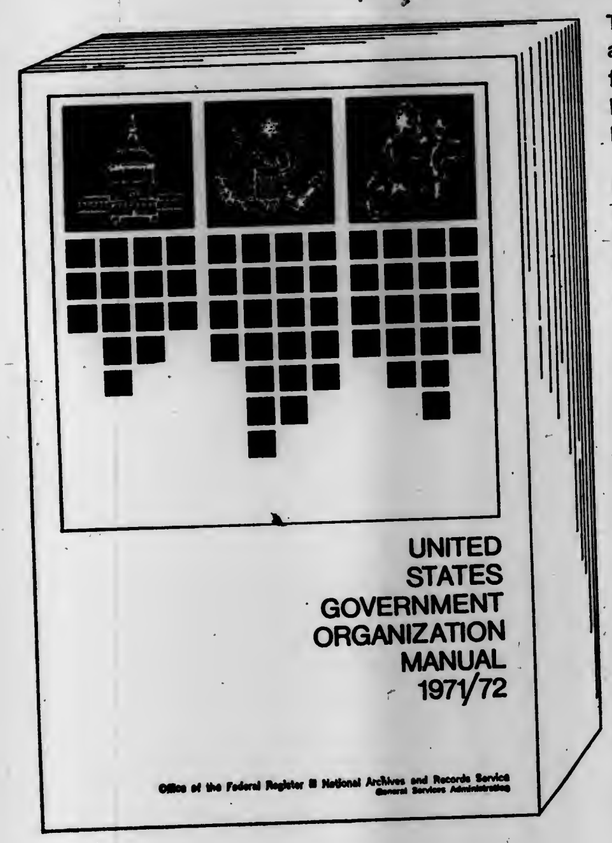

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Title 3—The President

PROCLAMATION 4094

National Farm-City Week, 1971

By the President of the United States of America

A Proclamation

More than at any time in our history, it is apparent that the quality of life in America tomorrow will greatly depend upon balanced growth in our Nation today.

The flourishing of agriculture upon our shores has been one of the greatest success stories in the history of man, and today Americans are the best fed people the world has ever known.

Yet average family income in non-metropolitan areas is 22 percent below that of metropolitan areas, and growing numbers of people have left rural America to seek fresh opportunity in the city. With this vast migration has come not just industrial progress, but also a host of new social and economic problems. Many of our cities are becoming less and less governable.

Only through balanced growth in both our rural and urban areas can we weather this gathering storm. It is time for all Americans to realize that we must have a strong rural economy in order to achieve orderly and beneficial urban growth.

In recognition of this need, I, RICHARD NIXON, President of the United States of America, do hereby designate the week of November 19 through November 25, as National Farm-City Week and call upon all citizens wherever they live to participate in this observance.

I request that leaders of agricultural organizations, business groups, labor unions, youth and women's clubs, schools, and other interested groups, focus their attention upon the interrelationship of urban and rural community development.

I urge the Department of Agriculture, land-grant educational institutions, and all appropriate organizations and Government officials to mark the significance of National Farm-City Week with public meetings, exhibits, and presentations for the press, radio, and television.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of November, in the year of our Lord nineteen hundred seventy-one, and of the Independence of the United States of America the one hundred ninety-sixth.

Richard Nixon

[FR Doc.71-16765 Filed 11-12-71; 4:15 pm]

Rules and Regulations

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Y]

PART 225—BANK HOLDING COMPANIES

Nonbanking Activities of Foreign Bank Holding Companies

By notice of proposed rule making published in the FEDERAL REGISTER on June 23, 1971 (36 F.R. 11944), the Board of Governors proposed to implement its regulatory authority under section 4(c)(9) of the Bank Holding Company Act to exempt foreign bank holding companies from the prohibitions of section 4 of the Act with respect to certain of their nonbanking activities and interests in the United States.

Following consideration of the comments received, the Board has determined that it would be consistent with the purposes of the Act and in the public interest to permit foreign bank holding companies (1) to engage, directly or indirectly, in nonbanking activities in the United States that are incidental to their activities outside the United States, (2) to own noncontrolling interests in foreign companies engaged in nonbanking activities in the United States if those companies do more than half of their business outside the United States and do not engage in underwriting, selling, or distributing securities in the United States, and (3) with the consent of the Board, to invest in companies that are principally engaged in the United States in financing or facilitating transactions in international or foreign commerce. The Board has also confirmed exemptions for foreign bank holding companies with respect to their direct nonbanking activities outside the United States and their ownership of shares of stock in a bona fide fiduciary capacity.

In the case of activities or investments that do not meet the foregoing standards, a procedure is established whereby a foreign bank holding company may apply to the Board for special permission to engage in activities or retain or make investments subject to appropriate conditions. Such permission would require a determination by the Board that, under the circumstances and subject to specified conditions, an exemption of those activities or investments would not be substantially at variance with the purposes of the Act and would be in the public interest.

To implement its determination, the Board has amended § 225.4 of its Regulation Y by adding paragraph (g) to read as set forth below. An accompanying interpretation expresses the Board's views on several questions that arose during the course of its consideration of this matter.

§ 225.4 Nonbanking activities.

* * * * *

(g) *Foreign bank holding companies.* (1) As used in this paragraph: (i) "Revenues" means gross income and "consolidated" means consolidated in accordance with generally accepted accounting principles in the United States consistently applied; (ii) "foreign country" means any foreign nation or colony, dependency, or possession thereof; and (iii) "foreign bank holding company" means a bank holding company, organized under the laws of a foreign country, more than half of whose consolidated assets are located, or consolidated revenues derived, outside the United States.

(2) A foreign bank holding company may:

(i) Engage in direct activities of any kind outside the United States;

(ii) Engage in direct activities in the United States that are incidental to its activities outside the United States;

(iii) Own or control voting shares of any company that is not engaged, directly or indirectly, in any activities in the United States except as shall be incidental to the international or foreign business of such company;

(iv) With the consent of the Board, own or control voting shares of any company principally engaged in the United States in financing or facilitating transactions in international or foreign commerce;

(v) Own or control voting shares of any company, organized under the laws of a foreign country, that is engaged, directly or indirectly, in any activities in the United States if (*a*) such company is not a subsidiary of such bank holding company, (*b*) more than half of such company's consolidated assets and revenues are located and derived outside the United States, and (*c*) such company does not engage, directly or indirectly, in the business of underwriting, selling, or distributing securities in the United States; and

(vi) Own or control voting shares of any company in a fiduciary capacity under circumstances which would entitle such shareholding to an exemption under section 4(c)(4) of the Act if the shares were held or acquired by a bank.

Nothing in this subparagraph shall authorize a foreign bank holding company to own or control more than 5 percent of any class of voting shares of any other bank holding company or company accepting deposits or similar credit balances in the United States, except in a fiduciary capacity or with prior approval of the Board.

(3) A foreign bank holding company that is of the opinion that other activities or investments may, in particular circumstances, meet the conditions for an exemption under section 4(c)(9) of the Act may apply to the Board for such a determination by submitting to the Reserve bank of the district in which its banking operations in the United States are principally conducted a letter setting forth the basis for that opinion.

(4) A foreign bank holding company shall inform the Board, through such Reserve bank within 30 days after the close of each quarter, of all shares of companies engaged, directly or indirectly, in activities in the United States that were acquired during such quarter under the authority of this paragraph. Such information shall (unless previously furnished) include a brief description of the nature and scope of each such company's business in the United States. Information required need be given only insofar as it is known or reasonably available to a foreign bank holding company. If any required information is unknown and not reasonably available to the bank holding company, either because the obtaining thereof would involve unreasonable effort or expense or because it rests peculiarly within the knowledge of a company that is not controlled by the bank holding company, the information need not be provided, but the bank holding company shall (i) give such information on the subject as it possesses or can acquire without unreasonable effort or expense together with the sources thereof, and (ii) include a statement either showing that unreasonable effort or expense would be involved or indicating that the company whose shares were acquired is not controlled by the bank holding company and stating the result of a request made to such company for information. No such request need be made, however, to any foreign government, or an agency or instrumentality thereof, if, in the opinion of the bank holding company, such request would be harmful to existing relationships.

(5) If, in the Board's judgment, a company is a substantial competitor in any line of commerce in the United States, an exemption under this paragraph with respect to ownership or control of such company's voting shares may not be predicated on the unavailability of information to establish whether or not such company's activities in the United States are consistent with such an exemption. In the absence of available information, it will be presumed that such a company's activities do not justify an exemption under this paragraph for the holding of its shares by a foreign bank holding company. A company will be deemed to be a substantial competitor in any line of commerce in the United States if its products or services are nationally advertised or distributed in this country or if they are widely advertised or distributed in a regional market in which a banking subsidiary, branch or agency of the foreign bank holding company is located. If unable to obtain sufficient information to

establish whether or not an exemption is available, a foreign bank holding company should seek prior approval of the Board before investing in any company that might be a substantial competitor in any line of commerce in the United States.

Effective date: December 1, 1971.

By order of the Board of Governors, November 4, 1971.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.71-16660 Filed 11-15-71;8:48 am]

[Reg. Y]

PART 225—BANK HOLDING COMPANIES

Nonbanking Activities of Foreign Bank Holding Companies

§ 225.124 Foreign bank holding companies.

(a) Effective December 1, 1971, the Board of Governors has added a new § 225.4(g) to Regulation Y implementing its authority under section 4(c)(9) of the Bank Holding Company Act. The Board's views on some questions that have arisen in connection with the meaning of terms used in § 225.4(g) are set forth in paragraphs (b) through (g) of this section.

(b) The term "activities" refers to nonbanking activities and does not include the banking activities that foreign banks conduct in the United States through branches or agencies licensed under the banking laws of any State of the United States or the District of Columbia.

(c) A company (including a bank holding company) will not be deemed to be engaged in "activities" in the United States merely because it exports (or imports) products to (or from) the United States, or furnishes services or finances goods or services in the United States, from locations outside the United States. A company is engaged in "activities" in the United States if it owns, leases, maintains, operates, or controls any of the following types of facilities in the United States:

(1) A factory,
(2) A wholesale distributor or purchasing agency,
(3) A distribution center,
(4) A retail sales or service outlet,
(5) A network of franchised dealers,
(6) A financing agency, or
(7) Similar facility for the manufacture, distribution, purchasing, furnishing, or financing of goods or services locally in the United States.

A company will not be considered to be engaged in "activities" in the United States if its products are sold to independent importers, or are distributed through independent warehouses, that are not controlled or franchised by it.

(d) In the Board's opinion, section 4(a)(1) of the Bank Holding Company Act applies to ownership or control of shares of stock as an investment and does not apply to ownership or control of shares of stock in the capacity of an underwriter or dealer in securities. Underwriting or dealing in shares of stock are nonbanking activities prohibited to bank holding companies by section 4(a)(2) of the Act, unless otherwise exempted. Under § 225.4(g) of Regulation Y, foreign bank holding companies are exempt from the prohibitions of section 4 of the Act with respect to their activities outside the United States; thus foreign bank holding companies may underwrite or deal in shares of stock (including shares of United States issuers) to be distributed outside the United States, provided that shares so acquired are disposed of within a reasonable time.

(e) A foreign bank holding company does not "indirectly" own voting shares by reason of the ownership or control of such voting shares by any company in which it has a noncontrolling interest. A foreign bank holding company may, however, "indirectly" control such voting shares if its noncontrolling interest in such company is accompanied by other arrangements that, in the Board's judgment, result in control of such shares by the bank holding company. The Board has made one exception to this general approach. A foreign bank holding company will be considered to indirectly own or control voting shares of a bank if that bank holding company acquires more than 5 percent of any class of voting shares of another bank holding company. A bank holding company may make such an acquisition only with prior approval of the Board.

(f) A company is "indirectly" engaged in activities in the United States if any of its subsidiaries (whether or not incorporated under the laws of this country) is engaged in such activities. A company is not "indirectly" engaged in activities in the United States by reason of a noncontrolling interest in a company engaged in such activities.

(g) Under the foregoing rules, a foreign bank holding company may have a noncontrolling interest in a foreign company that has a U.S. subsidiary (but is not engaged in the securities business in the United States) if more than half of the foreign company's consolidated assets and revenues are located and derived outside the United States. For the purpose of such determination, the assets and revenues of the United States subsidiary would be counted among the consolidated assets and revenues of the foreign company to the extent required or permitted by generally accepted accounting principles in the United States. The foreign bank holding company would not, however, be permitted to "indirectly" control voting shares of the said U.S. subsidiary, as might be the case if there are other arrangements accompanying its noncontrolling interest in the foreign parent company that, in the Board's judgment, result in control of such shares by the bank holding company.

(Interprets and applies 12 U.S.C. 1843(a)(1), 1843(a)(2), and 1843(c)(9))

By order of the Board of Governors, November 4, 1971.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.71-16661 Filed 11-15-71;8:48 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 71-WE-48]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Control Zone

On October 5, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 19399) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation regulations that would designate a new control zone at San Clemente Island, Calif.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 G.m.t., January 6, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on November 8, 1971.

ROBERT O. BLANCHARD, *Acting Director, Western Region.*

§ 71.171 (36 F.R. 2055) the following control zone is added.

SAN CLEMENTE ISLAND, CALIF.

Within a 5-mile radius of NALF San Clemente (latitude 33°01'20" N., longitude 118°35'15" W.) extending upward from the surface to and including 5,000 feet MSL, excluding that airspace beyond 3NM from and parallel to the shoreline. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airmen's Information Manual.

[FR Doc.71-16625 Filed 11-15-71;8:45 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Flumethasone Acetate

The Commissioner of Food and Drugs has evaluated a new animal drug application (36-212V) filed by Syntex Laboratories proposing the safe and effective use of flumethasone for the treatment of specified conditions in dogs. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)), and under authority delegated to the Commissioner (21 CFR 2.120), Part 135b is amended by adding the following new section:

§ 135b.14 Flumethasone acetate injection veterinary.

(a) *Chemical name.* 6alpha,9alpha-difluoro-16alpha-methylprednisolone 21-acetate.

(b) *Specifications.* Flumethasone injection is sterile and contains per cubic centimeter: 2 milligrams of flumethasone acetate; 20 milligrams of propylene glycol; 9 milligrams of benzyl alcohol (as preservative); 8 milligrams of sodium chloride; 1 milligram of polysorbate 80; 0.1 milligram of citric acid; water for injection q.s.

(c) *Sponsor.* See code No. 036 in § 135.501(c) of this chapter.

(d) *Conditions of use.* (1) It is recommended in certain acute and chronic canine dermatoses of varying etiology to help control the pruritus, irritation, and inflammation associated with these conditions.

(2) The drug is administered intramuscularly at the following recommended daily dosage:

Weight of animal in pounds	*Dosage in milligrams*
Up to 10	1.0
10 to 25	2.0
25 and over	4.0

Dosage should be adjusted according to the weight of the animal, the severity of the symptoms, and the response noted. Dosage by injection should not exceed 3 days of therapy. With chronic conditions intramuscular therapy may be followed by oral administration of flumethasone tablets at a daily dose of from 0.0625 to 0.25 milligram per animal.

(3) For use only by or on the order of a licensed veterinarian.

Effective date. This order shall become effective upon publication in the FEDERAL REGISTER (11-16-71).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: November 5, 1971.

C. D. VAN HOUWELING, *Director, Bureau of Veterinary Medicine.*

[FR Doc.71-16632 Filed 11-15-71;8:46 am]

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Triamcinolone Tablets

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (12-103V) filed by American Cyanamid Co., Post Office Box 400, Princeton, NJ 08540, proposing the safe and effective use of triamcinolone tablets for the treatment of dogs and cats. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under the authority delegated to the Commissioner (21 CFR 2.120), Part 135c is amended by adding a new section as follows:

§ 135c.55 Triamcinolone tablets.

(a) *Chemical name.* 9-Fluoro-11β,16α,17,21-tetrahydroxy-pregna-1,4-diene-3,20-dione.

(b) *Specifications.* Each tablet contains 0.5 milligram of the drug.

(c) *Sponsor.* See code No. 004 in § 135.501(c) of this chapter.

(d) *Conditions of use.* (1) The drug is indicated for use in dogs and cats for its anti-inflammatory activity.

(2) The dosage range for dogs is 0.25 milligram to 2.0 milligrams per day for 7 days and the dosage range for cats is 0.25 milligram to 0.5 milligram per day for 7 days. Daily dosage may be given in two or more divided doses. Dosage must be adjusted to the response of the individual animal. Generally, initial dosages are at the higher range and when the response is satisfactory, the dosage is gradually reduced until a minimum adequate dose is obtained. Dosage may be repeated when necessary. Daily dosage may be given in two or more divided doses.

(3) Clinical and experimental data have demonstrated that corticosteroids administered orally or parenterally to animals may induce the first stage of parturition when administered during the last trimester of pregnancy and may precipitate premature parturition followed by dystocia, fetal death, retained placenta, and metritis. Side reactions such as weight loss, anorexia, diarrhea, polydypsia and polyuria may occur.

(4) For use only by or on the order of a licensed veterinarian.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (11-16-71).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: November 5, 1971.

C. D. VAN HOUWELING, *Director, Bureau of Veterinary Medicine.*

[FR Doc.71-16633 Filed 11-15-71;8:46 am]

SUBCHAPTER D—HAZARDOUS SUBSTANCES

PART 191—HAZARDOUS SUBSTANCES: DEFINITIONS AND PROCEDURAL AND INTERPRETATIVE REGULATIONS

Baby-Bouncers, Walker-Jumpers, Baby-Walkers, and Other Similar Articles Intended for Use by Children

Seven comments were received in response to the notice published in the FEDERAL REGISTER of April 16, 1971 (36 F.R. 7255), proposing to ban mechanically hazardous baby-bouncers, walker-jumpers, baby-walkers, and other similar articles intended for use by children (§ 191.9a(a)(6)) and to exempt from such ban articles of this type that meet specified safety requirements (§ 191.65a(a)(4)).

The comments (four from industry groups, one from a consumer group, and two from consumers) may be seen in the Hearing Clerk's Office, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852.

The comments were generally favorable and included the following suggestions:

1. The names "baby-bouncers" and "baby-walkers" should be removed from the proposed regulations and a description of the articles added.

2. That the 4 to 18 month proposed age span of the intended users be changed to lower the upper limit to 15 months or to 12 months and that the maximum weight of intended users be specified as 30 pounds.

3. The amount of expansion permitted for exposed springs and the maximum size allowed for unguarded holes should be specified in the regulations.

4. The permissable expansion of exposed coil springs should not allow insertion of "part or all of" an infant's finger, toe, or part of the anatomy.

5. Articles subject to accidental collapse while in use should be included in the regulations.

6. Articles having sharp or pointed areas which could cut or puncture the skin should be banned.

7. Section 191.65a(a)(4) should be clarified regarding coding and recordkeeping.

8. The name of the importer should appear on the label of imported articles.

9. The labeling requirements should not be retroactive. An article which was shipped prior to the effective date of the regulation and which complies with all the safety requirements of the regulation should not be banned solely because it is not labeled with the name of the manufacturer.

10. The labeling requirements should apply to all items exempted from banning by § 191.65a and the recordkeeping requirements proposed (3 years) should be reduced to 1 year.

The above suggestions having been considered, the Commissioner of Food and Drugs concludes as follows:

1. The terms "baby-bouncers" and "baby-walkers" are used both by industry and the general public to describe the items intended to be covered by these regulations and the use of these designations will help clarify the scope of the regulations. The phrase "or other similar articles" clarifies the purpose of the regulations to include within their scope all articles conforming to the descriptions in the regulations whether or not they are called by those specific names.

2. Description of the age span and maximum weight of the intended users is unnecessary for the purpose of these regulations and should not be adopted. For the purpose of these regulations the intended users are considered to be adequately described in § 191.9a(a)(6) below as "very young children." In this connection it is noted that the subject articles are known to have caused injury to

infants ranging from 4 months to 3 years of age.

3. The permissible expansion of exposed springs and size of unguarded holes should be specified and are in the regulations set forth below.

4. All references to insertion of an infant's finger, toe, or any other part of the anatomy should be revised as set forth below to refer insertion "in whole or in part" of any such part of an infant's anatomy.

5. The regulations should include articles subject to accidental collapse and appropriate provisions have been added below.

6. Injuries due to sharp or pointed areas are covered in the regulation by the prohibition in § 191.9a(a)(6) and the design requirement in § 191.65a(a)(4)(v).

7. Section 191.65a(a)(4) should be clarified as suggested and has been changed to indicate that the model number need not appear on both the invoice and the shipping record provided the manufacturer can furnish data covering the identity and complete distribution of any particular model. Also, the model number required by the regulation is for identification of articles of the same construction and design and not to indicate articles of the same batch or production run.

8. For the purpose of § 191.65a(a)(4)(vi)(*a*) the terms "manufacturer, packer, distributor, or seller" include an importer for resale.

9. The labeling requirements have been clarified to provide that previously distributed models which meet the safety requirements of the regulation are not classified as banned hazardous substances if their only failure to comply is due to the lack of the required labeling information.

10. The labeling requirements should apply to all children's items which are subject to the Federal Hazardous Substances Act of 1969; however, applying labeling requirements to other types of children's articles not covered by the regulations set forth below will be handled by separate proposals and orders to allow the appropriate concerned parties to comment. The 3-year recordkeeping requirement is reasonable and necessary for adequate consumer protection.

Therefore, pursuant to provisions of the Federal Hazardous Substances Act (secs. 2(f)(1)(D), (s), 3(e)(1), 74 Stat. 372, 374, 375, as amended 83 Stat. 187–89; 15 U.S.C. 1261, 1262) and under authority delegated to the Commissioner (21 CFR 2.120), Part 191 is amended:

1. In § 191.9a by revising the section heading and the heading of paragraph (a) and by adding a new subparagraph (6) to paragraph (a), as follows:

§ 191.9a Banned toys and other banned articles intended for use by children.

(a) *Toys and other children's articles presenting mechanical hazards.* * * *

(6) Any article known as a "baby-bouncer," "walker-jumper," or "baby-walker" and any other similar article (referred to in this subparagraph as "article(s)") which is intended to support very young children while sitting, walking, bouncing jumping, and/or reclining, and which because of its design has any exposed parts capable of causing amputation, crushing, lacerations, fractures, hematomas, bruises, or other injuries to fingers, toes, or other parts of the anatomy of young children. Included among, but not limited to, the design features of such articles which classify the articles as banned hazardous substances are:

(i) The areas about the point on each side of the article where the frame components are joined together to form an "X" shape capable of producing a scissoring, shearing, or pinching effect.

(ii) Other areas where two or more parts are joined in such a manner as to permit a rotational movement capable of exerting a scissoring, shearing, or pinching effect.

(iii) Exposed coil springs which may expand sufficiently to allow an infant's finger, toe, or any other part of the anatomy to be inserted, in whole or in part, and injured by being caught between the coils of the spring or between the spring and another part of the article.

(iv) Holes in plates or tubes which provide the possibility of insertion, in whole or in part, of a finger, toe, or any part of the anatomy that could then be injured by the movement of another part of the article.

(v) Design and construction that permits accidental collapse while in use.

2. In § 191.65a by revising the section heading and by adding a new subparagraph (4) to paragraph (a), as follows:

§ 191.65a Exemptions from classification as a banned toy or other banned article for use by children.

(a) * * *

(4) Any article known as a "baby-bouncer," "walker-jumper," or "baby-walker" and any other similar article (referred to in this subparagraph as "article(s)") described in § 191.9a(a)(6) provided:

(i) The frames are designed and constructed in a manner to prevent injury from any scissoring, shearing, or pinching when the members of the frame or other components rotate about a common axis or fastening point or otherwise move relative to one another; and

(ii) Any coil springs which expand when the article is subjected to a force that will extend the spring to its maximum distance so that a space between successive coils is greater than one-eighth inch (0.125 inch) are covered or otherwise designed to prevent injuries; and

(iii) All holes larger than one-eighth inch (0.125 inch) in diameter and slots, cracks, or hinged components in any portion of the article through which a child could insert, in whole or in part, a finger, toe, or any other part of the anatomy are guarded or otherwise designed to prevent injuries; and

(iv) The articles are designed and constructed to prevent accidental collapse while in use; and

(v) The articles are designed and constructed in a manner that eliminates from any portion of the article the possibility of presenting a mechanical hazard through pinching, bruising, lacerating, crushing, breaking, amputating, or otherwise injuring portions of the human body when in normal use or when subjected to reasonably foreseeable damage or abuse; and

(vi) Any article which is introduced into interstate commerce after the effective date of this subparagraph is labeled:

(*a*) With a conspicuous statement of the name and address of the manufacturer, packer, distributor, or seller; and

(*b*) With a code mark on the article itself and on the package containing the article or on the shipping container, in addition to the invoice(s) or shipping document(s), which code mark will permit future identification by the manufacturer of any given model (the manufacturer shall change the model number whenever the article undergoes a significant structural or design modification); and

(vii) The manufacturer or importer of the article shall make, keep, and maintain for 3 years records of sale, distribution, and results of inspections and tests conducted in accordance with this subparagraph and shall make such records available at all reasonable hours upon request by any officer or employee of the Food and Drug Administration, or any other officer or employee acting on behalf of the Secretary of Health, Education, and Welfare, and shall permit such officer or employee to inspect and copy such records, to make such stock inventories as he deems necessary, and to otherwise check the correctness of such records.

Effective date. This order shall become effective 30 days after its date of publication in the FEDERAL REGISTER.

(Secs. 2(f)(1)(D), (s), 3(e)(1), 74 Stat. 372, 374, 375, as amended, 83 Stat. 187–89; 15 U.S.C. 1261, 1262)

Dated: November 5, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-16634 Filed 11-15-71;8:46 am]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 545—HOMEWORKERS IN INDUSTRIES IN PUERTO RICO

PART 681—HOMEWORKERS IN CERTAIN INDUSTRIES IN PUERTO RICO

Minimum Wage Rates for Piece Work

Pursuant to the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp. p. 1004) and Secretary Orders 13–71 and 15–71 (36 F.R. 8755 and 8756) I hereby amend Part 545 of Title 29 of the Code of Federal Regulations by consolidating the piece rates in Part 681 into Part 545, by changing the title and § 545.1 to include homeworkers employed in industries in Puerto Rico; removing obsolete footnotes 1, 2, and 5 and changing the numbering of footnotes 3 and 4 (§§ 545.1, 545.3, 545.7; and 545.100); transferring rate for braiding buttons from § 681.9(b) to § 545.13(b); updating the title of Schedule A in § 545.13; updating and transferring rates for lacing wallets from § 681.9(c) to § 545.13(c); revising rates in Schedules B, C, and D of § 545.13 and deleting Part 681. The increased rates are commensurate with and reflect increased minimum rates established in the recent wage orders in the pertinent industries as required by § 545.9. For this reason, it is hereby found that notice and public procedure are unnecessary. For the same reason, good cause is found to curtail an extensive delay in the effective date. This amendment shall be effective immediately.

1. The title to Part 545, Title 29, Code of Federal Regulations, is amended to read as set forth above.

2. Section 545.1 is revised to read as follows:

§ 545.1 Applicability.

The provisions of this part shall apply to persons in activities relating to homeworkers engaged in commerce or the production of goods for commerce in industries in Puerto Rico.

§ 545.3 [Amended]

3. Section 545.3, *Filing and notification requirements*, is amended by deleting Footnote 2 in paragraph (a).

§ 545.7 [Amended]

4. Section 545.7, *Records to be kept*, is amended by changing the numbering of Footnote 3 to 1 and Footnote 4 to 2.

5. Section 545.13, *Minimum rates to be established by the Administrator*, is revised to read as follows:

§ 545.13 Minimum piece rates established by the Administrator.

(a) Minimum piece rates established by the Administrator in accordance with § 545.9 are set forth in paragraphs (b), (c) and (d) of this section.

(b) Piece rate for hand-braiding leather buttons: A minimum piece rate of 59 cents a gross shall be paid to homeworkers in Puerto Rico engaged in the hand-braiding of leather buttons, 24 to 30 ligne by the following method: Tying a braided knot around the tip of a finger, bringing the knot into a rounded button shape by pulling the ends of the strip, forming the button shank for the prepared shank end of the strip, and trimming the loose end by cutting off the excess leather; all operations to be performed upon undegreased leather strips, each of which has been cut in advance to suitable dimensions so that one end may be formed into the button shank and the remainder braided to become the rounded button.

(c) Piece rates for the hand-lacing of leather wallets, leather wallet covers, and plastic wallets: A minimum piece rate of 1.62 cents per dozen stitches shall be paid to homeworkers in Puerto Rico engaged in the hand-lacing, single stitch, with plastic lacing material, of leather wallets and leather wallet covers; a minimum piece rate of 3.96 cents per dozen stitches shall be paid to homeworkers in Puerto Rico engaged in the hand-lacing, double stitch, with plastic lacing material, of leather wallets and leather wallet covers; and a minimum piece rate of 4.94 cents per dozen stitches shall be paid to homeworkers in Puerto Rico engaged in hand-lacing, double stitch, with plastic lacing material, of plastic wallets.

(d) Piece rates for needlework and related activities: Minimum piece rates established by the Administrator in accordance with the provisions of § 545.9 are given in Schedule A for the gloves and mittens industry in Puerto Rico as defined in § 603.1 of this chapter; in Schedule B for the handkerchief, scarf, and art linen industry in Puerto Rico, as defined in § 608.1 of this chapter; in Schedule C for the children's dress and related products industry in Puerto Rico, as defined in § 610.1 of this chapter; and in Schedule D for the women's and children's underwear and women's blouse industry in Puerto Rico, as defined in § 609.1 of this chapter.

SCHEDULE A—MINIMUM PIECE RATE SCHEDULE FOR THE GLOVE AND MITTEN INDUSTRY IN PUERTO RICO

The minimum piece rates given below have been adjusted to reflect increases in the appropriate minimum hourly rates which became effective August 9, 1969, i.e., the piece rates have been adjusted by the same ratio as the present minimum hourly rates bear to the previous minimum hourly rates. The piece rates given below for operations on fabric gloves are based upon the minimum hourly rate for the hand-sewing on fabric gloves classification, and the piece rates given below for operations on leather gloves are based upon the minimum hourly rate for the hand-sewing on leather gloves classification of the industry, as defined in § 603.2(a)(1) and 603.2(a)(2), respectively, of the current wage order for this industry. No piece rates have been established by the Administrator for operations on gloves made of a combination of leather and fabric parts.

Rate No.	Operations	Fabric gloves for ladies	Leather gloves		Unit of payment
			Ladies'	Men's	
		Cents	*Cents*	*Cents*	
1	Buttons, slip stitches with tape, 1 button per glove			114.000	Per dozen pair.
2	Buttonholes, stitched in and outside, 1 buttonhole per glove			102.000	Do.
3	Crede stitch, 5 to 6 stitches per inch	0.613			Per inch.
4	Egyptian stitch, 5 to 6 stitches per inch		1.043		Do.
5	Feather stitch, 5 to 6 stitches per inch	0.736	0.311		Do.
6	Large stitch (husky), 5 to 6 stitches per inch			0.937	Do.
7	Regular stitch, 5 to 6 stitches per inch	0.482	0.963	0.937	Do.
8	Slip stitch, hem only, 5 to 6 stitches per inch	0.311	0.672	0.672	Do.
9	Slip stitch, reinforcement on slit, 5 to 6 stitches per inch, when sewing has been faced on by machine		0.672	0.672	Do.
10	Swagger stitch, 5 to 6 stitches per inch	0.482	0.963	0.937	Do.
11	Whip stitch, 5 to 6 stitches per inch	0.482	0.963	0.937	Do.

SCHEDULE B—MINIMUM PIECE RATE SCHEDULE FOR THE HANDKERCHIEF, SCARF, AND ART LINEN INDUSTRY IN PUERTO RICO

The piece rates given below have been adjusted to reflect increases in the appropriate minimum hourly rates which became effective August 27, 1971, i.e., the piece rates have been adjusted by the same ratio as the present minimum hourly rates bear to the previous minimum hourly rates. Of the rates given below, rate number 37(b) is based upon the minimum hourly rate for the hand-sewing on oblong scarves classification; rates numbered 106, 107, and 108 are based upon the minimum hourly rate for the other operations classification; and all other rates are based upon the minimum hourly rate for the hand-sewing on products other than oblong scarves classification of the industry, as defined in § 608.2(a)(1), 608.2(a)(4), and 608.2(a)(3), respectively, of the current wage order for this industry. The piece rates for rates numbered 33, and 100 through 105 are not applicable when the operation is performed on articles which are otherwise wholly machine sewn.

Rate No.	Operations	Cents	Unit of payment
1	Arenillas (seed stitch), close, ½" squares	72.00	Per dozen squares.
2	Arenillas (see stitch), scattered ½" squares	36.00	Do.
3	Arrows, filled in, ¼" long	18.00	Per dozen.
4	Basting lace	3.44	Per dozen inches.
5	Basting stitch for trimming, forming crosses, etc., 4 stitches per inch	3.00	Do.
6	Basting and folding hem on edges up to 1½" hem	1.20	Do.
7	Blind hemstitch	12.00	Do.
8	Buttonhole stitch, 16 stitches per inch	12.00	Do.
9	Buttonhole stitch, 24 to 30 stitches per inch	18.00	Do.
10	Chain stitch, 4 stitches per inch	3.00	Do.
11	Chain stitch, 8 stitches per inch	6.00	Do.
12	Cord, solid, on stem	18.78	Do.
13	Cord, twisted, over basting	6.00	Do.
14	Cord or embroidery, solid, without filling, up to ¼" thick	18.00	Do.
15	Couching or flat cord, 4 stitches per inch	3.00	Do.
16	Cross stitch, 6 crosses per inch	12.78	Do.
17	Cut work with buttonhole stitch, 24 to 30 stitches per inch	24.00	Do.
18	Daisies, 12 to 15 stitches, with double embroidery thread	18.00	Per dozen.
19	Diamonds, filled in, ¼" to ½" wide	18.00	Do.
20	Dots, baby, not finished off, 2 to 3 stitches	4.98	Do.
21	Dots, large, not filled in, finished off, 12 stitches	9.00	Do.
22	Dots, large, filled in, finished off, over 12 stitches	18.00	Do.
23	Dots, large, not filled in, finished off, over 12 stitches	12.00	Do.
24	Dots, medium, not filled in, finished off, 8 to 9 stitches	7.92	Do.
25	Dots, medium, in groups, not finished off, 5 stitches, with double embroidery thread	5.11	Do.
26	Dots, medium, finished off, 5 stitches, with double embroidery thread	6.78	Do.

See footnotes at end of Schedule B.

Rate No.	Operations	Cents	Unit of payment
27	Embroidery, solid, 3/16" to 1/4" thick, averages 28 stitches per inch [1]	24.00	Per dozen inches.
28	Embroidery, solid, straight or diagonal same as image stitch, filled in, loose	24.00	Do.
29	Embroidery, solid, straight or diagonal, same as image stitch, not filled in, loose	18.00	Do.
30	Eyelets, 1/4" diameter	13.38	Per dozen.
31	Feather stitch, 12 stitches per inch	13.34	Per dozen inches.
32	Feather stitch cord	7.04	Do.
33	Flat hems without pasada	6.23	Do.
34	French knots, not finished off	2.52	Per dozen.
35	French knots, finished off, with double embroidery thread	4.80	Do.
36	Guarlquenas	6.00	Do.
37	Hand or French rolling, 10 stitches or less per inch:		
	(a) Square scarves	16.96	Per 48 inches.
	(b) Oblong scarves	35.33	Do.
38	Hand or French rolling, 11 stitches or more per inch	20.38	Do.
39	Hand-rolling one side of a corner. The piece rate shall apply under the following conditions:		
	(a) The machine-stitching runs to the end on one side of each corner; and on the other side, the space left open for hand-rolling at the corner is not less than 1/2" nor more than 1"; and		
	(b) Only one side of each corner is hand-rolled; and the hand-rolling is not longer than 1".	40.02	Per dozen handkerchiefs.
40	Hand-rolling both sides of a corner. The piece rate shall apply under the following conditions:		
	(a) The machine-stitching does not run to the end of either side of any corner; and the space left open for hand-rolling at each side of the corners is not less than 1/4" nor more than 1"; and		
	(b) Both sides of the corners are hand-rolled; but the hand-rolling is not longer than 1" on either side of any corner.	79.98	Do.
41	Hand-rolling both sides of a corner. The piece rate shall apply under the following conditions:		
	(a) The machine-stitching runs to the end of one side of each corner; and on the other side, the space left open for hand-rolling at the corner is less than 1/4" nor more than 1"; and		
	(b) Both sides of the corners are hand-rolled; but the hand-rolling is not longer than 2" on any corner.	100.02	Do.
42	Hemstitch, single, 4 threads in a bundle, thread drawing not included	13.04	Per dozen inches.
43	Initials, simple, with hoops	60.00	Do.
44	Initials, simple, without hoops	37.20	Do.
45	Lace, joined at corners with hemming stitch	18.00	Do.
46	Leaves, simple	2.24	Per dozen.
47	Leaves, solid, not finished off, 1/4" long	7.98	Do.
48	Leaves, solid, not finished off, 3/8" to 1/2" long	12.00	Do.
49	Leaves, solid, not finished off, 1/2" to 3/4" long	24.00	Do.
50	Loops, made with worm stitch, 1/4"	4.02	Do.
51	Pasadas, 11" x 11" to 14" x 14", linen up to 1600 count, inclusive	12.00	Per dozen pasadas.
52	Pasadas, 11" x 11" to 14" x 14", linen 1700 count and over	16.80	Do.
53	Pasadas, 15" x 15", linen up to 1600 count, inclusive	20.40	Do.
54	Pasadas, 15" x 15", linen 1700 count and over	25.20	Do.
55	Pasadas, 16" x 16" to 20" x 20" linen up to 1400 count inclusive	28.80	Do.
56	Pasadas, short, 1" to 7" linen up to 1600 count inclusive [2]	6.23	Do.
	Pasadas, short:		
57	Cambric, 1" to 10"	12.00	Do.
58	Crash, 1" to 10"	9.00	Do.
59	Cambric, 10 1/2" to 18"	24.00	Do.
60	Crash, 10 1/2" to 18"	18.00	Do.
61	Patches, circular, sewed on with hemming stitch, cutting included	13.13	Per dozen inches.
62	Patches, irregular outline, sewed on with hemming stitch, cutting included	22.87	Do.
63	Patches, irregular outline, sewed on with blind stitch, up to 4"	16.80	Do.
64	Patches, irregular outline sewed on with blind stitch, over 4"	8.54	Do.
65	Patches, rectangular, sewed on with hemming stitch, cutting included	10.78	Do.
66	Randa, Don Diego, thread drawing not included	27.00	Do.
67	Randa, Mexican, tied at center only, thread drawing not included	6.00	Do.
68	Randa, simple, not stitched at either side, thread drawing not included	4.55	Do.
69	Rose buds, worm stitch, 4 worms, 2 colors or tones	17.82	Per dozen.
70	Scallops, plain, cutting included	20.15	Per dozen inches.
71	Shadow stitch, up to 3/8" wide	38.65	Do.
72	Spiders, 4 legs	12.00	Per dozen.
73	Spiders, 8 legs	23.47	Do.

See footnotes at end of Schedule B.

Rate No.	Operations	Cambric	Crash	Unit of payment
	Thread drawing			
	Art linens, first thread, not coming out at edge:	(*Cents*)	(*Cents*)	
74	Stamped 1" to 10"	4.28		Per dozen threads.
75	Not stamped 1" to 10"	5.35	3.18	Do.
	Art linens, unstamped, first thread, all-around, not coming out at edge:			
76	Doilies 12" × 18"	23.98	19.52	Per dozen pieces.
	Napkins:			
77	12" x 12"	19.18	16.25	Do.
78	15" x 15"	23.98	19.52	Do.
79	18" x 18"	28.78	22.65	Do.
	Scarves:			
80	17" x 36"	42.35	30.38	Do.
81	17" x 45"	49.55	34.22	Do.
82	17" x 54"	56.75	37.98	Do.
	Squares:			
83	36" x 36"	57.58	38.38	Do.
84	45" x 45"	71.93	45.62	Do.
85	54" x 54"	86.33	53.32	Do.
	Art linens, unstamped, first thread at one end, coming out at both edges:			
	Towels:			
86	9" x 15"		3.02	Do.
87	15" x 24"		4.38	Do.
88	18" x 30"		5.03	Do.
89	Art linens, after first thread		(4)	Do.
	Ladies handkerchiefs:			
90	First thread around edge, cotton or linen, up to 1600 count inclusive		6.00	Per dozen threads.
91	First thread, inside, cotton or linen, up to 1600 count inclusive		7.52	Do.
92	After first thread (for example, for hemstitching)		(3)	Do.
93	First thread around edge, linen up to 1600 count inclusive, 16" x 16" to 20" x 20".		9.00	Do.
94	First thread around edge, linen 1600 count and over, 16" x 16" to 20" x 20"		10.52	Do.
95	First thread, inside, linen up to 1500 count inclusive, 16" x 16" to 20" x 20"		10.52	Do.
96	First thread, inside, linen 1600 count and over, 16" x 16" to 20" x 20"		12.00	Do.
97	After first thread (for example, for hemstitching)		(3)	Do.

	Operations		
	No. 98	No. 99	No. 100
	Half roll, cambric and crash, at 6.55 cents per dozen inches	Hand or French rolling, 10 stitches or less per inch, cambric and crash, at 4.25 cents per dozen inches	Hemming stitch over pasada, measuring all around edge: Cambric at 4.02 cents per dozen inches
	Payment per dozen		
Doilies:			
9" x 16"	$3.14	$2.03	$1.92
10" x 14"	3.14	2.03	1.92
12" x 18"	3.92	2.54	2.40
Napkins:			
12" x 12"	3.14	2.03	1.92
15" x 15"	3.92	2.54	2.40
18" x 18"	4.72	3.05	2.88
Table scarves:			
17" x 36"	6.95	4.50	4.25
17" x 45"	8.12	5.26	4.96
17" x 54"	9.30	6.02	5.68
Squares:			
36" x 36"	9.44	6.12	5.77
45" x 45"	11.78	7.64	7.20
54" x 54"	14.15	9.18	8.64
Table cloths:			
54" x 72"	16.80	10.72	10.07
72" x 72"	18.88	12.23	11.54
72" x 90"	21.28	13.76	12.97

See footnotes at end of Schedule B.

	Operations		
	No. 101	No. 102	No. 103
	Hemming stitch over pasada, measuring all around edge: Crash at 3.76 cents per dozen inches	Second seams, for separate borders, measuring all around edge: Cambric, at 4.02 cents per dozen inches	Second seams for separate borders, measuring all around edge: Crash, at 3.76 cents per dozen inches
	Payment per dozen		
Doilies:			
9" x 16"	$1.80	$1.92	$1.80
10" x 14"	1.80	1.92	1.80
12" x 18"	2.26	2.40	2.26
Napkins:			
12" x 12"	1.80	1.92	1.80
15" x 15"	2.26	2.40	2.26
18" x 18"	2.70	2.88	2.70
Table scarves:			
17" x 36"	3.98	4.25	3.98
17" x 45"	4.66	4.96	4.66
17" x 54"	5.33	5.68	5.33
Squares:			
36" x 36"	5.42	5.77	5.42
45" x 45"	6.76	7.20	6.76
54" x 54"	8.12	8.65	8.12
Table cloths:			
54" x 72"	9.48	10.07	9.48
72" x 72"	10.82	11.54	10.82
72" x 90"	12.18	12.97	12.18

	Operations	
	No. 104	No. 105
	Second seams, for separate borders, with French corners, measuring all around edge: Cambric, at 4.50 cents per dozen inches	Second seams, for separate borders, with French corners, measuring all around edge: Crash, at 4.02 cents per dozen inches
	Payment per dozen	
Doilies:		
9" x 16"	$2.17	$1.92
10" x 14"	2.17	1.92
12" x 18"	2.70	2.40
Napkins:		
12" x 12"	2.17	1.92
15" x 15"	2.70	2.40
18" x 18"	3.25	2.88
Table scarves:		
17" x 36"	4.78	4.25
17" x 45"	5.57	4.96
17" x 54"	6.38	5.68
Squares:		
36" x 36"	6.48	5.77
45" x 45"	8.10	7.20
54" x 54"	9.74	8.65
Table cloths:		
54" x 72"	11.38	10.07
72" x 72"	12.97	11.54
72" x 90"	14.62	12.97

See footnotes at end of Schedule B.

Rate No.	Operations	Cents	Unit of payment
	Scallop cutting		
	Hand-cutting machine-embroidered, shallow, curved scallops on handkerchiefs or square scarves:		
106	Small, measuring from 5/16" up to but not including 5/8" along outside edge	41.30	Per dozen scallops.
107	Medium, measuring from 5/8" up to but not including 1/8" along outside edge.	52.00	Do.
108	Large, measuring from 1/8" to and inclusive of 1 1/4" along outside edge	78.00	Do.
	Needlepoint operations [4]		
109	Compact florals, figures, and landscapes [5]	62.40	Per 1,000 stitches.
110	Scattered florals [6]	67.20	Do.
111	Scattered florals consisting of borders or garlands only	72.00	Do.
112	Combinations of compact center and scattered borders in which the compact portion totals 45 percent or more of the total design.	67.20	Do.
113	Combinations of compact center and scattered borders in which the compact portion totals less than 45 percent of the entire design.	72.00	Do.
114	4.00 cents must be added to the above piece rates to cover thumbtack mounting on frame for each piece of canvas. Employers using other methods must set individual rates for mounting and removing canvas in accordance with section 545.10.		

[1] These piece rates have been set on the basis of O.N.T. thread No. 5, corded, which averages 28 stitches per inch of solid cord. If corded threads are used which are not so thick, the rate should be increased in proportion to the increase in the number of stitches per inch. If corded thread No. 11 is used, 15 percent must be added to the piece rate established for thread No. 5.

[2] For each additional count of 100, add 2.00 cents.

[3] For second and third threads, add 20 percent of rate for first thread; for additional threads, 15 percent of rate for first thread.

[4] These piece rates do not apply to the following types of needlepoint:
a. Florals having more than 10,000 stitches.
b. Florals having more than 36 color tones.
c. Figures and landscapes having more than 3,000 stitches.
d. Figures and landscapes having more than 25 color tones.
e. Petit point.
f. Stamped grospoint.

[5] A compact design is one in which 50 percent or more of the finished piece contains no spaces of unsewn canvas.

[6] A scattered design is one in which 50 percent or more of the component parts, when finished, are separated by spaces of unsewn canvas.

SCHEDULE C—MINIMUM PIECE RATE SCHEDULE FOR THE CHILDREN'S DRESS AND RELATED PRODUCTS INDUSTRY IN PUERTO RICO

The piece rates given below have been adjusted to reflect increases in the appropriate minimum hourly rates which became effective August 8, 1971, i.e., the piece rates have been adjusted by the same ratio as the present minimum hourly rates bear to the previous minimum hourly rates. Of the rates given below, rates numbered 6, 8, 11, 12, 13, 20, 31, 33, 37, 38, 51, 62, 64, 71, and 73, are based upon the minimum hourly rate for the other operations classification; and all other rates are based upon the minimum hourly rate for the hand-embroidery classification of the industry, as defined in § 610.2(a) (1) and (2), respectively, of the current wage order for this industry.

Rate No.	Operations	Cents	Unit of payment
1	Arenilla (seed stitch), close, 1/2" squares	156.00	Per dozen squares
2	Arenilla (seed stitch), scattered, 1/2" squares	78.00	Do.
3	Arrows, filled in, 1/4"	39.00	Per dozen.
4	Basting bias with cord	42.89	Per yard.
5	Basting for fagoting	11.73	Do.
6	Basting hems, 1" to 6" wide	32.53	Do.
7	Basting lace	22.47	Do.
8	Basting waist lines, plackets, and facings, 2 to 3 stitches per inch	20.37	Do.
9	Bias piping, joined, double, over 10 stitches per inch	52.00	Do.
10	Bias piping, joined, single, over 10 stitches per inch	65.00	Do.

See footnotes at end of Schedule B.

SCHEDULE D—MINIMUM PIECE RATE SCHEDULE FOR THE WOMEN'S AND CHILDREN'S UNDERWEAR AND WOMEN'S BLOUSE INDUSTRY IN PUERTO RICO.

The piece rates given below have been adjusted to reflect increases in the appropriate minimum hourly rates which became effective August 27, 1971, i.e., the piece rates have been adjusted by the same ratio as the present minimum hourly rates bear to the previous minimum hourly rates. Of the rates given below rates numbered 17, 18, 20, 21, and 22 are based upon the minimum hourly rate for the other operations classification; and all other rate are based upon the minimum hourly rate for the handsewing classification of the industry as defined in § 525.2(a) (1) and 6, 8, 11, 12, 13, 31, 32, 37, 38, 50, 62, 64, 71, and 73 are not applicable when the operations are performed on articles wholly machine sewn or machine knit.

Rate No.	Operations	Blouses, neckwear and silk and synthetic underwear and nightwear	Cotton underwear and nightwear	Unit of payment
		Cents	Cents	
1	Arenilla (seed stitch), close, ½" square	102.00	145.80	Per dozen squares.
2	Arenilla (seed stitch), scattered, ½" squares	81.00	72.90	Do.
3	Arrows, filled in, ½"	40.50	36.45	Per dozen.
4	Basting bias with cord	14.15	40.11	Per yard.
5	Basting (for lace) 1" to 6" wide	10.13	24.30	Do.
6	Basting lace	27.00	24.30	Do.
7	Basting lace	23.94	21.01	Do.
8	Basting waist lines, plackets, and facings, 2 to 3 stitches per inch	18.89	15.21	Do.
9	Blind stitching, joined, double, over 10 stitches per inch	54.00	45.60	Do.
10	Blind stitching, joined, single, over 10 stitches per inch	67.50	60.75	Do.
11	Buttons sewed on with double thread, 2 to 3 stitches	17.64	15.87	Per dozen.
12	Buttonhole, stamped, ½" long	58.23	52.41	Do.
13	Buttonhole, stamped, ¾" long	71.30	64.86	Do.
14	Buttonhole stitch, close	121.50	109.35	Per yard.
15	Cord, twisted, over basting	13.50	12.15	Per dozen inches.
16	Cutting material applied over lace with hand-embroidered solid cord stitch	18.51	16.64	Per yard.
17	Hand cutting material over lace applique or other material and cutting material underneath embroidered cord, large outline, around scallops measuring ½" or more	6.65	2.96	Do.
18	Hand cutting material over lace applique or other material and at edges of garment following machine embroidered cord, small outline around scallops measuring less than ½"	7.59	6.84	Do.
19	Cutting material under lace or at seams, straight outline, following hand-sewing operation	8.15	8.15	Do.
20	Cutting material under lace or at seams, straight outline, following machine operations	2.26	2.26	Do.
21	Hand cutting material underneath straight or nearly straight outline	3.27	3.27	Do.
22	Hand cutting material underneath irregular outline	11.24	10.14	Per dozen.
23	Dots, baby, not finished off, 2 to 3 stitches	17.82	16.05	Do.
24	Dots, medium, not filled in, finished off, 8 to 9 stitches	50.09	27.09	Do.
25	Eyelets, ¼" diameter	45.00	40.50	Per yard.
26	Feather stitch, 12 stitches per inch	188.04	169.24	Per yard.
27	Fagoting, twisted lines	90.01	81.00	Do.
28	Feather stitch cord	47.37	42.63	Do.
29	Flat roll stitch cord	90.01	81.00	Do.
30	French knots, not finished off	4.64	4.07	Per dozen.
31	French seams, first seam by machine, 9 to 12 stitches per inch	22.79	20.07	Per yard.
32	Furuncos, with tape	202.50	182.26	Do.
33	Guipure #1	13.50	12.15	Per dozen.
34	Half roll (with colored or embroidered thread)	43.24	38.88	Per yard.
35	Hemming stitch for felling, 2 to 3 stitches per inch	23.61	21.24	Do.
36	Hemming stitch for felling, cuffs, collars, plackets, and waist bands, 8 to 10 stitches per inch	60.39	54.36	Do.
37	Hemstitch, single, 4 threads in a bundle, thread drawing not included	87.87	79.08	Do.
38	Lace, sewed on with hemming stitch or round roll	67.50	60.75	Do.
39	Leaves, open, ¼" long	54.00	48.60	Per dozen.
40	Leaves, open, ¾" to ½" long	81.00	72.90	Do.
41	Leaves, open, ¾" to ¾" long	94.54	85.08	Do.
42	Leaves, solid	14.53	13.08	Do.
43	Leaves, solid, not finished off, ¼" long	17.99	16.20	Do.
44	Leaves, solid, not finished off, ½" long	27.00	24.30	Do.
45	Leaves, solid, not finished off, ¾" to ½" long	54.00	48.60	Do.
46	Leaves, solid, finished off, ¾" to ¾" long	94.54	85.08	Do.
47	Leaves, solid, finished off, ¾" to ¾" long	108.00	97.20	Do.
48	Loops, knitted, ¼"	16.89	15.21	Do.
49	Loops, knitted, 1" to 1½"	28.37	25.56	Do.
50	Loops, made with buttonhole stitch	40.50	36.45	Do.
51	Overcasting seams	28.71	25.83	Per yard.
52	Pasadas, short, 1" to 8"		12.80	Per dozen pasadas.
53	Patches, sewed on with single point de tura	269.92	242.04	Per yard.
54	Patches, rectangular, sewed on with blind stitch, up to 1½"	16.98	15.27	Per dozen inches.
55	Patches, sewed on with solid cord, cutting and basting included	264.60	238.14	Per yard.
56	Point de ture plain, with embroidery thread	78.74	70.86	Do.
57	Randa, bundles twisted but not tied, thread drawing not included	83.75	80.36	Do.
58	Randa, Don Gonsales, thread drawing not included	141.75	127.56	Do.
59	Randa, Mexican, tied at center only, thread drawing not included	40.50	36.45	Do.
60	Ribbons, setting ends of	18.51	16.64	Per dozen.
61	Rose buds, worm stitch 4 worms, 1 or 2 colors or tones	40.11	36.09	Do.
62	Running stitch on hems up to 1" wide, 12 stitches per inch	36.27	32.64	Per yard.
63	Running stitch on lace	35.81	32.25	Do.
64	Running stitch for plain sewing	24.39	21.96	Do.
65	Scallops, plain, cutting included	135.91	122.31	Do.
66	Shadow stitch, up to ¾" wide	260.99	234.90	Do.
67	Shell, 4 to 5 stitches per inch	46.29	41.67	Do.
68	Shirring material to be measured before shirring	27.18	24.45	Do.
69	Shirring and basting lace edging, material to be measured after shirring	32.67	29.41	Do.
70	Shirring and setting lace edging with hemming stitch on straight outline, material to be measured after shirring	58.71	52.83	Do.
71	Size tickets set with hemming stitch, cutting tickets included	27.00	24.30	Per dozen inches.
72	Smocking	1.11	.99	Per dozen stitches.
73	Snaps, sewing on both sides	27.00	24.30	Per dozen.
74	Solid cord stitch on gores and embroidery	126.90	114.21	Per yard.
75	Spiders, 4 legs	27.00	24.30	Per dozen.
76	Spiders, 8 legs	52.77	47.49	Do.
77	Tacks, set for fagoting	13.50	12.15	Do.
78	Tucks, stamped, 1/16" to ¼" wide, up to 6" long	42.24	38.02	Do.

Rate No.	Operations	Blouses, neckwear and silk and synthetic underwear and nightwear	Cotton underwear and nightwear	Unit of payment
48	Loops, knitted, ¼"	16.89	15.21	Do.
49	Loops, knitted, 1" to 1½"	28.37	25.56	Do.
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55	Patches, sewed on with solid cord, cutting and basting included	264.60	238.14	Per yard.
56	Point de ture plain, with embroidery thread	78.74	70.86	Do.
57	Randa, bundles twisted but not tied, thread drawing not included	83.75	80.36	Do.
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59	Randa, Mexican, tied at center only, thread drawing not included	40.50	36.45	Do.
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75	Spiders, 4 legs	27.00	24.30	Per dozen.
76	Spiders, 8 legs	52.77	47.49	Do.
77	Tacks, set for fagoting	13.50	12.15	Do.
78	Tucks, stamped, 1/16" to ¼" wide, up to 6" long	42.24	38.02	Do.

§ 545.100 [Amended]

6. Section 545.100, *Enforcement policies*, is amended by deleting Footnote No. 5.

7. Part 681, Title 29, Code of Federal Regulations, is deleted.

(52 Stat. 1060; 29 U.S.C. 206)

Signed at Washington, D.C., this 2d day of November 1971.

HORACE E. MENASCO,
Administrator, Wage and Hour Division, U.S. Department of Labor.

[FR Doc.71-16563 Filed 11-15-71;8:45 am]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER D—SECURITY

PART 155—INDUSTRIAL PERSONNEL SECURITY CLEARANCE PROGRAM

Immigrant Alien Residence Requirements

The following amendment to Part 155 has been approved:

Section 155.12(b) has been added as follows:

§ 155.12 Personnel clearance memorandums.

* * * * * *

(b) *Personnel Clearance Memorandum No. 71-1, Immigrant Alien Residence Requirements*—(1) *Purpose.* This paragraph (b) is published under the authority of § 155.6(a) and establishes supplemental instructions and guidance for the administrative disposition of industrial personnel security cases of immigrant aliens who do not meet the prescribed United States residence requirements.

(2) *Policy.* To be eligible to be processed for an industrial security clearance a contractor employee who is an immigrant alien must reside and must intend to reside permanently in the United States (including Puerto Rico, Guam and the Virgin Islands). An immigrant alien contractor employee who does not reside and does not intend to reside permanently in the United States cannot be considered a bona fide candidate for issuance or continuation of a clearance. The processing of a request for clearance of such an immigrant alien causes needless effort and expense to the Department of Defense and to the contractor, serves no useful Government purposes, and will be administratively terminated without prejudice to the individual concerned. The contractor and the employee will be notified of the termination and will be informed that the request for clearance may be reinstituted upon a showing of change in the applicable facts. An immigrant alien contractor employee who is not eligible to be processed for an industrial security clearance is not eligible for continuation of such a clearance.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division OASD (Comptroller).

[FR Doc.71-16654 Filed 11-15-71;8:48 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 4—Department of Agriculture

PART 4-12—LABOR

Miscellaneous Amendments

These amendments involve matters relating to agency management and to contracts and include rules interpreting and implementing existing regulations of other Federal agencies which are not subject to the notice and public procedure requirements for rule making under 5 U.S.C. 553. It is in the public interest that these provisions be made effective immediately. Accordingly, in accordance with the Secretary's Statement of Policy (36 F.R. 13804) it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest.

(E.O. 11246, as amended by E.O. 11375; 41 CFR Part 60)

1. Section 4-12.802 is revised by adding new paragraphs (g) and (h) as follows:

§ 4-12.802 Definitions.

* * * * * *

(g) "Federally involved" includes Federal or federally assisted projects.

(h) "Critical trades" means those trades that have been identified as being underutilized and are listed in the plan.

2. Section 4-12.805-4 is added as follows:

§ 4-12.805-4 Procedures for evaluating contractor's performance under "Imposed" and "Hometown" plans in federally involved construction contracts.

(a) Requirements for prime contractors and subcontractors—Manpower Utilization Report: (1) The contractor shall report to the Chief, Contract Compliance Review Staff, Office of the Secretary, U.S. Department of Agriculture, Washington, D.C. 20250, on a Manpower Utilization Report, Optional Form 66. The contractor shall make separate reports for federally involved and non-Federal construction projects.

(i) *Federally involved projects.* Report all critical and noncritical trades.

(ii) *Non-Federal projects.* Report only critical trades in area covered by the plan for those projects bid subsequent to award of the federally involved contract.

(2) The compliance agency shall require these reports to be submitted by the fifth day of each month. Five days thereafter, the compliance agency will submit the assembled information to the Director, Office of Federal Contract Compliance (OFCC). If the contractor fails to submit his report on time, he will be given an additional 5-day period to submit the report. Failure of the contractor to report by the end of the extended period requires the Department Contract Compliance Officer to immediately issue a 30-day show cause notice indicating that the contractor is in noncompliance for failure to submit the required information.

(3) The contractor shall also send a duplicate copy of each Manpower Utilization Report to the nearest OFCC coordinator from the following list:

NEW YORK REGIONAL OFFICE

Contract Compliance Advisor, OFCC, U.S. Department of Labor, Nelson Tower, Room 806, 450 Seventh Avenue, New York, NY 10001.

BOSTON REGIONAL OFFICE

Contract Compliance Advisor, OFCC, U.S. Department of Labor, JFK Building, Room 1712–A, Government Center, Boston, Mass. 02203.

PHILADELPHIA REGIONAL OFFICE

Regional Director, OFCC, U.S. Department of Labor, 1142 Western Savings Fund Building, Broad and Chestnut Streets, Philadelphia, PA 19107.

CHICAGO REGIONAL OFFICE

Regional Director, OFCC, U.S. Department of Labor, 811 Customs Building, 610 South Canal Street, Chicago, IL 60607.

CLEVELAND AREA OFFICE

Area Director, OFCC, U.S. Department of Labor, 803 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199. 44199.

DETROIT AREA OFFICE

Area Director, OFCC, U.S. Department of Labor, 617 Federal Building, 231 West Lafayette Street, Detroit, MI 48226.

ST. LOUIS AREA OFFICE

Area Director, OFCC, U.S. Department of Labor, 210 North 12th Boulevard, Room 513, St. Louis, MO 63101.

DALLAS REGIONAL OFFICE

Contract Compliance Advisor, Office of Federal Contract Compliance, U.S. Department of Labor, 1100 Commerce Street, Room 13B13, FOB and U.S. Courthouse, Dalias, TX 75202.

HOUSTON AREA OFFICE

Area Director, OFCC, U.S. Department of Labor, 2320 La Branch Street, Room 261, Houston, TX 77004.

ATLANTA REGIONAL OFFICE

Regional Director, OFCC, U.S. Department of Labor, 1371 Peachtree Street NE., Room 720, Atlanta, GA 30309.

SAN FRANCISCO REGIONAL OFFICE

Contract Compliance Advisor, OFCC, U.S. Department of Labor, 1003 Federal Office Building, 450 Golden Gate Avenue, San Francisco, CA 94102.

LOS ANGELES AREA OFFICE

Contract Compliance Advisor, OFCC, U.S. Department of Labor, Federal Building, Room 4345, 300 North Los Angeles Street, Los Angeles, CA 90012.

SEATTLE REGIONAL OFFICE

Regional Director, OFCC, U.S. Department of Labor, Arcade Plaza Building, M/S 382, 1321 Second Avenue, Seattle, WA 98101.

DENVER REGIONAL OFFICE

Regional Director, OFCC, U.S. Department of Labor, New Federal Office Building, Room 1440, 19th and Stout Streets, Denver, CO 80202.

(b) Acquisition of report forms: Optional Form 66, Monthly Manpower Utilization Report is available in all GSA supply depots.

Optional form No.	Stock No.	Title
66	7540-181-7282	Monthly manpower utilization report.

(c) Requirements for contracting agencies: Each contracting agency shall submit its reports to the Chief, Contract Compliance Review Staff, Office of the Secretary, U.S. Department of Agriculture, Washington, D.C. 20250, on or before the 10th day of each month, covering the employment activities of contractors and subcontractors for the previous calendar month. Contracting agencies should encourage the contractor to report for his subcontractors as well as himself.

(1) *Contracting activity report.* This report is to be completed by the contracting agency on the basis of the activities concerning the invitation for bids and the resulting contract. The contracting agency shall see that the invitation for bids and the resulting contract contain the appropriate bid conditions. Copies of the invitation and contract shall not be forwarded to the OFCC's national or local office. However, agencies shall be able to provide copies of such documents if requested. The following information is to be included in the report:

(i) An identification number for the plan must be assigned to each contract. This number is to be used on all reports submitted under a plan. The number shall contain the following: Plan area, agency, month and year of contract, and a serial number. For example:

PH–AG (FS)—6–71–001.
PH=Philadelphia.
AG (FS) =Department of Agriculture, Forest Service.
6–71=June 1971.
001=The first contract issued under the Philadephia Plan.

(ii) Contracting agency, address, and phone number of contracting officer.

(iii) Project name, location, total value, and estimated duration of contract.

(iv) Did invitation contain plan specification?

(v) Identity of low bidder or bidders—address and phone number (list prime and subcontractors and trades).

(vi) Did contract contain plan requirements?

(2) *Post contract implementation report.* This report shall contain information in regard to all Federal and federally assisted construction contracts issued under a plan. The following information shall be reported:

(i) Plan identification number and project location.

(ii) Contracting agency, address, and phone number of contracting officer.

(iii) Did contractor submit Monthly Manpower Utilization Report on time?

(iv) For each contract, list each trade and each contractor and record the total man-hours reported for the month.

(v) For each contract, for each trade and for each contractor list in the same order as in subdivision (iv) of this subparagraph, the minimum goals, if required by the contract. Indicate N/A if goal is not required.

(vi) For each contract, for each trade and for each contractor listed in the same order as in subdivision (iv) of this subparagraph, record the minority manhours reported for the month.

(vii) For each contract, for each trade and for each contractor listed in the same order as in subdivision (iv) of this subparagraph, record the minority manhours as a percentage of the total manhours for the month.

(viii) List the total number of workers and the number of minority workers employed by each contractor.

(ix) If the contractor is required by the bid conditions to meet minimum goals in a trade, compare the percentage of minority man-hours in subdivision (vii) of this subparagraph with the percent required in subdivision (v) of this subparagraph. If the percentage in subdivision (vii) of this subparagraph is less than the percent in subdivision (v) of this subparagraph, the contractor is not in compliance with goal requirements. Indicate in the report, those trades not found to be in compliance.

(d) Contractors and contracting agencies shall use the reporting requirements in paragraphs (a) and (c) of this section for all plans except the Philadelphia Plan. Reports submitted under the Philadelphia Plan shall be transmitted using previous reporting procedures.

Effective date: Upon publication in the FEDERAL REGISTER (11–16–71).

Done at Washington, D.C., this 10th day of November 1971.

T. M. BALDAUF,
Acting Director of Plant and Operations.

[FR Doc.71–16603 Filed 11–15–71;8:45 am]

Title 46—SHIPPING

Chapter II—Maritime Administration, Department of Commerce

SUBCHAPTER J—MISCELLANEOUS

[General Order 112]

PART 380—PROCEDURES

Subpart E—Compulsory Disclosure

Due to the obsolescence of directive, it is deemed desirable to recodify the heading and text of § 380.36 *Subpoenas, other compulsory processes and requests* in Subpart D of this part by transferring them to a new Subpart E—*Compulsory Disclosure* to be added to said part and redesignating the section number as § 380.40 so that, as amended herein, it will read as follows:

§ 380.40 Subpoenas, other compulsory processes and requests.

In any case where it is sought by subpoena, order, or other compulsory process or other demand of a court or other authority to require the production or disclosure of any record in the files of the Maritime Administration or other information acquired by an officer or employee of the Maritime Administration as a part of the performance of his official duties or because of his official status, the matter shall be immediately referred for determination, through the Secretary of the Maritime Administration and Maritime Subsidy Board, to the Assistant Secretary of Commerce for Maritime Affairs who shall take all necessary steps as prescribed in section 7 of Department Administrative Order 205–12, as amended (32 F.R. 9734, July 4, 1967).

(Sec. 204, 49 Stat. 1987, as amended; 46 U.S.C. 1114)

Dated: November 10, 1971.

By order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc. 71–16677 Filed 11–15–71;8:50 am]

Title 49—TRANSPORTATION

Chapter I—Hazardous Materials Regulations Board, Department of Transportation

[Docket No. HM–85; Amdts. Nos. 172–13, 173–57, 178–22]

PART 173—SHIPPERS

Flammable Liquids Not Specifically Provided for

Correction

In F.R. Doc. 71–16128 appearing at page 21287 in the issue of Friday, November 5, 1971, the last sentence of § 173.119 (b)(8) should read as follows: "Authorized only for materials that will not react with polyethylene and result in container failure."

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Montezuma National Wildlife Refuge, N.Y.

The following special regulation is issued and effective on date of publication in the FEDERAL REGISTER (11–16–71).

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

NEW YORK

MONTEZUMA NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Montezuma National Wildlife Refuge, N.Y., is permitted except on the areas designated by signs as closed. The open area, comprising 3,874 acres, is delineated on maps available at refuge headquarters, 5 miles east of Seneca Falls, N.Y.; and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Boston, Mass. 02109. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following special conditions:

1. The open season is Monday through Friday from November 15 to December 7, 1971, inclusive. Actual dates open are November 15, 16, 17, 18, 19, 22, 23, 24, 25, 26, 29, 30; December 1, 2, 3, 6, and 7.

2. Only longbows may be used. No gun hunting will be allowed.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 7, 1971.

MARTIN S. PHILLIPS,
Refuge Manager, Montezuma National Wildlife Refuge, Seneca Falls, N.Y.

[FR Doc.71–16642 Filed 11–15–71;8:47 am]

PART 33—SPORT FISHING

Montezuma National Wildlife Refuge, N.Y.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (11–16–71).

§ 33.5 Special regulations: Sport fishing; for individual wildlife refuge areas.

NEW YORK

MONTEZUMA NATIONAL WILDLIFE REFUGE

Sport fishing in State waters in compliance with State regulations is permitted from refuge lands from January 1 to December 31, 1972. The three areas open to access to fishing are designated by signs and delineated on maps available at refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109.

The provisions of this special regulation supplement the regulations governing fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1972.

MARTIN S. PHILLIPS,
Refuge Manager, Montezuma National Wildlife Refuge, Seneca Falls, N.Y.

[FR Doc.71–16643 Filed 11–15–71;8:47 am]

Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements, and Orders; Fruit, Vegetables, Nuts), Department of Agriculture

[Lemon Reg. 506, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and order No. 910, as amended (7 CFR Part 910; 36 F.R. 9061), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

(b) *Order, as amended.* The provision in paragraph (b)(1) of § 910.806 (Lemon Regulation 506, 36 F.R. 21331) during the period November 7, through November 13, 1971, is hereby amended to read as follows:

§ 910.806 Lemon Regulation 506.

* * * * * *

(b) *Order.* (1) * * * 180,000 cartons.

* * * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 11, 1971.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71–16678 Filed 11–15–71;8:45 am]

[Lemon Reg. 507]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling; Correction

In the FEDERAL REGISTER issue of November 13, 1971, paragraph (b)(1) of Lemon Regulation 507 (36 F.R. 21751) contained an error relating to the quantity of lemons grown in California and Arizona which may be handled during the period November 14 through November 20, 1971. The regulation specified 175,000 cartons as the permissible quantity which is hereby corrected to read as follows:

§ 910.807 Lemon Regulation 507.

* * * * * *

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period November 14 through November 20, 1971, is hereby fixed at 170,000 cartons.

* * * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 12, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71–16764 Filed 11–15–71;8:56 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 930]

CHERRIES GROWN IN CERTAIN STATES

Notice of Proposed Rule Making

Notice is hereby given that the Department is considering proposed rules and regulations (§§ 930.101 through 930.107) hereinafter designated as Subpart—Rules and Regulations, pursuant to the marketing Order No. 930 (Part 930; 36 F.R. 1088) regulating the handling of cherries grown in Michigan, New York, Wisconsin, Pennsylvania, Ohio, Virginia, West Virginia, and Maryland. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The aforesaid rules and regulations were proposed by the Cherry Administrative Board, established under said marketing order as the agency to administer the terms and provisions thereof. The proposed rules and regulations would be issued pursuant to §§ 930.54, 930.56, and 930.58 and would establish: (1) The procedure to be used in making application for and accomplishing diversion and the fee involved according to acreage; (2) the form for reserve pool cherries; (3) a processing factor, when used in relation to raw cherry receipts, which would determine reserve pool obligation; (4) period for the submission to the board by each individual handler data on the yearly total tonnage of cherries handled; and (5) an assessment procedure.

Subpart—Rules and Regulations

§ 930.101 Diversion application.

(a) Prior to March 1st of each fiscal year each producer, in order that his application for diversion be eligible for consideration by the Cherry Administrative Board for the forthcoming fiscal year, shall submit to, or have on file with the board the following information.

(1) Name and address of the applicant.

(2) District or Districts in which applicant's orchard sites are located.

(3) Age of trees, number of rows of trees, number of trees in each row, number of rows in each block and a diagram of each block referencing the compass points.

(4) Total of applicant's acreage devoted to cherry production with a subtotal for each definable block included in this total.

Such information submitted shall not be considered as application for diversion.

(b) Each producer who elects to divert cherries into an outlet as the board with the approval of the Secretary may designate as specified in § 930.56, shall, prior to such diversion, submit to the Cherry Administrative Board at its office in Hartford, Mich., or such other location as may be specified by the board, on forms provided by the board, an application to divert cherries as required by § 930.56(a) (1). Such application shall be filed with the board not later than July 1 of the current fiscal year: *Provided*, That, such application for growers who will harvest cherries prior to July 1 of any fiscal year, shall be filed on such earlier date as may be specified by the board or if not so specified, prior to harvest of such cherries.

§ 930.102 Diversion fees.

(a) Each producer who makes application to divert cherries pursuant to § 930.56 shall pay to the board the direct cost of supervision of the diversion as specified in the order. Such direct costs are hereby established as follows:

(1) Schedule of fees to be assessed applicant:

Total acres to be diverted in each district	*Fee*
Acreage up to and including 25 acres	$25
26–75 acres	50
76–150 acres	75
151 or more acres	100

(i) In addition to the above fee, there would be assessed $10 per site not contiguous to any other site specified in the application: *Provided*, That said sites shall be considered as contiguous if said sites and the connecting properties are owned or controlled by the applicant.

(ii) Each application shall be accompanied by the full fee applicable to such diversion request. Such payment shall be in the form of cash, or check made payable to the Cherry Administrative Board: *Provided*, That said fee, minus costs incurred by the board in connection with said application, shall be refunded or credited to the account of the applicant if said application does not receive approval. If the application is denied, the applicant shall be informed by telephone or telegram including the reasons for such denial. Telephone notification shall be confirmed immediately in writing.

§ 930.103 Diversion.

Diversion shall be accomplished by leaving such cherries unharvested: *Provided*, That such cherries shall remain on the tree until final inspection and shall not be removed from the premises other than by board approval.

§ 930.104 Reserve pool requirements.

(a) Reserve pool cherries shall be set aside in the form of 5 plus 1 (5 pounds of raw pitted cherries combined with 1 pound of sugar) frozen cherries packed in new 30-pound metal cans. Such cherries shall be graded and certified by the U.S. Department of Agriculture.

(b) Such cherries shall be (as specified in § 930.54(c)) stored separate and apart from all other frozen cherries and in accordance with good commercial practices with said certification and warehouse receipt stating lot and code number constituting proof of physical separation.

(c) Such cherries, for each handler who freezes cherries, shall reflect not less than the overall grade, quality, and condition of the total frozen production of said handler: *Provided*, That said reserve pool cherries shall not grade lower than 50 percent U.S. Grade "A" unless otherwise exempted by the board.

(d) Such cherries, for each handler who does not freeze cherries and therefore obtains reserve pool cherries from another handler who does freeze cherries, shall reflect not less than the overall grade, quality, and condition of the total frozen production of the handler who freezes such cherries: *Provided*, That said reserve pool cherries shall not grade lower than 50 percent U.S. Grade "A" unless otherwise exempted by the board.

§ 930.105 Processing factor.

The factor (ratio of raw cherries to finished processed cherries, including sugar) to be used in accordance with § 930.54(a) to determine the total amount of processed cherries each handler shall set aside in the reserve pool shall be computed on the basis that each 33 pounds of raw cherries shall equal one 30-pound can of 5 plus 1 frozen cherries (25 pounds of processed cherries and 5 pounds of sugar) for a ratio of 1.1 to 1.

§ 930.106 Pack report.

Each handler, in accordance with § 930.62 shall submit to the Cherry Administrative Board at its office in Hartford, Mich., or such other location as may be specified by the Board, within 30 days after date of pack completion a written report containing the total amount of cherries received for processing: *Provided*, That such amounts of cherries that are to be considered as first handled shall be so designated.

§ 930.107 Assessment procedure.

Upon receipt of pack completion report as required by § 930.104, each handler shall be assessed an amount per ton as determined by the board and approved by the Secretary, on all cherries handled. Each handler shall pay interest of 1 percent per month on any unpaid balance beginning 30 days after date of billing.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed rules and regulations shall file same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, not later than the 30th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27).

Dated: November 10, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71–16646 Filed 11–15–71;8:47 am]

[7 CFR Part 1124]

[Docket No. AO–368–A4]

MILK IN THE OREGON-WASHINGTON MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and to Order

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Oregon-Washington marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Tualatin, Oreg., on March 30, 1971, pursuant to notice thereof issued on March 3, 1971 (36 F.R. 4548).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on August 24, 1971 (36 F.R. 17040), filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. Under "1. Pool plant qualifications.", the 27th paragraph is changed and eight paragraphs are added immediately following it.

2. Under "2. Diversion of producer milk.", three paragraphs are added immediately following the 18th paragraph thereof.

3. "3. Location adjustments." is completely changed.

4. Under "4. Class prices and classification.", the first four paragraphs are changed.

5. Under "6. Computation of producer bases.", the fifth paragraph is changed and another paragraph is added immediately following it.

The material issues on the record relate to:

1. Pool plant qualifications.
2. Diversion of producer milk.
3. Location adjustments.
4. Class prices and classification.
5. Expansion of the marketing area.
6. Computation of producer bases.
7. Application of order to producer-handler operations.
8. Miscellaneous and conforming changes.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Pool plant qualifications*—(a) *Pool distributing plants.* The minimum in-area route disposition requirement for pooling a distributing plant should not be changed.

The order now qualifies as a pool plant any distributing plant which disposes of at least 15 percent of its monthly receipts of Grade A milk (except packaged fluid milk products from other Federally regulated plants) on routes in the marketing area and not less than 30 percent of such receipts on routes both inside and outside the marketing area.

The operator of a pool distributing plant in Weed, Calif., with route disposition in the marketing area of between 30 and 35 percent of his Grade A receipts, proposed that the minimum in-area route disposition percentage for pooling be increased from 15 percent to 35 percent of a plant's Grade A receipts. While such a modification in the in-area pooling requirements would necessitate some modification in the present 30 percent minimum overall route disposition requirement, proponent did not direct his attention to this matter.

The proponent handler receives milk regularly from seven producers and obtains supplemental supplies from a fully regulated handler under the order. His route disposition in the marketing area is in Klamath County, Oreg., and is a substantial part of the total sales in that county. His overall Class I utilization percentage is above the average for the market.

A spokesman for the seven producers testified in support of the handler's proposal, the purpose of which is to obtain nonpool status for the plant. He expected that the blend price now returned to producers at the Weed plant for their milk would not be reduced if the plant were unregulated since it would not be affected by the lower price applicable to the reserve supplies now associated with the market.

Two pool handlers whose plants are located in Klamath County as well as producers in that area opposed any increase in the in-area route disposition requirement for pooling. They held that nonpool status would afford the Weed handler an unwarranted advantage at the expense of other handlers and of producers generally and would reinstitute the kind of unstable marketing conditions that prevailed prior to the order and led to its inception.

The Weed handler claims that he is operating at a competitive disadvantage because the major part of his sales are outside the marketing area and the California handlers with whom he competes, who are regulated under California State orders, obtain their Class I milk supplies at prices below the Federal order price which he is required to pay.

There is no indication that the Weed handler's Class I sales either inside or outside the marketing area have declined since the inception of the order. His principal competition outside the marketing area, in northern California, is from three California based handlers whose plants are 70, 245, and 300 miles, respectively, from Weed.

Minimum prices for Class I milk (3.5 percent butterfat) fixed by the State of California at the three plants located in Sacramento, Redding, and Oakland, were, at the time of the hearing, $5.72, $5.81, and $6, respectively. The State of California Class I price in Siskiyou County at that time was $6.19. While there are no handlers in Siskiyou County to which the $6.19 price was applicable, this is the price the Weed handled would have been required to pay if he were not subject to the Federal order.

Orders issued by the Bureau of Milk Stabilization of the California Department of Agriculture on April 21, 1971, increased the Class I price in various marketing areas throughout the State by 23 cents per hundredweight. Official notice is here taken of the State's action. Official notice is taken also that the Oregon-Washington order price applicable at the handler's plant in Weed is currently (July 1971) $6.56 per hundredweight.

Both the Weed handler and a Klamath Falls handler indicated that the problem in southern Oregon is related to the level of the Class I price rather than to pooling qualifications. The revised location adjustments hereinafter adopted in this decision will reduce the Class I price for milk received from producers at plants in southern Oregon and in California. In the case of the Weed handler the Class I price will be reduced by 19.5 cents. This adjustment should ameliorate the problem from which proponent seeks relief.

(b) *Pool supply plants.* The pooling requirements for supply plants should be changed.

A supply plant may now qualify for pooling in any month by shipping 30 percent of its dairy farmer receipts to pool distributing plants. In addition, a supply plant that was a pool plant in each month of August through February may qualify for pooling without further shipments in the following March through July.

Three supply plants, all operated by cooperative associations, have qualified as pool plants continuously since the inception of the order. Two are "close-in" plants and are among the largest manufacturing operations in the market. In addition to their pool milk receipts, both plants regularly receive substantial quantities of milk from ungraded farms for manufacture. The pool distributing plants to which they ship are in the vicinity of Portland, about 75 and 40 miles distant, respectively.

The third pool supply plant, which is in Idaho, has facilities only for receiving milk from its producer members for shipment to other plants. The pool distributing plants to which it ships are principally in the Portland area, about 420 miles away.

Of the three supply plants, two have experienced no difficulty in any month in qualifying as pool plants, indicating that the present percentage shipping requirements for pooling have not been burdensome for them. The Idaho receiving plant shipped about 45 percent of its producer milk receipts to pool distributing plants in 1970. One of the two close-in plants shipped more than 50 percent of its producer milk receipts to pool distributing plants in the same period.

Although the third supply plant qualified as a pool plant in each month, a spokesman for the operating cooperative indicated difficulty in meeting the present pooling qualifications. In some months, it has been necessary for this cooperative to receive producer members' milk, that normally is shipped directly from producers' farms to pool distributing plants, first as its supply plant in order to qualify such plant for pooling. During 1970, about 35 percent of the producer milk receipts at this plant was shipped to pool distributing plants.

The hearing notice proposals submitted jointly by five cooperatives (including the two operating the close-in pool supply plants), which together represent a majority of the producers on the market, would (1) increase the monthly shipping requirements for pooling a supply plant from 30 percent to 50 percent in August through February and to 40 percent in March through July, (2) remove the provision whereby a supply plant that was a pool plant in August–February retains automatic pooling status in the following March–July without shipments, (3) enable cooperatives to qualify supply plants based on their performance in the preceding 12 months, and (4) provide a type of "system pooling" for cooperatives.

Under such proposed system pooling, a cooperative which operates a supply plant and one or more other cooperatives (which could include those which operate no plants) would have their producer member deliveries made directly from farms to all pool distributing plants considered as having been received at and shipped from a supply plant(s) to such pool distributing plants for the purpose of qualifying for pooling all supply plants included in the system.

As proposed, a supply plant would qualify as a pool plant for the month if 50 percent of the member producer milk of all cooperatives in the system was received during the immediately preceding 12-month period at pool distributing plants, either directly from member producers' farms or by transfer from supply plants in the system. Fluid milk products processed and packaged at all supply plants in the system and disposed of as Class I milk on routes in the marketing area also would be treated as though shipped from the supply plants to pool distributing plants for this purpose. In like manner, fluid milk products and cream used at a supply plant to produce Class II products would be considered as a shipment from the supply plant to a pool distributing plant and counted for determining pooling qualification.

Another hearing proposal, by a cooperative operating a supply plant, would leave unchanged the present requirement that a supply plant ship 30 percent of its receipts during the month to qualify as a pool plant, but would remove the provision that accords pool plant status in March through July to a supply plant that qualified as a pool plant in the preceding August through February.

The hearing notice proposals for revising the supply plant pooling qualifications were modified at the hearing by the various proponents as follows: (1) The minimum monthly shipping percentage requirement for pooling a supply plant would be set at 45 percent of its dairy farm receipts August through February and 35 percent March through July; (2) a supply plant of a cooperative would be qualified as a pool plant for the month if 40 percent of the milk of its producer members (and of those of other cooperatives in a system) had been received in the immediately preceding 12-month period at pool distributing plants either directly from the producers' farms or by transfer from the supply plant(s); and (3) the route disposition of fluid milk products in the marketing area from a supply plant in which they were processed and packaged would be counted as though a shipment from the supply plant to a pool distributing plant.

The stated goal of the proponents for revising the pooling qualifications for supply plants is to increase the percentage of receipts that a supply plant must ship to pool distributing plants to qualify for pooling and thus insure participation in the pool of only those plants regularly and substantially supplying the market. However, the proposed standard for pooling the supply plant of a cooperative, by considering direct deliveries from the farms of producer members and those of members of other cooperatives as the equivalent of a supply plant shipment to a pool distributing plant, could qualify a supply plant for pooling without its being required to make even a token shipment to a pool distributing plant in any month. This procedure, proponents held, would enable the supply plant with manufacturing facilities to achieve greater operating efficiency and reduce uneconomic milk movements otherwise necessary to insure pooling eligibility.

The pooling standards for supply plants should be such as will insure that milk needed in the market for Class I use will be available at all times while at the same time not force milk to be shipped to the market center unnecessarily, particularly in the months of seasonally high production. It is also appropriate that the standard for pooling supply plants in this market be consonant with those in the other Federal order markets competing for supplies in the same region.

There is a significant overlapping of the milk production areas for the three Federal order markets in the Northwest. Some supply plants pooled under the Puget Sound and Inland Empire orders are so located that they could become pool supply plants under the Oregon-Washington order. One or more Oregon-Washington order supply plants similarly could become pool plants under either of the other orders.

Under the Puget Sound order, the monthly percentage shipping requirements for pooling a supply plant located outside the marketing area are 50 percent in October through December and 20 percent in January through September. A plant that shipped at least 50 percent of its receipts in October through December qualifies as a pool plant in the following January through September without further shipments in the latter months. Similar provisions are provided in the Inland Empire order.

The monthly percentage shipping requirement for pooling a supply plant under the Oregon-Washington order should be 50 percent for October through December, the same as in the Puget Sound order. For September, January, and February the shipping requirement should be 40 percent, and for March through August 30 percent. A supply plant that qualified as a pool plant in each month of September through February should qualify as a pool plant the following March through August without further shipments in such period.

The recommended decision provided monthly shipping percentage requirements for pooling a supply plant of 50 percent in September through February and 20 percent in March through August. It also provided, as adopted herein, for pooling in March through August a supply plant that was a pool plant in the preceding September through February.

A cooperative operating a supply plant took exception to the recommended decision's requirement that a supply plant must qualify as a pool plant in 6 months (September through February) to qualify for pooling without further shipments in the following March through August. It contended that the provisions in the two other Federal orders in the Northwest, whereby, a supply plant is accorded pool plant status in the following 9 months by qualifying as a pool plant in 3 specified months of seasonally low production, would be more appropriate for the Oregon-Washington order.

The monthly 50 percent shipping requirement for September through February provided in the recommended decision was also excepted to by the above mentioned cooperative. It stated that this requirement could result in removing from the pool two supply plants now on the market—those that shipped less than 50 percent of their receipts to pool distributing plants in 1970. The exceptor asserted that, with the market's rapidly increasing production relative to demand, pool supply plants are being required to handle an increasing share of the market reserve supply. Hence, the cooperative States, adopting a 50 percent monthly shipping requirement for September through February, as provided in the recommended decision, would jeopardize the pool plant status of two of the three pool supply plants that are now a regular and dependable part of the market supply.

Other producer associations took exception to reducing from 30 percent to 20 percent the present monthly shipping requirement for pooling in March through August. They claimed that there was no hearing proposal and no testimony at the hearing for a percentage shipping requirement in these months below 30 percent, that it has not worked a hardship on any plant currently on the market, and is a reasonable basis for qualifying a supply plant that would first associate itself with the Oregon-Washington market in any of these months.

October, November, and December, the 3 months for which a 50 percent shipping requirement is here adopted, are the months when production for the market is lowest relative to its needs. Class I utilization of producer milk in this 3-month period in 1970 was 62.8 percent. In the months for which a 40 percent shipping requirement is here adopted (September, January, and February) class I utilization of producer milk was 59.8 percent in this 3-month period ending with February 1971. Production relative to demand for the Oregon-Washington market is substantially higher in March through August than in the other months of the year. In 1970, class I utilization of producer milk in these 6 months (for which a 30 percent shipping requirement is adopted) was 54.3 percent.

Although shipments from two pool supply plants were less than 50 percent of their receipts for the year 1970, the percentage of their receipts shipped to pool distributing plants in the months of seasonally low production was substantially greater than in other months. Based on their experience under the order since its inception, these supply plants should have no difficulty in meeting the requirements for pooling herein adopted.

The shipping percentages provided by this decision will enable those supply plants who have been regularly supplying the market to maintain their pool plant status on a basis comparable to their past performance. At the same time, they provide a basis for pooling any other supply plant under the order by its meeting a reasonable standard of performance.

Only the milk received from dairy farmers eligible to be producers under the order should be used as the basis for calculating a supply plant's shipping percentage in determining its pool plant status. This would exclude as a receipt for such purpose any other source milk, such as that from a "dairy farmer for other markets" (as defined in this decision). Since only the milk from dairy farmers who would qualify as producers under the order could be pooled, it is appropriate that only such milk be considered as the dairy farm supply at a supply plant in determining its pool plant status.

Two or more supply plants should be permitted to have their combined receipts and disposition considered as a unit for the purpose of determining their qualification as pool plants to the extent that such plants are bona fide supply plants. Such an arrangement will serve the best interest of the market by providing for more efficient handling of the market's reserve supplies.

The route disposition in the marketing area of fluid milk products processed and packaged at a supply plant appropriately should be included in the plant's shipping percentage to determine its pool qualification. This was proposed by a cooperative operating a pool supply plant from which about 4 percent of its receipts is distributed on routes in the marketing area. The Class I sales represented by this route disposition represent supplies furnished to meet the Class I needs of the market to no less a degree than shipments in bulk from a supply plant to a pool distributing plant. Considering route disposition from a supply plant the equivalent of shipments to a pool distributing plant in qualifying it for pooling will improve equity in treatment among supply plants regularly supplying the market's Class I needs.

The milk of producer members of a cooperative delivered directly from their farms to pool distributing plants should, under certain conditions, be considered as a receipt at and a shipment from the cooperative's supply plant in qualifying it as a pool plant. Substantial quantities of milk are moved directly from their farms to pool distributing plants by producer members of cooperatives operating supply plants. When milk is not needed at the pool distributing plant to which it is customarily delivered, it is received either at the cooperative's supply plant or diverted by the cooperative to another plant. Milk movements directly to pool distributing plants from the farms of producer members of a cooperative operating a supply plant are coordinated with the operation of the supply plant in filling the needs of those pool distributing plants served by the cooperative.

Although recognition should be given to the service to the market provided by a cooperative operating a supply plant that meets the needs of pool distributing plants both by interplant shipments and by the direct delivery of milk from the farms of its members, it is likewise necessary that appropriate safeguards be provided to insure that the cooperative's plant is a bona fide supply plant. Otherwise, cooperatives could obtain pool status for plants that were not servicing the market as supply plants but which were instead bringing into the order pool unneeded quantities of milk for manufacture at the expense of producers that regularly supply the market.

To count the direct deliveries from producers' farms to pool distributing plants as receipts at and shipments from a cooperative's supply plant for pooling purposes without requiring a reasonable performance by the supply plant in discharging its basic function would tend to make meaningless any shipping percentage requirement for pooling and would be inconsistent with the basic qualifications for supply plants, i.e., to provide a quantitative measure for determining whether the plant is sufficiently engaged in furnishing the needs of this fluid market to warrant a share in the pool for the dairy farmers at such plant.

In view of the above, it is concluded that shipments made directly to pool distributing plants from the farms of producer members of a cooperative operating a supply plant be counted as a receipt at the supply plant and a shipment therefrom to a pool distributing plant to the extent that such dairy farmer shipments to pool distributing plants do not exceed the total quantity of fluid milk products shipped from the cooperative's supply plant to pool distributing plants during the same month.

2. *Diversion of producer milk.* (a) The total quantity of milk diverted by a cooperative from a pool plant to a nonpool plant in any month should be limited to that quantity of milk not greater than the quantity of its producer members' milk physically received at all pool plants during the month. Likewise, the quantity of nonmember producer milk diverted by the proprietary operator of a pool plant should not exceed the quantity of nonmember producer milk physically received at his plant(s).

Cooperatives and proprietary operators of pool plants may now divert without limit in March through July the milk of any producer whose milk had previously been received at a pool plant. In August through February, a cooperative may divert milk of any member producer whose milk was received at a pool plant at least 3 days during the month, but the total quantity diverted may not exceed the aggregate quantity received from all member producers at pool distributing plants. A proprietary operator of a pool distributing plant may likewise divert in August through February the milk of nonmember producers whose milk was received at his pool distributing plant(s) at least 3 days during the month, but diverted milk may not exceed the aggregate quantity of milk received from all such producers at his pool distributing plant(s) during the month.

Two or more cooperatives may have their allowable diversions computed on the basis of the combined deliveries of their producer members. There was no proposal to change this order provision or the requirement that milk must be received from a producer at a pool plant on at least 3 days during any month in which the aggregate quantities that a cooperative, or a pool plant operator other than a cooperative, may divert is limited to the aggregate quantity of milk physically received at pool plants.

A group of cooperatives proposed that diversions in the months of March through July be established on the same basis as is now applicable in August through February. They also proposed that no diversions be allowed from pool supply plants.

Of the three pool supply plants in the market, two maintain substantial manufacturing operations and have no need to divert producer milk. The third pool supply plant, operated by a cooperative, has no manufacturing facilities. The cooperative operating the latter plant urged that the order provide for diversions from pool supply plants on the same

basis as for pool distributing plants. It also opposed the proposal to limit diversions in the March through July period contending it would impede the efficient handling of producer milk not needed in the market for Class I use. That is, it would require much of the cooperative's member milk to move through the supply plant for transshipment to a manufacturing plant instead of moving directly from producers' farms to the manufacturing plant as diverted milk.

A proprietary handler opposed any change in the diversion provisions contending that the present provisions facilitate orderly marketing and are causing no problems. He also held that the more restrictive diversion provisions proposed by cooperative proponents would force upon him the additional expense of moving through his pool plant producer milk now moved directly from producers' farms to a nonpool plant as diverted milk when it is not needed for fluid use.

Because of variations in market needs and in production, the milk of all producers is not needed every day for processing as fluid milk. It is necessary that there be a reserve of qualified milk available to supply the fluctuating needs of the market. At times, therefore, when the milk of dairy farmers regularly supplying the market is not needed at the plants to which it is customarily delivered, it can be most economically handled by moving it directly as diverted milk from the farm to a nearby manufacturing plant, whether it be a pool plant or a nonpool plant.

Although the cooperatives that proposed changing the diversion provisions contend that the present provisions are inappropriate under current conditions, their testimony did not indicate the extent to which the diversion provisions were being used or how they might be adversely affecting the market. Instead, their testimony was directed on what could happen prospectively under the present diversion provisions, which allow unlimited diversions in March through July.

Three of the cooperatives (two of which operate pool supply plants) proposing more restrictive diversion provisions utilize a high proportion of their producer receipts for manufacture in their own pool plants, which are among the largest manufacturing facilities in the market. These plants have little need for diverting producer milk, especially in view of their proposal for qualifying supply plants on a system basis which is adopted in this decision. Thus, the proposals by these cooperatives relating to diversions apparently would affect primarily any pool supply plant that does not have manufacturing operations and thus may have need to divert milk to nonpool manufacturing plants.

To provide that no milk may be diverted from a supply plant would require the milk of producers who regularly ship to the one cooperative supply plant without manufacturing facilities to move through such plant for transshipment either to pool distributing plants or to nonpool manufacturing plants. The cooperative thus could not avail itself of the efficiencies associated with diversions directly from producers' farms to manufacturing plants.

Each supply plant now pooled has a substantial association with the fluid market in that it supplies significant volumes of milk for Class I use throughout the year. A supply plant whether it has manufacturing facilities or not may have need to divert reserve supplies of producer milk to other plants for manufacturing. Obviously, the operator of a pool supply plant without manufacturing facilities has greater need to divert milk than the operator of a pool supply plant with manufacturing facilities.

Requiring that each producer whose milk is diverted deliver to a pool plant at least 3 days during the month and limiting diversions of producer milk by cooperatives and proprietary handlers to the quantities delivered to pool plants in the same month are reasonable standards under current conditions in the Oregon-Washington market and will provide sufficient safeguard against the unwarranted association with the pool of milk intended for manufacturing use. Moreover, in conjunction with the present pooling provisions for distributing plants and the pooling provisions for supply plants adopted herein, they will implement orderly marketing by facilitating the movement of reserve supplies of producer milk to the most practicable outlet.

(b) Without appropriate safeguards, it would be possible for any handler, also supplying milk for Class I use to an unregulated plant, to handle such milk as nonpool milk when so disposed of and have it delivered to his pool plant as producer milk when not needed for such Class I use. In such event, the pool would be carrying the balancing supplies for such outside sales without sharing in the higher Class I values associated with such balancing supplies.

A handler having out-of-market bulk Class I sales could circumvent regulation of such outside sales in this manner. At least one supply plant by virtue of its location outside the regulated market could have a substantial potential to operate in this manner.

To insure against such an operation, the order should be modified to provide that milk of any dairy farmer which is purchased by a pool handler who during the month caused milk from the same farm to be delivered to a nonpool plant as other than producer milk may not acquire status as producer milk in such month. The dairy farmer should be designated a "dairy farmer for other markets" with respect to his deliveries to a pool plant.

Milk received at a pool plant as diverted milk from an other order plant should not be considered as milk from "dairy farmers for other markets" if such diverted milk is considered producer milk under the other order. Such milk would be classified and priced under the other order. The respective orders specifically prescribe the treatment of such milk by regulated plants.

Since the receipts from dairy farmers for other markets at a pool plant can be considered to represent surplus (Class III) production associated with the unregulated plant, such "other source" receipts should be allocated to the Class III classification at the pool plant.

Because the unregulated plant's requirements of the production of the dairy farmers supplying him will change throughout the week and seasonally as its Class I sales vary, a pool handler cannot depend on such dairy farmers as a regular supply for his Class I needs. Any such milk allocated to Class I at a pool plant would displace producer milk in such use, forcing it into the Class III classification. Accordingly, the milk of dairy farmers for other markets received at a pool plant should be assigned a Class III value in allocating the receipts from all sources at such plant against the overall utilization at the plant during the month.

Some producer associations excepted to the dairy farmer for other markets definition provided in the recommended decision and adopted in this decision. They urged that the definition include a dairy farmer shipping to a pool plant in any month of March through August if he had been a dairy farmer for other markets in any 2 months of the preceding September through February or if he had shipped to an unregulated plant for 30 days or more during that period. As envisioned by exceptors, a cooperative supplying both pool plants and unregulated plants could transfer its dairy farmers associated with an unregulated plant to a pool plant in the March through August period of seasonally high production. This presumes that dairy farmers supplying the Class I needs of an unregulated plant on a year-round basis may be readily shifted to a pool plant for an entire month at a time during the March through August period.

Those dairy farmers upon whom an unregulated handler depends for his class I needs are no less a part of his regular supply than are the producers regularly associated with a particular pool plant a part of this market's regular supply. It would be impractical in this market for a handler to shift dairy farmers for a full month to a pool plant from an unregulated plant to which they customarily deliver. Moreover, any dairy farmer coming on the Oregon-Washington market as a producer for the first time in the March through August period receives the base price for a substantially smaller portion of his deliveries than do other producers. Such a producer would receive a base for 45 percent of his deliveries in May, 50 percent in June, 55 percent in April and July, 60 percent in August, and 65 percent in March.

Excluding from the pool, by designating as a dairy farmer for other markets, a dairy farmer whose total production in any month of March through August is delivered to a pool plant, as proposed by exceptors, would not contribute to orderly marketing under current conditions in the market. Instead, such a provision could serve as an unwarranted barrier

to prevent dairy farmers from coming on the market as regular producers in any of the 6 months of March through August. The proposal, therefore, is denied.

(c) Producer milk diverted from a pool plant to another pool plant or another order plant and which is specifically designated for manufacture, should not be considered as a receipt at the transferee plant for the purpose of determining its qualification as a pool plant. Such diversions are now counted as a receipt at a supply plant, but not at a distributing plant, in determining the plant's pool status. There is no evident justification in this market at the present time to differentiate between distributing plants and supply plants in this regard.

A cooperative, whether or not it operates a pool plant, must market its members' milk that is in excess of handlers' needs and should be permitted to divert such milk from a pool plant to another pool plant if designated for Class III uses. Such diversions may now be made only by the operator of a pool plant.

Fully regulated plants with manufacturing facilities are often the most feasible and economical outlets for milk that is not needed for Class I purposes. Milk diverted from a pool plant at which it is customarily received to such a regulated plant where utilized in Class III is not a part of the transferee plant's regular supply and, therefore, should not be considered as a receipt at such plant in determining its qualification as a pool plant.

3. *Location adjustments.* Location adjustments (the amounts by which the Class I price and the uniform price for base milk are reduced for milk received at plants in specified geographic areas) should be based primarily on a plant's distance from the major consumption centers in the market.

Except for a 20-cent adjustment in seven specified counties, no location adjustments are now applicable at plants in the marketing area. Of the six marketing area plants with location adjustments, five, in central Washington, are located 159 to 240 miles from Portland; and the sixth, in eastern Oregon, is 191 miles from Portland.

A 20-cent location adjustment is applicable also in one county in central Washington outside the marketing area. At all other plants outside the marketing area (except in California) and more than 100 miles from Portland, the location adjustment is 15 cents plus 1.5 cents for each additional 10 miles.

For a California-based plant, the location adjustment is 15 cents plus an additional 1.5 cents for each 10 miles that such plant is more than 110 miles from the nearer of Klamath Falls or Medford, Oreg.

The two pool plants outside the marketing area at which location adjustments now apply are a supply plant at Meridian, Idaho, and a distributing plant at Weed, Calif., which plants are 420 and 350 miles, respectively, from Portland. The location adjustment at Meridian is 63 cents and at Weed 15 cents.

The Meridian handler, a cooperative, proposed that Walla Walla (which is 240 miles from Portland) be added as a basing point. That is, no location adjustments would apply at plants within 100 miles of Portland or Walla Walla. At all other plants the location adjustment would be 15 cents within 100–110 miles of the nearer of the two cities, plus 1.5 cents for each additional 10 miles therefrom. The handler also proposed revising the provisions specifying the milk to which Class I location adjustments apply when milk is moved between plants. Priority in this regard is now given to the shipping plant at which no location adjustment is applicable and then, in sequence, beginning with the plant having the least location adjustment. As proposed, all shipping plants would be assigned a pro rata share of the Class I utilization at the transferee plant for the purpose of computing the location adjustment applicable to the milk shipped.

Certain producers in the Yakima area held that the present 20-cent location adjustment applicable at the plants to which they deliver in central Washington is discriminatory and should be reduced or abolished. If location pricing is to be continued in the order, they proposed that the location adjustment provisions be based solely on the distance of a plant, wherever located, from the central market.

A cooperative operating six regulated plants under the order, two of which are subject to the 20-cent location adjustment, proposed elimination of the 20-cent location adjustment in central Washington and eastern Oregon.

In the Oregon-Washington market the matter of location pricing is essentially one of pricing milk to insure adequate supplies at the main population centers of the market where the great bulk of the supply is processed for Class I distribution.

Fluid milk products are bulky and perishable, and incur a relatively high transportation cost when they are moved a considerable distance. The location differential provisions should facilitate the movement of milk from supply plants to the points where processed for Class I uses. The applicable rates for such movement must be applied from appropriate basing points to accomplish this objective, and to promote uniformity in pricing among handlers. Such adjustment to prices should reflect the lesser value of milk at an outlying plant location, or when diverted to an outlying location.

Since location differentials apply only to outlying plant locations, no differential is applicable when the milk is received directly from the farm at a plant in the market center. The transportation or hauling cost on such milk is paid for by the individual producer. The hauling rate is not fixed by the order.

When milk is received at a supply plant located a considerable distance from the market, the handler rather than the producer incurs the additional cost of moving that milk from the outlying plant to the market for processing. Under these conditions, the value of producer milk delivered to a supply plant located some distance from the central market reduces in proportion to the distance and the cost of transporting such milk from the plant of first receipt to the distributing plant. Some distributing plants in this market also are located at various distances from the main centers of population. The prices at these plants will reflect values equivalent to those of supply plants similarly located.

An important aspect in establishing basing points for computing location differentials is to identify the major consumption centers in the marketing area. It is to these plants that the bulk of the milk supply must be channeled. Of the 2.44 million population (1970 census) in the 35 counties of the marketing area, 40 percent is in the four-county Portland metropolitan area. These four counties, together with Lane and Marion Counties, in which Eugene and Salem are located, account for 55 percent of the marketing area population. Portland, Eugene, and Salem, with populations of 375,000, 77,000, and 68,000, are the three largest cities in the marketing area.

The Portland area and the area in or near the various cities extending south to Eugene (110 miles from Portland) are the principal points at which milk is processed and packaged for distribution in the marketing area. The present location adjustment provisions do not currently reflect the actual market situation in that they do not adjust on a uniform basis for the cost of moving milk to plants in the central market from the more distant parts of the production area.

For milk received at a plant located 100–110 miles from the nearer of the county court house in Portland or the city hall in Eugene, the Class I and uniform prices (except for excess milk) should be reduced 15 cents per hundredweight. The rate of 1.5 cents for each 10 miles or fraction thereof beyond 110 miles, which is now used in the order, should be retained. This rate reasonably represents the cost of transporting milk in bulk over longer distances.

The present 63-cent location differential at the Meridian, Idaho, plant, which is farther from the central market than any other pool plant, would be unchanged by this decision.

The location adjustment of the Weed, Calif., handler, earlier discussed in this decision, whose marketing area route disposition is in southern Oregon, would be increased from 15 cents to 34.5 cents. Thus, his Class I milk cost would be decreased by 19.5 cents per hundredweight. Weed is 240 miles from Eugene.

The principal distributing plant of the major cooperative in the market, which is in Portland, receives milk from both nearby and distant producers. Some other plants operated by the same cooperative are at distant locations from Portland. Milk from producer members' farms in the same geographic areas is received by direct delivery at both the Portland plant and one or more of the cooperative's other plants. The hauling charges paid by this cooperative's producers range from 22 to 61.5 cents per

hundredweight, indicating the wide range in producers' hauling costs that results in moving milk directly from farms to nearby plants compared to shipping milk over long distance to the market center.

Yakima County is one of the principal production areas for the market. Plants in the Portland area and local distributing plants receive milk directly from farms in Yakima County. The prevailing hauling rates for such milk delivered to local plants range from 19 to 26 cents per hundredweight. The hauling charges for milk delivered directly to Portland plants from Yakima County farms range from 45 to 50 cents.

Most plants in the coastal counties of the marketing area in western Oregon are within 100 miles of the basing point (Portland or Eugene) for determining location adjustments and are not, therefore, subject to location adjustments. Several plants in these coastal counties, which are slightly more than 100 miles from the basing points, compete with relatively nearby handlers at whose plants no location adjustments apply.

Producer exceptions contend that, with the recommended decision's location adjustment provisions applicable to them, plants in the coastal areas slightly more than 100 miles from the basing points would be disadvantaged in their procurement vis-a-vis the operators of those relatively nearby plants at which no location adjustments apply. Irrespective of the amount of the location adjustment applicable to them under the order, the prices that coastal area plant operators slightly beyond the 100-mile limit would be required to pay their producers (in order to keep them) must be reasonably related to the prices paid by nearby plants at which no location adjustments apply. If producers delivering to coastal area plants at which location adjustments would apply (i.e., 100 miles or more from the nearer basing point) shipped their milk instead to nearby plants at which no location adjustments apply, they would incur increased hauling costs of approximately 10 cents per hundredweight.

In view of the above, it is concluded that the location adjustments applicable at plant locations 100 miles or more from the nearer basing point but within any of the coastal counties in the marketing area in western Oregon (Clatsop, Coos, Douglas, Lane, Lincoln, and Tillamook) in no case should exceed 10 cents. This recognizes the special marketing conditions in these coastal counties and will contribute to orderly marketing in the territory wherein coastal county handlers compete for supplies and sales with the operators of nearby plants at which no location adjustments apply.

A number of exceptions to the recommended decision stressed that it would be inequitable to apply a location adjustment of more than 20 cents at any plant in the marketing area, the maximum location adjustment now applicable at any marketing area plant. Exceptors claim that cost factors within the marketing area do not justify a location adjustment of more than 20 cents at plants so located.

Of the 54 plants regulated by the order in December 1970, location adjustments would be applicable to 12 of them at which no location adjustment presently apply. All 12 plants are in the southern Oregon portion of the marketing area. Specifying a maximum location adjustment of 20 cents at plants in the marketing area would change the location adjustment at four of these plants from that proposed in the recommended decision. The four distributing plants, located in Medford and Klamath Falls, would have been subject to location adjustments of 24 cents and 25.5 cents, respectively, under the recommended decision.

The Medford and Klamath Falls handlers compete for fluid sales with other regulated handlers in southern Oregon whose differentials are approximately 20 cents, based on their distance from the basing point at Eugene. Likewise, all such regulated handlers are in substantial competition in obtaining supplies from producers in a common production area.

The various plants in the eastern Oregon and central Washington segments of the marketing area where a 20-cent location adjustment now applies likewise are in substantial competition with each other in their common sales area. Such plants are located relatively near each other and have distribution in a number of the same urban areas in these outer fringes of the marketing area. Similarly, there is a significant overlapping of the production areas of these handlers and with areas from which Portland plants receive direct-shipped milk. Thus, Portland plants represent an alternative outlet for producers serving the local plants at a differential cost of transportation of about 20 cents per hundredweight.

The recommended decision's proposed location adjustment rates would have increased the 20-cent adjustment now applicable at these plants an average of 6 cents, ranging from 2.5 cents at the Toppenish plant to 14.5 cents at the Walla Walla plant. Exceptors claim that providing for location adjustments of more than 20 cents at plants in the marketing area would tend to disadvantage some of these plants in the outer edges of the marketing area vis a vis their competitors at whose plants lower location adjustments would apply.

In view of the above, specifying a maximum 20-cent location adjustment at any plant located in the marketing area will tend to insure the maintenance of market stability in the procurement of milk and its distribution by those handlers who are the principal suppliers of the urban areas in the outer fringes of the marketing area.

The specified maximum location adjustment at plants in the six eastern Oregon and central Washington counties of the marketing area should likewise be applicable at plants in Grant County, Wash. It is one of the seven counties at which a 20-cent location adjustment is now specified in the order.

A plant at Moses Lake (in Grant County) regulated under the Inland Empire order has substantial distribution in the Oregon-Washington marketing area in competition with Yakima County handlers. Although the Moses Lake plant is now an Inland Empire order pool plant, it could conceivably (because of its extensive distribution in the Oregon-Washington marketing area) become instead a pool plant under the Oregon-Washington order.

The location adjustment provided in the recommended decision, calculated at the location of the Moses Lake plant, is 42 cents. The location adjustment applicable at the Moses Lake plant under the Inland Empire order is 22 cents. Since the class I price under the two orders is the same, the cost of class I milk at the Moses Lake plant and at the Yakima County pool plants under the Oregon-Washington order (with the 20-cent location adjustment herein adopted) are virtually the same.

A handler exception to the recommended decision indicated that increasing the location adjustment (that would apply under the Oregon-Washington order at Moses Lake) from 20 cents to 42 cents would potentially accord the Moses Lake handler an undue advantage over the Oregon-Washington handlers with whom he competes, in both procurement costs and in sales. In effect, it was argued, a 42-cent location adjustment would give the Moses Lake handler a 22-cent advantage over his competitors.

It is concluded, therefore, that under current marketing conditions, maintaining the present 20-cent location adjustment in Grant County will contribute to orderly marketing in the central Washington portion of the marketing area, wherein there is extensive competition between the Moses Lake handler and handlers regulated by the Oregon-Washington order.

A proposal that all shipping plants be assigned a pro rata share of the Class I utilization at the transferee plant for the purpose of computing the location adjustment applicable to milk shipped is denied. The assignment of available Class I utilization at the transferee plant is now made first to receipts from plants at which no location adjustment is applicable and then in sequence beginning with receipts from the plant with the lowest location adjustment. This sequential assignment, which is commonly provided in Federal orders, discourages the unnecessary movement of milk between pool plants at the expense of producers.

The proposals to use Walla Walla as a basing point for determining location adjustments and to eliminate location adjustments in central Washington and eastern Oregon are denied. To provide f.o.b. central market pricing at these locations, or pricing on a basis different from that provided at similar locations in relation to the central market, would tend to defeat the purpose for which location differentials are provided.

4. *Class prices and classification*—(a) *Class I price.* The class I price (the basic formula price for the preceding month plus $1.95) should not be changed.

Certain producer associations in the market proposed that the present Class I price be retained in the order. A handler proposed reducing the class I price differential 10 cents, to $1.85, to achieve the same Class I price as in the Puget Sound order.

The Oregon-Washington market draws supplies from an area overlapping the supply areas of the Puget Sound and Inland Empire markets. The evidence at the hearing did not indicate conditions in regard to competition for supplies or sales with these other Federal order markets significantly different from those that prevailed at the inception of the Oregon-Washington order. Accordingly, the proposal for a reduction of 10 cents in the Class I price is denied.

The recommended decision proposed a 3-cent increase in the Class I differential, from $1.95 to $1.98. The basis for this increase was to obtain the same return to producers for milk in Class I sales that they now receive, after giving consideration to the effect of the revised location adjustment provisions adopted in this decision. Exceptions were filed to this increase on the basis that the supply-demand conditions in this market do not warrant an increase in the Class I price. Such an increase, it was asserted, would tend to encourage an even further increase in the relatively high rate of production relative to the market's Class I needs. In view of these considerations, the Class I price is not increased by the decision.

(b) *Class II price.* No change should be made in the Class II price on the basis of this record.

A handler proposed that the Class II price (which is the Class III price plus 25 cents) be reduced 15 cents. Such a reduction is justified, it was claimed, because (1) production for the market is more than adequate to meet its Class I and Class II needs, and (2) the Class II price in some other Federal orders is less than in the Oregon-Washington order. Producer spokesmen opposed a decrease in the Class II price.

The principal Class II products (fluid cream and cottage cheese) are handled by milk dealers in conjunction with their fluid milk plant operations and move through the same retail and wholesale outlets as their Class I business. Order handlers demand a regular supply of producer milk for their Class II uses. The proponent for a lower Class II price did not show or claim that alternative supplies of milk or milk products for Class II uses are obtainable at less than the present Class II price. Neither did he establish that a reduction in the Class II price is otherwise warranted. Accordingly, the proposal is denied.

(c) *Class II products.* No action should be taken on the basis of this record on proposals to (1) classify half and half (now Class I) in Class II; and (2) classify ice cream, ice cream mix, frozen desserts, sour cream mixtures, and aerated cream products (all now Class II) in Class III.

A handler requested that the proposed classification changes be adopted because (1) a number of Federal orders now so classify these products and (2) including these products in the lower-price classifications would assist in halting the loss of sales of such products to nondairy substitutes. Producers opposed the classification changes, contending that they would result in a reduction in the payments they receive for their milk.

At the inception of the order, half and half was classified in Class I and cream in Class II. Because of its lower butterfat content, half and half has been in a much better competitive position with nondairy substitutes than fluid cream has been. Moreover, there has been no apparent significant decline in half and half sales in the market since the inception of the order. It is not evident that including it in a lower priced class will result in increased sales of the product.

The above Class II products for which the handler proposed a Class III classification constitute a substantial and continuing outlet for reserve supplies of producer milk. Handlers require a supply of high quality milk to produce these products. Although there is no general requirement throughout the area that Grade A milk must be used in the manufacture of these products, handlers use Grade A milk for the production of such Class II products.

It cannot be concluded that producers would realize any gain at the present time by incorporating the proposed classification changes in the order or that the order market would otherwise be benefited. Alternative supplies to produce the various Class II products for which a Class III classification is proposed are not readily available at less than the Class II price in the order. The classification of these products under the Puget Sound order, for example, where handlers compete for sales outlets with local handlers for such products, is the same as under the Oregon-Washington order.

(d) *Cream in inventory.* Cream on hand at a plant at the end of the month should be classified in Class II when in packaged form and in Class III when in bulk. This parallels the basis for classifying a handler's month-end inventory of fluid milk products, which are Class I when in packaged form and Class III in bulk.

When cream is held in packaged form, it is reasonable to presume that it is intended for distribution as a Class II product, its normal utilization in such form. In the following month, inventory on hand at the beginning of the month, should be allocated directly to a handler's Class II utilization.

The order does not now make provision for classifying cream in inventory. The change herein adopted will specify a more complete accounting of the total receipts and disposition of the skim milk and butterfat in all cream handled at their plants, which accounting is necessary in order to determine the utilization of producer milk handled at their plants. This is because the cream handled in a plant derives from, and is intermingled with, the Class I operations of the handler.

As in the case of bulk fluid milk products, the final use of cream being held in bulk inventory is not necessarily apparent. The cream must be followed to its ultimate use, which may be in any class. Accordingly, it is reasonable to classify bulk cream in inventory in Class III and then apply a reclassification charge should the cream eventually be used in another class.

(e) *Interplant transfers.* If cream is transferred to another plant in packaged form, the skim milk and butterfat contained therein should be classified as Class II milk since it is moved in final form. The classification of cream when disposed of in bulk form however, is determinable only by following the movement of the cream to its final use. Thus, it is necessary that cream transferred in bulk form from a pool plant to another plant be classified in a manner similar to that used in classifying transfers of bulk fluid milk products. This is effectuated by the attached order language of this decision.

Transfers of both fluid milk products and cream in bulk from a pool plant to a nonpool plant, which transfers are not assigned to Class I, should be assigned first to the available Class III utilization at the nonpool plant and then to Class II. Such assignment of bulk fluid milk products is now made first to the nonpool plant's Class II utilization.

A cooperative proposed, with respect to fluid milk products, the change herein adopted. A nonpool plant which is an outlet for much of the cooperative's surplus producer milk produces substantial quantities of Class II and Class III products. The shipments to the manufacturing plant by the cooperative are intermingled at the manufacturing plant with milk received from its regular sources of supply. The manufactured products produced at the plant are not required to be made from milk from Grade A sources.

The change herein provided will facilitate the marketing of the reserve supplies of producer milk by enabling the disposal of such milk by regulated handlers to manufacturing outlets for Class III use even though there may be some Class II products manufactured at the plant. As a safeguard, however, the order should provide that the Class III classification of such transfers should be limited to the Class III utilization at the transferee plant.

To attempt to specify a priority to the Class II utilization in a nonpool manufacturing plant for fluid milk products and cream transferred to such a plant from a pool plant would be impractical. This is because such a nonpool plant's major supply would be ungraded milk, the price for which would tend to approximate the order Class III price.

It cannot be expected that the irregular supplies that a nonpool manufacturing plant might receive as surplus milk from Oregon-Washington handlers

would be worth more to it than the milk received from its regular suppliers. To provide a priority in the Class II utilization to receipts of order milk transferred to such plant would tend to disadvantage the regulated handler, since he would be obligated to the pool at the Class II price while receiving a manufacturing milk price (which would more nearly approximate the Class III price) for his surplus milk. Orderly marketing will be facilitated by this change.

The requirement that each container of cream for Class III uses transferred from a pool plant to a nonpool plant be "tagged" should be removed from the order. This provision accomplishes no purpose since the verification of the cream disposition must otherwise be established. Producers proposed the removal of the tagging requirement and there was no opposition to the proposal.

(f) *Evaporated milk.* As proposed, a Class III classification should be specified for producer milk used to produce evaporated milk. This will permit such use to remain as a competitive outlet for milk surplus to the needs of the Class I market. Evaporated milk made from milk priced under the order must compete in a national market with evaporated milk processed from other graded milk or from ungraded milk priced at a level comparable to the Class III price. The present order requires interpretation in this regard since it does not now specifically classify evaporated milk as a use in any class. There was no proposal to include it in a classification other than Class III.

5. *Expansion of the marketing area.* Lake County, Oreg., should not be added to the marketing area.

Sparsely populated Lake County (population 6,000) is in southern Oregon and is contiguous to Klamath County, which is in the marketing area.

The total Class I distribution in Lake County is from the plants of two producer-handlers, the Klamath County handler who proposed adding Lake County to the marketing area, and one other regulated handler.

The proponent stated that the proposal to add Lake County to the marketing area was not made to correct any existing marketing problem or in anticipation of resolving one that is likely to arise in the immediate future. He contended that adding Lake County to the marketing area would insure that any presently unregulated handler who extended his distribution into Lake County would have no advantage over presently regulated handlers.

The quantities of milk distributed by regulated handlers in Lake County are not a substantial portion of their total sales. Since there is no existing or apparent potential market disorder in unregulated Lake County which is affecting regulated handlers or their producers adversely, or is adversely affecting administration of the order, there is no basis for adding Lake County to the marketing area at this time. Accordingly, the proposal for extension of this area is denied.

6. *Computation of producer bases.* The 4 months in the preceding January–December period in which the average daily receipts of total producer milk were lowest (instead of the presently designated 5 months of August through December), should be used for determining the bases on which producers will be paid for their deliveries in the 12 months beginning February 1 of each year. As a corollary change, to accommodate the reduction in the base-making period from 5 months to 4 months, the minimum number of days of a producer's production that must be received at a pool plant or diverted as producer milk in the base-making period should be reduced from 120 days to 90 days.

The change in the base-making period herein adopted was proposed by a producer and was supported by various producer groups at the hearing. They contended that designating specific consecutive months as the base-making period encourages an unduly accelerated rate of production in such months relative to other months; and that using the 4 lowest months of total production as a base-making period is desirable in this market, since a large proportion of the producers on the market have historically been accustomed to such a base-making period.

In recent years the 4 lowest months of production fell within the months of October through February. August and September, which months are now included in the base-making period, have not apparently been among the 4 lowest months of production.

It can reasonably be expected that there will be some variation from year to year in the four months of the year in which the average daily producer deliveries will be lowest. Utilizing such 4 lowest months of production in determining producer bases will provide a more suitable period for such purpose than the specifically designated 5-month period of August through December now contained in the order.

The recommended decision provided that producer deliveries in January through December 1972 would be first used in determining producer bases on deliveries during the 4 lowest months of production. This would result in producers having bases assigned to them based on their deliveries during 1972 to be effective for the 12 months beginning February 1, 1973.

Exceptions on behalf of the great majority of producers under the order requested that the bases to become effective February 1, 1972 be based on their deliveries in the 4 lowest months of production in January through December 1971. This action, which was widely supported by producers and was not opposed at the hearing, is adopted in this decision.

Some producers urged that the base-making period for each individual producer be the average of his daily deliveries during his four lowest months of production. There is no basis for concluding that incorporating such provision in the order would tend to encourage even production throughout the year, a principal purpose for which a base plan was instituted in the market. On the basis of past market experience, it can be expected that the 4 months of the lowest production for the market will almost certainly fall within the 5-month period when milk is shortest relative to the market's needs. To enable a producer to establish a base on the basis of his deliveries in other months would serve no practical purpose and would tend to defeat, rather than effectuate, the intent of the base-excess plan in the order. The proposal, therefore, is denied.

7. *Application of the order to producer-handlers.* No change should be made at this time in the order provisions relating to producer-handlers.

The order designates as a producer-handler any person who operates a dairy farm and a milk processing plant from which fluid milk products are distributed on routes in the marketing area. In addition to the production of his own farm, such person may receive from pool plants packaged fluid milk products, other than whole milk, in an amount not in excess of an average of 100 pounds per day. He must also provide proof satisfactory to the market administrator that care and management of the dairy animals and other resources necessary to produce the entire volume of fluid milk products (excluding receipts from pool plants) and the operation of the processing and distribution business is his personal enterprise and is operated at his sole risk.

Producers proposed that the producer-handler definition be rewritten in a more detailed form as a means of further assuring that exemption from the pricing and pooling provisions of the order would be accorded only those persons who are bona fide producer-handlers. Except as it relates to transactions between producer-handlers and vendors, the proposed definition does not purport to change basically the requirements to qualify as a producer-handler.

Prior to and since the inception of the order in January 1970, Class I sales of producer-handlers have been a significant part of the total Class I sales in the market. About 7 percent of the total Class I sales in the market is made by approximately 75 producer-handlers. In February 1971, the latest month for which data were available at the hearing, producer-handler Class I sales were 3.7 million pounds. The total producer milk pooled in Class I that month was 48.7 million pounds. There has been no significant change in the number of producer-handlers under the order since its inception.

The principal change in the application of the order to milk of producer-handlers proposed by producers would require that payment be made to the producer-settlement fund at the difference between the Class I and Class III prices on a producer-handler's sales of fluid milk products to a vendor who also obtains packaged fluid milk products from a pool plant in the same month. The vendor would be responsible for making any payment thus incurred to the producer-settlement fund. A vendor would be defined as any person who does not operate a plant but who engages in the business of receiving fluid milk products from a plant for resale to retail or wholesale consumers via a mobile delivery vehicle.

The proposal to require a vendor to make payment to the producer-settlement fund on his purchases from a producer-handler was opposed by a major handler in the market. He contended that requiring such a payment in this market would unwarrantedly discriminate against vendors and their suppliers. A principal vendor in the market supplied by the handler has over an extended period of time relied on both the handler and a producer-handler for his needs on a regular basis.

The basis for the producer's proposal to require a payment to the producer-settlement fund on producer-handler's sales to a vendor is that producer-handlers could use vendors as outlets for the milk which is surplus to a producer-handler's Class I needs. Producers contended that this results in a producer-handler's surplus displacing Class I sales of pool milk. The record evidence did not establish, however, that this was happening to any disruptive extent in the market at the present time.

Although the apparent purpose of the producers' proposal is to provide more definitive requirements in the order for obtaining exemption as a producer-handler under the order than is now provided, their testimony was directed at what might develop under certain conditions instead of under existing conditions in the market. It was not shown that the present provisions for obtaining exemption from the order as a producer-handler are inadequate under current conditions in the market. Producer-handlers under the order have been relying basically on their own production for their Class I needs and have been marketing their own surplus. There is no indication that the activities of the producer-handlers are causing instability in the market or that they, as a group, are engaging in disruptive marketing practices.

The proposal to require a vendor supplied by both a producer-handler and a pool plant to pay the producer-settlement fund the difference between the Class I and Class III prices on his purchases from a producer-handler should not be adopted. Although producers stated that a vendor receiving milk from both a producer-handler and a pool plant in the same month affords producer-handlers an unwarranted advantage at the expense of the pool, the testimony failed to indicate to what extent, if any, such advantage was currently being realized by producer-handlers in the market.

The proposal to incorporate a vendor definition in the order and to designate a vendor as a handler therefore is denied. The proposal to this effect was made in connection with the proposal to require payments by a vendor on his purchases from a producer-handler. Since the proposal to provide for such a payment is not adopted by this decision, no purpose would be served by defining a vendor in the order and designating him as a handler.

8. *Miscellaneous changes*—(a) *Handler operating two or more pool plants.* Under certain conditions, the operation of each plant of a handler operating two or more pool plants should be considered separately in determining the classification of his producer milk receipts during the month.

At the present time, such a handler's classification of producer milk, and his net pool obligation, are calculated on the basis of the combined operation of his pool plants.

A handler operating two pool distributing plants proposed that each plant be considered as a separate unit for purposes of determining his net pool obligation. The handler, a corporation which operates two plants as separate entities, claims that combining the operations in the filing of monthly reports to the market administrator, as presently required, unnecessarily complicates the ascertainment of the obligation for producer milk allocable to each plant.

If a handler operating two or more pool plants receives during the month fluid milk products from either an unregulated supply plant or another order plant that is allocated to Class I, the handler's net pool obligation should continue to be computed on the basis of combining the operations of his plants. Otherwise, such a multiple plant operator could exploit the pool by allocating receipts from unregulated supply plants and other order plants to his plant with the highest Class I utilization, and thereby reduce the Class I that would be allocated to his producer milk.

Unless fluid milk products are received by a multiple plant handler from unregulated supply plants and/or other order plants, there is no need to require him to consider his total operation as a unit in determining his obligation for producer milk. If a multiple plant handler receives no fluid milk products during the month from unregulated supply plants or other order plants, the integrity of the classification plan will not be impaired by his computing his obligation for producer milk separately for each pool plant.

(b) *Receipts of fluid milk products priced by an order at a pool plant from an unregulated supply plant.* As proposed by producers, no pool charge should be made on fluid milk products received at a pool plant from an unregulated supply plant when it is determined that such fluid milk products have been priced as Class I under this or any other Federal order. When an unregulated supply plant makes Class I purchases from a regulated plant under any order, the obligation to the order pool at the Class I price has been met, and there is no justification for any additional charge. On any unpriced milk received from an unregulated supply plant, the Oregon-Washington order will continue to provide for payment to the producer-settlement fund at the difference between the Class I and uniform prices.

(c) *Offsetting payments due from against payments due to the producer-settlement fund.* The payments due from handlers for milk priced under the order are paid to the market administrator for deposit into the producer-settlement fund. The monies thus received are paid out of such fund for distribution to producers according to their deliveries. In some instances, handlers to whom the market administrator is required to make payment from the producer-settlement fund for distribution to producers may owe money to the producer-settlement fund, usually as a result of an audit adjustment. Under such circumstance, the market administrator should offset the payment due a handler, or any other person, from the producer-settlement fund against payments due from such person. It would be impractical to do otherwise. Accordingly, the order should specify that the market administrator shall offset the payment due to any person from the producer-settlement fund against payments due from such person.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

Evidence on a proposal to make certain changes in the order provision relating to the computation of producer bases was excluded from the record by the presiding officer. Offer of proof made by the party submitting the proposal has been reviewed. The action taken by the presiding officer on it is hereby reaffirmed on the basis that it was not within the scope of the hearing.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices

as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RULINGS ON EXCEPTIONS

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

MARKETING AGREEMENT AND ORDER

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an order amending the order regulating the handling of milk in the Oregon-Washington marketing area, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

REFERENDUM ORDER TO DETERMINE PRODUCER APPROVAL; DETERMINATION OF REPRESENTATIVE PERIOD; AND DESIGNATION OF REFERENDUM AGENT

It is hereby directed that a referendum be conducted and completed on or before the 30th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300 et seq.), to determine whether the issuance of the attached order as amended and as hereby proposed to be amended, regulating the handling of milk in the Oregon-Washington marketing area is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The representative period for the conduct of such referendum is hereby determined to be August 1971.

The agent of the Secretary to conduct such refendum is hereby designated to be James A. Burger.

Signed at Washington, D.C., on November 11, 1971.

RICHARD E. LYNG,
Assistant Secretary.

Order[1] *amending the order, regulating the handling of milk in the Oregon-Washington marketing area.*

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Oregon-Washington marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Oregon-Washington marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on August 24, 1971, and published in the FEDERAL REGISTER on August 27, 1971 (36 F.R. 17040) shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein subject to the following modifications in §§ 1124.2, 1124.9, 1124.22, 1124.41, 1124.51, 1124.52, and 1124.65.

1. A new § 1124.2 is added as follows:

§ 1124.2 Dairy farmer for other markets.

"Dairy farmer for other markets" means any person who produces milk in compliance with the inspection requirements of a duly constituted health authority and from whose farm milk is received by a pool handler, if such handler caused milk from the same farm that was produced in compliance with the inspection requirements of a duly constituted health authority to be delivered during the month to a nonpool plant (except an other order plant) as other than producer milk.

2. Section 1124.7 is revised as follows:

§ 1124.7 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) Any person in his capacity as the operator of a partially regulated distributing plant;

(c) A cooperative association with respect to milk of its member producers which is diverted from a pool plant for the account of such cooperative association;

(d) A cooperative association with respect to milk of its member producers which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association;

(e) A producer-handler; or

(f) Any person who operates another order plant described in § 1124.61.

3. Section 1124.9 is revised as follows:

§ 1124.9 Pool plant.

"Pool plant" means any plant meeting the conditions of paragraph (a) or (b) of this section except the plant of a handler exempt pursuant to § 1124.60 or § 1124.61: *Provided*, That if a portion of a plant is physically separated from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing, or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section:

(a) A distributing plant which during the month:

(1) Has route disposition (except filled milk) in the marketing area of 15 percent or more of its total receipts of Grade A milk (except packaged fluid milk products from other plants qualified under this paragraph, filled milk, and milk received at such plant as diverted milk from another plant, which milk is classified in Class III under this order and is subject to the pricing and pooling provisions of this or another order issued pursuant to the Act); and

(2) Has total route disposition, except as filled milk, both inside and outside the marketing area, of 30 percent or more of such receipts: *Provided*, That all distributing plants operated by a handler may be considered as one plant for the purpose of meeting the percentage requirements of this subparagraph if the handler submits a written request to the market administrator prior to the delivery period for which such consideration is requested.

(b) A supply plant from which not less than 50 percent in any month of October, November, and December, not less than 40 percent in any month of September, January, and February, and not less than 30 percent in any month of March through August, of the total quantity of milk that is physically received at such plant from dairy farmers eligible to be producers pursuant to § 1124.11 (excluding milk received at such plant as diverted milk from another plant, which milk is classified in class III under this order and is subject to the pricing and pooling provisions of this or another order issued pursuant to the Act) or diverted as producer milk to another plant pursuant to § 1124.13, is shipped in the form of a fluid milk product (except as filled milk) to a pool distributing plant or is a route disposition in the marketing area of fluid milk products (except filled milk) processed and packaged at such plant; *Provided*, That:

(1) With respect to a supply plant operated by a cooperative association, the producer milk of its members which it caused to be delivered directly from their farms to pool distributing plants shall, for the purpose of this paragraph, be considered as a receipt at the cooperative's supply plant and a shipment from the supply plant to pool distributing plants to the extent that the total quantity of the producer milk received at pool distributing plants directly from such producers' farms does not exceed the total quantity of milk shipped during the same month from the cooperative's supply plant to pool distributing plants;

(2) A plant which qualified as a pool plant pursuant to this paragraph in each month of September through February shall be a pool plant in each of the following months of March through August unless a written application is filed with the market administrator prior to the first day of any such month requesting that the plant be designated a nonpool plant for such month and each subsequent month through August during which it would not otherwise qualify as a pool plant; and

(3) For the purpose of this paragraph, the operations of two or more supply plants may be combined and considered as the operation of one plant if so requested in writing to the market administrator by the handler(s) operating such plants prior to the first day of the month for which such consideration is requested.

4. Section 1124.11 is revised as follows:

§ 1124.11 Producer.

"Producer" means any person, except a dairy farmer for other markets or a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk approved by a duly constituted health authority for fluid consumption, which milk is received at a pool plant or diverted therefrom within the limits set forth in paragraphs (a) and (b) of this section and subject to paragraphs (c), (d), (e) and (f) of this section. The term shall not include such person with respect to milk received at a pool plant from another order plant by diversion if both buyer and seller have requested Class III milk classification in the reports of receipts and utilization filed with the respective market administrators:

(a) A cooperative association may divert for its account to a nonpool plant the milk of any producer whose milk has been received previously at a pool plant and from whom at least three deliveries are received at a pool plant during the month, except that the aggregate quantity diverted may not exceed the aggregate quantity received during the month from all such producers at pool plants. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if each association has filed such a request in writing with the market administrator on or before the first day of the month such agreement is effective. This request shall specify the basis for assigning any over-diverted milk to the producer members of each cooperative association according to a method approved by the market administrator;

(b) A handler in his capacity as the operator of a pool plant may divert for his account to a nonpool plant the milk of any producer whose milk has been received previously at a pool plant and from whom at least three deliveries are received during the month at his pool plant(s) and who is not a member of a cooperative association which is diverting milk pursuant to paragraph (a) of this section during the month, except that the aggregate quantity diverted may not exceed the aggregate quantity received during the month from all producers at his pool plant(s);

(c) In the event milk receipts from dairy farmers are diverted in excess of the applicable percentages pursuant to paragraphs (a) and (b) of this section, the diverting handler shall designate the dairy farmers whose milk was overdiverted and such overdiversions shall not be considered producer milk. If the handler fails to make such designation, only the milk of the dairy farmers which is physically received at a pool plant(s) by the diverting handler shall be producer milk for such month;

(d) For the purposes of the requirements of § 1124.9, milk diverted for the account of the operator of a pool distributing plant, except an operator which is also a cooperative association diverting milk in the same month pursuant to paragraph (a) of this section, shall be included in the receipts of the pool plant from which diverted;

(e) For the purposes of location adjustments pursuant to §§ 1124.52 and 1124.83, any milk diverted shall be considered to have been received at the location of the plant to which diverted; and

(f) Milk moved from producers' farms to a nonpool plant may be diverted producer milk only if it is not fully subject to the pricing and pooling provisions of the other order and if both the diverting handler and the operator of the other order plant request Class IIII (or Class II) classification.

5. Section 1124.13(a)(3) is revised as follows:

§ 1124.13 Producer milk.

* * * * *

(a) * * *

(3) Diverted by the operator of such pool plant or by a cooperative association pursuant to § 1124.7(c) to a pool plant if both the diverting handler and the operator of the plant to which the milk is diverted have requested Class III classification on such diverted milk in their reports filed pursuant to § 1124.30;

* * * * * *

6. Section 1124.14 is revised as follows:

§ 1124.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Fluid milk products and cream from any source except:

(1) Producer milk; and

(2) Fluid milk products and cream from pool plants;

(b) Products other than fluid milk products and cream from any source (including those produced at the plant) which are reprocessed, converted into, or combined with another product in the plant during the month; and

(c) Any disappearance of any product other than a fluid milk product or cream that is in a form in which it may be converted into a Class I or Class II product and which is not otherwise accounted for under the order.

7. In § 1124.22 paragraphs (l), (m), and (n) are revised as follows:

§ 1124.22 Additional duties of market administrator.

* * * * * *

(l) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1124.46(a)(10) and the corresponding step of § 1124.46(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or cream from an other order plant, the classification to which such receipts are allocated pursuant to § 1124.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products or cream to an other order plant the classification to which such shipments were allocated by the market administrator of the other order on the basis of the report of the receiving handler, and, as necessary, any changes in

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

such classification arising from the verification of such report.

8. Section 1124.30(a)(4) is revised as follows:

§ 1124.30 Reports of receipts and utilization.

• • • • •

(a) • • •

(4) The pounds of skim milk and butterfat contained in all fluid milk products and cream on hand, separately in bulk and in packages, at the beginning and at the end of the month;

• • • • •

9. In § 1124.41, a new subparagraph (4) is added in paragraph (b) and subparagraphs (1) through (5) in paragraph (c) are revised as follows:

§ 1124.41 Classes of utilization.

• • • • •

(b) • • •

(4) In packaged cream in inventory at the end of the month; and

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce butter, butteroil, anhydrous butterfat, evaporated milk, condensed milk, or condensed skim milk (either plain or flavored) used to produce another Class III product in a pool plant or in a nonpool plant located within the marketing area, condensed buttermilk, cheese, except cottage cheese, sterilized products in hermetically sealed all-metal containers, nonfat dry milk, dried whole milk, livestock feed and blends of dried milk products;

(2) Contained in products which contain 6 percent or more of nonmilk fat or oil;

(3) In fluid milk products and cream dumped after prior notification to and opportunity for verification by the market administrator;

(4) Represented by the nonfat solids added to a fluid milk product which is in excess of an equivalent volume of such product prior to the addition;

(5) In inventory of bulk fluid milk products and bulk cream on hand at the end of the month;

• • • • •

10. Section 1124.44 is revised as follows:

§ 1124.44 Transfers.

Skim milk or butterfat shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk if transferred in the form of a fluid milk product or cream from a pool plant to the pool plant of another handler (or any pool plant if allocations pursuant to § 1124.46 are on an individual plant basis) subject to the following conditions:

(1) The skim milk or butterfat so assigned to each class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1124.46(a)(10) and the corresponding step of § 1124.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1124.46(a)(5) and the corresponding step of § 1124.46(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I milk utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1124.46(a)(9) or (10) and the corresponding steps of § 1124.46(b), the skim milk and butterfat so transferred shall be classified so as to assign to producer milk the greatest possible Class I utilization at both plants;

(b) As Class I milk if transferred as a fluid milk product in packaged form to a nonpool plant which is not an other order plant;

(c) As Class I milk if transferred or diverted in bulk in the form of a fluid milk product or cream to a nonpool plant that is not an other order plant, a producer handler plant or an exempt plant unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagarph (3) of this paragraph:

(1) The transferring or diverting handler claims classification in Class II or Class III in his report submitted pursuant to § 1124.30;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification, and

(3) The skim milk and butterfat so transferred or diverted shall be classified on the basis of the following assignment of utilization from such nonpool plant in excess of receipts of packaged fluid milk products from pool plants and other order plants:

(i) Any Class I milk utilization disposed in the marketing area on routes shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(ii) Any Class I milk utilization disposed of in the marketing area of another order on routes issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I milk utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I milk utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants;

(iv) To the extent that Class I milk utilization is not so assigned to it, the skim milk and butterfat so transferred or diverted shall be classified as Class III milk to the extent of such uses at the plant and then as Class II milk;

(v) To the extent that Class I or Class III utilization is not assigned to it, the skim milk and butterfat in cream so transferred shall be classified as Class II milk; and

(vi) If any skim milk or butterfat is transferred to a second plant under this paragraph, the same conditions of audit, classification, and allocation shall apply;

(d) As follows, if transferred or diverted in the form of a fluid milk product or cream to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph;

(1) If transferred in packaged form, classification shall be in the classes to which allocated under the other order;

(2) If transferred or diverted in bulk form, classification shall be in Class I milk, if allocated as a fluid milk product under the other order to Class I milk; in Class II milk, if allocated to Class II milk under an order which provides three classes; or in Class III milk, if allocated to Class III milk under the other order or if allocated to Class II milk under an order which provides only two classes (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class III milk to the extent of the Class III milk utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I milk subject to adjustment when such information is available;

(5) If the form in which any fluid milk product is transferred to any other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1124.41; and

(e) As Class I, if transferred as a fluid milk product to a producer-handler or to an exempt plant under § 1124.60 (a) or (b).

11. Section 1124.45 is revised as follows:

§ 1124.45 Computation of skim milk and butterfat.

For each month the market administrator shall correct for mathematical and other obvious errors reports of receipts and utilization submitted pursuant to § 1124.30 and shall compute the skim milk and butterfat in each class at all pool plants of such handler and the pounds of skim milk and butterfat in each class which was received from producers by a cooperative association handler pursuant to § 1124.7(d) and was not received at a pool plant.

(a) For the purpose of this section, producer milk for which a cooperative association is the responsible handler pursuant to § 1124.7(d) shall be treated separately from the operations of any pool plant(s) operated by such cooperative association for the purpose of allocation pursuant to § 1124.46 and computation of obligation pursuant to § 1124.70; and

(b) If no fluid milk products to be allocated pursuant to § 1124.46(a)(9) or (10) were received at any pool plant of a handler, the total pounds of skim milk and butterfat, respectively, in each class shall be computed for each pool plant of such handler and allocation pursuant to § 1124.46 and computation of obligation pursuant to § 1124.70 shall be made separately for each pool plant of the handler.

12. Section 1124.46 is revised as follows:

§ 1124.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1124.45, the market administrator shall determine each month the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk classified as Class III pursuant to § 1124.41(c)(6);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid products received in packaged form from other order plants as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) With respect to a plant that was fully regulated in the preceding month under this or any other Federal milk order providing for a similar allocation of beginning inventories of packaged fluid milk products:

(i) Subtract from the remaining pounds of skim milk in Class I the pounds of skim milk in packaged fluid milk products in inventory at the beginning of the month; and

(ii) Subtract from the pounds of skim milk in Class II the pounds of skim milk in packaged cream in inventory at the beginning of the month;

(5) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product or cream;

(ii) Receipts of fluid milk products (except filled milk) and cream for which Grade A certification is not established, or which are from unidentified sources;

(iii) Fluid milk products received or acquired for distribution from a producer-handler as defined under this or any other Federal order;

(iv) Receipts of milk from dairy farmers for other markets;

(v) Receipts of fluid milk products from an exempt plant; and

(vi) Receipts of reconstituted skim milk in filled milk from unregulated supply plants;

(6) Subtract, in sequence beginning with Class III milk in the order specified below, from the pounds of skim milk remaining in Class III milk and Class II milk:

(i) The pounds of skim milk in receipts of fluid milk products and cream from unregulated supply plants for which the handler requests Class III utilization, but not in excess of the skim milk remaining in Class III and Class II; and

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (5)(vi) of this paragraph, which are in excess of the pounds of skim milk determined as follows:

(a) Multiply the pounds of skim milk remaining in Class I milk by 1.25; and

(b) Subtract from the result the sum of the pounds of skim milk in producer milk, in receipts from pool plants of other handlers (or any pool plant if allocation is on an individual plant basis) and in receipts in bulk from other order plants;

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from another order plant in excess of similar transfers or diversions to such plant, but not in excess of the pounds of skim milk remaining in Class III milk (and Class II milk), if Class III utilization was requested by the transferee handler and the operator of the transferor plant requests the lowest class utilization under the order;

(7) Subtract from the pounds of skim milk remaining in each class in series beginning with Class III milk the pounds of skim milk in inventory of bulk fluid milk products and bulk cream (and for the first month in which a plant becomes a pool plant, the pounds of fluid milk products and cream in packaged form) on hand at the beginning of the month;

(8) Add to the remaining pounds of skim milk in Class III milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(9) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraphs (5)(vi) or (6) (i) or (ii) of this paragraph;

(10) Subtract, beginning with Class III milk, from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, in excess in each case, of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (6)(iii) of this paragraph pursuant to the following procedure:

(i) Such subtraction shall be pro rata to whichever of the following represents the higher proportion of Class III milk and Class II milk combined;

(a) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1124.22(1); or

(b) The pounds of skim milk remaining in each class at a pool plant(s) of the handler;

(11) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received from pool plants of other handlers (or any pool plant if allocation is on an individual plant basis) by transfer or diversion according to the classification assigned pursuant to § 1124.44(a); and

(12) If the remaining pounds of skim milk in all classes exceed the pounds of skim milk contained in milk received from producers, and from cooperative associations pursuant to § 1124.7(d), subtract such excess from the remaining pounds of skim milk in series beginning with Class III milk. Any amount so subtracted shall be known as overage;

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

13. Section 1124.52 is revised as follows:

§ 1124.52 Location adjustment to handlers.

(a) The Class I price for producer milk and other source milk (for which a location adjustment is applicable) at a plant 100 miles or more from the nearer of the Multnomah County Court House in Portland, Oreg., or the city hall in Eugene, Oreg., by the shortest hard-surfaced highway distance as determined by the market administrator, shall be reduced 15 cents and an additional 1.5 cents for each 10 miles or fraction thereof that

such distance exceeds 110 miles: *Provided,* That the location adjustment applicable at a plant located 100 miles or more from the nearer of such basing points but within the Oregon counties of Clatsop, Coos, Douglas, Lane, Lincoln, and Tillamook shall be not more than 10 cents and the location adjustment applicable at a plant located elsewhere in the marketing area or in Grant County, Wash., shall be not more than 20 cents; and

(b) For the purpose of calculating location adjustments, receipts of fluid milk products from pool plants shall be assigned any remainder of Class I milk at the transferee plant that is in excess of the sum of receipts of milk from producers and handlers pursuant to § 1124.7 (d) at such plant and that assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment shall be made first to receipts from plants at which no location adjustment is applicable pursuant to this section and then in sequence beginning with the plant with the lowest applicable location adjustment.

14. Section 1124.62(b)(2) is revised as follows:

§ 1124.62 Obligations of handler operating a partially regulated distributing plant.

* * * * * *

(b) * * *

(2) Deduct the respective amounts of skim milk and butterfat received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act; and

(ii) From a nonpool plant that is not an other order plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such nonpool plant by handlers under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order;

* * * * * *

15. Section 1124.65 is revised as follows:

§ 1124.65 Computation of producer bases.

Subject to the rules set forth in § 1124.66, the market administrator shall determine bases for producers in the manner provided in paragraphs (a) and (b) of this section:

(a) The daily base of each producer whose milk was received at a pool plant(s) or diverted as producer milk from a pool plant on not less than 90 days in the 4 months in each January-December period in which the average daily receipts of total producer milk are lowest shall be an amount computed by dividing such producer's total pounds of milk delivered in such base-earning period by the number of days of production represented by his deliveries. The base so computed shall be recomputed each year, shall become effective on the first day of February next following, and shall remain in effect through January of the next succeeding year: *Provided,* That for any dairy farmer:

(1) For whom information concerning deliveries during the base-earning period is available to the market administrator and who becomes a producer as a result of the plant to which his milk was delivered during the base-earning period subsequently being qualified as a pool plant, a daily base shall be computed pursuant to this paragraph; and

(2) Who was a producer-handler during the base-earning period, his base shall be the daily average of his own production of milk for 90 days or more during the base-earning period; and

(b) Any producer who is not eligible to receive a base computed pursuant to paragraph (a) of this section, shall have a monthly base computed by multiplying his deliveries to a pool plant(s) during the month by the appropriate monthly percentage in the following table:

January	70	July	55
February	70	August	60
March	65	September	60
April	55	October	65
May	45	November	70
June	50	December	70

16. Section 1124.66(a)(2) is revised as follows:

§ 1124.66 Base rules.

(a) * * *

(2) If such conveyance takes place after August 1 in 1971 (and after Jan. 1 in subsequent years), all milk delivered to pool plant(s) between August 1 in 1971 (and Jan. 1 in subsequent years) and the last day of the base-earning period specified in § 1124.65(a), inclusive, from the same herd (whether by the transferor or transferee producer) shall be utilized in computing the base of the transferee producer pursuant to § 1124.65(a);

* * * * * *

17. Section 1124.70 is amended as follows:

§ 1124.70 Computation of the net pool obligation of each pool handler.

* * * * * *

(c) Add the amount obtained from multiplying the Class III price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1124.46(a)(7) and the corresponding step of § 1124.46(b) for the current month.

(d) Add the amount obtained by multiplying the difference between the Class I price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1124.46(a)(4) and the corresponding step of § 1124.46(b). If the Class I price for the current month is less than the Class I price for the preceding month, the result shall be a minus amount;

(e) Add an amount equal to the difference between the Class I and Class III price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1124.46(a)(5) and the corresponding step of § 1124.46(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1124.46(a)(5)(vi) and the corresponding step of § 1124.46(b) the Class I price shall be adjusted to the location of the transferor plant (but the adjusted price not to be less than the Class III price); and

(f) Add the value at the Class I price, adjusted for the location of the nearest nonpool plant(s) from which an equivalent volume was received (but the adjusted price not to be less than the Class III price) of the skim milk and butterfat subtracted from Class I pursuant to § 1124.46(a)(9) and the corresponding step of § 1124.46(b), excluding such skim milk or butterfat in bulk receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk and butterfat disposed of to such plant by handlers under this or any other order issued pursuant to the Act is classified and priced as Class I milk and is not used as an offset on any other payment obligation under this or any other order.

18. Section 1124.80 is revised as follows:

§ 1124.80 Producer-settlement fund.

The market administrator shall maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments into such fund pursuant to §§ 1124.62 and 1124.81 and out of which he shall make all payments from such fund pursuant to § 1124.82: *Provided,* That the market administrator shall offset the payment due to a person from such fund against payments due from such person.

19. Section 1124.87(b) is revised as follows:

§ 1124.87 Expense of administration.

* * * * * *

(b) Other source milk allocated to Class I milk pursuant to § 1124.46(a)(5) and (9) and the corresponding steps of § 1124.46(b); and

* * * * * *

[FR Doc.71-16647 Filed 11-15-71;8:47 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 295]

CHILD PROTECTION PACKAGING STANDARDS

Extension of Time for Filing Comments

Four notices proposing child protection packaging standards have been published in the FEDERAL REGISTER: Aspirin preparations (September 1, 1971; 36 F.R. 17512), certain liquid furniture polishes (September 8, 1971; 36 F.R. 18012), certain liquid preparations containing methyl salicylate (September 29, 1971; 36 F.R. 19124), and substances subject to the Comprehensive Drug Abuse Prevention and Control Act of 1970 (October 15, 1971; 36 F.R. 20046).

The Commissioner of Food and Drugs has been requested to extend the time for filing comments regarding these proposals on the grounds that comment cannot be filed on the individual product proposals until the testing procedure proposed for use in determining compliance with the proposed child protection packaging standards is finalized. Accordingly, good reason therefor appearing, the time for filing comments is extended to the date that will be 60 days after an order is published in the FEDERAL REGISTER adopting § 295.10 *Testing procedure for special packaging* which was proposed July 20, 1971 (36 F.R. 13335).

This action is taken pursuant to provisions of the Poison Prevention Packaging Act of 1970 (secs. 2(4), 3, 5, 84 Stat. 1670–72; 15 U.S.C. 1471–74) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: November 5, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-16635 Filed 11-15-71;8:46 am]

Public Health Service

[42 CFR Part 90]

LEAD-BASED PAINT POISONING PREVENTION IN FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Notice of Proposed Rule Making

Section 401 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831) provides that the Secretary of Health, Education, and Welfare shall take appropriate action to prohibit the use of lead-based paint in residential structures constructed or rehabilitated by the Federal Government, or with Federal assistance in any form.

Notice is hereby given of a proposal to implement this provision by adding to Title 42, Code of Federal Regulations, a new Subchapter H, entitled "Lead-Based Paint Poisoning Prevention" and a new Part 90 as set forth below.

Inquiries may be addressed and data, views, and arguments may be submitted in writing, preferably in triplicate, to the Bureau of Community Environmental Management, Room 15–87, 5600 Fishers Lane, Rockville, Maryland 20852. All material received within 30 days following publication of this notice in the FEDERAL REGISTER will be considered. All comments in response to the proposed regulations will be available for public inspection during regular business hours at the foregoing address.

It is therefore proposed to amend Chapter I of Title 42 in the manner set forth below.

Chapter I of Title 42 is amended by adding a new Subchapter H and Part 90, to read as follows:

SUBCHAPTER H—LEAD-BASED PAINT POISONING PREVENTION

PART 90—LEAD-BASED PAINT POISONING PREVENTION IN FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Sec.
90.1 Scope.
90.2 Definitions.
90.3 Federal construction; prohibition against use of lead-based paint.
90.4 Federally assisted construction; prohibition against use of lead-based paint.
90.5 Reports to the Secretary.

AUTHORITY: The provisions of this Part 90 issued under sec. 401, 84 Stat. 2079; 42 U.S.C. 4831.

§ 90.1 Scope.

The regulations of this part are promulgated to implement the prohibition in section 401 of the Lead-Based Paint Poisoning and Prevention Act against the use of lead-based paint in residential structures constructed or rehabilitated by the Federal Government or with Federal assistance in any form and are applicable to all Federal agencies.

§ 90.2 Definitions.

Any term not defined herein shall have the meaning given it by the Act.

(a) "Act" means the Lead-Based Paint Poisoning Prevention Act (Public Law 91–695, 84 Stat. 2078).

(b) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved may be delegated.

(c) "Federal agency" means the United States and all executive departments, independent establishments, administrative agencies and instrumentalities of the United States, including corporations in which all or substantially all of the stock is beneficially owned by by the United States or by any of the foregoing departments, establishments, agencies and instrumentalities.

(d) "Agency Head" means the principal official of a Federal agency and includes those persons duly authorized to act in his behalf.

(e) "Lead-based paint" means any paint containing more than 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of liquid paints or in the dried film of paint already applied.

(f) "Residential structure" means the interior surfaces and those exterior surfaces readily accessible to children under 7 years of age of any house, apartment, or structure intended for human habitation including any institutional structure where persons reside such as an orphanage, boarding school dormitory, or extended-care facility.

§ 90.3 Federal construction; prohibition against use of lead-based paint.

No Federal agency shall, in any residential structure constructed or rehabilitated by such agency, use or permit the use of lead-based paint.

§ 90.4 Federally assisted construction; prohibition against use of lead-based paint.

(a) Each Agency Head shall issue regulations and take such other steps as in his judgment are necessary to prohibit the use of lead-based paint in any residential structures constructed or rehabilitated by such agency under any federally assisted program.

(b) Such regulations shall require the inclusion of appropriate provisions in contracts and subcontracts pursuant to which such federally assisted construction or rehabilitation is performed, prohibiting the use of lead-based paint, and shall include provisions for enforcement of that prohibition.

§ 90.5 Reports to the Secretary.

To assist the Secretary in fulfilling his responsibilities under the Act, each Federal agency shall furnish to the Secretary, not later than 3 months after the effective date of these regulations, a report of the steps it has taken to comply with this Part 90.

Dated: October 7, 1971.

VERNON E. WILSON,
Administrator, Health Services and Mental Health Administration.

Approved: November 1, 1971.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc.71-16644 Filed 11-15-71;8:47 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 71-SO-142]

PIPER PA–28–140 SERIES AIRPLANES

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation regulations by adding an airworthiness directive applicable to Piper PA–28–140 series airplanes.

There have been incidents of deterioration and rupture of engine oil radiator hose assemblies on the Piper PA–28–140 airplanes that have resulted in a loss of engine oil and subsequent engine stoppage.

Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require replacement of both hose assemblies at 1,000 hours' time in service on certain Piper Model PA–28–140 series airplanes.

Interested persons are invited to participate in the making of the proposed

rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Regional Counsel, Attention: Rules Docket, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of the Federal Aviation Regulations by adding the following new airworthiness directive:

PIPER. Applies to all PA-28-140 airplanes certified in all categories which have flexible engine-to-oil radiator hoses installed.

Unless already accomplished, for aircraft with flexible oil hose installations having 900 hours or more time in service, compliance with his airworthiness directive is required within the next 100 hours' time in service after the effective date of this airworthiness directive and thereafter at intervals not to exceed 1,000 hours' time in service from the last replacement except as otherwise specified.

NOTE: Early production aircraft equipped with rigid oil lines between oil radiator and engine, and airplanes with 50-inch-length hose assemblies, Piper Part No. 63901-69, installed at the time of manufacture are all exempt from this airworthiness directive.

To prevent possible rupture of oil hose assemblies 63794-16, 63901-16, or 61413-02, comply with paragraphs (a) and (c) or (b) and (c).

(a) Remove left and right radiator hose assemblies and install new left and right radiator hose assemblies, Piper Part No. 63794-16 or equivalent hose assemblies approved by Chief, Engineering and Manufacturing Branch, FAA, Southern Region, and thereafter at intervals not to exceed 1,000 hours' time in service.

(b) Hose assembly, Piper Part No. 63901-72 (46" length hose in lieu of 40" length) hose may be used and if installed in accordance with paragraph (c) no repetitive replacement is required.

(c) When reinstalling hose assemblies, Part No. 63794-16 or 63901-16, adjust the oil hoses to insure a clearance of 1¾" to 2" between oil hoses and the front exhaust stacks. Both oil hoses must be tied firmly together where they pass below the exhaust stacks. As the hose is routed to the rear of the engine, it must pass underneath and behind the electrical ground cable and in front of the lower of the two engine mount struts. The hose must be tied to the engine mount strut at this location so that a clearance of at least 2 inches is maintained between the oil hose and exhaust stack. Hose installation and routing of hose assembly Part No. 63901-72 will be the same as the above except that a minimum clearance of 3.0" between hose assembly and exhaust stacks must be maintained. Special care should be exercised in routing the 46" hose assembly (P/N 63901-72) to prevent chafing.

NOTE: If hose assembly hours cannot be determined, airplane hours will be used.

Issued in East Point, Ga., on November 5, 1971

W. R. RUCKER,
Acting Director, Southern Region.

[FR Doc.71-16626 Filed 11-15-71;8:45 am]

Office of Pipeline Safety

[49 CFR Part 192]

[Notice 71-6; Docket No. OPS-13]

MINIMUM FEDERAL SAFETY STANDARDS FOR GAS PIPELINES

Modification of Required Capacity of Pressure Relieving and Limiting Stations

The Department of Transportation is considering an amendment to § 192.201 (a) that would change the restriction on accidental pressure buildup in pipelines other than a low pressure distribution system which have a maximum allowable operating pressure (MAOP) of less than 60 p.s.i.g.

Under § 192.201(a)(1), pressure relieving and pressure limiting stations which are not in a low pressure distribution system must have enough capacity and be set to operate to prevent the pressure from exceeding the MAOP plus 10 percent or the pressure that produces a hoop stress of 75 percent of SMYS, whichever is lower.

It has come to the attention of the Department that when the MAOP is below 60 p.s.i.g., present day regulating equipment cannot accurately limit accidental overpressure to 10 percent above the MAOP. In this pressure range, a 10 percent difference in pressures between a regulator and a pressure relieving or limiting device is difficult and impractical to attain, and could result in an erratic and consequently hazardous operation. To rectify this condition, § 192.201(a)(1) would be revised to permit the pressure in pipelines with an MAOP of less than 60 p.s.i.g. but at least 12 p.s.i.g. to build up to the MAOP plus 6 p.s.i.g. The pressure in pipelines with an MAOP of less than 12 p.s.i.g. would be allowed to build up to the MAOP plus 50 percent. Since pressures below 60 p.s.i.g. will not produce a hoop stress of 75 percent of SMYS, this alternative pressure limitation was not included in the proposed amendment.

An overpressure limitation of 6 p.s.i.g. is considered a practical increment sufficient for proper functioning of regulating equipment used in pipelines with an MAOP between 12 and 60 p.s.i.g. At the same time, the 6 p.s.i.g. limitation is higher than necessary for adequate pressure control when the MAOP is below 12 p.s.i.g. Present day equipment is capable of functioning with precision in this low pressure range at increments less than 6 p.s.i.g. but more than 10 percent of MAOP.

The proposed revision of limits for accidental overpressure is an increase over the present 10 percent of MAOP limitation. However, the Department does not believe that safety of the system would be reduced since in recent years pipeline components have been designed and rated for at least 60 p.s.i.g., even though the MAOP of the system may have a much lower setting under § 192.619.

Interested persons are invited to participate in making the proposed amendment by submitting written information, views, or arguments. In particular, comments are requested on (1) the feasibility of adopting the 50 percent of MAOP limitation for pressures below 12 p.s.i.g., and (2) how the proposed amendment would affect the safe operation of pipelines. Submission received before December 15, 1971, will be considered with a view towards amending the proposal before final action is taken. Communications should identify the docket and notice numbers and be sent in duplicate to the Office of Pipeline Safety, Department of Transportation, 400 Sixth Street SW., Washington, DC 20590. All comments received will be available for examination at the Office of Pipeline Safety both before and after the closing date for comments.

This notice is issued under the authority of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. sec. 1671 et seq.), § 1.56(d) of the Regulations of the Office of the Secretary of Transportation (49 CFR 1.56(d)), and the redelegation of authority to the Director, Office of Pipeline Safety, dated November 6, 1968 (33 F.R. 16468).

In consideration of the foregoing it is proposed to amend § 192.201(a) of Title 49 of the Code of Federal Regulations to read as follows:

§ 192.201 Required capacity of pressure relieving and limiting stations.

(a) Each pressure relief station or pressure limiting station or group of those stations installed to protect a pipeline must have enough capacity, and must be set to operate, to insure the following:

(1) In a low pressure distribution system, the pressure must not cause the unsafe operation of any connected and properly adjusted gas utilization equipment.

(2) In pipelines other than a low pressure distribution system—

(i) If the maximum allowable operating pressure is at least 60 p.s.i.g., the pressure must not exceed the maximum allowable operating pressure plus 10 percent or the pressure that produces a hoop stress of 75 percent of SMYS, whichever is lower;

(ii) If the maximum allowable operating pressure is at least 12 p.s.i.g., but less than 60 p.s.i.g., the pressure must not exceed the maximum allowable operating pressure plus 6 p.s.i.g.; or

(iii) If the maximum allowable operating pressure is less than 12 p.s.i.g., the pressure must not exceed the maximum allowable operating pressure plus 50 percent.

Issued in Washington, D.C., on November 10, 1971.

JOSEPH C. CALDWELL,
Acting Director,
Office of Pipeline Safety.

[FR Doc.71-16645 Filed 11-15-71;8:47 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 74]

[Docket No. 19320]

COMMUNITY ANTENNA TELEVISION (CATV) SYSTEMS

Nationally Syndicated Programs; Extension of Time for Filing Comments

Order. Regarding amendment of § 74.1103(g)(2) of the Commission's rules and regulations, Docket No. 19320.

1. In the notice of proposed rule making in this proceeding (36 F.R. 19442), the Commission called for comments by November 8, 1971, and reply comments by November 18, 1971. By motion filed November 8, 1971, the Association of Maximum Service Telecasters, Inc., requested a 1-week extension of time so that comments may be filed by November 15, 1971, and reply comments by November 23, 1971. In support of its motion, MST cites "the unexpected press of other matters, including other CATV matters."

2. It does not appear that any other party or the public interest in general would be prejudiced if the requested extension is granted.

Accordingly, it is ordered, Pursuant to § 0.289(c)(4) of the Commission's rules and regulations, that the time for filing comments on the notice of proposed rule making in Docket No. 19320 is extended as follows: Comments are due on or before November 15, 1971, and reply comments due on or before November 23, 1971.

Adopted: November 8, 1971.

Released: November 9, 1971.

[SEAL] SOL SCHILDHAUSE,
Chief, Cable Television Bureau.

[FR Doc.71-16675 Filed 11-15-71;8:50 am]

Notices

DEPARTMENT OF THE TREASURY

Secret Service

[Delegation Order No. 1; (Rev. 6)]

DEPUTY DIRECTOR ET AL.

Delegation of Authority

By virtue of the authority vested in me by Treasury Department Order No. 129 (Revision No. 2) dated April 22, 1955, it is hereby ordered as follows:

1. The following officers of the U.S. Secret Service, in the order of succession enumerated, shall act as Director, U.S. Secret Service, during the absence or disability of the Director, or when there is a vacancy in such office:

1. Deputy Director.
2. Assistant Director—Protective Intelligence.
3. Assistant Director—Investigations.
4. Assistant Director—Protective Forces.
5. Assistant Director—Inspection.
6. Assistant Director—Administration.
7. Deputy Assistant Director—Inspection.
8. Inspectors, in order of their seniority as Inspectors.
9. Special Agent in Charge—New York.
10. Special Agent in Charge—Chicago.
11. Special Agent in Charge—San Francisco.

2. In the event of an enemy attack on the continental United States, all Special Agents in Charge of Secret Service field offices and protective details are authorized in their respective districts to perform any function of the Director, U.S. Secret Service, or the Secretary of the Treasury, whether or not otherwise delegated, which is essential to the carrying out of responsibilities otherwise assigned to them. The respective officers will be notified when they are to cease exercising the authority delegated in this paragraph.

[SEAL] JAMES J. ROWLEY,
Director, U.S. Secret Service.

[FR Doc.71-16679 Filed 11-15-71;8:50 am]

DEPARTMENT OF THE INTERIOR

National Park Service

BIG BEND NATIONAL PARK, TEX.

Notice of Public Hearing Regarding Wilderness Proposal

Notice is hereby given in accordance with the provisions of the Act of September 3, 1964 (78 Stat. 890, 892; 16 U.S.C. 1131, 1132), and in accordance with departmental procedures as identified in 43 CFR 19.5 that public hearings will be held beginning at 1 p.m. on January 15, 1972, in the Community Room, City Hall Building, 309 West Avenue D, Alpine, TX, for the purpose of receiving comments and suggestions as to the appropriateness of a proposal for the establishment of wilderness comprising about 523,800 acres within the Big Bend National Park. The park is located in Brewster County, in southwestern Texas.

A packet containing a draft master plan, preliminary wilderness study report, and draft environmental impact statements, and providing additional information about the proposal may be obtained from the Superintendent, Big Bend National Park, Big Bend National Park, Tex. 79834, or from the Director, Southwest Region, National Park Service, Old Santa Fe Trail, Post Office Box 728, Santa Fe, NM 87501.

A description of the preliminary boundaries and a map of the areas proposed for establishment as wilderness are available for review in the above offices and in Room 1013 of the Department of the Interior Building at 18th and C Streets NW., Washington, DC.

Interested individuals, representatives of organizations, and public officials are invited to express their views in person at the aforementioned public hearing, provided they notify the Hearing Officer, in care of the Superintendent, Big Bend National Park, Big Bend National Park, Tex. 79834, by January 12, of their desire to appear. Those not wishing to appear in person may submit written statements on the wilderness proposal to the Hearing Officer, at that address for inclusion in the official record, which will be held open for 30 days following conclusion of the hearing.

Time limitations may make it necessary to limit the length of oral presentations and to restrict to one person the presentation made in behalf of an organization. An oral statement may, however, be supplemented by a more complete written statement which may be submitted to the Hearing Officer at the time of presentation of the oral statement. Written statements presented in person at the hearing will be considered for inclusion in the transcribed hearing record. However, all materials so presented at the hearing shall be subject to determinations that they are appropriate for inclusion in the transcribed hearing record. To the extent that time is available after presentation of oral statements by those who have given the required advance notice, the Hearing Officer will give others present an opportunity to be heard.

After an explanation of the proposal by a representative of the National Park Service, the Hearing Officer, insofar as possible, will adhere to the following order in calling for the presentation of oral statements:

(1) Governor of the State or his representative.
(2) Members of Congress.
(3) Members of the State Legislature.
(4) Official representative of the county in which the proposed wilderness is located.
(5) Officials of other Federal agencies or public bodies.
(6) Organizations in alphabetical order.
(7) Individuals in alphabetical order.
(8) Others not giving advance notice, to the extent there is remaining time.

Dated: November 5, 1971.

IRA WHITLOCK,
Acting Deputy Director, National Park Service.

[FR Doc.71-16540 Filed 11-15-71;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

RETAILERS' INVENTORIES, SALES, PURCHASES AND NUMBER OF ESTABLISHMENTS

Notice of Consideration To Continue Survey

Notice is hereby given that the Bureau of the Census is considering a proposal to repeat in 1972 the Annual Retail Trade Survey which has been conducted each year under title 13, United States Code, sections 181, 224, and 225, to collect data covering year-end inventories, purchases, annual sales, and number of retail stores operated as of the end of the year. This survey covering 1971 is the only continuing source available on a comparable classification and timely basis for use as the benchmark for monthly inventory and purchases estimates. It also assists in establishing a benchmark for the geographic area distribution of sales.

Information and recommendations received by the Bureau of the Census indicate that the data will have significant application to the needs of the public, the distributive trades, and governmental agencies, and are not publicly available from nongovernment or other governmental sources.

Such a survey, if conducted, shall begin not earlier than 30 days after the publication of this notice in the FEDERAL REGISTER.

Reports will be required only from a selected sample of retail establishments in the United States. The sample will provide, with measurable reliability, statistics on the subjects specified above. Reports will be requested from sample stores based on their sales size, selection in Census list sample mail panel, and location in Census sample areas. A group of the largest firms, in terms of number of retail stores, will be requested to report their sales and number of stores by county; but those firms which are participating monthly in the Bureau's geographic area survey will be asked to report at the national level only.

Copies of the proposed forms and a description of the collection methods are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

Any suggestions or recommendations concerning the subject matter of the proposed survey, submitted in writing to the Director of the Bureau of the Census within 30 days after the date of this publication, will receive consideration.

Dated: November 10, 1971.

GEORGE H. BROWN,
Director, Bureau of the Census.

[FR Doc.71-16663 Filed 11-15-71;8:49 am]

Bureau of International Commerce

[File 23(70)16]

NORMAN WEDGE LTD., ET AL.

Order Denying Export Privileges for an Indefinite Period

In the matter of Norman Wedge, Ltd., 27 Queen Anne Street, London, W.1, England; Norman Wedge, 98 Deans Road, Wolverhampton, Staffordshire, England; Keith Hutt, 2 Chase End, Epsom, Surrey, England; respondents, File 23(70) 16.

The Director, Compliance Division, Office of Export Control, Bureau of International Commerce, U.S. Department of Commerce, has applied for an order denying to the above respondents all export privileges for an indefinite period because the said respondents, without good cause being shown, failed to furnish answers to interrogatories and failed to furnish certain records and other writings specifically requested. This application was made pursuant to § 388.15 of the Export Control Regulations (Title 15, Chapter III, Subchapter B, Code of Federal Regulations).

In accordance with the usual practice, the application for an indefinite denial order was referred to the Compliance Commissioner, Bureau of International Commerce, who after consideration of the evidence has recommended that the application be granted. The report of the Compliance Commissioner and the evidence in support of the application have been considered.

The evidence presented shows that the firm Norman Wedge, Ltd. is engaged as a dealer in automotive and tractor spare parts; the firm was previously located in Tipton, Staffordshire, England, and is now located at 27 Queen Anne Street, London, England; the respondent Norman Wedge is a principal of said firm; the respondent Keith Hutt acted as a representative of Norman Wedge, Ltd. in connection with the 1970 transactions hereinafter mentioned. The evidence also shows that in May 1969 the Wedge firm received tractor spare parts valued at $3,300 from a U.S. supplier and in July 1970 the said firm received two shipments of tractor spare parts valued at $26,000 exported from the United States by a different supplier. The evidence further shows that respondents knew that reexportation of said spare parts to certain destinations, including Cuba, was contrary to the provisions of the U.S. Export Control Regulations.

The Compliance Division is conducting an investigation to ascertain whether or not the commodities in question were reexported to an unauthorized destination.

It is impracticable to subpoena the respondents, and relevant and material interrogatories were served on them pursuant to § 388.15 of the Export Control Regulations. The respondents, also pursuant to said section, were requested to furnish certain specific documents relating to the aforesaid matters. Said respondents have failed to respond to said interrogatories or to furnish the documents requested as required by said section, and they have not shown good cause for such failure. I find that an order denying export privileges to said respondents for an indefinite period is reasonably necessary to protect the public interest and to achieve effective enforcement of the Export Administration Act of 1969.

Accordingly, it is hereby ordered:

I. All outstanding validated export licenses in which respondents appear or participate in any manner or capacity are hereby revoked and shall be returned forthwith to the Bureau of International Commerce for cancellation.

II. The respondents, their successors, assigns, representatives, agents and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States, in whole or in part, or to be exported, or which are otherwise subject to the Export Control Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any validated export license application; (b) in the preparation or filing of any export license application or reexportation authorization, or any document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control document; (d) in the carrying on of negotiations with respect to or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data in whole or in part exported or to be exported from the United States; and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondents, but also to their agents and employees and to any person, firm, corporation, or business organization with which they now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith.

IV. This order shall remain in effect until the respondents provide responsive answers, written information, and documents in response to the interrogatories heretofore served upon them or give adequate reasons for failure to do so, except insofar as this order may be amended or modified hereafter in accordance with the Export Control Regulations.

V. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Bureau of International Commerce, shall do any of the following acts directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondents, or whereby the respondents may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for any respondent, or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

VI. A copy of this order shall be served on respondents.

VII. In accordance with the provisions of § 388.15 of the Export Control Regulations, the respondents may move at any time to vacate or modify this Indefinite Denial Order by filing with the Compliance Commissioner, Bureau of International Commerce, U.S. Department of Commerce, Washington, D.C. 20230, an appropriate motion for relief, supported by substantial evidence, and may also request an oral hearing thereon, which, if requested, shall be held before the Compliance Commissioner, Washington, D.C., at the earliest convenient date.

This order shall become effective on November 16, 1971.

Dated: November 10, 1971.

RAUER H. MEYER,
Director, Office of Export Control.

[FR Doc.71-16652 Filed 11-15-71;8:48 am]

[File No. 23(71)-15]

SEUROLEC S.A. AND ALBERT ROLLAND

Order Extending Temporary Denial of Export Privileges

In the matter of Seurolec S.A. (Societe Europeene Electronique S.A.) and Albert Rolland, 39-41 rue de l'Est, 92 Boulogne-sur-Seine, France, and 41 East 42d Street, New York, NY 10017, respondents, File No. 23(71)-15.

An order temporarily denying export privileges for a period of 90 days was issued against the above respondents on August 19, 1971 (36 F.R. 16700). Said order was issued in connection with an investigation instituted by the Compliance Division (formerly designated Investigations Division) Office of Export

Control, Bureau of International Commerce. On the evidence presented there was reasonable basis to believe that respondents had made false statements to effect an exportation of strategic commodities from the United States and that respondents were participating in the exportation of strategic commodities from the United States and the reexportation of such commodities to unauthorized destinations in violation of the U.S. Export Control Regulations.

The Director of the Compliance Division has applied under § 388.11 of the Export Control Regulations for an extension of the temporary denial order until completion of administrative compliance proceedings. It is expected that a charging letter against the respondents which will contain allegations of violations of the Export Administration Act of 1969 will be issued in the near future. The charging letter will be transmitted for service on respondents and after such service they will have 30 days in which to answer the allegations thereof.

The application for extension of the temporary denial order has been considered by the Compliance Commissioner. He has found that such extension is reasonably necessary for the protection of the public interest. I confirm this finding. The Compliance Commissioner has recommended that the petition for extension be granted and that the temporary denial order be extended until completion of administrative compliance proceedings. I accept his recommendation.

Accordingly, it is hereby ordered:

I. The prohibitions and restrictions of the temporary denial order issued in this matter on August 19, 1971 (36 F.R. 16700) are hereby continued in full force and effect.

II. The respondents, their assigns, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States, in whole or in part, or to be exported, or which are otherwise subject to the Export Control Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any validated export license application; (b) in the preparation or filing of any export license application or reexportation authorization, or any document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control document; (d) in the carrying on of negotiations with respect to or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data in whole or in part exported or to be exported from the United States; and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondents, but also to their agents and employees and to any person, firm, corporation, or business organization with which they now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith.

IV. This order, unless hereafter amended, modified, or vacated in accordance with the provisions of the U.S. Export Control Regulations, shall remain in effect until the completion of administrative compliance proceedings which will result from the charging letter to be issued against respondents.

V. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Bureau of International Commerce, shall do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondents, or whereby the respondents may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transhipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for any respondent, or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transhipment, or diversion of any commodity or technical data exported or to be exported from the United States.

VI. A copy of this order shall be served upon the respondents.

VII. In accordance with the provisions of § 388.11(c) of the Export Control Regulations, the respondents may move at any time to vacate or modify this temporary denial order by filing an appropriate motion therefor, supported by evidence, with the Compliance Commissioner and may request an oral hearing thereon which, if requested, shall be held before the Compliance Commissioner in Washington, D.C., at the earliest convenient date.

Dated: November 10, 1971.

RAUER H. MEYER,
Director,
Office of Export Control.

[FR Doc.71-16653 Filed 11-15-71;8:48 am]

National Oceanic and Atmospheric Administration

POINT CLEAR REEF, MOBILE BAY, ALA.

Determination of Commercial Fishery Failure Due to Resource Disaster

Whereas, many individuals and firms in Alabama are engaged in harvesting, processing, and marketing oysters to meet consumer demand; and

Whereas, Point Clear reef in Mobile Bay has been an important contributing oyster resource having an area of 195 acres containing approximately 3,500 barrels of oysters worth $47,800 dockside, $95,500 retail or $200,000 to the local economy involving 129 oyster fishermen, eight oyster processors, and 53 retail outlets; and

Whereas, the entire 195 acre Point Clear reef is now unproductive of oysters as a result of depletion of dissolved oxygen in the aquatic environment; and

Whereas, this oxygen depletion and resulting damage to the Point Clear oyster reef resulted from a natural cause; and

Whereas, it is known that the damaged resource can be effectively and economically restored:

Now, therefore, as authorized representative of the Secretary of Commerce, I hereby determine that the foregoing circumstances constitute a commercial fishery failure due to a resource disaster within the meaning of subsection 4(b) of the Commercial Fisheries Research and Development Act as amended. Pursuant to this determination, I hereby authorize the use of funds appropriated under the aforementioned Act to restore the damaged oyster resouce in Mobile Bay, Ala.

HOWARD W. POLLOCK,
Acting Administrator, National Oceanic and Atmospheric Administration.

OCTOBER 29, 1971.

[FR Doc. 71-16648 Filed 11-15-71;8:48 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

AMERICAN CYANAMID CO.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 346(b)(5)), notice is given that a petition (FAP 2B2748) has been filed by American Cyanamid Co., Wayne, N.J. 07470, proposing that § 121.2571 *Components of paper and paperboard in contact with dry food* (21 CFR 121.2571) be amended to provide for the safe use of acrylonitrile-styrene-2-vinylimidazoline copolymer, acetate salt, as a surface size for paper and paperboard intended for contact with dry food.

Dated: November 5, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-16637 Filed 11-15-71;8:46 am]

[DESI 9472; Docket No. FDC-D-398; NDA No. 9-472]

CERTAIN PREPARATIONS CONTAINING ETHCHLORVYNOL; METHYPRYLON; ETHINAMATE; OR GLUTETHIMIDE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs for oral use:

1. Arvynol Capsules containing ethchlorvynol; Chas. Pfizer & Co., Inc., (International), 235 East 42d Street, New York, N.Y. 10017 (NDA 9-472).

2. Placidyl Capsules containing ethchlorvynol; Chas. Pfizer & Co., Inc. 14th and Sheridan, North Chicago, Illinois 60064 (NDA 10-021).

3. Noludar Tablets and Capsules containing methyprylon; Roche Laboratories, Division of Hoffmann-La Roche Inc., 340 Kingsland Avenue, Nutley, N.J. 07110 (NDA 9-660).

4. Valmid Tablets containing ethinamate; Eli Lilly & Co., 307 East McCarthy, Indianapolis, Ind. 46206 (NDA 9-750).

5. Doriden Capsules and Tablets containing glutethimide; Ciba Pharmaceutical Co., Division of Ciba Corp., 566 Morris Avenue, Summit, N.J. 07901 (NDA 9-519).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such drug without approval.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that these drugs:

1. Are effective for use as hypnotics.

2. Are possibly effective for their labeled indications relating to use as sedatives, tranquilizers, or anticonvulsants, and

3. Lack substantial evidence of effectiveness as labeled for use as muscle relaxants.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* Such preparations are in tablet or capsule form suitable for oral administration.

2. *Labeling conditions.* a. The labels bear the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drugs are labeled to comply with all requirements of the act and regulations. The labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section is as follows:

INDICATIONS

Indicated for use as a hypnotic.
(The possibly effective indications may also be included for 6 months.)

3. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study, published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling, an abbreviated supplement for updating information, and adequate data to show the biologic availability of the drug in the formulation which is marketed as described in paragraph (a)(1)(i), (ii), and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application, to include adequate data to assure the biologic availability of the drug in the formulation which is or is intended to be marketed as described in paragraph (a)(3)(ii) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

d. For indications for which the drug has been classified as possibly effective (not included in the "Indications" section above), continued use as described in paragraphs (d), (e), and (f) of that notice.

C. *Opportunity for a hearing.* 1. The Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of all new-drug applications and all amendments and supplements thereto providing for the indications for which substantial evidence of effectiveness is lacking as described in paragraph A.3 of this announcement. An order withdrawing approval of the applications will not issue if such applications are supplemented, in accord with this notice, to delete such indications. Any related drug for human use, not the subject of an approved new drug application, offered for the indications for which substantial evidence of effectiveness is lacking may be affected by this action.

2. In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the holders of any such applications, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why such indications should not be deleted from labeling. A request for a hearing must be filed within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

3. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing, together with a well-organized and full-factual analysis of the clinical and other investigational data that the objector is prepared to prove in a hearing. Any data submitted in response to this notice must be previously unsubmitted and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

4. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

A copy of the Academy's report has been furnished to each firm referred to above. Communications forwarded in response to this announcement should be identified with the reference number DESI 9472, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.
Original abbreviated new-drug applications (identify as such); Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.
Request for Hearing (identify with docket number): Hearing Clerk, Office of General Counsel (GC-1), Room 6-88, Parklawn Building.
Requests for the Academy's report: Drug Efficacy Study Information Control (BD-67), Bureau of Drugs.
All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

Received requests for a hearing may be seen in the office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355)

and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: October 19, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-16636 Filed 11-15-71;8:46 am]

HAZLETON LABORATORIES

Notice of Filing of Petition for Food Additive

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 2A2739) has been filed by Hazleton Laboratories, 9200 Leesburg Turnpike, Vienna, Va. 22180, proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for the safe use of calcium sucrose phosphates to impart noncariogenic properties to chewing gums containing sugar.

Dated: November 5, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-16639 Filed 11-15-71;8:46 am]

HAZLETON LABORATORIES, INC.

Notice of Withdrawal of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Hazleton Laboratories, Inc., A subsidiary of TRW, Inc., Post Office Box 30, Falls Church, Va. 22046, has withdrawn its petition (FAP 1A2575), notice of which was published in the FEDERAL REGISTER of August 19, 1970 (35 F.R. 13222), proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for the safe use of propylene carbonate as a component of a defrost fluid in food freezing equipment.

Dated: November 5, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-16638 Filed 11-15-71;8:46 am]

[Docket No. FDC-D-366; NADA No. 8-321V]

E. R. SQUIBB & SONS, INC.

Narton; Notice of Withdrawal of Approval of New Animal Drug Application

A notice of opportunity for a hearing proposing to withdraw approval of NADA (new animal drug application) No. 8-321V for Narton, was published in the FEDERAL REGISTER of September 3, 1971 (36 F.R. 17670).

E. R. Squibb & Sons, Inc., Agricultural Research Center, Three Bridges, N.J. 08887, holder of said NADA did not file a written appearance of election regarding whether or not they wished to avail themselves of the opportunity for a hearing within the 30-day period provided for such filings in said notice. This is construed as an election by said firm not to avail themselves of the opportunity for a hearing.

Based on the grounds set forth in the notice and the response to said notice, the Commissioner of Food and Drugs concludes that approval of said NADA should be withdrawn. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under the authority delegated to the Commissioner (21 CFR 2.120), approval of NADA No. 8-321V, including all amendments and supplements thereto, is hereby withdrawn effective on the date of publication of this document.

Dated: November 4, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-16640 Filed 11-15-71;8:46 am]

[Docket No. FDC-D-367; NADA No. 10-630V]

WYETH LABORATORIES, INC.

Equanil (Meprobamate Tablets) Veterinary; Notice of Withdrawal of Approval of New Animal Drug Application

A notice of opportunity for a hearing proposing to withdraw approval of NADA (new animal drug application) No. 10-630V for the drug Equanil was published in the FEDERAL REGISTER of September 3, 1971 (36 F.R. 17671).

Wyeth Laboratories, Inc., Post Office Box 8299, Philadelphia, Pa. 19101, holder of said NADA, did not file a written appearance of election regarding whether or not they wished to avail themselves of the opportunity for a hearing within the 30-day period provided for such filing in said notice. This is construed as an election by said firm not to avail themselves of the opportunity for a hearing.

Based on the grounds set forth in said notice and the response to said notice, the Commissioner of Food and Drugs concludes that approval of said NADA should be withdrawn. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120), approval of new animal drug application No. 10-630V, including all amendments and supplements thereto, is hereby withdrawn effective on the date of publication of this document.

Dated: November 4, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-16641 Filed 11-15-71;8:46 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23976; Order 71-11-39]

AERLINTE EIREANN TEORANTA

Statement of Tentative Findings and Conclusions and Order To Show Cause

On August 18, 1971, the Government of the United States notified the Government of Ireland by diplomatic note,[1] in accordance with Article 9 of the United States-Ireland Air Transport Services Agreement of February 3, 1945, as amended,[2] that 1 year from the date of the note, the rights granted to the Government of Ireland for its designated airlines to serve New York, as described in amended paragraph B of the Annex, would be terminated.

The U.S. Government announced that this action was taken with great reluctance, but was a result of the failure to obtain an equitable balance in the Agreement after 25 years of discussion and negotiations, the latest of which occurred during August 1971, in Washington without agreement.

Under the 1945 Agreement, as amended, Ireland was granted landing rights at New York, Boston, and Chicago and the United States received rights at Shannon only. These U.S. points have proven to be more valuable for the Irish airline than Shannon alone for U.S. airlines.

The foreign air carrier permit for the designated Irish carrier, Aerlinte Eireann Teoranta (Aerlinte), was granted after notice and public hearing in which the Board found that the applicant was fit, willing, and able to perform such transportation and that such transportation was in the public interest. At the time the Board's public interest finding for the services authorized rested largely on the provisions of the Air Transport Services Agreement.[3]

The Board determined that the public convenience and necessity required U.S. air carrier services at Dublin as early as 1946.[4] However, the public has been denied the benefits of these services through the refusal of the Government of Ireland to grant Dublin landing rights to U.S. air carriers.

The notice of the U.S. Government to the Government of Ireland of a change in the terms of the Air Transport Services Agreement in force between them, the inequitable imbalance of opportunities for the carriers of both nations, and the denial of the public benefits that would accrue were U.S. carriers enabled by the Government of Ireland to operate services at Dublin causes the Board tentatively to find and conclude that the public interest requires the amendment of the permit held by Aerlinte so as to delete New York, effective August 18, 1972.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, particularly sections 102(d) and 402(f) thereof,

It is ordered, That:

1. Aerlinte and any other interested persons be and they are hereby directed to show cause why the Board should not issue an order which would make final the tentative findings and conclusions herein and which would, subject to the approval of the President, amend the foreign air carrier permit held by said carrier so as to delete its authority to serve New York as of August 18, 1972.

2. Interested persons will be given 20 days from the service date of this order to show cause why the tentative findings and conclusions set forth herein should not be made final.[5] We expect such persons to support such objections with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If any evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant and material facts he would expect to establish through such a hearing. General, vague, or unsupported objections will not be entertained.

3. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein.

4. If timely and properly supported objections are filed, further consideration will be accorded the matters and issues raised by any memoranda in opposition before further action is taken by the Board; *Provided*, That the Board may proceed to enter an order in accordance with the tentative findings and conclusions herein if it determines that there are no factual issues presented which warrant the holding of an evidentiary hearing.

5. This order shall be served on Aerlinte.

This order shall be published in the FEDERAL REGISTER.

Adopted: November 10, 1971.

By the Civil Aeronautics Board.[6]

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-16664 Filed 11-15-71;8:49 am]

[1] No. 181, Department of State, Aug. 18, 1971.

[2] Article 9: "This agreement or any of the rights for air transport services granted thereunder may * * * be terminated by either contracting party upon giving 1 year's notice to the other contracting party." 51 Stat. 319.

[3] Order E-1133, approved Jan. 20, 1948, Docket 3092.

[4] Order 4996, effective July 19, 1946, authorized Pan American to serve Dublin, but service was never inaugurated.

[5] Since provision is made for response to this order, petitions for reconsideration of this order will not be entertained.

[6] Browne, Chairman, Gillilland, Vice Chairman, Minetti, Murphy and Timm, Members, concurred in the above statement and order.

FEDERAL COMMUNICATIONS COMMISSION

[FCC 71-1134]

ITT WORLD COMMUNICATIONS, INC., ET AL.

Memorandum Opinion and Order Designating Matter for Hearing

In the matter of ITT World Communications Inc., Complainant v. The Western Union Telegraph Co., Defendant; Tropical Radio Telegraph Co., Complainant v. The Western Union Telegraph Co., Defendant; RCA Global Communications, Inc., Complainant v. The Western Union Telegraph Co., Defendant; and Western Union International, Inc., Complainant, v. The Western Union Telegraph Co., Defendant; Docket No. 19344. Complaints, pursuant to section 208 of the Communications Act of 1934, demanding compensation for expenses incurred in the handling of messages on behalf of The Western Union Telegraph Co.

1. The Commission has before it:

(a) A formal complaint filed by ITT World Communications Inc. (ITT) on April 30, 1971 against the Western Union Telegraph Co. (Western Union) in which ITT claims compensation in the amount of $240,566 plus interest, for performing for Western Union certain services incident to overseas message handling during 1968-1969;

(b) A formal complaint filed by Tropical Radio Telegraph Co. (Tropical) on July 6, 1971 against Western Union claiming compensation in the amount of $29,806 plus interest, generally similar to the ITT claim;

(c) A formal complaint filed by RCA Global Communications, Inc. (RCA) on July 12, 1971 against Western Union claiming compensation in the amount of $161,016 plus interest, also generally similar to the ITT claim;

(d) A formal complaint filed by Western Union International, Inc. (WUI) on August 2, 1971 against Western Union claiming compensation in the amount of $175,720 plus interest, also generally similar to the ITT claim; and

(e) Various notices and pleadings relating to these four complaints, including answers by Western Union contesting such claims.

2. The services for which compensation are sought were performed between either May 1, 1968, or October 1, 1968, and October 31, 1969 and relate to international telegraph messages filed over the Western Union telegraph system by subscribers to that system. From May 1, 1968 until October 1, 1968 ("CD" period) Western Union had arrangements in effect whereby a telex subscriber could, by dialing specific numbers, specify that his message was to be transferred either to a designated international carrier or to the so-called "unrouted" pool for distribution to an international carrier under the section 222 formula prescribed by the Commission. These messages (except for those routed via Tropical) were carried to the Western Union "CD" office in New York City, and then transferred to the complainants. Messages routed via Tropical, which does not operate in New York were taken to another Western Union office and then transferred to Tropical. Both ITT and RCA allege that during this period they performed certain services in connection with messages transferred to them which were normally performed by Western Union.

3. Subsequently, starting October 1, 1968 ("direct access" period) a different method of handling was instituted by agreement of Western Union and complainants (except Tropical), under which messages routed by the sender via a particular carrier were transmitted directly to the operating room of the specified carrier in New York City (and Fort Lauderdale, Fla., in the case of Tropical). Unrouted messages were handled through the Western Union CD office in New York as before. Under the agreements, complainants were to be reimbursed for assuming certain handling functions, but the amount of compensation was left for later resolution and was to be subject to Commission approval. Unsuccessful efforts were made to reach an accord on the amounts to be paid, and, thus all complainants herewith are seeking Commission determination of this matter. On October 31, 1969, a further change was made by Western Union in the handling of this traffic, under which it is routed to Greensboro, N.C. (and Atlanta for Tropical), prior to transfer to the international carriers. More recently the Commission ruled that domestic telex users may, at their expenses, make a telex call directly to an international carrier to file an overseas message.

"DIRECT ACCESS" PERIOD

4. The amounts claimed in the four complaints, ascertained by slightly different methods, are as follows:

	ITT	Tropical	RCA	WUI
"CD" Period (5/1/68-9/30/68)	$35,475	.....	$23,669	.....
"Direct Access" Period (10/1/68-10/31/69)	205,091	$29,806	137,347	$175,720
Total claim	240,566	29,806	161,016	175,720

5. Western Union denies any liability with respect to functions performed during the "CD" period for which ITT and RCA request compensation, asserting that such functions were performed by complainants prior to that time. It concedes that during the "direct access" period the international carriers had performed certain additional functions, but, although denying knowledge as to the extent of such functions and demanding strict proof thereof, states that the estimated value of such functions did not exceed 13 cents per message. (ITT alleges 63 cents, Tropical alleges 78 cents, RCA alleges 57 cents, and WUI alleges 66 cents, per message.) Western Union also disputes complainant's claims

as to the number of messages handled, and generally arrives at a much lower figure than the amounts claimed.

6. Under section 207 of the Communications Act of 1934, a civil suit for recovery of money damages for which a carrier may be liable under the Communications Act may be brought either in federal district court or before this Commission. Jurisdiction over the complaints may be found in sections 222 and 201 of the Act. Since all four complaints are based on similar and contemporary facts, the Commission at this time hereby joins these matters for hearing.

Wherefore, it is ordered, That pursuant to sections 4(i), 4(j), 201, 206, 207, 208, 209, and 222 of the Communications Act of 1934, a hearing shall be held on these complaints at the Commission's Offices in Washington, D.C. at a time to be specified; and, that a hearing examiner shall be designated to preside in this complaint proceeding, who shall prepare an initial decision on the issues in this proceeding as provided in § 1.267 (47 CFR 1.267) of the Commission's rules. This initial decision shall be subject to the submission of exceptions and requests for oral argument as provided in §§ 1.276 and 1.277 of the Commission's rules (47 CFR 1.276 and 1.277) after which the Review Board shall issue its decision as provided in § 0.365 of the rules (47 CFR 0.365).

It is further ordered, That, without in any way limiting the scope of the proceeding, it shall include inquiry into the following issues:

1. Based upon applicable provisions of law, Commission rulings and agreements, understandings and arrangements between Western Union and the complainants, what were the respective responsibilities of Western Union and the complainants for providing the various operations required in the handling of telex initiated international telegraph service:

(a) Before May 1, 1968,

(b) During the "CD" period from May 1, 1968, to September 30, 1968,

(c) During the "direct access" period from October 1, 1968, to October 31, 1969; and

(d) Subsequent to October 31, 1969.

2. Were any operations which should have been performed by Western Union, in fact, partly or wholly performed by any of the complainants during the period May 1, 1968–September 30, 1968, and the period October 1, 1968–October 30, 1969.

3. To the extent that the complainants did, in fact, perform any operations which should have been performed by Western Union, what, in light of all the facts and circumstances, should be the measure and amount, if any, of damages which Western Union should be required to pay to each of the complainants.

It is further ordered, That, ITT, Tropical, RCA, WUI, and Western Union and the Chief, Common Carrier Bureau are made parties to the proceedings.

Adopted: November 3, 1971.

Released: November 8, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-16676 Filed 11-15-71;8:50 am]

FEDERAL MARITIME COMMISSION

[Docket No. 71-85]

AIR-MAR SHIPPING, INC.

Independent Ocean Freight Forwarder Application; Order of Investigation and Hearing

By letter dated October 5, 1971, Air-Mar Shipping, Inc., El Imparcial Building, Room 407, 400 Comercio Street, Old San Juan, PR 00903, was notified of the Federal Maritime Commission's intent to deny its application for an independent ocean freight forwarder license.

Reasons for the intended denial were that the applicant engaged in at least 20 instances of illegal freight forwarding without a license and on at least two occasions denied the existence of any instances of such illegal forwarding, in apparent violation of section 44(a), Shipping Act, 1916.

Air-Mar Shipping, Inc., has requested a hearing to show that denial of the application is unwarranted.

Therefore, it is ordered, Pursuant to sections 22 and 44 of the Shipping Act, 1916 (46 U.S.C. 821 and 841(b)) that a proceeding is hereby instituted to determine whether, in view of its past activities, Air-Mar Shipping, Inc., is fit, willing, and able properly to carry on the business of forwarding and to conform to the provisions of the Shipping Act, 1916, within the meaning of that statute; and whether its application should be granted or denied.

It is further ordered, That this proceeding determine whether Air-Mar Shipping, Inc., has violated section 44(a), Shipping Act, 1916.

It is further ordered, That Air-Mar Shipping, Inc., be made respondent in this proceeding and that the matter be assigned for hearing before an Examiner of this Commission's Office of Hearing Examiners on a date and place to be announced.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and a copy thereof and notices of hearing be served on the respondent.

It is further ordered, That any persons other than the respondent, who desire to become a party to this proceeding and to participate therein, shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, with a copy to respondent.

[1] Commissioner Johnson absent.

It is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-16656 Filed 11-15-71;8:48 am]

[Docket No. 71-86]

TWIN EXPRESS, INC.

General Increases in Rates in the U.S. Atlantic and Puerto Rico Trade; Order of Investigation and Suspension

Twin Express, Inc., filed with the Federal Maritime Commission Supplement No. 1 to its Tariff FMC–F No. 1, to become effective September 5, 1971, and later postponed until November 13, 1971. This supplement generally increases the rates and charges in the subject trade.

Upon consideration of said supplement, the Commission is of the opinion that the above designated tariff matter may be unjust, unreasonable, or otherwise unlawful and that a public investigation and hearing should be instituted to determine its lawfulness under section 18(a) of the Shipping Act, 1916, and/or sections 3 and 4 of the Intercoastal Shipping Act, 1933.

One of the cost factors which Twin Express, Inc., has submitted to the Commission as justification for its proposed increase in rates is the 18 percent cost increase in the purchase of transportation from its underlying water carriers effective August 25, 1971, which were also postponed until November 13, 1971, pursuant to the President's Executive Order of August 15, 1971, and continue to be postponed pursuant to Executive Order 11627 of October 16, 1971. Although it cannot be determined at this time that the full 26 percent increase proposed by Twin Express is justified, the Commission is of the opinion that the full exercise of suspension authority would not be warranted. The Commission believes, therefore, that in consideration of increased cost in the purchase of transportation, that as an interim measure an increase in rates in the amount of 18 percent would not be unreasonable, even though the latter increase would be more than adequate to offset the former.

Under the circumstances, and pursuant to our authority under section 2 of the Intercoastal Shipping Act, 1933, the Commission hereby waives the 30-day notice requirements. The Commission, therefore, grants authority to Twin Express to publish and file a consecutively numbered supplement to its Tariff FMC–F No. 1 on not less than 10 days' notice, publishing a script clause notation to provide for a percentage increase not to exceed 18 percent: *Provided, however,* That such increase may not be permitted until such time as authorized by the provisions of Executive Order 11627; therefore:

It is ordered, That pursuant to the authority of section 22 of the Shipping Act, 1916, and sections 3 and 4 of the Intercoastal Shipping Act, 1933, an investigation is hereby instituted into the lawfulness of said increased rates and charges with a view to making such findings and orders in the premises as the facts and circumstances warrant. In the event the matter hereby placed under investigation is further changed, amended or reissued, such matter will be included in this investigation;

It is further ordered, That pursuant to section 3, Intercoastal Shipping Act, 1933, Supplement No. 1 to Tariff FMC–F No. 1 is suspended and the use thereof deferred to and including March 12, 1972, unless otherwise ordered by this Commission;

It is further ordered, That there shall be filed immediately with the Commission by Twin Express, Inc., a consecutively numbered supplement to the aforesaid tariff which supplement shall bear no effective date, shall reproduce the portion of this order wherein the suspended matter is described and shall state the aforesaid matter is suspended and may not be used until March 13, 1972, unless otherwise authorized by the Commission; and the rates and charges heretofore in effect, and which were to be changed by the suspended matter shall remain in effect during the period of suspension, except as hereinbefore provided, and neither the matter suspended, nor the matter which is continued in effect as a result of such suspension may be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission: *Provided, however,* That changes in rates and provisions held in effect by reasons of suspension in this docket but only to the extent that such changes will result in a reduction in rates or charges, upon lawful notice, are hereby authorized.

It is further ordered, That the granted authority to effect reductions in rates or charges does not prejudice the right of the Commission to suspend any publication submitted pursuant thereto, either upon receipt of protests or upon the Commission's own motion, and that publications issued and filed pursuant to such authority shall bear the notation: "Authority granted by the Federal Maritime Commission in its Order of Investigation and Suspension in Docket No. 71–86 to make changes in rates and provisions held in effect by reason of suspension in said Docket, but only to the extent that such departure will result in a reduction of rates or charges."

It is further ordered, That copies of this order shall be filed with the said tariff schedules in the Bureau of Compliance of the Federal Maritime Commission;

It is further ordered, That the provisions of Rule 12 of the Commission's rules of practice and procedure which require leave of the Commission to take testimony by deposition or by written interrogatory if notice thereof is served within 20 days of the commencement of the proceeding, are hereby waived for this proceeding inasmuch as the expeditious conduct of business so requires. The provision of Rule 12(h) which requires leave of the Commission to request admissions of fact and genuineness of documents if notice thereof is served within 10 days of commencement of the proceeding, is similarly waived;

It is further ordered, That Twin Express, Inc., be named as respondent in this proceeding;

It is further ordered, That this proceeding be assigned for public hearing before an examiner of the Commission's Office of Hearing Examiners and that the hearing be held at a date and a place to be determined and announced by the presiding examiner;

It is further ordered, That (I) a copy of this order shall forthwith be served on the respondent herein and published in the FEDERAL REGISTER; and (II) the said respondent be duly served with notice of time and place of hearing.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 5(1) of the Commission's rules of practice and procedure (46 CFR 502.72) with a copy to all parties to this proceeding.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-16657 Filed 11-15-71;8:48 am]

INDEPENDENT OCEAN FREIGHT FORWARDER LICENSES

Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders, pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Roger Gomez, 161 Prescott Street, East Boston, MA 02128.

E. Bruce Tillman, c/o Sealand Terminal Corp., Post Office Box 1857, Gulfport, MS 39501.

United Aero Marine Services, Inc., 17 Battery Place, New York, NY 10004.

Officers and Directors:

David T. Y. Chen, Chairman Board of Directors.
Hung-Yao Kuan, President.
Charles Wang, Secretary.

Dated: November 10, 1971.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-16662 Filed 11-15-71;8:48 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below-indicated vessels, pursuant to Part 542 of Title 46 CFR and section 11 (p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	*Owner/operator and vessels*
01017	Westfal-Larsen & Co. A/S: Risanger.
01051	Van Nievelt, Goudriaan & Co's Stoomvaart Maatschappij (Hamburg) G.m.b.H.: Polaris.
01070	P.F.S. Heering: Heering Lotte.
10121	Getty Tankers, Ltd.: Wafra.
01200	A/S Luksefjell and A/S Rudolf: Strefjell.
01229	Belships Co., Ltd., Skibs-A/S: Belmaj.
01328	Pergamos Shipping Co., Ltd.: Marigoula.
01428	The Ocean Steamship Co., Ltd.: Nelcus.
01430	Tankers, Ltd.: Athelcrown.
01548	Hain-Nourse, Ltd.: Atherstone. Cotswold. Duhallow. Fernie. Buccleuch.
01860	Insco Lines, Ltd.: Insco Jem.
01863	Trident Tankers, Ltd.: Grafton. Heythrop. Irfon. Ardlui. Ardahiel. Ardtaraig. Ardvar. Buairis. Garonne. Eridge. Maloja. Malwa. Mantua. Opawa. Orama. Orissa. Ottawa. Quiloa. Talamba.
01906	The Union-Castle Mail Steamship Co., Ltd.: Tantallon Castle. Tintagel Castle.
01946	Overseas Towage & Salvage Co., Ltd.: Britonia.

Certificate No.	Owner/operator and vessels
01998---	Rederiaktiebolaget Gylfe, Helsingborg, Sweden:
	Ada Gorthon.
	Axel Gorthon.
02001---	Rederiaktiebolaget Transatlantic:
	Yarrawonga.
02039---	"Gryf" Przedsiqbiorstwo Polowow Dalekomorskich Usiug Rybachkich Szczecin, Pl. Batorego:
	Kamienna.
02202---	Humble Oil & Refining Co.:
	Esso Dallas.
02306---	Erling H. Samuelsens Rederi A/S:
	Erling H. Samuelsens.
02332---	Lydes Bros. Steamship Co., Inc.:
	Reuben Tipton.
02348---	The Navarino Shipping Corp.:
	Thalassoporos.
02366---	Canadian Pacific Railway:
	Beaverelm.
02416---	Boland & Cornelius, Inc.:
	J. L. Reiss.
	W. E. Fitzgerald.
02423---	Sun Line Greece Special Shipping Co., Inc.:
	Stella Maris II.
02446---	Cosmopolitan Shipping Co., S.A.:
	Stephanie Conway.
02453---	The Turnbull Scott Shipping Co., Ltd.:
	Baxtergate.
02551---	Ellerman Lines, Ltd.:
	City of Birmingham.
02565---	American Foreign Steamship Corp.:
	American Hawk.
02877---	Nippon Yusen Kabushiki Kaisha (The Japan Mail Steamship Co., Ltd.):
	Oceania Maru.
	Aizu Maru.
02889---	Showa Kaiun K.K.:
	Hirotsuka Maru.
02911---	Sig. Bergesen d. y. & Co.:
	Berge Odel.
02920---	Atlantic Shipping, Inc.:
	Dora.
03076---	M. L. Crochet Towing Co., Inc.:
	Crochet 112.
03255---	Port Line, Ltd.:
	Port Vindex.
	Wellington Maru.
03501---	Osaka Shosen Mitsui Senpaku K.K.:
	Hawaii Maru.
03559---	Aksjeselskapet Pelagos:
	Perikum.
	Pelikan.
	Pepita.
	Pontia.
03611---	Villain & Fassio E Compagnia Internazionale Di Genova Societa Riunite Di Navigazione S.p.A.:
	Carlin Fassio.
04077---	Fritzen Schiffsagentur und Bereederungs-G.m.b.H.:
	Helma Entz.
04312---	Noank Navigation, Inc.:
	Mystic Mariner.
04359---	Reederei Nord Klaus E. Oldendorff:
	Nordhaff.
	Nordmark.
04539---	Mr. Kusugoro Yamamoto:
	Senshu Maru No. 7.
04543---	Mr. Iwao Mild:
	Keifukumaru No. 5.
04702---	N. V. Huis En Hof:
	Sporonia.
04768---	Texaco Overseas Tankship, Ltd.:
	Texaco Pembroke.
05006---	Petrolaro Shipping Co., Ltd.:
	Croutea.
	Brigitte.
	Orosol.
	Queen Solica.
05386---	Zip Corp.:
	S/S Reading.
05596---	Pateras Brothers, Ltd.:
	Suerte.
05748---	Reederei Barthold Richters:
	Hamburger Wall.
05942---	Empresas Armadoras S.A., Panama:
	"Hull 911" T.B.N.
05991---	Fukukyu Gyogyo Kabushiki Kaisha:
	Fukukyu Maru No. 8.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-16656 Filed 11-15-71;8:48 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 11(p) (1) of the Federal Water Pollution Control Act, as amended, and, accordingly, have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	Owner/operator and vessels
01106---	Hvalfangeraktieselskapet "Rosshavet" Hvalfangeraktieselskapet "Vestfold":
	Ross Lake.
01123---	Hemisphere Transportation Corp.:
	J. Paul Getty.
01304---	Furness, Withy & Co., Ltd.:
	Furness Bridge.
01533---	Henry Nielsen OY/AB:
	Solano.
01606---	Oil Transport Co., Inc.:
	Bayou Teche.
	Bayou Richard.
	Bayou Chevreuil.
	Bayou Sauvage.
	Bayou Villere.
	Abaco Pittsburgh.
	Abaco Louisville.
	Bayou Heron.
	Bayou Elou.
	Bayou Indigo.
	Bayou Maxent.
	Chotin 1255.
	Chotin 1256.
	CTX 248.
	RTX 246.
	Bayou Willow.
	Bayou Ulisse.
	Bayou Ferblanc.
	Bayou Gentilly.
	Bayou Jean.
	Bayou LaFourche.
	OTC 64.
	DXE 72.
	DXE 74.
	Bayou Napoleon.
	Bayou Perot.
	Bayou Kent.
	LRL 112.
	OTC 62.
04768---	OTC 61.
	Russ Smith.
	Bayou Boeuf.
	Bayou LaCombe.
	Frank B. Durant.
	Bayou Couba.
	Bayou LaRose.
	Tulagi.
	Bayou Queue.
02126---	Morania Oil Tanker Corp.:
	Morania No. 210.
02128---	Ocean Gas Transport, Ltd.:
	Cavendish.
02194---	Compagnie Generale Transatlantique:
	De Grasse.
02330---	Oriental Shipping Corp.:
	Oriental Nation.
02677---	Partenreederei M/S Ellen Isle:
	Ellen Isle.
02689---	Showa Kaiun K.K.:
	Kensho Maru.
02982---	The Shipping Corporation of India, Ltd.:
	Lal Bahadur Shastri.
	Vishva Shobha.
	Vishva Vijay.
03006---	Rederi Ab Wallship:
	Alda.
03138---	Cunard Line, Ltd.:
	Cunard Adventurer.
03294---	Companhia de Navegacao Lloyd Brasileiro:
	Rosa da Fonseca.
	Anna Nery.
03422---	Daiwa Kaiun Kabushiki Kaisha:
	Ehei Maru.
03438---	Inui Kisen Kabushiki Kaisha:
	Kenryu-Maru.
03460---	Mibae Shosen Kabushiki Kaisha:
	Biak Maru.
03508---	Taiyo Gyogyo K.K.:
	Juyo Maru.
03531---	Yuyo Kaiun K.K.:
	Yusho Maru.
04002---	Compagnie Des Messageries Maritimes:
	Moroni.
04136---	Thomas Marine Co.:
	TM38.
04173---	Foss Launch & Tug Co.:
	Foss 116.
04437---	Lebeouf Bros. Towing Co., Inc.:
	BB-6.
04794---	Sea King Corp.:
	Grand Valor.
04890---	Marine Fueling, Inc.:
	MO-643.
05078---	Woods Hole Oceanographic Institution:
	Atlantis II.
05470---	Charter Transport Line, Inc.:
	Wittenlander.
	Witcroix.
05579---	Black Sea Steamship Co.:
	Sokol.
	Sundal.
	Alexandr Tsyurupa.
	Simferopol.
	Slavsk.
	Slutsk.
	Sovetsk.
	Semipalatinsk.
	Sudzha.
	Salavat.
	Stoletiye Parishskoy Kommuny.
	Klim Voroshilov.
	Donetskity.
	Shakhtyer.
	Donetskiy Komsomolets.
	Donetskiy Khimik.
	Donetskiy Metallurg.

Certificate No.	Owner/operator and vessels
05579---	Pyatidesyatiletie Komsomola.
	Kotovskiy.
	Chapaev.
	Sergey Lazo.
	Parkhomenko.
	Nikolay Shchors.
	Novovoronezh.
	Poseydon.
	Gordeliviy.
	Golovnoy.
	Gromovoy.
	Floating Crane Tchernomorets-10.
	Floating Crane 103.
	Floating Crane 97.
	Yury Gagarin.
	Metallurg Ancsov.
	Leninsky Pioner.
	Krasnoe Znamia.
	Ravenstvo.
	Yuny Leninets.
	Fizik Vavilov.
	Mezhgorie.
	Mozyrj.
	Molodogvardeisk.
	Romain Rolan.
	Aleksey Tolstoy.
	Murom.
	Matsesta.
	Irkutsk.
	Ismail.
	Izhora.
	Kapitan Lukhmanov.
	Sochi.
	Svanetija.
	Komsomoljskaja Slava.
	Syzran.
	Severodonetsk.
	Ilya Kulik.
	Akademik Evgeniy Paton.
	Kapitan Plaushevsky.
	Sevan.
	Serov.
	Serebryansk.
	Sosnogorsk.
	Leninsky Komsomol.
	Metallurg Baikov.
	Metallurg Bardin.
	Khirurg Vishnevsky.
	Transbalt.
	Fizik Lebedev.
	Dubrovnik.
	Komandarm Matveev.
	Fedor Gladkov.
	Atlant.
	Gordy.
	Geroichesky.
	Ivan Franko.
	Taras Shevchenko.
	Akademic Sergey Korolev.
	Kosmonavt Vladimir Komarov.
	Frederik Jolio-Kurie.
	Metallurg Kurako.
	Akademik Shimansky.
	Krasny Oktiabrj.
	Valentina Tereshkova.
	Bratstvo.
	Khimik Zelinsky.
	Kapitan Kushnarenko.
	Nikolay Dobroljubov.
	Alexandr Blok.
	Alexandr Gertsen.
	Dmitry Gluia.
	Nasym Khirmet.
	Arkady Gajdar.
	Kommunist.
	Kommunisticheskoe Znamya.
	Jeanne Labourbe.
	50 Let Sovetskoj Ukrainy.
	Nikolay Kremlyansky.
	Belta Kun.
	Ignatiy Sergeev.
	Inessa Armand.
	Toyvo Antikainen.
05579---	Fridrikh Engels.
	Ernst Theiman.
	Georgiy Dimitrov.
	Iona Yakir.
	Dmitry Poluyan.
	Rosa Luxemburg.
	Georgiy Chicherin.
	Karl Libknekht.
	Djuseppe di Vittorio.
	Frants Bogusch.
	Oktiabrjskaja Revoljutzija.
	Partizanskaia Iskra.
	Partisanskaia Slava.
	Shota Rustaveli.
	Svoboda.
	Kremkj.
	Fizik Kurchatov.
	Krasnaia Presnia.
	Berezovka.
	Babushkin.
	Pavlovsk.
	Briansky Rabochy.
	Alexandr Grin.
	Nikolay Ogarev.
	Vissarion Belinsky.
	Musa Dzhalil.
	Demian Bedny.
	Pula.
	Berezniki.
	Kosmonavt.
	Belitsk.
	Belovodsk.
	Beloretsk.
	Bezhitsa.
	Nikolaev.
	Balashikha.
	Belgorod Dnestrovsky.
	Bratislav.
	Berislav.
	Baymak.
	Bakuriani.
	Nikolay Gogolj.
	Michurin.
	Samuil Marshak.
	Mozhajsk.
	Mariinsk.
	Mytischi.
	Slavjansk.
	Mezhdurechensk.
	Mtsensk.
	Medynj.
	Margelan.
	Boris Lavrenev.
	Millerovo.
	Mozdok.
	Minsk.
	Bijsk.
	Morshansk.
	Molochansk.
	Mukachevo.
	Fedor Litke.
	Sarny.
	Lesozavodsk.
	Labinsk.
	Bolshevik Sukhanov.
	Marneuli.
	Perekop.
	Kapitan Visloborov.
	Pridneprovsk.
	Dmitry Furmanov.
	Ivan Goncharov.
	Anton Makarenko.
	Nikolay Nekrasov.
	Boris Gorbatov.
05630---	Newport News Shipbuilding and Dry Dock Co.:
	Amoco Delaware Forebody.
05640---	Manson Construction & Engineering Co. and General Construction Co.
	ZB 1000.
05986---	A/S Trans-Kosan:
	Hanne Tholstr.
05985---	Murata Gyogyo Kabushiki Kaisha:
	Taiko Maru No. 38.
05986---	Kabushiki Kaisha Matsuei Suisan:
	Matsuei Maru No. 11.
05988---	Maekatsu Gyogyo Kabushiki Kaisha:
	Katsu Maru No. 31.
06020---	M/V "Frances Ann":
	Frances Ann.
06021---	Gamma Fishing Co., Inc.:
	Venturess.
06022---	Epsilon Fishing Co., Inc.:
	Denise Marie.
06030---	Gremco Towing Co., Inc.:
	Gremco.
06082---	Tramontana Shipping Corp.:
	Tramontana.
06129---	Azov Steamship Co.:
	Ustilug.
	Ustyushna.
	Uryupinsk.
	Urgentsh.
	Usolye.
	Urizk.
	Urshum.
	Ugleuralsk.
	Odesskiy Komsomolets.
	Komsomolskaya Pravda.
	Smena.
	Komsomolets.
	Dubno.
	Dubossary.
	Dolmatovo.
	Dobrush.
	Debalcevo.
	Dshankoi.
	Zakarpatye.
	Zlatoust.
	Zapprpzye.
06134---	Transatlantic Carriers S.A.:
	Aegis Scope.
06159---	Naviera Neptuno S.A.:
	Mercurio.
06177---	Burmah Oil Tankers, Ltd.:
	Burmah Lapis.
	Burmah Jade.
06182---	Sunland Shipping Co. S.A.:
	Afro.
06224---	Hendry Corp.:
	Dredge 4.
	St. Louis.
06229---	Elpida Compania Naviera S.A.:
	Elpis.
06230---	Thelisis Compania Naviera S.A.:
	Annoula.
06266---	Engineering Consultants, Ltd.:
	H-1070.
	H-1060.
06273---	Dowa & Co., Ltd.:
	Silver Longevity.
06287---	Gates Equipment Corp.:
	210.
	Mary.
	Elly B.
	Harry.
	250.
	270.
	Prock 19.
06291---	Thasian Shipping Co., Inc., Monrovia:
	Delphic Eagle.
06314---	Fukumaru Gyogyo Kabushiki Kaisha:
	Fulu Maru No. 5.
06319---	Itanos Compania Naviera S.A.:
	Ioannis A.
06321---	Shimat Marine, Inc.:
	Sun Europa.
06322---	Dilmun Navigation Co., Ltd.:
	Pacific Navigator.
	Pacific Mariner.
06323---	Athenian Tankers Management S.A. of Panama R.P.:
	Athenian Victory.
06324---	Tenacity Seafaring Corp.:
	Tenacity.

Certificate No.	Owner/operator and vessels
06327---	Calas Shipping Co.: Geneve.
06328---	Champel Shipping Co.: Hamburg.
06329---	Interessentskapet Jark: Jark.
06330---	Saint Asimi Maritime Co., Ltd: St. Asimi.
06331---	Patenreederei M/S "Matthias Reith": Matthias Reith.
06333---	Ishikawa Prefectural Government: Kano Maru.
06306---	West Cruise Lines, Inc.: Pacific Star.
06334---	S & H Towing Co., Inc.: S & H No. 1.
06335---	Akamas Shipping Co., Ltd.: Aegis Fabie.
06336---	Mr. Sadao Ogino: Koryo Maru No. 31.
06337---	H & S Towing Co., Inc.: H & S No. 2. H & S No. 3.
06338---	Runciman Steamship Co.: Fernmoor.
06339---	Panoceanic Marine Products Co., Inc.: Endeavourers No. 1.
06340---	Daikyo Tanker K.K.: Tohkai Maru. Daikyo Maru. Jingu Maru. Suzuka Maru.
06342---	First Freighter Co., Ltd.: Aegis Eternity.
06343---	Fairsea Shipping Corp., Monrovia: Fairsea.
06344---	A/S Reefer Shipping: Cool Girl.
06345---	Moonflower Shipping Co., S.A.: Rhetoric.
06347---	Marlineas Mundiales S.A.: M/T Mar Star.
06348---	Liberian Zodiac Transports, Inc.: Eastern Wave.
06349---	Liberian Rose Transports, Inc.: Asia Rose.
06350---	Windsor Detroit Barge Line, Ltd.: Prescotont.
06351---	Southern Shipbuilding Corp.: Southern No. 1.
06352---	London Shipowning Co., Ltd.: London Pride.
06353---	International Caribbean Shipping, Inc., S.A.: Portland.
06354---	Habomai Gyogyo Kyodo Kimiai: Habomai Maru No. 53.
06355---	Aluminum Co. of America: Alcoa Seaprobe.
06356---	Federal Commerce and Navigation Co., Ltd.: Federal Hudson.
06359---	Malaysian International Shipping Corp. Berhad: Bunga Chempaka. Bunga Raya. Bunga Mejor. Bunga Orkid. Bunga Tanjong.
06260---	Empress Shipping Co., Ltd.: Atlantic Empress.
06364---	Panvia Compania Naviera S.A.: Marco Botzaris.
06373---	Viaguardia Compania Naviera S.A.: Sunjarv.
06375---	Panoceanica Gallante S.A.: Albireo.
06378---	Shoei Kisen Kaisha, Ltd.: Marugame Maru.
06379---	New England Towing Co.: Rhode Island.
06381---	Windward Tranportation Co.: Cherokee.
06382---	Black Bay Transportation Co.: Apache. Comanche.
06383---	West Bay Transportation Co.: Cape Charles. Cape Henry.
06384---	Regency Transportation, Ltd.: Cedros Pacific.
06391---	Saint Croix Compania Naviera S.A. of Panama: Gold Star.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-16659 Filed 11-15-71;8:48 am]

FEDERAL POWER COMMISSION

[Docket No. CS71-829 etc.]

MARINE MINERALS, INC., ET AL.

Findings and Order

NOVEMBER 4, 1971.

Findings and order after statutory hearing issuing small producer certificates of public convenience and necessity, terminating certificates, canceling FPC gas rate schedules, terminating rate proceedings, making successor co-respondent, and redesignating proceeding.

Each applicant herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for small producer certificates of public convenience and necessity authorizing sales of natural gas in interstate commerce, all as more fully set forth in the applications and the appendix below.

Certain applicants are presently authorized to sell natural gas pursuant to FPC gas rate schedules on file with the Commission. The certificates authorizing said sales will be terminated and the related rate schedules will be canceled. Some sales made pursuant to the certificates terminated herein and the canceled FPC gas rate schedules were made at rates in effect subject to refund. Certain proceedings in which these increased rates have been collected subject to refund by any of these applicants and were equal to or below area ceiling rates will be terminated.

Sabio Oil & Gas, Inc., applicant in Docket No. CS72-15, proposed to continue the sales of natural gas heretofore authorized in Dockets Nos. G-14980 and G-16288 to be made pursuant to Carter-Jones Drilling Co., Inc., FPC gas rate schedules Nos. 10 and 12, respectively. The rates at the time of the assignment were effective subject to refund in Docket No. RI61-546 for sales under Carter-Jones' FPC gas rate schedule No. 10. Therefore, applicant will be made co-respondent in said proceeding and the proceeding will be redesignated accordingly.

After due notice by publication in the FEDERAL REGISTER, no petition to intervene, notice of intervention or protest to the granting of the applications was filed.

The Commission's staff has reviewed the applications and recommends each action as consistent with all substantive Commission policies and required by the public convenience and necessity.

At a hearing on October 8, 1971, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Each applicant is or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption subject to the jurisdiction of the Commission, and is, therefore, a "natural-gas company" or will be when the initial delivery is made, within the meaning of the Natural Gas Act.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications herein, will be made in interstate commerce subject to the jurisdiction of the Commission, and such sales by applicants are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) Each applicant is an independent producer of natural gas which is not affiliated with a natural gas pipeline company and whose total jurisdictional sales on a nationwide basis, together with sales of affiliated producers, were not in excess of 10 million Mcf at 14.65 p.s.i.a. during the preceding calendar year.

(5) The sales of natural gas by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity, and small producer certificates of pubic convenience and necessity therefor should be issued as hereinafter ordered and conditioned.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates of public convenience and necessity heretofore issued to applicants should be terminated and that the related FPC gas rate schedules should be canceled.

(7) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Sabio Oil & Gas, Inc., should be made a corespondent in the proceedings pending in Docket No. RI61-546 and that said proceeding should be redesignated accordingly.

The Commission orders:

(A) Small producer certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing the sale for resale and delivery of natural gas in interstate commerce by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the applications in this proceeding.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission and particularly:

(1) The subject certificates shall be applicable only to all small producer sales as defined in § 157.40(a)(3) of the regulations under the Natural Gas Act; and

(2) Applicants shall file annual statements pursuant to § 154.104 of the regulations under the Natural Gas Act.

(C) The certificates granted in paragraph (A) above shall remain in effect for small producer sales until the Commission on its own motion or on application terminates said certificates because applicants no longer qualify as small producers or fail to comply with the requirements of the Natural Gas Act, the regulations thereunder, or the terms of the certificates. Upon such termination, applicants will be required to file separate certificate applications and individual rate schedules for future sales. To the extent compliance with the terms of this order is observed, the small producer certificates will still be effective as to sales already included thereunder.

(D) The grant of the certificates in paragraph (A) above shall not be construed as a waiver of the requirements of section 7 of the Natural Gas Act or Part 157 of the regulations thereunder and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against applicants. Further, our action in this proceeding shall not foreclose any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. The grant of the certificates aforesaid for service to the particular customers involved, shall not imply approval of all of the terms of the contracts, particularly as to the cessation of service upon the termination of said contracts as provided by section 7(b) of the Natural Gas Act. The grant of the certificates aforesaid shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales subject to said certificates.

(E) The certificates heretofore issued to applicants for sales proposed to be continued under small producer certificates are terminated and the related FPC gas rate schedules are canceled as indicated in the appendix below.

(F) Certain proceedings in which applicants' increased rates have been made effective subject to refund and are equal to or below the applicable area base rate are terminated as indicated in the appendix below.

(G) Sabio Oil & Gas, Inc., is made a correspondent in the proceeding pending in Docket No. RI61-546 and said proceeding is redesignated accordingly. Sabio is not relieved of any refund obligation for sales from April 1, 1971, under the contracts on file as Carter-Jones Drilling Co., Inc., FPC gas rate schedule No. 10 to July 7, 1971.

(H) This order does not relieve any of the applicants herein of any responsibility imposed by, and is expressly subject to, the Commission's statement of policy implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38), including such amendments as the Commission may require, and Executive Order No. 11615.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

APPENDIX

Docket No. and filing date	Applicant	Canceled FPC Gas rate schedule	Terminated certificate docket No.	Terminated rate increase docket No.
CS71-829 5-4-71	Marine Minerals, Inc. (Operator) et al.	1	CI68-698	
CS71-830 5-4-71	Frank C. Nelms et al.			
CS71-837 5-5-71	Investors Royalty Co., Inc. (Operator), et al.	1	G-18663	RI69-826.
	do	2	CI62-321	
	do	3	G-17026	
	do	4	CI70-68	
CS72-15 7-7-71	Sabio Oil & Gas, Inc. (Operator) et al.	[1] 10	G-14980 [1]	
		[1] 12	G-16288 [1]	
CS72-34 7-14-71	H. Huffman & Co.			
CS72-35 7-14-71	Jack L. Stanford.			
CS72-36 7-14-71	Potts-Stephenson Exploration Co.			
CS72-37 7-14-71	Jack Corman.			
CS72-38 7-14-71	Allied Materials Corporation (Operator) et al.	1	CI60-465	RI64-436.
		2	CI61-602	RI67-442.
		3	CI68-107	
CS72-44 7-16-71	Roy L. Cook, Trustee et al.	1	CI62-919	
	do	2	CI63-60	
	do	4	CI65-609	
	do	5	CI62-1291	
CS72-45 7-16-71	Piedra Corp.	1	CI62-1202	
CS72-67 7-22-71	W. O. Matejowsky.			
CS72-86 7-22-71	Paramount Producing, Inc.			
CS72-89 7-22-71	Virginia C. Ramsey et al.	2	G-5037	
		[2] 2	G-5037 [2]	
CS72-61 7-22-71	John Trenchard, et al.	1	G-3696	
CS72-62 7-23-71	Keener Oil Co.	1	G-12575	
	do	2	G-16462	
	do	3	CI61-1207	
	do	4	CI62-1532	
	do	5	CI60-534	
	do	6	CI63-361	
	do	7	CI63-1201	
	do	8	CI67-970	
CS72-63 7-23-71	Joe M. Leonard, Jr.	2	G-19426	
CS72-64 7-22-71	James J. Johnston.			
CS72-65 7-26-71	Yates Drilling Co.			
CS72-68 7-26-71	Universal Resources Corp.			
CS72-69 7-26-71	J. B. Whisenant.	1	G-3696	RI60-461.
CS72-70 7-26-71	Mary H. Trenchard.	1	CI64-226	
CS72-71 7-26-71	Halliburton Oil Producing Co. et al.	1	CI68-507	
CS72-73 8-3-71	Allyn D. Barrett.			
CS72-97 8-2-1	El Santo Petroleum Corp.			
CS72-99 8-4-71	Harry J. Parker, II.			
CS72-100 8-2-71	Euramerica Corp.			
CS72-101 8-2-71	Euramerica 1970-A Partnership.			
CS72-102 8-2-71	C. Walter Doble.			

[1] Certificate and Rate Schedule on file as Carter-Jones Drilling Co., Inc.
[2] Certificate and Rate Schedule on file as Floyd C. Ramsey.

[FR Doc.71-16595 Filed 11-15-71;8:45 am]

FEDERAL RESERVE SYSTEM

FIRST CITY BANCORPORATION OF TEXAS, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by First City Bancorporation of Texas, Inc., which is a bank holding company located in Houston, Tex., for prior approval by the Board of Governors of the acquisition by Applicant of 83.28 percent or more of the voting shares of The Midland National Bank, Midland, Tex.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Dallas.

Board of Governors of the Federal Reserve System, November 9, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16649 Filed 11-15-71;8:47 am]

FIRST NATIONAL BANK HOLDING COMPANY, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), by First National Bank Holding Company, Inc., Pinedale, Wyo., for prior approval by the Board of Governors of action whereby Applicant would became a bank holding company through the acquisition of 83.45 percent of the voting shares of First National Bank of Pinedale, Pinedale, Wyo.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Kansas City.

Board of Governors of the Federal Reserve System, November 10, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16650 Filed 11-15-71;8:47 am]

FIRST AT ORLANDO CORP.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of First at Orlando Corp., Orlando, Fla., for approval of acquisition of 90 percent or more of the voting shares of National Bank Gulf Gate, Sarasota, Fla.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by First at Orlando Corp., Orlando, Fla., for the Board's prior approval of the acquisition of 90 percent or more of the voting shares of National Bank Gulf Gate, Sarasota, Fla.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency, and requested his views and recommendation. The Comptroller recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on August 28, 1971 (36 F.R. 17384), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired, and all those received have been considered by the Board.

It is hereby ordered, For the reasons set forth in the Board's statement[1] of this date, that said application be and hereby is approved, provided that the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[2] November 9, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16627 Filed 11-15-71;8:45 am]

FIRST AT ORLANDO CORP.

Order Denying Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of First at Orlando Corp., Orlando, Fla., for approval of acquisition of 90 percent or more of the voting shares of National Bank of Sarasota, Sarasota, Fla.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by First at Orlando Corp., Orlando, Fla., for the Board's prior approval of the acquisition of 90 percent or more of the voting shares of National Bank of Sarasota, Sarasota, Fla.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency, and requested his views and recommendation. The Comptroller recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on August 28, 1971 (36 F.R. 17384), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired, and all those received have been considered by the Board.

It is hereby ordered, For the reasons set forth in the Board's Statement[1] of this date, that said application be and hereby is denied.

By order of the Board of Governors,[2] November 9, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16628 Filed 11-15-71;8:45 am]

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Atlanta.

[2] Voting for this action: Chairman Burns and Governors Mitchell, Maisel, Brimmer and Sherrill. Absent and not voting: Governors Robertson and Daane.

FIRST TENNESSEE NATIONAL CORP.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of First National Holding Corp.,[1] Memphis, Tenn., for approval of acquisition of 100 percent of the voting shares of the successor by merger to The Banking & Trust Co., Jonesboro, Tenn.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by First National Holding Corp.,[2] Memphis Tenn., a bank holding company, for the Board's prior approval of the acquisition of 100 percent of the voting shares of the successor by merger to The Banking & Trust Co., Jonesboro, Tenn. (Bank).

The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of the shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Superintendent of Banks of the State of Tennessee and requested his views and recommendation. The Superintendent offered on objection to consummation of the proposal.

Notice of receipt of the application was published in the FEDERAL REGISTER on September 11, 1971 (36 F.R. 18347), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant, the largest bank holding company and second largest banking organization in Tennessee, has one subsidiary bank with $738.7 million in deposits, representing approximately 9.9 percent of the total commercial bank deposits in the State. (All banking data are as of December 31, 1970, adjusted to reflect holding company formations and acquisitions approved by the Board through September 30, 1971.) Consummation of the proposal herein would increase applicant's share of deposits to 10.2 percent and would make applicant the largest banking organization, measured by both total deposits and banking offices, in the State.

Bank ($24.5 million deposits), with 18.1 percent of the deposits held by commercial banks in the Jonesboro banking market, approximated by Washington County, ranks third among the four banking organizations in that market. The distance of approximately 500 miles that separates Bank and applicant's only subsidiary bank has precluded the existence of significant competition between the two institutions, and the State's restrictive branching law effectively prohibits the development of future competition between Bank and applicant's present subsidiary. Consummation of the proposal would have a procompetitive effect by enhancing Bank's ability to compete with the two larger banks competing in the Jonesboro banking market both of which are subsidiaries of multibank holding companies and which together hold more than 80 percent of the total deposits held by commercial banks in the market. Based upon the foregoing, the Board concludes that consummation of the proposal would not have an adverse effect on competition in any relevant area.

The financial and managerial resources and future prospects of applicant and its subsidiary bank are satisfactory and are consistent with approval. Considerations relating to the financial and managerial resources and future prospects of Bank lend weight in support of approval, since applicant intends to strengthen Bank's less than satisfactory capital position. Although all major local banking needs are presently being served in the Jonesboro banking market, considerations relating to the convenience and needs of the communities to be served lend some weight toward approval. Bank's competitive ability should be strengthened by consummation of this proposal. Furthermore, applicant plans to expand Bank's trust services and to add international and data processing services to those services presently offered by Bank.

It is the Board's judgment that the proposed transaction would be in the public interest, and that the application should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above, provided that the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of St. Louis pursuant to delegated authority.

It is further ordered, That upon the consummation of the proposed transaction, applicant shall not retain or acquire any nonbank shares or engage in any nonbanking activities to a greater extent or for a longer period than would apply in the case of a bank holding company which became such on the date of such consummation, except to the extent otherwise permitted in any regulation of the Board hereafter adopted specifically relating to the effect of the acquisition of an additional bank on the status of nonbank shares and activities of a one-bank holding company formed prior to 1971, or unless the Board fails to adopt any such regulation before the expiration of 2 years after the consummation of the proposed acquisition.

By order of the Board of Governors,[3] November 9, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16629 Filed 11-15-71;8:45 am]

FIRST TULSA BANCORPORATION, INC.

Proposed Acquisition of Hall Investment Co.

First Tulsa Bancorporation, Inc., Tulsa, Okla., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(a)(8)) and § 222.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Hall Investment Company, Tulsa, Okla. Notice of the application was published on October 4, 1971, in the Tulsa World, a newspaper circulated in Tulsa, Okla., and on October 11, 1971, in the Daily Oklahoman, a newspaper circulated in Oklahoma City, Okla.

Applicant states that the proposed subsidiary would perform the activities of originating, brokering, and servicing real estate mortgage loans. Such activities have been specified by the Board in § 222.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 222.4(b).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Atlanta.

[2] Voting for this action: Chairman Burns and Governors Mitchell, Maisel, Brimmer and Sherrill. Absent and not voting: Governors Robertson and Daane.

[3] During consideration of this application, the Board has been formally apprised that applicant has changed its name to First Tennessee National Corp.

[3] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Maisel, Brimmer, and Sherrill. Absent and not voting: Governor Robertson.

FIRST VIRGINIA BANKSHARES CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by First Virginia Bankshares Corp., which is a bank holding company located in Falls Church, Va., for prior approval by the Board of Governors of the acquisition by Applicant of 80 percent or more of the voting shares of The Bank of Commerce, Fredericksburg, Va.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Richmond.

Board of Governors of the Federal Reserve System, November 10, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16651 Filed 11-15-71;8:47 am]

FIRST WISCONSIN BANKSHARES CORP.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of First Wisconsin Bankshares Corp., Milwaukee, Wis., for approval of acquisition of 80 percent or more of the voting shares of Bank of Waukesha, Waukesha, Wis.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by First Wisconsin Bankshares Corp., Milwaukee, Wis., for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of Bank of Waukesha, Waukesha, Wis.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency, and requested his views and recommendation. The Comptroller recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on August 28, 1971 (36 F.R. 17384), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired, and all those received have been considered by the Board.

It is hereby ordered, For the reasons set forth in the Board's Statement[1] of this date, that said application be and hereby is approved, provided that the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[2] November 9, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16630 Filed 11-15-71;8:45 am]

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Chicago.

[2] Voting for this action: Chairman Burns and Governors Mitchell, Maisel, Brimmer and Sherrill. Absent and not voting: Governors Robertson and Daane.

FIRST WISCONSIN BANKSHARES CORP.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of First Wisconsin Bankshares Corp., Milwaukee, Wis., for approval of acquisition of 80 percent or more of the voting shares of Bank of Waukesha, Waukesha, Wis.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by First Wisconsin Bankshares Corp., Milwaukee, Wis., for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of Bank of Waukesha, Waukesha, Wis.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency, and requested his views and recommendation. The Comptroller recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on August 28, 1971 (36 F.R. 17384), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired, and all those received have been considered by the Board.

It is hereby ordered, For the reasons set forth in the Board's Statement[1] of this date, that said application be and hereby is approved, provided that the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[2] November 9, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16631 Filed 11-15-71;8:45 am]

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Chicago.

[2] Voting for this action: Chairman Burns and Governors Mitchell, Maisel, Brimmer and Sherrill. Absent and not voting: Governors Robertson and Daane.

FIRST WISCONSIN BANKSHARES CORP.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of First Wisconsin Bankshares Corp., Milwaukee, Wis., for approval of acquisition of 80 percent or more of the voting shares of Bank of Waukesha, Waukesha, Wis.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by First Wisconsin Bankshares Corp., Milwaukee, Wis., for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of Bank of Waukesha, Waukesha, Wis.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency, and requested his views and recommendation. The Comptroller recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on August 28, 1971 (36 F.R. 17384), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired, and all those received have been considered by the Board.

It is hereby ordered, For the reasons set forth in the Board's Statement[1] of this date, that said application be and hereby is approved, provided that the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[2] November 9, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16632 Filed 11-15-71;8:45 am]

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Chicago.

[2] Voting for this action: Chairman Burns and Governors Mitchell, Maisel, Brimmer and Sherrill. Absent and not voting: Governors Robertson and Daane.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 9, 1971.

Board of Governors of the Federal Reserve System, November 9, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16630 Filed 11-15-71;8:45 am]

FIRST VIRGINIA BANKSHARES CORP.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of First Virginia Bankshares Corp., Arlington, Va., for approval of acquisition of 100 percent of the voting shares of the successor by merger to Bank of Surry County, Inc., Surry, Va.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by First Virginia Bankshares Corp., Arlington, Va., a registered bank holding company, for the Board's prior approval of the acquisition of 100 percent of the voting shares of the successor by merger to Bank of Surry County, Inc., Surry, Va. ("Bank"). The bank into which Bank is to be merged has no significance except as a means of acquiring all of the shares of Bank. Accordingly, the proposed acquisition of the shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Virginia Commissioner of Banking and requested his views and recommendation. The Commissioner offered no objection to consummation of the proposal.

Notice of receipt of the application was published in the FEDERAL REGISTER on September 21, 1971 (36 F.R. 18760), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant, the sixth largest banking organization in Virginia, controls 16 banks with aggregate deposits of $478.5 million, representing 6 percent of total commercial bank deposits in the State. (All banking data are as of December 31, 1970, and reflect holding company formations and acquisitions approved through September 30, 1971.) The acquisition of Bank ($5.3 million deposits) would increase applicant's share of deposits in the State by only .07 percentage point, representing no significant increase in applicant's control of deposits in the State, or change in applicant's present ranking. In separate applications filed concurrently with the instant matter, applicant proposes to acquire 100 percent of the voting shares of the successor by merger to The Bank of Westmoreland, Colonial Beach, Va., and to organize de novo First Commercial Bank, Orange, Va. Affiliation of both banks in addition to the one proposed here would increase applicant's share of the total commercial bank deposits in Virginia to 6.4 percent and would not, therefore, have any significant effect on the concentration of banking resources in the State or on applicant's statewide competitive position.

Bank operates its sole office in the town of Surry, and is the only banking institution located in Surry County. Bank's major competition comes from banks located in the adjacent counties of Sussex, Southampton, and Isle of Wight. The office of any of applicant's subsidiary banks closest to Bank is located 34 miles southeast of Bank. No present competition of any significance exists between Bank and this office, or any of applicant's other offices. On the facts of record, notably Virginia's restrictive branching laws and the distances between offices of applicant's subsidiaries and Bank, it appears unlikely that consummation of the subject proposal would preclude potential competition. Further, the steady decline in population which Surry County has experienced over the past decade suggests that de novo entry by applicant is not warranted. Based on the foregoing, and the record before it, the Board concludes that consummation of the proposed acquisition would not have an adverse effect on competition in any relevant market.

The financial and managerial resources and prospects of applicant, its subsidiaries, and Bank are regarded as satisfactory and consistent with approval of the application. As a result of affiliation with applicant, Bank would be in a position to offer trust and other banking services it is now unable to provide. Moreover, applicant will be able to provide Bank with administrative and technical support in such areas as personnel, auditing, data processing, investments, and mortgage banking. Considerations relating to the convenience and needs factors, therefore, lend some weight in support of approval of the application. It is the Board's judgment that consummation of the proposed transaction would be in the public interest, and that the application should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above, provided that the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Board of Governors,[1] November 9, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16651 Filed 11-15-71;8:47 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

NOVEMBER 11, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 133488 Sub 1, R.F.P. Trucking, Inc., assigned February 28, 1972, at Boston, Mass.

MC 14552 Sub 39, J. V. McNicholas Transfer Co., assigned January 10, 1972, at Columbus, Ohio.

MC 128698 Sub 4, Erdner Bros., Inc., assigned November 17, 1971, at Washington, D.C., postponed to December 1, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 8768 Sub 35, Security Van Lines, Inc., assigned December 6, 1971, at New Orleans, La., is canceled and application dismissed.

MC-C-7421, Dixie Ohio Express, Inc.—Investigation and Revocation of Certificates—assigned January 14, 1972, at Columbus, Ohio.

MC 114457 Sub 83, Dart Transit Co., assigned November 30, 1971, at Washington, D.C., is canceled and application dismissed.

[1] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Maisel, Brimmer, and Sherrill. Absent and not voting: Governor Robertson.

MC-C-7410, Hubert Jones & Son Trucking and Crane Service, Inc., Investigation of Operations, assigned January 19, 1972, at Columbus, Ohio.

MC 107515 Sub 748, Refrigerated Transport Co., assigned December 20, 1971, at Washington, D.C., canceled and application dismissed.

MC 21866 Sub 67, West Motor Freight, Inc., assigned December 20, 1971, at Washington, D.C., is postponed to January 10, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

Finance Docket No. 12131, Boston and Providence Railroad Corp. Reorganization, now being assigned hearing January 4, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 61592 Sub 211, Jenkins Truck Line, Inc., assigned January 20, 1972, at Columbus, Ohio.

MC 73165 Subs 290 and 291, Eagle Motor Lines, Inc., assigned January 21, 1972, at Columbus, Ohio.

MC 117565 Sub 38, Motor Service Co., Inc., assigned January 12, 1972, at Columbus, Ohio.

MC 123407 Sub 79, Sawyer Transport, Inc., assigned January 18, 1972, at Columbus, Ohio.

MC 129187 Sub 1, Clay Products Transport, Inc., assigned January 17, 1972, at Columbus, Ohio.

MC 110585 Sub 15, Republic Van & Storage Co., Inc., assigned November 15, at Philadelphia, will be held in the U.S. Customs Courtroom, Third Floor, U.S. Customshouse, Second and Chestnut Streets, Philadelphia, Pa.

MC 130139, Leisure, Inc., now assigned November 15, 1971, at Boston, Mass., postponed indefinitely.

MC-F 11155, Wester-Iowa, Inc.—Merger—Powers Transportation, Inc., assigned January 19, 1972, at Washington, D.C., is cancelled and transferred to modified procedure.

MC 105045 Sub 21, R. L. Jeffries Trucking Co., Inc., assigned for Washington, D.C., application dismissed.

MC 66886 Sub 13, Belger Cartage Service, Inc., assigned for Washington, D.C., application dismissed.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16673 Filed 11-15-71;8:49 am]

ASSIGNMENT OF HEARINGS

NOVEMBER 11, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

CORRECTION

No. MC 135435, Dale Smart, doing business as Dale Smart Trucking, now being assigned hearing December 1, 1971, instead of December 2, 1971, in Room 2A19 Federal Building, 1100 Commerce Street, Dallas, Tex.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16672 Filed 11-15-71;8:49 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 9, 1971.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42300—*Carbon tetrachloride from points in Louisiana and Texas.* Filed by Southwestern Freight Bureau, agent (No. B-263), for interested rail carriers. Rates on carbon tetrachloride, in tank carloads, as described in the application, from specified points in Louisiana and Texas, to Chicago, Ill., and points taking same rates, East St. Louis, Ill., and St. Louis, Mo.

Grounds for relief—Market competition and rate relationship.

Tariffs—Supplements 304 and 85 to Southwestern Freight Bureau, agent, tariffs ICC 4668 and 4899, respectively. Rates are published to become effective on December 13, 1971.

FSA No. 42301—*Rubber and rubber compounds to Gaird, Ala.* Filed by Southwestern Freight Bureau, agent (No. B-265), for interested rail carriers. Rates on rubber and rubber compounds, in carloads, as described in the application, from Addis, La., to Gaird, Ala.

Grounds for relief—Rate relationship.

Tariff—Supplement 1 to Southwestern Freight Bureau, agent, tariff ICC 4982. Rates are published to become effective on December 13, 1971.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16671 Filed 11-15-71;8:49 am]

[Notice 305]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 9, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 31600 (Sub-No. 655 TA), filed November 1, 1971. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION INC., Calvary Street, Waltham, Mass. 02154. Applicant's representative: David McAllister (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete slabs*, from Hooksett, N.H., to Morrisville (Madison County) and Potsdam (St. Lawrence County) N.Y., for 120 days. Supporting shipper: Duracrete Block Co., 1359 Hooksett Road, Hooksett NH 03106. Send protests to: James F. Martin, Assistant Regulation Director, Interstate Commerce Commission, Bureau of Operations, JFK Federal Building, Government Center, Boston, Mass. 02203.

No. MC 52460 (Sub-No. 110 TA), filed October 29, 1971. Applicant: HUGH BREEDING, INC., 1420 West 35th Street, Post Office Box 9515, Tulsa, OK 74107. Applicant's representative: Steve B. McCommas (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer solution*, in bulk, in tank vehicles, from the port of Muskogee, Muskogee, Okla., to points in Kansas, and *return of rejected shipments*, for 180 days. Supporting shipper: Allied Chemical Corp., Post Office Box 2061R, Morristown, NJ 07960. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 52861 (Sub-No. 26 TA), filed November 2, 1971. Applicant: WILLS TRUCKING, INC., 2535 Center Street, Cleveland, OH 44113. Applicant's representative: Paul W. Wills (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Recarborizing coke*, from Toledo and Cleveland, Ohio to Farrell, Pa., to all points in Ohio, for 180 days. Supporting shipper: Hickman, Williams & Co., 1 Erieview Plaza, Cleveland, OH 44114. Send protests to: District Supervisor G. J. Baccei,

Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 84528 (Sub-No. 19 TA), filed November 1, 1971. Applicant: AUTOMOBILE TRANSPORT COMPANY OF CALIFORNIA, 1650 West 139th Street, Gardena, CA 90247. Applicant's representative: Lynn B. Hansen (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles and pickup trucks*, from San Ysidro, Calif., to points in San Diego, Orange, Los Angeles, Riverside, San Bernardino, Imperial, Kern, San Luis Obispo, Ventura, Inyo, and Santa Barbara Counties, Calif., for 180 days. Supporting shipper: Nissan Motor Corp., in United States, 137 East Alondra Boulevard, Gardena, CA 90247. Send protests to: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 87720 (Sub-No. 118 TA), filed November 2, 1971. Applicant: BASS TRANSPORTATION CO., INC., Post Office Box 391, Flemington, NJ 08822. Applicant's representative: Bert Collins, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals, naval stores, and tall oil products*, other than bulk, from Bay Minette, Ala., Pensacola, Fla., and Telogia, Fla., to points in Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Massachusetts, Rhode Island, Maine, Vermont, and New Hampshire; and (2) *materials, supplies, and equipment* incidental to the manufacture, production, sale, or distribution, of the aforementioned commodities other than in bulk, *rejected and returned shipments* in reverse direction. Restriction: Under contract with Tenneco, Inc., for 180 days. Supporting shipper: Tenneco Chemicals, Inc., Newport Division, Post Office Drawer 911, Pensacola, FL 32502. Send protests to: Richard M. Regan, District Supervisor, Interstate Commerce Commission, Bureau of Operations. 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 110589 (Sub-No. 8 TA), filed November 1, 1971. Applicant: J. E. LAMMERT TRANSFER, INC., 817 North Oak Street, Grand Island, Nebr. 68801. Applicant's representative: Donn K. Bieber, 220 East 11th Street, Schuyler, NE 68661. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from York, Nebr., to points in Maryland, New Jersey, New York, and Pennsylvania, for 180 days. Supporting shipper: Sunflower Beef Packers of Nebraska, Inc., 13th Street and Division Avenue, Post Office Box 355, York, NE 68467. Send protests to: Max H. Johnston, District Supervisor, 320 Federal Building and Courthouse, Interstate Commerce Commission, Bureau of Operations, Lincoln, Nebr. 68508.

No. MC 117386 (Sub-No. 6 TA), filed November 1, 1971. Applicant: LEE S. BURRIS, Post Office Box 227, Bradgate, IA 50520. Applicant's representative: Kenneth F. Dudley, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid feed and liquid feed supplements*, from the plantsite and facility of Farmland Industries, Inc., near Humboldt, Iowa to points in Minnesota, for 180 days. Supporting shipper: Farmland Industries, Inc., Post Office Box 7305, Kansas City, MO 64116. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 119493 (Sub-No. 83 TA), filed November 1, 1971. Applicant: MONKEM COMPANY, INC., Post Office Box 1196, West 20th Street Road, Joplin, MO 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry feed ingredients*, from the plant and warehouse facilities of Farmland Industries, Inc., and/or Farmers Chemical Co., located in Jasper County, Miss., to points in North Dakota, South Dakota, Kansas, Wisconsin, and Mississippi, for 180 days. Supporting shipper: Farmland Industries, Inc., 3315 North Oak, Kansas City, MO. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 119669 (Sub-No. 28 TA), filed November 2, 1971. Applicant: TEMPCO TRANSPORTATION, INC., 546 South 31 A., Post Office Box 886, Columbus, IN 47201. Applicant's representative: Donald McCameron (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles* distributed by meat packinghouses, as described in Appendix 1 to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766, from Lexington, Ky., to points in Ohio, Pennsylvania, New York, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, Maryland, Virginia, West Virginia, and the District of Columbia, and Michigan, for 180 days. Supporting shipper: Armour & Co., Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. Send protests to: James W. Habermehl, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 802 Century Building, 36 South Pennsylvania Street, Indianapolis, IN 46204.

No. MC 119908 (Sub-No. 17 TA), filed November 1, 1971. Applicant: WESTERN LINES, INC., Post Office Box 1145, 3523 North McCarty, 77029, Houston, TX 77001. Applicant's representative: Paul E. Robertson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefinished plywood paneling*, from New Orleans, La., to points in Mississippi, Alabama, Tennessee, and Georgia, for 180 days. Supporting shipper: Plywood Panels, Inc. (Mr. J. D. Prince, President), Building 17, Napoleon and River, Post Office Box 15435, New Orleans, LA 70115. Send protests to: District Supervisor John C. Redus, Bureau of Operations, Interstate Commerce Commission, Post Office Box 61212, Houston, TX 77061. NOTE: Applicant does not intend to tack with existing authority.

No. MC 124025 (Sub-No. 1 TA), filed November 2, 1971. Applicant: GLASS TRUCKING COMPANY, Box 276, 200 North Chestnut, Newkirk, OK 74647. Applicant's representative: Marlin Glass (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Flour and mill feeds*, in bags, from Arkansas City, Kans., to Fulton and Paducah, Ky., for 180 days. Supporting shipper: Dixie-Portland Flour Mills, Inc., Post Office Box 698, Arkansas City, Kans. 67005. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 127274 (Sub-No. 33 TA), filed November 2, 1971. Applicant: SHERWOOD TRUCKING, INC., 1517 Hoyt Avenue, Post Office Box 2189, Muncie, IN 47302. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the plantsite of American Home Foods at La Porte, Ind., to points in Arkansas and Missouri, on and south of Interstate Highway 44, and Joplin, Mo., for 180 days. Supporting shipper: American Home Foods, Division of American Home Products Corp., 685 Third Avenue, New York 17, NY. Send protests to: Acting District Supervisor John E. Ryden, Bureau of Operations, Interstate Commerce Commission, Room 204, 345 West Wayne Street, Fort Wayne, IN 46802.

No. MC 128075 (Sub-No. 13 TA), filed October 29, 1971. Applicant: LEON JOHNSRUD, Post Office Box 447, 757 Second Street West, Cresco, IA 52136. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and packinghouse products* (except hides and commodities in bulk) as set forth in sections A and C, *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the facilities of the Rod Barnes Packing Co. and/or the Flanery Meat Co. at or near Huron, S. Dak., to points in Georgia, restricted to traffic originating at named origin and destined to named destinations, for 150 days. Supporting shipper: Geo. A. Hormal & Co., Post Office Box 800, Austin, MN 55912. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operation, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 133741 (Sub-No. 10 TA), filed November 1, 1971. Applicant: OSBORNE TRUCKING CO., INC., 1008 Sierra Drive, Riverton, WY 82501. Applicant's representative: Robert S. Stauffer, 3539 Boston Road, Cheyenne, WY 82001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points in Montana to points in Colorado, for 180 days. Supporting shipper: The Denver Reserve Supply Co., 555 West 48th Avenue, Denver, CO 80216. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1006 Federal Building and Post Office, 100 East B Street, Casper, WY 82601.

No. MC 133928 (Sub-No. 5 TA), filed November 1, 1971. Applicant: ANTHONY H. OSTERKAMP, JR., doing business as OSTERKAMP TRUCKING, 764 North Cypress Street, Orange, CA 92666. Applicant's representative: Donald Murchison, Suite 400, Glendale Federal Building, 9454 Wilshire Boulevard, Beverly Hills, CA 90212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural field equipment, and harvesting equipment, parts of agricultural field equipment and harvesting equipment and materials and supplies* used in the harvesting and distribution of agricultural commodities, between points in California, on the one hand, and, on the other, points in Arizona, under contract with Interharvest, Inc., Salinas, Calif., for 180 days. Supporting shipper: Interharvest, Inc., Post Office Box 2115, Salinas, CA 93901. Send protests to: District Supervisor Philip Yallowitz, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 134286 (Sub-No. 15 TA) (Correction), filed October 15, 1971, published FEDERAL REGISTER, October 29, 1971, corrected and republished in part as corrected this issue. Applicant: ARCTIC TRANSPORT, INC., 1005 West South Omaha Bridge Road, Council Bluffs, IA 51501. Applicant's representative: Charles J. Kimball, 605 South 14th Street, Post Office Box 82028, Lincoln, NE 68501.

NOTE: The purpose of this partial republication is to include *South Carolina* as a destination point, which was inadvertently set forth as South Georgia in previous publication. The rest of the notice remains the same.

No. MC 134777 (Sub-No. 20 TA), filed November 1, 1971. Applicant: SOONER EXPRESS, INC., Post Office Box 219, Madill, OK 73446, Office: Sooner Building, Highway 70S. Applicant's representative: Dale Waymire (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, from Spencer and Hartley, Iowa; Schuyler, Nebr.; and Sioux Falls, S. Dak., to points in North Carolina, South Carolina, Virginia, and Tennessee (except Memphis, Tenn.), for 180 days. Supporting shipper: Spencer Foods, Inc., Spencer, Iowa. Send protests to: E. K. Willis, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 13C12, Federal Building, 1100 Commerce Street, Dallas, TX 75202.

No. MC 135196 (Sub-No. 1 TA), filed October 29, 1971. Applicant: ALTUS-HOLLIS TRANSPORT, INC., 815 West Broadway, Post Office Box 735, Altus, OK 73521. Applicant's representative: Jack B. Davis (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, having a prior or subsequent movement in containers, beyond the area for which authority is herein requested. Service would include the performance of pickup and delivery in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, between points in Greer, Harmon, Jackson, Beckham, Washita, Custer, Dewey, Ellis, and Roger Mills Counties, Okla., and Childress, Collingsworth, Donley, and Hall Counties, Tex., for 180 days. Supporting shippers: Department of the Air Force, Altus Air Force Base, Okla. 73521; Columbia Export Packers, Inc., 19032 South Vermont Avenue, Torrance, CA 90502 and Smyth Worldwide Movers, Inc., 11616 Aurora Avenue North, Seattle, WA 98133. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395, Herring Plaza, Amarillo, TX 79101.

No. MC 135513 (Sub-No. 4 TA), filed October 22, 1971. Applicant: ECHO TRUCKING COMPANY, Post Office Drawer AY, Benson, AZ 85602. Applicant's representative: Earl Carroll, 363 North First Avenue, Phoenix, AZ 85003. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Copper cement*, from Tryone, N. Mex., to Morenci, Ariz., and Douglas, Ariz., under a continuing contract with Phelps Dodge Corp., for 180 days. Supporting shipper: Phelps Dodge Corp., Douglas, Ariz. 85607. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 3427 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

No. MC 136116 TA, filed November 1, 1971. Applicant: GENERAL TRANSPORTATION SERVICES, INC., 100 West Clarendon, Phoenix, AZ 85013. Applicant's representative: Robert R. Digby, 217 Lahrs Tower, Phoenix, Ariz. 85003. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat by-products and articles distributed by meat packinghouses*, as described by the Commission, from Wallula, Wash., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, for 180 days. Supporting shipper: Cudahy Co., 100 West Clarendon, Phoenix, AZ 85013. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 3427 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

No. MC 136117 TA, filed October 29, 1971. Applicant: BERNARD ANDRE, 2702 West First Street, North Platte, NE 69101. Applicant's representative: Richard A. Dudden, 121 East Second Street, Ogallala, NE 69153. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bagged and boxed processed sugar*, from Torrington, Wyo., and Ovid, Colo. to Beresford, Brookings, Mitchell, Sioux Falls, Watertown, and Yankton, S. Dak., for the account of Reed Sales Co., for 180 days. Supporting shipper: Irving C. Edmeier, president, Reed Sales Co., 110 Hemlock Street, Beresford, SD 57004. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 320 Federal Building and Courthouse, Lincoln, Nebr. 68508.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16670 Filed 11-15-71;8:49 am]

[Notice 396]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 10, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC 67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the

Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2860 (Sub-No. 106 TA), filed November 5, 1970. Applicant: NATIONAL FREIGHT, INC., 57 West Park Avenue, Vineland, NJ 08360. Applicant's representative: Addison Hand (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared animal food*, from the plantsite and/or warehouse facilities of Lipton Pet Foods at Golden Meadow, Lockport or New Orleans, La., to points in Florida, for 180 days. Supporting shipper: Lipton Pet Foods, Inc., Box 89–209 New Boston Street, Woburn, MA 01801. Send protests to: Richard M. Regan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 22254 (Sub-No. 63 TA), filed November 4, 1971. Applicant: TRANS-AMERICAN VAN SERVICE, INC., 7540 South Western Avenue, Chicago, IL 60620. Applicant's representative: Anthony T. Thomas, 1811 West 21st Street, Chicago, IL 60608. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpet padding and rubber sheeting*, from Dyersburg, Tenn., to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Allen Industries, Inc., 17515 West Nine Mile Road, Southfield, MI 48075. Send protests to: Robert G. Anderson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 22254 (Sub-No. 64 TA), filed November 5, 1971. Applicant: TRANS-AMERICAN VAN SERVICE, INC., 7540 South Western Avenue, Chicago, IL 60620. Applicant's representative: Anthony T. Thomas, 1811 West 21st Street, Chicago, IL 60608. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated pianos and piano benches*, between the plantsite of Kohler & Campbell, Inc., at or near Granite Falls, N.C., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Kohler & Campbell, Inc., Granite Falls, N.C. 28630. Send protests to: Robert G. Anderson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 70313 (Sub-No. 2 TA), filed November 3, 1971. Applicant: MYERS CONTRACT TRUCKING, INC., 1220 Roosevelt Avenue, Post Office Box 1621, York, PA 17405. Applicant's representative: Charles E. Creager, 816 Easley Street, Silver Spring, MD 20910. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such general commodities* as is dealt in by chain manufacturers, from York, Pa., to points in Colorado, Georgia, Illinois, and Texas, for 180 days. Supporting shipper: American Chain & Cable Co., Chain Division, 454 East Princess Street, York, PA 17403. Send protests to: Robert W. Ritenour, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 508 Federal Building, Post Office Box 869, Harrisburg, PA 17108.

No. MC 99776 (Sub-No. 8 TA), filed November 4, 1971. Applicant: BUCKNER TRUCKING, INC., 8802 Liberty Road, Houston, TX 77028. Applicant's representative: J. G. Dail, Jr., 1111 E Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber mill products, and wood products*, from points in Louisiana, to points in Texas, Oklahoma, Kansas, Missouri, Arkansas, Mississippi, Tennessee, and Alabama, for 180 days. NOTE: Applicant does not intend to tack with existing authority. Supporting shippers: Williamette Industries, Inc. (Homer C. Davenport, traffic manager), Post Office Box 907, Albany, NY; Hunt Lumber Co., Inc. (Keith O'Kelley, controller), 207 West Carolina Avenue, Ruston, LA 71270. Send protests to: District Supervisor John C. Redus, Interstate Commerce Commission, Bureau of Operations, Post Office Box 61212, Houston, TX 77061.

No. MC 110420 (Sub-No. 645 TA), filed November 4, 1971. Applicant: QUALITY CARRIERS, INC., Post Office Box 186, Pleasant Prairie, WI 53158, Office: I–94 County Highway C, Bristol, Kenosha County, WI 53104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid meat protein*, in bulk, from Madison and Juneau, Wis., to East Syracuse, N.Y., for 180 days. Supporting shipper: Milbrew, Inc., 6101 North Teutonia Avenue, Milwaukee, WI 53209 (Melvin Bernstein, vice president). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 111170 (Sub-No. 172 TA), filed November 3, 1971. Applicant: WHEELING PIPE LINE, INC., Post Office Box 1718, 2811 North West Avenue, El Dorado, AR 71730. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Condensate* (pure treated water), in bulk, from Pine Bluff, Ark., to Valliant, Okla., for 180 days. Supporting shipper: Brown & Root, Inc., Post Office Box 388, Valliant, OK 74764. Send protests to: District Supervisor William H. Land, Jr., Bureau of Operations, Interstate Commerce Commission, 2519 Federal Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 111170 (Sub-No. 173 TA), filed November 4, 1971. Applicant: WHEELING PIPE LINE, INC., Post Office Box 1718, 2811 North West Avenue, El Dorado, AR 71730. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bromine*, in bulk, from Magnolia, Ark., to Freeport, Tex., for 180 days. Supporting shipper: The Dow Chemical Co., Freeport, Tex. 77541. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 111401 (Sub-No. 352 TA), filed November 4, 1971. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, Post Office Box 632, Enid, OK 73701. Applicant's representative: Victor R. Comstock (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printing ink*, in bulk, in tank vehicles, from Tulsa, Okla., to Loganstown, Ind., for 180 days. Supporting shipper: J. Bolzak, Director of Traffic, Sun Chemical Corp., 631 Central Avenue, Carlstadt, NJ 07072. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 125985 (Sub-No. 10 TA), filed November 5, 1971. Applicant: AUTO DRIVEAWAY COMPANY, 343 South Dearborn Street, Chicago, IL 60604. Applicant's representative: David L. Steinhagen (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Recreational vehicles, motor homes* (not mobile homes) in driveway service between points in California, and between points in California and points in the United States (except Hawaii), for 180 days. Supporting shipper: Jensen Marine Co., Costa Mesa, Calif.; R. V. Industries, Anaheim, Calif. Send protests to: William J. Gray, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 128383 (Sub-No. 11 TA), filed November 3, 1971. Applicant: PINTO TRUCKING SERVICE, INC., 1219 Morris Street, Philadelphia, PA 19148. Applicant's representative: James W. Patterson, 123 South Broad Street, Philadelphia, PA 19109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except commodities in bulk, between points in Allegany, Baltimore City, Calvert, Caroline, Charles, Dorchester, Garrett, Kent, Queen Annes, St. Mary's, Somerset, Talbot, Washington, Wicomico, and Worcester Counties, Md.; Delaware, Loudoun, Prince William, Hanover, Henrico, Chesterfield, Isle of Wight, Nansemond, York, Roanoke, Franklin, Montgomery, Craig, Bedford, Botetourt, Accomack, and Northampton Counties, Va., and the cities of Richmond, Norfolk, Portsmouth,

Virginia Beach, Chesapeake, Newport News, Hampton, Salem, and Roanoke, Va., on the one hand, and, on the other, Dulles International Airport, Fairfax and Loudoun Counties, Va., Washington National Airport, Gravelly Point, Va., Friendship International Airport, Anne Arundel County, Md., Philadelphia International Airport, Philadelphia, Pa., Newark Airport, Newark, N.J., La Guardia Airport and John F. Kennedy International Airport, New York, N.Y., for 180 days. Supporting shipper: American Airlines Freight System, Friendship International Airport, Baltimore, Md. 21240.; Pan American World Airways, Friendship International Airport, Baltimore, Md. 21240; Trans World Airlines, Inc., 605 Third Avenue, New York, NY 10016; Northrop Page Communications Engineers, 3300 Whitehaven Street NW., Washington, DC 20007; Wall Shipping Co., Inc., Post Office Box 17145, Air Cargo Building, Dulles International Airport, Washington, D.C. 20014; Bor-Air Freight Co., Inc., 351 West 38th Street, New York, NY 10018. Send protests to: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 133854 (Sub-No. 3 TA), filed November 4, 1971. Applicant: KOYLE REASNOR AND LEO REASNOR, a partnership, doing business as REASNOR CONSTRUCTION CO., Post Office Box 148, Kinta, OK 74552. Applicant's representative: Rufus H. Lawson, 106 Bixler Building, 2400 Northwest 23d Street, Oklahoma City, OK. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, from the mine site of Kerr-McGee Corp., near Stigler, Okla., to Sanbois Creek, 3 miles west of Keota, Okla. Restricted to the transportation of traffic having a subsequent movement by water, for 180 days. Supporting shipper: Kerr-McGee Corp., Ray F. Fischer, transportation manager, Kerr-McGee Building, Oklahoma City, Okla. 73102. Send protests to: O. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 240 Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 135236 (Sub-No. 2 TA), filed November 3, 1971. Applicant: BILLY R. ALMAND, doing business as ALMAND TRUCKING CO., Route 2, Box 50, Keithville, LA 71047. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing granules*, dry in bulk, from points in Pulaski County, Ark., to Shreveport, La., for 180 days. Supporting shipper: Bird & Son, Inc., Aeor Drive, Shreveport, La. 71107. Send protests to: Paul D. Collins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room T–4009 Federal Building, 701 Loyola Avenue, New Orleans, LA 70113.

No. MC 136120 TA, filed November 3, 1971. Applicant: BUFFORD McCOLLUM, doing business as MIDWEST SPECIALIZED HAULING, 8508 East 111th Street, Kansas City, MO 64134. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Rubber pneumatic tires*, which are 10 feet or more in diameter; and (2) *rubber pneumatic tires*, when moving in mixed loads with (1) above, from the plantsite of The Goodyear Tire and Rubber Co. located at or near Topeka, Kans., to points in the United States (except Hawaii), for 150 days. Supporting shipper: The Goodyear Tire and Rubber Co., Akron, Ohio. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 136121 TA, filed November 4, 1971. Applicant: MINYARD TRUCKING COMPANY, INC., Post Office Box 45388–8740 East 46th Street, Tulsa, OK 74145. Applicant's representative: Joe Brisco (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bedsprings, bedstead rails, cots and cot frames, unupholstered day beds, bed frames, springs and spring assemblies, metal sleeper fixtures and materials* used in the manufacture of the foreging commodities, from Carthage, Mo., to points in Colorado and Arizona, for 180 days. Supporting shipper: Frank E. Ford, Jr., V. P. Leggett & Platt, Inc., 600 West Mound Street, Carthage, MO 64836. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 136122 TA, filed November 4, 1971. Applicant: FILM DELIVERY SERVICE, INC., 216 North Avenue Shopping Center, Albertville, Ala. 35950. Applicant's representatives: Bishop and Carlton, 325–29 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motion picture films and prints and advertising and promotional materials incidental thereto*, between Atlanta, Ga., on the one hand, and, on the other, Albertville, Decatur, and Huntsville, Ala. Restriction: The operations sought herein are to be limited to a transportation service to be performed under continuing contract with Marshall Drive-In Theatre, Inc., Princess Theatre, Inc., Bowline Drive-In Theatre, Inc., and 72 Amusement Co., Inc., for 180 days. Supporting shippers: Lyrics Amusement Co., Inc., Huntsville, Ala.; Acme Investment, Inc., Huntsville, Ala.; 72 Amusement Co., Inc., Huntsville, Ala.; Marshall Drive-In Theatre, Inc., Decatur, Ala.; Princess Theatre, Inc., Decatur, Ala.; Bowline Drive-In Theatre, Inc., Decatur, Ala. Send protests to: Clifford W. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 814, 2121 Building, Birmingham, Ala. 35203.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71–16666 Filed 11–15–71;8:49 am]

[Notice 781]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 9, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–72973. By order of November 5, 1971, the Motor Carrier Board approved the transfer to Premium Transportation Co., a corporation, Philadelphia, Pa., of the operating rights in certificate No. MC–96083 issued October 20, 1966, to Jacob Kleger and Rose Kleger, a partnership, Philadelphia, Pa., authorizing the transportation of household goods between Philadelphia, Pa., on the one hand, and, on the other, New York, N.Y., and points in New Jersey. Herbert Somerson, 2032 Land Title Building, Broad and Chestnut Streets, Philadelphia, PA 19110, attorney for applicants.

No. MC–FC–73068. By order of November 5, 1971, the Motor Carrier Board approved the transfer to Genova Express Lines, Inc., Williamstown, N.J., of the operating rights in certificate No. MC–381 issued September 3, 1970, to Joseph S. Genova, doing business as Genova Express Lines, Williamstown, N.J., authorizing the transportation of general commodities, with usual exceptions, between Philadelphia, Pa., and Williamstown, N.J., serving all intermediate points and the off-route points of Almonesson and Sicklerville, N.J., and between Hammonton, N.J., and Philadelphia, Pa., serving all intermediate points and off-route points within 5 miles of Hammonton, N.J. George A. Olsen, Registered Practitioner, 69 Tonnele Avenue, Jersey City, NJ 07306, representative for applicants.

No. MC–FC–73109. By order of November 5, 1971, the Motor Carrier Board approved the transfer to Dale Deliveries—Matisoff Express, Inc., New York, N.Y., of certificate No. MC 127312 issued April 11, 1966, to Matisoff Express,

Inc., New York, N.Y., authorizing the transportation of: General commodities, with the usual exceptions, from New York, N.Y., to specified counties in New Jersey. Morris Honig, attorney, 150 Broadway, New York, NY 10038, Michael Strauss, attorney, 103 Park Avenue, New York, NY 10017.

No. MC–FC–73198. By order of November 5, 1971, the Motor Carrier Board approved the transfer to Columbia Motor Freight, Inc., New Haven, Conn., of the operating rights in Permits Nos. MC–113627 and MC–113627 (Sub-No. 1), issued March 21, 1958, and January 23, 1969, respectively, to Barnett Motor Transportation, Inc., New Haven, Conn., authorizing the transportation of precast concrete facing slabs and joists, and materials and supplies, from New Haven, Conn., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Ohio, and the District of Columbia; and from New Haven and Newington, Conn., to points in Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont, limited to the accounts of Plasticrete Corp. and Consolidated Precast, Inc.; concrete pipe, and materials and supplies used in the installation thereof, except steel, from New Haven, and Newington, Conn., to points described immediately above; and concrete pipe, steel forms, and materials and supplies used in the installation of concrete pipe, between Rochester and Buffalo, N.Y., Newington and New Haven, Conn., East Brunswick and Wharton, N.J., and Perryman and Branchville, Md., limited to the account of International Pipe and Ceramics Corp. John E. Fay, 342 North Main Street, West Hartford, Conn. 06117, attorney for applicants.

No. MC–FC–73241. By order of November 5, 1971, the Motor Carrier Board approved the transfer to DuBois Trucking, Inc., Montpelier, Vt., of the operating rights in certificate Nos. MC–119808 (Sub-No. 2) and MC–119808 (Sub-No. 5) and permit No. MC–129876 (Sub-No. 3) issued November 16, 1961, June 21, 1967, and September 20, 1971, respectively to Robert F. DuBois, doing business as DuBois Trucking, Montpelier, Vt., authorizing the transportation of limestone and marble, in dump vehicles, from specified points in Vermont to points in New Hampshire, Virginia, Massachusetts, Connecticut, Rhode Island, New Jersey, Pennsylvania, Delaware, Maryland, Ohio, Washington, D.C., and described areas in Maine and New York, and petroleum products from South Portland, Me., to Berlin, Vt. John P. Monte, 61 Summer Street, Barree, VT 05641, attorney for applicants.

No. MC–FC–73269. By order of November 5, 1971, the Motor Carrier Board approved the transfer to Butler-Jones Air Freight, Inc., Salisbury, Md., of certificates Nos. MC–12655 (Sub-No. 1) and MC–126255 (Sub-No. 2), issued February 17, 1970, and July 16, 1971, to Walter M. Butler, Jr., Salisbury, Md., authorizing the transportation of: General commodities, with the usual exceptions, between specified points and airports in Maryland, and Virginia, in a radial movement. Russell S. Bernhard, attorney, 1625 K Street, NW., Washington, DC 20006.

No. MC–FC–73276. By order of November 5, 1971, the Motor Carrier Board approved the transfer to George Piazza, doing business as Staats Express, Rensselaer, N.Y., of certificate Nos. MC–58944, MC–58944 (Sub-No. 1) and MC–58944 (Sub-No. 2), issued April 16, 1942, August 18, 1949, and March 6, 1967, to George Piazza and Frank Piazza, doing business as Staats Express, Rensselaer, N.Y., authorizing the transportation of: General commodities, with the usual exceptions between specified points and areas in New York. Vincent D'Anza, attorney, 63 Wisconsin Avenue, Pelmar, NY.

No. MC–FC–73277. By order of November 5, 1971, the Motor Carrier Board approved the transfer to Tennessee Trailblazers, a corporation, Nashville, Tenn., of the operating rights in certificate No. MC–5038 issued December 13, 1962, to J. T. Fuqua, doing business as Fuqua Bus Lines, Bowling Green, Ky., authorizing the transportation of passengers and their baggage, and express and newspapers, in the same vehicle as passengers, between Bowling Green, Ky., and Owensboro, Ky., serving all intermediate points. Joe B. Orr, 1010 College Street, Bowling Green, KY 42101, attorney for applicants.

No. MC–FC–73279. By order of November 5, 1971, the Motor Carrier Board approved the transfer to Anna Gasperetti and John B. Gasperetti, Jr., a partnership, doing business as The Tri-C Transfer and Storage, Walsenburg, Colo., of certificate No. MC–133213, issued May 7, 1970, to Anna Gasperetti, doing business as The Tri-C Transfer and Storage, Walsenburg, Colo., authorizing the transportation of: General commodities, except those of unusual value, classes A and B explosives, commodities in bulk, and those requiring special equipment, between Walsenburg, Colo., and Gardner, Colo., serving all intermediate points, and the off-route point of Red Wing, Colo., over specified routes; and general commodities, except those of unusual value, classes A and B explosives, commodities in bulk, and those requiring special equipment, between Walsenburg, Colo., on the one hand, and, on the other, points in Huerfano County, Colo. Ernest D. Salm, 3846 Evans Street, Los Angeles, CA 90027, representative for applicants.

No. MC–FC–73284. By order of November 8, 1971, the Motor Carrier Board approved the transfer to Donald J. Mallatt, doing business as Hammer's DX, Galena, Kans., of the operating rights in certificate No. MC–119161 issued March 15, 1968, to Jesse's Truck Stop, Inc., Route 5, Box 366, Joplin, MO 64801, authorizing the transportation of wrecked or disabled motor vehicles, by use of wrecker equipment only, and replacement vehicles for wrecked or disabled motor vehicles, between points in Kansas, Missouri, and Oklahoma. Paul Armstrong, Post Office Box 45, Columbus, KS 66725, attorney for transferee.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71–16667 Filed 11–15–71;8:49 am]

[Notice 782]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 11, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act; the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–73196. By order of November 10, 1971, the Motor Carrier Board approved the transfer to Charro Trucking Corp., Garden City, Long Island, N.Y., of the operating rights in permits No. MC–129667 (Sub-No. 1) and MC–129667 (Sub-No. 2) issued October 8, 1968 and April 16, 1969 respectively to Loni-Jo Trucking Corp., Garden City, Long Island, N.Y., authorizing the transportation of such commodities as are dealt in by retail supermarkets, and equipment and supplies used in the operation thereof, between the retail supermarket stores and facilities of Waldbaum, Inc., and/or the suppliers of such stores, in New York and New Jersey, and between points in the New York, N.Y., commercial zone, on the one hand, and, on the other, storage facilities of Waldbaum, Inc., in Garden City, N.Y. William Biederman, 280 Broadway, New York, NY 10007, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71–16668 Filed 11–15–71;8:49 am]

[Notice 782–A]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 11, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 30 days from the date of service of the order. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–72974. By order of October 12, 1971, Division 3, acting as an Appellate Division, approved the transfer to Commercial Carrier, Inc., Charleston, W. Va., of a portion of the operating rights in certificate No. MC–108392 (Sub-No. 2) issued October 19, 1964, to Distributor Service Co., Inc., Charleston, W. Va., authorizing the transportation of malt beverages, in containers, from Detroit, Mich., to Charleston, W. Va., Philip J. Graziani, 710 Commerce Square, Charleston, W. Va. 25301, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71–16669 Filed 11–15–71;8:49 am]

[Suspension Docket No. 8686]

STABILIZATION OF RATES AND CHARGES

Order. At a general session of the Interstate Commerce Commission held at its office in Washington, D.C., on the 8th day of November 1971.

The President of the United States, by virtue of the authority vested in him by the Constitution and statutes of the United States, including the Economic Stabilization Act of 1970 (Public Law 91–379, 84 Stat. 799), as amended, issued Executive Order 11627, dated October 15, 1971, providing for the continuation of the stabilization of prices, rents, wages, and salaries at levels not greater than the highest of those pertaining to a substantial volume of actual transactions by each individual, business, firm or other entity of any kind during the 30-day period ending August 14, 1971, for like or similar commodities or services, pending action by competent authority pursuant to the provisions of such order. The Executive order also provides, inter alia, that no person shall charge, assess, or receive, directly or indirectly, in any transaction, prices in any form higher than those permitted therein.

It appearing, that there have been filed with the Interstate Commerce Commission schedules setting forth new increased rates, fares and charges and new rules, regulations, and practices having the effect of increasing rates, fares, and charges, applicable on interstate or foreign commerce, which are published to become effective November 14, 1971, and later, or which were published to become effective prior to November 14, 1971, and were suspended to and including November 13, 1971, by orders entered in suspension Dockets Nos. 8664, as amended, 8664 (Sub-No. 1), as amended, 8664 (Sub-No. 2) or 8664 (Sub-No. 3) and which, as a result of such orders, are to become effective November 14, 1971;

And it further appearing, that certain of the said schedules would, if permitted to become effective, result in rates, fares, charges, rules, regulations or practices which would be in violation of the Executive order described above; and good cause appearing therefor:

It is ordered, That the operation of the schedules described in the preceding paragraph be and it hereby is suspended, and that the use thereof on interstate and foreign commerce be deferred for an indefinite period pending further order of this Commission.

It is further ordered, That neither the schedules hereby suspended nor those sought to be altered thereby shall be changed until further order of this Commission, except that rates, fares, charges, rules, regulations, and practices may be changed if such change does not result in an increase above the highest level pertaining to a substantial volume of actual transactions during the 30-day period ending August 14, 1971, for like or similar commodities or services.

It is further ordered, That all carriers, respondents to this order, be, and they are hereby, directed to file with this Commission supplements containing notice of suspension of all increased rates, fares, charges, rules, regulations, and practices which are subject to this order.

It is further ordered, That schedules setting forth new increased rates, fares, and charges, and new rules, regulations and practices having the effect of increasing rates, fares, and charges, the operation of which has been suspended and investigation instituted under the provisions of the Interstate Commerce Act, are not subject to the terms of this order.

And it is further ordered, That a copy of this order be posted in the Office of the Secretary and in the Section of Tariffs of the Interstate Commerce Commission and that a copy be delivered to the Director, Office of Federal Register, for publication in the FEDERAL REGISTER and that all carriers subject to the jurisdiction of the Interstate Commerce Commission be, and they are hereby, made respondents to this order.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71–16674 Filed 11–15–71;8:50 am]

PAY BOARD

[Order No. 2]

CONSTRUCTION INDUSTRY STABILIZATION COMMITTEE

Authorization Regarding Wages, Salaries, and Other Economic Adjustments

NOVEMBER 13, 1971.

1. The Pay Board authorizes the Construction Industry Stabilization Committee, effective November 14, 1971, to administer the policies of the Pay Board with respect to wages and salaries and other economic adjustments in the building and construction industry. In other respects, Executive Order No. 11588 of March 29, 1971 remains in effect.

2. All wages and salaries and other economic adjustments contained in collective bargaining agreements, whether scheduled to take effect in the period from August 16 through November 13, 1971, or scheduled to take effect after November 13, 1971 (whether or not previously approved by the Committee), now require the approval of the Construction Industry Stabilization Committee regardless of the number of employees affected.

3. The Pay Board shall prescribe the form of procedures to be followed by the Construction Industry Stabilization Committee to assure conformity with the announced policies of the Pay Board.

4. This order shall be effective at 12:01 a.m., November 14, 1971.

By direction of the Board.

GEORGE H. BOLDT,
Chairman of the Pay Board.

[FR Doc.71–16802 Filed 11–15–71;11:31 am]

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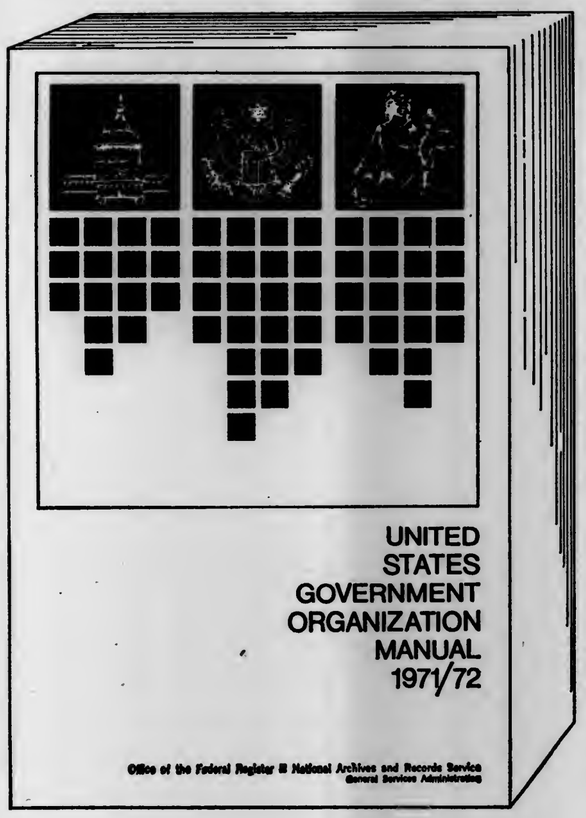

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Title 7—AGRICULTURE

Chapter II—Food and Nutrition Service, Department of Agriculture

CHILD NUTRITION PROGRAMS

National School Lunch Program

On August 13, 1971, there was published in the FEDERAL REGISTER (36 F.R. 15125) a notice of proposed rule making to amend the regulations governing the operation of the National School Lunch Program (7 CFR Part 210), the regulations governing the operation of the Nonfood Assistance Program (7 CFR Part 220), and the regulations on Determining Eligibility for Free and Reduced Price Lunches (7 CFR Part 245). Responses to the proposed regulations were received from 295 individuals and organizations. In addition, comments were expressed by members of the Congress and by others in hearings before Congressional Committees. Following such hearings Public Law 92–153 was enacted by the Congress and approved by the President on November 5, 1971. Among other things, Public Law 92–153 authorizes increased Federal funding in fiscal year 1972 to carryout the purposes of sections 4 (general cash-for-food assistance) and 11 (special cash assistance) of the National School Lunch Act and establishes minimum rates of reimbursement under section 11 of the Act. It also provies that, during fiscal year 1972, the Secretary shall reimburse State agencies and local school authorities for free and reduced price lunches served pursuant to eligibility standards established by State educational agencies prior to October 1, 1971.

Set forth below are the principal comments, recommendations, and suggestions submitted and the changes made from the proposed amendments published on August 13. These changes are based on the provisions of Public Law 92–153 to the extent such provisions are relevant.

1. Section 210.2 *Definitions.* The new definition, "Lunches eligible for special cash assistance" is responsive to the provisions of section 5 of Public Law 92–153. It did not appear in the proposed August 13 version.

2. Section 210.4 *Apportionment of funds to States.* Eighty-three respondents indicated dissatisfaction with the method proposed of allocating among the States and advancing section 32 funds. Most of the reasons for such dissatisfaction would seem to be satisfied by the additional funds and increased minimum reimbursement rates provided for in Public Law 92–153. The method of distributing section 32 funds to States for general cash-for-food assistance under paragraph (f) and the method of distributing section 32 funds to States for special cash assistance under paragraph (g) have been modified to the extent required by Public Law 92–153. The average section 4 payment to be provided for Type A lunches served in 1972 is increased from 5 cents to an average of at least 6 cents in accordance with Public Law 92–153. Clarifying changes have been made in paragraphs (a), (d), and (f).

3. Section 210.5 *Payments to States.* Paragraph (a) has been revised to eliminate the monthly limitations in Letters of Credit for funds made available to States under paragraph (a) of § 210.4. In response to comments on the proposed regulations, the method of advancing section 32 funds made available to States under paragraphs (f) and (g) of § 210.4 has been modified.

4. Section 210.11 *Reimbursement payments.* The language of paragraph (b–1) has been changed on the basis of responses received to the proposed regulations. In paragraph (b–2), in response to 37 comments, the month specified was changed from January to November to provide State Agencies more time to effect the first adjustments in assigned rates of reimbursement. It provides that additional adjustments in assigned rates of reimbursement should be made as the year progresses, if additional adjustments are necessary to limit section 4 obligations for the fiscal year to the section 4 funds available for such year. The remaining revisions in this section implement those provisions of Public Law 92–153 which prescribe the minimum rates of special cash assistance reimbursement to be paid for free and reduced price lunches served to children eligible for such lunches. Paragraphs (c), (d), and (d–1) set forth the minimum special cash assistance reimbursement rates authorized by Public Law 92–153 and prescribe the criteria to be used to establish to the satisfaction of the State Agency that a school is an especially needy school and is financially unable to support the service of free and reduced price lunches within the minimum authorized rates of special cash assistance. Paragraphs (c) and (d–1) provide that the per-lunch amount of total reimbursement to a school from general cash-for-food assistance and special cash assistance funds shall not exceed the per-lunch cost of providing a Type A lunch in the school less, in the case of a reduced price lunch, the highest price charged for such a lunch in the school. This provision is based on and is consistent with the provisions of sections 8 and 11(e) of the National School Lunch Act.

5. Section 210.13 *Reimbursement procedure.* Language changes have been made in subparagraph (2) of paragraph (b) to conform to the new definition, "lunches eligible for special cash assistance."

6. Section 210.14 *Special responsibilities of State agencies.* Revised paragraph (g) of the regulations requires State agencies to include information on the number of schools approved as especially needy schools in its monthly report on program operations.

7. Section 220.16 *Requirements for participation.* Fifty-four respondents objected to the proposed 8-month (July through February) reserve of Nonfood Assistance Funds. Many of the respondents apparently overlooked the provision which authorized exceptions to this requirement when approved by FNS. The intent of this regulation is to provide some assurance that sufficient Nonfood Assistance Funds will be available for a reasonable period of time for needy "no program" schools and to preclude committing all available funds to ongoing programs early in the school year. The reserve period was changed to July through January in the final regulations thus reducing the period from 8 to 7 months.

9. Section 245.6 *Applications for free and reduced price lunches.* Seventeen respondents stated that the proposed revision would cause certification delays and increase paperwork. The intent of this amendment is to insure that special cash assistance reimbursement is not provided for lunches served to children who do not meet the school's eligibility standards for free and reduced price lunches. The amendment is not intended to require a reduction in the number of eligible children served free or reduced price lunches. It is intended to clarify a provision in the existing regulations which some schools interpreted as permitting them to disregard eligibility requirements in serving free and reduced price lunches.

Accordingly, the National School Lunch Program regulations, the Nonfood Assistance Program regulations, and the regulations Determining Eligibility for Free and Reduced Price Lunches are amended as follows:

[Amdt. 6]

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. In § 210.2, a new paragraph (h–2) is added as follows:

§ 210.2 Definitions.

* * * * * *

(h–2) "Lunches eligible for special cash assistance" means: (1) With respect to fiscal year 1972, free or reduced price lunches served in a participating school under the eligibility criteria of the School Food Authority which had been approved by the State agency, or FNSRO where applicable, prior to October 1, 1971, or, if the School Food Authority is approved for participation in the Program after October 1, 1971, under eligibility criteria approved by the

State agency, or FNSRO where applicable, pursuant to the latest eligibility standards established prior to October 1, 1971, by the State agency, or FNSRO where applicable; and (2) after fiscal year 1972, free or reduced price lunches served in a participating school under the eligibility criteria of the School Food Authority approved by the State agency, or FNSRO where applicable.

* * * * *

2. In § 210.4, the first sentence in paragraph (a) and the first sentence in paragraph (d) are amended and new paragraphs (f) and (g) are added as follows:

§ 210.4 Apportionment of funds to States.

(a) Except as provided in paragraph (f) of this section, any Federal funds made available for general cash-for-food assistance for any fiscal year shall be apportioned among the States in accordance with section 4 of the Act on the basis of two factors: (1) The participation rate for the State, and (2) the assistance need rate for the State. * * *

* * * * *

(d) Except as provided in paragraph (g) of this section, any Federal funds made available for special cash assistance for any fiscal year shall be apportioned among the States in accordance with section 11 of the Act. * * *

* * * * *

(f) Any section 32 funds made available for general cash-for-food assistance during the fiscal year 1972 shall be distributed to State agencies and to FNSRO where applicable, in the amount of 6 cents for each Type A lunch served during such fiscal year in participating schools within the State which is in excess of the number of Type A lunches which can be financed at an average rate of 6 cents for the fiscal year 1972 from the general cash-for-food assistance funds made available to the State agencies, or FNSRO where applicable, under the provisions of paragraphs (a) and (c) of this section.

(g) Any section 32 funds made available for special cash assistance in the fiscal year 1972 shall be distributed to State agencies, and FNSRO where applicable, needing funds in addition to those made available for such fiscal year under paragraphs (d) and (e) of this section to finance special cash assistance reimbursement rates assigned in accordance with the provisions of paragraphs (c), (d), and (d–1) of § 210.11.

3. In § 210.5, paragraph (a) is revised and new paragraphs (c) and (c–1) are added, as follows:

§ 210.5 Payments to States.

(a) The general cash-for-food assistance funds apportioned to any State shall be made available by means of letters of credit issued by FNS to appropriate Federal Reserve Banks in favor of the State agency. Such letters of credit shall be designed to provide funds for the State agency for the operation of the Program in such amounts and at such times as the funds are needed to reimburse school food authorities. As soon as practicable after funds are made available to FNS, FNS shall prepare a letter of credit for each State with which it has an approved agreement and an approved State plan of child nutrition operations. If funds have been authorized by Congress for the operation of the Program under a continuing resolution, letters of credit shall reflect only the amounts authorized for the effective period of the resolution. The State agency shall obtain funds needed to reimburse school food authorities through presentation by designated State officials of a payment voucher on letter of credit (Form FNS 218) to a local commercial bank for transmission to the appropriate Federal Reserve Bank, in accordance with procedures prescribed by FNS and approved by the U.S. Treasury Department. The State agency shall draw only such funds as are needed to pay claims for reimbursement certified for payment and shall use such funds without delay to pay such claims. State agencies shall report information on the status of program funds on a monthly basis to FNS on a form provided by FNS. Program funds shall be made available to the State agency in the District of Columbia by means of Treasury Department checks on the same basis as is prescribed for payments made by letters of credit.

* * * * *

(c) Any section 32 funds for general cash-for-food assistance to which a State agency is entitled under paragraph (f) of § 210.4 shall be made available by means of letters of credit issued by FNS to appropriate Federal Reserve Banks in favor of the State agency. In the case of the District of Columbia, such funds shall be made available by means of Treasury Department checks. No such section 32 funds made available shall be expended by a State agency, or FNSRO where applicable, until the funds made available to it under the provisions of paragraphs (a) and (c) of § 210.4 have been expended.

(c–1) Any section 32 funds for special cash assistance to which a State agency is entitled under paragraph (g) of § 210.4 shall be made available by means of letters of credit issued by FNS to appropriate Federal Reserve Banks in favor of the State agency. In the case of the District of Columbia, such funds shall be made available by means of Treasury Department checks. No such section 32 funds made available shall be expended by the State agency, or FNSRO where applicable, until the funds made available to it under paragraphs (d) and (e) of § 210.4 have been expended.

4. In § 210.11, new paragraphs (b–1) and (b–2) are added, paragraphs (c) and (d) are revised, new paragraphs (d–1) and (e–1) are added; the first sentence of paragraph (f) is amended, and paragraph (g) is revised as follows:

§ 210.11 Reimbursement payments.

* * * * *

(b–1) Within the maximum rate of reimbursement set forth in paragraph (b) of this section, in each fiscal year, the State agency, or FNSRO where applicable, shall initially assign rates of reimbursement at levels which will permit reimbursement from the general cash-for-food assistance funds available under paragraphs (a), (c), and (f) of § 210.4 to the State agency, or FNSRO where applicable, for the total number of Type A and Type C lunches it is estimated will be served in participating schools in the State in such fiscal year. At a minimum, the estimate of the number of Type A and Type C lunches to be served in a fiscal year shall take into account the estimated number of such lunches to be served in schools which are expected to apply and be approved for participation in the Program during such fiscal year and the estimated number of such lunches to be served in schools which participated in the preceding fiscal year.

(b–2) Each fiscal year, promptly following the receipt of claims for reimbursement covering operations for the month of November and for such later months as is necessary, each State agency, or FNSRO where applicable, shall revise its estimates of the total number of Type A and Type C lunches to be served in participating schools in such fiscal year. Based upon such revised estimates, each State agency, or FNSRO where applicable, shall make such adjustments in assigned rates of reimbursement from available general cash-for-food assistance funds as are necessary to permit reimbursement from such funds for the total number of Type A and Type C lunches it is estimated will be served in participating schools in the State in such fiscal year.

(c) A school participating in the Program may be reimbursed from special cash assistance funds for lunches eligible for special cash assistance. Except as provided in this paragraph (c) and in paragraphs (d) and (d–1) of this section, the rate of reimbursement for a free lunch eligible for special cash assistance shall be the lesser of the following: (1) 40 cents or (2) the per-lunch cost of providing a Type A lunch in the school. Except as provided in this paragraph (c) and in paragraphs (d) and (d–1) of this section, the rate of reimbursement for a reduced price lunch eligible for special cash assistance shall be the lesser of the following: (1) 40 cents less the highest price charged for such a reduced price lunch in the school or (2) the per-lunch cost of providing a Type A lunch in the school less the highest price charged for such a reduced price lunch in the school. In no event, however, shall the per-lunch amount of total reimbursement to a school from general cash-for-food assistance funds and special cash assistance funds exceed the per-lunch cost of providing a Type A lunch in the school less, in the case of a reduced price lunch, the highest price charged for such reduced price lunch in the school.

(d) A school participating in the Program may be considered for rates of reimbursement from special cash assistance funds which are in excess of the rates set forth in paragraph (c) of this section if it is an especially needy school. An especially needy school is one which establishes to the satisfaction of the State agency, or FNSRO where applicable, that it would be financially unable to support the service of lunches eligible for special cash assistance without an increase in the amount of special cash assistance provided for in paragraph (c) of this section because of: (1) The need to serve an especially high percentage of free and reduced price lunches; or (2) unusual costs required to provide a Type A lunch in the school in spite of the observance of good management practices; or (3) other unusual factors indicative of a special financial need. The State Agency, or FNSRO where applicable, shall determine that the impact of such factors on the per-lunch cost of providing a Type A lunch in the school is such that it is financially unable to support the service of lunches eligible for special cash assistance after taking into consideration the per-lunch revenues available for such eligible lunches from general cash-for-food assistance, from special cash assistance provided for in paragraph (c) of this section, from State and local revenues including revenues from the sale of reduced price lunches eligible for special cash assistance, and from the effective utilization of commodities available under Part 250 of this chapter. The State agency, or FNSRO where applicable, shall also determine to its satisfaction that revenues available to support the service of Type A lunches sold at regular prices in the school is sufficient to cover the cost of such service. The State agency, or FNSRO where applicable, shall maintain on file for review the data to support its determination that a school is an especially needy school.

(d–1) The maximum rate of reimbursement to be provided for free lunches eligible for special cash assistance served in an especially needy school shall be the lesser of the following: (1) 60 cents or (2) the per-lunch cost of providing a Type A lunch in the school. The maximum rate of reimbursement to be provided for a reduced price lunch eligible for special cash assistance shall be the lesser of the following: (1) 60 cents less the highest price charged for such a reduced price lunch in a school or (2) the per-lunch cost of providing a Type A lunch in the school less the highest price charged for such a reduced price lunch in the school. In no event, however, shall the per-lunch amount of total reimbursement to an especially needy school from general cash-for-food assistance funds and special cash assistance funds exceed the per-lunch cost of providing a Type A lunch in the school less, in the case of a reduced price lunch, the highest price charged for such a reduced price lunch in the school.

* * * * *

(e–1) At the election of the State agency, or FNSRO where applicable, claims for reimbursement submitted by each School Food Authority for lunches eligible for special cash assistance served in the 5-month period beginning July 1, 1971, and ending November 30, 1971, may be paid at rates of reimbursement from special cash assistance funds authorized under the regulations under this part in effect prior to the issuance of this Amendment No. 6 or at rates of reimbursement from special cash assistance funds authorized under the regulations under this part as amended by Amendment No. 6. In the event that the State agency, or FNSRO where applicable, elects to pay for lunches eligible for special cash assistance served during such 5-month period at the rates of reimbursement from special cash assistance authorized under such regulations in effect prior to the issuance of Amendment No. 6, the provisions of paragraph (g) of this section shall be applicable only for the 7-month period beginning December 1, 1971, and ending June 30, 1972.

(f) Within the funds made available for general cash-for-food assistance under paragraphs (a), (c), and (f) of § 210.4, the last claim of each fiscal year for general cash-for-food assistance submitted by a School Food Authority for a school may be paid at a rate in excess of the assigned rate for that school or in excess of the maximum rate of 12 cents: *Provided, however,* * * *.

(g) Except as provided in paragraph (e–1) of this section, the last claim of each fiscal year for special cash assistance submitted by a School Food Authority for a school which is not an especially needy school may be paid at a rate in excess of the rate authorized in paragraph (c) of this section: *Provided, however,* That the total special cash assistance reimbursement to such school during such fiscal year shall not exceed the lesser of: (1) 40 cents times the number of lunches eligible for special cash assistance served during such fiscal year, less an amount equal to the highest price charged in the school for a reduced price lunch eligible for special cash assistance times the number of reduced price lunches eligible for special cash assistance served in the school during such fiscal year, or (2) the per-lunch cost of providing a Type A lunch in the school times the number of lunches eligible for special cash assistance served in the school during such fiscal year, less an amount determined by adding the total amount of general cash-for-food assistance provided to such school during such fiscal year for such eligible lunches to an amount equal to the highest price charged in the school for a reduced price lunch eligible for special cash assistance times the number of such reduced price lunches served in the school in such fiscal year. Except as provided in paragraph (e–1) of this section, the last claim of each fiscal year for special cash assistance submitted by a School Food Authority for an especially needy school may be paid at a rate in excess of the maximum rate authorized in paragraph (d–1) of this section: *Provided, however,* That the total special cash assistance reimbursement to such school during such fiscal year shall not exceed the lesser of: (1) 60 cents times the number of lunches eligible for special cash assistance served during such fiscal year, less an amount equal to the highest price charged in the school for a reduced price lunch in the school times the number of reduced price lunches eligible for special cash assistance served in the school during such fiscal year, or (2) the per-lunch cost of providing a Type A lunch in the school times the number of lunches eligible for special cash assistance served in the school during such fiscal year, less an amount determined by adding the total amount of general cash-for-food assistance provided to such school during such fiscal year for such eligible lunches to an amount equal to the highest price charged in the school for a reduced price lunch eligible for special cash assistance times the number of such reduced price lunches served in the school in such fiscal year.

5. In § 210.13, subdivisions (iv) and (v) of subparagraph (2) of paragraph (b) are amended as follows:

§ 210.13 Reimbursement procedure.

* * * * *

(b) * * * As a minimum, the claim for reimbursement shall include the following information: * * * (2) the name and address of the School Food Authority and of each school in which the Program was operated, and the following information with respect to each such school: * * * (iv) the total number of reduced price lunches eligible for special cash assistance; (v) the total number of free lunches eligible for special cash assistance; * * *.

6. In § 210.14, paragraphs (g) (2) and (g) (3) are amended as follows:

§ 210.14 Special responsibilities of State Agencies.

* * * * *

(g) Records and reports (1) * * *.

(2) The monthly report required in subparagraph (1) of this paragraph shall for Program schools contain the following information: (i) the month and year being reported, (ii) the number of schools approved for participation in the Program, (iii) the number of participating schools included in the report, (iv) the average daily attendance in such participating schools included in the report, (v) the average daily participation, (vi) the total number of lunches sold to children at regular prices, (vii) the total number of reduced price lunches eligible for special cash assistance, (viii) the total number of free lunches eligible for special cash assistance, (ix) the amount of general cash-for-food assistance obligated from funds made available under § 210.4(a) and from funds made available under § 210.4 (f), (x) the amount of special cash assistance obligated from funds made available under § 210.4(d) and from funds made available under § 210.4(g), and (xi) the number of schools and the average daily attendance in schools approved as especially needy schools under the provisions of § 210.11(d).

(3) The monthly reports covering operations for October and March of each year submitted in accordance with subparagraph (1) of this paragraph shall be accompanied by an estimate of the total number of children in schools participating in the Program who are eligible for a free or reduced price lunch, compiled from the estimates submitted by School Food Authorities with their claims for reimbursement covering operations for October and March of each fiscal year.

§ 210.19 [Amended]

7. In § 210.19, paragraph (b) is amended by adding the following phrase before the period at the end thereof "except when such changes are required by law."

[Amdt. 8]

PART 220—SCHOOL BREAKFAST AND NONFOOD ASSISTANCE PROGRAMS AND STATE ADMINISTRATIVE EXPENSES

In § 220.16, paragraph (b) is revised to read as follows:

§ 220.16 Requirements for participation.

* * * * *

(b) Schools drawing attendance from areas in which poor economic conditions exist that have no equipment or grossly inadequate equipment to operate an adequate feeding program under the National School Lunch Program or the School Breakfast Program shall be selected for participation in the Nonfood Assistance Program on the basis of: (1) The relative need of such schools for assistance in acquiring such equipment, and (2) the amount of funds available to the State agency, or FNSRO where applicable. State agencies, or FNSRO where applicable, have a positive obligation to inform the School Food Authorities having jurisdiction over such schools of the Nonfood Assistance Program and, within available funds, to work with such School Food Authorities to plan for the acquisition of any equipment they need to operate an adequate feeding program in such schools under the National School Lunch Program or the School Breakfast Program. The Nonfood Assistance Program funds made available to the State agency, or FNSRO where applicable, may be obligated at any time during the fiscal year: *Provided, however,* That except when prior approval is obtained from FNS, the State agency, or FNSRO where applicable, shall not obligate before February 1 of each fiscal year more than 50 per centum of such funds for use by schools already participating in the National School Lunch Program or the School Breakfast Program.

* * * * *

[Amdt. 1]

PART 245—DETERMINING ELIGIBILITY FOR FREE AND REDUCED PRICE LUNCHES

§ 245.6 [Amended]

In § 245.6, paragraph (c) is amended by adding the following three sentences at the end thereof: "Nothing in this paragraph shall be deemed to authorize the State Agency, or FNSRO where applicable, to make reimbursement from special cash assistance funds for all Type A lunches served in a school unless a reasonable basis exists for finding that all such lunches are lunches eligible for special cash assistance. The State Agency, or FNSRO where applicable, shall maintain on file, or cause to be maintained on file, the data used to make such a finding. Such data shall be maintained on file for 3 years after the end of the fiscal year to which they pertain."

Effective date. These amendments shall be effective July 1, 1971.

The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Dated: November 11, 1971.

RICHARD LYNG,
Assistant Secretary.

[FR Doc.71-16733 Filed 11-16-71;8:49 am]

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 722—COTTON

Subpart—1972 Crop of Extra Long Staple Cotton; Acreage Allotments and Marketing Quotas

STATE RESERVES AND COUNTY ALLOTMENTS

Section 722.562 is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.). This section establishes the State reserves and allocation thereof among uses for the 1972 crop of extra long staple cotton. It also establishes the county allotments. Such determinations were made initially by the respective State committees and are hereby approved and made effective by the Administrator, ASCS, pursuant to delegated authority (35 F.R. 19798, 36 F.R. 6907).

Notice that the Secretary was preparing to establish State and county allotments was published in the FEDERAL REGISTER on September 14, 1971 (36 F.R. 18412) in accordance with 5 U.S.C. 553. The views and recommendations received in response to such notice have been duly considered.

In order that farmers may be informed as soon as possible of 1972 farm allotments so that they may make plans accordingly, it is essential that this section be made effective as soon as possible. Accordingly, it is hereby found and determined that compliance with the 30-day effective date requirement of 5 U.S.C. 553 is impracticable and contrary to the public interest, and § 722.562 shall be effective upon filing this document with the Director, Office of the Federal Register.

§ 722.562 State reserves and county allotments for the 1972 crop of extra long staple cotton.

(a) *State reserves.* The State reserves for each State shall be established and allocated among uses for the 1972 crop of extra long staple cotton pursuant to § 722.508 of the regulations for acreage allotments for 1966 and succeeding crops of extra long staple cotton (31 F.R. 6247, 13530, 32 F.R. 5416, 33 F.R. 8427, 16066, 16435, 34 F.R. 5, 808). It is hereby determined that no State reserve is required for trends, abnormal conditions, or small farms. The following table sets forth the State reserve for each State. The table also sets forth the allotment in the State productivity pool which shall not be allocated to counties and farms, as required under § 722.509(a) of the regulations for acreage allotments for 1966 and succeeding crops of extra long staple cotton.

State	State productivity pool	Total State reserve	Allocation from State reserve for: Inequities and hardship cases	Allocation from State reserve for: New farms and corrections of errors
Arizona	449	12		12
California				
Florida		4		4
Georgia				
New Mexico	25	13	2	11
Texas	59			
U.S. total	533	29	2	27

(b) *County allotments.* County allotments are established for the 1972 crop of extra long staple cotton in accordance with § 722.509 of the regulations for acreage allotments for 1966 and succeeding crops of extra long staple cotton. The following table sets forth the county allotments:

ARIZONA

County	County allotment	Allocation from State reserve for inequity and hardship cases
	Acres	
Cochise	1,301	
Gila	19	
Graham	14,065	
Maricopa	19,491	
Pima	3,086	
Pinal	11,280	
Yuma	1,406	
State	50,648	

CALIFORNIA

County	County allotment	Allocation from State reserve for inequity and hardship cases
Imperial	148	
Riverside	634	
State	782	

FLORIDA

Alachua	64	
Hamilton	6	
Jefferson	2	
Madison	30	
Marion	30	
Suwannee	3	
Union	55	
State	190	

GEORGIA

Berrien	125	
Cook	34	
State	159	

NEW MEXICO

Chaves	65	
Dona Ana	22,440	
Eddy	191	
Hidalgo	31	1
Luna	842	
Otero	51	1
Sierra	256	
State	23,876	2

TEXAS

Brewster	17	
Culberson	410	
El Paso	28,461	
Hudspeth	3,569	
Loving	14	
Pecos	1,188	
Presidio	146	
Reeves	7,127	
Ward	614	
State	41,546	

(Secs. 344, 347, 375, 63 Stat. 670, as amended, 675, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1344, 1347, 1375)

Effective date: Date of filing this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on November 11, 1971.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.71-16692 Filed 11-12-71;10:13 am]

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

PART 811—CONTINENTAL SUGAR REQUIREMENTS AND AREA QUOTAS

Requirements and Quotas for 1972

Basis and purpose and bases and considerations. This regulation is issued pursuant to the authority vested in the Secretary of Agriculture by the Sugar Act of 1948, as amended (61 Stat. 922, as amended), hereinafter referred to as the "Act". The purpose of Sugar Regulation 811 is to determine pursuant to section 201 of the Act the amount of sugar needed to meet the requirements of consumers in the continental United States for the calendar year 1972, and to establish sugar quotas for the supplying areas in terms of short tons or sugar, raw value, equal to the amount determined to be needed in 1972. Furthermore, this regulation determines and prorates and allocates a deficit in a quota, establishes quantities of certain quotas that may be filled by direct-consumption sugar and establishes a liquid sugar quota.

In accordance with the rule making requirements in 5 U.S.C. 553 there was published in the FEDERAL REGISTER (36 F.R. 20437) a notice of proposed rule making for the issuance of a regulation determining sugar requirements for the continental United States and establishing quotas for the calendar year 1972. Written data, views, or arguments for consideration in connection with the proposed regulation were to be submitted by interested persons prior to November 2, 1971. Thorough consideration has been given to all data, views, and comments received relative to the proposed regulation which are briefly summarized at the end of this statement of bases and considerations.

Subsection 201(a) of the Act requires a determination for each calendar year of the amount of sugar needed to meet the requirements of consumers in the continental United States and a revision of such determination during the calendar year whenever necessary to attain the price objective set forth in subsection 201(b) of the Act.

The price objective is a price for raw sugar which will maintain the same ratio between such price and the average of the parity index (1967=100) and the wholesale price index (1967=100) as the ratio that existed between (1) the simple average of the monthly price objective calculated for the period September 1, 1970, through August 31, 1971, under this section as in effect immediately prior to the date of enactment of the Sugar Act Amendments of 1971 (8.54 cents per pound), and (2) the simple average of such two indexes for the same period (115.4). Adjustments shall be made in the determination of requirements during the period November through February whenever the simple average price for raw sugar over 7 consecutive market days is 3 percent or more above or below the average price objective for the previous 2 calendar months. The percentage is increased to 4 percent for the March through October period.

The distribution of quota sugar in the United States during the 12 months ended August 31, 1971, amounted to 11,220,000 short tons, raw value. That quantity was about 60,000 tons more than the quantity distributed in the preceding 12-month period.

Population is growing at an annual rate of about 1.1 percent. Accordingly population during calendar year 1972 should be about 1.45 percent greater than in the 12-month period ended August 31, 1971. At a constant per capita rate, distribution in 1972 might be expected to approximate 11,390,000 tons. It should be noted, however, that the per capita rate of distribution declined very slightly during the base period.

The cane sugar refining industry customarily has refining losses of about 65,000 tons annually. Therefore, it would appear that new quota supplies of 11,450,000 could have the effect of maintaining refiners' inventories of quota sugar at year end 1972 at the same level as at the beginning of the year.

At this time it is impossible to accurately estimate such inventories at the beginning of 1972 to say nothing of what they might amount to at the end of that year. A number of considerations could affect refiners' inventory investment policies and incidentally those of the manufacturers of sugar-containing products. The actual variation in the inventories of quota sugar during the year could have a significant effect on the quantity of quota sugar supplies needed during 1972.

During the first 10 months of 1971, the domestic price of raw sugar fluctuated from a low 8.29 cents per pound as an average for April to a high of 8.66 cents per pound as an average for August. The average for the 9-month period was 8.48 cents per pound or 4.6 percent more than the 8.09 cents per pound average for the first 9 months of 1970. The price on November 4 was 8.60 cents per pound, or 98.7 percent of the price objective determined pursuant to section 201 of the Act. In developing this determination, consideration has been given to maintaining prices in 1972 that will carry out the price objective set forth in section 201 (b) of the Act.

In consideration of these matters, it is determined that 11.2 million short tons, raw value, is the quantity of sugar needed to meet the requirements of consumers in the continental United States and to attain the price objective of the Act.

A quota of 1,160,000 short tons, raw value, is established herein for Hawaii pursuant to section 202(a)(3) of the Act. Such quota is subject to adjustment pending final data on the production and marketing of sugar by Hawaii in 1971.

The quota for Southern Rhodesia has been withheld pursuant to Executive Order 11322 issued on January 5, 1967, and is prorated herein to Western Hemisphere countries pursuant to section 202(d)(1)(B) of the Act.

The quotas established for all countries except the Republic of the Philippines and Ireland are based on the assumption that each such country will give assurance to the Secretary by letter on or before December 31, 1971 that such country will fill the quota as established for it under section 202(c)(3) and (d)(1) of the Act for 1972, 1973, and 1974.

The quota for Haiti is based on the assumption that additional information will be submitted which will substantiate its claim that its 1971 quota shortfall was due to force majeure.

It is also determined on the basis of information currently available to the

Department that no reduction is required at this time pursuant to section 202(d)(3) and (4) of the Act in the quotas established herein for other foreign countries. This action is based on the tentative assumption that each such country either will fill its 1971 quota within a reasonable tolerance or that facts will be submitted which will support a finding that the shortfall in the country's 1971 quota was due to force majeure.

In general, sugar production in countries with U.S. sugar quotas is heaviest in the first 5 months of the year while consumption in the United States is greatest in the following 4 months—June through September. Because of storage limitations, many producers in foreign countries are inclined to ship in large quantities of raw sugar during the production season. The desire to minimize carrying costs, especially at this time when interest rates are high, and the need for operating funds during the production season have a similar effect. Furthermore, the raw sugar produced in the mainland cane area is marketed heavily just before and after the turn of the year.

In view of these circumstances and to relate the importation of raw sugar to the needs of the market in an orderly fashion, it is hereby determined that the importation of foreign sugar within the quotas before April 1 will be limited to 1 million short tons, raw value (compared to 950,000 tons in the proposed determination), plus the quantity of sugar imported this year for refining and storage under bond for charge to 1972 quotas. The first quarter limitation on the imports of foreign raw sugar was increased 50,000 tons in recognition of the likelihood that refiners will have greater last quarter deliveries of sugar and less 1971 yearend quota stocks than previously anticipated since some Atlantic and Gulf refiners are now operating.

To recognize the seasonality of production and movement of sugar from the foreign countries, quota allocations to foreign countries for the importation of raw sugar during the first quarter of 1972 will be based primarily on average imports of raw sugar, within quotas, from such foreign countries during the first quarter of the 3-year period 1969 through 1971 and to provide for minimum allocations of 5,000 tons or the quantity applied for whichever is less.

Production of sugar in Puerto Rico is not expected to exceed 435,000 short tons, raw value, while requirements for consumption in Puerto Rico are expected to be of the order of 130,000 tons. It would appear that the quantity of sugar available for shipment to the continental United States would not be more than 305,000 tons. Accordingly a deficit of 550,000 tons in the 855,000 ton quota for Puerto Rico is declared herein and made available to foreign countries by allocating 165,440 tons to the Republic of the Philippines and prorating the balance of 384,560 tons to foreign countries of the Western Hemisphere in proportion to their quotas determined pursuant to section 202.

The following views were received with respect to the proposed determination of sugar requirements and quotas for 1972:

All of the sugarcane and sugar beet producing and processing industries of the United States agreed that initial 1972 sugar requirements should not be established at a level any higher than 11.2 million tons since the Act contemplates that adjustments in the level of sugar requirements be a primary tool to achieve the price objective of the Act and the raw price is currently only 97.1 percent of the price consideration referred to in section 201 of the Act. They supported the limitation of imports during the first quarter of 1972 but were of the opinion that the quantity of 950,000 tons proposed by the Department was too high.

The Sugar Users Group, representing food processing concerns, did not object to the proposed initial requirement level of 11.2 million tons and considered the allocation of part of the anticipated Puerto Rican deficit to be appropriate. The group also believed that the 950,000-ton limitation on raw sugar imports during the first quarter would probably be sufficient to provide consumers with adequate supplies of sugar while achieving the price objective of the Act under normal circumstances, but because of uncertainty regarding the duration of the maritime strike they suggested that first quarter limtations not be imposed at this time but the need for such limitations be considered later should the maritime strike be terminated during 1971.

Amstar Corp., the largest domestic raw sugar refiner, approved the proposed initial level of requirements as reasonably likely to achieve the objectives of the Sugar Act. The company, however, objected to any limitation on the imports of raw sugar during the first quarter of 1972 because they felt it would interfere with the orderly development of the market conditions contemplated in the recently amended section 202(g) of the Act.

Sec.
811.10 Sugar requirements 1972.
811.11 Quotas for domestic areas.
811.12 Proration and allocation of deficits in quotas.
811.13 Quotas for foreign countries.
811.14 Applicability of quotas.
811.15 Restrictions on importations and marketings within quotas.

AUTHORITY: The provisions of §§ 811.10 through 811.15 under section 403, 81 Stat. 932, 7 U.S.C. 1153; sections 201, 202, 204, 207, 208, 209, 210; 61 Stat. 923, as amended, 924, as amended, 925, as amended, 927, as amended, and 928, as amended; 7 U.S.C. 1111, 1112, 1114, 1117, 1118, 1119, 1120, and Public Law 92-138 approved October 14, 1971.

§ 811.10 Sugar requirements 1972.

The amount of sugar needed to meet the requirements of consumers in the continental United States for the calendar year 1972 is hereby determined to be 11,200,000 short tons, raw value.

§ 811.11 Quotas for domestic areas.

(a) (1) For the calendar year 1972, domestic area quotas limiting the quantities of sugar which may be brought into or marketed for consumption in the continental United States are established, pursuant to section 202(a) of the Act in column (1), and the amounts of such quotas for offshore areas that may be filled by direct-consumption sugar are established, pursuant to section 207 of the Act in column (2), as follows:

Area	Quotas	Direct-consumption Limits
	(Short tons, raw value)	
	(1)	(2)
Domestic beet sugar	3,406,000	No limit
Mainland cane sugar	1,539,000	No limit
Hawaii	1,160,000	38,646
Puerto Rico	855,000	166,000

(2) It is hereby determined pursuant to section 204(a) of the Act that for the calendar year 1972 Puerto Rico will be unable by 550,000 short tons, raw value, to fill its quota established in subparagraph (1) of this paragraph. Pursuant to section 204(b) of the Act for determination of such deficits shall not affect the quotas established in subparagraph (1) of this paragraph.

(b) Of the quantity established in paragraph (a) of this section for Puerto Rico which may be filled by direct-consumption sugar, 126,033 short tons, raw value, may be filled only by sugar principally of crystalline structure.

§ 811.12 Proration and allocation of deficits in quotas.

The deficit in the Puerto Rican quota determined in paragraph (a)(2) of § 811.11 of 550,000 short tons, raw value, is hereby prorated and allocated pursuant to section 204(a) of the Act, by allocating 30.08 percent or 165,440 short tons, raw value to the Republic of the Philippines and by prorating the remaining 384,560 short tons, raw value, to Western Hemisphere countries on the basis of quotas determined herein pursuant to section 202.

§ 811.13 Quotas for foreign countries.

(a) The quotas or prorations for foreign countries limiting the quantities of sugar which may be imported into the continental United States during the calendar year 1972 for consumption therein and the amounts of such quotas and prorations that may be filled by direct-consumption sugar are hereby established as set forth in the following paragraphs (b), (c), (d), and (e) of this section.

(b) For the calendar year 1972, the quota for the Republic of the Philippines is 1,291,460 short tons, raw value, representing 1,126,020 short tons, established pursuant to section 202 of the Act and 165,440 short tons established pursuant to section 204 of the Act. Of the quantity of 1,126,020 short tons established pursuant to section 202 of the Act, only 59,920 short tons, raw value, may be filled by direct-consumption sugar pursuant to section 207(d) of the Act.

(c) For the calendar year 1972, the prorations to individual foreign countries other than the Republic of the Philippines pursuant to section 202 of the Act are shown in columns (1) and (2) of the following table. In column (3) a portion of the deficit proration in the quota of Puerto Rico amounting to 384,560 short tons, raw value, is herein prorated to Western Hemisphere countries listed in section 202(c)(3)(A) of the Act, on the basis of quotas determined herein pursuant to section 202. Total quotas and prorations are shown in column (4).

Production area	Basic quotas	Temporary quotas and prorations pursuant to Sec. 202 (d) [1]	Deficits and deficits prorations	Total quotas and prorations
	(Short tons, raw value)			
Dominican Republic	401,154	133,424	80,920	615,498
Mexico	354,771	117,996	71,564	544,331
Brazil	345,996	115,078	69,793	530,866
Peru	247,867	82,348	49,943	379,878
West Indies	129,121	42,945	26,046	198,112
Ecuador	81,084	16,991	10,306	78,380
Argentina	47,950	15,948	9,672	73,570
Costa Rica	43,249	14,388	8,724	66,356
Colombia	42,623	14,176	8,598	65,397
Panama	26,629	8,860	5,374	40,873
Nicaragua	40,429	13,447	8,155	62,031
Venezuela	35,548	12,821	7,776	59,145
Guatemala	36,981	12,300	7,460	56,741
El Salvador	26,953	8,965	5,437	41,355
British Honduras	21,311	7,089	4,299	32,699
Haiti	19,431	6,462	3,919	29,812
Bahamas	16,924	5,628	3,414	25,966
Honduras	7,522	2,502	1,517	11,541
Bolivia	4,074	1,356	822	6,252
Paraguay	4,074	1,356	822	6,252
Australia	157,328	42,814		200,142
Republic of China	66,801	17,325		83,326
India	62,994	17,143		80,137
South Africa	44,503	12,111		56,614
Fiji Islands	34,474	9,381		43,855
Mauritius	23,192	6,311		29,503
Swaziland	23,192	6,311		29,503
Thailand	14,416	3,923		18,339
Uganda	11,596	3,156		14,752
Malagasy Republic	9,402	2,559		11,961
Ireland	6,351			6,351
Total	2,358,899	755,611	384,560	3,498,540

[1] Proration of the quotas withheld from Cuba and Southern Rhodesia.

(d) (1) Of the total quotas and prorations for foreign countries established in paragraphs (b) and (c) of this section, an amount not to exceed 1 million short tons, raw value of raw sugar, plus the quantity imported in late 1971 under bond for refining and storage, may be charged against such 1972 quotas and authorized for importation or release from bond from all such foreign countries in accordance with Part 817 of this chapter during the first quarter of 1972. The quantity imported in late 1971 under bond for refining and storage will be released from bond and charged to quotas on January 1, 1972. The quantity, 1 million short tons, raw value, will be authorized for importation and charged to quotas during the first quarter of 1972 as set forth in subparagraphs (2) and (3) of this paragraph (d).

(2) (i) The importation of raw sugar within the annual quotas and the quarterly limitation specified in subparagraph (1) of this paragraph (d) will be authorized on the basis of applications for "Set Aside of Quota" on Form SU-8A or "Sugar Quota Clearance" on Form SU-3 in accordance with the provisions of Part 817 of this chapter, subject to the priorities for countries as provided in subparagraph (3) of this paragraph and the limitations as provided in subdivision (ii) of this subparagraph. Applications to import raw sugar from the Republic of the Philippines must, before final approval within the quantity reserved for the Republic of the Philippines pursuant to subparagraph (3) of this paragraph, be supplemented by certification from the Sugar Quota Administrator for the Government of the Philippines granting the applicant the permission to export sugar to the U.S. market.

(ii) Applications for the importation of sugar during the first quarter received on or before November 19, 1971, will be considered as having been received at the same time.

(3) (i) Allocations of first quarter importations among countries will be made in the following manner but not to exceed as to each country the quantity applied for.

(ii) First priority shall be given to countries by establishing allocations equal to the average of each country's first quarter importations during 1969, 1970, and 1971 as set forth in subparagraph (4) of this paragraph or 5,000 short tons, raw value, whichever is larger: *Provided*, That if the quantity of sugar which may be imported during the first quarter is less than the quantity needed to approve all applications under this first priority, an allocation of the lesser of the amount applied for or 5,000 short tons, raw value, shall be made to each country having less than 5,000 short tons, raw value, average first quarter importations as set forth in subparagraph (4) of this paragraph; and the balance of the quantity of sugar which may be imported during the first quarter under this first priority shall be prorated among the other countries on the basis of average first quarter importations as set forth in subparagraph (4) of this paragraph.

(iii) Second priority shall be given to those countries whose respective accumulated allocations for the first quarter under the first priority as provided in subdivision (ii) of this subparagraph is less than 20 percent of the country's annual quota by making additional allocations to any such country which shall be so limited that the total of the allocations under priorities in subdivisions (ii) and (iii) of this subparagraph during the first quarter for such country as a percentage of its annual quota will not exceed the percentage similarly calculated for any other such country and shall be further limited so that the total quantity which may be imported from such country during the first quarter shall not exceed 20 percent of the country's annual quota.

(iv) Any quantity not allocated under subdivisions (ii) and (iii) of this subparagraph shall be prorated among countries that received allocations less than the full amount applied for, and such additional proration shall be made on the basis of the average imports of sugar from the countries during the first quarter as set forth in subparagraph (4) of this paragraph.

(4) Average importations into the continental United States within quotas, during the first quarter of the years 1969, 1970, and 1971 are as follows:

Country:	*First quarter Short tons, raw value*
Philippines	161,635
Dominican Republic	167,628
Mexico	158,048
Brazil	168,503
Peru	87,213
West Indies	26,602
Ecuador	8,622
Argentina	35,778
Costa Rica	17,855
Colombia	15,700
Panama	6,682
Nicaragua	16,612
Venezuela	12,185
Guatemala	34,499
El Salvador	23,697
British Honduras	4,543
Haiti	0
Bahamas	4,690
Honduras	5,492
Bolivia	73
Paraguay	0
Australia	1,606
Republic of China	3,699
India	2,162
South Africa	31,604
Fiji	1,218
Mauritius	207
Swaziland	288
Thailand	282
Uganda	0
Malagasy Republic	82
Total	997,205

(e) For the calendar year 1972, the quantity of each proration established in paragraph (c) of this section that may be filled by direct-consumption sugar pursuant to section 207(e) of the Act is as follows:

Country	Short tons, raw value
Ireland	5,351
Panama	3,817

(f) For the calendar year 1972, the quota for liquid sugar for foreign countries as a group is 2 million gallons of sirup of cane juice of the type of Barbados molasses, limited to liquid sugar containing soluble nonsugar solids (excluding any foreign substance that may have been added or developed in the product) of more than 5 percent of the total soluble solids, which is not to be used as a component of any direct-consumption sugar but is to be used as molasses without substantial modification of its characteristics after importation.

§ 811.14 Applicability of quotas.

(a) All sugar and liquid sugar marketed or imported into the continental United States is subject to the provisions of Part 816 or Part 817 of this chapter which prescribe the time, manner, and conditions under which quotas and prorations are filled by the marketing and importation of sugar or liquid sugar.

(b) The quantitative limitations established by §§ 811.11 to 811.13, inclusive, do not apply to sugar or liquid sugar marketed or imported pursuant to section 211 and 212 of the Act in accordance with the provisions of Part 816 or Part 817 of this chapter.

§ 811.15 Restrictions on importations and marketings within quotas.

Subject to the provisions of Parts 816 and 817 of this chapter all persons are prohibited from bringing or importing into or marketing in the continental United States, (a) any sugar or liquid sugar from any country for which no quota is established or in excess of or after the applicable quota or quantity set forth in §§ 811.11 to 811.13 inclusive has been filled, or (b) any sugar or liquid sugar as direct-consumption sugar from any country for which no direct-consumption sugar limitation is established or after the direct-consumption portion of the applicable quota has been filled.

Effective date. Parts of this regulation provide for contractual agreements between importers of sugar and the Department which must be finalized in ample time to insure orderly marketing of sugar early in 1972. The regulation not only applies to sugar imported or marketed beginning January 1, 1972, but also to any sugar imported prior thereto for refining, storage and subsequent release within 1972 quotas as may be provided for by regulation. Accordingly, it is hereby found to be impracticable and not in the public interest to comply with the 30-day effective date requirements in 5 U.S.C. 553. The aspects of § 811.13 relating to the submission and approval or acceptance of applications shall be effective when filed with the FEDERAL REGISTER and all other provisions of this regulation shall become effective January 1, 1972.

Signed at Washington, D.C., on November 12, 1971.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.71-16757 Filed 11-16-71;8:51 am]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Navel Orange Reg. 238]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.538 Navel Orange Regulation 238.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907, 35 F.R. 16359), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The recommendations by the Navel Orange Administrative Committee reflect its appraisal of the crop and current and prospective marketing conditions. The committee estimates the 1971–72 season crop of Navel oranges at 41,700 carlots. It further estimates that the demand in regulated market channels will require about 72 percent of this volume, and the remaining 28 percent will be available for utilization in export, processing, and other outlets. The volume and size composition of the crop are such that ample supplies of the more desirable sizes are available to satisfy the demand in regulated channels. Therefore, the smaller sizes of oranges should be eliminated from regulated market channels so as to assure consumers of desirable sizes of fruit and to improve returns to growers consistent with declared policy of the act.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held two open meetings during the past week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at these meetings; the recommendations and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meetings were held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meetings were held on October 26, and October 29, 1971.

(b) *Order.* (1) During the period November 17, 1971, through December 16, 1971, no handler shall handle any Navel oranges grown in District 1 or District 3, which are of a size smaller than 2.20 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided,* That not to exceed 5 percent, by count, of the Navel oranges contained in any type of container may measure smaller than 2.20 inches in diameter.

(2) As used in this section, "handle," "handler," "District 1," and "District 3" shall have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 11, 1971.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-16734 Filed 11-16-71;8:49 am]

PART 932—OLIVES GROWN IN CALIFORNIA

Reestablishment of Size Requirements for 1970–71 Olives for Limited Use

Notice is hereby given of the approval of amendment, as hereinafter set forth, of the rules and regulations (Subpart—Rules and Regulations; 7 CFR 932.106–932.161; 36 F.R. 16185, 19113, 20217) currently effective pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 932, as amended (7 CFR Part 932, 36 F.R. 20355), regulating the handling of olives grown in California, hereinafter

referred to collectively as the "order." This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The amendment of said rules and regulations was unanimously recommended by the members of the Olive Administrative Committee, established under said marketing agreement and order as the agency to administer the terms and provisions thereof.

The amendment involves processed 1970–71 crop olives that have been carried over for utilization in the production of the limited use (halved, sliced, quartered, or chopped or minced) styles of canned ripe olives. Such olives are hereby excepted from the current more stringent size requirements for processed olives for limited use if they (1) were processed prior to September 1, 1971, and are identified and segregated from any olives processed after August 31, 1971, (2) meet the size requirements hereinafter specified which are the same as the requirements that expired on August 31, 1971, and (3) are utilized in the production of limited use styles (halved, sliced, quartered, or chopped or minced) of canned ripe olives during the period November 15, 1971, through August 31, 1972. The current grade requirements of the order, as modified by § 932.149 for the chopped or minced style, will apply to the olives involved.

Certain handlers are holding a relatively small tonnage of processed 1970–71 crop olives which they wish to utilize in the production of limited use styles of canned ripe olives. Said processed olives are of sizes required by the expired § 932.153 for 1970–71 processed olives for limited use. Current requirements specify larger minimum sizes for processed olives for limited use—the same sizes as are applicable for whole or pitted styles. This amendment reflects a desire, by the committee, to provide a period during which handlers will be permitted to retrieve the maximum economic value of 1970–71 limited use size processed olives by converting them into limited use styles of canned ripe olives under the same grade and size requirements that were in effect when they were processed. The size requirements provided herein will provide consumers with limited use styles of canned ripe olives consistent with (1) the overall quality of the 1970–71 crop, and (2) improving returns to producers pursuant to the declared policy of the act.

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in public rule making procedure because (1) the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, (2) this amendment reestablishes the same size requirements for 1970–71 processed olives for limited use as were in effect during 1970–71, and (3) this amendment relieves restrictions currently applicable to the handling of processed 1970–71 California olives for limited use.

Therefore, the rules and regulations are hereby amended by adding a new § 932.153a *Reestablishment of 1970–71 size requirements for 1970–71 olives for limited use* reading as follows:

§ 932.153a Reestablishment of 1970–71 size requirements for 1970–71 olives for limited use.

(a) During the period November 15, 1971, through August 31, 1972, any handler may use processed olives of the respective variety groups in the production of halved, sliced, quartered, or chopped or minced styles of canned ripe olives if such processed olives meet the grade requirements specified in § 932.52(a)(1), as modified by § 932.149 (36 F.R. 20217), and the following requirements:

(1) The olives shall have been processed prior to September 1, 1971;

(2) The olives shall be identified and kept separate and apart from any olives processed after August 31, 1971;

(3) Variety group 1 olives, except the Ascolano, Barouni, and St. Agostino varieties shall be of a size which individually weigh 1/88th pound: *Provided,* That not to exceed 15 percent of the olives in any lot or sublot may be smaller than 1/88th pound;

(4) Variety group 1 olives of the Ascolano, Barouni, or St. Agostino varieties shall be of a size which individually weigh 1/105th pound: *Provided,* That not to exceed 35 percent of the olives in any lot or sublot may be smaller than 1/105th pound;

(5) Variety group 2 olives, except the Obliza variety, shall be of a size which individually weigh 1/150th pound: *Provided,* That not to exceed 30 percent of the olives in any lot or sublot may be smaller than 1/150th pound;

(6) Variety group 2 olives of the Obliza variety shall be of a size which individually weigh 1/140th pound: *Provided,* That not to exceed 10 percent of the olives in any lot or sublot may be smaller than 1/140th pound.

It is hereby found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) the handling of olives is now in progress and to be of maximum benefit the provisions of this amendment should become effective on the date specified herein, (2) the effective date hereof will not require of handlers any preparation that cannot be completed prior thereto, (3) this amendment was unanimously recommended by members of the Olive Administrative Committee, and (4) this amendment relieves restrictions, during the period November 15, 1971, through August 31, 1972, on the handling of California olives processed prior to September 1, 1971.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 12, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-16786 Filed 11-16-71;8:52 am]

PART 959—ONIONS GROWN IN SOUTH TEXAS

Expenses and Rate of Assessment

Notice of rule making regarding the proposed expenses and rate of assessment, to be effective under Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR Part 959; 34 F.R. 6439) regulating the handling of onions grown in designated counties in South Texas, was published in the September 30, 1971, FEDERAL REGISTER (36 F.R. 19170). This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.). The notice afforded interested persons an opportunity to submit written data, views, or arguments pertaining thereto not later than 30 days following publication in the FEDERAL REGISTER. None was filed.

After consideration of all relevant matters, including the proposals set forth in the aforesaid notice, which were recommended by the South Texas Onion Committee, established pursuant to the said marketing agreement and this part, it is hereby found and determined that:

§ 959.212 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending July 31, 1972, by the South Texas Onion Committee for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate, will amount to $54,000.

(b) The rate of assessment to be paid by each handler in accordance with the marketing agreement and this part shall be one-half cent ($0.005) per 50-pound container of onions, or equivalent quantity, handled by him as the first handler thereof during said fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period ending July 31, 1972, may be carried over as a reserve.

(d) Terms used in this section have the same meaning as when used in the said marketing agreement and this part.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 11, 1971.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-16731 Filed 11-16-71;8:49 am]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1464—TOBACCO

Subpart A—Tobacco Loan Program

ADVANCE GRADE RATES FOR PRICE SUPPORT OF 1971 CROPS

On October 5, 1971, there was published in the FEDERAL REGISTER (36 F.R. 19389) a notice of proposed rule making

setting forth the proposed price support advance rates for 1971 crop Fire-cured, Dark air-cured, and Virginia sun-cured tobacco. Interested parties were given the opportunity to submit within 30 days data, views, and recommendations with regard to the proposed loan rates.

No unfavorable comments have been received, and the proposed advance rates are hereby adopted without change and are set forth below. The material previously appearing under the section numbers shown below remains applicable to the crop to which each refers.

Effective date: Date of filing with the Office of the Federal Register.

Signed at Washington, D.C., on November 12, 1971.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

Sec.
1464.17 1971 crop—Virginia Fire-cured tobacco, type 21, advance schedule.
1464.18 1971 crop — Kentucky - Tennessee, Fire-cured tobacco, types 22 and 23, advance schedule.
1464.19 1971 crop—Dark air-cured tobacco, types 35 and 36, advance schedule.
1464.20 1971 crop—Virginia sun-cured, type 37 tobacco, advance schedule.

AUTHORITY: The provisions of §§ 1464.17–1464.20 issued under sec. 4, 62 Stat. 1070, as amended, sec. 5, 62 Stat. 1072, secs. 101, 106, 401, 403, 63 Stat. 1051, as amended, 1054, sec. 125, 70 Stat. 198, 74 Stat. 6; 7 U.S.C. 1441, 1445, 1421, 1423, 7 U.S.C. 1813, 15 U.S.C. 714b, 714c.

§ 1464.17 1971 crop—Virginia Fire-cured tobacco, type 21—advance schedule.[1]

[Dollars per hundred pounds, farm sales weight]

Grade	Length 46	Length 45	Length 44	Length 43
A1F	66.25	66.25		
A2F	62.25	62.25		
A1D	66.25	66.25		
A2D	62.25	62.25		
B1F	64.25	64.25		
B2F	60.25	60.25	52.25	
B3F	52.25	52.25	51.25	41.25
B4F	47.25	49.25	47.25	41.25
B5F	41.25	42.25	41.25	36.25
B1D	64.25	64.25		
B2D	59.25	60.25	53.25	
B3D	50.25	52.25	49.25	42.25
B4D	44.25	47.25	44.25	40.25
B5D	41.25	42.25	41.25	39.25
B3M	46.25	48.25	45.25	41.25
B4M	43.25	46.25	44.25	39.25
B5M	39.25	41.25	40.25	34.25
B3G	44.25	45.25	44.25	38.25
B4G	42.25	43.25	42.25	39.25
B5G	39.25	40.25	39.25	33.25
C1L	70.25	70.25		
C2L	66.25	66.25	57.25	
C3L	57.25	58.25	54.25	
C4L	49.25	51.25	49.25	
C5L	43.25	44.25	43.25	
C1F	70.25	70.25		
C2F	66.25	66.25	57.25	
C3F	56.25	59.25	52.25	
C4F	51.25	53.25	51.25	
C5F	45.25	48.25	46.25	
C2D	43.25	45.25	42.25	

[1] Only the original producer is eligible to receive advances. Tobacco graded "W" (doubtful keeping order), "No-G" (no grade), "U" (unsound), "D" (damaged), or scrap will not be accepted. The advance rate for grades of 47 length shall be the same as those for such grades in 46 length. The association is authorized to deduct 25 cents per 100 pounds to apply against overhead cost.

§ 1464.18 1971 crop—Kentucky-Tennessee Fire-cured tobacco, types 22 and 23—advance schedule.[1]

[Dollars per hundred pounds, farm sales weight]

Grade	Length 46	Length 45	Length 44	Length 43
A1F	69	69		
A2F	64	64		
A3F	58	58		
A1D	69	69		
A2D	64	64		
A3D	58	58		
B1F	60	60	55	
B2F	57	57	53	
B3F	53	53	50	44
B4F	50	50	47	40
B5F	46	46	43	37
B1D	59	59	54	
B2D	56	56	52	
B3D	55	55	52	45
B4D	49	49	46	39
B5D	45	45	41	35
B3M	51	51	47	42
B4M	47	47	43	36
B5M	41	41	36	31
B3VF	50	50	46	39
B4VF	48	48	45	38
B5VF	44	44	41	34
B3G	51	51	48	39
B4G	46	46	42	34
B5G	42	42	37	32
C1L	60	60	56	
C2L	57	57	54	
C3L	56	56	52	46
C4L	53	53	50	44
C5L	50	50	48	41
C1F	60	60	56	
C2F	57	57	54	
C3F	56	56	53	46
C4F	53	53	50	43
C5F	51	51	47	40
C1D	60	60	55	
C2D	52	52	48	
C3D	49	49	46	40
C4D	44	44	42	36
C5D	43	43	41	34
C3M	51	51	48	42
C4M	47	47	46	40
C5M	45	45	43	35
C3VF	52	52	49	43
C4VF	49	49	47	41
C5VF	47	47	45	36
C3G	47	47	44	39
C4G	44	44	40	35
C5G	40	40	37	34

[1] Only the original producer is eligible to receive advances. Tobacco graded "No-G" (no grade), "U" (unsound), "D" (damaged), or scrap will not be accepted. Tobacco graded "W" (doubtful keeping order) will be accepted at advance rates 20 percent below the advance rates otherwise applicable. Grades marked with the special factor "BH" shall have an advance rate 20 percent below the advance rate otherwise applicable without such special factor. Type 35 grades marked with the special factor "BL" shall have an advance rate 20 percent below the advance rate otherwise applicable without such special factor. The advance rate for grades of 47 length shall be the same as those for such grades in 46 length.

Grade	Proposed price	Grade	Proposed price
X1L	52	X5D	40
X2L	50	X3M	45
X3L	49	X4M	43
X4L	46	X5M	40
X5L	44	X3VF	47
X1F	51	X4VF	45
X2F	49	X5VF	42
X3F	48	X3G	41
X4F	46	X4G	40
X5F	44	X5G	37
X1D	50	N1L	39
X2D	48	N1D	35
X3D	45	N1G	34
X4D	43	N2	30

§ 1464.19 1971 crop—Dark air-cured tobacco, types 35 and 36—advance schedule.[1]

[Dollars per hundred pounds, farm sales weight]

Grade	Length 46	Length 45	Length 44
A1F	60	60	
A1R	60	60	
A2F	56	56	
A2R	56	56	
A3F	51	51	
A3R	51	51	
B1F	56	56	53
B1R	55	55	53
B1D	55	55	53
B2F	52	52	51
B2R	51	51	50
B2D	51	51	50
B3F	50	50	48
B3R	48	48	47
B3D	48	48	47
B3M	47	47	46
B3G	46	46	45
B4F	47	47	46
B4R	46	46	45
B4D	47	47	46
B4M	43	43	42
B4G	43	43	42
B5F	43	43	42
B5R	43	43	42
B5D	42	42	41
B5M	39	39	38
B5G	39	39	38
C1L	56	56	55
C1F	56	56	55
C1R	54	54	53
C2L	55	55	54
C2F	54	54	53
C2R	52	52	51
C3L	53	53	52
C3F	52	52	50
C3R	49	49	47
C3M	47	47	45
C3G	48	48	46
C4L	49	49	48
C4F	49	49	48
C4R	44	44	43
C4M	41	41	40
C4G	42	42	41
C5L	42	42	40
C5F	43	43	42
C5R	39	39	38
C5M	38	38	37
C5G	38	38	37

[1] Only the original producer is eligible to receive advances. Tobacco graded "No-G" (no grade), "U" (unsound), "D" (damaged) or scrap will not be accepted. Tobacco graded "W" (doubtful keeping order) will be accepted at advance rates 20 percent below the advance rates otherwise applicable. Grades marked with the special factor "BH" shall have an advance rate 20 percent below the advance rate otherwise applicable without such special factor. Type 35 grades marked with the special factor "BL" shall have an advance rate 20 percent below the advance rate otherwise applicable without such special factor. The advance rate for grades of 47 length shall be the same as those for such grades in 46 length.

Grade	Proposed loan rate prices	Grade	Proposed loan rate prices
T3F	43	X3R	45
T3R	43	X3D	46
T3D	43	X3M	43
T3M	42	X3G	42
T3G	41	X4L	47
T4F	38	X4F	46
T4R	39	X4R	41
T4D	39	X4D	41
T4M	37	X4M	40
T4G	36	X4G	38
T5F	31	X5L	44
T5R	31	X5F	44
T5D	31	X5R	39
T5M	30	X5D	39
T5G	30	X5M	39
X1L	52	X5G	35
X1F	52	N1L	38
X1R	52	N2L	32
X2L	50	N1R	33
X2F	50	N2R	30
X2R	49	N1G	32
X3L	49	N2G	30
X3F	47		

§ 1464.20 1971 crop—Virginia sun-cured tobacco, type 37—advance schedule.[1]

[Dollars per hundred pounds, farm sales weight]

Grade	Length 46	Length 45	Length 44
A1F	64.25	64.25	62.25
A2F	60.25	60.25	57.25
A3F	57.25	57.25	54.25
A1R	65.25	65.25	62.25
A2R	61.25	61.25	58.25
A3R	58.25	58.25	55.25
B1F	64.25	65.25	57.25
B2F	61.25	63.25	56.25
B3F	54.25	57.25	54.25
B4F	48.25	52.25	50.25
B5F	42.25	43.25	42.25
B1R	64.25	65.25	58.25
B2R	61.25	63.25	58.25
B3R	55.25	57.25	54.25
B4R	48.25	51.25	49.25
B5R	44.25	45.25	43.25
B1D	63.25	63.25	58.25
B2D	62.25	62.25	57.25
B3D	52.25	53.25	51.25
B4D	46.25	47.25	46.25
B5D	41.25	43.25	41.25
B3M	46.25	48.25	45.25
B4M	45.25	48.25	45.25
B3G	39.25	42.25	41.25
B4G	45.25	49.25	46.25
B5G	43.25	46.25	45.25
C1L	40.25	41.25	40.25
C2L	62.25	63.25	55.25
C3L	56.25	57.25	52.25
C4L	54.25	55.25	52.25
C5L	46.25	49.25	47.25
C1F	40.25	41.25	40.25
C2F	62.25	63.25	55.25
C3F	56.25	58.25	54.25
C4F	52.25	55.25	52.25
C5F	46.25	51.25	48.25
C1R	39.25	41.25	41.25
C2R	59.25	59.25	53.25
C3R	53.25	53.25	49.25
C4R	47.25	47.25	45.25
C5R	41.25	43.25	41.25
C1M	36.25	37.25	36.25
C2M	42.25	45.25	44.25
C3M	39.25	43.25	41.25
C4M	37.25	41.25	39.25
C5M	37.25	40.25	37.25
C3G	37.25	40.25	37.25
C4G	36.25	39.25	37.25
C5G	30.25	32.25	31.25

[1] Only the original producer is eligible to receive advances. Tobacco graded "W" (doubtful keeping order), "No-G" (no grade), "U" (unsound), "D" (damaged), or scrap will not be accepted. The association is authorized to deduct 25 cents per 100 pounds to apply against overhead cost.

Grade	Loan rate	Grade	Loan rate
T3F	43.25	X4F	44.25
T4F	41.25	X5F	39.25
T5F	35.25	X1R	46.25
T3R	43.25	X2R	45.25
T4R	41.25	X3R	41.25
T5R	36.25	X4R	40.25
T3D	41.25	X5R	32.25
T4D	39.25	X3D	37.25
T5D	33.25	X4D	35.25
T3M	41.25	X5D	29.25
T4M	38.25	X3M	43.25
T5M	32.25	X4M	40.25
T3G	43.25	X5M	36.25
T4G	41.25	X3G	41.25
T5G	35.25	X4G	38.25
X1L	50.25	X5G	34.25
X2L	48.25	N1L	25.25
X3L	45.25	N2L	18.25
X4L	43.25	N1R	27.25
X5L	38.25	N2R	19.25
X1F	50.25	N1G	27.25
X2F	49.25	N2G	19.25
X3F	46.25		

[FR Doc.71-16785 Filed 11-16-71;8:53 am]

Chapter XVIII—Farmers Home Administration, Department of Agriculture

SUBCHAPTER A—GENERAL REGULATIONS

[FHA Instruction 440.6]

PART 1808—NONDISCRIMINATION IN MULTIPLE-UNIT HOUSING

PART 1808—TRUTH-IN-LENDING-DISCLOSURE STATEMENTS AND NOTICE OF RIGHT TO RESCIND

Subchapter A, Chapter XVIII, Title 7, Code of Federal Regulations is amended by deleting Part 1808, "Nondiscrimination in Multiple-Unit Housing." (31 F.R. 14127, November 4, 1966.) Part 1808 is hereby vacated.

Subchapter A, General Regulations is amended by adding a new Part 1808 Truth-in-Lending—Disclosure Statements and Notice of Right to Rescind.

The new Part 1808 reads as follows:

Sec.
1808.1 General.
1808.2 Scope.
1808.3 Loan disclosure statement.
1808.4 Credit sale disclosure statement.
1808.5 Notice of right to rescind.

AUTHORITY: The provisions of this Part 1808 issued under section 106, 82 Stat. 150, 15 U.S.C. 1607, sec. 339, 75 Stat. 318, 7 U.S.C. 1989, sec. 510, 63 Stat. 437, 42 U.S.C. 1480, sec. 4, 64 Stat. 100, 40 U.S.C. 442, sec. 602, 78 Stat. 528, 42 U.S.C. 2942, sec. 301, 80 Stat. 379, 5 U.S.C. 301; Order of Act. Sec. of Agr. 36 F.R. 21529, Order of Asst. Sec. of Agr. for Rural Development and Conservation 36 F.R. 21529; Order of Dir., OEO, 29 F.R. 14764.

§ 1808.1 General.

This part is issued to comply with the Truth-in-Lending Act and Regulation Z of the Federal Reserve System. The purpose is to assure that individuals are informed of the cost of credit, and their right to rescind certain real estate transactions within a period of 3 business days following the date of consummation of the transaction or disclosure of the information hereinafter specified, whichever is later.

§ 1808.2 Scope.

This part applies to all natural persons (individuals) who apply for loans, assumptions, or credit sales, except Rural Rental Housing (RRH) loans to individuals. This part does not apply to applicants which are corporations, associations, cooperatives, public bodies, partnerships, or other organizations.

(a) *Loans and assumptions.* Disclosure is required of the amount of the loan or assumption, amount of finance charge (interest and any mortgage or loan insurance charge), other charges included in the loan or assumption, annual percentage rate of finance charge, number and amounts and due dates of periodic payments, description of required or retained security instruments and security property, and rescission rights where applicable.

(b) *Credit sales.* Disclosure is required of the sale price, cash downpayment, finance charge, amount financed, annual percentage rate of finance charge, number and amounts and due dates of periodic payments, description of security instruments and property, and rescission rights where applicable.

§ 1808.3 Loan disclosure statement.

Form FHA 440–41, "Loan Disclosure Statement," will be used to give required information in loan and assumption cases, as indicated in the Form.

§ 1808.4 Credit sale disclosure statement.

Form FHA 440–42, "Credit Sale Disclosure Statement," will be used to give required information in credit sale cases, as indicated in the Form.

§ 1808.5 Notice of right to rescind.

Form FHA 440–43, "Notice of Right to Rescind," will be used in loan, assumption, and credit sale cases in which a mortgage or other lien is taken or retained on the real property on which the borrower resides or expects to reside except as provided in the next sentence. Form FHA 440–43 will not be used when a first mortgage or other first lien is taken or retained as security in the purchase or construction of the borrower's residence. This Form also will be used in all Delaware and Pennsylvania cases in which the promissory note contains a confession of judgment provision. Two copies of Form FHA 440–43 will be delivered or mailed to the persons as indicated in the Form.

Dated: November 8, 1971.

JOSEPH HASPRAY,
Deputy Administrator,
Farmers Home Administration.

[FR Doc.71-16732 Filed 11-16-71;8:49 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 71-GL-12]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation regulations is to alter the Cleveland, Ohio (Cuyahoga County Airport), control zone so the hours of operation may vary with the operating hours of the tower.

The Cuyahoga County Airport control zone is based on communications provided by the control tower at this airport. Thus, if the hours of the tower operations change, the zone should also be changed. At present, the zone is designated on specific times and does not allow any change. The alteration of the control zone designation is minor and in the public interest, therefore notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation regulations is amended as hereinafter set forth:

In § 71.171 (36 F.R. 2055), the following control zone is amended to read:

CLEVELAND, OHIO (CUYAHOGA COUNTY AIRPORT)

Within a 5-mile radius of the Cuyahoga County Airport (latitude 41°24'00" N., longitude 81°29'30" W.); within 2½ miles each side of the 050° bearing from the Cuyahoga County RBN extending from the 5-mile radius zone to 5 miles northeast of the RBN, excluding the portion within the Cleveland, Ohio (Burke-Lakefront Airport) control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will, thereafter, be continuously published in the Airman's Information Manual.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Des Plaines, Ill., on October 29, 1971.

R. O. ZIEGLER,
Acting Director, Great Lakes Region.

[FR Doc.71-16724 Filed 11-16-71;8:49 am]

[Airspace Docket No. 71-GL-15]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation regulations is to alter the Newberry, Mich., transition area.

The VOR Runway 11 instrument approach procedure to the Luce County Airport has been revised by changing the procedure turn from the south to the north side of the inbound course. This requires the revision of the 1200-foot transition area. This action will decrease the amount of controlled airspace substantially, imposing no additional burden on any person, therefore notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation regulations is amended as hereinafter set forth:

In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

NEWBERRY, MICH.

That airspace extending upward from 700 feet above the surface within a 6½-mile radius of the Luce County Airport (latitude 46°18'30" N., longitude 85°27'00" W.); within 3 miles each side of the 301° bearing from Luce County Airport, extending from the 6½-mile radius to 8 miles northwest of the airport; and within 3 miles each side of the 103° bearing from Luce County Airport, extending from the 6½-mile-radius area to 8 miles east of the airport; and that airspace extending upward from 1,200 feet above the surface within 9½ miles northeast and 4½ miles southwest of the 301° bearing from Luce County Airport, extending from the airport to 18½ miles northwest of the airport; and within 4½ miles north and 9½ miles south of the 103° bearing from Luce County Airport, extending from the airport 18½ miles east of the airport, excluding the portion which overlies the Sault Ste. Marie, Mich. transition area.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Des Plaines, Ill., on October 29, 1971.

R. O. ZIEGLER,
Acting Director, Great Lakes Region.

[FR Doc.71-16726 Filed 11-16-71;8:49 am]

[Airspace Docket No. 71-GL-13]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Willoughby, Ohio, control zone so the hours of operation may vary with the operating hours of the tower.

The Lost Nation Airport control zone is based on the communications provided by the control tower at this airport. Thus, if the hours of the tower operations change, the zone should also be changed. At present, the zone is designated on specific times and does not allow any change. The alteration of the control zone designation is minor and in the public interests, therefore notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended as hereinafter set forth:

In § 71.171 (36 F.R. 2055), the following control zone is amended to read:

WILLOUGHBY, OHIO

Within a 5-mile radius of the Lost Nation Airport (latitude 41°40'45" N., longitude 81°23'45" W.); within 4 miles each side of the 088° bearing from the Lost Nation RBN extending from the 5-mile radius zone to 12 miles east of the RBN; within 3 miles each side of the 268° bearing from the RBN extending from the 5-mile radius zone to 8.5 miles west of the RBN; excluding the portion within the Cleveland, Ohio (Cuyahoga County Airport) control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will, thereafter, be continuously published in the Airman's Information Manual.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Des Plaines, Ill., on October 29, 1971.

R. O. ZIEGLER,
Acting Director, Great Lakes Region.

[FR Doc.71-16725 Filed 11-16-71;8:49 am]

[Docket No. 11416; Amdt. No. 103-11]

PART 103—TRANSPORTATION OF DANGEROUS ARTICLES AND MAGNETIZED MATERIALS QUANTITY LIMITATIONS

Quantity Limitations

The purpose of this amendment to Part 103 of the Federal Aviation Regulations is to permit magnetized materials to be transported in weights in excess of 50 pounds when such material is carried in inaccessible cargo pits or bins on an aircraft subject to that part.

Section 103.19(c) of the Federal Aviation Regulations prohibits the carriage of more than 50 pounds net weight of any article subject to Part 103 (other than an article specified in paragraphs (a) and (b) of that section) in any inaccessible cargo pit or bin on an aircraft.

The Air Transport Association (ATA) has petitioned the FAA to amend § 103.19(c) and specifically exempt magnetized materials from the weight limitation imposed by paragraph (c) of that section.

Sections 103.29 and 103.31(d) prescribe requirements for the shipment by air of magnetized materials to insure that they are properly marked and packaged, and that their affect upon the magnetic compass or compass master unit of the instrument equipment is taken into account. We agree with the petitioner that §§ 103.29 and 103.31(d) are adequate to insure the safe operation of an aircraft carrying magnetized materials, since they are not hazardous materials and are not inherently dangerous.

Part 103 does not impose any net weight limitation on magnetized materials when carried in an accessible location in an aircraft and safety considerations do not justify imposing such a limitation when they are carried in an inaccessible cargo pit or bin. In our opinion, therefore, the applicability of the weight limitation of § 103.19(c) to magnetized materials is unnecessary and contrary to the intent of that regulation.

Accordingly, the FAA has determined that an amendment to § 103.19(c) excluding magnetized materials from its applicability is appropriate and will not adversely affect safety.

Since this amendment removes an unnecessary and unintended restriction, I find that notice and public procedure hereon are unnecessary and good cause exists for making this amendment effective on less than 30 days' notice.

In consideration of the foregoing, § 103.19(c) of the Federal Aviation regulations is amended to read as follows, effective November 17, 1971:

§ 103.19 Quantity limitations.

* * * * *

(c) No person may carry more than 50 pounds net weight of any article that is subject to this part (other than an article specified in paragraph (a) or (b) of this section and magnetized materials) in any inaccessible cargo pit or bin of any aircraft.

(Secs. 313(a), 601, 604, Federal Aviation Act of 1958, 72 Stat. 752, 775, 778; 49 U.S.C. 1354, 1421, and 1424; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 9, 1971.

K. M. SMITH,
Acting Administrator.

[FR Doc.71-16723 Filed 11-16-71;8:48 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

PART 146c—CERTIFICATION OF CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-) CONTAINING DRUGS

PART 148m—OLEANDOMYCIN

PART 148n—OXYTETRACYCLINE

Certain Antibiotic Combinations; Final Order Ruling on Objections and Requests

An order was published in the FEDERAL REGISTER of September 12, 1970 (35 F.R. 14392), to become effective in 40 days, amending Parts 146a, 146c, 148m, and 148n of the antibiotic drug regulations by repealing provisions for certification of drugs for oral use in man containing antibiotics in combination with antihistamines and/or analgesics and/or decongestants. Thirty days were allowed for filing proper objections to the order, and a showing of reasonable grounds for a hearing.

Objections and a request for a hearing were submitted by Lederle Laboratories Division, American Cyanamid Co., and Bristol Laboratories, Inc., Division Bristol-Myers Co. No other objections or request for a hearing were filed.

The medical presentations of Lederle and Bristol have been considered, and the Commissioner of Food and Drugs concludes that there is no genuine and substantial issue of fact requiring a hearing and that the legal arguments are insubstantial, all as explained in detail below.

I. *Drugs.* The drugs involved all contain an antibiotic in combination with an antihistamine and/or an analgesic and/or a decongestant and/or an antipyretic and/or a stimulant.

A. No objections were received with respect to the following drugs:

1a. Tain Tablets containing triacetyloleandomycin equivalent to 125 milligrams oleandomycin, 12.5 milligrams phenylpropanolamine hydrochloride, 6.25 milligrams pheniramine maleate, 6.25 milligrams pyrilamine maleate, and carbaspirin calcium equivalent to 300 milligrams aspirin per tablet; and

1b. Tain Oral Suspension containing triacetyloleandomycin equivalent to 125 milligrams oleandomycin, 12.5 milligrams phenylpropanolamine hydrochloride, 6.25 milligrams pheniramine maleate, 6.25 milligrams pyrilamine maleate, and 150 milligrams acetaminophen per 5 milliliters; both marketed by Dorsey Laboratories, Division of The Wander Co., Northeast U.S. 6 and Interstate 80, Lincoln, Nebr. 68501.

2. Novahistine with Penicillin Capsules containing 200,000 units potassium penicillin G, 12.5 milligrams pheniramine maleate, and 10 milligrams phenylephrine hydrochloride per capsule; marketed by Pitman-Moore, Division of Dow Chemical Co., Post Office Box 1656, Indianapolis, Ind. 46206.

3a. Tao-AC capsules containing triacetyloleandomycin equivalent to 125 milligrams oleandomycin, 120 milligrams phenacetin, 30 milligrams caffeine, and 150 milligrams salicylamide per capsule;

3b. Tao-AC capsules containing triacetyloleandomycin equivalent to 125 milligrams oleandomycin, 120 milligrams phenacetin, 30 milligrams caffeine, 150 milligrams salicylamide, and 15 milligrams buclizine hydrochloride per capsule; and

3c. Tetracydin Capsules containing 125 milligrams tetracycline hydrochloride, 120 milligrams phenacetin, 30 milligrams caffeine, and 150 milligrams salicylamide per capsule; all three marketed by J. B. Roerig, Division Chas. Pfizer & Co., Inc., 235 East 42d Street, New York, N.Y. 10017.

4. V-Kor tablets containing potassium phenoxymethyl penicillin equivalent to 62.5 milligrams phenoxymethyl penicillin; pyrrobutamine, as the naphthalene disulfonate, 7.5 milligrams; methapyrilene hydrochloride, as the hydroxybenzoyl benzoate, 12.5 milligrams; cyclopentamine hydrochloride, as the hydroxybenzoyl benzoate, 6.25 milligrams; aspirin 114 milligrams; phenacetin 80 milligrams; and caffeine 16 milligrams; marketed by Eli Lilly & Co., Box 618, Indianapolis, Ind. 42605.

5. Pen-Vee-cidin Capsules containing phenoxymethyl penicillin 62.5 milligrams, salicylamide 194 milligrams, promethazine hydrochloride 6.25 milligrams, phenacetin 130 milligrams, and mephentermine sulfate 3 milligrams; marketed by Wyeth Laboratories, Post Office Box 8299, Philadelphia, Pa. 19101.

6. Terracydin Capsules containing oxytetracycline hydrochloride equivalent to 125 milligrams oxytetracycline, 120 milligrams phenacetin, 150 milligrams salicylamide, and 30 milligrams caffeine; marketed by Pfizer Laboratories, Division of Chas. Pfizer & Co., Inc., 235 East 42d Street, New York, N.Y. 10017.

B. Objections were received with respect to the following drugs:

1a. Achrocidin Compound Syrup containing tetracycline equivalent to 125 milligrams tetracycline hydrochloride, 120 milligrams phenacetin, 150 milligrams salicylamide, 25 milligrams ascorbic acid, and 15 milligrams pyrilamine maleate per 5 milliliters; and

1b. Achrocidin Compound Tablets containing 125 milligrams tetracycline hydrochloride, 120 milligrams phenacetin, 30 milligrams caffeine, 150 milligrams salicylamide, and 25 milligrams chlorothen citrate per tablet; both marketed by Lederle Laboratories, Division of American Cyanamid Co., Post Office Box 500, Pearl River, N.Y. 10965.

2a. Tetrex-APC with Bristamin Capsules containing tetracycline phosphate complex equivalent to 125 milligrams tetracycline hydrochloride, 25 milligrams phenyltoloxamine citrate, 150 milligrams aspirin, 120 milligrams phenacetin, and 30 milligrams caffeine per capsule; and

2b. Tetrex-AP Syrup containing tetracycline equivalent to 125 milligrams tetracycline hydrochloride, 120 milligrams acetaminophen, and 12.5 milligrams phenyltoloxamine citrate per 5 milliliters; both marketed by Bristol Laboratories, Inc., Division of Bristol-Myers Co., Post Office Box 657, Syracuse, N.Y. 13201.

3a. Syndecon Tablets containing potassium phenethicillin equivalent to 62.5 milligrams phenethicillin, phenylephrine hydrochloride 2.5 milligrams, phenylpropanolamine hydrochloride 10 milligrams, chlorpheniramine maleate 1.25 milligrams, and acetaminophen 120 milligrams; and

3b. Syndecon for Oral Solution, containing in 5 milliliters, potassium phenethicillin equivalent to 62.5 milligrams phenethicillin, phenylephrine hydrochloride 2.5 milligrams, phenylpropanolamine hydrochloride 10 milligrams, phenyltoloxamine citrate 3.75 milligrams, chlorpheniramine maleate 1.25 milligrams, and acetaminophen 120 milligrams; both drugs marketed by Bristol Laboratories, Division of Bristol-Myers Co., Thompson Road, Post Office Box 657, Syracuse, N.Y. 13201.

II. *Recommended uses.* All these products were introduced and gained popularity as preparations for the relief of symptoms and prevention of complications of the common cold. In 1962, an expert panel chaired by Harry F. Dowling, M.D., met to consider the use of these drugs for these conditions.

The panel concluded that there is no acceptable evidence that any antimicrobial agents are of value in the treatment of the common cold or any other upper respiratory viral infection in preventing bacterial complications in patients with common colds who are otherwise healthy; that such antimicrobial agents should not be used; that when prophylactic therapy of respiratory infections is justified, the antimicrobial agent must be one that is relatively free of inherent toxicity, that the antibiotic in such drugs will have no effect on the cold itself; and there is insufficient clinical evidence to show that the antibiotic would be of value in the prevention of complicating infections of a cold. August 17, 1963, 28 F.R. 8471)

These products were relabeled as a result of the Dowling Committee findings and are now recommended for use in the prophylaxis or control of infections caused by organisms sensitive to the antibiotic component, together with concomitant relief of symptoms for which analgesic, antipyretic, mild cerebral and respiratory stimulant, or antihistamine activity is indicated or for symptomatic relief of the common cold.

The recommended treatment schedule for the products for which objections were filed are as follows:

Product	*Treatment Schedule*
Achrocidin Compound Syrup	Adults—2 capsules or teaspoonsful at onset of symptoms, then 2 capsules or teaspoonsful 3 to 4 times daily for 3 to 5 days.
Achrocidin Compound Tablets	Children—Total daily dose equivalent to 10–20 mg. per lb. of body weight.
Tetrex-APC with Bristamin Capsules	Adults—2 capsules at onset of symptoms, then 2 capsules 4 times a day. Children, Ages 6–12—one-half adult dose.
Tetrex-AP Syrup	Adults—2 teaspoonsful four times a day. Children, Ages 6–12—one-half adult dose.
Syndecon Tablets Syndecon for Oral Solution	2 tablets or teaspoonsful 3 or 4 times daily.

III. *The data to support claims of effectiveness.* In response to the notice, Lederle Laboratories Division submitted a few affidavits; a survey of physician specialists who use and prescribe Achrocidin; and documents relating to the publication in the FEDERAL REGISTER of August 17, 1963 (28 F.R. 84711), of the proposal to delete from the list of oral drugs acceptable for certification antibiotics in combination with analgesic substances, antihistamines, and caffeine as a result of the Dowling committee recommendations. Bristol Laboratories, Inc., submitted blood-level studies purporting to show the bioavailability of the antibiotic component in Tetrex-AP Syrup and Tetrex-APC with Bristamin Capsules in comparison to the antibiotic component alone. No other data was submitted.

A. *The affidavits.* Drs. Anderson, Busby, and Chancey are physicians who have prescribed Achrocidin for tetracycline-sensitive bacterial respiratory infections and have found the drug to be safe and effective for such infections and the relief of symptoms of allergy, etc. These opinions are based on observation of their patients and comparison with untreated similar cases and with patients treated with tetracycline or other antibiotics alone. No reference is made to any adequate and well-controlled clinical investigations to support these opinions.

Those affidavits agree with that of Dr. Latiolais, which suggests that Achrocidin is beneficial because it combines several drugs for several uses in one dosage form and, thus, reduces the possibility of patient misuse or error. It is recognized by the Food and Drug Administration that combination drugs have a place in the medical armamentarium. However, reduction in the possibility of patient misuse or error, standing alone, does not insure that place. Various other factors must also obtain, such as added usefulness over one component alone, and a showing that each drug in the combination provides an advantage, as combined, for all doses, for the duration suggested, and for a significant patient population. (Statement of General Policy and Interpretation, § 3.86 "Fixed-Combination Prescription Drugs for Humans" (36 F.R. 20037, October 15, 1971.))

Dr. Lasagna's affidavit states that a combination of drugs, each of which is known to be efficacious, can be presumed to be as effective as if each of the component drugs were administered separately, providing biological availability is established. This presumes too much. Bioavailability studies are pertinent when considering the efficacy of a second drug of generic equivalency to one shown to be effective by adequate and well-controlled clinical investigations. However, there is no basis to presume that antagonistic, synergistic, or other reactions between the components of the fixed-ratio combination drugs here involved will not occur in the absence of adequate and well controlled clinical investigations to support the presumption. In addition, there is no showing that these fixed ratio combination drugs provide an added usefulness over one component alone, nor has it been shown that each drug in the combination provides an advantage, as combined, for all doses, for the duration suggested, and for a significant patient population. In the absence of such a showing, biological availability is irrelevant.

B. *The survey.* Lederle submitted a "survey" of 274 physicians, qualified as Specialists, most of whom find Achrocidin safe and effective. None of these physicians state that their opinion is based on adequate and well controlled clinical investigations. In addition, 6.9 percent of those surveyed were pediatricians; none of their comments mentions the well known fact that it is inappropriate to use tetracycline in children. Also, 11.6 percent of those surveyed are obstetricians, none of whom mention the hazard to the fetus of using tetracycline in the latter part of pregnancy. Some of the comments refer to the effectiveness of Achrocidin for influenza and colds, despite the fact that both are caused by viruses for which tetracycline is ineffective. Several of the physicians comment that the availability of Achrocidin saves them the bother of having to write more than one prescription. Physician convenience, in the absence of adequate data, does not constitute proof of efficacy.

C. *The bioavailability data.* Bristol Laboratories, Inc. submitted blood-level studies to show that the tetracycline in Tetrex-AP Syrup and in Tetrex-APC with Bristamin Capsules is as bioavailable as in Tetrex Syrup and Capsules, both of which consist of tetracycline alone. This data does not relate to the bioavailability of the other ingredients in addition to tetracycline. Biocomparability may be accepted in lieu of clinical studies only for a product identical to one which has previously been established as efficacious by adequate clinical studies. No adequate clinical studies exist establishing the efficacy of any of these combination drugs.

IV. *The requirement of adequate and well controlled clinical investigations.* No reports of adequate and well controlled clinical investigations were submitted. Both Lederle Laboratories Division and Bristol Laboratories, Inc., state that the requirements of adequate and well controlled clinical investigations to support claims of efficacy for a drug specified in 21 CFR 130.12 should be abandoned as inapplicable to these fixed-ratio combination drugs. They contend that, because of the dissimilar conditions for which these drugs are recommended and the variables involved with such multiple-component drugs, studies to determine the efficacy of these drugs cannot be devised within the guidelines of the regulations.

It is precisely because of the variables involved that presumptions of efficacy based on efficacy of the components when administered singly and/or use of the product for a number of years cannot be made, and that adequate and well controlled clinical investigations are required.

As a general rule, diseases are often accompanied by uncomfortable symptoms and side effects of the disease. Upper respiratory infections are no exception. Many people suffering from upper respiratory infection also experience varying degrees of headache, stuffy and runny nose, difficult and painful swallowing, swollen glands, throbbing sinus pain, fever, sensation of pressure, insomnia, etc. These signs and symptoms are variable with the patient and condition, transitory in nature, and may be treated, as needed, when the symptoms appear with such drugs as antihistamines, antipyretics, analgesics, and decongestants for symptomatic relief. The patient is able to tell when the symptom reappears and to take appropriate medication then. Absent symptoms, no medication is required.

The infection, however, is treated with an antiinfective drug, to which the bacteria causing the infection are susceptible. Antibiotics do not relieve symptoms as such, do not act upon the patient but on the microorganisms, and are effective only if sufficiently high blood levels are provided to affect the bacteria. In order to attain consistently high blood levels, the antibiotics must be given at spaced intervals of time and there is no reappearance of or lack of symptom by which a patient can tell whether the antibiotic is being effective.

These observations are particularly pertinent here.

The dosage schedules recommended for these products for adults is two capsules or teaspoonsful three or four times a day, generally every 6 hours, based on the antibiotic content. This results in daily dosages of the antibiotics in these products in the ranges generally recommended as effective for the types of bacterial infections of the upper respiratory tract due to sensitive organisms for which these products are recommended.

However, there is no showing that the recommended dosage schedule results in effective dosages of the other components in these fixed-ratio combination drugs.

For example, the time interval between recommended doses for these products, while appropriate for the antibiotic constituents, is too long for the analgesic and antipyretic components, which must be given every 3 to 4 hours to produce an adequately sustained analgesic response. These products are recommended for three or four times a day, which is approximately every 6 hours.

In addition, the analgesic and antipyretic constituents are employed in inadequate amounts to produce the claimed effect. For example, the amount of phenacetin provided by the recommended dosages for Achrocidin Compound Tablets and Syrup and Tetrex-APC with Bristamin Capsules is 240 milligrams. This is an ineffective dose compared to the 600 milligram effective dose.

Similarly, while there is evidence that even in doses of 600 milligrams, salicylamide has no useful analgesic effect in mild to moderate pain, Achrocidin Compound Tablets and Syrup employ a recommended dose of 300 milligrams of salicylamide.

The usual therepeutic dose of acetaminophen is 650 milligrams. The recommended dose for Tetrex-AP Syrup and Syndecon Tablets and Syndecon for Oral Solution results in 240 milligrams. And, while the average cup of coffee contains 100–150 milligrams of caffeine, Achrocidin Compound Tablets and Tetrex-APC with Bristamin Capsules only provide 60 milligrams of caffeine per recommended dose. There is no evidence that 60 milligrams of caffeine exerts any analgesic activity or potentiates the action of analgesics or has any effect as a bronchodilator to provide relief from tightness of chest or to ease difficult breathing which may be associated with upper respiratory infections.

V. *Legal objections.* The legal objections raised to the proposed order have been resolved in Upjohn Co. v. Finch, 422 F. 2d 944 (C.A. 6, 1970); Ciba-Geigy Corp. v. Richardson, ------ F. 2d ------ (No. 35614, C.A. 2, July 16, 1971); Pfizer Inc. v. Richardson, 434 F. 2d 536 (C.A. 2, 1970); and Pharmaceutical Manufacturers Association v. Richardson, 318 F. Supp. 301 (D. Del., 1970).

The contention that the final decision in the 1963 proceeding (Aug. 17, 1963, 28 F.R. 8471) represents a prior determination of the very same issues as here involved is insubstantial. The statements in the letters written by Dr. Sadusk and Dr. Dowling were never formalized in a final regulation and do not constitute final action of the Food and Drug Administration. Moreover, even if those letters be construed as final agency action, that action in 1966 is not binding today in the light of the NAS–NRC reports and the Administration's reevaluation. This was made clear in Upjohn and in Bell v. Goddard, 366 F. 2d 177 (C.A. 7, 1966).

VI. *Findings.* The Commissioner, based on the review of the medical documentations offered to support the claims of efficacy for these fixed-ratio combination products, finds that Lederle Laboratories Division and Bristol Laboratories, Inc., have failed to present substantial evidence of effectiveness for these products. No objections or documentation were presented by any other firms and, in accordance with the provisions of 21 CFR 130.15 and 146.15, this failure is construed as an election by the following firms not to avail themselves of the opportunity for the hearing:

1. Dorsey Laboratories, Division of Wander Co.;
2. Pitman-Moore, Division of Dow Chemical Co.;
3. J. B. Roerig Division, Chas. Pfizer & Co., Inc.;
4. Eli Lilly & Co.;
5. Wyeth Laboratories;
6. Pfizer Laboratories, Division of Chas. Pfizer & Co., Inc.

The Commissioner further finds that the certificates of safety and effectiveness heretofore issued for these drugs for oral use in man containing antibiotics in combination with antihistamines and/or analgesics and/or decongestants should be revoked on the basis of a lack of substantial evidence of effectiveness.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050–51, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner (21 CFR 2.120), notice is given that the order of September 12, 1970 (35 F.R. 14392), the effective date having been extended by the Food and Drug Administration pursuant to that order's provision pertaining to time necessary to rule on objections, will become effective 30 days after the date of publication of this order in the FEDERAL REGISTER to allow time for recall of all outstanding stocks of the affected drugs. Certificates of safety and effectiveness previously issued for such drugs for human use under these regulations are revoked. No new certificates will be issued.

(Secs. 502, 507, 52 Stat. 1050–51, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357)

Dated: November 9, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-16776 Filed 11-16-71;8:52 am]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Lake Mead National Recreation Area, Ariz. and Nev.; Aircraft, Designated Airstrips

A proposal was published at page 14137 of the FEDERAL REGISTER of July 30, 1971, to amend paragraph (a) subparagraph (5) of § 7.48 of Title 36 of the Code of Federal Regulations. The effect of the amendment is to delete the Callville Bay airstrip as an authorized facility in the Code of Federal Regulations.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed amendment. No comments, suggestions, or objections have been received and the proposed amendment is hereby adopted without change and set forth below. This amendment shall take effect 30 days following the date of publication in the FEDERAL REGISTER.

(5 U.S.C. 553; 39 Stat. 535; 16 U.S.C.; 78 Stat. 1040; U.S.C. 460n–5)

Paragraph (a) is amended to revoke subparagraph (5) as follows:

§ 7.48 Lake Mead National Recreation Area.

(a) *Aircraft, designated airstrips* • • •

(5) [Deleted]

• • • • •

GLEN T. BEAN,
Superintendent, Lake Mead National Recreation Area.

[FR Doc.71-16778 Filed 11-16-71;8:52 am]

Title 24—HOUSING AND HOUSING CREDIT

Chapter VII—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Eligible Communities

Section 1914.4 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1914.4 List of eligible communities.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
• • •	• • •	• • •	• • •	• • •	• • •	• • •
Connecticut	Fairfield	Danbury				Nov. 19, 1971.
Delaware	Sussex	Fenwick Island				Do.
Florida	Duval	Atlantic Beach				Do.
Do	do	Baldwin				Do.
Do	do	Jacksonville				Do.
Do	do	Jacksonville Beach				Do.
Do	do	Neptune Beach				Do.
Mississippi	Lauderdale	Meridian				Do.
Missouri	Lewis	LaGrange				Do.
New Jersey	Burlington	Cinnaminson Township				Do.
Do	Bergen	Hillsdale Borough				Do.
North Carolina	Carteret	Unincorporated areas				Do.
North Dakota	Ward	Minot-Remainder	I 38 101 2170 08 through I 38 101 2170 13	State Water Commission, Bismarck, N. Dak. 58501. North Dakota Insurance Department, State Capitol, Bismarck, N. Dak. 58501.	Office of the City Auditor, Civic Center, Minot, N. Dak. 58701.	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969; and designation of Acting Federal Insurance Administrator effective Aug. 13, 1971, 36 F.R. 16701, Aug. 25, 1971)

Issued: November 10, 1971.

CHARLES W. WIECKING,
Acting Federal Insurance Administrator.

[FR Doc.71-16680 Filed 11-16-71;8:45 am]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
• • •	• • •	• • •	• • •	• • •	• • •	• • •
Connecticut	Fairfield	Danbury				Nov. 19, 1971.
Delaware	Sussex	Fenwick Island				Do.
Florida	Duval	Atlantic Beach				Do.
Do	do	Baldwin				Do.
Do	do	Jacksonville				Do.
Do	do	Jacksonville Beach				Do.
Do	do	Neptune Beach				Do.
Mississippi	Lauderdale	Meridian				Do.
Missouri	Lewis	LaGrange				Do.
New Jersey	Burlington	Cinnaminson Township				Do.
Do	Bergen	Hillsdale Borough				Do.
North Carolina	Carteret	Unincorporated areas				Do.
North Dakota	Ward	Minot-Remainder	H 38 101 2170 08 through H 38 101 2170 13	State Water Commission, Bismarck, N. Dak. 58501. North Dakota Insurance Department, State Capitol, Bismarck, N. Dak. 58501.	Office of the City Auditor, Civic Center, Minot, N. Dak. 58701.	Mar. 11, 1970.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969; and designation of Acting Federal Insurance Administrator effective Aug. 13, 1971, 36 F.R. 16701, Aug. 25, 1971)

Issued: November 10, 1971.

CHARLES W. WIECKING,
Acting Federal Insurance Administrator.

[FR Doc.71-16681 Filed 11-16-71;8:45 am]

Title 32—NATIONAL DEFENSE

Chapter VI—Department of the Navy

PART 742—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

The regulations issued herein are resuired by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, effective January 2, 1971, and revise the regulations currently appearing at Part 742 of this title (32 CFR Part 742). The regulations in this part shall be effective on and after January 2, 1971.

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AUTHORITY: The provisions of this Part 742 issued under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91–646 (84 Stat. 1894).

Subpart A—Policies

§ 742.101 Purpose.

The regulations in this part prescribe policies and procedures for the Department of the Navy in implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970—Public Law 91–646 (84 Stat. 1894) herein called the Act. The Act provides for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal programs and establishes uniform and equitable land acquisition policies.

§ 742.102 Displacement notice—Application for relocation assistance.

Written notice of displacement served personally or by first-class mail will be given to each person, family, business, or farm. A displaced person, business, or farm operation must make proper application to the displacing agency for relocation assistance payments. A displaced person, business, or farm operation making proper application will be paid promptly after a move. If the agency head, or his designee, determines that delaying payment until after the move will create a hardship, he will authorize an advance payment.

§ 742.103 Appeal rights.

Any person aggrieved by a determination as to eligibility for relocation payment, or the amount of a payment, in a Department of the Navy project may have his application reviewed by the Secretary of the Navy or his designee.

§ 742.104 Assurance of replacement dwelling prior to displacement.

No phase of any project will be initiated or continued if that phase will cause the displacement of any person from a dwelling until the agency has determined on the basis of a current survey and analysis of available replacement housing that prior to displacement there will be available for each displaced person a decent, safe, and sanitary replacement dwelling.

§ 742.105 Adjustments.

The agency head, or his designee, may make adjustments in the requirement for a decent, safe, and sanitary dwelling only in cases of unusual circumstances.

§ 742.106 Waiver.

In emergencies or other extraordinary situations where immediate possession of real property is crucial, the agency head, or his designee, may waive the requirements of § 742.105. Each such waiver must be reported through administrative channels to the Director, Office of Management and Budget.

Subpart B—Definitions

§ 742.201 Agency head.

The Secretary of the Navy, or his designee, authorized to act for him in implementing these regulations.

§ 742.202 Business.

(a) Any lawful activity, excepting a farm operation, conducted primarily:

(1) For the purchase, sale, lease, or rental of personal or real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(2) For the sale of services to the public;

(3) By a nonprofit organization; or

(4) Solely for the purposes of section 202(a) of the Act, for assisting in the purchase, sale, resale, manufacture, processing or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

(5) Part-time occupations which do not contribute materially to the total yearly income of the displaced person are not considered to come within the definition of a business.

§ 742.203 Decent, safe, and sanitary dwelling.

A dwelling which is in good repair and in sound and weathertight condition, which meets local housing codes, if any, and also meets the following requirements:

(a) Housekeeping unit: A housekeeping unit must include a kitchen with fully usable sink; a stove, or connections for same; a separate complete bathroom; hot and cold running water in both the bath and the kitchen; an adequate and safe wiring system for lighting and other

electrical services; and heating as required by climatic conditions and local codes.

(b) Nonhousekeeping unit: A nonhousekeeping unit is one which meets local code standards for boardinghouses, hotels, or other congregate living.

(c) Occupancy standards: The occupancy standards comply with local codes.

(d) Facilities: A dwelling unit meeting the above physical and occupancy standards is reasonably convenient to such community facilities and schools, stores, and public transportation.

(e) Where there is no local housing code or code standards are inadequate, a decent, safe, and sanitary dwelling is one which: Is in a sound, clean, and weathertight condition, has a kitchen with fully usable sink, a stove or connection for same, a separate complete bathroom, hot and cold running water in kitchen and bath, an adequate and safe wiring system for lighting and other electrical services, and heating as required by climatic conditions.

§ 742.204 Department.

The Department of the Navy.

§ 742.205 Displaced person.

Any person who, on or after January 2, 1971, moves from real property, or moves his personal property from real property, as a result of the actual acquisition of such real property, in whole or in part, or as a result of a written order of the acquiring agency to vacate real property for a program or project undertaken by the Department or with Federal financial assistance provided by the Department. If a person moves as the result of such a notice, it makes no difference whether or not the real property is acquired.

§ 742.206 Dwelling.

The place of permanent or customary and usual abode of a person. It includes a single-family building; a one-family unit in a multifamily building; a unit of a condominium or cooperative housing project; any other residential unit, including a mobile home which is either considered to be real property under State law or cannot be moved without substantial damage or unreasonable cost. It does not include seasonal or part-time dwelling units, such as beach houses, mountain or other vacation cabins.

§ 742.207 Economic rent.

Economic rent is the amount of rent the displaced person would have to pay for a similar dwelling unit located in an area not generally less desirable than the location of the dwelling to be acquired.

§ 742.208 Family.

Two or more individuals living together in the same dwelling as a single family unit and who are related to each other by blood, marriage, adoption, or legal guardianship.

§ 742.209 Farm operation.

Any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

§ 742.210 Initiation of negotiations.

The date the authorized designee of the Secretary makes the first contact with the owner or his representative and discusses a price for the real property to be acquired.

§ 742.211 Mortgage.

Such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

§ 742.212 Owner.

A person who holds fee title, a life estate, a 99-year lease, or a lease with not less than 50 years to run from the date of acquisition of the property or has an interest in a cooperative housing project which includes a proprietary right of occupancy of a dwelling unit, excluding lease, or is the contract purchaser of any such estates or interests.

§ 742.213 Person.

Any individual, partnership, corporation, or association.

§ 742.214 Rental rate.

The amount of rent paid or determined to be appropriate for the acquired dwelling.

§ 742.215 Replacement dwelling.

A dwelling which is comparable to the acquired dwelling and is:

(a) Decent, safe, and sanitary.

(b) Functionally equivalent and substantially the same as the acquired dwelling with respect to number of rooms, areas of living space, age, and state of repair.

(c) Open to all persons regardless of race, color, religion, sex, or national origin and consistent with the requirements of title VIII of the Civil Rights Act of 1968.

(d) In areas not generally less desirable than the dwelling to be acquired in regard to public utilities and public, commercial, and community facilities.

(e) Reasonably accessible to the displaced person's place of employment.

(f) Adequate to accommodate the displaced person.

(g) Available on the market to the displaced person at rents or prices within the financial means of the displaced person including the supplemental payment provided for by these Regulations.

§ 742.216 Tenant.

A person who leases, rents, lawfully occupies, or temporarily possesses real or personal property of another by any kind of right.

Subpart C—Moving and Related Expenses

§ 742.301 Recipient eligibility.

A displaced person, business, or farm operation may be eligible to receive payments for moving and related expenses, as hereinafter set out.

§ 742.302 Extent of eligibility.

(a) Each owner-occupant, tenant-occupant, or family displaced from a dwelling may elect to receive either the payment described in § 742.303(a) or the fixed payment described in § 742.304(a) except:

(1) Two or more persons, not a family, living together in a single family dwelling displaced from the dwelling will be regarded as one displaced person with respect to eligibility for receiving the fixed payment for moving expenses described in § 742.304(a). Each individual in such group is eligible to receive actual moving and related expenses described in § 742.303(a) if the group does not elect to receive the fixed payment.

(2) No member of a displaced person's family living in the same dwelling unit is eligible for separate payment for moving expenses.

(3) Any person other than a member of the family who is renting a room within the dwelling unit is eligible for moving expenses under § 742.303(a), but is not eligible to elect to receive the fixed payment in § 742.304(a).

(b) Any displaced business of farm operation may elect to receive either the payment described in § 742.303 or the payment described in § 742.304.

(c) Any displaced owner-occupant of a dwelling who earns income from such dwelling is eligible for payments for actually moving and related expenses for both dwelling and business described in § 742.303 or may elect to receive the fixed payments for both dwelling and business described in § 742.304, or he may elect to receive payment for the dwelling under one alternate and payment for the business under the other alternate.

(d) A person who lives on his business or farm property and is displaced from both his dwelling and business or farm property may elect to receive either the payment described in § 742.303 or the fixed payment described in § 742.304 for the dwelling and business or farm operation; or he may elect to receive payment for the dwelling under one alternate and payment for the business or farm operation under the other alternate.

(e) A person who is displaced from a business or farm operation which results in such person moving from a nearby dwelling may elect to receive for moving from the dwelling either the payment described in § 742.303(a) or the fixed payment described in § 742.304(a).

§ 742.303 Actual expenses payment.

(a) Actual reasonable expenses specified in § 742.305 in moving himself, his family, business, farm operation, or other personal property;

(b) Actual direct losses specified in § 742.306 of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the displacing agency; and

(c) Actual reasonable expense specified in § 742.307 in searching for a replacement business or farm.

§ 742.304 Fixed payment.

(a) A displaced person who must vacate a dwelling may elect to receive, in lieu of reimbursement for actual expenses described in § 742.303(a), a moving expense allowance not in excess of $300 based on schedules maintained by State highway departments, plus a dislocation payment of $200.

(b) A displaced person who is displaced from his place of business, whether he discontinues or reestablishes operations, may elect to receive, in lieu of reimbursement for actual expense, specified in § 742.303, a fixed relocation payment equal to the average annual net earnings of the business as determined in accordance with § 742.308 provided:

(1) The business cannot be relocated without a substantial loss of its existing patronage. The agency head will consider all pertinent circumstances in determining whether the business meets this requirement, including the type of business, the nature of the clientele, and the relative importance of the present and proposed locations to the displaced business.

(2) The business is not a part of a commercial enterprise having at least one other establishment that is not being acquired which is engaged in the same or similar business. The business must contribute materially to the income of the displaced owner.

(c) A displaced person who is displaced from his farm operation, whether he discontinues or reestablishes operations, may elect to receive, in lieu of reimbursement for actual expenses, specified in § 742.303, a fixed relocation payment equal to the average annual net earnings of the farm operation as defined in § 742.308.

(d) The payment provided in paragraphs (b) and (c) of this section shall be not less than $2,500 nor more than $10,000.

§ 742.305 Actual reasonable expenses in moving.

(a) *Items to be included in determining reasonable expenses.* (1) Transportation of individuals, families, and property from acquired site to the replacement site, not to exceed a distance of 50 miles, except where the Secretary's designee determines that relocation cannot be accomplished within the prescribed area.

(2) Packing and crating of personal property.

(3) Advertising for packing, crating, and transportation when determined by the agency head to be reasonably required.

(4) Storage of personal property for a period generally not exceeding 6 months when determined by the agency head to be necessary in connection with the relocation.

(5) Insurance premiums covering loss and damage of personal property while in storage or transit.

(6) Removal, reinstallation, and reestablishment of machinery, equipment, appliances, and other items of personal property not acquired, including reconnection of utilities, which do not constitute an improvement to the replacement site.

(7) Property lost, stolen, or damaged (not caused by the fault or negligence of the displaced person, his agents, or employees) in the process of moving, where insurance to cover such loss or damage is not available.

(8) Such other items as the agency head determines to be a reasonable expense.

(b) *Items to be excluded in determining reasonable expenses.* (1) Additional expenses incurred because of living in a new location.

(2) Cost of moving structures, improvements or other real property in which the displaced person reserved ownership.

(3) Improvements to the replacement site.

(4) Interest on loans to cover moving expenses.

(5) Loss of goodwill.

(6) Loss of profits.

(7) Loss of trained employees.

(8) Personal injury.

(9) Cost of preparing the application for moving and related expenses.

(10) Modification of personal property to adapt it to the replacement site.

(11) Such other items as the agency head determines should be excluded.

(c) *Limitations.* (1) If the displaced person moves himself, his family, business, farm operation, or other personal property by other than commercial means, the reimbursement allowance will not exceed the estimated cost of moving commercially based on the prevailing local rates for moving.

(2) If an item of personal property used in connection with a business or farm operation is not moved, but sold and promptly replaced at the new location with a comparable item, reimbursement will not exceed the replacement cost minus the proceeds from the sale, or the estimated cost of moving, whichever is less.

(3) If personal property used in connection with a business or farm operation to be moved is of low value and high bulk, and the cost of removing, moving, reinstallation and reestablishment would be disproportionate in relation to the value, in the judgment of the agency head, the allowable reimbursement for the expense of moving the personal property will not exceed the difference between the amount that would have been received for such item on liquidation and the cost of replacing the same with a comparable item available on the market.

§ 742.306 Actual direct losses, business, or farm operations.

Payments for actual direct losses of tangible personal property are allowed where a person who is displaced from his place of business or farm operation is entitled to relocate his property, but does not do so. Typical items of property that may cause such direct losses include equipment, machinery, or fixtures which are no longer required where the business or farm operation is to be discontinued or the property is not suitable for use at the new location.

(a) If the displaced person does not move the personal property he shall make a bona fide effort to sell it.

(b) If personal property is sold and not replaced and the business or farm operation is reestablished, the displaced person is entitled to the difference between the estimated replacement value of the personal property and the sale's proceeds but not to exceed the estimated cost of moving.

(c) If the business or farm operation is discontinued, the displaced person is entitled to the difference between the estimated replacement value of the personal property and the sale's proceeds, but not to exceed the estimated cost of moving.

(d) If personal property is abandoned, the displaced person is entitled to the difference between the estimated replacement value and the estimated amount that would have been received for the sale of the property, but not to exceed the estimated cost of moving.

(e) If the business or farm operation is discontinued, the distance to be used in estimating the moving cost shall be 50 miles.

§ 742.307 Actual reasonable expenses in searching, business and farm operation.

A displaced person whose business or farm is acquired may be reimbursed for his actual reasonable expenses of searching for a replacement business or farm location. The maximum amount allowable for searching expenses is $500 for each displaced business or farm unless the agency head determines that a greater amount is justified based on the circumstances involved. Payment for these expenses is further limited to:

(a) Travel costs.

(b) Extra costs for meals and lodgings.

(c) Time: Time spent in searching at the rate of the displaced person's salary or earnings, but not to exceed $10 per hour.

(d) Realtor assistance: Broker or realtor fees to locate a replacement business or farm operation only when the circumstances warrant.

§ 742.308 Determination of average annual net income.

The average annual net income will be one-half of any net earnings of the business or farm operation, before Federal, State, and local income taxes for the 2 taxable years immediately preceding the taxable year in which such business or farm operation moves from

the real property acquired, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period. Another period may be approved by the agency head if the business or farm operation was not in operation for the full 2-year period or if an unusually long timelag between public announcement of a project and the displacement results in a material reduction in the earnings of the business for such 2-year period, or under other conditions clearly warranting a different period. The business or farm operation will be required to furnish pertinent returns filed with Internal Revenue Service for the applicable period, or other acceptable evidence of earnings if not required to file returns.

Subpart D—Replacement Housing Payments for Homeowners (Over 180 Days)

§ 742.401 Eligibility.

A displaced owner-occupant of an acquired dwelling is eligible for a replacement housing payment under this subpart of not to exceed $15,000 if he:

(a) Actually owned and occupied the acquired dwelling for not less than 180 days immediately prior to initiation of negotiations for the property; and

(b) Purchases and occupies a replacement dwelling not later than the end of the 1-year period beginning on the date on which he receives final payment of the purchase price or condemnation award for the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date. Purchase of a replacement dwelling shall mean (1) acquisition of an existing dwelling, (2) acquisition and rehabilitation of a substandard dwelling, (3) relocation, or relocation and rehabilitation of an existing dwelling, (4) construction of a new dwelling, (5) contract to purchase a dwelling to be constructed on a site provided by a builder or developer, or (6) contract for the construction of a dwelling on a site which he owns or acquires for this purpose. If construction or rehabilitation is required in the instances cited herein and completion of the construction or rehabilitation is delayed beyond the end of the 1-year period, the agency head may establish the date of occupancy as the date that the displaced person enters into a contract for the construction, rehabilitation, or purchase provided the agency head determines that the delay was for reasons not within the reasonable control of the displaced person, and the displaced person occupies the replacement dwelling when the construction or rehabilitation is completed. Payment by the agency head will not be made until the displaced person has occupied the replacement dwelling.

§ 742.402 Certification of eligibility.

Whenever a displaced person is eligible for a payment under this subpart except that he has not yet purchased a replacement dwelling, the agency head shall, at the request of the displaced person, provide a written statement to any interested person, financial institution, or lending agency as to:

(a) The eligibility of the displaced person for a payment.

(b) The requirements that must be satisfied before such payment can be made.

(c) The amount of the payment to be made by the agency head, provided the proposed replacement dwelling has been selected, or plans and specifications for the construction or rehabilitation of a proposed replacement dwelling are available, and the displacing agency has inspected and approved the selected dwelling or has reviewed and approved the plans and specifications for construction or rehabilitation.

§ 742.403 Selecting a method for determining purchase price for a replacement dwelling.

The agency head may determine the amount necessary to purchase a replacement dwelling by: (a) A scheduled method in which the agency head establishes a schedule of reasonable acquisition cost for replacement dwellings that are available on the private market in the various types of dwellings to be acquired. This schedule should be based on current analysis of the market; or by: (b) The comparative method in which the agency head determines the price of a replacement dwelling by selecting one or more dwellings that are most representative of the dwelling unit acquired, and are available to the displaced person. A single dwelling shall only be used when additional comparable dwellings are not available. Asking prices are to be adjusted to reflect market sale experience.

§ 742.404 Coordination among displacing agencies.

When more than one agency, department, or otherwise, is causing the displacement in a community or an area, the head of the displacing agency shall seek the cooperation of the other agency or agencies on the method for computing the replacement housing payment and on the use of uniform schedules of sale housing in the community or area.

§ 742.405 Costs eligible for payment by agency head.

Costs eligible for payment by the agency head under this subpart are:

(a) The amount, if any, which when added to the acquisition cost of the dwelling acquired by the agency head, equals the reasonable cost of a replacement dwelling. If the displaced person, on his own, voluntarily purchases and occupies a decent, safe, and sanitary dwelling at a price less than the reasonable cost determined by the agency head for a replacement dwelling, the agency head shall pay not more under this item than the difference between the acquisition price of the acquired dwelling and the actual purchase price of the replacement dwelling. If the displaced person, on his own, voluntarily purchases and occupies a decent, safe, and sanitary dwelling at a price less than the acquisition price of the acquired dwelling, no payment is allowable under this paragraph (a).

(b) The amount, if any, which will compensate the displaced person for any increased interest cost and points which such person is required to pay for financing the acquisition of the replacement dwelling, provided that the acquired dwelling was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than 180 days prior to the initiation of negotiations for the acquisition of such dwelling. This amount shall be computed on the basis of and limited to:

(1) The amount of the unpaid debt at the time of acquisition of the real property;

(2) The length of the remaining term of the mortgage at the time of acquisition;

(3) The prevailing interest rate and points currently charged by mortgage lending institutions in the vicinity; and

(4) The present worth of the future payments of increased interest, computed at the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.

(c) Reasonable expenses, as determined by the agency head, incurred by the displaced person for the following purposes except that no fee, cost, charge, or expense is reimbursable which is determined to be a part of the finance charge under the Truth in Lending Act, title I, Public Law 90–321, and regulation Z issued pursuant thereto by the Board of Governors of the Federal Reserve System, or which is determined to be prepaid expenses:

(1) Legal, closing, and related costs including title search, preparing conveyance contracts, notary fees, surveys, preparing drawings of plats, and charges incident to recordation.

(2) Lenders, FHA, or VA appraisal fee.

(3) FHA application fee.

(4) Certification of structural soundness when required by lender, FHA, or VA.

(5) Credit report.

(6) Title policy, certificate of title, or abstract of title.

(7) Escrow agent's fee.

(8) State revenue stamps, or sale or transfer taxes.

§ 742.406 Replacement housing payment in condemnation cases.

In the event the acquired dwelling is acquired by condemnation, and the replacement housing payment cannot be completed until final judgment, the following arrangement may be made. An advance payment may be made if the displaced person makes an agreement providing for payment computed on the basis of the deposit (appraised value), that payment will be recomputed at the time of final judgment, and that the advance payment shall be applied to the total award. If the amounts paid (advance payment plus the deposit) equal or exceed the award, the agreement will provide for acceptance of such amounts in satisfaction of the judgment, inclusive of interest. If the amounts paid are less than the award the agreement will provide that the amounts paid will be applied to the award and interest on the deficiency will be paid on the difference between the award and the amounts paid.

§ 742.407 General.

(a) Payment under this subpart to a displaced owner-occupant who moves from a one-family unit of a multifamily building owned by such person will be based on the cost of a comparable one-family unit in a multifamily building or a single-family structure, without regard to the number of units in the acquired multifamily building.

(b) Payment under this subpart will not affect the eligibility of the displaced owner-occupant to receive a payment for business earnings attributable to rental units or other legitimate business activities conducted in portions of the building.

(c) Two or more individuals living together in a single-family dwelling will be regarded as one owner-occupant for the purpose of this subpart.

Subpart E—Replacement Housing for Tenants and Certain Others

§ 742.501 Eligibility.

(a) This subpart is applicable to a displaced person who:

(1) Is a tenant.

(2) Is an owner-occupant who elects to lease or rent rather than purchase a replacement dwelling, or elects to purchase a replacement dwelling but has occupied the acquired dwelling for less than the 180 days required by § 742.401.

(3) Leases and occupies a site for a mobile home when such site is acquired, but only to the extent specified in § 742.509.

(b) A displaced person is eligible for a replacement housing payment under this subpart if he:

(1) Actually and lawfully occupied the acquired dwelling, or site in the case of a mobile home, for not less than 90 days immediately prior to the initiation of negotiations for acquisition of the property.

(2) Rents or purchases and occupies a replacement dwelling not later than the end of the 1-year period, except as specified in § 742.508(a), beginning on the date on which he:

(i) If a tenant, moves from the acquired dwelling.

(ii) If a mobile-home occupant, moves from the acquired site.

(iii) If an owner-occupant, receives from the agency head final payment of the purchase price or condemnation award for the acquired dwelling, or the date on which he moves from the acquired dwelling, whichever is the later date.

(c) Payment under this subpart to a displaced owner-occupant who moves from a one-family unit of a multifamily building owned by such person will be based on the cost of a comparable one-family unit in a multifamily building or a single-family structure without regard to the number of units in the acquired multifamily building.

(d) Payment under this subpart will not affect the eligibility of the displaced person to receive a payment for business earnings attributable to rental units or other legitimate business activities conducted in portions of the building.

(e) Two or more individuals living together in a single family dwelling displaced from the dwelling will be regarded as one displaced person.

§ 742.502 Maximum payment.

The maximum payment which may be made under this subpart is $4,000, except that when the payment is made in connection with the purchase of a replacement dwelling, any amount in excess of $2,000 for the down payment and expenses specified in § 742.508(c) must be matched by the displaced person.

§ 742.503 Selecting a method for determining rental rate for a replacement dwelling.

The displacing agency may determine the amount necessary to rent a replacement dwelling for a displaced tenant by:

(a) A schedule method in which the displacing agency establishes a rental schedule for renting replacement dwellings of the various types of dwellings needed that are available on the private market, this schedule to be based on current analysis of the market; or by

(b) The comparative method in which the displacing agency establishes an average monthly rental rate for a replacement dwelling by selecting one or more dwellings that are available on the private market, available to the displaced person, and are most representative of the dwelling unit acquired.

§ 742.504 Coordination among displacing agencies.

When more than one agency, departmental or otherwise, is causing the displacement in a community or an area, the head of the displacing agency shall seek the cooperation of the other agency or agencies on the method for computing the replacement housing payment and on the use of uniform schedules of rental housing in the community or area.

§ 742.505 Computing rental payments for displaced tenants renting replacement housing.

(a) The displacing agency shall compute the amount of the payment to the tenant as follows:

(1) Multiply the monthly rental rate of the replacement dwelling by 48.

(2) Determine the average monthly rental rate paid by the displaced tenant for the acquired dwelling in the last 3 months prior to initiation of negotiations, provided such rent was reasonable. If such average rent paid was not reasonable, the agency head may use an economic rent amount for the acquired dwelling. If the displacing agency deems it advisable, more than 3 months may be used as a base for determining the average rental rate.

(3) Multiply the average monthly rental rate for the acquired dwelling, as determined in subparagraph (2) of this paragraph, by 48.

(4) Subtract from the amount for the replacement dwelling, as determined in subparagraph (1) of this paragraph, the amount for the acquired dwelling as determined in subparagraph (3) of this paragraph.

§ 742.506 Computing rental payments for displaced owner-occupants renting replacement housing.

The agency head shall compute the amount of the payment to the displaced owner-occupant in the same manner as prescribed in § 742.505, except that economic rent shall be used in making the determination required by § 742.505 (a)(2); however, the amount paid shall not exceed that which would have been paid to the displaced owner-occupant had he been eligible for and elected to purchase a replacement dwelling under the provisions of §§ 742.401 to 742.406.

§ 742.507 Making payment to a displaced person who rents replacement housing.

(a) If the total rental payment to be made to the displaced person is in excess of $500, payment will be made in four equal annual installments at the beginning of each annual period, provided that the agency head determines that the tenant is continuing to occupy decent, safe, and sanitary housing at the beginning of each annual period.

(b) If the total rental payment to be made to the displaced person is $500 or less, the payment shall be made in one lump sum at the beginning of occupancy of the replacement dwelling. The agency head need not thereafter determine whether occupancy of decent, safe and sanitary housing is continued.

§ 742.508 Purchase of a replacement dwelling.

(a) If a displaced person eligible under this subpart elects to purchase rather than rent a replacement dwelling, purchase of a replacement dwelling shall mean: (1) Acquisition of an existing dwelling, (2) acquisition and rehabilitation of a substandard dwelling, (3) relocation, or relocation and rehabilitation, of an existing dwelling, (4) construction of a new dwelling, (5) contract to purchase a dwelling to be constructed on a site provided by a builder or developer, or (6) contract for the construction of a dwelling on a site which he owns or acquires for this purpose. If construction or rehabilitation is required in the instances cited herein and completion of the construction or rehabilitation is delayed beyond the end of the 1-year period, the agency head may establish the date of occupancy as the date that the displaced person enters into a contract for the construction, rehabilitation, or purchase provided the agency head determines that the delay was for reasons not within the reasonable control of the displaced person, and the displaced person occupied the replacement dwelling when the construction or rehabilitation

is completed. Payment by the agency head will not be made until the displaced person has occupied the replacement dwelling.

(b) Whenever a displaced person is eligible for a payment under this section except that he has not yet purchased a replacement dwelling, the agency head shall, at the request of the displaced person, provide a written statement to any interested person, financial institution, or lending agency as to:

(1) The eligibility of the displaced person for a payment.

(2) The requirements that must be satisfied before such payment can be made.

(3) The amount of the payment to be made by the agency head, provided the proposed replacement dwelling has been selected, or plans and specifications for the construction or rehabilitation of a proposed replacement dwelling are available; and the agency head has inspected and approved the selected dwelling or has reviewed and approved the plans and specifications for construction or rehabilitation.

(c) The amount of the payment shall be computed by determining the amount necessary to enable the displaced person to make a down payment and to cover expenses on the purchase of the replacement housing.

(1) The amount necessary for the down payment shall be based on the amount required for a conventional loan.

(2) Reasonable expenses, as determined by the agency head, incurred by the displaced person for the following purposes except that no fee, cost, charge, or expense is reimbursable which is determined to be a part of the finance charge under the Truth in Lending Act, title I, Public Law 90–321, and regulation Z issued pursuant thereto by the Board of Governors of the Federal Reserve System, or which is determined to be prepaid expenses:

(i) Legal, closing, and related costs including title search, preparing conveyance contracts, notary fees, surveys, preparing drawings of plats, and charges incident to recordation.

(ii) Lenders, FHA, or VA appraisal fee.

(iii) FHA application fee.

(iv) Certification of structural soundness when required by lender, FHA, or VA.

(v) Credit report.

(vi) Title policy, certificate of title, or abstract of title.

(vii) Escrow agent's fee.

(viii) State revenue stamps, or sale or transfer taxes.

(d) The full amount of the payment must be applied as follows:

(1) The amount allowed for the down payment must be applied to the purchase price.

(2) The amount allowed for incidental costs must be applied to the incidental costs.

(3) The down payment and incidental costs must be shown separately on the closing statement.

§ 742.509 Mobile home site.

If real property is acquired on which a displaced person leases and occupies a site for a mobile home, the following reasonable costs as determined by the displacing agency are allowable and payable in a lump sum:

(a) Moving the mobile home to a replacement site located not more than 50 miles from the acquired site.

(b) Detaching and reattaching fixtures and appurtenances, where applicable.

Subpart F—Relocation Assistance Advisory Services

§ 742.601 Policy.

Whenever the acquisition of real property for a Federal or Federal financially-assisted program or project will result in the displacement of any person, the agency head shall provide a relocation assistance advisory program for displaced persons. If it is determined that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, the agency head shall offer such person relocation advisory services.

§ 742.602 Cooperation with other Federal and State agencies.

When more than one agency, departmental or otherwise, is administering a relocation assistance advisory program which may be of assistance in the community or area to persons displaced under other programs, the agency head shall offer to cooperate to the maximum extent feasible with the other Federal or State agency causing displacements to assure that all displaced persons receive the maximum assistance available to them. The agency head may, by contract or otherwise, secure relocation assistance advisory services from any Federal, State, or local governmental agency or from any person or organization.

§ 742.603 Advisory services.

Each relocation assistance advisory program shall include such measures, facilities, or services as may be necessary or appropriate in order to:

(a) Determine the need, if any, of displaced persons for relocation assistance.

(b) Provide current and continuing information on the availability, prices, and rentals of comparable decent, safe, and sanitary sale and rental housing and of comparable commercial properties and locations for displaced businesses and farm operations.

(c) Assure that, within a reasonable period of time prior to displacement, replacement dwellings will be available.

(d) Assist a displaced person displaced from his business or farm operation in obtaining and becoming established in a suitable replacement location.

(e) Supply information concerning housing programs, disaster loan programs, and other Federal or State programs offering assistance to displaced persons.

(f) Provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation.

(g) Advise displaced persons that they should notify the agency head before they move, and

(h) At time of initiation of negotiations for acquisition inform the parties in interest of the advisory service to which they may be entitled.

Subpart G—Real Property Acquisition

§ 742.701 Acquisition by agreement.

(a) Every reasonable effort will be made to: (1) Acquire real property by agreement with owners based on negotiations, (2) assure consistent treatment of owners, and (3) accomplish negotiations expeditiously. In no event shall negotiations be deferred nor any other action coercive in nature taken in order to compel an agreement.

§ 742.702 Appraisal.

(a) Prior to initiation of negotiations, an appraisal of the fair market value of the real property interest to be acquired will be made by a qualified appraiser.

(b) The owner or his designated representative will be given a reasonable opportunity to accompany the appraiser during his inspection of the property.

(c) Any decrease or increase in the fair market value of the property prior to the date of the appraisal which is caused by the public improvement for which the property is acquired or by the likelihood that the property would be acquired for such improvement, other than due to physical deterioration within the reasonable control of the owner, will be disregarded in appraising the property.

(d) Where appropriate the estimate of the fair market value of the property to be acquired and the estimate of dammages or offsetting benefits to the remaining property will be separately stated.

§ 742.703 Establishing just compensation.

(a) Prior to negotiations the agency head shall establish an amount believed to be just compensation which in no event shall be less than the amount of the approved appraisal.

(b) If the acquisition of only part of a property would leave its owner with an uneconomic remnant, the agency head shall offer to acquire the entire property.

§ 742.704 Initiation of negotiations.

(a) When the just compensation has been established, a prompt offer will be made to acquire the real property for the full amount of the just compensation so established.

(b) When the offer is made, the owner of the real property will be provided with a written statement of (1) identification of the real property and the estate or interest therein to be acquired including the buildings, structures and other improvements considered to be a part of the real property, (2) the amount of the estimated just compensation as determined by the acquiring agency and a summary statement of the basis therefor, and (3) if only a portion of the property is to be acquired, a separate statement of the estimated just compensation for the real property interest to be acquired and, where appropriate, damages and benefits to the remaining real property.

(c) The offer of just compensation does not preclude further negotiations with respect to the purchase price.

(d) Tenants occupying the property shall be advised when negotiations for the property are initiated with the owner thereof.

(e) Contracts or options to purchase real property shall not include any payments for relocation costs or any reference to such payments.

§ 742.705 Condemnation.

(a) The time of condemnation will neither be advanced, nor negotiations, condemnation and the deposit of funds in court be deferred, nor any other action coercive in nature taken in order to compel an agreement on price.

(b) If real property is to be acquired by condemnation, proceedings will be instituted promptly. No action will be taken intentionally which will make it necessary for an owner to institute legal proceedings to prove the taking of his real property.

(c) If the final judgment of the court in a condemnation case is that the acquiring agency cannot acquire the real property by condemnation, or if the proceeding in condemnation is abandoned by the acquiring agency, the acquiring agency must pay the owner of the property such sum as will reimburse the owner for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal and engineering fees actually incurred because of the condemnation proceedings. If these costs are not covered by a court order, reimbursement shall nevertheless be made by the agency head.

§ 742.706 Expenses incidental to transfer of title.

As soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award in a condemnation proceeding to acquire real property, the owner will be reimbursed, to the extent the head of the agency determines fair and reasonable, for expenses the owner necessarily incurred for:

(a) Recording fees, transfer taxes, and similar expenses incident to conveying the real property to the acquiring agency,

(b) Penalty costs for prepayment of any preexisting recorded mortgage entered into in good faith encumbering such real property, and

(c) The pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the acquiring agency, or the effective date of possession of such real property by the acquiring agency, whichever is earlier, to the extent payable under State law in an acquisition of real property by the United States.

§ 742.707 Improvements owned by tenants.

(a) Whenever any interest in real property is acquired, the agency head will acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property which such acquiring agency requires to be removed from the real property, or which the acquiring agency determines will be adversely affected by the use to which such real property will be put.

(b) The following will apply in determining the just compensation for any such buildings, structures, or other improvements: (1) They will be deemed to be part of the real property to be acquired, notwithstanding the right or obligation of the tenant as against the owner of any other interest in the real property to remove them at the expiration of his term, and (2) the fair market value which such structures, buildings, or other improvements contribute to the fair market value of the real property to be acquired, or the fair market value of such buildings, structures, or other improvements for removal from the real property, whichever is greater, will be paid the tenant therefor, provided the tenant shall assign, transfer and release to the acquiring agency all his rights, title and interest in and to such improvements.

(c) Payments under this § 742.707 will not be made unless the owner of the land involved disclaims all interest in such buildings, structures, or other improvements of the tenant. Nor shall such payments be made which result in duplication of any payments otherwise authorized by law.

(d) The tenant may reject payment under this § 742.707 and obtain payment for the buildings, structures, or other improvements in accordance with any other applicable law.

§ 742.708 Lease to former owner or occupant.

If an owner or tenant is permitted to occupy the real property acquired on a rental basis for a short term, or for a period subject to termination by the acquiring agency on short notice, the amount of rent required will not exceed the fair rental value of the property to a short-term occupier.

§ 742.709 Requirement to move.

(a) The construction or development of a project will be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property will be required to move from a dwelling (assuming a replacement dwelling will be available), or to move his business or farm operation, without at least 90 days' written notice prior to the date on which such move is required. A notice of less than 90 days may be given only in an emergency or other extraordinary situations. When it is proposed to give an advance notice of less than 90 days the prior approval of the agency head will be obtained.

(b) No owner will be required to surrender possession of real property before he has been paid the agreed purchase price or a deposit has been made with the court for the benefit of the owner in an amount not less than the approved appraisal of the real property being acquired.

[SEAL] MERLIN H. STARING,
Rear Admiral, JAGC, U.S. Navy,
Acting Judge Advocate General.

NOVEMBER 5, 1971.

[FR Doc.71-16682 Filed 11-16-71;8:45 am]

PART 761—NAVAL DEFENSIVE SEA AREAS; NAVAL AIRSPACE RESERVATIONS, AREAS UNDER NAVY ADMINISTRATION, AND THE TRUST TERRITORY OF THE PACIFIC ISLANDS

Entry Authorization

Part 761 of Chapter VI of Title 32 of the Code of Federal Regulations is amended as follows:

Section 761.3 is amended by amending paragraph (c) and paragraph (c)(3):

§ 761.3 Authority.

* * * * *

(c) *Trust Territory of the Pacific Islands.* The Trust Territory of the Pacific Islands is a strategic area administered by the United States under the provisions of a trusteeship agreement with the United Nations. By Executive Order 11021 of May 7, 1962 (27 F.R. 4409; 3 CFR, 1959–1963 Comp., p. 600), the Secretary of the Interior has been charged with the administrative responsibility for all of the Trust Territory of the Pacific Islands. Under an agreement between the Department of the Navy and the Department of the Interior effective July 1, 1963, the entry of individuals, ships, and aircraft into the Trust Territory is subject to control. Entry into the Trust Territory of the Pacific Islands (other than areas under military control of the Department of the Army (Kwajalein Atoll) and the Department of the Air Force (Eniwetok Atoll) (see § 761.4)) shall be exercised by the High Commissioner of the Trust Territory and the Department of the Navy as follows:

* * * * * *

(3) Ships and aircraft: (i) The entry of ships and aircraft, other than U.S. public ships and aircraft, documented under either the laws of the United States or the laws of the Trust Territory into areas of the Trust Territory, excepting those areas under military jurisdiction where entry is controlled by the Department of the Army (Kwajalein Atoll) and the Department of the Air Force (Eniwetok Atoll), shall be controlled solely by the High Commissioner.

* * * * * *

Section 761.4 is amended by revising paragraphs (b) and (c) to read as follows:

§ 761.4 Special Provisions.

* * * * * *

(b) Entry into islands in the Kwajalein Atoll under military jurisdiction is

controlled by the Department of the Army. Inquiries concerning entries into islands under military control in the Kwajalein Atoll should be directed to: National Range Commander, U.S. Army SAFEGUARD System Command, Attention: SSC-R, Post Office Box 1500, Huntsville, AL 35807.

(c) Entry into Eniwetok Atoll is controlled by the Department of the Air Force. Inquiries concerning entries into Eniwetok Atoll should be directed to: Commander, Air Force Space and Missile Test Center, Vandenburg Air Force Base, CA 93437.

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Section 761.6 is amended by changing footnote 1 to read as follows:

§ 761.6 Criteria.

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[1] The criteria so marked are applicable only to those applications concerning entry into areas under military cognizance.

Section 761.7 is amended by amending paragraph (d) as follows:

§ 761.7 Basic Controls.

• • • • •

(d) *Trust Territory.* An authorization from the High Commissioner is required for all persons desiring to enter the Trust Territory, except for those areas under military jurisdiction where entry is controlled by the Department of the Army (Kwajalein Atoll) and the Department of the Air Force (Eniwetok Atoll).

• • • • •

Section 761.9 is amended by revising paragraph (g) to read as follows:

§ 761.9 Entry Control Commanders.

• • • • •

(g) *Commander, Hawaiian Sea Frontier.* Authorization for U.S. registered private vessels to enter Johnston Island, Midway Island, Kingman Reef, Kaneohe Bay Naval Defensive Sea Area, and Pearl Harbor Naval Defensive Sea Area, and for Filipino workers employed by U.S. contractors to enter Wake Island (see also paragraph (j) of this section); authorization for all persons and U.S. registered private and Canadian public vessels to enter Kodiak Naval Defensive Sea Area, Kiska Island Naval Defensive Sea Area, and Unalaska (Dutch Harbor) Naval Defensive Sea Area.

• • • • •

§ 761.10 [Amended]

Section 761.10, paragraph (f) is deleted and reserved.

Section 761.12, paragraph (b) is revised and paragraph (c) is deleted and reserved. Paragraph (b) as revised reads as follows:

§ 761.12 Ships: group authorizations.

• • • • •

(b) U.S. private vessels which are: (1) Under charter to the Department of Defense (including the Military Sealift Command), or (2) operating under a contract or charter with the Department of Defense providing for the employment of such vessels, or (3) routed by a Naval Control of Shipping Office, or (4) employed exclusively in support of and in connection with a Department of Defense construction, maintenance, or repair contract and whose crews carry individual entry clearances, to enter defense areas as authorized by controlling Defense Department agency.

(c) [Reserved]

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[SEAL] MERLIN H. STARING,
Rear Admiral, JAGC, U.S. Navy,
Acting Judge Advocate General.

NOVEMBER 8, 1971.

[FR Doc.71-16684 Filed 11-16-71;8:45 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER J—BRIDGES

[CGFR 70-140a]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Fort Point Channel, Boston, Mass.

This amendment changes the regulations for the city of Boston highway bridges across Fort Point Channel to provide that the Summer and Congress Street bridges need not be opened for the passage of vessels and to increase the period when the Northern Street bridge draw need not be opened. This amendment was circulated as a public notice dated May 21, 1971 by the Commander, First Coast Guard District and was published in the FEDERAL REGISTER as a notice of proposed rule making (CGFR 70-140) on May 22, 1971 (36 F.R. 9328). In response to the proposals, seven favorable endorsements were received, four statements of no objection or no comment were received and one objection to the change in opening periods for the Northern Avenue bridge was received. The objection has been withdrawn however, on assurances from the city of Boston that the draw will open as soon as possible in emergency situations.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.75(1) to read as follows:

§ 117.75 Boston Harbor, Mass., and adjacent waters; bridges.

• • • • •

(1) *Fort Point Channel, city of Boston highway bridges.* (1) The draw of the Summer and Congress Street bridges need not open for the passage of vessels and paragraphs (b) through (e) of this section do not apply to these bridges. However, the draws shall be returned to an operable condition within 6 months after notification from the Commandant to take such action.

(2) From 6 a.m. to 8 p.m. the Northern Street bridge draw shall open on signal, except that it need not open from 7 a.m. to 9 a.m. and from 4:30 p.m. to 6:30 p.m., Monday through Friday, excluding legal holidays for the passage of vessels whose draft is less than 18 feet. From 8 p.m. to 6 a.m. the draw need not open for the passage of vessels.

• • • • •

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Effective date. This revision shall become effective on December 17, 1971.

Dated: November 9, 1971.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Marine Environment and Systems.

[FR Doc.71-16738 Filed 11-16-71;8:50 am]

[CGFR 71-44a]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Passaic River, N.J.

This amendment changes the regulations for the Erie Lackawanna railroad bridge across the Passaic River at Lyndhurst to require at least 6 hours' notice for the draw to open for the passage of vessels from 12 midnight to 8 a.m. The draw will continue to open on signal from 8 a.m. to 12 midnight.

This amendment was circulated as a public notice dated June 3, 1971, by the Commander, Third Coast Guard District and was published in the FEDERAL REGISTER as a notice of proposed rule making (CGFR 71-44) on June 8, 1971 (36 F.R. 11045).

A total of 14 responses were received. One offered no comment and one no objection. One suggested a trial period of 1 year. Six objected on the grounds that to leave the draw unattended might lead to vandalism. One objected for several reasons, namely that to leave the draws unattended would invite vandalism; that the narrow channel in this reach of the Passaic River could cause serious problems to vessels if the draw was not opened at the time requested, and that fires were occasionally started from locomotive sparks that required immediate attention in order to be contained. One objected in the belief that this change would be in violation of the Code of Federal Regulations. Two suggested that the draw be left in the open position from 12 midnight to 8 a.m. One objected because of possible delay.

While vandalism may be a problem, this point is not specifically related to the use of the draw by vessels. This is also true of the potential fire hazard. This change would not violate but would be within the guidelines set forth for changes in the Code of Federal Regulations. Scheduled train crossings from 12 midnight to 8 a.m. preclude leaving the draw open during this period. Delays could be avoided if 6 hours' notice is given of the exact time required.

In view of the comments received the Coast Guard feels that the proposed regulations will not impose an unreasonable restriction on navigation. The use of this waterway by vessels will be closely monitored and if a change in these regulations appears desirable the public will be asked to comment on any change proposed.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding §117.225(f)(2-c) to read as follows:

§ 117.225 Navigable waters in the State of New Jersey; bridges where constant attendance of drawtenders is not required.

• • • • •

(f) • • •

(2-c) Passaic River, Erie Lackawanna railroad bridge at Lyndhurst. From 8 a.m. to 12 midnight the draw shall open on signal. From 12 midnight to 8 a.m. the draw shall open on signal if at least 6 hours notice has been given.

• • • • •

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Effective date. This revision shall become effective on December 17, 1971.

Dated: November 9, 1971.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Marine Environment and Systems.

[FR Doc.71-16737 Filed 11-16-71;8:50 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 4—Department of Agriculture

PART 4-12—LABOR

Affirmative Action Compliance Program

These amendments involve matters relating to agency management and to contracts and include rules interpreting and implementing existing regulations of other Federal agencies which are not subject to the notice and public procedure requirements for rule making under 5 U.S.C. 553. It is in the public interest that these provisions be made effective immediately. Accordingly, in accordance with the Secretary's Statement of Policy (36 F.R. 13804) it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest.

(E.O. 11246; 41 CFR Part 60)

1. Section 4-12.810 is revised by adding a new paragraph (d) as follows:

§ 4-12.810 Affirmative action compliance program.

• • • • •

(d) *Bid conditions for all nonexempt Federal and Federally assisted construction contracts.* Contracting agencies shall require that the bid conditions setting forth affirmative action and equal employment opportunity requirements are to be included in all bid documents for use in connection with nonexempt Federal and federally assisted construction contracts. These requirements shall be applicable to the following "Hometown" plans:

(1) *Denver.* Adams, Boulder, Jefferson, Arapahoe, and Denver Counties, Colo.

(2) *Detroit.* Wayne, Oakland, and Macomb Counties, Mich.

(3) *Kansas City.* Clay, Platte, Jackson, Bates, Carroll, Lafayette, Ray, Johnson, Henry, and Cass Counties, Missouri; and Wyandotte, Johnson, and Miami Counties, Kans.

(4) *New Orleans.* Area of jurisdiction of the Southeast Louisiana Building and Construction Trades Council in the city of New Orleans and Southeast La.

(5) *Pittsburgh.* Allegheny County, Pa.

(6) *Rochester.* Area of jurisdiction of the Allied Building Trades Council of Rochester, N.Y. and vicinity in Monroe, Livingston, Wayne, and Ontario Counties.

(7) *Seattle.* King County, Wash.

(i) All bidders must comply with the bid conditions contained in the invitation to be considered responsive bidders and hence eligible for the award. Part I of the bid conditions applies to those trades covered by the applicable "Hometown" plan. Part II of the bid conditions contains the affirmative action plan for those trades not covered by the "Hometown" plan.

(ii) Agencies should request copies of the bid conditions for the listed "Hometown" plans, as needed, from the Contracts and Supply Management Staff, Office of Plant and Operations, Washington, D.C. 20250.

Effective date: Upon publication in the FEDERAL REGISTER (11-17-71).

Done at Washington, D.C., this 12th day of November 1971.

T. M. BALDAUF,
Acting Director
of Plant and Operations.

[FR Doc.71-16787 Filed 11-16-71;8:53 am]

Chapter 5A—Federal Supply Service, General Services Administration

MISCELLANEOUS AMENDMENTS TO CHAPTER

Chapter 5A is amended as set forth below:

PART 5A-72—REGULAR PURCHASE PROGRAMS OTHER THAN FEDERAL SUPPLY SCHEDULE

The table of contents for Part 5A-72 is amended to delete §§ 5A-72.107-7, 5A-72.107-8, and 5A-72.107-9 and to revise the following entries:

Sec.
5A-72.107 Direct delivery of stock items.
5A-72.107-1 General.
5A-72.107-2 Direct delivery of stock items under consolidated stock replenishment program.
5A-72.107-3 Direct delivery of stock items not under term contract or the consolidated stock replenishment program.
5A-72.107-4 Payment for deliveries—f.o.b. shipping point.
5A-72.107-5 Payment for deliveries—f.o.b. destination.
5A-72.107-6 Inspection.

1. Section 5A-72.106-7(e) is amended and §§ 5A-72.106-7(d) and 5A-72.106-7(i) are revised as follows:

§ 5A-72.106-7 Procurement of paints, dopes, varnishes and related products (FSC Group 80).

• • • • •

(d) *Availability for inspection and testing and delivery clause.* When the clause prescribed in § 5A-7.101-77 is used, 60 days and 30 days normally will be specified in the first paragraph thereof. However, any appropriate number of days may be specified.

(e) *Contractor responsibility clause.*

CONTRACTOR RESPONSIBILITY

• • • • •

(i) *Batch numbers.* Batch numbers shall be assigned so that each batch number represents a distinct production quantity produced under identical conditions at one time. This batch number will be marked on all containers and will be annotated on Contractor's inspection and test reports.

• • • • •

(i) *Warranty of supplies (Aerosols) clause (for use with Class 8010 (Aerosols) items).* When this clause is used for Class 8030 and 8040 items, delete "(Aerosols)," add "mixing and stirring" after "shaking," and substitute "date of manufacture" for "date of acceptance."

WARRANTY OF SUPPLIES (AEROSOLS)

(a) Unless otherwise specified in the Schedule, material furnished under this contract shall have a 1-year unqualified guaranteed shelf life beginning with the date of acceptance and must be guaranteed usable after normal shaking. Where a shelf life of less than 1 year applies, the Government's warranty requirements are expressed in terms of required number of months of unqualified guaranteed shelf life from the date of acceptance of the material from the Contractor.

(b) When material is determined unusable, Contractor must either (1) replace all defective quantities at no charge, or (2) reimburse the Government for full replacement value in an amount equal to the contract price, plus transportation charges to the destination(s) in the contract if paid by the Government, whichever is ordered by the Contracting Officer. Replacement of unusable material or reimbursement will include any transportation costs included in the contract price. This is in addition to the rights reserved to the Government under Article 5(d), General Provisions, Standard Form 32.

• • • • •

2. Subpart 5A-72.1 is amended to revise §§ 5A-72.107 through 5A-72.107-3.

§ 5A–72.107 Direct delivery of stock items.

§ 5A–72.107–1 General.

(a) This section contains procedures for the placement of orders for stock items for direct delivery from vendor to consignee. The direct delivery concept and detailed related procedures are contained in the HB, Supply Operations, ch. 9 (FSS P 2900.3).

(b) Direct delivery of stock items is the shipping of required items directly from a vendor to a consignee, bypassing a GSA supply distribution facility to which these items would normally be shipped for storage and reshipment. The direct delivery method is usually used where requirements for stock items are large, where this method will satisfy customer agency requirements for time of delivery, and where this method can be expected to produce savings to the Government through a more economical and expedient shipping method. The direct delivery method should not be used where excessive stock inventories exist and where there is no prospect of reducing them in the near future. For details see the HB, Supply Operations, ch. 9 (FSS P 2900.3).

§ 5A–72.107–2 Direct delivery of stock items under consolidated stock replenishment program.

(a) On items under the consolidated stock replenishment program, the region shall forward the agency requisition, or extract thereof, appropriately identified as a stock item requirement for direct delivery, to the purchasing activity having the consolidated assignment. Such purchasing activity shall forward acknowledgment of receipt of purchase authority to the GSA regional office originally receiving the order, and include a provision in the resultant contract that the delivery order will be placed by that region. The original and one copy of the contract shall be transmitted, by letter, to the region for preparation of GSA Form 1430, GSA Stores Direct Delivery Order (Worksheet). (See the HB, Supply Operations, ch. 9 (FSS P 2900.3).)

(b) When a region is authorized to make a local direct delivery purchase of a requirement for an item under the consolidated stock replenishment program, the transaction shall be documented as prescribed in § 5A–72.107–3 (a) and (b).

§ 5A–72.107–3 Direct delivery of stock items not under term contract or the consolidated stock replenishment program.

Generally, it is more difficult to arrange for direct delivery of an item when established sources are not available, due to possible delay in obtaining delivery for the customer. However, if the customer agency is agreeable, direct delivery of large quantities of items not covered by established sources should be made when practical and economical.

(a) In cases where such purchases are negotiated under section 302(c)(3) of the Federal Property and Administrative Services Act of 1949, GSA Form 1430 shall be used both as the purchase order (contract) and the delivery order. In such cases, it will be necessary to incorporate the terms and conditions contained on the reverse of the current edition of GSA Form 300, Purchase Order. A locally reproduced form containing those clauses shall be attached only to the original of the order sent to the vendor. Also, a statement substantially as follows shall be inserted in the body of the order:

This order is issued pursuant to your quotation (insert appropriate reference), and is subject to the terms and conditions of the attached Form ------, dated ----------.

(b) Purchases other than under section 302(c)(3) of the Federal Property and Administrative Services Act of 1949 shall be documented as formal contracts and GSA Form 1430 issued pursuant thereto as delivery orders.

(c) See the HB, Supply Operations, ch. 9 (FSS P 2900.3).

3. Sections 5A–72.107–7, 5A–72.107–8, and 5A–72.107–9 are renumbered as §§ 5A–72.107–4, 5A–72.107–5, and 5A–72.107–6 without change in text, and §§ 5A–72.107–7, 5A–72.107–8, and 5A–72.107–9 are deleted.

PART 5A–73 FEDERAL SUPPLY SCHEDULE PROGRAM

Section 5A–73.112(e) is amended to read as follows:

§ 5A–73.112 Maximum order limitations.

* * * * * * *

(e) * * *

CONSOLIDATION OF REQUIREMENTS

For the information of offerors, the following provision will be included in the resulting Schedules:

In accordance with FPMR 101–26.106, whenever feasible, agencies should consolidate their requirements so as to take advantage of price savings available through separate procurement of quantities which exceed the maximum order limitation.

* * * * * * *

PART 5A–74—SPECIAL PURCHASE PROGRAMS

The table of contents for Part 5A–74 is amended to add the following entry:

5A–74.410 Special provisons for export orders.

Section 5A–74.410 is added as follows:

§ 5A–74.410 Special provisions for export orders.

In addition to the requirements in connection with special applicable export provisions to be cited on orders for shipments to foreign destinations, a provision substantially as follows shall also be shown on these orders:

PACKING LISTS FOR EXPORT SHIPMENTS

In addition to the packing lists required by paragraph 33 of GSA Form 1246 to accompany each shipment, Contractor must furnish the following number of copies of applicable packing lists with his submission of GSA Form 489 (Application for Shipping Instructions): number of copies ------[1].

NOTE: GSA Form 1227, Contractor's Report of Orders Received and Shipments Made, illustrated in § 5A–16.950–1227, is replaced by the July 1971 edition of the same number and title. Copies may be obtained from General Services Administration (3BRD), Washington, DC 20407. GSA Form 1227 filed as part of original document.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); and 41 CFR 5–1.101(c))

Effective date. These regulations are effective 30 days after the date shown below.

Dated: November 5, 1971.

L. E. SPANGLER,
Acting Commissioner, Federal Supply Service.

[FR Doc.71–16740 Filed 11–16–71;8:50 am]

Title 46—SHIPPING

Chapter II—Maritime Administration, Department of Commerce

SUBCHAPTER S—REGULATIONS AFFECTING MARITIME CARRIERS AND RELATED ACTIVITIES

[General Order 39, 3d Rev., Amdt. 7]

PART 222—STATEMENTS, REPORTS, AND AGREEMENTS REQUIRED TO BE FILED

Vessel Utilization and Performance Reports

Effective December 1, 1971, subparagraph (1) of § 222.2(a) is hereby amended by changing the words "vessel of 1,000 or more net registered tons" to read "vessel of 1,000 or more gross registered tons."

NOTE: Existing supplies of report forms referred to in § 222.2 of this part shall continue to be used but shall be completed in accordance with this amendment.

(Sec. 204, 49 Stat. 1987, as amended; 46 U.S.C. 1114)

By order of the Assistant Secretary of Commerce for Maritime Affairs.

Dated: November 10, 1971.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc.71–16758 Filed 11–16–71;8:51 am]

[1] Order issuing offices shall insert the required number of export packing lists in the blank space in the above provision. Generally this number shall be the number of required packing lists shown on AID Form 11–94 plus two copies, but never less than five.

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Prime Hook National Wildlife Refuge, Del.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (11–17–71).

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

DELAWARE

PRIME HOOK NATIONAL WILDLIFE REFUGE

Sport fishing is permitted on the Prime Hook National Wildlife Refuge, Milton, Del. The refuge is delineated on maps available at refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109. Sport fishing shall be in accordance with all applicable State regulations and the following special condition: Boats, with or without motors, are permitted for fishing freshwater streams and ponds. Boats may be launched from designated access points or public roads.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33 and are effective through December 31, 1972.

NORMAN E. HOLGERSEN,
Acting Refuge Manager, Prime Hook National Wildlife Refuge.

NOVEMBER 11, 1971.

[FR Doc.71–16777 Filed 11–16–71;8:52 am]

Title 49—TRANSPORTATION

Chapter I—Hazardous Materials Regulations Board, Department of Transportation

[Docket No. HM–90; Amdts. Nos. 173–59, 179–10]

PART 179—SPECIFICATIONS FOR TANK CARS

Miscellaneous Amendments

Correction

In F.R. Doc. 71–16130 appearing at page 21343 in the issue of Saturday, November 6, 1971, the material following the second table in § 179.200–7(d) should read as follows:

Type 304L and Type 316L test specimens must be given a sensitizing treatment prior to testing. (A typical sensitizing treatment is 1 hour at 1,250° F.)

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Capital Losses; Correction

In F.R. Doc. 71-15378 appearing at page 20517 in the issue of Saturday, October 23, 1971, the following changes should be made:

1. On the 20th line of the flush material following the computation in example (7) of § 1.1211-1(b)(6), the term "loss" should read "gain".

2. On the 2d line of the 3d paragraph of example (5) of § 1.1212-1(b)(5), the term "short-term" should read "long-term".

JAMES F. DRING,
Director, Legislation and Regulations Division.

[FR Doc.71-16739 Filed 11-16-71;8:50 am]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[7 CFR Part 1443]

CASTOR BEANS

Price Support Program For 1972 Crop

Pursuant to sections 301 and 401 of the Agricultural Act of 1949, as amended (63 Stat. 1051, as amended; 7 U.S.C. 1447, 1421), and sections 4 and 5 of the Commodity Credit Charter Act, as amended (62 Stat. 1070, as amended; 15 U.S.C. 714b, 714c), the Secretary is considering a price support program for 1972 crop castor beans.

Section 301 of the 1949 Act authorizes the Secretary to make available through loans, purchases, or other operations price support to producers for any nonbasic commodity for which price support is not mandatory at a level not in excess of 90 per centum of the parity price for the commodity.

Section 401 of the Act requires that the following factors shall be taken into consideration in determining, in the case of any commodity for which price support is discretionary, whether a price-support operation shall be undertaken and the level of such support:

(1) The supply of the commodity in relation to the demand therefor,

(2) The price levels at which other commodities are being supported,

(3) The availability of funds,

(4) The perishability of the commodity,

(5) The importance of the commodity to agriculture and the national economy,

(6) The ability to dispose of stocks acquired through a price-support operation,

(7) The need for offsetting temporary losses of export markets, and

(8) The ability and willingness of producers to keep supplies in line with demand.

Consideration will be given to data, views, and recommendations pertaining to the determinations to be made under this notice which are submitted in writing to the Director, Oilseeds and Special Crops Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.) (7 CFR 1.27(b)). In order to be sure of consideration, all submissions must be received by the Director not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Signed at Washington, D.C., on November 12, 1971.

KENNETH E. FRICK,
Executive Vice President, Commodity Credit Corporation.

[FR Doc.71-16784 Filed 11-16-71;8:52 am]

Consumer and Marketing Service

[7 CFR Part 907]

NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Proposed Size Regulation

Notice is hereby given that the Department is considering a proposed size regulation for navel oranges grown in Arizona and designated part of California, pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 907, as amended (7 CFR 907, 35 F.R. 16359), regulating the handling of navel oranges grown in Arizona and designated part of California. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The proposed regulation was proposed by the Navel Orange Administrative Committee, established under said amended marketing agreement and order as the agency to administer the terms and provisions thereof. The proposed regulation would limit the handling of navel oranges grown in District 1, and District 3 to navel oranges measuring 2.20 inches or larger.

The proposed regulation is as follows:

§ 907.544 Navel Orange Regulation 244.

(a) *Order.* From December 17, 1971, through July 31, 1972, no handler shall handle any navel oranges, grown in District 1, or District 3, which are of a size smaller than 2.20 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from stem to the blossom end of the fruit: *Provided*, That not to exceed 5 percent, by count, of the oranges in any type of container may measure smaller than 2.20 inches in diameter.

(b) As used in this section "handle," "handler," and "District 1," and "District 3" each shall have the same meaning as when used in the said amended marketing agreement and order.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed regulation shall file same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the seventh day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: November 12, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-16736 Filed 11-16-71;8:49 am]

[7 CFR Part 915]

AVOCADOS GROWN IN FLORIDA

Notice of Proposed Rule Making

Notice is hereby given that the Department is giving consideration to a proposal, as hereinafter set forth, which would limit the handling of avocados grown in Florida by amending the container requirements of § 915.305 *Avocado Order 5* (36 F.R. 20670), the pack requirements of § 915.306 *Avocado Regulation 6* (36 F.R. 20670), and the size, quality, and maturity requirements of § 915.313 *Avocado Regulation 13* (36 F.R. 11509, 20670). The proposal was recommended by the Avocado Administrative Committee, established pursuant to the amended marketing agreement and Order No. 915, as amended (7 CFR Part 915; 36 F.R. 14126), regulating the handling of avocados grown in south Florida. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The proposal reflects the committee's current appraisal of present and prospective marketing conditions for avocados. Seasonally heavy shipments of avocados are now in progress. On October 25, 1971, the aforementioned regulations were amended to permit the handling within the production area of avocados which would have failed to meet the container, pack, and grade requirements in effect just prior thereto. Industry experience since that date has shown that, under present circumstances, current regulations have not had desired results. Lower quality avocados sold in urban markets within the production area have adversely affected sales of avocados meeting container, pack, and grade requirements. Additionally, the markets for avocados of all levels of quality are reported to have been depressed. Consequently, the committee has recommended reestablishment of the regulation requirements in effect just prior to October 25, 1971.

The proposals are as follows:

1. The provisions of paragraph (a)(1) of § 915.305 (Avocado Order 5; 36 F.R. 20670) are amended to read as follows:

§ 915.305 Avocado Order 5.

(a) *Order.* (1) On and after November 29, 1971, no handler shall handle any variety of avocados in containers having a capacity of more than 4 pounds of avocados, unless such avocados are handled in containers meeting the following specifications and conform to all other applicable requirements of this section:

* * * * *

2. The provisions of paragraph (a)(2) of § 915.306 (Avocado Regulation 6; 36 F.R. 20670) are amended to read as follows:

§ 915.306 Avocado Regulation 6.

(a) *Order.* (1) * * *

(2) On and after November 29, 1971, no handler shall handle any container of avocados, grown in the production area, unless the avocados in such container meet the requirements of standard pack and one of the pack specifications established in subparagraph (1) of this paragraph, and each container in each lot is marked or stamped to show the U.S. grade applicable to such lot: *Provided*, That, in lieu of such marking requirement, any handler may affix to the container a label, brand or trademark, registered with the Avocado Administrative Committee in accordance with the following, which appropriately identifies the grade of such avocados:

* * * * *

3. The provisions of paragraph (a)(1) of § 915.313 (Avocado Regulation 13; 36 F.R. 11509, 20670) are amended to read as follows:

§ 915.313 Avocado Regulation 13.

(a) *Order.* (1) During the period November 29, 1971, through April 30, 1972, no handler shall handle any avocados unless such avocados grade at least U.S. No. 3 grade;

* * * * *

All persons who desire to submit written data, views, or arguments in connection with the proposal should file the same with the Hearing Clerk, Room 112A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than the seventh day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: November 12, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-16735 Filed 11-16-71;8:49 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 404]

[Reg. No. 4]

FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

Execution of Applications

Notice is hereby given pursuant to the Administrative Procedure Act (5 U.S.C. 552 et seq.) that the amendment set forth in tentative form below is proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendment to § 404.603(g) would permit the acceptance, for good cause shown, of an application for benefits executed on behalf of a mentally competent, physically capable adult by another person. This amendment will permit the Administration, for good cause shown, to establish an application filing date on the basis of a telephone call expressing an intent to file an application.

Prior to final adoption of the proposed amendment, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, D.C. 20201, within a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 3193, 330 Independence Avenue SW., Washington, DC 20201.

The proposed regulation is to be issued under the authority contained in sections 202, 205, 216, 223, and 1102 of the Social Security Act, as amended, 49 Stat. 623, as amended, 53 Stat. 1368, as amended, 68 Stat. 1080, as amended, 70 Stat. 815, as amended, 49 Stat. 647, as amended; section 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 18, 631; 42 U.S.C. 402, 405, 416, 423, and 1302.

Dated: October 22, 1971.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: November 10, 1971.

ELLIOT L. RICHARDSON,
Secretary of Health, Education, and Welfare.

Subpart G of Regulations No. 4 of the Social Security Administration (20 CFR 404.601 et seq.) is amended as follows:

Paragraph (g) of § 404.603 is revised to read as follows:

§ 404.603 Execution of applications.

The Administration determines who is the proper party to execute an application for benefits in accordance with the following rules:

* * * * *

(g) For good cause shown, the Administration may accept an application executed by a person other than one described in paragraphs (a) through (f) of this section.

[FR Doc.71-16745 Filed 11-16-71;8:50 am]

[20 CFR Part 405]

[Reg. No. 5]

FEDERAL HEALTH INSURANCE FOR THE AGED

Review and Hearing Under the Supplementary Medical Insurance Program

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 552 et seq.) that the regulations set forth in tentative form below are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments extend the time, in certain instances, during which an initial or review determination of a carrier or a decision of a hearing officer may be reopened; and make editorial and other clarifying or interpretive changes in §§ 405.801-405.803, 405.805-405.812, and 405.820-405.823 inclusive.

Prior to the final adoption of the proposed regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, DC 20201, within a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North

Building, Room 3193, 330 Independence Avenue SW., Washington, DC 20201.

The proposed regulations are to be issued under the authority contained in sections 1102, 1831–1843, 1871; 49 Stat. 647, as amended; 79 Stat. 301–313; 79 Stat. 331; 42 U.S.C. 1302, 1395 et seq.

Dated: October 20, 1971.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: November 10, 1971.

ELLIOT L. RICHARDSON,
Secretary of Health, Education, and Welfare.

Subpart H of Part 405 is amended as follows:

1. Section 405.801 is revised to read as follows:

§ 405.801 Title XVIII, Part B—General.

(a) Section 1842(b)(3)(C) of the Act provides that a carrier shall establish and maintain procedures under which an individual enrolled in the supplementary medical insurance plan (see Subpart B of this part) is provided with the opportunity for a hearing by the carrier when he is dissatisfied with the carrier's determination denying a request for payment, or with the amount of payment under the supplementary medical insurance plan or when he believes that the request for payment is not being acted upon with reasonable promptness.

(b) As used in this section, the term "with reasonable promptness" shall mean a period of 60 consecutive days after the receipt by the carrier of a request for payment.

2. Paragraphs (b) through (f) inclusive of § 405.802 are revised to read as follows:

§ 405.802 Definitions.

As used in this Subpart H the term:

* * * * *

(b) "Party" means a person enrolled under Part B of XVIII, his assignee, or other entity having standing in the initial or appellate proceedings.

(c) "Assignor" means a person meeting the enrollment requirements under Part B of title XVIII for payment of the claim being assigned.

(d) "Assignee" means a physician or other person who furnished covered services to an assignor under the supplementary medical insurance plan and who has accepted a valid assignment executed by such assignor.

(e) "Assignment" means the transfer by the assignor (defined in paragraph (c) of this section) of his claim for payment to the assignee (defined in paragraph (d) of this section) in return for the latter's promise not to charge more for his services than the carrier finds to be the reasonable charges.

(f) "Representative" means an individual meeting the conditions described in §§ 405.870–405.871.

3. Section 405.803 is revised to read as follows:

§ 405.803 Initial determination.

(a) The carrier (or the hearing officer where a claim is "not acted upon with reasonable promptness" (see § 405.801)) shall, on the basis of all of the evidence, make an initial determination with respect to an applicant's claim for benefits under Part B of title XVIII.

(b) An initial determination for purposes of this subpart is a decision by a carrier, an intermediary authorized to adjudicate Part B claims, a hearing officer where a claim is not acted upon with reasonable promptness (see § 405.801), or other authorized entity which, in the absence of an appeal or review as provided for in this subpart, is or becomes the final decision to pay or to disallow a claim for benefits under Part B. It contemplates, for this purpose, resolution of all relevant subordinate issues (except as provided in paragraph (c) of this section), including, among others, decisions as to whether items and services furnished are covered; whether the deductible has been met; whether the receipted bill or other evidence of payment is acceptable; whether the charges for items or services furnished are reasonable; application of the coinsurance feature; the number of home health visits utilized; the medical necessity of services and supplies; and the amount of benefit payable and to whom it should be paid.

(c) For purposes of this subpart, a carrier (or hearing officer where a claim is not acted upon with reasonable promptness (see § 405.801)) may not make an initial determination with respect to any issue or factor for which the Social Security Administration has sole responsibility (for example, whether or not an individual is entitled to coverage under the supplementary medical insurance plan; whether an independent laboratory meets the conditions for coverage of services; etc.), or which relates to hospital insurance benefits under Part A of title XVIII of the Act.

4. Sections 405.805 through 405.823 inclusive are revised to read as follows:

§ 405.805 Parties to the initial determination.

The parties to the initial determination (see § 405.803) may be any party described in § 405.802(b).

§ 405.806 Effect of initial determination.

The initial determination shall be final and binding upon the party or parties to such determination unless it is reviewed in accordance with §§ 405.810–405.812, or is revised in accordance with § 405.841 by the carrier (or by the hearing officer presiding where a claim is not acted upon with reasonable promptness (see § 405.801)).

§ 405.807 Review of initial determination.

(a) *General.* A party to an initial determination by a carrier, who is dissatisfied with such initial determination, may request that the carrier review such determination. If a review is requested, such action shall not constitute a waiver of the right to hearing (see § 405.820) subsequent to such review.

(b) *Place of filing request.* A request for a carrier to review the initial determination is to be made in writing and filed at an office of the carrier or at an office of the Social Security Administration.

(c) *Time of filing request.* The carrier shall provide a period of 6 months after the date of the notice of its initial determination within which a party to the initial determination may request review. The carrier may, upon request by the party affected, extend the period for requesting the review.

(d) *Request for review.* Any clear expression in writing by a party to an initial determination which indicates, in effect, that he is dissatisfied with such determination by the carrier and wants to appeal the matter further constitutes a request for review.

§ 405.808 Parties to the review.

The parties to the review (as provided for in § 405.807(a)) shall be the persons who were parties to the carrier's initial determination as described in § 405.805, and any other party whose rights with respect to the particular claim being reviewed may be affected by such review.

§ 405.809 Opportunity to submit evidence.

The parties to the review (as provided for in § 405.807(a)) shall have a reasonable opportunity to submit written evidence and contentions as to fact or law relative to the claim at issue.

§ 405.810 Review determination.

Subject to the provisions of §§ 405.807–405.809, the carrier shall review the claim in dispute and, upon the basis of the evidence of record, shall make a separate determination affirming or revising in whole or in part the findings and determination in question.

§ 405.811 Notice of review determination.

Written notice of the determination after review shall be mailed to the parties thereto at their last known addresses. The review determination shall state the basis therefor and advise the parties of their right to a hearing, the place and manner of requesting a hearing, and the time limit during which a hearing must be requested (see §§ 405.820 and 405.821).

§ 405.812 Effect of review determination.

The review determination shall be final and binding upon all parties to such review unless a hearing determination is rendered pursuant to a request made in accordance with § 405.821 or is revised in accordance with § 405.841.

§ 405.820 Right to hearing.

(a) *General.* Any party designated in § 405.822 shall be entitled to a hearing after a review determination has been made by the carrier, if such party files a written request.

(b) *Place of filing request.* The hearing request must be filed at an office of the carrier or at an office of the Social Security Administration.

(c) *Time of filing request.* Except where the initial determination has been made at a hearing (where a claim is not acted upon with reasonable promptness (see § 405.801)), there shall be provided a period of 6 months after the date of the notice of the review determination within which a party to the initial or review determination may request a hearing. The carrier may, upon request by the party affected, extend the period for filing the request for hearing.

§ 405.821 Request for hearing.

A request for a hearing is any clear expression in writing by a claimant asking for a hearing to adjudicate his claim when not acted upon with reasonable promptness, or by a party to a review determination which states, in effect, that he is dissatisfied with the carrier's review determination and wants further opportunity to appeal the matter to the carrier.

§ 405.822 Parties to a hearing.

The parties to a hearing shall be the persons who were parties to the carrier's review determination (§ 405.808) which is in rights with respect to supplementary medical insurance benefits may be prejudiced by the decision.

§ 405.823 Hearing officer.

Any hearing provided for in this subpart shall be conducted by a hearing officer designated by the appropriate official of the carrier.

5. Section 405.841 is revised to read as follows:

§ 405.841 Reopening initial or review determination of the carrier, and decision of a hearing officer.

An initial or review determination of a carrier or a decision of a hearing officer may be reopened by such carrier or hearing officer:

(a) Within 12 months from the date of the notice of such initial or review determination or decision to the party to such determination or decision; or

(b) After such 12-month period, but within 4 years from the date of the notice of the initial determination to the party to such determination, upon establishment of good cause for reopening such determination or decision (see § 404.958 of Part 404); or

(c) At any time, when:

(1) Such initial or review determination or decision was procured by fraud or similar fault of the beneficiary or some other person, or

(2) Such initial or review determination or decision is unfavorable, in whole or in part, to the party thereto, but only for the purpose of correcting a clerical error or error on the face of the evidence on which such determination or decision was based.

[FR Doc.71-16744 Filed 11-16-71;8:50 am]

FEDERAL RESERVE SYSTEM

[12 CFR Part 222]

[Reg. Y]

BANK HOLDING COMPANIES

Interests in Nonbanking Activities

The Board of Governors proposes to permit bank holding companies, subject to established regulatory procedures, to engage in providing armored car and courier services, following a determination by the Board that such activities are "so closely related to banking or managing or controlling banks as to be a proper incident thereto" within the meaning of section 4(c)(8) of the Bank Holding Company Act.

The Board understands that armored car service involves the use of armed personnel, specially designed armored vehicles, and elaborate security measures. The service is intended primarily for the transportation of items of great value whose misplacement or theft would result in great economic loss. Major items requiring such precautions are cash and other instruments that may be negotiated without additional endorsement—that is, bearer-type negotiable instruments.

The Board understands that courier (or messenger) service involves the transportation of important items having critical time schedules. The items involved are generally not bearer-type negotiable instruments and, accordingly, require only the ordinary security measures accorded any confidential business papers. Among the most common documents and related items carried by messenger services are checks, drafts, money orders, travelers checks, commercial papers, written instruments, and data processing material.

To implement the Board's proposal, § 222.4(a) of Regulation Y would be amended by adding subparagraph (11), to read as follows:

§ 222.4 Nonbanking activities.

(a) *Activities closely related to banking or managing or controlling banks.* * * * The following activities have been determined by the Board to be so closely related to banking or managing or controlling banks as to be a proper incident thereto:

* * * * * *

(11) Performing or carrying on armored car or courier services.

* * * * * *

A hearing on this matter will be conducted by available members of the Board in the Board Room of its building at 20th Street and Constitution Avenue, Washington, D.C., on Friday, December 10, 1971, beginning at 10 a.m. Interested persons are invited to participate, but they need not participate by presenting material orally at the hearing to have their views considered.

Among the issues that will be explored at the hearing are the questions of the extent to which and by what measure a bank holding company should be limited in the armored car or courier service it performs for persons other than itself its subsidiaries, correspondents of its subsidiary banks, or other financial institutions.

All views expressed in written comments on the proposal that are received before December 31, 1971, will be given consideration. Such material will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's rules regarding availability of information.

Persons interested in participating in the hearing by presenting material orally should inform the Secretary of the Board in writing not later than November 29, 1971. Each person admitted as a party to the proceeding will be given up to 30 minutes to present his views.

By order of the Board of Governors, November 9, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16775 Filed 11-16-71;8:52 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 270]

[Release No. IC-6785]

REGISTRATION STATEMENTS UNDER INVESTMENT COMPANY ACT OF 1940

Notice of Proposed Rule Making

Notice is hereby given that the Securities and Exchange Commission has under consideration the amendment of Rule 8b-12 [17 CFR 270.8b-12] under the Investment Company Act of 1940 (Act) (15 U.S.C. 80a-1 et seq.), as more particularly described below. The proposed amendment would conform the type size requirements for registration statements and reports filed pursuant to the Act with those required to be filed pursuant to the Securities Act of 1933 (15 U.S.C. 77a et seq.) and the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.). Adoption of the proposed amendment would be made pursuant to the authority granted the Commission in Section 38(a) of the Act (15 U.S.C. 80a-37(a)).

Section 38(a) of the Act authorizes the Commission to make, issue, and amend such rules as are necessary or appropriate to the exercise of the powers conferred upon the Commission, including rules prescribing the form or forms in which information required in registration statements and reports to the Commission shall be set forth.

Paragraph (c) of Rule 8b-12 presently requires that the body of all printed registration statements and reports be in roman type at least as large as 10-point modern type. The rule contains an exception for financial statements and other statistical or tabular data and the notes thereto which, to the extent necessary for convenient presentation, are

permitted to be in roman type at least as large as 8-point modern type.

On April 30, 1971, the Commission adopted amendments to rules under the Securities Act of 1933 and the Securities Exchange Act of 1934 to require that notes to financial statements shall be set forth in 10-point type. (Securities Act Release No. 5145, Exchange Act Release No. 9151) (36 F.R. 8935). The proposed amendments of paragraph (c) of Rule 8b–12 would make this requirement applicable as well to registration statements and reports filed under the Investment Company Act.

Commission action. Part 270 of Chapter II of Title 17 of the Code of Federal Regulations would be amended as indicated below:

As amended, paragraph (c) of § 270.8b–12 would read as follows:

§ 270.8b–12 Requirements as to paper, printing, and language.

* * * * *

(c) The body of all printed registration statements and reports and all notes to financial statements and other tabular data shall be in roman type at least as large as 10-point modern type. However, to the extent necessary for convenient presentation, financial statements and other statistical or tabular data, including tabular data in notes, may be set in type at least as large and as legible as 8-point modern type. All type shall be leaded at least 2 points.

* * * * *

All interested persons are invited to submit their views and comments on the proposed amendment, in writing to Ronald F. Hunt, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, on or before November 30, 1971. All such communications will be available for public inspection.

(Sec. 38, 54 Stat. 841, 15 U.S.C. 80a–37)

By the Commission, October 29, 1971.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71–16707 Filed 11–16–71;8:47 am]

Notices

DEPARTMENT OF DEFENSE

Department of the Navy

HAZARDOUS MATERIAL CONTROL

Publication of New Standard

Federal Standard No. 313, Symbols for Packages and Containers for Hazardous Industrial Chemicals and Materials, was coordinated with all Government departments for publication on July 23, 1971.

Invitations for bid and requests for quotation issued on or after November 1, 1971, will incorporate this Standard which requires application of new symbols depicting hazardous characteristics, and submission of a Material Safety Data Sheet to designated Department of Defense activities. The Standard is available to Government contractors on request from the Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, Pa. 19120. Single copies are also available without charge at the Business Service Centers at the General Services Administration Regional Offices in Boston, New York, Washington, D.C., Atlanta, Chicago, Kansas City, Mo., Fort Worth, San Francisco, Los Angeles, and Seattle, Wash. Additional copies may be purchased for 25 cents each from the General Services Administration, Specification Sales, Self Services Stores and Fuels Division, Building 197, Washington Navy Yard, Washington, D.C. 20407.

The Standard incorporates two industry standards by reference. The first industry standard is the NFPA Fire Protection Guide on Hazardous Materials which includes NFPA Standards Nos. 325A, 325M, 49, 491M and 704M. It is available from the National Fire Protection Association International, 60 Batterymarch Street, Boston, MA 02110.

The second industry standard is the MCA Guide to Precautionary Labeling of Hazardous Chemicals Manual L–1. It is available from the Manufacturing Chemists Association, Inc., 1825 Connecticut Avenue NW., Washington, DC 20009.

Federal Standard No. 313 supersedes Interim Federal Standard No. 00281 of February 15, 1968, and includes requirements previously published in Military Standard MIL–STD–1341A of August 18, 1969. Further information on Federal Standard No. 313 may be obtained from the Commander, Naval Supply Systems Command (Attn: SUP 056), Washington, D.C. 20390.

MERLIN H. STARING,
Rear Admiral, JAGC, U.S. Navy,
Acting Judge Advocate General.

NOVEMBER 5, 1971.

[FR Doc.71–16683 Filed 11–16–71;8:45 am]

DEPARTMENT OF THE INTERIOR

National Park Service

BLACK CANYON OF THE GUNNISON NATIONAL MONUMENT

Notice of Intention To Issue a Concession Permit

Pursuant to the provisions of section 5, of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Superintendent, Curecanti National Recreation Area, proposes to issue a concession permit to Rim House, Inc., authorizing it to provide concession facilities and services for the public at Black Canyon of the Gunnison National Monument for a period of 5 years from January 1, 1972, through December 31, 1976. The foregoing concessioner has performed its obligations under a prior permit to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. However, under the Act cited above, the National Park Service is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice. Interested parties should contact the Superintendent, Curecanti National Recreation Area, 334 South 10th, Montrose, CO 81401, for information as to the requirements of the proposed permit.

Dated: October 20, 1971.

KARL T. GILBERT,
Superintendent, Curecanti
National Recreation Area.

[FR Doc.71–16780 Filed 11–16–71;8:52 am]

LAKE MEAD NATIONAL RECREATION AREA, ARIZ.–NEV.

Notice of Intention To Negotiate a Concession Contract

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Temple Bar Marina, Inc., authorizing it to provide concession facilities and services for the public at Lake Mead National Recreation Area for a period of 15 years from January 1, 1972, through December 31, 1986.

The foregoing concessioner has performed its obligations under the expiring contract to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Chief, Division of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

LAWRENCE C. HADLEY,
Assistant Director,
National Park Service.

NOVEMBER 8, 1971.

[FR Doc.71–16779 Filed 11–16–71;8:52 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. G–516]

DOUGLAS J. REDDY

Notice of Loan Application

NOVEMBER 11, 1971.

Douglas J. Reddy, 500 140th Avenue East, Madeira Beach, FL 33708, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new fiber glass vessel, about 44 feet in length, to engage in the fisheries for snapper and groupers.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above-entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will

not cause such economic hardship or injury.

ROBERT W. SCHONING,
Acting Director.

[FR Doc.71-16755 Filed 11-16-71;9:51 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

ENVIRONMENTAL EDUCATION PROGRAM

Notice of Closing Date for the Submission of Applications

The Environmental Education Act, Public Law 91-516, authorizes a program of grants to institutions of higher education, State and local educational agencies, regional educational research organizations and other public and private nonprofit agencies, organizations, and institutions to support research, demonstration, and pilot projects designed to educate the public on the problems of environmental quality and ecological balance.

I. From funds appropriated for fiscal year 1972, applications may be submitted for the support of the following listed activities. These activities are divided between two general priority groups. Activities falling within Priority Group I are considered to be of primary importance and applications for their support will generally be preferred to those activities falling within Priority Group II. However, in some cases, where justified by special circumstances such as an exceptionally promising and well formulated proposal or in order more appropriately to supplement other environmental education activities being carried out in the area to be served, an application for an activity falling within Priority Group II may be considered on the same basis as those activities falling within Priority Group I. The activities within each Priority Group are not listed in order of preference. In the exceptional case where a proposal for a comprehensive environmental education model meets the requirements of Paragraph E below, it shall receive special consideration.

Priority Group I—A. *Community environmental education projects.* Pilot and demonstration broadly based community environmental education projects, including those projects which provide for participation of adults, which are designed to promote understanding of the environment and of local environmental problems and to encourage individual participation in resolving such problems;

B. *Special evaluation and dissemination activities.* Research and demonstration projects to be conducted by task forces meeting the criteria set out at Part II-J below and designed to evaluate the effectiveness of environmental education activities, whether or not such activities are otherwise assisted under the Environmental Education Act;

C. *Environmental education centers.* The development and operation of pilot and demonstration environmental education centers designed to provide services and resources to assist students, teachers, and community organizations in their efforts to pursue environmental studies; such centers must be designed to meet specific needs of groups within a broad (generally multicounty) area of a State;

D. *Noneducational personnel development—in-service.* Pilot and demonstration short term, in-service training projects for public service and government employees and business, labor and industrial leaders and employees designed to prepare them to recognize and deal with issues of environmental quality and ecology;

E. *Comprehensive environmental education models.* Demonstration models in comprehensive education activities to be conducted by community organizations and institutions; such projects differ from community environmental education projects described under A above in that they must: (1) Provide for substantial participation of schools; such participation must include out of classroom learning experiences for students; and (2) further a comprehensive community environmental education plan, which (a) has been developed by all major community institutions and groups including local educational agencies, (b) is designed to contribute significantly to the long-term improvement of both the educational process and the quality of life in the community, and (c) serves persons at all educational levels;

Priority Group II—F. *Educational personnel raining-in-service.* Pilot and demonstration training projects designed to prepare teachers and administrators of local educational agencies, community colleges, and technical institutes to carry out environmental education plans formulated by such agencies, colleges and institutes. Such projects shall be carried out by or under the supervision of local educational agencies, community colleges and technical institutes, and shall provide for reinforcement of any formal training made available for at least 6 months following its conclusion;

G. *Curriculum development—supplementary materials.* The development by students and teachers of demonstration instructional materials designed to supplement existing environmental education curricula and/or to introduce environmental studies into traditional curricula. Where an applicant is an educational institution, it must demonstrate a commitment to use materials developed. In the case of projects funded under this part in an amount in excess of 50 per cent of their total cost, preference will be given to the development of materials which can be completed and ready for use within 12 months of receipt of Federal assistance;

H. *Evaluation projects.* Demonstration projects to be conducted by educational organizations, agencies, and institutions designed to evaluate the effectiveness of environmental education activities, whether or not such activities are otherwise assisted under the Environmental Education Act. Such projects must significantly assist planning and program development at Federal, State, and local levels and must employ an evaluation design which contains elements which may be used to evaluate any environmental education program in the United States;

I. *Dissemination.* The dissemination through both print and nonprint media of a broad range of information about environmental education by private agencies, institutions, and organizations to organizations concerned with issues of environmental quality and ecology as well as to the general public;

J. *Curriculum development—new curricula.* Pilot and demonstration projects to be conducted by educational agencies, organizations, and institutions to develop new curricula in the preservation and enhancement of environmental quality and ecological balance; curricula developed under this part shall:

(1) Grow out of an empirical investigation of one or more environmental problems;

(2) Be multidisciplinary or adisciplinary;

(3) Make maximum use of community resources and encourage student exploration of environmental problems;

(4) Make significant use of student experiences and provide for maximum possible student self-direction in the establishment and achievement of educational objectives;

(5) Be an integral part of an environmental education program;

K. *Workshops for government personnel.* Pilot or demonstration in-service training workshops for government employees designed to assist government agencies and instrumentalities in carrying out their functions in an environmentally sound manner and in developing and administering environmental education programs; preference under this part will be given to those workshops serving employees who either administer environmental education programs or administer resources used by or of potential use to such programs. No agency or instrumentality of Federal, State, or local government shall be eligible under this part to receive a grant to conduct a workshop for its own employees. Workshops supported under this part may be made available only to employees of agencies which:

(1) Demonstrate that they are unable to conduct such workshops themselves or, in the case of Federal agencies, through the Civil Service Commission;

(2) Approve the participation of their employees and support such participation through such measures as providing paid leave time and defraying per diem and travel expenses incurred in attending the workshops;

(3) Provide reasonable assurance that they will use the training provided by the workshops;

L. *Elementary and secondary education programs.* Provide for demonstration projects in environmental education to be conducted by local educational agencies in elementary and secondary schools. Assurance must be given that the project will be able to continue after withdrawal of Federal support either in a self-sustaining fashion or as part of a a community environmental education program;

M. *Noneducational personnel training—Preservice.* Pilot preservice training projects to be conducted by institutions of higher education for persons preparing for professional careers in fields other than education designed to acquaint them with the relationship of environmental issues to their professions;

N. *Educational personnel training—preservice.* Demonstration preservice training projects to be conducted by institutions of higher education designed to prepare teachers, administrators, and other educational personnel of local educational agencies, community colleges, and technical institutes to carry out programs of environmental education;

II. Grants for the activities described in Part I may be made available only upon application to the Commissioner of Education. An application may be approved only if it

A. Meets the criteria set out at section 3(b)(3)(A) of the Environmental Education Act;

B. Provides for submission to the Office of Environmental Education of all materials produced under the project and of the evaluations of project activities undertaken pursuant to section 3(b)(3)(A)(iii) of the Act;

C. Except for projects involving development of new curricula, dissemination of curricular materials and evaluation, provides that at least 20 percent of the cost shall be defrayed by the applicant in the first year and 40 percent in the second year of support; within this general standard, the percentage of project costs to be funded under this program will depend on (1) the extent to which funding from other sources is available to the applicant, and (2) the quality of the project;

D. Provides, in the case of pilot and demonstration projects, a description of the conditions under which the project could be replicated and the obstacles to successful replication;

E. Provides, to the extent possible, for the participation of students in the development and implementation of the project;

F. Assures that reasonable efforts have been made to secure funds from all other likely sources of support for the proposed project;

G. Demonstrates that the project will make maximum use of all relevant resources of the community to be served;

H. Demonstrates that the project will build upon and in no case duplicate previously undertaken activities;

I. In the case of applications by local educational agencies, indicates that the State educational agency has been notified of the application and been given an opportunity to offer recommendations;

J. In the case of applications submitted under Part I-B above, demonstrates that in the State where the project is to be conducted, the applicant task force is engaged in and has as a principal purpose the development of a comprehensive environmental education plan either for the entire State or for a designated area within the State, as a step toward the development of a Statewide plan. A task force should (1) have broad representation from fields such as public and private elementary and secondary education, higher education, conservation, health, environmental protection, journalism, business, and industry, and labor; (2) have enlisted the cooperation of the major environmental and educational institutes, agencies, and resources within the State; and (3) demonstrate that sufficient funds from other than Federal sources will be available to carry out the planning effort.

III. *Small grant programs.* Under this program, grants, in amounts not to exceed $10,000 annually may be made to nonprofit organizations such as citizens groups, volunteer organizations working in the environmental field, and other public and private nonprofit agencies, institutions or organizations for conducting courses, workshops, seminars, symposiums, institutes, and conferences, especially for adults and community groups. Priority of funding will be given to those proposals demonstrating innovative approaches to environmental education except that an application may be approved only if it (a) demonstrates that the applicant organization has been in existence for at least 1 year prior to the submission of its application, (b) provides for submission to the Office of Education of all materials produced under the grant, and (c) provides, in the case of public agencies, that at least 20 percent of the cost of the project shall be defrayed by the applicant in the first year and 40 percent in the second year of support.

IV. In order to be assured of consideration for funding from appropriations for fiscal year 1972, an application for assistance under the Act must be postmarked at a U.S. Post Office by December 17, 1971. Application forms may be obtained from and are to be filed with the Office of Environmental Education, Office of Education, 400 Maryland Avenue SW., Washington, DC 20201.

All grants for the support of activities covered by this notice shall be made subject to standard terms and conditions appropriate thereto. A copy of such terms and conditions shall be made available to prospective applicants together with the grant application procedures.

Assistance made available under the Environmental Education Act is subject to the regulation in 45 CFR Part 80 issued by the Secretary of Health, Education, and Welfare, and approved by the President, to effectuate the provisions of section 601 of the Civil Rights Act of 1964 (20 U.S.C. 4000d).

Except as otherwise provided by law, this notice is effective 30 days after its publication in the FEDERAL REGISTER.

Dated: October 27, 1971.

S. P. MARLAND, Jr.,
U.S. Commissioner of Education.

Approved: November 11, 1971.

ELLIOT L. RICHARDSON,
Secretary of Health, Education, and Welfare.

[FR Doc.71-16742 Filed 11-16-71;8:50 am]

Office of the Secretary

UNDER SECRETARY ET AL.

Order of Succession To Act as Secretary

I hereby order the following order of succession to the position of Secretary of Health, Education, and Welfare:

1. The Under Secretary acts as Secretary during the absence or disability or vacancy in the Office of the Secretary.

2. During the absence or disability of the Secretary and Under Secretary or in the event of a simultaneous vacancy in the Office of the Secretary and Under Secretary, the following officials shall act as Secretary in the order listed below:

Assistant Secretary (Community and Field Services).
Assistant Secretary (Public Affairs).
Assistant Secretary (Legislation).
Assistant Secretary (Health and Scientific Affairs).
Assistant Secretary (Planning and Evaluation).
General Counsel.

Dated: November 3, 1971.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc.71-16727 Filed 11-16-71;8:49 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AIR TRAFFIC CONTROL TOWER AT BENEDUM AIRPORT, CLARKSBURG, W. VA.

Notice of Commissioning

Notice is hereby given that a mobile Air Traffic Control Tower will be commissioned at Benedum Airport, Clarksburg, W. Va., on or about December 1, 1971. It will improve operational flow of terminal traffic consisting predominantly of general aviation aircraft. Communications to the Air Traffic Control Tower should be addressed as follows:

Air Traffic Control Tower, Department of Transportation, Federal Aviation Administration, Benedum Airport, Clarksburg, WV 26301.

(Sec. 313(a), 72 Stat. 752; 40 U.S.C. 1354)

Issued in New York, N.Y., on October 27, 1971.

GEORGE M. GARY,
Director, Eastern Region.

[FR Doc.71-16722 Filed 11-16-71;8:46 am]

FACILITY RELOCATIONS OCCASIONED BY AIRPORT IMPROVEMENTS OR CHANGES

Statement of Policy

This statement supersedes the statement of Policy on Facility Relocation Occasioned by Airport Improvements or Changes which was published in the FEDERAL REGISTER on October 31, 1969 (34 F.R. 17670).

1. *Purpose.* To reaffirm to the aviation community the FAA policy governing responsibility for funding relocation, replacement and modification to air traffic control and air navigation facilities that are made necessary by improvements or changes to an airport. The term "airport owner" used herein refers to the political subdivision, military service, or other authority responsible for airport operations and improvements.

2. *Classes of FAA facilities.* FAA facilities located on airports and subject to the funding policy of this circular, are classified as follows:

a. *Class I.* This class includes the facilities and components that are used exclusively in support of the airport or from which primary benefits are derived by the airport since the facility is located thereon. Examples are:

Remote Transmitter/Receiver (Tower).
Airport Traffic Control Tower.
Airport Surveillance Radar.
Airport Surface Detection Equipment.
Precision Approach Radar.
Instrument Landing System and Components.
Approach Lighting Systems and Components.
Visual Landing Aids.
Direction Finding Equipment.
VOR, TVOR, and VORTAC used for Instrument Approach.
Weather Observing and Measuring Equipment (owned and operated by FAA).
Central Standby Power Plant.

b. *Class II.* This class includes the facilities and components that service a wide area and are located on the airport as a matter of convenience. Examples are:

Long Range Radar.
Air Route Traffic Control Centers.
Peripherals (Remote Control Air-Ground Communication Facility).
VOR and VORTAC (enroute only).
Flight Service Station.
Remote Communications Outlet.
Limited Remote Communications Outlet.

3. *Responsibility for funding—a. The airport owner.* (1) The airport owner is expected to pay for the relocation, replacement or modification of FAA air traffic control and air navigation facilities or components thereof made necessary by airport improvements or changes, when:

(a) Class I facilities must be relocated, replaced or modified because the airport improvement or change impairs the technical and operational characteristics of the FAA facility.

(b) Class I facilities must be relocated, replaced or modified to permit the extension of runways or construction of new runways and taxiways or other improvements to the existing airport facilities; for example: expansion of parking areas, terminal buildings, and aircraft service areas.

(c) The FAA has a lease, permit, license, or other document covering Class II facilities that gives FAA a legal basis for requesting that the airport owner assume the cost of relocation.

The foregoing are the normal circumstances under which financing responsibility should rest with the airport owner, however, circumstances other than the above will be determined on a case-by-case basis.

(2) Where the airport owner grants other parties the right to construct hangars, other buildings, and/or facilities that impair or interrupt the technical and operational characteristics of air traffic control or navigation facilities, the agency expects the airport owner to pay for the relocation, replacement, or modification of these facilities or components thereof. Payment to FAA may be made either from recovery of costs from the other parties or from other sources available to the airport owners.

(3) The need for uninterrupted service from some Class I facilities is recognized. This will require special methods for accomplishing the work in order to avoid interruptions of service. In such cases, funding for provision of temporary facilities required to maintain continuity of service is expected to be the airport owner's responsibility. However, it is FAA policy to avoid modernizing or upgrading a facility at the airport owner's expense.

b. *The FAA.* It is general FAA policy to fund the following:

(1) Relocation into quarters provided by the airport owner when requested by the FAA.

(2) Relocation of Class II facilities, located on the airport but the presence is not authorized by a document described in 3.a(1)(c) above, or the presence on the airport has been assured by unwritten consent of the airport owner.

(3) Relocation because of technical reasons that are inherent in the site and not caused by airport improvements or changes.

(4) Additional cost for modification of the facility when undertaken concurrent with the relocation. For example, upgrading an ILS/ALS from Cat. I to Cat. II, or adding Direct Altitude and Identification Readout to ASR, concurrent with relocation.

(5) Relocation of Class I facilities to a new or another existing airport meeting the necessary physical and operational requirements to qualify for Class I facilities, when the receiving airport will replace the airport from which the facilities are being relocated.

(6) Relocation of Class I facilities, upon recognition by FAA of the necessity for a new or newly designated instrument runway on the same airport, in order to achieve more effective use of these facilities, except in the case of a new runway covered by 3.a.(1)(b).

(7) Flight inspection required for relocation of facilities where the airport owner is one of the military services (Friendship Agreement).

c. *Other funding.* In the event that relocations, replacements or modifications of facilities are necessitated due to causes not attributable to either FAA or the airport owner, funding responsibility shall be determined by the FAA on a case-by-case basis.

4. *Accomplishment of work—a. Responsibility.* FAA shall have exclusive right to determine how all facets of the relocation of an FAA facility will be accomplished. This includes, but is not limited to, the engineering, site selection, procurement of equipment, construction, installation, testing, flight inspection, and recommissioning of the facility.

b. *Reimbursable agreements.* The airport owner and FAA shall negotiate a reimbursable agreement setting forth all essential elements pertinent to the relocation, replacement, or modification of an FAA facility. The agreement shall stipulate that in the event actual cost is less than the estimated cost, the sponsor will pay only the actual costs; similarly, if actual cost exceeds FAA estimated cost, the sponsor will pay the actual cost.

Issued in Washington, D.C., on September 27, 1971.

JOHN H. SHAFFER,
Administrator.

[FR Doc.71-16721 Filed 11-16-71;8:48 am]

ATOMIC ENERGY COMMISSION

[Docket Nos. 50-369; 50-370]

DUKE POWER CO.

Notice of Reconstitution of Board

In the matter of Duke Power Co. (William B. McGuire Nuclear Station, Units 1 and 2), Dockets Nos. 50-369, 50-370.

Mr. Nathaniel H. Goodrich was Chairman of the Board established to consider the above application, but he is now unavailable to serve on this case.

Accordingly, Mr. Edward Diamond, the alternate qualified in the conduct of administrative proceedings, has been constituted a member of the Board. Reconstitution of the Board in this manner is in accordance with § 2.721(b) of the rules of practice.

Dated at Washington, D.C., this 11th day of November 1971.

WILLIAM L. WOODARD,
Assistant Executive Secretary, Atomic Safety and Licensing Board Panel.

[FR Doc.71-16752 Filed 11-16-71;8:51 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23371]

ALLEGHENY-MOHAWK MERGER

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled matter is assigned to be held before the Board on December 15, 1971, at 10 a.m., local time, in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, DC.

Dated at Washington, D.C., November 11, 1971.

[SEAL] RALPH L. WISER,
Chief Examiner.

[FR Doc.71-16746 Filed 11-16-71;8:50 am]

[Docket No. 23315]

DELTA-NORTHEAST MERGER

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled matter is assigned to be held before the Board on December 8, 1971, at 10 a.m., local time, in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, DC.

Dated at Washington, D.C., November 10, 1971.

[SEAL] RALPH L. WISER,
Chief Examiner.

[FR Doc.71-16747 Filed 11-16-71;8:50 am]

[Docket No. 22801]

PIEDMONT AVIATION, INC.

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the matter to delete Southern Pines/Pinehurst/Aberdeen, N.C., is assigned to be held before the Board on December 2, 1971, at 10 a.m., local time, in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, DC.

Dated at Washington, D.C., November 10, 1971.

[SEAL] RALPH L WISER,
Chief Examiner.

[FR Doc.71-16749 Filed 11-16-71;8:51 am]

[Docket No. 22874]

PIEDMONT AVIATION, INC.

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the matter to delete Elizabeth City, N.C., is assigned to be held before the Board on December 2, 1971, at 2 p.m., local time, in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, DC.

Dated at Washington, D.C., November 10, 1971.

[SEAL] RALPH L. WISER,
Chief Examiner.

[FR Doc.71-16748 Filed 11-16-71;8:50 am]

[Docket No. 23973; Order 71-11-40]

WESTERN AIR LINES, INC.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 11th day of November 1971.

By tariff revisions[1] marked to become effective November 12, 1971, Western Air Lines, Inc. (Western) proposes to reduce from 154 to 70 the minimum number of persons required to qualify for the lowest one-way nonaffinity group and round-trip group inclusive tour basing (GIT) fares applicable between Los Angeles, San Francisco, San Diego, Denver, and Minneapolis/St. Paul, on the one hand, and Honolulu and Hilo, on the other hand. The proposal is limited in application to narrow-bodied jet aircraft, and is marked to expire September 30, 1972.

In support of its proposal, Western alleges that because of the low level of fares applicable to groups of 154 or more, group size will be most vigorously promoted by large tour operators, and that because it does not have high capacity, wide-bodied equipment it is at a disadvantage in competing for large-sized groups.[2] Western contends that a group size of 70 permits a reasonable balance between group-fare and regular-fare passengers in relation to the capacity of its aircraft, and will produce more net revenue than filling the entire rear compartment with group-fare passengers.

Complaints requesting investigation and suspension have been filed by Continental Air Lines, Inc. (Continental), United Air Lines, Inc. (United)[3] and a joint complaint by Saturn Airways, Inc., Southern Air Transport, Inc., Overseas National Airways, Inc., Universal Airlines, Inc., and World Airways, Inc. The essential thrust of the complaints is that the Board's decision in "Group Inclusive Tour Basing Fares to Hawaii", Docket 20580, established minimum rates applicable to specific sized groups, based on the relative economies of moving various size groups, and that Western's proposal is inconsistent with the minimums established in that case.

In answer to the complaints, Western acknowledges that its proposed GIT fares are lower than have been previously approved for groups of 70 or more persons, and that its proposal entails a relatively high break-even load factor. However, it contends it must make adjustments to compete on an even footing and is willing to assume the risk involved to protect its position in the market. Western does not believe the Board can properly take a position that would effectively bar it from participating in group movements when it is willing to take the risk.

Upon consideration of all relevant matters, the Board finds that the proposals may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. We further conclude that the proposal relating to group inclusive tour basing fares should be suspended pending investigation.

The Board's decision in the "Group Inclusive Tour Basing Fares to Hawaii" case, Docket 20580, established minimum fares for groups of 40, 88, 105, and 154 persons, respectively. Western's proposed GIT fares for groups of 70 or more are substantially below the fare which would be produced by application of these minimums, and prima facie therefore raise a question of reasonableness.

With respect to the one-way group fares, Western's proposal is sufficiently similar to earlier group-fare tariffs which were recently ordered investigated[4] to also warrant investigation. Like those earlier group-fare proposals, we seriously question the soundness of encouraging discount traffic of the very low yield type here involved to travel during peak periods. By the same token, we are not too concerned with the application of the fares during the forthcoming winter season and we will permit the fares to become effective pending investigation. We would also note that when the fares which were the subject of our "Group Inclusive Tour Basing Fares to Hawaii" were proposed, such fares were investigated, but not suspended. Similar action was taken with respect to other proposals for one-way non-affinity and affinity groups which are currently in effect, pending investigation, and those tariffs provide comparable low fares on narrow-bodied equipment for groups as small as 50 persons. In view of the impact of operations in this market on Western's system results, and the particular importance of group travel in the Hawaiian market, we are reluctant to take action which might hamper Western's efforts to compete effectively for this type of traffic.

Western has indicated its willingness to bear the economic risk of its proposal, and we will expect it and other carriers offering these fares to do so. The Board does not intend to treat any dilution of overall fare yield which may result as furnishing a basis for future increases in the level of basic fares. We will also

[1] Revisions to Airline Tariff Publishers, Inc., Tariffs C.A.B. Nos. 136 and 142.

[2] Western asserts that it would be forced to split the groups of 154 or more between 2 or more aircraft—a practice which the tour conductors allegedly consider undesirable, and that the problem is further complicated by the fact that in certain markets its flights are 4 hours or more apart.

[3] Pan American and United have filed tariff revisions matching Western insofar as the GIT fares are concerned, and would apply the lower group size to operations with wide-bodied as well as narrow-bodied equipment.

[4] Group Fares Investigation, Docket 23862.

expect the carriers to maintain records of traffic, revenues, and expenses sufficient for a full evaluation of profit impact. Such reports are to be filed within 30 days following expiration of the respective tariffs.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof:

It is ordered, That:

1. An investigation be instituted to determine whether the fares and provisions described in appendix A [6] and appendix B,[6] and rules, regulations, or practices affecting such fares and provisions, are, or will be, unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fares and provisions, and rules, regulations, or practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in appendix A are suspended and their use deferred to and including February 9, 1972, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. Except to the extent granted herein, the complaints in Dockets 23931, 23933, and 23938 are hereby dismissed;

4. The proceeding ordered herein be assigned for hearing before an Examiner of the Board at a time and place hereafter to be designated; and

5. A copy of this order will be filed with the aforesaid tariffs and be served upon Continental Air Lines, Inc., Saturn Airways, Inc., Southern Air Transport, Inc., Overseas National Airways, Inc., United Air Lines, Inc., Universal Airlines, Inc., Western Air Lines, Inc., World Airways, Inc., which are hereby made parties to this proceeding, and the National Air Carrier Association.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[6]

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-16751 Filed 11-16-71;8:51 am]

[Docket No. 23486; Order 71-11-44]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Passenger Fare

Agreement adopted by the Traffic Conferences of the International Air Transport Association relating to passenger-fare matters, Docket 23486, Agreement CAB 22663.[1]

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 11th day of November 1971.

There has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, an agreement among various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA) and adopted at the passenger rate conferences at Montreal and Miami in the summer and fall of 1971, respectively.

The agreement, adopted for early effectiveness, embraces passenger rates and related matters for traffic conference application, joint conference application, and worldwide application. The expedited resolutions described herein are subject to varying expiration dates, ranging from 5 months to a 1-year period of time. The principal elements of the agreement are described below.

The special fares for U.S. and Canadian military personnel and their dependents are expanded so as to include new points in Scandinavia. The proposed amendment would include New York/Boston-Copenhagen/Oslo military fares of $222 and $282, round trip, for basic and peak seasons, respectively. These fares are comparable to military fares previously in effect between the United States and other points in Europe.[2]

The predominant number of amendments to the agreement deal totally, or in part, with deleting normal first-class, economy, excursion, and creative fares applicable to Berne, Switzerland, since air service at Berne will be discontinued.

Amendments have been proposed to the IATA machinery so as to render it more responsive to currency fluctuations. Presently, special meetings may be convened when a given currency fluctuates by 5 percent or more, or when deemed appropriate by the Director General. The amendments would, among other things, reduce the fluctuation range from 5 percent to 2 percent.

Provisions are proposed governing the sale of air transportation in Chile for credit or installment plan purchases by Chilean nationals and residents. Moreover, it is proposed that various categories of excursion and promotional fares for travel originating in Japan will be specified in Japanese yen based upon the current conversion rate of 364Y=1 pound sterling.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, makes the following findings:

1. It is not found that the following resolutions, incorporated in the agreement as indicated, are adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions hereinafter ordered:

Agreement CAB 22663	IATA No.	Title	Application
R-2	006b	North Atlantic Fares for United States and Canadian Military Personnel and Dependents (Amending).	1/2 (N. Atl.).
R-4	001s	Normal Fares and Add-on Amounts to/from Berne (New)	1/2; 2/3; 1/2/3.
R-5	003	Standard Rescission Resolution	3.
R-6	021c	Conversion Rate Administrative Provisions (Revalidating and Amending). 1; 2; 3.	
R-7	021f	Special Conversion Rates (Amending)	1; 2; 3.
R-8	021f	IATA Currency Index (New)	1; 2; 3.
R-9	021i	TC3 Fares in Japanese Currency (New)	3.
R-10	200g	Filing of Government Requirements and Authorizations (New)	Worldwide.
R-28	003	Standard Rescission Resolution	1.
R-29	060	Economy Class Conditions of Service (Amending)	1.
R-30	281c	Sale of Air Transportation Under Installment Plans in Local Currency in Chile (New).	1.

2. It is not found that the following resolutions, incorporated in the agreement as indicated, affect air transportation within the meaning of the Act:

Agreement CAB 22663	IATA No.	Title	Application
R-11	092l	TC2 Stand-by Youth Fares—Scandinavia (New)	2
R-13	060	Economy Class Conditions of Service (Amending)	2
R-15	070g	TC2 14-Day Holiday Fares—Switzerland to England (Amending).	2
R-16	070j	TC2 90-Day Excursion Fares—Southern Africa to Europe/Middle East (Amending).	2
R-17	070m	TC2 45-Day Excursion Fares—Europe/Middle East to Mozambique (Amending).	2
R-18	070q	TC2 12-Day Round-Trip Fares—Ireland to United Kingdom (Amending).	2
R-19	070r	TC2 45-Day Excursion Fares—Southern Africa to Europe/Middle East (Amending).	2
R-20	070rr	TC2 45- DayExcursion Fares—Europe/Middle East to Southern Africa (Amending).	2
R-21	070s	TC2 40- and 45-Day Excursion Fares—Africa to Europe/Middle East (Amending).	2
R-22	071h	TC2 65-Day Excursion Fares—East Africa/Mauritius to Europe (Amending).	2
R-23	071k	TC2 50-Day Excursion Fares—Africa to Europe (Amending)	2
R-24	072b	TC2 Creative Fares Except Europe (Amending)	2
R-26	072g	TC2 Creative Fares Board—Europe (Amending)	2
R-26	077g	TC2 Individual Fares for Seamen (Amending)	2
R-27	086	Tour Operators' Package (TOP) Fares to Europe (Amending)	2

[2] E.g., Boston/New York-Frankfurt, $222/$282 and Boston/New York-Paris, $212/$272.

[6] Appendices filed as part of the original document.

[6] Concurrence and dissent by Minetti and Murphy, Members, filed as part of the original.

[1] Agreement CAB 22663, R-2, R-4 through R-11, R-13, R-15 through R-30.

Accordingly, it is ordered, That:

1. Those portions of Agreement CAB 22663, as set forth in finding paragraph 1 above, be and hereby are approved, provided that in the event that action pursuant to resolution R-9, TC-3 fares in Japanese yen, results in revision of a basic specified or constructed fare or rate, such new basic fare or rate shall be filed with the Board as an agreement under section 412 of the Act and approved by the Board prior to being placed in effect; and

2. Jurisdiction is disclaimed with respect to that portion of Agreement CAB 22663 as set forth in finding paragraph 2 above.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-16665 Filed 11-16-71;8:45 am]

[Docket No. 23918]

LA BELLE AIR FREIGHT, INC. AND LA BELLE INTERNATIONAL, INC.

Notice of Proposed Approval

Application of La Belle Air Freight, Inc., and La Belle International, Inc., for approval of control relationships pursuant to section 408 of the Act, Docket 23918.

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the undersigned intends to issue the attached order under delegated authority. Interested persons are hereby afforded a period of 15 days from the date of this notice within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., November 11, 1971.

[SEAL] A. M. ANDREWS,
Director,
Bureau of Operating Rights.

ORDER GRANTING APPROVAL

Issued under delegated authority.

By application filed pursuant to Parts 296 and 297 of the Board's economic regulations, La Belle Air Freight, Inc. (Air Freight), has requested authority to act as a domestic and international air freight forwarder.

By a simultaneous application under section 408 of the Federal Aviation Act, as amended (the Act) Air Freight and La Belle International, Inc. (International), have requested approval or exemption of the ownership of International by Air Freight. Applicants have also sought exemption under Part 287 of the Board's economic regulations for various interlocking officerships and directorships between the two companies.

Air Freight is a closely held Minnesota corporation owned by Richard T. La Belle, John van der Hagen, Clarence R. Quigley, and the firm of MacIntosh, Carines & Commers.[1] The company is presently engaged only in corporate organizational activities. Pending favorable disposition of its applications, it intends to offer air freight forwarding services for general commodities.

International is a wholly owned subsidiary of Air Freight. It is authorized and is operating as an IATA cargo sales agency from offices in New York, the Twin Cities, and Los Angeles.

In every instance the officers and directors of the two companies are indentical. They consist of the three individual owners of Air Freight and Mr. Mark S. Plasha. None of these individuals holds any position with or has any interest in any other air carrier, common carrier, person engaged in a phase of aeronautics, or enterprise whose principal business is the holding of interest in any of the above. Outside of the ownership of International by Air Freight, there are no other section 408 corporate relationships.

After consideration of these applications, it is concluded that Air Freight, upon receipt of air freight forwarder authorizations, will become an air carrier within the meaning of section 408 of the Act.[2] It also appears that International is engaged in a phase of aeronautics, and that control of International by Air Freight is subject to section 408(a)(6) of the Act. However, it is concluded that the applications do not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, do not result in creating a monopoly, and do not tend to restrain competition. Furthermore, no person disclosing a substantial interest in the proceeding is currently requesting a hearing, nor does the public interest require one.[3] The control relationships are similar to others which have been approved by the Board and do not present any new substantive issues.[4] It therefore appears that approval of the control relationships would be consistent with the public interest.

We also find that there are interlocking relationships within the scope of section 409(a) of the Act, in that the individuals named above simultaneously act as officers and directors of an air carrier and a phase of aeronautics. However, we have concluded that such relationships come within the scope of the exemption from the provisions of section 409 afforded by §§ 287.2 and 287.4 of the Board's economic regulations.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.13 and 385.3, it is found that the foregoing control relationships should be approved without a hearing under the third proviso of section 408(b) of the Act.

Accordingly, it is ordered, That:

The control of La Belle International, Inc., by La Belle Air Freight, Inc., be and it hereby is approved.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review is filed, or the Board gives notice that it will review this order on its own motion.

HARRY J. ZINK,
Secretary.

[FR Doc.71-16750 Filed 11-16-71;8:51 am]

[1] Mr. La Belle is the principal owner, holding 55 percent of the outstanding shares. The other parties each own 14.7 percent of Air Freight.

[2] It appears that the applicant is capable of performing the proposed air transportation and of conforming to the provisions of the Act and all rules and requirements thereunder. Since the basic requirements of Parts 296 and 297 of the Board's economic regulations appear to have been met by Air Freight, authorization to act as a domestic and international air freight forwarder will be issued after fulfillment of the remaining incidental prerequisites.

[3] Notice of intent to dispose of the applications without a hearing has been published in the FEDERAL REGISTER and a copy of such notice has been furnished to the Attorney General in accordance with section 408(b) of the Act.

[4] Furman Air Freight Corp., Order 68-8-52, Aug. 13, 1968; Forwardair, Inc., Order 70-4-86, Apr. 17, 1970; Save On Air Freight, Inc., Order 71-1-70, Jan. 14, 1971.

ENVIRONMENTAL PROTECTION AGENCY

BP CHEMICALS INTERNATIONAL LTD.

Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 2F1203) has been filed by BP Chemicals International Ltd., Devonshire House, Piccadilly, London WIX 6AY, England, proposing establishment of a tolerance (21 CFR Part 420) for residues of the fungicide propionic acid in or on the raw agricultural commodities barley, corn, oats, sorghum, and wheat at 20,000 parts per million from postharvest application.

The analytical method proposed in the petition for determining residues of the fungicide is a procedure in which the grain samples are coarsely ground and placed in a distilling flask together with a solution of distilled water, magnesium sulfate heptahydrate, sulfuric acid, and phosphotungstic acid. The propionic acid in the distillate is determined by titration with sodium hydroxide.

Dated: November 10, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71-16769 Filed 11-16-71;8:51 am]

MOBIL CHEMICAL CO.

Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 2F1204) has been filed by Mobil Chemical Co., Industrial Chemicals Division, Post Office Box 677, Richmond, VA 23208, proposing establishment of tolerances (21 CFR Part 420) for negligible residues of the insecticide *O*-ethyl *S,S*-dipropylphosphorodithioate in or on the raw

agricultural commodities sugarcane and sugarcane fodder and forage at 0.02 part per million.

The analytical method proposed in the petition for determining residues of the insecticide is a gas chromatographic procedure with microcoulometric detection.

Dated: November 10, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71-16767 Filed 11-16-71;8:51 am]

SHELL CHEMICAL CO.

Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 2F1187) has been filed by Shell Chemical Co., Division of Shell Oil Co., 1700 K Street NW., Washington, DC 20006, proposing establishment of tolerances (21 CFR Part 420) for residues of the insecticide 2-chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl phosphate in or on the raw agricultural commodities bean forage, forage grasses, and pasture grass at 85 parts per million; beans in succulent form (green, field, and snap) at 5 parts per million; and cottonseed at 0.2 part per million (negligible residue).

The analytical method proposed in the petition for determining residues of the insecticide is a gas-liquid chromatographic procedure using a phosphorous-sensitive thermionic emission detector.

Dated: November 10, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71-16768 Filed 11-16-71;8:51 am]

FEDERAL POWER COMMISSION

[Docket No. CP71-321]

LLOYD V. CRUM, JR.

Order Setting Matter for Hearing, Prescribing Procedure, and Granting Intervention

NOVEMBER 8, 1971.

On June 29, 1971, and as later supplemented on August 23, 1971, Lloyd V. Crum, Jr. (Crum) filed an application pursuant to section 7(a) of the Natural Gas Act requesting that the Commission order Northern Natural Gas Co. (Northern) to increase Crum's contract demand level from 350 Mcf per day to 700 Mcf per day, in order to meet customer requirements for the 1971–1972 heating season. No new facilities are proposed herein.

Crum purchases his entire gas supply from Northern and in turn resells and distributes such gas to 363 customers in two small towns, Racine and Grand Meadow, Minn. Applicant states that the additional volumes requested herein are required to meet the demands of residential customers and are not intended for any industrial purpose.

On August 9, 1971, Northern filed a response in opposition to the increased service to Crum. Northern states that its gas supply is inadequate to supply additional gas to Crum or its other utility customers, and requests that the Commission deny Crum's application.

Petitions to intervene were filed by Iowa Public Service Co., Iowa Electric Light and Power Co., Central Telephone and Utilities Corp., North Central Public Service Co., and Minnesota Natural Gas Co. All of the aforementioned petitioners are resale customers of Northern, and all have filed in opposition to Crum's proposal for increased deliveries. Further, all intervenors have requested that the application be set for formal hearing, with the exception of North Central Public Service Co., which asks to be a party in the event a formal hearing is held.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing on the matters presented in the 7(a) application of Lloyd V. Crum.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the disposition of this proceeding be expedited in accordance with the procedures set forth below.

(3) Participation of the above-named petitioners may be in the public interest.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 7, 15, and 16 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held commencing November 29, 1971, at 10 a.m. e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426.

(B) On or before November 22, 1971, Crum shall prepare and file with the Commission and serve on the Presiding Examiner, the Commission's staff, Northern and all intervenors in this proceeding his direct testimony and exhibits in support of the section 7(a) application.

(C) Any party planning to present testimony in opposition to Crum's section 7(a) application shall, on or before November 22, 1971, file and serve on the Presiding Examiner, the Commission's staff, and Crum prepared written testimony in support of their positions.

(D) The above-named parties, who have filed petitions to intervene herein, are hereby permitted to become intervenors in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in their petitions for leave to intervene; and *Provided, further,* That the admission of said intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(E) A Presiding Examiner to be designated by the Chief Examiner for that purpose shall preside at the hearing in this proceeding pursuant to the Commission rules of practice and procedure.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16691 Filed 11-16-71;8:46 am]

[Docket No. CP72-113]

EL PASO NATURAL GAS CO.

Notice of Application

NOVEMBER 10, 1971.

Take notice that on October 27, 1971, El Paso Natural Gas Co. (applicant), Post Office Box 1492, El Paso, TX 79978, filed in Docket No. CP72-113 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction during the calendar year 1972, and operation of certain compression facilities in the natural gas production areas in the Permian, Delaware and Val Verde Basin areas (greater Permian Basin), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant proposes to install, as may be required, up to 50,000 compressor brake horsepower on its greater Permian Basin field gathering facilities. Applicant states that these facilities will be utilized to offset declining reservoir pressures by permitting a general reduction in the operating pressures of certain dry gas fields in the greater Permian Basin and thereby to maintain the required daily deliverability necessary to meet its natural gas requirements for the 1972–73 heating season.

The estimated cost of the facilities proposed herein, exclusive of the cost of certain auxiliary facilities within the contemplation of § 2.55(a) of the Commission's General Policy and Interpretations, is $14,400,000. Applicant states that these costs will be financed with working capital supplemented, as necessary, by short-term borrowings.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 6, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commisson on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16703 Filed 11-16-71;8:47 am]

[Docket No. CP72-107]

EL PASO NATURAL GAS CO.

Notice of Application

NOVEMBER 5, 1971.

Take notice that on October 19, 1971, El Paso Natural Gas Co. (applicant), Post Office Box 1492, El Paso, TX 79978, filed in Docket No. CP72-107 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain compressor facilities and pursuant to section 7(c) of the Act for a certificate of public convenience and necessity authorizing the installation and operation, on a permanent basis, of certain compressor facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application states that the facilities proposed to be abandoned comprise three compressor stations on applicant's Southern Division System mainline. Such facilities consist of six 800-horsepower compressor units and appurtenances at Compressor Station No. 4 in Luna County, N. Mex.; three 800-horsepower compressor units and appurtenances at Compressor Station No. 5 and three 800-horsepower compressor units and appurtenances installed at Compressor Station No. 6. Stations Nos. 5 and 6 are located in Cochise County, Ariz. The 12 compressor units to be abandoned were installed between 1931 and 1941. Applicant states that because of the age of these units and the difficulty in obtaining replacement parts to provide for operations at the required level of reliability, applicant no longer needs to operate the units proposed to be abandoned at Compressor Stations Nos. 5 and 6 and has installed new compression facilities to replace the existing compressor units at Compressor Station No. 4.

In August of 1969, applicant installed at Compressor Station No. 4 a newly developed 2,710-horsepower gas turbine-driven centrifugal compressor unit on a test basis. Applicant notes that extensive tests over an 18-month period have proven that the unit is acceptable for long-term, continuous pipeline operation and now requests certificate authorization for the operation of the new unit on a permanent basis. This unit is a remote controlled type and will be operated from applicant's Deming Compressor Station which is located in the vicinity of Compressor Station No. 4.

Applicant states that the proposed abandonment and permanent operation of the new compressor unit will not materially affect the present design transport capability of its system, nor will the abandonment terminate or reduce present or future service to any of its customers served from such system.

Upon grant of the requested authorizations, applicant proposes to abandon the subject compressor facilities by removal at an estimated cost of approximately $18,000. The estimated total cost of the compressor facilities to be installed at Compressor Station No. 4 is $953,130.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 23, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[FR Doc.71-16695 Filed 11-16-71;8:46 am]

[Docket No. CI64-26]

GULF OIL CORP.

Order Granting Petitions To Intervene, Setting Dates for Filing Case-in-Chief, and for Pre-Hearing Conference and Hearing

NOVEMBER 8, 1971.

Gulf Oil Corp. (Gulf) filed on August 24, 1971, in Docket No. CI64-26, a petition to amend a Commission order which issued Gulf a certificate of public convenience and necessity in said docket on December 19, 1963 (30 FPC 1559). The requested amendment would authorize the sale of natural gas at rates and under circumstances other than those heretofore authorized and would authorize the sale of additional gas.

Presently, Gulf is authorized in this docket to sell natural gas to Texas Eastern Transmission Corp. (Texas Eastern) pursuant to its FPC Gas Rate Schedule No. 278 for 26 years or until 4,437,675,000 Mcf of gas has been delivered, whichever occurs first. At the time of certification, the major portion of this gas, about 2.7 Tcf, was expected to be produced from areas covered by Gulf's leases in Delta Block 27 Field, Plaquemines Parish, La. Gulf states that a reserve redetermination on October 31, 1968, indicated only 1.006 Tcf would be available to Texas Eastern from that field. Several measures have since been undertaken by Gulf to acquire additional gas for sale to Texas Eastern including the purchase of additional gas reserves from the SLAM group,[1] but that a reserve deficit of 1.225 Tcf, as of January 1, 1971, remained. The maximum daily required deliveries to Texas Eastern of 625,000 Mcf can thus be maintained by Gulf, it says, only through 1973 from fields presently connected to Texas Eastern. Gulf and Texas Eastern therefore amended their Gas Purchase contract on August 2, 1971, all as more fully set out in Gulf's petition to amend its certificate.

Notice of the petition was issued August 30, 1971 (36 F.R. 17672). It set September 15, 1971, as the date by which petitions to intervene or protests were to be filed. Petitions to intervene have been filed by the following:

Algonquin Gas Transmission Co.
Boston Gas Co.:
Bristol and Warren Gas Co.
Brockton Taunton Gas Co.
Buzzards Bay Gas Co.
Cambridge Gas Co.
The Connecticut Gas Co.

[1] Signal Oil and Gas Co., Louisiana Land and Exploration Co., Amerada Hess Corp., and Marathon Oil Co.

Boston Gas Co.—Continued
Connecticut Natural Gas Corp.
Fall River Gas Co.
The Hartford Electric Light Co.
Town of Middleborough, Municipal Gas and Electric Department
New Bedford Gas and Edison Light Co.
The Newport Gas Light Co.
North Attleboro Gas Co.
City of Norwich, Department of Public Utilities
Norwood Gas Co.
Pequot Gas Co.
South County Gas Co.
The Southern Connecticut Gas Co.
Tiverton Gas Co.
Worcester Gas Light Co.
Columbia Gas Transmission Corp.
Consolidated Edison Co. of New York, Inc.
Consolidated Gas Supply Corp.
Hoosier Gas Corp.
Long Island Lighting Co.
Louisville Gas and Electric Co.
Memphis Light, Gas and Water Division, city of Memphis, Tenn.
Mississippi Valley Gas Co.
New Jersey Natural Gas Co.
Philadelphia Electric Co.
Philadelphia Gas Works Division of UGI Corp.
Public Service Electric and Gas Co.
S.O.U.P., Inc.
Southern Indiana Gas and Electric Co.
Southern Natural Gas Co.
Terre Haute Gas Corp.
Texas Eastern Transmission Corp.
Texas Gas Transmission Corp.
The Brooklyn Union Gas Co.
Washington Urban League, Inc.
Western Kentucky Gas Co.

A notice of intervention was timely filed by the Public Service Commission of the State of New York.

Untimely petitions were filed by the Hoosier Gas Corp. by telegram received September 16, 1971, by the Long Island Lighting Co. on September 30, 1971, and by Southern Natural Gas Co. on October 7, 1971. Hoosier Gas and Long Island Lighting indicate they obtain gas either directly or indirectly from Texas Eastern. Southern Natural purchases gas from Gulf from the same field—which was found to have less reserves than expected (West Delta Block 27 Field). Southern Natural says its contract with Gulf commits a portion of the gas to Southern Natural. It appears that their intervention at this time would neither interrupt nor delay this proceeding and good cause exists for their intervention. The Washington Urban League, Inc. filed an untimely petition on October 7, 1971, stating it learned of this proceeding on the last day for filing such petitions and that because it is represented by the same counsel as S.O.U.P., Inc., it will not submit any evidence additional to that submitted by S.O.U.P., Inc., and that the granting of this petition would not prejudice any party or delay the proceedings.

The Public Service Commission of the State of New York, Louisville Gas and Electric Co., and Texas Gas Transmission Corp. have specifically requested a formal hearing. Algonquin Gas Co. and Texas Eastern Transmission Corp. have intervened in support of Gulf's petition; S.O.U.P., Inc. opposes Gulf's petition.

S.O.U.P., Inc. (Students Opposing Unfair Practices, Inc.) states in its petition that it is a nonprofit District of Columbia corporation "whose principal purpose is to secure the protection of the consumers' interest in regulatory matters." Its interest as a "nonprofit consumer group having no commercial interest, differs from that of any other potential intervenor * * *" and its intervention "permits a direct consumer voice in administrative decisionmaking."

The Washington Urban League is also a nonprofit corporation with a membership of about 20,000 members, most of whom reside in the Washington metropolitan area, but one-third have low incomes which, it says, differentiates it from S.O.U.P., Inc. It has a program of consumer protection, and one objective is to eliminate conditions that deny equal opportunity to citizens in the Washington metropolitan area. It says if Gulf's petition is granted, "one effect will be to increase the prices paid by these members for natural gas in the District of Columbia." It further relies upon essentially the same reasons as S.O.U.P., Inc. for its intervention here.

Gulf filed an answer on September 24, 1971, opposing the petition of S.O.U.P., Inc. to intervene. Gulf says S.O.U.P., Inc. has not met its affirmative burden to establish its right to intervene, that it has not shown it is a consumer or even that it is authorized to represent any consumer's interest herein. Gulf says S.O.U.P., Inc., has not demonstrated that the existing parties will not adequately represent its interest since its basis for intervention is one to protect consumers when the New York Commission, 33 distributors of gas, and the Staff of this Commission are participating in the proceeding. Gulf also says S.O.U.P., Inc. fails to meet the intervention requirements of § 1.8 of the Commission's rules. Gulf also filed an answer, and an amendment thereto, opposing the intervention of the Washington Urban League on essentially the same grounds that it opposes the intervention of S.O.U.P., Inc.

The granting of interventions is discretionary with this Commission. Section 15(a) of the Natural Gas Act permits intervention when, inter alia, "participation in the proceeding may be in the public interest." Our rules in § 1.8 permit intervention where there is shown either a right to intervene or "an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought." Such interest may be an "interest of such nature that petitioner's participation may be in the public interest." A right of intervention thus need not necessarily be shown, but a showing must be made that the intervention may be in the public interest.

Both S.O.U.P., Inc. and the Washington Urban League, Inc. are responsible organizations dedicated to protecting consumer interests. In this instance, their interventions will not unduly delay these proceedings, and we find that their interest is of such a nature that their participation may be in the public interest. We, therefore, grant their petitions to intervene. We wish to make it clear our ruling here is made solely in the circumstances of this case where several parties have requested hearings in this matter, and should not be construed as having precedential value. We intend to retain our discretionary authority to limit, if necessary, the intervention of consumer-interest groups who, as here, lack any apparent legal right or interest when necessary to maintain the orderly and efficient conduct of our proceedings consistent with due process. See "Firestone Tire & Rubber Co.," 27 Pike and Fischer Administrative Law (2d) 877, Decision issued October 23, 1970, for a discussion by the Federal Trade Commission on this point.

The Commission finds:

(1) It is desirable and in the public interest to allow the above-named petitioners to intervene in this proceeding in order that they may establish the facts and the law from which the nature and validity of their alleged rights and interests may be determined and show what further action may be appropriate under the circumstances in the administration of the Natural Gas Act.

(2) Although the petitions of Hoosier Gas Corp., Long Island Lighting Co., and Southern Natural Gas Co., and the Washington Urban League, Inc. were not timely filed, good cause exists for permitting their intervention.

(3) The expeditious disposition of this proceeding will be furthered by the filing, on or before November 22, 1971, by Gulf Oil Corp., its case-in-chief including the exhibits and prepared testimony upon which it will rely in support of its petition.

(4) The expeditious disposition of this proceeding will be furthered by convening a prehearing conference in this proceeding on December 7, 1971, and by the commencement of hearings in this proceeding immediately upon the conclusion of the prehearing conference.

The Commission orders:

(A) The above-named petitioners are permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such interveners shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene; and *provided, further,* That the admission of such interveners shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) Pursuant to the provisions of § 2.62(c) of the Commission's rules of practice and procedure, the petitioner shall serve copies of its filings upon all interveners promptly, unless such service has already been effected pursuant to Part 157 of the regulations of the Natural Gas Act.

(C) Gulf Oil Corp. shall file with the Commission and serve on all parties and the Commission Staff, on or before November 22, 1971, its case-in-chief including the exhibits and prepared testimony upon which it relies in support of its petition.

(D) Pursuant to the provisions of § 1.18 of the Commission's rules of practice and procedure, a prehearing conference before a duly designated Presiding Examiner shall commence at 10 a.m., e.s.t., on December 7, 1971, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426 for the purpose of effectuating the expeditious disposition of this proceeding. The purpose of such conference shall be to consider all matters at issue in the above dockets and to consider any and all matters which might contribute to an expeditious disposition of this proceeding. The petitioner, the Commission Staff, and all persons who have been permitted to intervene by the Commission shall be entitled to participate in that conference.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held immediately following the conclusion of the aforeordered prehearing conference in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC, concerning the matters involved in and the issues presented by Gulf Oil Corp.'s petition.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.71-16689 Filed 11-16-71;8:45 am]

[RP 70-6 etc.]

LAWRENCEBURG GAS TRANSMISSION CORP.

Order Suspending Proposed Revised Tariff Sheets Pending Effectiveness of Supplier Rate Increase, Providing for Hearing and Consolidating Proceedings

NOVEMBER 5, 1971.

Lawrenceburg Gas Transmission Corp. (Lawrenceburg), on October 7, 1971, tendered for filing in Docket No. RP72-48 proposed changes in its FPC Gas Tariff, Original Volume No. 1,[1] designed only to track the rate increase filed by its sole supplier, Texas Gas Transmission Corp. (Texas Gas), on October 1, 1971, in Docket No. RP72-45. Lawrenceburg proposes that its increase become effective on November 1, 1971, or in case of suspension of the proposed increase, no later than the date on which Texas Gas' proposed increased rates become effective in Docket No. RP72-45.[2] Lawrenceburg's proposed rate changes would increase charges under its two jurisdictional rate schedules, CDS-1 and EX-1 by approximately $208,966 annually, based on volumes for the 12-month period ended June 30, 1969.

In support of its filing, Lawrenceburg submitted cost of service and other data and incorporated by reference various statements which it submitted in support of its rate increase filings in Docket No. RP70-6 et al.

The proposed rate increases have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential or otherwise unlawful.

The fact that the cost and related data relied upon by Lawrenceburg in support of its filings in Dockets Nos. RP72-48 and RP70-6, et al. are substantially the same raises issues of law and fact common to each proceeding. Under these circumstances it is appropriate that Docket No. RP72-48 be consolidated with the latter proceedings for purposes of hearing and decision.

The Commission finds:

It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that:

(1) The proposed tariff sheets listed in footnote 1 above be suspended and the use thereof be deferred as herein provided, and;

(2) Docket No. RP72-48 be consolidated with Docket No. RP70-6, et al. for purposes of hearing and decision.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. 1), a public hearing be held concerning the lawfulness of the rates, charges, classifications, and services contained in Lawrenceburg's FPC Gas Tariff, as proposed to be amended herein.

(B) Pending such hearing and decision thereon, Lawrenceburg's revised tariff sheets, listed in footnote 1 above, are suspended and the use thereof is deferred until April 1, 1972, or such later date as may be authorized under Executive Order No. 11615, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act: *Provided however,* That Lawrenceburg shall not make the increase proposed herein effective prior to the date that the increased rates proposed by Texas Gas in Docket No. RP72-45 become effective.

(C) The proceedings in Dockets Nos. RP72-48 and RP70-6, et al. are hereby consolidated.

(D) This order does not relieve Lawrenceburg Gas Transmission Corp. of any responsibility imposed by, and is expressly subject to, the Commission's statement of policy implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38), including such amendments as the Commission may require, and Executive Order No. 11615.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.71-16688 Filed 11-16-71;8:45 am]

[1] The proposed revised tariff sheets are Ninth Revised Sheets Nos. 4 and 12.

[2] By order issued on Oct. 29, 1971, Texas Gas' proposed increased rates were suspended until Apr. 1, 1972, or such later date as may be authorized under Executive Order No. 11615.

[Docket No. G-15513]

MOUNTAIN FUEL SUPPLY CO.

Notice of Petition To Amend

NOVEMBER 8, 1971.

Take notice that on October 21, 1971, Mountain Fuel Supply Co. (petitioner), 180 East First South Street, Salt Lake City, UT 84111, filed in Docket No. G-15513 a petition to amend the Commission's order heretofore issued in said docket pursuant to section 7(c) of the Natural Gas Act on February 9, 1959 (21 FPC 200), by authorizing the construction and operation of an additional delivery point for the exchange of natural gas with El Paso Natural Gas Co. (El Paso), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The order of February 9, 1959, authorized, inter alia, the construction and operation of facilities and the exchange of natural gas between petitioner and El Paso's predecessor in interest, Pacific Northwest Pipeline Corp. The exchange contemplated therein is accomplished by the delivery of certain volumes of natural gas to El Paso by petitioner in Sublette County, Wyo., in exchange for the transportation and redelivery of equivalent volumes by El Paso to petitioner near Green River, Wyo.

Specifically, petitioner proposes the construction and operation of an additional delivery point to be known as the Red Wash Delivery Point in Uintah County, Utah. Petitioner states that this point will provide an alternative means for receiving exchange deliveries from El Paso and that this will assist in the operation and load equation of its system serving Salt Lake City, Utah, and environs. The estimated cost of the facilities proposed herein is $1,350.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 26, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.71-16690 Filed 11-16-71;8:46 am]

[Docket No. CP72-111]

TENNESSEE GAS PIPELINE CO. AND TRUNKLINE GAS CO.

Notice of Application

NOVEMBER 8, 1971.

Take notice that on October 22, 1971, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee), Post Office Box 2511, Houston, TX 77001, and Trunkline Gas Co. (Trunkline), Post Office Box 1642, Houston, TX 77001, filed in Docket No. CP72-111, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the delayed exchange of natural gas between the parties, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Tennessee and Trunkline propose the delayed exchange of natural gas in accordance with the provisions of an exchange agreement dated October 11, 1971, which provides that commencing November 1, 1971, and continuing up to and including October 31, 1972, Tennessee shall deliver to Trunkline, on a best efforts basis, at the Kinder Delivery Point located near Kinder, La., or other mutually agreeable delivery points, daily volumes of up to 125,000 Mcf of natural gas per day. Commencing November 1, 1973, and continuing up to and including October 31, 1977, Trunkline shall redeliver to Tennessee at the Kinder Delivery Point, quantities of exchange gas equal in volume to the quantities previously received by Trunkline at a maximum rate not to exceed 31,250 Mcf of natural gas per day.

Applicants state that for each Mcf of delayed exchange gas delivered, the receiving party shall pay 28.25 cents per Mcf received, so there will be an equal exchange of dollars and gas within the life of the delayed exchange. All deliveries and redeliveries involved in the proposed exchange will be through existing facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 26, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16693 Filed 11-16-71;8:46 am]

[Docket No. RP72-64]

TEXAS GAS TRANSMISSION CORP.

Notice of Filing of Proposed Tariff Provisions Relating to Curtailment Procedure

NOVEMBER 5, 1971.

Take notice that on October 29, 1971, Texas Gas Transmission Corp. (Texas Gas) submitted for filing as part of its FPC Gas Tariff, Third Revised Volume No. 1, First Revised Sheets Nos. 90, 91, and 92 and Original Sheets Nos. 92-A, 148, 149, 150, and 151, pertaining to curtailment procedures, elimination of demand charge credit, imposition of an overrun penalty and the clarification of Force Majeure provisions. Texas Gas states that this filing is submitted in compliance with the Commission's Order No. 431 issued in Docket No. R-418.

Texas Gas states in its filing that "Basically, the presently effective steps of curtailment, as set forth in section 10.2 of Texas Gas' presently effective tariff have been retained for 'short-term intervals.' With respect to 'long-term intervals,' Texas Gas proposes that gas available for deliveries will be prorated among its customers in the ratio of each customer's seasonal volume, as specified in an index of quantity entitlements, bears to the total seasonal volumes of all customers. The summer season commences on April 1 and ends on November 1 of any calendar year. The winter season commences on November 1 and ends on the succeeding April 1."

Texas Gas further states that it "is also proposing to eliminate the demand charge credit, in its presently effective tariff, in instances where curtailments are being made during long-term intervals. In addition, a penalty of $5 per Mcf, for volumes in excess of the volumes specified under the curtailment procedures, is proposed which will be in addition to penalties otherwise payable under the rate schedule or schedules involved."

In addition Texas Gas proposes to make modifications of sections 10.1 and 10.2 of its presently effective tariff "in order to eliminate any possible ambiguity and to make it clear that the Force Majeure provisions apply to long-term, as well as short-term, failures of gas supply."

Any person desiring to be heard or make any protest with reference to said filing should on or before November 19, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.18 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The filing which was made with the Commission is available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.71-16696 Filed 11-16-71;8:46 am]

[Docket No. RP69-27 etc.]

TRANSWESTERN PIPELINE CO.

Notice of Petition To Amend Stipulation and Agreement

NOVEMBER 10, 1971.

Take notice that on October 28, 1971, Transwestern Pipeline Co. (Transwestern), filed a petition to amend its presently effective "Stipulation and Agreement", which was approved by Commission order of November 24, 1970, in Docket No. RP69-27 et al.

Transwestern proposes that the Agreement be amended to provide for an extension of the time from December 31, 1971, until December 31, 1972, during which Transwestern may file increases and shall file decreases in its CDQ rates to track increases and decreases in its cost of purchased gas, as set forth in Article III and further proposes that the agreement be amended to provide a similar extension of time during which Transwestern shall flow-through refunds received from its suppliers in accordance with Article IV.

Transwestern states that the purpose of such proposed amendment is to avoid the necessity of filing a general rate increase well in advance of December 31, 1971, to protect itself against exposure to anticipated increases in its cost of purchased gas.

Copies of this petition were served on Transwestern's customers and interested State commissions.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 22, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Any order or orders issued in this proceeding shall be subject to the Commission's statement of policy implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38) and Executive Order No. 11615, including such amendments as the Commission may require.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16704 Filed 11-16-71;8:47 am]

[Docket No. CP72-110]

UNITED GAS PIPE LINE CO.

Notice of Application

NOVEMBER 5, 1971.

Take notice that on October 20, 1971, United Gas Pipe Line Co. (applicant), 1525 Fairfield Avenue, Shreveport, LA 71102, filed in Docket No. CP72-110 an application pursuant to section 7(b) of the Natural Gas Act for permission for and approval of the abandonment of natural gas service to Pennzoil United, Inc. (Pennzoil), and certain pipeline and measuring facilities employed for the resale and distribution of natural gas in the city of Monroe and environs, Ouachita Parish, La., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Pennzoil is under order by the Securities and Exchange Commission to dispose of its entire interest in all retail natural gas distribution properties formerly owned by United Gas Corp., including the facilities employed for service to the city of Monroe. Pennzoil has informed Monroe that when its present natural gas distribution franchise for service to Monroe expires on April 27, 1972, it will not seek a new franchise. Applicant states that this advice was given at an early date in order that appropriate arrangements might be made by Monroe for an orderly continuation of natural gas supplies or for alternative fuels.

Applicant states that it presently delivers up to 45,100 Mcf of natural gas per day to Pennzoil for resale, distribution and power generation in the city of Monroe and environs and that the contract for this sale is assignable to Pennzoil's successor. In the event that no successor is found, applicant proposes to abandon the service and the facilities employed therefor and to use these volumes of natural gas to meet the requirements of its other customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 23, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[FR Doc.71-16694 Filed 11-16-71;8:46 am]

[Docket No. RP72-66]

UNITED NATURAL GAS CO.

Notice of Proposed Changes in Rates and Charges

NOVEMBER 10, 1971.

Take notice that on November 3, 1971, United Natural Gas Co. (United Natural) tendered for filing proposed changes to Rate Schedules G-1 and CD-1 in its FPC Gas Tariff, Original Volume No. 1, and requests waiver of the Commission's regulations to permit such changes to be effective as of November 14, 1971. The company states that the proposed rates would increase its jurisdictional revenues by approximately $50,000 per annum.

United Natural states that the tender is made to track the rate increases of its suppliers—Consolidated Gas Supply Corp. (RP71-77 and RP71-126) and Tennessee Gas Pipeline Co. (RP71-6), both proposed to be effective as of November 14, 1971. It also contends that the rates set out in the tendered sheets (27th Revised Sheet No. 4 and 29th Revised Sheet No. 5) are consistent with the stipulation and agreement of April 3, 1970, as approved by Commission order issued May 4, 1970, in Docket No. RP70-24. Copies were served on the company's customers and interested State commissions. The tender is on file with the Commission and available for public inspection.

Any person desiring to be heard or to make protest with respect to said filing should on or before November 19, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons wishing to become parties or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Any order or orders issued in this proceeding will be subject to the Commission's statement of policy implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38) and Executive Order No. 11615, including such amendments as the Commission may require.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16705 Filed 11-16-71;8:47 am]

FEDERAL RESERVE SYSTEM

EXCHANGE BANCORPORATION, INC.

Order Approving Acquisition of Bank Stock By Bank Holding Company

In the matter of the application of Exchange Bancorporation, Inc., Tampa, Fla., for approval of acquisition of 51 percent or more of the voting shares of Bank of Osceola, Kissimmee, Fla.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Exchange Bancorporation, Inc., Tampa, Fla., for the Board's prior approval of acquisition of 51 percent or more of the voting shares of Bank of Osceola, Kissimmee, Florida (Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Florida Commissioner of Banking and requested his views and recommendation. The Commissioner recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on September 10, 1971 (36 F.R. 18262), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the

effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the Applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant, the 10th largest bank holding company and banking organization in the State, controls six banks with aggregate deposits of approximately $323 million, representing 2.3 percent of the deposits held by commercial banks in Florida. (Banking data are as of December 31, 1970, and reflect holding company formations and acquisitions approved by the Board through September 30, 1971.) Consummation of the proposal would add less than one half of 1 percent to Applicant's percentage share of such deposits and would not change its relative position among the State's banking organizations.

Bank (deposits of $5.9 million) is the smallest of three banks in the Osceola County area controlling about 20.7 percent of area deposits and is the only independent banking organization there. Applicant's closest banking subsidiary to Bank is located about 24 miles south of Bank and has deposits of less than $10 million. There is little exising competition between this subsidiary and Bank and considering the small size of both and the intervening distance, there is little probability of substantial competition developing between the two. Bank's affiliation with Applicant offers the prospect of increased competition in the Osceola County area, since Bank should be able to compete more vigorously with the two larger banks there, both of which are members of bank holding companies that are larger than Applicant. Consummation of the proposed acquisition would not adversely affect competition in any relevant area and would not have an adverse effect on any competing bank.

The financial and managerial resources and future prospects of Applicant and its subsidiary banks are regarded as generally satisfactory. Considerations relating to the banking factors lend weight for approval in that affiliation with Applicant would give Bank greater experience and depth of management. Considerations related to the convenience and needs of the community lend some weight for approval since Bank, through Applicant's assistance, will be able to provide a broader and more sophisticated range of services such as larger loans resulting from the expanded demand developing from the opening of Walt Disney World, in neighboring Orange County. It is the Board's judgment that the proposed transaction is in the public interest and should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above: *Provided*, That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] November 9, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16772 Filed 11-16-71;8:52 am]

FIRST BANCSHARES OF FLORIDA, INC.

Order Approving Acquisition of Bank Stock By Bank Holding Company

In the matter of the application of First Bancshares of Florida, Inc., Boca Raton, Fla., for prior approval of the acquisition of 80 percent or more of the voting shares of Jensen Beach Bank, Jensen Beach, Fla.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3 (a) of Federal Reserve regulation Y (12 CFR 222.3(a)), an application by First Bancshares of Florida, Inc., Boca Raton, Fla., for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of Jensen Beach Bank, Jensen Beach, Fla. (Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Florida Commissioner of Banking and requested his views and recommendation. The Commissioner responded that he recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on September 18, 1971 (36 F.R. 18687), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant has five subsidiary banks with aggregate deposits of approximately $128 million, representing 0.9 percent of the commercial bank deposits in Florida. (Banking data are as of December 31, 1970, and reflect holding company formations and acquisitions approved by the Board through September 30, 1971.) Approval of the acquisition of Bank would increase applicant's percentage share of such deposits in Florida by less than one-tenth of 1 percent.

Bank (deposits of $12.9 million) is the third largest of five banks in Martin County, which is approximately 120 miles north of Miami, with about 17.8 percent of deposits in the county. Applicant's closest subsidiary to Bank is some 30 miles to the south and there is little existing competition between the two. Due to the presence of several intervening banks and the Florida branching laws, there appears to be little likelihood of substantial competition developing between Bank and this subsidiary. Considering these factors and others of record, the Board concludes that consummation of the proposed acquisition would not adversely affect competition in any relevant area.

The financial and managerial resources and prospects of applicant, its subsidiary banks and Bank are regarded as satisfactory. However, Bank's president plans to retire shortly and applicant's acquisition of Bank will provide for continuity of management so that these considerations lend some weight for approval of the application. Considerations related to the convenience and needs of the community lend weight for approval of the application in that applicant will be able to provide trust services and increased mortgage financing. Both of these types of services are in increasing demand in Martin County. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above, provided that the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] November 9, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16774 Filed 11-16-71;8:52 am]

FIRST SECURITY CORP.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of First Security Corp., Salt Lake City, Utah, for approval of acquisition of 100 percent of the voting shares (less directors' qualifying shares) of First Security Bank of Bountiful (N.A.), Bountiful, Utah, a proposed new bank.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3 (a) of Federal Reserve regulation Y (12 CFR 222.3(a)), an application by First Security Corp., Salt Lake City, Utah, for

[1] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Maisel, Brimmer and Sherrill. Absent and not voting: Governor Robertson.

[1] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Maisel, Brimmer, and Sherrill. Absent and not voting: Governor Robertson.

the Board's prior approval of the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of First Security Bank of Bountiful (N.A.), Bountiful, Utah (Bank), a proposed new bank.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency and requested his views and recommendation. The Comptroller recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on September 14, 1971 (36 F.R. 18439), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant controls three banks with aggregate deposits of $544 million, representing 29.6 percent of the total commercial bank deposits in the State, and is the largest banking organization in Utah.[1] (All banking data are as of December 31, 1970, unless otherwise noted, and reflect holding company formations and acquisitions approved through September 30, 1971.) Since Bank is a proposed new bank, no existing competition would be eliminated nor would concentration be increased in any relevant area.

Bank would be located in Bountiful, 12 miles north of Salt Lake City, and would be the fifth bank operating in that area. Bank would be competing in the Salt Lake City banking market, where applicant, with 23.9 percent of market deposits,[2] is the largest of 15 banking organizations. Applicant's two closest subsidiaries to Bank have offices 15 miles south of Bank, in downtown Salt Lake City.

Applicant's status as the largest banking organization in the relevant market could present a competitive problem if it dominated the market and was establishing banks before a need for them existed. Cf., Application of First Wisconsin Bankshares Corp., 1968 Federal Reserve Bulletin 1024. However, two of the four offices in Bank's proposed service area are branches of the second and third largest banks in the banking market, each of which controls approximately 22 percent of market deposits.[3] In addition, applicant presently derives only an insignificant portion of its business from Bank's proposed service area. Accordingly, consummation would not appear to adversely alter the competitive situation in the market.

The financial and managerial resources and the future prospects of applicant and its subsidiary banks are generally satisfactory. Prospects for Bank appear favorable since it would have capable and experienced management and would be adequately capitalized. Bank would be able to provide an additional source of full banking services in an area which has experienced rapid population growth during the last two decades. Considerations relating to the convenience and needs of the area to be served lend slight support to, and are consistent with, approval of the application. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and that the application should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above, provided that the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order; and provided further that (c) First Security Bank of Bountiful (N.A.) shall be opened for business not later than 6 months after the date of this order. Each of the periods described in (b) and (c) hereof may be extended for good cause by the Board, or by the Federal Reserve Bank of San Francisco pursuant to delegated authority.

By order of the Board of Governors,[2] November 9, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16770 Filed 11-16-71;8:51 am]

SHOREBANK, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Shorebank, Inc., Quincy, Mass., for approval of acquisition of 80 percent or more of the voting shares of The Falmouth National Bank, Falmouth, Mass.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3 (a) of Federal Reserve regulation Y (12 CFR 222.3(a)), an application by Shorebank, Inc., Quincy, Mass., for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of The Falmouth National Bank, Falmouth, Mass. (Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency and requested his views and recommendation. The Comptroller offered no objection to approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on September 14, 1971 (36 F.R. 18440), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant controls two banks with deposits of $191 million. Bank ($18 million in deposits) is the second largest of eight banks in the Falmouth area (approximated by the towns of Falmouth, Bourne, Sandwich, Mashpee, and Barnstable), controlling 24.7 percent of area deposits. (All banking data are as of December 31, 1970, and reflect a holding company acquisition approved November 4, 1971.[1]) Over 50 miles and numerous intervening banks separate the closest offices of applicant's present subsidiaries and Bank; consequently, no significant existing competition would be eliminated. Consummation of this proposal would foreclose the possibility of applicant entering the area de novo or through acquisition of one of the smaller banks in the area. De novo entry, however, is unlikely because the area's population to banking office ratio is considerably less than that of the State. The potential competition that would be eliminated by consummation of this proposal is not considered significant and is offset by the benefits attributable to the formation of a holding company better able to compete with the larger Boston-based holding companies.

The financial and managerial resources and future prospects of Applicant, Applicant's present subsidiaries, and Bank are generally satisfactory and consistent with approval. Applicant plans to expand the services now offered by Bank to include leasing, international banking services, aircraft financing, accounts receivable financing, and electronic data processing services. Therefore, considerations relating to the convenience and needs of the community to be served lend some weight in favor of approval. It is the Board's judgment that the proposed transaction is in the public interest and that the application should be approved.

It is hereby ordered, On the basis of the record, that said application be, and hereby is, approved for the reasons summarized above, provided that the action so approved shall not be consummated

[1] Additionally, applicant controls an Idaho bank ($388 million in deposits) and a Wyoming bank ($10 million in deposits). These banks were owned by applicant at the time of enactment of the Holding Company Act and were "grandfathered."

[2] Market data are as of June 30, 1970.

[2] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Maisel, Brimmer, and Sherrill. Absent and not voting: Governor Robertson.

[1] Banking data relating to banks in the Falmouth area are as of June 30, 1970.

(a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Boston pursuant to delegated authority.

It is further ordered, That upon the consummation of the proposed transaction, Applicant shall not retain or acquire any nonbank shares or engage in any nonbanking activities to a greater extent or for a longer period than would apply in the case of a bank holding company which became such on the date of such consummation, except to the extent otherwise permitted in any regulation of the Board hereafter adopted specifically relating to the effect of the acquisition of an additional bank on the status of nonbank shares and activities of a one bank holding company formed prior to 1971, or unless the Board fails to adopt any such regulation before the expiration of 2 years after the consummation of the proposed acquisition.

By order of the Board of Governors,[1] November 9, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16771 Filed 11-16-71;8:51 am]

UNITED TENNESSEE BANCSHARES CORP.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of United Tennessee Bancshares Corporation, Memphis, Tenn., for approval of acquisition of 80 percent or more of the voting shares of Nashville City Bank and Trust Co., Nashville, Tenn.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by United Tennessee Bancshares Corp., Memphis, Tenn., a bank holding company, for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of Nashville City Bank and Trust Co., Nashville, Tenn. (Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Superintendent of Banks of the State of Tennessee and requested his views and recommendation. The Superintendent offered no objection to consummation of the proposal.

Notice of receipt of the application was published in the FEDERAL REGISTER on September 14, 1971 (36 F.R. 18440), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the Applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant, the fourth largest bank holding company and seventh largest banking organization in Tennessee, has three subsidiary banks controlling $317.4 million in deposits, representing approximately 4.3 percent of the total commercial bank deposits in the State. (All banking data are as of December 31, 1970, adjusted to reflect holding company formations and acquisitions approved by the Board through September 30, 1971.) Consummation of the proposal herein would increase the percentage of total State deposits controlled by Applicant to 5 percent and would make Applicant the State's sixth largest banking organization.

Bank ($55.9 million deposits), controlling 4.1 percent of the commercial bank deposits in the Davidson County banking market, ranks fourth of the seven banks in that market. Bank's three larger competitors together hold approximately 94 percent of deposits in the market. Applicant's closest subsidiary bank is more than 200 miles from Bank. Due to this distance, as well as Tennessee's restrictive branching law, consummation of this proposal would foreclose neither existing nor potential competition between Bank and any banking subsidiary of Applicant. As a result of its affiliation with Applicant, Bank should be able to compete more effectively with the larger banks in the concentrated Davidson County banking market. Based upon the foregoing, the Board concludes that consummation of the proposal would not have an adverse effect on competition in any relevant area.

The financial and managerial resources and future prospects of Applicant, its subsidiaries, and Bank are considered generally satisfactory and consistent with approval. Considerations relating to the convenience and needs of the communities to be served lend weight in support of approval. Although the convenience and needs of the area are not, to any significant extent, going unserved, consummation of this proposal will strengthen Bank's competitive position in the banking market and enable Bank to offer new and expanded services in the areas of industrial development, business management, and trust services. Furthermore, access to Applicant's specialized computer facilities should provide greater efficiency to Bank's operations, further enhancing its competitive posture in a concentrated banking market. It is the Board's judgment that the proposed transaction would be in the public interest, and that the application should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above, provided that the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] November 9, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16773 Filed 11-16-71;8:52 am]

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

MODIFIED HACKNEY FLOODWAY AND CLOSURE OF MISSION FLOODWAY

Notice of Completion of and Availability of Environmental Statement

Pursuant to the National Environmental Policy Act of 1969, notice is hereby given that this agency has completed a final statement which discusses environmental considerations relating to the proposed Modified Hackney Floodway and closure of Mission Floodway, both located south of McAllen, Hidalgo County, Tex. A copy of the final statement, along with copies of comments received from other agencies and interested groups, is being placed in the Office of the Country Director for Mexico, Room 3906-A, Department of State, 21st Street and Virginia Avenue NW., Washington, DC, in the office of the Project Superintendent, U.S. Section, International Boundary and Water Commission, 208 South F Street, Harlingen, TX, and in the office of the U.S. Section, Chief of Planning and Reports, 809 Southwest Center, El Paso, TX. The environmental analysis statement was prepared as a part of the study of the necessary improvements to the existing flood control project being undertaken by the United States and Mexico.

Copies of the final statement, dated November 5, 1971, along with copies of comments received from other agencies and interested groups, can be obtained from the U.S. Department of Commerce, National Technical Information Service, Springfield, Va. 22151.

Dated at El Paso, Tex., this 9th day of November 1971.

FRANK FULLERTON,
Executive Assistant.

[FR Doc.71-16699 Filed 11-16-71;8:46 am]

[1] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Maisel, Brimmer, and Sherrill. Absent and not voting: Governor Robertson.

PROPOSED INTERNATIONAL RETAMAL DIVERSION DAM ON RIO GRANDE

Notice of Completion of and Availability of Environmental Statement

Pursuant to the National Environmental Policy Act of 1969, notice is hereby given that this agency has completed a final statement which discusses environmental considerations relating to the proposed U.S. portion of Retamal International Diversion Dam and U.S. Dike on the Rio Grande about 9 miles south of Donna, Hidalgo County, Tex. A copy of the final statement, along with copies of comments received from other agencies and interested groups, is being placed in the Office of the Country Director for Mexico, Room 3906-A, Department of State, 21st Street and Virginia Avenue NW., Washington, DC, in the office of the Project Superintendent, U.S. Section, International Boundary and Water Commission, 208 South F Street, Harlingen, TX, and in the office of the U.S. Section, Chief of Planning and Reports, 809 Southwest Center, El Paso, TX. The environmental analysis statement was prepared as a part of the study of the necessary improvements to the existing flood control project being undertaken by the United States and Mexico.

Copies of the final statement, dated November 5, 1971, along with copies of comments received from other agencies and interested groups, can be obtained from the U.S. Department of Commerce, National Technical Information Service, Springfield, Va. 22151.

Dated at El Paso, Tex., this 9th day of November 1971.

FRANK FULLERTON,
Executive Assistant.

[FR Doc.71-16700 Filed 11-16-71;8:46 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 7-3864]

AMERADA HESS CORP.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 11, 1971.

In the matter of application of the Philadelphia - Baltimore - Washington Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the warrants to purchase common stock of the following company, which security is listed and registered on one or more other national securities exchanges:

Amerada Hess Corp. (warrants to purchase capital stock of The Louisiana Land & Exploration Co., expiring June 15, 1976), File No. 7-3864.

Upon receipt of a request, on or before November 26, 1971, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71-16717 Filed 11-16-71;8:48 am]

[Files Nos. 7-3854—7-3860]

AMERICAN GENERAL INSURANCE CO., ET AL.

Notice of Applications for Unlisted Trading Privileges and Opportunity for Hearing

NOVEMBER 11, 1971.

In the matter of applications of the Detroit Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
American General Insurance Co	7-3854
Coastal States Gas Producing Co	7-3855
Continental Corp	7-3856
Continental Telephone Corp	7-3857
Lone Star Gas Co	7-3858
Northern Natural Gas Co	7-3859
Panhandle Eastern Pipeline Co	7-3860

Upon receipt of a request, on or before November 26, 1971, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71-16708 Filed 11-16-71;8:47 am]

[File Nos. 7-3879—7-3889]

ASAMERA OIL CORPORATION LTD., ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 11, 1971.

In the matter of applications of the Pacific Coast Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Asamera Oil Corp., Ltd	7-3879
Bausch & Lomb, Inc	7-3880
Johnson & Johnson	7-3882
Smith Kline and French Laboratories, Inc	7-3883
University Computing Co	7-3884

Upon receipt of a request, on or before November 26, 1971, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71-16714 Filed 11-16-71;8:48 am]

[Files Nos. 7-3865—7-3873]

BANK OF NEW YORK CO., INC., ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 11, 1971.

In the matter of applications of the Philadelphia - Baltimore - Washington Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Bank of New York Co., Inc.	7-3865
Bankers Trust New York Corp.	7-3866
Bio-Dynamics, Inc.	7-3867
Carolina Power & Light Co.	7-3868
Central Illinois Light Co.	7-3869
Central Illinois Public Service Co.	7-3870
Charter New York Corp.	7-3871
Commodore Corp.	7-3872
Delta Corporation of America	7-3873

Upon receipt of a request, on or before November 26, 1971, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-16716 Filed 11-16-71;8:48 am]

[File No. 7-3881]

BRITISH PETROLEUM CO., LTD.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 11, 1971.

In the matter of application of the Pacific Coast Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

The British Petroleum Co., Ltd. (American depositary receipts for ordinary shares, 1 pound par sterling), File No. 7-3881.

Upon receipt of a request, on or before November 26, 1971, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-16713 Filed 11-16-71;8:47 am]

[File No. 1-3421]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

NOVEMBER 5, 1971.

In the matter of trading in securities of Continental Vending Machine Corporation, File No. 1-3421.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, being traded otherwise on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 7, 1971, through November 16, 1971.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-16540 Filed 11-16-71;8:45 am]

[File No. 24A-2001]

DOLPHIN'S LOCKER, INC.

Order Permanently Suspending Regulation A Exemption

NOVEMBER 9, 1971.

I. Dolphin's Locker, Inc. (Issuer), 1866 East Fourth Avenue, Hialeah, FL 33010, a Florida corporation, filed with the Commission on April 30, 1970, a notification and offering circular relating to a proposed offering of 200,000 shares of its $0.01 par value common stock at $0.50 per share for an aggregate of $100,000 for the purpose of obtaining an exemption for the registration requirements of the Securities Act of 1933, as amended, pursuant to section 3(b) thereof and Regulation A promulgated thereunder. No amendments have been filed and the offering has not been cleared.

II. The Commission issued an order on September 1, 1971, pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, temporarily suspending the exemption. The order alleged that:

A. The notification and the offering circular had failed to meet the requirements of Regulation A as well as the full disclosure requirements of the Securities Act of 1933, as amended, in that:

(1) The issuer had failed to disclose adequately and accurately the transactions in which the issuer acquired its business and assets from two of its officers who are also directors, promoters, and controlling stockholders.

(2) The issuer had failed to disclose the cash cost to such insiders of the business and assets so acquired.

(3) The issuer had failed to state the amount, if any, of liabilities assumed by it in connection with the acquisition of the business and assets.

(4) The issuer had made misleading statements with respect to underwriting arrangements in that no underwriter was involved but that caption appears in the offering circular.

(5) The issuer had failed to state in the offering circular full information concerning the issuer's business operations and financial condition in a manner which would appear reasonably understandable to prospective investors.

B. No reply had yet been received from either the issuer or the attorney for the issuer.

A followup letter had been sent to the attorney on October 30, 1970, with a copy to the issuer's president, advising that unless the issuer was prepared to file the requested amendments, the notification should be withdrawn.

No reply to the followup letter had been received from the issuer, but by letter dated November 5, 1970, the attorney advised that he no longer represented the issuer in connection with its Regulation A filing.

On December 15, 1970, an additional followup letter had been sent to the issuer's president, with a copy to its vice president, again requesting that unless the issuer was prepared to file the requested amendments, the notification be withdrawn without additional delay.

No reply of any kind to any of the letters had been received.

The notification and offering circular filed by the issuer were at best materially misleading, if not false, and the issuer had shown a lack of cooperation in failing to respond to staff comments, amend the filing or communicate in any way with the Commission concerning the filing.

C. The offering, if made, would have been in violation of sections 5 and 17 of the Securities Act of 1933.

III. No hearing having been requested by the issuer within 30 days after the order temporarily suspending the exemption of the issuer under Regulation A, the Commission finds that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be permanently suspended:

It is ordered, Pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption of the issuer under Regulation A be, and it hereby is, permanently suspended.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc. 71-16710 Filed 11-16-71;8:47 am]

[Files Nos. 7-3874—7-3878]

HEUBLEIN, INC., ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 11, 1971.

In the matter of applications of the Philadelphia-Baltimore-Washington Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Heublein, Inc.	7-3874
Panhandle Eastern Pipe Line Co.	7-3875
Scottex Corp.	7-3876
Spectro Industries, Inc.	7-3877
Viacom International, Inc.	7-3878

Upon receipt of a request, on or before November 26, 1971, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-16715 Filed 11-16-71;8:48 am]

[70-5101]

MAINE YANKEE ATOMIC POWER CO., ET AL.

Notice of Proposed Issue and Sale of Notes

NOVEMBER 9, 1971.

Notice is hereby given that Maine Yankee Atomic Power Co. (Maine Yankee), 9 Green Street, Augusta, ME 04330, an electric utility company and a subsidiary company of both Northeast Utilities (Northeast) and New England Electric System (NEES), registered holding companies; New England Power Co. (NEPCO), an electric utility subsidiary company of NEES; Western Massachusetts Electric Co. (WMECO), The Connecticut Light & Power Co. (CL&P), and The Hartford Electric Light Co. (Hartford), three public-utility subsidiary companies of Northeast; Montaup Electric Co. (Montaup), an electric-utility subsidiary company of Eastern Utilities Associates, a registered holding company, and Maine Public Service Co. (MPS) and Bangor Hydro-Electric Co. (Bangor), exempt holding companies (referred to collectively as "applicant-sponsors"), have filed an application-declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6, 7, 9(a), and 10 of the Act as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Maine Yankee is constructing a nuclear-powered electric generating plant with a net expected capacity of approximately 800 megawatts. The total capital cost of the plant, excluding the cost of the initial inventory of nuclear fuel of up to $25 million, is currently estimated at $203 million. The sponsors are committed by capital fund agreements and power contracts to provide Maine Yankee, in accordance with their stock percentages, the capital required by Maine Yankee, and to purchase a like percentage of the capacity and power output of the Maine Yankee plant on a cost-of-service basis, which includes an appropriate return on their investment. Construction of the plant is about 85 percent complete, and it is scheduled to commence operation in 1972. Maine Yankee plans to finance the balance of its capital requirements to construct the plant through the issuance and sale of about $17 million of preferred stock after the plant begins operation. Pending such issue, Maine Yankee plans to satisfy its financing requirements by short-term bank borrowings, or by loans from its sponsors evidenced by capital notes and by other subordinated notes.

In order to maintain the capital ratio required by Maine Yankee's first mortgage indenture, Maine Yankee in the instant filing proposes to issue and sell to its sponsors, and the applicant-sponsors propose to acquire, capital notes in the amount of $5,600,000. Each capital note will bear interest payable quarterly at an annual rate which is 1½ percent in excess of the lowest prime rate for commercial loans in effect at any bank in Boston on the date of issue thereof. The capital notes will have a maturity of less than 12 months and are to be paid from the proceeds of the preferred stock scheduled to be sold after the plant commences commerical operation. The capital notes will be subordinated to the Series A bonds, the Series B bonds, the debentures, and to bank loans of Maine Yankee upon the terms specified therein and will be purchased by the sponsors according to their respective stock percentages; NEPCO 20 percent, CL&P 8 percent, Bangor 7 percent, MPS 5 percent, Hartford 4 percent, Montaup 4 percent, and WMECO, 3 percent.

The fees and expenses to be incurred in connection with the proposed transactions are to be filed by amendment. The Maine Public Utilities Commission has approved the issuance of the capital notes to the sponsors. It is stated that the Massachusetts Department of Public Utilities has jurisdiction over the acquisition of the capital notes by the Massachusetts sponsors and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than November 30, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as

amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-16711 Filed 11-16-71;8:47 am]

[812-2997]

NARRAGANSETT CAPITAL CORP.

Notice of Filing of Application

NOVEMBER 11, 1971.

Notice is hereby given that Narragansett Capital Corp. (Narragansett), 10 Dorrance Street, Providence, RI 02903, a Rhode Island corporation, registered as a closed-end, nondiversified, management investment company under the Investment Company Act of 1940 (Act) and licensed as a small business investment company under the Small Business Investment Act of 1958, has filed an application pursuant to section 17(b) of the Act to exempt from section 17(a) of the Act the acquisition by All American Beverages, Inc. (AAB) of the assets, subject to substantially all liabilities, of Piedmont Bottling Co., Inc. (Piedmont), and for an order under Rule 17d-1 of the Act authorizing such transaction.

All interested persons are referred to the application on file with the Commission for a statement of the representations made therein which are summarized below.

Background. On March 31, 1971, the board of directors of AAB and the holders of a substantial majority of the stock of Piedmont reached an agreement in principle calling for the acquisition of Piedmont's business and assets, subject to substantially all of its liabilities, by AAB, in exchange for the issuance to Piedmont of 205,000 shares of AAB common stock (1¼ AAB shares for each share of outstanding Piedmont common stock). The board of directors of Piedmont subsequently approved the transaction, and the terms of the agreement in principle were embodied in an agreement and plan of reorganization between the parties dated July 9, 1971. In addition to providing for the mechanics of the liquidation of Piedmont and providing usual representations, warranties, and conditions generally found in an acquisition agreement, the agreement and plan of reorganization provides that each of the three stockholders of Piedmont must deliver (i) investment letters indicating that the stock they will receive will be taken without a view to sale or distribution and will not be sold in any event within 2 years after closing of the transaction, and (ii) joinder agreements whereby each of the shareholders join in the representations and warranties of Piedmont and agree to indemnify AAB for a period of 3 years as a result of inaccuracies in the representations and warranties of Piedmont, such indemnification being on a pro rata basis. The consummation of the transaction has been approved by the major creditors and franchisors of both AAB and Piedmont and by the Small Business Administration.

AAB is engaged in the production, distribution and sale of soft-drink products (primarily Pepsi-Cola products) in Springfield, Ohio, and Sacramento, Calif. Piedmont is engaged in the production, distribution and sale of soft-drink products in the Winston-Salem and Greensboro areas of north central North Carolina. Its product lines include Pepsi-Cola products, Seven-Up, Dr. Pepper, and True-Ade. On October 13, 1971, the quoted bid price for the stock of AAB was $15.62 per share. The common stock of Piedmont is held by three stockholders who will receive AAB shares representing 31.1 percent of AAB after the proposed transaction.

For the year ended August 31, 1970, AAB had net sales of $6,992,417, income before extraordinary items of $234,362 and net income (after extraordinary items) of $18,628. For the year ended March 31, 1971, Piedmont had net sales of $12,689,000 and a net loss of $334,348. At these dates AAB and Piedmont had total assets of $5,770,719 and $9,929,538, respectively. For the 5 months ended August 31, 1971, unaudited financial statements reveal that AAB and Piedmont had net income before Federal and State taxes and other extraordinary items of $518,857 and $243,455, respectively, representing 68.1 percent and 31.9 percent respectively, of the pro forma combined results of the two companies.

Narragansett is the holder of 24.25 percent of the common stock of AAB, owns 48 percent of the outstanding common stock of Piedmont, and if the acquisition transaction is consummated, will own 31.5 percent of the 659,568 shares of AAB common stock to be outstanding after the acquisition. James B. Somerall, the chairman of the board and chief executive officer of AAB and a director of Piedmont, is the holder of 7.43 percent of the outstanding common stock of AAB and 32 percent of the common stock of Piedmont. Upon consummation of the acquisition transaction, Mr. Somerall would own 15.1 percent of the outstanding shares of AAB common stock. The third stockholder of Piedmont is Industrial Capital Corp., holding 20 percent of the outstanding common stock. Industrial Capital, a licensed small business investment company, is a wholly owned subsidiary of Industrial National Bank of Rhode Island, a creditor of both AAB and Piedmont.

Four of the nine directors of AAB, James B. Somerall, Harvey J. Sarles, L. A. Casler, and Arthur D. Little, are also directors of Piedmont, which has a six-man Board. Messrs. Sarles, Casler, and Little are members of the management of Narragansett. Royal Little, a director of AAB, is chairman of the board and chief executive officer of Narragansett.

Narragansett's dollar investment in AAB is $1,218,309, consisting of $871,000 in a promissory note and $347,309 in 110,219 shares of AAB common stock. Narragansett's dollar investment in Piedmont is $2,562,000, consisting of $2,070,000 in a promissory note and $492,000 in 78,720 shares of Piedmont common stock. Mr. Somerall's dollar investment in AAB common stock is approximately $160,900, and his dollar investment in the common stock of Piedmont is $328,000.

The acquisition transaction is subject to approval by the stockholders of AAB. At a meeting to be called to consider the acquisition, two votes will be taken on resolutions with respect to the acquisition. First, all of the stockholders of AAB will vote, and a majority of those stockholders represented in person and by proxy at the meeting will be required to pass the first resolution. Secondly, all of the AAB stockholders except Narragansett and the officers and directors of Narragansett, AAB and Piedmont (including Mr. Somerall), who together hold 54.68 percent of the common stock of AAB, will vote on the transaction. A majority of these "independent" holders, holding 45.32 percent of the common stock, must vote in favor of the transaction for passage of the second resolution. Both resolutions must pass for the transaction to be consummated.

Commission jurisdiction. Section 17(a) of the Act, as here pertinent, prohibits a company controlled by a registered investment company from selling property to an affiliated person of such registered investment company, and also prohibits any affiliated person of such a registered investment company from purchasing property from a company controlled by such registered investment company. The proposed acquisition, whereby Piedmont would sell assets to AAB, is a prohibited transaction pursuant to section 17(a). Piedmont is controlled by Narragansett within the meaning of the Act, and AAB is an affiliated person of Narragansett within the meaning of the Act. The Commission, upon the filing of an application for an order pursuant to section 17(b), may grant an exemption from the provisions of section 17(a) after finding that the terms of the proposed transaction are consistent with the policy of the registered investment company and the general purposes of the Act, and are fair and reasonable to all parties and do not involve overreaching on the part of any person concerned.

Section 17(d) of the Act and Rule 17d-1 thereunder, taken together, provide, as here pertinent, that it shall be unlawful for an affiliated person of a registered investment company or any affiliated person of such person, acting as principal, to participate in, or to effect any transaction in connection with any joint enterprise or other joint arrangement in which such registered company,

or a company controlled by such registered company, is a participant unless an order regarding such arrangement has been granted by the Commission upon application. In passing upon such application, the Commission must consider whether the participation of such registered company or controlled company in such arrangement is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Supporting statements. Narragansett alleges that the proposed asset acquisition by AAB is fair and reasonable to all parties involved. The terms of the proposed transaction, it is asserted, were determined in arms length negotiations between the independent management of AAB and the stockholders of Piedmont, represented by G. H. Walker & Co., an investment banking concern. The parties received a report from Walker asserting that the proposed ratio of exchange was fair and reasonable to AAB and Piedmont. The report indicates the greater potential of Piedmont as compared to AAB on the basis of comparative per-capita soft drink consumption in the areas served by the two companies. The report is attached to the application as an exhibit.

The application also states that the proposed transaction does not involve overreaching on the part of any person concerned or any preference or special treatment for any affiliated person of Narragansett or any affiliated person of such an affiliated person. All stockholders of both companies party to the transaction will benefit from the sale in direct proportion to their present holdings of stock in the respective companies.

Narragansett represents that the proposed transaction is consistent with its investment policy, as recited in its registration statement and reports filed under the Act, and is consistent with the general purposes of the Act. It is asserted that the transaction does not favor any particular insiders or special classes of security holders.

With specific reference to Rule 17d-1, the application contends that the participation of Narragansett in the proposed transaction is not on a basis different from or less advantageous than that of any other participant, including the affiliated persons of Narragansett, and affiliated persons of such affiliated persons, and that such affiliated parties would not participate on a different or more advantageous basis than that of any other participant, including Narragansett.

Notice is further given that any interested person may, not later than December 1, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Narragansett at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It is ordered, That the Secretary of the Commission shall send a copy of this notice by certified mail to the Director, Office of Investment Assistance, Small Business Administration, Washington, D.C. 20416.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

RONALD F. HUNT, *Secretary.*

[FR Doc.71-16712 Filed 11-16-71;8:47 am]

[File Nos. 7-3861—7-3863]

PENNZOIL UNITED, INC., ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 11, 1971.

In the matter of applications of the Detroit Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Pennzoil United, Inc.	7-3861
South Carolina Electric & Gas Co.	7-3862
Texas Gas Transmission Corp.	7-3863

Upon receipt of a request, on or before November 26, 1971, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-16709 Filed 11-16-71;8:47 am]

[812-2992]

SECURITY PACIFIC OVERSEAS INVESTMENT CORP.

Notice of Filing of Application

NOVEMBER 10, 1971.

Notice is hereby given that Security Pacific Overseas Investment Corp. (Applicant), 561 South Spring Street, Los Angeles, CA 90014, a Delaware corporation, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 (Act) for an order exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the material representations therein which are summarized below.

Applicant was incorporated on September 2, 1970, in the State of Delaware. Applicant has paid-in capital of $5 million represented by 10 shares of authorized and outstanding capital stock, no par value, all of which are held by Security Pacific Overseas Corp. (Overseas).

Overseas was incorporated on June 18, 1970, under the laws of the United States pursuant to section 25(a) (the "Edge Act") of the Federal Reserve Act. Overseas has paid-in capital of $6 million represented by 60,000 shares of authorized and outstanding common stock, $100 par value, all of which is held by Security Pacific National Bank (Bank). Bank is a national banking association organized under the laws of the United States of America. Neither Bank nor Overseas are investment companies as defined in the Act since they are banking institutions organized under the laws of the United States, and are thereby exempt from the Act pursuant to sections 2(a)(5)(A) and 3(c)(3) thereof.

Applicant represents that Bank, its domestic subsidiaries, its controlled foreign subsidiaries and its foreign branches are under the supervision of, and subject to examination by, the Comptroller of the Currency of the United States and are subject to the rules and regulations of the Board of Governors of the Federal Reserve System (the "Board") and the Federal Deposit Insurance Corporation. Applicant further represents that Bank's Edge Act subsidiaries, such

as Overseas, and their controlled subsidiaries are under the supervision of, and subject to examination by the Board, as well as being subject to the rules and regulations of the Comptroller of the Currency of the United States. The Board regulates the activities of such Edge Act corporations, particularly their investments, through the provisions of its Regulation K. The Board's consent to Overseas' investment in Applicant was conditioned upon divestiture of such investment by Overseas if Applicant takes any action or undertakes any operation in any manner which at the time would not be permissible to Overseas. Applicant contends, therefore, that it is subject to the same Board restrictions as Overseas. In Regulation K, the Board has granted a general consent for investments which neither exceed $500,000 nor result in the holding of more than 25 percent of the voting shares of the corporation in which the investment is made. All other investments must receive specific Board approval. Pursuant to the provisions of the Edge Act, both Overseas and Applicant are prohibited from making any investment regardless of size in any company doing business in the United States, other than business determined by the Board to be incidental to its international or foreign business.

The Board is responsible for the balance of payments policy relative to domestic banks and other financial institutions, including Edge Act corporations and their domestic subsidiaries. The Voluntary Foreign Credit Restraint Program (the "Program") implements the policy of limiting the amount of total "claims on foreigners" (which include loans to, and investments in foreign branches, corporations, entities, and individuals) which a domestic bank may carry on the books of its domestic offices or which an Edge Act corporation or its domestic subsidiaries may carry on their books. A foreign branch or foreign subsidiary of a domestic bank or Edge Act corporation is considered a foreigner within the context of the Program. Extensions of foreign credit by a foreign branch or foreign subsidiary of a domestic bank or Edge Act corporation are not subject to the Program, except as a result of the restraints on domestic banks and Edge Act corporations with respect to foreign credit to, or foreign investments in, such branches or subsidiaries. In 1970, the Board revised the Program to provide that a domestic subsidiary (such as Applicant) of an Edge Act Corporation (such as Overseas) may offset against the aggregate of its "claims on foreigners" and "other foreign assets" the face amount of its outstanding borrowings from foreigners if the borrowings have an original maturity of 3 years or more. Applicant contends it was formed specifically to take advantage of this offsetting principle and plans to offer abroad its debt securities with maturities of 3 years or more. It should be noted that this offset is not permitted to the bank directly or to any of its Edge Act subsidiaries.

Applicant states that it does not fall within the technical definition of "Bank" set forth in section 2(a)(5)(C) of the Act, which requires that a "bank" receive deposits or exercise fiduciary powers similar to those permitted to national banks. Applicant contends, however, that it clearly fits within the general intent of exemption from the definition of investment company set forth in section 3(c)(3) of the Act. Applicant states that it will serve as an integral element in the international banking operations of Bank, and its only long-term activity will be to hold investments which, absent the Program and the Board's offset policy, Overseas might hold free of the operation of the Act. Applicant represents that it will make equity investments in foreign entities, primarily those engaged in banking and financially related activities abroad, so as to further the international activities of Bank. Any amounts not needed to fund Applicant's foreign equity investments will be used primarily, other than for domestic deposits placed with Bank, to make foreign loans and to acquire participations in Bank's foreign loans. Furthermore, Applicant represents that it is governed by bank regulations similar to those applied to banks exempt from the Act, and Overseas may continue to hold Applicant's stock only if Applicant restricts its activities to those permissible to Overseas. In addition, Applicant states that the Board must approve all of its major foreign equity investments. Accordingly, Applicant requests an exemption from all provisions of the Act pursuant to section 6(c), thereof, subject to the following conditions:

(1) At the time of their issuance, the securities issued by Applicant (except to Security Pacific or to a subsidiary of Security Pacific which is not an investment company) would, if purchased by nationals or resident of the United States, its territories or possessions, be subject to the Interest Equalization Tax or another tax providing a comparable deterrent to the purchase of Applicant's securities by U.S. nationals or residents in the event that the U.S. Interest Equalization Tax expires, is repealed, or the rate thereof is reduced to zero, and such fact will be prominently indicated on such securities;

(2) Applicant will not issue, without an order of the Commission, any securities (except to Security Pacific or to a subsidiary of Security Pacific which is not an investment company) in the event the U.S. Interest Equalization Tax expires, is repealed or the rate thereof is reduced to zero and such tax is not replaced by another comparable tax;

(3) Applicant will forthwith register with the Commission pursuant to section 8 of the Act in the event that Applicant ceases to be regulated by a banking regulatory agency as indicated in the application and in this notice; and

(4) Applicant will register with the Commission pursuant to Section 8 of the Act in the event that all securities of Applicant, with the exception of debt securities, cease to be held by Security Pacific or by a subsidiary of Security Pacific which is not an investment company.

Section 6(c) of the Act, as here pertinent, authorizes the Commission, by order upon application, conditionally or unconditionally to exempt any person or any class or classes of persons from any provision or provisions of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 26, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-16718 Filed 11-16-71;8:48 am]

[File No. 24D-3065]

UNITED FARMERS AND RANCHERS, INC.

Order Permanently Suspending Regulation A Exemption

NOVEMBER 9, 1971.

I. United Farmers and Ranchers, Inc. (issuer), 4288 Philadelphia Street, Chino, California 91710, a Utah corporation and the general partner, filed with the Commission on March 19, 1971, a notification on Form 1-A and an offering circular relating to a proposed offering of 2,000 units of limited partnership interests at $250 per unit, for an aggregate offering price of $500,000, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) thereof, and Regulation A promulgated thereunder. The officers of the issuer and certain unidentified "NASD members" were designated as persons who would sell the offering. The issuer was to retain 10 percent of the offering price of each unit of limited partnership sold by officers of the issuer as reimbursement for expenses of the offering. The issuer was to pay a commission of 10 percent of the offering price to the participating "NASD members" for each unit of limited partnership sold by them.

II. The Commission issued an order on September 16, 1971, pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, temporarily suspending the exemption. The order alleged that:

(A) The terms and conditions of Regulation A had not been complied with in that:

(1) Item 1 of the issuer's Form 1-A failed to set forth accurately the date of incorporation or organization of the issuer;

(2) Item 2 of the issuer's Form 1-A failed to set forth accurately each affiliate of the issuer, the nature of such affiliation, and each person who owns of record, or is known to own beneficially, 10 percent or more of the outstanding securities of any class of the issuer, and the title and amount owned by each such person;

(3) Item 3 of the issuer's Form 1-A failed to set forth accurately the name and residence address of each director, officer, and promoter of the issuer;

(4) Item 4 of the issuer's Form 1-A failed to set forth accurately the name and address of counsel for the issuer in connection with the proposed offering;

(5) A written consent of Ken Chamberlain, who was named as counsel for the issuer in Item 4 of the issuer's Form 1-A, had not been filed as required by subparagraph (g) of Item 11 of Form 1-A;

(6) The issuer's offering circular failed to state accurately the date of the issuer's incorporation or organization, as required by paragraph 2 of Schedule I;

(7) The issuer's offering circular failed to state the order of priority in which the proceeds of the offering would be used for the respective purposes, as required by paragraph 6(a) of Schedule I;

(8) The issuer's offering circular failed to state the name and residence address of all promoters of the issuer, as required by paragraph 9(a) of Schedule I;

(9) The issuer's offering circular failed to state the percentage of outstanding securities of the issuer which would be held by directors, officers and promoters, as a group, and the percentage of such securities which will be held by the public, if all of the securities being offered are sold, and the respective amounts of cash (including cash expended for property transferred to the issuer) paid therefor by such group and by the public as required by paragraph 9(d) of Schedule I;

(10) The issuer's offering circular failed to contain financial statements of the issuer as required by paragraph 11(a) of Schedule I.

(B) The notification and offering circular contained untrue statements of material facts and omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading, particularly with respect to the following:

(1) The notification and offering circular state that the issuer was incorporated in the State of Utah on March 20, 1971, and February 28, 1971, respectively, whereas, in fact, the issuer was not so incorporated on such dates;

(2) The notification stated that Ken Chamberlain, of Richfield, Utah, is secretary, a director, and 10 percent shareholder of, and counsel for, the issuer, and the offering circular stated that Chamberlain was an officer and director of the issuer, whereas, in fact, Ken Chamberlain was not an officer, director, or shareholder of, or counsel for, the issuer;

(3) The failure to disclose the manner in which the profits and losses of the partnership were to be determined;

(4) The failure to disclose the risks and competition in connection with the business in which the issuer proposed to engage in;

(5) The failure to disclose that Ken Chamberlain had not consented to be named as counsel for the issuer in the notification and offering circular.

(C) The offering would have been made in violation of section 17(a) of the Securities Act of 1933, as amended, by reason of the matters described above.

III. No hearing having been requested by the issuer within 30 days after the order temporarily suspending the exemption of the issuer under Regulation A, the Commission finds that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be permanently suspended.

It is ordered, Pursuant to Rule 261(a), subparagraphs (1), (2) and (3), of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be, and it hereby is, permanently suspended.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-16719 Filed 11-16-71;8:48 am]

TARIFF COMMISSION

[TEA-W-120]

UTICA CUTLERY CO.

Workers' Petition for Determination of Eligibility To Apply for Adjustment Assistance; Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the workers of the Utica Cutlery Co., Utica, N.Y., the U.S. Tariff Commission, on November 11, 1971, instituted an investigation under section 301(c)(2) of the act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with stainless steel table flatware of the type produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such company.

The petitioners have not requested a public hearing. A hearing will be held on request of any other party showing a proper interest in the subject matter of the investigation, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, United States Tariff Commission, Eighth and E Streets NW., Washington, DC, and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

Issued: November 11, 1971.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.71-16720 Filed 11-16-71;8:48 am]

DEPARTMENT OF LABOR

Office of the Secretary

BIBB MANUFACTURING CO.

Notice of Investigation Regarding Certification of Eligibility of Workers To Apply for Adjustment Assistance

The Department of Labor has received a Tariff Commission report containing an affirmative finding under section 301(c)(2) of the Trade Expansion Act of 1962 with respect to its investigation of a petition for determination of eligibility to apply for adjustment assistance filed on behalf of workers of the Bibb Manufacturing Co., Macon, Ga. (TEA-W-112). In view of the report and the responsibilities delegated to the Secretary of Labor under section 8 of Executive Order 11075 (28 F.R. 473), the Acting Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, has instituted an investigation, as provided in 29 CFR 90.5 and this notice. The investigation relates to the determination of whether any of the group of workers covered by the Tariff Commission report should be certified as eligible to apply for adjustment assistance, provided for under title III, chapter 3, of the Trade Expansion Act of 1962, including the determination of related subsidiary subjects and matters, such as the date unemployment or underemployment began or threatened to begin and subdivision of the firm involved to be specified in any certification to be made, as more specifically provided in Subpart B of 29 CFR Part 90.

Interested persons should submit written data, views, or arguments relating to the subjects of investigation to the Director, Office of Foreign Economic Policy, U.S. Department of Labor, Washington, D.C., on or before November 19, 1971.

Signed at Washington, D.C., this 9th day of November 1971.

GLORIA G. VERNON,
Acting Director, Office of Foreign Economic Policy.

[FR Doc.71-16698 Filed 11-16-71;8:46 am]

IDAHO

Notice of Termination of Extended Unemployment Compensation

The Federal-State Extended Unemployment Compensation Act of 1970, title II of Public Law 91-373, establishes a program of extended unemployment compensation which provides for payment to unemployed workers who have received all of the regular compensation to which they are entitled, commencing when unemployment is high (according to indicators set forth in the law) and terminating when unemployment ceases to be high (according to indicators set forth in the law). Pursuant to section 203(b)(2) of the Act, notice is hereby given that H. Fred Garrett, Executive Director of the Idaho Department of Employment has determined that there was a State "off" indicator in Idaho for the week ending October 2, 1971, and that an extended benefit period terminated in the State with the week ending October 23, 1971.

Signed at Washington, D.C., this 11th day of November 1971.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.71-16697 Filed 11-16-71;8:46 am]

INTERSTATE COMMERCE COMMISSION

[Notice 36]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

NOVEMBER 12, 1971.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interest persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-89723 (Deviation No. 23), MISSOURI PACIFIC TRUCK LINES, INC., 210 North 13th Street, St. Louis, MO 63103, filed November 2, 1971. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From East St. Louis, Ill., over Interstate Highway 55 (over Poplar Street Bridge) to St. Louis, Mo., thence over Interstate Highway 55 (U.S. Highway 61 where the interstate highway is incomplete) to Cape Girardeau, Mo., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From East St. Louis, Ill., over Illinois Highway 3 to junction Illinois Highway 146 (east of Cape Girardeau, Mo.), thence over Illinois Highway 146 to the Mississippi River, thence across the Mississippi River to Cape Girardeau, Mo., and return over the same route, limited to service that is auxiliary to or supplemental of, the rail service of the Missouri Pacific Railroad Co.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16781 Filed 11-16-71;8:52 am]

[Notice 90]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

NOVEMBER 12, 1971.

The following publications are governed by the new Special Rule 247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 130045 (Sub-No. 2) (Republication), filed Novmeber 6, 1970, published in the FEDERAL REGISTER issue of December 3, 1970, and republished this issue. Applicant: WM. A. GROUX TOURS, INC., 15 Maple Hill Road, Clifton, NJ 07013. Applicant's representative: L. C. Major, Jr., Suite 301, Tavern Square, 421 King Street, Alexandria, VA 22314. A decision and order of the Commission, Division 1, dated November 3, 1971, and served November 5, 1971, finds; that operation by applicant, at Clifton, N.J., as a broker in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of passengers and their baggage, in all expense special or charter operations, beginning and ending at New York, N.Y., and points in Nassau, Suffolk, and Westchester Counties, N.Y., and points in Bergen, Hudson, Union, Essex, Morris, and Passaic Counties, N.J., and extending to Washington, D.C., restricted to combination sightseeing and religious tours, will be consistent with the public interest and the national transportation policy. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority granted herein, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a license in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate pleading, setting forth in the precise manner in which it has been prejudiced by the expanded grant of authority in this order.

NOTICE OF FILING OF PETITION

No. MC 12711 and No. MC 12711 (Sub-No. 1) (Notice of Filing of Petition for Reinstatement of Authority Contained in Brokage Licenses) filed September 27, 1971. Petitioner: FRANCES KONKOLEWSKI, 2977 South 11th Street, Milwaukee, WI 53215. Petitioner states she is the surviving partner of Leo Konkolewski and Frances Konkolewski who previously held authority under the above licenses to engage in operations as a broker at Milwaukee, Wis., as follows: (1) Under License No. MC 12711, issued November 23, 1959, "Passengers and their baggage, in special or charter operations, between Milwaukee, Wis., and Chicago, Ill."; and (2) under License No. MC 12711 (Sub-No. 1), issued January 31, 1961, "Passengers and their baggage, in special or charter operations, beginning and ending at Milwaukee, Wis., and extending to points in Illinois (except Chicago, Ill.". The above-described authority was revoked pursuant to order of the Commission, Temporary Authorities Board, dated April 17, 1967, and served April 21, 1967. By the instant petition, petitioner as the surviving partner in the above-described partnership requests reinstatement of the previously held brokerage authority. Any interested person desiring to participate may file an original and six copies of his written representations, views, or arguments, in support of, or against the petition within 30 days from

the date of this publication in the FEDERAL REGISTER.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTIONS 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 57568 (Sub-No. 2), filed October 15, 1971. Applicant: D & M BUS CO., a corporation, 146 Northmont Boulevard, Danville, VA 24541. Applicant's representative: James E. Wilson, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage and express and newspapers*, in the same vehicle with passengers, between Danville and Martinsville, Va., over U.S. Highway 58, serving all intermediate points and return over the same route. NOTE: This application is a matter directly related to MC-F-11348, published in the FEDERAL REGISTER issue of October 28, 1971. If a hearing is deemed necessary, applicant does not specify location.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's Special Rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-11344. (Correction) (GILBERT FLEXI-VAN CORP.—Control—GILBERT CARRIER CORP., AND VELTMAN TERMINAL CO.), published in the October 20, 1971, issue of the FEDERAL REGISTER on pages 20322 and 20323. Prior notice should be modified to show NELSON TRUCKING SERVICE, INC., is authorized to transport property in intrastate commerce within the State of Illinois. VELTMAN TERMINAL CO., is a common carrier, pursuant to corrected order dated April 26, 1971 and served November 10, 1971.

No. MC-F-11346. (Correction) (BARBER TRANSPORTATION CO.—PURCHASE (Portion)—UNITED BUCKINGHAM FREIGHT LINES, INC.), published in the October 28, 1971 issue of the FEDERAL REGISTER on page 20723. Prior notice should be modified to show general commodities, with exceptions, as a common carrier, over regular routes, between Martin and Winner, S. Dak., serving certain specified intermediate and off-route points in South Dakota, with restriction, between Rushville, Nebr., and Martin, S. Dak., for operating convenience only, serving no intermediate points, between Martin, S. Dak., and Crawford, Nebr., between Pine Ridge, and Hot Springs, S. Dak., serving all intermediate points and certain specified off-route points in South Dakota, between Dickinson and Bowman, N. Dak., serving certain specified intermediate and off-route points in North Dakota, between Reeder and Hettinger, N. Dak., serving the intermediate point of Bucyrus, N. Dak., between Amidon and Regent, N. Dak., serving the intermediate points of New England and Havelock, N. Dak.

No. MC-F-11363. Authority sought for purchase by O.N.C. MOTOR FREIGHT SYSTEM, 2800 West Bayshore Road, Palo Alto, CA 94303, of a portion of the operating rights of AUZA-HOFFMAN, INC., Post Office Box J J, Flagstaff, AZ 86001, and for acquisition by ALTRAN CORPORATION, and, in turn by CARROLL J. ROUSH, DAVID P. ROUSH, AND DIANE G. ROUSH all of Palo Alto, Calif. 94303, of control of such rights through the purchase. Applicants' representative: Clifford J. Boddington, also of Palo Alto, Calif. 94303. Operating rights sought to be transferred: *General commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, as a *common carrier* over irregular routes, between Flagstaff, Ariz., on the one hand, and, on the other, points in Arizona within the Navajo and Hopi Indian Reservations. Vendee is authorized to operate as a *common carrier* in California, Arizona, Nevada, Oregon and Washington. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11364. Authority sought for control by SNYDER BROS., MOTOR FREIGHT, INC., 363 Stanton Avenue, Akron, OH 44301, of BUSH VAN LINES, INC., 1888 Brown Street, Akron, OH 44301, and for acquisition by ROWE & ASSOCIATES, INC., and in turn, by FRENCH B. ROWE, both of Akron, Ohio 44301, of control of BUSH VAN LINES, INC., through the acquisition by SNYDER BROS., MOTOR FEIGHT, INC. Applicants' attorney: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Operating rights sought to be controlled: Under a certificate of registration, in Docket No. MC-120659 Sub-1, covering the transportation of general commodities, as a common carrier, in interstate commerce, within the State of Ohio. SNYDER BROS., MOTOR FREIGHT, INC., is authorized to operate as a *common carrier* in Ohio, Virgina, Maryland, West Virginia, Pennsylvania, and the District of Columbia. Application has been filed for temporary authority under section 210a(b). NOTE: MC-120659 Sub-2, is a directly related matter.

No. MC-F-11365. Authority sought for continuance in control by DEL SHOEMAKER, a noncarrier, 1984 Oakdale Avenue, West St. Paul, Minn. 55118, of (1) FLEETLINE, INC., and (2) POLAR TRANSIT, INC., both of West St. Paul, Minn. 55118. Applicants' attorney: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Operating rights sought to be controlled: (1) *Meats, meat products, and meat byproducts, dairy products, and articles distributed by meat packinghouses*, as described in appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, and *materials, supplies, and equipment* used in the manufacture and distribution of the commodities specified above, when moving from, to and between the warehouses, plants, or other facilities of meat packinghouses, as a *common carrier* over irregular routes, from Minneapolis, Minn., to Milwaukee, Wis., and Chicago, Ill., from Chicago, Ill., to Minneapolis, Minn.; *meat, meat products, meat byproducts, dairy products and articles distributed by meat packinghouses*, as described in appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except liquid commodities, in bulk, in tank vehicles), between the plantsite of Swift & Co., at Rochelle, Ill., on the one hand, and, on the other, Newport, South St. Paul, St. Paul, Minneapolis, and Minneapolis Transfer, Minn.; *meat, meat products, and meat byproducts, and articles distributed by meat packinghouses* (except hides and commodities in bulk, in tank vehicles), as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite of Armour and Co. near Sterling, Ill., to points in Minnesota, North Dakota, South Dakota, Wisconsin, and the Upper Peninsula of Michigan, from the plantsite of Armour and Co., near Worthington, Minn., to points in Illinois, Iowa, the Upper Peninsula of Michigan, North Dakota, South Dakota, and Wisconsin; *meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite of Wilson & Co., Inc., at Monmouth, Ill., to points in Iowa, Minnesota, North Dakota, South Dakota, Wisconsin, and the Upper Peninsula of Michigan, with restrictions; *dairy products, eggs, poultry, and packinghouse products and supplies*, between Newport, South St. Paul, St. Paul, Minneapolis and Minnesota Transfer, Minn., on the one hand, and, on the other, Fairmount, N. Dak., East Chicago, Ind., points in Minnesota, Wisconsin, the Upper Peninsula of Michigan, and that part of Illinois on and north of U.S. Highway 20;

General commodities, between Newport, Minn., on the one hand, and, on the other, Minneapolis and St. Paul, Minn.; *frozen meats*, from the storage facilities utilized by Armour and Co. at or near Worthington and Mankato, Minn., to points in Wisconsin, Iowa, Minnesota, North Dakota, South Dakota, and the Upper Peninsula of Michigan, with restrictions; *wood charcoal and charcoal briquettes*, from Marquette, Mich., to Chippewa Falls, Eau Claire, and La Crosse, Wis., and to points in Minnesota, and (2) in pending docket No. MC-134513, certificate not yet issued. DEL SHOEMAKER holds no authority from this Commission. However, he is affiliated with BONNY MOTOR EXPRESS, INC., Route 460, Windsor, Va. 23487, which is

authorized to operate as a *common carrier* in North Carolina, New York, Virginia, Pennsylvania, Maryland, South Carolina, Georgia, New Jersey, Delaware, Illinois, Indiana, Iowa, Ohio, Minnesota, Missouri, Nebraska, Wisconsin, Michigan, Kansas, Tennessee, West Virginia, Massachusetts, Rhode Island, Connecticut, Florida, Kentucky, Colorado, North Dakota, South Dakota, Alabama, Texas, Mississippi, Maine, New Hampshire, Arkansas, Vermont, Louisiana, Oklahoma, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11366. Authority sought for control by DONALD P. PAFFILE, doing business as PAFFILE TRUCK LINES, 2906 29th Street, Lewiston, ID 83501, of (1) ZIRBEL TRANSPORT, INC., and (2) WOOD BYPRODUCTS, INC., both of 420 28th Street, North Lewiston, ID 83501. Applicants' attorney: George R. LaBissoniere, 1424 Washington Building, Seattle, Wash. 98101. Operating rights sought to be controlled: (1) *Logging, mining, and contractors' materials, supplies, and equipment, petroleum products in containers, agricultural commodities, farm machinery, and tractors*, as a *common carrier* over irregular routes, between points in Idaho within 100 miles of Lewiston, Idaho, including Lewiston, and points in Washington within 40 miles of Lewiston, on the one hand, and, on the other, points in Washington west of the Cascade Mountains and points in Oregon, with restriction, between points in that part of Washington east of the Cascade Mountains, on the one hand, and, on the other, Lewiston, Idaho, and points in Idaho within 150 miles of Lewiston; *household goods* as defined by the Commission, between Lewiston, Idaho, and points in Idaho within 150 miles of Lewiston, on the one hand, and, on the other, points in Idaho, and points in that part of Washington east of the Cascade Mountains; *forest service supplies*, between Lewiston, Idaho, and Spokane, Wash., on the one hand, and, on the other, points in Clearwater and Idaho Counties, Idaho, within 150 miles of Lewiston;

Explosives, between Lewiston, Idaho, on the one hand, and, on the other, points in Idaho and Washington within 150 miles of Lewiston; *wines and liquors*, between Lewiston, Idaho, on the one hand, and, on the other, Boise, Twin Falls, Idaho Falls, and Pocatello, Idaho; *pulpboard*, from Lewiston, Idaho, and points within 1 mile thereof, to Sunnyside, Wash.; *liquid aluminum sulphate* in bulk, in tank vehicles, from North Portland, Oreg., to Lewiston, Idaho, and points within 1 mile thereof; *sawdust briquettes*, from Lewiston, Idaho, to points in Idaho and Washington within 150 miles of Lewiston, other than those within 10 miles of Lewiston, from Lewiston, Idaho, to points in Washington and Oregon; *clay*, from Bovill, Latah County, Idaho, to certain specified points in Oregon, with restriction; *scrap automobiles and parts, and used automobile parts*, from points in Idaho to points in Multnomah and Washington Counties, Oreg., and points in Pierce, King, and Spokane Counties, Wash., from points in Asotin, Garfield, Whitman, Columbia, Walla Walla, Benton, and Franklin Counties, Wash., to points in Multnomah and Washington Counties, Oreg.; and (2) *wood chips* and *sawdust*, between points in certain specified counties in Idaho, Oregon, and Washington. DONALD P. PAFFILE, doing business as PAFFILE TRUCK LINES, is authorized to operate as a *common carrier* in Idaho, Montana, Oregon, and Washington. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16782 Filed 11-16-71;8:52 am]

[Notice 783]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 12, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73143. By order of November 10, 1971, the Motor Carrier Board approved the transfer to Halberg Construction & Supply, Inc., Cherry, Minn., of certificate No. MC-118569 (Sub-No. 2), issued October 24, 1971, to Dale Kirscher, doing business as Kirscher Bulk Transport, Virginia, Minn., authorizing the transportation of: Cement, from a plant-site at Superior, Wis., to specified points in Minnesota, Robert F. Berger, attorney, 200 First National Bank Building, Virginia, Minn.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16783 Filed 11-16-71;8:52 am]

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

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PART II

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Labor-Management Relations

■

LABOR RELATIONS

Notice of Proposed Rule Making

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Labor-Management Relations

[29 CFR Parts 201, 202, 203, 204, 205, 206]

LABOR RELATIONS

Notice of Proposed Rule Making

Pursuant to sections 6(d) and 18(d) of Executive Order 11491 (34 F.R. 17605), as amended by Executive Order 11616 (36 F.R. 17319), notice is hereby given that the Assistant Secretary of Labor for Labor-Management Relations proposes to amend Parts 201, 202, 203, 204, and 205 (redesignated as Part 206 herein) of Subtitle A of Title 29 of the Code of Federal Regulations as set forth below. These parts prescribe substance and procedures relating to unfair labor practices, representational matters and standards of conduct for labor organizations. It also is proposed, pursuant to sections 6(d) and 13(d) of Executive Order 11491, as amended, to adopt those rules contained in Part 205 (as designated herein and set forth below) governing the procedures to be followed where a determination by the Assistant Secretary is sought with respect to questions as to the grievability and/or arbitrability of grievances under existing negotiated agreements.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed rule making to Mr. W. J. Usery, Jr., Assistant Secretary for Labor-Management Relations, Department of Labor, Washington, D.C. 20210, within thirty (30) days after publication of this notice in the FEDERAL REGISTER. All written materials or suggestions submitted in response to this notice of proposed rule making will be available for public inspection at the U.S. Department of Labor, 14th Street and Constitution Avenue, Washington, DC, during regular business hours.

1. The table of contents of Chapter II would be revised to read as follows:

Part
201 General.
202 Representation proceedings.
203 Unfair labor practice proceedings.
204 Standards of conduct for labor organizations.
205 Grievability and arbitrability proceedings.
206 Miscellaneous.

2. Part 201 would be revised to read as follows:

PART 201—GENERAL

Subpart A—Purpose and Scope

Sec.
201.1 Purpose and scope.

Subpart B—Meanings of Terms in This Chapter

Sec.
201.10 Order.
201.11 Agency, employee, labor organization, Council, Panel, Assistant Secretary.
201.12 National consultation rights, exclusive recognition, unfair labor practices.
201.13 Standards of conduct for labor organizations.
201.14 Activity and primary national subdivision of an agency.
201.15 Regional Administrator.
201.16 Area Administrator.
201.17 Director.
201.18 Hearing Officer.
201.19 Hearing Examiner.
201.20 Chief Hearing Examiner.
201.21 Party.
201.22 Intervenor.
201.23 Certification.
201.24 Appropriate unit.
201.25 Secret ballot.
201.26 Showing of interest.

AUTHORITY: The provisions of this part 201 issued under secs. 6, 18, E.O. 11491, 34 F.R. 17605, as amended by E.O. 11616, 36 F.R. 17319.

Subpart A—Purpose and Scope

§ 201.1 Purpose and scope.

The regulations contained in this chapter are designated to implement the provisions of sections 6, 9, 10, 13, 18, and 19 of Executive Order 11491 of October 29, 1969, "Labor-Management Relations in the Federal Service," as amended by Executive Order 11616 of August 26, 1971, "Labor-Management Relations in the Federal Service" (36 F.R. 17319). They prescribe procedures and basic principles which the Assistant Secretary of Labor for Labor-Management Relations will utilize in:

(a) Deciding questions as to the appropriate unit for the purpose of exclusive recognition and related issues submitted for his consideration;

(b) Supervising elections to determine whether a labor organization is the choice of a majority of the employees in an appropriate unit as their exclusive representative, and certifying the results;

(c) Deciding questions as to eligibility of labor organizations for national consultation rights under criteria prescribed by the Federal Labor Relations Council;

(d) Effectuating the standards of conduct required of labor organizations by section 18 of the order;

(e) Deciding complaints of alleged unfair labor practices, and alleged violations of the standards of conduct for labor organizations;

(f) Deciding questions as to whether a grievance is subject to a negotiated grievance procedure or subject to arbitration under an agreement.

Subpart B—Meanings of Terms in This Chapter

As used in this chapter:

§ 201.10 Order.

"Order" means Executive Order 11491, entitled "Labor-Management Relations in the Federal Service," as amended by Executive Order 11616.

§ 201.11 Agency, employee, labor organization, Council, Panel, Assistant Secretary.

"Agency," "employee," labor organization," "Council," "Panel," and "Assistant Secretary" have the meanings set forth in section 2 of the order.

§ 201.12 National consultation rights, exclusive recognition, unfair labor practices.

"National consultation rights," "exclusive recognition," and "unfair labor practices" have the meanings as set forth in sections 9, 10, and 19, respectively, of the order.

§ 201.13 Standards of conduct for labor organizations.

"Standards of conduct for labor organizations" shall have the meaning as set forth in section 18 of the order, as amplified in Part 204 of this chapter.

§ 201.14 Activity and primary national subdivision of an agency.

"Activity" means any facility, geographical subdivision, or combination thereof, of any agency as that term is defined in section 2 of the order. "Primary national subdivision" of an agency has the meaning set forth in the Council's regulations.

§ 201.15 Regional Administrator.

"Regional Administrator" means the Administrator of a region of the Labor-Management Services Administration, with geographical boundaries as fixed by the Assistant Secretary.

§ 201.16 Area Administrator.

"Area Administrator" means the Administrator of an area office within a region of the Labor-Management Services Administration, with geographical boundaries as fixed by the Assistant Secretary.

§ 201.17 Director.

"Director" means the Director of the Office of Labor-Management and Welfare-Pension Reports.

§ 201.18 Hearing Officer.

"Hearing Officer" means the individual designated to conduct a hearing involving a question concerning the appropriateness of a unit or such other representation matters as may be assigned.

§ 201.19 Hearing Examiner.

"Hearing Examiner" means the Chief Hearing Examiner or an individual designated by the Chief Hearing Examiner to conduct a hearing in cases under sections 13, 18, and 19 of the order and such other matters as may be assigned.

§ 201.20 Chief Hearing Examiner.

"Chief Hearing Examiner" means the Chief Hearing Examiner, U.S. Department of Labor, Washington, D.C. 20210.

§ 201.21 Party.

"Party" means any person, employee, group of employees, labor organization, agency, or activity: (a) Filing a complaint, petition, request, or application; (b) named in a complaint, petition, request or application; or (c) whose intervention in a proceeding has been permitted or directed by the Assistant Secretary, Regional Administrator, Area Administrator, Director, Hearing Officer, Chief Hearing Examiner, or Hearing Examiner, as the case may be.

§ 201.22 Intervenor.

"Intervenor" means a party in a proceeding whose intervention has been permitted or directed by the Assistant Secretary, Regional Administrator, Area Administrator, Director, Hearing Officer, Chief Hearing Examiner, or Hearing Examiner, as the case may be.

§ 201.23 Certification.

"Certification" means the determination by the Assistant Secretary, Regional Administrator, or Area Administrator of the results of an election held under the order and the regulations in this chapter, including a certification of representative for exclusive recognition under the order.

§ 201.24 Appropriate unit.

"Appropriate unit" means that grouping of employees found to be appropriate for purposes of exclusive recognition consistent with the provisions of sections 10 (b) and (c) of the order.

§ 201.25 Secret ballot.

"Secret ballot" means the expression by ballot, voting machine or otherwise, but in no event by proxy, of a choice with respect to any election or vote taken upon any matter, which is cast in such a manner that the person expressing such choice cannot be identified with the choice expressed, except in that instance in which any determinative challenged ballot is opened.

§ 201.26 Showing of interest.

"Showing of interest" means evidence of membership in a labor organization; employees' written, signed, and dated authorization cards or petitions authorizing a labor organization to represent them for purposes of exclusive recognition; executed allotment of dues forms; current dues records; and existing or recently expired agreement; current exclusive recognition or certification; employees' signed and dated petitions or cards indicating that they no longer desire to be represented for the purposes of exclusive recognition by the currently recognized or certified labor organization, or other evidence approved by the Assistant Secretary.

3. Part 202 would be revised to read as follows:

PART 202—REPRESENTATION PROCEEDINGS

Sec.
202.1 Who may file petitions.
202.2 Contents of petition; procedures for national consultation rights; filing and service of petition; challenges to petition.
202.3 Timeliness of petition.
202.4 Investigation of petition and posting of notice of petition.
202.5 Intervention.
202.6 Withdrawal, dismissal, or deferral of petitions; consolidation of cases; denial of intervention.
202.7 Agreement for consent election.
202.8 Notice of hearing.
202.9 Conduct of hearing.
202.10 Motions.
202.11 Rights of the parties.
202.12 Duties and powers of the Hearing Officer.
202.13 Objections to conduct of hearing.
202.14 Filing of briefs.
202.15 Transfer of case to Assistant Secretary; contents of record.
202.16 Decision.
202.17 Election procedure.
202.18 Challenged ballots.
202.19 Tally of ballots.
202.20 Certifications; objections to election; determination on objections and challenged ballots.
202.21 Runoff elections.
202.22 Inconclusive elections.

AUTHORITY: The provisions of this Part 202 issued under sec. 6, E.O. 11491, 34 F.R. 17605, as amended by E.O. 11616, 36 F.R. 17319.

§ 202.1 Who may file petitions.

(a) A petition for exclusive recognition may be filed by a labor organization requesting an election to determine whether it should be recognized as the exclusive representative of employees of an agency in an appropriate unit or should replace another labor organization as the exclusive representative of employees in an appropriate unit.

(b) A petition for an election to determine if a labor organization should cease to be the exclusive representative because it does not represent a majority of employees in an appropriate unit may be filed by an agency or by any employee(s) or any individual acting on their behalf.

(c) A petition for clarification of an existing unit or amendment of recognition or certification may be filed by an agency or labor organization which is currently recognized by the agency as an exclusive representative.

(d) A petition for a determination as to the eligibility of a labor organization for national consultation rights under criteria prescribed by the Council may be filed by an agency or labor organization.

§ 202.2 Contents of petition; procedures for national consultation rights; filing and service of petition; challenges to petition.

(a) *Petition for exclusive recognition.* A petition by a labor organization for exclusive recognition shall be submitted on a form prescribed by the Assistant Secretary and shall contain the following:

(1) The name of the agency and the activity involved, their addresses, telephone numbers, and the persons to contact and their titles, if known;

(2) A description of the unit appropriate or claimed to be appropriate for purposes of exclusive representation by the petitioner. Such description shall indicate generally the geographic locations and the classifications of employees sought to be included and those sought to be excluded and the approximate number of employees in the unit claimed to be appropriate;

(3) Name, address, and telephone number of the recognized or certified representative, if any, and the date of such recognition or certification and the expiration date of any applicable agreement, if known to the petitioner;

(4) Names, addresses, and telephone numbers of any other interested labor organizations, if known to the petitioners;

(5) Name and affiliation, if any, of the petitioner and its address and telephone number;

(6) A statement that the petitioner has submitted to the activity a current roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives;

(7) A declaration by the person signing the petition, under the penalties of the Criminal Code (18 U.S.C. 1001) that its contents are true and correct to the best of his knowledge and belief;

(8) The signature of the petitioner's representative, including his title and telephone number;

(9) The petition shall be accompanied by a showing of interest of not less than thirty (30 percent) percent of the employees in the unit claimed to be appropriate and an alphabetical list of names constituting such showing;

(10) A statement that the petitioner is in full compliance with the requirements of the order and the regulations under this chapter.

(b) *Petition for an election to determine if a labor organization should cease to be the exclusive representative.* (1) A petition by an agency shall contain the information set forth in paragraph (a) of this section except subparagraphs (6), (9), and (10) thereof, and a statement that the agency or activity has a good faith doubt that the currently recognized or certified labor organization represents a majority of the employees in the unit. Such a statement must contain a detailed explanation of the reasons supporting the good faith doubt;

(2) A petition by employees or an individual acting on behalf of employees shall contain the information set forth in paragraph (a) of this section, except subparagraphs (6), (9), and (10) thereof, and it shall be accompanied by a showing of interest of not less than thirty (30 percent) percent of the employees in the unit indicating that the employees no longer desire to be represented for the purpose of exclusive recognition by the currently recognized or certified labor organization and an alphabetical list of names constituting such showing.

(c) *Petition for clarification of unit or amendment of recognition or certification.* A petition for clarification of unit or amendment of recognition or certification shall contain the information required by paragraph (a) of this section, except subparagraphs (2), (6), (9), and (10), and shall set forth:

(1) A description of the present unit and the date of recognition or certification;

(2) The proposed clarification or amendment of the recognition or certification; and

(3) A statement of reasons why the proposed clarification or amendment is requested.

(d) *Petition and procedures for national consultation rights.* (1) A petition for national consultation rights shall

contain the information required in subparagraphs (4), (5), (7), and (8) of paragraph (a) of this section, and shall set forth:

(i) The name, address, and telephone number of the agency or primary national subdivision in which the petitioner seeks to obtain or retain national consultation rights, and the persons to contact and their titles, if known;

(ii) A showing that petitioner holds adequate exclusive recognition as required in 5 CFR 2412.2;

(iii) A statement that such showing has been made to and rejected by the agency or primary national subdivision, together with a statement of the reasons for rejection, if any, offered by that agency or primary national subdivision.

(2) Notwithstanding any other regulations in this part, the following regulations govern petitions filed under this subsection:

(i) An original and four copies of a petition shall be filed with the Area Administrator for the area wherein the agency headquarters or the headquarters of the agency's primary national subdivision are located, within 30 days following refusal by the agency or primary national subdivision to accord or continue to accord national consultation rights pursuant to a request under 5 CFR 2412.2;

(ii) Within 15 days following the receipt of a copy of the petition, the agency or primary national subdivision shall file a response thereto with the Area Administrator raising any matter which is relevant to the petition.

(iii) The Area Administrator shall make such investigation as he deems necessary and report the essential facts and positions of the parties to the Regional Administrator. If the Regional Administrator determines after an investigation, that a labor organization does not qualify for national consultation rights or the petition is not otherwise actionable, he may request the party filing such a petition to withdraw the petition or in the absence of such withdrawal within a reasonable time, he may dismiss the petition subject to review by the Assistant Secretary pursuant to § 202.6(d). The Regional Administrator, if appropriate, may cause a notice of hearing to issue to all interested parties where substantial factual issues exist warranting a hearing. Hearings shall be conducted by Hearing Examiners in accordance with §§ 203.10 through 203.24 of this chapter with the exception of § 203.14 of this chapter. After considering the Hearing Examiner's report and recommendations, the record, and any exceptions filed thereto, the Assistant Secretary shall issue his decision.

(iv) An agency or primary national subdivision, shall provide notice of its intention to terminate national consultation rights not less than 15 days prior to the intended termination date. A labor organization after receiving such notice, but prior to the intended termination date, may duly file a petition under this section and thereby cause to be stayed further action by the agency or primary national subdivision pending ultimate review and decision by the Assistant Secretary. An agency or primary national subdivision may terminate national consultation rights if no petition has been filed during the notice period prescribed herein.

(e) *Filing and service of petition and copies.* (1) An original and four copies of a petition shall be filed with the Area Administrator for the area in which the unit exists, or, if the claimed unit exists in two or more areas the petition shall be filed with the Area Administrator for the area in which the headquarters of the activity is located.

(2) The petitioner shall supply with its petition two (2) copies of a statement of any other relevant facts and of all correspondence relating to the question concerning representation.

(3) Simultaneously with the filing of a petition, copies of the petition together with the attachments referred to in paragraph (2) above shall be served by the petitioner on all known interested parties, and a written statement of such services shall be filed with the Area Administrator. The showing of interest submitted with the petition shall not be furnished to any of the parties or organizations listed in the petition.

(f) *Adequacy and validity of showing of interest.* The Area Administrator shall determine the adequacy of the showing of interest administratively, and such decision shall be final and not subject to collateral attack at a unit or representation hearing or review by the Assistant Secretary. Any party challenging the validity of showing of interest of the petitioner or of an intervenor must file its challenge with the Area Administrator, with respect to the petitioner, within ten (10) days after the initial date of posting of the notice of petition as provided in § 202.4(b), and with respect to any intervenor, within ten (10) days of service of a copy of the request for intervention, and support the challenge with evidence including signed statements of employees and any other written evidence. The Area Administrator shall investigate the challenge and report his findings to the Regional Administrator who shall take such action as he deems appropriate which shall be final and not subject to review by the Assistant Secretary.

(g) *Challenge to status of a labor organization.* Any party challenging the status of a labor organization under the order must file its challenge with the Area Administrator and support the challenge with evidence. With respect to the petitioner, such a challenge must be filed within ten (10) days after the initial date of posting of the notice of petition as provided in § 202.4(b), and with respect to an intervenor, within ten (10) days of service of a copy of the request for intervention. The Area Administrator shall investigate the challenge and report his findings to the Regional Administrator who shall take such action as he deems appropriate, which shall be final and not subject to review by the Assistant Secretary, unless the petition is dismissed or the intervention is denied.

§ 202.3 Timeliness of petition.

(a) When there is no certified exclusive representative of the employees, a petition will be considered timely filed provided the petition is not for the same unit or subdivision thereof, in which a valid election has been held within the preceding twelve (12) month period.

(b) When there is a certified exclusive representative of the employees, a petition will not be considered timely if filed within twelve (12) months after the certification as the exclusive representative of employees in an appropriate unit, unless a signed agreement covering the claimed unit has been entered into in which case paragraph (c) of this section shall be applicable.

(c) When there is a signed agreement covering a claimed unit, a petition for exclusive recognition or other election petition will not be considered timely if filed during the period within which that agreement is in force or awaiting approval at a higher management level, provided that approval is given within thirty (30) days of the execution of the agreement, but not to exceed an agreement period of two (2) years, unless (1) a petition is filed not more than ninety (90) days and not less than sixty (60) days prior to the terminal date of such agreement or two (2) years, whichever is earlier, or (2) unusual circumstances exist which will substantially affect the unit or the majority representation.

(d) When a challenge to the representation status of an incumbent exclusive representative has been filed not more than ninety (90) days and not less than sixty (60) days prior to the terminal date of an agreement, and such challenge is subsequently dismissed or withdrawn less than sixty (60) days prior to the terminal date of such agreement or any time thereafter, the activity and incumbent exclusive representative shall be afforded a ninety (90) day period free from rival claim within which to consummate an agreement.

(e) When an extension of agreement has been signed more than sixty (60) days before its terminal date, such extension shall not serve as a basis for the denial of a petition submitted in accordance with the time limitations provided herein.

(f) A petitioner who withdraws a petition after the issuance of a notice of hearing and before the close of the hearing, or after the approval of an agreement for a consent election, shall be barred from filing another petition for the same unit or any subdivision thereof for six (6) months.

§ 202.4 Investigation of petition and posting of notice of petition.

(a) Upon the filing of a petition the Area Administrator shall make such investigation as he deems necessary.

(b) Upon the request of the Area Administrator, after the filing of a petition, the activity shall post copies of a notice to all employees in places where notices are normally posted affecting the employees in the unit involved in the proceeding.

(c) Such notice shall set forth: (1) The name of the petitioner, (2) the description of the unit involved, and (3) a statement that all interested parties are to advise the Area Administrator in writing of their interest within ten (10) days from the date of posting such notice.

(d) The notice shall remain posted for a period of ten (10) days. The notice shall be posted conspicuously and shall not be covered by other material, altered or defaced.

(e) The activity shall furnish the Area Administrator and all known interested parties with the following: (1) names, addresses, and telephone numbers of all labor organizations known to represent any of the employees in the claimed unit; (2) copies of all relevant correspondence; (3) copies of existing or recently expired agreements covering any of the employees described in the petition; (4) a current alphabetized list of employees included in the unit described in the petition, together with their job classifications; and (5) a separate, current alphabetized list of employees described in the petition as excluded from the unit, together with their job classifications.

(f) The parties are expected to meet as soon as possible after the expiration of the ten (10) days posting period of the notice of petition as provided in § 202.4(b) and use their best efforts to secure agreement on an appropriate unit, including, where appropriate, consulting with higher authority within the agency and the organizations involved.

(g) Within thirty (30) days following the receipt of a copy of the petition, unless an extension of time has been granted by the Area Administrator, the activity shall file a response thereto with the Area Administrator raising any matter which is relevant to the petition. A copy of such response shall be served simultaneously on the parties and a statement of such service shall be filed with the Area Administrator.

(h) The Area Administrator shall report the essential facts and positions of the parties to the Regional Administrator.

(i) The Regional Administrator shall take appropriate measures which, among other things, may consist of one of the following: (1) The approval of a withdrawal request; (2) the dismissal of the petition; (3) direction of an election in an approved, agreed-upon appropriate unit; or (4) the issuance of a notice of hearing.

(j) The Regional Administrator may issue a clarification of unit decision, or cause the Area Administrator to issue an amendment of recognition or certification. A party may obtain a review of such action of the Regional Administrator by filing a request for review with the Assistant Secretary within ten (10) days of service of the notice of such action. Copies of the request for review shall be served simultaneously on the Regional Administrator and the other parties and a statement of such service shall be filed with the request for review. Requests for an extension of time shall be in writing and received by the Assistant Secretary not later than three (3) days before the date the request for review is due. The request for review shall contain a complete statement setting forth facts and reasons upon which the request is based.

§ 202.5 Intervention.

(a) No labor organization will be permitted to intervene in any proceeding pursuant to this part unless it has submitted a showing of interest of ten (10%) percent or more of the employees in the unit involved in the petition together with an alphabetical list of names constituting such showing, or has submitted a current or recently expired agreement with the activity covering any of the employees involved, or is the currently recognized or certified exclusive representative of any of the employees involved.

(b) A labor organization seeking exclusive recognition in a unit different from the unit petitioned for, and which includes any or all of the employees in the unit petitioned for, must file a petition with the Area Administrator supported by a showing of interest of thirty (30%) percent or more of the employees in the vided in § 202.4(b) unless good cause is unit it claims to be appropriate within ten (10) days after the initial date of posting of the notice of petition as provided in § 202.4(b) unless good cause is shown for extending the period.

(c) No labor organization may participate to any extent in any representation proceeding unless it has notified the Area Administrator in writing, accompanied by its showing of interest as specified in § 202.5(a), of its desire to intervene within ten (10) days after the initial date of posting of the notice of petition as provided in § 202.4(b) unless good cause is shown for extending the period. Simultaneously with the filing of a request for intervention, copies of such request, excluding the showing of interest, shall be served on all known interested parties, and a written statement of such service shall be filed with the Area Administrator.

(d) Any labor organization intervening must supply a statement to the Area Administrator that it is in full compliance with the order and these regulations and that it has submitted to the activity a current roster of its officers and representatives, a copy of its constitution and bylaws and a statement of its objectives.

§ 202.6 Withdrawal, dismissal, or deferral of petitions; consolidation of cases; denial of intervention.

(a) If the Regional Administrator determines after an investigation that the petition has not been timely filed, the claimed unit is not appropriate, the petitioner has not made a sufficient showing of interest, the petition is not otherwise actionable, or an intervention is not appropriate, he may request the petitioner or intervenor to withdraw the petition or the intervention or, in the absence of such withdrawal within a reasonable period of time, he may dismiss the petition or deny the request for intervention.

(b) If the Regional Administrator determines, after investigation, that a valid issue has been raised by a challenge under § 202.2 (f) and (g), he may take such action as he deems appropriate including a request to the petitioner to withdraw the petition, dismissal of the petition, denial of the request for intervention, deferral of action upon the petition or request for intervention until such time as those issues have been resolved pursuant to this part, or consolidation of such issues with the representation matter for resolution of all issues.

(c) If the Regional Administrator dismisses the petition or denies the request for intervention, he shall furnish the petitioner or the party requesting intervention with a written statement of the grounds for the dismissal or the denial, sending a copy of such statement to the activity, and to the petitioner and any intervenors, as appropriate.

(d) The petitioner or party requesting intervention may obtain a review of such dismissal or denial by filing a request for review with the Assistant Secretary within ten (10) days of service of the notice of such action, except as otherwise provided in § 202.2(f). Copies of the request for review shall be served on the Regional Administrator and the other parties, and a statement of service shall be filed with the request for review. Requests for an extension of time shall be in writing and received by the Assistant Secretary not later than three (3) days before the date the request for review is due. The request for review shall contain a complete statement setting forth facts and reasons upon which the request is based.

§ 202.7 Agreement for consent election.

(a) Subsequent to the filing of a petition and after expiration of the ten (10) day posting period of the notice of petition as provided in § 202.4(b), an activity, petitioner and any intervenors who have complied with the requirements set forth in § 202.5 and paragraph (e) of this section may agree that a secret ballot election shall be conducted and such agreement shall be filed with the Area Administrator. Any qualified intervenor who refuses to sign an agreement for a consent election may express his objections to the agreement in writing to the Area Administrator. The Area Administrator, after careful consideration of such objections, may approve the agreement or take such other action as he deems appropriate. If the Area Administrator approves the agreement, the election shall be conducted by the agency or activity, as appropriate, under the supervision of the Area Administrator, in accordance with § 202.17, among the employees in the agreed-upon appropriate unit to determine whether the employees desire to be represented for purposes of exclusive recognition by any or none of the labor organizations involved.

(b) The parties shall agree on the eligibility period for participation in the election, the date(s), hour(s), and place(s) of the election, the designations

on the ballot and other related election procedures.

(c) In the event that the parties cannot agree on the matters contained in paragraph (b) of this section, the Area Administrator, acting on behalf of the Assistant Secretary, shall decide these matters.

(d) An intervenor which has met the requirements of § 202.5 shall be permitted to appear on the ballot and be a party to the election.

(e) All parties desiring to participate in an election being conducted pursuant to this section, or § 202.16, must sign an agreement providing for such an election on a form prescribed by the Assistant Secretary.

§ 202.8 Notice of hearing.

The Regional Administrator may cause a notice of hearing to be issued to resolve issues of appropriateness of unit or related matters. A notice of hearing providing for at least ten (10) days notice, except in unusual circumstances, shall be served on all interested parties and shall include:

(a) A statement of the time, place, and nature of the hearing;

(b) A statement of the unit claimed by the petitioner to be appropriate;

(c) The name of the agency or activity, petitioner and intervenors, if any;

(d) A statement of the authority and jurisdiction under which the hearing is to be held.

§ 202.9 Conduct of hearing.

(a) Hearings shall be conducted by a Hearing Officer and shall be open to the public unless otherwise ordered by the Hearing Officer. At any time another Hearing Officer may be substituted for the Hearing Officer previously presiding. It shall be the duty of the Hearing Officer to inquire fully into all matters in issue and the Hearing Officer shall obtain a full and complete record upon which the Assistant Secretary can make an appropriate decision. An official reporter shall make the only official transcript of such proceedings. Copies of the official transcript will not be provided to the parties but may be purchased by arrangement with the official reporter or may be examined in the Area Office during normal working hours.

(b) Hearings under this section are considered investigatory and not adversary. Their purpose is to develop a full and complete factual record. The rules of relevancy and materiality are paramount; there are no burdens of proof and the technical rules of evidence do not apply.

§ 202.10 Motions.

(a) All motions shall be in writing or, if made at the hearing may be stated orally on the record and shall state briefly the order or relief sought and the grounds for such motion. An original and two copies of written motions shall be filed and a copy thereof simultaneously shall be served on the other parties to the proceedings. Motions made prior to the transfer of the case to the Assistant Secretary shall be filed with the Regional Administrator, with a copy to the Area Administrator, except that motions made during the hearing shall be filed with the Hearing Officer. After the transfer of the case to the Assistant Secretary, except as otherwise provided, all motions shall be filed with the Assistant Secretary. Other parties may file responses to such motions within five (5) days of service. The Regional Administrator may rule upon all motions filed with him, causing a copy of said ruling to be served on the parties, or he may refer the motion to the Hearing Officer: *Provided*, That if the Regional Administrator prior to the close of the hearing grants a motion to dismiss the petition, the petitioner may obtain a review of such rulings in the manner prescribed in § 202.6(d). The Hearing Officer shall rule, either orally on the record or in writing, upon all motions filed at the hearing or referred to him as hereinabove provided, except that all motions to dismiss petitions shall be referred for appropriate action at such time as the record is considered by the Regional Administrator or the Assistant Secretary, as the case may be.

(b) Motions to intervene will not be entertained by the Hearing Officer. Intervention will be permitted only to those who have met the requirements set forth in § 202.5.

(c) All motions, rulings, and orders shall become a part of the record. Rulings by the Regional Administrator or by the Hearing Officer shall be considered by the Assistant Secretary when the case is transferred to him for decision.

(d) The right to make motions or to make objections to rulings on motions shall not be deemed waived by participation in the proceeding.

§ 202.11 Rights of the parties.

(a) Any party shall have the right to appear at any hearing in person, by counsel, or by other representative, and any party shall have power to examine and cross-examine witnesses and to introduce into the record documentary and other evidence. Two (2) copies of documentary evidence shall be submitted and a copy furnished simultaneously to the other parties. Stipulations of fact may be introduced in evidence with respect to any issue.

(b) Any party shall be entitled, upon request, to a reasonable period at the close of the hearing for oral argument, which shall be included in the stenographic report of the hearing.

§ 202.12 Duties and powers of the Hearing Officer.

It shall be the duty of the Hearing Officer to inquire fully into the facts as they relate to the matter before him. With respect to cases assigned to him between the time he is designated and the transfer of the case to the Assistant Secretary, the Hearing Officer shall have the authority to:

(a) Grant requests for appearance of witnesses or production of records;

(b) Rule upon offers of proof and receive relevant evidence;

(c) Take or cause depositions to be taken whenever the ends of justice would be served thereby;

(d) Limit lines of questioning or testimony which are immaterial, irrelevant or unduly repetitious;

(e) Regulate the course of the hearing and, if appropriate, exclude from the hearing persons who engage in misconduct;

(f) Strike all related testimony of witnesses refusing to answer any questions ruled to be proper;

(g) Hold conferences for the settlement or simplification of the issues by consent of the parties or upon his own motion;

(h) Dispose of procedural requests, motions, or similar matters which shall be made part of the record of the proceeding, including motions referred to the Hearing Officer by the Regional Administrator and motions to amend petitions;

(i) Examine and cross-examine witnesses and to introduce into the record documentary or other evidence;

(j) Request the parties at any time during the hearing to state their respective positions concerning any issue in the case or theory in support thereof;

(k) Continue the hearing from day-to-day, or adjourn it to a later date or to a different place, by announcement thereof at the hearing or by other appropriate notice;

(l) Correct or approve proposed corrections of the official transcript, when deemed necessary;

(m) Take any other action necessary under the foregoing and not prohibited by these regulations.

§ 202.13 Objections to conduct of hearing.

Any objection to the introduction of evidence may be stated orally or in writing and shall be accompanied by a short statement of the grounds of such objection, and included in the record. No such objection shall be deemed waived by further participation in the hearing. Automatic exception will be allowed to all adverse rulings.

§ 202.14 Filing of briefs.

Any party desiring to file a brief with the Assistant Secretary shall file the original and two (2) copies within seven (7) days after the close of the hearing provided, however, that prior to the close of the hearing and for good cause, the Hearing Officer may allow time not to exceed fourteen (14) additional days for the filing of briefs with the Assistant Secretary. Copies thereof shall be served simultaneously on all other parties to the proceeding. Requests for additional time in which to file a brief under authority of this section not addressed to the Hearing Officer during the hearing shall be made to the Regional Administrator, in writing, and copies thereof shall be served simultaneously on the other parties. Requests for extension of time shall be in writing and received not later than three (3) days before the date such briefs are due. No reply brief

may be filed except by special permission of the Assistant Secretary.

§ 202.15 Transfer of case to Assistant Secretary; contents of record.

Upon the close of the hearing the case is transferred automatically to the Assistant Secretary. The record of the proceeding shall include the petition, notice of hearing, service sheet, motions, rulings, orders, official transcript of the hearing, stipulations, objections, depositions, exhibits, documentary evidence, and any briefs or other documents submitted by the parties.

§ 202.16 Decision.

The Assistant Secretary will issue a decision determining the appropriate unit, directing an election or dismissing the petition, or making disposition of any other matters before him.

§ 202.17 Election procedure.

This section governs all elections conducted under the supervision of an Area Administrator, pursuant to § 202.7 or § 202.16, which shall be conducted in accordance with the Procedural Guide for Conduct of Elections issued by the Assistant Secretary.

(a) Appropriate notices of election shall be posted by the activity. Such notices shall set forth the details and procedures for the election, the appropriate unit, the eligibility period, the date(s), hour(s) and place(s) of the election and shall contain a sample ballot.

(b) The reproduction of any document purporting to be a copy of the official ballot, other than one completely unaltered in form and content and clearly marked "sample" on its face, which suggests either directly or indirectly to employees that the Assistant Secretary endorses a particular choice, may constitute grounds for setting aside an election upon objections properly filed.

(c) All elections shall be by secret ballot. An exclusive representative shall be chosen by a majority of the valid ballots cast.

(d) Whenever two or more labor organizations are included as choices in an election, any intervening labor organization may request, in writing, the Area Administrator to remove its name from the ballot. The request must be received not later than seven (7) days before the date of the election. Such request shall be subject to the approval of the Area Administrator, whose decision shall be final: *Provided, however*, That in a proceeding involving a petition filed under § 202.2(b) an organization currently recognized or certified may not have its name removed from the ballot without giving the aforementioned notice in writing to all parties and the Area Administrator, disclaiming any representation interest among the employees in the unit.

(e) Any party may be represented at the polling place(s) by observers of his own selection, subject to such limitations as the Area Administrator may prescribe.

§ 202.18 Challenged ballots.

Any party or the representative of the Assistant Secretary may challenge, for good cause, the eligibility of any person to participate in the election. The ballots of such challenged persons shall be impounded.

§ 202.19 Tally of ballots.

Upon the conclusion of the election, the Area Administrator shall cause to be furnished to the parties a tally of ballots.

§ 202.20 Certifications; objections to election; determination on objections and challenged ballots.

(a) The Area Administrator shall issue to the parties a certification of the results of the election, or a certification of representative, where appropriate: *Provided*, That no objections are filed within the time limit set forth below; the challenged ballots are insufficient in number to affect the results of the election; and no runoff or rerun election is to be held.

(b) Within five (5) days after the tally of ballots has been furnished, any party may file with the Area Administrator an original and four (4) copies of objections to the procedural conduct of the election, or to conduct which may have improperly affected the results of the election, supported by a clear and concise statement of the reason therefor. Such filing must be timely whether or not the challenged ballots are sufficient in number to affect the results of the election. Within ten (10) days of the filing of the objections, unless an extension of time has been granted by the Area Administrator, the objecting party shall furnish the Area Administrator with evidence, including signed statements, documentary evidence, and other materials supporting the objections. The objecting party shall bear the burden of proof at all stages of the proceedings, regarding all matters alleged in its objections. Simultaneously with the filing of such objections, and with the filing of the evidence supporting the objections, copies of the objections and supporting statement and of the evidence supporting the objections, shall be served on the other parties by the party filing them, and a statement of such service shall be filed with the Area Administrator.

(c) If objections are filed, or if the challenged ballots are sufficient in number to affect the results of the election, the Area Administrator shall investigate the objections or challenges, or both, and report the essential facts and positions of the parties to the Regional Administrator.

(d) When the Regional Administrator determines that no relevant issue of facts exists, he (1) shall find whether improper conduct occurred of such a nature as to warrant the setting aside of the election and, if so, indicate his intention to set aside the election, or (2) shall rule on determinative challenges to ballots, if any, or both. The Regional Administrator shall serve simultaneously and such finding upon all parties to the proceeding and shall state therein any additional pertinent matters such as his intent to rerun the election or count ballots at a specified date, time, and place, and cause to be issued a revised tally of ballots. When the Regional Administrator determines that no relevant question of fact exists, but that a substantial question of interpretation or policy exists, he shall notify the parties and transfer the case to the Assistant Secretary in accordance with § 206.5(b).

(e) Any party aggrieved by findings of a Regional Administrator with respect to objections to an election or challenged ballots, may obtain a review of such action by the Assistant Secretary by following the procedure set forth in § 202.6(d). A determination by the Regional Administrator to issue a notice of hearing shall not be subject to review by the Assistant Secretary.

(f) Where it appears to the Regional Administrator that the objections or challenged ballots raise any relevant question of fact which may have affected the results of the election, the Regional Administrator shall cause to be issued a notice of hearing specifying that a Hearing Examiner, designated by the Chief Hearing Examiner, will take evidence, make factual findings and recommendations with respect to the objections and/or challenged ballots, and report these findings and recommendations to the Assistant Secretary and the parties. Such proceedings shall be conducted in accordance with §§ 203.15 through 203.24.

(g) The Assistant Secretary shall decide whether to adopt or modify the Hearing Examiner's recommendations, whether to grant review of the Regional Administrator's findings, or shall decide any substantial issue of interpretation or policy transferred by the Regional Administrator. In accord with the Assistant Secretary's final determinations, the Regional Administrator shall cause to be issued a certification of the results of the election, certification of representative, or a decision setting aside the election or directing the opening and counting of challenged ballots, whichever is appropriate.

§ 202.21 Runoff elections.

(a) The activity shall conduct a runoff election under supervision of the Area Administrator when an election in which the ballot provided for not less than three (3) choices (i.e., at least two representatives and "neither" or "none") results in no choice receiving a majority of the valid ballots cast, and any objections which had been filed have been disposed of, and any challenged ballots have been disposed of or are not sufficient in number to affect the results of the election, as provided herein. Only one runoff election shall be held pursuant to this section.

(b) Employees who are eligible to vote in the original election and who also are in an eligible category on the date of the runoff election shall be eligible to vote in the runoff election.

(c) The ballot in the runoff election shall provide for a selection between the two choices receiving the largest and second largest number of votes.

§ 202.22 Inconclusive elections.

(a) An inconclusive election is one in which none of the choices on the ballot has received a majority of the valid ballots cast. If there are no challenged ballots that would affect the results of the election, the Area Administrator may declare the election a nullity and may order another election, providing for a selection from among the choices afforded in the previous ballot in the following situations:

(1) The ballot provided for a choice among two or more representenatives and "neither" or "none," and the votes are equally divided among the several choices;

(2) The number of ballots cast for one choice in an election is equal to the number cast for another choice but less than the number cast for the third choice; or

(3) The runoff ballot provides for a choice between two representatives and the votes are equally divided.

(b) Only one further election pursuant to this section may be held.

4. Part 203 would be revised to read as follows:

PART 203—UNFAIR LABOR PRACTICE PROCEEDINGS

Sec.

203.1 Who may file complaints.
203.2 Action to be taken before filing a complaint with the Assistant Secretary.
203.3 Contents of the complaint and supporting documents.
203.4 Filing and service of copies.
203.5 Investigation of the complaint; stipulation of facts.
203.6 Action by Regional Administrator.
203.7 Withdrawal or dismissal of complaint.
203.8 Notice of hearing.
203.9 Contents of the notice of hearing; attachments.
203.10 Conduct of hearing.
203.11 Intervention.
203.12 Rights of parties.
203.13 Rules of evidence.
203.14 Burden of proof.
203.15 Duties and powers of the Hearing Examiner.
203.16 Unavailability of Hearing Examiners.
203.17 Objection to conduct of hearing.
203.18 Motions before or after a hearing.
203.19 Waiver of objections.
203.20 Oral argument at the hearing.
203.21 Decision of Hearing Examiner.
203.22 Submission of the Hearing Examiner's report and recommendations to the Assistant Secretary; exceptions.
203.23 Contents of exceptions to Hearing Examiner's report and recommendations.
203.24 Briefs in support of exceptions.
203.25 Action by the Assistant Secretary.
203.26 Compliance with decisions and orders of the Assistant Secretary.

AUTHORITY: The provisions of this Part 203 issued under sec. 6, E.O. 11491, 34 F.R. 17605, as amended by E.O. 11616, 36 F.R. 17319.

§ 203.1 Who may file complaints.

A complaint that an agency, activity, or labor organization has engaged in any act prohibited under section 19 of the order or has failed to take any action required by the order, may be filed by an employee, an agency, activity, or a labor organization.

§ 203.2 Action to be taken before filing a complaint with the Assistant Secretary.

(a) Any charge of an alleged unfair labor practice must be in writing and shall be filed directly with the party or parties against whom the charge is directed within six (6) months of the occurrence of the alleged unfair labor practice, except as otherwise provided in § 205.13. The charge shall contain a clear and concise statement of the facts constituting the alleged unfair labor practice, including the time and place of occurrence of the particular acts. The alleged unfair labor practice shall be investigated by the parties involved and informal attempts to resolve the matter shall be made by the parties. If informal attempts are unsuccessful in disposing of the matter within thirty (30) days, a party may file a complaint requesting the Assistant Secretary to issue a decision in the matter: *Provided, however,* That if a final decison is served on the charging party, he may file a complaint immediately thereafter but in no event later than thirty (30) days from the date of service of the written final decision on the charging party; *Provided further,* That to be considered timely a complaint to the Assistant Secretary shall be filed within nine (9) months of the occurrence of the alleged unfair labor practice or within thirty (30) days of the service of the written final decision on the charging party, whichever is the shorter period of time.

(b) The thirty (30) day charge period as required under paragraph (a) of this section shall not be applicable to allegations of a violation of section 19(b)(4) of the order. In such a situation, a complaint may be filed immediately with the Area Administrator.

(c) In complaints alleging a violation of section 19(b)(4), the Area Administrator shall conduct a priority investigation and promptly report the essential facts, the positions of the parties and any offers of settlement to the Regional Administrator.

(d) When certain conduct involves matters which may constitute violations of section 19(a) (1), (2) or (4) of the order which occurred prior to November 24, 1971, and is subject to an established grievance or appeals procedure, and the agency alleges a lack of jurisdiction under the order, that procedure shall be the exclusive procedure for resolving the charge.

§ 203.3 Contents of the complaint and supporting documents.

(a) A complaint alleging a violation of section 19 of the order shall be submitted on forms prescribed by the Assistant Secretary and shall contain the following:

(1) The name, address, and telephone number of the employee, agency, or activity or labor organization making the complaint (hereinafter referred to as the complainant);

(2) The name, address, and telephone number of the agency or activity or labor organization against whom the complaint is made (hereinafter referred to as the respondent);

(3) A clear and concise statement of the facts constituting the alleged unfair labor practice, including the time and place of occurrence of the particular acts and a statement of the section and subsection of the order alleged to have been violated;

(4) A statement of any other procedure invoked involving the subject matter of the complaint and the results, if any, including whether the subject matter raised in the complaint has been referred to the Council, Panel, or Federal Mediation and Conciliation Service for consideration or action;

(5) A declaration by the person signing the complaint, under the penalties of the Criminal Code (18 U.S.C. 1001), that its contents are true and correct to the best of his knowledge and belief.

(b) The entire report of investigation by the parties, pursuant to § 203.2, including, among other things, the precomplaint charge, copies of relevant correspondence, other written materials, statements of witnesses, summaries of meetings and discussions, offers of settlement by the respondent and settlement proposals advanced by the complainant, shall be filed with the complaint.

§ 203.4 Filing and service of copies.

(a) An original and four copies of a complaint and two (2) copies of the entire report of investigation shall be filed with the Area Administrator for the area in which the alleged unfair labor practice occurred or if it occurred in two or more areas, the complaint shall be filed with the Area Administrator for the area in which the headquarters of the respondent is located.

(b) Simultaneously with the filing of a complaint and the parties' report of investigation, copies of each shall be served by the complainant on the respondent, and a written statement of such service shall be filed with the Area Administrator.

§ 203.5 Investigation of the complaint; stipulation of facts.

(a) Within fifteen (15) days following the service of a copy of the complaint, unless an extension of time has been granted by the Area Administrator, the respondent shall file a response thereto with the Area Administrator raising any matter which is relevant to the complaint. A copy of such response shall be served simultaneously on the other parties. Upon the filing of a complaint the Area Administrator shall cause such additional investigation to be made as he deems necessary, and report the essential facts, the positions of the parties, and any offers of settlement to the Regional Administrator.

(b) The parties may submit to the Area Administrator a stipulation of facts and their request for a decision by the Assistant Secretary without a hearing. Such stipulation shall be reported to the Regional Administrator.

(c) The complainant shall bear the burden of proof at all stages of the proceedings regarding matters alleged in its complaint.

§ 203.6 Action by Regional Administrator.

(a) The Regional Administrator shall take appropriate measures which may consist of the approval of a withdrawal request or dismissal of the complaint, approval of a satisfactory offer of settlement made any time prior to the close of a hearing, if any, approval of a stipulation of facts pursuant to § 203.5(b), or the issuance of a notice of hearing.

(b) In cases involving complaints alleging a violation of section 19(b)(4) of the order, if the Regional Administrator determines, based upon the evidence adduced, that a reasonable basis for a complaint exists and no satisfactory offer of settlement has been made, he shall issue an expedited notice of hearing. The complainant shall bear the burden of proof at the hearing. Additionally, upon the issuance of the expedited notice of hearing, the Regional Administrator may order the suspension of dues withholding by the activity pending a satisfactory offer of settlement or a decision by the Assistant Secretary. Such suspension of dues withholding may be discontinued by the Assistant Secretary at his discretion.

§ 203.7 Withdrawal or dismissal of complaint.

(a) If the Regional Administrator determines that the complaint has not been timely filed, that a reasonable basis for the complaint has not been established, that a satisfactory offer of settlement has been made, or for other appropriate reasons, he may request the complainant to withdraw the complaint and in the absence of such withdrawal within a reasonable time, he may dismiss the complaint.

(b) If the Regional Administrator dismisses the complaint, he shall furnish the complainant with a written statement of the grounds for dismissal, sending a copy of the statement to the respondent. If the dismissal is based on approval of an offer of settlement which is satisfactory to the Regional Administrator, such statement shall set forth the terms of settlement and the implementation thereof.

(c) The complainant may obtain a review of such action by filing a request for review with the Assistant Secretary within ten (10) days of service of such notice of dismissal. A copy of such request for review shall be served simultaneously on the Regional Administrator and the respondent. Statement of service shall be filed with the Assistant Secretary. The request for review shall contain a complete statement setting forth facts and reasons upon which the request is based. A request for extension of time shall be in writing and received by the Assistant Secretary not later than three (3) days before the date the request for review is due.

§ 203.8 Notice of hearing.

The Regional Administrator may cause a notice of hearing to be issued if, after the filing of a complaint, he finds, based on the allegations and the report of investigation by the parties and any additional investigation by the Area Administrator, that there is a reasonable basis for the complaint and that no satisfactory offer of settlement has been made.

§ 203.9 Contents of the notice of hearing; attachments.

(a) The notice of hearing shall include:

(1) A statement of the time and place of the hearing which shall be not less than ten (10) days after service of the notice of hearing, except in extraordinary circumstances;

(2) A statement of the nature of hearing;

(3) A statement of the authority and jurisdiction under which the hearing is to be held;

(4) A reference to the particular sections of the order and regulations involved.

(b) Attached to the notice of hearing shall be a copy of the complaint and the respondent's answer.

(c) The report of investigation by the parties referred to in § 203.8 shall be furnished to the Hearing Examiner; however, the report of investigation will not be deemed as evidence, and any party wishing to rely upon anything contained therein must make an appropriate submission at the hearing.

§ 203.10 Conduct of hearing.

(a) Hearings shall be conducted by a Hearing Examiner designated by the Chief Hearing Examiner and shall be open to the public unless otherwise ordered by the Hearing Examiner.

(b) An official reporter shall make the only official transcript of such proceedings. Copies of the official transcript will not be provided to the parties but may be purchased by arrangement with the official reporter or may be examined in the Area Office during normal working hours.

§ 203.11 Intervention.

Any person desiring to intervene in any proceeding shall file a motion in writing with the Chief Hearing Examiner or the designated Hearing Examiner, or, if made at the hearing, may move orally on the record, stating the grounds upon which such person claims an interest. Prior to the hearing, such a motion shall be filed with the Regional Administrator issuing the notice of hearing; during the hearing such motion shall be made to the Hearing Examiner. An original and two copies of written motions shall be filed. Simultaneously upon filing such motion, the moving party shall serve a copy thereof on the other parties. The Regional Administrator shall rule upon all such motions filed prior to the hearing, and shall cause a copy of such rulings to be furnished to the other parties, or may refer the motion to the Hearing Examiner for ruling. The Hearing Examiner shall rule upon all such motions made at the hearing or referred to him by the Regional Administrator. When the Hearing Examiner rules, before the hearing, on a motion referred to him by the Regional Administrator, he shall furnish copies of such ruling to the parties. The Regional Administrator or Hearing Examiner, as the case may be, may permit intervention in person or by counsel or other representative to such extent and upon such terms as he may deem proper.

§ 203.12 Rights of parties.

Any party shall have the right to appear at such hearing in person, by counsel, or by other representative, to examine and cross-examine witnesses, and to introduce into the record documentary or other relevant evidence, except that the participation of any party shall be limited to the extent prescribed by the Hearing Examiner. Two copies of documentary evidence shall be submitted and a copy furnished to each of the other parties. Stipulations of fact may be introduced in evidence with respect to any issue.

§ 203.13 Rules of evidence.

The technical rules of evidence do not apply. Any evidence may be received, except that a Hearing Examiner may exclude any evidence or offer of proof which is immaterial, irrelevant, unduly repetitious or customarily privileged. Every party shall have a right to present its case by oral and documentary evidence and to submit rebuttal evidence.

§ 203.14 Burden of proof.

A complainant in asserting a violation of the order shall have the burden of proving the allegations of the complaint by a preponderance of the evidence.

§ 203.15 Duties and powers of the Hearing Examiner.

It shall be the duty of the Hearing Examiner to inquire fully into the facts as they relate to the matter before him. Upon assignment to him and before transfer of the case to the Assistant Secretary, the Hearing Examiner shall have the authority to:

(a) Grant requests for appearance of witnesses or production of documents;

(b) Rule upon offers of proof and receive relevant evidence;

(c) Take or cause deposition to be taken whenever the ends of justice would be served thereby;

(d) Limit lines of questioning or testimony which are immaterial, irrelevant, or unduly repetitious;

(e) Regulate the course of the hearing and, if appropriate, exclude from the hearing persons who engage in misconduct and strike all related testimony of witnesses refusing to answer any questions ruled to be proper;

(f) Hold conferences for the settlement or simplification of the issues by

consent of the parties or upon his own motion and, where appropriate, transmit to the Regional Administrator offers of settlement by the party or parties;

(g) Dispose of procedural requests, motions, or similar matters which shall be made part of the record of the proceeding, including motions referred to the Chief Hearing Examiner or to the designated Hearing Examiner by the Regional Administrator and motions to amend pleadings, also to recommend dismissal of cases or portions thereof, and to order hearings reopened prior to issuance of the Hearing Examiner's report and recommendations;

(h) Examine and cross-examine witnesses and to introduce into the record documentary or other evidence;

(i) Request the parties at any time during the hearing to state their respective positions concerning any issue in the case or theory in support thereof;

(j) Continue the hearing from day-to-day, or adjourn it to a later date or to a different place, by announcement thereof at the hearing or by other appropriate notice;

(k) Prepare, serve and submit his report and recommendations pursuant to § 203.22;

(l) Take official notice of any material fact not appearing in evidence in the record, which is among the traditional matters of judicial notice and also concerning which the Department of Labor by reason of its functions is presumed to be expert: *Provided*, That the parties shall be given adequate notice, at the hearing or be reference in the Hearing Examiner's decision of the matters so noticed, and shall be given adequate opportunity to show the contrary;

(m) Correct or approve proposed corrections of the official transcript when deemed necessary;

(n) Take any other action necessary under the foregoing and not prohibited by these regulations.

§ 203.16 Unavailability of Hearing Examiners.

In the event the Hearing Examiner designated to conduct the hearing becomes unavailable, the Chief Hearing Examiner shall designate another Hearing Examiner for the purpose of further hearing or issuance of a report and recommendations on the record as made, or both.

§ 203.17 Objection to conduct of hearing.

(a) Any objection with respect to the conduct of the hearing, including any any objection to the introduction of evidence, may be stated orally or in writing accompanied by a short statement of the grounds for such objection, and included in the record. No such objection shall be deemed waived by further participation in the hearing. Such objection shall not stay the conduct of the hearing.

(b) Automatic exceptions will be allowed to all adverse rulings. Rulings by the Hearing Examiner shall not be appealed prior to the transfer of the case to the Assistant Secretary, but shall be considered by the Assistant Secretary only upon the filing of exceptions to the Hearing Examiner's report and recommendations in accordance with § 203.22.

§ 203.18 Motions before or after a hearing.

(a) All motions made before a hearing shall be made in writing to the Regional Administrator. All motions made after the hearing but prior to the transfer of the case to the Assistant Secretary shall be filed with the Hearing Examiner. All motions made after the transfer of the case to the Assistant Secretary, except motions to correct the record under § 203.15(m), shall be made in writing to the Assistant Secretary. The moving party shall serve simultaneously a copy of all motion papers on all other parties. A statement of service shall accompany the motion. Answering affidavits, if any, must be served on all parties and the originals thereof, together with two (2) copies and a statement of service, shall be filed with the Regional Administrator before the hearing, with the Hearing Examiner after the hearing begins and before transfer of the case to the Assistant Secretary and with the Assistant Secretary after transfer of the case to him; within five (5) days after service of the moving papers unless it is otherwise directed.

(b) The Regional Administrator may rule upon all motions filed with him before the hearing, causing a copy of such ruling to be served on the parties, or he may refer such motions to the Chief Hearing Examiner or to the Hearing Examiner if one has been designated by the Chief Hearing Examiner. The Hearing Examiner may rule upon all motions referred to him prior to the hearing by the Regional Administrator or by the Chief Hearing Examiner and may rule upon all motions filed after the beginning of the hearing and before transfer of the case to the Assistant Secretary. Such motions may be ruled upon by the Chief Hearing Examiner in the absence of the Hearing Examiner. Rulings by the Regional Administrator shall not be appealed prior to the tranafer of the case to the Assistant Secretary, but shall be considered by the Assistant Secretary when the case is transferred to him for decision.

§ 203.19 Waiver of objections.

Any objection not duly urged before a Hearing Examiner shall be deemed waived.

§ 203.20 Oral argument at the hearing.

Any party shall be entitled, upon request, to a reasonable period prior to the close of the hearing for oral argument, which shall be included in the official transcript of the hearing.

§ 203.21 Filing of brief.

Any party desiring to submit a brief to the Hearing Examiner shall file the original and two (2) copies within seven (7) days after the close of the hearing: *Provided, however*, That prior to the close of the hearing and for good cause, the Hearing Examiner may grant a reasonable extension of time. Copies thereof shall be served simultaneously on all other parties to the proceeding. Requests for additional time in which to file a brief under authority of this section not addressed to the Hearing Examiner during the hearing shall be made to the Chief Hearing Examiner, in writing, and copies thereof shall be served simultaneously on the other parties. A statement of such service shall be furnished. Requests for extension of time shall be received not later than three (3) days before the date such briefs are due. No reply brief may be filed except by special permission of the Hearing Examiner.

§ 203.22 Submission of the Hearing Examiner's report and recommendations to the Assistant Secretary; exceptions.

(a) After the close of the hearing, and the receipt of briefs, if any, the Hearing Examiner shall prepare his report and recommendations expeditiously. The report and recommendations shall contain findings of fact, conclusions, and the reasons or basis therefor including credibility determinations, and recommendations as to the disposition of the case including, where appropriate, the remedial action to be taken and notices to be posted.

(b) The Hearing Examiner shall cause his report and recommendations to be served promptly on all parties to the proceeding. Thereafter, the Hearing Examiner shall transfer the case to the Assistant Secretary including his report and recommendations and the record. The record shall include the complaint, notice of hearing, service sheet, motions, rulings, orders, official transcript of the hearing, stipulations, objections, depositions, exhibits, documentary evidence, and any briefs or other documents submitted by the parties.

(c) An original and two (2) copies of any exceptions to the Hearing Examiner's report and recommendations may be filed by any party with the Assistant Secretary within ten (10) days after service of the report and recommendations: *Provided, however*, That the Assistant Secretary may for good cause shown extend the time for filing such exceptions. Requests for additional time in which to file exceptions shall be in writing, and copies thereof shall be served simultaneously on the other parties. Requests for extension of time must be received no later than three (3) days before the date the exceptions are due. Copies of such exceptions and any supporting briefs shall be served simultaneously on all other parties, and a statement of such service shall be furnished to the Assistant Secretary.

§ 203.23 Contents of exceptions to Hearing Examiner's report and recommendations.

(a) Exceptions to a Hearing Examiner's report and recommendations shall:

(1) Set forth specifically the questions upon which exceptions are taken;

(2) Identify that part of the Hearing Examiner's report and recommendations to which objection is made;

(3) Designate by precise citation of page the portions of the record relied on, state the grounds for the exceptions, and include the citation of authorities unless set forth in a supporting brief.

(b) Any exception to a ruling, finding, conclusion, or recommendation which is not specifically urged shall be deemed to have been waived. Any exception which fails to comply with the foregoing requirements may be disregarded.

§ 203.24 Briefs in support of exceptions.

(a) Any brief in support of exceptions shall contain only matters included within the scope of the exceptions and shall contain, in the order indicated, the following:

(1) A concise statement of the case containing all that is material to the consideration of the questions presented;

(2) A specification of the questions involved and to be argued;

(3) The argument, presenting clearly the points of fact and law relied on in support of the position taken on each question, with specific page reference to the transcript and the legal or other material relied on.

(b) Answering briefs to the exceptions and cross-exceptions and supporting briefs may be filed at the discretion of the Assistant Secretary.

§ 203.25 Action by the Assistant Secretary.

After considering the Hearing Examiner's report and recommendations, the record, and any exceptions filed, the Assistant Secretary shall issue his decision affirming or reversing the Hearing Examiner, in whole or in part, or making such other disposition of the matter as he deems appropriate: *Provided, however*, That if no timely or proper exceptions are filed as herein set forth, the Assistant Secretary may, in his discretion, adopt without decision the report and recommendations of the Hearing Examiner, in which event the findings, conclusions, and recommendations of the Hearing Examiner, as contained in his report and recommendations shall, upon appropriate notice to the parties, automatically become the decision of the Assistant Secretary.

(a) Upon finding a violation of the order the Assistant Secretary may order the respondent to cease and desist from conduct violative of the order and may require the respondent to take such affirmative corrective action as he deems appropriate to effectuate the policies of the order.

(b) Upon finding no violation of the order, the Assistant Secretary shall dismiss the complaint.

(c) The Assistant Secretary may refer cases or any issue(s) therein involving major policy questions to the Council for decision or general ruling in accordance with its regulations.

§ 203.26 Compliance with decisions and orders of the Assistant Secretary.

When remedial action is ordered, the respondent shall report to the Assistant Secretary within a specified period that the required remedial action has been effected. When the Assistant Secretary finds that the required remedial action has not been effected, he may order cancellation of dues deduction, withdrawal of recognition, referral to the Council or take such other action as may be appropriate.

5. Part 204 would be revised to read as follows:

PART 204—STANDARDS OF CONDUCT

Subpart A—Substantive Requirements Concerning Standards of Conduct

Sec.
204.1 General.
204.2 Bill of Rights of members of labor organizations.
204.3 Adoption of constitution and bylaws.
204.4 Filing of labor organization registration report.
204.5 Filing of constitution and bylaws.
204.6 Labor organizations filing under the LMRDA.
204.7 Alternative method of filing constitution and bylaws.
204.8 Amendments to constitution and bylaws.
204.9 Annual reports.
204.10 Labor organizations filing under the LMRDA.
204.11 Labor organizations under trusteeship.
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204.13 Labor organizations filing under the LMRDA.
204.14 Initial trusteeship report.
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204.16 Annual report.
204.17 Terminal trusteeship information and financial reports.
204.18 Fiscal year.
204.19 Initial annual report.
204.20 Terminal report.
204.21 Effect of acknowledgment and filing by the Office of Labor-Management and Welfare-Pension Reports.
204.22 Personal responsibility of signatories of reports.
204.23 Dissemination and verification of reports.
204.24 Maintenance and retention of records.
204.25 Examination and copying of reports required by this subpart.
204.26 Purposes for which a trusteeship may be established.
204.27 Prohibited acts relating to subordinate body under trusteeship.
204.28 Presumption of validity.
204.29 Election of officers.
204.30 Removal of elected officers.
204.31 Maintenance of fiscal integrity in the conduct of the affairs of labor organizations.
204.32 Provision for accounting and financial controls.
204.33 Prohibition of conflicts of interest.
204.34 Loans to officers or employees.
204.35 Bonding requirements.
204.36 Prohibitions against certain persons holding office or employment.
204.37 Prohibition of certain discipline.
204.38 Deprivation of rights under the order by violence or threat of violence.

Subpart B—Proceedings for Enforcing Standards of Conduct

204.50 Investigations.
204.51 Inspection of records and questioning.
204.52 Report of investigation.
204.53 Filing of complaints.
204.54 Complaints alleging violations of § 204.2, Bill of Rights of members of labor organizations.
204.55 Content of complaint.
204.56 Service on respondent.
204.57 Investigation.
204.58 Dismissal of complaint.
204.59 Review of dismissal.
204.60 Actionable complaint.
204.61 Notice of hearing.
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204.63 Complaints alleging violations of § 204.29, election of officers.
204.64 Investigations; dismissal of complaint.
204.65 Procedures following actionable complaint.
204.66 Procedures for institution of enforcement proceedings.
204.67 Standards complaint; initiation of proceedings.
204.68 Hearing Examiner.
204.69 Answer.
204.70 Procedure upon admission of facts.
204.71 Motions and requests.
204.72 Notice of hearing.
204.73 Prehearing conferences.
204.74 Conduct of hearing.
204.75 Intervention.
204.76 Duties and powers of the Hearing Examiner.
204.77 Rights of parties; representation.
204.78 Rules of evidence.
204.79 Burden of proof.
204.80 Unavailability of Hearing Examiners.
204.81 Objection to conduct of hearing.
204.82 Motions after a hearing.
204.83 Waiver of objections.
204.84 Oral argument at the hearing.
204.85 Transcript.
204.86 Filing of brief.
204.87 Proposed findings and conclusion.
204.88 Submission of the Hearing Examiner's report and recommendations to the Assistant Secretary; exceptions.
204.89 Contents of exceptions to Hearing Examiner's report and recommendations.
204.90 Briefs in support of exceptions.
204.91 Action by the Assistant Secretary.
204.92 Compliance with decisions and orders of the Assistant Secretary.
204.93 Stay of remedial action.

AUTHORITY: The provisions of this Part 204 issued under secs. 6 and 16, E.O. 11491, 34 F.R. 17605, as amended by E.O. 11616, 36 F.R. 17319.

Subpart A—Substantive Requirements Concerning Standards of Conduct

§ 204.1 General.

The term "LMRDA" means the Labor-Management Reporting and Disclosure Act of 1959, as amended (29 U.S.C. 401 et seq.). Unless otherwise provided in this part or in the order, any term in any section of the LMRDA which is incorporated into this part by reference and any term in this part which is also used in the LMRDA, shall have the meaning which that term has under the LMRDA, unless the context in which it is used indicates that such meaning is not applicable. In applying the standards contained in this Subpart the Assistant Secretary will be guided by the interpretations and policies followed by the Department of Labor in applying the provisions of the LMRDA and, where no such interpretations exist, he will be guided, as appropriate, by decisions of the courts.

§ 204.2 Bill of Rights of members of labor organizations.

(a) (1) *Equal rights.* Every member of a labor organization shall have equal rights and privileges within such organization to nominate candidates, to vote in elections or referendums of the labor organization, to attend membership meetings and to participate in the deliberations and voting upon the business of such meetings, subject to reasonable rules and regulations in such organization's constitution and bylaws.

(2) *Freedom of speech and assembly.* Every member of any labor organization shall have the right to meet and assemble freely with other members; and to express any views, arguments, or opinions; and to express at meetings of the labor organization his views, upon candidates in an election of the labor organization or upon any business properly before the meeting, subject to the organization's established and reasonable rules pertaining to the conduct of meetings: *Provided,* That nothing herein shall be construed to impair the right of a labor organization to adopt and enforce reasonable rules as to the responsibility of every member toward the organization as an institution and to his refraining from conduct that would interfere with its performance of its legal or contractual obligations.

(3) *Dues, initiation fees, and assessments.* Except in the case of a federation of national or international labor organizations, the rates of dues and initiation fees payable by members of any labor organization in effect on the date this section is published shall not be increased, and no general or special assessment shall be levied upon such members, except—

(i) In the case of a local organization, (*a*) by majority vote by secret ballot of the members in good standing voting at a general or special membership meeting, after reasonable notice of the intention to vote upon such question, or (*b*) by majority vote of the members in good standing voting in a membership referendum conducted by secret ballot; or

(ii) In the case of a labor organization, other than a local labor organization or a federation of national or international labor organizations, (*a*) by majority vote of the delegates voting at a regular convention, or at a special convention of such labor organization held upon not less than 30 days' written notice to the principal office of each local or constituent labor organization entitled to such notice, or (*b*) by majority vote of the members in good standing of such labor organization voting in a membership referendum conducted by secret ballot, or (*c*) by majority vote of the members of the executive board or similar governing body of such labor organization, pursuant to express authority contained in the constitution and bylaws of such labor organization: *Provided,* That such action on the part of the executive board or similar governing body shall be effective only until the next regular convention of such labor organization.

(4) *Protection of the right to sue.* No labor organization shall limit the right of any member thereof to institute an action in any court, or in a proceeding before any administrative agency, irrespective of whether or not the labor organization or its officers are named as defendants or respondents in such action or proceeding, or the right of any member of a labor organization to appear as a witness in any judicial, administrative, or legislative proceeding, or to petition any legislature or to communicate with any legislator: *Provided,* That any such member may be required to exhaust reasonable hearing procedures (but not to exceed a 4-month lapse of time) within such organization, before instituting legal or administrative proceedings against such organizations or any officer thereof.

(5) *Safeguards against improper disciplinary action.* No member of any labor organization may be fined, suspended, expelled, or otherwise disciplined except for nonpayment of dues by such organization or by any officer thereof unless such member has been (i) served with written specified charges; (ii) given a reasonable time to prepare his defense; (iii) afforded a full and fair hearing.

(b) Any provision of the constitution and bylaws of any labor organization which is inconsistent with the provisions of this section shall not be a defense to any proceeding instituted against the labor organization under this part or Executive Order 11491.

(c) Nothing contained in this section shall limit the rights and remedies of any member of a labor organization under any State or Federal law or before any court or other tribunal, or under the constitution and bylaws of any labor organization.

(d) It shall be the duty of the secretary or corresponding principal officer of each labor organization, in the case of a local labor organization, to forward a copy of each agreement made by such labor organization with any agency or activity to any employee who requests such a copy and whose rights as such employee are directly affected by such agreement, and in the case of a labor organization other than a local labor organization, to forward a copy of any such agreement to each constituent unit which has members directly affected by such agreement; and such officer shall maintain at the principal office of the labor organization of which he is an officer, copies of any such agreement made or received by such labor organization, which copies shall be available for inspection by any member or by any employee whose rights are affected by such agreement. An employee's rights under this paragraph shall be enforceable in the same manner as the rights of a member.

§ 204.3 Adoption of constitution and bylaws.

Every labor organization shall adopt a constitution and bylaws and file copies thereof pursuant to § 204.5.

§ 204.4 Filing of labor organization registration report.

Every labor organization shall file a registration report, signed by its president and secretary or corresponding principal officers. This registration report shall be filed in duplicate with the Office of Labor-Management and Welfare-Pension Reports, U.S. Department of Labor, Washington, D.C. 20210, on Form G–1 entitled "Federal Labor Organization Registration Report"[1] within 90 days after the date on which the labor organization becomes subject to the order.

§ 204.5 Filing of constitution and bylaws.

Every labor organization shall file two copies of its constitution and bylaws with the Form G–1.

§ 204.6 Labor organizations filing under the LMRDA.

The provisions of §§ 204.4 and 204.5 are not applicable to any labor organization which is required to report and is reporting pursuant to section 201(e) of the LMRDA.

§ 204.7 Alternative method of filing constitution and bylaws.

(a) A labor organization may adopt as its constitution and bylaws (whether by formal action or by virtue of affiliation with a parent organization) the constitution and bylaws of a national or international organization which the national or international organization has filed under section 201(a) of the LMRDA or under § 204.5.

(b) Copies of the constitution and bylaws filed by a national or international organization will be accepted in lieu of the filing of such documents by each subordinate labor organization which adopts and is subject to such constitution and bylaws if (1) the national or international organization so informs the Office of Labor-Management and Welfare-Pension Reports on its registration report (Form G–1), (or otherwise, if that report is not required to be filed) and files as many additional copies as the Office of Labor-Management and Welfare-Pension Reports may request; and (2) the subordinate labor organization indicates in its registration report (Form G–1) that copies of the constitution and bylaws of the national or international organization are being filed on its behalf.

(c) A subordinate labor organization which is governed by the constitution and bylaws of a national or international organization and which also adopts its own bylaws or other supplements to the national constitution must submit two copies of the supplemental documents with its registration report (Form G–1).

§ 204.8 Amendments to constitution and bylaws.

All changes in and amendments to the constitution and bylaws filed pursuant to

[1] Filed as part of the orginal document.

this subpart shall be reported through submission of the required number of copies of the labor organization's revised constitution and bylaws. These revised copies shall be filed with the labor organization's annual report filed pursuant to § 204.9 or § 204.12 for the year in which the revisions are made: *Provided, however,* That if the constitution and bylaws were filed on its behalf pursuant to paragraph (b) of § 204.7, the revised constitution and bylaws may also be filed on its behalf with the annual report of its national or international labor organization and with the same number of copies as were submitted pursuant to paragraph (b) of § 204.7 and both labor organizations shall indicate on their respective annual reports that such filings were made by the national or international labor organization.

ANNUAL REPORTS

§ 204.9 Annual reports.

Every labor organization shall, except as otherwise provided in this subpart, file an annual report in duplicate signed by its president and treasurer or corresponding principal officers within 90 days after the end of its fiscal year with the Office of Labor-Management and Welfare-Pension Reports, U.S. Department of Labor, Washington, D.C. 20210, on Form G–2 entitled "Federal Labor Organization Annual Report"[1] in the detail required by the instructions accompanying such form and constituting a part thereof.

§ 204.10 Labor organizations filing under the LMRDA.

If a labor organization is also subject to the LMRDA, and is filing annual reports pursuant to section 201 of the Act, it is not required to file the report required by § 204.9.

§ 204.11 Labor organizations under trusteeship.

If a labor organization is in trusteeship on the date for filing the annual report, the organization which has assumed the trusteeship shall file the report required in § 204.9.

§ 204.12 Small labor organizations.

(a) If a labor organization, not in trusteeship, has gross annual receipts totaling less than $30,000 but $2,000 or more for its fiscal year, it may file the annual report required by § 204.9 in duplicate on Form G–3 entitled "Federal Labor Organization Simplified Annual Report"[1] in accordance with the instructions accompanying such form and constituting a part thereof.

(b) If a labor organization, not in trusteeship, has gross annual receipts of less than $2,000 for its fiscal year, it may file the annual report required by § 204.9 in duplicate on Form G–4 entitled "Federal Labor Organization Abbreviated Annual Report"[1] in accordance with the instructions accompanying such form and constituting a part thereof.

[1] Filed as part of the original document.

(c) A local labor organization, not in trusteeship, which has no assets, no liabilities, no receipts and no disbursements during the period covered by the annual report of the national organization with which it is affiliated need not file the annual report required by § 204.9 if the following conditions are met:

(1) It is governed by a uniform constitution and bylaws filed on its behalf pursuant to § 204.7(b) and the proviso in § 204.8, does not have governing rules of its own, and is not authorized to adopt such rules;

(2) Its members are subject to uniform fees and dues applicable to all members of the local labor organizations for which exemption is claimed; and

(3) The national organization with which it is affiliated assumes responsibility for the accuracy of, and submits with its annual report, Form G–2, a statement with as many copies as the Office of Labor-Management and Welfare-Pension Reports shall request, that the conditions of the exemption have been met for the specified local organizations for which exemption is claimed. This statement must be signed by the president and treasurer of the national labor organization and must contain the following additional information:

(i) If the national labor organization reports its dues in section B of Item 12 of its annual report, Form G–2, a statement of the required dues and fees of such exempt organizations, set forth in the same manner as prescribed in Item 12 of the Form G–2; and

(ii) With respect to each local labor organization for which exemption is claimed;

(*a*) The name and designation number or other identifying information.

(*b*) The file number (G-number) which the Office of Labor-Management and Welfare Pension Reports has assigned to it.

(*c*) The mailing address.

(*d*) The city, county, and State where it is chartered to operate, if these have changed since last reported to the Office of Labor-Management and Welfare-Pension Reports.

(*e*) The names and titles of the officers as of the end of the reporting period.

REPORTING OF TRUSTEESHIPS

§ 204.13 Labor organizations filing under the LMRDA.

A labor organization subject to the LMRDA which has or assumes trusteeship over any subordinate labor organization subject to that Act as well as the Order is not required to file reports under §§ 204.14–204.17, but must file the reports required under section 301 of the LMRDA and Part 408 of this title.

§ 204.14 Initial trusteeship report.

Except as provided in § 204.13, every labor organization which has or assumes trusteeship over any subordinate labor organization subject to the order shall file with the Office of Labor-Management and Welfare-Pension Reports, U.S. Department of Labor, Washington, D.C. 20210, within 30 days after the imposition of any such trusteeship, a trusteeship report, signed by its president and treasurer or corresponding principal officers, as well as by the trustees of the subordinate labor organization. Such report shall be filed in duplicate on Form G–15 entitled "Federal Labor Organization Trusteeship Report"[1] in the detail required by the instructions accompanying such form and constituting a part thereof.

§ 204.15 Semiannual trusteeship report.

Every labor organization required to file a report under § 204.14 shall thereafter during the continuance of a trusteeship over the subordinate labor organization, file with the Office of Labor-Management and Welfare-Pension Reports a semiannual trusteeship report on Form G–15 in duplicate containing the information required by that form in accordance with the instructions therein relating to the semiannual trusteeship report. If during the period covered by the semiannual trusteeship report there was (a) a convention or other policy determining body to which the subordinate organization under trusteeship sent delegates or would have sent delegates if not in trusteeship, or (b) an election of officers of the labor organization assuming trusteeship, a report on Form G–15A entitled "Federal Labor Organization Schedule on Selection of Delegates and Officers"[1] shall be filed in duplicate with the Form G–15.

§ 204.16 Annual report.

During the continuance of a trusteeship, the organization which has assumed trusteeship over a subordinate labor organization subject to the order shall file with the Office of Labor-Management and Welfare-Pension Reports on behalf of the subordinate labor organization the annual report required by § 204.9 on Form G–2 in duplicate signed by the president and treasurer or corresponding principal officers of the labor organization which has assumed such trusteeship. In addition, such labor organization shall file Form G–6, "Information and Signature Sheet for Financial Report of Federal Labor Organization Under Trusteeship,"[1] in duplicate signed by the trustees of the subordinate labor organization.

§ 204.17 Terminal trusteeship information and financial reports.

Each labor organization which has assumed trusteeship over a subordinate labor organization subject to the order shall file within 90 days after the termination of such trusteeship a report in duplicate on Form G–16 entitled "Federal Labor Organization Terminal Trusteeship Information Report"[1] in the detail required by the instructions accompanying such form and constituting a part thereof. The organization submitting the terminal trusteeship information report must also file at the same time on behalf of the subordinate labor organization a final financial report in duplicate for the organization under trusteeship on Forms G–2 and G–6, in conformance with the requirements of

[1] Filed as part of the original document.

§§ 204.9 and 204.16 covering the period from the beginning of the fiscal year through the termination date of the trusteeship.

MISCELLANEOUS PROVISIONS RELATING TO REPORTING REQUIREMENTS

§ 204.18 Fiscal year.

As used in this subpart the term "fiscal year" means the calendar year, or other period of 12 consecutive calendar months, on the basis of which financial accounts are kept by a labor organization reporting under this subpart. Where a labor organization designates a new fiscal year prior to the expiration of a previously established fiscal year, the resultant period of less than 12 consecutive calendar months, and thereafter the newly established fiscal year, shall in that order each constitute a fiscal year for purposes of the reports required by this subpart.

§ 204.19 Initial annual report.

A labor organization which is subject to the order for only a portion of its fiscal year because the labor organization first becomes subject to the order during such fiscal year, may at its option consider such portion as the entire fiscal year in filing the annual report required under § 204.9 or § 204.12.

§ 204.20 Terminal report.

Any labor organization required to file a report under the provisions of this subpart, which during its fiscal year loses its identity as a reporting labor organization through merger, consolidation, or otherwise, shall within 30 days after such loss, file a terminal report in duplicate with the Office of Labor-Management and Welfare-Pension Reports on Form G–2, Form G–3, or Form G–4, as may be appropriate under § 204.9 or § 204.12, signed by the persons who were the president and treasurer or corresponding principal officers of the labor organization immediately prior to its loss of reporting identity. For the purpose of such terminal report the fiscal year shall be considered to be the period from the beginning of the labor organization's fiscal year to the date of its loss of reporting identity.

§ 204.21 Effect of acknowledgment and filing by the Office of Labor-Management and Welfare-Pension Reports.

Acknowledgment by the Office of Labor-Management and Welfare-Pension Reports of the receipt of the reports and documents submitted for filing under this subpart is intended solely to inform the sender of the receipt thereof. Neither such acknowledgment nor the filing of such reports and documents by the Office of Labor-Management and Welfare-Pension Reports constitutes express or implied approval thereof or in any manner indicates that the content of any such report or document fulfills the reporting or other requirements of the order, or of the regulations in this Subpart applicable thereto.

§ 204.22 Personal responsibility of signatories of reports.

Each individual required to sign any report under this subpart shall be personally responsible for the filing of such report and for any statement contained therein which he knows to be false. Penalties for filing false reports are provided in 18 U.S.C. 1001.

§ 204.23 Dissemination and verification of reports.

Every labor organization required to submit a report under this subpart shall furnish or otherwise make available to all its members the information required to be contained in such report and shall furnish or otherwise make available to every member a copy of its constitution and bylaws. Every labor organization and its officers shall be under a duty to permit any member for just cause to examine any books, records, and accounts necessary to verify such report and constitution and bylaws.

§ 204.24 Maintenance and retention of records.

Every labor organization required to file any report under this subpart shall maintain records on the matters required to be reported which will provide in sufficient detail the necessary basic information and data from which the documents filed with the Office of Labor-Management and Welfare-Pension Reports may be verified, explained or clarified, and checked for accuracy and completeness. This includes vouchers, worksheets, receipts, and applicable resolutions (including any such records in existence on the date the order became effective). Every labor organization shall keep such records available for examination for a period of not less than 5 years after the filing of the report.

§ 204.25 Examination and copying of reports required by this subpart.

Examination of any report or other document filed as required by this subpart, and the furnishing by the Office of Labor-Management and Welfare-Pension Reports of copies thereof to any person requesting them, shall be governed by Part 70 of this title.

TRUSTEESHIPS

§ 204.26 Purposes for which a trusteeship may be established.

Trusteeships shall be established and administered by a labor organization over a subordinate body only in accordance with the constitution and bylaws of the organization which has assumed trusteeship over the subordinate body and for the purpose of (a) correcting corruption or financial malpractice, (b) assuring the performance of negotiated agreements or other duties of a representative of employees, (c) restoring democratic procedures, or (d) otherwise carrying out the legitimate objects of such labor organization.

§ 204.27 Prohibited acts relating to subordinate body under trusteeship.

During any period when a subordinate body of a labor organization is in trusteeship, (a) the votes of delegates or other representative from such body in any convention or election of officers of the labor organization shall not be counted unless the representatives have been chosen by secret ballot in an election in which all the members in good standing of such subordinate body were eligible to participate; and (b) no current receipts or other funds of the subordinate body except the normal per capita tax and assessments payable by subordinate bodies not in trusteeship shall be transferred directly or indirectly to the labor organization which has imposed the trusteeship: *Provided, however,* That nothing contained in this section shall prevent the distribution of the assets of a labor organization in accordance with its constitution and bylaws upon the bona fide dissolution thereof.

§ 204.28 Presumption of validity.

In any proceeding involving § 204.26, a trusteeship established by a labor organization in conformity with the procedural requirements of its constitution and bylaws and authorized or ratified after a fair hearing either before the executive board or before such other body as may be provided in accordance with its constitution and bylaws shall be presumed valid for a period of 18 months from the date of its establishment and shall not be subject to attack during such period except upon clear and convincing proof that the trusteeship was not established or maintained in good faith for purposes allowable under § 204.26. After the expiration of 18 months the trusteeship shall be presumed invalid in any such proceeding, unless the labor organization shall show by clear and convincing proof that the continuation of the trusteeship is necessary for a purpose allowable under § 204.26.

ELECTIONS

§ 204.29 Election of officers.

Every labor organization subject to the order shall conduct periodic elections of officers in a fair and democratic manner. All elections of officers shall be governed by the standards prescribed in section 401 (a), (b), (c), (d), (e), (f), and (g) of the LMRDA to the extent that such standards are relevant to elections held pursuant to the order.

ADDITIONAL PROVISIONS APPLICABLE

§ 204.30 Removal of elected officers.

When an elected officer of a local labor organization is charged with serious misconduct and the constitution and bylaws of such organization do not provide an adequate procedure meeting the standards of § 417.2(e) of this title for removal of such officer, the labor organization shall follow a procedure which meets those standards. A labor organization which has adequate procedures in its constitution and bylaws shall follow those procedures.

§ 204.31 Maintenance of fiscal integrity in the conduct of the affairs of labor organizations.

The standards of fiduciary responsibility prescribed in section 501(a) of the LMRDA are incorporated into this subpart by reference and made a part hereof.

§ 204.32 Provision for accounting and financial controls.

Every labor organization shall provide accounting and financial controls necessary to assure the maintenance of fiscal integrity.

§ 204.33 Prohibition of conflicts of interest.

(a) No officer or agent of a labor organization shall, directly or indirectly through his spouse, minor child, or otherwise (1) have or acquire any pecuniary or personal interest which would conflict with his fiduciary obligation to such labor organization, or (2) engage in any business or financial transaction which conflicts with his fiduciary obligation.

(b) Actions prohibited by paragraph (a) of this section include, but are not limited to, buying from, selling, or leasing directly or indirectly to, or otherwise dealing with the labor organization, its affiliates, subsidiaries, or trusts in which the labor organization is interested, or having an interest in a business any part of which consists of such dealings, except bona fide investments of the kind exempted from reporting under section 202(b) of the LMRDA. The receipt of salaries and reimbursed expenses for services actually performed or expenses actually incurred in carrying out the duties of the officer or agent is not prohibited.

§ 204.34 Loans to officers or employees.

No labor organization shall directly or indirectly make any loan to any officer or employee of such organization which results in a total indebtedness on the part of such officer or employee to the labor organization in excess of $2,000.

§ 204.35 Bonding requirements.

Every officer, agent, shop steward, or other representative or employee of any labor organization subject to the order (other than a labor organization whose property and annual financial receipts do not exceed $5,000 in value), or of a trust in which a labor organization is interested, who handles funds or other property thereof shall be bonded in accordance with the principles of section 502(a) of the LMRDA. In enforcing this requirement the Assistant Secretary will be guided by the interpretations and policies followed by the Department of Labor in applying the provisions of section 502(a) of the LMRDA.

§ 204.36 Prohibitions against certain persons holding office or employment.

The prohibitions against holding office or employment in a labor organization contained in section 504(a) of the LMRDA are incorporated into this subpart by reference and made a part thereof. The prohibitions shall also be applicable to any person who has been convicted of, or who has served any part of a prison term resulting from his conviction of, violating 18 U.S.C. 1001 by making a false statement in any report required to be filed pursuant to this subpart, or who has been determined by the Assistant Secretary after an appropriate proceeding pursuant to §§ 204.66 through 204.92 to have willfully violated § 204.27: *Provided, however,* That the duties and responsibilities of the Board of Parole of the U.S. Department of Justice under section 504(a) of the LMRDA shall be assumed under this section by the Assistant Secretary or such other person as he may designate for the purpose of determining whether it would not be contrary to the order and this section to permit a person barred from holding office or employment to hold such office or employment.

§ 204.37 Prohibition of certain discipline.

No labor organization or any officer, agent, shop steward, or other representative or any employee thereof shall fine, suspend, expel, or otherwise discipline any of its members for exercising any right to which he is entitled under the provisions of the order or of this chapter.

§ 204.38 Deprivation of rights under the order by violence or threat of violence.

No labor organization or any officer, agent, shop steward, or other representative or any employee thereof shall use, conspire to use, or threaten to use force or violence to restrain, coerce, or intimidate, or attempt to restrain, coerce, or intimidate any member of a labor organization for the purpose of interfering with or preventing the exercise of any right to which he is entitled under the provisions of the order or this chapter.

Subpart B—Proceedings for Enforcing Standards of Conduct

§ 204.50 Investigations.

When he believes it necessary in order to determine whether any person has violated or is about to violate any provisions of this part (other than § 204.2, Bill of Rights of members of labor organizations) the Director shall cause an investigation to be conducted. The authority to investigate possible violations of this part (other than § 204.2) shall not be contingent upon receipt of a complaint.

§ 204.51 Inspection of records and questioning.

In connection with such investigation an Area Administrator or his representative may inspect such records and question such persons as he may deem necessary to enable him to determine the relevant facts. Every labor organization, its officers, employees, agents or representatives shall cooperate fully in any investigation and shall testify and produce the records or other documents requested in connection with the investigation. This section shall be enforced in accordance with the procedures in §§ 204.66 through 204.92.

§ 204.52 Report of investigation.

The Area Administrator's report of investigation (except those relating to complaints under § 204.2, Bill of Rights of members of labor organizations) shall be submitted through the Regional Administrator to the Director, who may report to interested persons concerning any matter which he deems to be appropriate as a result of such an investigation.

§ 204.53 Filing of complaints.

A complaint alleging violations of this part may be filed with any area office, or any other office of the Labor-Management Services Administration.

PROCEDURES UNDER BILL OF RIGHTS

§ 204.54 Complaints alleging violations of § 204.2, Bill of Rights of members of labor organizations.

Any member of a labor organization whose rights under the provisions of § 204.2 are alleged to have been infringed or violated, may file a complaint in accordance with § 204.53: *Provided, however,* That such member may be required to exhaust reasonable hearing procedure (but not to exceed a 4-month lapse of time) within such organization.

§ 204.55 Content of complaint.

(a) The complaint shall contain appropriate identifying information and a clear and concise statement of the facts constituting the alleged violation.

(b) The complainant shall submit with his complaint a statement setting forth the procedures, if any, invoked to remedy the alleged violation including the dates when such procedures were invoked and copies of any written ruling or decision which he has received.

§ 204.56 Service on respondent.

Simultaneously with the filing of a complaint, a copy of the complaint shall be served upon the respondent, and a written statement of such service shall be furnished to the Area Administrator.

§ 204.57 Investigation.

(a) Upon the filing of a complaint to §§ 204.54–204.56, the Area Administrator shall make such investigation as he deems necessary and shall report the essential facts, the positions of the parties, and any offers of settlement to the Regional Administrator.

(b) An investigation to determine whether any person has violated § 204.2 shall be conducted only after receipt of a complaint filed pursuant to §§ 204.54–204.56 and shall be limited to the allegations of such complaint.

§ 204.58 Dismissal of complaint.

If the Regional Administrator, after receipt of a report of the Area Administrator purusant to § 204.57, determines that a reasonable basis for the complaint has not been established, or that an offer of settlement satisfactory to the complainant has been made, he may dismiss the complaint. If he dismisses the complaint, he shall furnish the complainant with a written statement of the grounds for dismissal, sending a copy of the statement to the respondent.

§ 204.59 Review of dismissal.

The complainant may obtain a review of such action by filing a request for review with the Assistant Secretary within ten (10) days of service of the notice of

dismissal and simultaneously serving a copy of such request on the Regional Administrator and the respondent. A statement of service shall be filed with the Assistant Secretary. The request for review shall contain a complete statement of the facts and reasons upon which a request is based.

§ 204.60 Actionable complaint.

If it appears to the Regional Administrator that there is a reasonable basis for the complaint, and that no satisfactory offer of settlement has been made, he shall cause a notice of hearing to be issued and served on both the complainant and the labor organization.

§ 204.61 Notice of hearing.

The notice of hearing shall include:

(a) A copy of the complaint;

(b) A statement of the time and place of the hearing which shall be not less then 10 days after service of notice of the hearing, except in extraordinary circumstances;

(c) A statement of the nature of the hearing; and

(d) A statement of the authority and jurisdiction under which the hearing is to be held.

§ 204.62 Hearing procedures.

The proceedings following issuance of the notice of hearing shall be as provided in §§ 203.10 through 203.26 of this chapter.

ELECTION OF OFFICERS

§ 204.63 Complaints alleging violations of § 204.29, election of officers.

(a) A member of a labor organization may file a complaint alleging violations of § 204.29 within 1 calendar month after he has (1) exhausted the remedies available under the constitution and bylaws of the labor organization and of any parent body, or (2) invoked such available remedies without obtaining a final decision within 3 calendar months of such invocation.

(b) The complaint shall contain a clear and concise statement of the facts constituting the alleged violation(s) and a statement of what remedies have been invoked under the constitution and bylaws of the labor organization and when such remedies were invoked.

(c) The complainant shall submit with his complaint a copy of any ruling or decision he has received in connection with the subject matter of his complaint.

§ 204.64 Investigations; dismissal of complaint.

(a) If it is determined after preliminary inquiry that a complaint is deficient in any of the following respects, the Area Administrator shall conduct no investigation: (1) The complainant is not a member of the labor organization which conducted the election being challenged; (2) the labor organization is not subject to Executive Order 11491; (3) the election was not a regular periodic election of officers; (4) the allegations, if true, do not constitute a violation or violations of § 204.29; (5) the complainant has not complied with the requirements of § 204.63(a) of this part.

(b) If investigation discloses (1) that there has been no violation or (2) that a violation has occurred but was not of the kind that may have affected the outcome or (3) that a violation has occurred but has been remedied, the Director shall issue a determination dismissing the complaint and stating the reasons for his action.

§ 204.65 Procedures following actionable complaint.

(a) If the Director concludes that there is probable cause to believe that a violation has occurred and has not been remedied and may have affected the outcome of the election, he shall proceed in accordance with §§ 204.66 through 204.92.

(b) The challenged election shall be presumed valid pending a final decision thereon by the Assistant Secretary, and in the interim the affairs of the organization shall be conducted by the officers elected or in such other manner as its constitution and bylaws may provide.

OTHER ENFORCEMENT PROCEEDINGS

§ 204.66 Procedures for institution of enforcement proceedings.

Whenever it appears to the Director that a violation of this Part (other than § 204.2, Bill of Rights of members of labor organizations) has occurred and has not been remedied, he shall immediately notify any appropriate person and labor organization. Within ten (10) days following receipt of such notification, any such person or labor organization may request a conference with the Director or his representatives concerning such alleged violation. At any such conference, the Director may enter into an agreement providing for appropriate remedial action. If no person or labor organization requests such a conference, or upon failure to reach agreement following any such conference, the Director shall institute enforcement proceedings by filing a complaint with the Chief Hearing Examiner, U.S. Department of Labor, and shall cause a copy of the complaint to be served on each respondent named therein.

§ 204.67 Standards complaint; initiation of proceedings.

A complaint filed under § 204.66 of this part shall constitute the institution of a formal enforcement proceeding in the name of the Director, who shall be the only complaining party in the proceeding and shall, where he believes it appropriate, refrain from disclosing the identity of any person who called the violation to his attention (except in proceedings involving violations of § 204.29, Election of Officers). The complaint shall include the following:

(a) The name and identity of each respondent.

(b) A clear and concise statement of the facts alleged to constitute violations of the order or of this part.

(c) A statement of the relief requested.

(d) In any complaint filed by the Director on the basis of a complaint received from a member of a labor organization pursuant to § 204.63, a statement setting forth the procedures, if any, followed to invoke available remedies, including the dates when such procedures were invoked, and the substance of any ruling or decision by the complaining member from the labor organization or any parent body.

§ 204.68 Hearing Examiner.

Each enforcement proceeding instituted pursuant to this part shall be conducted before a Hearing Examiner designated by the Chief Hearing Examiner.

§ 204.69 Answer.

(a) Within twenty (20) days from the service of the complaint the respondent shall file an answer thereto with the Chief Hearing Examiner and shall serve a copy on all parties. The answer shall be signed by the respondent or his attorney.

(b) The answer (1) shall contain a statement of the facts which constitute the grounds of defense, and shall specifically admit, explain, or deny each of the allegations of the complaint unless the respondent is without knowledge, in which case the answer shall so state; or (2) shall state that the respondent admits all of the allegations in the complaint. Failure to file an answer to or plead specifically to any allegation in the complaint shall constitute an admission of such allegation.

§ 204.70 Procedure upon admission of facts.

The admission, of all the material allegations of fact in the complaint shall constitute a waiver of hearing. Upon such admission, the Hearing Examiner without further hearing shall prepare his report and recommendation in which he shall adopt as his proposed findings of fact the material facts alleged in the complaint.

§ 204.71 Motions and requests.

(a) Motions and requests made prior to the hearing shall be filed with the Chief Hearing Examiner. An original and two copies of such motions and requests shall be filed and the moving party shall serve simultaneously a copy on all other parties. Motions during the course of the hearing may be stated orally or filed in writing and shall be made part of the record. Each motion shall state the particular order, ruling, or action desired, and the grounds therefor. The Hearing Examiner is authorized to rule upon all motions made prior to the filing of his report.

(b) A party may request the attendance of witnesses and/or the production of documents at a hearing held pursuant to this part, by written application before the hearing or orally during the hearing. Copies of an application filed before the opening of the hearing shall be served simultaneously on the other parties, who may file written objections to the request within five (5) days after such service. The Hearing Examiner, after consideration of any objections, shall grant the request provided the specified testimony and/or documents appear to be necessary to the matters under investigation. If the Hearing Examiner denies the request he shall set forth the basis for his ruling. Upon the failure of any party or officer or employee of any party to comply with such a request which has been granted by the Hearing Examiner, the Hearing Examiner and the Assistant Secretary may disregard all related evidence offered by the party failing to comply with the request or take such other action as may be appropriate.

§ 204.72 Notice of hearing.

The Chief Hearing Examiner shall issue and cause to be served upon each of the parties a notice of hearing. The notice of hearing shall include the following:

(a) The name and identity of each party and the case number.

(b) A statement of the authority and jurisdiction under which the hearing is to be held.

(c) A statement of the time and place of the hearing which shall be not less than ten (10) days after service of the notice of hearing.

§ 204.73 Prehearing conferences.

(a) Upon his own motion or the motion of the parties, the Hearing Examiner may direct the parties or their counsel to meet with him for a conference to consider:

(1) Simplification of the issues;

(2) Necessity or desirability of amendments to pleadings for purposes of clarification, simplification, or limitations;

(3) Stipulations, admissions of fact, and of contents and authenticity of documents;

(4) Limitation of the number of expert witnesses; and

(5) Such other matters as may tend to expedite the disposition of the proceeding.

(b) The record shall show the matters disposed of by order and by agreement in such prehearing conferences. The subsequent course of the proceeding shall be controlled by such action.

HEARING AND RELATED MATTERS

§ 204.74 Conduct of hearing.

Hearings shall be conducted by a Hearing Examiner and shall be open to the public unless otherwise ordered by the Hearing Examiner.

§ 204.75 Intervention.

Any person desiring to intervene in any appropriate proceeding as a party respondent shall file a motion in writing or, if made at the hearing, may move orally on the record, stating the grounds upon which such person claims an interest. Such a motion shall be filed with the Hearing Examiner who shall rule upon such motion.

§ 204.76 Duties and powers of the Hearing Examiner.

It shall be the duty of the Hearing Examiner to inquire fully into the facts as they relate to the matter before him. Upon assignment to him and before transfer of the case to the Assistant Secretary, the Hearing Examiner shall have the authority to:

(a) Grant requests for appearance of witnesses or production of documents;

(b) Rule upon offers of proof and receive relevant evidence;

(c) Take or cause depositions to be taken whenever the ends of justice would be served thereby;

(d) Limit lines of questioning or testimony which are immaterial, irrelevant, or unduly repetitious;

(e) Regulate the course of the hearing, and if appropriate, exclude from the hearing persons who engage in misconduct and strike all related testimony of witnesses refusing to answer any questions ruled to be proper;

(f) Hold conferences for the settlement or simplification of the issues by consent of the parties or upon his own motion;

(g) Dispose of procedural requests, motions, or similar matters which shall be made part of the record of the proceeding, and motions to amend pleadings, also to recommend dismissal of cases or portions thereof, and to order hearings reopened prior to issuance of the Hearing Examiner's report and recommendations;

(h) Examine and cross-examine witnesses and to introduce into the record documentary or other evidence;

(i) Request the parties at any time during the hearing to state their respective positions concerning any issue in the case or theory in support thereof;

(j) Continue, at his discretion, the hearing from day to day, or adjourn it to a later date or to a different place, by announcement thereof at the hearing or by other appropriate notice;

(k) Prepare, serve, and submit his report and recommendations pursuant to § 204.88.

(l) Take official notice of any material fact not appearing in evidence in the record, which is among the traditional matters of judicial notice and also concerning which the Department by reason of its functions is presumed to be expert: *Provided*, That the parties shall be given adequate notice, at the hearing or by reference in the Hearing Examiner's decision of the matters so noticed, and shall be given adequate opportunity to show the contrary.

(m) Correct or approve proposed corrections of the official transcript when deemed necessary.

(n) Take any other action necessary under the foregoing and not prohibited by these regulations.

§ 204.77 Rights of parties; representation.

(a) Any party shall have the right to appear at such hearing in person, by counsel, or by other representative, to examine and cross-examine witnesses, and to introduce into the record documentary or other relevant evidence, except that the participation of any party shall be limited to the extent prescribed by the Hearing Examiner. Two (2) copies of documentary evidence shall be submitted and a copy furnished to each of the other parties. Stipulation of fact may be introduced in evidence with respect to any issue.

(b) The parties may appear in person, by counsel, or other representation.

§ 204.78 Rules of evidence.

The technical rules of evidence do not apply. Any evidence may be received, except that a Hearing Examiner may exclude any evidence or offer of proof which is immaterial, irrelevant, unduly repetitious, or customarily privileged. Every party shall have a right to present his case by oral and documentary evidence and to submit rebuttal evidence.

§ 204.79 Burden of proof.

A complainant in asserting a violation of the order shall have the burden of proving the allegations of the complaint by a preponderance of the evidence.

§ 204.80 Unavailability of Hearing Examiners.

In the event the Hearing Examiner designated to conduct the hearing becomes unavailable, the Chief Hearing Examiner shall designate another Hearing Examiner for the purpose of further hearing or issuance of a report and recommendations on the record as made, or both.

§ 204.81 Objection to conduct of hearing.

(a) Any objection with respect to the conduct of the hearing, including any objection to the introduction of evidence, may be stated orally or in writing accompanied by a short statement of the grounds for such objection, and included in the record. No such objection shall be deemed waived by further participation in the hearing. Such objection shall not stay the conduct of the hearing.

(b) Automatic exceptions will be allowed to all adverse rulings. Rulings by the Hearing Examiner shall not be appealed prior to the transfer of the case to the Assistant Secretary, but shall be considered by the Assistant Secretary only upon the filing of exceptions to the Hearing Examiner's report and recommendations in accordance with § 204.88.

§ 204.82 Motions after a hearing.

All motions made after the transfer of the case to the Assistant Secretary, except motions to correct the record, under § 204.76(m), shall be made in writing to the Assistant Secretary. The moving party shall serve simultaneously a copy of all motion papers on all other parties. A statement of service shall accompany the motion. Answers, if any, must be served on all parties and the original thereof, together with two (2) copies and statement of service, shall be filed with the Assistant Secretary after the hearing, within five (5) days after service of the moving papers unless it is otherwise directed.

§ 204.83 Waiver of objections.

Any objection not duly urged before a Hearing Examiner shall be deemed waived.

§ 204.84 Oral argument at the hearing.

Any party shall be entitled, upon request, to a reasonable period prior to the close of the hearing for oral argument, which shall be included in the official transcript of the hearing.

§ 204.85 Transcript.

An official reporter shall make the only official transcript of such proceedings. Copies of the official transcript will not be provided to the parties but may be purchased by arrangement with the official reporter or may be examined in the Area Office in whose geographic jurisdiction the hearing has been held.

§ 204.86 Filing of brief.

Any party desiring to submit a brief to the Hearing Examiner shall file the original and two (2) copies within seven (7) days after the close of the hearing: *Provided, however,* That prior to the close of the hearing and for good cause, the Hearing Examiner may grant a reasonable extension of time. Copies of such brief shall be served simultaneously on all of the parties to the proceeding. Requests for additional time in which to file a brief under authority of this section made after the hearing shall be made in writing to the Hearing Examiner and copies thereof served simultaneously on the other parties. A statement of such service shall be furnished. A request for extension of time shall be received not later than three (3) days before the date such briefs are due. In the absence of the Hearing Examiner such requests shall be ruled upon by the Chief Hearing Examiner. No reply brief may be filed except by permission of the Hearing Examiner.

§ 204.87 Proposed findings and conclusion.

Within ten (10) days following the close of the hearing, the parties may submit proposed findings and conclusions to the Hearing Examiner, together with supporting reasons therefor, which shall become part of the record.

§ 204.88 Submission of the Hearing Examiner's report and recommendations to the Assistant Secretary; exceptions.

(a) After the close of the hearing, and the receipt of briefs, or findings and conclusions, if any, the Hearing Examiner shall prepare his report and recommendations expeditiously. The report and recommendations shall contain findings of fact, conclusions, and the reasons or basis therefor including credibility determinations, and recommendations as to the disposition of the case including the remedial action to be taken.

(b) The Hearing Examiner shall cause his report and recommendations to be served promptly on all parties to the proceeding. Thereafter, the Hearing Examiner shall transfer the case to the Assistant Secretary including his report and recommendations and the record. The record shall include the members complaint, the standards complaint, notice of hearing, motions, rulings, orders, official transcript of the hearing, stipulations, objections, depositions, exhibits, documentary evidence and any briefs or other documents submitted by the parties.

(c) An original and two (2) copies of any exceptions to the Hearing Examiner's report and recommendations may be filed by any party with the Assistant Secretary within ten (10) days after service of the report and recommendations: *Provided, however,* That the Assistant Secretary may for good cause shown extend the time for filing such exceptions. Requests for additional time in which to file exceptions shall be in writing, and copies thereof shall be served simultaneously on the other parties. Requests for extension of time must be received no later than three (3) days before the date the exceptions are due. Copies of such exceptions and any supporting briefs shall be served simultaneously on all other parties, and a statement of such service shall be furnished to the Assistant Secretary.

§ 204.89 Contents of exceptions to Hearing Examiner's report and recommendations.

(a) Exceptions to a Hearing Examiner's report and recommendations shall:

(1) Set forth specifically the questions upon which exceptions are taken;

(2) Identify that part of the Hearing Examiner's report and recommendations to which objection is made;

(3) Designate by precise citation of page the portions of the record relied on, state the grounds for the exceptions, and include the citation of authorities unless set forth in a supporting brief.

(b) Any exception to a ruling, finding, conclusion, or recommendation which is not specifically urged shall be deemed to have been waived. Any exception which fails to comply with the foregoing requirements may be disregarded.

§ 204.90 Briefs in support of exceptions.

(a) Any brief in support of exceptions shall contain only matters included within the scope of the exceptions and shall contain, in the order indicated, the following:

(1) A concise statement of the case containing all that is material to the consideration of the questions presented;

(2) A specification of the questions involved and to be argued;

(3) The argument, presenting clearly the points of fact and law relied on in support of the position taken on each question, with specific page reference to the transcript and the legal or other material relied on.

(b) Answering briefs to the exceptions and cross-exceptions and supporting briefs may be filed at the discretion of the Assistant Secretary.

§ 204.91 Action by the Assistant Secretary.

After considering the Hearing Examiner's report and recommendations, the record, and any exceptions filed, the Assistant Secretary shall issue his decision affirming or reversing the Hearing Examiner, in whole or in part, or making such other disposition of the matter as he deems appropriate.

(a) Upon finding a violation of the order the Assistant Secretary may order the respondent to cease and desist from conduct violative of the order and may require the respondent to take such affirmative corrective action as he deems appropriate to effectuate the policies of the order.

(b) Upon finding no violation of the order, the Assistant Secretary shall dismiss the complaint.

(c) The Assistant Secretary may refer cases or any issue(s) therein involving major policy questions to the Council for decision or general ruling in accordance with its regulations.

§ 204.92 Compliance with decisions and orders of the Assistant Secretary.

When remedial action is ordered, the respondent shall report to the Assistant Secretary, within a specified period that the required remedial action has been effected. When the Assistant Secretary finds that the required remedial action has not been effected, he may order cancellation of dues deduction, withdrawal of recognition, or referral to the Council as appropriate.

§ 204.93 Stay of remedial action.

In cases involving violations of this part, the Assistant Secretary may direct, subject to such conditions as he deems appropriate, that the remedial action ordered be stayed pending any further appeal that may be available under § 204.91(c) or the regulations of the Council, except that an order directing an election of officers shall not be stayed pending appeal.

6. Part 205 would be revised to read as follows:

PART 205—GRIEVABILITY AND ARBITRABILITY PROCEEDINGS

Sec.

205.1 Who may file an application.
205.2 Action to be taken before filing an application.
205.3 Contents of application and attachments.
205.4 Filing and service of copies.
205.5 Investigation of the application.
205.6 Action by Regional Administrator.
205.7 Notice of hearing.
205.8 Contents of notice of hearing; attachments.
205.9 Hearing procedures under this part.
205.10 Posthearing procedures.
205.11 Action by the Assistant Secretary.
205.12 Compliance with a finding of a Regional Administrator or with a decision of the Assistant Secretary.
205.13 Subsequent unfair labor practice charges.

AUTHORITY: The provisions of this Part 205 issued under sections 6, 18, E.O. 11491, 34 F.R. 17605, as amended by E.O. 11616, 36 F.R. 17319.

§ 205.1 Who may file an application.

An application for a decision by the Assistant Secretary concerning a question as to whether or not a grievance is on a matter subject to the grievance procedure in an existing agreement, or is subject to arbitration under that agreement, may be filed by any party to that agreement or any employee or group of employees within the unit covered by that agreement: *Provided, however,* That an application for a decision as to whether a matter is subject to arbitration may be filed only by the activity or agency or the exclusive representative which is party to an existing agreement.

§ 205.2 Action to be taken before filing an application with the Assistant Secretary.

Any application for a decision by the Assistant Secretary as to whether or not a grievance is on a matter subject to the grievance procedure in an existing agreement, or is subject to arbitration under that agreement, must be filed within thirty (30) days after service on the applicant of a final rejection, in writing, of the grievance on the grounds that the matter is not subject to the grievance procedure in the existing agreement, or is not subject to arbitration under that agreement: *Provided, however,* That applications under this section may not be filed with respect to any agreement entered into before November 24, 1971.
1971.

§ 205.3 Contents of the application and attachments.

(a) An application filed under this section shall be submitted on a form prescribed by the Assistant Secretary and shall contain the following:

(1) The names of the agency and the activity involved, their addresses, telephone numbers, and the persons to contact and their titles, if known;

(2) The name, address, and telephone number of the labor organization which is a party to the agreement;

(3) The effective date and the terminal date of the existing agreement;

(4) A clear and concise statement of the unresolved question(s) as to whether or not a matter is subject to the grievance procedure in an existing agreement, or is subject to arbitration under that agreement, including the applicable section(s) of the agreement and the date of the final written rejection of the grievance;

(5) A statement of any other procedures invoked involving the subject matter of the grievance and the results, if any, including whether the subject matter raised in the grievance has been referred to the Council, Panel, or Federal Mediation and Conciliation Service for consideration or action;

(6) A declaration by the person signing the application, under the penalties of the Criminal Code (18 U.S.C. 1001), that its contents are true and correct to the best of his knowledge and belief, and the signature of the applicant or the applicant's representative, including his title, address, and the telephone number.

(b) The applicant shall furnish with the application, two (2) copies of the following: A statement of any other relevant facts, the written grievance, the agreement, all correspondence relating to the unresolved question(s), and the final rejection.

§ 205.4 Filing and service of copies.

(a) An original and four (4) copies of an application, including two (2) copies of all attachments, shall be filed with the Area Administrator for the area in which the activity is located.

(b) Simultaneously with the filing of an application, a copy of the application and all statements shall be served on the other party or parties to the agreement, and a written statement of such service shall be filed with the Area Administrator.

§ 205.5 Investigation of the application.

(a) If the application has been filed by a party to the agreement, the other party or parties thereto shall file two (2) copies of a response with the Area Administrator within fifteen (15) days following the service of a copy of the application, unless an extension of time has been granted by the Area Administrator.

(b) If the application is filed by an employee or a group of employees in the exclusive unit, each of the parties to the agreement shall file two (2) copies of a response with the Area Administrator within fifteen (15) days following the service of a copy of the application, unless an extension of time has been granted by the Area Administrator.

(c) The response shall cover any matter which is relevant to the application and shall include a statement of position and any supporting evidence on the issue(s) raised by the application and the attachments thereto. A copy of such response shall be served simultaneously on all other parties, and a written statement of such service shall be filed with the Area Administrator.

(d) Upon the filing of an application, the Area Administrator shall cause such additional investigation to be made as he deems necessary, and report the essential facts and positions of the parties to the Regional Administrator.

(e) The parties may submit to the Area Administrator a stipulation of facts together with their request for a decision by the Assistant Secretary without a hearing. Such stipulation and request shall be transmitted to the Regional Administrator by the Area Administrator.

§ 205.6 Action by Regional Administrator.

(a) The Regional Administrator shall take appropriate measures which may consist of one of the following:

(1) Approval of a request for withdrawal of the application; or

(2) Dismissal of the application if he determines that the application has not been timely filed or otherwise is not actionable; or

(3) Approval of a satisfactory stipulation of facts for submission to the Assistant Secretary for decision without a hearing; or

(4) Issuance of a report and findings on the questions involved, provided no relevant question of fact exists; or

(5) Issuance of a notice of hearing.

(b) Any party aggrieved by the action of the Regional Administrator under § 205.6(a) (2) or (4) may obtain a review of such action by the Assistant Secretary pursuant to the procedures set forth in § 202.6(d).

§ 205.7 Notice of hearing.

The Regional Administrator may cause a notice of hearing to be issued providing for a hearing before a Hearing Examiner if, after the filing of an application, he finds that relevant questions of fact exist concerning whether or not the grievance is on a matter subject to the grievance procedure in an existing agreement, or is subject to arbitration under that agreement.

§ 205.8 Contents of notice of hearing; attachments.

(a) The notice of hearing shall include:

(1) A statement of the time and place of the hearing, which shall be not less than ten (10) days after service of the notice of hearing, except in extraordinary circumstances;

(2) A statement of the nature of the hearing;

(3) A statement of the authority and jurisdiction under which the hearing is to be held;

(4) A reference to the particular sections of the Order and regulations involved.

(b) Attached to the notice of hearing shall be a copy of the application and attachments and the response(s) thereto.

(c) The attachments to the application referred to in § 205.3(b) and the responses thereto shall be furnished to the Hearing Examiner, but will not be deemed as evidence, and any party wishing to rely upon anything contained therein must make an appropriate submission at the hearing.

§ 205.9 Hearing procedures under this part.

Hearing procedures shall be in accordance with §§ 203.10 through 203.20 with the exception of § 203.14 of this chapter. There shall be no burden of proof in hearings conducted under this part.

§ 205.10 Posthearing procedures.

The procedures after the close of the hearing shall be in accordance with §§ 203.18 through 203.24 with the exception of §§ 203.19 and 203.20 of this chapter.

§ 205.11 Action by the Assistant Secretary.

(a) After considering the Hearing Examiner's report and recommendations and the record and any exceptions filed thereto, the Assistant Secretary shall issue his decision affirming or reversing the Hearing Examiner, in whole or in part, or make any other disposition of the matter he deems appropriate.

(b) The Assistant Secretary may refer cases or issues therein, involving major policy questions to the Council for decision or general ruling in accordance with its regulations.

§ 205.12 Compliance with a finding of a Regional Administrator or with a decision of the Assistant Secretary.

(a) When a finding is made that a grievance is on a matter subject to the grievance procedure in an existing agreement, or is subject to arbitration under that agreement, by a Regional Administration on which review by the Assistant Secretary has not been requested, or a decision to that effect is made by the Assistant Secretary, the parties shall report to the Regional Administrator, or the Assistant Secretary as appropriate, within a specified period, that the grievance is being processed.

(b) When the Assistant Secretary finds that the processing required pursuant to a finding of a Regional Administrator, or to a decision of the Assistant Secretary has not been effected, the Assistant Secretary may order cancellation of dues deduction, withdrawal of recognition, referral to the Council, or such other action as appropriate.

§ 205.13 Subsequent unfair labor practice charges.

(a) Notwithstanding the time limitation provisions of § 203.2 of this chapter, an applicant who has received a final decision on his application in the form of either of the following: (1) A Regional Administrator's report and finding that the matter covered by the application is not subject to the grievance procedure in an existing agreement, and no request for review has been filed; or (2) a decision by the Assistant Secretary that the matter covered by the application is not subject to the grievance procedure in an existing agreement, may file a charge of an alleged unfair labor practice under section 19 of the order which is based on the same factual situation which gave rise to the grievance covered by the application. Any such charge must be filed within thirty (30) days of the issuance of the final decision referred to above.

(b) The procedures of Part 203 of this chapter shall apply to a charge filed following the issuance of either of the final decisions referred to in paragraph (a) of this section, except that the charging party must file any complaint within thirty (30) days after receipt of a written final decision on the charge by the party against whom the charge is filed, or within sixty (60) days of the date the charge was filed, whichever is the shorter period of time.

7. A new Part 206 would read as follows:

PART 206—MISCELLANEOUS

Sec.
206.1 Computation of time for filing papers.
206.2 Additional time after service by mail.
206.3 Documents in a proceeding.
206.4 Service of pleading and other papers under this chapter.
206.5 Transfer of case to Assistant Secretary.
206.6 Transfer and consolidation of cases.
206.7 Request for appearance of witnesses and production of documents at hearing.
206.8 Rules to be liberally construed.
206.9 Petitions for amendment of regulations.

AUTHORITY: The provisions of this Part 206 issued under secs. 6, 18, E.O. 11491, 34 F.R. 17605, as amended by E.O. 11616, 36 F.R. 17319.

§ 206.1 Computation of time for filing papers.

In computing any period of time prescribed by or allowed by these regulations, other than in agreement bar situations described in § 202.3(c), the day of the act, event, or default after which the designated period of time begins to run, shall not be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday, or Federal legal holiday in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or a Federal legal holiday. When the period of time prescribed, or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and Federal legal holidays shall be excluded from the computations. When these regulations require the filing of any paper, such document must be received by the Assistant Secretary or the officer or agent designated to receive such matter before the close of business of the last day of the time limit, if any, for such filing or extension of time that may have been granted. In agreement bar situations, if the sixtieth (60) day prior to the terminal date of an agreement falls on a Saturday, Sunday, or Federal legal holiday, a petition, to be timely, must be received by the close of business of the last official workday preceding the sixtieth (60) day.

§ 206.2 Additional time after service by mail.

Whenever a party has the right or is required to do some act pursuant to these regulations within a prescribed period after service of a notice or other paper upon him and the notice or paper is served on him by mail, three (3) days shall be added to the prescribed period: *Provided, however*, that three (3) days shall not be added if any extension of time may have been granted.

§ 206.3 Documents in a proceeding.

(a) *Title.* Documents in any proceeding under these regulations including correspondence shall show the title of the proceeding and the case number, if any.

(b) *Number of copies; form.* Except as provided in these regulations any documents or papers shall be filed with four (4) copies in addition to the original. All matters filed shall be printed, typed, or otherwise legibly duplicated; carbon copies of typewritten matter will be accepted if they are clearly legible.

(c) *Signature.* The original of each document required to be filed under these regulations shall be signed by the party or by an attorney or representative of record for the party, or by an officer of the party, and shall contain the address and telephone number of the person signing it.

§ 206.4 Service of pleading and other papers under this chapter.

(a) *Method of service.* Notices of hearing, decisions, orders and other papers may be served personally or by registered or certified mail or by telegraph.

(b) *Upon whom served.* All papers, except as herein otherwise provided, shall be served upon all counsel of record and upon parties not represented by counsel or by their agents designated by them or by law and upon the Assistant Secretary, or his designated officer, or agent or examiner, where appropriate. Service upon such counsel or representative shall constitute service upon the party, but a copy also shall be transmitted to the party.

(c) *Statement of service.* The party or person serving the papers or process shall submit simultaneously to the Assistant Secretary or other designated representative, or to the individual conducting the proceeding, a written statement of such service; failure to file a statement of service shall not affect the validity of the service. Proof of service shall be required only if subsequent to the receipt of a statement of service a question is raised with respect to proper service.

§ 206.5 Transfer of case to Assistant Secretary.

(a) In any case under Parts 202, 203, and 205 in which the Regional Administrator determines that no material issue of fact exists, he may transfer the case to the Assistant Secretary. The Assistant Secretary shall decide the case on the basis of the papers alone after having allowed ten (10) days for the filing of briefs and/or requests for review of the Regional Administrator's action. The Assistant Secretary may remand the case to the Regional Administrator if he determines that material fact questions exist. Orders of transfer and remand shall be served on all parties.

(b) In any case under Parts 202, 203, and 205 in which it appears to the Regional Administrator that the proceedings raise questions which should be decided by the Assistant Secretary, he may, at any time, issue an order transferring the case to the Assistant Secretary for decision or other appropriate action. Such an order shall be served on the parties.

(c) In any case in which a request for review is permitted under this chapter of a Regional Administrator's action, the Assistant Secretary may issue a decision or ruling affirming or reversing the Regional Administrator in whole or in part or making any other disposition of the matter as he deems appropriate.

§ 206.6 Transfer and consolidation of cases.

In any matter arising pursuant to these regulations, whenever it appears necessary in order to effectuate the purposes of the order or to avoid unnecessary costs or delay, the Regional Administrator may consolidate cases within his own region or may transfer such case(s) to any other region, for the purpose of investigation or consolidation with any proceedings which may have been instituted in, or transferred to, such region.

§ 206.7 Request for appearance of witnesses and production of documents at hearing.

(a) Regional Administrators, Hearing Officers or Hearing Examiners, as appropriate, upon their own motion, or upon motion of any parties to a proceeding, may issue a Request for Appearance of Witnesses or Request for Production of Documents at a hearing held pursuant to Parts 202, 203, and 205.

(b) A party's motion to a Regional Administrator shall be in writing and filed with the Regional Administrator not less than ten (10) days prior to the opening of a hearing or with a Hearing Officer or Hearing Examiner during the hearing, and shall name and identify the witness(es) or document(s) sought, or both, and state the reasons therefor. Simultaneously with the filing of a request with the Regional Administrator, copies shall be served on the other parties and a written statement of such service shall be filed with the Regional Administrator.

(c) Within five (5) days after service of the motion, a party may file its objection to the motion with the Regional Administrator and state its reasons therefor. Simultaneously with the filing of the objection with the Regional Administrator, copies shall be served on the other parties and a written statement of such service shall be filed with the Regional Administrator. The Regional Administrator may rule upon the motion or refer it to the Hearing Officer or Hearing Examiner for an appropriate ruling.

(d) Objections to a motion referred to or filed with a Hearing Officer or Hearing Examiner may be stated orally on the record.

(e) A motion shall be granted by the Regional Administrator, Hearing Officer or Hearing Examiner, after careful consideration of any objections and upon determination that the testimony or documents appear(s) to be necessary to the matters under investigation and describes with sufficient particularity the documents sought. Service of an approved Request for Appearance of Witnesses or Request for Production of Documents is the responsibility of the requesting party. Upon the failure of any party or officer of any party to comply with such Request(s), the Regional Administrator, Hearing Officer, Hearing Examiner, or the Assistant Secretary may disregard all related evidence offered by the party failing to comply or take such other action as may be appropriate.

(f) A denial of a motion shall be explained fully and it shall become a part of the hearing record.

§ 206.8 Rules to be construed liberally.

(a) The regulations in this chapter may be construed liberally to effectuate the purposes and provisions of the order.

(b) When an act is required or allowed to be done at or within a specified time, the Assistant Secretary may at any time order the period altered where it shall be manifest that strict adherence will work surprise or injustice or interfere with the proper effectuation of the order.

§ 206.9 Petitions for amendment of regulations.

Any interested person may petition the Assistant Secretary in writing for amendments to any portion of these regulations. Such petition shall identify the portion of the regulations involved and provide the specific language of the proposed amendment together with a statement of grounds in support of such petition.

Dated at Washington, D.C., this 9th day of November 1971.

W. J. USERY, Jr.,
Assistant Secretary of Labor for Labor-Management Relations.

[FR Doc.71-16615 Filed 11-16-71;8:45 am]

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PART III

COST OF LIVING COUNCIL

PAY BOARD

PRICE COMMISSION

■

Economic Stabilization

Title 6—ECONOMIC STABILIZATION

Chapter I—Cost of Living Council

PART 101—COVERAGE, EXEMPTIONS AND CLASSIFICATION OF ECONOMIC UNITS

Miscellaneous Amendments

Part 101—Coverage, Exemptions and Classification of Economic Units was added to a new Title 6 and a new Chapter I of the Code of Federal Regulations on November 13, 1971 (36 F.R. 21788).

Part 101 in its published form contained certain provisions which must be changed to carry out the stated purpose of the regulations.

An addendum to Part 101, as set forth below, makes the changes in the provisions which appeared in 36 F.R. 21788 et seq. by amending the text of these regulations as appropriate.

Since the Council found that the publication of Part 101 in accordance with the usual notice and procedural requirements was impracticable because of the need to immediately impelment Executive Order No. 11627, the Council also finds good cause exists for the publication of the change contained in this addendum in less than 30 days. The amendments set forth in this addendum shall be effective as of 12:01 a.m. November 14, 1971.

DONALD RUMSFELD,
Director, Cost of Living Council.

Part 101 of Chapter I of Title 6 of the Code of Federal Regulations is amended as follows:

1. In the authority provision, line 4 is revised as follows: "84 Stat. 799; Public Law 91–558, 84 Stat. 1468;".

2. In § 101.15, paragraph (a) is revised to read as follows:

§ 101.15 Price Category III firms; monitoring and spot checks.

(a) A price category III firm is a firm with annual sales or revenues of less than $50 million.

* * * * *

3. In § 101.27, paragraph (b) is revised to read as follows:

§ 101.27 Reclassification.

* * * * *

(b) If a firm is a price category I firm, the Director of the Cost of Living Council has the authority to classify all pay adjustments of the firm as category I pay adjustments. If a firm is a price category II firm, the Director has the authority to classify all pay adjustments of the firm as category II pay adjustments, unless that firm's pay adjustments are already classified as category I pay adjustments.

4. In § 101.32(h)(2) the reference is changed to read "26 United States Code 163(d)(4)(A)".

5. In § 101.32(i), subparagraphs (1), (3), and (4) are revised to read as follows:

§ 101.32 Exemptions.

* * * * *

(i) *Miscellaneous.* (1) Royalties and other payments from the sale of copyrights, manuscripts, and like materials prepared for publication.

(3) Raw sugar price adjustments which are controlled under the Sugar Act of 1948.

(4) Insurance premiums charged for life insurance policies purchased or renewed after November 13, 1971, including ordinary, term, and group policies, and individual endowments or annuities (fixed or variable), but excluding credit life insurance.

* * * * *

6. In § 101.33, paragraph (b) is revised to read as follows:

§ 101.33 Items not included in coverage.

* * * * * *

(b) *Minimum wages.* Wages below the minimum wage rate established by Federal law.

7. In § 101.101, the lead sentence of the section and paragraph (b) are revised to read as follows:

§ 101.101 Special provisions applicable from Nov. 14, 1971–Jan. 1, 1972.

Notwithstanding the provisions of §§ 101.11 and 101.21:

* * * * *

(b) After November 14 and until January 1, 1972, the provisions of § 300.051 (b) of this title establishing special procedures for the approval of proposed price adjustments apply to price category I firms.

[FR Doc.71-16864 Filed 11-15-71;5:20 p.m.]

Chapter II—Pay Board

PART 201—STABILIZATION OF WAGES AND SALARIES

Miscellaneous Amendments

The purpose of these amendments and appendices is to set forth for public information and guidance interpretive and definitional decisions adopted by the Pay Board. Appendix B—Interpretive Decisions Adopted by the Pay Board and Appendix C—Definitional Decisions Adopted by the Pay Board are added to Part 201—Stabilization of Wages and Salaries in order to set forth these daily decisions of the Pay Board until such decisions can be incorporated into the regulations under this part. When a decision is incorporated into the regulations under this part, it will be deleted from its proper appendix.

Pursuant to the authority vested in the Pay Board by the Economic Stabilization Act of 1970, as amended (Public Law 91–379, 84 Stat. 799; Public Law 91–558, 84 Stat. 1468; Public Law 92–8, 85 Stat. 13; Public Law 92–15, 85 Stat. 38), Executive Order No. 11627 (36 F.R. 20139, October 16, 1971), and Cost of Living Council Order No. 3 (36 F.R. 20202, October 16, 1971), the Pay Board hereby adopts the following amendments and appendices.

Because of the need for immediate guidance from the Pay Board with respect to the provisions contained in these amendments and appendices, it is hereby found impracticable to issue such amendments and appendices with notice and public procedure thereon under 5 U.S.C., sec. 553(b), or subject to the effective date limitation of 5 U.S.C., sec. 553(d).

Effective date. These amendments and appendices shall be effective on and after November 14, 1971.

GEORGE H. BOLDT,
Chairman of the Pay Board.

PARAGRAPH 1. Section 201.1 is amended by revising the third sentence and by adding a new sentence. The amended and added provisions read as follows:

§ 201. Purpose.

* * * The policies governing pay adjustments, adopted by the Pay Board on November 8, 1971, are attached as Appendix A to this part. Appendix B and Appendix C are attached to include Interpretive Decisions and Definitional Decisions, respectively, which have been adopted by the Pay Board.

PARA. 2. The center heading following § 201.15 is amended to read as follows:

APPENDIX A

POLICIES GOVERNING PAY ADJUSTMENTS ADOPTED BY THE PAY BOARD NOVEMBER 8, 1971

* * * * *

PARA. 3. Part 201—Stabilization of Wages and Salaries of Chapter II—Pay Board of Title 6—Economic Stabilization is amended by adding a new Appendix B—Interpretive Decisions Adopted by the Pay Board and a new Appendix C—Definitional Decisions Adopted by the Pay Board. These new provisions read as follows:

APPENDIX B

INTERPRETIVE DECISIONS ADOPTED BY THE PAY BOARD

(1) *Longevity and Related Wage Increases (Adopted November 12, 1971).* Allow without regard to the 5.5 percent standard the resumption of longevity increases and automatic progression within a rate range according to the terms of plans or established practices in existence prior to November 14, 1971.

(2) *Existing Contracts (Adopted November 12, 1971).*

Existing regulations of the Pay Board provide that:

"Existing contracts and pay practices previously set forth will be allowed to operate according to their terms except that specific contracts or pay practices are subject to review, when challenged by a party at interest or by five or more members of the Board, to determine whether any increase is unreasonably inconsistent with the criteria established by this Board."

This means that, effective November 14, 1971, all the terms of such contracts and pay practices are fully operative. In the event of a challenge, these terms shall remain in effect unless and until the Pay Board rules otherwise.

The prenotification reporting requirements with respect to such contracts or pay practices are waived for all pay increases thereunder prior to January 1, 1972. However, reports will have to be filed by January 1, 1972, on forms to be developed as to any pay increases in the above categories which are placed in effect prior to January 1, 1972. Such reports are required only in bargaining or pay practice situations involving 1,000 or more employees.

Wage increases under existing or future agreements in the construction industry, however, require prenotification and approval by the Construction Industry Stabilization Committee before they can be put into effect.

APPENDIX C

DEFINITIONAL DECISIONS ADOPTED BY THE PAY BOARD

(1) *Appropriate Employee Unit (Adopted November 12, 1971).* An appropriate employee unit for the measurement of changes in wage and salary levels is a group composed of all employees in a bargaining unit, recognized employee categories, in a plant or other establishment, or in a department thereof, or in a company, or in an industry, as best adapted to preserve contractual or historical relationships.

(2) *Base Date (Adopted November 12, 1971).* The base date from which general pay standard increases shall be measured is November 13, 1971.

[FR Doc.71-16913 Filed 11-16-71;12:37 pm]

Chapter III—Price Commission

PART 300—PRICE AND RENT STABILIZATION

Clarification of Regulations

The purpose of the amendment contained in item 1 is to change § 300.012 of Title 6, Chapter III, Code of Federal Regulations, hereinafter referred to as these regulations, to provide that a manufacturer may charge a price in excess of the base price only to reflect allowable costs in effect on November 14, 1971, and cost increases incurred after November 14, 1971, reduced to reflect productivity gains, and subject to the profit margin as a percentage of sales limitation. The purpose of the amendments contained in item 2 is to insert the word "markup" before "base period" in paragraph (a)(1) of § 300.013, to add the word "dollar" before "sales" in paragraph (b)(1)(ii) of § 300.013 and to provide that highest dollar sales volume and percentages of total dollar sales "in the course of a year" are to determine the items to be posted in accordance with § 300.013(b)(1)(ii) of these regulations. The purpose of the amendments contained in item 3 is to refer to "allowable costs" instead of "allowable cost", to refer to "cost increases" instead of "cost increase", and to add the words "over that" before the phrase "which prevailed during the base period."

The purpose of item 4 is to add "or other appropriate legal authority" after "regulatory agency" in paragraphs (a) and (b) of § 300.016 of these regulations and to provide for certain certifications and reports. The purpose of item 5 is to provide more complete guidance as to regulations for prenotification firms in paragraph (a) of § 300.051, and to amend paragraph (b) of § 300.051 to provide certain special provisions. The purpose of item 6 is to add certain reporting requirements to those set forth in § 300.052.

The purpose of item 7 is to amend § 300.203 to provide that, for prenotification firms, the operation of § 300.203 is subject to the requirements of § 300.051 of these regulations. The purpose of item 8 is to change reference to Part 10 to reference to Part 101 in § 300.401. The purpose of item 9 is to change § 301.501 to § 300.501 of these regulations. The purpose of item 10 is to provide that guidance contained in paragraph (b) of § 300.507 of these regulations does not apply to leases of real property exempted in accordance with § 300.401 and to substitute the word "in" for the word "is" and to insert the word "after" before the date "August 14, 1971" in the second sentence of paragraph (b)(1) of § 300.507. Item 10 also clarifies Price Commission regulations as to sales and leases of real property by placing provisions relating to the leasing of real property not previously leased in paragraph (b)(2) of § 300.507 and provisions as to substantial capital improvements in paragraph (b)(3) of § 300.507 instead of in paragraph (b) of § 300.509. Item 10 further provides that property which has undergone a substantial capital improvement shall be treated as property not previously leased for the purpose of computing a base price: *Provided, however,* That the base price may not be increased over the monthly rental charged before the substantial capital improvement was initiated by more than 1½ percent of the cost of such capital improvement. The purpose of item 11 is to delete the word "function" from the second sentence of paragraph (c) of § 300.509 and to renumber paragraphs (c), (d), (e), and (f) of § 300.509 to paragraphs (b), (c), (d), and (e) of § 300.509.

1. Section 300.012 of these regulations is hereby amended to read as follows:

§ 300.012 Manufacturers.

A manufacturer may charge a price in excess of the base price (as determined under Subpart F of this part), only to reflect allowable costs in effect on November 14, 1971, and cost increases incurred after November 14, 1971, reduced to reflect productivity gains: *Provided, however,* That the effect of all of a manufacturer's price changes is not to increase its profit margin as a percentage of sales, before income taxes, over that which prevailed during the base period (as defined in § 300.101).

2. Paragraphs (a)(1) and (2) and (b)(1)(ii) of § 300.013 are hereby amended to read as follows:

§ 300.013 Retailers and wholesalers.

(a) *In general.* * * *

(1) The customary initial percentage markup with respect to the property sold is equal to or less than such person's customary initial percentage markup which prevailed during the markup base period (as defined in § 300.101), provided

(2) The effect of all such person's price changes is not to increase its profit margin as a percentage of sales, before income taxes, over that which prevailed during the base period.

(b) *Posting requirement.* (1) A retailer is required to display prominently at the place of sale, base prices with respect to:

(i) All food products (except those which are exempt under the provisions of § 300.401); and

(ii) Those 40 items in each department which have the highest dollar sales volume in the course of a year, or those items which account for 50 percent of total dollar sales in each department in the course of a year, whichever is less. Such base prices must be posted on or before January 1, 1972. No increase in price is allowable under paragraph (a) of this section until such base prices have been posted.

* * * * *

3. Section 300.014 of these regulations is hereby amended to read as follows:

§ 300.014 Service organizations.

A person which is a service organization may charge a price in excess of the base price with respect to the furnishing of services or the leasing of personal property only to reflect allowable costs in effect on November 14, 1971, and cost increases incurred after November 14, 1971, reduced to reflect productivity gains: *Provided, however,* That such increased price shall not result in an increase in such person's profit margin as a percentage of sales, before income taxes, over that which prevailed during the base period.

4. Paragraphs (a) and (b) of § 300.016 of these regulations are hereby amended to read as follows:

§ 300.016 Regulated public utilities.

(a) *In general.* A person which is a regulated public utility as defined in section 7701(a)(33) of the Internal Revenue Code of 1954 (26 U.S.C. sec. 7701(a)(33)) may charge a price, rate, or tariff in excess of the base price if such increase has been approved by a regulatory agency or other appropriate legal authority. A regulated person who had gross receipts of $100 million or more during its most recent fiscal year shall inform the Price Commission in writing of any agency order or order of other appropriate legal authority granting an increase and of any other authorized increase. A regulated person who had gross receipts between $50 million and $100 million during its most recent fiscal year shall immediately notify the Commission in writing of any agency order or order of other appropriate legal authority granting an increase and of any other authorized increase.

(b) *Special rule.* In the case of rate increases which were approved by a regulatory agency or other appropriate legal authority before November 14, 1971, but which were not permitted to take effect due to Executive Order 11615, such rate increase may take effect with respect to transactions occurring after November 13, 1971. However, before such increases may take effect, such regulatory

agency or other appropriate legal authority shall review such increases with regard to their consistency with the purposes of the Economic Stabilization Act of 1970, as amended, and certify that any such increases or adjusted increases are consistent with such purposes. Such certification, together with a report of the increased rate schedule thus put into effect, showing the amount of such increased rates, shall immediately be supplied to the Commission by any regulated person which receives such certification and which had gross receipts of $50 million or more during its most recent fiscal year.

5. Paragraphs (a) and (b) of § 300.051 of these regulations are hereby amended to read as follows:

§ 300.051 Prenotification firms.

(a) *In general.* (1) A manufacturer or a person which is a service organization which is a prenotification firm (as defined in § 301.101) may not charge a price in excess of the base price or charge an increased price in accordance with price changes resulting from calculation of a base price under Subpart F of this part before the Price Commission has approved such increased price. In the event the Price Commission does not act upon a requested price increase within 30 days after receipt by the Price Commission of the request for such increase, such increase may go into effect.

(2) A retailer or wholesaler which is a prenotification firm may not charge a price in excess of the base price before filing with the Price Commission notification of his customary initial percentage markups in such form and containing such information as may be prescribed by the Price Commission. After such filing and after posting of base prices as required by § 300.013(b), retailers' and wholesalers' prices may be adjusted so long as such adjustments do not operate to increase the customary initial percentage markup above that authorized by § 300.013 and so long as the effect of all such person's price changes is not to increase its profit margin as a percentage of sales, before income taxes, over that which prevailed during the base period.

(b) *Special provisions.* If, after November 13, 1971, and through December 31, 1971, a person which is a prenotification firm submits a prenotification to the Price Commission and the Commission has not challenged the proposed price adjustments within 72 hours after receipt of such prenotification, such price adjustments with respect to the following may be placed in effect:

(1) Price adjustments resulting from calculation of a base price under Subpart F of this part.

(2) Price adjustments resulting from the operation of § 300.203.

(3) Price adjustments which reflect increases in costs of labor pursuant to contracts or pay practices in effect before November 14, 1971, which become effective during the period after November 13, 1971 through December 31, 1971.

(4) Price adjustments which were announced or posted prior to August 15, 1971.

These special prenotification provisions do not authorize price increases not otherwise allowable under the regulations in this part.

* * * * *

6. Paragraph (a) of § 300.052 of these regulations is hereby amended to read as follows:

§ 300.052 Reporting firms.

(a) *In general.* A person which is a reporting firm shall file a quarterly report with the Price Commission in the form provided in paragraph (b) of this section within 15 days after the end of each fiscal quarter commencing with its first fiscal quarter ending after November 13, 1971. In addition, such person shall report to the Commission with respect to price changes resulting from calculation of a base price under Subpart F of this part or from the operation of § 300.203, relating to contracts entered into prior to August 15, 1971.

* * * * *

7. Section 300.203 of these regulations is hereby amended to read as follows:

§ 300.203 Contracts entered into prior to August 15, 1971.

The price specified in any binding contract for the sale of property or services entered into prior to August 15, 1971, with respect to any delivery or performance occurring after November 13, 1971, shall be allowable: *Provided*, That the contract price shall not exceed that amount which would result in an increase in the person's profit margin as a percentage of sales, before income taxes, over that prevailing during the base period: *Provided, however*, That a person which is a prenotification firm must comply with the requirements of § 300.051.

8. Section 300.401 of these regulations is hereby amended to read as follows:

§ 300.401 Exemptions.

The provisions of this Part 300 shall apply to all transactions involving the sale or lease of property and services except those enumerated in Subpart D of Part 101 of this title.

9. Section 301.501 of these regulations is hereby amended to read as follows:

§ 300.501 In general.

* * * * *

10. Section 300.507 of these regulations is hereby amended to read as follows:

§ 300.507 Sales and leases of real property.

(a) *Sales of real property.* This section applies to sales of real property not exempted under § 300.401. The base price with respect to the sale of any interest in real property which is held by the person for sale in the ordinary course of trade or business is the highest price received with respect to the same type of interest in similar real property during the freeze base period. In the case of a sale of an interest in real property which is not held for sale in the ordinary course of a trade or business, such interest shall be deemed to be a new property for purposes of paragraph (c) of § 300.509.

(b) *Leases of real property.*—(1) *In general.* This section applies to leases of real property not exempted under § 300.401. The base price for a lease of an interest in real property is the highest price charged by the person with respect to the same or substantially identical rental units in a substantial number of transactions during the freeze base period. A provision in a lease of an interest in real property executed prior to August 15, 1971, which provides for an increased rental to take effect after August 14, 1971, may take effect after November 13, 1971, to the extent such increased rental does not exceed the base price for the rental of such real property.

(2) *Property not previously leased.* In the case of a person offering real property for lease which was never previously leased, the base price shall be determined by a computation based on the average arms-length price received by persons leasing comparable property in the same marketing area. For purposes of determining the average price referred to in the preceding sentence, only a quantity of transactions which is not insubstantial in relation to the total number of such transactions need be taken into consideration.

(3) *Capital improvements.* A property, or part thereof, which undergoes a substantial capital improvement, which property, after completion of the improvement, does not qualify as a rehabilitated dwelling under the standards contained in § 101.32(g)(2)(i)(b) of this title, shall be treated as a property not previously leased under subparagraph (2) of this paragraph: *Provided, however*, That the base price for such improved property, or part thereof, may not be increased over the monthly rental charged before the improvement was initiated by more than 1½ percent of the cost of the substantial capital improvement allocable to the property or part thereof. For purposes of this subparagraph, a substantial capital improvement means a permanent improvement or betterment made to increase the value of the property or to restore the property, or part thereof, the cost of which equals or exceeds at least 3 months' rent and exceeds $250.

(4) *Property vacant during the freeze base period.* If the property had been vacant for more than 1 year prior to the beginning of the lease period the provisions of subparagraph (2) of this paragraph shall apply.

11. Section 300.509 of these regulations is hereby amended to read as follows:

§ 300.509 New property and new services.

(a) *In general.* For purposes of this section, new property or new services

means property or services which the person has not offered for sale (or lease in the case of property) at any time during the 1-year period immediately preceding the date on which the person is offering the property or service for sale.

(b) *Personal property or services.* Personal property or services shall be deemed new if substantially different from other property or services in purpose, function, quality, or technology or if the use of such property or service effects a substantially different result. Property or services that differ from other property or services only in appearance, arrangement, or combination shall not be considered as new. A change in fashion, style, form, or packaging will not ordinarily be deemed to create a new property or service. A property, or part thereof, which undergoes a substantial capital improvement shall be treated as new property for purposes of a lease. For purposes of this paragraph, a substantial capital improvement means a permanent improvement or betterment made to increase the value of the property or to restore the property, the cost of which equals or exceeds at least 3 months' rent and which exceeds $100.

(c) *Base price determination.* In the case of a person offering new property or services, the base price shall be deemed to be, at the election of such person, either—

(1) The price determined under the method prescribed in paragraph (d) of this section, or

(2) The price determined under the method prescribed in paragraph (e) of this section.

(d) *First method.* The method referred to in paragraph (c)(1) of this section is a method by which a person may determine the price with respect to new property or services by a computation based on the unit cost (including direct and indirect costs) of a similar property or service of such person plus a factor for profit (before income taxes) which equals the profit rate actually earned with respect to such similar property or services. The rules in this paragraph shall not be applicable to transactions involving property or services with respect to which the person offers no other property or services which are similar thereto.

(e) *Second method.* The method referred to in paragraph (c)(2) of this section is a method by which a person may determine the price with respect to new property or services by a computation based on the average prices received in a substantial number of arms-length transactions by persons selling or leasing comparable property or services in the same marketing area.

Because the purpose of this Price Commission amendment is to provide immediate guidance as to the price and rent stabilization rules applicable after November 13, 1971, it is hereby found impracticable to issue this Price Commission regulation with notice and public procedure thereon under 5 U.S.C., sec. 533(b), or subject to the effective date limitation of 5 U.S.C., sec. 553(d).

This amendment shall become effective as of November 14, 1971.

Dated: November 15, 1971.

C. JACKSON GRAYSON, JR.,
Chairman of the Price Commission.

[FR Doc.71-16863 Filed 11-15-71;6:10 pm]

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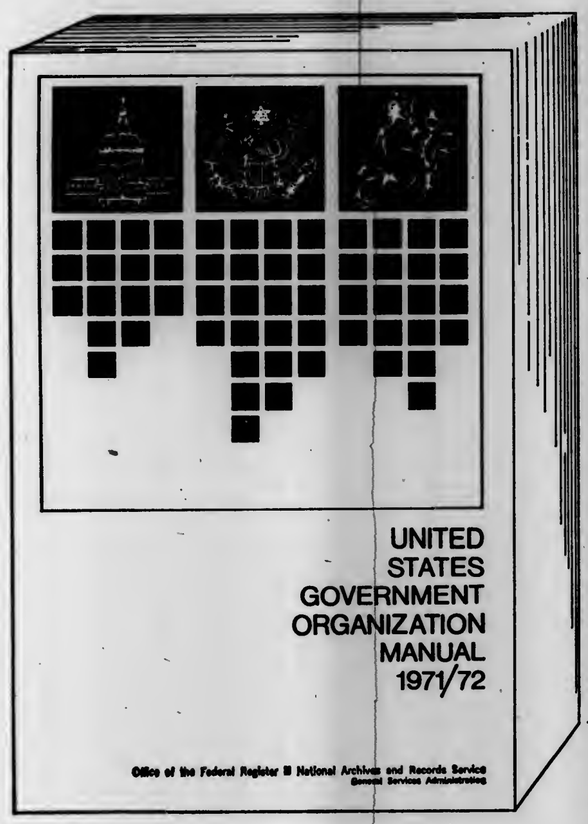

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Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

[Docket No. R–411; Order No. 441]

UNIFORM SYSTEMS OF ACCOUNTS AND ANNUAL REPORT FORM FOR NATURAL GAS COMPANIES

NOVEMBER 10, 1971.

Accounting and rate treatment of advance payments to suppliers for exploration and lease acquisition of gas-producing properties.

On January 8, 1971, the Commission issued a notice of proposed rule making in this proceeding (36 F.R. 377, January 12, 1971) proposing to amend its regulations under the Natural Gas Act so as to provide for accounting and rate treatment of advance payments made to suppliers by pipelines for gas to be delivered at a future date.

The object of that notice was to afford all parties further opportunity to comment on (1) account 166, including a proposed modification thereof, and (2) the establishment of a separate account 167 treating advances for exploration and lease acquisition costs.

Comments were invited from interested persons[1] to be submitted in writing by February 16, 1971, with responses thereto to be filed not later than March 16, 1971. All comments, petitions, and answers previously filed in rule making proceedings regarding Docket No. R–380 were also to be considered as part of the record in Docket No. R–411.

The notice of rule making advises that proposed changes were being considered involving the following major subjects and issues:

(1) The effect of the receipt of a working interest by a company or a company's affiliated producer as a result of advance payments upon the propriety of the inclusion of such payments in rate base, or whether these interests should be included in production accounts;

(2) The effect of receipt by the pipeline of an economic interest, other than a working interest, in return for advance payments upon the inclusion of such advances in the rate base, and whether any realization therefrom should be applied to the appropriate revenue account to reduce the cost of service.

(3) The determination as to the rate treatment of advance payments made to affiliate and independent producers for exploration and lease acquisition.

The above-stated subjects and issues are stated in the text of the notice and are embodied within two proposed alternative methods for treating advance payments. These alternative methods are:

A. To repromulgate account 166 as stated in Order No. 410–A issued on January 8, 1971.

B. To add a new account 167, Advance Payments for Gas and modify account 166 to apply only to advances for gas development and production; and to preclude the inclusion in either account 166 or 167 of advances where a pipeline or a pipeline affiliate obtains a working interest in producing properties as a result thereof. Advance payments included in account 166 would be included in the rate base.

Changes to be effected in the Uniform System of Accounts and FPC Form 2 are to provide uniform accounting harmonious with the rate treatment adopted.

Upon consideration of the comments, the Commission concludes that alternative method B should be adopted, but with the changes hereinafter detailed, and for the limited term ending December 31, 1972.

In our area rate opinions for Southern Louisiana and Texas Gulf Coast (Opinions 598 and 595), we recognize that it is the function of a just and reasonable rate for independent producers to elicit requisite gas supply, and that costs, in economic terms, reflects the required level of capital formation to elicit that level. In other words, the just and reasonable area rate in these recent opinions did not consider "non-cost" items. Having acknowledged, as we do, that provisions for special rate treatment of advance payments by pipelines have been justified in the past on the basis of providing additional incentives in this experimental undertaking, we nevertheless seek to avoid separate, nonprice incentives as much as possible.

A critical shortage of gas exists in the United States; capital formation for gas development is difficult. The objectives of providing capital to accelerate the addition of new gas supplies supports our continuation for the limited period of the rate treatment of advance payments provided herein. We recognize that the just and reasonable area rates for independent producers will hopefully alleviate this gas supply shortage over the long run; however, for the immediate term (namely through 1972), our advance payments policy has been designed to increase directly the funds available for the necessary exploration and developmental effort. It is our intention that rate-base treatments for advances included in account 166 be terminated for advances resulting from contracts executed after December 31, 1972, unless otherwise ordered.

All advances made under contracts executed prior to the issuance of this order shall receive rate treatment in accordance with the provisions of Orders Nos. 410 and 410–A in Docket No. R–380. Advances made under contracts executed on or after the date of issuance of this order shall be treated as ordered herein. For rate purposes advance payments to pipeline affiliated producers shall be treated the same as advances to independent producers.

No advance may be included in account 166 unless such advance is to be repaid in full by either delivery of natural gas or other consideration. Such repayment shall be completed within 5 years, or as otherwise authorized by the Commission, from the date gas deliveries commence or the date it is determined that recovery will be in other than gas.

Advances may be recorded in account 166 and shall be included in rate base where such payments are reasonable, necessary, and appropriate in order to contract for gas supplies by agreement executed not later than December 31, 1972.

Although we are providing account 167 for all other advance payments for gas, including exploration and lease acquisition, rate-base treatment shall not be accorded any such advance after the effective date of this order. Account 167, to be known as Other Advance Payments for Gas, is provided for accounting purposes only, and is expanded to include all advance payments disqualified by option or regulation from rate-base treatment. Our review of the various comments and available data has persuaded us that advances for exploration and lease acquisition have not shown to be an effective vehicle for stimulating the widespread participation in natural gas production for which their encouragement was intended. Moreover, there is some indication that the availability of advances for such purposes by creating competition among pipelines to make such advances may be having the effect of increasing the amounts expended on lease acquisition without a proportionate improvement in gas supply.

Where a working interest is obtained by a pipeline or a pipeline affiliate as a result of a related advance payment, we have determined that such a payment should be included in the applicable production account and not be accorded rate-base treatment. This determination is in accord with our statement of policy in Opinion No. 568 issued October 7, 1969, in Docket No. RP66–24, where pipeline

[1] R–411 was published in the FEDERAL REGISTER of January 12, 1971 (36 F.R. 377) and extensions of time were published February 19, 1971 (36 F.R. 3202) and March 19, 1971 (36 F.R. 4551). Responses were due March 25, 1971, and comments on responses due April 22, 1971. The respondents are listed in Appendix A, which is filed as part of the original document.

producers were to be treated on a parity with independent producers so as to encourage intensified exploration by the pipeline producers.

For purposes of clarification, we define "working interest" as embodying operating rights and/or the right to share in production or revenues from the producing venture, so that its receipt of production or revenues will increase as the production or revenues from the producing venture increase, without any termination of such right to receive production or revenues after the return of the amount of any related advance payment.

Economic interests other than working interests received as a result of making advance payments, where the related advance payments have been accorded rate-base treatment and are properly included in account 166, shall have any realization therefrom included in the required account so as to reduce the cost of service, all as indicated in account 166. This determination results from our finding that while it is equitable for the companies to earn on advance payments necessary to contracts for gas supplies, it would, however, be inequitable to deny any excess benefit from such advances to the companies' customers through reduction of the cost of service.

Consistent with the amendments to § 154.63 of the regulations under the Natural Gas Act adopted herein, the Commission plans to consider those amounts recorded in account 166, Advance Payments for Gas, as rate-base items, where found reasonable and appropriate.

The Commission finds: (1) The notice and opportunity to participate in this proceeding with respect to the matters presently before this Commission through the submission, in writing, of data, views, comments and suggestions in the manner as described above are consistent and in accordance with all procedural requirements therefor as prescribed in section 553 of Title 5 of the United States Code.

(2) The amendments of the Commission's Uniform System of Accounts, regulations under the Natural Gas Act and Annual Report Form No. 2 schedules herein prescribed are necessary and appropriate for the administration of the Natural Gas Act.

(3) Since the revised schedules of FPC Form No. 2 are being prescribed for the reporting year 1971, good cause exists for making the amendments adopted herein effective immediately.

(4) The changes prescribed herein which were not included in the notice in this proceeding are of a minor nature, and further notice thereof is therefore unnecessary.

The Commission acting pursuant to the authority granted by the Natural Gas Act, as amended, particularly by sections 4, 5, 7, 15, and 16 (52 Stat. 822, 823, 824, 825, 829, and 830 (1938); 56 Stat. 83, 84 (1942); 61 Stat. 459 (1947); 76 Stat. 72 (1962); 15 U.S.C. 717c, 717d, 717f, 717n, and 717o), orders:

PART 201—UNIFORM SYSTEM OF ACCOUNTS FOR NATURAL GAS COMPANIES

(A) The Commission's Uniform System of Accounts for Class A and Class B Natural Gas Companies prescribed by Part 201, Chapter I, Title 18 of the Code of Federal Regulations is amended as follows:

1. In the Chart of Balance Sheet Accounts, amend the title of account "166, Advance Payments for Gas," and add a new account "167, Other Advance Payments for Gas." As so amended, the chart of accounts will read:

Balance Sheet Accounts

(Chart of Accounts)

• • • • •

ASSETS AND OTHER DEBITS

• • • • •

3. CURRENT AND ACCRUED ASSETS

• • • • •

166 Advance payments for gas development and production.

167 Other advance payments for gas.

• • • • •

2. In the Balance Sheet Accounts section, amend the title and text of account "166, Advance Payments for Gas," and add a new account "167, Other Advance Payments for Gas," to read as follows:

Balance Sheet Accounts

ASSETS AND OTHER DEBITS

• • • • •

3. CURRENT AND ACCRUED ASSETS

• • • • •

166 Advance payments for gas development and production.

A. This account shall include all advance payments made for gas (whether called "advance payments," "contribution," or otherwise) to others, including advances to affiliated or associated companies (where no working interest is obtained), for development or production of natural gas, when such advance payments are to be repaid in full by either delivery of gas or other consideration. Under each agreement with payee, such payments must be made prior to initial gas deliveries, or if the agreement provides for advances on a well-by-well basis, each incremental payment must be made prior to deliveries from an incremental well, or prior to Federal and/or State authorization, as appropriate. Noncurrent advance payments not to be repaid within a 2-year period shall be reclassified and transferred to account 124, Other Investments, for balance sheet purposes. This transfer is for reporting purposes only and has no effect on accounting or rate making. When a pipeline or an associated company obtains a working interest as a result of funds advanced to producers, such amounts shall be included in appropriate production accounts.

B. Outstanding advance payments shall be fully reduced within 5 years, or as otherwise authorized by the Commission, from the date gas deliveries commence or the date it is determined that recovery will be in other than gas. A sufficient portion of all gas taken should be credited to the related outstanding advance payment so as to eliminate the advance within the 5-year period or as otherwise authorized by the Commission upon request by the pipeline company. The reduction of the outstanding advance payment should not be dependent on a buyer purchasing more than 100 percent of the minimum take or pay quantity provided in the contract.

C. Where recovery is by gas, recovered advance payments shall be credited to this account and charged to the appropriate gas purchase account.

D. Whenever as a result of an advance included in this account, a pipeline receives any amount in excess of a full recovery of the advance, such amount must be credited to account 813, Other Gas Supply Expenses. If the income or return is received in other than money, it shall be included at the market value of the assets received.

E. If the recipient of an advance payment is unable to repay it in full, in gas or other assets, the unpaid or nonrecoverable portion must be credited to this account at the time such amount is recognized as nonrecoverable. Nonrecoverable advance payments significant in amount must be eliminated within 5 years from the date of determination as nonrecoverable by either a charge to account 435, Extraordinary Deductions, or when authorized by the Commission, by a transfer to account 186, Miscellaneous Deferred Debits, and amortization to account 813, Other Gas Supply Expenses. Nonrecoverable advance payments insignificant in amount should be charged directly to account 813 in the year recognized as nonrecoverable.

F. No transfers shall be made from this account to any other accounts, unless otherwise provided herein, except as authorized by the Commission upon request by the pipeline company.

G. Three copies of any agreement concerning advance payments will be filed with the Secretary within 30 days of the initial related entry in account 166.

NOTE A: This account may include advance payments for exploration (including lease acquisition costs), made according to the provisions of Orders Nos. 410 and 410-A, for which a formal contractual commitment was made prior to the date of Order No. —.

NOTE B: This account shall not include advance payments expended for delay rentals, nonproductive well drilling, abandoned leases, or other exploration, where such payments are related to exploration and lease acquisition, except in accordance with note A to this account.

NOTE C: To keep the Commission informed when an advance is nonrecoverable by any means the company must submit the full details involved as soon as such fact becomes known.

167 Other advance payments for gas.

This account shall include all advance payments made for gas, for exploration (including lease acquisition costs), development, or production of natural gas, not properly includible in account 166, exclusive of amounts advanced where a working interest is obtained.

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

(B) The schedule pages 110, entitled Comparative Balance Sheet—Statement A, and 210–B, entitled Advance Payments for Gas Prior to Initial Deliveries or Commission Certification (accounts 124 and 166), in FPC Form No. 2, Annual Report for Natural Gas Companies (class A and class B) prescribed by § 260.1, Chapter I, Title 18 of the Code of Federal Regulations is amended as set out in Appendix B hereto.[2]

PART 154—RATE SCHEDULES AND TARIFFS

(C) Statement E—Working Capital, in paragraph (f) Description of statements, of § 154.63 in Part 154, Rate Schedules and Tariffs, Subchapter E—Regulations Under the Natural Gas Act, Chapter I, Title 18 of the Code of Federal Regulations is amended as follows: Item (b) in the first sentence of the second paragraph of Statement E is amended by adding immediately following the word "suppliers" the words "in Account 166." As amended, this portion of Statement E will read as follows:

§ 154.63 Changes in a tariff, executed service agreement or part thereof.

• • • • •

(f) *Description of statements.* • • •

• • • • •

Statement E—Working Capital. • • • The components of working capital may include • • • (b) an allowance for the average of 13 monthly balances of materials and supplies, prepayments, the unrecovered portion of advance payments to suppliers in account 166 made under contracts executed prior to January 1, 1973, and gas for current delivery from underground storage. • • •

• • • • •

(D) This order is effective immediately upon issuance.

(E) The Secretary of the Commission shall cause prompt publication of this order.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.71-16701 Filed 11-17-71;8:45 am]

[2] Filed as part of the original document.

[Docket No. R-403; Order 440]

UNIFORM SYSTEMS OF ACCOUNTS AND ANNUAL REPORT FORM FOR NATURAL GAS COMPANIES

NOVEMBER 5, 1971.

Revisions in Uniform Systems of Accounts for Natural Gas Companies (classes A, B, C, and D) and annual report Form No. 2 to adopt full-cost accounting for exploration and development costs incurred by pipeline companies on natural gas leases acquired on or after October 7, 1969.

On October 5, 1970, the Commission issued a notice of proposed rule making in this proceeding (35 F.R. 15939, October 9, 1970) proposing to amend its uniform systems of accounts for classes A, B, C, and D Natural Gas Companies to adopt full-cost accounting for exploration and development costs on natural gas leases acquired on or after October 7, 1969, and to amend FPC Form No. 2, Annual Report for Natural Gas Companies (classes A and B) consistent with the amendments to the Uniform System of Accounts.

Comments were invited from interested parties to be submitted by November 19, 1970. Subsequently, the time for filing comments was extended to April 30, 1971 (35 F.R. 17431, November 13, 1970). On May 19, 1971, the final date for submitting responses to comments was extended from May 20, 1971 to May 28, 1971 (35 F.R. 19124, December 17, 1970; 36 F.R. 9570, May 26, 1971).

In "Opinion No. 568, Pipeline Production Area Rate Proceeding (Phase I)," issued October 7, 1969 (42 FPC 738; 34 F.R. 17803, November 5, 1969), and Opinion No. 568-A, issued December 5, 1969 (42 FPC 1089), the Commission concluded that the applicable area rate determined for gas produced by independent producers should also be applied to natural gas produced by pipelines and pipeline affiliates from leases acquired on or after October 7, 1969. On January 16, 1970, Arthur Andersen & Co., certified public accountants, petitioned the Commission to amend the Uniform Systems of Accounts to provide "full-cost accounting"-for all exploration and development expenditures incurred on leases acquired on or after October 7, 1969 (Docket No. RP70-23). In the petition, the petitioner stated that it believed full-cost accounting, which capitalizes all exploration and development costs with provision for future write-off against revenues from producing wells, was superior to the current expensing of nonproductive well drilling costs, costs of abandoned leases and other similar costs, as required by the Uniform Systems of Accounts for Natural Gas Companies. The petitioner alleged that the existing accounting would act as a deterrent to pipelines to conduct aggressive exploration programs because a substantial portion of the capital costs associated with the discovery of the new gas reserves will have to be charged to expense currently with no offsetting revenues.

In the notice of proposed rule making, the Commission stated it was aware that full-cost accounting was controversial and requested comments and views on the merits of such accounting as well as comments on the specific changes proposed to the Uniform System of Accounts and Annual Report Form No. 2. Comments were also requested on whether the accounting would have a bearing on exploration for new gas reserves.

In response to the notice of rule making, the Commission received comments from 29 respondents.[1] Four respondents submitted responses to the comments.[2]

The responses to the rule making showed the sharp division between advocates and opponents of full-cost accounting with the responses nearly evenly split between those favoring and those opposing the adoption of full-cost accounting by the Commission. Several of the respondents favored full-cost accounting only if prescribed as optional accounting and some respondents stated

[1] Arthur Andersen & Co., Elmer Fox & Co., Arthur Young & Co., American Gas Association, Inc., INGAA, Columbia Gas System Service Corp., Consolidated Gas Supply Corp., Consumers Power Co., Natural Gas Pipeline Co. of America, Northern Natural Gas Co., Pennzoil United, Inc., Philadelphia Gas Works, Division of UGI Corp., Public Service Electric and Gas Co., South Texas Natural Gas Gathering Co., Tennessee Gas Pipeline Co., a Division of TENNECO, Inc., Texas Eastern Transmission Corp., Amoco Production Co., Gulf Oil Corp., et al., Humble Oil & Refining Co., Mobil Oil Corp., Phillips Petroleum Co., Shell Oil Co., Robert E. Field, James M. Forgotson, John A. Pederson, American Institute of Certified Public Accountants, First Manhattan Co., People of the State of California and the Public Utilities Commission of the State of California, Public Service Commission of the State of New York.

[2] Arthur Andersen & Co., Associated Gas Distributors (representing 54 companies), Continental Oil Co., United Gas Pipe Line Co.

that they preferred that full-cost accounting be prescribed as optional accounting. There was similar disagreement between the respondents on whether the adoption of full-cost accounting would have a bearing on decisions to invest in the search for natural gas.

Opponents of full-cost accounting argue that the accounting:

1. Results in a mismatching of revenues and expenses when nonproductive costs are matched against future revenues because there is no direct relationship between capitalized expenditures associated with one mineral deposit in a particular geographic area and revenues from mineral deposits in other geographic areas.

2. Hides losses and creates dubious assets.

3. Obscures meaningful information on financial and operating results.

4. Results in abuses because of the use of varying cost centers[3] and uncertainty as to when to start amortization of the capitalized costs.

Proponents of full-cost accounting argue that:

1. The accounting results in a proper matching of revenues and expenses because all exploration and development costs should be associated with revenues from all reserves discovered.

2. All costs incurred in finding reserves relate to any reserves discovered.

3. Recoverable reserves support asset values.

4. Current expensing of exploration and development costs erroneously relieves future revenues of associated expenses.

5. Any potential abuses from full-cost accounting can be eliminated by adoption of consistent cost centers and rational amortization of the costs.

We believe that the arguments for full-cost accounting are persuasive. Companies engaged in exploration for and production of oil and gas must measure their performance by comparing their costs of finding oil and gas reserves with the value of oil and gas reserves discovered. The costs include costs incurred in nonproductive efforts as well as costs which result in productive wells. Their performance could be measured by areas, by continents, by total operations or on some other basis. We believe that accounting which would match unproductive along with productive costs with production revenues, would better show the results of operations and provide more meaningful financial and operating statements. Although both the concepts of current expensing of unsuccessful costs and full-cost accounting are used in the industry, we adopt full-cost accounting on a nationwide basis in the Uniform Systems of Accounts for Classes A, B, C, and D Natural Gas Companies. We believe that full-cost accounting is more consistent with the economics of exploration and development over a period of time than current expensing of costs.

The notice of proposed rule making proposed that the Commission's areas for setting area rates for natural gas sales be used as cost centers. A number of respondents suggested the use of nationwide cost centers. We believe that the association of nationwide total costs with nationwide revenues would better match expenses with revenues and provide more meaningful financial operating results. Consequently, we are prescribing a nationwide cost center (including the State of Alaska) for gathering and amortizing costs. We believe that the use of a nationwide cost center is more appropriate than the use of the field, province, geological basin, companywide, worldwide or some other division because nationwide meets our needs for regulatory purposes.

As a result of comments received and examination of the proposed accounting changes since issuance of the notice of proposed rule making, we are adopting certain modifications to the accounting as proposed. We are:

1. Deleting from this docket the proposed modifications to Account 283, Accumulated Deferred Income Taxes—Other. This Commission is currently considering income tax accounting under rule making No. R-424, and companies shall follow on a retroactive basis to October 7, 1969, the policies enunciated in the order finalizing that rule making.

2. Inserting a preface to the natural gas production plant accounts that provides that the amounts recorded in the accounts after October 6, 1969, shall not exceed the net realizable value of hydrocarbon reserves. In the event that the net book value of the amounts recorded in the production plant accounts should exceed the net realizable value of hydrocarbon reserves, the amounts shall be reduced; if appropriate, by amortization, over a period not to exceed 5 years.

3. Including delay rentals in the costs that may be capitalized under the full-cost concept.

4. Making certain editorial changes to the definitions and account texts.

We are directing the Commission staff to prepare a notice of proposed rule making with proposals to modify the Commission's Uniform System of Accounts for Natural Gas Companies (Classes A, B, C, and D) which would consider the feasibility of requiring that the determination of recoverable reserves on leases acquired after October 6, 1969, be done by qualified independent consultants and proposals to modify the Commission's Annual Report Form No. 2 for Natural Gas Companies (Classes A and B), which would consider, among other things, disclosure of the net realizable value of recoverable hydrocarbon reserves certified to periodically by independent consultants. In addition, we are directing our staff to explore in the notice of proposed rule making, the propriety of including an allowance for funds used during construction on costs related to leases acquired after October 6, 1969.

Since we are prescribing full-cost accounting retroactive to leases acquired after October 6, 1969, we are directing natural gas companies to restate their financial statements for the calendar years 1969, 1970, and 1971.

The Commission finds:

(1) The notice and opportunity to participate in this proceeding with respect to the matters presently before this Commission through the submission, in writing, of data, views, comments, and suggestions in the manner as described above are consistent and in accordance with all procedural requirements therefor as prescribed in section 553 of title 5 of the United States Code.

(2) The amendments to Parts 201, 204, and 205 of the Commission's Uniform Systems of Accounts for Natural Gas Companies and to Annual Report Form No. 2 prescribed by § 260.1, Chapter I, Title 18 of the Code of Federal Regulations, are necessary and appropriate for the administration of the Natural Gas Act.

(3) Since the changes prescribed herein which were not included in the notice in this proceeding are of a minor nature, further notice is unnecessary.

(4) Good cause exists for making the amendments to the Uniform Systems of Accounts for Natural Gas Companies ordered herein, effective immediately and the revision to FPC Form No. 2, adopted herein, effective for the reporting year 1971.

(5) Because the accounting is being prescribed retroactively to leases acquired after October 6, 1969, good cause exists for requiring natural gas companies that have incurred costs on such leases to restate their financial statements for the years 1969, 1970, and 1971.

The Commission, acting pursuant to the provisions of the Natural Gas Act, as amended, particularly sections 8, 9, 10, and 16 thereof (52 Stat. 825, 826, 830; 15 U.S.C. 717g, 717h, 717i, 717o) orders:

PART 201—UNIFORM SYSTEM OF ACCOUNTS FOR NATURAL GAS COMPANIES

(A) The Commission's Uniform System of Accounts for Natural Gas Companies, Class A and Class B, in Part 201, Chapter I, Title 18 of the Code of Federal Regulations is amended as follows:

1. In the Definitions section of Part 201, immediately following definition "11. B. Depreciation," add new definition "12. Development Costs" and renumber definition "12. Discount," as 13. Immediately following renumbered definition "13. Discount," add new definitions "14. Exploration Costs" and "15. Full-cost accounting for exploration and development costs," and renumber definitions 13 through 29 as 16 through 32. Immediately following renumbered definition "32. Service value," add a new definition "33. Unsuccessful exploration and development costs," and renumber definition "30. Utility," as definition 34. New definitions 12, 14, 15 and 33 read:

Definitions

* * * * * *

12. "Development costs" when used with respect to hydrocarbons, include all costs incurred in the readying of hydrocarbon deposits for commercial production including developmental well drilling costs.

* * * * * *

14. "Exploration costs" include all costs incurred in proving the existence of hydrocarbon deposits including geological, geophysical, lease acquisition (including delay rentals), administrative and general, and exploratory well drilling costs.

15. "Full-cost accounting for exploration and development costs" means the capitalization of all exploration and development costs incurred on or related to hydrocarbon leases, on properties in the contiguous 48 States and the State of Alaska, acquired after October 6, 1969.

* * * * * *

33. "Unsuccessful exploration and development costs" are exploration and development costs related to efforts which do not directly result in the discovery of commercially recoverable hydrocarbon reserves.

* * * * * *

2. In the text of Balance Sheet Accounts, amend account "105.1, Production Properties Held for Future Use" by adding a note. In account "107, Construction Work in Progress—Gas," designate the present note as "A," and add a new note designated as "B." In account "183.1, Preliminary Natural Gas Survey and Investigation Charges" revise paragraph "A." The amended portions of Balance Sheet accounts 105.1, 107 and 183.1, read:

Balance Sheet Accounts

ASSETS AND OTHER DEBITS

1. UTILITY PLANT

* * * * * *

105.1 Production properties held for future use.

* * * * * *

NOTE: Unsuccessful exploration and development costs incurred on leases acquired after October 6, 1969, shall be charged to account 338, Unsuccessful Exploration and Development Costs.

* * * * * *

107 Construction work in progress—Gas.

* * * * * *

NOTE A: This account shall include certificate application fees paid to the Federal Power Commission as provided for in gas plant instruction 16.

NOTE B: Unsuccessful exploration and development costs incurred on leases acquired after October 6, 1969, shall be transferred to account 338, Unsuccessful Exploration and Development Costs.

* * * * * *

4. DEFERRED DEBITS

* * * * * *

183.1 Preliminary natural gas survey and investigation charges.

A. This account shall be charged with all expenditures for preliminary surveys, plans, investigations, etc. made for the purpose of determining the feasibility of acquiring land and land rights to provide a future supply of natural gas.

If such land or land rights are acquired, this account shall be credited and the appropriate gas plant account (see gas plant instruction 7-G) charged with the amount of the expenditures relating to such acquisition. If a project is abandoned involving a natural gas lease acquired before October 7, 1969, the expenditures related thereto shall be charged to account 798, Other Exploration. If a project is abandoned involving a lease acquired after October 6, 1969, the expenditures related thereto shall be charged to account 338, Unsuccessful Exploration and Development Costs.

* * * * * *

3. In the chart of Gas Plant Accounts, add new account title "338, Unsuccessful Exploration and Development Costs," immediately following account title "337, Other Equipment." As revised, the chart of Gas Plant Accounts reads:

Gas Plant Accounts

(CHART OF ACCOUNTS)

* * * * * *

2. PRODUCTION PLANT

* * * * * *

B. NATURAL GAS PRODUCTION PLANT

B.1 *Natural Gas Production and Gathering Plant*

* * * * * *

338 Unsuccessful exploration and development costs.

* * * * * *

4. In the text of Gas Plant accounts, immediately following subheading "B.1. Natural Gas Production and Gathering Plant," add a new subheading "Special Instructions—Costs Related to Leases Acquired After October 6, 1969" and accompanying text. As amended, this portion of the Gas Plant accounts reads:

Gas Plant Accounts

* * * * * *

2. PRODUCTION PLANT

* * * * * *

B. NATURAL GAS PRODUCTION PLANT

B.1 *Natural Gas Production and Gathering Plant*

Special Instructions—Costs Related to Leases Acquired After October 6, 1969. The net book value of amounts recorded in the natural gas production accounts incurred on or related to leases acquired after October 6, 1969, shall, in general, not exceed the net realizable value (estimated selling price less estimated costs of extraction, completion and disposal) of recoverable hydrocarbon reserves discovered on such leases. After initiation of exploration and development on leases acquired after October 6, 1969, the utility must determine after a reasonable period of time whether the net realizable value of recoverable reserves on such leases will be sufficient to absorb the net book value of the amounts recorded in the accounts. If the net realizable value of recoverable reserves are not sufficient to absorb the net book value of amounts in the production accounts, the utility shall reduce the net book value of the amounts in the accounts to net realizable value of recoverable reserves. The reduction shall be done by first reducing the unamortized amounts recorded in account 338, Unsuccessful Exploration and Development Costs, by debiting account 404.1, Amortization and Depletion of Producing Land and Land Rights. Next, if the book value related to successful costs exceeds the net realizable value of the recoverable reserves, the production plant accounts shall be written down to such book value by appropriate charges and credits to the expense and valuation accounts. If the reduction required in the net book value of the amounts recorded in the accounts is significant in amount, the utility may amortize such amounts over a period of time not to exceed 5 years.

5. In the text of Gas Plant accounts, immediately following account "337, Other Equipment," add new account "338, Unsuccessful Exploration and Development Costs." New account 338 reads:

Gas Plant Accounts

* * * * * *

2. PRODUCTION PLANT

* * * * * *

B. NATURAL GAS PRODUCTION PLANT

B.1 *Natural Gas Production and Gathering Plant*

* * * * * *

338 Unsuccessful exploration and development costs.

A. This account shall include unsuccessful exploration and development costs incurred on or related to hydrocarbon leases, on properties in the contiguous 48 States and the State of Alaska, acquired after October 6, 1969. It shall also include costs of a preliminary nature incurred in the search for natural gas in such areas after October 6, 1969.

B. The costs recorded in this account shall be amortized by debiting account 404.1, Amortization and Depletion of Producing Natural Gas Land and Land Rights, and crediting this account using the unit-of-production or other acceptable method of amortization as hydrocarbons are extracted from producing wells.

C. In general, the unamortized costs recorded in this account shall not exceed the net realizable value (estimated selling price less estimated costs of extraction, completion and disposal) of proven hydrocarbon reserves on leases acquired after October 6 1969. (See "Special Instructions—Costs Related to Leases Acquired After October 6, 1969," above.)

* * * * * *

6. In the text of Operation and Maintenance Expense Accounts, revise Exploration and Development Expense Accounts "795, Delay Rentals," "796, Nonproductive Well Drilling," "797, Abandoned Leases," and "798, Other Exploration." As revised, accounts 795, 796, 797, and 798 read:

Operation and Maintenance Expense Accounts

1. PRODUCTION EXPENSES

* * * * * *

C. EXPLORATION AND DEVELOPMENT EXPENSES

795 Delay rentals.

A. This account shall be charged with the amount of rents paid periodically on

[3] The accounting areas into which exploration and development activities are divided for purposes of cost assignment and allocation.

natural gas lands acquired by lease before October 7, 1969, in order to hold natural gas land and land rights for the purpose of obtaining a supply of gas in the future.

B. Include also in this account, the cost of obtaining natural gas leases for a period of 1 year or less when such leases were acquired before October 7, 1969.

C. Records supporting this account shall be so kept that the utility can furnish complete details of the charges made for each natural gas leasehold (See note to gas plant instruction 7G).

NOTE: Rents paid periodically on natural gas lands acquired by lease after October 6, 1969, shall be charged to account 105.1, Production Properties Held for Future Use.

796 Nonproductive well drilling.

This account shall include the net cost of drilling wells on natural gas leases acquired before October 7, 1969, which prove to be nonproductive.

NOTE A: Records in support of the charges to this account shall conform, as appropriate, to Note B of General Instruction 12, Records for Each Plant.

NOTE B: The net cost of drilling wells on natural gas leases acquired after October 6, 1969, which prove to be nonproductive, shall be charged to account 338, Unsuccessful Exploration and Development Costs.

797 Abandoned leases.

A. This account shall be charged with amounts credited to account 113.1, Accumulated Provision for Abandonment of Leases, to cover the probable loss on abandonment of natural gas leases acquired before October 7, 1969, included in account 105, Gas Plant Held for Future Use, which have never been productive.

B. When natural gas leaseholds which were acquired before October 7, 1969, and which have never been productive are abandoned, and the amounts provided in account 113.1, Accumulated Provision for Abandonment of Leases, are not sufficient to cover the cost thereof, the deficiency shall be charged to this account unless otherwise authorized or directed by the Commission. (See account 182.)

NOTE: Losses on abandonment of natural gas leases acquired after October 6, 1969, shall be charged to account 338, Unsuccessful Exploration and Development Costs.

798 Other exploration.

This account shall be charged with the cost of abandoned projects involving natural gas leases acquired before October 7, 1969, on which preliminary expenditures were made for the purpose of determining the feasibility of acquiring acreage to provide a future supply of natural gas (see account 183.1, Preliminary Natural Gas Survey and Investigation Charges).

NOTE: Preliminary expenditures on abandoned projects involving natural gas leases acquired after October 6, 1969, shall be charged to account 338, Unsuccessful Exploration and Development Costs.

* * * * *

PART 204—UNIFORM SYSTEM OF ACCOUNTS FOR CLASS C NATURAL GAS COMPANIES

(B) The Uniform System of Accounts for Class C Natural Gas Companies, in Part 204, Chapter I, Title 18 of the Code of Federal Regulations is amended as follows:

1. In the text of Balance Sheet accounts, amend account "105, Gas Plant Held for Future Use" by adding a new note "C." In account "107, Construction Work in Progress—Gas" designate the present note as "A," and add new note designated "B." In Account "183, Other Deferred Debits," revise subparagraph "A(2)." The amended portions of these Balance Sheet accounts read:

Balance Sheet Accounts

ASSETS AND OTHER DEBITS

1. UTILITY PLANT

* * * * *

105 Gas plant held for future use.

* * * * *

NOTE C: The loss on abandonment of natural gas leases acquired after October 6, 1969, shall be charged to account 338, Unsuccessful Exploration and Development Costs.

* * * * *

107 Construction work in progress—Gas.

NOTE A: This account shall include certificate application fees paid to the Federal Power Commission as provided for in gas plant instruction 14.

NOTE B: Unsuccessful exploration and development costs incurred on leases acquired after October 6, 1969, shall be transferred to account 338, Unsuccessful Exploration and Development Costs.

* * * * *

4. DEFERRED DEBITS

* * * * *

183 Other deferred debits.

A. This account shall include the following classes of items:

* * * * *

(2) Expenditures for preliminary surveys, plans, investigations, etc., made for the purpose of determining the feasibility of acquiring land and land rights to provide a future supply of natural gas. If such land or land rights are acquired, this account shall be credited and the appropriate gas plant account (see gas plant instruction 6G) charged with the amount of expenditures related to such acquisition. Such preliminary survey and investigation charges transferred to gas plant shall not exceed the expenditures which may reasonably be determined to contribute directly and immediately and without duplication to gas plant. If a project is abandoned involving a natural gas lease acquired before October 7, 1969, the expenditures related thereto shall be charged to account 723, Other Exploration. If a project is abandoned involving a lease acquired after October 6, 1969, the expenditures related thereto shall be charged to account 338, Unsuccessful Exploration and Development Costs.

* * * * *

2. In the Chart of Gas Plant Accounts, add new account title "338, Unsuccessful Exploration and Development Costs," immediately following account title "337, Other Equipment." As revised, the Chart of Gas Plant Accounts reads:

Gas Plant Accounts

(Chart of Accounts)

* * * * *

2. PRODUCTION PLANT

* * * * *

B. NATURAL GAS PRODUCTION PLANT

B.1 NATURAL GAS PRODUCTION AND GATHERING PLANT

* * * * *

338 Unsuccessful exploration and development costs.

* * * * *

3. In the text of the Gas Plant accounts, immediately following subheading "B.1 Natural Gas Production and Gathering Plant," add a new subheading "Special Instructions—Costs Related to Leases Acquired After October 6, 1969," and accompanying text. As amended, this portion of the Gas Plant Accounts reads:

Gas Plant Accounts

* * * * *

2. PRODUCTION PLANT

* * * * *

B. NATURAL GAS PRODUCTION PLANT

B.1 NATURAL GAS PRODUCTION AND GATHERING PLANT

Special Instructions—Costs Related to Leases Acquired After October 6, 1969. The net book value of amounts recorded in the natural gas production accounts incurred on or related to leases acquired after October 6, 1969, shall, in general, not exceed the net realizable value (estimated selling price less estimated costs of extraction, completion and disposal) of recoverable hydrocarbon reserves discovered on such leases. After initiation of exploration and development on leases acquired after October 6, 1969, the utility must determine after a reasonable period of time whether the net realizable value of recoverable reserves on such leases will be sufficient to absorb the net book value of the amounts recorded in the accounts. If the net realizable value of recoverable reserves are not sufficient to absorb the net book value of amounts in the production accounts, the utility shall reduce the net book value of the amounts in the accounts to net realizable value of recoverable reserves. The reduction shall be done by first reducing the unamortized amounts recorded in account 338, Unsuccessful Exploration and Development Costs, by debiting account 404.1, Amortization and Depletion of Producing Land and Land Rights. Next, if the book value related to successful costs exceeds the net realizable value of the recoverable reserves, the production plant accounts shall be written down to such book value by appropriate charges and credits to the expense and valuation accounts. If the reduction required in the net book value of the amounts recorded in the accounts is significant in amount, the utility may amortize

such amounts over a period of time not to exceed 5 years.

4. In the text of Gas Plant accounts, immediately following account "337, Other Equipment," add new account "338, Unsuccessful Exploration and Development Costs." New account 338 reads:

Gas Plant Accounts

* * * * *

2. PRODUCTION PLANT

* * * * *

B. NATURAL GAS PRODUCTION PLANT

B.1 NATURAL GAS PRODUCTION AND GATHERING PLANT

* * * * *

338 Unsuccessful Exploration and Development Costs.

A. This account shall include unsuccessful exploration and development costs incurred on or related to hydrocarbon leases, on properties in the contiguous 48 States and the State of Alaska, acquired after October 6, 1969. It shall also include costs of a preliminary nature incurred in the search for natural gas in such areas after October 6, 1969.

B. The costs recorded in this account shall be amortized by debiting account 404.1, Amortization and Depletion of Producing Natural Gas Land and Land Rights, and crediting this account using the unit-of-production or other acceptable method of amortization as hydrocarbons are extracted from producing wells.

C. In general, the unamortized costs recorded in this account shall not exceed the net realizable value (estimated selling price less estimated costs of extraction, completion and disposal) of proven hydrocarbon reserves on leases acquired after October 6, 1969. (See "Special Instructions—Costs Related to Leases Acquired After October 6, 1969," above.)

* * * * *

5. In the text of Operation and Maintenance Expenses Accounts, revise Exploration and Development Expense accounts "720, Delay Rentals," "721, Nonproductive Well Drilling," "722, Abandoned Leases," and "723, Other Exploration." As revised, accounts 720, 721, 722 and 723 read:

Operation and Maintenance Expense Accounts

* * * * *

3. EXPLORATION AND DEVELOPMENT EXPENSES

* * * * *

720 Delay rentals.

A. This account shall be charged with the amount of rents paid periodically on natural gas lands acquired by lease before October 7, 1969, in order to hold natural gas land and land rights for the purpose of obtaining a supply of gas in the future.

B. Include also in this account the cost of obtaining natural gas leases for a period of 1 year or less when such leases were acquired before October 7, 1969.

C. Records supporting this account shall be so kept that the utility can furnish complete details of the charges made for each natural gas leasehold (see note to gas plant instruction 6G).

NOTE: Rents paid periodically on natural gas lands acquired by lease after October 6, 1969, shall be charged to account 105, Gas Plant Held for Future Use.

721 Nonproductive well drilling.

This account shall include the net cost of drilling wells on natural gas leases acquired before October 7, 1969, which prove to be nonproductive.

NOTE A: Records in support of the charges to this account shall conform, as appropriate, to General Instruction 14, Gas Well Records.

NOTE B: The net cost of drilling wells on natural gas leases acquired after October 6, 1969, which prove to be nonproductive, shall be charged to account 338, Unsuccessful Exploration and Development Costs.

722 Abandoned leases.

This account shall be charged with losses on abandonment of natural gas leases acquired before October 7, 1969, included in account 105, Gas Plant Held for Future Use, which have never been productive, unless otherwise authorized by the Commission. (See account 182.) Losses on abandonment of natural gas leases acquired after October 6, 1969, shall be charged to account 338, Unsuccessful Exploration and Development Costs.

723 Other exploration.

This account shall be charged with the cost of abandoned projects involving natural gas leases acquired before October 7, 1969, on which preliminary expenditures were made for the purpose of determining the feasibility of acquiring acreage to provide a future supply of natural gas (see account 183, Other Deferred Debits).

NOTE: Preliminary expenditures on abandoned projects involving natural gas leases acquired after October 6, 1969, shall be charged to account 338, Unsuccessful Exploration and Development Costs.

* * * * *

PART 205—UNIFORM SYSTEM OF ACCOUNTS FOR CLASS D NATURAL GAS COMPANIES

(C) The Uniform System of Accounts for Class D Natural Gas Companies, in Part 205, Chapter I, Title 18 of the Code of Federal Regulations is amended as follows:

1. In the text of Balance Sheet Accounts, revise subparagraph "A(2)" of account "183, Other Deferred Debits." This portion of account 183 reads:

Balance Sheet Accounts

ASSETS AND OTHER DEBITS

* * * * *

4. DEFERRED DEBITS

* * * * *

183 Other deferred debits.

A. This account shall include the following classes of items:

* * * * *

(2) Expenditures for preliminary surveys, plans, investigations, etc., made for the purpose of determining the feasibility of acquiring land and land rights to provide a future supply of natural gas. If such land and land rights are acquired, this account shall be credited and the appropriate gas plant account (see gas plant instruction 3) charged with the amount of expenditures related to such acquisition. Such preliminary survey and investigation charges transferred to gas plant shall not exceed the expenditures which may reasonably be determined to contribute directly and immediately without duplication to gas plant. If a project is abandoned involving a natural gas lease acquired before October 7, 1969, the expenditures related thereto shall be charged to account 723, Other Exploration. If a project is abandoned involving a lease acquired after October 6, 1969, the expenditures related thereto shall be charged to account 327, Unsuccessful Exploration and Development Costs.

* * * * *

2. In the chart of Gas Plant accounts, add new account title "327, Unsuccessful Exploration and Development Costs," immediately following account title "326, Other Production Equipment." As revised, the chart of Gas Plant accounts reads:

Gas Plant Accounts

(Chart of Accounts)

* * * * *

3. NATURAL GAS PRODUCTION AND GATHERING

* * * * *

327 Unsuccessful exploration and development costs.

* * * * *

3. In the text of Gas Plant accounts, immediately following heading "3. Natural Gas Production and Gathering," add a new subheading "Special Instructions—Costs Related to Leases Acquired After October 6, 1969," with accompanying text. As amended, this portion of the Gas Plant accounts reads:

Gas Plant Accounts

* * * * *

3. NATURAL GAS PRODUCTION AND GATHERING

Special Instructions—Costs Related to Leases Acquired after October 6, 1969. The net book value of amounts recorded in the natural gas production accounts incurred on or related to leases acquired after October 6, 1969, shall, in general, not exceed the net realizable value (estimated selling price less estimated costs of extraction, completion and disposal) of recoverable hydrocarbon reserves discovered on such leases. After initiation of exploration and development on leases acquired after October 6, 1969, the utility must determine after a reasonable period of time whether the net realizable value of recoverable reserves on such leases will be sufficient to absorb the net book value of the amounts recorded in the accounts. If the net realizable value of recoverable reserves are not sufficient

to absorb the net book value of amounts in the production accounts, the utility shall reduce the net book value of the amounts in the accounts to net realizable value of recoverable reserves. The reduction shall be done by first reducing the unamortized amounts recorded in account 338, Unsuccessful Exploration and Development Costs, by debiting account 404.1, Amortization and Depletion of Producing Land and Land Rights. Next, if the book value related to successful costs exceeds the net realizable value of the recoverable reserves, the production plant accounts shall be written down to such book value by appropriate charges and credits to the expense and valuation accounts. If the reduction required in the net book value of the amounts recorded in the accounts is significant in amount, the utility may amortize such amounts over a period of time not to exceed 5 years.

4. In the text of Gas Plant accounts, immediately following account "326, Other Production Equipment," add new account "327, Unsuccessful Exploration and Development Costs." New account 327 reads:

Gas Plant Accounts

* * * * *

3. NATURAL GAS PRODUCTION AND GATHERING

* * * * *

327 Unsuccessful exploration and development costs.

A. This account shall include unsuccessful exploration and development costs incurred on or related to hydrocarbon leases, on properties in the contiguous 48 States and the State of Alaska, acquired after October 6, 1969. It shall also include costs of a preliminary nature incurred in the search for natural gas in such areas after October 6, 1969.

B. The costs recorded in this account shall be amortized by debiting account 404.1, Amortization and Depletion of Producing Natural Gas Land and Land Rights, and crediting this account using the unit-of-production or other acceptable method of amortization as hydrocarbons are extracted from producing wells.

C. In general, the unamortized costs recorded in this account shall not exceed the net realizable value (estimated selling price less estimated costs of extraction, completion and disposal) of proven hydrocarbon reserves on leases acquired after October 6, 1969. (See "Special Instructions—Costs Related to Leases Acquired After October 6, 1969," above.)

* * * * *

5. In the text of Gas Plant accounts, amend account "394, Gas Plant Held for Future Use," by adding note "C." Amend account "395, Construction Work in Progress—Gas" by adding a note following the account text. The amended portions of accounts 394 and 395 read:

Gas Plant Accounts

* * * * *

6. OTHER GAS PLANT

* * * * *

394 Gas plant held for future use.

* * * * *

NOTE C: The loss on abandonment of natural gas leases acquired after October 6, 1969, shall be charged to account 337, Unsuccessful Exploration and Development Costs.

* * * * *

395 Construction work in progress—Gas.

* * * * *

NOTE: Unsuccessful exploration and development costs incurred on leases acquired after October 6, 1969, shall be transferred to account 327, Unsuccessful Exploration and Development Costs.

6. In the text of Operation and Maintenance Expense accounts, revise accounts "720, Delay Rentals," "721, Nonproductive Well Drilling," "722, Abandoned Leases," and "723, Other Exploration." As so revised, these accounts read:

Operation and Maintenance Expense Accounts

* * * * *

2. NATURAL GAS PRODUCTION AND GATHERING

* * * * *

720 Delay rentals.

A. This account shall be charged with the amount of rents paid periodically on natural gas lands acquired by lease before October 7, 1969, in order to hold natural gas land and land rights for the purpose of obtaining a supply of gas in the future.

B. Include also in this account the cost of obtaining natural gas leases for a period of 1 year or less when such leases were acquired before October 7, 1969.

C. Records supporting this account shall be so kept that the utility can furnish complete details of the charges made for each natural gas leasehold (see note to paragraph D of gas plant instruction 3).

NOTE: Rents paid periodically on natural gas lands acquired by lease after October 6, 1969, shall be charged to account 105, Gas Plant Held for Future Use.

721 Nonproductive well drilling.

This account shall include the net cost of drilling wells on leases acquired before October 7, 1969, which prove to be nonproductive.

NOTE A: Records in support of the charges to this account shall conform, as appropriate, to note of general instruction 7, Gas Well Records.

NOTE B: The net cost of drilling wells on leases acquired after October 6, 1969, which prove to be unproductive shall be charged to account 327, Unsuccessful Exploration and Development Costs.

722 Abandoned leases.

This account shall be charged with losses on abandonment of natural gas leases acquired before October 7, 1969, included in account 394, Gas Plant Held for Future Use, which have never been productive, unless otherwise authorized by the Commission. Losses on abandonment of natural gas leases acquired after October 6, 1969, shall be charged to account 327, Unsuccessful Exploration and Development Costs.

723 Other exploration.

This account shall be charged with the cost of abandoned projects involving natural gas leases acquired before October 7, 1969, on which preliminary expenditures were made for the purpose of determining the feasibility of acquiring acreage to provide a future supply of natural gas. (See account 183, Other Deferred Debits.)

NOTE: Preliminary expenditures on abandoned projects involving natural gas leases acquired after October 6, 1969, shall be charged to account 327, Unsuccessful Exploration and Development Costs.

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

(D) Effective for the reporting year 1971, the Gas Plant in Service Schedule (schedule page 501) of FPC Form No. 2, Annual Report for Natural Gas Companies (Class A and Class B) prescribed by § 260.1, Chapter I, Title 18 of the Code of Federal Regulations, is revised as set out in Attachment A [1] by adding "Account 338, Unsuccessful exploration and development costs," immediately following item 24.

(E) Natural gas companies that have incurred costs on leases acquired after October 6, 1969, shall restate the appropriate financial statements and schedules in their Annual Report to the Commission and financial statements in their Annual Report to Stockholders for the years 1969, 1970 and 1971.

(F) This order shall be effective upon issuance.

(G) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.71-16702 Filed 11-17-71;8:45 am]

Title 32—NATIONAL DEFENSE

Chapter VI—Department of the Navy

PART 725—DISPOSITION OF CASES INVOLVING PHYSICAL DISABILITY

Part 725 of Title 32 is revised to read as follows:

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Sec.
725.101 Background.
725.102 Purpose.
725.103 Policy.

Subpart B—Explanation of Terms

725.201 Abbreviations.
725.202 Accepted Medical Principles.
725.203 Active Duty.
725.204 Active Duty for a period of more than 30 days.
725.205 Active Service.
725.206 Aggravation by service.
725.207 Areas of responsibility.
725.208 Convalescent ratings.

[1] Filed as part of original document.

Sec.
725.209 DESC.
725.210 Grade.
725.211 Impairment, functional.
725.212 Impairment, latent, functional.
725.213 Impairment, manifest, functional.
725.214 Inactive Duty Training.
725.215 Inception of disease or injury.
725.216 Incurred while entitled to receive basic pay.
725.217 Legal representative.
725.218 Line of Duty.
725.219 Maximum hospital benefits.
725.220 Member.
725.221 Member, enlisted.
725.222 Mental incompetency.
725.223 Misconduct.
725.224 Officer.
725.225 Officer, commissioned.
725.226 Officer, warrant.
725.227 Optimum hospital improvement.
725.228 Physical disability.
725.229 Physical disability, unfit because of.
725.230 Physical disability, permanent nature of.
725.231 Presumptions.
725.232 Proximate result.
725.233 Pyramiding.
725.234 Rank.
725.235 Rating.
725.236 Reasonable doubt.
725.237 Recommendations considered substantially detrimental.
725.238 Reserve component.
725.239 Secretary.
725.240 Total disability ratings.
725.241 Unauthorized absence.

Subpart C—Medical Boards

725.300 Full instructions concerning Medical Boards.
725.301 Convening authority.
725.302 Composition.
725.303 Purpose.
725.304 Board procedure.
725.305 Report.
725.306 Disposition of report.
725.307 Action by convening authority.
725.308 Line of duty misconduct reports.
725.309 Cases involving discipline.
725.310 Requests for medical records.
725.311 Requests for statement of service.
725.312 Terminal/death imminent.
725.313 Expedited disability separation.

Subpart D—Office of Naval Disability Evaluation

725.401 Convening authority.
725.402 Composition.
725.403 Function and jurisdiction.

Subpart E—Physical Evaluation Boards

725.501 Function.
725.502 Jurisdiction of Boards.
725.503 Convening authorities.
725.504 Appointment of boards.
725.505 Composition.
725.506 Membership and assignment of personnel.
725.507 President, duties and responsibilities.
725.508 Members in general, duties and responsibilities.
725.509 Counsel for the Physical Evaluation Board.
725.510 Counsel for the party.
725.511 Recorder, Central Physical Evaluation Board.
725.512 Fitness reports.
725.513 Board reporter, interpreter and orderly.
725.514 Informal hearing.
725.515 Personal appearance.
725.516 Formal hearing (full and fair).
725.517 Formal hearing procedures.
725.518 Recommended findings, members on active duty for more than 30 days (other than for training under 10 U.S.C. section 270(b).
725.519 Recommended findings, members on active duty for 30 days or less, or training duty under 10 U.S.C. section 270(b).
725.520 Recommended findings, inactive duty training.
725.521 Recommended findings, case arising under 10 U.S.C. sections 1004 and 1163.
725.522 Recommended findings, case arising under 10 U.S.C. section 6331.
725.523 Recommended findings, reevaluation of members on Temporary Disability Retired List.
725.524 Miscellaneous cases.
725.525 Rebuttal.
725.526 Preparation and authentication of proceedings.
725.527 Forwarding of record of proceedings.
725.528 Proceedings in revision and new hearings.
725.529 Action subsequent to forwarding the record.
725.530 Processing time.
725.531 Counseling.
725.532 Counseling required by other directives.
725.533 Action on cases of parties on the Temporary Disability Retired List.
725.534 Action when party fails to report for final periodic physical examination.

Subpart F—The Physical Review Council

725.601 Composition.
725.602 Areas of Responsibility.
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725.605 General instructions.
725.606 Rebuttals.
725.607 Preparation and authentication of records.
725.608 Procedure in Servicemen's Readjustment Act cases.
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Subpart G—Naval Physical Disability Review Board

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725.708 Counsel for the Board.
725.709 Appellate counsel for the party.
725.710 Procedure.
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725.712 Oath.
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725.716 Findings or opinions and decisions or recommendations.
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Subpart H—Final Action, Relief From Final Action, and Other Actions on the Record

725.801 Final action.
725.802 Action by the Secretary of the Navy.
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Subpart I—Physical Restricted Personnel

725.901 General considerations.
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Subpart J—Disposition of Members Whose Names Are Carried on the Temporary Disability Retired List

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725.1008 Fleet Reserve or Fleet Marine Corps Reserve members.
725.1009 Member with less than 20 years' active duty eligible for Fleet Reserve or Fleet Marine Corps Reserve.
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725.1011 Disposition when member does not consent to reappointment or reenlistment.

Appendix—List of Forms

AUTHORITY: The provisions of this Part 725 issued under 5 U.S.C. 301, 10 U.S.C. 1216, 5031. Interpret or apply 5 U.S.C. 500, 8301, 10 U.S.C. 266, 270, 1004, 1163, 1201–1215, 1217–1219, 1221, 1372, 1373, 1554, 6011, 6148, 6331, 6485, 26 U.S.C. 104, 37 U.S.C. 601–604, 38 U.S.C. 722.

Subpart A—Background, Purpose and Policy

§ 725.101 Background.

(a) At the beginning of the Civil War, it became evident that both the Army and the Navy would be seriously handicapped by the lack of statutory authority to retire military personnel, who, because of advanced age, disease, or infirmity, were unfit to exercise command in the field or at sea. In 1861, the Congress approved an "Act for the Better Organization of the Military Establishment" (12 Stat. 287–291). This law provided that when an officer had become incapable of performing the duties of his office, either he would be retired from active duty, or be wholly retired by the President. The purpose of this enactment and of subsequent disability retirement legislation was to give the military forces of the Nation a vital and fit membership and to establish an equitable system of retirement and compensation for those eligible members whose military careers must be terminated by reason of illness or injury.

(b) Disability retirement pay and severance pay, provided by 10 U.S.C. ch. 61, are benefits provided for members, who, if otherwise qualified, become unfit to perform duty because of physical disability acquired or aggravated while on active duty or inactive duty training. Such benefits are not provided for members or former members of the armed

forces, who, after discharge or release from active duty or inactive duty training, may become unfit to perform their duties because of physical disability, even though the origin of the disability may be related to a period of active duty or inactive duty training. Individuals, who, during active duty, incur disabilities which do not preclude performance of full military duties, may be eligible for compensation under laws administered by the Veterans' Administration, even though they do not qualify for disability retirement or severance pay.

§ 725.102 Purpose.

The purpose of these regulations is to prescribe the administrative procedures and policies to be followed in implementing laws pertaining to discharge or retirement of members from the naval service because of physical disability.

§ 725.103 Policy.

(a) It is the policy of the Department of the Navy that laws pertaining to physical disability retirement or discharge be administered fairly, equitably, and with due regard for the interest of both the individual and the Government. Although these laws should be so administered as to protect the U.S. Government from assuming unwarranted responsibility for payment of disability and retirement benefits, reasonable doubt as to the entitlement of a member to such benefits will be resolved in favor of the individual.

(b) However, the fact that a member is determined to be unfit for duty while on active duty may not be sufficient to entitle him to disability retirement or severance pay. There must be a determination that this unfitness is due to a disability incurred or aggravated while entitled to receive basic pay. The fact that such member was accepted physically for active duty is not conclusive that the disability was incurred after such acceptance. It is one piece of evidence to be considered with all of the medical evidence. In addition to, and in conjunction with, all other pertinent medical evidence, due consideration and weight must be given to accepted medical principles, authenticated by medical authorities, in arriving at a final determination. It is not proper to exclude such accepted medical principles in making the aforesaid determination, even in cases where there is no other evidence that the disability existed prior to entrance upon active duty.

Subpart B—Explanation of Terms

§ 725.201 Abbreviations.

(a) ONDE-Office of Naval Disability Evaluation.
(b) PRC-Physical Review Council.
(c) PEB-Physical Evaluation Board.
(d) DES-Disability Evaluation System.
(e) DESC-Disability Evaluation System Counselor.
(f) NPDRB-Naval Physical Disability Review Board.
(g) EPTE-Existed Prior to Entry (Enlistment).
(h) VASRD-Veterans Administration Schedule for Rating Disabilities.

§ 725.202 Accepted medical principles.

(a) These principles are fundamental deductions, consistent with medical facts, and based upon the observation of a large number of cases. To constitute accepted medical principles, the deductions must be so reasonable and logical as to create a virtual certainty that they are correct.

(b) In accordance with these principles existence of a disease or injury prior to entrance into service may be presumed, and no further additional confirmation is needed. For example, notation or discovery during service of residual conditions such as scars, fibrosis of the lungs, atrophy following disease of the central or peripheral nervous system, healed fractures, absent, displaced, or resected parts or organs, supernumerary parts, or congenital malformations with no evidence of the pertinent antecedent active disease or injury during service, can be considered as established facts which are so convincing as to impel the conclusion that the residual condition existed prior to entrance into active service in the absence of further proof. Similarly, manifestation of lesions or symptoms of chronic disease from date of enlistment, or so close to that date that the disease could not have originated in so short a period, impels the conclusion that the disease existed prior to entrance into active service in the absence of further proof.

§ 725.203 Active duty.

Full-time duty in the active military service of the United States. It includes duty on the active list, full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. 10 U.S.C. section 101(22).

§ 725.204 Active duty for a period of more than 30 days.

Active duty under a call or order that does not specify a period of 30 days or less. 10 U.S.C. section 101(23).

§ 725.205 Active service.

Service on active duty. 10 U.S.C. section 101(24). For the purposes of determinations under 10 U.S.C. ch. 61, periods of active service shall be computed under 10 U.S.C. section 1208.

§ 725.206 Aggravation by service.

(a) Disease or injury noted prior to service, which clearly had its inception prior to service, will be considered to have been aggravated, when such disability underwent an increase in severity during the service, unless such increase in severity is clearly shown to have been due to the natural progress of the disease (see § 725.231).

(b) In the case of members with more than 3 years of continuous active duty, any increase in the severity of a preexisting disease or injury will be considered as service aggravation, provided that such increase in severity was not due to the member's intentional misconduct or willful neglect or was not incurred during a period of unauthorized absence.

(c) The usual effects of medical and surgical treatment in service, having the effect of ameliorating disease or other condition incurred before entry into service, including postoperative scars and absent or poorly functioning parts or organs, do not constitute aggravation, unless the treatment was required to relieve disability which had been aggravated by service.

§ 725.207 Areas of responsibility.

As used in this Manual, the terms "area of responsibility" and "technical speciality," unless otherwise defined, shall be construed to refer to the duties and responsbilities of the cognizant bureau, office, or headquarters, as set forth in Navy Regulations.

§ 725.208 Convalescent ratings.

Under certain diagnostic codes, the Veterans Administration Schedule for Rating Disabilities provides for convalescent ratings to be awarded for specified periods of time without regard to the actual degree of impairment of function. Such ratings do not apply to the military departments since the purpose of convalescent ratings is accomplished by other means under disability laws. Convalescence will ordinarily have been completed by the time optimum hospital improvement (for disposition purposes) has been attained. The ratings for observation periods, as distinguished from convalescence, such as those "for one year" following treatment for malignant neoplasm, is not affected by this paragraph.

§ 725.209 DESC.

Experienced, mature officer, senior enlisted member (E–7 or above), or civilian employee at the hospital level, designated to perform the duties of counseling members who are undergoing physical disability evaluation, providing them with authoritative and timely answers to their questions and aiding them in understanding their rights and entitlements. The DESC must be fully informed as to the working of the Disability Evaluation System, rights of party, monetary considerations, and privileges.

§ 725.210 Grade.

A step or degree, in a graduated scale of office or military rank, that is established and designated as a grade by law or regulation. 10 U.S.C. section 101(18).

§ 725.211 Impairment, functional.

Any lessening or weakening of the capacity of the body or any of its parts to perform that which is considered by accepted medical principles to be the normal activity in the bodily economy.

§ 725.212 Impairment, latent, functional.

Impairment which is not manifested by current signs and/or symptoms, but which is of such a nature and there is

reasonable certainty, according to accepted medical principles, that signs and/or symptoms will appear within a reasonable period of time.

§ 725.213 Impairment, manifest, functional.

That which is evidenced by signs and/or symptoms.

§ 725.214 Inactive duty training.

(a) Duty prescribed for Reserves by the Secretary concerned under 37 U.S.C. section 206 and any other provisions of law; or

(b) Special additional duties authorized for Reserves by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned. It includes those duties when performed by Reserves in their status as members of the National Guard. 10 U.S.C. section 101 (31).

(c) Inactive duty training does not include work or study performed in connection with correspondence courses.

§ 725.215 Inception of disease or injury.

(a) Determinations concerning the inception of disease or injury, not noted upon entry, should not be based on medical judgment alone, as distinguished from accepted medical principles, or on history alone, without regard to clinical factors pertinent to the basic character, origin, and development of such disease or injury. This determination should be based on a thorough analysis of the entire evidentiary showing in the individual case and a careful correlation of all material facts, with due regard to accepted medical principles pertaining to the history, manifestations, clinical course, and character of such disease or injury. History conforming to accepted medical principles pertaining to such disease or injury should be given due consideration, in conjunction with basic clinical data concerning the manifestation, development, and nature of such disease or injury, and accorded probative value consistent with accepted medical principles in relation to other competent evidence in each case. All material evidence relating to the incurrence, symptoms, and course of the disease or injury, including official and other records made prior to and during service, together with all other evidence concerning the inception, development, and manifestations of such disease or injury, should be taken into full account.

(b) Conditions of infectious origin are to be considered with regard to the circumstances of infection and the incubation period. Manifestations of disease within less than the minimum incubation period after entry into active service will be accepted as proof of inception prior to service.

(c) In neuropsychiatric conditions, situational reactions characteristic of a life pattern, indicating psychopathic personality, chronic psychoneurosis of long standing, or other neuropsychiatric symptoms shown to have existed prior to service, with manifestations during service, which are the basis of the diagnosis in service, may be considered in determining whether preexisting neuropsychiatric conditions exist. When the conclusion that the mental disorder of a psychotic member existed prior to service is based upon a past history of aberrant behavior related by the member, it is essential that the record show that the member had the capacity to recollect and narrate in a trustworthy manner and that the past history is reliable, rather than a manifestation of his illness. When the ability of the member to recollect and narrate in a trustworthy manner is in doubt, there must be corroborative evidence.

§ 725.216 Incurred while entitled to receive basic pay.

(a) "Incurred" refers to the date or time when a disease or injury is contracted or suffered, as distinguished from a later date, when it is determined that, because of such disease or injury, a member has become unfit to perform his duties. Physical disability due to natural progression of disease or injury is "incurred" at the time the disease or injury causing the disability is contracted. Increase in physical disability during service in excess of that due to natural progression of the disease or injury is due to aggravation by service and, as such, is "incurred" when the disease or injury is aggravated (see § 725.206).

(b) "While entitled to receive basic pay" encompasses all types of duty which entitled the member concerned to receive active duty pay (as well as any duty without pay, which may be counted the same as like duty with pay). This definition shall not be construed to entitle any member not on active duty, who, at the time of his separation from active duty, was considered physically fit for duty, to benefits under 10 U.S.C. ch. 61, because of an increase in disability occurring while the party is not entitled to receive basic pay.

§ 725.217 Legal representative.

A trustee, guardian, or committee, appointed by competent authority for a mentally incompetent member. In cases where a legal representative has not been so appointed, the "legal representative," as used in this Manual, shall be the person who, by reason of his or her relationship to the member, is most likely to act in the best interests of a mentally incompetent member. Normally this will be the member's next of kin or other relative specified by law or regulation. In cases of doubt, such as when the member's wife is separated from the member, advice as to who is to be treated as the member's legal representative for the purposes of proceedings under this Manual (until a trustee, guardian, or committee has been formally designated) will be requested from the Judge Advocate General (Director, Fiduciary Affairs Division).

§ 725.218 Line of duty.

(a) General rule. Disease or injury incurred by naval personnel while in active service will be considered to have been incurred "in line of duty" except when incurred under one or more of the following circumstances:

(1) As the result of the person's misconduct,

(2) While avoiding duty by deserting the service,

(3) While absent without leave and such absence materially interfered with the performance of required military duties (see § 725.241),

(4) While confined under sentence of a court-martial which included an unremitted dishonorable discharge, or

(5) While confined under sentence of a civil court following conviction for an offense which is defined as a felony by the law of the jurisdiction where convicted.

(b) "Active service" as used in this paragraph includes full-time duty in the naval service, extended active duty, active duty for training, leave or liberty from any of the foregoing, and inactive duty training.

(c) Presumption. It is presumed that a disease or injury suffered by a member of the naval service was incurred in line of duty. Clear and convincing evidence is required to overcome this presumption.

§ 725.219 Maximum hospital benefits.

That point during hospitalization when a patient's progress appears to have stabilized and it can be anticipated that additional hospitalization will not contribute to any further substantial recovery. A patient who can be expected to continue to improve over a long period of time without specific therapy or medical supervision, or with only a moderate amount of treatment on an outpatient basis, may be considered as having attained maximum hospital benefits.

§ 725.220 Member.

Unless otherwise defined, a "member" includes a commissioned officer, commissioned warrant officer, warrant officer, aviation cadet, or enlisted person, including a retired person of the naval service. The words "retired person" include members of the Fleet Reserve and Fleet Marine Corps Reserve who are in receipt of retainer pay. Midshipmen of the Navy are not members. The term "member" is also used interchangeably with the term "party" to denote the individual whose case is being considered.

§ 725.221 Member, enlisted.

A person serving in an enlisted grade. 10 U.S.C. section 5001(a)(4).

§ 725.222 Mental incompetency.

For the purposes of this Manual, the term "mental incompetency" is used to designate the condition or legal status of a party who is unable or unfitted to manage his own affairs because of a mental disorder (see 37 U.S.C. ch. 11 and JAG Manual, ch. 15). Determinations of

mental competence are made by a medical board under Chapter 3 of this Manual.

§ 725.223 Misconduct.

(a) *Intentional misconduct or willful neglect.* "Intentional misconduct" and "willful neglect," as used in 10 U.S.C. ch. 61, are descriptive of "misconduct" as defined herein.

(b) *Generally misconduct is wrongful conduct.* Simple or ordinary negligence or carelessness, standing alone, does not constitute misconduct. To support an opinion of misconduct it must be established by clear and convincing evidence that the disease or injury was either intentionally incurred or was the proximate result of such gross negligence as to demonstrate a reckless disregard of the consequences. If a resulting disease or injury is such that it could have been reasonably foreseen from the course of conduct, it is said to be a "proximate result."

(c) *Presumption.* It is presumed that disease or injury suffered by a member of the naval service is not the result of his own misconduct. Clear and convincing evidence is required to overcome this presumption.

(d) *Examples.* If an individual intentionally wounds himself with a firearm, the injury is due to his own misconduct. If an individual handles a firearm in a grossly negligent manner and thereby wounds himself, that too would be an injury due to his own misconduct because a wound is a reasonably foreseeable result of the grossly negligent handling of firearms. If, on the other hand, an individual was standing on a sidewalk and, while handling a firearm in a grossly negligent manner, was struck by an automobile which had gone out of control, the injuries would not be due to his own misconduct because they would not have been a reasonably foreseeable result (proximate result) of the wrongful conduct in which the individual was engaged. If this latter example, the injuries are said to be the result of an independent intervening cause. The fact that the conduct violates a law, regulation, or order, or the fact that the conduct is engaged in while the individual is intoxicated does not, of itself, constitute a basis for a determination of misconduct. Such circumstances should, however, be considered along with all other facts and circumstances in determining whether the conduct of the individual was grossly negligent and whether the disease or injury was reasonably foreseeable as a probable result of such conduct.

(e) *Medical and dental treatment*—(1) *Refusal of treatment.* If a member unreasonably refuses to submit to medical, surgical, or dental treatment, any disability that proximately results from such refusal shall be deemed to have been incurred as the result of the member's own misconduct. Refer to the ManMed, art. 18–12(2)(c).

(2) *Venereal disease.* Any disability resulting from venereal disease shall not support a misconduct finding if the member has complied with regulations requiring him to report and receive treatment for such disease. Refer to the ManMed, art. 22–18.

(f) *Intoxication and drug abuse*—(1) *Intoxication.* An injury incurred as the proximate result of prior and specific voluntary intoxication is incurred as the result of misconduct. In order for intoxication alone to be the basis for a determination of misconduct respecting a related injury, there must be clear showing that the member's physical or mental faculties were impaired due to intoxication at the time of the injury, the extent of the impairment, and that the impairment was a proximate cause of the injury. Intoxication (impairment) may be produced by alcohol, a drug, or inhalation of fumes, gas, or vapor (see Article 1270, U.S. Navy Regulations).

(2) *Alcohol and drug-induced disease.* Inability to perform duty resulting from disease which is directly attributable to a specific, prior, proximate, and related intemperate use of alcoholic liquor or habit-forming drugs is the result of misconduct. Habituation may or may not be associated with a specific inability to perform duty which is directly due to the specific and proximate use of alcohol or drugs (see Article 1270, U.S. Navy Regulations).

(g) *Mental responsibility*—(1) *General rule.* A member may not be held responsible for his acts and their foreseeable consequences if, as the result of mental defect, disease or derangement, he was unable to comprehend the nature of such acts or to control his actions. Additionally, a member may not be held responsible for his acts or their foreseeable consequences if, as the result of a mental condition not amounting to a defect, disease or derangement and not itself the result of prior misconduct, he was unable to comprehend the nature of such acts and to control his actions. Thus, an injury which was the proximate result of acts performed while the member injured was suffering impairment of his mental faculties as the result of voluntary ingestion of a hallucinogenic drug would be deemed to have been incurred as a result of the member's own misconduct. Certain properties of such drugs are notorious and their use is prohibited by Article 1270, U.S. Navy Regulations; hence the impairment would support a finding of misconduct.

(2) *Presumption.* In the absence of evidence to the contrary, there is a presumption that all persons are mentally responsible for their acts. This presumption makes it unnecessary in the majority of cases that an administrative fact-finding body seek evidence that a member was mentally responsible at a certain time unless credible evidence is developed or discovered tending to indicate that he was not mentally responsible at that time. Such evidence may consist of circumstances attending certain acts, evidence of previous abnormal, irrational or aberrant behavior, expert opinion evidence of mental illness, and other evidence directly or indirectly tending to indicate lack of mental responsibility. Clear and convincing evidence is required to overcome this presumption.

(3) *Suicide attempts.* In view of the strong human instinct for self-preservation, a bona fide suicide attempt, as distinguished from other acts of intentional self-injury, is considered to create a strong inference of lack of mental responsibility. In cases of bona fide suicide attempts, therefore, further evidence must be sought on the question of mental responsibility, including, where warranted, expert psychiatric evaluation. If there is no reasonable and adequate motive for suicide supplied by the evidence, the suicide attempt will be sufficient to rebut the presumption of mental responsibility and the determination of whether the attempt was misconduct must then necessarily rest on the evidence.

(4) *Intentional self-inflicted injury.* An intentional self-inflicted injury not prompted by a serious suicidal intent is at most a suicidal gesture and such injury, unless lack of mental responsibility is otherwise shown, is deemed to be incurred as the result of the member's own misconduct.

§ 725.224 Officer.

A member of the naval service in a commissioned or warrant officer grade. 10 U.S.C. section 5001(a)(5).

§ 725.225 Officer, commissioned.

A member of the naval service serving in a grade of above warrant officer, W–1. 10 U.S.C. section 5001(a)(6).

§ 725.226 Officer, warrant.

A member of the naval service serving in a warrant officer grade. 10 U.S.C. section 5001(a)(7).

§ 725.227 Optimum hospital improvement.

The point during hospitalization when the patient's medical fitness for further active service can be determined, and it is considered probable that further treatment for a reasonable period in a military hospital will not result in material change in the patient's condition which would alter his ultimate type of disposition or amount of separation benefits.

§ 725.228 Physical disability.

Any manifest or latent impairment of function due to disease or injury, regardless of the degree, which reduces or precludes an individual's actual or presumed ability to engage in gainful or normal activity. The term "physical disability" includes mental disease, but not such inherent defects as behavior disorders, personality disorders, and primary mental deficiency, although they may make a member unfit for military duty.

§ 725.229 Physical disability, unfit because of.

(a) A member is "unfit because of physical disability" when he is unable, because of disease or injury, to perform the duties of his office, grade, rank, or rating in such a manner as to reasonably fulfill the purpose of his employment on active duty.

(b) The mere presence of physical disability does not, in itself, require a finding of unfitness. In each case considered, it is necessary to correlate the nature and degree of functional impairment produced by physical disability with the requirements of the duties to which the member may reasonably expect to be assigned by virtue of his office, grade, rank, or rating (excluding special hazardous duty, such as duty involving flying, etc., but giving due consideration to the requirements of other potential sea or combat assignments).

(c) A member who has either a manifest or latent impairment which is likely to render him unfit because of physical disability in the near future will be considered to be unfit for duty, even though he may be physically capable of performing all of his duties at the moment. Conversely, a member convalescing from an illness or an injury, and who is likely to recover to a degree which would permit him to perform all of his duties in the near future, will be considered to be fit for duty.

(d) In determining whether a member is unfit because of physical disability, consideration will be given only to evidence which is relevant to the issues set forth in paragraphs (a), (b), and (c) of this section. Specifically, it is that which relates to either the nature and degree of functional impairment currently suffered because of physical disability; the requirements of the duties to which the member might reasonably expect to be assigned; the physical ability of the member to perform the requirements of the duties to which he may be assigned; or the weight to be accorded to other evidence related to the foregoing issues. Among the factors which shall not be considered and which have no bearing on this determination are the following: The ability or inability of the member to meet physical standards for hazardous duty, or enlistment, or appointment, or transfer to a different component within the naval service, or for transfer to a different category within the naval service; the need of the service for special skills possessed by the member; the fact that disciplinary action (civil or military) is pending against the member; or the fact that the active service of the member may soon be terminated for reasons other than physical disability.

§ 725.230 Physical disability, permanent nature of.

(a) A disability will be considered as permanent, if, based upon accepted medical principles, the defect has stabilized to the extent that the compensable percentage rating will, with reasonable expectation, remain unchanged during the ensuing 5-year statutory period; or if the compensable percentage rating is 80 percent or more and there is reasonable expectation that it will not reduce below 80 percent during the 5-year statutory period.

(b) A disability will be considered as "may be permanent" if, based upon accepted medical principles, the defect is of such a nature that accurate assessment cannot be made of its permanent degree of severity or percentage rating.

§ 725.231 Presumptions.

A presumption (an inference of the truth of any proposition or fact) is reached through a process of reasoning wherein one looks to probabilities rather than certainties. It is a rule of law, which when assumed, constitutes prima facie evidence as to the issue involved. In the absence of evidence to the contrary the presumption will be accepted as a fact. When weighed with evidence and circumstances to the contrary, the presumption will be given its logical probative value. A preponderance of the evidence is required to overcome presumptions except when otherwise provided in this Manual. For example, §§ 725.218 and 725.223 require clear and convicing evidence to rebut certain presumptions, and if, after consideration of all available evidence, a reasonable doubt exists concerning the incurrence, aggravation, or extent of a member's condition, that doubt will be resolved in favor of the member. A preponderance of the evidence exists where there is a superiority in the weight of the evidence, not necessarily in quantity but in effect.

(a) Every person employed in active service shall be presumed to have been in sound condition when examined, accepted, and enrolled for service, except as to physical disabilities noted at time of the examination, acceptance, and enrollment, or where medical evidence or principles demonstrate that the disease or injury existed prior to acceptance and enrollment. Only those physical disabilities recorded at the time of the examination are to be considered as noted. A mere history of the preservice existence of a physical disability, recorded at the time of the examination for acceptance, does not constitute a notation, but will be considered, together with all other material evidence, in determinations as to the incurrence of such physical disability.

(b) It is further presumed that any additional disability resulting from the preexisting injury or disease was caused by military service aggravation. Only specific findings of "natural progress" of the preexisting injury or disease based upon well-established medical principles, as distinguished from medical opinion alone, are sufficient to overcome the presumption of military service aggravation.

(c) Acute infections, such as pneumonia, active rheumatic fever (even though recurrent), acute pleurisy, acute ear disease; and sudden developments, like hemoptysis, lung collapse, perforating ulcer, decompensating heart disease, coronary occlusion, thrombosis, or cerebral hemorrhage, occurring while in military service, will be presumed as incurred in line of duty or service-aggravated unless there was no permanent increase in disability resulting therefrom during active military service.

§ 725.232 Proximate result.

A disease or injury, or aggravation thereof, resulting in physical disability, which, after consideration of all the facts and circumstances of a particular case, may reasonably be regarded as arising out of service or may reasonably be assumed to be the effect of service, will be considered the proximate result of the performance of active duty or inactive duty training, as the case may be.

§ 725.233 Pyramiding.

Pyramiding is the term used to describe the application of more than one rating to any area or system of the body when the total functional impairment of that area or system is adequately reflected under a single appropriate code. Disability from injuries to the muscles, nerves, and joints of an extremity may overlap to a great extent and special rules for their evaluation are included in appropriate sections of the VASRD. Related diagnoses should be merged for rating purposes when the VASRD provides a single code covering all their manisfestations. This prevents pyramiding and reduces the chance of overrating. For example, disability from fracture of a tibia with malunion, limitation of dorsiflexion, eversion, inversion, and traumatic arthritis of the ankle would be evaluated under one VA Code 5262, in accordance with the effect upon ankle function, with no separate evaluation for limitation of motion or traumatic arthritis.

§ 725.234 Rank.

The order of precedence among members of the armed forces. 10 U.S.C. section 101(19)

§ 725.235 Rating.

The name (such as Boatswain's Mate) prescribed for enlisted members of the naval service in an occupational field. 10 U.S.C. section 101(20)

§ 725.236 Reasonable doubt.

By "reasonable doubt," is meant a doubt which exists because of the fact that the evidence does not satisfactorily prove or disprove the claim, yet there does exist a substantial doubt, not specious, and one within the range of probability, as distinguished from pure speculation or remote possibility.

§ 725.237 Recommendations considered substantially detrimental.

Recommendations, if approved, which would have any of the following consequences, shall be considered as substantially or materially detrimental to interests of the member:

(a) Would retire the member permanently for physical disability in lieu of being placed on the TDRL;

(b) Would separate the member for physical disability, with or without severance pay, in lieu of temporary or permanent retirement for physical disability;

(c) Would separate the member for physical disability without severance pay, in lieu of separation for physical disability with severance pay;

(d) Would decrease (below 80 percent) the percentage of disability at which the member will be temporarily

or permanently retired for physical disability;

(e) Would change a recommendation of "fit for duty" or its equivalent under §§ 725.519–725.525 to a recommendation of "unfit for duty" or its equivalent under §§ 725.519–725.525, unless member or his counsel specifically requested a finding of "unfit for duty";

(f) Would change a recommendation of "unfit for duty" or its equivalent under §§ 725.519–725.525 to a recommendation of "fit for duty" or its equivalent under §§ 725.519–725.525, unless member or his counsel specifically requested a finding of "fit for duty";

(g) Would retire the member temporarily in lieu of permanently;

(h) Would add an EPTE rating or revise an assigned EPTE rating which may affect ultimate benefits;

(i) Would add a diagnosis of a psychiatric nature not mentioned in the medical board report referring member's case to a physical evaluation board.

§ 725.238 Reserve component.

Either the U.S. Naval Reserve or the U.S. Marine Corps Reserve.

§ 725.239 Secretary.

Unless otherwise qualified, refers to the Secretary of the Navy. 10 U.S.C. section 101(8)

§ 725.240 Total disability ratings.

Total disability will be considered to exist when the member's impairment is sufficient to render its impossible for the average person to follow a substantially gainful occupation. Accordingly, in cases in which the VASRD does not provide a 100 percent rating, under the appropriate (or analogous) VA Code, a member may be assigned a disability rating of 100 percent, if his impairment is sufficient to render it impossible for him to follow a substantially gainful occupation.

§ 725.241 Unauthorized absence.

Any absence from duty without authority, such as contemplated under articles 85, 86, and 87 of the Uniform Code of Military Justice (10 U.S.C. ch. 47) or such as was contemplated by the provisions of the Articles for the Government of the Navy, which were in effect prior to 1951. When a disability is incurred at any time during a period of unauthorized absence, regardless of whether the absence interferred with the members' military duties, the member is excluded from receiving benefits under 10 U.S.C. ch. 61.

Subpart C—Medical Boards

§ 725.300 Full instructions concerning Medical Boards.

Chapter 18, section III, Manual of the Medical Department, U.S. Navy, contains full instructions concerning the Medical Boards. The sections in this subpart contain information applicable to Medical Boards as they pertain to the Disability Evaluation System.

§ 725.301 Convening authority.

(a) A medical board may be ordered by the commander of a fleet, force, squadron, or flotilla, by commanding generals of Fleet Marine Force units, or by the commandant, commander, or commanding officer of a shore (field) activity of the Department of the Navy, upon any person of the naval service under his command, on the recommendation of the medical officer of the command to which such person is attached. A medical board may also be ordered by the Chief of Naval Personnel, the Commandant of the Marine Corps, and the Chief, Bureau of Medicine and Surgery.

(b) Individual cases shall be referred to the board, in such manner as the convening authority directs. No member serving on the active list shall be referred to a medical board until he has been admitted to the sicklist.

§ 725.302 Composition.

A medical board, whenever practicable, shall consist of three medical officers of the Navy; otherwise, the board may consist, in whole or in part, of medical officers of the Army, Navy, Air Force, or of the Public Health Service. In exceptional cases, as determined by the convening authority, medical boards may consist of a lesser number of medical officers. When the board is reporting upon conditions which normally fall under the professional jurisdiction of the dental department, the membership of the board shall include a dental officer, when one is available.

§ 725.303 Purpose.

(a) A medical board is constituted to report upon the present state of health of any member of the naval service, and it serves as an administrative board by which the Department of the Navy obtains a considered clinical opinion regarding the physical fitness of naval personnel. There are no specific statutes or administrative holdings prescribing the procedure to be followed by medical boards. Hence, meetings and proceedings may be conducted informally, and it is not required that the information upon which the findings of the board are based meet standards of admissibility as evidence in a judicial proceeding. However, since information contained in medical board reports may play an important role in determining the rights of an individual to certain benefits (such as pensions, compensation, promotion, retirement, income tax exemption, death gratuity, and civil service preference), it is essential to include in the report all available information, with adequate documentation concerning the origin, nature, conduct status, and aggravation-by-service of any condition reported upon.

(b) The medical board shall refer cases to a PEB, whenever a member's fitness for continued active duty is in question. Where it is obvious from the admitting diagnosis that the member is not likely to return to duty, his case shall be referred to a medical board immediately, with a recommendation for PEB appearance, even though optimum hospital improvement has not been achieved. Other required administrative processing, such as requests for a Veterans Administration bed designation, shall be accomplished in an expeditious manner.

§ 725.304 Board procedure.

(a) The board shall meet to consider and report upon the case of a member who is referred to it by competent authority. It shall require and examine such records in the case as are necessary to formulate a considered conclusion regarding the individual's present state of health and the recommendations required. It shall conduct such examination of the member as is considered necessary, and the member shall appear before the board in person, provided he is physically and mentally able to appear and provided it is considered by competent medical authority than such appearance will not adversely affect his health.

(b) Unless it is considered that the information, findings, opinions, and recommendation in the report might have an adverse effect on his physical or mental health:

(1) The member shall be allowed to read the board's report or be furnished a copy thereof;

(2) Findings or opinions that a condition was incurred through the member's misconduct, not in line of duty, or not aggravated by service, or that he is unsuitable for retention in the service shall be brought to his attention;

(3) The member shall be afforded an opportunity to submit a statement in rebuttal to any portion of the board's report;

(4) NAVMED Form 6100/2 statement concerning the findings and recommendations of the board shall be completed, referred to the member for signature, and witnessed.

In all cases, the board's report shall contain a statement indicating whether, and to what extent, the foregoing steps have been taken. If a member submits a statement in rebuttal, the board shall review its report and make any change which is considered appropriate, or prepare a statement in surrebuttal. The member's signed NAVMED 6100/2 statement, and/or statement in rebuttal, shall accompany the board's report but shall not be incorporated into it.

§ 725.305 Report.

(a) The medical board report shall be submitted to the convening authority of the medical board on NAVMED 6100/1 (Medical Board Report Cover Sheet), a multipage interleaf carbon format. The cover sheet shall not be mechanically reproduced. The body shall present a summary in narrative form of all pertinent data concerning each complaint, symptom, disease, injury, or disability presented by the member, which causes or is alleged to cause, impairment of health, unfitness for duty, or military unsuitability. The facts are to be represented briefly and concisely and must show the reason for admission to the sicklist; the diagnosis and any change thereof shall be substantiated; the board's opinion relative to misconduct and origin of the condition reported shall be supported, and the board's recommendation justified.

(b) Where no impairment exists, the report shall so indicate.

(c) Whenever possible, impairment of function should be reported in terms of objective tests or findings rather than as opinion or conjecture.

(d) The report must contain sufficient data to permit a reviewer to conclude whether the member suffers impairment of health, and, if so, to determine its nature and the degree of impairment. The discussion of each impairment should be presented in such a manner as to show the limitation of activity imposed by the disability and the significance of subjective symptoms alleged to cause impairment. Such evidence is intended for use in rating disability in the event the member is later determined to be unfit to perform the duties of his grade or rate.

(e) Any disability rating, which will be based in part on the data presented, is governed by the ability of the body as a whole, or of the psyche, or of a system or organ of the body, according to the general or localized effects of disease or injury, to function under the circumstances of ordinary activity in daily life including employment. The Physician's Guide, Disability Evaluation Examinations, Bureau of Medicine and Surgery, Veterans Administration, indicates the scope of the report required for rating purposes and will be utilized in all cases.

(f) If a previous report of medical survey or medical board has been submitted, it is not necessary to repeat the detailed information contained therein. In such cases, attention may be invited to the previous report and description of the present illness restricted to the interval history and currently pertinent data. Any facts which are not a matter of record or of personal knowledge to a member of the board, but which are based on the individual's own statement, should be recorded as "according to the member's own statement." Medical-social report must be held in the strictest confidence, should not be shown to the individual, and information derived therefrom, shall not be entered in reports of medical boards. Such data are obtained primarily for the benefit of the patient in diagnosis and treatment and may be utilized for the purpose of further interrogation of the patient, if pertinent. Any additional history so obtained from the patient or from other direct sources contacted as a result of "lead information" may be incorporated as a part of the history of the case.

(g) The examining facility and date of the entrance physical examination shall be reported in the case of members recommended for discharge who have less than 1 year of active service.

(h) In the following instances, the report shall contain a statement concerning member's capability of managing his own affairs, in accordance with the JAG Manual, ch. 15:

(1) All psychoses;

(2) Organic brain disorders when the board report indicates impairment of judgment;

(3) Psychoneuroses, severe, where possible impairment of judgment is indicated;

(4) Any case in which a member has previously been declared incapable of managing his own affairs; and

(5) All psychiatric cases of sufficient severity to require further hospitalization. (ManMed, art. 18–20(1) (a) through (g))

§ 725.306 Disposition of report.

The report of the medical board shall be signed by all the members of the board and transmitted to the convening authority.

§ 725.307 Action by convening authority.

(a) When the indicated disposition is appearance before a physical evaluation board and the convening authority of the medical board concurs and is the commanding officer of a Naval Hospital (both within and without CONUS), the Commanding Officer of the Naval Submarine Medical Center, or the Commandant, 14th Naval District, he shall endorse and forward an original and two copies of the medical board report and other required documents to the Central Physical Evaluation Board located in the Office of Naval Disability Evaluation, Washington, D.C. 20390. In this connection, a copy of the member's current health record, injury report or investigative report (when appropriate), and the following clinical record documents shall accompany the medical board report—a copy (photostatic, quick-copy, types, etc.) of the history, physical examination, doctor's progress notes, all laboratory, X-ray, and operative reports and all consultations. Colored photographs should be provided in those cases involving scarring with disfigurement, pigmentation, or in cases of unusual deformities such as ankylosis of individual fingers. In addition, a copy of the request for medical records and a statement of service shall be attached (see §§ 725.310 and 725.311). Orders shall not be issued for personal appearance before a PEB until, and unless, the ONDE (Central PEB) advises the appropriate authority that the member has requested personal appearance before the PEB. Also, orders for personal appearance shall be issued in the case of mentally incompetent members. Mentally incompetent members shall be represented by qualified counsel before the formal PEB.

(b) When the convening authority of the medical board is other than the above, and referral to a PEB is the recommended disposition, the medical board report shall be forwarded to the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, via the Chief, Bureau of Medicine and Surgery, for appropriate action.

(c) When the recommended disposition is appearance before a PEB and the convening authority of the medical board does not concur, the convening authority shall advise the member concerned of his nonconcurrence and afford the member an opportunity to submit a statement in rebuttal. The convening authority shall then forward the medical board report, the member's signed statement, and a full statement setting forth the convening authority's reasons for nonconcurrence to the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, via the Chief, Bureau of Medicine and Surgery, for determination as to disposition to be effected.

(d) If and when the ONDE (Central PEB) advises the referring authority that a member has requested personal appearance before a PEB, the referring authority shall issue orders promptly directing the member to appear before a formal PEB located geographically convenient to the member.

(e) If further hospitalization is indicated, the member shall be retained on the sicklist until recommended findings have been made by the ONDE (Central PEB). If further hospitalization is not indicated, the member may be discharged from the sicklist and transferred to a nearby appropriate administrative command to await counseling. In those cases where the member has been discharged from the sicklist and does not accept the recommended prima facie findings of the Central PEB, the member shall be transferred through medical channels to the appropriate hospital for a full and fair hearing. If such transfer is effected, the Disability Evaluation System Counselor shall immediately advise the ONDE (Central PEB) of the date of transfer and the command to which the member is transferred. The ONDE shall notify the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, of the member's new command.

(f) The convening authority of a medical board, for good and sufficient reason, and with the consent of the member concerned, may withdraw any case he has referred to the Central PEB, so long as the case is still before the Central PEB and recommended findings have not yet been made. If recommended findings have been made by the Central PEB, and the convening authority considers that good and sufficient reasons exist for withdrawal of the case from the Disability Evaluation System, the convening authority, with the consent of the member concerned, may request the Chief of Naval Personnel, or the Commandant of the Marine Corps, as appropriate, or the Chief, Bureau of Medicine and Surgery, to withdraw the case under the provisions of Chapter 8 of this Manual. (Refer to ManMed, art. 18–21, Item (1), (a) through (f))

§ 725.308 Line of duty misconduct reports.

In each case in which a member of the naval service incurs an injury which might result in a permanent disability or which results in his physical inability to perform duty for a period exceeding 24

hours (as distinguished from a period of hospitalization for evaluation or observation), findings concerning line of duty and misconduct must be made. Responsibility to order investigation in such cases is contained in the JAG Manual, sec. 0806. Whenever a copy of the report of investigation or injury report is not forwarded with the medical board report, a statement explaining the circumstances of the injury shall be attached to the medical board report. The statement shall include the name and address of the command having responsibility for the investigation, or a finding of not misconduct and in line of duty.

§ 725.309 Cases involving discipline.

(a) When court-martial proceedings or investigative proceedings which might lead to court-martial are pending, indicated, or have been completed; in cases of uncompleted sentences of court-martial involving confinement or punitive discharge; and in cases of homosexual behavior, existing concurrently with a seriously incapacitating physical disability other than a psychosis, requiring processing in accordance with current SECNAV INST 1900.9 series, the report of the medical board, together with all pertinent facts relative to the disciplinary aspects, of the case, shall be forwarded expeditiously by the convening authority, in accordance with Article 18–21 Item 23(1)(a), Manual of the Medical Department, U.S. Navy, for such administrative action as is deemed warranted; and no orders directing or authorizing the appearance of the member before a PEB shall be issued by the convening authority. (Refer to ManMed, art. 18–12)

(b) The Chief of Naval Personnel or Commandant of the Marine Corps, as appropriate, may either direct disciplinary processing, direct disability processing, or direct concurrent disciplinary and disability processing of the member's case.

§ 725.310 Request for medical records.

When the indicated disposition of the board is appearance before a PEB and the convening authority of the medical board concurs and is the commanding officer of a Naval Hospital (both within and without CONUS), the Commanding Officer of the Naval Submarine Medical Center, or the Commandant, Fourteenth Naval District, he shall immediately advise the Chief, Bureau of Medicine and Surgery (Code 33), and request that the member's medical records be promptly forwarded to the ONDE (Central PEB). In all other cases, where the indicated disposition of the board is appearance before a PEB, the Central PEB shall take such prompt action as may be necessary to obtain the medical records. (Refer to ManMed, art. 18–22)

§ 725.311 Requests for statements of service.

The command responsible for making the determination that a member is to appear before a PEB (generally the convening authority of the medical board, the Chief of Naval Personnel, or the Commandant of the Marine Corps) shall initiate a request to the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, for a statement of service for the member. Requests addressed to the Chief of Naval Personnel shall be sent to Pers-E. Requests on a Navy enlisted man shall include the member's Navy Enlisted Classification Code (NEC) as part of the identification of the member. Requests on Marine Corps personnel shall include the member's Military Occupation Specialty (MOS) (when known) as a part of the identification of the member. (Refer to ManMed, art. 18–22A)

§ 725.312 Terminal/death imminent.

(a) The provisions of this paragraph apply to members of the Navy and the Marine Corps who are patients in a hospital.

(b) It is not within the mission of the Department of the Navy to provide definitive medical care to members on active duty requiring prolonged hospitalization, who are unlikely to return to duty. The time at which a member should be processed for disability separation must be determined on an individual basis, taking into consideration the interests of both the Government and the member. However, before initiating disability evaluation procedures on a patient who has been identified as a terminal case, the hospital commanding officer shall insure that "optimum hospital improvement" has been attained. When "optimum hospital improvement" has been attained, disposition of the patient shall be governed by humanitarian consideration, with due regard for the economic conditions of the patient and his beneficiaries. However, terminal cases shall neither be retained nor separated solely for the purpose of increasing their retirement or separation benefits.

(c) Normally, a terminal medical case will be processed in accordance with the instructions of the other chapters of this Manual. However, if death is so imminent as to preclude completion of routine procedures, and application of the criteria set forth in paragraph (b) of this section warrants early separation of a member, whose case has not been presented to a PEB, a message report from the hospital commanding officer, or telephone communication, if necessary, shall be made directly to the Office of Naval Disability Evaluation, Washington, D.C., providing information necessary for disposition to be made. Outside of normal working hours these communications shall be made to the Duty Officer, Bureau of Medicine and Surgery. Such communications shall include the following information, insofar as possible:

(1) Member's full name, rank/rate, service/file number, SSN, USN/USNR, USMC/USMCR;

(2) Dependency status (i.e., single, married, children, other relatives listed in available Emergency Data personnel records);

(3) Whether member has government insurance and amount;

(4) Status of member as regards Retired Serviceman's Family Protection Plan;

(5) Approximate length of ACTIVE service;

(6) Life expectancy (i.e., hours or days);

(7) Diagnosis and diagnostic nomenclature number (IDCA);

(8) If death is imminent, as a result of an injury, as opposed to a disease:

(i) Duty status of member at time of accident (i.e., leave or liberty, authorized or unauthorized);

(ii) Opinion of investigating officer, regarding line of duty/conduct;

(iii) Brief of circumstances of accident, including time and date of injury.

(d) In a case in which the PEB proceedings have already been forwarded to the Office of Naval Disability Evaluation and then death becomes imminent, such fact shall be made known to the Office of Naval Disability Evaluation immediately, so that action may be expedited, if warranted. Outside of normal working hours, the procedure described in paragraph (c) of this section shall be followed.

(e) Commanding officers of naval hospitals or other authorized persons shall insure that the spouse, or (if there is no spouse) the legal guardian or custodian of the child or children of mentally incompetent members, is promptly advised of her/his right to request the Secretary of the Navy to make an election in their behalf regarding the Retired Serviceman's Family Protection Plan.

(f) Upon effecting a member's disability retirement, the member, or his next of kin if the member is mentally incompetent (including unconsciousness resulting from disease or injury), shall be immediately advised of the right to file for "Disabled Veterans' Insurance" under the National Service Life Insurance Act, as amended, 38 U.S.C. section 722. In cases of mental incompetence, as defined in this paragraph, if the next of kin or some other close family member to whom this information can be furnished is not available, so apprise the Chief of Naval Personnel or the Commandant of the Marine Corps (DN), as appropriate, immediately of that fact, and as to the date on which, and the person to whom, such information was furnished.

§ 725.313 Expedited disability separation.

(a) The provisions of this paragraph apply only to members of the Navy and Marine Corps who are patients in a service hospital.

(b) When it appears obvious at the time of admission to the hospital that a member's condition is of such a nature that he is never likely to return to duty, and immediate transfer to a Veterans Administration hospital is medically indicated, the member may be processed for physical disability retirement prior to attaining optimum hospital improvement in the service hospital. The medical officer treating the case will, within the first 10 days of the member's hospitalization, inform the hospital commanding officer, who shall immediately forward the following information to the ONDE (PRC) by speedletter (airmail where appropriate, telephone in extreme cases), with information copies to the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, the Judge Advocate General, and the Chief, Bureau of Medicine and Survey. Simultaneously, if indicated, a request to the Armed Services Medical Regulating Office (ASMRO) for bed designation in a VA hospital should be submitted, if the member requires further hospitalization and the member can be transported. The speedletter shall refer to this paragraph and shall state:

(1) Member's full name, rank/rate, service/file number, SSN, USN/USNR, USMC/USMCR;

(2) A VA claim has been prepared and reviewed by a VA representative and is ready for submission upon execution of TDRL orders;

(3) Approximate length of ACTIVE service;

(4) Diagnosis and diagnostic nomenclature number (appending an interim Narrative Summary, to include a description of functional impairment);

(5) If the condition which renders the member unfit is the result of an injury, as opposed to a disease:

(i) Duty status of member at time of accident (i.e., leave or liberty, authorized or unauthorized);

(ii) Opinion of investigating officer regarding line of duty/conduct;

(iii) Brief of circumstances of accident.

In addition to the interim Narrative Summary, there shall be appended to the speedletter report a statement signed by the member concerned agreeing to the special processing of his case and waiving his right to a full and fair hearing before a physical evaluation board (NAVMED Form 1900/1).

(c) Subject to the availability of space and facilities and capabilities of the professional staff, hospital commanding officers may approve requests from members processed under this paragraph for retention in a service hospital until optimum service hospital improvement has been achieved.

(d) In those instances where the member, after counseling, declines special processing of his case, he shall sign a statement to that effect, to be made a permanent part of his record, and his case shall be processed routinely in accordance with applicable provisions of this Manual.

(e) Hospital commanding officers shall, upon transfer of a member to a Veterans Administration hospital, request that the VA hospital forward to the ONDE (PRC) a copy of the Narrative Summary prepared upon the member's discharge from treatment, or interim summaries at 6-month intervals, whichever is appropriate.

Subpart D—Office of Naval Disability Evaluation

§ 725.401 Convening authority.

The Secretary of the Navy has established the Office of Naval Disability Evaluation (as a Department of the Navy Staff Office).

§ 725.402 Composition.

The Office of Naval Disability Evaluation shall be composed of a Director (Navy line flag officer or Marine Corps general officer), a Deputy Director (who is a Marine Corps colonel, when the Director is a Navy line flag officer, and a Navy captain when the Director is a Marine Corps general officer), and administrative facilities and personnel to support it, the Physical Review Council, the central and the formal physical evaluation boards, the Disability Evaluation System counselors, and such other personnel as are required to perform its function.

§ 725.403 Function and jurisdiction.

(a) The Director shall supervise, regulate, monitor, coordinate, and administer the Disability Evaluation System in conformity with 10 U.S.C. ch. 61 and other applicable provisions of law and regulations. The Director shall also provide for the physical disability evaluation of Navy and Marine Corps personnel for retention, retirement, or discharge and shall have primary cognizance within the Department of the Navy for matters relating to the Disability Evaluation System. The Director, ONDE, shall convene and have jurisdiction over the PRC and the PEB's. He shall control, unify, and standardize the administration of the Disability Evaluation System and shall establish criteria and provide for the training of personnel assigned thereto. In addition, the Director shall have jurisdiction over the Disability Evaluation System counselors, providing training and guidance for these personnel in the exercise of their responsibilities.

(b) The Director shall not normally take part in the review of any particular case, except upon completion of action in a given case he may review same for the purpose of establishing policy or changing existing policy.

(c) The Director shall, with secretarial approval, issue and maintain manuals and similar publications and orders and instructions to promulgate policies and procedures relating to the Disability Evaluation System and as necessary to his function as set forth herein. He is authorized to issue changes to such manuals and similar publications when concurred in by all interested bureaus and offices and by the Judge Advocate General, as provided by Article 1205, U.S. Navy Regulations.

(d) The Director shall establish military and civilian personnel ceilings and staffing, and equipment and space requirements for the Office of Naval Disability Evaluation and for the field PEB's and shall formulate budget requirements for this purpose.

(e) The Director shall review proposed legislation affecting disability evaluation.

Subpart E—Physical Evaluation Boards

§ 725.501 Function.

(a) Under the provisions of 10 U.S.C. section 1214, no member of the Armed Forces may be retired or separated for physical disability without a full and fair hearing if he demands it. Physical evaluation boards are constituted to afford hearings incident to evaluation of the physical fitness of certain members and former members to perform the duties of their office, grade, rank, or rating. The PEB is a fact-finding body established for the purpose of:

(1) Providing a full and fair hearing for the party concerned;

(2) Investigating the nature, cause, degree, and probable permanence of the disability of any party whose case may be brought before it; and

(3) Making recommended findings for the determinations required by law to establish eligibility of the party concerned for retention, disability retirement, or separation.

(b) PEB's are located at the Department of the Navy, Office of Naval Disability Evaluation, Washington, D.C.; Naval Hospital, Bethesda, Md.; Ninth Naval District Headquarters, Great Lakes, Ill.; and the Naval Hospital, San Diego, Calif. The Central Physical Evaluation Board located at the Office of Naval Disability Evaluation, hereinafter referred to as the Central PEB, considers cases under the informal hearing procedure only. The PEB's at the other locations consider cases under the formal hearing procedure and do not use the informal hearing procedure, except as the ONDE may specifically direct. Additional PEB's may be convened as the need arises.

§ 725.502 Jurisdiction of boards.

A PEB shall have jurisdiction to act in any proper case referred to it by the Secretary (JAG), the Commandant of the Marine Corps, the Chief of Naval Personnel, the Chief, Bureau of Medicine and Surgery, the Naval Physical Disability Review Board, the Director, Office of Naval Disability Evaluation, or any officer listed in § 725.307 of this Manual.

§ 725.503 Convening authorities.

(a) In addition to the authority granted in chapter 4 of this Manual, the Secretary of the Navy may, from time to time, empower other officers to convene PEB's.

(b) No officer may appear as the party whose case is to be evaluated before a PEB which has been convened by him or anyone temporarily succeeding to his office or by any one under him in the chain of command.

§ 725.504 Appointment of boards.

(a) Orders appointing PEB's shall:

(1) Cite the authority therefor;

(2) Designate the time and place of meeting;

(3) List, by name, the regular members, counsel for the board, and counsel for the party; and

(4) List, by name, the alternate members.

(b) Certified copies of such orders and amendatory orders shall be forwarded to the Judge Advocate General by the convening authority. The original orders appointing PEB's and originals of all amendatory orders shall be retained by the boards until canceled. When canceled, they shall be forwarded to the Judge Advocate General, by way of the convening authority.

§ 725.505 Composition.

(a) A PEB will be composed of competent and mature officers of sound judgment who are familiar with board procedures and, in particular, with the regulations and instructions pertaining to the Disability Evaluation System. The board shall be comprised of three commissioned officers in the rank of CDR/LCOL, or above, as members, one of whom shall be a medical officer and two of whom shall be nonmedical officers and, whenever practicable, line officers of the naval service. Unless directed otherwise by the convening authority, when the party concerned is a member of the Marine Corps, the president of the board shall be the senior Marine Corps member and when the party concerned is a member of the Navy, the president of the board shall be the senior nonmedical Navy member. However, in cases arising under 10 U.S.C. section 1554, the PEB shall be composed of five commissioned officers as members, three of whom shall be nonmedical officers and two of whom shall be medical officers. Counsel for the board and counsel for the party shall also be appointed in formal PEB's. The members of the board shall be of substantially comparable rank and experience. Under no circumstances will differences in rank or experience be permitted to inhibit or influence junior members in the expression of their opinions. Whenever practicable, at least a majority of the members of the board who act on a case shall be senior in rank to the party, but this requirement may be waived in writing by the party, or, in the absence of objection by the party or his counsel, shall be considered as waived. When the party is a member of a Reserve component, at least one member of the board acting on his case shall be a Reserve officer. If a Reserve officer is not assigned to permanent duty on the PEB, one of the alternate (Reserve) officers must be utilized.

(b) Appointment to membership on a PEB shall constitute a primary duty of the officers so assigned. Although alternate members may (and should) be appointed, the number thereof is to be kept to the minimum consistent with the expeditious processing of PEB cases and the maintenance of continuity of the membership. The use of alternate members should be reserved for cases when the regular members are absent because of leave or illness or as may be required for a Reserve party.

§ 725.506 Membership and assignment of personnel.

(a) The Chief of Naval Personnel and the Commandant of the Marine Corps, as appropriate, shall assign officers to the Director, ONDE, for duty as permanent nonmedical members of PEB's. The Chief, Bureau of Medicine and Surgery, shall make available for assignment to the Director, ONDE, officers for duty as permanent medical members of PEB's. The District Commandants through their law centers serving the geographical area in which PEB's are located will provide officers qualified in accordance with 10 U.S.C. section 827 (Art. 27, UCMJ) for duty as counsel for the formal boards and for the parties whose cases are under consideration. Officers so assigned as counsel shall be competent, mature officers, who have had substantial experience as primary counsel in adversary proceedings before fact-finding tribunals.

(b) Officers assigned to field/formal PEB's as permanent members shall be attached to the military commander of the are in which located for logistic and administrative support and for court-martial jurisdiction. Operational and technical control shall be exercised by the Director, ONDE. The normal tour of duty for personnel assigned to PEB duty shall be for 2 years. Generally, tours shall not be extended.

(c) No medical officer shall act as a medical member of a PEB if he has direct charge of the case of the party concerned immediately preceding appearance before the board or if he was a member of a board of medical officers which reported on the party concerned.

(d) Officers of the Dental Corps and the Nurse Corps are considered to be nonmedical officers, as used in this chapter, and may act as PEB nonmedical members only when the case under consideration concerns a member of their Corps.

(e) The Commandant of the Marine Corps, Commandants of Naval Districts, and/or Commanding Generals of Marine Corps Bases in which PEB's are located shall furnish the Director, ONDE, upon his request, with the names of senior Navy and Marine Corps nonmedical members and medical officers to act as alternates.

(1) At least two of the alternate members must be officers of the Navy and/or Marine Corps Reserve.

(2) Designation of alternate members is authorized in order to allow the expeditious processing of cases during absences of permanently assigned personnel. Alternate members shall not act on cases until their names have been promulgated in an appointing order. The authorization of alternate members is not intended as a means of providing rotation of officers for duty on PEB's nor as a vehicle to circumvent the requirement for permanently assigned personnel.

(3) The president of a PEB shall assure that alternate members serving on his board are familiar with their duties and responsibilities.

§ 725.507 President, duties and responsibilities.

The president shall take appropriate action to preserve order in open sessions of the board and to insure that the proceedings are conducted in a dignified and judicial manner. He shall rule upon all interlocutory questions except challenges. His rulings on interlocutory questions may be objected to by other members of the board, in which case the matter will be decided by a majority vote of the board members in closed session. For good reason he may recess or adjourn the board or grant a continuance in the case. He shall preside over closed sessions of the board and speak for the board in announcing its recommended findings and the result of any vote upon challenge or other interlocutory question. He and the counsel for the board shall authenticate the record of proceedings, except that, in the absence of the president, the record may be authenticated by any other member who acted on the case.

§ 725.508 Members in general, duties and responsibilities.

It is the responsibility of each member of the board to weigh and impartially to examine the evidence presented in a case and to make recommended findings, each according to his conscience and in conformity with applicable laws, regulations and established policies. Each member has an equal voice and a vote with the other members in deliberating upon and deciding all questions submitted to a vote. Each member may question witnesses in an order prescribed by the president. Members of the board may discuss the case freely in closed session, but, except as authorized to be set forth in the record of proceedings pursuant to this chapter, the opinions expressed by any member in closed session shall not be disclosed.

§ 725.509 Counsel for the Physical Evaluation Board.

(a) Counsel for a formal PEB shall be a competent, mature officer of sound judgment, who is familiar with procedures, regulations, and instructions relating to the Disability Evaluation System. He must be a member of the bar of a Federal court or of the highest court of a State to be designated as counsel for the board.

(b) Notwithstanding the provision of paragraph (a) of this section that the counsel shall be an officer, a civilian employed by the Government who is a member of the bar of a Federal court or the highest court of a State may be appointed counsel for the PEB.

(c) The counsel for the PEB, in every case before the board, shall present all available evidence which is relevant to the issues to be decided by the board. This shall include, but not be limited to, the records provided by the Central PEB and such additional information as is considered necessary to assure that the full facts of the case are disclosed. In accordance with procedures prescribed by competent authority, he shall secure

or request witnesses to appear before the board and shall obtain depositions, affidavits, or statements which may aid the board in reaching decisions on the issues before it. (See Manual for Courts-Martial, United States, 1969, para 117.) He shall notify the board members, witnesses, counsel for the party, and reporter of the time and place fixed for the hearing and make necessary arrangements to permit a proper hearing to be held. He shall insure that the records of the party concerned are furnished to medical witnesses for examination prior to the hearing and shall perform such other duties as may be required by the president of the board. It is his specific responsibility to insure that the board has before it sufficient information to ascertain as accurately as practicable the circumstances in which the party concerned incurred his disability, the extent of the disability, and, when it appears that the disability existed prior to the party's entrance into active service, its extent at the time of entrance into active service, and all other pertinent circumstances relating to the party's disability. He shall exploit all practicable sources of information in order to bring out all the facts in an impartial manner without regard to the favorable or unfavorable effect on persons concerned. In carrying out the foregoing responsibility, it is expected that he will utilize his professional skill in the examination or cross-examination of all witnesses. Under the direction of the board, he shall be responsible for expeditious preparation of a complete, fully documented record of proceedings and shall sign the record of proceedings as an authentication of its correctness, prior to signature by the president of the board.

§ 725.510 Counsel for the party.

(a) Counsel for the party before a formal physical evaluation board shall be a competent, mature officer of sound judgment, who is familiar with procedures, regulations, and instructions relating to the Disability Evaluation System. He must be a member of the bar of a Federal court or of the highest court of a State to be designated as counsel for the party.

(b) Notwithstanding the provision of paragraph (a) of this section that the counsel shall be an officer, a civilian employed by the government who is a member of the bar of a Federal court or the highest court of a State may be appointed as counsel for the party.

(c) The designated counsel for the party shall represent the party in every case unless the party obtains civilian counsel at his own expense or other military counsel, if available, or unless the party, after having been given opportunity of consulting with counsel, expressly waives counsel. When counsel other than the designated counsel has been obtained to represent the party, designated counsel may act as associate counsel, if desired by the party. In the case of mentally incompetent parties, the legal representative may obtain civilian counsel at his own expense, or other military counsel, if available. In the event such counsel is not provided, the designated counsel will represent the mentally incompetent party in every case and a waiver of the right to counsel will not be accepted. Any notice or other written communication required or permitted to be given to the party or his legal representative shall be given to the party's military and/or civilian counsel. 5 U.S.C. section 500.

(d) An attorney-client relationship between counsel for the party and the party or his legal representative is established as soon as the party's case is received at the PEB for a formal hearing or when he is assigned to the case. If the party in mentally incompetent, the status of counsel for the party shall be analogous to that of a guardian ad litem. Counsel for the party shall fully advise the party or his legal representative of the legal and factual issues and of the merits of the case. He is authorized to communicate directly with the Recorder of the Central PEB and, if he considers that pertinent evidence was overlooked or otherwise not considered by the Central PEB, he may request reconsideration by the Central PEB if same can be accomplished without undue delay. With the written consent of the party or his legal representative, he may waive the party's right to a formal PEB hearing. In the event of such a waiver, the president of the PEB shall immediately return the case file, including such waiver, to the Central PEB, unless competent authority has directed a formal PEB hearing irrespective of waiver therefor. To avoid travel where the party is not in the same area as the PEB, counsel for the party may utilize the DESC to communicate with and advise the party of his rights. Such communications will be considered privileged and not divulged by the DESC to anyone except counsel for the party. If the party is on the TDRL, instructions for counseling the party will be requested from ONDE by counsel for the party.

(e) Counsel for the party shall represent the party before the PEB. He shall prepare his case in accordance with the law and regulations, carry out the responsibilities of counsel for an interested party before a formal fact-finding body, and guard the interests of the party by all honorable and legitimate means. He should be ever mindful that a primary purpose of the PEB is to examine the case comprehensively and to develop a clear, complete, and fully documented record of proceedings, so that intelligent and informed findings can be made by the PEB, at successive levels of review, and, often, in future proceedings.

(f) The specific duties of the counsel shall include:

(1) Conferring with the party (or his legal representative) and advising him of his rights;

(2) Interviewing witnesses;

(3) Requesting counsel for the board to arrange for the attendance of necessary witnesses and other specifically desired evidence;

(4) Presenting the party's case before the PEB including examination and cross-examination of witnesses;

(5) Submitting oral and written arguments to the board, as may be appropriate;

(6) Counseling the party, or legal representative, as appropriate, on the recommended findings of the PEB; and

(7) Preparing or assisting in the preparation of the party's rebuttal, if any.

§ 725.511 Recorder, Central Physical Evaluation Board.

The Recorder, Central PEB, shall be a competent, mature officer of sound judgment, who is familiar with procedures, regulations, and instructions relating to such board and to the Disability Evaluation System. The Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, will assign to the Director, ONDE, a Recorder for primary duty. The officer so designated shall, in every case before the board, assemble, prepare, and present all available evidence which is relevant to the issues to be decided by the board. This shall include, but not be limited to, the medical records, investigation reports and courts of inquiry, and current disciplinary status of the party concerned. It is his specific responsibility to insure that the board has before it sufficient information to ascertain, as accurately as practicable, the circumstances in which the party concerned incurred his disability, the full extent of the disability, and, when it appears that the disability existed prior to the party's entrance into active service, its extent at the time of entrance into active service, and all other pertinent circumstances relating to the party's disability. When necessary, the Recorder will return the case or exhibit for correction, before presentation of the case for PEB action. If additional data is needed to support the case, the entire record shall be returned to the hospital. The Recorder shall insure expeditious preparation of a complete, fully documented record of proceedings and shall sign the record of proceedings as an authentication of its correctness, prior to signature by the president of the board.

§ 725.512 Fitness reports.

The Director, ONDE, will submit fitness reports on all personnel permanently assigned to PEB duty. Concurrent fitness reports on officers assigned to PEB duty may be submitted to the Director, Office of Naval Disability Evaluation, Washington, D.C., by the officer having court-martial jurisdiction. Fitness reports on counsel for the board and counsel for the party shall be submitted only by the Reporting Senior of the activity or command to which they are permanently attached.

§ 725.513 Board reporter, interpreter and orderly.

The convening authority shall provide qualified reporters to all PEB's. The military commander providing administrative and logistic support, when necessary, or if requested by the board, the counsel

for the board and/or the party, shall provide an interpreter or an orderly, or both, in the same manner as provided for courts of inquiry. Such individuals shall act in the same capacity as in the proceedings of a court of inquiry.

§ 725.514 Informal hearing.

(a) *General.* The informal hearing procedure at the Central PEB is designed to save administrative time in the processing of cases and to insure uniform and equitable application of laws, policies, and directives governing the Disability Evaluation System. The formal (full and fair) hearing contemplated by the law is not interpreted to mean that an informal PEB will not provide full and fair consideration in each case. An informal board must be sure that each case considered is complete and correct in every respect. Although personal appearance before the Central PEB is not permitted, it is the party's right to present his views in writing to the Central PEB, if he so desires, which will be fully considered. The rapid processing intended by the use of an informal hearing by the Central PEB must not be permitted to override the fundamental requirement of consistently thorough evaluation of each case.

(b) *Procedures.* (1) Upon receipt of a case by the Central PEB, the Recorder shall immediately review the file to insure that all required documents have been received and take immediate action to obtain any missing documents. As soon as this is completed, he shall refer the file to the president of the Central PEB.

(2) The Central PEB shall review the file and make findings and recommendations according to the rules prescribed in this chapter. The entire file shall then be returned to the Recorder, who shall promptly transmit the file to the appropriate PEB in cases where the party is mentally incompetent or, because of his condition, it would be deleterious to his health for him to have personal knowledge of material in his file; otherwise, the Recorder shall cause the results of the PEB's action to be telephoned promptly to the DESC concerned. The Recorder shall insure that a notation is made in the file that the DESC has been informed of the recommended findings.

(3) The DESC shall, on being informed of the action taken by the Central PEB, without delay (within 48 hours excluding Saturdays, Sundays, and holidays), notify the party of such findings and shall explain the consequences of this action to the party and counsel him as to his rights. Thereafter, the party will have 3 days (excluding Saturdays, Sundays, and holidays) to elect either to concur in the action of the Central PEB or to demand a formal PEB hearing, with or without personal appearance. This will normally be accomplished on an appropriate form. If the party concurs, the Central PEB Recorder shall promptly transmit the entire case file to the PRC. If the party does not concur, he shall state his reasons for nonacceptance. The DESC shall inform the Central PEB Recorder by the most expeditious means of the party's decision and forward to him appropriate forms or papers which have been completed, as necessary. If a party fails to indicate his election within the time allowed or if he refuses to make an election, it is to be considered that he has demanded a formal hearing. The Central PEB Recorder shall immediately be notified of such nonelection, and the party shall be directed to appear before a formal PEB to insure that his legal rights are effectively preserved. Upon request from the DESC, the Central PEB Recorder may authorize a limited extension of time for the party to make his election when such action would be in the best interests of all concerned. Normally a reasonable extension will be granted when requested and needed by the party to consult with legal counsel.

§ 725.515 Personal appearance.

(a) Orders for a personal appearance before a formal PEB shall be issued by the authority which referred a case into the Disability Evaluation System upon notification from the Director, ONDE, that such appearance has been requested by the party or that a formal hearing is in the best interests of the party and the Government. Personnel who are in a patient status shall be transferred from hospital to hospital for formal (full and fair) PEB appearance in accordance with U.S. Navy travel instructions. Transportation through facilities of the Armed Services Medical Regulating Office (ASMRO) shall be utilized to the fullest extent possible.

(b) When the party concerned demands a formal hearing, he shall appear personally before a PEB for a formal hearing, unless there is an opinion by a medical board or a determination by the PEB that to do so would be detrimental to his health. In addition to the fact that it may constitute a military offense, failure to appear when so directed or authorized shall be considered as a waiver of the right of the party concerned to appear before the board unless it is reasonably shown that such failure was through no fault of the party. However, the board may, at its discretion, waive the appearance of the party, if so requested in writing by the party concerned. Such request shall be appended to the record of proceedings of the board.

§ 725.516 Formal hearing (full and fair).

(a) General: The purpose of a formal hearing is to accord the party his right to a full and fair hearing, as provided in 10 U.S.C. section 1214. For the purpose of this Manual, the rights of the party shall include, but not be limited to:

(1) Personal presence, unless injurious to his health;

(2) Representation by qualified counsel during all stages of the proceedings until final action on the case is effected;

(3) Challenge of members for cause;

(4) Presentation of evidence in his own behalf;

(5) Securing witnesses, records, depositions, affidavits, and statements on relevant issues, insofar as practicable;

(6) Cross-examination of witnesses;

(7) Presentation of arguments in his behalf;

(8) Having the issues in his case decided only on evidence adduced and presented in the hearing; and

(9) Filing a rebuttal to the recommended findings of the PEB, and, in certain circumstances, to filing a rebuttal to the recommended substitute findings of the Physical Review Council.

(b) A formal hearing shall be conducted:

(1) When the party (legal representative) demands it;

(2) When the party fails or refuses to indicate an election following an informal hearing;

(3) When the president, Central PEB, determines that a formal hearing is necessary in the best interests of the party or the Government (e.g., to document the testimony of witnesses or to clarify the official records);

(4) When directed by the Director, ONDE, or other competent authority; or

(5) Whenever otherwise required under this Manual.

(c) Preliminary actions: The president of the PEB will establish the date and time of the hearing, subject to the following rules:

(1) Not less than 3 days prior to the date a hearing is to be held, the party, his counsel and/or legal representative, as appropriate under paragraph (h) of this section, will be allowed to inspect all records assembled for the hearing, to have copies of same made, if practicable, and to make necessary notes in preparation of his case;

(2) The party may waive this period or any portion thereof;

(3) If additional time is required to prepare his case, a written request for extension of time will be forwarded to the president of the PEB, who, in turn, will endorse the request to the party through his counsel indicating approval or disapproval and the date and time of the rescheduled hearing; and

(4) In instances where the party is incompetent, ample time for travel will be allowed if the legal representative desires to be present at the hearing.

(d) The counsel for the PEB shall carry out the duties and responsibilities set forth in § 725.509 in every formal hearing.

(e) Failure of party to appear for formal hearing: When a party (except in mentally incompetent, deleterious to health, or absentia type cases) fails to appear, after having elected to do so, the president of the PEB will suspend the hearing and determine the reason for the party's absence. If there appears to be no reasonable excuse for the absence, the hearing will proceed and the president will include in the record a statement of circumstances. Should the party later appear before the hearing is concluded, the president may recess the hearing and permit the counsel to brief the party on the proceedings up to that point.

(f) Waiver of appearance by the party: A party may waive in writing his personal appearance at a formal hearing. In such a case, the appointed counsel, or individually selected counsel if there is one, must be present and represent the party during all open sessions of the hearing and perform the duties of counsel during post-hearing actions.

(g) Representation by counsel: Each party shall be represented by counsel at a formal hearing. His duties and responsibilities are set forth in § 725.510.

(h) Availability of records to party: All records assembled for use during the hearing, including those furnished by the Director, ONDE, and by other official sources, and requested by the party, shall be made available to the party and his counsel for review. In cases involving mental incompetence or when disclosure to the party of information relative to his mental or physical health would be injurious to mental or physical well-being, only the counsel and, if present, the legal representative may examine the records. The party (legal representative) and counsel may make any notes from the records necessary for proper preparation of the party's case and have copies of same made to the extent practicable. All official reference material used by the PEB shall be made available to the party (legal representative) and his counsel.

§ 725.517 Formal hearing procedures.

(a) Appendix A, a procedural guide, shall be used by all formal PEB's. The verbatim record of all matters of business before the board in open session will be attached to NAVSO 6100/16.

(b) Challenges: (1) Any member of a PEB may be challenged at any time during the hearing for cause stated to the PEB. The board will not receive a challenge to more than one member at a time. After disclosing grounds for challenge, the party may examine the member of the board. This examination may or may not be under oath at the discretion of the challenging party but, in either event, shall be recorded verbatim. The counsel for the board may cross-examine the challenged member. After such examination and cross-examination any other evidence bearing on the member's fitness to serve shall be heard. If the challenged member is to be examined under oath as to his fitness to serve, the counsel for the board shall administer the oath or affirmation as set forth in appendix A.

(2) The burden of establishing the challenge is on the party who made the challenge. The challenged member shall withdraw when the board is closed to vote upon the challenge. A unanimous vote (or a majority vote of a five-member board) is sufficient to sustain the challenge; a tie vote shall serve to disqualify the challenged member. The board shall decide the challenge according to the preponderance of the evidence. When a challenge reduces the board below the required number of members, alternate members will be called by the president (or senior member) of the board.

(c) Administering oaths: The prescribed oaths or affirmation for the president and board members, the reporter, and the counsels for the board and the party, as set forth in appendix A, shall be administered to each board (see JAG Manual, sec. 0111). If the form of affirmation is used, the closing sentence of adjuration will be omitted. The counsel for the board shall administer the oath in the form set forth in appendix A to each party and witness before he first testifies.

(d) Evidence: (1) Before taking testimony, the counsel for the board will, for the record, present all papers pertaining to the case to the board in open session. These papers may be inspected by the party and his counsel during the hearing. The party or his counsel may cross-examine the author of the document, record, or statement by calling him as a witness, if he is located at the installation at which the PEB is located or otherwise reasonably available, or by taking his deposition.

(2) A PEB shall consider all documentary evidence transmitted to it by proper authority. The board, in addition, may require and examine such records as may be in the files of the Department of the Navy that relate to the issues before the board. All evidence having a probative value as to the determination of issues before the board shall be considered. In consideration of the weight or probative value to be accorded evidence, the members of the board are expected to utilize their background and experience, their common sense, and their knowledge of human nature and behavior. In every case, the testimony of the party concerned shall be considered in connection with all the evidence adduced and given such weight as the board may believe it merits. When the testimony presented at the hearing indicates that the party claims to have disabilities not disclosed by the official medical records or presents evidence sharply in conflict with official medical records, and the issue thus drawn is not one that can be readily resolved by the observation of the board, there shall be further development of the case by requesting further physical examination, special studies, or further investigation by appropriate agencies; and the hearing shall be adjourned until such development has been accomplished. Recommended findings of the board shall be based upon evidence consistent with a reasonable probability of truth.

(e) Party testimony: A party appearing for a formal hearing will be advised by the board that, if he so desires, he may:

(1) Testify as a witness, under oath, in his own behalf; in which case, he may be cross-examined as any other witness;

(2) Introduce witnesses, sworn statements, documents, or other evidence in his own behalf and cross-examine witnesses examined by the board;

(3) Make an unsworn statement, personally or through counsel, or both, oral and/or written, without being subject to cross-examination;

(4) Make an oral argument and/or file a written argument (appended to the record of proceedings), personally or through counsel, or both; or

(5) Remain silent.

The party is not required to make any statement relating to the origin, incurrence, or aggravation of any disease or injury he may have, unless the party opens up such matters on his direct testimony before the PEB. (See 10 U.S.C. section 1219)

(f) Witnesses: The presence of witnesses at every hearing is not required. The board may summon military witnesses whose presence is requested by the party or his counsel, if the witnesses are reasonably available and if, in the opinion of the board, their testimony is essential or contributes materially to the case. Article 49, UCMJ (10 U.S.C. section 849), is used in determining reasonable availability of witnesses. The use of affidavits or depositions to obtain testimony of witnesses is encouraged. The board may summon military witnesses considered necessary to complete its recommendations and to comply with the legal requirements of a full and fair hearing. To assure the attendance of a military witness, the president of the board will request the proper commander to make the necessary arrangements for the timely presence of the witness, provided he is reasonably available. It is the responsibility of the party and his counsel to make the necessary arrangements for the attendance of a civilian witness appearing on behalf of the party.

(g) Objections: Objections may be made to any action (other than a challenge) taken or proposed to be taken by the board, as well as to the admission of testimony. Objections, when made, are recorded as part of the proceedings. The board must note in the record its ruling on any objections that may be offered. Ordinarily, the objections are passed upon by the president of the board. However, if any other member dissents from the president's ruling, the objection is ruled upon by the board in closed session. The ruling is the decision of the majority of the board and is announced on the reopening of the hearing.

(h) Continuance of hearing: The board may continue a formal hearing on its own motion. A formal hearing may also, for reasonable cause, be continued at the request of the counsel for the board, the party, or his counsel.

(i) Recommended findings: Upon completion of the presentation of the case, the board will be closed for deliberation. No person, other than the voting members, will be present during closed sessions. The voting members then arrive at the recommended findings as prescribed in this chapter. Upon completion of the deliberations, the board will reopen and the findings will be announced to the party or counsel.

(j) Minority report: Each recommended finding made pursuant to this chapter, which is concurred in by a majority of the board, shall constitute the action of the board. Any dissenting member of the board shall make a minority report concerning those particulars in which he does not agree with the action

of the board. The report will be attached as part of the record of proceedings. Reference will be made to the attachment in the space provided for minority findings on NAVSO 6100/16.

(k) Action prior to final adjournment: The board, upon its own motion at any time prior to forwarding the record of proceedings, may set aside its previous recommended findings, consider further evidence, and make new recommended findings.

§ 725.518 Recommended findings, members on active duty for more than 30 days (other than for training under 10 U.S.C. section 270 (b)).

(a) Upon completion of a formal hearing the voting members shall meet in closed session and, after having considered and deliberated upon all the evidence before it, the PEB shall announce, through the president, the board's recommended findings. The recommended findings shall be made as prescribed in this chapter. The board shall determine:

(1) That the party is fit or unfit because of physical disability;

(2) If the party is unfit, that such disability was (incurred) (aggravated) while the party was entitled to receive basic pay;

(3) That such disability (is) (is not) the result of intentional misconduct or willful neglect, and whether such disability (was) (was not) incurred during a period of unauthorized absence;

(4) (i) That such disability (is) (is not) the proximate result of active duty (because of aggravation) (when applicable), or

(ii) That such disability (was) (was not) incurred in line of duty, in time of war or National emergency, or

(iii) That the party has over 8 years of active service;

(5) That accepted medical principles indicate that such disability (is) (may be) permanent; and

(6) That such disability is ratable at (percentage) in accordance with the standard Schedule for Rating Disabilities in current use by the Veterans' Administration.

(b) If, for any reason, the PEB is unable to make the foregoing determinations because of insufficient information, the case will be promptly returned to the commanding officer of the referring hospital for clarification. The reason for its return will be clearly stated in the letter of transmittal. Examples of reasons are as follows:

(1) Further physical examination or the preparation of additional records;

(2) Further information and description by the medical board of the party's defects and their effect on his functional ability or his ability to perform duty;

(3) Further hospitalization for observation, evaluation, and reconsideration by a medical board; and

(4) Correction or explanation of apparent errors, omissions, or inconsistencies in case records or supporting documents.

(c) Finding One: Fit/Unfit: (1) If it is considered that the party concerned is fit to perform the duties of his office, grade, rank, or rating, the PEB shall make the following recommendation only: "It is recommended that (name of party) be found fit for duty."

(2) If it is considered that the party concerned is unfit to perform the duties of his office, grade, rank, or rating, solely because of a condition or defect not a physical disability, the PEB shall make the following recommended finding only: "It is recommended that (name of party) be found unfit to perform the duties of his office, grade, rank, or rating because of (specify condition or defect)."

(3) If it is considered that the party concerned is unfit to perform the duties of his office, grade, rank, or rating because of physical disability, the PEB shall make the following recommended finding: "It is recommended that (name of party) be found unfit to perform the duties of his office, grade, rank, or rating because of physical disability," namely:

(i) List diagnosis and ICDA number of each disability contributing to the party's unfitness. The primary diagnosis rendering the party unfit shall be listed first. The remaining diagnoses shall be listed in order of importance and degree of impairment caused.

NOTE: In any case in which the party found unfit by reason of physical disability, has more than one condition, the board shall submit recommended findings with respect to each condition causing physical disability which the party presents.

(ii) Discussion: (i) "Unfit because of physical disability" is defined in § 725.229, supra. To become eligible for disability benefits under 10 U.S.C. ch. 61, it must be determined that a party is unfit to perform the duties of his office, grade, rank, or rating because of physical disability. Therefore, this is the first determination that must be made. A party is considered unfit because of physical disability when he is unable, because of disease or injury, to perform the duties of his office, grade, rank, or rating in such a manner as to reasonably fulfill the purpose of his employment on active duty. A party who is not physically qualified to perform full and unrestricted duty is unfit because of physical disability. A party may be unfit because of a defect, or from the combined effect of two or more defects, even though one of them alone would not cause unfitness.

(ii) Although a party may have disabilities which are ratable in accordance with the Veterans Administration Schedule for Rating Disabilities, such disabilities do not necessarily render him unfit for naval service. In each case considered, it is necessary to correlate the nature and degree of functional impairment produced by physical disability with the requirements of the duties to which the party may reasonably expect to be assigned by virtue of his office, grade, rank, or rating (excluding special hazardous duty, such as duty involving flying, etc., but giving due consideration to the requirements of other potential sea, field, or combat assignments).

(iii) A party who has a condition which is likely to render him unfit in the near future will be considered to be unfit for duty, even though he may be physically capable of performing all of his duties at the moment. On the other hand, a party who remains hospitalized or who is convalescing with a prognosis for a return to duty in the near future will be considered to be fit for duty.

(iv) In each case, the overall effect of all defects present must be considered, both from the standpoint of the effect on the party's performance and requirements which may be imposed on the naval service to maintain and protect him during future duty assignments. The determination of physical disability is not based on such factors as a party's inability to meet the physical standards for enlistment or appointment; or his pending voluntary or involuntary retirement, discharge, or release; or that he does not meet the needs of the service for his special skills; or that he is not physically qualified for specialized duties, such as duty involving flying or duty aboard a submarine; or that he is not physically qualified for transfer to another service or another component or category within the naval service. DOD DIRECTIVE 1332.18 sets forth medical conditions and physical defects which normally render a party physically unfit for further duty. When there is reasonable doubt whether a party is fit or unfit, or as to the nature of the condition causing unfitness, these matters should be resolved on the basis of further clinical investigation and observation, and such other evidence as may be adduced. If after further clinical investigation and observation a reasonable doubt whether a party is fit or unfit still exists, that doubt shall be resolved in favor of the party.

(d) Finding Two: Incurred/Aggravated:

(1) *Form of Finding Two.* Finding Two of the PEB will be as follows:

That such disability (was) (was not) incurred while entitled to receive basic pay; or That such disability was aggravated while entitled to receive basic pay.

(2) *Discussion*—(i) *Service incurred.* "Incurred while entitled to basic pay" is defined in § 725.216 supra. For parties on active duty for more than 30 days, the PEB must determine whether each ratable condition was incurred while entitled to receive basic pay. "While entitled to receive basic pay" encompasses all types of duty which entitled the party concerned to receive active duty pay and any duty without pay, which may be counted the same as like duty with pay. A party is presumed to have been in sound mental and physical condition upon entering active service, except as to physical disabilities noted and recorded at the time of entrance. Any disease or injury discovered after a party enters active service is presumed to have been incurred while entitled to receive basic pay, in the absence of clear evidence to the contrary. Determinations concerning the inception of disease or injury, not noted at the time of entry, should not be based on medical judgment alone, as distinguished from accepted medical principles, or on history alone, without regard to clinical factors pertinent to the basic character, origin, and development of such disease or injury. This determination should be based on a thorough analysis of the entire evidentiary showing in the individual case and a careful correlation of all material facts, with due regard to accepted medical principles pertaining to the history, manifestations, clinical course, and character of such disease or injury.

(ii) *Service aggravated.* "Aggravation by service" is defined in §725.206, supra. When, by clear evidence, it is determined that a condition originated before entry on active military service, the PEB must further consider whether the condition was aggravated by military service. Any additional disability resulting from the preexisting physical condition will be presumed to have been caused by service aggravation and, as required by §725.231 only specific findings of "natural progression" of the preexisting disease or injury based on accepted medical principles, as distinguished from medical opinion alone, are sufficient to overcome the presumption of service aggravation. However, in the case of parties with more than 3 years' service, any increase in the severity of a preexisting disease or injury will be considered as evidence of service aggravation, provided that such increase in severity is not due to the party's intentional misconduct or willful neglect or was not incurred during a period of unauthorized absence.

(e) Finding Three: Misconduct or willful neglect/unauthorized absence:

(1) *Form of Finding Three.* Finding Three of the PEB shall be as follows:

That such disability (is) (is not) due to intentional misconduct or willful neglect and (was) (was not) incurred during a period of unauthorized absence.

(2) *Discussion.* The PEB is responsible for recommending a finding as to whether or not the disability is the result of the party's intentional misconduct or willful neglect, and whether or not the disability was incurred during a period of unauthorized absence. "Misconduct" is defined in § 725.223, supra, and "unauthorized absence" is defined in § 725.241, supra. The law presumes that any disease or injury was incurred in line of duty, unless there is clear and convincing evidence of intentional misconduct or willful neglect, or that it was incurred during a period of unauthorized absence. Any reasonable doubt will be resolved in favor of the party. The JAG Manual, Chapter VIII, prescribes the manner in which the Line of Duty determinations are made. Evidence received in Line of Duty determinations made in accordance with the JAG Manual, Chapter VIII, is material evidence to be considered by the PEB in arriving at their findings. The record of proceedings in all cases, other than disabilities incurred as a result of enemy action, shall contain documentation which explains the circumstances surrounding the incurrence of the disability. The documentation may be either the report of a fact-finding body (formal or informal), an Injury Report Form, NAVJAG 5800/15, depositions, statements, or testimony elicited at a formal hearing. When a disability is incurred at any time during a period of unauthorized absence, regardless of whether the absence interfered with the member's military duties, the member is excluded from receiving benefits under 10 U.S.C. ch. 61.

(f) Finding Four: Proximate result/line of duty:

(1) *Form of Finding Four.* Finding Four of the PEB shall read as follows:

(i) That such disability (is) (is not) the proximate result of active duty (because of aggravation), or

(ii) That such disability (was) (was not) incurred in line of duty in time of war or national emergency, or

(iii) The party has at least 8 years of active service.

(2) *Discussion.* Unless the party has 8 or more years' active service, the PEB must determine whether each diagnosis listed, which constitutes the party's disability, was the proximate result of the performance of active duty, or that such disability was incurred in line of duty in time of war or national emergency. Disease or injury incurred by naval personnel on active duty for more than 30 days, while serving on active service, is considered to have been incurred in line of duty unless one of the exceptions listed in this § 725.218 applies. A finding regarding proximate result (defined in § 725.232, supra) must be made in injury cases when the member is on active duty orders for 30 days or less, on training duty under 10 U.S.C. section 270(b), or on inactive duty training orders.

(g) Finding Five: Permanency of disability:

(1) *Form of Finding Five.* Finding Five of the PEB shall be as follows:

That accepted medical principles indicate that such disability (is) (may be) permanent.

(2) *Discussion.* The PEB will determine for each diagnosis listed, whether the disability "is permanent" or "may be permanent" and record its finding for each (see § 725.230). A disability will be considered as "may be permanent" when, based on medical experience in like cases, it is considered that:

(i) The party may become fit to perform the duties of his office, grade, rank, or rating within 5 years from retirement or separation, or

(ii) The compensable percentage rating may, if less than 80 percent, change within said 5 years, or

(iii) The compensable percentage rating, if 80 percent or more, may reduce below 80 percent during said 5 years.

(h) Finding Six: Percentage ratings:

(1) *Form of Finding Six.* Finding Six of the PEB shall be as follows:

That such disability is ratable at ( ) percent under the standard Schedule for Rating Disabilities in current use by the Veterans' Administration, as follows: (tabulate method for determining percentage).

(2) *Discussion.* The law provides for the use of the Veterans' Administration Schedule for Rating Disabilities (VASRD) in determining the percentage of disability of a party who is found to be unfit because of physical disability and is otherwise eligible for disability benefits. The VASRD does not prescribe standards under which fitness for military duty may be determined. A party may have a disability which is ratable in the VASRD, but which is not considered to be of sufficient importance to render him unfit for duty. Therefore, the VASRD is not to be used until the party has been found unfit to perform his duties. The board members and reviewers must be familiar with the entire contents of the VASRD, including the general policies, introductory paragraphs to sections, and italicized footnotes. Failure to adhere to criteria of the Schedule, except as provided in DOD DIRECTIVE 1332.18, will result in error and consequent delay in disability processing. Some of the rules more commonly used in applying the Schedule are as follows:

(i) *Degree of severity.* The basis of disability evaluation, and of the assessment of degrees of severity of disabilities, is the ability of the individual as a whole, to function under the circumstances of ordinary activity; that is, in daily life under normal environment. In this connection, it must be remembered that an individual may be too ill, weak, or otherwise disabled, to engage in work, although he may be up and about and fairly comfortable at home or upon limited activity.

(ii) *Disabilities not listed.* In view of the number of atypical instances, it is not expected that every disability evaluated will show all of the symptoms and signs described in the various Veterans Administration ratings. Since the codes merely mention the most common ones, sign and symptoms of closely related disabilities will be considered by analogy. Findings sufficiently characteristic to identify the disability and its degree of severity and, above all, coordination of the rating with the impairment of function must be made in all instances.

(iii) *Reasonable doubt.* When, after careful consideration of all evidence, a reasonable doubt arises regarding the degree of severity of a disability, such doubt shall be resolved in favor of the party.

(iv) *Pyramiding.* Evaluation and rating of the same disability under more than one diagnosis (pyramiding) shall be avoided.

(v) *Zero rating.* Occasionally a disability is of such mild degree that it does not meet the criteria even for the lowest rating provided in the VASRD under the applicable diagnostic code number. A zero percent rating may be applied in such cases although the lowest listed rating is 10 percent or more. However, in instances in which the VASRD specifies a "minimum rating," a rating no lower than the prescribed minimum shall be assigned.

(vi) *Amputation rule.* The combined permanent rating for disabilities of an extremity shall not exceed the rating for the amputation level next higher than the site of the injury. A disability of an

extremity shall not be given a higher rating that would be given if the limb were amputated at the most distal of the customary amputation sites which would include the affected area (region) in the part removed.

(vii) *Interpolation of VA ratings.* Although rating scales in the VASRD have been carefully constructed and tested to reflect proper ratings for varying degrees of severity of a disability based on the nature of the disease and the progression of its manifestations, in many instances ratings cannot be graduated in precise increments of 10, but will range from 20 percent to 40 and 80, or from 30 percent to 60 and 80. Interpolation of these ratings shall not be attempted by Navy adjudicative bodies in the disability system.

(viii) *Combined compensable rating.* If the party is found to be physically unfit and eligible for disability benefits, the percentages of all compensable disabilities are combined in the manner prescribed in paragraph 25 of the VASRD.

(a) Combined compensable ratings will be converted to the nearest number divisible by 10, and combined ratings ending in 5 will be adjusted upward.

(b) When a partial disability results from disease or injury, of both arms, or both legs, or paired skeletal muscles, or there is a bilateral involvement of peripheral nerves, the ratings for the disabilities of the right and left sides will be combined as usual, and 10 percent of this value will be added (not combined) before proceeding with further combinations or converting to the combined compensable rating. For example, if ratings for disabilities in paired extremities are combined to equal 59 percent, 5.9 percent (10 percent bilateral factor) will be added to the 59 percent to total 64.9 percent which is then converted to 65 percent and, in accordance with the same rule, is converted to 70 percent. This is proper even though the combined rating was less than 65 percent and underwent two upward conversions.

(ix) Prescribed VA Codes in accordance with the VASRD will be assigned to each diagnosis listed on NAVSO 6100/16. In selecting appropriate codes, consider the following:

(a) Description of functional impairment in medical records must be checked against the VASRD name of the disease or injury and its modifying terms.

(b) Related diagnoses should be merged for rating purposes when the VASRD provides a single code covering all their manifestations. This prevents pyramiding and reduces chance of overrating.

(i) Basis of recommended findings: It is essential that the record clearly reflect facts sufficient to form the basis for the recommended findings. Accordingly, the board should state in the record its basis for conclusions on issues where the record presents substantial evidence for more than one conclusion on such issues. In any case where the board makes a finding of misconduct or not in line of duty which conflicts with the approved findings of any other fact-finding body of which the board has knowledge, the board shall state in the record the basis for its conclusions.

§725.519 Recommended findings, members on active duty for 30 days, or training duty under 10 U.S.C. section 270(b).

The board shall make the same recommended findings as prescribed in § 725.518(a), except that finding (2) thereunder should be as follows:

That such disability (is) (is not) the result of an injury.

§ 725.520 Recommended findings, inactive duty training.

The board shall use the same phraseology in its recommended findings as prescribed in § 725.519, except the words "inactive duty training" shall be substituted for the words "active duty" in recommended findings § 725.518(f) (1) (i).

(NOTE for §§ 725.519 and 725.520: If not the result of an injury, no additional recommended findings are required. If the result of an injury, then the subsequent recommended findings shall relate only to disability resulting from the injury and a recommended finding whether the disability is the proximate result of performing such duty shall be made under finding (4)a of § 725.518(a)).

§ 725.521 Recommended findings, cases arising under 10 U.S.C. sections 1004 and 1163.

(a) Boards acting in cases arising under 10 U.S.C. sections 1004 and 1163 shall make the following recommended findings:

It is recommended that (name of party) be found (physically qualified) (not physically qualified) for active duty in the (U.S. Naval Reserve) (U.S. Marine Corps Reserve).

(b) If it is recommended that the party be found not physically qualified, the board shall set forth the disqualifying defect or disability, and the diagnostic nomenclature number (ICDA number) therefor, and give an opinion as follows:

Such disability (is) (is not) due to intentional misconduct or willful neglect.

(c) In determining the party's physical qualifications for active duty, the impairment of function suffered will be correlated with the requirements of the duties to which he may reasonably expect to be assigned if recalled to active duty in his current rank or rate.

§ 725.522 Recommended findings, case arising under 10 U.S.C. section 6331.

Boards acting in cases arising under 10 U.S.C. section 6331 shall make the following recommended findings only:

It is recommended that (name of party) be found (physically qualified) (not physically qualified) for active duty in the (Fleet Reserve) (Fleet Marine Corps Reserve).

If it is recommended that the party be found not physically qualified, the board shall set forth the disqualified defect or disability and the diagnostic nomenclature number (ICDA number) therefor.

§ 725.523 Recommended findings, reevaluation of members on Temporary Disability Retired List.

Boards acting in cases of members of the naval service on the Temporary Disability Retired List shall make findings as prescribed in §§ 725.518 or 725.519, as appropriate. For disability for which the party was temporarily retired, recommending findings are not necessary under § 725.518(a) (2), (3), and (4).

§ 725.524 Miscellaneous cases.

Boards considering cases not covered in §§ 725.518–725.523 shall make recommended findings only with respect to issues designated by competent authority.

§ 725.525 Rebuttal.

The party or his counsel shall be advised of the board's recommended findings and shall be afforded 5 days, exclusive of Saturdays, Sundays, and holidays, after receipt of a copy of the record of proceedings of the board, in which to file a rebuttal. A rebuttal will set forth, specifically, the recommended findings of the board with which the party or his counsel does not concur, together with proposed alternate recommended findings which are acceptable to the party. It is not mandatory, but desirable, that a brief, setting forth the legal and factual basis for such nonconcurrence or any other request for relief, be included in the rebuttal. In any case where a PEB is directed to conduct a new hearing or proceedings in revision and the party or his counsel files a rebuttal to the recommended findings arrived at in such proceedings, the rebuttal shall operate to afford the party an automatic appeal to the Naval Physical Disability Review Board, provided: (a) The recommended findings of such PEB differ in a material respect, detrimental to the party, from any prior recommended findings made in the case by a PEB; and (b) the proposed substitute findings thereafter made by the Physical Review Council differ in a material respect, detrimental to the party, from the relief sought in his rebuttal.

§ 725.526 Preparation and authentication of proceedings.

The record of proceedings of a PEB shall be prepared in accordance with this Manual.

§ 725.527 Forwarding of record of proceedings.

(a) The complete record of proceedings of the PEB, together with all documents which were before the board, shall be submitted to the PRC. An original and four/five (as appropriate) copies of the record of proceedings shall be prepared by the PEB and distributed as follows:

(1) Original to Office of Naval Disability Evaluation (PRC)

(2) Copy 1 to be retained at PEB

(3) Copy 2 to the party (NAVSO 6100/16 only) in informal hearings

NOTE: When it would be deleterious to party's health to receive his copy, this copy shall be filed in the original record of proceedings, unless specifically requested by the legal representative.

(4) Copy 3 to be filed in Health Record

(5) Copy 4 to DESC (NAVSO 6100/16 only)

(6) Copy 5 to counsel for the party (formal hearings only)

(b) Proceedings of the PEB's will be recorded on NAVSO Form 6100/16. Erasures and corrections must be initialed by the counsel for the board, or the Recorder, as appropriate.

(1) Copies of medical records or reports received from sources other than the Armed Services of the United States shall not be furnished parties with mental disorders or to parties imprisoned or confined to correctional institutions.

(2) Copies of medical records shall not be furnished parties when such records contain information which may be deleterious to the party's physical or mental health.

(c) Assembly of the record of proceedings shall be as indicated in Table 5–1. Pages of the transcript will be numbered consecutively beginning with page 1.

(d) Transmittal of case record of proceedings to the ONDE will be by the most expeditious means available, preferably by Pouch Air Mail.

(e) The foregoing, however, shall not preclude the review of these records by the counsel for the party. The recipient of such copy of the record of proceedings shall give a dated receipt therefor. The record of proceedings forwarded to the ONDE shall include party's signed and dated statement of intension, his statement in rebuttal (if one was filed), and/or a properly executed registered mail return receipt for party's copy of the proceedings. The PEB shall indicate when a party has not been provided a copy of the proceedings or, when only part of the proceedings was provided the party, indicate what part of the record was not provided. The PEB shall request the party to indicate a mailing address where he can be most expeditiously reached. If these documents are not received by the PEB within ten (10) working days after transmittal of party's copy of the proceedings, the proceedings shall be forwarded to the ONDE with notification concerning nonreceipt.

(f) A copy of the record of proceedings having been furnished to party or his counsel, a charge of $0.25 per page will be made for any subsequent copy requested.

§ 725.528 Proceedings in revision and new hearings.

In the event that a PEB is directed to conduct a new hearing, such hearing shall be conducted and the record prepared in the same manner as if the board were meeting in the first instance. The record of proceedings in such case shall be prefixed to the original record. A board directed to convene for a hearing in revision shall, when practicable, consist of the same members who previously acted upon the case and shall proceed as instructed by the referring authority. A board conducting a hearing de novo (a new hearing) shall consist of different members than those who previously acted upon the case.

§ 725.529 Action subsequent to forwarding the record.

In the event any cognizant authority shall receive information, subsequent to the forwarding of a record of proceedings of a PEB and prior to final action thereon, that the party concerned, following his hearing before such board, has: (a) Committed an offense or offenses such as are believed by the cognizant authority to have a possible bearing on the case and should therefore be brought to the attention of the Office of Naval Disability Evaluation; (b) incurred disability in addition to that presented at the time of his hearing; or (c) suffered an increase in the disability that was evaluated; or that his status has changed in any respect which might affect final action on the record of proceedings, such authority shall immediately forward this information to the ONDE by message, with information copies to the Chief of Naval Personnel or the Commandant of the Marine Corps (Code DMD), as appropriate, the Judge Advocate General, and the Chief, Bureau of Medicine and Surgery. Such message shall be followed as soon as practicable by a complete report of the matter, together with recommendations, concerning the action to be taken. Upon a change in his status occurring subsequent to his hearing before a PEB and prior to final action thereon, which, in his opinion, might affect final action, the party concerned may forward information of such change in the manner provided above.

§ 725.530 Processing time.

In order to provide information concerning the processing time at the various stages of disability evaluation proceedings, the Director, ONDE, shall provide a form to be appended to each record of proceedings in duplicate for recording the chronology of each such proceedings from the date the medical records are received from the Bureau of Medicine and Surgery to the date of final action (See Appendix "B," NAVSO 6100/9 or 6100/9a, as appropriate).

§ 725.531 Counseling.

(a) *General.* Each party or his legal representative will be counseled throughout the course of disability evaluation processing. The purpose of counseling is to enable the party fully to understand the significance of the findings and recommendations made by the medical board, PEB, PRC, and, if involved, the NPDRB, and his rights with respect to options available to him. Counseling is initially the responsibility of the Disability Evaluation System Counselor (DESC) of the medical treatment facility which conducts the medical board on the member. If, upon advisement of the Central PEB's findings and recommendations, the member demands a formal hearing, the DESC will immediately notify the Recorder of the Central PEB, who will arrange for orders to be issued for such appearance. The counsel for the party, located at the formal board, shall assume the counseling responsibility for all activity connected with that board. After a formal hearing, and the party has returned to the hospital where the medical board originated, or to the administrative command holding the party's Service Record, the counseling responsibility shall be again assumed by the DESC in that geographic area, except counseling which relates to the formal PEB proceedings shall be under supervision of the counsel for the party (See § 725.510(d)). In any event, counseling will be based on the circumstances of the case and designed to serve the party's best interests. Parties under treatment are often most concerned over their eventual disposition. They frequently will have questions about medical board and PEB procedures, about the possibilities for remaining on active duty in spite of their disabilities, and similar questions, to which answers are not readily available. Such questions should be answered so far as available information permits. Generally, the answer to such questions will be to describe procedures used in handling disability cases. In these circumstances, parties will be reassured that they will be counseled from time to time as their cases progress, and they should be encouraged to ask questions whenever they wish. Unless a DESC is a member of a bar of a Federal court or of the highest court of a State, it is not his function to give legal advice to a party or his legal representative. For this purpose the Navy Law Center in said geographic area or if not practicable, a nearby Naval activity therein which renders legal assistance, shall make available at least one officer who is qualified as prescribed in § 725.510(a) for providing legal advice to parties and their legal representatives referred by the DESC or otherwise asking for such advice.

(b) *Stages of counseling.* In particular, counseling will be provided at the following stages of disability evaluation processing:

(1) When the findings and recommendations of the medical board are made known to the party or his legal representative;

(2) When the findings and recommendations of the Central PEB are made known to the party or his legal representative;

(3) When the party's case is to be considered by a formal PEB;

(4) When the findings and recommendations of a formal PEB are announced;

(5) When the findings and recommendations of the PRC are made known to the party or his legal representative; and

(6) When the findings and recommendations of the NPDRB are made known to the party or his legal representative.

(c) *Scope of counseling.* The scope of counseling may vary with the circumstances of the party's case; however, it must include, as a minimum, each of the matters listed below, to the extent that they are raised by the findings and recommendations:

(1) Statutory rights: The party will be advised that:

(i) No member of the naval service may be separated for physical disability

without a full and fair hearing, if he demands it.

(ii) If he is a Reservist, he has the right to at least one Reserve voting member on the PEB considering his case.

(iii) He may not be discharged or released from the naval service by reason of disability until he has executed or refused to execute a claim for compensation, pension, or hospitalization to be filed with the Veterans Administration.

(iv) He cannot be required to sign a statement relating to the origin, incurrence, or aggravation of a disease or injury he has, and that any such statement against his interests, signed by him, is invalid.

(2) Findings and recommendations: Each of the several findings and recommendations made by the appropriate board or PRC must be explained in meaningful, understandable language to the party, together with the effect the recommended findings and recommendations will have on his status.

(3) Pay: Based on the available data, estimate the amount of retired pay or severance pay the member may expect to receive, if the findings are recommendations are approved and show how pay is computed under the several formulae that may apply. Income tax exemptions that may apply under current tax laws and rulings of the Internal Revenue Service and also estimated withholding tax should be explained. The fact that an election made under the Retired Serviceman's Family Protection Plan will result in a deduction from retired pay, and its amount, should be made known to the party. If temporary retirement is recommended, it is to be emphasized that the subsequent changes that may occur in the compensable percentage of disability as the result of periodic reexaminations will not result in an increase or decrease in the amount of party's retired pay, so long as his name is retained on the Temporary Disability Retired List.

(4) Grade determination: The party must be told that the grade in which he will be retired will be based upon the provisions of applicable law, and that determination of highest grade satisfactorily held will be made by the Secretary of the Navy or Secretary of the Armed Service in which previous service was performed.

(5) Deduction of severance pay from Veterans Administration compensation: It should be made clear to the party that any disability severance pay he may receive will be deducted from any compensation for the same disability to which he may become entitled from the Veterans Administration, and it is thus important for a party who receives disability severance pay promptly to file a claim with the Veterans Administration so that this amortization by the Veterans Administration or disability severance pay will commence as soon as possible. Otherwise, if he defers filing a claim with the Veterans Administration, at some future date when his need for compensation from the Veterans Administration may be great, its receipt will be delayed while his disability severance pay is recouped.

(6) Veterans Administration: (i) Whenever possible, arrangements should be made for a party being retired or separated, because of physical disability, to have a personal interview with the Veterans Administration representative, serving his hospital or installation, concerning his entitlement to Veterans Administration benefits. If, for any reason, this is not feasible, the party shall be counseled as indicated in the following paragraph.

(ii) The party will be advised of his right to apply to the Veterans Administration for disability benefits before separation, or subsequent thereto, or not at all, as he elects. Notwithstanding an election to the contrary, he should be urged to file a claim before separation whether or not he finally decides to avail himself of the Veterans Administration benefits. It must be pointed out that greater monetary benefits may be available from the Veterans Administration, and, although there is no assurance that Veterans Administration benefits will be greater, the party is not bound in any case to accept them. All parties should be especially urged to initiate a claim with the Veterans Administration, because the Veterans Administration benefits may be substantially greater, depending on the party's grade, severity of the disability, and his dependency status. The party will be shown how disability compensation paid by the Veterans Administration relates to retired or severance pay. Other potential benefits, such as past service life insurance, survivors' benefits, medical care, and hospitalization; will be pointed out. It will be emphasized in all cases that the Veterans Administration makes its own determination with respect to entitlements and administration of rights and benefits arising under laws it administers and that the Veterans Administration is not bound by determinations made by the naval service.

(7) Temporary Disability Retired List (TDRL): If it has been recommended that the party's name be placed on the TDRL, he will be advised of the effect of such a disposition. He (or his legal representative) will be counseled that he must undergo periodic reexamination when so directed by the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, or his retired pay may be suspended. He will be advised that he must notify the Chief of Naval Personnel (B84) or the Commandant of the Marine Corps (Code DGH), as appropriate, of any change in residence. The party must be informed that the maximum time he is entitled to retirement pay as a result of his TDRL status is 5 years and that final disposition may be made at an earlier date, whenever a report of periodic reexamination discloses that his condition has sufficiently stabilized. He will be informed that changes in the degree of severity of his disability will not affect his retired pay while he is on the TDRL, but that his final disposition may result in permanent retirement, with the same, a greater, or lesser percentage of disability; separation with or without severance pay; or an opportunity to reenter the naval service.

(8) The DESC shall insure that each party counseled has been furnished with a copy of the pamphlet, "Disability Separation" (NAVPERS 1586E/NAVMC 1117-PD).

(9) Review at Departmental level: Each member will be informed of the review procedures that take place at the Departmental level. He will be told that the PRC, and the NPDRB if a case is referred to them, are authorized to recommend changes or modify PEB findings and recommendations, and he will be advised of the rights and elections available to him in such event.

(10) Legal advice: Each party or his legal representative will be informed of his right to seek legal advice from an officer so designated from a Navy Law Center (or other activity). To this end, the DESC will assist him in making arrangements for such consultation.

§ 725.532 Counseling required by other directives.

The counseling required by the preceding paragraphs applies to disability evaluation cases and does not replace further separation counseling required by other directives.

§ 725.533 Action on cases of parties on the Temporary Disability Retired List.

(a) Upon receipt of a report of a periodic physical examination of a party on the TDRL, or a report of other current medical examinations acceptable to the ONDE, the Central PEB shall evaluate such report and take one of the following actions:

(1) If the party's 5-year period on the TDRL will not soon terminate, and the Central PEB considers that no change in his status is indicated, he will be so informed by the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate.

(2) If the party's 5-year period on the TDRL will soon terminate, or if the Central PEB considers that a change in the party's status is indicated, the Central PEB will take action in accordance with § 725.523, and, unless the party has already indicated his concurrence in such action, he or his legal representative will be notified of such action by the president of the Central PEB.

(b) When a party or his legal representative is notified under paragraph (a)(2) of this section, he shall be further informed that he has 5 days, exclusive of Saturdays, Sundays, and holidays, after receipt of notification to demand a formal hearing. After such period (which may be extended by the president of the Central PEB), if a formal hearing has not been demanded, the record of proceedings of the Central PEB shall be forwarded to the PRC. Otherwise, the case shall be referred to a formal PEB for further consideration and action as provided for in this chapter.

§ 725.534 Action when party fails to report for final periodic physical examination.

(a) If the party fails to report for his final physical examination, or otherwise fails to arrange for an acceptable current medical examination, the Central PEB, upon request, shall consider all available records pertaining to the physical condition of the party concerned and, on the basis thereof, recommend to the Secretary (JAG) via the Physical Review Council one of the following final determinations:

(1) That assuming that the party may have undergone maximum improvement consonant with accepted medical principles, he may be considered as fit for duty at the expiration of 5 years after the date his name was placed on the TDRL; or

(2) That, based on the available evidence and accepted medical principles, the party is considered unfit for duty as of the expiration of 5 years after the date his name was placed on the TDRL because of the physical disability for which he was temporarily retired ratable at least at ( ) percent under the standard Schedule for Rating Disabilities in current use by the Veterans Administration.

(b) In the case of a party who has failed to report for a final periodic physical examination, upon a final determination by the Secretary (JAG) as set forth in paragraph (a)(1) of this section, his name shall be administratively removed from the TDRL at the termination of 5 years on such list or as soon thereafter as practicable. However, if the final determination by the Secretary (JAG) is as set forth in paragraph (a)(2) of this section, the party will be permanently retired or separated under 10 U.S.C. sections 1210(c)–(e), as appropriate. The foregoing does not affect any statutory rights if it is subsequently shown that proper notification was not received or that there was just cause for his failure to report. 10 U.S.C. section 1210(a).

(c) Action under this paragraph shall be prepared by the Central PEB in such form as its president may prescribe and shall be signed by each member acting on the case and by the Recorder. It shall be transmitted to the Secretary (JAG) via the PRC not earlier than 60 days prior to the end of the 5-year period during which the name of the party is carried on the TDRL.

Subpart F—The Physical Review Council

§ 725.601 Composition.

The Director, ONDE, shall convene a PRC, comprised of:

One senior Navy officer provided by the Chief of Naval Personnel;
One senior Marine Corps officer provided by the Commandant of the Marine Corps;
One senior Medical Corps officer designated by the Chief, Bureau of Medicine and Surgery; and
One senior Judge Advocate of the Navy or Marine Corps designated by the Judge Advocate General; as members.

In addition to the members enumerated above, an officer shall be assigned by the Director, ONDE, to act as the Recorder for the PRC. The officers assigned to the ONDE for duty on the PRC shall be fully cognizant of the policies in their areas of responsibility or technical specialty. The Commandant of the Marine Corps, the Chief of Naval Personnel, the Chief, Bureau of Medicine and Surgery, and the Judge Advocate General shall furnish the Director, ONDE, with the names of senior Navy and Marine Corps officers (as appropriate to their area of responsibility) to act as alternates on the PRC, in the absence of the permanently assigned members.

§ 725.602 Areas of responsibility.

(a) The Navy officer shall provide liaison with the Chief of Naval Personnel for the ONDE and shall implement the personnel rules and policies of the Navy as may relate to disability evaluations. To this end, he shall review each record of proceedings of a PEB forwarded to the PRC which involves a Navy member in the light of such rules and policies, and his professional knowledge and experience, and, as appropriate, shall advise the other members of the PRC of the proper application of such rules and policies.

(b) The Marine Corps officer shall provide liaison with the Commandant of the Marine Corps for the ONDE and shall implement the personnel rules and policies of the Marine Corps as may relate to disability evaluations. To this end, he shall review each record of proceedings of a PEB forwarded to the PRC which involves a Marine Corps member in the light of such rules and policies, and his professional knowledge and experience, and, as appropriate, shall advise the other members of the PRC of the proper application of such rules and policies.

(c) The Medical Officer shall provide liaison with the Chief, Bureau of Medicine and Surgery, for the ONDE and shall implement the rules and policies of such Bureau as may relate to disability evaluations. To this end, he shall review each record of proceedings of a PEB forwarded to the PRC in the light of such rules and policies, established medical principles, and his professional knowledge and experience, and, as appropriate, shall advise the other members of the PRC of the proper application of such rules, policies, and principles.

(d) The Judge Advocate shall provide liaison with the Office of the Judge Advocate General for the ONDE and shall implement the rules and policies of the Judge Advocate General as may relate to disability evaluations. To this end, he shall review records of proceedings of PEB's whenever there is: (1) A conflict between the other members of the PRC reviewing the case; or (2) a determination that a member's disability is due to misconduct or was incurred during unauthorized absence is proposed; (3) a determination is proposed which conflicts with the action or findings, as approved, of a fact-finding body external to the DES; or (4) a request by the Director or another member of the PRC acting on a case for the proper application of legal rules and principles or professional legal guidance. In addition, the Judge Advocate shall be legal counsel to the Director for all matters under his cognizance.

§ 725.603 Jurisdiction.

The PRC shall have jurisdiction to act in any particular which is in implementation of its function.

§ 725.604 Function.

(a) It is the function of the PRC to review the proceedings and recommended findings of PEB's.

(b) It is not the function of the PRC to act as a board, or to decide as a body by vote, or to conduct hearings. However, the concurring action of two or more members of the PRC shall be considered the action of the PRC, as such. Applications for personal appearance by parties concerned will not be entertained.

§ 725.605 General instructions.

(a) If, after consideration of all the evidence in a case before it, the PRC considers that the recommended findings of a PEB are correct, the record of proceedings of the PEB shall be forwarded expeditiously to the Secretary (JAG) for final action.

(b) In the event that the PRC considers that the recommended findings of the PEB are not correct, but that substitute findings not substantially detrimental to the party are correct, it shall make such substitute findings, and the record of proceedings shall be forwarded to the Secretary (JAG) for final action.

(c) In any case considered under the modified procedure prescribed in § 725.514, wherein the party has accepted the recommended findings of the Central PEB, but the PRC does not agree with the findings and proposes substitute findings substantially detrimental to the party, the PRC shall notify the party of the proposed substitute findings and the reasons for disagreement; the party shall be advised of the courses of action available to him. Thereafter, the party shall be afforded a formal hearing, if he demands it or indicates that the proposed substitute findings are not acceptable to him within 5 days, exclusive of Saturdays, Sundays, and holidays, after the receipt of the notification. However, if the proposed substitute findings of the PRC are acceptable to the party or he does not demand a formal hearing, the record of proceedings (with party's signed statement of acceptance attached) shall be forwarded to the Secretary (JAG) for final action.

(d) If the PRC considers that the recommended findings of the PEB arrived at after the party has had a formal hearing, are not correct, and proposes substitute findings that would be substantially detrimental to the party, the PRC shall notify the party of such substitute findings. If the party submits a statement in rebuttal to the proposed findings of the PRC, and, after

considering the statement in rebuttal, the PRC adheres to its proposed findings, the case shall be referred to the NPDRB. However, if the party advises the PRC that its proposed findings are acceptable, or if, in further consideration of the case in the light of the statement in rebuttal, the PRC agrees that the recommended findings of the PEB are correct, the PRC shall forward the record of proceedings to the Secretary (JAG) for final action.

(e) In any case of a party who has had a formal hearing and, as a result of proceedings in revision or a new hearing by a PEB, recommended findings are made, final approval of which in lieu of prior recommended findings made in the case would change final disposition in a manner substantially detrimental to the party, and a rebuttal has been filed to the last PEB's action, the PRC shall refer the case to the NPDRB for further consideration unless the PRC's final findings do not differ in a material respect, detrimental to the party, from the relief sought in the rebuttal.

(f) The PRC may, on its own initiative, take no action on the recommended findings of the PEB and return the case to a medical board for further study; or to the PEB for a hearing in revision for correction of errors, or for further development of the case, or for reconsideration of its recommended findings; or to a PEB comprised of different members for another hearing, or to a PEB in a different area for another hearing.

(g) In the event one of the members of the PRC, in opposition to the other two members acting on the case, is of the opinion that a case should be returned to a medical board or a PEB for any reason, a brief of the facts shall be submitted directly to the Secretary (Director, ONDE) with a request for instructions as to disposition of the case.

(h) Notwithstanding the foregoing provisions of this paragraph, the PRC or any member thereof may at its (or his) discretion, forward any case of a party, who has had a formal hearing or where same has been waived, to the NPDRB for further consideration. However, a member of the PRC may exercise the individual right to refer a case to the NPDRB only when he questions a matter within his area of responsibility. The PRC shall give the party or his counsel notice of such referral with a brief statement of reasons therefor.

(i) In a case where there is no action of the PRC as such, because each of the members is in disagreement with the others, and following consultation by the members it appears that such disagreement is irreconcilable, the case shall, if the party has had a formal hearing or has waived same, be referred to the NPDRB with the proposed action of each member with a statement of reasons for each such action, and the party or his counsel shall be given notice of such referral, the proposed actions, and the reasons therefor; otherwise, the case shall be referred directly to a PEB for a formal hearing.

§ 725.606 Rebuttals.

When the party concerned has been notified of proposed substitute findings by the PRC, in accordance with § 725.605 (d), he or his counsel shall be allowed 5 days, excluding Saturdays, Sundays, and holidays, to file a rebuttal after receipt of notification. The notification transmitted to the party by the PRC of its proposed substitute findings shall include a brief statement of the reasons for such proposed findings and, if any, conflicting proposed substitute findings made by an individual member of the PRC. In cases with two or more sets of proposed substitute findings, the statement in rebuttal shall specify the findings not concurred in, setting forth the factual and legal basis for nonconcurrence. The party may also propose alternate findings acceptable to the party or some other relief. Failure to submit a statement in rebuttal within the time allowed shall be construed to mean that the PRC's substitute findings are acceptable to the party. The record must contain proof that the party or his legal representative received notification of action under § 725.605(d) or evidence that a reasonable effort was made to provide such notification. For reasonable cause upon request, the time for filing a rebuttal may be extended at the discretion of the PRC.

§ 725.607 Preparation and authentication of records.

Action by the PRC on the record of proceedings of PEB's shall be prepared in appropriate form and shall be signed by all members acting on the case and the Recorder.

§ 725.608 Procedure in Servicemen's Readjustment Act cases.

The PRC shall act in cases arising under 10 U.S.C. section 1554 in advisory capacity only and, in such capacity, shall recommend to the Secretary of the Navy that the findings of a board established under such act be approved or disapproved, or that orders be issued in the case. In the event that other than approval is recommended, the reasons therefor shall be stated. The action of the PRC shall otherwise be prepared in appropriate form and shall be signed by each member acting on the case and by the Recorder. It shall be promptly transmitted to the Judge Advocate General.

§ 725.609 Expedited disability separation.

(a) In cases processed under § 725.313 the PRC must insure that the following criteria are met:

(1) The party is unfit for duty and not likely to return to a duty status.

(2) The party's disability was incurred in line of duty and is not due to his own misconduct.

(3) The party's condition is of such nature that functional impairment will be ratable at 30 percent or more.

(4) Unless the functional impairment as it exists at the time of adjudication is 100 percent, the party shall not be permanently retired under the provisions of § 725.313 but his name shall be placed on the TDRL.

Subpart G—Naval Physical Disability Review Board

§ 725.701 Convening authority.

The Secretary of the Navy shall convene the Naval Physical Disability Review Board.

§ 725.702 Function and jurisdiction.

The NPDRB is constituted to review and report upon cases referred to it, pursuant to § 725.605, and cases arising under the provisions of Title 10 of the United States Code, section 1554. The Board shall have the same powers as exercised by, or vested in, the Board whose action is being reviewed. The Board shall consider the issues before it, in conformity with accepted medical principles, pertinent law and regulation, and established personnel policies.

§ 725.703 Composition.

The NPDRB shall consist of five commissioned officers as members, three of whom shall be nonmedical officers and two of whom shall be medical officers, plus a Recorder. In addition, except in cases arising under 10 U.S.C. section 1554, there shall be designated a counsel for the Board and appellate counsel for the party. The counsel and appellate counsel will be required to act, however, only in cases where their services are requested by the president, or by the party whose case is being considered.

§ 725.704 Qualifications.

Each member of the NPDRB shall be carefully selected for his competence, maturity, experience, and soundness of judgment. The Recorder may be either a commissioned officer or a civilian in the employ of the Government. When the party whose case is being considered is a member or former member of the Navy, the nonmedical members shall be officers of the Navy. When the party is a member or former member of the Marine Corps, the nonmedical members shall be officers of the Marine Corps. When the party is a member or former member of a Reserve component, at least a majority of the members of the Board present and acting in the case shall be Reserve officers unless otherwise authorized by the Secretary of the Navy. The appointing order convening the NPDRB may list more than five members, in which case the following provision shall be included in the order: "Only five members of this Board, three of whom shall be nonmedical members and two of whom shall be medical members, are empowered to act in any one case." The senior officer shall act as president.

§ 725.705 Rank of members.

Although any commissioned officer is eligible for appointment to the NPDRB, care should be taken to avoid great disparity in rank and experience. In no event may rank be permitted either to inhibit or influence junior members in expressing their opinions or in voting.

§ 725.706 Seniority.

Whenever practical, at least a majority of the Board who act on a case shall be senior to the party. In the absence of objection by the party, the seniority of the members of the Board shall be considered as waived.

§ 725.707 Limitation on members.

(a) No medical officer shall act as a member of the NPDRB who has had direct charge of the case of the party or who was a member of the Medical Board which reported on the party. No member of a PEB, the PRC, Naval Retiring Board, or Board of Medical Survey, which acted in the case of the party, shall act as a member of the NPDRB in the same case.

(b) Officers of the Dental Corps, Medical Service Corps, or Nurse Corps are not eligible for membership as medical members of the NPDRB. They may be appointed and sit as nonmedical members only when the party before the Board is a member of the same Corps.

§ 725.708 Counsel for the Board.

When counsel for the Board is required as provided in § 725.703, he shall be a competent, mature, commissioned officer of sound judgment. He shall be a member of the bar of a Federal court or of the highest court of a State. He must be familiar with Board procedures and with the laws, regulations, and instructions governing physical disability retirement and separation and physical standards.

§ 725.709 Appellate counsel for the party.

(a) Appellate counsel for the party shall be a member of the bar of a Federal court or of the highest court of a State and shall be selected on the basis of his competence, maturity, experience, and soundness of judgment, as well as his knowledge of the laws, regulations, and instructions governing retirement or separation for physical disability.

(b) In proceedings before the NPDRB the party concerned may be represented by civilian counsel, if provided by himself or his representative at no expense to the Government or by military counsel of his own choice, if personally available. In such case, the designated appellate counsel for the party, unless assistance is requested by the party or his chosen counsel, shall not act in the case.

§ 725.710 Procedure.

(a) In cases arising under 10 U.S.C. section 1554, the NPDRB will review and report upon the findings and decisions or recommendations of any PEB, Naval Retiring Board, or Board of Medical Survey because of which any person, while serving as an officer of the naval service, has been retired or released from active duty without pay for disability. The Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, will report to the Board the cases of personnel requesting and entitled to review in accordance with § 725.711. Upon receipt of authorization for review, the Recorder of the Board shall assemble all records available in the case and notify party and counsel (if any) of the time and place of hearing. Such notice shall be placed in the mails at least 30 days in advance of the scheduled time of hearing. The proceedings of the Board under this paragraph shall be conducted in accordance with the instructions and regulations which governed the proceedings of the Board whose action is being reviewed, except that: (1) Physical examination of the individual is not mandatory; (2) the Board will not make a preliminary report; (3) the medical members will not be subject to examination; and (4) the medical members will not submit a report. The Board will meet in open session for the hearing of a case and, at the conclusion thereof, shall meet in closed session for its deliberations and determinations. Party shall be entitled to appear in person before the Board during open sessions of the Board. He shall be entitled to be represented by counsel of his own choosing, except that no expense thereto will be borne by the Government. A party who, after due notification of the time and place of hearing, fails to appear at the appointed time, is deemed to have waived his right to appear. Party or counsel for the party may waive in writing his right of appearance.

(b) In cases referred to the NPDRB pursuant to § 725.605 the Board shall initially review each case on the record submitted to it. If the Board arrives at prima facie findings which concur in findings of the PEB, and such findings of the PEB have not been rebutted by the party, such findings are to be considered not detrimental to the rights of the party and shall, without further proceedings, be forwarded for final action of the Secretary (JAG). If the prima facie findings of the Board are in any way detrimental to the rights of the party (see § 725.237), the party shall be so apprised thereof and of his right to a hearing before the Board. Where the party then requests to be present, either personally at no expense to the Government, or through counsel, a hearing shall be held. A party who, after due notification of the time and place of the hearing, fails to appear at the appointed time, is deemed to have waived his right to appear. Party or counsel for the party may waive in writing his right of appearance. At such hearing, the Board will receive such relevant evidence, either written or oral, as the party desires to offer. In the event that the party does not desire a hearing, he may submit such additional evidence, arguments, or briefs as he may desire, which will then be considered along with all the other evidence of record. Upon concurrence of the majority of the membership, the Board may cause a record to be returned to a medical board or a PEB for the same reasons that it may be returned by the PRC.

(c) Whenever a case referred to the NPDRB, pursuant to § 725.605, is received within 30 days or less of an impending mandatory separation or retirement date, the Board shall expeditiously review such case on the record submitted to it and any other evidence received prior to the time of review, forwarding its findings as soon thereafter as possible.

§ 725.711 Request for review of retirement or separation without pay for physical disability.

Any officer or former officer retired or released from active service for physical disability without pay pursuant to the recommendation of a PEB or Board of Medical Survey, desiring a review of his case, may request such review. Such a request for review shall be in writing and shall be submitted to the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate. No request for review will be granted under these regulations unless received in the Department of the Navy within 15 years after the date of retirement or separation. Upon receipt of a request for review, the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, shall note thereon the time of receipt and will, when it appears that the NPDRB has jurisdiction to review the case, transmit the request for review and any supporting documents to the president of the Board with the authorization for review.

§ 725.712 Oath.

Members of the NPDRB convened to act in any case presented to it by proper authority shall be sworn as follows: "You, and each of you, do solemnly swear (or affirm) that you will honestly and impartially examine and report upon the case of ---------- about to be examined by the Board. So help you God" (The sentence "So help you God" is omitted in affirmation).

§ 725.713 Challenges.

No challenge to the members of the NPDRB, other than a challenge for cause, will be entertained by the Board. Procedure for challenging shall be the same as for members of a Court of Inquiry.

§ 725.714 Evidence.

The NPDRB shall consider all documentary evidence transmitted to it by proper authority. The Board, in addition, may require and examine such records as may be in the files of the Department of the Navy which relate to the issues before the Board. All evidence having a probative value as to the determination of issues before the Board may be considered without limitation by the restriction of the technical rules of evidence. The Board shall receive any additional relevant evidence party may present. Witnesses shall be permitted to present evidence either in person or by affidavit. All witnesses before the Board shall be subject to cross-examination by party, his counsel, or counsel for the Board. Members of the Board may question witnesses. Party may submit a statement, either oral or in writing, to the Board, may take the stand as a witness, or may be called as a witness by the Board. All oral testimony shall be taken under oath or affirmation administered by the Recorder in the manner set forth in Appendix "A." Not less than 3 days prior to

the date set for hearing, all records and papers pertaining to the case shall be made available to party or his counsel, as appropriate, who shall have the right to inspect such records and papers, to have copies made if practicable, and to make notes therefrom. Party or his counsel in writing may waive the right to such 3-day inspection period. Party, if available, may be examined physically by the medical members of the Board or by a medical officer detailed by the Chief, Bureau of Medicine and Surgery. The report of such examination, either oral or in writing, may be placed before the Board in the same manner as other evidence.

§ 725.715 Continuances.

The NPDRB may continue a hearing on its own motion or at the request of party or his counsel if a continuance appears necessary to insure a full and fair hearing.

§ 725.716 Findings or opinions and decisions or recommendations.

The findings or opinions of the NPDRB, in cases arising under 10 U.S.C. section 1554, shall relate to the time the officer was retired or released from active duty and shall contain a statement showing whether the decisions or recommendations of the board being reviewed are affirmed or reversed. The findings or opinions and decisions or recommendations of the NPDRB shall be made in closed session in each case. Findings, opinions, recommendations, or decisions, as appropriate, shall be made in accordance with phraseology prescribed at the time of the officer's retirement or release.

§ 725.717 Review of PEB action.

(a) In cases arising under 10 U.S.C. section 1554, phraseology as required under § 725.519 to § 725.525, as appropriate, shall be used. However, the recommended findings shall relate to the date of retirement or release from active service and the record shall so state. In the event a case is referred to the NPDRB by competent authority wherein an officer or former officer was retired or separated prior to October 1, 1949, the phraseology shall conform to that required by regulations existing at the time of such retirement or separation.

(b) In cases referred to the NPDRB pursuant to § 725.605, the Board shall render an advisory opinion for the Secretary of the Navy as to the appropriate recommended findings upon which it considers that final disposition should rest.

§ 725.718 Minority opinions, findings, recommendations, or decisions.

Any dissenting member of the NPDRB shall make a minority report on those particulars in which he dissents. Such report shall be included in the record of proceedings of the Board.

§ 725.719 Proceedings of the Board.

(a) The proceedings of the NPDRB shal be conducted in accordance with instructions set forth in this chapter and in accordance with the JAG Manual, ch. IV, insofar as is practicable.

(b) The officer senior in precedence among the members of the NPDRB considering any one case shall act as the presiding officer of the Board. He shall take appropriate action to preserve order in all sessions of the Board and to insure that the proceedings are conducted in a dignified and judicial manner. He will rule upon all interlocutory questions except challenges. His ruling or interlocutory questions may be objected to by any other member of the Board (and such objections will be decided by a majority vote of the Board members in closed sessions of the Board), and he will speak for the Board in announcing its recommended findings and the result of any vote upon challenge or other interlocutory question.

§ 725.720 Preparation of record of proceedings.

The record of proceedings of the NPDRB shall be prepared as prescribed for Courts of Inquiry in the JAG Manual, insofar as practicable. The record shall include verbatim transcript of the testimony of all witnesses, all arguments by counsel, and such original documents (or certified copies thereof) presented to the Board as evidence. In those cases where a full and fair hearing is held, a copy of the notification of such hearing shall be appended to the record. The record of proceedings shall be authenticated by the Recorder and by the senior member of the Board in that order, except that in the absence of the senior member the record may be authenticated by any other member who acted in the case.

§ 725.721 Forwarding of record of proceedings.

The record of proceedings of the NPDRB in cases arising under 10 U.S.C. section 1554 shall be forwarded promptly to the Judge Advocate General for transmission to the Secretary. In cases considered pursuant to § 725.605, the record of proceedings shall be promptly forwarded to the Secretary of the Navy (JAG).

Subpart H—Final Action, Relief From Final Action, and Other Actions on the Record

§ 725.801 Final action.

(a) The findings and the recommendations authorized to be made by these regulations have no legal effect until approved by the Secretary of the Navy. The administrative finalization of each case processed under these regulations will be effected in accordance with the final disposition directed by the Secretary and promulgated by the Judge Advocate General.

(b) No findings, recommendations, decisions or modifications thereof, made under this Manual, shall be considered as conclusive or final, or not subject to modification by competent authority, until final disposition of the case pursuant to action of the Secretary has been effected. However, the recommended findings of a formal PEB, or by the NPDRB after a formal hearing, based on observation or the testimony of witnesses adduced at the hearing, will not normally be modified on any review (other than by the Secretary) without further evidence unless clearly erroneous, and due regard shall be given to the opportunity of the board members to observe the party and judge the credibility of witnesses.

§ 725.802 Action by the Secretary of the Navy.

(a) Excepting those cases acted upon pursuant to the authority delegated in § 725.803, all cases processed under these regulations shall be promptly referred to the Secretary for consideration and direction of final disposition. Generally, the Secretary, in his discretion, may approve findings and direct disposition consistent with the findings approved; disapprove findings and direct disposition appropriate under the circumstances; make independent determinations and direct disposition consistent with the determinations made; direct further proceedings without approving or disapproving findings; or direct final disposition appropriate under the circumstances without approving or disapproving findings. Action upon a case being processed under 10 U.S.C. section 1554 will be in accord with the actions which could have been taken upon the proceedings being reviewed.

(b) Each case referred to the Secretary will be reviewed by the Judge Advocate General for an opinion as to whether the proceedings were conducted in accordance with applicable regulations, the party was accorded all the rights to which he was legally entitled, and the findings of record are legally supportable.

§ 725.803 Delegation of authority to act for the Secretary.

(a) Excluding cases arising under 10 U.S.C. section 1554 and cases processed solely for the purpose of making an election under former section 411 of the Career Compensation Act of 1949, the Judge Advocate General, the Deputy Judge Advocate General, or any Assistant Judge Advocate General, acting for the Secretary, may approve the findings of the PRC or the NPDRB and direct final disposition consistent with the findings approved when:

(1) The PRC concurs in the unanimous or the majority findings of a PEB;

(2) The PRC makes substitute findings which are not substantially detrimental to the party;

(3) The PRC makes substitute findings which are acceptable to the party;

(4) The PRC makes findings or concurs in findings which result in the temporary retirement of a party in terminal cases (see § 725.312);

(5) The NPDRB (or a majority thereof) concurs in the findings of the PRC;

(6) The NPDRB (or a majority thereof) concurs in the unanimous or the majority findings of the PEB which are acceptable to the party.

(b) The Judge Advocate General, the Deputy Judge Advocate General, or any Assistant Judge Advocate General, acting for the Secretary, may direct final disposition of a case without approval or disapproval of findings when:

(1) The PRC has recommended that no action be taken in order that the party may be continued on active duty in a limited duty status; or

(2) The PRC has recommended that no action be taken in order that the party may be retired or separated for reasons other than because of physical disability.

(c) The authority delegated in paragraphs (a) and (b) of this section will not be exercised unless review of the case discloses that the proceedings were conducted in accordance with applicable regulations; the party was accorded all the rights to which he was legally entitled; and the findings to be approved are legally supportable. If review discloses a material defect, the record of proceedings will be returned promptly to the PRC (or the NPDRB) for such further proceedings as are appropriate in the circumstances.

(d) The authority conferred by paragraphs (a) and (b) of this section is permissive and shall not prevent the referral of any case to the Secretary for consideration and direction of final disposition.

§ 725.804 Referred to NPDRB by JAG.

Whenever the Judge Advocate General, in reviewing a case pursuant to the authority delegated in this chapter, considers that the basis for the recommended action or actions is not sufficiently certain to justify the making of determinations on the case for the Secretary, he may refer the case to the NPDRB for consideration, advice, and recommendation.

§ 725.805 Effective date of retirement.

(a) Unless the final disposition directed in a case specifies an effective date of retirement pursuant to the authority contained in 10 U.S.C. section 1221, the effective date of retirement because of physical disability (either temporary or permanent) shall be specified by the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate. The date specified by the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, shall be the date upon which all administrative procedures incident to retirement are completed, but shall be no later than the first day of the month following the month during which final disposition was directed.

(b) The Judge Advocate General, the Deputy Judge Advocate General, and any Assistant Judge Advocate General is hereby authorized, except as the Secretary of the Navy may otherwise direct, to take action for the Secretary under the provisions of § 725.312 to specify an effective date for the retirement for permanent physical disability or placement on the TDRL of parties of the naval service earlier than the date otherwise provided, as recommended by the PRC pursuant to the provisions of this Manual.

§ 725.806 Retirement for other reasons.

A member (who meets all qualifications for retirement because of physical disability but who is also qualified for retirement or separation for other reasons), prior to the effective date of his retirement pursuant to these regulations, may request that no action be taken on his retirement because of physical disability in order that he may be retired or separated for other reasons. Such a request will be addressed to the Secretary and forwarded via the PRC for comment and recommendation. Normally a member will not be retired because of physical disability if he is eligible for retirement or separation for other reasons and makes a timely request for retirement or separation and fully understands the consequences of his election.

§ 725.807 Withdrawal of retirement proceedings.

The Chief of Naval Personnel, Commandant of the Marine Corps, or Chief, Bureau of Medicine and Surgery, may, for good and sufficient reason and with the consent of the party concerned, withdraw any case from the DES. However, if a party's appearance before a PEB has been specifically ordered by the Chief of Naval Personnel or the Commandant of the Marine Corps, the case may be withdrawn only upon approval of the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate.

§ 725.808 Relief from final action.

Relief from the executed final disposition directed in a case processed under these regulations may be granted only upon the grounds and in the manner hereafter set forth:

(a) Errors of promulgation: Clerical errors in the promulgation of the final disposition directed in a case may be corrected by the Judge Advocate General, the Deputy Judge Advocate General, or any Assistant Judge Advocate General, at any time, upon his own initiative, upon the petition of the individual concerned (or his legal representative), or upon the petition of any cognizant authority of the Naval Establishment. If the correction intended does not change the nature of the disposition directed or the percentage of disability applicable for purpose of computing retired pay, correction may be made without notice. Otherwise, the individual concerned (or his legal representative) must be given reasonable notice of the correction intended and afforded an opportunity to submit a statement or other evidence in rebuttal. A petition under this subparagraph should be addressed to the Judge Advocate General and should set forth the alleged error with a statement of the correction desired. No notice is required if the intended correction is beneficial to the party.

(b) Relief involving the cancellation of orders:

(1) Mistake of law is a basis for relief from final action. This includes: A failure to grant the party a full and fair hearing if the party made a timely demand for such a hearing; a directed disposition, even though executed, which was without authority; or a decision which, although executed, is contrary to the great weight of the evidence of record. Fraud or misrepresentation of a material fact affecting the final disposition of the case and substantial new evidence are also grounds for relief.

(2) A showing that the disability suffered by an individual, in fact, was different from that reflected by the record of proceedings conducted in his case does not, in itself, affect the validity of the retirement proceedings or the orders based thereon.

(c) Relief involving only a change in the nature or degree of disability reflected by an order of retirement: An otherwise valid order of retirement may be modified to the extent that the percentage of disability contained therein may be changed upon a showing that the nature or degree of disability suffered by a party at the time of his retirement was, in fact, other than that reflected by the record of proceedings conducted in his case. Relief of this nature may be granted upon a petition supported by evidence: which by due diligence could not have been presented prior to final disposition; which relates to a fact in existence at the time of final disposition; which is not merely cumulative or corroborative of matter considered at the time of final disposition; and which would have warranted the assignment of a higher percentage of disability if presented prior to final disposition.

(d) Procedure for seeking relief: Request for relief on the grounds set forth in paragraphs (b) and (c) of this section may be made by the individual concerned, by his legal representative or counsel, or by any cognizant authority of the Naval Establishment. Request will be by petition filed within 5 years from the effective date of the disposition complained of (except when discharge has been executed, in which case petition should be directed to the Board for Correction of Naval Records) addressed to the Secretary of the Navy, and forwarded via the PRC. No particular form is required. However, the petition must set forth the grounds for requesting relief and the relief desired; and, if the petition is based upon evidence which is not of record in the Department of the Navy, the evidence upon which it is based must be forwarded as an enclosure.

(e) Action by the PRC: All petitions submitted pursuant to paragraph (d) of this section will be considered by the PRC for the purpose of making recommendations relative to whether the relief requested (or any other relief) should be granted. If a petition to be considered was not submitted by the individual concerned (or his legal representative or counsel), the individual concerned (or his legal representative or counsel) will be given reasonable notice of the matter

presented by the petition and afforded the opportunity to submit a statement or other evidence in rebuttal. All petitions considered and the action of the PRC thereon will be promptly forwarded to the Judge Advocate General for review and action or for referral to the Secretary.

(f) Action by the Judge Advocate General: The Judge Advocate General will review each petition considered by the PRC and either will take action for the Secretary or will refer the matter to the Secretary for action with comments and recommendations.

(g) Delegation of authority to act for the Secretary of the Navy: The Judge Advocate General, the Deputy Judge Advocate General, or any Assistant Judge Advocate General, in his discretion, may take action for the Secretary on petitions submitted pursuant to paragraph (d) of this section, if he concurs in the unanimous recommendations made by the PRC. All other cases will be referred to the Secretary for action. The authority herein conferred is permissive only and will not preclude the referral of a case to the Secretary for action incident to the specific direction of the Secretary or the election of the Judge Advocate General.

(h) Action by the Secretary of the Navy: In acting on a petition referred for consideration, the Secretary, in his discretion, may deny relief, set aside the final disposition directed in a case and direct further disability evaluation proceedings, or direct such action as is necessary to effect the relief requested or any other relief deemed appropriate.

(i) Effect of filing a petition for relief and action thereon: The filing of a petition for relief shall not affect the directed disposition of an individual or suspend its operation until and unless the Secretary of the Navy (or authority acting for the Secretary) shall so direct. Neither the action of the Secretary of the Navy (or authority acting for the Secretary) upon a petition for relief, nor any action taken by him pursuant to the proceedings on the reopening of a case, shall operate to extend the time for application for review of the original disposition by a statutory board.

Subpart I—Physically Restricted Personnel

§ 725.901 General considerations.

(a) With the consent of the member, particularly one with over 18 but less than 20 years of active service, the Secretary will entertain deferring the disposition of a member who, although unfit because of physical disability, can still perform useful service with appropriate assignment limitation. A member continued on active duty in accordance with the provisions of this chapter must be unfit because of physical disability with a basically stabilized condition, or one in which accepted medical principals indicate a slow progression of the disabling condition. He must be able to maintain himself in a normal military environment, without adversely affecting his health or the health of other members, or without requiring an inordinate amount of medical care. In addition, the member must request in writing that he be retained.

(b) Members, particularly those with over 20 years of active service, will not be continued on active duty solely to increase their monetary benefits, nor will they be continued unless their employment is justified as being of value to the naval service.

(c) The medical member of the PRC shall advise whether duty in a limited assignment status will or will not jeopardize the member's health or that of other members of the Service. Further, the officer assigned as a member of the PRC by the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, shall certify (for the Chief of Naval Personnel or the Commandant of the Marine Corps) whether the member's services can or cannot be utilized in a limited assignment status, and, if so, whether his services can or cannot be considered to contribute to the effectiveness of the Service. The PRC shall recommend to the Secretary whether to retain the member in a limited duty assignment.

(d) Consideration similar to that given members on active duty shall be afforded members of the Naval and Marine Corps Reserve on inactive duty, except that the certification of the nonmedical member of the PRC shall refer to the utilization of the member in an effective limited assignment under mobilization conditions.

§ 725.902 Disposition of physically restricted members.

A member continued under these provisions shall be closely observed to assure that further continuance, or conversely separation, is consonant with the best interests of the Service and the member. When a member becomes unable to perform his duties in a limited duty assignment, he shall be admitted to a Naval Hospital for observation, treatment, and appropriate disposition

Subpart J—Disposition of Members Whose Names Are Carried on the Temporary Disability Retired List

§ 725.1001 Periodic physical examination.

(a) The law provides that the maximum time that a member's name can be carried on the TDRL in a pay status is 5 years. A member's name can be removed from the TDRL at any time, whenever a report of physical examination indicates that maximum improvement has been achieved or that the disability is of a permanent nature and not likely to undergo a significant change. Further, the law requires that members, whose names have been placed on the TDRL, shall be given physical examinations at least once every 18 months. The Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, will issue appropriate orders for such examinations.

(b) Failure of a member to report for any periodic physical examination, unless he furnishes a report of a current acceptable medical examination, may result in the termination of his disability retired pay and may later be considered as showing an intent on the member's part to abandon benefits. If the member shows good cause for failure to report, the payments may be reinstated and may be made retroactive for a period of not over 1 year.

(c) First notification to report for a scheduled periodic physical examination may be by regular mail. However, when the party fails to report as directed, and a second notification must be forwarded, certified or registered mail (with return receipt) shall be used and the member shall be specifically informed in such second notification that failure to report may prejudice his disability retired pay and may later be considered as manifesting an intent to abandon benefits, resulting in removal of his name from the TDRL.

(d) Members who have waived retired pay, in order to receive compensation from the Veterans' Administration, are still members of the naval service, and are required to undergo periodic physical examinations when ordered by the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate. Failure to report for physical examinations as ordered may result in the suspension of their retired pay account. His retired pay account, once so suspended, will not automatically be reopened when the member later wishes to reelect to receive retired pay because of a decrease in, or termination of, his Veterans' Administration compensation.

(e) Members who are ordered to submit to a physical examination will be reimbursed for travel performed upon submission of a claim and presentation of their orders properly endorsed.

(f) The periodic physical examination should be conducted with the same scrupulous care and thoroughness as the examinations accomplished preliminary to appearance before a Medical Board. This examination should include an evaluation of any disabilities, which have been incurred or become manifest since temporary retirement, as well as the disabilities for which temporarily retired.

(g) Whenever inpatient observation is desirable or necessary for a proper evaluation, admission and retention as an inpatient for a period of 10 days is authorized. This length of inpatient observation may be extended upon the authorization of the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate. It is particularly important that admission as an inpatient be effected for proper evaluation of neuropsychiatric cases.

(h) The report of periodic physical examination shall be prepared in letter or narrative summary form. It should contain an accurate interval history and a report of all clinical evaluations and laboratory studies. This report of periodic physical examination need not contain a review of all previous examinations, since these are already a matter of record. However, pertinent previous evaluations may be referenced and attention invited to them.

(i) The report of periodic physical examination should contain a statement as to whether personal appearance of the member before a PEB would be deleterious to his physical or mental health, and whether disclosure of information to the member relative to his physical or mental condition would adversely affect his physical or mental health.

(j) The report of periodic physical examination requires only signature by the medical officer designated to conduct the examination and, unless the orders for the examination otherwise direct, should be transmitted to the ONDE via the commanding officer.

§ 725.1002 Reevaluation of members detained by civil authorities.

The procedures contained in this Manual are subject to modification whenever the party is undergoing confinement by civil authorities or is hospitalized in an institution under State or local control. The following procedures may be utilized whenever the circumstances of the member's confinement or hospitalization indicate that he will be unable to respond to the orders calling for his appearance for physical examination or PEB hearing:

(a) The report of the medical officer or medical assistant serving the confinement facility or institution in which the member is hospitalized may be submitted for the periodic physical examination.

(b) The party will be informed by a notice in writing that his case will be considered by a PEB 30 days from the date of said notice; that unless he waives his right to a formal hearing he will be afforded such hearing on that date but, in the event he fails or is unable to appear on that date, such hearing will be held in his absence with representation by counsel; i.e., by the appointed counsel named in the notice or by civilian counsel of his choice provided at his own expense. In the case of a party who is found to be mentally incompetent, the provisions of §§ 725.510 and 725.517 apply.

§ 725.1003 Termination of temporary disability retirement.

(a) If, as a result of any periodic physical examination, it is determined that the disability of the member concerned has become stabilized; i.e., that no further improvement or deterioration of the disability may normally be expected within the period the member can be carried on the TDRL, one of the following recommendations as to the member's disposition will be made:

(1) Permanent retirement;

(2) Discharge with or without severance pay; or

(3) Fit for return to duty.

(b) In the event the member is to be retained on the TDRL, he will continue to be examined at intervals of 18 months. However, he must be finally reevaluated before the end of the 5-year period when final disposition must be made of his status.

(c) If his disability is ratable at less than 30 percent but continues to render him unfit for duty, and if the member has served less than 20 years of active duty (and will not be entitled to retired pay or retainer pay by other provisions of law), he will be discharged with severance pay.

(d) If the member has recovered from his disability to a degree that he is fit to perform his duties, the following may apply:

(1) An enlisted member of a Regular component, subject to his consent, will be reenlisted in his Regular component; an officer in a Regular component, subject to his consent, will be recalled to active duty and, as soon as practicable, be reappointed to the active list of his Regular component, even if this means that there will be a temporary increase in the number of officers authorized for his grade.

(2) A member of a Reserve component, subject to his consent, will be reappointed or reenlisted, as the case may be, in his Reserve component.

§ 725.1004 Appointment, reappointment, enlistment, or reenlistment.

Any such appointment, reappointment, enlistment, or reenlistment shall be in a rank, grade, or rating not lower than the rank, grade, or rating permanently held by the member at the time his name was placed on the TDRL, and may be in the rank, grade, or rating immediately above the rank, grade, or rating permanently held. For the purpose of being placed on a lineal list, promotion list, etc., the member will be given such seniority in rank, grade, or rating, or will be credited with such years of service as the Secretary of the Navy may authorize. In this connection, consideration will be given to the probable opportunities for advancement and promotion to which the member might reasonably have been entitled had it not been for the placement of his name on the TDRL.

§ 725.1005 Regular officer.

An officer in a Regular component shall have his disability retired pay terminated on the date of his recall to active duty and his status on the TDRL terminated on the date of his reappointment on the active list.

§ 725.1006 Regular enlisted member.

An enlisted person of a Regular component shall have both his status on the TDRL and his disability retired pay terminated on the date of his reenlistment in the Regular component of which he was a member before being placed on the TDRL.

§ 725.1007 Reserve officer or enlisted member.

A member of a Reserve component, whether officer or enlisted person, shall have his status on the TDRL and his disability retired pay terminated on the date of his reappointment or reenlistment in a Reserve component, as the case may be.

§ 725.1008 Fleet Reserve or Fleet Marine Corps Reserve members.

(a) A member of the Fleet Reserve or Fleet Marine Corps Reserve on the TDRL who is found fit for duty shall, with his consent, resume his status in the Fleet Reserve or Fleet Marine Corps Reserve in the grade held by him when he was placed on the TDRL, or the next higher grade if considered qualified therefor in view of 10 U.S.C. section 1211(f).

(b) A member of the Fleet Reserve or Fleet Marine Corps Reserve on the TDRL who has less than 20 years' service computed under 10 U.S.C. section 1208 and who, as a result of a periodic physical examination, will become entitled to severance pay under 10 U.S.C. ch. 61, shall be given an opportunity to request that his name be removed from the TDRL and that his status in the Fleet Reserve or Fleet Marine Corps Reserve be resumed.

§ 725.1009 Member with less than 20 years' active duty eligible for Fleet Reserve or Fleet Marine Corps Reserve.

A member on the TDRL who has less than 20 years' service computed under 10 U.S.C. section 1208 and who, as a result of a periodic physical examination, will become entitled to severance pay under 10 U.S.C. ch. 61, shall be given the opportunity to request transfer to the Fleet Reserve or Fleet Marine Corps Reserve if he has completed 20 years or more of active service under 10 U.S.C. section 6330.

§ 725.1010 Reserve officer or enlisted member who has completed 20 years' service under 10 U.S.C. § 1332.

A member on the TDRL who has at least 20 years of service computed under 10 U.S.C. section 1332 and who, as a result of a periodic physical examination, is determined to be entitled to severance pay under 10 U.S.C. ch. 61, shall be given an election, instead of being separated, to request transfer to the inactive status list under 10 U.S.C. sections 1209 and 1335.

§ 725.1011 Disposition when member does not consent to reappointment or reenlistment.

If a member does not consent to his reappointment or reenlistment, his status on the TDRL and his disability retired pay shall be terminated as soon as is practicable.

APPENDIX—LIST OF FORMS

NAVSO 6100/9 Cover and Processing Time Sheet.
NAVSO 6100/9a Cover and Processing Time Sheet—Revaluation.
NAVSO 6100/16 Proceedings and Findings of Physical Evaluation Board.
NAVSO 6100/17 Recommended Findings of Physical Evaluation Board.
NAVSO 6100/18 Notification to Party of Formal Hearing.
NAVSO 6100/18A Notification to Party of Formal Hearing in Absentia.
NAVSO 6100/18B Notification to Legal Representative of Formal Hearing.
NAVSO 6100/19 Disability Counseling Worksheet.
NAVMED 1900/1 Certificate Relative to a Full and Fair Hearing.

[SEAL] MERLIN H. STARING,
Rear Admiral, JAGC, U.S. Navy,
Acting Judge Advocate General.

NOVEMBER 3, 1971.

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Title 39—POSTAL SERVICE

Chapter III—Postal Rate Commission

PART 3002—ORGANIZATION

The Freedom of Information Act, Public Law 90–23, 5 U.S.C. 552(a)(1), requires that each agency shall separately state and currently publish in the FEDERAL REGISTER descriptions of its organization and statements of the general course and method by which its functions are channeled and determined. Part 3001, the Commission's rules of practice and procedure, effective January 12, 1971 (36 F.R. 396), includes a description of the Commission's organization and functions in § 3001.1.[1] It is now appropriate to supplement the information in order to reflect the Commission's subsequent staffing program. Accordingly, the Commission is issuing a new Part 3002.

Inasmuch as this is a rule of agency organization and procedure, notice and public procedure hereon are not required. It will be made effective on publication in the FEDERAL REGISTER, in order to assure earliest compliance with the Freedom of Information Act.

In consideration of the foregoing, the Postal Rate Commission hereby enacts Part 3002, effective November 18, 1971, to read as follows:

Sec.

3002.1 Purpose.
3002.2 The Commission and its offices.
3002.3 Office of the Secretary.
3002.4 Office of Special Assistant to the Commission.
3002.5 Office of Hearing Examiners.
3002.6 Office of the General Counsel.
3002.7 Office of Chief Economist.
3002.8 Office of Chief Accountant.
3002.9 Office of Technical Staff.
3002.10 Administrative Office.
3002.11 Office of Information.

AUTHORITY: The provisions of this Part 3002 issued under section 3603, 84 Stat. 759, 39 U.S.C. 3603; Freedom of Information Act, 5 U.S.C. 552, 81 Stat. 54.

§ 3002.1 Purpose.

This part is published in compliance with 5 U.S.C. 552(a)(1) and constitutes a general description of the Postal Rate Commission.

§ 3002.2 The Commission and its offices.

(a) *The Commission.* The Postal Rate Commission is an independent establishment of the executive branch of the U.S. Government created by the Postal Reorganization Act (84 Stat. 719, Title 39, United States Code). The Commission consists of five Commissioners appointed by the President, one of whom is designated as Chairman by the President. Three members of the Commisison constitute a quorum for the transaction of business, but all final acts of the Commission shall be by a vote of an absolute majority of the Commissioners.

(b) *The Chairman.* The Chairman has the administrative responsibility for assigning the business of the Commission to the other Commissioners and to the officers and employees of the Commission. He has the administrative duty to preside at the meetings and sessions of the Commission and to represent the Commission in matters specified by statute or executive order or as the Commission directs. The Commission will, in case of a vacancy in the office of the Chairman of the Commission, or in the absence or inability of the Chairman to serve, designate one of its members Acting Chairman to serve during the period of vacancy, absence or inability.

(c) *The staff.* The staff consists of such accounting, economic, engineering, legal, and rate experts, and such other employees as the Commission, from time to time, shall find necessary.

(d) *Offices.* The offices of the Commission are located at Suite 500, 2000 L Street NW., Washington, DC. All communications to the Commission should be addressed to: Postal Rate Commission, Washington, D.C. 20268.

(e) *Hours.* The offices of the Commission will be open from 8:45 a.m. to 5:15 p.m. of each day except Saturdays, Sundays, and holidays, unless otherwise directed by Executive order or officially declared, with appropriate notice.

(f) *Information.* Any person desiring to obtain information may do so by writing or coming in person to the Commission's offices. Requirements as to the form and content of formal submissions are set forth in the rules of practice (Part 3001 of this chapter), and public records of the Commission, available for inspection and copying, are described in § 3001.42 of the rules of practice in this chapter.

§ 3002.3 Office of the Secretary.

The Secretary shall have custody of the Commission's seal, the minutes of all action taken by the Commission, its rules and regulations, its administrative and other orders, and records. All orders and other actions of the Commission shall be authenticated or signed by the Secretary or any such other person as may be authorized by the Commission.

§ 3002.4 Office of Special Assistant to the Commission.

The Office of Special Assistant to the Commission is responsible for providing such analytical research for the Commission or for an individual Commissioner as the Commission or the Commissioner may request. In accordance with § 3001.8 of the rules of practice in this chapter, personnel of the Office of Special Assistant to the Commission do not appear as witnesses in hearings in any proceeding before the Commission and take no part in the preparation of evidence or argument presented in such hearings.

§ 3002.5 Office of Hearing Examiners.

The Office of Hearing Examiners is responsible for discharging the functions and exercising the powers of presiding officers in hearings, in accordance with the provisions of sections 7 and 8 of the Administrative Procedure Act (5 U.S.C. 556 and 557) and § 3001.23 of the rules of practice in this chapter.

§ 3002.6 Office of the General Counsel.

(a) *The general counsel.* The General Counsel directs and coordinates the functions of the Office of the General Counsel and is directly responsible for the counseling and advisory services set forth in § 3000.735–203 of this chapter. In accordance with § 3001.8 of the rules of practice in this chapter, the General Counsel does not appear as an attorney in hearings in any proceeding before the Commission and takes no part in the preparation of evidence or argument presented in such hearings.

(b) *Litigation division.* The Litigation Division participates in proceedings before the Commission pursuant to section 3624 of the Act. During the pendency of any such proceeding, the officer designated by the Commission to represent the interests of the general public will direct the activities of the Division in the case. Pursuant to section 8 of the rules of practice, personnel serving in this Division at any time during the pendency of a particular proceeding are prohibited from participating or advising as to any intermediate or Commission decision in such proceeding.

(c) *Appeals and regulation divisions.* The Appeals Division represents the Commission in court proceedings and performs legal research on issues appealed to the Commission. The Regulation Division advises the Commission on the legal aspects of proposed legislation and rule making. Both the Appeals and Regulation Divisions, pursuant to the direction and supervision of the General Counsel, advise the Commission on the legal aspects of proposed action and policies and on procurement, contracting, personnel matters, and other internal legal questions. In accordance with § 3001.8 of the rules of practice in this chapter, personnel of these two divisions do not appear as attorneys in hearings in any proceeding before the Commission and take no part in the preparation of evidence or argument presented in such hearings.

§ 3002.7 Office of Chief Economist.

The Office of Chief Economist pursues a program of analysis and research, and serves in an advisory capacity on matters pertaining to the economic aspects of the Commission's regulatory responsibilities. Areas of investigation include subjects such as methods of cost analysis, criteria for determining revenue contributions by class of service, and rate classifications and structures. In accordance with § 3001.8 of the rules of practice in this chapter, personnel of the Office of Economics do not appear as witnesses in hearings in any proceeding before the Commission and take no part in the preparation of evidence or argument presented in such hearings, unless designated for duty with the Office of Technical Staff by formal action of the Commission.

[1] In addition, § 3001.42 of the rules of practice sets forth rules governing public information and requests.

§ 3002.8 Office of the Chief Accountant.

The Office of the Chief Accountant advises the Commission and individual Commissioners with respect to accounting, financial, statistical and related matters. The office is also responsible for the accumulation and maintenance of data relevant to postal rates, fees and mail classification and analysis of the financial, statistical, and operating data of the Postal Service. In accordance with § 3001.8 of the rules of practice in this chapter, personnel of this office do not appear as witnesses in hearings in any proceeding before the Commission and take no part in the preparation of evidence or argument presented in such hearings, unless designated for duty with the Office of Technical Staff by formal action of the Commission.

§ 3002.9 Office of Technical Staff.

The Office of Technical Staff furnishes technical and analytical support to the Litigation Division of the Office of the General Counsel in proceedings held before the Commission. In this function, it reviews rate and classification proposals filed with the Commission, analyzes and evaluates the basic accounting, statistical, and economic data related to such proposals; assists in developing issues, analyzes testimony in proceedings, and assists the Litigation Division in the preparation and presentation of evidence, in cross-examination, and in the preparation of briefs. In addition to such permanent staff as may be provided, it includes from time to time such other personnel as the Commission may assign by formal action. Pursuant to § 3001.8 of the rules of practice in this chapter, personnel serving in this office at any time during the pendency of a particular proceeding are prohibited from participating or advising as to any intermediate or Commission decision in such proceeding.

§ 3002.10 Administrative Office.

Subject to the policy guidance of the Commission, the Administrative Office is responsible for: Development, implementation, and administration of the Commission's financial management system and accounting activities including those relating to the budget and the payroll; development and administration of a personnel program designed to meet the needs of the Commission and its employees; provision of facilities and operating and support services essential to the efficient and effective conduct of operations; acquisition, planning and assignment of office space; procurement and supply; serving as the contracting officer for the Commission and controlling the obligation of Commission funds, as authorized by the Commission.

§ 3002.11 Office of Public Information.

The Office of Public Information provides information for the public on matters relating to Commission activities. The office prepares news releases on Commission activities and personnel, and supervises the dissemination of that information.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[FR Doc.71-16624 Filed 11-17-71;8:48 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 5A—Federal Supply Service, General Services Administration

PART 5A–72—REGULAR PURCHASE PROGRAMS OTHER THAN FEDERAL SUPPLY SCHEDULE

Subpart 5A–72.1—Procurement of Stock Items

INTERIM STOCK REPLENISHMENTS

The table of contents for Part 5A–72 is amended to revise the following entries:

Sec.
5A–72.105–30 [Reserved]
5A–72.105–31 Public exigency purchases of stock items.

1. Section 5A–72.105–29 is revised as follows:

§ 5A–72.105–29 Interim stock replenishments.

(a) Interim stock replenishment procurement means regional purchase of stock items normally contracted for on a national or zone basis when (1) there is temporarily no contract source for such items because of a gap between the time the previous contract expired and the time a new contract is available, or (2) there is a contract source but delivery thereunder is not being made because of special conditions, such as strikes or default.

(b) Where a gap in contract coverage is expected to occur, the contracting officer is required to advise the ordering activities as to the approximate date the new contract may be expected and to furnish advice as to action to be taken with respect to purchase of interim requirements (see § 5A–72.105–23(a)(6)).

(c) Unless special instructions are issued, any of the following methods normally may be used, as appropriate, when purchasing interim stock replenishment requirements.

(1) If the amount is $2,500 or less, known acceptable brand name products may be purchased under small purchases procedures. Small purchases of this type may be made from the prior contractor under the terms of the expired contract if the prices are considered reasonable and the prior contractor agrees.

(2) If the amount is in excess of $2,500, purchase shall be made by formal advertising or negotiation, depending on the circumstances. Where public exigency procurement is justified, the instructions in § 5A–72.105–31 shall apply. Normally purchase action shall be taken by the regional office where the requirement is generated. Where, for justifiable reasons, such action by the region is not feasible, arrangements shall be made to submit the requirement for purchase action to the office responsible for national or zone contracting of the items involved. In such cases, the requirement shall be routed through the Inventory Management Division, Attention: FXIN, prior to submission to the designated centralized procurement activity.

§ 5A–72.105–30 [Reserved]

2. Section 5A–72.105–30 is reserved.

3. Section 5A–72.105–31 is revised as follows:

§ 5A–72.105–31 Public exigency purchases of stock items.

(a) Stock items may be procured under public exigency procedures when stocks on hand and due in are not sufficient to meet an agency's bona fide exigency needs, or when stocks have been depleted by unusually heavy demands to the extent that a substantial volume of back orders will result unless stock replenishment is made within less time than the minimum time required for formal advertising. Pursuant to paragraphs (b), (c), and (d) of this section, public exigency purchases of stock items may be made (for either direct delivery to the requiring agency or to the supply distribution facilities for stock replenishment and use in filling back orders) in accordance with established procedures in §§ 1–3.202, 5–3.202, and 5A–3.202 of this title.

(b) When there is an existing term contract for the required items, the ordering activity shall first explore the possibility of obtaining timely delivery under the existing contract by requesting accelerated delivery prior to making a public exigency procurement. If the established contractor agrees to making accelerated delivery only under the condition that delivery schedules on other Government orders must be extended or the contract price increased, the matter shall be discussed with the contracting officer who will decide if such arrangement is to be authorized. If the established contractor cannot make delivery in the time required, the procurement may be made under public exigency procedures where the circumstances justify. Exigency purchases may be made without the approval of the national or zone contracting officer, provided the possibility of obtaining accelerated delivery under the existing contract has been explored and found not feasible, or provided the location of the established contractor is so distant that timely delivery of the exigency requirement would be impossible. In such cases, a statement by the regional contracting officer shall be included in the contract file explaining why the national or zone contracting office was not contacted.

(c) Where there is no term contract coverage for the item required, and the circumstances described in paragraph (a) of this section are present, the requirement may be procured under public exigency procedures. However, where it is known that a national or zone term contract source will be available in the near future, the national or zone contracting officer should be consulted if time permits (by phone, or otherwise) to determine the current status of contract availability and delivery terms and to obtain any available information which might be helpful in obtaining timely delivery of the exigency requirement.

(d) The quantities purchased under public exigency negotiation authority shall be strictly limited to the amount necessary to meet the exigency requirements. Additional quantities shall be procured under normal procedures.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); and 41 CFR 5-1.101(c))

Effective date. These regulations are effective 30 days after the date shown below, but may be observed earlier.

Dated: November 10, 1971.

L. E. SPANGLER,
Acting Commissioner,
Federal Supply Service.

[FR Doc.71-16839 Filed 11-17-71;8:50 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 19116; FCC 71-1159]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in the Upper New England Area

Report and order. In the matter of amendment of § 73.202, *Table of Assignments*, FM Broadcast Stations (Skowhegan, Augusta, Westbrook, and South Paris, Maine; Plymouth and Dover, N.H.; Waterbury, Vt.; and Plattsburgh, N.Y.), Docket No. 19116, RM-1442, RM-1464.

1. The Commission here considers the notice of proposed rule making in Docket No. 19116, adopted January 6, 1971, to amend the FM Table of Assignments (§ 73.202(b) of the rules) affecting the upper New England area (FCC 71-23). The principal proposals were: Assignment of Class C FM Channel 286 to Skowhegan, Maine, as a substitute for Channel 296A presently there and occupied by Station WGHM-FM (although the notice raised the question whether the Class A channel might be left there if the Class C channel was allocated to that city) and the assignment of Class C Channel 248 to Plymouth, N.H. These are considered together because of the conflict between the Skowhegan and Plymouth proposals. This is that Channel 248, if assigned to Plymouth, must be deleted at Dover, N.H., and the Dover replacement proposal (Channel 287) would be less than the required 135-mile distance from Skowhegan Channel 286. Kennebec Valley Broadcasting System, Inc. ("Kennebec" hereafter), licensee of Stations WGHM (AM daytime-only) and WGHM-FM, Channel 296A, at Skowhegan, Maine, and the petitioner for Skowhegan, also proposed concomitant "necessary" changes at Augusta, Westbrook, and South Paris, Maine (RM-1442). The Plymouth petition, filed by Lakes Region Broadcasting Corp. ("Lakes Region" hereafter), requires the channel change at Dover (RM-1464). Both proposals require the deletion of Channel 287 at Waterbury, Vt., although Kennebec argued otherwise.

2. The following parties filed comments and/or reply comments: the petitioners; Radio Vermont, Inc.; WIRY, Inc.; Green Mountain Radio Associates; Eastminster Broadcasting Corp.; Oxford Hills Radio Communications, Inc.; WBEC, Inc.; Bangor Broadcasting Corp.; WKNE Corp.; and Abenaki Co. WIRY, Inc., and Green Mountain Radio Associates also filed petitions for rule making while this proceeding was pending. On July 26, 1971, Green Mountain Associates requested leave to withdraw and, in the circumstances, its "Motion for Leave to Withdraw, and Withdrawal of Petition for Rule Making" is granted and its proposal will not be considered. As indicated in paragraph 8 below, the proposal of WIRY is technically deficient. Abenaki filed leave to file late; see footnote 6, below.

3. Our notice proposed to do the following:

City	Add	Delete
Augusta, Maine	281 or 282 or 294	283
Skowhegan, Maine	286	296A
South Paris, Maine	224A	288A
Westbrook, Maine	285A or 288A	285A
Plymouth, N.H.	Class A or 248	
Dover, N.H.	287	248
Waterbury, Vt.	269A	287

The notice made it clear that the Skowhegan proposal was deemed more meritorious than that for Plymouth and we would deny the latter "unless various objections are met * * * including establishment of the fact that a Class A channel cannot be assigned to Plymouth." It was also noted that the Skowhegan proposal is based on location on Sugarloaf Mountain about 34 miles northwest of the city, and it is premised on providing a first service (1 mv/m or better) to 4,228 square miles and a second service to 2,668 square miles under the criteria set out in "Roanoke Rapids and Goldsboro, N.C.," 9 FCC 2d 672 (1967).[1] The alternative proposals for Augusta and Westbrook were prompted by the objections of Portland's Station WGAN-TV, Channel 13, as to second harmonic interference. Because the Sugarloaf site precludes assignment of Channel 287 at Dover, since well under the 135 miles adjacent channel separation, Lakes Region "suggested" that Kennebec use Avery Peak (8 miles further north and further from Skowhegan), and the parties differ as to access and "shadowing" problems from that location. All populations are in accordance with the 1970 census, unless otherwise indicated.

4. As to the Plymouth proposal, Lakes Region urged that there would be wide-area coverage to unserved and underserved areas, which assertions our notice stated were not borne out by the facts as adduced by that petitioner. The notice also pointed to other problems: (1) Possible adjacent channel mileage shortage between the proposed Channel 248 assignment at Plymouth and Channel 246 at Rutland, Vt., (2) the limitations on site location of Channel 287 at Dover not only because of the Skowhegan proposal but also cochannel Station WPJB-FM, Providence, R.I., and if Channel 285A at Westbrook was unchanged; and (3) the allocation of Channel 248 to Plymouth as precluding Channel 249A in substantial areas in western Maine (where there appear to be no communities of substantial size), and larger areas in southwestern New Hampshire and central and western Massachusetts including the substantial communities of Athol and Orange, Mass., with no assignments of their own but close to communities with FM stations.

5. In our notice, we made a number of preliminary conclusions; see paragraph 10 thereof, pages 6-8. We stated that the Skowhegan proposal should be set forth as a Commission proposal because "clearly meritorious." In reaching this conclusion, we differed with Kennebec as to whether Channel 287 could remain assigned at Waterbury, Vt., since it is a Class C channel domestically even though Class B with respect to Canada; but we noted that this is not necessarily a great problem because Station WVNY at Burlington provides a greater wide area coverage than would Channel 287 from Waterbury, and Channel 296A could be assigned to Waterbury to replace Channel 287.[2]

6. We turn first to the comments and reply comments of Lakes Region. This party urges that the Commission erroneously concluded that Plymouth warrants only a Class A assignment. Plymouth, population 4,225, located in Grafton County (population 54,914), as noted in the notice, is neither the county seat nor the county's largest community. It has a daytime-only AM station. Lakes Region contends that a Class C assignment should be made to Plymouth to serve substantial areas and populations presently lacking in-State service, including 40 communities with at least 30,000 total population, and a second New Hampshire service to Conway (4,865), Franklin (7,292), Laconia (14,888), Gilford (3,219), Keene (20,467), and other small communities. In the same vein, Lakes Region contends that a Class C channel at Plymouth would serve 7,603 of the State's 9,014 square miles,[3] of which 3,425 square miles (38 percent)[4] receive no FM program service originating within the State of New Hampshire.[5] It is asserted that because of the proximity to neighboring New England States, New Hampshire "has been deprived of its fair share of wide area coverage FM channels." A necessary premise to Lakes Region's argument is that Station WMTW-FM is only technically assigned to Mount Washington, N.H., but in fact is a Portland, Maine, station (see paragraph 11, below). Based on this "307(b) issue" which we discuss below in paragraph 11, Lakes Region feels its proposal is at least as meritorious as that of Kennebec especially since the unserved area to be served by the Skowhegan station has only a population of 7,925 persons (a 0.8 percent decrease of population between the 1960 and 1970 census) and Maine's population growth is only 2.4 percent compared to that of New Hampshire of 19.1 percent. Lakes Region views this as an overriding consideration which would be reason to "waive" the 5-mile shortage (a "small infraction" in its terms) between Channel 286 on Sugarloaf Mountain and Channel 287 at Dover. As to preclusion, Lakes Region states that the impact of assigning Channel 248 at Plymouth affects only possibly Channel 249A assignment to Athol (population 11,185) or Orange (6,104) in Massachusetts both of which receive service from nearby communities, and no showing has been made that other FM channels are unavailable for those communities. Lakes Region disputes Eastminster's contentions that Station WDNH, Dover, should not have to change channels (from 248 to 287), on the ground that the grantee accepted its CP on Channel 248 on the express condition of being subject to the outcome of Lakes Region's petition.

7. Finally, Lakes Region alternatively proposes another plan which is as follows:

City	Add	Delete
Skowhegan, Maine	277	296A
Dover-Foxcroft, Maine	272A	276A
Augusta, Maine	296	283
Lewiston, Maine	294	298
South Paris, Maine	224A	[1] 288A
Rumford, Maine	[1] 288A or 241C	292A
Westbrook, Maine	285A	285A
Berlin, N.H.	296	279
Dover, N.H.	287	248
Plymouth, N.H.	248	------
Barre, Vt.	288A	296A
Waterbury, Vt.	269A	287

While this alternative in part is posited on eliminating a 19-mile short-spacing between Station WMOU-FM, Channel 279, Berlin, and Channel 270, Granby, Quebec, there are many other deficiencies in mileage separations. The proposed Channel 295 assignment at Berlin would be short-spaced by 25 miles with Channel 295B assigned to Three Rivers, Quebec, and Channel 284 may not be assigned to Lewiston because Channel 230 is already assigned there and § 73.207 bars assignment to the same community of channels 53 or 54 apart unless there are certain separations (here, 30 miles between Class C channels). With these deficiencies, there is no basis for seriously considering the counterproposal.

8. We now turn our attention to the comments, reply comments, and other pleadings of the nonprincipal parties. Bangor Broadcasting Corp., licensee of Radio Station WGUY, Bangor, Maine, opposed the proposed assignment of Channel 294 at Augusta, Maine, because of conflict with its petition to assign Channel 293 to Bangor (RM-1603); since the Commission denied that petition by memorandum opinion and order, adopted May 12, 1971 (29 FCC 2d 476 (1971)), discussion here is unnecessary. WBEC, Inc., licensee of FM Station WQRB, Pittsfield, Mass., directed its comments only at the petition and comments of Green Mountain Radio Associates, which have been withdrawn; in the circumstances, discussion also is unnecessary. Radio Vermont, Inc., objects to the proposed deletion of Channel 287 from Waterbury, Vt., as adversely affecting future FM developments in that part of the State; it is argued that because of mountainous terrain and sparse population distribution, the proposed substitution of Channel 296A is not adequate (it is intimated that Radio Vermont has considered applying for the channel). We find this unpersuasive because of overriding public interest considerations already discussed in the notice. Abenaki Co., applicant for Augusta's Channel 283 at Gardiner, Maine (BPH-6403),[6] opposes the substitution of either Channel 281 or 282, the first as being short-spaced from its proposed site to Station WBCN, Boston, and 282 because of a 3-mile short-spacing to the Canadian cochannel at Woodstock, New Brunswick (although, in the latter respect, there is none to the proposed Gardiner transmitter site). In this respect, Canadian authorities stated they favor the assignment of either Channel 281 or Channel 294 to Augusta, rather than 282. Oxford Hills Radio Communications, Inc., licensee of Station WNWY-FM, Channel 288A, Norway, Maine, is affected by the proposed substitution of Channel 224A at South Paris, and, indeed, it was granted a CP subject to such change. It now claims a right to reimbursement from Kennebec, and, otherwise, it favors Lakes Region's proposal which would not affect its channel assignment. WIRY, Inc., became a party to this proceeding because of its interest in assigning either Channel 281 or Channel 287 at Plattsburgh, N.Y. Discussion of either proposal is unnecessary because both seriously violate minimum mileage separations under the Canadian-United States FM Agreement of 1947 and the Working Agreement of 1963.[7]

9. Aside from petitioners, the only other principal party commenting is Eastminster Broadcasting Corp., licensee of Station WDNH, Dover, N.H. This party's position is not materially different from that made in opposition to Lakes Region's petition (RM-1464) (Kennebec Valley's Skowhegan proposal does not concern Eastminster). Eastminster argues that, despite its accepting a CP subject to the rule making, it is contrary to the public interest for it to be forced to move beyond Dover, N.H., into the adjacent State (Maine); its studio and tower at a cost of $60,000 would be rendered useless. It also contends that a substitute channel is "substandard," a mandatory remote control operation would be imposed, and it would be forced into an untenable economic situation (which could lead to its demise). Consistent with the views expressed in our notice, it appears that at least three Class A channels may be assigned to Plymouth instead of Channel 248 (Channels 261A, 269A or 288A), while a wholly satisfactory site for Channel 287 at Dover cannot be found, if mileage separations are to be maintained. Eastminster characterizes Lakes Region's proposal as severely disrupting FM allocations and severely restricting, if not totally compromising, Station WDNH.

10. Kennebec's comments in part are directed at issues dealt with in the notice, that is, that the only accessible transmitter site from which a station on

[1] These areas are entirely within the United States.

[2] This certainly is more in keeping with population criteria for FM assignments. Waterbury's population is 4,164.

[3] On the basis of the 1960 census, 591,962 of 606,921 persons (97.5 percent).

[4] With a population of 47,200 (1960 census).

[5] Elsewhere, Lakes Region speaks of a "first true New Hampshire service" to 2,434 square miles (27 percent) and 44,415 persons (7.3 percent) and a "second" service to 1,926 square miles (21.3 percent) and 137,691 persons (22.7 percent). As stated in the text, all of these figures disregard WMTW-FM, Mount Washington, which has a very large coverage area, as not being in reality, a New Hampshire station.

[6] As noted above, this party asks for leave to file comments late. Until the memorandum opinion and order in Docket No. 18110 (28 FCC 2d 622), its application for a construction permit at Gardiner was subject to dismissal because it is the licensee of Station WABK in that community.

[7] See following table:

	Actual miles	Required miles
Channel 281:		
Channel 278A, Granby, Quebec	60	70
Channel 280B, St. Jerome, Quebec	80	140
Channel 282B, Drummondville, Quebec	94	140
Channel 283C1, Cornwall, Ontario	67	105
Channel 287:		
Channel 285B, St. Jean, Ontario	43	85
Channel 287C1, Ottawa-Hull, Ontario	121	190
Channel 289C1, Montreal (Laval), Quebec	66	105

Channel 286 could operate is Sugarloaf Mountain and not Avery Peak or other sites proposed by Lakes Region. This party also points out that at least three Class A channels may be assigned to Plymouth without any changes elsewhere. Finally, Kennebec requests that if Channel 286 is assigned to Skowhegan that Station WGHM–FM, licensed to it, be authorized to operate on that channel rather than 296A.[8] Kennebec stresses the inaccessibility of Avery Peak and any part of the Mount Bigelow terrain. Kennebec's reply comments to a large extent are intended to refute the comments of other parties, including Lakes Region and counterproposal in paragraph 7. We need not set these out in detail because most have been disposed of (see paragraphs 7–8). With respect to Lakes Region's suggestion of a waiver of spacing between Channel 286 for Skowhegan and Channel 287 at Dover, Kennebec points to footnote 5 of the notice which pertinently said:

> • • • this would not be considered. We have emphasized in the past the importance of maintaining the integrity of the separation rules, and accordingly have denied requests for FM assignments in cases more meritorious than this. We adhere to these views • • • while we have in the past made changes in channels of existing stations where necessary to provide additional needed assignments, none of these have involved change in site such as would be involved in the case of the Dover station here.

CONCLUSIONS

11. The principal parties' comments in sum substantially adhere to the views expressed in the petition stage of this docket. These arguments were carefully considered in our notice, as required by the Administrative Procedure Act (5 U.S.C. 553). While not a completely new contention, we comment specially on Lakes Region's argument that Plymouth merits a Class C channel because of 307 (b) considerations. This argument is that a station on a Class C channel at Plymouth would serve either unserved (no service) or underserved (one service) areas as to service from stations in New Hampshire. The implication is that New Hampshire has been allocated only Class A channels. Even assuming, as we do not, that Mount Washington is not a New Hampshire assignment, of the other FM assignments for New Hampshire, seven of the 17 are Class B/C. For Maine, 13 of 34 channels assigned now are Class B/C. Further, Lakes Region misconceives the "Roanoke Rapids" case, 9 FCC 2d 672 (see paragraph 3, above), which deals with the criteria for determining unserved and underserved areas for making Class B or C assignments. Nothing in that case hints that service from other States be ignored. Moreover, Kennebec quite properly notes that Mount Washington should not have been excluded, since the licensee of Station WMTW–FM assured the Commission of its intention to program for the entire service area including communities in New Hampshire, Maine, and Vermont. In the circumstances, there has been "a fair, efficient, and equitable distribution of radio services."

12. In view of the foregoing, it seems quite clear that the Skowhegan rule making should be adopted while that for Plymouth (both the original and the alternative) must be denied. We need not elaborate at length on our conclusions which in part were set out previously in the notice of proposed rule making and in other respects above. Briefly, the proposal for a Class C channel at Skowhegan would make possible a first FM service to an unserved area of considerable size, although not large in population, exceeding in merit the Plymouth proposal with which it conflicts because of the Dover problem. The Plymouth proposal also involves other problems which would probably, in sum, require its denial anyhow, including the problem with respect to Rutland, Vt., the preclusion on the making of a first assignment to a sizeable community such as Athol or Orange, Mass.,[9] and the matter of a replacement at Dover which would require the station there not only to change its channel but to find a new site, at a considerable distance from its present location and the city. While the Dover licensee took its original CP subject to the outcome of this proceeding, we do not find that the extensive disruption to existing service involved would serve the public interest. As long as a Class A channel not involving these problems can be found for Plymouth—and one is assigned herein—we cannot find that the making of a Class C assignment there is warranted under the circumstances. Accordingly, the Plymouth proposal is denied, and we are making the Class C assignment at Skowhegan as requested. This requires changes in other assignments at Waterbury, Vt., and Augusta (discussed below), Westbrook and South Paris, Maine, the latter requiring Station WNWY–FM, Norway, Maine, to change its channel although not its site.

13. There remain for decision two subsidiary questions: (1) Whether to leave the present Class A assignment in Skowhegan also, in addition to the new Class C; and (2) which channel to assign to Augusta as a replacement for Channel 283, which must be deleted to make the Skowhegan assignment. As to the first, Skowhegan is a community of 6,571 persons (Skowhegan town is shown as having 7,601, both figures representing slight decreases from 1960 figures). In only a rather small number of cases has the Commission assigned two channels to communities of this size, less than 10,000 persons. In the absence of any expressed interest in another Skowhegan channel, we do not find reason to leave it in the table, and accordingly we are deleting it and modifying the license of Station WGMH–FM to specify the new Class C assignment.

14. As to the replacement at Augusta, the notice herein proposed one of three channels, 281, 282, or 294. None is free from problems, as indicated above. The Canadian authorities, while not objecting to any of the proposed alternatives, have pointed out that substituting Channel 282 for 283 at Augusta would involve a short-spaced cochannel separation to a Canadian assignment, indicating that they would prefer Channel 281 or 294. The applicant for the Augusta assignment for use at Gardiner, Maine (at its AM site), objects to Channel 281 because it would be short-spaced (at that site) to a Boston station. Channel 294 has been objected to on the ground of second-harmonic interference to reception of television Channel 13, Portland, a consideration which, as the notice stated (paragraph 10(b)), we have in the past recognized as a problem but one which is correctable and should not stand in the way of making needed FM assignments.

15. Under the circumstances, we find the following to be the best solution: Assign Channel 294 to Augusta for the time being, but raise with Canadian authorities in the very near future the question of whether Channel 282, actually used by a station at Gardiner, Maine (which is farther from Canada than Augusta), would be acceptable instead of Channel 294. The application of Abenaki Co. for the Augusta channel (now 283) at Gardiner has been on file since 1968 and presents no technical problems except the pendency of this proceeding. Accordingly, if this application is granted, it will specify Channel 294, but it also will be conditioned on acceptance of modification of construction permit to specify Channel 282 instead if that channel presents no problems internationally (it can be used at the site specified in the Abenaki application). Since no construction in Maine at this time of year is likely to proceed to a point where frequency becomes important, this possible change should not delay the building of the station and its going into service. This proceeding will remain open for the making of this Augusta change (294 to 282) without further proceedings, if it appears appropriate. If Channel 282 is ultimately not deemed appropriate for this use, the new station will remain on Channel 294; for reasons stated in the Notice and elsewhere, we do not view possible second-harmonic interference to TV reception as reason not to make desirable FM assignments.

[8] In short, this party seeks a show cause order to change channels. We assume also from its comments that it would answer in the negative the question whether 296A should remain assigned to Skowhegan. There has been no interest expressed by any party in a second channel at that community (population 6,571).

[9] As noted above, the Plymouth petitioner claims that it is now shown that no other channels are available to these places; but the notice specifically mentioned this as a problem in connection with this proposal, and, therefore, the burden was on the petitioner to establish, if possible, that it is not a problem because other channels are available. It did not do so. In view of the general scarcity of channels in southern New England, it may well be that no other assignment is possible.

16. Authority for the adoption of the amendments proposed herein is contained in sections 4(i), 303(g), and (r), and 307(b) of the Communications Act of 1934, as amended.

17. In accordance with the foregoing, *It is ordered*, That effective December 23, 1971, the FM Table of Assignments (§ 73.202(b) of the rules) is amended with respect to the cities listed below, to read as follows:

City	Channel No.
Augusta, Maine	267, 294
Skowhegan, Maine	286
South Paris, Maine	224A
Westbrook, Maine	265A
Plymouth, N.H.	261A
Waterbury, Vt.	269A

18. *It is further ordered*, That effective December 23, 1971, the outstanding license held by Kennebec Valley Broadcasting System, Inc., for Station WGHM–FM, Skowhegan, Maine, is modified to specify operation on Channel 286 in lieu of Channel 296A, subject to the following conditions:

(a) The licensee shall inform the Commission in writing by no later than December 23, 1971, of its acceptance of this modification.

(b) The licensee shall submit to the Commission by January 12, 1972, all necessary information complying with the applicable technical rules for modification of authorization to cover the operation of Station WGHM–FM on Channel 286 at Skowhegan, Maine.

(c) The licensee may continue to operate on Channel 296A under its outstanding authorization for one year unless it is ready to operate on the new frequency sooner and submits an application for an FM broadcast station license with proof of performance measurement data to demonstrate compliance with technical performance requirements of the rules. The licensee shall not operate on Channel 286 without prior authorization from the Commission.

19. *It is further ordered*, That effective December 23, 1971, the outstanding license held by Oxford Hills Radio Communications, Inc., for Station WNWY–FM, Norway, Maine, is modified to specify operation on Channel 224A in lieu of 288A, subject to the following conditions:

(a) The licensee shall inform the Commission in writing by no later than December 23, 1971, of its acceptance of this modification.

(b) The licensee shall submit to the Commission by January 12, 1972, all necessary information complying with the applicable technical rules for modification of authorization to cover the operation of Station WNWY–FM on Channel 224A at Norway, Maine.

(c) The licensee may continue to operate on Channel 224A under its outstanding authorization until December 23, 1971, or until 45 days after it receives notice from the Commission that a station is authorized to operate on Channel 286 at Skowhegan, Maine, whichever is later, or the licensee is ready to operate earlier on the new frequency and submits an application for an FM broadcast station license with proof of performance measurement data to demonstrate compliance with technical performance requirements of the rules. The licensee shall not operate on Channel 288A without prior authorization from the Commission.

20. *It is further ordered*, That the petition for rule making filed by WIRY, Inc., Plattsburgh, N.Y., is denied.

21. *It is further ordered*, That the petition for rule making filed by Green Mountain Radio Associates, Rutland, Vt., is dismissed, as requested by that party.

22. *It is further ordered*, That the petition for rule making filed by Lakes Region Broadcasting Corp., Inc., is denied, except to the extent granted above.

23. *It is further ordered*, That Abenaki Co. is granted leave to file its comments late for good cause shown.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: November 10, 1971.

Released: November 12, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[10]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-16853 Filed 11-17-71;8:52 am]

[Docket No. 19297; FCC 71-1158]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in Certain Cities

First report and order. In the matter of § 73.202, *Table of Assignments*, FM Broadcast Stations. (Modesto, Turlock, and Patterson, Calif.; Albuquerque, N. Mex.; Centerville, Iowa; and Milford, Delaware), Docket No. 19297, RM–1611, RM–1612, RM–1622, RM–1625, and RM–1661.

1. The Commission has under consideration the notice of proposed rule making in Docket No. 19297, adopted August 4, 1971, to amend the FM Table of Assignments, § 73.202(b) of the rules. The notice invited comments on the proposals to assign channels to four communities. This first report and order will only consider the proposals to assign Channel 254 to Centerville, Iowa, and to change the assignment from Channel 240A to Channel 249A at Milford, Del. There were no oppositions filed to these proposals and the proposals are free of conflicts. The consideration of their merits is given below. The remaining proposals will be considered at a later date. All population figures, unless otherwise indicated, are from the 1970 U.S. census.

2. Centerville, Iowa (RM–1622): Although Centerville, Iowa (Pop. 6,531) has Class A Channel 237A assigned to it, Hope Co., Inc., requested assignment of Class C Channel 254. Hope Co. is the licensee of Class IV AM Station KCOG, Centerville, which, it contends, provides service to six neighboring counties in the States of Iowa and Missouri, and it seeks to provide improved service to these areas. On the basis of its allegations that a Class C station would provide a first FM service to 1,093 square miles and a second service to 1,547 square miles, compared to a Class A station which would provide such services to only 180 square miles and 394 square miles, respectively, a rule making was instituted. The notice also stated that there was some preclusion on two adjacent channels but that other channels were available for assignment and this was not a serious reason not to consider the assignment.

3. Comments were submitted only by Hope Co., urging the assignment of Channel 254 to Centerville. We believe that it would be in the public interest to adopt the proposal as set forth in the notice of proposed rule making. Since the petitioner stated that it would seek immediate use of this channel, a Class C station here would provide for an early service to the unserved area, whereas otherwise it would be some time before it will be served by other stations. However, the station will have to be located approximately 5 miles northeast of Centerville to comply with the provisions of § 73.207(a) of the rules. In addition a question was raised as to whether the assignment of Channel 237A should be retained at Centerville. We believe that, in view of the size of Centerville, two assignments to the community are not warranted. Channel 237A will be removed and made available for assignment to some other community.

4. Milford, Del. (RM–1661): In response to a petition filed by Broadcasters, Inc., a rule making proceeding was instituted to change the assignment at Milford, Del., from Channel 240A to Channel 249A. It appears that Broadcasters applied for the use of Channel 240A at the site of its daytime-only AM Station WTHD, and found the site would not comply with the minimum separation requirements of § 73.207 of the rules because of a co-channel station at Glen Burnie, Md. Since Broadcasters wished to operate from its AM site, it filed a petition requesting a change in the channel assignment.

5. Comments in support of the proposal were filed by Broadcasters, and no oppositions were submitted. The Commission believes that the public interest would be served by adopting the proposal to change the channel assignment at Milford, Del., from Channel 240A to Channel 249A. It would thus provide for an FM station to a community of 5,316 persons, which also would be its first local nighttime aural broadcast facility.

6. In view of the foregoing: *It is ordered*, That, pursuant to section 4(i), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, effective Decemb.. 23, 1971, § 73.202(b) of the Commission's rules, the FM Table of Assignments, is amended by changing the entries of the following cities to read as indicated:

City	Channel No.
Milford, Del.	249A
Centerville, Iowa	254

[10] Commissioner Reid absent.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: November 10, 1971.

Released: November 12, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-16855 Filed 11-17-71;8:52 am]

Title 7—AGRICULTURE

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNED FOR COMBINED CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for combined crop insurance for the 1972 crop year. The crops on which insurance is offered are shown opposite the name of the county.

State and County	*Crop(s)*
North Dakota:	
Barnes	Barley, Flax, Oats, Rye, Wheat.
Grand Forks	Barley, Flax, Oats, Wheat.
Pierce	Barley, Flax, Oats, Rye, Wheat.
Ransom	Barley, Corn, Flax, Oats, Wheat.
Richland	Barley, Corn, Flax, Oats, Rye, Soybeans, Wheat.
Sargent	Barley, Corn, Flax, Oats, Wheat.
Steele	Barley, Flax, Oats, Wheat.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16808 Filed 11-17-71;8:47 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR DRY BEAN CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for dry bean crop insurance for the 1972 crop year. The class(es) of beans on which insurance is offered is shown opposite the name of the county.

[1] Commissioner Reid absent.

State and County	*Class(es) of dry beans insured*
Colorado:	
Boulder	Pinto.
Larimer	Do.
Logan	Do.
Morgan	Do.
Sedgwick	Do.
Washington	Do.
Weld	Do.
Idaho:	
Ada	Great Northern, pink, pinto, red kidney, small red.[1]
Canyon	Do.[1]
Cassia	Do.[1]
Gooding	Do.[1]
Jerome	Do.[1]
Lincoln	Do.
Minidoka	Do.[1]
Owyhee	Do.
Twin Falls	Do.[1]
Michigan:	
Bay	Pea and medium white.
Gratiot	Do.
Huron	Do.
Saginaw	Do.
St. Clair	Do.
Sanilac	Do.
Shiawassee	Do.
Tuscola	Do.
Nebraska:	
Box Butte	Great Northern, pink, pinto.
Morrill	Do.
Scotts Bluff	Do.
Sheridan	Do.
Washington:	
Adams	Great Northern, pink, pinto, small flat whites, small red.
Franklin	Do.
Grant	Do.
Wyoming:	
Big Horn	Great Northern, pinto.
Goshen	Do.
Park	Do.
Platte	Do.
Washakie	Do.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16810 Filed 11-17-71;8:47 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR CORN CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for corn crop insurance for the 1972 crop year.

ALABAMA

De Kalb.	Marshall.
Jackson.	

COLORADO

Boulder.	Morgan.
Kit Carson.	Sedgwick.
Larimer.	Washington.
Logan.	Weld.

[1] Insurance is also provided on bush varieties of garden seed beans.

DELAWARE

Kent.	Sussex.
New Castle.	

FLORIDA

Suwannee.

GEORGIA

Colquitt.

ILLINOIS

Adams.	Livingston.
Bond.	Logan.
Brown.	McDonough.
Bureau.	McLean.
Carroll.	Macon.
Cass.	Macoupin.
Champaign.	Madison.
Christian.	Marshall.
Clark.	Mason.
Clinton.	Menard.
Coles.	Mercer.
Crawford.	Monroe.
Cumberland.	Montgomery.
De Kalb.	Morgan.
De Witt.	Moultrie.
Douglas.	Ogle.
Edgar.	Peoria.
Effingham.	Piatt.
Fayette.	Pike.
Ford.	Putnam.
Fulton.	St. Clair.
Greene.	Sangamon.
Grundy.	Schuyler.
Hancock.	Scott.
Henderson.	Shelby.
Henry.	Stark.
Iroquois.	Stephenson.
Jasper.	Tazewell.
Jefferson.	Vermilion.
Jersey.	Warren.
Jo Daviess.	Washington.
Kankakee.	Wayne.
Kendall.	Whiteside.
Knox.	Winnebago.
La Salle.	Woodford.
Lee.	

INDIANA

Adams.	Kosciusko.
Allen.	Lagrange.
Bartholomew.	Madison.
Benton.	Marion.
Blackford.	Marshall.
Boone.	Miami.
Carroll.	Montgomery.
Cass.	Morgan.
Clay.	Newton.
Clinton.	Noble.
Decatur.	Parke.
De Kalb.	Pulaski.
Delaware.	Putnam.
Elkhart.	Randolph.
Fayette.	Ripley.
Fountain.	Rush.
Fulton.	Shelby.
Gibson.	Sullivan.
Grant.	Tippecanoe.
Hamilton.	Tipton.
Hancock.	Union.
Hendricks.	Vermillion.
Henry.	Vigo.
Howard.	Wabash.
Huntington.	Warren.
Jackson.	Wayne.
Jasper.	Wells.
Jay.	White.
Johnson.	Whitley.
Knox.	

IOWA

Adair.	Butler.
Adams.	Calhoun.
Allamakee.	Carroll.
Audubon.	Cass.
Benton.	Cedar.
Black Hawk.	Cerro Gordo.
Boone.	Cherokee.
Bremer.	Chickasaw.
Buchanan.	Clarke.
Buena Vista.	Clay.

IOWA—Continued

Clayton.	Madison.
Clinton.	Mahaska.
Crawford.	Marion.
Dallas.	Marshall.
Decatur.	Mills.
Delaware.	Mitchell.
Des Moines.	Monona.
Dickinson.	Monroe.
Dubuque.	Montgomery.
Emmet.	Muscatine.
Fayette.	O'Brien.
Floyd.	Osceola.
Franklin.	Page.
Fremont.	Palo Alto.
Greene.	Plymouth.
Grundy.	Pocahontas.
Guthrie.	Polk.
Hamilton.	Pottawattamie.
Hancock.	Poweshiek.
Hardin.	Sac.
Harrison.	Scott.
Henry.	Shelby.
Howard.	Sioux.
Humboldt.	Story.
Ida.	Tama.
Iowa.	Taylor.
Jackson.	Union.
Jasper.	Wapello.
Jefferson.	Warren.
Johnson.	Washington.
Jones.	Webster.
Keokuk.	Winnebago.
Kossuth.	Winneshiek.
Lee.	Woodbury.
Linn.	Worth.
Louisa.	Wright.
Lyon.	

KANSAS

Atchison.	Kearny.
Bourbon.	Linn.
Brown.	Marshall.
Cheyenne.	Miami.
Crawford.	Nemaha.
Doniphan.	Osage.
Douglas.	Pottawatomie.
Finney.	Scott.
Franklin.	Shawnee.
Grant.	Sherman.
Haskell.	Stanton.
Jackson.	Thomas.
Jefferson.	Washington.
Johnson.	Wichita.

KENTUCKY

Christian.	McLean.
Daviess.	Todd.
Henderson.	Union.
Hopkins.	

LOUISIANA

Pointe Coupee.

MARYLAND

Caroline.	Queen Annes.
Kent.	Talbot.

MICHIGAN

Branch.	Kalamazoo.
Calhoun.	Lenawee.
Cass.	Livingston.
Clinton.	Monroe.
Eaton.	Saginaw.
Gratiot.	St. Clair.
Hillsdale.	St. Joseph.
Ingham.	Shiawassee.
Ionia.	Tuscola.
Jackson.	Washtenaw.

MINNESOTA

Big Stone.	Cottonwood.
Blue Earth.	Dakota.
Brown.	Dodge.
Carver.	Douglas.
Chippewa.	Faribault.

MINNESOTA—Continued

Fillmore.	Pope.
Freeborn.	Redwood.
Goodhue.	Renville.
Grant.	Rice.
Houston.	Rock.
Jackson.	Scott.
Kandiyohi.	Sibley.
Lac Qui Parle.	Stearns.
Le Sueur.	Steele.
Lincoln.	Stevens.
Lyon.	Swift.
McLeod.	Todd.
Martin.	Traverse.
Meeker.	Wabasha.
Mower.	Waseca.
Murray.	Washington.
Nicollet.	Watonwan.
Nobles.	Winona.
Olmsted.	Wright.
Pipestone.	Yellow Medicine.

MISSISSIPPI

Tippah.

MISSOURI

Adair.	Knox.
Andrew.	Lafayette.
Atchison.	Lawrence.
Audrain.	Lewis.
Barton.	Lincoln.
Bates.	Linn.
Boone.	Livingston.
Buchanan.	Macon.
Butler.	Marion.
Caldwell.	Mississippi.
Callaway.	Monroe.
Cape Girardeau.	Montgomery.
Carroll.	New Madrid.
Cass.	Nodaway.
Chariton.	Pemiscot.
Clark.	Pettis.
Clinton.	Pike.
Cooper.	Platte.
Daviess.	Ralls.
De Kalb.	Randolph.
Dunklin.	Ray.
Franklin.	St. Charles.
Gentry.	Saline.
Grundy.	Scotland.
Harrison.	Scott.
Henry.	Shelby.
Holt.	Stoddard.
Howard.	Sullivan.
Jackson.	Vernon.
Jasper.	Worth.
Johnson.	

NEBRASKA

Adams.	Knox.
Antelope.	Lancaster.
Boone.	Madison.
Burt.	Merrick.
Butler.	Nemaha.
Cass.	Otoe.
Cedar.	Pawnee.
Clay.	Phelps.
Colfax.	Pierce.
Cuming.	Platte.
Dixon.	Polk.
Dodge.	Richardson.
Fillmore.	Saunders.
Gage.	Scotts Bluff.
Hall.	Stanton.
Hamilton.	Washington.
Johnson.	Wayne.
Kearney.	York.

NORTH CAROLINA

Anson.	Pitt.
Beaufort.	Robeson.
Hyde.	Rowan.
Nash.	Union.
Pamlico.	Washington.

NORTH DAKOTA

Cass.	Richland.
Ransom.	Sargent.

OHIO

Allen.	Logan.
Ashland.	Lucas.
Auglaize.	Madison.
Butler.	Marion.
Champaign.	Medina.
Clark.	Mercer.
Clinton.	Miami.
Crawford.	Montgomery.
Darke.	Morrow.
Defiance.	Ottawa.
Delaware.	Paulding.
Erie.	Pickaway.
Fairfield.	Preble.
Fayette.	Putnam.
Franklin.	Richland.
Fulton.	Sandusky.
Greene.	Seneca.
Hancock.	Shelby.
Hardin.	Union.
Henry.	Van Wert.
Highland.	Wayne.
Huron.	Williams.
Knox.	Wood.
Licking.	Wyandot.

PENNSYLVANIA

Adams.	Lancaster.
Chester.	Lebanon.
Cumberland.	Perry.
Dauphin.	York.
Franklin.	

SOUTH DAKOTA

Aurora.	Hanson.
Beadle.	Hutchinson.
Bon Homme.	Kingsbury.
Brookings.	Lake.
Charles Mix.	Lincoln.
Clark.	McCook.
Clay.	Miner.
Codington.	Minnehaha.
Davison.	Moody.
Day.	Roberts.
Deuel.	Sanborn.
Douglas.	Turner.
Grant.	Union.
Hamlin.	Yankton.

TENNESSEE

Franklin.	Obion.

VIRGINIA

Nansemond.	Southampton.

WISCONSIN

Barron.	La Crosse.
Buffalo.	Lafayette.
Calumet.	Pepin.
Clark.	Pierce.
Columbia.	Polk.
Crawford.	Racine.
Dane.	Richland.
Dodge.	Rock.
Dunn.	St. Croix.
Fond du Lac.	Sauk.
Grant.	Trempealeau.
Green.	Vernon.
Iowa.	Walworth.
Jackson.	Waukesha.
Jefferson.	Winnebago.
Kenosha.	

WYOMING

Goshen.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16809 Filed 11-17-71;8:47 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR FLAX CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for flax crop insurance for the 1972 crop year.

MINNESOTA

Becker.
Big Stone.
Chippewa.
Clay.
Grant.
Kittson.
Lac Qui Parle.
Lincoln.
Lyon.
Mahnomen.
Marshall.
Murray.
Nobles.
Norman.
Otter Tail.
Pennington.
Pipestone.
Polk.
Pope.
Red Lake.
Redwood.
Roseau.
Stevens.
Swift.
Traverse.
Wilkin.
Yellow Medicine.

NORTH DAKOTA

Barnes.
Benson.
Bottineau.
Burleigh.
Cass.
Cavalier.
Dickey.
Eddy.
Emmons.
Foster.
Grand Forks.
Griggs.
Kidder.
La Moure.
Logan.
McHenry.
McIntosh.
McLean.
Mountrail.
Nelson.
Pembina.
Pierce.
Ramsey.
Ransom.
Renville.
Richland.
Rolette.
Sargent.
Sheridan.
Steele.
Stutsman.
Towner.
Traill.
Walsh.
Ward.
Wells.

SOUTH DAKOTA

Brookings.
Brown.
Campbell.
Clark.
Codington.
Corson.
Day.
Deuel.
Edmunds.
Grant.
Hamlin.
Kingsbury.
Lake.
McPherson.
Marshall.
Miner.
Moody.
Roberts.
Walworth.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16811 Filed 11-17-71;8:47 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR OAT CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for oat crop insurance for the 1972 crop year.

CALIFORNIA

Modoc.

ILLINOIS

Bureau.
Carroll.
Henry.
Jo Daviess.
Ogle.
Stephenson.

IOWA

Adair.
Adams.
Allamakee.
Audubon.
Benton.
Black Hawk.
Boone.
Bremer.
Buchanan.
Buena Vista.
Butler.
Calhoun.
Carroll.
Cass.
Cedar.
Cerro Gordo.
Cherokee.
Chickasaw.
Clarke.
Clay.
Clayton.
Clinton.
Crawford.
Dallas.
Decatur.
Delaware.
Des Moines.
Dickinson.
Dubuque.
Emmet.
Fayette.
Floyd.
Franklin.
Fremont.
Greene.
Grundy.
Guthrie.
Hamilton.
Hancock.
Hardin.
Harrison.
Henry.
Howard.
Humboldt.
Ida.
Iowa.
Jackson.
Jasper.
Jefferson.
Johnson.
Jones.
Keokuk.
Kossuth.
Lee.
Linn.
Louisa.
Lyon.
Madison.
Mahaska.
Marion.
Marshall.
Mills.
Mitchell.
Monona.
Monroe.
Montgomery.
Muscatine.
O'Brien.
Osceola.
Page.
Palo Alto.
Plymouth.
Pocahontas.
Polk.
Pottawattamie.
Poweshiek.
Sac.
Scott.
Shelby.
Sioux.
Story.
Tama.
Taylor.
Union.
Wapello.
Warren.
Washington.
Webster.
Winnebago.
Winneshiek.
Woodbury.
Worth.
Wright.

MINNESOTA

Becker.
Big Stone.
Blue Earth.
Brown.
Carver.
Chippewa.
Clay.
Cottonwood.
Dakota.
Dodge.
Douglas.
Faribault.
Fillmore.
Freeborn.
Goodhue.
Grant.
Houston.
Jackson.
Kandiyohi.
Kittson.
Lac Qui Parle.
Le Sueur.
Lincoln.
Lyon.
McLeod.
Mahnomen.
Marshall.
Martin.
Meeker.
Mower.
Murray.
Nicollet.
Nobles.
Norman.
Olmsted.
Otter Tail.
Pennington.
Pipestone.
Polk.
Pope.
Red Lake.
Redwood.
Renville.
Rice.
Rock.
Roseau.
Scott.
Sibley.
Stearns.
Steele.
Stevens.
Swift.
Todd.
Traverse.
Wabasha.
Waseca.
Washington.
Watonwan.
Wilkin.
Winona.
Wright.
Yellow Medicine.

NORTH DAKOTA

Barnes.
Benson.
Burleigh.
Cass.
Cavalier.
Dickey.
Eddy.
Foster.
Grand Forks.
Griggs.
Kidder.
La Moure.
Logan.
Morton.
Nelson.
Pembina.
Pierce.
Ramsey.
Ransom.
Richland.
Sargent.
Stark.
Steele.
Stutsman
Towner.
Traill.
Walsh.

OREGON

Klamath.

PENNSYLVANIA

Chester.
Cumberland.
Dauphin.
Perry.

SOUTH DAKOTA

Aurora.
Beadle.
Bon Homme.
Brookings.
Brown.
Charles Mix.
Clark.
Clay.
Codington.
Davison.
Day.
Deuel.
Douglas.
Grant.
Hamlin.
Hanson.
Hutchinson.
Kingsbury.
Lake.
Lincoln.
McCook.
Marshall.
Miner.
Minnehaha.
Moody.
Roberts.
Sanborn.
Spink.
Turner.
Union.
Yankton.

WISCONSIN

Barron.
Buffalo.
Calumet.
Clark.
Columbia.
Crawford.
Dane.
Dodge.
Dunn.
Fond du Lac.
Grant.
Green.
Iowa.
Jackson.
Jefferson.
Kenosha.
La Crosse.
Lafayette.
Pepin.
Pierce.
Polk.
Racine.
Richland.
Rock.
St. Croix.
Sauk.
Trempealeau.
Vernon.
Walworth.
Waukesha.
Winnebago.

WYOMING

Big Horn.
Park.
Washakie.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16812 Filed 11-17-71;8:47 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR PEA (CANNING AND FREEZING) CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for pea (canning and freezing) crop insurance for the 1972 crop year.

IDAHO

Franklin.
Nez Perce.

MINNESOTA

Blue Earth.
Brown.
Dakota.
Dodge.
Faribault.
Freeborn.
Goodhue.
Kandiyohi.
Le Sueur.
McLeod.
Martin.
Meeker.
Mower.
Nicollet.
Olmsted.
Redwood.
Renville.
Rice.
Scott.
Sibley.
Steele.
Wabasha.
Waseca.
Watonwan.
Winona.

OREGON

Umatilla.
Union.

UTAH

Box Elder.
Cache.
Davis.
Salt Lake.
Utah.
Weber.

WASHINGTON

Columbia.
Walla Walla.
Whitman.

WISCONSIN

Calumet.
Columbia.
Dane.
Dodge.
Fond du Lac.
Trempealeau.
Winnebago.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16814 Filed 11-17-71;8:47 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR PEA (DRY) CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for pea (dry) crop insurance for the 1972 crop year.

IDAHO

Benewah.
Kootenai.
Latah.
Lewis.
Nez Perce.

OREGON

Umatilla.
Union.

WASHINGTON

Adams.
Columbia.
Franklin.
Grant.
Spokane.
Walla Walla.
Whitman.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16815 Filed 11-17-71;8:48 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR PEANUT CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for peanut crop insurance for the 1972 crop year. The type(s) of peanuts on which insurance is offered in each county is shown opposite the county name.

ALABAMA

Barbour—Runner, Southeast Spanish, Virginia.
Coffee—Runner, Southeast Spanish, Virginia.
Conecuh—Runner, Southeast Spanish, Virginia.
Covington—Runner, Southeast Spanish, Virginia.
Crenshaw—Runner, Southeast Spanish, Virginia.
Dale—Runner, Southeast Spanish, Virginia.
Geneva—Runner, Southeast Spanish, Virginia.
Henry—Runner, Southeast Spanish, Virginia.
Houston—Runner, Southeast Spanish, Virginia.
Pike—Runner.

FLORIDA

Jackson—Runner, Southeast Spanish, Virginia.

GEORGIA

Baker—Runner, Southeast Spanish, Virginia.
Ben Hill—Runner, Southeast Spanish, Virginia.
Bulloch—Runner, Southeast Spanish, Virginia.
Calhoun—Runner, Southeast Spanish, Virginia.
Clay—Runner, Southeast Spanish, Virginia.
Coffee—Runner, Southeast Spanish, Virginia.
Colquitt—Runner, Southeast Spanish, Virginia.
Cook—Runner, Southeast Spanish, Virginia.
Crisp—Runner, Southeast Spanish, Virginia.
Decatur—Runner, Southeast Spanish, Virginia.
Dooly—Runner, Southeast Spanish, Virginia.
Early—Runner, Southeast Spanish, Virginia.
Irwin—Runner, Southeast Spanish, Virginia.
Lee—Runner, Southeast Spanish, Virginia.
Miller—Runner, Southeast Spanish, Virginia.
Mitchell—Runner, Southeast Spanish, Virginia.
Randolph—Runner, Southeast Spanish, Virginia.
Sumter—Runner, Southeast Spanish, Virginia.
Terrell—Runner, Southeast Spanish, Virginia.
Thomas—Runner, Southeast Spanish, Virginia.
Tift—Runner, Southeast Spanish, Virginia.
Toombs—Runner, Southeast Spanish, Virginia.
Turner—Runner, Southeast Spanish, Virginia.
Worth—Runner, Southeast Spanish, Virginia.

NORTH CAROLINA

Bertie—Virginia.
Bladen—Virginia.
Chowan—Virginia.
Edgecombe—Virginia.
Gates—Virginia.
Halifax—Virginia.
Hertford—Virginia.
Martin—Virginia.
Northampton—Virginia.
Pitt—Virginia.
Washington—Virginia.

OKLAHOMA

Caddo—Southwest Spanish.
Grady—Southwest Spanish.

VIRGINIA

Dinwiddie—Virginia.
Greensville—Virginia.
Isle of Wight—Virginia.
Nansemond—Virginia.
Prince George—Virginia.
Southampton—Virginia.
Surry—Virginia.
Sussex—Virginia.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16817 Filed 11-17-71;8:48 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR RICE CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for rice crop insurance for the 1972 crop year.

ARKANSAS

Arkansas.
Ashley.
Chicot.
Clay.
Craighead.
Crittenden.
Cross.
Desha.
Greene.
Jackson.
Jefferson.
Lonoke.
Monroe.
Poinsett.
Prairie.
St. Francis.
Woodruff.

LOUISIANA

Acadia.
Calcasieu.
Evangeline.
Jefferson Davis.
St. Landry.

MISSISSIPPI

Bolivar.
Washington.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16819 Filed 11-17-71;8:48 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR SOYBEAN CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for soybean crop insurance for the 1972 crop year.

ALABAMA

Baldwin.
Escambia.
Jackson.
Lawrence.
Limestone.
Madison.
Morgan.
Shelby.
Talladega.

ARKANSAS

Arkansas.
Ashley.
Chicot.
Clay.
Craighead.
Crittenden.
Cross.
Desha.
Greene.
Jackson.
Jefferson.
Lawrence.
Lee.
Lincoln.
Lonoke.
Mississippi.
Monroe.
Phillips.
Poinsett.
Prairie.
Randolph.
St. Francis.
Woodruff.

DELAWARE

Kent.
New Castle.
Sussex.

ILLINOIS

Adams.
Bond.
Brown.
Bureau.
Cass.
Champaign.
Christian.
Clark.
Clinton.
Coles.
Crawford.
Cumberland.
De Kalb.
De Witt.
Douglas.
Edgar.
Effingham.
Fayette.
Ford.
Fulton.
Greene.
Grundy.
Hancock.
Henderson.
Henry.
Iroquois.
Jasper.
Jefferson.
Jersey.
Kankakee.
Kendall.
Knox.
La Salle.
Lee.
Livingston.
Logan.
McDonough.
McLean.
Macon.
Macoupin.
Madison.
Marshall.
Mason.
Menard.
Mercer.
Monroe.
Montgomery.
Morgan.
Moultrie.
Ogle.
Peoria.
Piatt.
Pike.
Putnam.
St. Clair.
Sangamon.
Schuyler.
Scott.
Shelby.
Stark.
Tazewell.
Vermilion.
Warren.
Washington.
Wayne.
Whiteside.
Winnebago.
Woodford.

INDIANA

Adams.
Allen.
Bartholomew.
Benton.
Blackford.
Boone.
Carroll.
Cass.
Clay.
Clinton.
Decatur.
De Kalb.
Delaware.
Elkhart.
Fayette.
Fountain.
Fulton.
Gibson.
Grant.
Hamilton.
Hancock.
Hendricks.
Henry.
Howard.
Huntington.
Jackson.
Jasper.
Jay.
Johnson.
Knox.
Kosciusko.
Lagrange.
Madison.
Marion.
Marshall.
Miami.
Montgomery.
Morgan.
Newton.
Noble.
Parke.
Pulaski.
Putnam.
Randolph.
Ripley.
Rush.
Shelby.
Sullivan.
Tippecanoe.
Tipton.
Union.
Vermillion.
Vigo.
Wabash.
Warren.
Wayne.
Wells.
White.
Whitley.

IOWA

Adair.
Adams.
Allamakee.
Audubon.
Benton.
Black Hawk.
Boone.
Bremer.
Buchanan.
Buena Vista.
Butler.
Calhoun.
Carroll.
Cass.
Cedar.
Cerro Gordo.
Cherokee.
Chickasaw.
Clarke.
Clay.
Clayton.
Clinton.
Crawford.
Dallas.
Decatur.
Delaware.
Des Moines.
Dickinson.
Dubuque.
Emmet.
Fayette.
Floyd.
Franklin.
Fremont.
Greene.
Grundy.
Guthrie.
Hamilton.
Hancock.
Hardin.
Harrison.
Henry.
Howard.
Humboldt.
Ida.
Iowa.
Jackson.
Jasper.
Jefferson.
Johnson.
Jones.
Keokuk.
Kossuth.
Lee.
Linn.
Louisa.
Lyon.
Madison.
Mahaska.
Marion.
Marshall.
Mills.
Mitchell.
Monona.
Monroe.
Montgomery.
Muscatine.
O'Brien.
Osceola.
Page.
Palo Alto.
Plymouth.
Pocahontas.
Polk.
Pottawattamie.
Poweshiek.
Sac.
Scott.
Shelby.
Sioux.
Story.
Tama.
Taylor.
Union.
Wapello.
Warren.
Washington.
Webster.
Winnebago.
Winneshiek.
Woodbury.
Worth.
Wright.

KANSAS

Allen.
Anderson.
Atchison.
Bourbon.
Brown.
Cherokee.
Coffey.
Crawford.
Doniphan.
Douglas.
Franklin.
Johnson.
Labette.
Linn.
Lyon.
Miami.
Neosho.
Osage.
Wilson.
Woodson.

KENTUCKY

Calloway.
Daviess.
Fulton.
Graves.
Henderson.
Hopkins.
McLean.
Ohio.
Union.

LOUISIANA

Acadia.
Avoyelles.
Bossier.
Caddo.
Calcasieu.
Caldwell.
Catahoula.
Condordia.
East Carroll.
Evengeline.
Franklin.
Jefferson Davis.
Madison.
Morehouse.
Natchitoches.
Pointe Coupee.
Rapides.
Red River.
Richland.
St. Landry.
Tensas.
West Caroll.

MARYLAND

Caroline.
Kent.
Queen Annes.
Talbot.

MICHIGAN

Branch.
Cass.
Clinton.
Gratiot.
Hillsdale.
Lenawee.
Monroe.
Saginaw.
St. Joseph.
Shiawassee.
Washtenaw.

MINNESOTA

Becker.
Big Stone.
Blue Earth.
Brown.
Carver.
Chippewa.
Clay.
Cottonwood.
Dakota.
Dodge.
Douglas.
Faribault.
Fillmore.
Freeborn.
Goodhue.
Grant.
Houston.
Jackson.
Kandiyohi.
Lac Qui Parle.
Le Sueur.
Lincoln.
Lyon.
McLeod.
Martin.
Meeker.
Mower.
Murray.
Nicollet.
Nobles.
Norman.
Olmsted.
Otter Tail.
Pipestone.
Pope.
Redwood.
Renville.
Rice.
Rock.
Scott.
Sibley.
Stearns.
Steele.
Stevens.
Swift.
Todd.
Traverse.
Wabasha.
Waseca.
Washington.
Watonwan.
Wilkin.
Winona.
Wright.
Yellow Medicine.

MISSISSIPPI

Benton.
Bolivar.
Calhoun.
Carroll.
Chickasaw.
Coahoma.
De Soto.
Holmes.
Humphreys.
Issaquena.
Lee.
Leflore.
Monroe.
Panola.
Prentiss.
Quitman.
Sharkey.
Sunflower.
Tallahatchie.
Tippah.
Tunica.
Union.
Washington.
Yazoo.

MISSOURI

Adair.
Andrew.
Atchison.
Audrain.
Barton.
Bates.
Boone.
Buchanan.
Butler.
Caldwell.
Callaway.
Cape Girardeau.
Carroll.
Cass.
Chariton.
Clark.
Clinton.
Cooper.
Daviess.
De Kalb.
Dunklin.
Gentry.
Grundy.
Harrison.
Henry.
Holt.
Howard.
Jackson.
Jasper.
Johnson.
Knox.
Lafayette.
Lewis.
Lincoln.
Linn.
Livingston.
Macon.
Marion.

MISSOURI—Continued

Mississippi.
Monroe.
Montgomery.
New Madrid.
Nodaway.
Pemiscot.
Pettis.
Pike.
Platte.
Ralls.
Randolph.
Ray.
St. Charles.
Saline.
Scotland.
Scott.
Shelby.
Stoddard.
Sullivan.
Vernon.
Worth.

NEBRASKA

Cass.
Colfax.
Cuming.
Dodge.
Lancaster.
Nemaha.
Otoe.
Richardson.
Saunders.
Washington.
Wayne.

NORTH CAROLINA

Anson.
Beaufort.
Craven.
Hyde.
Johnston.
Jones.
Pamlico.
Pitt.
Robeson.
Union.
Washington

NORTH DAKOTA

Cass.
Richland.
Traill.

OHIO

Allen.
Ashland.
Auglaize.
Butler.
Champaign.
Clark.
Clinton.
Crawford.
Darke.
Defiance.
Delaware.
Erie.
Fairfield.
Fayette.
Franklin.
Fulton.
Greene.
Hancock.
Hardin.
Henry.
Highland.
Huron.
Knox.
Licking.
Logan.
Lucas.
Madison.
Marion.
Medina.
Mercer.
Miami.
Montgomery.
Morrow.
Ottawa.
Paulding.
Pickaway.
Preble.
Putnam.
Richland.
Sandusky.
Seneca.
Shelby.
Union.
Van Wert.
Wayne.
Williams.
Wood.
Wyandot.

OKLAHOMA

Craig.
Ottawa.

SOUTH CAROLINA

Aiken.
Allendale.
Bamberg.
Barnwell.
Calhoun.
Clarendon.
Darlington.
Dillon.
Dorchester.
Florence.
Hampton.
Horry.
Kershaw.
Lee.
Lexington.
Marion.
Marlboro.
Orangeburg.
Sumter.
Williamsburg.

SOUTH DAKOTA

Bon Homme.
Brookings.
Charles Mix.
Clay.
Deuel.
Grant.
Hamlin.
Hutchinson.
Kingsbury.
Lake.
Lincoln.
McCook.
Minnehaha.
Moody.
Roberts.
Turner.
Union.
Yankton.

TENNESSEE

Carroll.
Chester.
Crockett.
Dyer.
Fayette.
Gibson.
Hardeman.
Haywood.

TENNESSEE—Continued

Lake.
Lauderdale.
Madison.
Obion.
Shelby.
Tipton.
Weakley.

VIRGINIA

Nansemond.
Southampton.

WISCONSIN

Buffalo.
Dunn.
Jackson.
Jefferson.
Kenosha.
Pepin.
Pierce.
Polk.
Racine.
Rock.
St. Croix.
Trempealeau.
Walworth.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16820 Filed 11-17-71;8:48 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR SUGAR BEET CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for sugar beet crop insurance for the 1972 crop year.

CALIFORNIA

Imperial.

COLORADO

Adams.
Boulder.
Kit Carson.
Larimer.
Logan.
Morgan.
Sedgwick.
Weld.

IDAHO

Ada.
Bannock.
Bingham.
Bonneville.
Canyon.
Cassia.
Franklin.
Jerome.
Minidoka.
Owyhee.
Power.
Twin Falls.

KANSAS

Finney.
Grant.
Kearny.
Sherman.
Stanton.
Wallace.
Wichita.

MICHIGAN

Bay.
Saginaw.
Tuscola.

MINNESOTA

Clay.
Kittson.
Marshall.
Norman.
Polk.
Wilkin.

MONTANA

Big Horn.
Carbon.
Custer.
Dawson.
Prairie.
Richland.
Rosebud.
Stillwater.
Treasure.
Yellowstone.

NORTH DAKOTA

Cass.
Grand Forks.
McKenzie.
Pembina.
Richland.
Traill.
Walsh.
Williams.

OHIO

Hancock.
Henry.
Lucas.
Ottawa.
Putnam.
Sandusky.
Wood.

OREGON

Malheur.

UTAH

Box Elder.
Cache.
Davis.
Salt Lake.
Utah.
Weber.

WASHINGTON

Adams.
Benton.
Franklin.
Grant.
Yakima.

WYOMING

Big Horn.
Goshen.
Park.
Washakie.

(Secs. 506, 516, 52 Stat. 73, as amended, 77 as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16821 Filed 11-17-71;8:48 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR TOBACCO CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for tobacco crop insurance for the 1972 crop year. The type(s) of tobacco on which insurance is offered in each county is shown opposite the county name.

FLORIDA

Alachua	14	Madison	14
Columbia	14	Suwannee	14
Hamilton	14		

GEORGIA

Appling	14	Jeff Davis	14
Atkinson	14	Lanier	14
Bacon	14	Lowndes	14
Ben Hill	14	Mitchell	14
Berrien	14	Pierce	14
Brantley	14	Tattnall	14
Brooks	14	Thomas	14
Bulloch	14	Tift	14
Candler	14	Toombs	14
Coffee	14	Turner	14
Colquitt	14	Ware	14
Cook	14	Wayne	14
Decatur	14	Worth	14
Irwin	14		

KENTUCKY

Adair	31	Daviess	31, 36
Allen	31, 35	Fayette	31
Anderson	31	Fleming	31
Barren	31	Franklin	31
Bath	31	Garrard	31
Boone	31	Grant	31
Bourbon	31	Graves	23, 31, 35
Boyle	31	Green	31
Bracken	31	Harrison	31
Breckinridge	31	Hart	31
Caldwell	22, 31, 35	Henderson	31, 36
Calloway	23, 35	Henry	31
Carroll	31	Hopkins	31, 36
Casey	31	Jessamine	31
Christian	22, 31, 35	Larue	31
Clark	31	Lewis	31

KENTUCKY—Continued

Lincoln	31	Owen	31
Logan	22, 31, 35	Pendleton	31
McLean	31, 36	Pulaski	31
Madison	31	Robertson	31
Marion	31	Russell	31
Marshall	23, 31, 35	Scott	31
Mason	31	Shelby	31
Meade	31	Simpson	22, 31, 35
Mercer	31	Spencer	31
Metcalfe	31	Taylor	31
Montgomery	31	Todd	22, 31, 35
Muhlenberg	22, 31, 35	Trigg	22, 31, 35
Nelson	31	Warren	31, 35
Nicholas	31	Washington	31
Ohio	31, 36	Wayne	31
		Woodford	31

MISSOURI

Buchanan	31	Platte	31

NORTH CAROLINA

Alamance	11a	Lee	11b
Alexander	11a	Lenoir	12
Beaufort	12	Madison	31
Bertie	12	Martin	12
Bladen	13	Mitchell	31
Brunswick	13	Montgomery	11b
Buncombe	31	Moore	11b
Carteret	12	Nash	12
Caswell	11a	Northampton	12
Chatham	11b	Onslow	12
Chowan	12	Orange	11b
Columbus	13	Pamlico	12
Craven	12	Pender	12
Cumberland	13	Person	11a
Davidson	11a	Pitt	12
Duplin	12	Randolph	11a
Durham	11b	Richmond	11b
Edgecombe	12	Robeson	13
Forsyth	11a	Rockingham	11a
Franklin	11b	Sampson	12
Gates	12	Scotland	13
Granville	11b	Stokes	11a
Greene	12	Surry	11a
Guilford	11a	Vance	11b
Halifax	12	Wake	11b
Harnett	11b	Warren	11b
Haywood	31	Washington	12
Hertford	12	Wayne	12
Hoke	13	Wilkes	11a
Iredell	11a	Wilson	12
Johnston	12	Yadkin	11a
Jones	12	Yancey	31

OHIO

Adams	31	Highland	31
Brown	31		

PENNSYLVANIA

Lancaster	41

SOUTH CAROLINA

Chesterfield	13	Kershaw	13
Clarendon	13	Lee	13
Darlington	13	Marion	13
Dillon	13	Marlboro	13
Dorchester	13	Orangeburg	13
Florence	13	Sumter	13
Georgetown	13	Williamsburg	13
Horry	13		

TENNESSEE

Anderson	31	Jackson	31
Blount	31	Jefferson	31
Carter	31	Johnson	31
Claiborne	31	Knox	31
Cocke	31	Lawrence	31
De Kalb	31	Lincoln	31
Dickson	22	Loudon	31
Franklin	31	McMinn	31
Giles	31	Macon	31, 35
Grainger	31	Marshall	31
Greene	31	Maury	31
Hamblen	31	Monroe	31
Hancock	31	Montgomery	22, 31
Hawkins	31	Obion	23, 35

TENNESSEE—Continued

Putnam	31	Trousdale	31
Robertson	22, 31, 35	Unicoi	31
Sevier	31	Washington	31
Smith	31	Weakley	23, 35
Stewart	22, 31	White	31
Sullivan	31	Williamson	31
Sumner	22, 31, 35	Wilson	31

VIRGINIA

Amelia	11a, 21	Nansemond	11a
Appomattox	11a, 21	Nottoway	11a, 21
Brunswick	11a, 21	Pittsylvania	11a
Campbell	11a, 21	Prince Edward	11a, 21
Charlotte	11a, 21	Prince George	11a
Cumberland	11a, 21	Russell	31
Dinwiddie	11a, 21	Scott	31
Franklin	11a	Smyth	31
Greensville	11a	Southampton	11a
Halifax	11a	Sussex	11a
Lunenberg	11a, 21	Washington	31
Mecklenburg	11a		

WISCONSIN

Crawford	55	Richland	55
Dane	54	Trempealeau	55
La Crosse	55	Vernon	55

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16822 Filed 11-17-71;8:48 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR TOMATO CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for tomato crop insurance for the 1972 crop year.

OHIO

Darke.	Ottawa.
Fulton.	Putnam.
Henry.	Sandusky.
Lucas.	Wood.

UTAH

Box Elder.	Utah.
Davis.	Weber.
Salt Lake.	

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16823 Filed 11-17-71;8:48 am]

PART 402—RAISIN CROP INSURANCE

Subpart—Regulations for the 1966 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR RAISIN CROP INSURANCE

Pursuant to authority contained in § 402.1 of the above-identified regulations, the following counties have been designated for raisin crop insurance for the 1972 crop year.

CALIFORNIA

Fresno.	Merced.
Kern.	Stanislaus.
Kings.	Tulare.
Madera.	

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16818 Filed 11-17-71;8:48 am]

PART 403—PEACH CROP INSURANCE

Subpart—Regulations for the 1965 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR PEACH CROP INSURANCE

Pursuant to authority contained in § 403.40 of the above-identified regulations, as amended, the following counties have been designated for peach crop insurance for the 1972 crop year.

ALABAMA

Chilton.

ARKANSAS

Cross.	Lee.
Johnson.	St. Francis.

GEORGIA

Peach.	Upson.

NORTH CAROLINA

Cleveland.	Richmond.
Montgomery.	Rutherford.
Moore.	

SOUTH CAROLINA

Aiken.	Laurens.
Allendale.	Lexington.
Barnwell.	Saluda.
Chesterfield.	Spartanburg.
Edgefield.	York.
Greenville.	

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16816 Filed 11-17-71;8:48 am]

PART 404—APPLE CROP INSURANCE

Subpart—Regulations for the 1967 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR APPLE CROP INSURANCE

Pursuant to authority contained in § 404.20 of the above-identified regulations, the following counties have been designated for apple crop insurance for the 1972 crop year.

OREGON

Umatilla.

WASHINGTON

Chelan.	Douglas.
Columbia.	Okanogan.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16804 Filed 11-17-71;8:47 am]

PART 406—CALIFORNIA ORANGE CROP INSURANCE

Subpart—Regulations for the 1963 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR ORANGE CROP INSURANCE

Pursuant to authority contained in § 406.1 of the above-identified regulations, as amended, the following counties have been designated for orange crop insurance for the 1972 crop year.

CALIFORNIA

Fresno.	Tulare.
Kern.	

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16813 Filed 11-17-71;8:47 am]

PART 408—NORTH CAROLINA APPLE CROP INSURANCE

Subpart—Regulations for the 1965 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR APPLE CROP INSURANCE

Pursuant to authority contained in § 408.1 of the above-identified regulations, as amended, the following counties have been designated for apple crop insurance for the 1972 crop year.

NORTH CAROLINA

Alexander.	Wilkes.
Henderson.	

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16803 Filed 11-17-71;8:46 am]

PART 409—ARIZONA-DESERT VALLEY CITRUS CROP INSURANCE

Subpart—Regulations for the 1967 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR CITRUS CROP INSURANCE

Pursuant to authority contained in § 409.20 of the above-identified regulations, the following counties have been designated for citrus crop insurance for the 1972 crop year.

ARIZONA

Maricopa.	Yuma.

CALIFORNIA

Imperial.	Riverside.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16806 Filed 11-17-71;8:47 am]

PART 410—FLORIDA CITRUS CROP INSURANCE

Subpart—Regulations for the 1970 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR CITRUS CROP INSURANCE

Pursuant to authority contained in § 410.1 of the above-identified regulations, the following counties have been designated for citrus crop insurance for the 1972 crop year.

FLORIDA

Brevard.	Marion.
De Soto.	Martin.
Hardee.	Orange.
Hernando.	Osceola.
Highlands.	Pasco.
Hillsborough.	Polk.
Indian River	St. Lucie.
Lake.	Seminole.
Manatee.	

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16807 Filed 11-17-71;8:47 am]

PART 413—TEXAS CITRUS CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR CITRUS CROP INSURANCE

Pursuant to authority contained in § 413.20 of the above-identified regulations, the following counties have been designated for citrus crop insurance for the 1972 crop year.

TEXAS

Cameron.	Willacy.
Hidalgo.	

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16805 Filed 11-17-71; 8:47 am]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Navel Orange Reg. 240]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.540 Navel Orange Regulation 240.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907, 35 F.R. 16359), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 16, 1971.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period November 19, through November 25, 1971, are hereby fixed as follows:

(i) District 1: 689,911 cartons.

(ii) District 2: Unlimited.

(iii) District 3: 163,004 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 17, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71–16857 Filed 11–17–71;11:25 am]

[Lime Reg. 31, Amdt. 1]

PART 911—LIMES GROWN IN FLORIDA

Quality and Size Regulation

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911), regulating the handling of limes grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the Florida Lime Administrative Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of limes, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The recommendations by the Florida Lime Administrative Committee reflect its appraisal of the Florida lime crop and the current and prospective market conditions. The size and grade requirements specified herein are necessary to provide consumers with good quality fruit, consistent with the overall quality of the supply available during the period specified while maximizing returns to the producers pursuant to the declared policy of the act.

(3) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of limes grown in Florida.

Order. In § 911.333 (Lime Regulation 31; 36 F.R. 12507) the introductory text of paragraph (a) and subparagraph (2) thereof are amended to read as follows:

§ 911.333 Lime Regulation 31.

(a) *Order.* During the period November 15, 1971, through April 30, 1972, no handler shall handle:

* * * * *

(2) Any limes of the group known as large fruited or Persian limes (including Tahiti, Bearss, and similar varieties) which do not grade at least U.S. Combination, Mixed Color, with not less than 75 percent, by count, of the limes in any container thereof grading at least U.S. No. 1, Mixed Color: *Provided,* That stem length shall not be considered a factor of grade, and tolerances for fruit affected by decay and for fruit failing to meet the requirements set forth in the U.S. Standards for Persian (Tahiti) Limes shall apply; or

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated November 12, 1971, to become effective November 15, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71–16801 Filed 11–17–71;8:46 am]

[Lime Reg. 5, Amdt. 1]

PART 944—FRUITS; IMPORT REGULATIONS

Limes

Pursuant to the provisions of section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), the provisions of paragraph (a)(2) of § 944.204 (Lime Regulation 5, 36 F.R. 10774) are hereby amended to read as follows:

§ 944.204 Lime Regulation 5.

(a) * * *

(2) Such limes of the group known as large fruited or Persian limes (including Tahiti, Bearss, and similar varieties) grade at least U.S. Combination, Mixed Color, with not less than 75 percent, by count, of limes in any container thereof grading at least U.S. No. 1, Mixed Color: *Provided,* That stem length shall not be considered a factor of grade, and tolerances for fruit affected by decay and for fruit failing to meet requirements set forth in the U.S. Standards for Persian (Tahiti) limes, shall apply;

* * * * *

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective time of this amendment beyond that hereinafter specified (5 U.S.C. 553) in that (a) the requirements of this amended import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), which makes such regulation mandatory; (b) such regulation imposes the same restrictions being made applicable to domestic shipments of limes under amended Lime Regulation 31 (§ 911.333) which becomes effective November 15, 1971; (c) compliance with this amended import regulation will not require any special preparation which cannot be completed by the effective time hereof; and (d) this amendment relieves restrictions on the importation of limes.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated November 12, 1971, to become effective November 15, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71–16862 Filed 11–17–71;8:51 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 71–EA–142, Amdt. 39–1334]

PART 39—AIRWORTHINESS DIRECTIVES

Fairchild Hiller Rotorcraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an Airworthiness Directive applicable to Fairchild Hiller 1100 and FH 1100 type helicopters. There has been a report of a strut failure as a result of fatigue which is believed to have been caused by corrosion. Since this deficiency can exist or develop in helicopters of similar type design, an Airworthiness Directive is being issued which requires the replacement of the strut with a redesigned strut.

Since the foregoing presents a situation which requires expeditious adoption of this amendment, notice and public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

FAIRCHILD HILLER ROTORCRAFT. Applies to Model 1100 and FH1100 Type Helicopters certificated in all categories.

Compliance required as indicated.

To preclude fatigue failure of the transmission mount strut, P/N 24–28031, due to internal corrosion, accomplish the following:

Within the next 30 days after the effective date of this AD, unless already accomplished replace P/N 24–28031 left side, lateral, adjustable transmission strut with P/N 24–28031–11 strut in accordance with section 28 of the FH–1100 Service Manual or an alternate method approved by the Chief, Engineering & Manufacturing Branch, FAA, Eastern Region. Upon installation of MS21252 fork fitting apply RTV–102 sealant or equivalent to the threads of fitting and under AN316–5R retaining nut.

This amendment is effective November 24, 1971.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on November 9, 1971.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.71–16790 Filed 11–17–71;8:45 am]

[Docket No. 71–EA–148; Amdt. 39–1335]

PART 39—AIRWORTHINESS DIRECTIVES

Pratt & Whitney Aircraft Engines

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an Airworthiness Directive applicable to Pratt & Whitney JT9D–3A type aircraft engines.

There have been reports of cracks in the borescope boss weld on the diffuser case of the JT9D–3A engines. This has resulted in rupture of the case assembly and loss of the cowling. Because this condition can exist or develop in other aircraft of the same type design, a telegram was dispatched to all owners and operators of aircraft with JT9D–3A engine installations requiring inspection and replacement where necessary of the borescope weld. Since this situation still exists, an airworthiness directive is being issued to continue the inspection and replacement.

The foregoing situation makes notice and public procedure hereon impractical and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

PRATT & WHITNEY ENGINES: Applies to all Pratt & Whitney Aircraft JT9D–3A turbofan engines which incorporate Part Number 669647 diffuser case assembly.

Compliance required as indicated.

To preclude rupture of the part number 669647 diffuser case assembly as the result of borescope boss weld cracks, accomplish the following:

1. For wet operating JT9D–3A engines with diffuser cases having in excess of 2,500 hours or 600 cycles time in service:

A. Inspect borescope positions 1 and 5 in accordance with paragraph 3 within 50 cycles after receipt of this telegram or 125 cycles since the last inspection, whichever occurs later, and every 125 cycles thereafter.

B. Inspect all other borescope positions in accordance with paragraph 3 within 100 cycles after receipt of this telegram or 250 cycles since the last inspection, whichever occurs later, and every 250 cycles thereafter.

2. For dry operating JT9D–3A engines with diffuser cases having in excess of 2,500 hours or 600 cycles time in service, inspect all borescope positions in accordance with paragraph 3 within 100 cycles after receipt of this telegram or 250 cycles since the last inspection, whichever occurs later, and every 250 cycles thereafter.

3. Inspect borescope boss weld areas of the part number 669647 diffuser case assembly using one of the techniques specified in Pratt & Whitney Aircraft Alert Service Bulletin No. 2901 or any equivalent inspection procedure approved by the FAA, Chief, Engineering and Manufacturing Branch, Eastern Region. If any crack is found, remove the diffuser case from service.

4. Upon submission of substantiating data through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, may adjust the repetitive inspection times specified in this airworthiness directive.

This amendment is effective November 24, 1971, and was effective upon receipt for all recipients of the telegram dated October 8, 1971 which contained this amendment.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on November 9, 1971.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.71–16791 Filed 11–17–71;8:45 am]

[Airspace Docket No. 71–RM–20]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

On September 28, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 19092) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the description of the control zone and transition area at Williston, N. Dak.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendments are hereby adopted, subject to the following change: The mileage recited in line 11 of the transition area as "14¼" is changed to read "14½".

Effective date. These amendments shall be effective 0901 G.m.t., January 6, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Aurora, Colo., on November 10, 1971.

DONALD E. PEARSON,
Acting Director, Rocky Mountain Region.

In § 71.171 (36 F.R. 2055) the following control zone is amended to read as follows:

WILLISTON, N. DAK. (SLOULIN AIRPORT)

Within a 5-mile radius of the Sloulin International Airport (latitude 48°10'35" N., longitude 103°38'10" W.); within 1½ miles each side of the Williston VOR 136° radial, extending from the 5-mile-radius zone to 1½ miles southeast of the VOR; and within 2 miles each side of the 126° bearing from the Sloulin International Airport, extending from the 5-mile-radius zone to 10 miles southeast of the airport.

In § 71.181 (36 F.R. 2140) the following transition area is amended to read as follows:

WILLISTON, N. DAK.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Sloulin International Airport (latitude 48°10'35" N., longitude 103°38'10" W.); within 3½ miles each side of the Williston VOR 316° radial, extending from the 10-mile-radius area to 11½ miles northwest of the VOR; and within 3½ miles each side of the 126° bearing from the Sloulin International Airport, extending from the 10-mile-radius area to 14½ miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface within a 13-mile radius of the Williston VOR, extending from the Williston VOR 203° radial clockwise to the Williston VOR 088° radial, and within 9½ miles southwest and 4½ miles northeast of the Williston VOR 316° radial, extending from the 13-mile-radius area to 18½ miles northwest of the VOR; and within 5 miles southwest and 9½ miles northeast of the 126° bearing from the Sloulin International Airport extending from the 10-mile-radius area to 21½ miles southeast of the airport.

[FR Doc.71–16792 Filed 11–17–71;8:45 am]

[Airspace Docket No. 71–WE–50]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

On October 8, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 19614) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the descriptions of the Tonopah, Nev., control zone and transition area.

Interested person were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendments are hereby adopted without change.

Effective date. These amendments shall be effective 0901 G.m.t., February 3, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on November 9, 1971.

ROBERT O. BLANCHARD,
Acting Director, Western Region.

In § 71.171 (36 F.R. 2055) the description of the Tonopah, Nev., control zone is amended to read as follows:

TONOPAH, NEV.

Within a 5-mile radius of Tonopah Airport (latitude 38°03'30" N., longitude 117°05'00" W.) and within 3.5 miles each side of the Tonopah VORTAC 115° radial, extending from the 5-mile-radius zone to 10 miles southeast of the VORTAC.

In § 71.181 (36 F.R. 2140) the description of the Tonopah, Nev., transition area is amended to read as follows:

TONOPAH, NEV.

That airspace extending upward from 1,200 feet above the surface within 14 miles north and 5 miles south of the 083° and 263° radials of the Tonopah VORTAC extending from 12 miles west to 25.5 miles east of the VORTAC, and within 10 miles south of and parallel to the Tonopah VORTAC 089° radial, extending from the VORTAC to 21.5 miles east of the VORTAC.

[FR Doc.71-16793 Filed 11-17-71;8:46 am]

[Airspace Docket No. 71-WE-56]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the description of the Tucson, Ariz., transition area.

A transition route is being considered between Tucson VORTAC direct to Libby, Ariz., VOR/RBN. In order to provide controlled airspace for the entire route it is necessary to alter the description of the Tucson, Ariz., transition area. Action is taken herein to reflect this change.

Since this change is minor in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary.

In consideration of the foregoing in § 71.181 (36 F.R. 2140) the description of Tucson, Ariz., transition area is amended in part by deleting "• • • excluding the portion within R-2303." at the end of the text.

Effective date. This amendment shall be effective 0901 G.m.t., February 3, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on November 9, 1971.

ROBERT O. BLANCHARD,
Acting Director, Western Region.

[FR Doc.71-16794 Filed 11-17-71;8:46 am]

[Airspace Docket No. 71-GL-8]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone; Correction

In F.R. Doc. 71-14898, on page 19905 in the issue of Wednesday, October 13, 1971, line 2 of the Mount Clemens, Mich., control zone description should be corrected to read "(latitude 42°36'30" N., longitude 82°50'15" ".

Issued in Des Plaines, Ill., on October 22, 1971.

R. O. ZIEGLER,
Acting Director, Great Lakes Region.

[FR Doc.71-16795 Filed 11-17-71;8:46 am]

Chapter V—National Aeronautics and Space Administration

PART 1241—CONTRACT APPEALS

Subpart 1—General Procedures

INTERROGATORIES TO THE PARTIES; CORRECTION

In F.R. Doc. 71-15582 appearing at page 20580 in the issue of Wednesday, October 27, 1971, paragraph (c) of § 1241.117 is corrected to read as follows:

§ 1241.117 Interrogatories to the parties.

• • • • • •

(c) *Form of interrogatories and responses.* The interrogatories shall be addressed to the person or the official or agent of the Government, corporation, partnership or association who is a responsible and authorized representative of the party. The interrogatories may be served upon the attorney representing a party. Each interrogatory shall be answered separately and fully in writing under oath by the party addressed, or, if the party addressed is the Government or a public or private corporation, partnership or association, by an officer or agent authorized to represent the party. Responses to the interrogatories must be filed with the Board and a copy served on the other party within 30 calendar days after service of the interrogatories to which objection has not been made as provided in paragraph (b) of this section and, in the case of interrogatories to which objection has been made, within 30 calendar days after receipt of an order from the Board directing a response to certain interrogatories. The answers are to be signed by the person making them.

• • • • • •

ERNEST W. BRACKETT,
Chairman,
NASA Board of Contract Appeals.

[FR Doc.71-16826 Filed 11-17-71;8:49 am]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of International Commerce, Department of Commerce

[13th Gen. Rev. of Export Regs. (Amdt. 28)]

SUBCHAPTER B—EXPORT REGULATIONS

MISCELLANEOUS AMENDMENTS TO SUBCHAPTER

Parts 368, 369, 371, 373, 375, 379, and 386 are amended to read as set forth below.

(Secs. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959-1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959-1963 Comp.)

Effective date: Section 373.4(b) and Supplement No. 1 to Part 373—November 24, 1971. All other amendments—November 17, 1971.

RAUER H. MEYER,
Director,
Office of Export Control.

PART 368—U.S. IMPORT CERTIFICATE AND DELIVERY VERIFICATION PROCEDURE

1. In § 368.1(a), subparagraph (2) is amended to read as set forth below:

§ 368.1 Effect of regulation.

(a) • • •

(2) *Commodities covered and administering U.S. agencies.*—(i) *Office of Export Control.* The Office of Export Control will receive from importers in the United States the representations regarding the intended destination of commodities and will provide a certification that such representations have been made (a) for commodities under the export control jurisdiction of the Office of Export Control that are identified by the code letter "A" following the Export Control Commodity Number on the Commodity Control List (§ 399.1 of this chapter); (b) by agreement with the Atomic Energy Commission, for commodities classified as "source material," "by-product material," "special nuclear material," or "facilities for the production or utilization of special nuclear material," as defined in the Atomic Energy Act of 1954, as amended, and the regulations of the Atomic Energy Commission (see § 370.10(e) of this chapter); and (c) by agreement with the U.S. Treasury Department for commodities on the U.S. Munitions List (22 CFR Part 121) that do not appear on the more limited U.S. Munitions Import List (26 CFR Part 180).

(ii) *Treasury Department.* The U.S. Treasury Department, Alcohol, Tobacco, and Firearms Division, Washington, D.C. 20224, administers similar procedures with respect to arms, ammunition, and implements of war as enumerated in the U.S. Munitions Import List (26 CFR Part 180).

(iii) *State Department.* The U.S. Department of State, Office of Munitions Control, Washington, D.C. 20520, administers similar procedures with respect to triangular transactions involving any part of the U.S. Munitions List. (See § 368.2(a)(6) for a description of triangular Import Certificates issued by the U.S. Department of Commerce.)

• • • • • •

2. In § 368.2(a), subparagraphs (2) and (5) are amended to read as set forth below.

§ 368.2 International Import Certificate.

(a) • • •

(2) *Where to file.* Except as noted in subparagraphs (4) and (5) of this paragraph, all requests for certification and validation of International Import Certificates or requests to amend such Certificates may be filed with the Office of Export Control (Attn.: 852), U.S. Department of Commerce, Washington, D.C. 20230, or with any of the following field offices of the U.S. Department of Commerce:

Boston.	Miami.
Buffalo.	New Orleans.
Chicago.	New York.
Cincinnati.	Philadelphia.
Cleveland.	Phoenix.
Dallas.	Pittsburgh.
Detroit.	Portland, Oreg.
Houston.	San Francisco.
Jacksonville.	Savannah.
Los Angeles.	Seattle.

• • • • • •

(5) *Certain U.S. munitions list commodities.* For commodities on the U.S. Munitions List that do not appear on the more limited U.S. Munitions Import List, a request for certification and validation of an International Import Certificate shall be submitted, in triplicate directly to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230.

• • • • • •

3. In § 368.3(a)(1), subdivision (ii) is amended to read as set forth below:

§ 386.3 Delivery verification certificate.

(a) • • •

(1) • • •

(ii) The responsibility of a person or firm executives a U.S. International Import Certificate for providing the foreign exporter with confirmation of delivery of the commodities includes instances where the commodities are resold or transferred to another U.S. person or firm prior to actual delivery to the United States or to an approved foreign destination. The person who executed the Certificate shall secure in writing from the U.S. purchaser or transferee, and retain in his files for 2 years, (a) acceptance of the obligation to provide him with either the Delivery Verification Certificate (or other official government confirmation of delivery if a Delivery Verification Certificate is unobtainable) or assurance that this document was submitted to the Office of Export Control; and (b) an undertaking that each succeeding U.S. transferee or purchaser will assume the same obligation or assurance. In each case the seller or transferor shall transmit to the U.S. purchaser or transferee the identification number of the International Import Certificate covering the export from the foreign country and request that they pass it on to any other U.S. purchasers or transferees.

• • • • • •

PART 369—RESTRICTIVE TRADE PRACTICES OR BOYCOTTS

4. In § 369.2(b), subparagraph (2) is amended to read as set forth below:

§ 369.2 Reporting requirements.

• • • • • •

(b) • • •

(2) *Multiple transactions report.* Instead of submitting a report for each transaction regarding which a request is received, the exporter may submit a report covering all transactions regarding which requests are received from persons or firms in a single country during a single calendar quarter. This report shall be made by letter to the Office of Export Control no later than the 15th day of the first month following the calendar quarter covered by the report. If the exporter has received requests from persons or firms of more than one foreign country, a separate report shall be submitted for each country. Each letter shall include the following information:

(i) Name and address of U.S. exporter submitting report;

(ii) Calendar quarter covered by report;

(iii) Name of country(ies) against which the request is directed;

(iv) Country of requester;

(v) Number of transactions which restrictions were applicable;

(vi) Type(s) of request(s) received (questionnaire, attach copy. If other than questionnaire, give the type of document or other form of request and the specific information or action requested.);

(vii) General description of the types of commodities or technical data covered and the total dollar value thereof; and

(viii) Whether or not the U.S. exporter intends to comply with the request(s). (Submission of the information required by this subdivision would be helpful to the U.S. Government but is not mandatory.)

PART 371—GENERAL LICENSES

Section 371.17 is amended as set forth below:

§ 371.17 General License GLR; return or replacement of certain commodities.

A general license designated GLR is established, authorizing, subject to the provisions of this § 371.17, the return of certain commodities to the destination from which imported into the United States or the replacement of defective or unacceptable parts or equipment that were exported from the United States under a validated export license. When an export is made under the provisions of paragraphs (a) through (e) of this section, the U.S. Customs Entry Number (if any), the country from which the commodities were imported, and the port of entry shall be shown on the Shipper's Export Declaration.

• • • • • •

(f) *Replacements for defective or unacceptable U.S.-origin parts or equipment.* (1) Any commodity may be exported under the provisions of this general license to replace a defective or unacceptable U.S.-origin commodity subject to the following conditions:

• • • • • •

(v) No commodity shall be exported to replace any part of equipment that is worn out from normal use, nor may any commodity be exported to be held in stock abroad as spare parts or equipment for future use; except that if a stock of parts has previously been exported under a validated license expressly for use as spare parts, any such parts found to be defective or otherwise unacceptable may be replaced under the provisions of General License GLR even though they may be intended ultimately as replacements for parts worn out in normal use.[1]

(vi) The replacement commodity shall not be technologically advanced over that to be replaced;

(vii) The commodity to be replaced shall have been previously exported in its present form under a validated export license or as a component of a commodity that was exported under a validated export license;

• • • • • •

PART 373—SPECIAL LICENSING PROCEDURES

6. The following commodity is added to the listing in § 373.4(b):

§ 373.4 Foreign-Based Warehouse Procedure.

• • • • • •

(b) *Exports to the foreign-based warehouse.* • • •

• • • • • •

862 High resolution photographic film and plates capable of a resolution of more than 500 lines/mm. (measured with a 1000:1 high contrast test object); metal-clad photographic film and plates, whether or not emulsion or photoresist coated; and other photographic film plates especially designed for use in the production of masks for microelectronic circuitry manufacture.

7. Section 373.7(j) is amended to read as set forth below:

§ 373.7 Service Supply (SL) Procedure.

• • • • • •

(j) *Records*—(1) *U.S. Exporter.* A U.S. exporter shall prepare records of all exports made under the Service Supply (SL) Procedure containing, as a minimum, the information required by paragraph (k) of this section. Such records shall be retained for a period of 2 years.

(2) *Foreign-based service facility or foreign manufacturer.* A foreign-based service facility or a foreign manufacturer shall prepare, and retain for a period of 2 years, records of all commodities received under the provisions of the Service Supply (SL) Procedure, as well as all such commodities it has used or supplied domestically or reexported. All such records shall be made available to U.S. Government officials for inspection, upon request, in accordance with the provisions of § 387.11 of this chapter. As a minimum these records shall show:

(i) The Form IA-544 approval number and the full name and address of the individual or firm that supplied the parts, as well as the individual or firm that received, used, or reexported the parts;

[1] The Service Supply (SL) procedure (§ 373.7) provides a licensing procedure for the prompt servicing of equipment abroad.

(ii) A description of the equipment on which the parts were used or for which they were intended;

(iii) A description of the parts, including quantity and value; and

(iv) The date the parts were received, used, supplied, or reexported.

In the event that a foreign governmental regulation or statute prohibits a U.S. Government representative from inspecting these records in the foreign country, the Office of Export Control may, in substitution, require the submission of specified records, documents, or both.

8. The following commodity is added to the listing in Supplement No. 1 to Part 373, Supplement No. 1—Commodities Excluded From Certain Special Licensing Procedures

862(4a)	High resolution photographic film and plates capable of a resolution of more than 500 lines/mm. (measured with a 1000:1 high contrast test object); metalclad photographic film and plates, whether or not emulsion or photoresist coated; and other photographic film and plates specially designed for use in the production of masks for micro-electronic circuitry manufacture.

PART 375—DOCUMENTATION REQUIREMENTS

9. In § 375.1, paragraphs (c) (2) and (f) (2) are amended to read as set forth below:

§ 375.1 International Import Certificate and Delivery Verification Certificates.

* * * * * * *

(c) * * *

(2) A license application to export commodities classified in a single entry on the Commodity Control List, the total value of which, as shown on the export order, is less than $1,000, except where a multiple transactions Import Certificate is filed in accordance with paragraph (f) (2) of this section;

* * * * * * *

(f) * * *

(2) *Multiple Transactions Import Certificate.* A multiple transactions import certificate is an officially authenticated original of an import certificate which covers more than one proposed transaction. If a multiple transactions import certificate specifies the amount of the commodities (in terms of either quantity or value), all export licenses, including those covering a commodity valued at less than $1,000, will be charged against the amount specified. The applicant shall attach the original multiple transactions import certificate, bearing the official authentication of governmental authorities in the importing country, to his first application the certificate is intended to support. A reproduced copy (photocopy or other type) of the import certificate is not acceptable. On each subsequent application submitted against that certificate, one of the following certifications, as appropriate, signed by the applicant, shall be inserted in the space entitled "Additional Information" or on an attachment:

* * * * * * *

10. In § 375.2, paragraphs (b) (2) (ii) and (e) (6) are amended to read as set forth below:

§ 375.2 Ultimate Consignee and Purchaser Statement.

* * * * * * *

(b) * * *

(2) * * *

(ii) The total value of commodities classified under a single entry on the Commodity Control List (as shown on the export order covering the application) is less than $1,000. However, these total value exemptions do not apply to an application supported by a Form FC–843.

* * * * * * *

(e) *Information required on form.* * * *

(6) *Validity period.* The original of a single transaction statement shall be submitted to the Office of Export Control with the first applicable license application. The period within which the statement may be submitted to the Office of Export Control is limited to 90 days after it is signed by the consignee or purchaser, whichever date is later. There is no specific time limit for submitting the multiple transactions statement to the Office of Export Control, but such statement may not be used to support license applications filed after the termination date shown in Item 2. The consignee/purchaser may enter in Item 2 whatever termination date he chooses up through June 30 of the second year following the year in which he signs the Form FC–843. For example, and FC–843 signed by the consignee and purchaser any time between January 1, 1971, and December 31, 1971, could be used to support license applications filed on or before June 30, 1973, if June 30, 1973 is entered in Item 2. During its validity period, a multiple transactions statement will be deemed as supporting all exports of the specified commodities from the U.S. exporter to the named consignee and purchaser for which license applications are submitted to the Office of Export Control, including those that are based on export orders of less than $1,000 and would therefore not be subject to this same requirement under the single transaction (FC–842) procedure.

PART 379—TECHNICAL DATA

11. The footnote to § 379.3(c) (2) is amended to read as set forth below:

§ 379–3 General License GTDA: Technical data available to all destinations.

* * * * * * *

(c) * * *

(2) * * *

[1] The term "early publication country" used in this sentence and in this context only refers to Belgium, Costa Rica, Denmark, Ecuador, Finland, France, Honduras, Iceland, Jamaica, Japan, Luxembourg, Netherlands, Nicaragua, Norway, Panama, Portugal, Sweden, Trinidad, Turkey, Republic of South Africa, Uruguay, Venezuela, and West Germany (Federal Republic of Germany).

PART 386—EXPORT CLEARANCE

12. Section 386.1 paragraphs (c) (2) (i) and (d) are amended to read as set forth below:

§ 386.1 General Export Clearance Requirements.

* * * * * * *

(c) * * *

(2) *General License Shipments and shipments without an export license*—(i) *Declaration required.* Unless otherwise set forth specifically by the Export Control Regulations or by the Bureau of Census Foreign Trade Statistics Regulations (see Subpart D), the sender shall present to the post office at the place of mailing, a duly executed Declaration for each shipment to any destination under a general license (or to Canada or any other destination for which an export license is not required), from one business concern to another business concern when the shipment consists of a commodity(ies) valued at more than $250. A Declaration is not required for noncommercial shipments.

* * * * * * *

(d) *Exports by means other than mail.* Except as provided in the "NAR" and Monthly Reporting procedures (§§ 386.3 (v) and (x)), the exporter or his agent must comply with the following requirements:

(1) *For validated license shipments.* The validated license and the related duly executed Shipper's Export Declaration must be presented to, examined, and authenticated by customs (see § 386.3); and a copy of the authenticated Declaration, returned to the exporter or his agent by customs, must be delivered to the exporting carrier before departure of the carrier.

(2) *For general license shipments.* (i) A duly executed Declaration must be presented to and authenticated by customs (see § 386.3), and a copy of the authenticated Declaration, returned to the exporter or his agent by customs, must be delivered to the exporting carrier before departure of the carrier.

(ii) If the filing of a Declaration is not required by the Office of Export Control or Bureau of the Census, an oral declaration describing the commodity to be exported and identifying the applicable general license shall be made to customs.

(iii) A shipment to Country Group T, V, or X does not require a Declaration if the shipment is valued at $250 or less. As used here "shipment" means all commodities classified under a single seven-digit Schedule B Number, shipped on the same carrier, from one exporter to one importer.

(iv) Other exceptions to the requirement for a Declaration are set forth in this Part 386 and in Part 371 of this chapter. A complete list of such exceptions is set forth in Subpart D of the Census Bureau Foreign Trade Statistics Regulations.

(3) *For shipments requiring no export license.* Unless otherwise set forth specifically in the Export Control Regulations or in the Bureau of the Census Foreign Trade Statistics Regulations (see Subpart D), a Declaration is required for exports to Canada or to any other destination not requiring either a validated or a general export license. The Declaration in such cases, however, need not be authenticated or returned to the exporter or carrier.

NOTE: Section 386.1(d) places the responsibility on the exporter or his agent to deliver a required Shipper's Export Declaration to the exporting carrier prior to the departure of the carrier. If an exporting carrier finds that a required Declaration has not been filed by the time of the carrier's scheduled departure, the exporting carrier is not, solely as the result of such failure, obligated to delay departure or to offload the cargo. This does not, of course, limit the authority of the Office of Export Control and customs offices to require the unloading or return of cargo under the circumstances set forth in §§ 386.9 and 386.10.

13. In § 386.3, paragraph (a) is amended to read as set forth below:

§ 386.3 Shipper's Export Declaration.

(a) *Authentication requirement.* All copies of Shipper's Export Declarations that are required to be presented for authentication to a customs office shall be authenticated by the customs office at the port of export or port of origin, unless the shipment is eligible for, and the exporter chooses to use, the alternate procedure set forth in paragraph (v) of this section, or unless the shipment requires neither as validated nor a general export license. (See § 386.1(d)(3). No customs officer shall authenticate a Declaration unless he is satisfied, after comparing it with the applicable validated license or general license and with such other relevant information as he may have that:

(1) Export of the commodity(ies) described in the Declaration is authorized under the license;

(2) Statements in the Declaration are identical in all respects with the contents of the validated license, or with the terms, provisions, and conditions of the general license;

(3) Statements in the Declaration are set forth in a manner that permits customs officers (or other authorized persons to whom the Declaration may be shown or delivered) to determine whether the export complies with the contents of the validated license, or the terms, provisions, and conditions of the general license; and

(4) The shipment is or will be available for inspection.

* * * * * * *

14. In § 386.8(f), subparagraph (2) is amended to read as set forth below:

§ 386.8 Customs clearance at ports of origin.

* * * * * * *

(f) *Procedure at port of export.* * * *

(2) *Examination of shipments.* Notwithstanding any other provision of this § 386.8, the customs office at the port of export or an official of the Office of Export Control is authorized to detain any shipment held for review of the Declaration or for physical examination of the goods, whenever such action is deemed to be necessary to assure compliance with the Export Control Regulations.

* * * * * * *

[FR Doc.71–16844 Filed 11–17–71;8:52 am]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release No. 33–5209]

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

Definitive Guide Relating to "Insurance Premium Funding" Programs

The Securities and Exchange Commission has authorized publication of the following registration guide which sets forth the position of the Commission's Division of Corporation Finance of requiring in registration statements under the Securities Act of 1933 certain disclosure involved in the offering of programs for the funding of life insurance premiums.

These programs which are discussed in Securities Act Release No. 4491, dated May 22, 1962 (27 F.R. 5190) involve the offering of securities, usually mutual fund shares, and the use of such shares as collateral for a loan, the proceeds of which are then used to pay the premium on a life insurance policy which is sold to the customer at or about the same time. The Commission has taken the position that such a program involves an investment contract which is a security under the Securities Act of 1933.

The text of the guide follows:

57. Registration Statements Relating to "Insurance Premium Funding" Programs.

1. The calculation of the registration fee for registration statements relating to insurance premium funding programs should be based on all elements of the program, including the cost of the mutual fund shares plus the cost of life insurance premiums.

2. The introductory section of the prospectus should indicate prominently, preferably as the first item discussed, that the effect of a decline in the value of mutual fund shares pledged as collateral, would be a call to furnish additional shares as collateral, which if not furnished would result in the termination of the program and the sale of the collateral.

3. The registrant's prospectus must be accompanied by a prospectus of each mutual fund used in any hypothetical tabular illustration of the 10-year results of a program. If the tabular data is not shown for all funds offered, the mutual funds so illustrated should include the lowest performer among those offered. The name of the fund or funds should be stated. If during the past 3 years the registrant has discontinued offering a fund whose performance has been less than the lowest now shown, this fact should be disclosed.

4. The tabular data showing performance of mutual funds should be based on a funding program of the smallest size offered.

5. In the tabular illustration of program results, a column should be included reflecting the net value of the program to a participant upon termination (value of the program to participant upon termination minus the accumulated debt for insurance premium and interest). If the table includes a column showing the difference between cost of investment (including borrowings) and value at termination then the foregoing column need not be included.

6. In the forepart of the prospectus, preferably under the introductory statement, there should be set forth a summary, as described below, with an appropriate cross reference to the applicable hypothetical tables referred to contained elsewhere in the prospectus.

SUMMARY

	Plan A	Plan B	Plan C
Total payments made during the period set forth in the hypothetical table	$	$	$
Total liquidating value of mutual fund shares upon termination			
Plus: Cash surrender value of life insurance			
Less: Amount needed for repayment of loan for insurance premium and interest			
Net value			
Net gain or (loss) if program liquidated			

NOTE: If the issuer has been selling programs for a period less than that covered by the hypothetical tables and if the results for such shorter period would not be as favorable, the table should be supplemented with a statement of what the results would have been for the shorter period.

By the Commission, November 8, 1971.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71–16706 Filed 11–17–71;8:45 am]

Title 6—ECONOMIC STABILIZATION

Chapter III—Price Commission

PART 300—PRICE AND RENT STABILIZATION

Regulated Public Utilities

The purpose of the amendment contained in item 1 is to change § 300.16 of Title 6, Chapter III, Code of Federal Regulations, to provide that a regulated public utility which had gross receipts of $100 million or more during its most recent fiscal year shall inform the Price Commission of all requests for rate increases. The amendment contained in item 1 further provides that the Price Commission reserves the right to review and limit the amount of any such requested increase, and to review and limit the amount of any increase approved by a regulatory agency or other appropriate legal authority, or other authorized increase, for regulated public utilities which

had revenues between $50 and $100 million during its most recent fiscal year.

1. Paragraph (a) of § 300.016 of Title 6, Chapter III, Code of Federal Regulations, is hereby amended to read as follows:

§ 300.016 Regulated public utilities.

(a) *In general.* A person which is a regulated public utility as defined in section 7701(a)(33) of the Internal Revenue Code of 1954 (26 U.S.C. sec. 7701(a)(33)) may charge a price, rate, or tariff in excess of the base price if such increase has been approved by a regulatory agency or other appropriate legal authority. A regulated person who had revenues of $100 million or more during its most recent fiscal year shall inform the Price Commission of all requests for rate increases and immediately notify the Commission in writing of any agency order granting an increase and of any other authorized increase. A regulated person who had revenues between $50 and $100 million during its most recent fiscal year shall immediately notify the Commission in writing of any agency order granting an increase and of any other authorized increase. In order to insure that the goals of the economic stabilization program are attained, the Price Commission reserves the right to review and limit the amount of any such requested increase, ordered increase, or other authorized increase.

* * * * *

Because the purpose of this Price Commission amendment is to provide immediate guidance as to price stabilization rules applicable after November 13, 1971, it is hereby found impracticable to issue this Price Commission regulation with notice and public procedure thereon under 5 U.S.C., sec. 553(b), or subject to the effective date limitation of 5 U.S.C., sec. 553(d).

This amendment shall become effective as of November 14, 1971.

Dated: November 17, 1971.

C. JACKSON GRAYSON, JR.,
Chairman of the Price Commission.

[FR Doc.71-16988 Filed 11-17-71;12:11 pm]

Proposed Rule Making

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 63]

[Docket No. 10380; Notice 71-37]

FLIGHT ENGINEER AERONAUTICAL EXPERIENCE REQUIREMENTS

Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending Appendix C to Part 63 of the Federal Aviation Regulations to allow, as to a student in an approved flight engineer course who holds at least a commercial pilot certificate with an instrument rating, the substitution of airplane simulator time, or flight engineer training device time (no more than 15 hours), for all 10 hours of flight instruction time in an airplane now required by paragraph (a)(3)(i).

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC-24, 800 Independence Avenue SW., Washington, DC 20591. All communications received on or before January 17, 1972, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

By letter of April 24, 1970, American Airlines requested an exemption from certain provisions of Part 63 including paragraph (a)(3)(i) and (iv) of Appendix C. On May 22, 1970, the petitioner requested that its request as to paragraphs (a)(3)(i) and (iv) be treated as a petition for rule making. This notice of proposed rule making is responsive thereto.

One method by which an applicant for a flight engineer certificate may satisfy the aeronautical experience requirements of § 63.37 is successful completion of an approved flight engineer ground and flight course of instruction as provided in Appendix C to that Part. Paragraph (a)(3)(i) of Appendix C provides that the flight training curriculum in a flight engineer training course must include at least 10 hours of flight instruction in an aircraft specified in § 63.37(a). Paragraph (a)(3)(iv) of Appendix C provides that this flight training time may be reduced at a ratio of 1 hour of flight time to 2 hours of airplane simulator time or to 3 hours of flight engineer training device time (but not to less than 5 hours of flight time) if the Administrator finds the simulator or flight engineer training device accurately reproduces the design, function, and control characteristics, as pertaining to the duties and responsibilities of a flight engineer on the type of airplane to be flown. Several exemptions from paragraphs (a)(3)(i) and (iv) have been granted to air carriers.

A flight engineer student holding at least a commercial pilot certificate with an instrument rating has passed written tests on general operating and air traffic rules, meteorology, theory of flight, operating and maintaining aircraft, and emergency procedures; and he must have logged at least 200 hours of flight time, including at least 100 hours as pilot in command and at least 40 hours of instrument time. This extensive flight experience indicates knowledge of the various conditions and phenomena associated with flight, with little need for further experiencing the conditions of noise, vibrations, and other environmental conditions associated with actual flight. It is considered that in such a case the substitution of airplane flight simulator time for all or a portion of the 5 hours now required as a minimum of actual flight instruction time, will be appropriate for the purpose of satisfying aeronautical experience requirements for a flight engineer certificate.

It is proposed, therefore, to allow, as to a student in an approved flight engineer course who holds at least a commerical pilot certificate with an instrument rating, the substitution of airplane simulator or flight engineer training device time, at the existing ratios, for all 10 hours of flight instruction training time now required by paragraph (a)(3)(i) of Appendix C. In such a case, however, the substitution of flight engineer training device time would be limited to 15 hours at the ratio of 3 to 1. In effect, this means that the additional substitution that would be allowed by this proposal would be the substitution of only airplane simulator time for actual flight instruction time. This limitation is proposed because, unlike a flight engineer training device, the airplane simulator provides training on the broader scale of an entire "crew concept" basis.

In consideration of the foregoing, it is proposed to amend paragraph (a)(3)(iv) of Appendix C to Part 63 of the Federal Aviation regulations to read as follows:

APPENDIX C

FLIGHT ENGINEER TRAINING COURSE REQUIREMENTS

(a) *Training course outline.* * * *

(3) *Flight course outline.* * * *

(iv) If the Administrator finds a simulator or flight engineer training device to accurately reproduce the design, function, and control characteristics, as pertaining to the duties and responsibilities of a flight engineer on the type of airplane to be flown, the flight training time may be reduced by a ratio of 1 hour of flight time to 2 hours of airplane simulator time, or 3 hours of flight engineer training device time, as the case may be, subject to the following limitations:

(a) Except as provided in subdivision (b) of this subparagraph, the required flight instruction time in an airplane may be not less than 5 hours.

(b) As to a flight engineer student holding at least a commercial pilot certificate with an instrument rating, airplane simulator or a combination of airplane simulator and flight engineer training device time may be substituted for up to all 10 hours of the required flight instruction time in an airplane. However, flight engineer training device time alone may not be substituted for more than 5 of those hours.

* * * * *

These amendments are proposed under the authority of sections 313(a), 601, and 602 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1422), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on November 11, 1971.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[FR Doc.71-16796 Filed 11-17-71;8:46 am]

Federal Railroad Administration

[49 CFR Parts 233, 234]

[Docket No. FRA Signal-4, Notice 1]

SIGNAL REPORTS

Notice of Proposed Rule Making

The Federal Railroad Administration (FRA) is considering amending Parts 233 and 234 of Title 49, Code of Federal Regulations.

The proposed revision would:

(1) Consolidate both parts into a single part;

(2) Simplify annual reports by replacing the three separate forms now required with a single form;

(3) Require signal failures to be reported within 5 days of occurrence, instead of 30 days after the end of the calendar month in which the failure occurred;

(4) Add a new requirement that "no failure" months be reported within 10

days after the end of each calendar month in which no signal failure occurs;

(5) Set forth the applicable statutory penalties for violations.

FRA believes that these changes will bring about more effective administration of section 25 of the Interstate Commerce Act, 49 U.S.C. 27, commonly referred to as the Signal Inspection Act.

Interested persons are invited to participate by submitting written data, views, or comments. Communications should identify the regulatory docket number and notice number, and should be submitted in triplicate to the Docket Clerk, Office of Hearings and Proceedings, Federal Railroad Administration, Attention: Docket No. FRA Signal–4, 400 Seventh Street SW., Washington, DC 20590. Communications received before December 15, 1971, will be considered by the Federal Railroad Administrator before taking final action. All comments received will be available for examination by interested persons at any time during regular working hours in Room 5100, Nassif Building, 400 Seventh Street SW., Washington, DC. The proposals contained in this notice may be changed in light of comment received.

In consideration of the foregoing, it is proposed to amend Part 233 and revoke Part 234 as set forth below.

Issued in Washington, D.C., on November 11, 1971.

JOHN W. INGRAM,
Federal Railroad Administrator.

PART 233—SIGNAL SYSTEMS REPORTING REQUIREMENTS

Sec.
233.1 Scope.
233.3 Application.
233.5 Accidents resulting from signal failure.
233.7 Signal failure reports.
233.9 Annual reports.
233.11 Civil penalty.
233.13 Criminal penalty.

AUTHORITY: The provisions of this Part 233 issued under secs. 12, 20, 24 Stat. 383, 386, as amended, sec. 441, 41 Stat. 498, as amended, sec. 6 (e), (f), 80 Stat. 939, 49 U.S.C. 12, 20, 27, 1655.

§ 233.1 Scope.

This part prescribes reporting requirements with respect to methods of train operation, interlocking and controlled points, automatic train stop, train control and cab signal systems, and other similar appliances, devices, methods and systems.

§ 233.3 Application.

This part applies to each common carrier by railroad subject to section 25 of the Interstate Commerce Act, 49 U.S.C. 27.

§ 233.5 Accidents resulting from signal failure.

Each carrier shall immediately report by telegram to the Director, Bureau of Railroad Safety, Federal Railroad Administration, Washington, D.C. 20591, each accident described in § 225.14 of this chapter in which an appliance, method, or system subject to this part fails to indicate or function as intended. This notice should describe the failure and the role it played in the accident.

§ 233.7 Signal failure reports.

(a) Each carrier shall report, within 5 days, each appliance, device, method or system subject to this part which fails to indicate or function as intended. Form FRA F6180–14, Signal Failure Report,[1] must be used for this report and must be completed in accordance with instructions printed on the form.

(b) Whenever there have been no failures of the nature described in paragraph (a) of this section, on the line of a carrier in a calendar month, the carrier shall report this fact on Form FRA 6180–14 within 10 days after the end of that calendar month.

§ 233.9 Annual reports.

Before January 16 of each year, each carrier shall file a report for the preceding calendar year on Form FRA F6180–47, Signal Systems Annual Report,[1] in accordance with instructions and definitions printed on the form.

§ 233.11 Civil penalty.

Each carrier that fails or refuses to file reports required by this part is liable to a civil penalty of $100 for each offense, as prescribed by section 25 of the Interstate Commerce Act, 49 U.S.C. 27. Each day a failure or refusal continues is a separate offense.

§ 233.13 Criminal penalty.

Whoever knowingly and willfully—

(a) Makes, causes to be made, or participates in the making of a false entry in reports required to be filed by this part; or

(b) files a false report or other document required to be filed by this part;

Is subject to a $5,000 fine and two years imprisonment as prescribed by section 20 of the Interstate Commerce Act, 49 U.S.C. 20.

[FR Doc.71–16788 Filed 11–17–71;8:45 am]

[1] Filed as part of original document.

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 21]

[Docket No 19309; File Nos. 19393–19415–LJ–60X]

MICROWAVE RADIO FACILITIES

Grant of Applications; Extension of Time

Order. In the matter of Preston Trucking Co., Inc., Preston, Md., on reconsideration of grant of applications for microwave radio facilities in the motor carrier radio service. Inquiry into certain arrangements for cooperative use of private microwave systems.

1. On November 11, 1971, Transportation Microwave Corp. filed a petition for extension of time for filing reply comments in this proceeding. It asks that the time for replies be extended from November 15, 1971, to November 29, 1971. In support, it states the additional time is needed because of the number of comments which have been filed and the inherent complexity of the subject matter of the rule making.

2. Because of the importance of this proceeding and the desire to see that all parties have a full opportunity to formulate and present their views on the issues, and, further, in view of the fact that petitioner asks only eight additional working days for the purpose, its request will be granted.

3. Accordingly, pursuant to the provisions of §§ 1.45(e) and 0.331(a)(4) of the Commission's rules: *It is ordered*, That the time for filing reply comments in the above-entitled proceeding is extended to November 29, 1971.

Adopted and released; November 12, 1971.

[SEAL] VERNON A. SPRING,
Acting Chief, Safety and Special Radio Services Bureau.

[FR Doc.71–16856 Filed 11–17–71;8:52 am]

Notices

DEPARTMENT OF THE INTERIOR

Office of the Secretary

HAROLD M. McCLURE, JR.

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of November 5, 1971.

Dated: November 5, 1971.

HAROLD M. McCLURE, JR.

[FR Doc.71–16843 Filed 11–17–71;8:50 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. S–566]

THEODORE C. BALLEW

Notice of Loan Application

NOVEMBER 11, 1971.

Theodore C. Ballew, 528 Southwest 294th Street, Federal Way, Washington 98002, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel, about 32 feet in length, to engage in the fishery for salmon.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

ROBERT W. SCHONING,
Acting Director.

[FR Doc.71–16830 Filed 11–17–71;8:49 am]

LOANS TO COMMERCIAL FISHERMEN

Intent To Request Proposals for Master Hull Policies

NOVEMBER 11, 1971.

Under the terms of the mortgages utilized in connection with loans to commercial fishermen authorized in section 4 of the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742c) and Reorganization Plan No. 4 of 1970 (35 F.R. 15627), a mortgagor is required to obtain, among other things, hull insurance satisfactory to the Secretary of Commerce. Some of the basic requirements as respects the hull insurance coverage are that (a) the United States of America be the sole loss payee; (b) the vessel be insured for its full commercial value but in no event less than 110 percent of the outstanding balance of the note secured by the mortgage; and (c) the policy contain satisfactory Inchmaree and Breach of Warranty Clauses. In the past, as a service to our borrowers and to potential borrowers, the interested public was notified that the Commercial Fishermen's Inter-Insurance Exchange had a Master Hull Policy which, both in form and substance, met the requirements of our mortgage. This notice was merely informational and did not require the utilization of said Master Hull Policy. This Master Hull Policy expires on January 1, 1972.

The National Marine Fisheries Service in fulfilling its obligations under the Fish and Wildlife Act of 1956, as amended and Reorganization Plan No. 4 of 1970, desires to again notify the interested public of the existence of any Master Hull Policies which may be available to commercial fishing vessel owners or operators whose vessels serve as collateral for fisheries loans. The name of any qualifying insurance company submitting a Master Hull Policy, found acceptable for use in connection with the National Marine Fisheries Service lending program, will be placed in an informational release along with the applicable premium charges. While this release will be distributed to the interested public there will be no compulsion that a borrower utilize any Master Hull Policy listed in such release.

Notice is hereby given of the intent to issue a request for such proposals. Interested persons may submit written comments, suggestions or objections with respect to this request for proposals to the Director, National Marine Fisheries Service, Department of Commerce, Interior Building, Washington, D.C. 20235, by December 15, 1971.

ROBERT W. SCHONING,
Acting Director.

[FR Doc.71–16831 Filed 11–17–71;8:49 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

PUBLIC HEALTH SERVICE; HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

The Secretary, upon the recommendation of the Administrator, HSMHA, has reorganized the offices within the Office of the Administrator and has created a new component entitled Comprehensive Health Planning Service (3000). The reorganization created the following offices or positions:

Office of Special Projects (3A0107).
Office of Equal Employment Opportunity (3A0108).
Deputy Administrator for Prevention and Consumer Services (3A06).
Deputy Administrator for Health Services Delivery (3A07).
Deputy Administrator for Development (3A08).
Deputy Administrator for Mental Health (3A09).
Office of Operational Analysis (3A3104).
Associate Administrator for Regional Offices (3A37).

The reorganization also affects the following offices or positions:

(a) The Assistant Administrator for Management (2019) now is Associate Administrator for Management (3A19).

(b) The Assistant Administrator for Program Planning and Evaluation (2031) now is Associate Administrator for Program Planning and Evaluation (3A31).

(c) The Assistant Administrator for Resource Development (3A03) and the Assistant Administrator for Agency Goals (3A05) now are placed under the direction of the Associate Administrator for Program Planning and Evaluation (3A31).

(d) The Office of the Assistant Administrator for Organization Development (3A04) is abolished.

The Office of the Assistant Administrator for Information (3A17), the Office of the Assistant Administrator for Legislation (3A35), and the Office of Personnel remain unchanged.

The organization and functions statement to execute the above reorganization of the Office of the Administrator, HSMHA, and the creation of a new organization component, the Comprehensive Health Planning Service (3Q00), are introduced by and follow the next paragraph.

Part 3 (Health Services and Mental Health Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department

of Health, Education, and Welfare (33 F.R. 15953, October 30, 1968), as amended, is hereby amended with regard to section 3–B, *Organization*, as follows:

Delete the following three paragraphs:

Office of Resource Development (3A03)

Office of Organization Development (3A04)

Office of Agency Goals (3A05)

Insert the following six paragraphs:

Office of Special Projects (3A0107). (1) Plans and directs on behalf of the Administrator such special programs as International Health and Appalachian Health which cut across organizational and program lines or which require the coordination of HSMHA-wide resources and efforts; (2) directs and coordinates the provision of expert program consultation and technical assistance to grant applicants with proposals requiring conjoint program and financial participation by two or more HSMHA operating programs; (3) initiates and maintains liaison with other Government agencies with which HSMHA has program relationships (such as OEO and the Departments of Labor and Agriculture) in order to ensure that their policy formulation and program development are compatible with HSMHA goals and to provide a formal channel to the Administrator by which interagency policy issues can be resolved; (4) monitors progress and resolves problems that may arise in connection with continuing intra-HSMHA activities requiring cooperation by two or more HSMHA operating programs; (5) provides a direct communication link between the public and the Office of the Administrator on problems or complaints about matters for which HSMHA has responsibility; and (6) provides staff services for the Office of the Administrator with respect to the designation of Special Projects as well as the assignment of project monitors and project managers for such projects.

Office of Equal Employment Opportunity (3A0108). (1) Plans, directs, and coordinates equal employment opportunity programs covering Headquarters and field employees; (2) provides staff advice to the Administrator, and other key officials throughout the Health Services and Mental Health Administration with respect to policies, plans, procedures, regulations, and reports pertaining to the general equal employment opportunity policy of the Federal Government and the Department's programs established under Executive Order 11246; (3) plans and develops programs and procedures designed to eliminate discriminatory employment practices; (4) receives and provides for the investigation of complaints of alleged discrimination; and (5) maintains liaison with the Office of the Secretary, the Civil Service Commission, and other organizations outside HSMHA concerned with equal employment opportunity.

Office of the Deputy Administrator for Prevention and Consumer Services (3A06). Under the direction of the Deputy Administrator for Prevention and Consumer Services—who serves as deputy to the Administrator in his assigned program area—plans, coordinates, evaluates, and provides leadership on a HSMHA-wide basis to prevention and consumer services activities: (1) Serves as advisor to the Administrator within his functional area, advising on program goals, objectives, fiscal priorities, and key issues; (2) in cooperation with the Associate Administrator for Management, reviews and coordinates the formulation and execution of program budgets to assure that they reflect current plans and strategy; (3) provides HSMHA-wide program leadership, acting as the representative of the Administrator in coordinating disease prevention, occupational health, and community environmental health activities; (4) monitors progress toward meeting individual program goals and recommends changes as appropriate; (5) in cooperation with the Associate Administrator for Program Planning and Evaluation evaluates program activities for mission effectiveness within both Headquarters and Regional Offices, and assesses total national effort in this regard; and (6) represents the Administrator within this functional area in relationships with the Office of the Secretary, and other authorities outside HSMHA.

Office of the Deputy Administrator for Health Services Delivery (3A07). Under the direction of the Deputy Administrator for Health Services Delivery—who serves as deputy to the Administrator in his assigned program area—plans, coordinates, evaluates, and provides leadership on a HSMHA-wide basis to health services delivery activities: (1) Serves as advisor to the Administrator within his functional area, advising on program goals, objectives, fiscal priorities, and key issues; (2) in cooperation with the Associate Administrator for Management, reviews and coordinates the formulation and execution of program budgets to assure that they reflect current plans and strategy; (3) provides HSMHA-wide program leadership, acting as the representative of the Administrator in coordinating health services delivery activities; (4) monitors progress toward meeting goals and recommends changes as appropriate; (5) in cooperation with the Associate Administrator for Program Planning and Evaluation, evaluates these activities for mission effectiveness within both headquarters and regional offices, and assesses total national effort in this regard; and (6) represents the Administrator within this functional area in relationships with the Office of the Secretary, and other authorities outside HSMHA.

Office of the Deputy Administrator for Development (3A08). Under the direction of the Deputy Administrator for Development—who serves as deputy to the Administrator in his assigned program area—plans, coordinates, evaluates, and provides leadership on a HSMHA-wide basis to health services development activities: (1) Serves as advisor to the Administrator within his functional area, advising on program goals, objectives, fiscal priorities, and key issues; (2) in cooperation with the Associate Administrator for Management, reviews and coordinates the formulation and execution of program budgets to assure that they reflect current plans and strategy; (3) provides HSMHA-wide program leadership, acting as the representative of the Administrator in coordinating health services research and development activities; (4) monitors progress toward meeting individual program goals and recommends changes as appropriate; (5) in cooperation with the Associate Administrator for Program Planning and Evaluation evaluates program activities for mission effectiveness within both Headquarters and Regional Offices, and assesses total national effort in this regard; (6) seeks to establish methods of testing those activities which come about as a result of research and development efforts in individual HSMHA programs; and (7) represents the Administrator within this functional area in relationships with the Office of the Secretary, and other authorities outside HSMHA.

Office of the Deputy Administrator for Mental Health (3A09). Under the direction of the Deputy Administrator for Mental Health—who serves as deputy to the Administrator in his assigned program area—plans, coordinates, evaluates, and provides leadership on a HSMHA-wide basis to mental health activities: (1) Serves as advisor to the Administrator within his functional area, advising on program goals, objectives, fiscal priorities, and key issues; (2) in cooperation with the Assistant Administrator for Management, reviews and coordinates the formulation and execution of program budgets to assure that they reflect current plans and strategy; (3) provides HSMHA-wide program leadership, acting as the representative of the Administrator in coordinating mental health activities; (4) monitors progress toward meeting goals and recommends changes as appropriate; (5) in cooperation with the Associate Administrator for Program Planning and Evaluation, evaluates these activities for mission effectiveness within both headquarters and regional offices, and assesses total national effort in this regard; and (6) represents the Administrator within this functional area in relationships with the Office of the Secretary, and other authorities outside HSMHA.

Also, after the paragraph entitled "Office of Information (3A17)," in lieu of the paragraph entitled "Office of the Assistant Administrator for Management (2019)," insert the following paragraph:

Office of the Associate Administrator for Management (3A19). Under the direction of the Associate Administrator for Management, who is a member of the Administrator's immediate staff: (1) serves as the Administrator's principal staff arm for providing Administration-wide leadership in all phases of management; (2) participates in executive policy formulation and execution; (3) advises on management implications of Administration plans and programs; (4) directs and coordinates the Administration's activities in the areas of management policy, systems management, financial management, procurement and materiel management, grants management, engineering consultation, HSMHA library, and PHS claims activities; (5) collaborates with the Associate Administrator for Program Planning and Evaluation in the development and implementation of the 5-year program and financial plan for the Administration's Program Planning and Budgeting System; and (6) assures coordination and liaison in these areas between the Administrator and the operating program offices.

Also, after the paragraph entitled "Office of Grants Management (20198)," in lieu of the paragraph entitled "Office of Program Planning and Evaluation (2031)," insert the following paragraphs:

Office of the Associate Administrator for Program Planning and Evaluation (3A31). Under the direction of the Associate Administrator for Program Planning and Evaluation who is a member of the Administrator's immediate staff: (1) Serves as the Administrator's principal staff arm for program planning, coordination, and evaluation, including the development of program alternatives and policy positions; (2) oversees planning, reporting, and analytical and evaluation functions in support of policy formulation and program implementation; (3) advises the Administrator and his immediate staff on program policy, and operational implications arising from activities of the Office; (4) collaborates with the Office of the Associate Administrator for Management in the development and implementation of the 5-year program and financial plan for the Administration's Program Planning and Budgeting System; (5) maintains liaison with other Federal and non-Federal health agencies; (6) coordinates and provides service to the Administrator's Office regarding HSMHA-wide programs of operations analysis (methods and applications), goal-oriented planning and program structure control, and related data management; (7) coordinates a continuing evaluation of HSMHA goals for improving health services to include analysis of trends and developments in this area and derivation of long-term projections for HSMHA activities; (8) plans and coordinates HSMHA-wide programs for the development of human and technological resources necessary to carry out the objectives and programs of HSMHA; and (9) assures program coordination and liaison in these areas between the Administrator and the operating program offices.

Office of Operational Analysis (3A-3104). (1) Plans, develops, implements, and monitors an operations analysis program, involving the coordinated application of scientific methods to the solution of planning, programing, budgeting, and operational execution problems; (2) identifies for the Administrator the need for information and data for use in decisionmaking and management of HSMHA programs; (3) fosters improved use of management information and data utilizing existing information sources, or new information and data sources, and develops—in cooperation with the Office of Systems Management, other parts of the Office of the Administrator, the National Center for Health Statistics, or other HSMHA programs—such information and data sources to encompass HSMHA programs, related Federal activities, health services and resources, and health status; and (4) presents data and analyses for use in HSMHA decisionmaking at all organization levels, headquarters and field, in relationships with the Office of the Secretary, the Office of Management and Budget, other Federal agencies, the Congress, and State and local governments and instrumentalities, and for use by the professional and general public in understanding and utilizing HSMHA program resources.

Office of the Assistant Administrator for Resource Development (3A3106). Under the direction of the Assistant Administrator for Resource Development, plans and coordinates HSMHA-wide programs for the development of the human and technological resources needed to improve the delivery of health care: (1) Plans and conducts programs to generate optimum use of resources; (2) identifies and evaluates technological and social changes as they impact on the health care system; (3) examines potential for increased automation and mechanization in public health programs and health care delivery; (4) arranges and evaluates the results of studies of new and different health career patterns; and (5) develops plans for and coordinates the implementation of improved techniques in resource utilization.

Office of the Assistant Administrator for Agency Goals (3A3108). Under the direction of the Assistant Administrator for Agency Goals, placing special emphasis upon direct participation by youth, directs a continuing evaluation and reevaluation of long-range objectives in terms of the health services needs and resources of the Nation: (1) Conducts long-range studies to identify national health services needs; (2) advises the Administrator on appropriate role of the Health Services and Mental Health Administration in meeting these needs, taking into account the proper functions and responsibilities of other Federal agencies, State and local governments, the views of medical and other student community organizations, and total available resources both public and private; (3) formulates and recommends the adoption of Administration goals necessary to fulfillment of its role; and (4) continually evaluates the appropriateness of existing objectives and progress toward achieving broad goals.

Office of the Associate Administrator for Regional Offices (3A37). Under the direction of the Associate Administrator for Regional Offices, who serves as a member of the Administrator's immediate staff, advises the Administrator on Regional Office matters affecting the mission of HSMHA, and acts as the representative of the Administrator in coordinating and monitoring Regional programs. Specifically: (1) Provides Administration-wide leadership in all phases of Regional Office activity; (2) assists in resolving policy problems and priorities between regions and between Regional Offices and Headquarters components; (3) in cooperation with the Deputy and Associate Administrators, reviews and coordinates Regional goals, objectives, and priorities, and monitors the budget formulation and execution for Regional activities; (4) in cooperation with the Associate Administrator for Management, coordinates and expedites recommendations on staffing and budgetary needs of Regional Offices, both their central and program staffs; (5) coordinates recruitment and career development activities for Regional positions and employees; (6) evaluates total Regional operations in terms of program accomplishment and delegations of authority, recommending changes in program priorities or regionalization efforts as appropriate; and (7) represents the Administrator on Regional matters in relationships with the Office of the Secretary and other authorities outside HSMHA.

Also, after the paragraph entitled "Division of Research (3N51)," delete the center head "Community Health Service (3P00)" and substitute the following center head and succeeding paragraph:

COMMUNITY HEALTH SERVICE (3P00)

Stimulates, conducts, supports, and evaluates programs designed to increase the effectiveness and efficiency of allocating and utilizing health resources for quality preventive and curative health services obtainable and acceptable to the American people. To this end, the Service promotes, develops, and supports: (1) Programs of comprehensive health care focused on the needs of individuals and families wherever they live; (2) standards and evaluative activities as means of increasing the Nation's capacity for delivering quality health services; and (3) activities designed to increase the scope and adequacy of balanced resources for the provision of comprehensive personal health services.

Also, after the paragraph entitled "Division of Health Care Services (3P55)," insert the following new center head and succeeding paragraph:

COMPREHENSIVE HEALTH PLANNING SERVICE (3Q00)

(1) Provides leadership in the development and operation of programs to provide grants to State and local agencies for the conduct and improvement of comprehensive State and area health planning; (2) develops policy issuances and program guidelines for the conduct of comprehensive health planning under section 314 of the Public Health Service Act; (3) establishes and maintains a system of pertinent communication and information exchange with other Federal agencies and national organizations concerned with planning or having related health interests; (4) stimulates and participates in the development of projects and administers a grant program for studies, training and demonstrations looking toward the improvement of comprehensive health planning techniques; (5) recommends funding for training; (6) provides technical assistance to Regional Offices and participates at their request in providing consultation and in-

formation on comprehensive health planning to States and communities; and (7) conducts analyses and comparisons of the progress of State and areawide planning programs with particular attention to their implications for Federal policy.

RODNEY H. BRADY,
Assistant Secretary for Administration and Management.

NOVEMBER 12, 1971.

[FR Doc.71-16842 Filed 11-17-71;8:50 am]

DEPARTMENT OF TRANSPORTATION

National Transportation Safety Board

[Docket No. SA-430]

AIRCRAFT ACCIDENT AT PEORIA, ILL.

Notice of Accident Investigation Hearing

In the matter of investigation of accident involving Chicago and Southern Airlines, Inc., Beech E-18S (ATECO Westwind II) of U.S. registry N51CS, near Peoria, Ill., October 21, 1971, Docket No. SA-430.

Notice is hereby given that an Accident Investigation Hearing on the above matter will be held commencing at 9:30 a.m., local time on December 15, 1971, in the El Cid Room of the Ramada Inn, Peoria, Ill.

Dated this 12th day of November 1971.

[SEAL] JAMES W. KUEHL,
Hearing Officer.

[FR Doc.71-16841 Filed 11-17-71;8:50 am]

Office of Pipeline Safety

[Waiver No. 3; Docket No. OPS-12]

UNITED GAS PIPELINE CO.

Grant of Waiver of Certain Requirements

By petition received July 13, 1971, the United Gas Pipeline Company of Shreveport, La., petitioned for a waiver from the requirements of § 192.55 of the Federal safety standards for gas pipelines (49 CFR 192.55). Section 192.55 establishes the qualifications for steel pipe used in gas pipeline facilities. The petitioner has 4,778 tons of 20" O.D. API 5LX 60 pipe in storage that was manufactured in accordance with the 1963 edition of API 5LX, an edition of that specification which is not listed in section I of Appendix B to Part 192. In order for the petitioner's pipe to be used in a gas pipeline facility it would have to meet the requirements of section II of Appendix B, requirements that petitioner alleges are neither applicable, appropriate, nor necessary.

In support of its position that the pipe meets an equivalent level of safety to that required by section II of Appendix B the petitioner submitted detailed information and documentation. This detailed safety justification for the requested waiver is set forth in a notice of hearing published in the FEDERAL REGISTER on September 23, 1971, 36 F.R. 18899.

A public hearing was held at the Office of Pipeline Safety on October 21, 1971. The only persons appearing at the hearing were representatives of the petitioner in support of petitioner's position and two industry association observers.

Based upon the information and data supplied with the petition and as a result of testimony at the public hearing, it appears that the pipe in question substantially meets the requirements of the listed specifications API 5XL 1967 edition for pipe of this size and grade. It was further established in the hearing that the use of the pipe would not derogate safety and that the storage of the pipe was in accordance with acceptable practices to preserve the integrity of the pipe.

In consideration of the foregoing, I find that permitting the petitioner to use the 4778 tons of 20" O.D. API 5XL 60 pipe that was manufactured in accordance with the 1963 edition of API 5XL would not adversely affect safety and would be in the public interest. Therefore, pursuant to the authority contained in the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1671 et seq.), Part 1 of the Regulations of the Office of the Secretary of Transportation (49 CFR Part 1), and the delegation of authority to the Director, Office of Pipeline Safety (33 F.R. 16468), United Gas Pipeline Co. is hereby granted a waiver from the provisions of 49 CFR 192.55 to permit it to use the aforementioned pipe in its gas pipeline facilities.

Issued in Washington, D.C., on November 12, 1971.

JOSEPH C. CALDWELL,
Acting Director,
Office of Pipeline Safety.

[FR Doc.71-16827 Filed 11-17-71;8:49 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-344]

PORTLAND GENERAL ELECTRIC CO. ET AL.

Determination Not To Suspend Construction Activities at Trojan Nuclear Plant Pending Completion of NEPA Environmental Review

The Portland General Electric Co., the city of Eugene, Oreg., and Pacific Power and Light Co. (the licensees) are the holders of Construction Permit No. CPPR-79 (the construction permit), issued by the Atomic Energy Commission on February 8, 1971. The construction permit authorizes the licensees to construct a pressurized water nuclear power reactor designated as the Trojan Nuclear Plant, at a site adjacent to the Columbia River in Columbia County, Oreg. The facility is designed for initial operation at approximately 3,423 megawatts (thermal).

In accordance with section E.3 of the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), Appendix D of 10 CFR Part 50 (Appendix D), the licensees have furnished to the Commission a written statement of reasons, with supporting factual submission, why the construction permit should not be suspended, in whole or in part, pending completion of the NEPA environmental review. This statement of reasons was furnished to the Commission on September 27, 1971.

The Director of Regulation has considered the licensee's submission in the light of the criteria set out in section E.2 of Appendix D, and has determined, after considering and balancing the criteria in section E.2 of Appendix D, that construction activities at the Trojan Nuclear Plant authorized pursuant to CPPR-79 should not be suspended pending completion of the NEPA environmental review.

Further details of this determination are set forth in a document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permit for the Trojan Nuclear Plant, AEC Docket No. 50-344, November 11, 1971."

Pending completion of the full NEPA review, the holders of Construction Permit No. CPPR-79 proceed with construction at their own risk. The determination herein and the discussion and findings hereinabove referred to do not preclude the Commission, as a result of its ongoing environmental review, from continuing, modifying or terminating the construction permit or from appropriately conditioning the permit to protect environmental values.

Any person whose interest may be affected by this proceeding, other than the licensees, may file a request for a hearing within thirty (30) days after publication of this determination in the FEDERAL REGISTER. Such a request shall set forth the matters, with reference to the factors set out in section E.2 of Appendix D, alleged to warrant a determination other than that made by the Director of Regulation and shall set forth the factual basis for the request. If the Commission determines that the matters stated in such request warrant a hearing, a notice of hearing will be published in the FEDERAL REGISTER.

The licensees' statement of reasons, furnished pursuant to section E.3 of Appendix D, as to why the construction permit should not be suspended pending completion of the NEPA environmental review, and the document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permit for the Trojan Nuclear Plant, AEC Docket No. 50-344, November 11, 1971," are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Columbia County Courthouse, Law Library, Circuit Courtroom, St. Helens, Oreg. 97501. Copies of the "Discussion and Findings" document may be obtained upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director of Reactor Licensing.

Dated at Bethesda, Md., this 12th day of November 1971.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.71-16829 Filed 11-17-71;8:49 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report 570]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

NOVEMBER 15, 1971.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix below if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

[2] The above alternative cutoff rules apply to those applications listed in the appendix below as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

APPENDIX

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

2635-C2-AL-72—Alexandria Telephone Co., Consent to assignment of license from Alexandria Telephone Co., Assignor, to Pioneer-United Telephone Co., Assignee, Station KFL953, Alexandria, Minn.

2636-C2-P-72—Miami Valley Radiotelephone (New), For a new one-way station to be located at water tower on Mack Road, 0.5 mile west of Ross Road, Fairfield, Ohio, to operate on 158.70 MHz.

2637-C2-P-72—AAA Telephone Answering Service (KLB781), For additional facilities to operate on 454.250 MHz at a new site described as location No. 3: Louisiana National Bank Building, Baton Rouge, La.

2638-C2-P-72—Southern Message Service, Inc. (New), For a new one-way station to be located on Knoe Road, 0.4 mile north of Highway No. 80, Monroe, La., to operate on 152.24 MHz.

2639-C2-P-72—The Conestoga Telephone & Telegraph Co. (KGI771), For additional facilities to operate on 454.625 MHz at a new site described as location No. 2: 3.5 miles west of Boyerton, Pa.

2640-C2-P-72—Monroe Radiotelephone Co. (KKM574), Change the antenna system and power for facilities operating on 152.12 MHz at location No. 2: 1.5 miles east of junction of Highways No. 15 and No. 84, Laurel, Miss.

2723-C2-AL-72—Mobile Telephone Co. of Alabama, Consent to assignment of license from Joe Cameron, doing business as Mobile Telephone Co. of Alabama, Assignor, to Mobile Telephone Co. of Alabama, Assignee. Station KQZ778 Dora, Ala.

2747-C2-P-72—Telecom (KLB502), Relocate facilities operating on 152.210 MHz to 5 miles north of Sherman, Tex., on Highway No. 75.

2748-C2-P-72—Evans Telephone Answering Service (KIY760), Change the antenna system operating on 35.22 MHz located at 1400 Main Street, Columbia, SC.

2765-C2-P-(8)72—Kidd's Communications, Inc. (KMA257), Location No. 2: 215 East 18th Street, Bakersfield, CA, change the antenna system, replace transmitters, delete control frequencies 72.26, 72.34, 73.62, 73.14, 459.15, and 459.325 MHz and one 459.125 frequency and transmitters, and add frequencies 2162 and 2178 MHz control. Location No. 3: 105 Asher Street, Taft, CA, relocate 72.26 MHz control facilities from location No. 2: Location No. 4: Paleto Hill, Calif., change the repeater frequency to 2128 MHz and change the antenna system. Location No. 5: Granite Station Hill, Calif., add base frequency 454.175 MHz, change repeater frequency from 72.70 MHz to 2112 MHz, replace transmitters operating on 75.78 and 75.92 MHz and change the antenna system.

2766-C2-P-(2)72—Southeastern Telephone Co. (KIY73), Change the antenna system and relocate facilities operating on 152.63 and 152.66 MHz to: 305 Hollywood Boulevard, Fort Walton Beach, FL.

2783-C2-P-72—Instant Communications, Inc. (KQD303), Change the antenna system and relocate facilities operating on 152.24 MHz to: 10 Witherall Street, Detroit, MI.

2784-C2-P-72—Answer Iowa, Inc. (New) (Resubmitted), For a new one-way station to be located on 18th Avenue North, Clinton, IA, to operate on 158.70 MHz.

Major Amendments

1974-C2-P-(2)-70—ROC of Virginia, Inc. (KIY394), Amended to read: To operate on frequencies 152.06 and 152.18 MHz. See public notice dated Oct. 27, 1969, Report No. 463.

6322-C2-P-(6)-71—Kidd's Communications, Inc. (KMA257), Amended to: Delete the control facilities on 75.62 and 75.66 MHz at location No. 2 and the repeater facilities on 72.10 and 72.20 MHz at location No. 4. Substitute control facilities to operate on 2178 MHz at location No. 2 and repeater facilities to operate on 2128 MHz at location No. 4. See public notice dated May 17, 1971, Report No. 544.

2166-C2-P-72—Ratel Communication Co. (New), Amended to change base frequency to 152.24 MHz. See public notice dated Oct. 26, 1971, Report No. 567.

Correction

2269-C2-P-72—Liberty Communication (KCI310), Correct to read: Replace transmitter operating on 35.58 MHz and change the transmission line located at 20 Yarmich Drive, Bridgeport (Fairfield), CT. See public notice dated Nov. 1, 1971, Report No. 568.

RURAL RADIO SERVICE

2724-C1-P-72—RCA Alaska Communications, Inc. (WGF50), Change the antenna system on 35.1 MHz communicating with station WGF70, Boswell Bay, Alaska. Location: Valdez, Alaska.

2725-C1-P-72—RCA Alaska Communications, Inc. (WGF70), Change the antenna system on 77.1 MHz communicating with station WGF50, Valdez, Alaska. Location: Hinchenbrook Island, Boswell Bay, Alaska.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)

2785-C1-P-72—The Mountain States Telephone & Telegraph Co. (WDD47), Location: Bear Spring, 12 miles northwest of Huachuca Village, Ariz., latitude 31°46'08" N., longitude 110°27'58" W. To add frequency 2178.0 MHz toward Mount Lemmon, Ariz.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)—Continued

2786–C1–P–72—The Mountain States Telephone & Telegraph Co. (KPN80), Location: Mount Lemmon, 18.4 miles north-northeast of Tucson, Ariz., latitude 32°26'21" N., longitude 110°47'14" W. To add frequencies 2120.0 MHz toward Kelvin, Ariz. and 2126.0 MHz toward Bear Spring, Ariz.

2787–C1–P–72—The Mountain States Telephone & Telegraph Co. (New), A new station located at 5.6 miles west-southwest of Kelvin, Ariz., latitude 33°04'10" N., longitude 111°03'13" W. Frequency: 2170.0 MHz toward Mount Lemmon, Ariz.

2788–C1–P–72—American Telephone & Telegraph Co. (KEA77), Location: 0.8 mile north of Cherryville, N.J. Latitude 40°34'18" N., longitude 74°54'22" W. Frequency: 4170 MHz directed toward Sayreville, N.J., added.

2789–C1–P–72—American Telephone & Telegraph Co. (KEM72), Location: Sayreville, 1.75 miles west of South Amboy, N.J. Latitude 40°27'18" N., longitude 74°17'46" W. Frequency 4130 MHz toward Cherryville and Newark, N.J., added.

2790–C1–P–72—American Telephone & Telegraph Co. (KEG63), Location: 95 William Street, Newark, N.J. Latitude 40°44'04" N., longitude 74°10'42" W. To add frequency 4170 MHz toward Sayreville, N.J.

2791–C1–P/L–72—The Mountain States Telephone & Telegraph Co. (New), A new station located at 7.5 miles northwest of Apache Junction, Ariz. Latitude 33°29'39" N., longitude 111°38'26" W. Frequencies: 5945.2 MHz and 6063.8 MHz toward Kelvin, Ariz.

2792–C1–P/L–72—The Mountain States Telephone & Telegraph Co. (New), A new station located 5.6 miles west-southwest of Kelvin, Ariz. Latitude 33°04'10" N., longitude 111°-03'13" W. Frequencies 6197.2 and 6315.9 MHz toward Apache Junction, Ariz.

1460–C1–P/ML–72—American Telephone & Telegraph Co. (KQA83), Location: 1365 Cass Avenue, Detroit, MI. Latitude 42°19'57" N., longitude 83°03'14" W. To increase power to 5 watts, and modifying the authorized TD–2 transmitters to Type TD–2–5W.

Major Amendments; Corrections

6289–C1–P–70—Nebraska Consolidated Communications Corp., Sand Springs, Mo., Site No. 105, Correct location to read: Sand Springs, Okla. All other terms same as indicated in Report No. 559 dated Aug. 30, 1971.

889–C1–P–72—Nebraska Consolidated Communications Corp., Correct reference report No. to read No. 559. See correction on Report No. 564 dated Oct. 4, 1971.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)

2751–C1–P–72—Microwave Service Co. (WHA77), Location: 4.4 miles east of Modjeska, Calif., at latitude 32°42'41" N., longitude 117°33'16" W. To add frequency 10,855 MHz on azimuth 62°15'. Applicant proposes to pick up the signal of KMEX(TV) of Los Angeles at a point which is closer to that station in order to improve the signal quality on their system.

2819–C1–P–72—Mountain Microwave Corp. (KZI52), Application to reinstate that portion of expired construction permit No. 2196–C1–P–69 that authorized the transmission of frequencies 6256.5, 6315.9, and 6375.2 MHz, via power-split, toward Redfield, S. Dak., on azimuth 31°35', for delivery of three Denver television signals (KWGN–TV/KBTV(TV)/KOA–TV) to CATV system in Redfield, S. Dak. Station location: Spring Lake, 9.5 miles west-northwest of Danforth, S. Dak.

The following applicants propose to establish omnidirectional facilities for the provision of common carrier "Subscriber-Programed" television service.

2814–C1–P–72—Microwave Transmission Corp. (New), A new station to be located at 921 J Street, Sacramento, CA. Latitude 38°34'49" N., longitude 121°29'26" W. Frequencies: 2152.325V (visual) and 2150.20 MHz (aural) directed toward various receiving points of system and 2158.50 (visual) and 2154.00 MHz (aural) directed toward various receiving points of system.

2815–C1–P–72—Microwave Transmission Corp. (New), A new station located at 530 B Street, Portland, OR. Latitude 45°27'12" N., longitude 122°32'49" W. Frequencies: 2152.325 MHz (visual) and 2150.20 MHz (aural) toward various receiving points of system and 2158.50 MHz (visual) and 2154.00 MHz (aural) toward various receiving points of system.

2816–C1–P–72—Microwave Transmission Corp. (New), A new station located at 1001 Fourth Avenue, Seattle, WA. Latitude 47°36'21" N., longitude 122°19'58" W. Frequencies: 2152.325 MHz (visual) and 2150.20 MHz (aural) toward various receiving points of system and 2158.50 MHz (visual) and 2154.00 MHz (aural) toward various receiving points of system.

2817–C1–P–72—Microwave Transmission Corp. (New), A new station located at 4103 South Regal Street, Spokane, WA. Latitude 47°37'00" N., longitude 117°121'55" W. Frequencies: 2152.325 MHz (visual) and 2150.20 MHz (aural) toward various receiving points of system and 2158.50 MHz (visual) and 2154.00 MHz (aural) toward various receiving points of system.

2818–C1–P–72—Microwave Transmission Corp. (New), A new station located at 1 Hotel Way, Anaheim, CA. Latitude 33°48'25" N., longitude 117°54'35" W. Frequencies: 2152.325 MHz (visual) and 2150.20 MHz (aural) toward various receiving points of system and 2158.50 MHz (visual) and 2154.00 MHz (aural) toward various receiving points of system.

[FR Doc.71–16854 Filed 11–17–71;8:51 am]

FEDERAL MARITIME COMMISSION

AMERICAN MAIL LINE, LTD., AND EVERETT ORIENT LINE, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. W. R. Purnell, District Manager, American Mail Line, Ltd., 601 California Street, Suite 610, San Francisco, CA 94108.

Agreement No. 9825–1 reflects a request from American Mail Line, Ltd. (AML) and Everett Orient Line, Inc. (Everett) to revise the division of through rates and the cost of cargo transfer expenses from their transshipment operations. Article 5 will permit the through rates to be apportioned 75 percent to AML and 25 percent to Everett. Article 6, the expenses of transshipment on all cargo will be on the basis of 75 percent to AML and 25 percent to Everett.

Dated: November 12, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71–16849 Filed 11–17–71;8:51 am]

D. C. ANDREWS AND CO., INC., AND D. C. ANDREWS INTERNATIONAL, INC.

Notice of Agreement Filed

Notice is hereby given that the following Agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed for approval by:

Hakon Olsson, D. C. Andrews & Co., Inc., One Whitehall Street, New York, NY 10004.

Agreement No. FF 71–10 is a memorandum of understanding to merge between D. C. Andrews & Co., Inc., FMC–922 and its wholly owned subsidiaries, D. C. Andrews & Co. of Louisiana, Inc., FMC–606, D. C. Andrews & Co. of Maryland, Inc., FMC–586, D. C. Andrews & Co. of Massachusetts, FMC–659, and D. C. Andrews International, Inc., FMC–666. The surviving corporation is to be the already existing subsidiary, D. C. Andrews International, Inc., which will operate the previous companies as branch offices under their present management. Independent Ocean Freight Forwarder Licenses 922, 606, 586, and 659 will be surrendered to the Federal Maritime Commission for revocation upon approval of the subject agreement.

Dated: November 12, 1971.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71–16850 Filed 11–17–71;8:51 am]

HELLENIC CRUISES, S.A.

Notice of Application for Casualty Certificate

Security for the protection of the Public; financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages.

Notice is hereby given that the following persons have applied to the Federal Maritime Commission for a certificate of financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages pursuant to the provisions of section 2, Public Law 89–777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Hellenic Cruises, S.A., Akti Miaouli 33, Piraeus, Greece.

Dated: November 15, 1971.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71–16845 Filed 11–17–71;8:50 am]

HELLENIC CRUISES (MONROVIA), S.A.

Notice of Application for Casualty Certificate

Security for the protection of the public, financial responsibility to meet liability incurred from death or injury to passengers or other persons on voyages.

Notice is hereby given that the following persons have applied to the Federal Maritime Commission for a certificate of financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages pursuant to the provisions of section 2, Public Law 89–777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Hellenic Cruises (Monrovia) S.A., Akti Miaouli 33, Piraeus, Greece.

Dated: November 15, 1971.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71–16846 Filed 11–17–71;8:50 am]

HELLENIC CRUISES, S.A.

Notice of Application for Performance Certificate

Security for the protection of the public; indemnification of passengers for nonperformance of transportation.

Notice is hereby given that the following persons have applied to the Federal Maritime Commission for a certificate of financial responsibility for indemnification of passengers for nonperformance of transportation pursuant to the provisions of section 3, Public Law 89–777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Hellenic Cruises, S.A., Akti Miaouli 33, Piraeus, Greece.

Dated: November 15, 1971.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71–16847 Filed 11–17–71;8:50 am]

LIBERTY TRAVEL SERVICE, INC., AND HELLENIC CRUISES (MONROVIA), S.A.

Notice of Application for Performance Certificate

Security for the protection of the public; indemnification of passengers for nonperformance of transportation.

Notice is hereby given that the following persons have applied to the Federal Maritime Commission for a certificate of financial responsibility for indemnification of passengers for nonperformance of transportation pursuant to the provisions of section 3, Public Law 89–777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Liberty Travel Service, Inc., 135 West 41 Street, New York, NY, and Hellenic Cruises (Monrovia) S.A., Akti Miaouli 33, Piraeus, Greece.

Dated: November 15, 1971.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71–16848 Filed 11–17–71;8:50 am]

DOMINION NAVIGATION CO. LTD.

Order of Revocation

Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation No. P–42 and Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages No. C–1,007.

Whereas, Dominion Navigation Co. Ltd., c/o H. C. Sleigh Ltd., 160 Queen Street, Melbourne, Australia, has ceased to operate the passenger vessels George Anson and Francis Drake; and

Whereas, Dominion Navigation Co. Ltd., has returned Certificate (Performance) No. P–42 and Certificate (Casualty) No. C–1,007 for revocation.

It is ordered, That Certificate (Performance) No. P–42 and Certificate (Casualty) No. C–1,007 covering the George Anson and Francis Drake be and are hereby revoked effective November 12, 1971.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served on the Certificant.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 71–16852 Filed 11–17–71;8:51 am]

WISCONSIN & MICHIGAN STEAMSHIP CO.

Order of Revocation

Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation No. P–45 and Certificate of Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages No. C–1,045.

Whereas, Wisconsin & Michigan Steamship Co., 500 North Harbor Drive, Milwaukee, Wis. 53202, has ceased to operate the passenger vessel Milwaukee Clipper; and

Whereas, Wisconsin & Michigan Steamship Co. has returned Certificate (Performance) No. P–45 and Certificate (Casualty) No. C–1,045 for revocation.

It is ordered, That Certificate (Performance) No. P–45 and Certificate (Casualty) No. C–1,045 covering the Milwaukee Clipper be and are hereby revoked effective November 12, 1971.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served on the Certificant.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71–16851 Filed 11–17–71;8:51 am]

FEDERAL POWER COMMISSION

[Docket No. CS71–945, etc.]

CAULKINS OIL CO., ET AL.

Findings and Order

NOVEMBER 5, 1971.

Findings and order after statutory hearing issuing small producer certificates of public convenience and necessity, terminating certificates, canceling FPC gas rate schedules, terminating rate proceedings, and dismissing application.

Each applicant herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for small producer certificates of public convenience and necessity authorizing sales of natural gas in interstate commerce, all as more fully set forth in the applications and the Appendix below.

Certain applicants are presently authorized to sell natural gas pursuant to FPC gas rate schedules on file with the Commission. The temporary and permanent certificates authorizing said sales will be terminated and the related rate schedules will be canceled. Some sales made pursuant to the certificates terminated herein and the canceled FPC gas rate schedules were made at rates in effect subject to refund. There are other rate increases which are suspended or have been collected subject to refund by any of these applicants and were equal to or below area ceiling rates will be terminated.

After due notice by publication in the FEDERAL REGISTER, no petition to intervene or notice of intervention has been filed. On July 9, 1971, James M. Forgotson, Sr., filed a protest to the granting of the authorization sought by all applicants listed in our notice of small producer applications issued on June 29, 1971, in Docket No. CS69–19, et al., some of whom are included in the instant order.

The Commission's staff has reviewed the applications and having considered the protest, recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

At a hearing held on October 8, 1971, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Each applicant is or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption subject to the jurisdiction of the Commission and is, therefore, a "natural-gas company" or will be when the initial delivery is made, within the meaning of the Natural Gas Act.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications herein, will be made in interstate commerce subject to the jurisdiction of the Commission, and such sales by applicants are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) Each applicant is an independent producer of natural gas which is not affiliated with a natural gas pipeline company and whose total jurisdictional sales on a nationwide basis, together with sales of affiliated producers, were not in excess of 10 million Mcf at 14.65 psia during the preceding calendar year.

(5) The sales of natural gas by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity, and small producer certificates of public convenience and necessity therefore should be issued as hereinafter ordered and conditioned.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates of public convenience and necessity heretofore issued to applicants should be terminated and that the related FPC gas rate schedules should be canceled.

(7) The application pending in Docket No. CI69–521 is moot.

The Commission orders:

(A) Small producer certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing the sale for resale and delivery of natural gas in interstate commerce by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the applications in this proceeding.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as applicant continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission and particularly:

(1) The subject certificates shall be applicable only to all small producer sales as defined in § 157.40(a)(3) of the regulations under the Natural Gas Act; and

(2) Applicants shall file annual statements pursuant to § 154.104 of the regulations under the Natural Gas Act.

(C) The certificates granted in paragraph (A) above shall remain in effect for small producer sales until the Commission on its own motion or on application terminates said certificates because applicants no longer qualify as small producers or fail to comply with the requirements of the Natural Gas Act, the regulations thereunder, or the terms of the certificates. Upon such termination, applicants will be required to file separate certificate applications and individual rate schedules for future sales. To the extent compliance with the terms of this order is observed, the small producer certificates will still be effective as to sales already included thereunder.

(D) The grant of the certificates in paragraph(A) above shall not be construed as a waiver of the requirements of section 7 of the Natural Gas Act or Part 157 of the regulations thereunder and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against applicants. Further, our action in this proceeding shall not foreclose any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. The grant of the certificates aforesaid for service to the particular customers involved, shall not imply approval of all of the terms of the contracts particularly as to the cessation of service upon the termination of said contracts as provided by section 7(b) of the Natural Gas Act. The grant of the certificates aforesaid shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales subject to said certificates.

(E) The temporary and permanent certificates heretofore issued to applicants for sales proposed to be continued under small producer certificates are terminated and the related FPC gas rate schedules are canceled as indicated in the appendix below.

(F) The proceedings in which applicants' increased rates have not been made effective and certain proceedings in which increased rates have been made effective subject to refund and are equal to or below the applicable area base rate are terminated as indicated in the appendix below.

(G) The application pending in Docket No. CI69–521 is dismissed.

(H) This order does not relieve any of the applicants herein of any responsibility imposed by, and is expressly subject to, the Commission's statement of policy implementing the Economic Stabilization Act of 1970 (Public Law 91–379, 84 Stat. 799, as amended by Public Law 92–15, 85 Stat. 38), including such amendments as the Commission may require, and Executive Order No. 11615.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

APPENDIX

Docket No. and filing date	Applicant		Canceled FPC gas rate schedule	Terminated certificate docket No.	Terminated rate increase docket No.
CS71–945 5–17–71	Caulkins Oil Co. (Operator) et al.		1	G–16852	
	do		2	G–6934	
	do		3	G–12462	
	do		4	G–10043	RI64–695, RI70–119.
	do		5	CI61–234	
	do		7	CI62–455	RI67–249.
	do		8	CI62–595	RI64–181.
	do		9	G–14484	
	do		10	CI63–1428	
	do		11	CI64–209	
CS71–1007 5–27–71	Ruthe H. Greenewald			G–8587	
CS71–1109 6–21–71	Estate of Roger H. Ogden		1	CI69–521	
CS71–1123 6–24–71	Douglas Weatherston and George Weatherston.		1	CI67–1660	
CS71–1131 6–25–71	W. M. Laughlin et al		1	G–10038	
	do		2	G–18069	
	do		3	CI60–44	RI68–476.
	do		4	G–10937	RI71–612.
CS72–18 7–8–71	Caddo Pine Island Corp. (Operator) et al.		1	G–11392	
CS72–30 7–15–71	R. S. Baker, (Operator) et al		1	CI64–89	RI70–31.
CS72–40 7–15–71	Beacon Resources Corp. (Operator) et al.		1	CI69–980	RI70–1309.
	do		2	CI70–830	
	do		3	CI70–1015	
	do		4	CI70–1141	
CS72–41 7–16–71	Marvin J. Coles		1	CI61–1443	
	do		2	CI64–64	
CS72–42 7–16–71	Elizabeth Perkins et al		1	G–14838	
CS72–43 7–16–71	J. R. Perkins and F. L. Parham d.b.a. Perkins Production Co. et al.		[2] 2	CI66–679 [2]	
	do		[3] 3	CI69–455 [3]	
	do		[4] 4	CI65–71 [3]	
	do		[5] 5	CI66–607 [3]	RI71–532.
CS72–47 7–16–71	Glen A. Martin et al		1	G–14141	
	do		2	G–18639	RI65–315, RI70–1635, RI70–1669.
	do		3	CI61–142	
	do		5	CI61–1013	
CS72–48 7–16–71	James Robert Hill, Emma E. Hill, and Virginia Glen Hill Lattimore, d.b.a. Houston Hill Estate.		[1] 1	CI70–1142 [3]	
	do		[2] 2	CI70–1142 [3]	
CS72–49 7–16–71	Mary Agnes Power Shay				
CS72–50 7–19–71	Price Exploration Co				
CS72–74 7–27–71	George W. Graham				
CS72–76 7–28–71	Barbara Oil Co		1	G–7191	RI62–1.
	do		3	G–8898	RI60–52, RI65–603, RI70–1572.
CS72–77 7–28–71	E. B. McMurtry		2	G–8814	RI60–221, RI65–275.
CS72–79 7–29–71	Charles B. and Melanie M. Carpenter				
CS72–82 7–29–71	N. L. McCain				
CS72–83 7–29–71	Patrick Oil & Royalty Co., Inc				
CS72–86 7–30–71	R. H. Hedge				
CS72–87 7–30–71	Bob L. Herd				

[1] Temporary certificate.
[2] Certificate and rate schedule on file as J. R. Perkins.
[3] Certificate and rate schedule on file as James R. Hill doing business as Houston Hill Estate.

[FR Doc.71–16686 Filed 11–17–71;8:45 am]

[Docket No. CS66–71, etc.]

MARJORIE CONE KASTMAN, ET AL.

Notice of Applications for "Small Producer" Certificates [1]

NOVEMBER 8, 1971.

Take notice that each of the applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 29, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date filed	Name of applicant
C866–71	10–19–71	Marjorie Cone Kastman et al. (successor to S. E. Cone et al.), Post Office Box 1180, Roswell, NM 88201.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No.	Date filed	Name of applicant
CS72-366...	10-20-71	D. W. Hamilton, 203 Bryant Petroleum Building, Tyler, Tex. 75701.
CS72-367...	10-20-71	Vernon G. Hunt, Post Office Box 3152, Tyler, TX 75701.
CS72-368...	10-20-71	Ray Carlton Muirhead, 1230 Southwest Tower, Houston, Tex. 77002.
CS72-369...	10-20-71	ProChemco Exploration Co., 400 West 15th, Amarillo, TX 79101.
CS72-370...	10-18-71	R & S Services, 406 Wilson Building, Corpus Christi, Tex. 78401.
CS72-371...	10-21-71	John P. Booth Interests, 1305 First National Center, Oklahoma City, Okla. 73102.
CS72-372...	10-22-71	Consolidated Oil & Gas, Inc., Suite 1300, 1860 Lincoln St., Denver, CO 80203.
CS72-373...	10-26-71	Perry Lynn Larson, 2107-A Kern Dr., Victoria, TX 77901.
CS72-374...	10-26-71	Gibraltar Oil Corp., 1912 The 600 Building, Corpus Christi, Tex. 78401.
CS72-375...	10-26-71	Hershberger Explorations, Inc., Suite 230, 200 West Douglas, Wichita, KS 67202.
CS72-376...	10-22-71	Ruth P. Madden, Box 1257, Boulder, CO 80302.
CS72-377...	10-26-71	Penn Resources, Inc. 71, Suite 230, 1 Decker Sq., Bala Cynwyd, PA 19004.

[FR Doc.71-16687 Filed 11-17-71;8:45 am]

FEDERAL RESERVE SYSTEM

BOATMEN'S BANCSHARES, INC.

Proposed Acquisition of Williams, Kurrus and Co.

Boatmen's Bancshares, Inc., St. Louis, Mo., has applied, pursuant to section 4 (c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(a)(8)) and § 222.4 (b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Williams, Kurrus and Co., St. Louis, Mo. Notice of the application was published on November 4, 1971, in the St. Louis Post-Dispatch, a newspaper circulated in St. Louis, Mo.

The proposed activities of the proposed subsidiary are mortgage lending, servicing loans and other extensions of credit, sale of credit-related insurance to customers of the applicant (and to others to the extent permitted by § 222.4(a)(9)(ii)(c)), and real estate brokerage. With the exception of real estate brokerage, such activities have been specified by the Board in § 222.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 222.4(b).

The activity of real estate brokerage is in issue with respect to this application, to which interested persons may express their views on whether such activity is so closely related to banking or managing or controlling banks as to be a proper incident thereto.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question or on the issue of whether real estate brokerage is an activity so closely related to banking or managing or controlling banks as to be a proper incident thereto, should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 13, 1971.

Board of Governors of the Federal Reserve System, November 11, 1971.

[SEAL] TYNAN SMITH, *Secretary.*

[FR Doc.71-16832 Filed 11-17-71;8:49 am]

FIRST BANCORP OF N.H., INC.

Formation of One-Bank Holding Company

First Bancorp of N.H., Inc., Exeter, N.H., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of action whereby applicant would become a bank holding company through acquisition of 80 percent of the voting shares of The Exeter Banking Company, Exeter, N.H.

The application may be inspected at the Federal Reserve Bank of Boston.

Section 3(c) of the Act requires that the Board consider the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the bank concerned, and the convenience and needs of the communities to be served.

Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than December 6, 1971.

Pursuant to § 222.3(b) of Regulation Y, this application shall be deemed to be approved on December 20, 1971, unless the applicant is notified to the contrary before that time, or is granted approval at an earlier date.

Board of Governors of the Federal Reserve System, November 11, 1971.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.71-16835 Filed 11-17-71;8:49 am]

FIRST CITY BANCORPORATION OF TEXAS, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by First City Bancorporation of Texas, Inc., which is a bank holding company located in Houston, Tex., for prior approval by the Board of Governors of the acquisition by applicant of 24.5 percent of the voting shares of United Bank Shares, Inc., El Paso, Tex., which owns 100 percent of the voting shares of Southwest National Bank of El Paso, El Paso, Tex.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Dallas.

Board of Governors of the Federal Reserve System, November 11, 1971.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.71-16833 Filed 11-17-71;8:49 am]

GREATER JERSEY BANCORP.

Formation of One-Bank Holding Company

Greater Jersey Bancorp., Clifton, N.J., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of action whereby Applicant would become a bank holding company through acquisition of 100 percent of the voting shares of New Jersey Bank (National Association), Clifton, N.J.

The application may be inspected at the Federal Reserve Bank of New York.

Section 3(c) of the Act requires that the Board consider the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the bank concerned, and the convenience and needs of the communities to be served.

Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than December 9, 1971.

Pursuant to § 222.3(b) of Regulation Y, this application shall be deemed to be approved on December 24, 1971, unless the applicant is notified to the contrary before that time, or is granted approval at an earlier date.

Board of Governors of the Federal Reserve System, November 11, 1971.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.71-16834 Filed 11-17-71;8:49 am]

HARRIS BANKCORP, INC.

Formation of One-Bank Holding Company

Harris Bankcorp., Inc., Chicago, Ill., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of action whereby applicant would become a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Harris Trust and Savings Bank, Chicago, Ill.

The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Chicago.

Section 3(c) of the Act requires that the Board consider the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the bank concerned, and the convenience and needs of the communities to be served.

Any person wishing to comment on the application should submit his views in writing to the Board to be received not later than December 13, 1971. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

Board of Governors of the Federal Reserve System, November 11, 1971.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.71-16836 Filed 11-17-71;8:49 am]

MID AMERICA BANCORPORATION, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Mid America Bancorporation, Inc., St. Paul, Minn., for approval of acquisition of 100 percent of the voting shares (less directors' qualifying shares) of The First National Bank of Hutchinson, Hutchinson, Minn.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve regulation Y (12 CFR 222.3(a)), an application by Mid America Bancorporation, Inc., St. Paul, Minn., a registered bank holding company, for the Board's prior approval of the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of The First National Bank of Hutchinson (Bank), Hutchinson, Minn.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency and requested his views and recommendation. The Board also gave notice to the Commissioner of Banks of the State of Minnesota. The Comptroller recommended approval of the application. The Commissioner advised that he had no objection to the proposed acquisition.

Notice of receipt of the application was published in the FEDERAL REGISTER on September 14, 1971 (36 F.R. 18439), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant controls four banks with aggregate deposits of approximately $35 million representing 0.4 percent of the total commercial bank deposits in the State, and is the sixth largest bank holding company in Minnesota.[1] (All banking data are as of December 31, 1970, and reflect holding company formations and acquisitions approved through September 30, 1971.) Applicant's acquisition of Bank ($11 million in deposits) would increase applicant's share of deposits in the State by 0.1 percentage point. Bank is the smaller of the two banks located in the city of Hutchinson, is the second largest of nine independent banks in McLeod County, the relevant market, and holds 16.4 percent of deposits in the market. Applicant's subsidiary located closest to Bank is approximately 70 miles distant; and it appears that approval of this application would eliminate no existing competition. On the facts of record, notably, the distances involved, the number of banks in the intervening areas between Bank and applicant's subsidiaries, and Minnesota's prohibitive branching law, there appears to be little likelihood that significant competition between Bank and applicant would develop in the future. On the basis of the record before it, the Board concludes that consummation of the proposed acquisition would not adversely affect competition in any relevant area.

Affiliation with applicant would increase the lending capability of Bank through participation arrangements with other subsidiaries of applicant and would enable Bank to benefit from certain internal efficiencies resulting from a holding company structure. Considerations relating to the convenience and needs of the communities to be served are consistent with approval.

Considerations relating to financial and managerial resources and future prospects as they relate to applicant, its subsidiaries and Bank, are regarded as satisfactory. Applicant's stated intention to contribute additional capital funds to Bank, as well as management expertise, lend weight toward approval of the application. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and that the application should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above: *Provided*, That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Minneapolis pursuant to delegated authority.

By order of the Board of Governors,[2] November 11, 1971.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.71-16838 Filed 11-17-71;8:50 am]

[1] Applicant has received Board approval for the acquisition of a proposed new bank in Mendota Heights, Minn. Consummation has not taken place.

NORTHWEST BANCORPORATION

Order for Oral Presentation

In the matter of the application of Northwest Bancorporation, Minneapolis, Minn., for approval of acquisition of 90 percent or more of the voting shares of Farmers and Merchants State Bank of Stillwater, Stillwater, Minn.

On August 3, 1971, there was published in the FEDERAL REGISTER (36 F.R. 14285) a notice of receipt by the Board of Governors of an application filed pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)) by Northwest Bancorporation, Minneapolis, Minn., for prior approval by the Board of action whereby applicant would acquire 90 percent or more of the voting shares of Farmers and Merchants State Bank of Stillwater, Stillwater, Minn. The aforesaid published notice advised that the application was available for study at the office of the Board of Governors and the Federal Reserve Bank of Minneapolis, and designated a period within which comments and views on the proposed acquisition could be filed with the Board.

In view of the numerous comments on the proposal received, it appears to the Board that it is appropriate in the public

[2] Voting for this action: Governors Daane, Maisel, Brimmer, and Sherrill. Absent and not voting: Chairman Burns and Governors Robertson and Mitchell.

interest that there be conducted before the Board a public oral presentation at which views and comments with respect to this application might be presented. Accordingly,

It is hereby ordered, That pursuant to § 262.3(f) of the Board's rules of procedure (12 CFR 262.3(f)) a public oral presentation be held with respect to this application commencing at 9 a.m. on December 15, 1971, at the Federal Reserve Bank of Minneapolis, 73 South Fifth Avenue, Minneapolis, MN. Oral testimony at the public oral presentation will be limited to the statutory criteria specified in section 3 of the Act.

It is further ordered, That any person desiring to present comments and views at the scheduled oral presentation should file with the Secretary of the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, no later than December 1, 1971, written request to appear before the Board at said oral presentation, including a brief summary of the statement which will be presented at the oral presentation, and the name of the person who proposes to appear.

By order of the Board of Governors, November 12, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16837 Filed 11-17-71;8:50 am]

RAILROAD RETIREMENT BOARD

RAILROAD UNEMPLOYMENT INSURANCE ACCOUNT

Pursuant to section 8(a) of the Railroad Unemployment Insurance Act, as amended, the Railroad Retirement Board had determined, and hereby proclaims, that as of the close of business on September 30, 1971, there was a deficit of $46,123,149.58 in the railroad unemployment insurance account. The underlying figures relating to the computation of this deficit follow:

Unexpended amount in the railroad unemployment insurance account	$1,156,400.28
Deduct:	
Amounts borrowed from the Railroad Retirement Account which have not been repaid	−52,500,000.00
Accrued interest on such borrowed amounts	−702,180.36
Deficit in railroad unemployment insurance account proper	52,045,780.08 (D)
Add:	
Balance in railroad unemployment insurance administration fund	+5,922,630.50
Deficit in railroad unemployment insurance account	46,123,149.58 (D)

In witness whereof the members of the Railroad Retirement Board have hereunto set their hands and caused its seal to be affixed.

Done at Chicago, Ill., this 11th day of November 1971.

[SEAL] HOWARD W. HABERMEYER,
Chairman.
NEIL P. SPEIRS,
Member.
WYTHE D. QUARLES, JR.,
Member.

By the Railroad Retirement Board:

R. F. BUTLER,
Secretary of the Board.

[FR Doc.71-16797 Filed 11-17-71;8:46 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 4.1 (Rev. 2) Amdt. 1]

DEPUTY ASSOCIATE ADMINISTRATOR FOR FINANCIAL ASSISTANCE

Delegation of Authority

Delegation of Authority No. 4.1 (Revision 2) (35 F.R. 18493), is hereby amended by revising paragraph G to read as follows:

G. To approve or decline any application to the Small Business Administration for a guarantee of the payment of rent under a lease; and to guarantee sureties of small businesses against portions of losses resulting from the breach of bid, payment, or performance bonds on contracts up to $500,000.

Effective date: October 15, 1971.

JACK EACHON, Jr.,
Associate Administrator for Financial Assistance.

[FR Doc.71-16799 Filed 11-17-71;8:46 am]

[Delegation of Authority No. 4.1-1 (Rev. 3), Amdt. 1]

DIRECTOR, OFFICE OF COMMUNITY DEVELOPMENT

Delegation on Financial Assistance

Delegation of authority No. 4.1-1 (Revision 3) (36 F.R. 302), is hereby amended by revising paragraph G.4 to read as follows:

G. *Director, Office of Community Development.* * * *

4. To approve or decline applications for the guarantee of the payment or rent under a lease where the aggregate rentals do not exceed $2,500,000; and to guarantee sureties of small businesses against portions of losses resulting from the breach of bid, payment, or performance bonds on contracts up to $500,000.

Effective date: October 15, 1971.

ANTHONY S. STASIO,
Deputy Associate Administrator for Financial Assistance.

[FR Doc.71-16800 Filed 11-17-71;8:46 am]

[License No. 02/02-5291]

PUERTO RICAN FORUM CAPITAL CORP.

Notice of Application for License as Minority Enterprise Small Business Investment Company

An application for a license to operate as a minority enterprise small business investment company (MESBIC) under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has been filed by Puerto Rican Forum Capital Corp. (applicant) with the Small Business Administration (SBA) pursuant to § 107.102 of the SBA rules and regulations governing small business investment companies (13 CFR 107.102 (1971)).

The officers and directors of the applicant are as follows:

Victor M. Rivera, 7023 Louise Terrace, Brooklyn, NY 11209, Chairman of the Board.
Hector I. Vazquez, 147-23 84th Drive, Jamaica, NY 11435, President, Director.
Blanca Cedeno, 196-35 Pompeii Avenue, Hollswod, NY 11423, First Vice President, Director.
Ivan Irizarry, 24 Musket Road, Tappan, NY 10983, Treasurer, Director.
Francisco Trilla, 110-55 67th Drive, Forest Hills, NY 11375, Secretary, Director.
Roland De Diego, 145 Grant Street, Massapequa Park, NY 11762, Director.

The applicant, a New York corporation with its principal place of business located at 156 Fifth Avenue, New York, NY 10010, will begin operations with $150,000 of paid-in capital, consisting of 50 shares of common stock. All of the issued and outstanding stock of the applicant will be owned by the National Puerto Rican Forum, Inc. (formerly known as the Puerto Rican Forum, Inc.), a nonprofit organization located at 156 Fifth Avenue, New York, NY 10010.

Applicant will not concentrate its investments in any particular industry. According to the company's stated investment policy, its investments will be made solely for the purpose of providing assistance which will contribute to a well-balanced national economy by facilitating the acquisition or maintenance of ownership of small business concerns by individuals whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owner and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in acordance with the Small Business Investment Act and the SBA rules and regulations.

Any interested person may, not later than 15 days from the date of publication of this notice, submit to SBA, in writing, relevant comments on the proposed MESBIC. Any such communication should be addressed to the Associate Administrator for Operations and Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

A copy of this notice shall be published in a newspaper of general circulation in New York City.

Dated: November 3, 1971.

STEPHEN H. BEDWELL,
Acting Associate Administrator for Operations and Investment.

[FR Doc.71-16798 Filed 11-17-71;8:46 am]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Area Wage Determination Decisions and Modifications; New Determinations

Correction

In F.R. Doc. 71-16416 appearing at page 21720 in the issue for Friday, November 12, 1971, the center heading "Modifications" which appears in the tables on pages 21721, 21723, 21725, 21733, 21736, and 21737 should be deleted.

Office of the Secretary

HAWAII

Notice of Availability of Extended Unemployment Compensation

The Federal-State Extended Unemployment Compensation Act of 1970, Title II of Public Law 91-373, establishes a program of extended unemployment compensation payable when unemployment is high (according to indicators set forth in the law) to unemployed workers who have received all of the regular compensation to which they are entitled. Pursuant to section 203(b)(2) of the Act, notice is hereby given that Robert K. Hasegawa, Director of the Hawaii Department of Labor and Industrial Relations, has determined that there was a State "on" indicator in Hawaii for the week beginning September 19, 1971, and that an extended benefit period began in the State with the week beginning October 10, 1971.

Signed at Washington, D.C., this 11th day of November 1971.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.71-16840 Filed 11-17-71;8:50 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

NOVEMBER 15, 1971.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 135574, Parthurst Motor Freight Co., assigned February 7, 1972, at Nashville, Tenn., in a hearing room to be later designated.
MC 69078 Sub 34, Central Motor Express, Inc., assigned January 31, 1972, at Nashville, Tenn., in a hearing room to be later designated.
MC 133436 Sub 10, Dudden Elevator, now assigned December 3, 1971, in Room 106, Federal Office Building, 106 South 15th Street, Omaha, NE.
MC 124211 Sub 199, Hilt Truck Line, now assigned December 8, 1971, at Denver, Colo., in Room 1430, Federal Building, 1961 Stout Street, Denver, CO.
MC 59680 Sub 190, Strickland Transportation Co., Inc., now being assigned hearing January 27, 1972, at Memphis, Tenn., in a hearing room to be later designated.
MC 61592 Sub 222, Jenkins Truck Line, Inc., now being assigned hearing January 24, 1972, at Memphis, Tenn., in a hearing room to be later designated.
MC 115841 Sub 410, Colonial Refrigerated Transportation, now being assigned hearing January 26, 1972, at Memphis, Tenn., in a hearing room to be later designated.
MC 119700 Sub 17, Steel Haulers, Inc., now being assigned hearing at Memphis, Tenn., in a hearing room to be later designated.
MC 111729 Sub 310, American Courier Corp., assigned January 17, 1972, at Chicago, Ill., application dismissed, hearing canceled.
MC 61592 Sub 199, Jenkins Truck Line, now assigned January 17, 1972, Offices of Interstate Commerce Commission, Washington, D.C.
MC 14321 Sub 5, Engel Brothers, now assigned January 17, 1972, Offices of Interstate Commerce Commission, Washington, D.C.
MC 135141 Sub 1, H & H Expediting Service, now assigned January 5, 1972, Offices of Interstate Commerce Commission, Washington, D.C.
MC 135312, Floyd W. Mensch, now assigned January 5, 1972, at Offices of Interstate Commerce Commission, Washington, D.C.
MC 109540 Sub 24, Yeary Transfer Co., now being assigned hearing February 1, 1972, at Louisville, Ky., in a hearing room to be later designated.
MC 119777 Sub 207, Ligon Specialized Haulers, Inc., now being assigned hearing February 3, 1972, at Louisville, Ky., in a hearing room to be later designated.
MC 129708 Sub 1, McRay Truck Line, Inc., Common Carrier Application now being assigned hearing January 31, 1972, at Louisville, Ky., in a hearing room to be later designated.
MC 116763 Sub 190, Carl Subler Trucking, Inc., assigned January 13, 1972, at Miami, Fla., hearing room to be designated later.
MC 115331 Sub 318, Truck Transport, now assigned January 17, 1972, at Chicago, Ill., in Room 1738A, Everett McKinley Dirksen Building, 219 South Dearborn Street.
MC 128383 Sub 9, Pinto Trucking Service, Inc., assigned December 6, 1971, is postponed to December 12, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 116763 Sub 196, Carl Subler Trucking, Inc., now assigned January 13, 1972, at Miami, Fla., is canceled and application dismissed.
MC 2860 Sub 96, National Freight, now assigned February 3, 1972, at Jacksonville, Fla., hearing room to be designated later.
MC 105813 Sub 177, Belford Trucking Co., now assigned January 31, 1972, at Jacksonville, Fla., hearing room to be designated later.
MC 111729 Sub 306, American Courier Corp., now assigned January 25, 1972, at Jacksonville, Fla., hearing room to be designated later.
MC 119777 Sub 206, Ligon Specialized Hauler, now assigned January 24, 1972, at Jacksonville, Fla., hearing room to be designated later.
MC 135257 Sub 1, The Big E Corp., now assigned January 27, 1972, at Jacksonville, Fla., hearing room to be designated later.
MC 531 Sub 268, Younger Brothers, Inc., and MC 107403 Sub 806, Matlack, Inc., assigned January 24, 1972, at New Orleans, La.
MC 123407 Sub 82, Sawyer Transport, Inc., assigned January 28, 1972, at New Orleans, La.
MC 135413, Henry's Transfer, Inc., assigned January 10, 1972, at Miami, Fla., postponed to January 12, 1972, in Room 1510, Federal Building, 51 Southwest First Avenue, Miami, Fla.
MC 135232, Crown Metal & Salvage, now assigned November 18, 1971, at Columbus, Ohio, postponed indefinitely.
MC 134886 Sub 2, U & Me Transfer, Inc., assigned January 17, 1972, at Miami, Fla., is postponed to January 19, 1972, at Miami, in a hearing room to be designated later.
MC-C-7348, Hirschbach Motor Lines, Inc., et al. v. Refrigerated Transport Co., Inc., et al., assigned January 26, 1972, at New Orleans, La.
MC 51146 Sub 210, Schneider Transport & Storage, Inc., assigned December 13, 1971, at Washington, D.C., postponed to February 28, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 126102 Sub 6, Anderson Motor Lines, now assigned January 19, 1972, at the Offices of Interstate Commerce Commission, Washington, D.C.
MC 135109, Seco, Inc., now assigned January 17, 1972, at the Offices of Interstate Commerce Commission, Washington, D.C.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16859 Filed 11-17-71;8:51 am]

[No. 35480]

COLORADO INTRASTATE FREIGHT RATES AND CHARGES

Order Instituting Investigation

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 4th day of November 1971.

By petition filed September 2, 1971, the Atchison, Topeka and Santa Fe Railway Co., Burlington Northern Inc., Chicago, Rock Island and Pacific Railroad Co., the Colorado and Southern Railway Co., the Colorado and Wyoming Railway Co., the Denver and Rio Grande Western Railroad Co., the Great Western Railway, Missouri Pacific Railroad Co., San Luis Central Railroad, Southern San Luis Valley Railroad Co., and Union Pacific Railroad Co. on their own behalf and on behalf of all common carriers by rail-

road engaged in the transportation of property to, from, and within the State of Colorado, state that the Public Utilities Commission of the State of Colorado is delaying action on their application to increase the Colorado intrastate rates and charges; that they have no reason to believe that the Colorado commission will authorize increases on intrastate traffic corresponding to those authorized by this Commission on traffic moving in interstate or foreign commerce to, from, or through the State of Colorado, in Ex Parte Nos. 265 and 267, Increased Freight Rates, 1970 and 1971, 339 I.C.C. 125; and that the Colorado commission has arbitrarily adopted a special rule of practice governing procedure in this and similar petitions of common carriers by railroad, which rule violates the provisions of the Interstate Commerce Act, as amended, and more particularly sections 3, 13, and 15(a) thereof; and

It appearing, that the petitioners contend that interstate and intrastate traffic is generally comingled and handled in the same trains; that the transportation conditions affecting intrastate movements within Colorado are not different from those affecting interstate movements and do not justify the present differences in the interstate and intrastate rates and charges; that the full cost per unit of transporting the intrastate traffic within Colorado is as great as or greater than the cost of transporting similar traffic in interstate commerce from or to points in Colorado; that the rates and charges now in effect upon commodities moving in intrastate commerce within Colorado do not produce a fair share of the revenues required to meet maintenance and operating costs of petitioners and to yield a fair return on the value of their property devoted to transportation service both interstate and intrastate, and do not contribute fairly and fully to the need, in the public interest of adequate and efficient railway transportation service at the lowest cost consistent with the furnishing of such service, and to the need of revenues sufficient to enable petitioners, under honest, economical and efficient management, to provide such service; that this Commission's findings in Ex Parte Nos. 265 and 267, Increased Freight Rates, 1970 and 1971, supra, justifying the increases authorized in interstate rates and charges equally apply to Colorado intrastate rates and charges; and that those increases are also required on the Colorado intrastate traffic;

It further appearing, that petitioners allege that without the increases in intrastate rates and charges authorized by this Commission on interstate commerce in Ex Parte Nos. 265 and 267, Increased Freight Rates, 1970 and 1971, supra, the shippers and receivers of freight transported in intrastate commerce within the State of Colorado are not bearing their just and proper portion of the national transportation burden, are enjoying privileges and immunities denied to shippers and receivers of like traffic moving in interstate or foreign commerce, and that thus the intrastate rates and charges cause undue and unreasonable advantage and preference to persons and localities in Colorado intrastate commerce, and undue prejudice to persons and localities in interstate commerce, and cause undue, unreasonable, and unjust discrimination against and cast an undue burden on interstate commerce; and that, therefore, the Commission should institute an investigation under sections 3, 13, and 15a of the Interstate Commerce Act into the Colorado intrastate rates and charges;

It further appearing, that the petitioners request that all carriers by railroad subject to the Interstate Commerce Act and operating in the State of Colorado be made respondents;

And it further appearing, that there have been brought in issue by the railroads' petition matters sufficient to require an investigation into the lawfulness of intrastate rates and charges made or imposed by the State of Colorado; therefore,

It is ordered, That the petition be, and it is hereby granted.

It is further ordered, That an investigation be, and it is hereby, instituted under sections 13 and 15a of the Interstate Commerce Act to determine whether the intrastate rates and charges of the carriers by railroads, or any of them, operating in the State of Colorado, for the intrastate transportation of property, made or imposed by the State of Colorado, as previously indicated, cause or will cause, by reason of the failure of such rates and charges to include increases corresponding to those authorized on interstate traffic by this Commission in Ex Parte Nos. 265 and 267, Increased Freight Rates, 1970 and 1971, supra, any undue or unreasonable advantage, preference, or prejudice, as between persons or localities in intrastate commerce, on the one hand, and those in interstate or foreign commerce, on the other, or any undue, unreasonable, or unjust discrimination against, or undue burden on, interstate or foreign commerce, and to determine what rates and charges, if any, or what maximum, or minimum, or maximum and minimum, rates and charges should be prescribed to remove the unlawful advantage, preference, discrimination or undue burden, if any, that may be found to exist.

It is further ordered, That all carriers by railroad operating within the State of Colorado, subject to the jurisdiction of this Commission, be, and they are hereby, made respondents to this proceeding.

It is further ordered, That all persons who wish actively to participate in this proceeding, and to file and receive copies of pleadings shall make known that fact by notifying the Commission within 30 days from the date of publication of this order in the FEDERAL REGISTER. Although individual participation is not precluded, to conserve time and avoid unnecessary expense, persons having common interests shall endeavor to consolidate their presentation to the greatest extent possible.

It is further ordered, That as soon as practicable after the date for indicating a desire to participate in the proceeding has passed, the Commission's Office of Proceedings will serve a list of the names and addresses of all persons upon whom service of all pleadings must be made.

It is further ordered, That a copy of this order be served upon each of the said petitioners, and that the State of Colorado be notified by sending copies of this order and the said petition by certified mail to the Governor of Colorado, Denver, Colo., and to the Public Utilities Commission of the State of Colorado, Denver, Colo.

And it is further ordered, That notice of this proceeding be given to the public by depositing a copy of this order in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication therein. Interested persons shall be afforded the opportunity to inspect pleadings at the Office of the Secretary of the Commission in Washington, D.C.

By the Commission, Division 2.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16858 Filed 11-17-71;8:51 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 15, 1971.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42304—*Liquefied chlorine from Midland, Mich.* Filed by Traffic Executive Association-Eastern Railroads, agent (E.R. No. 3009), for interested rail carriers. Rates on chlorine, liquefied, in tank carloads, as described in the application, from Midland, Michigan, to Doctortown and Rosser, Georgia.

Grounds for relief—Market competition.

Tariff—Supplement 136 to Traffic Executive Association-Eastern Railroads, agent, tariff ICC C-611. Rates are published to become effective on December 15, 1971.

FSA No. 42305—*Sulphuric acid from Copperhill, Tenn.* Filed by M. B. Hart, Jr., agent (No. A6288), for interested rail carriers. Rates on acid, sulphuric, in tank carloads, as described in the application, from Copperhill, Tennessee, to Calvert, Kentucky.

Grounds for relief—Market competition.

Tariff—Supplement 57 to Southern Freight Association, agent, tariff ICC S-881. Rates are published to become effective on December 16, 1971.

FSA No. 42306—*Mineral mixtures and feed supplements to points in WTL Territory.* Filed by Western Trunk Line Committee, agent (No. A-2652), for interested rail carriers. Rates on mineral mixtures and feed supplements in mixed carloads with salt, as described in the application, from points in Utah, to points in western trunk-line territory.

Grounds for relief—Rate relationship.

Tariffs—Supplement 44 to Denver & Rio Grande Western Railroad Co. tariff ICC 1079, and supplement 1 to Union Pacific Railroad Co. tariff ICC 5695. Rates are published to become effective on December 20, 1971.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16861 Filed 11-17-71;8:51 am]

[Notice 81]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

Correction

In F.R. Doc. 71-15015 appearing at page 20005 in the issue of Thursday, October 14, 1971, under "Motor Carriers of Property" delete the fifth line in application No. MC-F-11330.

[Notice 397]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 12, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office in which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2228 (Sub-No. 63 TA), filed November 3, 1971. Applicant: MERCHANTS FAST MOTOR LINES, INC., East Highway 80, Post Office Drawer 270, Abilene, TX 79604. Applicant's representative: Leroy Hallman, 4555 First National Bank Building, Dallas, Tex. 75202. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and those injurious or contaminating to other lading) (1) between Dallas, Tex., and Beaumont, Tex., serving all intermediate points: From Dallas over U.S. Highway 175 to Jacksonville, thence over U.S. Highway 9 to Beaumont; and (2) between Lufkin, Tex., and Houston, Tex., serving all intermediate points: From Lufkin over U.S. Highway 59 to Houston, for 180 days. NOTE: Applicant intends to tack the authority here applied for to all authority in MC-2228; interline proposed at Dallas, Houston, and Beaumont. Supported by: There are approximately 191 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: H. C. Morrison, Sr., Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

No. MC 115841 (Sub-No. 419 TA), filed November 5, 1971. Applicant: COLONIAL REFRIGERATED TRANSPORTATION INC., 1215 Bankhead Highway, Post Office Box 10327, 35202, Birmingham, AL 35204. Applicant's representative: Roger M. Shaner, Post Office Box 168, Concord, TN 37720. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsite and warehouse facilities of Chef Pierre, Inc., at Traverse City, Mich., to points in Indiana, Kentucky, Ohio, Virginia, West Virginia, Arkansas, Kansas, Iowa, Illinois, Missouri, Nebraska, Oklahoma, and Texas, for 180 days. Supporting shipper: Chef Pierre, Inc., Post Office Box 544, Traverse City, MI 49684. Attention: Stephen P. Mikowski, Traffic Manager. Send protests to: Clifford W. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 814 O, 2121 Building, Birmingham, AL 35203.

No. MC 123503 (Sub-No. 5 TA), filed November 8, 1971. Applicant: KRAUS TRANSPORT LIMITED, 1211 Martingrove Road, Rexdale 603, ON, Canada. Applicant's representative: William J. Hirsch, 35 Court Street, Buffalo, NY 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinyl clad moldings*, from Marion, Va., to ports of entry on the international boundary line between the United States and Canada located in New York, for 150 days. Supporting shipper: Mr. Plywood of Canada, Ltd., 293 Eddystone Avenue, Downsview, ON, Canada. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Office Building, 121 Ellicott Street, Buffalo, NY 14203.

No. MC 124775 (Sub-No. 6 TA), filed November 8, 1971. Applicant: HRIBAR TRUCKING, INC., 1521 Waukesha Road, Caledonia, WI 53108. Applicant's representative: Leo Hribar (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk from LaCrosse, Wis., to points in Minnesota; and from Minneapolis, Minn., to points in Wisconsin, for 180 days. Supporting shipper: International Salt Co., O'Hara International Center, 6300 North River Road, Rosemont, IL 60018 (Robert J. Casey, Midwest Distribution Manager). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16860 Filed 11-17-71;8:51 am]

[Ex Parte No. 271]

RAILROAD NET INVESTMENT

Rate Base and Rate of Return

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 5th day of November 1971.

It appearing, that by order dated December 11, 1970, the Commission instituted a proceeding to determine whether the railroads' net investment in transportation property plus the original cost of the land and an allowance for working capital should be used to measure the rate of return, as heretofore, or whether some other rate base should be utilized in the future;

It further appearing, that by notice of January 19, 1971, the date for giving notification of intent to participate was extended from January 18, 1971, to February 8, 1971, and it was noted that the order would be served on numerous consumer interests for the purpose of securing as wide a public participation as possible;

It further appearing, that in accordance with the said order and notice, numerous parties notified the Commission that they intended to actively participate in the proceeding;

It further appearing, that in the preliminary report entered on this date, it was concluded to investigate also the matter of determining what constitutes a reasonable rate of return, including the various factors set forth in said report;

It further appearing, that since the order of December 11, 1970, instituting this investigation did not include the matter of determination of a reasonable rate of return, notice of its inclusion herein will be given by publication of this order in the FEDERAL REGISTER, to afford all persons interested an opportunity to participate and to assure an adequate record;

And it further appearing, that the order of December 11, 1970, provided that the nature of further proceedings would be later designated; therefore,

It is ordered, That on or before 30 days from the date of publication hereof in the FEDERAL REGISTER, all persons who have not previously become parties hereto by responding to the order of December 11, 1970, and who are interested in participating in the matter of determining a reasonable rate of return shall so notify the Office of Proceedings,

Room 5354, Interstate Commerce Commission, Washington, D.C. 20423. As soon as practicable thereafter, a list of the names and addresses of those so responding, as well as those who are presently parties, will be served on all parties.

It is further ordered, That on or before January 31, 1972, an original and 15 copies of initial verified statements of fact and argument, (1) in support of or in opposition to, in whole or in part, the present method of determining the railroad rate base, and/or (2) with respect to the matter of determining a reasonable rate of return, shall be filed with the Commission, and at the same time a copy thereof shall be served upon each party named in the list to be furnished as provided above.

It is further ordered, That on or before March 1, 1972, an original and 15 copies of verified reply statements are to be filed with the Commission, and at the same time a copy thereof shall be served upon each party named in the list to be furnished as provided above.

And it is further ordered, That no oral hearings are contemplated unless a need therefor should later appear.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.71-16902 Filed 11-17-71;9:18 am]

[Notice 91]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

NOVEMBER 12, 1971.

The following applications are governed by Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 531 (Sub-No. 275), filed October 15, 1971. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, Post Office Box 14048, Houston, TX 77021. Applicant's representative: Wray E. Hughes (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors*, in bulk, in tank vehicles, from Atchison, Kans., to Portland, Oreg. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 2368 (Sub-No. 31), filed October 21, 1971. Applicant: BRALLEY-WILLETT TANK LINES, INC., 2212 Deepwater Terminal Road, Post Office Box 495, Richmond, VA 23204. Applicant's representative: E. Stephen Heisley, 705 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and vegetable oil and fats*, in bulk, between points in Rockingham County, Va., on the other hand, and, on the other, points in North Carolina and South Carolina. NOTE: Applicant states that it presently holds out to perform much of the service by operating through Richmond, Va. Applicant further states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 15735 (Sub-No. 23), filed October 12, 1971. Applicant: ALLIED VAN LINES, INC., 25th Avenue and Roosevelt Road, Broadview, Ill. Mail: Post Office Box 4403, Chicago, IL 60680. Applicant's representative: Patrick H. Smyth, Legal Department, Post Office Box 4403, Chicago, IL 60680. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cooling boxes* uncrated, from Orange, Calif., to Denver, Colo. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., Washington, D.C., or Los Angeles, Calif.

No. MC 20783 (Sub-No. 86), filed October 12, 1971. Applicant: TOMPKINS MOTOR LINES, INC., 638 Langley Place, Decatur, GA 30030. Applicant's representative: Archie B. Culbreth, Suite 417, 1252 West Peachtree Street NW., Atlanta, GA 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Mattoon, Ill., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee, restricted to traffic originating at Mattoon, Ill., and destined to points in the States named above. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 31600 (Sub-No. 654) (Amendment), filed September 20, 1971, published in the FEDERAL REGISTER issue of October 29, 1971, and republished as amended this issue. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham, Mass. 02154. Applicant's representative: Harry C. Ames, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal or poultry feed ingredients*, dry, in bulk, in tank vehicles, from points in Illinois, Iowa, Minnesota, Nebraska, New York, North Dakota, South Dakota, and Wisconsin, to points in Massachusetts. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. The purpose of this republication is to include the States of New York and South Dakota as origin States, and the State of Massachusetts as a destination State. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass., or Washington, D.C.

No. MC 32882 (Sub-No. 60) (Amendment), filed June 14, 1971, published in the FEDERAL REGISTER issue of July 22, 1971, and republished as amended, this issue. Applicant: MITCHELL BROS. TRUCK LINES, a corporation, 3841 North Columbia Boulevard, Portland, OR 97217. Applicant's representative: Norman E. Sutherland, 1200 Jackson Tower, Portland, Oreg. 97205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities* which, by reason of size or weight, require special handling or the use of special equipment, and *commodities* which do not require handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight require special handling or the use of special equipment; (2) *self-propelled articles, transported on trailers, and related machinery, tools, parts, and supplies*, moving in connection therewith; (3) *iron and steel articles* as described in appendix 5 to the Commission's report in *Descriptions in Motor Carrier Certificates*, ex parte, MC 45, 61 M.C.C. 209 and 766; and (4) *pipe* other than iron or steel, together with fittings; and (5) *construction materials*, between points in California, on the one hand, and, on the other, points in Oregon, Washington, Idaho, Nevada, Utah, Colorado, Wyoming, and Arizona. NOTE: Applicant will tack between Oregon, Washington, Nevada, and Utah and also between California and Montana. The purpose of this republication is to add the destination States of Colorado, Wyoming, and Arizona. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., or San Francisco, Calif.

No. MC 33641 (Sub-No. 98), filed October 14, 1971. Applicant: IML FREIGHT, INC., 2175 South 3270 West, Salt Lake City, UT 80217. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite of PPG Industries, Inc., at or near Mount Holly Springs, Pa., as an off-route point in connection with applicant's regular route authority. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant did not specify a location.

No. MC 35072 (Sub-No. 7), filed October 25, 1971. Applicant: EDWIN L. ELLOR & SON, INC., 29 Mountain Boulevard, Warren, NJ 07060. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Hydrants, castings, valves, and machinery* and (2) *equipment, materials, and supplies* used or useful in the manufacture, sale, and installation thereof, except commodities in bulk, between the plantsite of U.S. Pipe & Foundry Co., Burlington, N.J., on the one hand, and, on the other, points in New Jersey, New York, Connecticut, Massachusetts, Manchester, N.H., Rhode Island, Pennsylvania, Delaware, Maryland, and the District of Columbia, under a continuing contract with U.S. Pipe & Foundry Co. of Burlington, N.J. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 41347 (Sub-No. 7), filed August 17, 1971. Applicant: DE BACK CARTAGE CO., INC., 4841 West Burnham Street, Milwaukee, WI 53219. Applicant's representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sea coal*, in bags, from Dolton, Ill., to West Allis, Wis., for the account of Milchap Products Division, S. C. I. NOTE: If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis.

No. MC 44639 (Sub-No. 45), filed October 21, 1971. Applicant: L. & M. EXPRESS CO., INC., 220 Ridge Road, Lyndhurst, NJ 07071. Applicant's representative: Herman B. J. Weckstein, 60 Park Place, Newark, NJ 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel, and materials, and supplies* used in the manufacture of wearing apparel, between Crewe, Va., on the one hand, and, on the other, Lynchburg, Va. NOTE: Applicant states that the requested authority can be tacked at Crewe, Va., with its authority under MC 44639, wherein applicant is authorized to serve points in Virginia, North Carolina, New Jersey, New York, and Maryland. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Lynchburg, Va.

No. MC 50493 (Sub-No. 47), filed October 13, 1971. Applicant: P.C.M. TRUCKING, INC., 1063 Main Street, Orefield, PA 18069. Applicant's representative: J. William Cain, Jr., 2001 Massachusetts Avenue NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients* (1) between Essex, Bergen, Hudson, and Union Counties, N.J., on the one hand, and, on the other, points in Pennsylvania (except Allentown, Pa.) and points in New York west of U.S. Highway 81 and (2) between New York, N.Y., on the one hand, and, on the other, points in Pennsylvania west of the Susquehanna River and points in New York west of U.S. Highway 81. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Person interested in the tacking possibilities are cautioned that failure to oppose the applicant may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 69833 (Sub-No. 100), filed October 21, 1971. Applicant: ASSOCIATED TRUCK LINES, INC., Vandenberg Center, Grand Rapids, Mich. 49502. Applicant's representative: Earl E. Meisenbach (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Columbus, Ohio, and Pittsburgh, Pa., from Columbus, Ohio, over Interstate Highway 70 to junction with U.S. Highway 19, thence over U.S. Highway 19 to Pittsburgh and return over the same route, serving no intermediate points, as an alternate route for operating convenience only.

No. MC 73688 (Sub-No. 50), filed October 19, 1971. Applicant: SOUTHERN TRUCKING CORPORATION, 1500 Orenda Avenue, Post Office Box 7182, Memphis, TN 38107. Applicant's representative: Charles H. Hudson, Jr., 601 Stahlman Building, Nashville, Tenn. 37201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum, aluminum products, aluminum articles*, and *iron and steel articles*, between the plantsite of Planet Corp. at Birmingham, Ala., on the one hand, and, on the other, points in the United States in and east of Texas, Oklahoma, Kansas, Nebraska, South Dakota, and North Dakota (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala.

No. MC 89684 (Sub-No. 77) (Amendment), filed August 16, 1971, published in the FEDERAL REGISTER issue of October 17, 1971, and republished as amended, this issue. Applicant: WYCOFF COMPANY, INCORPORATED, 560 South Second West, Salt Lake City, UT 84110. Applicant's representative: Harry D. Pugsley, 400 El Paso Gas Building, Salt Lake City, Utah 84111. NOTE: The purpose of this republication is to show that Salt Lake County, Davis County, Weber County, and Utah County are all located in the State of Utah. The rest of the application remains as previously published.

No. MC 100666 (Sub-No. 202), filed October 18, 1971. Applicant: MELTON TRUCK LINES, INC., Post Office Box 7666, Shreveport, LA 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life, 3535 Northwest 58th, Oklahoma City, OK 73112. Authority sought to operate as

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, plastic conduit, vinyl plastic siding, and extruded plastic products*, from Pittsburg, Kans., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states it knows of no feasible tacking operation. If a hearing is deemed necessary, applicant requests it be held at Tulsa, Okla., or Wichita, Kans.

No. MC 103435 (Sub-No. 216), filed October 18, 1971. Applicant: UNITED-BUCKINGHAM FREIGHT LINES, INC., 5773 South Prince Street, Post Office Box 192, Littleton, CO 80120. Applicant's representative: Robert P. Tyler, Post Office Box 192, Littleton, CO 80120. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Winner and Hot Springs, S. Dak., serving the intermediate points of Junction U.S. Highway 183, Junction U.S. Highway 83, Junction South Dakota Highway 73, Junction South Dakota Highway 75, Junction U.S. Highway 385, and Junction South Dakota Highway 79 and serving the termini for joinder only: From Winner over U.S. Highway 18 to Hot Springs, S. Dak., and return over the same route with service at Junction U.S. Highway 183, Junction U.S. Highway 83, Junction South Dakota Highway 73, Junction South Dakota Highway 75, Junction U.S. Highway 385, and Junction South Dakota Highway 79 for purpose of joinder only, as an alternate route for operating convenience only. NOTE: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 107012 (Sub-No. 133), filed October 18, 1971. Applicant: NORTH AMERICAN VAN LINES, INC., Lincoln Highway East and Meyer Road (Post Office Box 988), Fort Wayne, IN 46801. Applicant's representative: Terry G. Fewell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rug cushioning* from Richmond, Va., to points in West Virginia, Pennsylvania, Maryland, Delaware, New York, Connecticut, Massachusetts, Rhode Island, New Hampshire, Vermont, North Carolina, South Carolina, and Washington, D.C. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Richmond, Va.

No. MC 107295 (Sub-No. 564), filed October 21, 1971. Applicant: PRE-FAB TRANSIT CO., a corporation, Post Office Box 146, Farmer City, IL 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel studding; steel faced plasterboard; suspension ceiling systems and accompanying-fittings, fixtures and hardware for installation*, from Westlake, Ohio to points in Alabama, Delaware, District of Columbia, Florida, Georgia, Indiana, Maryland, Michigan, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, and Tennessee. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the applicant may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio or Washington, D.C.

No. MC 107403 (Sub-No. 825), filed October 20, 1971. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Applicant's representative: Harry C. Ames, Jr., 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polyvinyl chloride resin*, in bulk, in tank vehicles, from Plaquemine, La., to points in Alabama, Arkansas, Florida, Georgia, Kansas, Kentucky, North Carolina, Ohio, Tennessee, and Texas. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no *present* intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Washington, D.C.

No. MC 108393 (Sub-No. 53), filed October 21, 1971. Applicant: SIGNAL DELIVERY SERVICE, INC., 930 North York Road, Hinsdale, IL 60521. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, Ohio 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise, articles and commodities as are dealt in by mail-order houses and retail stores*, and in connection therewith, *such equipment, materials and supplies used in the conduct of such business*, between Chicago, Ill., and Pittsburgh, Pa., under continuing contract or contracts with Sears, Roebuck & Company. NOTE: Dual operations and common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 109365 (Sub-No. 36), filed October 15, 1971. Applicant: RONALD A. PATTERSON, doing business as ANTHONY & PATTERSON TRUCK LINE, Post Office Box 15, Ashdown, AR 71822. Applicant's representative: Louis Tarlowski, 914 Pyramid Life Building, Little Rock, Ark. 72201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products and materials and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk and commodities which because of size or weight require the use of special equipment), between the plantsites and/or storage facilities of Nekoosa Edwards Paper Co., Inc., in Little River County, Ark., on the one hand, and, on the other, points in Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, Rhode Island, and Vermont. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark.

No. MC 109397 (Sub-No. 263), filed October 14, 1971. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, Post Office Box 113, East on Interstate Business Route 44, Joplin, MO 64801. Applicant's representative: A. N. Jacobs, Post Office Box 113, Joplin, MO 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Heat exchangers and equalizers for air, gas, or liquids; machinery and equipment* for heating, cooling, conditioning, humidifying, dehumidifying, and moving of air, gas, or liquids; and *parts, attachments and accessories* for use in the installation and operation of the above-named items, between Jackson, Tenn., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. Applicant now holds contract carrier authority under its No. MC 128814 and subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 109708 (Sub-No. 55), filed October 18, 1971. Applicant: INDIAN RIVER TRANSPORT CO., a corporation, doing business as INDIAN RIVER TRANSPORT, INC., Box 1749, Fort Pierce, FL 33450. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cider stock*, in bulk, in tank vehicles, from North Rose, N.Y., to St. Paul, Minn.; Kansas City, and Marionville, Mo.; and Paris, Tex. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Miami, Fla., or Washington, D.C.

No. MC 110525 (Sub-No. 1018), filed October 15, 1971. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Applicant's representatives: Thomas J. O'Brien, (same address as applicant) and Leonard A. Jaskiewicz, Suite 501, 1730 M Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pellets, and/or plastic resin*, dry, in bulk, in tank vehicles, from the plantsite of Marbon Division, Borg-Warner Corp., Washington, W. Va., to points in those States east of the Mississippi River (excluding Minnesota), but including points in Louisiana and Missouri. NOTE: Applicant states tacking possibilities exist, but it does not intend to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 111401 (Sub-No. 351), filed October 15, 1971. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Road, Box 632, Enid, OK 73701. Applicant's representative: Alvin L. Hamilton (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Meadville, Pa., and Woodstock/Memphis, Tenn., to those ports of entry on the international boundary line between the United States and Mexico, located in Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex., or Washington, D.C.

No. MC 112595 (Sub-No. 48), filed October 18, 1971. Applicant: FORD BROTHERS, INC., Box 727, Ironton, OH 45638. Applicant's representative: James W. Muldoon, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic flakes, granules, pellets, and powder* in bulk, in tank vehicles, from Washington, W. Va., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 112822 (Sub-No. 206), filed July 8, 1971. Applicant: BRAY LINES INCORPORATED, 1401 North Little Street, Post Office Box 1191, Cushing, OK 74023. Applicant's representative: Thos. Lee Allman, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials*, from Memphis, Tenn., and New Orleans, La., to points in Oklahoma. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City or Tulsa, Okla.

No. MC 112989 (Sub-No. 20), filed October 21, 1971. Applicant: WEST COAST TRUCK LINES, INC., Post Office Box 668, Coos Bay, OR 97420. Applicant's representative: John G. McLaughlin, 726 Blue Cross Building, Portland, Oreg. 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities* which, by reason of size or weight, require special handling or the use of special equipment, *and commodities* which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight require special handling or the use of special equipment; (2) *self-propelled articles*, transported on trailers, and *related machinery, tools, parts, and supplies* moving in connection therewith; (3) *iron and steel articles* as described in Appendix 5 to the Commission's report in *Descriptions in Motor Carrier Certificates*, ex parte MC 45, 61 M.C.C. 209 and 766; (4) *pipe* other than iron or steel, together with *fittings;* and, (5) *construction materials*, between points in California, on the one hand, and, on the other, points in Oregon, Washington, Idaho, Nevada, and Utah. NOTE: If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., San Francisco, Calif., and Los Angeles, Calif.

No. MC 113828 (Sub-No. 198), filed October 21, 1971. Applicant: O'BOYLE TANK LINES, INCORPORATED, Post Office Box 3006, Washington, DC 20014. Applicant's representative: William P. Sullivan, Federal Bar Building West, 1819 H Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcohol and alcoholic liquors*, from Williamson, Pa., to Baltimore, Md. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 113855 (Sub-No. 248), filed August 30, 1971. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Alan Foss, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, the transportation of which because of size or weight require the use of special equipment, and *related machinery parts and related contractor's materials and supplies* when their transportation is incidental to the transportation by carrier of commodities which by reason of size or weight require special equipment, and (2) *self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts and supplies*, moving in connection therewith, restricted to commodities which are transported in trailers, between Minot, N. Dak., and points in Minnesota, and those in that part of North Dakota, south of a line beginning at the Montana-North Dakota State line and extending along U.S. Highway 2 to Lakota, N. Dak., thence along North Dakota Highway 1 to the international boundary line between the United States and Canada (not including points on the indicated portions of the highways specified other than Minot, N. Dak.). NOTE: Applicant states that the requested authority can be tacked with its existing authority under MC 113855 Sub 2 and Sub 84 to serve other western and midwestern States. If a hearing is deemed necessary, applicant requests it be held at Fargo, N. Dak.

No. MC 114019 (Sub-No. 226), filed October 18, 1971. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, IL 60629. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines, and toilet preparations*, from points in Philadelphia and Montgomery Counties, Pa., to Northville, Mich. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114239 (Sub-No. 28), filed August 15, 1971. Applicant: FARRIS TRUCK LINE, a corporation, Faucett, Mo. 64448. Applicant's representative: Tom B. Kretsinger, 450 Professional Building, Kansas City, Mo. 64106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Feed and feed ingredients*, between points in the Kansas City, Mo.-Kans., commercial zone, on the one hand, and, on the other, points in Texas and Arkansas, and (2) *feed ingredients*, from points in Colorado, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, and Wyoming, to points in the Kansas City, Mo.-Kans., commercial zone as defined by the Commission, under contract with Albers Milling Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 115603 (Sub-No. 11), filed October 19, 1971. Applicant: TURNER BROS. TRUCKING COMPANY, INC., 5501 South Hattie Street, Post Office Box 94626, Oklahoma City, OK 73109. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel* and *iron and steel articles*, (1) between points in Colorado and Wyoming, on the one hand, and, on the other, points in Illinois, Nebraska, South Dakota, and Missouri; (2) between points in Illinois, Nebraska, South Dakota, Mis-

souri, Oklahoma, Kansas, and Texas; (3) between points in Louisiana and New Mexico; (4) between points in Louisiana and New Mexico, on the one hand, and, on the other, points in Kansas, Oklahoma, and Texas; (5) between points in Oklahoma, on the one hand, and, on the other, points in Mississippi; (6) between points in Texas, on the one hand, and, on the other, points in North Dakota on and west of a line beginning at the United States-Canada boundary line and extending along North Dakota Highway 30 through York and Medina to Lehr, thence along unnumbered highway to Ashley, and thence along North Dakota Highway 3 to the North Dakota-South Dakota State line; (7) between points in Wyoming and Colorado; (8) between points in Wyoming and Colorado, on the one hand, and, on the other, points in Oklahoma; (9) between points in Oklahoma, on the one hand, and, on the other, points in Arkansas; and (10) between points in Arkansas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. No duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Houston or Dallas, Tex., or Oklahoma City, Okla.

No. MC 115826 (Sub-No. 226), filed October 14, 1971. Applicant: W. J. DIGBY, INC., Post Office Box 5088 TA, 1960 31st Street, Denver, CO 80217. Applicant's representative: Ezekial Gomez (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soft drinks and juices*, canned or bottled, or packaged in bags and containers, from points in Colorado to points in New Mexico, Oklahoma, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 115826 (Sub-No. 227), filed October 14, 1971. Applicant: W. J. DIGBY, INC., Post Office Box 5088 TA, 1960 31st Street, Denver, CO 80217. Applicant's representative: Ezekial Gomez (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, from Sterling, Colo., to points in Alabama, Florida, Georgia, Louisiana, North Carolina, South Carolina, Tennessee, Texas, West Virginia, Virginia, Maryland, Kentucky, Ohio, and Washington, D.C. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 115826 (Sub-No. 228), filed October 18, 1971. Applicant: W. J. DIGBY, INC., Post Office Box 5088 T.A., 1960 31st Street, Denver, CO 80217. Applicant's representative: Ezekial Gomez (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquor, wines, alcoholic, and nonalcoholic beverage preparation*, from points in Illinois, Kentucky, Tennessee, Ohio, and Indiana to points in Colorado, Arizona, New Mexico, Utah, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Cincinnati, Ohio.

No. MC 115840. (Sub-No. 73), filed September 30, 1971. Applicant: COLONIAL FAST FREIGHT LINES, INC., 1215 West Bankhead Highway, Post Office Box 10327, Birmingham, AL 35202. Applicant's representative: C. E. Wesley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) (1) *commodities* the transportation of which because of their size or weight require the use of special equipment, and *related machinery parts and related contractors' materials and supplies* when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight require special equipment; (2) *self-propelled articles, and related machinery, tools, parts, and supplies* moving in connection therewith (restricted to commodities which are transported on trailers; (3) *commodities*, which do not require the use of special equipment or handling when moving with commodities the transportation of which because of size or weight require the use of special equipment as part of the same shipment on the same bill of lading and on the same vehicle; (4) *construction, agricultural, maintenance, material handling; and industrial machinery and equipment; pipe; iron and steel articles; lumber;* and (5) *parts, accessories, and attachments* for commodities described in parts (1), (2), and (4) above; between points in Alabama, Louisiana, and Mississippi; and (B) *commodities* the transportation of which because of size or weight require the use of special equipment; between Chattanooga, Tenn., and points in Oconee, Pickens, and Greenville Counties, S.C., points in Alabama in and north of Lee, Tallapoosa, Coosa, Chilton, Bibb, Tuscaloosa, Fayette, and Marion Counties; points in Kentucky on and south of U.S. Highway 80 to its junction with U.S. Highway 68, thence along Highway U.S. 68 to its junction with U.S. Highway 41, thence along U.S. Highway 41 to the Kentucky-Tennessee State line; and points in Georgia in and north of Troop, Meriwether, Pike, Lamar, Monroe, Jones, Jasper, Morgan, Oconee, Clark, Madison, and Franklin Counties. NOTE: Applicant intends to tack the authority sought in A and B with authorities presently held by applicant at points in Alabama, Louisiana, and Mississippi. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 115898 (Sub-No. 2), filed October 14, 1971. Applicant: EVERETT STUBBLEFIELD, doing business as T.S.C.T., 4609 Chandler Avenue, Chattanooga, TN 37410. Applicant's representative: R. Cameron Rollins, 321 East Center Street, Kingsport, TN 37660. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick, cinderblocks, concrete blocks, clay products, shale and shale products, concrete and concrete products, and mortar mixes*, (1) between Cordova, Tenn., on the one hand, and, on the other, points in Arkansas, Kentucky, Mississippi, and Missouri; (2) between Huntsville, Ala., on the one hand, and, on the other, points in Tennessee, North Carolina, and Georgia; (3) between Elizabethton, Johnson City, Kingsport, and Knoxville, Tenn., on the one hand, and, on the other, points in Kentucky, Virginia, West Virginia, North Carolina, Georgia, and Alabama; and (4) between Groseclose, and Richlands, Va., on the one hand, and, on the other, points in Kentucky, North Carolina, Tennessee, and West Virginia, under contract with General Shale Products Corp., Johnson City, Tenn. NOTE: Duplicating authority may be involved. If the authority sought is granted, applicant requests that any existing duplicating authority be canceled. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Nashville, Tenn.

No. MC 116063 (Sub-No. 127), filed October 6, 1971. Applicant: WESTERN-COMMERCIAL TRANSPORT, INC., 2400 Cold Springs Road, Post Office Box 270, Fort Worth, TX 76101. Applicant's representative: W. H. Cole (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Starch*, in bulk, from Fort Worth, Tex., to points in Arkansas, Louisiana, and Oklahoma. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Fort Worth or Dallas, Tex.

No. MC 118989 (Sub-No. 68), filed October 21, 1971. Applicant: CONTAINER TRANSIT, INC., 5223 South Ninth Street, Milwaukee, WI 53211. Applicant's representative: Albert A. Andrin, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers*, from Jerseyville, Ill., to points in Arkansas, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Massachusetts, Minnesota, Missouri, New York, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Texas, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Milwaukee, Wis.

No. MC 119632 (Sub-No. 47), filed October 14, 1971. Applicant: REED LINES, INC., 634 Ralston Avenue, Defiance, OH 43512. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Articles*, distributed or dealt in by food distributors or wholesale and retail grocers (except frozen foods and commodities in bulk), (1) from points in Illinois, Indiana, Kentucky, Maryland, the Lower Peninsula of Michigan, New Jersey, New York, Ohio, Pennsylvania, and West Virginia to the plantsite and facilities of Fostoria Distribution Service Co. at or near Fostoria, Ohio, and (2) from the plantsite and facilities of Fostor from the plantsite and facilities of Fostoria Distribution Service Co. at or near Fostoria, Ohio, to points in the Lower Peninsula of Michigan west of U.S. Highway 23. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 119777 (Sub-No. 228), filed October 14, 1971. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85 East, Post Office Drawer L, Madisonville, KY 42431. Applicant's representative: William G. Thomas (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies used in air, water, and sewage systems and installations*, between points in Alabama, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Applicant also holds contract carrier authority under MC 126970 and subs, therefore dual operations and common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Washington, D.C.

No. MC 119880 (Sub-No. 49), filed October 21, 1971. Applicant: DRUM TRANSPORT, INC., Post Office Box 2056, East Peoria, IL 61611. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors*, in bulk, in tank vehicles, from Elizabeth, N.J., Baltimore, Md., and Norfolk, Va., to Colonial Heights, Va. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 120543 (Sub-No. 73), filed October 18, 1971. Applicant: FLORIDA REFRIGERATED SERVICE, INC., U.S. Highway 301N., Post Office Box 1297, Dade City, FL 33525. Applicant's representative: L. D. Fay, 1205 Universal Marion Building, Post Office Box 1086, Jacksonville, FL 32201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Water conditioners*, liquid and powder, *water filters and purifiers*, and *fish food*, from Sanford, Fla., to points in California. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Orlando or Tampa, Fla.

No. MC 123048 (Sub-No. 203), filed October 14, 1971. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, WI 53403. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors*, (except truck tractors), and *tractor attachments*, in mixed loads with tractors (except commodities which by reason of size or weight require the use of special equipment), from the facilities of Oliver Farm Equipment Co., a division of White Farm Equipment Co., located in De Kalb County, Ga., to points in the United States (except Alaska, Connecticut, Delaware, Georgia, Hawaii, Maryland, Massachusetts, North Carolina, New Jersey, Rhode Island, South Carolina, Virginia, and the District of Columbia). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 124236 (Sub-No. 38), filed October 15, 1971. Applicant: CEMENT EXPRESS, INC., 1200 Simons Building, Dallas, Tex. 75201. Applicant's representative: William D. White, Jr., 2505 Republic National Bank Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *White Portland cement*, from Houston, Tex., to points in Tennessee. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its present authority in the States of Alabama, Arkansas, Colorado, Kansas, Louisiana, New Mexico, Oklahoma, Mississippi, and Texas. If a hearing is deemed necessary, applicant requests it be held at Dallas or Houston, Tex.

No. MC 124701 (Sub-No. 8), filed October 21, 1971. Applicant: HAYWARD TRANSPORTATION, INC., Main Street, Fairlee, Vt. 05045. Applicant's representative: Frederick T. O'Sullivan, 372 Granite Avenue, Milton, MA 02186. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except petrochemicals and liquified petroleum gas), in bulk, in tank vehicles, from Boston and Braintree, Mass., to points in Chittenden, Lamoille, Washington, Orange, Caledonia, and Essex Counties, Vt., and Grafton and Coos Counties, N.H., under contract with Bradford Oil Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Montpelier, Vt., or Concord, N.H.

No. MC 124711 (Sub-No. 13), filed October 15, 1971. Applicant: BECKER & SONS, INC., 2643 West Central, El Dorado, KS 67042. Applicant's representative: Erle W. Francis, Suite 719, 700 Kansas Avenue, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, dry, in bulk or in packages; *insecticides, fungicides, and herbicides*, except liquid in bulk, also in mixed shipments with manufactured fertilizer and fertilizer materials, from points on the Arkansas and Verdigris Rivers, in Oklahoma, to points in Arkansas, Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, Oklahoma, South Dakota, Texas, and Wisconsin. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Topeka, Kans.

No. MC 125000 (Sub-No. 6), filed October 12, 1971. Applicant: LEON LEDBETTER, Post Office Box 277, Vega, TX 79092. Applicant's representative; Maston C. Courtney, Post Office Box 189, Amarillo, TX 79105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Water well gravel*, between points in Armstrong, Briscoe, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hartley Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, and Wheeler Counties, Tex.; points in Colfax, Curry, De Baca, Guadalupe, Harding, Quay, Roosevelt, San Miguel, and Union Counties, N. Mex.; points in Beaver, Beckham, Cimarron, Custer, Dewey, Ellis, Greer, Harmon, Harper, Jackson, Kiowa, Major, Roger Mills, Texas, Tillman, Washita, Woods, and Woodward Counties, Okla.; points in Clark, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearney, Meade, Morton, Seward, Stanton, and Stevens Counties, Kans.; and points in Baca, Bent, Crowley, Las Animas, Prowers, Pueblo, and Otero Counties, Colo. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Amarillo, Tex.

No. MC 125433 (Sub-No. 29), filed October 14, 1971. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1891 West 2100 South Street, Salt Lake City, UT 84119. Applicant's representative: David J. Lister (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, as described in Ex Parte No. MC-45, *Descriptions in Motor Carrier Certificates*, Appendix V (61 M.C.C. 276); (2) *pipe other than iron or steel*, between California, on the one hand, and, on the other, points in Arizona, New Mexico, and El Paso, Tex. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed neces-

sary, applicant requests it be held at Los Angeles or San Francisco, Calif.

No. MC 126038 (Sub-No. 7), filed October 20, 1971. Applicant: PENINSULA PRODUCTS, INC., 47 Northeast Middlefield Road, Portland, OR 97211. Applicant's representative: David C. White, 2400 Southwest Fourth Avenue, Portland, OR 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a) *Wine and malt beverages*, except in bulk, from points in California to Bremerton, Wash., under contract with Jennings Corp.; and (b) *wine*, except in bulk, from points in California to Seattle, Wash., under contract with Birkenwald, Inc. NOTE: Applicant states that no duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash., or Portland, Oreg.

No. MC 126276 (Sub-No. 59), filed October 18, 1971. Applicant: FAST MOTOR SERVICE, INC., 12855 Ponderosa Drive, Palos Heights, IL 60463. Applicant's representative: Albert A. Andrin, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container ends, and closures*, from the plantsites of Crown Cork & Seal Co., Inc., at Atlanta, Ga., Orlando and Bartow, Fla., Birmingham, Ala., and Spartanburg, S.C., to points in Pennsylvania, Maryland, North Carolina, South Carolina, New Jersey, New York, Kentucky, West Virginia, Tennessee, Arkansas, Illinois, Indiana, and Ohio, under contract with Crown Cork & Seal Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 126539 (Sub-No. 7), filed October 14, 1971. Applicant: KATUIN BROS., INC., 102 Terminal Street, Dubuque, IA 52001. Applicant's representative: Carl E. Munson, 469 Fischer Building, Dubuque, Iowa 52001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, from Keokuk, Iowa to points in Illinois, Minnesota, and Missouri. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant now holds contract carrier authority under its No. MC 129135 and subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Dubuque, Iowa, Chicago, Ill., or Des Moines, Iowa.

No. MC 128020 (Sub-No. 32), filed October 8, 1971. Applicant: THE STOUT TRUCKING CO., INC., Post Office Box 177, Rural Route No. 1, Urbana, IL 61801. Applicant's representative: James F. Flanagan, 111 West Washington Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers and *empty beverage containers*, (1) from Detroit, Mich., to Danville, Ill.; (2) from Evansville, Ind., and Newport, Ky., to Danville and Paris, Ill.; (3) from Louisville, Ky., to Paris, Ill.; (4) from LaCrosse, Wis., to Bloomington and Lincoln, Ill.; (5) from South Bend, Ind., to Danville and Paris, Ill., restricted to site of Hiram Distributing Co., Danville and Hiatt Distributing Co., Paris, Ill. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Springfield or Chicago, Ill.

No. MC 128273 (Sub-No. 111), filed October 20, 1971. Applicant: MIDWESTERN EXPRESS, INC., Box 189, Fort Scott, KS 66701. Applicant's representative: Danny Ellis (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products, products produced or distributed by manufacturers and converters of paper and paper products; and materials and supplies* used in the manufacture and distribution of the foregoing commodities (except commodities which, because of size or weight, require the use of special equipment, and except commodities in bulk), between the plantsites and/or storage facilities of Nekoosa Edwards Paper Co., Inc., located in Little River County, Ark., on the one hand, and, on the other, points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, Rhode Island, Vermont, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark., or Washington, D.C.

No. MC 128497 (Sub-No. 13), filed October 18, 1971. Applicant: JACK LINK TRUCK LINE, INC., Post Office Box 127, Dyersville, IA 52040. Applicant's representative: Jack H. Blanshan, 29 South La Salle Street, Chicago, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Mattoon, Ill., to points in Iowa, Kansas, Minnesota, Missouri, Nebraska, South Dakota, and Wisconsin, restricted to the transportation of traffic originating at the plantsite and warehouse facilities of Kraft Foods at Mattoon, Ill., and destined to the named destination points. NOTE: Applicant presently holds contract carrier authority in MC 124807, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 128497 (Sub-No. 14), filed October 20, 1971. Applicant: JACK LINK TRUCK LINE, INC., Post Office Box 127, Dyersville, Iowa 52040. Applicant's representative: Jack H. Blanshan, 29 South La Salle Street, Chicago, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Dairy products*, as described in section B of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (1) from Chippewa Falls, Wis., to points in Indiana, and Illinois (except Chicago, Ill.), and (2) from Bettendorf, Iowa to Chippewa Falls, Wis.; (B) *Dairy Products* (except commodities in bulk), from Chippewa Falls and Westby, Wis.; Dubuque, Iowa; and LeSueur, Minn., to points in Iowa, Missouri, Nebraska, and South Dakota, and (C) *Orange juice*, in containers, from Chippewa Falls, Wis., to points in Iowa, Missouri, Nebraska, South Dakota, Indiana, and Illinois (except Chicago, Ill., and its commercial zone). Restriction: Parts A, B and C above are restricted to the transportation of shipments originating at the facilities of or utilized by Fieldcrest Sales Co. and destined to the named destinations. NOTE: Applicant presently holds contract carrier authority in MC 124807, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 129323 (Sub-No. 2), filed August 9, 1971. Applicant: MERCHANTS MOVING COMPANY OF FAYETTEVILLE, INC., 457 Robeson Street, Fayetteville, NC 28302. Applicant's representative: R. J. Gallagher, 1776 Broadway, New York, NY 10019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in North Carolina. Restriction: The service authorized herein is restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic. NOTE: If a hearing is deemed necessary, applicant requests it be held at Fayetteville, N.C.

No. MC 129341 (Sub-No. 3), filed October 20, 1971. Applicant: SYL-AR TRUCKING, INC., Post Office Box 147, Cleveland, Wis. 53015. Applicant's representative: Edward Solle, Executive Building, Suite 100, 4513 Vernon Boulevard, Madison, WI 53705. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, and *related advertising materials, premiums, and malt beverage dispensing equipment* in mixed loads with malt beverages, (a) from St. Louis, Mo., to Green Bay, Wis., limited to a transportation service performed under a continuing contract, or contracts, with Benkowski Distributing Co., Inc., Manitowoc, Wis.; and (b) from St. Louis, Mo., to Sturgeon Bay, Wis., limited to a transportation service performed under a continuing contract, or contracts, with Ervin Schultz, doing business as Erv's Beer Depot, Sturgeon Bay, Wis. NOTE: If a hearing is deemed necessary, applicant requests it be held at Madison, Wis.

No. MC 129413 (Sub-No. 8), filed October 19, 1971. Applicant: C. B. TRANSPORTATION, INC., 1400 Grand Avenue, Post Office Box 3072, Sioux City, IA 51102. Applicant's representative: J. Max Harding, 605 South 14th Street, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal and poultry feeds, animal and poultry feed ingredients and animal and poultry health aids*, from Worthington, Minn., to points in Lyon, Osceola, Dickinson, Emmet, Sioux, O'Brien, Clay, Palo Alto, Plymouth, Cherokee, Buena Vista, Woodbury, Ida, and Sac Counties, Iowa; Sioux, Dawes, Box Butte, Sheridan, Cherry, Keya Paha, Brown, Rock, Boyd, Holt, Knox, Antelope, Pierce, Cedar, Wayne, Dixon, Dakota, and Thurston Counties, Nebr., and points in South Dakota; (2) *Animal and poultry feed ingredients* from the destination area (1) above to Worthington, Minn., and (3) *animal and poultry feeds, animal and poultry feed ingredients and animal and poultry health aids*, between the plantsites and warehouse facilities of Allied Mills at Worthington, Minn.; Mason City, Iowa, and Omaha, Nebr. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 133574 (Sub-No. 14), filed October 18, 1971. Applicant: TERRILL TRUCKING COMPANY, a corporation, 1016 Geneseo Street, Post Office Box 940, Storm Lake, IA 50588. Applicant's representative: Daryl Terrill (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and/or storage facilities utilized by Wilson Certified Foods, Inc., at Cherokee, Iowa, to points in Mississippi, Georgia, Alabama, Tennessee, Florida, North Carolina, and South Carolina. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Des Moines, Iowa.

No. MC 134282 (Sub-No. 4) (Clarification), filed October 1, 1971, published in the FEDERAL REGISTER issue of November 11, 1971, and republished in part, as clarified, this issue. Applicant: ENNIS TRANSPORTATION CO., INC., Post Office Box 447, Ennis, TX 75119. Applicant's representative: William D. White, Jr., 2505 Republic National Bank Tower, Dallas, Tex. 75201. The purpose of this partial republication is to show the correct origin in Part (2) of the application as: National Gypsum Co. at or near Pryor, Okla., in lieu of National Paper Co., as was erroneously published. The rest of the application remains as previously published.

No. MC 134321 (Sub-No. 2), filed October 15, 1971. Applicant: HAROLD W. HOLT, Route 5, Manchester, TN 37355. Applicant's representative: A. O. Buck, 500 Court Square Building, Nashville, Tenn. 37201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products, metal roofing, fencing, fencing equipment, and nails*, from points in Alabama to Tullahoma, Tenn., under contract with Smotherman & Womack Wholesale Co., Tullahoma, Tenn. NOTE: If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 134556 (Sub-No. 1), filed October 6, 1971. Applicant: WATCO, INC., Clayton Road, Canaan, Conn. 06018. Applicant's representative: Reubin Kaminsky, Post Office Box 17–067 North Main Street, West Hartford, CT 06117. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cement products, lime and limestone products, silica and silica products, sand and sand products, asphalt and asphalt products, mortar mix, gravel, gravel mix, tar products, marble chip, and calcium chloride* (except in bulk, in tank vehicles), from Canaan, Conn., to points in that part of New York on and west of U.S. Highway 15, under contract with Watta-Crete Co., Inc., of Canaan, Conn. NOTE: If a hearing is deemed necessary, applicant requests it be held at Hartford, Conn., or Albany, N.Y.

No. MC 135730 (Amendment), filed June 18, 1971, published in the FEDERAL REGISTER issue of July 22, 1971, amended and republished as amended, this issue. Applicant: JACKSYL TRANSPORTATION CORPORATION, 97 Freedman Avenue, Nanuet, NY 10954. Applicant's representative: William D. Traub, 10 East 40th Street, New York, NY 10016. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides and skins, cut fur, fur scrap, hair scrap, wool scrap, and such commodities as are used in or incidental to the processing, manufacture, packing and shipping of leather and leather products*, between the New York, N.Y., commercial zone as defined by the Commission, on the one hand, and Newark, N.J., and Danbury, Norwalk, and Winsted, Conn., and Hudson, N.Y., on the other, and (2) between Newark, N.J., and Hudson, N.Y. The purpose of this republication is to redescribe the territorial scope. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 135796 (Sub-No. 1), filed October 12, 1971. Applicant: ASSELIN TRANSPORT LTEE, a corporation, St. Georges-De-Champlain, Laviolette Co., PQ, Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber*, from the ports of entry on the international boundary line between the United States and Canada at or near Champlain, N.Y., Derby Line and Norton, Vt., and Ashland, Maine, to Ticonderoga, Tonawanda, and Amityville, N.Y.; Orleans, Bellows Falls, Brattleboro, Bennington, Randolph, Newport, and Beecher Falls, Vt.; Athol, Baldwinville, Boston, Gardner, Tewksbury, Winchendon, and Clinton, Mass.; Roxbury, Conn.; Suncook and Merrimack, N.H.; (2) *Concrete porous pipes*, from ports of entry on the international boundary line between the United States and Canada at or near Derby Line, Vt., to points in Massachusetts, Rhode Island, and Connecticut; and (3) *Canoes, boats, and accessories*, from ports of entry on the international boundary line between the United States and Canada at or near Trout River, N.Y., to Malone, N.Y. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Montpelier, Vt., or Albany, N.Y.

No. MC 136016, filed August 30, 1971. Applicant: JOHN M. HOLLISON, doing business as DAIRY CARRIERS, 10201 York Lane, Minneapolis, MN 55431. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Empty steel, paper and cardboard containers*, between Minnesota and points in North Dakota, South Dakota, Montana, Nebraska, Iowa, Wisconsin, Illinois, Missouri, Michigan, Indiana, Wyoming, and Kansas, under contract with Industrial Steel Container Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 136035, filed August 25, 1971. Applicant: WALTER S. DUNNING AND WALTER H. DUNNING, a partnership, doing business as W. S. DUNNING & SON, 902 South Chester Road, West Chester, PA 19380. Applicant's representative: Miles Warner, 225 South 15th Street, Philadelphia, PA 19102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Packaged foods and food products*, in metal, glass, paper, or other containers, included but not limited to *mushrooms, mushroom products, sauces, cereals, and related products*, from West Chester, Pa., to warehouses, customers, or consignees of Grocery Stores Products Co. at points in Massachusetts, New Jersey, Virginia, Delaware, Louisiana, Connecticut, Illinois, North Carolina, Florida, Indiana, New York, Ohio, South Carolina, Missouri, and Michigan; (2) *containers and packaging materials* for use in packaging and containing the products and property set forth in (1) above, including but not limited to *empty steel cans, empty glass and plastic jars, and containers, paper cartons, and paper bags*, (3) *paper or plastic labels* for use in labelling, tagging, or identifying the products and property set forth in (1) above; (4) *empty pallets* for use in loading or unloading the products and property set forth in (1) above; and (5) *salt*, in paper or plastic containers for use in the food products and property set forth in (1) above, from points in New Jersey, Michigan, Maryland, Ohio, Illinois, and New York to the plant of Grocery Stores Products Co. in West Chester, Pa., in connection with (2), (3), (4), and (5) above, under contract with Grocery Stores Products Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 136052 (Sub-No. 2), filed October 26, 1971. Applicant: SECURITY CARRIERS, INC., 4228 West 11th, Post Office Box 3091, Amarillo, TX 79106. Ap-

plicant's representative: Frederick J. Coffman, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plant and warehouse facilities used by National Beef Packing Co., at or near Liberal, Kans., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia, restricted to the plant and warehouse facilities of National Beef Packing Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr., or Kansas City, Mo.

No. MC 136109, filed October 21, 1971. Applicant: HETEM BROS., INC., 601 Commerce Road, Linden, NJ 07036. Applicant's representative: Thomas E. James, Post Office Box 5976, Dallas, TX 75222. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, from points in Bergen, Essex, Hudson, Middlesex, and Union Counties, N.J., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, under contract with Enjay Chemical Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 136111, filed October 18, 1971. Applicant: JOSEPH W. HUNKEN AND ROBERT F. HUGHES, a partnership doing business as H & H TRUCKING COMPANY, 104 Maplewood Drive, Bolingbrook, IL 60439. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Microfoam and plastic air caps*, between the plantsites and warehouse facilities of Tekra Corp. at Milwaukee, Wis., and Minneapolis-St. Paul, Minn., and points in Wisconsin, Iowa, Illinois, South Dakota, North Dakota, Nebraska, Kansas, and Kentucky; (2) *microfoam*, from Wurtland, Ky., to points in Wisconsin, Iowa, Illinois, South Dakota, North Dakota, Nebraska, Kansas, and Kentucky; and (3) *paper wadding*, from Salem, Ill., to points in Wisconsin and Minnesota, under contract with Tekra Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Milwaukee, Wis.

MOTOR CARRIERS OF PASSENGERS

No. MC 59238 (Sub-No. 66), filed October 6, 1971. Applicant: VIRGINIA STAGE LINES, INCORPORATED, 114 Fourth Street SE., Charlottesville, Va. Applicant's representative: James E. Wilson, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, and express and newspapers* in the same vehicle with passengers, between the junction of Interstate Highway 64 and Interstate Highway 81 and the junction of Interstate Highway 81 and U.S. Highway 340 at or near Waynesboro, Va., serving the latter junction for the purpose of joinder only. NOTE: Applicant has pending an application for contract carrier authority under its No. MC 135567 Sub-No. 2, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 110616 (Sub-No. 4), filed August 9, 1971. Applicant: CHARTER COACHES INC., 1878 Cold Stream Avenue NE., Cedar Rapids, IA 52402. Applicant's representative: O. W. Lawrence, 522 Higley Building, Cedar Rapids, IA 52401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle, in both charter and special operations, either one way or round trip, from Cedar Rapids, Iowa, and points within 50 miles of Cedar Rapids, to points in the United States (except Hawaii). NOTE: Applicant also holds contract carrier authority under MC 115405. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, Chicago, Ill., or Minneapolis, Minn.

No. MC 127738 (Sub-No. 3), filed August 26, 1971. Applicant: YELLOWSTONE PARK LINES, INC., Gardiner, Mont. 59030. Applicant's representative: Gerald Good (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers, baggage, express, and newspapers*, (1) between Gallatin Airport, located near Belgrade, Mont., and Bozeman, Mont., over U.S. Highway 10 or Interstate Highway 90, serving no intermediate points; and (2) between junction U.S. Highway 191 and unnumbered highway, over unnumbered highway to Big Sky Resort, Mont., serving all intermediate points. NOTE: It is noted that applicant presently transports passengers between Bozeman and West Yellowstone, Mont., over U.S. Highway 191, serving all intermediate points. If a hearing is deemed necessary, applicant requests it be held at Bozeman or West Yellowstone, Mont.

APPLICATION FOR FILING BROKERAGE LICENSE

No. MC 130141 (amendment), filed March 1, 1971, published in the FEDERAL REGISTER issue of April 8, 1971, amended and republished as amended, this issue. Applicant: HOWARD A. SHAFFER, DOROTHY J. LANDIS, AND RUSSELL W. LANDIS, a partnership, doing business as LET'S TRAVEL SERVICE, 926 East 64th Street, Tacoma, WA 98404. For a license (BMC 5) to engage in operations as a *broker* at Tacoma, Wash., in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of *passengers and their baggage*, both as individuals and in groups, beginning and ending at points in Washington and Oregon and extending to points in the United States (including Alaska and Hawaii), and ports of entry on the United States-Canada and the United States-Mexico boundary lines. NOTE: The purpose of this republication is to broaden the scope of authority sought.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 11740 (Sub-No. 6), filed October 14, 1971. Applicant: BLUE & GRAY TRANSPORTATION CO., INCORPORATED, 1111 Commerce Road, Richmond, Va. 23224. Applicant's representative: L. N. Lewis (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors*, in bulk, between Norfolk, Va., and Colonial Heights, Va. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority.

No. MC 97275 (Sub-No. 25), filed October 18, 1971. Applicant: ESTES EXPRESS LINES, a corporation, 1405 Gordon Avenue, Richmond, VA 23224. Applicant's representative: Francis W. McInerny, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Raleigh and Durham, N.C., over U.S. Highway 70, serving the terminal site of Estes Express Lines, located approximately 8 miles northwest of Raleigh on U.S. Highway 70.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-16756 Filed 11-17-71; 8:45 am]

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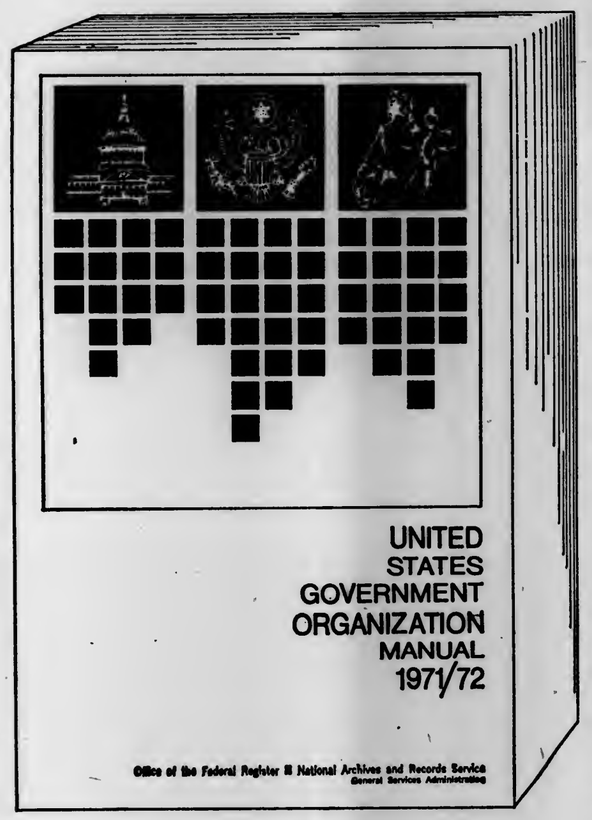

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Most agency statements include new "Sources of Information" listings which tell you what offices to contact for information on such matters as:

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984 ---- 22054
989 ---- 22055
1030 ---- 22056

PROPOSED RULES:
905 ---- 22066
912 ---- 22067
1701 (2 documents) ---- 22067

14 CFR

39 ---- 22056
71 (2 documents) ---- 22056, 22057
75 ---- 22057
97 ---- 22057

PROPOSED RULES:
71 (6 documents) ---- 22070–22072
75 ---- 22072
228 ---- 22076

18 CFR

154 ---- 22058

PROPOSED RULES:
260 ---- 22076

21 CFR

121 ---- 22058
135a ---- 22059
191 ---- 22059

PROPOSED RULES:
19 ---- 22068

30 CFR

75 ---- 22061

33 CFR

PROPOSED RULES:
209 ---- 22065

43 CFR

4 ---- 22062

45 CFR

1061 ---- 22062

46 CFR

PROPOSED RULES:
146 ---- 22069

49 CFR

566 ---- 22063
1033 (2 documents) ---- 22063

PROPOSED RULES:
172 ---- 22073
173 ---- 22073
178 ---- 22073

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Action

Section 213.3259 is added to show that not to exceed 25 positions of Program Specialist at grades GS–9 through GS–15 in the Office of Domestic and Anti-Poverty Operations are excepted under Schedule B.

Effective on publication in the FEDERAL REGISTER (11–19–71), § 213.3259 is added as set out below.

§ 213.3259 Action.

(a) *Office of Domestic and Anti-Poverty Operations.* (1) Not to exceed 25 positions of Program Specialist at grades GS–9 through GS–15.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71–16937 Filed 11–18–71;8:51 am]

PART 213—EXCEPTED SERVICE

Department of Agriculture

Section 213.3313 is amended to show that one position of Private Secretary to the Director of Equal Opportunity is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (11–19–71), subparagraph (26) is added to paragraph (a) of § 213.3313 a set out below.

§ 213.3313 Department of Agriculture.

(a) *Office of the Secretary.* • • •

(26) One Private Secretary to the Director of Equal Opportunity.

• • • • • •

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71–16933 Filed 11–18–71;8:51 am]

PART 213—EXCEPTED SERVICE

Environmental Protection Agency

Section 213.3318 of Schedule C is revised as set out below to make the listings conform with the present organizational structure of the Agency for convenience in reference.

§ 213.3318 Environmental Protection Agency.

(a) *Office of the Administrator.* (1) Three Special Assistants to the Administrator.

(2) One Special Assistant to the Administrator and one Staff Assistant to the Special Assistant.

(3) Three Secretaries to the Administrator.

(4) One Staff Assistant to the Administrator.

(5) One Secretary to the Deputy Administrator.

(6) One Assistant to the Deputy Administrator.

(7) One Confidential Assistant to the Deputy Administrator.

(b) *Office of Congressional Affairs.* (1) One Assistant Director.

(2) Two Congressional Liaison Representatives.

(3) One Staff Assistant to the Director.

(4) One Secretary to the Director.

(5) One Special Assistant to the Director.

(c) *Office of Public Affairs.* (1) One Information Assistant.

(2) One Assistant to the Director.

(3) One Public Information Officer.

(d) *Office of the Assistant Administrator (for Standards and Enforcement) and General Counsel.* (1) One Special Assistant to the Assistant Administrator.

(2) One Secretary to the Assistant Administrator.

(e) *Office of the Assistant Administrator for Research and Monitoring.* (1) One Secretary to the Assistant Administrator.

(f) *Office of the Assistant Administrator for Media Programs.* (1) One Special Assistant to the Assistant Administrator.

(2) One Confidential Assistant to the Assistant Administrator.

(3) One Special Assistant to the Assistant Administrator (Physical Sciences).

(g) *Water Quality Office.* (1) Comissioner.

(2) One Executive Assistant to the Commissioner.

(h) *Office of the Assistant Administrator for Planning and Management.* (1) One Special Assistant to the Assistant Administrator.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71–16935 Filed 11–18–71;8:51 am]

PART 213—EXCEPTED SERVICE

Action

Section 213.3359 is amended to show that two additional positions of Special Assistant to the Associate Director for Domestic and Anti-Poverty Operations are excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (11–19–71), paragraph (a) is amended under § 213.3359 as set out below.

§ 213.3359 Action.

(a) Four Special Assistants to the Associate Director for Domestic and Anti-Poverty Operations.

• • • • • •

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71–16932 Filed 11–18–71;8:51 am]

PART 213—EXCEPTED SERVICE

Office of Consumer Affairs

Section 213.3371 is amended to show that one position of Assistant to the Special Assistant to the President for Consumer Affairs is no longer excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (11–19–71), paragraph (i) of § 213.3371 is revoked.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71–16936 Filed 11–18–71;8:51 am]

PART 213—EXCEPTED SERVICE

Temporary Boards and Commissions

Section 213.3399 is added to show that one position of Confidential Secretary to the Director, Cost-of-Living Council and one Confidential Secretary to the Executive Director, Pay Board, are excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (11–19–71), § 213.3399 is added as set out below.

§ 213.3399 Temporary Boards and Commissions.

(a) *Cost-of-Living Council and Related Organizations.* (1) One Confidential Secretary to the Director, Cost-of-Living Council.

(2) One Confidential Secretary to the Executive Director, Pay Board.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-16934 Filed 11-18-71;8:51 am]

PART 733—POLITICAL ACTIVITY OF FEDERAL EMPLOYEES

Participation in Local Elections; Correction

In the FEDERAL REGISTER (F.R. Doc. 71-15658) of October 28, 1971, on page 20649, in § 733.124, the listing of locations where employees may participate in local elections showed Shrewsberry, N.J. (July 2, 1968), in error. It should have appeared as Shrewsberry Township, N.J. (July 2, 1968).

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-16938 Filed 11-18-71;8:51 am]

PART 771—EMPLOYEE GRIEVANCES AND ADMINISTRATIVE APPEALS

Decisions Under Agency Developed Grievance Systems

Part 771 is amended to make these regulations applicable only to agency developed grievance systems and not to negotiated grievance systems and to provide that a decision on an allegation of unfair labor practice made in an appeal or grievance may not be construed as an unfair labor practice decision under Executive Order 11491, as amended.

Effective on publication in the FEDERAL REGISTER (11–19–71), §§ 771.105, 771.106, 771.301, 771.302, 771.311, 771.312, and 771.313 are amended as set out below.

§ 771.105 Presentation of appeal or grievance.

(a) An employee, in presenting an appeal under an agency appeals system or a grievance under an agency grievance system, shall:

(1) Be assured freedom from restraint, interference, coercion, discrimination, or reprisal;

(2) Have the right to be accompanied, represented, and advised by a representative of his own choosing; and

(3) Be assured a reasonable amount of official time if he is otherwise in an active duty status.

(b) When an employee designates another employee of the agency as his representative, the representative, in presenting an appeal under an agency appeals system or a grievance under an agency grievance system, shall:

(1) Be assured freedom from restraint, interference, coercion, discrimination, or reprisal; and

(2) Be assured a reasonable amount of official time if he is otherwise in an active duty status.

§ 771.106 Allegations of unfair labor practices.

(a) An allegation of an unfair labor practice made in connection with an appeal or grievance under this part shall be incorporated in the appeal or grievance and processed under this part; however, the decision on the appeal or grievance may not be construed as an unfair labor practice decision under Executive Order 11491, as amended.

(b) If an allegation of an unfair labor practice made in connection with a grievance under Subpart C of this part has already been filed with the Assistant Secretary of Labor, the grievance may not be processed under this part.

• • • • •

§ 771.301 Employee coverage.

(a) *Employees covered.* Except as provided in paragraph (b) of this section, this subpart applies to all employees of an agency.

(b) *Employees not covered.* This subpart does not apply to:

(1) A noncitizen appointed under Civil Service Rule VIII, § 8.3 of this chapter;

(2) An alien appointed under section 1471(5) of title 22, United States Code;

(3) A nonappropriated-fund employee as defined in section 2105(c) of title 5 or section 4202(5) of title 38, United States Code;

(4) A physician, dentist, or nurse appointed under chapter 73 of title 38, United States Code;

(5) A Foreign Service officer, Foreign Service Reserve officer, Foreign Service Information officer, and staff officers and employees appointed under chapter 14, chapter 14A, or chapter 32 of title 22, United States Code; and

(6) [Revoked]

(7) An employee otherwise included under paragraph (a) of this section when he is a member of a class of employees excluded from coverage by the Commission on the recommendation of the head of the agency concerned.

§ 771.302 Grievance coverage.

(a) Except as provided in paragraphs (b) and (c) of this section, this subpart applies to any matter of concern or dissatisfaction to an employee which is subject to the control of agency management.

(b) This subpart does not apply to:

• • • • •

(4) A grievance over the interpretation or application of an agreement negotiated under section 11 of Executive Order 11491, as amended;

• • • • •

§ 771.311 Negotiated grievance systems.

This subpart does not apply to a grievance system established through a negotiated agreement between an agency and a labor organization to which exclusive recognition has been granted.

§ 771.312 Employee requests for review.

The Commission does not act on a request by an employee for a review of an agency's action under an agency grievance system.

§ 771.313 Review of grievance systems.

The Commission reviews agency grievance systems through its inspection activity. When it finds that a system or operations thereunder do not conform with the requirements of this part, the Commission requires corrective action to bring the system or operations into conformity.

(5 U.S.C. 1302, 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp., p. 218, E.O. 10987; 3 CFR 1959–63 Comp., p. 519)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-16923 Filed 11-18-71;8:50 am]

PART 772—APPEALS TO THE COMMISSION

Agency Temporary Action Requirement During Contest of Appeals and Review Board Decision

Section 772.308 of Part 772 of the Commission's regulations is amended by requiring an agency to take immediate temporary action to comply with a decision by the Board of Appeals and Review when the agency wishes to contest that decision by requesting a reopening by the Commissioners.

§ 772.308 Review by the Commission.

(a) The Commissioners may, in their discretion, reopen and reconsider any previous decision when the party requesting reopening submits written argument or evidence which tends to establish that:

(1) New and material evidence is available that was not readily available when the previous decision was issued;

(2) The previous decision involves an erroneous interpretation of law or regulation or a misapplication of established policy; or

(3) The previous decision is of a precedential nature involving a new or unreviewed policy consideration that may have effects beyond the actual case at hand, or is otherwise of such an exceptional nature as to merit the personal attention of the Commissioners.

(b) An agency request for reopening under paragraph (a) of this section shall not stay the corrective action recommended by the Board of Appeals and Review, but the immediate action in such a case may be by temporary appointment, temporary promotion, or temporary restoration to duty status to a position of like grade and pay pending final disposition of the case.

(5 U.S.C. 1302, 3301, 3302, 5115, 5338, 7512, 7701, 8347, E.O. 10577; 3 CFR, 1954–58 Comp., p. 218, E.O. 11491; 3 CFR, 1969 Comp.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-16921 Filed 11-18-71;8:49 am]

Title 7—AGRICULTURE

Chapter I—Consumer and Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 81—INSPECTION OF POULTRY AND POULTRY PRODUCTS

Introduction of Oil and Water Base Solutions

On October 8, 1970, there was published in the FEDERAL REGISTER (35 F.R. 15817) a notice that the Department is considering proposals to amend the regulations (7 CFR Part 81) under the Poultry Products Inspection Act, as amended (21 U.S.C. 451 et seq.) so as to allow the introduction, into poultry products, of seasoning agents and phosphates (alone or in combination) in a solution of water or other liquids. The notice asked for information and data about the products and specified various matters that would be covered in the event regulations on these articles are adopted by the Department.

On December 10, 1970, there was published in the FEDERAL REGISTER (35 F.R. 18745), a 30-day extension of the initial 30-day period of time provided for the submission of comments on the notice.

Statement of considerations. The FEDERAL REGISTER notice of October 8, 1970, requested data and substantive information for use by the Department in deciding if there were beneficial effects of value to consumers, e.g., improved flavor or increased tenderness or juiciness of product which could be attributed to the introduction of solutions into the particular poultry products.

A careful review of all data, views and arguments submitted, along with other information available to the Department, indicates that poultry products are noticeably improved by the addition, prior to the cooking operation, of limited amounts of solutions that contain certain food additives, including seasonings and phosphates. It does not appear that the addition of such solutions into the raw product in an amount less than approximately 3 percent of the weight of the raw product would provide for an appreciable improvement in the taste, texture, or other quality features of the product. The information does indicate, however, that products prepared with solutions introduced at a level of approximately 3 percent of the weight of the raw product receive consumer preference and acceptance.

The comments about labeling indicated general agreement that the product should be informatively identified so that consumers are fully aware of the nature of the processed item. The most frequent suggestions were that the label bear a conspicuous statement declaring the individual ingredients of the solution and stating the percentage introduced into the product.

There was a concensus, also that the processing plants should employ control procedures to insure that the products are in compliance with the labeling requirements and that the Department should monitor the plant control systems sufficiently to ascertain that they are conducted properly.

After careful consideration of all relevant information, including that submitted in connection with the notice, the regulations are amended to provide for the processing of poultry and poultry products so as to retain approximately 3 percent of an approved solution in the edible tissues under proper controls and for their identification with adequate, informative labeling.

In § 81.134(c), a new subparagraph (7) is added to read as follows:

§ 81.134 Product specifications for labeling purposes.

• • • • •

(c) • • •

(7) Ready-to-cook poultry products to which solutions are added.

(i) Butter alone, or solutions of poultry broth, poultry stock, water, or edible fats, or mixtures thereof, in which are included functional substances such as spices, flavor enhancers, emulsifiers, phosphates, coloring materials, or other substances, approved by the Administrator in specific cases, may be introduced by injection into the thick muscles (breast and legs) of ready-to-cook poultry carcasses and may be introduced by injection or marinating into any separate part therefrom and into poultry roasts including chunked and formed products (but not poultry rolls) for the purpose of providing a basting medium or similar function. The ingredients of the added materials and the manner of addition to the products must be found acceptable by the Administrator, in all cases. The introduction of the added materials shall increase the weight of the processed product by approximately 3 percent over the weight of the raw product after washing and chilling in compliance with § 81.50. The provisions of paragraph (b) of this section specifying light and dark meat percentages required for certain poultry products shall be construed to permit products under this subparagraph (7) to contain approximately 3 percent of the added materials as provided in this subparagraph under conditions outlined in subdivision (iii) of this subparagraph; and the weight of the added materials introduced into the poultry products as provided in this subparagraph shall be included as part of the weight of the poultry for purposes of the net weight labeling provisions in § 81.130(a)(3).

(ii) A raw poultry product, into which the added materials of the type described in subdivision (i) of this subparagraph are introduced, must be labeled with a conspicuous, legible, and descriptive name, including terms that describe the method of addition and function of the added material. All major terms in the product name must be printed with the same prominence, except that the words which concisely describe the function of the added materials (such as "Injected for Flavored Basting") may be more prominent, provided this does not detract from the conspicuousness of the other terms in the product name (such as "Young Turkey"). The label must bear a statement, in bold type, immediately below and adjacent to the product name, listing the common or usual names of the added materials in descending order of predominance. The first part of this statement must consist of terms adequate to inform consumers about the amount and manner of introduction of the solution (such as "Injected with approximately 3 percent of a solution of _____"), and must be printed at least one-fourth the size of the most prominent letter in the product name with a minimum size of one-fourth inch for a ready-to-cook turkey and proportionately smaller for other poultry products. The remainder of the solution ingredients shall be declared in type at least one-eighth inch in height. The entire statement must be printed in a color that contrasts with the background and be displayed on the principal display panel.

(iii) Approval for use of a label for product under this subparagraph depends upon the ability of the processor to control the finished product so that the average percent of basting material in each outgoing lot varies no more than 10 percent from the 3 percent requirement. Therefore, lots averaging 2.7 percent to 3.3 percent of basting material when tested by an approved plant control procedure would be in compliance. As used in this subdivision, "a lot" may be any reasonable portion of production designated by the official plant, or a maximum of an entire shift's production from one production line. The control procedures to be eligible for approval by the Administrator must:

(*a*) Assure compliance with all labeling requirements.

(*b*) Control the variability of the 3 percent added approved solution within the limits defined above.

(*c*) Provide for the disposition in accordance with the regulations in this part of all products not in compliance with this part, unless they are reprocessed to bring them into such compliance.

(*d*) Incorporate a system of raw weight identification of a sufficient number of poultry and/or poultry parts to allow effective monitoring of the system by Federal inspectors and plant employees.

(Sec. 14, 71 Stat. 447, as amended; 21 U.S.C. 463; 29 F.R. 16210, as amended; 36 F.R. 13169)

It does not appear that further public rule making procedure on the amendment would make additional information available to the Department. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such further proceedings are impracticable and unnecessary. The foregoing amendment shall become effec-

tive 90 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., on November 15, 1971.

CLAYTON YEUTTER,
Administrator,
Consumer and Marketing Service.

[FR Doc.71-16899 Filed 11-18-71;8:51 am]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Orange Reg. 69, Amdt. 1; Grapefruit Reg. 71, Amdt. 1; Tangerine Reg. 42, Amdt. 1; Tangelo Reg. 42, Amdt. 1]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of oranges, grapefruit, tangerines and tangelos, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The recommendations by the committees reflect their appraisal of the potential marketing situation during the week in which Thanksgiving Day occurs and for the period immediately following. Historically, there has been heavy purchasing of fresh oranges, grapefruit, tangerines, and tangelos in the terminal markets prior to Thanksgiving Day followed by a period of slow movement immediately following the holiday. Inordinate shipments in the period of slow movement tend to depress market prices and returns to growers. Hence, the curtailment of such shipments, as hereinafter specified, is necessary to prevent a buildup of excess supplies in the markets during and immediately following the Thanksgiving Day week in order to prevent unduly depressed market prices and returns to growers.

(3) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of these amendments until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that the time intervening between the date when information upon which these amendments are based became available and the time when these amendments must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective upon publication in the FEDERAL REGISTER. Domestic shipments of Florida oranges, grapefruit, tangerines, and tangelos are currently regulated pursuant to Orange Regulation 69 (36 F.R. 20215), Grapefruit Regulation 71 (36 F.R. 20215), Tangerine Regulation 42 (36 F.R. 20215) and Tangelo Regulation 42 (36 F.R. 20215) and, unless sooner terminated or modified, will continue to be so regulated through October 1, 1972; determinations as to the need for, and extent of, regulation under § 905.52(a)(3) of the order must await the development of the crops and the availability of information about the demand for such fruits; the recommendation and supporting information for limiting the total quantity of fresh oranges, grapefruit, tangerines, and tangelos by prohibiting shipments thereof, pursuant to said section, during the period November 23 through November 25, 1971, as herein provided, were promptly submitted to the Department after an open meeting of members of the Growers Administrative Committee on November 11, 1971, held to consider recommendations for such regulations, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; necessary supplemental information was submitted to the Department on November 11, 1971; information regarding the provisions of the regulations recommended by the committees has been disseminated among shippers of such fruits grown in the production area, and these regulations, including the effective time thereof, is identical with the recommendations of the committees; and compliance with these regulations will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective time hereof.

Order. 1. In § 905.536 (Orange Regulation 69; 36 F.R. 20215) the provisions of paragraph (a) preceding subparagraph (1) thereof are revised, and a new paragraph (b) is added to read as follows:

§ 905.536 Orange Regulation 69.

(a) Except as otherwise provided in paragraph (b) of this section, during the period October 18, 1971, through October 1, 1972, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

* * * * *

(b) During the period November 23 through November 25, 1971, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico, any oranges grown in the production area.

2. In § 905.535 (Grapefruit Regulation 71; 36 F.R. 20215) the provisions of paragraph (a) preceding subparagraph (1) thereof are revised, and a new paragraph (b) is added to read as follows:

§ 905.535 Grapefruit Regulation 71.

(a) Except as otherwise provided in paragraph (b) of this section, during the period October 18, 1971, through October 1, 1972, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

* * * * *

(b) During the period November 23 through November 25, 1971, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico, any grapefruit grown in the production area.

3. In § 905.537 (Tangerine Regulation 42; 36 F.R. 20215) the provisions of paragraph (a) preceding subparagraph (1) thereof are revised, and a new paragraph (b) is added to read as follows:

§ 905.537 Tangerine Regulation 42.

(a) Except as otherwise provided in paragraph (b) of this section during the period October 18, 1971, through October 1, 1972, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

* * * * *

(b) During the period November 23, through November 25, 1971, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico, any tangerines grown in the production area.

4. In § 905.538 (Tangelo Regulation 42; 36 F.R. 20215) the provisions of paragraph (a) preceding subparagraph (1) thereof are revised, and a new paragraph (b) is added to read as follows:

§ 905.538 Tangelo Regulation 42.

(a) Except as otherwise provided in paragraph (b) of this section, during the period October 18, 1971, through October 1, 1972, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

* * * * *

(b) During the period November 23 through November 25, 1971, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico, any tangelos grown in the production area.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated November 16, 1971, to become effective upon publication in the FEDERAL REGISTER (11–19–71).

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71–16958 Filed 11–18–71;8:53 am]

PART 984—WALNUTS GROWN IN CALIFORNIA, OREGON, AND WASHINGTON

Minimum Kernel Content Requirements for Surplus

Notice was published in the October 30, 1971, issue of the FEDERAL REGISTER (36 F.R. 20892) regarding a proposal to amend § 984.450(b) of Subpart—Administrative Rules and Regulations (7 CFR 984.437–984.480) to revise the minimum kernel content requirements for certain lots of shelled walnuts which may be withheld to satisfy any part or all of a handler's surplus obligation. The subpart is operative pursuant to the marketing agreement, as amended, and Order No. 984, as amended (7 CFR Part 984), regulating the handling of walnuts grown in California, Oregon, and Washington. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The amendment is based on a unanimous recommendation of the Walnut Control Board.

The notice afforded interested persons an opportunity to submit written data, views, or arguments with respect to the proposal. None were received within the prescribed time.

Section 984.50(e) provides, in part, that the Board, with the approval of the Secretary, may specify the minimum kernel content and related requirements for any lot of walnuts acceptable in satisfaction of a surplus obligation. These requirements are set forth in § 984.450. For shelled walnuts, § 984.450(b) provides, among other things, that any lot of shelled walnuts withheld to meet any part or all of a handler's surplus obligation shall have a certified kernelweight of kernels six sixty-fourths of an inch or larger, of not less than 10 percent of the total weight of the lot.

When merchantable shelled walnuts are processed by chopping, slicing, or dicing, there is a residue of very fine pieces of walnuts smaller than six sixty-fourths of an inch, referred to as walnut meal. The provisions of § 984.450(b) preclude such meal from being credited, pursuant to § 984.54, in satisfaction of a handler's surplus obligation even though the meal was derived from merchantable shelled walnuts. The Board recommended that handlers be given credit for this meal. In order to permit such crediting, the minimum kernel content requirements in § 984.450(b), as hereinafter set forth, are revised so that they do not apply to walnut meal resulting from the chopping, slicing, or dicing of merchantable shelled walnuts.

After consideration of all relevant matter presented, including that in the notice, the information and recommendations submitted by the Board, and other available information, it is found that the amendment of the administrative rules and regulations, as hereinafter set forth, will tend to effectuate the declared policy of the act.

Therefore, paragraph (b) of § 984.450 of Subpart—Administrative Rules and Regulations (7 CFR 984.437–984.480) is revised to read as follows:

§ 984.450 Minimum kernel content requirements for surplus.

* * * * *

(b) *For shelled walnuts.* Any lot of shelled walnuts withheld to meet any part or all of a handler's surplus obligation, shall have a certified kernelweight of kernels six sixty-fourths of an inch or larger, of not less than 10 percent of the total weight of the lot: *Provided,* That such minimum kernel content requirements shall not apply to any lot of walnut meal certified by the designated inspection service as having been derived from chopping, slicing, or dicing merchantable shelled walnuts: *And provided further,* That no such lots may be exported unless they meet the minimum requirements for merchantable shelled walnuts effective pursuant to § 984.50(b).

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) This action relieves restrictions on the handling of walnuts by permitting walnut meal derived from the chopping, slicing, or dicing of merchantable shelled walnuts to be credited in satisfaction of a handler's surplus obligation; (2) handlers are aware of the Board's recommendation and need no additional time to comply with this action; (3) handlers have expressed a desire to use such meal in satisfaction of their surplus obligations; and (4) this action should be made effective promptly in order to afford handlers opportunity to use such meal as soon as possible to satisfy such obligations.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated November 15, 1971, to become effective upon publication in the FEDERAL REGISTER (11–19–71).

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71–16959 Filed 11–18–71;8:53 am]

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Expenses of Raisin Administrative Committee and Rate of Assessment for 1971–72 Crop Year

Notice was published in the November 2, 1971, issue of the FEDERAL REGISTER (36 F.R. 20981) regarding proposed expenses of the Raisin Administrative Committee for the 1971–72 crop year and rate of assessment for that crop year, pursuant to §§ 989.79 and 989.80 of the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons opportunity to submit written data, views, or arguments with respect to the proposal. None were received during the prescribed time.

After consideration of all relevant matter presented, including that in the notice, the information and recommendations submitted by the Raisin Administrative Committee, and other available information, it is found that the expenses of the Raisin Administrative Committee and the rate of assessment for the crop year beginning September 1, 1971, shall be as follows:

§ 989.322 Expenses of the Raisin Administrative Committee and rate of assessment for the 1971–72 crop year.

(a) *Expenses.* Expenses (other than those specified in § 989.82) in the amount of $126,735 are reasonable and likely to be incurred by the Raisin Administrative Committee during the crop year beginning September 1, 1971, for the maintenance and functioning of the Committee and the Raisin Advisory Board and for such purposes as the Secretary may, in accordance with § 989.79, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for that crop year which each handler is required, pursuant to § 989.80, to pay to the Raisin Administrative Committee as his pro rata share of the expenses is fixed at 85 cents per ton applicable to each of the following:

(1) Free tonnage raisins acquired by the handler during the crop year, exclusive of such quantity thereof as represents the assessable portions of other handlers' raisins pursuant to subparagraph (3) of this paragraph;

(2) Reserve tonnage raisins released or sold to the handler for use as free tonnage during the crop year; and

(3) Standard raisins (which he does not acquire) recovered by the handler by the reconditioning of off-grade raisins but only to the extent of the aggregate quantity of the free tonnage portions of these standard raisins that are acquired by other handlers during the crop year.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said amended marketing agreement and order require that the rate of assessment fixed for a particular crop year which handlers are required to pay shall be applicable to all free tonnage raisins of the crop year and to all reserve tonnage raisins released or sold to handlers for use as free tonnage during the crop year; and (2) the current crop year began on September 1, 1971, and the rate of assessment fixed herein will automatically apply to all such raisins beginning with that date.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 16, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer & Marketing Service.

[FR Doc.71–16960 Filed 11–18–71;8:53 am]

Chapter X—Consumer and Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order 30]

PART 1030—MILK IN THE CHICAGO REGIONAL MARKETING AREA

Temporary Revision of Shipping Percentage

This temporary revision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the provisions of § 1030.11(b)(6) of the order regulating the handling of milk in the Chicago Regional marketing area.

Notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 21413) concerning a proposed decrease in the supply plant shipping percentage for the month of November 1971. Interested persons were afforded an opportunity to file written data, views, and arguments thereon. None were filed in opposition.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that for the month of November 1971 the supply plant shipping percentage of 40 percent set forth in § 1030.11(b)(4) shall be decreased to 30 percent.

To fulfill their fluid milk requirements, distributing plants obtain milk from supply plants to supplement their receipts of milk directly from producers. During the seasonally short production months of September–November more than one-half of the receipts of milk at distributing plants in this market are obtained from supply plants.

Many operators of distributing plants in the market have arrangements with specific supply plants to obtain supplemental supplies. Over one-half of the shipments of supply plant milk in the market, however, is coordinated through one agent. Most of the milk supply for distributing plants in the metropolitan Chicago segment of the market is obtained through such agent. The agent arranges the shipments from among a large group of supply plants so as to qualify such plants for pool status. Most of these plants are operated by cooperative associations that handle much of the reserve milk supplies associated with the market.

During October 1971 distributing plants utilized 37.8 percent of the milk associated with this group of supply plants. The agent estimates that for November the milk requirements of pool distributing plants will also fall below 40 percent of the receipts at the supply plants. In this circumstance handlers might engage in uneconomic marketing practices to meet the 40 percent shipping requirement for November. For instance, a handler might route direct receipts of producer milk at his distributing plant through his supply plant to insure the proportion of milk shipped from the supply plant is sufficient to qualify the supply plant.

It is concluded that it is necessary to decrease the shipping percentage by 10 percentage points for the month of November 1971 to prevent uneconomic shipments.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This temporary revision is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that during November 1971 it will enable supply plants to qualify as pool plants under the order without making uneconomic shipments to pool distributing plants;

(b) This temporary revision does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rule making was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this temporary revision.

Therefore, good cause exists for making this temporary revision effective November 1, 1971.

It is therefore ordered, That the aforesaid provision of the order is hereby revised for November 1971.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: November 1, 1971.

Signed at Washington, D.C., on November 15, 1971.

H. L. FOREST,
Director, Dairy Division.

[FR Doc.71-16961 Filed 11-18-71;8:53 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 71-WE-23-AD; Amdt. 39-1336]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-9 Series (Except All-Freighter)

There have been three reported failures of the cabin ceiling lights rotary switch and circuit in DC-9 Series airplanes, which resulted in fire damage to the aircraft. Since this condition is likely to exist or develop in other airplanes of the same design, an airworthiness directive is being issued to require modification of the cabin ceiling lights circuit in DC-9 Series (except All-freighter).

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of the Federal Aviation regulations is amended by adding the following new airworthiness directive:

McDONNELL DOUGLAS. Applies to all DC-9 Series (except All-freighter) certified in all categories.

Compliance required within the next 100 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent failure of the cabin ceiling lights rotary switch and circuit, accomplish the following:

Modify the ceiling light control wiring in accordance with Douglas Aircraft Co. Alert Service Bulletin A33-55, dated October 8, 1971, or later FAA approved revisions, or other modification approved by the Chief, Aircraft Engineering Division, FAA, Western Region.

This amendment is effective November 20, 1971.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on November 10, 1971.

LYNN L. HINK,
Acting Director,
FAA, Western Region.

[FR Doc.71-16865 Filed 11-18-71;8:45 am]

[Airspace Docket No. 71-WA-37]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airway

The purpose of this amendment to Part 71 of the Federal Aviation regulations is to make an editorial correction to the description of VOR Federal airway No. 168.

V-168 is currently designated in part through use of the 179° radial of the Anniston, Ala., VORTAC. The Anniston, Ala., VORTAC has been renamed the Talladega, Ala., VORTAC. Accordingly, action is taken herein to reflect this name change in the description of V-168.

Since this amendment is editorial in nature and no change in the regulation is effected, notice and public procedure thereon are unnecessary.

In consideration of the foregoing, effective upon publication in the FEDERAL REGISTER (11-19-71), Part 71 of the Federal Aviation regulations is amended as hereinafter set forth.

In § 71.123 (36 F.R. 2010, 18076) V-168 is amended by deleting "Anniston, Ala.," and substituting "Talladega, Ala.," therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a), sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 12, 1971.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-16866 Filed 11-18-71; 8:45 am]

[Airspace Docket No. 71-CE-66]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On September 9, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 18110) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation regulations that would amend the Baudette, Minn., transition area.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. The only comment received offered no objection.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 6, 1972, as hereinafter set forth.

In § 71.181 (36 F.R. 2140) Baudette, Minn., transition area is amended to read:

That airspace extending upward from 700 feet above the surface within a 5½ mile radius of Baudette International Airport, Baudette, Minn. (latitude 48°43'15" N., longitude 94°36'00" W.); within 3 miles each side of the 106° bearing from the Baudette International Airport extending from the 5½ mile radius area to 8 miles east of the airport; and that airspace extending upward from 1,200 feet above the surface within 4½ miles south and 9½ miles north of the 106° and 286° bearing from the Baudette International Airport, extending from 6 miles west to 18½ miles east of the airport; and within 5 miles each side of the 286° bearing from Baudette International Airport, extending from the airport to 12 miles west of the airport, excluding the portion outside the United States.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 12, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-16867 Filed 11-18-71;8:45 am]

[Airspace Docket No. 70-WA-31]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Area High Routes

On March 3, 1971, F.R. Doc. 71-2822 was published in the FEDERAL REGISTER (36 F.R. 4044) with an effective date of April 29, 1971.

This document amended Part 75 of the Federal Aviation regulations, in part, by establishing area navigation routes J800R, J801R, J802R, and J803R for service between Los Angeles, Calif./San Francisco, Calif., and New York City, N.Y.

New area high route J830R, between St. Louis, Mo., and New York City, N.Y., was recently designated and will be effective on January 6, 1972. It will intersect J801R and J803R between the "Wolverine, Mich.," and "Ormsby, Pa.," waypoints. From that location eastward to the route end point, J830R is coincident with J801R and J803R. Since the point where J830R intersects the other two routes is also a turn point on J830R, a waypoint is required there. The waypoint name is "Spot, Ohio." Therefore, to preclude both charting complexity and possible pilot misunderstanding the "Spot Ohio," waypoint should be made common to all three routes involved. In addition, the reference facility used with the "Wolverine, Mich.," waypoint would effect improved signal coverage for J801R and J803R if it was changed from the Flint, Mich., VORTAC to the Carleton, Mich., VORTAC. Action is taken herein to reflect these two changes.

Since this amendment is minor in nature with no substantive change in the regulation, notice and public procedure thereon are unnecessary, and good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, effective upon publication in the FEDERAL REGISTER (11-19-71), F.R. Doc. 71-2822 (36 F.R. 4044) is amended as hereinafter set forth.

In J801R and J803R a new waypoint is added between "Wolverine, Mich.," and "Ormsby, Pa.," waypoints: Waypoint "Spot, Ohio," Lat. "42°00'19", 80°56'-16"", Reference Facility "Carleton, Mich." In J801R and J803R, the reference facility for the "Wolverine, Mich." waypoint is deleted and "Carleton, Mich." is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 12, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-16868 Filed 11-18-71;8:45 am]

[Docket No. 11555; Amdt. No. 783]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAP's) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAP's for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets for the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 F.R. 5609).

SIAP's are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20590. Copies of SIAP's adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAP's may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, DC 20590, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $125 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.11 is amended by establishing, revising, or canceling the following L/MF-ADF(NDB)-VOR SIAP's, effective December 16, 1971.

Delta, Utah—Delta Municipal Airport; VOR-1, Amdt. 7; Canceled.

2. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP's, effective December 9, 1971.

Redmond, Oreg.—Roberts Field; VOR-A, Original; Established.
Redmond, Oreg.—Roberts Field; VOR-1, Amdt. 6; Canceled.

3. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP's, effective December 16, 1971.

Bethpage, N.Y.—Grumman-Bethpage Airport; VOR-A, Amdt. 5; Revised.
Covington, Ky.—Greater Cincinnati Airport; VOR-A, Amdt. 11; Revised.
Delta, Utah—Delta Municipal Airport; VOR Runway 34, Original; Established.
El Paso, Tex.—El Paso International Airport; VOR Runway 26, Amdt. 24; Revised.
Erie, Pa.—Erie International Airport; VOR Runway 6, Amdt. 10; Revised.
Manville, N.J.—Kupper Airport; VOR-A, Amdt. 1; Revised.
Erie, Pa.—Erie International Airport; VOR/DME Runway 24, Amdt. 3; Revised.

4. Section 97.25 is amended by establishing, revising, or canceling the following SDF-LOC-LDA SIAP's, effective December 16, 1971.

Covington, Ky.—Greater Cincinnati Airport; LOC(BC) Runway 18, Amdt. 6; Canceled.
Covington, Ky.—Greater Cincinnati Airport; LOC(BC) Runway 36, Amdt. 4; Canceled.
Erie, Pa.—Erie International Airport; LOC (BC) Runway 24, Amdt. 2; Revised.

5. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's, effective December 9, 1971.

Redmond, Oreg.—Roberts Field; NDB Runway 10, Amdt. 3; Revised.

6. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's, effective December 16, 1971.

Bethpage, N.Y.—Grumman-Bethpage Airport; NDB Runway 33, Amdt. 5; Revised.
Covington, Ky.—Greater Cincinnati Airport; NDB Runway 9R, Amdt. 3; Revised.
Covington, Ky.—Greater Cincinnati Airport; NDB Runway 18, Amdt. 8; Revised.
Covington, Ky.—Greater Cincinnati Airport; NDB Runway 36, Amdt. 22; Revised.
Erie, Pa.—Erie International Airport; NDB Runway 6, Amdt. 6; Revised.
Erie, Pa.—Erie International Airport; NDB Runway 24, Amdt. 10; Revised.
Indianola, Miss.—Indianola Legion Field; NDB Runway 18, Original; Established.
Indianola, Miss.—Indianola Legion Field; NDB Runway 36, Original; Established.

7. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's, effective December 16, 1971.

Covington, Ky.—Greater Cincinnati Airport; ILS Runway 18, Amdt. 8; Revised.
Erie, Pa.—Erie International Airport; ILS Runway 6, Amdt. 8; Revised.
Richmond, Va.—Richard Evelyn Byrd International Airport; ILS Runway 33, Original; Established.

8. Section 97.31 is amended by establishing, revising, or canceling the following Radar SIAP's, effective December 16, 1971.

Binghamton, N.Y.—Broome County Airport; Radar-1, Amdt. 4; Revised.
Covington, Ky.—Greater Cincinnati Airport; Radar-1, Amdt. 12; Revised.
Erie, Pa.—Erie International Airport; Radar-1, Original; Established.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c), 5 U.S.C. 552(a)(1))

Issued in Washington, D.C., on November 12, 1971.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 F.R. 5610). Approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.71-16789 Filed 11-18-71;8:45 am]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

[Docket No. R-369; Order 405-B]

PART 154—RATE SCHEDULES AND TARIFFS

Interest on Refunds; Rates of Independent Gas Producers and Pipelines in Effect at End of Suspension Period

NOVEMBER 4, 1971.

In accordance with the mandate of the U.S. Court of Appeals for the Third Circuit in "Texaco, Inc. v. Federal Power Commission," 412 F. 2d 740, June 12, 1969, the Commission on October 10, 1969, instituted a rulemaking proceeding, FPC Docket No. R-369, to reconsider the question of the amount of interest to be paid by natural gas companies on refunds ordered by the Commission. As recited in the notice of proposed rule making (34 F.R. 16628, October 17, 1969), the U.S. Court of Appeals for the Third Circuit in Texaco, supra, had set aside for procedural reasons Commission Order No. 362, issued April 2, 1968, in Docket No. R-340 (33 F.R. 5517, April 9, 1968) which added a new § 154.67 and new paragraph (g) to § 154.102, to Part 154, Subchapter E—Regulations under the Natural Gas Act, in Chapter I, Title 18 of the Code of Federal Regulations. As promulgated by Order No. 362, new §§ 154.67 and 154.102(g): *Provided*, That the amount of interest payable on amounts refunded by natural gas companies pursuant to section 4(e) of the Natural Gas Act would be computed at the prescribed rate of interest compounded monthly.

Thereafter, on May 27, 1970, the Commission issued Order No. 405 in Docket No. R-369 (35 F.R. 8633, June 4, 1970). In the preamble to that order, the Commission referred to the mandate of the Court in Texaco, supra, and stated in part that "it would not be in the public interest to impose a compound interest requirement. Consequently, we shall not amend Part 154 of the regulations under the Natural Gas Act by the prescription of a new § 154.67 and the addition of a new paragraph (g) to § 154.102 • • •" Order No. 405-A, issued July 27, 1970 (35 F.R. 12329, August 1, 1970) to clarify Order No. 405, did not change the conclusions of the Commission respecting §§ 154.67 and 154.102(g). Despite this clear expression of Commission intent, the Commission did not formally revoke §§ 154.67 and 154.102(g) of its regulations under the Natural Gas Act. Consequently these sections, in the form promulgated April 2, 1968, by Order No. 362, still appear in Part 154 of the Commission's regulations under the Natural Gas Act as published in the January 1, 1971, revision of Title 18 of the Code of Federal Regulations.

To correct this irregularity and to conform the provisions of the Commission's published regulations to the mandate of the U.S. Court of Appeals for the Third Circuit in "Texaco, Inc. v. Federal Power Commission," 412 F. 2d 740 (1969), and to Commission Orders Nos. 405 and 405-A, § 154.67 and paragraph (g) of § 154.102 should be formally revoked.

The Commission finds:

(1) The amendments to Part 154 of the Commission's regulations under the Natural Gas Act prescribed herein constitute a clarification of existing orders in this proceeding which were adopted in compliance with the mandate of the U.S. Court of Appeals for the Third Circuit in "Texaco, Inc. v. Federal Power Commission," 412 F. 2d 740 (1969), and in compliance with the requirements of 5 U.S.C. 553 after notice and opportunity to submit written comments which were received and considered by the Commission.

(2) Good cause exists that the amendments prescribed herein shall be effective as of May 27, 1970, the date of issuance of Order No. 405.

(3) The amendments prescribed herein are in the public interest and are necessary and appropriate for the administration of the Natural Gas Act.

The Commission acting pursuant to the provisions of the Natural Gas Act, as amended, particularly sections 4, 5, 7 and 16 thereof (52 Stat. 822, 823, 824, 825, and 830; 56 Stat. 83, 84; 61 Stat. 459; 76 Stat. 72; 15 U.S.C. 717c, 717d, 717f, and 717o) orders:

§ 154.67 [Revoked]

(A) Section 154.67 "Interest on Refunds," in Part 154—Rate Schedules and Tariffs, Subchapter E—Regulations under Natural Gas Act, Chapter I, Title 18 of the Code of Federal Regulations is revoked.

§ 154.102 [Amended]

(B) Paragraph (g) in § 154.102 "Suspended changes in rate schedules; motions to make effective at end of period of suspension; procedure," in Part 154—Rate Schedules and Tariffs, Subchapter E—Regulations under Natural Gas Act, Chapter I, Title 18 of the Code of Federal Regulations is revoked.

(C) This order shall be effective as of May 27, 1970, the date of issuance of Order No. 405.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16888 Filed 11-18-71;8:47 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

PAPER AND PAPERBOARD IN CONTACT WITH AQUEOUS AND FATTY FOODS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 1B2596) filed by General Mills Chemicals, Inc., 2010 East Hennepin Avenue, Minneapolis, Minn. 55413, and other relevant material concludes that the food additive regulations should be amended to provide for the safe use of hydroxypropyl guar gum with viscosity in excess of 7,000 centipoises as a component of paper and paperboard in contact with food.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2526 is amended in the table in paragraph (a)(5) by revising the entry on hydroxypropyl guar gum to read as follows:

§ 121.2526 Components of paper and paperboard in contact with aqueous and fatty foods.

(a) • • •
(5) • • •

List of substances	*Limitations*
• • •	• • •
Hydroxypropyl guar gum having a minimum viscosity of 5,000 centipoises at 25° C. as determined by RV-series Brookfield viscometer using a No. 4 spindle at 20 r.p.m. (or other suitable method) and using a test sample prepared by dissolving 5 grams of moisture-free hydroxypropyl guar gum in 495 milliliters of a 70 percent by weight aqueous propylene glycol solution.	For use only as a dry strength and formation aid agent employed prior to the sheet-forming operation in the manufacture of paper and paperboard and used at a level not to exceed 1.5 percent by weight of finished dry paper or paperboard fibers.
• • •	• • •

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (11-19-71).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: November 11, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-16944 Filed 11-18-71;8:53 am]

SUBCHAPTER C—DRUGS

PART 135a—NEW ANIMAL DRUGS FOR OPHTHALMIC AND TOPICAL USE

Nitrofurazone-Nifuroxime-Diperodon Hydrochloride Ear Solution, Veterinary

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (12-612V) filed by Eaton Laboratories, Division of the Norwich Pharmacal Co., Post Office Box 191, Norwich, N.Y. 13815, proposing the safe and effective use of nitrofurazone-nifuroxime-diperodon hydrochloride ear solution for the treatment of certain bacterial ear infections in dogs. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)), and under authority delegated to the Commissioner (21 CFR 2.120), Part 135a is amended by adding the following new section:

§ 135a.19 Nitrofurazone-nifuroxime-diperodon hydrochloride ear solution, veterinary.

(a) *Specifications.* Nitrofurazone-nifuroxime-diperodon hydrochloride ear solution, veterinary, contains on a weight-in-weight basis 0.2 percent nitrofurazone; 0.375 percent nifuroxime, and 2 percent diperodon hydrochloride in a water soluble vehicle.

(b) *Sponsor.* See code No. 013 in § 135.501(c) of this chapter.

(c) *Conditions of use.* The drug is recommended for use in dogs in the treatment of bacterial ear infections caused by organisms sensitive to nitrofurazone and/or nifuroxime. It is administered two or three times daily. The drug is not intended for prolonged use. Sensitivity to the drug may develop. If redness, irritation, or swelling persists or increases, use of the drug should be discontinued and a veterinarian consulted.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (11-19-71).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: November 10, 1971.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.71-16945 Filed 11-18-71;8:53 am]

SUBCHAPTER D—HAZARDOUS SUBSTANCES

PART 191—HAZARDOUS SUBSTANCES: DEFINITIONS AND PROCEDURAL AND INTERPRETATIVE REGULATIONS

Certain Toys Known as Clacker Balls and Intended for Use by Children; Classification as Banned Hazardous Substances

A notice was published in the FEDERAL REGISTER of April 27, 1971 (36 F.R. 7860), proposing to classify as banned hazardous substances certain unsafe toys known as clacker balls and intended for use by children. The notice also proposed to exempt from such ban clacker balls that meet specified safety requirements. The notice provided for the filing of comments within 15 days.

Comments were received from a trade association, manufacturers and distributors of the articles involved, a consumer group, and one individual. The principal comments may be summarized as follows:

1. Some commented that the drop test described in § 191.65a(a)(5)(ii)(b) is too severe and would provide a higher safety factor than is needed. Conversely, another comment suggested that the drop test be strengthened.

2. Several commented that it is impossible to prevent the formation of internal voids (holes, cavities, or air bubbles) during the polystyrene injection-molding process and that the presence of such voids does not adversely affect the safety of the clacker balls.

3. The elimination of the cotton swab test was proposed in two comments. Another comment suggested clarification of the fact that the cotton swab test should be performed only on those areas of the ball that may come in contact with the cord during use.

4. It was suggested that the portion of the proposal pertaining to "wicking up" or "running up" be eliminated, because it is difficult to prevent "wicking up" or "running up" in the injection molding of polystyrene balls.

5. One comment suggested that § 191.65(a)(5)(iv)(c), which requires a warning statement in the labeling, not become effective until 60 days after the final order is promulgated.

6. Some comments indicated that the proposal was unclear concerning the requirements for clacker balls that are not fully assembled for use at time of sale; one suggested that these "do-it-yourself" kits be exempted from banning as hazardous substances.

7. It was also suggested that (1) the test severity for the cord and the holding device be reduced; (2) natural as well as synthetic fibers be used for the cord; and (3) § 191.65a(a)(5)(i)(c), which states the procedure to be followed when the cord is attached to the ball by means of a knot, be eliminated.

The Commissioner of Food and Drugs has evaluated the comments and concludes that:

1. The requirement for the drop test provides the necessary safety factor to assure maximum protection to the user.

2. The presence of internal voids (holes, cavities, or air bubbles) in clacker balls made of injection-molded high-impact material does not present a potential hazard as long as the clacker balls comply with all tests required in § 191.65a(a)(5).

3. Section 191.65a(a)(5)(ii)(c), which pertains to the use of the cotton swab tests, should be revised to clarify the fact that the cotton swab test should be performed only on those areas of the ball

that may come in contact with the cord during use.

4. That portion of § 191.65a(a)(5)(i)(*b*) which pertains to "wicking up" or "running up" the cord should be retained. The "wicking up" or "running up" creates a point on the cord where the cord will wear more rapidly through extensive use, although the required strength test would be satisfied at the time of manufacture. However, this requirement should be revised to clarify the fact that it applies only to "wicking up" or "running up" on the outside of the cord.

5. No portion of the order will become effective until 30 days from the date the final order is published in the FEDERAL REGISTER. Sixty days after the date of publication shall be allowed for relabeling stocks as required by § 191.65a(a)(5)(iv). This will permit time for relabeling in the distribution channels. However, it shall be the responsibility of the manufacturer and/or distributor to see that the labeling has been appropriately revised by all customers before the end of this 60-day period.

6. There shall be no exemptions for clacker ball kits that are not appropriately assembled and labeled for use at time of sale. Such kits present potential hazards because they can be improperly assembled even when they are supplied with instructions. Also, these "do-it-yourself" kits would not be subjected to any of the quality control checks required by the regulations for preassembled products.

7. The suggestions (1) to reduce the test severity for the cord and the holding device, (2) to permit the cords to be made of natural as well as synthetic fibers, (3) and to eliminate § 191.65a(a)(5)(i)(*c*), regarding the procedure if the cord is attached to the ball by means of a knot, are unacceptable because these changes would substantially jeopardize quality control over the safety of the articles.

Therefore, pursuant to provisions of the Federal Hazardous Substances Act (secs. 2(f)(1)(D), (s), 3(e)(1), 74 Stat. 372, 374, 375, as amended 83 Stat. 187–89; 15 U.S.C. 1261, 1262) and under authority delegated to the Commissioner (21 CFR 2.120), Part 191 is amended by adding a new subparagraph to § 191.9a(a) and another to § 191.65a(a), as follows:

§ 191.9a Banned toys and other banned articles intended for use by children.

(a) • • •

(7) Toys usually known as clacker balls and consisting of two balls of plastic or other material connected by a length of line or cord or similar connector (referred to as "cord" in § 191.65a(a)(5)), intended to be operated in a rhythmic manner by an upward and downward motion of the hand so that the two balls will meet forcefully at the top and bottom of two semicircles thus causing a "clacking" sound, which toys present a mechanical hazard because their design or manufacture presents an unreasonable risk of personal injury from fracture, fragmentations, or disassembly of the toy and from propulsion of the toy or its part(s).

§ 191.65a Exemptions from classification as a banned toy or other banned article for use by children.

(a) • • •

(5) Clacker balls described in § 191.9a(a)(7) that have been designed, manufactured, assembled, labeled, and tested in accordance with the following requirements, and when tested at the point of production or while in interstate commerce or while held for sale after shipment in interstate commerce do not exceed the failure rate requirements of the table in subdivision (vi) of this subparagraph:

(i) The toy shall be so designed and fabricated that:

(*a*) Each ball: Weighs less than 50 grams; will not shatter, crack, or chip; is free of cracks, flash (ridges due to imperfect molding), and crazing (tiny surface cracks); and is free of rough or sharp edges around any hole where the cord enters or over any surface with which the cord may make contact. Each ball is free of internal voids (holes, cavities, or air bubbles) if the balls are made of materials other than those materials (such as ABS (acrylonitrile butadiene styrene), nylon, and high-impact polystyrene) that are injection-molded and possess high-impact characteristics.

(*b*) The cord: Is of high tensile strength, synthetic fibers that are braided or woven, having a breaking strength in excess of 100 pounds; is free of fraying or any other defect that might tend to reduce its strength in use; is not molded in balls made of casting resins which tend to wick up or run up on the outside of the cord; and is affixed to a ball at the center of the horizontal plane of the ball when it is suspended by the cord.

(*c*) When the cord is attached to the ball by means of a knot, the end beneath the knot is chemically fused or otherwise treated to prevent the knot from slipping out or untying in use.

(ii) The toy shall be tested at the time of production:

(*a*) By using the sampling procedure described in the table in subdivision (vi) of this subparagraph to determine the number of units to be tested.

(*b*) By subjecting each ball tested to 10 drops of a 5-pound steel impact rod or weight (2¼-inch diameter with a flat head) dropped 48 inches in a vented steel or aluminum tube (2⅜-inch inside diameter) when the ball is placed on a steel or cast iron mount. Any ball showing any chipping, cracking, or shattering shall be counted as a failure within the meaning of the third column of the table in subdivision (vi) of this subparagraph.

(*c*) By inspecting each ball tested for smoothness of finish on any surface of the ball which may come in contact with the cord during use. A cotton swab shall be rubbed vigorously over each such surface or area of the ball; if any cotton fibers are removed, the ball shall be counted as a failure within the meaning of the fourth column of the table in subdivision (vi) of this subparagraph. The toy shall also be checked to ascertain that there is no visibly perceptible "wicking up" or "running up" of the casting resins on the outside of the cord in the vicinity where the ball is attached.

(*d*) By fully assembling the toy and testing the cord in such a manner as to test both the strength of the cord and the adequacy with which the cord is attached to the ball and any holding device such as a tab or ring included in the assembly. The fully assembled article shall be vertically suspended by one ball and a 100-pound test applied to the bottom ball. Any breaking, fraying, or unraveling of the cord or any sign of slipping, loosening, or unfastening shall be counted as a failure within the meaning of the fourth column of the table in subdivision (vi) of this subparagraph.

(*e*) By additionally subjecting any ring or other holding device to a 50-pound test load applied to both cords; the holding device is to be securely fixed horizontally in a suitable clamp in such a manner as to support 50 percent of the area of such holding device and the balls are suspended freely. Any breaking, cracking, or crazing of the ring or other holding device shall be counted as a failure within the meaning of the fourth column of the table in subdivision (vi) of this subparagraph.

(*f*) By cutting each ball tested in half and then cutting each half perpendicularly to the first cut into three or more pieces of approximately equal thickness. Each portion is to be inspected before and after cutting, and any ball showing any flash, crack, crazing, or internal voids on such inspection is to be counted as a failure within the meaning of the fourth column of the table in subdivision (vi) of this subparagraph. Balls that are injection-molded and possess high-impact characteristics (such as injection-molded balls made of ABS, nylon, or high-impact polystyrene) though exempt from the requirements that there be no internal voids, must be tested to determine the presence of any flash, crack or grazing. A transparent ball shall be subjected to the same requirements except that it may be visually inspected without cutting.

(iii) The toy shall be fully assembled for use at time of sale, including the proper attachments of balls, cords, knots, loops, or other holding devices.

(iv) The toy shall be labeled:

(*a*) With a conspicuous statement of the name and address of the manufacturer, packer, distributor, or seller.

(*b*) To bear on the toy itself and/or the package containing the toy and/or the shipping container, in addition to the invoice(s) and shipping document(s), a code or mark in a form and manner that will permit future identification of any given batch, lot, or shipment by the manufacturer.

(*c*) To bear a conspicuous warning statement on the main panel of the retail container and display carton and on any accompanying literature: That if cracks develop in a ball or if the cord becomes frayed or loose or unfastened, use of the toy should be discontinued; and if a ring or loop or other holding device is present, the statement "In use, the ring or loop must be placed around the middle finger and the two cords positioned over the forefinger and held securely between the thumb and forefinger," or words to that effect which will provide adequate instructions and warnings to prevent the holding device from accidentally slipping out of the hand. Such statements shall be printed in sharply contrasting color within a borderline and in letters at least one-quarter inch high on the main panel of the container and at least one-eighth inch high on all accompanying literature.

(v) The manufacturer of the toy shall make, keep, and maintain for 3 years records of sale, distribution, and results of inspections and tests conducted in accordance with this subparagraph and shall make such records available upon request at all reasonable hours by any officer or employee of the Food and Drug Administration, or any other officer or employee acting on behalf of the Secretary of Health, Education, and Welfare, and shall permit such officer or employee to inspect and copy such records and to make such inventories of stock as he deems necessary and otherwise to check the correctness of such records.

(vi) The lot size, sample size, and failure rate for testing clacker balls are as follows:

Number of units in batch, shipment, delivery, lot, or retail stock	Number of units in random sample	Failure rate constituting rejection when testing per §191.65a(a)(5)(ii)(*b*)	Failure rate constituting rejection when testing per §191.65a(a)(5)(ii)(*c*), (*d*), (*e*), and (*f*)
50 or less	8	1	1
51 to 90	13	1	1
91 to 150	20	1	1
151 to 280	32	1	2
281 to 500	50	1	2
501 to 1,200	80	2	4
1,201 to 3,200	125	2	6
3,201 to 10,000	200	3	10
10,001 to 35,000	315	4	16
35,001 to 150,000	500	6	25
150,001 to 500,000	800	8	40
500,001 and over	1,250	11	62

(vii) Applicability of the exemption provided by this subparagraph shall be determined through use of the table in subdivision (vi) of this subparagraph. A random sample of the number of articles as specified in the second column of the table shall be selected according to the number of articles in a particular batch, shipment, delivery, lot, or retail stock per the first column. A failure rate as shown in either the third or fourth column shall indicate that the entire batch, shipment, delivery, lot, or retail stock has failed and thus is not exempted under this subparagraph from classification as a banned hazardous substance.

Effective date. This order shall become effective 30 days from its date of publication in the FEDERAL REGISTER. Sixty days after the date of publication shall be allowed for relabeling stocks as required by this order.

(Secs. 2(f)(1)(D), (s), 3(e)(1), 74 Stat. 372, 374, 375 as amended 83 Stat. 187–89; 15 U.S.C. 1261, 1262)

Dated: November 11, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-16892 Filed 11-18-71;8:47 am]

Title 30—MINERAL RESOURCES

Chapter I—Bureau of Mines, Department of the Interior

PART 75—MANDATORY HEALTH STANDARDS, UNDERGROUND COAL MINES

Subpart O—Coal Mine Health and Safety

TRANSPORTATION, HANDLING AND STORAGE OF LIQUEFIED AND NONLIQUEFIED COMPRESSED GAS CYLINDERS

Pursuant to the authority contained in paragraph (a) of section 101 of the Coal Mine Health and Safety Act of 1969 (Public Law 91–173), there was published in the FEDERAL REGISTER for April 21, 1971 (36 F.R. 7513), a notice of proposed rule making setting forth proposed amendments to Part 75, Subchapter O of Chapter I, Title 30, Code of Federal Regulations, by adding §§ 75.1106–2 through 75.1106–6 prescribing the safeguards to be employed in the transportation, handling, and storage of compressed and liquid gas cylinders in underground coal mines.

Interested persons were afforded a period of 45 days from the date of publication of the notice in which to submit written comments, suggestions, or objections to the proposed amendments. All of the comments, suggestions, or objections received were given careful consideration. Some of the standards have been revised as suggested, the term "compressed and liquid gas" cylinders has been changed to "liquefied and nonliquefied compressed gas" cylinders and an exemption for small low pressure gas cylinders containing nonflammable or nonexplosive gas mixtures used in calibration test kits for methane monitoring systems has been provided to §§ 75.1106–2(c) and 75.1106–4(d), (f) and (g).

Part 75, Subchapter O of Chapter I, Title 30, Code of Federal Regulations, is amended by adding §§ 75.1106–2 through 75.1106–6 as set forth below.

Effective date. Sections 75.1106–2 through 75.1106–6 shall become effective 45 days after the date of publication in the FEDERAL REGISTER.

HOLLIS M. DOLE,
Assistant Secretary of the Interior.

NOVEMBER 12, 1971.

§ 75.1106–2 Transportation of liquefied and nonliquefied compressed gas cylinders; requirements.

(a) Liquefied and nonliquefied compressed gas cylinders transported into or through an underground coal mine shall be:

(1) Placed securely in devices designed to hold the cylinder in place during transit on self-propelled equipment or belt conveyors;

(2) Disconnected from all hoses and gages;

(3) Equipped with a metal cap or "headband" (fence-type metal protector around the valve stem) to protect the cylinder valve during transit; and,

(4) Clearly labeled "empty" or "MT" when the gas in the cylinder has been expended.

(b) In addition to the requirements of paragraph (a) of this section, when liquefied and nonliquefied compressed gas cylinders are transported by a trolley wire haulage system into or through an underground coal mine, such cylinders shall be placed in well insulated and substantially constructed containers which are specifically designed for holding such cylinders.

(c) Liquefied and nonliquefied compressed gas cylinders shall not be transported on mantrips.

§ 75.1106–3 Storage of liquefied and nonliquefied compressed gas cylinders; requirements.

(a) Liquefied and nonliquefied compressed gas cylinders stored in an underground coal mine shall be:

(1) Clearly marked and identified as to their contents in accordance with Department of Transportation regulations.

(2) Placed securely in storage areas designated by the operator for such purpose, and where the height of the coalbed permits, in an upright position, preferably in specially designated racks, or otherwise secured against being accidently tipped over.

(3) Protected against damage from falling material, contact with power lines and energized electrical equipment, heat from welding, cutting or soldering, and exposure to flammable liquids.

(b) Liquefied and nonliquefied compressed gas cylinders shall not be stored or left unattended in any area inby the last open crosscut of an underground coal mine.

(c) When not in use, the valves of all liquefied and nonliquefied compressed gas cylinders shall be in the closed position, and all hoses shall be removed from the cylinder.

§ 75.1106–4 Use of liquefied and nonliquefied compressed gas cylinders; general requirements.

(a) Persons assigned by the operator to use and work with liquefied and nonliquefied compressed gas shall be trained and designated by the operator as qualified to perform the work to which they are assigned, and such qualified persons shall be specifically instructed with respect to the dangers inherent in the use of such gases in an underground coal mine.

(b) Persons who perform welding, cutting, or burning operations shall wear clothing free from excessive oil or grease.

(c) Liquefied and nonliquefied compressed gas shall be used only in well-ventilated areas.

(d) Not more than one liquefied or nonliquefied compressed gas unit, consisting of one oxygen cylinder and one additional gas cylinder, shall be used to repair any unit of equipment which is inby the loading point of any section.

(e) Where liquefied and nonliquefied compressed gas is used regularly in underground shops or other underground structures, such shops or structures shall be on a separate split of air.

(f) Where liquefied and nonliquefied compressed gas is used in any area in which oil, grease, or coal dust is present, oil and grease deposits shall, where practicable, be removed and the entire area within 10 feet of the worksite covered with a heavy coating of rock dust.

(g) Liquefied and nonliquefied compressed gas cylinders shall be located no less than 10 feet from the worksite, and where the height of the coal seam permits, they shall be placed in an upright position and chained or otherwise secured against falling.

(h) Liquefied and nonliquefied compressed gas shall not be used under direct pressure from the cylinder and, where such gases are used under reduced pressure, the pressure level shall not exceed that recommended by the manufacturer.

(i) "Manifolding cylinders" shall only be performed in well-ventilated shops where the necessary equipment is properly installed and operated in accordance with specifications for safety prescribed by the manufacturer.

§ 75.1106–5 Maintenance and tests of liquefied and nonliquefied compressed gas cylinders; accessories, and equipment; requirements.

(a) Hose lines, gages, and other cylinder accessories shall be maintained in a safe operating condition.

(b) Defective cylinders, cylinder accessories, torches, and other welding, cutting, and burning equipment shall be labeled "defective" and taken out of service.

(c) Each qualified person assigned to perform welding, cutting, or burning with liquefied and nonliquefied compressed gas shall be equipped with a wrench specifically designed for use with liquefied and nonliquefied compressed gas cylinders and a suitable torchtip cleaner to maintain torches in a safe operating condition.

(d) Tests for leaks on the hose valves or gages of liquefied and nonliquefied compressed gas cylinders shall only be made with a soft brush and soapy water or soap suds, or other device approved by the Secretary.

§ 75.1106–6 Exemption of small low pressure gas cylinders containing nonflammable or nonexplosive gas mixtures.

Small low pressure gas cylinders containing nonflammable or nonexplosive gas mixtures, which provide for the emission of such gas under a pressure reduced from a pressure which does not exceed 250 p.s.i.g., and which is manufactured and sold in conformance with U.S. Department of Transportation Special Permit No. 6029 as a calibration test kit for methane monitoring systems, shall be exempt from the requirements of §§ 75.1106–2(c) and 75.1106–4(d), (f) and (g).

[FR Doc.71–16898 Filed 11–18–71;8:48 am]

Title 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior

PART 4—DEPARTMENT HEARINGS AND APPEALS PROCEDURES

Subpart F—Special Rules Applicable to Mine Health and Safety Hearings and Appeals

ASSESSMENT OF CIVIL PENALTIES

Pursuant to the authority of the Secretary of Interior contained in the Federal Coal Mine Health and Safety Act of 1969, 83 Stat. 803; 30 U.S.C. section 957, § 4.540 of Part 4, Title 43, is amended by revoking paragraph (b) of that section.

This amendment eliminates the requirement that copies of all notices or orders at issue be attached to a petition to assess penalty. This step is being taken by the Office of Hearings and Appeals to help reduce the vast amount of paper work involved in processing these violations. Heretofore, four copies of these violations were required. However, they are considered unnecessary, especially since the operator has received two copies of each notice or order from the Bureau of Mines and the informal assessment process has clearly identified the violations at issue. The Bureau will continue to forward a set of the notices or orders at issue to the Office of Hearings and Appeals for the official administrative record. In addition, the operator or his attorney who desires an additional copy of the notices or orders will be furnished a set upon request.

It is the policy of the Department of the Interior whenever practicable to afford the public an opportunity to participate in the rule making process. However, since this amendment changes internal administrative procedure, further notice and public procedure hereon under 5 U.S.C. 553 are impracticable and good cause exists for making the amendment effective in less than 30 days. Accordingly, this amendment shall become effective upon publication hereof in the FEDERAL REGISTER (11–19–71).

WARREN F. BRECHT,
Deputy Assistant Secretary of the Interior.

NOVEMBER 10, 1971.

[FR Doc.71–16896 Filed 11–18–71;8:48 am]

Title 45—PUBLIC WELFARE

Chapter X—Office of Economic Opportunity

PART 1061—CHARACTER AND SCOPE OF SPECIFIC COMMUNITY ACTION PROGRAMS

Subpart—Eligibility Standards of Comprehensive Health Services

Part 1061 of Chapter X of Title 45 of the Code of Federal Regulations is amended by adding a new subpart, reading as follows:

Sec.
1061.3–1 Applicability of this subpart.
1061.3–2 Introduction.
1061.3–3 Policy.

AUTHORITY: The provisions of this subpart issued under section 222(a), 82 Stat. 1019, 42 U.S.C. 2809.

§ 1061.3–1 Applicability of this subpart.

This subpart applies to comprehensive health services projects funded under section 222(a) of the Economic Opportunity Act.

§ 1061.3–2 Introduction.

This subpart sets forth eligibility standards for comprehensive health services projects.

§ 1061.3–3 Policy.

(a) Services may be provided without charge to:

(1) Residents of the target area of the project who fall within the Office of Economic Opportunity Poverty Guidelines (as set forth in §§ 1060.2–1 through 1060.2–4 of this chapter);

(2) Residents of the target area of the project who qualify under State XIX income standards;

(3) Residents of the target area of the project who qualify under a local poverty health or welfare standard which is integrally involved in the project's operation and which has been specifically approved by the Office of Health Affairs.

(b) Services may be provided without charge to all residents of the target area on an emergency basis without prior determination of eligibility.

(c) In selected cases, a partial and full payment plan may be approved for persons with incomes above the standards for free care set forth in paragraph (a) of this section. Such plans must be approved by the Office of Health Affairs. They will only be approved if one or more of the following conditions exist:

(1) The eligibility criteria for free care were originally approved by the Office of Economic Opportunity on an "area-wide basis";

(2) The Neighborhood Health Center is the sole adequate source of health care in the designated service area;

(3) The proposed plan is an approach that promises to make a significant contribution to the improved administration of health services for low-income population groups.

(d) Partial payment plans approved by the Office of Health Affairs under paragraph (c) of this section shall be in accord with all the following criteria:

(1) The plan shall be approved by the Neighborhood Health Council or equivalent group for the project;

(2) The plan shall give priority to persons meeting criteria for free care and shall demonstrate that the proposed schedule will not make it impossible to serve individuals eligible for free care;

(3) The plan shall not involve the use of Office of Economic Opportunity funds to provide health care for individuals in families with incomes in excess of twice the Office of Economic Opportunity Poverty Guidelines;

(4) No more than 20 percent of the total number of persons registered for care by the project shall be on a partial or full pay basis;

(5) The plan shall include a method of determining the cost of services provided which shall be in line with principles set by the Office of Health Affairs. Pending such a determination, the project may use medicaid reimbursement rates if these rates are based upon a review by medicaid authorities of the cost of services at the Center. If Medicaid rates are not based on the costs of operating the Center, the Center shall devise a cost schedule based either upon the previous year's expenditures for operating the Center or the Center's present year's budget, whichever more accurately reflects the current costs of operating the project. The cost of services must reflect the capital costs of constructing or renovating the facility but may exclude the cost of activities which are not directly related to the provision of services, such as outreach and manpower training activities;

(6) The partial payment plan shall include a graduated scale of payments based on costs of services provided. The scale shall be on a "straight-line" basis between the standards for free care (paragraph (a) of this section) and the standard for full payment (paragraph (d)(3) of this section) except in cases where an established graduated payment schedule which is used by a poverty health or welfare program within the local community is preferred by the project.

WESLEY HJORNEVIK,
Deputy Director.

[FR Doc.71–16939 Filed 11–18–71;8:51 am]

Title 49—TRANSPORTATION

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 71–11; Notice 2]

PART 566—MANUFACTURER IDENTIFICATION

Tire Exemption

The purpose of this correction to Part 566 in Title 49, Code of Federal Regulations, published on November 2, 1971, 36 F.R. 20977, is to specifically exempt tire manufacturers from coverage in the language of the regulation. While the preamble to Part 566 as issued states that the tire manufacturers' request for an exemption has been granted, the operative language of the regulation inadvertently omitted the exemption.

In consideration of the foregoing, § 566.3 in Part 566 of Title 49, Code of Federal Regulations, is corrected to read as follows:

§ 566.3 Application.

This part applies to all manufacturers of motor vehicles, and to manufacturers of motor vehicle equipment, other than tires, to which a motor vehicle safety standard applies (hereafter referred to as "covered equipment").

Proposed effective date: February 1, 1972.

This correction is issued under the authority of sections 112 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1401, 1407, and the delegation of authority at 49 CFR 1.51.

Issued on November 11, 1971.

DOUGLAS W. TOMS,
Administrator.

NOVEMBER 11, 1971.

[FR Doc.71–16912 Filed 11–18–71;8:49 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1078–A]

PART 1033—CAR SERVICE

Distribution of Boxcars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 28th day of October 1971.

Upon further consideration of Service Order No. 1078 (36 F.R. 17649) and good cause appearing therefor:

It is ordered, That:

§ 1033.1078 *Service Order No. 1078*, distribution of boxcars be, and it is hereby, vacated and set aside.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101 as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That this order shall become effective at 11:59 p.m., November 5, 1971; that copies of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[F.R. Doc.71–16950 Filed 11–18–71;8:52 am]

[Service Order No. 1084]

PART 1033—CAR SERVICE

Chicago, Rock Island and Pacific Railroad Co. Authorized To Operate Over Tracks of Chicago and North Western Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 12th day of November 1971.

It appearing that abandonment of operations by the Chicago and North Western Railway Co. over its line between Council Bluffs, Iowa, and Harlan, Iowa, has been authorized by the Commission in Finance Docket 26081, thus ending railroad service to shippers located on this line; that the Chicago, Rock Island and Pacific Railroad Co. operates over a portion of this line between CNW milepost 490.4 in the vicinity of McClelland, Iowa, and CNW milepost 502.1 in the vicinity of Council Bluffs, Iowa, under authority of Finance Docket 17060; that the provisions of the operating agreement between the Chicago, Rock Island and Pacific Railroad Co. and the Chicago and North Western Railway Co., approved by the Commission in Finance Docket 17060, prohibit the serving of industries located on this portion of the lines of the Chicago and North Western Railway Co. by the Chicago, Rock Island and Pacific Railroad Co.; that the Chicago, Rock Island and Pacific Railroad Co. has agreed to serve industries located on trackage of the Chicago and North Western Railway Co. at McClelland, Iowa, pending approval by the Commission in Finance Docket 17060, of revisions of that operating agreement; that the Commission is of the opinion that service to industries located on the Chicago and North Western Railway Co. at McClelland, Iowa, by the Chicago, Rock Island and Pacific Railroad Co. is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impractical and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1084 Service Order No. 1084.

(a) *Chicago, Rock Island and Pacific Railroad Co. authorized to operate over tracks of Chicago and North Western Railway Co.* The Chicago, Rock Island and Pacific Railroad Co. be, and it is hereby, authorized to serve shippers located on the tracks of the Chicago and North Western Railway Co. at McClelland, Iowa.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the Chicago, Rock Island and Pacific Railroad Co. over tracks of the Chicago and North Western Railway Co. is deemed to be due to carrier's disability, the rates applicable to traffic moved by the Chicago, Rock Island and Pacific Railroad Co. over these tracks of the Chicago and North Western Railway Co. shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 11:59 p.m., November 16, 1971.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., June 30, 1972, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended; 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16949 Filed 11-18-71;8:52 am]

Proposed Rule Making

DEPARTMENT OF THE ARMY

Corps of Engineers

[33 CFR Part 209]

CONFIDENTIALITY OF INFORMATION UNDER REFUSE ACT PERMIT PROGRAM

Proposed Instructions and Procedures

Notice is hereby given that the regulation set forth in tentative form below is proposed by the Secretary of the Army (acting through the Chief of Engineers). The proposed regulation provides instructions and procedures for the internal handling and release to members of the public, and to other Federal agencies of confidential information received from an applicant or permittee under the Refuse Act Permit Program.

While it is considered that cross references to other regulations cited are self-explanatory, the full texts of the referenced regulations are available for inspection at the local Corps of Engineers District Offices. Prior to the adoption of the proposed regulation, consideration will be given to any comment, suggestions, or objections thereto which are submitted in writing to the Office of the Chief of Engineers, Washington, D.C. 20314, Attention: DAEN–CWO–N, within a period of 45 days from the date of publication of this notice in the FEDERAL REGISTER.

Dated: November 16, 1971.

F. P. KOISCH,
Major General, U.S. Army,
Director of Civil Works.

§ 209.133 Confidentiality of information under the Refuse Act Permit Program.

(a) *Purpose.* This section provides instructions and procedures for the internal handling and release to members of the public, and to other Federal agencies of confidential information received from an applicant or permittee under the Refuse Act Permit Program.

(b) *Policy.* (1) In deciding whether information submitted by an applicant or permittee pursuant to the Refuse Act Permit Program is entitled to confidential treatment as hereinafter set forth, it is the policy of the Corps to achieve an effective balance between the legitimate concern of industry for protection of its competitive position and the right of the public to be fully apprised as to the quality of our Nation's environment.

(2) Recognizing the right of the public to be fully apprised of any action which affects our Nation's water resources, it is the policy of the Corps that in no event shall information or data identifying the nature and frequency of a discharge be entitled to confidentiality.

(3) Recognizing the importance to industry of certain kinds of information and data, it is the policy of the Corps that information or data constituting trade secrets or confidential commercial or financial information shall not be disclosed to members of the public.

(c) *Definitions*—(1) *Commercial information.* Commercial information includes but is not limited to such information as research data, inventories, customer lists, and statistics on production and sales, which is not directly utilized for the making, preparing, compounding, treating, or processing of trade commodities, but is, nevertheless, valuable to and necessary for the conduct of an ongoing business.

(2) *Confidential.* Confidential means to be held in confidence, to be released only to authorized persons on a strict need-to-know basis consistent with the needs and purposes of the Refuse Act Permit Program. By definition, a trade secret is confidential.

(3) *Federal agencies.* Agencies, departments, or instrumentalities of the Federal Government.

(4) *Financial information.* Refers to money matters. Such information would include but is not limited to revenues, expenditures, profits, losses, and financial arrangements.

(5) *Members of the public.* Includes but is not limited to private citizens; all non-Federal public and private organizations and institutions; corporations, partnerships, associations, and other commercial organizations; and all non-Federal governmental bodies.

(6) *Trade secrets.* An unpatented, secret, commercially valuable plan, appliance, formula, or process, which is used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities and which provides the user a competitive advantage.

(d) *Responsibilities of applicant or permittees.* (1) To be considered for confidential treatment as hereinafter set forth, information supplied in support of an application for a permit must be supplied by the applicant on a separate sheet(s) of paper entitled "Confidential Answers" and must be accompanied by a written statement of the reasons justifying treatment of the information as a trade secret or commercial or financial information which warrants the protection of the confidential designation.

(2) To be considered for confidential treatment as hereinafter set forth, information supplied by or obtained from a permittee pursuant to the general or special conditions of his permit must be accompanied by a written statement of the reasons justifying treatment of the information as a trade secret or commercial or financial information which warrants the protection of the confidential designation.

(e) *Responsibilities of District Engineers.* (1) District Engineers shall promptly evaluate any request submitted as prescribed in paragraph (d) of this section, for confidential treatment of information supplied by or obtained from an applicant or permittee. In evaluating such request, the District Engineer shall consider the policy stated in paragraph (b) of this section, and the following guidelines:

(i) In determining whether commercial or financial information warrants the protection of the confidential status, the District Engineer shall consider the following: If the commercial or financial information is generally known in the trade or can be acquired or duplicated by members of the public through legal means, such information shall not be entitled to confidential treatment as hereinafter set forth. In this respect, items 14, 16, and column 4 of both parts A and B of section II of the permit application form are identified as possibly constituting confidential commercial information, and in the absence of a specific reason determined by the District Engineer to require release, such information supplied in the manner set forth in this subdivision shall be treated as confidential.

(ii) In determining whether information or data constitutes a trade secret, the District Engineer shall consider the following: If the information or data is generally known in the trade or can be acquired or duplicated by members of the public through legal means, such information or data shall not be deemed to constitute a trade secret.

(2) The applicant or permittee shall be notified in writing of the decision of the District Engineer regarding the applicant's or permittee's request. In the event that the decision of the District Engineer is negative, the written notice to the applicant or permittee shall specify the factual considerations leading to such decision and shall be sent "Return Receipt Requested." The applicant or permittee shall be accorded 30 days from the date of receipt of the notice from the District Engineer in which to present to the District Engineer additional or supplemental supporting data relative to his request. The written notice shall also specify that unless the applicant or permittee supplies to the District Engineer within the 30-day period additional or supplemental supporting data, the decision of the District Engineer shall become a final decision.

(3) Upon submission by the applicant or permittee of additional or supplemental supporting data as per subparagraph (2) of this paragraph, the District Engineer shall promptly reconsider his prior decision and notify the applicant

or permittee in writing of his final decision. Such written notice shall specify the factual considerations leading to the final decision.

(4) During the interim period from receipt by the District Engineer of the request from the applicant or permittee to receipt by the applicant or permittee of the final decision of the District Engineer as per subparagraphs (2) and (3) of this paragraph, the District Engineer shall accord to the information in question confidential treatment as hereinafter set forth.

(5) A copy of the District Engineer's final decision together with a cover letter stating whether the information in question should continue to be considered and treated as confidential shall be forwarded to all parties to whom such information was forwarded during the interim period as stated in subparagraph (4) of this paragraph.

(6) An applicant who requests "blanket confidentiality" for his entire application shall be informed that such request is contrary to Corps regulations. If the applicant furnished the information on the application form, he shall be given written notice sent "Return Receipt Requested" to submit within 30 days a revised application in accordance with paragraph (d) of this section. He shall also be advised that if such a revision is not submitted, the application will be processed with all answers on the form being available to the public. If, however, the applicant furnished the information in accordance with paragraph (d) of this section, the District Engineer shall make his determinations as prescribed in subparagraphs (1) through (5) of this paragraph.

(7) If a particular discharge or deposit is involved in pending litigation, the instructions in subparagraphs (1) through (6) of this paragraph shall be followed only after coordination with the local U.S. Attorney.

(f) *In-house handling of confidential information.* (1) Information or data supplied in accordance with the procedures set forth in paragraph (d) of this section, shall immediately be marked For Official Use Only and shall continue to be so marked until such time as the District Engineer determines that it does not constitute trade secrets or confidential commercial or financial information. Information or data determined by the District Engineer to constitute trade secrets or confidential commercial or financial information shall be marked, stored, protected, and transmitted as prescribed by AR 340–16.

(2) For Official Use Only markings on trade secrets and confidential commercial or financial information are excluded from automatic termination under the provisions of paragraph 13, AR 340–16.

(g) *Release of confidential information.* (1) Confidential information shall not be released to the public. Denials of requests for information will be processed in accordance with paragraphs 7, 11, and 12, AR 345–20 and Chapter 72, ECI.

(2) Requests for confidential information from members of Congress will be processed in accordance with paragraph 8b(2), AR 345–20.

(3) Confidential information may be disclosed to Federal personnel, both in and out of the Corps, on a need-to-know basis consistent with the needs and purposes of the Refuse Act Permit Program. If confidential information is disclosed to Federal personnel outside of the Corps, such information shall be transmitted as prescribed in subparagraph (4) of this paragraph.

(4) Confidential information is releasable to the Environmental Protection Agency as this agency is presumed to have a need-to-know consistent with the needs and purposes of the Refuse Act Permit Program. It shall be transmitted as prescribed by paragraph 10, AR 340–16. In addition, a cover letter shall be included which specifically states the following:

> The attached information (here identify the documents) has been determined by the District Engineer to constitute trade secrets or confidential commercial or financial information. Under the provisions of 18 U.S.C. 1905, unlawful disclosure of the attached information is punishable by a fine not to exceed $1,000, or imprisonment not to exceed one year, or both; and it is further provided by such statute that the person or persons making such unlawful disclosure shall be removed from office or employment.

(5) Requests for confidential information from other Federal agencies shall be processed as follows:

(i) District Engineers shall require the Federal agency to submit complete written justification. District Engineers shall release information to the agency if determined that a need-to-know consistent with the needs and purposes of the Refuse Act Permit Program exists. The information shall be transmitted as prescribed in subparagraph (4) of this paragraph.

(ii) The District Engineer shall not release confidential information if he is not satisfied that the requesting Federal agency has a need-to-know consistent with the needs and purposes of the Refuse Act Permit Program. He shall inform the agency in writing and state his reasons for the denial. He shall also inform the agency that he has forwarded a copy of the request with the denial and all pertinent documents to OCE, Attention: DAEN-GCK for further consideration.

(h) *Classified defense information.* Nothing herein shall be construed as pertaining to classified defense information. The procedures governing the marking, safeguarding and handling of classified defense information are contained in AR 380–5.

[FR Doc.71–17016 Filed 11–18–71;8:54 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 905]

TANGERINES GROWN IN FLORIDA

Proposed Limitation of Shipments

Consideration is being given to the following proposal submitted by the committees, established under the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The recommendation by the committees for more restrictive size requirements on shipments of tangerines made during the period November 26 through December 19, 1971, is based on the increasing available supply of smaller size tangerines. Tangerines of the later maturing Dancy variety are begining to be shipped in volume to fresh market outlets adding to the currently available supply of the earlier maturing Robinson variety tangerine. Sales of Dancy tangerines of the smaller size are being made at discounted prices causing a general weakening of the price structure for all sizes of tangerines. It is anticipated by the committee that fresh market outlets will accept smaller tangerines after December 19, 1971, at prices which will provide favorable returns to producers.

The proposal is as follows:

Order. In § 905.537 (Tangerine Regulation 42; 36 F.R. 20215) the provisions of paragraph (a)(2) are revised to read as follows:

§ 905.537 Tangerine Regulation 42.

(a) • • •

(2) Any tangerines, grown in the production area, which are of a size smaller than 2$^{2}/_{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of tangerines smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the U.S. Standards for Florida Tangerines: *Provided,* That during the period November 26 through December 19, 1971, no handler may ship tangerines, grown in the production area, which are of a size smaller than 2$^{5}/_{16}$ inches in diameter except that a tolerance of 10 percent, by count, of tangerines smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the U.S. Standards for Florida Tangerines.

All written data, views, or arguments submitted in connection with the aforesaid proposal must be received in quadruplicate, by the Hearing Clerk, U.S. Department of Agriculture, Room 112A, Washington, D.C. 20250, not later than November 23, 1971. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: November 15, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71–16957 Filed 11–18–71;8:53 am]

[7 CFR Part 912]

GRAPEFRUIT GROWN IN INDIAN RIVER DISTRICT, FLORIDA

Proposed Expenses and Rate of Assessment for Fiscal 1971–72

Consideration is being given to the following proposals submitted by the Indian River Grapefruit Committee, established pursuant to the marketing agreement, as amended, and Order No. 912, as amended (7 CFR Part 912), regulating the handling of grapefruit grown in the Indian River District in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(a) That the expenses that are reasonable and likely to be incurred by the Indian River Grapefruit Committee, during the period August 1, 1971, through July 31, 1972, will amount to $28,400.

(b) That the rate of assessment for such period, payable by each handler in accordance with § 912.41, be fixed at $0.004 per standard packed box.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: November 16, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71–16956 Filed 11–18–71;8:53 am]

Rural Electrification Administration

[7 CFR Part 1701]

AUDIT OF REA BORROWERS' ACCOUNTING RECORDS

Notice of Proposed Rule Making

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue revised REA Bulletin 185–1: 465–1, Audit of REA Borrowers' Accounting Records. This REA Bulletin requires annual audits by certified public accountants of its electric and telephone borrowers and establishes the minimum standards for such audits. On final issuance of this revised REA Bulletin, Appendix A to Part 1701 will be modified accordingly.

Persons interested in the provisions of the revised REA Bulletin 185–1: 465–1 may submit written data, views, or comments to the Director, Borrowers' Financial Management Division, Room 4307, South Building, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 30 days from the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Borrowers' Financial Management Division during regular business hours.

A copy of proposed REA Bulletin 185–1: 465–1 may be secured in person or by written request from the Director, Borrowers' Financial Management Division.

A summary of the changes proposed by REA in the policy and requirements for the audit of the records of its borrowers is as follows:

REVISED REA BULLETIN 185–1: 465–1

In accordance with mortgage terms, REA requires its borrowers to have their accounts and supporting records audited annually by independent certified public accountants selected by the borrower and approved by REA. Also the audit reports must be satisfactory in form and substance. This Bulletin sets forth REA policy and requirements for the audit of the records of both telephone and electric borrowers.

A complete revision of Bulletin 185–1: 465–1 was last issued in November 1963 and the proposed revision incorporates changes announced since that time plus additional changes as follows:

1. Addition of a new section establishing new requirements for the audits of borrowers who have executed a common mortgage involving a non-REA lender. These new requirements provide for (a) approval of the CPA firm also by the non-REA lender, (b) furnishing them a copy of the audit report, (c) notifying them in case of indication of irregularity.

2. Modification of requirements for proper supporting working papers including conformance with guidelines similar to those provided in the Statement of Auditing Procedures No. 39 of the American Institute of Certified Public Accountants.

3. Recommended procedures for review by CPA's during off-season prior to commencement of regular audit work. These include tests of: (a) Cash transactions, (b) revenue and billing, (c) payroll process, (d) material and supplies, (e) vouchers, (f) controlling records.

Dated: November 15, 1971.

E. C. WEITZELL,
Deputy Administrator.

[FR Doc.71–16955 Filed 11–18–71;8:53 am]

[7 CFR Part 1701]

PROCUREMENT OF ENGINEERING SERVICES BY TELEPHONE BORROWERS

Postloan Engineering Service Contract

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue a revision of REA Bulletin 341–3 to provide for changes in REA Form 217, Postloan Engineering Service Contract, Telephone Design and Construction. On issuance of the revised REA Bulletin, Appendix A of Part 1701 will be amended accordingly.

Persons interested in this revision of the postloan engineering service contract prescribed by REA may submit written data, views, or comments to the Director, Telephone Operations and Standards Division, Room 1355, South Building, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 30 days from the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular office hours. A copy of revised REA Form 217 may be secured in person or by written request from the Director, Telephone Operations and Standards Division.

The text of revised REA Bulletin 341–3 describing the policy and procedure relating to the revised form is as follows:

REVISED REA BULLETIN 341–3

ENGINEERING AND ARCHITECTURAL SERVICES

I. *Purpose.* To state (1) Rural Electrification Administration policy concerning selection of telephone engineers by loan applicants and borrowers; (2) the procedure to be followed to obtain engineering services; and (3) announce the revision of the Postloan Engineering Service Contract, Telephone Design and Construction, REA Form 217.

II. *Policy.*—A. *Preloan engineering.* All engineering services required by a loan applicant to support its application for a loan shall be rendered by a qualified engineer selected by the applicant. Some applicants may have qualified personnel on their payroll. Neither the selection of the preloan engineer nor the form of preloan engineering service contract are subject to approval by REA. Applicants are requested to discuss their proposed method of obtaining preloan engineering services with the REA field personnel before going ahead with arrangements.

B. *Post loan engineering.* 1. All engineering services required by a borrower for the construction of its project, including the preparation of plans and specifications, shall be rendered by a qualified engineer selected by the borrower and approved by REA prior to the performance of any of the required services.

2. REA will consider a borrower's request to do its own engineering upon an adequate showing by the borrower of its ability to efficiently perform the required engineering.

III. *General.* A. Engineering firms interested in performing work for loan applicants or borrowers are requested to keep REA currently informed on the qualifications and experience of the firm's personnel that would be assigned to such work. One copy of REA

Form 179, Architects and Engineers Qualifications, may be submitted to REA for this purpose.

B. REA does not maintain a list of approved telephone engineers but on request will supply the names of engineering firms which have expressed an interest in performing engineering services for borrowers.

IV. *Engineering contract and amendment forms.*—A. *Preloan engineering service contract, telephone system design, REA Form 835.* This is a suggested form of preloan engineering service contract. It provides for the preparation of maps, the area coverage survey and report, the area coverage design, and other services requested by the applicant to support its application for a loan. While the use of this form of contract is not required, it should be reviewed as a basis for determining the services which the applicant desires the engineer to perform.

B. *Post loan engineering service contract, telephone design and construction, REA Form 217.* 1. This contract provides for engineering services required subsequent to the making of a loan, and specifically in connection with the preparation of plans and specifications, staking, supervision of construction, final inspection and inventory and other services. It does not provide for engineering or architectural services on buildings other than unattended dial office buildings.

2. The major changes in the revised contract are:

a. Appropriate wording is included for using the contract with the Rural Telephone Bank financing.

b. Description of the project to be included under the engineering contract has been expanded by describing the project by major facilities and exchange.

c. Services normally required may be excluded from the contract by listing the exchange and description of the excluded services by article and section numbers.

d. Appropriate references are included for the new supplemental loan proposals and the necessary postloan design of outside plant.

e. Compensation for the various services have not been set. Compensation will be mutually agreed upon by the borrower and the engineer. The REA Form 506 "Statement of Engineering Fee—Telephone" has been revised to conform with the revised engineering service contract.

C. *Architectural services contract, REA Form 165.* This contract provides for services required subsequent to the making of a loan in connection with the preparation of plans and specifications, supervision of construction, and final inspection and inventory of headquarters and other buildings. If desired, architectural services on unattended dial office buildings may also be obtained under this contract instead of under REA Form 217.

D. *Amendment of telephone engineering service contract—additional project, REA Form 223.* This amendment provides for engineering services for an additional project to be added to the original contract.

E. *Amendment of engineering service contract, REA Form 241.* This amendment provides payment for services which have been performed by the engineer which are in addition to those required by the contract.

V. *Procedures for contracting for engineering services.*—A. *Preloan engineering services.* 1. Subsequent to making an initial application for a loan and upon further notice from REA that additional data should be prepared in support of the application, the applicant meets with various engineering firms to discuss their interest in an availability of personnel for performing the required engineering services. It is recommended that representatives of at least three firms be interviewed so that the applicant may ascertain that he has selected a firm which is both competent and capable of proceeding rapidly with the work.

2. When an engineering firm is selected, the services to be performed, the form of contract to be used, and the compensation to be paid are matters to be agreed upon by the applicant and the engineer. The suggested form of preloan engineering service contract, REA Form 835, mentioned in paragraph IV–A is available from REA if this form of contract is desired. In addition to listing the various services normally required, Form 835 contains a provision for compensation which has been proposed by a number of engineering firms. Any form of contract used should specify that the area coverage survey, area coverage design and supplemental loan proposals prepared by the engineer must conform to REA requirements.

B. *Post loan engineering services.* 1. After the loan is made, REA will normally assume that the preloan engineer will be selected to provide the post loan engineering services and will forward four copies of REA Form 217 to the borrower with a letter requesting that, if the preloan engineer is to be retained, three copies of the contract be completed and executed by both parties and returned to REA for approval.

2. If the preloan engineer is not to be retained, another engineering firm should be chosen, and the selection submitted to REA for approval before entering into a contract. When the engineer selection is approved, the section engineer will forward four copies of REA Form 217, Post Loan Engineering Service Contract, Telephone Design and Construction, to the borrower.

3. The borrower and the engineer are to review the contract to be sure that all terms, conditions, and the obligations of both parties are understood. Three copies are to be executed by both parties and forwarded to REA for approval. A detail estimate of the engineering fees is a requirement for approval by REA. The REA Form 506, "Statement of Engineering Fee—Telephone" should be used for preparing and submitting the estimate.

4. Upon approval of the contract by REA, two copies are returned to the borrower. One of these should be forwarded to the engineer.

C. *Architectural services.* 1. Generally the architectural services required in connection with unattended dial central office buildings will be obtained by the borrower through the use of REA Form 217, Post Loan Engineering Service Contract, Telephone System Design and Construction. When the project includes a headquarters or buildings other than unattended dial central office buildings, the architectural services required shall be obtained through the use of REA Form 165, Architectural Services Contract, and the borrower shall furnish REA with the name of the architect it desires to have perform this work.

2. Upon approval, the section engineer will forward three copies of REA Form 165, Architectural Services Contract, to the borrower.

3. The borrower and the architect review the contract form to be sure that all terms and conditions are understood. All three copies are to be executed by both parties and forwarded to REA for approval.

4. Upon approval of the contract by REA, two copies are returned to the borrower. One of these should be forwarded to the architect.

D. *Amendments.* Three copies of the amendment are to be executed by both parties and forwarded to REA for approval. Upon approval of the amendment by REA, two copies will be returned to the borrower. One of these should be forwarded to the engineer.

Dated: November 12, 1971.

E. F. RENSHAW,
Assistant Administrator, Telephone.

[FR Doc.71-16901 Filed 11-18-71;8:48 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 19]

LOWFAT CREAMED COTTAGE CHEESE

Withdrawal of Previous Proposals and New Proposal Issued

In the matter of establishing a definition and standard of identity for lowfat creamed cottage cheese:

A notice of proposed rule making in the above-mentioned matter, based on a petition from the Milk Industry Foundation, 910 17th Street NW., Washington, DC 20005, was published in the FEDERAL REGISTER on October 23, 1970 (35 F.R. 16546). The New York State Department of Agriculture and Markets and the Ohio Department of Agriculture were copetitioners with the Milk Industry Foundation. In the same notice, the Commissioner of Food and Drugs on his own initiative proposed to amend the existing creamed cottage cheese standard (21 CFR 19.530) rather than to establish a new standard. A correction was published on November 7, 1970 (35 F.R. 17191). Both proposals provided for creamed cottage cheese products with reduced fat content; however, the Milk Industry Foundation petition proposed the name "lowfat creamed cottage cheese" without label declaration of the fat content while the Commissioner's proposal retained the name "creamed cottage cheese" for the reduced fat product as well as for the conventional product and required a declaration of the percentage of fat content following the name of the food on package labels.

Notice is given that the Milk Industry Foundation, with the New York State Department of Agriculture and Markets and the Ohio Department of Agriculture as copetitioners, has withdrawn its petition published on October 23, 1970, and has submitted a new petition. Notice is also given that the Commissioner of Food and Drugs has withdrawn his proposal concerning this matter.

The new petition proposes establishment of a separate identity standard for "lowfat cottage cheese," a product containing from 0.5 to 2 percent milkfat and not more than 82.5 percent moisture. The container lid would bear the statement "Contains not more than 2 percent milkfat" or "Contains ____ percent milkfat," the blank being filled in with the fat content of the product.

The new petition also proposes amending the creamed cottage cheese standard in § 19.530 (21 CFR 19.530) to change the name of the food to "cottage cheese," to delete the 3 percent limitation on addition of solids to the creaming mixture found in § 19.530(b)(2), and to require on the container lid the statement "Contains not less than 4 percent milkfat" or "Contains ____ percent milkfat," the blank being filled in with the fat content of the product.

Finally, the new petition proposes to amend the cottage cheese standard in § 19.525 (21 CFR 19.525) to change the name of the food to "cottage cheese dry curd" and to limit the fat content of the food to less than 0.5 percent.

Grounds given in support of the proposal are: (1) That most consumers associate the name "cottage cheese" with the product identified in § 19.530 rather than with the one identified in § 19.525; (2) that addition of the words "dry curd" to the name of the product identified in § 19.525 will eliminate confusion and more aptly describe the food; (3) that consumers desire the option of purchasing creamed cottage cheese products with reduced fat content; and (4) that label declaration of the fat content in the conventional product identified in § 19.530 as well as in the new reduced fat level products will facilitate consumer comparison of the available cottage cheese products.

Accordingly, both proposals published on October 23, 1970, are withdrawn and the petitioners now propose that Part 19 be revised:

1. In § 19.525, by revising the section heading and paragraphs (a) and (c), as follows:

§ 19.525 Cottage cheese dry curd, dry curd cottage cheese; identity.

(a) Cottage cheese dry curd, dry curd cottage cheese, is the soft uncured cheese prepared by the procedure set forth in paragraph (b) of this section. The finished food contains less than 0.5 percent milkfat. It contains not more than 80 percent of moisture, as determined by the method prescribed under "Moisture—Official," on page 272 of "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th edition, 1970.

• • • • • •

(c) When the optional process described in paragraph (b)(1)(ii) of this section is used to make cottage cheese dry curd, the label shall bear the statement "Directly set" or "Curd set by direct acidification." Whenever the name of the food appears on the label so conspicuously as to be seen under customary conditions of purchase, the statement specified in this paragraph, showing the optional process used, shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter.

2. In § 19.530 by revising the section heading, paragraph (a), the introductory text in paragraph (b)(2), and subparagraphs (3) and (4) in paragraph (d) and by adding a new paragraph (e), as follows:

§ 19.530 Cottage cheese; identity; label statement of optional ingredients.

(a) Cottage cheese is the soft uncured cheese prepared by mixing cottage cheese dry curd with a creaming mixture as provided in paragraph (b) of this section. The milkfat content is not less than 4 percent by weight of the finished food. The finished food contains not more than 80 percent of moisture, as determined by the method prescribed in § 19.525(a).

(b) • • •

(2) One or any combination of two or more of the ingredients named in this subparagraph may be added to adjust the solids content.

• • • • • •

(d) • • •

(3) When the optional process described in § 19.525(b)(1)(ii) is used to make the cottage cheese dry curd used in cottage cheese, the label shall bear the statement "Directly set" or "Curd set by direct acidification."

(4) Wherever the name "cottage cheese" appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the label declarations prescribed in this paragraph, showing the optional ingredients present and optional process used, shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter, except that the declaration required by paragraph (e) of this section may intervene.

(e) (1) The statement "Contains not less than 4 percent milkfat" shall appear upon the lid of the container. If the cottage cheese contains more than 4 percent milkfat, the statement on the lid, in lieu of the phrase "Contains not less than 4 percent milkfat" may be "Contains ____ percent milkfat," the blank being filled in with the fat content of the product.

(2) The statement concerning percentage of fat content which is specified in this paragraph shall appear on the lid immediately preceding or following the name of the food without obscuring design, vignettes, or crowding. The declaration shall appear in conspicuous and easily legible letters of boldface print or type the size of which shall be not less than that required by Part 1 of this chapter for the statement of net quantity of contents appearing on the label, but in no case less than one-sixteenth of an inch in height.

3. By adding a new § 19.____, as follows:

§ 19.____ Lowfat cottage cheese; identity; label statement of optional ingredients.

Lowfat cottage cheese is the food prepared from the same ingredients and in the same manner prescribed in § 19.530 for cottage cheese and complies with all the provisions of § 19.530 (including requirements for the label statement of optional ingredients), except that:

(a) Its content of milkfat is not less than 0.5 percent and not more than 2 percent by weight.

(b) Its moisture content is not more than 82.5 percent.

(c) (1) The following statement shall appear upon the lid of the container of the lowfat cottage cheese: "Contains not more than 2 percent milkfat," or alternatively "Contains ___ percent milkfat," the blank being filled in with the fat content of the product.

(2) The statement concerning percentage of fat content which is specified in this paragraph (c) shall appear on the lid immediately preceding or following the name of the food without obscuring design, vignettes, or crowding. The declaration shall appear in conspicuous and easily legible letters of boldface print or type the size of which shall be not less than that required by Part 1 of this chapter for the statement of net quantity of contents appearing on the label, but in no case less than one-sixteenth of an inch in height.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and in accordance with authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), interested persons are invited to submit their views in writing (preferably in quintuplicate) regarding this proposal within 60 days after its date of FEDERAL REGISTER publication. Such views and comments should be addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852, and may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: November 16, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-16981 Filed 11-18-71;8:54 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Part 146]

[CGFR 71-139]

DANGEROUS CARGOES

Notice of Proposed Rule Making

The Coast Guard is considering amending the dangerous cargoes regulations to:

1. Authorize the use of butane, isobutane, isobutylene, and propane as proper shipping names.

2. Provide for the transportation of certain flammable liquids in DOT 37–D nonreusable steel drums.

3. Exempt liquid cement, n.o.s. in containers of fiberboard bodies with metal tops and bottoms from specification packaging, marking other than name of contents, and labeling requirements.

4. Authorize specification 4BA 240 and 4BW 240 cylinders for tin tetrachloride, anhydrous.

5. Authorize for certain organic phosphates the cylindrical steel overpack DOT–6D with an inside specification 2S polyethylene container.

6. Limit to not more than 2 curies the quantities of Californium–252 in special form that may be shipped in Type A radioactive materials packages.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the U.S. Coast Guard (MHM), 400 Seventh Street SW., Washington, DC 20590. Each person submitting comments should include his name and address, identify the notice (CGFR 71–139), and give reasons for any recommendations. Comments received will be available for examination by interested persons in Room 8306, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC.

The Coast Guard will hold an informal hearing on January 18, 1972, at 9:30 a.m. in Conference Room 8332, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC. Interested persons are invited to attend the hearing and present oral or written statements on this proposal. There will be no cross-examination of persons presenting statements. It is requested that anyone desiring to attend the hearing notify the U.S. Coast Guard (MHM), 400 Seventh Street SW., Washington, DC 20590.

The Commandant will evaluate all communications received before January 25, 1972, and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

By a separate document published at page 22073 of this issue of the FEDERAL REGISTER, the Hazardous Materials Regulations Board of the Department of Transportation proposes amendments to Part 172 of Title 49, Code of Federal Regulations. For reasons fully stated in that document the Board has proposed these changes.

The hazardous materials regulations of the Department of Transportation in Title 49 apply to shippers by water, air, and land, and to carriers by air and land. The adoption of this proposed amendment to Title 46 would make the proposal of the Hazardous Materials Regulations Board applicable to carriers by water.

The Coast Guard proposes to incorporate the substance of the Board's proposal in 46 CFR Part 146.

In consideration of the foregoing, Part 146 of Title 46 of the Code of Federal Regulations is amended as follows:

§ 146.04–5 [Amended]

A. By resetting the type from italics to roman print for the articles—butane, isobutane, isobutylene and propane in column 1 of § 146.04–5—List of explosives and other dangerous articles and combustible liquids.

§ 146.21–100 [Amended]

B. In § 146.21–100 Table D—Classification: Inflammable liquids—

1. By adding in column 4 directly under the words "Steel barrels or drums" for the articles ethyl acetate; ethyl methyl ketone; heptane; isopropyl acetate; methyl isopropenyl ketone, inhibited; motor fuel, n.o.s. and petroleum distillate the following:

(DOT–37D) NRC only for commodities not exceeding 10 pounds per gallon.

2. By adding in columns 4, 5, 6, and 7 directly under the words "Steel barrels or drums" for the articles allyl bromide; antifreeze compounds, liquid; butyl acetate; box toe gum; cement, leather; cigar and cigarette lighter fluid; coal tar distillate; coal tar naphtha; coal tar oil; compounds, cleaning liquid; compounds, tree or weed killing, liquid; crontonaldehyde; crude oil petroleum, dimethyl amine, aqueous solution; drugs, chemical medicine, or cosmetics, n.o.s.; ethylene dichloride; insecticide, liquid; methyl methacrylate monomer; oil; resin solutions; sodium methyl alcohol mixture; solvents, n.o.s.; toluol; turpentine substitutes; vinyl acetate; xylal; inflammable liquids, n.o.s. and insecticide, liquid (vermin exterminator) the following:

(DOT–37D) NRC only for commodities not exceeding 10 pounds per gallon:

C. By revising § 146.21–77(a) to read as follows:

§ 146.21–77 Limited quantity shipments of cements.

(a) Cements, except cements containing carbon bisulfide, in glass, earthenware, or leakproof containers with fiberboard bodies and metal tops and bottoms of not over 1 quart capacity each, or metal containers of not over 5 gallons capacity each, packed in strong outside containers are exempt from specification packaging, marking other than name of contents and labeling requirements.

* * * * *

§ 146.23–100 [Amended]

D. In § 146.23–100 Table F—Classification: Corrosive liquids, for the article "Tin tetrachloride, anhydrous" by adding in column 4 the following:

Cylinders complying with DOT regulations.

§ 146.25–200 [Amended]

E. In § 146.25–200 Table H—Classification: Less dangerous poisons—

1. For the articles parathion, liquid and tetraethyl pyrophosphate, liquid by adding in column 4 the following:

Cylindrical steel overpack (DOT 6D) WIC DOT–2S

2. For the articles parathion mixtures, liquid and tetraethyl pyrophosphate mixtures, liquid by adding in columns 4, 5, 6, and 7 the following:

Cylindrical steel overpack (DOT–6D) WIC DOT 2S.

§ 146.19–01 [Amended]

F. By adding a note to the table in § 146.19–01(n) to read as follows:

[1] Except that for Californium-252 the Type A quantity limit for special form is 2 curies.

(R.S. 4472, as amended; R.S. 4417a, as amended; sec. 1, 19 stat. 252, 49 stat. 1889, sec. 6(b)(1), 80 stat. 937; 46 U.S.C. 170, 391a, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Dated: November 10, 1971.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.71–16826 Filed 11–18–71;8:45 am]

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 71–SO–168]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation regulations that would designate the Albertville, Ala., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Albertville transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Albertville Municipal Airport (lat. 34°13'54" N., long. 86°15'08" W.); within 3 miles each side of the 048° bearing from Saratoga RBN (lat. 34°15'00" N., long. 86°13'25" W.), extending from the 6.5-mile radius area to 8.5 miles northeast of the RBN.

The proposed designation is required to provide controlled airspace protection for IFR operations at Albertville Municipal Airport. A prescribed instrument approach procedure to this airport, utilizing the Saratoga (private) Nondirectional Radio Beacon, is proposed in conjunction with the designation of this transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on November 11, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71–16869 Filed 11–18–71;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 71–SO–167]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation regulations that would designate the Americus, Ga., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Americus transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Souther Field (lat. 32°07'00" N., long. 84°11'30" W.); within 3 miles each side of the 047° bearing from Souther RBN (lat. 32°07'00" N., long. 84°11'30" W.), extending from the 6.5-mile radius area to 8.5 miles northeast of the RBN.

The proposed designation is required to provide controlled airspace protection for IFR operations at Souther Field. A prescribed instrument approach procedure to this airport, utilizing the Souther (private) Nondirectional Radio Beacon, is proposed in conjunction with the designation of this transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on November 11, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71–16871 Filed 11–18–71;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 71–SO–161]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation regulations that would designate the Cleveland, Miss., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Cleveland transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Cleveland Municipal Airport (lat. 33°45'30" N., long. 90°45'15" W.).

The proposed designation is required to provide controlled airspace protection for IFR operations at Cleveland Municipal Airport. A prescribed instrument approach procedure to this airport, utilizing the Greenville, Miss., VOR, is proposed in conjunction with the designation of this transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on November 10, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71–16870 Filed 11–18–71;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 71–GL–14]

FEDERAL AIRWAY SEGMENT

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation regulations that would realign VOR Federal airway No. 92 segment between Mansfield, Ohio, and Bellaire, Ohio.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 3166 Des Plaines Avenue, Des Plaines, IL 60018. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The FAA proposes to redesignate V–92 segment from Mansfield via Tiverton, Ohio; Newcomerstown, to Bellaire, Ohio. V–92 is currently designated as a common segment with VOR Federal airway No. 8 from Mansfield via Briggs, Ohio, to Bellaire. This proposed realignment of V–92 would provide a replacement airway segment between Newcomerstown and Bellaire for the segment of VOR Federal airway No. 12 which is now designated from Newcomerstown direct to Allegheny, Pa.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C. on November 12, 1971.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71–16875 Filed 11–18–71;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 71–SO–169]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation regulations that would alter the Nashville, Tenn., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action

is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Nashville transition area described in § 71.181 (36 F.R. 2140 and 18511) would be amended as follows:

"• • • long. 86°24'30" W. • • •." would be deleted and "• • • long. 86°24'30" W.); within an 8-mile radius of Lebanon Municipal Airport (lat. 36°11'22" N., long. 86°18'55" W.) • • •." would be substituted therefor.

The proposed alteration is required to provide controlled airspace protection for IFR operations at Lebanon Municipal Airport. A prescribed instrument approach procedure to this airport, utilizing Nashville VORTAC, is proposed in conjunction with the alteration of this transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348 (a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on November 12, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71-16872 Filed 11-18-71;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 71-WE-30]

FEDERAL AIRWAY SEGMENTS

Proposed Designation

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation regulations that would designate west alternate segments to VOR Federal airway No. 27 between Ukiah, Calif., and Fortuna, Calif., and from Fortuna to Crescent City, Calif.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 92007, Worldway Postal Center, Los Angeles, CA 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

As parts of this proposal relate to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertain to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The airspace action proposed in this docket would designate standard 015° west alternate segments to V-27 from Ukiah to Fortuna and from Fortuna to Crescent City.

These proposed airway segments would provide operational advantages in the separation of en route air traffic and the movement of airway and departing traffic at the respective terminal areas.

This amendment is proposed under the authority of section 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1510), Executive Order 10854 (24 F.R. 9565) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on November 12, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-16673 Filed 11-18-71;8:46 am]

[14 CFR Part 75]

[Airspace Docket No. 71-SO-138]

JET ROUTE SEGMENTS

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 75 of the Federal Aviation regulations that would realign the segment of Jet Route No. 53 between Jacksonville, Fla., and Augusta, Ga.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20590. An informal docket will be available for examination at the office of the Regional Air Traffic Division Chief.

The Federal Aviation Administration proposes to realign J-53 segment from Jacksonville, Fla., direct to Augusta, Ga. The proposed realignment will permit turbo-jet aircraft to operate direct between those points, thereby reducing the en route mileage.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348 (a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)).

Issued in Washington, D.C. on November 12, 1971.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-16674 Filed 11-18-71;8:46 am]

Hazardous Materials Regulations Board

[49 CFR Parts 172, 173, 178]

[Docket No. HM-94; Notice No. 71-29]

TRANSPORTATION OF HAZARDOUS MATERIALS

Notice of Proposed Rule Making

The Hazardous Materials Regulations Board is considering amendment of several unrelated sections of the Department's Hazardous Materials Regulations. Commenters need only identify the particular proposal on which they wish to comment when responding. The proposals covered in this document are:

A—List of Hazardous Materials.
B—Flammable liquids, n.o.s., in specification 37D drums.
C—Liquid cement, n.o.s., in containers of fiberboard bodies and metal tops and bottoms.
D—Tin tetrachloride in cylinders.
E—Liquefied petroleum gas.
F—Organic phosphate compound, n.o.s., in polyethylene container with steel overpack.
G—Radioactive materials—Special Form Californium-252 in Type A packages.
H—Specifications 4B240ET and 4AA480.
I—Quenching of steel cylinders.

PROPOSAL A

LIST OF HAZARDOUS MATERIALS

The Hazardous Materials Regulations Board is considering amendment of § 172.5(a) of the Department's Hazardous Materials Regulations to authorize the use of "Butane", "Isobutane", "Isobutylene", and "Propane" as proper shipping names for these commodities now described as "Liquefied petroleum gas". These commodity descriptions now appear in italics in the list of hazardous materials and are proposed to be changed to Roman-type print to signify authorization for their use as proper shipping names.

This proposal is based on a petition by the Compressed Gas Association, Inc., to provide for the use of these terms as proper shipping names. The use of these names as descriptions on shipping papers and as markings on outside shipping containers would be authorized as an alternate to the liquefied petroleum gas designation now required.

In consideration of the foregoing, it is proposed to amend 49 CFR Part 172 as follows:

§ 172.5 [Amended]

In § 172.5(a), the commodity descriptions of butane, isobutane, isobutylene, and propane found in the commodity list under the article column heading would be changed from italics to Roman-type print.

PROPOSAL 3

FLAMMABLE LIQUIDS N.O.S., IN SPECIFICATION 37D DRUMS

The Hazardous Materials Regulations Board is considering amendment of § 173.119(b) of the Department's Hazardous Materials Regulations to provide for the transportation in DOT-37D steel drums of flammable liquids, not otherwise specified, and having a flash point above 20° F.

This proposal is based on a petition by a manufacturer of specification drums and petitions by several special permit holders. Six years of reported satisfactory experience under special permits support the petitioners' position that flammable liquids, n.o.s., may be transported safely in DOT-37D steel drums.

In consideration of the foregoing, it is proposed to amend 49 CFR Part 173 as follows:

In § 173.119, paragraph (b)(10) would be added to read as follows:

§ 173.119 Flammable liquids not specifically provided for.

• • • • • •

(b) • • •

(10) Specification 37D (§ 178.137 of this chapter). Nonreusable steel drum authorized only for a commodity not exceeding 10 pounds per gallon.

• • • • • •

PROPOSAL C

LIQUID CEMENT, N.O.S., IN CONTAINERS OF FIBERBOARD BODIES AND METAL TOPS AND BOTTOMS

The Hazardous Materials Regulations Board is considering amendment of § 173.132 of the Department's Hazardous Materials Regulations to permit the shipment of liquid cement, n.o.s., in fiberboard containers with metal tops and bottoms not exceeding 1 quart capacity. These containers would be exempt from specification packaging, marking, and labeling.

This proposal is based on a petition which contends the proposed packaging is safer than the glass or earthenware containers currently authorized in § 173.132(b).

Section 173.128(c)(1) contains authorization for shipping flammable paints and related materials in similar fiberboard containers. On the basis of past experience with this packaging for flammable liquids, the Board believes the petition has merit.

In consideration of the foregoing, it is proposed to amend 49 CFR Part 173 as follows:

In § 173.132, the first sentence of paragraph (b) would be amended to read as follows:

§ 173.132 Cement, liquid, n.o.s., container cement, linoleum cement, pyroxylin cement, rubber cement, tile cement, wallboard cement, and coating solution.

• • • • •

(b) Cements, except cements containing carbon bisulfide, in glass, earthenware, or leakproof containers with fiberboard bodies and metal tops and bottoms of not over 1 quart capacity each, or metal containers of not over 5 gallons capacity each, packed in strong outside containers are exempt from specification packaging, marking, and labeling requirements when offered for transportation by rail freight, highway, or water. However, when offered for transportation by water, name of contents must be marked on each outside container • • •

PROPOSAL D

TIN TETRACHLORIDE IN CYLINDERS

The purpose of this proposed amendment to § 173.247 of the Department's Hazardous Materials Regulations is to provide for packaging anhydrous tin tetrochloride in specifications 4BA240 and 4BW240 cylinders. This material is currently authorized to be transported in specifications 5, 5A, 5B, and 17C containers.

A petitioner has proposed to use the specifications 4BA240 and 4BW240 cylinders to contain the commodity so they could be used as pressure vessels at the destination to force the liquid tin tetrachloride from the container. The cylinders would not be pressurized while being transported. The satisfactory experience reported under special permit supports the petitioner's position that the commodity may be transported safely in these cylinders. The Board believes the petition has merit.

In consideration of the foregoing, it is proposed to amend 49 CFR Part 173 as follows:

In § 173.247, paragraph (a)(17) would be amended to read as follows:

§ 173.247 Acetyl chloride, antimony pentachloride, benzoyl chloride, chromyl chloride, pyro sulfuryl chloride, silicon chloride, sulfur chloride (mono and di), sulfuryl chloride, thionyl chloride, tin tetrachloride (anhydrous), and titanium tetrachloride.

(a) • • •

(17) Specification 4BA240 or 4BW240 (§§ 178.51, 178.61 of this chapter). Metal cylinder. Authorized only for titanium tetrachloride or tin tetrochloride, anhydrous, without any compressed gas. Safety relief devices are not authorized.

PROPOSAL E

LIQUEFIED PETROLEUM GAS

The Hazardous Materials Regulations Board is considering amendment of §§ 173.34, 173.301, 173.302, and 173.304 of the Department's Hazardous Materials Regulations to delete reference to ICC-7 and ICC-7-150 cylinders, DOT-5 and DOT-5F drums. Except for the DOT-5F drums, these containers were built prior to October 1, 1930, and the Board believes the containers are obsolete because of their age. It has been reported to the Board that DOT-5F drums are no longer used in the transportation of liquefied petroleum gas and therefore, reference to their use is being deleted.

Any person who may be using these containers or may know of their use is requested to notify the Board.

In consideration of the foregoing, 49 CFR Part 173 would be amended as follows:

(A) In § 173.34, paragraph (d)(6) would be canceled; in paragraph (e), the table would be amended as follows:

§ 173.34 Qualification, maintenance, and use of cylinders.

• • • • • •

(d) • • •

(6) [Canceled]

• • • • • •

(e) • • •

Specification under which cylinder was made	Minimum retest pressure (p.s.i.)	Retest period (years)
[cancel]		
7	do	
7-150 for liquefied petroleum gas.	300 p.s.i.	5

• • • • • •

(B) In § 173.301 paragraph (h), the table would be amended as follows:

§ 173.301 General requirements for shipment of compressed gases in cylinders.

• • • • • •

(h) • • •

CONTAINERS	
[cancel]	ICC-7[1]

• • • • • •

Kind of gas	Maximum permitted filling density (see Note 1)	Containers marked as shown in this column or of the same type with higher service pressure must be used except as provided in § 173.34(a), (b), § 178.301(j) (see notes following table)
Change	*Percent*	
Cyclopropane (see Notes 8 and 9)	55	DOT-3A225; DOT-3A480X; DOT-3AA225; DOT-3B225; DOT-4A225; DOT-4AA480; DOT-4B225; DOT-4BA225; DOT-4BW225; DOT-4B240ET; DOT-3; DOT-3E1800; DOT-39.

• • • • • •

(d) • • •

(3) • • •

(ii) • • •

Type of container	Maximum capacity		Maximum charging pressure-p.s.i.g.
	Cubic inches	Gallons	
DOT-2P (see Note 1).	31.83	.....	45 p.s.i.g. at 70° F. and 105 p.s.i.g. at 130° F. (see Note 2).
DOT-2P (see Note 1).	31.83	.....	26 p.s.i.g. at 70° F. and 84 p.s.i.g. at 130° F.
DOT-3C and ICC-4C.	3,881	16 + 5% tolerance.	145 p.s.i.g. at 130° F.

PROPOSAL F

ORGANIC PHOSPHATE COMPOUND, N.O.S., IN POLYETHYLENE CONTAINER WITH STEEL OVERPACK

The Hazardous Materials Regulations Board is considering amendment of §§ 173.358 and 173.359 of the Hazardous Materials Regulations to add specification 6D cylindrical steel overpack with inside specification 2S polyethylene container as an authorized container for transportation of organic phosphates.

During the past 7 years, many containers with capacities of 5, 30, and 55 gallons have been shipped via rail, highway, and water under special permit. Experience reported with these shipments of organic phosphate compounds, liquid, n.o.s., and organic phosphate compound mixtures, liquid, n.o.s., has been satisfactory.

On the basis of petitions and this satisfactory experience, the Board is proposing to incorporate the terms of the special permit pertaining to packaging of these materials into the regulations.

A petitioner also requested that specification 2SL polyethylene containers be authorized as an alternative for the specification 2S container. In view of the lack of experience with the specification 2SL container in this use, this proposal is not being included by the Board in this notice.

In consideration of the foregoing, it is proposed to amend 49 CFR Part 173 as follows:

(A) In § 173.358, paragraph (a)(12) would be added to read as follows:

§ 173.358 Hexaethyl tetraphosphate, methyl parathion, organic phosphate, compound, n.o.s., parathion, tetraethyl dithio pyrophosphate and tetraethyl pyrophosphate, liquid.

(a) • • •

(12) Specification 6D (§ 178.102 of this chapter). Cylindrical steel overpack with an inside specification 2S (§ 178.35 of this chapter) polyethylene container. Full removable head drums over 5 gallons capacity must be closed by means of a 12-gage steel bolted ring closure with drop forged lugs, one of which is appropriately threaded. For drums not over 30 gallons capacity, the threaded lug must have at least a ⅜-inch bolt and locking nut, and for drums over 30 gallons capacity the bolt and locking nut must be at least ⅝-inch. Authorized only for materials that will not react with polyethylene and result in container failure.

(B) In § 173.359, paragraphs (a)(14) and (b)(10) would be added to read as follows:

§ 173.359 Hexaethyl tetraphosphate mixtures, methyl parathion mixtures, organic phosphate compound mixtures, n.o.s., parathion mixtures, tetraethyl dithio pyrophosphate mixtures, and tetraethyl pyrophosphate mixtures, liquid.

(a) • • •

(14) Specification 6D (§ 178.102 of this chapter). Cylindrical steel overpack with an inside Spec. 2S (§ 178.35 of this chapter) polyethylene container. Full removable head drums over 5 gallons capacity must be closed by means of a 12-gage steel bolted ring closure with drop forged lugs, one of which is appropriately threaded. For drums not over 30 gallons capacity, the threaded lug must have at least a ⅜-inch bolt and locking nut, and for drums over 30 gallons capacity the bolt and locking nut must be at least ⅝-inch. Authorized only for materials that will not react with polyethylene and result in container failure.

(b) • • •

(10) Specification 6D (§ 178.102 of this chapter). Cylindrical steel overpack with an inside Spec. 2S (§ 178.35 of this chapter) polyethylene container. Full removable head drums over 5 gallons capacity must be closed by means of a 12-gage steel bolted ring closure with drop forged lugs, one of which is appropriately threaded. For drums not over 30 gallons capacity, the threaded lug must have at least a ⅜-inch bolt and locking nut, and for drums over 30 gallons capacity the bolt and locking nut must be at least ⅝-inch. Authorized only for materials that will not react with polyethylene and result in container failure.

• • • • • •

PROPOSAL G

RADIOACTIVE MATERIALS—SPECIAL FORM CALIFORNIUM-252 IN TYPE A PACKAGES

The Hazardous Materials Regulations Board is considering amendment of Part 173 of the Hazardous Materials Regulations of the Department of Transportation to limit to not more than 2 curies the quantity of Californium-252 in special form, that may be shipped in Type A radioactive materials packages.

This proposal is based on a petition by the U.S. Atomic Energy Commission.

Californium-252 is a radioactive nuclide that emits both gamma and neutron type radiation and has a very high level of specific radioactivity (activity level per unit of mass) when compared to most other radioisotopes. To date it has been produced solely by the U.S. Atomic Energy Commission, which recently has made small quantities available for use in industry, education, and research.

During 1969 and 1970 an average of one large shipment of Californium-252 was made each month. Those shipments ranged from a few micrograms to a few milligrams of material. Over the next 2 years, USAEC has projected that the number of shipments will increase substantially. This projected increase in the number of shipments and the relatively high specific radioactivity of Californium-252 necessitated a reexamination of the present criteria which permit the shipment of 20 curies of special form radioactive material in a Type A package (see table in § 173.389(L)).

In establishing that limit, the 20 curie value was selected as that amount of a 1 Mev. (million electron volt) gamma-emitting radionuclide that, if unshielded, would produce a 1 roentgen/hour radiation dose rate at a distance of 10 feet. However, the radiation exposure dose rate for an unshielded 20 curie source of Californium-252, considering both gamma and neutron radiation, is approximately 10 times that value.

For the above reasons, the Board considers it appropriate that the allowable quantity of special form Californium-252 in a Type A package be limited to not more than 2 curies. (The limit of Californium-252 in normal form as a Transport Group I radionuclide (see §§ 173.389 (L) and 173.390) in a Type A package would remain at 0.001 curie.)

Considering the foregoing, the Board proposes to amend 49 CFR Part 173 as follows:

In the table under § 173.389(L), footnote 1 is added following the table and referenced in the second column, last entry "20 [1]".

§ 173.389 Radioactive materials; definitions.

• • • • •

(L) • • •

PROPOSAL H

SPECIFICATIONS 4B240ET AND 4AA480

The Hazardous Materials Regulations Board is considering amendment of Part 178 of the Department's Hazardous Materials Regulations to make certain editorial corrections, to delete redundant testing requirements for tubing used in specification 4B240ET cylinders, and to modify certain test requirements for specification 4AA480 cylinders.

Specification 4B240ET (§ 178.55) contains specific testing requirements for tubing used in the fabrication of those cylinders. A petitioner has stated that this testing is unnecessary because tests otherwise required by the regulations on each 4B240ET cylinder are adequate to assure that the vessel has the strength prescribed in the specification. Testing required on the completed cylinder assures that the tubing used is stronger than the 24,000 p.s.i. now prescribed in § 178.55-2(a). The Board considers the petition to have merit and, therefore, is proposing to delete this testing requirement.

Reference to the billet piercing process in § 178.55-4(a) is superfluous because § 178.55-2(a) specifies that cylinders be made from electric resistance welded tubing. Therefore, the Board is proposing to delete the reference to billets in § 178.55-14(a).

Other petitioners have requested that § 178.56-14(d) be revised to include in specification 4AA480 the test requirements contained in specification 4BA. This would require at least one cylinder from a lot of 200 or less to be fully tested, with the remainder being examined under pressure of at least two times service pressure. Determination of expansion of the entire lot, therefore, would not be required unless selected specimens failed the test. The Board believes this suggestion has merit and is proposing inclusion of these test requirements in § 178.56.

In consideration of the foregoing, it is proposed to amend 49 CFR Part 178 as follows:

(A) In § 178.55-2 and 178.55-4, paragraph (a) would be amended to read as follows:

§ 178.55-2 Type, spinning process, size and service pressure.

(a) *Type.* Cylinders must be of brazed type made from electric resistance welded tubing.

• • • • •

§ 178.55-4 Duties of inspector.

The inspector shall: (a) Inspect all material and reject any not meeting the requirements.

• • • • •

(B) In § 178.56-14, paragraph (b) and paragraphs (d)(1) and (d)(2) would be amended to read as follows:

§ 178.56-14 Hydrostatic test.

• • • • •

(b) Pressure must be maintained for at least 30 seconds or sufficiently longer to assure complete expansion. Any internal pressure applied after heat treatment and before the official test must not exceed 90 percent of the test pressure. If, due to failure of test apparatus, the test pressure cannot be maintained, the test may be repeated at a pressure increased by 10 percent or 100 pounds per square inch, whichever is lower.

• • • • •

(d) Cylinders must be tested as follows:

(1) At least one cylinder selected at random out of each lot of 200 or less must be tested as described in paragraphs (a), (b), and (c) of this section, to at least two times service pressure. If a selected cylinder fails, then two additional specimens must be selected at random from the same lot and subjected to the prescribed test. If either of these fails the test, then each cylinder in that lot must be so tested; and,

(2) Each cylinder not tested as prescribed in subparagraph (1) of this paragraph must be examined under pressure of at least two times service pressure and must show no defect. A cylinder showing a defect must be rejected unless it may be requalified under § 178.56-18(a).

[1] Except that for Californium-252 the Type A quantity limit for special form is 2 curies.

PROPOSAL I

QUENCHING OF STEEL CYLINDERS

The Hazardous Materials Regulations Board is considering amendment of §§ 178.37, 178.44, and 178.58 of the Department's Hazardous Materials Regulations to remove the provisions for molten salt bath for quenching of specifications 3AA, 3AAX, 3HT, and 4DA cylinders.

This proposal is based on a comment submitted on Docket No. HM-75; Notice No. 71-2 (36 F.R. 1063) that the molten salt bath option be eliminated because this method of heat treatment is not being used. Docket No. HM-75; Amendment No. 178-17 (36 F.R. 9520) contained provision for permitting the quenching of specifications 3AA, 3AAX, 3HT, and 4DA cylinders by suitable fluids other than oil.

The Board invites comments on the need for retaining the present molten salt bath provisions.

In consideration of the foregoing, it is proposed to amend 49 CFR Part 178 as follows:

(A) In § 178.37-11, paragraph (a)(1) would be amended; paragraph (a)(7) would be canceled, as follows:

§ 178.37-11 Heat treatment.

(a) • • •

(1) All cylinders must be quenched by oil, or other suitable medium except as provided in subparagraph (5) of this paragraph.

• • • • •

(7) [Canceled]

(B) In § 178.44-11, paragraph (a)(1) would be amended; paragraph (a)(4) would be canceled, as follows:

§ 178.44-11 Heat treatment.

(a) • • •

(1) All cylinders must be quenched by oil, or other suitable medium.

• • • • •

(4) [Canceled]

(C) In § 178.58-11, paragraph (a)(1) would be amended; paragraph (a)(5) would be canceled, as follows:

§ 178.58-11 Heat treatment.

(a) • • •

(1) All containers must be quenched by oil, or other suitable medium except as provided in subparagraph (4) of this paragraph.

• • • • •

(5) [Canceled]

Interested persons are invited to give their views on these proposals. Communications should identify the docket number and proposal and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, DC 20590. Communications received on Proposal A on or before December 21, 1971, will be considered before final action is taken on this proposal. Otherwise, communications received on or before January 25, 1972, will be considered before final

action is taken on the other proposals. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

These proposals are made under the authority of sections 831–835 of Title 18, United States Code, section 9 of the Department of Transportation Act (49 U.S.C. 1657), and title VI and section 902(h) of the Federal Aviation Act of 1958 (49 U.S.C. 1421–1430 and 1472(h)).

Issued in Washington, D.C., on November 15, 1971.

W. J. BURNS,
Chairman, Hazardous Materials Regulations Board.

[FR Doc.71–16825 Filed 11–18–71;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 228]

[Docket No. 23886; EDR–214A]

EMBARGOES ON PROPERTY

Extension of Time for Filing Comments

NOVEMBER 16, 1971.

The Board, by circulation of notice of proposed rule making EDR–214, dated October 7, 1971, and publication at 36 F.R. 19914, gave notice that it had under consideration proposed amendments to Part 228 to revise the definition of embargo and the rules and procedures related thereto. Interested persons were invited to participate in the proceeding by submission of twelve (12) copies of written data, views or arguments pertaining thereto to the Docket Section of the Board on or before November 17, 1971.

Subsequent to the issuance of the proposed rule, the Air Transport Association (ATA) on behalf of 20 scheduled air carriers requested an extension of time to December 31, 1971, for filing comments. ATA contends, inter alia, that in view of the complexity of the proposed rule, the filing deadline does not allow sufficient time for analysis of the proposal which, it asserts, must be made by each route carrier affected by the proposal. It is further maintained that the proposed rule would require major revisions to some carriers' air freight accounting procedures and policies and adjustments to departmental requirements and that additional time is required to submit comprehensive and meaningful comments in the matter.

The undersigned notes that, notwithstanding the fact that the Board allowed 45 days to file comments on the proposed rule, ATA's request was filed less than 3 business days before the deadline established for filing comments. Moreover, it appears from the request that the carriers have not gone beyond the initial stages of analysis of the proposed rule preparatory to deciding whether the submission of joint comments is warranted. In the future, we would expect the carriers to be more expeditious in deciding whether the file a consolidated response to a proposed rule and to submit their requests for extensions of time to the Board well in advance of the prescribed filing deadline. Under the circumstances, however, an extension of 30 days will be granted in order that the Board may have the benefit of the views of the interested carriers on the issues raised by the notice. Accordingly, the undersigned hereby extends the time for submitting comments on EDR–214, supra to December 17, 1971, pursuant to the authority delegated in § 385.20(d) of the Board's organization regulations.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324)

By the Civil Aeronautics Board.

[SEAL] ARTHUR H. SIMMS,
Associate General Counsel, Rules and Rates.

[FR Doc.71–16943 Filed 11–18–71;8:52 am]

FEDERAL POWER COMMISSION

[18 CFR Part 260]

[Docket No. R–308]

TOTAL GAS SUPPLY OF NATURAL GAS PIPELINE COMPANIES

Annual Report FPC Form No. 15; Notice of Extension of Time

NOVEMBER 11, 1971.

On November 5, 1971, the Independent Natural Gas Association of America filed a request for an extension of time within which to file comments in the above-designated matter.

Upon consideration, notice is hereby given that the time is extended to and including December 15, 1971, within which any interested person may submit data, views, comments, or suggestions in writing to the notice of proposed rule making issued September 29, 1971, and published at 36 F.R. 19515, in the above-designated matter.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71–16914 Filed 11–18–71;8:49 am]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 71–280]

MISSING MERCHANDISE NOTATION

Statement Regarding Prima Facie Case of Nonimportation

NOVEMBER 8, 1971.

In "Harry N. Bloomfield Co. v. United States," CAD 1023, the court held that based upon the facts in the record, the inspector's report which noted missing merchandise as "manifested—not found" created a prima facie case of nonimportation.

The Bureau believes that the notation "manifested—not found" does not create a prima facie case of nonimportation.

Accordingly, the decision in CAD 1023 is limited to the entry there in issue. Further judicial proceeding on the principles involved will be brought at the appropriate opportunity.

[SEAL] MYLES J. AMBROSE,
Commissioner of Customs.

[FR Doc.71–16911 Filed 11–18–71;8:49 am]

Internal Revenue Service

[Order No. 121]

ASSISTANT COMMISSIONER (STABILIZATION) ET AL.

Delegation of Authority Regarding Economic Stabilization Program

1. The authority delegated to the Commissioner of Internal Revenue by Treasury Department Order dated November 13, 1971, to interpret, implement, administer, monitor, and enforce the stabilization of prices, rents, wages and salaries pursuant to established coverage, classifications, criteria, standards, and implementation procedures, is hereby redelegated to the following officials:

Assistant Commissioner (Stabilization).
Regional Commissioners.
Assistant Regional Commissioners (Appellate).
Assistant Regional Commissioners (Alcohol, Tobacco and Firearms).
Assistant Regional Commissioners (Stabilization).
Regional Inspectors.
District Directors.
Director of International Operations.

2. The authority delegated herein may be redelegated only by the officials specified in this order and may not be redelegated by those officials to whom the specified officials redelegate.

Date of issue: November 13, 1971.

Effective date: November 14, 1971.

[SEAL] JOHNNIE M. WALTERS,
Commissioner.

[FR Doc.71–16948 Filed 11–18–71;8:52 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[New Mexico 14635]

NEW MEXICO

Proposed Withdrawal and Reservation of Lands

NOVEMBER 12, 1971.

The Forest Service, U.S. Department of Agriculture, has filed application, Serial No. New Mexico 14635 for the withdrawal of the lands described below. The lands were conveyed to the United States pursuant to section 8 of the Taylor Grazing Act. They lie within the exterior boundaries of the Gila National Forest and the Santa Fe National Forest. They have not been open to entry under the public land laws. The applicant desires the lands for the addition to and the consolidation with national forest lands to permit more efficient administration thereof in the conse aointvrinar-listtodt thereof in the conservation of natural resources.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Chief, Division of Technical Services, Post Office Box 1449, Santa Fe, NM 87501.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

NEW MEXICO PRINCIPAL MERIDIAN

GILA NATIONAL FOREST

T. 10 S., R. 12 W.,
Sec. 10, SE¼SW¼;
Sec. 15, NW¼NE¼;
Sec. 29, NW¼.
T. 11 S., R. 12 W.,
Sec. 5, NW¼SW¼;
Sec. 6, lot 50, N½ of lot 51, lot 58 except for 10 acres described as W½NE¼ and E½NW¼.

SANTA FE NATIONAL FOREST

That portion of the Canon de San Diego Grant situated in Township 19 North and Range 2 East of the New Mexico Principal Base and Meridian, known in the office of the U.S. Surveyor General as Report No. 25, confirmed by the Congress of the United States of America, on the 21st day of June, 1861, and patented by the United States of America in accordance with said Act of Confirmation on the 21st day of October 1881, more particularly described as follows:

That portion of Parcel D, Rio Cebolla Canyon as prepared by Robert K. Walsh. NMLS No. 2127, under date of July 20, 1966, and more particularly described as follows:

Beginning at a point which is the gate on the Fenton Feeding area and located South 52°45'56" W., 5,465.37 feet from the 5½-mile corner on the north boundary of the Canon de San Diego Grant; thence South 35°28'30" E., 1,188.15 feet to the true point of beginning; thence South 35°28'30" E., 1,840.10 feet to the northeast corner of the said tract; thence South 62°17'46" W., 22.74 feet; thence South 49°21'12" W., 1,439.30 feet; thence North 38°00'00" W., 1,234.03 feet; thence North 28°36'29" E., 1,679.21 feet to the true point of beginning.

The areas described aggregate 416.825 acres more or less.

MICHAEL T. SOLAN,
Chief, Division of Technical Services.

[FR Doc.71–16897 Filed 11–18–71;8:48 am]

[ES 9644]

OHIO

Notice of Filing of Plat of Survey

1. The plat of survey of the following described lands will be officially filed in the Eastern States Land Office, Silver Spring, Md., effective at 10 a.m. on December 18, 1971.

MICHIGAN MERIDIAN

T. 8 S., R. 11 E.,
Tract 37.
T. 9 S., R. 11 E.,
Tract 37.

The areas described aggregate 77.13 acres.

2. This plat gives area and designation to West Sister Island in Lake Erie, and is based entirely on the record of a

resurvey of Maumee Bay in T. 8 S., R. 8 E., Michigan Meridian, Michigan, executed by Robert Clark, Deputy Surveyor, in 1827. This plat was prepared to meet certain administrative needs in connection with a proposed withdrawal of a portion of the island, filed by the Bureau of Sport Fisheries and Wildlife, ES 7048.

3. All of the land was withdrawn and reserved for the West Sister Island National Wildlife Refuge by Executive Order No. 7937 of August 2, 1938, except for a 3-acre tract in the southwestern part of Tract 37, T. 9 S., R. 11 E., which was withdrawn and reserved for lighthouse purposes by Executive Order of of February 16, 1838.

4. All inquiries relating to this land should be sent to the Manager, Eastern States Land Office, Bureau of Land Management, 7981 Eastern Avenue, Silver Spring, MD 20910.

DORIS A. KOIVULA,
Manager.

NOVEMBER 10, 1971.

[FR Doc.71-16894 Filed 11-18-71;8:48 am]

Geological Survey

FEDERAL MINING, OIL AND GAS, AND GEOTHERMAL LESSEES

Delay in Approval of Applications for Permits To Drill Wells and Mining Plans

Effective January 1, 1972, (1) applications for permits to drill exploratory oil and gas or geothermal steam wells, and (2) original mining plans and major mining plan changes, filed for approval pursuant to 30 CFR Parts 211, 216, 221, 231, and 270, or 43 CFR Part 23, as appropriate, applicable to Federal oil and gas, geothermal resources, and mining leases on public domain and acquired lands of the United States, will not be approved by the U.S. Geological Survey until after a notice of the filing of each such application for permit to drill or request for approval has been posted on the bulletin board for public inspection in the appropriate U.S. Geological Survey office at least 30 days, unless there is an emergency involving health, safety, environmental damage, or resource conservation which requires earlier approval. Copies of the notice will be sent to appropriate Federal, State, and local public offices.

During such 30-day period, comments and suggestions on the proposed drilling and mining operations may be submitted by the public to the appropriate District Engineer or Supervisor. During this period the District Engineer or Supervisor will also receive the views of other interested Federal and State agencies on the proposed operations. On the basis of comments received and his own investigation, the District Engineer or Supervisor will determine whether his approval of the proposed operations would constitute a major Federal action significantly affecting the quality of the human environment. If he determines that the environment will be significantly affected, approval of the application to drill or the mining plan will be further delayed while an environmental impact statement is prepared in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (Public Law 91-190).

W. T. PECORA,
Under Secretary.

NOVEMBER 11, 1971.

[FR Doc.71-16893 Filed 11-18-71;8:48 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

SURVEY OF DISTRIBUTORS' STOCKS OF CANNED FOODS

Notice of Determination

In conformity with title 13, United States Code, sections 181, 224, and 225, and due notice of consideration having been published October 14, 1971 (36 F.R. 19987), I have determined that year-end data on stocks of 30 canned and bottled products, including vegetables, fruits, juices, and fish, are needed to aid the efficient performance of essential governmental functions, and have significant application to the needs of the public and industry and are not publicly available from nongovernmental or other governmental sources. This is a continuation of the survey conducted in previous years.

All respondents will be required to submit information covering their December 31, 1971, inventories of 30 canned and bottled vegetables, fruits, juices, and fish. Reports will not be required from all firms but will be limited to a scientifically selected sample of wholesalers and retail multiunit organizations handling canned foods, in order to provide year-end inventories of the specified canned food items with measurable reliability. These stocks will be measured in terms of actual cases with separate data requested for "all sizes smaller than No. 10" and for "sizes No. 10 or larger." (In addition, multiunit firms reporting separately by establishment will be requested to update the list of their establishments maintaining canned food stocks.)

Report forms will be furnished to firms covered by the survey. Additional copies of the forms are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed that this annual survey be conducted for the purpose of collecting these data.

Dated: November 15, 1971,

GEORGE H. BROWN,
Director,
Bureau of the Census.

[FR Doc.71-16878 Filed 11-18-71;8:46 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-368; NADA No. 11-322V]

DIAMOND LABORATORIES, INC.

Neacain Ointment; Notice of Withdrawal of Approval of New Animal Drug Application

A notice of opportunity for a hearing proposing to withdraw approval of NADA (new animal drug application) No. 11-322V for the drug Neacain Ointment was published in the FEDERAL REGISTER of August 28, 1971 (36 F.R. 17368), Diamond Laboratories, Inc., 2518 Southeast 43d Street, Des Moines, Iowa 50317, holder of said NADA, did not file a written appearance of election regarding whether or not they wished to avail themselves of the opportunity for a hearing within the 30-day period provided for such filing in said notice. This is construed as an election by said firm not to avail themselves of the opportunity for a hearing.

Based on the grounds set forth in said notice and the response to said notice, the Commissioner of Food and Drugs concludes that approval of said NADA should be withdrawn. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under the authority delegated to the Commissioner (21 CFR 2.120), approval of NADA No. 11-322V, including all amendments and supplements thereto, is hereby withdrawn effective on the date of publication of this document.

Dated: November 10, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-16946 Filed 11-18-71;8:53 am]

NUTRITION LABELING

Testing and Evaluation

The Food and Drug Administration has accepted the recommendation of the White House Conference on Food, Nutrition, and Health to develop and evaluate nutrition labeling for processed food products. Several labeling procedures have been developed for giving substantive information on the food package label, and a study of consumer evaluation of these labeling procedures is being implemented in collaboration with the Consumer Research Institute. This study is designed to acquaint the consumer with the label and provide information on how the consumer can use the nutrition information. The study will also test consumer understanding of three labeling procedures in relation to purchase behavior.

Other food marketing organizations are also involved in conducting studies in an attempt to answer various questions relating to nutrition labeling directly on food packages. The Food and Drug Administration believes that a sufficient number of such studies are in progress, and there is insufficient time for the planning and implementation of additional tests prior to the expected establishment of guides for nutrition labeling.

Once established, it is important that the guides for nutrition labeling be followed by the food industry. A proliferation of different approaches would lead to consumer confusion and would necessitate regulatory action or a request for new statutory authority to control such labeling.

Those food manufacturing and marketing organizations which are using an indirect method of informing consumers about the nutritional quality of their products by label statements in which the manufacturer offers consumers such information upon written request are encouraged to submit to the Food and Drug Administration the informational material which they send. This information is intended to supplement the agency's overall study of nutrition labeling and should be submitted to Food and Drug Administration, Bureau of Foods, Division of Nutrition, 200 C Street SW., Washington, D.C. 20204.

Food manufacturers are reminded that printed material sent to consumers as a result of label directions offering such information on request is labeling, and it must conform to the requirements of the Federal Food, Drug, and Cosmetic Act.

Dated: November 10, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-16947 Filed 11-18-71;8:53 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-62]

UNIVERSITY OF VIRGINIA

Notice of Issuance of Amendment To Facility License

No request for a hearing or petition for leave to intervene having been filed following publication of the notice of proposed action in the FEDERAL REGISTER on October 15, 1971 (36 F.R. 20075), the Atomic Energy Commission (the Commission) has issued Amendment No. 9 to Facility License No. R-66 to the University of Virginia. The amendment authorizes the University of Virginia to (1) increase the steady state power level of the reactor from 1 megawatt (thermal) to 2 megawatts(thermal), (2) incorporate technical specifications in the license, (3) receive, possess, and use up to 7.9 kilograms of contained uranium 235 for use in connection with operation of the reactor, and (4) receive, possess, and store up to 6.1 kilograms of contained uranium 235 not for use in connection with operation of the reactor.

The amendment was issued as proposed except the amount of uranium 235 authorized for receipt, possession, and use has been changed in accordance with the University of Virginia's amendment request dated October 14, 1971, and supplement dated October 21, 1971. The purpose of the increase is to permit the receipt and storage of new fuel elements for the eventual replacement of spent fuel elements, but the new fuel elements will not be used in the reactor until their performance is evaluated and approved by the Commission. The approved limit of uranium 235 to be used in connection with operation of the reactor is being reduced from 12 kilograms to 7.9 kilograms and the additional authorization for the 6.1 kilograms is to receive, possess, and store that material only.

The Commission has found that the applications for the amendment, as amended, comply with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations as published in 10 CFR Chapter I. The Commission has made the findings required by the Act and the Commission's regulations which are set forth in the amendment, and has concluded that the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.

With regard to the authorization to receive, possess, and store up to 6.1 kilograms of contained uranium 235 not for use in connection with operation of the reactor that was not incorporated in the proposed notice, the Commission has found that prior public notice is not required since this action does not present significant hazards considerations different from those previously evaluated. In this connection, the applicant may file a request for a hearing and any person whose interest may be affected by the proceeding may file a petition for leave to intervene within fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER. Requests for a hearing and petitions to intervene shall be filed in accordance with the Commission's rules of practice in 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene with regard to the authorization to receive, possess and store up to 6.1 kilograms of contained uranium 235 is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

A copy of the amendment and the licensee's application for license amendment for authorization to receive, possess, and store up to 6.1 kilograms of contained uranium 235 dated October 14, 1971, and supplement dated October 21, 1971, are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, DC. A copy of the amendment may be obtained upon request sent to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 4th day of November 1971.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[FR Doc.71-16876 Filed 11-18-71;8:46 am]

[Docket No. 50-87]

WESTINGHOUSE ELECTRIC CORP.

Notice of Issuance of Construction Permit

No request for a hearing or petition for leave to intervene having been filed following publication of the notice of proposed action in the FEDERAL REGISTER on October 21, 1971 (36 F.R. 20380), the Atomic Energy Commission (the Commission) has issued Construction Permit No. CPRR-113 to the Westinghouse Electric Corp., Pittsburgh, PA. The permit authorizes construction of a Nuclear Training Reactor in Zion, Ill.

The Commission has found that the application complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations published in 10 CFR Chapter I. The Commission has made the findings required by the Act and the Commission's regulations which are set forth in the construction permit, and has concluded that the issuance of the construction permit will not be inimical to the common defense and security or to the health and safety of the public.

A copy of the construction permit is available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, or may be obtained upon request sent to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 9th day of November 1971.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[FR Doc.71-16877 Filed 11-18-71;8:46 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23105]

AIR CAICOS, LTD.

Notice of Hearing

Notice is hereby given pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on December 7, 1971, at 10 a.m., local time, in Room 726, Universal Building,

Connecticut and Florida Avenues NW., Washington, DC, before the undersigned examiner.

Dated at Washington, D.C., November 12, 1971.

[SEAL] JOSEPH L. FITZMAURICE,
Hearing Examiner.

[FR Doc.71-16940 Filed 11-18-71;8:51 am]

[Docket No. 23979; Order 71-11-50]

AIRLIFT INTERNATIONAL, INC.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 12th day of November 1971.

By tariff[1] bearing a posting date of October 1, 1971, and marked to become effective November 15, 1971, Airlift International, Inc. (Airlift), proposes to establish blocked-space general commodity multicontainer rates from New York to Los Angeles and San Francisco. The proposed rates are marked to expire with December 31, 1972. Under the proposed tariff a shipper would sign a contract guaranteeing to the carrier, for a period of 90 days, the tender of a given number of containers[2] (from one to 22) per day, 5 days a week.[3]

The proposal contains a schedule of (1) basic charges per container, for each number of containers tendered 5 days a week as indicated above; (2) the pivot point weight, i.e., the maximum weight of the contents per container covered by each charge; and (3) the rate for weight in excess of the above maximums. As the number of containers tendered rises, the basic charge per container falls, the pivot point weight increases, and the rate for excess pounds falls. Thus, from New York to Los Angeles the charge per container for one container per day would be $724 for a pivot point weight of 3,200 pounds per container, and additional weight would be charged at the rate of $16 per 100 pounds. The charge for 22 containers daily would be $582 per container for a pivot point weight of 4,250 pounds, and a rate of $10.45 per 100 pounds would apply for additional weights.

Complaints against the proposed rates have been filed by The Flying Tiger Line, Inc.[4] (Tiger), and United Air Lines, Inc. The complaints assert, inter alia, that (1) Airlift does not provide any cost justification for the proposed rates; (2) the proposed rates compare closely with Airlift's present charter charges and would permit Airlift to continue the exclusive scheduled planeload charter service for air freight forwarders, which the Board, in EDR-198 (Docket 23287), has moved to curb; (3) the proposed rates are not justified by any promotional consideration or on the basis of value of service; (4) the proposed rates are discriminatory; (5) the proposed tariff violates the Board's consistent findings that multicontainer discounts unrelated to cost savings are unjustly discriminatory; (6) the service quality is higher for blocked-space traffic because space is guaranteed to the shipper, and the Board has held that a priority for which a tariff creates a legal obligation is entitled to a higher rate and not a lower one; (7) Airlift's conjectures of traffic promotion are spurious; and (9) the proposed rates would be unacceptably diversionary and dilutionary.

In justification of its proposal and in answer to the complaints, Airlift asserts, inter alia, that (1) the key to development of air freight is the encouragement of high-volume traffic through scheduled carrier planeload rates; (2) adequate incentives for shippers to build high volumes of traffic are currently not provided; (3) the lowest proposed rates are based on full cost and return for planeload operations, plus an additional amount representing a contribution to other scheduled service; (4) the instant proposal requires shipper containerization, with the attendant savings; (5) the proposed rates will shift the load factor risk from Airlift to the shipper; and (6) the dilution potential for Airlift and other carriers would be practically nonexistent because of the blocked-space aspect of the proposed rates. In its justification, Airlift recognizes that it has not substantiated an operating cost difference between handling a single container and handling two or more containers. Airlift, however, maintains that the proposed blocked-space container discounts are not predicated on the cost savings inherent in containerization. Airlift further states that it recognizes the discrimination aspects of a rate structure polarized on a pure cost basis between a single container and 22 containers, and thus it has "stair stepped" down in equal increments the difference between the single-container rate and the 22-container planeload rate.

The proposal would effect reductions below the currently applicable standard-service container rates of as much as 35 percent. Further, since Airlift's DC-8-63F aircraft carry only 18 containers in their main compartment, it would be necessary to unload additional containers in the same shipment and reload the traffic in the belly, or carry the containers in another aircraft. Under the first practice, the carrier would lose the efficiencies of containerization, and with respect to the second, the Board has not permitted reduced rates for shipments based upon the capacity of more than one aircraft.

The Board, in its decision in Docket 22340, Container Rates for B-747 Aircraft Proposed by Continental Air Lines, Inc., Order 71-7-156, found that discounts for multicontainer shipments for 10 or more containers proposed by Continental Air Lines, Inc. (Continental), were unjustly discriminatory because they were not justified by cost of service, value of service, or promotional considerations. While Airlift's proposal provides a graduated scale of discounts for two or more containers and includes the blocked-space provisions, the reduction in rates dependent upon the number of containers per shipment presents problems similar to those presented in the Continental case, and considered in other orders by the Board.[5] The Board, in these circumstances, finds that the issue of whether or not the proposed rates have been adequately justified should be resolved by an investigation. Moreover, the Board concludes that in view of the significance of this issue the tariff proposal should be suspended.

Consequently, upon consideration of all relevant matters, the Board finds that Airlift's proposal may be unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial, or otherwise unlawful and should be investigated and suspended pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof,

It is ordered, That:

1. An investigation be instituted to determine whether the rates, charges and provisions in Airlift International, Inc.'s, CAB No. 6 and first revised pages 3, 4, 9, and 10 thereto, and rules, regulations, and practices affecting such rates, charges, and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful rates, charges, and provisions, and rules, regulations or practices affecting such rates, charges and provisions;

2. Pending hearing and decision by the Board, Airlift International, Inc.'s, CAB No. 6 and first revised pages 3, 4, 9, and 10 thereto are suspended and their use deferred to and including February 12, 1972, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order of special permission of the Board;

3. The complaints filed by The Flying Tiger Line, Inc., in Docket 23912, and United Air Lines, Inc., in Docket 23905, are dismissed except to the extent granted herein;

4. The proceeding herein designated Docket 23979, be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated; and

5. Copies of this order shall be filed with the tariff and served upon Airlift International, Inc., The Flying Tiger Line, Inc., and United Air Lines, Inc., which are hereby made parties to Docket 23979.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-16941 Filed 11-18-71;8:52 am]

[1] Tariff CAB No. 6 issued by Airlift International, Inc.

[2] The tariff provides that the containers to be used under the proposed rates would have capacities ranging from 426 to 450 cubic feet, with the dimensions and configuration being the same as the standard service Type A-2 containers.

[3] A week, according to the tariff, means the 6 days, Monday through Saturday.

[4] Tiger requested and obtained an extension of the complaint due date from Oct. 13 to Oct. 15, 1971. In view of this, Airlift requested and obtained an extension of the answer due date from Oct. 21 to Oct. 29, 1971.

[5] In a series of orders, the Board suspended multicontainer proposals essentially on the ground that discounts below the single-container rate were not justified by an indication of lower costs. Orders 70-7-1, 70-7-29, and 71-1-53.

[Docket No. 23848; Order 71-11-65]

PIEDMONT AVIATION, INC.

Order Granting Exemption

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of November 1971.

On September 23, 1971, Piedmont Aviation, Inc. (Piedmont), filed an application requesting an exemption to provide free transportation to members of a group associated with a University of Virginia—NASA Langley Research Center experimental program for the determination of passenger acceptance of ride quality in various prospective STOL aircraft and STOL flight plans. The exemption authority requested would be limited to free travel on 200 or fewer flight segments all scheduled during a 4-month period commencing 30 days after approval by the Board. No more than two members of the subject group totaling 10 would be permitted on any one flight, and all transportation would be on a space-available basis.

In support of its application, Piedmont states that it has been asked to cooperate in a series of experiments which will be conducted by the University of Virginia in cooperation with the V/STOL Projects Office of the Langley Research Center of the National Aeronautics and Space Administration (NASA), the Federal Aviation Administration (FAA), and various segments of the airline and airplane industries. The purpose of these experiments is to develop quantitative methods to determine the most influential factors in public acceptance of air transportation systems, with particular emphasis on measured motions of the aircraft and passenger response. These correlations will be used to develop a model later applied to predict passenger reactions to the motions expected to be encountered in various prospective STOL aircraft and STOL flight plans. Piedmont is informed by spokesmen for the subject group that the study is an important step in the process leading to a decision to implement STOL operations in high-density areas.

The group conducting the measurement program on Piedmont flights consists of one NASA engineer with seven professors and two engineers from the University of Virginia. The experiments themselves are being conducted under a grant to the university from the Langley Research Center of NASA.

We have concluded that the requested exemption should be granted. The exemption is one of limited duration, is restricted to 200 or fewer flight segments with no more than two members of the subject group of 10 permitted on any one flight, and all transportation is on a space-available basis. This research effort should benefit the traveling public and air transportation generally and is in the public interest.

The Board finds that the enforcement of section 403 of the Act under the circumstances here involved would be an undue burden upon Piedmont because of the limited extent of, and the unusual circumstances affecting, its operations and would not be in the public interest.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly section 416(b) thereof,

It is ordered, That:

Piedmont Aviation, Inc. is hereby exempted from section 403 of the Act and Part 221 of the Economic Regulations insofar as necessary to permit it to provide free transportation on a space-available basis to members of a research group for a 4-month period commencing thirty (30) days after date of this order, as described and limited in their application in Docket 23848.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-16942 Filed 11-18-71;8:52 am]

CIVIL SERVICE COMMISSION

GRANT APPLICATIONS

Notice of Regional Office Cutoff Dates for Fiscal Year 1972

Notice is hereby given that pursuant to the Notice of Cutoff Date for Fiscal Year 1972 published in the FEDERAL REGISTER of October 23, 1971 (36 F.R. 20551) the following Regional Offices of the Civil Service Commission have established cutoff dates other than December 15, 1971. Based on a determination that a later cutoff date would better meet the needs of the State and local governments and the management of the grant program within their regions, the following Regional Offices have established the indicated cutoff dates on or before which IPA grant applications must be received for the first-round consideration of applications submitted pursuant to section 506(a) of the Intergovernmental Personnel Act of 1970 (sec. 506, 84 Stat. 1927).

Regional Office and states served	*Cutoff Date*
New York (New Jersey, New York, Puerto Rico, Virgin Islands)	Mar. 15, 1972
San Francisco (American Samoa, Arizona, California, Guam Hawaii, Nevada)	Jan. 17, 1972
St. Louis (Iowa, Kansas, Missouri, Nebraska)	Dec. 22, 1971
Seattle (Alaska, Idaho, Oregon, Washington)	Jan. 17, 1972
Chicago (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin)	Feb. 16, 1972

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-16922 Filed 11-18-71;8:50 am]

DEPUTY ASSISTANT SECRETARY, FINANCE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Manpower Shortage; Notice of Listing

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission has found, effective October 22, 1971, that there is a manpower shortage for the single position of Deputy Assistant Secretary, Finance, Office of the Secretary, Department of Health, Education, and Welfare. The appointee may be paid for the expense of travel and transportation to his post of duty.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-16926 Filed 11-18-71;8:50 am]

NINHYDRIN SPECIALIST, SECRET SERVICE

Manpower Shortage; Notice of Listing

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission found a manpower shortage on November 3, 1971, for a single position of Ninhydrin Specialist, GS-072-9, Identification Section, Secret Service, Treasury Department, Washington, D.C. The finding is self-canceling when the position is filled.

Assuming other legal requirements are met, an appointee to this position may be paid for the expense of travel and transportation to first post of duty.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioner.

[FR Doc.71-16925 Filed 11-18-71;8:50 am]

WRITER, OFFICE OF THE SECRETARY, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Manpower Shortage; Notice of Listing

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission found a manpower shortage on November 3, 1971, for two positions of Writer, GS-1082-15, Office of the Secretary, Department of Health, Education, and Welfare, Washington, D.C. The finding is self-canceling when these two positions are filled.

Assuming other legal requirements are met, appointees to these two positions

may be paid for the expense of travel and transportation to first post of duty.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-16924 Filed 11-18-71;8:50 am]

CIVIL AERONAUTICS BOARD

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Civil Aeronautics Board to fill by noncareer executive assignment in the excepted service the position of Special Assistant to Chairman.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-16929 Filed 11-18-71;8:50 am]

DEPARTMENT OF TRANSPORTATION

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Transportation to fill by noncareer executive assignment in the excepted service the position of Director, Office of Supersonic Transport Development, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-16928 Filed 11-18-71;8:50 am]

OFFICE OF ECONOMIC OPPORTUNITY

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Office of Economic Opportunity to fill by noncareer executive assignment in the excepted service the position of Associate Director for Program Review, Office of Program Review.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-16927 Filed 11-18-71;8:50 am]

OFFICE OF ECONOMIC OPPORTUNITY

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Office of Economic Opportunity to fill by noncareer executive assignment in the excepted service the position of Chairman, Planning and Review Committee, Office of the Director.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-16930 Filed 11-18-71;8:50 am]

OFFICE OF ECONOMIC OPPORTUNITY

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Office of Economic Opportunity to fill by noncareer executive assignment in the excepted service the position of Deputy Associate Director for Congressional, Governmental and Private Sector Relations, Office of Congressional and Governmental Relations.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-16931 Filed 11-18-71;8:50 am]

FEDERAL MARITIME COMMISSION

C. J. TOWER & SONS OF BUFFALO, INC. AND WILLIAM R. NEAL, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed for approval by:

Peter Tower, C. J. Tower & Sons of Buffalo, Inc., 128 Dearborn Street, Buffalo, NY 14207.

Agreement No. FF 71-4 is a memorandum of understanding between C. J. Tower & Sons of Buffalo, Inc. (Tower, FMC-738-R) and the owners of all of the outstanding shares of stock of William R. Neal, Inc. (Neal, FMC-901) whereby such stockholders of Neal, agree to sell all such outstanding stock to Tower.

Neal will continue to operate under its name, FMC license number and continue with the same personnel. Tower will exercise general management over Neal, but does not intend to alter significantly the conduct of Neal's freight forwarding business.

Dated: November 16, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-16962 Filed 11-18-71;8:53 am]

FEDERAL POWER COMMISSION

ANNCO PETROLEUM CO., INC., ET AL.

Findings and Order

[Docket No. G-3270, etc.]

NOVEMBER 8, 1971.

Findings and order after statutory hearing issuing certificates of public convenience and necessity, amending orders issuing certificates, making successors corespondents, redesignating proceedings, and accepting FPC gas rate schedules for filing.

Each applicant herein has filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce or a petition to amend an order issuing a certificate, all as more fully set forth in the applications and petitions to amend.

Applicants have filed FPC gas rate schedules or supplements to FPC gas rate schedules on file with the Commission and propose to initiate, continue, add, or discontinue in part natural gas service in interstate commerce as indicated in the tabulation herein.

Atlas Corp., applicant in Dockets Nos. CI71-719, CI71-720, and CI71-721, proposes to continue sales of natural gas from its own interests heretofore authorized in Dockets Nos. CI63-1049, CI63-1050, and CI63-1051, respectively, to be made pursuant to Northern Natural Gas Producing Co., FPC Gas Rate Schedules Nos. 25, 26, and 27, respectively, at rates in effect subject to refund in Dockets Nos. RI69-432 and RI69-856, RI67-168 and RI69-432, and RI67-168 and RI69-432, respectively. Therefore, applicant will be made corespondent in said proceedings and the proceedings will be redesignated accordingly.

Robert G. Shaw, applicant in Docket No. CI71-805, proposes to continue in part the sale of natural gas heretofore authorized in Docket No. G-6831 to be made pursuant to Amoco Production Co., FPC Gas Rate Schedule No. 92 at a rate in effect subject to refund in Docket No. RI71-636. Therefore, applicant will be made corespondent in said proceeding and the proceeding will be redesignated accordingly.

Logue and Patterson, applicant in Docket No. CI71-873, proposes to continue in part the sale of natural gas heretofore authorized in Docket No. G-13633 to be made pursuant to Pennzoil Producing Co. (Operator) et al., FPC Gas Rate Schedule No. 93 at a rate in effect subject to refund in Docket No. RI70-283. Therefore, applicant will be made corespondent in said proceeding and the proceeding will be redesignated accordingly.

The Commission's staff has reviewed the applications and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

After due notice by publication in the FEDERAL REGISTER, no petition to intervene, notice of intervention, or protest to the granting of the applications has been filed.

At a hearing held on October 27, 1971, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and petitions, as supplemented and amended, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Each applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption subject to the jurisdiction of the Commission, and will, therefore, be a "natural-gas company" within the meaning of the Natural Gas Act upon the commencement of service under the authorizations hereinafter granted.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications in this proceeding, will be made in interstate commerce subject to the jurisdiction of the Commission; and such sales by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) The sales of natural gas by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity; and certificates therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the orders issuing certificates of public convenience and necessity in various dockets involved herein should be amended as hereinafter ordered.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Atlas Corp. should be made co-respondent in the proceedings pending in Dockets Nos. RI67-168, RI69-432, and RI69-856; that Logue and Patterson should be made co-respondent in the proceeding pending in Docket No. RI70-283; that Robert G. Shaw should be made corespondent in the proceeding pending in Docket No. RI71-636; and that said proceedings should be redesignated accordingly.

(7) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the FPC gas rate schedules and supplements related to the authorizations hereinafter granted should be accepted for filing.

The Commission orders:

(A) Certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing sales by applicants of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the applications and in the tabulation herein.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 7 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's regulations thereunder and is without prejudice to any findings or orders which have been or which may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against applicants. Further, our action in this proceeding shall not foreclose or prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. The grant of the certificates aforesaid for service to the particular customers involved does not imply approval of all of the terms of the contracts, particularly as to the cessation of service upon termination of said contracts as provided by section 7(b) of the Natural Gas Act. The grant of the certificates aforesaid shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subpect to said certificates.

(D) The orders issuing certificates of public convenience and necessity in Dockets Nos. G-13138, G-14247, CI60-181, CI63-608, CI65-21, CI66-410, and CI68-62 are amended by adding thereto or deleting therefrom authorization to sell natural gas as more fully described in the applications and in the tabulation herein. In all other respects said orders shall remain in full force and effect.

(E) The orders issuing certificates of public convenience and necessity in Dockets Nos. G-3270, G-6213, G-10476, G-11031, G-19226, CI61-1442, CI64-418, CI64-921, CI67-1053, CI67-1238, CI67-1426, CI68-1178, and CI70-1 are amended by substituting successors in interest as certificate holders as more fully described in the applications and in the tabulation herein. In all other respects said orders shall remain in full force and effect.

(F) The orders issuing certificates of public convenience and necessity in the following dockets are amended to reflect the deletion of acreage where new certificates are issued herein or outstanding certificates are amended herein by authorizing the continuation of service from the subject acreage, and in all other respects said orders shall remain in full force and effect:

Amend to delete acreage	*New certificate and/or amendment to add acreage*
G-6831	CI71-805
G-13633	CI71-873
CI61-157	CI71-801
CI63-1049	CI71-719
CI63-1050	CI71-721
CI63-1051	CI71-720
CI66-513	CI63-608

(G) The certificate granted in Docket No. CI71-379 is subject to any determination which may be made by the Commission in Docket No. R-338 with respect to the transportation of liquids and liquefiable hydrocarbons.

(H) Applicant in Docket No. CI71-379 shall charge and collect the rate of 20.5 cents per Mcf at 14.65 p.s.i.a.

(I) The certificate authorizations and certificates granted in Dockets Nos. CI60–181, CI63–608, CI68–62, CI71–845, CI71–877, and CI72–13 are subject to the Commission's findings and order accompanying Opinion No. 586. If the quality of the gas deviates at any time from the quality standards set forth in § 154.106 (d) of the regulations under the Natural Gas Act so as to require a downward adjustment of the existing rates, notices of changes in rate shall be filed pursuant to section 4 of the Natural Gas Act; provided, however, that changes reflecting changes in B.t.u. content of the gas shall be computed by the applicable formula and charged without the filing of notices of changes in rate.

(J) The certificates granted in Dockets Nos. CI71–801, CI71–805, and CI71–870 are subject to the Commission's findings and order accompanying Opinion No. 595 and any further orders which may be issued in Docket No. AR64–2, et al.

(K) The certificate authorization granted in Docket No. G–11031 and certificate granted in Docket No. CI71–846 are subject to the Commission's findings and orders accompanying Opinions Nos. 598 and 598–A. If the quality of the gas deviates at any time from the quality standards set forth in § 154.105(e) of the regulations under the Natural Gas Act so as to require a downward adjustment of the existing rates, notices of changes in rate shall be filed pursuant to section 4 of the Natural Gas Act; provided, however, that changes reflecting changes in B.t.u. content of the gas shall be computed by the applicable formula and charged without the filing of notices of changes in rate.

(L) Within 45 days from the date of this order applicant in Docket No. CI71–379 shall file three copies of a rate schedule-quality statement in the form prescribed in Opinion No. 468–A.

(M) Within 90 days from the date of initial delivery applicant in Docket No. CI71–805 shall file three copies of a rate schedule-quality statement in the form prescribed in Opinion No. 595.

(N) Applicant in Dockets Nos. CI71–719, CI71–720, and CI71–721 shall file statements showing estimated sales and billing for the first months of service as required by § 154.92(b) of the regulations under the Natural Gas Act.

(O) In the event applicant in Docket No. CI71–379 exercises its option to process the gas under Article XVI of its contract, applicant shall submit to the Commission for acceptance not less than 30 days prior to the commencement of such processing a rate schedule supplement setting forth the conditions and details of the contemplated action.

(P) The agreement dated November 25, 1970, and designated as Supplement No. 1 to Robert G. Shaw, FPC Gas Rate Schedule No. 1 is accepted for filing on the condition that the provisions of said agreement relating to the area rate shall be interpreted as being consistent with the provisions of § 154.93(b–1) of the regulations under the Natural Gas Act and that said provisions shall apply only upon Commission approval of a just and reasonable rate or a settlement rate in an applicable area rate proceeding for gas or comparable quality and vintage.

(Q) Atlas Corp. is made corespondent in the proceedings pending in Dockets Nos. RI67–168, RI69–432, and RI69–856; Robert G. Shaw is made corespondent in RI71–636; Logue and Patterson is made correspondent in the proceeding pending in Docket No. RI70–283; and said proceedings are redesignated accordingly. These parties shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(R) The rate schedules and rate schedule supplements related to the authorizations granted herein are accepted for filing or are redesignated, all as set forth in the tabulation herein.

(S) This order does not relieve any of the applicants herein of any responsibility imposed by and is expressly subject to, the Commission's Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91–379, 84 Stat. 799, as amended by Public Law 92–15, 85 Stat. 38), including such amendments as the Commission may require, and Executive Order No. 11615.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

Docket No. and date filed	Applicant	Purchaser and location	FPC gas rate schedule [1]		
			Description and date of document	No.	Supp.
G–3270 E 8–27–70	Anneo Petroleum Co., Inc. (Operator), et al. (successor to Marshall R. Young Oil Co., et al.).	United Gas Pipe Line Co., Bancroft Field, Beauregard Parish, La.	Marshall R. Young Oil Co. et al, FPC Gas Rate Schedule No. 2.	1	.....
			Supplement Nos. 1–11 thereto.	1	1–11
			Notice of succession 8–25–70.	.....	.....
			Assignment 7–24–69	1	12
			Assignment 1–12–70	1	13
			Assignment 1–12–70	1	14
			Assignment 4–1–70	1	15
			Assignment 4–3–70	1	16
			Assignment 4–17–70	1	17
			Amendment 6–11–70	1	18
G–6213 E 6–10–71	Champlin Petroleum Co. (successor to Union Pacific Railroad Co.).	Mountain Fuel Supply Co., Church Buttes Area, Sweetwater and Uinta Counties, Wyo.	Union Pacific Railroad Co., FPC Gas Rate Schedule No. 1.	109	.....
			Supplement Nos. 1–4 thereto.	109	1–4
			Notice of succession 5–21–71.	.....	.....
			Assignment 3–31–71	109	5
	do	Mountain Fuel Supply Co., South Baxter Basin Unit and Middle Baxter Basin Unit, Sweetwater County, Wyo.	Union Pacific Railroad Co. FPC Gas Rate Schedule No. 2.	110	.....
			Supplement Nos. 1 and 2 thereto.	110	1 & 2
			Notice of succession 5–21–71.	.....	.....
			Assignment 3–31–71	110	3
G–10475 E 6–10–71	do	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Table Rock Unit Area, Sweetwater County, Wyo.	Union Pacific Railroad Co. FPC Gas Rate Schedule No. 4.	111	.....
			Supplement Nos. 1–6 thereto.	111	1–6
			Notice of succession 5–21–71.	.....	.....
			Assignment 3–31–71	111	7
G–11031 E 6–14–71	W. L. Estis et al. (successor to H. L. Hawkins & H. L. Hawkins, Jr. et al.).	Texas Gas Transmission Corp., South Bell City Field, Calcasieu Parish, La.	H. L. Hawkins & H. L. Hawkins, Jr. et al., FPC Gas Rate Schedule No. 5.	1	.....
			Supplement Nos. 1 and 2 thereto.	1	1 & 2
			Notice of succession 6–22–71.	.....	.....
G–13138 C 6–28–71	Atlantic Richfield Co. (Operator) et al.	Northern Natural Gas Co., Imperial Gas Plant, Crane and Pecos Counties, Tex.	Letter agreement 7–3–70	1	3
			Amendatory agreement 8–1–71.	538	9
G–14247 C 6–18–71	Sohio Petroleum Co.	United Gas Pipe Line Co., South Lewisburg Field, Acadia Parish, La.	Amendment 4–24–69	42	16
G–19226 E 6–10–71	Champlin Petroleum Co. (successor to Union Pacific Railroad Co.).	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Table Rock Field, Sweetwater County, Wyo.	Union Pacific Railroad Co. FPC Gas Rate Schedule No. 12.	118	.....
			Supplement Nos. 1–4 thereto.	118	1–4
			Notice of succession 5–21–71.	.....	.....
			Assignment 3–31–71	118	5
CI60–181 C 6–4–71	Koch Industries, Inc.	Cities Service Gas Co., March Field, Seward County, Kans.	Amendment 8–10–71	9	5

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser and location	FPC gas rate schedule [1]		
			Description and date of document	No.	Supp.
CI70–1 E 6–10–71	do	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., East Rock Springs Field, Sweetwater County, Wyo.	Union Pacific Railroad Co. FPC Gas Rate Schedule No. 14	120	.....
			Notice of succession 5–21–71.	.....	.....
			Assignment 3–31–71	120	1
CI71–379 A 10–30–70	King Resources Co.	Northern Natural Gas Co., Camrick Field, Texas County, Tex.	Supplemental agreement 7–6–70.	27	7
			Letter agreement 9–22–70	27	8
CI71–719 [4] 3–31–71	Atlas Corp.	El Paso Natural Gas Co., Basin, Dakota Field, San Juan County, N. Mex.	Contract 7–24–69 [4] (Effective date: 2–1–67).	27	.....
			Supplemental agreement 1–18–71.	8	2
			Letter agreement 2–22–62	8	3
			Amendatory agreement 10–6–65.	8	4
			Letter agreement 4–1–69	8	5
			Letter 9–24–71 [7] (Effective date: 2–1–68)	8	6
CI71–720 [4] 3–31–71	do	do	Contract 6–13–60 [4] (Effective date: 2–1–67)	0	.....
			Supplemental agreement 1–18–71.	9	1
			Amendatory agreement 10–6–65.	9	2
			Letter agreement 4–1–69	9	4
			Letter agreement 5–1–70	9	5
			Letter 9–24–71 [7] (Effective date: 2–1–68)	9	6
CI71–721 [10] 3–31–71	do	do	Contract 7–27–60 [11] (Effective date: 2–1–67)	10	.....
			Supplement agreement 1–18–71.	10	1
			Letter agreement 2–22–62	10	2
			Amendatory agreement 10–6–65.	10	3
			Letter agreement 2–9–70	10	4
			Letter 9–24–71 [7] (Effective date: 2–1–68)	10	5
CI71–801 [12] F 5–5–71	PPG Industries, Inc. (Operator), et al., (successor to Humble Oil & Refining Co.).	Natural Gas Pipeline Co. of America, Sugar Valley Field, Matagorda County, Tex.	Contract 7–1–60	1	.....
			Letter agreement 9–18–61	1	1
			Letter agreement 11–19–63	1	2
			Letter agreement 12–1–65	1	3
			Amendment 5–16–66	1	4
			Letter agreement 6–16–66	1	5
			Assignment 1–6–71	1	6
			Assignment 3–4–71	1	7
CI71–805 [13] F 5–7–71	Robert G. Shaw (successor to Amoco Production Co.).	Transcontinental Gas Pipe Line Corp., Oakville Field, Live Oak County, Tex.	Agreement 11–25–70	1	1
			Assignment 12–21–70 [14]	1	2
CI71–846 [15] 5–24–71	Midwest Oil Corp.	Northern Natural Gas Co., Northeast Gate Lake Field, Harper County, Okla.	(Effective date: 1–1–71) Contract 5–24–67	60	.....
CI71–846 [17] 5–24–71	Oneral American Oil Co. of Texas.	Michigan Wisconsin Pipe Line Co., Calosieu Pass Field, Cameron Parish, La.	Contract 11–21–71	87	.....
CI71–870 A 6–10–71	The Superior Oil Co.	Natural Gas Pipeline Co. of America, Blocks 14 and 17, High Island Area, offshore Texas.	Contract 6–7–71	150	.....
CI71–873 [18] F 6–4–71	Logue and Patterson (Successor to Pennzoil United, Inc.) (Operator) et al.).	United Gas Pipe Line Co., East McFaddin Field, Victoria County, Tex.	Contract 4–27–44 [19]	15	.....
			Letter agreement 12–8–49	15	1
			Letter agreement 8–31–54	15	2
			Amendment 4–18–59	15	3
			Letter agreement 6–15–67	15	4
			Assignment 12–1–70 [20] (Effective date: 10–15–70)	15	5

Docket No. and date filed	Applicant	Purchaser and location	FPC gas rate schedule [1]		
			Description and date of document	No.	Supp.
CI61–1442 E 6–10–71	Champlin Petroleum Co. (successor to Union Pacific Railroad Co.).	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Patrick Draw Field, Sweetwater County, Wyo.	Union Pacific Railroad Co. FPC Gas Rate Schedule No. 15	112	.....
			Supplement Nos. 1–5 thereto.	112	1–5
			Notice of succession 5–21–71.	.....	.....
			Assignment 3–31–71	112	6
CI63–608 [3] CF 7–23–71	Oklahoma Natural Gas Co. (Operator) et al. (successor to Falcon Seaboard, Inc.).	Michigan Wisconsin Pipe Line Co., Southeast Pringey Field, Woodward County, Okla.	Letter agreement 6–21–71	39	12
CI64–115 E 6–10–71	Champlin Petroleum Co. (successor to Union Pacific Railroad Co.).	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Wamsutter Unit Area, Sweetwater County, Wyo.	Union Pacific Railroad Co. FPC Gas Rate Schedule No. 6.	113	.....
			Supplement Nos. 1–4 thereto.	113	1–4
			Notice of succession 5–21–71.	.....	.....
			Assignment 3–31–71	113	5
CI64–691 E 6–10–71	do	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Patrick Draw Field, Sweetwater County, Wyo.	Union Pacific Railroad Co., FPC Gas Rate Schedule No. 7.	114	.....
			Supplement Nos. 1–3 thereto.	114	1–3
			Notice of succession 5–21–71.	.....	.....
			Assignment 3–31–71	114	4
CI66–21 [5] D 6–14–71	Texaco, Inc.	Northern Natural Gas Co., Keyes Field, Crockett County, Tex.	Supplemental Agreement 5–5–71.	335	6
CI66–21 [6] G 6–14–71	do	do	Supplemental agreement 5–4–71.	335	7
CI66–110 O 6–28–71	Atlantic Richfield Co. (Operator) et al.	Northern Natural Gas Co., Schleicher and Menard Counties, Tex.	Amendatory agreement 5–1–71.	866	6
			Plan of Development 5–1–71.	866	7
CI67–1063 E 6–10–71	Champlin Petroleum Co. (successor to Union Pacific Railroad Co.).	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Patrick Draw Field, Sweetwater County, Wyo.	Union Pacific Railroad Co. FPC Gas Rate Schedule No. 9.	115	.....
			Supplement Nos. 1 and 2 thereto.	115	1 & 2
			Notice of succession 5–21–71.	.....	.....
			Assignment 3–31–71	115	3
CI67–1238 E 6–10–71	do	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Desert Springs Field, Sweetwater County, Wyo.	Union Pacific Railroad Co. FPC Gas Rate Schedule No. 10	116	.....
			Supplement Nos. 1–3 thereto.	116	1–3
			Notice of succession 5–21–71.	.....	.....
			Assignment 3–31–71	116	4
CI67–1426 E 6–10–71	do	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Patrick Draw Field, Sweetwater County, Wyo.	Union Pacific Railroad Co., FPC Gas Rate Schedule No. 11.	117	.....
			Supplement Nos. 1 and 2 thereto.	117	1 & 2
			Notice of succession 5–21–71.	.....	.....
			Assignment 3–31–71	117	3
CI68–62 CD 6–24–71	Humble Oil & Refining Co.	Panhandle Eastern Pipe Line Co, North Greensburg Field, Woods County, Okla.	Amendment 4–29–71	481	7
CI68–1178 E 6–10–71	Champlin Petroleum Co. (successor to Union Pacific Railroad Co.).	Mountain Fuel Supply Co., Pinedale South Area, Sweetwater County, Wyo.	Union Pacific Railroad Co. FPC Gas Rate Schedule No. 13.	119	.....
			Supplement Nos. 1–3 thereto.	119	1–3
			Notice of succession 5–21–71.	.....	.....
			Assignment 3–31–71	119	4

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser and location	FPC gas rate schedule [1] Description and date of document	No.	Supp.
CI71-877..... A 6-14-71	Petroleum, Inc.....	Cities Service Gas Co., Lorena West Field, Texas County, Okla.	Contract 6-21-71.....	69	.....
CI71-884..... A 6-18-71	Pioneer Gas Products Co. (Operator).	Lone Star Gas Co., Madill Plant, Marshall County, Okla.	Contract 2-1-71.....	2	.....
CI71-896..... A 6-24-71	Union Oil Co. of California (Operator).	United Gas Pipe Line Co., Van Field, Van Zandt County, Tex.	Contract 6-8-71.....	207	.....
CI71-900 [2]..... 6-23-71	General American Oil Co. of Texas.	Transcontinental Gas Pipe Line Corp., North Live Oak Field, Vermilion Parish, La.	Contract 8-11-65.....	89	.....
			Letter agreement 5-11-65..	89	1
			Letter Agreement 11-2-65..	89	2
			Notice of change 12-8-70..	89	3
CI72-1..... A 7-1-71	Humble Oil & Refining Co.	United Gas Pipe Line Co., Van Field, Van Zandt County, Tex.	Contract 6-7-71.....	484	.....
CI72-5..... A 7-6-71	Commonwealth Gas Corp.	United Fuel Gas Co., Union District, Jackson County, W. Va.	Contract 6-1-71.....	24	.....
CI72-13 [3]..... 6-28-71	Petroleum, Inc. et al....	Cities Service Gas Co., Northwest Sharon Field, Barber County, Kans.	Ratification 2-1-71.....	70	.....
			Contract 6-11-57.....	70	1
			Agreement 11-1-57.....	70	2
			Agreement 11-1-57.....	70	3
			Agreement 10-30-64.....	70	4
CI72-26..... A 7-12-71	Atlantic Richfield Co...	Arkansas Louisiana Gas Co., North Drummond Area, Garfield County, Okla.	Contract 6-8-71.....	641	.....
CI72-41..... A 7-16-71	Sun Oil Co.....	United Gas Pipe Line Co., Van Field, Van Zandt County, Tex.	Contract 6-17-71.....	499	.....

[1] Where no effective date is indicated, the rate schedule filing has heretofore been accepted.
[2] Applicant proposes to continue in part the sale of natural gas authorized in Docket No. CI66-513 to be made pursuant to Falcon Seaboard, Inc., FPC Gas Rate Schedule No. 23.
[3] Deletion of nonproductive acreage.
[4] Applicant proposes to sell natural gas from heretofore nonproductive acreage which was reacquired after drilling resulted in production.
[5] Applicant proposes to continue sales from its own interests from which sales were heretofore authorized in Docket No. CI63-1049 to be made pursuant to Northern Natural Gas Producing Co. FPC Gas Rate Schedule No. 25.
[6] Also on file as Northern Natural Gas Producing Co. FPC Gas Rate Schedule No. 25.
[7] Evidences the return of control to applicant of working interest in the subject properties which was previously an overriding royalty interest.
[8] Applicant proposes to continue sales from its own interests from which sales were heretofore authorized in Docket No. CI63-1051 to be made pursuant to Northern Natural Gas Producing Co. FPC Gas Rate Schedule No. 26.
[9] Also on file as Northern Natural Gas Producing Co. FPC Gas Rate Schedule No. 26.
[10] Applicant proposes to continue sales from its own interests from which sales were heretofore authorized in Docket No. CI63-1060 to be made pursuant to Northern Natural Gas Producing Co. FPC Gas Rate Schedule No. 27.
[11] Also on file as Northern Natural Gas Producing Co. FPC Gas Rate Schedule No. 27.
[12] Applicant proposes to continue in part the sale of natural gas authorized in Docket No. CI61-157 to be made pursuant to Humble Oil & Refining Co. FPC Gas Rate Schedule No. 338.
[13] Applicant proposes to continue in part the sale of natural gas authorized in Docket No. G-6631 to be made pursuant to Amoco Production Co. FPC Gas Rate Schedule No. 92.
[14] Also on file as Amoco Production Co. FPC Gas Rate Schedule No. 92.
[15] From Pan American Petroleum Corp. (now Amoco Production Co.) to applicant.
[16] Applicant proposes to continue the sale of natural gas from its own interests heretofore authorized in Docket No. G-12966 to be made pursuant to Keating-Parker Drilling Co. (Operator) et al., FPC Gas Rate Schedule No. 3. Keating-Parker is small producer certificate applicant in Docket No. CS71-256.
[17] Applicant proposes to continue the sale of natural gas from its own interests heretofore authorized in Docket No. CI62-693 to be made pursuant to Robert Mosbacher (Operator) et al., FPC Gas Rate Schedule No. 20. Robert Mosbacher is small producer certificate applicant in Docket No. CS71-707.
[18] Applicant proposes to continue in part the sale of natural gas authorized in Docket No. G-3633 to be made pursuant to Pennzoil Producing Co. (Operator) et al., FPC Gas Rate Schedule No. 93.
[19] Also on file as Pennzoil Producing Co. (Operator) et al., FPC Gas Rate Schedule No. 92.
[20] From Pennzoil Producing Co., et al., to applicant.
[21] Applicant proposes to continue the sale of natural gas from its own interests heretofore authorized in Docket No. CI66-287 to be made pursuant to Kilroy Properties Inc., et al., FPC Gas Rate Schedule No. 5. Kilroy is small small producer certificate applicant in Docket No. CS71-259.
[22] Applicant proposes to continue the sale of natural gas from its own interests heretofore authorized in Docket No. CI64-991 to be made pursuant to Tenneco Oil Co. (Operator) et al., FPC Gas Rate Schedule No. 33.

[FR Doc.71-16685 Filed 11-18-71;8:45 am]

[Docket No. G-2712, etc.]

CITIES SERVICE OIL CO.

Notice of Petition To Amend

NOVEMBER 9, 1971.

Take notice that on September 13, 1971, Cities Service Oil Co. (Petitioner), Post Office Box 300, Tulsa, OK 74102, filed in Dockets Nos. G-2712, G-3031, G-6190, G-8712, G-8713, G-9272, G-9692, G-9789, G-10188, G-10189, G-12852, G-13592, G-16204, G-16563, G-19716, CI60-198, CI61-1131, and CI61-1681 a petition to amend the certificates of public convenience and necessity issued pursuant to section 7(c) of the Natural Gas Act in said dockets to Cities Service Co. by authorizing Petitioner to continue the sales of natural gas in interstate commerce, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 29, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16883 Filed 11-18-71;8:47 am]

[Docket RP71-137]

EL PASO NATURAL GAS CO.

Notice of Postponement of Prehearing Conference

NOVEMBER 9, 1971.

On October 28, 1971, Commission Staff Counsel filed a motion for a postponement of the prehearing conference set for November 16, 1971, by order issued July 30, 1971, in the above-designated proceedings.

Upon consideration, notice is hereby given that the prehearing conference in the above-designated matter, is postponed to commence on December 14, 1971, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16884 Filed 11-18-71;8:47 am]

[Docket No. CI72-259]

HUMBLE OIL AND REFINING CO.

Notice of Application

NOVEMBER 9, 1971.

Take note that on November 1, 1971, Humble Oil & Refining Co. (applicant), Post Office Box 2180, Houston, TX 77001, filed in Docket No. CI72-259 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to United Gas Pipe Line Co. from the Lake Sand Field, Iberia Parish, La., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to make the subject sale for 1 year at the rate of 35 cents per Mcf at 15.025 p.s.i.a. within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). The estimated monthly sales volume is 900,000 Mcf of gas.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 23, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16885 Filed 11-18-71;8:47 am]

[Docket No. E-7673]

NORTHERN STATES POWER CO.

Notice of Application

NOVEMBER 9, 1971.

Take notice that on November 1, 1971, Northern States Power Co. (applicant) of Minneapolis, Minn., filed an application pursuant to section 204 of the Federal Power Act seeking an order authorizing the issuance of unsecured promissory notes to commercial banks and to commercial paper dealers in amounts not exceeding in the aggregate $80 million outstanding at any one time.

The promissory notes to be issued by the applicant to commercial banks will be issued on various days in 1972, but no note will mature more than 12 months after date of issue or renewal. The interest rate of such notes will be at the prime loan interest rate of the banks in effect from time to time.

The promissory notes issued to commercial paper dealers will be issued on various days in 1972, but no note will mature more than 9 months after date of issue nor will any note be extended or renewed. The interest rate on such notes will be dependent upon the term of the notes and the money market conditions at the time of issuance. According to the application, the aggregate amount of commercial paper to be outstanding at any one time will not exceed the sum of (1) the dollar amount of applicant's receivables arising out of the sale of electric, gas, heating and telephone service and merchandise, (2) the dollar amount of applicant's fuel inventory exclusive of nuclear fuels, and (3) the dollar amount of depreciation and amortization charges on plant and equipment for the preceding year.

The proceeds from the issuance of the notes will be added to the general funds of the applicant which general funds will be used, among other things, to finance in part the applicant's 1972 construction program. Applicant estimates that construction expenditures for 1972 will total about $176,300,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 22, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16886 Filed 11-18-71; 8:47 am]

[Project No. 2030]

PORTLAND GENERAL ELECTRIC CO.

Notice of Application for Approval of Exhibits

NOVEMBER 12, 1971.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U.S.C. 791a–825r) by Portland General Electric Co. (correspondence to Mr. Frank M. Warren, president, Portland General Electric Co., Electric Building, Portland, Oreg. 97205) for approval of Exhibit S for constructed Project No. 2030, known as Pelton Project, located on the Metolius and Deschutes Rivers in Jefferson County, Oreg., and affecting Warm Springs Indian Reservation.

The application proposes construction of a fish hatchery next to the Round Butte powerhouse. The hatchery would operate at a level to promote an average return of 1,800 steelhead trout and 1,200 spring chinook salmon. Of the latter, at least 600 must be mature females. The hatchery and facilities would consist of: (1) Ten 17 x 75 x 5.5 feet Burrows type raceways; (2) two 15 x 50 x 5.5 feet adult holding ponds; (3) four 10 x 30 x 3 feet fiberglass tanks; (4) one hatchery building with four 6-foot circular tanks and facilities sufficient in total capacity to incubate at least 1 million chinook eggs; (5) a cold storage facility; (6) two residences; (7) fishladder, adult trapping facility, and related tank truck haul facilities; (8) downstream migrant trapping facility in Lake Simtustus (Pelton Reservoir); (9) pollution control facilities for domestic and hatchery wastes, and (10) related facilities and equipment necessary for operation of above.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 3, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16915 Filed 11-18-71;8:49 am]

[Docket No. CS72-378, etc.]

SOC GAS SYSTEMS, INC. ET AL.

Notice of Applications for "Small Producer" Certificates [1]

NOVEMBER 10, 1971.

Take notice that each of the applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before December 6, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date filed	Name of applicant
CS72-378...	10-22-71	SOC Gas Systems, Inc., 1500 Commerce Bldg., Fort Worth, Tex. 76102.
CS72-379...	10-26-71	John E. Schalk, 915 Midland Savings Bldg., Denver, Colo. 80202.
CS72-380...	10-27-71	Estate of C. W. Murchison, 2200 First National Bank Bldg., Dallas, Tex. 75202.
CS72-381...	10-28-71	Mimosa Enterprises, Inc., 15804 Gulf Boulevard, Redington Beach, FL 33708.
CS72-382...	10-28-71	Locke-Taylor Drilling Co., Box 829, Durango, CO 81301.
CS72-383...	10-28-71	Samuel E. Neel, Ring Bldg., 1200 18th Street NW., Washington, DC 20036.
CS72-384...	10-28-71	Mary W. Neel, Ring Bldg., 1200 18th Street NW., Washington, DC 20036.
CS72-385...	10-28-71	Tamarack Petroleum Co., Inc., 910 Bank of the Southwest Bldg., Midland, Tex. 79701.
CS72-386...	11- 1-71	Harvey McLean, 1106 Commercial National Bank Bldg., Shreveport, La. 71101.
CS72-387...	11- 1-71	American Quasar Petroleum Co., 606 Vaughn Bldg., Midland, Tex. 79701.
CS72-388...	11- 1-71	Harry T. Thorson, Post Office Box 338, Newcastle, WY 82701.
CS72-389...	10-29-71	Deanna A. Larson, 726 West Kettering, apartment No. 14, Lancaster, CA 93534.

[FR Doc. 71-16916 Filed 11-18-71;8:49 am]

[Docket No. CI72-261]

STEPHENS PRODUCTION CO.

Notice of Application

NOVEMBER 9, 1971.

Take notice that on October 29, 1971, Stephens Production Co. (applicant), 115 North 12th Street, Fort Smith, AR 72901, filed in Docket No. CI72-261 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale to and exchange of natural gas with Arkansas Louisiana Gas Co. (Arkla) within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to deliver to Arkla from November 1, 1971, to May 1, 1972, approximately 15,000 Mcf of gas per day from the Massard Field, Sebastian County, Ark. Applicant may make additional volumes of gas available; and if such gas is made available, Arkla may call for increased daily volumes up to 25,000 Mcf of gas per day. In addition to the volumes delivered during the winter season, Arkla may elect to receive additional gas from May 1, 1972, to October 31, 1972. Arkla has the option to extend the agreement between it and Applicant for an additional 1-year period, from November 1, 1972, to October 31, 1973. If and when the pipeline proposed by Arkla in Docket No. CP70-267 is approved and placed in operation, Arkla will have the option to repay applicant in kind for gas delivered by applicant to Arkla. Arkla may repay the gas received from applicant during the approximate same time of the year that Arkla received equivalent volumes of gas from applicant. Arkla reserves the right to pay applicant 28 cents per Mcf at 14.65 p.s.i.a. for all or any part of the gas received from applicant.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 23, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16887 Filed 11-18-71;8:47 am]

[Docket No. CP65-390 etc.]

TENNESSEE GAS PIPELINE CO.

Notice of Petition To Amend

NOVEMBER 12, 1971.

Take notice that on September 23, 1971, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (petitioner), Post Office Box 2511, Houston, TX 77001, filed in Dockets Nos. CP65-390, CP67-46, and CP70-185 a petition to amend the orders of the Commission heretofore issued pursuant to section 7(c) of the Natural Gas Act in said dockets on August 18, 1965 (34 FPC 532), October 24, 1966 (36 FPC 780), and June 22, 1970 (43 FPC 937), respectively, by authorizing a reallocation of the volumes of natural gas delivered to Delta Natural Gas Co. (Delta), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that Delta has requested a reallocation of its existing total daily quantity of natural gas as follows:

Service area	Present contract MDQ (MCF at 14.73 p.s.i.a.)	Requested contract MDQ (MCF at 14.73 p.s.i.a.)
Nicholasville-Wilmore	4,975	4,825
Berea	4,239	4,081
Salt Lick	983	1,142
Jeffersonville	223	372
Total	10,420	10,420

The petition states that this reallocation, which will not result in an increase in the maximum daily volumes available to Delta, can be accomplished through existing facilities and will better enable Delta to utilize its natural gas supply along with its propane-air peak shaving capacity to meet the natural gas requirements of its customers.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 6, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16917 Filed 11-18-71;8:49 am]

[Docket No. CP72-129]

MONTEREY PIPELINE CO.

Notice of Application

NOVEMBER 17, 1971.

Take notice that on November 12, 1971, Monterey Pipeline Co. (applicant), 1700 Commerce Building, New Orleans, La. 70112, filed in Docket No. CP72-129 an application for a certificate of public convenience and necessity authorizing the sale for resale of natural gas to Texas Eastern Transmission Corp. (Texas Eastern) at or in the immediate vicinity of the outlet of Gulf Oil Corp.'s Krotz Springs Field Gas Cycling Plant, St. Landry Parish, La., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it proposes to sell natural gas to applicant for 1 year at the rate of 35 cents per Mcf at 15.025 p.s.i.a. within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). The gas would be delivered by Humble Oil & Refining Co. to Michigan Wisconsin Pipe Line Co., for redelivery to Florida Gas Transmission Co. which will deliver an equivalent volume of gas to Texas Eastern. The estimated daily volume of gas to be sold and delivered is 30,000 Mcf.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 29, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16979 Filed 11-18-71;8:53 am]

[Docket No. CI72-284]

VERMILION LAND CORP.

Notice of Application

NOVEMBER 17, 1971.

Take notice that on November 9, 1971, Vermilion Land Corp. (applicant), Post Office Box 3105, Lake Charles, LA 70601, filed in Docket No. CI72-284 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Transcontinental Gas Pipe Line Corp. (Transco) from the Johnson Bayou Field, Cameron Parish, La., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced the sale of natural gas to Transco on November 1, 1971, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and that it proposes to continue said sale for 1 year within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70) at the rate of 35 cents per Mcf at 15.025 p.s.i.a. The estimated monthly volume, after buildup, is 100,000 Mcf of gas.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 29, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16980 Filed 11-18-71;8:53 am]

FEDERAL RESERVE SYSTEM

BANCOHIO CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Banc-Ohio Corp., which is a bank holding company located in Columbus, Ohio, for prior approval by the Board of Governors of the acquisition by applicant of 100 percent of the voting shares of the Community National Bank, Loveland, Ohio, a proposed new bank.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Cleveland.

Board of Governors of the Federal Reserve System, November 15, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16889 Filed 11-18-71;8:47 am]

MERCANTILE BANCORPORATION, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Mercantile Bancorporation, Inc., which is a

bank holding company located in St. Louis, Mo., for prior approval by the Board of Governors of the acquisition by applicant of up to 100 percent of the voting shares of County Bank of St. Charles, St. Charles, Mo.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of St. Louis.

Board of Governors of the Federal Reserve System, November 15, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16890 Filed 11-18-71;8:47 am]

UNITED JERSEY BANKS

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by United Jersey Banks, which is a bank holding company located in Hackensack, N.J., for prior approval by the Board of Governors of the acquisition by applicant of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The City National Bank of Millville, Millville, N.J.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, November 15, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16891 Filed 11-18-71;8:47 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-4847]

ECOLOGICAL SCIENCE CORP.

Order Suspending Trading

NOVEMBER 12, 1971.

The common stock, 2 cents par value, of Ecological Science Corp. being traded on the American Stock Exchange, the Philadelphia-Baltimore-Washington Stock Exchange and the Pacific Coast Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Ecological Science Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such security on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 15, 1971, through November 24, 1971.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71-16905 Filed 11-18-71;8:48 am]

[File No. 1-4692]

FAS INTERNATIONAL, INC.

Order Suspending Trading

NOVEMBER 12, 1971.

The common stock, 2 cents par value, and the 5 percent convertible subordinated debentures due 1989 of FAS International, Inc., being traded on the New York Stock Exchange, Inc., pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of FAS International, Inc., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange and otherwise than on a national securities exchange is required in the public interest for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 13, 1971, through November 22, 1971.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71-16906 Filed 11-18-71;8:48 am]

[Files Nos. 2-25955 (22-4332)]

HAWAIIAN ELECTRIC CO., INC.

Notice of Application and Opportunity for Hearing

NOVEMBER 12, 1971.

Notice is hereby given that Hawaiian Electric Co., Inc. (Applicant), has filed an application under clause (ii) of section 310(b)(1) of the Trust Identure Act of 1939 (Act) for a finding by the Commission that the trusteeship of Bishop Trust Co., Ltd. (Bishop), trustee under an indenture of the Applicant dated March 1, 1967, which was qualified under the Act and the trusteeship of Bishop under a first mortgage indenture dated January 1, 1970, of Hilo Electric Light Co., Ltd. (Hilo), a wholly owned subsidiary of Applicant, under which first mortgage bonds were issued, and which idenuture was not qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bishop from acting as trustee under both indentures. Certain bonds of Hilo are guaranteed by Applicant.

Section 310(b) of the Act provides, in part, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest, it shall within 90 days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign. Subsection (1) of this section provides, with certain exceptions, that a trustee is deemed to have conflicting interest if it is acting as trustee under another indenture under which other securities of the same issuer are outstanding. However, pursuant to clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture or indentures under which other securities of such obligor are outstanding, if the issuer shall have sustained the burden of proving on application to the Commission, and after opportunity for hearing thereon, that trusteeship under the qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under any such indentures.

The Applicant alleges that:

1. Applicant and Bishop are both Hawaii corporations with their principal offices in Honolulu, Hawaii.

2. Bishop is trustee under the trust indenture of Applicant dated as of March 1, 1967, relating to Applicant's $7 million principal amount of 4½ percent convertible debentures. Applicant's indenture was qualified under the Act. Applicant's debentures are unsecured.

3. The First Trust Company of Hilo, Ltd., was trustee under the first mortgage indenture of Hilo dated as of January 1, 1970. The Hilo indenture is not qualified under the Act. Hilo is a wholly owner subsidary of Applicant.

4. On April 6, 1970, the First Trust Company of Hilo, Ltd., was merged into Bishop which is the surviving corporation in the merger. Accordingly, Bishop became the trustee under the Hilo indenture.

5. On April 13, 1971, Hilo issued $2,500,000 principal amount of its first mortgage bonds, Series I, under the Hilo indenture. The Hilo Series I bonds were guaranteed by Applicant under a guarantee agreement which provides that Applicant guarantees the payment of principal and interest on the Hilo Series I bonds.

6. In the event Hilo failed to pay the interest on or principal of the Hilo Series I bonds, claims against Applicant on account of nonpayment of the Applicant's debentures and claims under Applicant's guarantee agreement would all be unsecured claims, ranking pari passu and entitled to share pro rata in any distributions to unsecured creditors of Applicant.

Applicant waives notice of hearing and waives hearing and any and all rights to specify procedures under the rules and practices of the Securities and Exchange Commission with respect to the application.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at 500 North Capitol Street, Washington, DC 20549.

Notice is further given that any interested person may, not later than December 13, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed to: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71-16907 Filed 11-18-71;8:48 am]

[70-5118]

SOUTHERN ELECTRIC GENERATING CO.

Notice of Proposed Issue and Sale of Bank Notes and Commercial Paper and Exception from Competitive Bidding

NOVEMBER 12, 1971.

Notice is hereby given that Southern Electric Generating Co. (Segco), 600 North 18th Street, Birmingham, AL 35202, a public-utility subsidiary company of the Southern Co., a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating section 6(b) of the Act and Rule 50(a)(5) thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Segco proposes to issue and sell short-term bank notes and commercial paper from time to time on or prior to December 31, 1972, in amounts outstanding at any one time of not in excess of $9 million. The notes to banks will be dated on the date of borrowing, will mature in not more than 9 months, will bear interest at a rate per annum not in excess of the prime rate in effect at the lending bank, and will be prepayable, in whole or in part, without penalty or premium. The names of the lending banks, the maximum amount to be borrowed from each, and a statement regarding compensating balances are to be furnished by amendment.

The proposed commercial paper will be in the form of promissory notes of Segco with varying maturities not to exceed 270 days. Actual maturities will be determined by market conditions and the effective interest costs to Segco and its anticipated cash flow, including the proceeds of bank borrowings, at the time of issuance. The commercial paper notes will be issued in denominations of not less than $50,000 and not more than $5 million and will not be prepayable prior to maturity. The commercial paper will be sold by Segco directly to or through a dealer at a discount (including commissions, if any) which will not be in excess of the discount rate per annum prevailing at the date of issuance for prime commercial paper of comparable quality and of the particular maturity, provided, however, that no commercial paper notes will be issued having a maturity of more than 90 days at an effective interest cost which exceeds the effective interest costs at which the issuer could borrow from banks in an amount at least equal to the principal amount of such commercial paper. Except for a commission not to exceed one-eighth of 1 percent per annum payable to the dealer in respect of commercial paper sold through the dealer as agent for the issuing applicant, no commission or fee will be payable in connection with the issuance and sale of commercial paper. The dealer, in respect of commercial paper purchased as principal, will reoffer such commercial paper at a discount rate of one-eighth of 1 percent per annum less than the prevailing discount rate to the issuer. The commercial paper will be sold to not more than 200 customers of the dealer identified and designated in a list (nonpublic) prepared in advance by the dealer. Segco requests authority to file certificates of notification under Rule 24 in respect of sales of its commercial paper on a quarterly basis.

Segco further requests that the issue and sale of the commercial paper be exempt from competitive bidding on the grounds that: (a) All commercial paper which Segco proposes to issue and sell will have maturities not in excess of 270 days, (b) current rates for commercial paper for prime borrowers, such as Segco, are published daily in financial publications, and (c) it is not practical to invite bids for commercial paper.

It is stated that the proceeds from the bank notes and commercial paper will be used by Segco to reimburse its treasury for expenditures in connection with the buildup of its coal supply, and to pay at maturity from time to time outstanding bank notes and commercial paper notes incurred for such purpose and for other corporate purposes.

The fees and expenses to be incurred in connection with the proposed transactions are estimated at $2,000. It is represented that the proposed transactions are subject to the jurisdiction of the Alabama Public Service Commission,

the State commission of the state in which Segco is organized and doing business, and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 1, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71-16908 Filed 11-18-71;8:49 am]

[File No. 1-6371]

YUM-YUM INTERNATIONAL RESTAURANTS, INC.

Order Suspending Trading

NOVEMBER 15, 1971.

The common stock, 1-cent par value, of Yum-Yum International Restaurants, Inc. being traded on the National Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Yum-Yum International Restaurants, Inc. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such security on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 15, 1971 through November 24, 1971.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71-16909 Filed 11-18-71;8:49 am]

FOREIGN-TRADE ZONES BOARD

[Foreign-Trade Zone No. 1]

NEW YORK CITY

Filing of Application To Temporarily Suspend Operations

Notice is hereby given that the city of New York, grantee, has informed the Foreign-Trade Zones Board of its intention to temporarily suspend zone operations in New York City as a result of its decision to close Foreign-Trade Zone No. 1, located at Staten Island, as of January 1, 1972. In an application filed November 9, 1971, the City has requested from the Board permission to retain its zone grant after such suspension of operations for a period not to exceed 3 years, during which time a new location will be sought for reestablishing the zone after appropriate application is made to the Board. At present, efforts are being made to find a site where fuller and more economic use may be made of foreign-trade zone customs privileges, especially those involving manipulation and manufacture. Consideration is also being given by the city to applying for permission to establish a temporary interim zone facility. The city gave public notice of its intentions concerning zone operations and invited comments in the New York City Record from September 8-10, 1971.

Copies of the city's application are available for public inspection at each of the following locations:

Office of the Administrator, Economic Development Administration of the City of New York, Room 1818, 225 Broadway, New York, NY 10007.

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2203, Department of Commerce, 14th and E Streets NW., Washington, DC 20230.

Comments are invited in writing (original and 7 copies) from interested persons and organizations concerning the application which has been made to the Foreign-Trade Zones Board. They should be addressed to the Board's Acting Executive Secretary at the foregoing address and received not later than 15 calendar days from the date this notice appears in the FEDERAL REGISTER.

Dated: November 11, 1971.

JOHN J. DAPONTE, JR.,
Acting Executive Secretary,
Foreign-Trade Zones Board.

[FR Doc.71-16879 Filed 11-18-71;8:46 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

NOVEMBER 15, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 4964 Sub 36, Roy L. Jones, Inc., application dismissed.

MC-F-11073, Refrigerated Transport Co., Inc.—Purchase (portion)—Caravan Refrigerated Cargo, Inc., assigned January 26, 1972, at New Orleans, La.

MC 51146 Sub 212, Schneider Transport & Storage, Inc., now being assigned hearing January 26, 1972, at Atlanta, Ga., in a hearing room to be later designated.

MC 115841 Sub 408, Colonial Refrigerated Transportation, Inc., now being assigned hearing January 26, 1972, at Atlanta, Ga., in a hearing room to be later designated.

MC 123325 Sub 8, Wright Motor Lines, Inc., now being assigned hearing January 27, 1972, at Atlanta, Ga., in a hearing room to be later designated.

MC 128404 Sub 3, Blackwood Crane & Truck Service, Inc., now being assigned hearing January 24, 1972, at Atlanta, Ga., in a hearing room to be later designated.

MC-C-7565, Wright Motor Lines, Inc., Investigation and Revocation of Certificates, now being assigned hearing January 27, 1972, at Atlanta, Ga., in a hearing room to be later designated.

MC 111545 Sub 160, Home Transportation Co., Inc., assigned January 31, 1972, at the Holiday Inn—French Quarter, 124 Royal Street, New Orleans, LA.

No. MC 51146 Sub 217, Schelder Transport & Storage, now assigned February 8, 1972, at Chicago, Ill., a hearing room to be designated later.

No. MC 51146 Sub 218, Schneider Transport & Storage, now assigned February 9, 1972, at Chicago, Ill., a hearing room to be designated later.

MC 61592 Sub 215, Jenkins Truck Lines, now assigned February 7, 1972, at Chicago, Ill., a hearing room to be designated later.

MC 112304 Sub 48, Ace Doran Hauling & Rigging Co., now assigned February 10, 1972, at Chicago, Ill., a hearing room to be designated later.

MC 113678 Sub 423, Curtis, Inc., now assigned February 11, 1972, at Chicago, Ill., a hearing room to be designated later.

MC-F-11185, Terminal Transport Co.—Purchase (portion)—Michigan Express & Cushman Motor Delivery Co., now assigned February 14, 1972, at Chicago, Ill., a hearing room to be designated later.

MC 103926 Sub 26, W. T. Mayfield Sons Trucking Co., now being assigned hearing January 31, 1972, at Atlanta, Ga., in a hearing room to be later designated.

MC 107295 Sub 464, Pre-Fab Transit Co., assigned January 12, 1972, at Washington, D.C., is advanced to January 4, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 83539 Sub 313, C & H Transportation, now assigned January 31, 1972, at Birmingham, Ala., a hearing room to be designated later.

MC 115162 Sub 232, Poole Truck Line, Inc., now assigned February 3, 1972, at Birmingham, Ala., a hearing room to be designated later.

MC 115840 Sub 67, Colonial Fast Freight Lines, now assigned February 7, 1972, at Birmingham, Ala., a hearing room to be designated later.

MC 115841 Sub 409, Colonial Refrigerated Transportation, now assigned February 1, 1972, at Birmingham, Ala., a hearing room to be designated later.

MC 51146 Sub 161, Schneider Transport & Storage, Inc., and MC 119531 Sub 146, Dieckbrader Express, Inc., applications reinstated, now rescheduled for continued hearing on November 30, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-F 11129, Paramount Movers, Inc.—Purchase (portion)—Shamrock Van Lines, Inc., L. E. Creel III, trustee in bankruptcy, assigned December 13, 1971, at Washington, D.C. is postponed to February 7, 1972, at Dallas, Tex., in a hearing room to be later designated.

MC-F 11130, Towne Services Household Goods, Transportation Co., Inc.—Purchase (portion)—Shamrock Van Lines, Inc. (L. E. Creel III, trustee in bankruptcy) assigned December 13, 1971, at Washington, D.C., postponed to February 7, 1972, at Dallas, Tex., hearing room to be later designated.

MC-F 11139, North American Van Lines, Inc.—Purchase (portion)—Shamrock Van Lines (L. E. Creel III, trustee in bankruptcy) assigned December 13, 1971, at Washington, D.C., postponed to February 7, 1972, at Dallas, Tex., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16951 Filed 11-18-71;8:52 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 16, 1971.

Protests to the granting of an application must be prepared in accordance with § 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG- AND SHORT-HAUL

FSA No. 42307—*Champagne, vermouth, and wine, also boxes or cartons to points taking Groups A, A-1, K, and K-2 bases of rates.* Filed by Trans-Continental Freight Bureau, agent (No. 470), for interested rail carriers. Rates on champagne, vermouth, and wine, in glass and other containers, in straight or mixed carloads; also mixed carloads of empty boxes or cartons, as described in the application, from points taking Rate Basis 1 (Northcoast) or Rate Basis 4 (Southcoast) rates, as described in TCFB Tariff 5-B, ICC 1674, to points taking Groups A, A-1, K, and K-2 bases of rates, as described in TCFB Tariff 5-B, ICC 1674.

Grounds for relief—Water competition.

Tariff—Supplement 73 to Trans-Continental Freight Bureau, agent, tariff ICC 1822. Rates are published to become effective on December 17, 1971.

FSA No. 42308—*Beet or cane sugar to points in Illinois and Minnesota.* Filed by Western Trunk Line Committee, agent (No. A-2651), for interested rail carriers. Rates on sugar, beet, or cane, dry, in bulk, in carloads, as described in the application, from points in Montana, transcontinental and western trunkline territories, to Northbrook, Ill., McKee Spur, and St. Paul, Minn.

Grounds for relief—Market competition and return movement of commodities.

Tariffs—Supplement 119 to Western Trunk Line Committee, agent, tariff ICC A-4481, and three other schedules named in the application. Rates are published to become effective on December 17, 1971.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16952 Filed 11-18-71;8:52 am]

[Notice 784]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 16, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73129. By order of November 12, 1971, the Motor Carrier Board approved the transfer to Frank A. Mishak, Clear Lake, Iowa, of Certificate No. MC-27500, issued October 11, 1960, to Milton G. Stites, Britt, Iowa, authorizing the transportation of: Livestock, tankage, feed, seeds, grain, flour, salt, oil, building materials, fencing materials, agricultural implements and parts, heavy machinery, hardware, farm machinery, fertilizer, binder twine, wire and wire products, corrugated roofing, and coal, from, to, or between specified points in Iowa, South Dakota, Minnesota, and Illinois. Dual operations authorized Larry D. Knox, 900 Hubbell Building, Des Moines, Iowa 50309, attorney for applicants.

No. MC-FC-73194. By order of November 15, 1971, the Motor Carrier Board approved the transfer to Lawson Truck Line, Inc., Stanberry, Mo., of Certificate No. MC-54291, issued December 8, 1969, to Lawson Equipment, Inc., Stanberry, Mo., authorizing the transportation of general commodities, with the usual exceptions, between St. Joseph, Mo., and Stanberry, Mo., and livestock from Stanberry, Mo., to Kansas City, Kans., serving the intermediate and off-route points of Kansas City, Mo., and those within 10 miles of Stanberry. Earl H. Scudder, Jr., Post Office Box 82028, Lincoln, NE 68501, attorney for applicants.

No. MC-FC-73268. By order of November 12, 1971, the Motor Carrier Board approved the transfer to Statewide Cartage Co., a corporation, Cleveland, Ohio, of that portion of the operating rights in certificate No. MC-106914 issued December 9, 1969, to American Cartage Co., a corporation, Cleveland, Ohio, authorizing the transportation of general comodities, with usual exceptions, between Cleveland, Ohio, on the one hand, and, on the other, points in Pennsylvania on and north of U.S. Highway 322 from the Ohio-Pennsylvania State line to Franklin, and on and west of U.S. Highway 62 from Franklin to the Pennsylvania-New York State line. Richard H. Brandon, 79 East State Street, Columbus, OH 43215, and Charles W. Vance, 1808 Superior Building, Cleveland, Ohio 44114, attorneys for applicants.

No. MC-FC-73280. By order of November 12, 1971, the Motor Carrier Board approved the transfer to Tipton Moving, Inc., Belmont, Mass., of the operating rights in certificate No. MC-25260 issued March 30, 1949, to William W. Diehl, Wellesley Hills, Mass., authorizing the transportation of household goods, as defined by the Commission, between points and places in Middlesex, Norfolk, Suffolk, and Worcester Counties, Mass., on the one hand, and, on the other, points and places in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont. Joseph A. Kline, 31 Milk Street, Boston, MA 02109, and Frank J. Weiner, 6 Beacon Street, Boston, MA 02108, attorneys for applicants.

No. MC-FC-73281. By order of November 12, 1971, the Motor Carrier Board approved the transfer to Ni-Mac, Inc., Lyndhurst, N.J., of the operating rights in certificates Nos. MC-34989 and MC-34989 (Sub-No. 1) issued June 13, 1941, and May 24, 1961, respectively, to George B. Todd, Kearny, N.J., authorizing the transportation of building material and building construction supplies and scrap metal, between Harrison, N.J., on the one hand, and, on the other, Philadelphia, Pa., New York, N.Y., and points in New Jersey; and metal, between Newark, N.J., on the one hand, and, on the other, Philadelphia and Eddystone, Pa., and Bridgeport, New Haven, Meriden, Milford, and Springdale, Conn. Charles J. Williams, 47 Lincoln Park, Newark, NJ 07102, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16953 Filed 11-18-71;8:52 am]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Area Wage Determination Decisions and Modifications; New Determinations

There are set forth below general Area Wage Determination Decisions Nos. AM-6197, AM-6198, AM-6242, AM-6243, AM-6248, AM-6249, AM-6250, AM-6251, AM-7703, AM-7704, AM-7705, AM-7706, AM-7713, AM-7714, AM-7715, AM-7716, AM-7717, and AM-7718 of the Secretary of Labor. These decisions specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein. The decisions are applicable to Federal and federally assisted construction in described localities situated within the States of California, Kansas, Minnesota, Nevada, and Texas.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of the Code of Federal Regulations, Procedure for Predetermination of Wage Rates, and of Secretary of Labor's Orders 12-71 and 15-71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal or federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 533, and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determinations frequently and in large volume causes such procedures to be impractical and contrary to the public interest.

These wage determinations are effective for a period of 120 days from the date of publication in the FEDERAL REGISTER and are to be used in accordance with the provisions of 29 CFR, Part 5. Accordingly, the applicable determination together with any modification issued subsequent to this date during this 120-day period, shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

The area wage determination decisions for localities within the above States are set forth below:

MODIFICATION TO AREA WAGE DETERMINATION DECISIONS

Modification to Area Wage Determination Decisions for Specified Localities in Alabama, Georgia, Illinois, Maryland, Michigan, Missouri, Ohio, Tennessee, Virginia, and Wisconsin, and Washington, D.C.

Area wage determination decisions published in the FEDERAL REGISTER on the following dates:

Decision No.	*Date*
AM-336	Aug. 13, 1971
AM-373, AM-376, AM-378, AM-380, AM-381, AM-384, AM-385, AM-387, AM-388, AM-410, AM-411, AM-416, AM-423, AM-424, AM-425, AM-426, AM-427, AM-428, AM-429, AM-430, AM-431, AM-432, AM-434, AM-435, AM-437, AM-438, AM-439, AM-440, AM-441.	Aug. 18, 1971
AM-443, AM-469, AM-470, AM-499, AM-500, AM-502, AM-1842, AM-1843, AM-1945.	Aug. 20, 1971
AM-3616	Aug. 25, 1971

are hereby modified as set forth below.

These modifications are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since these determinations were issued.

The determinations of prevailing rates and fringe benefits made in these modifications have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended 46 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following the Secretary of Labor's Order No. 24-70) containing provisions for payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of the Code of Federal Regulations, Procedure for Predetermination of Wage Rates, and of Secretary of Labor's Orders 13-71 and 15-71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in the foregoing area wage determination decisions, as hereby modified, shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and Federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

The modifications are effective from their date of publication in the FEDERAL REGISTER until the end of the period for which the determinations being modified were issued and are to be used in accordance with the provisions of 29 CFR Part 5. The modifications to the area wage determination decisions listed above are set forth below.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. Section 553 is set forth in the document being modified.

Signed at Washington, D.C. this 12th day of November 1971.

HORACE E. MENASCO,
Administrator, Employment Standards Administration.

U.S. DEPARTMENT OF LABOR

State: California; Counties: Alameda and San Mateo; Decision No. AM-6,242; date of decision, November 19, 1971.
Description of work: Residential construction consisting of single family homes and garden-type apartments up to and including four stories.

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
Alameda County						
1-CAL-ALA-1-2-3-r:						
Asbestos workers	$8.62	$0.60	$0.40	$0.90	$0.04	
Boilermakers	7.20	.30	.70	.45	.02	
Boilermakers' helpers	6.90	.30	.70	.45	.02	
Bricklayers; Blocklayers; stonemason; tuck pointers	8.37	.40	.36	.40		
Brick, stonemasons, tuck pointers' tenders	8.50	.50	.50		.10	
Carpenters:	7.50	.60	.50	.50e	.02	
Carpenters						
Hardwood floor layers; power saw operators; saw filers; shinglers; steel scaffold erectors and/or steel shoring erectors	7.65	.60	.50	.50e	.02	
Millwrights	7.90	.60	.50	.50e	.02	
Piledrivermen; bridge, wharf, and dock builders	7.63	.60	.50	.50e	.02	
Cementmasons:	5.94	.36	.75	.75		
Cementmasons	6.19	.36	.75	.75		
Mastic; magnesite; all composition masons	6.19	.36	.75	.75		
Men working from swinging or slip form scaffolds	7.25	.45	.50	.50	.04	
Drywall installers	9.10	.25	4%			
Electricians:	10.24	.25	4%			
Electricians						
Cable splicers						
Electricians (tunnel):	9.10	.25	4%			
Electricians	10.24	.25	4%			
Cable splicers	8.15	.185	$0.20	2%+a		
Elevator constructors	70%J R	.185	.20	2%+a		
Elevator constructors' helpers	50%J R					
Elevator constructors' helpers (prob.)	$8.225	.25	.25	6%	.01	
Glaziers						
Ironworkers:	7.98	.43	.425	$0.50	.02	
Reinforcing	7.80	.43	.425	.50	.02	
Fence erectors	8.03	.43	.425	.50	.02	
Ornamental; structural	7.84	.34	.385		.025	
Lathers	6.825	.25	4%			
Line construction:	8.10	.25	4%			
Groundmen	9.10	.25	4%			
Line equipment men	10.24	.25	4%			
Linemen	7.59	.09	$0.51	.53		
Cable splicers						
Marble setters	6.57	.39	.40	.80		
Painters:	6.82	.39	.40	.80		
Brush	7.07	.39	.40	.80		
Spray	6.37	.35	.20	d		
Tapers	8.24	.575	.45		.01	
Parking lot striping work and/or highway markers	7.22	.50	.60		.10	
Plasterers	9.54	.55	1.00	$0.01	.075	
Plasterers tenders	7.30	.43	.50		.01	
Plumbers	8.30	.43	.50		.01	
Roofers:	7.55	.43	.50		.01	
Journeymen roofers	7.25	.39	.805	10%b	.015	
Journeymen roofers bitumastic, enamelers, pipewrapper, and coal tar, built-up	7.10	.36	.30	c+.28f	.06	
Mastic workers; kettlemen (2 kettles without pump)	8.115	.11	.20		.02	
Sheet metal workers	9.415	.30	.65		.005	
Soft floor layers	6.94	.43	.58			
Sprinkler fitters	7.56	.49	.60		.015	
Steamfitters						
Terrazzo workers						
Tile setters						

Welders: Receive rate prescribed for craft performing operation to which welding is incidental.

Paid holidays:
A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.

Footnotes:

a. Employer contributes 4 percent of basic hourly rate for over 5 years service and 2 percent of basic hourly rate for 6 months to 5 years as vacation pay credit. Six paid holidays: A through F.
b. Four paid holidays: C, D, E, and Washington's Birthday.
c. First year of employment, employer contributes $0.14 per hour to vacation; second through fifth year, $0.30 per hour; sixth year and thereafter, $0.46 per hour.
d. Employer contributes $0.17 per hour to holiday fund plus $0.10 per hour to vacation in first years service; $0.20 per hour after 1-year's service but less than 5 years' service; $0.30 per hour after 5 years' service but less than 10 years service, and $0.40 per hour after 10 years' service.
e. Employer contributes $0.35 per hour to holiday fund; $0.15 per hour to vacation fund
f. Employer contributes $0.28 per hour to holiday fund.

San Mateo County						
41-CAL-SMA-1-2-3-p:						
Asbestos workers	8.62	.60	.40	.90	.04	
Boilermakers	7.20	.30	.70	.45	.02	
Boilermakers' helpers	6.90	.30	.70	.45	.02	
Bricklayers; stonemasons	8.20	.78	.88	.55		
Bricklayers' hod carriers	7.05	.25	.40	.60		
Carpenters:	7.50	.60	.50	.50f	.02	
Carpenters						
Hardwood floor layers; power saw operators; saw filers; shinglers; steel scaffold erectors and/or steel shoring erectors	7.65	.60	.50	.50f	.02	
Millwrights	7.90	.60	.50	.50f	.02	
Piledrivermen; bridge, wharf, and dock builders	7.63	.60	.50	.50f	.02	
Cementmasons:	5.94	.36	.75	.75		
Cementmasons	6.19	.36	.75	.75		
Mastic; magnesite; all composition masons	6.19	.36	.75	.75		
Men working from swinging or slip form scaffold	7.25	.45	.50	.50	.04	
Drywall installers						
Electricians:	8.88	.43	1%+.15		.03	
Electricians	8.22	.27	1%+.15		.01	
Cable splicers						
Electricians (tunnel):	7.31	.27	1%+.15		.01	
Electricians	8.22	.27	1%+.15		.01	
Cable splicers	8.15	.185	$0.20	2%+a		
Elevator constructors	70%J R	.185	.20	2%+a		
Elevator constructors' helpers	50%J R					
Elevator constructors' helpers (prob.)	$8.225	.25	.25	6%	.01	
Glaziers						

U.S. DEPARTMENT OF LABOR—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
41–CAL—SMA–1–2–3–p—Continued						
Ironworkers:						
Reinforcing	7.96	.43	.425	$0.50	.02	
Fence erectors	7.89	.43	.425	.50	.02	
Ornamental; structural	8.03	.43	.425	.50	.02	
Line construction:						
Line equipment men	6.58	.27	1%+.15		.01	
Linemen	7.31	.27	1%+.15		.01	
Cable splicers	8.22	.27	1%+.15		.01	
Marble setters	7.59	.69	$0.51	.53		
Painters:						
Brush	7.37	.39	.40			
Spray, on erected steel bridges and tanks	7.62	.39	.40			
Parking lot striping work and/or highway markers	6.37	.35	.20	d		
Plasterers	6.75	.33	.40	1.17		
Plasterers' tenders	7.00	.25	.40	.95		
Plumbers; steamfitters	9.075	.485	.50		.075	
Roofers:						
Roofers; slate; tile composition and built-up	7.26	.35	.60		.01	
Mastic workers and kettlemen (2 kettles without pumps)	7.51	.35	.60		.01	
Bitumastic; enamelers; pipewrappers; coal tar	8.26	.35	.60		.01	
Extra men helpers	70%J R					
Sheet metal workers	$8.35	.38	.62		2%	
Soft floor layers (linoleum)	7.10	.41	.30	b+.28c	$0.04	
Sprinkler fitters	8.115	.11	.20		.02	
Terrazzo workers	6.94	.43	.58			
Tile setters	7.56	.49	.60		.015	
Riggers-welders: Receive rate prescribed for craft performing operation to which rigging or welding is incidental.						

Paid holidays:
A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.

Footnotes:
a. Employer contributes 4 percent of basic hourly rate for 5 years' service and 2 percent of basic hourly rate for 6 months to 5 years' service as vacation pay credit. Six paid holidays: A through F.
b. First year of employment, employer contributes $0.14 per hour to vacation fund; Second through fifth year, $0.295 per hour; sixth year and thereafter, $0.46 per hour.
c. Employer contributes $0.28 per hour to holiday fund.
d. Employer contributes $0.17 per hour to holiday fund plus $0.10 per hour to vacation in first year's service, $0.20 per hour after 1 year's service but less than 5 years' service, $0.30 per hour after 5 years' service but less than 10 years' service, and $0.40 per hour after 10 years' service.
e. Employer contributes $0.35 per hour to holiday fund and $0.15 per hour to vacation fund.
f. Employer contributes $0.35 per hour to holiday fund and $0.15 per hour to vacation fund.

1–CAL—NCAL–LAB–1–2–3–t:						
Laborers:						
Bridge; brush loaders and piler; cleanup; dumpman; general; landscape; limbers toolroom attendant	5.185	.50	.80	.60	.04	
Asphalt shovelers; cement dumper; chipper; choker setter and rigger; chucktender; concrete; guinea chaser; high-pressure nozzleman-hydraulic monitor; nipper; pneumatic-gas-electric tool operator (not otherwise classified); sloper; loading, unloading, handling materials for reinforcing concrete construction	5.285	.50	.80	.60	.04	
Aligners; asphalt ironers and rakers; backer; buggymobile; chainsaw; compactors; concrete saw and panwork; cribber and/or shoring; curb setter; form raiser; faller; headerboard man; post hole digger (air-gas-electric); jackhammer; kettleman; log loader; magnesite and mastic workers; pavement breaker pipelayer; pipewrapper; power broom sweeper; riprap stone-paver and rockslinger; rotary scarifier; rototiller; sandblaster; barko, wackers and similar type tampers; tank cleaners; tree climber; vibrator; vibra-screed bull float	5.435	.50	.80	.60	.04	
Burning and welding	5.485	.50	.80	.60	.04	
Pipelayers; caulkers; banders (Contra-Costa County only)	5.635	.50	.80	.60	.04	
Blasters; drills (Diamond-Wagon); high scaler; powderman; tree topper	5.66	.50	.80	.60	.04	
Laborers on general construction work on or in bell hole footings, and shaft	5.985	.50	.80	.60	.04	
Gunite laborers:						
Nozzleman; rodman; gunman; groundman	5.895	.50	.80	.60	.04	
Reboundman	5.305	.50	.80	.60	.04	
1–CAL—NCAL–PEO–1–2–3–e:						
Power equipment operators:						
Operator of helicopter (when used in erection work); remote controlled earthmoving equipment	8.80	.475	.65	.50	.14	
Loader (over 18 cu. yds.)	8.60	.475	.65	.50	.14	
Loader (over 12 cu. yds. up to and including 18 cu. yds.); rubber-tired multi-purpose earthmoving machines (2 units) (over 75 cu. yds. "struck" m.r.c.); power shovels and draglines (over 7 cu. yds. m.r.c.); band wagons (in conjunction with wheel excavator); (over 750 cu. yds. per hour)	8.41	.475	.65	.50	.14	
Automatic concrete slip form paver; automatic railroad car dumper; canal finger drain in backfiller; canal trimmer; rubber-tired earthmoving machines (multiple propulsion power units and 2 or more scrapers) up to and incl. 75 cu. yds. "struck" m.r.c.); highline cableway (over 5 tons); loader (over 4 yds., up to and including 12 cu. yds.); power shovels, clamshells, draglines, backhoes, gradalls (over 1 yd. up to and including 7 cu. yds. m.r.c.); self-propelled compactor (with multiple propulsion power units); slip form paver (concrete or asphalt); tandem cats; trencher (pulling attached shield); tower cranes mobile; single engine rubber-tired earthmoving machine (with tandem scrapers); cranes (over 25 tons); Universal Liebher and tower cranes (and similar types); wheel excavator (up to and including 750 cu. yds. per hour); Whirley crane (over 25 tons)	7.65	.475	.65	.50	.14	
Cranes (not over 25 tons, hammerhead and gantry); power shovels, clamshells, draglines, backhoes, gradalls (up to and including 1 cu. yd. m.r.c.); power blade	7.54	.475	.65	.50	.14	
Boom-type backfilling machine; bridge crane; cary-lift (or similar); chemicals grouting machine; chief of party; combination backhoe and loader (up to and including ¾ cu yd.); derricks (2 operators required when swing engine remote from hoist); derrick barges (except excavation work); Do-more loader and Adams elegrader; elevating grader operator; Euclid loader and similar types; rubber-tired scraper, selfloading (paddle wheels, etc.); heavy-duty rotary drills rigs (including caisson foundation work and Robbins-type drills); Koehring skooper (or similar); lift slab machine (Vagtborg and similar types); loader (2 yds. up to and including 4 yds.); locomotive (over 100 tons) (single or multiple units); multiple engine earthmoving machine (Euclids, dozers, etc.) (no tandem scraper); Prestress wire wrapping machine; shuttle car (reclaim station); soil stabilizer (P & H or equal); subgrader (gurries or other automatic type); track laying type-earth moving machine (single engine with tandem scrapers); tractor, compressor drill comb; train loading station; vacuum cooling plant; single engine scraper over 45 yds.; Whirley crane (up to and including 25 tons)	7.46	.475	.65	.50	.14	

U.S. DEPARTMENT OF LABOR—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
1–CAL—NCAL–PEO–1–2–3–e—Continued						
Power equipment operators—Continued						
Canal finger drain digger; Chicago boom; combination mixer and compressor (gunite); combination slurry mixer and/or cleaner; highline cableway (5 tons and under); Lull hi-lift or similar (20 ft. or over); mucking machine; tractor (with boom) (D–6 or larger and similar)	7.32	.475	.65	.50	.14	
Armor-coater (or similar); asphalt plant engineer; cast-in-place pipe laying machine; combination slusher and motor operator; concrete batch plant (multiple units); dozer; heavy-duty repairman and/or welders; Ken seal machine (or similar); Koiman loader; loader (up to 2 yds.); mechanical shield operator (or similar); mechanical trench shield; portable crushing and screening plants; push cat; rubber-tired earthmoving equipment (up to and including 45 cu. yds.) "struck" m.r.c., Euclids, T-pulls, DW–10, 20, 21 and similar; tractor drawn scraper; self-propelled compactor with dozer; sheepfoot; tractor; trenching machine; tribatch paver; tunnel mole-boring machine operator; welder; woodsimixer (and other similar pugmill equipment)	7.16	.475	.65	.50	.14	
Concrete conveyor or concrete pump, truck or equipment mounted (boom length to apply); concrete conveyer, building site; deck engineers; dual drum mixer; Fuller-Kenyon pump and similar types; instrument man; material hoist (2 or more drums); mechanical finishers or spreader machine (asphalt, Barber-Greene and similar; mine or shaft hoist; mixer-mobile; pavement breaker with or without compressor combinations; pavement breaker, truck mounted with compressor combination; pipe-bending machine (pipe lines only); pipe cleaning machine (tractor propelled and supported); pipe wrapping machine (tractor propelled and supported; refrigeration plant; self-propelled boom-type lifting device; self-propelled elevating grade plane; slusher operator; small tractor (with boom); soil tester; truck-type loader	6.88	.475	.65	.50	.14	
BLH LIMA road pactor or similar; boom truck or dual purpose A-frame truck; concrete batch plants (wet or dry); concrete saws (self-propelled unit) on streets, highways, airports, and canals; drilling and boring machinery, vertical and horizontal (not to apply to waterliners, wagon drills, or jackhammers); gradesetter, grade checker (mechanical or otherwise); highline cableway signalman; locomotives (steam or over 30 tons) Magimnis internal full-slab vibrator (on airports, highways, canals, and warehouses); mechanical finishers (concrete) (Clary, Johnson, Bidwell Bridge Deck, or similar types); mechanical brum, curb and/or curb and gutter machine, concrete or asphalt; portable crushers; power jumbo operator (setting slip forms, etc. in tunnels); roller; screedman (Barber-Greene and similar) (asphaltic concrete paving); self-propelled compactor (single engine); self-propelled pipeline wrapping machine (Perault, CRC, or similar types); slip form pumps (power-driven hydraulic lifting devices for concrete forms); small rubber-tired tractors; surface heater	6.78	.475	.65	.50	.14	
Compressor operator (2 to 7) (electric, diesel, or gas powered); concrete mixers (over 1 yd.); concrete pumps or pumperete guns; generators, gasoline, diesel, or electric drive (100 k.w.); press-weld (air-operated); pumps (2 to 7); welding machines (gasoline or diesel) (2 to 7)	6.68	.475	.65	.50	.14	
Ballast jack tamper; ballast regulator; ballast tamper multipurpose; boxman (asphalt plant); forklift or lumber stacker (construction job site); line master; lubrication, and service engineer (mobile and grease rack); material hoist (1 drum); shuttlecar; tie spacer; towermobile	6.53	.475	.65	.50	.14	
Box operator (bunker); locomotive; motorman, oiler; rodman, or chainman; Ross carrier (construction job site); rotomist operator; screedman (except asphaltic concrete paving); self-propelled, automatically applied concrete curing machine (on streets, highways, airports, and canals); trenching machine (maximum digging capacity 3 ft. depth); tugger hoist, single drum	6.13	.475	.65	.50	.14	
Compressor operator, electrically, diesel or gas powered, etc.; concrete mixer (up to and including 1 yd.); conveyor-belt operator (tunnel); fireman hot plant; hydraulic monitor; mechanical conveyor (handling building materials); mixer box operator (concrete plant); pump operator; spreader boxman (with screeds); tar pot fireman (power agitated)	5.99	.475	.65	.50	.14	
Assistants to engineers (brakeman; fireman; heavy-duty repairman helper; oiler; deckhand; signalman; switchman; tar-pot fireman); partsman (heavy-duty repair shop parts room)	5.75	.475	.65	.50	.14	
1–CAL—NCAL–TD–1–2–3–f:						
Truckdrivers:						
Bulk cement spreader (w/wo auger, over 80 yds. and including 95 yds. water level); dump (over 80 yds. and including 95 yds. water level); dumperete truck (over 80 yds. and including 95 yds water level); dumpster (over 80 yds. and including 95 yds. water level); skid truck (debris box over 80 yds. and including 95 yds. water level); trucks (dry prebatch concrete mix, over 80 yds. and including 95 yds. water level)	7.01	.565	.40	.65		
Bulk cement spreader (w/wo auger, over 65 yds. and including 80 yds. water level); dump (65 yds. and including 80 yds. water level); dumperete truck (65 yds. and including 80 yds. water level); dumpster (65 yds. and including 80 yds. water level); skid truck (debris box, 65 yds. and including 80 yds. water level); trucks (dry prebatch concrete mix, 65 yds. and including 80 yds. water level)	6.86	.565	.40	.65		
Bulk cement spreader (w/wo auger, over 50 yds. and under 65 yds. water level); dump (over 50 yds. and under 65 yds. water level); dumperete truck (over 50 yds. and under 65 yds. water level); dumpster (over 50 yds. and under 65 yds. water level); helicopter pilot (when transportating men or materials); skid truck (debris box, over 50 yds. and under 65 yds. water level); Trucks (dry prebatch concrete mix, over 50 yds. and under 65 yds. water level)	6.71	.565	.40	.65		
Bulk cement spreader (w/wo auger, over 35 yds. and including 50 yds. water level); dump (over 35 yds. and including 50 yds. water level); dumperete truck (over 35 yds. and including 50 yds. water level); dumpster (over 35 yds. and including 50 yds. water level); skid truck (debris box, over 35 yds. and including 50 yds. water level); trucks (dry prebatch concrete mix, over 35 yds. and including 50 yds. water level)	6.56	.565	.40	.65		
Bulk cement spreader (w/wo auger, over 24 yds. and including 35 yds. water level); dump (over 24 yds. and including 35 yds. water level); dumperete truck (over 24 yds. and including 35 yds. water level); dumpster (over 24 yds. and including 35 yds. water level); DW 10's, 20's, 21's, and other similar cat type, Terra Cobra, LeTourneau Pulls, Tournrocker, Euclid and similar type equipment when pulling Aqua/Pak, water tank trailers and fuel and/or grease tank trailers, or other miscellaneous trailers; skid truck (debris box, over 24 yds. and including 35 yds. water level); trucks (dry prebatch concrete mix, over 24 yds. and including 35 yds. water level)	6.41	.565	.40	.65		
Bulk cement spreader (w/wo auger, over 18 yds. and including 24 yds. water level); combination dump truck and dump trailer; dump (over 18 yds. and including 24 yds. water level); dumpcrete truck (over 18 yds. and including 24 yds. water level); dumpster (over 18 yds. and including 24 yds. water level); skid truck (debris box, over 18 yds. and including 24 yds. water level); transit mix, agitator (over 14 yds. through 16 yds.); trucks (dry prebatch concrete mix, over 18 yds. and including 24 yds. water level)	6.355	.565	.40	.65		
Truck repairman	6.345	.565	.40	.65		
P.B. or similar type self-loading truck	6.31	.565	.40	.65		
Bulk cement spreader (w/wo auger, over 12 yds. and including 18 yds. water level); dump (over 12 yds. and including 18 yds. water level); dumpcrete truck (over 12 yds. and including 18 yds. water level); dumpster (over 12 yds. and including 18 yds. water level); skid truck (debris box, over 12 yds. and including 18 yds. water level); trucks (dry prebatch concrete mix, over 12 yds. and including 18 yds. water level)	6.25	.565	.40	.65		
Transit mix, agitator (over 12 yds. through 14 yds.)	6.225	.565	.40	.65		
Bulk cement spreader (w/wo augers, 8 yds. and including 12 yds. water level); dump (8 yds. and including 12 yds. water level); dumperete (8 yds. and including 12 yds. water level); dumpster (8 yds. and including 12 yds. water level) self-propelled street sweeper with self-contained refuse bin; skid truck (debris box, 8 yds. and including 12 yds. water level); snow go and/or snowplow; trucks (dry prebatch concrete mix, 8 yds. and including 12 yds. water level)	6.21	.565	.40	.65		
Transmit mix, agitator (over 10 yds. through 12 yds.)	6.125	.565	.40	.65		

U.S. DEPARTMENT OF LABOR—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
1-CAL—NCAL-TD-1-2-3-f—Continued						
Truckdrivers—Continued						
Heavy-duty transport (gooseneck low bed)	6.22	.565	.40	.65		
Jetting truck and water truck (5,000 and under 7,000 gals.)	6.085	.565	.40	.65		
Vacuum truck (5,000 gals. and under 7,500 gals.)	6.035	.565	.40	.65		
Transit mix, agitator (8 yds. through 10 yds.)	6.025	.565	.40	.65		
Ross hyster, similar straddle carrier	6.015	.565	.40	.65		
Heavy-duty transport (high bed)	5.99	.565	.40	.65		
"A"-frame drivers, winch truck; buggymobile; hydrolift, Swedish crane type (including when Swedish crane is used for jetting); jetting truck and water truck (4,000 and under 5,000 gals.); rubber-tired truck jumbo	5.985	.565	.40	.65		
Bulk cement spreader (w/wo augers, 6 yds. and under 8 yds. water level); dump (6 yds. and under 8 yds. water level); dumperete truck (6 yds. and under 8 yds. water level); dumpster (6 yds. and under 8 yds. water level); skid truck (debris box, 6 yds. and under 8 yds. water level); trucks (dry prebatch concrete mix, 6 yds. and under 8 yds. water level)	5.97	.565	.40	.65		
Rubber-tired muck car, (not self-loaded)	5.945	.565	.40	.65		
Vacuum truck (3,500 gals. and under 5,500 gals.)	5.935	.565	.40	.65		
Combination winch truck with hoist-transit mix, agitator (6 yds. and under 8 yds.)	5.925	.565	.40	.65		
Jetting truck and water truck (2,500 gals. and under 4,000 gals.)	5.885	.565	.40	.65		
Scissor truck; single-unit flat rack (3-axle unit, industrial lift truck, mechanical tailgate); small rubber-tired tractor (when used within teamsters jurisdiction)	5.87	.565	.40	.65		
Vacuum truck (under 3,500 gals.)	5.855	.565	.40	.65		
Truck repairman helper	5.845	.565	.40	.65		
Transit mix, agitator (under 6 yds.)	5.825	.565	.40	.65		
Lift jitneys, fork lift	5.805	.565	.40	.65		
Jetting truck and water truck (under 2,500 gals.)	5.785	.565	.40	.65		
Bulk cement spreader (w/wo auger, 4 yds., and under 6 yds. water level); dump (4 yds. and under 6 yds., water level); dumperete truck (4 yds. and under 6 yds. water level); dumpster (4 yds. and under 6 yds. water level); skid truck (debris box, 4 yds. and under 6 yds. water level); single-unit flat rack (2-axle unit, industrial lift truck, mechanical tailgate, trucks (dry prebatch concrete mix, 4 yds. and under 6 yds. water level)	5.77	.565	.40	.65		
Bulk cement spreader (w/wo auger, under 4 yds. water level); bus or manhaul driver; concrete pump machine; concrete pump truck (when flat rack truck is used appropriate flat rack rate shall apply); dump (under 4 yds. water level); dumperete truck (under 4 yds. water level); dumpster (under 4 yds. water level); escort or pilot car driver; nipper truck (when flat rack truck is used appropriate flat rate shall apply); pickup trucks; skid trucks (debris box, under 4 yds. water level); team drivers; trucks (dry prebatch concrete mix, under 4 yds. water level); vacuum truck helpers; warehousemen	5.675	.565	.40	.65		

State: California; County: Orange; Decision No. AM-6,243, Date of decision: November 19, 1971.
Description of work: Residential construction consisting of single family homes and garden-type apartments up to and including four stories.

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
Orange County						
30-CAL—ORA-1-2-3-k:						
Asbestos workers	$9.77	$0.48	$0.35		$0.025	
Boilermakers	7.20	.30	.70	$0.45	.02	
Boilermakers' helpers	6.90	.30	.70	.45	.02	
Bricklayers; stonemasons	7.50	.40	.40		.05	
Brick tenders	5.85	.45	.85	.30		
Carpenters:						
Carpenters	6.33	.61	.75	.50	.01	
Saw filers	6.41	.61	.75	.50	.01	
Table power saw operator	6.43	.61	.75	.50	.01	
Shinglers	6.46	.61	.75	.50	.01	
Hardwood floor layers; millwrights	6.53	.61	.75	.50	.01	
Pneumatic nailer	6.58	.61	.75	.50	.01	
Piledrivermen:						
Rock slingers	6.44	.61	.75	.50	.01	
Bridge, dock carpenter; derrick bargemen	6.46	.61	.75	.50	.01	
Head rock slingers	6.56	.61	.75	.50	.01	
Cementmasons:						
Cementmasons	5.77	.80	.85	.60	.0225	
Cement floating and troweling machine operator	6.02	.80	.85	.60	.0225	
Drywall installers	7.25	.46	.55	.50	.04	
Electricians:						
Electricians	8.10	.25	1%+.45		.02	
Cable splicers	8.47	.25	1%+.45		.02	
Elevator constructors	7.58	.185	$0.20	2%+a		
Elevator constructors' helpers	70%JR	.185	.20	2%+a		
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	$7.03	.30	.30		.04	
Ironworkers:						
Reinforcing	7.98	.43	.425	$0.50	.02	
Fence erectors	7.89	.43	.425	.50	.02	
Ornamental; structural	8.03	.43	.425	.50	.02	
Irrigation and lawn sprinklers	6.50	10%	16%	13%	1%	
Lathers	6.08	$0.19	.35	$0.50	$0.02	
Line construction:						
Groundmen, 1st year	6.59	.25	1%+.45		25.00b	
Groundmen, 2d year	6.99	.25	1%+.45		25.00b	
Linemen	8.10	.25	1%+.45		25.00b	
Cable splicers	8.47	.25	1%+.45		25.00b	
Painters:						
Brush; paint burner	6.93	.39	$0.39	.60	.03	
Brush (swing stage); spray	7.18	.39	.39	.60	.03	
Spray swing stage; sandblaster; paperhangers; sheetrock taper	7.43	.39	.39	.60	.03	
Sandblaster swing stage	7.68	.39	.39	.60	.03	
Steeplejack work	8.33	.39	.39	.60	.03	
Parking lot striping work and/or highway markers	4.88	.20	.20	b		
Parking lot striping work and/or highway markers' helpers; sandblaster	4.38	.20	.20	b		
Plasters	7.495	.53	1.25	$0.50	.07	
Plasters' tenders	7.175	.45	1.30	.60		
Plumbers; steamfitters; leadburners	8.30	10%	16%	13%	1%	
Roofers	6.29	$0.33	$0.35		$0.02	
Sheet metal workers	6.27	.39	.41			

U.S. DEPARTMENT OF LABOR—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
30-CAL-ORA-1-2-3-k—Continued						
Soft floor layers	7.29	.29	.28	$0.39	.015	
Sprinkler fitters (except Santa Ana)	10.55	.25	.40		.05	
Sprinkler fitters (Santa Ana)	8.69	.29	.25	1.40	.02	
Terrazzo workers	6.42	.15		.15		
Terrazzo workers' helpers:						
Floor machine operators; helpers	5.88	.15		.45		
Tile setters	6.95	.145	.35		.02	
Tile setters' helpers	5.46	.145	.60		.08	
Riggers; welders: Receive rate prescribed for craft performing operation to which rigging or welding is incidental.						
2-CAL—SCAL-LAB-1-2-3-f:						
Laborers:						
Cleaning and handling of panel forms; concrete screeding for rough strikeoff; concrete, water curing; demolition laborer, the cleaning of brick and lumber; dry packing of concrete, plugging, filling of shee-bolt holes; fire watcher, limbers, brush loaders, pilers and debris handler; gas and oil pipeline; laborers, general or construction; laborer, temporary water and air lines; material hoseman (walls, slab, floors and decks); mixer-truck chute man (walls, slabs, decks, floors, foundations and footing-curb and gutter and sidewalks); rigging and signaling; slip form raisers; window cleaner	5.045	.45	.85	.30		
Cutting torch (demolition); scaler; tarman; mortarman	5.095	.45	.85	.30		
Guinea chaser	5.225	.45	.85	.30		
Asphalt shoveler; fine grader, highway and street paving, airports, runways, and similar type heavy construction; landscape gardener and nurseryman	5.145	.45	.85	.30		
Packing rod steel and pans; tanks scaler and cleaner	5.17	.45	.85	.30		
Underground (including caisson bellower)	5.175	.45	.85	.30		
Chucktender; septic tank digger and installer	5.195	.45	.85	.30		
Cesspool digger and installer	5.225	.45	.85	.30		
Concrete curer—impervious membrane and form oiler; Riprap stonepaver placing stone or sacked concrete; sandblaster (pot tender)	5.235	.45	.85	.30		
Pipelayers' backup man, coating, grouting, making of joints, sealing, caulking	5.335	.45	.85	.30		
Buggymobile man; cement dumper (on 1 yd. or larger mixer and handling bulk cement); gas and oil pipeline wrapper—pot tender; power broom sweepers (small); roto scraper and tiller; tree climber, faller, chain saw operator, Pittsburgh chipper and similar type brush shredders; trenching machine, hand propelled	5.255	.45	.85	.30		
Asphalt raker, inteman and troner; concrete core cutter, grinder or sander; concrete saw man, cutting, scoring old or new concrete; impact wrench, multiplate' pneumatic, gas, electric tools, vibrating machines and similar mechanical tools not separately classified herein; tampers, Barko wacker and similar type	5.355	.45	.85	.30		
Rock slinger	5.305	.45	.85	.30		
Driller, jackhammer—2½ drill steel or longer	5.435	.45	.85	.30		
Concrete vibrator operator, 70 lbs. and over	5.455	.45	.85	.30		
Pipelayer (nonmetallic including sewer, drain and underground tile); prefabricated manhole installer	5.455	.45	.85	.30		
Gas and oil pipeline wrapper, 6 inches and over; kettlemen, potmen and men applying asphalt lay-kold, creosote, lime caustic and similar type materials	5.385	.45	.85	.30		
Cribber, shorer, lagging, sheeting, and trench bracing, hand-guided lagging hammer	5.505	.45	.85	.30		
Blaster powderman	5.505	.45	.85	.30		
Steel headerboard man and guideline setter	5.47	.45	.85	.30		
Sandblaster (nozzleman)	5.495	.45	.85	.30		
Driller (core—diamond—wagon)	5.595	.45	.85	.30		
Head rock slinger	5.565	.45	.85	.30		
Gunite laborers: nozzlemen and rodmen	6.37	.45	.85	.30		
Gunmen	5.87	.45	.85	.30		
Reboundmen	5.11	.45	.85	.30		
Power equipment operators:						
Group I:						
Brakeman; compressor operator; deck hand; engineer oiler; generator operator; heavy duty repairman helper; pump operator; signalman; switchman	6.03	.45	.80	.30	.02	
Group II:						
Concrete mixer, skip type; conveyor; fireman; generator, pump or compressor (2–5 inclusive), portal units—over 5 units, .10 per hour for each additional unit up to 9 units; hydrostatic pump; oiler crusher (asphalt or concrete plant); plant operator, generator, pump or compressor; skiploader—wheel type up to ¾ yd. without attachment; tar pot fireman; temporary heating plant operator; trenching machine oiler; truck crane oiler	6.27	.45	.80	.30	.02	
Group III:						
A-frame or winch truck; chainman; elevator (inside); equipment greaser (rack); Ford Ferguson (with dragtype attachments); power concrete curing machine; power concrete saw; power-driven jumbo form setter; Ross carrier (jobsite); stationary pipe wrapping and cleaning machine	6.51	.45	.80	.30	.02	
Group IV:						
Asphalt plant fireman; boring machine; boxman or mixerman (asphalt or concrete); chip spreading machine; concrete pump (small portable); bridge type unloader and turntable; dinky locomotive or motorman (up to and including 10 tons); equipment greaser (grease truck); helicopter hoist operator; highline cableway signalman; hydra-hammer-areo stomper; power sweeper; roller (compacting); screed (asphalt or concrete); rodman; trenching machine (up to 6 ft.)	6.62	.45	.80	.30	.02	
Group V:						
Asphalt plant engineer; concrete batch plant operator (oiler or journeyman-trainee required); backhoe (up to and including ¾ yds.); bit sharpener; concrete joint machine operator (canal and similar type); concrete planer; derrickman (oilfield type); deck engine operator; drilling machine (including water wells); forklift (under 5 ton capacity); hydrographic seeder machine (straw, pulp or seed); machine tool; Maginnis internal full slab vibrator; mechanical berm, curb or gutter (concrete or asphalt); mechanical finisher operator (concrete Clary-Johnson-Bidwell or similar); pavement breaker (truck mounted, oiler); road oil mixing machine; roller operator (asphalt or finish); rubber tired earth moving equipment (single engine, up to and including 25 yds. struck); self-propelled tar pipelining machine operator; slip form pump (power driven hydraulic lifting device for concrete forms); tugger hoist (1 drum); tunnel locomotive operator (over 10 and up to and including 30 tons); stinger crane (Austin-Western or similar type); skiploader operator (crawler and wheel type over ¾ yd. and up to and including 1½ yds.); tractor operator—bulldozer, tamper scraper (single engine, up to 100 hp. flywheel and similar types, up to and including D-8 and similar types)	6.81	.45	.80	.30	.02	

U.S. DEPARTMENT OF LABOR—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
2-CAL—SCAL-LAB-1-2-3-f—Continued						
Power equipment operators—Continued						
Group VI:						
Asphalt or concrete spreader (tamping or finishing); asphalt paving machine (barber green or similar type-2 screedman required); BHL Lima Road Factor, Wagner Factor or similar; bridge crane operator; cast-in-place pipe-laying machine operator; combination mixer and compressor (gunite work); concrete pump (truck mounted) (oiler required); concrete mixer operator—paving; crane operator (up to and including 25 tons capacity); crushing plant operator; elevating grader forklift (over 5 tons); grade checker; Gradall operator; grouting machine; heading shield; heavy duty repairman; hoist operator (Chicago boom and similar type); Kolman belt loader and similar type; LeTourneau blob compactor or similar type; lift slab machine (Vagtburg and similar types); lift mobile operator; loader operator (Athey, Euclid, Sierra and similar type); material hoist; mucking machine (¼ yd.—rubber-tired, rail or track type); pneumatic concrete placing machine (Hackley-Presswell or similar type); pneumatic heading shield (tunnel); pumpcrete gun; rotary drill (excluding Caisson type); rubber-tired earth moving equipment (single-engine caterpillar, Euclid, Athey wagon, and similar types with any and all attachments over 25 yds. and up to and including 50 cu. yds. struck); rubber-tired scraper (self-loading—paddle-wheel type); skiploader (crawler and wheel type—over 1½ yds., up to and including 6½ yds); surface heaters and planer; rubber-tired earth moving equipment, multiple-engine (up to and including 25 yds. struck); trenching machine (over 6 ft. depth capacity, manufacturer's rating); tower crane; tractor compressor drill combination; tractor (any type larger than 17-3—100 flywheel h.p. and over, or similar) (bulldozer, tamper, scraper, and push tractor, single-engine); tractor (boom attachments); traveling pipe wrapping, cleaning and bending machine; tunnel locomotive (over 30 ton); shovel, backhoe, dragline, clamshell (over ¾ yds. and up to 5 cu. yds.) M.R.C.	6.91	.45	.80	.30	.02	
Group VII:						
Crane—over 25 tons up to and including 100 tons; derrick barge; dual drum mixer; monorail locomotive (diesel, gas or electric); motor patrol—blade (single engine); multiple-engine tractor (Euclid and similar type, except Quad-9 Cat.); rubber-tired earth moving equipment, single-engine over fifty (50) yds. struck; rubber-tired earth moving equipment (multiple-engine, Euclid, caterpillar and similar) (over 25 yds. and up to 50 cu. yds. struck); tractor loader (crawler and wheel type over 6½ yds.); tower crane repairman; shovel, backhoe, dragline, clamshell (over 5 cu. yds., M.R.C.); Woods mixer and similar Pugmill equipment; heavy duty repairman—welder combination	7.01	.45	.80	.30	.02	
Group VIII:						
Auto grader operator; automatic slip form; crane—over 100 tons; hoist, stiff legs, guy derricks or similar types (capable of hoisting 100 tons or more); mass excavator; mechanical finishing machine; motor patrol (multiengine); pipe mobile machine; rubber-tired earth moving equipment (multiple-engine, Euclid, caterpillar and similar type over 50 cu. yds. struck); rubber-tired scraper (push-pull) (.50 per hour additional to base rate); tandem equipment operator (2 units only); tandem tractor operator (Quad-9 or similar type); tunnel mole boring machine operator	7.15	.45	.80	.30	.02	
Group IX:						
Canal liner; canal trimmer; helicopter pilot; highline cableway; rubber-tired self-loading scraper (paddle wheel—auger type self-loading—2 or more units); wheel excavator (over 750 cu. yds.); remote controlled earth moving equipment operator ($1 per hour additional)	7.25	.45	.80	.30	.02	
2-CAL—SCAL-TD-1-2-3-i:						
Truck drivers:						
Truck repairman (welder)	6.115	.65	.45	.55		
Dump (40 yds. or more water level, single unit or combination of vehicle.); DW 10 and DW 20 Euclid-type equipment, LeTourneau pulls, Terra Cobras and similar types of equipment; also FB and similar type truck when performing work within teamsters jurisdiction, regardless of types of attachments and when pulling aquapak and water tank trailer; truck repairman	6.015	.65	.45	.55		
Dump (25 yds., but less than 40 yds. water level)	5.89	.65	.45	.55		
A-frame or Swedish crane, or similar type equipment driver; forklift; Ross carrier (highway)	5.735	.65	.45	.55		
Dump (16 yds., but less than 25 yds. water level); legal payload capacity (20 tons or more); dumpsaler or dumptor truck; tranidi-mix (3 yds. or more); dumpcrete (6½ yds. water level and over)	5.43	.65	.45	.55		
Truck greaser and fireman	5.39	.65	.45	.55		
Water or tank-type truck driver (1,000 gallons and over)	5.35	.65	.45	.55		
Transit-mix truck (under 3 yds.); dumpcrete truck (less than 6½ yds. water level)	5.29	.65	.45	.55		
Truck repairman helper	5.285	.65	.45	.55		
Cement distributor truck; fuel truck; water or tank-type (2,500 gallons to 4,000 gallons)	5.23	.65	.45	.55		
Dump (12 yds. but less than 16 yds. water level); legal payload capacity (15 tons to 20 tons)	5.21	.65	.45	.55		
Dump (8 yds., but less than 12 yds. water level); legal payload capacity (10 tons to 15 tons)	5.13	.65	.45	.55		
Truck mounted power broom; warehouseman-clerk; water or tank-type (under 2,500 gallons)	5.11	.65	.45	.55		
Dump (4 yds., but less than 8 yds. water level); legal payload capacity (6 tons to 10 tons)	5.08	.65	.45	.55		
Dump (less than 4 yds. water level); traffic-control pilot car, excluding moving heavy equipment; legal payload capacity, (less than 6 tons)	5.05	.65	.45	.55		
Warehouseman and teamster	4.97	.65	.45	.55		

Paid holidays:
A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.

FOOTNOTES:
a. Employer contributes 4 percent basic hourly rate for over 5 years' service and 2 percent of basic hourly rate for 6 months to 5 years' service as vacation pay credit Six paid holidays: A through F.

b. Employer contributes $.17 per hour to holiday fund plus $.10 per hour to vacation for 1 year's service, $.20 per hour after 1 year but less than 5 years' service, $.30 per hour after 5 years but less than 10 years' service, $.40 per hour after 10 years' service

U.S. DEPARTMENT OF LABOR—Continued

State: Kansas; County: Shawnee; Decision No. AM-7,718, date of decision: November 19, 1971.
Description of work: Residential construction consisting of single-family homes and garden-type apartments up to and including 4 stories.

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
Kansas—1 M:						
Building construction:						
Asbestos workers	$8.00	$0.25	$0.30		$0.02	
Boilermakers	7.80	.30	.65		.02	
Boilermakers' helpers	7.55	.30	.65		.02	
Bricklayers	7.45	.275	.25			
Carpenters	6.55	.275	.25		.05	
Cementmasons:	6.70	.275	.25			
Cementmasons	6.825	.275	.25			
Machine operators	6.95	.275	.25			
Composition color or chloride additives						
Electricians:	7.30	.15	1%+.30		2/10%	
Electricians	8.03	.15	1%+.30		2/10%	
Cable splicers	8.49	.35	$0.20	5%+a	$0.01	
Glaziers	8.50	.25	.25	$0.25	.05	
Ironworkers:	8.50	.25	.25	.25	.05	
Ornamental and structural						
Reinforcing						
Laborers:	5.65	.275	.25			
General laborer	5.85	.275	.25			
Power tool operators, compactors, concrete breakers, chipping tools, drilling tools, concrete saws, mechanically operated georgia buggy	6.00	.275	.25			
Mason tenders, mortar mixers for masons and cement finishers, all stocking scaffold, clean up for masons (building and wrecking)	6.00	.275	.25			
Plaster tender	6.05	.275	.25			
Sand and concrete gun nozzleman and powderman	6.675		.20	.25		
Lathers	6.925	.275	.25		.05	
Millwrights	6.85	.275			.01	
Painters:	7.45	.275			.01	
Brush, drywall, taping, sanding	7.75	.275			.01	
Painting of structures over 50 feet (all types)	6.925	.275	.25		.05	
Spray	7.125				.01	
Piledriverman	8.45	.15	.20		.02	
Plasterers						
Plumbers	6.49	.18	.40			
Roofers:	7.34	.18	.40			
Flat, slate and tile	6.49	.18	.40			
Using pitch	7.05	.15	.57	.57	.01	
Dampproofers and waterproofers	6.875	.275	.20	7%	.03	
Sheet metal workers	8.00	.25	.40		.05	
Soft floor layers	8.45	.15	.20		.02	
Sprinkler fitters	7.45	.275	.25			
Steamfitters	6.30					
Stonemasons	4.50					
Tile setters						
Tile setters' helpers						
Truck drivers:	5.875	.275	.25			
Light, pickups, station wagons	5.975	.275	.25			
Medium, flat beds and dumps, 5 tons or less, warehousemen and partsmen	6.225	.275	.25			
Trucks over 5 tons and semitrailers						
Welders—receive rates prescribed for craft performing operation to which welding is incidental						
Kansas 2—PEO 1-K:						
Building construction—power equipment operators:						
Group I:						
Frankie-type pile-driving machine; tower cranes and derricks; boiler (2); boom cat, boring machine, ditching machine; concrete ready-mix plant; crane, truck crane, clamshell, dragline; dozer, scraper, all types, patrol; firemen (when operation steam or air valve); gradall; hi-loaders; hoist, 2 drum; locomotive; mechanic or welder; mixermobile; paver, or any other machine with power swing; piledriver operator; power shovel; pump, concrete or other material	7.70	.25	.25	$0.50	.05	
Group II:						
A-frame truck; Barber-Greene loader or similar type; boiler (1); ditching machine, small; elevator operator; firemen; forklift; greaser, equipment; hoist, 1 active drum; hydrahammer; jeep ditcher; mixer, other than paver; power broom; pump, 4" or larger; small machine engineer; welding machine (1)	7.30	.25	.25	.50	.05	
Group III:	6.50	.25	.25	.50	.05	
Farm tractor (without attachments); and oiler						
Group IV:	7.95	.25	.25	.50	.05	
Crane, truck crane, clamshell, dragline; piledriver operator and power shovel: 100 feet of boom or over (including jib); or 2 yd. capacity or over	8.20	.25	.25	.50	.05	
Booms 200 feet and over	6.75	.25	.25	.50	.05	
Motor crane oiler	6.75	.25	.25	.50	.05	
Farm tractor with attachments						
Hoist, each additional drum over 2—an additional .25						
Kansas 1—Lab 2-3-d:						
Site preparation and grading:						
Laborers:	4.10	.175	.25			
Board mat weavers and cable tiers; georgia buggies (manually operated); mixerman no-skip lift; nailers; salamander tenders; trackmen; tractor swamper; truck dumper; wire mesh setter; water pump up to 4 in.; all other common labor	4.25	.175	.25			
Air tool operator; cement handlers; bulk, chain saw; georgia buggies (mechanically operated); grademen; hot mastic kettleman; crusher feeder; jointman; juteman; mason tender; material batch hopper and scaleman; mixerman; pier-hole man working hole 10 or more feet deep; pipelayer, drainage (concrete and/or corrugated metal); signalman (crane); truck dumper, dry batch; vibrator operator; wagon and churn drill operator	4.35	.175	.25			
Asphalt raker; Barco tamper; concrete saw; creosote materials (handling and/or applying); nozzle burner (cutting torch)	4.80	.175	.25			
Conduit pipe, tile and duct line setter; form setter and liner on concrete paving; powderman; sandblasting and gunite nozzlemen; sanitary sewer pipe layer						
Kansas 1—PEO 2-1:						
Site preparation and grading:	5.75	.25	.25			
Power equipment operators—master mechanic						
Group I:						
Asphalt paver and spreader; backhoe; boring machine; clamshell; concrete mixer paver operator; concrete central plant operator (automatic); crane, truck crane, Pitman crane hydro crane or any machine with power swing; derrick or derrick trucks; dragline operator; dredge operator; ditching machine; Euclid loader; hoist—2 active drums; loader, all types; mechanic or welder; mixermobile; multiunit scraper; piledriver operator; power shovel operator; quad track; sideboom cat.—cherry picker; skimmer scoop operator	5.80	.25	.25			

U.S. DEPARTMENT OF LABOR—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
Kansas 1—PEO 2–1—Continued						
Site preparation and grading—Continued						
Group II:						
Asphalt plant operator; elevating grader operator; pushcat operator	5.25	.25	.25			
Blades, all types; dozer; scoop operator, all types	5.50	.25	.25			
Group III:						
A-frame truck; asphalt roller operator; asphalt plant boiler fireman; back filler operator; Barber-Greene loader; boiler—other than asphalt; bull float operator; churn drill operator; compressor operator (1); concrete central plant operator; concrete mixer operator skip; concrete pump operator; crusher operator; distributor operator; finish machine operator—concrete; fireman other than asphalt; flex plane operator; forklift; form grader operator; greaser; hoist—1 drum; jeep ditching machine; pavement breaker, self-propelled (of the hydrahammer or similar type); pump operator, 4" or over 2; pump operator, other than dredge; screening and wash plant operator; small machine operator; spreader box operator, self-propelled; tractor operator over 80 h.p.; self-propelled roller operator, other than asphalt; siphon and jets; subgrading machine operator; tank car heater operator, combination booster and boiler; towboat operator; vibrating machine operator, not hand	5.00	.25	.25			
Group IV:						
Concrete gang saw, self-propelled (con-cut); conveyor operator; harrow, disc seeder; oiler; tractor operator, 80 h.p. or less without attachments	4.65	.25	.25			
Group V:						
Oiler, motor crane	4.75	.25	.25			
Kansas—1–TD–2–J:						
Site preparation and grading:						
Truck drivers:						
Pickups, panel trucks, station wagons	3.72	.175	.25			
Flat beds, dump and batch trucks, single axle	3.87	.175	.25			
Tandem trucks	3.92	.175	.25			
Lowboys, semitrailers, all transit mixer trucks (single or tandem axle) A-frame and winch trucks when used as such	3.97	.175	.25			
Euclid, end and bottom dump, tournarockers, Atheys, dumptors and similar off-road equipment and mechanics on such equipment	4.00	.175	.25			
Warehousemen or partsmen, mechanic helper	3.97	.175	.25			
Servicemen	3.97	.175	.25			
Kansas Line Construction #1:						
Line construction:						
Lineman	6.40	.15	1%		½%	
Cable splicers	6.72	.15	1%		½%	
Groundman, over 1 year	4.04	.15	1%		½%	
Gronndman, 1st year	3.19	.15	1%		½%	
Powderman	5.35	.15	1%		½%	
Line truck and equipment operator:						
1st year	4.14	.15	1%		½%	
2d year	4.92	.15	1%		½%	
Over 2 years experience	5.35	.15	1%		½%	

Paid holidays:
A—New Years' Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day; G—Friday after Thanksgiving Day.

Footnote:
a. Paid holidays: A through G.

State: Minnesota; County: Carver-Hennepin; Decision No. AM-6,248; date of decision: November 19, 1971.

Description of work: Residential construction consisting of single-family homes and garden-type apartments up to and including four stories.

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Others
27—MINN—HEN–1–s						
Asbestos workers	$7.97	$0.30	$0.35		$0.02	
Boilermakers	7.80	.30	.85		.02	
Boilermakers' helpers	7.55	.30	.85		.02	
Bricklayers; stonemasons	7.61	.305	.23	$0.53	.02	
Carpenters:						
Carpenters; millwrights; piledrivermen	7.13	.40	.15	.50	.02	
When working with material treated with toxic carbolineum or toxic creosote	7.38	.40	.15	.50	.02	
Cementmasons	7.60	.30	.25			
Electricians; line construction:						
Electricians; linemen	8.00	4%	4%	7½%		
Equipment operators	8.00	4%	4%	7½%		
Groundmen	5.60	4%	4%	7½%		
Elevator constructors	7.23	$0.17	$0.185	2%+a		
Elevator constructors' helpers	70%JR	.17	.185	2%+a		
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	$7.70	.15	.10	$0.13		
Ironworkers:						
Ornamental; reinforcing; structural	7.55	.40	.45		.02	
Laborers:						
Carpenter tender; common laborers; earth dump men; power buggy operator; steel joist handlers (erection)	5.90	.35	.35	.40		
Reinforcing steel handlers	5.95	.35	.35	.40		
Concrete joint saw operator; laborer, demolition and wrecking (not including remodeling); men handling cement, 2 hours per day (bulk or sack, excluding mortar mixer)	6.00	.35	.35	.40		
Automatic tamper operator; chipping hammer operator; concrete vibrator operator; gunite machine operator; hot-tar caulkers and cookers; jackhammermen; laborers on swing stage single line scaffolds (not including "Patent" scaffolding); mixers of mortar, cement, or any other substitute material or composition; paving buster	6.05	.35	.35	.40		
Drivers on heavy building excav.; sheeting setters; underground work	6.15	.35	.35	.40		
Pipelayers	6.20	.35	.35	.40		
Caisson work; underpinning	6.25	.35	.35	.40		
Nozzlemen	6.30	.35	.35	.40		
Dynamite men; power drillers for blasting purposes	6.605	.35	.35	.40		
Lathers	7.45	.20			.01	

U.S. DEPARTMENT OF LABOR—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
27—MINN—HEN–1–s—Continued						
Marble setters	7.385	.305	.23	.53		
Painters:						
Brush	7.50	.25	.25		.02	
Spray; structural steel; swing stage	8.00	.25	.25		.02	
Pipefitters; steamfitters	7.11	.33	.30	1.25	.02	
Plasterers	7.50	.20	.20		.01	
Plumbers	7.11	.33	.30	1.25	.02	
Roofers:						
Roofers	7.79	.24	.15			
Kettlemen	7.44	.24	.15			
Sheet metal workers	5.76	.24	.20			
Soft floor layers	7.65b	c		d		
Sprinkler fitters	8.44	.26	.40		.02	
Tile setters	7.89	.22	.50			
Truckdrivers	6.20	.25	.25			
Welders; receive rate prescribed for craft performing operation to which welding is incidental						
MINN—9–LAB–2–3–c						
Site preparations, excavating and incidental paving:						
Laborers:						
Unskilled laborers; drill runner helper; landscape gardener; sod layer and nurseryman; powder monkey; reinforced steel laborer; reinforced steel setter (pavement); salamander heater and blower tender; carpenter tender; winch handler (manual)	5.50	.35	.35	.20		
Laborer, wrecking and demolition; bituminous batcherman (stationary plant); bituminous shoveler; blacksmith helper; bottom man (sewer, water, or gas trench); bricklayer tender; cement handler (bulk or bag); cement coverman (batch trucks); compaction equipment (hand operated); concrete shoveler, tamper, and puddler (paving); concrete vibrator; concrete batcherman (proportioning plant); concrete longitudinal floatmen (manual bull float on paving); conduit layers (w/o wiring); chipping hammer; curb setter (stone or precast concrete); dumper (wagon, truck, etc.); dump man; dump man (paver, batch truck, etc.); formsetter (municipal type curb and sidewalk); formsetter (pavement); hydrant and valve setter; joint filler (concrete pavement); kettleman (bituminous or lead); service connection maker (water or gas); power buggy; joint sawer; squeegeman (bituminous brick or block); stabilizing batcherman (stationary plant); stonemason tender; drill runner (heavy, including churn drill)	5.60	.35	.35	.20		
Chainsaw man; concrete mixer (1 bag); jackhammer man and paving buster; mortar mixer; pipe handler (water, gas, cast iron); pipe derrickman (triped, manual)	5.65	.35	.35			
Bottom man (sewer, water, or gas trench—more than 8 ft. below starting level of manual work); tunnel laborer (atmospheric pressure); underground laborers; cofferdam work; tunnel work; underpinning work; caisson work; other work more than 8 ft. below starting level of manual work; open ditch work	5.75	.35	.35			
Bituminous tamper; pipelayer (sewer, water, gas); sand cushion and bedmaker	5.80	.35	.35	.20		
Cement gun operator (1½ in. and over); leadman	5.85	.35	.35	.20		
Nozzlemen (gunite)	5.90	.35	.35	.20		
Brick or block paving setter	5.93	.35	.35	.20		
Bituminous raker, floater, and utility man	5.95	.35	.35	.20		
Powderman; tunnel man (air pressure); tunnel miner	6.18	.35	.35	.20		
MINN–6–PEO–2–3–d						
Site preparation, excavating and incidental paving						
Power equipment operators:						
Dredge deck hand; gravel screening plant (portable, not crushing or washing); greaser truck and tractor; leverman; mechanic helper; mechanic space heater (temporary heat); oilers (power shovel, crane, dragline)	5.90	.25	.25			
Tractor, 50-h.p. or less without power take-off	6.93	.25	.25			
Batch plant (concrete); brakeman or switchman; conveyor; fireman; tank car heater; self-propelled vibrating packer (pad type) (35 h.p. and over); truck crane oiler	6.00	.25	.25			
Air compressor; lead greaser on grease truck or grease rack (where no mechanic is employed)	6.15	.25	.25			
Concrete distributor and spreader; finishing machine; longitudinal float; joint machine; spray operator; concrete saw (multiple blade) (power operated); fine grade operator; form trench digger (power); power actuated jacks; pumps; shouldering machine (power) (Apsco or similar type including self-propelled sand and chip spreader); stump chipper; self-propelled chip spreader (Flaherty or similar); curb machine	6.17	.25	.25			
Bituminous spreader and bituminous finishing machine (helper) (power)	6.25	.25	.25			
Concrete mixer, on job site 14s and under; front end loader, up to and including 1 cu. yd.; gunite operator gunall; loader (Barber Greene or similar type); power actuated augers; boring machine; rollers up to 8 tons; tractor, D2, TD6 or similar h.p. w/power take-off	6.28	.25	.25			
Grader operator (motor patrol)	6.35	.25	.25			
Asphalt bituminous stabilizer plant; automatic road machine (CMI or similar); backfiller; bituminous spreader and finishing machine (power); boom truck (power operated boom); concrete mixer, on job site over 14S; crushing plant (gravel and stone); gravel washing, crushing and screening plant; dope machine (pipeline); drill rigs; heavy duty rotary churn or cable drills; engineer in charge of plant requiring first-class license; forklift; straddle carrier; forklift or lumber stacker (for construction job site); front-end loader, over 1 cu. yd up to 5 cu. yds.; launcherman (tankerman or pilot license); locomotives, all types; mechanic or welder; hoist engineer (power); paving breaker or tamping machine (power driven) (Mighty Mite or similar type); power actuated horizontal boring machines over 6 inches, operator; pickup sweeper, 1 cu. yd. and over hopper capacity; pipeline wrapping, cleaning or bending machine; powerplant engineer, 100 K.W.H. and over; pugmill; rollers 8 tons and over; rubber-tired tractor, backhoe attachments; sheep foot roller (self-propelled) (3 drum and over); slip form (power driven) (paving); tie tamper and ballast machine tractor, over D2, TD6, or similar h.p. with power takeoff tractor, over 50 h.p. without power takeoff, trenching machine (sewer, water, gas); Turnapull (or similar type); well point installation, dismantling, or repair mechanics; two or more pumps; compressors, welding machines	6.93	.25	.25			
Self-propelled traveling soil stabilizer	7.00	.25	.25			
Dual tractor; elevating grader; pump-crete; scraper struck, capacity 32 cu. yds. and over	7.03	.25	.25			
Cableway; concrete mixer stationary plant over 34E; derrick (guy & stiffleg) (power) (skids or stationary); dredge operator or engineer; dredge operator (power) and engineer; front-end loader, 3 cu. yds. and over; grader or motor patrol, finishing, earth work and bituminous; locomotive crane; master mechanic; mixer (paving) concrete paving, road; mole operator including power supply; mucking machine (including mucking operations) (Conway or similar); power shovel and/or other equipment with shovel type controls, up to 3 cu. yds.; refrigeration plant engineer; tandem scraper; tractor, boom type; truck crane; tugboat, 100 hp. and over	7.15	.25	.25			
Crane with over 135 boom, excluding jib; power shovel and/or other equipment with shovel type controls, 3 cu. yds. and over	7.41	.25	.25			

U.S. DEPARTMENT OF LABOR—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
MINN-3-TD-2-3-d						
Site preparation excavation and incidental paving:						
Truckdrivers:						
Group I:						
Driver (hauling machinery for employer's own use, including operation of hand and power operated winches); truck train; mechanic; welder; tractor-trailer; off-road truck	6.80	.25	.25			
Group II:						
Triaxle (including four axles); dump; dry batch hauler; tank truck (gas, oil, road oil, and water); boom and "A"-frame; ready mix concrete; slurry driver	6.50	.25	.25			
Group III:						
Bituminous distributor driver; bituminous distributor (1-man operation); tandem axle	6.40	.25	.25			
Group IV:						
Bituminous distributor spray (rear-end oiler); dumpman; greaser, and truck service man; tank truck helper (gas, oil, road oil, and water); teamster and stableman; tractor operator (wheel type used for any purpose); pilot car; self-propelled packer; slurry operator; single axle	6.20	.25	.25			
MINN—1-PEO-1-d						
Building construction:						
Helicopter operators (hoisting material)	11.20	.15	.25			
Truck and crawler cranes with 200 ft. of boom and over including JIB	8.80	.15	.25			
Truck and crawler cranes with 150 ft. of boom including JIB up to 200 ft. of boom	8.45	.15	.25			
Traveling tower crane	8.35	.15	.25			
Master mechanic	8.25	.15	.25			
Derrick (guy and stiff leg); hoist engineer (3 drums or more); locomotive operator, master mechanic; overhead crane operator (inside building perimeter); truck and crawler cranes up to 150 ft. of boom including JIB	8.00	.15	.25			
Air compressor operator, pump operator and/or conveyor, 2 or more machines; hoist engineer (2 drums); mechanic or welder; Pumperete or Compkaco type machine operator	7.88	.15	.25			
Forklift operator	7.88	.15	.25			
Boomtruck operator; concrete mixer operator; drill rigs (heavy-duty rotary or churn drill when used for caisson drilling or when drilling for elevator cylinder on building construction); front end loader operator; hoist engineer (1 drum); powerplant engineer (100 kw.-hr. and over); straddle carrier operator; tractor operator (over D-2); well point pump operator	7.80	.15	.25			
Concrete batch-plant operator; gunite operator; tractor operator (D-2 or similar size and front end loader operator up to ½ cu. yd.)	7.53	.15	.25			
Air compressor operator, pump and/or conveyor operator; fireman, temporary heat; brakeman; pickup sweeper (combustion engine operated); truck crane oiler	7.25	.15	.25			
Mechanic space heater (temporary heat); oiler or greaser	6.80	.15	.25			

Paid holidays:
A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day
E—Thanksgiving Day; F—Christmas Day.

Footnotes:
a. Employer contributes 4 percent basic hourly rate for over 5 years' service, 2 percent basic hourly rate for over 6 months to 5 years' service as vacation pay credit. Six paid holidays: A through F.

b. Out-of-town contractors will pay the rate of $8.40 per hour with no fringe benefits payments.

c. Employer shall contribute $25 per month for each employee into the H & W fund.

d. Employee with at least 1,700 hours' service during the current year and 1 year's service, 1 week's vacation with pay; 3 years' service, 2 weeks' vacation with pay; 15 years' service, 3 weeks' vacation with pay.

State: Minnesota; County: Dakota-Ramsey; Decision No. AM-6,249, date of decision: November 19, 1971.
Description of work: Residential construction consisting of single-family homes and garden type apartments up to and including four stories.

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
19-62-MINN—DAK-RAM-1-u:						
Asbestos workers	$7.97	$0.30	$0.35		$0.02	
Boilermakers	7.80	.30	.85		.02	
Boilermakers' helpers	7.85	.30	.85		.02	
Bricklayers; stonemasons	7.61	.305	.23	$0.53	.02	
Carpenters:						
Carpenters; millwrights; piledrivermen	7.13	.40	.15	.50	.02	
When working with material treated with toxic carbolineum or toxic creosote	7.38	.40	.15	.60	.02	
Cementmasons	7.60	.30	.25			
Electricians: line construction:						
Cable splicer; technician	8.40	3.50%	2.25%	10%	1.25%	
Electricians; linemen; line equipment operator	8.00	3.50%	2.25%	10%	1.25%	
Groundmen	5.25	3.50%	2.25%	10%	1.25%	
Elevator constructors	7.23	.17	.185	2%+a		
Elevator constructors' helpers	70%JR	.17	.185	2%+a		
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	7.70	.15	.10	.13		
Ironworkers:						
Ornamental; reinforcing; structural	7.85	.40	.45		.02	
Laborers:						
Carpenters tenders; common laborers; earth dumpmen; power buggy operators; steel joint handlers (erection)	5.90	.35	.35	.40		
Reinforcing steel handlers	5.95	.35	.35	.40		
Concrete joint saw operator; laborers, demolition and wrecking (not including remodeling); men handling cement 2 hours per day (bulk or sack, excluding mortar mixer)	6.00	.35	.35	.40		
Automatic tamper operator; chipping hammer operator; concrete vibrator operator; gunite machine operator; hot tar caulkers and colors; jackhammermen; laborers on swing stage single line scaffolds (not including "Patent" scaffolding); mixers of mortar, cement or any other substitute material or composition; paving buster	6.05	.35	.35	.40		
Drivers on heavy building excavators; sheeting setters; underground work	6.15	.35	.35	.40		
Pipelayers	6.20	.35	.35	.40		
Caisson work; underpinning	6.25	.35	.35	.40		
Nozzlemen	6.30	.35	.35	.40		
Dynamitemen; power drillers for blasting purposes	6.605	.35	.35	.40		
Lathers	7.60	.20		.50	.01	
Marble setters	7.385	.305	.23	.53		
Painters:						
Brush; paperhangers	7.48	.35	.15		.03	
Spray; structural steel; swing stage	7.98	.35	.15		.03	
Plumbers; steamfitters	6.60	.23	.20	.39b	.04	
Roofers:						
Roofers	7.79	.24	.15			
Kettlemen	7.44	.24	.15			

U.S. DEPARTMENT OF LABOR—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
19-62-MINN—DAK-RAM-1-u—Continued						
Sheet metal workers	8.58	.32	.30		.04	
Soft floor layers	7.65c	d		e		
Sprinkler fitters	8.44	.25	.40		.02	
Tile setters	7.59	.22	.50			
Truckdrivers	6.20	.25	.25			
Riggers-welders: Receive rate prescribed for craft performing operation to which rigging or welding is incidental.						
Site preparation, excavating and incidental paving						
MINN-9-LAB-2-3-c:						
Laborers:						
Unskilled laborers; drill runner helper; landscape gardener; sod layer and nurseryman; powder monkey; reinforced steel laborer; reinforced steel setter (pavement); Salamander heater and blower tender; carpenter tender; winch handler (manual)	5.50	.35	.35	.20		
Laborer, wrecking and demolition; bituminous batcherman (stationary plant); bituminous shoveler; blacksmith helper; bottomman (sewer, water or gas trench); bricklayer tender; cement handler (bulk or bag); cement coverman (batch trucks); compaction equipment (hand operated); concrete shoveler, tamper and puddler (paving); concrete vibrator; concrete batcherman (proportioning plant); concrete longitudinal floatmen (manual bull float on paving); conduit layers (w/o wiring); chipping hammer; curb setter (stone or precast concrete); dumper (wagon, truck, etc.); dumpman; dumpman (paver—batch truck, etc.); formsetter (municipal type curb and sidewalk); formsetter (pavement); hydrant and valve setter; joint filler (concrete pavement); kettleman (bituminous or lead); service connection maker (water or gas); power buggy; joint sawer; squeegeman (bituminous brick or block); stabilizing batcherman (stationary plant); stonemason tender; drill runner (heavy, including churn drill)	5.60	.35	.35	.20		
Chain saw man; concrete mixer (1 bag); jackhammerman and paving buster; mortar mixer; pipe handler (water, gas, cast iron); pipe derrickman (triped, manual)	5.65	.35	.35			
Bottomman (sewer, water or gas trench—more than 8 ft. below starting level of manual work); tunnel laborer (atmospheric pressure); underground laborers; cofferdam work; tunnel work; underpinning work; caisson work; other work more than 8 ft. below starting level of manual work; open ditch work	5.75	.35	.35			
Bituminous tamper; pipelayer (sewer, water, gas); sand cushion and bedmaker	5.80	.35	.35	.20		
Cement gun operator (1½ in. and over); leadman	5.85	.35	.35	.20		
Nozzleman (gunite)	5.90	.35	.35	.20		
Brick or block paving setter	5.93	.35	.35	.20		
Bituminous raker, floater and utility man	5.95	.35	.35	.20		
Powderman; tunnelman (air pressure); tunnel miner	6.18	.35	.35	.20		
Site preparation, excavating and incidental paving						
MINN-6-PEO-2-3-d:						
Power equipment operators:						
Dredge deckhand; gravel screening plant (portable, not crushing or washing); greaser, truck and tractor; leverman; mechanic helper; mechanic, space heater (temporary heat); oilers (power shovel, crane, dragline)	5.90	.25	.25			
Tractor, 50 hp. or less without power takeoff	5.93	.25	.25			
Batch plant (concrete); brakeman or switchman; conveyor; fireman; tank car heater; self-propelled vibrating packer (pad type) (35 hp. and over); truck crane oiler	6.00	.25	.25			
Air compressor; lead greaser on grease truck or grease rack (where no mechanic is employed)	6.15	.25	.25			
Concrete distributor and spreader; finishing machine; longitudinal float; joint machine; spray operator; concrete saw (multiple blade) (power operated); line grade operator; form trench digger (power); power actuated jacks; pumps; shouldering machine (power) (Apsco or similar type including self-propelled sand and chip spreader); stump chipper; self-propelled chip spreader (Flaherty or similar); curb machine	6.17	.25	.25			
Bituminous spreader and bituminous finishing machine (helper) (power)	6.25	.25	.25			
Concrete mixer, on jobsite 14s and under; front-end loader, up to and including 1 cu. yd.; gunite operator gunall; loader (Barber Greene or similar type); power actuated augers; boring machine; rollers up to 8 tons; tractor, D2, TD6 or similar horsepower w/power takeoff	6.28	.25	.25			
Grader operator (motor patrol)	6.35	.25	.25			
Asphalt bituminous stabilizer plant; automatic road machine (CMI or similar); backfiller; bituminous spreader and finishing machine (power); boom truck (power operated boom); concrete mixer, on jobsite over 14s; crushing plant (gravel and stone); gravel washing, crushing and screening plant; dope machine (pipeline); drill rigs; heavy-duty rotary churn or cable drills; engineer in charge of plant requiring first class license; forklift; straddle carrier; forklift or lumber stacker (for construction jobsite); front-end loader, over 1 cu. yd. up to 5 cu. yds.; launcherman (tankerman or pilot license); locomotives, all types; mechanic or welder; hoist engineer (power); paving breaker or tamping machine (power driven) (Mighty Mite or similar type); power actuated horizontal boring machines over 6 in. operator; pickup sweeper, 1 cu. yd. and over hopper capacity; pipeline wrapping, cleaning or bending machine; powerplant engineer 100 kw.-hr. and over; pugmill; rollers, 8 tons and over; rubber-tired tractor backhoe attachs.; sheep foot roller (self-propelled) (3 drum and over); slipform (power driven) (paving); tie tamper and ballast machine; tractor, over D2, TD6 or similar horsepower with power takeoff; tractor, over 50 h.p. without power takeoff; trenching machine (sewer, water, gas); Turnapull (or similar type); well point installation, dismantling or repair mechanics; two or more pumps; compressors; welding machines	6.93	.25	.25			
Self-propelled traveling soil stabilizer	7.00	.25	.25			
Dual tractor; elevating grader; Pumperete; scraper struck capacity 32 cu. yds. and over	7.03	.25	.25			
Cableway; concrete mixer stationary plant over 34E; derrick (guy and stiffleg) (power) (skids or stationary); dredge operator or engineer; dredge operator (power) and engineer; front-end loader 5 cu. yds. and over; grader or motor patrol, finishing, earthwork and bituminous; locomotive crane; master mechanic; mixer (paving) concrete paving, road; mole operator including power supply; mucking machine (including mucking operations) (Conway or similar); power shovel and/or other equipment with shovel type controls, up to 3 cu. yds.; refrigeration plant engineer; tandem scraper; tractor, boom type; truck crane; tugboat, 100 hp. and over	7.15	.25	.25			
Crane with over 135 ft. boom, excluding jib; power shovel and/or other equipment with shovel type controls, 3 cu. yds. and over	7.41	.25	.25			
Site preparation, excavating and incidental paving						
MINN-3-TD-2-3-d:						
Truckdrivers:						
Group I:						
Driver (hauling machinery for employer's own use, including operation of hand and power operated winches); truck train; mechanic; welder; tractor-trailer; off-road truck	6.80	.25	.25			
Group II:						
Triaxle (including four axles); dump; dry batch hauler; tank truck (gas, oil, road oil and water); boom and A-frame; ready-mix concrete; slurry driver	6.80	.25	.25			
Group III:						
Bituminous distributor driver; bituminous distributor (one man operation); tandem axle	6.40	.25	.25			
Group IV:						
Bituminous distributor spray (rear end oiler); dumpman; greaser and truck serviceman; tank truck helper (gas, oil, road oil and water); teamster and stableman; tractor operator (wheel type used for any purpose); pilot car; self-propelled packer; slurry operator; single axle	6.20	.25	.25			

U.S. DEPARTMENT OF LABOR—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
MINN-1-PEO-1-d:						
Building construction:						
Helicopter operators (hoisting material)	11.20	.15	.25			
Truck and crawler cranes with 200 ft. of boom and over including jib	8.80	.15	.25			
Truck and crawler cranes with 150 ft. of boom including jib up to 200 ft. of boom	8.45	.15	.25			
Traveling tower crane	8.35	.15	.25			
Master mechanic	8.25	.15	.25			
Derrick (guy and stiff leg); hoist engineer (3 drums or more); locomotive operator, master mechanic; overhead crane operator (inside building perimeter); truck and crawler cranes up to 150 ft. of boom including jib	8.00	.15	.25			
Air compressor operator, pump operator and/or conveyor, 2 or more machines; hoist engineer (2 drums); mechanic or welder; pumperete or compiaco type machine operator	7.88	.15	.25			
Forklift operator	7.88	.15	.25			
Boom truck operator; concrete mixer operator; drill rigs (heavy-duty rotary or churn drill when used for caisson drilling or when drilling for elevator cylinder on building construction); front-end loader operator; hoist engineer (1 drum); powerplant engineer (100 kw.-hr. and over); straddle carrier operator; tractor operator (over D-2); well point pump operator	7.80	.15	.25			
Concrete batch plant operator; gunite operator; tractor operator (D-2 or similar size and front-end loader operator up to ½ cu. yd.)	7.53	.15	.25			
Air compressor operator, pump and/or conveyor operator; fireman, temporary heat; brakeman; pickup sweeper (combustion engine operated); truck crane oiler	7.25	.15	.25			
Mechanic space heater (temporary heat); oiler or greaser	6.80	.15	.25			

Paid holidays:
A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.

Footnotes:
a. Employer contributes 4 percent basic hourly rate for over 5 years' service, 2 percent basic hourly rate for 6 months' to 5 years' service as vacation pay credit. Six paid holidays: A through F.
b. In lieu of vacation plan, employer shall pay $0.39 per hour into credit union for employee.
c. Out-of-town contractor will pay the rate of $8.40 per hour with no fringe benefits payments.
d. Employer shall contribute $25 per month for each employee into the H & W fund.
e. Employees with at least 1,700 hours' service during the current year and 1 year's service—1 week's vacation with pay; 3 years' service—2 weeks' vacation with pay; 15 years' service—3 weeks' vacation with pay.

State: Minnesota; County: St. Louis (Duluth); Decision No. AM-6,250, date of decision: November 19, 1971.
Description of work: Residential construction consisting of single-family homes and garden-type apartments up to and including 4 stories.

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
69-MINN-STL-v:						
Asbestos workers	$7.80	$0.15		$0.40		
Boilermakers	7.80	.30	$0.85		$0.02	
Boilermakers' helpers	7.55	.30	.85		.02	
Bricklayers; stonemasons	7.97	.15	.25	.30		
Carpenters:						
Carpenters; Piledrivermen	7.65	.15		.30		
Millwrights	7.87	.15		.30		
Electricians:						
Electrical contracts under $5,000	7.20	3%	3¼%	7%	1½%	
Electrical contracts $5,000 and over	7.70	3%	3¼%	7%	1½%	
Elevator constructors	6.84	$0.185	$0.20	2%+a		
Elevator constructors' helpers	70% JR	.185	.20	2%+a		
Elevator constructors' helpers (prob.)	50% JR					
Ironworkers:						
Ornamental; reinforcing; structural	$8.15	.15		$0.10		
Laborers:						
Common laborers	6.25	.15	.15	.25		
Carpenter tenders; cement handlers; concrete vibrator operators; jackhammer operators; mason tenders; mortar mixers; pipelayers (concrete and clay); underground workmen	6.35	.15	.15	25		
Lathers	7.75	.15			$0.01	
Marble setters	7.385	.305	.23	.53		
Painters:						
Brush	6.50	.15		.10	.02	
Paperhangers; sandblasting; spray; structural steel and bridges; swing stage	6.75	.15		.10	.02	
Plasterers	7.55	.15		.30		
Plumbers; pipefitters	6.90	.15	.25	1.00	.02	
Roofers:						
Roofers	7.33	.15	.10	.40		
Second roofers	7.08	.15	.10	.40		
Kettlemen	6.88	.15	.10	.40		
Helpers	6.15	.15	.10	.40		
Sheet metal workers	7.92	.15				
Soft floor layers	7.55	.15		.30		
Sprinkler fitters	8.00	.25	.40		.05	
MINN-10-LAB-2-3-b (1-1):						
Site preparation, excavating and incidental paving:						
Laborers:						
Unskilled laborers; laborers, wrecking and demolition; bricklayer tender; drill runner helper; landscape gardener; sod layer and nurseryman; pipe handler (water, gas, cast iron); salamander heater and blower tender; carpenter tender; stonemason tender	5.59	.15	.15	.25		
Bituminous shoveler; bottom man (sewer water or gas trench); cement handler (bulk or bag); cement coverman (batch trucks); chain saw man; compaction equipment (hand operated); concrete mixer operator (1 bag); concrete shoveler, tamper and puddler (paving); concrete vibrator; conduit layers (without wiring); dumper (wagon, truck, etc.); form setter (municipal type curb and sidewalk); formsetter (pavement); jackhammerman and paving buster; kettleman (bituminous or lead); mortar mixer; power buggy; joint sawer; tunnel laborer (atmospheric pressure)	5.69	.15	.15	.25		
Bituminous tamper; cofferdam work; caisson work	5.84	.15	.15	.25		
Driller runner (heavy, including churn drill)	5.89	.15	.15	.25		
Bituminous raker, floater and utility man; pipelayer (sewer, water, gas); leadman	5.94	.15	.15	.25		
Nozzleman (gunite)	6.99	.15	.15	.25		
Powderman	6.09	.15	.15	.25		
Tunnel miner	6.19	.15	.15	.25		

U.S. DEPARTMENT OF LABOR—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
MINN-6-PEO-2-2-d:						
Site preparation, excavating and incidental paving:						
Power equipment operators:						
Dredge deck hand; gravel screening plant (portable, not crushing or washing); greaser truck and tractor; leverman; mechanic helper; mechanic space heater (temporary heat); oilers (power shovel, crane, dragline)	5.90	.25	.25			
Tractor, 50 h.p. or less without power takeoff	5.93	.25	.25			
Batch plant (concrete); brakeman or switchman; conveyor; fireman; tank car heater; self-propelled vibrating packer (pad type) (35 h.p. and over); truck crane oiler	6.00	.25	.25			
Air compressor; lead greaser on grease truck or grease rack (where no mechanic is employed)	6.15	.25	.25			
Concrete distributor and spreader; finishing machine; longitudinal float; joint machine; spray operator; concrete saw (multiple blade) (power operated); fine grade operator; form trench digger (power); power actuated jacks; pumps; shouldering machine (power) (Apsco or similar type including self-propelled sand and chip spreader); stump chipper; self-propelled chip spreader (Flaherty or similar); curb machine	6.17	.25	.25			
Bituminous spreader and bituminous finishing machine (helper) (power)	6.25	.25	.25			
Concrete mixer, on job site 14's and under; front end loader, up to and including 1 cu. yd.; gunite operator gunall; loader (Barber-Greene or similar type); power actuated augers; boring machine; rollers up to 8 tons; tractor, D2, TD6 or similar h.p. with power takeoff	6.28	.25	.25			
Grader operator (motor patrol)	6.35	.25	.25			
Asphalt bituminous stabilizer plant; automatic road machine (CMI or similar); backfiller; bituminous spreader and finishing machine (power); boom truck (power operated boom); concrete mixer, on job site over 14's; crushing plant (gravel and stone); gravel washing, crushing and screening plant; dope machine (pipeline); drill rigs; heavy duty rotary churn or cable drills; engineer in charge of plant requiring first-class license; forklift; straddle carrier; forklift or lumber stacker (for construction job site); front end loader, over 1 cu. yd. up to 5 cu. yds.; launcherman (tankerman or pilot license); locomotives, all types; mechanic or welder; hoist engineer (power); paving breaker or tamping machine (power driven) (Mighty Mite or similar type); power actuated horizontal boring machines over 6" operator; pick-up sweeper, 1 cu. yd. and over hopper capacity; pipeline wrapping, cleaning or bending machine; powerplant engineer 100 k.w.h. and over; pugmill; rollers 8 tons and over; rubber-tired tractor backhoe attachments; sheep foot roller (self-propelled) (3 drum and over); slip form (power driven) (paving); tie tamper and ballast machine tractor, over D2, TD6 or similar h.p. with power takeoff; tractor, over 50 h.p. without power takeoff; trenching machine (sewer, water, gas); Turn-apull (or similar type); well point installation, dismantling or repair mechanics; 2 or more pumps; compressors; welding machines	6.93	.25	.25			
Self-propelled traveling soil stabilizer	7.00	.25	.25			
Dual tractor; elevating grader; pumperete; scraper struck capacity, 32 cu. yds. and over	7.03	.25	.25			
Cableway; concrete mixer stationary plant over 34E; derrick (guy and stiff-leg) (power) (skids or stationary); dredge operator or engineer; dredge operator (power) and engineer; front-end loader, 5 cu. yds. and over; grader or motor patrol, finishing, earth work and bituminous; locomotive crane; master mechanic; mixer (paving) concrete paving, road; mole operator including power supply; mucking machine (including mucking operations) (Conway or similar); power shovel and/or other equipment with shovel type controls, up to 3 cu. yds.; refrigeration plant engineer; tandem scraper; tractor, boom type; truck crane; tugboat, 100 h.p. and over	7.15	.25	.25			
Crane with over 135' boom, excluding jib; power shovel and/or other equipment with shovel type controls, 3 cu. yds. and over	7.41	.25	.25			
MINN-3-TD-2-3-d:						
Site preparation, excavating and incidental paving:						
Truck drivers:						
Group I: Driver (hauling machinery for employer's own use, including operation of hand and power operated winches); truck train; mechanic; welder; tractor-trailer; off-road truck	6.80	.25	.25			
Group II: Tri-axle (including 4 axles); dump; dry batch hauler; tank truck (gas, oil, road oil and water); boom and A-frame; ready-mix concrete; slurry driver	6.50	.25	.25			
Group III: Bituminous distributor driver; bituminous distributor (1-man operation); tandem axle	6.40	.25	.25			
Group IV: Bituminous distributor spray (rear-end oiler); dumpman; greaser and truck serviceman; tank truck helper (gas, oil, road oil and water); teamster and stableman; tractor operator (wheel type used for any purpose); pilot car; self-propelled packer; slurry operator; single axle	6.20	.25	.25			
MINN-1-PEO-1-d:						
Building construction:						
Helicopter operators (hoisting material)	11.20	.15	.25			
Truck and crawler cranes with 200' of boom and over including jib	8.80	.15	.25			
Truck and crawler cranes with 150' of boom including jib up to 200' of boom	8.45	.15	.25			
Traveling tower crane	8.35	.15	.25			
Master mechanic	8.25	.15	.25			
Derrick (guy and stiff-leg); hoist engineer (3 drums or more); locomotive operators, master mechanic; overhead crane operators (inside building perimeter); truck and crawler cranes up to 150' of boom including jib	8.00	.15	.25			
Air compressor operator, pump operator and/or conveyor, 2 or more machines; hoist engineer (2 drums); mechanic or welder; pumpcrete or compiaco type machine operator	7.88	.15	.25			
Forklift operator	7.88	.15	.25			
Boom truck operator; concrete mixer operator; drill rigs (heavy duty rotary or churn drill when used for caisson drilling or when drilling for elevator cylinder on building construction); front-end loader operator; hoist engineer (1 drum); powerplant engineer (100 k.w.h. and over); straddle carrier operator; tractor operator (over D-2); well point pump operator	7.80	.15	.25			
Concrete batch plant operator; gunite operator; tractor operator (D-2 or similar size and front-end loader operator up to ½ cu. yd.)	7.53	.15	.25			
Air compressor operator, pump and/or conveyor operator; fireman, temporary heat; brakeman; pickup sweeper (combustion engine operated); truck crane oiler	7.25	.15	.25			
Mechanic space heater (temporary heat); oiler or greaser	6.80	.15	.25			

Paid holidays:
A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.

Footnote:
a. Employer contributes 4 percent basic hourly rate for over 5 years' service, 2 percent basic hourly rate for 6 months to 5 years' service as vacation pay credit. Six paid holidays: A through F.

U.S. DEPARTMENT OF LABOR—Continued

State: Minnesota; County: Anoka; Decision No. AM-6,251; date of decision: November 19, 1971.
Description of work: Residential construction consisting of single family homes and garden type apartments up to and including four stories.

Classifications	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
2—MINN-ANO-1-s						
Asbestos workers	$7.97	$0.30	$0.35		$0.02	
Boilermakers	7.80	.30	.35		.02	
Boilermakers' helpers	7.55	.30	.35		.02	
Bricklayers; stonemasons	7.61	.305	.23	$0.53	.02	
Carpenters:						
Carpenters; millwrights; piledrivermen	7.13	.40	.15	.50	.02	
When working with material that has been treated with toxic carbolineum or toxic creosote excluding piling	7.38	.40	.15	.50	.02	
Cementmasons	7.60	.30	.25			
Electricians (townships of Anoka and Fridley)	8.00	4%	4%	7½%		
Electricians (remainder of Anoka County)	8.00	3.50%	2.25%	10%	1.25%	
Elevator constructors	7.23	$0.17	$0.185	2%+a		
Elevator constructors' helpers	70%JR	.17	.185	2%+a		
Elevator contructors' helpers (prob.)	50%JR					
Glaziers	$7.70	.15	.10	$0.13		
Ironworkers:						
Ornamental; reinforcing; structural	7.55	.40	.45		$0.02	
Laborers:						
Carpenter tender; common laborers; earth dumpman; power buggy operator; steel joist handler (erection)	5.90	.35	.35	.40		
Reinforcing steel handlers	5.95	.35	.35	.40		
Concrete joint saw; laborers, demolition and wrecking (not including remodeling); men handling cement, 2 hours per day (bulk or sack, excluding mortar mixer)	5.00	.35	.35	.40		
Automatic tamper; gunite machine; concrete vibrator; chipping hammer; hot-tar caulkers and cookers; jackhammer; laborers on swing stage single line scaffolds (not including "Patent" scaffolding); mixers of mortar, cement, or any other substitute material or composition; paving buster	6.05	.35	.35	.40		
Drivers on heavy building excavating; sheeting setter; underground work	6.15	.35	.35	.40		
Pipelayers	6.20	.35	.35	.40		
Caisson work; underpinning	6.25	.35	.35	.40		
Nozzlemen	6.30	.35	.35	.40		
Dynamite men; power drillers for blasting purposes	6.605	.35	.35	.40		
Lathers	7.45	.20			.01	
Marble setters	7.385	.305	.23	.53		
Painters:						
Brush	7.50	.25	.25		.02	
Spray; structural steel	8.00	.25	.25		.02	
Plasterers	7.50	.20	.20		.01	
Plumbers	7.11	.33	.30	1.26	.02	
Roofers:						
Roofers	7.79	.24	.15			
Kettlemen	7.44	.24	.15			
Sheet metal workers	8.58	.32	.30		.04	
Soft floor layers	7.65b	c		d		
Sprinkler fitters	8.44	.25	.40		.02	
Tile setters	7.80	.22	.60			
Truck drivers	6.20	.25	.25			

Welders: Receive rate prescribed for craft performing operation to which welding is incidental.

Site preparation, excavation and incidental paving

MINN—9-LAB-2-3-c:						
Laborers:						
Unskilled laborers; drill runner helper; landscape gardener; sod layer and nurseryman; powder monkey; reinforced steel laborer; reinforced steel setter (pavement); Salamander heater and blower tender; carpenter tender; winch handler (manual)	5.50	.35	.35	.20		
Laborer, wrecking and demolition; bituminous batcherman (stationary plant); bituminous shoveler; blacksmith helper; bottom man (sewer, water, or gas trench); bricklayer tender; cement handler (bulk or bag); cement coverman (batch trucks); compaction equipment (hand operated); concrete shoveler, tamper, and puddler (paving); concrete vibrator; concrete batcherman (proportioning plant); concrete longitudinal floatmen (manual bull float on paving); conduit layers (w/o wiring); chipping hammer; curb setter (stone or precast concrete); dumper (wagon, truck, etc.); dump man; dump man (paver, batch truck, etc.); formsetter (municipal type curb and sidewalk); formsetter (pavement); hydrant and valve setter; joint filler (concrete pavement); kettleman (bituminous or lead); service connection maker (water or gas); power buggy; joint sawer; squeegeman (bituminous brick or block); stabilizing batcherman (stationary plant); stonemason tender; drill runner (heavy, including churn drill)	5.60	.35	.35	.20		
Chainsaw man; concrete mixer (1 bag); jackhammer man and paving buster; mortar mixer; pipe handler (water, gas, cast iron); pipe derrickman (triped, manual)	5.65	.35	.35			
Bottom man (sewer, water, or gas trench—more than 8 ft. below starting level of manual work); tunnel laborer (atmospheric pressure); underground laborers; cofferdam work; tunnel work; underpinning work; caisson work; other work more than 8 ft. blow starting level of manual work; open ditch work	5.75	.35	.35			
Bituminous tamper; pipelayer (sewer, water, gas); sand cushion and bedmaker	5.80	.35	.35	.20		
Cement gun operator (1½ in. and over); leadman	5.85	.35	.35	.20		
Nozzlemen (gunite)	5.90	.35	.35	.20		
Brick or block paving setter	5.93	.35	.35	.20		
Bituminous raker, floater and utility man	5.95	.35	.35	.20		
Powderman; tunnel man (air pressure); tunnel miner	6.18	.35	.35	.20		

Site preparation, excavation and incidental paving

MINN—6-PEO-2-3-d						
Power equipment operators:						
Dredge deck hand; gravel screening plant (portable, not crushing or washing); greaser truck and tractor; leverman; mechanic helper; mechanic space heater (temporary heat); oilers (power shovel, crane, dragline)	5.90	.25	.26			
Tractor, 50 hp. or less without power take-off	5.93	.25	.26			
Batch plant (concrete); brakeman or switchman; conveyor; fireman; tank car heater; self-propelled vibrating packer (pad type) (35 hp. and over); truck crane oiler	6.00	.25	.26			
Air compressor; lead greaser on grease truck or grease rack (where no mechanic is employed)	6.15	.25	.26			
Concrete distributor and spreader; finishing machine; longitudinal float; joint machine; spray operator; concrete saw (multiple blade) (power operated); fine grade operator; form trench digger (power); power actuated jacks; pumps; shouldering machine (power) (Apeco or similar type including self-propelled sand and chip spreader); stump chipper; self-propelled chip spreader (Flaherty or similar); curb machine	6.17	.25	.26			
Bituminous spreader and bituminous finishing machine (helper) (power)	6.25	.25	.26			
Concrete mixer, on job site 14s and under; front-end loader, up to and including 1 cu. yd.; gunite operator gunall; loader (Barber-Greene or similar type); power actuated augers; boring machine; rollers up to 5 tons; tractor, D2, TD6 or similar hp. w/power take-off	6.28	.25	.26			
Grader operator (motor patrol)	6.35	.25	.26			

U.S. DEPARTMENT OF LABOR—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
MINN—6-PEO-2-3-d—Continued						
Power equipment operators—Continued						
Asphalt bituminous stabilizer plant; automatic road machine (CMI or similar); backfiller; bituminous spreader and finishing machine (power); boom truck (power operated boom); concrete mixer, on job site over 14s; crushing plant (gravel and stone); gravel washing, crushing and screening plant; dope machine (pipeline); drill rigs; heavy duty rotary churn or cable drills; engineer in charge of plant requiring 1st-class license; forklift; straddle carrier; forklift or lumber stacker (for construction job site); front-end loader, over 1 cu. yd. up to 5 cu. yds.; launcherman (tankerman or pilot license); locomotives all types; mechanic or welder; hoist engineer (power); paving breaker or tamping machine (power driven) (Mighty Mite or similar type); power-actuated horizontal boring machines over 6" operator; pickup sweeper, 1 cu. yd. and over hopper capacity; pipeline wrapping, cleaning or bending machine; Powerplant engineer, 100 kw.-hr. and over; pugmill; rollers 8 tons and over; rubber-tired tractor backhoe attachments; sheep foot roller (self-propelled) (3 drum and over); slip form (power driven) (paving); tie tamper and ballast machine tractor, over D2, TD6 or similar hp. with power take-off; tractor, over 80 hp. without power take-off; trenching machine (sewer, water, gas); Turnapull (or similar type); well point installation dismantling or repair mechanics; two or more pumps; compressors; welding machines	6.93	.25	.25			
Self-propelled traveling soil stabilizer	7.00	.25	.25			
Dual tractor; elevating grader; pumpcrete; scraper struck capacity 32 cu. yds. and over	7.03	.25	.25			
Cableway; concrete mixer, stationary plant over 34E; derrick (guy and stiffleg) (power) (skids or stationary); dredge operator or engineer; dredge operator (power) and engineer; front-end loader 5 cu. yds. and over; grader or motor patrol, finishing, earthwork and bituminous; locomotive crane; master mechanic; mixer (paving) concrete paving, road; mole operator including power supply; mucking machine (including mucking operations) (Conway or similar); power shovel and/or other equipment with shovel type controls, up to 3 cu. yds.; refrigeration plant engineer; tandem scraper; tractor, boom type; truck crane; tugboat, 100 hp. and over	7.15	.25	.25			
Crane with over 135 boom, excluding Jib; power shovel and/or other equipment with shovel type controls, 3 cu. yds. and over	7.41	.25	.25			

Site preparation, excavation and incidental paving

MINN—3-TD-2-3-d						
Truck drivers:						
Group I:						
Driver (hauling machinery for employer's own use, including operation of hand and power operated winches); truck train; mechanic; welder; tractor-trailer; off-road truck	6.80	.25	.25			
Group II:						
Triaxle (including 4 axles); dump; dry-batch hauler; tank truck (gas, oil, road oil, and water); boom and A-frame; ready-mix concrete; slurry driver	6.50	.25	.25			
Group III:						
Bituminous distributor driver; bituminous distributor (1-man operation); tandem axle	6.40	.25	.25			
Group IV:						
Bituminous distributor spray (rear-end oiler); dumpman; greaser and truck service man; tank truck helper (gas, oil, road oil, and water); teamster and stableman; tractor operator (wheel type used for any purpose); pilot car; self-propelled packer; slurry operator; single axle	6.20	.25	.25			

MINN—1-PEO-1-d						
Building construction:						
Helicopter operators (hoisting material)	11.20	.15	.25			
Truck and crawler cranes with 200 ft. of boom and over including J1B	8.80	.15	.25			
Truck and crawler cranes with 150 ft. of boom including J1B up to 200 ft. of boom	8.45	.15	.25			
Traveling tower crane	8.35	.15	.25			
Master mechanic	8.25	.15	.25			
Derrick (guy and stiff leg); hoist engineer (3 drums or more); locomotive operator, master mechanic; overhead crane operator (inside building perimeter); truck and crawler cranes up to 150 ft. of boom including J1B	8.00	.15	.25			
Air compressor operator, pump operator and/or conveyor, 2 or more machines; hoist engineer (2 drums); mechanic or welder; Pumpcrete or Complaco type machine operator	7.88	.15	.25			
Forklift operator	7.88	.15	.25			
Boom truck operator; concrete mixer operator; drill rigs (heavy duty rotary or churn drill when used for caisson drilling or when drilling for elevator cylinder on building construction); front-end loader operator; hoist engineer (1 drum); powerplant engineer (100 kw.-hr. and over); straddle carrier operator; tractor operator (over D-2); well point pump operator	7.80	.15	.25			
Concrete batch plant operator; gunite operator; tractor operator (D-2 or similar size and front-end loader operator up to ½ cu. yd.)	7.53	.15	.26			
Air compressor operator, pump and/or conveyor operator; fireman, temporary heat; brakeman; pickup sweeper (combustion engine operated); truck crane oiler	7.25	.15	.25			
Mechanic space heater (temporary heat); oiler or greaser	6.80	.15	.26			

Paid holidays:
A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.

Footnotes:
a. Employer contributes 4 percent of basic hourly rate for over 5 years' service and 2 percent basic hourly rate for 6 months to 5 years' service as vacation pay credit. Six paid holidays: A through F.
b. Out-of-town contractors will pay the rate of $8.40 per hour with no fringe benefits payments.
c. Employer shall contribute $28 per month for each employee into the health and welfare fund.
d. Employees with at least 1,700 hours service during the current year and 1 year's service, 1 week vacation with pay; 3 years' service, 2 weeks' vacation with pay; 15 years' service, 3 weeks' vacation with pay.

U.S. DEPARTMENT OF LABOR—Continued

State: Nevada; County: Clark (excluding Nevada test site); Decision No. AM-6197, date of decision: November 19, 1971.
Description of work: Residential construction consisting of single-family homes and garden-type apartments up to and including 4 stories.

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Others
2 5-9-NEV-CLA-ESM-LIN-1-2-3-a:						
Asbestos workers	$8.96	$0.48	$0.42			
Boilermakers	7.20	.30	.70	$0.45	$0.02	
Boilermakers' helpers	6.10	.30	.70	.45	.02	
Bricklayers; stonemasons	6.27	.20		1.00	.01	
Carpenters:						
Carpenters	5.99	.45	.60	.80	.03	
Millwrights	6.29	.45	.60	.80	.03	
Cementmasons	6.00	.42		1.30	.01	
Electricians and technicians	9.10	.28	1½		.01	
Cable splicers	9.43	.28	1½		.01	
Elevator constructors	7.58	.185	$0.20	2%+a		
Elevator constructors' helpers	70% JR	.185	.20	2%+a		
Elevator constructors' helpers (prob.)	80% JR					
Glaziers	$6.06	.14		12%	.01	
Ironworkers (eastern portion of Lincoln County only):						
Structural; ornamental; reinforcing; fence erectors	5.475	.25	.25		.025	
Ironworkers (western portion of Lincoln County and remaining counties):						
Structural; ornamental	8.03	.43	.425	$0.50	.02	
Reinforcing	7.98	.43	.425	.50	.02	
Fence erectors	7.89	.43	.425	.50	.02	
Lathers	7.15	.35		1.00	.01	
Marble masons; tile setters; terrazzo workers	6.57	.30		.70	.01	
Painters:						
Brush and roller	5.37	.17		.77	.01	
Structural steel	5.62	.17		.77	.01	
Structural steel (spray)	5.87	.17		.77	.01	
Tapers and finishers; paperhangers	5.62	.17		.77	.01	
Plasterers	6.93	.42		.50	.01	
Plumbers; pipefitters	8.40	.40	.65	1.60	.06	
Roofers	9.13	.30			.03	
Sheet metal workers	6.97	.38	.75	1.00	.01	
Soft floor layers (resilient)	7.88	.15		.45	.05	
Sprinkler fitters	10.55	.25	.40			
2-NEV-LAB-1-2-3-a:						
Laborers:						
Laborers—general or construction; demolition (cleaning of brick, lumber, etc.); dry packing of concrete and filling of form-bolt holes; gas and oil pipeline; laborer—temporary water lines (portable type); window cleaner	5.30	.11	.10	.55		
Cutting torch operator (demolition); tarman and mortarman, kettleman, potman and man applying asphalt, lay-kold creosote, lime, and similar type materials	5.35	.11	.10	.55		
Guinea chaser	5.38	.11	.10	.55		
Fine grader, highway and street paving, airport, runways and similar type heavy construction; landscape gardener and nurseryman	5.40	.11	.10	.55		
Laborers—packing rod steel and pans	5.42	.11	.10	.55		
Underground laborer including caisson bellowers	5.43	.11	.10	.55		
Chucktender (except tunnels); scaler; septic tank digger and installer (leadman); tank scaler and cleaner	5.45	.11	.10	.55		
Cesspool digger and installer	5.48	.11	.10	.55		
Concrete curer—impervious membrane and oiler of all materials; riprap stonepaver; sandblaster (pot tender); making and caulking of all nonmetallic pipe joints	5.49	.11	.10	.55		
Operators and tenders of pneumatic and electric tools, vibrating machines, hand-propelled trenching machines, impact wrench multiplate and similar mechanical tools not separately classified herein; asphalt raker, ironer, spreader, luteman; buggymobile man; cement dumper (on 1 yd. or larger mixers and handling bulk cement); concrete sawman excluding tractor type, cutting, scoring old or new concrete; concrete core cutter; gas and oil pipeline wrapper; pot tender and form man; operator of cement grinding machine; roto-scraper; tree climber, faller, chain saw operator, Pittsburgh chipper and similar type brush shredders	5.51	.11	.10	.55		
Rock slinger; scaler (using bos'n chair or safety belt or power tools)	5.56	.11	.10	.55		
Driller and/or pavement breaker	5.59	.11	.10	.55		
Oversize concrete vibrator operator, 70 lbs. and over; laying of all nonmetallic pipe, including sewer pipe, drain pipe and underground tile	5.61	.11	.10	.55		
Gas and oil pipeline wrapper, 8-inch pipe and over	5.64	.11	.10	.55		
Cribber or shorer, lagging, sheeting, trench bracing, hand guided lagging hammer; powderman-blaster—all work of loading holes, placing and blasting of all powder and explosives of whatever type regardless of method used for such loading and placing	5.66	.11	.10	.55		
Steel headboard man	5.725	.11	.10	.55		
Sandblaster (nozzleman); driller (core, diamond or wagon), joy driller model TW-M-2A, Gardner-Denver model DH 163 and similar type drills	5.75	.11	.10	.55		
Head rock slinger	5.82	.11	.10	.55		
Rigging: Same wage scale as classification to which is incidental.						
2-NEV-PEO-1-2-3-c:						
Power equipment operators:						
Group I: Brakeman; compressor operator; engineer oiler; generator; heavy duty repairman helper; pump; signalman; switchman	5.63	.45	.80	.30	.02	
Group II: Concrete mixer operator, skip type; conveyor operator; fireman; generator, pump or compressor (2-5 inclusive); generator, pump or compressor portable units (over 5 units, .10 per hour for each additional unit up to 9 units); hydrostatic pump; oiler crusher (asphalt or concrete plant); plant operator, generator, pump or compressor; skiploader, wheel type up to ¾ yd. without attachment; soils field technician; tar pot fireman; temporary heating plant; trenching machine oiler; truck crane oiler	5.87	.45	.80	.30	.02	
Group III: A-frame or winch truck; elevator operator (inside); equipment greaser (rack); Ford Ferguson (with dragtype attachments); helicopter radioman (ground); power concrete curing machine; power concrete saw; power-driven jumbo form setter; Ross carrier; stationary pipe wrapping and cleaning machine	6.11	.45	.80	.30	.02	
Group IV: Asphalt plant fireman; boring machine; boxman or mixerman (asphalt or concrete); chip spreading machine; concrete pump (small portable); bridge type unloader and turntable; dinkey locomotive or motorman (up to and including 10 tons); equipment greaser (grease truck); helicopter hoist; highline cableway signalman; hydrahammer, aero stomper; power sweeper; roller (compacting); screed (asphalt or concrete); trenching machine (up to 6 ft.)	6.22	.45	.80	.30	.02	
Group V: Asphalt plant engineer; concrete batch plant; backhoe (up to and including ¾ yd.); bit sharpener; concrete joint machine (canal and similar type); concrete planer; deck engine; drilling machine (water wells); forklift (under 5 ton capacity); machine tool; Maginnis internal full slab vibrator; mechanical berm, curb or gutter (concrete or asphalt); mechanical finisher (concrete—Clary-Johnson-Bidwell or similar); pavement breaker; road oil mixing machine; roller (asphalt or finish); rubber-tired earth moving equipment (single-engine, up to and including 25 yd. struck); self-propelled tar pipelining machine; slip form pump (power-driven hydraulic lifting device for concrete forms); tugger hoist (1 drum); tunnel locomotive (over 10 and up to and including 30 tons); stinger crane (Austin-Western or similar type); skiploader (crawler and wheel type over ¾ yd. and up to and including 1½ yds.); tractor-bulldozer, tamper, scraper (single-engine, up to 100 h.p., flywheel and similar types, up to and including D-5 and similar types)	6.41	.45	.80	.30	.02	

U.S. DEPARTMENT OF LABOR—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
2-NEV-PEO-1-2-3-c—Continued						
Power equipment operators—Continued						
Group VI: Asphalt or concrete spreading (tamping or finishing); asphalt paving machine (Barber-Greene or similar type); BHL Lima Road Pactor or similar; bridge crane; pipe laying machine (cast-in-place); combination mixer and compressor (gunite work); concrete pump (truck mounted); concrete mixer; crane (up to and including 25 tons); crushing plant; elevating grader; forklift (over 5 tons); grade checker; grade-all; grouting machine; heading shield; heavy duty repairman; hoist (Chicago boom and similar type); Kolman belt loader and similar type; LeTourneau blob compactor or similar type; lift slab machine (Vagtborg and similar types); lift mobile; loader (Athey, Euclid, Sierra and similar type); material hoist; mucking machine (¼ yd., rubber-tired, rail or track type); pneumatic concrete placing machine (Hackley-Presswell or similar type); pneumatic heading shield (tunnel); pumpcrete gun; rotary drill (excluding caisson type); rubber-tired earth moving equipment operator (single-engine caterpillar, Euclid, Athey wagon, and similar types with any and all attachments over 25 yd. and up to and including 50 cu. yds. struck); rubber-tired scraper (self-loading, paddle-wheel type, John Deere, 1040 and similar single unit); skiploader (crawler and wheel type, over 1½ yds., up to and including 6½ yds.); surface heaters and planer; rubber-tired earth moving equipment multiple-engine (up to and including 25 yds. struck); trenching machine (over 6 ft. depth capacity, manufacturers rating); tower crane; tractor compressor drill combination; tractor (any type larger than D-8, 100 flywheel b.p. and over, or similar) (bulldozer, tamper, scraper and push tractor, single-engine); tractor (boom attachments); traveling pipe wrapping, cleaning and bending; tunnel locomotive (over 30 ton); shovel, backhoe, dragline, clamshell (over ¾ yd. and up to 5 cu. yd. M.R.C.)	6.51	.45	.80	.30	.02	
Group VII: Crane (over 25 ton, up to and including 100 tons M.R.C.); derrick barge; dual drum mixer; hoist, stiff legs, guy derrick, or similar type, up to and including 100 tons; monorail locomotive (diesel, gas or electric); motor patrol, blade operator (single-engine); multiple-engine tractor operator (Euclid-and similar type except Quad 9 cat.); rubber-tired earth moving equipment (single-engine over 50 yds. struck); rubber-tired earth moving equipment (multiple-engine, Euclid, caterpillar and similar) (over 25 yds. and up to 40 cu. yds. struck); tractor loader operator (crawler and wheel type over 6½ yds.); tower crane repairman; shovel, backhoe, dragline, clamshell operator (over 5 cu. yds., MRC); Woods mixer and similar pugmill equipment; heavy duty repairman, welder combination	6.61	.45	.80	.30	.02	
Group VIII: Auto grader; automatic slip form; crane (over 100 tons); hoist, stiff legs, guy derricks or similar types (capable of hoisting 100 tons or more); mass excavator (less than 750 cu. yds.); mechanical finishing machine; mobile form traveler; motor patrol (multiengine); pipe mobile machine; rubber-tired earth moving equipment (multiple-engine, Euclid, Caterpillar and similar type over 50 cu. yds. struck); rubber-tired self-loading scraper (paddle wheel, auger type self-loading (2 or more units); tandem equipment (2 units only); tandem tractor (Quad 9 or similar type); tunnel mole boring machine; rubber-tired scraper (pushing without push cat., push-pull (.50 per hour additional)	6.75	.45	.80	.30	.02	
Group IX: Canal liner; canal trimmer; helicopter pilot; highline cableway; wheel excavator (over 750 cu. yds.); remote controlled earth moving equipment ($1 per hour additional to base rate)	6.85	.45	.80	.30	.02	
2-NEV-TD-1-2-3-b:						
Truck drivers:						
Group I: Drivers of dump trucks (less than 12 yds. water level); drivers of trucks (legal payload capacity less than 15 tons); water and fuel truck drivers under 2,500 gals.; pickup drivers; service truck driver—teamster equipment (highest rate paid for dual craft operation); truck repairman helper; drivers of busses on job site used for transportation of up to 25 passengers	6.70	.20	.15			
Group II: Drivers of dump trucks, 12 yds. but less than 16 yds. water level; drivers of trucks—legal payload capacity between 15 and 20 tons; gas and oil pipeline working truck driver, including winch truck and all sizes of trucks; water and fuel truck drivers, 2,500 gals. to 4,000 gals.; truck greaser and tireman; drivers of busses (on job site used for transportation of more than 25 passengers); road oil spreading by truck drivers; time spent spreading oil	6.81	.20	.15			
Group III: Drivers of transit-mix trucks, under 3 yds. dumpcrete truck, less than 6½ yds. water level	6.86	.20	.15			
Group IV: Drivers of dump trucks, 16 yds. up to and including 22 yds. water level; drivers of trucks, legal payload capacity, 20 tons but less than 30 tons; drivers of Euclid-type spreader trucks; drivers of dumpster trucks; drivers of transit-mix trucks, 3 yds., but less than 6 yds.; dumpcrete truck, 6½ yds. water level and over; forklift driver; Ross carrier driver—highway water and fuel truck drivers 4,000 but less than 6,000 gals	7.02	.20	.15			
Group V-A: Drivers of transit-mix trucks, 6 yds. or more; truck repairman; drivers of dump trucks, over 22 yds. water level; drivers of trucks, legal payload capacity, 30 tons and over; drivers of fuel and water trucks, 6,000 gals. and over	7.20	.20	.15			
Group V-B: D.W. and similar type equipment; D.W. 10 and D.W. 20 Euclid-type equipment; Letorneau pulls, Terra Cobras and similar types of equipment, also PB and similar type trucks when performing work within teamster jurisdiction, regardless of types of attachment including power units pulling off highway belly dumps in tandem	7.70	.20	.15			
3 NEV-LINE CONSTRUCTION-a (Southern):						
Line construction:						
Cable splicers	8.40	.15	1%		1%	
Linemen	8.00	.15	1%		1%	
Groundmen	6.40	.15	1%		1%	

Paid holidays:
A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.

Footnote:
a. First 6 months, none; 6 months to 3 years 2 percent; over 3 years 4 percent basic hourly rate. Six paid holidays: A through F.

U.S. DEPARTMENT OF LABOR—Continued

State: Nevada; County: Washoe; Decision No. AM-6198; date of decision: November 19, 1971.

Description of work: Residential construction consisting of single family homes and garden type apartments up to and including four stories.

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
13-15-16-NEV—ORM-STO-WAS-1-2-3-j:						
Asbestos workers	$8.87	$0.40	$0.35	$0.90	$0.01	
Boilermakers	7.20	.30	.70	.45	.02	
Boilermakers' helpers	6.90	.30	.70	.45	.02	
Bricklayers; stonemasons:						
Zone A: Within 15 mi. radius of courthouse in Reno	7.60	.30			.01	
Zone B: Within 15 to 35 mi. radius of courthouse in Reno	7.95	.30			.01	
Zone C: Within 35 to 75 mi. radius of courthouse in Reno	8.35	.30			.01	
Brick tenders:						
Zone A: 0 to 15 mi. from courthouse in Reno	6.00	.40	.20			
Zone B: 15 to 35 mi. from courthouse in Reno	6.31	.40	.20			
Zone C: 35 to 75 mi. from courthouse in Reno	6.66	.40	.20			
Carpenters:						
Carpenters	6.10	.45	.60	.80	.03	
Millwrights	6.40	.45	.60	.80	.03	
Cementmasons:						
Cementmasons	6.70	.45	.35	.60	.01	
Magnesite composition; mastic troweling machine	6.95	.45	.35	.60	.01	
Electricians:						
Electricians	8.04	.33	1%+.25		.01	
Cable splicers	8.84	.33	1%+.25		.01	
Elevator constructors	7.58	.185	$0.20	2%+a		
Elevator constructors' helpers	70%JR	.185	.20	2%+a		
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	$7.605	.15	.25	8%		
Ironworkers:						
Reinforcing	7.98	.43	.425	$0.50	.02	
Fence erectors	7.89	.43	.425	.50	.02	
Ornamental; structural	8.03	.43	.425	.50	.02	
Lathers	6.46	.20	.10		.01	
Painters:						
Brush	5.85	.20	.20	.40		
Spray; structural steel	6.10	.20	.20	.40		
Plasterers	6.65	.40	.35		15.00p/y	
Plasterers' tenders:						
Zone A: Less than 75 mi. from Reno	6.25	.40	.30			
Zone B: Over 75 mi. from Reno	6.375	.40	.30			
Working on Hardwall Gun (except light texture mixture):						
Zone A: Less than 75 mi. from Reno	6.50	.40	.30			
Zone B: Over 75 mi. from Reno	6.625	.40	.30			
Plumbers; steamfitters; sprinkler fitters	7.40	.30	.60	1.55	$0.05	
Roofers	7.70	.25	.05		.02	
Sheet metal workers	7.90	.59	.90	10%	.02	
Soft floor layers	6.27	.20	.20	$0.40		
Tile setters:						
Zone A: Within 15 mi. radius of courthouse in Reno	7.60	.30			.01	
Zone B: Within 15 to 35 mi. radius of courthouse in Reno	7.95	.30			.01	
Zone C: Within 35 to 75 mi. radius of courthouse in Reno	8.35	.30			.01	
1-NEV—JAB-1-2-3-g:						
Laborers:						
Group I:						
Asphalt ironer, raker & shoveler; chain saw faller, loglaoder, bucker; concrete mixer, under ½ yd.; concrete pan work, incl. handling, cleaning & stripping; cribber; curbing or divider machine; form raiser; header board; jackhammer op.; Jackson & similar type compactor; lagging, sheeting, whaling, bracing, trench-jacking, hand-guided lagging hammer; mastic worker (wet or dry); pavement breaker; pipewrapper, kettleman, potman & men applying asphalt, creosote & similar type materials; post hole digger—air, gas & electric; rip rap stone paver & rock slinger, incl. placing of sacked concrete (wet or dry) rototiller; sand blaster; signaling & rigging in connection with laborer's work; tree climber; vibra screedbull float in connection with laborer's work; driller's helper, chuck tender, outside nipper; concrete chipping & Grinding; ditch witch; vibrator & all pneumatic, gas & electric tools	4.55	.40	.30	.55		
Group II:						
Cement dumper; choker setter & rigger (clearing work); concrete laborer; crusher or grizzly; guinea chaser (stakeman); high pressure nozzleman (over 100 lbs. pressure) excluding levee work; loading & unloading, carrying & handling of all rods & materials, for use in reinforcing concrete; maintenance, repair trackman & road beds; metal form, panel form handling; cleaning & stripping of; sloper	4.40	.40	.30	.55		
Group III:						
All cleanup work of debris; ground & buildings; construction laborer; dumpman or spotter; flares, handling, filling & servicing of; gardener & landscape laborer; general laborer; limber, brush loader & piler	4.30	.40	.30	.55		
Group IV:						
Blaster, powderman; driller (diamond, core, wagon, and other mechanical drillers); High scaler; pipelayer, caulker, bander; sectional tile; heavy-duty vibrator with stingers over 5 in. diameter; joy drill model TWN-2A, Gardner Denver model D11143 and similar type drills	4.80	.40	.30	.55		
Group V:						
Burning and welding in connection with laborers	4.65	.40	.30	.55		
Group VI:						
Nozzleman and redman	5.10	.40	.30	.55		
Gunman and materialman	4.80	.40	.30	.55		
Reboundman	4.45	.40	.30	.55		
Area 1°						
1-NEV—PEO-1-2-3-c:						
Group I:						
ASSISTANT TO ENGINEER, Including Brakeman, Deckhand, Fireman, Heavy Duty Repairman Helper, Oiler, Partsman (heavy duty repair shops parts room when needed), Switchman, Tar Pot Fireman	6.08	.50	.75	.45	.26	
Group II:						
COMPRESSOR (Electrically, diesel or gas powered, etc.) Material Loader and/or Conveyor (handling building materials); Oiler (Truck Crane); Pump; Tar Pot Fireman (power agitated)	6.36	.50	.75	.45	.26	
Group III:						
BOX OPERATOR (Bunker); Concrete Curing Machines (streets, highways, airports, canals); Conveyor Belt (Tunnel); Engineer Generating Plant (500 K.W.); Fireman Hot Plant; Hydraulic Monitor; Lubrication and Service Engineer (Mobile and Grease Rack); Mixer Box Operator (Concrete Plant); Motorman; Rodman or Chainman; Rotomist; Screedman (except asphaltic or concrete paving)	6.51	.50	.75	.45	.26	
Group IV:						
BALLAST JACK TAMPER; Ballast Regulator; Ballast Tamper Multi-Purpose; Boxman (asphalt plant); Concrete Mixer, Skip Type; Dinky (Assistant to Engineer required); Fork Lift (construction job site); Ross Carrier; Skip Loader (under 1 cu. yd.); Tie Spacer	6.90	.50	.75	.45	.26	

U.S. DEPARTMENT OF LABOR—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
1-NEV—PEO-1-2-3-c—Continued						
Group V:						
CONCRETE MIXER (over 1 cu. yd.); Concrete Pumps or Pumpcrete Guns; Elevator and Material Hoist (1 drum); Gradesetter, Grade checker; Screedman (Barber-Greene and similar) (asphaltic or concrete paving); Shuttle car; Signalman	7.05	.50	.75	.45	.26	
Group VI:						
Boom truck or dual purpose A-frame truck; B.L.H. Lima Road Pactor or similar; chip box spreader (Flaherty type or similar); concrete batch plant (wet or dry); concrete saws (highways, streets, airports, canals) highline cableway signalman; locomotives (over 30 tons); Maginis International full-slab vibrator (airports, highways, canals, warehouses); mechanical burn, curb and/or curb gutter machine (concrete or asphalt); mechanical finishers or spreader machine (asphalt, Barber-Greene and similar) (screedman required); power jumbo (setting slip forms, etc., in tunnels); roller, self-propelled compactor (single engine); slip form pump (power driven by hydraulic, electric, air, gas, etc. Lifting device for concrete forms); stationary pipe wrapping, cleaning and bending machine; pavement breaker or tamper (with or without compressor combination); pavement breaker, truck mounted, with compressor combination; small rubber-tired tractors	7.14	.50	.75	.45	.26	
Group VII:						
Asphalt plant engineer; compressor (2 to 6) (electric, diesel, or gas powered); concrete batch plant (multiple units); concrete conveyor; concrete conveyor or concrete pump, truck or equipment mounted (boom length to apply); crusher plant engineer; dock engineer; drilling and boring machinery, vertical and horizontal (not to apply to waterliners, wagon drills, or jack hammers); instrument man; Kolman loader; material hoist (2 or more drums); mine or shaft hoist; pipe bending machines (pipeline only); pipe cleaning machines (tractor propelled and supported); pipe wrapping machines (tractor propelled and supported); portable crushing and screening plants; pumps (2 to 6); refrigeration plant; self-propelled boom-type lifting device; slusher; soil tester (certified); surface heater and planer; trenching machine (maximum digging capacity 3 ft. depth) truck-type loader; welding machines (gasoline or diesel) (2 to 6)	7.26	.50	.75	.45	.26	
Group VIII:						
Car paser; cast-in-place pipe laying machine; combination slusher and motor; dozer; elevating grader; heavy-duty repairman and/or welder; Ken-Seal; loader (up to and including 2½ cu. yds.); mechanical trench shield, mixermobile; push cats; road oil mixing machine wood-mixer (and other similar Pugmill equipment); rubber-tired earthmoving equipment (up to and including 35 cu. yds. "struck," m.r.c., Euclids, T-Pulls, DW10,20,21 and similar); self-propelled compactor with dozer; sheepfoot; small tractor (with boom); soil stabiliser (P&H or equal); subgrader (Gurries or other types); timber skidder (rubber tire) or similar equipment; tractor; tractor drawn scraper; tractor mounted compressor drill combination; trenching machine (over 3 ft. depth); tribatch paver; tunnel badger, or tunnel boring machine; tunnel mole boring machine	7.56	.50	.75	.45	.26	
Group IX:						
Canal finger drain digger; Chicago boom; combination backhoe and loader (up to and including ¾ yds.); combination mixer and compressor (gunite); Lull hi-lift (20 ft. or over); mucking machine; tractor (with boom) (D8 or larger); track laying type earthmoving machine (single engine with tandem scrapers; rubbered-tired scraper, self loading	7.73	.50	.75	.45	.26	
Group X:						
Boom-type backfilling machine; back hoe (up to and including 1 cu. yd. hydraulic); back hoe (up to and including 1 cu. yd.) (cable); bridge crane; cranes (not over 25 tons) (hammerhead and gantry); Cary-Lift or similar; chemical grouting machine; derricks (2 group 10 operators required when swing engine remote from hoist); derrick barges (except excavation work) Euclid Loader similar types; grade-alls (up to and including 1 cu. yd.); heavy-duty rotary drill rigs (including caisson foundation work and Ribbins type drills); lift-slab (Vagtborg and similar types); loader (over 2½ yds. up to and including 4 yds.); locomotive (over 100 tons) (single or multiple units); motor patrol operator; multiple engine earthmoving machines (Euclids, dozers, etc.) (no tandem scraper); power shovels, clamshells, draglines, cranes (up to and including 1 cu. yd.); prestress wirewrapping machines; self-propelled reservoir-debree equipment floating (200 hp. and over); shuttle car (reclaims station); single-engine scraper (over 35 cu. yds.) vacuum cooling plant; Whirley crane (up to and including 28 tons)	7.90	.50	.75	.4	.26	
Group XI:						
Automatic asphalt or concrete slip form paver; automatic railroad car dumper; canal-finger drain backfiller; canal trimmer; cranes (over 25 tons); highline cableway operator; loader (over 4 yds. up to and including 12 cu. yds.); multiengine earthmoving equipment (up to and including 75 cu. yds. "struck" m.r.c.); power shovels, clamshells, draglines, backhoes, grade-alls (over 1 yd. and up to and including 7 cu. yds. m.r.c.); self-propelled compactor (with multiple propulsion power units); single engine rubber-tired earthmoving machine (with tandem scraper); slip form paver (concrete or asphalt) (1 operator and 2 screedmen); tandem cats and scrapers; tower crane mobile Universal Liebher and tower cranes (and similar types); wheel excavator (up to and including 750 cu. yds. per hour); Whirley cranes (over 25 tons)	8.09	.50	.75	.45	.26	
Group XI-A:						
Bandwagons (in conjunction with wheel excavators); loader (over 12 cu. yds.); multiengine earthmoving equipment (over 75 cu. yds. "struck" m.r.c.); operator of helicopter (when used in construction work); power shovels and draglines (over 7 cu. yds. m.r.c.); remote controlled earthmoving equipment; wheel excavator (over 750 cu. yds. per hour)	8.91	.50	.75	.45	.26	
Area 2°						
3-NEV—PEO-1-2-3-c:						
Group I:						
Assistant to engineer, including brakeman, deckhand, fireman, heavy-duty repairman helper, oiler, partsman (heavy duty repair shops parts room when needed), switchman, tar-pot fireman	7.08	.50	.75	.45	.26	
Group II:						
Compressor (electrically, diesel, or gas powered, etc.) material loader and/or conveyor (handling building materials); oiler (truck crane); pump; tar-pot fireman (power agitated)	7.36	.50	.75	.45	.26	
Group III:						
Box operator (bunker); concrete curing machines (streets, highways, airports, canals); conveyor belt (tunnel); engineer generating plant (500 kw.); fireman hot plant; hydraulic monitor; lubrication and service engineer (mobile and grease rack); mixer box operator (concrete plant); motorman; rodman or chainman; rotomist; screedman (except asphaltic or concrete paving)	7.51	.50	.75	.45	.26	
Group IV:						
Ballast jack tamper; ballast regulator; ballast tamper multipurpose; boxman (asphalt plant); concrete mixer, skip type; dinky (assistant to engineer required); forklift (construction job site); Ross carrier; skip loader (under 1 cu. yd.); tie spacer	7.90	.50	.75	.45	.26	
Group V:						
Concrete mixer (over 1 cu. yd.); concrete pumps or pumpcrete guns; elevator and material hoist (1 drum); gradesetter, grade checker; screedman (Barber-Greene and similar) (asphaltic or concrete paving); shuttle car; signalman	8.05	.50	.75	.45	.26	

U.S. DEPARTMENT OF LABOR—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
3-NEV—PEO-1-2-3-c—Continued						
Group VI: Boom truck or dual purpose A-frame truck; B.L.H. Lima Road Pactor or similar; chip box spreader (Flaherty type or similar); concrete batch plant (wet or dry); concrete saws (highways, streets, airports, canals); highline cableway signalman; locomotives (over 30 tons); Maginis International full-slab vibrator (airports, highways, canals, warehouses); mechanical burn, curb and/or curb cutter machine (concrete or asphalt); mechanical finishers or spreader machine (asphalt, Barber-Greene and similar) (screedman required); power jumbo (setting slip forms, etc., in tunnels); roller; self-propelled compactor (single engine); slip form pump (power driven by hydraulic, electric, air gas, etc., lifting device for concrete forms); stationary pipe wrapping, cleaning and bending machine; pavement breaker or tamper (with or without compressor combination); pavement breaker, truck mounted, with compressor combination; small rubber-tired tractors	$3.14	.50	.75	.45	.26	
Group VII: Asphalt plant engineer; compressor (2 to 6) (electric, diesel, or gas powered); concrete batch plant (multiple units); concrete conveyor; concrete conveyor or concrete pump, truck or equipment mounted (boom length to apply); crusher plant engineer; deck engineer; drilling and boring machinery, vertical and horizontal (not to apply to waterliners, wagon drills, or jack hammers); instrument man; Koiman loader; material hoist (2 or more drums); mine or shaft hoist; pipe bending machines (pipeline only); pipe cleaning machines (tractor propelled and supported); pipe wrapping machines (tractor propelled and supported); portable crushing and screening plants; pumps (2 to 6); refrigeration plant; self-propelled boom-type lifting device; slusher; soil tester (certified); surface heater and planer; trenching machine (maximum digging capacity 3 ft. depth) truck-type loader; welding machines (gasoline or diesel) (2 to 6)	8.28	.50	.75	.45	.26	
Group VIII: Car paser; cast-in-place pipe laying machine; combination slusher and motor; dozer; elevating grader; heavy-duty repairman and/or welder; Ken-Seal; loader (up to and including 2½ cu. yds.); mechanical trench shield, mixermobile; push cats; road oil mixing machine wood-mixer (and other similar Pugmill equipment); rubber-tired earthmoving equipment (up to and including 35 cu. yds. "struck," m.r.c., Euclids, T-pulls, DW10, 20, 21 and similar); self-propelled compactor with dozer; sheepfoot; small tractor (with boom); soil stabilizer (P&H or equal); subgrader (Gurries or other types); timber skidder (rubber tire) or similar equipment; tractor; tractor drawn scraper; tractor mounted compressor drill combination; trenching machine (over 3 ft. depth); tribatch paver; tunnel badger or tunnel boring machine; tunnel mole boring machine	8.56	.50	.75	.45	.26	
Group IX: Canal finger drain digger; Chicago boom; combination backhoe and loader (up to and including ⅜ yds.); combination mixer and compressor (gunite); Lull hi-lift (20 ft. or over); mucking machine; tractor (with boom) (D6 or larger); track-laying type earthmoving machine (single engine with tandem scrapers; rubber-tired scraper, self-loading	8.73	.50	.75	.45	.26	
Group X: Boom-type backfilling machine; back hoe (up to and including 1 cu. yd. hydraulic); back hoe (up to and including 1 cu. yd.) (cable); bridge crane; cranes (not over 25 tons) (hammerhead and gantry); Cary-Lift or similar; chemical grouting machine; derricks (2 group 10 operators required when swing engine remote from hoist); derrick barges (except those assigned to work) Enclid loader similar types; grade-alls (up to and including 1 cu. yd.); heavy-duty rotary drill rigs (including caisson foundation work and Ribbins type drills); lift-slab (Vagtborg and similar types); loader (over 2½ yds. up to and including 4 yds.); locomotive (over 100 tons) (single or multiple units); motor patrol operator; multiple engine earthmoving machines (Euclids, dozers, etc.) (no tandem scraper); power shovels, clamshells, draglines, cranes (up to and including 1 cu. yd.); prestress wire wrapping machines; self-propelled reservoir-debree equipment floating (200 hp. and over); shuttle car (reclaim station); single-engine scraper (over 35 cu. yds.) vacuum cooling plant; Whirley crane (up to and including 25 tons)	8.90	.50	.75	.45	.26	
Group XI: Automatic asphalt or concrete slip form paver; automatic railroad car dumper; canal finger drain backfiller; canal trimmer; cranes (over 25 tons); highline cableway operator; loader (over 4 yd. up to and including 12 cu. yd.); multiengine earthmoving equipment (up to and including 75 cu. yd. "struck" m.r.c.); power shovels, clamshells, draglines, backhoes, grade-alls (over 1 yd. and up to and including 7 cu. yd. m.r.c.); self-propelled compactor (with multiple propulsion power units); single-engine rubber-tired earthmoving machine (with tandem scraper); slip form paver (concrete or asphalt) (1 operator and 2 screedmen); tandem cats and scrapers; tower crane mobile Universal Liebher and tower cranes (and similar types); wheel excavator (up to and including 750 cu. yd. per hr.); Whirley cranes (over 25 tons)	9.09	.50	.75	.45	.26	
Group XI-A: Bandwagons (in conjunction with wheel excavators); loader (over 12 cu. yd.); multiengine earthmoving equipment (over 75 cu. yd. "struck" m.r.c.); operator of helicopter (when used in construction work); power shovels and draglines (over 7 cu. yd. m.r.c.); remote controlled earthmoving equipment; wheel excavator (over 750 cu. yd. per hr.)	9.91	.50	.75	.45	.26	
Truckdrivers: Area 1: Consists of the following sections of Nevada: (1) That area within a 25-mile radius of the Reno City Hall; (2) within a 25-mile radius of city hall of Carson City; (3) all of Storey, Ormsby, and Douglas Counties; (4) all of Lyon County north of the town of Yerington; (5) that area within a 25-mile radius of Lovelock; (6) that area within a 25-mile radius of the city hall of Fallon; (7) that area within a 25-mile radius of the city hall of Elko.						
1-NEV—TD-1-2-3-d: Truckdrivers: All dump trucks (single, multiple, or dump units including semi's and double and transfer units): Under 4 yds. (water level)	5.40	.41	.25	.25		
4 yds. and under 8 yds. (water level)	5.60	.41	.25	.25		
8 yds. and under 18 yds. (water level)	5.80	.41	.25	.25		
18 yds. and under 35 yds. (water level)	5.95	.41	.25	.25		
35 yds. and under 60 yds. (water level)	6.20	.41	.25	.25		
60 yds. and over	6.35	.41	.25	.25		
Transit mix: Under 8 yds	5.80	.41	.25	.25		
8 yds. and including 12 yds	5.90	.41	.25	.25		
Over 12 yds	6.10	.41	.25	.25		
Transit mix with boom shall receive 12½¢ per hour above the appropriate yardage classification rate of pay when such boom is used.						
Water trucks: Up to 2,500 gals	5.60	.41	.25	.25		
2,500 gals. and over	5.70	.41	.25	.25		
Semitrailers	6.80	.41	.25	.25		
DW 20's and 21's and other similar cat type, Terra Cobra, LeTourneau Pulls, Tournerocker, Euclid, and similar type equipment when pulling aqua/pak, water tank trailers and fuel and/or grease tank trailers, or other miscellaneous trailers	5.95	.41	.25	.25		

U.S. DEPARTMENT OF LABOR—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
1-NEV—TD-1-2-3-d—Continued Truckdrivers—Continued: Heavy-duty transport (high bed), heavy-duty transport (gooseneck low bed), tiltbed-or flatbed-pull trailers	5.70	.41	.25	.25		
Bootman, combination bootman, and road oiler	5.85	.41	.25	.25		
Road oil truck or bootman	5.55	.41	.25	.25		
Flat rack (single unit) (2-axle unit)	5.45	.41	.25	.25		
Flat rack (single unit) (3-axle unit)	5.55	.41	.25	.25		
Bus and manhaul drivers: Up to 18,000 lbs. (single unit)	5.45	.41	.25	.25		
18,000 lbs. and over (single unit)	5.55	.41	.25	.25		
Helicopter pilot (when transporting men or materials)	6.35	.41	.25	.25		
Industrial lift truck: Use appropriate flat rack rate (mechanical tailgate).						
Lift jitneys and forklift	5.65	.41	.25	.25		
Winch truck and A-frame drivers: Under 18,000 lbs	5.55	.41	.25	.25		
18,000 lbs. and over	5.65	.41	.25	.25		
Warehousemen spotters teamsters	5.35	.41	.25	.25		
Tire repairman	5.65	.41	.25	.25		
Truck repairman	6.10	.41	.25	.25		
Pickup truck and pilot cars (job site)	5.45	.41	.25	.25		
Truck oiler and greaser, fuel truck driver, fuel man and fuel island man	5.55	.41	.25	.25		
(Area 2) (All other areas not included in Area 1)						
2-NEV—TD-1-2-3-d: Truckdrivers: All dump trucks (single or multiple dump units including semi's and double and transfer units): Under 4 yd. (water level)	6.15	.41	.25	.25		
4 yd. and under 8 yd. (water level)	6.35	.41	.25	.25		
8 yd. and under 18 yd. (water level)	6.55	.41	.25	.25		
18 yd. and under 35 yd. (water level)	6.70	.41	.25	.25		
35 yd. and under 60 yd. (water level)	6.95	.41	.25	.25		
60 yd. and over	7.10	.41	.25	.25		
Transit mix: Under 8 yds	6.55	.41	.25	.25		
8 yd. and including 12 yds	6.65	.41	.25	.25		
Over 12 yd	6.85	.41	.25	.25		
Transit mix with boom shall receive 12½¢ per hour above the appropriate yardage classification rate of pay when such boom is used.						
Water trucks: Up to 2,500 gals	6.35	.41	.25	.25		
2,500 gals. and over	6.45	.41	.25	.25		
Semitrailers	6.55	.41	.25	.25		
DW 20's and 21's and other similar cat type, Terra Cobra, LeTourneau Pulls, Tournerocker, Enclid, and similar type equipment when pulling aqua/pak, water tank trailers and fuel and/or grease tank trailers, or other miscellaneous trailers	6.70	.41	.25	.25		
Heavy-duty transport (high bed), heavy-duty transport (gooseneck low bed), tiltbed or flatbed pull trailers	6.45	.41	.25	.25		
Bootman, combination bootman and road oiler	6.60	.41	.25	.25		
Road oil truck or bootman	6.30	.41	.25	.25		
Flat rack (single unit) (2-axle unit)	6.20	.41	.25	.25		
Flat rack (single unit) (3-axle unit)	6.30	.41	.25	.25		
Bus and manhaul drivers: Up to 18,000 lbs. (single unit)	6.20	.41	.25	.25		
18,000 lbs. and over (single unit)	6.30	.41	.25	.25		
Helicopter pilot (when transporting men or materials)	7.10	.41	.25	.25		
Industrial lift truck: Use appropriate flat rack rate (mechanical tailgate).						
Lift jitneys and fork lift	6.40	.41	.25	.25		
Winch truck and A-frame drivers: Under 18,000 lbs	6.30	.41	.25	.25		
18,000 lbs. and over	6.40	.41	.25	.25		
Warehousemen spotters teamsters	6.10	.41	.25	.25		
Tire repairman	6.40	.41	.25	.25		
Truck repairman	6.85	.41	.25	.25		
Pickup truck and pilot cars (job site)	6.20	.41	.25	.25		
Truck oiler and greaser, fuel truck driver, fuel man and fuel island man	6.30	.41	.25	.25		
1-NEVADA—LINECONSTRUCTION (Northern)-f: Line construction: Cable splicers	8.84	.33	1%+.25		.01	
Linemen	8.04	.33	1%+.25		.01	
Line equipment operators	7.24	.33	1%+.25		.01	
Groundmen	6.03	.33	1%+.25		.01	

Paid holidays:
A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.

Footnote:
a. Employer contributes 4 percent basic hourly rate for over 5 years' service and 2 percent basic hourly rate for 6 months to 5 years' service as vacation pay credit. Six paid holidays: A through F.

NEVADA AREA DEFINITIONS FOR POWER EQUIPMENT OPERATORS

**Area 2: All areas not included within Area 1 as defined below.

*Area 1: All of northern Nevada within the following lines:

Commencing at the northwest corner of township 22N, range 18E, Mount Diablo Baseline and Meridian at the California-Nevada border; thence easterly to the northeast corner of township 22N, range 22E; thence southerly to the northeast corner of township 20N, range 22E; thence easterly to the northwest corner of township 20N, range 26E; thence northerly to the northwest corner of township 22N, range 26E; thence easterly to the northwest corner of township 22N, range 29E; thence northerly to the northwest corner of township 20N, range 29E; thence easterly to the northeast corner of township 20N, range 33E; thence southerly to the southeast corner of township 24N, range 33E; thence westerly to the southeast corner of township 24N, range 31E; thence southerly to the southeast corner of township 16N, range 31E; thence westerly to the southeast corner of township 16N, range 30E; thence southerly to the southeast corner of township 15N, range 30E; thence westerly to the southeast corner of township 15N, range 27E; thence southerly to the southeast corner of township 14N, range 27E; thence westerly to the southeast corner of township 14N, range 23E; thence southerly to the southeast corner of township 13N, range 23E; thence westerly to the southeast corner of township 13N, range 22E; thence southerly to the northeast corner of township 10N, range 22E; thence easterly to the northeast corner of township 10N, range 23E; thence southerly along the easterly line of range 23E to the intersection of the California-Nevada border; thence northwesterly, then northerly following the California-Nevada border to the point of beginning.

Area 1 also includes that portion of northern Nevada included within the following line:

Commencing at the southwest corner of township 37N, range 62E; thence Easterly to the southeast corner of township 37N, range 52E; thence Northerly to the northeast corner of township 37N, range 52E; thence Easterly to the northwest corner of township 37N, range 58E; thence Southerly to the southwest corner of township 37N, range 58E; thence Easterly to the southeast corner of township 37N, range 58E; thence Southerly to the northeast corner of township 31N, range 58E; thence Westerly to the northwest corner of township 31N, range 58E; thence Southerly to the southwest corner of township 31N, range 58E; thence Westerly to the southeast corner of township 31N, range 62E; thence Northerly to the northeast corner of township 31N, range 62E; thence Westerly to the southeast corner of township 32N, range 61E; thence Northerly to the point of beginning.

U.S. DEPARTMENT OF LABOR—Continued

State: Texas; County: Galveston; Decision No. AM-7,703, date of decision: November 19, 1971.

Description of work: Residential construction consisting of single family homes and garden-type apartments up to and including four stories.

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Building construction:						
Bricklayers	$6.00					
Carpenters	4.25					
Carpenters' helpers	2.50					
Electricians	4.75	$0.17	1%+$0.21		$0.01	
Laborers:						
Laborers	2.50					
Mason tenders	2.75					
Lathers	6.025	.125	.15		.01	
Painters, brush	5.00					
Painters' helpers	2.50					
Plumbers	6.10	.25	.20		.02	
Sheet metal workers	3.85					
14-Texas—3 c:						
Incidental paving and utilities and site preparation:						
Air tool man	2.00					
Asphalt raker	2.75					
Asphalt shoveler	2.50					
Batching plant scaleman	2.50					
Carpenter	3.75					
Carpenter helper	2.95					
Concrete finisher (paving)	3.75					
Concrete finisher helper (paving)	2.50					
Concrete finisher (structures)	3.40					
Concrete finisher helper (structures)	3.00					
Concrete rubber	3.00					
Electrician	4.65					
Fireman	3.00					
Form builder (structures)	3.00					
Form builder helper (structures)	2.75					
Form liner (paving and curb)	3.35					
Form setter (paving and curb)	3.25					
Form setter helper (paving and curb)	2.75					
Form setter (structures)	3.35					
Form setter helper (structures)	2.50					
Laborer, common	2.00					
Laborer, utility man	2.55					
Manhole builder, brick	3.25					
Mechanic	3.75					
Mechanic helper	3.00					
Oiler	2.90					
Painter (structures)	3.90					
Painter helper (structures)	2.80					
Piledrivermen	3.60					
Pipelayer	3.00					
Pipelayer helper	2.50					
Reinforcing steel setter (paving)	2.75					
Reinforcing steel setter (structures)	3.40					
Reinforcing steel setter helper	2.60					
Steel worker (structural)	3.90					
Steel worker helper (structural)	3.45					
Sign erector	3.00					
Spreader box man	3.50					
Power equipment operators:						
Asphalt distributor	3.25					
Asphalt paving machine	3.50					
Broom or sweeper operator	2.75					
Bulldozer, 150 hp. and less	3.25					
Bulldozer, over 150 hp	3.50					
Concrete paving curing machine	2.75					
Concrete paving finishing machine	3.25					
Concrete paving mixer	3.90					
Concrete paving saw	3.00					
Concrete paving spreader	3.25					
Crane, clamshell, backhoe, derrick, dragline, shovel (less than 1½ cu. yd.)	3.50					
Crane, clamshell, backhoe, derrick, dragline, shovel (1½ cu. yd. and over)	4.00					
Crusher or screening plant operator	3.25					
Foundation drill operator (truck mounted)	3.50					
Front end loader (2½ cu. yd. and less)	3.15					
Front end loader (over 2½ cu. yd.)	3.50					
Motor grader operator, fine grade	4.00					
Motor grader operator	3.50					
Roller, steel wheel (plant—mix pavements)	2.75					
Roller, steel wheel (other—flat wheel or tamping)	2.75					
Roller, pneumatic (self-propelled)	3.00					
Scrapers (17 cu. yd. and less)	3.00					
Scrapers (over 17 cu. yd.)	3.25					
Tractor (crawler type) 150 hp. and less	2.75					
Tractor (crawler type) over 150 hp	2.15					
Tractor (pneumatic) 80 hp. and less	2.55					
Tractor (pneumatic) over 80 hp	2.75					
Traveling mixer	2.80					
Trenching machine, heavy	4.00					
Wagon drill, boring machine or post hole driller operator	3.00					
Truck drivers:						
Single axle, light	2.50					
Single axle, heavy	2.75					
Tandem axle or semitrailer	2.50					
Lowboy—float	2.75					
Winch	3.00					
Vibratorman (hand type)	2.00					
Welder	4.60					
Welder helper	3.00					

U.S. DEPARTMENT OF LABOR—Continued

State: Texas; County: *See below; Decision No. AM-7,704; date of decision: November 19, 1971.

Description of work: Residential construction consisting of single family homes and garden-type apartments up to and including four stories.

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
*Bailey, Lamb, Hale, Floyd, Cochran, Hockley, Lubbock, Crosby, Yoakum, Terry, Lynn, and Garza Counties						
Bricklayers	$5.50					
Carpenters	4.00					
Cementmasons	3.875					
Electricians	5.60	$0.20	1%			
Laborers:						
Laborers	3.00					
Lathers	5.00					
Painters, brush	4.75					
Plasterers	4.00					
Plumbers	4.00					
Roofers	3.25					
Truckdrivers	3.00					
Power equipment operators:						
Bulldozers, over 150 hp	3.50					
Motor graders	3.25					

State: Texas; County: *See below; Decision No. AM-7,705; date of decision: November 19, 1971.

Description of work: Residential construction consisting of single family homes and garden-type apartments up to and including four stories.

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
*Travis, Williamson, Hays, Bastrop, Caldwell, Fayette, Blanco, and Lee Counties						
Bricklayers	$5.75					
Carpenters	3.75					
Cementmasons	4.10					
Electricians	4.25		1%		1%	
Ironworkers	3.75					
Laborers:						
Laborers	2.00					
Painters:						
Brush	4.25					
Spray	4.75					
Plumbers	5.85				$0.03	
Power equipment operators:						
Bulldozers, 80 h.p. and less	2.35					
Motor graders	2.75					
Scrapers, over 7 cu. yd	2.40					
Trenching machines, light	2.65					

State: Texas; County: *See below; Decision No. AM-7, 706; date of decision: November 19, 1971.

Description of work: Residential construction consisting of single family homes and garden-type apartments up to and including four stories.

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
*Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Gray, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Castro, Swisher, and Childress Counties						
Bricklayers	$5.50					
Carpenters	4.60					
Cementmasons	5.15					
Electricians	6.65		1%		½%	
Laborers:						
Laborers	3.00					
Mason tenders	3.15					
Painters	4.65			$0.20		
Plumbers	5.85		$0.30	.35		
Sheet metal workers	6.10					
Tile setters	4.60					
19-Texas—3 c:						
Asphalt heaterman	3.00					
Asphalt raker	3.30					
Batching plant scaleman	3.60					
Carpenter	3.40					
Carpenter helper	2.80					
Concrete finisher (paving)	3.60					
Concrete finisher helper (paving)	2.70					
Concrete finisher (structures)	3.60					
Concrete finisher helper (structures)	2.85					
Concrete rubber	3.10					
Fireman	2.65					
Form builder (structures)	3.80					
Form builder helper (structures)	2.50					
Form setter (paving and curb)	2.50					
Form setter (structures)	4.10					
Form setter helper (structures)	2.95					
Laborer, Common	2.00					
Laborer, utility man	2.45					
Mechanic	3.50					
Mechanic helper	2.50					
Oiler	3.00					
Serviceman	3.00					
Pipelayer	2.80					
Pipelayer helper	2.20					
Powderman	3.25					
Reinforcing steel setter (structures)	2.90					
Reinforcing steel setter helper	2.00					
Steel worker (structural)	3.35					
Sign erector	2.75					

U.S. DEPARTMENT OF LABOR—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
19–Texas—3 e—Continued						
Sign erector helper	2.40					
Spreader box man	2.80					
Swamper	2.50					
Power equipment operators:						
Asphalt distributor	3.15					
Asphalt paving machine	3.90					
Broom or sweeper operator	2.70					
Bulldozer, 150 h.p. and less	3.00					
Bulldozer, over 150 h.p.	3.50					
Concrete paving curing machine	2.40					
Concrete paving longitudinal float	2.50					
Concrete paving spreader	3.00					
Paving subgrader	3.60					
Crane, clamshell, backhoe, derrick, dragline, shovel (less than 1½ cu. yd.)	3.25					
Crane, clamshell, backhoe, derrick, dragline, shovel (1½ cu. yd. and over)	$4.10					
Crusher or screening plant operator	3.00					
Foundation drill operator (truck mounted)	3.90					
Front end loader (2½ cu. yd. and less)	3.15					
Front end loader (over 2½ cu. yd.)	3.50					
Motor grader operator, fine grade	4.10					
Motor grader operator	3.75					
Roller, steel wheel (plant—mix pavements)	3.10					
Roller, steel wheel (other—flat wheel or tamping)	3.00					
Roller, pneumatic (self-propelled)	2.55					
Scrapers (17 cu. yd. and less)	3.00					
Scrapers (over 17 cu. yds.)	3.50					
Tractor (crawler type) 150 hp. and less	2.75					
Tractor (crawler type) over 150 hp	3.00					
Tractor (pneumatic) 80 hp. and less	2.30					
Tractor (pneumatic) over 80 hp	2.65					
Traveling mixer	3.50					
Wagon drill, boring machine or post hole driller operator	3.00					
Truckdrivers:						
Single axle, light	2.30					
Single axle, heavy	2.70					
Tandem axle or semitrailer	2.25					
Transit-mix	3.00					
Welder	4.10					

State: Texas; County: *See below; Decision No. AM-7,713, date of decision: November 19, 1971.

Description of work: Residential construction consisting of single-family homes and garden-type apartments up to and including 4 stories.

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
** Loring, Winkler, Ector, Midland, Reeves, Ward, Crane, Upton, and Pecos Counties*						
Building construction:						
Bricklayers	$4.25					
Bricklayers' helpers	2.25					
Carpenters	3.60					
Carpenters' helpers	2.25					
Cement finishers	3.50					
Electricians	4.95					
Electricians' helpers	2.25					
Laborers	1.85					
Painters, brush	3.50					
Plumbers	4.40					
Roofers	4.50					
Sheet metal workers	3.60					
Truckdrivers	2.00					
Incidential paving and utilities and site preparation						
20–Texas—3 c:						
Air toolman	2.40					
Asphalt heaterman	2.50					
Asphalt raker	2.80					
Asphalt shoveler	2.35					
Batching plant scaleman	2.55					
Carpenter	3.00					
Carpenter helper	2.25					
Concrete finisher (paving)	2.75					
Concrete finisher (structures)	3.00					
Concrete finisher helper (structures)	2.80					
Electricians	4.85					
Form builder (structures)	3.25					
Form builder helper (structures)	2.45					
Form setter (structures)	3.15					
Form setter helper (structures)	2.50					
Laborer, common	2.00					
Laborer, utility man	2.35					
Mechanic	3.00					
Mechanic helper	2.40					
Oiler	2.35					
Powderman	3.00					
Powderman helper	2.45					
Reinforcing steel setter (structures)	3.20					
Reinforcing steel setter helper	2.25					
Spreader box man	2.60					
Power equipment operators:						
Asphalt distributor	2.75					
Asphalt paving machine	2.75					
Bulldozer, 150 h.p. and less	2.75					
Bulldozer, over 150 h.p.	3.00					
Crane, clamshell, backhoe, derrick, dragline, shovel (less than 1½ cu. yds.)	3.15					

U.S. DEPARTMENT OF LABOR—Continued

Classifications	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
29–Texas—3 e—Continued						
Power equipment operators—Continued						
Crane, clamshell, backhoe, derrick, dragline, shovel (1½ cu. yds. and over)	3.25					
Crusher or screening plant operator	2.75					
Foundation drill operator (truck mounted)	3.00					
Front-end loader (2½ cu. yds. and less)	2.88					
Front-end loader (over 2½ cu. yds.)	3.00					
Motor grader operator, fine grade	3.25					
Motor grader operator	3.00					
Roller, steel wheel (plant-mix pavements)	2.55					
Roller, steel wheel (other flat wheel or tamping)	2.25					
Roller, pneumatic (self-propelled)	2.25					
Scrapers (17 cu. yds. and less)	2.85					
Scrapers (over 17 cu. yd.)	3.00					
Tractor (crawler type) 150 h.p. and less	2.75					
Tractor (crawler type) over 150 h.p.	3.00					
Tractor (pneumatic) 80 h.p. and less	2.00					
Tractor (pneumatic) over 80 h.p.	2.25					
Wagon drill, boring machine or post hole driller operator	2.50					
Truckdrivers:						
Single-axle, light	2.00					
Single-axle, heavy	2.25					
Tandem-axle or semitrailer	2.00					
Weighman (truck scales)	2.00					
Welder	3.00					

State: Texas; County: Travis; Decision No. AM-7,714, date of decision: November 19, 1971.
Description of work: Building construction (excluding single-family homes and garden-type apartments up to and including 4 stories).

Classifications	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
18–Texas—1 v:						
Building construction:						
Asbestos workers	$6.41	$0.20	$0.10		$0.02	
Boilermakers	6.50	.30	.40		.01	
Bricklayers; stonemasons	6.75					
Carpenters:						
Carpenters	5.645	.21	.15		.02	
Millwrights	5.895	.21	.15		.02	
Cementmasons	5.46					
Electricians:						
Electricians	6.60		1%		1%	
Cable splicers	6.60		1%		1%	
Elevator constructors	6.51	.195	.20	2%+a+b		
Elevator constructors' helpers	70%JR	.195	.20	2%+a+b		
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	$5.10					
Ironworkers:						
Structural; ornamental; reinforcing	5.815	.25	.30		$0.02	
Laborers:						
Laborers, unskilled	3.545	.125	.10			
Air tool operator (jackhammer, vibrator); mason tenders; pipelayers (concrete and clay)	3.695	.125	.10			
Mortar mixers; plasterers' tenders	3.87	.125	.10			
Lathers	5.76	.125		$1.00	.01	
Marble setters	6.50					
Painters:						
Painters, brush	5.00					
Taping and floating of sheetrock	5.00					
Paperhangers	5.25					
Spray	5.50					
Steam cleaning, sand blast and other powered equipment	5.50					
Chipper, burner, torch	5.25					
Skeleton steelwork erected	5.25					
Swinging stage, bosun chair window jack or scaffolding (above 2d floor) .25 per hour above all base rates						
Plasterers	6.875				.01	
Plumbers	7.00				.03	
Roofers:						
Roofers	5.23				.01	
Kettlemen	5.08				.01	
Sheet metal workers	6.20	.15	.15			
Soft floor layers	6.00				.03	
Sprinkler fitters	7.60	.25	.40		.05	
Steamfitters	7.00				.03	
Terrazzo workers	6.50					
Terrazzo workers' helpers:						
Terrazzo helpers	3.30					
Floor machine operators	3.50					
Base machine operators	3.85					
Tile setters	6.50					
Tile setters' helpers	3.30					
Truckdrivers	1.60					
Truckdrivers winch	1.60					
Welders—receive rate prescribed for craft performing operation to which welding is incidental						
18–Texas—PEO–1 p:						
Building construction:						
Power equipment operators:						
Backfiller; backhoe; blade grader, self-propelled; bull clam; bulldozer and all types of cat. tractors; cableway; clamshell operator; crane, power operated, all types; derricks, power operated, all types; dragline; elevating grader, self-propelled; Euclid operator; foundation boring machine; gradall; heavy duty mechanic; high lifts and loader, over ¾ cu. yd. capacity; hoist, motor driven, 2 drums or more; locomotive; mixer, 14 cu. ft. or over; mixmobile; paving mixer, all types; pumperete machine; push cat. operator; rock crusher operated on job; scoopmobile; scraper; shovel, power operated; trenching machine, all types; 2 126 cu. ft. compressors; welding machines, 6 to 12; winch truck; well points, including installations	6.025					

U.S. DEPARTMENT OF LABOR—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
18-Texas—PEO-1 p—Continued						
Building construction—Continued						
Power equipment operators—Continued						
Air compressor (anytime there are two or more attachments operating on a 125-cu.-ft. air compressor, or less, a light equipment operator shall be employed, any compressor over 125 cu. ft. shall have a light equipment operator); blade grader, towed; flex plane; forklift, 1,500 lbs. capacity or less; hoist, single drum; pump, 2½ inches or larger; pneumatic roller; mixer, less than 14 cu. ft.; pulsometer; truck crane driver and oiler combination man; form grader, gasoline or diesel driven welding machine, 3 to 6; high-lifts and loaders, ¼ cu. yd. or less	5.285					
Fireman	4.47					
Oiler	4.37					
18-Texas—3 e:						
Incidental paving and utilities:						
Air toolman	2.30					
Asphalt heaterman	2.40					
Asphalt raker	2.95					
Carpenter	3.50					
Carpenter helper	2.25					
Concrete finisher (paving)	3.65					
Concrete finisher (structures)	3.00					
Concrete finisher helper (structures)	2.65					
Electrician	5.50					
Form builder (structures)	3.25					
Form builder helper (structures)	2.00					
Form liner (paving and curb)	3.55					
Form setter (structures)	3.00					
Form setter helper (structures)	2.00					
Laborer, common	2.00					
Laborer, utility man	2.10					
Mechanic	3.20					
Mechanic helper	2.25					
Oiler	2.45					
Serviceman	2.75					
Piledriverman	2.75					
Pipelayer	2.50					
Powderman	2.50					
Powderman helper	2.00					
Reinforcing steel setter (paving)	2.60					
Reinforcing steel setter (structures)	3.15					
Reinforcing steel setter helper	2.00					
Spreader box man	2.60					
Power equipment operators:						
Asphalt distributor	2.50					
Asphalt paving machine	2.50					
Bulldozer, 150 h.p. and less	2.70					
Bulldozer, over 150 h.p.	3.00					
Concrete paving finishing machine	3.65					
Concrete paving joint sealer	3.00					
Concrete paving saw	2.90					
Concrete paving spreader	3.65					
Crane, clamshell, backhoe, derrick, dragline, shovel (less than 1½ cu. yds.)	3.00					
Crane, clamshell, backhoe, derrick, dragline, shovel (1½ cu. yds. and over)	3.25					
Foundation drill operator (crawler mounted)	4.75					
Foundation drill operator (truck mounted)	4.35					
Foundation drill operator helper	3.55					
Front-end loader (2½ cu. yd. and less)	2.75					
Front-end loader (over 2½ cu. yd.)	3.00					
Motor grader operator, fine grade	3.20					
Motor grader operator	3.00					
Roller, steel wheel (plant-mix pavements)	2.95					
Roller, steel wheel (other flat wheel or tamping)	2.25					
Roller, pneumatic (self-propelled)	2.00					
Scrapers (17 cu. yd. and less)	2.75					
Scrapers (over 17 cu. yd.)	3.00					
Tractor (crawler type) 150 hp. and less	2.00					
Tractor (crawler type) over 150 hp	2.55					
Tractor (pneumatic) 80 hp. and less	2.00					
Tractor (pneumatic) over 80 hp	2.10					
Traveling mixer	2.25					
Trenching machine, light	3.25					
Wagon drill, boring machine or post hole driller operator	2.50					
Truckdrivers:						
Single-axle, light	2.00					
Single-axle, heavy	2.00					
Tandem-axle or semitrailer	2.25					
Lowboy-float	2.60					
Winch	3.00					
Weighman (truck scales)	2.00					
Welder	3.55					
13-Texas—LC e:						
Line construction:						
Lineman	5.83	.17	1%		1%	
Ground mechanics	4.69	.17	1%		1%	
Groundmen	3.85	.17	1%		1%	
Groundmen (1st 6 months)	2.71	.17	1%		1%	

Footnotes:
a. 1st 6 months—none; 6 months to 5 years—2 percent; over 5 years—4 percent of basic hourly rate.
b. Paid holidays—A through F.

Paid holidays:
A—New Years' Day; B—Memorial Day; C—Independence Day; D—Labor Day
E—Thanksgiving Day; F—Christmas Day.

U.S. DEPARTMENT OF LABOR—Continued

State: Texas; County: Galveston; Decision No. AM-7,715; date of decision: November 19, 1971.

Description of work: Building construction (excluding single-family homes and garden-type apartments up to and including four stories).

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
33-Texas—1 z:						
Building construction:						
Asbestos workers	$6.32	$0.275	$0.30			
Boilermakers	6.50	.30	.40		$0.01	
Bricklayers	6.40	.275	.30		.03	
Carpenters:						
Carpenters	5.70	.25	.22		.015	
Millwrights	5.87	.33	.22		.015	
Piledrivermen	5.70	.25	.22			
Cementmasons	5.75	.30	.35			
Electricians	6.56	.17	1%+.21		.01	
Elevator constructors	6.60	.195	$0.20	2%+a+b		
Elevator constructors' helpers	70%J R	.195	.20	2%+a+b		
Elevator constructors' helpers (prob.)	50%J R					
Glaziers	$5.80	.125	.10		.01	
Ironworkers:						
Structural; ornamental; reinforcing	6.575	.25	.40		.03	
Laborers:						
Common	4.55	.18	.10		.02	
Air tool operator (jackhammer—vibrator)	4.725	.18	.10		.02	
Mason tenders	4.725	.18	.10		.02	
Pipelayers (concrete and clay)	4.725	.18	.10		.02	
Sandblasters	4.725	.18	.10		.02	
Power-buggy operators	4.725	.18	.10		.02	
Lather tenders	4.825	.18	.10		.02	
Mortar mixers	4.825	.18	.10		.02	
Well driller	5.10	.18	.10		.02	
Well drillers' helper	4.675	.18	.10		.02	
Blaster, powderman	4.975	.18	.10		.02	
Plasterer tender and hod carrier	4.825	.18	.10		.02	
Marblemasons	6.00					
Painters:						
Painters	5.25	.175	.45	$0.30	.02	
Painters on swinging stage work or using materials injurious to the skin	5.50	.175	.45	.30	.02	
Plasterers	6.125	.27	.30		.05	
Plumbers and pipefitters	6.25	.225	.20		.02	
Roofers:						
Roofers	5.59	.20	.10	.15	.03	
Kettlemen	4.68	.20	.10	.15	.03	
Helpers	3.48	.20	.10	.15	.03	
Sheet metal workers	5.72		.125			
Soft floor layers	6.00				.03	
Sprinkler fitters	7.60	.25	.40		.05	
Stonemasons	6.40	.275	.30		.03	
Terrazzo workers	6.00					
Tile setters	6.00					
Truckdrivers:						
Under 1½ tons; wash, grease, tireman, fuel pump operation when used on construction jobs	5.05					
1½ through 2½ tons; dump truck less than 7 yd	5.34					
Over 2½ tons; farm tractor; forklifts, floats	5.50					
Euclids (not self-loading)	5.60					
Warehousemen	5.24					
Material checkers; pickup drivers	6.01					
Welders—receive rate prescribed for craft performing operation to which welding is incidental.						
14-Texas—QEO-1 j:						
Building construction:						
Asphalt plant mixer operator; back filler: blade grader (self-propelled); building elevator (used on construction); bull clam; bulldozer and all types cat tractors; cable way; clam shells, draglines, backhoe; concrete batch plant operator; concrete mixer (14 cu ft. or more); crane—power-operater (all types); crusher operator; derrick—power-operated (all types); DW-10 Caterpillar, 8-18 Euclid and similar tractors; elevating grader (self-propelled); forklift used on construction (not including warehousing); foundation boring machine; gasoline or diesel driven welding machines (7 or more); Gradall; heavy-duty mechanic; highlift; hoist (motor driven, 2-drum or more); locomotive crane; mix mobile; paving mixer (all types); pile driver; pneumatic rollers (self-propelled); pumperete machine operator; push cat operator; scoop-mobiles; scraper (heavy type, over 3 cu. yd.); shovel (power operated); trenching machine (all sizes); tug boat operator (assigned to construction); turnapulls; water well drilling machines (used on construction); well point pump; winch truck; all other equipment of similar nature coming under the heavy equipment class, when power operated	6.10	.20	.30		.01	
Air compressors; blade grader (towed); concrete mixer (less than 14 cu. ft.); conveyor; flex plant; form grader; gasoline or diesel driven welding machines (on 3 or more, up to 6 machines); generator (gasoline or diesel driven, over 1,500 watts); hoist (single drum); pulsometer; pumps; rubber-tired farm tractor with attachments; scraper (3 cu. yd. or less); truck crane driver; wagon drill operator; a light equipment operator may run one or two 105 c.f.m. compressors. All other equipment of similar nature coming under the light equipment class, when power operated	5.52	.20	.30		.01	
Fireman	5.12	.20	.30		.01	
Oiler	5.01	.20	.30		.01	

U.S. DEPARTMENT OF LABOR—Continued

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
14-Texas—3 e:						
Incidental paving and utilities (excluding Galveston Island):						
Air tool man	2.00					
Asphalt raker	2.75					
Asphalt shoveler	2.60					
Batching plant scaleman	2.80					
Carpenter	3.75					
Carpenter helper	2.95					
Concrete finisher (paving)	3.75					
Concrete finisher helper (paving)	2.80					
Concrete finisher (structures)	3.40					
Concrete finisher helper (structures)	3.00					
Concrete rubber	3.00					
Electrician	4.65					
Fireman	3.00					
Form builder (structures)	3.00					
Form builder helper (structures)	2.75					
Form liner (paving and curb)	3.35					
Form setter (paving and curb)	3.25					
Form setter helper (paving and curb)	2.75					
Form setter (structures)	3.35					
Form setter helper (structures)	2.50					
Laborer, common	2.00					
Laborer, utility man	2.55					
Manhole builder, brick	3.25					
Mechanic	3.75					
Mechanic helper	3.00					
Oiler	2.90					
Painter (structures)	3.90					
Painter helper (structures)	2.80					
Piledriverman	3.60					
Pipelayer	3.00					
Pipelayer helper	2.50					
Reinforcing steel setter (paving)	2.75					
Reinforcing steel setter (structures)	3.40					
Reinforcing steel setter helper	2.60					
Steel worker (structural)	3.90					
Steel worker helper (structural)	3.45					
Sign erector	3.00					
Spreader box man	3.50					
Power equipment operators:						
Asphalt distributor	3.25					
Asphalt paving machine	3.50					
Broom or sweeper operator	2.75					
Bulldozer, 160 hp. and less	3.25					
Bulldozer, over 160 hp	3.50					
Concrete paving curing machine	2.75					
Concrete paving finishing machine	3.25					
Concrete paving mixer	3.90					
Concrete paving saw	3.00					
Concrete paving spreader	3.25					
Crane, clamshell, backhoe, derrick, dragline, shovel (less than 1½ cu. yd.)	3.50					
Crane, clamshell, backhoe, derrick, dragline, shovel (1½ cu. yd. and over)	4.00					
Crusher or screening plant operator	3.25					
Foundation drill operator (truck mounted)	3.50					
Front end loader (2½ cu. yd. and less)	3.15					
Front end loader (over 2½ cu. yd.)	3.50					
Motor grader operator, fine grade	4.00					
Motor grader operator	3.50					
Roller, steel wheel (plant—mix pavements)	2.75					
Roller, steel wheel (other—flat wheel on tamping)	2.75					
Roller, pneumatic (self-propelled)	3.00					
Scrapers (17 cu. yd. and less)	3.00					
Scrapers (over 17 cu. yd.)	3.25					
Tractor (crawler type) 150 hp. and less	2.75					
Tractor (crawler type) over 150 hp	3.15					
Tractor (pneumatic) 80 hp. and less	2.65					
Tractor (pneumatic) over 80 hp	2.75					
Traveling mixer	2.80					
Trenching machine, heavy	4.00					
Wagon drill, boring machine or post hole driller operator	3.00					
Truckdrivers:						
Single axle, light	2.50					
Single axle, heavy	2.75					
Tandem axle or semitrailer	2.80					
Lowboy—float	2.75					
Winch	3.00					
Vibratorman (hand type)	2.00					
Welder	4.60					
Welder helper	3.00					
4-Texas—LC b:						
Line construction:						
Linemen	7.115	.17	1%		½%	
Ground mechanics	6.12	.17	1%		½%	
Groundmen	4.91	.17	1%		½%	
Groundmen (first 6 mos.)	3.89	.17	1%		½%	

Footnotes:
a. First 6 mos.—none; 6 mos. to 5 yrs.—2 percent; over 5 yrs.—4 percent of basic hourly rates.
b. Paid holidays—A through F.

Paid holidays:
A—New Years' Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.

U.S. DEPARTMENT OF LABOR—Continued

State: Texas; County: Lubbock; Decision No. AM-7,716, date of decision: November 19, 1971.
Description of work: Building construction (excluding single-family homes and garden-type apartments up to and including 4 stories).

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
24-Texas—1 p:						
Building construction:						
Asbestos workers	$6.15	$0.30	$0.25			
Boilermakers	6.50	.30	.40		$0.01	
Bricklayers; stonemasons	5.625					
Carpenters	5.75				.01	
Cementmasons	4.50					
Electricians:						
Electricians	6.15	.20	1%			
Cable splicers	6.40	.20	1%			
Elevator constructors	3.54	.175	$0.20	2%+a+b		
Elevator constructors' helpers	70%JR	.175	.20	2%+a+b		
Elevator constructors' helpers (prob.)	50%JR					
Ironworkers:						
Structural; ornamental; reinforcing	5.175	.25	.40		.05	
All ironworkers on jobs (30) miles or more from the city of Lubbock	5.30	.25	.40		.05	
Laborers:						
Construction laborers, including excavation, pouring concrete, carpenter tenders, reinforcing, shoring, digging, loading and unloading materials, wrecking buildings and all structures, and all construction laborers except those named below	3.45					
Air tool operator (jackhammer, vibrator, tamper, brush hammer, chipping hammer, air or electric) power buggy man, pipelayer (concrete and clay and all nonmetallic pipe); handling, laying and cleaning pumpcrete pipe	3.725					
Mortar mixers, mason tenders, plasterer tenders, cement finisher tenders, lather tenders, asphalt rakers, tampers and spreaders; potmen and kettlemen, well drillers, bell hole men, dumpers and spotters	3.55					
Wagon drill	3.80					
Blasters and powder makeup men	4.05					
Lathers	5.875	.125			.01	
PAINTERS:						
Brush	4.75					
Spray	5.40					
Plasterers	4.00					
Plumbers; steamfitters	6.00		.30		.02	
Sheet metal workers	6.10					
Soft floor layers	4.75					
Sprinkler fitters	7.60	.25	.40		.05	
Truckdrivers	3.00					
Welders: Receive rate prescribed for craft performing operation to which welding is incidental.						
38-Texas—PEO-1 j:						
Building construction:						
Power equipment operators:						
Heavy equipment operators:						
Drilling machine (all types); scoopmobile; hoists, two drums or more; winch truck; six-wheel truck, when used continuously for 5 days; mixermobile; locomotives; mixers, 14 cu. ft. or over; blade graders, self-propelled; cableways; cranes—power operated to 100 ft.; Fordson type backhoe; derricks, power operated (all types); Gradall; Hy-ho; Hop-to; paving mixers (all types); piledrivers; mobile concrete mixers, over 14 cu. ft.; bulldozers, loaders, tractovators; scrapers and pulls; welders; trenching machines: roller, 10 tons or over; air compressors, three; air compressor and one pump; pump, three or more; air compressor and air tugger; boilers, two or more fired by one man; heavy-duty mechanic	5.575	.30	.20			
Light equipment operators:						
Air compressor (1); pump (1); pulsometer; conveyor; throttle valves; wagon drill; elevators, building; form graders; hoist, single drum; mixers, less than 14 cu. ft.; screening plants; welding machines, gas and diesel (2 or more); crushing plants; fork lifts (short, under 25 ft.); concrete pumps (all types); bobcat type equipment; Ford tractor or like with any attachment (except backhoe)	5.175	.30	.20			
Oilers (all types)	4.60	.30	.20			
24-Texas-3 e:						
Incidental paving and utilities:						
Air tool man	2.75					
Asphalt heaterman	2.75					
Asphalt raker	3.00					
Batching plant scaleman	2.85					
Carpenter	3.60					
Carpenter helper	2.65					
Concrete finisher (structures)	2.90					
Form builder (structures)	2.85					
Form setter (structures)	4.10					
Form setter helper (structures)	2.50					
Laborer, common	2.00					
Laborer, utility man	2.25					
Mechanic	3.40					
Oiler	2.70					
Serviceman	3.00					
Pipelayer	2.85					
Powderman	3.25					
Powderman helper	2.30					
Reinforcing steel setter (structures)	2.90					
Reinforcing steel setter helper	2.45					
Spreader box man	2.70					
Swamper	2.50					

See footnotes at end of table.

U.S. DEPARTMENT OF LABOR—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
24–Texas–3 e—Continued						
Power equipment operators:						
Asphalt distributor	2.50					
Asphalt paving machine	2.70					
Broom or sweeper operator	2.10					
Bulldozer, 150 hp and less	3.00					
Bulldozer, over 150 hp	3.50					
Paving sub grader	3.60					
Crane, clamshell, backhoe, derrick, dragline, shovel (less than 1½ cu. yds.)	3.15					
Crane, clamshell, backhoe, derrick, dragline, shovel (1½ cu. yds. and over)	3.50					
Crusher or screening plant operator	2.90					
Front-end loader (2½ cu. yds. and less)	3.00					
Front-end loader (over 2½ cu. yds.)	3.10					
Motor grader operator, fine grade	3.75					
Motor grader operator	3.50					
Roller, steel wheel (plant-mix pavements)	2.50					
Roller, steel wheel (other-flat wheel or tamping)	2.60					
Roller, pneumatic (self-propelled)	2.30					
Scrapers (17 cu. yds. and less)	2.75					
Scrapers (over 17 cu. yds.)	3.00					
Side boom	2.25					
Tractor (crawler type) 150 hp. and less	2.70					
Tractor (crawler type) over 150 hp	2.95					
Tractor (pneumatic) 80 hp. and less	2.45					
Tractor (pneumatic) over 80 hp	2.55					
Traveling mixer	2.60					
Wagon drill, boring machine or post hole driller operator	2.70					
Truckdrivers:						
Single axle, light	2.00					
Single axle, heavy	2.50					
Tandem axle or semitrailer	2.25					
Transit-mix	2.60					
Weighman (truck scales)	2.00					
Welder	3.50					
6–Texas–Lc g:						
Line construction:						
Lineman	6.35		1%			
Operators	5.45		1%			
Groundmen (more than 1 year experience)	5.20		1%			
Groundmen (less than 1 year experience)	4.70		1%			
Flat bed truck operator	4.45		1%			

Footnotes:
a. First 6 months—none; 6 months to 5 years—2 percent; over 5 years—4 percent of basic hourly rates.
b. Paid holidays—A through F.

Paid holidays:
A—New Years' Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.

State; Texas; County: Jefferson and Orange; Decision No. AM-7,717, date of decision: November 19, 1971.

Description of work: Building construction (including single-family homes and garden-type apartments up to and including 4 stories).

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
Asbestos workers (Jefferson County)	$6.32	$0.275	$0.30			
Asbestus workers (Orange County)	7.125	.325	.10			
Boilermakers	6.50	.30	.40		$0.01	
Bricklayers; stonemasons	6.625	.175	.30			
Carpenters:						
Carpenters	6.575				.05	
Millwrights	6.58					
Piledrivermen	6.325					
Cementmasons	6.15					
Electricians	6.875	.17	1%		½%	
Elevator constructors	4.53	.175	$0.20	2%+a+b		
Elevator constructors' helpers	70%JR	.175	.20	2%+a+b		
Elevator constructors' helpers (prob.)	80%JR					
Ironworkers:						
Structural; ornamental; reinforcing	$6.37	.25	.40		$0.05	
Laborers:						
Common laborer; asphalt ironer and raker	4.50	.13	.10		.02	
Carpenter tender	4.60	.13	.10		.02	
Cementmasons tender; air tool operator (jackhammer-vibrator)	4.60	.13	.10		.02	
Mortar mixer, hod carriers and mason tender; plaster and lather tender; pipelayers, nonmetallic pipe, including handling and laying pumpcrete pipe	4.70	.13	.10		.02	
Sandblaster, exclusive of preparation work for painters; dumper, spotter and wagon drill; powderman-blaster; well deller	4.50	.13	.10		.02	
Machineman and nozzleman, for gunniting 1½ inches and over	4.935	.13	.10		.02	
Lathers	6.00	.125			.01	
Painters (southern half of Jefferson County and all of Orange County):						
Spray	6.375					
Brush, steel, wood, wall, paperhanger and glazier	6.05					
Sandblasters, power cleaning; brush, hot paint or creosote; all time spent rigging	6.375					
A premium of $.325 for brush and $.25 per hour for spray and other classifications for work from stage, chair, window jack or window ledge.						
Northern half of Jefferson County:						
Residential:						
Brush and glazier	5.925					
Canvas and paperhangers	6.175					
Spray	6.35					
Commercial:						
Brush and glaziers	6.175					
Canvas and paperhangers	6.425					
Brush, steel	6.35					
Spray	6.60					
Pipefitters	6.93	.30	.83		.06	
Plasterers	4.75					
Plumbers	7.46				.08	

See footnotes at end of table.

U.S. DEPARTMENT OF LABOR—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
Roofers:						
Waterproofer and built-up	4.90					
Mop or roilman	4.70					
Kettleman	4.45					
Sheet metal workers	6.575				.025	
Sprinkler fitters	7.60	.25	.40		.05	
Truckdrivers:						
Under 1½ ton and wash, grease tiremen, fuel pump operators when used on construction	4.40					
1½ tons thru 2½ tons, dump truck less than 7 yds., town driver	4.69					
Over 2½ tons, farm tractors (when used to transport personnal or material), forklifts (where used in warehouses storage yards, and where used to transport material), floats, hydraulic tailgate lifts	4.85					
Euclids (not self-loading)	4.95					
Warehousemen; material checker	4.965					
Welder; receive rate prescribed for craft performing operation to which welding is incidental.						
5–Texas—LC h:						
Line construction:						
Linemen	7.225	.17	1%		½%	
Groundmen	73%JR	.17	1%		½%	
17–Texas—PEO–1 i:						
Heavy equipment operators: Heavy duty mechanic; blade grader, self-propelled; bull clam; backfiller; derrick, power operated, all types; draglines; push cat. operator; bulldozer and all type of cat. tractors; cableways; backhoe; shovel; crane, power operated, all types; elevating grader, self-propelled; hoist, motor driven, 2 drums or more; mix mobile; winch truck; locomotive crane; mixer, 14 cu. ft. or more; paving mixer, all sizes; piledriver; scraper, heavy type, over 3 cu. yds.; trench machine, all sizes; gradall; high-lift; foundation boring machines; gasoline or diesel driven welding machines, 7 to 12 machines; pumpcrete machine; drill operator, water well; DW–10 Euclid; tournapulls; asphalt plants; crushing machines and batch plants; scoopmobiles; fingerlift operator	6.755					
Light equipment operators: Air compressor; blade grade, towed; flex plane; form grader; mixer, less than 14 cu. ft.; pump; pulsometer; truck crane driver; gasoline or diesel driven welding machines, 3 to 6 machines; hoist, single drum; scraper, 3 cu. yds. or less; conveyors, power operated	5.97					
Fireman	5.52					
Oiler	5.38					

Footnotes:
a. 1st 6 months—none; 6 months to 5 years—2 percent; over 5 years—4 percent of basic hourly rate.
b. Paid holidays—A through F.

Paid holidays:
A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.

MODIFICATIONS

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM–443–36 F.R. 16552, Mobile County, Ala. Modification No. 2						
CHANGE:						
Soft floor layers	$6.80	$0.28	$0.25			
WD No. AM–499–36 F.R. 16413, Fulton, Cobb, and De Kalb Counties, Ga. Modification No. 2						
CHANGE:						
Building construction:						
Carpenters:						
Carpenters and soft floor layers	6.90	.30	.30		$0.015	
Piledrivermen	7.05	.30	.30		.015	
WD No. AM–470–36 F.R. 16416, Chatham County, Ga. Modification No. 2						
CHANGE:						
Building construction:						
Plumbers and pipefitters:						
Plumbing, heating, and piping contracts, $2,000 or less	5.92	.25	.30		.02	
Plumbing, heating, and piping contracts, over $2,000	6.57	.25	.30		.02	
Air conditioning mechanics:						
Contracts, $2,000 or less	5.92	.25	.30		.02	
Contracts, over $2,000	6.57	.25	.30		.02	
Electricians:						
Electricians	6.10	.25	1%		.2%	
Cable splicers	6.35	.25	1%		.2%	
WD No. AM–336–36 F.R. 15188, Rock Island County, Ill. Modification No. 1						
OMIT:						
Schedule for laborers building construction as issued in the orginal decision.						
ADD:						
Laborers	5.53	.20	.20			
Air, electric and gas tool operator	5.685	.20	.20			
Caisson workers	5.88	.20	.20			
Dynamite man	6.01	.20	.20			
Tunnel miner	6.03	.20	.20			
WD No. AM–1, 845–36 F.R. 16240, Baltimore City and Baltimore County, Md. Modification No. 4						
ADD:						
Building construction:						
Laborers:						
Hod carriers	5.00	.20	.175		.025	
Plasterers' laborers	4.75	.20	.175		.025	
WD No. AM–1,842–36 F.R. 16238, Montgomery and Prince Georges Counties, Md.; city of Alexandria, Va.; Arlington County, Va.; Dulles International Airport. Modification No. 2						
CHANGE:						
Building construction:						
Sheet metal workers	7.50	.545	.545		.04	
WD No. AM–1,843–36 F.R. 16241, Washington, D.C. Modification No. 3						
CHANGE:						
Building construction:						
Sheet metal workers	7.50	.545	.545		.04	

U.S. DEPARTMENT OF LABOR—Continued

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-373—36 F.R. 15777, Allegan County, Mich. Modification No. 3						
CHANGE:						
Roofers:						
Slate, tile, asbestos	5.70	.25	.20	$0.25		
Slate, tile, asbestos helpers	3.60	.25	.20	.25		
Built-up	5.45	.25	.20	.25		
Sheet metal workers	7.30	.32	.38	.80		
WD No. AM-376—36 F.R. 15781, Calhoun County, Mich. Modification No. 5						
CHANGE:						
Sheet metal workers	7.30	.32	.38	.80		
WD No. AM-378—36 F.R. 15800, Chippewa and Mackinac Counties, Mich. Modification No. 3						
CHANGE:						
Carpenters and soft floor layers	6.34	.35	.30		.01	
Carpenters (waterfront) and piledrivermen	6.54	.35	.30		.01	
Millwrights	6.69	.35	.30		.01	
WD No. AM-380—36 F.R. 15809, Genesee County, Mich. Modification No. 3						
CHANGE:						
Millwrights	8.00	.45	7%+2%	17%	.04	
ADD:						
Carpenters—heavy	6.68	.30	.35		.01	
Piledrivermen—heavy	6.68	.30	.35		.01	
WD No. AM-381—36 F.R. 15813, Gogebic County, Mich. Modification No. 3						
CHANGE:						
Carpenters and soft floor layers	6.34	.35	.30		.01	
Carpenters (waterfront) and piledrivermen	6.54	.35	.30		.01	
Millwrights	6.69	.35	.30		.01	
WD No. AM-384—36 F.R. 15828, Ingham County, Mich. Modification No. 3						
CHANGE:						
Sheet metal workers	7.30	.32	.38	.50		
WD No. AM-385—36 F.R. 15833, Kalamazoo County, Mich. Modification No. 2						
CHANGE:						
Sheet metal workers	7.30	.32	.38	.50		
WD No. AM-387—36 F.R. 15842, Keweenaw, Houghton, Baraga, and Ontonagon Counties, Mich. Modification No. 3						
CHANGE:						
Carpenters and soft floor layers	6.34	.35	.30		.01	
Carpenters (waterfront) and piledrivermen	6.54	.35	.30		.01	
Millwrights	6.69	.35	.30		.01	
WD No. AM-388—36 F.R. 15846, Marquette County, Mich. Modification No. 3						
CHANGE:						
Carpenters and soft floor layers	6.34	.35	.30		.01	
Carpenters (waterfront) and piledrivermen	6.54	.35	.30		.01	
Millwrights	6.69	.35	.30		.01	
WD No. AM-3,616—36 F.R. 16865, Clay, Jackson, Platte, and Ray Counties, Mo. Modification No. 4						
CHANGE:						
Building construction:						
Asbestos workers	7.95	.30	.30		.02	
Sprinkler fitters	8.485	.25	.40		.05	
WD No. AM-410—36 F.R. 15925, Licking County, Ohio Modification No. 2						
ADD:						
Painters—bridge	5.40					
WD No. AM-411—36 F.R. 15929, Lucas County, Ohio Modification No. 4						
CHANGE:						
Plumbers and steamfitters	9.285	.50	.55		.025	
Modifications No. Four in FEDERAL REGISTER issued November 5, 1971, to read "Modification No. Three."						
WD No. AM-416—36 F.R. 15953, Summit County, Ohio Modification No. 3						
CHANGE:						
Glaziers	6.36	.25	.30		.01	
Roofers	7.80	.40	.30		.02	
Roofers' helpers:						
1st year	60% JR	.40	.30		.02	
2d year	70% JR	.40	.30		.02	
3d year	80% JR	.40	.30		.02	
WD No. AM-496—36 F.R. 16476, Roane and Anderson Counties, Tenn. Modification No. 2						
CHANGE:						
Building construction:						
Electricians (remaining area):						
Electricians and linemen	6.15	.20	1%		.5%	
Cable splicers	6.55	.20	1%		.6%	
ADD:						
Building construction:						
Electricians (Oak Ridge in Anderson County and Roane County):						
Groundmen:						
First year	4.66	.20	1%		.5%	
After first year	5.08	.20	1%		.5%	
WD No. AM-500—36 F.R. 16478, Davidson County, Tenn. Modification No. 3						
CHANGE:						
Building construction:						
Glaziers	5.50	.30	.20		.02	
Lathers	5.80		.20		.01	
WD No. AM-502—36 F.R. 16486, Knox County, Tenn. Modification No. 2						
CHANGE:						
Building construction:						
Electricians and line construction:						
Electricians and linemen	6.15	.20	1%		.5%	
Cable splicers	6.55	.20	1%		.6%	

U.S. DEPARTMENT OF LABOR—Continued

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-423—36 F.R. 15966, Brown County, Wis., Modification No. 3						
CHANGE:						
Building construction:						
Carpenters and soft floor layers	6.65	.25	.15		.02	
Millwrights	6.90	.25	.15		.02	
Piledrivermen	6.90	.25	.15		.02	
OMIT:						
Building construction schedule for laborers issued in Modification No. 1.						
ADD:						
Schedule for laborers.						
Wis.—15-Lab M:						
Laborers:						
Group A:						
Construction laborers, form stripper, form oiler, form cleaner, dumpmen, pitmen, building wrecker, plumbers' laborer, motorized buggy operator, concrete laborer, air spade and chipping hammer, drag tender and signalman, concrete pump and nozzleman, bituminous worker	5.35	.25	.15			
Group B:						
Plaster tender, hod carrier, dry cement handler, kettlemen, vibrator operator, slacking lime, tile setter helper, core drill operator	5.40	.25	.15			
Group C:						
Jackhammer operator, driller, gunite men, burner on wrecking, air operated concrete breaker sheeting driver, power tamper, forklift operator, jumping jack, terrazzo grinder, mortar and plaster mixer, creosote worker, bobcat operator, sandblaster, welder, mudjack operator, precast erector, bituminous raker, and luteman	5.55	.25	.15			
WD No. AM-424—36 F.R. 15970, Dane County, Wis., Modification No. 3						
CHANGE:						
Wisconsin 14—Lab H:						
Building, sewer, tunnel, watermain, natural gas and incidental paving construction:						
Laborers, building:						
Pneumatic tool operator, airhammer, jackhammer, concrete buster, sheeting driver, air spade	6.10	.25	.15			
Vibrator, air tamper and mortar mixer	5.95	.25	.15			
General laborer, concrete work, form strippers, mason tenders, building wreckers	5.80	.25	.15			
Sewer and watermain construction:						
Pipe layer	6.15	.25	.15			
Caulker	6.05	.25	.15			
Bottomman, bracer and manhole builder (cement)	5.95	.25	.15			
General laborer	5.80	.25	.15			
Tunnel construction:						
Caisson and miner	6.30	.25	.15			
General laborer	5.95	.25	.15			
Natural gas construction:						
Coating and wrapping	5.95	.25	.25			
General laborer	5.80	.25	.15			
Laborers on bituminous roadways:						
Raker and luteman	5.95	.25	.15			
Dumper, ironer, tamper	5.85	.25	.15			
Duster, shoveler and sweeper, and general laborer	5.80	.25	.15			
Laborers on street construction:						
Formsetter, joint sawer	5.95	.25	.15			
Puddler	5.90	.25	.15			
Strikeoffman and bullfloat	5.85	.25	.15			
Dumpman, pitman, and general laborer	5.80	.25	.15			
Plasterers' laborers:						
Master mixer	6.20	.25	.15			
Hod carrier	5.95	.25	.15			
WD No. AM-425—36 F.R. 15973, Eau Claire County, Wis. Modification No. 3						
CHANGE:						
Building construction:						
Laborers:						
Laborers, common	5.30	.25	.15			
Mason tender	5.30	.25	.15			
Mortar mixer and plaster laborer, air, gas, electric equipment and vibrator operator, kettlemen, dumpmen and pitman, burner on wrecking, scaffold builder and washing walls on swinging scaffold	5.45	.25	.15			
Gunitman and nozzlemen, puddlers (when concrete pumps and when working behind paving machine), cement dumper, scaffold builder, kettlemen, burner on wrecking, dumpman and pitman	5.45	.25	.15			
Jackhammer	5.55	.25	.15			
WD No. AM-426—36 F.R. 15976, Juneau County, Wis. Modification No. 4						
CHANGE:						
Building construction:						
Jurisdiction of carpenters, area north of Camp Douglas, to read northeast section of county—above Camp Douglas.						
Jurisdiction of carpenters, Camp Douglas, Huster, Elroy and vicinity to read western one-half of county.						
Carpenters:						
Northeast section of county—above Camp Douglas:						
Carpenters	6.33	.25	.30	.10		
Millwrights	6.93	.25	.30	.10		
Piledrivermen	6.83	.25	.30	.10		
Western one-half of county:						
Soft floor layers	5.20				g	
ADD:						
Building construction.						
Footnotes:						
g. Holidays: A through F, providing employee works 1 year, and the day before and after the holiday. With 1 year of service employee also receives a 1-week paid vacation.						
WD No. AM-427—36 F.R. 15979, Kenosha County, Wis. Modification No. 3						
CHANGE:						
Building construction:						
Cement masons	6.92					
Wisconsin 20—LAB-1 G:						
Laborers:						
General laborers, mason tenders	5.52	.40	.25			
Building wreckers, plasterer laborer, and torch burner	5.87	.40	.25			
Vibrators, air spades and all other pneumatic tools	6.82	.40	.25			
Jackhammers, concrete busters, mechanical concrete buggies, forklift, caisson and concrete pump nozzlemen	6.12	.40	.25			

U.S. DEPARTMENT OF LABOR—Continued

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-428—36 F.R. 15984, La Crosse County, Wis. Modification No. 3						
CHANGE:						
Building construction:						
Soft floor layers	5.20			d		
ADD:						
Building construction:						
Footnotes:						
d. Holidays: A through F, providing employee work 1 year, and the day before and after the holiday. With 1 year of service the employee also receives a 1-week paid vacation.						
WD No. AM-429—36 F.R. 15988, Marathon County, Wis. Modification No. 3						
CHANGE:						
Building construction:						
Carpenters	6.33	.25	.33	.10		
Millwrights	6.93	.25	.33	.10		
Piledrivermen	6.83	.25	.33	.10		
WD No. AM-430—36 F.R. 15991, Milwaukee County, Wis. Modification No. 4						
CHANGE:						
Building construction:						
Electricians	7.07	.37	1%+.20	7%	.25%	
Description of work to read:						
Building, heavy and highway construction including residential construction, and dredging.						
WD No. AM-431—36 F.R. 15997, Polk County, Wis. Modification No. 2						
CHANGE:						
Building construction:						
Laborers:						
Laborers, common	5.30	.25	.15			
Mason tender	5.30	.25	.15			
Mortar mixer and plaster laborer, air, gas and electrical equipment, dumpmen and pitmen, burner on wrecking, scaffold builder and washing walls on swinging scaffold	5.45	.25	.15			
Gunniteman and nozzlemen, puddlers (when working behind paving machine), cement dumper, scaffold builder, kettlemen, vibrator operator	5.45	.25	.15			
Jackhammer	5.55	.25	.15			
WD No. AM-432—36 F.R. 16000, Racine County, Wis. Modification No. 4						
CHANGE:						
Building construction:						
Plasterers	6.30	.25	.40	.20		
WD No. AM-434—36 F.R. 16008, Waukesha County, Wis. Modification No. 3						
CHANGE:						
Building construction:						
Electricians	7.07	.37	1%+.20	7%	.25%	
WD No. AM-435—36 F.R. 16013, Winnebago County, Wis. Modification No. 4						
CHANGE:						
Building construction:						
Carpenters	6.45	.25	.15		.02	
Millwrights	6.90	.25	.15		.02	
Piledrivermen	6.90	.25	.15		.02	
Soft floor layers	6.45	.25	.15		.02	
OMIT:						
Building construction schedule for laborers issued in Modification No. 2.						
ADD:						
Schedule for laborers.						
Wis.—15-Lab M:						
Laborers:						
Group A:						
Construction laborers, form stripper, form oiler, form cleaner, dumpmen, pitmen, building wrecker, plumber's laborer, motorized buggy operator, concrete laborer, air spade and chipping hammer, drag tender and signalman, concrete pump and nozzleman, bituminous worker	5.85	.25	.15			
Group B:						
Plasterer tender, hod carrier, dry cement handler, kettlemen, vibrator operator, slacking line, tile setter helper, core drill operator	5.40	.25	.15			
Group C:						
Jackhammer operator, driller, gunitemen, burner on wrecking, air operated concrete breaker, sheeting driver, power tamper, forklift operator, jumping jack, terrazzo grinder, mortar and plaster mixer, creosote worker, bobcat operator, sandblaster, welder, mudjack operator, precast erector, bituminous raker and luteman	5.55	.25	15			
WD No. AM-437—36 F.R. 16020, Barron, Buffalo, Chippewa, Clark, Dunn, Pepin, Pierce, St. Croix, and Trempealeau Counties, Wis. Modification No. 3						
CHANGE:						
Carpenters:						
St. Croix (eastern one-half of county)	6.15	.25	.25	.40+a	.03	
Piledrivermen:						
St. Croix (eastern one-half of county)	6.55	.25	.25	.40+a	.03	
ADD:						
Carpenters:						
St. Croix (western one-half of county)	7.13	.40	.15	.50	.02	
Piledrivermen:						
St. Croix (western one-half of county)	7.13	.40	.15	.50	.02	
WD No. AM-438—36 F.R. 16022, Adams, Green Lake, Langlade, Marquette, Menominee, Portage, Shawano, Waupaca, Waushara, and Wood Counties, Wis. Modification No. 3						
CHANGE:						
Carpenters:						
Langlade, Portage, Wood, and Adams (north of highway No. 21) Counties	6.33	.25	.30	.10		
Green Lake, Marquette, Menominee, Shawano, Waupaca, and Waushara Counties	6.65	.25	.15		.02	
Piledrivermen:						
Adams County (north of highway 21), Langlade, Portage, and Wood Counties	6.83	.25	.30	.10		
Green Lake, Marquette, Menominee, Shawano, Waupaca, and Waushara Counties	6.90	.25	.15		.02	

U.S. DEPARTMENT OF LABOR—Continued

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-439—36 F.R. 16024, Crawford, Columbia, Dodge, Grant, Green, Iowa, Jackson, Jefferson, Lafayette, Monroe, Richland, Sauk, and Vernon Counties, Wis. Modification No. 2						
CHANGE:						
Cementmasons:						
Grant County	6.55					
Dodge and Jefferson Counties	6.60	.15	.15	.30		
Iowa, Lafayette, and Green Counties	6.60	.15	.20			
WD No. AM-440—36 F.R. 16026, Calumet, Door, Florence, Kewaunee, Manitowoc, Marinette, Oconto, and Outagamie Counties, Wis. Modification No. 2						
CHANGE:						
Carpenters:						
Florence, Marinette, Oconto, Door, Kewaunee, Manitowoc, Outagamie, and Calumet Counties	6.65	.25	.15		.02	
Piledrivermen:						
Florence, Marinette, Oconto, Door, Kewaunee, Manitowoc, Outagamie, and Calumet Counties	6.90	.25	.15		.02	
WD No. AM-441—36 F.R. 16029 Fond du Lac, Ozaukee, Sheboygan, Walworth, and Washington Counties, Wis. Modification No. 2						
CHANGE:						
Carpenters:						
Fond du Lac (except city of Waupun)	6.65	.25	.15		.02	
Piledrivermen:						
Fond du Lac (except city of Waupun)	6.90	.25	.15		.02	

[FR Doc.71-16741 Filed 11-18-71;8:45 am]

TARIFF COMMISSION

[TEA-W-121]

GRENET FOOTWEAR, INC.

Workers' Petition for Determination of Eligibility To Apply for Adjustment Assistance; Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, by the workers of Grenet Footwear, Inc., 2740 Northwest 35th Street, Miami, FL, the U.S. Tariff Commission, on November 12, 1971, instituted an investigation under section 301(c)(2) of the act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with women's and misses footwear (of the types provided for in items 700.20, 700.43–.45, and 700.55 of the Tariff Schedules of the United States) produced by Grenet Footwear, Inc., are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such manufacturing company.

The petitioners have not requested a public hearing. A hearing will be held on request of any other party showing a proper interest in the subject matter of the investigation, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, DC, and at the New York City office of the Tariff Commission located in room 437 of the Customhouse.

Issued: November 15, 1971.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.71-16910 Filed 11-18-71;8:49 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. F-129]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in an electric service rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Utah Public Service Commission in a proceeding (Case No. 6405) involving the application of the Utah Power and Light Co. for a rate increase.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: November 12, 1971.

ROD KREGER,
Acting Administrator of General Services.

[FR Doc.71-16954 Filed 11-18-71;8:52 am]

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

CERTAIN COTTON TEXTILES PRODUCED OR MANUFACTURED IN EL SALVADOR

Entry or Withdrawal from Warehouse for Consumption

NOVEMBER 12, 1971.

On October 29, 1971, the U.S. Government in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles, done at Geneva on February 9, 1962, and extended through September 30, 1973, requested the Government of El Salvador to enter into consultations concerning exports to the United States of cotton textiles in Category 9 produced or manufactured in El Salvador. In that request the U.S. Government stated its view that exports in this category from El Salvador should be restrained for the 12-month period beginning October 29, 1971, and extending through October 28, 1972.

Notice is hereby given that under the provisions of articles 3 and 6(c) of the Long-Term Arrangement, if no solution is mutually agreed upon by the two governments within sixty (60) days of the date of the aforementioned note, entry and withdrawal from warehouse for consumption of cotton textiles in Category 9 produced or manufactured in El Salvador and exported from El Salvador on and after the date of such note may be restrained.

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.

[FR Doc.71-16903 Filed 11-18-71;8:48 am]

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Rules and Regulations

Title 7—AGRICULTURE

Chapter I—Consumer and Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 68—REGULATIONS AND STANDARDS FOR INSPECTION AND CERTIFICATION OF CERTAIN AGRICULTURAL COMMODITIES AND PRODUCTS THEREOF

Standards for Dry Peas, Split Peas, and Lentils

On August 26, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 16928) regarding a proposed revision of the U.S. Standards for Dry Peas (7 CFR 68.401 et seq.), for Split Peas (7 CFR 68.501 et seq.), and for Lentils (7 CFR 68.601 et seq.) pursuant to sections 203 and 205 of the Agricultural Marketing Act of 1946, 60 Stat. 1087 and 1090, as amended (7 U.S.C. 1622 and 1624).

Interested persons were given 30 days in which to submit to the Hearing Clerk of the Department written data, views, or recommendations regarding the proposed revision. More than 600 reprints of the notice showing the proposed changes in the standards were distributed to interested trade and Government organizations. Three letters were received by the Hearing Clerk. Two of the responses supported the proposed changes. None opposed the changes. Accordingly, the revision as proposed is hereby adopted pursuant to sections 203 and 205 of said Agricultural Marketing Act, subject to the following changes:

1. The definition for Mixed Lentils (§ 68.601(a)) is changed to read as follows: "Any mixture of lentils consisting predominantly of (Chilean) Lentils or of Persian Lentils, which contains more than 2.0 percent of lentils other than those of the predominating class." This will provide a more practical standard of identity than that originally proposed which would have classed lentils as Mixed Lentils if the lot was not 100 percent (Chilean) Lentils or Persian Lentils.

2. Other changes of an editorial nature are made as reflected in the standards hereinafter set forth.

The standards are revised to read as follows:

U.S. STANDARDS FOR DRY PEAS[1]

TERMS DEFINED

§ 68.401 Definitions.

For the purposes of these standards the following terms shall have the meanings stated below:

(a) *Bleached peas.* Whole and pieces of dry peas of green-colored varieties which are bleached distinctly yellow in color or peas of yellow-colored varieties which are bleached distinctly green in color.

(b) *Classes.*[2] (1) Dry peas shall be divided into the following nine classes:

Alaska Dry Peas;
Austrian Winter Dry Peas;
Colorado White Dry Peas;
First and Best Dry Peas;
Perfection Dry Peas;
Romack Dry Peas; Surprise Dry Peas; White Canada Dry Peas; Mixed Dry Peas.

(2) Mixed dry peas shall be dry peas which contain either more than 1.5 percent of contrasting peas or more than 15.0 percent of peas that blend.

(3) Except with respect to the class Mixed Dry Peas, each class may contain not more than 1.5 percent of contrasting peas or not more than 15.0 percent of peas that blend.

(4) Dry peas that are not within any class listed above shall be classified according to the commonly accepted commercial name of such peas.

(c) *Contrasting peas.* Whole and pieces of dry peas which are of a contrasting color, or which differ materially in size, shape, or other characteristics from the predominating class.

(d) *Damaged peas.* Whole and pieces of dry peas which are distinctly damaged by frost, weather, disease, heat (other than to a material extent), or other causes, except weevil or material heat damage, or are distinctly soiled or stained by nightshade, dirt, or toxic material.

(e) *Defective peas.* The categories of defective peas shall be weevil-damaged peas, heat-damaged peas, damaged peas, contrasting peas, bleached peas, split peas, shriveled peas, or peas with cracked seedcoats.

(f) *Dockage.* Small underdeveloped dry peas, pieces of dry peas, and all matter other than dry peas which can be removed readily by the use of sieves and cleaning devices as set forth in the Inspection Handbook (see § 68.406).

(g) *Dockage-free dry peas.* Dry peas from which the dockage has been removed.

(h) *Dry peas.* Threshed seeds of the garden pea plant (*Pisum sativum* L.) and the winter field pea plant (*Pisum sativum* var. *arvense* (L.) Poir.) which after the removal of dockage contain 50.0 percent or more of whole peas and not more than 10.0 percent of foreign material.

(i) *Fair color peas.* Dry peas that in mass are off color from the characteristic color of the predominating class as a result of age or any other cause.

(j) *Foreign material in dockage-free dry peas.* All matter other than dry peas, and including detached seedcoats.

(k) *Foreign material in thresher-run dry peas.* All matter other than dry peas, and including detached seedcoats, which cannot be readily removed in the determination of dockage.

(l) *Good color peas.* Dry peas that in mass are practically free from discoloration and have the natural color and appearance characteristics of the predominating class.

(m) *Heat-damaged peas.* Whole and pieces of dry peas which have been materially discolored as a result of heating.

(n) *Peas with cracked seedcoats.* Dry peas having readily discernible cracked seedcoats or peas which have all or a part of the seedcoat removed, and broken peas which are more than one-half of a whole pea.

(o) *Peas that blend.* Dry peas of classes other than the predominating class and which are similar in color, size, and shape to the predominating class.

(p) *Poor color peas.* Dry peas that in mass are distinctly off color from the characteristic color of the predominating class as a result of age or any other cause.

(q) *Shriveled peas.* Dry peas which are distinctly shriveled in contrast to the natural shape and appearance of the predominating peas in the sample.

(r) *Split peas.* The halves or smaller pieces of dry peas and dry peas in which the halves are loosely held together.

(s) *Thresher-run dry peas.* Dry peas from which the dockage has not been removed.

(t) *Weevil-damaged peas.* Whole and pieces of dry peas which are distinctly damaged by the pea weevil or other insects.

(u) *Whole peas.* Dry peas with one-fourth or less of the cotyledons removed and with the remainder of the cotyledons firmly held together.

[1] Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal laws.

[2] The use of a variety name in the designation of the class of dry peas does not imply any guarantee of varietal purity.

(v) *Wrinkled peas.* Dry peas of the wrinkled varieties of garden peas.

(w) $^{19}/_{64}$ x ¾ *slotted-hole sieve.* A metal sieve 0.0319 inch thick, with slotted perforations 0.1562 ($^{19}/_{64}$) inch wide by 0.750 (¾) inch long, which are 0.2812 ($^{9}/_{32}$) inch from center to center and with 0.1562 ($^{5}/_{32}$) inch end bridges. (The perforations of each row shall be staggered in relation to the adjacent rows.)

(x) $^{11}/_{64}$ x ¾ *slotted-hole sieve.* A metal sieve 0.0319 inch thick, with slotted perforations 0.1718 ($^{11}/_{64}$) inch wide by 0.750 (¾) inch long, which are 0.3125 ($^{5}/_{16}$) inch from center to center and with 0.1562 ($^{5}/_{32}$) inch end bridges. (The perforations of each row shall be staggered in relation to the adjacent rows).

(y) $^{15}/_{64}$ *round-hole sieve.* A metal sieve 0.0319 inch thick, perforated with round holes 0.2343 ($^{15}/_{64}$) inch in diameter, which are 0.3125 ($^{5}/_{16}$) inch from center to center. (The perforations of each row shall be staggered in relation to the adjacent rows.)

(z) $^{19}/_{64}$ *round-hole sieve.* A metal sieve 0.0319 inch thick, perforated with round holes 0.250 ($^{19}/_{64}$) inch in diameter, which are 0.3750 (⅜) inch from center to center. (The perforations of each row shall be staggered in relation to the adjacent rows.)

PRINCIPLES GOVERNING APPLICATION OF STANDARDS

§ 68.402 Basis of determinations.

(a) All factor determinations shall be made upon the basis of the dry peas after the removal of dockage with the following exceptions:

(1) Dockage in thresher-run dry peas shall be determined upon the basis of the peas as sampled.

(2) Color shall be determined after the removal of dockage, defective peas, and foreign material.

(b) Defects in peas shall be scored in accordance with the order shown in § 68.401(e) and once an individual pea is scored in a defective category it shall not be scored for any other defect but it shall remain as a part of the sample for purposes of determining the percentages of other defects in the sample.

§ 68.403 Moisture.

Moisture content shall be determined by the use of equipment and procedures set forth in the Equipment Manual, GR Instruction 916–6, or by any method which gives equivalent results (see § 68.406).

§ 68.404 Percentages.

All percentages shall be determined on the basis of weight and shall be rounded off in accordance with instructions shown in Inspection Handbook HB–1 (see § 68.406). Percentages, except for classes in "Mixed Dry Peas," shall be stated in whole and tenth percent to the nearest tenth percent. The percentages for classes in "Mixed Dry Peas" shall be stated to the nearest whole percent.

§ 68.405 Interpretive line samples.

Interpretive line samples showing the official scoring line for factors that are determined by visual observation shall be maintained by the Grain Division, Consumer and Marketing Service, U.S. Department of Agriculture, and shall be available for reference in all inspection offices that inspect and grade dry peas.

§ 68.406 References.

The following publications are referenced in these standards. Copies will be made available upon request to the Grain Division, Consumer and Marketing Service, U.S. Department of Agriculture.

(a) Equipment Manual, GR Instruction 916–6, U.S. Department of Agriculture, Consumer and Marketing Service.

(b) Inspection Handbook, HB–1, U.S. Department of Agriculture, Consumer and Marketing Service.

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

§ 68.407 Grades and grade requirements for dockage-free dry peas.

(See also § 68.409.)

	Maximum limits of—										Minimum requirements—color
	Defective peas									Foreign material	
	Weevil-damaged peas	Heat-damaged peas	Damaged peas [4]	Contrasting peas [2]	Bleached peas [3]	Split peas	Shriveled peas	Peas with cracked seedcoats	Peas that blend [3]		
	Percent	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	
U.S. No. 1 [1]	0.3	0.2	1.0	0.3	1.5	0.5	2.0	3.5	5.0	0.1	Good.
U.S. No. 2 [1]	0.8	0.5	1.5	0.5	3.0	1.0	4.0	5.5	10.0	0.2	Fair.
U.S. No. 3 [1]	1.5	1.0	2.0	1.5	5.0	1.5	8.0	7.5	15.0	0.5	Poor.
U.S. Sample grade	U.S. Sample grade shall be dry peas which: (a) Do not meet the requirements for the grades U.S. Nos. 1, 2, or 3; or (b) Contain more than 15.0 percent moisture, live weevils or other live insects, metal fragments, broken glass, or a commercially objectionable odor; or (c) Are materially weathered, heating, or distinctly low quality.										

[1] Size requirements: Dry peas of any of the numerical grades shall be of such size that not more than 3.0 percent of the peas will pass readily through an oblong-hole sieve with perforations of the dimensions used in the determination of dockage on thresher-run dry peas of the respective classes.

[2] These limits do not apply to the class Mixed Dry Peas.

[3] These limits do not apply to winter field peas and wrinkled garden peas.

[4] Damaged peas do not include weevil-damaged or heat-damaged peas.

§ 68.408 Grade designation for dockage-free dry peas.

The grade designation for dockage-free dry peas shall include, in the order named, the letters "U.S."; the number of the grade or the words "Sample grade"; the name of each applicable special grade; and the name of the class. The grade designation for the class Mixed Dry Peas shall also include, following the words "Mixed Dry Peas," the name and approximate percentage of each class of dry peas in the mixture, in the order of predominance.

SPECIAL GRADES, SPECIAL GRADE REQUIREMENTS, AND SPECIAL GRADE DESIGNATIONS

§ 68.409 Special grades and requirements.

The following special grades shall be applicable:

(a) *Large dry peas.* Peas of the classes Alaska Dry Peas, First and Best Dry Peas, and White Canada Dry Peas, of which not more than 3.0 percent of the peas will readily pass through the following sieves for the respective classes:

	Round-hole sieve
Alaska Dry Peas	$^{16}/_{64}$
First and Best Dry Peas	$^{16}/_{64}$
White Canada Dry Peas	$^{15}/_{64}$

(b) *Small dry peas.* Peas of the classes Alaska Dry Peas, First and Best Dry Peas, and White Canada Dry Peas, of which not more than 3.0 percent of the peas will remain on the sieve prescribed in paragraph (a) of this section, for the respective class, and not more than 3.0 percent will readily pass through the following sieves for the respective classes.

	Slotted-hole sieve
Alaska Dry Peas	$^{11}/_{64}$ x ¾
First and Best Dry Peas	$^{11}/_{64}$ x ¾
White Canada Dry Peas	$^{19}/_{64}$ x ¾

§ 68.410 Special grade designation.

Large dry peas and Small dry peas shall be graded and designated according to the grade requirements of the standards otherwise applicable to such dry peas, and there shall be added to and made a part of the grade designation preceding the name of the class the applicable word "Large" or "Small."

§ 68.411 Thresher-run dry peas.

Thresher-run dry peas shall be inspected without reference to grade in accordance with instructions shown in Inspection Handbook HB–1 (see § 68.406).

(a) Factor determinations: Thresher run dry peas may be inspected for the following factors: Class, dockage, defective peas, foreign material, peas that blend, color description, and moisture (moisture becomes a factor when in excess of 15.0 percent).

(b) The percentage of defective peas and foreign material shall be combined

and shown on the certificate as "total defects and foreign material."

(c) For the classes Alaska Dry Peas, First and Best Dry Peas, and other smooth seeded varieties, only the percentage of peas with cracked seedcoats in excess of 3.0 percent shall be included in the factor "total defects and foreign material." (Example: In a sample containing 3.2 percent of peas with cracked seedcoats, only 0.2 percent would be included in the total defects and foreign material.)

U.S. STANDARDS FOR SPLIT PEAS [1]

TERMS DEFINED

§ 68.501 Definitions.

For the purposes of these standards the following terms shall have the meanings stated below:

(a) *Bleached split peas.* Split peas of green-colored varieties which are bleached distinctly yellow in color or split peas of yellow-colored varieties which are bleached distinctly green in color.

(b) *Classes.* The following three classes:

(1) *Green split peas.* Split peas from the garden varieties which have green-colored cotyledons.

(2) *Yellow split peas.* Split peas from the garden varieties which have yellow-colored cotyledons.

(3) *Winter split peas.* Split peas from the Austrian Winter or Romack varieties, or of other similar varieties.

(c) *Contrasting split peas.* Split peas which are of a color contrasting with the predominating class of split peas. Bleached split peas of the predominating class shall not be considered as contrasting split peas.

(d) *Damaged split peas.* Split peas which are distinctly damaged by frost, weather, disease, heat (other than to a material extent), or other causes (except weevil or material heat damage), or are distinctly soiled or stained by nightshade, dirt, or toxic material.

(e) *Defective split peas.* The categories of defective split peas shall be weevil-damaged split peas, heat-damaged split peas, damaged split peas, contrasting split peas, whole peas, white caps, and bleached split peas.

(f) *Fair color split peas.* Split peas that in mass are off color from the characteristic color of the predominating class as a result of age or any other cause.

(g) *Foreign material.* All matter which will pass readily through a 2½/64 round-hole sieve and all matter other than split peas which remains on the sieve. (Foreign material shall include detached seedcoats and pieces of detached seedcoats.)

(h) *Good color split peas.* Split peas that in mass are practically free from discoloration and have the natural color and appearance characteristic of the predominating class.

(i) *Heat-damaged split peas.* Split peas which have been materially discolored and damaged by heat.

(j) *Poor color split peas.* Split peas that in mass are distinctly off color from the characteristic color of the predominating class as a result of age or any other cause.

(k) *Split peas.* Dry threshed seeds of the garden pea plant (*Pisum sativum* L.) and the winter field pea plant (*Pisum sativum* var. *arvense* (L.) Poir.) of which 50.0 percent or more have been split into halves or smaller pieces and which contain not more than 10.0 percent of foreign material.

(l) *Weevil-damaged split peas.* Split peas which are distinctly damaged by the pea weevil or other insects.

(m) *White caps.* Split peas with seedcoats attached.

(n) *Whole peas.* Dry peas which are not split.

(o) 2½/64 *round-hole sieve.* A 2½/64 round-hole sieve shall be a metal sieve 0.0319 inch thick, perforated with round holes 0.0391 (2½/64) inch in diameter, which are 0.075 inch from center to center. (The perforations of each row shall be staggered in relation to the adjacent rows.)

(p) $^{9}/_{64}$ *round-hole sieve.* A $^{9}/_{64}$ round-hole sieve shall be a metal sieve 0.0319 inch thick, perforated with round holes 0.0938 ($^{9}/_{64}$) inch in diameter which are 0.1562 ($^{5}/_{32}$) inch from center to center. (The perforations of each row shall be staggered in relation to the adjacent rows.)

(q) $^{5}/_{64}$ *round-hole sieve.* An $^{5}/_{64}$ round-hole sieve shall be a metal sieve 0.0319 inch thick, perforated with round holes 0.1250 ($^{8}/_{64}$) inch in diameter which are 0.1875 ($^{3}/_{16}$) inch from center to center. (The perforations of each row shall be staggered in relation to the adjacent rows.)

(r) $^{10}/_{64}$ *round-hole sieve.* A $^{10}/_{64}$ round-hole sieve shall be a metal sieve 0.0319 inch thick, perforated with round holes 0.1562 ($^{10}/_{64}$) inch in diameter which are 0.2187 ($^{7}/_{32}$) inch from center to center. (The perforations of each row shall be staggered in relation to the adjacent rows.)

(s) $^{12}/_{64}$ *round-hole sieve.* A $^{12}/_{64}$ round-hole sieve shall be a metal sieve 0.0319 inch thick, perforated with round holes 0.1875 ($^{12}/_{64}$) inch in diameter which are 0.250 (¼) inch from center to center. (The perforations of each row shall be staggered in relation to the adjacent rows.)

PRINCIPLES GOVERNING APPLICATION OF STANDARDS

§ 68.502 Basis of determinations.

(a) All factor determinations shall be made on the basis of the split peas as sampled.

(b) Defects in split peas shall be scored in accordance with the order shown in § 68.501(e) and once an individual pea is scored in a defective category it shall not be scored for any other defect but it shall remain as a part of the sample for purposes of determining the percentages of other defects in the sample.

§ 68.503 Moisture.

Moisture content shall be determined by the use of equipment and procedures set forth in the Equipment Manual, GR Instruction 916–6, or by any method which gives equivalent results (see § 68.506).

§ 68.504 Percentages.

All percentages shall be determined on the basis of weight and shall be rounded off in accordance with instructions shown in Inspection Handbook HB–1 (see § 68.506). Percentages shall be stated in whole and tenth percent to the nearest tenth percent.

§ 68.505 Interpretive line samples.

Interpretive line samples showing the official scoring line for factors that are determined by visual observation shall be maintained by the Grain Division, Consumer and Marketing Service, U.S. Department of Agriculture, and shall be available for reference in all inspection offices that inspect and grade split peas.

§ 68.506 References.

The following publications are referenced in these standards. Copies will be made available upon request to the Grain Division, Consumer and Marketing Service, U.S. Department of Agriculture.

(a) Equipment Manual, GR Instruction 916–6, U.S. Department of Agriculture, Consumer and Marketing Service.

(b) Inspection Handbook, HB–1, U.S. Department of Agriculture, Consumer and Marketing Service.

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

§ 68.507 Grades and grade requirements for split peas.

(See also § 68.509.)

[1] Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal laws.

Grade	Maximum limits of— Split peas passing through— 12/64 round-hole sieve	5/64 round-hole sieve	5/64 round-hole sieve	Defective Peas: Weevil-damaged split peas	Heat-damaged split peas	Damaged peas[1]	Contrasting split peas: In Green and Yellow Split Peas only	In Winter Split Peas only	Whole peas	White caps: In Green and Yellow Split Peas only	In Winter Split Peas only	Bleached peas in Green and Yellow Split Peas only	Foreign material	Minimum requirements—color
	Percent	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	
U.S. No. 1	3.0	0.5	0.1	0.5	0.2	1.0	0.3	0.5	0.5	1.0	1.5	1.5	0.1	Good.
U.S. No. 2	15.0	3.0	0.2	1.0	0.5	1.5	0.8	1.0	1.0	2.0	3.0	3.0	0.2	Fair.
U.S. No. 3	25.0	5.0	0.3	1.5	1.0	2.0	1.5	2.0	2.0	3.0	5.0	5.0	0.5	Poor.
U.S. Sample grade	U.S. Sample grade shall be split peas which— (a) Do not meet the requirements for the grades U.S. Nos. 1, 2, or 3; or (b) Contain more than 15.0 percent moisture, live weevils, other live insects, insect webbing or filth, metal fragments, broken glass, or a commercially objectionable odor; or (c) Are heating, or are distinctly low quality.													

[1] Damaged peas do not include weevil-damaged or heat-damaged peas.

§ 68.508 Grade designation for split peas.

The grade designation for split peas shall include in the following order, the letters "U.S."; the number of the grade or the words "Sample grade"; the name of the class; and the name of each applicable special grade.

SPECIAL GRADE, SPECIAL GRADE REQUIREMENTS, AND SPECIAL GRADE DESIGNATIONS

§ 68.509 Special grade and requirements.

(a) The special grade "Split pea chips" shall be applied in accordance with the following requirements: The split peas shall readily pass through a 12/64 round-hole sieve. Additional size requirements for the respective numerical grades shall be as follows:

U.S. No. 1—Not more than 3.0 percent shall readily pass through a 5/64 round-hole sieve;
U.S. No. 2—Not more than 6.0 percent shall readily pass through a 5/64 round-hole sieve;
U.S. No. 3—Not more than 10.0 percent shall readily pass through a 5/64 round-hole sieve.

§ 68.510 Special grade designation.

Split pea chips shall be graded and designated according to the grade requirements of the standards otherwise applicable to split peas, except for size, and there shall be added to and made a part of the grade designation, the word "Chips."

U.S. STANDARDS FOR LENTILS[1]

TERMS DEFINED

§ 68.601 Definitions.

For the purposes of these standards the following terms shall have the meaning stated below.

(a) *Classes.* The following three classes:

(1) *Lentils.* All lentils of the Chilean type, with not more than 2.0 percent of Persian Lentils.

(2) *Persian Lentils.* All lentils of the Persian type, with not more than 2.0 percent of (Chilean) Lentils.

(3) *Mixed Lentils.* Any, mixture of lentils consisting predominantly of (Chilean) Lentils or of Persian Lentils, which contains more than 2.0 percent of lentils other than those of the predominating class.

(b) *Damaged lentils.* Whole and pieces of lentils which are distinctly damaged by frost, weather, disease, heat (other than to a material extent) or other causes, except weevil or material heat damage or are distinctly soiled or stained by nightshade, dirt, or toxic material.

(c) *Defective lentils (total).* The categories of defective lentils shall be weevil-damaged lentils, heat-damaged lentils, damaged lentils, and split lentils.

(d) *Dockage.* Small underdeveloped lentils, pieces of lentils, and all matter other than lentils which can be readily removed by use of sieves and cleaning devices as set forth in the Inspection Handbook (see § 68.606).

(e) *Dockage-free lentils.* Lentils from which the dockage has been removed.

(f) *Fair color lentils.* Lentils that are not of good color.

(g) *Foreign material in dockage-free lentils.* All matter other than lentils, and including detached seedcoats.

(h) *Foreign material in thresher-run lentils.* All matter other than lentils, and including detached seedcoats, which cannot be readily removed in the proper determination of dockage.

(i) *Good color lentils.* Lentils that in mass are practically free from discoloration and have the natural color and appearance characteristic of the predominating lentils.

(j) *Heat-damaged lentils.* Whole and pieces of lentils which have been materially discolored as a result of heating.

(k) *Lentils (Lentils, Persian Lentils, or Mixed Lentils).* Threshed seeds of the lentil plant (*Lens culinaris* Moench) which after removal of the dockage contain 50.0 percent or more of whole lentils and not more than 10.0 percent foreign material.

(l) *Skinned lentils.* Lentils from which three-fourths or more of the seedcoat has been removed.

(m) *Split lentils.* Pieces of lentils which are less than three-fourths of a lentil, and lentils in which the cotyledons are loosely held together.

(n) *Stones.* Concreted earthy or mineral matter, and other substances or similar hardness that do not readily disintegrate in water.

(o) *Thresher-run lentils.* Lentils from which the dockage has not been removed.

(p) *Weevil-damaged lentils.* Whole and pieces of lentils which are distinctly damaged by weevils or other insects.

(q) *Whole lentils.* Lentils with one-fourth or less of the cotyledons removed and with the remainder of the cotyledons firmly held together.

(r) 9/64 *round-hole sieve.* A metal sieve 0.0319 inch thick, perforated with round holes 0.1406 (9/64) inch in diameter which are 0.1875 (3/16) inch from center to center. (The perforations of each row shall be staggered in relation to the adjacent rows.)

(s) 12/64 *round-hole sieve.* A metal sieve 0.0319 inch thick, perforated with round holes 0.1875 (12/64) inch in diameter, which are 0.250 (1/4) inch from center to center. (The perforations of each row shall be staggered in relation to the adjacent rows.)

(t) 15/64 *round-hole sieve.* A metal sieve 0.0319 inch thick, perforated with round holes 0.2343 (15/64) inch in diameter, which are 0.3125 (5/16) inch from center to center. (The perforations of each row shall be staggered in relation to the adjacent rows.)

PRINCIPLES GOVERNING APPLICATION OF STANDARDS

§ 68.602 Basis of determinations.

(a) All factor determinations shall be made upon the basis of the lentils after the removal of dockage, with the following exceptions:

(1) Dockage shall be determined upon the basis of the thresher-run lentils as sampled.

(2) Color shall be determined after removal of dockage, defective peas, and foreign material.

(b) Defects in lentils shall be scored in accordance with the order shown in § 68.601(c) and once an individual lentil is scored in a defective category it shall not be scored for any other defect but it shall remain as a part of the sample for purposes of determining the percentages of other defects in the sample.

[1] Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal laws.

§ 68.603 Moisture.

Moisture content shall be determined by the use of equipment and procedures set forth in the Equipment Manual, GR Instruction 916–6, or by any method which gives equivalent results (see § 68.606).

§ 68.604 Percentages.

All percentages shall be determined on the basis of weight and shall be rounded off in accordance with instructions shown in Inspection Handbook HB–1 (see § 68.606). Percentages, except for classes in "Mixed Lentils," shall be stated in whole and tenth percent to the nearest tenth percent. The percentages for each class in "Mixed Lentils" shall be stated to the nearest whole percent.

§ 68.605 Interpretive line samples.

Interpretive line samples showing the official scoring line for factors that are determined by visual observation shall be maintained by the Grain Division, Consumer and Marketing Service, U.S. Department of Agriculture, and shall be available for reference in all inspection offices that inspect and grade lentils.

§ 68.606 References.

The following publications are referenced in these standards. Copies will be made available upon request to Grain Division, Consumer and Marketing Service, U.S. Department of Agriculture.

(a) Equipment Manual, GR Instruction 916–6, U.S. Department of Agriculture, Consumer and Marketing Service.

(b) Inspection Handbook, HB–1, U.S. Department of Agriculture, Consumer and Marketing Service.

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

§ 68.607 Grades and grade requirements for dockage-free lentils.

(See also § 68.609.)

Grade	Maximum limits of— Defective lentils: Total	Weevil-damaged lentils	Heat-damaged lentils	Foreign material: Total	Stones	Minimum requirements—color
	Percent	*Percent*	*Percent*	*Percent*	*Percent*	
U.S. No. 1	2.0	0.3	0.2	0.2	0.1	Good.
U.S. No. 2	3.5	0.8	0.5	0.5	0.2	Fair.
U.S. Sample grade	U.S. Sample grade shall be lentils which— (a) Do not meet the requirements for the grades U.S. Nos. 1 or 2; or (b) Contain more than 14.0 percent moisture, live weevils or other live insects, metal fragments, broken glass, or a commercially objectionable odor; or (c) Are materially weathered, heating, or distinctly low quality.					

§ 68.608 Grade designation for dockage-free lentils.

The grade designation for dockage-free lentils shall include, in the order named, the letters "U.S."; the number of the grade or the words "Sample grade" when applicable; the name of each applicable special grade; and the name of the class. The grade designation for the class Mixed Lentils shall include, following the words "Mixed Lentils," the name and approximate percentage of each class of lentils in the mixture, in the order of predominance.

SPECIAL GRADES, SPECIAL GRADE REQUIREMENTS, AND SPECIAL GRADE DESIGNATIONS

§ 68.609 Special grades and requirements.

The following special grades shall be applicable:

(a) *Large lentils.* Lentils of the class Lentils of which not more than 3.0 percent will readily pass through a 15/64 round-hole sieve.

(b) *Small lentils.* Lentils of the class Lentils of which 95 percent or more will readily pass through a 15/64 round-hole sieve, not less than 80 percent will readily pass through a 12/64 round-hole sieve, and not more than 3 percent will readily pass through a 9/64 round-hole sieve.

§ 68.610 Special grade designation.

Large lentils and Small lentils shall be graded and designated according to the grade requirements of the standards otherwise applicable to lentils, and there shall be added to and made a part of the grade designation preceding the name of the class, the applicable term "Large" or "Small."

§ 68.611 Thresher-run lentils.

Thresher-run lentils shall be inspected without reference to grade in accordance with instructions shown in Inspection Handbook HB–1 (see § 68.606).

(a) Factor determinations: Thresher-run lentils may be inspected for the following factors: Class, dockage, weevil-damaged lentils, heat-damaged lentils, damaged lentils, split lentils, foreign material, and color description.

(b) The percentage of defective lentils and foreign material shall be combined and shown on the certificate as "total defects and foreign material."

The changes have been thoroughly reviewed with the pea and lentil trade including farmers and dealers. Both groups strongly urge that the changes be made effective as soon as possible. They indicate that much of the 1971 crop remains in the hands of growers and should be marketed on the basis of the revised standards which more adequately reflect the overall quality of the product. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that further notice and other public procedure with respect to the revision are impracticable and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

The foregoing standards supersede the U.S. Standards for Dry Peas, Split Peas, and Lentils as amended effective August 1, 1962, and shall become effective December 1, 1971.

Signed at Washington, D.C., on November 15, 1971.

G. R. GRANGE,
Deputy Administrator,
Marketing Services.

[FR Doc.71–16900 Filed 11–19–71;8:45 am]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Lemon Reg. 508]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.808 Lemon Regulation 508.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 36 F.R. 9061), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based

became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for rgulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committe meeting was held on November 16, 1971.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period November 21 through November 27, 1971, is hereby fixed at 160,000 cartons.

(2) As used in this section, "handled" and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 18, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-17072 Filed 11-19-71;8:52 am]

PART 984—WALNUTS GROWN IN CALIFORNIA, OREGON, AND WASHINGTON

Walnut Control Board, Expenses and Rates of Assessment for 1971–72 Marketing Year

Notice was published in November 5, 1971, issue of the FEDERAL REGISTER (36 F.R. 21291) regarding proposed expenses of the Walnut Control Board for the 1971–72 marketing year and rates of assessment for that year. This action approves such expenses and assessment rates and is pursuant to §§ 984.68 and 984.69 of the marketing agreement, as amended, and Order No. 984, as amended (7 CFR Part 984). The amended marketing agreement and order regulate the handling of walnuts grown in California, Oregon, and Washington, and are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons an opportunity to submit written data, views, or arguments on the proposal. None were received within the prescribed time.

After consideration of all relevant matter presented, including that in the notice, the information and recommendations submitted by the Walnut Control Board, and other available information, it is found that the expenses of the Board and rates of assessment for the 1971–72 marketing year (which began August 1, 1971, and ends July 31, 1972), shall be as follows:

§ 984.323 Expenses of the Walnut Control Board and rates of assessment for the 1971–72 marketing year.

(a) *Expenses.* Expenses in the amount of $153,300 are reasonable and likely to be incurred by the Walnut Control Board during the marketing year beginning August 1, 1971, for its maintenance and functioning, and for such purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

(b) *Rates of assessment.* The rates of assessment for said marketing year, payable by each handler in accordance with § 984.69, are fixed at 0.10 cent per pound for merchantable in-shell walnuts and 0.25 cent per pound for merchantable shelled walnuts.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said marketing agreement and this part require that the rates of assessment fixed for a particular marketing year shall be applicable to all assessable walnuts from the beginning of such year; and (2) the 1971–72 marketing year began August 1, 1971, and the rates of assessment herein fixed will automatically apply to all such assessable walnuts beginning with that date.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 17, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-17030 Filed 11-19-71;8:51 am]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 3—ADJUDICATION

Subpart B—Burial Benefits

MISCELLANEOUS AMENDMENTS

This amendment reframes in current terminology in use in connection with hospital admissions and discharges section pertaining to burial benefits for persons who die during Veterans Administration hospitalization and provides for payment of $30 for a shipping case for a casket used in transportation of the remains of such a veteran to the place of burial.

1. In § 3.1605, paragraph (d) is amended to read as follows:

§ 3.1605 Death while traveling under prior authorization or while hospitalized by the Veterans Administration.

* * * * * *

(d) *Persons properly hospitalized.* A person properly hospitalized who dies:

(1) While on authorized absence which has not exceeded 96 hours at time of death;

(2) While in a status of unauthorized absence for a period not in excess of 24 hours; or

(3) While absent from the hospital for a period totaling 24 hours of combined authorized and unauthorized absence (all other cases in which such absence arises at the expiration of an authorized absence are not included);

is considered as having died while hospitalized.

* * * * * *

2. In § 3.1606(a), subparagraphs (3) and (4) are amended to read as follows:

§ 3.1606 Transportation items where veteran dies while properly hospitalized.

The transportation costs of those persons who come within the provisions of § 3.1605 (a), (b), (c), and (d) may include the following:

(a) *Shipment by common carrier.* * * *

(3) Shipping case: An allowance not to exceed $30 may be made as a part of transportation expense. Any excess amount would be an acceptable item to be included in the burial allowance expenses.

(4) Cost of sealing outside case (tin or galvanized iron), if a vault (steel or concrete) is used as a shipping case and also for burial, an allowance of $30 may be made thereon in lieu of a separate shipping case.

* * * * * *

3. In § 3.1610, paragraph (a) is amended to read as follows:

§ 3.1610 Burial in national cemeteries.

* * * * * *

(a) Such burial is desired by the person or persons entitled to the custody of the remains for purposes of interment. Where the body is unclaimed by relatives or friends the Director of the regional office in the area in which the veteran died will immediately complete arrangements for burial in a national cemetery. (See § 3.1603.)

* * * * * *

(72 Stat. 1114; 38 U.S.C. 210)

These VA regulations are effective the date of approval.

Approved: November 16, 1971.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[FR Doc.71-17018 Filed 11-19-71;8:50 am]

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

PART 211—DOCUMENTARY REQUIREMENTS: IMMIGRANTS; WAIVERS

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

Visas

The following amendments to Chapter I of Title 8 of the Code of Federal Regulations are hereby prescribed:

1. The first and fourth sentences of subparagraph (1) *Form I–151, Alien Registration Receipt Card* of paragraph (b) *Aliens returning to an unrelinquished lawful permanent residence* of § 211.1 *Visas* are amended to read as follows: "In lieu of an immigrant visa, an immigrant alien returning to an unrelinquished lawful permanent residence in the United States after a temporary absence abroad not exceeding one year may present Form I–151, Alien Registration Receipt Card, duly issued to him, provided that during such absence he did not travel to, in, or through any of the following places: Cuba and Communist portions of Korea or Viet-Nam, and, except for children who have not attained the age of 16 at the time they apply for admission into the United States, Albania, Bulgaria, the Communist portion of China, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Outer Mongolia, Poland, Rumania, the Soviet Zone of Germany (German Democratic Republic), the Union of Soviet Socialist Republics, or Yugoslavia. * * * An alien who proceeded abroad temporarily without a reentry permit and in whose case subsequent to his departure from the United States the Department of State has approved travel to, in, or through Cuba, or Communist portions of Korea or Viet-Nam, may, in lieu of an immigrant visa or reentry permit, present Form I–151 together with the letter from the Department of State approving his travel to, in, or through the place or places named in the letter, if he is returning to an unrelinquished lawful permanent residence in the United States after a temporary absence abroad not exceeding one year."

2. The third sentence of subparagraph (2) *Reentry permit* of paragraph (b) *Aliens returning to an unrelinquished lawful permanent residence* of § 211.1 *Visas* is amended to read as follows: "A reentry permit shall be invalid when presented by an alien who, during his temporary absence abroad, traveled to, in, or through Cuba, or Communist portions of Korea or Viet-Nam, unless his permit bears an endorsement, or he presents a letter issued to him by the Department of State, stating that the restriction with regard to any such place or places has been waived."

3. The second sentence of subparagraph (3) *Waiver of visas* of paragraph (b) *Aliens returning to an unrelinquished lawful permanent residence* of § 211.1 *Visas* is amended to read as follows: "If the alien has traveled to, in, or through Cuba, or Communist portions of Korea or Viet-Nam, a waiver will not be authorized unless the Secretary of State has granted the alien permission to travel to, in, or through any such place or places."

The second sentence of subparagraph (1) *Transit without visa* of paragraph (e) *Direct transits* of § 212.1 *Documentary requirements for nonimmigrants* is amended to read as follows: "This waiver of visa and passport requirements is not available to an alien who is a citizen of Cuba, North Korea (Democratic Peoples' Republic of Korea), North Viet-Nam (Democratic Republic of Viet-Nam), or the Soviet Zone of Germany (German Democratic Republic) and is a resident of one of said countries, and is, on a basis of reciprocity, available to a national of Albania, Bulgaria, Communist-controlled China (People's Republic of China), Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Outer Mongolia (Mongolian People's Republic), Poland, Romania, or the Union of Soviet Socialist Republics resident in one of said countries, only if he is transiting the United States by aircraft of a transportation line signatory to an agreement with the Service on Form I–426 on a direct through flight which will depart directly to a foreign place from the port of arrival."

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

This order shall be effective on the date of its publication in the FEDERAL REGISTER (11–20–71). Compliance with the provisions of section 553 of Title 5 of the United States Code (80 Stat. 383), as to notice of proposed rule making and delayed effective date, is unnecessary in this instance and would serve no useful purpose because the amendments to §§ 211.1(b) (1), (2), and (3) relieve restrictions; and the amendment to § 212.1 (e)(1) confers a benefit on persons affected thereby.

Dated: November 9, 1971.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[FR Doc.71-17020 Filed 11-19-71;8:50 am]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. M]

PART 213—FOREIGN ACTIVITIES OF NATIONAL BANKS

Extension of Credit by Foreign Branch of Member Bank to Domestic Subsidiary of Edge Act Corporation

§ 213.103 Credit extended by foreign branches of member banks to domestic subsidiaries of Edge Act corporations.

(a) The Board of Governors recently considered the applicability of § 213.7 of Regulation M to credit extended by a foreign branch of a member bank to a domestically-chartered financing subsidiary of the member bank's subsidiary Edge Act corporation.[1] The financing subsidiary proposed to use the credit to make loans and investments abroad. Such loans would not be to U.S. residents; such investments would not involve the acquisition of assets from the member bank (other than assets described in clause (2) of footnote 7 to § 213.7).

(b) Section 213.7 is designed to affect the flow of foreign funds into the domestic banking system. Section 213.7(b)(2) exempts from reserve requirements credit extended to enable the borrower to comply with requirements of the Office of Foreign Direct Investments, Department of Commerce. The justification for that exemption is that the borrowing does not directly affect the availability of credit for use in the United States.

(c) Consistent with the purpose of § 213.7 and the exemption for credits under the OFDI program, the Board concluded that a foreign branch of a member bank need not maintain reserves against credit extended to a domestically-chartered financing subsidiary of any of the member bank's Edge Act corporations on any portion of the credit that is used by the financing subsidiary to make loans and investments abroad of the type proposed.

(Interprets and applies 12 U.S.C. 601 and 12 U.S.C. 321)

By order of the Board of Governors, November 15, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16982 Filed 11-19-71;8:47 am]

[1] Corporation organized under section 25 (a) of the Federal Reserve Act (12 U.S.C. 611–631).

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 71-SO-155]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Revocation of Federal Airway Segment

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to revoke the north alternate segment of VOR Federal airway No. 18 between Jackson, Miss., and Meridian, Miss.

Each of the peak-day traffic surveys for the past 4 years has shown no flights along this segment of V-18N which therefore can no longer be retained as such an assignment of airspace.

Since this amendment restores airspace to the public use and relieves a restriction, notice, and public procedure thereon are unnecessary, and good cause exists for making this amendment effective on less than 30-days notice. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 6, 1972, as hereinafter set forth.

Section 71.123 (36 F.R. 2010, 3892, 11806, 18076, 18725) is amended as follows: In V-18 "Meridian, Miss., including a N alternate and also a S alternate;" is deleted and "Meridian, Miss., including a S alternate;" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 16, 1971.

T. McCORMACK,
Acting Chief Airspace and Air Traffic Rules Division.

[FR Doc.71-16968 Filed 11-19-71;8:45 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-2065]

PART 13—PROHIBITED TRADE PRACTICES

B & L Building Modernization Corp. et al.

Subpart—Advertising falsely or misleadingly: § 13.71 *Financing:* 13.71-10 Truth in Lending Act; § 13.73 *Formal regulatory and statutory requirements:* 13.73-92 Truth in Lending Act; § 13.155 *Prices:* 13.155-95 Terms and conditions: 13.155-95(a) Truth in Lending Act. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements:* 13.1623-95 Truth in Lending Act; Misrepresenting oneself and goods—Prices: § 13.1823 *Terms and conditions:* 13.1823-20 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-75 Truth in Lending Act; § 13.1892 *Sales contract, right-to-cancel provision;* § 13.1905 Terms and conditions: 13.1905-60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605) [Cease and desist order, B & L Building Modernization Corp. et al., Albany, N.Y., Docket No. C-2065, Oct. 14, 1971]

In the Matter of B & L Building, Modernization Corp., a Corporation, and Henry S. Bloomgarden and Harold Lavine Individually and as Officers of Said Corporation

Consent order requiring an Albany, N.Y., seller of home improvement services and materials to cease violating the Truth in Lending Act by failing to disclose the cash price, cash downpayment, amount financed, deferred payment price, annual percentage rate, failing to disclose the customer's right to rescind contract within 3 days, failing to note on the contract a notice that any holder takes it subject to all terms, and failing to make all other disclosures required by Regulation Z of said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents, B & L Building Modernization Corp., a corporation, and its officers, Henry Bloomgarden and Harold Lavine, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, or under any other name, in connection with any consumer credit sale, as "consumer credit" and "credit sale" are defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (P.L. 90-321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to disclose or to accurately disclose the "cash price," to describe the price at which respondents offer, in the regular course of business, to sell for cash the property or services which are the subject of the credit sale, as required by § 226.8(c)(1) of Regulation Z.

2. Failing to disclose or to accurately disclose the "cash downpayment," to describe the amount of the downpayment in money made in connection with the credit sale, as required by § 226.8(c)(2) of Regulation Z.

3. Failing to disclose the "amount financed," to describe the amount of credit of which the customer has the actual use, as required by § 226.8(c)(7) of Regulation Z.

4. Failing to disclose the "deferred payment price," to describe the sum of the cash price, all other charges which are included in the amount financed but which are not part of the finance charge, and the finance charge, as required by § 226.8(c)(8)(ii) of Regulation Z.

5. Failing to disclose the annual rate of the finance charge expressed as an "annual percentage rate," as required by § 226.8(b)(2) of Regulation Z.

6. Failing to disclose the date on which the finance charge begins to accrue, when different from the date of the transaction, as required by § 226.8(b)(1) of Regulation Z.

7. Failing to disclose, or to accurately disclose on the notice of rescission, the date on which the customer's right of rescission expires, said date being not earlier than the third business day following the date of the transaction, as required by § 226.9(b) of Regulation Z.

8. Failing, in any consumer credit transaction or advertisement, to make all disclosures determined in accordance with §§ 226.4 and 226.5 of Regulation Z, in the manner, form an amount required by §§ 226.6, 226.7, 226.8, 226.9 and 226.10 of Regulation Z.

9. Assigning, selling or otherwise transferring respondents' notes, contracts or other documents evidencing a purchaser's indebtedness, unless any rights or defenses which the purchaser has and may assert against respondents are preserved and may be asserted against any assignee or subsequent holder of such note, contract or other documents evidencing the indebtedness.

10. Failing to include the following statement clearly and conspicuously on the face of any note, contract or other instrument of indebtedness executed by or on behalf of respondents' customers:

NOTICE

Any holder takes this instrument subject to the terms and conditions of the contract which gave rise to the debt evidenced hereby, any contractual provision or other agreement to the contrary notwithstanding.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the consummation of any extension of consumer credit or in any aspect of preparation, creation or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment, or sale, resultant in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist contained herein.

Issued: October 14, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.71-16985 Filed 11-19-71;8:47 am]

[Docket No. C-2062]

PART 13—PROHIBITED TRADE PRACTICES

India's Finest, Inc., and Arthur H. Harding

Subpart—Importing, selling, or transporting flammable wear: § 13.1060 *Importing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, India's Finest, Inc., et al., New York City, Docket No. C-2062, Oct. 13, 1971]

In the Matter of India's Finest, Inc., a Corporation, and Arthur H. Harding, Individually and as an Officer of Said Corporation.

Consent order requiring a New York City importer and seller of Indian-made goods, including ladies' scarves, to cease violating the Flammable Fabrics Act by importing and selling any fabric which fails to conform to the standards of said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That the respondents India's Finest, Inc., a corporation, and its officers, and Arthur H. Harding, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or manufacturing for sale, selling or offering for sale, any product made of fabric or related material which has been shipped or received in commerce as "commerce", "product", "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to this complaint of the flammable nature of said products and effect the recall of said products from such customers.

It is further ordered, That the respondents herein either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That the respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the number of said products in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (4) any disposition of said products since April 1970, and (5) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products, and the results of such action. Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or any other material or combinations thereof in a weight of 2 ounces or less per square yard, or any product, fabric or related material having a raised fiber surface. Upon request, respondents shall submit samples of not less than 1 square yard in size of any such product, fabric, or related material.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: October 13, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.71-16974 Filed 11-19-71;8:46 am]

[Docket No. C-2061]

PART 13—PROHIBITED TRADE PRACTICES

Popeil Brothers Inc.

Subpart—Advertising falsely or misleadingly: § 13.35 *Condition of goods;* § 13.70 *Fictitious or misleading guarantees;* § 13.75 *Free goods or services;* § 13.175 *Quality of product or service.* Subpart—Using deceptive techniques in advertising: § 13.2275 *Using deceptive techniques in advertising:* § 13.2275-70 Television depictions.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Popeil Brothers Inc., Chicago, Ill., Docket No. C-2061, Oct. 13, 1971]

In the Matter of Popeil Brothers Inc., a corporation.

Consent order requiring a Chicago, Ill., seller and distributor of food cutters to cease misrepresenting the type of food its products will cut, making any guarantee for its products by broadcast or otherwise unless it furnishes such guarantee in writing, and misrepresenting that its products are made from surgical grade steel.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent Popeil Brothers, Inc., a corporation, and its officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of any food cutter, or any other similar product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, the type or form of food such product will cut, in a manner which is inconsistent with, negates or contradicts any statements set forth in any instructions accompanying any such product or which limits, qualifies, or detracts from any statement set forth in any such instructions.

2. Representing, directly or by implication, that any such product is subject to a limited warranty or guarantee when any other warranty or guarantee is outstanding for the product: *Provided however,* That such a representation of a limited warranty or guarantee may be made if the basic terms of any other outstanding warranty or guarantee are clearly disclosed in immediate conjunction therewith and, as conspicuously as the limited guarantee or warranty.

3. Representing, directly or indirectly, in any broadcast advertising any guarantee for any such product without making available, to purchasers or prospective purchasers, at the point of purchase or point of prospective purchase, said guarantee in written form completely consistent with the broadcast representations.

4. Representing, directly or by implication, that any such product is made from surgical steel if such steel is not the same grade and quality as that used for surgical cutting instruments.

5. Representing, directly or by implication, that the cutting edge of any such product will never become dull.

6. Representing, directly or by implication, that any such product is being given free or as a gift, or without cost or charge, when such is not the fact.

It is further ordered, That respondent notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may effect compliance obligations arising out of the order.

It is further ordered, That respondent shall, within sixty (60) days after service of the order upon it, file with the Commission a report in writing setting forth in detail the manner and form of its compliance with the order to cease and desist.

Issued: October 13, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-16976 Filed 11-19-71;8:46 am]

[Docket No. C-2060]

PART 13—PROHIBITED TRADE PRACTICES

Reuben H. Donnelley Corp.

Subpart—Advertising falsely or misleadingly: § 13.157 *Prize contests;* § 13.160 *Promotional sales plans;* § 13.285 *Value.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1870 *Nature;* § 13.1883 *Prize contests.*[1]

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, the Reuben H. Donnelley Corp., New York, N.Y., Docket No. C-2060, Oct. 8, 1971]

In the Matter of the Reuben H. Donnelley Corp., a corporation.

Order requiring a major advertising agency headquartered in New York City handling the promotion of contests games and other promotional devices for a soap and detergent company, the Proctor & Gamble Co., to cease failing to disclose the exact number and nature of the prizes in its contests, the numerical odds of winning a prize, failing to award all the prizes, and failing to disclose the names of the major winners; in announcing the contests the respondent is required to disclose the number and nature of the prizes, the odds of winning each prize, and the geographic area involved; respondent is also required to maintain adequate records and furnish the Federal Trade Commission upon request the names and addresses of all the winners and other details of the contest. With respect to services for the Reader's Digest Association, Inc., paragraphs A(2) and B(3) shall not become effective until December 1, 1971.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That Reuben H. Donnelley Corp., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the preparation, advertising, sale, distribution or use of any "sweepstakes," contest, game or any similar promotional device involving chance in commerce, as "commerce" is defined in the Federal Trade Commission Act, cease and desist from:

A. (1) Failing to disclose clearly and conspicuously the exact number of prizes which will be awarded, the exact nature of the prizes, and the approximate retail value of each prize offered.

(2) Failing to disclose clearly and conspicuously the approximate numerical odds of winning each prize which will be awarded; provided, that if such approximate numerical odds are not reasonably capable of calculation, the respondent will disclose clearly and conspicuously the approximate number of recipients to whom the offer is directed if such facts may reasonably be determined.

(3) Failing to award and distribute all prizes of the type and value represented.

(4) Representing directly or by implication that prizes other than cash prizes have been purchased unless they have in fact been purchased at the time that the representation is made.

(5) Failing to furnish upon request to any individual a complete list of the names and states of residence of winners of major prizes, identifying the prize won by each.

(6) Misrepresenting in any manner by any means any element, feature, or aspect of any "sweepstakes", contest, game or any similar promotional device involving chance.

B. Engaging in the preparation, promotion, sale, distribution, or use of any "sweepstakes", contest, game, or similar promotional device involving chance, unless the following are disclosed clearly and conspicuously in the advertising and promotional material concerning said devices which are prepared or disseminated by the respondent:

(1) The total number of prizes to be awarded;

(2) The exact nature of the prizes, their approximate retail value, and the number of each;

(3) The approximate numerical odds of winning each prize which will be awarded; provided, that if such approximate numerical odds are not reasonably capable of calculation, the respondent will disclose clearly and conspicuously the approximate number of recipients to whom the offer is directed if such facts may reasonably be determined;

(4) The geographic area or States in which any such device is used; and

(5) The date the device is opened for participation and the date the device is to end.

It is further ordered, That respondent Reuben H. Donnelley Corp. shall

(1) File with the Commission, within sixty (60) days after service upon it of this order, a report in writing setting forth in detail the manner and form in which it has complied with the provisions of this order;

(2) Maintain for a period of five (5) years after the date on which the "sweepstakes," contest, game or any similar promotional device involving chance is opened for participation adequate records:

(a) Which disclose the facts upon which any of the representations of the type described in the preceding paragraphs of this order are based; and

(b) From which the validity of the representations of the type described in the preceding paragraphs of this order can be determined;

(3) Furnish upon the request of the Federal Trade Commission:

(a) A complete list of the names and addresses of the winners of each prize, and an exact description of the prize, including its retail value;

(b) A list of the winning numbers or symbols, if utilized, for each prize;

(c) The total number of coupons or other entries distributed;

(d) The total number of known participants in the promotion;

(e) The total number of prizes in each category or denomination which were made available; and

(f) The total number of prizes in each category or denomination which were awarded.

It is further ordered, That the respondent shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in its corporate form such as dissolution, assignment or sale resulting in the emergence of successor corporations, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance with this order.

It is further ordered, That with respect to the respondent's services for the Reader's Digest Association, Inc., paragraphs A(2) and B(3) of this order shall not become effective until December 1, 1971; it is also ordered that sixty (60) days thereafter the respondent shall file with the Commission a second report in writing setting forth in detail the manner and form in which it has complied with the terms of those paragraphs with respect to its services for the Reader's Digest Association, Inc.

Issued: October 8, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-16973 Filed 11-19-71;8:46 am]

[1] New.

[Docket No. C-2059]

PART 13—PROHIBITED TRADE PRACTICES

Procter & Gamble Co.

Subpart—Advertising falsely or misleadingly: § 13.157 *Prize contests;* § 13.160 *Promotional sales plans;* § 13.285 *Value.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1870 *Nature;* § 13.1883 *Prize contests.*[1]

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C 45) [Cease and desist order, The Procter & Gamble Co, Cincinnati, Ohio, Docket No. C-2059, Oct. 8, 1971]

In the Matter of The Procter & Gamble Co., a Corporation.

Order requiring a major merchandizer of soaps and detergents headquartered in Cincinnati, Ohio, to cease failing to disclose the exact number and nature of the prizes in its contests, the numerical odds of winning a prize, failing to award all the prizes, and failing to disclose the names of the major winners; in announcing the contests the respondent is required to disclose the number and nature of the prizes, the odds of winning each prize, and the geographic area involved; respondent is also required to maintain adequate records and furnish the Federal Trade Commission upon request the names and addresses of all the winners and other details of the contests.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That The Procter & Gamble Co., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the preparation, advertising, sale, distribution or use of any "sweepstakes," contest, game or any similar promotional device involving chance in commerce, as "commerce" is defined in the Federal Trade Commission Act, cease and desist from:

A. (1) Failing to disclose clearly and conspicuously the exact number of prizes which will be awarded, the exact nature of the prizes, and the approximate retail value of each prize offered.

(2) Failing to disclose clearly and conspicuously the approximate numerical odds of winning each prize which will be awarded; provided, that if such approximate numerical odds are not reasonably capable of calculation, the respondent will disclose clearly and conspicuously the approximate number of recipients to whom the offer is directed if such facts may reasonably be determined.

(3) Failing to award and distribute all prizes of the type and value represented.

(4) Representing directly or by implication that prizes other than cash prizes have been purchased unless they have in fact been purchased at the time that the representation is made.

(5) Failing to furnish upon request to any individual a complete list of the names and States of residence of winners of major prizes, identifying the prize won by each.

(6) Misrepresenting in any manner by any means any element, feature, or aspect of any "sweepstakes," contest, game or any similar promotional device involving chance.

B. Engaging in the preparation, promotion, sale, distribution, or use of any "sweepstakes," contest, game, or similar promotional device involving chance, unless the following are disclosed clearly and conspicuously in all advertising and promotional material concerning said devices:

(1) The total number of prizes to be awarded;

(2) The exact nature of the prizes, their approximate retail value, and the number of each;

(3) The approximate numerical odds of winning each prize which will be awarded; provided, that if such approximate numerical odds are not reasonably capable of calculation, the respondent will disclose clearly and conspicuously the approximate number of recipients to whom the offer is directed if such facts may reasonably be determined;

(4) The geographic area or States in which any such device is used; and

(5) The date the device is initiated and the date the device is to end.

It is further ordered, That respondent Procter & Gamble Co. shall

(1) File with the Commission, within sixty (60) days after service upon it of this order, a report in writing setting forth in detail the manner and form in which it has complied with the provisions of this order;

(2) Maintain adequate records

(a) Which disclose the facts upon which any of the representations of the type described in the preceding paragraphs of this order are based, and

(b) From which the validity of the representations of the type described in the preceding paragraphs of this order can be determined;

(3) Furnish upon the request of the Federal Trade Commission:

(a) A complete list of the names and addresses of the winners of each prize, and an exact description of the prize, including its retail value;

(b) A list of the winning numbers or symbols, if utilized, for each prize;

(c) The total number of coupons or other entries distributed;

(d) The total number of participants in the promotion;

(e) The total number of prizes in each category or denomination which were made available; and

(f) The total number of prizes in each category or denomination which were awarded.

It is further ordered, That the respondent shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in its corporate form such as dissolution, assignment or sale resulting in the emergence of successor corporations, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance with this order.

Issued: October 8, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-16975 Filed 11-19-71;8:46 am]

[Docket No. C-2066]

PART 13—PROHIBITED TRADE PRACTICES

Shaw Bros. Co. et al.

Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements:* 13.1623–95 Truth in Lending Act; Misrepresenting oneself and goods—Prices: § 13.1823 *Terms and conditions:* 13.1823–20 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–75 Truth in Lending Act: § 13.1905 *Terms and conditions:* 13.1905–60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601–1605) [Cease and desist order, Shaw Bros. Co. et al., Chicago, Ill., Docket No. C-2066, Oct. 15, 1971]

In the Matter of Shaw Bros. Co., a Corporation, Arnold Cohn, and Harold Cohn, Individually and as Officers of Said Corporation.

Consent order requiring a Chicago, Ill., firm selling at retail, radios, television sets, phonographs, jewelry, and furniture to cease violating the Truth in Lending Act by failing to use the terms cash price, cash downpayment, trade-in, total downpayment, amount financed, deferred payment, failing to disclose the annual percentage rate, and all other disclosures required by Regulation Z of said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Shaw Bros. Co., a corporation, and its officers, and Arnold Cohn and Harold Cohn, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the extension of consumer credit or any advertisement to aid; promote or assist directly or indirectly any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (P.L. 90–321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

[1] New.

1. Failing to use the term "cash price" to describe the price of the merchandise or services which are the subject of the transaction, as required by § 226.8(c)(1) of Regulation Z.

2. Failing to use the term "cash downpayment" to describe the amount of any downpayment in money, as required by § 226.8(c)(2) of Regulation Z.

3. Failing to use the term "trade-in" to describe the amount of any downpayment in property, as required by § 226.8(c)(2) of Regulation Z.

4. Failing to use the term "total downpayment" to describe the sum of the "cash downpayment" and the "trade-in", as required by § 226.8(c)(2) of Regulation Z.

5. Failing to disclose all other charges, individually itemized, which are included in the amount financed but which are not part of the finance charge, as required by § 226.8(c)(4) of Regulation Z.

6. Failing to use the term "amount financed" to describe the amount of credit of which the customer will have the actual use, determined in accordance with § 226.8(c)(7) and (d)(1) of Regulation Z, as required by § 226.8(c)(7) of Regulation Z.

7. Failing to use the term "deferred payment price" to describe the sum of the cash price, the finance charge, and all other charges which are included in the amount financed but which are not included in the finance charge, as required by § 226.8(c)(8)(ii) of Regulation Z.

8. Failing to disclose the annual percentage rate, computed in accordance with § 226.5 of Regulation Z, as required by § 226.8(b)(2) of Regulation Z.

9. Failing to disclose the date the finance charge begins to accrue if different from the date of the transaction, as required by § 226.8(b)(3) of Regulation Z.

10. Failing to disclose the "total of payments", as required by § 226.8(b)(3) of Regulation Z.

11. Failing to use the term "finance charge" in disclosing the right of prepayment and the method of computing any unearned portion of the finance charge in the event of prepayment, as required by § 226.8(b)(7) of Regulation Z.

12. Failing, in any transaction in which respondents retain or acquire a security interest in real property which is used or is expected to be used as the principal residence of the customer, to provide each customer with notice of the right to rescind, in the form and manner specified by § 226.9 (b) and (f) of Regulation Z, prior to consummation of the transaction.

13. Failing, in any consumer credit transaction, to make all disclosures, determined in accordance with §§ 226.4 and 226.5 of Regulation Z, in the manner, form and amount required by §§ 226.6, 226.7, 226.8, 226.9 and 226.10 of Regulation Z.

It is further ordered, That respondents shall forthwith deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the offering for sale and sale of respondents' products or services, and shall secure from each salesman or other person a signed statement acknowledging receipt of said order.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in respondents' business, such as assignment or sale resulting in the emergence of a successor business, corporate or otherwise, the creation of subsidiaries, or any other change which may affect compliance obligations arising out of the order.

It is further ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: October 15, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-16986 Filed 11-19-71;8:47 am]

[Docket No. C-2064]

PART 13—PROHIBITED TRADE PRACTICES

Triangle Sport Headwear Co., Inc., and Harold Kittay

Subpart—Importing, selling, or transporting flammable wear: § 13.1060 *Importing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Triangle Sport Headwear Co., Inc., et al., Hialeah, Fla., Docket No. C-2064, Oct. 13, 1971]

In the Matter of Triangle Sport Headwear Co., Inc., a corporation, and Harold Kittay, individually and as an officer of said corporation.

Consent order requiring a Hialeah, Fla., wholesaler and seller of ladies' wearing apparel, including ladies' scarves, to cease violating the Flammable Fabrics Act by importing and selling any fabric which fails to conform to the standards of said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Triangle Sport Headwear Co., Inc., a corporation, and its officers, and Harold Kittay, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or manufacturing for sale, selling or offering for sale, any product made of fabric or related material which has been shipped or received in commerce as "commerce", "product", "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric, or related material fails to conform to an applicable standard or regulation issued, amended or continued in effect, under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to the complaint, of the flammable nature of said products, and effect the recall of said products from such customers.

It is further ordered, That the respondents herein either process the products which gave rise to the complaint so as to bring them into compliance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That the respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the number of said products in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (4) any disposition of said products since December 14, 1970, and (5) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products, and the results of such action. Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric, or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or any other material or combinations thereof in a weight of 2 ounces or less per square yard, or any product, fabric or related material having a raised fiber surface. Respondents shall submit samples of not less than 1 square yard in size of any such product, fabric, or related material with this report.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

Issued: October 13, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-16987 Filed 11-19-71;8:47 am]

[Docket No. C-2063]

PART 13—PROHIBITED TRADE PRACTICES

United Lemak Furniture Co., Inc. and Louis Becker

Subpart—Advertising falsely or misleadingly: § 13.71 *Financing:* 13.71–10 Truth in Lending Act; § 13.73 *Formal regulatory and statutory requirements:* 13.73–92 Truth in Lending Act; § 13.155 *Prices:* 13.155–95 Terms and conditions: 13.155–95(a) Truth in Lending Act. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements:* 13.1623–95 Truth in Lending Act; Misrepresenting oneself and goods—Prices: § 13.1823 *Terms and conditions:* 13.1823–20 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–75 Truth in Lending Act; § 13.1905 *Terms and conditions:* 13.1905–60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601–1605) [Cease and desist order, United Lemak Furniture Co., et al., Los Angeles, Calif., Docket No. C-2063, Oct. 13, 1971]

In the Matter of United Lemak Furniture Co., Inc., a corporation, and Louis Becker, individually and as an officer of said corporation.

Consent order requiring a Los Angeles, Calif., furniture store to cease violating the Truth in Lending Act by failing to furnish customers with the instrument containing disclosures required by § 226.8 of Regulation Z, failing to disclose the annual percentage rate, and to make all other disclosures required by Regulation Z of said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents United Lemak Furniture Co., Inc., a corporation, and Louis Becker, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with any extension of consumer credit or any advertisement to aid, promote or assist directly or indirectly any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to furnish the customer with a duplicate of the instrument containing the disclosures required by § 226.8 or a statement by which the required disclosures are made at the time those disclosures are made, as prescribed by § 226.8(a) of Regulation Z.

2. Failing to disclose the annual percentage rate computed in accordance with the requirements of § 226.5 of Regulation Z accurately to the nearest quarter of one percent, as prescribed by § 226.8(b)(2) of Regulation Z.

3. Failing in any consumer credit transaction or advertisement to make all disclosures, determined in accordance with §§ 226.4 and 226.5 of Regulation Z, in the manner, form and amount prescribed by §§ 226.6, 226.7, 226.8, 226.9, and 226.10 of Regulation Z.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the consummation of any extension of consumer credit or in any aspect of preparation, creation or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in respondents' business such as dissolution, assignment or sale resulting in the emergence of a successor business, corporate or otherwise, the creation of subsidiaries or any other change which may affect compliance obligations arising out of the order.

Issued: October 13, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-16977 Filed 11-19-71;8:46 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER E—REGULATIONS UNDER SPECIFIC ACTS OF CONGRESS OTHER THAN THE FOOD, DRUG, AND COSMETIC ACT

PART 295—REGULATIONS UNDER THE POISON PREVENTION PACKAGING ACT OF 1970

On July 20, 1971, the Commissioner of Food and Drugs published notice of proposed rule making in the FEDERAL REGISTER (36 F.R. 13335) proposing a testing procedure for special packaging. Fourteen comments were received from interested persons.

Several comments deal with interpretation of the test results in establishing the percent of effectiveness for particular household substances. These are not appropriate to this proposal, and are properly considered with respect to proposals for the particular household substances involved.

Three comments recommend adjusting the age specifications of the children's test group. The Commissioner concludes that inaccessibility to lower age groups and difficulty in stimulating response in such children preclude their use. Use of older children would impose a greater burden on the package than is contemplated by the definition of "special packaging" in the Poison Prevention Packaging Act of 1970. The Commissioner therefore finds that the proposed age specification of between 42 and 51 months, inclusive, will most appropriately serve in establishing a reliable and critical testing panel as recommended by the Industry-FDA Committee.

One comment recommends testing one-half of the children individually and presenting only one test unit to each pair of children in the other half of the group. The Commissioner concludes that, as shown in the preliminary Industry-FDA Committee tests, paired children, each with a test unit, most closely present an effective test situation. In view of a lack of more current data to the contrary, the recommendation made by this comment is not accepted. This same comment further urges that the protocol specify that a child may be used as a test subject only once, to prevent children from gaining expertise at opening special packaging. At present, the rates at which both the younger and older children within the age specification will learn to open special packaging is uncertain. Available data indicates that no significant learning results from exposure to two different types of special packaging. Since this rate of learning is not completely known at present, the Commissioner concludes that the protocol shall limit the use of a child to testing no more than two different special packages.

Two comments request that children should not be instructed that they may use their teeth if they fail to open the special package and fail to use their teeth in the first 5 minutes. This request is rejected since it must be assumed that many children will inevitably use their teeth in the home.

One comment recommends reducing the number of children and adults in test groups. This comment is rejected on the basis that the Industry-FDA Committee tests indicate that the numbers specified in the protocol are necessary to adequately evaluate the special packaging.

Two comments request modification of the adult testing portion of the protocol to provide for oral instructions, a demonstration, and a second period of time for those initially unsuccessful in opening the special packaging. The Commissioner concludes that in the interest of

approximating actual conditions of use in the home, the protocol should be changed as adopted below to clearly show, as was originally intended, that only those printed instructions as will appear on the retail package will be presented in writing to the adult test subjects and that no second trial period will be given. However, the test period is lengthened from 3 to 5 minutes to provide a more reasonable time for the subject to read the instructions and familiarize himself with the package.

One comment recommends the opening and resecuring of each package prior to testing to approximate a used container as may be encountered in the home by a child. This comment has merit and the protocol has been so changed.

One comment notes that § 295.10(b) may be interpreted to mean that the standards for particular household substances will prescribe the specific package design, contrary to section 3(d) of the Act. Since this was not the original intent of the provision, this paragraph has been so clarified.

Two comments object that § 295.10(c) implies that both the producer of special packaging and the producer of household substances should have the same special package tested in accordance with the protocol. This paragraph has been changed to eliminate this possible interpretation.

Three comments stated that the proposed protocol did not provide for the testing of unit packaging, such as strip pack and blister pack. These comments misunderstood the proposal, which was not intended to exclude unit packaging. Section 295.10(a) (2), (3), and (5) have been modified to explicitly provide for appropriate testing of this form of special packaging.

Other comments request that the protocol be initially limited in scope to a number of specific types of special packages and substances; that the protocol provide for retesting or expansion; that mechanical standards be applied to screw type closures; that the protocol consider function of the safety closure with product contact; and that consideration be given to the effect of rough handling, such as bumps and bangs. The protocol is designed to determine the ability of the special packaging being tested to thwart the efforts of children under 5 years of age to open and obtain a toxic or harmful amount of the contents. Mechanical standards are premature since experience with the test protocol is first necessary to establish the physical characteristics of a special packaging. Rough handling, such as bumps and bangs, is anticipated in the children's testing portion of the protocol. The effect of a particular substance on continued functioning of the special packaging under conditions of use will be considered in the individual standards for substances regulated under the Act. With regard to other of these comments, it must be noted that if experience in application of this protocol indicates a need for change, it may be appropriately amended at that time.

Another comment stated that the best procedure should consider the amount of toxic material in the package. The Commissioner recognizes that the amount of a household substance in a package may not be toxic or harmful, and is therefore prepared to grant individual exemptions from specific product standards to cover these situations.

Since the testing procedure regulation is promulgated pursuant to section 5 of the Act which provides for judicial review by a U.S. Court of Appeals within 60 days after standards are prescribed, an effective date of 60 days has been established.

The Commissioner, having evaluated all of the comments and other relevant material, concludes that the proposed regulation, with changes, should be adopted as set forth below. Therefore, pursuant to provisions of the Poison Prevention Packaging Act of 1970 (secs. 2(4), 3, 5; 84 Stat. 1670–72; 15 U.S.C. 1471–74) and under authority delegated to the Commissioner (21 CFR 2.120), the following new Part 295 is added to Title 21, Chapter I, Subchapter E:

§ 295.10 Testing procedure for special packaging.

(a) The protocol for testing "special packaging" as defined in section 2(4) of the Poison Prevention Packaging Act of 1970 shall be as follows:

(1) Use 200 children between the ages of 42 and 51 months inclusive, evenly distributed by age and sex, to test the ability of the special packaging to resist opening by children. The even age distribution shall be determined by having 20 children (plus or minus 10 percent) whose nearest age is 42 months, 20 whose nearest age is 43 months, 20 at 44 months, etc., up to and including 20 at 51 months of age. There should be no more than a 10 percent preponderance of either sex in each age group. The children selected should be healthy and normal and with no obvious or overt physical or mental handicap.

(2) The children shall be divided into groups of two each. The testing shall be done in a location that is familiar to the children; for example, their customary nursery school or regular kindergarten. No child shall test more than two special packages, and each package shall be of a different type. For each test the paired children shall receive the same special packaging simultaneously. When more than one special packaging is being tested, they shall be presented to the paired children in random order, and this order shall be recorded. The special packaging, each test unit of which, if appropriate, has previously been opened and properly resecured at least ten times by the tester, shall be given to each of the two children with a request for them to open it. (In the case of unit packaging, it shall be presented exposed so that the individual units are immediately available to the child.) Each child shall be allowed up to 5 minutes to open the special packaging. For those children unable to open the special packaging after the first 5 minutes, a single visual demonstration, without verbal explanation, shall be given by the demonstrator. A second 5 minutes shall then be allowed for opening the special packaging. (In the case of unit packaging, a single visual demonstration, without verbal explanation, will be provided at the end of the first 5 minutes only for those test subjects who have not opened at least one unit package, and a second 5 minutes allowed for all subjects.) If a child fails to use his teeth to open the special packaging during the first 5 minutes, the demonstrator shall instruct him, before the start of the second 5 minute period, that he is permitted to use his teeth if he wishes.

(3) Records shall be kept on the number of children who were and were not able to open the special packaging, with and without demonstration. (In the case of unit packaging, records shall be kept on the number of individual units opened or gained access to by each child.) The percent of child-resistant effectiveness shall be the number of children tested, less the test failures, divided by 2. A test failure shall be any child who opens the special packaging or gains access to its contents. In the case of unit packaging, however, a test failure shall be any child who opens or gains access to the number of individual units which constitute the amount that may produce serious personal injury or serious illness, or a child who opens or gains access to more than 5 individual units, whichever number is lower, during the full 10 minutes of testing. The determination of the amount of a substance that may produce serious personal injury or serious illness shall be based on a 25 pound child. Manufacturers or packagers intending to use unit packaging for a substance requiring special packaging are requested to submit such toxicological date to the Commissioner of Food and Drugs.

(4) One hundred adults, age 18 to 45 years inclusive, with no overt physical or mental handicaps, and 70 percent of whom are female, shall comprise the test panel for normal adults. The adults shall be tested individually, rather than in groups of two or more. The adults shall receive only such printed instructions on how to open and properly resecure the special packaging as will appear on the package as it is delivered to the consumer. Five minutes shall be allowed to complete the opening, and, if appropriate, the resecuring process.

(5) Records shall be kept on the number of adults unable to open and the number of the other adults tested who fail to properly resecure the special packaging. The number of adults who successfully open the special packaging and then properly resecure the special packing (if resecuring is appropriate), is the percent of adult-use effectiveness of the special packaging. In the case of unit packaging, the percent of adult-use effectiveness shall be the number of adults who successfully open a single package.

(b) The standards published as regulations issued for the purpose of designating particular substances as being subject to the requirements for special packaging under the Poison Prevention Packaging Act of 1970 will stipulate the percent of child-resistant effectiveness and adult-use effectiveness required for each and, where appropriate, will include any other conditions deemed necessary and provided for in that Act.

(c) It is recommended that manufacturers of special packaging, or producers of substances subject to regulations issued pursuant to said Act, submit to the Commissioner of Food and Drugs summaries of data resulting from tests conducted in accordance with this protocol.

Effective date. This order shall become effective 60 days after its date of publication in the FEDERAL REGISTER.

(Secs. 2(4), 3, 5, 84 Stat. 1670–72; 15 U.S.C. 1471–74)

Dated: November 18, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-17063 Filed 11-19-71;8:52 am]

Chapter II—Bureau of Narcotics and Dangerous Drugs, Department of Justice

PART 308—SCHEDULES OF CONTROLLED SUBSTANCES

Phenmetrazine and Its Salts and Methylphenidate; Amphetamine and Methamphetamine Combination Products

A final order was published in the FEDERAL REGISTER of October 28, 1971 (36 F.R. 20686) rescheduling phenmetrazine and its salts and methylphenidate from schedule III to schedule II. Paragraph 3 of that order should read as follows: "3. Section 308.13(b) or Title 21 of the Code of Federal Regulations be revised to read:"

A final order was published in the FEDERAL REGISTER of November 6, 1971 (36 F.R. 21336) removing from the excepted category amphetamine and methamphetamine combination products. The requirements imposed by this order as they pertain to records and inventories and security shall become effective as follows, rather than on the dates shown in the order of November 6, 1971 (36 F.R. 21336).

2. *Records and inventories.* Every registrant who is required to keep records under § 304.03 of Title 21 of the Code of Federal Regulations, and who is manufacturing, distributing, or dispensing any of the above formerly excepted stimulant compounds, shall take an inventory of all stocks on hand on January 1, 1972, and thereafter shall keep all required records regarding these compounds.

5. *Security.* All of the above formerly excepted stimulant compounds shall be manufactured, stored, distributed and shipped in compliance with §§ 301.71–76, of Title 21 of the Code of Federal Regulations on and after March 1, 1972.

These changes are effective on the date of their publication in the FEDERAL REGISTER (11–20–71).

Dated: November 16, 1971.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[FR Doc.71-17010 Filed 11-19-71;8:51 am]

Title 22—FOREIGN RELATIONS

Chapter I—Department of State

[Dept. Reg. 108.648]

PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Nonimmigrant Documentary Waivers

Part 41, Chapter I, Title 22 of the Code of Federal Regulations is amended to enable nationals of Albania, People's Republic of China, and Mongolian People's Republic to transit without a visa through the United States under certain circumstances.

Subparagraph (1) of paragraph (e) of § 41.6 is amended to read as follows:

§ 41.6 Nonimmigrants not required to present passports, visas, or border crossing identification cards.

* * * * *

(e) *Aliens in immediate transit—(1) Aliens in bonded transit.* A passport and visa are not required of an alien who is being transported in immediate and continuous transit through the United States in accordance with the terms of an agreement entered into between the transportation line and the Immigration and Naturalization Service under the provisions of section 238(d) of the Act on Form I–426 to insure such immediate and continuous transit through and departure from, the United States en route to a specifically designated foreign country, provided that such alien is in possession of a travel document or documents establishing his identity and nationality and ability to enter some country other than the United States. This waiver of visa and passport requirements is not available to an alien who is a citizen of Cuba, North Korea ("Democratic Peoples' Republic of Korea"), North Viet-Nam ("Democratic Republic of Viet-Nam"), or the Soviet Zone of Germany ("German Democratic Republic"), and is a resident of one of the said countries, and is, on a basis of reciprocity, available to a national of Albania, Bulgaria, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Mongolian People's Republic, People's Republic of China, Poland, Romania, or the Union of Soviet Socialist Republics resident in one of said countries, only if he is transiting the United States by aircraft of a transportation line signatory to an agreement with the Immigration and Naturalization Service on Form I–426 on a direct through flight which will depart directly to a foreign place from the port of arrival.

* * * * *

Effective date. The amendments to the regulations contained in this order shall become effective upon publication in the FEDERAL REGISTER (11–20–71).

The provisions of the Administrative Procedure Act (80 Stat. 383; 5 U.S.C. 553) relative to notice of proposed rule making are inapplicable to this order because the regulations contained herein involve foreign affairs functions of the United States.

(Sec. 104, 66 Stat. 174; 8 U.S.C. 1104)

For the Secretary of State.

WILLIAM N. DALE,
Acting Administrator, Bureau of Security and Consular Affairs, Department of State.

NOVEMBER 8, 1971.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization, Immigration and Naturalization Service, Department of Justice.

NOVEMBER 9, 1971.

[FR Doc.71-17019 Filed 11-19-71;8:50 am]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER M—MISCELLANEOUS

PART 245—PLAN FOR THE SECURITY CONTROL OF AIR TRAFFIC AND AIR NAVIGATION AIDS (SHORT TITLE: SCATANA)

The following amendment to Part 245 has been approved by the Deputy Secretary of Defense, the Secretary of Transportation, and the Defense Commissioner, Federal Communications Commission:

Sec.
245.1 Foreword.
245.2 Explanation of terms.
245.3 The plan.
245.4 SCATANA testing procedures.
245.5 SCATANA test—action log.
245.6 Movement of tactical air traffic.
245.7 Tactical air movements plan.
245.8 Procedures for movement of air traffic.
245.9 Wartime air traffic priority list for movement of aircraft.
245.10 Authentication.

AUTHORITY: The provisions of this Part 245 issued under Title 5, U.S.C., section 301, and Title 5, U.S.C., section 552.

§ 245.1 Foreword.

(a) This part is promulgated in furtherance of the Federal Aviation Act of 1958, the Communications Act of 1934, as amended, and Executive Order 11490 and supersedes: Plan for the security Control of Air Traffic and Air Navigation Aids, September 1968.

(b) This part defines the responsibilities of the Administrator, Federal Aviation Administration, and the appropriate

military authorities for the security control of civil and military air traffic and Federal air navigation aids and defines the responsibility of the Federal Communications Commission for the security control of non-Federal civil air navigation aids.

(c) For the purposes of clarity, the language of this part refers to the Commander-in-Chief, North American Air Defense Command (CINCNORAD) and his region commanders as appropriate military authority within the NORAD area of responsibility.

(d) Appropriate military authority outside the NORAD area of responsibility refers to commanders of unified and specified commands established by the Secretary of Defense for their respective areas of responsibility.

(e) The restrictions of this part may be imposed in two situations that concern national security. In the first, Defense Emergency/Air Defense Emergency has been declared or is imminent. Execution of the plan will normally be subsequent to declaration of Defense Emergency/Air Defense Emergency. However, a NORAD region commander may impose any or all of the restrictions contained in the plan prior to a declaration of Defense Emergency/Air Defense Emergency when his region, or an adjacent region, is under attack.

(f) In the second situation, emergency conditions may exist which threaten national security but do not warrant the declaration of Defense Emergency/Air Defense Emergency. Under this situation, Emergency SCAT rules may be imposed by CINCNORAD and/or NORAD region commanders in affected areas. Normally, the Administrator, FAA and the Defense Commissioner, FCC will be notified if Emergency SCAT is to be implemented.

(g) Prior to or subsequent to the declaration of a Defense Emergency or an Air Defense Emergency, there may be a requirement to disperse civil and military aircraft for their protection. The FAA responsibility for this is contained in current Executive orders. Appropriate military documents contain responsibility for the military services. If such dispersal plans are implemented when any part of the SCATANA plan has been placed in effect, operations will be in accordance with the requirements of that portion of the SCATANA plan which is in effect. If any part of the SCATANA plan is ordered while dispersal is in progress, dispersal operations will be revised as required to comply with SCATANA.

(h) This part applies to all United States areas over which the FAA has air traffic control jurisdiction. For those areas outside CINCNORAD's area of responsibility within which the FAA exercises air traffic control jurisdiction, those responsibilities, authorities, and actions assigned in this plan to CINCNORAD and his region commanders apply to the commander, or his designated representative, of the unified-specified command exercising operational control over the area.

(i) Appropriate unified-specified commands will prepare annexes, as required, to support this plan for their areas of responsibility.

§ 245.2 Explanation of terms.

(a) For the purpose of this part and supporting documents, the following explanations apply:

(1) *Air defense emergency.* An emergency condition which exits when attack upon the continental United States, Alaska, Canada, or U.S. installations in Greenland by hostile aircraft or missiles is considered probable, is imminent, or is taking place and is declared by either CINCNORAD or CINCONAD.

(2) *Air defense identification zone.* Airspace of defined dimensions within which the ready identification, location, and control of aircraft is required.

(3) *Appropriate military authorities.* Within the NORAD area of responsibility—CINCNORAD and NORAD region commanders. Outside the NORAD area of responsibility—the Commander-in-Chief, or his designated representative, of unified or specified commands for U.S. areas located within their area of responsibility.

(4) *Defense area.* Any airspace of the United States (other than that designated as an ADIZ) in which the control of aircraft is required for national security.

(5) *Defense emergency.* An emergency condition which exists when:

(i) A major attack is made upon U.S. forces overseas, or allied forces in any area, and is confirmed either by the commander of a unified or specified command or higher authority.

(ii) An overt attack of any type is made upon the United States and is confirmed by the commander of a unified or specified command or higher authority.

(6) *Dispersal.* The deployment of aircraft to predesignated dispersal airfields for the purpose of enhancing their survivability.

(7) *Diversion.* The intentional change of a flight from its intended destination for operational or tactical reasons.

(8) *Emergency SCAT (ESCAT) rules.* Emergency rules for the security control of air traffic prior to the declaration of Air Defense Emergency. Such rules require all aircraft to file IFR or DVFR flight plans and comply with special security instructions which may be necessary to identify, locate, and insure immediate control of all air traffic. Emergency SCAT may include directing and rerouting and restricting of air traffic.

(9) *Federal air navigation aids.* VOR, VORTAC, TACAN, and LORAN stations owned and operated by an agency of the Federal Government such as the FAA, Military Services and U.S. Coast Guard.

(10) *Five-minute control time.* The maximum time allowed to start and/or discontinue transmission from an air navigation aid.

(11) *FAA region.* A geographical subdivision of the area for which FAA is responsible.

(12) *Implement SCATANA.* Terminology used to notify FAA and appropriate aeronautical facilities that the NORAD region commander is grounding and/or diverting air traffic, as required, consistent with his authority under this plan and is directing the control of air navigation aids.

(13) *Non-Federal air navigation aids.* VOR, VORTAC, and TACAN stations licensed by the FCC.

(14) *Nontactical air traffic.* Civil or military flights other than tactical air traffic.

(15) *North American Air Defense Command (NORAD).* An integrated United States–Canadian command. NORAD includes, as component commands, the U.S. Air Force Aerospace Defense Command, U.S. Army Air Defense Command, and the Canadian Forces Air Defense Command.

(16) *NORAD region.* A geographical subdivision of the area for which NORAD is responsible.

(17) *Rerouting.* The intended deviation of a flight from its original course without changing its destination.

(18) *Security Control of Air Traffic (SCAT).* Rules and procedures to effect, when necessary, the ready identification, location, and control of civil and military air traffic in the interest of national security.

(19) *SCATANA.* The short title for the joint DOD/DOT/FCC plan for the Security Control of Air Traffic and Air Navigation Aids.

(20) *Security control authorization.* Military authorization for an aircraft to proceed in accordance with specified conditions when Emergency SCAT is in effect.

(21) *Tactical air traffic.* Military flights actually engaged in operational missions against the enemy, flights engaged in immediate deployment for a combat mission, and preplanned combat, and logistical support flights contained in Emergency War Plans.

(22) *United States.* The several States, the District of Columbia, the Commonwealth of Puerto Rico, and the several territories and possessions of the United States (including areas of air, land, or water administered by the United States under international agreement), including the territorial waters and the overlying airspace thereof.

§ 245.3 The plan.

(a) *Purpose.* The purpose of this plan is:

(1) To establish responsibilities, procedures, and general instructions for the security control of civil and military air traffic and air navigation aids during a Defense Emergency/Air Defense Emergency which will provide most effective use of airspace by aircraft of military and civil agencies, and

(2) To establish responsibilities, procedures, and general instructions for the security control of civil and military air traffic which will provide most effective use of airspace in the affected area(s) when there is a serious threat to hemispheric and national security.

(b) *Authority.* (1) Joint Chiefs of Staff directives which outline NORAD responsibilities for the development of plans and policies in concert with the FAA for the establishment of a system for identification and security control of air traffic.

(2) Federal Aviation Act of 1958.

(3) Communications Act of 1934, as amended, and Executive Order 11490.

(4) The National Security Act of 1947, as amended.

(c) *Scope.* This plan prescribes the joint action to be taken by appropriate military authorities, FAA, and the FCC in the interest of national security.

(1) To effect security control of civil and military aircraft entering, departing, or moving within the U.S. areas and coastal approaches thereto, and

(2) To effect control of accurate air navigation systems defined as follows: VOR, VORTAC, TACAN, and LORAN.

(d) *General provisions.* (1) In carrying out the air defense mission, NORAD region commanders will, based on the requirements of the existing military situation, and in consonance with this plan, direct the extent of security control of air traffic and air navigation aids. Such directions will be issued to appropriate FAA ARTCC's for implementation. Since NORAD region boundaries are not congruent with CONUS ARTCC area boundaries, considerable overlap exists between these boundaries. To insure the compatibility/consolidation of required actions and eliminate the possibility of confusion which could result from two or more NORAD regions issuing instructions to one ARTCC, agreements will be developed between NORAD region commands and appropriate FAA agencies designating one specific NORAD region commander responsibility for using SCATANA instructions to each CONUS domestic ARTCC, to include ARTCC's which may not be located within any NORAD region's assigned area of responsibility. Unless operational requirements dictate otherwise, directed SCATANA actions will be consistent throughout an individual FAA ARTCC area.

(2) Active air defense interceptor missions, active antisubmarine warfare missions, and launch of the SAC alert force are military operations vital to national defense. These operations are to be given priority over all other military and civil aircraft by procedural handling by the Air Traffic Control (ATC) systems for the particular operation as specified in coordinated agreements or authorizations.

(3) Under emergency SCAT rules, the NORAD region commander may require a security control authorization for civil and military aircraft prior to takeoff. Such security control authorization is different from and not to be confused with an operational or air traffic control clearance; however, receipt of an air traffic control clearance constitutes issuance of a security control authorization.

(4) Minimum interference to normal air traffic will be effected consistent with the requirements for operation of the air defense system.

(5) The NORAD region commanders, in collaboration with the FAA regional directors will supplement this plan, as required, with agreements to permit maximum allowable operations of essential military and civil air traffic within the NORAD area. In developing these agreements, they will take into consideration the special requirements of organized civil defense and disaster relief flights, agricultural and forest fire flights, border patrol flight operations, and other essential civil air operations to the end that maximum use of these flights consistent with air defense requirements, will be made.

(e) *Responsibilities.* (1) The Commander-in-Chief, NORAD, will:

(i) Establish the military requirements for the Security Control of Air Traffic and Air Navigation Aids.

(ii) Coordinate with the Administrator, FAA, and the Defense Commissioner, FCC, as appropriate, regarding the establishment of procedures for implementation.

(2) The Administrator, FAA, will:

(i) Promulgate the necessary Federal Aviation Regulations, including special regulations to implement this plan.

(ii) Coordinate with appropriate military authorities prior to the establishment of procedures for this plan.

(iii) Maintain liaison with appropriate NORAD region commanders through appropriate FAA offices.

(iv) Administer this plan in accordance with requirements established by the Commander-in-Chief, North American Air Defense Command.

(v) Collaborate with the FCC in establishing procedures for control of non-Federal Air Navigation Aids as defined in this plan.

(3) Federal Communications Commission will:

(i) Engage in rule making or other actions as appropriate in support of this plan.

(ii) Collaborate with the FAA in establishing procedures for control of non-Federal Air Navigation Aids as defined in this plan.

(4) The NORAD region commanders will:

(i) Direct the control of VOR, VORTAC, TACAN, and LORAN Air Navigation Aids in their areas, as required.

(ii) Issue security control instructions to appropriate FAA region/ARTCC as necessary to insure performance of the air defense mission.

(iii) Maintain liaison with appropriate FAA regional directors and FCC regional liaison officers.

(iv) Conduct tests of this plan in coordination with the FAA and FCC.

(v) Collaborate with the FAA regional director and FCC regional liaison officer in making supplemental agreements to this plan.

(5) The FAA regional directors will:

(i) Assure FAA participation with the NORAD region commanders in the testing of this plan in the NORAD region areas.

(ii) Insure dissemination of information and instructions concerning this plan within their areas of responsibility to civil and military aeronautical facilities and civil pilots.

(iii) Place in effect procedures outlined in this plan in accordance with requirements established by the NORAD region commanders.

(iv) Assist the NORAD region commanders in making supplemental agreements to this plan as may be required.

(6) The FCC regional liaison officers will:

(i) Maintain liaison with the NORAD region commanders and FAA regional directors with regard to participation of FCC licensed aeronautical navigational aids in this plan.

(ii) Disseminate information and instructions concerning this plan to FCC licensed navigational aids affected by this plan.

(iii) Assist the NORAD region commanders in making such supplemental agreements to this plan as may be required.

(f) *Threat actions.* Under certain conditions, an emergency situation may develop which does not meet the criteria for the declaration of a defense emergency/air defense emergency; but in the interest of hemispheric and national security requires identification and control of all aircraft operating in specified area(s) within the defense area. Outside the defense area, all known aircraft operating in specified areas will be advised that air defense operations have been initiated and they will be offered air traffic control service to assist in avoiding or withdrawing from the specified areas. In order to adequately and properly provide for the security of the United States and for the necessary protection, identification, and control of aircraft during such situations, emergency SCAT rules may be imposed by CINCNORAD/NORAD region commanders in affected areas. Except when time is vital to the national interest, the Administrator, FAA and the Defense Commissioner, FCC will be notified if emergency SCAT is to be implemented. Implementing and terminating procedures are:

(1) The NORAD region commander involved will:

(i) Direct the appropriate FAA Air Route Traffic Control Center (ARTCC) to apply emergency SCAT rules.

(ii) Specifically define the affected area(s).

(iii) Specify requirements and restrictions as necessary for flights entering, departing, or operating within the affected area(s).

(iv) Direct the appropriate ARTCC to relax or terminate the restrictions as the tactical situation allows.

(2) The FAA ARTCC will, when directed to, apply emergency SCAT rules:

(i) Impose the restrictions on air traffic as required by the NORAD region commander and/or the Administrator, FAA.

(ii) Disseminate the appropriate instructions and restrictions received from the NORAD region to air traffic, civil and military air traffic control facilities, flight service stations, and other appropriate aeronautical facilities.

(3) Civil and military air traffic control facilities, flight service stations, and other appropriate aeronautical facilities will take action to disseminate instructions and restrictions to air traffic as directed by the appropriate ARTCC.

(g) *Air Defense Emergency actions.* In an air defense emergency, the following actions will be taken:

(1) The NORAD region commander will:

(i) Notify the FAA ARTCC's that an air defense emergency has been declared and direct "Implement SCATANA".

(ii) Specify the requirements and restrictions, including as necessary:

(*a*) Routing restrictions on flights entering or operating within appropriate portions of the NORAD area.

(*b*) Limitations on the volume of air traffic within appropriate portions of the NORAD area, using the Wartime Air Traffic Priorities List. (See § 245.9.)

(c) Altitude limitations on operations within appropriate portions of the NORAD area.

(d) Special instructions concerning the control of accurate air navigation aids to deny their use to the enemy and to permit aircraft dispersal, diversion, or recovery.

(e) Confirmation or modification of previous instructions which may have been passed under emergency SCAT actions.

(*f*) Any other special instructions required by the military situation.

(iii) Reduce or remove restrictions to the movement of air traffic and operation of air navigation aids as soon as the tactical situation allows. This action will normally be taken when an attack phase is considered over.

(2) FAA Air Route Traffic Control Centers will:

(i) When "SCATANA" is implemented:

(*a*) Notify all VFR traffic that SCATANA has been implemented and to land at the nearest suitable airport and file an IFR/DVFR flight plan.

(*b*) Direct the landing, grounding, diversion, or dispersal of military and civil air traffic and the control of air navigation aids as specified by the NORAD region commander. Landing, diversion, or dispersal will be to airports outside the metropolitan areas or suspected target complexes whenever possible and will be accomplished as follows:

(*1*) IFR flights—by specific security control instructions to each aircraft, or leader of a formation flight, over air/ground radio.

(*2*) VFR flights—by radio broadcast of security control instructions over air/ground radio.

(c) As directed by the NORAD region commander, direct the control of VOR, VORTAC, TACAN and LORAN as follows:

(*1*) Shut down the above navigation aids in accordance with the time(s) specified in NORAD region/FAA region supplemental agreements which shall permit time to land/disperse airborne aircraft. Supplemental agreements shall provide for the extension of such time(s) when air traffic situation dictates.

(*2*) Aids which require more than 5 minutes control time shall be shut down as soon as possible, except when directed otherwise by the NORAD region commander and/or unless such aids are essential for the regulation and control of existing air traffic.

(*3*) Direct the control of air navigational aids to insure that required aids, as indicated in flight plans, will be available for authorized aircraft flights.

(ii) When directed to reduce or remove SCATANA restrictions, authorized resumption of air traffic and operation of air navigation aids as specified by the NORAD region commander.

(3) Civil and military air traffic control facilities, flight service stations, and other appropriate aeronautical facilities shall:

(i) Maintain the current SCATANA action form for that facility at appropriate operating positions.

(ii) When SCATANA is implemented or terminated, take the actions indicated on the facility's SCATANA action form.

(iii) Maintain current information on the status of restrictions imposed on air traffic.

(iv) Approve or disapprove filed flight plans in accordance with current instructions received from the ARTCC(s).

(v) Forward flight plans and approval requests to the ARTCC(s) as required.

(vi) Disseminate instructions and restrictions to air traffic as directed by the ARTCC(s).

(4) Aircraft operators are expected to comply with security control instructions as follows:

(i) IFR flights—comply with instructions received from the appropriate aeronautical facility.

(ii) VFR flights—land at nearest suitable airport when so directed.

(iii) Aircraft on the ground—file an IFR/DVFR flight plan with an appropriate FAA facility and receive approval prior to departure.

(h) *Testing procedures.* (1) To insure that implementing actions can be taken expeditiously, SCATANA tests shall be conducted periodically in accordance with the procedures outlined in § 245.4.

(2) Federal civil and military aeronautical facilities will participate in such tests.

(3) Non-Federal civil aeronautical facilities will be requested to participate in SCATANA tests.

(i) *Supplements.* This plan will be supplemented as required by NORAD regions to cover the following subjects:

(1) Procedures for movement of civil and military flights as provided for in paragraph (d)(5) of this section when Emergency SCAT or SCATANA have been implemented.

(2) Tactical air movement plans of military units planning to operate within the NORAD region area of responsibility.

(j) *Communications.* Direct communications are authorized between appropriate agencies and units for the purpose of coordination and implementation of the procedures outlined herein.

(k) *Review—revision.* All concerned agencies are encouraged to continuously review this plan for adequacy and currency. Hq NORAD, acting as executive agent for DOD, will process and distribute administrative and organizational changes as they occur. However, this plan shall be jointly reviewed at least once every 2 years by the FAA, FCC, and NORAD for the purpose of determining the need for reissuance based on substantive changes and/or number of administrative and organizational changes made since the issuance of the previous plan. Recommended changes should be forwarded to:

Headquarters, North American Air Defense Command, Ent Air Force Base, Colo. 80912.

§ 245.4 SCATANA testing procedures.

(a) To insure that SCATANA actions can be taken expeditiously, SCATANA tests will be conducted as follows:

(1) SCATANA tests will be conducted in connection with Headquarters NORAD or NORAD region large-scale simulated exercises. Additional tests may be conducted by individual NORAD regions when test objectives are local in nature. SCATANA tests will include dissemination of specific simulated security control instructions to each ARTCC. These simulated control instructions will not be passed beyond the ARTCC; however, notification of the test will be relayed to appropriate aeronautical facilities. SCATANA tests will not be conducted more than 12 times a year in any one particular area; however, the interval between tests shall not exceed 60 days. Where the number of tests conducted in an area results in excessive test participation by aeronautical facilities, ARTCCs are authorized to simulate dissemination of test messages. When such simulation is effected, it should be alternated in different areas.

(2) All Federal facilities responsible for SCATANA actions will participate in SCATANA tests, except where such participation will involve the safety of aircraft. Non-Federal civil aeronautical facilities will be requested to participate.

(3) Participation and reporting will be as prescribed in § 245.5.

(4) NORAD region control centers will record SCATANA test actions and affix copies of the security control instructions to the format illustrated in § 245.5.

(5) An analytical report of each test will be prepared by the FAA NORAD region defense liaison officer, and a copy of this report will be submitted to the appropriate NORAD region commander.

(b) During SCATANA tests, all actions shall be simulated.

(1) Aircraft shall not be grounded or diverted.

(2) Air navigation aids shall not be shut down.

(3) Test messages shall not be transmitted over air/ground/air radio frequencies.

(4) Radio communications shall not be interrupted.

§ 245.5 SCATANA test—action log.

SCATANA TEST—ACTION LOG

Test Actions to ARTCC	ARTCC									
Initiate SCATANA Test:										
"This is ..... NR, SCATANA Test Instructions."										
"Initiate SCATANA Test ..... NR, ...;"	..... Z	..... Z	..... Z	..... Z	..... Z	..... Z	..... Z	..... Z	..... Z	..... Z
..... (Special Instructions)										
Authentication:										
Terminate SCATANA Test:										
"This is ..... NR, SCATANA Test Instructions"	..... Z	..... Z	..... Z	..... Z	..... Z	..... Z	..... Z	..... Z	..... Z	..... Z
"Terminate SCATANA Test ..... NR."										
Authentication:										
Restore Air Navigation Aids:										
"This is ..... NR, Simulate restoring ...."	..... Z	..... Z	..... Z	..... Z	..... Z	..... Z	..... Z	..... Z	..... Z	..... Z
..... (Specific Navigation Aids)										
Authentication:										

ARTCCs reporting areas simulated clear of all known nontactical air traffic

ARTCC	Time	Remarks
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....

§ 245.6 Movement of tactical air traffic.

(a) *Purpose.* To establish the coordination procedures necessary to fulfill air defense and air traffic control requirements for the movement of tactical air traffic.

(b) *General instructions*—(1) *Coordination.* CINCNORAD has been delegated the authority to resolve priority conflicts in the movement of tactical air traffic during an Air Defense Emergency to prevent saturation of the air defense system. To minimize restrictions to movement of tactical air traffic, it is imperative that each responsible military commander coordinate, during development, the air traffic movement section of his Emergency War Plans (including dispersal and evacuation) with the appropriate NORAD region commander(s). For those tactical operations which involve more than one NORAD region, coordination will be effected with each region in which operations will be conducted. The NORAD region commander will effect necessary coordination on these tactical operations with the FAA through the NORAD region air defense liaison officer (ADLO).

(2) *Preparation.* Subsequent to the coordination noted in subparagraph (1) of this paragraph, the responsible military command will provide the appropriate NORAD region(s) with an extract of the air traffic movements section of their plans. This extract will be in accordance with the format contained in § 245.7. Extracts of tactical air movements plans will become NORAD region supplements to the SCATANA Plan and will be distributed to appropriate military agencies, FAA regions and ARTCCs.

(3) *Exception.* The provisions of subparagraphs (1) and (2) of this paragraph do not apply to Strategic Air Command Emergency War Orders (EWOs) for which special coordination has been effected between SAC, NORAD, and FAA agencies.

(4) *Application.* (i) The instructions and information contained herein pertain to the movement of all tactical air traffic except fighter-interceptor aircraft in the performance of active air defense missions.

(ii) Distribution is made to units operating tactical aircraft with the understanding that applicable portions of this part and appendices will be incorporated in the appropriate Emergency War Plans as SCATANA requirements.

§ 245.7 Tactical air movements plan.

(a) Unit designation.
(b) Home base.
(c) Type aircraft.
(d) Routes and altitudes.
(e) Separation minimum.
(f) Flight plan and ARTCC clearance requirements.
(g) Navigation aid requirements.
(h) Priority number.
(i) Control time if known (related to the Day and Hour that the plan will be executed—E Day+Hour).

§ 245.8 Procedure for movement of air traffic.

(a) *General.* (1) The Wartime Air Traffic Priority List for Movement of Aircraft will be the primary instrument used by NORAD region commanders to control the volume of air traffic operating within their areas of responsibility. To preclude the immediate grounding of high priority tactical air traffic airborne at the time Defense Emergency/Air Defense Emergency is declared, pilots of tactical aircraft shall provide the appropriate Wartime Air Traffic Priority List No. for their flights as part of their revised air filed flight plan.

(2) The Wartime Air Traffic Priority List No. will be posted on ARTCC flight progress strips and shall be passed from one ARTCC to the next, and to the appropriate air defense control centers.

(b) *Diversion/delay.* (1) Tactical air traffic assigned a Wartime Air Traffic Priority List No. of 1 or 2 will not be delayed, diverted, rerouted, or landed by NORAD region commanders. However, NORAD region commanders may recommend that this traffic be rerouted to avoid battle or battle threatened areas.

(2) Air Traffic assigned a wartime air traffic priority list number other than one or two may be delayed, diverted, rerouted, or landed by the NORAD region commander to prevent degradation of the air defense system.

(3) Aircraft being "recovered" shall be expedited to home or alternate base, and "search and rescue" aircraft expedited on their missions; but such aircraft may be diverted to avoid battle areas or take off may be delayed to prevent saturation of airspace.

(c) *Movement procedures.* (1) Tactical air traffic will file IFR flight plans and comply with IFR procedures regardless of weather. The appropriate air traffic priority list number will be entered in the remarks section of the Aircraft Clearance Form DD 175.[1] Route of flight will be defined in the "Route" section of the clearance form by listing the military necessity air navigation aids required. Departure and destination aids required will be listed as the first and last aids respectively.

(2) Unless specifically covered in separate procedures, mass military operations should be planned and conducted as follows: A single clearance form will be filed for formation type operations involving more than one aircraft when planned intervals are not more than 5 minutes between aircraft. In this case, the aircraft call sign entered on the clearance form will be the formation leader (first aircraft). The call signs of the other aircraft involved will be listed in the remarks section. The departure report will specify the call sign of the first and last aircraft, and only these aircraft or their replacements will make required position reports.

(3) Compliance with approved flight plan and position report requirements is of utmost importance for identification. Aircraft aborting or deviating from an approved flight plan will air-file a revised flight plan as soon as the necessity for such deviation is evident. Unauthorized deviations may preclude identification and result in engagement of aircraft by defensive weapons.

(4) The volume of air traffic that may be operating during an Air Defense Emergency or when SCATANA has been implemented, could create excessive airspace congestion if standard separation is applied. Therefore, responsible military commanders should plan minimum time and altitude separation for tactical air traffic movements. Reduced separation standards to be used between aircraft within the unit will be specified in the "Remarks" section of the clearance form.

[1] Filed as part of original. Copies available from North American Air Defense Command, Ent Air Force Base, Colo. 80912.

(5) SAC EWO routings for wartime priorities one and two missions which have been coordinated with NORAD and FAA fulfill the flight plan requirements established in subparagraphs (1) and (2) of this paragraph.

§ 245.9 Wartime air traffic priority list for the movement of aircraft.

(a) *Purpose.* To establish a priority system for the movement of aircraft during general war conditions, and to provide policy and guidance for the practical application thereof in assuring optimum use of airspace to accomplish national objectives.

(b) *Policy.* (1) The priority listings established herein are designed to facilitate the handling of airspace user requirements for movement of aircraft during general war. The applicable priority shall be solely dependent on the nature of the airspace user requirements.

(2) During periods other than general war, aircraft movements are handled as follows:

(i) Involvement in limited war or execution of contingency plans, to include JCS directed actions, immediately makes successful completion of such action a primary national objective. Therefore, aircraft movements in support of these actions shall be afforded expeditious handling by the Air Traffic Control (ATC) system commensurate with the degree or urgency stated by the JCS to the FAA. When directing the execution of a contingency/limited war plan, or other JCS directed operation which is in pursuit of primary national objectives, the JCS shall so advise the Federal Aviation Administration (or appropriate Canadian authority if Canadian airspace is involved), requesting that aircraft operating in accordance with such plans be given preferential handling over all air traffic except active air defense missions and launch of the strategic alert force and supporting aircraft. Should contingency, limited warfare, or other JCS directed plans be executed concurrently by more than one operational commander, the JCS shall state to the Federal Aviation Administration (or appropriate Canadian authority when Canadian airspace is involved), and the military commanders concerned, the relative urgency of each operation and will resolve conflicts that may arise therefrom.

(ii) Assignment of reserved airspace to accommodate military air operations which, because of their objectives, cannot be conducted in accordance with routine ATC procedures will be based upon an order of precedence for the purpose of resolving mission conflicts in planning altitude reservations. This order of precedence is published in appropriate Joint Service regulations and FAA documents.

(c) *General.* (1) Priorities for air traffic clearances required under the SCATANA plan are not to be confused with civil priorities assigned to civil air carrier aircraft under the War Air Service Program (WASP) priorities system, or to general aviation civil aircraft under the State and Regional Defense Airlift (SARDA) plan. WASP and SARDA priorities are designed to provide for controlled use of civil aircraft capability and capacity, and they have secondary significance when the wartime air traffic priority list for the movement of aircraft is in effect.

(2) When the wartime air traffic priority system is in effect, the priorities shall apply to all aircraft. The originator of a request for aircraft movement shall be responsible for determining and verifying the appropriate priority in accordance with the listing contained in paragraph (d) (1) through (10) of this section. The individual filing the flight plan will be responsible for including the priority number as determined by the originator of the request.

(3) During general war conditions, it is probable that situations would develop that could not be applied to any traffic priority sequence. Aircraft emergencies and inbound international flights which have reached the point of no return are examples of such inflight situations which may arise. These incidents must be treated individually through coordination between ATC and appropriate military agencies in consideration of the urgency of the inflight situation and existing tactical military conditions.

(d) *Wartime air traffic priority list for movement of aircraft.* This priority list will be effective only when directed by the Joint Chiefs of Staff in a situation of imminent or actual general war conditions, or in the event of a declaration of Defense Emergency/Air Defense Emergency, or in the event of implementation of SCATANA in an area under attack. Priorities shall take precedence in the order listed and subdivisions within priorities are equal.

(1) *Priority one.* (i) Aircraft engaged in active continental defense missions. This includes interceptors, antisubmarine aircraft, and airborne early warning and control aircraft.

(ii) Retaliatory aircraft, including their direct support aircraft, executing Emergency War Orders (EWO).

(iii) Airborne command elements which provide backup to command and control systems for the combat forces.

(iv) The President of the United States and Prime Minister of Canada and respective cabinet members essential to national security.

(2) *Priority two.* Forces being deployed for or in direct and immediate support of combat operations against the enemy. SAC aircraft in direct and immediate support of EWO not included in priority one.

(3) *Priority three.* (i) Forces being deployed in support of combat operations against the enemy.

(ii) Continental Air Reconnaissance for Damage Assessment (CARDA) missions for the support of immediate combat operations.

(4) *Priority four.* Dispersal of tactical military aircraft, civil aircraft assigned to the War Air Service Program (WASP), other selected civil air carrier aircraft as designated by FAA and civil air carrier aircraft assigned to the Civil Reserve Air Fleet (CRAF), for their protection.

(5) *Priority five.* (i) The air transport of military commanders, their representatives, and DOD sponsored key civilian personnel which is of the utmost importance to national security, or which will have an immediate effect upon combat operations of the Armed Forces.

(ii) Dispersal of nontactical military aircraft for their protection.

(6) *Priority six.* (i) Flight operations in accordance with approved Federal and State emergency plans (WASP and SARDA). Air carrier flights will operate under the provisions of CAB Air Transport Mobilization Order ATM-1, "Route Authorizations and Operations," and the War Air Service Program (WASP).

(ii) Other essential CARDA missions not included in subparagraph (3)(ii) of this paragraph.

(7) *Priority seven.* (i) The movement of aircraft, personnel, equipment, and supplies for military forces not actually engaged in combat operations against the enemy.

(ii) Military administrative flights of vital necessity to the prosecution of the war effort, but not bearing on combat operations against the enemy, including transportation of personnel, equipment, material, and supplies.

(8) *Priority eight.* Aircraft carrier and other combat aircrew replacement training.

(9) *Priority nine.* (i) Operational testing of air carrier and equipment, or flight testing wherein the objective is the testing or development of new or modified equipment. This is applicable only to those organizations responsible for testing, development or modification of aircraft systems and equipment.

(ii) Operational training flights, the primary objective of which is the instruction and training of pilots and crews engaged in a formal course of instruction including flight operations in connection with civil flight training.

(10) *Priority 10.* (i) Administrative logistical flights in support of assigned missions.

(ii) Reserve flying training operations where in the objective is the training of reservists not on extended active duty.

(iii) Non-air carrier flight operations in support of SARDA plans as they pertain to the maintenance of a viable national economy.

(11) *Priority 11.* All other flight operations not specifically listed in this section.

§ 245.10 Authentication.

Authentication requirements and procedures for actual and test messages will be established by NORAD or the unified/specified command for its area of responsibility.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division OASD (Comptroller).

[FR Doc.71-16978 Filed 11-19-71;8:46 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 29—Department of Labor

PART 29–1—GENERAL

PART 29–3—PROCUREMENT BY NEGOTIATION

Miscellaneous Amendments

On September 29, 1971, notice of proposed rule making regarding miscellaneous amendments to the Department of Labor procurement regulations was published (36 F.R. 19121). No comment or other relevant matter was presented by interested persons and the amendments as so proposed are hereby adopted, subject to the following change:

In paragraph (c) of § 29–3.405–5, the words "Chief, Division of Procurement Systems, Office of Management Systems" are changed to read "Director, Office of Procurement Policy."

Effective date. These amendments are effective upon publication in the FEDERAL REGISTER (11–20–71).

Signed at Washington, D.C., this 11th day of November 1971.

J. D. HODGSON,
Secretary of Labor.

1. The table of contents for Part 29–1 is revised to add entries for a new Subpart 29–1.50, as follows:

Subpart 29–1.50—Novation Agreements and Change of Name Agreements

Sec.
29–1.5000 Scope of subpart.
29–1.5001 Legal review.
29–1.5002 Agreement to recognize a successor in interest.
29–1.5003 Agreement to recognize change of name of contractor.
29–1.5004 Processing novation agreements and change of name agreements.

AUTHORITY: The provisions of this Subpart 29–1.50 issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

2. The following text material is added as a new Subpart 29–1.50:

Subpart 29–1.50—Novation Agreements and Change of Name Agreements

§ 29–1.5000 Scope of subpart.

This subpart prescribes the policy and procedures for (a) recognition of a successor in interest to Government contracts when such interests are acquired incidental to a transfer of all the assets of a contractor or such part of his assets as is involved in the performance of the contract, (b) a change of name of a contractor, and (c) execution of novation agreements and change of name agreements by a single administration or office and change of name or novation agreements affecting more than one administration or office. (See also § 1–30.710 of this title on assignment of claims in case of transfers of a business or corporate mergers.)

§ 29–1.5001 Legal review.

All novation agreements and change of name agreements, prior to execution by the Department, shall be reviewed by the Solicitor's Office for legal sufficiency.

§ 29–1.5002 Agreement to recognize a successor in interest.

(a) The transfer of a Government contract is prohibited by law (41 U.S.C. 15). However, the Government may recognize a third party as the successor in interest to a Government contract where the third party's interest is incidental to the transfer of all the assets of the contractor, or all of that part of the contractor's assets involved in the performance of the contract. Examples include, but are not limited to:

(1) Sale of such assets;

(2) Transfer of such assets pursuant to merger or consolidation of corporation; and

(3) Incorporation of a proprietorship or partnership.

(b) When a contractor requests that the Department recognize a successor in interest, the contractor shall be required to provide three signed copies of a novation agreement to the administration or office concerned, together with one copy of each of the following, as applicable:

(1) A properly authenticated copy of the instrument by which the transfer of assets was effected, as for example, a bill of sale, certificate of merger, indenture of transfer, or decree of court;

(2) A list of all contracts and purchase orders which have not been finally settled between the Department and the transferor, showing the contract number, the name and address of the procurement office involved, the total dollar value of each contract as amended, the type of contract involved, and the balance remaining unpaid;

(3) A certified copy of the resolutions of the boards of directors of the corporate parties authorizing the transfer of assets;

(4) A certified copy of the minutes of any stockholders' meetings of the corporate parties necessary to approve the transfer of assets;

(5) A properly authenticated copy of the certificate and articles of incorporation of the transferee if such corporation was formed for the purpose of receiving the assets involved in the performance of the Government contracts;

(6) Opinion of counsel for the transferor and transferee that the transfer was properly effected in accordance with applicable law and the effective date of transfer;

(7) Evidence of the capability of the transferee to perform the contracts;

(8) Balance sheets of the transferor and the transferee as of dates immediately prior to and after the transfer of assets; and

(9) Consent of sureties on all contracts listed under paragraph (a) of this section where bonds are required, or a statement that none is required.

(c) When it is consistent with the Government's interest to recognize a successor in interest to a Government contract, the administration or office concerned shall execute an agreement with the transferor and the transferee, which shall ordinarily provide in part that:

(1) The transferee assumes all the transferor's obligations under the contract;

(2) The transferor waives all rights under the contract as against the Government;

(3) The transferor guarantees performance of the contract by the transferee (a satisfactory performance bond may be accepted in lieu of such guarantee); and

(4) Nothing in the agreement shall relieve the transferor or the transferee from compliance with any Federal law.

(d) A form for such an agreement for use when the transferor and transferee are corporations, and all the assets of the transferor are transferred, is set forth herein. This form may be adapted to fit specific cases and may be used as a guide in preparing similar agreements for use in other situations.

AGREEMENT

This Agreement, entered into as of (date upon which the transfer of assets became effective pursuant to applicable State law), 19--, by and between the ABC Corporation, a corporation duly organized and existing under the laws of the State of ---------- with its principal office in the city of---------- ----(hereinafter referred to as the "Transferor"); the XYZ Corporation add if appropriate (formerly known as the EFG Corporation), a corporation duly organized and existing under the laws of the State of ----------with its principal office in the city of ----------(hereinafter referred to as the "Transferee"); and the United States of America (hereinafter referred to as the "Government").

WITNESSETH

1. Whereas, the Government, represented by various Contracting Officers of the Department of Labor has entered into certain contracts and purchase orders with the Transferor (namely: ----------), or as set forth in the attached list marked "Exhibit A" to this Agreement and herein incorporated by reference; and the term "the Contracts" as hereinafter used means the above contracts and purchase orders, and all other contracts and purchase orders, including modifications thereto, heretofore made between the Government, represented by various Contracting Officers of the abovenamed Department, and the Transferor (whether or not performance and payment have been completed and releases executed, if the Government or the Transferor has any remaining rights, duties or obligations thereunder), and including modifications thereto hereafter made in accordance with the terms and conditions of such contracts and purchase orders between the Government and the Transferee;

2. Whereas, as of ----------, 19--, the Transferor assigned, conveyed, and transferred to the Transferee all the assets of the Transferor by virtue of a (term descriptive of the legal transaction involved) between the Transferor and the Transferee;

3. Whereas, the Transferee, by virtue of said assignment, conveyance and transfer, has acquired all the assets of the Transferor;

4. Whereas, by virtue of said assignment, conveyance and transfer, the Transferee has assumed all the duties, obligations and liabilities of the Transferor under the Contracts;

5. Whereas, the Transferee is in a position fully to perform the Contracts, and such duties and obligations as may exist under the Contracts;

6. Whereas, it is consistent with the Government's interest to recognize the Transferee as the successor party to the Contracts;

7. Whereas, there has been filed with the Government evidence of said assignment, conveyance or transfer, as required by § 29–1.5002(b);

Where a change of name is also involved, such as prior or concurrent change of name of the transferee, an appropriate recital shall be used; for example:

8. Whereas, there has been filed with the Government a certificate dated ----------, 19--, signed by the Secretary of State of ----------, to the effect that the corporate name of EFG Corporation was changed to XYZ Corporation on ----------, 19--;

Now, therefore, in consideration of the premises, the parties, hereto agree as follows:

9. The Transferor hereby confirms said assignment, conveyance, and transfer to the Transferee, and does hereby release and discharge the Government from, and does hereby waive, any and all claims, demands, and rights against the Government which it now has or may hereafter have in connection with the contracts.

10. The Transferee hereby assumes, agrees to be bound by, and undertakes to perform each and every one of the terms, covenants and conditions contained in the Contracts. The Transferee further assumes all obligations and liabilities of, and all claims and demands against, the Transferor under the Contracts, in all respects as if the Transferee were the original party to the Contracts.

11. The Transferee hereby ratifies and confirms all actions heretofore taken by the Transferor with respect to the Contracts with the same force and effect as if the action had been taken by the Transferee.

12. The Government hereby recognizes the Transferee as the Transferor's successor in interest in and to the Contracts and agrees that the Transferee hereby becomes entitled to all rights, title, and interest of the Transferor in and to the Contracts in all respects as if the Transferee were the original party to the Contracts. The term "Contractor" as used in the Contracts shall be deemed hereafter to refer to the Transferee rather than to the Transferor.

13. Except as expressly provided herein, nothing in this Agreement shall be construed as a waiver of any rights of the Government against the Transferor.

14. Notwithstanding the foregoing provisions, all payments and reimbursements heretofore made by the Government to the Transferor and all other action heretofore taken by the Government, pursuant to its obligation under any of the Contracts, shall be deemed to have discharged pro tanto the Government's obligations under the Contracts. All payments and reimbursements made by the Government after the date of this Agreement in the name of or to the Transferor shall have the same force and effect as if made to said Transferee and shall constitute a complete discharge of the Government's obligations under the Contracts, to the extent of the amounts so paid or reimbursed.

15. The Transferor and the Transferee hereby agree that the Government shall not be obligated to pay or reimburse either of them for, or otherwise give effect to, any costs, taxes or other expenses, or any increases therein, directly or indirectly arising out of or resulting from (i) said assignment, conveyance and transfer, or (ii) this Agreement, other than those which the Government, in the absence of said assignment, conveyance and transfer, or this Agreement, would have been obligated to pay or reimburse under the terms of the Contracts.

16. The Transferor hereby guarantees payment of all liabilities and the performance of all obligations which the Transferee (i) assumes under this Agreement, or (ii) may hereafter undertake under the Contracts as they may hereafter be amended or modified in accordance with the terms and conditions thereof; and the Transferor hereby waives notice of and consents to any such amendment or modification.

17. Except as herein modified, the Contracts shall remain in full force and effect.

In witness whereof, each of the parties hereto has executed this Agreement as of the day and year first above written.

UNITED STATES OF AMERICA
By ----------
Title ----------

[CORPORATE SEAL] ABC CORPORATION
By ----------
Title ----------

[CORPORATE SEAL] XYZ CORPORATION
By ----------
Title ----------

CERTIFICATE

I, ----------, certify that I am the Secretary of ABC Corporation, named above; that ----------, who signed this Agreement on behalf of said corporation, was then ---------- of said corporation; and that this Agreement was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

Witness by hand and the seal of said corporation this ---------- day of ----------, 19--.

[CORPORATE SEAL]
By----------

CERTIFICATE

I, ----------, certify that I am the Secretary of XYZ Corporation, named above; that ----------, who signed this Agreement on behalf of said corporation, was then ---------- of said corporation; and that this Agreement was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

Witness by hand and the seal of said corporation this ---------- day of ----------, 19--.

[CORPORATE SEAL]
By----------

§ 29–1.5003 Agreement to recognize change of name of contractor.

(a) When only a change of name is involved, so that the rights and obligations of the parties remain unaffected, an agreement shall be executed by the Administration or Office concerned and the contractor modifying all existing contracts between the parties so as to reflect the contractor's change of name. Three signed copies of the Change of Name Agreement and one copy of each of the following shall be forwarded by the contractor to the Administration or Office concerned:

(1) A copy of the instrument by which the change of name was effected, authenticated by a proper official of the State having jurisdiction;

(2) Opinion of counsel for the contractor as to the effective date of the change of name and that it was properly effected in accordance with applicable law; and

(3) A list of all contracts and purchase orders which have not been finally settled between the Department concerned and the transferor, showing the contract number, the name and address of the procurement office involved, the total dollar value of each contract as amended, and the balance remaining unpaid.

(b) A format for such an agreement which shall be adapted for specific cases is set forth below.

AGREEMENT

This agreement, entered into as of (date upon which the change of name became effective pursuant to applicable State law) ----------, 19--, by and between the ABC Corporation (formerly the XYZ Corporation and hereinafter sometimes referred to as the "Contractor"), a corporation duly organized and existing under the laws of the State of ----------, and the United States of America (hereinafter referred to as the "Government").

WITNESSETH

I. Whereas, the Government, represented by various Contracting Officers of the Department of Labor has entered into certain contracts and purchase orders with the XYZ Corporation, (namely: ----------) or (as set forth in the attached list marked "Exhibit A" to this Agreement and herein incorporated by reference); and the term "the Contracts" as hereinafter used means the above contracts and purchase orders, and all other contracts and purchase orders, including modifications thereto, entered into between the Government, represented by various Contracting Officers of the Department of Labor, and the Contractor (whether or not performance and payment have been completed and releases executed, if the Government or the Contractor has any remaining rights, duties or obligations thereunder);

2. Whereas, the XYZ Corporation, by an amendment to its certificate of incorporation, dated ----------, has changed its corporate name to ABC Corporation;

3. Whereas, a change of corporate name only is accomplished by said amendment, so that rights and obligations of the Government and of the Contractor under the Contracts are unaffected by said change; and

4. Whereas, there has been filed with the Government documentary evidence of said change in corporate name;

Now therefore, in consideration of the premises, the parties hereto agree that the Contracts covered by this agreement are hereby amended by deleting therefrom the name "XYZ Corporation" wherever it appears in the Contracts and substituting therefor the name "ABC Corporation".

In witness whereof, each of the parties hereto has executed this Agreement as of the day and year first above written.

UNITED STATES OF AMERICA
By ----------
Title ----------

[CORPORATE SEAL] ABC CORPORATION
By ----------
Title ----------

CERTIFICATE

I, ----------, certify that I am the Secretary of ABC Corporation, named above; that ---------- who signed this Agreement on behalf of said corporation, was then ---------- of said corporation; and that this Agreement was duly signed for in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

Witness by hand and seal of said corporation this ---------- day of ----------, 19--.

[CORPORATE SEAL]
By----------

§ 29–1.5004 Processing novation agreements and change of name agreements.

(a) The Administration or Office processing a proposed novation agreement shall promptly provide notice of the proposed Agreement, including lists of contracts as required by § 29–1.5002(b)(2), to the Administrations or Offices having contracts with the contractor or contractors concerned. Such notice shall be transmitted to the appropriate addressee listed herein.

Office of Administrative Services, Office of the Assistant Secretary for Administration, Attention: ASP.

Manpower Administration, Office of Financial and Management Systems, Attention: MBMR.

Bureau of International Affairs, Attention: IA.

Bureau of Labor Statistics, Attention: BA.

(b) If the Administration(s) or Office(s) do not object to the proposed novation agreement within 30 days after receipt of notice, the initiating Administration or Office shall assume acceptance of the proposed novation agreement.

(c) When more than one Administration or Office has outstanding contracts with the contractor or contractors, a single agreement covering all such contracts shall be executed by the Administration or Office having the largest unsettled dollar balance with the contractor or contractors.

(d) A signed copy of the executed novation agreement or change of name agreement shall be forwarded to the contractor, a signed copy shall be retained in the administration or office executing the agreement, and where more than one administration or office is involved, two conformed copies of the agreement shall be prepared by each affected administration and office incorporating a summary of the agreement and attaching thereto a complete list of the contracts affected.

3. In § 29–3.405–5 *Cost-plus-a-fixed-fee contract*, a new paragraph (c) is added to read as follows:

§ 29–3.405–5 Cost-plus-a-fixed-fee contract.

* * * * *

(c) *Limitations.* In addition to the statutory limitations described in § 1–3.405–5(c)(2) of this title, fees under cost-plus-a-fixed-fee type contracts are subject to the administrative limitations set forth below:

(1) Nine percent of the estimated cost, exclusive of the fee, for any cost-plus-a-fixed-fee contract of experimental, evaluation, developmental, or research work; or

(2) Six percent of the estimated cost, exclusive of the fee, of any other cost-plus-a-fixed-fee contract.

Fixed-fees within the limitations imposed by § 1–3.405–5(c)(2) of this title and in excess of those cited herein shall be submitted to the Director, Office of Procurement Policy, Office of the Assistant Secretary for Administration, Washington, D.C. 20210 for approval. The request for approval shall include a detailed justification setting forth the rationale supporting the proposed fee in terms of the factors prescribed in § 1–3.808–2 of this title.

4. In § 29–3.405–50 *Cost-plus-award-fee contract*, paragraph (c) is revised to read as follows:

§ 29–3.405–50 Cost-plus-award-fee contract.

* * * * *

(c) *Limitations.* The base fee shall not exceed 3 percent of the estimated cost of the contract exclusive of fee. The maximum fee (base fee plus award fee) shall not exceed the limits in §§ 1–3.405(c)(2) of this title, and 29–3.405–5(c).

5. The table of contents for Subpart 29–3.8 is revised to add the following new entry for a new § 29–3.805–50, as follows:

Sec.
29–3.805–50 Criteria for award.

6. The following text material is added to Subpart 29–3.8 as a new section:

§ 29–3.805–50 Criteria for award.

(a) The Contracting Officer shall insure that the request for proposal sets forth all significant matters which affect the opportunities of suppliers to compete on an equal basis, including any special evaluation factors. Evaluation factors are defined as (1) any minimum standards which will be required with respect to any particular element of the procurement as well as (2) reasonably definite information as to the degree of importance to be given to particular factors in relation to each other. This does not mean that a mathematical formula must be used in the evaluation process. However, when the numerical rating is used, the request for proposal must inform the offerors of at least the major factors to be considered and the broad scheme of scoring to be used.

(b) An example of a mathematical evaluation process is set forth herein. The evaluation factors are examples and should be changed to meet the particular needs of the request for proposal.

CRITERIA FOR AWARD

Prospective suppliers are advised that the selection of an offeror for contract award is to be made after a careful evaluation of the proposals received by a panel of specialists within the Department. Each panelist will evaluate the proposals for acceptability with emphasis on the various factors enumerated below, assigning to that factor a numerical weighting within the range shown for each of those factors. The scores will then be averaged to select an offeror or develop a list of offerors.

Negotiations will be initiated, if necessary, with one or more of the offerors, within the competitive range as the situation warrants, beginning with the head of the list, i.e., the offeror with the highest score, determined by the factors shown below:

A. Supplier's collective experience as it related to the work required by the proposed contract ---------- 1–15 pts.
B. Education and experience of supplier's key personnel as they relate to the work required by the proposed contract ---------- 1–15 pts.
C. Supplier's resources and facilities ---------- 1–15 pts.
D. Planned approach in accomplishing the proposed work and its indication of the supplier's understanding of the work required ---------- 1–35 pts.
E. Price or estimated cost ---------- 1–30 pts.

NOTE: Evaluation of the price or estimated cost factor will be computed by multiplying the maximum point score (e.g., 30) available for the factor by the fraction representing the ratio of the lowest price or estimated cost to the particular supplier's proposed price or estimated cost, as illustrated below:

(1) $\frac{60{,}000}{75{,}000} \times \frac{30}{1}$ = point score for price or estimated cost factor.

(2) $\frac{60{,}000}{75{,}000} \times \frac{30}{1} = 120 = 24$ pts.

(1) $60,000 represents the price or estimated cost of the lowest responsible responsive offeror.

(2) $75,000 represents the price or estimated cost of the responsible responsive offeror being evaluated.

(c) In accordance with § 1–3.805–1(a) of this title, where discussions or other negotiations are to be conducted, the contracting officer must negotiate with all responsible offerors within a competitive range. The competitive range consists of the proposals of those offerors which, based either on an evaluation by a mathematical formula or other means, are grouped more or less at the same level and are competitive with each other. A determination of the limits of the competitive range requires the comparison of each proposal against the other proposals. Therefore, there is no way to predetermine the number of or percentage of proposals that will be competitive with each other. The limits of what constitutes competitive range in a particular case is a judgment matter for determination by the Contracting Officer who has wide latitude. Such discretion will be reasonable and justified and shall not be exercized in an arbitrary or capricious manner.

(5 U.S.C. 301; 40 U.S.C. 486(c))

[FR Doc.71–16096 Filed 11–19–71;8:48 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Part 21]

CARTMEN AND LIGHTERMEN

Proposed Procedures for Revoking or Suspending Licenses and Identification Cards

Notice is hereby given that pursuant to the authority contained in sections 565 and 624 of the Tariff Act of 1930 (46 Stat. 747, 759; 19 U.S.C. 1565, 1624), it is proposed to amend §§ 21.2 and 21.6 of the Customs regulations (19 CFR 21.2, 21.6), and add a new § 21.2a as set forth in tentative form below.

The proposed amendments would prescribe procedures to be followed by the Bureau of Customs in revoking and suspending a cartman or lighterman license or identification card issued by the Bureau of Customs. The proposed procedures require that the holder be notified in writing of the action to be taken and provide for a written appeal or an oral hearing upon request of the holder. In addition, the format of § 21.2 has been revised, and the requirement that an applicant for an identification card be fingerprinted has been made mandatory.

1. Section 21.2 is amended to read as follows:

§ 21.2 Identification cards.

(a) When required for purposes of local Customs administration, the district director of Customs may require each licensed cartman or lighterman and each employee thereof who receives, transports, or otherwise handles imported mechandise which has not been released from Customs custody to carry and display upon request of a Customs officer an identification card issued by the Bureau of Customs. An identification card shall not be issued to any person whose employment in connection with the transportation of bonded merchandise will, in the judgment of the district director, endanger the revenue.

(b) An application for an identification card required pursuant to paragraph (a) of this section shall be filed personally by the applicant with the district director of Customs on Customs Form 3078 together with two 1¼" x 1¼" color photographs of himself. The fingerprints of the applicant shall also be required on Standard Form 87 at the time of the filing of the application.

(c) The identification card shall be issued on Customs Form 3873 and shall not be valid for Customs purposes unless the U.S. Customs seal is impressed thereon.

(d) The identification card shall be in the possession of the person in whose name the card is issued at all times when he is engaged in transactions with respect to imported merchandise. It shall be the responsibility of each person to whom an identification card is issued to encase it is protective transparent plastic so that both sides are clearly visible.

(e) Should an identification card be presented by a person other than the one to whom it was issued, such card shall be forthwith confiscated.

(f) When there has been a change in the name, address, or employer of the card holder, the card shall be promptly submitted by the card holder to the district director supported by an application in the proper form indicating the change so that it may be officially changed on the Customs records. New cards shall be issued when necessary.

(g) The identification card shall be surrendered to the district director by the card holder when he leaves the employment of the cartman or lighterman, when the cartman or lighterman bond or license is terminated, or when the card is revoked or suspended pursuant to § 21.2a.

(h) The loss or theft of an identification card shall be promptly reported by the card holder to the district director of Customs.

2. Part 21 is amended by adding a new § 21.2a as follows:

§ 21.2a Revocation or suspension of identification cards; hearings.

(a) An identification card issued pursuant to this part may be revoked or suspended by the district director if—

(1) Such card was obtained through fraud or the misstatement of a material fact; or

(2) The holder of such card is convicted of a felony, or convicted of a misdemeanor involving theft, smuggling, or any theft-connected crime; or

(3) The holder permits the card to be used by any other person, or refuses to produce it upon the proper demand of a Customs officer; or

(4) The holder fails to abide by the rules and regulations prescribed in this part.

(b) The district director of Customs shall revoke or suspend an identification card by serving notice of the proposed action in writing upon the card holder. Such notice shall be in the form of a statement specifically setting forth the grounds for revocation or suspension of the identification card and shall be final and conclusive upon the card holder unless within 10 days following receipt of such notice he shall file with the district director a written notice of appeal. The appeal shall be filed in duplicate and shall set forth the response of the holder to the statement of the district director. The card holder in his notice of appeal may request a hearing.

(c) If a hearing is requested by a card holder in his notice of appeal, it shall be held before a hearing officer designated by the Secretary of the Treasury or his designee within 30 days following application therefor. The card holder shall be notified of the time and place of the hearing at least 5 days prior thereto. The holder of the identification card may be represented by counsel at such a hearing, and all evidence and testimony of witnesses in such a proceeding, including substantiation of the charges and the answer thereto shall be presented, with the right of cross-examination to both parties. A stenographic record of any such proceeding shall be made and a copy thereof shall be delivered to the card holder. At the conclusion of such proceeding or review of a written appeal, the hearing officer or the district director, as the case may be, shall forthwith transmit all papers and the stenographic record of the hearing, if held, to the Commissioner of Customs, together with his recommendation for final action. Following a hearing and within 10 calendar days after delivery of a copy of the stenographic record, the card holder may submit to the Commissioner in writing additional views and arguments on the basis of such record. If neither the card holder nor his attorney appear for a scheduled hearing, the hearing officer shall conclude the hearing and transmit all papers with his recommendation to the Commissioner of Customs. The Commissioner shall thereafter render his decision in writing, stating his reason therefor, with respect to the action proposed by the hearing officer or the district director. Such decision shall be transmitted to the district director and served by him on the card holder.

3. Section 21.6 is amended to read as follows:

§ 21.6 Suspension or revocation of licenses of cartman or lighterman.

(a) Inspectors or other Customs officers may require any person claiming to be a licensed customhouse cartman or lighterman to produce his license for inspection. The district director may also require that licensed cartmen and lightermen make, keep, and promptly submit for Customs inspection and examination upon request therefor, such current written records relating to cartage and lighterage as may be needed for purposes of local Customs administration.

(b) The district director may revoke or suspend the license of a cartman or lighterman if:

(1) His license is not promptly produced upon demand;

(2) His vehicle or vessel is not properly marked, as required by § 21.1(c);

(3) The cartman or lighterman refuses or neglects to obey any proper order of a Customs officer or any Customs order, rule, or regulation relative to the cartage or lighterage of merchandise, including the marking, keeping, and submitting of current written records relating to cartage and lighterage;

(4) The license was obtained through fraud or the misstatement of a material fact;

(5) The holder of such license is convicted of a felony, or is convicted of a misdemeanor involving theft, smuggling or a theft-connected crime;

(6) The holder of such license permits it to be used by any other person.

(c) The district director of Customs shall revoke or suspend a license by serving notice of the proposed action in writing upon the holder of the license. Such notice shall be in the form of a statement specifically setting forth the grounds for revocation and suspension of the license and shall be final and conclusive upon the licensee unless within 10 days following receipt of such notice he shall file with the district director a written notice of appeal. The appeal shall be filed in duplicate and shall set forth the response of the licensee to the statement of the district director. The licensee in his notice of appeal may request a hearing.

(d) If a hearing is requested, it shall be held before a hearing officer designated by the Secretary of the Treasury or his designee within 30 days following application therefor. The licensee shall be notified of the time and place of the hearing at least 5 days prior thereto. The holder of the license may be represented by counsel at such a hearing, and all evidence and testimony of witnesses in such proceeding, including substantiation of the charges and the answer thereto shall be presented, with the right of cross-examination to both parties. A stenographic record of any such proceeding shall be made and a copy thereof shall be delivered to the licensee. At the conclusion of such proceeding or review of a written appeal, the hearing officer or the district director, as the case may be, shall forthwith transmit all papers and the stenographic record of the hearing, if held, to the Commissioner of Customs, together with his recommendation for final action. Following a hearing and within 10 calendar days after delivery of a copy of the stenographic record, the licensee may submit to the Commissioner in writing additional views and arguments on the basis of such record. If neither the licensee nor his attorney appear for a scheduled hearing, the hearing officer shall conclude the hearing and transmit all papers with his recommendation to the Commissioner of Customs. The Commissioner shall thereafter render his decision, in writing, stating his reasons therefor, with respect to the action proposed by the hearing officer or the district director. Such decision shall be transmitted to the district director and served by him on the licensee.

Consideration will be given to relevant data, views, or arguments pertaining to the proposed amendments which are submitted in writing to the Commissioner of Customs, Washington, D.C. 20226. To assure consideration of such submissions they must be received not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: November 11, 1971.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-17012 Filed 11-19-71;8:49 am]

DEPARTMENT OF THE INTERIOR

Office of Oil and Gas

[32A CFR Ch. X]

[Oil Import Reg. 1 (Rev. 5)]

ALLOCATIONS OF NO. 2 FUEL OIL IN DISTRICT I

Notice of Proposed Rule Making

Presidential Proclamation 4092 dated November 5, 1971 (36 F.R. 21397) amended Presidential Proclamation 3279 to permit the importation commencing January 1, 1972, of an average of 45,000 barrels per day of No. 2 fuel oil into District I during an allocation period, of which not more than 5,000 barrels per day may be shipped from Puerto Rico. It also authorizes the Secretary of the Interior to provide for the importation of crude oil produced in the Western Hemisphere in lieu of No. 2 fuel oil, on a barrel for barrel ratio, and for the exchange of such crude oil for No. 2 fuel oil. There are set forth below proposed amendments to section 15 and section 30, respectively, of the Oil Import Regulation 1 (Revision 5), as amended, which would implement these changes. Final action upon the proposed amendments is subject to the concurrence of the Director of the Office of Emergency Preparedness.

A new paragraph (e) would be added to section 15 which would enable manufacturers of No. 2 fuel oil in Puerto Rico to supply No. 2 fuel oil without reduction of existing allocations of imports into Puerto Rico.

In section 30 the following changes would be made:

(b) This paragraph would be changed to reflect the increase in quantity of imports available for allocation from 40,000 to 45,000 barrels per day and the dates would be changed to provide for calendar year 1972 and succeeding allocation periods.

(d) This paragraph would be changed to provide that applications must be filed no later than December 8, 1971.

(e) "Qualified terminal inputs" would be defined in paragraph (f)(1) in such a manner that it would no longer be necessary to specify the "input period" as in the existing formula and the total quantity to be allocated would be changed from 40,000 to 45,000 barrels per day.

(f) Subparagraph (1) of this paragraph would be amended to provide that "qualified terminal inputs" are those occurring during the 12-month period ending 3 months preceding commencement of the period for which the allocation is to be made.

(g) This paragraph would be amended to take account of imports of crude oil in lieu of No. 2 fuel oil and of No. 2 fuel oil shipped from Puerto Rico to District I.

(h) This new paragraph would provide for the importation of crude oil in lieu of No. 2 fuel oil and for the exchange of the imported crude oil for domestic No. 2 fuel oil.

(i) This new paragraph provides for the relinquishment of allocations by persons who wish to obtain No. 2 fuel oil from Puerto Rico.

Interested persons are invited to submit written comments on the proposed amendments before November 30, 1971, to the Director, Office of Oil and Gas, Department of the Interior, Washington, D.C. 20240. Each person who submits comments is asked to submit fifteen (15) copies.

R. W. SNYDER, JR.,
Acting Director,
Office of Oil and Gas.

NOVEMBER 18, 1971.

1. A new paragraph (e), reading as follows would be added to section 15 of Oil Import Regulation 1 (Revision 5):

Sec. 15 Allocations of crude oil and unfinished oils—Puerto Rico.

* * * * * * *

(e) No person who manufactures in Puerto Rico, No. 2 fuel oil from crude oil produced in the Western Hemisphere and who has an allocation under this section shall incur a reduction of an allocation pursuant to paragraph (b) of this section, or be deemed to have violated a condition of an allocation, by reason of a shipment of such oil to a person who holds an allocation under section 30 of this regulation and who has relinquished an amount of the allocation equal to the amount to be shipped, so long as the total of all such shipments from Puerto Rico during a calendar year does not exceed an average of 5,000 barrels per day. Shipments of No. 2 fuel oil attributable to a person who holds an allocation under this section will be charged against the limitation of 5,000 barrels per day for a calendar year only to the extent that the total of shipments into District I–IV of unfinished oils and finished products (other than residual fuel oil to be used as fuel) attributable to such person during the calendar year (1) exceeds the quantity of such shipments in the year 1965, if the person holds an allocation under paragraph (a) of this section, or (2) exceeds the quantity of such shipments limited in his allocation, if the person holds an allocation under paragraph (c) of this section.

2. Section 30 of Oil Import Regulation 1 (Revision 5) would be amended to read as follows:

Sec. 30 Allocations of No. 2 Fuel Oil—District I.

(a) For the purposes of this section:

(1) The term "No. 2 fuel oil" means a finished product which has the following physical and chemical characteristics:

Closed cup flash point °F.: Minimum 100.
Pour point °F.: Maximum 20.
Water and sediment, percent: Maximum 0.10.
Carbon residue on 10-percent residuum, percent: Maximum 0.35.
Distillation temperature °F.: Maximum 675. 90 percent point: Minimum 540.
Viscosity, Saybolt Universal: Maximum 40.0. Seconds at 100°F.: Minimum 33.0.
Gravity A.P.I.: Minimum 30.0.

(2) The term "Western Hemisphere" means North America, Central America, South America, and the West Indies.

(3) The term "deepwater terminal" means a permanent land installation which:

(i) Consists of bulk storage tanks having not less than 100,000 barrels of operational capacity, pumps and pipelines used for storage, transfer and handling of No. 2 fuel oil;

(ii) Is on waterways that permit the safe passage to the installation of a tanker rated 15,000 cargo deadweight tons, drawing not less than 25 feet of water; and

(iii) Has a berth that will permit the delivery of No. 2 fuel oil into the installation by direct connection from a tanker rated at 15,000 cargo deadweight tons, drawing not less than 25 feet of water, and moored in the berth. Cargo deadweight tons represent the carrying capacity of a tanker, in tons of 2,240 pounds, less the weight of fuel, water, stores and other items necessary for use on a voyage.

(4) The term "throughput agreement" means a written agreement which provides for the delivery to a deepwater terminal by a person of No. 2 fuel oil which he owns at the time of delivery to the terminal and for a right in such person to withdraw on call an identical quantity of such oil from the terminal. Any transaction between persons involving sales, purchases, or exchanges of No. 2 fuel oil which were designed to gain allocation benefits for a person who would not otherwise be eligible shall not be deemed to constitute a throughput agreement.

(b) For the period January 1, 1972 through December 31, 1972, and in each succeeding allocation period, 45,000 barrels per day of imports of No. 2 fuel oil which is manufactured in the Western Hemisphere from crude oil produced in the Western Hemisphere will be available for allocation in District I to eligible persons having qualified terminal inputs of No. 2 fuel oil in this district.

(c) (1) Except as provided in subparagraph (2) of this paragraph, a person shall be eligible for an allocation of imports into District I of No. 2 fuel oil under paragraph (e) of this section:

(i) If he is in the business in District I of selling No. 2 fuel oil and has under his management and operational control a deepwater terminal which is located in District I and in which No. 2 fuel oil is handled, or

(ii) If he is in the business in District I of selling No. 2 fuel oil and has a throughput agreement with a deepwater terminal operator in District I who does not have a crude oil import allocation in Districts I–IV.

(2) No person who has an allocation of imports into Districts I–IV of crude oil under sections 9, 10, or 25 of this regulation shall be eligible for an allocation under paragraph (e) of this section.

(d) A person seeking an allocation for the allocation period beginning January 1, 1972 under paragraph (e) of this section must file an application with the Director on such form as he may prescribe no later than December 8, 1971. The application shall disclose such information as the Director may deem necessary in such detail as he may require.

(e) (1) For the period January 1, 1972 through December 31, 1972, and in each succeeding allocation period, each eligible applicant under this section shall receive an allocation of imports into District I of No. 2 fuel oil which has been manufactured in the Western Hemisphere, from crude oil produced in the Western Hemisphere computed according to the following formula:

$$\frac{\text{Applicant's qualified terminal inputs — average barrels per day}}{\text{Average barrels per day of all qualified terminal inputs}} \times \frac{45{,}000 \text{ average barrels per day}}{\text{of No. 2 fuel oil}}$$

(2) The Director shall provide that each license issued under an allocation made pursuant to this paragraph (e) shall expire on the last day (December 31) of the allocation period.

(f) (1) For the purposes of this section, "qualified terminal inputs" means quantities of No. 2 fuel oil:

(i) Which were delivered, during the 12-month period ending on September 30 preceding the commencement of the period for which the allocation is to be made, into a deepwater terminal in District I which was under his management and operational control or into a deepwater terminal with which the eligible applicant had a throughput agreement before the oil was delivered, if he owned the oil when it was placed in the terminal and if the delivery constituted the first delivery of that oil to a deepwater terminal into District I; or

(ii) Which the applicant owned, sold to a Federal agency or to an agency of a State or a political subdivision of a State, and delivered, during the 12-month period ending on September 30 preceding the commencement of the period for which the allocation is to be made, to a deepwater terminal in District I for the account of such agency, providing such delivery constituted the first delivery of that oil to a deepwater terminal in District I; or

(iii) Which was delivered to applicant's deepwater terminal in District I as a first delivery into a deepwater terminal in District I under a written agreement to purchase such oil and to which, pursuant to such agreement, the applicant took title, during the 12-month period ending on September 30 preceding the commencement of the period for which the allocation is to be made, upon withdrawal by him from the terminal.

(2) For the purpose of this paragraph (f), storage of No. 2 fuel oil at a refinery in which the oil was produced or delivery of No. 2 fuel oil into a deepwater terminal under the management and operational control of a person who has an allocation of imports of crude oil into Districts I–IV shall not be deemed to be a first delivery to a deepwater terminal in District I.

(g) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred. Except as provided in paragraph (h) of this section, licenses issued under allocations made pursuant to this section shall permit the importation only of No. 2 fuel oil which is manufactured in the Western Hemisphere from crude oil produced in the Western Hemisphere. No. 2 fuel oil imported under an allocation made pursuant to this section or shipped from Puerto Rico to District I as provided in this section shall be sold for use as fuel in District I.

(h) A person holding an allocation under this section may obtain from the Director a license which will permit him to import crude oil into Districts I–IV in a quantity not exceeding the amount of the allocation made to such person under this section upon a certification to the Director, in such form as he may prescribe, that the allocation holder has agreed to exchange with a refiner in Districts I–IV such crude oil for No. 2 fuel oil delivered to District I on a ratio of not less than one barrel of No. 2 fuel oil for each barrel of crude oil. Any license so issued shall be charged against the allocation made under this section.

(i) A person who holds an allocation under this section and who wishes to obtain No. 2 fuel oil from Puerto Rico and to relinquish all or a part of his allocation as provided in paragraph (e) of section 15 of this regulation shall send to the Director a letter setting forth the quantity of the shipment, the name of his supplier in Puerto Rico, and the anticipated date of purchase in or shipment from Puerto Rico, and relinquishing an amount of his allocation equal to the amount of the shipment. The person's license must accompany the letter. Upon receipt of such a letter, the Director, shall, accordingly, reduce the person's allocation, adjust and return the license, and notify the supplier that the action has been taken. However, the Director shall not act upon any such letter after shipments from Puerto Rico have reached the limitation of 5,000 barrels per day specified in section 15(e) of this chapter.

[FR Doc.71-17064 Filed 11-18-71;12:40 pm]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 959]

ONIONS GROWN IN SOUTH TEXAS

Proposed Limitation of Shipments

Consideration is being given to the issuance of a limitation of shipments regulation, hereinafter set forth, which was recommended by the South Texas Onion Committee, established pursuant to Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR Part 959), regulating the handling of onions grown in designated counties in south Texas. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

All persons who desire to submit written data, views, or arguments in connection with this proposal shall file the same with the Hearing Clerk, Room 112–A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 30 days after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The recommendations of the committee reflect its appraisal of the expected volume and composition of the 1972 crop of south Texas onions and of the marketing prospects for the shipping season which is expected to begin on or about March 1.

The grade and size requirements proposed herein are recommended to prevent culls and poor quality onions, as well as undesirable sizes, from being distributed in fresh market channels. This should provide consumers with desirable onions, at reasonable prices and at the same time result in higher returns to producers for the better grades and preferred sizes and enhance the reputation of south Texas onions.

The proposed container requirement should prevent the use of off-size or deceptive containers which could adversely affect the reputation and returns of south Texas onions. However, it would not preclude the use of containers customarily packed for the retail trade.

The proposals with respect to special purpose shipments are recommended to allow the use of containers which have been the subject of experimental shipments during past seasons, and should encourage exports by allowing the use of containers required for such purposes.

The proposed prohibition on packaging and loading onions on Sunday is recommended to provide more orderly marketing by tailoring shipments from the production area more closely to the ability of receiving markets to accept marketings at reasonable prices.

The proposal is as follows:

§ 959.312 Limitation of shipments.

During the period beginning March 1, 1972, through May 15, 1972, no handler may: Package or load onions on Sundays; or handle any lot of onions grown in the production area, except red onions, unless such onions meet the grade requirements of paragraph (a) of this section, one of the applicable size requirements of paragraph (b) of this section, the container requirements of paragraph (c) of this section, and the inspection requirements of paragraph (f) of this section, or unless such onions are handled in accordance with the provisions of paragraph (d) or (e) of this section.

(a) *Minimum grade.* Not to exceed 20 percent defects of U.S. No. 1 grade. In percentage grade lots, tolerances for serious damage shall not exceed 10 percent including not more than 2 percent decay. Double the lot tolerance shall be permitted in individual packages in percentage grade lots. Application of tolerances in U.S. Grade Standards shall apply to in-grade lots.

(b) *Size requirements.* (1) "Small"—1 to 2¼ inches in diameter, and limited to whites only;

(2) "Repacker"—1¾ to 3 inches in diameter, with 60 percent or more 2 inches in diameter or larger;

(3) 2 to 3½ inches in diameter; or

(4) "Jumbo"—3 inches or larger in diameter.

(c) *Container requirements.* (1) 25-pound bags, with not to exceed in any lot an average net weight of 27½ pounds per bag, and with outside dimensions not larger than 29 inches by 31 inches; or

(2) 50-pound bags, with not to exceed in any lot an average net weight of 55 pounds per bag, and with outside dimensions not larger than 33 inches by 38½ inches.

(3) These container requirements shall not be applicable to onions sold to Federal agencies.

(d) *Minimum quantity exemption.* Any handler may handle, only as individual shipments and other than for resale, not more than 100 pounds of onions per day, in the aggregate, without regard to the requirements of this section or to the inspection and assessment requirements of this part.

(e) *Special purpose shipments and culls.* (1) Onions may be handled in containers customarily packed for the retail trade and in other designated special purpose containers as follows:

(i) Each handler desiring to make such shipments shall first apply to the committee for and obtain a certificate of privilege to make such shipments.

(ii) After obtaining an approved certificate of privilege, each handler may handle onions packed in 2-, 3-, or 5-pound containers customarily packed for the retail trade, 20-kilogram bags, or 50-pound cartons, if they meet the grade and size requirements of paragraphs (a) and (b) of this section and if they are handled in accordance with the reporting requirements established in subparagraph (2) of this paragraph on such shipments: *Provided*, That shipments of 2-, 3-, and 5-pound containers shall not exceed 10 percent of a handler's total weekly onion shipments, and provided further that shipments of 50-pound cartons shall not exceed 10 percent of a handler's total weekly onion shipments of all onions allowed to be marketed under this section.

(iii) The average gross weight per lot of onions packed in master containers shall not exceed 115 percent of the designated net contents.

(iv) The average net weight per lot of 50-pound cartons shall not exceed 55 pounds.

(v) The average net weight per lot of 20-kilogram bags shall not exceed 22 kilograms per bag, and with outside dimensions not larger than 32 inches by 36 inches.

(vi) 20-kilogram bags shall be conspicuously labeled with the words "For Export Only" and shipments shall be only to points outside of the 48 contiguous States of the United States, the District of Columbia, Canada, or Mexico.

(2) *Reporting requirements for shipments in designated special purpose containers.* Each handler who handles such shipments of onions in containers customarily packed for the retail trade and in other designated special purpose containers, shall report there to the committee, the inspection certificate numbers, the grade and size of onions packed, and the size of the containers in which such onions were handled. Such reports, in accordance with § 959.80, shall be furnished to the committee in such manner, on such forms and at such times as it may prescribe. Also, each handler of such shipments of onions shall maintain records of such marketings, pursuant to § 959.80(c). Such records shall be subject to review and audit by the committee to verify reports thereon.

(3) *Onions failing to meet requirements.* Onions failing to meet the grade, size, and container requirements of this section, and not exempted under paragraph (d) of this section, may be handled only pursuant to § 959.126. Culls may be handled pursuant to § 959.126 (a)(1). Shipments for relief or charity may be handled without regard to inspection and assessment requirements.

(f) *Inspection.* (1) No handler may handle any onions regulated hereunder (except pursuant to paragraphs (d) or (e) (3) of this section) unless an appropriate inspection certificate has been issued with respect thereto and the certificate is valid at the time of shipment.

(2) No handler may transport or cause the transportation by motor vehicle of any shipment of onions for which an inspection certificate is required unless each such shipment is accompanied by a copy of the inspection certificate applicable thereto or by documentary evidence on forms furnished by the committee identifying truck lots to which a valid inspection certificate is applicable and a copy of such inspection certificate or committee document, upon request, is surrendered to authorities designated by the committee.

(3) For purposes of operation under this part each inspection certificate or committee form required as evidence of inspection is hereby determined to be

valid for a period not to exceed 72 hours following completion of inspection as shown on the certificate.

(g) *Definitions.* The term "U.S. No. 1" shall have the same meaning as set forth in the U.S. Standards for Grades of Bermuda-Granex-Grano Type Onions (§§ 51.3195–51.3209 of this title), or in the U.S. Standards for Grades of Onions (other than Bermuda-Granex-Grano and Creole types) (§§ 51.2830–51.2854 of this title), whichever is applicable to the particular variety.

All terms used in this section shall have the same meaning as when used in Marketing Agreement No. 143, as amended, and this part.

Dated: November 17, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-17031 Filed 11-19-71;8:51 am]

[7 CFR Part 1207]

POTATO RESEARCH AND PROMOTION PLAN

Proposed Procedure for Referenda and Rules of Practice for Modification or Exemption

Consideration is being given to the approval of the procedure for the conduct of referenda and of rules of practice and procedure governing proceedings on petitions to modify, or to be exempted from, provisions of the potato research and promotion plan. The proposals, as hereinafter set forth, are in accordance with the authority vested in the Secretary of Agriculture by Public Law 91–670, 91st Congress, approved January 11, 1971 (84 Stat. 2041).

All persons who desire to submit written data, views, or arguments in connection with these proposals may file the same, in quadruplicate, with the Hearing Clerk, Room 112–A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 15 days after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). The proposed rules are as follows:

Subpart—Procedure for the Conduct of Referenda in Connection With Potato Research and Promotion Plan

§ 1207.200 General.

Referenda for the purpose of ascertaining whether the issuance by the Secretary of Agriculture of a potato research and promotion plan, or the continuance, termination or suspension of such a plan, is approved or favored by producers shall, unless supplemented or modified by the Secretary, be conducted in accordance with this subpart.

§ 1207.201 Definitions.

(a) "Act" means the Potato Research and Promotion Act, Title III of Public Law 91-670, 91st Congress, approved January 11, 1971 (84 Stat. 2041).

(b) "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead; and "Department" means the U.S. Department of Agriculture.

(c) "Administrator" means the Administrator of the Consumer and Marketing Service, with power to redelegate, or any officer or employee of the Department to whom authority has been delegated or may hereafter be delegated to act in his stead.

(d) "Plan" means the plan (including an amendment to a plan) with respect to which the Secretary has directed that a referendum be conducted.

(e) "Referendum agent" means the individual or individuals designated by the Secretary to conduct the referendum.

(f) "Representative period" means the period designated by the Secretary pursuant to section 314 of the act.

(g) "Person" means any individual, partnership, corporation, association, or other business unit. For the purpose of this definition, the term "partnership" includes (1) a husband and wife who have title to, or leasehold interest in, land as tenants in common, joint tenants, tenants by the entirety, or, under community property laws, as community property, and (2) so-called "joint ventures," wherein one or more parties to the agreement, informal or otherwise, contributed capital and others contribute labor, management, equipment, or other services, or any variation of such contributions by two or more parties, so that it results in the growing of potatoes for market and the authority to transfer title to the potatoes so produced.

(h) "Producer" means any person defined as a producer in the plan, engaged in the growing of 5 or more acres of potatoes and who: (1) Owns and farms land, resulting in his ownership of the potatoes produced thereon; (2) rents and farms land, resulting in his ownership of all or a portion of the potatoes produced thereon; or (3) owns land which he does not farm and, as rental for such land, obtains the ownership of a portion of the potatoes produced thereon. Ownership of, or leasehold interest in, land and the acquisition, in any manner other than as hereinbefore set forth, of legal title to the potatoes grown thereon shall not be deemed to result in such owners or lessees becoming producers.

§ 1207.202 Voting.

(a) Each person who is a producer, as defined in this subpart, at the time of the referendum and who also was a producer during the representative period, shall be entitled to only one vote in the referendum, except that in a landlord-tenant relationship, wherein each of the parties is a producer, each such producer shall be entitled to one vote in the referendum.

(b) Proxy voting is not authorized but an officer or employee of a corporate producer, or an administrator, executor or trustee of a producing estate may cast a ballot on behalf of such producer or estate. Any individual so voting in a referendum shall certify that he is an officer or employee of the producer, or an administrator, executor, or trustee of a producing estate, and that he has the authority to take such action. Upon request of the referendum agent, the individual shall submit adequate evidence of such authority.

(c) Each producer shall be entitled to cast only one ballot in the referendum.

§ 1207.203 Instructions.

The referendum agent shall conduct the referendum, in the manner herein provided, under supervision of the Administrator. The Administrator may prescribe additional instructions, not inconsistent with the provisions hereof, to govern the procedure to be followed by the referendum agent. Such agent shall:

(a) Determine the time of commencement and termination of the period of the referendum, and the time prior to which all ballots must be cast.

(b) Determine whether ballots may be cast by mail, at polling places, at meetings of producers, or by any combination of the foregoing.

(c) Provide ballots and related material to be used in the referendum. Ballot material shall provide for recording essential information for ascertaining (1) whether the person voting, or on whose behalf the vote is cast, is an eligible voter, (2) the acreage of potatoes produced by the voting producer during the representative period, and (3) the total volume in hundredweight of potatoes produced during the representative period.

(d) Give reasonable advance notice of the referendum (1) by utilizing without advertising expense available media of public information (including, but not being limited to, press and radio facilities) serving the production area, announcing the dates, places, or methods of voting, eligibility requirements, and other pertinent information, and (2) by such other means as said agent may deem advisable.

(e) Make available to producers instructions on voting, appropriate ballot and certification forms, and, except in the case of a referendum on the termination or continuance of a plan, a summary of the terms and conditions of the plan: *Provided*, That no person who claims to be qualified to vote shall be refused a ballot.

(f) If ballots are to be cast by mail, cause all the material specified in paragraph (e) of this section to be mailed to each producer whose name and address is known to the referendum agent.

(g) If ballots are to be cast at polling places or meetings, determine the necessary number of polling or meeting places, designate them, announce the time of each meeting or the hours during which each polling place will be open, provide the material specified in paragraph (e) of this section, and provide for appropriate custody of ballot forms and delivery to the referendum agent of ballots cast.

(h) At the conclusion of the referendum, canvass the ballots, tabulate the results, and, except as otherwise directed, report the outcome to the Administrator and promptly thereafter submit the following:

(1) All ballots received by the agent and appointees, together with a certificate to the effect that the ballots forwarded are all of the ballots cast and received by such persons during the referendum period;

(2) A list of all challenged ballots deemed to be invalid; and

(3) A tabulation of the results of the referendum and a report thereon, including a detailed statement explaining the method used in giving publicity to the referendum and showing other information pertinent to the manner in which the referendum was conducted.

§ 1207.204 Subagents.

The referendum agent may appoint any person or persons deemed necessary or desirable to assist said agent in performing his functions hereunder. Each person so appointed may be authorized by said agent to perform, in accordance with the requirements herein set forth, any or all of the following functions (which, in the absence of such appointment, shall be performed by said agent):

(a) Give public notice of the referendum in the manner specified herein;

(b) Preside at a meeting where ballots are to be cast or as poll officer at a polling place;

(c) Distribute ballots and the aforesaid texts to producers and receive any ballots which are cast; and

(d) Record the name and address of each person receiving a ballot from, or casting a ballot with, said subagent and inquire into the eligibility of such person to vote in the referendum.

§ 1207.205 Ballots.

The referendum agent and his appointees shall accept all ballots cast; but, should they, or any of them, deem that a ballot should be challenged for any reason, said agent of appointee shall endorse above his signature, on said ballot, a statement to the effect that such ballot was challenged, by whom challenged, the reason, said agent or appointee shall envestigations made with respect thereto, and the disposition thereof. Invalid ballots shall not be counted.

§ 1207.206 Referendum report.

Except as otherwise directed, the Administrator shall prepare and submit to the Secretary a report on results of the referendum, the manner in which it was conducted, the extent and kind of public notice given, and other information pertinent to analysis of the referendum and its results.

§ 1207.207 Confidential information.

All ballots cast and the contents thereof (whether or not relating to the identity of any person who voted or the manner in which any person voted) and all information furnished to, compiled by, or in possession of, the referendum agent shall be treated as confidential.

Subpart—Rules of Practice Governing Proceedings on Petitions To Modify or To Be Exempted From Plans

§ 1207.250 Words in the singular form.

Words in this subpart in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 1207.251 Definitions.

As used in this subpart, the terms as defined in the act shall apply with equal force and effect. In addition unless the context otherwise requires:

(a) The term "act" means the Potato Research and Promotion Act, Public Law 91–670, 91st Congress, approved January 11, 1971 (84 Stat. 2041);

(b) The term "Department" means the U.S. Department of Agriculture;

(c) The term "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereinafter be delegated, to act in his stead;

(d) The term "examiner" means any hearing examiner in the Office of Hearing Examiners, U.S. Department of Agriculture;

(e) The term "Administrator" means the Administrator of the Consumer and Marketing Service, with power to redelegate, or any officer or employee of the Department to whom authority has been delegated, or to whom authority may hereafter be delegated, to act in his stead;

(f) The term FEDERAL REGISTER means the publication provided for by the act of July 26, 1935 (49 Stat. 500), and acts supplementary thereto and amendatory thereof;

(g) The term "plan" means any plan or any amendment thereto which may be issued pursuant to the act;

(h) The term "person" means any individual, partnership, corporation, association, or other entity subject to a plan or to whom a plan is sought to be made applicable, or on whom an obligation has been imposed or is sought to be imposed under a plan;

(i) The term "proceeding" means a proceeding before the Secretary arising under section 311(a) of the act;

(j) The term "hearing" means that part of the proceeding which involves the submission of evidence;

(k) The term "party" includes the Department;

(l) The term "hearing clerk" means the hearing clerk, U.S. Department of Agriculture, Washington, D.C.;

(m) The term "presiding officer" means the examiner conducting a proceeding under the act;

(n) The term "presiding officer's report" means the presiding officer's report to the Secretary and includes the presiding officer's proposed (1) findings of fact and conclusions with respect to all material issues of fact, law or discretion, as well as the reasons or basis therefor, (2) order, and (3) rulings on findings, conclusions and orders submitted by the parties;

(o) The term "petition" includes an amended petition.

§ 1207.252 Institution of proceeding.

(a) *Filing and service of petition.* Any person subject to a plan desiring to complain that any plan or any provision of any such plan or any obligation imposed in connection therewith is not in accordance with law, shall file with the hearing clerk, in quadruplicate, a petition in writing addressed to the Secretary. Promptly upon receipt of the petition, the hearing clerk shall transmit a true copy thereof to the Administrator and the General Counsel, respectively.

(b) *Contents of petition.* A petition shall contain:

(1) The correct name, address, and principal place of business of the petitioner. If petitioner is a corporation, such fact shall be stated, together with the name of the State of incorporation, the date of incorporation, and the names, addresses, and respective positions held by its officers and directors; if an unincorporated association, the names and addresses of its officers, and the respective positions held by them; if a partnership, the name and address of each partner;

(2) Reference to the specific terms or provisions of the plan, or the interpretation or application thereof, which are complained of;

(3) A full statement of the facts (avoiding a mere repetition of detailed evidence) upon which the petition is based, and which it is desired that the Secretary consider, setting forth clearly and concisely the nature of the petitioner's business and the manner in which petitioner claims to be affected by the terms or provisions of the plan or the interpretation or application thereof, which are complained of;

(4) A statement of the grounds on which the terms or provisions of the plan, or the interpretation or application thereof, which are complained of, are challenged as not in accordance with law;

(5) Prayers for the specific relief which the petitioner desires the Secretary to grant;

(6) An affidavit by the petitioner, or if the petitioner is not an individual, by an officer of the petitioner having knowledge of the facts stated in the petition, verifying the petition.

(c) *An application to dismiss petition—(1) Filing, contents, and responses thereto.* If the Administrator is of the opinion that the petition, or any portion thereof, does not substantially comply, in form or content, with the act or with the requirements of paragraph (b) of this section, he may, within 30 days after the

filing of the petition, file with the hearing clerk an application to dismiss the petition, or any portion thereof, on one or more of the grounds stated in this paragraph. Such application shall specify the grounds of objection to the petition and if based, in whole or in part, on allegations of fact not appearing on the face of the petition, shall be accompanied by appropriate affidavits or documentary evidence substantiating such allegations of fact. The application may be accompanied by a memorandum of law. Upon receipt of such application, the hearing clerk shall cause a copy thereof to be served upon the petitioner, together with a notice stating that all papers to be submitted in opposition to such application, including any memorandum of law, must be filed by the petitioner with the hearing clerk not later than 20 days after the service of such notice upon the petitioner. Upon the expiration of the time specified in such notice, or upon receipt of such papers from the petitioner, the hearing clerk shall transmit all papers which have been filed in connection with the application to the Secretary for his consideration.

(d) *Further proceedings.* Further proceedings on petitions to modify or to be exempted from plans shall be governed by §§ 900.52(c)(2) through 900.71 (excluding § 900.70) of this title (Rules of Practice Governing Proceedings on Petitions to Modify or To Be Exempted From Marketing Orders except that all references to marketing orders shall mean plan), and as may hereafter be amended, and the same are incorporated herein and make a part hereof by reference.

Dated: November 16, 1971.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.71-17032 Filed 11-19-71;8:51 am]

[7 CFR Part 1207]

[PRPA 1]

POTATO RESEARCH AND PROMOTION PLAN

Notice of Recommended Decision and Opportunity To File Written Exceptions

Pursuant to the rules of practice and procedure governing proceedings to formulate a plan under the Potato Research and Promotion Act (7 CFR Part 1207; 36 F.R. 3194), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to a proposed research and promotion plan for potatoes. This plan is proposed pursuant to the provisions of the Potato Research and Promotion Act (title III of Public Law 91-670, 91st Congress, approved January 11, 1971, 84 Stat. 2041) hereinafter called the "act."

Interested persons may file written exceptions to this recommended decision with the Hearing Clerk, Room 112-A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than the close of business on the 15th day after publication of this recommended decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate. All such communications will be made available for inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Preliminary statement. The public hearing, on the record of which the proposed plan was formulated, was held at Denver, Colo., June 22 and 23, at San Francisco, Calif., June 29, and at Washington, D.C., on July 7, 1971. This hearing was held pursuant to notice thereof which was published in the May 8, 1971, issue of the FEDERAL REGISTER (36 F.R. 8588). Such notice set forth a proposed plan submitted by the National Potato Council on behalf of potato producers in the 48 contiguous States of the United States.

Material issues. The material issues presented on the record of hearing are as follows:

(1) The existence of the right to exercise Federal jurisdiction;

(2) The need for the proposed research and promotion plan to effectuate the purposes of the act;

(3) The definition of the commodity to be covered by the proposed plan;

(4) The identity of the persons and transactions to be assessed; and

(5) The specific terms and provisions of the proposed plan including:

(a) Definitions of terms used therein which are necessary and incidental to attain the declared objectives of the act;

(b) The establishment, maintenance, composition, powers, duties, and operation of a board which shall be the administrative agency for this program;

(c) The authority to incur expenses and to levy assessments on potatoes handled;

(d) The authority for the establishment and carrying out of research and promotion projects and programs for potatoes and potato products;

(e) The procedure for making refunds of assessments to producers who request them;

(f) The procedure for establishing reporting and recordkeeping requirements upon handlers; and

(g) The need for additional terms and conditions as set forth in §§ 1207.360 through 1207.366 which are necessary to effectuate the provisions of the act.

Findings and conclusions. The findings and conclusions on the material issues, all of which are based upon the evidence presented at the hearing and the record thereof, are as follows:

(1) Potatoes are grown in some quantity in each of the 48 contiguous States of the United States, but the largest percentage of the commercial crop is produced in several leading States and, for the most part, such potatoes are shipped in interstate commerce.

In 1970, over a third of the total potato crop was produced in two States, and more than 80 percent of the crop was produced in 10 States. In contrast, few of the more densely populated States produce enough potatoes to meet consumer requirements. As a result, potatoes and potato products move in large volume across State lines from producing to consuming areas.

Exhibit 20, "Fresh Fruit and Vegetable Unload Totals," shows 1970 unloads of fresh potatoes in 41 cities of the United States and Canada. These unloads, totaling approximately 159,000 carlots, show that most of the shipments recorded moved across State lines in reaching market. Some potatoes are also consumed within the States where they were grown, but even these affect interstate commerce since they compete with other potatoes that have originated elsewhere. With modern communications, potato prices or supplies in any one area are promptly known in all other areas and have a direct effect on potato prices in all producing areas.

The record evidence is in accordance with the finding in the act that all potatoes produced in the United States are either in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in potatoes and potato products. Hence, it is concluded that the right to exercise Federal jurisdiction with respect to the proposed plan, as hereinafter set forth, is established.

(2) Commercial potato production in the United States is a highly specialized business requiring large capital investment. Problems facing potato growers today are far more complex than they were prior to the Second World War.

Shifts in geographical areas of production, changes in varieties grown, shifts to fewer and larger farms, and marked changes in mechanization and crop utilization, all have contributed to new problems for potato growers in recent years.

Potatoes have been free from Federal control programs for many years. That is, there are no allotments, production quotas, subsidies, or price guarantees. The only nationwide programs assisting potato growers have been the plentiful foods promotion, the purchase of some quantities of dehydrated products for distribution under food help programs of the U.S. Department of Agriculture, and an occasional governmental diversion program during periods when the market suffered severe demoralization. These have helped alleviate economic pressures on potato producers. Yet the potato industry continues to struggle with recurring problems of low prices and a low level of consumption.

A review of prices relative to parity clearly substantiates a need for action to bolster the potato business. During the past 5 years the monthly U.S. average price of potatoes has exceeded parity only one time; in July, 1970, it stood at 112 percent of parity. But prices dropped to 79 percent the following month. The low for the period was 51 percent of parity in March of 1968. The average price received by farmers for potatoes in 1967 was 65 percent of parity; in 1968, 75 percent; 1969, 71 percent; 1970, 68 percent; and for the first 5 months of 1971 it was only 64 percent.

Between 1959 and 1964 this country lost 55 percent of its potato farmers. Census data for 1969 are not yet available, but preliminary indications are that the number of potato farmers has continued to decline sharply.

Per capita consumption figures show that the average American in the early 1950's ate about half as many potatoes per year as his ancestors did in 1910. Since the mid-1950's, however, there has been a gradual increase in per capita consumption due mainly, it is believed, to the popularity of new processed products which make it easier to use potatoes in preparing meals at home and in commercial and institutional kitchens.

The decline in the per capita consumption from the high level of former years is believed to be partly due to the opinion prevalent among many people that potatoes are fattening. Actually potatoes are a wholesome, highly nutritious food, rich in vitamins and minerals necessary in our daily diet. Potatoes are an economical food. They provide a source of low-cost energy to the human diet, a fact well recognized in many parts of the world where the per capita consumption is considerably higher than in the United States.

Potato producers have been trying for decades to agree on some type of voluntary, cooperative action to help solve their problems. So far they have made no progress. However, a national program of research and promotion has received widespread support by the industry. Spokesmen in all producing sections of the United States have generally voiced approval of this approach. They also have given strong backing to research designed to improve handling and marketing practices. Promotion and research can help keep the potato industry healthy and prosperous for the benefit of producers and consumers alike.

It is concluded, from the record evidence, that there is an urgent need by the potato industry for a plan such as recommended herein in order to effectuate the policy of the act.

(3) The definition of the agricultural commodity to be subject to the provisions of the plan is necessary to distinguish it from other agricultural commodities.

The definition of "potatoes" should include all varieties of Irish potatoes grown by producers in the production area, which in this plan is comprised of the 48 contiguous States. This agricultural commodity is botanically known as "Solanum Tuberosum." It is commonly known in the producing sections of the United States and in the terminal markets as "potatoes" or "Irish potatoes." The term does not include sweet potatoes which are a different commodity. Irish potatoes include all varieties, regardless of their shape or color.

(4) The term "producer" under this proposed plan should mean any person engaged in the growing of five or more acres of potatoes. The term needs to be defined to indicate specifically those individuals who would have a right to vote for nominees for membership on the Board as well as to be nominated for such membership and for use in other provisions of the plan.

In the United States potatoes are grown by many people, with the producing enterprises ranging in size from a row or two up to many hundreds of acres. During the hearings on a national program of research and promotion, both in Congress and with regard to the proposal herein, it was indicated that persons growing less than five acres of potatoes were not commercial producers. Therefore, such persons should not be included under the provisions of this plan. However, record evidence is that five acres or more should be a requirement for classification as a producer.

"Producer" should include any person who owns or shares in the ownership and risk of loss of five acres or more of potatoes such as a land owner, landlord, tenant or sharecropper. The person who owns and farms land resulting in his ownership of the potatoes produced on such land should clearly be considered a producer. The same is true with respect to the person who rents and farms land resulting in his ownership of all or a part of the potatoes produced thereon. Likewise, a person who owns land, which he does not farm, but as rental for such land obtains the ownership of a portion of the potatoes produced thereon, should be regarded as a producer of that portion received as rent, and the tenant on such land should be regarded as a producer for the remaining portion produced on such land. In each of the above situations the person involved in production, regardless of whether an individual, partnership, association, corporation, or other business unit should be considered as one producer entitled to one vote. Normally, a husband and wife operation would be considered a partnership and be entitled to one vote.

A substantial quantity of potatoes are produced under divided ownership, or joint venture, arrangements. Each party to such an arrangement should be considered a producer, provided each had a proprietary interest in the potatoes produced by the venture. "Proprietary interest" is construed as sharing in the risk of loss.

In summary, two primary criteria qualify a person as a producer (1) he has title to the potatoes or a portion of the potatoes produced and can transfer such title or interest, and (2) the farming operation consists of five or more acres of potatoes.

The term "handle" should be defined in the plan to determine those transactions which fall within the authority for regulation under this program. "Handle" should include each of the activities which place the potatoes in the current of commerce or cause the potatoes to be placed in the current of commerce. It should include not only the first act of handling, or placing the potatoes in the current of commerce, but each succeeding action until the potatoes are finally disposed of. This is desirable and appropriate so that each person who is responsible for performing any such action or function will have appropriate responsibility for complying with the terms of the plan as they relate to handling.

The growing and harvesting of potatoes are considered to be producer functions and should be construed as operations of the producer in his capacity as a producer. The movement of ungraded potatoes by a producer to a handler for storage or preparation for market also is a producer function.

It is a common practice during the harvest season for some potatoes to move directly from the field to fresh market. However, the great bulk of the potatoes harvested are: (1) Subjected to grading and packaging operations prior to movement to fresh market channels, (2) transported to warehouses for storage and from thence they are graded and packed for later sale, or (3) transported or delivered to processing plants for various types of processing. For purposes of this plan, it is recognized that ungraded potatoes transported by the producer would not have been prepared for market and most buyers and sellers would not consider such potatoes as appropriate products for commercial transactions. As such, they had not yet entered the stream of commerce.

Therefore, an exception should be included in the definition of "handle" stating that such term shall not include the transportation or delivery of field-run potatoes by the producer thereof to a handler for grading, storage, or processing.

Since the obligations for payment of assessments and for keeping records and preparing reports under this plan are based on handling, and the act as well as the plan specify that the Board should designate the persons so responsible, it would simplify operations under the plan if the Board would designate the class or classes of handling or type of operation which would make a person or firm responsible for the payment of the assessment and other obligations under the plan.

The term "handler" should be defined to identify the persons who handle potatoes in the manner described in the definition of "handle" because they are to be subject to the regulations to be authorized by the plan. The term "handler" is important under the act and in the provisions of the plan because the designated handler is the person or firm responsible for the payment of the assessment under this plan. He is also the person responsible for keeping certain records and for making reports to the Board.

Any person who engages in the act or acts of handling potatoes, or who causes potatoes to be handled, is a handler. He is the one responsible for placing the potatoes in the current of commerce. The term handler should include any individual, partnership, corporation, association, or any other business unit which handles potatoes or causes potatoes to be handled. The definition should not only include the first handler but also each succeeding handler until the potatoes are disposed of.

A producer who handles the potatoes he has produced is considered to be a handler when he performs the handling function on such potatoes. For example, if a producer were to sell his potatoes to an itinerant trucker, he would be placing his potatoes in the current of commerce and thus would be a handler under the proposed plan. The act of selling to the trucker makes the producer a handler.

The term handler should not include a common or contract carrier transporting potatoes which are owned by another person. Such carriers are performing a handling function but the sole interest of the common or contract carrier is to transport the potatoes for a service charge to a destination selected by others. They are not the ones responsible for the introduction of the potatoes in the stream of commerce and therefore they should not be responsible for the payment of assessments and filing the reports required of handlers.

It is probable that there will often be more than one handler for a given lot of potatoes handled. However, there can be only one assessment on any lot. It is intended that the first handler of potatoes produced on 5 or more acres, in most cases would be the one to pay the assessment and be responsible for the records and reports to the Board.

There may be instances of handling, however, in which the first handler would not be the one designated to pay the assessment. For example, a producer who delivers partially graded or "rough graded" potatoes to a handler for further grading or processing would be the first handler of such potatoes. However, such potatoes have not been fully prepared for market and it might be more practical for the receiver—the second handler—of such potatoes to be responsible for the payment of the assessment. In such an instance, the second handler's responsibility for payment of the assessment could be specified by regulations.

(5)(a) Certain terms applying to specific individuals, agencies, legislation, concepts, or things are used throughout the plan. These terms should be defined for the purpose of designating specifically their applicability and establishing appropriate limitations on their respective meanings wherever they are used.

"Secretary" should be defined to include not only the Secretary of Agriculture of the United States, the official charged by law with the responsibility for this plan, but also, in order to recognize the fact that it is physically impossible for him to perform personally all functions and duties imposed upon him by law, any other officer or employee of the U.S. Department of Agriculture who is, or who may hereafter be, authorized to act in his stead.

The definition of "act" provides the correct legal citation for the statute pursuant to which the proposed plan may be put into effect and operated. The inclusion of this definition will make it unnecessary to refer to such law and statutory citation every time reference is made to the act in the provisions of the plan. "Act" should also be defined to include any future amendments that may be made to the Potato Research and Promotion Act.

The definition of "person" follows the definition of that term as set forth in the act, and will insure that it will have the same meaning as it has in the act.

The definition of "plan" simply fulfills a requirement of the act which states that any order issued by the Secretary pursuant to the act shall be referred to as a "plan." The definition of "plan" as set forth in the notice of hearing refers to the order to be issued by the Secretary authorizing a program of research and promotion for potatoes. The definition of plan should also include any amendments thereto.

"Fiscal period" and "marketing year" should be defined as set forth in the notice of hearing so that each will comprise a definite 12-month period. The beginning of the fiscal period, according to the record, should coincide with the beginning of terms of office of Board members so that the beginning of the period for the budget, expenditures, and audits would be clearcut and identifiable as between one Board and the following Board. The Board is required to have its books audited at the end of each fiscal period. The Board should be able to recommend a change in the dates if they do not work out well as proposed initially. For example, the Board might wish to recommend that the marketing year begin on a different date than the fiscal period. The proposed section would permit this flexibility.

"Programs" and "projects" should be defined to indicate the type of activities which may be recommended by the Board. These terms are not intended to be limiting, but rather to include any types of research, development, advertising and promotion which may be authorized.

(b) An administrative agency to be known as the "National Potato Promotion Board," should be established to administer the plan. The Board should be composed of potato producers selected by the Secretary from nominations made by producers.

The composition of the Board should reflect several important factors. Potatoes are grown in all 48 contiguous States, so producers in all these States should be represented. Also, proportionate representation should be given to those States with the greatest production of potatoes. At the same time, it should be recognized that with an overly large Board, the administrative cost of Board meetings conceivably could be relatively high, thereby reducing the amount of money available for carrying out the programs and projects.

The problems of equitable representation and practical administration should be resolved by having each State entitled to one member on the Board for each 5 million hundredweight, or major portion thereof, but with each State entitled to at least one member. Membership should be determined on the basis of potato production as reported in the latest Crop Production Annual Summary Report issued by the Crop Reporting Board of the U.S. Department of Agriculture.

The foregoing method of selecting Board members would provide equitable representation for potato producers in all of the 48 States. The record evidence shows, however, that some flexibility should be included in the provisions for establishment and membership. For example, in the event potato producers in any State do not respond to an officially called nomination meeting, the Secretary should have the authority to combine such a State with a nearby State for the purpose of representation. Also, in the event of significantly changing conditions in the future, the Secretary should have the authority, upon recommendation of the Board, to establish groups of States in order to change the representation requirements for membership on the Board. Growers in the affected States should, however, be afforded an opportunity to be heard in regard to such changes. This could be accomplished through rule making procedure.

On the basis of the 1970 crop summary report, Exhibit No. 9, the initial method of selection would result in a Board of 93 members. The cost of travel and expenses for such a Board might be high, if there were a number of meetings during the year. However, in order to keep the administrative costs of the Board at a reasonable level the Board should give consideration to holding only one regular meeting of the Board each year. This would be the organizational meeting at which time the election of officers would be held. Also, at this meeting the Board would establish its policy for the ensuing year, including the important business of establishing priorities for certain research and promotion activities. The Board could then appoint or select an administrative committee and charge it with the responsibility of carrying out the administrative functions of the Board in accordance with the policy adopted. Members of the administrative committee could meet as often as necessary at moderate costs. The administrative committee would report its actions to the Board and to the Secretary. By this method, the total administrative costs would be held at a reasonable level. Limitations on the powers of the administrative committee should be set forth in the bylaws of the Board.

The Board should be responsible for determining its organizational structure, including the selection of an administrative committee and the functions of such committee. As a guide for the Board, proponents proposed an administrative committee composed of 18 members to be selected as follows: Six officers to be elected by the membership of the Board, including a president, three vice presidents, a secretary and a treasurer. The six officers thus elected would select the additional members of the committee, all of whom must be approved by the Board.

For purposes of selecting officers and other administrative committee members, proponents proposed dividing the production area into six geographic districts, with one of the six officers from each district. The Northeast District would include the States of Pennsylvania, New Jersey, New York, Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire, and Maine. The Southeast District would include the States of Louisiana, Arkansas, Mississippi, Tennessee, Kentucky, Alabama, Florida, Georgia, South Carolina, North Carolina, Virginia, West Virginia, Maryland, and Delaware. The North Central District would include the States of Ohio, Indiana, Illinois, Missouri, Iowa, Nebraska, South Dakota, North Dakota, Minnesota, Wisconsin, and Michigan. The South Central District would include the States of Kansas, Colorado, New Mexico, Oklahoma, and Texas. The Northwest District would include the States of Montana, Wyoming, Idaho, Oregon, and Washington. The Southwest District would include the States of Arizona, California, Nevada, and Utah.

This administrative committee proposal appears to be a reasonable and practical method of administration. However, it is described only as an example of an approach which the Board might select. Any other administrative approach could be recommended by the Board and approved by the Secretary.

The term of office for Board members should be 3 years, after the initial Board has been selected as set forth in the proposed plan. It is important that the terms be staggered. This will provide continuity and, at the same time, it will reflect any changes in the thinking of producers. Members of the initial board should serve 1-, 2-, and 3-year terms, approximately a third of the members should fall into each category. One method of determining which members should serve for 3, 2, and 1 year terms could be accomplished by drawing names within each State delegation in which the first name drawn would serve 3 years, the second for 2 years, and third for 1 year. All States with one Board member could be combined in a single drawing to insure a balanced turnover of terms of offices of Board members.

Limiting members to two full successive terms would insure that new members would be coming into the organization with new ideas responsive to the needs of the industry.

The provision that a member shall continue to serve until such time as his successor is selected and has qualified would assure continuity of representation. The provisions as set forth in the notice of hearing for the term of office are appropriate. However, if it should be decided at a later date that the term of office of members should begin on some other date than July 1, the plan should provide for such a change.

Once the Board is organized and functioning as an entity it should be able to call nomination meetings in each State so as to provide the Secretary with at least one nominee for each position to be filled.

Nominations should be held by a date that will give the Secretary ample time to select the members before the next term of office begins and a list of the nominees should be furnished the Secretary promptly after each meeting. Adequate notice should be provided to producers and to the Secretary of each nomination meeting. They should be open meetings, well publicized and impartially conducted. Since only producers may nominate and be nominated, any person may be called upon to provide proof of his eligibility.

The proposed plan, as published in the notice of hearing, provided for the National Potato Council to hold, or cause to be held, the initial nomination meetings for electing nominees for membership on the first Board.

Testimony was presented at the hearing against permitting a single organization to hold the initial nomination meetings.

So that no undue burden of responsibility is placed on a single industry organization, initial nomination meetings shall be sponsored by the U.S. Department of Agriculture.

The Department may call upon other organizations or agencies to assist in conducting the meetings, such as State and national organizations of potato producers. Adequate notice of such meetings must be given to the potato producers affected; also to the Secretary so that a representative of the Secretary, if available, may conduct such meetings or act as secretary at such nomination meetings.

To vote in nomination meetings in any State a person must be a producer in such State.

A person growing potatoes in more than one State should choose the State in which he wants to participate in a nomination meeting. He should be allowed to participate in such nominations in only one meeting. Each producer should have one vote for each nominee vacancy.

Persons selected as Board members should qualify by filing a written acceptance promptly after being notified of their selection so that the Board and the Secretary will know they have accepted their appointments.

It is probable that some Board members will be unable to complete their terms of office. In the event a vacancy occurs, the Board should, at the appropriate time, call a nomination meeting in the State and a successor should be nominated. If the Board should fail to hold such meeting, or the State should fail to submit the name of a nominee, then the Secretary should proceed with an appointment of his own choosing, but such an appointee must be an eligible producer in the State to be represented.

The procedure for conducting meetings of the Board should conform with the bylaws to be adopted by the Board and approved by the Secretary. However, such matters as the method of voting and what constitutes a quorum should be set forth in the plan.

The record evidence indicates that when the Board assembles, a majority should be necessary to constitute a quorum. Also, the plan should provide that any action taken by the Board should require the concurrence of a majority of the votes cast.

When a vote is taken by the Board on any issue before it, the votes which each State may cast should be determined by the State's total production. Each State should be eligible to cast one vote for each 1 million hundredweight of production, or major fraction thereof, except that a State with less than 1 million hundredweight should be eligible to cast one vote. The votes that each State is eligible to cast should be cast as determined by the members of the Board from that State. Such State may vote en bloc, or the members of such State may divide the vote in any manner they desire, so long as fractional votes are not cast. No fractional votes should be permitted.

It should be provided that in any State that has more than one member on the Board, a duly authorized proxy may be voted, but only by a fellow Board member from that State. Such proxy should be deemed as a person present for the purpose of a quorum. Also, such a proxy, to be valid, should be a specifically directed proxy on a single previously announced issue. No blanket proxy should be accepted.

The Board should have authority to follow procedures which will assure that it operates properly and efficiently. In order to facilitate the transaction of routine, noncontroversial, or emergency matters, the Board should have the authority to conduct meetings by mail, telephone, or telegraph. Any votes cast by telephone should be confirmed promptly in writing to provide a record of how each member voted.

Whenever the Board members are acting on behalf of the Board, whether by traveling to meetings or on special assignments, their expenses should be reimbursed. It would be unfair for them to bear personally such expenses incurred in the interests of all potato producers. If an actual expense reimbursement procedure is preferred, the Board should adopt a standard expense account form and expense reimbursements should be made only when properly requested on such form and accompanied by receipts for all travel, room accommodations, and other reasonable expenses. However, a per diem rate in lieu of itemized expense reimbursement should be permitted. Board members should serve without compensation.

The Board should be given those specific powers which are set forth in section 308(a) of the act because such powers are necessary for an administrative agency, such as the Board, to carry out its proper functions. The Board should have the power and the responsibility to administer the plan and to carry out the authorized programs and projects. The Secretary has the responsibility to see that the Board does not exceed its authority.

The Board should have the power to develop and recommend rules and regulations which will be the mechanics or procedures by which the Board will carry out its responsibilities under the plan. If the Secretary determines that such recommended rules would tend to effectuate the policy of the act, he would then issue a rule or regulation.

Such rules or regulations would specify the assessment to be paid, which handlers would be responsible for the payment of assessments, when and how they are to be paid, and other requirements of the plan.

It is possible that violations of the regulations may occur. The Board should promptly investigate violations and rumors of violations. A policy should be established and a procedure developed for handling violations. The Board should make every effort to make collections and settle alleged violations. However, in those rare cases when the Board cannot effect proper settlement, then the Board should report such violations to the Secretary for appropriate legal action.

The duties of the Board, as set forth in the proposed plan, are necessary for the discharge of its responsibilities. These duties are similar to those generally specified for administrative agencies of this character. They are reasonable and necessary if the Board is to function in the manner prescribed under the act. Such duties are not necessarily all inclusive.

They include such duties as to meet and organize and to select from among its members a president and such other officers as may be necessary; to select committees and subcommittees of Board members and to adopt such rules for its conduct as it may deem advisable. The Board should also be authorized to establish advisory committees of persons other than Board members. Proponent witnesses testified that, while the Board is to be composed only of producers, the knowledge of shippers, handlers, processors, distributors, regional association executive personnel and others connected with the potato industry would be of great and significant value in assisting the Board formulate plans and make decisions. This contention is valid. The purpose of each advisory committee would be to recommend to the Board the programs or projects which would be in the best interest of their particular phase of the industry. It is therefore desirable for the Board to have authority to appoint these special committees which would not have voting rights but would serve in an advisory capacity. It is proper that the members of the advisory committee be reimbursed for necessary expenses incurred by them in connection with this plan.

Record evidence is that the financial affairs of the Board should be audited at least once each fiscal year by a "certified public accountant" and that paragraph (f) of § 1207.328 should be amended accordingly. Also, in paragraph (i) of the same section, the provision that the Board furnish the Secretary such information as he may request is not meant to infer that the Board will be required to go to great lengths or expense to obtain information for the Secretary which may not be available. It means that the Board should make reasonable efforts to obtain the information requested by the Secretary.

(c) The act provides that funds for operation of this plan shall be acquired from assessments levied on handlers. The rate of assessment should be established each fiscal period by the Secretary, upon recommendation of the Board, or other available information, to the extent that such rate is consistent with the policy of the act. Such rate of assessment may not exceed one cent per one hundredweight of potatoes handled.

To conform to good business practice, at the beginning of each fiscal period, and as may be necessary thereafter, the Board should prepare and submit to the Secretary a budget of anticipated expenses and a proposed rate of assessment for the ensuing fiscal period. The budget should show estimates of income and expenditures with an analysis of its components and an explanation thereof in the form of a report.

Handlers responsible for payment of assessments under such a plan may collect them from the producer or deduct them from proceeds paid the producer. The record evidence indicates that only certain types or classes of handlers should be required to remit assessments. For purpose of administration, provision should be made to distinguish those handlers that are required to pay assessments. Each such person could be appropriately called a "designated handler" and should be defined as the handler required to pay and remit assessments in accordance with regulations issued under the plan.

Record evidence shows that marketing practices differ considerably in the various potato producing areas of the United States. Differences may occur depending on whether potatoes are sold for seed, fresh market, or for use in processed potato products. Testimony also shows that even an individual producer does not always sell his crop in the same manner each year. In order to most effectively cope with these differences, regulations should be issued governing collection of assessments. Such regulations should describe the particular handler who would be responsible for remitting assessments in any given handling situation. The record shows that in most cases the handler who first purchases the potatoes from the grower, or who applies for Federal-State inspection, should be the "designated handler" required to remit assessments. Of course, as previously noted in the definition of "handle" the grower who performs the handling operations becomes a handler and, as such, he may become responsible for payment of the assessment. Proponents presented testimony on some 19 methods of handling potatoes and indicated who the "designated handler" should be in each typical handling situation. They also indicated that the Board should print and distribute a leaflet with as complete a list as possible of the different types of handling operations and indicate for each one the "designated handler" responsible for the assessments.

Since the act prohibits more than one assessment being made on any lot of potatoes, regulations governing collection of assessments should insure that any lot of potatoes would not be assessed more than once.

The act provides authority, and so should the plan, that potatoes used for nonfood purposes may be exempted from assessment. Record evidence indicates the desirability of exempting potatoes utilized in such nonfood outlets as livestock feed and starch manufacture. Testimony was given, however, that potatoes produced primarily for nonfood use should not be exempted from assessments. At this point in time, seed is the only nonfood outlet for which potatoes are specifically produced. However, other important nonfood outlets may be developed in the future and potatoes produced specifically for such outlets could be properly assessed. In order to provide flexibility in program operation, exemptions for potatoes used in nonfood outlets should be determined through rule making procedure. On the basis of the hearing evidence, it would appear appropriate to initially issue rules exempting from assessment all potatoes for nonfood uses other than seed.

Record evidence shows the producer is not always paid on the basis of the total weight of potatoes he sells. In some cases, a grower may deliver field-run potatoes to a handler and receive payment based on the marketable, or packout weight delivered. In such a case, assessment should be made on the quantity for which he was paid.

Various contractual arrangements and agreements are used frequently for production of potatoes. To insure equity in a case where more than one person has title to the potatoes, each person's share of the assessment should be in proportion to the amount of the crop to which he has title.

A number of potato promotion and research programs already are operating in the various States. Also, Federal and State marketing order programs regulate the sale of potatoes in many States. These programs, for the most part, are financed by the collection of assessments on potatoes handled. Authority should be provided in the plan that the Board may use available facilities of existing agencies or organizations to facilitate the collection of assessments. Reasonable compensation for such services should be permitted.

Designated handlers should be required to pay asessments to the Board promptly when they become due. A date 15 days after the end of the month in which potatoes were handled would be reasonable as a due date. Once potatoes are handled, as defined in regulations issued under the plan, the handler should be required to pay the assessment on them regardless of whether he has made settlement with the producer. In all cases in which the designated handler has collected such assessment from the producer, or deducted such assessment from the proceeds paid the producer, he should furnish the producer a receipt for such collection or deduction.

As a further consideration of the budget, good business practice requires consideration for contingencies. The Board should be authorized to set aside funds in an operating reserve and to budget for such a reserve. It would be impractical to plan and carry out many programs or projects on a short-term basis. Proponents stated that in practice, research and promotional efforts in a given year probably will be financed in part by money collected the previous year. The record evidence indicates that a reserve of not to exceed 2 years' expenses is needed so that if a crop disaster should occur, the assessment could be waived for 1 year. But by drawing on the reserve fund, the programs and projects could be continued to keep from losing the benefits of previous expenditures. Hence, the provision for a reserve fund as set forth in the proposal is necessary and appropriate.

(d) The Board should have the authority to determine the types of research, development, advertising, and promotion activities to be undertaken, and it should be charged with the responsibility for initiating and recommending to the Secretary the establishment of such projects as are authorized by the act.

The projects and programs should be designed to assist, improve, or promote the marketing, distribution, and consumption of potatoes and potato products. The authority should be broad and flexible to enable the Board to use the most efficient and effective methods for carrying out the purposes and policy of the act.

Record evidence indicates that the plan is not intended to reduce the efforts of groups within the potato industry who are presently engaged in such activities, nor to compete with such groups. All organizations which have been so engaged may continue to promote and advertise as well as engage in research and development projects for potatoes.

The Board should have the authority to recommend programs designed to expand sales in foreign markets for potatoes and potato products. The Board would be in an advantageous position to cooperate with other agencies in developing such export markets.

The provision that no advertising or promotion shall make any reference to private brand names is necessary to preclude discrimination. One way to diminish the usefulness of an activity such as this industry plan would be to show discrimination in any form. An organization, such as the proposed Board must be fair and helpful to all of the segments and elements of the potato industry.

However, the prohibition against private brand names should not preclude development of a national trademark or "logo" which could be used by all of the potato industry in the United States to designate a particular quality of potatoes if the Board finds that such a trademark or "logo" is desirable.

The prohibition on the use of false or unwarranted claims in behalf of potatoes or their products or false or unwarranted statements with respect to the attributes or use of competing products is also appropriate and necessary for proper administration of this plan. This provision is a safeguard against the possibility of over-zealous claims in behalf of potatoes and to forestall any derogatory statements about competing products.

It is probable that the Board will contract for all or most of the research, development, advertising, and promotion projects and programs with private and governmental agencies which are properly staffed and equipped to do the type of work needed. Prior to such contracting, of course, the approval of the Secretary will be needed to insure that the projects and programs contemplated are consistent with the terms and conditions of the plan.

While the programs or projects should be submitted to the Secretary for his approval, it is recognized that considerable study and planning are involved in the development of such activities; hence the incurring of expenses in connection with their development should be authorized on the basis of budgetary approval prior to the time such projects are submitted.

The establishment of advertising and promotion activities may open up areas where research will be needed. For example, the Board may want to institute a research project to evaluate the effects of advertising; or the Board may wish to start an advertising and promotion program on a small scale to test its effectiveness prior to expending large sums on a national scale.

Witnesses noted that the act and the proposed plan do not authorize quality control or supply management regulations. Therefore, in order to clarify this matter, they proposed an amendment to be added at the end of paragraph (b) of § 1207.335 *Research and promotion*, to read as follows: "*Provided*, That, quality control, grade standards and supply management programs shall not be conducted under, or as part of this plan." This proviso appears reasonable and this amendment has been added to the appropriate section of the proposal.

Record evidence indicates that the Board, in its research and promotional efforts, should treat all uses of potatoes fairly and equitably, whether the potatoes are in fresh or processed form. Common interest problems which may concern all industry segments should have priority. But promotion of individual types or products would also be reasonable and necessary and should be permitted. In so doing, however, all intent of favoritism should be avoided and each category should be given its proper share of consideration.

The record shows that production research, as such, is not intended under this plan but there may be need for some projects that could involve production in an indirect way. Such projects may be undertaken if they contribute to improved marketing of potatoes.

It is concluded, therefore, that the proposed provisions of the plan as modified on the basis of record evidence, and as hereinafter set forth, are comprehensive and flexible enough to enable the Board to develop and carry out whatever research, development, advertising and promotion activities are needed for potatoes.

(e) Provision for making refunds of assessments to producers who request them should be included in the plan. The act provides that any potato producer against whose potatoes assessment is made and collected, and who is not in favor of supporting the research and promotion, shall have the right to demand and receive from the Board a refund of such assessment. The demand should be made to the Board by the individual producer in accordance with regulations and on a form prescribed by the Board. The producer should be allowed at least 90 days from the date of payment to submit a request, and upon proof satisfactory to the Board that the producer paid the assessment, a refund should be made within 60 days after the request.

Testimony was given regarding the possibility that the Board might make the process of obtaining refunds so difficult that not many producers would request refunds. The record evidence, however, indicates that the refund forms should be readily available to producers in most producing areas or, in the case of isolated sections, they could be obtained by writing to the Board. Also, the provision that each producer who asks for a refund must individually request it does not mean that he must physically go to the office of the Board; it should mean that the producer must be the one to fill out the form requesting such refund and must provide the necessary information to show that he paid the assessment. Handlers, cooperatives, or others should not be able to request refunds on behalf of producers, but each producer should have to file his own request. If two or more persons shared title to a crop, each should be permitted to file a request form for the portion on which he paid the assessment. Handlers should not be entitled to refunds even though they paid the assessment without charging the producer. But, a handler who is also a producer and paid the assessment as a producer should be entitled to a refund. In any event, a producer should not be eligible for a refund unless he actually paid the assessment or the assessment was deducted from proceeds from his potatoes which were handled.

The Board should recommend, and the Secretary approve, regulations concerning the method of obtaining refunds together with the form to be used for such purpose.

(f) The procedure for establishing reporting and record keeping requirements which was set forth in the notice of hearing should be modified slightly in

accordance with the changes indicated in the record evidence.

The act requires that each designated handler shall maintain a record with respect to each producer for whom potatoes were handled. While it is difficult to anticipate every type of report or kind of information the Board may need in administering the plan, there was general agreement on the type of information which may be required.

Handlers' reports should show, for each producer including himself, the total quantity of potatoes handled subject to assessment and that not subject to assessment. The reports should show the name and address of each person from whom an assessment was collected or withheld, the date of the transaction, and the amount withheld or collected from each person. The most practical manner in which to provide standards for accomplishing this objective would be through rule making procedure. The Board should recommend, and the Secretary approve, rules and regulations which would require the least possible addition to records already being kept by handlers.

A question arose at the hearing as to the intent of section 310(a) of the act which requires designated handlers to keep a separate record with respect to each producer for whom potatoes were handled.

The intent of this requirement is to insure that the necessary information for each producer can be identified. It should not be interpreted to mean that handlers are required to keep an extra set of books if the necessary information can be included in their normal records.

Witnesses expressed concern that exposure of their books and records might reveal trade secrets. They indicated that only persons subject to the penalty provisions of section 310(c) of the act should have access to such records and reports. The record evidence indicates that the applicable provisions of the plan should be revised accordingly. Section 310(b) of the act with respect to record keeping states that handlers responsible for payment of assessments "shall maintain and make available for inspection by the Secretary such books and records as required by the plan and file reports at the time, in the manner, and having the content prescribed by the plan, to the end that information and data shall be made available to the Board and to the Secretary which is appropriate or necessary to the effectuation, administration, or enforcement of this title or of any plan or regulation issued pursuant to this title." Therefore, the plan should be made consistent with the act by providing that handlers shall maintain and make available for inspection by the Secretary such books and records as may be required by the plan pursuant to regulations.

Information obtained from handlers' books and records should be kept confidential by employees of the Board and of the Department of Agriculture. Certain employees of the Board must have access to handlers' reports in order to attend to bookkeeping duties.

The record indicates certain information obtained from reports may be quite beneficial to the industry in general. The plan should provide, as does the act, that information obtained from handlers' reports should not be released other than on a composite basis, and such releases should not disclose information concerning individual handlers' operations. The act also provides, as should the plan, that the Secretary may direct publication of the name of any person violating the plan and the provision violated by such person.

Since a question could possibly arise with respect to compliance, it would be appropriate to provide in the plan that handlers be required to maintain records with respect to this plan for 2 years beyond the marketing year of their applicability. Such a 2-year period should afford an adequate and reasonable time for access to such records and should not impose an undue burden on handlers since such records are generally retained for a similar period for purposes of regular business operations.

(g) Section 1207.360, as hereinafter set forth, appeared in the notice of hearing as § 1207.345. Its provisions prohibit the use of assessment funds to influence government policy or action. The only exception permitted would be in recommending amendments to the plan. The record shows that the Board, as well as the Secretary, should be careful about keeping the Board from entering into contracts with organizations which engage in efforts to influence government action or policy.

Section 1207.361, *Right of the Secretary*, specifies that all fiscal matters, programs or projects, rules or regulations, reports or other substantive action proposed by the Board shall be submitted to the Secretary for his approval. These provisions are necessary and appropriate, as the Secretary is charged by law with the responsibility for the administration of the plan in accordance with the policy and provisions of the act.

The provisions of §§ 1207.362 through 1207.366, as hereinafter set forth, are generally included in programs of this type. Each of such sections sets forth certain rights, obligations, privileges, or procedures which are necessary and appropriate for the effective operation of the plan. These provisions are incidental to, and not inconsistent with, the terms and conditions of the act, and they are necessary to effectuate the other provisions of the plan. The substance of such provisions, therefore, should be included in the plan.

Rulings on briefs of interested parties. At the conclusion of the hearing, the Presiding Officer fixed August 9, 1971, as the final date for interested parties to file briefs with respect to the evidence adduced at the hearing and the findings and conclusions to be drawn therefrom.

Briefs were filed by the following: J. D. Hays, president, Alabama Farm Bureau Federation, Montgomery, Ala.; Raymond D. Jones, Pillsbury Co., Minneapolis, Minn., on behalf of the Instant Potato Products Association; Leland Beebe on behalf of the New York Farm Bureau, Glenmont, N.Y.; and John L. Baxter, Jr., Lamb-Weston, Inc., Portland, Oreg.

Every point in each of the briefs was carefully considered along with the record evidence in making the findings and reaching the conclusions herein set forth. Several of the recommendations and suggestions were adopted and the provisions of the plan have been revised accordingly. To the extent that any suggested findings and conclusions contained in the briefs are inconsistent with the findings and conclusions contained herein they are denied on the basis of the facts found and stated in connection with this decision.

General findings. Upon the basis of the evidence introduced at the hearing and the record thereof it is found that:

(1) The proposed potato research and promotion plan and all of the terms and conditions thereof, as hereinafter set forth, will tend to effectuate the declared policy of the act; and

(2) All handling of potatoes as defined in the said plan, is in the current of interstate commerce, or directly burdens, obstructs, or affects interstate commerce in potatoes and potato products; and

(3) The following terms and conditions of the plan are recommended as the detailed means of carrying out the declared policy of the act with respect to the establishment of an orderly procedure for the financing, through adequate assessments on potatoes harvested in the production area for commercial use, and carrying out of a program of research, development, advertising, and promotion.

DEFINITIONS

§ 1207.301 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

§ 1207.302 Act.

"Act" means the Potato Research and Promotion Act (title III of Public Law 91-670, 91st Congress, approved January 11, 1971, 84 Stat. 2041).

§ 1207.303 Plan.

"Plan" means this potato research and promotion plan issued by the Secretary pursuant to the act.

§ 1207.304 Person.

"Person" means any individual, partnership, corporation, association, or other entity.

§ 1207.305 Producer.

"Producer" means any person engaged in the growing of 5 or more acres of potatoes who owns or shares the ownership and risk of loss of such potato crop.

§ 1207.306 Potatoes.

"Potatoes" means any or all varieties of Irish potatoes grown by producers in the 48 contiguous States of the United States.

§ 1207.307 Handle.

"Handle" means to grade, pack, process, sell, transport, purchase, or in any other way to place potatoes or cause potatoes to be placed in the current of commerce. Such term shall not include the transportation or delivery of field-run potatoes by the producer thereof to a handler for grading, storage, or processing.

§ 1207.308 Handler.

"Handler" means any person (except a common or contract carrier of potatoes owned by another person) who handles potatoes, including a producer who handles potatoes of his own production.

§ 1207.309 Board.

"Board" means the National Potato Promotion Board, hereinafter established pursuant to § 1207.320.

§ 1207.310 Fiscal period and marketing year.

"Fiscal period" and "marketing year" mean the 12-month period from July 1 through June 30 of the following year or such other period which may be approved by the Secretary.

§ 1207.311 Programs and projects.

"Programs" and "projects" mean those research, development, advertising or promotion programs or projects developed by the Board pursuant to § 1207.335.

NATIONAL POTATO PROMOTION BOARD

§ 1207.320 Establishment and membership.

(a) There is hereby established a National Potato Promotion Board, hereinafter called the "Board," composed of producers selected by the Secretary from nominations submitted by producers in the various States or groups of States pursuant to § 1207.322.

(b) Membership on the Board shall be determined on the basis of the potato production set forth in the latest Crop Production Annual Summary Report issued by the Crop Reporting Board, U.S. Department of Agriculture. Each of the 48 contiguous States' membership shall be initially determined on the basis of one member for each 5 million hundredweight of production, or major fraction thereof, produced within such State. Each State initially shall be entitled to at least one member on the Board. The basis for determining the membership of future boards shall be determined by the Secretary upon recommendation of the Board.

(c) Any State in which the potato producers fail to respond to an officially called nomination meeting may be combined with an adjacent State for the purpose of representation on the Board, in which case the Board member selected by the Secretary will represent both States but his voting power under § 1207.325 shall not be increased.

(d) The Secretary, upon recommendation of the Board, may establish, through rule making procedure, districts or groups of States in order to change the representation requirements for membership on the Board. In such event the voting power of members under § 1207.325 would be based upon the total production within the new district or group of States.

§ 1207.321 Term of office.

(a) The term of office of Board members shall be 3 years, beginning July 1, or such other beginning date as may be approved pursuant to regulations.

(b) The terms of office of the Board's initial members shall be so determined that approximately one-third of the terms will expire each year, i.e., the terms of approximately one-third will be for 1 year, one-third for 2 years and one-third for 3 years.

(c) Board members shall serve during the term of office for which they are selected and have qualified, and until their successors are selected and have qualified.

(d) No member shall serve for more than two full successive terms.

§ 1207.322 Nominations and selection.

The Secretary shall select the members of the Board from nominations which may be made in the following manner.

(a) A meeting or meetings of producers shall be held in each State to nominate members for the Board. For nominations to the initial Board the meetings shall be announced by the U.S. Department of Agriculture. The Department may call upon other organizations to assist in conducting the meetings such as State and national organizations of potato producers. Such nomination meetings shall be held not later than 60 days after the issuance of this subpart. Any organization designated to hold such nomination meetings shall give adequate notice of such meetings to the potato producers affected; also to the Secretary so that a representative of the Secretary, if available, may conduct such meetings or act as secretary of such nomination meetings.

(b) After the establishment of the initial Board, the nominations for subsequent Board members shall be made by producers at meetings in the producing sections or States. The Board shall hold such meetings, or cause them to be held, in accordance with rules established pursuant to recommendation of the Board.

(c) Only producers may participate in designating nominees. Each producer is entitled to one vote only on behalf of himself, his partners, agents, subsidiaries, affiliates, and representatives for each position for which nominations are being held. If a producer is engaged in producing potatoes in more than one State, he shall elect the State in which he shall vote. In no event shall he vote in nominations in more than one meeting.

§ 1207.323 Acceptance.

Each person selected by the Secretary as a member of the Board shall qualify by filing a written acceptance with the Secretary promptly after being notified of such selection.

§ 1207.324 Vacancies.

To fill any vacancy caused by the failure of any person selected as a member of the Board to qualify, or in the event of the death, removal, resignation, or disqualification of any member, a successor shall be nominated and selected in the manner specified in § 1207.322. In the event of failure to provide nominees for such vacancies, the Secretary may select other eligible persons.

§ 1207.325 Procedure.

(a) Each State (or district or group of States established pursuant to § 1207.320 (d)) which has a member on the Board shall be entitled to not less than one vote for any production up to 1 million hundredweight, plus one additional vote for each additional 1 million hundredweight of production, or major fraction thereof, as determined by the latest crop production annual summary report issued by the Crop Reporting Board, U.S. Department of Agriculture. The casting of the votes for each State shall be determined by the members of the Board from that State.

(b) A majority of the Board members shall constitute a quorum and any action of the Board shall require a majority of concurring votes of those present and voting. At assembled meetings all votes shall be cast in person or by duly authorized proxy.

(c) For routine and noncontroversial matters which do not require deliberation and the exchange of views, and for matters of an emergency nature when there is not enough time to call an assembled meeting, the Board may act upon a majority of concurring votes of its members cast by mail, telegraph, or telephone. Any vote cast by telephone shall be confirmed promptly in writing.

§ 1207.326 Compensation and reimbursement.

Members of the Board shall serve without compensation but shall be reimbursed for reasonable expenses incurred by them in the performance of their duties as members of the Board.

§ 1207.327 Powers.

The Board shall have the following powers subject to § 1207.361:

(a) To administer the provisions of this plan in accordance with its terms and conditions;

(b) To make rules and regulations to effectuate the terms and conditions of this plan;

(c) To receive, investigate, and report to the Secretary complaints of violations of this plan; and

(d) To recommend to the Secretary amendments to this plan.

§ 1207.328 Duties.

The Board shall, among other things, have the following duties:

(a) To meet and organize and to select from among its members a president and such other officers as may be necessary; to select committees and subcommittees of Board members; to adopt

such rules for the conduct of its business as it may deem advisable; and it may establish advisory committees of persons other than Board members;

(b) To employ such persons as it may deem necessary and to determine the compensation and define the duties of each; and to protect the handling of Board funds through fidelity bonds;

(c) At the beginning of each fiscal period, to prepare and submit to the Secretary for his approval a budget on a fiscal period basis of the anticipated expenses in the administration of this plan including the probable costs of all programs or projects and to recommend a rate of assessment with respect thereto;

(d) To develop programs and projects and to enter into contracts or agreements for the development and carrying out of programs or projects of research, development, advertising or promotion, and the payment of the costs thereof with funds collected pursuant to this plan;

(e) To keep minutes, books, and records which clearly reflect all of the acts and transactions of the Board. Minutes of each Board meeting shall be promptly reported to the Secretary;

(f) To cause the books of the Board to be audited by a certified public accountant at least once each fiscal period, and at such other time as the Board may deem necessary. The report of such audit shall show the receipt and expenditure of funds collected pursuant to this part. Two copies of each such report shall be furnished to the Secretary and a copy of each such report shall be made available at the principal office of the Board for inspection by producers and handlers;

(g) To give the Secretary the same notice of meetings of the Board and its subcommittees as is given to its members;

(h) To act as intermediary between the Secretary and any producer or handler; and

(i) To furnish the Secretary such information as he may request.

RESEARCH AND PROMOTION

§ 1207.335 Research and promotion.

The Board shall develop and submit to the Secretary for approval any programs or projects authorized in this section. Such programs or projects shall provide for:

(a) The establishment, issuance, effectuation and administration of appropriate programs or projects for the advertising and promotion of potatoes and potato products: *Provided, however,* That any such program or project shall be directed toward increasing the general demand for potatoes and potato products;

(b) Establishing and carrying on research and development projects and studies to the end that the marketing and utilization of potatoes may be encouraged, expanded, improved, or made more efficient; *Provided,* That quality control, grade standards and supply management programs shall not be conducted under, or as a part of, this plan; and

(c) The development and expansion of potato and potato product sales in foreign markets.

(d) No advertising or promotion program shall make any reference to private brand names or use false or unwarranted claims in behalf of potatoes or their products or false or unwarranted statements with respect to the attributes or use of any competing products.

EXPENSES AND ASSESSMENTS

§ 1207.341 Budget and expenses.

(a) At the beginning of each fiscal period, or as may be necessary thereafter, the Board shall prepare and recommend a budget on a fiscal period basis of its anticipated expenses and disbursements in the administration of this plan, including probable costs of research, development, advertising, and promotion. The Board shall also recommend a rate of assessment calculated to provide adequate funds to defray its proposed expenditures and to provide for a reserve as set forth in § 1207.344.

(b) The Board is authorized to incur such expenses for research, development, advertising, or promotion of potatoes and potato products and such other expenses for the administration, maintenance, and functioning of the Board as are approved pursuant to § 1207.361.

§ 1207.342 Assessments.

(a) The funds to cover the Board's expenses shall be acquired by the levying of assessments upon handlers as designated in regulations issued by the Board. Such assessments shall be levied at a rate fixed by the Secretary which shall not exceed 1 cent per hundredweight of potatoes handled and not more than one assessment may be collected on any potatoes.

(b) Each designated handler, as specified in regulations, shall pay assessments to the Board on all potatoes handled by him, including potatoes he produced. Assessments shall be paid to the Board at such time and in such manner as the Board shall direct pursuant to regulations issued hereunder. The designated handler may collect the assessments from the producer, or deduct such assessments from the proceeds paid to the producer on whose potatoes the assessments are made, provided he furnishes the producer with evidence of such payment.

(c) The Board may authorize other organizations to collect assessments in its behalf.

(d) The Board may exempt potatoes used for nonfood purposes, other than seed, from the provisions of this plan and shall establish adequate safeguards against improper use of such exemptions.

§ 1207.343 Producer refunds.

Any producer who has paid an assessment under this plan and who is not in favor of supporting the research and promotion program as provided for in this plan shall have the right to demand and receive from the Board a refund of such assessment upon submission of proof satisfactory to the Board that he paid the assessment for which refund is sought. Any such demand shall be made personally by such producer on a form which he shall sign and within a time period prescribed by the Board pursuant to regulations. Such time period shall give the producer at least 90 days from the date of collection to submit the refund request form to the Board. Any such refund shall be made within 60 days after demand therefor. No handler shall be eligible for a refund except on potatoes produced by him.

§ 1207.344 Operating reserve.

The Board may establish an operating monetary reserve and may carry over to subsequent fiscal periods excess funds in a reserve so established: *Provided,* That funds in the reserve shall not exceed approximately two fiscal periods' expenses. Such reserve funds may be used to defray any expenses authorized under this part.

REPORTS, BOOKS, AND RECORDS

§ 1207.350 Reports.

Each designated handler shall maintain a record with respect to each producer for whom he handled potatoes and for potatoes handled which he himself producer. He shall report to the Board at such times and in such manner as it may prescribe by regulations such information as may be necessary for the Board to perform its duties under this part. Such reports may include, but shall not be limited to, the following:

(a) Total quantity of potatoes handled for each producer and for himself, including those which are exempt under the plan;

(b) Total quantity of potatoes handled for each producer and for himself subject to the plan and assessments, and

(c) Name and address of each person from whom he collected an assessment, the amount collected from each person, and the date such collection was made.

§ 1207.351 Books and records.

Each handler subject to this part shall maintain and make available for inspection by authorized employees of the Board and the Secretary, but not to persons not subject to the provisions of Section 310(c) of the act, such books and records as are appropriate and necessary to carry out the provisions of this plan and the regulations issued thereunder, including such records as are necessary to verify any reports required. Such records shall be maintained for at least 2 years beyond the marketing year of their applicability.

§ 1207.352 Confidential treatment.

All information obtained from such books, records, or reports shall be kept confidential by all employees of the Department of Agriculture and of the Board, and by all contractors and agents retained by the Board, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the

direction, or upon the request, of the Secretary, or to which he or any officer of the United States is a party, and involving this plan. Nothing in this section shall be deemed to prohibit (1) the issuance of general statements based upon the reports of a number of handlers subject to this plan, which statements do not identify the information furnished by any person, or (2) the publication by direction of the Secretary, of the name of any person violating this plan, together with a statement of the particular provisions of this plan violated by such person.

MISCELLANEOUS

§ 1207.360 Influencing governmental action.

No funds collected by the Board under this plan shall in any matter be used for the purpose of influencing governmental policy or action except in recommending to the Secretary amendments to this subpart.

§ 1207.361 Right of the Secretary.

All fiscal matters, programs or projects, rules or regulations, reports, or other substantive action proposed and prepared by the Board shall be submitted to the Secretary for his approval.

§ 1207.362 Suspension or termination.

(a) The Secretary shall, whenever he finds that this plan or any provision thereof obstructs or does not tend to effectuate the declared policy of the act, terminate or suspend the operation of this plan or such provision thereof.

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of the Board or of 10 percent or more of the potato producers to determine whether potato producers favor the termination or suspension of this plan. He shall suspend or terminate such plan at the end of the marketing year whenever he determines that its suspension or termination is favored by a majority of the potato producers voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the production of potatoes and who produced more than 50 percent of the volume of the potatoes produced by the producers voting in the referendum.

§ 1207.363 Proceedings after termination.

(a) Upon the termination of this plan, the Board shall recommend not more than five of its members to the Secretary to serve as trustees for the purpose of liquidating the affairs of the Board. Such persons, upon designation by the Secretary, shall become trustees of all funds and property then in the possession or under control of the Board including claims for any funds unpaid or property not delivered or any other claim existing at the time of such termination.

(b) The said trustees shall (1) continue in such capacity until discharged by the Secretary; (2) carry out the obligations of the Board under any contracts or agreements entered into by it pursuant to this plan; (3) account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and of the trustees, to such person or persons as the Secretary may direct; and (4) upon the request of the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person or persons full title and right to all of the funds, property, and claims vested in the Board of the trustees pursuant to this section.

(c) Any person to whom funds, property, or claims have been transferred or delivered pursuant to this section shall be subject to the same obligation imposed upon the Board and upon the trustee.

(d) A reasonable effort shall be made by the Board or its trustees to return to producers any residual funds not required to defray the necessary expenses of liquidation. If it is found impractical to return such remaining funds to producers, such funds shall be disposed of in such manner as the Secretary may determine to be appropriate.

§ 1207.364 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this plan or of any regulation issued pursuant thereto, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this plan or any regulation issued thereunder, or (b) release or extinguish any violation of this plan or any regulation issued thereunder, or (c) affect or impair any rights or remedies of the United States, or of the Secretary, or of any other person, with respect to any such violation.

§ 1207.365 Personal liability.

No member of the Board shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgments, mistakes, or other acts, either of commission or omission, as such member except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1207.366 Separability.

If any provision of this plan is declared invalid or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of this plan or applicability thereof to other persons or circumstances shall not be affected thereby.

Copies of this notice of recommended decision may be obtained from the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, or may be there inspected.

Dated: November 17, 1971.

JOHN C. BLUM,
Deputy Administrator, Regulatory Programs.

[FR Doc.71-17029 Filed 11-19-71;8:50 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

[45 CFR Part 220]

SERVICE PROGRAMS FOR FAMILIES AND CHILDREN UNDER TITLE IV OF THE SOCIAL SECURITY ACT

Referrals to the Work Incentive Program

Notice is hereby given that the regulation set forth in tentative form below is proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare. The proposed regulation amends § 220.35 by revoking paragraph (a)(3) which imposes a specific order of priority for referral to the work incentive program.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objections thereto which are submitted in writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, DC 20201, within a period of 30 days from date of publication of this notice in the FEDERAL REGISTER. Comments received will be available for public inspection in Room 5121 of the Department's offices at 301 C Street SW., Washington, DC, on Monday through Friday of each week from 8:30 to 5 (area code 202-963-7361).

This amendment is to be issued under section 1102, 49 Stat. 647, 42 U.S.C. 1302.

Dated: October 22, 1971.

JOHN D. TWINAME,
Administrator, Social and Rehabilitation Service.

Approved: November 10, 1971.

ELLIOT L. RICHARDSON,
Secretary.

Section 220.35 of Part 220 of Title 45 of the Code of Federal Regulations is amended by revoking paragraph (a)(3).

[FR Doc.71-16970 Filed 11-19-71;8:46 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Part 146]

[CGFR 71-136]

RADIOACTIVE MATERIALS

Notice of Proposed Rule Making

The Coast Guard is considering amending the dangerous cargoes regulations to adopt the procedures being proposed by the Hazardous Materials Regulations Board for the approval of certain radioactive materials, to prescribe certain transport controls for Fissile Class

III shipments, to provide for additional packaging for Fissile Radioactive Material authorized in 49 CFR 173.396 but previously not in 46 CFR 146.19–100, and relocating the requirements of 46 CFR 146.19–12, 146.19–18, and 146.19–20 into 146.10–100.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commandant (MHM), U.S. Coast Guard, Washington, D.C. 20590. Each person submitting comments should include his name and address, identify the notice (CGFR 71–136), and give reasons for any recommendations. Comments received will be available for examination by interested persons in Room 8306, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC.

The Coast Guard will hold an informal hearing on Tuesday, February 22, 1972, at 9:30 a.m. in Conference Room 8332, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC. Interested persons are invited to attend the hearing and present oral or written statements on this proposal. There will be no cross examination of persons presenting statements.

The Commandant will evaluate all communications received before February 29, 1972 and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

By a separate document published at page 22181 of this issue of the FEDERAL REGISTER, the Hazardous Materials Regulations Board of the Department of Transportation proposes amendments to Part 173 of Title 49, Code of Federal Regulations §§ 173.393, 173.394, 173.395, 173.396, and 173.427 which will transfer the administration of approvals for certain radioactive materials packages from the Department of Transportation to the U.S. Atomic Energy Commission (USAEC). For reasons fully stated in that document, the Board has proposed these changes to eliminate the present duplicate ministerial procedures for the issuance of special permits for packages which have been reviewed and approved by the U.S. Atomic Energy Commission.

The hazardous materials regulations of the Department of Transportation in title 49 apply to shippers by water, air, and land, and to carriers by air and land. The adoption of this proposed amendment to title 46 would make the proposal of the Hazardous Materials Regulations Board applicable to carriers by water.

The Coast Guard proposes to incorporate the substance of the Board's proposal in 46 CFR 146. Additionally certain controls must be adopted for fissile class III shipments before this ministerial procedure can be removed. These controls are unique to the marine mode.

In consideration of the forgoing, it is proposed that Part 146 be amended as follows:

1. By adding in Table of Contents of Part 146 the following:

PART 146—TRANSPORTATION OR STORAGE OF EXPLOSIVES OR OTHER DANGEROUS ARTICLES OR SUBSTANCES, AND COMBUSTIBLE LIQUIDS ON BOARD VESSELS

Subpart 146.19—Detailed Regulations Governing Radioactive Materials

Sec.

146.19–10a U.S. Atomic Energy Commission approved packages; standard requirements and conditions.
146.19–10b International shipments and foreign-made packages; standard requirements and conditions.

2. By revising § 146.05–12(f)(9) (v) and (vi) to read as follows:

§ 146.05–12 Originating shipping order, transfer shipping paper.

* * * * *

(f) * * *

(9) * * *

(v) For fissile class III shipments, the additional notations: "Warning—fissile class III shipment. Personnel handling and stowing this shipment must be advised to not load more than * * * packages per vehicle." (* * * to be replaced by appropriate number). "In any loading or stowage area, this shipment must be segregated by at least 20 feet from other packages bearing radioactive labels. For shipment by water only one fissile class III shipment is permitted in a hold."

(vi) For export shipments, a copy of any special permit or IAEA Certificate of Competent Authority (see § 146.19–106(b)) issued by the Department of Transportation for the package.

3. By adding § 146.19–1 (o) and (p) to read as follows:

§ 146.19–1 Radioactive materials; definition.

* * * * *

(o) As used in this subpart the abbreviation USAEC represents the U.S. Atomic Energy Commission, Washington, D.C. 20545. Applicable regulations of the USAEC are published in Title 10, Code of Federal Regulations, Part 171, and entitled "Packaging of Radioactive Materials for Transport." (These regulations are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.) Other publications of the USAEC may be obtained from the National Technical Information Center, U.S. Department of Commerce, Springfield, Va. 22151.

(p) As used in this subpart the abbreviation IAEA represents the International Atomic Energy Commission, Karnter Ring 11, Post Office Box 590, A–1011 Vienna, Austria, IAEA publications may be purchased in the U.S. from: Unipub, Inc., Post Office Box 433, New York, NY 10016. Regulations of IAEA are published as "Regulations for the Safe Transport of Radioactive Materials," 1967 Edition, Safety Series No. 6.

4. By adding § 146.19–10a to read as follows:

§ 146.19–10a U.S. Atomic Energy Commission approved packages; standard requirements and conditions.

Each shipper of a package containing radioactive material, which has been approved by the U.S. Atomic Energy Commission in accordance with § 146.19–12, 146.19–18, 146.19–20 or 146.19–100, shall also comply with the following:

(a) Before the first shipment of a package, containing radioactive material, which has been approved by the U.S. Atomic Energy Commission, for use by another person, each shipper shall register in writing with the USAEC, Division of Materials Licensing, his name and address, the name of the person to whom the USAEC approval is issued, and the approval number assigned to the package.

(b) Each shipper shall have a copy of the USAEC approval and any other documents referred to in the approval.

(c) Each shipper shall comply with all the terms and conditions stated in the USAEC approval.

(d) Each shipper shall mark the outside of each package with the package identification marking, indicated in the USAEC approval, in a durable and legible manner.

(e) The shipper shall note the package identification marking, indicated in the USAEC approval on each shipping paper, related to the shipment of a package containing radioactive material.

(f) Before the initial export shipment of a package containing radioactive material, the shipper shall furnish a copy of the applicable competent authority certificate to the foreign consignee and to the competent national authority of each country into or through which the package will be transported (see § 146.19–10(b)).

(g) If fissile class II radioactive materials are shipped, the shipper shall mark each package with the numerical value for the transport index.

(h) If fissile class III radioactive materials are shipped, each shipper shall comply with any vehicle limitation indicated in the USAEC approval.

(i) If fissile class III radioactive materials are shipped the shipper shall include in the shipping papers the statement as prescribed in § 146.05–12(f)(9)(v).

5. By adding § 146.19–10b to read as follows:

§ 146.19–10b International shipments and foreign-made packages; standard requirements and conditions.

(a) Each shipper of a package containing radioactive material, for which a certificate has been issued by a foreign competent authority and which is otherwise in compliance with §§ 146.19–12, 146.19–10, 146.19–20, and 146.19–100, shall also comply with the following:

(1) Before the first shipment of a package containing radioactive material, each shipper shall register his identity in writing with the Office of Hazardous Materials, U.S. Department of Transportation, 400 Sixth Street SW., Washington, DC 20590, and furnish a copy of the foreign certificate or revalidation thereof, which is applicable to that package.

(2) The shipper shall mark the outside of each package containing radioactive material with the competent authority identification marking, indicated in the certificate or revalidation, in a durable and legible manner.

(3) Each shipper shall note the package identification marking, indicated in the certificate or revalidation on all shipping papers related to the shipment of a package containing radioactive material.

(4) Before the initial export shipment of a package containing radioactive material, the shipper shall furnish a copy of the certificate and any required revalidation to the competent national authority of each country into or through which the package will be transported.

(5) Each shipper shall furnish a copy of the certificate or revalidation to each carrier of fissile class III shipments, by any mode of transport.

(b) The designated competent national authority in the United States responsible for administering the requirements (Marginal C–6) of the International Atomic Energy Agency's (IAEA) "Regulations for the Safe Transport of Radioactive Materials," Safety Series No. 6, 1967 Edition, is:

Office of Hazardous Materials, Department of Transportation, 400 Sixth Street SW., Washington, DC 20590.

(c) Any request for a competent authority certificate required by the IAEA regulations should be submitted in writing to the address given in paragraph (b) of this section. Request must be in duplicate and must contain all the information required by the applicable subsections of Marginal C–6 of the IAEA regulations.

6. In § 146.19–12 by deleting paragraph (d) and by revising paragraph (g) and the first line of paragraph (b)(3) to read as follows:

§ 146.19–12 Fissile radioactive material.

* * * * *

(b) * * *

(3) Additional packagings are listed in § 146.19–100 for not more than the following:

* * * * *

(d) [Deleted]

* * * * *

(g) Fissile class III shipments must be in accordance with the provisions of this paragraph, or in accordance with other procedures authorized by the Coast Guard.

(1) The shipper shall provide a knowledgable representative in attendance during the loading of fissile class III shipments to assure that nuclear criticality safety is maintained; or

(2) The shipper shall provide for special arrangements and/or instructions on the shipping papers to assure that nuclear criticality safety is maintained during loading.

(3) The carrier shall load only one fissile class III shipment in a hold and shall protect against loading, transportation or storing of that with other fissile materials.

(4) The carrier shall separate fissile class III shipment by at least 20 feet from other packages bearing the radioactive-yellow labels during handling and storing.

7. By revising § 146.19–18 to read as follows:

§ 146.19–18 Radioactive material in normal form.

Radioactive material in normal form in Type A, Type B, and large quantities must be packaged in authorized packages as listed in § 146.19–100 under radioactive materials, n.o.s.

8. By revising § 146.19–20 *Radioactive material in special form:*

§ 146.19–20 Radioactive material in special form.

Radioactive material in special form in Type A, Type B and large quantities must be packaged in authorized packages as listed in § 146.19–100.

9. By revising § 146.19–35(e) to read as follows:

§ 146.19–35 Stowage and handling aboard vessels.

* * * * *

(e) The carrier shall separate fissile class III shipment from other packages bearing radioactive-yellow labels during handling and stowage by at least 20 feet. The carrier must stow only one fissile class III shipment in any one hold.

* * * * *

§ 146.19–100 [Amended]

10. In § 146.19–100 *Table—Classification: Radioactive materials*, the entry "Fissile radioactive materials" is amended by revising the list of "Outside packaging" in columns 4, 5, 6, and 7, by revising Notes 1 and 2 and by adding Note 3 to read as follows:

Outside packaging:

Authorized for Type A quantities in normal or special form:

Metal packaging (DOT–6L, 6M). See Note 1.
Metal drums (DOT–5B, 5D, 6A, 6B, 6C, 6J, 6K, 17C, 17H, 42B, 42C). See Note 2.
Fiber drums (DOT–21C). See Note 2.
Wooden boxes (DOT–14, 15A, 15B, 15C, 15D, 19A, 19B). See Note 2.
Fiberboard boxes (DOT–12 series, 200-lb. test minimum, DOT 23F, 23H). See Note 2.
Cylinders (DOT–3, 4 series). See Note 2.
Metal-encased shielded packaging (DOT–55). See Note 2.
Type A general package (DOT–7A). See Note 2.
Foreign-made packagings bearing the symbol "Type A," for export and import shipments only. See Note 2.
Any other Type A or B packaging which also meets the pertinent requirements for fissile radioactive materials in the 1967 regulations of the International Atomic Energy Agency, and for which the foreign competent authority certificate has been revalidated by the Department of Transportation.
Any other Type A or B packaging which also meets the standards for packaging for fissile radioactive materials in the regulations of the U.S. Atomic Energy Commission (10 CFR Part 71), and is approved by the U.S. Atomic Energy Commission.

Authorized for Type B quantities in normal or special form:

Metal packaging (DOT–6L, 6M). See Note 3.
Any other Type B packaging which also meets the standards for packaging for fissile radioactive materials in the regulations of the U.S. Atomic Energy Commission (10 CFR Part 71), and is approved by the U.S. Atomic Energy Commission.
Any other Type B packaging which also meets the pertinent requirements for fissile radioactive materials in the 1967 regulations of the International Atomic Energy Agency, and for which the foreign competent authority certificate has been revalidated by the Department of Transportation.

Note 1: See § 146.19–12(b) (1) and (2) for limitations on contents.

Note 2: See § 146.19–12(b)(3) for limitations on contents.

Note 3: See § 146.19–12(c) (1) and (2) for limitations on contents.

11. In § 146.19–100 *Table—Classification: Radioactive materials*, the entry "Radioactive materials, special form" is amended by adding to the list of "Outside packaging" in columns 4, 5, 6, and 7:

(a) Under the heading "Authorized for Type B quantities":

Any other Type B packaging approved by the U.S. Atomic Energy Commission.
Any other Type B packaging which meets the pertinent requirements in the 1967 regulations of the International Atomic Energy Agency, and for which an appropriate certificate has been issued by a foreign competent authority.

(b) Under the heading "Authorized for large quantities":

Any other Type B packaging which meets the pertinent requirements for large quantities of radioactive materials in the regulations of the U.S. Atomic Energy Commission (10 CFR Part 71) and is approved by the U.S. Atomic Energy Commission.
Any other Type B packaging which meets the pertinent requirements for large quantities of radioactive materials in the 1967 regulations of the International Atomic Energy Agency, and for which the foreign competent authority certificate has been revalidated by the Department of Transportation.

12. In § 146.19–100 *Table—Classification: Radioactive materials* the entry "Radioactive materials, n.o.s." is amended:

(a) In column 4 by striking out "Fiber drums (DOT–21)" and inserting "Fiber drums (DOT–21C)" in place thereof.

(b) In column 4 by striking out "Fiberboard boxes (DOT–12 series, 200-lb. test minimum)" and inserting "Fiberboard boxes (DOT–12 series (200-lb. test minimum), DOT–23F, 23H)" in place thereof.

(c) By striking out in columns 4, 5, 6, and 7 "For large quantities, see § 146.19–18" and by inserting in place thereof the following:

Any other Type B packaging approved by the U.S. Atomic Energy Commission.

Any other Type B packaging which meets the pertinent requirements in the 1967 regulations of the International Atomic Energy Agency, and for which an appropriate certificate has been issued by a foreign competent authority.

Authorized for large quantities:

Metal packaging (DOT-6M), authorized only for solid or gaseous radioactive materials which will not decompose up to 250° F. Radioactive thermal decay energy must not exceed 10 watts.

Any other Type B packaging which meets the pertinent requirements for large quantities of radioactive materials in the regulations of the U.S. Atomic Energy Commission (10 CFR Part 71) and is approved by the U.S. Atomic Energy Commission.

Any other Type B packaging which meets the pertinent requirements for large quantities of radioactive materials in the 1967 regulations of the International Atomic Energy Agency, and for which the foreign competent authority certificate has been revalidated by the Department of Transportation.

(R.S. 4472, as amended; sec. 1, 19 Stat. 252, sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 170, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Dated: November 5, 1971.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.71-17039 Filed 11-19-71;8:52 am]

Federal Aviation Administration

[14 CFR Part 39]

[Airworthiness Docket No. 71-SW-4]

BELL MODELS 206A AND 206B HELICOPTERS

Proposed Airworthiness Directives

Amendment 39-1280 (36 F.R. 17493), AD 71-18-4, requires inspection of the main rotor blade for cracks or corrosion and repair, as necessary, on Bell Model 206A helicopters. After issuing amendment 39-1280, the agency certificated the Bell Model 206B which is equipped with the same main rotor blades, P/N 206-010-200-29, and is subject to the same operating conditions and environment as the Bell Model 206A. Therefore, the agency is considering amending Amendment 39-1280 to require the same main rotor blade inspection and repair on the 206B that is required for the 206A.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or comments as they may desire. Communications should identify the docket number and be submitted in triplicate to the Regional Counsel, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. All communications received on or before December 15, 1971, will be considered by the Director before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1280 (36 F.R. 17493) AD 71-18-4, by changing the applicability paragraph to read as follows:

Applies to Bell Models 206A and 206B helicopters certificated in all categories, equipped with main rotor blades, P/N 206-010-200-29.

Issued in Fort Worth, Tex., on November 10, 1971.

HENRY L. NEWMAN,
Director,
Southwest Region.

[FR Doc.71-16967 Filed 11-19-71;8:45 am]

[14 CFR Part 91]

[Docket No. 11557; Notice No. 71-38]

ALTITUDE ALERTING SYSTEM OR DEVICE

Notice of Proposed Rule Making

The Federal Aviation Administration is considering an amendment to Part 91 of the Federal Aviation Regulations to increase the number of those operations excepted from the altitude alerting system requirements of § 91.51.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC-24, 800 Independence Avenue SW., Washington, DC 20591. All communications received on or before January 19, 1972, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Current § 91.51 prohibits a person from operating a turbojet powered U.S. registered civil airplane after February 29, 1972, unless the airplane is equipped with an approved altitude alerting system or device that is in operable condition and meets the requirements of paragraph (b) of that section. However, paragraph (d) of § 91.51 permits certain operations to be conducted without the airplane being equipped with the required system or device in operable condition. The operations excepted are the ferrying of a newly acquired airplane to a place where the altitude alerting system or device can be installed, ferrying or continuance of a flight to a place where repairs are possible when breakdown has occurred, and the conduct of an airworthiness flight test during which time the instrument may be turned off.

Since the adoption of § 91.51, it has become apparent to the FAA that the current exception provision in paragraph (d) is too restrictive and should be broadened to encompass additional operations. Specifically, this proposal would add to paragraph (d) operations conducted with experimentally certificated airplanes, ferrying an airplane to a place outside the United States for the purpose of registering it in a foreign country, sales demonstration flights, and flights conducted for the purpose of training foreign flight crews in the operation of an airplane. In addition, the current exception for airworthiness flight tests, which permits such tests to be conducted with an altitude alerting system or device installed but not operative, would be amended by this proposal to permit the flight tests to be conducted without any system or device installed.

In consideration of the foregoing, it is proposed to amend § 91.51 of the Federal Aviation regulations as follows:

1. By amending paragraphs (a) and (d) of § 91.51 to read as follows:

§ 91.51 Altitude alerting system or device; turbojet powered civil airplanes.

(a) Except as provided in paragraph (d) of this section, no person may operate a turbojet powered U.S. registered civil airplane after February 29, 1972, unless that airplane is equipped with an approved altitude alerting system or device that is in operable condition and meets the requirements of paragraph (b) of this section.

* * * * *

(d) Paragraph (a) of this section does not apply to any operation of an airplane that has an experimental certificate or to the operation of an airplane for the following purposes:

(1) Ferrying a newly acquired airplane from the place where possession of it was taken to a place where the altitude alerting system or device is to be installed.

(2) Continuing a flight as planned to a place where repair or replacement can be made in the event that the altitude alerting system or device malfunctions or becomes inoperative.

(3) Ferrying an airplane with an inoperative altitude alerting system or device from a place where repair or replacement cannot be made to a place where they can be made.

(4) Airworthiness flight tests of the airplane.

(5) Ferrying an airplane to a place outside the United States for the purpose of registering it in a foreign country.

(6) Sales demonstration of the operation of the airplane.

(7) Training foreign flight crews in the operation of the airplane.

These amendments are proposed under the authority of sections 313(a) and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a) and 1421), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on November 15, 1971.

JAMES F. RUDOLPH,
Director,
Flight Standards Service.

[FR Doc.71-16966 Filed 11-19-71;8:45 am]

[14 CFR Part 103]

[Docket No. 11558; Notice No. 71-39]

TRANSPORTATION OF HAZARDOUS MATERIALS

Design Approvals for Radioactive Materials Packages

On January 8, 1971, the Hazardous Materials Regulations Board published Docket HM-73; Notice 71-1 (36 F.R. 292), proposing to transfer the administrative requirements for the approvals of certain radioactive materials packages from the Department of Transportation to the U.S. Atomic Energy Commission (USAEC). That notice further stated that it would be in the public interest and would not adversely affect safety in transportation to eliminate the present duplicative ministerial procedure of the issuance of special permits for packages which have been reviewed and approved by the U.S. Atomic Energy Commission.

As a result of the comments received and the discussion on page 22181 of this issue of the FEDERAL REGISTER, the Hazardous Materials Regulations Board is publishing a second notice of proposed rule making in Docket No. HM-73 incorporating several additional proposed changes needed to fully implement a transition from the present system of "special permit" issuances to the "AEC approvals".

In conjunction with the proposed changes by the Board to 49 CFR Part 173, this document proposes to amend 14 CFR Part 103 as follows:

(A) In § 103.19 paragraph (e) would be added to read as follows:

§ 103.19 Quantity limitations.

* * * * *

(e) No person may carry aboard a passenger-carrying aircraft any package of radioactive material which contains a large quantity of radioactivity (as defined in 49 CFR 173.389(b)), except as specifically approved by the Administrator.

(B) § 103.24 would be added to read as follows:

§ 103.24 Special requirements for fissile class III radioactive materials.

(a) No person may carry aboard any aircraft any package of fissile class III radioactive material (as defined in 49 CFR 173.389(a)(3)), except as follows:

(1) On a cargo-only aircraft which has been assigned for the sole use of the consignor for the specific shipment of fissile radioactive material. Instructions for such sole use must be provided for in special arrangements between the consignor and carrier, with instructions to that effect issued with shipping papers; or

(2) On any aircraft on which there are no other packages of radioactive material bearing either of the "radioactive" labels as described in 49 FCR 173.414; or

(3) In accordance with any other procedure specifically approved by the Administrator.

Interested persons are invited to give their views on this proposal. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, DC 20590. Communications received on or before February 29, 1972 will be considered before final action is taken on the proposal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

This proposal is made under the authority of title VI and section 902(h) of the Federal Aviation Act of 1958 (49 U.S.C. 1421-1430, 1472(h)).

Issued in Washington, D.C., on November 17, 1971.

JAMES F. RUDOLPH,
Board Member for the
Federal Aviation Administration.

[FR Doc.71-17038 Filed 11-19-71;8:52 am]

Hazardous Materials Regulations Board

[49 CFR Parts 173, 174, 175, 177]

[Docket No. HM-73; Notice No. 71-30]

TRANSPORTATION OF HAZARDOUS MATERIALS

Design Approvals for Radioactive Materials Packages

On January 8, 1971, the Hazardous Materials Regulations Board published Docket HM-73; Notice 71-1 (36 F.R. 292), proposing to transfer the administrative requirements for the approvals of certain radioactive materials packages from the Department of Transportation to the U.S. Atomic Energy Commission (USAEC). That notice further stated that it would be in the public interest and would not adversely affect safety in transportation to eliminate the present duplicative ministerial procedure of the issuance of special permits for packages which have been reviewed and approved by the U.S. Atomic Energy Commission. Several comments were received by the Board, including those of the USAEC. The majority of the comments expressed support for the proposal. Several commenters qualified that support, requesting that additional information regarding concurrent changes be made to the USAEC regulations in conjunction with the DOT proposal.

One commenter indicated an objection to the proposal and questioned the advisability and need for changing the present division of responsibility between the USAEC and DOT. The commenter further stated that the proposal appears to be inconsistent with the intent of the Congress in amending the Transportation of Explosives Act of 1960. The amendment placed responsibility for regulating the transport of radioactive materials with the ICC. (That responsibility has since been transferred to the Department.) The Board has concluded that the proposal is not inconsistent with that amendment. Only the ministerial system for issuance of certain package design approvals is involved in the proposal. The Department would continue to be responsible for its regulatory role as directed by the Transportation of Explosives Act.

After further discussion with the USAEC, it has become apparent that several additional sections of the Hazardous Materials Regulations will be needed to fully implement a transition from the present system of "special permit" issuances to the "AEC approvals." The related requirements of the International Atomic Energy Agency's (IAEA) regulations concerning competent authority certifications of package design also need clarification.

Under the regulations proposed in this second notice, petitioners for TYPE B, Fissile, and large quantity packages would apply directly to the USAEC for package review, evaluation, and approval. The standards and requirements which must be met to obtain AEC approval are published in the USAEC Regulations (10 CFR Part 71). In a separate document on page 22184 of this issue of the FEDERAL REGISTER, the AEC is publishing a notice of proposed rule making to add procedures for review and approval of Type B packages to 10 CFR Part 71.

This proposal would require non-AEC licensees, including licensees of agreement states to which the AEC has transferred certain regulatory authority over radioactive material by formal agreement, and radium shippers in nonagreement states, to apply to the AEC for approval of Type B, fissile material, and large quantity packages. Non-AEC licensees, other than license-exempt contractors of the AEC, would apply to the AEC in the same manner as AEC licensees. These persons would be required to submit an application containing the information set forth in 10 CFR 71.21, 71.22, 71.23, and 71.24, to the Director, Division of Materials Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545. License-exempt AEC contractors would apply to the appropriate AEC field office.

The DOT requirements for the AEC approval proposed in this notice would, therefore, be satisfied by:

1. A license or license amendment issued by the AEC under 10 CFR Part 71; or

2. an administrative approval issued by the AEC's Division of Materials Licensing; or

3. an administrative approval issued to AEC license-exempt contractors by AEC Field Offices under AEC Manual Chapter 0529.

With the adoption of these proposed amendments, a fissile class III shipment would no longer require a special permit by regulation. However, the Board is concerned that the absence of special permits for fissile class III shipments may contribute or create an inability to identify these shipments by carrier personnel who must handle and stow them. A normal means of control by carriers of radioactive materials packages is through the transport index entry on the package label. Since fissile class III packages require special stowage controls based on the number of packages to be transported together, and since the package label does not convey this information, the Board believes that the additional warning statement proposed in § 173.427(a) must be added to the shipping papers for fissile class III shipments, to warn the carrier that he is to exercise special stowage controls on that shipment. This statement would therefore effectively replace the language formerly conveyed by certain provisions of the special permit.

This notice also contains a proposal to change the section of the regulations applicable to transport of fissile class III radioactive materials by aircraft. The proposed changes to § 173.396(g) are in response to a recent petition by the Air Transport Association of America. The petition stated that the present wording of § 173.396(g)(2) is impracticable for transportation of fissile class III shipments by air, and suggested that a new § 173.396(g)(3) be added which would be applicable to fissile class III shipments by air. The Board agrees with the Association's petition and accordingly has included proposed changes in the appropriate sections of the shipper and air carrier sections for fissile class III shipments.

In 14 CFR Part 103, the Board is also proposing to limit the transport of radioactive materials packages on passenger-carrying aircraft to those packages containing less than a large quantity of radioactive material (§ 173.389(b)), except as specifically approved on an individual shipment basis. This proposal is consistent with the present limitation appearing in the International Atomic Energy Agency's Regulations, the IATA Restricted Articles Regulations, and in the Air Tariff No. 6D.

Notice 71–1 is superseded by this second notice of proposed rule making.

In consideration of the foregoing, the Board proposes to amend 49 CFR Parts 171, 173, 174, 175, and 177 as follows:

PART 171—GENERAL INFORMATION AND REGULATIONS

In § 171.7 paragraphs (c) (12) and (13) and (d) (8) and (9) would be added to read as follows:

§ 171.7 Matter incorporated by reference.

* * * * * *

(c) * * *

(12) IAEA: International Atomic Energy Agency, Karnter Ring 11, Post Office Box 590, A–1011, Vienna, Austria (IAEA publications may be purchased in the U.S. from: Unipub, Inc., Post Office Box 433, New York, N.Y. 10016).

(13) USAEC: U.S. Atomic Energy Commission, Washington, D.C. 20545. Regulations of the USAEC are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Other publications by the USAEC may be obtained from the National Technical Information Center, U.S. Department of Commerce, Springfield, Va. 22151.

(d) * * *

(8) IAEA "Regulations for the Safe Transport of Radioactive Materials," 1967 Edition, Safety Series No. 6.

(9) U.S. Atomic Energy Commission (USAEC).

(i) Title 10, Code of Federal Regulations, Part 71 is titled "Packaging of Radioactive Materials for Transport."

PART 173—SHIPPERS

(A) In part 173 table of contents, §§ 173.393a and 173.393b would be added to read as follows:

Sec.

173.393a U.S. Atomic Energy Commission approved packages; standard requirements and conditions.

173.393b International shipments and foreign-made packages; standard requirements and conditions.

(B) § 173.393a would be added to read as follows:

§ 173.393a U.S. Atomic Energy Commission approved packages; standard requirements and conditions.

(a) In addition to the applicable requirements of the USAEC approval and Parts 170–189 of this chapter, each shipper of a package containing radioactive material, which has been approved by the U.S. Atomic Energy Commission in accordance with §§ 173.394(b)(3) and (c)(2), 173.395(b)(2) and (c)(2), 173.396(b)(4), or § 173.396(c)(3), also shall comply with the following:

(1) Before the first shipment in a package approved by the U.S. Atomic Energy Commission for use by another person, each shipper shall register in writing with the USAEC, Division of Materials Licensing, his name and address, the name of the person to whom the USAEC approval was issued, and the approval number assigned to the package. Each shipper shall have a copy of the USAEC approval and the document referred to in the approval in his possession. All shipments must be made in compliance with the terms and conditions of the approval.

(2) The outside of each package must be durably and legibly marked with the package identification marking indicated in the USAEC approval.

(3) Each shipping paper related to the shipment of this package must bear a notation of the package identification marking indicated in the USAEC approval.

(4) Before the first export shipment of the package, the shipper shall furnish a copy of the applicable competent authority certificate to the foreign consignee and to the competent national authority of each country into or through which the package will be transported (see § 173.393b).

(5) Packages of fissile radioactive material must be marked with the numerical value for the transport index if the shipment is fissile class II. Any vehicle limitation indicated in the USAEC approval shall apply if the shipment is fissile class III.

(6) For fissile class III shipments the statement as prescribed in § 173.427(a)(5)(v) must be included with the shipping papers.

(C) § 173.393b would be added to read as follows:

§ 173.393b International shipments and foreign-made packages; standard requirements and conditions.

(a) In addition to the other applicable requirements of Parts 170–189 of this chapter, each shipper of a package containing radioactive material, for which the foreign competent authority certificate prescribed by § 173.394(b)(4) or § 173.395(b)(3) has been issued and has been revalidated if the requirements of §§ 173.394(c)(3), 173.395(c)(3), 173.396(b)(5), or § 173.396(c)(4) apply, also shall comply with the following:

(1) Before the first shipment of the package, each shipper shall register his identity and type of package in writing with the Office of Hazardous Materials, U.S. Department of Transportation, Washington, D.C. 20590, furnishing a copy of the foreign certificate or revalidation thereof which is applicable to that package.

(2) The outside of each package must be durably and legibly marked with the competent authority identification marking indicated on the certificate or revalidation.

(3) Each shipping paper related to the shipment of this package must bear a notation of the package identification marking indicated in the certificate or revalidation.

(4) Before the first export shipment of the package, the shipper shall furnish a copy of the applicable certificate and any required revalidation to the competent national authority of each country into

or through which the package will be transported.

(5) A copy of the certificate or revalidation must be furnished to each carrier for fissile class III shipments, by any mode of transport.

(b) The designated competent authority in the United States responsible for administering the requirements (marginal C–6) of the International Atomic Energy Agency's (IAEA) "Regulations for the Safe Transport of Radioactive Materials," Safety Series No. 6, 1967 edition, is:

Office of Hazardous Materials, U.S. Department of Transportation, Washington, D.C. 20590.

(c) Any request for a competent authority certificate required by the IAEA regulations should be submitted in writing to the address given in paragraph (b) of this section. This request must be in duplicate and must contain all the information required by the applicable subsection of marginal C–6 of the IAEA regulations.

(D) In § 173.394 paragraphs (b)(3) and (c)(2) would be amended; paragraphs (b)(4) and (c)(3) would be added to read as follows:

§ 173.394 Radioactive material in special form.

* * * * * *

(b) * * *

(3) Any other type B packaging approved by the U.S. Atomic Energy Commission.

(4) Any other type B packaging which meets the pertinent requirements in the 1967 regulations of the International Atomic Energy Agency, and for which an appropriate certificate has been issued by a foreign competent authority.

(c) * * *

(2) Any other type B packaging which meets the pertinent requirements for large quantities of radioactive materials in the regulations of the U.S. Atomic Energy Commission (10 CFR Part 71) and is approved by the U.S. Atomic Energy Commission.

(3) Any other type B packaging which meets the pertinent requirements for large quantities of radioactive materials in the 1967 regulations of the International Atomic Energy Agency, and for which the foreign competent authority certificate has been revalidated by the Department.

(E) In § 173.395 paragraphs (b)(2) and (c)(2) would be amended; paragraphs (b)(3) and (c)(3) would be added to read as follows:

§ 173.395 Radioactive material in normal form.

* * * * * *

(b) * * *

(2) Any other type B packaging approved by the U.S. Atomic Energy Commission.

(3) Any other type B packaging which meets the pertinent requirements in the 1967 regulations of the International Atomic Energy Agency, and for which an appropriate certificate has been issued by a foreign competent authority.

(c) * * *

(2) Any other type B packaging for large quantities of radioactive materials which meets the pertinent requirements in the regulations of the U.S. Atomic Energy Commission (10 CFR Part 71) and is approved by the U.S. Atomic Energy Commission.

(3) Any other type B packaging which meets the pertinent requirements for large quantities of radioactive materials in the 1967 regulations of the International Atomic Energy Agency, and for which the foreign competent authority certificate has been revalidated by the Department.

(F) In § 173.396 paragraphs (b)(4) and (c)(3) would be amended; paragraphs (b)(5) and (c)(4) would be added; paragraph (d) and note following would be canceled; the introductory text of paragraph (g) and paragraph (g)(2) would be amended; paragraph (g)(3) would be added to read as follows:

§ 173.396 Fissile radioactive material.

* * * * * *

(b) * * *

(4) Any other type A or B packaging for fissile radioactive materials which also meets the pertinent standards for packaging in the regulations of the U.S. Atomic Energy Commission (10 CFR Part 71), and is approved by the U.S. Atomic Energy Commission.

(5) Any other type A or B packaging for fissile radioactive materials which also meets the pertinent requirements in the 1967 regulations of the International Atomic Energy Agency, and for which the foreign competent authority certificate has been revalidated by the Department.

(c) * * *

(3) Any other type B packaging which also meets the standards for packaging for fissile radioactive materials in the regulations of the U.S. Atomic Energy Commission (10 CFR Part 71), and is approved by the U.S. Atomic Energy Commission.

(4) Any other type B packaging which also meets the pertinent requirements for fissile radioactive materials in the 1967 regulations of the International Atomic Energy Agency, and for which the foreign competent authority certificate has been revalidated by the Department.

(d) [Canceled]

NOTE: [Canceled]

* * * * * *

(g) Fissile class III shipments may be made only in accordance with subparagraph (1), (2), or (3) of this paragraph, or in accordance with other procedures authorized by the Department. The transport controls must provide nuclear criticality safety and shall be carried out by the shipper or carrier, as appropriate, to protect against loading, storing, or transporting of that shipment together with other fissile material.

* * * * * *

(2) Except for shipments by aircraft, transportation under escort by a person in a separate vehicle, with the escort having the capability, equipment, authority, and instructions to provide administrative controls adequate to assure compliance with this paragraph.

(3) Transportation in a transport vehicle containing no other packages of radioactive material which bear either of the "Radioactive" labels described in § 173.414.

* * * * * *

(G) In § 173.427 paragraphs (a)(5)(v) and (vi) would be amended to read as follows:

§ 173.427 Shipping papers.

(a) * * *

(5) * * *

(v) For fissile radioactive materials, the fissile class of the package(s). For fissile class III shipments, the additional notations: "Warning—Fissile Class III Shipment. Personnel handling and stowing this shipment must be advised to not load more than * * * packages per vehicle." (* * * to be replaced by appropriate number). "In any loading or stowage area, this shipment must be segregated by at least 20 feet from other packages bearing radioactive labels." If a fissile class III is to be transported by water the supplementary notation must also include the following statement: "For shipment by water only one fissile class III shipment is permitted in a hold."

(vi) For export shipments, a copy of any special permit or IAEA Certificate of Competent Authority (see § 173.393b) issued by the Department for the package.

PART 174—CARRIERS BY RAIL FREIGHT

In § 174.586 paragraph (h)(3) would be added to read as follows:

§ 174.586 Handling hazardous materials.

* * * * * *

(h) * * *

(3) Fissile class III radioactive material shipments (as defined in § 173.389(a)(3) of this chapter) must be transported in accordance with either of the methods as prescribed in § 173.396(g) of this chapter. The transport controls must be adequate to assure that no fissile class III shipment is transported in the same transport vehicle with any other fissile radioactive material shipments. In loading and storage areas each fissile class III shipment must be segregated by a distance of at least 20 feet from other packages bearing either of the "radioactive" labels described in § 173.414.

PART 175—CARRIERS BY RAIL EXPRESS

In § 175.655 paragraph (j)(4) would be added to read as follows:

§ 175.655 Protection of packages.

(j) * * *

(4) Fissile class III radioactive material shipments (as defined in § 173.389

(a)(3) of this chapter) must be transported in accordance with either of the methods as prescribed in § 173.396(g) of this chapter. The transport controls must be adequate to assure that no fissile class III shipment is transported in the same transport vehicle with any other fissile radioactive material shipments. In loading and storage areas each fissile class III shipment must be segregated by a distance of at least 20 feet from other packages bearing either of the "radioactive" labels described in § 173.414 of this chapter.

• • • • •

PART 177—SHIPMENTS MADE BY WAY OF COMMON, CONTRACT, OR PRIVATE CARRIERS BY PUBLIC HIGHWAY

In § 177.842 paragraph (f) would be added to read as follows:

§ 177.842 Radioactive material.

• • • • •

(f) Fissile class III radioactive material shipments (as defined in § 173.389 (a)(3) of this chapter) must be transported in accordance with either of the methods as prescribed in § 173.396(g) of this chapter. The transport controls must be adequate to assure that no fissile class III shipment is transported in the same transport vehicle with any other fissile radioactive material shipments. In loading and storage areas each fissile class III shipment must be segregated by a distance of at least 20 feet from other packages bearing either of the "radioactive" labels described in § 173.414 of this chapter.

Interested persons are invited to give their views on this proposal. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, DC 20590. Communications received on or before February 29, 1972, will be considered before final action is taken on the proposal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

This proposal is made under the authority of sections 831–835 of Title 18, United States Code, section 9 of the Department of Transportation Act (49 U.S.C. 1657), and title VI and section 902(h) of the Federal Aviation Act of 1958 (49 U.S.C. 1421–1430 and 1472(h)).

Issued in Washington, D.C., on November 17, 1971.

W. J. BURNS,
Chairman, Hazardous Materials Regulations Board.

[FR Doc.71-17037 Filed 11-19-71;8:52 am]

ATOMIC ENERGY COMMISSION

[10 CFR Part 71]

SHIPMENT OF RADIOACTIVE MATERIAL

Approval of Type B, Large Quantity and Fissile Material Packagings

On January 8, 1971, with the agreement of the Atomic Energy Commission, the Hazardous Materials Regulations Board of the Department of Transportation (DOT) published in the FEDERAL REGISTER a notice (Docket No. HM-73; Notice 71-1) proposing to transfer the administrative requirement for approvals of radioactive materials packages from the Department to the U.S. Atomic Energy Commission (AEC). Interested persons were invited to comment on the proposal within 60 days after publication of the notice in the FEDERAL REGISTER. After consideration of the comments and consultation with the AEC and the atomic energy industry, in a separate document published on page 22181, the DOT is publishing a revised notice of proposed rule making proposing amendments to 49 CFR Part 173 which would transfer the administrative requirement for approvals of radioactive materials packages to the AEC. The amendment would provide, inter alia, that DOT discontinue issuing special permits for packagings except for waivers or exemptions from DOT regulations and that shippers be required to have AEC approval for routine packaging for type B, large quantity, and fissile material shipments.

The proposed changes in 10 CFR Part 71 set out below would provide a means for implementing the transfer of packaging approvals from DOT to AEC by adding to Part 71, standards and requirements for AEC approval of type B packagings and describing the procedures for obtaining AEC approval of type B, large quantity, and fissile material packagings.

The provisions of Part 71, in effect since August 1966, require AEC licensees who wish to ship fissile material or large quantities of byproduct, source, or special nuclear material to apply to the AEC for a license or license amendment indicating AEC approval of the type of package to be used. The amendments published herein would require AEC licensees also to apply for a license or license amendment approving of the package to be used to deliver to a carrier type B quantities of radioactive material.

The proposed amendments to the DOT regulations, published concurrently, would require AEC approval of packagings, other than specification packagings prescribed in the DOT regulations, which are used to ship any quantity of fissile material, or more than a type A quantity (i.e., a type B or large quantity) of other radioactive material. AEC approval could be (1) a license (either specific or general) or license amendment issued under 10 CFR Part 71, (2) an administrative approval issued to AEC contractors by AEC field offices in accordance with standards and procedures published in the AEC manual, or (3) an approval issued by the AEC's Division of Materials Licensing to persons under DOT jurisdiction who are not AEC licensees. The latter category of non-AEC licensees would include, for example, agreement State licensees and radium shippers who wish to ship type B or large quantities of radioactive material.

To obtain AEC approval, all persons, other than AEC license-exempt contractors, would be required to submit an application to the Director, Division of Materials Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545. The contents of the application are set forth in §§ 71.21, 71.22, 71.23, and 71.24 of 10 CFR Part 71.

AEC license-exempt contractors would apply to the appropriate AEC field office for approval in accordance with the provisions of the AEC manual.

Provisions would be made for uninterrupted use of containers which have been in use under DOT special permits which are valid on the date the revised rule goes into effect. Each AEC licensee would be permitted to continue to use fissile material and large quantity packagings under the AEC license or license amendment which was issued to him by the AEC under 10 CFR Part 71. Under the proposed § 71.8, an AEC licensee using a type B container under a valid DOT special permit would be allowed to continue to use that container until the AEC acts on an application which he had submitted no later than 90 days after the effective date of the rule or the expiration date of the special permit, whichever date is later.

A non-AEC licensee, other than a license-exempt contractor, would be considered to have AEC approval for continued use of a type of packaging for which he had a DOT special permit in effect on the effective date of the amendments provided he submitted to the AEC a request for approval of that type of packaging within 90 days of the effective date or prior to the date on which the special permit expires, whichever date is later. This AEC approval would remain in effect until the application has been approved or rejected by the Commission.

The proposed amendment to the DOT regulations, published concurrently, would authorize the use of packaging approved by the AEC. The amendment to DOT regulations also would require each person using a design of packaging approved for use by another to register with AEC prior to first use and to comply with the conditions of the original approval. AEC licensees are already required to follow that same procedure under the conditions of the general license in § 71.7(b) of the AEC regulations.

Other changes being proposed in 10 CFR Part 71 are minor editorial changes, redesignation of some sections to bring together the exemption provisions, and addition of a new § 71.7 to exempt certain fissile materials from the nuclear criticality safety provisions of Part 71. Section 71.12, *Limited exemption for shipment of special nuclear material* would be deleted, since the authority granted by that section has expired.

Pursuant to the Atomic Energy Act of 1954, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 71 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendments should send them to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, within 60 days after publication of the notice in the FEDERAL REGISTER. Comments received after that period will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments filed within the period specified. Copies of comments on the proposed amendments may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, DC.

1. Paragraph (a) of § 71.1 of Part 71 is amended to read as follows:

§ 71.1 Purpose.

(a) This part prescribes procedures and standards for approval by the Atomic Energy Commission of packaging and shipping procedures for fissile material (uranium-233, uranium-235, plutonium-238, plutonium-239, and plutonium-241) and for quantities of licensed materials in excess of type A quantities, as defined in § 71.4(q), and prescribes certain requirements governing such packaging and shipping.

• • • • •

2. A new paragraph (q) is added to § 71.4 to read as follows:

§ 71.4 Definitions.

• • • • •

(q) "Type A quantity" and "Type B quantity" means a quantity of radioactive material the aggregate radioactivity of which does not exceed that specified in the following table:

Transport groups [Paragraph (p) of this section]	Type A quantity (in curies)	Type B quantity (in curies)
I	0.001	20
II	0.05	20
III	3	200
IV	20	200
V	20	5,000
VI and VII	1,000	50,000
Special form	20	5,000

3. An undesignated centerhead preceding § 71.5 is added to read as follows:

EXEMPTIONS

§ 71.5 [Redesignated]

4. Section 71.11 is redesignated § 71.5.

5. Section 71.5 is redesignated § 71.6, the heading is revised to read § 71.6 *Exemption for no more than Type A quantities*, and paragraph (b) is amended to read as follows:

§ 71.6 Exemption for more than Type A quantities.

• • • • •

(b) Packages each of which contains no more than a Type A quantity of radioactive material, as defined in § 71.4 (q), which may include one of the following:

(1) Not more than 15 grams of fissile material; or

(2) Thorium, or uranium containing not more than 0.72 percent by weight of fissile material; or

(3) Uranium compounds, other than metal (e.g., UF_4, UF_6, or uranium oxide in bulk form, not pelletted or fabricated into shapes) or aqueous[1] solutions of uranium, in which the total amount of uranium-233 and plutonium present does not exceed 1.0 percent by weight of the uranium-235 content, and the total fissile content does not exceed 1.00 percent by weight of the total uranium content; or

(4) Homogeneous hydrogenous[2] solutions or mixtures containing not more than:

(i) 500 grams of any fissile materials, provided the atomic ratio of hydrogen to fissile material is greater than 7600; or

(ii) 800 grams of uranium-235: *Provided*, That the atomic ratio of hydrogen to fissile material is greater than 5200, and the content of other fissile material is not more than 1 percent by weight of the total uranium-235 content; or

(iii) 500 grams of uranium-233 and uranium-235: *Provided*, That the atomic ratio of hydrogen to fissile material is greater than 5200, and the content of plutonium is not more than 1 percent by weight of the total uranium-233 and uranium-235 content; or

(5) Less than 350 grams of fissile material: *Provided*, That there is not more than 5 grams of fissile material in any cubic foot within the package.

6. A new § 71.7 is added to read as follows:

§ 71.7 Exemption for fissile material.

A licensee is exempt from requirements in §§ 71.33, 71.35(b), 71.36(b), 71.37, 71.38, 71.39, and 71.40 to the extent that he delivers to a carrier for transport packages each of which contains one of the following:

(a) Not more than 15 grams of fissile material; or

(b) Thorium, or uranium containing not more than 0.72 percent by weight of fissile material; or

(c) Uranium compounds, other than metal, (e.g., UF_4, UF_6, or uranium oxide in bulk form, not pelletted or fabricated into shapes) or aqueous[1] solutions of uranium, in which the total amount of uranium-233 and plutonium present does not exceed 1.0 percent by weight of the uranium-235 content, and the total fissile content does not exceed 1 percent by weight of the total uranium content; or

(d) Homogeneous hydrogenous[2] solutions or mixtures containing not more than:

(1) 500 grams of any fissile material, provided the atomic ratio of hydrogen to fissile material is greater than 7600; or

(2) 800 grams of uranium-235: *Provided*, That the atomic ratio of hydrogen to fissile material is greater than 5200, and the content of other fissile material is not more than 1 percent by weight of the total uranium-235 content; or

(3) 500 grams of uranium-233 and uranium-235: *Provided*, That the atomic ratio of hydrogen to fissile material is greater than 5200, and the content of plutonium is not more than 1 percent by weight of the total uranium-233 and uranium-235 content; or

(e) Less than 350 grams of fissile material: *Provided*, That there is not more than 5 grams of fissile material in any cubic foot within the package.

§ 71.12 [Deleted]

7. Section 71.12 is deleted.

8. Section 71.13 is redesignated § 71.8 and the heading and text are revised to read as follows:

§ 71.8 Limited exemption for shipment of Type B quantities of radioactive material.

A person delivering a Type B quantity of radioactive material, as defined in § 71.4(q), to a carrier for transport in accordance with the provisions of a special permit, which has been issued by the Department of Transportation and is in effect on (the effective date of this amendment), is exempt from the requirements in this part with respect to such shipments. The exemption granted by this section shall terminate on (3 months after the effective date of this amendment) or on the date on which the DOT special permit expires, whichever date is later, except as to activities described in an application for a license which the person has, prior to the termination date of the exemption, filed with the Commission. If the person has filed such an application, the exemption granted by this section shall continue until the application has been finally determined by the Commission.

9. An undesignated centerhead preceding § 71.9 is added to read as follows:

GENERAL LICENSES

10. Section 71.6 is redesignated as § 71.9 and paragraphs (a)(1) and (b)(1) are amended to read as follows:

[1] This applies to light water and does not apply to heavy water.

[2] This applies to light hydrogen and does not apply to heavy hydrogen (i.e., deuterium or tritium).

§ 71.9 General license for shipment of licensed material.

• • • • •

(a) • • •

(1) No single package contains more than a Type A quantity of radioactive material, as defined in § 71.4(q); and

• • • • •

(b) • • •

(1) No package contains more than a Type A quantity of radioactive material, as defined in § 71.4(q); and

• • • • •

11. Section 71.7 is redesignated § 71.10 and paragraph (a) is amended to read as follows:

§ 71.10 General license for shipment in DOT specification containers and in packages licensed for use by another licensee.

• • • • •

(a) In a specification container for fissile material as specified in § 173.396 (b) or (c) or for a Type B quantity of radioactive material as specified in § 173.394(b) or § 173.395(b), or for a large quantity of radioactive material as specified in § 173.394(c) or § 173.395(c) of the regulations of the Department of Transportation, 49 CFR Part 173; or

• • • • •

§§ 71.11, 71.12, 71.13 [Redesignated]

12. Sections 71.8, 71.9, and 71.10 are redesignated as §§ 71.11, 71.12, and 71.13, respectively.

13. The section heading and the first sentence of § 71.32 are amended to read as follows:

§ 71.32 Structural standards for Type B and large quantity packaging.

Packaging used to ship a Type B or a large quantity of radioactive material, as defined in § 71.4 (q) and (f), shall be designed and constructed in accordance with the structural standards of this section.

• • • • •

14. The introductory language of paragraph (a) and paragraph (c) of § 71.35 are amended to read as follows:

§ 71.35 Standards for normal conditions of transport for a single package.

(a) A package used for the shipment of fissile material or more than a Type A quantity of radioactive material, as defined in § 71.4(q), shall be so designed and constructed and its contents so limited that under the normal conditions of transport specified in Appendix A of this part:

• • • • •

(c) A package used for the shipment of more than a Type A quantity of radioactive material, as defined in § 71.4(q), shall be so designated and constructed and its contents so limited that under the normal conditions of transport specified in Appendix A of this part, the containment vessel would not be vented directly to the atmosphere.

15. The introductory language of paragraph (a) of § 71.36 is amended to read as follows:

§ 71.36 Standards for hypothetical accident conditions for a single package.

(a) A package used for the shipment of more than a Type A quantity of radioactive material, as defined in § 71.4(q), shall be so designed and constructed and its contents so limited that if subjected to the hypothetical accident conditions specified in Appendix B of this part as the Free Drop, Puncture, Thermal, and Water Immersion conditions in the sequence listed in Appendix B, it will meet the following conditions:

• • • • •

16. The introductory language of paragraph (a) of § 71.62 is amended to read as follows:

§ 71.62 Records.

(a) The licensee shall maintain for a period of 2 years after its generation a record of each shipment of fissile material or of more than a Type A quantity of radioactive material as defined in § 71.4(q), in a single package, showing, where applicable:

• • • • •

(Sec. 53, 62, 81, 161; 68 Stat. 930, 932, 935, 948, as amended; 42 U.S.C. 2073, 2092, 2111, 2201)

Dated at Germantown, Md., this 16th day of November 1971.

For the Atomic Energy Commission.

W. B. McCool,
Secretary of the Commission.

[FR Doc.71-16969 Filed 11-19-71;8:51 am]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 563]

[No. 71-1192]

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Deferred Income With Respect to Mortgage Loans

November 15, 1971.

Resolved that the Federal Home Loan Bank Board considers it advisable to amend § 563.23-1 of the rules and regulations for insurance of accounts (12 CFR 563.23-1) for the purposes of (1) permitting insured institutions to take into income at the time of sale or payoff of a loan any deferred acquisition credits or discount applicable to such loan, with respect to loans sold or paid in full on or after January 1, 1972; (2) permitting insured institutions to take into income during 1971 any deferred acquisition credits or discount applicable to loans sold or paid in full on or before December 31, 1971; and (3) requiring amortization of deferred acquisition credits or discount, with respect to a loan made or purchased after January 1, 1972, over a period of not less than 10 years. Accordingly, the Federal Home Loan Bank Board proposes to amend said § 563.23-1 by revising paragraphs (b), (d), and (e) and subparagraphs (8) and (9) of paragraph (g) thereof, to read as follows:

§ 563.23-1 Premiums, charges, and credits with respect to mortgage loans; sale of real estate owned; and related items.

• • • • • •

(b) *Purchase at a discount.* If an insured institution purchases a mortgage loan at a discount, such discount shall be deferred by a credit to an account descriptive of deferred income and shall thereafter be credited to income, at least semiannually, on either a "straight-line" or a "level-yield" basis, over a period of not less than 7 years if the loan was purchased prior to January 1, 1972, or over a period of not less than 10 years if the loan was purchased on or after January 1, 1972.

• • • • • •

(d) *Credits deferred.* Each acquisition credit subject to deferral, as hereinafter defined, shall be deferred by a credit to an account descriptive of deferred income and shall thereafter be credited to income, at least semiannually, on either a "straight-line" or a "level-yield" basis, over a period of not less than 7 years if such acquisition credit was received prior to January 1, 1972, or over a period of not less than 10 years if such acquisition credit was received on or after January 1, 1972.

(e) *Sale or payoff of loans.* (1) If a loan has been sold or paid in full on or before December 31, 1971, any deferred acquisition credits or discount applicable to such loan as of December 31, 1971, may be transferred as of such date to an appropriate income account.

(2) If a loan is sold or paid in full on or after January 1, 1972, any capitalized premium applicable to such loan as of the date of such sale or payment shall be transferred as of such date to an appropriate expense account, and any deferred acquisition credits or discount applicable to such loan as of the date of such sale or payment may be transferred as of such date to an appropriate income account. Any profit or loss to the institution on the sale of a loan shall be reflected as of the time of such sale in an appropriate income or expense account.

• • • • • •

(g) *Definitions.* For the purposes of this section:

• • • • • •

(8) The term "loss" means the amount by which the unpaid principal balance of a loan or the book value of real estate owned, at the time such loan or real estate is sold, exceeds the sale price of such loan or real estate.

(9) The term "profit" means the amount by which the sale price of a loan or real estate owned, at the time such loan or real estate is sold, exceeds the unpaid principal balance of such loan or the book value of such real estate.

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

Resolved further that interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, DC 20552, by December 10, 1971, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

By the Federal Home Loan Bank Board.

[SEAL] Jack Carter,
Secretary.

[FR Doc.71-17017 Filed 11-19-71;8:49 am]

FEDERAL POWER COMMISSION

[18 CFR Parts 125, 225]

[Docket No. R-429]

PRESERVATION OF RECORDS AND PUBLIC UTILITIES AND LICENSEES, AND NATURAL GAS COMPANIES

Notice of Extension of Time

November 15, 1971.

On November 8, 1971, Transcontinental Gas Pipe Line Corp. filed a request for an extension of time within which to file comments to the notice of proposed rulemaking issued October 4, 1971 (36 F.R. 20052) in the above-designated matter.

Upon consideration, notice is hereby given that the time is extended to and including December 15, 1971, within which any interested person may submit data, views, comments or suggestions in writing in the above-designated matter.

Kenneth F. Plumb,
Secretary.

[FR Doc.71-16990 Filed 11-19-71;8:47 am]

[18 CFR Parts 154, 157]

[Docket No. R-425]

AREA RATES FOR THE ROCKY MOUNTAIN AREA

Notice of Extension of Time

November 15, 1971.

On November 5, 1971, Amerada Hess Corp. et al., repondents in the above-designated matter, filed a motion requesting an extension of time within which to file responses to the original submittals to the notice instituting proposed rule making and order prescribing procedure, issued July 15, 1971 (36 F.R. 13586). The motion states that Commission Staff Counsel does not oppose the requested extension of time.

Upon consideration, notice is hereby given that the time is extended from November 26, 1971, to and including December 10, 1971, within which responses to the original submittals may be filed in the above-designated matter.

Kenneth F. Plumb,
Secretary.

[FR Doc.71-16992 Filed 11-19-71;8:47 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 436]

DISCLOSURE REQUIREMENTS AND PROHIBITIONS CONCERNING FRANCHISING

Notice of Public Hearing and Opportunity To Submit Data, Views, or Arguments

Correction

In F.R. Doc. 71-16479, appearing at page 21607 in the issue of Thursday, November 11, 1971, the word "franchisor" appearing in the eighth line of § 436.2(a) should read "franchisee."

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

[General Counsel Order 34-2]

CHIEF COUNSEL, INTERNAL REVENUE SERVICE

Delegation of Functions Relating To Economic Stabilization Matters

By virtue of the authority vested in me as General Counsel for the Department of the Treasury, including that delegated to me by Treasury Department Order No. 150-76, I hereby delegate to the Chief Counsel for the Internal Revenue Service the authority to issue rulings and to furnish legal advice to the Commissioner of Internal Revenue with respect to regulations and other guidance issued by the Cost of Living Council, Price Commission and Pay Board.

The authority delegated herein shall be exercised in consultation with the General Counsel, and with the approval of the General Counsel where actions to be taken can be expected to have a major impact on the stabilization programs. In addition, rulings which are to be published shall be referred to the General Counsel for approval before they are issued.

This order shall be effective at 12:01 a.m., November 14, 1971.

Dated: November 13, 1971.

[SEAL] SAMUEL R. PIERCE, JR.,
General Counsel.

[FR Doc.71-17122 Filed 11-19-71;12:18 pm]

[Treasury Department Order No. 150-76]

COMMISSIONER OF INTERNAL REVENUE

Delegation of Authority Concerning Implementation of Stabilization of Prices, Rents, Wages, and Salaries

By virtue of the authority vested in me as Secretary of the Treasury, including that delegated to me by Cost of Living Council Order No. 5, Price Commission Order No. 1, and Pay Board Order No. 1, the authority delegated to me by those orders is hereby redelegated to the Commissioner of Internal Revenue except as to the authority set forth in section 1(c) of each of the orders relating to the issuance of rulings respecting the regulations and other guidance issued by the Cost of Living Council, Price Commission, and Pay Board, which is redelegated to the General Counsel of the Treasury. The authority vested in the Commissioner and the General Counsel by this order may be redelegated by them.

The authority delegated herein shall be exercised in consultation with the Secretary, and where major policy issues are involved, with the approval of the Secretary.

There is hereby established in the National Office of the Internal Revenue Service the Office of Assistant Commissioner (Stabilization). This Office is responsible for administering the service and compliance functions under the Economic Stabilization Act of 1970, as amended. Authority is also granted to establish appropriate additional supporting organizational structure at both the headquarters and field levels to carry out this responsibility.

Under the terms of section 3 of each of the Orders referred to above, all Treasury bureaus and organizations are available to assist the Internal Revenue Services in carrying out the responsibilities assigned by this delegation.

This order shall be effective at 12:01 a.m., November 14, 1971.

Dated: November 13, 1971.

[SEAL] JOHN B. CONNALLY,
Secretary of the Treasury.

[FR Doc.71-17084 Filed 11-19-71;8:52 am]

DIAMOND TIPS FOR PHONOGRAPH NEEDLES FROM UNITED KINGDOM

Determination of Sales at Less Than Fair Value

NOVEMBER 17, 1971.

Information was received on November 30, 1970, that diamond tips for phonograph needles from the United Kingdom were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act").

A "Withholding of Appraisement Notice" issued by the Commissioner of Customs was published in the FEDERAL REGISTER of August 21, 1971.

I hereby determine that for the reasons stated below, diamond tips for phonograph needles from the United Kingdom are being, or are likely to be, sold at less than fair value within the meaning of section 201(a) of the Act.

Statement of reasons on which this determination is based:

Information currently before the Bureau reveals that the proper basis of comparison is between purchase price or exporter's sales price, as appropriate, and home market price of such or similar merchandise.

Purchase price was calculated by deducting the cash discount and any included freight charges and U.S. duties from the price for exportation to the United States.

Exporter's sales price was calculated by deducting the cash discount, freight charges, and U.S. duty from the resale price of the related firm to the U.S. purchasers.

The home market price was calculated on the basis of a weighted average of home market prices or based on the home market price list, as appropriate. A deduction was made for the cash discount from some home market sales, as appropriate, in calculating the weighted average prices.

Purchase price or exporter's sales price, as appropriate, was found to be lower than the home market price of such or similar merchandise.

The U.S. Tariff Commission is being advised of this determination.

This determination is being published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-17090 Filed 11-19-71;8:52 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

OUTER CONTINENTAL SHELF OFF LOUISIANA

Oil and Gas Lease Sale

Pursuant to section 8 of the Outer Continental Shelf Lands Act (67 Stat. 462; 43 U.S.C. 1331 et seq.) and the regulations issued thereunder (43 CFR Part 3300) sealed bids addressed to the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, T-9003 Federal Office Building, 701 Loyola Avenue, New Orleans, LA, or Post Office Box 53226, New Orleans, LA 70153, will be received until 9:30 a.m., c.s.t., on December 21, 1971, for the lease of oil and gas in certain areas of the Outer Continental Shelf adjacent to the State of Louisiana. Bids will be opened on that date at 10 a.m., c.s.t., in the Grand Ballroom, Sheraton Charles Hotel, 211 St. Charles Street, New Orleans, LA, for the group of tracts designated herein. The opening of bids is for the sole purpose of publicly announcing and recording bids received and no bids will be accepted or rejected at that time.

Bidders are notified that leases issued pursuant to this notice will be on Form 3300-1 (February 1971). Copies of the lease form are available from the above-listed Manager or the Manager, Eastern States Land Office, 7981 Eastern Avenue, Silver Spring, MD 20910.

Bidders are further notified that any lease issued for tracts Nos. La 2247, 2248, and 2249 will contain the following additional provisions:

"No structure for drilling or production may be erected within the leased area until the Regional Supervisor, Geological Survey, has found that the structure is necessary, on the basis of existing geologic and engineering data, for the proper exploration, development, and production of the tract. The lessee's exploratory and development plans, filed under 30 CFR 250.34, shall identify the anticipated placement and grouping of necessary structures, showing how such placement and grouping will have the minimum practicable effect on commercial fishing operations. The Regional Supervisor may decline to approve the installation of a structure at a site which he determines will unreasonably interfere with other uses of the area." Also any lease issued for Tracts Nos. La 2272, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292 will include the following provisions:

"During all drilling and production activities on the leasehold, the lessee shall maintain, or have available under contract, adequate oil containment and cleanup equipment approved by the Regional Supervisor at a readily accessible site. Within 12 hours after the occurrence of a significant oil spill, as determined by the Regional Supervisor, the lessee shall have such equipment in use at the site of the oil spill, unless, because of weather and attendant safety of personnel, the Regional Supervisor shall modify this requirement. The lessee shall monitor all drilling and production activities either with personnel in the immediate field area or by remote surveillance methods. The proposed method of monitoring and any proposed changes thereof shall be approved by the Regional Supervisor."

On December 21, 1971, bids may be delivered in person to the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, only at the Grand Ballroom in the Sheraton Charles Hotel between 8:30 a.m., c.s.t., and 9:30 a.m., c.s.t. Bids delivered by mail or in person after 9:30 a.m., c.s.t., on that date will be returned to the bidders unopened.

All bids must be submitted in accordance with applicable regulations, particularly 43 CFR 3302.2, 3302.4, and 3302.5. Each bidder must submit the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, on Form 1140-1 (November 1969) and Form 1140-7 (July 1971). Bidders are advised that all leases granted pursuant to this notice will include in their provisions a "Certification of Nonsegregated Facilities," and that, in submitting their bids, bidders are deemed to have agreed to the inclusion of this certification in any lease issued to them hereunder.

Bids may not be modified or withdrawn unless written modifications or withdrawals are received prior to the end of the period fixed for the filing of bids. Bidders are warned against violation of section 1860 of title 18 U.S.C. prohibiting unlawful combination or intimidation of bidders. Attention is directed to the non-discrimination clauses in section 3 (h) and (i) of the lease agreement, Form 3300-1 (February 1971). Bidders must submit with each bid one-fifth of the amount bid in cash or by cashier's check, bank draft, certified check or money order, payable to the order of the Bureau of Land Management.

Bidders are notified that any cash, checks, drafts, or money orders submitted with their bids may be deposited in an unearned escrow account in the Treasury during the period their bids are being considered, and that such deposit does not constitute, and shall not be construed as, acceptance of any bid on behalf of the United States. The leases will provide for a royalty rate of one-sixth, and yearly rental or minimum royalty of $3 per acre or fraction thereof. The successful bidder will be required to pay the remainder of the bid and the first year's rental of $3 per acre or fraction thereof and furnish an acceptable surety bond as required in 43 CFR 3304.1 prior to the issuance of each lease.

Bids will be considered on the basis of the highest cash bonus offered for a tract. The United States reserves the right and discretion to reject any and all bids, regardless of the amount offered. Oil payment, overriding royalty, logarithmic or sliding scale bids will not be considered. No bid for less than a full tract, as listed below, will be considered.

A separate bid, in a separate envelope, must be submitted for each tract. The envelope should be endorsed "Sealed Bid for oil and gas lease, Louisiana (insert number of tract) not to be opened until 10 a.m., c.s.t., December 21, 1971."

Official leasing maps in a set of 26, which contains the maps for the areas in which the tracts being offered for lease may be located, can be purchased for $5 per set. The official leasing maps and copies of the Compliance Report Certification Form 1140-? (November 1969) and copies of the Affirmative Action Program Representation Form 1140-7 (July 1971) may be obtained from the above listed Manager or Manager, Eastern States Land Office, 7981 Eastern Avenue, Silver Spring, MD 20910.

The tracts offered for bid are as follows:

LOUISIANA

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 5

(Approved June 8, 1954; Revised Apr. 28, 1966; July 22, 1968)

Ship Shoal Area

Tract No.	Block	Description	Acreage
La. 2247	98	All	5,000
La. 2248	110	All	5,000
La. 2249	160	All	5,000
La. 2250	202	All	5,000

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 5A

(Approved Sept. 8, 1959; Revised Apr. 28, 1966)

Ship Shoal Area—South Addition

La. 2251	320	All	5,000
La. 2252	326	All	5,000
La. 2253	338	All	5,000
La. 2254	343	All	5,000
La. 2255	344	All	5,000
La. 2256	345	All	5,000
La. 2257	359	All	5,000

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 6

(Approved June 8, 1954: Revised July 22, 1954: Dec. 9, 1954: Apr. 28, 1966)

South Timbalier Area

La. 2258	195	All	5,000
La. 2259	202	All	3,772.18

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 6A

(Approved Sept. 8, 1959; Revised Apr. 28, 1966; July 22, 1968)

South Timbalier Area—South Addition

La. 2260	217	All	5,000
La. 2261	314	All	5,000
La. 2262	315	All	4,457.74
La. 2263	316	All	4,434.96

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 7

(Approved June 8, 1954; Revised Apr. 28, 1966)

Grand Isle Area

La. 2264	58	All	5,000
La. 2265	65	All	5,000
La. 2266	67	All	5,000
La. 2267	69	All	5,000
La. 2268	76	All	5,000
La. 2269	84	All	5,000

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 7A

(Approved Sept. 8, 1959; Revised Mar. 7, 1961; Apr. 28, 1966)

Grand Isle Area—South Addition

La. 2270	94	All	4,539.89
La. 2271	95	All	4,539.89

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 8

(Approved June 8, 1954; Revised Apr. 28, 1966)

West Delta Area

La. 2272	35	All [1]	1,893
	36	E½ [1]	
La. 2273	36	W½ [2]	1,446
La. 2274	68	N½	1,832.535
La. 2275	101	All	5,000

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 8A

(Approved Sept. 8, 1959; Revised Nov. 24, 1961; Apr. 28, 1966)

West Delta Area—South Addition

La. 2276	113	All	5,000
La. 2277	124	All	5,000
La. 2278	143	All	5,000
La. 2279	149	All	5,000
La. 2280	154	All	5,000

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 9

(Approved June 8, 1954; Revised July 22, 1954; Apr. 28, 1966)

South Pass Area

La. 2281	46	All [3]	2,712.00
La. 2282	47	All [3]	4,531.24
La. 2283	48	All	4,999.96
La. 2284	49	All	4,999.96
La. 2285	51	All	4,999.96
La. 2286	52	All	4,999.96
La. 2287	53	All	4,999.96
La. 2288	56	All [3]	2,288.62
	57	All [3]	

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 9A

(Approved Sept. 8, 1959; Revised Apr. 28, 1966)

South Pass Area—South and East Addition

La. 2289	75	All	5,000
La. 2290	76	All	5,000
La. 2291	77	All [3]	4,807.63
La. 2292	78	All [3]	2,647.72
La. 2293	82	All	5,000
La. 2294	83	All	5,000
La. 2295	96	All	5,000

See footnotes at end of tables.

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 10
(Approved June 8, 1954; Revised July 22, 1964; Apr. 28, 1966)

Main Pass Area

La. 2296	60	All [3]	4,539.63
La. 2297	61	All [3]	3,776.89
La. 2298	138	All	4,994.55
La. 2299	139	All	4,994.55
La. 2300	140	All	4,994.55
La. 2301	141	All	4,994.55
La. 2302	146	All	4560.81
La. 2303	149	All	4999.96
La. 2304	150	All	4999.96

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 10A
(Approved Sept. 8, 1959; Revised Apr. 28, 1966)

Main Pass Area—South and East Addition

La. 2305	219	All	4994.55
La. 2306	220	All	4994.55
La. 2307	221	All	4994.55
La. 2308	222	All	4994.55
La. 2309	223	All	4994.55
La. 2310	245	All	4994.55
La. 2311	246	All	4994.55
La. 2312	247	All	4994.55
La. 2313	261	All	4994.55
La. 2314	262	All	4994.55
La. 2315	263	All	4994.55
La. 2316	280	All	4994.55
La. 2317	281	All	4994.55
La. 2318	282	All	4994.55
La. 2319	302	All	4999.96
La. 2320	303	All	4999.96
La. 2321	304	All	4999.96
La. 2322	309	All	4999.96
La. 2323	310	All	4999.96
La. 2324	311	All	4999.96

[1] Portion in Zone 2 only, as that zone is defined in the agreement between the United States and the State of Louisiana, Oct. 12, 1956.
[2] Portion in Zone 3 only, as that zone is defined in the agreement between the United States and the State of Louisiana, Oct. 12, 1956.
[3] That portion which is more than 3 geographical miles seaward from the line described in paragraph 1 of the Supplemental Decree of the U.S. Supreme Court entered Dec. 13, 1965 in the United States v. Louisiana No. 9 Original (382 U.S. 288).

Some of the tracts offered for lease may fall in fairway areas (including the prolongations thereof) or anchorage areas, or both, as designated by the District Engineer, New Orleans District, Corps of Engineers, U.S. Army. For the location of these areas and for operational restrictions imposed by the Agency, the District Engineer should be consulted.

Leases issued pursuant to this notice for lands which are on the date of their issuance, or are thereafter adjudicated to be subject to the exclusive jurisdiction and control of the United States, will be subject to all rules and regulations which the Secretary of the Interior is authorized to prescribe and administer under the Outer Continental Shelf Lands Act (43 U.S.C. secs. 1331–1343) including rules and regulations for the prevention of waste and for conservation of the natural resources of the Outer Continental Shelf. The protection of correlative rights therein will be administered by the Secretary of the Interior in accordance with such rules and regulations.

In the event a cooperative agreement is concluded between the Secretary and the Conservation Agency of the State of Louisiana with respect to enforcement of conservation laws, rules, and regulations pursuant to section 5 of the Act, the lessee will be given notice thereof by publication in the FEDERAL REGISTER.

It is suggested that bidders submit their bids in the following form:

Manager, Bureau of Land Management, Department of the Interior, Post Office Box 53226, T-9003 Federal Office Building, New Orleans, LA 70153.

OIL AND GAS BID

The following bid is submitted for an oil and gas lease on the land of the Outer Continental Shelf specified below:

Area ------; Official Leasing Map No. ------

Tract No.	Total amount bid	Amount per acre	Amount submitted with bid

---
(Signature)
(Please type signer's name under signature)

No. Misc. No. ------
Percent ------
(Company)

(Address)

IMPORTANT

The bid must be accompanied by one-fifth of the total amount bid. This amount may be cash, money order, cashier's check, certified check, or bank draft. A separate bid must be made for each tract.

GEORGE L. TURCOTT,
Acting Director.
Bureau of Land Management.

Approved:

ROGERS C. B. MORTON,
Secretary of the Interior.

[FR Doc.71-16954 Filed 11-19-71;8:45 am]

Geological Survey

[Power Site Cancellation 288]

LAKE ARROWHEAD VICINITY, CALIF.

Cancellation of Power Site

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31) and 220 Departmental Manual 6.1, Power Site Classification 96 of May 2, 1925, is hereby canceled to the extent that it affects the following described land:

SAN BERNARDINO MERIDIAN

All portions of the following described lands lying within 50 feet of the centerline of the right-of-way for a transmission line as shown on a blueprint map filed in the General Land Office under 287688 Forest Service, and a permit for which was granted by the U.S. Department of Agriculture, April 9, 1912, to the Arrowhead Reservoir and Power Co.:

T. 2 N., R. 3 W.,
Sec. 11, S½SW¼;
Sec. 13, lot 9;
Sec. 16, NW¼NE¼, E½NW¼, SW¼NW¼, and NW¼SW¼.
T. 2 N., R. 4 W.,
Sec. 24, W½NE¼;
Sec. 26, NW¼NW¼;
Sec. 27, lots 3 and 4, SE¼NW¼, and N½SW¼;
Sec. 34, SE¼SE¼.

The area described aggregates about 47 acres.

W. A. RADLINSKI,
Acting Director.

NOVEMBER 15, 1971.

[FR Doc.71-17000 Filed 11-19-71;8:48 am]

[Power Site Cancellation 272]

SAN GABRIEL RIVER BASIN, CALIF.

Cancellation of Power Site

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31) and 220 Departmental Manual 6.1, Power Site Classification 79 of July 3, 1924, is hereby canceled to the extent that it affects the following described land:

SAN BERNARDINO MERIDIAN

T. 2 N., R. 9 W.,
Sec. 21, lot 2.

All lands within 50 feet of the marginal limits of the canals, pipelines, tunnels, or other power structures of H. W. O'Melveny, trustee, as shown on a right-of-way map approved by the Secretary of the Interior, June 23, 1897, or of the Electric Power Co. of Los Angeles as shown on a right-of-way map approved by the Secretary of the Interior, April 9, 1904, or of their successors in interest within the following described tracts:

T. 2 N., R. 8 W.,
Sec. 7, NW¼NE¼;
Sec. 15, S½S½NW¼SW¼, and SW¼SW¼;
Sec. 16, NW¼SW¼ and S½S½;
Sec. 17, NW¼NE¼, S½NE¼, NE¼NW¼, and NE¼SE¼;
Sec. 18, N½NE¼;
Sec. 21, NE¼NE¼.
T. 1 N., R. 9 W.,
Sec. 5, SW¼NW¼ and NW¼SW¼;
Sec. 6, lots 1 and 2, S½NE¼, N½SE¼, and SE¼SE¼;
Sec. 7, lot 2, NE¼NE¼, SE¼NW¼NE¼, N½SW¼NE¼, SE¼NE¼NW¼, N½SE¼NW¼, SE¼NE¼SW¼, and E½SE¼SW¼;
Sec. 18, lot 1 and NE¼NW¼.
T. 2 N., R. 9 W.,
Sec. 4, lots 4, 5, 11, and 12, N½SW¼, and SW¼SW¼;
Sec. 5, lot 1;
Sec. 6, E½NE¼;
Sec. 9, NW¼NW¼; S½N½, and N½SE¼;
Sec. 10, NW¼SW¼ and S½SW¼;
Sec. 15, W½NE¼, N½NW¼, and SE¼NW¼;
Sec. 17, S½NW¼ and W½SW¼;
Sec. 18, lot 4, E½SW¼, N½SE¼, and SE¼SE¼;
Sec. 19, E½NE¼;
Sec. 20, NW¼NW¼, S½N½, NE¼SW¼, and N½SE¼;
Sec. 21, lots 1 to 4, inclusive;
Sec. 28, NE¼NW¼;
Sec. 29, E½NE¼, NE¼SE¼, and SW¼SE¼;
Sec. 31, NE¼SE¼ and S½SE¼;
Sec. 32, N½SW¼ and SW¼SW¼.
T. 3 N., R. 9 W.,
Sec. 31, lots 2 and 3, NE¼SW¼, and N½SE¼;
Sec. 32, NW¼SW¼ and S½S½;
Sec. 33, SW¼SW¼.
T. 1 N., R. 10 W.,
Sec. 11, E½SE¼;
Sec. 12, S½N½ and NW¼SW¼.
T. 2 N., R. 10 W.,
Sec. 11, N½SE¼ and SE¼SE¼;
Sec. 13, SW¼NE¼, NW¼, W½SE¼, and SE¼SE¼;
Sec. 14, NE¼NE¼.
T. 3 N., R. 10 W.,
Sec. 25, N½SE¼ and SW¼SE¼;
Sec. 36, NW¼NE¼.

The area described aggregates about 322 acres.

W. A. RADLINSKI,
Acting Director.

NOVEMBER 15, 1971.

[FR Doc.71-16999 Filed 11-19-71;8:48 am]

National Park Service

BRYCE CANYON, GRAND CANYON (NORTH RIM), AND ZION NATIONAL PARKS

Notice of Intention To Extend Concession Contract

Pursuant to the provisions of section 5, of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20) public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to extend the concession contract with Utah Parks Co. authorizing it to provide concession facilities and services for the public at Bryce Canyon, Grand Canyon (North Rim), and Zion National Parks, Utah and Arizona, for a period of one (1) year from January 1, 1972 through December 31, 1972.

The National Park Service has determined that it is in the best interest of the United States to extend the expiring contract in order to provide continuity of operation and services to the public while planning is completed for the future operation of the concession facilities.

The foregoing concessioner has performed its obligations under the expiring contract to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Chief, Office of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

LAWRENCE C. HADLEY,
Assistant Director,
National Park Service.

NOVEMBER 11, 1971.

[FR Doc.71-17001 Filed 11-19-71;8:48 am]

Office of the Secretary

WILLIAM A. DAVIS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of November 3, 1971.

Dated: November 3, 1971.

WILLIAM A. DAVIS.

[FR Doc.71-17002 Filed 11-19-71;8:48 am]

FRANK DRAKE

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) Delete—Director Mississippi Valley Association.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of October 31, 1971.

Dated: November 4, 1971.

FRANK T. DRAKE.

[FR Doc.71-17003 Filed 11-19-71;8:48 am]

DONALD B. GREGG

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of October 14, 1971.

Dated: October 28, 1971.

DONALD B. GREGG.

[FR Doc.71-17004 Filed 11-19-71;8:48 am]

EDWARD GLASS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of October 25, 1971.

Dated: October 25, 1971.

E. C. GLASS.

[FR Doc.71-17005 Filed 11-19-71;8:49 am]

ERNEST H. HILL

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) Delete Producers Finance Co.; add National Securities, Inc.; add ISC Industries, Inc.
(3) No change.
(4) No change.

This statement is made as of November 8, 1971.

Dated: November 8, 1971.

ERNEST H. HILL.

[FR Doc.71-17006 Filed 11-19-71;8:49 am]

EVAN W. JAMES

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) Purchase of:

Pacific Gas & Electric Co.—preferred stock.
Wisconsin Power & Light Co.—preferred stock.
Wisconsin Electric Power Co.—preferred stock—7.75 percent (second purchase).

(3) No change.
(4) No change.

This statement is made as of October 20, 1971.

Dated: October 27, 1971.

E. W. JAMES.

[FR Doc.71-17007 Filed 11-19-71;8:49 am]

JACK P. LEWIS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of October 26, 1971.

Dated: October 26, 1971.

JACK P. LEWIS.

[FR Doc.71-17008 Filed 11-19-71;8:49 am]

NICHOLAS A. RICCI

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) Delete: Massachusetts Investors Trust; CNA Financial Co.
Add: Weight Watchers; Purepac Labs.
(3) No change.
(4) No change.

This statement is made as of October 25, 1971.

Dated: October 26, 1971.

N. A. RICCI.

[FR Doc.71-17009 Filed 11-19-71;8:49 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[Docket No. SH-301]

SUGAR BEETS

Notice of Hearings on Wages and Prices and Designation of Presiding Officers

Pursuant to the authority contained in subsections (c)(1) and (c)(2) of section 301 of the Sugar Act of 1948, as amended (61 Stat. 929; 7 U.S.C. 1131), and in accordance with the rules of practice and procedure applicable to wage and price proceedings (7 CFR 802.1 et seq.), notice is hereby given that public hearings will be held as follows:

At San Francisco, Calif., on December 6, 1971, in Room 13450, Federal Building, 450 Golden Gate Avenue, beginning at 9:30 a.m.;

At Moorhead, Minn., on December 8, 1971, in the Minnesota Room of the Holiday Inn, Highways 75 and I-94, beginning at 2 p.m.;

At Ann Arbor, Mich., on December 10, 1971, at Weber's Inn, 3050 Jackson Road, beginning at 9:30 a.m.;

At San Benito, Tex., on December 15, 1971, in the Community Building, 210 East Heywood, beginning at 9:30 a.m.;

At Salt Lake City, Utah, on December 17, 1971, in Room B-20, New Federal Building, 125 South State Street, beginning at 9:30 a.m.

The purpose of these hearings is to receive evidence likely to be of assistance to the Administrator, Agricultural Stabilization and Conservation Service, in determining (1) pursuant to the provisions of section 301(c)(1) of the Act, whether the wage rates established for sugar beet fieldworkers in the wage determination which became effective April 12, 1971 (36 F.R. 5901 and 36 F.R. 6734), continue to be fair under existing circumstances, or whether such determination should be amended; and (2) pursuant to the provisions of section 301(c)(2) of the Act, fair and reasonable prices for the 1972 crop of sugar beets to be paid, under purchase or toll agreements, by producers who process sugar beets grown by other producers and who apply for payments under the Act.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

The hearings, after being called to order at the times and places mentioned herein, may be continued from day to day within the discretion of the presiding officers and may be adjourned to a later day or to a different place without notice other than the announcement thereof at the hearings by the presiding officers.

T. O. Murphy, L. L. Sommerville, R. R. Stansberry, C. F. Denny, J. E. Agnew, and T. M. Popp are hereby designated as presiding officers to conduct either jointly or severally the foregoing hearings.

Signed at Washington, D.C. on November 17, 1971.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.71-17034 Filed 11-19-71;8:51 am]

Packers and Stockyards Administration

NORTHWOOD LIVESTOCK SALES CO., ET AL.

Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Name, location of stockyard, and date of posting
Northwood Livestock Sales Co., Northwood, Iowa, May 19, 1959.
Herington Livestock Auction Co., Inc., Herington, Kans., Mar. 31, 1950.
Knox County Stockyards, Inc., Barbourville, Ky., Dec. 8, 1959.
Farmers Live Stock Sales, Inc., Louisa, Ky., Sept. 22, 1965.
Highway 84 Stockyard, Laurel, Miss., June 17, 1970.
Menard County Commission Company, Inc., Menard, Tex., Apr. 2, 1957.
Beetown Livestock Market, Beetown, Wis., May 27, 1966.

Notice or other public procedure has not preceded promulgation of the foregoing rule. There is no legal justification for not promptly deposting a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a rule relieving a restriction and may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This notice shall become effective upon publication in the FEDERAL REGISTER (11-20-71).

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 et seq.).

Done at Washington, D.C., this 16th day of November 1971.

EDWARD L. THOMPSON,
Acting Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc.71-17033 Filed 11-19-71;8:51 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-71-134]

DIRECTOR, OFFICE OF HOUSING PROGRAMS ET AL.

Redelegation of Authority With Respect to Low-Rent Public Housing Program

The Director, Office of Housing Programs; the Director, Maintenance Engineering Division; and the Chief, Supply Management Branch, Housing Management, each is authorized to execute contracts and amendments thereto, in furtherance of the low-rent public housing program under the U.S. Housing Act of 1937 (42 U.S.C. 1401 et seq.), with respect to the purchase by local housing authorities of materials, equipment, and supplies.

This redelegation of authority supersedes the redelegation of authority published at 35 F.R. 4019, March 3, 1970, effective February 7, 1970.

(Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); Secretary's delegation of authority effective Mar. 8, 1971, 36 F.R. 5005, Mar. 16, 1971)

Effective date. This redelegation of authority is effective as of July 1, 1971.

NORMAN V. WATSON,
Assistant Secretary for Housing Management.

[FR Doc.71-17021 Filed 11-19-71;8:50 am]

DEPARTMENT OF TRANSPORTATION

Office of Hazardous Materials

ANHYDROUS AMMONIA SHIPMENTS

Notice of Public Meeting

The Department has received information that evidence of stress corrosion cracking is reappearing in MC 330 and MC 331 cargo tanks used for the transportation of anhydrous ammonia. We are not aware of the extent of the problem as it relates to other shipping containers such as cylinders and rail cars, or of accident experience due to stress corrosion.

On Tuesday, December 14, 1971, at 10 a.m., a public meeting will be held in room 2230 Nassif Building (DOT headquarters), 400 Seventh Street SW., Washington, DC, to discuss this matter.

Any persons having knowledge concerning the existence or extent of stress corrosion cracking, and methods by which it can be prevented, are requested to participate in the meeting. The information developed from this meeting may be used by the Hazardous Materials Regulations Board as the basis for a future rule making action pertaining to the shipping and transportation of anhydrous ammonia in cargo tanks.

Issued in Washington, D.C., on November 16, 1971.

W. J. BURNS,
Director, Office of Hazardous Materials.

[FR Doc.71-17036 Filed 11-19-71;8:51 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-293]

BOSTON EDISON CO.

Order Setting Evidentiary Hearing

In the matter of Boston Edison Co., (Pilgrim Nuclear Power Station), Docket No. 50-293.

Pursuant to the Board's orders of August 4, 1971 and October 28, 1971, and the discussions at the conference of counsel held in Boston on November 3, 1971, an evidentiary hearing in this proceeding will convene in Plymouth, Mass., on Monday, December 6, 1971, at 10 a.m., e.s.t., at Memorial Hall, 83 Court Street, Plymouth, Mass. 02360.

The purpose of the hearing is to receive evidence relating to the applicants' application for an operating license. In accordance with the order of August 4, evidence will be heard on the radiological and safety aspects of the application, excluding matters relating to gaseous and liquid effluents; environmental aspects also will be excluded. The excluded matters are reserved for consideration at future hearings.

The sequence of presentations will generally be the following: Opening remarks; limited appearance statements; formal introduction of documents and papers required by regulations; applicants' evidentiary presentation, to be followed by cross-examination thereon; introduction of the regulatory staff safety evaluation report, and related matters; Joint Intervenors' evidentiary presentation on contention No. 9 in opposition to applicant's case, and cross-examination thereon; Joint Intervenors' challenge to regulations and criteria, and presentation of rebuttal evidence thereon to the extent that other parties desire to submit rebuttal.

Suggestions for specific items to be included in the agenda for hearing should be submitted to the Board 10 days prior to the date of the hearing.

The Board anticipates that 2 to 2½ days will be required for the first five items noted above, excluding time required for cross-examination, and that 1 day should be scheduled for the presentation of the Joint Intervenors' challenge to regulations and criteria. This schedule will be adjusted to meet the requirements of the hearing as they develop; in the meanwhile, comments by the parties will be welcome.

Written testimony should be submitted 10 days prior to the date of hearing. Witness lists should be exchanged at the same time. Areas of cross-examination should be identified 5 days prior to the hearing. Parties intending to cross-examine should estimate the amount of time they believe they will need for this purpose. Areas in which rebuttal testimony will be offered similarly should be identified 5 days prior to the hearing. Where rebuttal testimony is intended to be presented, copies should be distributed at that time.

In accordance with the Board's order of October 28 and supplemental order of November 15, 1971, the Joint Intervenors' contention No. 9 is the only contention on which evidence to be presented by the Joint Intervenors will be heard as a controverted matter in opposition to the Applicants' evidentiary case. The other contentions of the Joint Intervenors,[1] identified in the supplemental order dated November 15, 1971, will be heard in the manner described in the supplemental order, during the stage of the hearing that is scheduled for the presentation of the Joint Intervenors' challenge to Commission regulations and criteria. The Joint Intervenors should complete their discovery in relation to their contention No. 9 in a timely manner consistent with the hearing schedule indicated herein.

Dated this 17th day of November 1971, at Washington, D.C.

ATOMIC SAFETY AND LICENSING BOARD,
NATHANIEL H. GOODRICH,
Chairman.

[FR Doc.71-17058 Filed 11-19-71;8:52 am]

[1] Nos. 2(a), 4, 5, 8, 11, 12, 13, 14, 16, 20, and 22.

[Docket No. 50-268]

GENERAL ELECTRIC CO.

Notice of Availability of Applicant's Environmental Reports

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that reports entitled "Applicant's Environmental Report," "Response to AEC Staff Questions Regarding Applicant's Environmental Report" and "Applicant's Environmental Report, Supplement No. 1," submitted by the General Electric Co. are being placed in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., and in the Morris Public Library, 604 Liberty Street, Morris, Ill. 60451. The reports are also being made available to the public at the Illinois State Clearinghouse, Office of the Governor, 205 State House, Springfield, Ill. 62706.

These reports discuss environmental considerations related to the proposed operation of the Midwest Fuel Recovery Plant located in Goose Lake Township, Grundy County, Ill. Comments on the reports may be submitted by interested persons to the Director, Division of Materials Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

After the reports have been analyzed by the Commission's Director of Regulation or his designee, a draft detailed statement of environmental considerations related to the proposed action will be prepared. Upon preparation of the draft detailed statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of the availability of the applicants environmental reports and the draft detailed statement. The summary notice will request within thirty (30) days comments from Federal agencies, State and local officials, and interested persons on the applicant's environmental reports and the draft detailed statement. The summary notice will also contain a statement to the effect that the comments of Federal agencies and State and local officials thereon will be made available when received.

Dated at Bethesda, Md., this 15th day of November 1971.

For the Atomic Energy Commission.

RICHARD E. CUNNINGHAM,
Acting Director, Division of Materials Licensing.

[FR Doc.71-16971 Filed 11-19-71;8:46 am]

[Docket No. 70-1257]

JERSEY NUCLEAR CO.

Notice of Availability of Applicant's Supplemental Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations, notice is hereby given that a copy of a report entitled "Applicant's Supplemental Environmental Report—Uranium Oxide Fuel Plant," submitted by Jersey Nuclear Co. and dated October 1971, is being placed for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20545. A copy of the report is also being placed for public inspection in the Washington State Clearinghouse, Office of the Governor, State Planning Division and Community Assistance Division, 100 Insurance Building, Olympia, Wash. 98501, and in the Richland Public Library, Swift and Northgate Streets, Richland, WA 99352. The report discusses environmental considerations related to the application by Jersey Nuclear Co. for a license to possess and use special nuclear material for operation of its uranium oxide fuel fabrication plant at Richland, Wash. Comments on the report may be submitted by

interested persons to the Director, Division of Materials Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Notice of availability of the original environmental report entitled "Applicant's Environmental Report—Uranium Oxide Fuel Plant" was published in the FEDERAL REGISTER on July 17, 1971 (36 F.R. 13288). Subsequent to the publishing of the latter notice, on July 23, 1971, the U.S. Court of Appeals for the District of Columbia Circuit held in Calvert Cliff's Coordinating Committee, Inc., et al. v. U.S. Atomic Energy Commission et al. that AEC regulations for the implementation of the National Environmental Policy Act of 1969 did not comply in several specified respects with the dictates of the act and remanded the proceedings to AEC for rule making consistent with the court's opinion. Accordingly, the Commission's regulation 10 CFR Part 50, "Licensing of Production and Utilization Facilities," appendix D, was amended September 9, 1971, to conform with the court's decision. Under the provisions of the amended regulation, it was required that Jersey Nuclear Co. furnish additional environmental information for consideration by the Commission. It is in conformity with that requirement that the supplemental environmental report described in the first paragraph above has been submitted.

After the original and supplemental environmental reports have been reviewed by the Commission's regulatory staff in the light of the revised 10 CFR Part 50, appendix D, a supplemental draft detailed statement on environmental considerations related to the proposed activity will be prepared. Upon completion of the supplemental draft detailed statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of its availability. The summary notice will request, within thirty (30) days or such longer period as the Commission may determine to be practicable, comments from interested persons on the proposed action and on the draft statement. The summary notice will also contain a statement to the effect that the comments of Federal agencies and State and local officials thereon will be made available when received.

Dated at Bethesda, Md., this 15th day of November 1971.

For the Atomic Energy Commission.

RICHARD E. CUNNINGHAM,
Acting Director,
Division of Materials Licensing.

[FR Doc.71-16972 Filed 11-19-71;8:46 am]

CIVIL AERONAUTICS BOARD

[Docket No. 21474]

INVESTIGATION OF PREMIUM RATES FOR LIVE ANIMALS AND BIRDS

Notice of Hearing

Notice is hereby given pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on November 30, 1971, at 10 a.m. (local time) in Room 726, Universal Building, Connecticut and Florida Avenues NW., Washington, DC, before the undersigned examiner.

Dated at Washington, D.C., November 16, 1971.

[SEAL] LOUIS W. SORNSON,
Hearing Examiner.

[FR Doc.71-17027 Filed 11-19-71;8:51 am]

UNITED AIR LINES, INC.

Notice of Application for Tariff-Filing Authority; Pickup and Delivery Zone

NOVEMBER 16, 1971.

In accordance with Part 222 (14 CFR Part 222) of the Board's Economic Regulations (effective June 12, 1964), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 23981, from United Air Lines, Inc., Chicago, Ill., for authority to provide pickup and delivery service at Portland, Oreg., to a point approximately 41 miles from the city limits of Portland so as to include the Port of Longview, Wash.

Under the provisions of § 222.3(c) of Part 222, interested persons may file an answer in opposition to or in support of this application within fifteen (15) days after publication of this notice in the FEDERAL REGISTER. An executed original and 19 copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and include such economic data and facts as are relied upon, and shall be served upon the applicant and state the date of such service.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-17028 Filed 11-19-71;8:51 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Public Availability

Section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. sec. 4332(2)(C)) requires that, prior to recommending or reporting on legislation or to taking other major action significantly affecting the environment, the responsible Federal official shall prepare an environmental impact (102) statement. This statement must detail the environmental impact of the proposed action, any adverse effects, and alternatives.

Federal agencies with relevant environmental expertise are to be consulted, and the views of State and local agencies authorized to develop and enforce environmental standards are to be invited. The 102 statements and the comments and views of relevant Federal, State, and local agencies are to be made available to the public.

In order to facilitate public comment on and participation in this process, the Council on Environmental Quality issues monthly a listing of statements received in its "102 Monitor." In addition, a more frequent listing will appear in the FEDERAL REGISTER.

Please note that the statements themselves are not available from the Council. Although statements may be read in the document room of the preparing agency and a limited supply of statements is available from the agency, persons requesting copies are urged to order from one of the sources listed below:

NTIS Order Desk, U.S. Department of Commerce, Springfield, Va. 22151.

All statements available in paper copy (under 300 pages, $3; over 300 pages, $6), final statements in microfiche ($0.95 each; special package of all final statements, $0.35 each). NTIS also lists statements in its semi-monthly Announcement Series No. 68, "Environmental Pollution and Control" (annual subscription, $5).

Order by NTIS number appearing in parentheses at the end of each statement description.

Although efforts are underway to facilitate processing of statements for duplication, please allow 1 to 2 weeks for their processing and the handling of orders.

Document Service, Environmental Law Institute, 1346 Connecticut Avenue NW., Washington, DC 20036.

Order by agency, date and ELR number appearing in parentheses at the end of each statement description. Enclose correct amount with order ($0.10 per page).

ENVIRONMENTAL IMPACT STATEMENTS RECEIVED BY THE COUNCIL ON ENVIRONMENTAL QUALITY, NOVEMBER 1–NOVEMBER 12, 1971

NOTE: At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.

DEPARTMENT OF AGRICULTURE

Contact: Dr. T. C. Byerly, Office of the Secretary, Washington, D.C. 20250, (202) [illegible]-7803.

AGRICULTURAL RESEARCH SERVICE

Draft, November 4

Soil Inhabiting Insects program: Application of chlordane at 35 high-risk locations (airports, military installations) in 21 States to prevent long-distance artificial spread of plant pests. (ELR Order No. 1165, 13 pages) (NTIS Order No. PB-204 018-D)

SOIL CONSERVATION SERVICE

Draft, November 2

Clarks Fork-Bullocks Creek Watershed, York County, S.C. Includes 17,600 acres of conservation measures, 360 acres of critical area stabilization, six floodwater retarding structures, one multipurpose structure and recreational facilities. Will eliminate 867 acres of woods, 229 acres of open land, and 15 miles of stream fishery. (ELR Order No. 1149, 10 pages) (NTIS Order No. PB-203 877-D)

DEPARTMENT OF DEFENSE

DEPARTMENT OF AIR FORCE

Contact: Col. Cliff M. Whitehead, Room 5E 425, The Pentagon, Washington, D.C. 20330, (202) OX 5-2889.

Final, November 2

Consolidation of all Air Force helicopter training at Hill Air Force Base, Utah. Includes combat crew training, air rescue, recovery, aircraft fire, and rescue training. Fire training will involve open burning of jet fuel, resulting in some smoke and unburned jet fuel. Comments made by DOA, DOI, EPA, Utah Governor, Utah Department of Social Services, and Utah Air Conservation Committee. (ELR Order No. 1151, 162 pages) (NTIS Order No. PB-198 764-F)

Final, November 3

Development and testing of three flight-test B-1 aircraft, a high subsonic, low-altitude penetrator (two-thirds size of B-52) capable of supersonic speed at high altitude. First flight scheduled for April 1974, with decision to enter into production about 12 months later. Describes measures being developed to lessen noise and air pollution. (ELR Order No. 1160, 32 pages) (NTIS Order No. PB-201 711-F).

Development of the F-15 aircraft to fill the Air Force need for an air superiority fighter. A single-place, fixed-wing, twin-turbofan fighter in the 40,000-pound weight class capable of speed in excess of Mach 2, the F-15 is in the advanced development stage. Plans are for a first flight in 1972, with initial operational capability in the mid-1970's. (ELR Order No. 1164, 32 pages) (NTIS Order No. PB-201 710-F)

DEPARTMENT OF ARMY

Corps of Engineers

Contact: Francis X. Kelly, Assistant for Conservation Liaison, Public Affairs Office, Office, Chief of Engineers, 1000 Independence Avenue SW., Washington, DC 20314, (202) 693-6329.

Draft, October 29

Perry County Drainage and Levee Districts 1, 2, and 3, Perry County, Mo., and Randolph County, Ill. Construction of four 60-130 c.f.s. pumping stations and two drainage ditches totaling 13,900 feet. Will result in some loss of the 280 acres of brush and forest land, now wildlife habitat. (ELR Order No. 1133, 201 pages) (NTIS Order No. PB-203 775-D)

Draft, November 2

Choctawhatchee River and Holmes Creek, Fla. Permit application for snagging of river from Alabama line to the mouth and of creek from Vernon to its confluence with the river to provide safe navigation for small pleasure craft. Will reduce aquatic habitat. (ELR Order No. 1136, 29 pages) (NTIS Order No. PB-203 770-D)

Penn's Landing, Delaware River, Philadelphia, Pa. Downtown waterfront renewal project in three stages: Stage I (40 acres) required 2.4 million cubic yards of fill; stages II and III (70 acres) will require twice the amount of fill. Involves permanent removal of 110 acres of navigable water and conversion to filled lands. (ELR Order No. 1144, 16 pages) (NTIS Order No. PB-204 013-D)

Final, October 29

Clinton Lake, Wakarusa River project, Kansas. Involves construction of a dam and lake. Inundation of 7,000 acres of wildlife habitat and farmland and 50 miles of free-flowing intermittent streams. Purpose: To provide increased water supply and quality control, flood control, fish and wildlife enhancement, recreation, etc. Comments made by USDA, DOC, DOI, EPA, and Kansas Water Resources Board. (ELR Order No. 1106, 29 pages) (NTIS Order No. PB-203 761-F)

Final, October 28

Spring Creek Channel improvement, Springdale, Ark. (flood protection). Straightening and enlargement of 9,000 feet of Channel Creek through Springdale. Comments made by DOI, EPA, FHWA, Arkansas Soil and Water Conservation Commission and Society for Environmental Stabilization. (ELR Order No. 1107, 33 pages) (NTIS Order No. PB-198 744-F)

Mason J. Niblack Levee (Pumping Plants), Wabash River Basin, Ind. Involves construction of pumping facilities, powerlines, etc., for flood protection by removing interior ponding from the area protected by the Niblack Levee. Comments made by USDA, DOI, EPA, Indiana Department of Natural Resources, Indiana Planning and Development Clearinghouse and Area Planning Department for Vigo County. (ELR Order No. 1113, 16 pages) (NTIS Order No. PB-202 655-F)

Final, October 27

Navigation project at Atlantic Harbor of Refuge, Carteret County, N.C. Involves dredging channels 7 feet deep, 50-70 feet wide and converting a small marsh into a basin. Dredged material will be used to construct a breakwater. Comments made by USDA, DOI, EPA, DOT, North Carolina Board of Water and Air Resources, and Carteret County Commissioners. (ELR Order No. 1118, 39 pages) (NTIS Order No. PB-198 870-F)

Final, October 29

Small Boat Harbor, Mississippi River, Pepin, Wis. Involves an additional 434-foot sand-filled breakwater, a 60-inch pipe culvert. Purpose: Protection from wave damage and maintainable aeration facility. Comments made by DOI, EPA, Wisconsin Department of Natural Resources, Mississippi River Regional Planning Commission, and village of Pepin. (ELR Order No. 1137, 29 pages) (NTIS Order No. PB-203, 763-F)

Final, November 9

San Antonio Channel Improvements, San Antonio River and Tributaries, Tex. Alterations on 33 miles of channel includes channel excavation, channel paving, deepening San Antonio River Lake section, etc. Purpose: Flood control. Comments made by DOI, EPA, various State of Texas agencies and the San Antonio River Authority. (ELR Order No. 1179, 37 pages) (NTIS Order No. PB-204 032-F)

DEPARTMENT OF THE NAVY

Contact: Joseph A. Grimes, Jr., Special Civilian Assistant to the Secretary of Navy, Washington, D.C. 20350, (202) 697-0692.

Draft, November 2

Kahoolawe Island Target Complex, Hawaii. Continued use of island as naval target complex. (ELR Order No. 1143, 92 pages) (NTIS Order No. PB-203 876-D)

ENVIRONMENTAL PROTECTION AGENCY

Contact: George Marienthal, Acting Director of Environmental Impact Statements Office, 1750 K Street NW., Room 440, Washington, DC 20460, (202) 254-7420.

Final, October 25

Waste Treatment Facility, Project No. WPC Colo-261, Greeley, Colo. Involves relocating a substantial portion of the present system capacity. Construction consists of four anaerobic lagoons, two aerated ponds, etc. Purpose: Initial effort to centralize treatment facilities for the drainage basin. Comments made by Army COE, USDA, DOI, HEW, HUD, and Colorado State Planning Coordinator. (ELR Order No. 1142, 41 pages) (NTIS Order No. PB-201 886-F)

GENERAL SERVICES ADMINISTRATION

Contact: Rod Kreger, Deputy Administrator, General Services Administration—AD, Washington, D.C. 20405, (202) 343-6077.

Alternate Contact: Aaron Woloshin, Director, Office of Environmental Affairs, General Services Administration—AD, (202) 343-4161.

Draft, November 4

Disposal of a portion of Fort Custer Military Reservation, Battle Creek, Mich. Plan for disposal is as follows: 96 acres with 100 frame buildings for conveyance to State for mental health purposes; 21 acres and existing sewer and water systems to HEW for conveyance to city for health purposes; railroad system to city by negotiated sale; and electrical and telephone system to Consumer Power Co. by negotiated sale. (ELR Order No. 1156, 4 pages) (NTIS Order No. PB-203 884-D)

Disposal of Condon Air Force Station, Gilliam County, Oreg., by competitive bid sale. Involves 66.3 acres, along with 69 buildings, etc. (ELR Order No. 1157, 10 pages) (NTIS Order No. PB-203 885-D)

Draft, October 27

Disposal of Philadelphia Army Supply Base (D-PA-521) by negotiated sale to city of Philadelphia, Pa., for port industrial use. (ELR Order No. 1158, 7 pages) NTIS Order No. PB-203 886-D)

Draft, November 8

Disposal of Lewiston Government Camp, Trinity County, Calif. Sewer and water systems and 6 acres to be assigned to HEW for conveyance to Lewiston Community Services District; gymnasium, 10 acres, and five houses to be assigned to HEW for conveyance to Lewiston School District, electric system to be sold by negotiated sale to Pacific Gas and Electric Co.; 85 housing units and 185 acres to be sold by auction; and seven buildings to be assigned to HEW for conveyance to Shasta and Trinity County School Districts for offsite removal. (ELR Order No. 1166, 6 pages) (NTIS Order No. PB-204 019-D)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Contact: Richard H. Broun, Director, Environmental and Land Use Planning Division, Washington, D.C. 20410, (202) 755-6186.

Draft, October 29

Soul City New Community, Warren County, N.C. Proposes loan guarantee of up to $10 million for land acquisition and development of a new community under title VII of the Housing and Urban Development Act of 1970. (ELR Order No. 1139, 63 pages) (NTIS Order No. PB-203 773-D)

Draft, November 2
Portland Student Services, Inc., Portland, Oreg. Loan of $3,193,000 to construct a 16-story apartment building to provide moderately priced student housing. Site is in the Goose Hollow district. (ELR Order No. 1147, 28 pages) (NTIS Order No. PB-204 014-D)

DEPARTMENT OF INTERIOR

Contact: Office of Communications, Room 7214, Washington, D.C. 20240, (202) 343-6416.

BUREAU OF RECLAMATION

Final, November 2
Archer-Weld transmission line: A 230 kv. facility that will extend 57 miles from the Archer Substation east of Cheyenne, Wyo., to the proposed Weld Substation west of Greeley, Colo. Purpose: To interconnect public and private transmission facilities which will help prevent blackouts. Comments made by Army COE, USDA, DOI, EPA, FPC, and various State of Colorado and Wyoming agencies. (ELR Order No. 1150, 45 pages) (NTIS Order No. PB-203 875-F)

TENNESSEE VALLEY AUTHORITY

Contact: Dr. Francis Gartell, Director of Environmental Research and Development, 720 Edney Building, Chattanooga, Tenn. 37401, (615) 755-2002.

Draft, November 8
Supplement—Browns Ferry Nuclear Plant, Units 1, 2, and 3, Limestone County, Ala. (See 102 Monitor, August, p. 77.) Involves construction and operation of plant with 3,456 megawatt capacity. (ELR Order No. 182, Supplement—231 pages; Draft statement—187 pages) (NTIS Order No. PB-204 033-D for supplement only)

Final, October 29
Thomas H. Allen Steam Plant, Gas Turbine Peaking Plant Addition—Units 1-16, Memphis, Tenn. Addition capable of generating 355,500 kw. and designed to use either natural gas or No. 2 distillate fuel oil. Purpose: Provide additional capacity of electricity. Comments made by FPC, HEW, HUD, DOI, DOT, Tennessee Dept. of Conservation, Tennessee Office of Urban and Federal Affairs, and Mississippi-Arkansas-Tennessee Council of Governments. (ELR Order No. 1108, 43 pages) (NTIS Order No. 203 762-F)

DEPARTMENT OF TRANSPOSTATION

Contact: Martin Convisser[1], Director, Office of Program Coordination, 400 Seventh Street SW., Washington, DC 20590, (202) 462-4357.

FEDERAL AVIATION ADMINISTRATION

Draft, November 8
Big Bear City Airport, San Bernardino County, Calif. Realignment and construction of runway, seven taxiways and apron and installation of lighting and safety operational facilities. Will require relocation of some residences. (ELR Order No. 1170, 25 pages) (NTIS Order No. PB-204 023-D)

Lincolnton-Cherryville Airport, N.C. Construction of new airport south of juncture of North Carolina-182 and SR-1187 adequate for 95 percent of propeller-driven aircraft of less than 12,500 pounds and some light twin engine propeller-driven aircraft. (ELR Order No. 1171, 19 pages) (NTIS Order No. PB-204 024-D)

[1] Mr. Convisser's office will refer you to the regional office from which the statement originated.

Draft, November 5
Park Falls Municipal Airport, Price County, Wis. Construction of paved runway, connecting taxiway, apron and private entrance road and installation of low intensity lighting system. (ELR Order No. 1172, 13 pages) (NTIS Order No. PB-204 025-D)

Draft, November 9
Albany County Airport, Colonie, N.Y. Extension of runway. Will displace six families and necessitate relocation of Old Niskayuna Road. (ELR Order No. 1173, 100 pages) (NTIS Order No. PB-204 026-D)

Final, October 27
Stapleton International Airport project, Denver, Colo. Involves runway improvement, installation of a MIRL lighting system and blast protection, reconstruction of portions of the high-speed turn-offs, etc., to provide new runway for wide-body jets, to prevent erosion and dusting conditions. Comments made by DOI, DOT, State Planning Agency, Denver Regional Council of Government and Adams County Planning Commission. (ELR Order No. 1105, 46 pages) (NTIS Order No. PB-199 604-F)

Final, October 28
Monmouth Municipal Airport, Warren County, Ill. Consists of obtaining reimbursement for land and an aviation easement. Action will make the airport a part of the Federal Aid System of Airports. Comments made by Army COE, USDA, DOC, EPA, HUD, and Illinois A-95 agencies. (ELR Order No. 1116, 57 pages) (NTIS Order No. PB-201 306-F)

Liberty County Airport, Hinesville, Ga. Involves extending and widening runway, installing medium-intensity lighting system, etc. Clearing 12 acres will be necessary. Purpose: Accommodate 60 percent of the business jet fleet. Comments made by USDA, DOI, EPA, Georgia Historical Commission, Georgia Bureau of State Planning and Community Affairs, Coastal Area Planning and Development Commission and city of Hinesville. (ELR Order No. 1119, 26 pages) NTIS Order No. PB-201 691-F)

Airport project at Healdton, Okla. Construction of a new municipal airport and paved landing strip. Will also serve three nearby communities. Comments made by one State agency, city of Healdton, Southern Oklahoma Development Association and Ozarks Regional Development Commission. (ELR Order No. 1120, 28 pages) (NTIS Order No. PB-203 768-F)

Fairhope Municipal Airport, Baldwin County, Ala. Involves land acquisition, runway extension, powerline relocation, etc. Comments made by Army COE, DOI, Alabama Development Office and Southern Alabama Regional Planning Commission. (ELR Order No. 1131, 15 pages) (NTIS Order No. PB-202 088-F)

Indian Valley Airport, Crescent Mills, Calif. Involves right-of-way acquisition, runway embankment and site drainage, site fencing and powerline clearance. Comments made by Army COE, USDA, DOC, DOI, EPA, HEW, and HUD. (ELR Order No. 1135, 42 pages) (NTIS Order No. PB-200 379-F)

FEDERAL HIGHWAY ADMINISTRATION

Draft, October 28
Missouri River Bridge and approaches: Great Falls, Mont. Relocation and construction of four-lane bridge, with four alternatives under consideration. Park land is involved in each, and one crosses an island bird refuge. (ELR Order No. 1109, 26 pages) (NTIS Order No. PB-203 756-D)

Draft, October 29
Route 36: Marion-Ralls Counties, Mo. Construction of 4.8 miles of two-lane highway from a point west of Monroe City to a point west of Route J. Involves taking of approximately 170 acres of farmland, one farm unit, and one building. Job No. 3-F-36-33. (ELR Order No. 1110, 7 pages) (NTIS Order No. 203 754-D)

Route 63: Boone-Callaway Counties, Mo. Construction of 5.9 miles of four-lane highway from a point north of Calloway County line south to Route 54. Job No. 5-P-63-20. (ELR Order No. 1111, 7 pages) (NTIS Order No. 203 755-D)

Route 71: Nodaway-Andrew Counties, Mo. Construction of 23.8 miles of additional two lanes from a point south of Maryville south to Route 59. Job No. 1-P-71-1. (ELR Order No. 1112, 6 pages) (NTIS Order No. PB-203 752-D)

Draft, October 27
Alabama Highways 134 and 92: Coffee, Dale, and Houston Counties, Ala. Improvement from two to four lanes from U.S.-84 bypass in Enterprise to Wicksburg Wye, a length of 13.2 miles. Highway projects S-877-E and S-1004-E. (ELR Order No. 1115, 8 pages) (NTIS Order No. 203 753-D)

Draft, October 29
Golden Strip Freeway: Greenville County, S.C. Construction of 6 miles of freeway from the interchange of I-85 and I-385 east of Greenville south to U.S.-276 at the Standing Springs Road interchange at Simpsonville. Would displace 12 residences. (ELR Order No. 1117, 12 pages) (NTIS Order No. 203 757-D)

U.S.-264: Wake, Nash, and Wilson Counties, N.C. Relocation and improvement of 15.7 miles of highway beginning at North Carolina 97 east of Zebulon and ending near the U.S.-264-SR-1303 intersection. Would require acquisition of 250 acres of farmland and 700 acres of woodland. 14 families and one business would be relocated. Highway project 6.801778. (ELR Order No. 1126, 36 pages) (NTIS Order No. PB-203 750-D)

Draft, October 27
Jacksonville Highway: Grants Pass-New Hope Road section, Josephine County, Oreg. Widening of highway from its intersection with New Hope Road, a distance of 1.4 miles, or developing a new route using 0.6 mile of Harbeck Road and the remaining 1 mile on a new location. (ELR Order No. 1130, 21 pages) (NTIS Order No. PB-203 751-D)

Draft, October 29
M-43: Kalamazoo and Van Buren Counties, Mich. Reconstruction of 14.3 miles of M-43 from M-40 in Van Buren County east to Kalamazoo city limits. Requires removal of 31 homes and one business. Federal highway project S 5( ) and S 6(102) (ELR Order No. 1132, 33 pages) (NTIS Order No. PB-203 774-D)

Draft, October 28
I-75: Lee and Dade Counties, Fla. Construction of limited-access, multilane 135-mile highway and interchanges between Miami and Fort Myers. Requires displacement of 23 residences and five businesses and loss of wetlands. Directly or indirectly affects lands within a Conservation Area, Everglades National Park and Collier-Seminole State Park. 4(f) determination included. (ELR Order No. 1134, 123 pages) (NTIS Order No. PB-203 769-D)

Draft, November 2
SR-438: Silver Star Road, Orange County, Fla. Improvement of a 4.2-mile segment beginning at SR-435 east to SR-500 (U.S.-441), the first 2.5 miles to be additional lanes, the remaining a new four-lane facility. Will involve relocation of homes and businesses. State job No. 75250-1505. (ELR Order No. 1138, 128 pages) (NTIS Order No. PB-203 771-D)

Draft, October 29
SR-18, Raging River Interchange: King County, Wash. Construction of interchange to permit closing of county road system through Seattle Cedar River Watershed. (ELR Order No. 1140, 22 pages) (NTIS Order No. PB-203 772-D)

U.S.-301 (SR-683): Sarasota and Manatee Counties, Fla. Improvement and relocation of 8-mile, multilane, limited access highway from county line into Bradenton. State job No. 17120-1503 and 13120-1506. (ELR Order No. 1146, 19 pages) (NTIS Order No. PB-203 879-D)

Draft, November 2
I-5: Longview Wye to Rocky Point, Cowlitz County, Wash. Widening of four to six lane freeway for 5.6 miles and updating interchanges. (ELR Order No. 1148, 15 pages) (NTIS Order No. PB-203 878-D)

Draft, November 3
U.S.-7: Wilton, Fairfield County, Conn. Relocation of 3-mile section of four-lane, limited access expressway from Olmstead Hill Road to Wilton-Ridgefield town line. 4(f) statement regards use of Girl Scout campground. State highway project 151-87. (ELR Order No. 1153, 67 pages) (NTIS Order No. PB-203 882-D)

U.S.-20: Fort Dodge, Webster County, Iowa. Reconstruction of 1.7-mile, 4-lane facility beginning at intersection with U.S.-169 and ending at 12th Street. Involves dislocation of five houses and two businesses. (ELR Order No. 1154, 4 pages) (NTIS Order No. PB-203 881-D)

Draft, November 2
SR-35 (U.S.-17): Punta Gorda, Charlotte County, Fla. Construction of a 3.3-mile multilane facility from U.S.-41 to SR-74. State job No. 01040-1504. (ELR Order No. 1155, 20 pages) (NTIS Order No. PB-203 880-D)

Draft, November 3
SR-44: Leesburg, Lake County, Fla. Construction of 1.5-mile multilane facility from SR-44A east to SR-25 (U.S.-27). Three alternatives involve displacement of homes, businesses, etc. (ELR No. 1159, 42 pages) (NTIS Order No. PB-203 883-D)

Draft, November 4
Ward County Road. No. 2: North Dakota. Highway improvement from Niobe north 2 miles to county line, west 1 mile to county line, and east 5 miles to Kenmore. Involves acquisition of 20 acres of land in Des Lacs National Wildlife Refuge, requiring a 4(f) determination. Highway project S-101(13) and S-676 (2). (ELR Order No. 1161, 7 pages) (NTIS Order No. PB-204 015-D)

Draft, November 5
I-435: Platte County, Mo. Construction of 16-mile multilane facility from Missouri River north to I-29, then southeast to near Ferrilview. (ELR Order No. 1162, 20 pages) (NTIS Order No. PB-204 016-D)

Highway project F-377(2): Mobile County, Ala. Construction of new 2.5-mile route beginning on Alabama 163 approximately 16 miles south of Mobile and extending north along Range Line Road to a point on Island Road 1 mile west of Alabama 163. Will displace 14 residences and four businesses. (ELR Order No. 1163, 11 pages) (NTIS Order No. PB-204 017-D)

Draft, November 4
I-85 and U.S.-311: Davidson, Guilford, and Randolph Counties, N.C. Construction of 20-mile segment of I-85 from Groomfield to Lexington and a 4.1-mile relocation of U.S.-311 on west side of Archdale. Involves displacement of 189 families, 31 businesses, and one church and acquisition of a cemetery. State highway projects 8.15295, 8.15773, 8.15317, and 8.15774. (ELR Order No. 1167, 36 pages) (NTIS Order No. PB-204 020-D)

Groton-Marshfield State Highway: Groton, Caledonia County, Vt. Reconstruction of 0.4 mile to eliminate two sharp curves and upgrade surface, approximately 200 feet within boundary of Groton State Forest, requiring a 4(f) determination. Highway project S 0217( ). (ELR Order No. 1166, 47 pages) (NTIS Order No. PB-204 021-D)

Draft, November 5
SR-87: Mesa-Payson (Beeline) Highway, Gila County, Ariz. Improvement of approximately 20 miles of highway, within the Tonto National Forest, from Maricopa County line to Payson. May involve channel changes in sections of State Cheek. A 4(f) determination required. Project F-053-1-208. (ELR Order No. 1169, 35 pages) (NTIS Order No. PB-204 022-D)

Draft, November 8
Route 13 (Kansas Trafficway): Greene County, Mo. Involves acquisition of right-of-way, grading, and multilane paving of about 2.8 miles of Springfield, from Division Street south to Sunshine Street. Jobs Nos. 8-0-12-7 and 12. (ELR Order No. 1174, 14 pages) (NTIS Order No. PB-204 027-D)

Draft, November 9
Route 67: Butler County, Mo. Relocation and construction of 3.8 miles of road from just south of Wayne County line to 1.5 miles south of Route JJ. Job No. 10-P-67-20. (ELR Order No. 1175, 8 pages) (NTIS Order No. PB-204 028-D)

Draft, November 8
Trunk Highways 12, 23, and 71: Kandiyohi County, Minn. Involves rerouting above three highways to provide a bypass of Willmar (10 miles). Highway projects SP 3403-27, F 010-2( ), SP 3405-20, F 023-2( ), SP 3411-24, SP 3412-23, F 004-2( ). (ELR Order No. 1176, 30 pages) (NTIS Order No. PB-204 029-D)

Connecting highway between U.S.-278 and SR-157: Cullman County, Ala. Initial two-lane construction with ultimate plans for a rural four-lane divided facility. Will provide a bypass of the town of Cullman. Highway project S-184-D. (ELR Order No. 1177, 7 pages) (NTIS Order No. PB-204 030-D)

U.S.-431: Russell County, Ala. Relocation and widening of road to four lanes from about 2.7 miles south of Seale to a point near Phenix City. Highway project S-50-E. (ELR Order No. 1178, 20 pages) (NTIS Order No. PB-204 031-D)

Final, October 2
SR-104: Hood Canal Bridge Viewpoint, Kitsap County, Wash. Includes construction of access road connecting to SR-3, parking areas, restroom building and viewpoint platform. Highway project F-001-1, CS 1442R. Comments made by USDA, DOI, EPA, HUD, seven State of Washington offices, Kitsap County and Puget Sound Governmental Conference. (ELR Order No. 1100, 28 pages) (NTIS Order No. PB-203 767-F)

Final, October 27
SH Spur 303: From F.M. 1382 in Grand Prairie, east to Loop in Dallas, Tex. Purpose: To provide a fast route between the Oak Cliff area of Dallas and Grand Prairie. Comments made by DOC, DOT, EPA, cities of Dallas and Grand Prairie, Dallas County, and North Central Texas Council of Governments. (ELR Order No. 1101, 23 pages) (NTIS Order No. PB-203 765-F)

Supplemental Freeway FAP Route 406: Sangamon and Morgan Counties, Ill. Freeway construction with full access control from interchange with U.S.-36-64 near Curran to an interchange with U.S.-67 south of Jacksonville. Comments made by USDA, DOC, DOI, EPA, eight State offices, Jacksonville Park Board, and Springfield-Sangamon Counties Regional Planning Commission. (ELR Order No. 1102, 246 pages) (NTIS Order No. PB-201 394-F)

U.S.-90: Part of relocation of U.S.-90 between Lafayette and New Orleans, La., extending south to junction with U.S.-90 east of Wax Lake Bridge. Comments made by AEC, USDA, DOC, DOI, HEW, Office of State Planning, Louisiana Wildlife and Fisheries Commission, and Louisiana State University. (ELR Order No. 1103, 33 pages) (NTIS Order No. PB-203 766-F)

U.S.-183: Custer County, Okla. Reconstruction (widening, resurfacing, etc.) beginning at the Washita River Bridge north of Clinton and extending north through Arapaho to point just north of SH-33 (approximately 8 miles). Highway project F-332. Comments made by DOI and three State of Oklahoma offices. (ELR Order No. 1104, 21 pages) (NTIS Order No. PB-199 585-F)

U.S.-98: Upgrading and widening highway beginning in Mobile, Ala., and continuing 5.3 miles toward Natchez, Miss. Highway Project F-210( ), S-4914( ). Comments made by Army, DOI, DOT, EPA, HUD, Alabama Development Office and South Alabama Regional Planning Commission. (ELR Order No. 1121, 28 pages) (NTIS Order No. PB-203 759-F)

Route 60: Butler-Stoddard Counties, Mo. Upgrading to a dual-lane, limited-access facility from Poplar Bluff urban limits to Route 51 east of Fisk and Route 67 east to Route T. Project's purpose is to locate Route 60 to relieve congestion. Highway project F-60-4(13). Comments made by USDA, EPA, State Clearinghouse, and Bootheel Regional Planning Commission. (ELR Order No. 1122, 14 pages) (NTIS Order No. PB-203 758-F)

State project APL 8009(001): Carroll County, Ga. (partly in Carrollton). Construction of a road from a point on S-835 (0.25 mile east of west city limit) northeast to SR-1, U.S.-27 (about 1.25 miles from city limit). Will open area to industrial development. Comments made by Army COE, USDA, HUD, and Bureau of State Planning and Community Affairs. (ELR Order No. 1123, 13 pages) (NTIS Order No. PB-203 760-F)

FAS Route 613: relocation and improvement of route beginning near College and Johnson Streets in Jacksonville, Ill., and extending northeast for about 1 mile to connect with existing road. Highway project S-613(103). Comments made by USDA, DOC, DOI, EPA, and FPC. (ELR Order No. 1124, 22 pages) (NTIS Order No. PB-200 444-F)

Route 110: Jefferson County, Mo. Improvement of 5.2 miles of road beginning at Route 110 near Desoto east to Route 67. Involves channel alignment of two creeks and taking of three houses and one church. Job No. 6-S-110-4 and 6-S-110-2, Projects S-140(1) and S-140(3). Comments made by USDA, DOI, EPA, DOT, Missouri Department of Community Affairs and East-West Gateway Coordinating Council. (ELR Order No. 1125, 24 pages) (NTIS Order No. PB-198 721-F)

Route 54: Callaway County, Mo. Improvement of 9.7 miles of divided highway between Fulton and Holt Summit. Will require taking seven farm units. Highway project F-54-3(20)(27)(28). Comments made by USDA, DOI, EPA, and Missouri Department of Community Affairs. (ELR Order No. 1126, 17 pages) (NTIS Order No. PB-200 367-F)

Final, October 26

Route 54: Miller County, Mo. Upgrading of present road to dual-lane, limited-access facility from 1 mile west of Route FF to Cole County. Project F-54-3(22). Comments made by HUD, USDA, DOT, EPA, Missouri Department of Community Affairs. (ELR Order No. 1127, 21 pages) (NTIS Order No. PB-203 764-F)

Final, October 27

I-185: Muscogee County, Ga. Construction of new highway from Double Churches Road south to the Columbus-Manchester Expressway, a portion of highway that will connect Atlanta and Columbus. Highway project I-185-1( ). Comments made by EPA, HUD, Georgia Bureau of State Planning and Community Affairs, Georgia Department of Public Health, Lower Chattahoochee Valley Area Planning and Development Commission and Valley Council of Local Governments. (ELR Order No. 1129, 31 pages) (NTIS Order No. PB-200 529-F)

Final, November 2

Cherokee Road Extension (PR 700): Cobb County, Ga. Construction of a four-lane, free-access facility linking Cherokee Street in Smyrna to Windy Hill Road at I-75 interchange. Highway project PR 700 (S-2565). Comments made by EPA, DOT, Navy, Georgia Bureau of State Planning and Community Affairs, Atlanta Region Metropolitan Planning Commission and city of Smyrna. (ELR Order No. 1141, 31 pages) (NTIS Order No. PB-201 400-F)

Final, November 3

Nancy Lake Access Road: Willow, Alaska. Construction of a two-lane road from the Anchorage-Fairbanks Highway to 1.5 miles to connection into the Nancy Lake Recreation Area. 4(f) determination attached. Highway project S-0581(1). Comments made by USDA, three State agencies and Borough Chairman. (ELR Order No. 1152, 15 pages) (NTIS Order No. PB-199 149-F)

TIMOTHY B. ATKESON,
General Counsel.

[FR Doc.71-17040 Filed 11-19-71;8:52 am]

FEDERAL POWER COMMISSION

[Docket No. E-7674]

ALABAMA POWER CO.

Notice of Proposed Changes in Rates and Charges

NOVEMBER 15, 1971.

Take notice that on November 1, 1971, Alabama Power Co. (Alabama Power) filed changes in the form and rate levels of its currently effective rate schedules covering sales for resale in interstate commerce for resale to municipals and distributing cooperatives. Changes with respect to form relate to the conversion of contractual form of rate schedules to the conventional tariff form. The changes in rate levels result in increased jurisdictional revenues of $1,148,329 per annum from the cooperative customers and $1,603,156 from municipal customers, based on 1970 operations. The filing indicates a realized rate of return of 6.60 and 6.67 percent respectively from such classes of customers on the facilities devoted to such service. The tendered tariff changes include fuel and tax adjustment clauses and changes in the general terms and conditions. The company requests that the tendered tariff be permitted to become effective as of January 3, 1972, or as of the earliest date thereafter consistent with existing contracts with its customers.

Alabama Power states that the changes sought are necessitated because of increased operating costs, increased costs associated with the installation of new equipment, increased costs and delays from environmental considerations, increases in the cost of money, and acceleration of its load growth rate. Copies of the filing have been served on the company's customers and are on file with the Commission and available for public inspection.

Any person desiring to be heard or to make protest with respect to said filing should on or before November 26, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Any order or orders issued in this proceeding will be subject to the Commission's Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38) and Executive Order 11615, including such amendments as the Commission may require.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16991 Filed 11-19-71;8:47 am]

[Docket No. CP72-112]

BLUE DOLPHIN PIPE LINE CO.

Notice of Application

NOVEMBER 15, 1971.

Take notice that on October 26, 1971, Blue Dolphin Pipe Line Co. (Applicant), Post Office Box 2463, Houston, TX 77001, filed in Docket No. CP72-112 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(c) of the regulations under said Act, for a certificate of public convenience and necessity authorizing minor miscellaneous rearrangements of existing natural gas transportation facilities during the calendar year 1972, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to make miscellaneous relocations and rearrangements of existing facilities at a cost not to exceed $10,000. Applicant states that any facilities proposed to be relocated or rearranged are not used to deliver natural gas for boiler fuel purposes and that deliveries through these facilities do not exceed 100,000 Mcf annually.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 6, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16993 Filed 11-19-71;8:47 am]

[Dockets Nos. RP72-4, RP72-55]

COLORADO INTERSTATE GAS CO.

Order Suspending Proposed Revised Tariff Sheets, Providing for Hearing and Consolidating Proceedings

NOVEMBER 12, 1971.

Colorado Interstate Gas Co. (CIG) on October 15, 1971, tendered for filing a proposed change in its FPC Gas Tariff,[1] providing for an increase in the rate under Rate Schedule S-1 to be effective November 15, 1971. CIG requests that this tariff change be considered a minor rate increase under § 154.63(a)(3) of the Commission's regulations under the Natural Gas Act and incorporates statements L, M, and N, by reference to Docket No. RP72-4, CIG's general rate increase proceeding. CIG requests that since the proposed Rate Schedule S-1 rate is based on the general service rates which are under suspension until January 1, 1972, in Docket No. RP72-4, and as the underlying cost data is the same in both rate filings, the effective date of the proposed S-1 rate change also be suspended until January 1, 1972. No objection has been filed to this request for suspension of less than the 5-month period provided in the Natural Gas Act.

Since the proposed increased S-1 rate is based upon the increased rate proposed in Rate Schedule G-1 in Docket No. RP72-4, it is appropriate that the proposed S-1 rate be suspended for the same period as the G-1 rate. The proposed S-1 increase has not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful.

The fact that the cost and related data relied upon by CIG in support of its filings in Dockets Nos. RP72-55 and RP72-4 are substantially the same raises issues of law and fact common to both proceedings. Under these circumstances it is appropriate that the two proceedings be consolidated for purposes of hearing and decision.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act:

(1) The Commission enter upon a hearing concerning the lawfulness of the rates, charges, classifications and service contained in CIG's FPC Gas Tariff, as proposed to be amended herein, and that the proposed tariff sheets listed in Footnote 1 above be suspended and the use thereof be deferred as hereinafter provided; and

(2) Docket No. RP72-55 be consolidated with Docket No. RP72-4 for purposes of hearing and decision.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing be held as provided for in our order of July 30, 1971, in Docket No. RP72-4, concerning the lawfulness of the rates, charges, classifications, and services contained in CIG's FPC Gas Tariff, as proposed to be amended herein.

(B) Pending hearing and decision thereon, CIG's tariff sheets listed in footnote 1 above are hereby suspended, and the use thereof is deferred until January 1, 1972, or such date as may be authorized under Executive Order No. 11615 or other such authority and until such further time as they may be made effective in the manner prescribed by the Natural Gas Act.

(C) The proceedings in Docket Nos. RP72-55 and RP72-4 are hereby consolidated.

(D) This order does not relieve Colorado Interstate Gas Co. of any responsibility imposed by, and is expressly subject to, the Commission's Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38), including such amendments as the Commission may require, and Executive Order No. 11615.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16994 Filed 11-19-71;8:47 am]

[Docket No. RP72-65]

COLORADO INTERSTATE GAS CO.

Notice of Proposed Changes in FPC Gas Tariff

NOVEMBER 15, 1971.

Take notice that on November 1, 1971, Colorado Interstate Gas Co. (CIG) tendered for filing a proposed changes in its FPC Gas Tariff providing for a change in its lateral line policy to be effective December 3, 1971. In view of the gas supply shortage, CIG states that it is not in the public interest to maintain a lateral line policy designed to encourage new market additions. Therefore, CIG proposes to adopt a lateral line policy providing that:

As a general policy, Seller will not build or contribute to the cost of building sales lateral pipelines: *Provided, however*, That in connection with general system expansions, Seller will expand the capacity of existing sales lateral pipelines to meet the increased firm requirements of customers receiving service therefrom.

CIG states that the proposed change is necessary to insure that general system capacity increases may be distributed equally among both main line customers and existing customers served from sales laterals.

Copies of the proposed tariff changes were served on CIG's customers and interested state commissions.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 26, 1971, file with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16995 Filed 11-19-71;8:48 am]

[Docket No. CP68-248]

TENNESSEE GAS PIPELINE CO.

Notice of Petition To Amend

NOVEMBER 15, 1971.

Take notice that on November 3, 1971, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Petitioner), Post Office Box 2511, Houston, TX 77001, filed in Docket No. CP68-248 a petition to amend the Commission's order issued pursuant to section 7(c) of the Natural Gas Act on May 24, 1968 (39 FPC 862), as amended, in said docket by authorizing the construction and operation of certain natural gas pipeline facilities to enable Petitioner to deliver previously authorized volumes of natural gas to Midwestern Gas Transmission Co. (Midwestern), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The order of May 24, 1968, as amended, authorized, inter alia, the construction and operation of certain facilities by Petitioner for the sale and delivery of a maximum daily volume of 600,780 Mcf of natural gas to Midwestern at two delivery points, one near Portland, Tenn., and the other at the interconnection between the systems of Trunkline Gas Co. (Trunkline) and Midwestern near Potomac, Ill.

Petitioner states that deliveries through the Potomac delivery point by Trunkline will be phased out effective November 1, 1972, and proposes herein to construct and operate 36-inch looplines in the States of Mississippi, Alabama, and Tennessee. These facilities will increase the delivery capability of Petitioner's system by 70,000 Mcf per day and permit the Potomac deliveries to be made at the Portland delivery point. The estimated cost of the facilities proposed herein is $19,670,500, which cost Petitioner states will be financed from operating capital and by use of its revolving credit.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 6, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file

[1] First Revised Volume No. 1 original sheet No. 3B. First Revised Sheet No. 21E.

a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16996 Filed 11-19-71;8:48 am]

[Docket No. CP72-114]

TENNESSEE GAS PIPELINE CO., AND COLUMBIA GULF TRANSMISSION CO.

Notice of Application

NOVEMBER 15, 1971.

Take notice that on November 1, 1971, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee), Post Office Box 2511, Houston, TX 77002, and Columbia Gulf Transmission Co. (Columbia Gulf), Post Office Box 683, Houston, TX 77001, filed in Docket No. CP72-114 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities and the exchange of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Tennessee proposes to deliver gas to Columbia Gulf at the tailgate of the Humble Oil & Refining Co.'s Garden City Plant, located in St. Mary Parish, La., and at the Egan "A" measuring station located near Egan, La. Columbia Gulf proposes to deliver equivalent volumes of gas to Tennessee at a proposed delivery point to be constructed in Cameron Parish, La., at a point of intersection of the facilities of the parties, and at the Egan "B" measuring station located near Egan, La.

Pursuant to an Exchange Agreement between the parties, dated August 23, 1971, on the date the facilities heretofore authorized by the Commission in Docket No. CP68-231 (Blue Water Project) are placed in service, Columbia Gulf will commence the delivery of natural gas to Tennessee at a rate of up to 250,000 Mcf per day, 103,200 Mcf of which will be delivered at the Cameron delivery point proposed herein and the balance at the Egan "B" delivery point. Tennessee will commence a simultaneous redelivery of equivalent volumes of gas to Columbia Gulf with not more than 143,900 Mcf per day delivered at the Garden City delivery point and the remainder delivered at the Egan "A" delivery point.

The proposed interconnection and related facilities to be constructed at the Cameron delivery point are estimated to cost $240,200. These facilities are to be constructed and operated by Columbia Gulf, and Tennessee will reimburse Columbia Gulf for one-half of the actual cost.

Applicants state that in the absence of the proposed exchange, Columbia Gulf would be required to install additional facilities in order to accommodate the total volumes of gas it is to transport through the 30-inch portion of the Western Shore Line of the Blue Water Project if Tennessee were also to utilize its share of the capacity of said line.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 6, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-16997 Filed 11-19-71;8:48 am]

[Docket No. G-3894 etc.]

ATLANTIC RICHFIELD CO. ET AL.

Findings and Order

NOVEMBER 11, 1971.

Findings and order after statutory hearing issuing certificate of public convenience and necessity, amending orders issuing certificates, dismissing applications, permitting and approving abandonment of service, terminating certificates, making successor co-respondent, redesignating proceedings and accepting rate schedules for filing.

Each applicant herein has filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce or for permission and approval to abandon service or a petition to amend an order issuing certificate, all as more fully set forth in the applications and petitions to amend.

Applicants have filed FPC gas rate schedules or supplements to rate schedules on file with the Commission and propose to initiate, continue, abandon, add, or discontinue in part natural gas service in interstate commerce as indicated in the tabulation herein.

Tamarack Petroleum Co., Inc., applicant in Docket No. CI67-1847, proposes to continue in part the sale of natural gas heretofore authorized in Docket No. G-10710 to be made pursuant to Shell Oil Co. FPC Gas Rate Schedule No. 142. The present rate under said rate schedule is in effect subject to refund in Docket No. RI71-297. Therefore, applicant will be made a co-respondent in said proceeding and the proceeding will be redesignated accordingly.

The Commission's staff has reviewed each application and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

After due notice by publication in the FEDERAL REGISTER, no petition to intervene, notice of intervention, or protest to the granting of the applications has been filed.

At a hearing held on November 3, 1971, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and petitions, as supplemented and amended, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Each applicant herein is a "natural gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and will, therefore, be a "natural gas company" within the meaning of the Natural Gas Act upon the commencement of service under the authorizations hereinafter granted.

(2) The sale of natural gas hereinbefore described, as more fully described in the applications in this proceeding, will be made in interstate commerce subject to the jurisdiction of the Commission; and such sales by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The sales of natural gas by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity; and certificates therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the orders issuing certificates of public convenience and necessity in various dockets involved herein should be amended as hereinafter ordered.

(6) The sales of natural gas proposed to be abandoned, as hereinbefore described and as more fully described in the applications and in the tabulation herein, are subject to the requirements of subsection (b) of section 7 of the Natural Gas Act.

(7) The abandonments proposed by applicants herein are permitted by the public convenience and necessity and should be approved as hereinafter ordered.

(8) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates heretofore issued to applicants relating to the abandonments hereinafter permitted and approved should be terminated or that the orders issuing said certificates should be amended by deleting therefrom authorization to sell natural gas from the subject acreage.

(9) The certificate applications pending in Dockets Nos. CI66-438 and CI68-299 are moot.

(10) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Tamarack Petroleum Co., Inc., should be made a co-respondent in the proceeding pending in Docket No. RI71-297 and that said proceeding should be redesignated accordingly.

(11) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the FPC gas rate schedules and supplements related to the authorizations hereinafter granted should be accepted for filing.

The Commission orders:

(A) Certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing sales by applicants of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the applications and in the tabulation herein.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 4 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's regulations thereunder and is without prejudice to any findings or orders which have been or which may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against applicants. Further, our action in this proceeding shall not foreclose or prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. The grant of the certificates aforesaid for service to the particular customers involved does not imply approval of all of the terms of the contracts, particularly as to the cessation of service upon termination of said contracts as provided by section 7(b) of the Natural Gas Act. The grant of the certificates aforesaid shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) The orders issuing certificates of public convenience and necessity in Dockets Nos. G-3894 and CI67-1847 are amended by adding thereto authorization to sell natural gas as more fully described in the applications and in the tabulation herein. In all other respects said orders shall remain in full force and effect.

(E) The order issuing a certificate of public convenience and necessity in Docket No. CI63-674 is amended by substituting the successor in interest as certificate holder as more fully described in the application and in the tabulation herein. In all other respects said order shall remain in full force and effect.

(F) The order issuing a certification of public convenience and necessity in Docket No. G-10710 is amended to reflect the deletion of acreage where the outstanding certificate authorization is amended herein Docket No. CI67-1847 by authorizing the continuation of service from the subject acreage. In all other respects said order shall remain in full force and effect.

(G) The certificate of public convenience and necessity granted in Docket No. CI71-536 is subject to any determination which may be made by the Commission in Docket No. R-338 with respect to the transportation of liquids and liquefiable hydrocarbons.

(H) Applicants in the dockets indicated shall charge and collect the following rates, subject to B.t.u. adjustment where applicable:

Docket No.	Rate (cents per Mcf)	Pressure base (p.s.i.a.)
G-3894	15.4377, for sales from formations other than the Wilcox 9350' sand.	14.65
	16.0, for sales from the Wilcox 9350' sand.	14.65
CI71-536	20.0	14.65

(I) The certificate of public convenience and necessity granted in Docket No. CI71-536 is subject to the Commission's findings and order accompanying Opinion No. 586. If the quality of the gas deviates at any time from the quality standards set forth in § 154.106(d) of the regulations under the Natural Gas Act so as to require a downward adjustment of the existing rates, a notice of change in rate shall be filed pursuant to section 4 of the Natural Gas Act: *Provided, however,* That adjustments reflecting changes in Btu content of the gas shall be computed by the applicable formula and charged without the filing of notices of changes in rate. Further, within 90 days from the date of this order, Applicant in Docket No. CI71-536 shall file three copies of a rate schedule-quality statement in the form prescribed in Opinion No. 586.

(J) Applicant in Docket No. CI67-1847 shall file three copies of a sample billing statement as required by § 154.92(b) of the regulations under the Natural Gas Act.

(K) Tamarack Petroleum Co., Inc., is made a co-respondent in the proceeding pending in Docket No. RI71-297 and said proceeding is redesignated accordingly. Tamarack shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereumder.

(L) Applicant in Docket No. G-3894 shall submit a contract amendment extending the makeup period to 5 years for gas produced from added acreage herein authorized.

(M) Permission for and approval of the abandonment of service by applicants, as hereinbefore described and as more fully described in the applications and tabulation, are granted.

(N) The certificate applications pending in Dockets Nos. CI66-438 and CI68-299 are dismissed, the temporary certificates issued in said dockets are terminated, and the related FPC gas rate schedules are cancelled.

(O) The certificates issued in Dockets Nos. G-18064, CI60-743, CI66-1055, CI67-16, and CI70-1134 are terminated.

(P) The applicants in Dockets Nos. CI66-438, CI68-299, and CI71-710, as the result of the abandonments authorized herein, are not relieved of any refund obligations which may be ordered in Dockets Nos. CI66-436, CI68-299, and CI60-743, respectively.

(Q) Applicants in Dockets Nos. CI68-299, CI71-691, and CI71-701, as the result of the abandonments authorized herein, are not relieved of any refund obligations which may be ordered in the proceedings pending in Dockets Nos. RI71-401, RI62-319, and RI65-464, respectively.

(R) The rate schedules and rate schedules supplements related to the authorizations granted herein are accepted for filing or are redesignated, all as set forth in the tabulation herein.

(S) This order does not relieve any of the applicants herein of any responsibility imposed by, and is expressly subject to, the Commission's Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38), including such amendments as the Commission may require, and Executive Order No. 11615.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	FPC gas rate schedule [1] Description and date of document	No.	Supp.
G-3894..... C 4-8-71	Atlantic Richfield Co...	Texas Eastern Transmission Corp., North Tom Lyne Field, Live Oak County, Tex.	Amendment 3-1-71 [2] (Effective Date: Initial [3] Delivery).	34	35
CI63-674..... E 3-24-69	Palm Resource Corp. (successor to Palm Petroleum Corp.).	C. V. Lyman, Bentonville (Captain Lucey) Field, Jim Wells County, Tex.	Palm Petroleum Corp., FPC Gas Rate Schedule No. 3. Supplement Nos. 1-4..... Notice of succession..... Assignment 1-28-69 [4]..... (Effective Date: 1-1-69).....	3 3 3	1-4 5 6
CI66-438..... B 2-18-71 [5]	Shell Oil Co. (Operator) et al.	Michigan Wisconsin Pipe Line Co., West Gueydan, Vermillion Parish, La.	Notice of cancellation 2-12-71 (Effective Date: Date of Order).	331	2
CI67-1847..... CF 4-6-71 [6]	Tamarack Petroleum Co., Inc. (successor to Shell Oil Co.).	El Paso Natural Gas Co., Spraberry Trend Area, Reagan County, Tex.	Assignment 2-25-71 [6]..... (Effective Date: 2-1-71).....	15	11
CI68-299..... B 4-15-71 [7]	Texaco, Inc.....	South Texas Natural Gas Gathering Co., Encinitas N.W. (V-7) Field, Brooks County, Tex.	Notice of cancellation 4-13-71. (Effective Date Date of Order).	417	3
CI71-536..... A 1-21-71	Continental Oil Co.....	Cities Service Gas Co., East Niles Field, Canadian County, Okla.	Contract 12-29-70 (heretofore accepted for filing). Compliance 3-30-71 [8] (Effective Date: Date of Initial Delivery).	365 365	1
CI71-604..... B 2-23-71 [9]	Edwin L. Cox (Operator) et al.	United Gas Pipe Line Co., South Bancroft Field, Beauregard Parish, La.	Notice of cancellation 2-18-71 (Effective Date: Date of Order).	63	2
CI71-629..... B 2-26-71 [10]	Inexco Oil Co.....	Transcontinental Gas Pipe Line Corp., West St. Paul Area, San Patricio County, Tex.	Notice of cancellation 4-2-71 (Effective Date: Date of Order).	6	2
CI71-691..... B 3-23-71 [11]	J. S. Abercrombie Mineral Co., Inc. (Operator), et al.	Natural Gas Pipeline Co. of America, Milton Field, Harris County, Tex.	Notice of cancellation 3-18-71 (Effective Date: Date of Order).	1	3
CI71-701..... B 3-22-71 [12]	White Shield Oil & Gas Corp. (successor to Valor Production Co.).	Coastal States Gas Producing Co., Chiltipin Field, Duval County, Tex.	Notice of cancellation (Effective Date: Date of Order).	1	3
CI71-710..... B 3-29-71 [13]	Ocean Drilling & Exploration Co. (Operator) et al.	Transcontinental Gas Pipe Line Corp., Block 129-A, Eugene Island Area, Offshore Louisiana.	Notice of Cancellation (Effective Date: Date of Order).	3	15

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

[1] Where no effective date is indicated, the rate schedule filing has heretofore been accepted.
[2] Amends contract to add acreage to a depth of 10,500 feet; provides for new periodic price increases for the Wilcox 9350 feet sand, and extends the term for such sand.
[3] Assigns acreage from Palm Petroleum Corp. to Palm Resource Corp.
[4] Application for permission and approval to abandon the sale of natural gas commenced under a temporary certificate issued in this docket.
[5] Applicant proposes to continue in part the sale of natural gas authorized in Docket No. G-10710 to be made pursuant to Shell Oil Co. FPC Gas Rate Schedule No. 142.
[6] Assigns acreage from Shell Oil Co. to applicant. The acreage is dedicated to a contract dated Feb. 23, 1955, on file as Shell Oil Co. FPC Gas Rate Schedule No. 142 and also as applicant's FPC Gas Rate Schedule No. R815.
[7] Application for permission and approval to abandon the sale commenced under temporary certificate issued in this docket.
[8] Compliance with temporary certificate issued Mar. 12, 1971.
[9] Application for permission and approval to abandon the sale of natural gas authorized in Docket No. CI66-1055.
[10] Application for permission and approval to abandon the sale of natural gas authorized in Docket No. CI70-1134.
[11] Application for permission and approval to abandon the sale of natural gas authorized in Docket No. G-15064.
[12] Application for permission and approval to abandon the sale of natural gas authorized in Docket No. CI67-16.
[13] Application for permission and approval to abandon the sale of natural gas authorized in Docket No. CI60-743.

[FR Doc.71-16918 Filed 11-19-71;8:45 am]

[Docket No. RI72-127, etc.]

TERRA RESOURCES, INC., ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

NOVEMBER 11, 1971.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A below.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise orderd by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf [*] Rate in effect	Cents per Mcf [*] Proposed increased rate	Rate in effect subject to refund in docket No.
RI72-127..	Terra Resources, Inc.....	6	5	Mountain Fuel Supply Co. (Nitchie Gulch Field, Sweetwater County, Wyo.).	$2,781	10- 6-71	.....	1- 2-72	15.1125	16.12	RI71-417.
RI72-128..	Amoco Production Co....	236	5	El Paso Natural Gas Co. (East LaBarge Field, Lincoln and Sublette Counties, Wyo.).	[1 2 3] 181	10-12-71	.....	12-13-71	[1] 17.1275 [2] 18.1360	[1] 18.1360 [2] 19.1425	RI70-171. RI70-171.
RI72-129..	Humble Oil & Refining Co.	313	7	El Paso Natural Gas Co. (East Boundary Butte Field, Apache County, Ariz.).	1,786	10-13-71	.....	1- 2-72	18.7	19.7	RI70-670.
	.....do.....	438	[9] 9	Northern Natural Gas Co. (Northeast Oates Field, Pecos County, Tex.) (Permian Basin).	.....	10-13-71	11-13-71	[10] Accepted	.....	.....	RI70-404.
	.....do.....		10	.....do.....	[4] 781,632 [5] 46,050	10-13-71	.....	12-14-71	[6 10 13] 6.6006 [5 10 6] 9.9188	[5 7 10 13] 16.6633 [5 7 10 13] 9.0036	RI70-404. RI70-404.
RI72-130..	Mobil Oil Corp.....	215	23	El Paso Natural Gas Co. (Tip Top Field, Sublette County, Wyo.).	461,571	10-12-71	.....	4-12-72	20.306	[5] 23.9181	RI72-72.
	.....do.....	371	7	.....do.....	4,617	10-8-71	.....	12-25-71	17.128	[6 9] 20.306	RI70-414.
RI72-131..	Amoco Production Co....	[11] 569	1	Texas Gas Transmission Corp. (East Carterville Area, Webster and Bossier Parishes, Northern Louisiana).	3,422	10-14-71	.....	12-15-71	[10] 24.0	[10 12] 25.25	
RI72-132..	Humble Oil & Refining Co.	414	3	United Gas P/L Co. of America (Neches Gas Plant, Cherokee County, Tex., RR. District No. 6).	12,088	10-7-71	.....	12-23-71	[10 14] 14.035	[10 12] 15.0375	RI70-392.
RI72-133.....	.....do.....	455	2	Texas Gas Transmission Corp. (West Arcadia Field, Bienville Parish, Northern Louisiana).	30	10-13-71	.....	1- 2-72	[10 12 13] 18.25	[10 13] 19.25	
RI72-134..	Union Oil Co. of California.	161	1	Arkansas Louisiana Gas Co. (North Carlton Field, Quachita Parish, Northern Louisiana).	1,000	10-15-71	.....	1- 2-72	[13 14] 18.33	[14 15] 19.33	
RI72-135..	Sun Oil Co.....	18	16	United Gas P/L Co. (Carthage Field, Panola County, Tex., R.R. District No. 6).	2,624	10-14-71	.....	1- 2-72	[13] 14.0	[13] 15.037	
	.....do.....	21	16	.....do.....	456	10-14-71	.....	1- 2-72	[14] 14.0	[13] 15.037	

[*] Unless otherwise stated, the pressure base is 15.025 p.s.i.a.
[1] For gas delivered to buyer at 900 p.s.i.g. and below.
[2] For gas delivered to buyer above 900 p.s.i.g.
[3] No gas presently being delivered above 900 p.s.i.g.
[4] Devonian production.
[5] Ellenburger production.
[6] Agreement dated Sept. 20, 1971, providing a new schedule of periodic prices.
[7] Base rate of 20 cents plus tax reimbursement less treating costs and downward B.t.u. adjustment.
[8] Increase based on Bureau of Labor Statistics Wholesale Price Index for All Commodities.
[9] Contractually allowed a rate of 20.69 cents. Rate fractured in order to receive a 1-day suspension.
[10] Subject to Downward B.t.u. adjustment.
[11] Basic contract dated after Oct. 1, 1968.
[12] Applicant filing from initial certificated rate to initial contract rate.
[13] Includes 1.75-cent tax reimbursement.
[14] Includes 1.35-cent tax reimbursement.
[15] The pressure base is 14.65 p.s.i.a.
[16] Accepted, to be effective upon expiration of statutory notice, the date shown in the "Effective Date" column.

The proposed increase to 19.7 cents of Humble Oil & Refining Co. is for a sale of gas in Arizona where no formal ceiling rate has been announced. Previously, the Commission has suspended rates in this area that exceed the 17.7-cent in-line price established in the Aneth Area. Humble's rate is suspended for 1 day since the proposed rate does not exceed the rate limit prescribed for a 1-day suspension.

The proposed increase of Mobil Oil Corp. under its FPC Gas Rate Schedule No. 215 is for a sale in an area outside Southern Louisiana and exceeds the corresponding rate filing limitations imposed in Southern Louisiana and therefore is suspended for 5 months.

Additionally, Mobil requests an effective date for which adequate notice was not given. Good cause has not been shown for granting this request and it is denied.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR 2.56).

Each supplement listed in this appendix is effective as of the date provided in the "Date Suspended Until" column or such later date as may be authorized under Executive Order No. 11615. This order does not relieve any producer herein of any responsibility imposed by, and is expressly subject to, the Commission's Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38), including such amendments as the Commission may require, and Executive Order No. 11615.

[FR Doc.71-16920 Filed 11-19-71;8:45 am]

FEDERAL RESERVE SYSTEM

CENTRAL BANCORPORATION, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of The Central Bancorporation, Inc., Cincinnati, Ohio, for approval of acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The Canal Winchester Bank, Canal Winchester, Ohio.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by The Central Bancorporation, Inc., Cincinnati, Ohio, a registered bank holding company, for the Board's prior approval of the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The Canal Winchester Bank (Bank), Canal Winchester, Ohio. The bank into which Bank is to be merged has no significance except as a means of acquiring all of the shares of Bank. Accordingly, the proposed acquisition of the shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Ohio superintendent of banks and requested his views and recommendation. The superintendent offered no objection to the proposed acquisition.

Notice of receipt of the application was published in the FEDERAL REGISTER on September 21, 1971 (36 F.R. 18760), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the banks concerned and the convenience and needs of the communities to be served, and finds that:

Applicant, the ninth largest banking organization in Ohio, controls four banks which hold combined deposits of approximately $592 million, representing 2.7 percent of the total commercial bank deposits in the State. (All banking data are as of December 31, 1970, and reflect holding company formations and acquisitions approved through September 30, 1971.) Upon acquisition of Bank ($11 million deposits), applicant would increase its share of deposits in the State by only .05 percentage point, representing no significant increase in applicant's control of deposits in the State, or change in its present ranking.

Bank operates its main office in the village of Canal Winchester and one branch office on the Lockbourne Air Force Base, 10 miles southwest of the main office. Both offices are located in Franklin County. However, the corporate limits of Canal Winchester extend beyond Franklin County and include a small part of Fairfield County to the east. The service area of Bank extends approximately 12 miles around Canal Winchester to include parts of Franklin, Fairfield, and Pickaway Counties.

The Columbus banking market, which includes Franklin County and portions of Pickaway, Madison, Fairfield, and Licking Counties, is regarded as a relevant banking market within which the competitive effects of the instant proposal may be evaluated. It appears that the banks in the Columbus banking market are influenced by rate structures at several Columbus based banks. Canal Winchester (population 2,412) is 8 miles southeast of Columbus, the State capital and largest city in Franklin County. A modern network of highways links Franklin County with all of the surrounding counties, enabling a substantial portion of the residents of these counties to commute to work and shop in the Columbus area. Television programs and newspapers from Columbus circulate throughout the neighboring counties.

Applicant's subsidiary office closest to Bank is located 45 miles east of Canal Winchester, and apparently no significant present competition exists between Bank and this office, or any of applicant's other offices. Under Ohio's restrictive branching laws, none of the subsidiaries of applicant may branch into either Franklin or Fairfield County. Similarly, Bank may not branch beyond Franklin and Fairfield Counties. Because of Bank's small size, and the facts before the Board, it seems evident that Bank is not in a position to lead the formation of a holding company. On the facts of record, it appears that consummation of the proposed acquisition would not foreclose significant potential competition.

The Columbus banking market is highly concentrated. Three banking organizations, representing the second, sixth, and seventh largest banking organizations in the State, control in the aggregate 95.5 percent of deposits in the area. Bank is the fifth largest of 15 banking organizations in the Columbus market, but holds only 0.6 percent of deposits in the area. Consummation of the proposed transaction would represent the initial entry by an out-of-area based holding company into the Columbus market, and would enable Bank to compete more effectively with the Columbus area offices of the above-mentioned three large bank holding companies, without having an adverse effect on other competing banks.

The financial condition and management of applicant and its subsidiaries are regarded as satisfactory and the prospects of each seem favorable. Applicant has made a commitment to supply a minimum of $500,000 equity capital to Bank if the proposed acquisition is made, and to furnish experienced management for the Bank. Such improvements for Bank are desirable and applicant's commitments along these lines weigh strongly in favor of approval of the application. Prospects of Bank, as a member of applicant's system, would be favorable.

Considerations relating to the convenience and needs of the area lend additional weight toward approval. Although the more important banking needs of the area are being served at the present time, affiliation with applicant should enable Bank to meet the competition of the banks now dominating the area. In this connection, applicant states that it intends to assist Bank in setting up five new branches in the next 3 to 5 years. Further, applicant advises of plans to expand Bank's services through increased mortgage, commercial and industrial lending, and to assist Bank in providing trust services. Such new and improved services would enable Bank better to serve the expanding needs of the rapidly growing Columbus metropolitan area. It is the Board's judgment that consummation of the proposed transaction would be in the public interest, and that the application should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above, provided that the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Cleveland pursuant to delegated authority.

By order of the Board of Governors,[1] November 15, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16963 Filed 11-19-71;8:46 am]

[1] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Maisel, Brimmer, and Sherrill. Absent and not voting: Governor Robertson.

CHASE MANHATTAN CORP.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of The Chase Manhattan Corp., New York, N.Y., for approval of acquisition of 100 percent of the voting shares (less directors' qualifying shares) of Chase Manhattan Bank of Long Island (N.A.), Melville, Suffolk County, N.Y., a proposed new bank.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by The Chase Manhattan Corp., New York, N.Y., for the Board's prior approval of the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of Chase Manhattan Bank of Long Island (N.A.), Melville, Suffolk County, N.Y. (Bank), a proposed new bank.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency and requested his views and recommendation. The Comptroller offered no objection to approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on September 1, 1971 (36 F.R. 17532), providing an opportunity for interested persons to submit comments and views with respect to the proposal.[1] A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the Applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant, the largest banking organization in New York, has one subsidiary bank controlling total domestic deposits of $14.3 billion, representing 16.3 percent of the State's total deposits. (All banking data are as of December 31, 1970, adjusted to reflect holding company formations and acquisitions through September 30, 1971.) Bank, which will not be opened if the application is denied, would serve primarily the Babylon-Islip banking market into which applicant's subsidiary bank cannot branch. The closest banking office of applicant's bank is located 5.5 miles west of Bank in the adjoining Nassau County banking market, and there are many banking offices in the intervening area. Consummation of the proposed transaction would have no adverse effects on existing or potential competition in any relevant area and would have no adverse effects on any competing bank.

The financial and managerial resources and future prospects of applicant and Bank are satisfactory, and consistent with approval. Although there is no evidence that the existing banking needs of the communities involved are not being met, Applicant proposes that Bank will provide the community with an alternative source of specialized banking services. Accordingly, considerations relating to the convenience and needs of the community to be served lend slight weight toward approval. It is the Board's judgment that the proposed transaction would be in the public interest and that the proposed application should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above, provided that the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, and provided further that (c) Chase Manhattan Bank of Long Island (N.A.), Melville, Suffolk County, N.Y., shall be open for business not later than 6 months after the date of this order. The periods prescribed in (b) and (c) hereof may be extended for good cause by the Board, or by the Federal Reserve Bank of New York pursuant to delegated authority; and

It is further ordered, That upon the consummation of the proposed transaction, applicant shall not retain or acquire any nonbank shares or engage in any nonbanking activities to a greater extent or for a longer period than would apply in the case of a bank holding company which became such on the date of such consummation, except to the extent otherwise permitted in any regulation of the Board hereafter adopted specifically relating to the effect of the acquisition of an additional bank on the status of nonbank shares and activities of a one-bank holding company formed prior to 1971, or unless the Board fails to adopt any such regulation before the expiration of 2 years after the consummation of the proposed acquisition.

By order of the Board of Governors,[2] November 15, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16964 Filed 11-19-71;8:45 am]

[1] Applicant requested confidential treatment for the information submitted in response to Exhibits C-3, C-4, and E-1 in its application. Pursuant to Board Order (36 F.R. 19195), a public oral proceeding was held on Oct. 15, 1971. The information involved falls within the fourth and eighth exemptions of the Public Information Act (5 U.S.C. 552). While the Act does not require confidential treatment, applying the test set forth in the Board's rules regarding availability of information, § 261.4, the Board has determined on the record of the proceeding that any public interest in disclosure of this information for the purposes of comment on the instant application is outweighed by the potential competitive harm to applicant.

[2] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Maisel, Brimmer and Sherrill. Absent and not voting: Governor Robertson.

FIRST NATIONAL CHARTER CORP.

Order Approving Acquisition of Bank Stock By Bank Holding Company

In the matter of the application of First National Charter Corp., Kansas City, Mo., for approval of acquisition of 80 percent or more of the voting shares of Bank of Overland, Overland, Mo.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by First National Charter Corp., Kansas City, Mo., for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of Bank of Overland, Overland, Mo.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Commissioner of Finance for the State of Missouri, and requested his views and recommendation. The Commissioner responded that his office had no objection to approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on September 16, 1971 (36 F.R. 18539), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant has six subsidiary banks with total deposits of $475.8 million, which represents 4.2 percent of the total commercial bank deposits in the State, and is the fifth largest banking organization and bank holding company in Missouri. (All banking data are as of December 31, 1970, adjusted to reflect holding company formations and acquisition approved by the Board to date.) Bank, with deposits of $22.6 million, is the 59th largest of the 105 banks competing in the St. Louis banking market, which is approximated by St. Louis County, the city of St. Louis, portions of Jefferson and St. Charles Counties in Missouri, and portions of Madison and St. Clair Counties in Illinois. Applicant received Board approval on November 4, 1971, to acquire voting shares in a bank, The North Side Bank of Jennings, which is located approximately 11 miles east of Bank, but the record discloses that there is no meaningful competition between that approved subsidiary and Bank because of a close relationship based on common ownership and common directors which has existed for over 20 years. Moreover, applicant's other subsidiaries do not compete with Bank to any significant extent and, in light of Missouri's restrictive branching law, the number of available banking alternatives, and the distances separating applicant's subsidiaries from Bank, the development of any such competition appears remote. On the basis of the record before it, the Board concludes that consummation of the proposed acquisition would not have significant adverse effects on competition in any relevant area.

The financial and managerial resources and prospects of applicant, its subsidiaries, and Bank are regarded as consistent with approval of the application. Applicant proposes to assist Bank in expanding business services, developing a trust department, and providing data processing services. These considerations relating to convenience and needs of the community lend weight in support of approval of the application. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest, and that the application should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above: *Provided*, That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[1] November 15, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16963 Filed 11-19-71;8:45 am]

[1] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Maisel, Brimmer, and Sherrill. Absent and not voting: Governor Robertson.

NORTH PLATTE CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), by North Platte Corp., Torrington, Wyo., for prior approval by the Board of Governors of action whereby applicant would become a bank holding company through the acquisition of at least 65.95 percent of the voting shares of the Citizens Nation Bank of Torrington, Torrington, Wyo.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Kansas City.

Board of Governors of the Federal Reserve System, November 15, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16984 Filed 11-19-71;8:47 am]

STS CORP.

Order Approving Action To Become a Bank Holding Company

In the matter of the application of STS Corp., Billings, Mont., for approval of action to become a bank holding company through the acquisition of 98.68 percent of the voting shares of Security Trust & Savings Bank, Billings, Mont.

There has come before the Board of Governors, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by STS Corp., Billings, Mont., for the Board's prior approval of action whereby applicant would become a bank holding company through the acquisition of 98.68 percent of the voting shares of Security Trust & Savings Bank (Bank), Billings, Mont.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Montana Superintendent of Banks and requested his views and recommendation. The Superintendent recommended that favorable consideration be given to the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on August 28, 1971 (36 F.R. 17385), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant, a nonoperating corporation, was formed for the express purpose of acquiring Bank ($99 million deposits). (All banking data are as of December 31, 1970.) The Scott family presently owns 98.72 percent of the outstanding shares of stock of Bank, which, except for directors' qualifying shares to be held by Homer A. Scott, applicant will acquire through the proposed exchange. The remaining shares of stock of Bank are held by persons who have decided to retain their stock. The purpose of the proposed transaction is to effect a corporate reorganization, and all shareholders of Bank were included in the exchange offer. Since applicant has no present operations or subsidiaries, it appears that consummation of the proposal would neither eliminate existing competition, significantly affect potential competition nor have an adverse effect on other area banks.

The financial and managerial resources and future prospects of Bank are satisfactory and consistent with approval of the application. Applicant was recently organized and its financial condition, management, and future prospects, which are dependent on those of Bank, appear to be satisfactory and also are consistent with approval of the application. Although the acquisition debt to be assumed by Applicant will be relatively high, it appears that applicant can satisfactorily service the debt without placing an undue strain on the resources of Bank. It appears further that consummation of the proposal would have no immediate effect on the convenience and needs of the community, which appear to be adequately served at this time; however, considerations under this aspect of the proposal are consistent with approval of the application. It is the Board's judgment that the transaction would be in the public interest, and that the application should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above, provided that the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Minneapolis pursuant to delegated authority.

By order of the Board of Governors,[1] November 15, 1971.

TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16965 Filed 11-19-71;8:45 am]

POSTAL RATE COMMISSION

[Docket No. R71-1; Order No. 22]

CHANGES IN POSTAGE RATES AND FEES

Order Reconvening Hearings

NOVEMBER 17, 1971.

Request of the United States Post Office Department for recommended decision on changes in rates of postage and fees for postal services.

The Reader's Digest Association has filed a motion seeking leave to rebut on the record a Report of the Comptroller General of the United States (hereinafter the Report), copies of which were sent to the Commission on October 28, 1971. Alternatively Reader's Digest requests that the Commission make clear that all factual assertions in the Report will be disregarded by the Presiding Officer and by the Commission itself in reaching a decision in the case.

By answer filed November 11, 1971, the Postal Service opposes reopening for purposes of rebutting the Report.

Under the circumstances of this case, it would be appropriate to conduct reconvened proceedings limited to matters concerning the Report.

We leave to the discretion of the Presiding Officer the establishment of a hearing schedule and other procedures.

The Commission orders:

The hearings are reconvened for the limited purpose noted above at a time and under such conditions as the Presiding Officer shall direct.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[FR Doc.71-17015 Filed 11-19-71;8:49 am]

[1] Voting for this action: Governors Mitchell, Daane, Brimmer, and Sherrill. Absent and not voting: Chairman Burns and Governors Robertson and Maisel.

[Docket No. R71-1]

CHANGES IN POSTAGE RATES AND FEES

Notice of Conference

NOVEMBER 18, 1971.

Request of the U.S. Post Office Department for recommended decision on changes in rates of postage and fees for postal services; Docket No. R71-1.

Notice is hereby given that the Chief Examiner, pursuant to the Commission's order issued November 17, 1971, in the above-designated proceeding, has called a conference to convene on Monday, November 29, 1971, at 10 a.m., at the hearing room of the Postal Rate Commission, Suit 500, 2000 L Street NW., Washington, DC to consider further proceedings and procedures concerning the report of the Comptroller General of the United States, copies of which were sent to the Commission on October 28, 1971.

GORDON M. GRANT,
Secretary.

[FR Doc.71-17907 Filed 11-19-71;8:52 am]

SECURITIES AND EXCHANGE COMMISSION

[70-5116]

GRANITE STATE ELECTRIC CO. AND NEW ENGLAND ELECTRIC SYSTEM

Notice of Proposed Increase in Authorized Shares and Issue and Sale of Common Stock By Subsidiary Company To Holding Company

NOVEMBER 15, 1971.

Notice is hereby given that New England Electric System (NEES), 20 Turnpike Road, Westborough, MA 01581, a registered holding company, and its electric utility subsidiary company, Granite State Electric Co. (Granite), have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a), 6(b), 7, 9(a), 10, and 12 of the Act and Rule 42 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Granite proposes to increase its capital stock by the authorization of 5,000 additional shares of common stock of the aggregate par value of $500,000. Such shares are proposed to be issued and sold at the price of $100 per share as fixed by Granite's Board of Directors. NEES, the sole common stockholder, proposes to acquire such shares for a cash consideration of $500,000. Upon such authorization, issue, and sale, Granite will have outstanding 40,400 shares of common stock of an aggregate par value of $4,040,000.

The proceeds from the issue and sale of the additional common stock will be applied toward the payment of short-term notes. Granite presently has $6,200,000 of such short-term notes payable outstanding pursuant to Commission authorization, $250,000 payable to banks and $5,950,000 payable to NEES.

The expenses related to the proposed transactions are estimated at $3,750, of which Granite and NEES will pay $3,550 and $200, respectively. It is stated that the New Hampshire Public Utilities Commission has jurisdiction over the proposed issue and sale of common stock by Granite. It is also stated that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 10, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71-17013 Filed 11-19-71;8:49 am]

DEPARTMENT OF LABOR

Office of the Secretary

AVONDALE MILLS

Notice of Investigation Regarding Certification of Eligibility of Workers To Apply for Adjustment Assistance

The Department of Labor has received a Tariff Commission report containing an affirmative finding under section 301(c)(2) of the Trade Expansion Act of 1962 with respect to its investigation of a petition for determination of eligibility to apply for adjustment assistance filed on behalf of workers of Avondale Mills, Birmingham, Ala. (TEA-W-116). In view of the report and the responsibilities delegated to the Secretary of Labor under section 8 of Executive Order 11075 (28 F.R. 473), the Acting Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, has instituted an investigation, as provided in 29 CFR 90.5 and this notice. The investigation relates to the determination of whether any of the group of workers covered by the Tariff Commission report should be certified as eligible to apply for adjustment assistance, provided for under title III, chapter 3, of the Trade Expansion Act of 1962, including the determination of related subsidiary subjects and matters, such as the date unemployment or underemployment began or threatened to begin and subdivision of the firm involved to be specified in any certification to be made, as more specifically provided in Subpart B of 29 CFR Part 90.

Interested persons should submit written data, views, or arguments relating to the subjects of investigation to the Director, Office of Foreign Economic Policy, U.S. Department of Labor, Washington, D.C., on or before November 30, 1971.

Signed at Washington, D.C., this 16th day of November 1971.

IRVING I. KRAMER,
Acting Director, Office of Foreign Economic Policy.

[FR Doc.71-17011 Filed 11-19-71;8:49 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

NOVEMBER 17, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be

made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

CORRECTION

MC 128383 Sub 9, Pinto Trucking Service, Inc., assigned December 6, 1971, is postponed to December 13, 1971, in lieu of December 12, 1971, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 119700 Sub 17, Steel Haulers, Inc., now being assigned hearing January 26, 1972, at Memphis, Tenn., in a hearing room to be later designated.

MC 118763 (Sub-No. 190) in lieu of Sub 196, now being assigned January 13, 1972, at Miami, Fla., in a hearing room to be designated later.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-17025 Filed 11-19-71;8:50 am.]

ASSIGNMENT OF HEARINGS

NOVEMBER 17, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the original docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 135104, A. J. (Archie) Goodale Ltd., heard November 10, 1971, and continued to January 4, 1972, at the Statler-Hilton Hotel, Buffalo, N.Y.

MC 108449 Sub 323, Indianhead Truck Line, Inc., assigned December 15, is advanced to December 13, 1971, at Room 174, New Federal Building, 316 North Robert Street, St. Paul, MN.

No. 35380, National Electrical Manufacturers Association, et al. v. Aberdeen and Rockfish Railroad Co., et al., now being assigned hearing April 11, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 124078 Sub 498, Schwerman Trucking Co., assigned December 13, 1971, in Room 525, New Federal Building, 316 North Robert Street, St. Paul, MN.

MC 123255 Sub 6, B & L Motor Freight, now assigned November 30, 1972, at Washington, D.C., cancelled and application dismissed.

MC 75651 Sub 69, R. C. Motor Lines, Inc., assigned November 29, 1971, at Richmond, Va., is postponed indefinitely.

MC 35286 Sub 2, Truck Line Distribution Systems, Inc., continued to November 22, 1971, in Room 908, State Office Building, Indianapolis, Ind.

MC 11220 Sub 122, Gordons Transports, Inc., assigned December 6, 1971, at Atlanta, Ga., is postponed to January 24, 1972, in Room 353, Peachtree 7th Building, 50 Seventh Street, Northeast, Atlanta, GA.

MC 75320 Sub 156, Campbell Sixty-Six Express, Inc., assigned December 6, 1971, at Atlanta, Ga., is postponed to January 24, 1972, in Room 353, Peachtree 7th Building, 50 Seventh Street, Northeast, Atlanta, GA.

MC-C 7566, W. T. Mayfield Sons Trucking Co., Inc.—Investigation and Revocation of Certificates, assigned December 16, 1971, postponed indefinitely.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-17026 Filed 11-19-71;8:50 am]

[Notice 398]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 16, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2392 (Sub-No. 84 TA), filed November 8, 1971. Applicant: WHEELER TRANSPORT SERVICE, INC., Post Office Box 14248, West Omaha Station, 7722 F Street, Omaha, NE 68114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed, feed ingredients, feed supplements, urea, feed grade urea, urea, when used in feed or feed ingredients or feed supplements*, in bulk, in tank or hopper vehicles, from Fremont, Nebr., to points in Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, North Dakota, Oklahoma, South Dakota, Texas, Wisconsin, and Wyoming, for 180 days. Supporting shipper: Feed Commodities, Inc., Fremont, Nebr. 68025. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 711 Federal Office Building, Omaha, NE 68102.

No. MC 22426 (Sub-No. 12 TA), filed November 8, 1971. Applicant: LONGVIEW MOTOR TRANSPORT, INC., Post Office Box 1366, 763 Seventh Avenue, Longview, WA 98632. Applicant's representative: John Deering (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Freight* of all kinds in containers having prior or subsequent transportation by water, between Longview and Seattle, Wash., and between Portland, Oreg., and Seattle, Wash., for 180 days. Supporting shippers: Olympic Steamship Co., Inc., World Trade Building, Portland, Oreg. 97204; Bridgestone American, Inc., 1875 Northeast Argyle Drive, Portland, OR 97211; J. T. Steeb & Co., Inc., 415 Oregon Pioneer Building, Portland, OR 97204; Longview Fibre Co., Main Office and Mills, Longview, Wash. 98632; Olympic Steamship Co., Inc., World Trade Building, Portland, Oreg. 97204. Send protests to: W. J. Huetig, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 56679 (Sub-No. 54 TA), filed November 9, 1971. Applicant: BROWN TRANSPORT CORP., Post Office Box 6985, 125 Milton Avenue SE., Atlanta, GA 30315. Applicant's representative: B. K. McClain (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats and meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix 1 to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides or skins and commodities in bulk) (1) from the plantsite of Swift and Co., Grand Island, Nebr., to points in Florida and Tennessee and (2) from the plantsite of Bookey Packing Co., Des Moines, Iowa, to points in Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee, for 180 days. Supporting shipper: Swift Fresh Meats Co., 115 West Jackson Boulevard, Chicago, IL 60604. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC 76472 (Sub-No. 16 TA), filed November 8, 1971. Applicant: MATERIAL TRUCKING, INC., 924 South Heald Street, Wilmington, DE 19801. Applicant's representative: William Saienni (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron ore pellets*, from Wilmington, Del., to Coatesville, Pa., for 180 days. Supporting shipper: Lukens Steel Co., Coatesville, Pa. 19320. Send protests to: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA.

No. MC 109026 (Sub-No. 14 TA), filed November 8, 1971. Applicant: MANNING MOTOR EXPRESS, INC., Post Office Box 685, 1112 West Main Street, Glasgow, KY 42141. Applicant's representative: Carl U. Hurst, Central Building, 1033 State Street, Bowling Green, KY. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),

(1) between Fountain Run and Louisville, Ky.; from Fountain Run over Kentucky Highway 100 to Scottsville, Ky.; thence over U.S. Highway 31-E to Glasgow, Ky.; thence over Kentucky Highway 90 to junction Interstate Highway 65; thence over Interstate Highway 65 to Louisville, Ky., and return over the same route, serving the intermediate point of Holland, Ky.; (2) between Holland and Louisville, Ky.; from Holland over Kentucky Highway 100 to junction Kentucky Highway 870; thence over Kentucky Highway 870 to junction Kentucky Highway 63; thence over Kentucky Highway 63 to Glasgow, Ky.; thence over Kentucky Highway 90 to junction Interstate Highway 65; thence over Interstate Highway 65 to Louisville, Ky., and return over the same route, serving the intermediate point of Fountain Run, Ky.; (3) between Fountain Run, Ky., and Nashville, Tenn.: From Fountain Run over Kentucky Highway 100 to Scottsville, Ky., thence over U.S. Highway 31-E to Nashville, Tenn., and return over the same route, serving the intermediate point of Holland, Ky. Restriction: Service in (1), (2), and (3) above is restricted to traffic originating at or destined to Fountain Run and/or Holland, Ky., for 180 days. Supporting shipper: Martin K. Franks, Traffic Manager, Colonial Corp. of America, Woodbury, Tenn. 37190. Send protests to: Wayne L. Merilatt, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

No. MC 110988 (Sub-No. 278 TA), filed November 8, 1971. Applicant: SCHNEIDER TANK LINES, INC., 200 West Cecil Street, Neenah, WI 54956. Applicant's representative: David A. Petersen (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, in bulk, in hopper-type vehicles, from Albion, Mich., to points in Illinois and Wisconsin, for 180 days. Supporting shipper: American Colloid Co., 5100 Suffield Court, Skokie, IL 60076 (Ronald Williamson, assistant traffic manager). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 110988 (Sub-No. 279 TA), filed November 8, 1971. Applicant: SCHNEIDER TANK LINES, INC., 200 West Cecil Street, Neenah, WI 54956. Applicant's representative: David A. Petersen (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper coating emulsion*, in bulk, in tank vehicles, from the plantsite of National Cash Register Co. (NCR) at Dayton, Ohio, to Roaring Springs, Pa., for 180 days. Supporting shipper: The National Cash Register Co., Dayton, Ohio 45409 (D. L. Reinhard, manager, manufacturing laboratory). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 119619 (Sub-No. 66 TA), filed November 8, 1971. Applicant: DISTRIBUTORS SERVICE CO., 2000 West 43d Street, Chicago, IL 60609. Applicant's representative: Arthur J. Piken, One Lefrak City Plaza; Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, including nondairy vegetable oil, nonaerated*, in vehicles equipped with mechanical refrigeration, from Indianapolis, Ind., to points in Illinois, Nebraska, Minnesota, Iowa, Kansas, Missouri, Wisconsin, Ohio, Pennsylvania, West Virginia, Virginia, Maryland, Delaware, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, and the District of Columbia, for 180 days. Supporting shipper: Mutual Milk Co., 2243 Bethel Avenue, Indianapolis, IN 46203. Send protests to: Robert G. Anderson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 123392 (Sub-No. 32 TA), filed November 8, 1971. Applicant: JACK B. KELLEY, INC., 3801 Virginia Street, Amarillo, TX 79109. Applicant's representative: Weldon M. Teague (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous hydrogen chloride* in bulk, in tube trailers, from Deer Park, Tex., to San Diego and Los Angeles, Calif., for 150 days. Supporting shipper: S. P. Burke, manager, traffic services, Air Products and Chemicals, Inc., Post Office Box 538, Allentown, PA 18105. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395 Herring Plaza, Amarillo, TX 79101.

No. MC 128564 (Sub-No. 4 TA), filed November 8, 1971. Applicant: KENNETH G. WOODARD, Rural Route 2, 420 Irving Street, Strom Lake, IA 50588. Applicant's representative: Patrick E. Quinn, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese*, from Hartington, Nebr., to Carthage, Mo., for 180 days. Supporting shipper: Neu Cheese Co., Hartington, Nebr. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 711 Federal Office Building, Omaha, Nebr. 68102.

No. MC 128720 (Sub-No. 3 TA), filed November 8, 1971. Applicant: MERCHANTS FREIGHT LINE, INC., 122 Fredco Drive, Nashville, TN 37210. Applicant's representative: Walter Harwood, 1822 Parkway Towers, Nashville, Tenn. 37210. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods, commodities in bulk, and those requiring special equipment), (1) between Fountain Run, Ky., and Lafayette, Tenn., from Fountain Run, Ky., over Kentucky Highway 100 to Holland, thence over Kentucky Highway 99 to the Kentucky-Tennessee State line, thence over Tennessee Highway 10 to Lafayette, Tenn., and return over the same route, serving all intermediate points; (2) between Holland, Ky., and Tompkinsville, Ky., from Holland, Ky., over Kentucky Highway 100 to junction with Kentucky Highway 1366, thence over Kentucky Highway 1366 to its junction with Kentucky Highway 63 near Tompkinsville, thence over Kentucky Highway 63 to Tompkinsville, and return over the same route, serving the intermediate point of Fountain Run, Ky., and serving Tompkinsville, and also the junction of Kentucky Highway 100 and 63 (about 2 miles north of the Kentucky-Tennessee State line) for joinder only; and (3) between Gallatin, Tenn., and Fountain Run, Ky., from Gallatin over U.S. Highway 31-E to Scottsville, Ky., thence over Kentucky Highway 100 to Fountain Run, Ky., and return over the same route, serving no intermediate points, and serving Gallatin for joinder only, for 180 days. NOTE: Small LTL shipments will be handled on a peddle run from applicant's Lafayette, Tenn., terminal over Route (1) and also over Route (2) in conjunction with its regular daily operations. Truckload shipments will be handled direct between Holland and Fountain Run, Ky., and Nashville over U.S. Highway 31-E through Scottsville. Applicant states it does intend to tack the authority here applied for with existing authority at Lafayette and Gallatin, Tenn., and at Tompkinsville, Ky. Supporting shipper: Colonial Corporation of America, Woodbury, Tenn. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 803-1808 West End Building, Nashville, Tenn. 37203.

No. MC 133276 (Sub-No. 3 TA), filed November 8, 1971. Applicant: BERRY TRANSPORT, INC., 5315 Northwest Street, Helens Road, Portland, OR 97210. Applicant's representative: Nick I. Goyak, Oregon National Building, Portland, Oreg. 97205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers loaded* (general commodities) *and empty*, between points in Oregon, on the one hand, and, on the other, Portland, Oreg., Vancouver, Longview, Tacoma, and Seattle, Wash., and from Waiiula, Wash., to Portland, Oreg., for 180 days. Supporting shipper: American Mail Line, 522 Pacific Building, Portland, Oreg. 97204. Send protests to: W. J. Huetig, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 Southwest Pine, Portland, OR 97204.

No. MC 135461 (Sub-No. 1 TA), filed November 8, 1971. Applicant: M. B. INTERSTATE, INC., 10 North Seneca Road, Post Office Box 2652, Eugene, OR 97402. Applicant's representative: Neil Monaghan (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

routes, transporting: *Lumber and subcomponents* for houses and apartments, from Eugene, Oreg., to points in California, Nevada; and Phoenix and Tucson, Ariz., for 180 days. Supporting shippers: Wood Components Co., Post Office Box 1338, Eugene, OR 97401; Consolidated Hardwood Industries, Post Office Box 549, Eugene, OR 97401; Industrial Lumber Co., Inc., 17890 Southwest Boones Ferry Road, Lake Oswego, OR 97034. Send protests to: District Supervisor A. E. Odoms, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, Portland, Oreg. 97204.

No. MC 135786 (Sub-No. 2 TA), filed November 5, 1971. Applicant: NORRIS E. BASS, doing business as N. E. BASS, 9223 Timberlake Road, Lynchburg, VA 24502. Applicant's representative: Bolling Lambeth, Post Office Box 236, Bedford, VA 24532. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Artificial flowers*, from West Pittston, Pa., to points in Florida, South Carolina, North Carolina, and Virginia, for 180 days. Supporting shipper: California Flower Co., 415 Delaware Avenue, West Pittston, PA 18643. Send protests to: Clatin M. Harmon, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 215 Campbell Avenue SW., Roanoke, VA 24011.

No. MC 136043 (Sub-No. 1 TA), filed November 8, 1971. Applicant: REYNOLDS BROTHERS LTD., 2445 St. Clair Avenue West, Toronto, ON, Canada. Applicant's representative: William J. Hirsch, 35 Court Street, Buffalo, NY 14202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Haydite*, in bulk, from ports of entry on the international boundary line located on the Niagara River between the United States and Canada, to points in Erie and Niagara Counties, N.Y., for 150 days. Supporting shipper: Domtar Construction Materials Ltd. Post Office Box 6138, Montreal 101, Canada. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Office Building, 121 Ellicott Street, Buffalo, NY 14203.

No. MC 136105 (Sub-No. 1 TA), filed November 8, 1971. Applicant: J. C. CLIFT, doing business as CLIFT TRUCK LINE, Route 1, Box 468, Malvern, AR 72104. Applicant's representative: Don T. Jack, Jr., 1550 Tower Building, Little Rock, Ark. 72201. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Wood shavings and sawdust*, between Leola, Ark., to Lillie, La., from Leola, Ark., west over Arkansas Highway 46 to junction with Arkansas Highway 9, thence south over Arkansas Highway 9 to junction with Arkansas Highway 8, thence over Arkansas Highway 8 to junction with U.S. Highway 167, thence south over U.S. Highway 167 to Lillie, La., for 180 days. Supporting shipper: H. G. Toler and Son Lumber Co., Inc., Leola, Ark. Send protests to: William H. Land, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 136141 TA, filed November 8, 1971. Applicant: CONTINENTAL TRANSFER COMPANY, INC., 100 Albert Avenue, Metuchen, NJ 08840. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Theatrical equipment, materials, and supplies*, when moving in connection with the relocation of theatrical performances and personnel accompanying such *equipment, materials, and supplies*, for the account of Jose Greco Foundation for Hispanic Dance, Inc., between points in New York, N.Y., and points in the United States, for 150 days. Supporting shipper: The Jose Greco Foundation for Hispanic Dance, Inc., 866 United Nations Plaza, New York, NY 10017. Send protests to: District Supervisor Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 136143 TA, filed November 8, 1971. Applicant: ROBERT E. THOMAS, doing business as R. E. THOMAS TRUCKING, 936 Northeast Croxton Avenue, Grants Pass, OR 97526. Applicant's representative: Robert E. Thomas (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food and food products* requiring mechanical refrigeration, between points in Oregon, Washington, California, and Idaho, for 180 days. Supporting shippers: Rogue Gold Dairy, 234 Southwest Fifth Street, Grants Pass, OR 97526; Cartwright's Bonanza Orlin's Meat Specialties, Inc., Post Office Box 607, Central Point, OR 97501; Original House of Pies, 10502 Southeast Stark Street, Portland, OR 97216; Denny's Restaurant No. 330, 15 Northwest Morgan Lane, Grants Pass, OR 97526; Cascade Columbia Foods Inc., Southern Oregon Division, Post Office Box 02086, Portland, OR 97202. Send protests to: District Supervisor A. E. Odoms, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, Portland, Oreg.

No. MC 136144 TA, filed November 8, 1971. Applicant: ACME TRANSFER AND STORAGE CO., INC., 52 Ninth Avenue NE., Minneapolis, MN 55413. Applicant's representative: Harold Gorman (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs*, not cold—packed nor frozen, having a prior movement by rail, from Hunt-Wesson Foods, Inc., distribution center located in Shakopee, Minn., to Minneapolis-St. Paul commercial zone, Hastings, Stillwater, and Long Lake all of which are located in the State of Minnesota, for 180 days. Supporting shipper: Hunt-Wesson Foods, Inc., Toledo, Ohio. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 136145 TA, filed November 8, 1971. Applicant: VIRGIL BEEM, doing business as DESERT TRANSPORTATION, 2202 West McDowell Road, Phoenix, AZ 85009. Applicant's representative: A. Michael Bernstein, 1327 United Bank Building, Phoenix, Ariz. 85012. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metal, used aircraft parts, a scrap metal processor and small tools*, used in preparing scrap metal and aircraft parts, between Tucson, Ariz., on the one hand, and, points in the United States, on the other, for 180 days. Supporting shipper: Artko Corp., 6401 South Tucson Boulevard, Post Office Box 11366, Tucson, AZ 85706. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 3427 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

MOTOR CARRIER OF PASSENGERS

No. MC 136142 TA, filed November 8, 1971. Applicant: CONTINENTAL TRANSFER COMPANY, INC., 100 Albert Avenue, Metuchen, NJ 08840. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers, accompanying theatrical equipment, materials and supplies*, when moving in connection with the relocation of theatrical performances, for the account of The Jose Greco Foundation for Hispanic Dance, Inc., between points in New York, N.Y., and points in the United States, for 150 days. Supporting shipper: The Jose Greco Foundation for Hispanic Dance, Inc., 866 United Nations Plaza, New York, NY 10017. Send protests to: District Supervisor Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-17022 Filed 11-19-71;8:50 am]

[Notice 399]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 17, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 43734 (Sub-No. 6 TA), filed November 11, 1971. Applicant: ARTUS TRUCKING COMPANY, INC., 47-02 Second Avenue, Brooklyn, NY 11232. Applicant's representative: Arthur J. Piken, Suite 1515, One Lefrak City Plaza, Flushing, NY. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper bags*, between Kearny, N.J., on the one hand, and, on the other, points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and the District of Columbia, within 250 miles of New York, N.Y., restricted to traffic having a prior or subsequent movement by rail or truck, for 180 days. Supporting shippers: Emblum Paper Corp., 307 Fifth Avenue, New York, NY 10016; Westvaco, Westvaco Building, 299 Park Avenue, New York, NY 10017; The Northwest Paper Co., Cloquet, Minn. 55720; Knickerbocker Paper Co., Inc., 160 Charles Street, New York, NY 10014; Cross Siclare/New York, Inc., 207 Thompson Street, New York, NY 10012. Send protests to: Marvin Kampel, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10006.

No. MC 44639 (Sub-No. 46 TA), filed November 10, 1971. Applicant: L. & M. EXPRESS CO., INC., 220 Ridge Road, Lyndhurst, NJ 07071. Applicant's representative: Herman B. J. Weckstein, 60 Park Place, Newark, NJ 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials and supplies* used in the manufacture of wearing apparel, between Bland, Va., on the one hand, and, on the other, Crewe, Va., for 180 days. NOTE: Applicant states it intends to tack with authorized operations in MC 44639 at Crewe, Va. Supporting shipper: Bland Sportswear, Inc., Bland, Va. 24315. Send protests to: District Supervisor Joel Morrows, Interstate Commerce Commission, Bureau of Operations, 970 Broad Street, Newark, NJ 07102.

No. MC 103993 (Sub-No. 676 TA) (Correction), filed October 20, 1971, published FEDERAL REGISTER October 30, 1971, corrected and republished in part as corrected this issue. Applicant: MORGAN DRIVE AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Ralph H. Miller (same address as above). NOTE: The purpose of this partial republication is to set forth the correct spelling of *Cowley* County; Kans., in lieu of Crowley County, Kans., shown erroneously in previous publication. The rest of the notice remains the same.

No. MC 103993 (Sub-No. 677 TA), filed November 10, 1971. Applicant: MORGAN DRIVE AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Ralph H. Miller (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frames and undercarriages*, with hitchball connectors, from points in Cabarrus County, N.C., to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Riblet Products Corp., Elkhart, Ind. Send protests to: Acting District Supervisor John E. Ryden, Bureau of Operations, Interstate Commerce Commission, Room 204, 345 West Wayne Street, Fort Wayne, IN 46802.

No. MC 113951 (Sub-No. 6 TA), filed November 10, 1971. Applicant: CRESSY TRANS. CO. INC., 109 Gledellen Road, West Roxbury, MA 02132. Applicant's representative: George C. O'Brien, 15 Court Square, Boston, MA 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Charleston and Georgetown, S.C., and ports of entry of Calais and Houlton, Maine, to Boston, Mass., and Manchester, N.H., for 150 days. NOTE: Applicant states it intends to tack with its own authority at Boston, Mass., and Manchester, N.H. Supporting shipper: Chiquita Brands, Inc., 1250 Broadway, New York, NY 10001. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, Bureau of Operations, JFK Federal Building, Room 2211-B, Government Center, Boston, Mass. 02203.

No. MC 117956 (Sub-No. 9 TA), filed November 9, 1971. Applicant: HUGH H. SCOTT, doing business as SCOTT TRANSFER CO., 920 Ashby Street SW., Atlanta, GA 30310. Applicant's representative: William Addams, Suite 527, 1776 Peachtree Street NW., Atlanta, GA 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coin, currency and commercial paper*, between Cornelia and Clarkesville, Ga., on the one hand, and, points in Cherokee, Clay, Swain, and Jackson Counties, N.C., on the other, for 180 days. Supporting shipper: First National Bank of Cornelia, Cornelia, Ga. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC 117999 (Sub-No. 3 TA), filed November 10, 1971. Applicant: TOM GALLO, Wicker Street, Post Office Box 268, Ticonderoga, NY 12883. Applicant's representative: John J. Brady, Jr., 75 State Street, Albany, NY 12207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from port of entry on the international boundary line at or near Calais, Maine to Albany, N.Y.; also, from the ports of Charleston and Georgetown, S.C., to Albany, N.Y., for 150 days. Supporting shipper: Albany Banana Corp., Menands Regional Market, Albany, N.Y. 12204. Send protests to: District Supervisor Martin P. Monaghan, Jr., Interstate Commerce Commission, Bureau of Operations, 52 State Street, Room 5, Montpelier, VT 05602.

No. MC 128273 (Sub-No. 112 TA), filed November 9, 1971. Applicant: MIDWESTERN EXPRESS, INC., Box 189, 121 Humboldt Street, Fort Scott, KS 66701. Applicant's representative: Harry Ross, 848 Warner Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry feed ingredients*, from the plant and warehouse facilities of Farmland Industries, Inc., and/or Farmers Chemical Co., located in Jasper County, Mo., to points in New Mexico, Colorado, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Arkansas, Louisiana, Wisconsin, Illinois, Kentucky, Tennessee, and Indiana, for 180 days. Supporting shipper: Farmland Industries, Inc., 3315 North Oak, Kansas City, MO. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 134387 (Sub-No. 7 TA), filed November 8, 1971. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Avenue, South Gate, CA 90280. Applicant's representative: David P. Christianson, 825 City National Bank Building, 606 South Olive Street, Los Angeles, CA 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty glass containers*, from points in Alameda County and Los Angeles County, Calif., to points in Cochise County, Ariz., for 180 days. Supporting shipper: Brockway Glass Company, Inc., 8717 "G" Street, Oakland, CA. Send protests to: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 134884 (Sub-No. 2 TA), filed November 5, 1971. Applicant: FARWEST FURNITURE TRANSPORT, INC., 6840 112th Avenue Southeast, Renton, WA 98055. Applicant's representative: Bruce Mitchell, Suite 301, Tavern Square, 421 King Street, Alexandria, VA 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and fixtures*, from points in Washington (including ports of entry on the international boundary line between the United States and Canada), Oregon and California to points in Idaho, and return,

for 180 days. Supported by: There are approximately 30 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: E. J. Casey, District Supervisor, Interstate Commerce Commission, Bureau of Opertaions, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 134922 (Sub-No. 20 TA), filed November 9, 1971. Applicant: B. J. MCADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Playground apparatus and childrens recreational equipment*, from Bossier City, La., to points in California, Arizona, Nevada, Utah, Colorado, Idaho, Montana, Washington, and Oregon, for 180 days. Supporting shipper: Gym-Dandy, Inc., Bossier City, La. Send protests to: District Supervisor William H. Land, Jr., Bureau of Operations, Interstate Commerce Commission, 2519 Federal Office Building, Little Rock, Ark. 72201.

No. MC 135492 (Sub-No. 1 TA), filed November 11, 1971. Applicant: NORTHERNAIR FREIGHT SERVICE, INC., 12 Home Avenue, Burlington, VT 05401. Applicant's representative: John P. Monte, 61 Summer Street, Barre, VT 05641. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, household goods, commodities in bulk, and commodities requiring the use of special equipment), restricted to the transportation of shipments having an immediately prior or subsequent movement by air, between the U.S. Customhouse at the international boundary at or near Champlain, N.Y., and Highgate Springs, Vt., on the one hand, and, on the other, LaGuardia Airport and John F. Kennedy Airport at New York, N.Y., and Newark Airport at Newark, N.J., for 180 days. NOTE: Applicant states no tacking with other authority issued by the Interstate Commerce Commission, but will be tacking with authority issued by the Transportation Board of the Province of Quebec to provide through service to Montreal International Airport. Supporting shippers: Reynolds Air Services Inc., Post Office Box 233, Montreal International Airport, Montreal 300, PQ, Canada.; J. P. St-Arnaud & Cie. Ltee. 407 McGill Street, Suite 610, Montreal, PQ, Canada. Send protests to: District Supervisor Martin P. Monaghan, Jr. Interstate Commerce Commission, Bureau of Operations, 52 State Street, Room 5, Montpelier, VT 05602.

No. MC 135797 (Sub-No. 1 TA), filed November 10, 1971. Applicant: J. B. HUNT COMPANY OF GEORGIA, INC., 833 Warner Street SW., Atlanta, GA 30310. Applicant's representative: Virgil H. Smith, Suite 431, Title Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Tanks, hydropneumatic, cylindrical, steel, other than cement, glass or porcelain lined;* (b) *boiler heaters, gas,* with or without clay radiants; (c) *brooders; poultry, canopy or hovers* (knocked down other than flat-sectioned); from the plantsite of the Hoyt Corp. at Rogers, Ark., and the plantsite of the Hoyt Corp., Stephens County, Ga., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Massachusetts, Maryland, Michigan, Mississippi, Missouri, North Carolina, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, Vermont, West Virginia, and Wisconsin, for 180 days. Supporting shipper: Hoyt Corp., Post Office Box 248, Rogers, AR 72756. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC 136014 (Sub-No. 1 TA), filed November 10, 1971. Applicant: INTERNATIONAL CONTAINER SERVICE, INC., 9020 Northeast Vancouver Way, North Portland, OR 97211. Applicant's representative: Robert H. Griswold, 2416 North Marine Drive, North Portland, OR 97043. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities in steamship cargo containers; empty steamship cargo containers; green hides*, between Blaine, Seattle, Longview, Tacoma, and Vancouver, Wash., Portland and Astoria, Oreg., San Francisco, Los Angeles, and Long Beach, Calif., on the one hand, and, on the other, points in Washington, Oregon, California, Nevada, Idaho, Montana, Utah, Arizona, New Mexico, and Colorado, restricted to traffic having an immediately prior or subsequent movement by water, for 180 days. Supporting shippers: Japan Line (U.S.A.) Ltd., 1200 Commonwealth Building, 421 Southwest Sixth Avenue, Portland, OR 97204; American Mail Line, 522 Pacific Building, Portland, Oreg. 97204; Williams, Dimond & Co., 406 Oregon Pioneer Building, Portland, Oreg. 97204; Kerr Steamship Co., Inc., Suite 915, 707 Southwest Washington Street, Portland, OR 97205; Port of Portland, Box 3529, Portland, OR 97208. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 136146 TA, filed November 10, 1971. Applicant: EMPIRE WAREHOUSE, INC., 4970 Olive Street, Commerce City, CO 80022. Applicant's representative: Kenuff D. Wolford, 946 Metropolitan Building, Denver, CO 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Candy*, between points within the counties of Denver, Arapahoe, Adams, Boulder, Weld, and Larimer, Colo., for 180 days. Supporting shipper: E. J. Branch & Sons, 4656 West Kinzie Street, Chicago, IL. Send protests to: District Supervisor Herbert C. Ruoff, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

MOTOR CARRIER OF PASSENGERS

No. MC 136147 TA, filed November 11, 1971. Applicant: VALLEY TRANSIT CORP., 9001 West 79th Place, Justice, IL 60458. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in charter or special operations, beginning and ending in Cook and Du Page Counties, Ill., and extending to points in Ohio, Wisconsin, Michigan, Missouri, Indiana, Tennessee, Florida, New York, Iowa, Kentucky, Georgia, Pennsylvania, Minnesota, and the District of Columbia, for 180 days. Supported by: There are approximately 61 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Robert G. Anderson, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-17023 Filed 11-19-71;8:50 am]

[Notice 785]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 17, 1971.

Synopses of orders entered pursuant to Section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73172. By order of November 15, 1971, the Motor Carrier Board, on reconsideration, approved the transfer to New Ulm Freight Lines, Inc., New Ulm, Minn., of the operating rights in permit No. MC-133882 (Sub-No. 1), issued July 28, 1970, to Barry Bloedel, doing business as New Ulm Freight Lines, New Ulm, Minn., authorizing the transportation of equipment, materials, and supplies used in the manufacture, assembly, and furnishing of mobile homes, from South Bend and Elkhart, Ind., Chicago, Ill., and Marshfield, Wis., to New Ulm, Minn., restricted to operations under a continuing contract with Homette Corp., Division of Skyline, Inc., New Ulm, Minn. James Malecki, 1 South State Street, New Ulm, MN 56073, attorney for applicants.

No. MC-FC-73161. By order of November 15, 1971, the Motor Carrier Board approved the transfer to Ann Meyers Bell, doing business as Bell Transport Co., Longview, Tex., of the operating rights in certificates No. 98749 (Sub-No. 1), MC-98749 (Sub-No. 18), and MC-98749 (Sub-No. 25), issued August 25, 1969, January 22, 1965, and December 4, 1969, respectively to Durward L. Bell, doing business as Bell Transport Co., Longview, Tex., authorizing the transportation of various commodities from Longview, Tex., to points in the United States except Alaska and Hawaii. Joe T. Lanham, 1102 Perry-Brooks Building, Austin, Tex. 78701, attorney for applicants.

No. MC-FC-73202. By order of November 15, 1971, the Motor Carrier Board approved the transfer to Gay Trucking Co., Inc., Savannah, Ga., of those portions of the operating rights in certificates Nos. MC-123067 (Sub-No. 74) and MC-123067 (Sub-No. 76) issued March 19, 1970, and May 11, 1970, to M & M Tank Lines, Inc., Winston-Salem, N.C., authorizing the transportation of roof slabs and materials used in the installation of roof slabs, from the plantsite of Concrete Products, Inc., in Brunswick, Ga., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Nebraska, Ohio, Oklahoma, South Dakota, Texas, Virginia, West Virginia, and Wisconsin, and Missouri; wood excelsior, from points in the specified destination States to the plantsite of Concrete Products, Inc., in Brunswick, Ga., and iron and steel articles, from points in Chatham County, Ga., to points in Alabama, Georgia, and Tennessee. Herbert Alan Dubin and William P. Sullivan, 1819 H Street NW., Washington, DC 20006, attorneys for applicants.

No. MC-FC-73243. By order of November 15, 1971, the Motor Carrier Board approved the transfer to Ellis Transfer & Storage, Inc., Florence, S.C., of certificate No. MC-109542, issued January 9, 1969, to M. A. Ellis, Jr., doing business as M. A. Ellis Transfer & Storage Co., Florence, S.C., authorizing the transportation of: Household goods as defined by the Commission, between points in Florence and Darlington Counties, S.C., on the one hand, and, on the other, points in North Carolina and Georgia. John L. McGowan, Post Office Box 109, Florence, SC, attorney for applicants.

No. MC-FC-73248. By order of November 12, 1971, the Motor Carrier Board approved the transfer to DM's Trucks, Inc., Minneapolis, Minn., of that portion of the operating rights in Certificate No. MC-123393 (Sub-No. 42), issued January 10, 1967, to Bilyeu Refrigerated Transport Corp., Marshall, Mo., authorizing the transportation of meats, meat products, and meat byproducts, and articles distributed by meat packinghouses as described in sections A and C to appendix I of the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except commodities in bulk, in tank vehicles, from points in Kansas on and east of U.S. Highway 281 and on and south of U.S. Highway 56, except Kansas City, to Springfield, Mo., restricted against service at the plantsite of Iowa Beef Packers, Inc., near Emporia, Kans. Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, MO 64105 and Lawrence Askinosie, 926 Woodruff Building, Springfield, Mo. 65805, attorneys for applicants.

No. MC-FC-73274. By order of November 15, 1971, the Motor Carrier Board approved the transfer to Emil Grass Moving & Express Co., a corporation, St. Louis, Mo., of the operating rights in Certificate No. MC-15989, issued June 17, 1941, to Carlson Transfer Co., a corporation, St. Louis, Mo., authorizing the transportation of electrical appliances, between St. Louis, Mo., on the one hand, and, on the other, points and places in Illinois within 50 miles of East St. Louis, Ill.; scrap leather, from St. Louis, Mo., to Caseyville, Ill.; leatherboard, from Caseyville, Ill., to St. Louis, Mo.; scrap paper, from St. Louis, Mo., to Caseyville and Alton, Ill., and general commodities, with usual exceptions, between points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone, as defined by the Commission. Austin C. Knetzger, 722 Chestnut Street, St. Louis, MO 63101, attorney for applicants.

No. MC-FC-73278. By order of November 12, 1971, the Motor Carrier Board approved the transfer to T. F. Boyle Transportation, Inc., Holliston, Mass., of Certificate of Registration No. MC-54819 (Sub-No. 1), issued December 6, 1963, to Abraham A. Hill, doing business as S. Hill & Son, Everett, Mass., evidencing a right to engage in transportation in interstate commerce as described in certificate No. 1704, dated August 30, 1939, issued by the Massachusetts Department of Public Utilities. Frederick T. O'Sullivan, 372 Granite Avenue, Milton, MA 02186, attorney for applicants.

No. MC-FC-73285. By order of November 15, 1971, the Motor Carrier Board approved the transfer to Sutton's Tours & Travel Service, Inc., Struthers, Ohio, of the Brokers License No. MC-12858 issued July 27, 1964, to Antonette Sutton, doing business as Sutton's Tours and Travel Service, Struthers, Ohio, authorizing the holder thereof to engage in operations as a broker, in arranging for the transportation of: Passengers and their baggage, in special or charter operations, beginning and ending at points in Mahoning County, Ohio, and extending to points in Illinois, Michigan, Indiana, West Virginia, Ohio, Pennsylvania, New York, New Jersey, Virginia, Louisiana, Florida, the District of Columbia, and ports of entry on the U.S.-Mexico boundary. A. Charles Tell, attorney, 100 East Broad Street, Columbus, OH 43215.

No. MC-FC-73291. By order of November 12, 1971, the Motor Carrier Board approved the transfer to Campbell Trucking, Inc., Maquoketa, Iowa, of the operating rights in Certificate No. MC-93454 issued May 17, 1960, to Irvie Campbell, doing business as Campbell Trucking, Maquoketa, Iowa, authorizing the transportation of livestock and agricultural commodities, from Elwood, Iowa, to Chicago, Ill., serving intermediate and off-route points within 25 miles of Elwood; general commodities, with usual exceptions, from Chicago, Ill., to Elwood, Iowa, serving all intermediate and off-route points within 25 miles of Elwood; farm machinery and parts, from East Moline, Ill., to Elwood, Iowa, serving named intermediate and off-route points; livestock, from Maquoketa, Iowa, to Chicago, Ill., and Milwaukee, Wis.; household goods and emigrant movables, between Elwood, Iowa, and points within 26 miles thereof, on the one hand, and, on the other, points in Illinois, and other specified commodities from specified points in Illinois to Maquoketa, Iowa. Larry D. Knox, Hubbell Building, Des Moines, Iowa 50309, attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-17024 Filed 11-19-71;8:50 am]

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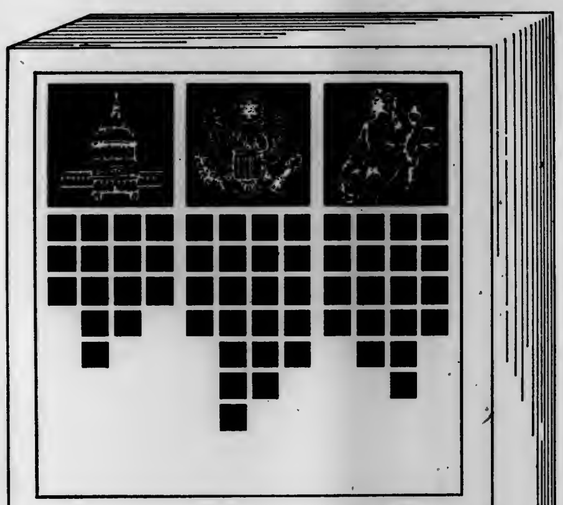

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Title 3—The President

EXECUTIVE ORDER 11632

Amending Executive Order No. 11627 of October 15, 1971, Further Providing for the Stabilization of the Economy

By virtue of the authority vested in me by the Constitution and statutes of the United States, particularly the Economic Stabilization Act of 1970, as amended, Executive Order No. 11627,[1] as amended, is hereby further amended by adding at the end of Section 11 a new Section 11A as follows:

"SEC. 11A(a). There is hereby established a Rent Advisory Board. The Rent Advisory Board shall be composed of such members as the President may from time to time appoint. The President shall designate the Chairman of the Rent Advisory Board.

"(b) The Rent Advisory Board shall provide advice concerning special considerations involved in the stabilization of rents. It shall also assist the Commission in the performance of its functions by making technical analyses of specific matters referred to it by the Commission."

Richard Nixon

THE WHITE HOUSE,
November 22, 1971.

[FR Doc.71-17202 Filed 11-22-71; 10:23 am]

[1] 36 F.R. 20139.

Rules and Regulations

Title 7—AGRICULTURE

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 932—OLIVES GROWN IN CALIFORNIA

Expenses, Rate of Assessment, and Carryover of Unexpended Funds

On November 3, 1971, notice of rule making was published in the FEDERAL REGISTER (36 F.R. 21059), regarding proposed expenses and the related rate of assessment for the fiscal year ending August 31, 1972, and carryover of unexpended funds, pursuant to the marketing agreement, as amended, and Order No. 932, as amended (7 CFR Part 932; 36 F.R. 20355), regulating the handling of olives grown in California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matter presented, including the proposals set forth in such notice which were submitted by the Olive Administrative Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

§ 932.208 Expenses, rate of assessment, and carryover of unexpended funds.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Olive Administrative Committee during the period September 1, 1971, through August 31, 1972, will amount to $558,850.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each first handler in accordance with § 932.39, is fixed at $10 per ton of olives.

(c) *Reserve.* Unexpended assessment funds, in excess of expenses incurred during the fiscal year ended August 31, 1971, shall be carried over as a reserve in accordance with the applicable provisions of §§ 932.40 and 932.203.

Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) the relevant provisions of said marketing agreement and this part require that the rate of assessment fixed for a particular fiscal year shall be applicable to all assessable olives from the beginning of such year; and (2) such year began on September 1, 1971, and the rate of assessment herein fixed will automatically apply to all assessable olives beginning with such date.

Dated: November 18, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-17101 Filed 11-22-71;8:50 am]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES AND OTHER OPERATIONS

[CCC Grain Price Support Reg., 1971-Crop Peanut Farm-Stored Loan and Purchase Supp.]

PART 1421—GRAIN AND SIMILARLY HANDLED COMMODITIES

Subpart—1971-Crop Farm-Stored Peanut Loan and Purchase Program

On pages 19035 and 19036 of the FEDERAL REGISTER of September 25, 1971, there was published a notice of proposed rule making to issue regulations governing 1971-crop peanut farm-stored loan and purchase rates, availability date and maturity date.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed regulations.

No objections have been received and the proposed regulations are hereby adopted without change and are set forth below.

Effective date. These regulations shall be effective upon publication in the FEDERAL REGISTER (11–23–71).

KENNETH E. FRICK,
Executive Vice President, Commodity Credit Corporation.

NOVEMBER 17, 1971.

The General Regulations Governing Price Support for the 1970 and Subsequent Crops of Grain and Similarly Handled Commodities (35 F.R. 7363) and any amendments thereto (hereinafter referred to as "the general regulations") and the 1970 and Subsequent Crops Peanut Farm-Stored Loan and Purchase Supplement (35 F.R. 12706) and any amendments thereto (hereinafter referred to as "the continuing supplement"), which contain regulations of a general nature with respect to price support operations, are further supplemented by revising §§ 1421.291–1421.294 to read as follows, effective as to the 1971 crop of peanuts. The material previously appearing in these sections remains in full force and effect as to the crops to which it was applicable.

Sec.
1421.291 Purpose.
1421.292 Availability.
1421.293 Maturity of loans.
1421.294 Price support rates.

AUTHORITY: The provisions of this Subpart issued under 62 Stat. 1070, as amended, 15 U.S.C. 714, (b) and (c); 63 Stat. 1051, as amended, 7 U.S.C. 1441, 1421, 1423, 1425.

§ 1421.291 Purpose.

This supplement, together with the applicable provisions of the general regulations and the provisions of the continuing supplement, apply to farm-stored loans and purchases for the 1971 crop of peanuts.

§ 1421.292 Availability.

(a) *Farm-stored loans.* Producers must request a loan on 1971 crop eligible peanuts on or before March 31, 1972.

(b) *Purchases.* Producers desiring to offer eligible peanuts not under loan for purchase must execute and deliver to the appropriate ASCS county office, on or before April 30, 1972, a Purchase Agreement (Form CCC–614) indicating the approximate quantity of 1971-crop peanuts he may sell to CCC.

§ 1421.293 Maturity of loans.

Unless demand is made earlier, farm-stored loans on farmers' stock peanuts will mature on April 30, 1972.

§ 1421.294 Price support rates.

(a) *Loan rate.* Subject to the discounts specified in paragraph (b) of this section, the loan rates for farmers' stock peanuts placed under farm-stored loan shall be the following rates by types per ton:

Type:	Dollars per ton
Virginia	279
Runner	261
Southeast Spanish	266
Southwest Spanish	263
Valencia (suitable for cleaning and roasting in southwest) [1]	279

[1] The price for all Valencia-type peanuts in the Southeast and Virginia-Carolina areas and those in the Southwest area which are not suitable for cleaning and roasting will be the same as for Spanish-type peanuts in the same area.

(b) *Location adjustments to support prices.* The loan rates specified in paragraph (a) of this section shall be subject to the following discounts for farmers' stock peanuts placed under a farm-stored loan in the States specified where peanuts are not customarily shelled or crushed:

State:	Dollars per ton
Arizona	25
Arkansas	10
California	33
Louisiana	7
Mississippi	10
Missouri	10
Tennessee	25

(c) *Settlement values.* The support prices, premiums, and discounts for use in computing the settlement value, under § 1421.289(b)(2) of the continuing supplement, of peanuts acquired by CCC under loan or purchase shall be those specified in § 1446.44 of the 1971-crop peanut warehouse storage loan and sheller purchase supplement, including the location adjustments specified therein for peanuts delivered to CCC in States where peanuts are not customarily shelled or crushed.

[FR Doc.71-17075 Filed 11-22-71;8:47 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 71-EA-103, Amdt. 39-1339]

PART 39—AIRWORTHINESS DIRECTIVES

Brantly Rotorcraft

The Federal Aviation Administration is amending § 39.13 of the Federal Aviation regulations so as to amend AD 71-17-5 applicable to Brantly B-2, B-2A, B-2B type rotorcraft.

Due to oversight, AD 71-17-5 applicability statement omitted reference to the B-2 type rotorcraft and mistakenly referred to a B type rotorcraft. Further, a part number has been mistyped, and the amendment intends to relax the type of preservative lubricating oil to be used by referring only to a specification.

The safety problem presented by publishing AD 71-17-5 still exists as to the omitted type designation and therefore notice and public procedure hereon are impractical and the amendment may be made effective in less than 30 days. Further the other corrections are either editorial in nature or relaxatory and impose no additional burden on any person.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation regulations is amended by amending AD 71-17-5 as follows:

1. In the applicability statement delete the designation B, B2A, B2B and insert "B-2, B-2A, B-2B".

2. In paragraph d. delete reference to "Socony Avrex 901 or Esso Rust-Ban 626" and insert in lieu thereof "Spec. Mil.-C-6925C".

3. In paragraph d. delete "P/N AN 6227-626" and insert in lieu thereof "P/N AN 6227-26".

This amendment is effective November 26, 1971.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421 and 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on November 11, 1971.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc. 71-17047 Filed 11-22-71;8:46 am]

[Docket No. 71-CE-26-AD; Amdt. 39-1340]

PART 39—AIRWORTHINESS DIRECTIVES

Certain Cessna Series Airplanes

There have been failures of flexible hose assemblies located in the engine compartment of Cessna Models 177, 206, 210; 336 and 337 series airplanes. These failures are the result of synthetic rubber deterioration which, if not corrected, can lead to the discharge of hazardous amounts of fuel or oil into the engine compartment with possible resultant in-flight fire. Since this condition is likely to exist or develop in other airplanes of the same type design, an Airworthiness Directive is being issued requiring repetitive visual inspections of all flexible hose assemblies in the engine compartment of Cessna Models 177, 206, 210; 336 and 337 series airplanes, and replacement of said assemblies where necessary.

Since immediate action is required in the interest of safety, compliance with the notice and public procedure provisions of the Administrative Procedure Act is impractical and good cause exists for making this amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of the Federal Aviation regulations is amended by adding the following new AD.

CESSNA: Applies to following airplanes:

Models	*Serial numbers affected*
177	661, 17700001 and 17700003 through 17701164.
206	206-0001 through 206-0275.
U206	U206-0276 through U206-0437.
P206	P206-0002 through P206-0160.
U206A	U206-0438 through U206-0656.
P206A	P206-0161 through P206-0306.
TU206A	U206-0487 through U206-0656.
P206B	P206-0307 through P206-0419.
TU206B	U206-0657 through U206-0914.
TP206A	P206-191 through P206-0306.
TP206B	P206-0307 through P206-0419.
U206B	U206-0657 through U206-0914.
P206C, TP206C.	P206-0420 through P206-0519.
U206C, TU206C.	U206-0915 through U206-1234.
210D	21058221 through 21058510.
210E	21058511 through 21058715.
T210F	T210-0001 through T210-0197.
210F	21058716 through 21058818.
T210G	T210-0198 through T210-0307.
210G	21058819 through 21058936.
T210H	T210-0307 through T210-0392.
210H	21058937 through 21059062.
336	633, 636, 336-001 through 336-0195.
337	337-0002 through 337-0239.
337A	337-0240 through 337-0526 (except 337-0306 and 337-0470).
337B	337-0001, 337-0470, 337-0526 through 337-0755.
T337B	337-0001, 337-0526 through 337-0755 (except 337-0560).
337C, T337C.	337-0756 through 337-0978.

Compliance required as indicated, unless already accomplished.

To detect leakage of flammable fluids from flexible hose assemblies in the engine compartment within 100 hours' time in service after the effective date of this AD and thereafter at intervals not to exceed 100 hours' time in service, accomplish the following:

A. Visually, or by any other method approved by FAA, inspect fuel lines as follows:

1. Pressurize the fuel lines with boost pump operating in high position. When accomplishing this test, the mixture control should be in the idle cutoff position.

2. With fuel lines pressurized, examine all flexible hose exteriors in the engine compartment for evidence of fuel stains, wetness, or leakage.

3. After pressure testing fuel hoses, allow sufficient time for excess fuel to drain overboard from the engine manifold before attempting an engine start.

B. Visually, or by any other method approved by the FAA, inspect oil lines for evidence of wetness or leakage.

C. If, as a result of the inspections required by paragraphs A or B, fuel and/or oil stain, wetness or leaking is found, replace with a serviceable hose assembly.

D. Inspections required by paragraphs A and B will no longer be required when hose assemblies are replaced with assemblies having a Cessna dated metal tag attached. TSO-C53a Type C approved hose assemblies are also acceptable for this replacement.[1]

NOTE: Cessna Service Letter SE71-7, Supplement No. 1 dated November 3, 1971, covers this subject.

The above airplanes use Aeroquip 601 series or Stratoflex 156 series hose assemblies available under Cessna P/N S1236-X-XXXX. The hose assemblies are identified by a steel braided exterior.

This amendment becomes effective November 23, 1971.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on November 11, 1971.

CHESTER W. WELLS,
Acting Director, Central Region.

[FR Doc.71-17056 Filed 11-22-71;8:46 am]

[Docket No. 71-EA-152; Amdt. 39-1338]

PART 39—AIRWORTHINESS DIRECTIVES

Fairchild Hiller Rotorcraft

The Federal Aviation Administration is amending § 39.13 of the Federal Aviation regulations so as to issue an airworthiness directive applicable to Fairchild Hiller FH1100 type helicopters.

There have been reports of failures of an engine-mount strut on the FH1100 helicopters. Since this is a deficiency which can exist or develop in helicopters of the same type or design, an airworthiness directive is being issued which requires an inspection and replacement where necessary and eventual alteration of the engine mount strut.

Since a situation exists which requires expeditious adoption of the amendment, notice and public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of the Federal Aviation regulations is amended by adding the following new Airworthiness Directive:

FAIRCHILD HILLER ROTORCRAFT. Applies to FH1100 type helicopters certificated in all categories.

Compliance required as indicated.

To preclude fatigue failure of the rear attachment lug on engine-mount strut P/N 24-63110-1 accomplish the following:

a. Within the next 25 hours' time in service after the effective date of this AD unless already accomplished, inspect and replace if necessary, engine mount strut P/N 24-63110-1 in accordance with section 2, subsections A.1. and A.2., Accomplishment Instructions, Fairchild Hiller Service Bulletin SB FH1100-71-2, dated 30 September 1971, or later FAA-approved revision or an alternate method approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

b. Within the next 100 hours' time in service after the effective date of this AD unless already accomplished, alter engine mount strut P/N 24-63110-1 in accordance with section 2, subsections A.3. through A.8., Accomplishment Instructions, F/H Service Bulletin SB FH1100-71-2, dated 30 September 1971, or later FAA-approved revision or an alternate method approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

This amendment is effective November 26, 1971.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 14233; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on November 11, 1971.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.71-17051 Filed 11-22-71;8:46 am]

[Docket No. 71-EA-146, Amdt. 39-1342]

PART 39—AIRWORTHINESS DIRECTIVES

Hartzell Aircraft Propellers

The Federal Aviation Administration is amending § 39.13 of the Federal Aviation regulations so as to issue an Airworthiness Directive amending AD 65-21-4 applicable to Hartzell type propellers.

Since the publication of AD 65-21-4 it has been determined that a need exists to correlate lubrication of the propeller control bearing with propellers which are installed on aircraft and which have not been operated for periods of from 2 to 6 months and in excess of 6 months. The failure to lubricate the bearing within the referenced time limits poses an air safety problem.

In view of the foregoing problem, notice and public procedure hereon are impractical and good cause exists for making the rule effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of the Federal Aviation regulations is amended by amending AD 65-21-4 as follows:

1. Delete paragraph (b) of AD 65-21-4 and all thereafter and insert in lieu thereof:

(b) Bearing lubrication and maintenance:

1. Grease the A-38 propeller control bearing within the next 100 hours in service after the effective date of this AD, and thereafter not to exceed 100 hours in service from the last greasing.

2. Propellers which are installed on aircraft which have not been flown for a calendar period of 2 months or more, but less than 6 months, grease the A-38 control bearing prior to further flight.

3. Propellers which are installed on aircraft which have not been flown for a calendar period of 6 months or more, must be removed prior to further flight. Inspect the A-38 control bearing for rust, replace as necessary and grease in accordance with Hartzell Bulletins No. 82, Addendum No. 1, dated 27 May 1971, No. 82, revised 2 June 1965, or equivalent inspection approved by the Chief, Engineering and Manufacturing Branch, Eastern Region. Also, inspect B-119 rubber diaphragm for cracking and replace if necessary in accordance with Service Letter 48 dated 20 April 1967, or equivalent inspection approved by the Chief, Engineering and Manufacturing Branch, Eastern Region.

Hartzell Bulletins No. 82, revised 2 June 1965, No. 82, Addendum No. 1, dated 27 May 1971, Service Letter No. 48, dated 20 April 1967, and Manual 100D pertain to this subject.

This amendment is effective November 30, 1971.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on November 11, 1971.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.71-17050 Filed 11-22-71;8:46 am]

[Docket No. 71-EA-136; Amdt. 39-1341]

PART 39—AIRWORTHINESS DIRECTIVES

Hartzell Aircraft Propellers

The Federal Aviation Administration is amending § 39.13 of the Federal Aviation regulations so as to revise AD 70-16-3 applicable to Hartzell propeller blades.

Since the promulgation of AD 70-16-3 it has been determined that the required X-ray inspection should be replaced by a visual inspection.

In view of the safety problem presented by the presence of corrosion in the blade, notice and public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of the Federal Aviation regulations is amended by adding the following new Airworthiness Directive:

(1) Delete all after the applicability (first) paragraph of AD 70-16-3 and insert in lieu thereof:

Compliance required as indicated, unless already accomplished. To prevent propeller blade shank failures, accomplish the following:

(a) Propellers with 600 or more total hours in service, inspect in accordance with paragraph (e) within the next 100 hours in service after the effective date of this AD.

(b) Propellers with less than 600 total hours in service, inspect in accordance with paragraph (e), prior to the accumulation of 700 hours in service.

(c) Propellers whose total hours in service are unknown, inspect in accordance with paragraph (e) within the next 100 hours in service after the effective date of this AD.

(d) Propellers previously inspected by X-ray method under "Option 1" of Hartzell Bulletin No. 96, dated 1 June 1970, inspect in accordance with paragraph (e) within the next 50 hours in service after the effective date of this AD.

(e) Remove the blades from the propeller, inspect for corrosion in accordance with inspection procedures in Hartzell Bulletin No. 96 (subparagraph E), revised 18 August 1971, or later FAA approved revision, or equivalent approved method. Replace before further flight any corroded or cracked blades with blades to which this AD does not apply.

(f) Approvals and equivalent methods of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, Eastern Region.

Hartzell Bulletin No. 96, revised 18 August 1971, and Manual 117B cover this subject.

This amendment is effective November 30, 1971.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on November 11, 1971.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.71-17048 Filed 11-22-71;8:46 am]

[Docket No. 71-EA-138; Amdt. 39-1337]

PART 39—AIRWORTHINESS DIRECTIVES

Pratt and Whitney Aircraft Engines

The Federal Aviation Administration is amending § 39.13 of the Federal Aviation regulations by publishing an Airworthiness Directive applicable to Pratt and Whitney JT12A and JFTD12A type aircraft engines.

During the investigation of JT8D seventh stage disc failures resulting from lead contamination, it was determined that a heat code, WZBM, was also produced from the contaminated master melt. Heat code WZBM was utilized for JT12A turbojet and JFTD12A turboshaft engine compressor rotor discs.

[1] This does not preclude continued inspections of this area as required by FAR 91.

A laboratory investigation of several discs from heat code WZBM returned to Pratt and Whitney Aircraft from service engines has indicated a higher than normal lead content in one of the discs. Based on this data and the JT8D experience, an Airworthiness Directive is being issued which reduces the life limit of certain fifth, sixth, eighth, and ninth stage compressor rotor discs.

Since the foregoing applies to discs presently in operational aircraft, notice and public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of the Federal Aviation regulations is amended by adding the following new Airworthiness Directive:

PRATT AND WHITNEY AIRCRAFT. Applies to all Pratt and Whitney Aircraft JT12A series turbojet and JFTD12A series turboshaft engines which incorporate any of the compressor rotor discs with serial numbers listed in Pratt and Whitney Aircraft Turbojet Engine Service Bulletin No. 3421, dated 4 August 1971.

Compliance required as indicated.

To preclude compressor rotor disc failures as the result of reduced life from traces of lead, remove from service the listed discs prior to reaching the revised life limit, or within the next 30 cycles in service after the effective date of this AD, whichever comes later.

The manufacturer's service bulletin identified and described in this directive is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received this document from the manufacturer may obtain copies upon request from Pratt and Whitney Aircraft Division of United Aircraft Corp., East Hartford, Conn. 06108. This document may also be examined at the FAA, Eastern Region, Federal Building, J. F. Kennedy International Airport, Jamaica, N.Y., or at the FAA Headquarters, 800 Independence Avenue SW., Washington, DC.

A historical file on the AD which includes the incorporated material in full is maintained by the FAA in its headquarters in Washington, D.C., and in the Eastern Region.

Upon submission of substantiating data through an FAA maintenance inspector by an owner or operator to the Chief, Engineering and Manufacturing Branch, FAA Eastern Region, compliance time may be adjusted.

The incorporation by reference provision in this document was approved by the Director of the Federal Register on June 19, 1967.

This amendment is effective November 26, 1971.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on November 11, 1971.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.71-17049 Filed 11-22-71;8:46 am]

[Airspace Docket No. 71-NW-10]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Extension of Federal Airway

On September 4, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 17876) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation regulations that would extend VOR Federal airway No. 452 from Eugene, Oreg., via Klamath Falls, Oreg., to Reno, Nev.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. Comments were received from the Air Transport Association of America (ATA) and the Department of the Air Force (USAF).

The comment received from the ATA interposed no objection to the proposed amendment while the comment received from the USAF expressed concern that the proposed airway extension would have an adverse effect on certain military operations in the Klamath Falls area. The USAF comment stated that the proposed extension of V-452 would not be objectionable, provided procedures are established that would insure expeditious traffic flow into Kingsley Field and the establishment of a minimum en route altitude of 14,000 feet MSL for the route segment between Klamath Falls, Oreg., and Reno, Nev.

A review of the proposed airway extension, with regard to the USAF comment, discloses that a relatively low volume of traffic is anticipated on the proposed segments of V-452. Further, the military traffic into Kingsley Field is also low volume. Accordingly, it is anticipated that no excessive delays will be encountered by en route traffic or to the approach or departure traffic in the Klamath Falls area. The proposed minimum en route altitude on V-452 between Klamath Falls, Oreg., and Reno, Nev., is expected to be assigned at 14,500 feet MSL, thereby eliminating any possible conflict between en route traffic and aircraft operating within the Goose Lake low altitude intercept training area.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., February 3, 1972, as hereinafter set forth.

In § 71.123 (36 F.R. 2010) V-452 is amended by deleting "to Eugene, Oreg." and substituting "Eugene, Oreg., via Klamath Falls, Oreg.; to Reno, Nev." therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 16, 1971.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-17052 Filed 11-22-71;8:46 am]

[Airspace Docket No. 71-SO-152]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On October 8, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 19616), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation regulations that would alter the Huntsville, Ala., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation regulations is amended, effective 0901 G.m.t., February 3, 1972, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the Huntsville, Ala., transition area is amended as follows:

"• • • VOR to 18.5 miles north • • •." is deleted and "• • • VOR to 18.5 miles north; within a 5-mile radius of North Huntsville Airport (lat. 34°51'25" N., long. 86°33'22" W.) • • •." is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued at East Point, Ga., on November 12, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71-17054 Filed 11-22-71;8:46 am]

[Airspace Docket No. 71-SO-153]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On October 8, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 19617), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation regulations that would designate the Hamilton, Ala., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation regulations is amended, effective 0901 G.m.t., February 3, 1972, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the following transition area is added:

HAMILTON, ALA.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Marion County Airport (lat. 34°07'10" N., long. 87°59'53" W.); within 3 miles each side of Hamilton VORTAC 348° radial extending from the 9-mile-radius area to 5.5 miles northwest of the VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on November 12, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71-17053 Filed 11-22-71;8:46 am]

[Airspace Docket No. 71-SO-122]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

PART 73—SPECIAL USE AIRSPACE

Alteration of Federal Airway and Restricted Area

On September 4, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 17876) stating that the Federal Aviation Administration was considering amendments to Parts 71 and 73 of the Federal Aviation regulations that would alter the Poinsett-Sumter, S.C., Restricted Area R-6002 and concurrently realign VOR Federal Airway V-56 between Columbia and Florence, S.C.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Parts 71 and 73 of the Federal Aviation Regulations are amended, effective 0901 G.m.t., January 6, 1972, as hereinafter set forth.

1. In § 73.60 (36 F.R. 2358 and 8510) R-6002, Poinsett-Sumter, S.C., the designated boundaries are amended to read:

Beginning at latitude 33°54'24" N., longitude 80°24'12" W., to latitude 33°46'25" N., longitude 80°23'12" W., to latitude 33°44'27" N., longitude 80°31'42" W., to latitude 33°50'13" N., longitude 80°31'03" W., to latitude 33°53'37" N., longitude 80°31'03" W., to point of beginning. Excluding that airspace within the Shaw AFB control zone.

2. In § 71.123 (36 F.R. 2010) (36 F.R. 18076), V-56 is amended by deleting "INT Columbia 079° and Florence, S.C., 243° radials; Florence;" and substituting "Florence, S.C.;" therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); and sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 17, 1971.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-17055 Filed 11-22-71;8:46 am

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-706; Amdt. 14]

PART 221—CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Exclusion of Certain Air Taxi Operators and Clarification of Liability

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 17th day of November 1971.

In ER-691, effective October 26, 1971 and published at 36 F.R. 17034, the Board added a new § 221.176 to the economic regulations (14 CFR 221.176) to require air carriers and foreign air carriers which avail themselves of limitations on liability for loss, delay, or damage to passenger baggage to give notice of such limitations in the manner therein prescribed.

A petition and supplemental petition for rule making have been filed jointly by a number of member carriers of the Air Transport Association of America (ATA)[1] in which they seek certain modifications of the rules in ER-691. Specifically, the ATA carriers assert that the ticket notice requirements need clarification with respect to the obligations of air taxi operators and with respect to tickets issued outside the United States. They also request adoption of provisions which would permit the carriers, on an optional basis, (1) to state the dollar amount of the international baggage liability limitation in terms of kilos as well as pounds, and (2) to consolidate the baggage liability sign with the Warsaw Convention and tariff signs. Finally, they urge the Board to defer the effectiveness of the sign notice until 60 days beyond the present intended effective date and of the ticket notice until their present ticket stock is depleted or, alternatively, until July 1, 1972.

In ER-700, October 8, 1971, we stayed the effective date of ER-691 pending further consideration of the matters raised in the ATA carriers' petition.

For the reasons discussed below, we are herein amending the rules in ER-691 to incorporate, with modifications, several of the proposals contained in the ATA carriers' petition and to amplify and clarify the baggage notice requirements in several other respects.

1. *Form of notice.* In the standard form of baggage notice prescribed in ER-691, the phrase "domestic and other travel" is used with reference to the $500 limitation on baggage liability now generally applicable to interstate, overseas and other U.S. transportation not governed by the Warsaw Convention. The ATA carriers contend that the prescribed language is too imprecise to convey the meaning intended by the Board and will thus lead to confusion of both U.S. and foreign travelers. They especially fear that foreign travelers will be likely to apply the term "domestic" to travel within their own country. They suggest, therefore, that it would be preferable to use the phrase, "travel wholly within the United States," instead of the original phrase. We agree in substance with the ATA carriers but think that it would be more accurate to use the phrase "travel wholly between United States points."[2a] Accordingly, we will make appropriate amendments to paragraphs (a), (b), and (c) of § 221.176.

We are also including a provision in the rules to permit carriers to add to their ticket notice and sign a brief phrase stating the dollar amount of international limit on baggage liability in terms of kilos as well as pounds. As the ATA carriers point out, this revision might be of assistance to foreign travelers and should not confuse U.S. passengers.

Petitioners also contend that it is unclear whether the required ticket notice need only be included on tickets within the United States or whether the notice must appear on all tickets involving air transportation. As reflected in ER-691, it was intended that the ticket notice would be required on all tickets issued by certificated carriers and foreign air carriers and their agents, regardless of point of issuance. However, to avoid any confusion on this point, we are including language in the ticket notice to indicate more clearly that carriers subject to § 221.176 must include the prescribed notice on all their tickets, whether issued in the United States or abroad.

It has also been suggested that the form of ticket and sign notice should be flexible enough to cover special circumstances where a variation of the notice prescribed by our rules would be more practical for the carriers and more helpful to the passenger. For example, the tariffs of some international carriers do not provide for the declaration of a higher value on unchecked baggage, and such a carrier might prefer to so advise the public explicitly, instead of using a form of notice which indicates that, generally, in "most" international travel, excess value of unchecked baggage may be declared. It has also come to our attention that, prior to the issuance of ER-691, some foreign carriers had already revised their ticket stock to incorporate a form of baggage liability notice which would

[1] Alaska Airlines, Inc., Allegheny Airlines, Inc., Aloha Airlines, Inc., American Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., Frontier Airlines, Inc., Hughes Air Corp., Mohawk Airlines, Inc., National Airlines, Inc., North Central Airlines, Inc., Pan American World Airways, Inc., Piedmont Aviation, Inc., Texas International Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc., Wien Consolidated Airlines, Inc.

[2a] In light of this change, we are also amending the references to the international limitations to make clear that these apply to the domestic portions of international journeys.

not strictly comply with the form prescribed in ER–691, although of the same general substance.

We believe that the most flexible approach to these problems, without detracting from the essential purpose of the baggage notice rules, is to establish procedures for permitting variations from the notice standards prescribed therein. Accordingly, we have included a provision in the rules to allow a carrier to substitute, after Board approval, a notice in its own wording. In addition, the rules provide for a waiver of the notice requirements on application and a showing by the carrier that special and unusual circumstances render the enforcement of the regulations impractical, and adequate alternative means of giving notice are employed.[3]

2. *Air taxi operators.* The ATA carriers request that the rules should be clarified with respect to the obligation of air taxi operators to include the standard baggage notice on all tickets issued by them where a portion of the transportation is over routes of carriers which are subject to the baggage notice rules.

In preparing the rules in ER–691, the Board did not direct its attention specifically to the problem raised by applying the notice provisions to air taxi operators. The problem arises because the notice rules are designed to apprise the public of the existence of valid baggage liability limitations which are set forth in a carrier's filed tariff. Under Part 298 of the Board's regulations (14 CFR Part 298), air taxi operators are exempt from the tariff filing provisions of section 403 of the Act, except with respect to tariffs of through rates, fares and charges filed jointly by air taxi operators and certificated air carriers (§ 298.11(b)). Thus, the baggage notice rules would also apply to air taxis only to the extent that they perform air transportation services pursuant to tariffs filed jointly with certificated air carriers establishing a through rate.

However, where the air taxi performs air transportation services not covered by a joint tariff, and therefore not required to be filed, it is questionable, as a matter of substantive law, whether the air taxi can effectively limit its baggage liability, and the validity of a purported limitation is determined under varying State law.

In view of the foregoing, any air taxi notice of liability for baggage would have to be confined to travel under joint fares. However, an air taxi's notice, if so confined, would obviously breed confusion for the traveling public with respect to all other travel operated by air taxis. After consideration of possible alternatives, it is our best judgment that, in order to avoid confusion, air taxi operators should be entirely excluded from coverage of the baggage notice rules, both with respect to their obligations as air carriers and as agents employed by certificated carriers to sell tickets or accept baggage for checking.[4] Although this exclusion results in some hiatus in the protection intended to be afforded by the notice, the amount of traffic so affected is, in fact, very small in relation to total air traffic. Moreover, it seems not unreasonable to assume that the class of air taxi passengers so affected will include an appreciable number of experienced air travelers who may be expected to be aware of carriers' limitations on baggage liability.

3. *Consolidation of signs.* Petitioners request that the carriers be permitted, on an optional basis, to display the following form of "consolidated" sign in lieu of the three separate signs—public inspection of tariffs, Warsaw Convention liability limits, and the baggage notice rules—which would be required under present regulations:

ADVICE TO ALL PASSENGERS ON LIMITATION OF LIABILITY

Passengers are advised that airline liability for death or personal injury may be limited by the Warsaw Convention and tariff provisions in the case of travel to or from a foreign country and, with respect to loss, delay or damage to baggage, by the Warsaw Convention or tariff and contract provisions in the case of all travel. See the notice with your ticket, or contact your airline ticket office or travel agent for further information. [Applicable tariffs are available at this location for public inspection.]

In their view, the single sign notice, together with a referral of the passenger to his individual ticket for more detailed information, is the most effective means of conveying the essential information to the passenger in the limited period of time available at the ticket counter. They also argue that this type of abbreviated notice has been approved by the Board for the "more important Warsaw Convention (Montreal Agreement) notice."

We think that the ATA carriers' proposal, to the extent that it would consolidate the abbreviated Warsaw notice of liability for death or personal injury specified in § 221.175(b)[5] with a baggage liability notice, has considerable merit.[6] Since the abbreviated form of Warsaw Convention notice presently includes a reference to baggage liability, we believe it more desirable from both an industry and public standpoint to require the carriers to post only one baggage notice. Moreover, as the ATA carriers point out, a consolidated sign will be a more effective means of conveying the essential information to the passenger in the limited period of time available at the ticket counter. However, we believe that the particular form of sign proposed by petitioners is too lacking in specifics to be of any real assistance to the passenger interested in knowing to what extent the carrier is responsible for baggage loss and damage. For example, their proposed sign does not specify the dollar limitations on baggage liability applicable to most travel, nor the information directing the passenger to his carrier for details concerning the declaration of valuable articles. Furthermore, while the proposed consolidated sign refers the passenger to his ticket for such information, the Board believes that the extra burden imposed on the passenger makes this type of notice less effective than that prescribed in ER–691; indeed, this aspect of the proposal overlooks the fact that, realistically, the posted sign notice will be the only notice received by unticketed passengers and, in many instances, by passengers who purchase their tickets immediately before boarding.

Considering the foregoing matters, we have decided to adopt the following consolidated sign notice:

ADVICE TO PASSENGERS OF LIMITATIONS OF LIABILITY

Airline liability for death or personal injury may be limited by the Warsaw Convention and tariff provisions in the case of travel to or from a foreign country.

Liability for loss, delay or damage to baggage is limited as follows unless a higher value is declared and an extra charge is paid: (1) For most international travel (including domestic portions of international journeys), to approximately $7.50 per pound for checked baggage and $330 per passenger for unchecked baggage; (2) for travel wholly between U.S. points, to $500 per passenger for most carriers. Special rules may apply to valuable articles.

See the notice with your ticket or consult your carrier or travel agent for further information.

This sign may be used by air carriers, except air taxi operators, and foreign air carriers who are Montreal Agreement signatories in full compliance with the posting requirements of §§ 221.175(b) and 221.176(a) of the Board's regulations. Air taxi operators who are Montreal Agreement signatories may continue to use the abbreviated Warsaw notice of liability for death or personal injury specified in § 221.175(b). All other carriers, and carriers who elect not to display the consolidated sign, will be required to post two signs: One containing the more detailed Warsaw Convention death or injury notice specified in § 221.175(a); the other containing a separate baggage notice.

We believe that the consolidated sign we are adopting will make the public generally aware of the carriers' limitations of liability without detracting from the objective, expressed by the Board in ER–691, that the public is entitled to notice of both the Warsaw Convention and other baggage liability limitations.

4. *Effective dates.* As previously indicated, the ATA carriers urge the Board to defer the effective date for the sign and ticket notices. They contend that such deferral is necessary if the carriers are to have sufficient time to order the signs, distribute them to all of their locations and to the 8,000 travel agencies, and to make arrangements for the additional notice on the ticket.

Considering the time which will be required to print signs and tickets containing the revised baggage notice and to distribute the notice materials to travel agents, we have decided to defer the effective date of the sign notice to January 1, 1972, for carriers and to February 1, 1972, for agents, and of the ticket notice to March 1, 1972, for both carriers and agents. We think that these deadlines are reasonable in light of the relatively minor changes we have made in the language of the ticket and sign notices prescribed in ER–691.

Finally, to avoid any implication that travel agents might be required to post the special sign notice required under paragraph (c)(2), we are revising paragraph (d) of § 221.176 to read, in pertinent part: "And, where applicable, paragraph (c)(1) of this section," instead of, "where applicable paragraph (c) of this section." With this revision, the proviso to paragraph (d) is being deleted as superfluous.

Since the rules herein merely clarify and correct editorially the rules published in ER–691 and do not impose on any person a burden beyond that established in the original rule making proceeding, the Board finds that notice and public procedure thereon are impractical and unnecessary.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 221 of the Economic Regulations (14 CFR Part 221) effective January 1, 1972, as follows:

1. Amend paragraph (b) of § 221.175 to read as follows:

§ 221.175 Special notice of limited liability for death or injury under the Warsaw Convention.

* * * * *

(b) Each air carrier and foreign air carrier which, to any extent, avails itself of the limitation on liability to passengers provided by the Warsaw Convention, shall also cause to be displayed continuously in a conspicuous public place at each desk, station, and position in the United States which is in the charge of a person employed exclusively by it or by it jointly with another person, or by any agent employed by such air carrier or foreign air carrier to sell tickets to passengers whose transportation may be governed by the Warsaw Convention and whose place of departure or destination may be in the United States, a sign which shall have printed thereon the statement prescribed in paragraph (a) of this section: *Provided, however,* That an air carrier, except an air taxi operator subject to Part 298 of this subchapter, or foreign air carrier which provides a higher limitation of liability than that set forth in the Warsaw Convention and has signed a counterpart of the agreement among carriers providing for such higher limit, which agreement was approved by the Board by Order E–23680, dated May 13, 1966 (31 F.R. 7302, May 19, 1966), may use the following notice in the manner prescribed above in full compliance with the posting requirements of this paragraph:

ADVICE TO INTERNATIONAL PASSENGERS ON LIMITATION OF LIABILITY

Passengers traveling to or from a foreign country are advised that airline liability for death or personal injury and loss or damage to baggage may be limited by the Warsaw Convention and tariff provisions. See the notice with your ticket or contact your airline ticket office or travel agent for further information.

Such statements shall be printed in bold faced type at least one-fourth of an inch high.

2. Amend § 221.176 by revising paragraphs (a), (b), (c), and (d) and adding new paragraphs (e), (f), (g), and (h) to read as follows:

§ 221.176 Notice of limited liability for baggage; alternative consolidated notice of liability limitations.

(a) Effective January 1, 1972, each air carrier and foreign air carrier which, to any extent, avails itself of limitations on liability for loss of, damage to, or delay in delivery of baggage shall cause to be displayed continuously in a conspicuous public place at each desk, station, and position in the United States which is in the charge of a person employed exclusively by it or by it jointly with another person, or, effective February 1, 1972, by any agent employed by such air carrier or foreign air carrier to sell tickets to passengers or accept baggage for checking, a sign which shall have printed thereon the following statement:

NOTICE OF LIMITED LIABILITY FOR BAGGAGE

Liability for loss, delay or damage to baggage is limited as follows unless a higher value is declared and an extra charge is paid: (1) For most international travel (including domestic portions of international journeys) to approximately $7.50 per pound for checked baggage and $330 per passenger for unchecked baggage; (2) for travel wholly between U.S. points, to $500 per passenger on most carriers. Special rules may apply to valuables. Consult your carrier for details. *Provided, however,* That an air carrier or foreign air carrier which provides a higher limitation of liability for death or personal injury than that set forth in the Warsaw Convention and has signed a counterpart of the agreement approved by the Board by Order E–23680, dated May 13, 1966 (31 F.R. 7302, May 19, 1966), may use the following notice in full compliance with the posting requirements of this paragraph and of § 221.175 (b) of this chapter:

ADVICE TO PASSENGERS ON LIMITATIONS OF LIABILITY

Airline liability for death or personal injury may be limited by the Warsaw Convention and tariff provisions in the case of travel to or from a foreign country.

Liability for loss, delay or damage to baggage is limited as follows unless a higher value is declared and an extra charge is paid: (1) For most international travel (including domestic portions of international journeys) to approximately $7.50 per pound for checked baggage and $330 per passenger for unchecked baggage; (2) for travel wholly between U.S. points, to $500 per passenger for most carriers. Special rules may apply to valuable articles.

See the notice with your ticket or consult your airline or travel agent for further information.

Provided, however, That carriers may include in the notice the parenthetical phrase, "($16.58 per kilo)" after the phrase, "$7.50 per pound," in referring to the baggage liability limitation for most international travel.

Such statements shall be printed in boldfaced type at least one-fourth of an inch high and shall be so located as to be clearly visible and clearly readible to the traveling public.

(b) Effective March 1, 1972, each air carrier and foreign air carrier which, to any extent, avails itself of limitations of liability for loss of, damage to, or delay in delivery of baggage shall include on each ticket issued in the United States or in a foreign country by it or its authorized agent, the following notice printed in at least 10-point type:

NOTICE OF BAGGAGE LIABILITY LIMITATIONS

Liability for loss, delay, or damage to baggage is limited as follows unless a higher value is declared in advance and additional charges are paid: (1) For most international travel (including domestic portions of international journeys) to approximately $7.50 per pound for checked baggage and $330 per passenger for unchecked baggage; (2) for travel wholly between U.S. points, to $500 per passenger on most carriers (a few have lower limits). Excess valuation may not be declared on certain types of valuable articles. Carriers assume no liability for fragile or perishable articles. Further information may be obtained from the carrier.

Provided, however, That carriers may include in their ticket notice the parenthetical phrase, "($16.58 per kilo)" after the phrase, "$7.50 per pound," in referring to the baggage liability limitation for most international travel.

(c) In addition to the requirements of paragraphs (a) and (b) of this section, each air carrier which limits its liability for loss of, damage to, or delay in delivery of baggage in interstate or overseas air transportation to less than $500 per

[3] In OR–58, issued contemporaneously herewith, we are adding § 385.16a to the organization regulations to delegate to the Chief, Legal Division, Bureau of Economics, the authority to grant or deny applications for waivers and for approval of variant forms of notice.

[4] Section 298.11 (exemption authority) is being contemporaneously amended to incorporate the foregoing exception.

[5] In pertinent part that section provides that an air carrier or foreign air carrier which provides a higher limitation of personal liability than that set forth in the Warsaw Convention and has signed a counterpart of the Montreal Agreement among carriers providing for such higher limit, which agreement was approved by the Board by Order E–23680 dated May 13, 1966 (31 F.R. 7302, May 19, 1966) may use the abbreviated form of notice of limited liability prescribed therein.

[6] To the extent that the ATA carriers request consolidation of an abbreviated form of notice of availability of tariffs for public inspection with the Warsaw death or injury and baggage liability notices, their request is denied. The Board did not propose to amend § 221.173 dealing with public inspection of tariffs in the initial rule making notice (EDR–162, May 7, 1970), and the matter was not raised in any of the comments received pursuant thereto.

passenger shall (1) effective March 1, 1972, furnish to each passenger at the time of the delivery of his travel ticket and (2) effective January 1, 1972, cause to be displayed in its sign posted pursuant to the provisions of paragraph (a) of this section, the following notice:

The liability of (carrier's name) for loss, delay or damage to baggage in transportation wholly between U.S. points is limited to (the carrier shall here insert its limits for domestic transportation.)

The foregoing ticket notice shall be printed in at least 12-point type in ink contrasting with the ticket stock on (i) a piece of paper either placed in the ticket envelope, with the ticket, or attached to the ticket, or (ii) on the ticket envelope. The sign notice shall be printed in boldfaced type at least one-half of an inch high: *Provided, however,* That where the sign required by paragraph (a) of this section is printed in type larger than one-fourth of an inch high, such sentence shall appear in proportionately larger type. Where interline travel is involved, such carrier shall furnish the notice required herein to the passenger at the time of checkin for transportation on such carrier.

(d) It shall be the responsibility of each carrier to insure that travel agents authorized to sell air transportation for such carrier comply with the notice provisions of paragraphs (a), (b), and, where applicable, paragraph (c)(1) of this section.

(e) Any air carrier or foreign air carrier subject to the provisions of this section which wishes to use a notice of limited liability for baggage of its own wording, but containing the substance of the language prescribed in paragraphs (a) and (b) of this section may substitute a notice of its own wording upon approval by the Board.

(f) The requirements as to the time and method of delivery of the notice (including the size of type) specified in paragraphs (a) and (b) of this section may be waived by the Board upon application and a showing by the carrier that special and unusual circumstances render the enforcement of the regulation impractical and unduly burdensome and that adequate alternative means of giving notice are employed.

(g) Applications for relief under paragraphs (e) and (f) of this section, shall be filed with the Board (Attention: Director, Bureau of Economics) not later than 15 days prior to the date on which such relief is requested to become effective.

(h) Nothwithstanding any other provisions of this section, no air taxi operator subject to Part 298 of this subchapter shall be required to give the notices prescribed in this section, either in its capacity as an air carrier or in its capacity as an agent for an air carrier or foreign air carrier.

(Secs. 204(a), 403, and 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758, and 771; 49 U.S.C. 1324, 1373, and 1386)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.71-17093 Filed 11-22-71;8:49 am]

[Reg. ER-709; Amdt. 12]

PART 298—CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

Exemption of Air Taxi Operators

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 17th day of November 1971.

For the reasons set forth in ER-708, November 17, 1971, adopted contemporaneously herewith, the Board is amending Parts 221 and 298 of the economic regulations to exclude air taxi operators which file through rates jointly with certificated air carriers from the requirement to give notice of limited liability for baggage.

Under the circumstances described in detail at p. 5 of ER-708, the Board finds that notice and public procedure on the rule herein would be impractical, unnecessary and contrary to the public interest. In addition, since the rule relieves a burden which would otherwise be imposed by applying the baggage notice rules to air taxi operators it may be made effective immediately.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends paragraph (b) of § 298.11 (14 CFR 298.11 (b)) effective November 17, 1971, to read as follows:

§ 298.11 Exemption authority.

Air taxi operators are exempt from the following provisions of Title IV of the Act:

* * * * *

(b) Section 403, except that the requirements of that section shall apply to (1) tariffs for through rates, fares, and charges filed jointly by air taxi operators and certificated air carriers; and (2) tariffs which embody the terms of the Interim Agreement (CAB 18900), approved by Board Order E-23680, May 13, 1966, and any amendment or amendments to such agreement which may be approved by the Board and to which the air taxi operator becomes a party, filed by air taxi operators subject to Subpart G of this part, in the form attached hereto as Appendix A. With respect to subparagraph (1) of this paragraph, Part 221 (other than § 221.176) of the Board's economic regulations (14 CFR Part 221) shall be applicable; with respect to this subparagraph (2), Part 221 of this chapter (other than § 221.176) of the Board's economic regulations shall be applicable, except to the extent that such regulations are inconsistent with the requirements herein.

(Secs. 204(a), 403 and 416 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 758, as amended by 74 Stat. 445), and 771; 49 U.S.C. 1324, 1373, and 1386)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.71-17094 Filed 11-22-71;8:50 am]

[Reg. OR-58; Amdt. 23]

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

Delegation to Chief, Legal Division, Bureau of Economics

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 17th day of November 1971.

In ER-708, issued contemporaneously herewith, the Board adopted several clarifying and amplifying amendments to the notice of baggage liability rules issued by the Board in ER-691.[1] The revised rules, in particular paragraphs (e) and (f) of § 221.176, contain provisions (1) for waivers of the requirements concerning the time and method of delivery of the prescribed ticket and sign notices (including the size of type), and (2) for substitution, after Board approval, of a baggage notice of the carrier's own wording. In implementation of these provisions the Board has determined to delegate to the Chief, Legal Division, Bureau of Economics, the authority to grant or deny applications for waivers and for approval of variant forms of notice. Since the amendment provided for herein is a rule of agency organization, the Board finds that notice and public procedure are unnecessary and that the amendment may be made effective immediately.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 385 of the Organization Regulations (14 CFR Part 385), effective November 17, 1971, as follows:

1. Amend the Table of Contents of Subpart B by adding new § 385.16a, to read as follows:

Sec.

385.16a Delegation to the Chief, Legal Division, Bureau of Economics.

2. Add new § 385.16a to read as follows:

§ 385.16a Delegation to the Chief, Legal Division, Bureau of Economics.

The Board hereby delegates to the Chief, Legal Division, Bureau of Economics, the authority to grant or deny applications for relief under paragraphs (e) and (f) of § 221.176 of this chapter.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324. Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 F.R. 5969; 49 U.S.C. 1324 (note))

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.71-17095 Filed 11-22-71;8:50 am]

[1] Aug. 24, 1971 (36 F.R. 17034).

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER B—PERSONNEL; MILITARY AND CIVILIANS

PART 75—CONSCIENTIOUS OBJECTORS

The Deputy Secretary of Defense approved the following:

Sec.
75.1 Purpose.
75.2 Applicability and scope.
75.3 Definitions.
75.4 Policy.
75.5 Criteria.
75.6 Procedure.
75.7 Action after decision.
75.8 Claims of erroneous induction.
75.9 Required information to be supplied by applicants for discharge or noncombatant service.
75.10 Statement (counselling concerning Veterans Administration benefits).
75.11 Statement (counselling concerning designation as conscientious objector).

AUTHORITY: The provisions of this Part 75 are issued under section 552 of title 5, United States Code.

§ 75.1 Purpose.

This part updates uniform Department of Defense procedures governing conscientious objectors and processing requests for discharge based on conscientious objection.

§ 75.2 Applicability and scope.

The provisions of this part apply to the military departments and govern the personnel of the Army, Navy, Air Force, and Marine Corps and all Reserve components thereof.

§ 75.3 Definitions.

(a) *Conscientious objection—General.* A firm, fixed and sincere objection to participation in war in any form or the bearing of arms, by reason of religious training and belief.

(1) *Class 1–O conscientious objector.* A member, who, by reason of conscientious objection, sincerely objects to participation of any kind in war in any form.

(2) *Class 1–A–O conscientious objector.* A member who, by reason of conscientious objection, sincerely objects to participation as a combatant in war in any form, but whose convictions are such as to permit military service in a noncombatant status.

Unless otherwise specified, the term "conscientious objector" includes both 1–O and 1–A–O conscientious objectors.

(b) *Religious training and belief.* Belief in an external power or being or deeply held moral or ethical belief, to which all else is subordinate or upon which all else is ultimately dependent, and which has the power or force to affect moral well-being. The external power or being need not be of an orthodox deity, but may be a sincere and meaningful belief which occupies in the life of its possessor a place parallel to that filled by the God of another, or, in the case of deeply held moral or ethical beliefs, a belief held with the strength and devotion of traditional religious conviction. The term "religious training and belief" may include solely moral or ethical beliefs even though the applicant himself may not characterize these beliefs as "religious" in the traditional sense, or may expressly characterize them as not religious. The term "religious training and belief" does not include a belief which rests solely upon considerations of policy, pragmatism, expediency, or political views.

(c) *Noncombatant service or noncombatant duties (1–A–O) (used interchangeably herein).* (1) Service in any unit of the Armed Forces which is unarmed at all times.

(2) Service in the medical department of any of the Armed Forces, wherever performed.

(3) Any other assignment the primary function of which does not require the use of arms in combat provided that such other assignment is acceptable to the individual concerned and does not require him to bear arms or to be trained in their use.

(4) Service aboard an armed ship or aircraft or in a combat zone shall not be considered to be combatant duty unless the individual concerned is personally and directly involved in the operation of weapons.

(d) *Noncombatant training.* Any training which is not concerned with the study, use or handling of arms or weapons.

§ 75.4 Policy.

(a) Administrative discharge prior to the completion of an obligated term of service is discretionary with the military service concerned, based on a judgment of the facts and circumstances in the case. However, insofar as may be consistent with the effectiveness and efficiency of the military services, a request for classification as a conscientious objector and relief from or restriction of military duties in consequence thereof will be approved to the extent practicable and equitable within the following limitations:

(1) Except as provided in subparagraph (2) of this paragraph, no member of the Armed Forces who possessed conscientious objection beliefs before entering military service is eligible for classification as a conscientious objector if

(i) (*a*) Such beliefs satisfied the requirements for classification as a conscientious objector pursuant to section 6(j) of the Universal Military Training and Service Act, as amended (50 U.S.C. App. 456(j)) and other provisions of law, and (*b*) he failed to request classification as a conscientious objector by the Selective Service System; or

(ii) (*a*) He requested classification as a conscientious objector before entering military service, and (*b*) such request was denied on the merits by the Selective Service System, and (*c*) his request for classification as a conscientious objector is based upon essentially the same grounds, or supported by essentially the same evidence, as the request which was denied by the Selective Service System.

(2) Nothing contained in this part renders ineligible for classification as a conscientious objector a member of the Armed Forces who possessed conscientious objector beliefs before entering military service if (i) such beliefs crystalized after receipt of an induction notice; and (ii) he could not request classification as a conscientious objector by the Selective Service System because of Selective Service System regulations prohibiting the submission of such requests after receipt of induction notice.

(b) Because of the personal and subjective nature of conscientious objection, the existence, honesty, and sincerity of asserted conscientious objection beliefs cannot be routinely ascertained by applying inflexible objective standards and measurements on an "across-the-board" basis. Requests for discharge or assignment to noncombatant training or service based on conscientious objection will, therefore, be handled on an individual basis with final determination made at the headquarters of the military service concerned in accordance with the facts and circumstances in the particular case and the policy and procedures set forth herein.

§ 75.5 Criteria.

General. The criteria set forth herein provide policy and guidance in considering applications for separation or for assignment to noncombatant training and service based on conscientious objection.

(a) Consistent with the national policy to recognize the claims of bona fide conscientious objectors in the military service, an application for classification as a conscientious objector may be approved (subject to the limitations of § 75.4(a)) for any individual:

(1) Who is conscientiously opposed to participation in war in any form;

(2) Whose opposition is found on religious training and beliefs; and

(3) Whose position is sincere and deeply held.

(b) War in any form: The clause "war in any form" should be interpreted in the following manner:

(1) An individual who desires to choose the war in which he will participate is not a conscientious objector under the law. His objection must be to all wars rather than a specific war;

(2) A belief in a theocratic or spiritual war between the powers of good and evil does not constitute a willingness to participate in "war" within the meaning of this part.

(c) Religious training and belief: (1) In order to find that an applicant's moral and ethical beliefs are against participation in war in any form and are held with the strength of traditional religious convictions, the applicant must show that these moral and ethical convictions, once acquired, have directed his life in the way traditional religious convictions of equal strength, depth and duration have directed the lives of those whose beliefs are clearly found in traditional religious convictions. In other words, the belief upon which conscientious objection is based must be the primary controlling force in the applicant's life.

(2) A primary factor to be considered is the sincerity with which the belief is held. Great care must be exercised in seeking to determine whether asserted beliefs are honestly and genuinely held. Sincerity is determined by an impartial evaluation of the applicant's thinking and living in its totality, past and present. Care must be exercised in determining the integrity of belief and the consistency of application. Information presented by the claimant should be sufficient to convince that the claimant's personal history reveals views and actions strong enough to demonstrate that expediency or avoidance of military service is not the basis of his claim.

(i) Therefore, in evaluating applications the conduct of applicants, in particular their outward manifestation of the beliefs asserted, will be carefully examined and given substantial weight.

(ii) Relevant factors that should be considered in determining an applicant's claim of conscientious objection include: Training in the home and church; general demeanor and pattern of conduct; participation in religious activities; whether ethical or moral convictions were gained through training, study, contemplation, or other activity comparable in rigor and dedication to the processes by which traditional religious convictions are formulated; credibility of the applicant; and credibility of persons supporting the claim.

(iii) Particular care must be exercised not to deny the existence of bona fide beliefs simply because those beliefs are incompatible with one's own.

(*a*) Church membership or adherence to particular theological tenets are not required to warrant separation or assignment to noncombatant training and service for conscientious objectors.

(*b*) Mere affiliation with a church or other group which advocates consientious objection as a tenet of its creed is not necessarily determinative of an applicant's position or belief.

(*c*) Conversely, affiliation with a church or group which does not teach conscientious objection does not necessarily rule out adherence to conscientious objection beliefs in any given case.

(*d*) Where an applicant is or has been a member of a church, religious organization, or religious sect, and where his claim of conscientious objection is related to such membership, inquiry may properly be made as to the fact of membership, and the teaching of the church, religious organization, or religious sect, as well as the applicant's religious activity. However, the fact that the applicant may disagree with, or not subscribe to, some of the tenets of his chuch does not necessarily discredit his claim. The personal convictions of each individual will be controlling so long as they derive from his moral, ethical or religious beliefs.

(*e*) Moreover, an applicant who is otherwise eligible for conscientious objector status may not be denied that status simply because his conscientious objection influences his views concerning the Nation's domestic or foreign policies. The task is to decide whether the beliefs professed are sincerely held, and whether they govern the claimant's actions in both word and deed.

(*d*) The burden of establishing a claim of conscientious objection as a ground for separation or assignment to noncombatant training and service is on the applicant. To this end, he must establish by clear and convincing evidence (1) that the nature or basis of his claim comes within the definition of and criteria prescribed herein for conscientious objection, and (2) that his belief in connection therewith is honest, sincere and deeply held. The claimant has the burden of determining and setting forth the exact nature of his request, i.e., whether for separation based on conscientious objection (1–O) or for assignment to noncombatant training and service based on conscientious objection (1–A–O).

(*e*) An applicant claiming 1–O status shall not be granted 1–A–O status as a compromise.

(*f*) Persons who were classified 1–A–O by Selective Service prior to induction shall upon induction be transferred to a training center, or station, for recruit training, and shall be subject to noncombatant service or training. They will be required to sign and date a statement as set forth in the form in § 75.11. Thereafter, upon completion of recruit training, they shall be assigned to noncombatant duty. They may be transferred to the medical corps, or a medical department or unit for further training, provided they meet the requirements therefor. Such persons when assigned to medical units will not be allowed to avoid the important or hazardous duties which are part of the responsibility of all members of the medical organization. Any person who does not meet the requirements for this training, who fails to complete the prescribed course of instruction, or who otherwise cannot be assigned to this duty will be assigned to other noncombatant duties.

(*g*) Commanders at levels directed by the service headquarters are authorized to return to an applicant, without action, any second or subsequent application that is based upon essentially the same grounds, or supported by essentially the same evidence, as a previous application disapproved by the military service concerned.

(*h*) The provisions of this part will not be used to effect the administrative separation of individuals who do not qualify as conscientious objectors, or in lieu of administrative separation procedures such as those provided for unsuitability or unfitness or as otherwise set forth in Part 41 of this title. Individuals determined not qualified for conscientious objector status, but the separation of whom would otherwise appear to be in the best interest of the Armed Forces, should be considered for administrative separation under the provisions of Part 41 of this title. Under no circumstances will administrative separation of these individuals be effected pursuant to this part.

(*i*) Nothing in this part prevents the administrative elimination, pursuant to law and regulations of the military department concerned, of any officer whose classification as a 1–A–O conscientious objector results in substandard performance of duty or other cause for elimination.

§ 75.6 Procedure.

(*a*) A member of the Armed Forces who seeks either separation or assignment to noncombatant duties by reason of conscientious objection will submit an application therefor. The applicant will indicate whether he is seeking a discharge or assignment to noncombatant duties and will include the following terms:

(1) The personal information required by § 75.9.

(2) Any other items which the applicant desires to submit in support of his case.

(*b*) Prior to processing the application of the individual, he will be (1) advised of the specific provisions of section 3103 of title 38, United States Code[1] regarding the possible effects of discharge as a conscientious objector who refuses to perform military duty or refused to wear the uniform or otherwise to comply with lawful orders of competent military authority, and (2) required to execute the statement in § 75.10.

(*c*) The applicant shall be personally interviewed by a chaplain who shall submit a written opinion as to the nature and basis of the applicant's claim, and as to the applicant's sincerity and depth of conviction. The chaplain's report shall include the reasons for his conclusions. In addition, the applicant will be interviewed by a psychiatrist (or by a medical officer if a psychiatrist is not reasonably available) who shall submit a written report of psychiatric evaluation indicating the presence or absence of any psychiatric disorder which would warrant viewed by a psychiatrist (or by a medical channels, or such character or personality disorder as to warrant recommendation for appropriate administrative action. This opinion and report will become part of the case file. If the applicant refuses to participate or is uncooperative or unresponsive in the course of the interview, this fact will be included in the statement and report filed by the chaplain and psychiatrist or medical officer.

(*d*) Commanders at levels directed by the Service Headquarters will appoint an officer in the grade of O–3 or higher to investigate the applicant's claim. The officer so appointed will not be an individual in the chain of command of the applicant. If the applicant is a commissioned officer, the investigating officer must be senior in both temporary and permanent grades to the applicant.

(1) Upon appointment, the investigating officer will review the applicable service regulations which implement this part. During the course of his investigation, the investigating officer will obtain all necessary legal advice from the local Staff Judge Advocate or legal officer.

(2) The investigating officer will conduct a hearing on the application. The purpose of the hearing is: To afford the applicant an opportunity to present evidence he desires in support of his application; to enable the investigating officer to ascertain and assemble all relevant facts; to create a comprehensive record; and to facilitate an informed recommendation by the investigating officer and an informed decision on the merits by higher authority. In this regard, any failure or refusal of the applicant to submit to questioning under oath or affirmation before the investigating officer may be considered by the officer making his recommendation and evaluation of the applicant's claim. If the applicant fails to appear at the hearing without good cause, the investigating officer may proceed in his absence and the applicant will be deemed to have waived his appearance.

(i) If the applicant desires, he shall be entitled to be represented by counsel, at his own expense, who shall be permitted to be present at the hearings, assist the applicant in the presentation of his case, and examine all items in the file.

(ii) The hearing will be informal in character and will not be governed by the rules of evidence employed by courts-martial except that all oral testimony presented shall be under oath or affirmation. Any relevant evidence may be received. Statements obtained from persons not present at the hearing need not be made under oath or affirmation. The hearing is not an adversary proceeding.

(iii) The applicant may submit any additional evidence that he desires (including sworn or unsworn statements) and present any witnesses in his own behalf, but he shall be responsible for securing their attendance. The installation or local commander will render all reasonable assistance in making available military members of his command requested by the applicant as witnesses. Further, the applicant will be permitted to question any other witnesses who appear and to examine all items in the file.

(iv) A verbatim record of the hearing is not required. If the applicant desires such a record and agrees to provide it at his own expense, he may do so. If he elects to provide such a record, he shall make a copy thereof available to the investigating officer, at no expense to the Government, at the conclusion of the hearing. In the absence of a verbatim record, the investigating officer will summarize the testimony of witnesses and permit the applicant or his counsel to examine the summaries and note for the record their differences with the investigating officer's summary. Copies of statements and other documents received in evidence will be made a part of the hearing record.

(3) At the conclusion of the investigation, the investigating officer will prepare a written report which will contain the following:

(i) A statement as to whether the applicant appeared, whether he was accompanied by counsel, and, if so, the latter's identity, and whether the nature and purpose of the hearing were explained to the applicant and understood by him.

(ii) Any documents, statements and other material received during the investigation.

(iii) Summaries of the testimony of the witnesses presented (or a verbatim record of the testimony if such record was made).

(iv) A statement of the investigating officer's conclusions as to the underlying basis of the applicant's conscientious objection and the sincerity of the applicant's beliefs, including his reasons for such conclusions.

(v) Subject to § 75.5(e), the investigating officer's recommendations for disposition of the case, including his reasons therefor. The actions recommended will be limited to the following:

(*a*) Denial of any classification as a conscientious objector; or

(*b*) Classification as 1–A–O conscientious objector; or

(*c*) Classification as 1–O conscientious objector.

(vi) The investigating officer's report, along with the individual's application, all interviews with chaplains or doctors, evidence received as a result of the investigating officer's hearing, and any other items submitted by the applicant in support of his case will constitute the record. The investigating officer's conclusions and recommended disposition will be based on the entire record and not merely on the evidence produced at the hearings. A copy of the record will be furnished to the applicant at the time it is forwarded to the commander who appointed the investigating officer, and the applicant will be informed that he has the right to submit a rebuttal to the report within the time prescribed by the military service concerned.

(e) The record of the case will be forwarded to the headquarters of the officer who appointed the investigating officer where it shall be reviewed for completeness and legal sufficiency. If necessary, the case may be returned to the investigating office for further investigation. When the record is complete, the authority who appointed the investigating officer shall forward it with his personal recommendation for disposition, and the reasons therefor, through the appropriate chain of command to headquarters of the military service concerned.

(f) The headquarters of the military service concerned will make a final decision based on the entire record. Any additional information other than the official service record of the applicant considered by the headquarters of the military service concerned which is adverse to the applicant, and which the applicant has not had an opportunity to comment upon or refute, will be made a part of the record and the applicant shall be given an opportunity to comment upon or refute the material before a final decision is made. The reasons for an adverse decision will be made a part of the record and will be provided to the individual.

(g) Processing of applications need not be abated by the unauthorized absence of the applicant subsequent to the initiation of the application, or by the institution of disciplinary action or administrative separation proceedings against him. However, an applicant whose request for classification as a conscientious objector has been approved will not be discharged until all disciplinary action has been resolved.

(h) To the extent practicable under the circumstances, during the period applications are being processed and until a decision is made by the headquarters of the service concerned, every effort will be made to assign applicants to duties within the command to which they are assigned which will conflict as little as possible with their asserted beliefs. However, members desiring to file application who are on orders for reassignment may be required by the military service concerned to submit applications at their next permanent duty station. During the period applications are being processed, applicants will be expected to conform to the normal requirements of military service and to perform satisfactorily such duties to which they are assigned. Applicants may be disciplined for violations of the Uniform Code of Military Justice while awaiting action on their applications.

§ 75.7 Action after decision.

(*a*) Applicants requesting discharge who are determined to be 1–O conscientious objectors by the headquarters of the service concerned will be discharged for the convenience of the Government with entry in personnel records and discharge papers that the reason for separation is conscientious objection. The type of discharge issued will be governed

[1] 38 U.S.C. 3103 provides, in pertinent part, that the discharge of any person on the grounds that he was a conscientious objector who refused to perform military duty or refused to wear the uniform or otherwise to comply with lawful orders of competent military authority, shall bar all rights (except government insurance) of such persons under law administered by the Veterans Administration based upon the period of service from which discharged or dismissed. The only exception is in cases in which it is established, to the satisfaction of the Administrator, that the member was insane.

by the applicant's general military record and the pertinent provisions of Part 41 of this title. The Director of the Selective Service System will be promptly notified of the discharge of those who have served less than one hundred and eighty (180) days in the Armed Forces. Pending separation, the applicant will continue to be assigned duties providing the minimum practicable conflict with his professed beliefs and will be expected to conform to the normal requirements of military service and to perform satisfactorily such duties to which he is assigned. Applicants may be disciplined for violations under the Uniform Code of Military Justice while awaiting discharge.

(b) Applicants requesting assignment to noncombatant duties who are determined to be class 1–A O conscientious objectors by the military department shall be (1) assigned to noncombatant duty as defined in § 75.3, or (2) discharged from military service or released from active duty, at the discretion of the military department. Each applicant will be required to execute the statement in § 75.11.

(c) Persons who are assigned to noncombatant duties, and persons who are assigned to normal military duties by reason of disapproval of their applications, will be expected to conform to the normal requirements of military service and to perform satisfactorily such duties to which they are assigned. Violations of the Uniform Code of Military Justice by these members will be treated as in any other situation.

§ 75.8 Claims of erroneous induction.

(a) This section applies to any individual who claims that he is a conscientious objector and was either erroneously inducted, or erroneously assigned to combatant training or duty, for any of the following reasons:

(1) Although determined to be a conscientious objector by a local board or appellate agency of the Selective Service System, his records failed to reflect classification as such.

(2) He was denied a significant procedural right in the classification process by the Selective Service System.

(3) Despite actual classification as a conscientious objector properly reflected in his records, he was nevertheless erroneously inducted, or assigned to combatant training or duty.

Claims based on alleged erroneous determinations made on the merits of the case by the Selective Service System are not covered by this section. (See § 75.4.)

(b) Claims covered by paragraph (a) of this section will be referred to the Selective Service System without delay for investigation and ascertainment of the facts. Communication will be transmitted to the National Headquarters, Selective Service System, Washington, D.C. 20435.

(1) If the Selective Service System advises that induction was in fact erroneous under paragraph (a)(1) or (a)(3) of this section, the claimant will be separated or assigned to noncombatant duties depending upon whether he was classified 1–O or 1–A–O.

(2) If the Selective Service System advises that there was in fact a denial of a right or a significant procedural error in the evaluation of a claim under paragraph (a)(2) of this section, the induction will be considered erroneous and the individual discharged.

(3) If the Selective Service System advises that any claim under paragraph (a) of this section is unfounded or makes a final determination adverse to any claim, the claimant will be so informed and returned to general duty.

(c) Pending investigation and resolution of all claims covered by this section, a claimant will be assigned to duties which conflict as little as practicable with his asserted beliefs, insofar as is consistent with the effectiveness and efficiency of the military forces.

§ 75.9 Required information to be supplied by applicants for discharge or noncombatant service.

Each person seeking release from active service from the Armed Forces, or assignment to noncombatant duties, as a conscientious objector, will provide the information indicated below as the minimum required for consideration of his request. This in no way bars the military departments from requiring such additional information as they desire. The individual may submit such other information as desired.

(a) *General information concerning applicant.* (1) Full name.

(2) Military serial number; and social security account number.

(3) Selective service number.

(4) Service address.

(5) Permanent home address.

(6) Name and address of each school and college attended (after age 16) together with the dates of attendance, and the type of school (public, church, military, commercial, etc.).

(7) A chronological list of all occupations, positions, jobs, or types of work, other than as a student in school or college (after age 16) whether for monetary compensation or not. Include the type of work, name of employer, address of employer and the from/to date for each position or job held.

(8) All former addresses (after age 16) and dates of residence at those addresses.

(9) Parents' names and addresses. Indicate whether they are living or deceased.

(10) The religious denomination or sect of both parents.

(11) Was application made to the Selective Service System (local board) for classification as a conscientious objector prior to entry into the Armed Forces? To which local board? What decision was made by the Board, if known?

(12) When the applicant has served less than one hundred and eighty (180) days in the military service, a statement by him as to whether he is willing to perform work under the selective service civilian work program for conscientious objectors, if discharged as a conscientious objector. Also, a statement of the applicant as to whether he consents to the issuance of an order for such work by his local Selective Service Board.

(b) *Training and belief.* (1) A description of the nature of the belief which requires the applicant to seek separation from the military service or assignment to noncombatant training and duty for reasons of conscience.

(2) An explanation as to how his beliefs changed or developed, to include an explanation as to what factors (how, when and from whom or from what source training received and belief acquired) caused the change in or development of conscientious objection beliefs.

(3) An explanation as to when these beliefs became incompatible with military service, and why.

(4) An explanation as to the circumstances, if any, under which the applicant believes in the use of force, and to what extent, under any foreseeable circumstances.

(5) An explanation as to how the applicant's daily life style has changed as a result of his beliefs and what future actions he plans to continue to support his beliefs.

(6) An explanation as to what in applicant's opinion most conspicuously demonstrates the consistency and depth of his beliefs which gave rise to his claim.

(c) *Participation in organizations.* (1) Information as to whether applicant has ever been a member of any military organization or establishment before entering upon his present term of service. If so, the name and address of such organization will be given together with reasons why he became a member.

(2) A statement as to whether applicant is a member of a religious sect or organization. If so, the statement will show the following:

(i) The name of the sect, and the name and location of its governing body or head, if known.

(ii) When, where, and how the applicant became a member of said sect or organization.

(iii) The name and location of any church, congregation or meeting which the applicant customarily attends, and the extent of the applicant's active participation therein.

(iv) The name, title, and present address of the pastor or leader of such church, congregation or meeting.

(v) A description of the creed or official statements, if any, and if they are known to him, of said religious sect or organization in relation to participation in war.

(3) A description of applicant's relationships with and activities in all organizations with which he is or has been affiliated, other than military, political, or labor organizations.

(d) *References.* Any additional information, such as letters of reference or official statements of organizations to which the applicant belongs or refers in his application, that the applicant desires to be considered by the authority reviewing his application. The burden is on the applicant to obtain and forward such information.

§ 75.10 Statement (counseling concerning Veterans Administration benefits).

I have been advised of the provisions of 38 U.S.C. 3106 concerning possible nonentitlement to benefits administered by the Veterans Administration due to discharge from the military service as a conscientious objector under certain conditions. I understand that a discharge as a conscientious objector, who refused to perform military duty or otherwise to comply with lawful orders of competent military authority, shall bar all rights, based upon the period of service from which discharged, under any laws administered by the Veterans Administration except my legal entitlement (if any) to any war risks, government (converted) or National Service Life Insurance.

§ 75.11 Statement (counseling concerning designation as conscientious objector).

I have been counseled concerning designation as a conscientious objector. Based on my religious training and belief, I consider myself to be a conscientious objector within the meaning of the statute and regulations governing conscientious objectors and am conscientiously opposed to participation in combatant training and service. I request assignment to noncombatant duties for the remainder of my term of service. I fully understand that on expiration of my current term of service I am not eligible for voluntarily enlistment, reenlistment, or active service in the Armed Forces.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Comptroller).

[FR Doc.71-17070 Filed 11-22-71;8:47 am]

PART 101—PARTICIPATION IN RESERVE TRAINING PROGRAMS

The Deputy Secretary of Defense approved the following revision to Part 101:

Sec.
101.1 Purpose and applicability.
101.2 Definitions.
101.3 Guidance.

AUTHORITY: The provisions of this Part 101 issued under title 10, U.S.C., section 270.

§ 101.1 Purpose and applicability.

This part sets forth guidance to the Secretaries of the military departments in establishing criteria and training requirements for "satisfactory participation" by members of reserve components of the Armed Forces, in compliance with title 10, U.S.C., section 270 (a), (b), and (c) and title 32, U.S.C., section 502(a), and establishes uniform DoD policy for training members of the Reserve forces who may be temporarily residing in sovereign foreign nations.

§ 101.2 Definitions.

For purposes of administering section 270(a) of title 10, U.S.C., the terms "enlisted" and "appointed" refer to initial entry into an Armed Force through enlistment or appointment.

§ 101.3 Guidance.

The Secretaries of the military departments will issue regulations prescribing criteria and training requirements for satisfactory participation in Reserve training programs by members of Reserve components of the Armed Forces and exceptions thereto, consistent with the following:

(a) *Reserve participation—(1) Training requirements under section 270(a), title 10, U.S.C.* (i) Each individual inducted, enlisted, or appointed in any Armed Force after August 9, 1955, who becomes a member of the Ready Reserve (by other means than through membership in the Army National Guard of the United States or of the Air National Guard of the United States (see subparagraph (2) of this paragraph)) is required during his statutory period in the Ready Reserve to participate or serve as follows. Except as provided in Part 102 of this subchapter, he must participate or serve:

(*a*) In at least forty-eight (48) scheduled drills or training periods and not less than fourteen (14) days (exclusive of traveltime) of active duty for training during each year; or

(*b*) On active duty for training for not more than thirty (30) days each year unless otherwise specifically prescribed by the Secretary of Defense.

(ii) The provisions of subdivision (i), of this subparagraph, do not apply to graduates of the Federal and State maritime academies who are commissioned in the Naval Reserve.

(2) *Training requirements under section 502(a), title 32, U.S.C.* Apply to the Secretaries of the Army and Air Force only. Members of the Army and Air National Guard will be required to:

(i) Assemble for drill and instructions at least forty-eight (48) times a year, and

(ii) Participate in training at encampments, maneuvers, or other exercises at least fifteen (15) days a year, unless excused by the Secretaries of the Army or Air Force, as appropriate.

(3) *Active duty.* Enlisted individuals who have served 2 years on active duty or who, under the policy and regulations of the service concerned, were credited with having served the 2-year active duty requirement of 10 U.S.C. 511(b) will not be required to perform duty as described in subparagraph (1)(i)(*a*) and (*b*), of this paragraph, unless they enlisted under the provisions of 10 U.S.C. 511 (b) or (d), and they incur an obligation to participate in the Ready Reserve in an active training status during their statutory period of service in the Ready Reserve, or, unless after diligent recruiting effort, it is determined by a Secretary or his designee that a vacancy in the Selected Reserve cannot be otherwise filled.

(4) *Active duty served in a combat zone.* (i) Except as specified in subdivision (ii), of this subparagraph, enlisted individuals who (*a*) have served on active duty in a combat zone for hostile fire pay (or other areas as prescribed by the Secretary of Defense) for a total of thirty (30) days or more, or (*b*) are wounded while on active duty in hostile fire areas, will not be required to perform duty involuntarily (as described in subparagraphs (1)(i)(*a*) and (2) of this paragraph. However, those same individuals may be required to participate or serve on active duty for training for not more than thirty (30) days each year, unless otherwise specifically prescribed by the Secretary of Defense.

(ii) Individuals, who enlisted under the provisions of 10 U.S.C., section 511 (b) or (d) and serve on active duty as described in subdivision (i) of this subparagraph, are obligated to participate in the Ready Reserve in an active training status during the statutory period of service in the Ready Reserve.

(5) Notwithstanding the exclusion of the individual, enlisted under the provisions of section 511 (b) or (d), title 10, United States Code, from the policies set set forth in subparagraphs (3) and (4), of this paragraph, the Secretaries of the military departments may, with the approval of the Secretary of Defense, establish criteria which may excuse certain enlistees from performing the duty described in subparagraph (1) of this paragraph, depending upon the particular needs of the military department.

(b) *Criteria for satisfactory performance.* Within the general policy outlined in paragraph (a) of this section, the minimum number of drills and minimum amount of annual training prescribed by the Secretaries of the military departments concerned will be no less than the training required to maintain the proficiency of the unit and the skill of the individual. In establishing annual training requirements under this policy, the Secretaries:

(1) May grant exceptions under circumstances outlined below for individuals who are subject to the training requirements outlined in paragraphs (a)(1) and (2), of this section.

(i) To the degree that it is consistent with military requirements, the personal circumstances of an individual may be considered in assigning him to a training category prescribed in Part 102 of this subchapter except as otherwise provided by Part 100 of this subchapter.

(ii) Individuals who have performed a minimum initial tour of extended active duty, as prescribed by the respective Departments may be placed in category I (no training) as defined in Part 102 of this subchapter when the Secretary of the Department concerned determines that no training for mobilization requirement exists because of (*a*) changes in military skills required, (*b*) the degree of military skill held by the individual, or (*c*) compatibility of the individual's civilian occupation with his military skill.

(iii) While individuals are undergoing training under the provisions of paragraphs (1) and (2), section 6(d) of the Military Selective Service Act of 1967, they will not be required to enage in any other training program.

(2) May grant exceptions (regarding unexcused absences) after considering

the individual's manner of performance of prescribed training duty under the provisions of paragraphs (a) (1) and (2) of this section (including performance by individuals subject to revocation of commission under paragraphs (1) or (2), section 6(d) of the Military Selective Service Act of 1967,) and provided the unexcused absence does not exceed 10 percent of scheduled drills or training periods. (For purposes of interpretation under this subparagraph, excused absence includes failure to attend scheduled drills or training periods or to report for annual active duty for training because of sickness, injury, or some other circumstance beyond the individual's control and where, at the discretion of the designee of the Secretary of the military department concerned, the training is made up by performance of equivalent drills or training periods—all other situations are considered unexcused absences.)

(3) Shall require individuals to (i) meet the standards of satisfactory performance of training duty set forth in subparagraph (2) of this paragraph, or (ii) participate satisfactorily in an officers' training program as provided in subparagraph (1) (iii) of this paragraph, in order to continue in a draft-deferred status under provisions of clauses (A) and (B), paragraph (2), section 6(c), and paragraphs (1) and (2), section 6(d) of the Military Selective Service Act of 1967. The placement of such individuals in the Standby Reserve as a result of the screening process prescribed in Part 125 of this subchapter, will continue to constitute satisfactory performance of service under § 1622.13(h) of the Selective Service regulations, of this title.

(c) *Compliance measures.* (1) Enlisted individuals who have served 2 years on active duty or who, under the policy and regulation of the service concerned, were credited with having served the 2-year active duty requirement of 10 U.S.C., 511(b) and who are subject to the participation requirements of section 270(a) of title 10, U.S.C. or section 502(a) of title 32, U.S.C. and who fail to satisfactorily perform training duty as defined above may be ordered to active duty for training for not more than forty-five (45) days, as authorized by sections 270 (b) and (c) of title 10. Individuals who fail to comply with orders to perform such duty shall be liable to disciplinary action under the Uniform Code of Military Justice.

(2) Compliance measures for unsatisfactory participation by individuals with less than two (2) years of active duty will be governed by the provisions of Part 100 of this subchapter.

(d) *Cancellation of draft deferment.* Officers in a draft deferred status subject to clause (D), paragraph (2), section 6(c) of the Selective Service Act of 1967 who fail to perform satisfactorily will be certified to the Selective Service System for induction.

(e) *Revocation of commission.* Under the provisions of section 6(d) of the Selective Service Act of 1967, revocation of commission will be effected only after the individual concerned has been certified to the Selective Service System, as provided in paragraph (d) of this section.

(f) *Reserve training in sovereign foreign nations.* (1) The Secretaries of the military departments may authorize the conduct of scheduled drills or training periods, correspondence courses, and such other active or inactive duty training as they consider appropriate for members of the Reserve forces who may be temporarily residing in sovereign foreign nations which permit the United States to maintain troops of the active military forces (other than Military Advisory Assistance Group or attache personnel) within their boundaries.

(2) Prior to authorizing such training, the Secretaries of the military departments will instruct the attachés representing their respective Departments to inform the United States Ambassador and the appropriate officials of the foreign government of the intent to conduct such training. If the foreign government interposes any objection, the Secretaries of the military departments will furnish all the facts and their recommendations to the Secretary of Defense.

(3) This policy does not prohibit the conduct of inactive duty training, such as correspondence courses, in those sovereign foreign countries in which the United States does not maintain active military forces and where an agreement between the United States and the sovereign foreign nation concerned has been made for the conduct of such training.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Comptroller).

[FR Doc.71-17071 Filed 11-22-71;8:47 am]

SUBCHAPTER P—RECORDS

PART 288—USER CHARGES

Schedule of Fees and Rates

The following amendments to Part 288 have been authorized:

1. Subparagraph (3) of paragraph (d) of § 288.3 is redesignated as subparagraph (4) and a new subparagraph (3) has been added to read as follows:

§ 288.3 Policy.

* * * * * * *

(d) *Exclusions and exceptions.* * * *

(3) This Part 288 does not apply to services furnished the general public relating to or in furtherance of the Armed Forces recruiting programs and any services furnished representatives of public information media or the general public in the interest of public understanding of the Armed Forces, including services furnished to non-Government audio-visual media. Charges to non-Government audio-visual media will be made in accordance with the provisions of DoDI 5410.15 "Delineation of DOD Audio-Visual Public Affairs Responsibilities and Policies."[1]

[1] Filed as part of original. Copies available from U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120, Code 300.

(4) Examples of exclusions and exceptions are listed in § 288.9.

2. A new § 288.7(c) has been added which reads as follows:

§ 288.7 Accounting and reporting.

* * * * * * *

(c) *Responsibilities.* DOD components, responsible for initiating, developing, and adopting schedules of fees and charges consistent with the provisions of this part shall:

(1) Identify each service or activity covered by this part;

(2) Determine the extent of the special benefit provided;

(3) Determine applicable costs; and

(4) Establish appropriate charges.

3. Section 288.10 *Schedule of fees and rates,* has been revised as follows:

§ 288.10 Schedule of fees and rates.

(a) This schedule applies to authorized services related to copying, certifying, and searching records rendered to the public by components of the Department of Defense, except when those services are excluded or excepted from charges under § 288.3(d) or § 288.9. Except as provided in special cases prescribed below, a minimum fee of $1.50 will be levied for processing any chargeable case. Normally only one (1) copy of any record or document will be provided.

(b) Requests involving:

(1) Training and education:

(i) Transcripts:

	Fee
Original copy	$1.50
Each additional copy (Includes requests for transcripts of graduation from military academies and schools.)	.25

(ii) Certificates:

	Fee
Original copy	$1.50
Each additional copy (Includes all requests for certificates, verification of attendance, and course completion from service schools and other facilities.)	.25

(2) Medical and dental records of patients and former patients when requested for purposes other than further treatment: Covers request for information from or copies of medical records, including clinical records (inpatient records of military and nonmilitary patients), health records (military outpatient records), outpatient records (nonmilitary outpatient records), dental records, and loan of X-rays.

	Fee
Searching and processing (per hour)	$5.00
Minimum charge	2.50
Each typewritten page	1.50
Office copy reproductions (per image)	.05
Loan of each X-ray	1.50

(3) Military membership and record (excluding medical and dental records):

	Fee
Address of record, each	$1.50
Copies of releasable military personnel records, such as effectiveness reports for officers and enlisted men, reproduced for the personal use of active, retired and former members or next of kin of missing in action or deceased member of the Armed Forces:	
Minimum charge (up to six reproduced images)	$1.50
Each additional image	.05
Statement of verification of service of report of separation, for individuals with other than honorable discharges	2.50

(4) Photography:

(i) Still pictorial or documentary photographic prints, and not more than three prints may be sold from any individual negative on each order. Unlisted standard sizes of prints may be furnished, if available at proportionate rates.

	Fee
8 x 10 single weight glossy finish, first print	$0.90
Second and third prints, each	.40
8 x 10 double weight matte finish, first print	.95
Second and third prints, each	.45
11 x 14 double weight matte finish, first print	1.25
Second and third prints, each	.70
16 x 20 double weight matte finish, first print	1.75
Second and third prints, each	1.00
20 x 24 double weight matte finish, first print	2.00
Second and third prints, each	1.25
35 mm. color transparencies (cardboard mount), each	1.10
4 x 5 color transparencies or color negative, each	6.00
8 x 10 color transparencies or color negative, each (In quantities not to exceed three copies of any one view.)	10.00
8 x 10 Ekta Color type C print, first print	5.50
Second and third prints, each	2.00
11 x 14 Ekta Color type C print, first print	10.00
Second and third prints, each	5.00

(ii) Aerial photographic prints, contact prints, or exact negative sizes, single weight glossy or double weight semimatte.

Up to 9x9 inch negative format in quantities:
1–25, $1.25 for each print. Over 25, $31.25 plus $0.90 for each print over 25.
9x18 inch negative format in quantities:
1–25, $2.50 for each print. Over 25, $62.50 plus $1.80 for each print over 25.

Print enlargements:	Fee
14x14 inch format, each	$2.50
18x18 inch format, each	2.75
20x20 inch format, each	3.00
Duplicate positives, each	2.50
Duplicate negatives:	
Up to 9x9 inch format, each	5.00
9x18 inch format, each	8.00

(iii) Aerial Photographic Indexes and mosaic copies, size 20x24 inches, each $2.50.

(iv) Reproduction of Cover Overlays:

	Fee
Transparent foil film overlays, each	$1.75
Transparent paper overlays, each	.75

(v) Motion picture:

	Fee
16 mm. or 35 mm. black and white unedited footage and/or optical sound track, per foot	$0.10
Color unedited footage:	
16 mm., per foot	.20
16 mm., inter-negative	.25
35 mm., per foot:	
Viewing or release print, each	$0.25
Separation master positive (3 required)	.75
Color, inter-positive, each	.55
Color, inter-negative, each	.55
Magnetic tape (per foot):	
16 mm. (Direct Dubb), each	.05
35 mm. (Direct Dubb), each	.05
Searching (including overhead):	
Each hour or fraction thereof (per hour)	7.00
All film used in duplication to furnish a requested end product shall be charged for on a per foot basis.	
Minimum charge (including stock search) per order	10.00

(5) Construction and engineering information: Copies of aerial photographic maps, specifications, permits, charts, blueprints, and other technical engineering documents.

	Fee
Searching, per hour or fraction thereof (including overhead costs)	$3.00
First print	.50
Each additional print of same document	.25

(6) Copies of medical articles and illustrations: Standards contained in reference (a) of the basic Instruction will be utilized in computing costs.

(7) Claims, litigation: (Includes court-martial records, furnishing information from Investigative Reports, e.g., automobile collision investigations, safety reports, etc.) Requests pertaining to private litigation and to cases in which the United States is a party and where court rules provide for reproduction of records without cost to the Government (if not covered in (2) or (3) above).

	Fee
Searching and processing (per hour)	$5.00
Minimum charge	2.50
NOTE: Charges for professional search or research will be made in accordance with paragraph 10.b, below.	
Office copy reproduction (minimum up to six (6) reproduced images)	1.50
Each additional image	.05
Certification and validation with seal, each	2.50

(8) Publications and forms: A search and/or processing fee as prescribed in 10.a, below, will be made for requests requiring extensive time (1 hour or more).

(i) Shelf Stock: (Requestors may be furnished more than one copy of a publication or form if it does not deplete stock levels below projected planned usage.)

	Fee
Minimum fee per request plus	$1.50
Forms, per copy	.05
Publications, per printed page (*Examples.* Cost of 20 forms, $2.50; cost of a publication with 100 pages, $2.50.)	.01

(ii) Office copy reproduction (when shelf stock is not available).

	Fee
Minimum charge (up to 6 reproduced pages)	$1.50
Each additional image	.05

(9) Engineering data (microfilm):

	Fee
Aperture cards:	
Silver duplicate negative, per card	$0.35
When key punched and verified, per card	.40
Diazo duplicate negative, per card	.30
When key punched and verified, per card	.35
35 mm. roll film, per frame	.30
16 mm. roll film, per frame	.20
Paper prints (engineering drawings), each	.50
Paper reprints of microfilm indices, each	.05

(10) General: Charges for any additional services not specifically provided above and consistent with the provisions of the basic instruction will be made by the respective DOD components of the following rates:

	Fee
Clerical search and processing per hour	$5.00
Minimum charge	2.50
Professional searching or researching (To be established at actual hourly rate prior to search. A minimum charge will be established at one-half hourly rate.)	
Minimum charge for office copy reproduction (minimum up to 6 images)	1.50
Each additional image	.05
Each typewritten page	1.50
Certification and validation with seal, each	2.50
Review of application for authorization to solicit members of the military services for the purchase of life insurance on U.S. military installations in foreign areas	125.00
Hand drawn plots and sketches, each hour or fraction thereof	6.00

MAURICE W. ROCHE,
Director, Correspondence and Directives Division OASD (Comptroller).

[FR Doc.71-17069 Filed 11-22-71;8:48 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 204—DANGER ZONE REGULATIONS

Archers Creek, Ribbon Creek, and Broad River, S.C.

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), § 204.80 establishing and governing the use and navigation of danger zones in Archers Creek, Ribbon Creek, and Broad River, S.C., is hereby amended with respect to paragraphs (a), (b), and (c) (1) to extend the limits of the danger zone areas in the above waterways, effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 204.80 Archers Creek, Ribbon Creek, and Broad River, S.C.; U.S. Marine Corps Recruit Depot Rifle and Pistol Ranges, Parris Island.

(a) During periods when the rifle and pistol ranges on Parris Island are in use, the following areas will be restricted to navigation:

(1) *At the rifle range.* Archers Creek between Broad River and Beaufort River and Ribbon Creek from Broad Creek entrance. The area is inclosed by the following points:

Latitude	Longitude
° ′ ″	° ′ ″
32 21 40	80 44 52
32 21 51	80 44 36
32 21 54	80 44 41
32 22 01	80 44 21
32 22 08	80 44 15
32 22 15	80 44 07
32 22 17	80 44 05
32 22 20	80 43 52
32 22 17	80 43 48
32 22 17	80 43 47
32 21 44	80 43 28
32 21 30	80 43 13
32 20 55	80 42 23
32 20 21	80 42 24
32 20 06	80 42 43
32 20 12	80 43 01
32 20 18	80 43 22
32 20 28	80 43 38
32 20 30	80 43 37
32 20 35	80 43 41

and thence to point of beginning:

Latitude	Longitude
° ′ ″	° ′ ″
32 21 40	80 44 52

(2) *At the pistol range.* An area in Broad River inclosed by the following points:

Latitude	Longitude
° ′ ″	° ′ ″
32 20 09	80 42 57
32 19 27	80 42 27
32 18 57	80 43 24
32 19 39	80 43 54
32 20 00	80 43 36
32 20 00	80 43 15

The area will be adequately marked by red flags for the convenience and protection of the general public.

(b) Firing over these ranges will normally take place between the hours of 6:30 a.m. and 5 p.m., Monday through Friday, and from 6 a.m. to 12 noon on Saturday, National holidays excepted, and at other times as designated and properly published by the Commanding General, Parris Island Marine Base.

(c) • • •

(1) *At the rifle range.* Warning signs indicating the periods when the rifle range is in use will be posted by the entrances to Archers Creek and Ribbon Creek. Also the warning signs will be placed at the corners of the rifle range impact area.

• • • • • •

[Regs., Nov. 3, 1971, 1822-01 (Danger Zones in Archers Creek, Ribbon Creek, and Broad River, S.C.)—DAEN-CWO-N] (Sec. 7, 40 Stat. 266; 33 U.S.C. 1)

For the Adjutant General.

R. B. BELNAP,
Special Advisor to TAG.

[FR Doc.71-17086 Filed 11-22-71;8:48 am]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

SUBCHAPTER B—LAND RESOURCE MANAGEMENT (2000)

[Circular No. 2317]

PART 2090—SPECIAL LAWS AND RULES

PART 2200—EXCHANGES; GENERAL PROCEDURES

Segregative Effect of Applications for Exchange

On page 15669 of the FEDERAL REGISTER of August 17, 1971, there was published a notice and text of a proposed amendment to Subparts 2091 and 2202. The purpose of the amendment is to clarify a discrepancy in the regulations regarding the segregative effect of exchange applications. A discrepancy was present in the regulations in effect on January 1, 1970. This was not properly corrected in the redesignation of June 13, 1970, in order to follow proposed rule making procedures. The January 1, 1970, regulations provided in § 2244.1-2(h) that the filing of such applications segregates the selected public lands to the extent that they are not subject to appropriation under the land laws, including the mining laws. Section 2013.2-4, headed "For State Exchange", provided for segregation against applications, allowance of which is discretionary. The proposed amendment is to restore to the regulations in a consistent manner the language of former § 2244.1-2(h).

Interested persons were given 30 days within which to submit comments, suggestions, or objections to the proposed amendment. No public comments were received.

The proposed amendment is hereby adopted without change, and is set forth below.

Effective upon publication (10-23-71).

HARRISON LOESCH,
Assistant Secretary of the Interior.

NOVEMBER 16, 1971.

1. Section 2091.2-3 of Subpart 2091 is revised to read as follows:

§ 2091.2-3 Exchange.

The filing of a valid formal application for exchange under the regulations of Group 2200 of this chapter will segregate the selected public lands to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. Any subsequently tendered application, allowance of which is discretionary, will not be accepted, will not be considered as filed, and will be returned to the applicant. The segregative effect of the application on the lands covered by the recall or rejection of an exchange application will terminate at 10 a.m. on the 30th day from and after the date a notice of the recall or rejection of the application is first posted in the land office having jurisdiction over the lands.

2. Section 2202.5 of Subpart 2202 is revised to read as follows:

§ 2202.5 Segregation upon application.

The filing of a valid formal application for exchange will segregate the selected public lands as provided in § 2091.2-3 of this chapter.

[FR Doc.71-17088 Filed 11-22-71;8:48 am]

Title 45—PUBLIC WELFARE

Chapter II—Social and Rehabilitation Service (Assistance Programs), Department of Health, Education, and Welfare

PART 234—FINANCIAL ASSISTANCE TO INDIVIDUALS

Assistance in the Form of Money Payments; Deductions for Food Stamps

Part 234 of Chapter II of Title 45 of the Code of Federal Regulations is amended to make clear that amounts deducted under specified conditions, for the purchase of food stamps to be issued to money payment recipients, are part of the money payment and thus eligible for Federal financial participation.

USDA regulations (36 F.R. 14102, published July 29, 1971) provide that States wishing to participate in the Food Stamp program must make available, to assistance recipients who so elect, a method whereby the cost of stamps is deducted from their assistance payments and the stamps are provided to them.

Since this regulation imposes no new requirements on States but does make Federal financial participation available in deductions required by the USDA regulations, and since States must submit new plans of operation by the end of September 1971, the proposed rule making procedure has not been followed. Although the regulation is effective on date of publication in the FEDERAL REGISTER, consideration will be given to any comments, suggestions or objections thereto which are submitted in writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, DC 20201, within a period of 30 days following such publication. Comments will be available for public inspection in Room 5121 of the Department's offices at 301 C Street SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (Area Code 202-963-7361).

Accordingly, Chapter II is amended by adding a new § 234.11 as set forth below:

§ 234.11 Assistance in the form of money payments; deduction of food stamp costs.

(a) Federal financial participation is available in money payments made under a State plan under title I, IV-A, X, XIV, or XVI of the Social Security Act to eligible families and individuals. Money payments are payments in cash, checks, or warrants immediately redeemable at par, made to the grantee or his legal representative with no restrictions imposed by the agency on the use of funds by the individual.

(b) Amounts deducted for the purchase of food stamps are part of the money payments when the deductions are made (1) under arrangements between the State agency and the U.S. Department of Agriculture, (2) on a voluntary basis at the specific written request of individuals, and (3) in accordance with methods approved by and safeguards established by the Social and Rehabilitation Service.

(Sec. 1102, 49 Stat. 647, 42 U.S.C. 1302)

Effective date: The regulations in this section shall be effective on date of publication in the FEDERAL REGISTER (11-23-71), or on the date that a State's new Food Stamp program went into effect, if earlier.

Dated: October 26, 1971.

JOHN D. TWINAME,
Administrator, Social and Rehabilitation Service.

Approved: November 16, 1971.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc.71-17067 Filed 11-22-71;8:48 am]

Title 49—TRANSPORTATION

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Motor Vehicle Safety Standard No. 117]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Retreaded Pneumatic Tires—Reconsideration; Amendment of Standard

Correction

In F.R. Doc. 71-15799 appearing at page 20877 in the issue of Saturday, October 30, 1971, the following changes should be made in the table: In the fourth column the third figure from the bottom should read "2,030"; in the sixth column the sixth figure from the bottom should read "1,970".

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 14744; FCC 71-600]

PART 87—AVIATION SERVICES

Frequencies Available to Fixed Stations

Correction

In F.R. Doc. 71-8317 appearing at page 11585 in the issue of Wednesday, June 16, 1971, the fourth frequency under § 87.463 (b) reading "2686.9375 °" should read "2686.9375 *".

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Kenai National Moose Range, Alaska

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (11-23-71).

§ 28.28 Special regulations, public access, use, and recreation; for individual wildlife refuge areas.

ALASKA

KENAI NATIONAL MOOSE RANGE

The use of lightweight, motorized vehicles commonly identified by the general term "snowmobile" is permitted on designated areas of the Kenai National Moore Range that are closed to travel by conventional off-road vehicles, subject to the following special conditions:

1. The use of "snowmobiles" will be permitted only during the period December 1, 1971, through March 31, 1972, provided snow depth is sufficient to protect underlying vegetation and terrain along the route of travel, as determined and announced by the refuge manager.

2. Only "snowmobiles" with an overall width of 40 inches or less will be permitted.

3. The use of "snowmobiles" as an aid in big-game hunting or for transporting big game is prohibited.

4. The use of "snowmobiles" on roads within the Moose Range open to conventional vehicle travel are subject to regulations applicable to conventional vehicles.

5. That area above timberline located between Skilak Lake and Tustumena Lake is closed to "snowmobile" use.

6. The Swan Lake and Swanson River Canoe Routes are closed to the use of "snowmobiles" except the Swanson River and Moose River will remain open to "snowmobile" use.

7. The Swan Lake Canoe Route and several public recreational lakes are closed to "snowmobile" use; that area closed to such use is bounded on the west by the Swanson River Road; bounded on the north by the Swan Lake Road; bounded on the east by the section line immediately west of Arrow Lake (which is located at the eastern terminus of Swan Lake Road open to the public) and proceeds south 5.8 miles to its intersection with the headwaters of Moose River (one-half mile southeast of the eastern most shore of Swan Lake), thence downstream along the west bank of Moose River; and bounded on the south by the Moose Range boundary.

The provisions of this special regulation supplement the regulations which govern public access, use, and recreation on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through November 30, 1972.

DAVID L. SPENCER,
Refuge Supervisor, Bureau of Sport Fisheries and Wildlife, Anchorage, Alaska.

NOVEMBER 15, 1971.

[FR Doc.71-17091 Filed 11-22-71;8:49 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 906]

ORANGES AND GRAPEFRUIT GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

Proposed Exemption From Shipment Requirements

Notice is hereby given that the Department is considering additions, as hereinafter set forth, to the rules and regulations (Subpart—Rules and Regulations), pursuant to § 906.44 and other applicable provisions of the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The additional rules and regulations were proposed by the Texas Valley Citrus Committee, established under said amended marketing agreement and order as the agency to administer the terms and provisions thereof.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposal may file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after publication of the notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The first proposal would require each handler who handles gift fruit shipments under the exemption of § 906.41, to stamp or mark his name and address on each container. This requirement is proposed as a safeguard to prevent fruit so handled from entering channels of trade for other than the specific purpose authorized. The proposed requirement is designed to deter handlers from diverting gift fruit shipments into normal marketing channels by maintaining the identity of the handler of the fruit after shipment.

The second proposal would permit the handling of fruit in "specialty packs" which may include, but not be limited to, various sizes of oranges or grapefruit packed in combination with other kinds or varieties of fruits, or with other items of food such as jams, jellies, or nuts in various types and sizes of decorative containers, including baskets of a capacity of one bushel or less. The proposal would require (1) that handlers apply to and receive written approval from the committee prior to handling oranges or grapefruit pursuant to such exemption; (2) that such fruit meet the requirements of U.S. No. 1 grade, and be handled in 6-packs, 12-packs, baskets of a capacity of 1 bushel or less, or in the containers authorized under § 906.340: *Provided*, That such containers shall be stamped or marked "special purpose shipment"; and (3) handlers file reports of each such shipment with the committee. The committee reports that permitting shipments in the manner proposed would afford an opportunity to expand the market for Texas oranges and grapefruit.

The third proposal would define terms used in this section.

The proposals are that new paragraphs (d), (e), and (f) reading as follows be added to § 906.120:

§ 906.120 Fruit exempt from regulations.

* * * * * *

(d) *Safeguards for gift fruit shipments.* Gift packages of fruit handled pursuant to § 906.41 shall be in containers stamped or marked with the handler's name and address.

(e) *Special purpose shipments and safeguards.* Fruit may be handled exempt from regulations issued pursuant to § 906.40(d), except as hereinafter provided, if the following conditions are met:

(1) The handler each fiscal period submits prior to any such handling, a written application containing the following information, to the committee requesting approval to so handle fruit:

(i) Name and address of handler; and

(ii) A description of the container or containers in which such fruit would be handled.

(2) The fruit grades at least U.S. No. 1.

(3) The fruit is handled in six-packs, 12-packs, or baskets of a capacity of one bushel or less, or any of the containers authorized under § 906.340: *Provided*, That if any of the containers, currently authorized under § 906.340 are so used to handle fruit, each such container shall be stamped or marked "special purpose shipment".

(4) The committee shall approve or deny each applicant's request to handle fruit under this provision and promptly notify such handler in writing of its decision: *Provided*, That if a handler's application to so handle fruit is approved, the committee shall issue a certificate of privilege, as provided in § 906.44, to so handle fruit: *Provided further*, That if a handler's application to so handle fruit is denied, he shall be advised why the application was denied.

(5) Each handler shall file a report with the committee within one business day after each shipment handled pursuant to this section. Such report shall contain the following:

(i) Name and address of the handler;

(ii) Date fruit is so handled;

(iii) The number and type of containers and packs in such shipment;

(iv) The inspection certificate numbers applicable to such shipment;

(v) Name and address of the purchaser; and

(vi) The license number of the truck, trailer, or automobile, as the case may be, in which the shipment was loaded.

(f) *Meaning of terms.* When used herein, the term "bushel" means a unit of measure equivalent to 2150.42 cubic inches; the term "six-pack" means any container with a capacity of one-eighth bushel; the term "twelve-pack" means any container with a capacity of one-fourth bushel; the term "basket" means any container made of interwoven material; and the term "U.S. No. 1" shall have the same meaning as given to such term in the U.S. Standards for Oranges (Texas and States other than Florida, California, and Arizona) designated as §§ 51.680–51.712 of this title, and the U.S. Standards for Grapefruit (Texas and States other than Florida, California, and Arizona) designated as §§ 51.620–51.653 of this title, as applicable.

Dated: November 18, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-17073 Filed 11-22-71;8:47 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 405]

[Regs. No. 5]

FEDERAL HEALTH INSURANCE FOR THE AGED

Conditions of Participation; Hospitals

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553), that amendments to the regulations (20 CFR 405) as set forth in tentative form below are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments in implementation of Public Law 91–690 which amends section 1861(e)(5) of the Social Security Act would modify the nursing service requirements under Medicare to enable certain hospitals to qualify as providers under the program even if they are temporarily unable to secure a sufficient number of registered nurses to provide 24-hour registered nurse coverage.

Prior to the final adoption of the proposed amendments, consideration will be given to any data, comments, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independene Avenue SW., Washington, D.C. 20201, within a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 3193, 330 Independence Avenue SW., Washington, DC 20201.

The proposed amendments are to be issued under the authority contained in sections 1102, 1861, 1863, 1864, and 1871; 49 Stat. 647, as amended; 79 Stat. 314; 42 U.S.C. 1302, 1395, et seq.

Dated: September 24, 1971.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: November 16, 1971.

ELLIOT L. RICHARDSON,
Secretary of Health, Education, and Welfare.

Regulations No. 5 of the Social Security Administration, as amended (20 CFR 405), are further amended as follows:

1. Section 405.1010 is amended by revising paragraph (b) and adding a new paragraph (c) to read as follows:

§ 405.1010 Authorization for special certification in areas where necessary to provide access to hospital care.

* * * * * *

(b) Each case will have to be decided on its individual merits, and while the degree and extent of compliance will vary, the institution must, as a minimum, meet all of the statutory conditions in section 1861(e)(1)–(7) of the Act (For further information relating to the exception in section 1861(e)(5) of the Act, see paragraph (c) of this section.), in addition to meeting such other requirements as the Secretary finds necessary under section 1861(e)(8) of the Act.

(c) For a period ending January 1, 1976, the Secretary is authorized to waive the requirement contained in section 1861(e)(5) of the Act (see § 405.1024) that a hospital must provide 24-hour nursing service rendered or supervised by a registered nurse. Such a waiver may be granted for any 1-year period upon acceptance by the Secretary of findings adequately documented and certified by the State agency, that the following criteria are met:

(1) The hospital complies with all other requirements for special certification outlined in paragraphs (a) and (b) of this section;

(2) At least one registered nurse is present on the premises to render or supervise the nursing service provided during at least the regular day tour of duty 7 days a week;

(3) There is present on the premises to render or supervise the nursing service provided throughout all tours of duty not covered by a registered nurse: (i) A licensed practical (vocational) nurse who is a graduate of a State-approved school of practical (vocational) nursing, or (ii) a licensed practical (vocational) nurse who has successfully participated in a proficiency examination approved by the Secretary, or (iii) prior to the time such an examination is available, a waivered licensed practical (vocational) nurse (A waivered licensed practical nurse is one whose license was granted after waiver by the State of the requirement that she be a graduate of an approved school.);

(4) The hospital is located in a rural area where the supply of hospital services is not sufficient to meet the needs of individuals residing therein;

(5) The failure of such institution to qualify as a hospital would seriously reduce the availability of such services to such individuals; and

(6) The hospital has made and continues to make a good faith effort to comply with section 1861(e)(5) of the Act (see § 405.1024) but such compliance is impeded by the lack of qualified nursing personnel in such area.

2. In paragraph (b) of § 405.1024 the material preceding subparagraph (1) is amended to read as follows:

§ 405.1024 Conditions of participation—nursing services.

* * * * * *

(b) *Standard; licensed registered nurse.* There is an adequate number of licensed registered nurses to meet the following minimum staff requirements: Director of the department; Assistants to the director for evening and night services; Supervisory and staff personnel for each department or nursing unit to insure the immediate availability of a registered professional nurse for bedside care of any patient when needed; and Registered nurse on duty at all times and available for all patients on a 24-hour basis. The factors explaining the standard except where a waiver is in effect pursuant to § 405.1010(c) are:

* * * * * *

[FR Doc.71-17068 Filed 11-22-71;8:48 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 71, 75]

[Airspace Docket No. 71-WA-34]

FEDERAL AIRWAY AND JET ROUTE SEGMENTS

Proposed Designation

The Federal Aviation Administration (FAA) is considering amendments to Parts 71 and 75 of the Federal Aviation regulations that would designate segments of VOR Federal airways Nos. 352, 346, and Jet Route 552.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, New England Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 154 Middlesex Street, Burlington, MA 01803. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The FAA is considering the following airspace proposals:

1. Designate V–352 airway from St. Georges, Quebec, VOR direct to Houlton, Maine, VOR, excluding the portion within Canada.

2. Designate V–346 airway from St. Georges VOR direct to Millinocket, Maine, VORTAC, excluding the portion within Canada.

3. Designate Jet Route No. 552 from St. Georges VOR direct to the Port Menier, Quebec, radio beacon, excluding the portion within Canada.

The proposed airway and jet route segments will provide controlled airspace for the movement of the transborder en route air traffic.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on November 16, 1971.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-17067 Filed 11-22-71;8:47 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1300]

FREIGHT TRAFFIC RATES WITHIN ALASKA AND HAWAII

Notice of Proposed Rule Making

Order. At a session of the Interstate Commerce Commission, Tariff Rules Board, held at its office in Washington, D.C., on the 17th day of November 1971. Proposed cancellation of Rule 62 of Tariff Circular No. 20.

It appearing that Rule 62 of the Interstate Commerce Commission's Tariff Circular No. 20, as amended, § 1300.62 of Title 49 of the Code of Federal Regulations, provides that rates on freight traffic from a point in the Territory of Alaska to another point in the Territory of Alaska and from a point in the Territory of Hawaii to another point in the Territory of Hawaii may be changed upon notice of 10 days as to reductions in rates given to the Commission and to the public in manner prescribed by law;

It further appearing that Rule 62 has no validity with respect to Hawaii inasmuch as there are no rail carriers in Hawaii;

It further appearing that Rule 62 does not appear to have any application with respect to the States of Hawaii and Alaska because the rule clearly provides application only with respect to the Territories of Hawaii and Alaska, and there are no such territories;

It further appearing that the provisions of Rule 62 were first established by special order on August 26, 1912, because of filing difficulties arising from the remoteness of the Territory of Alaska from the nation's capital, which difficulties have been since resolved by the revolutionary improvements in transportation by land, water, and air;

It further appearing that the Territories of Alaska and Hawaii have since become States and are now on an equal basis with the other 48 States;

And it further appearing that because of changed conditions and circumstances, there should be no differentiation made between Alaska and Hawaii, on the one hand, and the other 48 States, on the other hand, insofar as notice required for tariff publication;

And good cause appearing therefor:

It is ordered, That a rule making procedure be, and it is hereby, instituted under the Interstate Commerce Act and the Administrative Procedure Act looking toward the cancellation of Rule 62 of Tariff Circular No. 20, 49 CFR 1300.62.

It is further ordered, That any interested persons may submit for consideration written statements of facts, views, and arguments, such representations to be filed with the Commission on or before December 27, 1971.

And it is further ordered, That a copy of this order be posted in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and that another copy be delivered to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to all interested persons.

By the Commission, Tariff Rules Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-17100 Filed 11-22-71;8:50 am]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES 9643]

WISCONSIN

Notice of Filing of Plat of Survey

1. The plat of survey of the following described lands will be officially filed in the Eastern States Land Office, Silver Spring, Md., effective at 10 a.m. on December 26, 1971:

FOURTH PRINCIPAL MERIDIAN

T. 40 N., R. 15 E.,
Sec. 23, lots 7, 8, 9, 10, and 11.

The areas described aggregate 93.46 acres.

2. This plat represents a dependent resurvey of a portion of the subdivision lines and an extension survey in section 23 to include lands omitted from the original survey of the township. The omitted lands adjoin Porcupine Lake in Florence County.

3. There is no evidence of any part of the omitted lands having been formed by accretion, and the record meander line along the boundary of the land included in the present survey does not follow any old shore line or escarpment. The land area is gently rolling upland, and ranges up to 70 feet above the mean-water level of the lake. The land is similar in every respect to the adjoining upland which was included in the original survey of section 23 made in May 1865.

4. The soil is a rich humus. This type of soil is found to be typical of the adjoining upland. The land coming under this survey is mostly covered with second growth timber, which consists of maple, ash, pine, and aspen, with some larch, fir, and spruce adjacent to the actual shoreline. The remains of stumps found within the area of this extension survey measure up to 40 inches in diameter.

5. The stability of Porcupine Lake, as evidenced by the shoreline and the elevation of the omitted land area above the lake; the age of the remains of tree stumps and the areas' general characteristics being similar in every way to the adjacent lands, affords positive evidence that the area was "land in place" on May 29, 1848, when Wisconsin was admitted into the Union, and at the time of the original survey of the subdivision of the township, and all subsequent dates. The omitted land area is well over 50 percent upland in character within the interpretation of the Swamp Land Act of September 28, 1850.

6. All of the above described land is within the exterior boundaries of the Nicolet National Forest, withdrawn by Proclamation 2219 dated December 31, 1936. Therefore, subject to valid existing rights, this land is withdrawn and reserved for the Nicolet National Forest in accordance with said proclamation.

7. All inquiries relating to this land should be sent to the Manager, Eastern States Land Office, Bureau of Land Management, 7981 Eastern Avenue, Silver Spring, Md. 20910.

DORIS A. KOIVULA,
Manager.

NOVEMBER 16, 1971.

[FR Doc.71-17087 Filed 11-22-71;8:48 am]

[Wyoming 32043]

WYOMING

Notice of Proposed Classification of Lands

NOVEMBER 16, 1971.

Pursuant to 43 CFR 2462.1, notice is hereby given of a proposal to classify the lands described below for disposal through private exchange under section 8 of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1272), as amended (43 U.S.C. 315g).

These lands consist of nine tracts of public land. Their primary current use is for grazing. The ownership pattern makes them difficult to manage, and their exchange for other lands having equal or greater dollar value and important public values, would be in the public interest.

Publication in the FEDERAL REGISTER of this notice of proposed classification segregates the affected lands from all forms of disposal under the public land laws, including the mining laws, except exchange under section 8 of the Taylor Grazing Act. It does not, however, affect the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources, other than under the mining laws.

For a period of 60 days from the date of this publication, interested parties may submit comments to the district manager of the Rawlins District Office, Bureau of Land Management, Suite 22, Osborne Building, Rawlins, Wyo. 82301.

The lands affected by this proposal are described as follows:

SIXTH PRINCIPAL MERIDIAN, WYOMING

SWEETWATER COUNTY

T. 21 N., R. 91 W.,
Sec. 2, all;
Sec. 10, all;
Sec. 12, all;
Sec. 14, all;
Sec. 22, all;
Sec. 24, all;
Sec. 26, NE¼NE¼;
Sec. 34, all.

The areas described aggregate 5,160.22 acres.

MARLON C. OSBORNE,
Acting State Director.

[FR Doc.71-17042 Filed 11-22-71;8:45 am]

National Park Service

[Order 71, Rev.]

SPECIAL ASSISTANT TO DIRECTOR FOR URBAN AFFAIRS ET AL.

Delegation of Authority Regarding Representation on the Zoning Commission of the District of Columbia

The delegation of authority concerning membership on the Zoning Commission of the District of Columbia, published in the FEDERAL REGISTER at 36 F.R. 21085 is hereby revised as set forth below.

SECTION 1. *Delegation.* The authority delegated by the Secretary of the Interior to the Director, National Park Service is hereby redelegated to the following officials of the National Park Service.

First Alternate—Special Assistant to the Director for Urban Affairs.

Second Alternate—Assistant Director, Cooperative Activities, National Capital Parks.

Third Alternate—Director, National Capital Parks.

SEC. 2. *Redelegation.* The authority delegated in section 1 of this order may not be redelegated.

SEC. 3. *Revocation.* Delegation Order No. 49 of February 12, 1968 (33 F.R. 4591) is hereby revoked.

(41 Stat. 500, Reorganization Plan No. 3 of 1950, 245 DM1 (27 F.R. 6395) as amended)

Dated: November 16, 1971.

RAYMOND L. FREEMAN,
Acting Director,
National Park Service.

[FR Doc.71-17046 Filed 11-22-71;8:45 am]

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

WESTERN FARMERS ELECTRIC COOPERATIVE

Final Environmental Statement

Notice is hereby given that the Rural Electrification Administration has prepared a final environmental statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with release of loan funds to Western Farmers Electric Cooperative of Anadarko, Okla. This loan, together with funds from other

sources, includes financing for the construction of a 135,000 kilowatt electrical generating unit to bring the total capacity of the generation station at Mooreland, Okla., to approximately 323,000 kilowatts.

Additional information may be secured on request, submitted to Mr. James N. Myers, Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The final environmental statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C., Room 4322 or at Western Farmers Electric Cooperative of Anadarko, Okla. Final action may be taken with respect to this matter after thirty (30) days.

Release of funds to this borrower will be contingent upon REA's reaching satisfactory conclusions with respect to environmental effects and after compliance with environmental statement procedures required by the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 10th day of November 1971.

DAVID A. HAMIL,
Administrator, Rural Electrification Administration.

[FR Doc.71-17074 Filed 11-22-71;8:47 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

Designation of Urban and Rural Poverty Areas for Community Mental Health Centers

Pursuant to section 410 of the Community Mental Health Centers Act, and 42 CFR Part 54, Subpart B, of the implementing regulations, the Secretary of Health, Education, and Welfare has designated the following catchment areas as urban or rural poverty areas for purposes of the Community Mental Health Centers Act.

	Catchment area identification
Alabama:	
Greene, Sumter, Choctaw, Hale, Marengo	M-10
Perry, Wilcox, Dallas	M-13
Barbour, Houston, Henry, Geneva	M-19
Butler, Covington, Coffee, Crenshaw	M-18
Macon, Bullock, Pike, Dale	M-15
Clarke, Monroe, Conecuh, Escambia	M-17
Marion, Lamar, Fayette, Winston, Walker	M-04
Jackson, Marshall	M-3B
Limestone, Cullman, Lawrence, Morgan	M-02
Florence	M-1
Gadsden	M-6
Alaska:	
Bethel	5
Arizona:	
Northern Arizona	
Maricopa—Northwest	
Phoenix South	
Gila-Pinal	
Pima South	
Arkansas:	
Mountain Home	2
Helena	9
Dardanelle	6
Batesville	3
Monticello	14
Jonesboro	4
Texarkana	12
Pine Bluff	11
Hot Springs	10
El Dorado	13
Fort Smith	5
California:	
Avalon	97
Central	95
Coalinga	59
Porterville	61
Boyle Heights	98
Merced	56
Long Beach	121
Green Meadows	110
Santa Cruz	33
Visalia	60
Corona	139
Modesto	55
Central San Diego	146
North San Diego	140
Palm Springs	138
South Stockton	58
North Oakland	18
Petaluma	7
Santa Rosa	6
East Fresno	57
San Luis Obispo	62
Ukiah	5
Exposition Park	92
South Santa Clara	29
Chico	3
Yuba City	4
West Kern	63
Embarcadero	43
Turlock-Tuolumne	54
Westside	44
Mission	42
Colorado:	
San Luis Valley	6
Montrose	1A
Lower Arkansas Valley	9
San Juan Basin	2
Weld	4
Pueblo	10
Connecticut:	
Northeast	14
Greater Bridgeport	4
Southeast	12
South Central	6
Delaware:	
Sussex County	IV
Southern New Castle County	II
District of Columbia:	
Area C	
Florida:	
Ocala Area	
Eustis Area	
Panama City Area	
Tallahassee Area	
Gainesville Area	
St. Augustine Area	
Manatee Area	
Dade Area V	
Central Pinellas Area	
Volusia Area	
North Tampa Area	
Dade Area IV	
Fort Pierce Area	
Winterhaven Area	
Northwest Palm Beach Area	
South Orlando	
Central Tampa Area	
Georgia:	
Americus	19
Tifton	28
Dublin	24
Milledgeville	22
Statesboro	25
Thomasville	29
Waycross	31
Albany	27
Valdosta	30
Gainesville	3
La Grange	15
Athens	14
South Central Fulton	33
Hawaii:	
Hawaii County	
Maui County	
Kauai	
Idaho:	
Payette	III
Twin Falls	V
Coeur D'Alene	I
Lewiston	II
Boise	IV
Pocatello	VI
Idaho Falls	VIII
Illinois:	
Harrisburg	
Anna	
Chicago—Near South Side	
Chicago—Near West Side	
Marion	
Centralia	
Olney	
Quincy	
Chicago—Washington Park	
Carbondale	
Jacksonville	
Taylorville	
Garfield Park	24
Macomb	54
Indiana:	
Jasper-Huntingburg	
Vincennes	
Lawrenceburg	
Terre Haute	
Jeffersonville	
Logansport	
Kendallville	
Bloomington	
Marion County General Hospital	
Iowa:	
Creston	14
Decorah	1
Atlantic	13B
Carroll	12
Spencer	3
Ottumwa	15
Sioux City	4
Fort Dodge	5
Kansas:	
Kansas City	XI
Salina	IIIA
Manhattan	IIIB
North Wichita	VIII
Newton	IVB
Topeka	IX
Hays	I
South Wichita	VIII
Pittsburg	VII
Kentucky:	
Corbin	13A
Hazard	12
Somerset	14
Glasgow	4B
Morehead	9
Prestonsburg	11
Harlan	13B
Bowling Green	4A
Danville	15C
Maysville	8
Hopkinsville	2
Elizabethtown	5
Paducah	1
Owensboro	3
Ashland	10

	Catchment area identification
Louisiana:	
West Carroll, East Carroll, Madison, Tensas	8
Caldwell, Richland, Franklin	7
Evangeline, St. Landry	15
Red River, Winn, Natchitoches, Sabine	9
Grant, La Salle, Catahoula, Avoyelles, East Rapides, Concordia	11
St. Helena, Tangipahoa, Livingston	23
Webster, Claiborne, Bienville	4
Jackson, Lincoln, Union	6
Jefferson Davis, Arcadia, Vermilion	13
Vernon, Beauregard, Allen, West Rapides	18
Pointe Coupee, West Baton Rouge, Iberville, Ascension	21
Washington	24
Maine:	
Aroostook	I
Penobscot	VIII
Eastern Maine	II
Tri-County	IV
York	VI
Maryland:	
Baltimore City Catchment Area	V
Eastern Shore Catchment Area	I
Eastern Shore Catchment Area	II
Western Maryland Catchment Area	I
Southern Maryland	
Baltimore City Area	II
Baltimore City (Inner City)	I
Massachusetts:	
Boston University Area	
New Bedford Area	
Cape Cod and The Islands Area	
Fall River Area	
Tufts Area	
Harbor Area	
Franklin-Hampshire Area	
Lawrence Area	
Cambridge-Somerville	
Massachusetts Mental Health Center	
Lowell	
Gardner	
Lynn	
Michigan:	
Detroit Model Cities	
Houghton	
Mount Pleasant	
Ludington	
Petoskey	
Detroit Neighborhood Services Program	
Caro	
Menominee	
Alpena	
Wayne East	
Traverse City	
Alma	17
Marquette	4
Minnesota:	
Upper Mississippi	
Western	
Northern Pine	
West Central	
South Western	
Lakeland	
Northland	
Five County	
Northwestern	
Central Minnesota	
Mississippi:	
Tunica, Coahoma, Quitman, Tallahatchie	1
Holmes, Yazoo, Madison, Leake, Attala	8
Sunflower, Leflore, Humphreys, Carroll, Grenada, Montgomery	6
De Soto, Marshall, Tate, Panola, Lafayette, Yalobusha, Calhoun	2
Mississippi—Continued	
Alcorn, Tishomingo, Prentiss, Tippah	4
Bolivar, Washington, Sharkey, Issaquena	5
Webster, Clay, Choctaw, Oktibbeha, Lowndes, Winston, Noxubee	7
Meridian	10
Tupelo	3
Missouri:	
Kennett	34
Poplar Bluff	30
Chillicothe	13
Branson	35
Nevada	8
Lebanon	33
Sikeston	31
Kirksville	14
Farmington	36
Cape Girardeau	29
Joplin	9
Columbia	12
Mexico	32
St. Louis	17
Kansas City	2
Montana:	
Glasgow	V
Billings	IV
Missoula	I
Havre	II
Nebraska:	
Southeast	7
Northeast	5
Mid Nebraska	3
Nevada:	
Area IV	
New Hampshire:	
Lakes Region	3
Hanover Region	2
Greater Manchester	
New Jersey:	
Atlantic	15
Cape May	14
Essex	5
Cumberland	13
Essex	4
Monmouth	29
Ocean	10
Salem	12
Passaic	53
Hunterdon	59
New Mexico:	
San Miguel, Union, Mora, Harding, Colfax, Guadalupe	III
Santa Fe, Rio Arriba, Taos, Los Alamos, Torrance	II
Curry, Quay, DeBaca, Roosevelt	VII
West Bernalillo	IVA
Dona Ana, Lincoln, Otero, Sierra	V
New York:	
Harlem	XXXVI
Lower Manhattan	XXXVI
Franklin-St. Laurence	XIX
Delaware, Otsego, Schoharie	XXII
Brookdale	XXXVII
Bedford-Stuyvesant	XXXVII
Allegany-Cattaraugus	VI
Lincoln Hospital ("A" portion)	XXXV
Cumberland	XXXVII
Morningside	XXXVI
Lincoln Hospital ("B" portion)	XXXV
Hunts Point	XXXV
Metropolitan	XXXVI
Crotona Park	XXXV
Sullivan-Ulster	XXIII
Clinton-Essex	XXVI
Greenpoint I	XXXVII
Chenango, Cortland, Madison	XVII
Warren-Washington	XXVII
Jefferson-Lewis	XIV
Cayuga	XII
Oswego	XV
North Carolina:	
Ahoskie	IV-10
Washington	IV-11
Smithfield	III-7
Lumberton	III-4
Henderson	II-8
Greenville	IV-9
Wilkesboro-Boone	I-3
Roanoke Rapids	IV-6
Goldsboro	IV-3
Rocky Mount-Tarboro	IV-5
Elizabeth City	IV-12
Cullowhee	I-1
Kinston	IV-8
Wilson	IV-4
Cumberland-Sampson	III-5
Chatham, Orange, Person	II-6
Richmond, Montgomery, Moore, Hoke	III-3
Madison, Buncombe, Mitchell, Yancey	I-2
Lee-Harnett	III-6
Craven, Jones, Carteret, Pamlico	IV-7
North Dakota:	
Jamestown	
Bismarck	
Devils Lake	
Minot	
Ohio:	
Gallipolis	
Portsmouth	
Athens	
Cuyahoga, Area "F"	
Chillicothe	
Georgetown	
Cincinnati Central	
Bellaire-Martins Ferry	
Dayton Central	
Zanesville	
Bellefontaine	
Tuscarawas Valley	
Van Wert	
Delaware	
Franklin Central	
Findlay	
Lima	
Franklin South	
Steubenville	
Cuyahoga, Area "K"	
Oklahoma:	
McAlester	III
Muskogee	II
Tulsa	ID
Ada-Ardmore	IV
Oklahoma City	IVC
Ponca City	VIII
Oregon:	
Salem	V
Medford	X
Pendleton	XIII
Astoria	I
Pennsylvania:	
Blair	071
Allegheny	740
Washington-Greene	632, 302
Philadelphia	800
Fayette	261
Luzerne-Wyoming	402
Allegheny	770
Cambria	111
Bedford-Somerset	561, 051
Allegheny	720
Clearfield-Jefferson	171, 331
Lackawanna, Susquehanna, Wayne	352, 582, 642
Allegheny	750
Philadelphia	850
Armstrong-Indiana	081, 321
Huntington, Mifflin, Juniata	311, 441, 341
Luzerne-Wyoming	401, 661
Cumberland-Perry	212, 502
Allegheny	780
Columbia, Montour, Snyder, Union	191, 471, 551, 601

	Catchment area identification
Pennsylvania—Continued	
Allegheny	700
Bradford, Tioga, Sullivan	081, 571, 591
Philadelphia	820
Philadelphia	810
Philadelphia	840
Carbon, Monroe, Pike	451, 431, 521
Westmoreland	651
Rhode Island:	
Newport	VIII
Providence	III
South Carolina:	
Bamberg Calhoun, Orangeburg	14
Beaufort, Colleton, Hampton, Jasper	11
Chesterfield, Dillon, Marlboro	12
Georgetown, Horry, Williamsburg	13
Clarendon, Kershaw, Lee, Sumter	9
Darlington, Florence, Marion	7
Berkeley, Charleston, Dorchester	8
Fairfield, Lexington, Richland	6
Cherokee, Spartanburg, Union	3
South Dakota:	
South Central	V
Northeast	I
Tennessee:	
Clay, Pickett, Fentress, Overton, Jackson, Smith, De Kalb, Putnam	13
Chester, Henderson, Decatur, Perry, Wayne, Hardin, McNairy	5
Claiborne, Union, Grainger, Hawkins, Hancock	17
Davidson	9
White, Warren, Van Buren, Cumberland	12
Lake, Obion, Dyer, Crockett, Lauderdale	2
Haywood, Madison, Hardeman	3
Weakley, Gibson, Carroll, Benton, Henry	4
Tullahoma	6
Columbia	7
Texas:	
Starr, Webb, Zapata	13–1
Nacogdoches, Sabine, San Augustine, Shelby	19–2
Brazos, Burleson, Grimes, Leon, Madison, Robertson, Washington	11–1
Hidalgo	14–1
Angelina, Hardin, Houston, Jasper, Newton, Polk, San Jacinto, Trinity, Tyler	19–1
Bosque, Coryell, Falls, Freestone, Hamilton, Hill, Lampasas, Limestone, Milam	10–3
Dimmit, Kinney, La Salle, Maverick, Uvalde, Val Verde, Zavala	9–1
Cameron-Willacy	14–2
Bastrop, Blanco, Burnet, Caldwell, Fayette, Hays, Lee, Llano, Williamson	12–1
Cass, Delta, Franklin, Hopkins, Lamar, Morris, Red River, Titus	21–1
Brooks, Duval, Jim Hogg, Jim Wells, Kenedy, Kleberg	15–1
Rains, Smith, Van Zandt, Wood	20–2
Brown, Callahan, Coleman, Comanche, Eastland, McCulloch, Mills, San Saba	5–3
Atascosa, Bandera, Comal, Frio, Gonzales, Guadalupe, Raines, Kendall, Medina, Wilson	9–3
Anderson, Cherokee, Henderson, Panola, Rusk	20–1
Liberty, Montgomery, Walker	17–3
Austin, Colorado, Matagorda, Wharton	17–1
Erath, Hood, Palo Pinto, Parker, Somervell	8–4
Census tracts of Harris County: 8, 9, 10, 12, 15, 16, 17, 18, 26, 27	17–15
Camp, Gregg, Harrison, Marion, Upshur	20–3
Texas—Continued	
Edwards, Gillespie, Kerr, Kimble, Mason, Real	9–2
Calhoun, De Witt, Goliad, Jackson, Lavaca, Refugio, Victoria	16–1
Hunt, Kaufman, Rockwall	8–3
Arkansas, Bee, Live Oak, McMullen, San Patricio	15–2
Census tracts of Travis County: 4, 5, 6, 7, 8, 9, 10, 11, 14, 22, 23, 24	12–2
Cooke, Fannin, Grayson	8–1
Plainview	1–2–1
Bell	10–2
El Paso	4–1
Waco-McLennan	10–1
Texarkana-Bowie	21–2
Utah:	
Millard, Piute, Sanpete, Sevier, Wayne	5
Box Elder, Cache, Rich	1
Carbon, Emery, Grand, San Juan	8
Beaver, Garfield, Iron, Kane, Washington	6
Summit, Utah, Wasatch, Juab	IV
Vermont:	
Northeast Kingdom	II
Champlain Valley	I
Southwest	V
Virginia:	
Norton	MH–1
South Boston	MH–13
Farmville	MH–14
Richlands	MH–2
Warsaw	MH–17, 18
Marion	MH–3
Warrenton	MH–9
Norfolk Subarea E	MH–20–22
Charlottesville	MH–10
Danville Subarea A	MH–12
Richmond Subarea A–1	MH–15
Newport News Subarea A (Newport News)	MH–21
Norfolk Subarea B–1 (Southern Norfolk City)	MH–20–22
Washington:	
Ferry, Stevens, Pend Oreille	XII
Kittitas-Yakima	XI
Mason, Thurston, Lewis	VII
Whatcom, Skagit, San Juan, Island	I
Okanogan, Chelan, Douglas	X
Pierce	V
Clallam, Jefferson, Kitsap	II
King (Harborview)	IV
West Virginia:	
Braxton, Clay, Greenbrier, Nicholas, Webster	Region 7—II
Barbour, Pocahontas, Randolph, Tucker, Upshur	Region 7—I
Grant, Hampshire, Hardy, Mineral, Pendleton	Region 6—II
Fayette, Monroe, Raleigh, Summers	Region 8–9—III
Mercer, McDowell, Wyoming	Region 8–9—II
Cabell, Lincoln, Mason, Wayne	II
Berkeley, Jefferson, Morgan	C.A. 1 VI
Logan, Mingo	C.A. 1 VIII and IX
Wisconsin:	
Ashland, Bayfield, Iron, Price, Sawyer	3
Menominee, Shawano, Waupaca	11
Buffalo, Jackson, Trempealeau	9
Barron, Burnett, Polk, Rusk, Washburn	2
Crawford, Grant, Green, Iowa, Lafayette	21
Juneau, Richland, Sauk	15
Forest, Oneida, Vilas, Gogebic County, Mich	4
Adams, Columbia, Marquette	16
Florence-Marinette	6
Wyoming:	
Park, Big Horn, Hot Springs, Washakie	I
Wyoming—Continued	
Sheridan, Johnson, Campbell, Crook, Weston	II
Cheyenne	VI
Puerto Rico:	
Utuado	
Humacao	
Colmo	
Guayama	
San German	
Yauco	
Manati	
Cayey	
Aguadilla	
Arecibo	
Mayagues	
Fajardo	
Caguas	
Ponce	
Bayamon	
Carolina	
Guam:	
Guam	
Virgin Islands:	
Virgin Islands	
American Samoa:	
American Samoa	
Trust Territories of Pacific:	
Trust Territories of Pacific	

Dated: November 12, 1971.

BENNY B. HALL,
Acting Administrator, Health Services and Mental Health Administration.

[FR Doc.71–16895 Filed 11–22–71;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 71–132]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

1. Certain laws and regulations (46 CFR Ch. I) require that various items of lifesaving, firefighting, and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the Outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from April 9, 1971 to May 30, 1971 (list Nos. 13–71, 14–71 and 15–71). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner canceled or suspended by proper authority.

COMPASSES, LIFEBOAT

Approval No. 160.014/3/0, Model 1, compensating mariners liquid-filled magnetic lifeboat compass with mounting, assembly dwg. No. C–113–5–C revised January 2, 1946, manufactured by E. A. Eriksen, Inc., 59 East St. Marks Place, Valley Stream, NY 11580, formerly Eriksen Brothers, Inc., effective April 20, 1971. (It is an extension of Approval No. 160.014/3/0 dated May 25, 1966 and change of name and address of manufacturer.)

Approval No. 160.014/4/0, Model 2, compensating mariners liquid-filled magnetic lifeboat compass with mounting, assembly dwg. No. C–113–5–C revised January 2, 1946, manufactured by E. A. Eriksen, Inc., 59 East St. Marks Place, Valley Stream, NY 11580, formerly Eriksen Brothers, Inc., effective April 20, 1971. (It is an extension of Approval No. 160.014/4/0 dated May 25, 1966 and change of name and address of manufacturer.)

Approval No. 160.014/5/0, Model 1A, compensating mariners liquid-filled magnetic lifeboat compass with mounting, assembly dwg. No. C–113–7 dated October 24, 1946, manufactured by E. A. Eriksen, Inc., 59 East St. Marks Place, Valley Stream, NY 11580, formerly Eriksen Brothers, Inc., effective April 20, 1971. (It is an extension of Approval No. 160.014/5/0 dated May 25, 1966 and change of name and address of manufacturer.)

Approval No. 160.014/6/0, Model 2A, compensating mariners liquid-filled magnetic lifeboat compass with mounting, assembly dwg. No. C–113–7 dated October 24, 1946, manufactured by E. A. Eriksen, Inc., 59 East St. Marks Place, Valley Stream, NY 11580, formerly Eriksen Brothers, Inc., effective April 20, 1971. (It is an extension of Approval No. 160.014/6/0 dated May 25, 1966 and change of name and address of manufacturer.)

LIFEBOAT WINCHES FOR MERCHANT VESSELS

Approval No. 160.015/97/0, Type 750–C4–EG lifeboat winch, approval limited to mechanical components only, and for a maximum working load of 11,000 pounds pull at drums (5,500 pounds per fall); identified by general arrangement drawing No. WD–4083, Rev. B dated February 17, 1970, and drawing list dated March 29, 1971, manufactured by Welin Davit Division, Lane Marine Technology, Inc., 150 Sullivan Street, Brooklyn, NY 11231, formerly Welin Davit and Boat Division of Continental Copper & Steel Industries, Inc., effective April 26, 1971.

DAVITS FOR MERCHANT VESSELS

Approval No. 160.032/170/0, mechanical davit, straight boom sheath screw, Type CB–6500; approved for a maximum working load of 7,000 pounds per set (3,500 pounds per arm), using single, 2-part, or 6-part falls, identified by general arrangement dwg. DA–9084, Revision A dated December 18, 1965, manufactured by Carroll Engineering Co., 313 State Street, Box 711, Perth Amboy, NJ 08862, effective May 11, 1971. (It is an extension of approval No. 160.032/170/0 dated July 26, 1966.)

BUOYANT VESTS, KAPOK, OR FIBROUS GLASS

For motorboats of classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.047/514/0 Type I, Model AK–1, adult kapok buoyant vest, USCG Specification Subpart 160.047, manufactured by The Safegard Corp., Box 66, Station B, Cincinnati, Ohio 45214, for Lifo Products Company, 930 York Street, Cincinnati, OH 45214, effective May 12, 1971. (It is an extension of Approval No. 160.047/514/0 dated July 25, 1966.)

Approval No. 160.047/515/0, Type I, Model CKM–1, child kapok buoyant vest, USCG Specification Subpart 160.047, manufactured by The Safegard Corp., Box 66, Station B, Cincinnati, OH 45214, for Lifo Products Co., 930 York Street, Cincinnati, OH 45214, effective May 12, 1971. (It is an extension of Approval No. 160.047/515/0 dated July 25, 1966.)

Approval No. 160.047/516/0, Type I, Model CKS–1, child kapok buoyant vest, USCG Specification Subpart 160.047, manufactured by The Safegard Corp., Box 66, Station B, Cincinnati, OH 45214, for Lifo Products Co., 930 York Street, Cincinnati, OH 45214, effective May 12, 1971. (It is an extension of Approval No. 160.047/516/0 dated July 25, 1966.)

BUOYANT CUSHIONS, KAPOK, OR FIBROUS GLASS

For motorboats of classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.048/78/0, group approval for rectangular and trapezoidal kapok buoyant cushions, USCG Specification Subpart 160.048, sizes and weights of kapok filling to be as per table 160.048–4(c)(1)(i), manufactured by Stearns Manufacturing Co., Division Street at 30th, St. Cloud, MN 56301, for Herter's, Inc., Waseca, Minn. 56093, effective May 7, 1971. (It is an extension of Approval No. 160.048/78/0 dated July 15, 1966.)

Approval No. 160.048/79/0, special approval for 13" x 18" x 2" rectangular ribbed-type kapok buoyant cushion, 21-ounce kapok, Stearns Manufacturing Co. dwg. No. 6, dated December 5, 1955, manufactured by Stearns Manufacturing Co., Division Street at 30th, St. Cloud, MN 56301, for Herter's, Inc., Waseca, Minn. 56093, effective May 7, 1971. (It is an extension of Approval No. 160.048/79/0 dated July 15, 1966.)

Approval No. 160.048/207/0, special approval for 13" x 18" x 2" rectangular ribbed-type kapok buoyant cushion, 21-ounce kapok, dwg. No. 81562, dated August 15, 1961, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, NY 11201, effective May 12, 1971. (It is an extension of Approval No. 160.048/207/0 dated July 25, 1966.)

Approval No. 160.048/208/0, special approval for 13" x 18" x 2" rectangular ribbed-type kapok buoyant cushions, 21-ounce kapok, Atlantic-Pacific Manufacturing Corp. dwg. No. 81562, dated August 15, 1961, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, NY 11201, for Herter's, Inc., Waseca, Minn. 56093, effective May 7, 1971. (It is an extension of Approval No. 160.048/208/0 dated July 25, 1966.)

Approval No. 160.048/223/1, special approval for 14" x 17" x 2" rectangular ribbed-type kapok buoyant cushion, 21-ounce kapok, dwg. Nos. 1 and 2, Rev. 2 dated July 7, 1966, manufactured by Style-Crafters, Inc., Box 8277, Station A, Greenville, SC 29604, effective April 27, 1971. (It is an extension of Approval No. 160.048/223/1 dated July 7, 1966.)

BUOYANT VESTS, UNICELLULAR PLASTIC FOAM

NOTE: For motorboats of classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.052/328/0, Type II, Model AF, adult molded unicellular plastic foam buoyant vest, with vinyl dip coating, dwg. No. 65–200A, Rev. B dated June 10, 1966, manufactured by Mermatec, Inc., 11525 Sorrento Valley Road, San Diego, CA 92121, effective May 3, 1971. (It is an extension of Approval No. 160.052/328/0 dated July 13, 1966 and change of address of manufacturer.)

Approval No. 160.052/329/0, Type II, Model CFM, child medium molded unicellular plastic foam buoyant vest, with vinyl dip coating, dwg. No. 65–300A, Rev. B dated June 10, 1966, manufactured by Mermatec, Inc., 11525 Sorrento Valley Road, San Diego, CA 92121, effective May 3, 1971. (It is an extension of Approval No. 160.052/329/0 dated July 13, 1966 and change of address of manufacturer.)

Approval No. 160.052/330/0, Type II, Model CFS, child small molded unicellular plastic foam buoyant vest, with vinyl dip coating, dwg. No. 65–400A, Rev. B dated June 10, 1966, manufactured by Mermatec, Inc., 11525 Sorrento Valley Road, San Diego, CA 92121, effective May 3, 1971. (It is an extension of Approval No. 160.052/330/0 dated July 13, 1966 and change of address of manufacturer.)

Approval No. 160.052/331/0, Type II, Model LV–A, adult molded vinyl-dipped unicellular plastic foam buoyant vest, Goodenow dwg. No. 5581–E, Rev. 1 dated December 22, 1964, manufactured by Goodenow Manufacturing, 1301 West 18th Street, Erie, PA 16502, for White Bear Water Ski Co., 5717 Portland Avenue, White Bear Lake, MN 55110, effective May 7, 1971. (It is an extension of

Approval No. 160.052/331/0 dated July 18, 1966.)

Approval No. 160.052/332/0, Type II, Model LV–M, child medium molded vinyl-dipped unicellular plastic foam buoyant vest, Goodenow dwg. No. 5622–C, Rev. 1 dated December 22, 1964, manufactured by Goodenow Manufacturing, 1301 West 18th Street, Erie, PA 16502, for White Bear Water Ski Co., 5717 Portland Avenue, White Bear Lake, MN 55110, effective May 7, 1971. (It is an extension of Approval No. 160.052/332/0 dated July 18, 1966.)

Approval No. 160.052/333/0, Type II, Model LV–S, child small molded vinyl-dipped unicellular plastic foam buoyant vest, Goodenow dwg. No. 5623–C, Rev. 1 dated December 22, 1964, manufactured by Goodenow Manufacturing, 1301 West 18th Street, Erie PA 16502, for White Bear Water Ski Co., 5717 Portland Avenue, White Bear Lake, MN 55110, effective May 7, 1971. (It is an extension of Approval No. 160.052/333/0 dated July 18, 1966.)

Approval No. 160.052/334/0, Type II, Model LV–A, adult molded vinyl-dipped unicellular plastic foam buoyant vest, Goodenow dwg. No. 5581–E, Rev. 1 dated December 22, 1964, manufactured by Goodenow Manufacturing, 1301 West 18th Street, Erie, PA 16502, for Miltco Products Corp., 139 Emerson Place, Brooklyn, NY 11205, effective May 4, 1971. (It is an extension of Approval No. 160.052/334/0 dated July 15, 1966.)

Approval No. 160.052/335/0, Type II, Model LV–M, child medium molded vinyl-dipped unicellular plastic foam buoyant vest, Goodenow dwg. No. 5622–C, Rev. 1 dated December 22, 1964, manufactured by Goodenow Manufacturing, 1301 West 18th Street, Erie, PA 16502, for Miltco Products Corp., 139 Emerson Place, Brooklyn, NY 11205, effective May 4, 1971. (It is an extension of Approval No. 160.052/335/0 dated July 15, 1966.)

Approval No. 160.052/336/0, Type II, Model LV–S, child small molded vinyl-dipped unicellular plastic foam buoyant vest, Goodenow dwg. No. 5623–C, Rev. 1 dated December 22, 1964, manufactured by Goodenow Manufacturing, 1301 West 18th Street, Erie, PA 16502, for Miltco Products Corp., 139 Emerson Place, Brooklyn, NY 11205, effective May 4, 1971. (It is an extension of Approval No. 160.052/336/0 dated July 15, 1966.)

Work Vests, Unicellular Plastic Foam

Approval No. 160.053/10/1, Model 211–VF–17.5 unicellular plastic foam work vest, dwg. list No. 60F736 dated August 15, 1960, and Bill of Materials dated March 12, 1971, manufactured by Gentex Corp., Carbondale, Pa. 18407, effective May 3, 1971. (It reinstates Approval No. 160.053/10/0 terminated January 5, 1966.)

Approval No. 160.053/21/0, Model WV–2, unicellular plastic foam work vest, Vogt dwg. No. WV–2, revision 1 dated November 18, 1965, manufactured by Canandaigua Plastics, Division of Vogt Manufacturing Corp., 203 North Street, Canandaigua, New York 14424, effective April 27, 1971. (It is an extension of Approval No. 160.053/21/0 dated July 6, 1966.)

Protecting Cover for Lifeboats

Approval No. 160.065/5/0, "Gentex Catenary Lifeboat Cover", Type I, Mark 2, protecting cover for the occupants of all types of aluminum, steel and fibrous glass reinforced plastic (FRP) lifeboats, for all lengths of 16-foot through 37-foot lifeboats, identified by general arrangement dwg. No. 66H1654, dated June 7, 1966, modifications to the cover and supports may be necessary in the case of some motor-propelled lifeboats equipped with vertical (dry) exhaust lines, radio cabins and antenna masts, manufactured by Gentex Corp., Carbondale, Pa. 18407, effective May 3, 1971. (It is an extension of Approval No. 160.065/5/0 dated July 13, 1966.)

Telephone Systems, Sound-Powered

Approval No. 161.005/64/0, sound-powered telephone station, selective ringing, common talking, 19-station maximum, internal heater, bulkhead mounting, waterproof, external separately mounted bell, dwg. No. 91–01, Alt. 0, Model SWT–H, manufactured by Hose-McCann Telephone Co., Inc., 524 West 23d Street, New York, NY 10011, effective May 10, 1971. (It is an extension of Approval No. 161.005/64/0 dated July 27, 1966 and change of address of manufacturer.)

Safety Valves (Power Boilers)

Approval No. 162.001/271/2, Crosby style HNB–MS–57 nozzle type pilot actuated safety relief valves, dwg. B–49676 revised March 23, 1971; approved for a maximum pressure/of 1,200 p.s.i.g. at 900° F., inlet sizes 1½, 2, 2½, 3, and 4 inches, manufactured by Crosby Valve and Gage Company, Wrentham, Mass. 02093, effective April 28, 1971. (It supersedes Approval No. 162.001/271/1 dated February 26, 1969; to show change in construction.)

Approval No. 162.001/272/2, Crosby style HNB–MS–58 nozzle type pilot actuated safety relief valve, Crosby dwg. B–49676 revised March 23, 1971; approved for a maximum pressure of 995 p.s.i.g. at 1050° F., inlet sizes 1½, 2, 2½, 3, and 4 inches, manufactured by Crosby Valve and Gage Co., Wrentham, Mass. 02093, effective April 28, 1971. (It supersedes Approval No. 162.001/272/1 dated February 26, 1969; to show change in construction.)

Approval No. 162.001/273/2, Crosby style HNB–MS–67 nozzle type pilot actuated safety relief valve, Crosby dwg. B–49676 revised March 23, 1971; approved for a maximum pressure of 1,500 p.s.i.g. at 900° F., inlet sizes 1½, 2, 2½, 3, and 4 inches, manufactured by Crosby Valve and Gage Co., Wrentham, Mass. 02093, effective April 28, 1971. (It supersedes Approval No. 162.001/273/1 dated February 26, 1969; to show change in construction.)

Approval No. 162.001/274/2, Crosby style HNB–MS–68 nozzle type pilot actuated safety relief valve, dwg. B–49676 revised March 23, 1971; approved for a maximum pressure of 995 p.s.i.g. at 1050° F., inlet sizes 1½-inch, 2-inch, 2½-inch, 3-inch, and 4-inch, manufactured by Crosby Valve and Gage Co., Wrentham, Mass. 02093, effective April 28, 1971. (It supersedes Approval No. 162.001/274/1 dated February 26, 1969; to show change in construction.)

Approval No. 162.001/275/2, Crosby style HNB–MS–67–25 nozzle type pilot actuated safety relief valve, dwg. B–49676 revised March 23, 1971; approved for a maximum pressure of 1,500 p.s.i.g. at 900° F., inlet sizes 1½-inch, 2-inch, 2½-inch, and 3-inch, manufactured by Crosby Valve and Gage Co., Wretham, Mass. 02093, effective April 28, 1971. (It supersedes Approval No. 162.001/275/1 dated February 26, 1969; to show change in construction.)

Approval No. 162.001/276/2, Crosby style HNB–MS–68–25 nozzle type pilot actuated safety relief valve, dwg. B–49676 revised March 23, 1971; approved for a maximum pressure of 1,500 p.s.i.g. at 1,050° F., inlet sizes 1½-inch, 2-inch, 2½-inch, and 3-inch, manufactured by Crosby Valve and Gage Co., Wretham, Mass. 02093, effective April 28, 1971. (It supersedes Approval No. 162.001/276/1 dated February 26, 1969; to show change in construction.)

Approval No. 162.001/277/2, Crosby style HNB–MS–57–9 nozzle type pilot actuated safety relief valve, dwg. B–49676 revised March 23, 1971; approved for a maximum pressure of 1,050 p.s.i.g. at 900° F., inlet sizes 3-inch and 4-inch, manufactured by Crosby Valve and Gage Co., Wrentham, Mass. 02093, effective April 28, 1971. (It supersedes Approval No. 162.001/277/1 dated February 26, 1969; to show change in construction.)

Approval No. 162.001/278/2, Crosby style HNB–MS–58–9 nozzle type pilot actuated safety relief valve, dwg. B–49676 revised March 23, 1971; approved for a maximum pressure of 595 p.s.i.g. at 1,050° F., inlet sizes 3-inch and 4-inch, manufactured by Crosby Valve and Gage Co., Wrentham, Mass. 02093, effective April 28, 1971. (It supersedes Approval No. 162.001/278/1 dated February 26, 1969; to show change in construction.)

Flame Arresters for Tank Vessels

Approval No. 162.016/34/0, 8-inch size Types 868B and E868B, aluminum body, aluminum or stainless steel arrester elements, dwg. 868B dated December 17, 1952 and dwg. E868B dated April 14, 1947, manufactured by The Protectoseal Co., 225 Foster, Bensenville, IL 60106, effective April 22, 1971. (It reinstates and supersedes Approval No. 162.016/34/0 terminated April 27, 1970 and change of address of manufacturer.)

Pressure Vacuum Relief Valves and Spill Valves for Tank Vessels

Approval No. 162.017/110/0, Model 9403 8-inch Hi-Stream Marine Breather Valve, pressure/vacuum, ASTM B62 body, with 150# ASA flat face flange, manufactured by GPE Controls, Inc., 6511 Oakton Street, Morton Grove, IL 60053, effective April 9, 1971.

Indicators, Boiler Water Level, Secondary Type

Approval No. 162.025/104/0, Model E1800 EYE–HYE remote water level indicator for a maximum allowable working pressure of 1,500 p.s.i.g. at 600° F., same UNITEMP reservoir as for Model EW1801 EYE–HYE, USCG Approval No. 162.025/103/0, manufactured by Clark-Reliance Corp., 15901 Industrial Parkway, Cleveland, OH 44135, effective April 26, 1971.

Carbon Dioxide Type Fire Extinguishing Systems

Approval No. 162.036/4/0, "General" Carbon Dioxide Marine Fire Extinguishing Systems, typical installation dwg. No. M–5180, Rev. A dated March 28, 1960, parts list dwg. No. M–5810–1 revised April 21, 1960, manufactured by The General Fire Extinguishing Corp., 1685 Shermer Road, Northbrook, IL 60062 and 8740 Washington Boulevard, Culver City, CA 90231, effective May 11, 1971. (It is an extension of Approval No. 162.036/4/0 dated July 29, 1966.)

Incombustible Materials for Merchant Vessels

Approval No. 164.009/31/1, "Johns-Manville Marine Acoustical Unit", incombustible material in accordance with Johns-Manville Sales Corp. letter dated April 5, 1971, in 1⅜₁₆-through 2⅜₁₆-inch thickness, manufactured by Johns-Manville Sales Corp., 22 East 40th Street, New York, NY 10016, effective April 15, 1971. (It supersedes Approval No. 164.-009/31/0 dated April 16, 1969 to show new description.)

Approval No. 164.009/64/1, "Kaylo" asbestos-hydrous calcium silicate type incombustible material without factory applied covering, identical to that described in Owens-Corning Fiberglas Corp. letter dated December 30, 1960, approved in a density of 12.3 pounds per cubic foot, manufactured by Owens-Corning Fiberglas Corp., Toledo, Ohio 43601, effective April 14, 1971. (It is an extension of Approval No. 164.009/64/1 dated April 22, 1966.)

Approval No. 164.009/144/0, "Birma Incombustible CG Insulation" fibrous glass insulation material identical to that described in National Bureau of Standards Test Report No. FR3751 dated April 1, 1971 and Birma Products Corp. letters dated January 26, 1971 and February 22, 1971, approved in a ½ inch through 2 inch-thickness and 4.5 pounds per cubic foot density, manufactured by Birma Products Corp., Jernee Mill Road, Sayreville, N.J. 08872, plants located in Sayreville, N.J. and Greenfield, Ind., effective April 29, 1971.

Dated: November 2, 1971.

W. F. Rea, III,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Merchant Marine Safety.

[FR Doc.71–17076 Filed 11–22–71;8:48 am]

[CGFR 71–141]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

1. Certain laws and regulations (46 CFR Ch. I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from June 1, 1971 to June 9, 1971 (List No. 19–71). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner canceled or suspended by proper authority.

Lifeboat Winches for Merchant Vessels

Approval No. 160.015/93/1, lifeboat winch, Type 35G–MKII; approval is limited to mechanical components only and for a maximum working load of 7,500 pounds pull at the drums (3,750 pounds per fall); identified by general arrangement drawings No. W1–F–003, revision C dated May 5, 1969, and W1–F–005, revision B dated May 5, 1969, and drawing list, revision D dated May 21, 1971, manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, N.J. 07727, effective June 8, 1971. (It supersedes Approval No. 160.015/93/0 dated February 26, 1969 to show change in design.)

Approval No. 160.015/94/1, lifeboat winch, Type 55G–MKII; approval is limited to mechanical components only and for a maximum working load of 11,000 pounds pull at the drums (5,500 pounds per fall); identified by general arrangement drawings No. W1–F–002, revision C dated May 1, 1969, and No. W1–F–002–H, revision A dated November 21, 1968; and drawing list, revision C dated May 21, 1971, manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, N.J. 07727, effective June 8, 1971. (It supersedes Approval No. 160.015/94/0 dated June 5, 1969 to show change in design.)

Approval No. 160.015/97/1, Type 75G–C4–EG lifeboat winch, approval limited to mechanical components only, and for a maximum working load of 11,000 pounds pull at drums (5,500 pounds per fall); identified by general arrangement drawing No. WD–4083, Rev. B dated February 17, 1970, and drawing list dated May 26, 1971, manufactured by Welin Davit Division, Lane Marine Technology, Inc., 150 Sullivan Street, Brooklyn, N.Y. 11231, effective June 7, 1971. (It supersedes Approval No. 160.015/97/0 dated April 26, 1971 to show change in design.)

Mirrors, Emergency Signaling

Approval No. 160.020/5/1, Model CG–2, emergency signaling mirror, 4" x 5" reflex type, identified by mirror and packing drawing No. CG–2 dated August 15, 1966, manufactured by Revere Glass Co., 583 Beach Street, Revere, MA 02151, effective June 8, 1971. (It is an extension of Approval No. 160.020/5/1 dated August 15, 1966.)

Buoyant Vests, Kapok, or Fibrous Glass

For motoboats of classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.047/324/0, Type I, Model AK–1, adult kapok buoyant vest, USCG specification Subpart 160.047 and COMDT(MMT–3) letter to Atlantic-Pacific Manufacturing Corp., File No. 5946/160.047/324 dated June 2, 1971, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, NY 11201, effective June 4, 1971. (It supersedes Approval No. 160.-047/324/0 dated February 17, 1970.)

Approval No. 160.047/325/0, Type I, Model CKM–1, child kapok buoyant vest, USCG Specification Subpart 160.047 and COMDT(MMT–3) letter to Atlantic-Pacific Manufacturing Corp., File No. 5946/160.047/324 dated June 2, 1971. (It supersedes Approval No. 160.047/325/0 dated February 17, 1970.)

Approval No. 160.047/326/0, Type I, Model CKS–1, child kapok buoyant vest, USCG Specification Subpart 160.047 and COMDT(MMT–3) letter to Atlantic-Pacific Manufacturing Corp., File No. 5946/160.047/324 dated June 2, 1971, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, NY 11201, effective June 4, 1971. (It supersedes Approval No. 160.-047/326/0 dated February 17, 1970.)

Approval No. 160.047/571/0, Type I, Model AK–1, adult kapok buoyant vest, USCG Specification Subpart 160.047, manufactured by Crawford Manufacturing Co., Inc., Third and Decatur Streets, Richmond, VA 23212 and 12th and Graham Streets, Emporia, KS 66801, for J. C. Penney Co., Inc., 1301 Avenue of the Americas, New York, NY 10019, effective June 1, 1971. (It is an extension of Approval No. 160.047/571/0 dated August 4, 1966.)

Buoyant Cushions, Kapok, or Fibrous Glass

For motorboats of classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.048/260/0, special approval for rectangular buoyant cushion

13¼" x 17" x 2", manufactured in accordance with dwg. No. 160.048–1 and COMDT(MMT–3) letter to Crawford Manufacturing Co., Inc., File No. 5946/160.048/260 dated June 1971, manufactured by Crawford Manufacturing Co., Inc., Third and Decatur Streets, Richmond, Va. 23212 and 12th and Graham Streets, Emporia, Kans. 66801, effective June 3, 1971.

BUOYS, LIFE, RING, UNICELLULAR PLASTIC

Approval No. 160.050/60/0, 20-inch unicellular plastic ring life buoy, USCG Specification Subpart 160.050 and B. F. Goodrich dwg. No. 12988, revision 3 dated January 13, 1960, manufactured by Goodenow Manufacturing Co., 1301 West 18th Street, Erie, PA 16501, effective June 2, 1971.

Approval No. 160.050/81/0, 24-inch unicellular plastic ring life buoy, USCG Specification Subpart 160.050 and B. F. Goodrich dwg. No. 12988, revision 3 dated January 13, 1960, manufactured by Goodenow Manufacturing Co., 1301 West 18th Street, Erie, PA 16501, effective June 2, 1971.

LIFE PRESERVERS, UNICELLULAR PLASTIC FOAM, ADULT AND CHILD, FOR MERCHANT VESSELS

Approval No. 160.055/58/0, Type IA, Model 62, adult vinyl dip coated unicellular plastic foam life preserver, USCG Specification Subpart 160.055, dwg. No. 160.055–IA (sheet 1) and COMDT (MMT–3) letter dated August 29, 1966, manufactured by Crawford Manufacturing Co., Inc., Third and Decatur Streets, Richmond, VA 23212, effective June 3, 1971. (It is an extension of Approval No. 160.055/58/0 dated August 30, 1966.)

Approval No. 160.055/59/0, Type IA, Model 66, child vinyl dip coated unicellular plastic foam life preserver, USCG Specification Subpart 160.055, dwg. No. 160.055–IA (sheet 2) and COMDT (MMT–3) letter dated August 29, 1966, manufactured by Crawford Manufacturing Co., Inc., Third and Decatur Streets, Richmond, VA 23212, effective June 3, 1971. (It is an extension of Approval No. 160.055/59/0 dated August 30, 1966.)

GAUGING DEVICES, LIQUID LEVEL, LIQUEFIED COMPRESSED GAS

Approval No. 162.019/38/0, Model No. 92050 liquid level gauge for ammonia, propane and butane at a minimum temperature of −50° F. and a maximum allowable working pressure of 4 p.s.i.g., manufactured by GPE Controls, Inc., 6511 Oakton Street, Morton Grove, IL 60053, effective June 1, 1971.

NOZZLES, FIREHOSE, COMBINATION SOLID STREAM AND WATER SPRAY (1½ INCH AND 2½ INCH) FOR MERCHANT VESSELS

Approval No. 162.027/9/0, 1½ inch combination solid stream and water spray fire hoze nozzle, Style 2032, Bill of Material dated January 16, 1970, dwg. No. 1595 dated June 1, 1970, Style HV 15 high-velocity head, and either Style 415 4'—60° applicator or Style 1015 10'—90° applicator with Style LV 15 low-velocity head, due to orifice sizes, no special self-cleaning strainer is required. The 4'—60° applicator is intended for nozzle installations in propulsion machinery spaces containing oil-fired boilers, internal combustion machinery or oil fuel units, manufactured by Akron Brass Manufacturing Co., Inc., Wooster, Ohio 44691, effective June 2, 1971.

Approval No. 162.027/10/0, 2½ inch Style 2046 combination solid stream and water spray fire hose nozzle, ball type, Bill of Material dated January 19, 1970, dwg. No. 1596 dated June 1, 1970, Style HV 25 high-velocity head, and Style 1225, 25'–90° applicator with LV 25 low-velocity head, due to orifice sizes, no special self-cleaning strainer is required, manufactured by Akron Brass Manufacturing Co., Inc., Wooster, Ohio 44691, effective June 2, 1971.

FIRE EXTINGUISHING SYSTEMS, FOAM TYPE

Approval No. 162.033/7/1, National AER–O–FOAM 100 Marine Foam Fire Extinguishing Systems, with AER–O–FOAM 100 foaming concentrate and catalyst, for use on polar solvents (alcohols, ketones, etc.) or ordinary petroleum products, Instruction Sheet No. 628, Revised August 12, 1966, manufactured by National Foam System, Inc., West Chester, Pa. 19380, effective June 9, 1971. (It is an extension of Approval No. 162.033/7/1 dated August 29, 1966.)

Dated: November 9, 1971.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.71–17077 Filed 11–22–71;8:49 am]

[CGFR 71–143]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

1. Certain laws and regulations (46 CFR Ch. I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from June 25, 1971 to August 13, 1971 (Lists Nos. 24–71 and 25–71). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner cancelled or suspended by proper authority.

LIFE PRESERVERS, KAPOK, ADULT AND CHILD (JACKET TYPE), MODELS 3 AND 5

NOTE: Approved for use on all vessels and motorboats.

Approval No. 160.002/108/0, Model 3, adult kapok life preserver, USCG Specification Subpart 160.002, manufactured by Crawford Manufacturing Co., Inc., Third and Decatur Streets, Richmond, Va. 23212, for Sears, Roebuck and Co., 925 South Homan Avenue, Chicago, IL 60607, effective July 6, 1971. (It is an extension of Approval No. 160.002/108/0 dated September 15, 1966.)

Approval No. 160.002/109/0, Model 5, child kapok life preserver, USCG Specification Subpart 160.002, manufactured by Crawford Manufacturing Co., Inc., Third and Decatur Streets, Richmond, Va. 23212, for Sears, Roebuck and Co., 925 South Homan Avenue, Chicago, IL 60607, effective July 6, 1971. (It is an extension of Approval No. 160.002/109/0 dated September 15, 1966.)

GAS MASKS, SELF-CONTAINED BREATHING APPARATUS, AND SUPPLIED-AIR RESPIRATORS, FOR MERCHANT VESSELS

Approval No. 160.011/39/0, Scott Air-Pak II, Model 900014, self-contained one-half hour compressed air breathing apparatus, at least one extra fully charged cylinder of breathing air to be included as part of the complete unit, Bureau of Mines Approval No. BM–1308, only for use with BM–1308 facepiece and BM–1308 pressure regulator and assembly, Scott assembly dwg. No. 900014, Rev C dated May 3, 1966, manufactured by Scott Aviation Corp., Lancaster, N.Y. 14086, effective July 15, 1971. (It supersedes Approval No. 160.011/39/0 which expired July 8, 1971.)

Approval No. 160.011/47/0, Ammonia Gas Mask with Cleartone Speaking Diaphragm and Ultraview Facepiece, MSA dwgs. Nos. B457081, A96880, C993866, and Bureau of Mines Approval No. 14F–58, manufactured by Mine Safety Appliances Co., 201 North Braddock Avenue, Pittsburgh, PA 15208, effective June 29, 1971.

Approval No. 160.011/48/0, MSA Gas Mask Type N with Cleartone Speaking Diaphragm and Ultraview Model SW Facepiece, MSA dwg. Nos. B457076, B994069, A96880 and Bureau of Mines Approval No. 14F–66A, manufactured by Mine Safety Appliances Co., 201 North Braddock Avenue, Pittsburgh, PA 15208, effective June 29, 1971.

LADDERS, EMBARKATION—DEBARKATION (FLEXIBLE), FOR MERCHANT VESSELS

Approval No. 160.017/31/2, Model 241A/61–79, Type II, embarkation-debarkation ladder, chain suspension, steel ears, dwg. No. 241A/61–79 dated April 21, 1961 and revised October 21, 1966, approval limited to ladders 79 feet or less in length, manufactured by Great Bend Manufacturing Corp., 234 Godwin Avenue, Paterson, NJ 07501, effective August 13, 1971. (It is an extension of Approval No. 160.017/31/2 dated October 31, 1966.)

Approval No. 160.017/33/1, Model E–1004D, Type II embarkation-debarkation ladder, chain suspension, steel ears, dwg. No. LC–104, Rev. 4, dated September 23, 1966, approval limited to ladders 65 feet or less in length, manufactured by Roberton and Schwartz, Inc., 163 Main Street, San Francsico, CA 94105, effective August 13, 1971. (It is an extension of Approval No. 160.017/33/I dated October 11, 1966.)

Approval No. 160.017/34/1, Model P–1006–A, Type I embarkation-debarkation ladder, rope suspension, steel ears, dwg. LC–106, Rev. 4, dated September 23, 1966, manufactured by Roberton and Schwartz, Inc., 163 Main Street, San Francisco, CA 94105, effective August 13, 1971. (It is an extension of Approval No. 160.017/34/1 dated October 11, 1966.)

MECHANICAL DISENGAGING APPARATUS, LIFEBOAT, FOR MERCHANT VESSELS

Approval No. 160.033/60/2, Rottmer type releasing gear, approved for a maximum working load of 15,000 pounds per hook, identified by disengaging apparatus dwg. No. 9090–111 Rev. B dated August 6, 1971, manufactured by Whittaker Corp., 5159 Baltimore Drive, La Mesa, CA 92042, effective August 12, 1971. (It supersedes Approval No. 160.033/60/1 dated January 30, 1970 to show change in construction.)

LIFEBOATS

Approval No. 160.035/322/3, 22' x 7.5' x 3.17' steel, hand-propelled lifeboat, 31-person capacity, identified by general arrangement dwg. No. 22–2E, Rev. C dated July 14, 1971, 46 CFR 160.035–13(c) marking. Weights: Condition "A"= 3,500 pounds; condition "B"=9,182 pounds, manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, NJ 07727, effective July 29, 1971. (It reinstates and supersedes Approval No. 160.035/322/2 terminated May 19, 1971.)

Approval No. 160.035/334/1, 26.0' x 9.0' x 3.83' steel, motor-propelled lifeboat without radio cabin or searchlight (class 1) 48-person capacity, identified by general arrangement dwg. No. 26–16, Rev. D dated July 14, 1971, 46 CFR 160.035–13(c) marking. Weights: Condition "A"=5,100 pounds; Condition "B"= 14,216 pounds, manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, NJ 07727, effective July 29, 1971. (It supersedes Approval No. 160.035/334/0 dated June 8, 1966 to show change in address and construction.)

Approval No. 160.035/371/1, 26.0' x 9.0' x 3.83' steel, hand-propelled lifeboat, 53-person capacity, identified by general arrangement dwg. No. 26–17, Rev. B dated July 13, 1971, 46 CFR 160.035–13 (c) marking. Weights: Condition "A"= 4,760 pounds; condition "B"=14,524 pounds, manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, NJ 07727, effective July 15, 1971. (It supersedes Approval No. 160.035/371/0 dated July 15, 1966 to show change in address and construction.)

Approval No. 160.035/465/1, 14' diameter x 4.8' depth fibrous glass reinforced plastic (FRP) motor-propelled totally enclosed "Brucker" survival capsule, 28-person capacity, as alternate for lifeboat, inflatable liferaft or lifefloat, identified by general and equipment arrangement dwg. No. 9091–101 dated June 1, 1971, approved for use only on nonself-propelled drilling rigs, fixed structures and artificial islands, 46 CFR 160.035–13(c) marking. Weights: Condition "A"=4,650 pounds; condition "B"=9,880 pounds, manufactured by The Whittaker Corp., 5159 Baltimore Drive, La Mesa, CA 92042, effective July 16, 1971. (It supersedes Approval No. 160.035/465/0 dated June 30, 1970 to show change in construction.)

BUOYANT VESTS, KAPOK, OR FIBROUS GLASS

For motorboats of classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.047/631/0, Type I, Model AK–1, adult kapok buoyant vest, USCG Specification Subpart 160.047 and COMDT(MMT–3) letter to Atlantic-Pacific Manufacturing Corp., File No. 5946/160.047/324 dated June 2, 1971, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, NY 11201, for Boy Scouts of America, Supply Division, North Brunswick, N.J. 08902, effective June 29, 1971.

BUOYS, LIFE, RING, UNICELLULAR PLASTIC

Approval No. 160.050/62/0, 30-inch ring life buoy, fibrous glass wrapped unicellular plastic foam core, Specification dated August 14, 1969 and drawing number 8431/8/69 dated August 14, 1969, alternate method of rigging in accordance with drawing 8431/8/69A dated May 14, 1971, approved as alternate construction to that provided by USCG Specification Subpart 160.050, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, NY 11201, effective August 10, 1971. (It supersedes Approval No. 160.050/62/0 dated October 7, 1969 to show minor change.)

BUOYANT VESTS, UNICELLULAR PLASTIC FOAM

NOTE: For motorboats of Classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.052/222/0, Type II, Model 100, adult unicellular plastic foam buoyant vest, dwg. No. 100, Rev. 1 dated August 19, 1968, dwg. No. 400, Rev. 1 dated August 19, 1968, dwg. No. BSP–6721 dated May 23, 1971 and bill of materials dated May 29, 1968, manufactured by Buddy Schoellkopf Products, Inc., 4100 Platinum Way, Dallas, TX 75237, for Red Head Brand Corp., Post Office Box 10956, 1348 Manufacturing Street, Dallas, TX 75207, effective July 16, 1971. (It supersedes Approval No. 160.052/222/0 dated August 20, 1968 to show change of address of manufacturer.)

Approval No. 160.052/257/0, Type II, Model 100, adult unicellular plastic foam buoyant vest, dwg. No. 100, Rev. 1 dated August 19, 1968, dwg. No. 400, Rev. 1 dated August 19, 1968, dwg. No. BSP–6721 dated May 23, 1971 and bill of materials dated May 29, 1968, manufactured by Buddy Schoellkopf Products, Inc., 4100 Platinum Way, Dallas, TX 75237, for Belknap Hardware & Manufacturing Co., 111 East Main Street, Louisville, KY 40201, effective July 16, 1971. (It supersedes Approval No. 160.052/257/0 dated June 10, 1968 to show change of address of manufacturer.)

Approval No. 160.052/274/0, Type II, Model 100, adult unicellular plastic foam buoyant vest, dwg. No. 100, Rev. 1 dated August 19, 1968, dwg. No. 400, Rev. 1 dated August 19, 1968, dwg. No. BSP–6721 dated May 23, 1971 and bill of materials dated May 29, 1968, manufactured by Buddy Schoellkopf Products, Inc., 4100 Platinum Way, Dallas TX 75237, for Coast-to-Coast Stores, 7500 Excelsior Boulevard, Minneapolis, MN 55426, effective July 16, 1971. (It supersedes Approval No. 160.052/274/0 dated December 19, 1968 to show change of address of manufacturer.)

Approval No. 160.052/375/0, Type II, Model 100, adult unicellular plastic foam buoyant vest, dwg. No. 100, Rev. 1 dated August 19, 1968, dwg. No. 400, Rev. 1 dated August 19, 1968, dwg. No. BSP–6721 dated May 23, 1971 and bill of materials dated May 29, 1968, manufactured by Buddy Schoellkopf Products, Inc., 4100 Platinum Way, Dallas, TX 75237, for Red Head Brand Corp., Post Office Box 10956, 1348 Manufacturing Street, Dallas, TX 75207, effective July 16, 1971. (It supersedes Approval No. 160.052/375/0 dated October 1, 1968 to show change of address of manufacturer.)

Approval No. 160.052/410/0, Type II, Model UPA, adult unicellular plastic foam buoyant vest, dwg. No. 122061 (sheets 1 and 2), Rev. 1 dated June 24, 1963, and bill of materials dated September 30, 1965, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, NY 11201, for Boy Scouts of America, Supply Division, North Brunswick, N.J. 08902, effective June 29, 1971.

WORK VESTS, UNICELLULAR PLASTIC FOAM

Approval No. 160.053/28/0, cloth covered unicellular plastic foam work vest as per USCG Specification Subpart 160.053, and dwg. Nos. 1–CGA and 2–CGA dated November 4, 1970, manufacured by Buddy Schoellkopf Products, Inc., 4100 Platinum Way, Dallas, TX 75237, for the Red Head Brand Corp., 1348 Manufacturing Street, Dallas, TX 75207, effective July 12, 1971.

SEARCHLIGHTS, MOTOR LIFEBOAT, FOR MERCHANT VESSELS

Approval No. 161.006/2/0, Type C motor-lifeboat searchlight, dwg. No. 500C–1, replaces Type N searchlight approval No. 161.006/1/0, manufactured by Portable Light ITT, 501 West Liberty, Springfield, OH 45501, formerly The Portable Light Co., Inc., effective July 2, 1971. (It is an extension of Approval No. 161.006/2/0 dated September 7, 1966 and change of name and address of manufacturer.)

Approval No. 162.001/224/0, Style HN–MS–35–6, carbon steel body pop safety valve, exposed spring, maximum pressure 900 p.s.i., maximum temperature 650° F., dwg. No. HV–34–MS, authorized July 22, 1971; approved for sizes 1½ inches, 2 inches, 2½ inches, 3 inches, and 4 inches, manufactured by Crosby-Ashton Wrentham, Mass. 02093, effective August 11, 1971. (It is an extension of Approval No. 162.001/224/0 dated September 12, 1966.)

Approval No. 162.001/225/0, Style HN–MS–36–6, carbon steel body pop safety valve, exposed spring, maximum pressure 850 p.s.i., maximum temperature 750° F., dwg. No. HV–34–MS, authorized July 22, 1971; approved for sizes 1½ inches, 2 inches, 2½ inches, 3 inches, and 4 inches, manufactured by Crosby-Ashton, Wrentham, Mass. 02093, effective August 11, 1971. (It is an extension of Approval No. 162.001/225/0 dated September 12, 1966.)

Approval No. 162.001/267/0, Crosby style HN–MS–65–9 nozzle-type safety relief valve, Crosby dwg. D49675 dated February 15, 1966; approved for a maximum pressure of 1,200 p.s.i.g. at 650° F., inlet size 3 inches, manufactured by Crosby Valve and Gage Co., Wrentham, Mass. 02093, effective August 11, 1971. (It is an extension of Approval No. 162.001/267/0 dated September 20, 1966.)

PRESSURE VACUUM RELIEF VALVES AND SPILL VALVES FOR TANK VESSELS

Approval No. 162.017/63/0, Morrison Fig. 153B pressure-vacuum relief valve, atmospheric pattern, weight-loaded pressure and vacuum poppets, all brass construction, dwg. No. B4584, dated February 27, 1951, and revised March 12, 1951, and dwg. No. B4585, dated March 6, 1951, approved for size 2½ inches, manufactured by Morrison Brothers Co., Dubuque, Iowa 52003, effective June 25, 1971. (It is an extension of Approval No. 162.017/63/0 dated August 4, 1966.)

Approval No. 162.017/111/0, Tate Temco 4-inch pressure-vacuum relief valve, Models 53–25F, 53–45F, and 53–65F, bronze construction, also 6-inch pressure-vacuum relief valve, Models 53–25F, 53–45F, and 53–65F, bronze construction, manufactured by Tate Temco, Inc., 1205 South Carey Street, Baltimore, MD 21230, effective July 8, 1971.

Approval No. 162.017/112/0, Tate Temco 4-inch pressure-vacuum relief valve, Models 53–20F, 53–40F, and 53–60F, bronze construction, also 6-inch pressure-vacuum relief valve, Models, 53–20F, 53–40F, and 53–60F, bronze construction, valves identical to those that were approved by Certificate of Approval No. 162.017/111/0 except for the "Manual Control" feature, manufactured by Tate Temco, Inc., 1205 South Carey Street, Baltimore, MD 21230, effective August 11, 1971.

GAUGING DEVICES, LIQUID LEVEL, LIQUEFIED COMPRESSED GAS

Approval No. 162.019/2/5, MGM Models Nos. 62B (Modification W4) and 62B (Modification W4)/SS (all parts in contact with the liquid are stainless steel) for liquefied compressed gas service, note MGM letter of July 2, 1971 to Commandant (MMT–2) regarding materials, manufactured by Metal Goods Manufacturing Co., 110 South Park Avenue, Bartlesville, OK 74003, effective August 12, 1971. (It supersedes Approval No. 162.019/2/4 dated February 28, 1966, to show change in materials.)

Approval No. 162.019/7/2, MGM Models Nos. 60D and 60D/SS (all parts in contact with the liquid are stainless steel) for liquefied compressed gas service, note MGM letter of July 2, 1971 to Commandant (MMT–2) regarding materials, manufactured by Metal Goods Manufacturing Co., 110 South Park Avenue, Bartlesville, OK 74003, effective August 12, 1971. (It supersedes Approval No. 162.019/7/1 dated February 28, 1966, to show change in materials.)

Approval No. 162.019/26/3, MGM Models Nos. 175 and 175/SS (all parts in contact with the liquid are stainless steel) for liquefied compressed gas service, note MGM letter of July 2, 1971 to Commandant (MMT–2) regarding materials, manufactured by Metal Goods Manufacturing Co., 110 South Park Avenue, Bartlesville, OK 74003, effective August 12, 1971. (It supersedes Approval No. 162.019/26/2 dated February 28, 1966, to show change in materials and addition of SS Model.)

BACKFIRE FLAME CONTROL, GASOLINE ENGINES; FLAME ARRESTERS; FOR MERCHANT VESSELS AND MOTORBOATS

Approval No. 162.041/77/1, Greenwich Model 7336 backfire flame arrester, Palmer Assembly Dwg. No. 7336, Palmer Engine Co. has relocated in Michigan and Greenwich Marine Engines has acquired rights to manufacture same product at same location, manufactured by Greenwich Marine Engines, Division Hekma Advanced Mach. Co., Palmer Point, Cos Cob, Conn. 06807, effective August 11, 1971. (It supersedes Approval No. 162.041/77/0 which expired March 7, 1971, to show change of name of manufacturer.)

DECK COVERINGS FOR MERCHANT VESSELS

Approval No. 164.006/41/0, "Plastic-Stone" magnesite-type deck covering identical to that described in National Bureau of Standards Test Report No. TG10210–1840:FP3139, dated May 20, 1952, approved for use without other insulating material to meet Class A–60 requirements in a 2-inch thickness, manufactured by Mortrude Floor Co., 8701 15th Avenue NW., Seattle, KA 98107, effective August 13, 1971. (It is an extension of Approval No. 164.006/41/0 dated October 27, 1966.)

Approval No. 164.006/47/0, FORAN AFT No. 1 composite mastic and magnesite-type deck covering, identical to that described in National Bureau of Standards Test Report No. TG10210–2083:FR3603, dated December 18, 1961, approved for use without other insulating material as meeting Class A–15 requirements in the thickness noted below: ¼-inch FORANAFT No. 1 under ⅜-inch "Selbalith magnesite" type deck covering, manufactured by Selby, Battersby and Co., 5220 Whitby Avenue, Philadelphia, PA 19143, effective August 13, 1971. (It is an extension of Approval No. 164.006/47/0 dated October 10, 1966.)

STRUCTURAL INSULATIONS FOR MERCHANT VESSELS

Approval No. 164.007/33/0, "Mono-Kote" sprayed vermiculite-type structural insulation identical to that described in National Bureau of Standards Test Report No. TG10210–2075:FR3592, dated July 24, 1961, and Underwriters' Laboratories, Inc., Reports Retardant 4374, dated February 25, 1960, 4374–2, dated June 20, 1960, and 4374–3, dated October 10, 1960, for use without other insulating material to meet Class A–60 requirements in a 2-inch thickness and 18 to 22 pounds per cubic foot density, manufactured by W. R. Grace and Co., 1511 K Street NW., Washington, DC 20005, formerly Zonolite Division, effective August 10, 1971. (It is an extension of Approval No. 164.007/33/0 dated September 15, 1966, and change of name and address of manufacturer.)

Approval No. 164.007/34/0, "Mono-Kote" sprayed vermiculite-type structural insulation identical to that described in National Bureau of Standards Test Report No. TG10210–2075:FR3592, dated July 24, 1961, and Underwriters' Laboratories, Inc., Reports Retardant 4374, dated February 25, 1960, 4374–2, dated June 20, 1960, and 4374–3, dated October 10, 1960, for use without other insulating material to meet Class A–60 requirements in a 2-inch thickness and 18 to 22 pounds per cubic foot density, manufactured by California Zonolite Co., 758 Colorado Boulevard, Los Angeles, CA 90041, effective July 7, 1971. (It is an extension of Approval No. 164.007/34/0 dated September 20, 1966.)

BULKHEAD PANELS FOR MERCHANT VESSELS

Approval No. 164.008/55/0, TAC Construction Materials, Ltd., bulkhead panel "Turnall Asbestos Ships Board" identical to that described in the National Bureau of Standards Test Report No. FR3760 dated June 4, 1971, and TAC's letter dated August 4, 1969; approved as meeting Class B–15 requirements in a density of 36 lbs. per cubic foot in a ¾-inch thickness, approved drawing dated July 12, 1971, SB188E forms a part of this certificate, manufactured by TAC Construction Materials, Ltd., Building and Insulation Division, Post Office Box 22, Trafford Park, Manchester M17 1RU, England. Plant: Trafford Park, Manchester 17, England, effective July 12, 1971.

INCOMBUSTIBLE MATERIALS FOR MERCHANT VESSELS

Approval No. 164.009/96/0, Nicolet "Style No. 801, K Board" asbestos-hydrous calcium silicate type incombustible material, identical to that described in Nicolet Industries, Inc., letter dated October 13, 1966, approved in ⅛-inch through ½-inch thickness in a density of 25 pounds per cubic foot, manufactured by Nicolet Industries, Inc., Nicolet Avenue, Florham Park, N.J. 07932. Plant: Ambler, Pa., effective August 13, 1971. (It is an extension of Approval No. 164.009/96/0 dated October 21, 1966.)

Dated: November 9, 1971.

C. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.71–17078 Filed 11–22–71;8:49 am]

[CGFR 71–144]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

1. Certain laws and regulations (46 CFR Ch. I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the Outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from June 15, 1971 to June 21, 1971 (list No. 21–71). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner canceled or suspended by proper authority.

INFLATABLE LIFERAFTS

Approval No. 160.051/14/0, six-person inflatable liferaft, identified by general arrangement dwg. SPC–MM–6002, revision 4 dated February 22, 1971, and drawing list SPC–MM 6, revised June 10, 1971, manufactured by Switlik Parachute Co., Inc., 1325 East State Street, Trenton, NJ 08607, effective June 21, 1971.

TELEPHONE SYSTEMS, SOUND-POWERED

Approval No. 161.005/3/4, sound-powered telephone station assembly, selective ringing, common talking, eight and 17 stations maximum, waterproof, dwg. No. 70–526, Alt. 6 dated January 29, 1971, manufactured by Henschel Corp., Amesbury, Mass. 01913, effective June 16, 1971. (It supersedes Approval No. 161.005/3/3 dated September 12, 1966.)

Approval No. 161.005/69/0, sound-powered telephone station, console-mounted, selective ringing, common talking, eight, 17 and 23 stations maximum, Type 1R and 2RL, dwg. 70–541, Alt. 7 dated April 23, 1971, manufactured by Henschel Corp., Amesbury, Mass. 01913, effective June 16, 1971.

STRUCTURAL INSULATIONS FOR MERCHANT VESSELS

Approval No. 164.007/41/0, "Spraydon Standard J" sprayed fiber type structural insulation identical to that described in Underwriters Laboratories, Inc. Report No. R3655–13, –14 dated February 18, 1971, approved for use without insulating material to meet class A–60 requirements in an untamped thickness of 2⅛ inches and a tamped thickness of 1¾ inches and a density not less than 9.1 pounds per cubic foot, manufactured for Spraydon Research Corp., 4300 North Ocean Boulevard, Suite 12E, Fort Lauderdale, FL 33308, by U.S. Gypsum: Plant location Plainfield, N.J., effective June 15, 1971.

INCOMBUSTIBLE MATERIALS FOR MERCHANT VESSELS

Approval No. 164.009/143/0, "CG Coating CP 61" composition type coating incombustible material, identical to that referred to in National Bureau of Standards Test Report FR3759 dated May 24, 1971 and Childers Products Co. letter dated January 5, 1971, manufactured by Childers Products Co., Post Office Box 505, Bristol, PA 19007, plant located Bristol, Pa., effective June 15, 1971.

Approval No. 164.009/145/0, "CG Adhesive CP 92" incombustible material, identical to that referred to in National Bureau of Standards Test Report FR3759 dated May 24, 1971 and Childers Products Co. letter dated January 5, 1971, manufacturer by Childers Products Co., Post Office Box 505, Bristol, PA 19007, plant located Bristol, Pa., effective June 15, 1971.

Approval No. 164.009/147/0, "Navy Hull Board Type C", fibrous glass insulation board identical to that described in National Bureau of Standards Test Report No. FR3758 dated May 25, 1971 and PPG Industries, Inc. letter dated March 10, 1971, approved in a density of 2.75 pounds per cubic foot, manufactured by PPG Industries, Inc., Route 4, Shelby, NC 28150, plant located Shelbyville, Ind., effective June 21, 1971.

Dated: November 9, 1971.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.71–17079 Filed 11–22–71;8:49 am]

[CGFR 71–145]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Termination of Approval Notice

1. Certain laws and regulations (46 CFR Ch. I) require that various items of lifesaving, firefighting, and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the Outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been terminated as herein described during the period from August 23, 1971, to September 30, 1971 (List No. 30–71). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and materials approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. Notwithstanding the termination of approval listed in this document, the equipment affected may be used as long as it remains in good and serviceable condition.

LIFE PRESERVERS, KAPOK, ADULT AND CHILD (JACKET TYPE), MODELS 3 AND 5

NOTE: Approved for use on all vessels and motorboats.

The Swan Products Co., Inc., 130–30 180th Street, Springfield Gardens, NY 11434, no longer manufacturers certain kapok life preservers and Approvals Nos. 160.002/90/0 and 160.002/91/0 were therefore terminated effective September 21, 1971.

BUOYANT VESTS, KAPOK, OR FIBROUS GLASS

For motorboats of classes A, 1, or 2 not carrying passengers for hire.

The Swan Products Co., Inc., 130–30 180th Street, Springfield Gardens, NY 11434, no longer manufacturers certain kapok buoyant vests and Approvals Nos. 160.047/393/0, 160.047/394/0, and 160.047/395/0 were therefore terminated effective September 21, 1971.

BUOYANT VESTS, UNICELLULAR PLASTIC FOAM

NOTE: For motorboats of classes A, 1, or 2 not carrying passengers for hire.

The Swan Products Co., Inc., 130–30 180th Street, Springfield Gardens, NY 11434, no longer manufacturers certain unicellular plastic foam buoyant vests and Approvals Nos. 160.052/372/0, 160.052/373/0, and 160.052/374/0 were therefore terminated effective September 21, 1971.

BOILERS (HEATING)

The York-Shipley, Inc., York, Pa. 17405, Approval No. 162.003/119/0 expired and was terminated effective August 23, 1971.

FIRE EXTINGUISHING SYSTEMS, FOAM TYPE

The Norris Industries, Fire and Safety Equipment Division, Post Office Box 2750, Newark, NJ 07114, no longer manufactures certain foam-type fire extinguishing systems and Approval No. 162.033/4/1 was therefore terminated effective September 30, 1971.

Dated: November 9, 1971.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief Office of Merchant Marine Safety.

[FR Doc.71-17060 Filed 11-22-71;8:49 am]

[CGFR 71-146]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Termination of Approval Notice

1. Certain laws and regulations (46 CFR Ch. I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the Outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been terminated as herein described during the period from May 16, 1966 to September 13, 1971 (list No. 28-71). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. Notwithstanding the termination of approval listed in this document, the equipment affected may be used as long as it remains in good and serviceable condition.

BOILERS (HEATING)

The York-Shipley, Inc., York, Pa. 17405, Approval Nos. 162.003/117/0 and 162.003/118/0 expired and were terminated effective August 23, 1971.

SAFETY RELIEF VALVES, LIQUEFIED COMPRESSED GAS

The J. E. Lonergan Co., Post Office Box 6167, Philadelphia, PA 19115, no longer manufactures certain liquefied compressed gas safety relief valves and Approval No. 162.018/63/0 was therefore terminated effective September 3, 1971.

APPLIANCES, LIQUEFIED PETROLEUM GAS CONSUMING

The Allcraft Manufacturing Co., Inc., 27 Hayward Street, Cambridge, MA 02114, Approval No. 162.020/97/0 expired and was terminated effective May 15, 1966.

FIRE EXTINGUISHING SYSTEMS, FOAM TYPE

The Norris Industries, Fire & Safety Equipment Division, Post Office Box 2750, Newark, NJ 07114, no longer manufactures certain foam type fire extinguishing systems and Approval No. 162.033/3/0 was therefore terminated effective September 10, 1971.

The Fyr-Fyter Co., 221 Crane Street, Dayton, OH 45403, plant: Newark, N.J., no longer manufactures certain foam type fire extinguishing systems and Approval No. 162.033/4/1 was therefore terminated effective September 10, 1971.

STRUCTURAL INSULATIONS FOR MERCHANT VESSELS

The Vermiculite-Northwest, Inc., 2020 Airport Way South, Seattle, WA 98134, Approval No. 164.007/35/0 expired and was terminated effective September 13, 1971.

INCOMBUSTIBLE MATERIALS FOR MERCHANT VESSELS

The Johns-Manville Sales Corp., 22 East 40th Street, New York, NY 10016, Approval No. 164.009/95/0 expired and was terminated effective July 27, 1971.

Dated: November 9, 1971.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.71-17061 Filed 11-22-71;8:49 am]

[CGFR 71 147]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Termination of Approval Notice

1. Certain laws and regulations (46 CFR ch. I) require that various items of lifesaving, firefighting, and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been terminated as herein described during the period from March 14, 1971 to May 24, 1971 (List No. 20-71). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. Notwithstanding the termination of approval listed in this document, the equipment affected may be used as long as it remains in good and serviceable condition.

BUOYANT APPARATUS FOR MERCHANT VESSELS

The C. C. Galbraith & Son, Inc., Maple Place and Manchester Avenue, Post Office Box 185, Keyport, NJ, Approval No. 160.010/27/2 expired and was terminated effective April 20, 1971.

LIFEBOATS

The C. C. Galbraith & Son, Inc., Maple Place and Manchester Avenue, Post Office Box 185, Keyport, NJ 07735, Approval Nos. 160.035/20/5 expired and was terminated effective March 14, 1971 and 160.035/29/2 expired and was terminated effective March 31, 1971.

The Marine Safety Equipment Corp., Foot of Paynter's Road, Farmingdale, N.J. 07727, Approval No. 160.035/322/2 expired and was terminated effective May 19, 1971.

BUOYANT CUSHIONS, KAPOK, OR FIBROUS GLASS

For motorboats of classes A, 1, or 2 not carrying passengers for hire.

The Lifo Products Co., 930 York Street, Post Office Box 66, Cincinnati, OH, Approval No. 160.048/73/0 expired and was terminated effective May 15, 1971.

BUOYANT CUSHIONS, UNICELLULAR PLASTIC FOAM

NOTE: Approved for use on motorboats of classes A, 1, or 2 not carrying passengers for hire.

The Fortier Upholstering Co., Manistee, Mich. 49660, Approval No. 160.049/32/0 expired and was terminated May 24, 1971.

Dated: November 9, 1971.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.71-17062 Filed 11-22-71;8:49 am]

[CGFR 71-148]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Termination of Approval Notice

1. Certain laws and regulations (46 CFR Ch. I) require that various items of lifesaving, firefighting, and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and

fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been terminated as herein described during the period from December 9, 1970 to July 16, 1971 (Lists Nos. 22-71 and 23-71). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. Notwithstanding the termination of approval listed in this document, the equipment affected may be used as long as it remains in good and serviceable condition.

BUOYANT CUSHIONS, KAPOK, OR FIBROUS GLASS

For motorboat of classes A, 1, or 2 not carrying passengers for hire.

The Tapatco, Inc., Post Office Box 49, Fairfield, CA 94533, no longer manufactures certain fibrous glass buoyant cushions and Approval No. 160.048/4/0 was therefore terminated effective July 16, 1971.

The Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, NY 11201, no longer manufactures certain kapok and fibrous glass buoyant cushions and Approval Nos. 160.048/22/0 and 160.048/207/0 were therefore terminated effective July 16, 1971.

The Safegard Corp., Box 14037, Post Office Annex, Cincinnati, OH 45214, no longer manufactures certain kapok buoyant cushions for Sears, Roebuck and Co., 925 South Homan Avenue, Chicago, IL 60607 and Approval No. 160.048/36/0 was therefore terminated effective July 16, 1971.

The Fortier Upholsteringg Co., Manistree, Mich. 49660, no longer manufactures certain kapok buoyant cushions and Approval No. 160.048/40/0 was therefore terminated effective July 16, 1971.

The Stearns Manufacturing Co., Division Street at 30th, St. Cloud, Minn. 56301, no longer manufactures certain kapok buoyant cushions for Herter's, Inc., Waseca, Minn. 56093 and Approval No. 160.048/78/0 and 160.048/79/0 were therefore terminated effective July 16, 1971.

The Liberty Cork Co., 123 Whitehead Avenue, South River, NJ 08882, no longer manufactures certain kapok buoyant cushions and Approval No. 160.048/88/0 was therefore terminated effective July 16, 1971.

The Billy Boy Products, Inc., Quincy, Mich. 49082, no longer manufactures certain kapok buoyant cushions for Sears, Roebuck and Co., 925 South Homan Avenue, Chicago, IL 60607 and Approval No. 160.048/118/0 was therefore terminated effective July 16, 1971.

The Liberty Cork Co., Inc., 123 Whitehead Avenue, South River, NJ 08882, no longer manufactures certain kapok buoyant cushions for Max Mermelstein Distributing Co., 515 Main Street, Childs, PA 18407 and Approval No. 160.048/122/0 was therefore terminated effective July 16, 1971.

The Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, NY 11201, no longer manufactures certain kapok buoyant cushions for Nautical Products, Inc., 130 Atlantic Avenue, Brooklyn, NY 11201 and Approval No. 160.048/191/0 was therefore terminated effective July 16, 1971.

The Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, NY 11201, no longer manufactures certain kapok buoyant cushions for Herter's Inc., Waseca, Minn. 56093 and Approval No. 160.048/208/0 was therefore terminated effective July 16, 1971.

The Crawford Manufacturing Co., Inc., Third and Decatur Streets, Richmond, Va. 23212 and 12th and Graham Streets, Emporia, Kans. 66801, no longer manufacture certain kapok buoyant cushions for The Bowman Products Division, Associated Spring Corp., 850 East 72d Street, Cleveland, OH 44103 and Approval No. 160.048/217/0 was therefore terminated effective July 16, 1971.

The Elvin Salow Co., 273-285 Congress Street, Boston, MA 02210, no longer manufactures certain kapok buoyant cushions for West Products Co., Post Office Box 707, Newark, NJ 07101, and Approval No. 160.048/228/0 was therefore terminated effective July 16, 1971.

The Swan Products Co., Inc., 130-30 180th Street, Springfield Gardens, NY 11434, no longer manufactures certain kapok buoyant cushions for Viking Products Co., 130-30 180th Street, Springfield Gardens, NY 11434, and Approval No. 160.048/232/0 was therefore terminated effective July 16, 1971.

The Tapatco, Inc., Post Office Box 49, Fairfield, CA 94533, no longer manufactures certain fibrous glass buoyant cushions for Outdoor Supply Co., Inc., Oxford, N.C. 27565, and Approval No. 160.048/246/0 was therefore terminated effective July 16, 1971.

The Tapatco, Inc., Post Office Box 49, Fairfield, CA 94533, no longer manufactures certain kapok buoyant cushions for J. C. Penney Co., Inc., 1301 Avenue of the Americas, New York, NY 10019, and Approval No. 160.048/248/0 was therefore terminated effective July 16, 1971.

The Buddy Schoellkopf Products, Inc., 148 Fordyce, Dallas, TX 75207, no longer manufactures certain kapok buoyant cushions for Drybak, Post Office Box No. 10956, 1348 Manufacturing Street, Dallas, TX 75207, and Approvals Nos. 160.048/251/0 and 160.048/252/0 were therefore terminated effective July 16, 1971.

The Outdoor Supply Co., Inc., Oxford, N.C. 27565, no longer manufactures certain kapok buoyant cushions for Tapatco, Inc., Post Office Box 49, Fairfield, CA 94533, and Approval No. 160.048/256/0 was therefore terminated effective July 16, 1971.

BUOYANT CUSHIONS, UNICELLULAR PLASTIC FOAM

NOTE: Approved for use on motorboats of classes A, 1, or 2 not carrying passengers for hire.

The Stearns Manufacturing Co., Division Street at 30th, St. Cloud, MN 56301, no longer manufactures certain unicellular plastic foam buoyant cushions and Approval No. 160.049/1/0 was therefore terminated effective July 16, 1971.

The Tapatco, Inc., Post Office Box 49, Fairfield, CA 94533, no longer manufactures certain unicellular plastic foam buoyant cushions and Approval No. 160.049/2/0 was therefore terminated effective July 16, 1971.

The Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, NY 11201, no longer manufactures certain unicellular plastic foam buoyant cushions and Approval No. 160.049/3/0 was therefore terminated effective July 16, 1971.

The Safegard Corp., Box 14037, Post Office Annex, Cincinnati, OH 45214, no longer manufactures certain plastic foam buoyant cushions and Approval No. 160.049/6/0 was therefore terminated effective July 16, 1971.

The Style-Crafters, Inc., Box 3277, Station A, Greenville, SC 29604, no longer manufactures certain plastic foam buoyant cushions and Approval No. 160.049/16/0 was therefore terminated effective July 16, 1971.

The Trimco, Holiday Harbor, Celoron, N.Y. 14720, no longer manufactures certain unicellular plastic foam buoyant cushions and Approval No. 160.049/17/0 was therefore terminated effective July 16, 1971.

The Liberty Cork Co., Inc., 123 Whitehead Avenue, South River, NJ 08882, no longer manufactures certain unicellular plastic foam buoyant cushions and Approval No. 160.049/22/0 was therefore terminated effective July 16, 1971.

The See Bentz & Sons, 111 Fifth Street, Watertown, WI 53094, no longer manufactures certain unicellular plastic foam buoyant cushions and Approval No. 160.049/38/0 was therefore terminated effective July 16, 1971.

The Buddy Schoellkopf Products, Inc., 148 Fordyce, Dallas, TX 75207, no longer manufactures certain unicellular plastic foam buoyant cushions for Belknap Hardware & Manufacturing Co., 111 East Main Street, Louisville, KY 40201, and Approval No. 160.049/54/0 was therefore terminated effective July 16, 1971.

The Crawford Manufacturing Co., Inc., Third and Decatur Streets, Richmond, VA 23212, no longer manufactures certain unicellular plastic foam buoyant cushions and Approval No. 160.049/56/0

was therefore terminated effective July 16, 1971.

The Crawford Manufacturing Co., Inc., Third and Decatur Streets, Richmond, VA 23212, no longer manufactures certain unicellular plastic foam buoyant cushions for Montgomery Ward & Co., Inc., 619 West Chicago Avenue, Chicago, IL 60610, and Approval No. 160.049/57/0 was therefore terminated effective July 16, 1971.

The Carlon Rubber Products Co., 1 New Haven Avenue, Derby, CT 06418, no longer manufactures certain unicellular plastic foam buoyant cushions and Approval No. 160.049/58/0 was therefore terminated effective July 16, 1971.

The Carlon Rubber Co., 1 New Haven Avenue, Derby, CT 06418, no longer manufactures certain unicellular plastic foam buoyant cushions for Elvin Salow Co., 273–285 Congress Street, Boston, MA 02210, and Approval No. 160.049/60/0 was therefore terminated effective July 16, 1971.

The Buddy Schoellkopf Products, Inc., 148 Fordyce, Dallas, TX 75207, no longer manufactures certain unicellular plastic foam buoyant cushions for Coast-to-Coast Stores, 7500 Excelsior Boulevard, Minneapolis, MN 55426, and Approval No. 160.049/61/0 was therefore terminated effective July 16, 1971.

The Elvin Salow Co., 273–285 Congress Street, Boston, MA 02210, no longer manufactures certain unicellular plastic foam buoyant cushions and Approval No. 160.049/65/0 was therefore terminated effective July 16, 1971.

The Goodenow Manufacturing, 1301 West 18th Street, Erie, PA 16501, no longer manufactures certain unicellular plastic foam buoyant cushions for White Bear Water Ski Co., 440 Lakeview Avenue, St. Paul, MN 55119, and Approval No. 160.049/68/0 was therefore terminated effective July 16, 1971.

The Martin Industries, Post Office Box 423, Clayton, AL 36016, no longer manufactures certain unicellular plastic foam buoyant cushions for Hurtsboro Oak Flooring Co., Inc., Hurtsboro, Ala. 36860, and Approvals Nos. 160.049/71/0, 160.049/76/0, 160.049/77/0, and 160.049/79/0 were therefore terminated effective July 16, 1971.

The Tapatco, Inc., Post Office Box 49, Fairfield, CA 94533, no longer manufactures certain unicellular plastic foam buoyant cushions for Outdoor Supply Co., Inc., Oxford, N.C. 27565, and Approval No. 160.049/72/0 was therefore terminated effective July 16, 1971.

The Martin Industries, Post Office Box 423, Clayton, AL 36016, no longer manufactures certain unicellular plastic foam buoyant cushions for Diversified Products Corp., 309 Williamson Avenue, Opelika, AL 36801, and Approvals Nos. 160.049/80/0, 160.049/81/0, and 160.049/82/0 were therefore terminated effective July 16, 1971.

BUOYANT VESTS, UNICELLULAR PLASTIC FOAM

NOTE: For motorboats of classes A, 1, or 2 not carrying passengers for hire.

The Mermatec, Inc., 11525 Sorrento Valley Road, San Diego, CA 92121, no longer manufactures certain unicellular plastic foam buoyant vests and Approvals Nos. 160.052/328/0, 160.052/329/0, and 160.052/330/0 were therefore terminated effective June 15, 1971.

APPLIANCES, LIQUIFIED PETROLEUM GAS CONSUMING

The Welbilt Corp., Garland Division, Welbilt Square, Maspeth, NY, Approval No. 162.020/142/0 expired and was terminated effective June 3, 1971.

BACKFIRE FLAME CONTROL, GASOLINE ENGINES; FLAME ARRESTERS; FOR MERCHANT VESSELS AND MOTORBOATS

The Industrial Strainer Co., 659 Amelia Street, Plymouth, MI, Approval No. 162.041/17/0 expired and was terminated effective December 9, 1970.

The Air-Maze Division, Rockwell-Standard Corp., 25000 Miles Road, Cleveland, OH, Approval No. 162.041/79/0 expired and was terminated effective March 10, 1971.

The Air-Maze Division, Rockwell Standard Corp., 25000 Miles Road, Cleveland, OH 44128, Approval No. 162.041/90/0 expired and was terminated effective April 14, 1971.

BACKFIRE FLAME CONTROL, GASOLINE ENGINES: ENGINE AIR AND FUEL INDUCTION SYSTEMS; FOR MERCHANT VESSELS AND MOTORBOATS

The Outboard Marine Corp., Waukegan, Ill. 60086, Approvals Nos. 162.042/1/0 and 162.042/2/0 expired and were terminated effective December 29, 1970.

Dated: November 9, 1971.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.71-17083 Filed 11-22-71;8:49 am]

National Transportation Safety Board

[Docket No. SS-R-16]

RAILROAD ACCIDENT AT HOUSTON, TEX.

Notice of Hearing Investigation

In the matter of the investigation of the derailment of Missouri Pacific Railroad Co. freight train No. 94 with subsequent fires and explosions resulting in a fatality and numerous personal injuries at Houston, Tex., on October 19, 1971.

Notice is hereby given that an Accident Investigation Hearing on the above matter will be held commencing at 9 a.m., c.s.t., on Tuesday, November 30, 1971, in the Astroworld Hotel on Loop 610 at Kirby Drive, in Houston, Tex.

Dated this 29th day of October 1971.

ISABEL A. BURGESS,
Chairman, Board of Inquiry.

[FR Doc.71-17126 Filed 11-22-71;8:50 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-301]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

Notice of Issuance of Facility Operating License

Notice is hereby given that the Atomic Energy Commission (the Commission) has issued Facility Operating License No. DPR-27 to Wisconsin Electric Power Co. and Wisconsin Michigan Power Co. (the applicants) which permits fuel loading and subcritical testing of the Point Beach Nuclear Plant Unit No. 2 (facility), a pressurized water nuclear reactor located at the applicants' site in the town of Two Creeks, Manitowoc County, Wisc. The facility is designed for operation at approximately 1,518 megawatts thermal, but in accordance with the provisions of Facility Operating License No. DPR-27 and Technical Specifications appended thereto, activities under the license are restricted to fuel loading and subcritical testing and it is provided that at no time shall the reactor be made critical following fuel loading.

A notice of proposed issuance of a facility operating license for the facility was issued by the Commission on March 6, 1971 (36 F.R. 4518). The notice provided that within 30 days from the date of publication, any person whose interest might be affected by the issuance of the license could file a petition for leave to intervene in accordance with the requirements of 10 CFR Part 2, rules of practice. On April 5, 1971, a petition for leave to intervene and request for a hearing was jointly filed by Businessmen for the Public Interest, an Illinois not-for-profit corporation; the Sierra Club, a not-for-profit California corporation; and Protect our Wisconsin Environment Resources, an unincorporated association of residents of Two Creeks, Wisc. By Commission Memorandum and Order dated May 6, 1971, the petition for leave to intervene and request for a hearing was granted and a presiding atomic safety and licensing board was appointed. On July 14, 1971, the applicants requested the Board pursuant to 10 CFR 2.730 and 50.57(c) of the Commission's regulations to issue an order authorizing the Director of Regulation to make the necessary findings and issue a license permitting fuel loading and subcritical testing.

Subsequent to the filing of applicants' motion, the Commission amended Appendix D of 10 CFR Part 50, which is a statement of general Commission policy relating to the implementation of the National Environmental Policy Act of 1969 in connection with licensing actions. Subsequently the applicants and the staff presented to the Board information as to the environmental impact of the proposed fuel loading and subcritical testing license. On November 11, 1971, the Board issued an order, authorizing fuel loading and subcritical testing and directed that certain conditions be included in the license authorizing these activities.

The Commission's regulatory staff has inspected the facility and has determined that, for fuel loading and subcritical testing, the facility has been constructed in accordance with the application, as amended, and the provisions of Provisional Construction Permit No. CPPR-47. The applicants have submitted proof of financial protection in satisfaction of 10 CFR Part 140.

The Director of Regulation has made the findings set forth in the license, and has concluded that the application for construction permit and facility license, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Chapter 1, and that the issuance of the license will not be inimical to the common defense and security or to the health and safety of the public.

The license is effective as of the date of issuance and shall expire six (6) months from said date, unless extended for good cause shown, or superseded by a subsequent licensing action.

Copies of (1) the Board's order of November 11, 1971, (2) Facility Operating License No. DPR-27, complete with Technical Specifications, (3) the Safety Evaluation for the Point Beach Nuclear Plant Unit No. 1 and No. 2, dated July 15, 1970, and Addenda 1, 2, 3, and 4 thereto, dated March 24, 1971, May 1971, May 24, 1971, and November 2, 1971, respectively, (4) the report of the Advisory Committee on Reactor Safeguards on the Point Beach Nuclear Plant Units 1 and 2, dated April 16, 1970, and (5) "Discussion and Conclusions by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Pursuant to Appendix D of 10 CFR Part 50, Supporting the Issuance of a License to Wisconsin Electric Power Co. and the Wisconsin Michigan Power Co., Authorizing the Loading of Fuel and Subcritical Testing of Point Beach Nuclear Plant Unit No. 2, Docket No. 50-301, dated October 19, 1971," are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of the license, complete with Technical Specifications, and items (2), (3), and (5) may be obtained upon request adressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 16th day of November 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc.71-17041 Filed 11-22-71;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket Nos. 18060 etc.]

AIRLIFT INTERNATIONAL, INC.

Renewal and Amendment of Certificate; Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a public hearing in the above-entitled proceeding will be held on December 14, 1971, at 10 a.m., local time, in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned examiner.

For information concerning the issues involved and other details of this proceeding, interested persons are referred to the Report of Prehearing Conference and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., November 17, 1971.

[SEAL] HYMAN GOLDBERG,
Hearing Examiner.

[FR Doc.71-17092 Filed 11-22-71;8:49 am]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 11(p)(1) of the Federal Water Pollution Control Act, as amended, and, accordingly, have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	*Owner/Operator and Vessels*
01014---	Robert Bornhofen Reederei: Hawkstone.
01022---	Smedvigs Tankrederi A/S: Vestri.
01105---	Tschudi & Eitzen: Teo 336-4. Teo 336-3. Teo 336-2. Teo 336-1.
01126---	N/V UMEMs. a. (Union Belge D'Enterprises Maritimes): Turandot.
01326---	Sabine Towing & Transportation Co., Inc.: Chromalloy I. Stco 216. Stco 217.
01465---	Scottish Ship Management, Ltd.: Baron Maclay. Cape Grafton.
01529---	Oy Pulpships Ab: Tramontana.
01575---	Rederiaktieselskapet Mascot: Belinda. Berit. Barbro.
01910---	Deutsche Dampfschiffahrts-Gesellschaft; Hansa: Atlantica Livorno.
02327---	Weser - Schiffahrts - Agentur G.M.B.H.: Weser Dispatcher.
02398---	Orient Sea Transport S.A.: Comet.
02448---	Rederiaktiebolaget Nordstjernan: Suecia.
02496---	United States Steel Corp.: Gates No. 285.
02580---	Apple River Chemical Co., Division of St. Paul Ammonia Products, Inc.: GWG-103.
02876---	Kabushiki Kaisha Hokkaido Gyogyo Kosha: Kohoku Maru No. 11.
02889---	Showa Kaiun K.K.: Hiratsuka Maru.
02942---	Seereederei Frigga Aktiengesellschaft: Widmar.
02960---	Taiyo Kaiun Kabushiki Kaisha: Eden Maru.
03069---	Alfred C. Toepfer, Schiffahrtsges. mbH.: Budapest.
03294---	Companhia De Navegacao Lloyd Brasileiro: Barao De Maua. Itaimbe. Itaite. Itapuca. Itatinga.
03413---	Baba-Daiko Shosen K.K.: Hawaii Maru.
03418---	Daiichi Senpaku K.K.: Nisshin Maru.
03434---	Hoko Suisan K.K.: Chikubu Maru.
03435---	Horie Senpaku K.K.: Shinyo Maru.
03443---	Kambara Kisen K.K.: Japan Coach.
03447---	K.K. Kyokuyo: Daishin Maru No. 15. Daishin Maru No. 16.
03453---	Kyosei Kisen Kabushiki Kaisha: Seiten Maru.
03459---	Meiji Kaiun K.K.: Meiryu Maru.
03471---	Nippo Kisen Kabushiki Kaisha: Hosho Maru.
03484---	Sanko Kisen K.K.: Eiko Maru.
03501---	Mitsui O.S.K. Lines, Ltd.: Asia Maru.
03503---	Shofuku Kisen K.K.: Asama Maru.
03506---	Taiheiyo Kaiun K.K.: Kikuwa Maru.
03510---	Takeda Kigyo Kabushiki Kaisha: Seisho Maru No. 7.
03518---	Tokyo Senpaku K.K.: Toyota Maru No. 19.
03530---	Yashima Kaiun K.K.: Nipponham Maru No. 1.
03532---	Zuisei Kaiun K.K.: Yamato Maru.
03691---	Spentonbush Transport Service, Inc.: No. 190. No. 200. No. 210.
03918---	Mobil Shipping & Transportation Co.: Mobil Pride. Mobil Comet. Mobil Japan. Mobil Valiant. Mobil Vigilant. Tasso.

Certificate No.	Owner/Operator and Vessels
03923---	Shinwa Kaiun Kaisha Ltd.: Bakuyo Maru.
03972---	Chimo Shipping Ltd.: Bill Crosbie.
04088---	Petrolane Offshore Construction Services, Inc.: Packer Jet Barge II.
04171---	Young Bros., Ltd.: YB-34.
04283---	Gulf of Georgia Towing Co., Ltd.: Gulf Hedgehog. Gulf Rigor.
04356---	Pacific Far East Line, Ltd.: Samoa Bear.
04404---	Lars Rej Johansen: Jolandia.
04413---	Leif Hoegh & Co. A/S: Hoegh Multina.
04435---	Gateway Barge Lines, Inc.: NDT 101.
04474---	Fulucho Suisan Kabushiki Kaisha: Fukucho Maru No. 38.
04489---	Otoshiro Gyogyo Kabushiki Kaisha: Otoshiro Maru No. 11.
04564---	Yamashita-Shinnihon K.K.: Nitshige Maru. Nitizuru Maru.
04674---	Pescanova, S.A.: Leon Marcodos. Vimianzo.
04801---	Three R. Towing Co., Inc.: TC-5.
04891---	AB. A.K. Fernstroms Grantindustrier: Eric F. Fernstrom.
05496---	Heron Navigation Co., Ltd.: IKUTA.
05514---	Scarsdale Shipping Co., Ltd.: Asialiner.
05537---	Empresa Navegacion Mambisa: 9 de Abril.
05631---	Manson Construction & Engineering Co.: Manson No. 7.
05684---	Epirotiki Steamship George Potamianos S.A.: Jupiter.
05857---	Coral Marine Enterprise Co. S.A.: Coral Blue.
05942---	Empresas Armadoras S.A. Panama: Ioanna.
06042---	Luzon Stevedoring Corp.: Challenger. Parkin. LSCO Tabangao. LSCO Danang.
06107---	Canadian Dredge & Dock, Ltd.: CD 110. Rock King. Andrew B. No. 3. Rock Prince.
06168---	Ayers Materials Co., Inc.: Kathy L.
06196---	Seawise Foundations, Inc.: Universe Campus.
06241---	A.F.F.I. Atlantic Fishing & Freezing Inc. Panama: Marefish.
06244---	Willchemco, Inc.: Gulf Chem I. Gulf Chem II.
06248---	Commercial Corp. Sovrybflot: Karskoye More.
06288---	Partenreederei MS Hartwardersand: Hartwardersand.
06325---	Sun Line, Inc.: Stella Maris II.
06326---	Koumbakoun Compania Naviera, Panama: Lion of Chaeronea.
06336---	Mr. Sadao Ogino: Koryo Maru No. 51.
06363---	Verity Marine Corp.: Trent. Hood.
06366---	Empiria Shipping Co. S.A. Panama: Maria Xilas.
06368---	Duflex Shipping Co. Inc., Panama: Maritime Ace.
06376---	Cia Heriac de Navegacion S.A.: Kashima.
06380---	Anax Shipping Co. Ltd.: Aegis Courage.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-17096 Filed 11-22-71;8:50 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. E-17, Supp. 1]

PUNCHED CARD ACCOUNTING MACHINES

Issuance of Requirements Type Contracts

1. *Purposes.* This supplement extends the dates established in Temporary Regulation E-17 for (1) retention, (2) reporting, and (3) the continuation of the delegation of authority for leasing PCAM.

2. *Effective date.* This regulation is effective upon publication in the FEDERAL REGISTER. (10-23-71).

3. *Expiration date.* This regulation expires June 30, 1972, unless sooner superseded or canceled.

4. *Revised dates.* The dates established in Temporary Regulation E-17 for retention, reporting and continuation of the delegation of authority for leasing PCAM are revised as follows:

a. The lease termination date in paragraph 6 is revised to December 31, 1971;

b. The reporting date in paragraph 10 (and attachment B) is revised to December 31, 1971, and the submission date is revised to February 28, 1972; and

c. The delegation of authority date contained in paragraph 11b is revised to December 31, 1971.

Dated, November 17, 1971.

ROD KREGER,
Acting Administrator of General Services.

[FR Doc.71-17085 Filed 11-22-71;8:48 am]

FEDERAL POWER COMMISSION

[Docket No. CS71-19 etc.]

BRUCE ANDERSON ET AL.

Findings and Order

NOVEMBER 10, 1971.

Findings and order after statutory hearing issuing small producer certificates of public convenience and necessity, terminating certificates, canceling FPC gas rate schedules, terminating rate proceedings making successor co-respondent, and redesignating proceedings.

Each applicant herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for small producer certificates of public convenience and necessity authorizing sales of natural gas in interstate commerce, all as more fully set forth in the applications and appendix A below.

Certain applicants are presently authorized to sell natural gas pursuant to FPC gas rate schedules on file with the Commission. The certificates authorizing said sales will be terminated and the related rate schedules will be canceled. Some sales made pursuant to the certificates terminated herein and the canceled FPC gas rate schedules were made at rates in effect subject to refund. There are other rate increases which are suspended. Certain proceedings in which these increased rates are suspended or have been collected subject to refund by any of these applicants and were equal to or below area ceiling rates will be terminated.

Each certificate holder listed herein at appendix B below has been granted a small producer certificate of public convenience and necessity authorizing sales of natural gas in interstate commerce. The small producer certificate holders were theretofore authorized to sell natural gas pursuant to FPC gas rate schedules on file with the Commission. The certificates authorizing the former sales, which are now made under the small producer certificates, will be terminated and the related FPC gas rate schedules will be canceled.

Triton Oil & Gas Corp., applicant in Docket No. CS71-1103, proposes to continue the sales of natural gas heretofore authorized in Docket No. G-2933, to be made pursuant to Landa Oil Co. FPC gas rate schedule Nos. 3, 4, and 11, respectively. The rates at the time of the assignments were effective subject to refund in Docket Nos. RI60-459 and RI64-730 for sales under Landa's FPC gas rate schedule No. 3; in Docket Nos. RI61-210 and RI65-397, for sales under Landa's FPC gas rate schedule No. 4; and in Docket No. RI64-740 for sales under Landa's FPC gas rate schedule No. 11. Therefore, applicant will be made a co-respondent in said proceedings and the proceedings will be redesignated accordingly.

Consolidated Production Corp., applicant in Docket No. CS71-538, proposes to continue the sales of natural gas heretofore authorized in Docket Nos. G-17110, CI62-574, CI62-870, and CI64-466, to be made pursuant to A. A. Cameron, doing business as Cameron Oil Company FPC gas rate schedule Nos. 1, 2, 3, and 4, respectively. The rates at the time of the assignments were effective subject to refund in Docket Nos. RI67-253, RI68-7, and RI68-12 for sales under Cameron's FPC gas rate schedule No. 2; and in Docket Nos. RI67-80 and RI70-1570 for sales under Cameron's FPC gas rate schedule No. 3. Therefore, applicant will be made a corespondent in said proceedings and the proceedings will be redesignated accordingly.

After due notice by publication in the FEDERAL REGISTER, no petition to intervene or notice of intervention has been filed. On July 9, 1971, James M. Forgotson, Sr., filed a protest to the granting of the authorization sought by all applicants listed in our Notice of Small Producer Applications issued on June 29, 1971, in Docket No. CS69-19, et al., some of whom are included in the instant order.

The Commission's staff has reviewed the applications and having considered the protest, recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

At a hearing held on October 27, 1971, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications submitted in support of the authorizations sought herein, and upon consideration of the record.

The Commission finds:

(1) Each applicant is or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption subject to the jurisdiction of the Commission and is, therefore, a "natural-gas company" or will be when the initial delivery is made, within the meaning of the Natural Gas Act.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications herein, will be made in interstate commerce subject to the jurisdiction of the Commission, and such sales by applicants are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) Each applicant is an independent producer of natural gas which is not affiliated with a natural gas pipeline company and whose total jurisdictional sales on a nationwide basis, together with sales of affiliated producers, were not in excess of 10,000,000 Mcf at 14.65 p.s.i.a. during the preceding calendar year.

(5) The sales of natural gas by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity, and small producer certificates of public convenience and necessity therefore should be issued as hereinafter ordered and conditioned.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates of public convenience and necessity heretofore issued to applicants should be terminated and that the related FPC gas rate schedules should be canceled.

(7) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Triton Oil & Gas Corp. should be made a co-respondent in the proceedings pending in Docket Nos. RI60-459, RI61-210, RI64-730, RI64-740, and RI65-397, and that said proceedings should be redesignated accordingly.

(8) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Consolidated Production Corp. should be made a co-respondent in the proceedings pending in Docket Nos. RI67-253, RI67-80, RI68-7, RI68-12, and RI70-1570 and that said proceedings should be redesignated accordingly.

The Commission orders:

(A) Small producer certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing the sale for resale and delivery of natural gas in interstate commerce by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the applications in this proceeding.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission and particularly:

(1) The subject certificates shall be applicable only to all small producer sales as defined in § 157.40(a)(3) of the regulations under the Natural Gas Act; and

(2) Applicants shall file annual statements pursuant to § 154.104 of the regulations under the Natural Gas Act.

(C) The certificates granted in paragraph (A) above shall remain in effect for small producer sales until the Commission on its own motion or on application terminates said certificates because applicants no longer qualify as small producers or fail to comply with the requirements of the Natural Gas Act, the regulations thereunder, or the terms of the certificates. Upon such termination, applicants will be required to file separate certificate applications and individual rate schedules for future sales. To the extent compliance with the terms of this order is observed, the small producer certificates will still be effective as to sales already included thereunder.

(D) The grant of the certificates in paragraph (A) above shall not be construed as a waiver of the requirements of section 7 of the Natural Gas Act or Part 157 of the regulations thereunder and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against applicants. Further, our action in this proceeding shall not foreclose any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. The grant of the certificates aforesaid for service to the particular customers involved, shall not imply approval of all of the terms of the contracts, particularly as to the cessation of service upon the termination of said contracts as provided by section 7(b) of the Natural Gas Act. The grant of the certificates aforesaid shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales subject to said certificates.

(E) The certificates heretofore issued to applicants for sales proposed to be continued under small producer certificates are terminated and the related FPC gas rate schedules are canceled as indicated in Appendix A below.

(F) The proceedings in which applicants' increased rates have not been made effective and certain proceedings in which increased rates have been made effective subject to refund and are equal to or below the applicable area base rate are terminated as indicated in Appendix A below.

(G) Certificates of public convenience and necessity heretofore issued to small producer certificate holders for sales continued under their small producer certificate are terminated and the related FPC gas rate schedules are canceled as indicated in appendix B below.

(H) Triton Oil & Gas Corp. is made a correspondent in the proceedings pending in Dockets Nos. RI60-459, RI61-210, RI64-730, RI64-740, and RI65-397, and said proceedings are redesignated accordingly. Triton Oil & Gas Corp. is not relieved of any refund obligation for sales from October 1, 1968 under the contracts on file as Landa Oil Co. FPC gas rate schedule Nos. 3, 4, and 11, to June 10, 1971.

(I) Consolidated Production Corp. is made a correspondent in the proceedings pending in Docket Nos. RI67-80, RI67-253, RI68-7, RI68-12, and RI70-1570 and said proceedings are redesignated accordingly. Consolidated Production Corp. is not relieved of any refund obligation for sales from August 1, 1970, to May 2, 1971.

(J) This order does not relieve any of the applicants herein of any responsibility imposed by, and is expressly subject to, the Commission's Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38), including such amendments as the Commission may require, and Executive Order No. 11615.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

APPENDIX A

Docket No. and filing date	Applicant	Canceled FPC gas rate schedule	Terminated certificate docket No.	Terminated rate increase docket No.
C871-1096 6-7-71	The Herman F. Heep Trust No. 1 and The Herman F. Heep Trust No. 2 and Minnie Belle Heep et al.	[1] 1 [1] 2 [1] 3	G-10112 [1] G-10140 [1] G-4180 [1]	RI70-862. RI64-516. RI70-862.
C871-1103 6-18-71	Triton Oil & Gas Corp. et al	1	CI62-305	
	do	2	G-14198	
	do	3	G-16271	
	do	4	CI64-580	RI70-714.
	do	10	CI71-79	
	do	11	CI71-157	
	do	12	G-18378	
	do	[3] 10	G-2933 [1]	
	do	[3] 11	G-2933 [3]	
	do	[3] 3	G-2933 [1]	
	do	[3] 4	G-2933 [1]	
C871-1146 6-30-71	Wylie Hudman Production et al	[3] 1	G-12426 [3]	
C872-20 7-9-71	W. A. Moncrief, Jr	1	G-18047	
	do	2	CI67-790	
		3	CI69-1191	RI70-246.
C872-46 7-16-71	Jack L. Burrell et al	1	CI61-1223	
	do	2	CI61-1224	
	do	3	CI63-91	
C872-51 7-19-71	Cattle-Land Oil Co	1	CI63-247	RI65-573.
	do	2	G-18761	RI70-1345.
C872-52 7-19-71	Edwards County Gas Co	1	CI61-1089	
C872-75 7-28-71	Cayman Corp., Ltd	2	CI68-1063	
	do	3	CI69-826	
	do	4	CI69-791	
	do	5	CI69-1031	
C872-103 8-4-71	Robert D. Brew	[4] 2	CI67-1356 [4]	
C872-106 8-6-71	High Sky Oil Co			
C872-138 8-18-71	Boydston & Franzen Well Service			
C872-139 8-18-71	A. N. Norwood, Inc			
C872-140 8-18-71	Arvin Norwood Drilling Co			
C872-141 8-18-71	Frederick J. Sigur			
C872-142 8-18-71	Robert F. Morrow			
C872-143 8-18-71	Arcade Enterprises, Inc			
C872-144 8-18-71	William B. Burkenroad, Jr			
C872-145 8-17-71	Seymour G. Hootkins			

[1] Certificate and Rate Schedule on file as Herman F. Heep Estate.
[2] Certificate and Rate Schedule on file as Landa Oil Co.
[3] Certificate and Rate Schedule on file as James F. Smith.
[4] Certificate and Rate Schedule on file as Stuarco Oil Co., Inc.

APPENDIX B

Docket No.	Certificate Holder	Canceled FPC gas rate schedule	Terminated certificate docket No.	Terminated rate increase docket No.
C871-19	Bruce Anderson	8	CI71-31	
C871-22	Northern Pump Co. et al	3	G-9144	RI63-324.
	do	25	G-10324	RI63-324.
	do	29	G-13286	
	do	30	G-20507	RI65-426.
	do	31	CI60-255	
	do	34	CI61-1807	RI69-240.
	do	40	CI65-489	
	do	41	CI66-1124	RI70-603.
C871-68	John H. Hill et al	1	G-18797	
C871-72	J. A. Mull, Jr. et al	4	CI66-247	
C871-141	California Time Petroleum, Inc	1	CI69-961	
C871-538	Consolidated Production Corp	[1] 2	G-19692 [1]	
		[1] 1	G-17110 [1]	RI63-384. RI70-1610.
		[1] 2	CI62-574 [1]	
		[1] 3	CI62-870 [1]	
		[1] 4	CI64-466 [1]	
C871-1102	C & K Petroleum, Inc	[2] 1	CI62-1304 [2]	

[1] Certificate and Rate Schedule on file as A. A. Cameron doing business as Cameron Oil Co.
[2] Certificate and Rate Schedule on file as Southwestern Life Insurance Co.
[3] Certificate and Rate Schedule on file as R. R. Greenbaum doing business as Time Petroleum Co.

[FR Doc.71-16880 Filed 11-22-71;8:45 am]

[Docket Nos. RI72-136, etc.]

COLORADO OIL AND GAS CORP. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

NOVEMBER 11, 1971.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A below.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in docket No.
RI72-136	Colorado Oil & Gas Corp.	49	8	Colorado Interstate Gas Co. (Patrick Draw Field, Sweetwater County, Wyo.).	[1] $18,270 [2] 1,178	10-13-71		12-14-71	[1] 15.225	[1] 17.265	RI72-39. RI72-39.
RI68-279	Union Oil Co. of California.	90	3-3	do	(140)	10-14-71		[13] 1-1-72	17.2250	[3] 17.1275	RI68-279
RI68-279	do	91	3-4	do	(232)	10-14-71		[13] 1-1-72	15.7325	[3] 15.6163	RI68-279.
RI68-277	do	150	3-2	Colorado Interstate Gas Co. (Desert Springs Field, Sweetwater County, Wyo.).	(11,038)	10-14-71		[13] 1-1-72	15.7325	[3] 15.6163	RI68-277.
RI72-82	Northeast Blanco Development Corp.	1	[4] 1-8	El Paso Natural Gas Co. (Blanco Field, San Juan and Rio Arriba Counties, N. Mex., San Juan Basin).	392,360	10-12-71	2-16-72	[11] Accepted	[12] 15.2869	[12] 29.23	RI69-385.
RI72-137	Pubco Petroleum Corp	20	1	Transwestern Pipeline Co. (Haystack Field, Chaves County, N. Mex.) (Permian Basin).	6,750	10-20-71		12-21-71	24.5	[5] 27.0	
RI72-138	Cities Service Oil Co	18	19	El Paso Natural Gas Co. (acreage in Lea County, N. Mex., Permian Basin).	30,468	10-12-71		12-13-71	13.62	17.6397	
	do	19	13	do	9,045	10-12-71		12-13-71	13.14	17.5742	
	do	20	10	do	2,117	10-12-71		12-13-71	13.34	17.5742	
	do	21	11	do	1,644	10-12-71		12-13-71	14.00	17.5742	
	do	22	9	do	226	10-12-71		12-13-71	13.0400	17.5742	
	do	23	9	do	72	10-12-71		12-13-71	12.82	17.5742	
	do	24	11	do	2,921	10-12-71		12-13-71	12.23	17.6307	
	do	25	7	do	54	10-12-71		12-13-71	12.57	17.5742	
	do	27	8	do	2,471	10-12-71		12-13-71	13.83	17.5742	
	do	28	7	do	46	10-12-71		12-13-71	13.04	17.5742	
	do	43	11	El Paso Natural Gas Co. (Dollarhide Plant, Andrews County, Tex.) (Permian Basin).	3,524	10-12-71		12-13-71	14.5	19.3278	
RI72-139	Sun Oil Co	221	4	Transwestern Pipeline Co. (Ilamon-Ellenberger Field, Reeves County, Tex.) (Permian Basin).	22,700	10-14-71		1-2-72	15.2163	[7] 15.906	RI68-531.
RI72-140	Cities Service Oil Co	51	18	El Paso Natural Gas Co. (Clara Couch Field Crockett County, Tex.) (Permian Basin).	8,307	10-12-71		12-13-71	14.11	17.8019	
	do	105	10	El Paso Natural Gas Co. (Lehman Plant, Cochran County, Texas) (Permian Basin).	80,204	10-12-71		12-13-71	14.14	19.3278	
	do	124	10	West Texas Gathering Co. (Cowden "S" Gas Unit, Winkler County, Tex.) (Permian Basin).	16,953	10-12-71		12-13-71	14.39	18.0675	
	do	135	8	El Paso Natural Gas Co. (Hodges "B" Lease, Lea County, N. Mex.) (Permian Basin).	1,356	10-12-71		12-13-71	13.20	17.5742	
	do	177	16	El Paso Natural Gas Co. (Payton Field, Ward and Pecos Counties, Tex.) (Permian Basin).	2,790	10-12-71		12-13-71	13.69	17.7336	
	do	199	12	El Paso Natural Gas Co. (Monahans Field, Ward and Winkler Counties, Tex.) (Permian Basin).	1,865	10-12-71		12-13-71	14.1200	16.7846	
	do	210	10	El Paso Natural Gas Co. (Merchant Unit, Reagan County, Tex.) (Permian Basin).	95	10-12-71		12-13-71	14.50	19.2537	
	do	213	5	Transwestern Pipeline Co. (Bluitt Gasoline Plant, Roosevelt County, N. Mex.) (Permian Basin).	28,190 137,045	10-12-71 10-12-71		12-13-71 12-13-71	[6] 16.72 [6] 14.57	[6] 20.0960 [6] 20.0960	
	do	214	9	Natural Gas Pipeline Co. of America (Bluitt Gasoline Plant, Roosevelt County, N. Mex.) (Permian Basin).	7,195 23,047	10-12-71 10-12-71		12-13-71 12-13-71	[6] 16.72 [6] 14.57	[6] 17.6460 [6] 15.8700	
	do	218	3	Transwestern Pipeline Co. (Hailey Field, Winkler County, Tex.) (Permian Basin).	55,305 12,551	10-12-71 10-12-71		12-13-71 12-13-71	[6] 16.49 [10] 14.48	20.6025 20.6025	
	do	219	2	El Paso Natural Gas Co. (Toro Field, Reeves County, Tex.) (Permian Basin).	90,644	10-12-71		12-13-71	15.91	17.5656	
	do	306	2	Natural Gas Pipeline Co. of America (Tubb 1-22 Unit, Winkler County, Tex. (Permian Basin).	234	10-12-71		12-13-71	17.04995	17.5656	
	do	317	2	Transwestern Pipeline Co. (Adobe-Barstow Unit, Ward County, Tex.) (Permian Basin).	25,291	10-12-71		12-13-71	15.77	18.0631	

[1] Unless otherwise stated, the pressure base is 14.65 p.s.i.a.
[2] Excludes gas produced from acreage added by Supplement No. 3.
[3] Pertains to acreage added by Supplement No. 3.
[4] Rate decrease to provide for tax reimbursement on future production only.
[5] Amends prior increase to 21.33 cents per Mcf which was suspended in Docket No. RI72-82 until Feb. 16, 1972.
[6] Not used.
[7] 27-cent base rate plus 2.16 cents upward B.t.u. adjustment.
[8] Includes downward B.t.u. adjustment.
[9] New gas well gas.
[10] Oil well gas.
[11] Old gas well gas.
[12] Accepted, in lieu of the previously filed increase subject to the suspension proceeding in Docket No. RI72-82 to be effective on the date shown in the "Effective Date" column.
[13] Accepted, subject to the existing suspension proceedings in Dockets Nos. RI68-277 and RI68-279 to be effective on the dates shown.
[14] The pressure base is 15.025 p.s.i.a.

The proposed substitute increase of Northeast Blanco Development Corp. is for a sale to El Paso in San Juan Basin and is based on a favored-nation clause which was allegedly activated by Aztec Oil & Gas Co.'s unilateral rate increase to 29.23 cents per Mcf which became effective subject to refund in Docket No. RI71-744 on August 1, 1971. Respondent now proposes substituting a 29.23 cents rate for the previously filed 21.33 cents rate which was suspended in Docket No. RI72-82. The substitute 29.23 cents rate is permitted to be filed in lieu of the previously filed rate subject to the same suspension period now provided in Docket No. RI72-82 for the earlier filing.[1]

Union Oil Co. of California has been collecting a double amount of the contractually due reimbursement for taxes applicable to future production as well as past production back to January 1, 1968 for sales under its FPC gas rate schedule Nos. 90, 91, and 150. Since tax reimbursement applicable to past production has been recovered, Union has filed rate decreases reducing its rates so as to provide for tax reimbursement for future production only. Consistent with Commission action on similar filings, the proposed decreases are accepted for filing subject to refund in existing suspension proceedings to be effective as of the requested effective dates.

The proposed increase of Colorado Oil and Gas Corp. includes a double amount of contractually due tax reimbursement for taxes applicable to future production as well as for taxes applicable to past production back to January 1, 1968. After tax reimbursement applicable to past production has been recovered, Colorado shall file a rate decrease reducing its proposed rate so as to provide for tax reimbursement for future production only.

The proposed increased rates relate to sales outside the southern Louisiana area and, except for Northeast's increase, do not exceed the corresponding rate limitation for increased rates in southern Louisiana. They are therefore suspended for a period ending 61 days from the date of filing or for 1 day from the contractually due date, whichever is later.

Certain respondents request effective dates for which adequate notice was not given. Good cause has not been shown for granting these requests and they are denied.

Each supplement listed in this appendix is effective as of the date provided in the "Date Suspended Until" column or such later date as may be authorized under Executive Order No. 11615. This order does not relieve any producer herein of any responsibility imposed by, and is expressly subject to, the Commission's Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38), including such amendments as the Commission may require, and Executive Order No. 11615.

All of the producers' proposed rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR 2.56).

[FR Doc.71-16919 Filed 11-22-71;8:45 am]

[1] The hearing in Docket No. RI72-82 shall concern itself with the contractual basis for the substitute filing as well as the justness and reasonableness of the proposed rate.

[Docket No. G-9224, etc.]

PHILLIPS PETROLEUM CO. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

NOVEMBER 10, 1971.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before December 2, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-9224 ..... E 10-18-71	Phillips Petroleum Co. (successor to Skelly Oil Co.), Bartlesville, Okla. 74004.	Northern Natural Gas Co., West Lovington Field, Lea County, N. Mex.	13.6428	14.65
CI60-53 ..... D 10-22-71	National Cooperative Refinery Association, 404 Lincoln Tower Bldg., Denver, Colo. 80203.	Panhandle Eastern Pipe Line Co., Wil Field, Edwards County, Kans.	Depleted	.....
CI62-220 ..... D 10-28-71	Tamarack Petroleum Co., Inc. (Operator), et al., 910 Bank of the Southwest Bldg., Midland, Tex. 79701.	Texas Eastern Transmission Corp., Dial Field, Collad County, Tex.	(1)	.....
CI68-1356 .. C 10-18-71	Marathon Oil Co. (Operator) et al., 539 South Main St., Findlay, Ohio 45840.	Southern Natural Gas Co., Logansport Houston Field, De Soto Parish, La., and Shelby and Panola Counties, Tex.	16.60	15.025
CI69-1196 ..... D 10-18-71	Sun Oil Co. (Operator) et al, Post Office Box 2880, Dallas, TX 75221.	Southern Natural Gas Co., Forrest Home Field, Adams County, Miss.	Depleted	.....
CI71-96 ..... C&E 9-30-71	Franks Petroleum, Inc. (successor to The California Co., a division of Chevron Oil Co.), Post Office Box 7565, Shreveport, LA 71107.	Texas Eastern Transmission Corp., West Bryceland Field, Bienville Parish, La.	18.75	15.025
CI71-346 ..... C 10-18-71	Cabot Corp. (BW), Post Office Box 1101, Pampa, TX 79065.	Michigan Wisconsin Pipe Line Co., Eugene Island, Block 285, Offshore Louisiana.	27.0	15.025
CI71-355 ..... C 10-22-71	Felmont Oil Corp., 6 East 43d St., New York, NY 10017.	Michigan Wisconsin Pipe Line Co., Eugene Island 258, portion of Eugene Island Block 273 Field, Offshore Louisiana.	27.0	15.025
CI72-174 ..... A 9-28-71 [2]	Morris Cannan, 18th Floor, Milam Bldg., San Antonio, Tex. 78205.	Texas Eastern Transmission Corp., Maxine and Burnell Fields, Live Oak and Bee Counties, Tex.	23.452	14.65
CI72-214 ..... 10-1-71 [2]	James M. Forgotson, Sr., Suite 1300, 1407 Main St., Dallas, TX 75202.	United Gas Pipe Line Co., Cypress Island Field, St. Martin Parish, La.	21.25	14.65
CI72-219 ..... A 10-18-71	Resources Investment Corp., 550 Petroleum Club Bldg., Denver, Colo. 80202.	Cities Service Gas Co., acreage in Pawnee County, Okla.	[4] 20.3	14.65
CI72-221 ..... 10-13-71 [5]	Skelly Oil Co., Post Office Box 1650, Tulsa, OK 74102.	United Gas Pipe Line Co., Cotton Valley Field, Webster Parish, La.	[6] 14.57636	15.02

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI72-222 ..... B 10-14-71	Sun Oil Co., Post Office Box 2880, Dallas, TX 75221.	Transcontinental Gas Pipe Line Co., Mineral Field, Bee County, Tex.	Depleted	
CI72-223 ..... 10-14-71 [7]	Skelly Oil Co., Post Office Box 1650, Tulsa, OK 74102.	Kansas-Nebraska Natural Gas Co., Inc., Jolliffe No. 1-11 Unit, Texas County, Okla.	18.6	14.65
CI72-224 ..... 10-13-71 [8]	LVO Corp., Post Office Box 2848, Tulsa, OK 74101.	United Gas Pipe Line Co., Joaquin Field, Panola County, Tex.	[4] 17.0	14.65
CI72-225 ..... A 10-20-71	Commonwealth Gas Corp., Suite 2102, 370 Lexington Ave., New York, NY 10017.	Columbia Gas Transmission Corp., Union District, Jackson County, W. Va.	32.0	15.325
CI72-226 ..... B 10-20-71	W. J. Coppinger (Operator) et al., 1207 Union National Bldg., Wichita, Kans. 67202.	Northern Natural Gas Co., Eubank Field, Haskell County, Kans.	Depleted	.....
CI72-227 ..... B 10-20-71	Benedum-Trees Oil Co., 223 Fourth Ave., Pittsburgh, PA 15222.	Northern Natural Gas Co., East Balko Field, Beaver County, Okla.	(9)	.....
CI72-228 ..... B 10-20-71	Otis Russell, Post Office Box 1447, Bay City, TX 77414.	Valley Gas Transmission, Inc., Lissie Field, Wharton County, Tex.	Uneconomical	.....
CI72-229 ..... A 10-21-71	Gulf Oil Corp., Post Office Box 1589, Tulsa, OK 74102.	Arkansas Louisiana Gas Co., East Kiblah Field, Miller County, Ark.	18.0	14.65
CI72-230 ..... B 10-21-71	Herbert L. Dillon, Jr., 531 Texas National Bank Bldg., Houston, Tex. 77002.	Valley Gas Transmission, Inc., Lissie Field, Wharton County, Tex.	Uneconomical	.....
CI72-231 ..... A 10-21-71	Cities Service Oil Co., Post Office Box 300, Tulsa, OK 74102.	Trunkline Gas Co., Block 148 (W/2), South Timballer Area, Offshore Louisiana.	[4] 30.0	15.025
CI72-232 ..... A 10-21-71	Texas Oil & Gas Corp., Fidelity Union Tower Bldg., Dallas, Tex. 75201.	Transwestern Pipeline Co., South Carlsbad Field, Eddy County, N. Mex.	[4] 27.0	14.65
CI72-233 ..... 10-15-71 [10]	Wm. H. Chamberlain, d.b.a. Saturn Oil & Gas Co. et al., Post Office Box 166, Cheyenne, WY 82001.	Panhandle Eastern Pipe Line Co., Hugoton (Peters) Field, Seward County, Kans.	12.0	14.65
CI72-234 ..... A 10-22-71	Hunt Oil Co., 1401 Elm St., Dallas, TX 75202.	El Paso Natural Gas Co., acreage in Eddy County, N. Mex.	[4] 30.0	14.65
CI72-235 ..... A 10-22-71	Placid Oil Co., 2500 First National Bank Bldg., Dallas, Tex. 75202.	Michigan Wisconsin Pipe Line Co., Block 296, Eugene Island Area, Offshore Louisiana.	[4] 32.0	15.025
CI72-236 ..... B 10-26-71	Midhurst Oil Corp., Post Office Box 391, Ashland, KY 41101.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Witte Field, Jackson County, Tex.	Depleted	.....
CI72-237 ..... B 10-26-71	Tenneco Oil Co., Post Office Box 2841, Houston, TX 77001.	Cities Service Gas Co., Northeast Vining Field, Grant County, Okla.	Depleted	.....
CI72-238 ..... A 10-26-71	Hunt Oil Co., 1401 Elm St., Dallas, TX 75202.	Michigan Wisconsin Pipe Line Co., Block 296, Eugene Island Area, Offshore Louisiana.	[4] 32.0	15.025
CI72-239 ..... A 10-22-71	Phillips Petroleum Co., Bartlesville, Okla. 74004.	Northern Natural Gas Co., Permian Basin Area, Andrews County, Tex.	[11] 24.5	14.65
CI72-240 ..... A 10-27-71	Hunt Petroleum Corp., 1401 Elm St., Dallas, TX 75202.	Michigan Wisconsin Pipe Line Co., Block 296, Eugene Island Area, Offshore Louisiana.	[4] 32.0	15.025

[1] Low production.
[2] Application previously noticed Oct. 15, 1971, in G-3578 et al., at a rate of 23.35 cents per Mcf. By letter filed Oct. 20, 1971. Applicant amended its application to reflect a rate of 23.452 cents per Mcf which includes 0.102-cent tax reimbursement.
[3] Applicant proposes to continue the sale of natural gas from its own interests heretofore authorized in Docket No. CI68-2. Dockets Nos. CI72-215 and CI72-216 erroneously assigned to application are canceled.
[4] Subject to upward and downward B.t.u. adjustment.
[5] Applicant proposes to continue the sale of natural gas from its own interests heretofore authorized in Docket No. CI62-1342 to be made pursuant to Douglas Whitaker Estate FPC Gas Rate Schedule No. 4.
[6] Includes 1.5-cent tax reimbursement.
[7] Applicant proposes to continue the sale of natural gas from its own interests heretofore authorized in Docket No. CI61-2 to be made pursuant to Graham-Michaelis Drilling Co. (Operator) et al.'s, FPC Gas Rate Schedule No. 40.
[8] Applicant proposes to continue the sale of natural gas from its own interests heretofore authorized in Docket No. CI70-962 to be made pursuant to White Shield Oil & Gas Corp. FPC Gas Rate Schedule No. 4.
[9] Acreage is nonproductive.
[10] Applicants propose to continue the sale of natural gas from their own interests heretofore authorized in Docket No. G-8429 to be made pursuant to Union National Bank of Wichita, Executor of the Estate of Walter F. Kuhn, Deceased, et al., FPC Gas Rate Schedule No. 25.
[11] Excluding B.t.u. adjustment. Subject to upward and downward B.t.u. adjustment.

[FR Doc.71-16881 Filed 11-22-71;8:45 am]

[Docket No. G-8906, etc.]

SUPERIOR OIL CO. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

NOVEMBER 11, 1971.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before December 6, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-8906..... D 11-2-71	The Superior Oil Co., Post Office Box 1521, Houston, TX 77001 (partial abandonment).	Cities Service Gas Co., Hardtner Field, Barber County, Kans.	(2)	.....
G-17777..... C 10-22-71 [3]	Mobil Oil Corp., Post Office Box 1774, Houston, TX 77001.	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Greenwood Field, Morton County, Kans.	[3] 17.509375	14.65
CI62-606..... 7-12-71 [4]	Atlantic Richfield Co., Post Office Box 2819, Dallas, TX 75221.	Michigan Wisconsin Pipe Line Co., Lawtell Field, St. Landry Parish, Southern Louisiana.	[5] 22.375	15.025
CI66-121..... D 11-3-71	Atlantic Richfield Co. (Operator) et al., Post Office Box 2819, Dallas, TX 75221.	Michigan Wisconsin Pipe Line Co., Eugene Island Block 190, Offshore Louisiana.	Depleted	.....
CI66-979..... E 10-28-71	Ashland Oil, Inc. (successor to Union Carbide Petroleum Corp.), Post Office Box 18695, Oklahoma City, OK 73118.	Michigan Wisconsin Pipe Line Co., Blocks 204, 205, 207, and 216, Ship Shoal Area, Offshore Louisiana.	[6] 21.375 26.0	15.025
CI69-858..... E 10-28-71	Ashland Oil, Inc. (successor to Union Carbide Petroleum Corp.), Post Office Box 18695, Oklahoma City, OK 73118.	Trunkline Gas Co., Blocks 179 and 187, South Timbalier Area, Offshore Louisiana.	[7] 26.0	15.025
CI71-375..... C 11-1-71	Amoco Production Co., Post Office Box 50879, New Orleans, LA 70150.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Welsh Field, Jefferson Davis Parish, La.	26.0	15.025
CI71-553..... D 10-7-71	Delta Drilling Co., Post Office Box 2012, Tyler TX 75702 (partial abandonment).	Transwestern Pipeline Co., South Carlsbad (Strawn) Field, Eddy County, N. Mex.	(8)	.....
CI72-250..... A 10-28-71	General Crude Oil Co., Post Office Box 2252, Honston, TX 77001.	Michigan Wisconsin Pipe Line Co., Eugene Island Area, Block 296, Offshore Louisiana.	[9] 32.0	15.025
CI72-281..... 10-21-71 [9]	Skelly Oil Co., Post Office Box 1650, Tulsa, OK 74102.	Arkansas Louisiana Gas Co., Simsboro Field, Lincoln Parish, La.	14.603	15.025
CI72-282..... 10-21-71 [10]	General American Oil Co. of Texas, Meadows Bldg., Dallas, Tex. 75206.	United Gas Pipe Line Co., Cotton Valley Field, Webster Parish, La.	14.57636	15.025
CI72-285..... A 10-28-71	Ashland Oil, Inc., Post Office Box 18695, Oklahoma City, OK 73118.	Michigan Wisconsin Pipe Line Co., [11] Block 296, Eugene Island Area, Offshore Louisiana.	26.0	15.025
CI72-286..... B 10-29-71	Sun Oil Co., Post Office Box 2880, Dallas, TX 75221.	Mountain Fuel Supply Gas Co., Six Mile Spring Field, Sweetwater County, Wyo.	Depleted	.....
CI72-287..... B 11-1-71	Crown Central Petroleum Corp., 1010 Bank of the Southwest Bldg., Houston, Tex. 77002.	United Fuel Gas Co., Church Point and Northwest Branch Area, Acadia Parish, La.	Depleted	.....
CI72-288..... B 10-29-71	Fenco Gas, Inc., 3829 Willow Ave., Pittsburgh, Pa. 15234.	Equitable Gas Co., M. Smith Well, Grant District, Wetzel County, W. Va.	[12]	.....
CI72-260..... A 11-1-71	Wm. H. Chamberlain, d.b.a. Saturn Oil & Gas Co. et al., Post Office Box 966, Cheyenne, WY 82001.	Panhandle Eastern Pipe Line Co., Gentzler Unit, Stevens County, Kans.	[5] 19.0	14.65

[1] Expiration of leases.
[2] Dockets Nos. G-12094, G-12095, and G-12096 are being consolidated with G-17777.
[3] Subject to upward and downward B.t.u. adjustment.
[4] Applicant proposes to continue the sale of natural gas to cover its interests formerly covered by Emerald Oil Co. (Operator) agent for Lamson & Bennett, Inc., et al. FPC Gas Rate Schedule No. 3.
[5] Rate in effect subject to refund in Docket No. R171-669.
[6] Rate in effect subject to refund in Dockets Nos. R171-133 and R171-722.
[7] Rate in effect subject to refund in Dockets Nos. R170-229 and R171-722.
[8] Gas released by Transwestern to be sold in intrastate commerce.
[9] Applicant proposes to continue the sale of natural gas from its own interests heretofore authorized in Docket No. G-9070 to be made pursuant to Whelen Drilling Co. (Operator) et al., FPC Gas Rate Schedule No. 1.
[10] Applicant proposes to continue the sale of natural gas from its own interests heretofore authorized in Docket No. CI62-1342 to be made pursuant to Douglas Whitaker (Operator) et al., FPC Gas Rate Schedule No. 4.
[11] Applicant is willing to accept a permanent certificate as an initial rate of 26 cents per Mcf; however, the contract price is 32 cents per Mcf, subject to upward B.t.u. adjustment.
[12] Low production.

[FR Doc.71-16882 Filed 11-22-71;8:45 am]

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN BARBADOS

Entry or Withdrawal From Warehouse for Consumption

NOVEMBER 15, 1971.

On July 30, 1971, there was published in the FEDERAL REGISTER (36 F.R. 14152) a letter dated July 23, 1971, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, establishing a level of restraint of 70,819 dozen pairs on cotton textile products in Category 39, produced or manufactured in Barbados, and exported to the United States during the 12-month period beginning May 26, 1971, and extending through May 27, 1972. On the basis of revised data, it has been determined that the level of restraint referred to above should have been 127,636 dozen pairs instead of 70,819 dozen pairs.

Accordingly, there is published below a letter of November 15, 1971, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs amending the directive of July 23, 1971.

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.

SECRETARY OF COMMERCE
PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

NOVEMBER 15, 1971.

DEAR MR. COMMISSIONER: This directive amends but does not cancel the directive issued to you on July 23, 1971, from the Chairman of the President's Cabinet Textile Advisory Committee, regarding imports into the United States of cotton textile products in Category 39, produced or manufactured in Barbados.

The first paragraph of the directive of July 23, 1971 is amended to read as follows:

"Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, including Article 6(c) thereof relating to nonparticipants, and in accordance with the procedures outlined in Executive Order 11052 of September 28, 1962, as amended by Executive Order 11214 of April 7, 1965, you are directed to prohibit, effective as soon as possible, and for the 12-month period beginning May 26, 1971, and extending through May 27, 1972, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 39, produced or manufactured in Barbados, in excess of a level of restraint for the period of 127,636 dozen pairs."[1]

The actions taken with respect to the Government of Barbados and with respect to imports of cotton textiles and cotton textile products from Barbados have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

MAURICE H. STANS,
Secretary of Commerce, Chairman, President's Cabinet Textile Advisory Committee.

[FR Doc.71-17066 Filed 11-22-71;8:48 am]

CERTAIN COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE REPUBLIC OF CHINA

Entry or Withdrawal from Warehouse for Consumption

NOVEMBER 16, 1971.

On June 29, 1971, the Chairman of the President's Cabinet Textile Advisory Committee wrote a letter to the Commissioner of Customs, establishing levels of restraint applicable to certain specified categories of cotton textiles and cotton textile products produced or manufactured in the Republic of China and exported to the United States during the 8-month period beginning January 1, 1971. This letter was subsequently amended by a letter of August 31, 1971, which extended the period of restraint through December 31, 1971. As set forth in the letter of June 29, 1971, as amended, the levels of restraint are subject to adjustment pursuant to paragraph 5 of the bilateral cotton textile agreement of October 12, 1967, as amended and extended, between the Governments of the United States and the Republic of China which provides that within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than five (5) percent. The aforementioned letter, as amended, also provided that any such adjustment in the levels of restraint would be made to the Commissioner of Customs by letter from the Chairman of the Interagency Textile Administrative Committee.

Accordingly, at the request of the Government of the Republic of China and pursuant to the provisions of the bilateral agreement referred to above, there is published below a letter of November 16, 1971, from the Chairman of the Interagency Textile Administrative Committee to the Commissioner of Customs increasing the level of restraint applicable to cotton textile products in Category 45, for the 12-month period which began on January 1, 1971.

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.

ASSISTANT SECRETARY OF COMMERCE
INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

NOVEMBER 16, 1971.

DEAR MR. COMMISSIONER: On June 29, 1971, the Chairman of the President's Cabinet Textile Advisory Committee, directed you to prohibit entry of cotton textiles and cotton textile products in certain specified categories, produced or manufactured in the Republic of China, and exported to the United States on or after January 1, 1971, in excess of the designated levels of restraint. This letter was subsequently amended by a letter of August 31, 1971, which increased the levels of restraint and extended the period of restraint through December 31, 1971. The Chairman further advised you that in the event that there were any adjustments[1] in the levels of restraint you would be so informed by letter from the Chairman of the Interagency Textile Administrative Committee.

Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to paragraph five (5) of the bilateral cotton textile agreement of October 12, 1967, as amended and extended, between the Governments of the United States and the Republic of China, in accordance with Executive Order 11052 of September 28, 1962, as amended by Executive Order 11214 of April 7, 1965, and under the terms of the aforementioned letter of June 29, 1971, as amended, the level of restraint provided in that letter for cotton textile products in Category 45 produced or manufactured in the Republic of China and exported from the Republic of China to the United States, for the period beginning January 1, 1971, and extending through December 31, 1971, is hereby increased to 13,464 dozen, to be effective as soon as possible.

The actions taken with respect to the Government of the Republic of China and with respect to imports of cotton textiles and cotton textile products from the Republic of China have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.

[FR Doc.71-17065 Filed 11-22-71;8:48 am]

[1] The term "adjustments" refers to those provisions of the bilateral cotton textile agreement of October 12, 1967, as amended and extended, between the Governments of the United States and the Republic of China which provide in part that within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than five (5) percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements.

SECURITIES AND EXCHANGE COMMISSION

[812-3047]

BOSTON FINANCIAL HOUSING PARTNERSHIPS-I ET AL.

Notice of Filing of Application for Exemption From All Provisions

NOVEMBER 16, 1971.

Notice is hereby given that Boston Financial Housing Partnerships-I (Boston), 70 Federal Street, Boston, MA 02110, a Massachusetts limited partnership, and its general partners, Boston Financial Technology Group, Inc. (Management) and Josiah H. Child, Jr. (the three collectively referred to as Applicants) have filed an application pursuant to section 6(c) of the Investment Company Act of 1940 (Act) for an order exempting Applicants from all provisions of the Act and the rules and regulations promulgated thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Applicants state that Boston was organized on August 27, 1971, and is designed to implement the policy of title IX of the Housing and Urban Development Act of 1968 to provide private investors a means to acquire equity interests in governmentally assisted low and moderate income housing. Boston will acquire equity interests in governmentally assisted rental housing projects (Subsidized Projects) which are, or are about to be, constructed pursuant to section 221(d)(3) or section 236, or both, of the National Housing Act, and which are administered by the Federal Housing Administration (FHA).

Applicants state that Management is a Massachusetts corporation, and that Josiah H. Child, Jr. owns 64 percent of its outstanding stock including 80 percent of its outstanding voting stock. Boston has filed a registration statement on Forms S-11 with the Commission under the Securities Act of 1933 covering $5 million of its limited partnership interests. These interests are to be sold only to qualified investors in units of $5,000 with a minimum subscription of two units per investor.

Applicants state that Boston was organized as a limited partnership because applicable legislation limits the cash return to investors in subsidized projects to an amount less than can be had in other investments, and the principal advantages to investors are operating losses which can be passed through only by a partnership to investors as an offset against taxable income. Applicants state that each investor accordingly will be required to represent that he has a net worth of $50,000, and that he anticipates that for a period sufficient to allow utilization of the tax benefits afforded, he will have, after giving effect to his investment in Boston, income subject to taxation at a rate which will result in an effective saving of income taxes in an amount equal to 50 percent or greater of any tax losses that may be generated by Boston's investments. Applicants state that a limited partnership structure is necessary in order to provide the centralization of management necessary for a publicly-held partnership, and to insure that investors are protected from personal liability for any obligations of the partnership.

Applicants state that Boston will invest in subsidized projects by becoming a limited partner in a subsidiary partnership in which the sponsor or developer of the subsidized project will be the general partner. This subsidiary partnership will own the entire equity interest in the subsidized project and will be liable for the mortgage loan on the project. Applicants state that Boston will always have a majority and usually 90 percent to 95 percent of the interest in the subsidiary partnership. Applicants state, however, that Boston's interests in the subsidiary partnership will be tantamount to direct ownership of the property. Boston's interest will have no value other than the value of the project itself, and no income will be generated other than from the operation of the project.

Applicants assert they have no intention of disposing of interests in subsidiary partnerships; when it is determined to dispose of an investment, the subsidized project itself will be sold and the partnership liquidated. Thus Applicants assert that Boston will be primarily engaged in the business of planning, developing, constructing and operating subsidized projects, and that the use of subsidiary limited partnerships is but an incident to the conduct of this business, designed to minimize Boston's risk and to permit tax savings to be returned to investors in Boston.

Applicants state that for Boston to preserve its limited partner status in the subsidiary partnership, it cannot participate in the management of the project. However, the terms of the subsidiary partnership agreement, which will govern all aspects of management of the subsidized project, will be negotiated by Boston prior to its investment. Applicants state that Boston will, among other things, reserve the right in each case to remove the developer or sponsor from the subsidiary partnership if such developer or sponsor becomes insolvent or fails to observe applicable statutes and regulations. In addition, the subsidiary partnership will not be permitted to sell or assign any interest in the project, or withdraw, substitute or add a general partner without the consent of Boston.

Boston's investments will be governed by policies which may not be changed without the vote of the holders of at least two-thirds of its outstanding interests. Limited partner investors in Boston will have voting rights with respect to, among other things, the dissolution or transfer of assets, and the withdrawal, substitution or addition of any general partner.

Management will keep Boston's books and records, and annually furnish reports containing audited financial statements and information requested by investors for preparation of their income tax returns. Management will also be responsible for the conduct of Boston's operations including the origination, investigation and supervision of investments.

Management will receive an origination fee with respect to each subsidized project acquired by Boston, and an annual management fee. Management may also receive a portion of the proceeds from the sale or refinancing of a subsidized project. Management will pay subsidiary partnership organizational expenses to the extent they exceed in the aggregate a stated limit, and will pay all general administrative expenses except those incurred directly by Boston. Mr. Child will receive no compensation from any source in respect of Boston's activities other than through his interest in management.

Applicants state they do not concede that Boston is an investment company as defined by the Act, and believe sufficient cause exists for finding Boston not to be an investment company. Applicants further submit that in any event the requested exemption is both necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that the conditions imposed by Boston's Articles of Incorporation and by the FHA, which regulates, among other things, debt, asset and financing arrangements and supervises construction of the project, afford at least as much protection to investors as is provided in the Act.

Section 6(c) authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities, or transactions, from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is hereby given that any interested person may, not later than December 8, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71–17059 Filed 11–22–71; 8:47 am]

[File No. 500–1]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

NOVEMBER 15, 1971.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due Septmber 1, 1976, being traded otherwise on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on national securities exchange be summarily suspended, this order to be effective for the period November 17, 1971, through November 26, 1971.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71–17060 Filed 11–22–71;8:47 am]

[812–3066]

DuPONT GLORE FORGAN INC.

Notice of Filing of Application for Exemption

NOVEMBER 16, 1971.

Notice is hereby given that duPont Glore Forgan, Inc., One Wall Street, New York, New York 10005 (Applicant), a registered broker-dealer corporation with its principal office at 1 Wall Street, New York, NY 10005, and a prospective co-representative with Faulkner, Dawkins & Sullivan Securities, Inc. of a group of underwriters to be formed in connection with a proposed public offering of shares of capital stock of C. I. Direct Placement Fund, Inc. (Company), a registered closed-end investment company, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 (Act) for an order exempting applicant, its co-representative and their co-underwriters from section 30(f) of the Act to the extent that section adopts section 16(b) of the Securities Exchange Act of 1934 (Exchange Act) with respect to their transactions incidental to the distribution of Company shares. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Shares of the company are to be purchased by the underwriters pursuant to a purchase contract (Purchase Contract) to be entered into between the underwriters represented by applicant and its co-representative, the company and C.I. Direct Placement Advisers, Inc., the company's investment adviser. It is also contemplated that one or more dealers will offer and sell certain of the shares and will enter into Selected Dealer Agreements in this connection (the form of which is an annex to the purchase contract). It is intended that the several underwriters will make a public offering of all shares of the company which such underwriters are to purchase under the purchase contract at the price therein specified, as soon on or after the effective date of the company's Registration Statement on Form S–4 (Registration Statement) as the applicant and its co-representative deem advisable, and such shares are initially to be offered to the public in accordance with the formula for the determination of the per share public offering price and underwriting commissions (which vary based upon the number of shares purchased in a single transaction) set forth in the prospectus incorporated in the Registration Statement. Although 2 million shares have been included for registration in the Registration Statement, the ultimate number of shares which may be the subject of the proposed public offering may be increased or decreased by the applicant and its co-representative and the Company shortly before the effective date of the registration and the proposed public offering.

It is possible that the underwriting commitments of one or more of the underwriters, including applicant, will exceed 10 percent of the aggregate number of shares of the company's capital stock outstanding after the purchase by the several underwriters pursuant to the purchase contract or upon the completion of the initial public offering or at some interim time, thereby causing such underwriters to become subject to section 16(b) of the Exchange Act by reason of the application of section 30(f) of the Act. As a result, such underwriters would become subject to the filing requirements of section 16(a) of the Exchange Act and, upon resale of the shares purchased by them to their customers and, upon any other purchases and sales in connection with the distribution as indicated below, subject to the liabilities imposed by section 16(b) of the Exchange Act.

Rule 16b–2 under the Exchange Act exempts certain transactions in connection with a distribution of securities from the operation of section 16(b) thereof. Applicant states that the purpose of the purchase of the shares by the underwriters will be for resale in connection with the initial distribution of the shares. The purchases and sales will therefore be transactions effected in connection with a distribution of a substantial block of securities within the purpose and spirit of Rule 16b–2.

It is possible, however, that one or more of the underwriters, including applicant and its co-representative, through their participation in the distribution of the company's shares, may not be exempted from section 16(b) by the operation of Rule 16b–2, because they may fail to meet the requirement stated in Rule 16b–2(a)(3) that the aggregate participation of persons not within the purview of section 16(b) of the Exchange Act be at least equal to the participation of persons receiving the exemption under Rule 16b–2 since it is possible that one or more of the underwriters who, pursuant to the purchase contract, will purchase more than 10 percent of the shares of the company may be obligated to purchase more than 50 percent of the shares of the company being offered.

In addition to purchases from the company and sales to customers, there may be the usual transactions of purchase or sale incident to a distribution such as stabilizing purchases, purchases to cover over-allotments or other short positions created in connection with such distribution, and sales of shares purchased in stabilization.

Applicant states there is no inside information in existence since the company, prior to the initial distribution of the shares, will have no assets (other than cash) or business of any sort, and all material information will be set forth in the prospectus incorporated in the Registration Statement. Further, no director or officer of any underwriter is a director or officer of the Company. Therefore, the underwriters will not be privy to "inside information".

Applicant submits that the requested exemption from the provisions of section 30(f) of the Act is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant further contends that the transactions sought to be exempted cannot be used for the offending practices which section 16(b) of the Exchange Act is intended to prevent.

Section 6(c) authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from the provisions of the Act and Rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given, That any interested person may, not later than December 8, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing thereon shall be issued upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71–17061 Filed 11–22–71;8:47 am]

[811–2065]

SELECTED VENTURE SHARES, INC.

Notice of Filing of Application for Order Declaring Company has Ceased to be an Investment Company

NOVEMBER 16, 1971.

Notice is hereby given that Selected Venture Shares, Inc., 135 South La Salle Street, Chicago, IL 60603 (Applicant), a Delaware corporation registered as a diversified, open-end management investment company under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

On April 1, 1970 Applicant registered as an investment company under the Act. Subsequently, Applicant's Board of Directors determined that it should not commence doing business. Applicant represents that it intends to relinquish its corporate charter and has no intention of being an investment company or offering its securities to the public.

Applicant also represents that it has issued no shares of stock or any other securities, has no assets and has not engaged in any business transactions other than the act of incorporating.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than December 10, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commisssion should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated

in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71-17062 Filed 11-22-71;8:47 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 50 (Rev. 3) Amdt. 6]

ASSOCIATE ADMINISTRATOR FOR OPERATIONS AND INVESTMENT

Delegation of Administrative Activities for Purpose of Disaster Operations

Delegation of Authority No. 50, Revision 3 (25 F.R. 7418), as amended (26 F.R. 4440, 27 F.R. 1303, 31 F.R. 13563, 36 F.R. 12258, and 36 F.R. 16613) is hereby further amended by revising subsection I.G., to read as follows:

I. • • •

G. For purposes of declared Class A disasters

1. To contract for supplies, materials and equipment, printing, transportation, communications, space, and special services for the Agency.

2. To enter into contracts for supplies and services pursuant to chapter 4 of title 41, United States Code, as amended, subject to the limitations contained in sections 257 (a) and (b) of that chapter.

• • • • • •

Effective date: September 13, 1971.

THOMAS S. KLEPPE,
Administrator.

NOVEMBER 17, 1971.

[FR Doc.71-17044 Filed 11-22-71;8:45 am]

[License No. 02/02-0140]

LAKE SUCCESS CAPITAL CORP.

Notice of Filing of Application for Transfer of Control of Licensed Small Business Investment Company

Notice is hereby given that application has been filed with the Small Business Administration (SBA), pursuant to § 107.701 of the regulations governing Small Business Investment Companies (13 CFR 107.701 (1971)), for transfer of control of Lake Success Capital Corp. (LSCC), 5000 Brush Hollow Road, Westbury, NY 11590, a Federal licensee under the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), License No. 02/02-0140.

LSCC was licensed by SBA on February 16, 1962, and as of March 31, 1971, had paid-in capital and paid-in surplus from private sources of $700,000.

Mr. Herman H. Schneider, owner of one-third of the stock of LSCC proposes to purchase the remaining two-thirds of LSCC's stock owned equally by Theodore Geffner and William Shames. The proposed transaction is subject to and contingent upon the approval of SBA. The names and addresses of the proposed officers, directors and shareholders are as follows:

Herman H. Schneider, 551 Mark Lane, Westbury, N.Y., President and Director.
Theodore Geffner, 114 The Intervale, Roslyn Estates, NY, Secretary and Director.
William Shames, 3 Pine Drive, Woodbury, NY, Treasurer and Director.

Matters involved in SBA's consideration of the application include the general business reputation and character of the management and of the proposed transferee, and the possibility of successful operations of the company under his control and management (including adequate profitability and financial soundness) in accordance with the Act and Regulations.

Notice is further given that any interested person may, not later than 15 days from the date of publication of this notice, submit to SBA, in writing, relevant comments on the proposed transfer of control. Any such comment should be addressed to Associate Administrator for Operations and Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

A copy of this notice shall be published by the proposed transferee in a newspaper of general circulation in Westbury, N.Y.

Dated: November 5, 1971.

A. H. SINGER,
Associate Administrator for Operations and Investment.

[FR Doc.71-17045 Filed 11-22-71;8:45 am]

INTERNATIONAL JOINT COMMISSION—UNITED STATES AND CANADA

POINT ROBERTS, WASH.

Initial Public Hearing; Change of Date and Time

The International Joint Commission anounces that the Public Hearing originally scheduled to be held at The Breakers, Point Roberts, at 10 a.m., November 30, has been postponed to 9 a.m., local time, December 18, 1971.

As previously announced, the Commission has been requested by the Governments of the United States and Canada to investigate and recommend measures to alleviate certain conditions of life of residents of Point Roberts, in the State of Washington, existing by reason of the fact that the only connection by land between Point Roberts and other territory of the United States is through Canada.

Copies of the original notice published in the "Bellingham Herald" on October 27 and November 10 and the FEDERAL REGISTER on October 27, describing the purpose and procedural details of the hearing, and copies of the full text of the Reference, are available upon request at the Commission's office in Washington and Ottawa.

WILLIAM A. BULLARD,
Secretary, U.S. Section, International Joint Commission, Room 203, 1717 H Street NW., Washington, DC 20440, Stop No. 86.

D. G. CHANCE,
Secretary, Canadian Section, International Joint Commission, Room 850, 151 Slater Street, Ottawa, Ontario K1P 5H2.

NOVEMBER 17, 1971.

[FR Doc.71-17043 Filed 11-22-71;8:45 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

NOVEMBER 18, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 27356 Sub 4, M-F Express, Inc., assigned January 10, 1972, at Jackson, Miss., canceled and transferred to modified procedure.
MC 107515 Sub 741, MC 107515 Sub 745, Refrigerated Transport, now assigned January 24, 1972, at Atlanta, Ga., in Room 305, 1252 West Peachtree Street NW.
MC 115826 Sub 215, W. J. Digby, now assigned January 31, 1972, in Room 305, 1252 West Peachtree Street NW., Atlanta, GA.
MC 119670 Sub 17, The Victor Transit Corp., assigned November 17, 1971, at Washington, D.C., canceled and application dismissed.
MC 129187 Sub 1, Clay Products Transports, Inc., assigned January 17, 1972, at Columbus, Ohio, is canceled and application dismissed.
MC 119774 Sub 22, Sub 23, Mary Ellen Stidham, N. M. Stidham, Inez Mankins, and James E. Mankins, Sr., doing business as Eagel Trucking Co., assigned November 29, 1971, Dallas, Tex., canceled and dismissed.
MC 113495 Sub 40, Gregory Heavy Haulers, Inc., application dismissed.

MC 59264 Sub 44, Smith & Solomon Trucking Co., application dismissed.
MC 121597 Sub 2, Chickasaw Motor Lines, Inc., assigned January 24, 1971, at Nashville, Tenn., postponed to January 26, 1971, in Room 651, U.S. Courthouse, 801 Broadway, Nashville, TN.
MC 133633 Sub 8, Highway Express, Inc., now assigned January 10, 1972, in Suite 403, Sun-N-Sand Motel, North Lamar Street, Jackson, MS.
MC-C-7180, Charles Wesley Collins, Edwin Don Ford, Lloyd E. Ford, James Owen Longacre, Dean Edward Patterson, William R. Patterson, Charles John Potter, Earl Rife, individually and Mico Mobile Sales & Leasing, Inc., a corporation, Investigation of Operations and Practices, now assigned February 4, 1972, at Boise, Idaho, hearing room to be designated later.
MC-C-7239, Elmo Ford—investigation and revocation of certificate, now assigned February 3, 1972, at Boise, Idaho, hearing room to be designated later.
MC 32882 Sub 50, Mitchell Bros. Truck Lines, MC 83539 Sub 282, C & H Transportation, now assigned February 14, 1972, at Seattle, Wash., hearing room to be designated later.
MC 115826 (Sub-No. 220), W. J. Digby, Inc., now assigned February 9, 1972, at Portland, Oreg., hearing room to be designated later.
MC 129449 Sub 7, Lumber Transport, now assigned February 7, 1972, at Portland, Oreg., hearing room to be designated later.
Finance Docket No. 26785, Chicago, Milwaukee, St. Paul & Pacific R.R. Co., abandonment between Madison & Woonsocket, in Lake, Miner & Sanborn Counties, S. Dak., now assigned hearing January 31, 1972, at Madison, S. Dak., hearing room to be designated later.
MC 112822 Sub 205, Bray Lines, Inc., now being assigned hearing February 14, 1972, at Dallas, Tex., in a hearing room to be later designated.
MC 115841 Sub 404, Colonial Refrigerated Transportation, Inc., now being assigned hearing February 16, 1972, at Dallas, Tex., in a hearing room to be later designated.
MC 51146 Sub 219, Schneider Transport & Storage, Inc., assigned February 7, 1972, at Chicago, Ill.
MC 51146 Sub 222, Schneider Transport & Storage, Inc., assigned February 14, 1972, at Chicago, Ill.
MC 107496 Sub 810, Ruan Transport Corp., assigned February 10, 1972, at Chicago, Ill.
MC 109397 Sub 257, Tri-State Motor Transit Co., assigned February 11, 1972, at Chicago, Ill.
MC 113678 Sub 421, Curtis, Inc., assigned February 8, 1972, at Chicago, Ill.
MC 113855 Sub 243, International Transport, Inc., MC 114211 Sub 152, Warren Transport, Inc., and MC 117574 Sub 200, Daily Express, Inc., assigned February 16, 1972, at Chicago, Ill.
MC 119531 Sub 151, Dieckbrader Express, Inc., assigned February 15, 1972, at Chicago, Ill.
MC 128273 Sub 94, Midwestern Express, Inc., assigned February 17, 1972, at Chicago, Ill.
MC 114818 Sub 14, Barton Truck Line, Inc., assigned February 7, 1972, at Carson City, Nev., in a hearing room to be later designated.
MC 111045 Sub 85, Redwing Carriers, Inc., now assigned February 7, 1972, at Miami, Fla., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-17099 Filed 11-22-71;8:50 am]

[Notice 786]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 18, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73206. By order of November 16, 1971, the Motor Carrier Board approved the transfer to Maddux & Sons, Inc., Douglas, Ariz., of certificate of registration No. MC-99589 (Sub-No. 1) issued February 14, 1966, to R. L. Maddux, doing business as Maddux and Sons, Douglas, Ariz., evidencing a right to engage in transportation in interstate commerce as described certificate No. 5150 dated June 23, 1955, and renewed October 20, 1959, issued by the Arizona Corporation Commission. Ben F. Williams, Jr., 1930 11th Street, Post Office Drawer W, Douglas, AZ 85607, attorney for applicants.

No. MC-FC-73227. By order of November 2, 1971, the Motor Carrier Board approved the transfer to Triple J. Trucking Co., Inc., Newark, N.J., of that portion of the operating rights in certificate No. MC-62254 issued April 28, 1964, to C M R Transportation, Inc., Bound Brook, N.J., authorizing the transportation of general commodities, except those of unusual value, classes A and B explosives, liquor, livestock, silk, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Monmouth County, N.J., and Lakewood and Point Pleasant, N.J., on the one hand, and, on the other, New York, N.Y. Robert B. Pepper, Registered Practitioner, 174 Brower Avenue, Edison, NJ 08817, representative for applicants.

No. MC-FC-73287. By order of November 16, 1971, the Motor Carrier Board approved the transfer to Edw. H. Shollenberger Sons, Inc., Schuylkill Haven, Pa., of the operating rights in certificate No. MC-111077 and certificate of registration No. MC-111077 (Sub-No. 3), issued November 30, 1949, and February 2, 1965, respectively, to Richard L. Shollenberger and Nelson E. Shollenberger, doing business as Edw. H. Shollenberger Sons, Schuylkill Haven, Pa., the former authorizing the transportation of general commodities, with the usual exceptions, between specified points and places in Pennsylvania, and the latter evidencing a right to engage in transportation in interstate or foreign commerce solely within the Commonwealth of Pennsylvania. James D. Williamson, American Bank Building, Pottsville, Pa. 17901, attorney for applicants.

No. MC-FC-73289. By order of November 16, 1971, the Motor Carrier Board approved the transfer to Tighe Trucking, Inc., North Adams, Mass., of certificate of registration No. MC-104967 (Sub-No. 11) issued March 31, 1964, to Frank M. Casuscelli, doing business as Frank's Express, North Adams, Mass., evidencing a right to engage in transportation in interstate commerce as described in certificate No. 5480 dated March 23, 1942, issued by the Massachusetts Department of Public Utilities. Mary E. Kelley, 11 Riverside Avenue, Medford, MA 02155, attorney for applicants.

No. MC-FC-73290. By order of November 15, 1971, the Motor Carrier Board approved the transfer to Orbit Transport, Inc., Spring Valley, Ill., of certificate No. MC-113678 (Sub-No. 289), issued July 10, 1968, to Curtis, Inc., Commerce City, Colo., authorizing the transportation of chemicals, chemical compounds, and cleaning compounds, other than in bulk, from Utica, Ill., to points in Indiana, Kentucky, Michigan, Ohio, Tennessee, West Virginia, and Wisconsin. E. Stephen Heisley, 666 11th Street NW., Washington, DC 20001, attorney for applicants.

No. MC-FC-73294. By order of November 17, 1971, the Motor Carrier Board approved the transfer to Schaeffer Trucking, Inc., Glendale, Ariz., of the operating rights in certificates Nos. MC-126514, MC-126514 (Sub-No. 2), MC-126514 (Sub-No. 3), MC-126514 (Sub-No. 5), MC-126514 (Sub-No. 7), MC-126514 (Sub-No. 8), MC-126514 (Sub-No. 10), MC-126514 (Sub-No. 12), MC-126514 (Sub-No. 14), MC-126514 (Sub-No. 15), MC-126514 (Sub-No. 17), and MC-126514 (Sub-No. 20) issued March 15, 1965, March 7, 1966, April 21, 1967, September 18, 1968, September 20, 1968, June 5, 1968, October 11, 1968, December 4, 1969, September 28, 1970, April 22, 1970, August 24, 1970, and June 10, 1971 respectively to Helen H. Schaeffer and Edward P. Schaeffer, a partnership, Glendale, Ariz., authorizing the transportation of various commodities from and to specified points and areas in Arizona, California, Colorado, Connecticut, Georgia, Illinois, Indiana, Maine, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Texas, Vermont, and Washington. George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306, representative for applicants.

No. MC–FC–73303. By order of November 17, 1971, the Motor Carrier Board approved the transfer to Beattyville Transport, Inc., Beattyville, Ky., of the operating rights in certificate No. MC–125689 issued April 14, 1964, to Hubert McGuire and Glendon Noland, a partnership, doing business as McGuire and Noland Trucking, Beattyville, Ky., authorizing the transportation of specified commodities from Roxana, Ill., to Beattyville, Ky. Ollie L. Merchant, Suite 202, 140 South Fifth Street, Louisville, KY 40202, attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71–17098 Filed 11–22–71;8:50 am]

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Latest Edition

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[Revised as of January 1, 1971]

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Title 7—AGRICULTURE

Chapter I—Consumer and Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 53—LIVESTOCK, MEATS, PREPARED MEATS AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

Subpart B—Standards

STANDARDS FOR GRADES OF VEAL AND CALF CARCASSES; VEALERS AND SLAUGHTER CALVES

On August 7, 1971, a notice was published in the FEDERAL REGISTER (36 F.R. 14650) proposing to amend (1) the standards for grades of veal and calf carcasses (7 CFR 53.107–53.111), and (2) the standards for grades of vealers and slaughter calves (7 CFR 53.120–53.124). A 90-day period was provided within which interested persons could submit written data, views, or arguments concerning the proposal.

Statement of considerations. Nine comments on the proposed revision were received. Six favored and three opposed its adoption. Comments received favoring the proposal included one from the Western States Meat Packers Association in behalf of its members who slaughter vealers and calves, one from the National Livestock Producers Association, one from a State Department of Agriculture, two from university meat and animal scientists, and one was from a producer of "formula milk" fed calves. The three opposing comments were from individuals. These reflected essentially the same view—that the proposed reduction in the requirements for the various grades was not in the best interest of consumers. The Department believes, however, that the proposed change is in the overall interest of consumers. In this instance, definite changes have occurred in the production of veal and calf over a long period of time. As a result, only a small percentage now qualifies for the higher grades—Choice or Prime. The revision will make sufficient quantities eligible for the higher grades so that the grades can become useful in merchandising and also serve consumers as guides in their selection of veal and calf at retail.

A primary purpose of Federal grading is to provide a nationally uniform means for identifying differences in quality for use at all stages of marketing. Grading thus provides a means for reflecting consumers' preferences for different levels of quality back through the marketing channels to the producer. This enables producers to better plan their production and marketing programs to reflect consumers' preferences. It appears to the Department, therefore, that if the grades for veal and calf are to make a contribution to the efficient marketing of veal and calf, it is necessary that the standards be revised along the lines proposed.

Therefore, under the authority conferred by the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1622, 1624), the Official U.S. Standards for Grades of Veal and Calf Carcasses; and the Official U.S. Standards for Grades of Vealers and Slaughter Calves appearing in 7 CFR 53.107, et seq. and 7 CFR 53.120, et seq. are revised as proposed (F.R. Doc. 71–11233), except for the following change:

Subparagraph (1) of § 53.124(d) is changed by deleting the fourth sentence "Standard grade calves tend to be low in quality."

It is not intended that this change should make any change in the application of the standards from that intended under the proposal. Therefore, in accordance with the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that further rulemaking procedure is unnecessary.

Accordingly the standards are changed as follows:

1. Sections 53.107, 53.108, 53.109, 53.110, and 53.111 are renumbered as §§ 53.108, 53.109, 53.110, 53.111, and 53.112, respectively.

2. A new § 53.107 is promulgated and renumbered §§ 53.108, 53.109, 53.110, 53.111, and 53.112 are revised, to read, respectively, as follows:

§ 53.107 Scope.

These standards for grades of veal and calf are applicable to the grading of carcasses, sides, hindsaddles, hindquarters, foresaddles, and forequarters, and to the following primal wholesale cuts—legs, loins, racks, and shoulders. However, throughout these standards wherever the words "carcass" or "carcasses" are used these are intended to also mean such parts of carcasses and primal wholesale cuts.

§ 53.108 Differentiation between veal, calf, and beef carcasses.

Differentiation between veal, calf, and beef carcasses is made primarily on the basis of the color of the lean, although such factors as texture of the lean; character of the fat; color, shape, size, and ossification of the bones and cartilages; and the general contour of the carcass are also given consideration. Typical veal carcasses have a grayish pink color of lean that is very smooth and velvety in texture and they also have a slightly soft, pliable character of fat and marrow, and very red rib bones. By contrast, typical calf carcasses have a grayish red color of lean, a flakier type of fat, and somewhat wider rib bones with less pronounced evidences of red color. Calf carcasses with maximum maturity for their class have lean flesh that is usually not more than moderately red in color, their rib bones usually have a small amount of red and only a slight tendency toward flatness, and such carcasses are not noticeably "spready" or barrelly" in contour. Such carcasses, when split, have cartilages on the ends of the chine bones that are entirely cartilaginous, there is cartilage in evidence on all vertebrae of the spinal column, and the sacral vertebrae show distinct separation. Carcasses with evidences of more advanced maturity than described in this paragraph are classified as beef. Carcasses not classified as beef but whose color of lean is not comparable with their other evidences of maturity shall be classed as veal or calf in accordance with the following:

(a) Carcasses whose indications of maturity other than color of lean are within the veal class but whose color of lean is darker than dark grayish pink shall be classed as calf.

(b) Carcasses whose evidences of maturity other than color of lean are within the range included in the calf class shall be classed as veal provided they have a correspondingly lighter color of lean within the darker one-half of the range of color included in the veal class. For example, a carcass whose evidences of maturity other than color of lean are midway within the range of the calf class shall be classed as veal if its color of lean is not darker than midway within the darker one-half of the range of color included in the veal class.

(c) Carcasses with color of lean within the lighter one-half of the veal class shall be classed as veal provided their other evidences of maturity do not exceed that associated with the juncture of the calf and beef classes.

§ 53.109 Classes of veal and calf carcasses.

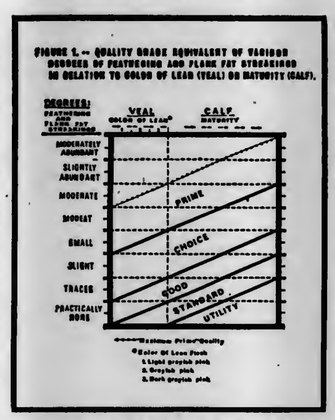
Class determination is based on the apparent sex condition of the animal at time of slaughter. Hence, there are three classes of veal and calf carcasses—steers, heifers, and bulls. While recognition may sometimes be given to these different classes on the market, especially calf carcasses from bulls that are approaching beef in maturity, the characteristics of such carcasses are not sufficiently different from those of steers and heifers to warrant the development of separate standards for them. Therefore, the grade standards which follow are equally applicable to all classes of veal and calf carcasses.

§ 53.110 Application of standards.

(a) Veal and calf carcasses are graded on a composite evaluation of two general grade factors—conformation and quality. These factors are concerned with the proportions of lean, fat, and bone in the carcass and the quality of the lean.

(b) Conformation is the manner of formation of the carcass. The conformation descriptions included in each of the grade specifications refer to the thickness and fullness of the carcass and its various parts. Conformation is evaluated by averaging the conformation of the various parts of the carcass, considering not only the proportion that each part is of the carcass but also the general value of each part as compared with other parts. Superior conformation implies a high proportion of meat to bone and a high proportion of the weight of the carcass in the more valuable parts. It is reflected in carcasses which are thickly fleshed and full and thick in relation to their length and which have a plump, well-rounded appearance. Inferior conformation implies a low proportion of meat to bone and a low proportion of the weight of the carcass in the more valuable parts. It is reflected in carcasses which are very thinly fleshed, and very narrow in relation to their length, and which have a very angular, thin, sunken appearance.

(c) Quality of lean—in all veal carcasses, all unribbed calf carcasses, and in ribbed calf carcasses in which their degree of marbling is not a consideration—usually can be evaluated with a high degree of accuracy by giving equal consideration to the following factors, as available: (1) The amount of feathering (fat intermingled within the lean between the ribs) and (2) the quantity of fat streakings within and upon the inside flank muscles. (In making these evaluations, the amounts of feathering and flank fat streakings are considered in relation to color (veal) and maturity (calf).) In addition, however, consideration also may be given to other factors if, in the opinion of the grader, this will result in a more accurate quality assessment. Examples of such other factors include firmness of the lean, the distribution of feathering, the amount of fat covering over the diaphragm or "skirt", and the amount and character of the external and kidney and pelvic fat. In making these evaluations, feathering and flank fat streakings are categorized in descending order of quantity as follows: extremely abundant, very abundant, abundant, moderately abundant, slightly abundant, moderate, modest, small, slight, traces, practically none, and none. Figure 1 depicts the quality grade equivalent of various degrees of feathering and flank fat streakings in relation to color of lean (veal) or maturity (calf). From this figure it can be seen, for example, that the degrees of feathering or fat streakings associated with minimum Choice quality for veal increase from minimum traces for carcasses having the lightest color of lean to maximum traces for carcasses with a dark grayish pink color of lean.



(d) When grading cuts and marbling is not a requirement and when neither feathering nor flank fat streakings are available, quality is based on the firmness of the lean. The requirements relating to firmness of the lean are described in the specifications for each grade and are based on the following degrees in descending order of firmness; extremely firm, very firm, firm, moderately firm, slightly firm, slightly soft, moderately soft, soft, very soft, and extremely soft. However, no credit is given to additional firmness of lean beyond "maximum slightly firm" in veal or beyond "maximum moderately firm" in calf.

(e) When grading ribbed calf carcasses or portions of such carcasses in which their degree of marbling is a consideration, the quality evaluation of the lean is based entirely on the characteristics of the lean as exposed in a cut surface. The official standards for grades of beef recognize nine different degrees of marbling. In descending order of amount these are as follows: abundant, moderately abundant, slightly abundant, moderate, modest, small, slight, traces, and practically devoid. Illustrations of the lower limits of eight of these nine degrees are available from the Department of Agriculture. These degrees of marbling and their illustrations also are used to describe and evaluate marbling in calf carcasses. Marbling requirements are included in each of the Prime, Choice, and Good grade specifications.

(f) To facilitate the application of the standards, no credit is given to degrees of feathering, flank fat streakings, or marbling beyond those associated with the quality grade equivalent of "Maximum Prime." "Maximum Prime" quality is represented by a development of each of these three factors which is two degrees greater than that specified as minimum for Prime.

(g) The quality indicating requirements referenced in the standards for each grade are based on their development in properly chilled carcasses and, when these relate to a cut surface of the lean, they are based on a cross section of the ribeye muscle between the 12th and 13th ribs. For legs and shoulders, these qualities shall be consistent with their normal development in relation to those specified for the ribeye muscle.

(h) The final grade of a carcass is based on a composite evaluation of its conformation and quality. Conformation and quality often are not developed to the same degree in a carcass and it is obvious that each grade will include various combinations of development of these two characteristics. Examples of how conformation and quality are combined into the final quality grade are included in each of the grade descriptions. However, the principles governing the compensations of variations in development of quality and conformation are as follows: In each of the grades a superior development of quality is permitted to compensate, without limit, for a deficient development of conformation. In this instance the rate of compensation in all grades is on an equal basis—a given degree of superior quality compensates for the same degree of deficient conformation. The reverse type of compensation—a superior development of conformation for an inferior development of quality—is not permitted in the Prime and Choice grades. In all other grades this type of compensation is permitted but only to the extent of one-third of a grade of deficient quality. The rate of this type of compensation is also on an equal basis—a given degree of superior conformation compensates for the same degree of deficient quality.

(i) The colors of lean referenced in the standards reflect only the colors as present in normally developed veal and calf carcasses. They are not intended to apply to colors of lean associated with so-called "dark cutting" veal or calf. This condition does not have the same significance in grading as do the darker shades of pink and red associated with advancing maturity. The dark color of the lean associated with "dark cutting" veal or calf is present in varying degrees from that which is barely evident to so-called "black cutters" in which the lean is actually nearly black in color and usually has a "gummy" texture. Dependent upon the degree to which this characteristic is developed, the final grade of carcasses which otherwise would qualify for the Prime, Choice, or Good grades may be reduced as much as one full grade. In veal or calf otherwise eligible for the Standard grade, the final grade may be reduced as much as one-half grade. In the Utility grade this condition is not considered.

(j) Carcasses qualifying for any particular grade may vary with respect to their relative development of the various grade factors and there will be carcasses which qualify for a particular grade, some of the characteristics of which may be typical of another grade. Because it is impractical to describe the nearly limitless number of such recognizable combinations of characteristics, the standards for each grade describe only a veal or calf carcass which has a relatively similar development of conformation and quality and which also represents the lower limit of each grade.

§ 53.111 Specifications for official U.S. standards for grades of veal carcasses.

(a) *Prime.* (1) Veal carcasses with minimum Prime grade conformation tend to be moderately wide and thick in relation to their length. They are slightly thick-fleshed and have a slightly plump appearance. Legs are slightly thick and bulging. Loins and backs tend to be moderately full and plump. Shoulders and breasts tend to be moderately thick.

(2) Figure 1 in § 53.110 depicts the degree of feathering and flank fat streakings associated with minimum Prime quality for different colors of lean. The lean flesh is slightly firm, regardless of its color.

(3) A development of quality superior to that specified as minimum for the Prime grade may compensate, without limit, for a development of conformation inferior to that specified as minimum for Prime at an equal rate as indicated in the following example. A carcass which has midpoint Prime quality may have conformation equal to the midpoint of the Choice grade and remain eligible for Prime. However, regardless of the extent to which the conformation of a carcass exceeds the minimum of the Prime grade, a carcass must have minimum Prime quality to be eligible for Prime.

(b) *Choice.* (1) Veal carcasses with minimum Choice grade conformation tend to be slightly wide and thick in relation to their length. They tend to be slightly thin-fleshed and have little or no evidence of plumpness. Loins, backs, and legs are slightly thin and nearly flat. Shoulders and breasts tend to be slightly thin.

(2) Figure 1 in § 53.110 depicts the degree of feathering and flank fat streakings associated with minimum Choice quality for different colors of lean. The lean flesh is slightly soft regardless of its color.

(3) A development of quality superior to that specified as minimum for the Choice grade may compensate, without limit, for a development of conformation inferior to that specified as minimum for Choice at an equal rate as indicated in the following example: A carcass which has midpoint Choice quality may have conformation equal to the midpoint of the Good grade and remain eligible for Choice. However, regardless of the extent to which the conformation of a carcass exceeds the minimum of the Choice grade, a carcass must have minimum Choice quality to be eligible for Choice.

(c) *Good.* (1) Veal carcasses with minimum Good grade conformation are rangy, angular, and narrow in relation to their length. They are thinly fleshed. Legs are thin and tapering and slightly concave. Loins and back are depressed. Shoulders and breasts are thin.

(2) Figure 1 in § 53.110 depicts the degree of feathering and flank fat streakings associated with minimum Good quality for different colors of lean. The lean flesh is moderately soft regardless of its color.

(3) A development of quality superior to that specified as minimum for the Good grade may compensate, without limit, for a development of conformation inferior to that specified as minimum for Good at an equal rate as indicated in the following example: A carcass which has midpoint Good grade quality may have conformation equivalent to the midpoint of the Standard grade and remain eligible for Good. Also, a carcass which has conformation at least one-third grade superior to that specified as minimum for the Good grade may qualify for Good with a development of quality equivalent to the lower limit of the upper third of the Standard grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality.

(d) *Standard.* (1) Veal carcasses with minimum Standard grade conformation are very rangy and angular and very narrow in relation to their length. They are very thinly fleshed. Legs are very thin and moderately concave. Loins and backs are very depressed. Shoulders and breasts are very thin.

(2) Figure 1 in § 53.110 depicts the degree of feathering and flank fat streakings associated with minimum Standard quality for different colors of lean. The lean flesh is soft regardless of its color.

(3) A development of quality superior to that specified as minimum for the Standard grade may compensate, without limit, for a development of conformation inferior to that specified as minimum for Standard at an equal rate as indicated in the following example: A carcass which has midpoint Standard quality may have conformation equal to the midpoint of the Utility grade and remain eligibility for Standard. Also, a carcass which has conformation at least one-third grade superior to that specified as minimum for the Standard grade may qualify for Standard with a development of quality equal to the minimum of the upper third of the Utility grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality.

(e) *Utility.* The Utility grade includes those veal carcasses whose characteristics are inferior to those specified as minimum for the Standard grade.

§ 53.112 Specifications for official United States standards for grades of calf carcasses.

(a) *Prime.* (1) Calf carcasses with minimum Prime grade conformation tend to be moderately wide and thick in relation to their length. They are moderately thick-fleshed and have a moderately plump appearance. Legs tend to be moderately thick and bulging. Loins and backs tend to be moderately full and plump. Shoulders and breasts tend to be moderately thick.

(2) Figure 1 in § 53.110 depicts the degree of feathering and flank fat streakings associated with minimum Prime quality. The degree of marbling required for minimum Prime quality increases from minimum practically devoid for the very youngest carcasses classified as calf to a maximum moderate amount for carcasses with maturity at the juncture of the calf and beef classes. The lean flesh is moderately firm regardless of maturity.

(3) A development of quality superior to that specified as minimum for the Prime grade may compensate, without limit, for a development of conformation inferior to that specified as minimum for Prime at an equal rate as indicated in the following example: A carcass which has midpoint Prime quality may have conformation equal to the midpoint of the Choice grade and remain eligible for Prime. However, regardless of the extent to which the conformation of a carcass exceeds the minimum of the Prime grade, a carcass must have minimum Prime quality to be eligible for Prime.

(b) *Choice.* (1) Calf carcasses with minimum Choice grade conformation tend to be slightly wide and thick in relation to their length. They tend to be slightly thick-fleshed and have a slightly plump appearance. Legs are slightly thick but have little evidence of plumpness. Loins and backs are very slightly full and plump. Shoulders and breasts are slightly thick.

(2) Figure 1 in § 53.110 depicts the degree of feathering and flank fat streakings associated with minimum Choice quality. The degree of marbling required for minimum Choice quality increases from minimum practically devoid for carcasses at midpoint calf maturity to a maximum slight amount for carcasses with maturity at the juncture of the calf and beef classes. Marbling is not required for Choice quality in carcasses which are less than midpoint calf in maturity. The lean flesh is slightly firm regardless of maturity.

(3) A development of quality superior to that specified as minimum for the Choice grade may compensate, without limit, for a development of conformation inferior to that specified as minimum for Choice at an equal rate as indicated in the following example: A carcass which has midpoint Choice quality may have conformation equal to the midpoint of the Good grade and remain eligible for Choice. However, regardless of the extent to which the conformation of a carcass exceeds the minimum of the Choice grade, a carcass must have minimum Choice quality to be eligible for Choice.

(c) *Good.* (1) Calf carcasses with minimum Good grade conformation tend to be rangy, angular, and narrow in relation to their length. They tend to be thinly fleshed. Legs are thin and tapering and very slightly concave. Loins and backs are slightly shallow and depressed. Shoulders and breasts are thin.

(2) Figure 1 in § 53.110 depicts the degree of feathering and flank fat streakings associated with minimum Good quality. The degree of marbling required for Good quality decreases from typical traces for carcasses with maturity at the juncture of the calf and beef classes to minimum practically devoid for carcasses midway in maturity within the more mature half of the range

of maturity included in the calf class. In less mature carcasses, marbling is not required for Good quality. The lean flesh is moderately soft regardless of maturity.

(3) A development of quality superior to that specified as minimum for the Good grade may compensate, without limit, for a development of conformation inferior to that specified as minimum for Good at an equal rate as indicated in the following example: A carcass which has midpoint Good grade quality may have conformation equivalent to the midpoint of the Standard grade and remain eligible for Good. Also, a carcass which has conformation at least one-third grade superior to that specified as minimum for the Good grade may qualify for Good with a development of quality equivalent to the lower limit of the upper third of the Standard grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality.

(d) *Standard.* (1) Calf carcasses with minimum Standard grade conformation are rangy, angular, and very narrow in relation to their length. They are very thinly fleshed. Legs are very shallow and depressed. Shoulders and breasts are very thin.

(2) Figure 1 in § 53.110 depicts the degree of feathering and flank fat streakings associated with minimum Standard quality. The lean flesh is soft regardless of maturity.

(3) A development of quality which is superior to that specified as minimum for the Standard grade may compensate, without limit, for a development of conformation inferior to that specified as minimum for Standard at an equal rate as indicated in the following example: A carcass which has midpoint Standard quality may have conformation equal to the midpoint of the Utility grade and remain eligible for Standard. Also, a carcass which has conformation at least one-third grade superior to that specified for the minimum of the Standard grade may qualify for Standard with a development of quality equal to the lower limit of the upper third of the Utility grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality.

(e) *Utility.* The Utility grade includes those calf carcasses whose characteristics are inferior to those specified as minimum for the Standard grade.

3. Section 53.120, 53.121, 53.122, 53.123, and 53.124 are revised to read, respectively, as follows:

§ 53.120 Differentiation between vealers and calves.

Young bovine animals are segregated for market purposes as vealers or calves and this differentiation is intended to reflect the kind of carcass (veal or calf) they will produce. The differentiation between veal and calf carcasses is based very largely on the color of their lean and this is determined almost entirely by the extent to which the animal's diet has consisted of milk or a milk replacer. Therefore, the differentiation between vealers and calves is based primarily on evidences of type of feeding and age. Vealers that have subsisted largely on milk usually are less than 3 months of age. However, animals that have been raised on milk replacer rations frequently will be considerably more mature. In no case, though, may such an animal be considered a vealer if its evidences of maturity indicate that it is too mature to be classed as calf. Since vealers have consumed little, if any, roughages, they have the characteristic trimness of middle associated with limited paunch development. Calves are usually between 3 and 8 months of age, have subsisted partially or entirely on feeds other than milk or milk replacers for a substantial period of time, and have developed the heavier middles and other physical characteristics associated with maturity beyond the vealer stage.

§ 53.121 Classes of vealers and calves.

There are three classes of vealers and calves, based on sex condition—steers, heifers, and bulls. While recognition may sometimes be given to these different classes on the market, especially bull calves approaching beef in maturity, the market desirability of all three classes is sufficiently similar to permit them to be graded on the same standards.

§ 53.122 Application of standards.

(a) The grade of a vealer or slaughter calf is determined by a composite evaluation of two general considerations which influence carcass excellence, (1) conformation and (2) fatness, maturity, and other factors responsible for differences in quality of the lean flesh.

(b) Conformation refers to the general body proportions of the animal and to the ratio of meat to bone. Although primarily determined by the inherent muscular and skeletal systems, it is also influenced by the degree of fatness. Excellent conformation in vealers and slaughter calves is denoted by a wide-topped, straight-lined, thick-fleshed individual that is deep and full in the twist.

(c) In grading vealers and slaughter calves, quality of the lean flesh must necessarily be evaluated indirectly from consideration, primarily, of the quantity, distribution, and type of fat or finish. Limited consideration is also given to such factors as the refinement of hair, hide, and bone and the smoothness and symmetry of the body. Finish is evaluated by noting variations in fullness in the brisket, flanks, and cod or udder and the apparent thickness of the fat covering over the back, loin, ribs, and legs.

(d) Since relatively few vealers or calves have an identical development of conformation and quality, it is obvious that each grade will include animals having various combinations of these two characteristics. Examples of how conformation and quality are combined into the final quality grade are included in each of the grade descriptions. However, the principles governing the compensation of variations in development of quality and conformation are as follows: In each of the grades superior quality is permitted to compensate for deficient conformation, without limit. The reverse type of compensation—superior conformation for inferior quality—is not permitted in the Prime and Choice grades. To qualify for one of these grades, a slaughter animal must have the minimum requirements specified for quality regardless of how much the conformation may exceed the minimum specified. In all other grades, such compensation is permitted but only to the extent of one-third of a grade of deficient quality. For both types of compensation, the rate of compensation is equal—a given degree of superior quality compensates for the same degree of deficient conformation and vice versa.

(e) Other factors—such as heredity and management—also may affect the development of grade-determining characteristics in vealers and calves. Although these factors do not lend themselves to descriptions in the standards, the use of factual information of this nature is justified in determining the grade of vealers and slaughter calves.

(f) Vealers or calves qualifying for any particular grade may vary with respect to the relative development of the individual grade factors. In fact, some will qualify for a particular grade although they have some characteristics more nearly typical of animals of another grade. Because it is impractical to describe the nearly infinite number of such recognizable combinations of characteristics, the standards describe only vealers and calves which have a relatively similar development of individual conformation and quality factors and which are also representative of the lower limits of each grade.

§ 53.123 Specifications for official United States standards for grades of vealers.

(a) *Prime.* (1) Vealers possessing minimum qualifications for the Prime grade tend to be moderately thick muscled throughout. They are moderately wide over the back and loin, and shoulders and hips are usually moderately neat and smoothly laid in, with only a slight tendency toward prominence. The loin, rump, and rounds appear almost flat, with little evidence of fullness. Prime grade vealers tend to have a very thin fat covering over the back, loin, and upper ribs. The brisket, rear flanks, and cod or udder are slightly full. Prime grade vealers usually present a moderately refined appearance.

(2) To qualify for the Prime grade, vealers must possess the minimum evidences of quality specified regardless of the extent to which their conformation may exceed the minimum requirements for Prime. However, quality superior to that specified as the minimum for the Prime grade may compensate, without limit, for conformation inferior to that specified as the minimum for Prime at the rate indicated in the following example: Vealers which have quality equivalent to the midpoint of the Prime grade may have conformation equivalent to the midpoint of the Choice grade and remain eligible for Prime.

(b) *Choice.* (1) Vealers possessing minimum qualifications for Choice tend to be slightly thick muscled throughout. They are slightly wide over the back and loin, the shoulders and hips are slightly prominent, and the neck is slightly long and thin. The loin, rump, and rounds have a very slightly sunken or hollowed-out appearance. The fat covering is very limited and is discernible only over portions of the back and loin. The brisket, rear flanks, and cod or udder have small fat deposits but have no apparent fullness. Choice grade vealers are usually moderately smooth and slightly refined in appearance.

(2) To qualify for the Choice grade, vealers must possess the minimum evidences of quality specified regardless of the extent to which their conformation may exceed the minimum requirements for Choice. However, quality which is superior to that specified as the minimum for the Choice grade may compensate, without limit, for conformation which is inferior to that specified as the minimum for Choice at the rate indicated in the following example: Vealers which have quality equivalent to the midpoint of the Choice grade may have conformation equivalent to the midpoint of the Good grade and remain eligible for Choice.

(c) *Good.* (1) Vealers possessing minimum requirements for the Good grade tend to be thinly muscled throughout. They are narrow over the back, loin, and rump and shallow in the twist. They have a distinctly sunken or hollowed-out appearance over the back, loin, and rounds. Hips and shoulders appear moderately prominent. There is practically no fat covering on any part of the animal's body. Such vealers may show the heavy bones, thick hide, prominent hips and shoulders associated with coarseness, or they may show the small bones, tight hide, and angularity denoting overrefinement.

(2) Quality superior to that specified as the minimum for the Good grade may compensate, without limit, for conformation inferior to that specified as the minimum for Good at the rate indicated in the following example: Vealers with quality equivalent to the midpoint of the Good grade may have conformation equivalent to the midpoint of the Standard grade and remain eligible for Good. Also, vealers with conformation at least one-third of a grade superior to that specified as minimum for the Good grade may have quality equal to the lower limit of the upper third of the Standard grade and remain eligible for Good.

(d) *Standard.* (1) Vealers possessing minimum requirements for the Standard grade tend to be very thinly muscled throughout and tend to be very narrow over the back, loin, and rump and very shallow in the twist. Hips and shoulders are very prominent, and the crops, back, loin, rump, and rounds present a very sunken or hollowed-out appearance. They show no evidence of any fat covering. Standard vealers tend to be of low quality. The bones and joints are usually disproportionately large and the hide is either thick or tight and inelastic.

(2) Quality superior to that specified as minimum for the Standard grade may compensate, without limit, for conformation inferior to that specified as minimum for the Standard grade at the rate indicated in the following example: Vealers with quality equivalent to the midpoint of the Standard grade may have conformation equivalent to the midpoint of the Utility grade and remain eligible for Standard. Also, vealers with conformation at least one-third of a grade superior to that specified as minimum for the Standard grade may have quality equal to the lower limit of the upper third of the Utility grade and remain eligible for Standard.

(e) *Utility.* The Utility grade includes vealers whose characteristics are inferior to those specified as minimum for the Standard grade.

§ 53.124 Specifications for official United States standards for grades of slaughter calves.

(a) *Prime.* (1) Calves possessing minimum qualifications for the Prime grade tend to be moderately thick muscled throughout. They are moderately wide over the back and loin, and shoulders and hips are usually moderately neat and smoothly laid in. There is a slight fullness or plumpness over the crops, loin, rump, and rounds which contributes to a rather well-rounded appearance. Prime grade calves tend to have a slightly thick fat covering over the back, loin, rump, and upper ribs. The brisket, rear flanks, and cod or udder are moderately full. Prime grade calves usually present a moderately refined appearance.

(2) To qualify for the Prime grade, slaughter calves must possess the minimum evidences of quality specified regardless of the extent to which their conformation may exceed the minimum requirements for Prime. However, quality superior to that specified as the minimum for the Prime grade may compensate, without limit, for conformation inferior to that specified as the minimum for Prime at the rate indicated in the following example: Slaughter calves which have quality equivalent to the midpoint of the Prime grade may have conformation equivalent to the midpoint of the Choice grade and remain eligible for Prime.

(b) *Choice.* (1) Calves possessing minimum qualifications for the Choice grade tend to be slightly thick muscled throughout. They are slightly wide over the back and loin. The neck is slightly long and thin. The loin, rump, and rounds are almost flat and have little or no evidence of fullness. The shoulders and hips are moderately neat and smoothly laid in but may appear slightly prominent. There is a thin fat covering over the back, loin, and upper ribs. The brisket, rear flanks, and cod or udder tend to be slightly full. Choice grade calves are usually moderately smooth and slightly refined in appearance.

(2) To qualify for the Choice grade, slaughter calves must possess the minimum evidences of quality specified regardless of the extent to which their conformation may exceed the minimum requirements for Choice. However, quality which is superior to that specified as the minimum for the Choice grade may compensate, without limit, for conformation which is inferior to that specified as the minimum for Choice at the rate indicated in the following example: Slaughter calves which have quality equivalent to the midpoint of the Choice grade may have conformation equivalent to the midpoint of the Good grade and remain eligible for Choice.

(c) *Good.* (1) Calves possessing minimum requirements for the Good grade tend to be thinly muscled throughout. They are narrow over the back, loin, and rump and shallow in the twist and have a slightly sunken or hollowed-out appearance over the back, loin, and rounds. Hips and shoulders appear somewhat prominent. There is a very thin fat covering that is discernible only over the back and loin. Such calves may show the heavy bones, thick hide, prominent hips and shoulders associated with coarseness; or they may show the small bones, tight hide, and angularity denoting overrefinement.

(2) Quality superior to that specified as the minimum for the Good grade may compensate, without limit, for conformation inferior to that specified as the minimum for Good at the rate indicated in the following example: Calves with quality equivalent to the midpoint of the Good grade may have conformation equivalent to the midpoint of the Standard grade and remain eligible for Good. Also, calves with conformation at least one-third of a grade superior to that specified as minimum for the Good grade may have quality equal to the lower limit of the upper third of the Standard grade and remain eligible for Good.

(d) *Standard.* (1) Calves possessing minimum requirements for the Standard grade tend to be very thinly muscled throughout and are very narrow over the back, loin, and rump, and very shallow in the twist. Hips and shoulders are very prominent and the crops, back, loin, rump, and rounds present a very sunken or hollowed-out appearance. There is practically no fat on any part of the animal's body. The bones and joints are usually disproportionately large, and the hide is either thick or tight and inelastic.

(2) Quality superior to that specified as minimum for the Standard grade may compensate, without limit, for conformation inferior to that specified as minimum for the Standard grade at the rate indicated in the following example: Calves with quality equivalent to the midpoint of the Standard grade may have conformation equivalent to the midpoint of the Utility grade and remain eligible for Standard. Also, calves with conformation at least one-third of a grade superior to that specified as minimum for the Standard grade may have quality equal to the lower limit of the upper third of the Utility grade and remain eligible for Standard.

(e) *Utility.* The Utility grade includes slaughter calves whose characteristics

are inferior to those specified as minimum for the Standard grade.

The foregoing standards shall become effective January 1, 1972.

Done at Washington, D.C., this 18th day of November 1971.

GEORGE R. GRANGE,
Deputy Administrator,
Marketing Services.

[FR Doc.71-17120 Filed 11-23-71;8:46 am]

Chapter III—Animal and Plant Health Service, Department of Agriculture [1]

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Gypsy Moth and Browntail Moth

EXEMPTED ARTICLES

Under the authority of § 301.45–2 of the Gypsy Moth and Browntail Moth Quarantine regulations (7 CFR 301.45–2, as amended), a supplemental regulation exempting certain articles from specified requirements of the regulations, 7 CFR 301.45–2b, is hereby issued as set forth below. The Administrator of the Animal and Plant Health Service has found that facts exist as to the pest risk involved in the movement of such articles which make it safe to relieve the requirements as provided therein.

§ 301.45–2b Exempted articles.[2]

The following regulated articles are exempt from the certification and permit requirements of this subpart if they meet the applicable conditions prescribed in paragraphs (a) through (i) of this section and have not been exposed to infestation after cleaning or other handling as prescribed in said paragraphs:

(a) Trees and shrubs, and parts of such trees and shrubs, if grown in a greenhouse throughout the year and so labeled on the outside of each container.

(b) Cuttings and scions with stems no greater than one-half inch in diameter.

(c) Parts of trees and shrubs that have been dried, pressed, waxed, lacquered, varnished, or similarly surface treated.

(d) Christmas trees, if it has been determined by an inspector that they have not been exposed to infestation.

(e) Boughs and Christmas greenery.

(f) Lumber, if dressed or sawed four sides with ends clipped and free of surface bark; or if kiln dried: *Provided,* That such lumber is shipped directly after processing and the waybill or other shipping document is marked to show that the lumber was shipped immediately after processing.

(g) Wood products which have been manufactured, such as shingles, flooring, furniture, handles, etc.

(h) Shavings, sawdust, wood flour, excelsior, and cedar bedding, if not exposed to infestation in storage.

(i) Stone and quarry products, if processed by grinding or pulverizing.

(Secs. 8 and 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150ee; 29 F.R. 16210, as amended; 7 CFR 301.45–2)

This list of exempted articles shall become effective upon publication in the FEDERAL REGISTER (11–24–71) when it shall supersede the list of exempted articles, § 301.45–2b, which became effective February 3, 1971.

The purpose of this revision is to add Christmas trees, if it has been determined by an inspector that they have not been exposed to infestation, and Christmas greenery to the list of exempted articles.

Inasmuch as this revision relieves certain restrictions presently imposed, it should be made effective promptly in order to be of benefit to the persons subject to the restrictions that are being relieved. Accordingly, it is found, under the administrative procedure provisions of 5 U.S.C. 553, that notice and other public procedure with respect to this revision are unnecessary and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 18th day of November 1971.

G. H. WISE,
Acting Administrator,
Animal and Plant Health Service.

[FR Doc.71-17165 Filed 11-23-71;8:50 am]

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER I—DETERMINATION OF PRICES

[Amdt. 1]

PART 874—SUGARCANE; LOUISIANA

Fair and Reasonable Prices for 1971 Crop

Pursuant to the provisions of the Sugar Act of 1948, as amended, Part 874 of Chapter VIII of Title 7 of the Code of Federal Regulations, published October 20, 1971 (36 F.R. 20287), is amended by revising paragraphs (c), (d), and (e) of § 874.34 to read as follows:

§ 874.34 Definitions.

For the purpose of this section the term:

* * * * *

(c) (1) "Weekly average price of raw sugar" means the simple average of the daily prices of raw sugar for the week (Friday through the following Thursday), in which sugarcane is delivered, except that if the processor applies to the State committee and establishes that the weekly average price received for 1971-crop sugar sold on the basis of his individual ceiling price under the price freeze and prior to the establishment on October 22, 1971, of a ceiling price applicable to all raw sugar (8.68 cents per pound, duty paid, Gulf basis) was less than the weekly average quoted market price, he may use the price actually received, plus the applicable discount imposed by the purchaser, for the purpose of paying producers for sugarcane delivered during the week in which such sales were made.

(2) "Weekly average price of blackstrap molasses" means the simple average of the daily prices of blackstrap molasses for the week (Friday through the following Thursday), in which the sugarcane is delivered, except that if the processor sells 1971-crop blackstrap molasses during the period in which price controls are in effect, then for such period the price actually received by the processor may be used for the purpose of paying producers for sugarcane delivered during the week in which such sales are made.

(d) (1) "Season's average price of raw sugar" means the simple average of the weekly prices of raw sugar for the period October 8, 1971, through April 13, 1972, except that if the processor applies to the State committee and establishes that the weekly average price for either or both of the first 2 weeks of the period (the weeks beginning October 8, and October 15) for 1971-crop sugar sold on the basis of his individual ceiling price under the price freeze and prior to the establishment of a ceiling price applicable to all raw sugar was less than the weekly average quoted market price, he may use the price actually received (plus the applicable discount imposed by the purchaser) for such week(s).

(2) "Season's average price of blackstrap molasses" means the simple average of the weekly prices of blackstrap molasses for the period October 8, 1971, through April 13, 1972, except that for the 1971 crop the season's average price may be determined by weighting (i) the average price actually received by the processor by the quantity of blackstrap molasses sold during the period in which price controls are in effect; and (ii) the simple average of the weekly prices beginning the day after controls on blackstrap molasses prices are lifted by the quantity of blackstrap molasses sold subsequent to the control period.

(e) "Delivered average price" means the weighted average price of 1971-crop raw sugar determined by weighting (1) the simple average of the daily prices of raw sugar for the period October 8, 1971, through December 31, 1971, by the quantity of 1971-crop sugar, raw value, marketed under the processor's 1971 marketing allotment; and (ii) the simple average of the daily prices of raw sugar for the period January 1, 1972, through February 24, 1972, by the quantity of 1971-crop sugar, raw value, not marketed in 1971 under the processor's 1971 marketing allotment, except that if the processor applies to the State committee and establishes that the price received for 1971-crop sugar sold prior to October 22, 1971, on the basis of his individual ceiling price under the price freeze and prior to the establishment of a ceiling price applicable to all raw sugar was less than the quoted market price, he may use the price actually received (plus the applicable discount imposed by the purchaser) for the sugar sold during the 2 weeks period prior to October 22, 1971.

* * * * *

(Secs. 301, 403, 61 Stat. 929, as amended, 932; 7 U.S.C. 1131, 1153)

STATEMENT OF BASES AND CONSIDERATIONS

Fair and reasonable prices for the 1971 crop of Louisiana sugarcane (Part 874) published in the FEDERAL REGISTER of October 20, 1971, provided alternatives for determining the bases for sugarcane payments to producers. At the time, ceiling prices on raw sugar applied to each seller of raw sugar. Since it was believed that such ceiling prices would be lower than the quotations of the Louisiana Sugar Exchange, Inc., alternative pricing bases were provided to fit such conditions.

On October 22, 1971, the Department, pursuant to supplemental price-freeze guidelines for sellers of raw sugar (Economic Stabilization Circular No. 21), announced a ceiling price of 8.71 cents per pound, duty paid, at New York basis (or 8.68 cents per poind, duty paid, at Gulf basis) for the sale of all raw sugar.

In order to adapt the sugarcane pricing methods to the new situation and to provide simpler settlement bases for sugarcane, this amendment provides pricing bases in line with those used in prior years, i.e., based on the average quotations of the Louisiana Sugar Exchange, Inc., but also provides any processor who might have sold sugar during the first 2 weeks of the pricing period the opportunity for relief under certain circumstances. If a processor sold sugar prior to October 22, 1971, on the basis of his individual ceiling price and applies to the State committee and provides data showing that the price received for sugar sold during such period was less than the average quoted market price, he may use the price actually received, plus the applicable discount imposed by the purchaser.

If the processor sold no 1971-crop sugar during the first 2 weeks of the pricing period, that processor will settle with producers for the entire crop on the basis of the Louisiana Sugar Exchange quotations.

Since ceiling prices for blackstrap molasses were not changed, the pricing bases for molasses payments remain as provided in Part 874 (36 F.R. 20287). However, separate definitions are provided for raw sugar and blackstrap molasses.

Accordingly, I hereby find and conclude that the foregoing amendment will effectuate the price provisions of the Sugar Act of 1948, as amended.

Effective date. As 1971 crop sugarcane is now being purchased and processed it is necessary that the provisions of this amendment become effective as soon as possible, and therefore it is hereby found and determined that compliance with the procedure and notice provisions of 5 U.S.C. 553 is impracticable and not in the public interest, and this amendment shall become effective when published in the FEDERAL REGISTER (11–24–71).

Signed at Washington, D.C., on November 19, 1971.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.71-17167 Filed 11-23-71;8:50 am]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 982—FILBERTS GROWN IN OREGON AND WASHINGTON

Free and Restricted Percentages for 1971–72 Fiscal Year

Notice was published in the October 16, 1971, issue of the FEDERAL REGISTER (36 F.R. 20164) regarding a proposal to establish free and restricted percentages applicable to filberts grown in Oregon and Washington for the 1971–72 fiscal year beginning August 1, 1971. The percentages are based on recommendations of the Filbert Control Board and other available information in accordance with the applicable provisions of the marketing agreement, as amended, and Order No. 982, as amended (7 CFR Part 982), regulating the handling of filberts grown in Oregon and Washington, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons opportunity to submit written data, views, or arguments with respect to the proposal. One comment favored the proposed percentages. However, numerous other comments were received from producers and handlers opposing the proposed free (29 percent) and restricted (71 percent) percentages. Most of these comments contended that the proposed free percentage of 29 percent would unduly restrict the quantity of in-shell filberts available for domestic consumption and urged that the free and restricted percentages both be established at 50 percent.

The Filbert Control Board met on November 12, 1971, to reconsider their prior recommendations. Based on a reduced crop estimate (as of November 1, 1971), and other available information, the Board recommended a 45 percent free percentage and a 55 percent restricted percentage. Their revised recommendations are based on the following revised estimates for the 1971–72 fiscal year:

(1) Production of 11,560 tons;

(2) Total requirements for 1971 crop merchantable filberts of 4,151 tons which is the sum of an in-shell trade demand of 5,750 tons and provision for in-shell handler carryover on July 31, 1972, of 500 tons, less the in-shell handler carryover on August 1, 1971, of 2,099 tons not subject to regulation; and

(3) A total supply of merchantable filberts subject to regulation of 9,253 tons which is the estimated production of 11,560 tons, less 2,312 tons nonmerchantable production, plus 5 tons of carry-in subject to regulation.

After consideration of all relevant matter presented, including that in the notice, comments submitted pursuant to the notice, the information and recommendations submitted by the Board, and other available information, it is found that to establish free and restricted percentages as hereinafter set forth will tend to effectuate the declared policy of the act.

Therefore, the free and restricted percentages for merchantable filberts during the 1971–72 fiscal year are established as follows:

§ 982.221 Free and restricted percentages for merchantable filberts during the 1971–72 fiscal year.

The following percentages are established for merchantable filberts for the fiscal year beginning August 1, 1971:

Free percentage	45
Restricted percentage	55

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said amended marketing agreement and this part require that free and restricted percentages designated for a particular fiscal year shall be applicable to all in-shell filberts handled during such year; and (2) the current fiscal year began on August 1, 1971, and the percentages established herein will automatically apply to all such filberts beginning with such date.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 19, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-17156 Filed 11-23-71;8:49 am]

Chapter X—Consumer and Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order 94]

PART 1094—MILK IN THE NEW ORLEANS, LA., MARKETING AREA

Order Suspending Certain Provisions

This suspension order is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the New Orleans, La., marketing area.

It is hereby found and determined that for the month of November 1971, the following provisions of the order do not tend to effectuate the declared policy of the Act:

[1] The functions provided for in this subpart were transferred from the Agricultural Research Service to the Animal and Plant Health Service effective October 31, 1971.

[2] The articles hereby exempted remain subject to applicable restrictions under other quarantines.

1. In § 1094.14(b), "during any month(s) of December and February through August"; and

2. § 1094.14, all of paragraph (c).

STATEMENT OF CONSIDERATION

This suspension will remove the present limitation on the amount of milk that may be diverted during the month of November by a handler or a cooperative association to nonpool plants as producer milk. These provisions were suspended during the month of October also.

Milk production in this market has been running substantially ahead of a year ago. Because of the limited manufacturing facilities of the pool plants, it has been necessary to divert substantial quantities of milk to nonpool manufacturing plants. The order sharply limits the amount of milk that may be diverted as producer milk during the months of September through November and January. If this limitation is not suspended for the month of November, there is a likelihood that handlers will be unable to pool all the milk of producers who regularly supply the market. This would work a severe hardship on those producers whose milk was affected.

This suspension was requested by Dairymen, Inc., a cooperative association which is the major source of supply for the market.

A proposal to ease the restrictions on diversions to nonpool plants was considered at a hearing held in New Orleans, La., on August 11 and 12, 1971. A recommended decision issued October 22, 1971, adopted the proposed increase in diversions presented at that hearing. A final decision on the record of that hearing is expected to be issued shortly.

The suspension action taken here will afford the necessary relief pending amendment of the order as a result of the aforementioned hearing.

It is hereby found and determined that notice of proposed rulemaking, public procedure thereon, and 30 days' notice of the effective date hereof are impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that it will facilitate more economical and efficient disposal of surplus milk;

(b) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) A proposal to ease the restrictions on diversions was considered at a hearing held in New Orleans, La., on August 11 and 12, 1971. This proposal was adopted in a recommended decision issued October 22, 1971. The suspension action taken here will afford the necessary relief pending amendment of the order as a result of the aforementioned hearing.

Therefore, good cause exists for making this order effective November 1, 1971.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the month of November 1971.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: November 1, 1971.

Signed at Washington, D.C., on November 18, 1971.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.71–17121 Filed 11–23–71;8:46 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 410—DECEPTIVE ADVERTISING AS TO SIZES OF VIEWABLE PICTURES SHOWN BY TELEVISION RECEIVING SETS

Clarification of Size Descriptions

Correction

In F.R. Doc. 71–16161 appearing at page 21518 in the issue of Wednesday, November 10, 1971, the section heading as set forth below should be inserted between the third and fourth paragraphs:

§ 410.1 The Rule.

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter I—Commodity Exchange Authority (Including Commodity Exchange Commission), Department of Agriculture

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

Recordkeeping

On September 23, 1971, there was published in the FEDERAL REGISTER (36 F.R. 18870) a notice of proposed revision of § 1.31 of the general regulations under the Commodity Exchange Act, as amended (17 CFR 1.31), relating to recordkeeping.

Interested persons were given 30 days in which to submit written data, views or arguments on the proposed revision. Pursuant to the authority vested in the Secretary of Agriculture under the Commodity Exchange Act, as amended, and after careful consideration of all written data, views and arguments presented by interested persons, and of all other relevant facts and information available, § 1.31 of the general regulations under said act is hereby revised to read as follows:

§ 1.31 Books and records; keeping and inspection.

(a) All books and records required to be kept by the Act or by these regulations shall be kept for a period of 5 years from the date thereof and shall be readily accessible during the first 2 years of the 5-year period. All such books and records shall be open to inspection by any representative of the U.S. Department of Agriculture or the U.S. Department of Justice.

(b) Reproductions on microfilm may be substituted for hard copy as follows:

(1) Computer, accounting machine or business machine generated records may be immediately produced or reproduced on microfilm and kept in that form; other records may be immediately produced or reproduced on microfilm and kept in that form if prepared by any means from source documents which are retained in hard copy form for 2 years as provided in subparagraph (2) of this paragraph;

(2) For all other books and records, microfilm reproductions thereof may be substituted for the hard copy for the final 3 years of the 5-year period.

(c) If such microfilm substitution for hard copy is made, the person required to keep such records shall:

(1) At all times have available for examination of his records facilities for immediate, easily readable projection of the microfilm and for producing easily readable facsimile enlargements;

(2) Arrange, index and file the films in such a manner as to permit the immediate location of any particular record; and

(3) Be ready at all times to provide, and immediately provide, at the expense of the person required to keep such records, any facsimile enlargement of such records which any representative of the U.S. Department of Agriculture or U.S. Department of Justice may request.

The foregoing revision reflects a certain change in the proposal set forth in the notice of rule making published on September 23, 1971. This change was made in paragraph (b)(1) for the purpose of further liberalizing the requirements set forth in the proposal, and does not impose any new requirements in addition to what was set forth in the proposal. It does not appear that further notice and other public procedure with respect to this matter would make additional information available to the Department of Agriculture. Accordingly, it is found upon good cause that further notice and other public procedure is impracticable and unnecessary.

(Secs. 4, 4g, 4i, 5, 5a, 8a, as amended, 42 Stat. 999 et seq., 49 Stat. 1491 et seq., 69 Stat. 535, 82 Stat. 28 et seq., 7 U.S.C. 6, 6g, 6i, 7, 7a, 12a)

NOTE: The recordkeeping requirements herein have been approved by the Office of Management and Budget in accord with the Federal Reports Act of 1942 (44 U.S.C. Ch. 12).

This revision shall become effective thirty (30) days after publication in the FEDERAL REGISTER.

Issued: November 19, 1971.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.71–17156 Filed 11–23–71;8:50 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER D—HAZARDOUS SUBSTANCES

PART 191—HAZARDOUS SUBSTANCES: DEFINITIONS AND PROCEDURAL AND INTERPRETATIVE REGULATIONS

Charcoal Briquettes and Other Forms of Charcoal; Confirmation of Effective Date

In the matter of declaring charcoal briquettes and other forms of charcoal in containers for retail sale and intended for cooking or heating to be hazardous substances within the meaning of section 3(a) of the Federal Hazardous Substances Act and requiring special labeling therefor under section 3(b) of said act:

Pursuant to provisions of said act (secs. 2 (f), (g), 3 (a), (b), 74 Stat. 372, 374–75, as amended; 15 U.S.C. 1261, 1262) and the Federal Food, Drug, and Cosmetic Act (sec. 710(e), 52 Stat. 1055, as amended; 21 U.S.C. 371(e)), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections were filed to the order in the above-identified matter published in the FEDERAL REGISTER of August 11, 1971 (36 F.R. 14729). Accordingly, the regulations issued thereby, §§ 191.5 and 191.7(b)(6), shall become effective August 1, 1972.

Dated: November 15, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71–17107 Filed 11–23–71;8:45 am]

Title 31—MONEY AND FINANCE: TREASURY

Chapter II—Fiscal Service, Department of the Treasury

SUBCHAPTER B—BUREAU OF THE PUBLIC DEBT

PART 315—REGULATIONS GOVERNING U.S. SAVINGS BONDS

Limitation on Holdings

Section 315.10 and footnotes 4 and 5 of Department of the Treasury Circular No. 530, Ninth Revision, dated December 23, 1964, as amended (31 CFR Part 315), are hereby further amended to read, as follows:

§ 315.10 Annual limitations on holdings.

The amounts of savings bonds of each series, issued in any one calendar year,[4] which may be held by any one person at any one time, computed in accordance with the provisions of § 315.11, are limited, as follows:

(a) *Series E*—(1) *General limitation.* $5,000 (issue price) for each calendar year.[5]

(2) *Special limitations for employees' savings plans and savings and vacation plans.* $2,000 (face amount) multiplied by the highest number of participants in any employees' savings plan as described in Department Circular No. 653, current revision (Part 316 of this chapter). Qualified savings and vacation plans are also eligible for this special limitation.

(b) *Series H*—(1) *General limitation.* $5,000 (face amount) for each calendar year.[5]

(2) *Special limitation for gifts to exempt organizations under 26 CFR 1.501(c)(3)–1.* $200,000 (face amount) for each calendar year for bonds received as gifts by an organization which at the time of purchase is an exempt organization under the terms of 26 CFR 1.501(c)(3)–1.

The foregoing amendment is made for the purpose of having the limitations in the regulations governing savings bonds conform to the current limitations in 31 CFR 316.5 and 332.5, the offerings of Series E and Series H savings bonds, respectively. In view of the earlier publication of these limitations in 35 F.R. 703, January 17, 1970, and 35 F.R. 849, January 21, 1970, I find that notice and public procedures are unnecessary. This action is effected under the provisions of section 22 of the Second Liberty Bond Act, as amended (49 Stat. 21, as amended; 31 U.S.C. 757c), and 5 U.S.C. 301.

Dated: November 19, 1971.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[FR Doc.71–17151 Filed 11–23–71;8:49 am]

[4] The Ninth Revision of this circular contains information on prior annual limitations.

[5] Effective December 1, 1969. Investors who purchased less than $5,000 (issue price) of the Series E bonds or $5,000 (face amount) in the case of Series H bonds prior to the effective date of the limitations were entitled only to purchase enough to bring their totals for the year to those amounts. Investors whose purchases exceeded these limitations could not purchase additional bonds during the remainder of the calendar year.

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER B—PERSONNEL; MILITARY AND CIVILIAN

PART 41—ADMINISTRATIVE DISCHARGES

Miscellaneous Amendments

The following miscellaneous amendments have been made to Part 41:

1. Section 41.2 is revised as follows:

§ 41.2 Applicability.

The policies, standards, and procedures prescribed in this part are applicable to the Army, the Navy, the Air Force, and the Marine Corps, and, by agreement with the Secretary of Transportation, to the Coast Guard, and to all Reserve components thereof.

2. Paragraph (k) of § 41.6 is amended as follows:

§ 41.6 Reasons for discharge.

* * * * * *

(k) *Resignation or request for discharge for the good of the service.* Discharge by reason of resignation or request for discharge for the good of the service, with an undesirable discharge, where a member's conduct rendered him triable by court-martial under circumstances which could lead to a punitive discharge, subject to the procedures and safeguards specified elsewhere in this part.

3. Paragraph (d)(4) of § 41.7 is amended as follows:

§ 41.7 Procedures for discharge.

* * * * * *

(d) *Undesirable discharge.* * * *

(4) A member beyond military control by reason of unauthorized absence:

(i) May be issued an undesirable discharge in absentia only under the following circumstances:

(*a*) When the prosecution of the member is apparently barred by Statute of Limitations (10 U.S.C. 843 (Art. 43) Uniform Code of Military Justice. In those cases, an undesirable discharge may be issued at any time after it is determined that prosecution is so barred provided that upon consideration of extenuating, mitigating and aggravating factors in each case the discharge authority determines that the best interest of the military service would be served by issuance of such discharge.

(*b*) When the Secretary of the military department concerned determines that the issuance of such discharge would serve the national interests.

(ii) Will be notified of the imminent discharge action and the effective date thereof by registered mail forwarded to the record address of the member or the next of kin, as appropriate.

(iii) Will be subject to the separation limitations of 10 U.S.C. 1163 if he is a member of the reserve components.

* * * * * *

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Comptroller).

[FR Doc.71–17117 Filed 11–23–71;8:46 am]

Chapter VI—Department of the Navy

PART 714—OFFICER PERSONNEL

Sec.

714.1 Purpose, scope, and effect.
714.2 Cancellation, supersession, and effect upon other directives.
714.3 Definitions.
714.4 Resignation.
714.5 Dropping from the rolls.
714.6 Involuntary separation, reversion, and release from active duty.
714.7 Women officer separations.
714.8 Special provisions.

refers to its qualification by such de-Sec.

714.9 Regulations and procedures concerning boards of officers.

AUTHORITY: The provisions of this Part 714 issued under 5 U.S.C. 301, 10 U.S.C. 5031, 6011. Interpret or apply 10 U.S.C. 6392, 6393, 1161, 1163, 651.

§ 714.1 Purpose, scope, and effect.

Various statutes exist which provide for the separation from the naval service, revocation of commissions, discharge, termination of appointments, and release from active duty of Navy and Marine Corps officers. The Chief of Naval Personnel, under the command of the Chief of Naval Operations, with respect to officers of the Regular and Reserve components of the Navy, and the Commandant of the Marine Corps, with respect to officers of the Regular and Reserve components of the Marine Corps, have primary responsibility for the administration and implementation of these statutes. This part provides procedures, regulations, and instructions for implementation of statutes which provide for the separation of officers from the Navy and Marine Corps, termination of appointments, revocation of commissions and/or discharge, release from active duty, or other changes in status because of misconduct, unsatisfactory or poor performance of duty, unsuitability, and conduct or conditions which, in the opinion of the Chief of Naval Personnel and Commandant of the Marine Corps, respectively render the continuation of an officer in his present status undesirable. The following discharges, terminations of appointments or releases from active duty which are dealt with in other manuals and directives, or by statute, are excepted from this part unless specifically provided for herein:

(a) Those effected in accordance with approved sentences of courts-martial.

(b) Those authorized by laws concerning retirement or discharge for physical disability.

(c) Those accomplished pursuant to the Military Personnel Security Program (SECNAVINST 5521.6A).

(d) Those required by operation of the promotion system established by law (e.g., failure of selection, report as unsatisfactory, failure of examination) and not needing implementing or supplementary regulations.

(e) Those directed by laws which are self-executing and do not authorize regulations.

§ 714.2 Cancellation, supersession, and effect upon other directives.

Dept. Nav. General Order No. 16 and SECNAVINST 1900.2 are superseded and canceled. The provisions of BUPERSMAN, Marine Corps Manual and MCOP-1900.16, MARCORPSEPMAN which are inconsistent with this instruction are held in abeyance pending their modification.

§ 714.3 Definitions.

The following definitions and rules of interpretation shall apply throughout these regulations:

(a) "The President" refers to the President of the United States and, except where otherwise indicated, includes the meaning, "the Secretary of the Navy acting for the President of the United States."

(b) "The Secretary," "the Appropriate Secretary," or "the Secretary of the military department concerned" each refers to the Secretary of the Navy. All of the foregoing terms, including "the Secretary of the Navy," refer to and authorize action on particular cases by the Secretary of the Navy, the Under Secretary of the Navy, or an Assistant Secretary of the Navy.

(c) "The Chief of Naval Personnel" or "The Commandant of the Marine Corps" refers generically to and authorizes action by all Deputy or Assistant Chiefs of Naval Personnel or to the Assistant Commandant, Chief of Staff, or Director of Personnel in Marine Corps Headquarters, in addition to the individual incumbents of the named offices.

(d) "Officer" means a member of the naval service serving in a commissioned or warrant officer grade, either permanent or temporary. The term "officer" does not include any midshipman at the Naval Academy; midshipman, U.S. Navy; midshipman, U.S. Naval Reserve; aviation cadet; or other person in an officer candidate status similar to any one or more of the foregoing.

(e) "Commissioned officer" means a member of the naval service serving in a grade, either permanent or temporary, above warrant officer, W-1.

(f) "Active list of the Navy" means the list of officers of the Regular Navy, other than retired officers, holding permanent appointments in grades above chief warrant officer, W-4. "Active list of the Marine Corps" means the list of officers of the Regular Marine Corps, other than retired officers, holding permanent appointments above chief warrant officer, W-4.

(g) "Commissioned service" includes all chronological service in active, inactive, or retired duty or status, in any grade or component or in any combination of grades, components, or both, of the Navy, or of the Marine Corps, of and above the grade of chief warrant officer, W-2.

(h) "Continuous" as used herein with reference to service means unbroken by any period in excess of 24 hours.

(i) "Dismissal" refers to a total separation of a commissioned officer, effected by sentence of a general court-martial, or in commutation of such a sentence, or, in time of war, by order of the President. It also refers to a total separation of a warrant officer, W-1, who is dismissed by order of the President in time of war. (Dismissal by order of the President in time of war may not be effected by the Secretary acting for the President.)

(j) "Discharge," notwithstanding the noncontractual nature of an officer's service, refers to the termination of an officer's obligation to render service and separation from service.

(k) "Characterization" of a discharge individual concerned, advising him of the scriptive terms as "under honorable conditions" or "under conditions other than honorable."

(l) "Drop from the rolls" refers to a complete termination of service status effected pursuant to specific statutory authority.

(m) "Revocation of appointment" or "revocation of commission" or "termination of appointment" effects a complete termination of the service status of an officer.

(n) "Respondent" refers to an officer who is being afforded the opportunity to show cause why a change of status should not be effected in his case.

§ 714.4 Resignation.

A resignation may be utilized by an officer to terminate his naval service or status. If his resignation is accepted by the Secretary, he shall be totally separated from the service, unless the Secretary countermands his action prior to the effectuation of such separation. BUPERSMAN and MCO P1900.16, MARCORPSEPMAN contain instructions for submission of resignations. The Chief of Naval Personnel and Commandant of the Marine Corps need not forward to the Secretary resignations which are not considered in proper form or are not considered appropriate because of unresolved allegations of misconduct, poor performance, unsuitability, or prior misconduct. Such resignations may be denied by the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, by direction of the Secretary.

§ 714.5 Dropping from the rolls.

(a) *Applicability.* The President or the Secretary, depending upon the applicable statute, may drop from the rolls of the armed force any officer, Regular or Reserve, (1) who has been absent without authority for at least 3 months, or (2) who is sentenced to confinement in a Federal or State penitentiary or correctional institution after having been found guilty of an offense by a court other than a court-martial or other military court, and whose sentence has become final.

(b) *Procedures.* Whenever it shall appear that an officer has either or both been absent without authority from his place of duty for a period of 3 months or more or has been found guilty by a civil authority of one or more offenses and has been finally sentenced to confinement in a Federal or State penitentiary or correctional institution, with or without suspension or probation, the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, shall make a finding to such effect and advise the Secretary of such finding. Dropping from the rolls of officers of Regular components will be accomplished by action of the President, this being a discretionary function which is not considered to be delegable under the applicable statute. Dropping from the rolls of officers of Reserve components, other than officers of flag grade, will normally be accomplished by action of the Secretary. Notification of such action will be addressed to the

finding made and of his having been dropped from the rolls. No certificate of discharge is issued upon separation by dropping from the rolls, and such a separation is not characterized.

(c) *Hearing and/or board proceedings.* Neither a hearing nor proceedings by a board of officers are required in order to drop an officer from the rolls.

§ 714.6 Involuntary separation, reversion and release from active duty.

(a) *Regular officers on the active list of Navy or Marine Corps*—(1) *Revocation of commission.* The Secretary may revoke the appointment of any officer on the active list of the Navy or Marine Corps who has less than 3 years of continuous service as an officer on the active list of the Navy or Marine Corps. Once a Regular officer has completed 3 years of continuous service on his active list, there is no authority, except in the case of certain women officers, to involuntarily separate him, except pursuant to selection board action, disability retirement or other means not within the purview of this instruction.

(2) *Medical Service Corps.* Any officer appointed in the Medical Service Corps pursuant to 10 U.S.C. 5579 who had a permanent status of warrant officer at the time of his appointment to the active list and whose appointment is revoked, may be reappointed, without examination, to his former permanent status with the same lineal position and all other rights and benefits he would have had or would have attained in due course if he had not been appointed in the Medical Service Corps.

(3) *Hearing and/or board proceedings.* Neither a hearing nor proceedings by a board of officers are required in the following situations:

(i) Failure to satisfactorily complete any course of training, instruction, or indoctrination which the officer concerned has been ordered to undergo;

(ii) Repeated low-caliber or unsatisfactory performance of duty as evidenced by two or more official letters and/or reports submitted by no less than two reporting seniors under whom the officer in question has served; or

(iii) Unsuitability or unfitness for service by reason of a medically diagnosed condition or state other than a physical disability which entitles the officer to disability retirement or severance pay.

In all other situations, unless waived, revocation will be pursuant to board-of-officer proceedings, as provided in § 714.9.

(b) *Permanent warrant officers of regular components*—(1) *Termination.* The Secretary may terminate the warrant or the commission of any warrant or chief warrant officer of the Regular Navy or Marine Corps.

(2) *Hearing and/or board proceedings.* Warrant officers who, from the date when they accepted their original permanent appointment, have not completed 3 years of continuous service may, pursuant to 10 U.S.C. 1165, have their appointments terminated at any time without the benefit of a hearing or board proceedings. Those who have completed 3 years of continuous service from the date when they accepted their original permanent appointment may have their appointments terminated, pursuant to 10 U.S.C. 1166, as a result of the recommendation of a board of officers or a selection board. Those chief warrant officers whose names are reported by a selection board as being, in the opinion of the board of officers, unfit or unsatisfactory in their permanent regular grades, as established by their records and reports, shall be retired, enlisted or separated under 10 U.S.C. 1165 or 1166 without benefit of a hearing or further board proceedings. In situations other than previously provided, termination will be pursuant to board-of-officer proceedings, as provided in § 714.9.

(c) *Reserve officers*—(1) *Discharge.* The President or the Secretary, as prescribed by statute, may discharge Reserve officers regardless of length of service.

(2) *Hearing and/or board proceedings.* (i) Neither a hearing nor proceedings by a board of officers, in the case of officers with less than 3 years of commissioned service or, with respect to warrant officers, those who have not completed 3 years of continuous service since acceptance of their appointment, are required in the following situations:

(a) Failure to satisfactorily complete any course of training, instruction, or indoctrination which the officer concerned has been ordered to undergo;

(b) Repeated low-caliber or unsatisfactory performance of duty as evidenced by two or more official letters and/or reports submitted by no less than two reporting seniors under whom the officer in question has served; or

(c) Unsuitability or unfitness for service by reason of a medically diagnosed condition or state other than a physical disability which entitles the officer to disability retirement or severance pay.

(ii) In situations other than previously provided, discharge will be pursuant to board-of-officers proceedings, as provided in § 714.9.

(3) *Release from active duty.* In the case of Reserve officers of the Navy and Marine Corps, the Chief of Naval Personnel or the Commandant of the Marine Corps, respectively, may at any time, for any reason, release a Reserve officer from active duty, except in the following situations:

(i) In time of war or national emergency declared by Congress or the President after January 1, 1953, a Reserve officer may be released from active duty (other than for training) only upon the recommendation of a board of officers approved by the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, unless the officer waives the board or his release is otherwise authorized by law.

(ii) An officer serving on active duty, pursuant to an active-duty agreement executed in accordance with 10 U.S.C. 679, may not be released from active duty, without his consent, during the period of the agreement because of a reduction in personnel strength, unless his release is recommended by a board of officers. In such instances, a hearing is not required.

(iii) An officer serving on active duty, pursuant to an active-duty agreement executed in accordance with 10 U.S.C. 679, may not be released from active duty without his consent during the period of the agreement, unless his release is recommended by a board of officers before which he was afforded the opportunity for a hearing, except when he is dismissed by court-martial action, released because of unexplained absence without leave for at least 3 months, released because he is convicted and sentenced to confinement in a Federal or State penitentiary or correctional institution and the sentence has become final, or released because he has been considered at least twice and has failed for promotion, under conditions that would require the release or separation of a Reserve officer who is not serving under such an agreement. In the excepted situations, no further action or hearing is necessary.

(iv) A Reserve officer who is on active duty and is within 2 years of becoming eligible for retired pay or retainer pay, under a purely military retirement system, may not be involuntarily released from duty before he becomes eligible for that pay, unless his release is approved by the Secretary.

(d) *Officers with temporary promotions or appointments (commissioned or warrant).* As prescribed by various statutes, the President or the Secretary may terminate the temporary promotion or appointment of any officer of the naval service, Navy or Marine Corps, without the requirement for a hearing or a board of officers. In some instances, the termination is automatic upon the occurrence of a contingency specified by statute. An individual whose temporary status is terminated, reverts to his permanent status. If he has no permanent status to revert to, or if his permanent status is simultaneously terminated, he shall be discharged.

§ 714.7 Women officer separations.

(a) Women officers of the Regular Navy and Marine Corps and Naval Reserve and Marine Corps Reserve are subject to release from active duty, reversion, termination, separation, discharge, revocation of commission and dropping from the rolls, under the same circumstances, procedures, and conditions and for the same reasons as male officers.

(b) In addition to the foregoing provisions of this part which apply to all officers, regardless of sex, all women officers, regardless of length of service, may be discharged, upon approval of the Secretary, whenever it is reported to the Secretary that the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, has determined that such officer:

(1) Is the parent, by birth or adoption, of a child under the age of 18 years; or

(2) Has personal custody of a child under the age of 18 years; or

(3) Is the stepparent of a child under the age of 18 years who is within the

household of the woman for a period of more than 30 days a year; or

(4) Is pregnant (however, if the pregnancy is terminated as a result of a spontaneous or therapeutic abortion or a still birth prior to separation from the service, the woman officer may submit a request for cancellation of her separation orders, together with the commanding officer's recommendation, to the Chief of Naval Personnel or the Commandant of the Marine Corps); or

(5) Has, while serving under her current appointment to warrant or commissioned grade in the naval service, given birth to a living child.

The determination of conditions in subparagraphs (1) through (5), of this paragraph, shall be in accordance with regulations prescribed by the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, which may provide for retention, notwithstanding the foregoing conditions. Only those cases, in which discharge is considered appropriate, need be reported to the Secretary.

(c) *Hearing and/or board proceedings.* Neither a hearing nor proceedings by a board of officers are required to discharge, under the provisions of paragraph (b) of this section, women officers who have less than 3 years' commissioned service or, in the case of warrant officers, have not completed 3 years of continuous service since acceptance of their appointment. Otherwise, unless waived, a hearing before a board of officers is required.

§ 714.8 Special provisions.

(a) Except when he is dropped from the rolls, no officer shall be discharged under other than honorable conditions, pursuant to this instruction, without being afforded the opportunity to have his case heard before a board of officers.

(b) If proceedings by a board of officers are mandatory in order to release an officer from active duty or discharge him, such action will not be taken, except upon the approved recommendation of a board of officers.

(c) Although not otherwise required or provided for by this part, an officer who is being considered for administrative discharge or termination of his appointment because of misconduct, unsatisfactory performance of duty, or similar reasons, will be afforded the opportunity to have a hearing before a board of officers when he specifically requests a hearing, except in the following situations:

(1) When the action is based upon the results of a selection board;

(2) The officer is being dropped from the rolls;

(3) Those provided for in § 714.6(a)(3) and (c)(2); and

(4) Those cases in which the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, recommends that a hearing not be provided, although requested.

The recommendation of the board of officers will, in such circumstances, be only advisory in nature and will not preclude any contemplated action.

§ 714.9 Regulations and procedures concerning boards of officers.

In situations where it is necessary to afford an officer a hearing before a board of officers, as provided by previous sections of this part, or in situations where a hearing is not required, but is nevertheless afforded the officer, the procedures and requirements prescribed in this section shall apply. Hearings before boards of officers are not adversary proceedings. In most cases, the Chief of Naval Personnel or the Commandant of the Marine Corps will be contemplating a change in an officer's status because of the officer's misconduct, poor performance, unsuitability or similar reasons. The proceedings and hearing before a board of officers are intended to give the officer an opportunity to respond to, and rebut, the basis for the contemplated change of status after having been informed of the contemplated change and the reasons therefor. Although a board of officers may be required to make findings, opinions and recommendations, it is not intended that any issue shall be proved or disproved—but merely that a hearing before the board of officers shall provide a forum for a discussion of the contemplated action, reasons therefor, and reasons why the officer concerned thinks the contemplated action should not be taken. A failure to comply with any of the procedural provisions of this section, will not invalidate the results of any board of officers, except to the extent that may be required by a clear and affirmative showing, by the individual alleging error, of injury to a substantial right which was neither expressly nor impliedly waived.

(a) *Boards of officers before which hearings are conducted. Appointment and composition.* Hearings, when required or desired, will be conducted before boards of officers convened by the Commandant of the Marine Corps or the Chief of Naval Personnel; by a general court-martial convening authority, when requested by the Chief of Naval Personnel or the Commandant of the Marine Corps; by the Director of a Marine District; or by the Commanding General, 4th Marine Aircraft Wing/Marine Air Reserve Training Command.

(b) *Membership of boards of officers.* A board of officers shall consist of three or more officers. All officers of the naval service on active duty shall be eligible for membership on boards of officers, regardless of component, branch of the naval service, sex, or whether under the direct or indirect command of the authority convening the board. All officers comprising a particular board should be senior to the individual under consideration by that board, except to such extent as officers who are thus senior cannot be obtained by the authority convening the board without undue inconvenience, and with the exception of officers who may be placed on the board by reason of their possession of specialized knowledge or experience pertinent to the particular factual situation. If an individual under consideration by a particular board is a Reserve officer, at least a majority of the board shall be Reserve officers, unless otherwise authorized by the Secretary. A recorder may be appointed and will perform such duties for the board as it desires, but he shall have no vote and shall not participate in the deliberations of the board in closed session.

(c) *Notice to be afforded respondents.* (1) An officer being afforded the opportunity to appear before a board of officers shall:

(i) Be given advance notice that such proceedings are being initiated as to him. Such notice shall be sufficiently detailed, factual, and specific (consistent with security considerations and protection of sources of information) concerning the suspected acts, omissions, associations, or traits, on the part of the officer, to inform him of the contemplated action therefor and his rights in conjunction therewith.

(2) In the event the address or location of an individual is unknown or if deemed appropriate, notification may be made by letter addressed to him at any one of the following:

(i) The city, town, or community in which he has been last reputed to be residing, or the post office address apparently nearest his last reputed place of residence;

(ii) In case of any person whom the individual concerned has at any time designated as a beneficiary or as one to be notified in the event of his serious illness or death, at the mailing address which records of the activity originating the letter indicate as the most recent one furnished by the individual concerned for such person; or

(iii) Any institution in which the individual concerned has been reported to be hospitalized or confined.

Absence of indication of delivery, or return as undeliverable, of a letter addressed as outlined above is immaterial as respects its efficacy as notice to or notification of the individual concerned. It is the responsibility of each member of the naval service to assure that the records pertaining to him accurately and currently reflect a mailing address at which he can be reached.

(d) *Manner in which proceedings of boards of officers are to be conducted.* (1) The individual being considered by the board shall be afforded the opportunity to present matters in his own behalf. Subject to reasonable restrictions which may be imposed by the board as to relevance, competency, and materiality of matters presented, such matters must be considered by the board. Boards of officers are not courts-martial, and the rules of evidence do not apply. Oral or written matter will not be rejected because it would be inadmissible in a court of law. If an officer is suspected of an offense, he must be warned under Article 31, UCMJ, before testifying as a witness. It is not contemplated that proceedings under this part should be in the nature

of a formal fact-finding tribunal or judicial trial, but the proceedings should be conducted in a manner assuring an individual the opportunity to present his case.

(2) A respondent has the following rights:

(i) Prior to the hearing, upon his request, he will be furnished with a copy of all statements which it is anticipated will be considered by the board unless the information is classified. If classified information is to be considered, it will be summarized to the maximum extent possible so as to declassify the information. If it is anticipated that witnesses will appear before the board of officers, the respondent will be provided, in advance, with the names of the witnesses. Failure to provide any information, or the name of a witness, will not prevent the board from considering the information or hearing the witness, but the respondent shall have an opportunity to examine any statement presented, or talk with any witness presented, before the board considers the statement or hears the witness.

(ii) He may appear in person, with or without counsel, at all open proceedings of the board. Upon request by the respondent, the convening authority will appoint as the respondent's counsel a lawyer, within the meaning of 10 U.S.C. 827(b)(1), unless counsel having such qualifications cannot be obtained on account of physical conditions, military exigencies or within a reasonable period of time. If counsel having such qualifications cannot be obtained, the board shall proceed, but the convening authority shall make a detailed written statement, to be appended to the report, stating why counsel with such qualifications could not be obtained and setting forth the qualifications of the substituted counsel. The respondent may have military counsel of his own choice, provided proper authority determines the counsel requested is reasonably available. He may employ civilian counsel at his own expense.

(iii) Although he has no right to challenge, the respondent may submit to the convening authority for appropriate action, any relevant matter which, in his view, indicates that a particular member or members should not sit on his case.

(iv) The respondent may request from the convening authority, or board of officers, the appearance before the board of any witness whose testimony he believes to be pertinent to his case. He will specify in his request the type of information the witness can provide. The witness will be invited to attend, if it is considered that he is reasonably available and that his testimony can add materially to the case. Witnesses who are not within the immediate geographic area of the situs of the board, or are not under the command of the convening authority, are considered as not being reasonably available, and their statements or depositions will be utilized in lieu of their personal appearance. If a witness on active duty declines the invitation, the convening authority will make a decision whether action should be taken to obtain orders for the witness' appearance. Witnesses not on active duty must appear voluntarily and at no expense to the Government. Requests for witnesses may be summarily refused if not timely made. Once a board of officers has convened, requests for witnesses shall be submitted to the board. Final decision on the appearance of witnesses shall be by the convening authority. If the convening authority considers it important that a witness on active duty, who is not under his command or is otherwise not reasonably available, should appear as a witness in lieu of utilizing his statement or deposition, he may request the commanding officer of the witness to make him available.

(v) The respondent may, at any time before the board convenes or during the proceedings, submit any answer, deposition, sworn or unsworn statement, affidavit, certificate or stipulation. This includes, but is not limited to, depositions of witnesses not deemed to be reasonably available or witnesses unwilling to appear voluntarily.

(vi) He may or may not submit to examination by the board.

(vii) The respondent and his counsel may question any witness who appears before the board. Testimony of witnesses shall be under oath or affirmation.

(viii) Failure of the respondent to invoke any of these rights cannot be considered as a bar to the board proceedings, findings, opinion, or recommendation.

(ix) The respondent, if he requests a copy prior to adjournment of the board, may be provided with a copy of the record of the proceedings in his case and may, upon his request, be informed of the findings, opinions and recommendations of the board. In cases involving classified matter, any record or information to be provided the respondent will be edited prior to delivery to him to remove classified material and to preserve its integrity.

(e) *Forms in which report of board of officers may be submitted. Record of proceeding.* (1) A separate report shall be submitted for each officer considered by the board. Such report may:

(i) Include findings, opinions, and recommendations in a narrative form, without separating them or identifying particular statements by such terms as "the board finds" or "the board is of the opinion"; or

(ii) Set forth findings, opinions, and recommendations in separate numbered paragraphs; or

(iii) Utilize any combination of the forms outlined in subdivisions (i) and (ii) of this subparagraph.

(2) The report of the board of officers shall include:

(i) A summary of the individual officer's service and background.

(ii) A summary of the acts, omission, or traits ascribed to the officer under consideration in allegations, reports, or other circumstances prompting consideration of his case by the board.

(iii) A summary of the position taken by the officer under consideration, with respect to the allegations, reports, or other circumstances in question and the acts, omissions, or traits ascribed to him therein.

(iv) Findings of the board concerning acts, omissions, or traits alleged.

(3) As has been previously stated herein, it is not mandatory that opinions expressed by boards of officers be separated from findings, nor is it ordinary essential that they be readily identifiable as opinions. In certain cases, if a finding or opinion of a board of officers is made to the effect that a respondent's conduct, act, or omission constitutes moral or professional dereliction, SECNAVINST 1900.7a of April 2, 1969. Provides that the individual is not entitled to severance pay. For purposes of aiding determinations of entitlement to various benefits, boards of officers which are recommending discharge shall include in their reports an expression of opinion, identified as such, as to whether the recommended discharge should be characterized as "under honorable conditions" or "under conditions other than honorable." The standards for discharges under honorable and other than honorable conditions, set forth in BUPERSMAN MCO P1900.16, MARCORPSEPMAN, shall be utilized by the board of officers in recommending the type of discharge to be awarded.

(4) It shall not be mandatory, under this part, that a board of officers make or maintain a verbatim or detailed transcript of its proceedings; however, a transcript of sufficient detail to show the basis for findings of fact shall be maintained. Authorities appointing boards of officers in particular situations may require that a record of a specified type be made, but in the absence of express requirement for more extensive material, a report as outlined above, accompanied by all correspondence and exhibits or descriptions thereof considered by the board, shall constitute an adequate record under these regulations.

(5) Recommendations made by a board of officers will be phrased according to the particular function the board is convened to perform. A board will not recommend a probationary status.

(6) The report of a board of officers shall be signed by all members of the board concurring therein and the statements which are concurred in by a majority of the members shall constitute the report of the board. Any member, or members, not concurring with the majority, shall sign and submit a separate minority report, or separate minority reports, setting forth the extent of his, or their, concurrence and nonconcurrence, the reasons therefor, and the variant findings, opinions, or recommendations, as appropriate, which are considered warranted. Each minority report thus submitted shall be attached to the report of the board, shall be considered by all authorities subsequently reviewing such report, and may be expressly noted in comments made upon the record by authorities reviewing or acting upon the case.

(f) *Preservice misconduct.* The character of discharge is to be determined solely by the officer's military record, including representations made in connection with obtaining his military status and information concerning his conduct

and performance while in service. Whenever evidence of preservice misconduct is presented to a board of officers, the board may consider it only for the purpose of deciding whether to recommend separation or retention of the respondent. Such evidence may not be used by the board in arriving at its opinion as to the type or character of separation; and the board, in its report, shall affirmatively state that such evidence was not so considered.

(g) *Review of reports of boards of officers.* The report of a board of officers under these regulations shall be reviewed, and indication of the extent of concurrence and nonconcurrence therein shall be made by the authority who appointed the board. Approval shall be specifically noted of the findings and recommendations in which the appointing authority concurs. Upon such review, the report may be returned to the board of officers for correction of errors, amplification, clarification, or reconsideration in the light of any specified factors which may not have been previously appreciated by the board. In the absence of perceived factors which may reasonably be deemed to have escaped full appreciation by the board members, however, a report shall not be returned to the board for reconsideration of findings, opinions, or recommendations going to the substantial merits of the case. The reports of all boards of officers under these regulations shall be reviewed by the Chief of Naval Personnel or by the Commandant of the Marine Corps, as appropriate. Upon such review, any case may be referred to a board of officers in the Bureau of Naval Personnel or in Headquarters, U.S. Marine Corps, for findings, opinions, and recommendations de novo. Although such a subsequent board of officers may consider the report or reports of any and all prior boards, it shall not be bound to return findings, opinions, or recommendations consistent with those rendered by a previous board. In any case involving termination of active service or discharge of an individual on the basis of alleged misconduct or inferior performance of duty, a finding, opinion, or recommendation of a subsequent board of officers which, if approved, would result in action less favorable to the individual than that which would result from a prior board, shall not be effectuated unless the report shows:

(1) That the individual has been afforded an opportunity to make representation (or to be heard if he had such opportunity before the prior board) and show why the less-favorable action should not be taken, and

(2) That any matter so presented has been considered by the subsequent board.

No discharge shall be less favorable than that recommended by the prior board, and in those instances where the prior board did not recommend discharge, only an honorable discharge may be awarded.

(h) *Active duty orders and expenses.* In no case shall the affording of a hearing to an officer, who is not otherwise in an active or training duty status at the time, place him or return him to such a status. There is no authority for the issuance of any form of initial orders to active or training duty for the sole purpose of facilitating appearance by an officer for hearing. There is no authority for the payment, or reimbursement, or any expenses which may be incurred by an officer, or by any person in his behalf, in connection with any administrative discharge proceeding under these regulations.

(i) *Statutes pertaining to officer separations not cited or discussed in this part.* In cases of existing or future statutes pertaining to separation of officers of the Navy, Marine Corps, or Reserve components of either, which are not specifically cited, quoted, or referred to herein, the regulations set forth in this part, applying to the most closely analogous situation (then-current or former), shall control, unless and until more specifically applicable regulations are adopted. In the event that existing or future statutes, which are not specifically treated herein, provide for separation under such regulations or rules as the Secretary of the Navy may prescribe, the regulations set forth herein, which apply to the most closely analogous situation, shall be held and considered for all purposes to have been prescribed under such statutory direction until such time as more specifically applicable rules or regulations are prescribed.

Effective date. This part shall be effective on October 14, 1971.

[SEAL] MERLIN H. STARING,
Rear Admiral, JAGC, U.S. Navy,
Acting Judge Advocate General.

[FR Doc.71-17104 Filed 11-23-71;8:47 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER J—BRIDGES

[CGFR 71-83a]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Black River, S.C.

This amendment changes the regulations for the South Carolina State Highway Department swing bridge across the Black River at Brown's Ferry near Rhems, to permit the draw to remain closed to the passage of vessels. This amendment was circulated as a public notice dated September 3, 1971, by the Commander, Seventh Coast Guard District and was published in the FEDERAL REGISTER as a notice of proposed rule making (CGFR 71-83) on August 26, 1971 (36 F.R. 16937). One objection to the proposal was received and then subsequently withdrawn after further investigation. No other comments were received.

Accordingly, Part 117 of Title 33, Code of Federal Regulations is amended by revising § 117.245(g)(14) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridge where constant attendance of drawtenders is not required.

• • • • •

(g) • • •

(14) Black River, S.C.:

(i) South Carolina State Highway Department bridge near Georgetown. The draw shall open on signal if at least 12 hours' notice has been given.

(ii) South Carolina State Highway Department bridge at Brown's Ferry near Rhems. The draw need not open for the passage of vessels and paragraphs (b) through (e) of this section shall not apply to this bridge.

• • • • •

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Effective date. This revision shall become effective on January 7, 1972.

Dated: November 17, 1971.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Marine Environment and Systems.

[FR Doc.71-17163 Filed 11-23-71;8:50 am]

[CGFR 71-DB12]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Grant Line Canal, Calif.

This amendment changes the regulations for the San Joaquin County highway drawbridge across the Grant Line Canal to require 12 hours' notice at all times. This amendment was circulated as a public notice dated April 30, 1971, by the Commander, 12th Coast Guard District and was published in the FEDERAL REGISTER as a notice of proposed rule making (CGFR 71-DB1) on April 15, 1971 (36 F.R. 7143). One comment was received but had no objection to the change.

Accordingly, Part 117 of Title 33, Code of Federal Regulations is amended by revising paragraph (j) of § 117.714 to read as follows:

§ 117.714 San Joaquin River and its tributaries, California.

• • • • •

(j) *Grant Line Canal; San Joaquin County Highway bridge, mile 5.5.* The draw shall open on signal if at least 12 hours' advance notice has been given.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Effective date. This revision shall become effective on December 24, 1971.

Dated: November 12, 1971.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Marine Environment and Systems.

[FR Doc.71-17165 Filed 11-23-71;8:50 am]

[CGFR 71-42a]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Nehalem River, Oreg.

This amendment changes the regulations for the Oregon State Highway bridge across the Nehalem River, mile 6.5, to permit the draw to remain closed at all times. This amendment was circulated as a public notice dated May 26, 1971, by the Commander, 13th Coast Guard District and was published in the FEDERAL REGISTER as a notice of proposed rule making (CGFR 71-42) on May 22, 1971 (36 F.R. 9329).

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.735 to read as follows:

§ 117.735 Nehalem River, Oregon Highway Bridge, Mile 6.5.

The draw need not open for the passage of vessels. However, the draw shall be returned to operable condition within 6 months after notification from the Commandant, U.S. Coast Guard, to take such action.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Effective date. This revision shall become effective on January 1, 1972.

Dated: November 12, 1971.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.71-17164 Filed 11-23-71;8:50 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 9—Atomic Energy Commission

MISCELLANEOUS AMENDMENTS TO CHAPTER

These changes are being made in order to add AEC cost sharing policy to the policy on unsolicited proposals for research and development for other than educational institutions, to bring the AEC Procurement Regulations in line with current Federal Property Management Regulations and to reflect the new designation of Office of Management and Budget.

PART 9-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Subpart 9-4.52—Unsolicited Proposals for Research and Development Contracts Submitted by Individuals and Commercial and Not-for-Profit Organizations Other Than Educational Institutions

1. In Subpart 9-4.52—Unsolicited Proposals for Research and Development Contracts Submitted by Individuals and Commercial and Not-for-Profit Organizations Other than Educational Institutions, § 9-4.5202 *Policy*, a new paragraph (e) is added as follows:

§ 9-4.5202 Policy.

• • • • •

(e) It is the policy of AEC to encourage cost sharing by organizations which submit unsolicited proposals. (See Subpart 9-4.56.)

PART 9-5—SPECIAL AND DIRECTED SOURCES OF SUPPLY

Subpart 9-5.52—Procurement of Special Items

2. In Subpart 9-5.52—Procurement of Special Items, § 9-5.5201-3 *Consolidated purchase of new vehicles by General Services Administration*, paragraph (b) is revised to read as follows:

§ 9-5.5201 Motor vehicles.

• • • • •

§ 9-5.5201-3 Consolidated purchase of new vehicles by General Services Administration.

• • • • •

(b) *Submission of purchase orders.* Except as determined necessary for internal accounting needs or purchasing records, orders should be made using GSA Form 1781 for vehicles covered by Federal Standard No. 122, Federal Standard No. 292, or Federal Standard No. 307. AEC Form 103 or contractors' purchase order forms should be used for vehicles not covered by Federal Standard No. 122, No. 292, or No. 307.

• • • • •

PART 9-51—REVIEW AND APPROVAL OF CONTRACT ACTIONS

3. Subpart 9-51.6 Contracts and Subcontracts Requiring Clearance With the Bureau of the Budget is rewritten as follows in order to change "Bureau of the Budget" and "BOB" to "Office of Management and Budget" and "OMB" wherever they appear.

Subpart 9-51.6 Contracts and Subcontracts Requiring Clearance With the Office of Management and Budget

Sec.
9-51.600 Scope of subpart.
9-51.601 Actions requiring clearance.
9-51.602 Procedure for obtaining clearance, extension of clearance, or exemption.

AUTHORITY: The provisions of this Subpart 9-51.6 issued under section 161 of the Atomic Energy Act of 1954, as amended, 68 Stat. 948, 42 U.S.C. 2201; section 205 of the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390, 40 U.S.C. 486.

Subpart 9-51.6 Contracts and Subcontracts Requiring Clearance With the Office of Management and Budget

§ 9-51.600 Scope of subpart.

This subpart sets forth requirements for the clearance of contracts and subcontracts with the Office of Management and Budget.

§ 9-51.601 Actions requiring clearance.

In accordance with the Federal Reports Act of 1942 and Office of Management and Budget Circular A-40, contracts and subcontracts which will result in the collection of information on identical items at the request of or for AEC by the contractor or subcontractor, from 10 or more respondents, require clearance from the Assistant Director of the Office of Management and Budget and inscribing thereon an approval number or notation.

§ 9-51.602 Procedure for obtaining clearance, extension of clearance, or exemption.

Requests for clearance of contracts and subcontracts or material revision or change in previously approved contracts or subcontracts, extension of clearance beyond scheduled expiration date, or exemption from clearance shall be submitted by Managers of Field Offices or Directors, Headquarters Divisions or Offices to the Director, Division of Contracts for coordination with and transmittal by the Controller to the Assistant Director of the Office of Management and Budget. Such requests shall be in the form and contain all of the pertinent information required by paragraphs 4, 5, 6, and 7 of OMB Circular A-40.

Effective date. These amendments are effective upon publication in the FEDERAL REGISTER (11-24-71).

Dated at Germantown, Md., this 16th day of November 1971.

For the U.S. Atomic Energy Commission.

JOSEPH L. SMITH,
Director, Division of Contracts.

[FR Doc.71-17102 Filed 11-23-71;8:45 am]

Chapter 114—Department of the Interior

PART 114-47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

Identification of Unneeded Federal Real Property

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301, and Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), a new Subpart 114-47.8 (as set forth below) is added to Chapter 114, Title 41 of the Code of Federal Regulations.

This new subpart contains the Department of Interior regulations and procedures for the identification of unneeded Federal real property. These regulations are presently published in 41 CFR 114–47.50 which is hereby superseded.

This subpart shall become effective on the date of its publication in the FEDERAL REGISTER (11–24–71).

WARREN F. BRECHT,
Deputy Assistant Secretary of the Interior.

NOVEMBER 15, 1971.

Subpart 114–47.8—Identification of Unneeded Federal Real Property

Sec.

114–47.800 Scope of subpart.
114–47.802 Procedures.
114–47.802–50 Disposal criteria.
114–47.802–51 Funds and statutory authority.
114–47.802–52 Bureau implementation.
114–47.802–53 Intrabureau records.
114–47.802–54 Annual report to the Department.

AUTHORITY: The provisions of this Subpart 114–47.8 issued under 5 U.S.C. 301, and section 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 114–47.8—Identification of Unneeded Federal Real Property

§ 114–47.800 Scope of subpart.

This subpart prescribes basic policies and procedures for periodic review of real property in the custody of Bureaus and Offices of the Department to identify that which is unneeded, is underutilized, or is not being put to its optimum use. It implements Bureau of the Budget Circular No. A–2, revised, dated August 30, 1971, and FPMR 101–47.8.

(a) The provisions of this subpart are applicable to the following Federal real property holdings in custody of this Department, wherever located:

(1) Land acquired by purchase, condemnation, donation, lease, or other methods, except lands exempted as provided in IPMR 114–47.800(b);

(2) Withdrawn public domain land, except that used for National Park, National Forest, or wildlife refuge purposes. Refer also to 603 DM 1 which establishes Departmental policy relating to the review and restoration, in whole or in part, of withdrawn land no longer used or required for the programs for which withdrawn; and

(3) Buildings, and other structures and facilities acquired by purchase condemnation, construction, donation, lease, or other methods, including Government-owned buildings, structures, and facilities located on:

(i) Withdrawn public domain land;

(ii) Lands exempted from the provisions of this subpart by IPMR 114–47.800(b); or

(iii) Other than Government-owned land.

(b) This subpart does not apply to the following properties:

(1) Unreserved public domain land administered by the Bureau of Land Management;

(2) Rights-of-way or easements granted to the Government;

(3) Indian tribal and trust properties;

(4) Oregon and California revested lands (43 U.S.C. 1181a);

(5) Reconveyed Coos Bay Wagon Road Land Grant lands (43 U.S.C. 1181a);

(6) Land administered by the National Park Service, other than administrative sites outside of the established boundaries of a national park;

(7) Land on Indian reservations within consolidation areas approved by the Secretary of the Interior;

(8) Land within the National Wildlife Refuge System;

(9) Bankhead-Jones lands administered under a land conservation and utilization program in accordance with the Taylor Grazing Act of 1934 (48 Stat. 1269);

(10) Land reserved or dedicated for national forest purposes; and

(11) Real property which is to be sold or otherwise disposed of and which was acquired through foreclosure, confiscation, or seizure in settlement of a claim of the Federal Government, or through conveyance to the Federal Government in connection with an indemnity or loan insurance or guarantee program.

§ 114–47.802 Procedures.

(a) *Annual review by Bureaus and Offices.* Each Bureau and Office having jurisdiction over real property in the categories referred to in IPMR 114–47.800(a) shall conduct a systematic annual review of all such property to identify that which is unneeded, is underutilized, or is not being put to its optimum use. Every effort shall be made to effect partial disposals of real property whenever circumstances will permit economic separate disposal of the unneeded portion.

(1) In conducting the annual review, Bureaus and Offices shall be guided by the standards and guidelines set forth in FPMR 101–47.801, in addition to the disposal criteria prescribed in IPMR 114–47.802–50.

(2) In addition to the written record of the review of each individual installation required by FPMR 101–47.802(a)(2), a written descriptive listing of all properties identified as unneeded, underutilized, or not being put to optimum use shall be maintained as provided in IPMR 114–47.802–53(b).

(3) The head of each Bureau or Office or his designee is authorized to make the determination contemplated by FPMR 101–47.802(a)(3)(i)(B).

(i) The requirement found in FPMR 101–47.802(a)(3)(i)(B) for obtaining the approval of the appropriate GSA regional office before issuing permits or out-leases authorizing others to use temporarily unutilized property does not apply to:

(*a*) Permits or leases involving real property which is not subject to the provisions of Office of Management and Budget Circular No. A–2 or this Subpart 114–47.8. (See IPMR 114–47.800(b)), or

(*b*) Permits authorizing other Interior Bureaus or Offices to use property temporarily not being used by the holding Bureau.

(ii) Where a Bureau or Office administers large numbers of program leases such as agricultural leases, or grazing leases or permits on withdrawn public domain land, the appropriate regional office of GSA should be requested to approve the overall leasing program, thus obviating the need to request approval of each individual lease or permit as issued.

(b) *GSA survey.* (1) Bureaus and Offices shall cooperate fully with GSA officials conducting surveys of real property holdings under their jurisdiction in order to facilitate the overall objectives of the real property review program.

(2) Notifications of GSA survey findings received in the Office of the Secretary from the GSA Central Office in accordance with FPMR 101–47.802(b)(5), will be forwarded to the Bureau or Office having custody of the property involved. Referrals to Bureaus and Offices will include a request for their comments and recommendations in any cases where GSA recommends that specific properties should be reported excess.

§ 114–47.802–50 Disposal criteria.

The disposal criteria set forth in this subsection are provided for the use and guidance of Bureaus and Offices in conducting the review of real property holdings and achieving effective and economical use of such property. These criteria are in addition to the standards and guidelines prescribed in FPMR 101–47.801.

(a) *Property not utilized—no future use.* Property not presently used in the Bureau's program for which acquired and for which there is no foreseeable future need should be disposed of promptly by:

(1) Intrabureau transfer, transfer to other Interior Bureaus, declaration to GSA as excess, or disposal as surplus pursuant to authority delegated in 205 DM 10, or

(2) Reporting to the Bureau of Land Management in the case of unneeded withdrawn public domain land. (See IPMR 114–47.201–3.)

(b) *Property not presently utilized—known future need.* Property not presently being used, but for which a definite future program need exists should be retained: *Provided,* That the property will be put to its optimum use when the future program is undertaken. Reasonable efforts should be made to put property in this category into productive use during the period it would otherwise remain vacant or idle (see IPMR 114–47.802(a)(3)), either by:

(1) Permitting another Interior Bureau or Federal agency to use the property on an interim basis, or

(2) Interim leasing to non-Federal entities: *Provided,* That the holding Bureau or Office has specific statutory authority to lease temporarily unused property. (See 15 CG 96.)

(c) *Property not presently utilized—possible future need.* This pertains to property not presently used in the Bureau's program, but for which a possible future need exists. The less certain or farther away this possible future need is, the greater consideration must be given to disposal, particularly if the property is not unique and replacement property could be acquired later if the need materializes.

(d) *High value locations.* An essential Bureau activity being carried on at a valuable real estate site might not be using such site to its full economic advantage. For example, at the time of acquisition the site may have been in an outlying area, but may now be within the growing community. Such land is not unneeded or excess, since there is a continuing program need for the installation, but the present land could be sold for substantially more than the cost of suitable replacement facilities and the difference deposited in the Treasury.

(1) In these instances funds for replacement facilities must first be obtained through the normal budgetary processes, justified by the net gain to be realized.

(2) Once the replacement facilities are available, the old facilities should be disposed of as unneeded in the usual manner.

(e) *High cost facilities.* An essential Bureau activity may be performed in facilities which have such an unusually high annual operation and maintenance cost that replacement is justified. Some examples of this might be:

(1) The work is being performed at several separate locations, with a consequent loss of efficiency and higher costs.

(2) The work is being performed in several small buildings at the one site, and would significantly benefit from operations being consolidated in one building.

(3) The facility is unusually expensive to maintain, due to age or poor condition.

(4) The facility is so poorly planned or laid out, or so unsuitable for the particular type of activity being carried on, that excess costs are incurred.

(5) The facility is permanently underutilized, and is not susceptible to partial disposal through sharing, rental, sale, etc.

In all of subparagraphs (1) through (5) of this paragraph and in similar instances, if the anticipated savings would so warrant, funds for replacement should be sought through the normal budgetary processes, justified by the net savings. Once the replacement facilities are available, the old facilities should be disposed of as unneeded in the usual manner.

(f) *Property used by another Federal agency under permit.* Property for which a future need was anticipated may be utilized by another Federal agency by permit from the holding Bureau. If reexamination of the anticipated need discloses that such need will not materialize, the Bureau having basic custody of the property should convey the property to the permittee Bureau or agency by formal transfer of accountability.

(g) *Property leased to non-Federal entities.* Property for which a future need was anticipated may have been leased on an interim basis to a non-Federal entity. If reexamination of the anticipated need discloses that such need will not materialize, the property should be disposed of, subject to the provisions of the lease.

§ 114–47.802–51 Funds and statutory authority.

There may be cases where it will be necessary to secure additional funds or specific legislative authority before disposal of high-value locations or high-cost facilities can be made and the necessary replacement facilities acquired. However, this circumstance must not delay the making of necessary surveys in order to identify properties in these categories or the initiation of specific proposals looking toward replacement. Proposals should be supported by estimates of replacement costs and ultimate net savings. In seeking replacement facilities:

(a) Such action as can be taken without additional funds or statutory authority should be initiated at the earliest practicable time;

(b) Consideration should be given to obtaining available and excess property presently held by other Interior Bureaus and other Federal agencies; and

(c) The appropriate regional office of the General Services Administration should be contacted to determine whether suitable excess replacement facilities are available for transfer or expected to become available within a reasonable time.

§ 114–47.802–52 Bureau implementation.

In those Bureaus having large and varied real property holdings, the general instructions in this chapter require further development for effective application within the Bureau, particularly with respect to the following:

(a) *Retention criteria.* Bureau implementation should include, to the extent possible, uniform retention criteria for specific properties for the guidance of field personnel conducting the annual review required by IPMR 114–47.802. The following is an example of retention criteria which might be developed.

It may be determined that a certain amount of land is needed to accommodate a particular type or size of facility, such as an administrative site, boarding school, day school, etc. Where this determination can be made the needed acreage should be specified and any held for this purpose in excess of that amount should be considered for disposal.

(b) *Partial disposals.* Bureau instructions should make clear that it is not enough for a field office official to determine, for example, that a program using 1,000 acres of land will continue to be carried on, but a further determination should be made as to the need to retain the entire 1,000 acres and whether or not a part of the acreage can be made available for other utilization or disposal. It might still be necessary to provide employee housing, but 50 units might now be adequate and 10 units released. The units of property to be released must, of course, be of a nature or so located that they are susceptible of economic separate disposal.

(c) *Underutilization and uneconomical utilization.* These situations may be common or typical of certain phases of the Bureau's program at some locations, and further criteria are needed to show either how they may be overcome or else why they must be accepted as a temporary condition due to the program requirements.

(d) *Program utilization.* There is a definite need for Bureau particularization on what constitutes program utilization, as distinguished from non-program but authorized utilization. There are many legitimate and necessary instances of utilization of real property for nonprogram purposes, usually of a temporary nature, but such use does not give it a program status. One rule of thumb might be whether program funds would be expended to purchase land or construct buildings for present uses of existing real property.

(e) *Inspection and field review.* The Bureau headquarters and regional staff members responsible for this aspect of real property management shall include checking the effectiveness of compliance and understanding at the regional and installation level, of this program, particularly on the completeness of both regional and installation reports, and the development of adequate techniques for the survey at the installation level.

§ 114–47.802–53 Intrabureau records.

The head of each Bureau having jurisdiction over real property shall issue instructions to provide that each office responsible for conducting the prescribed annual review of real property holdings shall:

(a) Maintain a written record of the review of each individual installation, which record will contain comments relative to each of the guidelines set forth in FPMR 101–47.801(b).

(b) Maintain a written descriptive listing of all properties or portions of properties identified during each annual review as unneeded, underutilized, or not being put to optimum use, whether or not disposal action is going to be taken on the properties.

§ 114–47.802–54 Annual report to the Department.

The head of each Bureau or Office having jurisdiction over real property shall prepare an annual report, as of the end of each fiscal year, summarizing the actions taken by the Bureau or Office to implement the provisions of this Subpart 114–47.8. The report will:

(a) Include consolidated reports for the Bureau in the form of Appendices I, II, III of this subpart.[1] These Appendices illustrate the format and the order in which the requested data are to be reported and should be followed to facilitate processing by the Department and transmittal to the Office of Management and Budget.

(b) Include in the memorandum transmitting Appendices I, II, and III, the following:

(1) A narrative statement describing, in general the actions taken during the

[1] Filed as part of the original document.

fiscal year to comply with the provisions of this Subpart 114-47.8. The narrative shall include, but not necessarily be limited to:

(i) A description of the analytical methods used to determine that properties not listed in Appendices I and II are being put to optimum use.

(ii) Actions taken to strengthen procedures for meeting the objectives of the annual review program.

(iii) Actions taken by the head of the bureau and headquarters office staff to insure full compliance with Office of Management and Budget, General Services Administration, and Departmental regulations at all levels within the bureau.

(2) A description of any particular problems encountered by the Bureau in the management of real property.

(3) Recommendations as to actions which might be taken by the Property Review Board, the Office of Management and Budget, the General Services Administration, or the Department to improve the management of real property.

(c) Include, as attachments to the transmittal memorandum, two copies of new or revised manual or other instructions issued by the Bureau during the fiscal year. If none were issued, the report should so indicate.

(d) Be prepared, in duplicate, and transmitted to reach the Director of Management Operations by August 21 of each year.

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Title 46—SHIPPING

Chapter II—Maritime Administration, Department of Commerce

SUBCHAPTER G—EMERGENCY OPERATIONS

[General Order 82, 25th Rev.]

PART 309—VALUES FOR WAR RISK INSURANCE

Miscellaneous Amendments

Sections 309.1–309.101 of this part are hereby revised to read as follows:

FINDINGS AND SCOPE

Sec.
309.1 Findings.
309.2 Scope.

BASIC VALUES

309.3 Vessels built during or after 1939.
309.4 Vessels built prior to 1939.

GENERAL PROVISIONS

309.5 Adjustments for condition, equipment, and other considerations.
309.6 Definitions.
309.7 Modifications.
309.8 Vessel data forms.

VALUES FOR INDIVIDUAL VESSELS

309.101 Values effective July 1, 1971.

AUTHORITY: §§ 309.1 through 309.101 issued under sec. 204, 49 Stat. 1987, as amended, sec. 1209, 64 Stat. 775, as amended, 70 Stat. 984; 46 U.S.C. 1114, 1289.

FINDINGS AND SCOPE

§ 309.1 Findings.

The Ship Valuation Committee, Maritime Administration, has found that the values provided in this part constitute just compensation for the vessels to which they apply, computed in accordance with subsection 902(a) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1242), pursuant to section 1209(a), Merchant Marine Act, 1936, as amended (46 U.S.C. 1289(a)), and the authority delegated to the Assistant Secretary of Commerce for Maritime Affairs by the Secretary of Commerce in section 3 of (Commerce) Department Organization Order 10–8, 36 F.R. 1223, and redelegated to the Ship Valuation Committee.

§ 309.2 Scope.

(a) *Vessels included.* (1) This part establishes values for self-propelled oceangoing iron and steel vessels (other than vessels excluded pursuant to paragraph (b) of this section) for which war risk insurance is provided by the Maritime Administration pursuant to title XII, Merchant Marine Act, 1936, as amended (46 U.S.C. 1281–1294). The values established by §§ 309.1–309.101 represent the maximum amounts for which the Maritime Administration will provide war risk hull insurance for damage to or actual or constructive total loss of the vessel and for which claims for damage to or actual or constructive total loss of such insured vessels may be adjusted, compromised, settled, adjudged, or paid by the Maritime Administration with respect to insurance attaching during the period July 1, 1971, to December 31, 1971, inclusive, under the standard forms of war risk hull insurance interim binder or policy prescribed by §§ 308.106 and 308.107 of this chapter (General Order 75, 2d Rev., as amended): *Provided, however,* That if there is a substantial change in market values during said period, the Maritime Administration reserves the right to revise the values provided for herein or determined pursuant hereto at any time during said period.

(2) It is contemplated that the next revised values will be published as soon as practicable after January 1, 1972, to be effective with respect to insurance attaching during the period January 1, 1972, to June 30, 1972, inclusive.

(b) *Vessels excluded.* The values established pursuant to §§ 309.3 through 309.5 do not apply to passenger vessels, lumber schooners, car ferries, seatrains, cable ships, bulk cement, and ore carriers, vessels operated on the Great Lakes and inland waterways, fully refrigerated vessels, vessels of less than 1,500 gross tons, or any other vessels or class of vessels to which the Maritime Administration finds that the provisions of said sections would not be appropriate. Values for vessels excluded by this paragraph (b) shall be specifically determined by the Maritime Administration and set forth in § 309.101 as provided therein.

(c) *Fuel, stores, and supplies.* Values for fuel, stores, and supplies shall be determined in accordance with §§ 309.201 through 309.204 (General Order 100, 29 F.R. 2944, Mar. 4, 1964; 29 F.R. 3706, Mar. 25, 1964).

BASIC VALUES

§ 309.3 Vessels built during or after 1939.

(a) *Basic values.* The values of vessels built during or after 1939 shall be determined in accordance with this section, subject to the applicable adjustments provided in § 309.5.

(b) *War-built vessels.* (1) The values of the standard types of war-built vessels under U.S. flag listed in this subparagraph (1) which have the lawful right to engage in the coastwise trade of the United States (which are the current domestic market values of such vessels as determined by the Ship Valuation Committee) are as follows:

Standard-type vessel:	*Value*
EC2–S–C1	$60,000
EC2–S–AW1	62,500
VC2–S–AP2	195,000
C1–M–AV1	45,000
C1–A and B (steam)	120,000
C2–S–B1	200,000
C3–S–A2	280,000
C4–S–B5	550,000
T1–M–BT	75,000
T2–SE–A1	345,000
T3–S–BZ1	550,000
T3–S–A1	350,000

(2) The values of the standard types of war-built vessels under U.S. flag listed in this subparagraph (2) which do not have the lawful right to engage in the coastwise trade of the United States (which are the current domestic market values of such vessels as determined by the Ship Valuation Committee) are as follows:

Standard-type vessel:	*Value*
VC2–S–AP2	$180,000

(3) The values of the standard subtypes of war-built vessels listed in this subparagraph (3) shall be determined as follows:

(i) If the subtype vessel is under U.S. flag and has the lawful right to engage in the coastwise trade of the United States, by multiplying the basic value of the standard type vessel listed in subparagraph (1) of this paragraph by the factor shown opposite the subtype in the table set forth in this subparagraph (3), or

(ii) If the subtype vessel is under the U.S. flag but does not have the lawful right to engage in the coastwise trade of the United States, by multiplying the basic value of the standard type vessel listed in subparagraph (2) of this paragraph by the factor shown opposite the subtype in the table set forth in this subparagraph (3).

TABLE

Subtype:	*Factor*
VC2–S–AP3	100%—VC2–S–AP2
C2–S–AJ1	100%—C2–S–B1
C2–S–AJ3	100%—C2–S–B1
C2–S–AJ5	100%—C2–S–B1
C2–S–E1	102%—C2–S–B1
C2–S	100%—C2–S–B1
C3	95%—C3–S–A2
C3–S–A1	100%—C3–S–A2
C3–S–A3	76%—C3–S–A2
C3–S–A4	106%—C3–S–A2
C3–S–A5	106%—C3–S–A2
C3–S–BH1	100%—C3–S–A2
C3–S–BH2	100%—C3–S–A2
C4–S–A4	100%—C4–S–B5
T1–M–BT2	100%—T1–M–BT

(c) *Other vessels.* The value of a vessel built during or after 1939 which is not included in paragraph (b) of this section shall be the current domestic market value as determined by the Maritime Administration.

§ 309.4 Vessels built prior to 1939.

The values of vessels built prior to 1939 shall be specifically determined by the Maritime Administration and set forth in § 309.101.

GENERAL PROVISIONS

§ 309.5 Adjustments for condition, equipment, and other considerations.

The basic values provided in § 309.3 shall be adjusted for individual vessels to the extent provided in paragraphs (a) to (c) of this section.

(a) *Adjustment for a vessel of substandard condition.* If the Maritime Administration determined that a vessel is not in class or is in substandard condition for a vessel of her type or subtype and age, there will be subtracted from the basic value of such vessel, as determined pursuant to § 309.3, the amount estimated by the Maritime Administration as the cost of putting the vessel in class or the amount estimated by the Maritime Administration as the difference in value of the substandard vessel and a vessel in standard condition.

(b) *Special equipment.* For any special equipment of material utility in the handling of cargo or utilization of the vessel, not otherwise included in determining the basic value pursuant to § 309.3, if the depreciated reproduction cost less construction subsidy, if any, of all such special equipment is in excess of $50,000, an allowance in such amount as the Maritime Administration shall determine to be the fair and reasonable value of such equipment shall be added to the basic value.

(c) *Government installations.* The values provided by §§ 309.1–309.101 shall not include any allowance for any special installations or equipment to the extent that their cost was borne by the United States.

§ 309.6 Definitions.

(a) *Date vessel is built.* The date a vessel is built is the date upon which the vessel is delivered by the shipbuilder.

(b) *Deadweight tonnage.* The deadweight tonnage of a vessel means her deadweight capacity established in accordance with normal summer freeboard as assigned pursuant to the International Load Line Convention, 1966, and shall be her capacity (in tons of 2,240 pounds) for cargo, fuel, fresh water, spare parts, and stores, but exclusive of permanent ballast.

(c) *Speed of vessel.* The speed of a vessel means the speed determined in accordance with the formulae provided in Part 246 of this chapter (General Order 43, 3d Rev.).

(d) *Passenger vessel.* A passenger vessel is a ship which carries more than 12 passengers.

(e) *Vessel.* The stated valuation of a vessel in this part applies to a vessel in class A–1 American Bureau of Shipping or equivalent, with all required certificates, including but not limited to marine inspection certificates of the U.S. Coast Guard, Department of Transportation, with all outstanding requirements and recommendations necessary for retention of class accomplished, without regard to any grace period; and so far as due diligence can make her so, tight, staunch, strong, and well and sufficiently tackled, appareled, furnished, and equipped, and in every respect seaworthy and in good running condition and repair, with clean swept holds and in all respects fit for service. A vessel in substandard condition is subject to § 309.5 (a). The stated valuation of a vessel provided in this part does not include vessel stores and supplies, which consist of (1) consumable stores, (2) subsistence stores, (3) slop chest, (4) bar stock, and (5) fuel, as defined in Maritime Administration Inventory Manual, Vessel Inventories, Part I, and Maritime Administration Inventory Books Forms MA–4736, A through K, which will be valued separately.

§ 309.7 Modifications.

The Maritime Administration reserves the right to exempt specific vessels from the scope of this part, or to amend, modify, or terminate the provisions hereof.

§ 309.8 Vessel data forms.

(a) *To accompany application for insurance.* Each application for war risk hull insurance submitted in accordance with § 308.101 of this chapter (General Order 75, 2d Rev., as amended) shall be accompanied by information relating to the vessel for use by the Maritime Administration in determining the value pursuant to this part. The information shall be submitted in duplicate on the applicable form prescribed in this section, copies of which may be obtained from the American War Risk Agency, 99 John Street, New York, NY 10038, or the Chief, Division of Insurance, Maritime Administration, Washington, D.C. 20235.

(b) *Vessels of 1,500 gross tons or more.* Vessel data for all vessels of 1,500 gross tons or more shall be submitted on Form MA–510.

(c) *Vessels under 1,500 gross tons.* Vessel data for all vessels under 1,500 gross tons shall be submitted on Form MA–511.

(d) *Modification to vessels.* Revised vessel data shall be submitted on the appropriate form prescribed above whenever a vessel undergoes a physical change which increases or decreases its value 5 percent or more.

VALUES FOR INDIVIDUAL VESSELS

§ 309.101 Values effective July 1, 1971.

(a) *Vessels covered by §§ 309.3 through 309.5.* (1) The Maritime Administration has found that the values established in accordance with §§ 309.3–309.5 constitute just compensation for the vessel to which they apply, computed as provided in sections 902(a) and 1209(a), Merchant Marine Act, 1936, as amended; and pursuant thereto has determined the values of the vessels covered by interim binders for war risk hull insurance, Form MA–184, prescribed by Part 308 of this chapter.

(2) The interim binders listed below shall be deemed to have been amended as of July 1, 1971, by inserting in the space provided therefor or in substitution for any value now appearing in such space the stated valuation of the vessels set forth below for the binders and vessels as designated. Such stated valuation shall apply with respect to insurance attaching during the period July 1, 1971, to December 31, 1971, inclusive: *Provided, however,* That if there is a substantial change in market values during said period, the Maritime Administration reserves the right to revise the values provided for herein or determined pursuant hereto at any time during said period: *And provided further,* That the assured shall have the right within 60 days after date of publication of these §§ 309.1–309.101 or within 60 days after the attachment of the insurance under said binder, whichever is later, to reject such valuation and proceed as authorized by section 1209(a)(2), Merchant Marine Act, 1936, as amended.

Binder No.	Name of vessel	Official No.	Stated valuation (in thousands)
870	Achilles	261702	$6,910
1660	Adabelle Lykes	291609	2,762
2144	Afoundria	244018	1,215
1426	African Comet	269281	3,285
720	African Crescent	260561	280
1683	African Dawn	291781	3,410
725	African Lightning	261451	280
1658	African Mercury	290143	3,357
1508	African Meteor	289792	3,310
726	African Moon	261175	280
1607	African Neptune	290485	3,357
730	African Planet	249860	280
782	African Star	249851	280
1656	African Sun	291026	3,410
1761	Aimee Lykes	292614	2,762
2501	Alaskan Mail	517120	6,500
2452	Albany	509947	991
1528	Allison Lykes	293617	2,762
1552	Alma Victory	248201	195
352	Aloha State	243297	280
567	American Accord	267276	5,316
572	American Ace	265143	5,316
568	American Alliance	266832	5,316
2812	American Apollo	529004	7,700
2869	American Aquarius	530999	7,700
571	American Archer	267444	5,316
566	American Argosy	266181	5,316
2953	American Astronaut	530694	7,000
1463	American Challenger	289699	3,357
1618	American Champion	290624	3,357
1557	American Charger	290089	3,357
1652	American Chieftain	291020	3,357
1572	American Condor	292347	280
1670	American Corsair	291629	3,357
1605	American Courier	290225	3,357
531	American Eagle	275327	4,365
1769	American Falcon	292524	280
1791	American Hawk	243089	280

Binder No.	Name of vessel	Official No.	Stated valuation (in thousands)
2446	American Lancer	514261	7,000
2550	American Lark	518444	7,000
570	American Leader	266288	5,316
589	American Legacy	268243	5,316
574	American Legend	267033	5,316
2466*	American Legion	515155	7,000
2485	American Liberty	516464	7,000
2516	American Lynx	517450	7,000
2740	American Mail	521866	6,500
1688	American Oriole	252304	280
1924	American Racer	297001	4,242
1989	American Ranger	298270	4,242
2029	American Reliance	299371	4,242
1679	American Robin	242941	280
1902	American Trader	244855	2,980
2285	Amerigo	246798	200
2854	Amoco Connecticut	242851	1,185
2855	Amoco Delaware	245058	1,190
1768	Amoco Louisiana	243329	1,275
2857	Amoco Virginia	243518	1,275
641	Amlank	247968	550
2884	Andrew Jackson	247303	204
2212	Antinous	245979	204
678	Arizona	266534	1,171
1444	Arizona Standard	248736	315
2115	Arizpa	251507	1,215
1716	Ashley Lykes	292191	2,762
232	Atlantic Communicator	268196	2,700
233	Atlantic Endeavor	277623	3,990
1004	Atlantic Enterprise	276911	3,860
1848	Atlantic Heritage	293299	8,960
1006	Atlantic Navigator	261423	2,340
1580	Atlantic Prestige	289972	5,400
2299	Atlantic Trader	249097	1,270
1435	Austin	247455	1,670
2631	Austral Patriot	500630	4,242
2632	Austral Pilot	297353	4,242
210	Avila	267181	780
2939	Azalea City	243136	1,215
980	Barbara	249079	1,610
347	Barbara Jane	278103	4,340
1915	Beauregard	251508	1,215
2482	Bennington	242406	345
607	Bethflor	256094	1,118
608	Bethtex	255539	1,118
2840	Blenville	243438	1,215
1490	Brazos	247583	2,306
1414	Brinton Lykes	288699	2,762
2558	Buckeye Atlantic	239271	252
353	Buckeye State	244577	280
2567	Buckeye Victory	245244	195
1348	California	287232	3,626
425	California Bear	269977	1,971
19	Californian	213882	2,770
2642	Californian	249239	1,850
1949	Calmar	291756	3,000
1974	Canada Mail	297570	3,930
2390	Canterbury Falcon	247590	200
1370	Cantigny	247482	1,650
7	Carbide Seadrift	211851	1,350
8	Carbide Texas City	242532	1,350
2872	Carrier Dove	252178	280
596	Catawba Ford	245620	620
1600	C. E. Dant	240262	3,626
1931	Chancellorsville	241160	1,500
1753	Charlotte Lykes	292782	2,762
2574	Chatham	252103	200
243	Chena	242704	65
2635	Cherry Valley	242531	315
1486	China Bear	288601	4,130
1788	Christopher Lykes	283220	2,762
1813	Cities Service Baltimore	271856	3,965
1814	Cities Service Miami	272077	3,760
1815	Cities Service Norfolk	272939	3,835
2875	Citrus Packer	247321	290
2852	City of Alma	247592	204
2410	Claiborne	242378	200
2714	Colina	242775	345
2237	Colorado	245104	345
2478	Colorado	515976	5,525
2540	Columbia	247519	1,430
2377	Columbia Banker	248842	195
2561	Columbia Beaver	252443	200
2816	Columbia Mariner	247672	200
2817	Columbia Rose	248327	200
2882	Columbia Trader	247765	195
1997	Commander	245309	1,395
2227	Connecticut	277291	4,657
2628	Constitution State	251847	280
712	Copper State	244137	280
2795	Coral Gem	248415	200
2468	Cortland	244878	200
1305	Council Grove	247896	1,590
2549	C. V. Lightning	518063	4,883
2490	C. V. Sea Witch	680644	4,883
2626	C. V. Staghound	520743	4,883
2449	DaGama	249174	200
2705	David D. Irwin	242354	1,700
212	David E. Day	248880	1,390
2819	Defiance	519102	6,900
221	Delaware Getty	267997	2,494
165	Delaware Sun	264853	2,485
320	Del Mar	251452	227
322	Del Norte	250963	227
1225	Del Oro	286185	3,215
324	Del Rio	284680	3,215
327	Del Sol	285171	3,215
328	Del Sud	251453	227
2500	Delta Argentina	512953	3,668
2497	Delta Brasil	514758	3,668
2532	Delta Mexico	517540	3,668
2498	Delta Paraguay	515910	3,668
2499	Delta Uruguay	516600	3,668
329	Del Valle	245373	200
2865	De Soto	245398	204
376	Doctor Lykes	249063	280
2330	Dolly Turman	506378	4,106
2778	Eagle Charger	522864	10,295
700	Eagle Courier	277561	3,970
2698	Eagle Leader	523839	10,095
699	Eagle Transporter	277710	4,190
697	Eagle Traveler	278442	4,657
698	Eagle Voyager	278624	4,680
167	Eastern Sun	270025	2,680
2715	Eclipse	267144	2,305
378	Elizabeth Lykes	247822	200
2086	Elizabeth Lykes	500702	3,945
1917	Elizabethport	297001	3,064
2451	Ericson	249283	200
830	Erna Elizabeth	280193	4,535
2593	Esso Baltimore	292272	7,120
2594	Esso Bangor	264791	2,505
2595	Esso Boston	283784	7,255
2596	Esso Chester	264445	2,380
2597	Esso Dallas	289218	2,020
2598	Esso Florence	266855	2,540
2599	Esso Gettysburg	273362	4,790
2601	Esso Houston	297151	10,300
2602	Esso Huntington	266329	2,600
2603	Esso Jamestown	275519	5,000
2610	Esso Lexington	276270	5,085
2604	Esso Lima	289142	2,010
2611	Esso Miami	259357	2,050
2605	Esso Newark	264231	2,355
2606	Esso New Orleans	298218	10,505
2607	Esso New York	259610	2,055
1898	Esso Seattle	277935	4,305
2609	Esso Washington	273896	4,855
842	Exbrook	249173	213
849	Exchester	248120	213
850	Executor	248747	213
853	Exford	249454	213
858	Expeditor	251971	213
860	Export Adventurer	284024	2,605
861	Export Agent	283936	2,605
862	Export Aide	284816	2,605
863	Export Ambassador	283150	2,605
1296	Export Banner	286124	3,324
1351	Export Bay	286965	3,324
1372	Export Builder	287381	3,324
1401	Export Buyer	286076	3,324
1726	Export Challenger	292227	3,490
1771	Export Champion	292669	3,530
1712	Export Commerce	291731	3,480
1691	Export Courier	289947	3,410
864	Exporter	240062	213
2841	Fairland	242073	1,215
2576	Fanwood	252355	200
153	Floridian	282733	810
1469	Flying Clipper	252091	200
1490	Flying Cloud	247090	200
1470	Flying Endeavor	241026	194
1479	Flying Enterprise II	245734	200
1471	Flying Hawk	240632	194
554	Fort Fetterman	244035	1,270
1211	Fort Hoskins	248735	1,610
247	Fortuna	245880	60
189	Fort Worth	247276	2,655
2300	Frederick Lykes	500812	4,106
962	F. S. Bryant	250827	345
885	Gahues Mill	244464	1,200
2842	Gateway City	251506	1,215
2421	Genevieve Lykes	513140	4,275
355	Gopher State	244979	280
2820	Great Republic	521302	6,900
2707	Green Bay	248912	991
2408	Green Forest	509061	1,026
2710	Green Island	247079	455
2711	Green Lake	248700	991
2409	Green Port	510015	1,026
2712	Green Ridge	247322	280
2406	Green Springs	248701	1,026
2407	Green Wave	508060	1,026
1863	Gulf Banker	295249	2,865
790	Gulf Bear	247399	1,140
791	Gulfbeaver	243657	1,150
792	Gulfcrest	279334	4,090
793	Gulfdeer	245727	1,200
1849	Gulf Farmer	294625	2,865
794	Gulfjaguar	246072	1,200
795	Gulfking	275193	4,280
796	Gulfknight	277183	4,475
797	Gulflion	246990	1,205
808	Gulflube	254406	370
1952	Gulf Merchant	297329	3,000
798	Gulfoil	283424	4,160
799	Gulfpanther	248543	1,190
800	Gulfpride	279769	3,910
801	Gulfprince	276034	4,375
802	Gulfqueen	275583	4,320
805	Gulfseal	247557	1,275
811	Gulfservice	264224	725
1903	Gulf Shipper	296880	3,000
803	Gulfsolar	280223	3,960
806	Gulfspray	282849	4,105
1358	Gulfsupreme	287186	4,735
804	Gulftiger	247767	1,220
1888	Gulf Trader	296404	3,000
2779	Halcyon Panther	245922	195
646	Hampton Roads	248748	550
2423	Hans Isbrandtsen	277703	4,535
412	Harry Culbreath	247824	200
2577	Hastings	246617	204
1421	Hawaii	280119	3,626
2613	Hawaiian	240353	1,850
2615	Hawaiian Citizen	252149	2,430
2753	Hawaiian Enterprise	524219	19,250
2646	Hawaiian Farmer	245860	280
2648	Hawaiian Merchant	248845	280
2803	Hawaiian Progress	528400	19,250
2651	Hawaiian Rancher	246204	280
2652	Hawaiian Refiner	245594	280
1445	Hawaii Standard	248802	345
965	H. D. Collier	248737	345
873	Helen H	245020	1,462
634	Hess Bunker	243804	1,560
638	Hess Petrol	244735	1,560
1373	Hess Refiner	248244	1,585
639	Hess Trader	246104	1,545
1913	Hess Voyager	293603	8,620
961	Hillyer Brown	266233	757
431	Hong Kong Bear	264428	1,971
2622	Hong Kong Mail	520392	6,500
706	Hoosier State	247702	550
176	Houston	242636	1,740
2387	Houston	245542	3,185
2306	Howell Lykes	507344	4,106
2472	Hurricane	247262	240
2578	Iberville	248489	204
2534	Idaho	518434	5,525
968	Idaho Standard	245461	345
249	Illanna	246848	65
677	Illinois	264957	1,971
2526	Indian Mail	517717	6,500
1787	Inger	248011	2,045
387	James Lykes	280564	2,537
414	James McKay	247907	200
433	Japan Bear	270296	2,190
1418	Japan Mail	287476	3,355
1304	Jean Lykes	287103	2,660
1285	J. E. Dyer	274440	3,985
2516	Jeff Davis	248742	280
388	Jesse Lykes	247992	200
970	J. H. MacGaregill	248896	345
967	J. L. Hanna	248531	345
2571	John B. Waterman	249234	204
389	John Lykes	282772	2,537
586	Julesburg	243523	1,350
415	Kenneth McKay	247581	200
598	Keystoner	266730	815
356	Keystone State	247763	550
599	Keytanker	265644	805
600	Keytrader	267905	835
434	Korea Bear	269668	2,190
2565	Korean Mail	518517	6,500
2886	Kyska	248854	204
2876	Lafayette	252476	280
2838	La Salle	257231	280
13	Leland I. Doan	284217	6,500
2864	Lash Italia	529255	12,925
2865	Lash Turkiye	530143	12,925
1352	Leslie Lykes	287418	2,660
2403	Letitia Lykes	512197	4,275
392	Lipscomb Lykes	2488971	280
2374	Lompoc	249653	348
267	Longview Victory	247977	195
1918	Los Angeles	241153	3,064
393	Louise Lykes	247582	200
2062	Louise Lykes	299038	3,945
2023	Louisiana Brimstone	247787	4,600
226	Louisiana Getty	246173	2,415
367	Louisiana Sulphur	242964	830
179	Lyons Creek	245450	555
2887	Madaket	246992	201
2089	Maiden Creek	248998	204
2233	Mallory Lykes	504077	3,945
1356	Manhattan	287253	19,500
1809	Margaret Lykes	293555	2,762
2087	Marine Clipper	248655	365
15	Marine Dow Chem	267278	4,115
1510	Marine Electric	2125675	1,565
2133	Marine Floridian	246836	4,725
1812	Marine Texan	247563	4,455
93	Marine Victory	247680	815
1513	Marjorie Lykes	289573	2,762
664	Maryland Trader	247178	1,285
1940	Marymar	294730	3,000
2260	Mason Lykes	505406	4,100
1789	Mayo Lykes	293224	2,762
1512	Meadowbrook	289879	1,685
969	M. E. Lombardi	240228	185
2543	Merrimac	245673	1,530
2630	Michigan	521550	5,525
587	Mill Spring	244468	1,320
2033	Missouri	248885	1,107
1530	M. M. Dant	289547	3,626
2716	Mobile Aero	278471	4,095

Binder No.	Name of vessel	Official No.	Stated valuation (in thousands)
2717	Mobil Fuel	274588	3,725
2718	Mobilgas	271449	3,220
2483	Mobillan	246388	280
2719	Mobil Lube	275851	3,590
2442	Mobil Meridian	298479	7,985
2720	Mobiloil	279064	4,145
2721	Mobil Power	274966	3,735
2405	Mohawk	248913	965
2495	Montana	517617	5,525
2797	Monticello Victory	296819	7,110
2798	Montpelier Victory	289745	5,125
2664	Mormacaltair	296129	3,881
2667	Mormacargo	296216	3,881
2665	Mormacbay	283541	3,095
2666	Mormacape	284185	3,158
2668	Mormaccove	296749	3,225
2670	Normacdraco	299008	3,881
2673	Mormacglen	285283	3,158
2676	Mormaclake	284802	3,158
2678	Mormaclynx	296947	3,881
2683	Mormacpride	292296	3,070
2684	Mormacrigel	297384	3,881
2687	Mormacsan	285890	3,158
2688	Mormactrade	287900	3,305
2689	Mormacvega	296832	3,881
2546	Morning Light	240900	280
2799	Mount Vernon Victory	284178	6,515
2800	Mount Washington	293007	8,495
2430	Mystic Mariner	248143	200
588	Naeco	244053	610
1243	Nancy Lykes	286050	2,660
648	Nashbulk	247307	550
1758	National Defender	279938	8,080
2034	Neches	244235	345
251	Nenana	247014	60
1441	Nevada Standard	247758	345
169	New Jersey Sun	265748	2,420
2038	New Yorker	283030	810
2278	New York Getty	267198	2,565
2877	Noonday	248814	280
399	Norman Lykes	249018	280
2119	Northfield	243253	1,800
2826	North Star State	250539	207
2614	Ogden Wabash	520728	10,095
2591	Ogden Willamette	518736	9,955
2545	Ogden Yukon	257115	1,870
1375	Oregon	287875	3,626
435	Oregon Bear	264497	1,971
1947	Oregon Mail	296779	3,890
971	Oregon Standard	246773	345
2465	Overseas Alice	514928	9,540
2506	Overseas Audrey	517186	9,720
2344	Overseas Carrier	243503	1,330
24431	Overseas Daphne	243882	550
931	Overseas Evelyn	249217	550
1784	Overseas Explorer	297748	1,410
1	Overseas Joyce	284049	6,790
2352	Overseas Progress	244888	1,400
1905	Overseas Rebecca	281777	6,875
785	Overseas Rose	245923	280
2444	Overseas Suzanne	248884	550
2343	Overseas Traveler	289436	1,840
932	Overseas Ulla	280004	5,015
2537	Overseas Vivian	518125	9,855
181	Pasadena	248894	1,830
1272	P. C. Spencer	294903	2,140
2121	Pecos	243929	280
1892	Penn Carrier	246908	345
339	Penn Challenger	280318	4,620
2748	Penn Champion	523341	10,345
2537	Penn Leader	247668	1,530
1954	Pennmar	296108	3,000
1860	Penn Sailor	275391	1,200
171	Pennsylvania Sun	280202	7,000
581	Perryville	244444	1,525
1367	Philippine Bear	287653	4,130
1419	Philippine Mail	288986	3,555
2379	Pine Tree State	262346	280
1653	Pioneer Commander	290906	3,357
1750	Pioneer Contender	292372	3,357
1716	Pioneer Contractor	291968	3,357
1774	Pioneer Crusader	292930	3,357
1432	Pioneer Moon	289263	3,357
2089	Maiden Creek	248998	204
1953	Point Sur	243263	345
1356	Manhattan	287253	19,500
1809	Margaret Lykes	293555	2,762
2087	Marine Clipper	248655	365
15	Marine Dow Chem	267278	4,115
1510	Marine Electric	2125675	1,565
2133	Marine Floridian	246836	4,725
1812	Marine Texan	247563	4,455
93	Marine Victory	247680	815
1513	Marjorie Lykes	289573	2,762
664	Maryland Trader	247178	1,285
1940	Marymar	294730	3,000
2260	Mason Lykes	505406	4,100
1789	Mayo Lykes	293224	2,762
1512	Meadowbrook	289879	1,685
969	M. E. Lombardi	240228	185
2543	Merrimac	245673	1,530
2630	Michigan	521550	5,525
587	Mill Spring	244468	1,320
2033	Missouri	248885	1,107
1530	M. M. Dant	289547	3,626
2716	Mobile Aero	278471	4,095
2396	President Taft	511653	4,845
522	President Taylor	266927	2,190
1206	President Tyler	286232	4,373
2369	President Van Buren	509681	4,845
919	Producer	248898	1,462
228	Providence Getty	254689	75
2751	Prudential Oceanjet	504015	4,085
2752	Prudential Sealjet	502726	4,085
2706	Pure Oil	248837	350
2341	Rachel V	248785	195
2460	Raleigh	249291	200
2843	Raphael Semmes	242074	1,215
2164	Rappahannock	253226	200
2821	Red Jacket	522850	6,900
417	Reuben Tipton	247830	200
2691	Robin Gray	252626	280
26921	Robin Hood	247255	280
2697	Robin Trent	254641	280
400	Ruth Lykes	247963	200
2162	Ruth Lykes	502928	3,945
2544	Sacramento	245497	1,385
428	Samoa Bear	269028	2,190
177	San Antonio	248716	2,495
1910	San Francisco	241220	3,064
1920	San Juan	242653	3,064
891	Santa Adela	242243	200
2295	Santa Alicia	252747	280
2259	Santa Ana	252746	280
2227	Santa Anita	252748	280
2270	Santa Barbara	299186	4,120
2296	Santa Clara	506249	4,120
2257	Santa Cruz	504681	4,120
2314	Santa Elena	507696	4,120
2287	Santa Eliana	251812	280
899	Santa Fe	246992	120
900	Santa Flavia	247762	200
2376	Santa Isabel	510570	4,120
2185	Santa Lucia	502774	4,120
1574	Santa Magdalena	290270	5,572
211	Santa Maria	263781	715
1756	Santa Maria	292838	5,572
1678	Santa Mariana	291811	5,215
1830	Santa Mercedes	293943	5,572
2863	Santa Monica	257213	280
2293	Santa Regina	240343	253
893	Santa Victoria	241320	120
1970	Seamar	294729	3,000
2304	Seatrain Carolina	240066	4,816
2291	Seatrain Delaware	245682	3,087
2269	Seatrain Florida	503326	4,816
66	Seatrain Georgia	262558	736
66	Seatrain Louisiana	262835	736
2846	Seatrain Maine	504714	4,816
2329	Seatrain Maryland	245283	4,816
67	Seatrain New Jersey	230688	370
66	Seatrain New York	231905	218
2400	Seatrain Ohio	244610	4,816
2305	Seatrain Puerto Rico	246095	4,816
2279	Seatrain San Juan	245622	3,087
69	Seatrain Savannah	231916	218
70	Seatrain Texas	248884	370
2357	Seatrain Washington	245460	4,816
1610	Sheldon Lykes	290508	2,762
1428	Shirley Lykes	289253	2,762
2464	Silver Falcon	248054	180
1714	Sinclair Texas	291990	6,080
1266	Sister Katingo	277936	4,545
2722	Socony Vacuum	266801	2,650
982	Solon Turman	285889	2,660
2866	Sonoma	252413	280
2489	Spirit of Liberty	516521	9,680
1016	Steel Admiral	252403	280
439	Steel Advocate	245731	280
440	Steel Age	244161	280
441	Steel Apprentice	252468	280
442	Steel Architect	247168	280
443	Steel Artisan	247833	280
444	Steel Chemist	252037	280
445	Steel Designer	247832	280
446	Steel Director	244078	280
447	Steel Executive	248843	280
449	Steel Flyer	244831	280
450	Steel King	252499	280
451	Steel Maker	247221	280
452	Steel Navigator	248846	280
454	Steel Rover	252500	280
455	Steel Scientist	248730	280
456	Steel Seafarer	248738	280
457	Steel Surveyor	244098	280
458	Steel Traveler	247198	280
459	Steel Vendor	246464	280
460	Steel Voyager	252501	280
461	Steel Worker	247534	280
2248	Stella Lykes	294982	4,108
403	Sue Lykes	248145	200
2431	Susquehanna	248334	200
2723	Syosset	247458	340
1415	Tampico	246344	1,740
463	Texaco California	266910	1,020
465	Texaco Connecticut	266601	1,028
466	Texaco Florida	271820	1,125
1867	Texaco Georgia	263819	4,545
469	Texaco Illinois	269023	1,545
471	Texaco Kansas	264220	1,465
1823	Texaco Maryland	292736	4,745
1824	Texaco Massachusetts	290306	4,680
475	Texaco Minnesota	243202	1,720
476	Texaco Mississippi	245082	1,720
2028	Texaco Montana	298918	5,405
478	Texaco Nebraska	242845	1,835
480	Texaco New Jersey	246831	1,378
481	Texaco New York	265981	1,090
482	Texaco North Dakota	265006	995
1899	Texaco Rhode Island	296380	5,000
1270	Texaco Wisconsin	277805	4,290
485	Texaco Wyoming	243046	1,660
209	Texan	249352	740
174	Texas Sun	283897	7,395
497	The Cabins	246143	1,370
925	Thetis	279627	5,715
2096	Thomas A	260454	2,290
2412	Thomas M	266338	2,300
2823	Thomas Q	261167	2,315
602	Ticonderoga	242244	440
406	Tillie Lykes	248461	280
2888	Topa Topa	247906	204
231	Transeastern	279438	6,320
2391	Transerie	245959	1,150
2301	Transhuron	506349	1,165
2463	Transpanama	257381	1,835
2336	Transsuperior	506404	1,155
1492	Trinity	246600	2,535
2744	Trojan	247177	1,895
590	Tullahoma	246662	1,830
407	Tyson Lykes	249066	200
2437	U.S. Mate	252492	200
2438	U.S. Navigator	248781	195
966	Utah Standard	251140	345
498	V. A. Fogg	244071	1,335
2270	Valley Forge	505796	8,750
2330	Vantage Venture	242676	350
2354	Velma Lykes	506852	4,106
2853	Ventura	252633	280
666	Virginia Trader	244789	385
1786	Walter Rice	248203	2,045
1398	Washington	289603	8,626
437	Washington Bear	264652	1,971
1349	Washington Mail	287238	3,555
974	Washington Standard	246203	345
667	Washington Trader	245566	385
2640	Wellesley Victory	247664	195
1779	Western Clipper	288298	2,475
1760	Western Comet	266365	2,370
1302	Western Hunter	287156	8,669
1781	Western Planet	269078	2,465
175	Western Sun	285798	2,505
2225	Wild Ranger	249618	200
224	Wilmington Getty	246557	2,420
1609	Windsor Victory	247843	195
1511	Wingless Victory	247243	195
358	Wolverine State	248740	650
2668	Wyoming	519037	5,525
2889	Yaka	246336	204
2098	Yellowstone	248883	1,107
2030	Yorkmar	296261	3,000
2822	Young America	524416	6,900

(b) Vessels of less than 1,500 gross tons—as of July 1, 1971. (1) The Maritime Administration has determined for certain vessels of less than 1,500 gross tons the values which constitute just compensation for the vessels to which they apply, computed as provided in sections 902(a) and 1209(a), Merchant Marine Act, 1936, as amended; and pursuant thereto has determined the values of vessels covered by interim binders for war risk hull insurance, Form MA–184, prescribed in Part 308 of this chapter.

(2) The interim binders listed below shall be deemed to have been amended as of July 1, 1971, by inserting in the space provided therefore or in substitution for any value now appearing in such space the stated valuation of the vessels set forth below for the binders and vessels as designated. Such stated valuation shall apply with respect to insurance attaching during the period July 1, 1971, to December 31, 1971, inclusive: *Provided, however*, That if there is a substantial change in market values during said period, the Maritime Administration reserves the right to revise the values provided for herein or determined pursuant hereto at any time during said period:

And provided further, That the assured shall have the right within 60 days after date of publication of this section or within 60 days after the attachment of the insurance under said binder, whichever is later, to reject such valuation and proceed as authorized by section 1209(a)(2), Merchant Marine Act, 1936, as amended.

Binder No.	Name of vessel	Official No.	Stated valuation (in thousands)
752	A. H. Dumont	239224	$82
2486	Alison C	513704	925
2469	Apache	513045	830
1686	Atlantic	262007	135
1198	Barge 133		10
2045	Betty Moran	283323	760
2480	Blackhawk	515016	830
2331	Borinquen	506497	398
1153	Britton	119	16
2136	Cabo Rojo	297392	355
2137	Catano	296716	360
2298	El Morro	503562	371
2132	E. Whitney Olson, Jr	298925	560
2299	Fajardo	503563	371
2044	Gale B	292748	760
24	George S	282206	75
764	George Whitlock II	241390	93
1150	Habib	112	12
1151	Horne	116	13
1554	Lewis No. 8	244276	62
1702	Mohawk	284499	420
2350	New Haven	504920	371
742	Ocean Prince	276461	315
2063	Pacific Mariner	297090	560
2703	Perth Amboy No. 1	171778	155
2704	Perth Amboy No. 2	171686	155
1719	Ponce De Leon	244296	60
744	Port Jefferson	274512	306
1878	Puerto Nuevo	294841	349
1176	Qatif 7		51
1148	Sandy	114	13
2476	Seminole	514243	830
1263	Spartan	273515	348
2130	Starcrescent	284009	493
1152	Swigart	118	14
2852	Theresa F	516158	925
763	W. A. Weber	251392	58

NOTE: The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with 44 U.S.C. sections 3501–3511.

Dated: November 16, 1971.

E. SCOTT DILLON,
Chairman,
Ship Valuation Committee.

[FR Doc.71-17035 Filed 11-23-71;8:45 am]

Title 49—TRANSPORTATION

Chapter I—Hazardous Materials Regulations Board, Department of Transportation

[Docket No. HM-46; Amdts. 172-12, 173-56, 174-12, 177-19, 178-21]

PART 172—COMMODITY LIST OF HAZARDOUS MATERIALS CONTAINING THE SHIPPING NAME OR DESCRIPTION OF ALL ARTICLES SUBJECT TO PARTS 170–189 OF THIS CHAPTER

Railway and Highway Fusees; Reclassification as Flammable Solids

Correction

In F.R. Doc. 71-16127 appearing at page 21201 in the issue of Thursday, November 4, 1971, the third entry in the first column of the table under § 172.5 (a), now reading "Fusees (railway and highway)", should read "Fusees (*railway and highway*)".

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1033—CAR SERVICE

[S.O. 1085]

Burlington Northern Inc. Authorized To Operate Over Tracks of Decker Coal Co. Between Arno, Wyo., and Decker, Mont.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 15th day of November 1971.

It appearing, that the Burlington Northern Inc., has filed an application with the Commission, in Finance Docket No. 26848, for a certificate of public convenience and necessity authorizing operation over a newly constructed railroad, owned by the Decker Coal Co., between a point of connection near Burlington Northern Inc., Yellowstone Division milepost 690, west of Arno, Wyo., and a point in the vicinity of Decker, Mont., a distance of approximately 16.5 miles, together with the necessary connecting, loading, and other auxiliary tracks; that the Commission is of the opinion that there is immediate need for service over this line pending decision by the Commission in Finance Docket No. 26848, and that operation of this line by the Burlington Northern Inc. is necessary in the interest of the public and the commerce of the people; that notice and public proecedure herein are impractical and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1085 Service Order No. 1085.

(a) *Burlington Northern Inc., authorized to operate over tracks of Decker Coal Co. between Arno, Wyo., and Decker, Mont.* The Burlington Northern Inc., be, and it is hereby, authorized to operate over tracks owned by the Decker Coal Co. between a point of connection at Burlington Northern Inc., Yellowstone Division milepost 690 near Arno, Wyo., and a point in the vicinity of Decker, Mont., a distance of approximately 16.5 miles, together with the necessary connecting, loading, and auxiliary tracks.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Effective date.* This order shall become effective at 11:59 p.m., November 15, 1971.

(d) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., June 30, 1972, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-17152 Filed 11-23-71;8:49 am]

SUBCHAPTER D—TARIFFS AND SCHEDULES

[Ex Parte No. 280]

PART 1311—SPECIAL PROCEDURES FOR TARIFF FILINGS UNDER THE WAGE AND PRICE STABILIZATION PROGRAM

At a General Session of the Interstate Commerce Commission held at its office in Washington, D.C. on the 19th day of November 1971.

The regulations of the Cost of Living Council, the Wage Board, and the Price Commission (6 CFR Parts 101, 201, and 300), issued pursuant to the Economic Stabilization Act of 1970, as amended, and Executive Order 11627, establish criteria applicable to price adjustments by carriers subject to regulation by the Interstate Commerce Commission. In order to give effect to such criteria, certain special procedures for the filing of tariffs are necessary, and must be made effective immediately.

This proceeding is, therefore, specifically directed to the adoption of appropriate rules and regulations to implement the provisions of the Economic Stabilization Act of 1970, as amended, Executive Order 11627, and the regulations of the Cost of Living Council, the Wage Board, and the Price Commission, hereinafter collectively referred to as the Wage and Price Stabilization Program. Such rules are set forth in the appendix to this order.

Since immediate implementation of the Wage and Price Stabilization Program is required, the Commission finds that notice and public procedure with respect to these regulations is impracticable and that good cause exists for making the regulations effective in less than 30 days.

It is ordered, That based upon the foregoing explanation, and good cause appearing therefor, a proceeding be, and it is hereby, instituted under the authority of Parts I, II, III, and IV of the Interstate Commerce Act, and more specifically 49 U.S.C., sections 6(6), 317(a), 318(a), 906(b), 906(e), and 1005(b), and the Administrative Procedure Act, for the purpose of promulgating rules prescribing special procedures for tariff filings under the Wage and Price Stabilization Program;

It is further ordered, That all carriers subject to Parts I, II, III, or IV of the Interstate Commerce Act be, and they are hereby, made respondents in this proceeding;

It is further ordered, That the rules attached as an appendix hereto shall be effective at 12:01 a.m. on the day following publication of this order in the FEDERAL REGISTER;

It is further ordered, That a copy of this order be posted in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and that a copy be delivered to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER, as notice to all interested persons.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

Sec.

1311.0 General provisions; applicability; definitions.
1311.1 Categories of carriers; Price Commission regulations.
1311.2 Procedures governing the filing of all schedules filed on or after the effective date of this order.
1311.3 Supporting statements.
1311.4 Form of tariffs to be published.
1311.5 Procedures in pending proceedings.

AUTHORITY: The provisions of this Part 1311 issued under sections 6(6), 217(a), 218(a), 306(b), 306(c), and 405(b) of the Interstate Commerce Act, 49 U.S.C. 6(6), 317(a), 318(a), 906(b), 906(c), and 1005(b) and the Economic Stabilization Act of 1970, as amended, Public Law 9–379, 84 Stat. 799; Public Law 91–588, 84 Stat. 1468, Public Law 92–8, 85 Stat. 13; Public Law 92–15, 85 Stat. 38, and Executive Order No. 11627, October 15, 1971, 36 F.R. 20139.

§ 1311.0 General provisions; applicability; definitions.

(a) These regulations are promulgated to give effect to the provisions of the Economic Stabilization Act of 1970 as amended of Executive Order 11627, and of the regulations of the Cost of Living Council, the Wage Board, and the Price Commission. They are effective on the date of publication in the FEDERAL REGISTER.

(b) These regulations are applicable to the tariff filings of all carriers subject to the Interstate Commerce Act, and will remain in effect for the duration of the Wage and Price Stabilization Program established under the Economic Stabilization Act of 1970 as amended. To the extent that the provisions of this part are inconsistent with other regulations of the Interstate Commerce Commission, such other regulations are suspended.

(c) For the purposes of this part, a "reportable increase" is defined as any proposed change in a published tariff which will result in an increase of 2 percent or more in the price for a carrier service paid by one or more identifiable user of such service. A reportable increase will not include any change affecting a rate or charge under which no traffic was transported or service performed during the 90 days immediately preceding the proposed change nor will it include a change affecting a rate or charge for a new service which was actively under consideration between a carrier and a shipper during the 90 days immediately preceding the proposed change. A reportable increase will not include rate adjustments made in the course of a bona fide republication of a tariff in compliance with the requirements of Ex Parte Nos. 265 and 267.

(d) For the purposes of this part, the Price Commission will be referred to as the "Price Commission" and the Interstate Commerce Commission as the "Commission."

§ 1311.1 Categories of carriers; Price Commission regulations.

(a) Carriers with gross annual revenues of $100 million or more are in the prenotification category. They must notify the Price Commission of any proposed increases in rates and charges. They must report any authorized increase to the Price Commission immediately.

(b) Carriers with gross annual revenues of $50 million or more but less than $100 million are in the reporting category. They may put into effect increases in rates or charges which comply with the guidelines established by the Cost of Living Council and the Price Commission without advance notification to the Price Commission. They must report any authorized increase to the Price Commission immediately.

(c) Increases in the rates or charges of carriers having gross annual revenues of less than $50 million will not be subject to either the prenotification or reporting requirements. However, such increases may be subject to examination by the Internal Revenue Service for compliance with the guidelines established by the Cost of Living Council and the Price Commission. These carriers should be on notice that they may be subject to penalties if it is found that increases in rates and charges violate these guidelines.

(d) This Commission will publish in the FEDERAL REGISTER, as soon as possible, the names of carriers falling into the prenotification and reporting categories.

§ 1311.2 Procedures governing the filing of all schedules filed on or after the effective date of this order.

(a) For carriers in the prenotification category:

(1) All schedules which include increases in rates or charges must be accompanied by a copy of the notification, and any supporting materials, submitted to the Price Commission. Such schedules, to the extent that they propose reportable increases, must also be accompanied by a justification containing the information described in 1311.3(a) of this part, unless such information is included in the notice submitted to the Price Commission.

(2) At the time of filing a schedule which includes an increase in a rate or charge, or as soon as possible thereafter, the carrier must inform this Commission, in writing, of the date upon which the Price Commission was notified of the proposed increase.

(3) If the Price Commission finds that proposed increases in rates or charges are unlawful, this Commission will enter an appropriate order suspending or requiring the cancellation of the schedules involved.

(4) A copy of the notification submitted to the Price Commission that a proposed increase has become effective, and of any other report filed with the Price Commission, must be filed simultaneously with this Commission.

(b) For carriers in the reporting category:

(1) All schedules which include increases in rates or charges must be accompanied by a supporting statment containing the information described in § 1311.3(b).

(2) A copy of the notification submitted to the Price Commission that a proposed increase has become effective, and of any other report filed with the Price Commission, must be filed simultaneously with this Commission.

(c) For all other carriers, all schedules which include increases in rates or charges must be accompanied by a supporting statement containing the information described in § 1311.3(b).

§ 1311.3 Supporting statements.

(a) For carriers in the prenotification category, all schedules proposing reportable increases must be accompanied by a supporting statement which must:

(1) Identify each change in the schedule which would result in a reportable increase.

(2) State the percentage of the proposed reportable increase.

(3) Provide cost justifications for the proposed reportable increase and explain the manner in which any productivity gain was taken into account.

(4) State the effect of the reportable increase on the carrier's pretax profit margin.

(b) For all other carriers, all schedules proposing reportable increases must be accompanied by a supporting statement which must:

(1) Identify each change in the schedule which would result in a reportable increase.

(2) State the percentage of the proposed reportable increase.

(c) All carriers should be prepared to submit upon request underlying data sufficient to establish the cost justification for any proposed increase in a rate or charge, to demonstrate that such increase will not result in an increase in

pretax profit margin, and to establish that the increase complies with the purposes of the Wage and Price Stabilization Program.

§ 1311.4 Form of tariffs to be published.

All agency tariffs to be subsequently published must be in a form and must contain information adequate to designate which of the participating carriers are in the prenotification and reporting categories, and to assure that those carriers will be in compliance with these regulations insofar as they participate in the published tariffs.

§ 1311.5 Procedures in pending proceedings.

(a) Proposed increases approved under statutory standards but required to be canceled or indefinitely postponed as in contravention of the price stabilization policy until the further order of the Commission will be reexamined to determine whether such increases are consistent with the goals of the Wage and Price Stabilization Program, and if necessary, will be reopened for the receipt of additional evidence by order of this Commission.

(b) Respondents in proceedings in which the records have been completed and decisions are pending, and those which have been instituted but in which records have not been completed, should be on notice that failure to establish that rate increases conform to the policies of the Wage and Price Stabilization Program will result in an order requiring the cancellation of proposed schedules. Respondents in such proceedings may tender additional evidence for this purpose, and if necessary, further procedures will be prescribed by order of this Commission.

[FR Doc.71-17262 Filed 11-23-71;8:51 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

SUBCHAPTER B—HUNTING AND POSSESSION OF WILDLIFE

PART 10—MIGRATORY BIRDS

Open Seasons, Bag Limits, and Possession of Certain Migratory Game Birds

The provisions of § 10.7(b) presently require that all migratory game birds taken and exported in accordance with pertinent hunting laws and regulations and imported from Mexico or any other foreign country except Canada be dressed, drawn, and have the head and feet removed.

A method has been perfected by the U.S. Department of Agriculture whereby game birds can be brought into the United States from foreign countries and decontaminated without removing the plumage, head, and feet, without danger to poultry flocks in the United States. It has been determined that § 10.7(b) should be amended for the single purpose of permitting importation in accordance therewith, retaining the other prohibitions relating to bringing migratory game birds into the United States.

Accordingly, § 10.7(b) is amended to read as follows:

§ 10.7 Importations from foreign countries.

* * * * *

(b) All migratory game birds imported from Mexico or any other foreign country except Canada must be dressed, drawn, and have the head and feet removed, except legally taken, fully feathered migratory game birds consigned for mounting purposes to a taxidermist who holds a current taxidermist permit issued to him pursuant to § 16.12 of this chapter and who is also licensed by the U.S. Department of Agriculture to decontaminate such birds. Fully feathered birds imported pursuant to this subsection must be tagged as required in § 10.9: *Provided*, That each such bird imported from any foreign country including Canada must have one fully feathered wing attached so as to permit species identification, and such wing must remain attached while being transported between the port of entry and the personal abode of the possessor or between the port of entry and a commercial preservation facility.

* * * * *

Since this amendment relieves an existing restriction, it is determined that notice and public procedure thereon are unnecessary, impracticable, and contrary to the public interest and that this amendment is effective upon publication in the FEDERAL REGISTER.

(16 U.S.C. 703 et seq.; 40 Stat. 755)

Effective date: Upon publication in the FEDERAL REGISTER (11-24-71).

J. P. LINDUSKA,
Acting Director, Bureau of Sport Fisheries and Wildlife.

NOVEMBER 19, 1971.

[FR Doc.71-17108 Filed 11-23-71;8:45 am]

SUBCHAPTER C—THE NATIONAL WILDLIFE REFUGE SYSTEM

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Moosehorn National Wildlife Refuge, Maine

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (11-24-71).

§ 28.7 Operation of vehicles.

MAINE

MOOSEHORN NATIONAL WILDLIFE REFUGE

Snowmobile use is limited to roads within the Baring Unit of the Moosehorn National Wildlife Refuge.

The operation of snowmobiles shall be subject to the following special conditions:

(1) Use restricted to the period December 1 through April 15.

(2) Operated only in such manner and at such a speed that no persons or property will be endangered.

(3) All persons must be in a snowmobile or in a trail vehicle that is fixed to the snowmobile by a rigid tongue.

(4) No firearms or archery equipment are to be carried on snowmobiles.

(5) No form of wildlife may be chased or harried by snowmobiles.

The Baring Unit, comprising 16,000 acres, is delineated on maps available at refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109.

The provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1972.

ROBERT V. WADE,
Refuge Manager, Moosehorn National Wildlife Refuge.

NOVEMBER 16, 1971.

[FR Doc.71-17129 Filed 11-23-71;8:47 am]

PART 33—SPORT FISHING

Moosehorn National Wildlife Refuge, Maine

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (11-24-71).

§ 33.5 Special regulations; sport fishing, for individual wildlife refuge areas.

MAINE

MOOSEHORN NATIONAL WILDLIFE REFUGE

Sport fishing on the Moosehorn National Wildlife Refuge, Calais, Maine, is permitted on the areas designated by signs as open to fishing. These open areas, comprising 500 acres, are delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The use of boats without motors is permitted on Bearce, Conic, and Cranberry Lakes.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1972.

ROBERT V. WADE,
Refuge Manager, Moosehorn National Wildlife Refuge.

NOVEMBER 16, 1971.

[FR Doc.71-17128 Filed 11-23-71;8:47 am]

PART 33—SPORT FISHING

National Elk Refuge, Wyoming

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (11-24-71).

§ 33.5 Special regulations; sport fishing: for individual wildlife refuge areas.

WYOMING

NATIONAL ELK REFUGE

Sport fishing on the National Elk Refuge, Wyo., is permitted only on the areas designated by State fishing orders as open to fishing. These open areas, comprising 327 acres, are delineated on maps available at refuge headquarters, Jackson, Wyo., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following special condition:

(1) Use of boats or other floating devices is not permitted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through October 31, 1972.

DON E. REDFEARN,
Refuge Manager, National Elk Refuge, Jackson, Wyo.

NOVEMBER 12, 1971.

[FR Doc.71-17111 Filed 11-23-71;8:46 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Advertising and Other Activities; Notice of Hearing on Proposed Regulations

Proposed regulations under sections 512(a) and 513 of the Internal Revenue Code of 1954, relating to advertising and other activities of exempt organizations, appear in the FEDERAL REGISTER for September 11, 1971 (36 F.R. 18316).

Written comments or suggestions pertaining to such proposed regulations were required to be submitted by October 11, 1971. The time for submission of written comments or suggestions pertaining to such proposed regulations has been extended to December 10, 1971.

A public hearing on the provisions of these proposed regulations will be held on Tuesday, January 18, 1972, at 10 a.m., e.s.t., in Room 3313, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, DC 20224.

The rules of § 601.601(a)(3) of the Statement of Procedural Rules (26 CFR Part 601) shall apply with respect to such public hearing. Copies of these rules may be obtained by a request directed to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, or by telephoning (Washington, D.C.) 202-964-3935. Under such § 601.601(a)(3), persons who have submitted written comments or suggestions within the time prescribed in the notice of proposed rule making and who desire to present oral comments should by January 4, 1972, submit an outline of the topics and the time they wish to devote to each topic. Such outlines should be submitted to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

Persons who desire a copy of such written comments or suggestions or outlines and who desire to be assured of their availability on or before the beginning of such hearing should notify the Commissioner, in writing, at the above address by January 11, 1972. In such a case, unless time and circumstances permit otherwise, the desired copies are deliverable only at the above address. The charge for copies is twenty-five cents ($0.25) per page, subject to minimum change of $1.

RICHARD M. HAHN,
Acting Chief Counsel.

[FR Doc.71-17115 Filed 11-23-71;8:46 am]

[26 CFR Part 1]

INCOME TAX

Certain Sales of Low-Income Housing Projects

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by December 24, 1971. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by December 24, 1971. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 1039 of the Internal Revenue Code of 1954 (83 Stat. 718; 26 U.S.C. 1039) and section 7805 of the Internal Revenue Code of 1954 (68 Stat. 917; 26 U.S.C. 7805).

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) to the provisions of section 910(a) of the Tax Reform Act of 1969 (83 Stat. 718), the following new sections are added immediately after § 1.1038-2:

§ 1.1039 Statutory provisions; certain sales of low-income housing projects.

(a) *Nonrecognition of gain.*—If—

(1) A qualified housing project is sold or disposed of by the taxpayer in an approved disposition, and

(2) Within the reinvestment period the taxpayer constructs, reconstructs, or acquires another qualified housing project,

Then, at the election of the taxpayer, gain from such approved disposition shall be recognized only to the extent that the net amount realized on such approved disposition exceeds the cost of such other qualified housing project. An election under this subsection shall be made at such time and in such manner as the Secretary or his delegate prescribes by regulations.

(b) *Definitions.*— For purposes of this section—

(1) *Qualified housing project.*—The term "qualified housing project" means a project to provide rental or cooperative housing for lower income families—

(A) With respect to which a mortgage is insured under section 221(d)(3) or 236 of the National Housing Act, and

(B) With respect to which the owner is, under such sections or regulations issued thereunder—

(i) Limited as to the rate of return on his investment in the project, and

(ii) Limited as to rentals or occupancy charges for units in the project.

(2) *Approved disposition.*—The term "approved disposition" means a sale or other disposition of a qualified housing project to the tenants or occupants of units in such project, or to a cooperative or other nonprofit organization formed solely for the benefit of such tenants or occupants, which sale or disposition is approved by the Secretary of Housing and Urban Development under section 221(d)(3) or 236 of the National Housing Act or regulations issued under such sections.

(3) *Reinvestment period.*—The reinvestment period, with respect to an approved disposition of a qualified housing project, is the period beginning 1 year before the date of such approved disposition and ending—

(A) One year after the close of the first taxable year in which any part of the gain from such approved disposition is realized, or

(B) Subject to such terms and conditions as may be specified by the Secretary or his delegate, at the close of such later date as the Secretary or his delegate may designate on application by the taxpayer. Such application shall be made at such time and in such manner as the Secretary or his delegate prescribes by regulations.

(4) *Net amount realized.*—The net amount realized on an approved disposition of a qualified housing project is the amount realized reduced by—

(A) The expenses paid or incurred which are directly connected with such approved disposition, and

(B) The amount of taxes (other than income taxes) paid or incurred which are attributable to such approved disposition.

(c) *Special rules.*—For purposes of applying subsection (a)(2) with respect to an approved disposition—

(1) No property acquired by the taxpayer before the date of the approved disposition shall be taken into account unless such property is held by the taxpayer on such date, and

(2) No property acquired by the taxpayer shall be taken into account unless, except as provided in subsection (d), the unadjusted basis of such property is its cost within the meaning of section 1012.

(d) *Basis of other qualified housing project.*—If the taxpayer makes an election under subsection (a) with respect to an approved disposition, the basis of the qualified housing project described in subsection (a)(2) shall be its cost reduced by an amount equal to the amount of gain not recognized by reason of the application of (a).

(e) *Assessment of deficiencies.*—(1) *Deficiency attributable to gain.*—If the taxpayer has made an election under subsection (a) with respect to an approved disposition—

(A) The statutory period for the assessment of any deficiency, for any taxable year in which any part of the gain on such approved disposition is realized, attributable to the gain on such approved disposition shall not expire prior to the expiration of 3 years from the date the Secretary or his delegate is notified by the taxpayer (in such manner as the Secretary or his delegate may by regulations prescribe) of the construction, reconstruction, or acquisition of another qualified housing project or of the failure to construct, reconstruct, or acquire another qualified housing project, and

(B) Such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of section 6212(c) or the provision of any other law or rule of law which would otherwise prevent such assessment.

(2) *Time for assessment of other deficiencies attributable to election.*—If a taxpayer has made an election under subsection (a) with respect to an approved disposition and another qualified housing project is constructed, reconstructed, or acquired before the beginning of the last taxable year in which any part of the gain upon such approved disposition is realized, any deficiency, to the extent resulting from such election, for any taxable year ending before such last taxable year may be assessed (notwithstanding the provisions of section 6212(c) or 6501 or the provisions of any other law or rule of law which would otherwise prevent such assessment) at any time before the expiration of the period within which a deficiency for such last taxable year may be assessed.

[Sec. 1039, as added by sec. 910(a), Tax Reform Act of 1969 (83 Stat. 718)]

§ 1.1039-1 Certain sales of low-income housing projects.

(a) *Nonrecognition of gain.* Section 1039 provides rules under which the taxpayer may elect not to recognize gain in certain cases where a qualified housing project is sold or disposed of after October 9, 1969, in an approved disposition and another such qualified housing project or projects (referred to as the "replacement project") is acquired, constructed, or reconstructed within a specified reinvestment period. If the requirements of section 1039 are met, and if the taxpayer makes an election in accordance with the provisions of paragraph (b)(4) of this section, then the gain realized upon the sale or disposition is recognized only to the extent that the net amount realized on such sale or disposition exceeds the cost of the replacement project. The terms "qualified housing project," "approved disposition," "reinvestment period," and "net amount realized" are defined in paragraph (c) of this section.

(b) *Rules of application*—(1) *In general.* The election under section 1039(a) may be made only by the taxpayer owning the qualified housing project disposed of. Thus, if the qualified housing project disposed of is owned by a partnership, the partnership must make the election. (See section 703(b).) Similarly, if the qualified housing project disposed of is owned by a corporation or trust, the corporation or trust must make the election. In addition, the reinvestment of the taxpayer must be in such a manner that the taxpayer would be entitled to a deduction for depreciation on the replacement project. Thus, if the qualified housing project disposed of is owned by individual A, the purchase by A of stock in a corporation owning such a project or of an interest in a partnership owning such a project will not be considered as the purchase by A of such a project.

(2) *Special rules.* (i) The cost of a replacement project acquired before the approved disposition of a qualified housing project shall be taken into account under section 1039 only if such property is held by the taxpayer on the date of the approved disposition.

(ii) Except as provided in section 1039(d), no property acquired by the taxpayer shall be taken into account for purposes of section 1039(a)(2) unless the unadjusted basis of such property is its cost within the meaning of section 1012. For example, if a qualified housing project is acquired in an exchange under section 1031, relating to exchange of property held for productive use or investment, such property will not be taken into account under section 1039(a)(2) because its basis is determined by reference to the basis of the property exchanged. (See section 1031(d).)

(3) *Cost of replacement project.* The taxpayer's cost for the replacement project includes only amounts constituting capital expenditures that are attributable to acquisition, construction, or reconstruction made within the reinvestment period (as defined in paragraph (c)(4) of this section). See section 263 for rules as to what constitutes capital expenditures. Thus, assume that a calendar year taxpayer realizes gain in 1970 upon the approved disposition of a qualified housing project occurring on January 1, 1970. If the taxpayer had begun construction of another qualified housing project on January 1, 1969, and completes such construction on June 1, 1972, only that portion of the cost attributable to the period before January 1, 1972, constitutes the cost of the replacement project for purposes of section 1039. For purposes of determining the cost of a replacement project attributable to a particular period, the total cost of the project may be allocated to such period on the basis of the portion of the total project actually constructed during such period.

(4) *Election.* (i) An election not to recognize the gain realized upon an approved disposition of a qualified housing project to the extent provided in section 1039(a) may be made by attaching a statement to the income tax return filed for the first taxable year in which any portion of the gain on such disposition is realized. Such a statement shall contain the information required by subdivision (iii) of this subparagraph. If the taxpayer does not file such a statement for the first taxable year in which any portion of the gain is realized, but fails to report a portion of the gain realized upon the approved disposition as income for such year or for any subsequent taxable year, then an election shall be deemed to be made under section 1039(a) with respect to that portion of the gain not reported as income.

(ii) An election may be made under section 1039(a) even though the replacement project has not been acquired or constructed at the time of election. However, if an election has been made and (*a*) a replacement project is not constructed, reconstructed, or acquired, (*b*) the cost of the replacement project is lower than the net amount realized from the approved disposition, or (*c*) a decision is made not to construct, reconstruct, or acquire a replacement project, then the tax liability for the year or years for which the election was made shall be recomputed and an amended return filed. An election may be made even though the taxpayer has filed his return and recognized gain upon the disposition provided that the period of limitation on filing claims for credit or refund prescribed by section 6511 has not expired. In such case, a statement containing the information required by subdivision (iii) of this subparagraph should be filed together with a claim for credit or refund for the taxable year or years in which gain was recognized.

(iii) The statement referred to in subdivisions (i) and (ii) of this subparagraph shall contain the following information:

(*a*) The date of the approved disposition;

(*b*) If a replacement project has been acquired, the date of acquisition and cost of the project;

(*c*) If a replacement project has been constructed or reconstructed by or for the taxpayer, the date construction was begun, the date construction was completed, and the percentage of construction completed within the reinvestment period;

(*d*) If no replacement project has been constructed, reconstructed, or acquired prior to the time of filing of the statement, the estimated cost of such construction, reconstruction, or acquisition;

(*e*) The adjusted basis of the project disposed of; and

(*f*) The amount realized upon the approved disposition and a description of the expenses directly connected with the disposition and the taxes (other than income taxes) attributable to the disposition.

(c) *Definitions*—(1) *General.* The definitions contained in subparagraphs (2) through (5) of this paragraph shall apply for purposes of this section.

(2) *Qualified housing project.* The term "qualified housing project" means a rental or cooperative housing project for lower income families that has been constructed, reconstructed, or rehabilitated pursuant to a mortgage which is insured under section 221(d)(3) or 236 of the National Housing Act, provided that with respect to the housing project disposed of and the replacement project constructed, reconstructed, or acquired, the owner of the project at the time of the approved disposition and prior to the close of the reinvestment period is, under such sections or regulations issued thereunder,

(i) Limited as to rate of return on his investment in the project, and

(ii) Limited as to rentals or occupancy charges for units in the project.

If the owner of the project is organized and operated as a nonprofit cooperative or other nonprofit organization, then such owner shall be considered to meet the requirement of subdivision (i) of this subparagraph.

(3) *Approved disposition.* The term "approved disposition" means a sale or other disposition of a qualified housing project to the tenants or occupants of units in such project, or to a nonprofit cooperative or other nonprofit organization formed and operated solely for the benefit of such tenants or occupants, provided that it is approved by the Secretary of Housing and Urban Development or his delegate under section 221 (d)(3) or 236 of the National Housing Act or regulations issued under such sections. Evidence of such approval should be attached to the tax return or statement in which the election under section 1039 is made.

(4) *Reinvestment period.* The term "reinvestment period" means the period beginning 1 year before the date of the disposition and ending 1 year after the close of the first taxable year in which any part of the gain from such disposition is realized, or at such later date as may be designated pursuant to an application made by the taxpayer. Such application shall be made before the expiration of 1 year after the close of the first taxable year in which any part of the gain from such disposition is realized, unless the taxpayer can show to the satisfaction of the district director that—

(i) Reasonable cause exists for not having filed the application within the required period, and

(ii) The filing of such application was made within a reasonable time after the expiration of the required period.

The application shall contain all the information required by paragraph (b)(4) of this section and shall be made to the district director for the internal revenue district in which the return is filed for the first taxable year in which any of the gain from the approved disposition is realized.

(5) *Net amount realized.* (i) The "net amount realized" from the approved disposition of a qualified housing project is the amount realized from such disposition, reduced by—

(*a*) The expenses paid or incurred by the taxpayer which are directly connected with the approved disposition, and

(*b*) The amount of taxes (other than income taxes) paid or incurred by the taxpayer which are attributable to the approved disposition.

(ii) Examples of expenses directly connected with an approved disposition of a qualified housing project include amounts paid for sales or other commissions, advertising, and for the preparation of a deed or other legal services in connection with the disposition. An amount paid for a repair to the building will be considered as an expense directly connected with the approved disposition under subdivision (i)(*a*) of this subparagraph only if such repair is required as a condition of sale, or is required by the Secretary of Housing and Urban Development or his delegate as a condition of approval of the disposition.

(iii) Examples of taxes that are attributable to the approved disposition include local property transfer taxes and stamp taxes. A local real property tax is not so attributable.

(d) *Basis and holding period of replacement project.*—(1) *Basis.* If the taxpayer makes an election under section 1039, the basis of the replacement housing project shall be its cost (determined under paragraph (b)(3) of this section) reduced by the amount of gain not recognized under section 1039(a). If the replacement consists of more than one housing project, the basis determined under this subparagraph shall be allocated to the properties in proportion to their respective costs.

(2) *Holding period.* The holding period of the replacement housing project shall begin on the date the taxpayer first bears the burdens and enjoys the benefits of ownership of the project. (For special rule regarding the holding period of property for purposes of section 1250, see section 1250(e)(4).)

(e) *Assessment of deficiencies.*—(1) *Deficiency attributable to gain.* If a taxpayer makes an election under section 1039(a) with respect to an approved disposition, any deficiency attributable to the gain on such disposition, for any taxable year in which any part of such gain is realized, may be assessed at any time before the expiration of 3 years after the date the district director or director of the regional service center with whom the return for such year has been filed is notified by the taxpayer of the acquisition or the completion of construction or reconstruction of the replacement qualified housing project or of the failure to acquire, construct, or reconstruct a replacement qualified housing project, as the case may be. Such a deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of section 6212(c) or the provisions of any other law or rule of law which would otherwise prevent such assessment. If replacement has been made, such notification shall contain the information required by paragraph (b)(4)(iii) of this section. Such notification shall be attached to the return filed for the taxable year or years in which the replacement occurs, or in which the period for the replacement expires, and a copy of such notification shall be filed with the district director or director of regional service center with whom the election under section 1039(a) was required to be filed, if the return is not filed with such director.

(2) *Deficiency attributable to election.* If gain upon an approved disposition is realized in two (or more) taxable years, and the replacement qualified housing project was acquired, constructed, or reconstructed before the beginning of the last such year, any deficiency, for any taxable year before such last year, which is attributable to an election by the taxpayer under section 1039(a) may be assessed at any time before the expiration of the period within which a deficiency for such last taxable year may be assessed, notwithstanding the provisions of section 6212(c) or 6501 or the provisions of any law or rule of law which would otherwise prevent such assessment. Thus, if gain upon an approved disposition is realized in 1971 and 1975, and if a replacement project is purchased in 1971, any deficiency for 1971 may be assessed within the period for assessing a deficiency for 1975.

[FR Doc.71-17114 Filed 11-23-71;8:46 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 993]

DRIED PRUNES PRODUCED IN CALIFORNIA

Decision and Referendum Order With Respect to the Proposed Amendment of the Marketing Agreement, as Amended, and Order, as Amended

Pursuant to the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held in San Francisco, California, on April 21, 1971, after notice thereof was published in the FEDERAL REGISTER (36 F.R. 5706) on proposals to amend the marketing agreement, as amended, and Order No. 993, as amended (7 CFR Part 993), regulating the handling of dried prunes produced in California (hereinafter collectively referred to as the "order"). The order is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674), hereinafter referred to as the "act".

On the basis of the evidence adduced at the hearing, and the record thereof, the recommended decision in this proceeding was filed with the Hearing Clerk, U.S. Department of Agriculture. Notice thereof, affording opportunity to file written exceptions thereto, was published July 21, 1971, in the FEDERAL REGISTER (F.R. Doc. 71–10345; 36 F.R. 13397).

Material issues, findings and conclusions, rulings, and general findings. The material issues, findings and conclusions, rulings, and the general findings of the recommended decision set forth in the FEDERAL REGISTER (F.R. Doc. 71–10345; 36 F.R. 13397) are hereby approved and adopted as the material issues, findings and conclusions, rulings, and the general findings of this decision as if set forth in full herein, except as they are modified by the rulings on the exceptions hereinafter set forth.

Rulings on exceptions. Exceptions to the recommended decision were filed, within the prescribed time, by Joseph Renelle, by J. Frank Bennett, manager of the Prune Bargaining Association; by Andy Herman; and by Joseph A. Zanger and other prune growers in Santa Clara and San Benito Counties. These exceptions have been considered carefully and fully, in conjunction with the evidence in the record and the proposed findings and conclusions of the recommended decision, in arriving at the findings and conclusions set forth herein. To any extent that the findings and conclusions contained herein are at variance with any of the exceptions pertaining thereto, such exceptions are denied on the basis of the findings and conclusions relating to the issues to which the exceptions refer.

The exceptions, and the rulings thereon, are as follows:

An exceptor contended that (1) handlers should be subject to penalties if they have any undersized prunes in their packing plants other than those permitted by a tolerance, (2) a definite time limit should be established whereby all undersized prunes are returned by a handler to the producer at the producer's expense, and (3) handlers should be required to file a certificate with the U.S. Department of Agriculture showing the quantity of undersized and off-grade prunes they have on hand prior to the new crop. The recommended decision provides that in order to enable the Committee to properly administer the provisions of proposed paragraph (g) of § 993.50, the rules and regulations should prescribe a time limit for disposition, by a handler receiving undersized prunes from a producer or dehydrator, of a like quantity of such prunes in nonhuman consumption outlets. The recommended decision also provides that handlers be prohibited from shipping or otherwise disposing of such quantity for human consumption, but that they should be permitted to dispose of that quantity in nonhuman consumption outlets, such as for livestock feed. Moreover, it is recommended that the Committee have the authority to establish the outlets for disposition of such prunes and the conditions under which such dispositions are made. Thus, a basis is provided for establishment of a time limit and the permitted outlets for disposition of such prunes. Such outlets could include producers capable of utilizing undersized prunes for nonhuman consumption purposes, such as in their livestock feeding operations. However, if the producer is unable to so utilize undersized prunes, there would be no reason for the handler to return the prunes to the producer since the handler should not receive credit for such dispositions. In addition, the order currently provides ample authority for the Committee to request reports, including inventory reports, from handlers. Since the Committee is established under the order for program operations, submission of reports by handlers to the Department on inventories of undersized and off-grade prunes would serve no useful purpose. Accordingly, the exception is denied.

An exception was taken to the proposed method for the determination of undersized prunes; i.e., by a diameter measurement. The exceptor stated that prune industry practices of many years provide for size determinations by weight per pound, and these recognize that different lots of prunes have variables within their composition requiring a weight per pound classification in order to properly evaluate the worth of the prunes within the lot. It was contended that use of a new method of size determination at the producer level is not justified by the facts in the case. The various prune sizes are usually described numerically (15/20, 15/22, 18/24, 20/30, etc.) or by nomenclature (small, medium, large, etc.), which are all defined under the order in terms of the number of prunes contained in a pound. However, as provided in the recommended decision, handlers normally size-grade prunes by passing them over a series of metal plates perforated with uniform round holes to form a screen. Moreover, in normal size-grading practice, these holes may range from twenty thirty-seconds or twenty-two thirty-seconds inch in diameter at the start of the grading process to thirty-eight thirty-seconds to forty thirty-seconds inch in diameter at the end of the process.

The proposed definition of the term "undersized prunes", as hereinafter set forth, means prunes which pass freely through a round opening of a specified diameter. Thus, while the apparatus may differ, the principle for determining the quantity of "undersized prunes" in a lot received by a handler from a producer or a dehydrator is essentially the same as handlers' normal size-grading practices. Moreover, while the count per pound of undersized prunes could be determined readily, such a determination would serve no useful objective for purposes of the proposed size regulation with respect to undersized prunes. Therefore, the exception is denied.

A number of exceptions to the recommended decision were submitted because proposed paragraph (c) of § 993.49, providing for establishment of size regulation with respect to undersized prunes, did not provide for any maximum opening to be used in determining the quantity of undersized prunes in a lot received by a handler from a producer or dehydrator. Most of these exceptions were submitted by, or on behalf of, producers in Santa Clara or San Benito Counties. The exceptors from those counties contended that, under comparatively similar crop conditions statewide, Santa Clara and San Benito Counties historically produce prune crops in which the size count of the prunes average 15 to 20 points per pound more (i.e., the prunes are smaller) than prunes produced in other districts in the State of California. The exceptors also contended that prunes grown in these two counties have a greater density because of a higher sugar content and better pit-to-flesh ratio than prunes of equal diameter grown elsewhere in the State. Thus, it was alleged that prunes produced in these two counties and sized on the "Bird Cage grader" would have a count of 8 to 15 points per pound less than prunes grown elsewhere in the State and sized on the same screen. The exceptors also contended that Santa Clara and San Benito Counties will produce prune crops in which the prunes average 80 to 90 prunes per pound, even when crop yields are average to below average. On the other hand, it was alleged that other prune-producing districts in the State produce small-sized prunes when abnormally large cropping occurs in a given year. It therefore was contended that to reduce the supply of prunes by eliminating prunes of smaller sizes, without regard to quality, at the discretion of the Committee, would be arbitrary and discriminatory against Santa Clara and San Benito County prune producers, and would unfairly place the burden of restricting the prune supply on them. Moreover, it was contended that moving the screen size from twenty-three thirty-seconds of an inch to twenty-eight thirty-seconds of an inch could result in many producers not being able to sell any of their production and thus impose undue economic hardship on them. These producers therefore contended that the maximum opening to be included in any size regulation with respect to undersized prunes should be twenty-three thirty-seconds of an inch for French prunes and twenty-eight thirty-seconds of an inch for non-French prunes.

Another exceptor contended that the maximum opening for French prunes should be twenty-six thirty-seconds of an inch in diameter, but proposed no maximum opening for non-French prunes. The exceptor also stated that any prunes counting 110 or less per pound has long been recognized as marketable in its normal form as a prune. It was therefore contended that prunes counting 110 or less per pound should not be eliminated from the marketplace by the proposed size regulation. However, these exceptions are in conflict. As stated in the recommended decision, prunes size-graded in terms of a $^{25}/_{32}$-inch opening (after removal of the smaller sizes by $^{23}/_{32}$-inch and $^{24}/_{32}$-inch openings) would generally average 100 to 110 prunes per pound. Prunes passing through a $^{26}/_{32}$-inch opening would be larger in size than those passing through the $^{25}/_{32}$-inch opening, and hence larger than the 110 pound cut-off size urged by the exceptor.

The exceptions with respect to the establishment of maximum openings for French prunes and non-French prunes should be recognized, but only in part. As stated in the recommended decision, no evidence was presented at the hearing on the largest openings which would be employed under the regulation with respect to undersized prunes. The recommended decision also indicates that no evidence was presented at the hearing indicating the size of the openings for non-French prunes which would be comparable, respectively, to openings of twenty-four thirty-seconds and twenty-five thirty-seconds of an inch for French prunes. In view of the insufficiency of the evidence and the conflict in the views contained in the exceptions as to the maximum opening

for French prunes, any maximum openings for French prunes and non-French prunes designated in this decision for inclusion in the order would be arbitrary and unsupported by the evidence.

Thus, the proposed paragraph (c) of § 993.49 should remain unchanged. However, the eleventh paragraph in Material Issue (2) of the recommended decision (36 F.R. 13400) should be revised in part. That paragraph states, in part, that proposed paragraph (c) of § 993.49 should limit the size of the openings to those proposed in the notice of hearing (namely, twenty-three thirty-seconds of an inch for French prunes and twenty-eight thirty-seconds of an inch for non-French prunes), and that paragraph (c) should also permit larger openings to be prescribed at any time. The recommended decision also states that the Committee and the industry should conduct studies to determine the extent of the problems and hardships testified to at the hearing, on a district and county basis, the size openings for non-French prunes which would be comparable to $^{24}/_{32}$-inch and $^{25}/_{32}$-inch openings for French prunes, and the practicality of any openings larger than twenty-five thirty-seconds of an inch for French prunes (with comparable size openings for non-French prunes). The exceptions with respect to the establishment of maximum openings should be recognized by limiting initial size regulation with respect to undersized prunes to those openings set forth in proposed paragraph (c); namely, twenty-three thirty-seconds of an inch for French prunes and twenty-eight thirty-seconds of an inch for non-French prunes. Moreover, the studies recommended in the recommended decision to be made by the Committee and the industry should include a determination as to the feasibility of establishing maximum openings for French prunes and non-French prunes, and the size of such openings. Any such maximum openings should be established by the Secretary on the basis of a recommendation of the Committee pursuant to § 993.52. Accordingly, the 11th paragraph in Material Issue (2) of the recommended decision should be revised to read as follows:

"Therefore, proposed paragraph (c) of § 993.49 should limit the size of the openings to those proposed in the notice of hearing; namely; twenty-three thirty-seconds of an inch for French prunes and twenty-eight thirty-seconds of an inch for non-French prunes. The Committee and the industry should conduct studies to determine the extent of the problems and hardships testified to at the hearing, on a district and county basis, the size openings for non-French prunes which would be comparable to size openings for French prunes larger than twenty-three thirty-seconds of an inch, the feasibility of establishing maximum openings for French prunes and non-French prunes, and the size of any such maximum openings. Any recommendation for modification of the openings prescribed in proposed paragraph (c) of § 993.49 should be made by the Committee separate from, and well in advance of, any recommendation pursuant to that paragraph for a size regulation with respect to undersized prunes for a crop year. In conformity with existing authority in the order, any modification of the openings specified in § 993.49 (c) by the Secretary should be pursuant to § 993.52. However, to make it clear that such authority does exist, § 993.52 should be amended by inserting a comma after 'size regulations' and inserting immediately thereafter the words 'including the openings prescribed in § 993.49(c)'."

The remainder of the exceptions either duplicate matters presented at the hearing, are not germane to the material issues, or are commentaries which, as opposed to the evidence of record, do not provide a basis for revising either the findings or conclusions or the proposed provisions of the recommended decision.

Amendment of the amended marketing agreement and the amended order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement, as Amended, Regulating the Handling of Dried Prunes Produced in California" and "Order Amending the Order, as Amended, Regulating the Handling of Dried Prunes Produced in California", which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the aforesaid rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Referendum order. Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), it is hereby directed that a referendum be conducted among the producers who, during the period August 1, 1970, through July 31, 1971 (which period is hereby determined to be a representative period for the purpose of such referendum), have been engaged, in the State of California, in the growing of prune plums for drying or dehydrating into prunes for market, to determine whether such producers favor the issuance of the said annexed order amending the order, as amended, regulating the handling of dried prunes produced in California.

Dower T. Mohun, Martin J. Kelly, and James S. Miller, of the Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, are hereby designated referendum agents of the Secretary of Agriculture to conduct said referendum severally or jointly.

The procedure applicable to the referendum shall be the "Procedure for the Conduct of Referenda in Connection With Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended" (7 CFR Part 900).

The ballots used in the referendum shall contain a summary describing the terms and conditions of the proposed amendatory order.

Any producer entitled to vote in the referendum who does not receive a copy of the aforesaid annexed order, voting instructions, or a ballot, or other necessary information will be able to obtain the same from any appropriate County Director of Agricultural Extension, or from Dower T. Mohun, San Francisco Marketing Field Office, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, 630 Sansome Street, San Francisco, CA 94111.

It is hereby ordered, That all of this decision and referendum order, except the annexed marketing agreement, as amended, be published in the FEDERAL REGISTER. The regulatory provisions of the said marketing agreement, as amended, are identical with those contained in the said order, as amended, and as further amended by the annexed order which will be published with this decision.

Dated: November 19, 1971.

RICHARD E. LYNG,
Assistant Secretary.

Order[1] Amending the Order, as amended, Regulating the Handling of Dried Prunes Produced in California

§ 993.0 Findings and determinations.

(a) *Previous findings and determinations.* The findings and determinations hereinafter set forth are supplementary, and in addition, to the findings and determinations made in connection with the issuance of the order and each previously issued amendment thereof. Except the finding as to the base period for the parity computation, and except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein, all of said prior findings and determinations are hereby ratified and affirmed. (For prior findings and determinations see 14 F.R. 5254; 16 F.R. 8437; 19 F.R. 1301; 22 F.R. 8254; 26 F.R. 475; 30 F.R. 9797.)

(b) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674), and the applicable rules of practice and procedure, as amended (7 CFR Part 900), a public hearing was held at San Francisco, California, on April 21, 1971, on a proposed amendment of the marketing agreement, as amended, and Order No. 993, as amended (7 CFR Part 993), regulating the handling of dried prunes produced in California. On the basis of the evidence adduced at the hearing, and the record thereof, it is found that:

(1) The said order, as amended and as hereby further amended, and all the terms and conditions thereof, will tend to effectuate the declared policy of the act;

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders have been met.

(2) The said order, as amended and as hereby further amended, regulates the handling of dried prunes produced in California in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) There are no differences in the production and marketing of dried prunes in the production area covered by the order, as amended and as hereby further amended, which require different terms applicable to different parts of such area;

(4) The said order, as amended and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act; and

(5) All handling of dried prunes produced in California is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce.

It is, therefore, ordered, That, on and after the effective date hereof, all handling of dried prunes produced in California, shall be in conformity to, and in compliance with, the terms and conditions of the said order, as amended, and as hereby further amended as follows:

1. Section 993.19 Size. is revised to read as follows:

§ 993.19a Size.

"Size" means either (a) the number of prunes contained in a pound and may be referred to in terms of size ranges, or (b) the diameter of a round opening, expressed in multiples of one thirty-second of an inch, through which prunes pass freely.

2. A new § 993.19b *Undersized prunes.* is added reading as follows:

§ 993.19b Undersized prunes.

"Undersized prunes" means prunes which pass freely through a round opening of a specified diameter.

3. Section 993.10 is revised by inserting ", other than pursuant to § 993.49(c)" immediately after "§ 993.49".

4. Section 993.12 is revised by inserting ", other than pursuant to § 993.49(c)," immediately after "§ 993.49".

5. Section 993.21c *Salable prunes.* is revised by inserting ", excluding the quantity of undersized prunes determined pursuant to § 993.49(c)," after "all prunes".

6. Section 993.36(h) is amended by revising "monthly statements" to "quarterly statements".

7. Section 993.41(a) is amended by revising "fourth Tuesday" to "first Tuesday".

8. Section 993.41(b) is revised by redesignating subparagraphs (9) through (14), inclusive, as (10) through (15), inclusive, and inserting a new subparagraph (9) reading as follows:

(9) The quantity of undersized prunes in the crop, itemized as to French prunes and non-French prunes;

9. The first sentence of § 993.49(a) is revised by inserting "and undersized prunes" after "other than substandard prunes" and after "including substandard prunes".

10. Section 993.49 is amended by deleting paragraph (c), including the provisions suspended from operation for the 1968–69 crop year and subsequent crop years by action published in the FEDERAL REGISTER August 24, 1968 (33 F.R. 12032).

11. A new paragraph (c) is added to § 993.49 reading as follows:

§ 993.49 Incoming regulation.

* * * * *

(c) The Secretary may establish a size regulation with respect to undersized prunes upon a recommendation of the Committee whenever it determines that supply conditions for a crop year warrant such regulation. Any such size regulation shall provide that the diameter of the round opening for French prunes shall be twenty-three thirty-seconds of an inch, and for non-French prunes twenty-eight thirty-seconds of an inch, or such larger openings as may be prescribed pursuant to § 993.52. The quantity of undersized prunes in each lot received by a handler from a producer or dehydrator shall be determined by the inspection service and entered on the applicable inspection certificate.

12. Paragraphs (c) and (d) of § 993.50 are revised and a new paragraph (g) is added to read as follows:

§ 993.50 Outgoing regulation.

* * * * *

(c) Non-French prunes: No handler shall ship or otherwise make final disposition of any lot of standard prunes or standard processed prunes of the non-French varieties or any lot which includes non-French prunes in excess of a tolerance to be prescribed by the Secretary on recommendation of the Committee, unless the average count of such non-French prunes contained in any such lot is 40 or less per pound. However, under safeguards to be established by the Committee, any lot containing non-French prunes with an average size count of more than 40 prunes per pound may be shipped to or disposed of in prune product outlets in which they lose their form and character as prunes by conversion prior to consumption. A tolerance as to the permitted deviation of sizes about the average count shall be prescribed by the Secretary, upon recommendation of the Committee.

(d) French prunes: No handler shall ship or otherwise make final disposition of any lot of French prunes for human consumption as prunes, or any lot of mixed dried fruit containing French prunes for human consumption as mixed dried fruit, unless the average count of French prunes contained in any such lot is $100 or less per pound. However, under safeguards to be established by the Committee, any lot containing French prunes with an average size count of more than 100 prunes per pound may be shipped to or disposed of in prune product outlets in which they lose their form and character as prunes by conversion prior to consumption. In determining whether any such lot conforms to this minimum size requirement, the following tolerance shall apply: In a sample of 100 ounces, the count per pound of 10 ounces of the smallest prunes shall not vary from the count per pound of 10 ounces of the largest prunes by more than 45 points. The Secretary may, upon the basis of the recommendation and information submitted by the Committee and other available information, modify this tolerance for uniformity of size.

* * * * *

(g) No handler shall ship or otherwise dispose of, for human consumption, the quantity of prunes determined by the inspection service pursuant to § 993.49(c) to be undersized prunes. However, such handler may, at the direction and under the supervision of the Committee, dispose of such quantity of prunes in nonhuman consumption outlets. Prunes so disposed of shall be of the same variety as, and reasonably comparable in size, to such undersized prunes. The handler shall cause the inspection service to make a determination whether the prunes disposed of by the handler in nonhuman consumption outlets meet such requirements. In making the determination with respect to comparability in size, the inspection service shall apply a tolerance permitting a deviation from the size of the applicable opening established pursuant to § 993.49(c). Any such tolerance, together with any rules and regulations to insure proper disposition of the prunes and that such prunes are reasonably comparable to the undersized prunes so received, shall be established by the Committee with the approval of the Secretary. The quantity of prunes determined pursuant to § 993.49(c) shall not be deemed to be within the handler's quota for salable prunes fixed by the Secretary within the meaning of section 8a(5) of the Act.

13. Section 993.52 is revised by inserting ", including the openings prescribed in § 993.49(c)," immediately after "size regulation".

14. In the second sentence of § 993.54, the phrase "the weight obligation of § 993.49(c)" is revised to read "the quantity of undersized prunes determined pursuant to § 993.49(c)".

15. In the first sentence of § 993.56, the phrase "the weight obligation of § 993.49(c)" is revised to read "the quantity of undersized prunes determined pursuant to § 993.49(c)".

16. Section 993.75 is revised to read as follows:

§ 993.75 Verification of reports.

For the purpose of checking and verifying reports filed by handlers or the operation of handlers under the provisions of this subpart, the Secretary, and the Committee through its duly authorized agents, shall have access to any premises where prunes may be held by

any handler and at any time during reasonable business hours, shall be permitted to inspect any prunes so held by such handler and any and all records of such handler with respect to the holding or disposition of all prunes which may be held or which may have been disposed of by him.

[FR Doc.71-17119 Filed 11-23-71;8:49 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 19]

CREAMED COTTAGE CHEESE

Defoaming Agents as Optional Ingredients

Notice is given that a petition has been filed by Stein, Hall and Co., Inc., 605 Third Avenue, New York, N.Y. 10016, proposing that the standard of identity for creamed cottage cheese (21 CFR 19.530) be amended to permit listing safe and suitable defoaming agents as optional ingredients in the creaming mixture. The petition further proposes that no greater quantity of defoaming agents be used than is necessary to provide the desired defoaming effect and that the presence of these optional ingredients be declared on the label when they are used in the manufacture of creamed cottage cheese.

Grounds set forth in the petition are that safe and suitable defoaming agents when added to the creaming mixture would eliminate the formation of foam both (1) in preparation of the creaming mixture and (2) during movement of the creamed cottage cheese before and during packaging. The presence of foam in the container creates difficulty in obtaining the correct fill; it also detracts from the appearance of the finished product.

Accordingly, it is proposed that § 19.530 be amended by adding a new subdivision (8) to paragraph (b) and by revising paragraph (d)(1), as follows:

§ 19.530 Creamed cottage cheese; identity; label statement of optional ingredients.

* * * * *

(b) * * *

(8) Safe and suitable defoaming agents in a quantity not greater than reasonably required to accomplish their intended effect.

* * * * *

(d) (1) When one or a mixture of two or more of the optional ingredients listed in paragraph (b)(2) (ii), (iii), and (iv), (5), (6)(i), and (8) of this section is used, the label shall bear the statement "---------- added" or "with added ----------" the blank being filled in with the common name or names of the optional ingredients used: *Provided, however,* That the name "vegetable gum" may be used in lieu of the specific names for carob (locust) bean gum, guar gum, gum karaya, and gum tragacanth.

* * * * *

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and in accordance with authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), interested persons are invited to submit their views in writing (preferable in quintuplicate) regarding this proposal within 60 days after its date of FEDERAL REGISTER publication. Such views and comments should be addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, and may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: November 10, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-17105 Filed 11-23-71;8:45 am]

Social Security Administration

[20 CFR Part 405]

[Reg. No. 5]

FEDERAL HEALTH INSURANCE FOR THE AGED

Review and Hearing Under the Supplementary Medical Insurance Program

Correction

In F.R. Doc. 71-16744 appearing at page 21895 in the issue for Wednesday, November 17, 1971, make the following changes:

1. In § 405.802(b), line 2 preceding "XVIII" insert the word "title".

2. In § 405.822, line 4, after the word "in" insert "question. Any other person may be made a party if that person's".

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGFR 71-142]

NANTICOKE RIVER, DEL.

Proposed Drawbridge Operation Regulations

The Coast Guard is considering revising the regulations for the Delaware Division of Highways bridge on State Route 13A across the Nanticoke River at Seaford, Del., to require at least 2 hours' notice at all times. The present regulations require that the draw open on signal. This action is being considered because of infrequent draw openings for the passage of vessels. In addition minor editorial changes are proposed regarding the Penn Central railroad bridge at Seaford.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, VA 23705. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Fifth Coast Guard District.

The Commander, Fifth Coast Guard District, will forward any comments received before December 24, 1971, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by revising § 117.245(f)(13-a) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of drawtenders is not required.

* * * * *

(f) * * *

(13-a) Nanticoke River, Del.:

(i) *Penn Central railroad bridge at Seaford.* The draw shall open on signal from 8 a.m. to 8 p.m. from May 1 through September 30. From October 1 through April 30 the draw shall open on signal if at least 4 hours' notice has been given. The draw need not open from 8 p.m. to 8 a.m. from May 1 through September 30.

(ii) *Delaware Route 13A bridge at Seaford.* The draw shall open on signal if at least 2 hours' notice has been given.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Dated: November 12, 1971.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard Chief, Office of Marine Environment and Systems.

[FR Doc.71-17161 Filed 11-23-71;8:50 am]

[33 CFR Part 117]

[CGFR 71-149]

ARKANSAS AND WHITE RIVERS, ARK.

Proposed Drawbridge Operation Regulations

The Coast Guard is considering revising the regulations for the Missouri Pacific railroad bridge across the White River at mile 7.6, and for the bridges across the Arkansas River of the St. Louis and Southwestern (Rob Roy) railroad at mile 66.3, the Chicago, Rock Island and Pacific railroad at mile 116.2, the Missouri Pacific railroad at miles 116.7 and 117.6 and the St. Louis-San Francisco railroad at mile 295.1, to reflect the alteration of these bridges to automated or remote operation. The present regulations governing these bridges require that the Missouri Pacific bridge across the White River open on signal if at least 24 hours' notice has been given Monday through Friday, or 48 hours' notice on Saturdays and Sundays. The St. Louis and Southwestern (Rob Roy) bridge across the Arkansas River at mile 66.3, opens on signal if at least 24 hours' notice has been given. The Chicago, Rock Island and Pacific bridge across the Arkansas River, mile 116.2, opens on signal if at least 48 hours' notice has been given. The Missouri Pacific bridges across the Arkansas River at miles 116.7 and 117.6 open on signal at any time and the St. Louis and San Francisco bridge across the Arkansas River, mile 295.1 may remain closed to vessels at all times.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), Second Coast Guard District, Federal Building, 1520 Market Street, St. Louis, MO 63103. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Second Coast Guard District.

The Commander, Second Coast Guard District, will forward any comments received before January 7, 1972, with his recommendations to the Chief, Office of Marine Environmental and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by:

1. Revoking § 117.560(f) (21), (22), (23), (24), (25), and (26)

2. Revising of § 117.560(f)(20) to read as follows:

§ 117.560 Mississippi River and its tributaries and outlets; bridges where constant attendance of drawtenders is not required.

* * * * *

(f) * * *

(20) *Arkansas River, Ark.* Missouri Pacific railroad bridge at Yancopin, the draw shall open on signal if at least 96 hours' notice has been given to the Missouri Pacific dispatcher at Little Rock, Ark. When so directed by the Commander, Second Coast Guard District, a drawtender shall be in constant attendance and when this occurs, the draw shall operate in accordance with § 117.555.

* * * * *

3. Adding a new § 117.556 immediately after § 117.555 to read as follows:

§ 117.556 Arkansas and White Rivers, automated railroad bridges.

(a) The bridges in this section do not require constant attendance.

(b) The draws of the Missouri Pacific railroad bridge (Benzal), mile 7.6, White River and the St. Louis-San Francisco railroad bridge, mile 295.1, Arkansas River, will normally be maintained in the open position which provides a minimum vertical clearance of 52 feet.

(1) When a train approaches either bridge, amber lights attached to the bridge begin to flash and an audible signal on the bridge is sounded for 6 minutes. At the end of 6 minutes the amber light shall continue to flash, however, the audible signal shall stop and the draw shall lower and lock, if the photoelectric boat detection system detects nothing under the span. If the detection system detects an obstruction, the draw shall be raised to its full height until the obstruction is cleared.

(2) After the train has cleared the bridge, the draw shall be raised to its full height and the amber flashing lights shall be stopped, indicating the navigation channel is open for the passage of vessels.

(c) Across the Arkansas River the draws of the Cotton Belt railroad bridge, mile 66.3, The Chicago, Rock Island and Pacific railroad bridge, mile 116.2 and the Missouri Pacific railroad bridges at mile 116.7 and 117.6, will normally be maintained in the closed position.

(1) The opening signal for these bridges is three short blasts.

(2) The acknowledging signal is three flashing white lights visible upstream and downstream.

(3) When the vessel sights the acknowledging signal, one long blast shall be sounded.

(4) This signal shall be acknowledged when the draw is to open by changing the flashing white lights to continuous white lights, sounding one blast on a horn and raising the span to a maximum clearance of 52 feet. When the span is fully raised the navigation lights at midchannel shall change from red to green. If the draw cannot be opened flashing amber warning lights shall be started and 4 blasts will be sounded indicating that a train is approaching or that maintenance work is in progress. When the draw will be opened after the train has crossed the closed draw or when maintenance work permits the draw will signal with 1 blast. The vessel shall acknowledge with 1 blast and proceed through the draw.

(d) The railroad operators controlling these bridges shall monitor FM channel 16 (156.8 Mhz) for radiotelephone communications with vessels.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Dated November 12, 1971.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard Chief, Office of Marine Environment and Systems.

[FR Doc.71-17162 Filed 11-23-71;8:50 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 501]

SOLDER AND BRAZING ALLOYS

Proposed Exemption From Labeling Requirements for Consumer Commodities

Notice is given that the Federal Trade Commission, pursuant to the provisions of the Fair Packaging and Labeling Act (sections 5(b), 6(b), 80 Stat. 1298, 1300, 15 U.S.C. 1454, 1455) and under the Commission's procedures and rules of practice (16 CFR 1.15), proposes to exempt solder and brazing alloys containing precious metals from part of the net quantity statement requirements imposed by Part 500 of the regulations under section 4 of the Fair Packaging and Labeling Act.

The proposed exemption is based upon a request from industry which points out that it has been conventional to buy and sell alloys containing precious metals using the system of troy weight. To require net quantities to be stated in avoirdupois pound and ounce would be of doubtful assistance in making value comparisons and might even result in some confusion.

It is proposed that Part 501 be amended by adding thereto a new section as follows:

§ 501.8 Solder.

Solder and brazing alloys containing precious metals when packaged and labeled for retail sale are exempt from the net quantity statement requirements of Part 500 of this chapter which specify that all statements of weight shall be in terms of avoirdupois pound and ounce provided the net quantity declaration is stated in terms of the Troy pound and ounce and the term "Troy" is used in each declaration.

Any interested person may, within 60 days from the date of this publication in the FEDERAL REGISTER, file with the Secretary, Federal Trade Commission, Washington, D.C. 20580, written views on this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

By direction of the Commission dated November 16, 1971.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.71-17166 Filed 11-23-71;8:50 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-9388]

RESERVES AND RELATED MEASURES RESPECTING THE FINANCIAL RESPONSIBILITY OF BROKERS AND DEALERS

Notice of Proposed Rule Making

Notice is hereby given that the Securities and Exchange Commission had under consideration a proposal to adopt Rules 15c3-3 (17 CFR 240.15c3-3) and 15c3-4 (17 CFR 240.15c3-4) under the Securities Exchange Act of 1934 (the Exchange Act), and to amend Rules 8c-1 (17 CFR 240.8c-1) and 15c2-1 (17 CFR 240.15c2-1) thereunder, to provide for reserves and related measures respecting the financial responsibility of brokers and dealers in the public interest and for the protection of investors. The proposed rules and amendments are designed to implement the provisions of section 15(c)(3) of the Exchange Act which were added by section 7(d) of the Securities Investor Protection Act of 1970 (the SIPC Act).[1] The proposed rules and amendments would be adopted under sections 8(b), 8(c), 10(b), 15(c)(2), 15(c)(3), and 23(a) of the Exchange Act, as well as under sections 6(c)(2)(C)(iii) and 6(c)(2)(B) of the SIPC Act.

The SIPC Act which affords specified protection to customers of brokers and dealers,[2] also provides for backstop financing under certain contigencies by the Securities and Exchange Commission and the Secretary of the Treasury, to a maximum amount of $1 billion.[3] In that context, Congress was manifestly concerned that there be no recurrence of the unsafe and unsound practices in the industry which had placed securities and funds or customers in jeopardy and which prompted Congress to pass this legislation. Accordingly, in addition to directing the Commission to conduct a thorough study of such practices and to report on measures taken and recommended for their elimination,[4] Congress amended section 15(c)(3) of the Exchange Act to clothe the Commission with the authority to adopt rules providing for safeguards respecting the, financial responsibility of brokers and dealers concerning the acceptance of custody and use of customers' securities and the carrying and use of customers' deposits or credit balances; and, in that connection, to require the maintenance of reserves.[5]

Upon the passage of the SIPC Act, the staff of the Commission began immediately to explore various possible methods for safeguarding the handling of customer property and for the establishment by the industry of reserves which would be amply protective of customers' funds and securities. In addition to evaluation of various methods proposed by the staff of the Commission, consideration of numerous proposals from other sources was undertaken. Each approach was weighed in terms of the extent to which it maximized investor protection in relation to its operational and economic impact upon the industry. From all of these expressions, the Commission has been able to evolve what it believes to be a program designed to accomplish the basic statutory objectives.

The proposed provisions for reserves are the subject of two separate proposed rules, Rules 15c3-3 and 15c3-4. Proposed Rule 15c3-3 requires the complete separation of customer funds from firm funds and provides for reserves designed to protect customer funds held by broker-dealers. Proposed Rule 15c3-4, concerned with customer protection in the area of custody and use of customers' securities, requires that the broker-dealer promptly obtain physical possession or control of customer securities and contains provisions for reserves against securities of customers which should be but are not in the physical possession or control of a broker-dealer. Supplementing proposed Rule 15c3-4 are proposed amendments to Rules 8c-1 and 15c2-1 under the Exchange Act (the hypothecation rules) which would, as regards securities carried for the accounts of customers which are loaned or borrowed by a broker-dealer, provide the same protections as are currently provided for by rules of the self-regulatory organizations with regard to the lending of securities as well as by the hypothecation rules with regard to rehypothecated securities.

Proposed Rule 15c3-3

Generally stated, proposed Rule 15c3-3 contains these basic provisions. First, there would be a requirement on the part of broker-dealers to maintain a "Special Account for the Exclusive Benefit of Customers" (the Special Account) in the nature of a trust fund through which a broker-dealer must effectuate all transactions with regard to all "funds carried for the account of any customer" (defined to include free credit balances, other credit balances and all deposits of customers on open transactions), as well as all cash proceeds of loans collateralized by securities carried for the accounts of customers and all cash remittances received by the broker-dealer from or on behalf of customers for any purpose whatsoever. Under the proposed rule, the broker-dealer may make[6] withdrawals from the Special Account only for limited specified purposes, including the payment of obligations to customers, the settlement of transactions for and with customers, the depositing of cash with third persons from whom the broker or dealer has borrowed securities to make deliveries on behalf of customers, and the reimbursement to the broker-dealer for moneys loaned to customers, for disbursements made on behalf of customers, for commissions, interests, and other lawful charges to customers.

The operative features of the Special Account are designed to protect the integrity of customer-generated funds by insulating them against inroads from the broker-dealer's firm activities, whether they be underwriting, market making, other trading, investing or mere speculation in securities, meeting overhead or of any other nature whatever. The Special Account, therefore, should achieve a virtual 100 percent protection to customers with respect to "the carrying and use of customers' deposits or credit balances" which is mandated by section 7(d) of the SIPC Act. As additional protection, and in compliance with the objectives of that section for the establishment of reserves, proposed Rule 15c3-3 also provides in substance that, if there is any excess of the cash or cash equivalent accountabilities of a broker-dealer to his customers over specified accountabilities of customers to the broker-dealer, the broker-dealer shall deposit such excess in a "Cash Reserve Bank Account", such excess to be maintained at all times on such deposit. Computations to determine whether or not such excess exists would be required to be made on a daily basis at the opening of business with respect to the transactions of the previous business day; or, in the alternative, on a monthly basis. In the latter case, the deposit to be maintained would have to be 105 percent of the excess. The deposit may consist of any combination of cash and specified kinds of securities issued or guaranteed by the United States.

The net effect of the Special Account and Cash Reserve Bank Account requirements should be that, in no event, would customer credits and related cash accountabilities be able to be used to finance the obligations of a broker-dealer other than for the bona fide obligations of customers.

Also, as an integral element in proposed Rule 15c3-3 is a provision which would require a broker-dealer to establish and follow proocedures and a system for following such procedures to verify and reconcile each of his bank statements within 2 weeks after he receives it from his bank.

Proposed Rule 15c3-4

On the subject of the acceptance of custody and use by a broker-dealer of the securities of customers, proposed Rule 15c3-4 provides in substance that, as to fully paid and excess margin securities of customers left with the broker-dealer, such securities shall be in the physical possession or control of the broker-dealer; and it further provides that in the event of his inability to reduce them to such physical possession or control, he shall make and maintain on deposit an appropriate sum in a "Securities Reserve Bank Account" from which he may make withdrawal only to the extent that he reduces such securities to his physical possession or control. Moreover, in any transaction with or for a customer, to whom a broker-dealer sells a security to or purchases a security for a customer who has made full payment therefor, the broker-dealer would have to deposit the contract price in the Securities Reserve Bank Account if the broker-dealer is unable to reduce the security to his physical possession or control. If a broker-dealer as agent, for a customer, has purchased a security from another broker-dealer and, not having received timely delivery, enters the transaction on his books and records as a fail to receive, such purchasing broker-dealer would be required to make the deposit in the Securities Reserve Bank Account not later than 5 business days after settlement date. In the interim of course, the funds paid by the customer are required to be deposited in the Special Account provided for by proposed Rule 15c3-3. Similarly, in the absence of his failure to reduce to his physical possession or control excess margin securities of customers, a broker or dealer must make a deposit in an amount equal to the market value of such securities, pending his reducing them to his physical possession or control. In order to properly mark such excess margin securities to the market, a broker-dealer will be required to make periodic evaluations of them, at least once a month. He would then have 5 business days thereafter to make the required deposit.

The 5 business days interval, for the making of the deposit with respect to cash transactions for fully paid securities, in fail to receive as well as for excess margin securities, is intended to give effect to the following circumstances. In the context of the dynamics of the securities business, a broker-dealer would not at any given moment be apt to have in his physical possession or control all excess margin securities which, for example are in the process of being released from a bank lien, or fully paid securities which another broker-dealer has not made a timely delivery on settlement. Nevertheless, the broker-dealer may have in his physical possession or control other securities in excess of any requirement to maintain them in his physical possession or control. This 5 business days interval may be too long or possibly too brief to give effect to its purpose. Accordingly, the Commission anticipates specific comments on this point.

The deposits in the Securities Reserve Bank Account may consist of any combination of cash and specified kinds of securities issued or guaranteed by the United States.

Irrespective of the requirement to maintain the deposit in the Securities Reserve Bank Account in the appropriate amount for fully paid and excess margin securities, proposed Rule 15c3-4 has a buy-in provision to compel a broker-dealer to reduce such securities to physical possession or control in any event after designated periods. Under the proposed rule, the buy-in requirement is interrelated with the recently adopted Rule 17a-13 (17 CFR 240.17a-13) under the Exchange Act which provides, in general, that, after its effective date, each broker-dealer shall conduct a quarterly box count of securities for which he is accountable.[8] If at the time of the box count it is determined that securities of customers should be, but are not, in the physical possession and control of the broker-dealer, he must buy-in such securities and reduce them to his physical possession and control within 30 days thereafter. Taking into account the possibility of unusual and unforeseeable circumstances which could prevent a broker-dealer from effecting the buy-in within the 30-day period, the proposed rule provides that, upon a proper showing of exceptional circumstances, the committee of an appropriate national securities exchange or national securities association, or the Commission, depending upon the membership of the broker-dealer, may extend the time for such buy-in for one or more limited 5-day periods commensurate with the circumstances.

Exemptive Provisions

Both proposed Rules 15c3-3 and 15c3-4 contain provisions for the granting of an exemption by the Commission upon application of a broker-dealer who can demonstrate to the satisfaction of the Commission that he has a plan and procedures for the safeguarding of funds and securities of customers superior to the protection provided by those rules.

Specifically Identifiable Property of Cash Customers

Both Rules 15c3-3 and 15c3-4 contain provisions to the effect that the Special Account, Cash Reserve Bank Account, Securities Reserve Bank Account, and fully paid and excess margin securities held in accordance with Rule 15c3-4 shall constitute specifically identifiable property of the customers whose interests therein are reflected on the broker-dealers' books and records and that such customers shall be deemed cash customers within the meaning of the SIPC Act. Securities appropriated to customers on the books and records of a broker-dealer which are in his possession are similarly designated as specifically identifiable property of those customers. These provisions would be adopted under sections 6(c)(2)(C)(iii) and 6(c)(2)(B) of the SIPC Act.

Rules 8c-1 and 15c2-1

Consistent with the requirement of strict physical possession or control of fully paid and excess margin securities of customers would be a related prohibition, by way of amendment to the hypothecation rules (Rules 8c-1 and 15c2-1 under the Exchange Act), that a broker or dealer may not, directly or indirectly, borrow for himself or lend to a third person any such securities except upon adequate consideration and specific written authorization identifying the particular securities involved and specifying the terms and conditions of such authorization. Moreover, the proposed amendments would prohibit a broker or dealer from, directly or indirectly, lending or hypothecating more securities carried for the account of a customer than is fair and reasonable in light of the indebtedness of the customer on such securities.[7] Reasonableness in the case of hypothecations is defined as 140 percent of the debit balance in the account; and, in the case of the loans of a customer's securities, only 100 percent of the debit balance in his account.

Subject to certain exceptions and exemptions, Rule 8c-1 and 15c2-1 under the Exchange Act now contain three specific prohibitions as follows: (a) The commingling of the securities of one customer under the same lien with the securities of another customer without the written consent of both customers; (b) the commingling of the securities of customers with those of other persons (including the broker or dealer) under a lien for a loan made by the broker or dealer; and (c) the hypothecation of securities of customers to secure a loan for an amount which exceeds the aggregate indebtedness of customers in respect of securities carried for their accounts.

The proposal for the amendments of these rules lies in a very narrow but important area which represents an apparent gap in the regulatory scheme governing the hypothecation of securities. They are to the effect that the same prohibitions which apply to the hypothecation of the securities of customers by a broker or dealer should adhere with equal force in the case of securities of customers loaned or borrowed by a broker or dealer (e.g., with respect to margin securities which are not "excess margin" securities) in cases in which a broker or dealer may properly loan or borrow securities of customers. The loan of securities by one broker-dealer to another broker-dealer generally involves these steps. The borrowing broker or dealer will deposit with the lending broker or dealer an amount of cash equal to the market value of the borrowed securities; and, so long as the securities have not been returned, the cash amount is marked to the market. So far as concerns the customer of the lending broker, whose securities are the subject of the loan, the risk factor is no different than if the broker or dealer who loaned the securities had, instead, borrowed cash from the other broker or dealer and placed the customer's security as collateral for the return

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[1] 84 Stat. 1653; Public Law 91-598 sec. 7(d).

[2] Subject to the conditions delineated in the SIPC Act with respect to the initiation and pendency of special liquidation proceedings under the aegis of the Federal courts, SIPC covers, among other things, losses to customers resulting from the insolvency of a broker-dealer who carries a bona fide account of the customer, but such coverage may not exceed $50,000 for the claims of the customer based on securities and cash in such account, in any combination: *Provided*, That the coverage for cash may not exceed $20,000. SIPC Act sections 6(f)(1)(A) and (B).

[3] Idem at section 4(f), (g), and (h).

[4] See SIPC Act section 11(h). The Commission must render its report by December 31, 1971.

[5] SIPC Act section 7(d); section 15(c)(3) of the Exchange Act, as amended.

[6] For the requirements of Rule 17a-13, see Securities Exchange Act Release No. 9376.

[7] These requirements are comparable with the New York Stock Exchange and NASD standards. See NYSE Rule 402; NASD Manual Art. III sec. 19, Rules of Fair Practice ¶2169.

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of such cash. In brief, the lending of the securities of a customer exposes him to the very hazards against which the existing hypothecation rules are aimed. In fact, the customer's exposure is greater than in the normal rehypothecation situation. To the extent that broker-dealer may find it more difficult to repay in cash the deposit of 100 percent of the value of the securities he loans than it would be for him to repay the 70 to 80 percent of their cash value which he could have borrowed on them by rehypothecating them, the securities are correspondingly exposed to a greater risk when they are the subject of a loan than when they are rehypothecated for a cash borrowing.

These proposed amendments to the hypothecation rules would dovetail with the other proposed amendments to those rules which track New York Stock Exchange requirements prohibiting the loan of the securities of customers for an amount which is not fair and reasonable in light of the indebtedness of the customer to the broker or dealer.

EFFECT OF PROPOSED RULES

The purpose behind the proposed rules is to afford as complete protection as possible to customers by the establishment of reserve requirements and otherwise with respect to their funds and securities in accordance with the intent of Congress, without depriving the industry of necessary and legitimate means to carry on customer oriented business. Without freezing the liquid resources of the industry to a point at which it would no longer be viable, the proposed rules seek to accomplish virtually complete customer protection by providing the mechanisms through the medium of the Special Account and the Cash Reserve and Securities Reserve Accounts to give full effect to the obligations of broker-dealers to customers respecting their cash and securities. Further, it is the objective of these rules to afford customers of broker-dealers protection against broker-dealer liquidation in a more comprehensive manner than the $50,000–$20,000 protection afforded by the SIPC legislation.

It should be emphasized that the reserve provisions of proposed Rules 15c3–3 and 15c3–4 are designed exclusively to provide a means for computing and maintaining required reserves and that they would in no way purport to affect or diminish the rights of any customer under existing applicable law in his relationships with his broker-dealer with respect to his funds and securities.

The Commission appreciates that the attached proposals are so far reaching and pervasive as to require a substantial restructuring of operations within the broker-dealer industry. At the same time, the nature of these proposals call for their adoption as soon as practicable. Giving effect to these considerations, the Commission looks forward to the adoption of rules on the subject, modified as deemed necessary, effective April 1, 1972. It is hoped that brokers and dealers will use the intervening period to review their procedures so as to be prepared for the operational and financial impact of these rules.

TEXT OF THE PROPOSED RULES

The Commission, acting pursuant to the provisions of the Securities Exchange Act of 1934, and more particularly sections 8(b), 8(c), 10(b), 15(c)(2), 15(c)(3) and 23(a) thereof, as well as under sections 6(c)(2)(C)(iii) and 6(c)(2)(B) of the Securities Investor Protection Act of 1970, proposes to amend Part 240 of Chapter II of Title 17 of the Code of Federal Regulations by adopting new §§ 240.15c3–3 and 240.15c3–4 and amending §§ 240.8c–1 and 240.15c 2–1 as follows:

§ 240.15c3–3 Customer protection accounts—cash.

(a) It shall be unlawful for any broker or dealer to accept or use any funds carried for the account of customers or to accept or use funds generated from the lending, hypothecation or other use of securities carried for the account of customers, except as provided for in this section.

(b) For the purposes of this section:

(1) The term "customer" shall be deemed to include any person with respect to whom a broker or dealer carries any account in which funds or securities are carried for the account of such person, but it shall not include a broker or dealer, or a general, special or limited partner, or director or officer of a broker or dealer, or any participant in any joint, group, or syndicate account with a broker or dealer or with any general, special or limited partner, or officer, or director of such broker or dealer: *Provided, however,* That if a member of a national securities exchange carries for a broker or dealer registered with the Commission under section 15 of the Act a "Special Omnibus Account" complying with the requirements of section 4(b) of Regulation T (12 CFR 220.4(b)) under the Act, such registered broker or dealer shall be deemed a "customer" of such member with respect to, but only with respect to, such special omnibus account.

(2) The term "qualified security" shall mean and include a security issued by the United States or a security in respect of which the principal and interest are guaranteed by the United States.

(3) The term "bank" shall include and mean a bank as defined in section 3(a)(6) of the Act.

(4) The term "free credit balances" shall mean liabilities of a broker or dealer to customers reflected on the books and records of the broker or dealer which are subject to immediate cash payment to customers whether resulting from sales of securities, dividends, interest, deposits for future purchases, or otherwise.

(5) The term "other credit balances" shall mean liabilities of a broker or dealer to customers reflected on the books and records of the broker or dealer, other than free credit balances, deposits on open transactions and amounts segregated in accordance with the Commodity Exchange Act and rules and regulations thereunder.

(6) The term "deposits on open transactions" shall mean cash payments by customers or application by bookkeeping entry of customers' free credit balances in payment for securities purchased, until such time as the securities are appropriated for the account of the customer.

(7) The term "funds carried for the account of any customer" shall mean and include (i) all free credit and other credit balances carried for the account of the customer and (ii) all deposits of the customer on open transactions.

(8) The term "securities carried for the account of customers" shall be deemed to mean (i) securities received by or on behalf of a broker or dealer for the account of any customers, (ii) securities sold and appropriated by a broker or dealer as principal to a customer, and (iii) securities sold, but not appropriated, by a broker or dealer as principal to a customer who has made any payment therefor, to the extent that such broker or dealer owns, or has borrowed, and has received delivery of securities of like kind.

(c) On and after the effective date of this section:

(1) All financial transactions and relations between a broker or dealer and his customers shall be effected through one or more bank accounts, each to be designated as, "Special Account for the Exclusive Benefit of Customers of (name of the broker or dealer) ("hereinafter referred to collectively as the 'Special Account' ").

(2) Each broker or dealer shall deposit in the Special Account all funds carried for the account of any customer as well as all cash deposits received from others against loans by the broker or dealer of securities carried for the account of customers, all cash proceeds of loans collateralized by securities carried for the account of customers and all cash remittances received by the broker or dealer from or on behalf of customers for any purpose whatsoever.

(3) All funds deposited in the Special Account shall remain in such account, except that the broker or dealer may make withdrawals (i) to make payments to customers of any part of or all of their respective free credit balances, and to make payments of other money owed by the broker or dealer to his customers other than with regard to principal transactions between himself and his customers, (ii) to reimburse the broker or dealer for amounts loaned by him to customers in extending or maintaining credit on securities purchased or carried for the account of customers, (iii) to settle securities contracts or other securities transactions for and on behalf of customers, (iv) to deposit cash as required for securities borrowed by him to effectuate delivery of securities in consummation of the transactions of customers in securities, (v) to effect payment to himself (a) for amounts due him from customers for reimbursement of proper disbursement on securities

transactions on behalf of customers, as well as for commissions, interest, and other lawful charges by him to customers in light of the services performed for customers, and (b) for amounts deposited in such account which were not required by this section to be placed in such account, (vi) to make payments to banks and other lenders as may be required for the release from any proper lien placed on securities carried for the account of customers, and (vii) to transfer from the Special Account the sums for deposit in the "Cash Reserve Bank Account" under paragraph (e) of this section and in the "Securities Reserve Bank Account" pursuant to § 240.15c3–4.

(d) Each broker or dealer required to maintain the Special Account prescribed by paragraph (c) of this section shall obtain and preserve in accordance with § 240.17a–4 a written notification from each bank in which he has a Special Account that it was informed that the money and securities deposited therein are those of customers of the broker or dealer and are being held for their benefit in accordance with the regulations of the Securities and Exchange Commission, and are being kept separate from any other accounts maintained by the broker or dealer at that bank, and shall have a written contract with such bank that the funds deposited in accordance with paragraph (c) of this section shall be subject to no right, charge, or lien, or claim of any kind in favor of the bank or any person claiming through the bank and that they shall at no time be used directly or indirectly as security or for a loan to the broker or dealer by the bank.

(e) With respect to accounts carried by a broker or dealer in which there are funds carried for the account of any customers, the broker or dealer shall at all times have and maintain a customers' cash reserve fund in a "Cash Reserve Bank Account" to be maintained separately from the Special Account as well as from the "Securities Reserve Bank Account" provided for in § 240.15c3–4; and the broker or dealer shall make deposits of cash or qualified securities or any combination thereof in such "Cash Reserve Bank Account" having a market value equal to the sums computed in accordance with paragraph (f) of this section.

(f) A broker or dealer shall compute the amounts to be maintained on deposit in the Cash Reserve Bank Account as follows:

(1) He shall add the sums of all (i) funds carried for the account of all customers, (ii) moneys borrowed by him which are collateralized by securities carried for the account of customers, (iii) cash deposits received by him for loans made by him of securities carried for the account of customers and (iv) moneys received by him resulting from the delivery of margin securities as defined in § 240.15c3–4 pursuant to sales to third persons: *Provided, however,* For the purpose of this subparagraph (1) funds carried for the account of all customers shall not include credits in special cash accounts of customers not subject to withdrawal by customers and credits in accounts carried for customers representing proceeds of short sales of securities on behalf of such customers.

(2) From the total of all sums added pursuant to subparagraph (1) of this paragraph, he shall subtract the total of the sums of all (i) debits of customers in accounts carried for customers, other than unsecured debits in the accounts of customers, and (ii) amounts of cash deposited by the broker or dealer on securities he has borrowed to make deliveries for and on behalf of customers. For the purpose of this subparagraph (2) if a transaction in securities consists of the purchase by a broker or dealer for, or sale by him to, a customer for delivery against the full purchase price, the term "unsecured debits in the accounts of customers" shall include but not be limited to debits arising from such transactions until the delivery of the securities are accepted by or on behalf of the customer: *Provided,* That, to the extent the broker or dealer has paid for and received delivery from a third person of all or any part of such securities or holds all or any part of such securities pending delivery to the customer, the debit to that extent shall not be deemed unsecured.

(3) The computations specified in subparagraphs (1) and (2) of this paragraph shall be made daily at the end of each day, and the deposits required by paragraph (e) of this section, based on those computations, shall be made no later than 1 hour after the commencement of banking hours on the next business day, or, in the alternative, the computations shall be made by each broker or dealer monthly as at the end of each month not later than 5 business days after the end of each calendar month; and he shall make the deposits required by paragraph (e) of this section no later than 1 hour after the commencement of banking hours on the next banking day after the day on which the computation was made. If a broker or dealer uses the alternative monthly method of making such required computations he shall, in each such month, be required to have and maintain in the Cash Reserve Bank Account 105 percent of the amount of deposits prescribed.

(g) The amounts which a broker or dealer must have and maintain as deposits in the Cash Reserve Bank Account in accordance with this section shall consist of cash or qualified securities which shall be free and clear of any encumbrances and shall under no circumstances be used by the broker or dealer for any purposes whatever or withdrawn other than as set forth in paragraph (j) of this section.

(h) Each broker or dealer required to maintain the Cash Reserve Bank Account prescribed by paragraphs (e), (f), and (g) of this section shall obtain, and preserve in accordance with § 240.17a–4 a written notification from the depository that it was informed that the money and securities deposited therein are those of securities customers of the broker or dealer and are being held for their benefit in accordance with the regulations of the Securities and Exchange Commission, and are being kept separate from any other accounts maintained by the broker or dealer at that bank.

(i) Each broker or dealer required to maintain the deposits prescribed by paragraphs (e), (f), and (g) of this section shall have a written contract with the depository bank that the cash and qualified securities deposited in accordance therewith shall be subject to no right, charge, or lien, or claim of any kind in favor of the bank or any person claiming through the bank and that they shall at no time be used as security for a loan to the broker or dealer by the depository.

(j) With respect to the deposits required to be maintained by a broker or dealer in the Cash Reserve Bank Account pursuant to paragraphs (e), (f), and (g) of this section, he may make withdrawals from the account to the extent that at the time of any computation the amount remaining in the account is no less than the minimum balance required by this section. The broker or dealer shall maintain as well as preserve in accordance with § 240.17a–4, a statement of the broker or dealer's computations pursuant to paragraphs (e), (f), and (g) of the section and the minimum balance required by the section in accordance with such statement.

(k) Every broker or dealer shall establish and follow procedures and a system for applying such procedures to verify and reconcile his bank statements within 2 weeks after the receipt thereof.

(l) In the event of any deficiency on the part of a broker or dealer in an account required to be maintained under paragraphs (c), (e), (f), and (g) of this section, the broker or dealer shall immediately notify the Commission, the Securities Investor Protection Corporation, and the examining authority designated by the Securities Investor Protection Corporation, and shall promptly thereafter confirm such notification in writing.

(m) For the purposes of sections 6(c)(2)(A), (B), and (C) of the Securities Investor Protection Act of 1970, the cash and qualified securities on deposit in the Special Account and the Cash Reserve Bank Account of a broker or dealer shall be deemed to be specifically identifiable property of the customers of such broker or dealer to the extent that customers are entitled to the immediate withdrawal of cash as reflected on the books and records of the broker or dealer; and such customers shall be deemed to be cash customers within the meaning of section 6(c)(2)(A)(iii) of that Act. In the event the cash and qualified securities in such Cash Reserve Bank Account or Special Account do not equal the aggregate claims of cash customers, the cash and qualified securities in the Cash Reserve Bank Account and Special Account shall be prorated among such customers having such claims. In the event the cash and qualified securities in such accounts exceed the aggregate claims of cash customers, as defined in this paragraph, such excess shall be attributable to the

single and separate fund within the meaning of section 6(c)(2)(B) of the Securities Investor Protection Act of 1970.

(n) Upon written application by a broker or dealer, the Commission may exempt such broker or dealer from the provisions of this section, either unconditionally or on specified terms and conditions, if the Commission finds that the broker or dealer has established safeguards for the protection of the funds and securities of customers comparable with those provided for by this section and that it is not necessary in the public interest or for the protection of investors to subject the particular broker or dealer to the provisions of this section.

§ 240.15c3–4 Customer protection account—securities.

(a) Definitions: For the purpose of this section:

(1) The term "customer" shall be deemed to include any person with respect to whom a broker or dealer carries any account in which funds or securities are carried for the account of such person, but it shall not include a broker or dealer, or a general, special, or limited partner, or director or officer of a broker or dealer, or any participant in any joint, group, or syndicate account with a broker or dealer or with any general, special or limited partner, or officer, or director of such broker or dealer.

(2) The term "securities carried for the account of a customer" shall be deemed to mean:

(i) Securities received by or on behalf of a broker or dealer for the account of any customer;

(ii) Securities sold to, or bought for, a customer by a broker or dealer and appropriated to such customer, except that if such securities were subject to a lien when appropriated to a customer they shall not be deemed to be "securities carried for the account of any customer" pending their release from such lien as promptly as practicable; and

(iii) Securities sold to, or bought by a broker or dealer for a customer, who has made any payment therefor, but which have not been appropriated to such customer, to the extent that such broker or dealer owns, or has borrowed, and has received delivery of securities of like kind, except that if such securities were subject to a lien when such payment was made they shall not be deemed to be "securities carried for the account of any customer" pending their release from such lien as promptly as practicable.

(3) For the purposes of subparagraphs (2)(ii) and (iii) of this paragraph, the release of a security from a lien shall be deemed to be "as promptly as practicable" if such release is effected before the lapse of one-half hour after the commencement of banking hours on the next banking day after the security has been sold to or bought for the customer by the broker or dealer.

(4) The term "fully-paid securities" shall include all securities carried for the account of a customer in a special cash account as defined in Regulation T promulgated by the Board of Governors of the Federal Reserve System (12 CFR 220.4) or in a custodial or similar account, as well as margin equity securities within the meaning of Regulation T (12 CFR 220.3) which are carried for the account of a customer in any other special account under Regulation T during any period when section 8 of Regulation T (12 CFR 220.8) specifies that margin equity securities shall have no loan value in a general account or special convertible debt security account and if all such margin equity securities in such account are fully paid for: *Provided, however,* That the term "fully-paid securities" shall not apply to any securities which were purchased in transactions for which the customer has not made full payment.

(5) The term "margin securities" shall mean those securities carried for the account of a customer in a general account as defined in Regulation T (12 CFR 220.2(f)), as well as securities carried in any special account other than the securities referred to in subparagraph (4) of this paragraph.

(6) The term "excess-margin securities" shall mean those margin securities carried for the account of a customer the market value of which exceeds 140 percent of the debit balance in the general, special arbitrage, special subscription, special bond, special convertible debt security, and special equity funding account.

(7) The term "qualified security" shall mean and include a security issued by the United States or a security in respect of which the principal and interest are guaranteed by the United States.

(b) (1) All fully paid and excess margin securities carried by a broker or dealer for the account of a customer shall be physically in the possession of the broker or dealer or under the control of such broker or dealer. The books and records of the broker or dealer shall reflect on a current daily basis the respective interests of customers in the securities required to be physically in the possession or under the control of the broker or dealer.

(2) For the purpose of this section, securities shall be deemed to be in the physical possession or control of a broker or dealer if they are represented by one or more certificates in the custody of a clearing corporation or other subsidiary organization of either a national securities exchange or of a registered national securities association, or of a custodian bank in accordance with a system for the central handling of securities complying with all of the conditions of §§ 240.8c–1(g) and 240.15c2–1(g).

(3) Securities which are the subject of bona fide items of transfer by a broker or dealer shall be deemed to be in the physical possession and control of the broker or dealer. Securities shall be deemed not to be the subject of bona fide items of transfer if, within 20 days after they have been transmitted for transfer by the broker or dealer to the issuer or its transfer agent, new certificates conforming to the instructions of the broker or dealer have not been received by him or he has not received within the 20-day period a written statement by the issuer or its transfer agent validating the transfer.

(c) This section shall not require the physical possession or control of securities carried for the account of any customer:

(1) By a broker or dealer subject to § 240.15c3–1, if the securities are the subject of a "satisfactory subordination agreement" as defined in § 240.15c3–1(c)(1) under the Act; or

(2) By a broker or dealer exempted from § 240.15c3–1 by paragraph (b)(2) of that section, if the securities are subject to a subordination agreement submitted to and approved by a national securities exchange of which such broker or dealer is a member.

(d) (1) It shall be unlawful for any broker or dealer who sells a security to, or confirms the purchase of a security for, a customer, upon being fully paid for such security, to fail promptly to obtain and maintain physical possession or control of such security.

(2) If any fully paid and excess margin securities carried for the account of any customer by a broker or dealer registered with the Commission under section 15 of the Act are carried in a special omnibus account in the name of such registered broker or dealer by a member of a national securities exchange in compliance with the requirements of section 4(b) of Regulation T under the Act (12 CFR 220.4(b)), such securities shall be deemed to be in the physical possession or control of such registered broker or dealer if he has instructed such member to maintain and retain physical possession or control of them free of any charge, lien, or claim of any kind in favor of such member of any person claiming through such member and, if such member adheres to such instructions. In the event such member shall be unable to establish physical possession or control of such securities in accordance with such instructions, the member shall make and maintain deposits in the Securities Reserve Bank Account in the amounts prescribed in this paragraph and paragraph (e) of this section; and such registered broker or dealer shall be deemed a customer of such member with respect to such fully paid and excess margin securities as well as to such deposits.

(3) A broker or dealer who has sold a security to or confirmed the purchase thereof for a customer who has paid in full for such security and is unable to establish physical possession or control of such security in accordance with subparagraphs (1) and (2) of this paragraph shall, not later than 1 hour after the commencement of banking hours on the next banking day after settlement date, as originally fixed or lawfully extended, deposit in a "Securities Reserve Bank Account" an amount of cash or qualified securities, or both, equal in market value to 100 percent of the contract price of such security, and until he has obtained and maintains such security in his physical possession or control, he shall maintain such deposit:

Provided, however, That, to the extent the failure to obtain physical possession or control of a security attributable to a customer results from a fail to receive, the broker or dealer shall be obligated to make the required deposit not later than 5 business days after settlement date.

(4) Notwithstanding the maintenance of the deposit provided for by subparagraph (3) of this paragraph, a broker or dealer who has sold a security to, or confirmed the purchase of a security for, a customer who has paid in full therefor shall, in any event, obtain physical possession or control of such security, in compliance with subparagraph (1) or (2) of this paragraph through the application of a buy-in procedure or otherwise, within 30 days after the time prescribed by the Commission for the counting and verification of all securities in the possession or control of such broker or dealer if such count or verification reveals that such security is not at the time thereof in the possession or control of the broker or dealer. Upon effectuation of such physical possession or control the broker or dealer shall be relieved of the deposit requirement of subparagraph (3) of this paragraph.

(5) In exceptional cases, the thirty day period specified in subparagraph (4) of this paragraph may, on application of the broker or dealer, be extended for one or more additional limited five day periods commensurate with the circumstances (i) by any regularly constituted committee of a national securities exchange of which the broker or dealer is a member or on which the transaction in the security with the customer was effected, or (ii) if the transaction occurred otherwise than on a national securities exchange, by a committee of a registered securities association or, with respect to a broker or dealer who is not a member of such an exchange or association, by the Commission: *Provided,* That such committee or the Commission is satisfied that the broker or dealer is acting in good faith in making the application and that the circumstances are in fact exceptional and warrant such action.

(e) (1) As of the close of business at the end of each calendar month, a broker or dealer shall, within five business days thereafter, make a determination of all excess margin securities carried for the accounts of customers, and of all fully paid securities carried in such accounts other than securities within the terms of paragraph (d) of this section; and, with respect to any of such securities which are not at the time of such determination in the physical possession or control of the broker or dealer, he shall, within 5 business days after making the appropriate determination and computations, deposit in the Securities Reserve Bank Account an amount of cash or qualified securities, or both, equal in market value to 100 percent of the market value of such securities, to the extent that he has not reduced such securities to his physical possession or control prior to making such deposit.

(2) Notwithstanding the maintenance of the deposit provided for by subparagraph (1) of this paragraph, the broker or dealer shall in any event obtain physical possession or control of the securities referred to in subparagraph (1) of this paragraph in compliance with paragraph (b) of this section within 30 days after the time prescribed by the Commission for the counting and verification of all securities in the possession and control of such broker or dealer if such count or verification reveals that such security is not at the time thereof in the possession or control of the broker or dealer. Upon effectuation of such physical possession or control the broker or dealer shall be relieved of the deposit requirement specified in subparagraph (1) of this paragraph.

(f) Each broker or dealer required to maintain the Securities Reserve Bank Account prescribed by paragraphs (d) and (e) of this section shall obtain and preserve in accordance with § 240.17a–4 of this chapter a written notification from each bank in which he has such account that it was informed that the money and qualified securities deposited therein are those of customers of the broker or dealer for whom the broker or dealer is carrying securities in their accounts and that such deposits are being held for their benefit in accordance with the regulations of the Securities and Exchange Commission, for the sole and exclusive purpose of purchasing their securities for them and are being kept separate from any other accounts maintained by the broker or dealer at that bank, and shall have a written contract with such bank that the funds so deposited shall be subject to no right, charge, or lien, or claim of any kind in favor of the bank or any person claiming through the bank and that they shall at no time be used directly or indirectly as security for a loan to the broker or dealer by the bank.

(g) With respect to the deposits required to be maintained by a broker or dealer pursuant to paragraphs (d) and (e) of this section, he may make withdrawals from the account to the extent that at the time of any computation the amount remaining in the account is no less than the minimum balance required by this section. On any business day on which a withdrawal is made, the broker or dealer shall make a record of the computation on the basis of which he makes such withdrawal, and he shall preserve such computation in accordance with § 240.17a–4.

(h) In the event of any deficiency on the part of a broker or dealer in an account required to be maintained under paragraphs (d) and (e) of this section, the broker or dealer shall immediately notify the Commission, the Securities Investor Protection Corporation, and the examining authority designated by the Securities Investor Protection Corporation and shall promptly thereafter confirm such notification in writing.

(i) For the purposes of section 6(c)(2)(A), (B), and (C) of the Securities Investor Protection Act of 1970 (1) those securities carried for the account of customers which are in the physical possession or control of a broker or dealer and which have been appropriated for customers in accordance with paragraph (b)(1) of this section shall be deemed to be specifically identifiable property of such customers, and (2) the cash and qualified securities on deposit in the Securities Reserve Bank Account of a broker or dealer shall be deemed to be specifically identifiable property of those customers of such broker or dealer with respect to whose securities the broker or dealer has failed to reduce to physical possession or control and has made deposits in accordance with this section, and all such customers shall be deemed to be cash customers within the meaning of section 6(c)(2)(A)(iii) of that Act. In the event the cash and qualified securities in such Securities Reserve Bank Account are insufficient to satisfy the claims of customers having claims against such account, the cash and qualified securities in such account shall be prorated among these customers. In the event the cash and qualified securities in the Securities Reserve Bank Account exceed the aggregate claims of these customers, such excess shall be attributable to any cash customers of the broker or dealer having unsatisfied cash claims.

(j) Upon written application by a broker or dealer, the Commission may exempt such broker or dealer from the provisions of this section, either unconditionally or on specified terms and conditions, if the Commission finds that the broker or dealer has established safeguards for the protection of funds and securities of customers comparable with those provided for by this section and that it is not necessary in the public interest or for the protection of investors to subject the particular broker or dealer to the provisions of this section.

§ 240.8c–1 Hypothecation of customers' securities.

(a) General provisions: No member of a national securities exchange, and no broker or dealer who transacts a business in securities through the medium of any such member shall, directly or indirectly, hypothecate, loan, borrow, or arrange for or permit the continued hypothecation or loan of any securities carried for the account of any customer under circumstances—

(1) That will permit the commingling of securities carried for the account of any such customer with securities carried for the account of any other customer, without first obtaining the written consent of each such customer to such hypothecation or loan;

(2) That will permit such securities to be commingled with securities carried for the account of any person other than a bona fide customer of such member, broker, or dealer under a lien for a loan made to or by such member, broker, or dealer; or

(3) That will permit securities carried for the account of customers to be loaned, hypothecated, or subjected to any lien or liens or claim or claims of the pledgee

or pledgees, for an aggregate sum which exceeds the aggregate indebtedness of all customers in respect of securities carried for their accounts; except that this clause shall not be deemed to be violated by reason of an excess arising on any day through the reduction of the aggregate indebtedness of customers on such day: *Provided*, That funds or securities in an amount sufficient to eliminate such excess are paid or placed in transfer to pledgees or borrowers for the purpose of reducing the sum of the liens or claims to which securities carried for the account of customers are subjected as promptly as practicable after such reduction occurs, but before the lapse of one-half hour after the commencement of banking hours on the next banking day at the place where the largest principal amount of loans of such member, broker, or dealer are payable and, in any event, before such member, broker, or dealer on such day has obtained or increased any bank loan collateralized by securities carried for the account of customers.

(4) In which the loan or hypothecation includes more of such securities than is fair and reasonable in light of the indebtedness of the customer to such broker or dealer with respect to such securities. For the purposes of this section, any such lending or hypothecation shall be deemed to be unreasonable if the market value of the securities in any general or special account carried for a customer, in the case of hypothecation, exceeds 140 percent of the debit balance in such account, and, in the case of lending, exceeds 100 percent of the debit balance in such account; and, if such securities are hypothecated in part and loaned in part, the aggregate market value of all such securities shall not in combination exceed 140 percent of the part hypothecated plus 100 percent of the part loaned.

(5) In which the securities loaned, borrowed, or hypothecated are fully paid securities or excess margin securities, unless the broker or dealer shall first have obtained for fair adequate consideration the specific authorization of the customer in writing designating the particular securities to be loaned or borrowed and specifying the terms and conditions under which they may be loaned or borrowed, as the case may be.

(b) Definitions: For the purposes of this section—

(1) The term "customer" shall not be deemed to include any general or special partner or any director or officer of such member, broker, or dealer, or any participant, as such, in any joint, group or syndicate account with such member, broker, or dealer or with any partner, officer, or director thereof;

(2) The term "securities carried for the account of any customer" shall be deemed to mean:

(i) Securities received by or on behalf of such member, broker or dealer for the account of any customer;

(ii) Securities sold and appropriated by such member, broker or dealer to a customer, except that if such securities were subject to a lien when appropriated to a customer they shall not be deemed to be "securities carried for the account of any customer" pending their release from such lien as promptly as practicable;

(iii) Securities sold, but not appropriated, by such member, broker or dealer to a customer who has made any payment therefor, to the extent that such member, broker, or dealer owns, or has borrowed, and has received delivery of securities of like kind, except that if such securities were subject to a lien when such payment was made they shall not be deemed to be "securities carried for the account of any customer" pending their release from such lien as promptly as practicable;

(3) "Aggregate indebtedness" shall not be deemed to be reduced by reason of uncollected items. In computing aggregate indebtedness, related guaranteed and guarantor accounts shall be treated as a single account and considered on a consolidated basis, and balances in accounts carrying both long and short positions shall be adjusted by treating the market value of the securities required to cover such short positions as though such market value were a debit; and

(4) In computing the sum of the liens, claims or loans to which securities carried for the account of customers or a member, broker or dealer are subject, any rehypothecation of such securities by another member, broker, or dealer who is subject to this section or to § 240.15c2–1 shall be disregarded.

(5) The term "lien" shall include the possession of securities borrowed from a broker or dealer if the borrower has deposited cash with the broker or dealer to be returned to the borrower upon his return of the borrowed securities to the broker or dealer.

(c) Exemption for cash accounts: The provisions of paragraph (a)(1) of this section shall not apply to any hypothecation of securities carried for the account of a customer in a special cash account within the meaning of section 4(c) of Regulation T of the Board of Governors of the Federal Reserve System (12 CFR 220.4(c)): *Provided*, That at or before the completion of the transaction of purchase of such securities for, or of sale of such securities to, such customer, written notice is given or sent to such customer disclosing that such securities are or may be hypothecated under circumstances which will permit the commingling thereof with securities carried for the account of other customers, and, *Provided further*, That such securities shall be released from any lien within 1 business day after the customer has paid for the security. The term "the completion of the transaction" shall have the meaning given to such term by § 240.15c1–1(b).

(d) Exemption for clearing house liens: The provisions of paragraphs (a)(2) and (3) and (f) of this section shall not apply to any lien or claim of the clearing corporation, or similar department or association, of a national securities exchange or a registered national securities association for a loan made and to be repaid on the same calendar day, which is incidental to the clearing of transactions in securities or loans through such corporation, department or association: *Provided, however*, That for the purpose of paragraph (a)(3) of this section, "aggregate indebtedness of all customers in respect of securities carried for their accounts" shall not include indebtedness in respect of any securities subject to any lien or claim exempted by this paragraph.

(e) Exemption for certain liens on securities of noncustomers: The provisions of paragraph (a)(2) of this section shall not be deemed to prevent such member, broker, or dealer from permitting securities not carried for the account of a customer to be subjected (1) to a lien for a loan made against securities carried for the account of customers, or (2) to a lien for a loan made and to be repaid on the same calendar day. For the purpose of this exemption, a loan shall be deemed to be "made against securities carried for the account of customers" if only securities carried for the account of customers are used to obtain or to increase such loan or as substitutes for other securities carried for the account of customers.

(f) Notice and certification requirements: No person subject to this section shall hypothecate or lend any security carried for the account of a customer unless at or prior to the time of each such hypothecation or loan he gives written notice to the pledgee or borrower that the security pledged or loaned is carried for the account of a customer and that such hypothecation or loan does not contravene any provision of this section, except that in the case of an omnibus account the member, broker, or dealer for whom such account is carried may furnish a signed statement to the person carrying such account that all securities carried therein by such member, broker, or dealer will be securities carried for the account of his customers and that the hypothecation thereof by such member, broker, or dealer will not contravene any provision of this section. The provisions of this paragraph shall not apply to any hypothecation of securities under any lien or claim of a pledgee securing a loan made and to be repaid on the same calendar day.

(g) The fact that securities carried for the accounts of customers and securities carried for the accounts of others are represented by one or more certificates in the custody of a clearing corporation or other subsidiary organization of either a national securities exchange or of a registered national securities association, or of a custodian bank, in accordance with a system for the central handling of securities established by a national securities exchange or a registered national securities association, pursuant to which system the hypothecation of such securities is effected by bookkeeping entries without physical delivery of such securities, shall not, in and of itself, result in a commingling of securities prohibited by paragraph (a)(1) or (2) of this section, whenever a participating member, broker or dealer hypothecates securities in accordance with such system: *Provided, however*, That (1) any such custodian of any securities held by or for such system shall agree that it will not for any reason, including the assertion of any claim, right or lien of any kind, refuse or refrain from promptly delivering any such securities (other than securities then hypothecated in accordance with such system) to such clearing corporation or other subsidiary organization or as directed by it, except that nothing in such agreement shall be deemed to require the custodian to deliver any securities in contravention of any notice of levy, seizure, or similar notice, or order, or judgment, issued or directed by a governmental agency or court, or officer thereof, having jurisdiction over such custodian, which on its face effects such securities; (2) such systems shall have safeguards in the handling, transfer and delivery of securities and provisions for fidelity bond coverage of the employees and agents of the clearing corporation or other subsidiary organization and for periodic examinations by independent public accountants; and (3) the provisions of this paragraph (g) shall not be effective with respect to any particular system unless the agreement required by (i) and the safeguards and provisions required by (ii) shall have been deemed adequate by the Commission for the protection of investors, and unless any subsequent amendments to such agreement, safeguards or provisions shall have been deemed adequate by the Commission for the protection of investors.

§ 240.15c2–1 Hypothecation of customer's securities.

(a) General provisions: The term "fraudulent, deceptive, or manipulative act or practice", as used in section 15(c)(2) of the Act, is hereby defined to include the direct or indirect hypothecation or loan or borrowing by a broker or dealer, or his arranging for or permitting, directly, or indirectly, the continued hypothecation or loan of any securities carried for the account of any customer under circumstances—

(1) That will permit the commingling of securities carried for the account of any such customer with securities carried for the account of any other customer, without first obtaining the written consent of each such customer to such hypothecation or loan;

(2) That will permit such securities to be commingled with securities carried for the account of any person other than a bona fide customer of such broker or dealer under a lien for a loan made to or by such broker or dealer; or

(3) That will permit securities carried for the account of customers to be loaned, hypothecated, or subjected to any lien or liens or claim or claims of the pledgee or pledgees, for an aggregate sum which exceeds the aggregate indebtedness of all customers in respect of securities carried for their accounts; except that this clause shall not be deemed to be violated by reason of an excess arising on any day through the reduction of the aggregate indebtedness of customers on such day: *Provided*, That funds or securities in an amount sufficient to eliminate such excess are paid or placed in transfer to pledgees or borrowers for the purpose of reducing the sum of the liens or claims to which securities carried for the account of customers are subject as promptly as practicable after such reduction occurs, but before the lapse of one-half hour after the commencement of banking hours on the next banking day at the place where the largest principal amount of loans of such broker or dealer are payable, and, in any event, before such broker or dealer on such day has obtained or increased any bank loan collateralized by securities carried for the account of customers.

(4) In which the loan or hypothecation includes more of such securities than is fair and reasonable in light of the indebtedness of the customer to such broker or dealer with respect to such securities. For the purposes of this section, any such lending or hypothecation shall be deemed to be unreasonable if the market value of the securities in any general or special account carried for a customer, in the case of hypothecation, exceeds 140 percent of the debit balance in such account, and, in the case of lending, exceeds 100 percent of the debit balance in such account; and, if such securities are hypothecated in part and loaned in part, the aggregate market value of all such securities shall not in combination exceed 140 percent of the part hypothecated and 100 percent of the part loaned.

(5) In which the securities loaned, borrowed or hypothecated are fully paid securities or excess margin securities, unless the broker or dealer shall first have obtained for fair and adequate consideration the specific authorization of the customer in writing designating the particular securities to be loaned or borrowed and specifying the terms and conditions under which they may be loaned or borrowed, as the case may be.

(b) Definitions: For the purposes of this section—

(1) The term "customer" shall not be deemed to include any general or special partner or any director or officer of such broker or dealer, or any participant, as such, in any joint, group or syndicate account with such broker or dealer or with any partner, officer, or director thereof;

(2) The term "securities carried for the account of any customer" shall be deemed to mean:

(i) Securities received by or on behalf of such broker or dealer for the account of any customer;

(ii) Securities sold and appropriated by such broker or dealer to a customer, except that if such securities were subject to a lien when appropriated to a customer they shall not be deemed to be "securities carried for the account of any customer" pending their release from such lien as promptly as practicable;

(iii) Securities sold, but not appropriated, by such broker or dealer to a customer who has made any payment therefor, to the extent that such broker or dealer owns, or has borrowed, and has received delivery of securities of like kind, except that if such securities were subject to a lien when such payment was made they shall not be deemed to be "securities carried for the account of any customer" pending their release from such lien as promptly as practicable;

(3) "Aggregate indebtedness" shall not be deemed to be reduced by reason of uncollected items. In computing aggregate indebtedness, related guaranteed and guarantor accounts shall be treated as a single account and considered on a consolidated basis, and balances in accounts carrying both long and short positions shall be adjusted by treating the market value of the securities required to cover such short positions as though such market value were a debit; and

(4) In computing the sum of the liens, claims, or loans to which securities carried for the account of customers of a broker or dealer are subject, any rehypothecation of such securities by another broker or dealer who is subject to this section or to § 240.8c–1 shall be disregarded.

(5) The term "lien" shall include the possession of securities borrowed from a broker or dealer if the borrower has deposited cash with the broker or dealer to be returned to the borrower upon his return of the borrowed securities to the broker or dealer.

(c) Exemption for cash accounts: The provisions of paragraph (a)(1) of this section shall not apply to any hypothecation of securities carried for the account of a customer in a special cash account within the meaning of section 4(c) of Regulation T of the Board of Governors of the Federal Reserve System (12 CFR 220.4(c)): *Provided*, That at or before the completion of the transaction of purchase of such securities for, or of sale of such securities to, such customer, written notice is given or sent to such customer disclosing that such securities are or may be hypothecated under circumstances which will permit the commingling thereof with securities carried for the account of other customers and, provided further that such securities shall be released from any lien within 1 business day after the customer has paid for the security. The term "the completion of the transaction" shall have the meaning given to such term by § 240.15c1–1(b).

(d) Exemption for clearing house liens. The provisions of paragraphs (a)(2) and (3) and (f) of this section shall not apply to any lien or claim of the clearing corporation, or similar department or association, of a national securities exchange or a registered national securities association, for a loan made and to be repaid on the same calendar day, which is incidental to the clearing of transactions in securities or loans through such corporation, department or association: *Provided, however*, That for the purpose of paragraph (a)(3) of this section, "aggregate indebtedness of all customers in respect of securities carried for their accounts" shall not include indebtedness in respect of any securities subject to any lien or claim exempted by this paragraph.

(e) Exemption for certain liens on securities of noncustomers. The provisions of paragraph (a) (2) of this section shall not be deemed to prevent such broker or dealer from permitting securities not carried for the account of a customer to be subjected (1) to a lien for a loan made against securities carried for the account of customers, or (2) to a lien for a loan made and to be repaid on the same calendar day. For the purpose of this exemption, a loan shall be deemed to be "made against securities carried for the account of customers" if only securities carried for the account of customers are used to obtain or to increase such loan or as substitutes for other securities carried for the account of customers.

(f) Notice and certification requirements. No person subject to this section shall hypothecate any security carried for the account of a customer unless, at or prior to the time of each such hypothecation, he gives written notice to the pledgee that the security pledged is carried for the account of a customer and that such hypothecation does not contravene any provision of this section, except that in the case of an omnibus account the broker or dealer for whom such account is carried may furnish a signed statement to the person carrying such account that all securities carried therein by such broker or dealer will be securities carried for the account of his customers and that the hypothecation thereof by such broker or dealer will not contravene any provision of this section. The provisions of this clause shall not apply to any hypothecation of securities under any lien or claim of a pledgee securing a loan made and to be repaid on the same calendar day.

(g) The fact that securities carried for the accounts of customers and securities carried for the accounts of others are represented by one or more certificates in the custody of a clearing corporation or other subsidiary organization of either a national securities exchange or of a registered national securities association, or of a custodian bank, in accordance with a system for the central handling of securities established by a national securities exchange or a registered national securities association, pursuant to which system the hypothecation of such securities is effected by bookkeeping entries without physical delivery of such securities, shall not, in and of itself, result in a commingling of securities prohibited by paragraph (a) (1) or (2) of this section, whenever a participating member, broker or dealer hypothecates securities in accordance with such system: *Provided, however,* That (1) any such custodian of any securities held by or for such system shall agree that it will not for any reason, including the assertion of any claim, right or lien of any kind, refuse or refrain from promptly delivering any such securities (other than securities then hypothecated in accordance with such system) to such clearing corporation or other subsidiary organization or as directed by it, except that nothing in such agreement shall be deemed to require the custodian to deliver any securities in contravention of any notice of levy, seizure or similar notice, or order, or judgment, issued or directed by a governmental agency or court, or officer thereof, having jurisdiction over such custodian, which on its face affects such securities; (2) such systems shall have safeguards in the handling, transfer and delivery of securities and provisions for fidelity bond coverage of the employees and agents of the clearing corporation or other subsidiary organization and for periodic examinations by independent public accountants; and (3) the provisions of this paragraph (g) shall not be effective with respect to any particular system unless the agreement required by (i) and the safeguards and provisions required by (ii) shall have been deemed adequate by the Commission for the protection of investors, and unless any subsequent amendments to such agreement, safeguards or provisions shall have been deemed adequate by the Commission for the protection of investors.

All interested persons are invited to submit their views and comments on these proposals in writing to Lee Pickard, Special Counsel to the Chairman, Securities and Exchange Commission, 500 North Capitol Street, Washington, DC 20549, on or before February 1, 1972. All such communications will be available for public inspection.

(Secs. 8(b), 8(c), 10(b), 15(c)(2), 15(c)(3), 23(a), 48 Stat. 888, 891, 895, 901, as amended, 49 Stat. 1379, 52 Stat. 1075, sec. 2, 84 Stat. 1653, sec. 7, 15 U.S.C. 78h, 78j, 78o, 78w)

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-17139 Filed 11-23-71;8:48 am]

Notices

DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

Notice of Granting of Relief

Notice is hereby given that pursuant to 18 U.S.C. 925(c) the following named persons have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding 1 year.

It has been established to my satisfaction that the circumstances regarding the convictions and each applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public safety.

Altman, George Alan, 20 Water Street, Clinton, Mass., convicted on October 19, 1934, in the Providence County Superior Court, Providence, R.I.

Ash, Thomas Franklin, 203 Alexander Street, Twin Falls, Idaho, convicted on February 13, 1951, and on August 26, 1954, in the Twin Falls County District Court, 11th Judicial District, Idaho.

Barber, Arthur Donahue, 3320 Northeast Hammel, Salem, Oreg., convicted on May 31, 1955, and on September 9, 1964, in the Circuit Court of the State of Oregon for the County of Multnomah.

Bates, Arthur, Jr., 5335 St. Clair Street, Detroit, Mich., convicted on February 25, 1958, in the Circuit Court of Lenawee County, Mich.

Beamon, Levert John, 19455 Lauder Street, Detroit, Mich., convicted on May 26, 1943, in the Circuit Court for Pulaski County, Ark.

Becker, Gerald James, 115 Vegas Court, Waterloo, Iowa, convicted on November 9, 1960, in the Black Hawk County District Court, Waterloo, Iowa; and on November 21, 1960, in the Webster County District Court, Fort Dodge, Iowa.

Bennett, Roger Dale, 3623½ Woodland Park North, Seattle, Wash., convicted on December 24, 1963, and on April 29, 1959, in the Circuit Court for Jackson County, Wash.

Bressert, James Richard, 21 Cindy Lane, Mystic, Conn., convicted on January 15, 1958, by a General Court Martial, United States Naval Receiving Station, Boston, Mass.

Brown, James Louis, 124 Haiti Street, Warrenton, Va., convicted on June 16, 1966, in the Prince William County, Va., Circuit Court.

Cappozola, Nicholas Joseph, 2762 Holland Avenue, Bronx, N.Y., convicted on June 1, 1944, by the U.S. District Court, in and for the Eastern District of New York.

Catchings, John Ellis, 4269 Larchmont Avenue, Detroit, Mich., convicted on November 16, 1966, in the U.S. District Court for the Eastern District of Michigan.

Glenney, John Wendell, 1732 East Tichenor, Des Moines, Iowa, convicted on July 17, 1964, in the Marshall County, Iowa, District Court.

Lotesto, Charles, 73-25 71st Street, Glendale, N.Y., convicted on April 11, 1956, in the Court of General Sessions, County of New York.

McKemie, Roy Lee, 8240 South Houston Avenue, Chicago, Ill., convicted on June 6, 1957, in the Circuit Court of Jackson County, Murphysboro, Ill.

Mark, Oscar Raymond, 152 North 40th Street, Council Bluffs, Iowa, convicted on September 10, 1940, in the District Court of Pottawattamie County, Council Bluffs, Iowa.

Morrow, Clyde Franklin, Route 8, Box 55, Shelby, N.C., convicted on March 19, 1940, May 13, 1946, October 15, 1962, and April 15, 1968, in the U.S. District Court, in and for the Western District of North Carolina, Shelby Division; November 3, 1946, in the Cleveland County Superior Court, N.C.; May 21, 1962, in the Cleveland County Recorder's Court, North Carolina; and October 2, 1962, in the U.S. District Court, in and for the Western District of South Carolina, Spartanburg Division, South Carolina.

Principe, Anthony, 108 Barnett Place, Bronx, N.Y., convicted on January 7, 1935, in the U.S. District Court, Brooklyn, N.Y.

Rorrer, William Walter, 644 Park Avenue, Eden, N.C., convicted on June 5, 1957, and on June 8, 1959, in the U.S. District Court for the Middle District of North Carolina.

Signed at Washington, D.C., this 16th day of November 1971.

[SEAL] REX D. DAVIS, *Director, Alcohol, Tobacco and Firearms Division.*

[FR Doc.71-17113 Filed 11-23-71;8:46 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

[DOD Directive 5105.31 [1]]

DEFENSE NUCLEAR AGENCY (DNA)

Organization and Function

NOVEMBER 3, 1971.

The Deputy Secretary of Defense approved the following:

References: (a) DOD Directive 5105.31, "Defense Atomic Support Agency (DASA)," July 22, 1964 (hereby canceled).

(b) DOD Directive 4145.20, "Environmental Criteria and Design Standards for Atomic Weapons Storage and Maintenance Facilities," November 29, 1961 (hereby canceled).

(c) DOD Directive 5154.4, "The Department of Defense Explosives Safety Board," October 23, 1971.

(d) DOD Directive 5030.2, "Procedure for Handling Joint AEC-DOD Nuclear Weapons Development Projects," October 26, 1962.

[1] Filed as part of original document. Copies available from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. Attention: Code 300.

I. *General.* Pursuant to the authority vested in the Secretary of Defense, the Defense Nuclear Agency (DNA) is established as a designated agency of the Department of Defense (DOD) under the direction, authority, and control of the Secretary of Defense.

II. *Organization.* DNA will consist of:

A. A Director, a Deputy Director (Operations and Administration), a Deputy Director (Science and Technology), and a headquarters establishment.

B. Such subordinate units, field activities, and facilities as are established by the Director, DNA, or are herein or hereafter assigned or attached specifically to DNA by the Secretary of Defense.

III. *Mission and responsibilities.* A. The mission of DNA is to provide support to the Secretary of Defense, the Military Departments, the Joint Chiefs of Staff, and other DOD Components, as appropriate, in matters concerning nuclear weapons as provided herein and such other aspects of the DOD nuclear program as may be directed by competent authority.

B. The Director, DNA, will be responsible for:

1. Consolidated management of the DOD nuclear weapons stockpile in accordance with the functions assigned herein.

2. Management of DOD nuclear weapons testing and nuclear weapons effects research programs. (This does not affect the basic Service responsibility for all aspects of specific weapons system development.)

3. Providing staff advice and assistance on nuclear weapons matters within his cognizance to the Secretary of Defense, the Military Departments, the Joint Chiefs of Staff, other DOD Components, and government agencies, as appropriate and when requested.

IV. *Supervision.* Staff supervision of DNA for the Secretary of Defense will be provided as follows:

A. The Joint Chiefs of Staff, acting through the Director, DNA, will exercise primary staff supervision over DNA activities, except as prescribed otherwise herein. Specifically, they will:

1. Exercise staff supervision over the military operational aspects of RNA activities, including: (a) Composition of the nuclear stockpile; (b) allocation and deployment of nuclear weapons; (c) military participation in and support of nuclear testing; (d) frequency of technical standardization inspections; and (e) requirements for technical publications.

2. Review and provide military advice on the adequacy of the DNA efforts in nuclear weapons testing and nuclear weapons effects research which is related directly to military systems considered in the Joint Strategic Objectives Plan, Joint Force Memorandum, and Nuclear Warhead Development Guidance.

B. The Director, Defense Research and Engineering (DDR&E) will exercise staff supervision through the Director, DNA, keeping the Director, Joint Staff, informed, of DNA activities associated with the DOD nuclear weapons effects research and nuclear weapons test programs.

C. The Assistant to the Secretary of Defense (Atomic Energy) will exercise staff supervision through the Director, DNA, keeping the Director, Joint Staff, informed, of DNA activities associated with: (1) Technical nuclear safety; (2) logistics aspects of nuclear weapon stockpile management; (3) the application of nuclear energy in other than the weapons field; (4) the transmission of information to the Joint Committee on Atomic Energy, as required by the Atomic Energy Act of 1954, as amended; and (5) agreements between the DOD and the Atomic Energy Commission (AEC) on appropriate nuclear matters. In his role as Chairman of the Military Liaison Committee (MLC), the ATSD(AE) will exercise staff supervision through the Director, DNA, of DNA activities associated with DNA support of the MLC.

V. *Functions.* Under its Director, and in accordance with the assignments of responsibility specified in Paragraph III., above, DNA will perform the following functions:

A. Maintain overall surveillance and provide guidance, coordination, advice, or assistance, as appropriate, for all nuclear weapons in DOD custody, including production, composition, allocation, deployment, movement, storage, maintenance, quality assurance and reliability assessment, reporting procedures and retirement.

B. Provide advice and assistance, as appropriate, to the Secretary of Defense, Military Departments, Joint Chiefs of Staff, Unified and Specified Commands, and other Government agencies on the effectiveness of nuclear weapons; the vulnerability of military forces, installations, and systems against nuclear weapons effects; and radiological defense activities. In this connection, when directed by the DDR&E, DNA will serve as DOD coordinator for work in selected technological areas related to nuclear vulnerability activities conducted by the Military Departments or other DOD Components.

C. Provide nuclear weapon stockpile information to the Joint Chiefs of Staff as required.

D. Provide nuclear warhead logistic information to authorized DOD organizations.

E. Plan, coordinate, and supervise the conduct of DOD nuclear weapons effects research and nuclear weapons testing, to include evaluation of the results of these programs.

F. Develop, coordinate, and maintain the national nuclear test readiness program jointly with the AEC and perform associated technical, operational, and safety planning.

G. Develop, coordinate, and conduct test exercises, overseas nuclear tests, and other nuclear-related operations, as directed. Arrange for mutual AEC–DOD support of AEC, DOD, or joint nuclear weapons tests.

H. Act as the central coordinating agency for the DOD with the AEC on nuclear weapon stockpile management, nuclear weapon testing, and nuclear weapons effects research within approved policies and programs and in consonance with the statutory provisions for the MLC and pertinent DOD–AEC agreements.

I. Conduct technical standardization inspections of units having responsibilities for assembling, maintaining or storing nuclear weapons, their associated components and ancillary equipment. Inspections will be performed on a selective sampling basis of nuclear capable units assigned to every major command in the Department of Defense. The Joint Chiefs of Staff will determine the frequency of such inspections. Inspection schedules will be coordinated with the major or component commands and the Service concerned.

J. Command the Armed Forces Radiobiology Research Institute (AFRRI).

K. Maintain and operate a Joint Nuclear Accident Coordinating Center (JNACC), in conjunction with the AEC.

L. Operate the Joint Atomic Information Exchange Group (JAIEG) in accordance with policy guidance furnished jointly by the ATSD(AE) for the DOD and the Assistant General Manager for Military Application for the AEC.

M. Perform for the DOD: (1) Integrated materiel management functions for all AEC special designed and quality controlled nuclear ordnance items and for Service designed and quality controlled nuclear ordnance items where such management is mutually agreed upon between DNA and the appropriate Service, or as directed by the Assistant Secretary of Defense (Installations and Logistics); (2) management of that portion of the Federal Cataloging Program pertaining to nuclear ordnance items including the maintenance of the central data bank and the publication of Federal Supply Catalogs and Handbooks for all nuclear ordnance items; (3) as the DOD assignee, the standardization of nuclear ordnance items in coordination with the appropriate Service; (4) management of the AEC–DOD loan account for nuclear materials; and (5) management of a technical logistics data and information program.

N. Perform technical analyses and studies for the Secretary of Defense, the Military Departments, and the Joint Chiefs of Staff of nuclear related problems; prepare and coordinate implementing directives and joint technical publications when requested. DNA will provide analysis and study results to Defense Components, as appropriate, when such results are pertinent to stated requirements.

O. In coordination with the AEC and the Military Departments, disseminate technological information of joint interest relating to nuclear technology, development, and weapons through laboratory liaison, technical reports, and nuclear weapons technical publications. Publications pertaining to specific weapons will be the responsibility of the lead Service for the weapon concerned.

P. Provide technical assistance and support to the Secretary of Defense, the Military Departments, and the Joint Chiefs of Staff in developing nuclear warhead safety requirements and reviewing and processing safety rules for nuclear weapons systems. When appropriate, coordination will be effected with the Department of Defense Explosives Safety Board. (See DOD Directive 5154.4 [1].)

Q. Within guidelines established by the Joint Chiefs of Staff, investigate and recommend DOD security and safety standards and operating procedures.

R. Develop, prepare, and publish, in coordination with the AEC, Military Departments, and the Department of Defense Explosives Safety Board, appropriate guidance, environmental criteria, and design standards for the construction of facilities to be used for the storage and maintenance of nuclear weapons.

S. Perform such other functions as may be assigned by the Secretary of Defense.

VI. *Authority.* The Director, DNA, is specifically delegated authority to:

A. Command the Defense Nuclear Agency.

B. Have access to and direct communications with all DOD Components and, after appropriate coordination, with other organizations.

C. Exercise the administrative authorities contained in Appendix A of this Directive.

VII. *Relationships.* A. In the performance of his function, the Director, DNA, will: (1) Coordinate actions as appropriate with other Components of the DOD and those departments and agencies of Government having related functions; (2) maintain appropriate liaison for the exchange of information and findings related to his assigned responsibilities; (3) make maximum use of established facilities, procedures, and channels for logistic support, procurement, accounting, disbursing, investigative, and related administrative operations; (4) obtain information from any Component of the DOD which is necessary for the performance of DNA functions; and (5) insure that the Military Departments, Joint Chiefs of Staff, and appropriate OSD staff elements are kept fully informed concerning DNA activities.

B. The Military Departments and other DOD Components will: (1) Provide assistance within their respective fields of responsibility to the Director, DNA, in carrying out his assigned responsibilities and functions; (2) coordinate with DNA all programs which include or are related to nuclear weapons effects research or nuclear weapons testing (this includes specifically keeping the Director, DNA, informed of systems response to nuclear weapons effects); (3) keep the Director, DNA, informed as to the substance of their major actions being coordinated with other DOD Components, AEC and its laboratories, and other Government agencies which relate to DNA functions; and (4) provide the Director, DNA, with requirements for nuclear weapons effects research and nuclear weapons testing.

VIII. *Administration.* A. The Director, DNA, will be a lieutenant general or vice admiral appointed by the Secretary of Defense, upon recommendation of the Joint Chiefs of Staff. Normally, the position of Director will rotate among the Services.

B. The Deputy Directors will be appointed by the Secretary of Defense. When military officers, the Deputy Directors will be recommended by the Joint Chiefs of Staff and will normally be selected from Services different from that of the Director. Civilian Deputy Directors will be recommended by the DDR&E.

C. DNA will be authorized such personnel, facilities, funds, and other administrative support as the Secretary of Defense deems necessary.

D. The Military Departments will assign military personnel to DNA in accordance with approved Joint Manpower Program authorizations. Procedures for such assignments will be as agreed upon between the Director, DNA, and the individual Military Departments.

IX. *Effective date and cancellation.* This Directive is effective upon publication (11–24–71). References (a) and (b) are hereby superseded and canceled. DOD Directive 5030.2 [1] will be revised to reflect changed DNA functions.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Comptroller).

APPENDIX A

DELEGATIONS OF AUTHORITY

Pursuant to the authority vested in the Secretary of Defense, the Director, DNA, or, in the absence of the Director, a person acting for him is hereby delegated, subject to the direction, authority, and control of the Secretary of Defense, and in accordance with DOD policies, directives, and instructions, and pertinent OSD regulations, authority as required in the administration and operation of DNA to:

1. Exercise the powers vested in the Secretary of Defense by section 204 of the National Security Act of 1947, as amended (10 U.S.C. 1580) and section 12 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 302), pertaining to the employment, direction and general administration of DNA civilian personnel.

2. Fix rates of pay for wage board employees exempted from the Classification Act by 5 U.S.C. 5102(c)(7) on the basis of rates established under the Coordinated Federal Wage System. DNA, in fixing such rates, shall follow the wage schedules established by DOD Wage Fixing Authority.

3. Establish such advisory committees and employ such part-time advisors as approved by the Secretary of Defense for the performance of DNA functions pursuant to the provisions of 10 U.S.C. 173, 5 U.S.C. 3109(b), and the Agreement between the DOD and the Civil Service Commission on employment of experts and consultants, dated July 22, 1959.

4. Administer oaths of office incident to entrance into the Executive Branch of the Federal Government or any other oath required by law in connection with employment therein, in accordance with the provisions of the Act of June 26, 1943, as amended, 5 U.S.C. 2903(b), and designate in writing, as may be necessary, officers and employees of DNA to perform this function.

5. Establish a DNA Incentive Awards Board and pay cash awards to and incur necessary expenses for the honorary recognition of civilian employees of the Government whose suggestions, inventions, superior accomplishment, or other personal efforts, including special acts or services, benefit or affect DNA or its subordinate activities in accordance with the provisions of the Act of September 1, 1954, as amended, 5 U.S.C. 4503, and Civil Service regulations.

6. In accordance with the provisions of the Act of August 26, 1950, as amended (5 U.S.C. 7532); Executive Order 10450, dated April 27, 1953, as amended; and DOD Directive 5210.7, dated September 2, 1966 (as revised) 32 CFR Part 156:

a. Designate any position in DNA as a "sensitive" position;

b. Authorize, in case of an emergency, the appointment of a person to a sensitive position in the Agency for a limited period of time for whom a full field investigation or other appropriate investigation, including the National Security Check, has not been completed; and

c. Authorize the suspension, but not to terminate the services of an employee in the interest of national security in positions within DNA.

7. Clear DNA personnel and such other individuals as may be appropriate for access to classified Defense material and information in accordance with the provisions of DOD Directive 5210.8,[1] dated February 15, 1962 (as revised), "Policy on Investigation and Clearance of Department of Defense Personnel for Access to Classified Defense Information" and of Executive Order 10501, dated November 5, 1953, as amended.

8. Act as agent for the collection and payment of employment taxes imposed by Chapter 21 of the Internal Revenue Code of 1954, and, as such agent, make all determinations and certifications required or provided for under section 3122 of the Internal Revenue Code of 1954, 26 U.S.C. 3122, and section 205 (p) (1) and (2) of the Social Security Act, as amended, 42 U.S.C., 405(p) (1) and (2), with respect to DNA employees.

9. Authorize and approve overtime work for DNA civilian officers and employees in accordance with the provisions of § 550.111 of the Civil Service regulations.

10. Authorize and approve:

a. Travel for DNA civilian officers and employees in accordance with Joint Travel Regulations, Volume 2, Department of Defense, Civilian Personnel, dated July 1, 1965, as amended.

b. Temporary duty travel only for military personnel assigned or detailed to DNA in accordance with Joint Travel Regulations, Volume I, for Members of the Uniformed Services, dated November 1969, as amended.

c. Invitational travel to persons serving without compensation whose consultative, advisory, or highly specialized technical services are required in a capacity that is directly related to or in connection with DNA activities, pursuant to the provisions of section 5 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 5703).

11. Approve the expenditure of funds available for travel by military personnel assigned or detailed to DNA for expenses incident to attendance at meetings of technical, scientific, professional or other similar organizations in such instances where the approval of the Secretary of Defense or his designee is required by law (37 U.S.C. 412). This authority cannot be redelegated.

12. Develop, establish, and maintain an active and continuing Records Management Program, pursuant to the provisions of section 506(b) of the Federal Records Act of 1950, 44 U.S.C. 3102.

13. Enter into and administer contracts, directly or through a Military Department, a DOD contract administration services component, or other Government department or agency, as appropriate, for supplies, equipment and services required to accomplish the mission of the DNA. To the extent that any law or executive order specifically limits the exercise of such authority to persons at the Secretarial level of a Military Department, such authority will be exercised by the Assistant Secretary of Defense (Installations and Logistics).

14. Establish and use Imprest Funds for making small purchases of material and services other than personal for DNA when it is determined more advantageous and consistent with the best interests of the Government, in accordance with the provisions of DOD Instruction 7280.1,[1] dated August 24, 1970, and the Joint Regulation of the General Services Administration—Treasury Department—General Accounting Office, entitled "For Small Purchases Utilizing Imprest Funds."

15. Authorize the publication of advertisements, notices, or proposals in public periodicals as required for the effective administration and operation of DNA (44 U.S.C. 3702).

16. a. Establish and maintain appropriate Property Accounts for DNA.

b. Appoint Boards of Survey, approve reports of survey, relieve personal liability, and drop accountability for DNA property contained in the authorized Property Accounts that has been lost, damaged, stolen, destroyed, or otherwise rendered unserviceable, in accordance with applicable laws and regulations.

17. Promulgate the necessary security regulations for the protection of property and activities under the jurisdiction of the Director, DNA, pursuant to subsections III.A. and V.B. of DOD Directive 5200.8, dated August 20, 1954 (19 F.R. 5446).

18. Establish and maintain, for the functions assigned, an appropriate publications system for the promulgation of regulations, instructions, and reference documents, and changes thereto, pursuant to the policies and procedures prescribed in DOD Directive 5025.1,[1] dated March 7, 1961.

19. Enter into support and service agreements with the Military Departments, other DOD agencies, or other Government agencies as required for the effective performance of responsibilities and functions assigned to DNA.

20. Issue appropriate implementing documents and establish internal procedures to assure that the selection and acquisition of ADP resources are conducted within the policies contained in DOD Directive 4105.55,[1] dated January 21, 1971, the Federal Property Management Regulations and Armed Services Procurement Regulations.

The Director, DNA, may redelegate these authorities, as appropriate, and in writing, except as otherwise specifically indicated above or as otherwise provided by law or regulation.

This delegation of authority is effective immediately and supersedes the Delegation

[1] Filed as part of original document. Copies available from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120, Attention: Code 300.

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of Authority made to the Director, DASA, in Appendix A to DOD Directive 5105.31 dated July 22, 1964 (34 F.R. 12110).

[FR Doc.71-17116 Filed 11-23-71;8:46 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

POULTRY INSPECTION

Notice of Determinaiton Not To Designate Rhode Island Under the Poultry Products Inspection Act

On October 2, 1971, there was published in the FEDERAL REGISTER (36 F.R. 19324) a notice of Intended Designation of the State of Rhode Island under section 5(c) of the Poultry Products Inspection Act (21 U.S.C. 454(c)). This notice was based on information that Rhode Island had not developed and activated State poultry inspection requirements, with respect to operations and transactions wholly within the State, at least equal to those imposed under sections 1-4, 6-10, and 12-22 of the Act. Subsequently, it has been determined that the State of Rhode Island has now developed and activated the prescribed State poultry inspection requirements.

Accordingly, there is not now a basis for designation of the State of Rhode Island under section 5(c) of the Act.

Done at Washington, D.C., on November 18, 1971.

CLAYTON YEUTTER,
Administrator,
Consumer and Marketing Service.

[FR Doc.71-17159 Filed 11-23-71;8:50 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-272]

LYKES BROS. STEAMSHIP CO., INC.

Notice of Application

Notice is hereby given that Lykes Bros. Steamship Co., Inc., has applied for permission to increase its calls to Indonesia and Malaya (including Singapore) from 30 to 33 on its Line D freight service (Trade Route No. 22) from U.S. Gulf ports for calendar year 1971 only.

Any person, firm or corporation having any interest in such application and desiring a hearing on issues pertinent to section 605(c) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1175), should by the close of business on November 30, 1971, notify the Secretary, Maritime Subsidy Board in writing in triplicate, and file petition for leave to intervene in accordance with the Rules of Practice and Procedure of the Maritime Subsidy Board.

In the event a section 605(c) hearing is ordered to be held, the purpose thereof will be to receive evidence relevant to (1) whether the application is one with respect to a vessel to be operated in an essential service, served by citizens of the United States which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of U.S. registry in such essential service is inadequate, and (2) whether in the accomplishment of the purpose and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may be deemed appropriate.

By Order of the Maritime Subsidy Board/Maritime Administration.

Dated: November 22, 1971.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc.71-17299 Filed 11-23-71;9:33 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-269; Various NDA's]

NEW-DRUG APPLICATIONS

Notice of Withdrawal of Approval; Correction

In F.R. Doc. 71-11136 appearing at page 18885 in the FEDERAL REGISTER of September 23, 1971:

1. The docket number appearing in the fourth line of the heading is corrected to read "Docket No. FDC-D-269."

2. The alphabetical listing of new-drug applications being withdrawn is corrected by deleting the following entry:

Arlington Funk Labs, Division U.S. Vitamin & Pharmaceutical Corporation, 26 Vark Street, Yonkers, New York.
NDA's:
11-474, Prednyl Tablets.
11-475, Prednis-CVP Capsules.

Dated: November 15, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-17106 Filed 11-23-71;8:45 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-324, 50-325]

CAROLINA POWER & LIGHT CO

Suspension of Certain Construction Activities Pending Completion of NEPA Environmental Review

The Carolina Power & Light Co. (the licensee) is the holder of Construction Permits Nos. CPPR-67 and CPPR-68 (the construction permits), issued by the Atomic Energy Commission on February 7, 1970. The construction permits authorize the licensee to construct two boiling water nuclear reactors, designated as the Brunswick Steam Electric Plant Units 1 and 2, at a site located at Southport, N.C. Each reactor is designed for initial operation at approximately 2,436 megawatts (thermal).

In accordance with section E.3 of the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), Appendix D of 10 CFR Part 50 (Appendix D), the licensee has furnished to the Commission a written statement of reasons, with supporting factual submission, why the construction permits should not be suspended, in whole or in part, pending completion of the NEPA environmental review.

The Director of Regulation has considered the licensee's submission in light of the criteria set out in section E.2 of Appendix D and has determined, after considering and balancing the criteria in section E.2 of Appendix D, that construction activities involving the off-site portions of the discharge canal and the off-site transmission lines at the Brunswick Plant should be suspended pending completion of those portions of the NEPA environmental review. With respect to the construction of the intake canal and the onsite portions of the Brunswick Plant, we have balanced the environmental factors and concluded that these activities need not be suspended.

Further details of this determination are set forth in a document entitled, "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permits for the Brunswick Steam Electric Plant, Dockets Nos. 50-324 and 50-325."

In accordance with section E.4(a) of Appendix D, the Director of Regulation has served upon the licensee an order to show cause why the above-mentioned construction activities at the Brunswick Plant should not be suspended pending completion of the NEPA environmental review that relate to these matters. Among other things, the order to show cause provides that the licensee may, within thirty (30) days of the date of the order, file a written answer to the order under oath or affirmation, and informs the licensee of his right, within the same period, to demand a hearing.

Any person whose interest may be affected by this proceeding, other than the licensee, may file a request for a hearing within thirty (30) days after publication of this determination in the FEDERAL REGISTER. Such request shall set forth the matters, with reference to the factors set out in section E.2 of Appendix D, alleged to warrant a suspension determination other than that made by the Director of Regulation and shall set forth the factual basis for the request. If the Commission determines that the matters stated in such request warrant a hearing, a notice of hearing will be published in the FEDERAL REGISTER.

The licensee's statement of reasons, furnished pursuant to section E.3 of Appendix D, as to why the construction permit should not be suspended pending completion of the NEPA environmental review, and the document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permits for the Brunswick Steam Electric Plant, Dockets Nos. 50-324 and 50-325" and the order to show cause are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Southport-Brunswick County Library, 109 West Moore Street, Southport, NC 28461. Copies of the "Discussion and Findings" document and the order to show cause may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 18th day of November 1971.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.71-17124 Filed 11-23-71;8:47 am]

[Docket No. 50-247]

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

Order Extending Completion Date

Consolidated Edison Company of New York, Inc., has filed a request dated October 27, 1971, for an extension of the latest completion date granted by Atomic Energy Commission letter dated April 26, 1971, specified in Provisional Construction Permit No. CPPR-21, as amended, for construction of a 2,758 megawatt (thermal) pressurized water nuclear reactor, designated as the Indian Nuclear Generating Unit No. 2, at the applicant's site on the Hudson River in the village of Buchanan, Westchester County, N.Y. Good cause having been shown for extension of said date pursuant to section 185 of the Atomic Energy Act of 1954, as amended, and § 50.55 of the Commission's regulations:

It is hereby ordered that the latest completion date is extended from December 1, 1971 to March 1, 1972.

Date of issuance: November 17, 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc.71-17110 Filed 11-23-71;8:45 am]

[Docket No. 50-219]

JERSEY CENTRAL POWER & LIGHT CO.

Amendment to Provisional Operating License

No request for hearing or petition to intervene having been filed following publication of a notice of proposed action in the FEDERAL REGISTER on June 12, 1971, at 36 F.R. 11473, the Atomic Energy Commission (the Commission) has issued Amendment No. 3 to Provisional Operating License No. DPR-16. The amendment authorizes Jersey Central Power & Light Company to operate the Oyster Creek Nuclear Power Plant Unit No. 1 (the facility) at steady state power levels up to a maximum of 1,930 megawatts (thermal). The amendment restates the license in its entirety to delete the record and reporting requirements that are now incorporated in the Technical Specifications as Change No. 7 and appended to Amendment No. 3.

The facility has been inspected by a representative of the Commission who has verified that the modification of the facility (involving the installation of a fifth relief valve and its controls) has been satisfactorily accomplished by Jersey Central.

The Commission has found that the application for the amendment complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations published in 10 CFR Chapter I. The Commission has made the findings required by the Act and the Commission's regulations which are set forth in the amendment and has concluded that the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public.

For further details with respect to this amendment, see (1) the application for license amendment dated December 31, 1970, and supplements thereto dated January 26, 1971 and June 4, 1971, (2) the amendment to Provisional Operating License No. DPR-16, (3) the report by the Advisory Committee on Reactor Safeguards dated June 18, 1971, and (4) the Safety Evaluation prepared by the Division of Reactor Licensing, which are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, DC. Copies of items (2), (3), and (4) may be obtained upon request sent to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 5th day of November 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc.71-17135 Filed 11-23-71;8:48 am]

[Docket No. 50-367A]

NORTHERN INDIANA PUBLIC SERVICE CO.

Notice of Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c. of the Atomic Energy Act of 1954, as amended (the Act), a letter of advice from the Attorney General of the United States, dated November 11, 1971, a copy of which is attached as Appendix A below.

Any person whose interest may be affected by this proceeding may, pursuant to § 2.714 of the Commission's rules of practice, 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed within thirty (30) days after publication of this notice in the FEDERAL REGISTER, either (1) by delivery to the AEC Public Document Room at 1717 H Street, NW., Washington, DC, or (2) by mail or telegram addressed to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch.

For the Atomic Energy Commission.

LYALL JOHNSON,
Director, Division of State and Licensee Relations.

APPENDIX A

NOVEMBER 11, 1971.

Northern Indiana Public Service Co., Bailly Generating Station, Unit I, AEC Docket No. 50-367A, Department of Justice File No. 60-415-35.

You have requested our advice pursuant to the provisions of section 105 of the Atomic Energy Act of 1954, as recently amended by Public Law 91-560 (December 19, 1970), in regard to the above cited application.

Introduction. The Bailly Generating Station—Nuclear I will be a 680 mw. unit located on Lake Michigan approximately 12 miles northeast of Gary, Ind., where the Applicant presently has three fossil fuel generating units. The total cost of the unit is estimated to be approximately $202,219,000 including the first nuclear fuel core. It is scheduled for commercial operation in June 1976.

The applicant. Northern Indiana Public Service Co. (NIPSCO) is a privately owned utility which supplies both electric power and natural gas to consumers in 30 counties in northern Indiana. NIPSCO's service area encompasses approximately 12,000 square miles and contains a population of approximately 2 million. In 1970 NIPSCO supplied electrical energy to 314,048 customers for which it received electric operating revenues of $124,513,000; and supplied natural gas to 427,530 customers for which it derived gas operating revenues of $175,272,164.

NIPCO's 1970 electric peak load was 1,444 mw. on July 1, 1970. NIPSCO owns and operates generating stations with a total capacity of approximately 1,386 mw. and in 1970 purchased approximately 400 mw. of firm power from neighboring utilities to reach a net dependable capacity of 1,786 mw. The largest generating unit presently operated by NIPSCO is a fossil fuel unit located at Bailly which has a generating capacity of approximately 404 mw.

Applicant's coordination and interconnections with other utilities. NIPSCO is not a member of any formal power pool which engages in joint generation and transmission planning or functions. However, NIPSCO is a party to an "Area Coordination Agreement," referred to as MIIO, with five other adjacent utilities: Consumers Power Co., Detroit Edison Co., Commonwealth Edison Co., Toledo Edison Co., and Indiana & Michigan

Electric Co. MIIO provides the framework within which the parties can achieve the benefits "to be effected through coordination in the operation and development of their respective systems." (Article I, MIIO Agreement). The agreement states that such benefits can be realized by various interconnection services and transactions, including the furnishing of mutual emergency and standby assistance, the interchange of electric power and energy, and the sale and purchase of short-term firm power. Actual coordination is carried out by means of separate bilateral agreements between the parties in MIIO, NIPSCO, for example, has entered into an emergency service agreement with the "Michigan Companies" (Consumers Power Co. and The Detroit Edison Co.). MIIO also has a Planning Committee, consisting of representatives of each of the members, which makes studies and investigations leading to mutually agreed upon recommendations to the parties concerning "adequacy of interconnection facilities, staggering of construction, and adequacy of generating reserve both individually and collectively." (Article 6, MIIO Agreement.)

NIPSCO's transmission system is interconnected with the systems of Commonwealth Edison Co., Indiana & Michigan Electric Co. (I&M), and Public Service Company of Indiana (PSI). These interconnections provide the means by which NIPSCO can receive emergency service from and interchange power with these other suppliers, thereby increasing the reliability of NIPSCO's service as well as lowering the amount of reserve capacity NIPSCO must maintain.

Applicant's interconnections with other large adjacent utilities have provided benefits to the company in planning its new generation facilities. NIPSCO does not have sufficient generating capacity to meet its own load. Consequently, it has entered into contracts to purchase firm power from I&M, PSI, and Commonwealth Edison Company of Indiana to supplement its own generating capacity. In the next 10 years NIPSCO plans to build five generating units, consisting of four fossil units with generating capacities of approximately 500 mw. each and Bailly Nuclear Unit I with a capacity of 680 mw. NIPSCO is able to build these large generating units, because it can vary the amount of power it purchases from neighboring utilities as these units come on line. For example, NIPSCO estimates that in 1975 it will be purchasing 514 mw. from neighboring utilities; whereas in 1976, after the Bailly Nuclear Unit commences operation, it can reduce its purchases to 290 mw.

The reserve sharing, coordinated development and power purchase arrangements in which NIPSCO has participated through MIIO and contracts with neighboring utilities have permitted NIPSCO to take advantage of economies of scale in bulk power supply, both in purchasing low cost power from neighboring utilities and in planning and building large economical generating units for its own system.

Applicant's competitors. There are several small municipal electric systems and rural electric cooperatives distributing electric power and energy within NIPSCO's service area who compete with NIPSCO for load growth at retail. None of these small systems own or operate any high voltage bulk power supply transmission or any subtransmission; they operate lines with voltages of 12.5 kv. or lower for distribution of power to ultimate consumers. Consequently, all of these systems, except one (Rensselaer, Ind., which is discussed below), are dependent upon NIPSCO for purchase and delivery of wholesale power.

1. *Municipally owned electric systems.* NIPSCO supplies all the wholesale power requirements to eight of the nine municipal electric systems in its service area. The ninth municipal system, in Rensselaer, Ind., operates an isolated generating plant which is not connected to NIPSCO's transmission system. Our investigation revealed that none of the municipals served by NIPSCO at wholesale have sought ownership participation in the Bailly Nuclear Unit.

2. *Rural electric cooperatives.* There are 12 rural electric cooperatives which operate within and adjacent to NIPSCO's service area. NIPSCO supplies the total wholesale requirements for seven of these coops; the other five receive part of their wholesale power from NIPSCO and part from I&M or PSI at other delivery points. NIPSCO delivers power to these coops at over 50 separate delivery points. The 12 coops are members of a nonprofit corporation named Wabash Valley Power Association, Inc. (Wabash), which consists of 22 rural electric cooperatives in northern Indiana. The members of Wabash which are not served by NIPSCO are supplied with power by either PSI or I&M.

The 17 rural electric cooperatives in southern Indiana outside of NIPSCO's service area are members of Hoosier Energy Division of Indiana Statewide Rural Electric Cooperative, Inc. This year Hoosier Energy and the two privately owned electric utilities operating in southern Indiana, PSI and Southern Indiana Gas & Electric Co., which had initiated litigation concerning the operation of generation facilities by Hoosier, reached an agreement pursuant to which these coops will now receive power from a 230-mw. generating unit financed by the Rural Electrification Administration and owned and operated by Hoosier Energy.

The members of Wabash do not have access to any independent generation as do the members of Hoosier Energy, and thus they are solely dependent upon NIPSCO and the other privately owned utilities in Indiana for wholesale power. Furthermore, these coops do not own any bulk power supply transmission. Except for a negligible amount of subtransmission, they operate only distribution lines with voltages of 12.5 kv. or lower. Hence, they are dependent on NIPSCO and the other privately owned utilities for delivery of wholesale power.

Wabash was incorporated in Indiana in 1963. Beginning about 1966 and continuing up to the present time, representatives of Wabash have met at various times with officials of NIPSCO to discuss power supply arrangements. Wabash has sought to enter into one contract for all delivery points and to obtain a common termination date for the contracts NIPSCO has with the various members of Wabash. Wabash believes that if can act as the bulk power supplier for its distribution coop members, this will enhance its ability to obtain power from alternate sources, since there will be one large load to serve instead of small, fragmented loads at 50 different delivery points. Moreover, Wabash believes this would lower the cost of purchased power for the coops, because it would smooth out the peak loads of the now isolated delivery points, and such peak demands are utilized for billing purposes.

NIPSCO has indicated reluctance to contract with Wabash and has continued to contract separately with respect to each of the more than 50 delivery points at which it delivers power to the coop members of Wabash.[1]

[1]NIPSCO has recently agreed, however, to recognize and bargain with Indiana Statewide Rural Electric Cooperative, Inc. (Statewide), concerning NIPSCO's proposed 30 percent increase in wholesale rates for the 12 coops it serves. These coops had designated Statewide, not Wabash, as their bargaining agent in this matter.

Wabash also asserts that until recently NIPSCO has refused to agree to provisions in wholesale contracts allowing credit against the cost of wholesale power for substation facilities or transmission facilities installed and owned by the coops. Although in 1969 NIPSCO revised its wholesale contracts to include a credit for substation facilities installed by the coops, it has continued to refuse to allow a credit for transmission facilities, asserting that it has no basis for determining the proper amount of such a credit. Wabash states that this discourages the coops from developing any separate transmission system which might permit them to develop alternative generation, or to obtain power from suppliers other than NIPSCO, or to coordinate operations among themselves. Wabash also asserts that this gives Wabash no control over location of delivery points, keeps the loads of the coops fragmented and at low voltage, and prevents the coops from obtaining the advantages of load diversity and from serving large loads, all of which inhibit Wabash's competition with NIPSCO for retail load growth.

NIPSCO states that Wabash has never presented any specific proposal to construct transmission which had a proven benefit to NIPSCO. However, in order to eliminate any question on this aspect, NIPSCO has formally stated to the Department that henceforth it will allow a credit in situations where subtransmission constructed by a wholesale customer has a demonstrable benefit to NIPSCO. This commitment, contained in a letter to the Department dated November 5, 1971, a copy of which is attached hereto, reads as follows:

NIPSCO will recognize the principle of providing a credit to any wholesale customer that constructs, operates and maintains subtransmission (69 kv. or less) lines which have a resultant demonstrable benefit to NIPSCO. Any such credit would be subject to the approval of all regulatory bodies having jurisdiction in the subject matter.

In discussions with us, NIPSCO has indicated that this commitment contemplates that, if wholesale customers were to consider construction of transmission facilities, NIPSCO will consult with them at such planning stage, in advance of any construction of subtransmission facilities, to consider whether such proposed facilities will benefit NIPSCO, so that an appropriate credit can then be agreed upon. The circumstances in which subtransmission owned and operated by Wabash and/or its member cooperatives can have a demonstrable benefit to NIPSCO would include, but not be limited to, the following: where NIPSCO would avoid subtransmission costs that it would otherwise have to bear itself, or NIPSCO would achieve increased service reliability, or NIPSCO would utilize Wabash's lines for subtransmission of power intended for other customers of NIPSCO.

Wabash states that during the discussions between Wabash and NIPSCO which began in 1966 relating to power supply, it indicated a desire to participate with NIPSCO in ownership of generation facilities, but that NIPSCO consistently declined to discuss such matters. On September 2, 1971, Wabash wrote NIPSCO asking for an ownership participation of 200 mw. in the Bailly Nuclear Unit and for participation in transmission facilities to deliver that capacity to its members. On September 13, 1971, the President of NIPSCO replied by stating, "We will keep your request in mind."

In discussions with the Department, representatives of NIPSCO said that NIPSCO would have allowed Wabash to participate in the Bailly Nuclear Unit had Wabash made a timely request to do so. They noted that NIPSCO announced as early as 1967 that

it was planning to build a nuclear unit and that NIPSCO formally filed its application with AEC for the Bailly Unit in August 1970, 1 year before Wabash's request for participation. They asserted that participation at this late date by Wabash in the Bailly Unit would unduly complicate planning and financing of the unit, arrangements for which have already been made, and might unnecessarily delay construction and operation of the unit. In accordance with NIPSCO's position that, but for the lateness of Wabash's request, Wabash would have been permitted to participate in the Bailly Nuclear Unit, NIPSCO has indicated that it desires to eliminate any possibility of antitrust concern on the point of participation in the nuclear unit. To accomplish this, NIPSCO has proposed that since the plans for the Bailly Nuclear Unit are now firm, they not be disturbed, but rather, as a substitute for Wabash's participation in the Bailly Unit, that Wabash participate in NIPSCO's next nuclear unit, or NIPSCO's proposed Unit No. 15, a fossil fuel generating unit planned to commence commercial operation in 1978, whichever unit is first scheduled to be placed in commercial operation. This proposal, which appears to have merit, is reflected in an undertaking also contained in the November 5, 1971 letter to the Department from NIPSCO. The latter reads as follows:

Northern Indiana Public Service Company (NIPSCO) will permit reasonable participation by Wabash Valley Power Association (Wabash) in either its next nuclear fuel generating unit or Unit No. 15, a fossil fuel generating unit planned to commence commercial operation in 1978, whichever generating unit is the first scheduled to be placed in commercial operation, in the event a timely request is made by authorized representatives of Wabash. The terms for such participation shall be reasonable, mutually acceptable to the parties, and subject to the approval of all regulatory bodies having jurisdiction in the subject matter.

NIPSCO has indicated that this commitment contemplates that Wabash's participation in the next NIPSCO nuclear generating unit or NIPSCO Unit No. 15 will be in whatever reasonable amount Wabash believes is necessary to meet its power needs and that NIPSCO will be willing to make reasonable proposals for all ancilliary arrangements with Wabash, including, for example, emergency backup and wheeling, necessary for efficient delivery and use of the power from the unit in which Wabash participates.

NIPSCO's willingness to deal with Wabash as an entity and to grant Wabash access to ownership of bulk power supply and to negotiate with Wabash for credits for subtransmission installed by Wabash and/or its members, should make possible greater coordinated operation among the cooperatives with potentially lower costs and improved competitive position.

Recommendation. When NIPSCO was informed that certain allegations of anticompetitive conduct were being made against it by Wabash, its immediate reaction was to deny that its conduct was designed to have, or has had, anticompetitive effect. At the same time, proposing that the problem be approached in a constructive manner so as to eliminate any basis for controversy about issuance of the requested nuclear license, NIPSCO has made the above quoted commitments with respect to its future relations with Wabash and has agreed that they be made conditions in any license which may be issued by the Commission with respect to the Bailly Nuclear Unit. For its part, Wabash has informed us that it regards NIPSCO's commitments as adequate to safeguard Wabash's interests with respect to the matters as to which it had felt particularly aggrieved. Wabash has further indicated that if it can be assured that NIPSCO will carry out its commitments, Wabash would regard an antitrust hearing to be unnecessary.

It appears to us that if NIPSCO's commitments were to be imposed as license conditions by the Commission, the question of accommodating antitrust policy with power needs in this case would be satisfactorily resolved. Accordingly, we recommend that the commitments proffered by NIPSCO be imposed by the Commission as license conditions, a procedure agreeable to NIPSCO. If this were done, there would appear to be no need for an antitrust hearing in this matter.

NORTHERN INDIANA PUBLIC SERVICE COMPANY

JOSEPH J. SAUNDERS, Esq.,
Chief, Public Counsel & Legislative Section,
Anti-Trust Division,
Department of Justice,
Washington, D.C. 20530.

NOVEMBER 5, 1971.

DEAR MR. SAUNDERS: In connection with Northern Indiana Public Service Co.'s (NIPSCO's) application to the Atomic Energy Commission (AEC) for a license for NIPSCO's proposed nuclear fuel generating unit, Bailly N–I, you have informed us that in the course of your antitrust review, certain allegations of anticompetitive conduct on the part of NIPSCO have been made to the Department. You have indicated that the principal questions which have been raised relate to subtransmisison service and Wabash Valley Power Association, Inc.'s (Wabash's), request for participation in our proposed Bailly nuclear unit. You have inquired as to the facts concerning these allegations and have invited our comments.

First, NIPSCO has always complied with its Rural Electric Membership Corp. (REMC) customers' requests for additional capacity at the time and location desired. The need of the REMC's has always been considered in NIPSCO's planning for future capacity requirements. NIPSCO and its REMC customers conducted joint studies to provide the necessary information and planning for long-range supply.

No REMC customer has proposed construction, ownership and maintenance of a specific subtransmission line by such customer. However, in order to avoid any possible controversy on this point, NIPSCO would permit a credit for such construction, ownership and maintenance in the event there would be a demonstrable benefit to NIPSCO, as hereinafter described more fully.

NIPSCO has always served, and will continue to serve, its REMC customers efficiently and economically and will continue to meet all of its REMC customers' service requirements.

Second, as to participation by Wabash in Bailly N–I, NIPSCO on September 3, 1971, received a request dated September 2, 1971, from Donald Kaufman, president of Wabash, for participation in NIPSCO's proposed nuclear fuel generating unit, Bailly N–I.

The construction of Bailly N–I was announced originally in January 1967. NIPSCO had received no request for participation in Bailly N–I prior to September 3, 1971. This request was untimely and NIPSCO's plans, designs and forward progress precluded favorable consideration of the request.

NIPSCO is planning additional generating units and its plans for certain of these units are still flexible enough to permit favorable consideration for a request for participation as hereinafter described more fully.

NIPSCO has never engaged in any conduct, including the proposed construction of Bailly N–I, that would create or maintain a situation inconsistent with the antitrust laws of the United States. However, NIPSCO desires to avoid any controversy that would cause further delay in the construction or operation of Bailly N–I. Therefore, in order to eliminate any basis for a hearing before the AEC on antitrust issues relating to Bailly N–I, NIPSCO makes the following commitments which it is willing to have included as conditions in the license(s) issued by the AEC:

Northern Indiana Public Service Co. (NIPSCO) will permit reasonable participation by Wabash Valley Power Association (Wabash) in either its next nuclear fuel generating unit or Unit No. 15, a fossil fuel generating unit planned to commence commercial operation in 1978, whichever generating unit is the first scheduled to be placed in commercial operation, in the event a timely request is made by authorized representatives of Wabash. The terms for such participation shall be reasonable, mutually acceptable to the parties, and subject to the approval of all regulatory bodies having jurisdiction in the subject matter.

NIPSCO will recognize the principal of providing a credit to any wholesale customer that constructs, operates and maintains subtransmission (69 KV. or less) lines which have a resultant demonstrable benefit to NIPSCO. Any such credit would be subject to the approval of all regulatory bodies having jurisdiction in the subject matter.

Very truly yours,

DEAN H. MITCHELL,
Chairman.

[FR Doc.71–17112 Filed 11–23–71;8:46 am]

[Docket No. 50–263]

NORTHERN STATES POWER CO.

Determination Not To Suspend Operation of Monticello Nuclear Generating Plant Pending Completion of NEPA Environmental Review

Northern States Power Co. (the licensee) is the holder of Provisional Operating License No. DPR–22 (the license), issued by the Atomic Energy Commission on September 8, 1970. The license authorizes the licensee to operate a boiling water nuclear power reactor designated as the Monticello Nuclear Generating Plant, at the licensee's site in Wright and Sherburne Counties, Minn. The facility is designed for initial operation at approximately 1,670 megawatts (thermal).

In accordance with section E.3 of the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), Appendix D of 10 CFR Part 50 (Appendix D), the licensee has furnished to the Commission a written statement of reasons, with supporting factual submission, why the license should not be suspended, in whole or in part, pending completion of the NEPA environmental review. This statement of reasons was furnished to the Commission on October 18, 1971.

The Director of Regulation has considered the licensees' submission in the light of the criteria set out in section E.2 of Appendix D, and has determined, after considering and balancing the criteria in section E.2 of Appendix D, that operation of the Monticello Nuclear Generating Plant authorized pursuant to DPR–22 should not be suspended pending completion of the NEPA environmental review.

Further details of this determination are set forth in a document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Facility Operating License for the Monticello Nuclear Generating Plant, Docket No. 50-263".

The determination herein and the discussion and findings herein referred to above do not preclude the Commission, as a result of its ongoing environmental review, from continuing, modifying or terminating the license or from appropriately conditioning the license to protect environmental values.

Any person whose interest may be affected by this proceeding, other than the licensee, may file a request for a hearing within thirty (30) days after publication of this determination in the FEDERAL REGISTER. Such a request shall set forth the matters, with reference to the factors set out in section E.2 of Appendix D, alleged to warrant a determination other than that made by the Director of Regulation and shall set forth the factual basis for the request. If the Commission determines that the matters stated in such request warrant a hearing, a notice of hearing will be published in the FEDERAL REGISTER.

The licensee's statement of reasons, furnished pursuant to section E.3 of Appendix D, as to why the licensee should not be suspended pending completion of the NEPA environmental review, and the document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Provisional Operating License for the Monticello Nuclear Generating Plant, Docket No. 50-263" are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Environmental Resource Center, Minneapolis Public Library, 1222 Southeast Fourth Street, Minneapolis, MN 55414. Copies of the "Discussion and Findings" document may be obtained upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 16th day of November 1971.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.71-17268 Filed 11-23-71;8:51 am]

[Docket No. 50-267]

PUBLIC SERVICE COMPANY OF COLORADO

Determination Not To Suspend Construction Activities at Fort St. Vrain Nuclear Generating Station Pending Completion of NEPA Environmental Review

The Public Service Company of Colorado (the licensee) is the holder of Construction Permit No. CPPR-54 (the construction permit), issued by the Atomic Energy Commission on September 17, 1968. The construction permit authorizes the licensee to construct a high temperature gas-cooled nuclear reactor designated as the Fort St. Vrain Nuclear Generating Station, at a site in Weld County, Colo. The facility is designed for initial operation at approximately 842 megawatts (thermal).

In accordance with section E.3 of the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), Appendix D of 10 CFR Part 50 (Appendix D), the licensee has furnished to the Commission a written statement of reasons, with supporting factual submission, why the construction permit should not be suspended, in whole or in part, pending completion of the NEPA environmental review.

The Director of Regulation has considered the licensee's submission in the light of the criteria set out in section E.2 of Appendix D, and has determined, after considering and balancing the criteria in section E.2 of Appendix D, that construction activities at the Fort St. Vrain Nuclear Generating Station authorized pursuant to CPPR-54 should not be suspended pending completion of the NEPA environmental review.

Further details of this determination are set forth in a document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permit for the Fort St. Vrain Nuclear Generating Station, Docket No. 50-267."

Pending completion of the full NEPA review, the holder of Construction Permit No. CPPR-54 proceeds with construction at his own risk. The determination herein and the discussion and findings hereinabove referred to do not preclude the Commission, as a result of its ongoing environmental review, from continuing, modifying or terminating the construction permit or from appropriately conditioning the permit to protect environmental values.

Any person whose interest may be affected by this proceeding, other than the licensee, may file a request for a hearing within thirty (30) days after publication of this determination in the FEDERAL REGISTER. Such a request shall set forth the matters, with reference to the factors set out in section E.2 of Appendix D, alleged to warrant a determination other than made by the Director of Regulation and shall set forth the factual basis for the request. If the Commission determines that the matters stated in such request warrant a hearing, a notice of hearing will be published in the FEDERAL REGISTER.

The licensee's statement of reasons, furnished pursuant to section E.3 of Appendix D, as to why the construction permit should not be suspended pending completion of the NEPA environmental review, and the document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permit for the Fort St. Vrain Nuclear Generating Station, Docket No. 50-267," are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Greeley Public Library, City Complex Building, Greeley, Colo. 80631. Copies of the "Discussion and Findings" document may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 22d day of November 1971.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.71-17269 Filed 11-23-71;8:51 am]

[Docket No. 50-59]

TEXAS A & M UNIVERSITY

Order Extending Construction Permit Completion Date

By application dated October 20, 1971, the Texas A & M University requested an extension of the latest completion date of Construction Permit No. CPRR-112. The permit authorizes relocation of the AGN-201, Serial No. 106, nuclear reactor from the Mechanical Engineering Shops Building to the new Engineering Center Building on the University's campus in College Station, Tex.

Good cause having been shown for the extension of the latest completion date of the permit pursuant to section 185 of the Atomic Energy Act of 1954, as amended, and § 50.55 of 10 CFR Part 50 of the Commission's regulations: *It is hereby ordered*, That the latest completion date of Construction Permit No. CPRR-112 is extended from December 1, 1971 to February 15, 1972.

Date of issuance: November 10, 1971.

This order is effective as of its date of issuance.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc.71-17130 Filed 11-23-71;8:47 am]

[Docket No. 50-280]

VIRGINIA ELECTRIC AND POWER CO.

Notice of Hearing on a Facility Operating License

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," and Part 2, rules of practice, notice is hereby given that a hearing will be held at a time and place to be set in the future by an Atomic Safety and Licensing Board, in or in the vicinity of Surry County, Va., to consider the application filed under section 104b. of the Act by the Virginia Electric and Power Co. (applicant) for a facility operating license which would authorize the operation of a pressurized water reactor (facility), identified as Surry Power Station Unit 1, at steady-state power levels up to a maximum of 2,441 megawatts thermal, at the applicant's site in Surry County, Va.

The hearing will be conducted by an Atomic Safety and Licensing Board (Board) designated by the Atomic Energy Commission (Commission). Notice of the Licensing Board's membership will be published in the FEDERAL REGISTER.

Construction of the facility was authorized by Provisional Construction Permit No. CPPR-43 issued by the Commission on June 25, 1968, following a public hearing.

A notice of consideration of issuance of an operating license for the facility was published by the Commission on May 28, 1971 (36 F.R. 9793). The notice provided that, within 30 days from the date of publication, any person whose interest may be affected by the issuance of a license could file a petition for leave to intervene in accordance with the requirements of 10 CFR Part 2, rules of practice. A petition for leave to intervene was thereafter filed by Henry E. Howell, Jr., a citizen of the State of Virginia and a member of its Senate representing the city of Norfolk. Answers to the petition were filed by the applicant and by the Atomic Energy Commission's regulatory staff.

As set forth in a memorandum and order on this matter dated November 18, 1971, the Commission has determined that a public hearing will be held and that Henry E. Howell, Jr., should be admitted as a party to the proceeding.

As to the matters to be considered in the ensuing proceeding, the Commission in its memorandum and order of November 18, 1971, provided that the issue for hearing consideration is as follows:

> Whether, with regard to the disputed welds and welding practices, there is reasonable assurance that the activities which would be authorized by an operating license can be conducted without endangering the health and safety of the public.

Depending on the resolution of that issue, authorization for issuance of the license may be granted or denied, or the license may be authorized as appropriately conditioned. An operating license would be issued only after appropriate findings are made by the Director of Regulation on the matters set forth below which are not embraced by the Board's decision (and upon compliance with the applicable provisions of Appendix D to 10 CFR Part 50, dealt with hereinafter):

1. Whether construction of the facility has been substantially completed in conformity with the construction permit and the application, as amended, the provisions of the Act, and the rules and regulations of the Commission.

2. Whether the facility will operate in conformity with the application, as amended, the provisions of the Act, and the rules and regulations of the Commission.

3. Whether there is reasonable assurance (i) that the activities authorized by the operating license can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the regulations of the Commission.

4. Whether the applicant is technically and financially qualified to engage in the activities authorized by the operating license in accordance with the regulations of the Commission.

5. Whether the applicable provisions of 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements," of the Commission's regulations have been satisfied.

6. Whether the issuance of the license will be inimical to the common defense and security or to the health and safety of the public.

A prehearing conference will be held by the Board at a date and place to be set by it to consider pertinent matters in accordance with the Commission's rules of practice, 10 CFR Part 2, including section II of Appendix A. The date and place of the hearing will be set by the Board at or after the prehearing conference. Notices as to the dates and places of the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

The Commission has recently issued revised regulations for the implementation in its licensing proceedings of the National Environmental Policy Act of 1969 (NEPA). Appendix D to 10 CFR Part 50. The instant proceeding is covered by section D.1 of said Appendix D (the notice of opportunity for hearing was issued prior to October 31, 1971, but the requirements of sections A.1 through 9 of that appendix have not been completed for this application). In accordance with the provisions of section D.1, the Board will proceed expeditiously with consideration of the hearing issue set forth above pending compliance with the requirements specified in said Appendix D. The Commission will give further public notice regarding hearing consideration herein of matters covered by Appendix D.

While the matter of the full power operating license is pending before the Board, the applicant may make a motion in writing pursuant to § 50.57(c) of 10 CFR Part 50 for an operating license authorizing low power testing (operation at not more than one percent of full power for the purpose of testing the facility), and further operations short of full power operation. The Board may grant the motion upon a finding that the proposed licensing action will not have a significant, adverse impact on the quality of the environment and upon satisfaction of the requirements of § 50.57(c) of 10 CFR Part 50. In addition, the Board may grant a motion, pursuant to § 50.57(c) of 10 CFR Part 50, upon satisfaction of the requirements of that paragraph, after consideration and balancing of the following factors:

(a) Whether it is likely that limited operation during the prospective review period will give rise to a significant, adverse impact on the environment; the nature and extent of such impact, if any; and whether redress of any such adverse environmental impact can reasonably be effected should modification or termination of the limited license result from the ongoing NEPA environmental review.

(b) Whether limited operation during the prospective review period would foreclose subsequent adoption of alternatives in facility design or operation of the type that could result from the ongoing NEPA environmental review.

(c) The effect of delay in facility operation upon the public interest. Of primary importance under this criterion are the power needs to be served by the facility; the availability of alternative sources, if any, to meet those needs on a timely basis; and delay costs to the licensee and to consumers.

Operation beyond twenty percent (20%) of full power will not be authorized except on specific approval of the Commission, upon the Commission's finding that there exists an emergency situation or other situation requiring such operation in the public interest.

Prior to taking any action on a motion pursuant to § 50.57(c) of 10 CFR Part 50 which any party opposes, the Board shall, with respect to the contested activity sought to be authorized, make findings on the hearing issue specified above, and determine whether the proposed licensing action will have a significant, adverse impact on the quality of the environment or make findings on the factors specified in the paragraph preceding the one above, as appropriate, in the form of an initial decision. The licensing action will be taken by the Director of Regulation only after appropriate findings are made on items 1 through 6 above. If the license is one which requires the specific approval of the Commission, the Board will certify directly to the Commission for determination, without ruling thereon, the matter of whether operation beyond twenty percent (20%) of full power should be authorized.

Any license issued pursuant to the foregoing will be without prejudice to subsequent licensing action which may be taken by the Commission with regard to the environmental aspects of the facility, and any license issued will be conditioned to that effect.

The Surry Power Station Unit No. 1 is subject to the provisions of section E of Appendix D to 10 CFR Part 50, which sets forth procedures and criteria for determining, inter alia, whether construction should be suspended on facilities within specified categories pending completion of the NEPA environmental review provided for in Appendix D. No license will be issued in the instant proceeding in advance of or in conflict with the determination as to suspension vel non under said section E.

As they become available, the application, the proposed operating license,

the applicant's summary of the application, the report of the Commission's Advisory Committee on Reactor Safeguards (ACRS), the Safety Evaluation by the Commission's regulatory staff, the applicant's Environmental Report, the AEC's Detailed Statement on Environmental Considerations, and the transcripts of the prehearing conference and of the hearing, will be placed in the Commission's Public Document Room, 1717 H Street NW., Washington, DC, where they will be available for inspection by members of the public. Copies of those documents will also be made available at the Swem Library, College of William and Mary, Williamsburg, Va., for inspection by members of the public between the hours of 8 a.m. to 12 midnight Monday through Friday, 8 a.m. to 5 p.m. on Saturday and from 2 p.m. to 12 midnight on Sunday. Copies of the proposed operating license, the ACRS report, the regulatory staff's Safety Evaluation, the applicant's Environmental Report, and the Commission's Detailed Statement on Environmental Considerations may be obtained, when available, by request to the Director of the Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Any person who wishes to make an oral or written statement in this proceeding setting forth his position on the issues specified, but who has not filed either a petition for leave to intervene or a request for a hearing as noted above, may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715 of the Commission's rules of practice. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above. A member of the public does not have the right to participate unless he has been granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705 of the Commission's rules of practice, must be filed by the parties to the proceeding (other than the regulatory staff) not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708 of the Commission's rules of practice, an original and 20 copies of each such paper with the Commission.

With respect to this proceeding, the Commission has delegated to the Atomic Safety and Licensing Appeal Board the authority and the review function which would otherwise be exercised and performed by the Commission. The Commission has established the Appeal Board pursuant to 10 CFR 2.785 of the Commission's rules of practice, and has made the delegation pursuant to subparagraph (a)(1) of this section. The Appeal Board is composed of the Chairman and Vice-Chairman of the Atomic Safety and Licensing Board Panel and a third member who is technically qualified and designated by the Commission. The Commission has designated Dr. Lawrence Quarles, dean of the School of Engineering and Applied Science, the University of Virginia, as this third member.

Dated at Germantown, Md., this 18th day of November 1971.

UNITED STATES ATOMIC ENERGY COMMISSION,
W. B. MCCOOL,
Secretary of the Commission.

[FR Doc.71-17125 Filed 11-23-71;8:47 am]

[Docket No. 50-302]

FLORIDA POWER CORP.

Determination Not To Suspend Construction Activities at Crystal River Unit 3 Nuclear Generatingg Plant Pending Completion of NEPA Environmental Review

The Florida Power Corp. (the licensee) is the holder of Construction Permit No. CPPR-51 (the construction permit), issued by the Atomic Energy Commission on September 25, 1968. The construction permit authorizes the licensee to construct a pressurized water nuclear reactor, designated as the Crystal River Unit 3 Nuclear Generating Plant, at a site in Citrus County, Fla., approximately 70 miles north of Tampa, Fla. The facility is designed for initial operation at approximately 2,452 megawatts (thermal).

In accordance with section E.3 of the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), appendix D of 10 CFR Part 50 (appendix D), the licensee has furnishd to the Commission a written statement of reasons, with supporting factual submission, why the construction permit should not be suspended, in whole or in part, pending completion of the NEPA environmental review.

The Director of Regulation has considered the licensee's submission in light of the criteria set out in section E.2 of appendix D, and has determined, after considering and balancing the criteria in section E.2 of appendix D, that construction activities at the Crystal River Unit 3 Nuclear Generating Plant authorized pursuant to CPPR-51 should not be suspended pending completion of the NEPA environmental review.

Further details of this determination are set forth in a document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permit for the Crystal River Unit 3 Nuclear Generating Plant, Docket No. 50-302, November 1971."

Pending completion of the full NEPA review, the holder of Construction Permit No. CPPR-51 proceeds with construction at its own risk. The determination herein and the discussion and findings referred to above do not preclude the Commission, as a result of its ongoing environmental review, from continuing, modifying or terminating the construction permit or from appropriately conditioning the permit to protect environmental values.

Any person whose interest may be affected by this proceeding, other than the licensee, may file a request for a hearing within thirty (30) days after publication of this determination in the FEDERAL REGISTER. Such a request shall set forth the matters, with reference to the factors set out in section E.2 of appendix D, alleged to warrant a determination other than that made by the Director of Regulation and shall set forth the factual basis for the request. If the Commission determines that the matters stated in such request warrant a hearing, a notice of hearing will be published in the FEDERAL REGISTER.

The licensee's statement of reasons, furnished pursuant to section E.3 of appendix D, as to why the construction permit should not be suspended pending completion of the NEPA environmental review, and the document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permit for the Crystal River Unit 3 Nuclear Generating Plant, Docket No. 50-302 November 1971" are available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, DC, and at the Crystal River Public Library, Crystal River, Fla. 32629. Copies of the "Discussion and Findings" document may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 20th day of November 1971.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.71-17311 Filed 11-23-71;9:50 am]

CIVIL AERONAUTICS BOARD

[Order 71-11-74]

CERTAIN UNAUTHORIZED INDIRECT AIR CARRIERS

Order Granting Temporary Relief

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 18th day of November 1971.

From time to time, at the request of the Department of Defense (DOD), the Board has granted temporary relief from provisions of the Federal Aviation Act of 1958 (the Act) to permit 30 unauthorized indirect air carriers[1] to transport by air used household goods[2] of Department of Defense personnel. The relief will expire 180 days after the Board's decision in Docket 20812 becomes final or, as to each individual company named in the appendix to Order 71-10-56, upon Board disposition of such company's application for air freight forwarder and/or international air freight forwarder authority, whichever event shall occur first.[3]

By letter dated November 1, 1971, the Department of the Army, acting on behalf of DOD, stated that, in addition to the 30 carriers already exempted, it now has a requirement for the services of four additional unauthorized indirect air carriers and requests that these carriers be similarly relieved from the requirements of the Act. The carriers whose services are requested by DOD are listed in the appendix attached hereto.

In view of the foregoing circumstances, the Board finds that it is in the public interest to temporarily relieve from the provisions of the Act those carriers whose services have been requested by DOD to transport by air used household goods of personnel of DOD.

Accordingly, it is ordered,

1. That pursuant to sections 101(3) and 204 of the Federal Aviation Act of 1958, as amended, the carriers listed in the appendix hereto are hereby relieved from the provisions of title IV and section 610(a)(4) of the Act to the extent necessary to transport by air used household goods of personnel of DOD upon tender by that Department;

2. That the relief granted herein shall terminate 180 days after the Board's decision in Docket 20812 becomes final or, as to each individual company named in the appendix hereto, upon Board disposition of such company's application for air freight forwarder and/or international air freight forwarder authority, whichever event shall occur first;

3. That this order may be amended or revoked at any time in the discretion of the Board, without hearing; and

4. That copies of this order shall be served on the Military Traffic Management and Terminal Service, U.S. Army, and the companies listed in the appendix hereto.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

APPENDIX

Delcher Intercontinental Moving Service (DIMS), 262 Riverside Avenue, Post Office Box 507, Jacksonville, FL 32201.
Garrett Forwarding Co., 2055 Garrett Way, Post Office Box 4048, Pocatello, ID 83201.
Pyramid Van Lines, Inc., 479 South Airport Boulevard, South San Francisco, CA 94080.
Rocky Ford Moving Vans, Inc., 510 South Big Spring, Post Office Box 11, Midland, TX 79701.

[FR Doc.71-17142 Filed 11-23-71;8:48 am]

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[1] American Ensign Van Service, Inc., Asiatic Forwarders, Inc., CTI—Container Transport International, Inc., Four Winds Forwarding, Inc., HC&D Moving & Storage, Imperial Household Shipping Co., Inc., International Sea Van, Inc., North American Van Lines, Inc., Aero Mayflower Transit Co., Inc, Allied Van Lines, Inc., Astron Forwarding Co., Davidson Forwarding Co., Fernstrom Storage and Van Co., Home-Pack Transport, Inc., King Van Lines, Inc., Richardson Transfer & Storage Co., Inc., Smyth Worldwide Movers, Inc., Air Van Lines, Inc., Burnham Van Service, Inc., Suddath Van Lines, Inc., United Van Lines, Inc., Von der Ahe Van Lines, Inc., Door to Door International, Inc., Republic Van & Storage Co., Inc., Trans-American Van Service, Inc., American Red Ball Transit Co., Getz Bros. and Co., U.S., Neptune Thru-Container Corp., Karevan, Inc., and DeWitt Freight Forwarding.

[2] The term "used household goods" means personal effects (including unaccompanied baggage) and property used or to be used in a dwelling, when a part of the equipment or the supply of such dwelling, but specifically excludes (1) furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals, or other establishments, when a part of the stock, equipment, or supply of such stores, offices, museums, institutions, hospitals, or other establishments, and (2) objects of art (other than personal effects), displays and exhibits.

[3] See Order 71-10-56, dated Oct. 13, 1971.

FEDERAL POWER COMMISSION

[Docket No. CS71-20 etc.]

HANSON OIL CORP. ET AL.

Findings and Order

NOVEMBER 15, 1971.

Findings and order after statutory hearing issuing small producer certificates of public convenience and necessity, amending certificate, terminating certificates, canceling FPC gas rate schedules, terminating rate proceedings, dismissing applications, making successor co-respondent, redesignating proceedings, and granting petition to intervene.

Each applicant herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for small producer certificates of public convenience and necessity authorizing sales of natural gas in interstate commerce, all as more fully set forth in the applications and appendix A, below.

Certain applicants are presently authorized to sell natural gas pursuant to FPC gas rate schedules on file with the Commission. The temporary and permanent certificates authorizing said sales will be terminated and the related rate schedules will be canceled. Some sales made pursuant to the certificates terminated herein and the canceled FPC gas rate schedules were made at rates in effect subject to refund. There are other rate increases which are suspended. Certain proceedings in which these increased rates are suspended or have been collected subject to refund by any of these applicants and were equal to or below area ceiling rates will be terminated.

Hanson Oil Corp., the small producer certificate holder listed below in appendix B has been granted a small producer certificate of public convenience and necessity authorizing sales of natural gas in interstate commerce. Hanson was theretofore authorized to sell natural gas pursuant to a FPC gas rate schedule on file with the Commission. The certificate authorizing the former sale, which is now made under the small producer certificate, will be terminated and the related FPC gas rate schedule will be canceled.

W. T. Fail, applicant in Docket No. CS71-1076, proposes to continue in part the sales of natural gas heretofore authorized in Docket No. G-11174 to be made pursuant to Gulf Oil Corp. FPC Gas Rate Schedule No. 98. Therefore, the certificate of public convenience and necessity heretofore issued to Gulf in Docket No. G-11174 will be amended by deleting therefrom authorization to make the sales of natural gas which will be continued by W. T. Fail.

Fair Operating Account, applicant in Docket No. CS71-759, proposes to continue the sales of natural gas heretofore authorized in Dockets Nos. G-6216 and G-6559 to be made pursuant to Ralph E. Fair, Inc., FPC Gas Rate Schedules Nos. 1 and 2, respectively. The rates at the time of the assignment were effective subject to refund in Dockets Nos. RI60-294 and RI60-295 for sales under Fair's FPC Gas Rate Schedule No. 1. Therefore, applicant will be made a co-respondent in said proceedings and the proceedings will be redesignated accordingly.

Thomas N. Berry & Co., applicant in Docket No. CS71-1083, proposes to continue the sales of natural gas heretofore authorized in Dockets Nos. G-18878, CI60-341, CI62-457 and CI64-1246 to be made pursuant to Thomas E. Berry FPC Gas Rate Schedules Nos. 2, 3, 6, and 10, respectively. The rates at the time of the assignments were effective subject to refund in Dockets Nos. RI67-143 and RI70-206 for sales under Berry's FPC Gas Rate Schedule No. 3; in Docket No. RI70-1372 for sales under Berry's FPC Gas Rate Schedule No. 2; and, in Docket No. RI70-1598 for sales under Berry's FPC Gas Rate Schedule No. 6. Therefore, applicant will be made a co-respondent in said proceedings and the proceedings will be redesignated accordingly.

After due notice by publication in the FEDERAL REGISTER, a petition for leave to intervene was filed on June 21, 1971, in Docket No. CS71-592 by Natural Gas

Pipeline Co. of America. No other petition to intervene or notice of intervention has been filed. On July 9, 1971, James M. Forgotson, Sr., filed a protest to the granting of the authorization sought by all applicants listed in our Notice of Small Producer Applications issued on June 29, 1971, in Docket No. CS69–19, et al., some of whom are included in the instant order.

The Commission's staff has reviewed the applications, and having considered the petition to intervene and the protest, recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

At a hearing held on October 14, 1971, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds: (1) Each applicant is or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption subject to the jurisdiction of the Commission and is, therefore, a "natural-gas company" or will be when the initial delivery is made, within the meaning of the Natural Gas Act.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications herein, will be made in interstate commerce subject to the jurisdiction of the Commission, and such sales by applicants are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) Each applicant is an independent producer of natural gas which is not affiliated with a natural gas pipeline company and whose total jurisdictional sales on a nationwide basis, together with sales of affiliated producers, were not in excess of 10 million Mcf at 14.65 p.s.i.a. during the preceding calendar year.

(5) The sales of natural gas by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity, and small producer certificates of public convenience and necessity therefore should be issued as hereinafter ordered and conditioned.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the temporary and permanent certificates of public convenience and necessity heretofore issued to applicants should be terminated and that the related FPC gas rate schedules should be canceled.

(7) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificate of public convenience and necessity heretofore issued to Gulf Oil Corp. in Docket No. G–11174 should be amended by deleting therefrom authorization to make sales of natural gas which will be continued by W. T. Fail.

(8) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Fair Operating Account should be made a co-respondent in the proceedings pending in Dockets Nos. RI60–294 and RI60–295 and that said proceedings should be redesignated accordingly.

(9) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Thomas N. Berry & Co. should be made a co-respondent in the proceedings pending in Dockets Nos. RI67–143, RI70–206, RI70–1372, and RI70–1598 and that said proceedings should be redesignated accordingly.

(10) The applications pending in Dockets Nos. CI60–117, CI63–260, CI71–461, and CI71–883 are moot.

(11) Participation by Natural Gas Pipeline Co. of America in the proceeding pending in Docket No. CS71–592 may be in the public interest.

The Commission orders: (A) Small producer certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing the sale for resale and delivery of natural gas in interstate commerce by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the applications in this proceeding.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission and particularly:

(1) The subject certificates shall be applicable only to all small producer sales as defined in § 157.40(a)(3) of the regulations under the Natural Gas Act; and

(2) Applicants shall file annual statements pursuant to § 154.104 of the regulations under the Natural Gas Act.

(C) The certificates granted in paragraph (A) above shall remain in effect for small producer sales until the Commission on its own motion or on application terminates said certificates because applicants no longer qualify as small producers or fail to comply with the requirements of the Natural Gas Act, the regulations thereunder, or the terms of the certificates. Upon such termination, applicants will be required to file separate certificate applications and individual rate schedules for future sales. To the extent compliance with the terms of this order is observed, the small producer certificates will still be effective as to sales already included thereunder.

(D) The grant of the certificates in paragraph (A) above shall not be construed as a waiver of the requirements of section 7 of the Natural Gas Act or Part 157 of the regulations thereunder and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against applicants. Further, our action in this proceeding shall not foreclose any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. The grant of the certificates aforesaid for service to the particular customers involved, shall not imply approval of all of the terms of the contracts, particularly as to the cessation of service upon the termination of said contracts as provided by section 7(b) of the Natural Gas Act. The grant of the certificates aforesaid shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales subject to said certificates.

(E) The temporary and permanent certificates heretofore issued to applicants for sales proposed to be continued under small producer certificates are terminated and the related FPC gas rate schedules are canceled as indicated in appendix A, below.

(F) The proceedings in which applicants' increased rates have not been made effective and certain proceedings in which increased rates have been made effective subject to refund and are equal to or below the applicable area base rate are terminated as indicated in appendix A, below.

(G) The certificate of public convenience and necessity heretofore issued to Hanson Oil Corp. for sales of natural gas to be continued under its small producer certificate is terminated and the related FPC gas rate schedule is canceled as indicated in appendix B, below.

(H) The certificate of public convenience and necessity heretofore issued to Gulf Oil Corp. in Docket No. G–11174 is amended by deleting therefrom authorization to make the sales of natural gas which will be continued by W. T. Fail.

(I) Fair Operating Account is made a co-respondent in the proceedings pending in Dockets Nos. RI60–294 and RI60–295 and said proceedings are redesignated accordingly.

(J) Thomas N. Berry & Co. is made a co-respondent in the proceedings pending in Dockets Nos. RI67–143, RI70–206, RI70–1372, and RI70–1598 and said proceedings are redesignated accordingly.

(K) The applications pending in Dockets Nos. CI60–117, CI63–260, CI71–461 and CI71–883 are dismissed.

(L) Natural Gas Pipeline Co. of America is permitted to intervene in the proceeding in Docket No. CS71–592 subject to the rules and regulations of the Commission: *Provided, however,* That participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition for leave to intervene: *And provided further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in this proceeding.

(M) This order does not relieve any of the applicants herein of any responsibility imposed by, and is expressly subject to, the Commission's Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91–379, 84 Stat. 799, as amended by Public Law 92–15, 85 Stat. 38), including such amendments as the Commission may require, and Executive Order No. 11615.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX A

Docket No. and filing date	Applicant	Canceled FPC gas rate schedule	Terminated certificate docket No.	Terminated rate increase docket No.
CS71–509, 4–29–71	L. E. Jones Production Co. et al.	[1]	CI70–766 [1]	
CS71–592, 4–30–71	William Graham Oil Co. et al.	5	G–13038	
	do	8	G–13038	G–10533.
	do	9	G–8302	
	do	10	CI62–1 [1]	
CS71–759, 6–3–71	Fair Operating Account et al.	[11]	G–6210 [1]	
	do	[12]	G–5599 [1]	
CS71–760, 6–3–71	Ralph E. Fair, Inc.	1	G–6210	
CS71–776, 6–3–71	Corbin J. Robertson	1	CI71–883 [1]	
CS71–823, 6–4–71	Estate of W. P. Prentiss	1	CI66–950	
CS71–860, 6–4–71	James A. Ford, d.b.a. Cypress Gas Co.	4	CI69–346	
CS71–862, 6–6–71	Moran Bros. Inc., et al.	1	G–12289	R169–570.
	do	2	G–9164	
	do	3	CI60–117 [1]	
	do	4	CI62–1554	
	do	1	CI67–232	
CS71–864, 6–6–71	Chaparral Oil & Gas Co.	2	CI71–232	
	do	3	CI71–232	
	do	1	CI71–801	
CS71–868, 6–6–71	Robert M. Hoover, Jr.			
CS71–869, 6–7–71	H. C. and Gertrude B. Andrewski	[11]	G–9229 [1]	
	do	[12]	CI61–1678 [1]	R166–272.
CS71–871, 6–7–71	S. R. Cohagan et al.	1	G–9192	
CS71–875, 6–4–71	Robert P. Evans et al.	1	CI66–819	
CS71–876, 6–4–71	Jones-O'Brien, Inc. et al.	3	G–7751	
	do	5	G–9418	
CS71–1078, 5–26–71	W. T. Fail	7	CI71–461 [1]	
CS71–1077, 5–27–71	D. H. Byrd et al.	1	CI61–374	
CS71–1079, 6–14–71	Estate of John V. Rowan			
CS71–1080, 6–14–71	Murchison Bros. & Donlus	1	G–3043	
CS71–1082, 6–15–71	J. A. LaFortune	1	CI66–510	
	do	2	CI66–1140	
	do	3	CI70–1056	RI71–408.

See footnotes at end of table.

Docket No. and filing date	Applicant	Canceled FPC gas rate schedule	Terminated certificate docket No.	Terminated rate increase docket No.
CS71–1083, 6–15–71	Thomas N. Berry & Co. et al.	1	G–14901	R164–647, RI70–154, RI70–206, RI70–1598, R170–1094, R165–417, RI70–940, RI67–143, RI70–206, RI67–142, RI70–206.
	do	2	CI68–290 [1]	
	do	4	CI65–182	
	do	5	CI65–992	
	do	7	G–10943	
	do	8	CI66–1315	
	do	9	CI67–389	
	do	[11]	G–16971 [1]	
	do	[12]	G–18879 [1]	
	do	[13]	CI60–541 [1]	
	do	[14]	CI64–457 [1]	
	do	[10]	CI64–1246 [1]	
CS71–1112, 6–21–71	Baylor Van Meter			
CS71–1113, 6–21–71	Robert B. Peyton			
CS71–1114, 6–24–71	Otis Russell et al.	1	CI62–20	
	do	2	CI68–1546	
	do	3	CI69–883	
CS71–1116, 6–24–71	Calcasieu Venture N. V., Inc.			
CS71–1117, 6–24–71	Riddell Petroleum Corp.	1	G–16579	
	do	2	G–17828	
	do	6	G–18609	
	do	4	CI60–667	
CS71–1118, 6–14–71	J. S. Michael et al.	3	CI60–228	R164–770.
CS71–1139, 6–29–71	George P. Hill et al.	1	CI60–990	
	do	[10]	CI68–183 [1]	
	do	[11]	CI65–183 [1]	
CS71–1141, 6–30–71	The Anaconda Petroleum Co. et al.	1	G–18271	

[1] Certificate and rate schedule on file as Milford Corp.
[2] Certificate and rate schedule on file as Ralph E. Fair, Inc.
[3] Certificate and rate schedule on file as Ralph E. Fail.
[4] Temporary certificate.
[5] Certificate and rate schedule on file as H. C. Andrewski.
[6] Certificate and rate schedule on file as Thomas E. Berry, agent.
[7] Certificate and rate schedule on file as Thomas E. Thorp.
[8] Certificate and rate schedule on file as George F. Hill, doing business as Hill & Hill.

APPENDIX B

Docket No.	Certificate holder	Canceled FPC gas rate schedule	Terminated certificate docket No.	Terminated rate increase docket No.
CS71–20	Hanson Oil Corp., et al.	1	CI71–405	

[FR Doc.71–16989 Filed 11–23–71;8:45 am]

FEDERAL RESERVE SYSTEM

ATLANTIC BANCORPORATION

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Atlantic Bancorporation, which is a bank holding company located in Jacksonville, Fla., for prior approval by the Board of Governors of the acquisition by Applicant of not less than 80 percent of the voting shares of The First State Bank and Trust Co., Eustis, Fla.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Atlanta.

Board of Governors of the Federal Reserve System, November 17, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-17140 Filed 11-23-71;8:48 am]

FIRST CITY BANCORPORATION OF TEXAS, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of First City Bancorporation of Texas, Inc., Houston, Tex., for approval of acquisition of 52 percent or more of the voting shares of Humble State Bank, Humble, Tex.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by First City Bancorporation of Texas, Inc., Houston, Tex., for the Board's prior approval of the acquisition of 52 percent or more of the voting shares of Humble State Bank, Humble, Tex. (Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Texas Commissioner of Banking and requested his views and recommendation. The Commissioner recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on August 13, 1971 (36 F.R. 15141), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the Applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant controls five banks with aggregate deposits of approximately $1,142 million, representing 4.3 percent of total commercial bank deposits in Texas. (All banking data are as of December 31, 1970, and reflect holding company formations and acquisitions approved by the Board through August 31, 1971.) Applicant's acquisition of Bank (about $12 million in deposits) would not represent a significant increase in Applicant's share of total deposits in the State.

Applicant controls three banks in the Houston SMSA, with deposits aggregating about $1,128 million or 18.5 percent of commercial bank deposits in the area. Bank ranks 74th among the 140 banks in the Houston SMSA, the relevant banking market, and holds 0.2 percent of the commercial bank deposits in the market. The service area of Bank is considered to be Humble and the surrounding area. Although a small amount of the deposits of First City National Bank (FCNB), Applicant's lead bank, derives from the service area of Bank, FCNB (about $1 billion in deposits) is primarily a large wholesale bank (68.5 percent of whose deposits are in accounts each of which exceeds $100,000), while Bank is a small retail-oriented institution serving a suburban community. There appears to be no significant existing competition bteween Bank and any of Applicant's present subsidiaries; and on the facts of record, notably, the geographical separation of Bank from each of Applicant's subsidiaries, the number of banks in the intervening areas, Texas' laws prohibiting branching, and the differences in the types of business of FCNB and of Bank, it appears that significant future competition is not likely to develop. On the basis of the record before it, the Board concludes that consummation of the proposed acquisition would not adversely affect competition in any relevant area nor have an adverse effect on any competing bank.

The financial and managerial resources and future prospects of Applicant, its present subsidiaries, and Bank are regarded as satisfactory and consistent with approval.

The community served by Bank has grown rapidly, and Bank has experienced rapid deposit growth. The construction of the Houston Intercontinental Airport, 3 miles west of Humble, apparently has led several national and international firms to locate nearby. Affiliation with Applicant should enable Bank to obtain additional capital funds and additional qualified personnel which are needed to meet the needs of its developing community. Considerations relating to the convenience and needs of the community to be served lend some weight for approval. It is the Board's judgment that consummation of the proposed transaction would be in the public interest and that the application should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above, provided that the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Board of Governors,[1] November 18, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-17136 Filed 11-23-71;8:48 am]

FIRST TENNESSEE NATIONAL CORP.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of First Tennessee National Corp. (formerly named First National Holding Corp.), Memphis, Tenn., for approval of acquisition of 100 percent of the voting shares of the successor by merger to Whites Creek Bank and Trust Co, Whites Creek, Tenn.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and §222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by First National Tennessee Corp. (formerly named First National Holding Corp.), Memphis, Tenn., a bank holding company, for the Board's prior approval of the acquisition of 100 percent of the voting shares of the successor by merger to Whites Creek Bank and Trust Co., Whites Creek, Tenn. (Bank).

The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of the shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Superintendent of Banks of the State of Tennessee and requested his views and recommendation. The Superintendent offered no objection to consummation of the proposal.

Notice of receipt of the application was published in the FEDERAL REGISTER on September 24, 1971 (36 F.R. 18980), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant, the largest bank holding company and second largest banking organization in Tennessee, has one subsidiary bank[1] with $738.7 million in deposits, representing approximately 9.9 percent of the total commercial bank deposits in the State. (All banking data are as of December 31, 1970, adjusted to reflect holding company formations and acquisitions approved by the Board through September 30, 1971.) Consummation of the proposal herein would increase applicant's share of deposits in the State to 10 percent and would make applicant the largest banking organization in the State measured by both total deposits and banking offices.

Bank ($5.5 million deposits) is the seventh largest of seven banking organizations located in the Nashville area. Applicant's present subsidiary bank is 200 miles from Bank and there exists no significant competition between the two institutions. Because of the State's restrictive branching law and other facts of record, substantial competition between applicant and Bank is unlikely to develop. Consummation of the proposal would have a procompetitive effect by enhancing Bank's ability to compete with the three largest banks competing in the Nashville banking market, which together hold approximately 94 percent of the total deposits held by commercial banks in the area. Based upon the foregoing, the Board concludes that consummation of the proposal would not have an adverse effect on competition in any relevant area.

The financial and managerial resources and future prospects of applicant, its subsidiary bank and Bank are satisfactory and consistent with approval. Although all major local banking needs are presently being served in the Nashville banking market, considerations relating to the convenience and needs of the communities to be served lend some weight toward approval, Bank's competitive ability should be strengthened by consummation of this proposal. Furthermore, applicant plans to expand Bank's trust services and to add international and automated customer services to those services presently offered by Bank.

It is the Board's judgment that the proposed transaction would be in the public interest, and that the application should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above, provided that the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of St. Louis pursuant to delegated authority.

It is further ordered, That upon the consummation of the proposed transaction, applicant shall not retain or acquire any nonbank shares or engage in any nonbanking activities to a greater extent or for a longer period than would apply in the case of a bank holding company which became such on the date of such consummation, except to the extent otherwise permitted in any regulation of the Board hereafter adopted specifically relating to the effect of the acquisition of an additional bank on the status of nonbank shares and activities of a one-bank holding company formed prior to 1971, or unless the Board fails to adopt any such regulation before the expiration of 2 years after the consummation of the proposed acquisition.

By order of the Board of Governors,[2] November 18, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-17137 Filed 11-23-71;8:48 am]

LINCOLN FIRST BANKS, INC.

Proposed Acquisition of Lincoln First/Baer Corp.

Lincoln First Banks, Inc., Rochester, N.Y., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(a)(8)) and § 222.4 (b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Lincoln/Baer Corp., New York, N.Y. Notice of the application was published on October 16, 1971, in The New York Times, a newspaper circulated in New York, N.Y.

Applicant states that the proposed subsidiary would perform the activities of a trust company. Such activities have been specified by the Board in § 222.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 222.4(b).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 17, 1971.

Board of Governors of the Federal Reserve System, November 17, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-17141 Filed 11-23-71;8:48 am]

MERCANTILE BANCORPORATION INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Mercantile Bancorporation Inc., St. Louis, MO, for approval of acquisition of up to 100 percent of the voting shares of Red Bridge Bank, Kansas City, MO.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Mercantile Bancorporation Inc., St. Louis, MO (Applicant) for the Board's prior approval of the acquisition of up to 100 percent of the voting shares of Red Bridge Bank, Kansas City, Mo. (Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Missouri Commissioner of Finance and requested his views and recommendation. The Commissioner offered no objection to approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on September 23, 1971 (36 F.R. 18910), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set

[1] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Maisel, Brimmer, and Sherrill. Absent and not voting: Governor Robertson.

[1] The Board of Governors, on Nov. 9, 1971, approved applicant's acquisition of a second subsidiary bank, The Banking & Trust Co., Jonesboro, Tenn. (deposits $24.5 million). That Bank is located 300 miles east of Nashville.

[2] Voting for this action: Chairman Burns and Governors Robertson, Daane, and Maisel. Absent and not voting: Governors Mitchell, Brimmer, and Sherrill.

forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the Applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant controls four banks with deposits of $1,162 million, accounting for 10.1 percent of the State's total deposits. (All banking data are as of December 31, 1970, and reflect holding company formations and acquisitions approved to date.) Bank ($8.6 million in deposits) ranks 80th of 102 banks in the Kansas City market and is the smallest of five banks within its primary service area. Applicant's closest subsidiary, the Mercantile Bank and Trust Co., Kansas City, Mo., is located approximately 13 miles from Bank and is the eighth largest bank in the Kansas City area, controlling 2.1 percent of deposits in the area's commercial banks. The Mercantile Bank and Trust Co. ($68.6 million in deposits) is a relatively large bank in the downtown area, while Bank is a small bank serving a suburban community. No significant competition exists between Bank and the Mercantile Bank and Trust Co., and in view of the number of intervening banks, Missouri's restrictive branching law, and other facts of record, it appears unlikely that such competition would develop. Consummation of the proposal would therefore have no adverse effects on existing or potential competition.

The financial and managerial resources and future prospects of Applicant, its subsidiaries, and Bank are satisfactory and consistent with approval. Applicant plans to enable Bank to expand loan and retail depository services and to initiate trust, bond, and investment services to the extent necessary to meet the growing needs of its economically developing community. Accordingly, considerations relating to the convenience and needs of the communities to be served lend some weight toward approval. It is the Board's judgment that the proposed transaction would be in the public interest and that the application should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above, provided that the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of St. Louis pursuant to delegated authority.

By order of the Board of Governors,[1] November 18, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-17138 Filed 11-23-71;8:48 am]

[1] Voting for this action: Chairman Burns and Governors Robertson, Daane, and Maisel. Absent and not voting: Governors Mitchell, Brimmer, and Sherrill.

NATIONAL COMMISSION ON STATE WORKMEN'S COMPENSATION LAWS

STATE WORKMEN'S COMPENSATION LAWS

Notice of Public Hearing

Notice is hereby given of a public hearing to be held by the National Commission on State Workmen's Compensation Laws at Room 102E, 1776 Peachtree Street NE., Atlanta, GA, commencing at 10 a.m. on January 10, 1972, and continuing through January 11, 1972. At the hearing, interested parties may make oral or written presentations of data, views, and arguments relating to the general question of whether State workmen's compensation laws provide an adequate, prompt, and equitable system of compensation, and to possible methods which might be used by, and sources of information available to, the National Commission on State Workmen's Compensation Laws in making its study and preparing its report under section 27 of the Occupational Safety and Health Act of 1970 (84 Stat. 1616).

Interested persons shall, not later than fifteen (15) days prior to the commencement of the hearing, file with the Chairman, National Commission on State Workmen's Compensation Laws, 1825 K Street NW., Washington, DC 20006, a notice of intention to appear which shall contain the following information:

1. Name and address of the person appearing.
2. The subject matter or matters to be discussed.
3. If such person is appearing in a representative capacity, the name and address of the persons or organizations he is representing.
4. The date and approximate length of time requested for his presentation.

Interested persons may also file written data, views, or arguments with the Commission at the above address.

The oral proceedings shall be stenographically reported and transcripts will be available to interested persons on payment of fees therefor. The presiding officer shall regulate the proceedings, dispose of procedural requests, objections, and comparable matters, and confine the presentation to matters pertinent to the inquiry. He shall have discretion to keep the record open after the close of the hearing to permit any person who participated in the oral presentation to submit additional data, views, and arguments responsive to the oral presentations made by other persons.

Signed at Washington, D.C., this 18th day of November 1971.

JOHN F. BURTON, JR.,
Chairman.

[FR Doc.71-17109 Filed 11-23-71;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[812-3062]

GUARDIAN INSURANCE & ANNUITY CO., INC. ET AL.

Notice of Application for Exemption from Provisions

NOVEMBER 17, 1971.

Notice is hereby given that the Guardian Insurance & Annuity Co., Inc. (Guardian), 201 Park Avenue South, New York, NY 10003, a stock life insurance company organized under the laws of Delaware, and the Guardian Variable Account 1 (Account 1), a separate account of Guardian registered as a unit investment trust under the Investment Company Act of 1940 (Act) and Glicoa Associates, Inc. (Glicoa), registered as a broker dealer under the Securities Exchange Act of 1934 and the principal underwriter of Account 1 (collectively called the "Applicants"), have filed an application pursuant to section 6(c) of the Act for an order exempting Applicants from the provisions of section 26(a)(2)(D) of the Act, to the extent noted below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Account 1 was established by Guardian in connection with the proposed sale of three types of individual variable annuity contracts which are qualified for special tax treatment under sections 401 or 403(b) of the Internal Revenue Code. A registration statement covering the proposed sale of these securities has been filed with the Commission.

The contracts will be sold by persons who are registered representatives of Glicoa and who also are insurance agents or brokers for Guardian. These persons generally will also be agents or brokers of the Guardian Life Insurance Co. of America (Guardian Life). Guardian and Glicoa are wholly-owned subsidiaries of Guardian Life. The assets of Account 1 will be exclusively invested in the shares of The Guardian Park Avenue Fund, Inc. (Fund).

Hartford National Bank Trust Co., Hartford, Conn., is the custodian for Account 1 and is also the custodian and transfer agent for the Fund.

The custody agreement for Account 1 provides, among other things, that all Fund shares and other securities and property acquired by or on behalf of Account 1 and all income upon, accretions to, and proceeds of such property and funds shall be in the possession of the custodian in safekeeping. However, the Fund maintains an open-account system through its transfer agent and, therefore, certificates for Fund shares normally are not issued unless specifically requested. The custody agreement for Account 1 provides that written confirmation from the Fund's transfer agent shall constitute "good and sufficient" record of the number of Fund shares owned by Account 2.

Section 26(a)(2)(D) of the Act, in part, provides that the trustee or custodian shall have possession of all securities and other property in which the funds are invested and shall segregate and hold the same in trust until distribution thereof. The section has been interpreted to mean that the securities owned by the trust must be actually represented by share certificates maintained in the custody of the custodian. Accordingly, Applicants have requested an exemption from the provisions of section 26(a)(2)(D) to the extent necessary to permit the custodian to accept "book shares."

Applicants state that the primary purpose of section 26(a) is to provide for the safekeeping of assets of registered unit investment trusts. Applicants contend that to require the physical issue of share certificates would not significantly add to the safekeeping qualities of the custodian's operation and would result only in additional "unnecessary" expense in the administration of Account 1.

The application states that the assets of Account 1 will be exclusively invested in the Fund. Furthermore, the custodian, in its role as custodian for Fund, has physical possession of Fund's underlying assets. Thus, Applicants contend that physical issuance of shares of Fund would not significantly increase the protection of the underlying assets of Account 1. In this regard, Applicants point out that in the mutual fund industry it has become, in the interest of economy and inefficiency, a common practice to use book accounts in the case of individual investors for the issuance of shares rather than the actual physical issue of share certificates.

The application further states that in part due to this arrangement regarding book shares, no very large administrative detail is involved in the custodian's duties for Account 1. Consequently, the fee being charged is a "modest" one which is being paid directly by Guardian and is not charged against the assets of Account 1. The fee payable to the custodian is $10 per month in addition to reimbursement of the custodian for its out-of-pocket expenses.

Applicants have consented to the requested exemption being subject to the following conditions:

a. That the charges to the contract holders under the contracts for administrative services shall not exceed such reasonable amount as the Commission shall prescribe and that the Commission may reserve jurisdiction for such purpose;

b. That the payment of sums and charges out of the assets of Account 1 shall not be deemed to be exempted from regulation by the Commission by reason of this order, provided that the Applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payment of sums and charges out of the Account 1 other than charges for administrative services, and Applicants reserve the right, in any proceeding before the Commission or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums and charges;

c. That there will be full disclosure in the prospectus of the terms of the custody agreement with regard to "book shares"; and

d. That the Fund, which will also have public shareholders, will not bear any of the custodial expenses which reasonably should have been charged to Account 1.

Section 6(c) authorizes the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 8, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71-17131 Filed 11-23-71;8:47 am]

[812-3063]

GUARDIAN INSURANCE & ANNUITY COMPANY, INC., ET AL.

Notice of Application for Exemption From Provisions

NOVEMBER 17, 1971.

Notice is hereby given that The Guardian Insurance & Annuity Co., Inc. (Guardian), a stock Life Insurance Company organized under the laws of Delaware, and The Guardian Variable Account 2 (Account 2), a separate account of Guardian registered as a unit investment trust under the Investment Company Act of 1940 (Act), and Glicoa Associates, Inc. (Glicoa), registered as a broker dealer under the Securities Exchange Act of 1934 and the principal underwriter of Account 2 (collectively called the "Applicants"), have filed an application pursuant to section 6(c) of the Act for an order exempting Applicants from the provisions of section 26(a)(2)(D) of the Act, to the extent noted below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Account 2 was established by Guardian in connection with the proposed sale of three types of individual variable annuity contracts which are not qualified for special tax treatment under sections 401 or 403(b) of the Internal Revenue Code. A registration statement covering the proposed sale of these securities has been filed with the Commission.

The contracts will be sold by persons who are registered representatives of Glicoa and who also are insurance agents or brokers for Guardian. These persons generally will also be agents or brokers of The Guardian Life Insurance Company of America (Guardian Life). Guardian and Glicoa are both wholly owned subsidiaries of Guardian Life. The assets of Account 2 will be exclusively invested in the shares of The Guardian Park Avenue Fund, Inc. (Fund).

Hartford National Bank Trust Co., Hartford, Conn., is the custodian for Account 2 and is also the custodian and transfer agent for the Fund.

The custody agreement for Account 2 provides, among other things, that all Fund shares and other securities and property acquired by or on behalf of Account 2 and all income upon, accretions to, and proceeds of such property and funds shall be in the possession of the custodian in safekeeping. However, the Fund maintains an open account system through its transfer agent and, therefore, certificates for Fund shares normally are not issued unless specifically requested. The custody agreement for Account 2 provides that written confirmation from the Fund's transfer agent shall constitute "good and sufficient" record of the number of Fund shares owned by Account 2.

Section 26(a)(2)(D) of the Act, in part, provides that the trustee or custodian shall have possession of all securities and other property in which the funds are invested and shall segregate and hold the same in trust until distribution thereof. The section has been interpreted to mean that the securities owned by the trust must be actually represented by share certificates maintained in the custody of the custodian. Accordingly, Applicants have requested an exemption from the provisions of section 26(a)(2)(D) to the extent necessary to permit the custodian to accept "book shares".

Applicants state that the primary purpose of section 26(a) is to provide for the safekeeping of assets of registered unit investment trusts. Applicants contend that to require the physical issue of share certificates would not significantly add to the safekeeping qualities of the custodian's operation and would result only in additional "unnecessary" expense in the administration of Account 2.

The application states that the assets of Account 2 will be exclusively invested in the Fund. Furthermore, the custodian, in its role as custodian for Fund, has physical possession of Fund's underlying assets. Thus, Applicants contend that physical issuance of shares of Fund would not significantly increase the protection of the underlying assets of Account 2. In this regard, Applicants point out that in the mutual fund industry it has become a common practice, in the interest of economy and efficiency, to use book accounts in the case of individual investors for the issuance of shares rather than the actual physical issue of share certificates.

The application further states that in part due to this arrangement regarding book shares, no very large administrative detail is involved in the custodian's duties for Account 2. Consequently, the fee being charged is a "modest" one which is being paid directly by Guardian and is not charged against the assets of Account 2. The fee payable to the custodian is $10 per month in addition to reimbursement of the custodian for its out-of-pocket expenses.

Applicants have consented to the requested exemption being subject to the following conditions:

a. That the charges to contractholders under the contracts for administrative services shall not exceed such reasonable amount as the Commission shall prescribe, and that the Commission may reserve jurisdiction for such purpose;

b. That the payment of sums and charges out of the assets of Account 2 shall not be deemed to be exempted from regulation by the Commission by reason of the order: *Provided*, That the Applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payment of sums and charges out of Account 2 other than charges for administrative services, and Applicants reserve the right, in any proceeding before the Commission or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums and charges;

c. That there will be full disclosure in the prospectus of the terms of the custody agreement with regard to "book shares"; and

d. That the Fund, which will also have public shareholders, will not bear any of the custodial expenses which reasonably should have been charged to Account 2.

Section 6(c) authorizes the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 8, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71-17132 Filed 11-23-71;8:47 am]

[812-3028]

MANHATTAN FUND, INC., ET AL.

Notice of Application for Order of the Act Temporarily Exempting Applicants

NOVEMBER 19, 1971.

Notice is hereby given that Manhattan Fund, Inc., Hemisphere Fund, Inc., Fundex, Inc., Liberty Fund, and TMR Appreciation Fund, Inc. (Applicants), 245 Park Avenue, New York, NY 10017, registered investment companies under the Investment Company Act of 1940 (Act) have filed an application pursuant to section 6(c) of the Act for an order, effective from November 29, 1971 until Applicant's next scheduled shareholder meetings exempting Applicants from section 16(a) of the Act. Applicants currently expect to hold such shareholder meetings between March 22 and June 21, 1972. The Applicants plan to take a course of action at their respective board meetings on November 29, 1971, to conform with the Investment Company Amendments Act of 1970. It is contemplated that as a result of this action only 60 percent of the board (3 out of 5) will have been elected by shareholders.

Tsai Management & Research Corp. (Tsai) acts as investment adviser to all of the Applicants. It also acts as underwriter of the shares of Manhattan Fund, Inc., Liberty Fund, Inc., and TMR Appreciation Fund, Inc., and at one time acted as underwriter for Fundex, Inc., which does not presently distribute its shares to the public. The fifth Applicant, Hemisphere Fund, Inc., is a closed-end investment company, which has completed its primary distribution of securities.

The Board of Directors of each Applicant for efficiency and ease of administration is comprised of the same individuals. Only four out of the present five directors of each Applicant have been elected by the shareholders. The fifth director was elected by the respective Boards in August 1971, to fill an unexpected vacancy.

In order to comply with section 10(b)(2) of the Act, as amended, effective December 14, 1971, it will be necessary for an interested director, as that term is defined in section 2(a)(19) of the Act, as amended, of three of the Applicants, namely Manhattan Fund, Inc., Liberty Fund, Inc., and TMR Appreciation Fund, Inc., to voluntarily resign and for the Board of each Fund to elect a noninterested director to fill this vacancy. Fundex Inc. and Hemisphere Fund, Inc., will make the same change. The Applicants plan to make this change at their November 29, 1971, Board meetings, rather than hold special shareholder meetings.

Section 16(a) of the Act provides in relevant part that after filling a vacancy on the board of directors of a registered investment company without a shareholder vote "at least two-thirds of the directors when holding office shall have been elected to such office by the holders of the outstanding voting securities of the company." If the vacancy is filed by the Boards only 60 per centum of the directors will have been elected by stockholders. Thus, the percentage selected by stockholders will be below the statutory standard until the next shareholders meetings.

Section 6(c) permits the Commission, upon application, to exempt such a transaction if it finds that such an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 1, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and their issues, if any, of fact or law proposed to be controverted or he may request he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy

of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit or in case of attorney at law by certificate) shall be filed contemporaneously with the request. At any time later than said date as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the information stated in such application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

GLADYS E. GREER,
Assistant Secretary.

[FR Doc.71-17160 Filed 11-23-71;8:50 am]

[70-5115]

SOUTHERN CO. ET AL.

Notice of Proposed Issue and Sale of Notes To Banks; Exception from Competitive Bidding; and Proposed Capital Contributions To Subsidiary Companies by Holding Company

NOVEMBER 18, 1971.

Notice is hereby given that The Southern Co. (Southern), a registered holding company, and four of its electric utility subsidiary companies, Alabama Power Co. (Alabama), Georgia Power Co. (Georgia), Gulf Power Co. (Gulf), and Mississippi Power Co. (Mississippi), have filed an application-declaration, and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a), 6(b), 7, and 12(f) of the Act and Rules 45 and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Southern, Alabama, Georgia, Gulf, and Mississippi propose to issue and sell unsecured notes to banks and to dealers in commercial paper, from time to time prior to December 31, 1971, up to an aggregate principal amount of $145 million outstanding at any one time in the case of Southern and approximately $108 million, $159 million, $21 million, and $20 million respectively in the cases of Alabama, Georgia, Gulf, and Mississippi. The bank notes, to be dated as of the date of issue and to mature not more than one year thereafter in the case of Southern (but not later than Mar. 31, 1973) and 9 months in the cases of Alabama, Georgia, Gulf, and Mississippi, and will bear interest at the prime rate in effect at the lending bank. The notes may be prepaid, in whole or in part, without penalty or premium. Alabama, Georgia, Gulf, and Mississippi request that the exemption afforded by section 6(b) of the Act relating to the issuance of short-term notes be increased to permit issue and sale of the notes herein proposed.

Alabama, Georgia, Gulf, and Mississippi state their respective average daily operating balances with their local banks will be adequate to meet the compensating balance requirements of such banks. The applicants state that arrangements have not been completed with regard to nonterritorial bank borrowings and related compensating balance obligations, and that the effective interest cost of the borrowings assuming a 20 percent compensating balance requirement would be 7.2 percent.

Southern, Alabama, Georgia, Gulf, and Mississippi, also propose, from time to time prior to December 31, 1972, to issue and sell commercial paper in the form of short-term promissory notes to dealers in commercial paper ("dealers"). The commercial paper notes will be issued in denominations of not less than $50,000 and not more than $5 million with varying maturities not to exceed 270 days (but will not mature later than Mar. 31, 1973, in the case of Southern) and will not be prepayable prior to maturity. The commercial paper will be sold by the issuing company directly to the dealer at a discount which will not be in excess of the discount rate per annum prevailing at the date of issuance for prime commercial paper of comparable quality and of the particular maturity. No commercial paper notes will be issued having a maturity of more than 90 days at an effective interest cost which exceeds the effective interest costs at which the issuer could borrow from banks.

It is stated that except for a commission not to exceed one-eighth of 1 percent per annum payable to the dealer selling as agent, no commission or fee will be payable in connection with the issuance and sale of commercial paper. The dealers, as principal, will reoffer the commercial paper at a discount rate of one-eighth of 1 percent per annum less than the prevailing discount rate. The commercial paper of each company will be reoffered respectively, to not more than 200 customers of each dealer identified and designated for each company in a nonpublic list prepared in advance by the dealer. No additions will be made to such list of customers which is composed of institutional investors.

Southern proposes to use the proceeds of the proposed bank loans, and commercial paper sales, together with general treasury funds, to make equity investments in the form of capital contributions to Alabama, Georgia, Gulf, and Mississippi. The capital contributions proposed to be made in 1972 are as follows: $40 million in Alabama; $84 million in Georgia; $13 million in Gulf; and $14 million in Mississippi.

Alabama, Georgia, Gulf, and Mississippi will employ the proceeds of the short-term bank notes and commercial paper to finance their construction programs, to reimburse their treasuries for prior expenditures for their respective construction programs, and to pay at maturity bank notes and commercial paper notes incurred for such purposes. The total estimated construction expenses of Alabama, Georgia, Gulf, and Mississippi for 1972 are $198,962,000, $413,438,000, $64,651,000, and $57,889,000 respectively. The subsidiary companies state that part or all of the proceeds of any future long-term financing (except for refundings) will be applied to or reduce the principal amount of their bank notes and commercial paper. Unless otherwise authorized by the Commission, any bank notes or commercial paper notes outstanding for the four subsidiary companies after December 31, 1972, will be retired from internal cash resources or from the proceeds of debt or equity financing.

Southern states it will apply the net proceeds of any sale of its shares of common stock, prior to the maturity of its bank notes or commercial paper notes, to pay in full or reduce the principal of said notes which may then be outstanding, and that any bank notes or commercial paper outstanding after December 31, 1972, will be retired from internal cash resources or from the proceeds of equity financing, not later than the end of the first calendar quarter of 1973.

Applicants request an exception from the competitive bidding requirements of Rule 50 in connection with the sale of commercial paper notes pursuant to Clause (a)(5)(B) thereof. It is stated, in this connection, that (a) all commercial paper which Applicants propose to issue and sell will have a maturity not in excess of 270 days, (b) current rates for commercial paper for prime borrowers, such as Applicants, are published daily in financial publications, and (c) it is not practical to invite invitations for bids for commercial paper.

The filing states that no commissions have been or will be paid in connection with the proposed transactions. Fees and expenses paid or incurred, or to be paid or incurred, directly or indirectly, in connection with the proposed transactions are estimated as follows:

	Southern	Alabama	Georgia	Gulf	Mississippi	Total
Legal fees	$1,500	$500	$500	$500	$500	$3,500
Miscellaneous	700	300	300	200	200	1,700
Total	2,200	800	800	700	700	5,200

The issuance by Alabama of their notes has been expressly authorized by the Alabama Public Service Commission, and the issuance by Gulf of their notes will require the authorization of the Florida Public Service Commission; no

other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Applicants request authority to file a certificate of notification under Rule 24 m respect of sales of its commercial paper notes as herein proposed within 30 days after the end of each calendar quarter.

Notice is further given that any interested person may, not later than December 10, 1970, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-17133 Filed 11-23-71;8:47 am]

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-5289]

COALITION SMALL BUSINESS INVESTMENT COMPANY CORP.

Notice of Issuance of License To Operate as a Minority Enterprise Small Business Investment Company

On October 29, 1971, a notice was published in the FEDERAL REGISTER (36 F.R. 20806) stating that Coalition Small Business Investment Company Corp., 131 East 23d Street, New York, NY 10010, had filed an application with the Small Business Administration, pursuant to § 107.102 of the SBA rules and regulations governing small business investment companies (13 CFR 107.102 (1971)) for a license to operate as a minority enterprise small business investment company (MESBIC).

Interested parties were given to the close of business November 13, 1971, to submit their written comments to SBA.

Notice is hereby given that, having considered the application and all other pertinent information, SBA has issued License No. 02/02-5289 to Coalition Small Business Investment Company Corp., pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended.

Dated: November 17, 1971.

STEPHEN H. BEDWELL, *Acting Associate Administrator for Operations and Investment.*

[FR Doc.71-17103 Filed 11-23-71;8:45 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

NOVEMBER 19, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 42125 Sub 1, Overland Express International, Inc., heard November 8, 1971, at Lansing, Mich., and continued to December 2, 1971, in Room 380, Seven Story State Office Building, Lansing, Mich.

MC 117465 Sub 17, Beaver Express, assigned January 24, 1972, at Santa Fe, N.Mex., postponed to February 7, 1972, at Amarillo, Tex.

MC 135497 Sub 1, I-5 Freightline, now assigned January 17, 1972, at Portland, Oreg., in the Auditorium, Blue Cross Building, 100 Southwest Market Street.

MC 107456 Sub 19, Harry L. Young and Sons, Inc., now being assigned January 31, 1972, at Salt Lake City, Utah, on February 7, 1972, at Los Angeles, Calif., on February 14, 1972, at San Francisco, Calif., in hearing rooms to be designated later.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-17150 Filed 11-23-71;8:49 am]

FOURTH SECTION APPLICATION FOR RELIEF

NOVEMBER 19, 1971.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42309—*Scrap iron or steel articles from Louisville, Ky.* Filed by Traffic Executive Association—Eastern Railroads, Agent (E.R. No. 3010), for interested rail carriers. Rates on scrap iron or steel articles, in carloads, as described in the application, from Louisville, Ky., to Portsmouth and New Boston, Ohio.

Grounds for relief—Barge-truck competition.

Tariff—Supplement 64 to Traffic Executive Association—Eastern Railroads, agent, tariff ICC C-689. Rates are published to become effective on December 20, 1971.

By the Commission.

ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-17149 Filed 11-23-71;8:49 am]

[S.O. No. 1079; Amdt. 2]

C. S. GREENE & CO., INC.

Authorization To Operate to Halifax, Nova Scotia, and Montreal, Quebec, Canada and Other Ports

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 17th day of November 1971.

Upon further consideration of Service Order No. 1079 (36 F.R. 19721, 20808), and good cause appearing therefor:

It is ordered, That pursuant to sections 1 (16) and 420 of the Interstate Commerce Act, 49 U.S.C. 1 (16) and 1020, Service Order No. 1079 be, and it is hereby, further amended by extending the expiration date thereof from 11:59 p.m., November 20, 1971, to 11:59 p.m., December 15, 1971, unless otherwise modified, changed, or suspended by order of this Commission.

It is further ordered, That copy of this amendment shall be served upon C. S. Greene & Co., Inc., and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-17153 Filed 11-23-71;8:49 am]

[S. O. No. 1080; Amdt. 2]

NEW ENGLAND FORWARDING CO., INC.

Authorization To Operate Through Halifax, Nova Scotia, and Other Canadian Ports

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 17th day of November, 1971.

Upon further consideration of Service Order No. 1080 (36 F.R. 20467, 21239), and good cause appearing therefor:

It is ordered, That pursuant to sections 1(16) and 420 of the Interstate Commerce Act, 49 U.S.C. 1(16) and 1020, Service Order No. 1080 be, and it is hereby, further amended by extending the expiration rate thereof from 11:59 p.m., November 20, 1971, to 11:59 p.m., December 15, 1971, unless otherwise modified, changed, or suspended by order of the Commission.

It is further ordered, That copy of this amendment shall be served upon New England Forwarding Co., Inc., and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-17154 Filed 11-23-71;8:49 am]

[Suspension Docket No. 8688; Sub No. 2]

STABILIZATION OF RATES AND CHARGES

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 19th day of November 1971.

It appearing, that solely to implement the provisions of Executive Order 11627 dated October 15, 1971, the Commission, by orders dated November 8, 1971, and November 19, 1971, suspended for an indefinite period the operation of certain schedules containing increased rates, fares and charges and rules, regulations and practices having the effect of increasing rates, fares and charges, applicable on interstate and foreign commerce;

It further appearing, that pursuant to the provisions of Executive Order 11627 the Price Commission has established guidelines and regulations applicable to carriers subject to the jurisdiction of this Commission.

And it further appearing, that certain of the schedules described above are in conformity with the said guidelines and regulations and that it is incumbent upon this Commission to provide an equitable and expeditious means to permit the effectiveness of such schedules and that such action will be consistent with the purposes of the Economic Stabilization Act of 1970, as amended; and good cause appearing therefor:

It is ordered, That the said orders of November 8, 1971, and November 19, 1971, be, and they are hereby, vacated and set aside insofar as they indefinitely suspended the operation of said schedules and that vacation of suspension be limited to and conditioned upon the following:

1. That supplements containing notice of indefinite suspension as required by said orders of November 8, 1971, and November 19, 1971, were or will be filed with this Commission.

2. That new supplements be filed with this Commission identifying specifically those increased rates, charges, rules, regulations, and practices now under indefinite suspension and which are believed to be in conformity with the said guidelines and regulations of the Price Commission and that a statement in compliance with the provisions in Appendix A so certifying be filed with or contained in such supplements.

3. That the new supplements so filed shall provide for the effectiveness of the identified provisions upon not less than 10 days notice (but in no event earlier than the published effective date of such provisions) to this Commission and to the public and shall direct the cancellation (in whole or in part) of the supplement(s) containing notice of indefinite suspension.

4. That supplements authorized under this order shall be filed with this Commission within 30 days of the date of publication of this order in the FEDERAL REGISTER.

It is further ordered, That except as provided above, the said orders of November 8, 1971, and November 19, 1971, shall remain in full force and effect and that carriers or their agents be, and they are hereby, directed to cancel all schedules continued under indefinite suspension beyond 30 days from the date that this order is published in the FEDERAL REGISTER by appropriate tariff publications filed upon not less than one (1) day's notice under authority of this order.

It is further ordered, That the provisions of this order are without prejudice to any other action which has been or may be taken by this Commission as to the schedules under suspension.

And it is further ordered, That a copy of this order be posted in the Office of the Secretary and in the section of Tariffs of the Interstate Commerce Commission and that a copy be delivered to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER, and that all carriers subject to the jurisdiction of the Interstate Commerce Commission be, and they are hereby, made respondents to this order.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

APPENDIX A

Information required to be shown in certified statements filed pursuant to this order:

a. For carriers which had gross revenues of $50 million or more during their most recent fiscal year, all schedules proposing reportable increases as defined in 49 CFR 1311.0(c) must be accompanied by a supporting statement which must—

1. Identify each change in the schedule which would result in a reportable increase.

2. State the percentage of the proposed reportable increase.

3. Provide cost justification for the proposed reportable increase and explain the manner in which any productivity gain was taken into account.

4. State the effect of the reportable increase on the carrier's pretax profit margin.

b. For all other carriers, all schedules proposing reportable increases as defined in 49 CFR 1311.0(c) must be accompanied by a supporting statement which must—

1. Identify each change in the schedule which would result in a reportable increase.

2. State the percentage of the proposed reportable increase.

[FR Doc.71-17263 Filed 11-23-71;8:51 am]

[Notice 37]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

NOVEMBER 19, 1971.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-33641 (Deviation No. 26), IML FREIGHT, INC., Post Office Box 2277, Salt Lake City, UT 34110, filed November 9, 1971. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Wells, Nev., over U.S. Highway 93 to junction U.S. Highway 30 near Filer, Idaho, thence over U.S. Highway 30 to Twin Falls, Idaho, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Wells, Nev., over U.S. Highway 40 to Salt Lake City, Utah, thence over U.S. Highway 91 to Brigham City, Utah, thence over U.S. Highway 30S to Burley, Idaho, thence over U.S. Highway 30 to Twin Falls, Idaho, and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-17145 Filed 11-23-71;8:48 am]

[Notice 92]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

NOVEMBER 19, 1971.

The following publications are governed by the new Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 23196 (Sub-No. 9) (Republication), filed May 5, 1970, published in the FEDERAL REGISTER issue of May 28, 1970, under the name of David Weiss and Murray Weiss, a partnership, doing business as Weiss Transportation Co., and republished this issue under substituted applicant's name this issue. Applicant: WEISS TRANSPORTATION COMPANY, a corporation, Richmond and Cambria Streets, Philadelphia, Pa. 19134. Applicant's representative: M. Mark Mendel, 1440 P.S.S.F. Building, Philadelphia, Pa. 19107. A report and order of the Commission, Division 1, Acting as an Appellate Division, decided October 12, 1971, and served October 20, 1971, finds; that the public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of household and commercial appliances from Philadelphia, Pa., to points in Delaware and that part of New Jersey south of New Jersey Highway 33; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons, who may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings of this report, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 135061 (Republication), filed October 29, 1970, published in the FEDERAL REGISTER issue of November 26, 1970, and republished this issue. Applicant: LABELLE EXPRESS LIMITEE, 10339 A St. Laurent, Montreal, PQ, Canada. A report and order of the Commission, Review Board Number 4, decided October 18, 1971, and served November 9, 1971, finds; that the present and future public convenience and necessity require operation by applicant, in foreign commerce, as a common carrier by motor vehicle, over irregular routes, of objects of art, between ports of entry on the International Boundary line between the United States and Canada located in the United States, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). Because it is possible that other persons, who have relied upon the notice of the application as published may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings of this report, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 135655 (Republication), filed May 24, 1971, published in the FEDERAL REGISTER issue of June 24, 1971, and republished this issue. Applicant: STIDHAM TRUCKING, INC., 645 West Lennox Street, Yreka, CA 96097. Applicant's representative: John Paul Fischer, 140 Montgomery Street, San Francisco, CA 94104. An order of the Commission, Operating Rights Board, dated October 15, 1971, and served November 9, 1971, finds; that operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of light weight aggregates, from the facilities of B.S.B. Cinder Co. in Siskiyou County, Calif., to points in Jackson and Josephine Counties, Oreg., under a continuing contract with B.S.B. Cinder Co. of Montague, Calif., will be consistent with the public interest and the national transportation policy. Because it is possible that other parties who have relied upon the notice in the FEDERAL REGISTER of the application as originally published may have an interest in and would be prejudiced by the lack of proper notice of the grant of authority in the findings herein, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of the permit in this processing will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in the proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 76 (Notice of filing of petition for waiver of Rule 1.101(e), for reconsideration, and for modification of certificate), filed November 5, 1971. Petitioner: MAWSON & MAWSON, INC., Langhorne, Pa. Petitioner's representative: Paul F. Sullivan, Suite 711, Washington Building, 15th and New York Avenue NW., Washington, DC 20005. Petitioner states it holds authority in certificate No. MC 76, issued February 13, 1952, authorizing operations as a motor common carrier, as follows: "Irregular routes: *General commodities*, except those of unusual value and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Philadelphia, Pa. *Building materials*, between Philadelphia, Pa., on the one hand, and, on the other, points in New York, New Jersey, and Delaware. *Lumber, flooring, floor finishing materials*, and building materials, from Philadelphia, Pa., to points in Maryland, and return with no transportation for compensation except as otherwise authorized. *Steel, steel products, and heavy machinery*, between Philadelphia, Pa., and points in Pennsylvania within 150 miles of Philadelphia, on the one hand, and, on the other, points in New York, New Jersey, Delaware, and Maryland. *Contractors' supplies and equipment*, between Philadelphia, Pa., and points in Pennsylvania, within 150 miles of Philadelphia, on the one hand, and, on the other, points in New Jersey, Delaware, and the District of Columbia. *Prepared food products*, between Philadelphia, Pa., on the one hand, and, on the other, points in Delaware, Maryland, and New Jersey.

"*Wrought steel pipe and fittings*, in truckload lots, between Philadelphia, Pa., and points in Pennsylvania within 150 miles of Philadelphia, on the one hand, and, on the other, points in New Jersey and Delaware. *Magazines, periodicals, and papers*, between Philadelphia, Pa., and New York, N.Y. *Compressed gases*, in cylinders, from Philadelphia, Pa., to points in New Jersey and Delaware. *Empty cylinders for compressed gases*, from points in New Jersey and Delaware to Philadelphia, Pa. Any repetition in the statement of authority granted herein shall be construed as conferring only a single operating right." Petitioner states that various factors, now requiring modification of the subject petitioner's certificates, were not present at the time of their issuance, nor could they have been reasonably foreseen. Petitioner or its predecessors had no way of knowing when it was granted authority to transport "heavy machinery" that such authority would take on a different meaning throughout the years than envisaged in the Classification case, infra, and that such authority would be reduced in scope by interpretative decisions so that it would not allow the holder of such authority to perform a complete heavy-hauling service. Petitioner further states this petition is directed to its interstate operating authority, as contained in its certificate of public convenience and necessity No. MC-76, which authorizes, among other things, the transportation of:

"*Steel, steel products, and heavy machinery* between Philadelphia, Pa., and points in Pennsylvania within 150 miles of Philadelphia, on the one hand, and, on the other, points in New York, New Jersey, Delaware, and Maryland."

The subject petition concerns only a portion of petitioner's base certificate. It does not concern any of its other certificates. By the instant petition, Petitioner states it is here seeking similar relief, as accorded other heavy-specialized motor carriers in the past. Petitioner would have the involved commodity description in its base certificate modified so to read as follows: "Steel, steel products, and commodities, the transportation of which because of size or weight requires special handling or special equipment and related contractors' materials, supplies, and equipment, when the transportation by said carrier of commodities which by reason of size or weight require special handling or special equipment." in lieu of the present description which reads: "Steel, steel products, and heavy machinery." Any interested person desiring to participate may file an original and six copies of his written representations, views, or arguments, in support of, or against the petition within 30 days from the date of this publication in the FEDERAL REGISTER. Any repetition in the statement of authority granted herein shall be construed as conferring only a single operating right.

No. MC 52709 (Sub-No. 64) (Notice of Filing of Petition for Amendment of Certificate), filed October 22, 1971. Petitioner: RINGSBY TRUCK LINES, INC., Denver, Colo. Petitioner's representative: Wayne E. Lucore, Post Office Box 192, Littleton, CO. By petition filed as indicated above, petitioner requests that a portion of its Certificate No. MC-52709 described hereinunder be amended under provisions of section 212(a) of the Interstate Commerce Act through the deletion of restrictions as set forth hereinafter. Petitioner states it is authorized to perform transportation service under MC 52709 Sub 64, which contains the following regular route authority: General commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk other than salt, and commodities requiring special equipment, between Beatrice, Nebr., and St. Louis, Mo., serving the intermediate point of Kansas City, Mo., with service at said intermediate point and St. Louis, Mo., being restricted to traffic moving between Kansas City, Mo., and St. Louis, Mo., only, on the one hand, and, on the other, points authorized to be served by the carrier which are located west of Beatrice, Nebr.; from Beatrice over U.S. Highway 77 to junction U.S. Highway 36, thence over U.S. Highway 36 to junction U.S. Highway 71, thence over U.S. Highway 71 to Kansas City, Mo., thence over U.S. Highway 40 to St. Louis, and return over the same route. Petitioner states it hereby alleges and believes:

(1) That it would be in the public interest to cancel or amend the phrase from the above authority reading "with service at said intermediate point and at St. Louis, Mo. being restricted to traffic moving between Kansas City, Mo. and St. Louis, Mo., only, on the one hand, and, on the other, points authorized to be served by the carrier which are located west of Beatrice, Nebr."; (2) that the restriction prevents petitioner from performing an efficient, complete service to and from its Kansas City and St. Louis terminals; (3) that petitioner may by reason of the restriction perform certain service by a more costly interline method which were it not for the restriction, it could perform direct; (4) that the restriction is administratively undesirable and could be subject to varying interpretations at various times; (5) that the need or compelling reason for the restriction has expired or is not sufficient to outweigh the public need for a complete service by petitioner; (6) that if a continuing restriction is deemed necessary, it be reworded in a positive manner to preclude the transportation of certain traffic which Ringsby may not handle. Any interested person or persons desiring to participate and to be heard in the matter may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of this publication in the FEDERAL REGISTER.

No. MC 113678 (Sub-No. 133) (Notice of Filing of Petition for Modification of Certificate), filed November 4, 1971. Petitioner: CURTIS, INC., Denver, Colo. Petitioner's representative: Richard A. Peterson, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. Petitioner states it is a motor common carrier specializing in the transportation of perishable foodstuffs. On September 20, 1968, petitioner was issued a certificate in No. MC 113678 (Sub-No. 133), authorizing operations as follows: "Irregular routes: *Food products* (except liquids, in bulk), in vehicles equipped with mechanical refrigeration, from points in the New York, N.Y., commercial zone, as defined by the Commission, and points in Union County, N.J., to points in Colorado, Indiana, Illinois, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, and West Virginia, with no transportation for compensation on return except as otherwise authorized. *Food products* (except frozen foods, and liquids, in bulk), in vehicles equipped with mechanical refrigeration, from points in the New York, N.Y., commercial zone, and points in Union County, N.J., to points in Kansas, with no transportation for compensation on return except as otherwise authorized. *Food products* (except liquids, in bulk), from points in Union County, N.J., to points in Nebraska, with no transportation for compensation on return except as otherwise authorized. *Advertising materials, supplies, display materials, and premiums*, when moving at the same time and in the same vehicle with the commodities described hereinabove, from points in the origin territory described in the three paragraphs above, to their respective destination points, with no transportation for compensation on return except as otherwise authorized.

"Condition: At the close of each year for a period of 3 years from the date of issuance of this certificate, the above-named carrier shall file with the Commission's Bureau of Economics a 'Performance Report' required by the Decision and Order entered in this proceeding February 8, 1968. Such further terms, conditions, and limitations as the Commission in the future may find necessary to impose in order to insure that carrier's operations comport with the type of service the supporting shipper is shown to require on this record. The authority granted herein to the extent that it duplicates any authority heretofore granted to or now held by carrier shall not be conferring more than one operating right." By the instant petition, petitioner requests modification of the above-described certificate by authorizing service thereunder from the terminal facilities of Curtis, Inc., located in Carlstadt, N.J. In support of its petition, petitioner states, as herein pertinent, that since the issuance of its Sub 133 certificate, it has been performing service thereunder. Included in that service was the transportation of shipments, primarily in LTL quantities, which were tendered to petitioner at its terminal by the shippers thereof or by other carriers. Petitioner transported these shipments to destination it was authorized to serve in its Sub 133; to destinations it could serve by tacking its Sub 133 with other authority held by Curtis; and to destinations not served directly by petitioner but which are served on a joint-line basis by interlining the traffic, usually at Denver, Colo., with delivering carriers. Petitioner terminal at which such traffic was received was located at 5455 Tonnelle Avenue, North Bergen, N.J., during the period from September 20, 1968 (the date the Sub 133 certificate was issued) until October 1, 1971. North Bergen, N.J. is located in the New York, N.Y., commercial zone, as defined by the Commission and was therefore a point at which Curtis was authorized to originate traffic.

On October 1, 1971, petitioner closed its North Bergen, N.J., terminal and moved into facilities which it had purchased in Carlstadt, N.J. Even though its new terminal at Carlstadt, N.J., is less than 5 miles from its former terminal in North Bergen, it is nevertheless not located in the New York, N.Y., commercial zone, nor is it in Union County, N.J. Petitioner does not have any terminal facilities in the States of New York or New Jersey except the terminal at Carlstadt, N.J. Because the Carlstadt terminal is not within the origin area it can serve under our Sub 133, petitioner is no longer authorized to accept shipments tendered to it at that terminal for delivery to points it can serve directly or by interlining. Petitioner requests the Commission make and enter an order modifying said certificate to read as follows: "Irregular routes: *Food products* (except liquids, in bulk), in vehicles equipped with mechanical refrigeration, from points in the New York, N.Y., commercial zone, as defined by the Commission, points in Union County, N.J., and the terminal facilities of Curtis, Inc., in Carlstadt, N.J., to points in Colorado, Indiana, Illinois, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, and

West Virginia, with no transportation for compensation on return except as otherwise authorized. *Food products* (except frozen foods, and liquids in bulk) in vehicles equipped with mechanical refrigeration, from points in the New York, N.Y., commercial zone, as defined by the Commission, points in Union County, N.J., and the terminal facilities of Curtis, Inc., in Carlstadt, N.J., to points in Kansas, with no transportation for compensation on return except as otherwise authorized. *Food products* (except liquids, in bulk), from the terminal facilities of Curtis, Inc., in Carlstadt, N.J., and points in Union County, N.J., to points in Nebraska, with no transportation for compensation on return except as otherwise authorized." Any interested person desiring to participate may file an original and six copies of his written representations, views, or arguments, in support of, or against the petition within 30 days from the date of this publication in the FEDERAL REGISTER.

No. MC 125785 (Subs Nos. 2 and 4) (Notice of Filing of Petition To Add Contract of MIDWEST CORDAGE CO., INC.), filed October 29, 1971. Petitioner: SATURN EXPRESS, The Plaza 90 Building, Room 206, 90th and L Street, Omaha, NE. Petitioner states it holds authority as a motor contract carrier of property under various permits issued under MC 125785 and subs thereto. Petitioner states that as here pertinent it holds authority in its Sub 2 permit to transport sisal products from Philadelphia, Pa., to points in New Jersey, New York, and Pennsylvania, also under sub 2, Petitioner may transport sisal products from New Orleans, La., to points in Alabama, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Wisconsin, and Wyoming. Petitioner further states that under its Sub 4 permit it holds authority to transport sisal products from Houston, Tex., to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Wisconsin, and Wyoming. Petitioner further states it is currently transporting sisal products under a continuing contract with Dan H. Shield Cordage Co., under the authority set forth in its subs 2 and 4 above. Petitioner is advised that the distribution patterns of Dan H. Shield Cordage Co., will be altered in the very near future due to the acquisition of that company by Victor M. Barredo, who is also president and general manager of Midwest Cordage Co., Inc. Midwest Cordage Co., Inc. has requested petitioner to perform the same kind and type of service as it is presently furnishing for Dan H. Shield Cordage Co. The purchase of Dan H. Shield Cordage Co., and its operation by Mr. Barredo means that shipments of sisal products consigned to both Dan H. Shield Cordage and Midwest Cordage will on occasion move on the same vehicle. This necessitated the petitioner's requests for an addition of Midwest Cordage Co., Inc. as a contracting shipper to the authority presently held in Petitioner's Subs 2 and 4. Any interested person desiring to participate may file an original and six copies of his written representations, views, or arguments, in support of, or against the petition within 30 days from the date of this publication in the FEDERAL REGISTER.

No. MC 128860 (Notice of Filing of Petition for Modification of Permit To Add Additional Contracting Shipper), filed November 10, 1971. Petitioner: LARRY'S EXPRESS, INC., Tomah, Wis. Petitioner's representative: Edward Solie, Executive Building—Suite 100, 4513 Vernon Boulevard, Madison, WI 53705. Petitioner holds a permit in No. MC 128860 to conduct operations in interstate or foreign commerce, as a motor contract carrier, transporting, among other things: *Malt beverages and related advertising materials, and premiums, and malt beverage dispensing equipment* in mixed loads with malt beverages, from Denver, Colo., St. Louis, Mo., La Crosse, Wis., Chicago, Ill., South Bend, Ind., Detroit, Mich., New York, N.Y., and Newark, N.J., to Minneapolis, Minn., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized above are limited to a transportation service to be performed under a continuing contract, or contracts, with Kuether Distributing Co., of Minneapolis, Minn. By the instant petition, petitioner seeks to enter into a continuing contract, or contracts with petitioner to authorize operations as a contract motor carrier, over irregular routes, transporting: Malt beverages and related advertising materials, and premiums, and malt beverage dispensing equipment, in mixed loads with malt beverages, from St. Louis, Mo., La Crosse, Wis., Chicago, Ill., Detroit, Mich., and Newark, N.J., to St. Paul, Minn. Any interested person desiring to participate may file an original and six copies of his written representations, views, or arguments, in support of, or against the petition within 30 days from the date of this publication in the FEDERAL REGISTER.

No. MC 129080, MC 129080 Sub-No. 1 and MC 129080 Sub-No. 2 (Notice of filing of petition to modify permits by adding Kearny, N.J.) filed November 9, 1971. Petitioner: CHARLES CORBISHLEY, doing business as QUICKWAY, 24 West Airmount Road, Mahwah, N.J. 07438. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. By petition filed as indicated above, Petitioner states it holds authority as follows: "MC 129080, irregular routes: *Dresses* on hangers and *such commodities* as are dealt in or used by chain grocery or department stores, from Paramus, N.J., to points in Broome, Chemung, Cortland; Dutchess, Orange, and Rockland Counties, N.Y., and Fairfield, Hartford, and New Haven Counties, Conn., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with the Grand Union Co. of East Paterson, N.J.; MC 129080 Sub 1, irregular routes: *Dresses on hangers, and such commodities* as are dealt in or used by chain grocery or department stores, from Paramus and Mahwah, N.J., to points in Albany and Clinton Counties, N.Y., Chester, and Northumberland Counties, Pa., and Chittenden County, Vt., and *Surplus and damaged merchandise*, from the above-named destination points, to Paramus and Mahwah, N.J. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Grand Union Co., East Paterson, N.J.; MC 129080 Sub 2, irregular routes: *Dresses* on hangers, and *such commodities* as are sold by grocery and department stores, from Paramus and Mahwah, N.J., to points in Oneida County, N.Y. and *Returned shipments* of the above-described commodities, from points in Oneida County, N.Y., to Paramus and Mahwah, N.J.

"Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Grand Union Co., of East Paterson, N.J." by the instant petition, petitioner states it seeks to amend the above-described permits by adding Kearny, N.J., as an origin point. If granted, the amendment would permit petitioner to originate traffic from Mahwah, Paramus, and Kearny, N.J., and a destination point for returned, surplus, or damaged merchandise, as shown as follows: "MC 129080, irregular routes: *Dresses on hangers* and *such commodities* as are dealt in or used by chain grocery or department stores, from Paramus, N.J., and Kearny, N.J., to points in Broome, Cheming, Cortland, Dutchess, Orange, and Rockland Counties, N.Y., and Fairfield, Hartford, and New Haven Counties, Conn., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Grand Union Co. of East Paterson, N.J.; MC 129080 Sub 1, irregular routes: *Dresses on hangers, and such commodities* as are dealt in or used by chain grocery or department stores, from Paramus and Mahwah, N.J., to points in Albany and Clinton Counties, N.Y., Chester, and Northumberland Counties, Pa., and Chittenden County, Vt., and *Surplus and damaged merchandise*, from the above-named destination points, to Paramus and Mahwah, N.J. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Grand Union Co., East Paterson, N.J.; MC 129080 Sub 2, irregular routes: *Dresses* on hangers, and *such commodities* as are sold by grocery and department stores, from Paramus, Mahwah, and Kearny, N.J., to points in Oneida County, N.Y. and *Returned shipments* of the above-described commodities, from points in Oneida County, N.Y. to Paramus, Mahwah, and Kearny, N.J. "Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Grand Union Co. of East Paterson, N.J." Petitioner states no duplicating authority is sought, and there would be no change in the contracting shipper or destination territory. Any interested person desiring to participate may file an original and six copies of his written representations, views, or arguments, in support of, or against the petition within 30 days from the date of this publication in the FEDERAL REGISTER.

No. MC 135056 (Notice of filing of petition for modification and amendment of existing permit), filed November 4, 1971. Petitioner: MJR ENTERPRISES, a corporation, 12500 Inglewood Avenue, Hawthorne, CA 90250. Petitioner's representative: Donald Murchison, Suite 400, Glendale Federal Building, 9454 Wilshire Boulevard, Beverly Hills, CA 90212. Petitioner states it presently holds authority as a motor contract carrier in permit No. MC 135056 issued September 9, 1971, authorizing operations as follows: "Irregular routes: *Such merchandise* as is usually dealt in by chain retail furniture stores, (1) between points in California; (2) between points in California, on the one hand, and, on the other, points in Arizona, Colorado, Idaho, Nevada, Oregon, Utah, and Washington; (3) from Salt Lake City and Ogden, Utah, to points in Idaho, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with McMahon Furniture Co., of Los Angeles, Calif. "By the instant petition, Petitioner seeks to modify and amend in part its permit No. MC 135056 by *first* adding the following territorial authorization in *lieu* of the authority described in (2) above to read: "Between points in California including ports of entry on the international boundary line between the United States and Mexico at or near Calexico and San Ysidro, on the one hand, and, on the other, points in the United States (except Hawaii)." *Secondly*, change existing commodity description by adding thereto "retail" furniture stores, so that the commodity to be transported will read: *Such merchandise* as is usually dealt in by retail and chain retail furniture stores. Petitioner further states that since modification and amendment sought in instant proposal, embraces, includes and thereby, duplicates the commodities, and *in part* the scope-of-service now held by petitioner in MC–135056, petitioner presents the following plan for possible simplification: Upon (A) the grant of the modification and amendment sought and included in the issuance of a permit, and (B) the inclusion in said permit of the scope-of-service now held which is not subject to or part of instant petition (i.e., above items (1) and (3)) Petitioner requests the coincidental cancellation of permit MC–135056. Petitioner does not seek, need or desire duplicate rights. Any interested person desiring to participate may file an original and six copies of his written representations, views, or arguments, in support of, or against the petition within 30 days from the date of this publication in the FEDERAL REGISTER.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 97699 (Sub-No. 33), filed October 20, 1971. Applicant: BARBER TRANSPORTATION CO., a corporation, Post Office Drawer 2047, Rapid City, SD 57701. Applicant's representative: Marion F. Jones, 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Belle Fourche, S. Dak., and Amidon, N. Dak., over U.S. Highway 85, with authority to serve intermediate points between Amidon, N. Dak., and Bowman, N. Dak., including Bowman, N. Dak. NOTE: This application is a matter directly related to MC–F–11546, published in the FEDERAL REGISTER issue of October 28, 1971. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's Special Rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240.)

MOTOR CARRIERS OF PROPERTY

No. MC–F–10955. (Amendment) (GILPIN COUNTY EXPRESS AND TRUCK LINE, INC.—Purchase (Portion)—DENVER-CLIMAX TRUCK LINE, INC.), published in the September 30, 1970, issue of the FEDERAL REGISTER on page 15270. Amendment filed November 12, 1971, concurrently with petition seeking reconsideration of the order of the Board served August 17, 1971, accompanied by the amendment to the application substituting MOUNTAIN MOTORWAY, INC., as the purchaser in lieu of GILPIN COUNTY EXPRESS AND TRUCK LINE, INC. In the earlier publication in the FEDERAL REGISTER there were described operating rights to be purchased, as then proposed. Under the above-described petition and amendment, MOUNTAIN MOTORWAY, INC., 1546 Miner Street, Idaho Springs, CO 80452, the new transferee, seeks to purchase those rights. Application has been filed for temporary authority under section 210a(b). NOTE: MC–116722 Sub-18 is a matter directly related.

No. MC–F–11349. Authority sought for purchase by SALT CREEK FREIGHTWAYS, 3333 West Yellowstone, Casper, WY 82644, of a portion of the operating rights of HOUCH TRANSPORT COMPANY, Box 559, Glendive, MT 59330, and for acquisition by WILLIAM UTZINGER, WILLIAM D. UTZINGER AND C. E. OGDEN, all of Casper, Wyo. 82644, of control of such rights through the purchase. Applicants' attorneys: John R. Davidson, Room 805, Midland Bank Building, Billings, Mont. 59101, and Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60607. Operating rights sought to be transferred: *General commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, as a *common carrier* over irregular routes, between points in Crook County, Wyo., on the one hand, and, on the other, points in Lawrence and Butte Counties, S. Dak.; *feed and farm machinery*, from Rapid City and Belle Fourche, S. Dak., to points in Crook County, Wyo.; *livestock, wool, grain, lumber, and ties*, from points in Crook County, Wyo., to rail heads in Crook County. Vendee is authorized to operate as a *common carrier* in Montana, Wyoming, Colorado, and Nebraska. Application has been filed for temporary authority under section 210a(b). NOTE: MC–59856 Sub-44 is a matter directly related.

No. MC–F–11367. Authority sought for purchase by COOPER MOTOR LINES, INC., Post Office Box 4255, Park Place (301 Hammet Street), Greenville, SC 29608, of a portion of the operating rights STAR TRANSPORT CO., INC., 4710 Hollins Ferry Road, Baltimore, MD 21227, and for acquisition by CALHOUN LEMON, CHARLES F. COOPER, RICHARD L. FEW, and CHARLES J. PREZIOSO, all of Post Office Box 4255, Greenville, SC 29608, of control of such rights through the purchase. Applicants' attorney: Daniel B. Johnson, 716 Perpetual Building, 1111 E Street NW., Washington, DC 20004. Operating rights sought to be transferred: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier* over irregular routes, between points in Cumberland and Salem Counties, N.J., on the one hand, and on the other, points in that part of Pennsylvania east of the Susquehanna River. Vendee is authorized to operate as a *common carrier* in South Carolina, Virginia, Maryland, Pennsylvania, New Jersey, New York, North Carolina, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11368. Authority sought for purchase by NEW PENN MOTOR EXPRESS, INC., 18 East Weidman Street, Lebanon, PA, of the operating rights of

POCONO MOTOR FREIGHT TERMINAL, INC., U.S. Route No. 209, Post Office Box 149, Stroudsburg, PA 18360, and for acquisition by HENRY R. ARNOLD, 18 East Weidman Street, Lebanon, PA, of control of such rights through the purchase. Applicants' attorney: S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. 20005. Operating rights sought to be transferred: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, as a *common carrier* over irregular routes, between points in a territory composed of Stroudsburg, East Stroudsburg, and Stroud Township, Monroe County, Pa., between points in a ritory composed of Stroudsburg, East Stroudsburg, and Stroud Township, Monroe County, Pa., on the one hand, and, on the other, points in that part of Pike County, Pa., on and south of a line extending along U.S. Highway 6 through Shohola Falls and Milford, Pa., points in that part of Monroe County, Pa., north of U.S. Highway 209, and points in that part of New Jersey within 25 miles of Stroudsburg, Pa., which are on and north of a line beginning at Belvidere, N.J., and extending along Warren County (N.J.) Highway 519 to junction U.S. Highway 46, thence along U.S. Highway 46 through Buttzville, Pequest, Townsburg, Great Meadows, Hackettstown, and Budd Lake; N.J., to Netcong, N.J., between Stroudsburg and East Stroudsburg, Pa., on the one hand, and, on the other, points in Pennsylvania within 35 miles of Stroudsburg and East Stroudsburg, thence over U.S. Highway 46 through Buttzville, Pequest, Townsburg, Great Meadows, Hackettstown, and Budd Lake, N.J., to Netcong, N.J., with restriction; and *machinery, materials and supplies* used in the maintenace of gold courses, and *parts of such machinery*, from Newark, N.J., and Stroudsburg, Pa., to points in New Jersey, points in Fairfield, New Haven, and Litchfield Counties, Conn., and points in that part of New York south of the boundary line between the United States and Canada, and on and east of a line beginning at Oswego, N.Y., and extending along New York Highway 57 to Syracuse, N.Y., and thence along U.S. Highway 11 to the New York-Pennsylvania State line. Vendee is authorized to operate as a *common carrier* in New York, Pennsylvania, New Jersey, Delaware, Maryland, West Virginia, Ohio, Virginia, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11369. Authority sought for purchase by ACME CARRIERS, INC., 216 Third Street, Brooklyn, NY 11215, of a portion of the operating rights of THRUWAY FREIGHT LINES, INC., 300 Van Riper Avenue, East Paterson, NJ 07407, and for acquisition by DON GRANT AND JULIUS HYMS, also of Brooklyn, N.Y. 11215, of control of such rights through the purchase. Applicants' attorney: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Operating rights sought to be transferred: *General commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, as a *common carrier* over irregular routes, between points in Bergen, Passaic, Essex, Hudson, and Union Counties, N.J., on the one hand, and, on the other, New York, N.Y. Vendee is authorized to operate as a *common carrier* in New York and Illinois. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11370. Authority sought for purchase by BECKER & SONS, INC., 2643 West Central, El Dorado, KS 67042, of the operating rights of T. CLARENCE BRIDGE and HENRY W. BRIDGE, doing business as BRIDGE BROTHERS, Bridge and Anderson Streets, Post Office Box 929, Lamar, CO 81052, and for acquisition by FRANK X. BECKER, 1611 Rural, Emporia, KS, FRANK J. BECKER, 301 South Summitt, El Dorado, KS, and ROBERT H. BECKER, 801 East Clark, Emporia, KS, of control of such rights through the purchase. Applicants' attorneys: Erle W. Francis, Suite 719, 700 Kansas Avenue, Topeka, KS 66603 and C. Zimmerman, 413 Brown Building, Wichita, Kans. 67202. Operating rights sought to be transferred: *Numerous commodities*, specifically *petroleum products*, as a *common carrier*, over irregular routes, from, to and between specified points in the States of Colorado, Texas, Kansas, Oklahoma, Nebraska, New Mexico, Wyoming, Missouri, Idaho, Montana, South Dakota, Illinois, Iowa, North Dakota, Minnesota, Mississippi, Louisiana, Arkansas, Wisconsin, Indiana, and Michigan, with certain restriction, as more specifically described in Docket No. MC–50002 and Sub-numbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights, without stating, in full, the entirety, thereof. Vendee is authorized to operate as a *common carrier* in Kansas, Missouri, Iowa, Nebraska, Oklahoma, and Illinois. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11371. Authority sought for control by AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, NY 11040, of OKLAHOMA ARMORED CAR, INC., 1005 Southwest Second Street, Oklahoma City, OK 73125, and for acquisition by PUROLATOR, INC., and in turn, by PAUL A. CAMERON, both of 970 New Brunswick Avenue, Rahway, NJ 07065, of control of OKLAHOMA ARMORED CAR, INC., through the acquisition by AMERICAN COURIER CORPORATION. Applicants' attorneys: John M. Delany, 2 Nevada Drive, Lake Success, NY 11040, and Russell S. Bernhard, 1625 K Street NW., Washington, DC 20006. Operating rights sought to be controlled: In pending docket No. MC–135320 Sub-2 TA, radiopharmaceuticals, radioactive drugs and medical isotopes as a common carrier over irregular routes, between points in Oklahoma on traffic having an immediately prior or subsequent movement by air and in pending docket No. MC–129442 Sub-1 TA, banking items, including checks, deposit slips, accounting papers, statements, cash letters, and data processing reports, for the account of National Bank of Tulsa as a contract carrier, over irregular routes, between Tulsa, Okla., and certain specified counties in Missouri and Kansas. Armoured Courier Corp. is authorized to operate as a *common carrier* in Connecticut, Massachusetts, Maine, New Hampshire, New Jersey, Pennsylvania, New York, Iowa, Illinois, Nebraska, Kentucky, Tennessee, Ohio, West Virginia, Rhode Island, Michigan, Indiana, Maryland, Virginia, Delaware, Wisconsin, Missouri, Minnesota, North Dakota, South Dakota, Kansas, North Carolina, Texas, Louisiana, Vermont, Alabama, Georgia, Arkansas, Mississippi, Oklahoma, Florida, South Carolina, California, and the District of Columbia, and as a *contract carrier* in New York, New Jersey, Connecticut, Pennsylvania, West Virginia, Massachusetts, Delaware, Maryland, Virginia, District of Columbia, Ohio, Rhode Island, Illinois, Iowa, Missouri, Indiana, Kentucky, Minnesota, Wisconsin, Maine, New Hampshire, Nebraska, Vermont, Michigan, North Dakota, South Dakota, North Carolina, Alabama, Georgia, Tennessee, South Carolina, Arkansas, Louisiana, Texas, Florida, Mississippi, and Oklahoma. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11372. Authority sought for control and merger by ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, OH 44309, of the operating rights and property of POOLE TRANSFER, INC., 807 East Fourth Street, Muscatine, IA 52761, and for acquisition by GALEN J. ROUSH, also of Akron, Ohio 44309, of control of such rights and property through the transaction. Applicants' attorneys and representative: William O. Turney, 2001 Massachusetts Avenue, NW., Washington, DC 20036, Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603, and Douglas W. Faris, 1077 Gorge Boulevard, Akron, OH 44309. Operating rights sought to be controlled and merged: *General commodities*, excepting among others, dangerous explosives commodities in bulk and household goods as a *common carrier* over regular routes, between Muscatine, Iowa, and Chicago, Ill., and Minneapolis, Minn.; *livestock*, from Muscatine, Iowa, to Chicago, Ill.; *canning factory machinery*, between Muscatine, Iowa, and Waukegan and Hoopeston, Ill.; *eggs, feed, seed, empty barrels, and empty drums*, between Nichols, Iowa, and Muscatine, Iowa; *egg case materials, egg cases, roofing, petroleum products*, in containers, *rubber tires and tubes, and agricultural implements and parts, feed and seed*, serving to and from all intermediate points; *malt beverages*, between Mankato and Minneapolis, Minn., and Fort Wayne, Ind., and Keota, Muscatine, and Clinton, Iowa, and Galesburg, Ill., and return with *empty containers*, serving the intermediate points of St. Paul, Minn., Davenport, Iowa, and Rock Island, Il., and the off-route points of Princeton, Ill., and Burlington, Iowa; *glass*, from certain specified points in Illinois to Muscatine, Iowa; *wire and wire cloth and screen*, from Dixon over Alternate U.S. Highway 30 to Sterling, Ill., thence over Illinois Highway 2 to Moline, Ill., and thence over the above-specified routes to Muscatine;

Wallpaper, from Joliet over U.S. Highway 6 via Princeton, Ill., to junction Illinois Highway 80, thence over Illinois Highway 80 to Silvis, Ill., and thence over the above-specified routes to Muscatine; *silicate of soda*, from Utica over Illinois Highway 178 to junction U.S. Highway 6, thence over U.S. Highway 6 to Princeton, Ill., and thence over the above-specified routes to Muscatine; *empty returned barrels*, from Muscatine over the above-specified routes to Princeton, Ill., thence over U.S. Highway 6 to junction Illinois Highway 178, and thence over Illinois Highway 178 to Utica; *paper fiberboard and corrugated boxes*, from Rockford, Ill., to certain specified points in Illinois; *grain and seeds*, from St. Louis, Mo., to Columbus Junction, Iowa; *general commodities*, excepting among others, dangerous explosives, household goods, and commodities in bulk, over irregular routes, between Chicago, Ill., and Lincoln, Nebr., on the one hand, and, on the other certain specified points in Iowa; *canned or preserved foodstuffs*, from certain specified points in Iowa, to Omaha, Nebr., St. Louis, Mo., and points and places in that part of Minnesota on and south of U.S. Highway 12, and Duluth, Minn., and those in that part of Illinois on and north of U.S. Highway 40 between East St. Louis, Ill., and Effingham, Ill., and on and west of U.S. Highway 45 between Effingham and Chicago, Ill., from points and places in that part of Minnesota on and east of U.S. Highway 169, and on and south of U.S. Highway 12 to certain specified points in Iowa and Rock Island, Ill., from certain specified points in Illinois to Davenport, Iowa, from Alton, Ill., to Muscatine, Iowa; *canned goods*, from Indianapolis, Ind., to certain specified points in Iowa; *clam shells*, from points and places in that part of Indiana within 40 miles of the St. Joseph and Wabash Rivers, those in Illinois within 40 miles of the Fox, Kankakee, and Illinois Rivers, and those in Minnesota within 40 miles of the Mississippi River, to Muscatine, Iowa;

Grit, from Muscatine, Iowa, to Van Orin, and Princeton, Ill., and points and places in that part of Minnesota on and east of U.S. Highway 71 between the Iowa-Minnesota State line and Olivia, Minn., on and south of U.S. Highway 212 between Olivia and Minneapolis, Minn., and on and south of U.S. Highway 12 between Minneapolis and the Minnesota-Wisconsin State line; *crushed shells*, from Muscatine, Iowa, to points and places in that part of Minnesota on and east of U.S. Highway 71 between the Iowa-Minnesota State line and Olivia, Minn., on and south of U.S. Highway 212 between Olivia and Minneapolis, Minn., and on and south of U.S. Highway 12 between Minneapolis and the Minnesota-Wisconsin State line, from Muscatine, Iowa, to points and places in that part of Illinois east and north of a line beginning at Moline, Ill., and extending along U.S. Highway 150 to Danville, Ill., thence along Illinois Highway 10 to the Illinois-Indiana State line, including points and places on the indicated portions of the highways specified; *flour, feed, and other grain mill products*, from Calumet City and Hammond, Ind., and Nebraska City and Omaha, Nebr., to Muscatine, Iowa; *flour, mill feed, and tankage*, from Calumet City and Chicago, Ill., and Nebraska City, Nebr., to Muscatine, Iowa; *feed*, from Chicago and Forest Park, Ill., to Lone Tree, Iowa; *stationery*, from Davenport, Iowa, to Minneapolis and St. Paul, Minn.; *sash and millwork*, from Muscatine, Iowa, to certain specified points in Illinois; *fruits and vegetables*, from points and places in Muscatine County, Iowa, to certain specified points in Minnesota and Chicago, Ill., from points and places in Freeborne County, Minn., to Muscatine, Iowa; *grain*, from points and places in Louisa County, Iowa to Peoria, Ill.; *coal*, from certain specified points in Illinois to points and places in Louisa County, Iowa; *farm machinery and implements*, from certain specified points in Illinois to points and places in Muscatine and Louisa County, Iowa;

Batteries and parts, hardware, signs, display racks, advertising matter, wire, motors, rectifiers, lumber, soap, and silicate of soda, between Minneapolis and St. Paul, Minn., on the one hand, and, on the other, certain specified points in Iowa, and Illinois, St. Louis, Mo., and Omaha, Nebr., between Omaha, Nebr., and Des Moines, Iowa; *household goods*, as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, between Muscatine, Iowa, and points and places in Iowa within 40 miles of Muscatine, on the one hand, and, on the other, points and places in Illinois and Minnesota; *empty bottles and cooperage*, between Omaha, Nebr., St. Louis, Mo., and Duluth, Minn., on the one hand, and, on the other, Muscatine, Iowa; livestock, between points and places in Iowa to certain specified points in Iowa, on the one hand, and, on the other, points and places in Illinois and Indiana; *construction machinery*, between points and places in Iowa, on the one hand, and, on the other, points and places in Illinois, from Omaha, Nebr., to points and places in Iowa. ROADWAY EXPRESS, INC., is authorized to operate as a *common carrier* in Ohio, Texas, Oklahoma, Connecticut, Michigan, Missouri, Indiana, Massachusetts, Pennsylvania, Kansas, Illinois, Kentucky, Rhode Island, Alabama, Georgia, North Carolina, Tennessee, South Carolina, New Jersey, New York, Virginia, Delaware, Maryland, West Virginia, Wisconsin, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11373. Authority sought for purchase by H. C. GABLER, INC., Rural Delivery No. 3, Chambersburg, PA 17201, of the operating rights and property of JOHN M. RUDISILL & SONS, INC., Seven Valleys, Pa. 17360, and for acquisition by HAROLD C. GABLER, Montgomery Avenue Extended, Chambersburg, Pa. 17201, of control of such rights and property through the purchase. Applicants' attorney: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Operating rights sought to be transferred: *Eggs, poultry, rabbits, and dressed calves*, from Gettysburg, Pa., as a *common carrier* over irregular routes, Westminster, Md., Coatesville and Seven Valleys, Pa., and points in Pennsylvania and Maryland within 20 miles of Seven Valleys, to Newark, Paterson, and Irvington, N.J., New York, N.Y., and points in the New York, N.Y., commercial zone as defined by the Commission; and *machinery, fiberboard, chocolate products and groceries*, from New York, N.Y., and points in New York and New Jersey within 10 miles of New York, N.Y., to York and Harrisburg, Pa., Baltimore, Md., and Washington, D.C. Vendee is authorized to operate as a *common carrier* in Pennsylvania, Maryland, Virgina, West Virgina, New Jersey, New York, Iowa, Kentucky, Massachusetts, Michigan, Missouri, New Hampshire, Rhode Island, Vermont, Maine, Connecticut, Delaware, Ohio, Indiana, Illinois, North Carolina, Alabama, Mississippi, Louisiana, Tennessee, Wisconsin, South Carolina, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

MOTOR CARRIER OF PASSENGERS

No. MC–F–11374. Authority sought for control by THE GRAY LINE, INC., 25 Webber Street, Roxbury, Mass. 02119, of DuFOUR BROTHERS, INC., 343 Pecks Road, Pittsfield, MA 01201, and for acquisition by LEONARD CAPLAN, 7 Chilton Street, Brookline, MA, of control of DuFOUR BROTHERS, INC., through the acquisition by THE GRAY LINE, INC. Applicants' attorney: Charles W. Singer, 33 North Dearborn Street, Chicago, IL 60602. Operating rights sought to be controlled: Passengers and their baggage and express and newspapers in the same vehicle with passengers, as a *common carrier* over regular routes, between Pittsfield, Mass., and Chatham, N.Y., between North Adams, Mass., and Stamford, Va., serving all intermediate points; passengers and their baggage, in special roundtrip operations, over irregular routes, beginning and at Great Barrington, Stockbridge, Lenox, Pittsfield, North Adams, Adams, and Cheshire, Mass., and extending to New Lebanon, N.Y., with restriction; passengers and their baggage, in the same vehicle with passengers, restricted to traffic originating at the points indicated immediately below, in charter operations, from Pittsfield, Mass., and points within 10 miles thereof, to points in New York, Connecticut, and Vermont; passengers and their baggage, in the same vehicle with passengers, in special operations, limited to the transportation of not more than 11 passengers in any one vehicle, not including the driver

thereof and not including children under 10 years of age who do not occupy a separate seat or seats, between points in Berkshire County, Mass., on the one hand, and, on the other, New York, N.Y.; and passengers and their baggage, in special operations, in round-trip sightseeing and pleasure tours, beginning and ending at points in Berkshire County, Mass., and extending to points in Maine, Vermont, New Hampshire, Connecticut, New York, Pennsylvania, Virginia, Florida, and the District of Columbia, with restriction. THE GRAY LINE, INC., is authorized to operate as a *common carrier* of passenger in all States in the United States (including Alaska but excluding Hawaii); and as a *common carrier* of property in Massachusetts, Connecticut, Rhode Island, New Hampshire, Maine, New York, and New Jersey. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-17146 Filed 11-23-71;8:49 am]

[Notice 787]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 19, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73247. By order of November 8, 1971, the Motor Carrier Board approved the transfer to Robco Trucking Co., Inc., Huntington Park, Calif., of the operating rights in Certificate No. MC-42473, issued May 19, 1970, to Aall Quote Industries, Inc., 9602 East Beverly Road, Pico Rivera, CA 90660, authorizing the transportation of general commodities, with usual exceptions and also except livestock, automobiles, cotton, lumber, and cigarettes, between Los Angeles Harbor and Long Beach, Calif., on the one hand, and, on the other, Maywood, Huntington Park, Vernon, Los Angeles, Alhambra, Pasadena, and Beverly Hills, Calif. Ernest D. Salm, 3846 Evans Street, Los Angeles, CA 90027, registered practitioner for transferee.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-17147 Filed 11-23-71;8:49 am]

[Notice 787-A]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 19, 1971.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-73319. By application filed November 16, 1971, CANADIAN AMERICAN TRANSFER LIMITED, 525 Hill Street, Windsor, ON, Canada, seeks temporary authority to lease the operating rights of PARENT CARTAGE LIMITED, 525 Hill Street, Windsor, ON, Canada, under section 210a(b). The transfer to CANADIAN AMERICAN TRANSFER LIMITED, of the operating rights of PARENT CARTAGE LIMITED, is presently pending.

By the Commission.

ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-17148 Filed 11-23-71;8:49 am]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

NOVEMBER 19, 1971.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These application are goverened by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearing or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. B-30 (Sub-No. 44), filed October 1, 1971. Applicant: SOUTHERN COACH COMPANY, 1300 East Pettigrew Street, Durham, NC. Applicant's representative: Clarence H. Noah, 1425 Park Drive, Raleigh, NC 27605. Certificate of public convenience and necessity sought to operate a service as follows: The transportation of *Passengers, their baggage, mail, and light express,* in the same vehicle with passengers, as a common carrier by motor vehicle, from Raleigh, N.C., to intersection of North Carolina 54 and North Carolina 55, viz: North Carolina Highway 54 to junction with Interstate Highway 40, thence over Interstate Highway 40 to junction North Carolina Highway 54 near Nelson, thence over North Carolina Highway 54, to North Carolina Highway 55 near Lowes Grove and return over the same route, serving intermediate points. The foregoing description of operations is identical to that being sought from the North Carolina Utilities Commission. Both intrastate and interstate authority sought.

HEARING: Thursday, December 16, 1971, 2 p.m. in North Carolina Utilities Commission Hearing Room, Ruffin Building, Raleigh, N.C. Requests for procedural information including the time for filing protests concerning this application should be addressed to the State of North Carolina Utilities Commission, Post Office Box 991, Raleigh, NC 27602, and should not be directed to the Interstate Commerce Commission.

State Docket No. MC 2668 (Sub-No. 4), filed October 22, 1971. Applicant: HOHENWALD TRUCK LINES, INC., 107 Mill Street, Hohenwald, TN 38462. Applicant's representative: A. O. Buck, 500 Court Square Building, Nashville, Tenn. 37201. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities,* except household goods, classes A and B explosives, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading. Route descriptions: Route 1: Between Hohenwald, Tenn., and Linden, Tenn., serving all intermediate points: From Hohenwald over Tennessee Highway 48 to its junction with Tennessee Highway 13, thence over Tennessee Highway 13 to Linden and return over the same route. Route 2: Between Lobelville, Tenn., and Buffalo, Tenn., serving all intermediate points: From Lobelville over Tennessee Highway 13 to Buffalo and return over the same route. Applicant proposes to utilize the above sought authority in conjunction with all of its present authority and seeks corresponding interstate authority. Both intrastate and interstate authority sought.

HEARING: January 6, 1972, in Commission's Court Room, C-1-110, Cordell Hull Building, Nashville, Tenn., 9:30 a.m. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Tennessee Public Service Commission, Cordell Hull Building, Nashville, Tenn. 37219 and should not be directed to the Interstate Commerce Commission.

State Docket No. 25297-Extension, filed October 19, 1971. Applicant: NORTHGLENN SUBURBAN COMPANY, 2822 West 28th Avenue, Apt. 308, Denver, CO 80211. Applicant's representative: John P. Thompson, 450 Capitol Life Building, Denver, Colo. 80203. Certificate of public convenience and necessity sought to operate a service as follows: Transportation, in charter operations, in interstate and foreign commerce, of *passengers and their baggage and equipment* moving with them, (1) between points within 12 miles of the intersection of Colfax Avenue and Broadway in Denver, Colorado; and (2) between points within 12 miles of the intersection of Colfax Avenue and

Broadway in Denver, Colo., on the one hand, and, on the other hand, points in Colorado. Restriction: All of said charter operations shall be performed in buses having a capacity of 25 or more persons. Both intrastate and interstate authority sought.

HEARING: 10 a.m., January 20, 1972, at 500 Columbine Building, 1845 Sherman Street, Denver, CO. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Public Utilities Commission of the State of Colorado, 500 Columbine Building, 1845 Sherman Street, Denver, CO 80208, and should not be directed to the Interstate Commerce Commission.

State Docket No. A 52975, filed November 2, 1971. Applicant: HEAVY TRANSPORT, INC., 6242 Paramount Boulevard, Long Beach, CA 90801. Applicant's representative: Donald Murchison, 9454 Wilshire Boulevard, Suite 400, Beverly Hills, CA 90212. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *heavy machinery, etc.,* as presently authorized, to traverse those portions of U.S. Highway 101 and U.S. Highway 99 (Interstate 5) for operating convenience only, and without service to any points thereon along said highways, between San Martin and King City, Calif., on U.S. Highway 101 and Madera and Merced, Calif., on U.S. Highway 99 (Interstate 5). By the instant application, applicant does not seek to extend its presently authorized commodities, nor does it seek to extend its authority from the territorial or service standpoint. Applicant merely seeks alternate route authority to traverse the said portions of said highways in connection with its present authority for operating convenience only, and without service to the points all as hereinabove specified. Both intrastate and interstate authority sought.

HEARING: Date, time and place not shown. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Public Utilities Commission, State of California, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, CA 94102, and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-17144 Filed 11-23-71;8:48 am]

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List of CFR Parts Affected

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List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1971, and specifies how they are affected.

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Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER A—AGRICULTURAL CONSERVATION PROGRAMS

[Amdt. 1]

PART 706—NAVAL STORES CONSERVATION

Subpart G—1971

MISCELLANEOUS AMENDMENTS

The regulations governing the 1971 Naval Stores Conservation Program, 36 F.R. 7835, are amended as follows:

1. A new § 706.918a is inserted immediately after § 706.918 to read as follows:

§ 706.918a Practice 11: Planting of superior trees.

(a) *Purpose.* The purpose of this practice is to improve the stocking of depleted forest land with trees of proven increased oleoresin yield and faster wood growth. Such trees will produce more crude gum, pulpwood, sawtimber, plywood, poles, and other forest products.

(b) *Description of practice.* This practice consists of planting certified genetically superior high gum yielding slash pine seedlings, developed from the Olustee strain, on properly prepared sites and at spacings specified by the U.S. Forest Service.

(c) *Eligible acres.* Only land owned by a participant which is selected and planted in accordance with provisions prescribed by the U.S. Forest Service is eligible for cost-sharing.

(d) *Rate of cost-sharing.* The rate of cost-sharing for this practice is 80 percent of the actual cost not to exceed $20 per acre.

2. Section 706.932 is amended by adding a new paragraph (d) to read as follows:

§ 706.932 Availability of funds.

* * * * *

(d) The regulations in Part 796 of this chapter prohibiting the making of payments to program participants who, after August 10, 1971, harvest or knowingly permit to be harvested for illegal use marijuana or other such prohibited drug-producing plants on any part of the lands owned or controlled by them are applicable to this program.

Effective date. Since the 1971 program is nearing completion, it is essential that the foregoing amendment to the Naval Stores Conservation Program be made effective as soon as possible. It is hereby found and determined that compliance with the notice and public procedure provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest. Accordingly, this amendment shall become effective upon publication in the FEDERAL REGISTER (11-25-71).

(Sec. 4, 49 Stat. 164, 16 U.S.C. 590d; sec. 806, Public Law 92-78, 85 Stat. 201)

Signed at Washington, D.C., on November 22, 1971.

J. PHIL CAMPBELL,
Acting Secretary of Agriculture.

[FR Doc.71-17290 Filed 11-24-71;8:56 am]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Navel Orange Reg. 241]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.541 Navel Orange Regulation 241.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907, 35 F.R. 16359), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 23, 1971.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period November 26, 1971, through December 2, 1971, are hereby fixed as follows:

(i) District 1: 748,000 Cartons;

(ii) District 2: Unlimited;

(iii) District 3: 152,000 Cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 311 as amended; 7 U.S.C. 601-674)

Dated: November 24, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-17406 Filed 11-24-71;11:37 am]

PART 928—PAPAYAS GROWN IN HAWAII

Subpart—Rules and Regulations

Notice was published in the FEDERAL REGISTER issue of November 2, 1971 (36 F.R. 20980), that the Department was giving consideration to proposed rules and regulations (§§ 928.141; 928.150; 928.151; 928.152; and 929.160) hereinafter designated as Subpart—Rules and Regulations, pursuant to the applicable provisions of the marketing agreement and Order No. 928 (7 CFR Part 928; 36 F.R. 8925) regulating the handling of papayas grown in Hawaii, hereinafter referred to collectively as the "order".

This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The aforesaid rules and regulations were proposed by the Papaya Administrative Committee, the agency

(b) Notification that assessments are due not later than 5 days after the 15th of each month shall constitute a demand on a handler for the payment of his pro rata share of expenses within the meaning of § 928.41(a).

donated for use by charitable institutions or distribution by relief agencies.

(d) Any handler may, after application for and receipt of committee approval, handle papayas exempt from the provisions of §§ 928.41, 928.52, 928.53, and 928.55 and the regulations issued there-

regulations were recommended by members of the Papaya Administrative Committee in open meetings at which all interested persons were afforded an opportunity to express their views.

Dated November 22, 1971, to become effective upon publication in the FEDERAL

ains prepared from well-matured or reasonably well-matured grapes). The amendment of § 969.201, as hereinafter set forth, permits handlers to acquire or receive, as standard raisins, any lot of natural condition Thompson seedless raisins containing less than 45 percent, by weight, but not less than 35 percent,

45 percent, but not less than 35 percent, by weight, of raisins having B maturity or better, may be considered as meeting the maturity requirement for handler acquisition as standard raisins but the creditable weight of the lot as standard raisins shall be that obtained by multiplying the total weight of the lot by the appropriate dockage factor selected from the following table:

This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The aforesaid rules and regulations were proposed by the Papaya Administrative Committee, the agency established under said order to administer the provisions thereof. No written data, views, or arguments were filed with respect to said proposal during the period specified therefor in the notice.

The rules and regulations hereinafter set forth are issued pursuant to §§ 928.54 and 928.60 of the order and will establish (1) prerequisites for certain types of papaya shipments to be relieved from inspection and certification requirements of the agreement and order, (2) requirements to be met by handlers of such types of shipments in order to secure and maintain the exempt status of the shipments; (3) safeguards to assure that unregulated shipments of papayas to charitable institutions, relief agencies, and for market research and development projects will not be used for any other purpose; (4) requirements to assure that papayas for commercial processing will not be handled in a manner contrary to the exemptive provisions of the agreement and order; (5) reporting requirements for assessment purposes and to ascertain the disposition of papayas; and (6) interest charges for late payment of assessment funds. Shipments of papayas are now in progress and these rules and regulations reflect the committee's experience and judgment as to the administrative requirements necessary to the proper and efficient operation of the program.

The phrase "after application for and receipt of committee approval," as it appears in paragraph (b) of § 928.151, was inadvertently omitted from paragraphs (c) and (d) of that section in the published notice. Therefore, said phrase is hereby inserted in paragraphs (c) and (d) of § 928.151 in the same locations, respectively, as it appears in paragraph (b) of that section.

After consideration of all relevant matter presented, including that in the notice, it is hereby found that issuance, as hereinafter set forth, of said rules and regulations is in accordance with said order and will tend to effectuate the declared policy of the act.

The rules and regulations are as follows:

Sec.
928.141 Interest charges.
928.150 Exemption from inspection.
928.151 Special purpose shipments.
928.152 Maturity exemption.
928.160 Utilization reports.

AUTHORITY: The provisions of this Subpart issued under sections 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Subpart—Rules and Regulations

§ 928.141 Interest charges.

(a) Assessments levied pursuant to § 928.41 not paid within 5 days after the 15th of the month on papayas handled during the preceding month shall be subject to an interest charge of three-fourths of 1 percent per month.

(b) Notification that assessments are due not later than 5 days after the 15th of each month shall constitute a demand on a handler for the payment of his pro rata share of expenses within the meaning of § 928.41(a).

§ 928.150 Exemption from inspection.

(a) *Waivers.* A handler may handle papayas without inspection and certification, as prescribed under § 928.55, if all the following conditions are met:

(1) The handler requests the Federal-State Inspection Service to provide inspection during its regular working hours at least 2 hours in advance of the time when inspection is needed. The request need not be in writing but it shall be confirmed immediately in writing on a waiver form supplied by the inspection service;

(2) The Federal-State Inspection Service advises the handler that it is not practicable to provide inspection at the time and place designated by the handler. Such advice may be verbal but it shall be confirmed in writing by the Federal-State Inspection Service by execution of the waiver form on which the handler submitted his written request. A confirmed copy thereof shall be forwarded by the inspection service to the office of the Papaya Administrative Committee;

(3) The Federal-State Inspection Service furnishes the handler with the number of the waiver which shall cover the fruit on which inspection is requested;

(4) When so instructed, the handler plainly and conspicuously marks one end of each container with the letter "W" and the waiver number supplied by the Federal-State Inspection Service. The letter W and the number so marked shall be not less than one-half inch in height.

§ 928.151 Special purpose shipments.

(a) Papayas delivered to a handler for sale by the handler for the account of the grower shall be deemed a consignment only with respect to papayas which are actually sold by the handler; consignment shall not extend to those papayas delivered but disposed of by dumping as evidenced by a dumping certificate issued by the Federal-State Inspection Service. Papayas not consigned as herein defined shall not be subject to assessment levied pursuant to § 928.41.

(b) Any handler may, after application for and receipt of committee approval, handle papayas to be used as animal feed exempt from the provisions of §§ 928.41, 928.52, 928.53, and 928.55 and the regulations issued thereunder.

(1) Such application shall be made prior to handling, on the forms provided by the committee and shall be accompanied by certification stating that the fruit will be used for the applied for purpose.

(c) Any handler may, after application for and receipt of committee approval, handle papayas exempt from the provisions of §§ 928.41, 928.52, 928.53, and 928.55, and the regulations issued thereunder: *Provided*, That such fruit is donated for use by charitable institutions or distribution by relief agencies.

(d) Any handler may, after application for and receipt of committee approval, handle papayas exempt from the provisions of §§ 928.41, 928.52, 928.53, and 928.55 and the regulations issued thereunder, for market research and development projects.

(e) Any handler may handle papayas exempt from the provisions of §§ 928.41, 928.52, 928.53, and 928.55 and the regulations issued thereunder, for commercial processing. Commercial processing of papayas means to can, freeze, cook, slice, dice, or pickle or convert such fruit into a beverage base for resale. All other product forms are considered fresh fruit and are subject to the provisions of the agreement and order.

§ 928.152 Maturity exemption.

(a) Any handler may handle immature papayas exempt from the maturity requirements issued pursuant to § 928.52: *Provided*, That such papayas are handled to an outlet authorized by the committee for resale of such papayas.

(1) A request for such authorization shall be submitted to the committee prior to the receipt of the exempted fruit.

(2) Containers of such fruit shall be clearly marked "off-grade—immature" in letters not less than one-half inch in height.

(3) Immature papayas are papayas which do not meet the maturity requirements of State of Hawaii Department of Agriculture's Wholesale Standards for Hawaii-Grown Papayas (subsection 5.32).

§ 928.160 Utilization reports.

(a) Each handler shall file with the Papaya Administrative Committee, not later than the 15th day of each month, a duly executed PAC Form 1 reporting all papayas handled by him during the immediately preceding calendar month. Such report shall include, but is not limited to, the following information: (1) Quantity of papayas handled subject to assessments and regulations including the date, destination, and inspection certificate number of each shipment; (2) quantity of papayas handled without regard to the assessment or regulatory provisions of the marketing agreement and order with such quantity itemized as to the amount (i) shipped to authorized commercial processors, (ii) donated to charitable organizations or relief agencies, (iii) shipped to authorized market research and development projects, and (iv) disposed of otherwise, and indicating such disposition.

It is hereby found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) the handling of papayas is now in progress and to be of maximum benefit the provisions of these rules and regulations should become effective as soon as possible, (2) the effective date hereof will not require of handlers any preparation that cannot be completed prior thereto, and (3) these rules and

regulations were recommended by members of the Papaya Administrative Committee in open meetings at which all interested persons were afforded an opportunity to express their views.

Dated November 22, 1971, to become effective upon publication in the FEDERAL REGISTER (11–25–71).

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71–17288 Filed 11–24–71;8:54 am]

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Minimum Grade and Condition Standards for Natural Condition Raisins

Notice was published in the November 11, 1971, issue of the FEDERAL REGISTER (36 F.R. 21599) regarding a proposal to amend the minimum grade and condition standards for natural condition Thompson seedless raisins. The amendment is pursuant to § 989.58(b) and adds provisions to § 989.201A.2.b. of Subpart—Supplementary Orders Regulating Handling (7 CFR 989.201) permitting any handler, subject to prior agreement between the handler and tenderer, to acquire or receive, as standard raisins, lots of such raisins containing less than 45 percent but not less than 35 percent, by weight, of B maturity, or better raisins. Such additional previsions would be for the 1971–72 crop year ending August 31, 1972.

The proposal was based on a recommendation of the Raisin Administrative Committee and other available information. The committee is established under, and its recommendations are made in accordance with, the provisions of the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California, hereinafter referred to collectively as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "act".

The notice afforded interested persons an opportunity to submit written data, views, or arguments on the proposal. Comments favoring the proposal were received from 10 persons within the period prescribed therefor.

Section 989.201 requires, among other things, that standard natural condition Thompson seedless raisins contain not less than 45 percent, by weight, of B maturity, or better, raisins (raisins showing development characteristic of raisins prepared from well-matured or reasonably well-matured grapes). The amendment of § 989.201, as hereinafter set forth, permits handlers to acquire or receive, as standard raisins, any lot of natural condition Thompson seedless raisins containing less than 45 percent, by weight, but not less than 35 percent, by weight, of raisins having B maturity, or better raisins. Such lot would be considered as an acceptable lot for handler acquisition as standard raisins with a determinable weight meeting the maturity requirements for standard raisins. The weight of such lot to be credited as standard raisins would be determined by multiplying the weight of such lot by the appropriate dockage factor.

Data collected by the inspection service indicate the maturity level of the 1971 production of natural condition Thompson seedless raisins is considerably below the level in recent years, thus many lots of such raisins when taken in their entirety, would be off-grade. While excessive quantities of immature raisins in such lots can be removed during normal processing, off-grade lots are not processed simultaneously with standard raisins pursuant to provisions currently effective under the order. This amendment would afford handlers greater flexibility in processing raisins and since the excess immature raisins could be removed from a lot during normal processing, producers would not incur the costs for reconditioning such lots.

After consideration of all relevant matter presented, including that in the notice, written comments submitted pursuant to the notice, the information and recommendation of the committee, and other available information, it is found that, pursuant to § 989.58(b) of the order, amendment of subdivision b. of § 989.201A.2., as hereinafter set forth, will tend to effectuate the declared policy of the act.

Therefore, said subdivision is amended to read as follows:

§ 989.201 Changes in minimum grade and condition standards for natural condition raisins.

* * * * *

A. Thompson seedless raisins.

* * * * *

2. a. * * *

b. Shall contain not less than 45 percent, by weight, of B maturity, or better, raisins (raisins showing development characteristic of raisins prepared from well-matured or reasonably well-matured grapes) and not more than 12 percent, by weight, of substandard raisins (raisins that show development less than that characteristic of raisins prepared from fairly well-matured grapes): *Provided*, That, for the 1971–72 crop year ending August 31, 1972, with respect to natural condition Thompson seedless raisins and subject to prior agreement between handler and tenderer, any lot containing less than 45 percent, but not less than 35 percent, by weight, of raisins having B maturity or better, may be considered as meeting the maturity requirement for handler acquisition as standard raisins but the creditable weight of the lot as standard raisins shall be that obtained by multiplying the total weight of the lot by the appropriate dockage factor selected from the following table:

B maturity or better	*Dockage factor*
44.9–44.5	.989
44.4–44.0	.978
43.9–43.5	.967
43.4–43.0	.956
42.9–42.5	.944
42.4–42.0	.933
41.9–41.5	.922
41.4–41.0	.911
40.9–40.5	.900
40.4–40.0	.889
39.9–39.5	.878
39.4–39.0	.867
38.9–38.5	.856
38.4–38.0	.844
37.9–37.5	.833
37.4–37.0	.822
36.9–36.5	.811
36.4–36.0	.800
35.9–35.5	.789
35.4–35.0	.778

* * * * *

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) This action makes application of the minimum grade and condition standards applicable to natural condition Thompson seedless raisins of the 1971–72 crop year less restrictive; (2) the 1971–72 crop year began September 1, 1971, and natural condition Thompson seedless raisins of such year are being received by handlers now, hence to obtain maximum benefit from this action, it should become effective as soon as possible; (3) handlers are aware that this action has been recommended by the committee and need no additional time to comply; and (4) no useful purpose would be served by postponing the effective time hereof.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 22, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71–17289 Filed 11–24–71;8:54 am]

Chapter XXVII—Environmental Protection Agency

REDESIGNATION AND REPUBLICATION

CROSS REFERENCE: For a document affecting the changes described above, see Title 40, F.R. Doc. 71–17201, appearing in this issue.

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

The amendments delete Texas from the list of hog cholera eradication States in § 76.2(f), and the special provisions pertaining to the interstate movement of swine and swine products from or to such eradication States are no longer applicable to Texas.

bounded by a line beginning at the junction of the New Jersey Turnpike and U.S. Highway 30 in Camden County; thence, following U.S. Highway 30 in a southeasterly direction to Secondary Road 534; thence, following Secondary Road 534 in a northeasterly direction to

PART 78—BRUCELLOSIS

Certificates Pertaining to Movement of Animals

Pursuant to the provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, and

U.S.C. 111–113, 114a–1, 115, 117, 120, 121, 125, 134b, 134f; 29 F.R. 16210, as amended)

The foregoing amendments clarify the regulations contained in Part 78 (9 CFR) by distinguishing the types of certificates required for interstate shipment of brucellosis test reactor animals, for non-reactor bison, and for other nonreactor

placed in accordance with BAC 1–11 Service Bulletin No. 57–PM4697 or No. 57–PM4704(c). AD 70–18–1 also permits, under certain conditions, the adoption of interim measures, which permit an additional 300 landings prior to the required replacement without further inspection of brackets, horizontal belts, or

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Service,[1] Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[Docket No. 71-600]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to the provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, the reference to the State of Pennsylvania in the introductory portion of paragraph (e) and paragraph (e) (3) relating to the State of Pennsylvania are deleted, and paragraph (f) is amended by adding thereto the name of the State of Pennsylvania.

2. In § 76.2, the reference to the State of Texas in paragraph (f) is deleted.

(Secs. 4–7, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791–792, as amended, secs. 1–4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 112, 113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments exclude a portion of Blair County, Pa. from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded area, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 will apply to the excluded areas. No areas in Pennsylvania remain under the quarantine.

The amendments add Pennsylvania to the list of hog cholera eradication States in § 76.2(f), and the special provisions pertaining to the interstate movement of swine and swine products from or to such eradication States are applicable to Pennsylvania.

[1] The functions prescribed in Part 76 of Chapter I, 9 CFR, have been transferred from the Agricultural Research Service, U.S. Department of Agriculture, to the Animal and Plant Health Service of the Department (36 F.R. 20707).

PART 78—BRUCELLOSIS

Certificates Pertaining to Movement of Animals

Pursuant to the provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, 125, 134b, 134f), Part 78, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

1. In § 78.1 paragraph (q) is amended and a new paragraph (x) is added, as follows:

§ 78.1 Definitions.

• • • • •

(q) *Certificate.* An official document issued by a State or Federal inspector or accredited veterinarian at the point of origin of a shipment of domestic animals to be moved under § 78.12, which shows the identification tag, tattoo, or registration number or similar identification of each animal to be moved, the number of animals covered by the document, the purpose for which the animals are to be moved, the points of origin and destination, the consignor, and the consignee, and which states that the animal or animals identified on the certificate meet the requirements of § 78.12.

• • • • •

(x) *Reactor certificate.* An official document issued by a State or Federal inspector or accredited veterinarian at the point of origin of a shipment of domestic animals to be moved under §§ 78.5–78.9 or of bison to be moved under § 78.18, which shows that the animals are reactors to a test for brucellosis recognized by the Secretary of Agriculture, the reactor tag number of each animal and the name of the owner of such animal when it was tested for brucellosis, the destination to which the reactors are to be moved, the purpose for which the reactors are to be moved, and that they are eligible for such movement under the applicable provisions of §§ 78.5–78.9 or § 78.18.

2. Section 78.3 is amended by adding the following new paragraph (d):

§ 78.3 Certificates pertaining to movement of animals.

• • • • •

(d) For the purposes of this section, the term "certificate" includes a reactor certificate as well as the certificate required for domestic animals under § 78.12 and the certificate required for bison under § 78.20.

3. Section 78.5(b) is amended to read:

§ 78.5 Movement of brucellosis reactors.

• • • • •

(b) The reactors shall be accompanied to destination, in accordance with § 78.3, by a reactor certificate.

(Secs. 4–7, 19, 20 Stat. 32, as amended including 66 Stat. 609, secs. 1, 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; secs. 3, 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, 125, 134b, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendments clarify the regulations contained in Part 78 (9 CFR) by distinguishing the types of certificates required for interstate shipment of brucellosis test reactor animals, for nonreactor bison, and for other nonreactor animals under the regulations in Part 78. They do not impose additional requirements upon any person intending to ship animals interstate, and affected State officials concur in the changes made by the amendments. It does not appear that public participation in this rule making proceeding would make additional information available to this Department. The amendments should be made effective promptly to clarify the intent of the regulations. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that publication of a notice of rule making and other public participation in connection with these amendments are impracticable and unnecessary, and good cause is found for making them effective less than 30 days after publication thereof in the FEDERAL REGISTER.

Effective date. The foregoing amendments shall become effective upon publication in the FEDERAL REGISTER (11–25–71).

Done at Washington, D.C., this 19th day of November 1971.

G. H. WISE,
Acting Administrator,
Animal and Plant Health Service.

[FR Doc.71-17287 Filed 11-24-71;8:54 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 10276; Amdt. 39-1349]

PART 39—AIRWORTHINESS DIRECTIVES

British Aircraft Corp. Model BAC 1–11, 200 and 400 Series Airplanes

Amendment 39-1073 (35 F.R. 13879), AD 70-18-1, as amended by Amendment 39-1184 (36 F.R. 5976), requires periodic inspection of the flap-beam bracket attachment bolts through the wing lower skin at certain flap-beam locations on BAC 1–11, 200 and 400 series airplanes. If loose or failed bolts are found, AD 70-18-1 requires inspection, and repair as necessary, of the brackets, horizontal bolts, and the wing structure at affected flap-beam locations. AD 70-18-1 permits the inspections at a flap-beam location to be discontinued when the defective bolts are replaced in accordance with BAC 1–11 Alert Service Bulletin No. 57-A-PM4407, or when all the bolts are replaced in accordance with BAC 1–11 Service Bulletin No. 57-PM4407 or No. 57-PM4790(c). AD 70-18-1 also permits, under certain conditions, the adoption of interim measures, which permit an additional 300 landings prior to the required replacement without further inspection of brackets, horizontal bolts, or wing structure at affected flap-beam locations.

Subsequent to the issuance of Amendment 39-1184 (amending AD 70-18-1), the FAA has received reports of further failures of the flap-beam bracket attachment bolts and, based on further investigation, the FAA has determined that the inspections at a flap-beam location may not be discontinued unless all the bolts at the flap-beam location are replaced in accordance with Service Bulletin No. 57-PM4790(c), or in the cases of flap-beam locations 2 and 3, if BAC Modification PM3065, part (b) or (d), as applicable, has been installed. If increased diameter taper bolts have been installed in accordance with paragraph (h)(1) of AD 70-18-1 (Service Bulletin No. 57-PM4407), this AD requires their inspection. If high tensile strength bolts have been installed in accordance with paragraph (h)(2) of AD 70-18-1 (Service Bulletin No. 57-A-PM4407), this AD requires all the bolts at the affected flap-beam location be replaced within the next 300 landings and to be inspected pending replacement. The FAA has also determined that the interim measures provided in AD 70-18-1 may still be used. However, if the interim measures are adopted, the horizontal bolts and the wing structure at the affected location must be inspected for loose or failed horizontal bolts and for fuel leaks and damage to the wing structure, and any necessary corrective action accomplished, at the time the flap-beam attachment bracket bolts are replaced.

Therefore, Amendment 39-1073 (AD 70-18-1), as amended by Amendment 39-1184 is being superseded by this new AD that includes the requirements of AD 70-18-1 that are still applicable and the new requirements which the FAA has determined are necessary in view of the failure of additional flap-beam bracket attachment bolts since the issuance of AD 70-18-1.

There have also been reports of cracks in the flap-beam attachment brackets, and the FAA is issuing, concurrently with this AD, an AD applicable to the attachment brackets. Accomplishment of the modifications provided in that AD will satisfy the requirements of this AD for that location.

In view of the possible seriousness of failures of the flap-beam bracket attachments on BAC Model 1–11, 200 and 400 series airplanes, a situation exists that requires immediate adoption of this regulation, and it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR

11.89) § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

BRITISH AIRCRAFT CORP. Applies to Model BAC 1–11, 200 and 400 series airplanes.

(1) If more than one failed or loose bolt are found on any bracket, before further flight, except that the airplane may be flown in accordance with FAR 21.197 to a base where the repairs or modifications can be performed, comply with paragraphs (i), (j), and (k).

(2) If no more than one failed or loose bolt are found on any bracket, before further flight, except that the airplane may be flown in accordance with FAR 21.197 to a base where the repairs or modifications can be performed, comply with paragraphs (d)(1) and (f)(2) of AD 70-18-1, as amended, comply with the following:

(1) For flap-beam locations at which a loose bolt or replacement bolt is still in service, before the accumulation of 300 landings on the loose bolt or replacement bolt comply with paragraphs (i), (j), and (k).

(2) For flap-beam locations at which a

(1) The repetitive inspection required by this AD may be discontinued at each flap-beam location where the modifications specified by paragraph (k) have been incorporated.

NOTE: These modifications may be accomplished in complying with Amendment 39-1348.

(m) For the purpose of complying with

beam location be replaced with improved brackets. In addition, the AD requires brackets with cracks that do not exceed the allowable length to be repaired or inspected at more frequent intervals.

In view of the possible seriousness of failures of the flap-beam attachment brackets, a situation exists that requires

of British Aircraft Corp. Model BAC 1–11 Alert Service Bulletin No. 57-A-PM4048, Issue 1, dated June 14, 1971, or an FAA-approved equivalent, are found during an inspection required by this AD, inspect the flap-beam attachment brackets at the affected flap-beam location in accordance with paragraph (c) at intervals not to exceed 200 landings from the last inspection, until the

11.89) § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

BRITISH AIRCRAFT CORP. Applies to Model BAC 1–11, 200 and 400 series airplanes.

Compliance is required as indicated.

To prevent failures of the flap-beam bracket to wing attachments due to loose or failed attachment bolts through the wing lower skin at flap-beam locations 2, 3, and 4, accomplish the following:

(a) For 200 and 400 series airplanes which do not have parallel shank bolts installed in accordance with paragraph (h)(2) of AD 70–18–1 or do not have BAC Modification PM3065(b), PM4407, Part A5 or A6, or PM4790 (c) incorporated, at flap-beam locations 2 (both L.H. and R.H.), within the next 50 landings after the effective date of this AD, unless already accomplished within the last 450 landings, and thereafter at intervals not to exceed 500 landings from the last inspection, inspect the six flap-beam bracket attachment bolts through the wing lower skin at each affected flap-beam location 2 for looseness or failure in accordance with paragraph (h).

(b) For 200 series airplanes which do not have parallel shank bolts installed in accordance with paragraph (h)(2) of AD 70–18–1 or do not have BAC Modification PM3065(d), PM4407, Part A7 or A8, or PM4790(c) incorporated, at flap-beam locations 3 (both L.H. and R.H.), within the next 50 landings after the effective date of this AD, unless already accomplished within the last 950 landings, and thereafter at intervals not to exceed 1,000 landings from the last inspection, inspect the four flap-beam bracket attachment bolts through the wing lower skin at each affected flap-beam location 3 for looseness or failure in accordance with paragraph (h).

(c) For 200 series airplanes which do not have parallel shank bolts installed in accordance with paragraph (h)(2) of AD 70–18–1 or do not have BAC Modification PM3216, PM4407, Part A11 or A12, or PM4790 (c) incorporated, at flap-beam locations 4 (both L.H. and R.H.), within the next 50 landings after the effective date of this AD, unless already accomplished within the last 950 landings, and thereafter at intervals not to exceed 1,000 landings from the last inspection, inspect the four flap-beam bracket attachment bolts through the wing lower skin at each affected flap-beam location 4 for looseness or failure in accordance with paragraph (h).

NOTE: An inspection accomplished at a flap-beam location in accordance with paragraph (a), (b), or (c) of AD 70–18–1 prior to the effective date of this AD may be considered to meet the initial inspection required by paragraph (a), (b), or (c), respectively, of this AD.

(d) For 200 and 400 series airplanes which have an applicable Part A5, A6, A7, A8, A9, A10, A11, or A12 of BAC Modification PM4407, or PM3216 incorporated at flap-beam locations 2, 3, or 4 (both L.H. and R.H.), within the next 50 landings after the effective date of this AD or before the accumulation of 450 landings after incorporating BAC Modification PM3216 or PM4407 at an affected flap-beam location, whichever occurs later, and thereafter at intervals not to exceed 500 landings from the last inspection, inspect the flap-beam bracket attachment bolts through the wing lower skin at each affected flap-beam location for looseness or failure in accordance with paragraph (h).

(e) If failed or loose bolts through the wing lower skin are found during an inspection required by paragraph (a), (b), (c), or (d) comply with subparagraph (1), (2), or (3).

(1) If more than one failed or loose bolt are found on any bracket, before further flight, except that the airplane may be flown in accordance with FAR 21.197 to a base where the repairs or modifications can be performed, comply with paragraphs (i), (j), and (k).

(2) If no more than one failed or loose bolt on each bracket at any flap-beam location is found, before further flight, except that the airplane may be flown in accordance with FAR 21.197 to a base where the repairs or modifications can be performed, comply with paragraphs (i) and (j) and either:

(i) Comply with paragraph (k); or

(ii) Replace each failed or loose bolt with a new taper bolt of the same part number or with a parallel shank bolt having a material strength of 140,000 to 165,000 p.s.i. and having a diameter compatible with the maximum diameter of the replaced taper bolt and within the next 300 landings after replacing the failed or loose bolt comply with paragraphs (i), (j), and (k).

(3) If no failed bolt and no more than one loose bolt is found at any flap-beam location, before further flight, except that the airplane may be flown in accordance with FAR 21.197 to a base where the repairs or modifications can be performed, comply with paragraphs (i) and (j) and either:

(i) Comply with paragraph (k); or

(ii) Leave the loose bolt in service and within the next 300 landings after finding the loose bolt comply with paragraphs (i), (j), and (k).

(f) For 200 and 400 series airplanes which have any parallel shank bolts installed at a flap-beam location as a repair for any failed or loose flap-beam bracket attachment bolts through the wing lower skin in accordance with paragraph (h)(2) of AD 70–18–1, comply with the following:

(1) At each affected flap-beam location inspect all the flap-beam bracket attachment bolts through the wing lower skin for failure or looseness in accordance with paragraph (h) as indicated below:

(i) For airplanes with 1,200 or more landings on an affected flap-beam location since the installation of the parallel shank bolts, within the next 25 landings after the effective date of this AD unless already accomplished within the last 25 landings, and thereafter at intervals not to exceed 50 landings from the last inspection until paragraph (k) is complied with.

(ii) For airplanes with 900 or more but less than 1,200 landings on an affected flap-beam location since the installation of the parallel shank bolts, within the next 50 landings after the effective date of this AD unless already accomplished within the last 50 landings, and thereafter at intervals not to exceed 100 landings from the last inspection until paragraph (k) is complied with.

(iii) For airplanes with less than 900 landings on an affected flap-beam location since the installation of the parallel shank bolts, within the next 50 landings after the effective date of this AD unless already accomplished with the last 250 landings, or before the accumulation of 300 landings on the affected flap-beam location, whichever occurs later.

(2) If any failed or loose bolts are found during an inspection required by this paragraph before further flight comply with paragraphs (i), (j), and (k).

(3) Within the next 300 landings after the effective date of this AD comply with paragraphs (i), (j), and (k) at each affected flap-beam location.

(g) For 200 and 400 series airplanes, at those flap-beam locations 2, 3, or 4 at which replacement bolts were installed or loose bolts were left in service as provided by paragraphs (d)(1) and (f)(3) of AD 70–18–1, as amended, comply with the following:

(1) For flap-beam locations at which a loose bolt or replacement bolt is still in service, before the accumulation of 300 landings on the loose bolt or replacement bolt comply with paragraphs (i), (j), and (k).

(2) For flap-beam locations at which a loose bolt or replacement bolt has been removed from service through modifications performed in accordance with paragraph (h) of AD 70–18–1, comply with paragraphs (i) and (j), unless already accomplished at the time of such modification or subsequent thereto, as indicated below:

(i) For flap-beam locations modified in accordance with paragraph (h)(1) of AD 70–18–1, at the first inspection required by paragraph (d).

(ii) For flap-beam locations modified in accordance with paragraph (h)(2) of AD 70–18–1, at the first inspection required by paragraph (f).

(iii) For flap-beam locations modified in accordance with paragraph (h)(3) of AD 70–18–1, within the next 100 landings after the effective date of this AD.

(h) Inspect the flap-beam bracket attachment bolts through the wing lower skin for failure or looseness by applying a load to the nut on each bolt to insure that the bolt has not failed or is not loose.

NOTE: The inspection for security of the taper bolts cannot be adequately carried out at the bolt head because the shallow taper might maintain the bolt shank tight in spite of failure at the thread undercut.

(i) At each affected flap-beam location accomplish the following:

(1) Visually inspect the two lower horizontal attachment bolts (one on each side of the flange) which pass through the forward flange of the flap-beam attachment bracket and the rear spar lower boom angle for failure or looseness.

(2) Visually inspect the wing structure in the area of the affected flap-beam location for damage or fuel leaks.

(3) If any failed or loose horizontal bolts or any damage to the wing structure or any fuel leaks are found during an inspection required by this paragraph, before further flight except that the airplane may be flown in accordance with FAR 21.197 to a base where the repairs can be performed, replace the failed or loose horizontal bolts, repair the damage to the wing structure, and seal the fuel leaks.

(j) At each affected flap-beam location accomplish the following:

(1) Visually inspect both flap-beam attachment brackets for cracks in the webs or flanges.

NOTE: Particular attention should be given to type A and type B cracks as shown in figure 1 of British Aircraft Corp. Service Newsletter 57/7, Issue 1, dated April 27, 1970.

(2) If a crack is found during an inspection required by this paragraph, before further flight, except that the airplane may be flown in accordance with FAR 21.197 to a base where the repairs can be performed, comply with ARB-approved instructions from the service manager, British Aircraft Corp., Weybridge, Surrey, England, or an FAA-approved equivalent.

(k) At each affected flap-beam location replace all the flap-beam bracket attachment bolts through the wing lower skin with new increased diameter BAC Modification PM4790(c) parallel shank bolts in accordance with Part C of British Aircraft Corp. Model BAC 1–11 Service Bulletin No. 57–PM4790 dated March 1, 1971, or an FAA-approved equivalent.

(l) The repetitive inspection required by this AD may be discontinued at each flap-beam location where the modifications specified by paragraph (k) have been incorporated.

NOTE: These modifications may be accomplished in complying with Amendment 39–1348.

(m) For the purpose of complying with this AD, subject to acceptance by the assigned FAA maintenance inspector, the number of landings may be determined by dividing each airplane's hours' time in service by the operator's fleet average time from takeoff to landing for BAC 1–11, 200 and 400 series airplanes.

(n) Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Aircraft Certification Staff, FAA Europe, Africa and Middle East region may adjust the repetitive inspection intervals specified in paragraphs (a), (b), (c), and (d) of this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

This amendment supersedes Amendment 39–1073 (35 F.R. 13879), AD 70–18–1, as amended by Amendment 39–1184 (36 F.R. 5976).

This amendment becomes effective November 30, 1971.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 18, 1971.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[FR Doc.71-17177 Filed 11-24-71;8:46 am]

[Docket No. 11562; Amdt. 39-1348]

PART 39—AIRWORTHINESS DIRECTIVES

British Aircraft Corporation Model BAC 1–11, 200 and 400 Series Airplanes

There have been reports of cracks in the flap-beam attachment brackets at flap-beam locations 2, 3, and 4 that could result in flap malfunctions on British Aircraft Corp. Model BAC 1–11, 200 and 400 series airplanes. In some cases the related flap-beam bracket attachment bolts through the wing lower skin were loose or failed while in other cases the bolts were secure. Since these conditions are likely to exist or develop in other airplanes of the same type design, an Airworthiness Directive is being issued to require periodic visual inspection of the flap-beam attachment brackets for cracks at flap-beam locations which do not have improved brackets installed (improved brackets are provided by Modifications PM4948 and 3065, parts (a) and (c), as covered by BAC 1–11 Alert Service Bulletin No. 57–A–PM4948 for field installation, or by Modification PM3065, parts (b) and (d), which are production modifications) and the replacement of brackets with cracks that exceed the allowable length with an improved bracket. Proper load distribution requires that both brackets at a flap-beam location be replaced with improved brackets. In addition, the AD requires brackets with cracks that do not exceed the allowable length to be repaired or inspected at more frequent intervals.

In view of the possible seriousness of failures of the flap-beam attachment brackets, a situation exists that requires immediate adoption of this rule and it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

BRITISH AIRCRAFT CORP. Applies to Model BAC 1–11, 200 and 400 series airplanes that have not been modified to incorporate BAC Modification PM3065, at all flap-beam locations 2 and 3, and BAC Modification PM4948 at all flap-beam locations 4.

Compliance is required as indicated.

To prevent possible failures of flap-beam attachment brackets at flap-beam locations 2 (Rib 6), 3 (Rib 11), and 4 (Rib 15); accomplish the following:

(a) At flap-beam locations 4 (L.H.) that do not incorporate British Aircraft Corp. Modification PM4948, part (a), and at flap-beam locations 4 (R.H.) that do not incorporate Modification PM4948, part (b), inspect the flap-beam attachment brackets for cracks in accordance with paragraph (c):

(1) For 200 series airplanes, within the next 50 landings after the effective date of this AD, or before the accumulation of 10,000 landings, whichever occurs later, unless already accomplished within the last 800 landings, and thereafter at intervals not to exceed 850 landings from the last inspection.

(2) For 400 series airplanes, within the next 50 landings after the effective date of this AD, or before the accumulation of 8,000 landings, whichever occurs later, unless already accomplished within the last 800 landings, and thereafter at intervals not to exceed 850 landings from the last inspection.

(b) At flap-beam locations 2 (both L.H. and R.H.) that do not incorporate British Aircraft Corp. Modification PM3065, part (a) or (b), and at flap-beam locations 3 (both L.H. and R.H.) that do not incorporate Modification PM3065, part (c) or (d), inspect the flap-beam attachment brackets for cracks in accordance with paragraph (c):

(1) For 200 series airplanes, within the next 50 landings after the effective date of this AD, or before the accumulation of 15,000 landings, whichever occurs later, unless already accomplished within the last 800 landings, and thereafter at intervals not to exceed 850 landings from the last inspection.

(2) For 400 series airplanes, within the next 50 landings after the effective date of this AD, or before the accumulation of 12,000 landings, whichever occurs later, unless already accomplished within the last 800 landings, and thereafter at intervals not to exceed 850 landings from the last inspection.

(c) Visually inspect the flap-beam attachment brackets for cracks in accordance with paragraphs 2.1.1 (flap-beam locations 4), 2.2.1 (flap-beam locations 3), or 2.3.1 (flap-beam locations 2) of British Aircraft Corp. Model BAC 1–11 Alert Service Bulletin No. 57–A–PM 4948, Issue 1, dated June 14, 1971, or an FAA-approved equivalent.

(d) If cracks that do not exceed the "allowable length" limits specified in table 1 of British Aircraft Corp. Model BAC 1–11 Alert Service Bulletin No. 57–A–PM4948, Issue 1, dated June 14, 1971, or an FAA-approved equivalent, are found during an inspection required by this AD, inspect the flap-beam attachment brackets at the affected flap-beam location in accordance with paragraph (c) at intervals not to exceed 200 landings from the last inspection, until the bracket is repaired in accordance with paragraph (e) or modified in accordance with paragraph (g).

(e) Repair brackets having cracks that do not exceed the "allowable length" limits specified in table 1 of British Aircraft Corp. Model BAC 1–11 Alert Service Bulletin No. 57–A–PM4948, Issue 1, dated June 14, 1971 or an FAA-approved equivalent, in accordance with the "salvage action" specified in table 2 of that Alert Service Bulletin, or an FAA-approved equivalent, and thereafter inspect the affected flap-beam location for cracks in accordance with paragraph (c) at intervals not to exceed 850 landings from the last inspection.

(f) If cracks which exceed the "allowable length" limits specified in table 1 of British Aircraft Corp. Model BAC 1–11 Alert Service Bulletin No. 57–A–PM4948, Issue 1, dated June 14, 1971, or FAA-approved equivalent, are found during an inspection required by this AD, before further flight, except that the airplane may be flown in accordance with FAR 21.197 to a base where the repairs can be performed, comply with paragraph (g).

(g) Replace both brackets at an affected flap-beam location with improved brackets in accordance with British Aircraft Corp. Model BAC 1–11 Alert Service Bulletin No. 57–A–PM4948, Issue 1, dated June 14, 1971, or an FAA-approved equivalent, as follows:

Flap-beam location	*Replacement bracket modification standard*
No. 2 (Rib 6)—R.H. or L.H.	PM 3065, part (a).
No. 3 (Rib 11)—R.H. or L.H.	PM 3065, part (c).
No. 4 (Rib 15)—L.H.	PM 4948, part (a).
No. 4 (Rib 15)—R.H.	PM 4948, part (b).

(h) The repetitive inspections required by this AD may be discontinued at each flap-beam location that has been modified in accordance with paragraph (g).

(i) For the purpose of complying with this AD, subject to acceptance by the assigned FAA maintenance inspector, the number of landings may be determined by dividing each airplane's hours' time in service by the operator's fleet average time from takeoff to landing.

(j) Upon request of an operator, an FAA maintenance inspector, subject to prior approval by the Chief, Aircraft Certification Staff, FAA Europe, Africa and Middle East region may adjust the repetitive inspection interval specified in paragraphs (a) and (b) of this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

This amendment becomes effective November 30, 1971.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 18, 1971.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[FR Doc.71-17178 Filed 11-24-71;8:46 am]

[Docket No. 71-CE-24-AD; Amdt. 39-1346]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna Model 210D Airplanes

In consideration of the foregoing, Part 71 of the Federal Aviation regulations is amended effective 0901 G.m.t., February 3, 1972, as hereinafter set forth.

Section 71.123 (36 F.R. 2010, 3892) is amended as follows:

1. In V–94 "From Gila Bend, Ariz.," is deleted and "From Blythe, Calif.; INT

[Docket No. 71-EA-150; Amdt. 39-1349]

PART 39—AIRWORTHINESS DIRECTIVES

Fairchild Hiller Aircraft

[Docket No. 71-EA-156; Amdt. 39-1344]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

The Federal Aviation Administration

[Airspace Docket No. 71-SW-67]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

Executive Orders Nos. 11615 and 11627, Docket No. R-427.

The Commission reaffirms its Statement of Policy promulgated in its Order No. 437, issued August 18, 1971, and effective August 16, 1971 (36 F.R. 16002, August 26, 1971) particularly with regard to its commitment to implement the

[Docket No. 71-CE-24-AD; Amdt. 39-1346]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna Model 210D Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive requiring within the next 150 hours' time in service after its effective date, installation of Cessna Kits 1209005-1 R/L in accordance with Cessna Service Letter No. 69-17, dated September 16, 1969, on Cessna Model 210D airplanes, Serial Nos. 21058221 through 21058460, was published in the FEDERAL REGISTER on October 7, 1971 (36 F.R. 19507).

Interested persons have been afforded an opportunity to participate in the making of the amendment. The one comment received was from the manufacturer who objected to the proposal apparently on the ground that the 239 Cessna Model 210D airplanes affected by the service letter would comply with it voluntarily. However, the manufacturer's own records only indicate that 119 of the affected aircraft have complied with the service letter. Since there have been a number of reports of main-gear actuator malfunctions on unmodified aircraft, the FAA believes that sufficient justification exists for issuing an AD making compliance with the service letter mandatory. The manufacturer suggested, and the agency agrees, that relief be provided those operators who have already complied with the service letter by adding the phrase "Unless already accomplished" to the AD. Consequently, the AD will be modified accordingly.

Since the aforementioned change to the original proposal is relaxatory in nature, it imposes no additional burden on any person with the consequence that further notice and public procedure hereon are unnecessary.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of the Federal Aviation Regulations is amended by adding the following new AD:

CESSNA. Applies to Model 210D (Serial Nos. 21058221 through 21058460) airplanes.

To decrease the possibility of main-gear extension failure:

Unless already accomplished, within the next 150 hours' time in service after the effective date of this AD, install Cessna Kits 1209005-1 R/L in accordance with Cessna Service Letter 69-17 dated September 16, 1969, or an equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment becomes effective November 27, 1971.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on November 16, 1971.

JOHN M. CYROCKI,
Director, Central Region.

[FR Doc.71-17179 Filed 11-24-71;8:45 am]

[Docket No. 71-EA-150, Amdt. 39-1349]

PART 39—AIRWORTHINESS DIRECTIVES

Fairchild Hiller Aircraft

The Federal Aviation Administration is amending § 39.13 of the Federal Aviation regulations so as to issue an Airworthiness Directive applicable to Fairchild Hiller FH1100 type helicopters.

There have been reports of cracks in the landing gear torque tubes of the FH1100 helicopters. These cracks apparently stem from the fact that the attachment bolt has been subject to overtorquing. Since this deficiency can exist or develop in other aircraft of similar type design, an Airworthiness Directive is being issued requiring a periodic visual inspection of the torque tubes.

The foregoing requires expeditious adoption of this amendment as a cracked torque tube could seriously weaken the landing gear. Therefore, notice and public procedure hereon are impractical and the rule may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697) § 39.13 of the Federal Aviation regulations is amended by adding the following new Airworthiness Directive:

FAIRCHILD HILLER AIRCRAFT. Applies to FH1100 type helicopters certificated in all categories.

Compliance required as indicated.

To preclude failure of the landing gear torque tube P/N 24-49041 at the skid support attachments accomplish the following:

a. Within the next 50 hours in service after the effective date of this AD, unless already accomplished within the last 50 hours in service, inspect, and replace if necessary, torque tube P/N 24-49041 in accordance with paragraphs 1 and 2 of Fairchild Hiller Service Letter No. SL FH1100-49-1 dated October 5, 1971, or later FAA-approved revision, or an alternate method approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

b. Within 100 hours in service after the inspection required by paragraph a and every 100 hours in service thereafter, inspect and replace if necessary torque tube P/N 24-49041 in accordance with paragraph 2 of Fairchild Hiller Service Letter SL FH1100-49-1, dated October 5, 1971 or later FAA-approved revision, or an alternate method approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

This amendment is effective November 30, 1971.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on November 16, 1971.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.71-17180 Filed 11-24-71;8:46 am]

[Docket No. 71-EA-156; Amdt. 39-1344]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

The Federal Aviation Administration is amending § 39.13 of the Federal Aviation regulations so as to amend AD 70-22-5 applicable to Piper PA-23, PA-30 and PA-31 type aircraft.

Since the issuance of AD 70-22-5 there have appeared a few instances in which PA-23 aircraft which did not fall within the range of serial numbers set forth in the airworthiness directive were nevertheless altered. The reason appears to be a misreading of the applicability statement. Therefore the statement is being amended to stipulate the PA-23 type aircraft involved by serial number.

Since the amendment is for clarification purposes, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of the Federal Aviation regulations is amended by amending AD 70-22-5 as follows:

1. Delete in the applicability statement the words and numbers "Model PA 23-250 and PA-E23-250 (Six Place) S/Nos. 27-3837, 27-3944. To 27-4442 Incl." and insert in lieu thereof "Piper PA 23-250 type aircraft S/N 27-3837 and 27-8944 to 27-4442 incl."

This amendment is effective November 30, 1971.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on November 16, 1971.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.71-17181 Filed 11-24-71;8:46 am]

[Airspace Docket No. 71-WE-24]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration and Extension of VOR Federal Airway Segments

On September 16, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 18533) stating that the Federal Aviation Administration (FAA) was considering amendments to Part 71 of the Federal Aviation regulations that would extend VOR Federal Airway No. 94 from Gila Bend, Ariz., to Blythe, Calif., and alter VOR Federal Airway No. 108 segment between Tucson, Ariz., and Casa Grande, Ariz.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation regulations is amended effective 0901 G.m.t., February 3, 1972, as hereinafter set forth.

Section 71.123 (36 F.R. 2010, 3892) is amended as follows:

1. In V-94 "From Gila Bend, Ariz.," is deleted and "From Blythe, Calif.; INT Blythe 094° and Gila Bend, Ariz., 299° radials; Gila Bend;" is substituted therefor.

2. In V-105 "INT Tucson 272° and Casa Grande, Ariz., 158° radials;" is deleted and "INT Tucson 298° and Casa Grande, Ariz., 145° radials;" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 18, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-17173 Filed 11-24-71;8:45 am]

[Airspace Docket No. 71-SO-171]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation regulations is to alter the Cincinnati, Ohio, transition area.

The Cincinnati transition area is described in § 71.181 (36 F.R. 2140 and 14636). In the description, an extension is predicated on Runway 18 ILS localizer north course. Effective December 16, 1971, the ILS Runway 18 Instrument Approach Procedure turn altitude will be raised to 2,500 feet MSL, thus deleting the requirement for this extension. It is necessary to alter the description to reflect this change. Since this amendment lessens the burden on the public, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation regulations is amended, effective 0901 G.m.t., December 16, 1971, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the Cincinnati, Ohio, transition area (36 F.R. 14636) is amended as follows:

"• • • within 9.5 miles W. and 4.5 miles E. of Runway 18 ILS localizer N. course, extending from the 11.5-mile radius area to 18.5 miles N. of the LOM • • •" is deleted.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on November 16, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71-17175 Filed 11-24-71;8:46 am]

[Airspace Docket No. 71-SW-67]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Winnsboro, Tex., transition area.

The present description of the Winnsboro, Tex., transition area includes an extension based on utilization of the Quitman, Tex., VOR 054° (046° magnetic) radial. Subsequent computations and additional flight checks indicated that the Quitman VOR 052° radial would afford a more suitable final approach course.

Action is being taken herein to change the airspace description to indicate use of the VOR 052° radial rather than the 054° radial. As the extent of airspace will not be increased and the airspace affected is minor, notice and public procedures are considered unnecessary and the amendment may be effective immediately.

In consideration of the foregoing, Part 71 of the Federal Aviation regulations is amended, effective immediately, as herein set forth.

In § 71.181 (36 F.R. 2140), the Winnsboro, Tex., transition area is amended by deleting "054° radial" and substituting "052° radial" therefor. Additionally, as the Quitman, Tex., VOR navigational facility is being converted to a VOR/TAC facility and is scheduled for completion by November 15, 1971, "VOR" should be deleted and "VOR/TAC" should be substituted therefor wherever it appears.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Fort Worth, Tex., on November 16, 1971.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.71-17174 Filed 11-24-71;8:46 am]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

[Docket No. R-427; Order 437A]

PART 2—GENERAL POLICY AND INTERPRETATIONS

Amended Statement of Policy and Order

NOVEMBER 16, 1971.

Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38) and Executive Orders Nos. 11615 and 11627, Docket No. R-427.

The Commission reaffirms its Statement of Policy promulgated in its Order No. 437, issued August 18, 1971, and effective August 15, 1971 (36 F.R. 16902, August 26, 1971) particularly with regard to its commitment to implement the Economic Stabilization Act of 1970, as amended, Executive Order No. 11615, and all other statutes vesting legal authority in this Commission, including such regulations, definitions, orders, exceptions and exemptions as may be issued in the future by the President, the Cost of Living Council or their legal delegates.

The Commission notes the promulgation on October 15, 1971, of Executive Order 11627 (36 F.R. 20139, October 16, 1971), further providing for the stabilization of the economy.

The Commission notes the sixth amendment to OEP Economic Stabilization Regulation No. 1, dated November 12, 1911 (36 F.R. 21761, November 13, 1971), continuing said regulation in full force and effect.

The Commission notes the promulgation, effective November 14, 1971, of: Part 101—Coverage, Exemptions and Classification of Economic Units, to Chapter I—Cost of Living Council, in Title 6—Economic Stabilization, of the Code of Federal Regulations; Chapter II—Pay Board, and Part 201—Stabilization of Wages and Salaries, to Title 6 of the Code of Federal Regulations; and Chapter III—Price Commission and Part 300—Price and Rent Stabilization to Title 6 of the Code of Federal Regulations, all set out at 36 F.R. 21788, November 13, 1971.

In particular, the Commission notes the provisions of 6 CFR 300.016, relating to regulated public utilities which provide in paragraph (a) that "a person which is a regulated public utility • • • may charge a price, rate, or tariff in excess of the base price if such increase has been approved by a regulatory agency", and in paragraph (b) that "in the case of rate increases which were approved by a regulatory agency before November 14, 1971, but which were not permitted to take effect due to Executive Order 11615," such rate increases may take effect "with respect to transactions occurring after November 13, 1971" provided that "before such increases may take effect, such regulatory agency shall review such increases with regard to their consistency with the purposes of the Economic Stabilization Act of 1970, as amended."

The objectives of the Economic Stabilization Act of 1970, as articulated by the Congress, include inflation control and the creation of conditions necessary to provide healthy economic growth. These objectives are consistent with the regulatory standards enunciated by Congress in the Federal Power Act and the Natural Gas Act which require the Commission, among other things, to determine whether the rates established or

proposed to be established by public utilities and natural gas companies are just and reasonable. In discharging these statutory objectives through the regulatory process, the Commission's regulations are consonant with the

Title 18, Code of Federal Regulations is amended by inserting the words "Phase I (August 15, 1971–November 13, 1971)" immediately following the section title, by deleting paragraph (a)(2), and substituting therefor a new paragraph

and shall be effective as of 12:01 a.m., November 14, 1971.

(c) Orders heretofore issued containing a provision that they are subject to Order No. 437, but which do not authorize increases in rates or charges, will also

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

SUBCHAPTER I—PESTICIDE PROGRAMS—Con.

164 Rules governing the appointment, compensation, and proceedings of an advisory committee; and rules of practice governing hearings under the Federal Insecticide, Fungicide, and Rodenticide Act

Title 42, Part 464—Grants for Resource Recovery Systems and New or Improved Solid Waste Disposal Facilities under Section 208 of the Act (36 F.R. 18636).

Title 42, Part 465—Grants for Training under Section 206 or 210 of the Solid Waste Disposal Act (36 F.R. 18638).

Part 475 of Title 42 is hereby revoked.

proposed to be established by public utilities and natural gas companies are just and reasonable. In discharging these statutory objectives through the regulatory process, the Commission's regulatory purposes are consonant with the objectives and purposes of the Economic Stabilization Act, as amended.

Taking cognizance of these developments, the Commission is of the opinion that this amendment of its original Statement of Policy, Order No. 437, is in the public interest. The Commission also reaffirms that this Statement of Policy may be amended from time to time as circumstances may require.

The Commission finds: (1) The notice and hearing requirements of 5 U.S.C. 553 do not apply to this general Statement of Policy as herein amended.

(2) In addition, compliance with the notice, public procedure, and effective date provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest.

(3) Good cause exists that the amendments herein ordered shall become effective as of 12:01 a.m., November 14, 1971.

(4) Amendment of the Commission's Statement of Policy as promulgated by Order No. 437, issued August 18, 1971, and effective August 15, 1971 (36 F.R. 16902, August 26, 1971) is necessitated by: (a) The need to continue an economic program of wage and price restraints to achieve the goals outlined by the President in Executive Order 11627; (b) supersession of Executive Order 11615, as amended, by Executive Order 11627; (c) the provisions of Executive Order 11627 and the recently promulgated economic stabilization regulations set out in Title 6 of the Code of Federal Regulations implementing Phase II of the economic stabilization program, particularly those regulations in Title 6 relating to Chapter I—Cost of Living Council, Part 101—Coverage, Exemptions and Classification; and Chapter III—Price Commission, Part 300—Price and Rent Stabilization, including § 300.016 therein entitled "Regulated public utilities."

(5) The purposes of the Economic Stabilization Act of 1970 are consistent with the regulatory standards contained in the Federal Power Act and the Natural Gas Act and with Commission implementation and application of these standards in regulatory proceedings.

(6) It is appropriate and in the public interest in administering the Federal Power Act and the Natural Gas Act to clarify Commission policy insofar as it relates to Commission participation in the economic stabilization program instituted at the direction of the President pursuant to the powers conferred upon the President by the Congress in the Economic Stabilization Act of 1970, as amended.

The Commission orders: (A) Section 2.90 in Part 2, General Policy and Interpretations, Subchapter A, Chapter I, Title 18, Code of Federal Regulations is amended by inserting the words "Phase I (August 15, 1971–November 13, 1971)" immediately following the section title, by deleting paragraph (a)(2), and substituting therefor a new paragraph (a)(2). As so amended these portions of § 2.90 read:

§ 2.90 Implementation of Executive Order No. 11615.

PHASE I (AUGUST 15, 1971–NOVEMBER 13, 1971)

(a) • • •

(2) Unless otherwise provided, this Phase I Statement of Policy (18 CFR 2.90, 36 F.R. 16902, August 26, 1971, as amended) shall remain in full force and effect until modified by order, rule or regulation issued by the Commission.

• • • • •

(B) Part 2, General Policy and Interpretations, Subchapter A, Chapter I, Title 18, Code of Federal Regulations is amended by adding new § 2.90a which reads as follows:

§ 2.90a Implementation of Executive Order No. 11627 and 6 CFR 300.016.

(a) No public utility as defined in 6 CFR 300.016 subject to the jurisdiction of this Commission shall increase a rate or charge without having first received the approval of this Commission.

(b) For the purposes of the Economic Stabilization Act, as amended, and pursuant to 6 CFR 300.016(a), all increases in rates or charges appearing in Commission orders issued after November 13, 1971, shall be effective on the date and under the conditions specified in the Commission order, but in no event will such increases be retroactive prior to 12:01 a.m., November 14, 1971.

(c) For the purposes of the Economic Stabilization Act as amended and pursuant to 6 CFR 300.016(b), the Commission hereby announces that its actions with respect to increases in rates or charges in orders heretofore issued containing a provision that they are subject to the policy announced in Order No. 437 will be reviewed for consistency with the purposes of the Economic Stabilization Act of 1970, as amended. After such review, increases in rates or charges approved as being consistent with such purposes will be reported as supplements to this order and shall be effective as of 12:01 a.m., November 14, 1971.

(d) For the purposes of the Economic Stabilization Act, as amended, the Commission announces that its actions with respect to increases in rates or charges otherwise effective, but for the policy announced in Order No. 437, where the applicability of Order No. 437 is not reflected in any Commission order, such actions will be reviewed for consistency with the Economic Stabilization Act, as amended, and, after such review, increases in rates or charges approved as being consistent with such purposes will be reported as supplements to this order and shall be effective as of 12:01 a.m., November 14, 1971.

(e) Orders heretofore issued containing a provision that they are subject to Order No. 437, but which do not authorize increases in rates or charges, will also be reviewed, and actions taken thereon will also be reported as supplements to this order, with appropriate indications as to relief from any requirement imposed by Order No. 437.

(C) This amended Statement of Policy and Order is effective as of 12:01 a.m., November 14, 1971.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.71-17297 Filed 11-24-71;8:51 am]

Chapter V—Environmental Protection Agency

REDESIGNATION AND REPUBLICATION

CROSS REFERENCE: For a document affecting the changes described above, see Title 40, F.R. Doc. 71-17201, appearing in this issue.

Title 45—PUBLIC WELFARE

Subtitle A—Department of Health, Education, and Welfare, General Administration

PART 15—RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES

Statutory Authority; Correction

The document issuing Part 15, Subtitle A, of Title 45 of the Code of Federal Regulations, published in the FEDERAL REGISTER on September 22, 1971, at 36 F.R. 18538, is corrected by adding immediately following the Table of Contents the following:

AUTHORITY: The provisions of this Part 15 issued under sec. 213, 84 Stat. 1960, 42 U.S.C. 4633.

Approved: November 19, 1971.

STEVEN D. KOHLERT, *Acting Deputy Assistant Secretary for Management.*

[FR Doc.71-17298 Filed 11-24-71;8:51 am]

Chapter XII—Environmental Protection Agency

REDESIGNATION AND REPUBLICATION

CROSS REFERENCE: For a document affecting the changes described above, see Title 40, F.R. Doc. 71-17201, appearing in this issue.

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

REORGANIZATION AND REPUBLICATION

Under the authority of Reorganization Plan No. 3 of 1970 (3 CFR 1970 Comp., p. 199), 35 F.R. 15623, a variety of activities related to pollution abatement control were transferred to the Environmental Protection Agency.

Regulations issued by the Environmental Protection Agency were published in various titles of the Code of Federal Regulations. Such regulations are being reorganized and transferred to Chapter I of Title 40—Protection of Environment. All amendments to these regulations are included in this republication through November 4, 1971. The following table shows the relationship of these regulations prior to this republication and the redesignations reflected in Title 40.

Old Title and Part No.	*New Parts in Title 40*
42 CFR Part 410	Part 50
42 CFR Part 420	Part 51
42 CFR Part 475	Revoked
42 CFR Part 476	Part 76
42 CFR Part 479	Part 79
42 CFR Part 481	Part 81
45 CFR Part 1201	Part 85
18 CFR Part 602	Part 20
18 CFR Part 604	Part 104
18 CFR Part 606	Part 106
18 CFR Part 607	Part 107
18 CFR Part 609	Part 109
18 CFR Part 610	Part 110
18 CFR Part 615	Part 115
18 CFR Part 620	Part 120
18 CFR Part 622	Part 122
7 CFR Part 2762	Part 162
7 CFR Part 2765	Part 165
7 CFR Part 2764	Part 164
21 CFR Part 420	Part 180

Subchapter B, Title 40 is hereby reserved for all regulations pertaining to "Grants" of the Environmental Protection Agency. Previously published grant regulations are hereby removed from the Code of Federal Regulations, but are retained in force as uncodified regulations. Grant regulations thus affected are as follows:

Title 18, Part 601—Grants for water pollution control.

Title 42, Part 456—Grants for air pollution control programs.

Title 42, Part 460—General Provisions Applicable to Grants Under Sections 204, 205, 207, 208, and 210 of the Solid Waste Disposal Act (36 F.R. 18622).

Title 42, Part 461—Grants for Studies, Investigations, Surveys, and Demonstrations Under Section 204 or 205 of the Solid Waste Disposal Act (36 F.R. 18623).

Title 42, Part 462—Grants for Research, Investigations, Experiments, Surveys, and Studies Under Section 204 or 205 of the Solid Waste Disposal Act (36 F.R. 18623).

Title 42, Part 463—Grants for Planning Under Section 207 of the Solid Waste Disposal Act (36 F.R. 18623).

Title 42, Part 464—Grants for Resource Recovery Systems and New or Improved Solid Waste Disposal Facilities under Section 208 of the Act (36 F.R. 18626).

Title 42, Part 465—Grants for Training under Section 204 or 210 of the Solid Waste Disposal Act (36 F.R. 18623).

Part 475 of Title 42 is hereby revoked.

Parts 3 and 4 of Title 40 are included in this republication of Chapter I without substantive change. Chapter I is set forth below in its entirety.

WILLIAM D. RUCKELSHAUS, *Administrator, Environmental Protection Agency.*

SUBCHAPTER A—GENERAL

Part
3 Employee responsibilities and conduct.
4 Interim regulations and procedures for implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
20 Certification of Facilities.

SUBCHAPTER B—GRANTS [RESERVED]

SUBCHAPTER C—AIR PROGRAMS

50 National primary and secondary ambient air quality standards.
51 Requirements for preparation, adoption, and submittal of implementation plans.
76 Prevention, control, and abatement of air pollution from Federal Government activities; performance standards and techniques of measurement.
79 Registration of fuel additives.
81 Air quality control regions, criteria, and control techniques.
85 Control of air pollution from new motor vehicles and new motor vehicle engines.

SUBCHAPTER D—WATER PROGRAMS

104 Standards-setting conferences, hearings, and notifications of alleged violators of water quality standards.
106 Public hearings under the Federal Water Pollution Control Act.
107 Filing of reports with the Administrator by persons whose alleged activities result in discharges causing or contributing to water pollution.
109 Criteria for State, local and regional oil removal contingency plans.
110 Discharge of oil.
115 State certification of activities requiring a Federal license or permit.
120 Water quality standards.
122 Revision of water quality standards.

SUBCHAPTER E—PESTICIDE PROGRAMS

162 Regulations for the enforcement of the Federal Insecticide, Fungicide and Rodenticide Act.
163 Certification of usefulness of pesticide chemicals.

SUBCHAPTER E—PESTICIDE PROGRAMS—Con.

164 Rules governing the appointment, compensation, and proceedings of an advisory committee; and rules of practice governing hearings under the Federal Insecticide, Fungicide, and Rodenticide Act.
180 Tolerances and exemptions from tolerances for pesticide chemicals in or on raw agricultural commodities.

SUBCHAPTER F—RADIATION PROGRAMS [RESERVED]

SUBCHAPTER G—NOISE ABATEMENT PROGRAMS [RESERVED]

SUBCHAPTER A—GENERAL

PART 3—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Sec.
3.735–101 Adoption of regulations.
3.735–102 Counselor and deputy counselors.
3.735–103 Statements of employment and financial interests.
3.735–104 Disciplinary and other remedial action.
3.735–105 Gifts, entertainment, and favors.
3.735–106 Outside employment.
3.735–107 Specific provisions of agency regulations governing special Government employees.

AUTHORITY: The provisions of this Part 3 issued under E.O. 11222, 30 F.R. 6469, 3 CFR, 1964–1965 Comp., p. 306; 5 CFR § 735.101 et seq.

§ 3.735–101 Adoption of regulations.

Pursuant to 5 CFR § 735.104(f), the Environmental Protection Agency (referred to hereinafter as the Agency) hereby adopts the following sections of Part 735 of Title 5, Code of Federal Regulations: Sections 735.101–735.102, 735.201a, 735.202 (a), (d)–(f), 735.203–735.210, 735–302, 735.303(a), 735.304, 735.305(a), 75.403 (a)–(c), 735.403a, 735.404–735.411. These adopted sections are modified and supplemented as set forth in this part.

§ 3.735–102 Counselor and Deputy Counselors.

(a) The Deputy General Counsel shall serve as the Counselor required to be appointed pursuant to 5 CFR § 735.105. The Counselor shall perform the functions described in 5 CFR § 735.105 and those described in § 3.735–103, relating to statements of employment and financial interests.

(b) The Deputy Counselors required to be appointed pursuant to 5 CFR § 735.105 shall be the Assistant Administrators, Deputy Assistant Administrators, Regional Administrators, and other office heads reporting directly to the Administrator or the Deputy Administrator. The Deputy Counselors shall perform the functions described in 5 CFR § 735.105 and those set forth in § 3.735–103, relating to statements of employment and financial interests.

§ 3.735–103 Statements of employment and financial interests.

(a) Employees required to submit statements of employment and financial interests under 5 CFR § 735.403 (a)–(c) shall be advised in writing of that requirement by the Counselor. Employees who are required to submit statements but have no outside employment shall report that fact in writing, through channels to the appropriate deputy counselor designated by § 3.735–102.

§ 3.735–107 Specific provisions of agency regulations governing special Government employees.

Sec.
4.56 Prerequisites to EPA approval of Federal financial assistance to project or project phase; displacement.
4.57 Assurances required; acquisition of real property.
4.60 Use of Federal financial assistance.
4.61 Federal share of costs.

Sec.
4.191 Reasonable cost of comparable replacement dwelling.
4.192 Owner retention.
4.195 Increased interest costs.
4.197 Incidental expenses.
4.199 Computation of rental payments; tenants.
4.201 Computation of rental payments;

ing of products, commodities, or other personal property;

(2) For the sale of services to the public; or

(3) By a nonprofit organization.

(c) "Displacing Agency" means EPA or the Federal or State agency responsible for carrying out the project for

(1) A fee title.

(2) A life estate.

(3) A 99-year lease.

(4) A lease with at least 50 years to run from the date of acquisition of the property.

(5) An interest in a cooperative housing project which includes the right to

§ 3.735–103 Statements of employment and financial interests.

(a) Employees required to submit statements of employment and financial interests under 5 CFR § 735.403 (a)–(c) shall be advised in writing of that requirement.

(b) Any employee aggrieved by the requirement that he submit a statement of employment and financial interests pursuant to paragraph (a) of this section shall have the opportunity to demand review of such requirement, in accordance with such grievance procedures as may from time to time be established by the Administrator.

(c) Each statement of employment and financial interest required under this part shall be submitted for the review of the Deputy Counselor to whose office the reporting employee is permanently assigned, except that statements of employment and financial interest of employees in the immediate office of the Administrator and those of the Deputy Counselors shall be submitted for the review of the Counselor.

(d) When the review described in paragraph (c) of this section indicates a conflict between the interests of an employee or special Government employee of the Agency and the performance of his services for the Government, the reviewing official shall have the indicated conflict brought to the attention of the employee or special Government employee, grant the employee or special Government employee an opportunity to explain the indicated conflict, and attempt to resolve the indicated conflict. If the indicated conflict cannot be resolved, the reviewing official shall forward a written report on the indicated conflict to the Administrator through the Counselor.

§ 3.735–104 Disciplinary and other remedial action.

An employee or special Government employee of the Agency who violates any of the regulations in this part or adopted under § 3.735–101 may be disciplined. The disciplinary action may be in addition to any penalty prescribed by law for the violation. In addition to or in lieu of disciplinary action, remedial action to end conflicts or appearance of conflicts of interest may include but is not limited to:

(1) Changes in assigned duties;

(2) Divestment by the employee or special Government employee of his interest; or

(3) Disqualification for a particular assignment.

§ 3.735–105 Gifts, entertainment, and favors.

The Agency authorizes the exceptions to 5 CFR §735.202(a) set forth in 5 CFR § 735.202(b) (1)–(4).

§ 3.735–106 Outside employment.

An employee of the Agency may engage in outside employment or other outside activity not incompatible with the full and proper discharge of the duties and responsibilities of his Government employment. An employee who engages in outside employment shall report that fact in writing through channels to the appropriate deputy counselor designated by § 3.735–102.

§ 3.735–107 Specific provisions of agency regulations governing special Government employees.

(a) Special Government employees, as defined in 5 CFR § 735.102(e), of the Agency shall adhere to the standards of conduct applicable to employees as set forth in this part and adopted under § 3.735–101, except for that set forth in 5 CFR § 735.203(b).

(b) Special Government employees of the Agency may teach, lecture, or write in a manner not inconsistent with 5 CFR § 735.203(c).

(c) Pursuant to 5 CFR § 735.305(b), the Agency authorizes the same exceptions concerning gifts, entertainment, and favors for special Government employees as are authorized for employees by § 3.735–105.

(d) Each special Government employee shall, not later than the time of his employment, submit a statement of employment and financial interests as provided in § 3.735–103, such statement to include:

(1) All other employment; and

(2) The financial interests of the special Government employee which the Counselor shall determine are relevant in the light of the duties to be performed by such special Government employee.

(e) The reporting requirement for special Government employees established by this section may be waived by the Administrator subject to 5 CFR § 735.412(c).

PART 4—INTERIM REGULATIONS AND PROCEDURES FOR IMPLEMENTING THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

Subpart A—General

Sec.
4.1 Purpose and policy.
4.3 Definitions.
4.5 Applicability.
4.7 Displaced person; qualifications.
4.11 Comparable replacement dwelling; requirements.
4.13 Decent, safe, and sanitary dwelling; requirements.
4.17 Decent, safe, and sanitary rental sleeping rooms; requirements.
4.19 Records.

Subpart B—Requirements for Federal Projects

4.31 Scope.
4.33 Determinations; displacement of persons.
4.35 Determinations; acquisition of real property.
4.37 Appeals.
4.39 State agency providing real property for a Federal project.

Subpart C—Requirements for Federally Assisted Projects

4.51 Scope.
4.53 State agency required to submit relocation plan and statement of relocation procedure.

Sec.
4.55 Prerequisites to EPA approval of Federal financial assistance to project or project phase; displacement.
4.57 Assurances required; acquisition of real property.
4.59 Use of Federal financial assistance.
4.61 Federal share of costs.
4.63 Appeals.
4.65 Retroactive effect.
4.67 Required amendment of existing grants, etc.

Subpart D—Relocation Assistance Advisory Programs

4.71 Scope.
4.73 Extension of services to adjacent occupants.
4.75 Relocation programs; general requirements.
4.77 Organizational requirements.
4.79 Coordination with other agencies.
4.81 Public information; general.
4.83 Public information; hearings.
4.85 Public information; brochure.
4.87 Public information; announcements.
4.89 Public information; notices.
4.91 Waiver of public information requirements.
4.93 Information for displaced persons.

Subpart E—Moving and Related Expenses

4.111 Scope.
4.113 Eligibility not dependent on length of occupancy.
4.115 Payment limited to one move; exception.
4.117 Family treated as person.
4.119 Noneligibility notice to rental occupants required.
4.121 Moving expenses; application and payment.
4.123 Exclusions.
4.125 Moving expenses; occupants of dwellings.
4.127 Moving expenses; businesses and farm operations.
4.129 Moving expenses; advertising businesses.
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AUTHORITY: The provisions of this Part 4 issued under sec. 213, 84 Stat. 1900.

Subpart A—General

§ 4.1 Purpose and policy.

(a) This part implements the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 which provides for the uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal and federally assisted projects and establishes uniform and equitable land acquisition policies for Federal and federally-assisted programs.

(b) In implementing the act, it is the policy of the Environmental Protection Agency to deal consistently and fairly with all persons whose property is taken for public projects and all persons who are displaced from their homes, businesses or farms.

§ 4.3 Definitions.

As used in this part—

(a) "Administrator" means the Administrator of the Environmental Protection Agency or his designee.

(b) "Business" means a lawful activity, other than a farm operation, conducted primarily—

(1) For the purchase, sale, lease, or rental of personal and real property, or the manufacture, processing, or marketing of products, commodities, or other personal property;

(2) For the sale of services to the public; or

(3) By a nonprofit organization.

(c) "Displacing Agency" means EPA or the Federal or State agency responsible for carrying out the project for which real property is to be acquired.

(d) "Dwelling" includes a single-family house, a single-family unit in a multifamily building, a unit of a condominium or cooperative housing project, a mobile home, or any other residential unit.

(e) "Economic rent" means the amount of rent a tenant or homeowner would have to pay for a dwelling similar to the acquired dwelling in a comparable area on the private market.

(f) "Farm operation" means a lawful activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use and customarily producing those products or commodities in sufficient quantity to be capable of providing at least one-third of the operator's income, however, in instances where such operation is obviously a farm operation it need not contribute one-third to the operation's income for him to be eligible for relocation payments.

(g) "Federal agency" means a department, agency, or instrumentality in the Executive Branch of Government (except the National Capital Housing Authority), any wholly-owned Government corporation (except the District of Columbia Redevelopment Land Agency), and the Architect of the Capitol, the Federal Reserve Banks and branches thereof.

(h) "Federal financial assistance" means a contract, grant, loan, or contribution by the United States to a State or State agency, other than a Federal guarantee or insurance or an annual payment or capital loan to the District of Columbia.

(i) "Federally assisted" means, with respect to States or State agencies, assisted by a contract, grant, loan, or contribution by the United States, other than a Federal guarantee or insurance or an annual payment or capital loan to the District of Columbia.

(j) "Homeowner" means an individual or family who owns a dwelling.

(k) "Initiation of negotiations" means the date the displacing agency makes its first personal contact with the owner of real property, or his representative, to discuss price of the property to be acquired.

(l) "Mortgage" means a lien commonly given to secure an advance on, or the unpaid purchase price of, real property under the laws of the State in which real property is located, together with any credit instruments secured thereby.

(m) "Own" means holding any of the following interests in a dwelling or a contract to purchase one of these interests:

(1) A fee title.

(2) A life estate.

(3) A 99-year lease.

(4) A lease with at least 50 years to run from the date of acquisition of the property.

(5) An interest in a cooperative housing project which includes the right to occupy a dwelling.

(n) "Person" includes a partnership, company, corporation, or association as well as individual.

(o) "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, the trust territories of the Pacific Islands, or a political subdivision of any of those jurisdictions.

(p) "State agency" means a department, public body, agency or instrumentality of a State or of a political subdivision of a State, or any department, agency or instrumentality of two or more States or of two or more political subdivisions of a State or States, the National Capital Housing Authority and the District of Columbia Redevelopment Land Agency.

(q) "Tenant" means an individual or family who rents, or is temporarily in lawful possession of a dwelling, including a sleeping room.

§ 4.5 Applicability.

This part applies to projects which are part of a Federal or federally-assisted program administered by the Environmental Protection Agency and which, after January 1, 1971, cause the displacement of persons or the acquisition of real property.

§ 4.7 Displaced person; qualifications.

(a) Subject to the requirements of paragraphs (c), (d), and (e) of this section, a person qualifies as a displaced person for the purposes of this part if after January 1, 1971, he moves from real property, or moves his personal property from real property, on which he resides or conducts a business or farm operation, and the move is a direct result of—

(1) The initiation of negotiations for the real property;

(2) A written notice from the displacing agency of its intent to acquire the real property by a definite date; or

(3) A written order from the displacing agency to vacate the real property; for a project undertaken by the Environmental Protection Agency or a State agency receiving Federal financial assistance from EPA.

(b) A person may qualify as a displaced person, regardless of—

(1) Whether the property is acquired by a Federal or State agency;

(2) The method of acquisition;

(3) The name or status of the person who acquires or holds fee title to the property; or

(4) Whether Federal funds contribute directly to the payment for the property, if the property must be acquired for a Federal or federally-assisted program or

project, and the end result is to serve or be considered to serve in the public interest.

(c) A person does not qualify as a displaced person under paragraph (a) (1) or (2) of this section until—

good working condition and connected to hot and cold water, and properly connected to a sewage disposal system;

(4) Has a stove and refrigerator in good operating condition, if required by local code, ordinance, or custom, or, if not so required, utility service connec-

ily, the displacing agency may, with the concurrence of the Administrator, waive any requirement of paragraph (a) (1) through (11) of this section.

§ 4.17 Decent, safe, and sanitary rental sleeping rooms; requirements.

§ 4.19 Records.

Each displacing agency shall maintain relocation records in accordance with the requirements of appendix A to this part and make them available during regular business hours for inspection by the Administrator. The records shall be retained by the agency for at least 3

§ 4.37 Appeals.

Any person aggrieved by a determination made by EPA, in connection with a Federal project or program, concerning the eligibility for, or amount of, any payment to such person under the regulations in this part, may appeal from such determination to the Administrator. Ap-

ect which will entail the displacement of any person, a State agency shall submit a relocation plan to EPA. The relocation plan shall include:

(1) An inventory of the characteristics and needs of persons to be displaced. This inventory may be based upon a representative sampling process rather than a complete occupancy

project, and the end result is to serve or be considered to serve in the public interest.

(c) A person does not qualify as a displaced person under paragraph (a) (1) or (2) of this section until—

(1) The displacing agency becomes entitled to possession of the real property under an agreement or a court order in a condemnation proceeding for acquiring the property;

(2) The owner conveys title to the real property to the displacing agency; or

(3) The owner and the displacing agency enter into a contract for the purchase of the real property, but only if the real property is not to be reoccupied before the agency is to acquire title or the right to possession.

(d) A person, other than the former owner or tenant, who enters into rental occupancy of real property after its ownership passes to the displacing agency, does not qualify as a displaced person for the purposes of this part.

(e) A person who enters into occupancy of real property after the initiation of negotiations for that property or the issuance of a notice of intent to acquire that property by a given date, as the case may be, does not qualify as a displaced person for the purposes of this part.

§ 4.11 Comparable replacement dwelling; requirements.

A dwelling is a comparable replacement dwelling for the purposes of this part if it is—

(a) Decent, safe, and sanitary;

(b) Functionally equivalent and substantially the same as the dwelling being acquired with respect to—

(1) Number of rooms;

(2) Area of living space;

(3) Age; and

(4) State of repair.

(c) In an area not generally less desirable than the dwelling being acquired with respect to—

(1) Public utilities; and

(2) Public and commercial facilities.

(d) Reasonably accessible to the place of employment of the head of the displaced family or the displaced individual, as the case may be;

(e) Adequate to accommodate the displaced family or individual;

(f) In an equal or better neighborhood;

(g) Available on the market; and

(h) Within the financial means of the displaced family or individual.

§ 4.13 Decent, safe, and sanitary dwelling; requirements.

(a) A dwelling is decent, safe, and sanitary for the purposes of this part if it—

(1) Meets the applicable State or local building, plumbing, electrical, housing, and occupancy codes or similar ordinances or regulations for existing structures;

(2) Has a continuing and adequate supply of potable safe water;

(3) Has a kitchen or an area set aside for kitchen use which contains a sink in good working condition and connected to hot and cold water, and properly connected to a sewage disposal system;

(4) Has a stove and refrigerator in good operating condition, if required by local code, ordinance, or custom, or, if not so required, utility service connections and adequate space for these installations in the kitchen or area set aside for kitchen use;

(5) Except in a geographical area where it is not normally included in new housing, has an adequate heating system in good working order capable of maintaining a minimum temperature of 70° F. in the living area (not including the bedrooms) under local outdoor design temperature conditions;

(6) Has a bathroom, well lighted and ventilated and affording privacy to a person within it, containing a lavatory and a bathtub or shower stall, properly connected to an adequate supply of hot and cold running water, and a flush toilet, all in good working order and properly connected to a sewage disposal system;

(7) Has an electrical wiring system in each room;

(8) Is structurally sound, clean, weathertight, and in good repair and adequately maintained;

(9) Has a safe, unobstructed means of egress leading to a safe open space at ground level and, in the case of a multidwelling building, access from each dwelling unit directly or through a common corridor to a means of egress to a safe open space at ground level and, in the case of a multidwelling building of more than two stories, at least two means of egress from the common corridor on each story;

(10) Has sleeping, living, cooking, and dining floor space (exclusive of such enclosed spaces as closets, pantries, bath or toilet rooms, service rooms, connecting corridors, laundries, unfurnished attics, foyers, storage spaces, cellars, utility rooms (or similar spaces) which—

(i) Measures at least 150 square feet for the first occupant and 100 square feet (70 square feet in the case of a mobile home) for each additional occupant;

(ii) Is subdivided into adequately ventilated rooms sufficient to accommodate the occupants;

(11) Is reasonably convenient to community services including schools, stores, and public transportation; and

(12) Open to all persons regardless of race, color, religion, sex, or national origin and consistent with the requirements of title VIII of the Civil Rights Act of 1968.

(b) If the applicable local housing code does not conform to all the requirements of paragraph (a) of this section but is reasonably comparable, the agency providing relocation assistance may submit a copy of the local code to the Administrator for approval as acceptable standards for decent, safe, and sanitary housing.

(c) In case of extreme hardship or other similar extenuating circumstances involving a displaced individual or family, the displacing agency may, with the concurrence of the Administrator, waive any requirement of paragraph (a) (1) through (11) of this section.

§ 4.17 Decent, safe, and sanitary rental sleeping rooms; requirements.

(a) A rental sleeping room is decent, safe, and sanitary for the purposes of this part if it—

(1) Meets the applicable State or local building, plumbing, electrical, housing, and occupancy codes or similar ordinances or regulations for existing structures;

(2) Except in a geographical area where it is not normally included in new housing, has an adequate heating system in good working order which will maintain a minimum temperature of 70° F. under local outdoor design temperature conditions;

(3) Has an electrical wiring system;

(4) Is structurally sound, clean, weathertight, and in good repair and adequately maintained;

(5) Has a safe, unobstructed means of egress leading to a safe open space at ground level and, in the case of a rooming house, access from each sleeping room directly or through a common corridor to a means of egress to a safe open space at ground level and, in the case of a rooming house of more than two stories, at least two means of egress from the common corridor on each story;

(6) Is reasonably convenient to community services such as schools, stores and public transportation;

(7) Has at least 100 square feet of habitable floor space for the first occupant and 50 square feet of habitable floor space for each additional occupant; and

(8) Has use of a bathroom, well lighted and ventilated and afforded privacy to a person within it, including a door that can be locked if the facilities are separate from the sleeping room, containing a lavatory and a bathtub or shower stall, properly connected to an adequate supply of hot and cold running water, and a flush toilet, all in good working order and properly connected to a sewage disposal system.

(9) Open to all persons regardless of race, color, religion, sex, or national origin and consistent with the requirements of title VIII of the Civil Rights Act of 1968.

(b) If the applicable local housing code does not meet all the requirements of paragraph (a) of this section but is reasonably comparable, the agency providing relocation assistance may submit a copy of the local code to the Administrator for approval as acceptable standards for decent, safe, and sanitary housing.

(c) In case of extreme hardship or other similar extenuating circumstances involving a displaced individual or family, the displacing agency may, with the concurrence of the Administrator, waive any requirement of paragraph (a) (1) through (8) of this section.

§ 4.19 Records.

Each displacing agency shall maintain relocation records in accordance with the requirements of appendix A to this part and make them available during regular business hours for inspection by the Administrator. The records shall be retained by the agency for at least 3 years after completion of a project.

Subpart B—Requirements for Federal Projects

§ 4.31 Scope.

This subpart prescribes requirements governing the administration of real property acquisition and relocation assistance for displaced persons for projects which are part of a Federal program administered by the Environmental Protection Agency.

§ 4.33 Determinations; displacement of persons.

(a) No Federal project to which this part applies which will result in the displacement of any person shall be approved by EPA until the Administrator determines that—

(1) Fair and reasonable relocation payments will be provided to displaced persons as required by Subparts E, F, and G of this part;

(2) Relocation assistance programs offering the services described in Subpart D of this part will be provided for displaced persons;

(3) The public was or will be adequately informed of the relocation payments and services which will be available under Subparts D, E, F, and G of this part; and

(4) Comparable replacement dwellings will be available, or provided if necessary, a reasonable period in advance of the time any person is to be displaced.

(b) EPA may not proceed with any phase of a Federal project if that phase will cause the displacement of any person until it is determined that—

(1) Based on a current survey and analysis of available replacement housing and in consideration of competing demands for that housing, comparable replacement dwellings will be available within a reasonable period of time prior to displacement; and

(2) Adequate provisions have been made to provide orderly, timely, and efficient relocation of displaced individuals and families to comparable replacement dwellings with minimum hardship to those affected.

§ 4.35 Determinations; acquisition of real property.

No Federal project to which this part applies and which will result in the acquisition of real property shall be approved until the Administrator determines that adequate provisions have been made to—

(a) Fully comply with the requirements of Subpart I, of this part; and

(b) Inform the public of the acquisition policies, requirements, and payments which will apply to the project.

§ 4.37 Appeals.

Any person aggrieved by a determination made by EPA, in connection with a Federal project or program, concerning the eligibility for, or amount of, any payment to such person under the regulations in this part, may appeal from such determination to the Administrator. Appeals shall be submitted in writing and addressed to the Administrator, Environmental Protection Agency, Washington, D.C. 20460. No appeal will be considered unless it is received by the Administrator within 90 days of the date of receipt by the person aggrieved of written denial, in whole or in part, of his application for payment. The appeal should include written substantiation of the appeal. An appeal may be presented by the attorney of the person aggrieved or by the person himself. The Administrator or his designated representative shall promptly issue a decision on the appeal, which decision may either uphold the original determination or allow the claimed relief in whole or in part. The decision shall be reduced to writing, and shall state the facts and law upon which it is based. A copy of the decision shall be furnished to the person aggrieved. The decision shall constitute the final EPA decision on the application for payment.

§ 4.39 State agency providing real property for a Federal project.

(a) Whenever a State agency is obligated to provide the necessary real property incident to a Federal project, the Environmental Protection Agency may not accept that real property until it is determined that the State agency has carried out all the requirements of this subpart. However, until July 1, 1972, this section is applicable to a State agency only to the extent that agency is able to meet the requirements of this subpart under State law.

(b) The cost to a State agency of providing the payments and services required by this subpart shall be paid in the same manner and to the same extent as the cost of the real property acquired for the project. However, until July 1, 1972, the Environmental Protection Agency will pay a State agency the full amount of the first $25,000 of the cost of providing payments and services for any displaced person.

Subpart C—Requirements for Federally Assisted Projects

§ 4.51 Scope.

This subpart prescribes requirements governing the administration of real property acquisition and relocation assistance for displaced persons for projects which are part of a federally assisted program administered by the Environmental Protection Agency.

§ 4.53 State agency required to submit relocation plan and statement of relocation procedure.

(a) As part of its application for Federal financial assistance for any project which will entail the displacement of any person, a State agency shall submit a relocation plan to EPA. The relocation plan shall include:

(1) An inventory of the characteristics and needs of persons to be displaced. This inventory may be based upon a representative sampling process rather than a complete occupancy survey.

(2) An estimated inventory of currently available comparable replacement dwellings.

(3) Identification of any phase of the project which will require the displacement of any person.

(4) An analysis of the information required by subparagraphs (1), (2), and (3) of this paragraph which—

(i) Discusses relocation problems and possible solutions;

(ii) Provides an analysis of Federal, State, and community programs currently in operation in the project area which will affect the availability of housing;

(iii) Provides information on concurrent displacement and relocation by other governmental agencies or private concerns;

(iv) Describes the methods to be used to relocate displaced persons; and

(v) Explains the amount of lead time necessary to carry out a timely, orderly, and humane relocation program.

(b) Before beginning any phase of a project receiving Federal financial assistance, which phase will require the displacement of any person, a State agency shall submit to EPA a complete statement of the procedure it will follow in furnishing relocation services and making payments. The statement shall include:

(1) A declaration of understanding that the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and this regulation, are applicable to federally assisted projects including those projects on which real property acquisition is financed by State money, but where Federal financial assistance will be used in construction.

(2) A description of procedures to be used to provide public information through brochures, public hearings, newspapers, radio, television, and other means of available assistance and payments to displaced persons. A copy of brochures shall be appended.

(3) A description of the moving expense payments to which displaced persons are entitled and the methods employed in determining the amount of entitlement. Schedules shall be appended where applicable.

(4) A description of the incidental transfer expenses that are payable. A copy of a typical closing statement indicating those payments shall be appended.

(5) A description of the appeal procedures that are available to displaced persons.

(6) A copy of all forms developed to carry out the relocation program.

(7) A current survey and analysis of available replacement housing and of competing demands for such housing.

§ 4.55 Prerequisites to EPA approval of Federal financial assistance to project or project phase; displacement.

(a) Except as provided in paragraph (c) of this section, EPA will not approve a grant, contract, or agreement for a Federally assisted project to which this part applies and which will result in the acquisition of real property until the head of

§ 4.57 Assurances required; acquisition of real property.

(a) EPA will not approve a grant, contract, or agreement for a federally assisted project to which this part applies and which will result in the acquisition of real property until the head of

(b) If Federal financial assistance is by grant or contribution, the Environmental Protection Agency will pay a State agency the full amount of the first $25,000 of the cost of providing the payments and services described in this part for any displaced person because of any acquisition or displacement occurring

and subpart I of this part. If the Administrator determines it is necessary for the expeditious completion of a program or project he may advance to the State agency the Federal share of the cost of any payment or assistance by such State agency pursuant to sections 206, 210, 215, and 305 of the Uniform Relocation

(1) Lists of replacement dwellings available to persons without regard to race, color, religion, or national origin drawn from various sources, suitable in price, size, and condition for displaced persons.

(2) Current information as to security deposits, closing costs, typical down pay-

(2) A description of the expenses incidental to transfer of property that will be paid;

(3) Appeal procedures;

(4) A description of how relocation assistance and services will be provided;

(5) The address and telephone number of the local office of the State agency and

§ 4.55 Prerequisites to EPA approval of Federal financial assistance to project or project phase; displacement.

(a) Except as provided in paragraph (c) of this section, EPA will not approve a grant, contract, or agreement for a Federally assisted project to which this part applies which will result in the displacement of any person until the State agency has complied with § 4.53(a) and until the head of the State agency provides the Administrator with satisfactory written assurances that:

(1) It will provide fair and reasonable relocation payments to displaced persons as required by Subparts E, F, and G of this part;

(2) It will provide relocation assistance programs for displaced persons offering the services described in Subpart D of this part;

(3) It will adequately inform the public of the relocation payments and services which will be available under Subparts D, E, F, and G of this part; and

(4) Comparable replacement dwellings will be available, or provided if necessary, a reasonable period in advance of the time any person is displaced.

(b) Except as provided in paragraph (c) of this section, EPA will not authorize a State agency to proceed with any phase of a Federally assisted project if that phase will cause the displacement of any person until the State agency has complied with § 4.53(b) and until the head of the State agency provides the Administrator with satisfactory written assurances that:

(1) Based on a current survey and analysis of available replacement housing and in consideration of competing demands for that housing, comparable replacement dwellings will be available a reasonable period of time prior to displacement, sufficient in number for the displaced persons who require them; and

(2) The State agency relocation procedures are realistic and are adequate to provide orderly, timely, and efficient relocation of displaced individuals and families to comparable replacement dwellings with minimum hardship to those affected.

(c) Until July 1, 1972, the requirements of paragraphs (a) and (b) of this section and the requirements of § 4.53 are applicable to a State agency only to the extent that agency is able under State law to comply with paragraphs (a) and (b) of this section.

(d) If a State agency maintains that it is legally unable to provide the assurances required by paragraphs (a) and (b) of this section, it shall furnish the Administrator a statement specifying any provisions of the relocation assistance assurances required by this section which it is unable to provide in whole or in part under the laws of that State, and an opinion of its chief legal official discussing the issues involved and citing legal authorities in support of the conclusions for each representation of legal inability to provide any part of the required assurances.

§ 4.57 Assurances required; acquisition of real property.

(a) EPA will not approve a grant, contract, or agreement for a federally assisted project to which this part applies and which will result in the acquisition of real property until the head of the State agency concerned provides the Administrator with satisfactory assurances that it will—

(1) Fully comply with the requirements of subpart I of this part; and

(2) Adequately inform the public of the acquisition policies, requirements, and payments which will apply to the project.

However, until July 1, 1972, the requirements of this paragraph are applicable to a State agency only to the extent that agency is able to comply with this paragraph under State law.

(b) If a State agency maintains that it is legally unable to provide the assurances required by paragraph (a) of this section, it shall furnish the Administrator a statement specifying any provisions of the relocation assistance assurances required by this section which it is unable to provide in whole or in part under the laws of that State, and an opinion of its chief legal official discussing the issues involved and citing legal authorities in support of the conclusions for each representation of legal inability to provide any part of the required assurances.

§ 4.59 Use of Federal financial assistance.

(a) The type of interest acquired in real property does not affect the eligibility of related relocation costs for Federal financial assistance provided the interest is sufficient to cause displacement.

(b) Federal financial assistance may not be used to pay a relocated person for any loss that is due to his negligence.

(c) Federal financial assistance may not be used for any payment under this part to a displaced person if that person receives a separate payment which is—

(1) Required by the State law of eminent domain;

(2) Determined by the Administrator to have substantially the same purpose and effect as a payment under this part; and

(3) Otherwise included as a project cost for which Federal financial assistance is available.

§ 4.61 Federal share of costs.

(a) The cost to a State agency of providing the payments and services required by Subparts A through H of this part, and the additional, identifiable cost to a State agency of providing the payments and services required by Subpart I of this part, shall be included as part of the cost of the federally-assisted project and, except as provided in paragraphs (b) and (c) of this section, the State agency is eligible for Federal financial assistance with respect to those costs in the same manner and to the same extent as other project costs.

(b) If Federal financial assistance is by grant or contribution, the Environmental Protection Agency will pay a State agency the full amount of the first $25,000 of the cost of providing the payments and services described in this part for any displaced person because of any acquisition or displacement occurring before July 1, 1972.

(c) If Federal financial assistance is by loan, the Environmental Protection Agency will loan a State agency the full amount of the first $25,000 of the cost of providing the payments and services described in this part for any displaced person because of any acquisition or displacement occurring before July 1, 1972.

§ 4.63 Appeals.

(a) An applicant for a payment under this subpart who is aggrieved by a displacing agency's determination as to the applicant's eligibility for payment or the amount of the payment may appeal that determination in accordance with the procedures established by the displacing agency under paragraph (b) of this section.

(b) Each displacing agency shall establish procedures for reviewing appeals by aggrieved applicants for payments under this subpart. The procedures shall insure that—

(1) Each appellant applicant has the opportunity for oral and written presentation and the right to have counsel participate in such presentation;

(2) Each appeal will be decided promptly;

(3) Each appeal decision will include a statement of the reasons upon which it is based and a copy of such decision will be furnished the appellant;

(4) The agency retains all documents associated with each appeal; and

(5) Each appellant applicant has a final appeal to the head of the displacing agency.

§ 4.65 Retroactive effect.

In the case of any project phase, grant, contract, or agreement approved by EPA prior to October 1, 1971, which will involve or has involved displacement of any person or acquisition of real property, after January 1, 1971, and prior to October 1, 1971, the State agency concerned shall:

(a) Comply with the provisions of this subpart providing payments or other benefits to persons as soon as possible; and

(b) Comply with the provisions of this subpart requiring submission of information or assurances to EPA, no later than November 1, 1971.

§ 4.67 Required amendment of existing grants, etc.

Any grant to, or contract or agreement with, a State agency executed before the date of publication of this part, under which Federal financial assistance is available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after January 2, 1971, shall be amended to include the cost of providing payments and services under this subpart

and subpart I of this part. If the Administrator determines it is necessary for the expeditious completion of a program or project he may advance to the State agency the Federal share of the cost of any payment or assistance by such State agency pursuant to sections 206, 210, 215, and 305 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

Subpart D—Relocation Assistance Advisory Programs

§ 4.71 Scope.

This subpart prescribes requirements for relocation assistance advisory programs for persons displaced by projects which are part of a Federal or federally assisted program administered by the Environmental Protection Agency.

§ 4.73 Extension of services to adjacent occupants.

The displacing agency shall provide the relocation assistance advisory services described in this subpart to all displaced persons. The agency may also offer those services to any person occupying property immediately adjacent to the real property being acquired who, in the agency's opinion, will suffer substantial economic injury.

§ 4.75 Relocation programs; general requirements.

The displacing agency shall carry out a relocation assistance advisory program. The program shall provide for—

(a) Explaining to displaced persons the relocation assistance and payments that are available;

(b) Assisting displaced persons to complete applications required for payments;

(c) Determining the needs of displaced persons for relocation assistance;

(d) Informing displaced persons as to the availability and costs of comparable replacement dwellings and comparable locations for displaced business and farm operations;

(e) Assisting each displaced person to obtain and move to a comparable replacement dwelling;

(f) Informing displaced persons as to Federal and State housing programs; and

(g) Providing counsel and advice to displaced persons that will minimize the hardships associated with adjusting to a new location.

§ 4.77 Organizational requirements.

The organization and procedures of the displacing agency for carrying out a relocation assistance advisory program shall include provisions for:

(a) Assigning at least one person whose primary responsibility is to provide relocation assistance for one or more projects.

(b) Establishing a local relocation office for each project where the agency determines that the volume of work or the needs of the displaced persons so require.

(c) Maintaining and providing the following information for each project:

(1) Lists of replacement dwellings available to persons without regard to race, color, religion, or national origin drawn from various sources, suitable in price, size, and condition for displaced persons.

(2) Current information as to security deposits, closing costs, typical down payments, interest rates, and terms for residential real property in the area.

(3) Maps showing the location of schools, parks, playgrounds, shopping, and public transportation routes in the area.

(4) Schedules and costs of public transportation in the area.

(5) Copies of the agency's brochure explaining its relocation program, local ordinances pertaining to housing, building codes, open housing, consumer education literature on housing, shelter costs, and family budgeting.

(6) Subscriptions for apartment directory services, neighborhood and metropolitan newspapers, and where available, multiple listing services.

§ 4.79 Coordination with other agencies.

(a) The displacing agency shall coordinate its relocation assistance activities with the local officials of the Federal Housing Administration and Veterans Administration responsible for making properties acquired by those agencies available for direct sale to persons to be relocated as a result of governmental action.

(b) The person assigned by the agency to provide relocation assistance for a particular project shall maintain personal contact and exchange information with welfare agencies, urban renewal agencies, redevelopment authorities, public housing authorities, the Federal Housing Administration, the Veterans Administration, the Small Business Administration and other agencies providing services to displaced persons. He shall also collect and maintain information on private replacement properties in the area of the project through personal contact with real estate brokers, real estate boards, property managers, apartment owners and operators, and home building contractors.

§ 4.81 Public information; general.

(a) To insure public awareness of its relocation assistance advisory program, the displacing agency shall provide an opportunity for presentation of information and discussion of relocation services and payments at public hearings, prepare a relocation brochure, and give full and adequate public notice of the relocation program for each project to which this part applies.

(b) In areas where a language other than English is predominant, public information shall be published in the predominant language as well as in English.

§ 4.83 Public information; hearings.

(a) The information to be presented at a public hearing shall include—

(1) Eligibility requirements, payment procedures, and limitations for moving expenses and replacement housing;

(2) A description of the expenses incidental to transfer of property that will be paid;

(3) Appeal procedures;

(4) A description of how relocation assistance and services will be provided;

(5) The address and telephone number of the local office of the State agency and the name of the relocation officer in charge;

(6) The identity, local address, and telephone number of any other cooperating agency;

(7) An estimate of the number of individuals or families, businesses, and farm operations to be relocated;

(8) The estimated number of dwelling units presently available to meet the replacement housing needs; and

(9) An estimate of the time necessary for relocation and the number of comparable replacement dwellings that will become available during that period.

(b) The extent of the presentation should depend on the comprehensiveness of the brochure. If the brochure covers a particular item in detail, it is sufficient to merely highlight what the brochure contains. If a particular item is not applicable to the project, it is not necessary to discuss the item in detail.

§ 4.85 Public information; brochure.

The displacing agency shall prepare a brochure which fully describes its relocation assistance advisory program, including information on payments for replacement housing and moving expenses. The brochure shall be distributed free of charge at all public hearings and given to any displaced person upon request. The brochure shall state where copies of any regulations implementing the relocation assistance program may be obtained.

§ 4.87 Public information; announcements.

The displacing agency shall provide brief public announcements of the relocation services, payments, and where the brochure describing the relocation program can be obtained. Public announcements shall be made through types of mass media that are familiar to persons who will be displaced by the project, such as local newspapers, radio, television, or posted advertisements.

§ 4.89 Public information; notices.

Within 15 days after approval to begin any phase of a project which will cause the displacement of any person, the displacing agency shall post notices of acquisition in adequate numbers and in places accessible to occupants of dwellings to be taken for the project. In addition, an adequate number of advertisements shall be run in newspapers normally read by occupants of dwellings to be taken. The posted notices and newspaper advertisements shall—

(a) State the date approval was given for that phase of the project;

(b) Define the area of the project;

(c) Advise occupants of the area of the eligibility requirements for receiving

moving and replacement housing payments;

(d) Advise occupants to notify the agency before moving to insure eligibility for moving and replacement housing payments;

(e) Advise homeowners that to be eli-

is not affected by the length of time that he occupied the real property from which he is displaced.

§ 4.115 Payment limited to one move; exception.

(a) Except as provided by paragraph

may not exceed the cost of having the move accomplished by a commercial mover.

§ 4.123 Exclusions.

A displaced person is not entitled to be paid for—

(a) Additional expenses incurred be-

replacement site, but not more than 50 miles, unless, in the case of relocation, the displacing agency finds that the business or farm operation cannot be relocated within that distance;

(2) Packing, crating, and, if the displacing agency finds it necessary, storing his personal property for not more than

(f) of this section, a displaced person who conducts a business or farm operation is entitled to payment for actual direct losses of personal property that is used in connection with the business or farm operation but is—

(1) No longer needed because the business or farm operation is being discon-

Subpart F—Fixed Allowance in Lieu of Moving and Related Expenses

§ 4.151 Scope.

This subpart prescribes the requirements governing payment of dislocation and moving expense allowances to displaced persons who are eligible for pay-

moving and replacement housing payments;

(d) Advise occupants to notify the agency before moving to insure eligibility for moving and replacement housing payments;

(e) Advise homeowners that to be eligible for relocation benefits they must sell to the agency; and

(f) State where the brochure describing the relocation program may be obtained.

§ 4.91 Waiver of public information requirements.

When persons are to be displaced from five or fewer dwellings, the displacing agency may, instead of complying with §§ 4.81, 4.83, 4.86, 4.87, 4.89, provide the information required to be provided by those sections to the displaced persons by personal delivery and detailed oral explanation of the information.

§ 4.93 Information for displaced persons.

(a) The displacing agency shall deliver to each displaced person either in person or by certified mail, return receipt requested—

(1) A brochure explaining the relocation assistance advisory program; and

(2) If it is not included in the brochure, a notice stating the eligibility requirements for payments for replacement housing and moving expenses.

(b) In addition to the information furnished under paragraph (a) of this section, the displacing agency shall deliver to each displaced homeowner or tenant, either in person or by certified mail, return receipt requested, a written statement setting forth the optional types and the actual amount of replacement housing payments to which they are entitled.

(c) The information required by paragraphs (a) and (b) of this section shall be furnished—

(1) To homeowners not later than the initiation of negotiations for the property or the issuance of a written notice of intent to acquire the property by a definite date, as the case may be; and

(2) To tenants within 7 days after the initiation of negotiations for the property or the issuance of a written notice of intent to acquire the property by a definite date; as the case may be.

(d) The displacing agency shall notify each displaced person of his right of appeal under § 4.37.

Subpart E—Moving and Related Expenses

§ 4.111 Scope.

This subpart prescribes the requirements governing the payment of moving and related expenses of persons displaced by projects which are part of a Federal or federally assisted program administered by the Environmental Protection Agency.

§ 4.113 Eligibility not dependent on length of occupancy.

A displaced person's eligibility for payment of moving and related expenses is not affected by the length of time that he occupied the real property from which he is displaced.

§ 4.115 Payment limited to one move; exception.

(a) Except as provided by paragraph (b) of this section, payment of a displaced person's moving and related expenses may not be made for more than one move in connection with a particular project.

(b) If the Administrator considers it to be in the public interest he may authorize payment of a displaced person's moving and related expenses for additional moves.

§ 4.117 Family treated as person.

For the purpose of this subpart, the term "person" includes two or more individuals living together in the same dwelling as a single family unit and who are related to each other by blood, marriage, adoption, or legal guardianship.

§ 4.119 Noneligibility notice to rental occupants required.

If an agency rents out real property acquired in connection with a project to which this part applies, it shall notify the tenant and State in the rental agreement that the tenant will not be eligible for payment of displacement, moving, and related expenses under this subpart.

§ 4.121 Moving expenses; application and payment.

(a) Upon application by a displaced person for payment of moving and related expenses, the displacing agency shall—

(1) Pay those expenses in accordance with this subpart; or

(2) If the applicant elects to receive it, pay him a fixed allowance in accordance with Subpart F of this part.

(b) The application shall be in writing and filed with the displacing agency no later than 1 year after either the date of acquisition of the dwelling by the agency or the date the applicant vacated the dwelling, whichever is later. The application shall include an itemization of the expenses involved and, except as provided in paragraphs (d) and (e) of this section, shall be supported by receipts and such other evidence as the displacing agency may require.

(c) A displaced person may not be paid for his moving expenses in advance of the actual move unless the displacing agency finds that a hardship would otherwise result.

(d) If a displaced person, his mover, and the displacing agency agree by prearrangement in writing, the displaced person may submit an unpaid bill for moving expenses for direct payment.

(e) If the displacing agency contracts with independent movers on a schedule basis and provides a displaced person with a list of movers he may choose from to move his personal property, payment shall be made directly to the mover.

(f) In the case of a self-move by a displaced person, the amount of payment for actual reasonable moving expenses may not exceed the cost of having the move accomplished by a commercial mover.

§ 4.123 Exclusions.

A displaced person is not entitled to be paid for—

(a) Additional expenses incurred because of living in a new location;

(b) Cost of moving structures or other improvements to real property which are reserved by the displaced person;

(c) Improvements to the replacement site, except when required by law;

(d) Interest on loans to cover moving expenses;

(e) Loss of good will;

(f) Loss of profits;

(g) Loss of trained employees;

(h) Personal injury;

(i) Cost of preparing the application for moving and related expenses; or

(j) Modification of personal property to adapt it to replacement site, except when required by law.

§ 4.125 Moving expenses; occupants of dwellings.

(a) Except as provided in § 4.123, persons displaced from dwellings are entitled to be paid actual reasonable expenses for—

(1) Transporting themselves and their personal property from the displacement site to a replacement site, but not more than 50 miles unless the displacing agency finds that the displaced person cannot relocate within that distance;

(2) Packing, crating, and, if the displacing agency finds it necessary, storing their personal property for not more than 6 months;

(3) If the displacing agency finds it necessary, advertising for packing, crating, storing, or transporting their personal property;

(4) Insuring against loss or damage of their personal property while in storage or transit; and

(5) Removing and reinstalling a household appliance, including reconnecting utilities, if—

(i) It is not acquired by the displacing agency as real property;

(ii) The displaced person agrees in writing that the appliance is personal property and releases the displacing agency from paying for it; and

(iii) It is not a real property improvement to the location site, unless reinstallation is otherwise required by law.

(b) A displaced person is entitled to be reimbursed for uninsurable loss or damage of his personal property while in the process of moving, if the loss or damage was not a result of his fault or negligence.

§ 4.127 Moving expenses; businesses and farm operations.

(a) Except as provided in § 4.123, a displaced person who conducts a business or farm operation which is discontinued or relocated is entitled to actual reasonable expenses for—

(1) Transporting his personal property from the displacement site to a replacement site, but not more than 50 miles, unless, in the case of relocation, the displacing agency finds that the business or farm operation cannot be relocated within that distance;

(2) Packing, crating, and, if the displacing agency finds it necessary, storing his personal property for not more than 6 months;

(3) If the displacing agency finds it necessary, advertising for packing, crating, storing, or transporting his personal property;

(4) Insuring against loss or damage of his personal property while in storage or transit;

(5) Removing and reinstalling machinery and equipment including reconnecting utilities, if—

(i) It is not acquired by the displacing agency as real property;

(ii) The displaced person agrees in writing that the machinery or equipment is personal property and releases the displacing agency from paying it; and

(iii) It is not a real property improvement to the location site, unless the reinstallation is otherwise required by law; and

(6) Searching for a replacement business or farm operation, to the extent those expenses meet the requirements of § 4.135.

(b) A displaced person who conducts a business or farm operation which is discontinued or relocated is entitled to the actual direct losses of personal property resulting from the discontinuation or move, to the extent those losses meet the requirements of § 4.133.

(c) A displaced person who conducts a business or farm operation which is relocated is entitled to be reimbursed for uninsurable loss or damage of his personal property while in the process of moving, if the loss or damage is not the result of his fault or negligence.

§ 4.129 Moving expenses; advertising businesses.

A displaced person who conducts a lawful activity primarily for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of outdoor advertising displays, whether or not the displays are located on the premises on which any of those activities are conducted, is entitled to the moving expenses described in § 4.127.

§ 4.131 Low value, high bulk property; businesses and farm operations.

In the case of low value, high bulk personal property, such as junk, stockpiled sand, gravel, minerals, metals, or similar items, used in connection with a relocated business or farm operation, payment for actual reasonable moving expenses may not be more than the cost of replacing that property at the relocation site less the amount for which it could be sold at the displacement site.

§ 4.133 Actual direct losses; businesses and farm operations.

(a) Subject to the requirements and limitations in paragraphs (b) through (f) of this section, a displaced person who conducts a business or farm operation is entitled to payment for actual direct losses of personal property that is used in connection with the business or farm operation but is—

(1) No longer needed because the business or farm operation is being discontinued; or

(2) Not being moved to a relocation site because it is not suitable for use there.

(b) If a business or farm operation is relocated, payment for actual direct losses of personal property may not be more than the amount the displacing agency determines the reasonable moving expenses would be for moving that property to the relocation site.

(c) A displaced person who conducts a business or farm operation shall make a bona fide effort to sell personal property he does not move.

(d) If a displaced person relocates a business or farm operation and sells an item of personal property that he does not move and promptly replaces it with a comparable item, payment for actual direct loss of the original item may not be more than the replacement cost less its sale price, or the cost of moving the original item, whichever is less.

(e) If a displaced person discontinues business or farm operation and sells an item of personal property, payment for actual direct loss of that item may not be more than the inplace value of the item less its sale price, or the cost of moving it, whichever is less.

(f) If a displaced person who conducts a business or farm operation abandons an item of personal property after making a bona fide effort to sell that property, payment for the actual direct loss of that item may not be more than the inplace value of the item less what its sale price would have been, or the cost of moving it, whichever is less.

§ 4.135 Expenses in searching for replacement business or farm operation.

(a) Except as provided in paragraph (b) of this section, a displaced person who conducts a business or farm operation is entitled to not more than $500, or such higher amount as the displacing agency considers justified under the circumstances, for actual reasonable expenses in searching for a replacement business or farm operation including—

(1) Cost of travel;

(2) Cost for meals and lodging;

(3) An amount for time spent searching, based on the salary or earnings of the displaced person from the business or farm operation, but not more than $10 per hour; and

(4) If the displacing agency considers it desirable, the cost of a broker or realtor to locate a replacement site.

(b) A displaced person who conducts an advertising business described in § 4.129, is entitled to not more than $100, or if the displacing agency considers it justified under the circumstances not more than $500, for actual reasonable expenses in searching for a replacement outdoor advertising display site.

Subpart F—Fixed Allowance in Lieu of Moving and Related Expenses

§ 4.151 Scope.

This subpart prescribes the requirements governing payment of dislocation and moving expense allowances to displaced persons who are eligible for payment of their actual moving and related expenses under Subpart E of this part, but elect to receive a fixed allowance in lieu thereof.

§ 4.153 Schedule of moving expense allowances; occupants of dwellings.

The displacing agency shall establish (or obtain) and maintain a schedule of moving expense allowances applicable to persons displaced from dwellings by projects to which this part applies, based on current moving costs in the project's locality. The allowance for any individual or displaced person may not exceed $300.

§ 4.155 Dislocation and moving expense allowances; occupants of dwellings.

A person displaced from a dwelling who elects to receive fixed dislocation and moving expense allowances in lieu of payment of actual moving and related expenses is entitled to—

(a) A dislocation allowance of $200; and

(b) The applicable moving expense allowance specified in the schedule of moving expense allowances maintained under § 4.153 for the locality concerned.

§ 4.156 Family treated as person.

For the purpose of this subpart, the term "person" includes two or more individuals who are living together in the same dwelling, as a single family unit and who are related to each other by blood, marriage, adoption, or legal guardianship.

§ 4.157 Application and payment.

Application and payment procedures under this subpart shall be as stated in § 4.121, except that a person electing to be paid under this subpart need not file an itemization of expenses of moving.

§ 4.159 Fixed allowance; businesses.

A displaced person who conducts a business and elects to receive a fixed allowance in lieu of actual moving and related expenses is entitled to a fixed amount equal to the average annual net income of the business, computed in accordance with § 4.163, but not less than $2,500 or more than $10,000, if that business—

(a) Substantially contributes to the income of the displaced person;

(b) Cannot, in the opinion of the displacing agency, be relocated without substantial loss of existing patronage taking into consideration—

(1) The type of the business;

(2) The nature of its clientele; and

(3) The relative importance of the displacement and proposed relocation sites to the business; and

(c) Is not part of a commercial enterprise having at least one other establishment engaged in the same or similar

business which is not being acquired by a State agency or the United States.

§ 4.161 Fixed allowance; farm operation.

(a) A displaced person who conducts a farm operation and elects to receive a fixed allowance in lieu of actual moving and related expenses is entitled to a fixed amount equal to the average annual net income of the business, computed in accordance with § 4.163, but not less than $2,500 or more than $10,000, if that business—

(a) Substantially contributes to the income of the displaced person;

(b) Cannot, in the opinion of the displacing agency, be relocated without substantial loss of existing patronage taking into consideration—

(1) The type of the business;

(2) The nature of its clientele; and

(3) The relative importance of the displacement and proposed relocation sites to the business; and

(c) Is not part of a commercial enterprise having at least one other establishment engaged in the same or similar business.

§ 4.163 Average annual net income.

(a) Except as provided in paragraph (b) of this section, the average annual net income of the business shall be the average annual net earnings of the business before Federal and State income taxes during the 2 taxable years immediately preceding the taxable year in which the business is displaced.

(b) If the displacing agency determines that the 2 taxable years immediately preceding the taxable year in which the business is displaced are not representative, it shall establish the average annual net income of the business on the basis of such other period as it determines to be representative.

(c) Net earnings shall include any compensation paid by the business to the displaced person, his spouse, or his dependents.

(d) The displaced person shall furnish the displacing agency proof of net earnings for the purpose of this section.

Subpart G—Replacement Housing Payments

§ 4.171 Scope.

This subpart prescribes the requirements governing payments to displaced persons who are eligible for payment of replacement housing payments under Subpart E of this part.

§ 4.173 Replacement housing payments; eligibility.

(a) A displaced homeowner is eligible for a replacement housing payment under § 4.183 if he—

(1) Qualifies a displaced person under § 4.7;

(2) Actually owned and occupied the acquired dwelling for at least 180 days before the initiation of negotiations for the acquired dwelling and if the cost of financing the purchase of a replacement dwelling includes increased interest costs, an amount to compensate for that increase.

(c) An amount necessary to cover incidental expenses on the purchase of a replacement dwelling, to the extent that those expenses are normally incurred by the purchaser.

price of the decent, safe, and sanitary dwelling.

§ 4.291 Reasonable cost of comparable replacement dwelling.

In determining the reasonable cost of a comparable replacement dwelling available on the private market, the displacing agency shall use one of the following:

(a) The price of the decent, safe, and sanitary dwelling most nearly like the acquired dwelling and which is available on the private market;

(b) The average price of three decent, safe, and sanitary dwellings which are available on the private market and which are most nearly like the acquired dwelling; or

(c) The appraised value of the acquired dwelling, if the displacing agency has made an appraisal of the dwelling.

§ 4.293 Payment for mortgage interest differential.

(a) The mortgage interest differential payment shall be the amount which will reduce the mortgage interest rate on the remaining balance of the mortgage on the acquired dwelling to the mortgage interest rate on the purchase price of the replacement dwelling.

(b) The payment shall be computed on the remaining balance of the mortgage on the acquired dwelling at the time of acquisition over a period not more than the remaining term of that mortgage; or

(2) An amount based on a schedule prescribed or approved by the Administrator and computed in accordance with this section.

(b) For purposes of computing increased interest costs, the following rules

business which is not being acquired by a State agency or the United States.

§ 4.161 Fixed allowance; farm operation.

(a) A displaced person who conducts a farm operation and elects to receive a fixed allowance in lieu of actual moving and related expenses is entitled to a fixed amount equal to the average annual net income of the farm operation, computed in accordance with § 4.163, but not less than $2,500 or more than $10,000.

(b) In the case of a partial acquisition and displacement of a farm operation, the fixed allowance described in paragraph (a) of this section may be paid only if the displacing agency finds that—

(1) The displaced activity was a farm operation before the acquisition of the displacement site; and

(2) The property remaining after acquisition is not an economic unit.

§ 4.163 Computing average annual net income; businesses and farm operations.

(a) For the purposes of this subpart, the average annual net income of a business or farm operation is its average annual net earnings before Federal, State, and local income taxes during the 2 tax years immediately preceding the tax year in which it is displaced. Net earnings include compensation obtained from the business or farm operation by its owner, his spouse, or dependents, or in the case of a corporate owner, by the holder of a majority of the common stock, his spouse, or dependents.

(b) For the purpose of determining majority ownership, stock held by an individual, his spouse, and his dependents shall be treated as a unit.

(c) If the displacing agency finds that the 2 tax years immediately preceding displacement are not representative, or if the business or farm operation has not been in operation that long, it may, with the concurrence of the Administrator, prescribe some other time period for computing average annual net income.

(d) If a displaced person who conducts a business or farm operation elects to receive a fixed payment under this subpart, he shall provide proof of his earnings from the business or farm operation to the displacing agency. Proof of earnings may be established by income tax returns, certified financial statements, or other similar evidence.

Subpart G—Replacement Housing Payments

§ 4.171 Scope.

This subpart prescribes the requirements governing payment for replacement housing for individuals and families displaced by projects which are part of a Federal or federally assisted program administered by the Environmental Protection Agency.

§ 4.173 Purchase of a decent, safe, and sanitary dwelling.

A displaced tenant or homeowner "purchases" a dwelling within the meaning of this subpart when he—

(a) Acquires an existing dwelling;

(b) Rehabilitates a substandard dwelling which he owns or acquires;

(c) Relocates a dwelling which he owns or acquires;

(d) Relocates and rehabilitates a substandard dwelling which he owns or acquires;

(e) Constructs a new dwelling on a site which he owns or acquires;

(f) Contracts to purchase a dwelling on a site provided by a builder; or

(g) Contracts for the construction of a dwelling on a site provided by a builder or on a site which he owns or acquires.

§ 4.175 Occupancy.

(a) A displaced tenant or homeowner "occupies" a dwelling within the meaning of this subpart only if the dwelling is his permanent place of residence.

(b) If a tenant or homeowner contracts for the construction or rehabilitation of a replacement dwelling, and for reasons not within his control the construction or rehabilitation is delayed beyond the date occupancy is required, the displacing agency may extend the period of eligibility for a replacement housing payment until the tenant or homeowner occupies the replacement dwelling.

§ 4.177 Inspection of replacement dwelling required.

(a) Before making a replacement housing payment to a displaced homeowner or tenant, or releasing a payment from escrow, as the case may be, the displacing agency shall inspect the replacement dwelling to determine whether or not it meets the criteria for decent, safe, and sanitary dwellings. The displacing agency may use the services of any public agency ordinarily engaged in housing inspection to conduct the inspection required by this section.

(b) A determination by the displacing agency that a dwelling meets the criteria for decent, safe, and sanitary housing is solely for the purpose of this subpart and is not a representation for any other purpose.

§ 4.179 Application and payment.

(a) Upon application by a displaced homeowner or tenant who meets the requirements of this subpart for a replacement housing payment, the displacing agency shall—

(1) If he has purchased or rented, and occupied a decent, safe, and sanitary dwelling, make the payment directly to him, or, at his option, to the seller or lessor of the decent, safe, and sanitary dwelling; or

(2) If he has purchased or rented, but not yet occupied a decent, safe, and sanitary dwelling, upon his request make the payment into an escrow account.

(b) The application shall be in writing and filed with the displacing agency within 18 months after the date the applicant was required to vacate an acquired dwelling or 6 months after final adjudication of a condemnation proceeding, whichever is later.

§ 4.181 Eligibility.

(a) A displaced homeowner is eligible for a replacement housing payment under § 4.183 if he—

(1) Qualifies a displaced person under § 4.7;

(2) Actually owned and occupied the acquired dwelling for at least 180 consecutive days immediately before the initiation of negotiations for the property or the issuance of a written notice of intent to acquire the property by a definite date, as the case may be; and

(3) Purchases and occupies a decent, safe, and sanitary dwelling within 1 year after the date he receives final payment for the acquired dwelling, or 1 year after the date he is required to move from the acquired dwelling, whichever is later.

(b) A displaced homeowner is eligible for a replacement housing payment under § 4.185 if he—

(1) Qualifies as a displaced person under § 4.7;

(2) Actually owned and occupied the acquired dwelling for at least 90 consecutive days immediately before the initiation of negotiations for the property or the issuance of a written notice of intent to acquire the property by a definite date, as the case may be; and

(3) Rents or purchases, and occupies a decent, safe, and sanitary dwelling within 1 year after the date he receives final payment for the acquired dwelling, or 1 year after date he is required to move from the acquired dwelling, whichever is later.

(c) A displaced tenant is eligible for a replacement housing payment under § 4.185 if he—

(1) Qualifies as a displaced person under § 4.7;

(2) Actually occupied the acquired dwelling for at least 90 consecutive days immediately before the initiation of negotiations for the property or the issuance of a written notice of intent to acquire the property by a definite date, as the case may be; and

(3) Rents or purchases, and occupies a decent, safe, and sanitary dwelling within 1 year after the date he is required to move from the acquired dwelling.

(d) For the purpose of paragraphs (a) (2) and (b) (2) of this section, if a homeowner inherits an interest in a dwelling by devise or operation of law, his tenure of ownership includes the tenure of the preceding homeowner.

§ 4.183 Replacement housing payment; purchase price.

A displaced homeowner who qualifies under § 4.181(a) is entitled to a replacement housing payment of not more than $15,000. Within that limitation the payment shall consist of the following amounts:

(a) If the reasonable cost of a comparable replacement dwelling is more than the acquisition price of the acquired dwelling, the difference between them.

(b) If there was a bona fide mortgage which constituted a valid lien on the acquired dwelling for at least 180 days before the initiation of negotiations for the acquired dwelling and if the cost of financing the purchase of a replacement dwelling includes increased interest costs, an amount to compensate for that increase.

(c) An amount necessary to cover incidental expenses on the purchase of a replacement dwelling, but not including prepaid expenses.

§ 4.185 Replacement housing payments; rent and down payments.

A displaced homeowner who qualifies under § 4.181(b) or a displaced tenant who qualifies under § 4.181(c), is entitled to a replacement housing payment of not more than $4,000. Within that limitation the payment shall be that amount necessary for the homeowner or tenant to—

(a) Rent a comparable replacement dwelling for a period of not more than 4 years; or

(b) Make the down payment required for a conventional loan and cover the incidental expenses on the purchase of a comparable replacement dwelling.

§ 4.187 Rules for considering land values.

In determining the amount of a replacement housing payment under § 4.183(a) the following rules apply:

(a) If the dwelling is located on a tract typical for residential use in the area, the amount payable is the probable selling price of a comparable replacement dwelling on a tract typical for the area less the value of the acquired property.

(b) If the dwelling is located on a tract larger than typical for residential use in the area, the amount payable is the probable selling price of a comparable replacement dwelling on a tract typical for the area less the estimated value of the dwelling assuming it was located on a tract typical for the area.

(c) If the dwelling is located on a tract that has a use higher and better than residential, the amount payable is the probable selling price of a comparable replacement dwelling on a tract typical for residential use in the area less the estimated value of the dwelling assuming it was located on a tract typical for residential use in the area.

§ 4.189 Limitations; payment for purchase price.

(a) The price established as the reasonable cost of a comparable replacement dwelling sets the upper limit of the differential amount payable under § 4.183(a). To qualify for the full amount, the homeowner must purchase and occupy a decent, safe, and sanitary dwelling higher in value than the acquired dwelling.

(b) If the homeowner voluntarily purchases and occupies a decent, safe, and sanitary dwelling at a price less than the reasonable cost established for a comparable replacement dwelling, the amount payable under § 4.183(a) is that amount required to pay the difference between the acquisition price of the acquired dwelling and the actual purchase price of the decent, safe, and sanitary dwelling.

§ 4.191 Reasonable cost of comparable replacement dwelling.

In determining the reasonable cost of a comparable replacement dwelling available on the private market, the displacing agency shall use one of the following methods:

(a) It may establish a schedule of reasonable acquisition costs for the various types of comparable replacement dwellings which are available. If more than one agency is administering a project causing displacements in the area, it shall cooperate with those agencies in establishing a uniform schedule for the area. The schedule must be based on a current analysis of the market to determine a reasonable cost for each type of dwelling to be purchased. In large urban area this analysis may be confined to one area of the city, or may cover several different areas if they are comparable and equally accessible to public services and places of employment. To assure the greatest comparability of dwellings in any analysis, the analysis shall be divided into classifications of the type of construction, number of rooms, and price ranges.

(b) It may determine the reasonable cost of a comparable replacement dwelling by examining the probable selling prices of at least three comparable replacement dwellings which are available. Selection of the dwellings must be made by a qualified employee of the displacing agency who is familiar with real property values and current real estate transactions.

(c) If it finds that the methods described in paragraphs (a) and (b) of this section are not feasible for determining the reasonable cost of a comparable replacement dwelling, it may propose what it considers to be a feasible method to the Administrator for approval.

§ 4.193 Owner retention.

(a) If a displaced homeowner elects to retain and move his dwelling, the amount payable under § 4.183(a) is the difference between the acquisition price of the acquired dwelling and the sum of—

(1) The moving and restoration expenses;

(2) The cost of correcting decent, safe, and sanitary deficiencies, if any; and

(3) The estimated selling price of a comparable relocation site.

(b) The amount computed in accordance with paragraph (a) of this section is subject to the limitations prescribed in § 4.189.

§ 4.195 Increased interest costs.

(a) The amount payable for increased interest costs under § 4.183(b) is—

(1) The present value of the difference in interest costs and other debt service costs charged for refinancing an amount not more than the balance of the mortgage on the acquired dwelling at the time of acquisition over a period not more than the remaining term of that mortgage; or

(2) An amount based on a schedule prescribed or approved by the Administrator and computed in accordance with this section.

(b) For purposes of computing increased interest costs, the following rules apply:

(1) The interest charge on the new mortgage may not exceed the prevailing interest rate currently charged by mortgage lending institutions in the area.

(2) The present value of the increased interest cost shall be computed at the prevailing interest rate paid on savings deposits by commercial banks in the area.

§ 4.197 Incidental expenses.

(a) The incidental expenses payable under § 4.183(c) or § 4.185(b) is the amount necessary to compensate the homeowner or tenant for actual costs incurred incident to the purchase of a decent, safe, and sanitary dwelling, including the following:

(1) Legal closing costs, including title search, preparing conveyance contracts, notary fees, surveys, preparing drawings of plots, and charges incident to recordation.

(2) Lender, FHA, or VA appraisal fees.

(3) FHA or VA application fee.

(4) Certification of structural soundness when required by the lender, FHA, or VA.

(5) Credit report.

(6) Title policies or abstract of title.

(7) Escrow agent's fee.

(8) State revenue stamps or sale or transfer taxes.

(9) An incidental expense which is part of a finance charge under the Truth in Lending Act, Title I, Public Law 90-321, and Regulation "Z" issued thereunder by the Board of Governors of the Federal Reserve System, may not be reimbursed.

§ 4.199 Computation of rental payments; tenants.

(a) The amount payable to a displaced tenant, other than a tenant of the displacing agency, for rent under § 4.185(a) is 48 times the reasonable monthly rent for a comparable replacement dwelling, less 48 times the average month's rent paid by the displaced tenant for the last 3 months before initiation of negotiations for the acquired dwelling if that rent was reasonable, and if not reasonable 48 times the monthly economic rent for the dwelling unit as established by the displacing agency.

(b) The amount payable to a displaced tenant of the displacing agency for rent under § 4.185(a) is 48 times the reasonable monthly rent for a comparable replacement dwelling less 48 times the monthly economic rent.

§ 4.201 Computation of rental payments; homeowners.

The amount payable to a displaced homeowner is 48 times the reasonable

monthly rent for a comparable replacement dwelling less 48 times the monthly economic rent, but not more than the homeowner would receive if he were eligible for a payment under § 4.183.

§ 4.203 Determining reasonable monthly economic rent.

(a) The displacing agency shall establish the monthly economic rent for each dwelling unit as follows:

(1) If the dwelling unit is rented, the monthly economic rent is the lesser of the actual monthly rent or the monthly economic rent established by the displacing agency.

(2) If the dwelling unit is occupied by the owner, the monthly economic rent is the monthly economic rent established by the displacing agency.

(b) The displacing agency shall establish the monthly economic rent for a dwelling unit as follows:

(1) If the dwelling unit is rented, the monthly economic rent is the lesser of the actual monthly rent or the monthly economic rent established by the displacing agency.

(2) If the dwelling unit is occupied by the owner, the monthly economic rent is the monthly economic rent established by the displacing agency.

§ 4.205 Payment after death.

If a displaced person dies before he receives a payment under this subpart, the payment shall be made to his estate.

§ 4.207 Relocation assistance advisory program.

(a) The displacing agency shall carry out a relocation assistance advisory program which offers the services described in this section.

(b) The displacing agency shall determine the needs of displaced persons for relocation assistance. This determination shall include an inventory of the displaced persons, their socio-economic characteristics, and their housing needs.

(c) The displacing agency shall assure that sufficient comparable replacement housing is available to displaced persons. Where such housing is not available, the displacing agency shall assist displaced persons in obtaining such housing by using the payments and other authority available to it for this purpose.

(d) The displacing agency shall assist displaced persons in obtaining adequate replacement housing by providing current information on the following:

(1) Housing for sale or rent, including that provided by private enterprise as well as public housing and other housing assisted by the Federal Government or other public bodies.

(2) Housing for minority families.

(3) Housing within the financial means of the families and individuals displaced.

(4) Federal and State housing programs, and programs of other public bodies, that may be of assistance to displaced persons.

(5) Private housing management groups that have housing units available to displaced persons.

(e) The displacing agency shall provide displaced persons with transportation to inspect housing to which they are referred.

(f) The displacing agency shall minimize hardships to displaced persons in adjusting to their new environment by providing information on the following:

(1) Services available at or near the new location, including schools, welfare services, stores, places of worship, and community centers.

(2) Public and private transportation available to the new location.

(g) The displacing agency shall assist displaced persons in obtaining assistance to which they may be entitled from other agencies and programs.

(h) The displacing agency shall provide current and continuing information on the availability, prices, and rentals of comparable sales and rental housing, and of housing assisted by Federal, State, or local governments.

(i) The displacing agency shall coordinate relocation activities with other agencies carrying out activities in the area which may affect displaced persons.

(j) The displacing agency shall provide any other services considered necessary for the orderly relocation of displaced persons.

§ 4.209 Eligibility for assistance.

(a) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of the property, in whole or in part, for a project.

(b) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property, in whole or in part, for a project.

(c) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

(d) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

§ 4.211 Eligibility for assistance.

(a) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of the property, in whole or in part, for a project.

(b) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property, in whole or in part, for a project.

(c) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

(d) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

§ 4.213 Eligibility for assistance.

(a) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of the property, in whole or in part, for a project.

(b) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property, in whole or in part, for a project.

(c) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

(d) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

§ 4.215 Eligibility for assistance.

(a) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of the property, in whole or in part, for a project.

(b) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property, in whole or in part, for a project.

(c) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

(d) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

§ 4.217 Eligibility for assistance.

(a) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of the property, in whole or in part, for a project.

(b) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property, in whole or in part, for a project.

(c) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

(d) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

§ 4.219 Eligibility for assistance.

(a) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of the property, in whole or in part, for a project.

(b) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property, in whole or in part, for a project.

(c) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

(d) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

§ 4.221 Eligibility for assistance.

(a) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of the property, in whole or in part, for a project.

(b) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property, in whole or in part, for a project.

(c) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

(d) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

§ 4.223 Eligibility for assistance.

(a) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of the property, in whole or in part, for a project.

(b) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property, in whole or in part, for a project.

(c) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

(d) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

§ 4.225 Eligibility for assistance.

(a) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of the property, in whole or in part, for a project.

(b) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property, in whole or in part, for a project.

(c) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

(d) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

§ 4.227 Eligibility for assistance.

(a) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of the property, in whole or in part, for a project.

(b) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property, in whole or in part, for a project.

(c) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

(d) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

§ 4.229 Eligibility for assistance.

(a) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of the property, in whole or in part, for a project.

(b) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property, in whole or in part, for a project.

(c) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

(d) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

§ 4.231 Eligibility for assistance.

(a) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of the property, in whole or in part, for a project.

(b) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property, in whole or in part, for a project.

(c) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

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§ 4.233 Eligibility for assistance.

(a) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of the property, in whole or in part, for a project.

(b) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property, in whole or in part, for a project.

(c) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

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§ 4.235 Eligibility for assistance.

(a) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of the property, in whole or in part, for a project.

(b) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property, in whole or in part, for a project.

(c) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

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§ 4.237 Eligibility for assistance.

(a) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of the property, in whole or in part, for a project.

(b) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property, in whole or in part, for a project.

(c) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

(d) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

§ 4.239 Eligibility for assistance.

(a) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of the property, in whole or in part, for a project.

(b) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property, in whole or in part, for a project.

(c) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

(d) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

§ 4.241 Eligibility for assistance.

(a) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of the property, in whole or in part, for a project.

(b) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property, in whole or in part, for a project.

(c) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

(d) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

§ 4.243 Eligibility for assistance.

(a) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of the property, in whole or in part, for a project.

(b) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property, in whole or in part, for a project.

(c) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

(d) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

§ 4.245 Eligibility for assistance.

(a) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of the property, in whole or in part, for a project.

(b) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property, in whole or in part, for a project.

(c) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

(d) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

§ 4.247 Eligibility for assistance.

(a) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of the property, in whole or in part, for a project.

(b) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property, in whole or in part, for a project.

(c) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

(d) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

§ 4.249 Eligibility for assistance.

(a) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of the property, in whole or in part, for a project.

(b) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property, in whole or in part, for a project.

(c) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

(d) A person who moves from real property or moves his personal property from real property is eligible for assistance under this section if the displacing agency determines that he is displaced as a result of the acquisition of other real property on which he conducts a business or farm operation, in whole or in part, for a project.

§ 4.251 Scope.

This subpart prescribes requirements

amended agreement or the existing agreement and the supplement, as the case may be.

Subpart I—Acquisition of Real Property

§ 4.251 Scope.

This subpart prescribes requirements

(5) Take any coercive action to compel an owner to agree to a price for his property.

§ 4.255 Statement of just compensation to owner.

At the time it makes an offer to purchase real property, the displacing agency shall provide the owner of that

(1) The tenant, in consideration for the payment, assigns, transfers, and releases to the displacing agency all his right, title, and interest in the improvement;

(2) The owner of the land involved disclaims all interest in the improvement; and

monthly rent for a comparable replacement dwelling less 48 times the monthly economic rent, but not more than the homeowner would receive if he were eligible for a payment under § 4.183.

§ 4.203 Determining reasonable monthly rent.

In determining the reasonable monthly rent for a comparable replacement dwelling for the purposes of §§ 4.199 and 4.201, the displacing agency shall use one of the following methods:

(a) It may establish a schedule of monthly rents for each type of dwelling required. The schedule shall be based on an analysis of the available private market. If more than one agency is administering a project causing displacement in the area, it shall cooperate with those agencies in establishing a uniform schedule for the area.

(b) It may determine a reasonable rent by examining the rent of at least three comparable replacement dwellings available on the private market.

(c) If it finds that the methods described in paragraphs (a) and (b) of this section are not feasible, it may propose what it considers to be a feasible method to the Administrator for approval.

§ 4.205 Rental payments; method of payment.

If a rental payment under § 4.185(a) is more than $500, it shall be made in four equal annual installments. Before making an annual payment, the displacing agency shall verify that the tenant still occupies a decent, safe, and sanitary dwelling.

§ 4.207 Computation of down payments.

The amount payable to a displaced homeowner or tenant for a down payment under § 4.185(b) is the full amount of the first $2,000 of the required down payment plus one-half of any amount required over $2,000. However, the homeowner or tenant must provide the other half of any amount required over $2,000.

§ 4.209 Down payments.

A displaced homeowner or tenant shall apply the full amount of the payment to which he is entitled under § 4.185(b) to the down payment and the incidental expenses described in the closing statement.

§ 4.211 Provisional payment pending condemnation.

If the exact amount of a replacement housing payment cannot be determined because of a pending condemnation suit, the displacing agency may make a provisional replacement housing payment to the displaced homeowner based on the agency's maximum offer for the property, but only if the homeowner enters into an agreement with the agency that—

(a) Upon final adjudication of the condemnation suit the replacement housing payment will be recomputed on the basis of the acquisition price determined by the court;

(b) If the acquisition price as determined by the court is greater than the agency's maximum offer upon which the provisional replacement housing payment is based, the difference shall be refunded to the agency; and

(c) If the acquisition price as determined by the court is less than the agency's maximum offer upon which the provisional replacement housing payment is based, the difference shall be paid to the homeowner.

§ 4.213 Combined payments.

(a) If a homeowner is eligible for payment under § 4.183, but has previously received a rental payment under § 4.185(a), the amount of rental payment previously received shall be deducted from any amount that he receives under § 4.183.

(b) If a homeowner or tenant is eligible for a down payment under § 4.185(b), but has previously received a rental payment under § 4.185(a), the amount of rental payment previously received shall be deducted from the amount of any down payment that he receives under § 4.185(b).

§ 4.215 Partial use of home for business or farm operation.

(a) In the case of a displaced homeowner or tenant who has allocated part of his dwelling for use in connection with a displaced business or farm operation, a replacement housing payment may not be paid for that part of the property which is allocated to the business or farm operation.

(b) The eligibility of a person to receive a payment under § 4.127 is not affected by this section.

§ 4.217 Multiple occupants of a single dwelling.

(a) If two or more families, or an individual and a family, occupy the same dwelling, each such individual or family that elects to relocate separately is entitled to a separately computed replacement housing payment.

(b) If two or more individuals, not a family, occupy the same dwelling, they shall be treated as a single family in computing a replacement housing payment.

§ 4.219 Multifamily dwelling.

In the case of a displaced homeowner who is required to move from a one-family unit of a multifamily building which he owns, the replacement housing payment shall be based on the cost of a comparable one-family unit in a multifamily building or a single family structure, without regard for the number of units in the building being acquired.

§ 4.221 Certificate of eligibility pending purchase of replacement dwelling.

Upon request by a displaced homeowner or tenant who has not yet purchased and occupied a comparable replacement dwelling, but who is otherwise eligible for a replacement housing payment under this subpart, the displacing agency shall certify to any interested party, financial institution, or lending agency, that the displaced homeowner or tenant will be eligible for the payment of a specific sum if he purchases and occupies a decent, safe, and sanitary dwelling within the time limits prescribed by § 4.181(a)(3), (b)(3), or (c)(3), as the case may be.

Subpart H—Relocation Assistance Functions Carried Out Through Other Agencies

§ 4.231 Authority to carry out relocation assistance through other agencies.

To prevent unnecessary expenses and duplication of activities, an agency that is required to provide relocation services or make relocation payments under this part may carry out any of those functions through the facilities, personnel, and services, of any Federal, State, or local governmental or private agency having an established organization for conducting relocation assistance programs.

§ 4.233 Interagency agreement required.

If the displacing agency elects to provide relocation services or make relocation payments through another agency, it shall enter into a written agreement with that agency. The agreement must be approved by the Administrator and must contain the following:

(a) An obligation on the part of the other agency to perform the services and make the relocation payments in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and this part.

(b) A requirement that the records required by § 4.19 be retained by the other agency or turned over to the displacing agency and that they be retained for a period of at least 3 years after payment of the final voucher on each project, regardless of which agency retains them.

(c) A requirement that the records required by § 4.19 be available for inspection by representatives of the Environmental Protection Agency at any reasonable business hour.

(d) If the contract is with a public agency administering another Federal or federally assisted program, a description of the financial responsibilities of each program to finance the relocation program required by this part.

(e) A provision acknowledging that only those costs directly chargeable to the Federal or federally assisted project are eligible for Federal funds.

(f) A provision for negotiation of major changes that become necessary in the scope, character, or estimated total cost of the work to be performed.

§ 4.235 Amendment of existing agreements required.

Each agreement between a displacing agency and another agency for carrying out relocation assistance functions through the other agency that is in effect on September 1, 1971, shall be amended or supplemented as necessary to include the requirements of § 4.233. The displacing agency shall furnish the Administrator with a copy of the amended agreement or the existing agreement and the supplement, as the case may be.

Subpart I—Acquisition of Real Property

§ 4.251 Scope.

This subpart prescribes requirements for the acquisition of real property in a Federal or federally-assisted program administered by the Environmental Protection Agency.

§ 4.253 Real property acquisition practices.

(a) In acquiring real property, each displacing agency shall to the greatest extent practicable—

(1) Make every reasonable effort to acquire real property expeditiously through negotiation;

(2) Before the initiation of negotiations have the real property appraised and give the owner or his representative an opportunity to accompany the appraiser during inspection of the property;

(3) Before the initiation of negotiations, establish an amount which it believes to be just compensation for the real property, and make a prompt offer to acquire the property for that amount;

(4) Before requiring any owner to surrender possession of real property—

(i) Pay the agreed purchase price; or

(ii) Deposit with the court, for the benefit of the owner, an amount not less than the agency's approved appraisal of the fair market value of the property; or

(iii) Pay the amount of the award of compensation in a condemnation proceeding for the property;

(5) If interest in real property is to be acquired by exercise of the power of eminent domain, institute formal condemnation proceedings and not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property; and

(6) If the acquisition of only part of a property would leave its owner with an uneconomic remnant, offer to acquire that remnant.

(b) In acquiring real property, to the greatest extent practicable an agency may not—

(1) Schedule the construction or development of a public improvement that will require any person lawfully occupying real property to move from a dwelling, or to move his business or farm operation, without giving that person at least 90 days' written notice of the date he is required to move;

(2) If it rents acquired real property to the former owner or tenant for short term or subject to termination by the agency on short notice, charge rent that is more than the fair rental value of the property to a short-term occupant;

(3) Advance the time of condemnation;

(4) Defer negotiations, condemnation, or the deposit of funds in court for use of the owner; or

(5) Take any coercive action to compel an owner to agree to a price for his property.

§ 4.255 Statement of just compensation to owner.

At the time it makes an offer to purchase real property, the displacing agency shall provide the owner of that property with a written statement of the basis for the amount estimated to be just compensation. The statement shall include the following:

(a) An identification of the real property and the particular interest being acquired.

(b) A certification, where applicable that any separately held interest in the real property is not being acquired in whole or in part.

(c) An identification of buildings, structures, and other improvements, including fixtures, removable building equipment, and any trade fixtures which are considered to be part of the real property for which the offer of just compensation is made.

(d) An identification of any real property improvements, including fixtures, not owned by the owner of the land.

(e) An identification of the types and approximate quantity of personal property located on the premises that is not being acquired.

(f) A declaration that the agency's determination of just compensation—

(1) Is based on the fair market value of the property;

(2) Is not less than the approved appraised value of the property;

(3) Disregards any decrease or increase in the fair market value caused by the project for which the property is being acquired; and

(4) In the case of separately held interests in the real property, includes an apportionment of the total just compensation for each of those interests.

(g) The amount of damages to any remaining real property.

§ 4.257 Equal interest in improvements to be acquired.

In acquiring any interest in real property each displacing agency shall acquire at least an equal interest in all buildings, structures, or other improvements located on that real property which will be removed or which will be adversely affected by the completed project.

§ 4.259 Payments to tenants for improvements.

(a) In the case of a building, structure, or other improvement owned by a tenant on real property acquired for a project to which this part applies, the displacing agency shall, subject to paragraph (b) of this section, pay the tenant the larger of—

(1) The fair market value of the improvement, assuming its removal from the property; or

(2) The enhancement of the fair market value of the real property.

(b) A payment may not be made to a tenant under paragraph (a) of this section unless—

(1) The tenant, in consideration for the payment, assigns, transfers, and releases to the displacing agency all his right, title, and interest in the improvement;

(2) The owner of the land involved disclaims all interest in the improvement; and

(3) The payment is not duplicated by any payment otherwise authorized by law.

§ 4.261 Expenses incidental to transfer of title.

As soon as possible after real property has been acquired, the displacing agency shall reimburse the owner for—

(a) Recording fees, transfer taxes, and similar expenses incidental to conveying the real property to the agency;

(b) Penalty costs for prepayment of any preexisting recorded mortgage entered into in good faith encumbering the real property; and

(c) The pro rata portion of any prepaid real property taxes which are allocable to a period subsequent to the date of vesting title in the agency or the effective date of possession of the real property by the agency, whichever is the earlier.

§ 4.263 Litigation expenses.

(a) In any condemnation proceeding brought by the displacing agency to acquire real property, it shall reimburse the owner of any right, title, or interest in the real property for his reasonable costs, disbursements, and expenses, including attorney, appraisal, and engineering fees, actually incurred because of the proceeding, if—

(1) The final judgment is that the displacing agency cannot acquire the real property by condemnation; or

(2) The proceeding is abandoned by the displacing agency concerned.

(b) In any inverse condemnation proceeding where the owner of any right, title, or interest in real property receives an award of compensation by judgment or settlement, the displacing agency shall reimburse the plaintiff for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of the proceeding.

APPENDIX A—RECORDS

The following list sets forth relocation information which a displacing agency shall maintain for each Federal or federally-assisted project that it administers.

I. *General.* The displacing agency shall keep a record of the following general information concerning the project:

(1) Project and parcel identification.

(2) Name and address of each displaced person; his new address and telephone number if available.

(3) Dates of all personal contacts made with each displaced person.

(4) Date each displaced person is given notice of relocation payments and services.

(5) Name of agency employee who offers relocation assistance.

(6) Whether the offer of assistance is declined or accepted, and the name of the individual who accepts or declines the offer.

(7) Date each displaced person is required to move.

(8) Date of actual relocation, and whether relocation was accomplished with the assistance of the displacing agency, other agencies, or without assistance.

(9) Type of tenure held by each displaced person before and after relocation.

II. *Displacements from dwellings.* The displacing agency shall keep a record of the following information concerning each displacement from a dwelling:

AUTHORITY: The provisions of this Part 20 issued pursuant to secs. 301, 704, 63 Stat. 379, 83 Stat. 667; 5 U.S.C. 301, 26 U.S.C. 169.

§ 20.1 Applicability.

The regulations of this part apply to certifications by the Administrator of water or air pollution control facilities

the applicant has installed or plans to install in connection with substantially identical properties; *Provided further*, That an application may incorporate by reference material contained in an application previously submitted by the applicant under this part and pertaining to substantially identical facilities.

authority that such facility, if constructed, reconstructed, acquired, erected, installed, and operated in accordance with such application, will be in conformity with the State program or requirements for abatement or control of water or air pollution.

(b) Notice of actions taken under

(l) Cost of construction, acquisition, installation, operation, and maintenance of the facility;

(m) Estimated profits reasonably expected to be derived through the recovery of wastes or otherwise in the operation of the facility over the period referred to in paragraph (a)(6) of 26 CFR 1.169-2;

and has submitted all requested information.

(b) In determining whether use of a facility furthers the general policies of the United States and the States in the prevention and abatement of water pollution, the Regional Administrator shall consider whether such facility is consistent with the following, insofar as they

(8) Date of actual relocation, and whether relocation was accomplished with the assistance of the displacing agency, other agencies, or without assistance.

(9) Type of tenure held by each displaced person before and after relocation.

II. *Displacements from dwellings.* The displacing agency shall keep a record of the following information concerning each individual or family displaced from a dwelling in connection with the project:

(1) Number in family, or number of individuals.
(2) Type of dwelling.
(3) Fair market value, or monthly rent.
(4) Number of rooms.

III. *Displaced businesses.* The displacing agency shall keep a record of the following information concerning each business displaced in connection with the project:

(1) Type of business.
(2) Whether or not relocated.
(3) If relocated, distance moved.
(4) Data supporting a determination that a business cannot be relocated without a substantial loss of its existing patronage and that it is not part of a commercial enterprise having at least one other establishment not being acquired by a State agency or the United States.

IV. *Moving expenses.* The displacing agency shall keep a record of the following information concerning each payment of moving and related expenses in connection with the project:

(1) The date personal property is moved, and the original and new locations of the personal property.
(2) If personal property is stored temporarily—
(a) The place of storage;
(b) The duration of storage; and
(c) A statement of why storage is necessary.
(3) An account of all moving expenses that are supported by receipted bills or similar evidence of expense;
(4) Amount of reimbursement claimed, amount allowed, and an explanation of any difference.
(5) In the case of a business or farm operation that receives a fixed allowance in lieu of moving expenses, data underlying the computation of such payment.

V. *Replacement housing payments.* The displacing agency shall keep a record of the following information concerning each relocation housing payment made in connection with the project:

(1) The date application for payment is received.
(2) The date application for payment is approved or rejected.
(3) Data substantiating the amount of payment.
(4) If replacement housing is purchased, a copy of the closing statement indicating the purchase price, down payment, and incidental expenses.
(5) Whenever a rental payment is made by annual installment, a statement confirming that the tenant still occupies a decent, safe, and sanitary dwelling.
(6) A copy of the Truth in Lending Statement, or other data, including computations, that confirms the increased interest payment.

PART 20—CERTIFICATION OF FACILITIES

Sec.
20:1 Applicability.
20:2 Definitions.
20:3 General provisions.
20:4 Notice of intent to certify.
20:5 Applications.
20:6 State certification.
20:7 General policies.
20:8 Requirements for certification.
20:9 Cost recovery.
20:10 Revocation.

AUTHORITY: The provisions of this Part 20 issued pursuant to secs. 301, 704, 88 Stat. 379, 83 Stat. 687; 5 U.S.C. 301, 26 U.S.C. 169.

§ 20.1 Applicability.

The regulations of this part apply to certifications by the Administrator of water or air pollution control facilities for purposes of section 169 of the Internal Revenue Code of 1954, as amended, 26 U.S.C. 169. Applicable regulations of the Department of the Treasury are set forth at 26 CFR 1.169 et seq.

§ 20.2 Definitions.

As used in this part, the following terms shall have the meaning indicated below:

(a) "Act" means, when used in connection with water pollution control facilities, the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151 et seq.) or, when used in connection with air pollution control facilities, the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).

(b) "State certifying authority" means:

(1) For water pollution control facilities, the State health authority, except that, in the case of any State in which there is a single State agency, other than the State health authority, charged with responsibility for enforcing State laws relating to the abatement of water pollution, it means such other State agency; or

(2) For air pollution control facilities, the air pollution control agency designated pursuant to section 302(b)(1) of the Act; or

(3) For both air and water pollution control facilities, any interstate agency authorized to act in place of the certifying agency of a State.

(c) "Applicant" means any person who files an application with the Administrator for certification that a facility is in compliance with the applicable regulations of Federal agencies and in furtherance of the general policies of the United States for cooperation with the States in the prevention and abatement of water or air pollution under the Act.

(d) "Administrator" means the Administrator, Environmental Protection Agency.

(e) "Regional Administrator" means the Regional designee appointed by the Administrator to certify facilities under this part.

(f) "Facility" means property comprising any new identifiable treatment facility which removes, alters, disposes of or stores pollutants, contaminants, wastes, or heat.

(g) "State" means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

§ 20.3 General provisions.

(a) An applicant shall file an application in accordance with this part for each separate facility for which certification is sought; *Provided*, That one application shall suffice in the case of substantially identical facilities which the applicant has installed or plans to install in connection with substantially identical properties; *Provided further*, That an application may incorporate by reference material contained in an application previously submitted by the applicant under this part and pertaining to substantially identical facilities.

(b) The applicant shall, at the time of application to the State certifying authority, submit an application in the form prescribed by the Administrator to the Regional Administrator for the region in which the facility is located.

(c) Applications will be considered complete and will be processed when the Regional Administrator receives the completed State certification.

(d) Applications may be filed prior or subsequent to the commencement of construction, acquisition, installation, or operation of the facility.

(e) An amendment to an application shall be submitted in the same manner as the original application and shall be considered a part of the original application.

(f) If the facility is certified by the Regional Administrator, notice of certification will be issued to the Secretary of the Treasury or his delegate, and a copy of the notice shall be forwarded to the applicant and to the State certifying authority. If the facility is denied certification, the Regional Administrator will advise the applicant and State certifying authority in writing of the reasons therefor.

(g) No certification will be made by the Regional Administrator for any facility prior to the time it is placed in operation and the application, or amended application, in connection with such facility so states.

(h) An applicant may appeal any decision of the Regional Administrator which:

(1) Denies certification;

(2) Disapproves the applicant's suggested method of allocating costs pursuant to § 20.8(c); or

(3) Revokes a certification pursuant to § 20.10.

Any such appeal may be taken by filing with the Administrator within 30 days from the date of the decision of the Regional Administrator a written statement of objections to the decision appealed from. Within 60 days, the Administrator shall affirm, modify, or revoke the decision of the Regional Administrator, stating in writing his reasons therefor.

§ 20.4 Notice of intent to certify.

(a) On the basis of applications submitted prior to the construction, reconstruction, erection, acquisition, or operation of a facility, the Regional Administrator may notify applicants that such facility will be certified if:

(1) The Regional Administrator determines that such facility, if constructed, reconstructed, erected, acquired, installed, and operated in accordance with such application will be in compliance with requirements identified in § 20.8; and if

(2) The application is accompanied by a statement from the State certifying authority that such facility, if constructed, reconstructed, acquired, erected, installed, and operated in accordance with such application, will be in conformity with the State program or requirements for abatement or control of water or air pollution.

(b) Notice of actions taken under this section will be given to the appropriate State certifying authority.

§ 20.5 Applications.

Applications for certification under this part shall be submitted in such manner as the Administrator may prescribe, shall be signed by the applicant or agent thereof, and shall include the following information:

(a) Name, address, and Internal Revenue Service identifying number of the applicant;

(b) Type and narrative description of the new identifiable facility for which certification is (or will be) sought, including a copy of schematic or engineering drawings, and a description of the function and operation of such facility;

(c) Address (or proposed address) of facility location;

(d) A general description of the operation in connection with which such facility is (or will be) used and a description of the specific process or processes resulting in discharges or emissions which are (or will be) controlled by the facility;

(e) If the facility is (or will be) used in connection with more than one plant or other property, one or more of which were not in operation prior to January 1, 1969, a description of the operations of the facility in respect to each plant or other property, including a reasonable allocation of the costs of the facility among the plants being serviced, and a description of the reasoning and accounting method or methods used to arrive at such allocation;

(f) Description of the effect of such facility in terms of type and quantity of pollutants, contaminants, wastes or heat, removed, altered, stored, or disposed of by such facility;

(g) If the facility performs a function other than removal, alteration, storage, or disposal of pollutants, contaminants, wastes or heat, a description of all functions performed by the facility, including a reasonable identification of the costs of the facility allocable to removal, alteration, storage, or disposal of pollutants, contaminants, wastes or heat, and a description of the reasoning and the accounting method or methods used to arrive at such allocation;

(h) Date when such construction, reconstruction, or erection will be completed or when such facility was (or will be) acquired;

(i) Date when such facility is placed (or is intended to be placed) in operation;

(j) Identification of the applicable State and local water or air pollution control requirements and standards, if any;

(k) Expected useful life of facility;

(l) Cost of construction, acquisition, installation, operation, and maintenance of the facility;

(m) Estimated profits reasonably expected to be derived through the recovery of wastes or otherwise in the operation of the facility over the period referred to in paragraph (a)(6) of 26 CFR 1.169–2;

(n) Such other information as the Administrator deems necessary for certification.

§ 20.6 State certification.

The State certification shall be by the State certifying authority having jurisdiction with respect to the facility in accordance with 26 U.S.C. 169 (d)(1)(A) and (d)(2). The certification shall state that the facility described in the application has been constructed, reconstructed, erected, or acquired in conformity with the State program or requirements for abatement or control of water or air pollution. It shall be executed by an agent or officer authorized to act on behalf of the State certifying authority.

§ 20.7 General policies.

(a) The general policies of the United States for cooperation with the States in the prevention and abatement of water pollution are: To enhance the quality and value of our water resources; to eliminate or reduce the pollution of the nation's waters and tributaries thereof; to improve the sanitary condition of surface and underground waters; and to conserve such waters for public water supplies, propagation of fish and aquatic life and wildlife, recreational purposes, and agricultural, industrial, and other legitimate uses.

(b) The general policy of the United States for cooperation with the States in the prevention and abatement of air pollution is to cooperate with and to assist the States and local governments in protecting and enhancing the quality of the Nation's air resources by the prevention and abatement of conditions which cause or contribute to air pollution which endangers the public health or welfare.

§ 20.8 Requirements for certification.

(a) Subject to § 20.9, the Regional Administrator will certify a facility if he makes the following determinations:

(1) It has been certified by the State certifying authority.

(2) It removes, alters, disposes of, or stores pollutants, contaminants, wastes or heat, which, but for the facility, would be released into the environment.

(3) The applicant is in compliance with all regulations of Federal agencies applicable to use of the facility, including conditions specified in any permit issued to the applicant under section 13 of the Rivers and Harbors Act of 1899, as amended.

(4) The facility furthers the general policies of the United States and the States in the prevention and abatement of pollution.

(5) The applicant has complied with all the other requirements of this part and has submitted all requested information.

(b) In determining whether use of a facility furthers the general policies of the United States and the States in the prevention and abatement of water pollution, the Regional Administrator shall consider whether such facility is consistent with the following, insofar as they are applicable to the waters which will be affected by the facility:

(1) All applicable water quality standards, including water quality criteria and plans of implementation and enforcement established pursuant to section 10 (c) of the Act or State laws or regulations;

(2) Recommendations issued pursuant to section 10 (e) and (f) of the Act;

(3) Water pollution control programs established pursuant to section 3 or 7 of the Act.

(c) In determining whether use of a facility furthers the general policies of the United States and the States in the prevention and abatement of air pollution, the Regional Administrator shall consider whether such facility is consistent with and meets the following requirements, insofar as they are applicable to the air which will be affected by the facility;

(1) Plans for the implementation, maintenance, and enforcement of ambient air quality standards adopted or promulgated pursuant to section 110 of the Act;

(2) Recommendations issued pursuant to sections 103(e) and 115 of the Act which are applicable to facilities of the same type and located in the area to which the recommendations are directed;

(3) Local government requirements for control of air pollution, including emission standards;

(4) Standards promulgated by the Administrator pursuant to the Act.

(d) A facility which removes elements or compounds from fuels which would be released as pollutants when such fuels are burned may not be certified whether or not such facility is used in connection with the applicant's plant or property where such fuels are burned.

(e) Where a facility is used in connection with more than one plant or other property, one or more of which were not in operation prior to January 1, 1969, or where a facility will perform a function other than the removal, alteration, storage or disposal of pollutants, contaminants, wastes, or heat, the Regional Administrator will so indicate on the notice of certification and will approve or disapprove the applicant's suggested method of allocation of costs. If the Regional Administrator disapproves the applicant's suggested method, he shall identify the proportion of costs allocable to each such plant, or to the removal, alteration, storage or disposal of pollutants, contaminants, wastes, or heat.

§ 20.9 Cost recovery.

Where it appears that, by reason of estimated profits to be derived through the recovery of wastes, through separate

charges for use of the facility in question, or otherwise in the operation of such facility, all or a portion of its costs may be recovered over the period referred to in paragraph (a)(6) of 26 CFR 1.169–2, the Regional Administrator shall so signify in the notice of certification. Determinations as to the reasonableness of charges for use of the facility in question will be made by the Administrator in accordance with the regulations of the Water Resources Council (18 CFR Ch. VI) and the Federal Power Commission (18 CFR Ch. I).

PART 50—NATIONAL PRIMARY AND SECONDARY AMBIENT AIR QUALITY STANDARDS—Continued

Appendix G—Reference Method for the Continuous Measurement of Carbon monoxide in the Atmosphere (Non-dispersive Infrared Spectrometry).

more stringent than the national standards.

§ 50.3 Reference conditions.

All measurements of air quality are corrected to a reference temperature of 25° C. and to a reference pressure of 760 millimeters of mercury (1,012.2 millibars).

§ 50.8 National primary and secondary ambient air quality standards for carbon monoxide.

The national primary and secondary ambient air quality standards for carbon monoxide, measured by the reference method described in Appendix G to this part, are:

(a) 10 milligrams per cubic meter (9 parts per million) for an 8-hour exposure.

(b) 40 milligrams per cubic meter (35 parts per million) for a 1-hour exposure.

(c) Not to be exceeded more than once per year.

Appendix G—Reference Method for the Continuous Measurement of Carbon Monoxide in the Atmosphere (Non-dispersive Infrared Spectrometry)

1. *Principle and applicability.* 1.1 *Principle.* Air is drawn into the sampler and passed through a non-dispersive infrared spectrometer for measurement of carbon monoxide (CO) content.

1.2 *Applicability.* This method is applicable to the measurement of ambient CO concentrations in the range of 0 to 50 mg./m.³ (0 to 40 p.p.m.) and to the measurement of CO concentrations in the range of 0 to 1,000 mg./m.³ (0 to 875 p.p.m.).

2. *Range and sensitivity.* 2.1 *Minimum detectable sensitivity.* Approximately 1 mg./m.³ (0.8 p.p.m.).

2.2 *Maximum sensitivity.* Approximately 1,000 mg./m.³ (875 p.p.m.).

2.3 *Sensitivity.* Sensitivity is dependent on the particular instrument selected, the operating conditions, and the calibration procedure. Sensitivity is defined as the minimum concentration measurable with a 95 percent confidence level.

2.4 *Response time.* Response time is dependent on the particular instrument selected and the operating conditions. Response time is defined as the time interval between the sample entering the instrument and the recorder reaching 95 percent of its ultimate reading.

3. *Interferences.* 3.1 Any substance having an absorption spectrum that overlaps the CO absorption spectrum is a potential interferent. Common substances rarely found in the ambient atmosphere at concentrations sufficient to cause interference are water vapor, carbon dioxide, methane, ethane, ethylene, and ammonia.

3.2 Collection of particulate matter in the sample system may cause erroneous results.

4. *Precision and accuracy.* 4.1 *Precision.* Precision is dependent on the particular instrument selected, the operating conditions, and the calibration procedure. Precision is defined as the maximum deviation between repeated measurements of a constant concentration.

4.2 *Accuracy.* Accuracy is dependent on the particular instrument selected, the operating conditions, and the calibration procedure. Accuracy is defined as the maximum deviation between the measured concentration and the true concentration.

5. *Apparatus.* 5.1 *Spectrophotometer.* Suitable for measurement of absorbance at 4.6 μ. with an effective spectral bandwidth of less than 0.2 μ. Reagent blank problems may occur with spectrophotometers having greater spectral bandwidth. The wavelength calibration of the instrument should be verified. If transmittance is measured, this can be

measure concentrations below 25 μg./m.³ by sampling larger volumes of air, but only if the absorption efficiency of the particular system is first determined. Higher concentrations can be analyzed by using smaller gas samples, a larger collection volume, or a suitable aliquot of the collected sample. Beer's Law is followed through the working range

5.2.1 *Spectrophotometer.* Suitable for measurement of absorbance at 546 nm. with an effective spectral band width of less than 16 nm. Reagent blank problems may occur with spectrophotometers having greater spectral band width. The wavelength calibration of the instrument should be verified. If transmittance is measured, this can be

charges for use of the facility in question, or otherwise in the operation of such facility, all or a portion of its costs may be recovered over the period referred to in paragraph (a)(6) of 26 CFR 1.169-2, the Regional Administrator shall so signify in the notice of certification. Determinations as to the meaning of the term "estimated profits" and as to the percentage of the cost of a certified facility which will be recovered over such period shall be made by the Secretary of the Treasury, or his delegate: *Provided*, That in no event shall estimated profits be deemed to arise from the use or reuse by the applicant of recovered waste.

§ 20.10 Revocation.

Certification hereunder may be revoked by the Regional Administrator on 30 days written notice to the applicant, served by certified mail, whenever the Regional Administrator shall determine that the facility in question is no longer being operated consistent with the § 20.8 (b) and (c) criteria in effect at the time the facility was placed in service. Within such 30-day period, the applicant may submit to the Regional Administrator such evidence, data or other written materials as the applicant may deem appropriate to show why the certification hereunder should not be revoked. Notification of a revocation under this section shall be given to the Secretary of the Treasury or his delegate. See 26 CFR 1.169-4(b)(1).

SUBCHAPTER B—GRANTS [RESERVED]

SUBCHAPTER C—AIR PROGRAMS

PART 50—NATIONAL PRIMARY AND SECONDARY AMBIENT AIR QUALITY STANDARDS

Sec.

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Appendix F—Reference Method for the Determination of Nitrogen Dioxide (24-Hour Sampling Method).

AUTHORITY: The provisions of this Part 50 issued under sec. 4, Public Law 91-604, 84 Stat. 1679.

§ 50.1 Definitions.

(a) As used in this part, all terms not defined herein shall have the meaning given them by the Act.

(b) "Act" means the Clean Air Act, as amended (42 U.S.C. 1857-18571, as amended by Pub. L. 91-604).

(c) "Agency" means the Environmental Protection Agency.

(d) "Administrator" means the Administrator of the Environmental Protection Agency.

(e) "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.

(f) "Reference method" means a method of sampling and analyzing for an air pollutant, as described in an appendix to this part.

(g) "Equivalent method" means any method of sampling and analyzing for an air pollutant which can be demonstrated to the Administrator's satisfaction to have a consistent relationship to the reference method.

§ 50.2 Scope.

(a) National primary and secondary ambient air quality standards under section 109 of the Act are set forth in this part.

(b) National primary ambient air quality standards define levels of air quality which the Administrator judges are necessary, with an adequate margin of safety, to protect the public health. National secondary ambient air quality standards define levels of air quality which the Administrator judges necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant. Such standards are subject to revision, and additional primary and secondary standards may be promulgated as the Administrator deems necessary to protect the public health and welfare.

(c) The promulgation of national primary and secondary ambient air quality standards shall not be considered in any manner to allow significant deterioration of existing air quality in any portion of any State.

(d) The proposal, promulgation, or revision of national primary and secondary ambient air quality standards shall not prohibit any State from establishing ambient air quality standards for that State or any portion thereof which are more stringent than the national standards.

§ 50.3 Reference conditions.

All measurements of air quality are corrected to a reference temperature of 25° C. and to a reference pressure of 760 millimeters of mercury (1,013.2 millibars).

§ 50.4 National primary ambient air quality standards for sulfur oxides (sulfur dioxide).

The national primary ambient air quality standards for sulfur oxides, measured as sulfur dioxide by the reference method described in Appendix A to this part, or by an equivalent method, are:

(a) 80 micrograms per cubic meter (0.03 p.p.m.)—annual arithmetic mean.

(b) 365 micrograms per cubic meter (0.14 p.p.m.)—Maximum 24-hour concentration not to be exceeded more than once per year.

§ 50.5 National secondary ambient air quality standards for sulfur oxides (sulfur dioxide).

The national secondary ambient air quality standards for sulfur oxides, measured as sulfur dioxide by the reference method described in Appendix A to this part, or by an equivalent method, are:

(a) 60 micrograms per cubic meter (0.02 p.p.m.)—annual arithmetic mean.

(b) 260 micrograms per cubic meter (0.1. p.p.m.)—maximum 24-hour concentration not to be exceeded more than once per year, as a guide to be used in assessing implementation plans to achieve the annual standard.

(c) 1,300 micrograms per cubic meter (0.5 p.p.m.)—maximum 3-hour concentration not to be exceeded more than once per year.

§ 50.6 National primary ambient air quality standards for particulate matter.

The national primary ambient air quality standards for particulate matter, measured by the reference method described in Appendix B to this part, or by an equivalent method, are:

(a) 75 micrograms per cubic meter—annual geometric mean.

(b) 260 micrograms per cubic meter—maximum 24-hour concentration not to be exceeded more than once per year.

§ 50.7 National secondary ambient air quality standards for particulate matter.

The national secondary ambient air quality standards for particulate matter, measured by the reference method described in Appendix B to this part, or by an equivalent method, are:

(a) 60 micrograms per cubic meter—annual geometric mean, as a guide to be used in assessing implementation plans to achieve the 24-hour standard.

(b) 150 micrograms per cubic meter—maximum 24-hour concentration not to be exceeded more than once per year.

§ 50.8 National primary and secondary ambient air quality standards for carbon monoxide.

The national primary and secondary ambient air quality standards for carbon monoxide, measured by the reference method described in Appendix C to this part, or by an equivalent method, are:

(a) 10 milligrams per cubic meter (9 p.p.m.)—maximum 8-hour concentration not to be exceeded more than once per year.

(b) 40 milligrams per cubic meter (35 p.p.m.)—maximum 1-hour concentration not to be exceeded more than once per year.

§ 50.9 National primary and secondary ambient air quality standards for photochemical oxidants.

The national primary and secondary ambient air quality standard for photochemical oxidants, measured and corrected for interferences due to nitrogen oxides and sulfur dioxide by the reference method described in Appendix D to this part, or by an equivalent method, is: 160 micrograms per cubic meter (0.08 p.p.m.)—maximum 1-hour concentration not to be exceeded more than once per year.

§ 50.10 National primary and secondary ambient air quality standard for hydrocarbons.

The hydrocarbons standard is for use as a guide in devising implementation plans to achieve oxidant standards.

The national primary and secondary ambient air quality standard for hydrocarbons, measured and corrected for methane by the reference method described in Appendix E to this part, or by an equivalent method, is: 160 micrograms per cubic meter (0.24 p.p.m.)—maximum 3-hour concentration (6 to 9 a.m.) not to be exceeded more than once per year.

§ 50.11 National primary and secondary ambient air quality standard for nitrogen dioxide.

The national primary and secondary ambient air quality standard for nitrogen dioxide, measured by the reference method described in Appendix F to this part, or by an equivalent method, is: 100 micrograms per cubic meter (0.05 p.p.m.)—annual arithmetic mean.

APPENDIX A.—REFERENCE METHOD FOR THE DETERMINATION OF SULFUR DIOXIDE IN THE ATMOSPHERE (PARAROSANILINE METHOD)

1. *Principle and Applicability.* 1.1 Sulfur dioxide is absorbed from air in a solution of potassium tetrachloromercurate (TCM). A dichlorosulfitomercurate complex, which resists oxidation by the oxygen in the air, is formed (*1, 2*). Once formed, this complex is stable to strong oxidants (e.g., ozone, oxides of nitrogen). The complex is reacted with pararosaniline and formaldehyde to form intensely colored pararosaniline methyl sulfonic acid (*3*). The absorbance of the solution is measured spectrophotometrically.

1.2 The method is applicable to the measurement of sulfur dioxide in ambient air using sampling periods up to 24 hours.

2. *Range and Sensitivity.* 2.1 Concentrations of sulfur dioxide in the range of 25 to 1,050 $\mu g/m.^3$ (0.01 to 0.40 p.p.m.) can be measured under the conditions given. One can measure concentrations below 25 $\mu g./m.^3$ by sampling larger volumes of air, but only if the absorption efficiency of the particular system is first determined. Higher concentrations can be analyzed by using smaller gas samples, a larger collection volume, or a suitable aliquot of the collected sample. Beer's Law is followed through the working range from 0.08 to 1.0 absorbance units (0.3 to 27 $\mu g.$ of sulfite ion in 25 ml. final solution computed as SO_2).

2.2 The lower limit of detection of sulfur dioxide in 10 ml. TCM is 0.75 $\mu g.$ (based on twice the standard deviation) representing a concentration of 25 $\mu g./m^3SO_2$ (0.01 p.p.m.) in an air sample of 30 liters.

3. *Interferences.* 3.1 The effects of the principal known interferences have been minimized or eliminated. Interferences by oxides of nitrogen are eliminated by sulfamic acid (*4, 5*), ozone by time-delay (*6*), and heavy metals by EDTA (ethylenediaminetetraacetic acid, disodium salt) and phosphoric acid (*6, 8*). At least 60 $\mu g.$ Fe (III), 10 $\mu g.$ Mn(II), and 10 $\mu g.$ Cr(III) in 10 ml. absorbing reagent can be tolerated in the procedure. No significant interference was found with 10 $\mu g.$ Cu (II) and 22 $\mu g.$ V(V).

4. *Precision, Accuracy, and Stability.* 4.1 Relative standard deviation at the 95 percent confidence level is 4.8 percent for the analytical procedure using standard samples. (*5*)

4.2 After sample collection the solutions are relatively stable. At 22° C. losses of sulfur dioxide occur at the rate of 1 percent per day. When samples are stored at 5° C. for 30 days, no detectable losses of sulfur dioxide occur. The presence of EDTA enhances the stability of SO_2 in solution, and the rate of decay is independent of the concentration of SO_2 (*7*).

5. *Apparatus.*

5.1 *Sampling.*

5.1.1 *Absorber.* Absorbers normally used in air pollution sampling are acceptable for concentrations above 25 $\mu g./m.^3$ (0.01 p.p.m.). An all-glass midget impinger, as shown in Figure A1, is recommended for 30-minute and 1-hour samples.

For 24-hour sampling, assemble an absorber from the following parts:

Polypropylene 2-port tube closures, special manufacture (available from Bel-Art Products, Pequannock, N.J.).

Glass impingers, 6 mm. tubing, 6 inches long, one end drawn to small diameter such that No. 78 jewelers drill will pass through, but No. 78 jewelers drill will not. (Other end fire polished.)

Polypropylene tubes, 164 by 32 mm. (Nalgene or equal).

5.1.2 *Pump.* Capable of maintaining an air pressure differential greater than 0.7 atmosphere at the desired flow rate.

5.1.3 *Air Flowmeter or Critical Orifice.* A calibrated rotameter or critical orifice capable of measuring air flow within ±2 percent. For 30-minute sampling, a 23-gauge hypodermic needle 1 inch long may be used as a critical orifice to give a flow of about 1 liter/minute. For 1-hour sampling, a 23-gauge hypodermic needle five-eighths of an inch long may be used as a critical orifice to give a flow of about 0.5 liter/minute. For 24-hour sampling, a 27-gauge hypodermic needle three-eighths of an inch long may be used to give a flow of about 0.2 liter/minute. Use a membrane filter to protect the needle (Figure A1a).

5.2 *Analysis.*

5.2.1 *Spectrophotometer.* Suitable for measurement of absorbance at 548 nm. with an effective spectral band width of less than 15 nm. Reagent blank problems may occur with spectrophotometers having greater spectral band width. The wavelength calibration of the instrument should be verified. If transmittance is measured, this can be converted to absorbance:

$$A = \log_{10}(1/T)$$

6. *Reagents.*

6.1 *Sampling.*

6.1.1 *Distilled water.* Must be free from oxidants.

6.1.2 *Absorbing Reagent [0.04 M Potassium Tetrachloromercurate (TCM)].* Dissolve 10.86 g. mercuric chloride, 0.066 g. EDTA (ethylenediaminetetraacetic acid, disodium salt), and 6.0 g. potassium chloride in water and bring to mark in a 1,000-ml. volumetric flask. (Caution: highly poisonous. If spilled on skin, flush off with water immediately). The pH of this reagent should be approximately 4.0, but it has been shown that there is no appreciable difference in collection efficiency over the range of pH 5 to pH 3.(*7*) The absorbing reagent is normally stable for 6 months. If a precipitate forms, discard the reagent.

6.2 *Analysis.*

6.2.1 *Sulfamic Acid (0.6 percent).* Dissolve 0.6 g. sulfamic acid in 100 ml. distilled water. Prepare fresh daily.

6.2.2 *Formaldehyde (0.2 percent).* Dilute 5 ml. formaldehyde solution (36-38 percent) to 1,000 ml. with distilled water. Prepare daily.

6.2.3 *Stock Iodine Solution (0.1 N).* Place 12.7 g. iodine in a 250-ml. beaker; add 40 g. potassium iodide and 25 ml. water. Stir until all is dissolved, then dilute to 1,000 ml. with distilled water.

6.2.4 *Iodine Solution (0.01 N).* Prepare approximately 0.01 N iodine solution by diluting 50 ml. of stock solution to 500 ml. with distilled water.

6.2.5 *Starch Indicator Solution.* Triturate 0.4 g. soluble starch and 0.002 g. mercuric iodide (preservative) with a little water, and add the paste slowly to 200 ml. boiling water. Continue boiling until the solution is clear; cool, and transfer to a glass-stoppered bottle.

6.2.6 *Stock Sodium Thiosulfate Solution (0.1 N).* Prepare a stock solution by dissolving 25 g. sodium thiosulfate ($Na_2S_2O_3 \cdot 5H_2O$) in 1,000 ml. freshly boiled, cooled, distilled water and add 0.1 g. sodium carbonate to the solution. Allow the solution to stand 1 day before standardizing. To standardize, accurately weigh, to the nearest 0.1 mg., 1.5 g. primary standard potassium iodate dried at 180° C. and dilute to volume in a 500-ml. volumetric flask. To a 500-ml. iodine flask, pipet 50 ml. of iodate solution. Add 2 g. potassium iodide and 10 ml. of 1 N hydrochloric acid. Stopper the flask. After 5 minutes, titrate with stock thiosulfate solution to a pale yellow. Add 5 ml. starch indicator solution and continue the titration until the blue color disappears. Calculate the normality of the stock solution:

$$N = \frac{W}{M} \times 2.80$$

N = Normality of stock thiosulfate solution.
M = Volume of thiosulfate required, ml.
W = Weight of potassium iodate, grams.

$$2.80 = \frac{10^3 (\text{conversion of g. to mg.}) \times 0.1 (\text{fraction iodate used})}{35.67 (\text{equivalent weight of potassium iodate})}$$

6.2.7 *Sodium Thiosulfate Titrant (0.01 N).* Dilute 100 ml. of the stock thiosulfate solution to 1,000 ml. with freshly boiled distilled water.

Normality = Normality of stock solution × 0.100.

ml. stock solution for each percent the stock assays below 100 percent. Then add 25 ml. 2 M phosphoric acid and dilute to volume with distilled water. This reagent is stable for at least 2 months.

7. *Procedure.*

7.1 *Sampling.* Procedures are described for 30-minute and 1-hour and 24-hour samples. Sampling for periods up to 24 hours is recommended to obtain maximum sensitivity.

7.1.1 *30-minute and 1-hour samples.* Place 10 ml. absorbing reagent in the absorber. Sample at 1 liter/minute for 30 minutes or 0.5 liter/minute for 1 hour. Record the temperature and barometric pressure during sampling. Seal the absorber for transport to the laboratory. Store the samples at 5° C. if analysis is not made within 24 hours.

7.1.2 *24-hour samples.* Place 10 ml. absorbing reagent in the absorber. Sample at 0.2 liter/minute for 24 hours. Record the temperature and barometric pressure during sampling. Seal the absorber for transport to the laboratory. Store the samples at 5° C. if analysis is not made within 24 hours.

7.2 *Analysis.* Let the absorber stand 20 minutes after sampling to assure complete decomposition of ozone. Transfer the solution to a 25-ml. volumetric flask. Rinse the absorber and add the rinse to the flask. Add 1 ml. 0.6 percent sulfamic acid, 2 ml. 0.2 percent formaldehyde, and 5 ml. pararosaniline reagent, dilute to volume, and mix. Prepare a reagent blank and standard curve with each set of samples. Measure the absorbance of the solutions in 1-cm. cells at 548 nm. after 30 minutes but before 60 minutes. (Do not allow the colored solution to stand in the absorbance cells, because a film of dye may be deposited. Clean cells with alcohol after use. If the temperature of the determinations does not differ by more than 3° C. from the calibration temperature (8.2), the temperature changes which can be induced in the cell compartment of a spectrophotometer.) Do not allow the colored solution to stand in the absorbance cells, because a film of dye may be deposited. Clean cells with alcohol after use. If the temperature of the determinations does not differ by more than 3° C. from the calibration temperature (8.2), the temperature changes which can be induced in the cell compartment of a spectrophotometer.

8. *Calibration.* 8.1 Prepare a standard curve by plotting the absorbance of the standard versus the concentration of sulfur dioxide in micrograms per milliliter. Calculate the concentration of sulfur dioxide in the sample by comparing the absorbance of the sample to the standard curve.

8.2 *Spectrophotometer.* Calibrate the instrument as follows:

8.2.1 Prepare a 1 $\mu g./ml.$ solution of potassium dichromate in 0.005 M potassium hydroxide.

8.2.2 Measure the absorbance of the solution at 440 nm. in 1-cm. cells against a 0.005 M potassium hydroxide blank.

8.2.3 Calculate the absorbance value for a 1 $\mu g./ml.$ solution of potassium dichromate.

8.2.4 Adjust the spectrophotometer to the proper absorbance value.

8.2.5 Measure the absorbance of the solution at 548 nm. in 1-cm. cells against a distilled water blank.

8.2.6 Calculate the absorbance value for a 1 $\mu g./ml.$ solution of sulfite-TCM solution.

8.2.7 Adjust the spectrophotometer to the proper absorbance value.

9. *Calculations.* 9.1 Calculate the concentration of sulfur dioxide in the sample by comparing the absorbance of the sample to the standard curve.

9.2 When SO_2 gas standard atmospheres are used to prepare calibration curves, compute the sulfur dioxide in the sample by the following formula:

$$SO_2, \mu g./m.^3 = (A - A_0) \times B_s$$

For 24-hour samples, D = 10.

9.2.1 When SO_2 gas standard atmospheres are used to prepare calibration curves, compute the sulfur dioxide in the sample by the following formula:

$$SO_2, \mu g./m.^3 = (A - A_0) \times B_s$$

or purchased. Scaringelli, O'Keefe, Rosenberg, and Bell (*11*) give detailed, explicit directions for permeation tube calibration. Tubes with certified permeation rate are available from the National Bureau of Standards. Tube permeation rates from 0.2 to 0.4 $\mu g./minute$, inert gas flows of about 50 ml./minute, and dilution air flow rates from 1.1 to 1.5 liters/minute are convenient.

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(2) Urone, P., Noyes, H. A., Barker, M. G., and Katz, S., "Sampling and Analysis of Atmospheric Sulfur Dioxide Collected by Evacuated Flask Techniques", *Anal. Chem.*, *28*, 450 (1956).

(3) West, P. W., and Gaeke, G. C., "Fixation of Sulfur Dioxide as Disulfitomercurate (II) and Subsequent Colorimetric Estimation", *Anal. Chem.*, *28*, 1816 (1956).

(4) Ephraim, F., "Inorganic Chemistry", Fifth Edition, Thomason, P. C., Ed., Gurney and Jackson, London, 1948, p. 853.

(5) Bostrom, D. A., and Bostrom, C. E., "An Improved Method for Determination of Sulfur Dioxide in Ambient Air", *Anal. Chem.*, *36*, 1952 (1964).

(6) Urone, P., and Schroeder, W. H., "Determination of Sulfur Dioxide in Atmospheres Containing Ozone and Nitrogen Oxides", *Anal. Chem.*, *41*, 1735 (1969).

(7) Scaringelli, F. P., Hifert, L., Norris, D., and Hochheiser, S., "Enhanced Stability of Aqueous Solutions of Tetrachloromercurate (II) Salts for Sampling Sulfur Dioxide", *Environ. Sci. Technol.*, *4*, 63 (1970).

(8) Urone, P., and Grifini, A. M., "Measurement of the SO_2 Content of Air in the Presence of Oxides of Nitrogen and Heavy Metals", *Med. Lavoro*, *53*, 230 (1962).

(9) Scaringelli, F. P., Hifert, L., Norris, D., and Hochheiser, S., "Enhanced Stability of Aqueous Solutions of Tetrachloromercurate (II) Salts for Sampling Sulfur Dioxide", *Environ. Sci. Technol.*, *4*, 63 (1970).

6.2.7 *Sodium Thiosulfate Titrant (0.01 N).* Dilute 100 ml. of the stock thiosulfate solution to 1,000 ml. with freshly boiled distilled water.

Normality = Normality of stock solution × 0.100.

6.2.8 *Standardized Sulfite Solution for Preparation of Working Sulfite-TCM Solution.* Dissolve 0.2 g. sodium metabisulfite ($Na_2S_2O_5$) or 0.40 g. sodium sulfite (Na_2SO_3) in 500 ml. of recently boiled, cooled, distilled water. (Sulfite solution is unstable; it is therefore important to use water of the highest purity to minimize this instability.) This solution contains the equivalent of 320 to 400 μg./ml. of SO_2. The actual concentration of the solution is determined by adding excess iodine and back-titrating with standard sodium thiosulfate solution. To back-titrate, pipet 50 ml. of the 0.01 N iodine into each of two 500-ml. iodine flasks (A and B). To flask A (blank) add 25 ml. distilled water, and to flask B (sample) pipet 25 ml. sulfite solution. Stopper the flasks and allow to react for 5 minutes. Prepare the working sulfite-TCM Solution (6.2.9) at the same time iodine solution is added to the flasks. By means of a buret containing standardized 0.01 N thiosulfate, titrate each flask in turn to a pale yellow. Then add 5 ml. starch solution and continue the titration until the blue color disappears.

6.2.9 *Working Sulfite-TCM Solution.* Pipet accurately 2 ml. of the standard solution into a 100 ml volumetric flask and bring to mark with 0.04 M TCM. Calculate the concentration of sulfur dioxide in the working solution:

$$\mu g\ SO_2/ml. = \frac{(A - B)\ (N)\ (32{,}000)}{25} \times 0.02$$

A = Volume thiosulfate for blank, ml.
B = Volume thiosulfate for sample, ml.
N = Normality of thiosulfate titrant.
32,000 = Milliequivalent wt. of SO_2, μg.
25 = Volume standard sulfite solution, ml.
0.02 = Dilution factor.

This solution is stable for 30 days if kept at 5° C. (refrigerator). If not kept at 5° C., prepare daily.

6.2.10 *Purified Pararosaniline Stock Solution (0.2 percent nominal).*

6.2.10.1 *Dye Specifications.* The pararosaniline dye must meet the following performance specifications: (1) the dye must have a wavelength of maximum absorbance at 540 nm. when assayed in a buffered solution of 0.1 M sodium acetate-acetic acid; (2) the absorbance of the reagent blank, which is temperature-sensitive (0.015 absorbance unit/°C), should not exceed 0.170 absorbance unit at 23° C. with a 1-cm. optical path length, when the blank is prepared according to the prescribed analytical procedure and to the specified concentration of the dye; (3) the calibration curve (Section 8.2.1) should have a slope of 0.080 ± 0.002 absorbance units/μg. SO_2 at this path length when the dye is pure and the sulfite solution is properly standardized.

6.2.10.2 *Preparation of Stock Solution.* A specially purified (99–100 percent pure) solution of pararosaniline, which meets the above specifications, is commercially available in the required 0.20 percent concentration (Harleco*). Alternatively, the dye may be purified, a stock solution prepared and then assayed according to the procedure of Scaringelli, et al. (4)

6.2.11 *Pararosaniline Reagent.* To a 250-ml. volumetric flask, add 20 ml. stock pararosaniline solution. Add an additional 0.2 ml. stock solution for each percent the stock assays below 100 percent. Then add 25 ml. 3 M phosphoric acid and dilute to volume with distilled water. This reagent is stable for at least 9 months.

7. *Procedure.*

7.1 *Sampling.* Procedures are described for short-term (30 minutes and 1 hour) and for long-term (24 hours) sampling. One can select different combinations of sampling rate and time to meet special needs. Sample volumes should be adjusted, so that linearity is maintained between absorbance and concentration over the dynamic range.

7.1.1 *30-Minute and 1-Hour Samplings.* Insert a midget impinger into the sampling system, Figure A1. Add 10 ml. TCM solution to the impinger. Collect sample at 1 liter/minute for 30 minutes, or at 0.5 liter/minute for 1 hour, using either a rotameter, as shown in Figure A1, or a critical orifice, as shown in Figure A1a, to control flow. Shield the absorbing reagent from direct sunlight during and after sampling by covering the impinger with aluminum foil, to prevent deterioration. Determine the volume of air sampled by multiplying the flow rate by the time in minutes and record the atmospheric pressure and temperature. Remove and stopper the impinger. If the sample must be stored for more than a day before analysis, keep it at 5° C. in a refrigerator (see 4.2).

7.1.2 *24-Hour Sampling.* Place 50 ml. TCM solution in a large absorber and collect the sample at 0.2 liter/minute for 24 hours from midnight to midnight. Make sure no entrainment of solution results with the impinger. During collection and storage protect from direct sunlight. Determine the total air volume by multiplying the air flow rate by the time in minutes. The correction of 24-hour measurements for temperature and pressure is extremely difficult and is not ordinarily done. However, the accuracy of the measurement will be improved if meaningful corrections can be applied. If storage is necessary, refrigerate at 5° C. (see 4.2).

7.2 *Analysis.*

7.2.1 *Sample Preparation.* After collection, if a precipitate is observed in the sample, remove it by centrifugation.

7.2.1.1 *30-Minute and 1-Hour Samples.* Transfer the sample quantitatively to a 25-ml. volumetric flask; use about 5 ml. distilled water for rinsing. Delay analyses for 20 minutes to allow any ozone to decompose.

7.2.1.2 *24-Hour Sample.* Dilute the entire sample to 50 ml. with absorbing solution. Pipet 5 ml. of the sample into a 25-ml. volumetric flask for chemical analyses. Bring volume to 10 ml. with absorbing reagent. Delay analyses for 20 minutes to allow any ozone to decompose.

7.2.2 *Determination.* For each set of determinations prepare a reagent blank by adding 10 ml. unexposed TCM solution to a 25-ml. volumetric flask. Prepare a control solution by adding 2 ml. of working sulfite-TCM solution and 8 ml. TCM solution to a 25-ml. volumetric flask. To each flask containing either sample, control solution, or reagent blank, add 1 ml. 0.6 percent sulfamic acid and allow to react 10 minutes to destroy the nitrite from oxides of nitrogen. Accurately pipet in 2 ml. 0.2 percent formaldehyde solution, then 5 ml. pararosaniline solution. Start a laboratory timer that has been set for 30 minutes. Bring all flasks to volume with freshly boiled and cooled distilled water and mix thoroughly. After 30 minutes and before 60 minutes determine the absorbances of the sample (denote as A), reagent blank (denote as A_o) and the control solution at 548 nm. using 1-cm. optical path length cells. Use distilled water, not the reagent blank, as the reference. (Note: This is important because of the color sensitivity of the reagent blank to temperature changes which can be induced in the cell compartment of a spectrophotometer.) Do not allow the colored solution to stand in the absorbance cells, because a film of dye may be deposited. Clean cells with alcohol after use. If the temperature of the determinations does not differ by more than 3° C. from the calibration temperature (8.2), the reagent blank should be within 0.03 absorbance unit of the y-intercept of the calibration curve (8.2). If the reagent blank differs by more than 0.03 absorbance unit from that found in the calibration curve, prepare a new curve.

7.2.3 *Absorbance Range.* If the absorbance of the sample solution ranges between 1.0 and 2.0, the sample can be diluted 1:1 with a portion of the reagent blank and read within a few minutes. Solutions with higher absorbance can be diluted up to sixfold with the reagent blank in order to obtain onscale readings within 10 percent of the true absorbance value.

8. *Calibration and Efficiencies.*

8.1 *Flowmeters and Hypodermic Needle.* Calibrate flowmeters and hypodermic needle (3) against a calibrated wet test meter.

8.2 *Calibration Curves.*

8.2.1 *Procedure with Sulfite Solution.* Accurately pipet graduated amounts of the working sulfite-TCM solution (6.2.9) (such as 0, 0.5, 1, 2, 3, and 4 ml.) into a series of 25-ml. volumetric flasks. Add sufficient TCM solution to each flask to bring the volume to approximately 10 ml. Then add the remaining reagents as described in 7.2.2. For maximum precision use a constant-temperature bath. The temperature of calibration must be maintained within ±1° C. and in the range of 20° to 30° C. The temperature of calibration and the temperature of analysis must be within 3 degrees. Plot the absorbance against the total concentration in μg. SO_2 for the corresponding solution. The total μg. SO_2 in solution equals the concentration of the standard (Section 6.2.9) in μg. SO_2/ml. times the ml. sulfite solution added (μg. SO_2 = μg./ml. SO_2 × ml. added). A linear relationship should be obtained, and the y-intercept should be within 0.03 absorbance unit of the zero standard absorbance. For maximum precision determine the line of best fit using regression analysis by the method of least squares. Determine the slope of the line of best fit, calculate its reciprocal and denote as B_s. B_s is the calibration factor. (See Section 6.2.10.1 for specifications on the slope of the calibration curve). This calibration factor can be used for calculating results provided there are no radical changes in temperature or pH. At least one control sample containing a known concentration of SO_2 for each series of determinations, is recommended to insure the reliability of this factor.

8.2.2 *Procedure with SO_2 Permeation Tubes.*

8.2.2.1 *General Considerations.* Atmospheres containing accurately known amounts of sulfur dioxide at levels of interest can be prepared using permeation tubes. In the system for generating these atmospheres, the permeation tube emits SO_2 gas at a known, low, constant rate, provided the temperature of the tube is held constant (±0.1° C.) and provided the tube has been accurately calibrated at the temperature of use. The SO_2 gas permeating from the tube is carried by a low flow of inert gas to a mixing chamber where it is accurately diluted with SO_2-free air to the level of interest and the sample taken. These systems are shown schematically in Figures A2 and A3 and have been described in detail by O'Keeffe and Ortman (9), Scaringelli, Frey, and Saltzman (10), and Scaringelli, O'Keeffe, Rosenberg, and Bell (11). Commercially available permeation devices are listed in Table 1. Certified permeation tubes are available from the National Bureau of Standards. Tube permeation rates from 0.2 to 0.4 μg./minute, inert gas flows of about 50 ml./minute, and dilution air flow rates from 1.1 to 15 liters/minute conveniently give standard atmospheres containing desired levels of SO_2 (25 to 280 μg./m.³; 0.01 to 0.15 p.p.m. SO_2). The concentration of SO_2 in any standard atmosphere can be calculated as follows:

$$C = \frac{P \times 10^3}{B_s + B_i}$$

Where:
C = Concentration of SO_2, μg./m.³ at reference conditions.
P = Tube permeation rate, μg./minute.
B_s = Flow rate of dilution air, liter/minute at reference conditions.
B_i = Flow rate of inert gas, liter/minute at reference conditions.

8.2.2.2 *Sampling and Preparation of Calibration Curve.* Prepare a series (usually six) of standard atmospheres containing SO_2 levels from 25 to 280 μg. SO_2/m.³. Sample each atmosphere using similar apparatus and taking exactly the same air volume as will be done in atmospheric sampling. Determine absorbances as directed in 7.2. Plot the concentration of SO_2 in μg./m.³ (x-axis) against $A - A_o$ values (y-axis), draw the straight line of best fit and determine the slope. Alternatively, regression analysis by the method of least squares may be used to calculate the slope. Calculate the reciprocal of the slope and denote as B_s.

8.3 *Sampling Efficiency.* Collection efficiency is above 98 percent; efficiency may fall off, however, at concentrations below 25 μg./m.³. (12, 13)

9. *Calculations.*

9.1 *Conversion of Volume.* Convert the volume of air sampled to the volume at reference conditions of 25° C. and 760 mm. Hg. (On 24-hour samples, this may not be possible.)

$$V_a = V \times \frac{P}{760} \times \frac{298}{t + 273}$$

V_a = Volume of air at 25° C. and 760 mm. Hg, liters.
V = Volume of air sampled, liters.
P = Barometric pressure, mm. Hg.
t = Temperature of air sample, °C.

9.2 *Sulfur Dioxide Concentration.*

9.2.1 When sulfite solutions are used to prepare calibration curves, compute the concentration of sulfur dioxide in the sample:

$$\mu g.\ SO_2/m.^3 = \frac{(A - A_o)\ (10^3)\ (B_s)}{V_a} \times D$$

A = Sample absorbance.
A_o = Reagent blank absorbance.
10^3 = Conversion of liters to cubic meters.
V_a = The sample corrected to 25° C. and 760 mm. Hg, liters.
B_s = Calibration factor, μg./absorbance unit.
D = Dilution factor.
For 30-minute and 1-hour samples, D = 1.

*Hartmen-Leddon, 60th and Woodland Avenue, Philadelphia, PA 19143.

or purchased. Scaringelli, O'Keeffe, Rosenberg, and Bell (11) give detailed, explicit directions for permeation tube calibration. Tubes with a certified permeation rate are available from the National Bureau of Standards. Tube permeation rates from 0.2 to 0.4 μg./minute, inert gas flows of about 50 ml./minute, and dilution air flow rates from 1.1 to 15 liters/minute conveniently give standard atmospheres containing desired levels of SO_2 (25 to 280 μg./m.³; 0.01 to 0.15 p.p.m. SO_2). The concentration of SO_2 in any standard atmosphere can be calculated as follows:

$$C = \frac{P \times 10^3}{B_s + B_i}$$

Where:
C = Concentration of SO_2, μg./m.³ at reference conditions.
P = Tube permeation rate, μg./minute.
B_s = Flow rate of dilution air, liter/minute at reference conditions.
B_i = Flow rate of inert gas, liter/minute at reference conditions.

8.2.2.2 *Sampling and Preparation of Calibration Curve.* Prepare a series (usually six) of standard atmospheres containing SO_2 levels from 25 to 280 μg. SO_2/m.³. Sample each atmosphere using similar apparatus and taking exactly the same air volume as will be done in atmospheric sampling. Determine absorbances as directed in 7.2. Plot the concentration of SO_2 in μg./m.³ (x-axis) against $A - A_o$ values (y-axis), draw the straight line of best fit and determine the slope. Alternatively, regression analysis by the method of least squares may be used to calculate the slope. Calculate the reciprocal of the slope and denote as B_s.

8.3 *Sampling Efficiency.* Collection efficiency is above 98 percent; efficiency may fall off, however, at concentrations below 25 μg./m.³. (12, 13)

9. *Calculations.*

9.1 *Conversion of Volume.* Convert the volume of air sampled to the volume at reference conditions of 25° C. and 760 mm. Hg. (On 24-hour samples, this may not be possible.)

$$V_a = V \times \frac{P}{760} \times \frac{298}{t + 273}$$

V_a = Volume of air at 25° C. and 760 mm. Hg, liters.
V = Volume of air sampled, liters.
P = Barometric pressure, mm. Hg.
t = Temperature of air sample, °C.

9.2 *Sulfur Dioxide Concentration.*

9.2.1 When sulfite solutions are used to prepare calibration curves, compute the concentration of sulfur dioxide in the sample:

$$\mu g.\ SO_2/m.^3 = \frac{(A - A_o)\ (10^3)\ (B_s)}{V_a} \times D$$

A = Sample absorbance.
A_o = Reagent blank absorbance.
10^3 = Conversion of liters to cubic meters.
V_a = The sample corrected to 25° C. and 760 mm. Hg, liters.
B_s = Calibration factor, μg./absorbance unit.
D = Dilution factor.
For 30-minute and 1-hour samples, D = 1.
For 24-hour samples, D = 10.

9.2.2 When SO_2 gas standard atmospheres are used to prepare calibration curves, compute the sulfur dioxide in the sample by the following formula:

$$SO_2,\ \mu g./m.^3 = (A - A_o) \times B_s$$

A = Sample absorbance.
A_o = Reagent blank absorbance.
B_s = (See 8.2.2.2).

9.2.3 *Conversion of μg./m.³ to p.p.m.* If desired, the concentration of sulfur dioxide may be calculated as p.p.m. SO_2 at reference conditions as follows:

$$\text{p.p.m. } SO_2 = \mu g.\ SO_2/m.^3 \times 3.82 \times 10^{-4}$$

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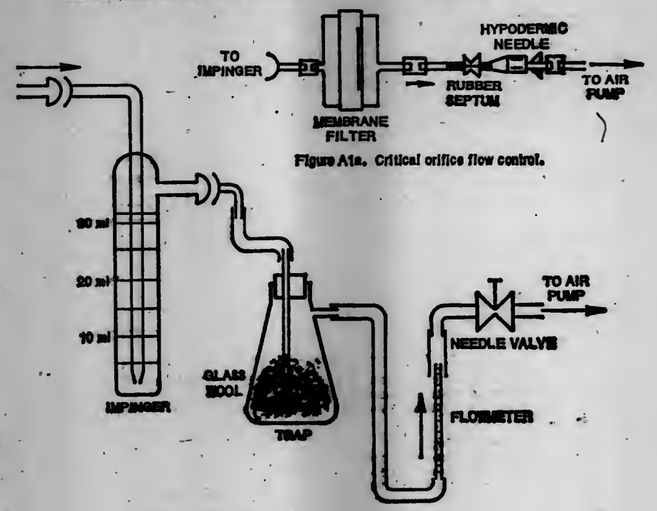

Figure A1a. Critical orifice flow control.

Figure A1. Sampling train.

main housing and the roof at its closest point should be 580.5 ± 100.5 cm.² (90 ± 90 in.²). The main housing should be rectangular, with dimensions of about 20 by 36 cm. (11½ by 14 in.).

5.1.3 *Rotameter.* Marked in arbitrary units, frequently 0 to 70, and capable of being calibrated. Other devices of at least equivalent quality may be substituted.

5.1.4 *Motor.* Capable of operating continuously for 24 hours at a steady speed sufficient to provide adequate air flow.

5.1.5 *Timer.* Optional, but desirable, for starting and stopping sampling periods automatically.

5.1.6 *Filter Holder.* Capable of supporting a 20.3-cm. (8-in.) square filter in a horizontal position, with the filter face exposed downward. Provision should be made to prevent leakage between the edges of the filter and the holder.

5.1.7 *Manometer.* Capable of measuring pressure drops of 0 to 100 cm. (0 to 40 in.) water.

5.1.8 *Barometer.* Capable of measuring atmospheric pressure to the nearest 5 mm. Hg.

5.1.9 *Thermometer.* Capable of measuring temperatures to the nearest 1° C.

5.2 *Calibration Equipment.*

5.2.1 *Orifice Meter.* Calibrated against a wet test meter, spirometer, or other primary standard, and capable of measuring flow rates of 1.1 to 1.7 m.³/minute (40 to 60 cfm).

5.2.2 *Wet Test Meter.* Capable of measuring flow rates of 1.1 to 1.7 m.³/minute (40 to 60 cfm).

5.2.3 *Spirometer.* Capable of measuring flow rates of 1.1 to 1.7 m.³/minute (40 to 60 cfm).

5.2.4 *Rotameter.* Capable of measuring flow rates of 1.1 to 1.7 m.³/minute (40 to 60 cfm).

5.2.5 *Stopwatch.*

6. *Reagents.*

6.1 *Filters.* Whatman No. 41 or equivalent.

6.2 *Solvents.* Reagent grade.

7. *Procedure.*

7.1 *Sampling.* Install the clean, dry filter in the filter holder. Record the filter number. Weigh out a sufficient amount of adsorbent and place in the sampler. Record the amount of adsorbent used. Place the sampler on the roof or other suitable place. Level it and connect it to the motor. Connect the rotameter to the nipple on the back of the sampler. Record the rotameter reading. Start the motor and timer. Adjust the rotameter to the desired operating flow rate. Record the temperature and barometric pressure. Sample for 24 hours. Record the rotameter reading. Stop the motor. Remove the sampler to the laboratory. Remove the filter and store it in a clean, labeled container. Remove the adsorbent and store it in a clean, labeled container.

7.2 *Analysis.* Extract the adsorbent with the solvent. Analyze the extract by the appropriate method. Analyze the filter by the appropriate method.

8. *Calculations.*

8.1 *Volume of Air Sampled.* Calculate the volume of air sampled at standard conditions (25° C. and 760 mm. Hg) using the following formula:

$$V_s = V \times \frac{P}{760} \times \frac{298}{t + 273}$$

V_s = Volume of air sampled at standard conditions, m.³.
V = Volume of air sampled, m.³.
P = Barometric pressure, mm. Hg.
t = Temperature of air sample, °C.

8.2 *Concentration of Pollutant.* Calculate the concentration of pollutant in the air sample using the following formula:

$$C = \frac{W}{V_s}$$

C = Concentration of pollutant, μg./m.³.
W = Weight of pollutant found in the sample, μg.
V_s = Volume of air sampled at standard conditions, m.³.

9. *Reporting of Results.* Report the concentration of pollutant in the air sample to the nearest 1 μg./m.³.

10. *Bibliography.*

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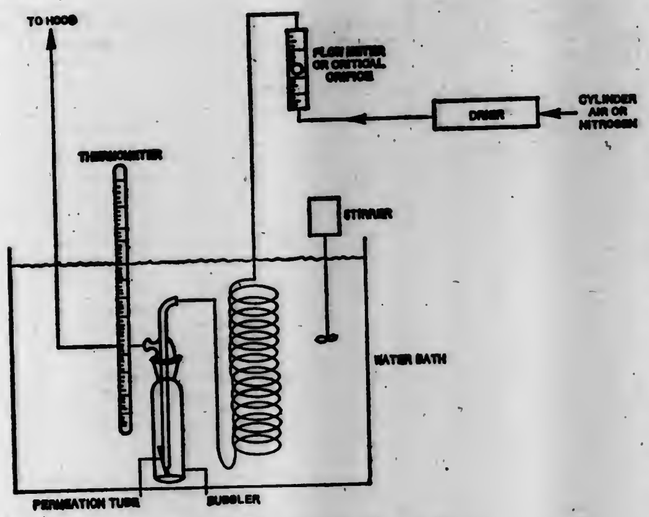

Figure A2. Apparatus for gravimetric calibration and field use.

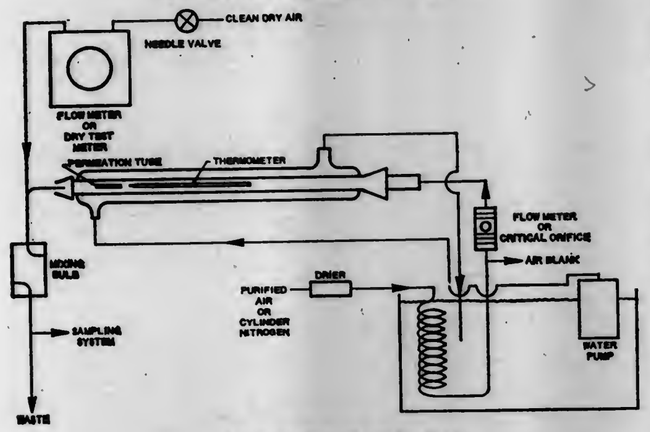

Figure A3. Pegasystat tube schematic for laboratory use.

APPENDIX B—REFERENCE METHOD FOR THE DETERMINATION OF SUSPENDED PARTICULATES IN THE ATMOSPHERE. (HIGH VOLUME METHOD)

1. *Principle and Applicability.*

1.1 Air is drawn into a covered housing and through a filter by means of a high-flow-rate blower at a flow rate (1.13 to 1.70 m.³/min.; 40 to 60 ft.³/min.) that allows suspended particles having diameters of less than 100 μm. (Stokes equivalent diameter) to pass to the filter surface. (1) Particles within the size range of 100 to 0.1 μm. diameter are ordinarily collected on glass fiber filters. The mass concentration of suspended particulates in the ambient air (μg./m.³) is computed by measuring the mass of collected particulates and the volume of air sampled.

1.2 This method is applicable to measurement of the mass concentration of suspended particulates in ambient air. The size of the sample collected is usually adequate for other analyses.

2. *Range and Sensitivity.*

2.1 When the sampler is operated at an average flow rate of 1.70 m.³/min. (60 ft.³/min.) for 24 hours, an adequate sample will be obtained even in an atmosphere having concentrations of suspended particulates as low as 1 μg./m.³. If particulate levels are unusually high, a satisfactory sample may be obtained in 8 to 8 hours or less. For determination of average concentrations of suspended particulates in ambient air, a standard sampling period of 24 hours is recommended.

2.2 Weights are determined to the nearest milligram, airflow rates are determined to the nearest 0.08 m.³/min. (1.0 ft.³/min.), times are determined to the nearest 2 minutes, and mass concentrations are reported to the nearest microgram per cubic meter.

3. *Interferences.*

3.1 Particulate matter that is oily, such as photochemical smog or wood smoke, may block the filter and cause a rapid drop in airflow at a nonuniform rate. Dense fog or high humidity can cause the filter to become too wet and severely reduce the airflow through the filter.

3.2 Glass-fiber filters are comparatively insensitive to changes in relative humidity, but collected particulates can be hygroscopic. (2)

4. *Precision, Accuracy, and Stability.*

4.1 Based upon collaborative testing, the relative standard deviation (coefficient of variation) for single analyst variation (repeatability of the method) is 3.0 percent. The corresponding value for multilaboratory variation (reproducibility of the method) is 3.7 percent. (3)

4.2 The accuracy with which the sampler measures the true average concentration depends upon the constancy of the airflow rate through the sampler. The airflow rate is affected by the concentration and the nature of the dust in the atmosphere. Under these conditions the error in the measured average concentration may be in excess of ±50 percent of the true average concentration, depending on the amount of reduction of airflow rate and on the variation of the mass concentration of dust with time during the 24-hour sampling period. (4)

5. *Apparatus.*

5.1 *Sampling.*

5.1.1 *Sampler.* The sampler consists of three units: (1) the faceplate and gasket, (2) the filter adapter assembly, and (3) the motor unit. Figure B1 shows an exploded view of these parts, their relationship to each other, and how they are assembled. The sampler must be capable of passing environmental air through a 406.5 cm.² (63 in.²) portion of a clean 20.3 by 25.4 cm. (8- by 10-in.) glass-fiber filter at a rate of at least 1.70 m.³/min. (60 ft.³/min.). The motor must be capable of continuous operation for 24-hour periods with input voltages ranging from 110 to 130 volts, 50–60 cycles alternating current and must have third-wire safety ground. The housing for the motor unit may be of any convenient construction so long as the unit remains airtight and leak-free. The life of the sampler motor can be extended by lowering the voltage by about 10 percent with a small "buck or boost" transformer between the sampler and power outlet.

5.1.2 *Sampler Shelter.* It is important that the sampler be properly installed in a suitable shelter. The shelter is subjected to extremes of temperature, humidity, and all types of air pollutants. For these reasons the materials of the shelter must be chosen carefully. Properly painted exterior plywood or heavy gauge aluminum serve well. The sampler must be mounted vertically in the shelter so that the glass-fiber filter is parallel with the ground. The shelter must be provided with a roof so that the filter is protected from precipitation and debris. The internal arrangement and configuration of a suitable shelter with a gable roof are shown in Figure B2. The clearance area between the

main housing and the roof at its closest point should be 580.5±196.5 cm.² (90±30 in.²). The main housing should be rectangular, with dimensions of about 39 by 86 cm. (11½ by 14 in.).

5.1.3 *Rotameter.* Marked in arbitrary units, frequently 0 to 70, and capable of being calibrated. Other devices of at least comparable accuracy may be used.

5.1.4 *Orifice Calibration Unit.* Consisting of a metal tube 7.6 cm. (3 in.) ID and 15.5 cm. (6¼ in.) long with a static pressure tap 5.1 cm. (2 in.) from one end. See Figure B3. The tube end nearest the pressure tap is flanged to about 10.8 cm. (4¼ in.) OD with a male thread of the same size as the inlet end of the high-volume air sampler. A single metal plate 9.2 cm. (3⅝ in.) in diameter and 0.24 cm. (3/32 in.) thick with a central orifice 2.9 cm. (1⅛ in.) in diameter is held in place at the air inlet end with a female threaded ring. The other end of the tube is flanged to hold a loose female threaded coupling, which screws onto the inlet of the sampler. An 18-hole metal plate, an integral part of the unit, is positioned between the orifice and sampler to simulate the resistance of a clean glass-fiber filter. An orifice calibration unit is shown in Figure B3.

5.1.5 *Differential Manometer.* Capable of measuring to at least 40 cm. (16 in.) of water.

5.1.6 *Positive Displacement Meter.* Calibrated in cubic meters or cubic feet, to be used as a primary standard.

5.1.7 *Barometer.* Capable of measuring atmospheric pressure to the nearest mm.

5.2 *Analysis.*

5.2.1 *Filter Conditioning Environment.* Balance room or desiccator maintained at 15° to 35°C. and less than 50 percent relative humidity.

5.2.2 *Analytical Balance.* Equipped with a weighing chamber designed to handle unfolded 20.3 by 25.4 cm. (8- by 10-in.) filters and having a sensitivity of 0.1 mg.

5.2.3 *Light Source.* Frequently a table of the type used to view X-ray films.

5.2.4 *Numbering Device.* Capable of printing identification numbers on the filters.

6. *Reagents.*

6.1 *Filter Media.* Glass-fiber filters having a collection efficiency of at least 99 percent for particles of 0.3 μm. diameter, as measured by the DOP test, are suitable for the quantitative measurement of concentrations of suspended particulates, (5) although some other medium, such as paper, may be desirable for some analyses. If a more detailed analysis is contemplated, care must be exercised to use filters that contain low background concentrations of the pollutant being investigated. Careful quality control is required to determine background values of these pollutants.

7. *Procedure.*

7.1 *Sampling.*

7.1.1 *Filter Preparation.* Expose each filter to the light source and inspect for pinholes, particles, or other imperfections. Filters with visible imperfections should not be used. A small brush is useful for removing particles. Equilibrate the filters in the filter conditioning environment for 24 hours. Weigh the filters to the nearest milligram; record tare weight and filter identification number. Do not bend or fold the filter before collection of the sample.

7.1.2 *Sample Collection.* Open the shelter, loosen the wing nuts, and remove the faceplate from the filter holder. Install a numbered, preweighed, glass-fiber filter in position (rough side up), replace the faceplate without disturbing the filter, and fasten securely. Undertightening will allow air leakage, overtightening will damage the sponge-rubber faceplate gasket. A very light application of talcum powder may be used on the sponge-rubber faceplate gasket to prevent the filter from sticking. During inclement weather the sampler may be removed to a protected area for filter change. Close the roof of the shelter, run the sampler for about 5 minutes, connect the rotameter to the nipple on the back of the sampler, and read the rotameter ball with rotameter in a vertical position. Estimate to the nearest whole number. If the ball is fluctuating rapidly, tip the rotameter and slowly straighten it until the ball gives a constant reading. Disconnect the rotameter from the nipple; record the initial rotameter reading and the starting time and date on the filter folder. (The rotameter should never be connected to the sampler except when the flow is being measured.) Sample for 24 hours from midnight to midnight and take a final rotameter reading. Record the final rotameter reading and ending time and date on the filter folder. Remove the faceplate as described above and carefully remove the filter from the holder, touching only the outer edges. Fold the filter lengthwise so that only surfaces with collected particulates are in contact, and place in a manila folder. Record on the folder the filter number, location, and any other factors, such as meteorological conditions or razing of nearby buildings, that might affect the results. If the sample is defective, void it at this time. In order to obtain a valid sample, the high-volume sampler must be operated with the same rotameter and tubing that were used during its calibration.

7.2 *Analysis.* Equilibrate the exposed filters for 24 hours in the filter conditioning environment, then reweigh. After they are weighed, the filters may be saved for detailed chemical analysis.

7.3 *Maintenance.*

7.3.1 *Sampler Motor.* Replace brushes before they are worn to the point where motor damage can occur.

7.3.2 *Faceplate Gasket.* Replace when the margins of samples are no longer sharp. The gasket may be sealed to the faceplate with rubber cement or double-sided adhesive tape.

7.3.3 *Rotameter.* Clean as required, using alcohol.

8. *Calibration.*

8.1 *Purpose.* Since only a small portion of the total air sampled passes through the rotameter during measurement, the rotameter must be calibrated against actual airflow with the orifice calibration unit. Before the orifice calibration unit can be used to calibrate the rotameter, the orifice calibration unit itself must be calibrated against the positive displacement primary standard.

8.1.1 *Orifice Calibration Unit.* Attach the orifice calibration unit to the intake end of the positive displacement primary standard and attach a high-volume motor blower unit to the exhaust end of the primary standard. Connect one end of a differential manometer to the differential pressure tap of the orifice calibration unit and leave the other end open to the atmosphere. Operate the high-volume motor blower unit so that a series of different, but constant, airflows (usually six) are obtained for definite time periods. Record the reading on the differential manometer at each airflow. The different constant airflows are obtained by placing a series of loadplates, one at a time, between the calibration unit and the primary standard. Placing the orifice before the inlet reduces the pressure at the inlet of the primary standard below atmospheric; therefore, a correction must be made for the increase in volume caused by this decreased inlet pressure. Attach one end of a second differential manometer to an inlet pressure tap of the primary standard and leave the other open to the atmosphere. During each of the constant airflow measurements made above, measure the true inlet pressure of the primary standard with this second differential manometer. Measure atmospheric pressure and temperature. Correct the measured air volume to true air volume as directed in 9.1.1, then obtain true airflow rate, Q, as directed in 9.1.3. Plot the differential manometer readings of the orifice unit versus Q.

8.1.2 *High-Volume Sampler.* Assemble a high-volume sampler with a clean filter in place and run for at least 5 minutes. Attach a rotameter, read the ball, adjust so that the ball reads 65, and seal the adjusting mechanism so that it cannot be changed easily. Shut off motor, remove the filter, and attach the orifice calibration unit in its place. Operate the high-volume sampler at a series of different, but constant, airflows (usually six). Record the reading of the differential manometer on the orifice calibration unit, and record the readings of the rotameter at each flow. Measure atmospheric pressure and temperature. Convert the differential manometer reading to m.³/min., Q, then plot rotameter reading versus Q.

8.1.3 *Correction for Differences in Pressure or Temperature.* See Addendum B.

9. *Calculations.*

9.1 *Calibration of Orifice.*

9.1.1 *True Air Volume.* Calculate the air volume measured by the positive displacement primary standard.

$$V_a = \frac{(P_a - P_m)}{P_a}(V_M)$$

V_a = True air volume at atmospheric pressure, m.³
P_a = Barometric pressure, mm. Hg.
P_m = Pressure drop at inlet of primary standard, mm. Hg.
V_M = Volume measured by primary standard, m.³

9.1.2 *Conversion Factors.*
Inches Hg. × 25.4 = mm. Hg.
Inches water × 78.48 × 10^{-3} = inches Hg.
Cubic feet air × 0.0284 = cubic meters air.

9.1.3 *True Airflow Rate.*

$$Q = \frac{V_a}{T}$$

Q = Flow rate, m.³/min.
T = Time of flow, min.

9.2 *Sample Volume.*

9.2.1 *Volume Conversion.* Convert the initial and final rotameter readings to true airflow rate, Q, using calibration curve of 8.1.2.

9.2.2 *Calculate volume of air sampled*

$$V = \frac{Q_1 Q_2}{2} \times T$$

V = Air volume sampled, m.³
Q_1 = Initial airflow rate, m.³/min.
Q_2 = Final airflow rate, m.³/min.
T = Sampling time, min.

9.3 *Calculate mass concentration of suspended particulates*

$$S.P. = \frac{(W_f - W_i) \times 10^6}{V}$$

S.P. = Mass concentration of suspended particulates, μg/m.³
W_i = Initial weight of filter, g.
W_f = Final weight of filter, g.
V = Air volume sampled, m.³
10^6 = Conversion of g. to μg.

10. *References.*

(1) Robson, C. D., and Foster, K. E., "Evaluation of Air Particulate Sampling Equipment", *Am. Ind. Hyg. Assoc. J. 24*, 404 (1963).

(2) Tierney, G. P., and Conner, W. D., "Hygroscopic Effects on Weight Determinations of Particulates Collected on Glass-Fiber Filters", *Am. Ind. Hyg. Assoc. J. 28*, 363 (1967).

(3) Unpublished data based on a collaborative test involving 12 participants, conducted under the direction of the Methods Standardization Services Section of the National Air Pollution Control Administration, October, 1970.

(4) Harrison, W. E., Wadar, J. S., and Pus-

furnished with the instrument. Introduce zero gas and set the zero control to indicate a recorder reading of zero. Introduce span gas and adjust the span control to indicate the proper value on the recorder scale (e.g. on 0–56 mg./m.³ scale, set the 46 mg./m.³ standard at 80 percent of the recorder chart). Recheck zero and span until adjust-

(3) Unpublished data based on a collaborative test involving 12 participants, conducted under the direction of the Methods Standardization Services Section of the National Air Pollution Control Administration, October, 1970.
(4) Harrison, W. E., Nader, J. S., and Fugman, F. S., "Constant Flow Regulators for High-Volume Air Sampler", *Am. Ind. Hyg. Assoc. J. 21*, 114–120 (1960).
(5) Pate, J. B., and Tabor, E. C., "Analytical Aspects of the Use of Glass-Fiber Filters for the Collection and Analysis of Atmospheric Particulate Matter", *Am. Ind. Hyg. Assoc. J. 23*, 144–150 (1962).

ADDENDA

A. *Alternative Equipment.*

A modification of the high-volume sampler incorporating a method for recording the actual airflow over the entire sampling period has been described, and is acceptable for measuring the concentration of suspended particulates (Henderson, J. S., Eighth Conference on Methods in Air Pollution and Industrial Hygiene Studies, 1967, Oakland, Calif.). This modification consists of an exhaust orifice meter assembly connected through a transducer to a system for continuously recording airflow on a circular chart. The volume of air sampled is calculated by the following equation:

$$V = Q \times T.$$

Q = Average sampling rate, m.³/min.
T = Sampling time, minutes.

The average sampling rate, Q, is determined from the recorder chart by estimation if the flow rate does not vary more than 0.11 m.³/min. (4 ft.³/min.) during the sampling period. If the flow rate does vary more than 0.11 m.³ (4 ft.³/min.) during the sampling period, read the flow rate from the chart at 2-hour intervals and take the average.

B. *Pressure and Temperature Corrections.*

If the pressure or temperature during high-volume sampler calibration is substantially different from the pressure or temperature during orifice calibration, a correction of the flow rate, Q, may be required. If the pressures differ by no more than 15 percent and the temperatures differ by no more than 100 percent (°C), the error in the uncorrected flow rate will be no more than 15 percent. If necessary, obtain the corrected flow rate as directed below. This correction applies only to orifice meters having a constant orifice coefficient. The coefficient for the calibrating orifice described in 5.1.4 has been shown experimentally to be constant over the normal operating range of the high-volume sampler (0.6 to 2.2 m.³/min.; 20 to 78 ft.³/min.). Calculate corrected flow rate:

$$Q_2 = Q_1\left[\frac{T_1 P_2}{T_2 P_1}\right]^{1/2}$$

Q_2 = Corrected flow rate, m.³/min.
Q_1 = Flow rate during high-volume sampler calibration (Section 8.1.2), m.³/min.
T_1 = Absolute temperature during orifice unit calibration (Section 8.1.1), °K or °R.
P_1 = Barometric pressure during orifice unit calibration (Section 8.1.1), mm. Hg.
T_2 = Absolute temperature during high-volume sampler calibration (Section 8.1.2), °K or °R.
P_2 = Barometric pressure during high-volume sampler calibration (Section 8.1.2), mm. Hg.

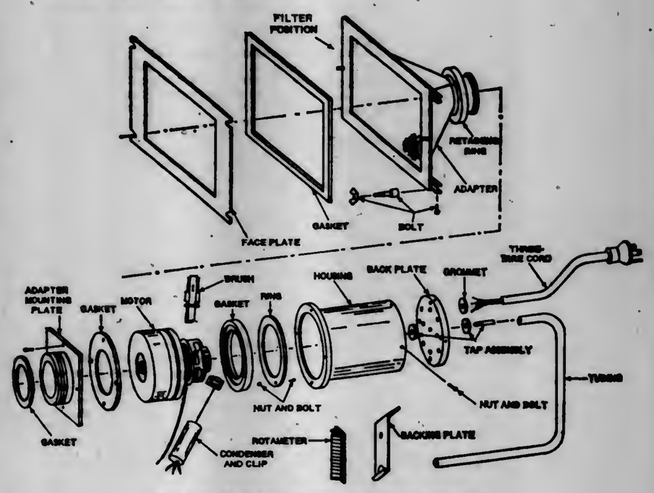

Figure B1. Exploded view of typical high-volume air sampler parts.

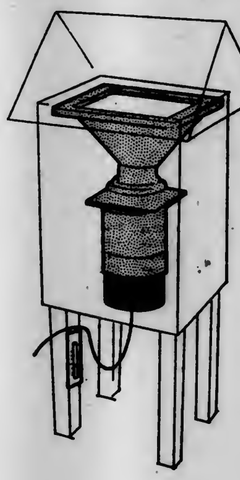

Figure B2. Assembled sampler and shelter.

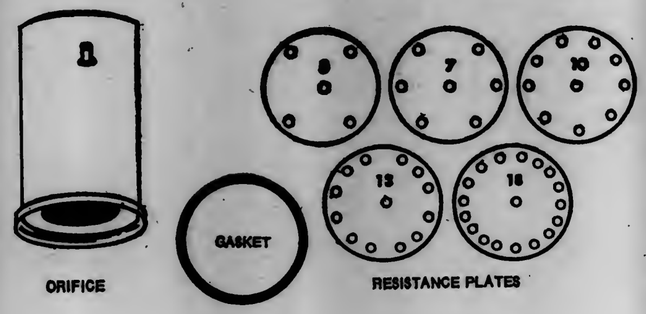

Figure B3. Orifice calibration unit.

APPENDIX C—REFERENCE METHOD FOR THE CONTINUOUS MEASUREMENT OF CARBON MONOXIDE IN THE ATMOSPHERE (NON-DISPERSIVE INFRARED SPECTROMETRY)

1. *Principle and Applicability.*

1.1 This method is based on the absorption of infrared radiation by carbon monoxide. Energy from a source emitting radiation in the infrared region is directed through reference and sample cells. Both beams pass into matched cells, each containing a selective detector and CO. The CO in the cells absorb infrared radiation only at its characteristic frequencies and the detector is sensitive to those frequencies. With a non-absorbing gas in the reference cell, and with no CO in the sample cell, the signals from both detectors are balanced electronically. Any CO introduced into the sample cell will absorb radiation, which reduces the temperature and pressure in the detector cell and displaces a diaphram. This displacement is detected electronically and amplified to provide an output signal.

1.2 This method is applicable to the determination of carbon monoxide in ambient air, and to the analysis of gases under pressure.

2. *Range and Sensitivity.*

2.1 Instruments are available that measure in the range of 0 to 58 mg./m.³ (0–50 p.p.m.), which is the range most commonly used for urban atmospheric sampling. Most instruments measure in additional ranges.

2.2 Sensitivity is 1 percent of full-scale response per 0.6 mg. CO/m.³ (0.5 p.p.m.).

3. *Interferences.*

3.1 Interferences vary between individual instruments. The effect of carbon dioxide interference at normal concentrations is minimal. The primary interference is water vapor, and with no correction may give an interference equivalent to as high as 12 mg. CO/m.³ Water vapor interference can be minimized by (a) passing the air sample through silica gel or similar drying agents, (b) maintaining constant humidity in the sample and calibration gases by refrigeration, (c) saturating the air sample and calibration gases to maintain constant humidity or (d) using narrowband optical filters in combination with some of these measures.

3.2 Hydrocarbons at ambient levels do not ordinarily interfere.

4. *Precision, Accuracy, and Stability.*

4.1 Precision determined with calibration gases is ±0.5 percent full scale in the 0–58 mg./m.³ range.

4.2 Accuracy depends on instrument linearity and the absolute concentrations of the calibration gases. An accuracy of ±1 percent of full scale in the 0–58 mg./m.³ range can be obtained.

4.3 Variations in ambient room temperature can cause changes equivalent to as much as 0.5 mg. CO/m.³ per °C. This effect can be minimized by operating the analyzer in a temperature-controlled room. Pressure changes between span checks will cause changes in instrument response. Zero drift is usually less than ±1 percent of full scale per 24 hours, if cell temperature and pressure are maintained constant.

5. *Apparatus.*

5.1 *Carbon Monoxide Analyzer.* Commercially available instruments should be installed on location and demonstrated, preferably by the manufacturer, to meet or exceed manufacturers specifications and those described in this method.

5.2 *Sample Introduction System.* Pump, flow control valve, and flowmeter.

5.3 *Filter (In-line).* A filter with a porosity of 2 to 10 microns should be used to keep large particles from the sample cell.

5.4 *Moisture Control.* Refrigeration units are available with some commercial instruments for maintaining constant humidity. Drying tubes (with sufficient capacity to operate for 72 hours) containing indicating silica gel can be used. Other techniques that prevent the interference of moisture are satisfactory.

6. *Reagents.*

6.1 *Zero Gas.* Nitrogen or helium containing less than 0.1 mg. CO/m.³

6.2 *Calibration Gases.* Calibration gases corresponding to 10, 20, 40, and 80 percent of full scale are used. Gases must be provided with certification or guaranteed analysis of carbon monoxide content.

6.3 *Span Gas.* The calibration gas corresponding to 80 percent of full scale is used to span the instrument.

7. *Procedure.*

7.1 Calibrate the instrument as described in 8.1. All gases (sample, zero, calibration, and span) must be introduced into the entire analyzer system. Figure C1 shows a typical flow diagram. For specific operating instructions, refer to the manufacturer's manual.

8. *Calibration.*

8.1 *Calibration Curve.* Determine the linearity of the detector response at the operating flow rate and temperature. Prepare a calibration curve and check the curve furnished with the instrument. Introduce zero gas and set the zero control to indicate a recorder reading of zero. Introduce span gas and adjust the span control to indicate the proper value on the recorder scale (e.g. on 0–58 mg./m.³ scale, set the 46 mg./m.³ standard at 80 percent of the recorder chart). Recheck zero and span until adjustments are no longer necessary. Introduce intermediate calibration gases and plot the values obtained. If a smooth curve is not obtained, calibration gases may need replacement.

9. *Calculations.*

9.1 Determine the concentrations directly from the calibration curve. No calculations are necessary.

9.2 Carbon monoxide concentrations in mg./m.³ are converted to p.p.m. as follows:

$$\text{p.p.m. CO} = \text{mg. CO/m.}^3 \times 0.873$$

10. *Bibliography.*

The Intech NDIR–CO Analyzer by Frank McElroy. Presented at the 11th Methods Conference in Air Pollution, University of California, Berkeley, Calif., April 1, 1970.

Jacobs, M. B. et al., J.A.P.C.A. *9*, No. 2, 110–114, August 1959.

MSA LIRA Infrared Gas and Liquid Analyser Instruction Book, Mine Safety Appliances Co., Pittsburgh, Pa.

Beckman Instruction 1635B, Models 215A, 315A and 415A Infrared Analyzers, Beckman Instrument Company, Fullerton, Calif.

Continuous CO Monitoring System, Model A 5611, Intertech Corp., Princeton, N.J.

Bendix—UNOR Infrared Gas Analyzers. Ronceverte, W. Va.

ADDENDA

A. *Suggested Performance Specifications for NDIR Carbon Monoxide Analyzers:*

Range (minimum)	0–58 mg./m.³ (0–50 p.p.m.).
Output (minimum)	0–10, 100, 1,000, 5,000 mv. full scale.
Minimum detectable sensitivity.	0.6 mg./m.³ (0.5 p.p.m.).
Lag time (maximum)	15 seconds.
Time to 90 percent response (maximum).	30 seconds.
Rise time, 90 percent (maximum).	15 seconds.
Fall time, 90 percent (maximum).	15 seconds.
Zero drift (maximum)	3 percent/week, not to exceed 1 percent/24 hours.
Span drift (maximum)	3 percent/week, not to exceed 1 percent/24 hours.
Precision (minimum)	±0.5 percent.
Operational period (minimum).	3 days.
Noise (maximum)	±0.5 percent.
Interference equivalent (maximum).	1 percent of full scale.
Operating temperature range (minimum).	5–40° C.
Operating humidity range (minimum).	10–100 percent.
Linearity (maximum deviation).	1 percent of full scale.

B. *Suggested Definitions of Performance Specifications:*

Range—The minimum and maximum measurement limits.

Output—Electrical signal which is proportional to the measurement; intended for connection to readout or data processing devices. Usually expressed as millivolts or milliamps full scale at a given impedance.

Full Scale—The maximum measuring limit for a given range.

Minimum Detectable Sensitivity—The smallest amount of input concentration that can be detected as the concentration approaches zero.

Accuracy—The degree of agreement between a measured value and the true value; usually expressed as ± percent of full scale.

Span Drift—The change in instrument output over a stated time period, usually 24 hours, of unadjusted continuous operation, when the input concentration is a stated upscale value; usually expressed as percent full scale.

Precision—The degree of agreement between repeated measurements of the same concentration, expressed as the ± maximum deviation from the mean.

Lag Time—The time interval from a step change in input concentration at the inlet to the first corresponding change in output signal.

Response Time—The time interval from the step change in input concentration to the instrument output reaching 90 percent of its ultimate value.

Rise Time—The time interval between 10 and 90 percent response.

Fall Time—The time interval between 90 and 10 percent response.

Operational Period—The minimum period of time over which the instrument is expected to operate unattended without interruption or degradation of performance other than allowed tolerances.

Noise—Spontaneous deviations from a mean output not caused by input concentration changes.

Interference Equivalent—A measure of the response of the instrument to substances other than that being measured.

Operating Temperature Range—The ambient temperature range over which the instrument will operate within specifications.

Operating Humidity Range—The ambient humidity range over which the instrument will operate within specifications.

Linearity—The maximum deviation between an actual instrument reading and the reading predicted by a straight line drawn between upscale and zero readings.

Output—Electrical signal which is proportional to the measurement; intended for connection to readout or data processing devices. Usually expressed as millivolts or milliamps full scale at a given impedance.

B. *Suggested Definitions of Performance Specifications:*

Range—The minimum and maximum measurement limits.

Output—Electrical signal which is proportional to the measurement; intended for connection to readout or data processing devices. Usually expressed as millivolts or milliamps full scale at a given impedance.

6.3 *Activated Charcoal Trap.* For filtering cylinder air.

6.4 *Purified Water.* Used for all reagents. To distilled or deionized water in an all-glass distillation apparatus, add a crystal of potassium permanganate and a crystal of barium hydroxide, and redistill.

6.5 *Absorbing Reagent.* Dissolve 13.6 g. mercuric chloride, 7.5 g. potassium iodide, and 0.066 N sodium hydroxide in water and dilute to 1 liter. Prepare fresh daily.

6.6 *Starch Solution.* Prepare a 1 percent solution of soluble starch in water.

6.7 *Stock Iodine Solution.* Dissolve 12.7 g. iodine in 40 g. potassium iodide and 25 ml. water. Dilute to 1 liter with water.

6.8 *Iodine Solution.* Dilute 100 ml. stock iodine solution to 1 liter with water. Prepare fresh daily.

6.9 *Sodium Thiosulfate Solution.* Dissolve 6.2 g. sodium thiosulfate pentahydrate in 1 liter water. Prepare fresh daily.

6.10 *Sodium Thiosulfate Titrant.* Dilute 100 ml. sodium thiosulfate solution to 1 liter with water. Prepare fresh daily.

6.11 *Potassium Iodate Solution.* Dissolve 3.566 g. potassium iodate in water and dilute to 1 liter. Prepare fresh monthly.

6.12 *Potassium Iodate Titrant.* Dilute 100 ml. potassium iodate solution to 1 liter with water. Prepare fresh monthly.

6.13 *Sulfuric Acid.* 6 N.

6.14 *Hydrochloric Acid.* 6 N.

6.15 *Arsenite Solution.* Dissolve 5.0 g. sodium arsenite, 25 g. sodium hydroxide, and 17.5 g. sodium chloride in water and dilute to 1 liter. Prepare fresh monthly.

6.16 *Ozone Solution.* Fill a 2-liter bottle with oxygen. Operate an ozonator at a moderate rate and bubble the ozone through 100 ml. water for 30 minutes. Prepare fresh daily.

7. *Procedure.*

7.1 Instruments can be constructed from the components given here or may be purchased. If commercial instruments are used, follow the specific instructions given in the manufacturer's manual. Calibrate the instrument as directed in section 8. Introduce samples into the system under the same conditions of pressure and flow rate as are used during calibration.

8. *Calibration.*

8.1 Calibrate the flowmeter with a wet test meter at the sampling rate to be used. Check the calibration at least monthly.

8.2 Calibrate the ozone analyzer as follows:

8.2.1 Assemble the apparatus as shown in Figure C2.

8.2.2 Ozone Analyzer Calibration.

8.2.2.1 *Blank.* With the ozone lamp off, add 10 ml. absorbing reagent to each absorber and collect samples for 10 minutes at the sampling rate to be used.

8.2.2.2 *Test Atmospheres.* With the ozone lamp operating, equilibrate the system for about 10 minutes. Pipet 10 ml. of absorbing reagent into each absorber and collect samples for 10 minutes in the concentration range desired for calibration. Immediately transfer the solutions from the two absorbers to clean 1-cm. cells. Determine the absorbance of each at 352 nm. against unexposed absorbing reagent.

Full Scale—The maximum measuring limit for a given range.

Minimum Detectable Sensitivity—The smallest amount of input concentration that can be detected as the concentration approaches zero.

Accuracy—The degree of agreement between a measured value and the true value; usually expressed as ± percent of full scale

Lag Time—The time interval from a step change in input concentration at the instrument inlet to the first corresponding change in the instrument output.

Time to 90 percent Response—The time interval from a step change in the input concentration at the instrument inlet to a reading of 90 percent of the ultimate recorded concentration.

Rise Time (90 percent)—The interval between initial response time and time to 90 percent response after a step increase in the inlet concentration.

Fall Time (90 percent)—The interval between initial response time and time to 90 percent response after a step decrease in the inlet concentration.

Zero Drift—The change in instrument output over a stated time period, usually 24 hours, of unadjusted continuous operation, when the input concentration is zero; usually expressed as percent full scale.

Span Drift—The change in instrument output over a stated time period, usually 24 hours, of unadjusted continuous operation, when the input concentration is a stated upscale value; usually expressed as percent full scale.

Precision—The degree of agreement between repeated measurements of the same concentration, expressed as the average deviation of the single results from the mean.

Operational Period—The period of time over which the instrument can be expected to operate unattended within specifications.

Noise—Spontaneous deviations from a mean output not caused by input concentration changes.

Interference—An undesired positive or negative output caused by a substance other than the one being measured.

Interference Equivalent—The portion of indicated input concentration due to the presence of an interferent.

Operating Temperature Range—The range of ambient temperatures over which the instrument will meet all performance specifications.

Operating Humidity Range—The range of ambient relative humidity over which the instrument will meet all performance specifications.

Linearity—The maximum deviation between an actual instrument reading and the reading predicted by a straight line drawn between upper and lower calibration points.

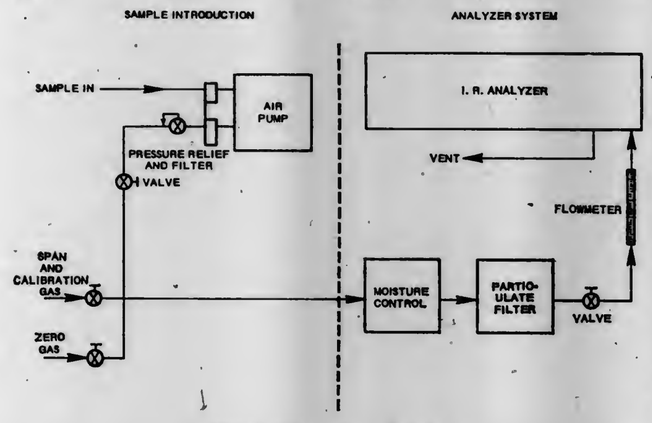

Figure C1. Carbon monoxide analyzer flow diagram.

APPENDIX D—REFERENCE METHOD FOR THE MEASUREMENT OF PHOTOCHEMICAL OXIDANTS CORRECTED FOR INTERFERENCES DUE TO NITROGEN OXIDES AND SULFUR DIOXIDE

1. *Principle and Applicability.*

1.1 Ambient air and ethylene are delivered simultaneously to a mixing zone where the ozone in the air reacts with the ethylene to emit light which is detected by a photomultiplier tube. The resulting photocurrent is amplified and is either read directly or displayed on a recorder.

1.2 The method is applicable to the continuous measurement of ozone in ambient air.

2. *Range and Sensitivity.*

2.1 The range is 9.8 μg. $O_3/m.^3$ to greater than 1960 μg. $O_3/m.^3$ (0.005 p.p.m. O_3 to greater than 1 p.p.m. O_3).

2.2 The sensitivity is 9.8 μg. $O_3/m.^3$ (0.005 p.p.m. O_3).

3. *Interferences.*

3.1 Other oxidising and reducing species normally found in ambient air do not interfere.

4. *Precision and Accuracy.*

4.1 The average deviation from the mean of repeated single measurements does not exceed 5 percent of the mean of the measurements.

4.2 The method is accurate within ±7 percent.

5. *Apparatus.*

5.1 *Detector Cell.* Figure D1 is a drawing of a typical detector cell showing flow paths of gases, the mixing zone, and placement of the photomultiplier tube. Other flow paths in which the air and ethylene streams meet at a point near the photomultiplier tube are also allowable.

5.2 *Air Flowmeter.* A device capable of controlling air flows between 0–1.5 l/min.

5.3 *Ethylene Flowmeter.* A device capable of controlling ethylene flows between 0–50 ml./min. At any flow in this range, the device should be capable of maintaining constant flow rate within ±3 ml./min.

5.4 *Air Inlet Filter.* A Teflon filter capable of removing all particles greater than 5 microns in diameter.

5.5 *Photomultiplier Tube.* A high gain low dark current (not more than 1×10^{-9} ampere) photomultiplier tube having its maximum gain at about 430 nm. The following tubes are satisfactory: RCA 4507, RCA 8575, EMI 9750, EMI 9524, and EMI 9536.

5.6 *High Voltage Power Supply.* Capable of delivering up to 2,000 volts of regulated power.

5.7 *Direct Current Amplifier.* Capable of full scale amplification of currents from 10^{-10} to 10^{-7} ampere; an electrometer is commonly used.

5.8 *Recorder.* Capable of full scale display of voltages from the DC amplifier. These voltages commonly are in the 1 millivolt to 1-volt range.

5.9 *Ozone Source and Dilution System.* The ozone source consists of a quartz tube into which ozone-free air is introduced and then irradiated with a very stable low pressure mercury lamp. The level of irradiation is controlled by an adjustable aluminum sleeve which fits around the lamp. Ozone concentrations are varied by adjustment of this sleeve. At a fixed level of irradiation, ozone is produced at a constant rate. By carefully controlling the flow of air through the quartz tube, atmospheres are generated which contain constant concentrations of ozone. The levels of ozone in the test atmospheres are determined by the neutral buffered potassium iodide method (see section 8). This ozone source and dilution system is shown schematically in Figures D2 and D3, and has been described by Hodgeson, Stevens, and Martin.

5.10 *Apparatus for Calibration*

5.10.1 *Absorber.* All-glass impingers as shown in Figure D4 are recommended. The impingers may be purchased from most major glassware suppliers. Two absorbers in series are needed to insure complete collection of the sample.

5.10.2 *Air Pump.* Capable of drawing 1 liter/minute through the absorbers. The pump should be equipped with a needle valve on the inlet side to regulate flow.

5.10.3 *Thermometer.* With an accuracy of ±2° C.

5.10.4 *Barometer.* Accurate to the nearest mm. Hg.

5.10.5 *Flowmeter.* Calibrated metering device for measuring flow up to 1 liter/minute within ±2 percent. (For measuring flow through impingers.)

5.10.6 *Flowmeter.* For measuring airflow part the lamp; must be capable of measuring flows from 2 to 15 liters/minute within ±5 percent.

5.10.7 *Trap.* Containing glass wool to protect needle valve.

5.10.8 *Volumetric Flasks.* 25, 100, 500, 1,000 ml.

5.10.9 *Buret.* 50 ml.

5.10.10 *Pipets.* 0.5, 1, 2, 3, 4, 10, 25, and 50 ml. volumetric.

5.10.11 Erlenmeyer Flasks. 300 ml.

5.10.12 *Spectrophotometer.* Capable of measuring absorbance at 352 nm. Matched 1-cm. cells should be used.

6. *Reagents.*

6.1 *Ethylene.* C. P. grade (minimum).

6.2 *Cylinder Air.* Dry grade.

6.3 *Activated Charcoal Trap.* For filtering cylinder air.

6.4 *Purified Water.* Used for all reagents. To distilled or deionized water in an all-glass distillation apparatus, add a crystal of potassium permanganate and a crystal of barium hydroxide, and redistill.

6.5 *Absorbing Reagent.* Dissolve 13.6 g. potassium dihydrogen phosphate (KH_2PO_4), 14.2 g. anhydrous disodium hydrogen phosphate (Na_2HPO_4) or 35.8 g. dodecahydrate salt ($Na_2HPO_4{\cdot}12H_2O$), and 10.0 g. potassium iodide (KI) in purified water and dilute to 1,000 ml. The pH should be 6.8±0.2. The solution is stable for several weeks, if stored in a glass-stoppered amber bottle in a cool, dark place.

6.6 *Standard Arsenious Oxide Solution (0.05 N).* Use primary standard grade arsenious oxide (As_2O_3). Dry 1 hour at 105° C. immediately before using. Accurately weigh, to the nearest 0.1 mg., 2.4 g. arsenious oxide from a small glass-stoppered weighing bottle. Dissolve in 25 ml. 1 N sodium hydroxide in a flask or beaker on a steam bath. Add 25 ml. 1 N sulfuric acid. Cool, transfer quantitatively to a 1,000-ml. volumetric flask, and dilute to volume. NOTE: Solution must be neutral to litmus, not alkaline.

$$\text{Normality } As_2O_3 = \frac{\text{wt } As_2O_3 \text{ (g.)}}{49.46}$$

6.7 *Starch Indicator Solution (0.2 percent).* Triturate 0.4 g. soluble starch and approximately 2 mg. mercuric iodide (preservative) with a little water. Add the paste slowly to 200 ml. of boiling water. Continue boiling until the solution is clear, allow to cool, and transfer to a glass-stoppered bottle.

6.8 *Standard Iodine Solution (0.05 N).*

6.8.1 *Preparation.* Dissolve 5.0 g. potassium iodide (KI) and 3.2 g. resublimed iodine (I_2) in 10 ml. purified water. When the iodine dissolves, transfer the solution to a 500-ml. glass-stoppered volumetric flask. Dilute to mark with purified water and mix thoroughly. Keep solution in a dark brown glass-stoppered bottle away from light, and restandardize as necessary.

6.8.2 *Standardization.* Pipet accurately 20 ml. standard arsenious oxide solution into a 300-ml. Erlenmeyer flask. Acidify slightly with 1:10 sulfuric acid, neutralize with solid sodium bicarbonate, and add about 2 g. excess. Titrate with the standard iodine solution using 5 ml. starch solution as indicator. Saturate the solution with carbon dioxide near the end point by adding 1 ml. of 1:10 sulfuric acid. Continue the titration to the first appearance of a blue color which persists for 30 seconds.

$$\text{Normality } I_2 = \frac{\text{ml. } As_2O_3 \times \text{Normality } As_2O_3}{\text{ml. } I_2}$$

6.9 *Diluted Standard Iodine.* Immediately before use, pipet 1 ml. standard iodine solution into a 100-ml. volumetric flask and dilute to volume with absorbing reagent.

7. *Procedure.*

7.1 Instruments can be constructed from the components given here or may be purchased. If commercial instruments are used, follow the specific instructions given in the manufacturer's manual. Calibrate the instrument as directed in section 8. Introduce samples into the system under the same conditions of pressure and flow rate as are used in calibration. By proper adjustments of zero and span controls, direct reading of ozone concentration is possible.

8. *Calibration.*

8.1 *KI Calibration Curve.* Prepare a curve of absorbance of various iodine solutions against calculated ozone equivalents as follows:

8.1.1 Into a series of 25 ml. volumetric flasks, pipet 0.5, 1, 2, 3, and 4 ml. of diluted standard iodine solution (6.9). Dilute each to the mark with absorbing reagent. Mix thoroughly, and immediately read the absorbance of each at 352 nm. against unexposed absorbing reagent as the reference.

8.1.2 Calculate the concentration of the solutions as total μg. O_3 as follows:

$$\text{Total } \mu g.\ O_3 = (N)\ (96)\ (V_1)$$

N=Normality I_2 (see 6.8.2), meq./ml.

V_1=Volume of diluted standard I_2 added, ml. (0.5, 1, 2, 3, 4).

Plot absorbance versus total μg. O_3.

8.2 *Instrument Calibration.*

8.2.1 *Generation of Test Atmospheres.* Assemble the apparatus as shown in Figure D3. The ozone concentration produced by the generator can be varied by changing the position of the adjustable sleeve. For calibration of ambient air analyzers, the ozone source should be capable of producing ozone concentrations in the range 100 to 1,000 $\mu g./m.^3$ (0.05 to 0.5 p.p.m.) at a flow rate of at least 5 liters per minute. At all times the airflow through the generator must be greater than the total flow required by the sampling systems.

8.2.2 *Sampling and Analyses of Test Atmospheres.* Assemble the KI sampling train as shown in Figure D4. Use ground-glass connections upstream from the impinger. Butt-to-butt connections with Tygon tubing may be used. The manifold distributing the test atmospheres must be sampled simultaneously by the KI sampling train and the instrument to be calibrated. Check assembled systems for leaks. Record the instrument response in nanoamperes at each concentration (usually six). Establish these concentrations by analysis, using the neutral buffered potassium iodide method as follows:

8.2.2.1 *Blank.* With ozone lamp off, flush the system for several minutes to remove residual ozone. Pipet 10 ml. absorbing reagent into each absorber. Draw air from the ozone-generating system through the sampling train at 0.2 to 1 liter/minute for 10 minutes. Immediately transfer the exposed solution to a clean 1-cm. cell. Determine the absorbance at 352 nm. against unexposed absorbing reagent as the reference. If the system blank gives an absorbance, continue flushing the ozone generation system until no absorbance is obtained.

8.2.2.2 *Test Atmospheres.* With the ozone lamp operating, equilibrate the system for about 10 minutes. Pipet 10 ml. of absorbing reagent into each absorber and collect samples for 10 minutes in the concentration range desired for calibration. Immediately transfer the solutions from the two absorbers to clean 1-cm. cells. Determine the absorbance of each at 352 nm. against unexposed absorbing reagent as the reference. Add the absorbances of the two solutions to obtain total absorbance. Read total μg. O_3 from the calibration curve (see 8.1). Calculate total volume of air sampled corrected to reference conditions of 25° C. and 760 mm. Hg. as follows:

$$V_R = V \times \frac{P}{760} \times \frac{298}{t+273} \times 10^{-3}$$

V_R = Volume of air at reference conditions, $m.^3$

V = Volume of air at sampling conditions, liters.

P_t = Barometric pressure at sampling conditions, mm. Hg.

t = Temperature at sampling conditions, °C.

10^{-3} = Conversion of liters to $m.^3$

Calculate ozone concentration in p.p.m. as follows:

$$\text{p.p.m. } O_3 = \frac{\mu g.\ O_3}{V_R} \times 5.10 \times 10^{-4}$$

8.2.3 *Instrument Calibration Curve.* Instrument response from the photomultiplier tube is ordinarily in current or voltage. Plot the current, or voltage if appropriate, (y-axis) for the test atmospheres against ozone concentration as determined by the neutral buffered potassium iodide method, in p.p.m. (x-axis).

9. *Calculations.*

9.1 If a recorder is used which has been properly zeroed and spanned, ozone concentrations can be read directly.

9.2 If the DC amplifier is read directly, the reading must be converted to ozone concentrations using the instrument calibration curve (8.2.3).

9.3 Conversion between p.p.m. and $\mu g./m.^3$ values for ozone can be made as follows:

$$\text{p.p.m. } O_3 = \frac{\mu g.\ O_3}{m.^3} \times 5.10 \times 10^{-4}$$

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carbon monoxide measurement, which is simultaneously obtained in this method, is not required in making measurements of hydrocarbons corrected for methane and will not be dealt with here.

2. *Range and Sensitivity.*

2.1 Instruments are available with various range combinations. For atmospheric

6.6 *Zero Gas.* Air containing less than 0.005 mg./$m.^3$ (0.1 p.p.m.) total hydrocarbons as methane.

6.5 *Calibration Gases.* Gases needed for linearity checks (peak heights) are determined by the ranges used. Calibration gases corresponding to 10, 20, 40, and 80 percent of full scale are needed. Gases must be pro-

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MSA Instruction Manual for GC Process

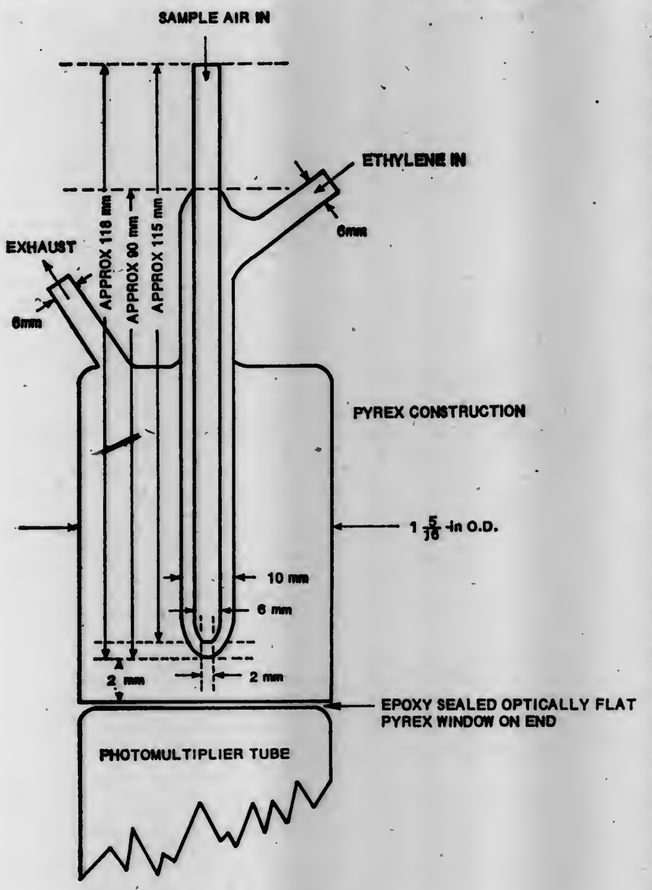

Figure D1. Detector cell.

APPENDIX E—REFERENCE METHOD FOR DETERMINATION OF HYDROCARBONS CORRECTED FOR METHANE

1. *Principle and Applicability.*

1.1 Measured volumes of air are delivered semicontinuously (4 to 12 times per hour) to a hydrogen flame ionization detector to measure its total hydrocarbon (THC) content. An aliquot of the same air sample is introduced into a stripper column which removes water, carbon dioxide, and hydrocarbons other than methane. Methane and carbon monoxide are passed quantitatively to a gas chromatographic column where they are separated. The methane is eluted first, and is passed unchanged through a catalytic reduction tube into the flame ionization detector. The carbon monoxide is eluted into the catalytic reduction tube where it is reduced to methane before passing through the flame ionization detector. Between analyses the stripper column is backflushed to prepare it for subsequent analysis. Hydrocarbon concentrations corrected for methane are determined by subtracting the methane value from the total hydrocarbon value.

Two modes of operation are possible: (1) A complete chromatographic analysis showing the continuous output from the detector for each sample injection; (2) The system is programed for automatic zero and span to display selected band widths of the chromatogram. The peak height is then used as the measure of the concentration. The former operation is referred to as the chromatographic or spectro mode and the latter as the barographic or "normal" mode depending on the make of analyzer.

1.2 The method is applicable to the semicontinuous measurement of hydrocarbons corrected for methane in ambient air. The carbon monoxide measurement, which is simultaneously obtained in this method, is not required in making measurements of hydrocarbons corrected for methane and will not be dealt with here.

2. *Range and Sensitivity.*

2.1 Instruments are available with various range combinations. For atmospheric analysis the THC range is 0–13.1 mg./m.³ (0–20 p.p.m.) carbon (as CH_4) and the methane range is 0–6.55 mg/m.³ (0–10 p.p.m.). For special applications, lower ranges are available and in these applications the range for THC is 0–1.31 mg./m.³ (0–2 p.p.m.) carbon (as CH_4) and for methane the range is 0–1.31 mg./m.³ (0–2 p.p.m.).

2.2 For the higher, atmospheric analysis ranges the sensitivity for THC is 0.065 mg./m.³ (0.1 p.p.m.) carbon (as CH_4) and for methane the sensitivity is 0.033 mg./m.³ (0.05 p.p.m.). For the lower, special analysis ranges the sensitivity is 0.016 mg./m.³ (0.025 p.p.m.) for each gas.

3. *Interferences.*

3.1 No interference in the methane measurement has been observed. The THC measurement typically includes all or a portion of what is generally classified as the air peak interference. This effect is minimized by proper plumbing arrangements or is negated electronically.

4. *Precision, Accuracy, and Stability.*

4.1 Precision determined with calibration gases is ±0.5 percent of full scale in the higher, atmospheric analysis ranges.

4.2 Accuracy is dependent on instrument linearity and absolute concentration of the calibration gases. An accuracy of 1 percent of full scale in the higher, atmospheric analysis ranges and 2 percent of full scale in the lower, special analysis ranges can be obtained.

4.3 Variations in ambient room temperature can cause changes in performance characteristics. This is due to shifts in oven temperature, flow rates, and pressure with ambient temperature change. The instrument should meet performance specifications with room temperature changes of ±3° C. Baseline drift is automatically corrected in the barographic mode.

5. *Apparatus.*

5.1 *Commercially Available THC, CH_4, and CO Analyzer.* Instruments should be installed on location and demonstrated, preferably by the manufacturer, or his representative, to meet or exceed manufacturer's specifications and those described in this method.

5.2 *Sample Introduction System.* Pump, flow control valves, automatic switching valves, and flowmeter.

5.3 *Filter (In-line).* A binder-free, glass-fiber filter with a porosity of 3 to 5 microns should be immediately downstream from the sample pump.

5.4 *Stripper or Precolumn.* Located outside of the oven at ambient temperature. The column should be repacked or replaced after the equivalent of 2 months of continuous operation.

5.5 *Oven.* For containing the analytical column and catalytic converter. The oven should be capable of maintaining an elevated temperature constant within ±0.5° C. The specific temperature varies with instrument manufacturer.

6. *Reagents.*

6.1 *Combustion Gas.* Air containing less than 1.3 mg./m.³ (2 p.p.m.) hydrocarbon as methane.

6.2 *Fuel.* Hydrogen or a mixture of hydrogen and inert gas containing less than 0.065 mg./m.³ (0.1 p.p.m.) hydrocarbons as methane.

6.3 *Carrier Gas.* Helium, nitrogen, air or hydrogen containing less than 0.065 mg./m.³ (0.1 p.p.m.) hydrocarbons as methane.

6.4 *Zero Gas.* Air containing less than 0.065 mg./m.³ (0.1 p.p.m.) total hydrocarbons as methane.

6.5 *Calibration Gases.* Gases needed for linearity checks (peak heights) are determined by the ranges used. Calibration gases corresponding to 10, 20, 40, and 80 percent of full scale are needed. Gases must be provided with certification or guaranteed analysis. Methane is used for both the total hydrocarbon measurement and methane measurement.

6.6 *Span Gas.* The calibration gas corresponding to 80 percent of full scale is used to span the instrument.

7. *Procedure.*

7.1 Calibrate the instrument as described in 8.1. Introduce sample into the system under the same conditions of pressure and flow rates as are used in calibration. (The pump is bypassed only when pressurized cylinder gases are used.) Figure E1 shows a typical flow diagram; for specific operating instructions refer to manufacturer's manual.

8. *Calibration.*

8.1 *Calibration Curve.* Determine the linearity of the system for THC and methane in the barographic mode by introducing zero gas and adjusting the respective zeroing controls to indicate a recorder reading of zero. Introduce the span gas and adjust the span control to indicate the proper value on the recorder scale. Recheck zero and span until adjustments are no longer necessary. Introduce intermediate calibration gases and plot the values obtained. If a smooth curve is not obtained, calibration gases may need replacement.

9. *Calculation.*

9.1 Determine concentrations of total hydrocarbons (as CH_4) and CH_4, directly from the calibration curves. No calculations are necessary.

9.2 Determine concentration of hydrocarbons corrected for methane by subtracting the methane concentration from the total hydrocarbon concentration.

9.3 Conversion between p.p.m. and mg./m.³ values for total hydrocarbons (as CH_4) methane and hydrocarbons corrected for methane are made as follows:

p.p.m. carbon (as CH_4) = [mg. carbon (as CH_4)/m.³] × 1.39

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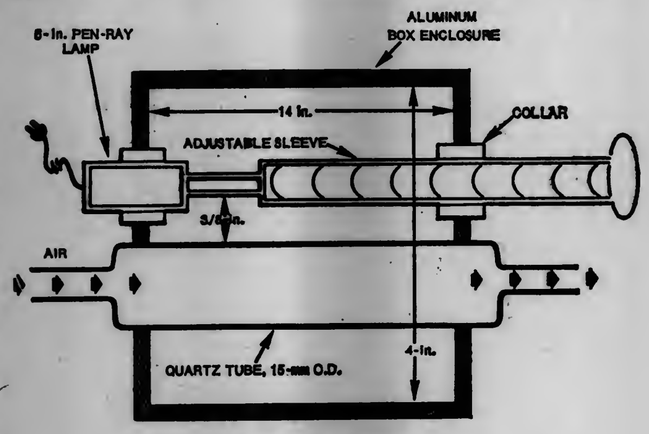

Figure D2. Ozone source.

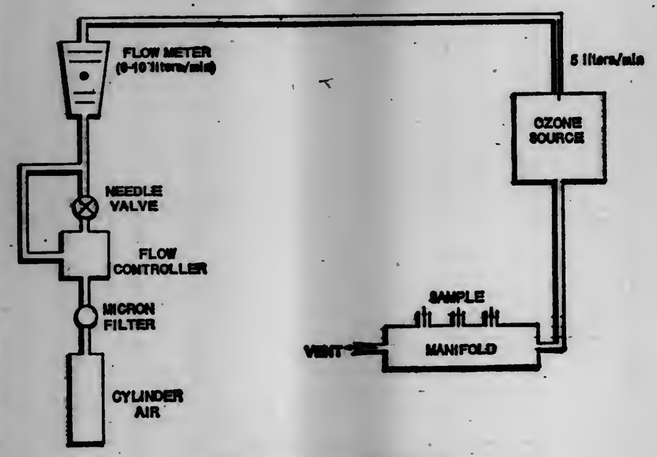

Figure D3. Ozone calibration air supply, source, and manifold system.

samples collected from a standard test atmosphere. Precision would probably be different when the analysis is performed manually.

4.2 No accuracy data are available.

4.3 Samples are stable for at least 6 weeks.

5. Apparatus.

with distilled water to 1,000 ml. so that a solution containing 1,000 μg. NO_2/ml. is obtained. The amount of $NaNO_2$ to use is calculated as follows:

$$G = \frac{1.500}{A} \times 100$$

with absorbing reagent. This solution contains 25 μg. NO_2/ml. Pipet 1, 2, 5, and 15 ml. of the 25 μg. NO_2/ml. solution into 50-, 50-, 100-, and 250-ml. volumetric flasks and dilute to the mark with absorbing reagent. The solutions contain 0.50, 1.00, 1.25, and 1.50 μg. NO_2/ml., respectively. Run standards as

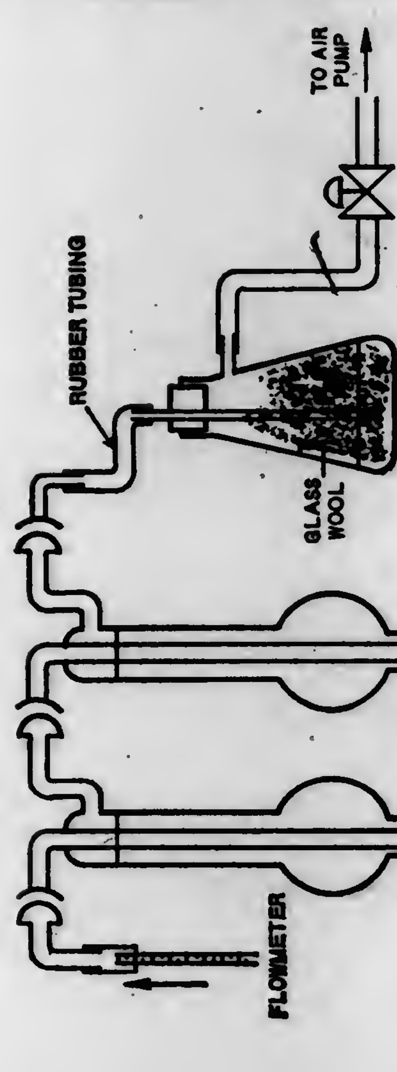

Figure D4. KI sampling train.

ADDENDA

A. Suggested Performance Specifications for Atmospheric Analyzers for Hydrocarbons Corrected for Methane:

Range (minimum)	0.8 mg./m.³ (0–5 p.p.m.) THC 0–3 mg./m.³ (0–5 p.p.m.) CH_4
Output (minimum)	0–10 mv. full scale.
Minimum detectable sensitivity.	0.1 p.p.m. THC. 0.1 p.p.m. CH_4.
Zero drift (maximum)	Not to exceed 1 percent/24 hours.
Span drift (maximum)	Not to exceed 1 percent/24 hours.
Precision (minimum)	±0.5 percent.
Operational period (minimum).	3 days.
Operating temperature range (minimum).	5–40° C.
Operating humidity range (minimum).	10–100 percent.
Linearity (maximum)	1 percent of full scale.

B. Suggested Definitions of Performance Specifications:

Range—The minimum and maximum measurement limits.

Output—Electrical signal which is proportional to the measurement; intended for connection to readout or data processing devices. Usually expressed as millivolts or milliamps full scale at a given impedence.

Full Scale—The maximum measuring limit for a given range.

Minimum Detectable Sensitivity—The smallest amount of input concentration that can be detected as the concentration approaches zero.

Accuracy—The degree of agreement between a measured value and the true value; usually expressed at ± percent of full scale.

Lag Time—The time interval from a step change in input concentration at the instrument inlet to the first corresponding change in the instrument output.

Time to 90 Percent Response—The time interval from a step change in the input concentration at the instrument inlet to a reading of 90 percent of the ultimate recorded concentration.

Rise Time (90 percent)—The interval between initial response time and time to 90 percent response after a step decrease in the inlet concentration.

Zero Drift—The change in instrument output over a stated time period, usually 24 hours, of unadjusted continuous operation, when the input concentration is zero; usually expressed as percent full scale.

Span Drift—The change in instrument output over a stated time period, usually 24 hours, of unadjusted continuous operation, when the input concentration is a stated upscale value; usually expressed as percent full scale.

Precision—The degree of agreement between repeated measurements of the same concentration. It is expressed as the average deviation of the single results from the mean.

Operational Period—The period of time over which the instrument can be expected to operate unattended within specifications.

Noise—Spontaneous deviations from a mean output not caused by input concentration changes.

Interference—An undesired positive or negative output caused by a substance other than the one being measured.

Interference Equivalent—The portion of indicated input concentration due to the presence of an interferent.

Operating Temperature Range—The range of ambient temperatures over which the instrument will meet all performance specifications.

Operating Humidity Range—The range of ambient relative humidity over which the instrument will meet all performance specifications.

Linearity—The maximum deviation between an actual instrument reading and the reading predicted by a straight line drawn between upper and lower calibration points.

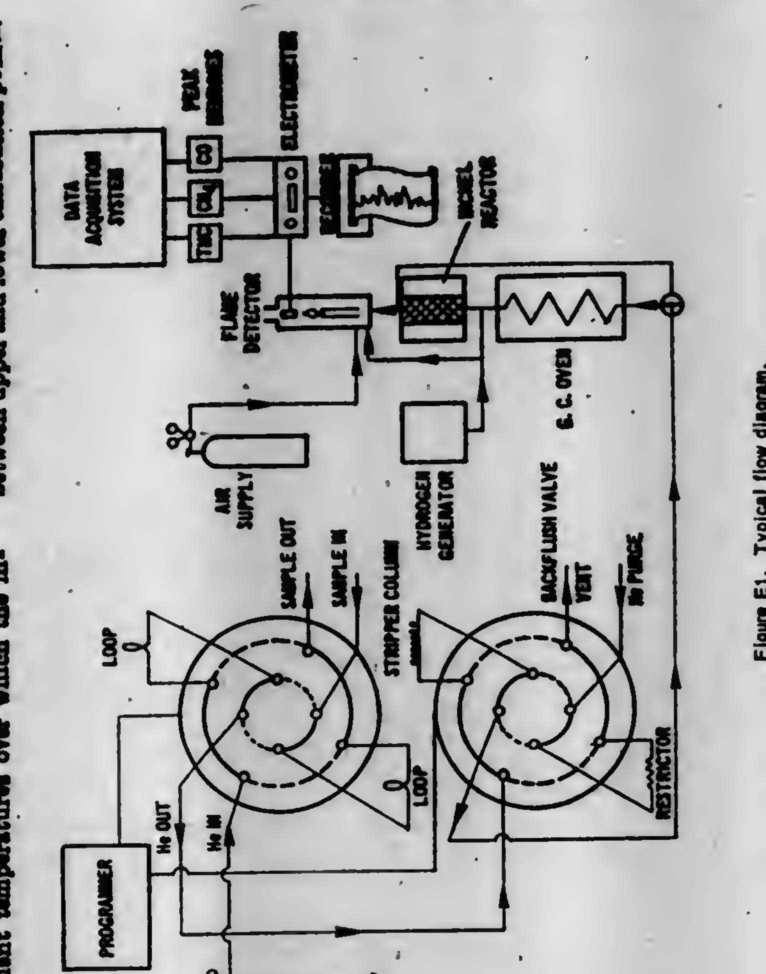

Figure E1. Typical flow diagram.

APPENDIX F—REFERENCE METHOD FOR THE DETERMINATION OF NITROGEN DIOXIDE IN THE ATMOSPHERE (24-HOUR SAMPLING METHOD)

1. *Principle and Applicability.*

1.1 Nitrogen dioxide is collected by bubbling air through a sodium hydroxide solution to form a stable solution of sodium nitrite. The nitrite ion produced during sampling is determined colorimetrically by reacting the exposed absorbing reagent with phosphoric acid, sulfanilamide, and N-1-naphthylethylenediamine dihydrochloride.

1.2 The method is applicable to collection of 24-hour samples in the field and subsequent analysis in the laboratory.

2. *Range and Sensitivity.*

2.1 The range of the analysis is 0.04 to 1.5 µg. NO_2^-/ml. With 50 ml. absorbing reagent and a sampling rate of 200 ml./min. for 24 hours, the range of the method is 20–740 µg./m.³ (0.01–0.4 p.p.m.) nitrogen dioxide.

2.2 A concentration of 0.04 µg. NO_2^-/ml. will produce an absorbance of 0.02 using 1-cm. cells.

3. *Interferences.*

3.1 The interference of sulfur dioxide is eliminated by converting it to sulfuric acid with hydrogen peroxide before analysis. (1)

4. *Precision, Accuracy, and Stability.*

4.1 The relative standard deviations are 14.4 percent and 21.5 percent at nitrogen dioxide concentrations of 140 µg./m.³ (0.072 p.p.m.) and 200 µg./m.³ (0.108 p.p.m.), respectively, based on an automated analysis of

samples collected from a standard test atmosphere. Precision would probably be different when the analysis is performed manually.

4.2 No accuracy data are available.

4.3 Samples are stable for at least 6 weeks.

5. *Apparatus.*

5.1 *Sampling.* See Figure F1.

5.1.1 *Absorber.* Polypropylene tubes 164 x 32 mm., equipped with polypropylene two-port closures.[3] Rubber stoppers cause high and varying blank values and should not be used. A gas dispersion tube with a fritted end of porosity B (70–100 µm. maximum pore diameter) is used.

5.1.1.1 *Measurement of Maximum Pore Diameter of Frit.* Carefully clean the frit with dichromate-concentrated sulfuric acid cleaning solution and rinse well with distilled water. Insert through one hole of a two-hole rubber stopper and install in a test tube containing sufficient distilled water to cover the fritted portion. Attach a vacuum source to the other hole of the rubber stopper and measure the vacuum required to draw the first perceptible stream of air bubbles through the frit. Apply the following equation:

$$\text{maximum pore diameter, } \mu m. = \frac{30s}{P}$$

s = Surface tension of water in dynes/cm. at the test temperature (73 at 18° C., 72 at 25° C., and 71 at 31° C.).
P = Measured vacuum, mm. Hg.

5.1.2 *Probe.* Teflon, polypropylene, or glass tube with a polypropylene or glass funnel at the end and a membrane filter to protect the frit. Replace filter after collecting five samples, or more often as indicated by visual observation of the loading.

5.1.3 *Flow Control Device.* Calibrated 27-gauge hypodermic needle, three-eighths of an inch long to maintain a flow of approximately 0.2 liter/minute. The needle should be protected by a membrane filter. Change filter after collecting 10 samples.

5.1.4 *Air Pump.* Capable of maintaining a flow of 0.2 liter/minute through the absorber, and a vacuum of 0.7 atmosphere.

5.1.5 *Calibration Equipment.* Glass flowmeter for measuring airflows up to approximately 275 ml./min. within ±2 percent, stopwatch, and precision wet test meter (1 liter/revolution).

5.2 *Analysis.*

5.2.1 *Volumetric Flasks.* 50, 100, 200, 250, 500, 1,000 ml.

5.2.2 *Graduated Cylinder.* 1,000 ml.

5.2.3 *Pipets.* 1, 2, 5, 10, 15 ml. volumetric; 2 ml., graduated in 1/10 ml. intervals.

5.2.4 *Test Tube.*

5.2.5. *Spectrophotometer or Colorimeter.* Capable of measuring absorbance at 540 nm. Bandwidth is not critical.

6. *Reagents.*

6.1 *Sampling.*

6.1.1 *Absorbing Reagent.* Dissolve 4.0 g. sodium hydroxide in distilled water and dilute to 1,000 ml.

6.2 *Analysis.*

6.2.1 *Sulfanilamide.* Dissolve 20 g. sulfanilamide in 700 ml. distilled water. Add, with mixing, 50 ml. concentrated phosphoric acid (85 percent) and dilute to 1,000 ml. This solution is stable for a month if refrigerated.

6.2.2 *NEDA Solution.* Dissolve 0.5 g. N-1-naphthylethylenediamine dihydrochloride in 500 ml. of distilled water. This solution is stable for a month if refrigerated and protected from light.

6.2.3 *Hydrogen Peroxide.* Dilute 0.2 ml. 30 percent hydrogen peroxide to 250 ml. with distilled water. This solution may be used for a month if protected from light.

6.2.4 *Standard Nitrite Solution.* Dissolve sufficient desiccated sodium nitrite ($NaNO_2$, assay of 97 percent or greater) and dilute with distilled water to 1,000 ml. so that a solution containing 1,000 µg. NO_2^-/ml. is obtained. The amount of $NaNO_2$ to use is calculated as follows:

$$G = \frac{1.500}{A} \times 100$$

G = Amount of $NaNO_2$, g.
1.500 = Gravimetric factor in converting NO_2 into $NaNO_2$.
A = Assay, percent.

7. *Procedure.*

7.1 *Sampling.* Assemble the sampling train as shown in Figure F1. Add 50 ml. absorbing reagent to the absorber. Disconnect funnel, insert calibrated flowmeter, and measure flow before sampling. If flow rate before sampling is less than 85 percent of needle calibration, check for leak or change filters as necessary. Remove flowmeter and replace funnel. Sample for 24 hours from midnight to midnight and measure flow at end of sampling period.

7.2 *Analysis.* Replace any water lost by evaporation during sampling. Pipet 10 ml. of the collected sample into a test tube. Add 1.0 ml. hydrogen peroxide solution, 10.0 ml. sulfanilamide solution, and 1.4 ml. NEDA solution with thorough mixing after the addition of each reagent. Prepare a blank in the same manner using 10 ml. absorbing reagent. After a 10-minute color-development interval, measure the absorbance at 540 nm. against the blank. Read µg. NO_2^-/ml. from standard curve (Section 8.2).

8. *Calibration and Efficiencies.*

8.1 *Sampling.*

8.1.1 *Calibration of Flowmeter.* Using a wet test meter and a stopwatch, determine the rates of air flow (ml./min.) through the flowmeter at several ball positions. Plot ball positions versus flow rates.

8.1.2 *Calibration of Hypodermic Needle.* Connect the calibrated flowmeter, the needle to be calibrated, and the source of vacuum in such a way that the direction of airflow through the needle is the same as in the sampling train. Read the position of the ball and determine flow rate in ml./min. from the calibration chart prepared in 8.1.1. Reject all needles not having flow rates of 190 to 210 ml./min. before sampling.

8.2 *Calibration Curve.* Dilute 5.0 ml. of the 1,000 µg. NO_2^-/ml. solution to 200 ml. with absorbing reagent. This solution contains 25 µg. NO_2^-/ml. Pipet 1, 2, 5, and 15 ml. of the 25 µg. NO_2^-/ml. solution into 50-, 50-, 100-, and 250-ml. volumetric flasks and dilute to the mark with absorbing reagent. The solutions contain 0.50, 1.00, 1.25, and 1.50 µg. NO_2^-/ml., respectively. Run standards as instructed in 7.2. Plot absorbance vs. µg. NO_2^-/ml.

8.3 *Efficiencies.* An overall average efficiency of 35 per cent was obtained from test atmospheres having nitrogen dioxide concentrations of 140 µg./m.³ and 200 µg./m.³ by automated analysis.(2)

9. *Calculation.*

9.1 *Sampling.*

9.1.1 Calculate volume of air sampled.

$$V = \frac{F_1 + F_2}{2} \times T \times 10^{-6}$$

V = Volume of air sampled, m.³
F_1 = Measured flow rate before sampling, ml./min.
F_2 = Measured flow rate after sampling, ml./min.
T = Time of sampling, min.
10^{-6} = Conversion of ml. to m.³

9.2 Calculate the concentration of nitrogen dioxide as µg. NO_2/m.³

$$\mu g.\ NO_2/m.^3 = \frac{(\mu g.\ NO_2^-/ml.) \times 50}{V \times 0.35} = \frac{(\mu g.\ NO_2^-/ml.) \times 143}{V}$$

50 = Volume of absorbing reagent used in sampling, ml.
V = Volume of air sampled, m.³
0.35 = Efficiency.

9.2.1 If desired, concentration of nitrogen dioxide may be calculated as p.p.m. NO_2.

$$p.p.m. = (\mu g.\ NO_2/m.^3) \times 5.32 \times 10^{-4}$$

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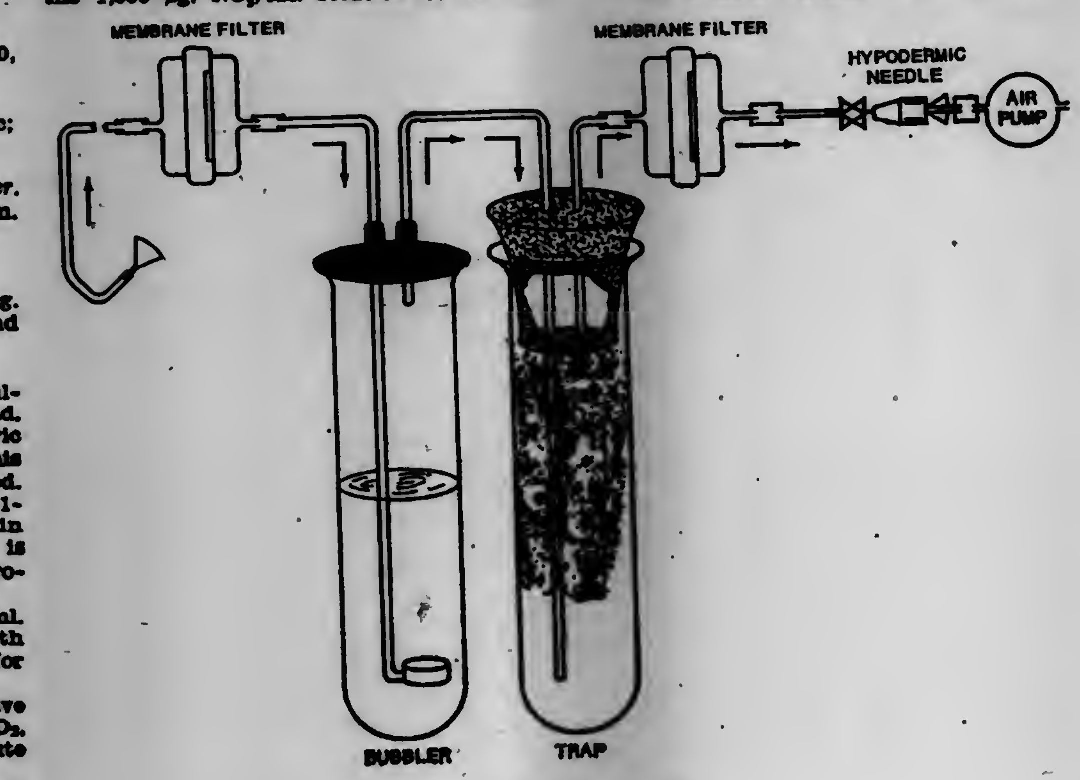

Figure F1. Sampling train.

[3] Available from Bel-Art Products, Pequannock, N.J.

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

(d) "Secondary standard" means a national secondary ambient air quality standard promulgated pursuant to section 109 of the Act.

(e) "National standard" means either

(2) Federal or State emission charges or taxes or other economic incentives or disincentives.

(3) Closing or relocation of residential, commercial, or industrial

other techniques are shown to be adequate and appropriate for such purposes.

(d) To encourage a State to prepare, adopt, or submit a plan without taking into consideration the social and economic impact of the control strategy set

purposes of plan development and evaluation. The requirements of this part vary according to the classification of each region, in order that the time and resources to be expended in developing the plan for that region, as well as

sions predominantly from a single point source, it shall be further classified Priority IA. The requirements applicable to Priority IA regions shall be the same as those for other Priority I regions, except that the requirements applicable to Pri-

Figure F1. Sampling train.

*Available from Bel-Art Products, Pequannock, N.J.

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

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AUTHORITY: The provisions of this Part 51 issued under section 301(a) of the Clean Air Act (42 U.S.C. 1857(a)), as amended by section 15(c)(2) of Public Law 91-604, 84 Stat. 1713.

Subpart A—General Provisions

§ 51.1 Definitions.

As used in this part, all terms not defined herein shall have the meaning given them in the Act:

(a) "Act" means the Clean Air Act (42 U.S.C. 1857–18571, as amended by Public Law 91–604, 84 Stat. 1676).

(b) "Administrator" means the Administrator of the Environmental Protection Agency (EPA) or his authorized representative.

(c) "Primary standard" means a national primary ambient air quality standard promulgated pursuant to section 109 of the Act.

(d) "Secondary standard" means a national secondary ambient air quality standard promulgated pursuant to section 109 of the Act.

(e) "National standard" means either a primary or a secondary standard.

(f) "Plan" means an implementation plan, under section 110 of the Act, to attain and maintain a national standard.

(g) "Applicable plan" means a plan or portion thereof, or the most recent revision of such plan or portion thereof, which has been approved or promulgated by the Administrator pursuant to section 110 of the Act.

(h) "Regional Office" means one of the ten (10) EPA Regional Offices.

(i) "State agency" means the air pollution control agency primarily responsible for development and implementation of a plan under the Act.

(j) "Local agency" means any air pollution control agency other than a State agency, which is charged with responsibility for carrying out a portion of a plan.

(k) "Point source" means:

(1) Any stationary source causing emissions in excess of 100 tons (90.7 metric tons) per year of any pollutant for which there is a national standard in a region containing an area whose 1970 "urban place" population, as defined by the Bureau of Census, was equal to or greater than 1 million or

(2) Any stationary source causing emissions in excess of 25 tons (22.7 metric tons) per year of any pollutant for which there is a national standard in a region containing an area whose 1970 "urban place" population, as defined by the U.S. Bureau of the Census, was less than 1 million and

(3) Without regard to amount of emissions, stationary sources such as those listed in Appendix C to this part.

(l) "Area source" means any small residential, governmental, institutional, commercial, or industrial fuel combustion operations: onsite solid waste disposal facility; motor vehicles, aircraft, vessels, or other transportation facilities; or other miscellaneous sources such as those listed in Appendix D to this part, as identified through inventory techniques similar to those described in: "A Rapid Survey Technique for Estimating Community Air Pollution Emissions," Public Health Service Publication No. 999–AP–29, October 1966.

(m) "Region" means (1) an air quality control region designated by the Secretary of Health, Education, and Welfare or the Administrator, (2) any area designated by a State agency as an air quality control region and approved by the Administrator, or (3) any area of a State not designated as an air quality control region under subparagraph (1) or (2) of this paragraph.

(n) "Control strategy" means a combination of measures designated to achieve the aggregate reduction of emissions necessary for attainment and maintenance of a national standard, including, but not limited to, measures such as:

(1) Emission limitations.

(2) Federal or State emission charges or taxes or other economic incentives or disincentives.

(3) Closing or relocation of residential, commercial, or industrial facilities.

(4) Changes in schedules or methods of operation of commercial or industrial facilities or transportation systems, including, but not limited to, short-term changes made in accordance with standby plans.

(5) Periodic inspection and testing of motor vehicle emission control systems, at such time as the Administrator determines that such programs are feasible and practicable.

(6) Emission control measures applicable to in-use motor vehicles, including, but not limited to, measures such as mandatory maintenance, installation of emission control devices, and conversion to gaseous fuels.

(7) Measures to reduce motor vehicle traffic, including, but not limited to, measures such as commuter taxes, gasoline rationing; parking restrictions, or staggered working hours.

(8) Expansion or promotion of the use of mass transportation facilities through measures such as increases in the frequency, convenience, and passenger-carrying capacity of mass transportation systems or providing for special bus lanes on major streets and highways.

(9) Any land use or transportation control measures not specifically delineated herein.

(10) Any variation of, or alternative to, any measure delineated herein.

(o) "Reasonably available control technology" means devices, systems, process modifications, or other apparatus or techniques, the application of which will permit attainment of the emission limitations set forth in Appendix B to this part, provided that Appendix B to this part is not intended, and shall not be construed, to require or encourage State agencies to adopt such emission limitations without due consideration of (1) the necessity of imposing such emission limitations in order to attain and maintain a national standard, (2) the social and economic impact of such emission limitations, and (3) alternative means of providing for attainment and maintenance of such national standard.

§ 51.2 Stipulations.

Nothing in this part shall be construed in any manner:

(a) To encourage a State to prepare, adopt, or submit a plan which does not provide for the protection and enhancement of air quality so as to promote the public health and welfare and productive capacity.

(b) To encourage a State to adopt any particular control strategy without taking into consideration the cost-effectiveness of such control strategy in relation to that of alternative control strategies.

(c) To preclude a State from employing techniques other than those specified in this part for purposes of estimating air quality or demonstrating the adequacy of a control strategy, provided that such

other techniques are shown to be adequate and appropriate for such purposes.

(d) To encourage a State to prepare, adopt, or submit a plan without taking into consideration the social and economic impact of the control strategy set forth in such plan, including, but not limited to, impact on availability of fuels, energy, transportation, and employment.

(e) To preclude a State from preparing, adopting, or submitting a plan which provides for attainment and maintenance of a national standard through the application of a control strategy not specifically identified or described in this part.

(f) To preclude a State or political subdivision thereof from adopting or enforcing any emission limitations or other measures or combinations thereof to attain and maintain air quality better than that required by a national standard.

(g) To encourage a State to adopt a control strategy uniformly applicable throughout a region unless there is no satisfactory alternative way of providing for attainment and maintenance of a national standard throughout such region.

§ 51.3 Classification of regions.

This section establishes a classification system to categorize regions for purposes of plan development and evaluation. The requirements of this part vary according to the classification of each region, in order that the time and resources to be expended in developing the plan for that region, as well as the substantive content of the plan, will be commensurate with the complexity of the air pollution problem. The classification will be based upon measured ambient air quality, where known, or, where not known, estimated air quality in the area of maximum pollutant concentration. All regions will be classified by the Administrator after consultation with State agencies. Each region will be classified separately with respect to each of the following pollutants: Sulfur oxides, particulate matter, carbon monoxide, nitrogen dioxide, and photochemical oxidants.

(a) For sulfur oxides and particulate matter, each region will be classified into one of three categories, defined as Priority I, Priority II, or Priority III.

(1) (i) Ambient concentration limits, expressed as micrograms per cubic meter and parts per million by volume (p.p.m. in parentheses) which define the classification system for sulfur oxides and particulate matter are:

Pollutant	Priority I	Priority II	Priority III
	Greater than	*From—To*	*Less than*
Sulfur oxides:			
Annual arithmetic mean	100 (0.04)	60–100 (0.02–0.04)	60 (0.02)
24-hour maximum	455 (0.17)	260–455 (0.10–0.17)	260 (0.10)
3-hour maximum		1–1,300 (0.50)	1,300 (0.50)
Particulate matter:			
Annual geometric mean	95	60–95	60
24-hour maximum	325	150–325	150

[1] Any concentration above 1,300 $\mu g/m^3$ (0.50 p.p.m.).

(ii) The more restrictive classification will be chosen where there is a difference between the maximum value(s) and the annual averages e.g., if a region is Priority I with respect to an annual average and Priority II with respect to a 24-hour maximum value, the classification will be Priority I.

(2) Procedures which may be used, where appropriate, to estimate air quality in regions where no measured data or inadequate data exist are described in Appendix A to this part.

(b) For carbon monoxide, nitrogen dioxide, and photochemical oxidants, each region will be classified into one of two categories defined as Priority I or Priority III.

(1) Ambient concentration limits which define the classification system are:

(i) Carbon monoxide: Priority I: Equal to or above 55 milligrams per cubic meter (48 p.p.m.), 1-hour maximum, or 14 milligrams per cubic meter (12 p.p.m.), 8-hour maximum; Priority III: Below such values.

(ii) Nitrogen dioxide: Priority I: Equal to or above 110 micrograms per cubic meter (0.06 p.p.m.) annual arithmetic mean; Priority III: Below such value.

(iii) Photochemical oxidants: Priority I: Equal to or above 195 micrograms per cubic meter (0.10 p.p.m.), 1-hour maximum; Priority III: Below such value.

(2) In the absence of measured data to the contrary, classification with respect to carbon monoxide, photochemical oxidants and nitrogen dioxide will be based on the following estimate of the relationship between these pollutants and population: Any region containing an area whose 1970 "urban place" population, as defined in the U.S. Bureau of Census, exceeds 200,000 will be classified Priority I. All other regions will be classified Priority III.

(3) Where a region is classified Priority I on the basis of population, the air quality data requirements of § 51.14 (c) (1) shall apply. If these data indicate the pollutant concentrations are below the values stipulated in subparagraph (1) of this paragraph, the region will be reclassified Priority III.

(4) Classifications with respect to hydrocarbons will be the same as the classifications with respect to photochemical oxidants.

(c) Where a region is classified Priority I on the basis of measured or estimated air quality levels reflecting emissions predominantly from a single point source, it shall be further classified Priority IA. The requirements applicable to Priority IA regions shall be the same as those for other Priority I regions, except that the requirements applicable to Priority II regions under §§ 51.16 and 51.17 shall apply. A procedure for estimating air quality levels reflecting emissions from a single point source is described in Appendix A to this part.

§ 51.4 Public hearings.

(a) The State shall, prior to adoption of a plan and after reasonable notice thereof, conduct one or more public hearings on each plan. Separate hearings may be held for plans to implement primary and secondary standards.

(b) For purposes of this part, "reasonable notice" shall be considered to include, at least 30 days prior to the date of such hearing(s):

(1) Notice given to the public by prominent advertisement announcing the date(s), time(s), and place(s) of such hearing(s) and the availability of the principal portions of the proposed plan, including, as a minimum, all rules and regulations which are proposed to be included in such plan, for public inspection in at least one location in each region to which the plan will apply.

(2) Notification to the Administrator (through the appropriate Regional Office).

(3) Notification to any local air pollution control agencies in each region to which the plan will apply.

(4) In the case of an interstate region, notification to any other States included, in whole or in part, in the region.

(c) The State shall prepare and retain, for submission to the Administrator upon his request, a record of the hearing(s). The record shall contain, as a minimum, a list of witnesses together with the text of each presentation.

(d) The State shall submit with its plan (1) a copy of any advertisement published, broadcast, or otherwise issued pursuant to this section; and (2) a certification that the hearing was held in accordance with the notice required by this section.

§ 51.5 Submission of plans; preliminary review of plans.

(a) Submission to the Administrator shall be accomplished by delivering five copies of the plan to the appropriate Regional Office and a letter to the Administrator notifying him of such action. Plans shall be adopted by the State and submitted to the Administrator by the Governor as follows:

(1) For any primary standard, within 9 months after promulgation of such standard.

(2) For any secondary standard, within 9 months after promulgtion of such secondary standard or by such later date prescribed by the Administrator pursuant to Subpart C of this part.

(b) Plans for different regions within a State may be submitted as a single document or as separate documents.

(c) Upon request of a State, the Administrator will provide preliminary review of a plan or portion thereof submitted in advance of the date such plan is due. Such requests shall be made in writing to the appropriate Regional Office and shall identify the pollutant(s) and region(s) involved. The Administrator will provide such review as is feasible and will identify any deficiencies which would cause disapproval of the plan or portion thereof. Preliminary review of a plan or portion thereof shall not restrict the Administrator in any subsequent review of the plan or portion thereof nor shall it relieve the State of any obligation imposed on it by the Act or this part. Revisions of a plan, or any portion thereof, shall not be considered part of an applicable plan until such revisions have been approved by the Administrator in accordance with § 51.8.

§ 51.6 Revisions.

(a) The State shall revise its plan (1) whenever the Administrator determines that it meets the requirements of the Act, Revisions of a plan, or any portion thereof, shall not be considered part of an applicable plan until such revisions have been approved by the Administrator in accordance with § 51.8.

(b) The State shall revise its plan as may be necessary to take account of revisions of such national standard or the availability of improved or more expeditious methods of attaining such standard.

(c) The State shall revise its plan whenever the Administrator finds that the plan is substantially inadequate to attain the national standard which it implements in the region and to maintain it once attained because of emissions from such region of air pollutants which will interfere with the attainment or maintenance of such standard in another State.

(d) The State shall revise its plan to comply with the requirements of § 51.12 (c) whenever it relaxes any emission limitation, or source shutdown schedule, or postpones the compliance date for any stationary source or class of moving sources set forth in an applicable plan, or any final compliance date in any variance, or extends the period for applicability of any variance beyond the term initially provided for or beyond the term provided for in any renewal thereof.

(e) The State shall revise its plan as may be necessary to take account of changes in population or in the characteristics or type of pollutant emissions used in developing the plan.

(f) The State shall revise its plan as may be necessary to take account of new or improved air quality surveillance data or air quality modeling.

(g) The State shall revise its plan as may be necessary to take account of new or improved emission inventory data.

(h) The State shall revise its plan as may be necessary to take account of any change in any method, factor, or procedure found necessary to correct inaccuracies or deficiencies in the plan or in the method, factor, or procedure on the basis of which the plan was developed.

(i) The State shall revise its plan as may be necessary to take account of any change in the Federal Government's or State's policies governing the timing of construction of highways and airports.

(j) The State shall revise its plan as may be necessary to take account of any change in the assumptions, data, or methods on the basis of which any land use or transportation control measure was developed.

§ 51.7 Reports.

(a) The State shall submit to the Administrator a report on progress in plan implementation, including the following:

(1) Any changes in the plan adopted during the reporting period.

(2) A status report on each action taken to implement measures included in the plan.

(3) Any plan revisions which the State intends to make during the next reporting period to correct deficiencies in the plan.

(4) A description of the nature and status of current research efforts which the State intends to undertake during the next reporting period.

(5) A description of the air quality data and an updated emission inventory for the preceding calendar year.

(6) A description of any modifications to standards, emission inventories, or ambient air quality data.

(b) The report shall be submitted within 90 days after the end of the reporting period. The first report shall be submitted 90 days after the end of the first calendar quarter after the date of plan approval. Reporting periods are calendar quarters.

§ 51.8 Approval of plans.

(a) The Administrator will approve a plan or portion thereof if it meets the requirements of the Act and this part.

(b) The Administrator will disapprove a plan or portion thereof if it does not meet the requirements of the Act and this part.

(c) Prior to disapproval of a plan or portion thereof, the Administrator will notify the State of any revisions or modifications which are necessary to obtain approval. The State will have 60 days after notification to revise its plan on the basis of the Administrator's recommendations before the Administrator disapproves the plan.

(d) Within 4 months after receipt of a plan or portion thereof, the Administrator will approve or disapprove such plan or portion thereof.

(e) The Administrator will approve or disapprove each portion of a plan separately.

(f) The Administrator will approve a plan or portion thereof if (1) emissions from sources in the region will not prevent the attainment or maintenance of a national standard in any other State, and (2) the plan or portion thereof meets the requirements of this part.

(g) The Administrator will disapprove a plan or portion thereof if (1) emissions from sources in the region will prevent the attainment or maintenance of a national standard in any other State, or (2) the plan or portion thereof does not meet the requirements of this part.

(h) The Administrator will disapprove a plan or portion thereof if he determines that adequate personnel, funding, and authority under State, local, or regional law to carry out such implementation plan or portion thereof does not exist.

(i) The Administrator will disapprove a plan or portion thereof if he determines that adequate intergovernmental cooperation to carry out such implementation plan or portion thereof does not exist.

(j) The Administrator will disapprove a plan or portion thereof if he determines that adequate implementation plan monitoring or reporting requirements do not exist.

(k) The Administrator will disapprove a plan or portion thereof if he determines that adequate provisions for intergovernmental cooperation do not exist.

(l) The Administrator will disapprove a plan or portion thereof if he determines that adequate provisions for public hearings and consultations with appropriate Federal officials, State, and local legislative bodies do not exist.

(m) The Administrator will disapprove a plan or portion thereof if he determines that adequate provisions for revision of such implementation plan do not exist.

(n) The Administrator will disapprove a plan or portion thereof if he determines that adequate provisions for the review of new sources and modifications do not exist.

(o) The Administrator will disapprove a plan or portion thereof if he determines that adequate provisions for the prevention of air pollution emergency episodes do not exist.

(p) The Administrator will disapprove a plan or portion thereof if he determines that adequate provisions for public and private source surveillance do not exist.

(q) The Administrator will disapprove a plan or portion thereof if he determines that adequate provisions for the prevention of significant deterioration of air quality do not exist.

(r) The Administrator will disapprove a plan or portion thereof if he determines that adequate provisions for the protection of visibility do not exist.

(s) The Administrator will disapprove a plan or portion thereof if he determines that adequate provisions for the prevention of air pollution emergency episodes do not exist.

(t) The Administrator will disapprove a plan or portion thereof if he determines that adequate provisions for the prevention of air pollution emergency episodes do not exist.

standard, including the degree of emission reduction necessary to offset emission increases that can reasonably be expected to result from projected growth of population, industrial activity, motor vehicle traffic, or other factors that may

levels of particulate matter in nonurban areas.

(d) Example regions:

(1) A control strategy which provides for the attainment and maintenance of a national standard for sulfur oxides or

reductions that will result from application of the control strategy to each point source and group of area sources; such

summary shall be included in a table similar to that presented in Appendix D to this part. The detailed computations

tion 109 of the Act.

(1) Emission limitations.

(c) Upon request of a State, the Administrator will provide preliminary review of a plan or portion thereof submitted in advance of the date such plan is due. Such requests shall be made in writing to the appropriate Regional Office and shall be accompanied by five copies of the materials to be reviewed. Requests for preliminary review shall not operate to relieve a State of the responsibility of adopting and submitting plans in accordance with prescribed due dates.

§ 51.6 Revisions.

(a) The plan shall be revised from time to time, as may be necessary, to take account of:

(1) Revisions of national standards,

(2) The availability of improved or more expeditious methods of attaining such standards, such as improved technology or emission charges or taxes, or

(3) A finding by the Administrator that the plan is substantially inadequate to attain or maintain the national standard which it implements.

(b) The plan shall be revised within 60 days following notification by the Administrator under paragraph (a) of this section, or by such later date prescribed by the Administrator after consultation with the State.

(c) Revisions of rules and regulations included in an applicable plan shall be adopted after reasonable notice and public hearings, as prescribed in § 51.4.

(d) Any revision of rules and regulations and of compliance schedules shall be submitted to the Administrator in accordance with § 51.5 within 60 days following its adoption.

(e) Revisions other than those covered by paragraph (b) of this section shall be identified and described in the semiannual report required by § 51.7.

§ 51.7 Reports.

(a) On a quarterly basis commencing with the end of the first full quarter after approval of a plan, or any portion thereof, by the Administrator, the State shall submit to the Administrator (through the appropriate Regional Office) information on air quality. The quarters of the year are January 1–March 31, April 1–June 30, July 1–September 30, and October 1–December 31.

(b) On a semiannual basis commencing with the end of the first full semiannual period after approval of a plan, or any portion thereof, by the Administrator, the State shall submit to the Administrator (through the appropriate Regional Office) reports on progress in carrying out the applicable plan. The semiannual periods are January 1–June 30 and July 1–December 31.

(c) The reports required by this section shall be submitted within 45 days after the end of each reporting period in a manner which shall be prescribed by the Administrator.

§ 51.8 Approval of plans.

The Administrator shall approve any plan, or portion thereof, or any revision of such plan, or portion thereof, if he determines that it meets the requirements of the Act. Revisions of a plan, or any portion thereof, shall not be considered part of an applicable plan until such revisions have been approved by the Administrator in accordance with this part.

Subpart B—Plan Content and Requirements

§ 51.10 General requirements.

(a) During development of a plan, the State is encouraged to identify alternative control strategies, as well as the costs and benefits of each such alternative, for attainment and maintenance of the national standards.

(b) Each plan implementing a primary standard shall provide for the attainment of such standard as expeditiously as practicable, but in no case, except as otherwise provided by Subpart C of this part, later than 3 years after the date of the Administrator's approval of such plan or any revision thereof to take account of a revised primary standard. The projected date of attainment of such standard shall be specified in the plan.

(c) Each plan implementing a secondary standard shall provide for the attainment of such standard by a specified date, which shall be within a reasonable time after the date of the Administrator's approval of such plan.

(d) The plan for each region shall have adequate provisions to insure that pollutant emissions within such region will not interfere with attainment and maintenance of any national standard in any portion of an interstate region or in any other region.

(e) Each plan shall provide for public availability of emission data reported by source owners or operators or otherwise obtained by a State or local agency. Such emission data shall be correlated with applicable emission limitations or other measures. As used in this paragraph, "correlated" means presented in such a manner as to show the relationship between measured or estimated amounts of emissions and the amounts of such emissions allowable under the applicable emission limitations or other measures.

§ 51.11 Legal authority.

(a) Each plan shall show that the State has legal authority to carry out the plan, including authority to:

(1) Adopt emission standards and limitations and any other measures necessary for attainment and maintenance of national standards.

(2) Enforce applicable laws, regulations, and standards, and seek injunctive relief.

(3) Abate pollutant emissions on an emergency basis to prevent substantial endangerment to the health of persons, i.e., authority comparable to that available to the Administrator under section 303 of the Act.

(4) Prevent construction, modification, or operation of any stationary source at any location where emissions from such source will prevent the attainment or maintenance of a national standard.

(5) Obtain information necessary to determine whether air pollution sources are in compliance with applicable laws, regulations, and standards, including authority to require recordkeeping and to make inspections and conduct tests of air pollution sources.

(6) Require owners or operators of stationary sources to install, maintain, and use emission monitoring devices and to make periodic reports to the State on the nature and amounts of emissions from such stationary sources; also authority for the State to make such data available to the public as reported and as correlated with any applicable emission standards or limitations.

(b) Where a plan sets forth a control strategy that provides for application of (1) inspection and testing of motor vehicles and/or other transportation control measures or (2) land use measures other than those referred to in § 51.11(a)(4), such plan shall set forth the State's timetable for obtaining such legal authority as may be necessary to carry out such measures.

(c) The provisions of law or regulation which the State determines provide the authorities required under this section shall be specifically identified, and copies of such laws or regulations shall be submitted with the plan.

(d) (1) Except as otherwise provided by paragraph (b) of this section, the plan shall show that the legal authorities specified in this section are available to the State at the time of submission of the plan.

(2) Legal authority adequate to fulfill the requirements of paragraph (a) (5) and (6) of this section may be delegated the State pursuant to section 114 of the Act.

(e) A State governmental agency other than the State air pollution control agency may be assigned responsibility for carrying out a portion of a plan: *Provided*, That such plan demonstrates, to the Administrator's satisfaction, that such State governmental agency has the legal authority necessary to carry out such portion of the plan or, pursuant to paragraph (b) of this section, has a timetable for obtaining such authority.

(f) The State may authorize a local agency to carry out a plan, or portion thereof, within such local agency's jurisdiction: *Provided*, That such plan demonstrates, to the Administrator's satisfaction, that such local agency has the legal authority necessary to implement such plan, or portion thereof, and further: *Provided*, That such authorization shall not relieve the State of responsibility under the Act for carrying out such plan, or portion thereof.

§ 51.12 Control strategy: General.

(a) In any region where existing (measured or estimated) ambient levels of a pollutant exceed the levels specified by an applicable national standard, the plan shall set forth a control strategy which shall provide for the degree of emission reduction necessary for attainment and maintenance of such national

standard, including the degree of emission reduction necessary to offset emission increases that can reasonably be expected to result from projected growth of population, industrial activity, motor vehicle traffic, or other factors that may cause or contribute to increase emissions.

(b) In any region where measured or estimated ambient levels of a pollutant are below the levels specified by an applicable secondary standard, the plan shall set forth a control strategy which shall be adequate to prevent such ambient pollution levels from exceeding such secondary standard.

(c) Portions of a control strategy applicable to area sources may differ from portions applicable to point sources.

(d) For purposes of developing a control strategy, data derived from measurements of existing ambient levels of a pollutant may be adjusted to reflect the extent to which occasional natural or accidental phenomena, e.g., dust storms, forest fires, industrial accidents, demonstrably affected such ambient levels during the measurement period.

§ 51.13 Control strategy: Sulfur oxides and particulate matter.

(a) In any region where emission reductions are necessary for attainment and maintenance of a primary standard for sulfur oxides or particulate matter, the plan shall set forth a control strategy which shall be adjusted for the attainment of such primary standard within the time prescribed by the Act.

(b) (1) In any region where the degree of emission reduction necessary for attainment and maintenance of a secondary standard for sulfur oxides or particulate matter can be achieved through the application of reasonably available control technology, "reasonable time" for attainment of such secondary standard, pursuant to § 51.10(c), shall be not more than 3 years unless the State shows that good cause exists for postponing application of such control technology.

(2) In any region where application of reasonably available control technology will not be sufficient for attainment and maintenance of such secondary standard, or where the State shows that good cause exists for postponing the application of such control technology, "reasonable time" shall depend on the degree of emission reduction needed for attainment of such secondary standard and on the social, economic, and technological problems involved in carrying out a control strategy adequate for attainment and maintenance of such secondary standard.

(c) For purposes of developing a control strategy, background concentration shall be taken into consideration with respect to particulate matter. As used in this subpart, "background concentration" is that portion of the measured ambient levels of particulate matter that cannot be reduced by controlling emissions from manmade sources; "background concentration" shall be determined by reference to measured ambient levels of particulate matter in nonurban areas.

(d) Example regions:

(1) A control strategy which provides for the attainment and maintenance of a national standard for sulfur oxides or particulate matter in any region in a State (excluding Priority IA regions) will be deemed by the Administrator to be adequate for attainment and maintenance of such standard in any or all other regions of the same Priority classification in which measured or estimated levels of the pollutant are lower than those in the region for which the control strategy was formulated: *Provided*, That such control strategy is sufficiently comprehensive to include adequate control of sulfur oxides or particulate emissions from sources listed in Appendix C to this part. Any region (i) for which the State formulates a control strategy which is applied to other regions or (ii) for which a control strategy is developed, without regard to whether such strategy is applied outside of the region, is referred to hereinafter as an "example region."

(2) The State shall obtain, through the appropriate Regional Office, the concurrence of the Administrator in the selection of an example region.

(3) Nothing in this section shall be construed in any manner to preclude a State from preparing, adopting, and submitting a separate plan for each region.

(e) Adequacy of control strategy:

(1) The plan shall demonstrate that the control strategy for each national standard for sulfur oxides or particulate matter is adequate for attainment and maintenance of such standard in the example region(s) to which it applies. The adequacy of a control strategy shall be demonstrated by means of a proportional model or diffusion model or other procedure which is shown to be adequate and appropriate for such purpose.

(2) (i) If such demonstration is made by use of a proportional model, such model shall be one in which the following equation is employed to calculate the degree of improvement in air quality needed for attainment of a national standard:

$$\frac{A-C}{A-B} \times 100 = \text{percent reduction needed}$$

Where:

A = Existing air quality at the location having the highest measured or estimated concentration in the region.

B = Background concentration.

C = National standard.

(ii) The above equation does not account for topography, spatial distribution of emissions, or stack height, but the significance of these parameters shall be considered in developing the control strategy.

(iii) The plan shall show that application of the control strategy will result in the degree of emission reduction indicated to be necessary by the above calculation, as modified by appropriate consideration of factors set forth in subdivision (ii) of this subparagraph. The plan shall contain a summary of the computations used to determine the emission reductions that will result from application of the control strategy to each point source and group of area sources; such summary shall be included in a table similar to that presented in Appendix D to this part. The detailed computations shall be retained and be made available for inspection by the Administrator.

(3) (i) If such demonstration is made by use of a diffusion model, such model shall be identified and described: *Provided, however*, That if either of the two diffusion models described in the following publications is used, it need only be identified:

Air Quality Implementation Planning Program (IPP), Volume I, Operator's Manual, National Air Pollution Control Administration, Environmental Protection Agency, Washington, D.C., November 1970.

Air Quality Display Model (AQDM), National Air Pollution Control Administration, Department of Health, Education, and Welfare, Washington, D.C., November 1969.

(ii) The plan shall contain a summary of emission levels expected to result from application of the control strategy, which summary shall be included in a table similar to that presented in Appendix D to this part.

(iii) The plan shall also show the air quality levels expected to result from application of the control strategy, presented either in tabular form or as an isopleth map showing maximum pollutant concentrations and expected concentration gradients. Computer printouts of the input and output data associated with use of a diffusion model shall be retained and made available for inspection by the Administrator.

(f) Emission data:

(1) Each plan shall include the following data on emissions of sulfur oxides and particulate matter:

(i) For each example region in the State, a detailed inventory of emissions from point sources and area sources in each county shall be summarized in a form similar to that shown in Appendix D, and the data described in Appendices E and F to this part shall be retained and made available for inspection by the Administrator.

(ii) For all regions, point-source and area-source data shall be submitted in summary form, as shown in Appendix G, except that for regions classified as Priority III, only point-source data and any existing area-source data shall be submitted. Data described in Appendices E and F to this part shall be retained and made available for inspection by the Administrator.

(g) Air quality data: Data showing existing air quality with respect to sulfur dioxide and particulate matter shall be submitted for each example region. Actual measurements shall be used where available if based on use of the measurement methods specified in § 51.17; sulfur dioxide measurements based on use of the continuous conductimetric method also will be acceptable for this purpose. If actual measurements are not available and cannot be made in time to be

employed in the development of the control strategy, air quality may be estimated by the procedure described in Appendix A to this part. Air quality data, whether measured or estimated, shall be submitted in a form similar to that shown in Appendix H to this part.

(g) Stack height: The plan shall provide that the degree of emission limitation required for control of any pollutant under the plan is not affected in any manner by so much of any stack height that exceeds good engineering practice or by any other dispersion technique, except as provided in § 51.1(h). Before the State submits to the Administrator any determination under this paragraph, the State shall afford adequate opportunity for a public hearing, as specified in § 51.4, with respect to such determination.

(h) Intermittent control systems: The plan shall provide that no intermittent or supplemental control system shall be used as a substitute for continuous control measures needed to attain and maintain a national standard, except where the State demonstrates to the satisfaction of the Administrator that such system will achieve equivalent results.

(i) Prevention of air pollution emergency episodes:

(1) The plan shall provide for the prevention of air pollution emergency episodes. These episodes may occur when contaminants in the air reach concentrations which, at present or in the predictable future, could endanger the public health or welfare.

(2) The plan shall provide for the following steps to be taken in the event of the occurrence of an episode or the forecast of an episode:

(i) Public announcement shall be made when any episode level is reached, is forecast, or is terminated.

(ii) Each source of emissions which has been notified by the State that it may be required to reduce the emission of pollutants during an episode shall submit to the State for approval a source emission reduction plan which will result in reductions sufficient to achieve the objectives set forth in subparagraph (3) of this paragraph. Upon approval by the State, the source emission reduction plan shall be carried out by the source during any episode or forecast of an episode.

(iii) Each source of emissions which has been notified by the State that it may be required to reduce the emission of pollutants during an episode shall maintain records of measurements taken and other actions taken during any episode in accordance with the emission reduction plan. Such records shall be submitted to the State upon request.

(3) The plan shall provide for episode criteria which will be sufficient to prevent pollutant concentrations from reaching the following levels:

Pollutant	Level
Particulate matter, measured as suspended particulates	375 $\mu g/m^3$, 24-hour average
Sulfur oxides, measured as sulfur dioxide	800 $\mu g/m^3$, 24-hour average
Carbon monoxide	57.5 mg/m³, 8-hour average
Hydrocarbons	2,000 $\mu g/m^3$, 3-hour average
Photochemical oxidants, measured as ozone	800 $\mu g/m^3$, 1-hour average
Nitrogen oxides, measured as nitrogen dioxide	1,130 $\mu g/m^3$, 1-hour average

(4) The plan shall provide for episode criteria which will be sufficient to prevent pollutant concentrations from reaching the following levels for a Priority I region:

Pollutant	Level
Particulate matter, measured as suspended particulates	325 $\mu g/m^3$, 24-hour average
Sulfur oxides, measured as sulfur dioxide	700 $\mu g/m^3$, 24-hour average
Carbon monoxide	46 mg/m³, 8-hour average
Hydrocarbons	1,600 $\mu g/m^3$, 3-hour average
Photochemical oxidants, measured as ozone	700 $\mu g/m^3$, 1-hour average
Nitrogen oxides, measured as nitrogen dioxide	1,130 $\mu g/m^3$, 1-hour average

(5) The plan shall provide for episode criteria which will be sufficient to prevent pollutant concentrations from reaching the following levels for a Priority II region:

Pollutant	Level
Particulate matter, measured as suspended particulates	375 $\mu g/m^3$, 24-hour average
Sulfur oxides, measured as sulfur dioxide	800 $\mu g/m^3$, 24-hour average
Carbon monoxide	57.5 mg/m³, 8-hour average
Hydrocarbons	2,000 $\mu g/m^3$, 3-hour average
Photochemical oxidants, measured as ozone	800 $\mu g/m^3$, 1-hour average
Nitrogen oxides, measured as nitrogen dioxide	1,130 $\mu g/m^3$, 1-hour average

(6) The plan shall provide for episode criteria which will be sufficient to prevent pollutant concentrations from reaching the following levels for a Priority III region:

Pollutant	Level
Particulate matter, measured as suspended particulates	375 $\mu g/m^3$, 24-hour average
Sulfur oxides, measured as sulfur dioxide	800 $\mu g/m^3$, 24-hour average
Carbon monoxide	57.5 mg/m³, 8-hour average
Hydrocarbons	2,000 $\mu g/m^3$, 3-hour average
Photochemical oxidants, measured as ozone	800 $\mu g/m^3$, 1-hour average
Nitrogen oxides, measured as nitrogen dioxide	1,130 $\mu g/m^3$, 1-hour average

(7) The plan shall provide for episode criteria which will be sufficient to prevent pollutant concentrations from reaching the following levels for a Priority IA region:

Pollutant	Level
Particulate matter, measured as suspended particulates	325 $\mu g/m^3$, 24-hour average
Sulfur oxides, measured as sulfur dioxide	700 $\mu g/m^3$, 24-hour average
Carbon monoxide	46 mg/m³, 8-hour average
Hydrocarbons	1,600 $\mu g/m^3$, 3-hour average
Photochemical oxidants, measured as ozone	700 $\mu g/m^3$, 1-hour average
Nitrogen oxides, measured as nitrogen dioxide	1,130 $\mu g/m^3$, 1-hour average

(8) The plan shall provide for episode criteria which will be sufficient to prevent pollutant concentrations from reaching the following levels for a Priority IB region:

Pollutant	Level
Particulate matter, measured as suspended particulates	375 $\mu g/m^3$, 24-hour average
Sulfur oxides, measured as sulfur dioxide	800 $\mu g/m^3$, 24-hour average
Carbon monoxide	57.5 mg/m³, 8-hour average
Hydrocarbons	2,000 $\mu g/m^3$, 3-hour average
Photochemical oxidants, measured as ozone	800 $\mu g/m^3$, 1-hour average
Nitrogen oxides, measured as nitrogen dioxide	1,130 $\mu g/m^3$, 1-hour average

(9) The plan shall provide for episode criteria which will be sufficient to prevent pollutant concentrations from reaching the following levels for a Priority IC region:

Pollutant	Level
Particulate matter, measured as suspended particulates	375 $\mu g/m^3$, 24-hour average
Sulfur oxides, measured as sulfur dioxide	800 $\mu g/m^3$, 24-hour average
Carbon monoxide	57.5 mg/m³, 8-hour average
Hydrocarbons	2,000 $\mu g/m^3$, 3-hour average
Photochemical oxidants, measured as ozone	800 $\mu g/m^3$, 1-hour average
Nitrogen oxides, measured as nitrogen dioxide	1,130 $\mu g/m^3$, 1-hour average

(10) The plan shall provide for episode criteria which will be sufficient to prevent pollutant concentrations from reaching the following levels for a Priority II, III, IA, IB, or IC region:

Pollutant	Level
Particulate matter, measured as suspended particulates	375 $\mu g/m^3$, 24-hour average
Sulfur oxides, measured as sulfur dioxide	800 $\mu g/m^3$, 24-hour average
Carbon monoxide	57.5 mg/m³, 8-hour average
Hydrocarbons	2,000 $\mu g/m^3$, 3-hour average
Photochemical oxidants, measured as ozone	800 $\mu g/m^3$, 1-hour average
Nitrogen oxides, measured as nitrogen dioxide	1,130 $\mu g/m^3$, 1-hour average

(11) The plan shall provide for episode criteria which will be sufficient to prevent pollutant concentrations from reaching the following levels for a Priority I region:

Pollutant	Level
Particulate matter, measured as suspended particulates	325 $\mu g/m^3$, 24-hour average
Sulfur oxides, measured as sulfur dioxide	700 $\mu g/m^3$, 24-hour average
Carbon monoxide	46 mg/m³, 8-hour average
Hydrocarbons	1,600 $\mu g/m^3$, 3-hour average
Photochemical oxidants, measured as ozone	700 $\mu g/m^3$, 1-hour average
Nitrogen oxides, measured as nitrogen dioxide	1,130 $\mu g/m^3$, 1-hour average

(12) The plan shall provide for episode criteria which will be sufficient to prevent pollutant concentrations from reaching the following levels for a Priority I region shall include a contingency plan which shall, as a minimum, provide for taking any emission control actions necessary to prevent ambient pollutant concentrations at any location in such region from reaching levels which would constitute imminent

this paragraph which are not included in the contingency plan shall be submitted to the Administrator in the first semiannual report required under § 51.7. Unless disapproved by the Administrator, such emission control action programs shall be part of the applicable

safety, and emergency agencies and news media.

(f) In the event that the requirements of paragraphs (c) and (e) of this section have not been fully met by the prescribed date for submitting a plan, a

of such plan, or portion thereof, if he at any location where emissions from ment and maintenance of such national

employed in the development of the control strategy, air quality may be estimated by the procedure described in Appendix A to this part. Air quality data, whether measured or estimated, shall be submitted in a form similar to that shown in Appendix H to this part.

§ 51.14 Control strategy: Carbon monoxide, hydrocarbons, photochemical oxidants, and nitrogen dioxide.

(a) *Priority I Regions.* (1) Each plan for a region classified Priority I with respect to carbon monoxide, photochemical oxidants, or nitrogen dioxide shall set forth a control strategy which shall provide for the degree of emission reduction necessary for attainment and maintenance of the national standard for each such pollutant after consideration of the emission reductions that will result from the application of Federal motor vehicle emission standards promulgated pursuant to section 202 of the Act.

(2) Unless specific data are available for a region, a State shall assume that such Federal motor vehicle emission standards will result in the emission reductions shown in Appendix I to this part. If specific data are used, such data must be submitted in the plan for such region.

(b) *Control strategy development.* In a region in which attainment and maintenance of a national standard will require emission reductions in addition to those which will result from application of the Federal motor vehicle emission standards, the control strategy shall provide for application of such other measures as may be necessary for attainment and maintenance of such national standard.

(c) *Adequacy of control strategy.* (1) The plan shall demonstrate, by means of a proportional model or diffusion/photochemical model or other procedure which is adequate and appropriate, that the control strategy included in each plan for a region classified as Priority I is adequate for attainment and maintenance of the national standard(s) to which such control strategy applies.

(2) With respect to control of carbon monoxide and nitrogen oxides, the proportional model which may be used for purposes of this paragraph is described in § 51.13(e)(2): *Provided*, With respect to the national standard for nitrogen dioxide, that the degree of air quality improvement indicated to be necessary by the proportional model will be achieved by a corresponding degree of reduction of total nitrogen oxides emissions from stationary and mobile sources.

(3) In any region where the degree of nitrogen oxides emission reduction necessary for attainment and maintenance of the national standard for nitrogen dioxide is greater than that which can be achieved by the application of (i) the Federal motor vehicle emission standards promulgated under section 202 of the Act, (ii) reasonably available control technology to nitrogen oxides sources, and (iii) any transportation control measures which may be necessary for attainment and maintenance of the national standards for carbon monoxide and photochemical oxidants, the plan shall provide for the degree of hydrocarbon emission reduction attainable through the application of reasonably available control technology. In any such region, a control strategy which provides for such hydrocarbon emission reduction shall be deemed adequate for attainment of the national standard for nitrogen dioxide.

(4) With respect to hydrocarbons and photochemical oxidants, it may be assumed that (i) there is no background concentration of photochemical oxidants and (ii) the degree of total hydrocarbon emission reduction necessary for attainment and maintenance of the national standard for photochemical oxidants will also be adequate for attainment of the national standard for hydrocarbons. The proportional model to be used to determine the necessary hydrocarbon emission reduction is set forth in Appendix J to this part.

(5) The plan shall show that the control strategy will result in the degree of emission reduction indicated to be necessary by the proportional model. The plan shall contain a summary of the computations used to determine the emission reductions that will result from application of the control strategy to each point source and each group of area sources. Such summary shall be included in a table similar to that presented in Appendix D to this part. The detailed computations shall be retained by the State agency and made available for inspection by the Administrator.

(6) If a diffusion/photochemical model is used, the plan shall include a description of such model.

(d) *Emission data.* Emission data on carbon monoxide, hydrocarbons, and nitrogen oxides shall be submitted in accordance with the requirements of § 51.13(f).

(e) *Air quality data.* Data showing existing air quality levels shall be presented in accordance with this section:

(1) For Priority I regions, data on carbon monoxide, nitrogen dioxide, and photochemical oxidants shall, as a minimum, include the results of measurements made during a period of approximately 3 months beginning on or about July 1, 1971, in accordance with the following procedures.

Pollutants	Measurement method [1]	Number of sites per region	Frequency of sampling
Carbon monoxide	Nondispersive infrared	One	Continuous.
Nitrogen dioxide	24-hour (gas bubbler) methods (Jacobs-Hochheiser).	do	One 24-hour sample, every 5 days.
Photochemical oxidants	Gas phase chemiluminescence	do	Continuous.

[1] Equivalent methods are specified in § 420.17.

(2) For Priority I regions, only available air quality data for hydrocarbons must be submitted.

(3) For Priority III regions, no air quality data for carbon monoxide, hydrocarbons, nitrogen dioxide, and photochemical oxidants need be submitted.

(4) Air quality data required by this subparagraph shall be submitted in the form similar to that shown in Appendix H to this part.

§ 51.15 Compliance schedules.

(a) (1) Except as otherwise provided in subparagraph (2) of this paragraph, each plan shall contain legally enforceable compliance schedules setting forth the dates by which all stationary and mobile sources or categories of such sources must be in compliance with any applicable portions of the control strategy set forth in such plan.

(2) A plan may provide that a legally enforceable compliance schedule will be negotiated with the owner or operator of an individual source following submittal of the plan. Such compliance schedule shall be submitted to the Administrator as early as possible but in no case later than the prescribed date for submittal of the first semiannual report required by § 51.7. Unless disapproved by the Administrator, such compliance schedule shall be part of the applicable plan.

(b) (1) Any compliance schedule designed to provide for attainment and maintenance of a primary standard shall provide for compliance with applicable portions of the control strategy as expeditiously as practicable and in no case, except as otherwise provided by Subpart C of this part, later than 3 years after the Administrator's approval of the plan, or portion thereof, which sets forth such control strategy.

(2) Any compliance schedule designed to provide for attainment and maintenance of a secondary standard shall provide for compliance with applicable portions of the control strategy in a reasonable time and in no case later than the date specified for attainment of such secondary standard pursuant to § 51.10(c).

(c) Any compliance schedule extending over a period of 18 or more months from the date of its adoption shall provide for periodic increments of progress toward compliance by any affected source(s) or categories of sources.

(d) Except as otherwise provided by Subpart C of this part, neither the State agency nor a local agency shall grant any variance of, or exception to, any compliance schedule included in an applicable plan if such variance or exception will prevent, or interfere with, attainment or maintenance of a national standard within the time(s) specified pursuant to § 51.10 (b) and (c).

§ 51.16 Prevention of air pollution emergency episodes.

(a) For the purpose of preventing air pollution emergency episodes, each plan

for a Priority I region shall include a contingency plan which shall, as a minimum, provide for taking any emission control actions necessary to prevent ambient pollutant concentrations at any location in such region from reaching levels which would constitute imminent and substantial endangerment to the health of persons, which levels shall be prescribed by the Administrator.

(b) Each contingency plan shall (1) specify two or more stages of episode criteria such as those set forth in Appendix L to this part, or their equivalent (2) provide for public announcement whenever any episode stage has been determined to exist, and (3) specify emission control actions to be taken at each episode stage, including, but not necessarily limited to, actions such as those set forth in Appendix L to this part, or their equivalent.

(c) (1) For each stationary source emitting 100 tons (90.7 metric tons) per year or more, the contingency plan shall include, or provide for preparation of, a specific legally enforceable emission control action program and shall show that the owner and/or operator of such stationary source has been notified of the requirements of such emission control action program.

(2) Any emission control action programs required by subparagraph (1) of this paragraph which are not included in the contingency plan shall be submitted to the Administrator in the first semiannual report required under § 51.7. Unless disapproved by the Administrator, such emission control action programs shall be part of the applicable plan.

(d) To the maximum extent practicable, emission control actions taken pursuant to a contingency plan shall be consistent with the extent of any air pollution episode, e.g., if a single source is determined to be responsible for the occurrence of any episode stage, then the emission control action steps applicable to such source shall be taken.

(e) Each contingency plan for a Priority I region shall provide for:

(1) Daily acquisition of forecasts of atmospheric stagnation conditions or during any episode stage and updating of such forecasts at least every 12 hours.

(2) Inspection of sources to ascertain compliance with applicable emission control action requirements.

(3) Communications procedures for transmitting status reports and orders as to emission control actions to be taken during an episode stage, including procedures for contact with public officials, major emission sources, public health, safety, and emergency agencies and news media.

(f) In the event that the requirements of paragraphs (c) and (e) of this section have not been fully met by the prescribed date for submitting a plan, a description of the steps under consideration and a timetable for their completion shall be submitted with the plan. Such timetable shall provide for meeting all requirements of paragraphs (c) and (e) of this section within 1 year after such prescribed date. A description of interim actions that will be taken to control emissions during any episode stage which occurs during such 1-year period shall be included.

(g) Each plan for a Priority II region shall include a contingency plan meeting, as a minimum, the requirements of subparagraphs (1) and (2) or paragraph (b) of this section.

§ 51.17 Air quality surveillance.

(a) (1) The plan shall provide for the establishment of an air quality surveillance system which shall be completed and in operation as expeditiously as practicable, but not later than 2 years after the date of the Administrator's approval of the plan, and which shall meet, as a minimum, the following requirements:

Classification of region	Pollutant	Measurement method [a]	Minimum frequency of sampling	Region population	Minimum number of air quality monitoring sites [b]
I	Suspended particulates	High volume sampler	One 24-hour sample every 6 days [c].	Less than 100,000	4.
				100,000–1,000,000	4+0.6 per 100,000 population. [c]
				1,000,001–5,000,000	7.5+0.25 per 100,000 population. [c]
				Above 5,000,000	12+0.16 per 100,000 population.
		Tape sampler	One sample every 2 hours		One per 250,000 population [c] up to eight sites.
	Sulfur dioxide	Pararosaniline or equivalent [d].	One 24-hour sample every 6 days (gas bubbler). [c]	Less than 100,000	2.
				100,000–1,000,000	2.5+0.5 per 100,000 population. [c]
				1,000,001–5,000,000	5+0.15 per 100,000 population. [c]
				Above 5,000,000	11+0.06 per 100,000 population.
			Continuous	Less than 100,000	1.
				100,000–5,000,000	1+0.15 per 100,000 population. [c]
				Above 5,000,000	6+0.06 per 100,000 population. [c]
	Carbon monoxide	Nondispersive infrared or equivalent. [e]	Continuous	Less than 100,000	1.
				100,000–5,000,000	1+0.15 per 100,000 population. [c]
				Above 5,000,000	6+0.06 per 100,000 population. [c]
	Photochemical oxidants	Gas phase chemiluminescence or equivalent. [f]	Continuous	Less than 100,000	1.
				100,000–5,000,000	1+0.15 per 100,000 population. [c]
				Above 5,000,000	6+0.06 per 100,000 population. [c]
	Nitrogen dioxide	24-hour sampling method (Jacobs-Hochheiser method).	One 24-hour sample every 14 days (gas bubbler). [c]	Less than 100,000	1.
				100,000–1,000,000	1+0.6 per 100,000 population. [c]
				Above 1,000,000	10.
II	Suspended particulates	High volume sampler	One 24-hour sample every 6 days [c]		2.
		Tape sampler	One sample every 2 hours		1.
	Sulfur dioxide	Pararosaniline or equivalent [d].	One 24-hour sample every 6 days (gas bubbler). [c]		2.
			Continuous		1.
III [g]	Suspended particulates	High volume sampler	One 24-hour sample every 6 days [c]		1.
	Sulfur dioxide	Pararosaniline or equivalent [d].	One 24-hour sample every 6 days (gas bubbler). [c]		1.

[a] Equivalent to 91 random samples per year.
[b] Equivalent to 36 random samples per year.
[c] Total population of a region. When required number of samplers includes a fraction, round-off to nearest whole number.
[d] Equivalent methods are (1) Gas Chromatographic Separation—Flame Photometric Detection (provided Teflon is used throughout the instrument system in parts exposed to the air stream), (2) Flame Photometric Detection (provided interfering sulfur compounds present in significant quantities are removed), (3) Coulometric Detection (provided oxidizing and reducing interferences such as O_2, NO_2, and H_2S are removed), and (4) the automated Pararosaniline Procedure.
[e] Equivalent method is Gas Chromatographic Separation—Catalytic Conversion—Flame Ionization Detection.
[f] Equivalent methods are (1) Potassium Iodide Colorimetric Detection (provided a correction is made for SO_2 and NO_2), (2) UV Photometric Detection of Ozone (provided compensation is made for interfering substances), and (3) Chemiluminescence Methods differing from that of the reference method.
[g] It is assumed that the Federal motor vehicle emission standards will achieve and maintain the national standards for carbon monoxide, nitrogen dioxide, and photochemical oxidants; therefore, no monitoring sites are required for these pollutants.
[h] In interstate regions, the number of sites required shall be prorated on each State on a population basis.
[i] All measurement methods except the Tape Sampler method, are described in the national primary and secondary ambient air quality standards published in the FEDERAL REGISTER on Apr. 30, 1971 (36 F.R. 8186). Other methods together with those specified under footnotes (d), (e), and (f) will be considered equivalent if they meet the following performance specifications:

Specification	Pollutants		
	Sulfur dioxide	Carbon monoxide	Photochemical oxidant (corrected for NO_2 and SO_2)
Range	0–2,600 μg./m.³ (0–1 p.p.m.)	0–55 mg./m.³ (0–50 p.p.m.)	0–500 μg./m.³ (0–0.5 p.p.m.).

requirements of this section nor will it be considered a timely submittal.

Subpart C—Extensions

§ 51.30 Request for 2-year extension.

(a) The Governor of a State may, at submitting that portion of a plan that implements a secondary standard.

(b) Any such request will be given consideration only in the case of Priority I and Priority II regions.

(c) Any such request shall show that attainment of the secondary standards are simple and require a minimum of calculations. The two procedures presented are referred to as an area model and a point model. The area model was used to classify regions not having air quality data where the air quality levels are the result of several pollutant sources distributed throughout the region. The point model was used where the air

Specification	Pollutants: Sulfur dioxide	Carbon monoxide	Photochemical oxidant (corrected for NO_2 and SO_2)
Range	0-2,620 μg./m.³ (0-1 p.p.m.)	0-39 mg./m.³ (0-50 p.p.m.)	0-980 μg./m.³ (0-0.5 p.p.m.).
Minimum detectable sensitivity	20 μg./m.³ (0.01 p.p.m.)	0.6 mg./m.³ (0.5 p.p.m.)	20 μg./m.³ (0.01 p.p.m.).
Rise time, 90 percent	5 minutes	5 minutes	5 minutes.
Fall time, 90 percent	5 minutes	5 minutes	5 minutes.
Zero drift	±1 percent per day and ±2 percent per 3 days.	±1 percent per day and ±2 percent per 3 days.	±1 percent per day and ±2 percent per 3 days.
Span drift	±1 percent per day and ±2 percent per 3 days.	±1 percent per day and ±2 percent per 3 days.	±1 percent per day and ±2 percent per 3 days.
Precision	±2 percent	±4 percent	±4 percent.
Operation period	3 days	3 days	3 days.
Noise	±0.5 percent (full scale)	±0.5 percent (full scale)	±0.5 percent (full scale).
Interference equivalent	20 μg./m.³ (0.01 p.p.m.)	1.1 mg./m.³ (1 p.p.m.)	20 μg./m.³ (0.01 p.p.m.).
Operating temperature fluctuation	±5° C.	±5° C.	±5° C).
Linearity	2 percent (full scale)	2 percent (full scale)	2 percent (full scale).

The various specifications are defined as follows:

Range: The minimum and maximum measurement limits.

Minimum detectable sensitivity: The smallest amount of input concentration which can be detected as concentration approaches zero.

Rise time 90 percent: The interval between initial response time and time to 90 percent response after a step increase in inlet concentration.

Fall time 90 percent: The interval between initial response time and time to 90 percent response after a step decrease in the inlet concentration.

Zero drift: The change in instrument output over a stated time period of unadjusted continuous operation, when the input concentration is a stated upscale value.

Span drift: The change in instrument output over a stated period of unadjusted continuous operation, when the input concentration is a stated upscale value.

Precision: The degree of agreement between repeated measurements of the same concentration (which shall be the midpoint of the stated range) expressed as the average deviation of the single results from the mean.

Operation period: The period of time over which the instrument can be expected to operate unattended within specifications.

Noise: Spontaneous deviations from a mean output not caused by input concentration changes.

Interference equivalent: The portion of indicated concentration due to the total of the interferences commonly found in ambient air.

Operating temperature fluctuation: The ambient temperature fluctuation over which stated specifications will be met.

Linearity: The maximum deviation between an actual instrument reading and the reading predicted by a straight line drawn between upper and lower calibration points.

(2) At least one sampling site must be located in the area of estimated maximum pollutant concentrations.

(b) The plan shall include a description of the existing and proposed air quality surveillance system, which shall set forth:

(1) The basis for the design of the surveillance system, selection of samplers, and sampling sites.

(2) The locations of the samplers by Universal Transverse Mercator (UTM) grid coordinates or the equivalent. Any EPA monitoring station may be designated as a sampler location.

(3) The sampling schedules.

(4) The methods of sampling and analysis.

(5) The method of data handling and analysis procedures.

(6) The timetable for the installation of any additional equipment needed to complete the system.

(c) The plan shall provide for monitoring of air quality during any air pollution emergency episode stage. The stations selected for use during such periods must be in operation within 1 year after the date of the Administrator's approval of the plan and be capable of indicating when pollutant concentrations have reached, or are approaching, any episode criteria established pursuant to § 51.16.

§ 51.18 Review of new sources and modifications.

(a) Each plan shall set forth legally enforceable procedures that will be used to implement the authority described in § 51.11(a)(4), which procedures shall be adequate to enable the State to determine whether construction or modification of stationary sources will result in violations of applicable portions of the control strategy or will interfere with attainment or maintenance of a national standard.

(b) Such procedures shall provide for the submission, by the owner or operator of a new stationary source, or existing source which is to be modified, of such information on the nature and amounts of emissions, locations, design, construction, and operation of such sources as may be necessary to permit the State agency to make the determination referred to in paragraph (a) of this section.

(c) Such procedures shall also include means of disapproving such construction or modification if it will result in a violation of applicable portions of the control strategy or will interfere with attainment or maintenance of a national standard.

(d) Such procedures shall provide that approval of any construction or modification shall not affect the responsibility of the owner or operator to comply with applicable portions of the control strategy.

§ 51.19 Source surveillance.

Each plan shall provide for monitoring the status of compliance with any rules and regulations which set forth any portion of the control strategy. Specifically, each plan shall, as a minimum, provide for:

(a) Legally enforceable procedures for requiring owners or operators of stationary sources to maintain records of, and periodically report to the State information on, the nature and amount of emissions from such stationary sources and/or such other information as may be necessary to enable the State to determine whether such sources are in compliance with applicable portions of the control strategy.

(b) Periodic testing and inspection of stationary sources.

(c) Establishment of a system for detecting violations of any rules and regulations through the enforcement of appropriate visible emission limitations and for investigating complaints.

§ 51.20 Resources.

Each plan shall include a description of the resources available to the State and local agencies at the date of submission of the plan and of any additional resources needed to carry out the plan during the 5-year period following its submission. Such description, which shall be provided in a form similar to that in Appendix K to this part, shall include projections of the extent to which resources will be acquired at 1-, 3-, and 5-year intervals.

§ 51.21 Intergovernmental cooperation.

(a) For the purpose of assisting in the development of a plan for any interstate region, the State agency responsible for implementing national standards in any portion of such an interstate region shall furnish any available data on emissions, air quality, and control strategy development, upon request, to any other State or local agency having such responsibility in any other portion of such interstate region.

(b) Each plan shall identify:

(1) The local agencies, by official title, which will participate in carrying out the plan.

(2) The responsibilities of such local agencies and the responsibilities of any State governmental agency involved in carrying out any portion of the plan.

(c) Each plan shall provide assurances that the State agency having primary responsibility for implementing national standards in any region, or portion thereof, will promptly transmit to other State agencies having similar or related responsibility in the same or other States, information on factors (e.g., construction of new industrial plants) which may significantly affect air quality in any portion of such region or in any adjoining region.

§ 51.22 Rules and regulations.

Emission limitations and other measures necessary for attainment and maintenance of any national standard, including any measures necessary to implement the requirements of § 51.11, shall be adopted as rules and regulations enforceable by the State agency. Copies of all such rules and regulations shall be submitted with the plan. Except as otherwise provided by § 51.11(b), submittal of a plan setting forth proposed rules and regulations will not satisfy the

requirements of this section nor will it be considered a timely submittal.

Subpart C—Extensions

§ 51.30 Request for 2-year extension.

(a) The Governor of a State may, at the time of submission of a plan to implement a primary standard in a Priority I region, request the Administrator to extend, for a period not exceeding 2 years, the 3-year period prescribed by the Act for attainment of the primary standard in such region.

(b) Any such request regarding an interstate region shall be submitted jointly with the requests of Governors of all States in the region, or shall show that the Governor of each State in the region has been notified of such a request.

(c) Any such request regarding attainment of a primary standard shall be submitted together with a plan which shall:

(1) Set forth a control strategy adequate for attainment of such primary standard.

(2) Show that the necessary technology or alternatives will not be available soon enough to permit full implementation of such control strategy within such 3-year period, i.e., one or more emission sources or classes of sources will be unable to comply with applicable portions of the control strategy.

(3) Provide for attainment of such primary standard as expeditiously as practicable, but in no case later than 5 years after the date of the Administrator's approval of such plan.

(d) Any showing pursuant to paragraph (c) of this section shall include:

(1) A clear identification of stationary emission sources or classes of moving sources which will be unable to comply with the applicable portions of such control strategy within a 3-year period because the necessary technology or alternatives will not be available soon enough to permit such compliance.

(2) A clear identification and justification of any assumptions made with the respect to the time at which the necessary technology or alternatives will be available.

(3) A clear identification of any alternative means of attainment of such primary standard which were considered and rejected.

(4) A showing that stationary emission sources or classes of moving sources other than those identified pursuant to subparagraph (1) of this paragraph will be required to comply, within such 3-year period, with any applicable portions of such control strategy.

(5) A showing that reasonable interim control measures are provided for in such plan with respect to emissions from the source(s) identified pursuant to subparagraph (1) of this paragraph.

§ 51.31 Request for 18-month extension.

(a) Upon request of the State made in accordance with this section, the Administrator may, whenever he determines necessary, extend, for a period not to exceed 18 months, the deadline for submitting that portion of a plan that implements a secondary standard.

(b) Any such request will be given consideration only in the case of Priority I and Priority II regions.

(c) Any such request shall show that attainment of the secondary standards will require emission reductions exceeding those which can be achieved through the application of reasonably available control technology.

(d) Any such request for extension of the deadline with respect to any State's portion of an interstate region shall be submitted jointly with requests for such extensions from all other States within the region or shall show that all such States have been notified of such request.

(e) Any such request shall be submitted sufficiently early to permit development of a plan prior to the deadline in the event that such request is denied.

§ 51.32 Request for 1-year postponement.

(a) Pursuant to section 110(f) of the Act,[1] the Governor of a State may request, with respect to any stationary source or class of moving sources, a postponement for not more than 1 year of the applicability of any portion of the control strategy.

(b) Any such request regarding sources located in an interstate region shall show that the Governor of each State in the region has been notified of such request.

(c) Any such request shall clearly identify the source(s) and portion(s) of the control strategy which are the subject of such request and shall include information relevant to the determinations required by section 110(f) of the Act.

(d) A public hearing will be held, before the Administrator or his designee, on any such request. No such hearing will be held earlier than 1 year in advance of the prescribed date for compliance with any such portion(s) of the control strategy.

(e) No such request shall operate to stay the applicability of the portion(s) of the control strategy covered by such request.

(f) A State's determination to defer the applicability of any portion(s) of the control strategy with respect to such source(s) will not necessitate a request for postponement under this section unless such deferral will prevent attainment or maintenance of a national standard within the time specified in such plan: *Provided, however*, That any such determination will be deemed a revision of an applicable plan under § 51.6.

Appendix A—Air Quality Estimation

Ambient pollutant levels may be estimated through the application of atmospheric diffusion models. These estimates are based primarily upon the pollutant emissions, meteorology, and topography that prevails within a region. Several procedures are available for estimating air quality based on atmospheric dispersion. The complexity and sophistication of these procedures range from a few simple calculations that may be made manually to thousands of calculations that require a computer. The procedures presented here are simple and require a minimum of calculations. The two procedures presented are referred to as an area model and a point model. The area model was used to classify regions not having air quality data where the air quality levels are the result of several pollutant sources distributed throughout the region. The point model was used where the air quality results from a single point source of pollutant.

Area model. The relationship presented in figure 1 is based on the concepts of the model developed by Miller and Holsworth.[2] This model requires estimates of a region's average emission density, the "size" of the region, and the wind speed through the atmospheric mixing layer. A summary and description of how to use the procedure are presented here.

For discussion purposes let:

X = Estimate concentration, micrograms/cubic meter (μg/m³)

μ = Wind speed through mixing layer, meters/second (m/s)

Q = Emission density, micrograms/square meter-second (μg/m²-s)

C = Urban size = $\frac{1}{2}\sqrt{\text{urban area}}$, kilometers (km.)

Figure 1 is a plot of "normalized concentration" as a function of urban size and is defined to be the product of predicted concentration and wind speed divided by emission density. Concentrations are an increasing function of urban size and are directly proportional to emission density. The wind serves as a diluting agent and reduces expected pollutant concentrations.

As an example, the Standard Metropolitan Statistical Area (SMSA) of Chicago is used to compute the expected concentration of SO_2 from 1967 emissions in the Chicago area. The urban area of Chicago for computational purposes is 2,500 square km. The urban size, as defined is consequently 25 km. and thus from figure 1:

$$\frac{X_\mu}{Q} = 230$$

For Chicago:

$$Q = 17.8 \frac{\mu g/sec}{meter^2}$$

$$\mu = 7.8 \text{ meters/sec}$$

and hence:

$$X = \frac{(230)(17.8)}{7.8} = 561 \ \mu g/m^3$$

Using this procedure, concentration estimates for both SO_2 and particulate matter may be made on a regional basis. These predicted air quality concentrations may be used to establish region classification.

Point Model. The ambient air quality concentrations that result from the emissions of a single point source have a large degree of variability depending upon the meteorological conditions. Because of this, the short-term air quality concentrations are of more concern than the long-term. In many cases, the short-term maximum concentrations occur when the plume is trapped in a mixing layer of limited depth. In these cases, the 1-hour ground level concentration from a single point source may be estimated from the following equation: [3]

$$X = \frac{Q}{\sqrt{2\pi}\sigma_z L \mu}$$

[1] Defined term (Clean Air Act)—see definitions.

[2] Miller, M.E., and Holsworth, G.C., "An Atmospheric Diffusion Model for Metropolitan Areas", Jour. Air Poll. Cont. Assoc., 17: 46-50; Jan. 1967.

[3] Turner, D. B., "Workbook of Atmospheric Dispersion Estimates", Public Health Service Publication No. 999-AP-26, U.S. Department of Health, Education, and Welfare, Public Health Service, Consumer Protection and Environmental Health Service, National Air Pollution Control Administration, Cincinnati, Ohio. Revised 1969.

where:

X = concentration, gm/meter³.

Q = source emission rate, gm/sec.

σ_z = the standard deviation in the cross-wind direction of the plume concentration distribution, meters.

L = height of the mixing layer, meters.

μ = wind speed, meters/sec.

equation applies. The factor implies that the meteorological conditions persist 6 hours of a 24-hour period. During the remaining 18 hours, wind direction and other meteorological parameters are such that the source has no impact upon the location subjected to contamination during the 6-hour period. The estimated maximum 24-hour concentration

"Submerged fill pipe" means any fill pipe the discharge opening of which is entirely submerged when the liquid level is 6 inches (15 cm.) above the bottom of the tank; or when applied to a tank which is loaded from the side, means any fill pipe the discharge opening of which is entirely submerged when the liquid level is 18 inches (45 cm.) above

2.5 *Process industries—general.* The emission of particulate matter for any process source can be limited in a manner such as in table I. Process weight per hour means the total weight of all materials introduced into any specific process that may cause any emission of particulate matter. Solid fuels charged are considered as part of the process

(though it should be noted that distillate oil containing less than 0.2 percent sulfur is not generally available at this time); residual oil—0.3 percent sulfur; bituminous coal—0.7 percent sulfur. Availability of significant quantities of such low-sulfur fuels in any region where they do not naturally occur or have not been imported from other domes-

tion control or other purposes. The installation of a recovery system can result in significant sulfur oxides emissions if not properly designed. For sulfite mills with existing recovery systems, a sulfur oxides emission limitation of 20 pounds per air-dried ton (9 kg./metric ton) of pulp may be more reasonable due to economic considerations.

where:

X = concentration, gm/meter^3.
Q = source emission rate, gm/sec.
σ_z = the standard deviation in the cross-wind direction of the plume concentration distribution, meters.
L = height of the mixing layer, meters.
u = wind speed, meters/sec.

The values of the meteorological parameters must be based on the meteorological conditions in the vicinity of the source. Multiplying the estimated maximum 1-hour concentration by 0.26 may be used to estimate a maximum 24-hour concentration. This factor is deemed appropriate for the meteorological conditions to which the above equation applies. The factor implies that the meteorological conditions persist 6 hours of a 24-hour period. During the remaining 18 hours, wind direction and other meteorological parameters are such that the source has no impact upon the location subjected to contamination during the 6-hour period. The estimated maximum 24-hour concentration may be compared to the maximum 24-hour national standards. This procedure may be used in Priority 1A regions to estimate the existing air quality levels for developing a control strategy.

Under certain source and meteorological conditions, the above equation may not be appropriate; however, other equations[2] are available that may be used.

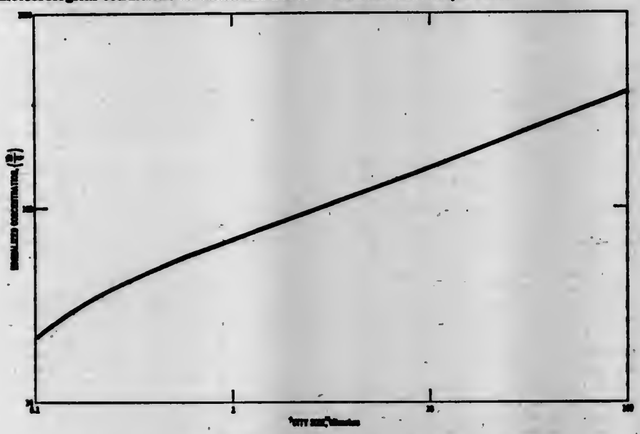

Figure 1. Relationship of normalized pollutant concentration and city size.

APPENDIX B—EXAMPLES OF EMISSION LIMITATIONS ATTAINABLE WITH REASONABLY AVAILABLE TECHNOLOGY

This appendix sets forth emission limitations which, in the Administrator's judgment, are attainable through the application of reasonable available emission control technology. The statements presented herein are not intended, and should not be construed, to require or encourage State agencies to adopt such emission limitations without consideration of (1) the necessity of imposing such emission limitations in order to attain and maintain a national standard, (2) the social and economic impact of such emission limitations, and (3) alternative means of providing for attainment and maintenance of a national standard. Failure of a State agency to adopt any or all of the emission limitations set forth herein will not be grounds for rejecting a State implementation plan if that implementation plan provides for attainment and maintenance of the National Ambient Air Quality Standards within the time prescribed by the Clean Air Act. Nor will State adoption of any or all of these emission limitations be grounds for approval of an implementation plan that does not provide for timely attainment and maintenance of the national standards. In preparing implementation plans, State agencies should tailor their control strategies to deal with the particular problems and meet the particular needs of their own States.

1.0 DEFINITIONS

"Air pollutant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof.

"Effluent water separator" means any tank, box, sump, or other container in which any volatile organic compound floating on or entrained or contained in water entering such tank, box, sump, or other container is physically separated and removed from such water prior to outfall, drainage, or recovery of such water.

"Emission" means the act of releasing or discharging air pollutants into the ambient air from any source.

"Fuel-burning equipment" means any furnace, boiler, apparatus, stack, and all appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer.

"Fugitive dust" means solid, airborne particulate matter emitted from any source other than through a stack.

"Opacity" means a state which renders material partially or wholly impervious to rays of light and causes obstruction of an observer's view.

"Particulate matter" means any material, except water in uncombined form, that is or has been airborne and exists as a liquid or a solid at standard conditions.

"Ringelmann chart" means the chart published and described in the U.S. Bureau of Mines Information Circular 8333.

"Source" means any property, real or personal, which emits or may emit any air pollutant.

"Stack" means any chimney, flue, conduit, or duct arranged to conduct emissions to the ambient air.

"Standard conditions" mean a dry gas temperature of 70° Fahrenheit and a gas pressure of 14.7 pounds per square inch absolute.

"Submerged fill pipe" means any fill pipe the discharge opening of which is entirely submerged when the liquid level is 6 inches (15 cm.) above the bottom of the tank; or when applied to a tank which is loaded from the side, means any fill pipe the discharge opening of which is entirely submerged when the liquid level is 18 inches (45 cm.) above the bottom of the tank.

"Volatile organic compounds" means any compound containing carbon and hydrogen or containing carbon and hydrogen in combination with any other element which has a vapor pressure of 1.5 pounds per square inch absolute (77.6 mm. Hg) or greater under actual storage conditions.

2.0 CONTROL OF PARTICULATE EMISSIONS

2.1 *Visible emissions.* The emission of visible air pollutants can be limited to a shade or density equal to but not darker than that designated as No. 1 on the Ringelmann chart or 20 percent opacity except for brief periods during such operations as soot blowing and startup. This limitation would generally eliminate visible pollutant emissions from stationary sources.

The emission of visible air pollutants from gasoline-powered motor vehicles can be eliminated except for periods not exceeding 5 consecutive seconds. The emission of visible air pollutants from diesel-powered motor vehicles can be limited to a shade or density equal to but not darker than that designated as No. 1 on the Ringelmann chart or 20 percent opacity except for periods not exceeding 5 consecutive seconds.

2.2 *Fugitive dust.* Reasonable precautions can be taken to prevent particulate matter from becoming airborne. Some of these reasonable precautions include the following:

(a) Use, where possible, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads or the clearing of land;

(b) Application of asphalt, oil, water, or suitable chemicals on dirt roads, materials stockpiles, and other surfaces which can give rise to airborne dusts;

(c) Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials. Adequate containment methods can be employed during sandblasting or other similar operations;

(d) Covering, at all times when in motion, open bodied trucks, transporting materials likely to give rise to airborne dusts;

(e) Conduct of agricultural practices such as tilling of land, application of fertilizers, etc., in such manner as to prevent dust from becoming airborne;

(f) The paving of roadways and their maintenance in a clean condition;

(g) The prompt removal of earth or other material from paved streets onto which earth or other material has been transported by trucking or earth moving equipment, erosion by water, or other means.

2.3 *Incineration.* The emission of particulate matter from any incinerator can be limited to 0.30 pound per 100 pounds (3 gm/kg.) of refuse charged. This emission limitation is based on the source test method for stationary sources of particulate emissions which will be published by the Administrator. This method includes both a dry filter and wet impingers and represents particulate matter of 70° F. and 1.0 atmosphere pressure.

2.4 *Fuel burning equipment.* The emission of particulate matter from fuel burning equipment burning solid fuel can be limited to 0.30 pound per million B.t.u. (0.54 gm/10^6 gm-cal) of heat input. This emission limitation is based on the source test method for stationary sources of particulate emissions which will be published by the Administrator. This method includes both a dry filter and wet impingers and represents particulate matter of 70° F. and 1.0 atmosphere pressure.

2.5 *Process industries—general.* The emission of particulate matter for any process source can be limited in a manner such as in table I. Process weight per hour means the total weight of all materials introduced into any specific process that may cause any emission of particulate matter. Solid fuels charged are considered as part of the process weight, but liquid and gaseous fuels and combustion air are not. For a cyclical or batch operation, the process weight per hour is derived by dividing the total process weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle. For a continuous operation, the process weight per hour is derived by dividing the process weight for a typical period of time.

TABLE I

Process weight rate (lbs./hr.)	Emission rate (lbs./hr.)
50	0.36
100	0.55
500	1.53
1,000	2.25
5,000	6.34
10,000	9.73
20,000	14.99
60,000	29.60
80,000	31.19
120,000	33.28
160,000	34.85
200,000	36.11
400,000	40.35
1,000,000	46.72

Interpolation of the data in table I for the process weight rates up to 60,000 lbs./hr. shall be accomplished by the use of the equation:

$$E = 3.59\,P^{0.62} \quad P \leq 30 \text{ tons/hr.}$$

and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lbs./hr. shall be accomplished by use of the equation:

$$E = 17.31\,P^{0.16} \quad P > 30 \text{ tons/hr.}$$

Where: E = Emissions in pounds per hour.
P = Process weight rate in tons per hour.

Application of mass emission limitations on the basis of all similar units at a plant is recommended in order to avoid unequal application of this type of limitation to plants with the same total emission potential but different size units.

3.0 CONTROL OF SULFUR COMPOUND EMISSIONS

3.1 *Fuel combustion.* It is not possible to make nationally applicable generalizations about attainable degrees of control of sulfur oxides emissions from combustion sources. Availability of low-sulfur fuels varies from one area to another. In some areas, severe restrictions on the sulfur content of fuels could have a significant impact on fuel-supply patterns; accordingly, where such restrictions are necessary for attainment of national ambient air quality standards, adoption of phased schedules of sulfur-in-fuel limitations is recommended. Stack gas cleaning is feasible at large industrial combustion sources and steam electric power plants. Technology has been demonstrated which will allow 70 percent removal of sulfur oxides from combustion gases of most existing fuel burning units.

Alternative means of meeting requirements for the control of sulfur oxides emissions from fuel combustion sources include: Use of natural gas, distillate oil, low-sulfur coal, and low-sulfur residual oil; desulfurization of oil or coal; stack gas desulfurization; and restricted use, shutdown, or relocation of large existing sources.

It is technically feasible to produce or desulfurize fuels to meet the following specifications: Distillate oil—0.1 percent sulfur (though it should be noted that distillate oil containing less than 0.3 percent sulfur is not generally available at this time); residual oil—0.3 percent sulfur; bituminous coal—0.7 percent sulfur. Availability of significant quantities of such low-sulfur fuels in any region where they do not naturally occur or have not been imported from other domestic or foreign sources will require planning for the timely development of new sources of such fuels. Because residual oil generally is obtained from overseas sources, its use ordinarily is restricted to areas accessible to waterborne transportation. There are limited tonnages of 0.7 percent sulfur coal produced at the present time, primarily in the western United States; large reserves of such coal exist but are not now being mined.

The flaring or combustion of any refinery process gas stream or any other process gas stream that contains sulfur compounds measured as hydrogen sulfide can be limited to a concentration of 10 grains per 100 standard cubic feet (23 gm/100scm) of gas. This limitation on combustion of process gas relates to the control of sulfur oxide emissions that would result from burning untreated process gas from refinery operations or coke ovens containing hydrogen sulfide and other sulfur compounds. Hydrogen sulfide emissions can be controlled by requiring incineration or other equally effective means for all process units. Approximately 95 to 99 percent of the sulfur compounds must be removed from the process gas stream to meet this emission limitation. It may be appropriate to consider exemption of very small units which economically may not be able to achieve this level of control.

3.2 *Sulfuric acid plants.* The emissions of sulfur dioxide from sulfuric acid plants can be limited to 6.5 pounds per ton (3.25 kg./metric ton) of 100 percent acid produced. This emission limitation is equivalent to an overall SO_2 to SO_3 conversion efficiency of 99.5 percent or a stack gas concentration of about 280 to 550 p.p.m. of sulfur dioxide, by volume, depending on the strength of the feed gas.

3.3 *Sulfur recovery plants.* The emission of sulfur oxides, calculated as sulfur dioxide, from a sulfur recovery plant can be limited to 0.01 pound (kg.) per pound (kg.) of sulfur processed. Approximately 99.5 percent of the sulfur processed must be recovered to meet this limitation. Existing plants typically recover 90 to 97 percent of the sulfur. This emission limitation corresponds to a sulfur dioxide concentration of about 1,300 p.p.m., by volume.

3.4 *Nonferrous smelters.* Technology is available to limit emission of sulfur oxides, calculated as sulfur dioxide, from primary nonferrous smelters according to the following equations:

Copper smelters: $Y = 0.2X$.
Zinc smelters: $Y = 0.564X^{0.85}$.
Lead smelters: $Y = 0.98X^{0.77}$.

Where:

X = Total sulfur fed to smelter (lb./hr.).
Y = Sulfur Dioxide Emissions (lb./hr.).

These emission limitations are equivalent to removal of about 90 percent of the input-sulfur to the smelter for most copper smelters and somewhat higher for most lead and zinc smelters. Technology capable of achieving such emission limitations may not be applicable to all existing smelters. In such cases, less restrictive control can be coupled with restricted operations to achieve air quality standards.

3.5 *Sulfite pulp mills.* The total sulfite pulp mill emissions of sulfur oxides, calculated as sulfur dioxide, from blow pits, washer vents, storage tanks, digester relief, and recovery system, can be reduced to 9 pounds per air-dried ton (4.5 kg./metric ton) of pulp produced. This emission limitation has application only to those sulfite mills that install waste liquor recovery systems for water pollution control or other purposes. The installation of a recovery system can result in significant sulfur oxides emissions if not properly designed. For sulfite mills with existing recovery systems, a sulfur oxides emission limitation of 20 pounds per air-dried ton (9 kg./metric ton) of pulp may be more reasonable due to economic considerations.

4.0 CONTROL OF ORGANIC COMPOUNDS EMISSIONS

The following emission limitations are applicable to the principal stationary source of organic compound emissions. Reducing total organic compound emissions will reduce photochemical oxidant formation. Such control of organic compound emissions may appropriately be considered in areas where application of the Federal motor vehicle emission standards will not produce the emission reductions necessary for attainment and maintenance of the national ambient air quality standards for photochemical oxidants. These emission limitations emphasize reduction of total organic compound emissions, rather than substitution of "nonreactive" or "less reactive" organic compounds for those already in use, because there is evidence that very few organic compounds are photochemically nonreactive. Substitution may be useful, however, where it would result in a clearly evident decrease in reactivity and thus tend to reduce photochemical oxidant formation. The extent to which application of these emission limitations would reduce photochemical oxidant formation in a given air quality control region will depend on the "mix" of emission sources in the region. These limitations are separable, i.e., one or more portions can be considered, as necessary.

4.1 *Storage of volatile organic compounds.* The storage of volatile organic compounds in any stationary tank, reservoir or other container of more than 40,000 gallons (150,000 liters) can be in a pressure tank capable of maintaining working pressures sufficient at all times to prevent vapor or gas loss to the atmosphere. If this cannot be done, the tank can be equipped with a vapor loss control device such as:

(a) A floating roof, consisting of a pontoon type, double deck type roof or internal floating cover, which will rest on the surface of the liquid contents and be equipped with a closure seal or seals to close the space between the roof edge and tank wall. This control equipment may not be appropriate if the volatile organic compounds have a vapor pressure of 11 pounds per square inch absolute (568 mm. Hg) or greater under actual storage conditions. All tank gauging or sampling devices can be gas-tight except when tank gauging or sampling is taking place.

(b) A vapor recovery system, consisting of a vapor gathering system capable of collecting the volatile organic compound vapors and gases discharged, and a vapor disposal system capable of processing such volatile organic vapors and gases so as to prevent their emission to the atmosphere and all tank gauging and sampling devices can be gas-tight except when gauging or sampling is taking place.

The storage of any volatile organic compound in any stationary storage vessel more than 250-gallon (950 liter) capacity can be in a vessel equipped with a permanent submerged fill pipe or fitted with a vapor recovery system. This emission limitation will reduce volatile organic emissions 90 to 100 percent from uncontrolled sources of storage in vessels 40,000 gallon capacity or greater and approximately 40 percent from uncontrolled sources of storage in vessels 250 gallon capacity or greater.

4.2 *Volatile organic compounds loading facilities.* The loading of volatile organic compounds into any tank, truck, or trailer having a capacity in excess of 200 gallons (760

liters) can be from a loading facility equipped with a vapor collection and disposal system. Also, the loading facility can be equipped with a loading arm with a vapor collection adaptor, pneumatic, hydraulic or other mechanical means to force a vapor-tight seal between the adaptor and the hatch.

This limitation can be applied to a variety of solvent users including industrial surface coatings, dry cleaning, degreasing and printing operations. Surface coating operations may appropriately be exempted from this limitation when the coating's solvent make-up is water-based and does not exceed 20 percent of organic compounds by volume.

Ammonium nitrate.
Carbon black.[1]
Charcoal.[1]
Chlorine.
Detergent and soap.[1]
Explosives (TNT and nitrocellulose).[1]
Hydrofluoric acid.[1]
Nitric acid.

liters) can be from a loading facility equipped with a vapor collection and disposal system. Also, the loading facility can be equipped with a loading arm with a vapor collection adaptor, pneumatic, hydraulic or other mechanical means to force a vapor-tight seal between the adaptor and the hatch. A means can be provided to prevent drainage of liquid organic compounds from the loading device when it is removed from the hatch of any tank, truck, or trailer, or to accomplish complete drainage before the removal. When loading is effected through means other than hatches, all loading and vapor lines can be equipped with fittings which make vapor-tight connections and which close automatically when disconnected. This emission limitation will result in 55 to 60 percent reduction in volatile organic emissions from uncontrolled sources in gasoline marketing and other organic transfer operations.

4.3 *Volatile organic compounds water separation.* Single or multiple compartment volatile organic compounds water separators which receive effluent water containing 200 gallons (760 liters) a day or more of any volatile organic compound from any equipment processing, refining, treating, storing or handling volatile organic compounds having a Reid vapor pressure of 0.5 pound or greater can be equipped with one of the following vapor loss control devices, properly installed in good working order and in operation:

(a) A container having all openings sealed and totally enclosing the liquid contents. All gauging and sampling devices can be gas-tight except when gauging or sampling is taking place.

(b) A container equipped with a floating roof, consisting of a pontoon type, double deck type roof, or internal floating cover, which will rest on the surface of the contents and be equipped with a closure seal or seals to close the space between the roof edge and container wall. All gauging and sampling devices can be gas-tight except when gauging or sampling is taking place.

(c) A container equipped with a vapor recovery system consisting of a vapor gathering system capable of collecting the organic vapors and gases discharged and a vapor disposal system capable of processing such organic vapors and gases so as to prevent their emission to the atmosphere and with all container gauging and sampling devices gas-tight except when gauging or sampling is taking place. This emission limitation will reduce organic compound emissions from uncontrolled waste water separator units approximately 95 to 100 percent.

4.4 *Pumps and compressors.* All pumps and compressors handling volatile organic compounds can be equipped with mechanical seals or other equipment of equal efficiency.

4.5 *Waste gas disposal.* Any waste gas stream containing organic compounds from any ethylene producing plant or other ethylene emission source can be burned at 1,300° F. (704° C.) for 0.3 second or greater in a direct-flame afterburner or an equally effective device. This does not apply to emergency reliefs and vapor blowdown systems. The emission of organic compounds from a vapor blowdown system or emergency relief can be burned by smokeless flares, or an equally effective control device. This emission limitation will reduce organic compound emissions approximately 98 percent.

4.6 *Organic solvents.* The emission of organic compounds of more than 3 pounds (1.3 kg.) per hour or 15 pounds (6.8 kg.) per day from any equipment can be reduced by at least 85 percent. This can be accomplished by:

(a) Incineration, provided that 90 percent or more of the carbon in the organic compounds being incinerated is oxidized to carbon dioxide, or

(b) Carbon adsorption.

This limitation can be applied to a variety of solvent users including industrial surface coatings, dry cleaning, degreasing and printing operations. Surface coating operations may appropriately be exempted from this limitation when the coating's solvent makeup is water-based and does not exceed 20 percent of organic compounds by volume. Organic solvents which have been shown to be virtually unreactive in the formation of oxidants, e.g., saturated halogenated hydrocarbons, perchloroethylene, benzene, acetone, and C_2-C_5 n-paraffins also may be considered for exemption. Other compounds which have been shown to have low reactivity include cyclohexanone, ethyl acetate, diethylamine, isobutyl acetate, isopropyl alcohol, methyl benzoate, 3-nitropropane, phenyl acetate and triethylamine. This emission limitation may impose an economic burden upon some paint spray booth installations. If such sources are not major contributors to hydrocarbon pollution levels, they may appropriately be considered for exemption.

4.7 *Architectural coatings for buildings.* The emission of organic compounds from architectural coatings can be reduced by requiring the use of water-base or other coatings having an organic solvent content of less than 20 percent by volume. The effectiveness of the limitations set forth in §§ 4.6 and 4.7 will vary, depending on the nature and amounts of emissions in an area; a rough estimate based on Los Angeles emission data indicates that application of the limitation would result in a 70 percent reduction in organic solvent emissions. In estimating the effectiveness, it should be assumed that all organic emissions are reactive; use of exempt solvents as substitutes for regulated solvents may be considered 100 percent effective in reducing reactive organic solvent emissions.

5.0 CONTROL OF CARBON MONOXIDE EMISSIONS

The emissions of carbon monoxide can be limited by requiring complete secondary combustion of waste gas generated in such operations as a grey iron cupola, blast furnace, basic oxygen steel furnace, catalyst regeneration of a petroleum cracking system, petroleum fluid coker or other petroleum process.

6.0 CONTROL OF NITROGEN OXIDES EMISSIONS

6.1 *Fuel burning equipment.* The emission of nitrogen oxides, calculated as nitrogen dioxide, from gas-fired fuel burning equipment can be limited to 0.2 pound per million B.t.u. (0.36 gm/10^3 gm-cal) of heat input. This emission limitation is about equivalent to a nitrogen dioxide concentration of 175 p.p.m., by volume, on a dry basis at 3 percent oxygen and represents about a 50 percent reduction in nitrogen oxide emissions from uncontrolled gas-fired equipment.

The emission of nitrogen oxides, calculated as nitrogen dioxide, from oil-fired fuel burning equipment can be limited to 0.30 pound per million B.t.u. (0.54 gm/10^3 gm-cal) of heat input. This emission limitation is about equivalent to a nitrogen dioxide concentration of 230 p.p.m., by volume, on a dry basis, at 3 percent oxygen and represents about a 56 percent reduction in nitrogen oxide emissions from uncontrolled oil-fired fuel burning equipment.

6.2 *Nitric acid manufacture.* The emission of nitrogen oxides, calculated as nitrogen dioxide, from nitric acid manufacturing plants can be limited to 5.5 pounds per ton (2.8 kg./metric ton) of 100 percent acid produced. This emission limitation is about equivalent to a nitrogen dioxide concentration of 400 p.p.m., by volume.

APPENDIX C—MAJOR POLLUTANT SOURCES

CHEMICAL PROCESS INDUSTRIES

Acrylic acid.
Ammonia.
Ammonium nitrate.
Carbon black.[1]
Charcoal.[1]
Chlorine.
Detergent and soap.[1]
Explosives (TNT and nitrocellulose).[1]
Hydrofluoric acid.[1]
Nitric acid.
Paint and varnish manufacturing.[1]
Phosphoric acid.[1]
Phthalic anhydride.
Plastics manufacturing.[1]
Printing ink manufacturing.[1]
Sodium carbonate.[1]
Sulfuric acid.[1]
Synthetic fibers.
Synthetic rubber.
Terephthalic acid.

FOOD AND AGRICULTURAL INDUSTRIES

Alfalfa dehydrating.[1]
Ammonium nitrate.
Coffee roasting[1]
Cotton ginning.[1]
Feed and grain.[1]
Fermentation processes.
Fertilizers.[1]
Fish meal processing.
Meat smoke houses.[1]
Starch manufacturing.[1]
Sugar cane processing.[1]

METALLURGICAL INDUSTRIES

Primary metals industries:
Aluminum ore reduction.[1]
Copper Smelters.[1]
Ferroalloy production.[1]
Iron and steel mills.[1]
Lead smelters.[1]
Metallurgical coke manufacturing.[1]
Zinc.[1]

Secondary metals industries:
Aluminum operations.[1]
Brass and bronze smelting.[1]
Ferroalloys.[1]
Gray iron foundries.[1]
Lead smelting.[1]
Magnesium smelting.[1]
Steel foundries.[1]
Zinc processes.[1]

MINERAL PRODUCTS INDUSTRIES

Asphalt roofing.[1]
Asphaltic concrete batching.[1]
Bricks and related clay refractories.[1]
Calcium carbide.[1]
Castable refractories.[1]
Cement.[1]
Ceramic and clay processes.[1]
Clay and fly ash sintering.[1]
Coal cleaning.[1]
Concrete batching.[1]
Fiberglass manufacturing.[1]
Frit manufacturing.[1]
Glass manufacturing.[1]
Gypsum manufacturing.[1]
Lime manufacturing.[1]
Mineral wool manufacturing.[1]
Paperboard manufacturing.[1]
Perlite manufacturing.[1]
Phosphate rock preparation.[1]
Rock, gravel, and sand quarrying and processing.[1]

PETROLEUM REFINING AND PETROCHEMICAL OPERATIONS[1]

WOOD PROCESSING[1]

PETROLEUM STORAGE (Storage tanks and bulk terminals)

MISCELLANEOUS

Fossil fuel steam electric powerplants.[1]
Municipal or equivalent incinerators.[1]
Open burning dumps.[1]

[1] Major sources of sulfur oxides and/or particulate matter.

APPENDIX D—(POLLUTANT) EMISSIONS INVENTORY SUMMARY, TONS/YR. (EXAMPLE REGIONS AND WHERE EMISSION LIMITATIONS ARE DEVELOPED)—Continued

Source category	State A: County 1 I	II	III	State A: County N I	II	III	State A: State region total	State B[1]: Ditto I	II	III	State B[1]: Ditto	State B[1]: Region[1] total
I. Fuel combustion—stationary source—Continued												
C. Industrial fuel—Continued												
4. Natural gas:												
a. Area sources												
b. Point sources												
7. Process gas:												
a. Area sources												
b. Point sources												
8. Other (specify):												
a. Area sources												
b. Point sources												
9. Total												
D. Steam-electric power plant:												
Total (specify):												
1. Anthracite coal												
2. Bituminous coal												
3. Coke												
4. Distillate oil												
5. Residual oil												
6. Natural gas												
7. Process gas												
8. Other (specify)												
9. Total												
E. Total stationary fuel combustion												
II. Process losses:												
A. Area sources [1]												
B. Point sources												
1. Chemical process industries												
2. Food and agricultural industries												
3. Metallurgical industries												
4. Mineral products industries												
5. Petroleum refining and petrochemical operations												
6. Wood processing												
7. Petroleum storage												
C. Total process losses												
III. Solid waste disposal:												
A. Incineration:												
1. On-site:												
a. Area sources												
b. Point sources												
2. Municipal, etc.:												
a. Area sources												
b. Point sources												
B. Open burning:												
1. On-site:												
a. Area sources												
b. Point sources												
2. Dumps:												
a. Area sources												
b. Point sources												
C. Other (specify):												
1. Area sources												
2. Point sources												
D. Total solid waste disposal												

APPENDIX D—(POLLUTANT) EMISSIONS INVENTORY SUMMARY, TONS/YR. (EXAMPLE REGIONS AND WHERE EMISSION LIMITATIONS ARE DEVELOPED)—Continued

Source category	State A: County 1 I	II	III	State A: County N I	II	III	State A: State region total	State B[1]: Ditto I	II	III	State B[1]: Ditto	State B[1]: Region[1] total
I. Fuel combustion—stationary source:												
A. Residential fuel:												
1. Anthracite coal:												
a. Area sources												
b. Point sources												
2. Bituminous coal:												
a. Area sources												
b. Point sources												
3. Distillate oil:												
a. Area sources												
b. Point sources												
4. Residual oil:												
a. Area sources												
b. Point sources												
5. Natural gas:												
a. Area sources												
b. Point sources												
6. Wood:												
a. Area sources												
b. Point sources												
7. Other (specify):												
a. Area sources												
b. Point sources												
8. Total												
B. Commercial and institutional fuel:												
1. Anthracite coal:												
a. Area sources												
b. Point sources												
2. Bituminous coal:												
a. Area sources												
b. Point sources												
3. Distillate oil:												
a. Area sources												
b. Point sources												
4. Residual oil:												
a. Area sources												
b. Point sources												
5. Natural Gas:												
a. Area sources												
b. Point sources												
6. Wood:												
a. Area sources												
b. Point sources												
7. Other (specify):												
a. Area sources												
b. Point sources												
8. Total:												
C. Industrial fuel:												
1. Anthracite coal:												
a. Area sources												
b. Point sources												
2. Bituminous coal:												
a. Area sources												
b. Point sources												
3. Distillate oil:												
a. Area sources												
b. Point sources												
4. Residual oil:												
a. Area sources												
b. Point sources												

4. Residual Oil (plus type and size of unit)—10^3 gal./year or 10^3 liters/year.
5. Natural Gas (plus type and size of unit)—10^6 cu.-ft./year or 10^6 cu.-meters/year.
6. Wood—tons/year or metric tons/year.
7. Other—please specify.

C. Industrial Fuel:

1. Anthracite coal:
2. Bituminous coal:
3. Distillate oil:
4. Residual oil:
5. Natural gas:
6. Process gas:
7. Other (specify):

D. Aircraft—number of flights per year per type of aircraft.
E. Railroads—10^3 gal. diesel oil/year or 10^3 liters/year.
F. Vessels—10^3 gal. or 10^3 liters of oil/year, tons or metric tons of coal/year, or tons or metric tons of wood/year.
G. Gasoline handling evaporative losses—

II. PROCESS LOSSES (HYDROCARBONS ONLY)

A. Surface coating operations, dry cleaning, degreasing operations, etc., unless considered as point sources—appropriate basis for emission estimate.

III. SOLID WASTE DISPOSAL

F. Stack data:
1. List of stacks by equipment served.
2. Location of stacks by grid location (UTM or equivalent).[1]
3. Stack height, feet or meters.
4. Stack diameter (inside, top), feet or meters.

APPENDIX D—(POLLUTANT) EMISSIONS INVENTORY SUMMARY, TONS/YR. (EXAMPLE REGIONS AND WHERE EMISSION LIMITATIONS ARE DEVELOPED)—Continued

Source category	State A						State B[1]				
	County 1				County N		State region total	Ditto	Region[1] total		
	II	III	II	III	II	III	II	III	Ditto	II	III
IV. Transportation (area sources only):											
A. Motor vehicles:											
1. Gasoline powered [v]											
2. Diesel powered											
B. Off-highway fuel usage											
C. Aircraft											
D. Railroads											
E. Vessels											
F. Gasoline handling evaporative losses [vi]											
G. Other (specify)											
H. Total transportation											
V. Miscellaneous (area sources only):											
A. Forest fires											
B. Structural fires											
C. Coal refuse burning											
D. Agricultural burning											
E. Other (specify)											
F. Total miscellaneous											
VI. Grand totals:											
A. Area sources											
B. Point sources											
C. Total											

[1] Included only if interstate region.
[II] "Existing Emissions".
[III] "Emissions Achieved" with control regulations of implementation plans. Must be submitted in example regions.
[IV] For hydrocarbons only, would include emissions or surface coating operations, dry cleaning, degreasing operations, etc., unless considered point sources.
[V] For hydrocarbons, would include vehicle evaporative losses.
[VI] For hydrocarbons only, would include losses from filling tank trucks, service station tanks, and automobile tanks.

APPENDIX E—POINT SOURCE DATA

(The following information is not required to be submitted with an implementation plan but must be available for inspection by the Administrator, EPA.)

I. GENERAL SOURCE INFORMATION

A. Establishment name and address.
B. Person to contact on air pollution matters and telephone number.
C. Operating schedule:
1. Percent of annual production by season.
2. Days of week normally in operation.
3. Shifts or hours of day normally in operation.
4. Number of days per year in operation.
D. Year in which data are recorded.
E. Future activities, if available (e.g., addition of new or expansion of existing facilities, changes in production rate, installation of control equipment, phasing out of equipment, fuel change, etc.).
F. Map or general layout of large complex plants showing locations of various facilities, if available.[1]

II. FUEL COMBUSTION

A. Number of boilers.
B. Type of fuel burning equipment for each boiler.
C. Rated and/or maximum capacity of each boiler, 10^6 B.t.u./hr. or kcal/hr.
D. Types of fuel burned, quantities, and characteristics:
1. Type of each fuel used and place of origin.
2. Maximum and average quantity per hour.
3. Quantity per year.
4. Sulfur content (as received), percent.
5. Ash content (as received), percent.
6. Heat content (as received), B.t.u. or kcal/unit of measure.
7. Estimate of future usage, if available.
E. Percent used for space heating and process heat.
F. Air pollution control equipment (existing and proposed):
1. Type.
2. Collection efficiency (design and actual), percent.
G. Stack data:
1. List stacks by boilers served.
2. Location of stacks by grid coordinates (Universal Transverse Mercator, UTM, or equivalent).[1]
3. Stack height, feet or meters.
4. Stack diameter (inside, top), feet or meters.
5. Exit gas temperature, °F. or °C.
6. Exit gas velocity, feet/sec. or meters/sec.
H. Emission data:
1. Based on emission factors.
2. Estimate of emissions by the source.
3. Results of any stack tests conducted.

III. MANUFACTURING ACTIVITIES (PROCESS LOSSES)

A. Process name or description of each product.
B. Quantity of raw materials used and handled for each product, maximum quantity per hour, and average quantity per year.
C. Quantity of each product manufactured, maximum quantity per hour, and average quantity per year.
D. Description of annual, seasonal, monthly, weekly, and daily operating cycle including downtime for maintenance and repairs.
E. Air pollution control equipment in use (existing and proposed):
1. Type.
2. Collection efficiency (design and actual), percent.
F. Stack data:
1. List of stacks by equipment served.
2. Location of stacks by grid location (UTM or equivalent).[1]
3. Stack height, feet or meters.
4. Stack diameter (inside, top), feet or meters.
5. Exit gas temperature, °F. or °C.
6. Exit gas velocity, feet/sec. or meters/sec.
G. Emission data:
1. Based on emission factors.
2. Estimate of emissions by the source.
3. Results of any stack tests conducted.

IV. SOLID WASTE DISPOSAL

A. Amount and description of solid waste generated, quantity per year.
B. Percent of total that is combustible.
C. Method of disposal (on-site or off-site).
D. Description of on-site disposal method, if applicable (incineration, open burning, landfill, etc.) including maximum quantities disposed per hour and average quantities disposed per year and actual operating schedule.
1. Location of the source by a grid system (UTM or equivalent).[1]
2. If method of disposal is by an incinerator, include the following information:
a. Auxiliary fuel used.
b. Air pollution control equipment (existing and proposed):
(1) Type.
(2) Collection efficiency (actual and design), percent.
c. Stack data:
(1) List stacks by furnaces served.
(2) Stack height, feet or meters.
(3) Stack diameter (inside, top), feet or meters.
(4) Exit gas temperature, °F. or °C.
(5) Exit gas velocity, feet/sec. or meters/sec.
(6) Exit gas moisture content, percent if available.
3. Emission data:
a. Based on emission factors.
b. Estimate of emissions by the source.
c. Results of any stack tests conducted.

APPENDIX F—AREA SOURCE DATA[1]

(The following information is not required to be submitted with an implementation plan but must be available for inspection by the Administrator, EPA)

Grid Coordinate (lower left-hand corner) ---------- UTM or equivalent.[2]

Average Stack Height of sources ----------[3]

I. FUEL COMBUSTION—STATIONARY SOURCES

Includes sulfur and ash content of fuels, if applicable).

A. Residential Fuel:
1. Anthracite Coal (plus type and size of unit)[4]—tons/year or metric tons/year.
2. Bituminous Coal (plus type and size of unit)—tons/year or metric tons/year.
3. Distillate Oil (plus type and size of unit)—10^3 gal./year or 10^3 liters/year.
4. Residual Oil (plus type size of unit)—10^3 gal./year or 10^3 liters/year.
5. Natural Gas (plus type and size of unit)—10^6 cu.-ft./year or 10^6 cu.-meters/year.
6. Wood—tons/years or metric tons/year.
7. Other—please specify.
B. Commercial and Institutional Fuel:
1. Anthracite Coal (plus type and size of unit)—tons/year or metric tons/year.
2. Bituminous Coal (plus type and size of unit)—tons/year or metric tons/year.
3. Distillate Oil (plus type and size of unit)—10^3 gal./year or 10^3 liters/year.

[1] Required only when diffusion modeling is utilized.

4. Residual Oil (plus type and size of unit)—10^3 gal./year or 10^3 liters/year.
5. Natural Gas (plus type and size of unit)—10^6 cu.-ft./year or 10^6 cu.-meters/year.
6. Wood—tons/year or metric tons/year.
7. Other—please specify.
C. Industrial Fuel:
1. Anthracite Coal (plus type and size of unit)—tons/year or metric tons/year.
2. Bituminous coal (plus type and size of unit)—tons/year or metric tons/year.
3. Coke (plus type and size of unit)—tons/year or metric tons/year.
4. Distillate Oil (plus type and size of unit)—10^3 gal./year or 10^3 liters/year.
5. Residual Oil (plus type and size of unit)—10^3 gal./year or 10^3 liters/year.
6. Natural Gas (plus type and size of unit)—10^6 cu.-ft./year or 10^6 cu.-meters/year.
7. Wood—tons/year or metric tons/year.
8. Other—please specify.

II. PROCESS LOSSES (HYDROCARBONS ONLY)

A. Surface coating operations, dry cleaning, degreasing operations, etc., unless considered as point sources—appropriate basis for emission estimate.

III. SOLID WASTE DISPOSAL

A. On-site incineration (plus type of unit)—tons/year or metric tons/year.
B. Open burning—tons/year or metric tons/year.
C. Other—please specify.

IV. TRANSPORTATION

A. Gasoline-powered motor vehicles—appropriate basis for emission estimate, including hydrocarbon evaporative losses.
B. Diesel-powered motor vehicles—appropriate basis for emission estimate.
C. Off-highway fuel usage—10^3 gal./year or 10^3 liters/year.
D. Aircraft—number of flights per year per type of aircraft.
E. Railroads—10^3 gal. diesel oil/year or 10^3 liters/year.
F. Vessels—10^3 gal. or 10^3 liters of oil/year, tons or metric tons of coal/year, or tons or metric tons of wood/year.
G. Gasoline handling evaporative losses—appropriate basis for hydrocarbon emission estimate from filling tank trucks, service station tanks, and automobile tanks.
H. Other—please specify

V. MISCELLANEOUS

A. Forest fires—appropriate basis for emission estimate.
B. Structural fires—appropriate basis for emission estimate.
C. Coal refuse burning—appropriate basis for emission estimate.
D. Agricultural burning—appropriate basis for emission estimate.
E. Other—please specify.

APPENDIX G—(POLLUTANT) EMISSIONS INVENTORY SUMMARY, TONS/YR. (OR METRIC TONS/YR.)
(REGIONS WHERE EMISSION LIMITATIONS ARE NOT DEVELOPED)

---------- AIR QUALITY CONTROL REGION

DATA REPRESENTATIVE OF CALENDAR YEAR ----

Source category	State A			State B[1]		
	County 1	----------	County N	State region total	Ditto	Regional[1] total
	II	II	II	II	Ditto	II
I. Fuel combustion—Stationary sources:						
A. Area sources [III]						
B. Point sources						
C. Total						
II. Process losses:						
A. Area sources [III, IV]						
B. Point sources						
1. Chemical process industries.						
2. Food and agricultural industries.						
3. Metallurgical industries						
4. Mineral products industries.						
5. Petroleum refining and petrochemical operations.						
6. Wood processing						
7. Petroleum storage						
C. Total						
III. Solid waste disposal:						
A. Area sources [III]						
B. Point sources						
C. Total						
IV. Transportation: (Area Sources only) [III, V]						
V. Miscellaneous: (Area Sources only) [III]						
VI. Grand totals:						
A. Area sources [III]						
B. Point sources						
C. Total						

[1] Included only if interstate region.
[II] Existing Emissions.
[III] If not available, does not need to be submitted for Priority III regions.
[IV] For hydrocarbons only, would include emissions for surface coating operations, dry cleaning, degreasing operations, etc., unless considered point sources.
[V] For hydrocarbons would include vehicle evaporative losses and losses from filling trucks, service station tanks, and automobile tanks.

APPENDIX H—AIR QUALITY DATA SUMMARY

Pollutant	Sampling site location[1]	Sampling interval (months)	Start date	End date	Number of samples	Maximum 1-hour	Maximum 8 hours	Maximum 24 hours	Annual arith. mean	Annual geo. mean	Geo. std. dev.
Particulate matter	X	X	X	X	X	----------	----------	X	X	----------	X
Sulfur oxides (as SO_2)	X	X	X	X	X	----------	----------	X	----------	X	X
Nitrogen dioxide	X	X	X	X	X	----------	----------	----------	----------	----------	----------
Photo-chemical oxidants	X	X	X	X	X	X	X	----------	----------	----------	----------
Carbon monoxide	X	X	X	X	X	X	----------	----------	----------	----------	----------

X=Date or information required.
[1] UTM Grid coordinate or equivalent.

See footnotes on the following page.

kcal/unit of measure.

percent.

defined.

[1] UTM Grid coordinate or equivalent.

See footnotes on the following page.

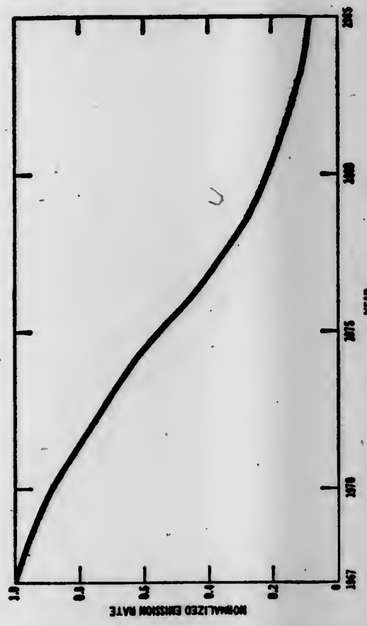

Figure 1. Hydrocarbon emission rates from urban vehicles in United States - projected from 1967 base of 1.

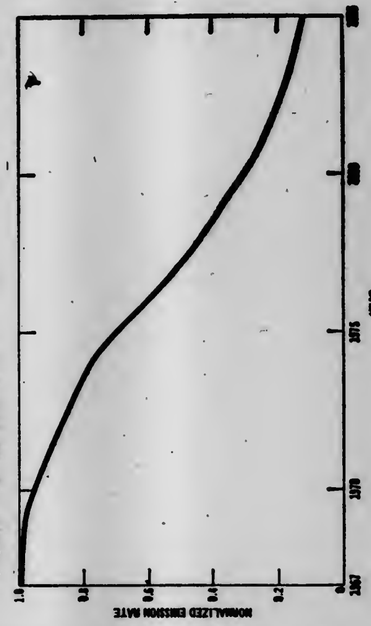

Figure 2. Carbon monoxide emission rates from urban vehicles in United States - projected from 1967 base of 1.

APPENDIX I—PROJECTED MOTOR VEHICLE EMISSIONS

The assumptions listed below were made in calculating the projected national urban emissions from motor vehicles as shown in Figures 1-3.

a. Emission factors are based on the new Federal test procedure (1), which has an average route speed of 18 miles per hour (29 kilometers per hour).

b. Emission control devices are assumed to just meet present and proposed standards when new, but deteriorate with age. Deterioration factors are adapted from data given in Reference 2.

c. Urban vehicle-mile projections adapted from Reference 3.

d. Distribution of automobiles by age from Reference 4.

e. Relative miles of travel for automobiles (i.e., new cars are driven more than older cars) from Reference 5.

Figure 1-3 can be used to approximate air quality levels resulting from the Federal Motor Vehicle Control Program. The following equation calculates the expected air quality concentration for any given year:

$$A.Q._t = A.Q._0\left[\frac{E_t}{E_0}F_t(1-F_0)(GF)\right]$$

Where:

A.Q.=Air quality (measured or estimated) in region.

E=Normalized emissions from Figures 1-3.

F=Ratio of motor vehicle emissions to total emissions of each pollutant in region.

GF=Growth factor for emission increase from stationary sources.

This equation can be applied directly for carbon monoxide, nitrogen dioxide (if all nitrogen oxides emissions are assumed to be measured as nitrogen dioxide), and non-methane hydrocarbons (assumes reduction in total hydrocarbon emissions will result in a proportion reduction of measured nonmethane hydrocarbons). The equation cannot directly be applied to determine the reduction in photochemical oxidant levels resulting from reductions in hydrocarbon emissions. The percent reduction in hydrocarbon emissions expected from the Federal Motor Vehicle Control Program can be estimated using that portion of the equation in brackets [ ]. By using Appendix J, it can be determined if this is sufficient to achieve the national standard for photochemical oxidants and if stationary source and/or transportation controls are required.

Subscripts 0 and 1 denote the base year and future year of interest, respectively.

[1] Emissions data for all source categories and subcategories should be summarized in the implementation plans as is in Appendix D or E.

[2] Data is required on a grid basis only when diffusion modeling is utilized. For proportional model technique, data must be available on a county basis.

[3] Required only when diffusion modeling is utilized.

[4] Average type and size for each category. This is used as the basis for selection of average emission factor.

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5. Bostich, T. A., and Greenbaigh, H. J., "Relationship of Passenger Car Age and other Factors to Miles Driven," U.S. Department of Commerce, Bureau of Public Roads, Washington, D.C., Jan. 1967.

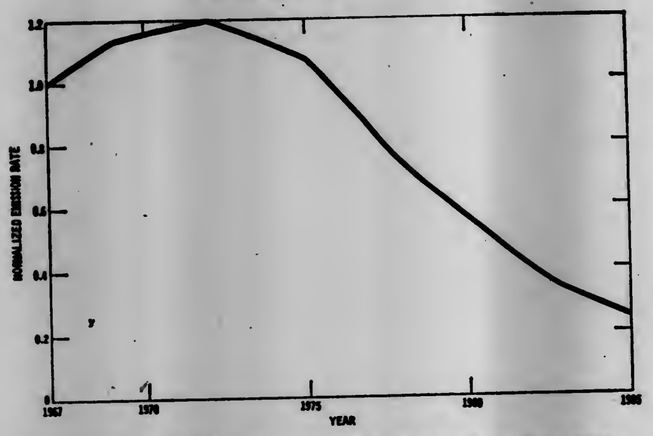


Figure 3. Nitrogen oxides emission rates from urban vehicles in United States - projected from 1967 base of 1.

APPENDIX J

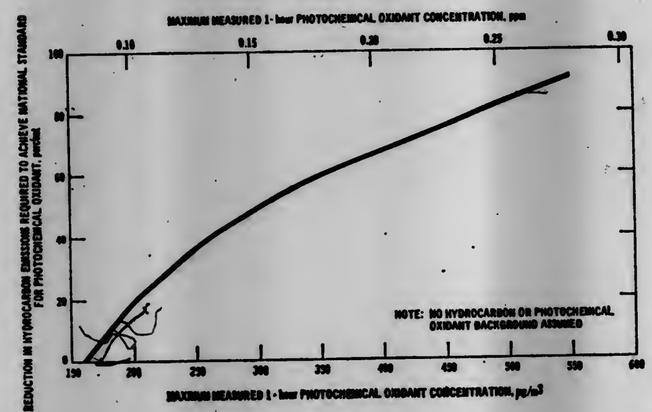


Figure 1. Required hydrocarbon emission control as a function of photochemical oxidant concentration. (Reference: Air Quality Criteria for Nitrogen Oxides, AP-84, Environmental Protection Agency, Washington, D.C., January 1971.)

APPENDIX K—CONTROL AGENCY FUNCTIONS

Man-year estimates by function for State of ---------- portion of ---------- AQCR.

Function	Year				
	Present				

(a) "Air Pollution Forecast": An interna watch by the Department of Air Pollution Control shall be actuated by a National Weather Service advisory that Atmospheric Stagnation Advisory is in effect or the equivalent local forecast of stagnant atmospheric condition.

(b) "Alert": The Alert level is that con

tion of sulfur content. d-day (12 noon turbulence for owing.

tion of sulfur content. d-day (12 noon turbulence for owing.

air pollutants ations by curdefering trade which emit or malodorous

t load demands

d-day (12 noon turbulence for owing.

ation, refuse, or

liquid waste shall

ng or soot blow- p.m.

APPENDIX K—CONTROL AGENCY FUNCTIONS

Man-year estimates by function for State of ---------- portion of ---------- AQCR.

Function	Year: Present							
	State agency	Local agencies	State agency	Local agencies	State agency	Local agencies	State agency	Local agencies
Enforcement services								
(Subtotal)								
Scheduled inspections								
Complaints and field patrol								
Engineering services								
(Subtotal)								
Permit system								
Emission estimates								
Source testing								
Reports, new legislation, etc.								
Technical services								
(Subtotal)								
Operation of monitoring network								
Special studies								
Instrument Calibration and Maintenance								
Laboratory operations								
Data processing								
Management services								
(Subtotal)								
Policy, P/R, Strategies, etc.								
Staff training								
Administrative and clerical support								
Totals								

Fund estimates by function for State of ---------- portion of ---------- AQCR.

Function	Year: Present							
	State agency	Local agencies	State agency	Local agencies	State agency	Local agencies	State agency	Local agencies
Enforcement services								
Operating funds								
Capital funds								
Contract funds								
Engineering services								
Operating funds								
Capital funds								
Contract funds								
Technical services								
Operating funds								
Capital funds								
Contract funds								
Management services								
Operating funds								
Capital funds								
Contract funds								
Total operating funds								
Total capital funds								
Total contract funds								
Total funds								

NOTE: Report funds as $1,000.

APPENDIX L—EXAMPLE REGULATIONS FOR PREVENTION OF AIR POLLUTION EMERGENCY EPISODES

The example regulations presented herein reflect generally recognized ways of preventing air pollution from reaching levels that would cause imminent and substantial endangerment to the health of persons. States are required to have emergency episode plans for Priority I regions, but they are not required to adopt the regulations presented herein.

1.0 *Air pollution emergency.* This regulation is designed to prevent the excessive buildup of air pollutants during air pollution episodes, thereby preventing the occurrence of an emergency due to the effects of these pollutants on the health of persons.

1.1 *Episode criteria.* Conditions justifying the proclamation of an air pollution alert, air pollution warning, or air pollution emergency shall be deemed to exist whenever the Director determines that the accumulation of air pollutants in any place is attaining or has attained levels which could, if such levels are sustained or exceeded, lead to a substantial threat to the health of persons. In making this determination, the Director will be guided by the following criteria:

(a) "Air Pollution Forecast": An internal watch by the Department of Air Pollution Control shall be actuated by a National Weather Service advisory that Atmospheric Stagnation Advisory is in effect or that equivalent local forecast of stagnant atmospheric condition.

(b) "Alert": The Alert level is that concentration of pollutants at which first stage control actions is to begin. An Alert will be declared when any one of the following levels is reached at any monitoring site:

SO_2—800 μg./m³ (0.3 p.p.m.), 24-hour average.

Particulate—8.0 COHs or 375 μg./m³, 24-hour average.

SO_2 and particulate combined—product of SO_2 p.p.m., 24-hour average, and COHs equal to 0.2 or product of SO_2 μg./m³, 24-hour average, and particulate μg./m³, 24-hour average equal to 65×10^3.

CO—17 mg./m³ (15 p.p.m.), 8-hour average.

Oxidant (O_3)—200 μg./m³ (0.1 p.p.m.)—1-hour average.

NO_2—1130 μg./m³ (0.6 p.p.m.), 1-hour average, 282 μg./m³ (0.15 p.p.m.), 24-hour average.

and meteorological conditions are such that pollutant concentrations can be expected to remain at the above levels for twelve (12) or more hours or increase unless control actions are taken.

(c) "Warning": The warning level indicates that air quality is continuing to degrade and that addition control actions are necessary. A warning will be declared when any one of the following levels is reached at any monitoring site:

SO_2—1,000 μg./m³ (0.6 p.p.m.), 24-hour average.

Particulate—6.0 COHs or 750 μg./m³, 24-hour average.

SO_2 and particulate combined—product of SO_2 p.p.m., 24-hour average and COHs equal to 1.0 or product of SO_2 μg./m³, 24-hour average and particulate μg./m³, 24-hour average equal to 327×10^3.

CO—34 mg./m³ (30 p.p.m.), 8-hour average.

Oxidant (O_3)—800 μg./m³ (0.4 p.p.m.), 1-hour average.

NO_2—2,260 μg./m³ (1.2 p.p.m.)—1-hour average; 565 μg./m³ (0.3 p.p.m.), 24-hour average.

and meteorological conditions are such that pollutant consentrations can be expected to remain at the above levels for twelve (12) or more hours or increase unless control actions are taken.

(d) "Emergency": The emergency level indicates that air quality is continuing to degrade to a level that should never be reached and that the most stringent control actions are necessary. An emergency will be declared when any one of the following levels is reached at any monitoring site:

SO_2—2,100 μg./m³ (0.8 p.p.m.), 24-hour average.

Particulate—8.0 COHs or 1,000 μg./m³, 24-hour average.

SO_2 and particulate combined—product of SO_2 p.p.m., 24-hour average and COHs equal to 2.0 or product of SO_2 μg./m³, 24-hour average and particulate μg./m³, 24-hour average equal to 650×10^3.

CO—46 mg./m³ (40 p.p.m.), 8-hour average.

Oxidant (O_3)—1,200 μg./m³ (0.6 p.p.m.), 1-hour average.

NO_2—3,000 μg./m³ (1.6 p.p.m.), 1-hour average; 750 μg./m³ (0.4 p.p.m.), 24-hour average.

and meteorological conditions are such that this condition can be expected to continue for twelve (12) or more hours.

TABLE I—EMISSION REDUCTION PLANS

ALERT LEVEL

Part A. General

1. There shall be no open burning by any persons of tree waste, vegetation, refuse, or debris in any form.
2. The use of incinerators for the disposal of any form of solid waste shall be limited to the hours between 12 noon and 4 p.m.
3. Persons operating fuel-burning equipment which required boiler lancing or soot blowing shall perform such operations only between the hours of 12 noon and 4 p.m.
4. Persons operating motor vehicles should eliminate all unnecessary operations.

Part B. Source curtailment

Any person responsible for the operation of a source of air pollutants listed below shall take all required control actions for this Alert Level.

Source of air pollution	Control action
1. Coal- or oil-fired electric power generating facilities.	a. Substantial reduction by utilization of fuels having low ash and sulfur content. b. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing and soot blowing. c. Substantial reduction by diverting electric power generation to facilities outside of Alert Area.
2. Coal and oil-fired process steam generating facilities.	a. Substantial reduction by utilization of fuels having low ash and sulfur content. b. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing and soot blowing. c. Substantial reduction of steam load demands consistent with continuing plant operations.
3. Manufacturing industries of the following classifications: Primary Metals Industry. Petroleum Refining Operations Chemical Industries. Mineral Processing Industries. Paper and Allied Products. Grain Industry.	a. Substantial reduction of air pollutants from manufacturing operations by curtailing, postponing, or deferring production and all operations. b. Maximum reduction by deferring trade waste disposal operations which emit solid particles, gas vapors or malodorous substances. c. Maximum reduction of heat load demands for processing. d. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lanling and soot blowing.

WARNING LEVEL

Part A. General

1. There shall be no open burning by any persons of tree waste, vegetation, refuse, or debris in any form.
2. The use of incinerators for the disposal of any form of solid waste or liquid waste shall be prohibited.
3. Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12 noon and 4 p.m.

(a) "Termination": Once declared, any status reached by application of these criteria will remain in effect until the criteria for that level are no longer met. At such time, the next lower status will be assumed.

1.2 *Emission reduction plans.* (a) Air Pollution Alert—When the Director declares an Air Pollution Alert, any person responsible for the operation of a source of air pollutants as set forth in Table I shall take all Air Pollution Alert actions as required for such source of air pollutants and shall put into effect the preplanned abatement strategy for an Air Pollution Alert.

(b) Air Pollution Warning—When the Director declares an Air Pollution Warning, any person responsible for the operation of a source of air pollutants as set forth in Table II shall take all Air Pollution Warning actions as required for such source of air pollutants and shall put into effect the preplanned abatement strategy for an Air Pollution Warning.

(c) Air Pollution Emergency—When the Director declares an Air Pollution Emergency, any person responsible for the operation of a source of air pollutants as described in Table III shall take all Air Pollution Emergency actions as required for such source of air pollutants and shall put into effect the preplanned abatement strategy for an Air Pollution Emergency.

(d) When the Director determines that a specified criteria level has been reached at one or more monitoring sites solely because of emissions from a limited number of sources, he shall notify such source(s) that the preplanned abatement strategies of Tables, I, II, and III or the standby plans shall be subject to review and approval by the Director. If, in the opinion of the Director, a standby plan does not effectively carry out the objectives as set forth in Table I-III, the Director may disapprove it, state his reason for disapproval and order the preparation of an amended standby plan within the time period specified in the order.

(e) Any person responsible for the operation of a source of air pollutants as set forth in Tables I-III shall prepare standby plans for reducing the emission of air pollutants during periods of an Air Pollution Alert, Air Pollution Warning, and Air Pollution Emergency. Standby plans shall be designed to reduce or eliminate emissions of air pollutants in accordance with the objectives set forth in Tables I-III which are made a part of this section.

(b) Any person responsible for the operation of a source of air pollutants not set forth under section 1.2(a) shall, when requested by the Director in writing, prepare standby plans for reducing the emission of air pollutants during periods of an Air Pollution Alert, Air Pollution Warning, and Air Pollution Emergency.

(c) Standby plans as required under sections 1.2(a) and 1.2(b) shall be in writing and identify the sources of air pollutants, the approximate amount of reduction of pollutants and a brief description of the manner in which the reduction will be achieved during an Air Pollution Alert, Air Pollution Warning, and Air Pollution Emergency.

(d) During a condition of Air Pollution Alert, Air Pollution Warning, and Air Pollution Emergency, standby plans as required by this section shall be made available on the premises to any person authorized to enforce the provisions of applicable rules and regulations.

(e) Standby plans as required by this section shall be submitted to the Director upon request within thirty (30) days of the receipt of such request; such standby plans shall be subject to review and approval by the Director. If, in the opinion of the Director, a standby plan does not effectively carry out the objectives as set forth in Table I-III, the Director may disapprove it, state his reason for disapproval and order the preparation of an amended standby plan within the time period specified in the order.

2. Coal- and oil-fired process steam generating facilities.

	a. Maximum reduction by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage.
	b. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing and soot blowing.
	c. Taking the action called for in the Alert Level.
3. Manufacturing industries of the following classifications: Primary Metals Industry. Petroleum Refining Operations Chemical Industries. Mineral Processing Industries. Paper and Allied Products. Grain Industry.	a. Maximum reduction by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage. b. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing and soot blowing. c. Taking the action called for in the Alert Level.

EMERGENCY LEVEL

Part A. General

1. There shall be no open burning by any persons of tree waste, vegetation, refuse, or debris in any form.
2. The use of incinerators for the disposal of any form of solid waste or liquid waste shall be prohibited.
3. Persons operating fuel-burning equipment which requires boiler lancing or soot blowing shall perform such operations only between the hours of 12 noon and 4 p.m.

Part B. Source curtailment

Any person responsible for the operation of a source of air pollutants listed below shall take all required control actions for this Emergency Level.

Source of air pollution	Control action
1. Coal- or oil-fired electric power generating facilities.	a. Maximum reduction by reducing heat and steam demands to the extent that human life is not endangered.
2. Coal- and oil-fired process steam generating facilities.	a. Maximum reduction by reducing heat and steam demands to the extent that human life is not endangered.
3. Manufacturing industries of the following classifications: Primary Metals Industry. Petroleum Refining Operations Chemical Industries. Mineral Processing Industries. Paper and Allied Products. Grain Industry.	a. Maximum reduction of air pollutants from manufacturing operations by curtailing, postponing, or deferring production and all operations. b. Maximum reduction by deferring trade waste disposal operations which emit solid particles, gas vapors or malodorous substances. c. Maximum reduction of heat load demands for processing. d. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lanling and soot blowing.

all of these standards whenever he determines that the activities of such building or facility will not significantly conflict with the intent of the Executive order and that such an exemption is in the public interest.

§ 76.4 Combustion of fuel.

(a) The following standards apply to

TABLE III—EMERGENCY REDUCTION PLANS

EMERGENCY LEVEL

Part A. General

1. There shall be no open burning by any persons of tree waste, vegetation, refuse, or debris in any form.
2. The use of incinerators for the disposal of any form of solid or liquid waste shall be prohibited.
3. All places of employment described below shall immediately cease operations.
a. Mining and quarrying of nonmetallic minerals.
b. All construction work except that which must proceed to avoid emergent physical harm.
c. All manufacturing establishments except those required to have in force an air pollution emergency plan.
d. All wholesale trade establishments; i.e., places of business primarily engaged in selling merchandise to retailers, or industrial, commercial, institutional or professional users, or to other wholesalers, or acting as agents in buying merchandise for or selling merchandise to such persons or companies, except those engaged in the distribution of drugs, surgical supplies and food.
e. All offices of local, county and State government, including authorities, joint meetings, and other public bodies excepting such agencies which are determined by the chief administrative officer of local, county, or State government, authorities, joint meetings and other public bodies to be vital for public safety and welfare and the enforcement of the provisions of this order.
f. All retail trade establishments except pharmacies, surgical supply distributors, and stores primarily engaged in the sale of food.
g. Banks, credit agencies other than banks, securities and commodities brokers, dealers, exchanges and services; offices of insurance carriers, agents and brokers, real estate offices.
h. Wholesale and retail laundries, laundry services and cleaning and dyeing establishments; photographic studios; beauty shops, barber shops, shoe repair shops.
i. Advertising offices; consumer credit reporting, adjustment and collection agencies; duplicating, addressing, blueprinting, photocopying, mailing, mailing list and stenographic services; equipment rental services, commercial testing laboratories.
j. Automobile repair, automobile services, garages.
k. Establishments rendering amusement and recreational services including motion picture theaters.
l. Elementary and secondary schools, colleges, universities, professional schools, junior colleges, vocational schools and public and private libraries.
4. All commercial and manufacturing establishments not included in this order will institute such actions as will result in maximum reduction of air pollutants from their operation by ceasing, curtailing, or postponing operations which emit air pollutants to the extent possible without causing injury to persons or damage to equipment.
5. The use of motor vehicles is prohibited except in emergencies with the approval of local or State police.

Part B. Source curtailment

Any person responsible for the operation of a source of air pollutants listed below shall take all required control actions for this Emergency Level.

Sources of air pollution	Control action
1. Coal or oil-fired electric power generating facilities.	a. Maximum reduction by utilization of fuels having lowest ash and sulfur content. b. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing and soot blowing. c. Maximum reduction by diverting electric power generation to facilities outside of Warning Area.
2. Oil and oil-fired process steam generating facilities.	a. Maximum reduction by utilization of fuels having the lowest available ash and sulfur content. b. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing and soot blowing. c. Making ready for use a plan of action to be taken if an emergency develops. a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, detaining reasonable economic hardships by postponing production and allied operation. b. Maximum reduction by deferring trade waste disposal operations which emit solid particles, gases, vapors or malodorous substances. c. Maximum reduction of heat load demands for processing. d. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing or soot blowing.
3. Manufacturing industries which require considerable lead time for shut-down including the following classifications. Petroleum Refining. Chemical Industries. Primary Metals Industries. Glass Industries. Paper and Allied Products.	a. Elimination of air pollutants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment. b. Elimination of air pollutants from trade waste disposal processes which emit solid particles, gases, vapors or malodorous substances. c. Maximum reduction of heat load demands for processing. d. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing or soot blowing.
4. Manufacturing industries require relatively short lead times for shut-down including the following classifications. Primary Metals Industries. Chemical Industries. Mineral Processing Industries. Grain Industry.	a. Elimination of air pollutants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment. b. Elimination of air pollutants from trade waste disposal processes which emit solid particles, gases, vapors or malodorous substances. c. Maximum reduction of heat load demands for processing. d. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing or soot blowing.
5. Persons operating motor vehicles must reduce operations by the use of car pools and increased use of public transportation and elimination of unnecessary operation.	

Part B. Source curtailment

Any person responsible for the operation of a source of air pollutants listed below shall take all required control actions for this Warning Level.

Sources of air pollution	Control action
1. Coal or oil-fired electric power generating facilities.	a. Maximum reduction by utilization of fuels having lowest ash and sulfur content. b. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing and soot blowing. c. Taking the action called for in the emergency plan.
2. Coal and oil-fired process steam generating facilities.	a. Maximum reduction by reducing heat and steam demands to absolute necessities consistent with preventing equipment damage. b. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing and soot blowing. c. Taking the action called for in the emergency plan.
3. Manufacturing industries of the following classifications. Primary Metals Industries. Petroleum Refining. Chemical Industries. Mineral Processing Industries. Grain Industry. Paper and Allied Products.	a. Elimination of air pollutants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment. b. Elimination of air pollutants from trade waste disposal processes which emit solid particles, gases, vapors or malodorous substances. c. Maximum reduction of heat load demands for processing. d. Maximum utilization of mid-day (12 noon to 4 p.m.) atmospheric turbulence for boiler lancing or soot blowing.

PART 76—PREVENTION, CONTROL, AND ABATEMENT OF AIR POLLUTION FROM FEDERAL GOVERNMENT ACTIVITIES: PERFORMANCE STANDARDS AND TECHNIQUES OF MEASUREMENT

Sec.
76.1 Definitions.
76.2 Intent.
76.3 Applicability.
76.4 Combustion of fuel.
76.5 Sulfur oxides.
76.6 Stacks.
76.7 Storage and handling of fuels and ash.
76.8 Disposal of waste.
76.9 Other pollution producing processes.

AUTHORITY: The provisions of this Part 76 issued under Executive Order 11507; Reorg. Plan 3 of 1970; 3 CFR, 1970 Comp.

§ 76.1 Definitions.

As used in this part:

(a) "Executive Order" means Executive Order No. 11507.

(b) "Nonurban areas" means all areas other than urban areas.

(c) "Ringelmann Scale" means the Ringelmann Scale as published in the latest U.S. Bureau of Mines Information Circular entitled "Ringelmann Smoke Chart".

(d) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(e) "Urban areas" means those areas classified as urban in the latest available Federal census, or as Standard Metropolitan Statistical Areas.

(f) "Unit" means all indirect heat exchangers connected to a single stack.

(g) "Particulate matter" means any material, except uncombined water, that exists as a solid or liquid at standard conditions.

(h) "Standard conditions" means a temperature of 70° Fahrenheit and a pressure of 14.7 pounds per square inch, absolute.

(i) "Waste" means any solid, liquid, or gaseous substance, the disposal of which may create an air pollution problem.

§ 76.2 Intent.

It is the intent of these standards that emissions to the atmosphere from Federal facilities and buildings shall not be permitted if such emissions endanger health or welfare and that emissions which are likely to be injurious or hazardous to people, animals, vegetation, or property shall be minimized.

§ 76.3 Applicability.

(a) Unless otherwise indicated, the standards in this part apply to both new and existing Federal facilities and buildings.

(b) Except for discharges of radioactive effluents which are regulated by the Atomic Energy Commission, Federal facilities and buildings shall conform to the air pollution standards prescribed by the State or community in which they are located. If State or local standards are not prescribed for a particular location, or if the State or local standards are less stringent than the standards prescribed herein, the standards in this part shall be applicable to discharges from such Federal facilities and buildings except as otherwise indicated.

(c) Temporary operations that may result in potential air pollution problems, such as those associated with research, development, test, evaluation, space, and military activities, shall be conducted with such precautions and safeguards as are needed to achieve the intent of these standards.

(d) The Administrator may, upon application of the relevant department, agency or establishment, exempt any Federal facility or building from any or all of these standards whenever he determines that the activities of such building or facility will not significantly conflict with the intent of the Executive order and that such an exemption is in the public interest.

§ 76.4 Combustion of fuel.

(a) The following standards apply to the combustion units of facilities and buildings having a heat input of less than 1,000 million B.t.u./hour, other than fireplaces, stoves, or grills burning wood or charcoal:

(1) Manually fired equipment shall not be installed as new or replacement equipment, except for the burning of anthracite, coke, or smokeless fuel.

(2) (i) For new units, except during startup, cleaning of fires, or soot blowing, the density of any emission to the atmosphere shall not exceed No. 1 on the Ringelmann Scale.

(ii) For existing units, except during startup, cleaning of fires, or soot blowing, the density of any emission to the atmosphere shall not exceed No. 2 on the Ringelmann Scale.

(3) A photoelectric or other type smoke detector, recorder, or alarm shall be installed on units larger than ten million BTU per hour input, except where gas or light oil (No. 2 or lighter), is burned.

(4) During routine operation, the emission of particles larger than 60 microns shall not normally occur.

(5) Means shall be provided in all newly constructed units and wherever practicable in existing units to allow the periodic measurement of flyash and other particulate matter.

(6) All new or replacement spreader stoker installations shall be of a type that automatically discharges ashes to the ash pit either continuously or in very frequent small increments, and flyash shall be reinjected only from boiler passes.

(7) For units of less than 10 million BTU/hour heat input, the emission of flyash and other particulate matter shall not exceed 0.6 pounds of particulate matter per million BTU heat input, as measured by the American Society of Mechanical Engineers Power Test Code No. 27 for "Determining Dust Concentrations in a Gas Stream," or equivalent test method.

(8) For units between 10 million and 1,000 million BTU/hour heat input, the emission of flyash and other particulate matter shall not exceed that specified in figure 1, as measured by the test method specified in subparagraph (7) of this paragraph.

(b) For units having a heat input of more than 1,000 million BTU/hour, the appropriate department, agency, or establishment shall seek special advice from the Administrator with regard to smoke, flyash, and other particulate emissions.

FIGURE 1

MAXIMUM EMISSION OF PARTICULATE MATTER FROM FUEL BURNING INSTALLATIONS

If removal of sulfur oxides from flue gases is used to control emissions, the facility shall provide for continuous monitoring and recording of the sulfur oxide content of flue gases emitted. The sulfur content of fuels shall be determined in accordance with current

filling inlets or with vapor recovery or emission control systems such that loss of vapor to the atmosphere during filling operations shall be minimized.

(d) Gasoline or petroleum distillate tank car or tank truck loading facilities handling 20,000 gallons per day or more

ber, 1967) and any amendments or revisions thereof. Said document is available to any interested person, whether or not affected by the provisions of this part, upon request to the Federal Sources Branch, Office of Air Programs, Environmental Protection Agency, Room

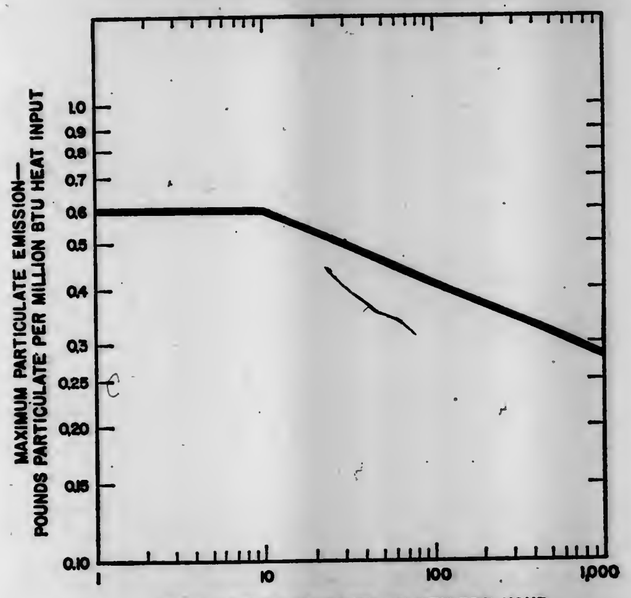
Sec.
79.3 Confidentiality of information.
79.4 Requirement of registration.
79.5 Reports of additive usage.

Subpart B—Registration Procedures

79.10 Notification by fuel manufacturer or processor.
79.11 Information and assurances to be

FIGURE 1

MAXIMUM EMISSION OF PARTICULATE MATTER FROM FUEL BURNING INSTALLATIONS



§ 76.5 Sulfur oxides.

(a) Combustion units of facilities or buildings not located in areas specified by the Administrator under paragraph (c) of this section and whose heat input is less than 1,000 million BTU/hour shall burn the lowest sulfur content fuel that is reasonably available. In determining reasonable availability, the factors to be considered include, among others, price, firmness of supply, extent of existing pollution, and assurance of supply under adverse weather and natural disaster condtions.

(b) For combustion units or Federal facilities or buildings not located in areas specified by the Administrator under paragraph (c) of this section and whose heat input is more than 1,000 million BTU/hour, the appropriate department, agency, or establishment shall seek special advice from the Administrator with regard to sulfur-oxide emissions.

(c) (1) Effective October 1, 1969, combustion units of all Federal facilities or buildings located in the following areas shall comply with applicable emission limitations and control measures set out below:

(i) In the New Jersey-New York-Connecticut Interstate Air Quality Control Region as defined by 40 CFR Part 81, the emission rate of sulfur oxides (calculated as sulfur dioxide) from fuels used in combustion units shall not exceed 0.35 pounds per million B.t.u. (gross value) heat input.

(ii) In the Metropolitan Chicago Interstate Air Quality Control Region (Indiana-Illinois) and in the Metropolitan Philadelphia Interstate Air Quality Control Region (Pennsylvania-New Jersey-Delaware) as defined in 40 CFR Part 81, the emission rate of sulfur oxides (calculated as sulfur dioxide) from fuels used in combustion units shall not exceed 0.65 pounds per million B.t.u. (gross value) heat input.

(2) If compliance with the above emission standard is to be accomplished by means of controlled fuel quality, the agency responsible for each Federal facility in the designated areas shall establish appropriate fuel specifications to insure that the above emission limitations are met and shall provide for adequate tests to ascertain that delivered fuel meets the applicable specifications.

If removal of sulfur oxides from flue gases is used to control emissions, the facility shall provide for continuous monitoring and recording of the sulfur oxide content of flue gases emitted. The sulfur content of fuels shall be determined in accordance with current recognized testing procedures of the American Society for Testing and Materials. The sulfur content of the flue gases shall be determined in accordance with current recognized testing procedures of the American Society of Mechanical Engineers.

(3) The limitations and measures established in subparagrah (1) of this paragraph shall be revised or amended only after consultation with appropriate Federal, State, and local officials and affected parties. Not less than 30 days prior to prescribing such revised or amended limits or measures, the Administrator will publish in the FEDERAL REGISTER notice of his intention to adopt such limits or measures, and will thereafter publish in the FEDERAL REGISTER the limits or measures established. The Administrator may at any time designate other urban areas which suffer from extremely high air pollution levels, and after similar consultation, and publication in the FEDERAL REGISTER, prescribe such limits or measures as he determines are necessary to carry out the intent of Executive Order 11507.

(d) The emission of the oxides of sulfur the atmosphere shall be monitored at regular intervals by determining the sulfur content of the fuel used or by determining the sulfur content of flue gases.

§ 76.6 Stacks.

For buildings or facilities in nonurbanized areas, the particle emission standards of § 76.4(a) (7) and (8) may be revised for an individual installation by an amount to be determined by the Administrator when:

(a) The stack height exceeds by 2½ times the height of the highest building in that area, and

(b) The pollution level in any area will not be significantly increased thereby.

For large plants the determination of chimney height shall be based on air quality criteria, land use, and meteorological, topographical, aesthetic, and operating factors.

§ 76.7 Storage and handling of fuels and ash.

(a) Solid fuels and ash shall be stored and handled so as not to release to the atmosphere dust in significant quantities.

(b) In quantities of 40,000 gallons or more, gasoline or any volatile petroleum distillate or organic liquid having a vapor pressure of 1.5 p.s.i.a. or greater under actual storage conditions shall be stored in pressure tanks or reservoirs or shall be stored in containers equipped with a floating roof or vapor recovery system or other vapor emission control device.

(c) Stationary gasoline storage tanks with a capacity of 250 gallons or more shall be equipped with either submerged

filling inlets or with vapor recovery or emission control systems such that loss of vapor to the atmosphere during filling operations shall be minimized.

(d) Gasoline or petroleum distillate tank car or tank truck loading facilities handling 20,000 gallons per day or more shall be equipped with submersible filling arms or other vapor emission control systems.

§ 76.8 Disposal of waste.

(a) (1) Waste shall not be burned in open fires in urban areas.

(2) In nonurban areas, there shall not be burned in open fires, within a 24-hour period, more than 25 pounds of waste at a single site nor more than 500 pounds of waste at any number of sites within a 1-mile radius, except that these quantities may be exceeded in the case of on-site burning of waste produced in connection with operations performed at railroad rights-of-way, interurban highways, irrigation canals, forests, agricultural sites, etc., and provided that care is exercised to prevent creation of localized air pollution which endangers health or welfare. Deteriorated or unused explosives, munitions, rocket propellants, and certain hazardous wastes may be burned in open fires, in accordance with recognized proceedures.

(3) Wastes shall not be left in open dumps.

(4) Wastes that are disposed of in sanitary landfills shall be disposed of in accordance with procedures described in "Sanitary Landfill Facts" (PHS publication No. 1792, 1968) and any amendments or revisions thereof. Said document is available to any interested person, whether or not affected by the provisions of this part, upon request to the Environmental Protection Agency, Office of Public Information, 5600 Fishers Lane, Rockville, MD 20852.

(b) (1) Waste shall be burned only in facilities especially designed for that purpose, except as provided in paragraph (a) of this section.

(2) For incinerators acquired on or after June 3, 1966 the density of any emission to the atmosphere shall not exceed number 1 on the Ringelmann Scale for a period or periods aggregating more than 3 minutes in any 1 hour, or be of such opacity as to obscure an observer's view to an equivalent degree.

(3) For incinerators acquired prior to June 3, 1966 the density of any emission to the atmosphere shall not exceed number 2 of the Ringelmann Scale for a period or periods aggregating more than 3 minutes in any 1 hour, or be of such opacity as to obscure an observer's view to an equivalent degree.

(c) (1) In addition, for installations burning more than 200 pounds of waste per hour, emissions shall not exceed 0.2 grain of particulate matter per standard cubic foot of dry flue gas corrected to 12 percent carbon dioxide (without the contribution of carbon dioxide from auxiliary fuel), measured in accordance with the test procedures described in "Specifications for Incinerator Testing at Federal Facilities" (PHS publication, October 1967) and any amendments or revisions thereof. Said document is available to any interested person, whether or not affected by the provisions of this part, upon request to the Federal Sources Branch, Office of Air Programs, Environmental Protection Agency, Room 17B-42, 5600 Fishers Lane, Rockville, MD 20852, or to the Regional Offices of the agency.

(2) For installations burning 200 pounds of waste per hour or less, emissions shall not exceed 0.3 grain of particulate matter per standard cubic foot of dry flue gas corrected to 12 percent carbon dioxide (without the contribution of carbon dioxide from auxiliary fuel), measured in accordance with the test specifications described in "Specifications for Incinerator Testing at Federal Facilities" (PHS publication, October 1967) and any amendments or revisions thereof.

(3) Test procedures which are approved by the Administrator as equivalent to those prescribed by paragraphs (c) (1) and (c) (2) of this section may be used for the purpose of determining an installation's compliance with the emission standards for particulate matter contained in such paragraphs.

§ 76.9 Other pollution producing processes.

For dusts, fumes, or gases from any process not heretofore described, except for discharges of radioactive effluents regulated by the Atomic Energy Commission, whatever measures may be necessary to comply with the intent of these regulations shall be applied. This will generally require the installation of equipment or devices to minimize such emissions to the point where they will meet the standards contained in these regulations. For processes which emit toxic substances in quantities which might endanger health or welfare and for fires which emit smoke or fumes at official firefighting schools, the appropriate department, agency, or establishment shall seek special advice from the Administrator.

(NOTE: The Environmental Protection Agency will, from time to time, and after consultation with industries concerned, issue "Guides of Good Practice" for specific operations to aid Federal departments, agencies, and establishments in the selection of equipment and methods for meeting the performance standards. For emissions not covered herein, or for which there have been issued no applicable "Guides of Good Practice," the Environmental Protection Agency will provide technical material and consultation to departments, agencies, and establishments requesting such assistance. Requests for "Guides of Good Practice," technical material, or consultation should be directed either to the Federal Sources Branch, Office of Air Programs, Environmental Protection Agency, Room 17B-42, 5600 Fishers Lane, Rockville MD 20852, or to the Regional Offices of the Agency.)

PART 79—REGISTRATION OF FUEL ADDITIVES

Subpart A—General Provisions

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79.3 Confidentiality of information.
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Subpart B—Registration Procedures

79.10 Notification by fuel manufacturer or processor.
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79.13 Notification by the additive manufacturer.
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Subpart C—Withdrawal of Registration

79.20 Withdrawal of registration: fuel manufacturer or processor.
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Subpart D—Designation of Fuels

79.30 Scope.
79.31 Motor gasolines.

AUTHORITY: The provisions of this Part 79 issued under sec. 210, 81 Stat. 502; Reorg. Plan 3 of 1970; 42 U.S.C. 1857f-6c; 3 CFR 1970 Comp.

Subpart A—General Provisions

§ 79.1 Applicability.

The regulations of this part apply to the registration of fuel additives contained in fuels designated by the Administrator, pursuant to the Act.

§ 79.2 Definitions.

As used in this part:

(a) "Act" means the Clean Air Act, as amended (42 U.S.C. 1857–1857l, as amended by Public Law 91–604).

(b) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(c) "Fuel" means any material which is capable of releasing energy or power by combustion or other chemical or physical reaction.

(d) "Fuel manufacturer or processor" means any person who causes or directs the alteration of the chemical composition or the mixture of chemical compounds in a fuel designated in this part by adding to it an additive.

(e) "Additive" means any substance added to a fuel designated in Subpart D, which is not exempted in the designation of the fuel.

(f) "Additive manufacturer" means any person who produces, formulates, or sells an additive under his own name.

(g) "Range of concentration" means the highest concentration, the lowest concentration and the average concentration used by the fuel manufacturer or processor.

(h) "Chemical composition" means the name and percentage by weight of any compound in an additive containing an element other than carbon or hydrogen and the name and percentage by weight of each element in the additive including carbon and hydrogen.

(i) "Chemical structure" means the molecular structure of any compound in

an additive containing an element other than carbon or hydrogen.

§ 79.3 Confidentiality of information.

All information reported to or otherwise obtained by the Administrator or his representatives pursuant to this part

part D or, if the additive is not in use by such fuel manufacturer or processor prior to such date of designation, 60 days prior to the date on which such fuel manufacturer or processor proposes to begin introducing a fuel containing such addi-

(f) Assurances that the reports of additive usage required by § 79.5 will be provided to the Administrator; and

(g) Assurances that the fuel manufacturer or processor will not represent, directly or indirectly, in any notice, circular, letter, or other written communi-

additive on all emissions, and the toxicity or other effects of the emissions resulting from the use of the additive, together with assurances that additional information of this type will be developed by or for the manufacturer will be provided to the Administrator on April 1

fuel of such noncomplying fuel manufacturer or processor.

§ 79.21 Withdrawal of registration: additive manufacturer.

If the Administrator determines that an additive manufacturer is not in compliance with the regulations of this part

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81.14 Metropolitan Chicago Interstate Air Quality Control Region (Indiana-Illinois).
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an additive containing an element other than carbon or hydrogen.

§ 79.3 Confidentiality of information.

All information reported to or otherwise obtained by the Administrator or his representatives pursuant to this part, which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, shall be considered confidential for the purpose of such section 1905, except that such information may be disclosed to other officers or employees of the United States concerned with carrying out this Act or when relevant in any proceeding under title II of the Act. Nothing in this part shall authorize the withholding of information by the Administrator or any officer or employee under his control from the duly authorized committees of the Congress. Any such confidential information forwarded to a committee of the Congress will be identified as confidential information.

§ 79.4 Requirement of registration.

No manufacturer or processor of any fuel designated under this part may, after the date prescribed for such fuel in this part, deliver such fuel for introduction into interstate commerce or to another person who, it can reasonably be expected, will deliver such fuel for such introduction unless:

(a) For any additive contained in the fuel which does not appear on the list of registered additives maintained by the Administrator pursuant to § 79.16, such fuel manufacturer or processor has provided the information and assurances required under § 79.11 and has received notice of the registration of such additive; and

(b) For any additive contained in the fuel which appears on the list of registered additives maintained by the Administrator pursuant to § 79.16, such fuel manufacturer or processor, prior to or promptly upon initial use of such additive, provides the Administrator with an assurance that he will submit the information and assurances required under § 79.11 within 30 days of such initial use.

§ 79.5 Reports of additive usage.

Each fuel manufacturer or processor shall, on April 1 and October 1 of each year, submit to the Administrator a report of additive usage for each of the two quarterly periods comprising the 6-month period ending 1 month prior to the submission of such report. Each report shall show the range of concentration for any additive used during that quarter. Reports shall be submitted on forms which shall be supplied by the Administrator upon request of the fuel manufacturer or processor.

Subpart B—Registration Procedures

§ 79.10 Notification by fuel manufacturer or processor.

Any manufacturer or processor of a designated fuel who wishes to have an additive registered for use in such fuel shall, at least 120 days prior to the date prescribed by the Administrator in Subpart D or, if the additive is not in use by such fuel manufacturer or processor prior to such date of designation, 60 days prior to the date on which such fuel manufacturer or processor proposes to begin introducing a fuel containing such additive for delivery into interstate commerce or to another person who, it can reasonably be expected, will deliver such fuel for such introduction, notify the Administrator in accordance with § 79.11. Each notification shall be signed by the fuel manufacturer or processor or his agent, and shall be submitted on such forms as the Administrator shall supply upon request.

§ 79.11 Information and assurance to be provided by the fuel manufacturer or processor.

Each notification submitted by the fuel manufacturer or processor shall include the following:

(a) The commercial identifying name of any additive to be used in a designated fuel subsequent to the date prescribed for such fuel in Subpart D and any other name used by the fuel manufacturer or processor to identify such additive;

(b) The name and address of the additive manufacturer of any additive named;

(c) The range of concentration of any additive named, as follows:

(1) In the case of an additive used in a designated fuel at any time during the period beginning with the date of designation of such fuel and ending with the date of submission of a notification under this subpart, the range of concentration for any two successive weeks within the period of beginning with such date of designation and ending with such date of notification, and

(2) For any other additive, the expected range of concentration;

(d) The purpose in the use of any additive named, including:

(1) The function the additive is designed to perform, and

(2) Summaries of any information developed by or for the manufacturer concerning the mechanisms of action of the additive, reactions between the additive and the designated fuel, the identification and measurement of the emission products of the additive when used in the designated fuel, the effects of the additive on all emissions, and the toxicity or other effects of the emissions resulting from the use of the additive, together with assurances that additional information of this type which is developed by or for the manufacturer will be provided to the Administrator on April 1 of each year. Such submissions shall be accompanied by a description of the test procedures used in obtaining the information;

(e) Assurances that changes in information submitted pursuant to paragraphs (a), (b), and (d)(1) of this section will be provided to the Administrator, within 30 days of learning of such change. Forms for reporting changes will be provided by the Administrator at the fuel manufacturer or processor's request;

(f) Assurances that the reports of additive usage required by § 79.5 will be provided to the Administrator; and

(g) Assurances that the fuel manufacturer or processor will not represent, directly or indirectly, in any notice, circular, letter, or other written communication, or any written, oral, or pictorial notice or other announcement in any publication or by radio or television, that registration of an additive contained in a fuel constitutes endorsement, certification, or approval of the fuel or additive by any agency of the United States.

§ 79.12 Action by the Administrator.

Following receipt of a notification submitted by a fuel manufacturer or processor pursuant to § 79.11, the Administrator shall, in writing, advise the manufacturer of any unregistered additive named in such notification to provide the information and assurances required by § 79.14. The Administrator shall provide notification forms for the additive manufacturer's use.

§ 79.13 Notification by the additive manufacturer.

(a) Any additive manufacturer who has been advised by the Administrator pursuant to § 79.12, shall within 30 days file with the Administrator a notification in accordance with § 79.14. A separate notification shall be submitted for each additive. Each notification shall be signed by the additive manufacturer or his agent; and

(b) Any manufacturer of an additive designed for use in a fuel designated by the Administrator under Subpart D may file with the Administrator a notification in accordance with § 79.14. A separate notification, signed by the additive manufacturer or his agent, shall be submitted for each such additive. If such additive manufacturer has complied with the provisions of this part requiring the submission of information and the giving of assurances for any such additive, the Administrator shall provide such additive manufacturer with a letter acknowledging that compliance, and stating that registration of such additive may be accomplished at such time as any fuel manufacturer or processor complies with the notification requirements of § 79.10.

§ 79.14 Information and assurances to be provided by the additive manufacturer.

Each notification submitted by the additive manufacturer shall include the following:

(a) The recommended range of concentration of the additive;

(b) The recommended purpose in the use of the additive, including:

(1) The function such additive is designed to perform, and

(2) Summaries of any information developed by or for the manufacturer concerning the mechanisms of action of the additive, reactions between the additive and the designated fuel, the identification and measurement of the emission products of the additive when used in the designated fuel, the effects of the additive on all emissions, and the toxicity or other effects of the emissions resulting from the use of the additive, together with assurances that additional information of this type which is developed by or for the manufacturer will be provided to the Administrator on April 1 of each year. Such submissions shall be accompanied by a description of the test procedures used in obtaining the information;

(c) The chemical composition of the additive;

(d) The chemical structure of such additive to the extent such information is available;

(e) Assurances that any change in information submitted pursuant to paragraphs (a), (b)(1), (c), and (d) of this § 79.14 will be provided to the Administrator within 30 days of such change. Forms for reporting changes will be provided by the Administrator at the additive manufacturer's request; and

(f) Assurances that the additive manufacturer will not represent directly or indirectly, in any notice, circular, letter or other written communication or any written, oral, or pictorial notice or other announcement in any publication or by radio or television that registration of any additive produced or formulated by him constitutes endorsement, certification, or approval by any agency of the United States.

§ 79.15 Determination of noncompliance.

Whenever the Administrator determines that there are deficiencies in a notification which constitute failure to comply with the regulations of this part, he shall inform the noncomplying fuel manufacturer or processor or noncomplying additive manufacturer of the reasons for such determination.

§ 79.16 Registration.

(a) If the provisions of this part requiring the submission of information and the giving of assurances have been complied with for a particular additive, the Administrator shall register that additive and notify the additive manufacturer and each fuel manufacturer or processor concerned of such registration; and

(b) The Administrator shall maintain a list of registered additives.

Subpart C—Withdrawal of Registration

§ 79.20 Withdrawal of registration: fuel manufacturer or processor.

If the Administrator determines that a fuel manufacturer or processor is not in compliance with the regulations of this part with respect to a registered additive, he may, after informing such noncomplying fuel manufacturer or processor of the reasons for such determination, and providing such noncomplying fuel manufacturer or processor a reasonable time in which to comply and/or to present his views concerning such determination, withdraw the registration of such additive for use in any designated fuel of such noncomplying fuel manufacturer or processor.

§ 79.21 Withdrawal of registration: additive manufacturer.

If the Administrator determines that an additive manufacturer is not in compliance with the regulations of this part with respect to a registered additive, or the additive manufacturer requests withdrawal in writing, the Administrator may withdraw the registration of such additive and remove it from the list of registered additives maintained pursuant to § 79.16. The Administrator shall notify affected fuel manufacturers of such withdrawal by publication in the FEDERAL REGISTER, and may allow a period of 120 days during which a fuel manufacturer or processor may use any such additive he has on hand on the date of such withdrawal. Prior to withdrawing registration the Administrator shall:

(a) Inform such noncomplying additive manufacturer of the reasons for such determination; and

(b) Provide such noncomplying additive manufacturer a reasonable time in which to comply and/or to present his views concerning such determination.

Subpart D—Designation of Fuels

§ 79.30 Scope.

Fuels designated and dates prescribed by the Administrator for the registration of fuel additives are listed in this subpart. Additional fuels may be designated and additional dates prescribes as the Administrator deems advisable.

§ 79.31 Motor gasolines.

All fuels commonly or commercially known or sold as motor gasoline, with the exception of aviation gasoline, are hereby designated. All additives contained in such fuels must be registered by____________________ (210 days following final publication of this notice). For the purpose of § 79.2(f) exemptions are made for:

(a) A catalyst used in manufacturing the fuel, but removed from the fuel before it is sold;

(b) Another fuel designated in this section which contains only registered additives and is blended with the fuel; and

(c) A substance which contains only one or more of the following elements: Carbon, hydrogen, and/or oxygen.

PART 81—AIR QUALITY CONTROL REGIONS, CRITERIA, AND CONTROL TECHNIQUES

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81.12 National Capital Interstate Air Quality Control Region (District of Columbia, Maryland, and Virginia).
81.13 New Jersey-New York-Connecticut Interstate Air Quality Control Region.
81.14 Metropolitan Chicago Interstate Air Quality Control Region (Indiana-Illinois).
81.15 Metropolitan Philadelphia Interstate Air Quality Control Region (Pennsylvania-New Jersey-Delaware).
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81.17 Metropolitan Los Angeles Air Quality Control Region.
81.18 Metropolitan St. Louis Interstate Air Quality Control Region (Missouri-Illinois).
81.19 Metropolitan Boston Intrastate Air Quality Region.
81.20 Metropolitan Cincinnati Interstate Air Quality Control Region.
81.21 The San Francisco Bay Area Intrastate Air Quality Control Region.
81.22 Greater Metropolitan Cleveland Intrastate Air Quality Control Region.
81.23 Southwest Pennsylvania Intrastate Air Quality Control Region.
81.24 Niagara Frontier Intrastate Air Quality Control Region.
81.25 Metropolitan Kansas City Intrastate Air Quality Control Region.
81.26 Hartford-New Haven-Springfield Interstate Air Quality Control Region.
81.27 Minneapolis-St. Paul Intrastate Air Quality Control Region.
81.28 Metropolitan Baltimore Intrastate Air Quality Control Region.
81.29 Metropolitan Indianapolis Intrastate Air Quality Control Region.
81.30 Metropolitan Milwaukee Intrastate Air Quality Control Region.
81.31 Metropolitan Providence Interstate Air Quality Control Region.
81.32 Puget Sound Intrastate Air Quality Control Region.
81.33 Steubenville-Weirton-Wheeling Interstate Air Quality Control Region.
81.34 Metropolitan Dayton Intrastate Air Quality Control Region.
81.35 Louisville Interstate Air Quality Control Region.
81.36 Phoenix-Tucson Intrastate Air Quality Control Region.
81.37 Metropolitan Detroit-Port Huron Intrastate Air Quality Control Region.
81.38 Metropolitan Houston-Galveston Intrastate Air Quality Control Region.
81.39 Metropolitan Dallas-Fort Worth Intrastate Air Quality Control Region.
81.40 Metropolitan San Antonio Intrastate Air Quality Control Region.
81.41 Metropolitan Birmingham Intrastate Air Quality Control Region.
81.42 Chattanooga Interstate Air Quality Control Region.
81.43 Metropolitan Toledo Interstate Air Quality Control Region.
81.44 Metropolitan Memphis Interstate Air Quality Control Region.
81.45 Metropolitan Atlanta Intrastate Air Quality Control Region.
81.46 U.S. Virgin Islands Air Quality Control Region.
81.47 Metropolitan Oklahoma City Intrastate Air Quality Control Region.
81.48 Champlain Valley Interstate Air Quality Control Region.
81.49 Southeast Florida Intrastate Air Quality Control Region.
81.50 Metropolitan Omaha-Council Bluff's Interstate Air Quality Control Region.
81.51 Portland Interstate Air Quality Control Region.
81.52 Wasatch Front Intrastate Air Quality Control Region.

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81.53 Southern Louisiana-Southeast Texas Interstate Air Quality Control Region.
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81.85 Metropolitan Sioux Falls Interstate Air Quality Control Region.
81.86 Metropolitan Sioux City Interstate Air Quality Control Region.
81.87 Metropolitan Boise Intrastate Air Quality Control Region.
81.88 Metropolitan Billings Intrastate Air

107 of the Act are listed in this subpart. Regions so designated are subject to revision, and additional regions may be designated, as the Administrator determines necessary to protect the public health and welfare.

§ 81.12 National Capital Interstate Air

area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Illinois:

Cook County. Kendall County.

§ 81.17 Metropolitan Los Angeles Air Quality Control Region.

The Metropolitan Los Angeles Air Quality Control Region consists of the following territorial area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically

N.; then north along the range line common to R. 15 W. and R. 16 W. to the southeast corner of sec. 13, T. 7 N., R. 16 W.; then west along the south boundaries of secs. 13, 14, 15, 16, 17, and 18, T. 7 N., R. 16 W.; then north along the range line common to R. 16 W. and R. 17 W. to the north boundary of the Angeles National Forest (collinear with township line common to T. 8

Sec.
81.53 Southern Louisiana-Southeast Texas Interstate Air Quality Control Region.
81.54 Cook Inlet Intrastate Air Quality Control Region.
81.55 Northeast Pennsylvania-Upper Delaware Valley Interstate Air Quality Control Region.
81.57 Bristol (Virginia)—Johnson City (Tennessee) Interstate Air Quality Control Region.
81.58 Columbus (Georgia)—Phenix City (Alabama) Interstate Air Quality Control Region.
81.59 Cumberland (Maryland)—Keyser (West Virginia) Interstate Air Quality Control Region.
81.60 Duluth (Minnesota)—Superior (Wisconsin) Interstate Air Quality Control Region.
81.61 Evansville (Indiana)—Owensboro-Henderson (Kentucky) Interstate Air Quality Control Region.
81.62 Alabama—Mississippi—Tennessee Interstate Air Quality Control Region.
81.63 Metropolitan Fort Smith Interstate Air Quality Control Region.
81.64 Huntington (West Virginia)—Ashland (Kentucky)—Portsmouth-Ironton (Ohio) Interstate Air Quality Control Region.
81.65 Joplin (Missouri)—Northeast Oklahoma Interstate Air Quality Control Region.
81.66 Southeast Minnesota-La Crosse (Wisconsin) Interstate Air Quality Control Region.
81.67 Menominee-Escanaba (Michigan)—Marinette (Wisconsin) Interstate Air Quality Control Region.
81.68 Mobile (Alabama)—Pensacola-Panama City (Florida)—Gulfport (Mississippi) Interstate Air Quality Control Region.
81.69 Paducah (Kentucky)—Cairo (Illinois) Interstate Air Quality Control Region.
81.70 Parkersburg (West Virginia)—Marietta (Ohio) Interstate Air Quality Control Region.
81.71 Rockford (Illinois)—Janesville-Beloit (Wisconsin) Interstate Air Quality Control Region.
81.72 Scottsboro (Alabama)—Jasper (Tennessee) Interstate Air Quality Control Region.
81.73 South Bend-Elkhart (Indiana)—Benton Harbor (Michigan) Interstate Air Quality Control Region.
81.74 Northwest Pennsylvania-Youngstown Interstate Air Quality Control Region.
81.75 Metropolitan Charlotte Interstate Air Quality Control Region.
81.76 State of Hawaii Air Quality Control Region.
81.77 Puerto Rico Air Quality Control Region.
81.78 Metropolitan Portland Intrastate Air Quality Control Region.
81.79 Metropolitan Tulsa Intrastate Air Quality Control Region.
81.80 Clark-Mohave Interstate Air Quality Control Region.
81.81 Merrimack Valley-Southern New Hampshire Interstate Air Quality Control Region.
81.82 El Paso-Las Cruces-Alamogordo Interstate Air Quality Control Region.
81.83 Albuquerque-Mid-Rio Grande Intrastate Air Quality Control Region.
81.84 Metropolitan Fargo-Moorhead Interstate Air Quality Control Region.
81.85 Metropolitan Sioux Falls Interstate Air Quality Control Region.
81.86 Metropolitan Sioux City Interstate Air Quality Control Region.
81.87 Metropolitan Boise Intrastate Air Quality Control Region.
81.88 Metropolitan Billings Intrastate Air Quality Control Region.
81.89 Metropolitan Cheyenne Intrastate Air Quality Control Region.
81.90 Androscoggin Valley Interstate Air Quality Control Region.
81.91 Jacksonville (Florida)—Brunswick (Georgia) Interstate Air Quality Control Region.
81.92 Monroe (Louisiana)—El Dorado (Arkansas) Interstate Air Quality Control Region.
81.93 Metropolitan Norfolk Intrastate Air Quality Control Region.
81.94 Shreveport-Texarkana-Tyler Interstate Air Quality Control Region.
81.95 Central Florida Intrastate Air Quality Control Region.
81.96 West Central Florida Intrastate Air Quality Control Region.
81.97 Southwest Florida Intrastate Air Quality Control Region.
81.98 Burlington-Keokuk Interstate Air Quality Control Region.
81.99 Arizona-New Mexico Southern Border Interstate Air Quality Control Region.
81.101 Metropolitan Dubuque Interstate Air Quality Control Region.
81.102 Metropolitan Quad Cities Interstate Air Quality Control Board.
81.104 Central Pennsylvania Intrastate Air Quality Control Region.
81.105 South Central Pennsylvania Intrastate Air Quality Control Region.
81.106 Greenville-Spartanburg Intrastate Air Quality Control Region.
81.107 Greenwood Intrastate Air Quality Control Region.
81.108 Columbia Intrastate Air Quality Control Region.
81.109 Florence Intrastate Air Quality Control Region.
81.110 Camden-Sumter Intrastate Air Quality Control Region.
81.111 Georgetown Intrastate Air Quality Control Region.
81.112 Charleston Intrastate Air Quality Control Region.
81.113 Savannah (Georgia) — Beaufort (South Carolina) Interstate Air Quality Control Region.
81.114 Augusta (Georgia)—Aiken (South Carolina) Interstate Air Quality Control Region.

AUTHORITY: The provisions of this Part 81 issued under sections 107(a) and 301(a), 81 Stat. 490, 504; Reorg. Plan 3 of 1970; 42 U.S.C. 1857c-2(a), 1857g(a); 3 CFR 1970 Comp.

Subpart A—Meaning of Terms

§ 81.1 Definitions.

As used in this part, all terms not defined herein shall have the meaning given them by the Act.

(a) "Act" means the Clean Air Act as amended (42 U.S.C. 1857–1857l, as amended by Public Law 91–604).

(b) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

Subpart B—Designation of Air Quality Control Regions

§ 81.11 Scope.

Air quality control regions designated by the Administrator pursuant to section 107 of the Act are listed in this subpart. Regions so designated are subject to revision, and additional regions may be designated, as the Administrator determines necessary to protect the public health and welfare.

§ 81.12 National Capital Interstate Air Quality Control Region (District of Columbia, Maryland, and Virginia).

The National Capital Interstate Air Quality Control Region (District of Columbia, Maryland, and Virginia) consists of the territorial area encompassed by the boundaries of the following jurisdictions (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

DISTRICT OF COLUMBIA

In the State of Maryland: Montgomery County; Prince Georges County.

In the State of Virginia: Arlington County; Fairfax County; Loudoun County; Prince William County.

(As so delimited, the Virginia portion of the region will include the city of Alexandria, the city of Fairfax, and the city of Falls Church.)

§ 81.13 New Jersey-New York-Connecticut Interstate Air Quality Control Region.

The New Jersey-New York-Connecticut Interstate Air Quality Control Region has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Connecticut:

Bethel Township.	Newtown Township.
Bridgeport Township	Norwalk Township.
Brookfield Township.	Redding Township.
Danbury Township.	Ridgefield Township.
Darien Township.	Stamford Township.
Easton Township.	Stratford Township.
Fairfield Township.	Trumbull Township.
Greenwich Township	Weston Township.
Monroe Township.	Westport Township.
New Canaan Township.	Wilton Township.
New Fairfield Township.	

In the State of New York:

Bronx County.	Richmond County.
Kings County.	Rockland County.
Nassau County.	Suffolk County.
New York County.	Westchester County.
Queens County.	

In the State of New Jersey:

Bergen County.	Morris County.
Essex County.	Passaic County.
Hudson County.	Somerset County.
Middlesex County.	Union County.
Monmouth County.	

§ 81.14 Metropolitan Chicago Interstate Air Quality Control Region.

The Metropolitan Chicago Interstate Air Quality Control Region (Illinois-Indiana) is revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Illinois:

Cook County.	Kendall County.
Du Page County.	Lake County.
Grundy County.	McHenry County.
Kane County.	Will County.
Kankakee County.	

In the State of Indiana:

Lake County.	Porter County.

§ 81.15 Metropolitan Philadelphia Interstate Air Quality Control Region (Pennsylvania-New Jersey-Delaware).

The Metropolitan Philadelphia Interstate Air Quality Control Region (Pennsylvania-New Jersey-Delaware) consists of the territorial area encompassed by the boundaries of the following jurisdictions (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Pennsylvania: Bucks County, Chester County, Delaware County, Montgomery County, Philadelphia County.

In the State of New Jersey: Burlington County, Camden County, Gloucester County, Mercer County, Salem County.

In the State of Delaware: New Castle County.

§ 81.16 Metropolitan Denver Intrastate Air Quality Control Region.

The Metropolitan Denver Intrastate Air Quality Control Region (Colorado) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Colorado:

Adams County.	Denver County.
Arapahoe County.	Douglas County.
Boulder County.	Gilpin County.
Clear Creek County.	Jefferson County.

(Sec. 301(a), 81 Stat. 490, 504; 42 U.S.C. 1857 g(a) as amended by sec. 15(c)(2) of Public Law 91–604)

NOTE: For purposes of identification, the Regions are referred to by Colorado authorities as follows:

Sec.
481.172 Comanche Intrastate Air Quality Control Region: Region Three.
481.173 Grand Mesa Intrastate Air Quality Control Region: Region Seven.
481.174 Pawnee Intrastate Air Quality Control Region: Region One.
481.175 San Isabel Intrastate Air Quality Control Region: Region Four.
481.176 San Luis Intrastate Air Quality Control Region: Region Five.
481.177 Yampa Intrastate Air Quality Control Region: Region Eight.
481.10 Metropolitan Denver Intrastate Air Quality Control Region: Region Two.

area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Illinois:

Cook County.	Kendall County.
Du Page County.	Lake County.
Grundy County.	McHenry County.
Kane County.	Will County.
Kankakee County.	

In the State of Indiana:

Lake County.	Porter County.

§ 81.17 Metropolitan Los Angeles Air Quality Control Region.

The Metropolitan Los Angeles Air Quality Control Region consists of the following territorial area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

Ventura County—the entire county;

Orange County—the entire county;

Riverside County—that portion of Riverside County which lies west of a line described as follows: Beginning at the point where the range line common to R. 4 E. and R. 3 E. intersects with Riverside-San Diego County boundary and running north along said range line; then east along the township line common to T. 8 S. and T. 7 S. to the southeast corner of sec. 36, T. 7 S., R. 3 E.; then north along the range line common to R. 4 E. and R. 3 E.; then east along the township line common to T. 8 S. and T. 7 S.; then north along the range line common to R. 5 E. and R. 4 E.; then west along the township line common to T. 6 S. and T. 7 S. to the southwest corner of sec. 34, T. 6 S., R. 4 E.; then north along the west boundaries of secs. 34, 27, 22, 15, 10, and 3, T. 6 S., R. 4 E.; then west along the township line common to T. 5 S. and T. 6 S.; then north along the range line common to R. 4 E. and R. 3 E.; then west along the south boundaries of secs. 13, 14, 15, 16, 17, and 18, T. 5 S., R. 3 E.; then north along the range line common to R. 2 E. and R. 3 E.; then west along the township line common to T. 4 S. and T. 3 S. to the intersection with the southwest boundary of partial sec. 31, T. 3 S., R. 1 W.; then northwest along that line to the intersection with the range line common to R. 2 W. and R. 1 W.; then north to the intersection of said range line with the Riverside-San Bernardino County line;

San Bernardino County—that portion of San Bernardino County which lies west and south of a line described as follows: Beginning at the point where the San Bernardino-Riverside County boundary is intersected by the range line common to R. 3 E. and R. 2 E. and running east along said county boundary; then north along the range line common to R. 3 E. and R. 2 E.; then west along the township line common to T. 3 N. and T. 2 N. to the intersection of said township line with the San Bernardino-Los Angeles County boundary;

Los Angeles County—that portion of Los Angeles County which lies south and west of a line described as follows: Beginning at the point where the township line common to T. 3 N. and T. 2 N. intersects with the Los Angeles-San Bernardino County boundary and running west along said township line; then north along the range line common to R. 3 W. and R. 2 W.; then west along the township line common to T. 4 N. and T. 3 N.; then north along the range line common to R. 12 W. and R. 13 W. to the southeast corner of sec. 12, T. 5 N., R. 13 W.; then west along the south boundaries of secs. 12, 11, 10, 9, 8, and 7, T. 5 N., R. 13 W. to the boundary of the Angeles National Forest which is collinear with the range line common to R. 13 W. and R. 14 W.; then north and west along the Angeles National Forest boundary to the point of intersection with the township line common to T. 7 N. and T. 6 W. (point is at the northwest corner of sec. 4 in T. 6 N., R. 14 W.); then west along the township line common to T. 7 N. and T. 6 N.; then north along the range line common to R. 16 W. and R. 15 W. to the southeast corner of sec. 13, T. 7 N., R. 16 W.; then west along the south boundaries of secs. 13, 14, 15, 16, 17, and 18, T. 7 N., R. 16 W.; then north along the range line common to R. 16 W. and R. 17 W. to the north boundary of the Angeles National Forest (collinear with township line common to T. 8 N. and T. 7 N.); then west and north along the Angeles National Forest boundary to the point of intersection with the south boundary of the Rancho La Liebre Land Grant; then west and north along this land grant boundary to the point at which it intersects with the Los Angeles-Kern County boundary; then west along said county boundary to the northwest corner of Los Angeles County;

Santa Barbara County—that portion of Santa Barbara County which lies south of a line described as follows: Beginning at the point where the Jalama Creek runs into the Pacific Ocean and running east and north along Jalama Creek to a point of intersection with the west boundary of the San Julian Land Grant; then south along the San Julian Land Grant boundary to its southwest corner; then east along the south boundary of the San Julian Land Grant to the northeast corner of partial sec. 20, T. 5 N., R. 32 W.; then south and east along the boundary of the Las Cruces Land Grant to the southwest corner of partial sec. 22, T. 5 N., R. 32 W.; then northeast along the Las Cruces Land Grant boundary; then east along the north boundaries of sec. 18, T. 5 N., R. 32 W., and secs. 13, 17, 16, 15, 14, 13, T. 5 N., R. 31 W., and secs. 18, 17, 16, 15, 14, 13, of T. 5 N., R. 30 W., and secs. 18, 17, 16, 15, T. 5 N., R. 29 W.; then south along the east boundary of sec. 15, T. 5 N., R. 29 W.; then east along the north boundaries of secs. 23 and 24, T. 5 N., R. 29 W., and secs. 19, 20, 21, 22, 23, 24, T. 5 N., R. 28 W., and secs. 19 and 20, T. 5 N., R. 27 W.; then south along the east boundary of sec. 20, T. 5 N., R. 27 W.; then east along the north boundaries of secs. 28, 27, 26, 25, T. 5 N., R. 27 W., and sec. 30, T. 5 N., R. 26 W.; then south along the east boundary of sec. 30, T. 5 N., R. 26 W.; then east along the north boundaries of secs. 32, 33, 34, 35, T. 5 N., R. 26 W.; then south along the east boundary of sec. 35, T. 5 N., R. 26 W.; then east along the township line common to T. 4 N. and T. 5 N. to the intersection of said township line with the Santa Barbara-Ventura County boundary.

§ 81.18 Metropolitan St. Louis Interstate Air Quality Control Region.

The Metropolitan St. Louis Interstate Air Quality Control Region (Missouri-Illinois) is revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Illinois:

Bond County.	Randolph County.
Clinton County.	St. Clair County.
Madison County.	Washington County.
Monroe County.	

In the State of Missouri:

Franklin County.	St. Louis City.
Jefferson County.	St. Louis County.
St. Charles County.	

§ 81.19 Metropolitan Boston Intrastate Air Quality Control Region.

The Metropolitan Boston Intrastate Air Quality Control Region (Massachusetts) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area

In the State of Kentucky:

Boone County.	Grant County.
Campbell County.	Kenton County.
Carroll County.	Owen County.
Gallatin County.	Pendleton County.

In the State of Indiana:

Dearborn County.	Ohio County.

cally located within the outermost boundaries of the area so delimited):

In the State of New York:

Erie County.	Niagara County.

§ 81.25 Metropolitan Kansas City Interstate Air Quality Control Region.

The Metropolitan Kansas City Inter-

In the State of Massachusetts:

Franklin County.

CITIES

Chicopee. Springfield.
Holyoke. Westfield.
Northampton.

TOWNSHIPS

cally located within the outermost boundaries of the area so delimited):

In the State of Indiana:

Boone County.	Johnson County.
Hamilton County.	Marion County.
Hancock County.	Morgan County.
Hendricks County.	Shelby County.

§ 81.32 Puget Sound Intrastate Air Quality Control Region.

The Puget Sound Intrastate Air Quality Control Region (Washington) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as

§ 81.19 Metropolitan Boston Intrastate Air Quality Control Region.

The Metropolitan Boston Intrastate Air Quality Control Region (Massachusetts) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Massachusetts:

Cities

Beverly.	Medford.
Boston.	Melrose.
Brockton.	Newton.
Cambridge.	Peabody.
Chelsea.	Quincy.
Everett.	Revere.
Gloucester.	Salem.
Lynn.	Somerville.
Malden.	Waltham.
Marlborough.	Woburn.

Townships

Abington.	Medfield.
Acton.	Middleton.
Arlington.	Millis.
Ashland.	Milton.
Avon.	Nahant.
Bedford.	Natick.
Belmont.	Needham.
Bolton.	Norfolk.
Boxborough.	North Reading.
Braintree.	Norwell.
Bridgewater.	Norwood.
Brookline.	Pembroke.
Burlington.	Randolph.
Canton.	Reading.
Cohasset.	Rockland.
Concord.	Rockport.
Danvers.	Saugus.
Dedham.	Scituate.
Dover.	Sharon.
Duxbury.	Sherborn.
East Bridgewater.	Southborough.
Easton.	Stoneham.
Essex.	Stoughton.
Framingham.	Stow.
Hamilton.	Sudbury.
Hanover.	Swampscott.
Hanson.	Topsfield.
Hingham.	Wakefield.
Holbrook.	Walpole.
Holliston.	Watertown.
Hopkinton.	Wayland.
Hudson.	Wellesley.
Hull.	Wenham.
Ipswich.	West Bridgewater.
Lexington.	Weston.
Lincoln.	Westwood.
Lynnfield.	Weymouth.
Manchester.	Whitman.
Marblehead.	Wilmington.
Marshfield.	Winchester.
Maynard.	Winthrop.

§ 81.20 Metropolitan Cincinnati Interstate Air Quality Control Region.

The Metropolitan Cincinnati Interstate Air Quality Control Region (Ohio-Kentucky-Indiana) is revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f) geographically located within the outermost boundaries of the area so delimited):

In the State of Kentucky:

Boone County.	Grant County.
Campbell County.	Kenton County.
Carroll County.	Owen County.
Gallatin County.	Pendleton County.

In the State of Indiana:

Dearborn County.	Ohio County.

In the State of Ohio:

Butler County.	Hamilton County.
Clermont County.	Warren County.

§ 81.21 The San Francisco Bay Area Intrastate Air Quality Control Region.

The San Francisco Bay Area Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions (including the territorial area of all municipalities as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of California:

Sonoma County.	San Francisco County.
Napa County.	San Mateo County.
Solano County.	Alameda County.
Marin County.	Santa Clara County.
Contra Costa County.	

§ 81.22 Greater Metropolitan Cleveland Intrastate Air Quality Control Region.

The Greater Metropolitan Cleveland Intrastate Air Quality Control Region (Ohio) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Ohio:

Lorain County.	Portage County.
Cuyahoga County.	Summit County.
Lake County.	Medina County.
Geauga County.	Stark County.

§ 81.23 Southwest Pennsylvania Intrastate Air Quality Control Region.

The Southwest Pennsylvania Intrastate Air Quality Control Region is redesignated to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Pennsylvania:

Allegheny County.	Indiana County.
Armstrong County.	Washington County.
Beaver County.	Westmoreland County.
Butler County.	
Greene County.	
Fayette County.	

§ 81.24 Niagara Frontier Intrastate Air Quality Control Region.

The Niagara Frontier Intrastate Air Quality Control Region (New York) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of New York:

Erie County.	Niagara County.

§ 81.25 Metropolitan Kansas City Interstate Air Quality Control Region.

The Metropolitan Kansas City Interstate Air Quality Control Region (Missouri-Kansas) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Missouri:

Buchanan County.	Jackson County.
Cass County.	Platte County.
Clay County.	Ray County.

In the State of Kansas:

Johnson County.	Wyandotte County.
Leavenworth County.	

§ 81.26 Hartford-New Haven-Springfield Interstate Air Quality Control Region.

The Hartford-New Haven-Springfield Interstate Air Quality Control Region (Connecticut-Massachusetts) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Connecticut:

Cities

Ansonia.	Milford.
Bristol.	New Britain.
Derby.	New Haven.
Hartford.	Shelton.
Meriden.	Waterbury.
Middletown.	West Haven.

Townships

Andover.	Middlebury.
Avon.	Middlefield.
Beacon Falls.	Naugatuck.
Berlin.	Newington.
Bethany.	North Branford.
Bethlehem.	North Haven.
Bloomfield.	Orange.
Bolton.	Oxford.
Branford.	Plainville.
Burlington.	Plymouth.
Canton.	Portland.
Cheshire.	Prospect.
Cromwell.	Rocky Hill.
Durham.	Seymour.
East Granby.	Simsbury.
East Haddam.	Somers.
East Hampton.	Southbury.
East Hartford.	Southington.
East Haven.	South Windsor.
East Windsor.	Suffield.
Ellington.	Thomaston.
Enfield.	Tolland.
Farmington.	Vernon.
Glastonbury.	Wallingford.
Granby.	Watertown.
Guilford.	West Hartford.
Haddam.	Wethersfield.
Hamden.	Windsor.
Hebron.	Windsor Locks.
Madison.	Wolcott.
Manchester.	Woodbridge.
Marlborough.	Woodbury.

In the State of Massachusetts:

Franklin County.	

Cities

Chicopee.	Springfield.
Holyoke.	Westfield.
Northampton.	

Townships

Agawam.	Ludlow.
Amherst.	Middlefield.
Belchertown.	Monson.
Blandford.	Montgomery.
Brimfield.	Palmer.
Chester.	Pelham.
Chesterfield.	Plainfield.
Cummington.	Russell.
Easthampton.	Southampton.
East Longmeadow.	Southwick.
Goshen.	South Hadley.
Granby.	Tolland.
Granville.	Wales.
Hadley.	Ware.
Hampden.	Westhampton.
Hatfield.	West Springfield.
Holland.	Wilbraham.
Huntington.	Williamsburg.
Longmeadow.	Worthington.

(Sec. 301(a), 81 Stat. 504; 42 U.S.C. 1857g(a) as amended by sec. 15(c)(2) of Pub. L. 91-604)

§ 81.27 Minneapolis-St. Paul Intrastate Air Quality Control Region.

The Minneapolis-St. Paul Intrastate Air Quality Control Region (Minnesota) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Minnesota:

Anoka County.	Ramsey County.
Carver County.	Scott County.
Dakota County.	Washington County.
Hennepin County.	

§ 81.28 Metropolitan Baltimore Intrastate Air Quality Control Region.

The Metropolitan Baltimore Intrastate Air Quality Control Region (Maryland) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Maryland:

Anne Arundel County.	Carroll County.
Baltimore City.	Harford County.
Baltimore County.	Howard County.

§ 81.29 Metropolitan Indianapolis Intrastate Air Quality Control Region.

The Metropolitan Indianapolis Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Indiana:

Boone County.	Johnson County.
Hamilton County.	Marion County.
Hancock County.	Morgan County.
Hendricks County.	Shelby County.

§ 81.30 Southeastern Wisconsin Intrastate Air Quality Control Region.

The Metropolitan Milwaukee Intrastate Air Quality Control Region (Wisconsin) has been renamed the Southeastern Wisconsin Intrastate Air Quality Control Region and consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Wisconsin:

Kenosha County.	Walworth County.
Milwaukee County.	Washington County.
Ozaukee County.	Waukesha County.
Racine County.	

§ 81.31 Metropolitan Providence Interstate Air Quality Control Region.

The Metropolitan Providence Interstate Air Quality Control Region (Rhode Island-Massachusetts) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

The Entire State of Rhode Island.

In the State of Massachusetts:

Cities

Attleboro.	Fairhaven.
Fall River.	Falmouth.
Acushnet.	Foxborough.
Barnstable.	Franklin.
Bellingham.	Freetown.
Berkley.	Gay Head.
Bourne.	Gosnold.
Brewster.	Halifax.
Carver.	Harwich.
Chatham.	Kingston.
Chilmark.	Lakeville.
Dartmouth.	Mansfield.
Dennis.	Marion.
Dighton.	Mashpee.
Eastham.	New Bedford.
Edgartown.	Taunton.

Townships

Middleborough.	Rehoboth.
Milford.	Rochester.
Nantucket.	Sandwich.
North Attleborough.	Seekonk.
Mattepoisett.	Somerset.
Medway.	Swansea.
Norton.	Tisbury.
Oak Bluffs.	Truro.
Orleans.	Wareham.
Plainville.	Wellfleet.
Plymouth.	Westport.
Plympton.	West Tisbury.
Provincetown.	Wrentham.
Rehynham.	Yarmouth.

§ 81.32 Puget Sound Intrastate Air Quality Control Region.

The Puget Sound Intrastate Air Quality Control Region (Washington) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Washington:

King County.	Pierce County.
Snohomish County.	Kitsap County.

§ 81.33 Steubenville-Weirton-Wheeling Interstate Air Quality Control Region.

The Steubenville-Weirton-Wheeling Interstate Air Quality Control Region (Ohio-West Virginia) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Ohio:

Belmont County.	Jefferson County.
Columbiana County.	Monroe County.

In the State of West Virginia:

Brooke County.	Marshall County.
Hancock County.	Ohio County.

§ 81.34 Metropolitan Dayton Intrastate Air Quality Control Region.

The Metropolitan Dayton Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Ohio

Clark County.	Miami County.
Darke County.	Montgomery County.
Greene County.	Preble County.

§ 81.35 Louisville Interstate Air Quality Control Region.

The Louisville Interstate Air Quality Control Region (Kentucky-Indiana) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Kentucky:
Jefferson County.

In the State of Indiana:

Floyd County	Clark County.

§ 81.36 Phoenix-Tucson Intrastate Air Quality Control Region.

The Phoenix-Tucson Intrastate Air Quality Control Region (Arizona), consists of the territorial area encompassed

by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Arizona:

Cochise County.	Pima County.
Pinal County.	Santa Cruz County.

§ 81.40 Metropolitan San Antonio Intrastate Air Quality Control Region.

The Metropolitan San Antonio Intrastate Air Quality Control Region (Texas) has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or

Michigan) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the

renamed the Central Oklahoma Intrastate Air Quality Control Region and consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Oklahoma:

Canadian County.	Oklahoma County.
Cleveland County.	Pottawatomie County.
Lincoln County.	
Logan County.	

§ 81.41 Omaha-Council Bluffs Intrastate Air Quality Control Region.

The Omaha-Council Bluffs Intrastate Air Quality Control Region (Nebraska-Iowa) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Nebraska:

Douglas County.	Sarpy County.

In the State of Iowa:

Pottawattamie County.	

§ 81.51 Portland Interstate Air Quality Control Region.

In the State of Louisiana:

Acadia Parish.	Plaquemines Parish.
Allen Parish.	Pointe Coupee Parish
Ascension Parish.	Rapides Parish.
Assumption Parish.	St. Bernard Parish.
Avoyelles Parish.	St. Charles Parish.
Beauregard Parish.	St. Helena Parish.
Calcasieu Parish.	St. James Parish.

by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Arizona:

Gila County.	Pinal County.
Maricopa County.	Santa Cruz County.
Pima County.	

§ 81.37 Metropolitan Detroit-Port Huron Intrastate Air Quality Control Region.

The Metropolitan Detroit-Port Huron Intrastate Air Quality Control Region (Michigan) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Michigan:

Macomb County	Oakland County
St. Clair County	Wayne County

§ 81.38 Metropolitan Houston-Galveston Intrastate Air Quality Control Region.

The Metropolitan Houston-Galveston Intrastate Air Quality Control Region (Texas) has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Texas:

Austin County.	Liberty County.
Brazoria County.	Matagorda County.
Chambers County.	Montgomery County.
Colorado County.	Walker County.
Fort Bend County.	Waller County.
Galveston County.	Wharton County.
Harris County.	

§ 81.39 Metropolitan Dallas-Fort Worth Intrastate Air Quality Control Region.

The Metropolitan Dallas-Fort Worth Intrastate Air Quality Control Region (Texas) has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Texas:

Collin County.	Johnson County.
Cooke County.	Kaufman County.
Dallas County.	Navarro County.
Denton County.	Palo Pinto County.
Ellis County.	Parker County.
Erath County.	Rockwall County.
Fannin County.	Somervell County.
Grayson County.	Tarrant County.
Hood County.	Wise County.
Hunt County.	

§ 81.40 Metropolitan San Antonio Intrastate Air Quality Control Region.

The Metropolitan San Antonio Intrastate Air Quality Control Region (Texas) has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Texas:

Atascosa County.	Kerr County.
Bandera County.	Kimble County.
Bexar County.	Kinney County.
Comal County.	La Salle County.
Dimmit County.	Mason County.
Edwards County.	Maverick County.
Frio County.	Medina County.
Gillespie County.	Real County.
Gonzales County.	Uvalde County.
Guadalupe County.	Val Verde County.
Karnes County.	Wilson County.
Kendall County.	Zavala County.

§ 81.41 Metropolitan Birmingham Intrastate Air Quality Control Region.

The Metropolitan Birmingham Intrastate Air Quality Control Region (Alabama) has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Alabama:

Bibb County.	Lamar County.
Blount County.	Pickens County.
Chilton County.	St. Clair County.
Fayette County.	Shelby County.
Greene County.	Sumter County.
Hale County.	Tuscaloosa County.
Jefferson County.	Walker County.

§ 81.42 Chattanooga Interstate Air Quality Control Region.

The Chattanooga Interstate Air Quality Control Region (Georgia-Tennessee) has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Georgia:

Bartow County.	Gordon County.
Catoosa County.	Haralson County.
Chattooga County.	Murray County.
Cherokee County.	Paulding County.
Dade County.	Pickens County.
Fannin County.	Polk County.
Floyd County.	Walker County.
Gilmer County.	Whitfield County.

In the State of Tennessee:

Hamilton County.

§ 81.43 Metropolitan Toledo Interstate Air Quality Control Region.

The Metropolitan Toledo Interstate Air Quality Control Region (Ohio-Michigan) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Ohio:

Lucas County.	Wood County.

In the State of Michigan:

Monroe County.

§ 81.44 Metropolitan Memphis Interstate Air Quality Control Region.

The Metropolitan Memphis Interstate Air Quality Control Region (Arkansas-Mississippi-Tennessee) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in sec. 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Arkansas:

Crittenden County.

In the State of Mississippi:

De Soto County.

In the State of Tennessee:

Shelby County.

§ 81.45 Metropolitan Atlanta Intrastate Air Quality Control Region.

The Metropolitan Atlanta Intrastate Air Quality Control Region (Georgia) has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Georgia:

Butts County.	Heard County.
Carroll County.	Henry County.
Clayton County.	Lamar County.
Cobb County.	Meriwether County.
Coweta County.	Pike County.
De Kalb County.	Rockdale County.
Douglas County.	Spalding County.
Fayette County.	Troup County.
Fulton County.	Upson County.
Gwinnett County.	

§ 81.46 U.S. Virgin Islands Air Quality Control Region.

The U.S. Virgin Islands Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited:

The entire U.S. Virgin Islands.

§ 81.47 Central Oklahoma Intrastate Air Quality Control Region.

The Metropolitan Oklahoma Intrastate Air Quality Control Region has been renamed the Central Oklahoma Intrastate Air Quality Control Region and consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Oklahoma:

Canadian County.	Kingfisher County.
Cleveland County.	McClain County.
Grady County.	Oklahoma County.
Lincoln County.	Pottawatomie County.
Logan County.	

§ 81.48 Champlain Valley Interstate Air Quality Control Region.

The Champlain Valley Interstate Air Quality Control Region (Vermont-New York) has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Vermont:

Addison County.	Grand Isle County.
Chittenden County.	Rutland County.
Franklin County.	

In the State of New York:

Clinton County.	St. Lawrence County.
Essex County.	Warren County.
Franklin County.	Washington County.
Hamilton County.	

§ 81.49 Southeast Florida Intrastate Air Quality Control Region.

The Southeast Florida Intrastate Air Quality Control Region is redesignated to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Florida:

Broward County.	Monroe County.
Dade County.	Okeechobee County.
Indian River County.	Palm Beach County.
Martin County.	St. Lucie County.

§ 81.50 Metropolitan Omaha-Council Bluffs Interstate Air Quality Control Region.

The Metropolitan Omaha-Council Bluffs Interstate Air Quality Control Region (Nebraska-Iowa) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Nebraska:

Douglas County.	Sarpy County.

In the State of Iowa:

Pottawattamie County.

§ 81.51 Portland Interstate Air Quality Control Region.

The Portland Interstate Air Quality Control Region (Oregon-Washington) has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Oregon:

Benton County.	Marion County.
Clackamas County.	Multnomah County.
Columbia County.	Polk County.
Lane County.	Washington County.
Linn County.	Yamhill County.

In the State of Washington:

Clark County.	Skamania County.
Cowlitz County.	Wahkiakum County.
Lewis County.	

NOTE: For purposes of identification, the Portland Interstate Air Quality Control Region (Oregon-Washington) will be referred to by Washington authorities as the Portland (Oregon)-Southwest Washington Interstate Air Quality Control Region.

§ 81.52 Wasatch Front Intrastate Air Quality Control Region.

The Wasatch Front Intrastate Air Quality Control Region (Utah) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Utah:

Davis County.	Utah County.
Salt Lake County.	Weber County.
Tooele County.	

§ 81.53 Southern Louisiana-Southeast Texas Interstate Air Quality Control Region.

The Southern Louisiana-Southwest Texas Interstate Air Quality Control Region has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Louisiana:

Acadia Parish.	Plaquemines Parish.
Allen Parish.	Pointe Coupee Parish
Ascension Parish.	Rapides Parish.
Assumption Parish.	St. Bernard Parish.
Avoyelles Parish.	St. Charles Parish.
Beauregard Parish.	St. Helena Parish.
Calcasieu Parish.	St. James Parish.
Cameron Parish.	St. John the Baptist Parish.
East Baton Rouge Parish.	St. Landry Parish.
East Feliciana Parish.	St. Martin Parish.
Evangeline Parish.	St. Mary Parish.
Grant Parish.	St. Tammany Parish.
Iberia Parish.	Tangipahoa Parish.
Iberville Parish.	Terrebonne Parish.
Jefferson Parish.	Vermilion Parish.
Jefferson Davis Parish.	Vernon Parish.
Lafayette Parish.	Washington Parish.
Lafourche Parish.	West Baton Rouge Parish.
Livingston Parish.	West Feliciana Parish.
Orleans Parish.	

In the State of Texas:

Angelina County.	Polk County.
Hardin County.	Sabine County.
Houston County.	San Augustine County.
Jasper County.	San Jacinto County.
Jefferson County.	Shelby County.
Nacogdoches County.	Trinity County.
Newton County.	Tyler County.
Orange County.	

§ 81.54 Cook Inlet Intrastate Air Quality Control Region.

The Cook Inlet Intrastate Air Quality Control Region (Alaska) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Alaska:

Greater Anchorage Area Borough.
Kenai Peninsula Borough.
Matanuska-Susitna Borough.

§ 81.55 Northeast Pennsylvania-Upper Delaware Valley Interstate Air Quality Control Region.

The Northeast Pennsylvania-Upper Delaware Valley Interstate Air Quality Control Region (Pennsylvania-New Jersey) is redesignated to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Pennsylvania:

Berks County.	Pike County.
Bradford County.	Schuylkill County.
Carbon County.	Sullivan County.
Lackawanna County.	Susquehanna County.
Lehigh County.	Tioga County.
Luzerne County.	Wayne County.
Monroe County.	Wyoming County.
Northampton County.	

In the State of New Jersey:

Hunterdon County.	Warren County.
Sussex County.	

§ 81.57 Eastern Tennessee-Southwestern Virginia Interstate Air Quality Control Region.

The Bristol (Virginia)-Johnson City (Tennessee) Interstate Air Quality Control Region has been renamed the Eastern Tennessee-Southwestern Virginia Region and revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Maryland:

Allegany County.	Garrett County.

In the State of Virginia:

Bristol County.	Russell County.
Buchanan County.	Scott County.
Dickenson County.	Smyth County.
Lee County.	Tazewell County.
Norton County.	Washington County.
Wise County.	

In the State of West Virginia:

Boone County.	Mingo County.
Cabell County.	Putnam County.
Kanawha County.	Wayne County.
Logan County.	

§ 81.58 Evansville Interstate Air Quality Control Region.

The Evansville Interstate Air Quality Control Region (Indiana-Kentucky) has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Indiana:

Daviess County.	Pike County.
Dubois County.	Posey County.
Gibson County.	Spencer County.
Knox County.	Vanderburgh County.
Perry County.	Warrick County.

In the State of Kentucky:

Daviess County.	Ohio County.
Hancock County.	Union County.
Henderson County.	Webster County.
McLean County.	

§ 81.59 Huntington-Ashland Interstate Air Quality Control Region.

The Huntington-Ashland Interstate Air Quality Control Region (Kentucky-Ohio-West Virginia) has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Kentucky:

Boyd County.	Lawrence County.
Carter County.	Martin County.
Elliott County.	Pike County.
Greenup County.	

In the State of Ohio:

Adams County.	Lawrence County.
Gallia County.	Pike County.
Jackson County.	Scioto County.

In the State of West Virginia:

Cabell County.	Wayne County.
Mason County.	

§ 81.65 Joplin (Missouri)-Northeast Oklahoma Interstate Air Quality Control Region.

The Joplin (Missouri)-Northeast Oklahoma Interstate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Missouri:

Barry County.	Jasper County.
Lawrence County.	Newton County.
McDonald County.	

In the State of Oklahoma:

Cherokee County.	Ottawa County.
Craig County.	Pittsburg County.
Delaware County.	Rogers County.
Mayes County.	Wagoner County.
Muskogee County.	

§ 81.66 Mobile (Alabama)-Pensacola-Panama City (Florida)-Southern Mississippi Interstate Air Quality Control Region.

The Mobile (Alabama)-Pensacola-Panama City (Florida)-Gulfport (Mississippi) Interstate Air Quality Control Region has been renamed the Mobile (Alabama)-Pensacola-Panama City (Florida)-Southern Mississippi Interstate Air Quality Control Region and revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Alabama:

Baldwin County.	Mobile County.

In the State of Florida:

Escambia County.	Santa Rosa County.
Okaloosa County.	Walton County.
Escambia County.	Santa Rosa County.

In the State of Mississippi:

George County.	Jackson County.
Greene County.	Pearl River County.
Harrison County.	Stone County.

§ 81.67 Parkersburg (West Virginia)—Marietta (Ohio) Interstate Air Quality Control Region.

The Parkersburg (West Virginia)—Marietta (Ohio) Interstate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Ohio:

Washington County.	

In the State of West Virginia:

Jackson County.	Wirt County.
Pleasants County.	Wood County.
Ritchie County.	

§ 81.57 Eastern Tennessee-Southwestern Virginia Interstate Air Quality Control Region.

The Briston (Virginia)-Johnson City (Tennessee) Interstate Air Quality Control Region has been renamed the Eastern Tennessee-Southwestern Virginia Interstate Air Quality Control Region and revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Tennessee:

Anderson County.	Knox County.
Blount County.	Loudon County.
Bradley County.	McMinn County.
Campbell County.	Meigs County.
Carter County.	Monroe County.
Claiborne County.	Polk County.
Cocke County.	Rhea County.
Grainger County.	Roane County.
Greene County.	Sevier County.
Hamblen County.	Sullivan County.
Hancock County.	Unicoi County.
Hawkins County.	Union County.
Jefferson County.	Washington County.
Johnson County.	

In the State of Virginia:

Bland County.	Norton City.
Bristol City.	Russell County.
Buchanan County.	Scott County.
Carroll County.	Smyth County.
Dickenson County.	Tazewell County.
Galax City.	Washington County.
Grayson County.	Wise County.
Lee County.	Wythe County.

§ 81.58 Columbus (Georgia)-Phenix City (Alabama) Interstate Air Quality Control Region.

The Columbus (Georgia)-Phenix City (Alabama) Interstate Air Quality Control Region has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Alabama:

Autauga County.	Lowndes County.
Bullock County.	Macon County.
Butler County.	Montgomery County.
Crenshaw County.	Pike County.
Elmore County.	Russell County.
Lee County.	

In the State of Georgia:

Chattahoochee County.	Schley County.
Dooly County.	Stewart County.
Harris County.	Sumter County.
Marion County.	Talbot County.
Muscogee County.	Taylor County.
Quitman County.	Webster County.

§ 81.59 Cumberland-Keyser Interstate Air Quality Control Region.

The Cumberland-Keyser Interstate Air Quality Control Region (Maryland-West Virginia) has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Maryland:

Allegany County.	Washington County.
Garrett County.	

In the State of West Virginia:

In Grant County:

Union Magisterial District.

In Mineral County:

Elk Magisterial District.	Piedmont Magisterial District.
New Creek Magisterial District.	

§ 81.60 Duluth (Minnesota)-Superior (Wisconsin) Interstate Air Quality Control Region.

The Duluth (Minnesota)-Superior (Wisconsin) Interstate Air Quality Control Region has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Minnesota:

Aitkin County.	Koochiching County.
Carlton County.	Lake County.
Cook County.	St. Louis County.
Itasca County.	

In the State of Wisconsin:

Ashland County.	Price County.
Bayfield County.	Rusk County.
Burnett County.	Sawyer County.
Douglas County.	Taylor County.
Iron County.	Washburn County.

§ 81.61 Evansville (Indiana)-Owensboro-Henderson (Kentucky) Interstate Air Quality Control Region.

The Evansville (Indiana)-Owensboro-Henderson (Kentucky) Interstate Air Quality Control Region is revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Kentucky:

Daviess County.	Ohio County.
Hancock County.	Union County.
Henderson County.	Webster County.
McLean County.	

In the State of Indiana:

Dubois County.	Spencer County.
Gibson County.	Vanderburgh County.
Perry County.	Warrick County.
Pike County.	
Posey County.	

§ 81.62 Northeast Mississippi Intrastate Air Quality Control Region.

The Alabama - Mississippi - Tennessee Interstate Air Quality Control Region has been renamed the Northeast Mississippi Intrastate Air Quality Control Region and revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Mississippi:

Alcorn County.	Marshall County.
Attala County.	Monroe County.
Benton County.	Montgomery County.
Calhoun County.	Neshoba County.
Carroll County.	Noxubee County.
Chickasaw County.	Oktibbeha County.
Choctaw County.	Panola County.
Clay County.	Pontotoc County.
Grenada County.	Prentiss County.
Holmes County.	Tate County.
Itawamba County.	Tippah County.
Kemper County.	Tishomingo County.
Lafayette County.	Union County.
Leake County.	Webster County.
Lee County.	Winston County.
Lowndes County.	Yalobusha County.

§ 81.63 Metropolitan Fort Smith Interstate Air Quality Control Region.

The Metropolitan Fort Smith Interstate Air Quality Control Region (Arkansas-Oklahoma) has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Arkansas:

Benton County.	Sebastian County.
Crawford County.	Washington County.

In the State of Oklahoma:

Adair County.	Le Flore County.
Cherokee County.	Sequoyah County.

§ 81.64 Huntington (West Virginia)-Ashland (Kentucky)-Portsmouth-Ironton (Ohio) Interstate Air Quality Control Region.

The Huntington (West Virginia)-Ashland (Kentucky) - Portsmouth - Ironton (Ohio) Interstate Air Quality Control Region is revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions of described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited.

In the State of Kentucky:

Bath County.	Lewis County.
Boyd County.	Mason County.
Bracken County.	Menifee County.
Carter County.	Montgomery County.
Elliott County.	Morgan County.
Fleming County.	Robertson County.
Greenup County.	Rowan County.
Lawrence County.	

In the State of Ohio:

Adams County.	Lawrence County.
Brown County.	Scioto County.
Gallia County.	

In the State of West Virginia:

Cabell County.	Wayne County.
Mason County.	

§ 81.65 Joplin (Missouri)-Northeast Oklahoma Interstate Air Quality Control Region.

The Joplin (Missouri)-Northeast Oklahoma Interstate Air Quality Control Region, designated on December 8, 1970, and consisting of the counties of Barton, Jasper, McDonald, and Newton in the State of Missouri and Craig, Delaware, and Ottawa in the State of Oklahoma, is revoked effective upon publication.

§ 81.66 Southeast Minnesota-La Crosse (Wisconsin) Interstate Air Quality Control Region.

The Southeast Minnesota-La Crosse (Wisconsin) Interstate Air Quality Control Region has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857m(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Minnesota:

Blue Earth County.	Mower County.
Brown County.	Nicollet County.
Dodge County.	Olmsted County.
Faribault County.	Rice County.
Fillmore County.	Sibley County.
Freeborn County.	Steele County.
Goodhue County.	Wabasha County.
Houston County.	Waseca County.
Le Sueur County.	Watonwan County.
Martin County.	Winona County.

In the State of Wisconsin:

Barron County.	La Crosse County.
Buffalo County.	Monroe County.
Chippewa County.	Pepin County.
Clark County.	Pierce County.
Crawford County.	Polk County.
Dunn County.	St. Croix County.
Eau Claire County.	Trempealeau County.
Jackson County.	Vernon County.

§ 81.67 Lake Michigan Intrastate Air Quality Control Region.

The Menominee-Escanaba (Michigan)-Marinette (Wisconsin) Interstate Air Quality Control Region has been renamed the Lake Michigan Intrastate Air Quality Control Region (Wisconsin) and revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Wisconsin:

Brown County.	Menominee County.
Calumet County.	Oconto County.
Door County.	Outagamie County.
Fond du Lac County.	Shawano County.
Green Lake County.	Sheboygan County.
Kewaunee County.	Waupaca County.
Manitowoc County.	Waushara County.
Marinette County.	Winnebago County.
Marquette County.	

§ 81.68 Mobile (Alabama)-Pensacola-Panama City (Florida)-Southern Mississippi Interstate Air Quality Control Region.

The Mobile (Alabama)-Pensacola-Panama City (Florida)-Gulfport (Mississippi) Interstate Air Quality Control Region has been renamed the Mobile (Alabama) - Pensacola - Panama City (Florida)-Southern Mississippi Interstate Air Quality Control Region and revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Alabama:

Baldwin County.	Mobile County.
Escambia County.	

In the State of Florida:

Bay County.	Jackson County.
Calhoun County.	Okaloosa County.
Escambia County.	Santa Rosa County.
Gulf County.	Walton County.
Holmes County.	Washington County.

In the State of Mississippi:

Adams County.	Lamar County.
Amite County.	Lauderdale County.
Claiborne County.	Lawrence County.
Clarke County.	Lincoln County.
Copiah County.	Madison County.
Covington County.	Marion County.
Forrest County.	Newton County.
Franklin County.	Pearl River County.
George County.	Perry County.
Greene County.	Pike County.
Hancock County.	Rankin County.
Harrison County.	Scott County.
Hinds County.	Simpson County.
Jackson County.	Smith County.
Jasper County.	Stone County.
Jefferson County.	Walthall County.
Jefferson Davis County.	Warren County.
	Wayne County.
Jones County.	Wilkinson County.

§ 81.69 Paducah (Kentucky)-Cairo (Illinois) Interstate Air Quality Control Region.

The Paducah (Kentucky)-Cairo (Illinois) Interstate Air Quality Control Region is revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Illinois:

Alexander County.	Pope County.
Johnson County.	Pulaski County.
Massac County.	Union County.

In the State of Kentucky:

Ballard County.	Hopkins County.
Caldwell County.	Livingston County.
Calloway County.	Lyon County.
Carlisle County.	Marshall County.
Christian County.	McCracken County.
Crittenden County.	Muhlenberg County.
Fulton County.	Todd County.
Graves County.	Trigg County.
Hickman County.	

§ 81.70 Parkersburg (West Virginia)—Marietta (Ohio) Interstate Air Quality Control Region.

The Parkersburg (West Virginia)—Marietta (Ohio) Interstate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of West Virginia:

Jackson County.	Wetzel County.
Pleasants County.	Wood County.
Tyler County.	

In the State of Ohio:

Athens County.	Morgan County.
Meigs County.	Washington County.

§ 81.71 Rockford (Illinois)—Janesville-Beloit (Wisconsin) Interstate Air Quality Control Region.

The Rockford (Illinois)-Janesville-Beloit (Wisconsin) Interstate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Illinois:

Boone County.	Stephenson County.
De Kalb County.	Winnebago County.
Ogle County.	

In the State of Wisconsin:

Rock County.

§ 81.72 Tennessee River Valley (Alabama)-Cumberland Mountains (Tennessee) Interstate Air Quality Control Region.

The Scottsboro (Alabama)-Jasper (Tennessee) Interstate Air Quality Control Region has been renamed the Tennessee River Valley (Alabama)-Cumberland Mountains (Tennessee) Interstate Air Quality Control Region and revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1875h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Alabama:

Colbert County.	Limestone County.
Cullman County.	Madison County.
De Kalb County.	Marion County.
Franklin County.	Marshall County.
Jackson County.	Morgan County.
Lauderdale County.	Winston County.
Lawrence County.	

In the State of Tennessee:

Bledsoe County.	Overton County.
Coffee County.	Pickett County.
Cumberland County.	Putnam County.
Fentress County.	Scott County.
Franklin County.	Sequatchie County.
Grundy County.	Warren County.
Marion County.	White County.

In the State of South Carolina:

Chester County.	Union County.
Lancaster County.	York County.

§ 81.76 State of Hawaii Air Quality Control Region.

The State of Hawaii Air Quality Control Region consists of the territorial

§ 81.80 Clark-Mohave Interstate Air Quality Control Region.

The Clark-Mohave Interstate Air Quality Control Region (Nevada-Arizona) has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions

In the State of New Mexico:

Dona Ana County.	Otero County.
Lincoln County.	Sierra County.

§ 81.85 Albuquerque-Mid Rio Grande Intrastate Air Quality Control Region.

The Albuquerque-Mid Rio Grande Intrastate Air Quality Control Region

For purposes of identification, these Regions are referred to by Wisconsin authorities as follows:

Sec.	
461.160	Duluth (Minnesota)-Superior (Wisconsin) Interstate Air Quality Control Region: Northwestern Wisconsin Region.
461.168	Great Falls Intrastate Air Quality Control Region: Region II.
461.169	Helena Intrastate Air Quality Control Region: Region IV.
461.170	Miles City Intrastate Air Quality Control Region: Region III.
461.171	Missoula Intrastate Air Quality Control Region: Region I.

In the State of Tennessee:

Bledsoe County.	Overton County.
Coffee County.	Pickett County.
Cumberland County.	Putnam County.
Fentress County.	Scott County.
Franklin County.	Sequatchie County.
Grundy County.	Warren County.
Marion County.	White County.
Morgan County.	Van Buren County.

§ 81.73 South Bend-Elkhart (Indiana)—Benton Harbor (Michigan) Interstate Air Quality Control Region.

The South Bend-Elkhart (Indiana)—Benton Harbor (Michigan) Interstate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Indiana:

Elkhart County.	Marshall County.
Kosciusko County.	St. Joseph County.
La Porte County.	

In the State of Michigan:

Berrien County.	Van Buren County.
Cass County.	

§ 81.74 Northwest Pennsylvania-Youngstown Interstate Air Quality Control Region.

The Northwest Pennsylvania-Youngstown Interstate Air Quality Control Region (Pennsylvania-Ohio) is redesignated to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Ohio:

Ashtabula County.	Trumbull County.
Mahoning County.	

In the State of Pennsylvania:

Cameron County.	Jefferson County.
Clarion County.	Lawrence County.
Clearfield County.	McKean County.
Crawford County.	Mercer County.
Elk County.	Potter County.
Erie County.	Venango County.
Forest County.	Warren County.

§ 81.75 Metropolitan Charlotte Interstate Air Quality Control Region.

The Metropolitan Charlotte Interstate Air Quality Control Region (North Carolina–South Carolina) has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of North Carolina:

Cabarrus County.	Mecklenburg County.
Gaston County.	Rowan County.
Iredell County.	Stanly County.
Lincoln County.	Union County.

In the State of South Carolina:

Chester County.	Union County.
Lancaster County.	York County.

§ 81.76 State of Hawaii Air Quality Control Region.

The State of Hawaii Air Quality Control Region consists of the territorial area encompassed by the outermost boundaries of the State of Hawaii (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited).

§ 81.77 Puerto Rico Air Quality Control Region.

The Puerto Rico Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

The entire Commonwealth of Puerto Rico:

Puerto Rico and surrounding islands.
Vieques and surrounding islands.
Culebra and surrounding islands.

§ 81.78 Metropolitan Portland Intrastate Air Quality Control Region.

The Metropolitan Portland Intrastate Air Quality Control Region (Maine) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Maine:

Counties	
Cumberland.	York.
Sagadahoc.	
Towns	
Brownfield.	Hiram.
Denmark.	Porter.
Fryeburg.	

§ 81.79 Northeastern Oklahoma Intrastate Air Quality Control Region.

The Metropolitan Tulsa Intrastate Air Quality Control Region has been renamed the Northeastern Oklahoma Intrastate Air Quality Control Region and revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Oklahoma:

Craig County.	Osage County.
Creek County.	Ottawa County.
Delaware County.	Pawnee County.
Mayes County.	Rogers County.
Muskogee County.	Tulsa County.
Nowata County.	Wagoner County.
Okmulgee County.	Washington County.

§ 81.80 Clark-Mohave Interstate Air Quality Control Region.

The Clark-Mohave Interstate Air Quality Control Region (Nevada-Arizona) has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Nevada:

Clark County.

In the State of Arizona:

Mohave County.	Yuma County.

§ 81.81 Merrimack Valley-Southern New Hampshire Interstate Air Quality Control Region.

The Merrimack Valley Southern New Hampshire Interstate Air Quality Control Region (Massachusetts-New Hampshire) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Massachusetts:

In Essex County, the towns of:

Andover.	Methuen.
Amesbury.	Newbury.
Boxford.	Newburyport.
Georgetown.	North Andover.
Groveland.	Rowley.
Haverhill.	Salisbury.
Lawrence.	West Newbury.
Merrimac.	

In Middlesex County, the towns of:

Ayer.	Littleton.
Billerica.	Lowell.
Carlisle.	Pepperell.
Chelmsford.	Tewksbury.
Dracut.	Tyngsborough.
Dunstable.	Westford.
Groton.	

In the State of New Hampshire:

The counties of:

Belknap.	Rockingham.
Cheshire.	Strafford.
Hillsborough.	Sullivan.
Merrimack.	

§ 81.82 El Paso-Las Cruces-Alamogordo Interstate Air Quality Control Region.

The El Paso-Las Cruces-Alamogordo Interstate Air Quality Control Region (New Mexico-Texas) is revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Texas:

Brewster County.	Hudspeth County.
Culberson County.	Jeff Davis County.
El Paso County.	Presidio County.

In the State of New Mexico:

Dona Ana County.	Otero County.
Lincoln County.	Sierra County.

§ 81.83 Albuquerque-Mid Rio Grande Intrastate Air Quality Control Region.

The Albuquerque-Mid Rio Grande Intrastate Air Quality Control Region (New Mexico) is revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of New Mexico:

Bernalillo County.

Those portions of Sandoval County lying east of the Continental Divide:

Those portions of Valencia County lying east of a line described as follows: Starting at the point at which the south boundary of Bernalillo County intersects with the section line between secs. 1 and 2 T. 7 N., R. 2 W.; thence south to the southern boundary of the Laguna Indian Reservation between secs. 35 and 36 T. 7 N., R. 2 W.; then southerly on section lines to the Socorro-Valencia County line at secs. 11, 12, 13, and 14, T. 5 N., R. 2 W.

§ 81.84 Metropolitan Fargo-Moorhead Interstate Air Quality Control Region.

The Metropolitan Fargo-Moorhead Interstate Air Quality Control Region (North Dakota-Minnesota) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of North Dakota:

Cass County.

In the State of Minnesota:

Clay County.

§ 81.85 Metropolitan Sioux Falls Interstate Air Quality Control Region.

The Metropolitan Sioux Falls Interstate Air Quality Control Region (Iowa-South Dakota) has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Iowa:

Lyon County.

In the State of South Dakota:

Lincoln County.	Minnehaha County.
McCook County.	Turner County.

NOTE: For purposes of identification, this Region is referred to by Minnesota authorities as follows:

Sec.
481.60 Duluth (Minnesota)-Superior (Wisconsin) Interstate Air Quality Control Region: Northeast Minnesota Region.

For purposes of identification, these Regions are referred to by Wisconsin authorities as follows:

Sec.
481.60 Duluth (Minnesota)-Superior (Wisconsin) Interstate Air Quality Control Region: Northwestern Wisconsin Region.
481.66 Southeast Minnesota-La Crosse (Wisconsin) Interstate Air Quality Control Region: West Central Wisconsin Region.

§ 81.86 Metropolitan Sioux City Interstate Air Quality Control Region.

The Metropolitan Sioux City Interstate Air Quality Control Region (Iowa-Nebraska-South Dakota) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Iowa:

Plymouth County.	Woodbury County.
Sioux County.	

In the State of Nebraska:

Dakota County.

In the State of South Dakota:

Union County.

§ 81.87 Metropolitan Boise Intrastate Air Quality Control Region.

The Metropolitan Boise Intrastate Air Quality Control Region (Idaho) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f) geographically located within the outermost boundaries of the area so delimited):

In the State of Idaho:

Ada County.	Canyon County.

§ 81.88 Billings Intrastate Air Quality Control Region.

The Metropolitan Billings Intrastate Air Quality Control Region (Montana) has been renamed the Billings Intrastate Air Quality Control Region and consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Montana:

Big Horn County.	Musselshell County.
Carbon County.	Petroleum County.
Fergus County.	Stillwater County.
Golden Valley County.	Sweet Grass County.
Judith Basin County.	Wheatland County.
	Yellowstone County.

(Sec. 301(a), 81 Stat. 490, 504; 42 U.S.C. 1857g(a) as amended by sec. 15(c)(2) of Public Law 91-604)

NOTE: For purposes of identification, the Regions are referred to by Montana authorities as follows:

Sec.
481.166 Great Falls Intrastate Air Quality Control Region: Region II.
481.169 Helena Intrastate Air Quality Control Region: Region IV.
481.170 Miles City Intrastate Air Quality Control Region: Region III.
481.171 Missoula Intrastate Air Quality Control Region: Region I.
481.86 Billings Intrastate Air Quality Control Region: Region V.

§ 81.89 Metropolitan Cheyenne Intrastate Air Quality Control Region.

The Metropolitan Cheyenne Intrastate Air Quality Control Region (Wyoming) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Wyoming:

Albany County.	Laramie County.
Goshen County.	Platte County.

§ 81.90 Androscoggin Valley Interstate Air Quality Control Region.

The Androscoggin Valley Interstate Air Quality Control Region (Maine-New Hampshire) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermist boundaries of the area so delimited):

In the State of Maine:

Androscoggin County.	Knox County.
Kennebec County.	Lincoln County.
	Waldo County.

In the County of Franklin:

Avon Town.	Phillips Town.
Carthage Town.	Salem Township.
Chesterville Town.	Strong Town.
Farmington Town.	Temple Town.
Freeman Township.	Township No. 6.
Industry Town.	Washington Township.
Jay Town.	Weld Town.
New Sharron Town.	Wilton Town.
New Vineyard Town.	
Perkins Township.	

In the County of Oxford:

Albany Township.	Mason Township.
Andover Town.	Mexico Town.
Andover North Surplus.	Milton Township.
	Newry Town.
Andover West Surplus.	Norway Town.
	Oxford Town.
Batchelders Grant.	Paris Town.
Bethel Town.	Peru Town
Buckfield Town.	Riley Township.
Byron Town.	Roxbury Town.
Canton Town.	Rumford Town.
Dixfield Town.	Stoneham Town.
Gilead Town.	Stow Town.
Grafton Township.	Sumner Town.
Greenwood Town.	Sweden Town.
Hanover Town.	Waterford Town.
Hartford Town.	West Paris Town.
Hebron Town.	Woodstock Town.
Lovell Town.	

Somerset County—That portion of Somerset County which lies south and east of a line described as follows: Beginning at the point

where the Somerset-Franklin County boundary is intersected by a line common to the northern boundary of New Portland Township and running northeast along the northern boundaries of New Portland, Embden, Solon, and Athens Townships to the intersection of said line with the Somerset-Piscataquis County boundary, which is also common to the northeast corner of Athens Township.

§ 81.96 West Central Florida Intrastate Air Quality Control Region.

The West Central Florida Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Virginia:

Sec.
481.165 Southeast Illinois Intrastate Air Quality Control Region: Region X.
481.69 Paducah-Cairo Interstate Air Quality Control Region: Region XI.

§ 81.99 Arizona-New Mexico Southern Border Interstate Air Quality Control Region.

The Arizona-New Mexico Southern Border Interstate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited:

§ 81.107 Greenwood Intrastate Air Quality Control Region.

The Greenwood Intrastate Air Quality Control Region (South Carolina) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air

where the Somerset-Franklin County boundary is intersected by a line common to the northern boundary of New Portland Township and running northeast along the northern boundaries of New Portland, Embden, Solon, and Athens Townships to the intersection of said line with the Somerset-Piscataquis County boundary, which is also common to the northeast corner of Athens Township.

In the State of New Hampshire:

Coos County.

§ 81.91 Jacksonville (Florida)-Brunswick (Georgia) Interstate Air Quality Control Region.

The Jacksonville (Florida)-Brunswick (Georgia) Interstate Air Quality Control Region has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Florida:

Alachua County.	Lafayette County.
Baker County.	Leon County.
Bradford County.	Liberty County.
Clay County.	Madison County.
Columbia County.	Marion County.
Dixie County.	Nassau County.
Duval County.	Putnam County.
Flagler County.	St. Johns County.
Franklin County.	Suwannee County.
Gadsden County.	Taylor County.
Gilchrist County.	Union County.
Hamilton County.	Wakulla County.
Jefferson County.	

In the State of Georgia:

Appling County.	Coffee County.
Atkinson County.	Glynn County.
Bacon County.	Long County.
Brantley County.	McIntosh County.
Camden County.	Pierce County.
Charlton County.	Ware County.
Clinch County.	Wayne County.

§ 81.92 Monroe (Louisiana)—El Dorado (Arkansas) Interstate Air Quality Control Region.

The Monroe (Louisiana)—El Dorado (Arkansas) Interstate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Louisiana:

Caldwell Parish.	Morehouse Parish.
Catahoula Parish.	Ouachita Parish.
Concordia Parish.	Richland Parish.
East Carroll Parish.	Tensas Parish.
Franklin Parish.	Union Parish.
La Salle Parish.	West Carroll Parish.
Madison Parish.	

In the State of Arkansas:

Ashley County.	Nevada County.
Bradley County.	Ouachita County.
Calhoun County.	Union County.

§ 81.93 Hampton Roads Intrastate Air Quality Control Region.

The Metropolitan Norfolk Intrastate Air Quality Control Region (Virginia) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Virginia:

Counties

Isle of Wight.	Southampton.
James City.	York.
Nansemond.	

Cities

Chesapeake.	Portsmouth.
Franklin.	Suffolk.
Hampton.	Virginia Beach.
Newport News.	Williamsburg.
Norfolk.	

§ 81.94 Shreveport-Texarkana-Tyler Interstate Air Quality Control Region.

The Shreveport-Texarkana-Tyler Interstate Air Quality Control Region (Arkansas-Louisiana-Oklahoma-Texas) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Arkansas:

Columbia County.	Little River County.
Hempstead County.	Miller County.
Howard County.	Sevier County.
Lafayette County.	

In the State of Louisiana:

Bienville Parish.	Lincoln Parish.
Bossier Parish.	Natchitoches Parish.
Caddo Parish.	Red River Parish.
Claiborne Parish.	Sabine Parish.
De Soto Parish.	Webster Parish.
Jackson Parish.	Winn Parish.

In the State of Oklahoma:

McCurtain County.

In the State of Texas:

Anderson County.	Marion County.
Bowie County.	Morris County.
Camp County.	Panola County.
Cass County.	Rains County.
Cherokee County.	Red River County.
Delta County.	Rusk County.
Franklin County.	Smith County.
Gregg County.	Titus County.
Harrison County.	Upshur County.
Henderson County.	Van Zandt County.
Hopkins County.	Wood County.
Lamar County.	

§ 81.95 Central Florida Intrastate Air Quality Control Region.

The Central Florida Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Florida:

Brevard County.	Osceola County.
Lake County.	Seminole County.
Orange County.	Volusia County.

§ 81.96 West Central Florida Intrastate Air Quality Control Region.

The West Central Florida Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Florida:

Citrus County.	Manatee County.
Hardee County.	Pasco County.
Hernando County.	Pinellas County.
Hillsborough County.	Polk County.
Levy County.	Sumter County.

§ 81.97 Southwest Florida Intrastate Air Quality Control Region.

The Southwest Florida Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Florida:

Charlotte County.	Hendry County.
Collier County.	Highlands County.
De Soto County.	Lee County.
Glades County.	Sarasota County.

§ 81.98 Burlington-Keokuk Interstate Air Quality Control Region.

The Burlington-Keokuk Interstate Air Quality Control Region (Illinois-Iowa) is revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Illinois:

Fulton County.	Mason County.
Hancock County.	Peoria County.
Henderson County.	Tazewell County.
Knox County.	Warren County.
McDonough County.	Woodford County.

In the State of Iowa:

Des Moines County.	Lee County.

NOTE: For purposes of identification, the regions are referred to by Illinois authorities as follows:

Sec.
- 481.14 Metropolitan Chicago Interstate Air Quality Control Region: Region III.
- 481.262 North Central Illinois Intrastate Air Quality Control Region: Region V.
- 481.98 Burlington-Keokuk Interstate Air Quality Control Region: Region VI.
- 481.263 East Central Illinois Intrastate Air Quality Control Region: Region VII.
- 481.264 West Central Illinois Intrastate Air Quality Control Region: Region VIII.
- 481.18 Metropolitan St. Louis Interstate Air Quality Control Region: Region IX.

Sec.
- 481.265 Southeast Illinois Intrastate Air Quality Control Region: Region X.
- 481.99 Paducah-Cairo Interstate Air Quality Control Region: Region XI.

§ 81.99 Arizona-New Mexico Southern Border Interstate Air Quality Control Region.

The Arizona-New Mexico Southern Border Interstate Air Quality Control Region (Arizona-New Mexico) is revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Arizona:

Cochise County.	Greenlee County.
Graham County.	

In the State of New Mexico:

Grant County.	Luna County.
Hidalgo County.	

§ 81.100 Eastern Washington-Northern Idaho Interstate Air Quality Control Region.

The Eastern Washington-Northern Idaho Interstate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Idaho:

Benewah County.	Nez Perce County.
Kootenai County.	Shoshone County.
Latah County.	

In the State of Washington:

Adams County.	Grant County.
Asotin County.	Lincoln County.
Columbia County.	Spokane County.
Garfield County.	Whitman County.

§ 81.101 Metropolitan Dubuque Interstate Air Quality Control Region.

The Metropolitan Dubuque Interstate Air Quality Control Region (Illinois-Iowa-Wisconsin) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Illinois:

Jo Daviess County.

In the State of Iowa:

Clayton County.	Jackson County.
Dubuque County.	

In the State of Wisconsin:

Grant County.

§ 81.102 Metropolitan Quad Cities Interstate Air Quality Control Region.

The Metropolitan Quad Cities Interstate Air Quality Control Region (Illinois-Iowa) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Illinois:

Carroll County.	Rock Island County.
Henry County.	Whiteside County.
Mercer County.	

In the State of Iowa:

Clinton County.	Muscatine County.
Louisa County.	Scott County.

§ 81.104 Central Pennsylvania Intrastate Air Quality Control Region.

The Central Pennsylvania Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Pennsylvania:

Bedford County.	Lycoming County.
Blair County.	Mifflin County.
Cambria County.	Montour County.
Centre County.	Northumberland County.
Clinton County.	Snyder County.
Columbia County.	Somerset County.
Fulton County.	Union County.
Huntingdon County.	
Juniata County.	

§ 81.105 South Central Pennsylvania Intrastate Air Quality Control Region.

The South Central Pennsylvania Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Pennsylvania:

Adams County.	Lancaster County.
Cumberland County.	Lebanon County.
Dauphin County.	Perry County.
Franklin County.	York County.

§ 81.106 Greenville-Spartanburg Intrastate Air Quality Control Region.

The Greenville-Spartanburg Intrastate Air Quality Control Region (South Carolina) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of South Carolina:

Anderson County.	Pickens County.
Cherokee County.	Spartanburg County.
Greenville County.	
Oconee County.	

§ 81.107 Greenwood Intrastate Air Quality Control Region.

The Greenwood Intrastate Air Quality Control Region (South Carolina) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of South Carolina:

Abbeville County.	Laurens County.
Edgefield County.	McCormick County.
Greenwood County.	Saluda County.

§ 81.108 Columbia Intrastate Air Quality Control Region.

The Columbia Intrastate Air Quality Control Region (South Carolina) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of South Carolina:

Fairfield County.	Newberry County.
Lexington County.	Richland County.

§ 81.109 Florence Intrastate Air Quality Control Region.

The Florence Intrastate Air Quality Control Region (South Carolina) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of South Carolina:

Chesterfield County.	Florence County.
Darlington County.	Marion County.
Dillon County.	Marlboro County.

§ 81.110 Camden-Sumter Intrastate Air Quality Control Region.

The Camden-Sumter Intrastate Air Quality Control Region (South Carolina) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of South Carolina:

Clarendon County.	Lee County.
Kershaw County.	Sumter County.

§ 81.111 Georgetown Intrastate Air Quality Control Region.

The Georgetown Intrastate Air Quality Control Region (South Carolina) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of South Carolina:

Georgetown County.	Williamsburg County.
Horry County.	

§ 81.112 Charleston Intrastate Air Quality Control Region.

The Charleston Intrastate Air Quality Control Region (South Carolina) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Georgia:

Burke County.	McDuffie County.
Columbia County.	Richmond County.
Emanuel County.	Screven County.
Glascock County.	Taliaferro County.
Jefferson County.	Warren County.
Jenkins County.	Wilkes County.
Lincoln County.	

In the State of South Carolina:

Aiken County.	Barnwell County.
Allendale County.	Calhoun County.

§ 81.120 Middle Tennessee Intrastate Air Quality Control Region.

The Middle Tennessee Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Mississippi:

Bolivar County.	Sharkey County.
Coahoma County.	Sunflower County.
Humphreys County.	Tallahatchie County.
Issaquena County.	Tunica County.
Leflore County.	Washington County.

In the State of Missouri:

Bollinger County.	New Madrid County.
Butler County.	Pemiscot County.
Cape Girardeau	Perry County.

In the State of Oklahoma:

Alfalfa County.	Harper County.
Beaver County.	Major County.
Blaine County.	Roger Mills County.

In the State of South Carolina:

Georgetown County.	Williamsburg County.
Horry County.	

§ 81.112 Charleston Intrastate Air Quality Control Region.

The Charleston Intrastate Air Quality Control Region (South Carolina) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of South Carolina:

Berkeley County.	Dorchester County.
Charleston County.	

NOTE: For purposes of identification, the regions are referred to by South Carolina authorities as follows:

Sec.
481.106 Greenville-Spartanburg Intrastate Air Quality Control Region: Region 1.
481.107 Greenwood Intrastate Air Quality Control Region: Region 2.
481.108 Columbia Intrastate Air Quality Control Region: Region 4.
481.109 Florence Intrastate Air Quality Control Region: Region 7.
481.110 Camden-Sumter Intrastate Air Quality Control Region: Region 6.
481.111 Georgetown Intrastate Air Quality Control Region: Region 8.
481.112 Charleston Intrastate Air Quality Control Region: Region 9.

§ 81.113 Savannah (Georgia)-Beaufort (South Carolina) Interstate Air Quality Control Region.

The Savannah (Georgia)-Beaufort (South Carolina) Interstate Air Quality Control Region has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of South Carolina:

Beaufort County.	Hampton County.
Colleton County.	Jasper County.

In the State of Georgia:

Bryan County.	Effingham County.
Bulloch County.	Evans County.
Candler County.	Liberty County.
Chatham County.	Tattnall County.

§ 81.114 Augusta (Georgia)-Aiken (South Carolina) Interstate Air Quality Control Region.

The Augusta (Georgia)-Aiken (South Carolina) Interstate Air Quality Control Region has been revised to consist of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Georgia:

Burke County.	McDuffie County.
Columbia County.	Richmond County.
Emanuel County.	Screven County.
Glascock County.	Taliaferro County.
Jefferson County.	Warren County.
Jenkins County.	Wilkes County.
Lincoln County.	

In the State of South Carolina:

Aiken County.	Barnwell County.
Allendale County.	Calhoun County.
Bamberg County.	Orangeburg County.

NOTE: For identification purposes, the Columbus (Georgia)-Phenix City (Alabama) Interstate Air Quality Control Region is referred to by Alabama authorities as the Alabama State Capital-Columbus (Georgia) Interstate Air Quality Control Region.

§ 81.115 Northwest Nevada Intrastate Air Quality Control Region.

The Northwest Nevada Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Nevada:

Carson City.	Storey County.
Douglas County.	Washoe County.
Lyon County.	

§ 81.116 Northern Missouri Intrastate Air Quality Control Region.

The Northern Missouri Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Missouri:

Adair County.	Lincoln County.
Andrew County.	Linn County.
Atchison County.	Livingston County.
Audrain County.	Macon County.
Boone County.	Marion County.
Caldwell County.	Mercer County.
Callaway County.	Moniteau County.
Carroll County.	Monroe County.
Charlton County.	Montgomery County.
Clark County.	Nodaway County.
Clinton County.	Osage County.
Cole County.	Pike County.
Cooper County.	Putnam County.
Daviess County.	Ralls County.
De Kalb County.	Randolph County.
Gentry County.	Saline County.
Grundy County.	Schuyler County.
Harrison County.	Scotland County.
Holt County.	Shelby County.
Howard County.	Sullivan County.
Knox County.	Warren County.
Lewis County.	Worth County.

§ 81.117 Southeast Missouri Intrastate Air Quality Control Region.

The Southeast Missouri Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Missouri:

Bollinger County.	New Madrid County.
Butler County.	Pemiscot County.
Cape Girardeau County.	Perry County.
Carter County.	Phelps County.
Crawford County.	Reynolds County.
Dent County.	Ripley County.
Dunklin County.	St. Francois County.
Gasconade County.	Ste. Genevieve County.
Iron County.	Scott County.
Madison County.	Stoddard County.
Maries County.	Washington County.
Mississippi County.	Wayne County.

§ 81.118 Southwest Missouri Intrastate Air Quality Control Region.

The Southwest Missouri Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Missouri:

Barton County.	Lawrence County.
Barry County.	McDonald County.
Bates County.	Miller County.
Benton County.	Morgan County.
Camden County.	Newton County.
Cedar County.	Oregon County.
Christian County.	Ozark County.
Dade County.	Pettis County.
Dallas County.	Polk County.
Douglas County.	Pulaski County.
Greene County.	St. Clair County.
Henry County.	Shannon County.
Hickory County.	Stone County.
Howell County.	Taney County.
Jasper County.	Texas County.
Johnson County.	Vernon County.
Laclede County.	Webster County.
Lafayette County.	Wright County.

§ 81.119 Western Tennessee Intrastate Air Quality Control Region.

The Western Tennessee Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Tennessee:

Benton County.	Haywood County.
Carroll County.	Henderson County.
Chester County.	Henry County.
Crockett County.	Lake County.
Decatur County.	Lauderdale County.
Dyer County.	McNairy County.
Fayette County.	Madison County.
Gibson County.	Obion County.
Hardeman County.	Tipton County.
Hardin County.	Weakley County.

§ 81.120 Middle Tennessee Intrastate Air Quality Control Region.

The Middle Tennessee Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Tennessee:

Bedford County.	Macon County.
Cannon County.	Marshall County.
Cheatham County.	Maury County.
Clay County.	Montgomery County.
Davidson County.	Moore County.
De Kalb County.	Perry County.
Dickson County.	Robertson County.
Giles County.	Rutherford County.
Hickman County.	Smith County.
Houston County.	Stewart County.
Humphreys County.	Sumner County.
Jackson County.	Trousdale County.
Lawrence County.	Wayne County.
Lewis County.	Williamson County.
Lincoln County.	Wilson County.

§ 81.121 Four Corners Interstate Air Quality Control Region.

The Four Corners Interstate Air Quality Control Region (Arizona-Colorado-New Mexico-Utah) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Arizona:

Apache County.	Navajo County.
Coconino County.	Yavapai County.

In the State of Colorado:

Archuleta County.	Montezuma County.
Dolores County.	San Juan County.
La Plata County.	

In the State of New Mexico:

San Juan County, in its entirety.

Portion of Rio Arriba County lying west (Pacific slope) of the Continental Divide, and all portions of the Jicarilla Apache Indian Reservation lying east (Atlantic slope) of the Continental Divide.

Portion of Sandoval County lying west (Pacific slope) of the Continental Divide, and all portions of the Jicarilla Apache Indian Reservation lying east (Atlantic slope) of the Continental Divide.

Portion of McKinley County lying west (Pacific slope) of the Continental Divide.

Portion of Valencia County lying within the Zuni and Ramah Navajo Indian Reservations.

In the State of Utah:

Emery County.	Kane County.
Garfield County.	San Juan County.
Grand County.	Washington County.
Iron County.	Wayne County.

§ 81.122 Mississippi Delta Intrastate Air Quality Control Region.

The Mississippi Delta Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Mississippi:

Bolivar County.	Sharkey County.
Coahoma County.	Sunflower County.
Humphreys County.	Tallahatchie County.
Issaquena County.	Tunica County.
Leflore County.	Washington County.
Quitman County.	Yazoo County.

§ 81.123 Southeastern Oklahoma Intrastate Air Quality Control Region.

The Southeastern Oklahoma Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Oklahoma:

Atoka County.	Latimer County.
Bryan County.	Love County.
Carter County.	McIntosh County.
Choctaw County.	Marshall County.
Coal County.	Murray County.
Garvin County	Okfuskee County.
Haskell County.	Pittsburg County.
Hughes County.	Pontotoc County.
Johnston County.	Pushmataha County.
	Seminole County.

§ 81.124 North Central Oklahoma Intrastate Air Quality Control Region.

The North Central Oklahoma Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Oklahoma:

Garfield County.	Noble County.
Grant County.	Payne County.
Kay County.	

§ 81.125 Southwestern Oklahoma Intrastate Air Quality Control Region.

The Southwestern Oklahoma Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Oklahoma:

Beckham County.	Jackson County.
Caddo County.	Jefferson County.
Comanche County.	Kiowa County.
Cotton County.	Stephens County.
Greer County.	Tillman County.
Harmon County.	Washita County.

§ 81.126 Northwestern Oklahoma Intrastate Air Quality Control Region.

The Northwestern Oklahoma Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Oklahoma:

Alfalfa County.	Harper County.
Beaver County.	Major County.
Blaine County.	Roger Mills County.
Cimarron County.	Texas County.
Custer County.	Woods County.
Dewey County.	Woodward County.
Ellis County.	

§ 81.127 Central New York Intrastate Air Quality Control Region.

The Central New York Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f) geographically located within the outermost boundaries of the area so delimited):

In the State of New York:

Cayuga County.	Madison County.
Cortland County.	Oneida County.
Herkimer County.	Onondaga County.
Jefferson County.	Oswego County.
Lewis County.	

§ 81.128 Genesee-Finger Lakes Intrastate Air Quality Control Region.

The Genesee-Finger Lakes Intrastate Air Quality Control Region (New York) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of New York:

Genesee County.	Seneca County.
Livingston County.	Wayne County.
Monroe County.	Wyoming County.
Ontario County.	Yates County.
Orleans County.	

§ 81.129 Hudson Valley Intrastate Air Quality Control Region.

The Hudson Valley Intrastate Air Quality Control Region (New York) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of New York:

Albany County.	Putnam County.
Columbia County.	Rensselaer County.
Dutchess County.	Saratoga County.
Fulton County.	Schenectady County.
Greene County.	Schoharie County.
Montgomery County.	Ulster County.
Orange County.	

§ 81.130 Southern Tier East Intrastate Air Quality Control Region.

The Southern Tier East Intrastate Air Quality Control Region (New York) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as

In the State of Texas:

Armstrong County.	Hockley County.
Bailey County.	Hutchinson County.
Briscoe County.	King County.
Carson County.	Lamb County.
Castro County.	Lipscomb County.
Cochran County.	Lubbock County.
Collingsworth County.	Lynn County.
	Moore County.

cally located within the outermost boundaries of the area so delimited):

In the State of Texas:

Aransas County.	Kenedy County.
Bee County.	Kleberg County.
Brooks County.	Lavaca County.
Calhoun County.	Live Oak County.
De Witt County.	McMullen County.

In the State of Arkansas:

Arkansas County.	Monroe County.
Clay County.	Phillips County.
Craighead County	Poinsett County.
Cross County.	Prairie County.
Greene County.	Randolph County.
Independence County.	Saint Francis County.
Jackson County.	Sharp County.

In the State of Massachusetts—Continued

Townships—Continued

New Braintree.	Spencer.
Northborough.	Sterling.
Northbridge.	Sturbridge.
North Brookfield.	Sutton.
Oakham.	Templeton.
Oxford.	Townsend.
Paxton.	Upton.

In the State of Virginia—Continued

Cities

Charlottesville.	Fredericksburg.

Towns

Culpeper.	Warrenton.

§ 81.145 State Capital Intrastate Air Quality Control Region.

Air Quality Control Region (Virginia) Orange County. Volusia County. gion IX.

state Air Quality Control Region (Vir-

§ 81.130 Southern Tier East Intrastate Air Quality Control Region.

The Southern Tier East Intrastate Air Quality Control Region (New York) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of New York:

Broome County.	Otsego County.
Chenango County.	Sullivan County.
Delaware County.	Tioga County.

§ 81.131 Southern Tier West Intrastate Air Quality Control Region.

The Southern Tier West Intrastate Air Quality Control Region (New York) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of New York:

Allegany County.	Schuyler County.
Cattaraugus County.	Steuben County.
Chautauqua County.	Tompkins County.
Chemung County.	

§ 81.132 Abilene-Wichita Falls Intrastate Air Quality Control Region.

The Abilene-Wichita Falls Intrastate Air Quality Control Region (Texas) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Texas:

Archer County.	Kent County.
Baylor County.	Knox County.
Brown County.	Mitchell County.
Callahan County.	Montague County.
Childress County.	Nolan County.
Clay County.	Runnels County.
Coleman County.	Scurry County.
Comanche County.	Shackelford County.
Cottle County.	Stephens County.
Eastland County.	Stonewall County.
Fisher County.	Taylor County.
Foard County.	Throckmorton County.
Hardeman County.	Wichita County.
Haskell County.	Wilbarger County.
Jack County.	Young County.
Jones County.	

§ 81.133 Amarillo-Lubbock Intrastate Air Quality Control Region.

The Amarillo-Lubbock Intrastate Air Quality Control Region (Texas) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Texas:

Armstrong County.	Hockley County.
Bailey County.	Hutchinson County.
Briscoe County.	King County.
Carson County.	Lamb County.
Castro County.	Lipscomb County.
Cochran County.	Lubbock County.
Collingsworth County.	Lynn County.
Crosby County.	Moore County.
Dallam County.	Motley County.
Deaf Smith County.	Ochiltree County.
Dickens County.	Oldham County.
Donley County.	Parmer County.
Floyd County.	Potter County.
Garza County.	Randall County.
Gray County.	Roberts County.
Hale County.	Sherman County.
Hall County.	Swisher County.
Hansford County.	Terry County.
Hartley County.	Wheeler County.
Hemphill County.	Yoakum County.

§ 81.134 Austin-Waco Intrastate Air Quality Control Region.

The Austin-Waco Intrastate Air Quality Control Region (Texas) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Texas:

Bastrop County.	Hill County.
Bell County.	Lampasas County.
Blanco County.	Lee County.
Bosque County.	Leon County.
Brazos County.	Limestone County.
Burleson County.	Llano County.
Burnet County.	McLennan County.
Caldwell County.	Madison County.
Coryell County.	Milam County.
Falls County.	Mills County.
Fayette County.	Robertson County.
Freestone County.	Travis County.
Grimes County.	Washington County.
Hamilton County.	Williamson County.
Hays County.	

§ 81.135 Brownsville-Laredo Intrastate Air Quality Control Region.

The Brownsville-Laredo Intrastate Air Quality Control Region (Texas) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Texas:

Cameron County.	Webb County.
Hidalgo County.	Willacy County.
Jim Hogg County.	Zapata County.
Starr County.	

§ 81.136 Corpus Christi-Victoria Intrastate Air Quality Control Region.

The Corpus Christi-Victoria Intrastate Air Quality Control Region (Texas) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Texas:

Aransas County.	Kenedy County.
Bee County.	Kleberg County.
Brooks County.	Lavaca County.
Calhoun County.	Live Oak County.
De Witt County.	McMullen County.
Duval County.	Nueces County.
Goliad County.	Refugio County.
Jackson County.	San Patricio County.
Jim Wells County.	Victoria County.

§ 81.137 Midland-Odessa-San Angelo Intrastate Air Quality Control Region.

The Midland-Odessa-San Angelo Intrastate Air Quality Control Region (Texas) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(e)) geographically located within the outermost boundaries of the area so delimited):

In the State of Texas:

Andrews County.	Menard County.
Borden County.	Midland County.
Coke County.	Pecos County.
Concho County.	Reagan County.
Crane County.	Reeves County.
Crockett County.	San Saba County.
Dawson County.	Schleicher County.
Ector County.	Sterling County.
Gaines County.	Sutton County.
Glasscock County.	Terrell County.
Howard County.	Tom Green County.
Irion County.	Upton County.
Loving County.	Ward County.
Martin County.	Winkler County.
McCulloch County.	

§ 81.138 Central Arkansas Intrastate Air Quality Control Region.

The Central Arkansas Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Arkansas:

Chicot County.	Hot Spring County.
Clark County.	Jefferson County.
Cleveland County.	Lincoln County.
Conway County.	Lonoke County.
Dallas County.	Perry County.
Desha County	Pope County.
Drew County.	Pulaski County.
Faulkner County.	Saline County.
Garland County.	Yell County.
Grant County.	

§ 81.139 Northeast Arkansas Intrastate Air Quality Control Region.

The Northeast Arkansas Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Arkansas:

Arkansas County.	Monroe County.
Clay County.	Phillips County.
Craighead County	Poinsett County.
Cross County.	Prairie County.
Greene County.	Randolph County.
Independence County.	Saint Francis County.
Jackson County.	Sharp County.
Lawrence County.	White County.
Lee County.	Woodruff County.
Mississippi County.	

§ 81.140 Northwest Arkansas Intrastate Air Quality Control Region.

The Northwest Arkansas Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Arkansas:

Baxter County.	Marion County.
Boone County.	Montgomery County.
Carroll County.	Newton County.
Cleburne County.	Pike County.
Franklin County.	Polk County.
Fulton County.	Scott County.
Izard County.	Searcy County.
Johnson County.	Stone County.
Logan County.	Van Buren County.
Madison County.	

§ 81.141 Berkshire Intrastate Air Quality Control Region.

The Berkshire Intrastate Air Quality Control Region (Massachusetts) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Massachusetts:

Berkshire County.

§ 81.142 Central Massachusetts Intrastate Air Quality Control Region.

The Central Massachusetts Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Massachusetts:

Townships

Ashburnham.	East Brookfield.
Ashby.	Grafton.
Athol.	Hardwick.
Auburn.	Harvard.
Barre.	Holden.
Berlin.	Hopedale.
Blackstone.	Hubbardston.
Boylston.	Lancaster.
Brookfield.	Leicester.
Charlton.	Lunenburg.
Clinton.	Mendon.
Douglas.	Millbury.
Dudley.	Millville.

In the State of Massachusetts—Continued

Townships—Continued

New Braintree.	Spencer.
Northborough.	Sterling.
Northbridge.	Sturbridge.
North Brookfield.	Sutton.
Oakham.	Templeton.
Oxford.	Townsend.
Paxton.	Upton.
Petersham.	Uxbridge.
Phillipston.	Warren.
Princeton.	Webster.
Royalston.	Westborough.
Rutland.	West Boylston.
Shirley.	West Brookfield.
Shrewsbury.	Westminster.
Southbridge.	Winchendon.

Cities

Fitchburg.	Leominster.
Gardner.	Worcester.

§ 81.143 Central Virginia Intrastate Air Quality Control Region.

The Central Virginia Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Virginia:

Counties

Amelia.	Franklin.
Amherst.	Halifax.
Appomattox.	Henry.
Bedford.	Lunenburg.
Brunswick.	Mecklenburg.
Buckingham.	Nottoway.
Campbell.	Patrick.
Charlotte.	Pittsylvania.
Cumberland.	Prince Edward.

Cities

Bedford.	Martinsville.
Danville.	South Boston.
Lynchburg.	

Towns

Blackstone.	Rocky Mount.
Farmville.	South Hill.

§ 81.144 Northeastern Virginia Intrastate Air Quality Control Region.

The Northeastern Virginia Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Virginia:

Counties

Accomack.	Louisa.
Albermarle.	Madison.
Caroline.	Mathews.
Culpeper.	Middlesex.
Essex.	Nelson.
Fauquier.	Northampton.
Fluvanna.	Northumberland.
Gloucester.	Orange.
Greene.	Rappahannock.
King and Queen.	Richmond.
King George.	Spotsylvania.
King William.	Stafford.
Lancaster.	Westmoreland.

In the State of Virginia—Continued

Cities

Charlottesville.	Fredericksburg.

Towns

Culpeper.	Warrenton.

§ 81.145 State Capital Intrastate Air Quality Control Region.

The State Capital Intrastate Air Quality Control Region (Virginia) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited).

In the State of Virginia:

Counties

Charles City.	Henrico.
Chesterfield.	New Kent.
Dinwiddie.	Powhatan.
Goochland.	Prince George.
Greensville.	Surry.
Hanover.	Sussex.

Cities

Colonial Heights.	Petersburg.
Emporia.	Richmond.
Hopewell.	

§ 81.146 Valley of Virginia Intrastate Air Quality Control Region.

The Valley of Virginia Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Virginia:

Counties

Alleghany.	Highland.
Augusta.	Montgomery.
Bath.	Page.
Botetourt.	Pulaski.
Clarke.	Roanoke.
Craig.	Rockbridge.
Floyd.	Rockingham.
Frederick.	Shenandoah.
Giles.	Warren.

Cities

Buena Vista.	Roanoke.
Clifton Forge.	Salem.
Covington.	Staunton.
Harrisonburg.	Waynesboro.
Lexington.	Winchester.
Radford.	

Towns

Blacksburg.	Luray.
Christiansburg.	Pulaski.
Front Royal.	Vinton.

§ 81.147 Eastern Mountain Intrastate Air Quality Control Region.

The Eastern Mountain Intrastate Air Quality Control Region (North Carolina) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of North Carolina:

Alexander County.	McDowell County.
Alleghany County.	Mitchell County.
Ashe County.	Polk County.
Avery County.	Rutherford County.
Burke County.	Watauga County.
Caldwell County.	Wilkes County.
Catawba County.	Yancey County.
Cleveland County.	

§ 81.148 Eastern Piedmont Intrastate Air Quality Control Region.

The Eastern Piedmont Intrastate Air Quality Control Region (North Carolina) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of North Carolina:

Chatham County.	Northampton County.
Durham County.	Orange County.
Edgecombe County.	Person County.
Franklin County.	Vance County.
Granville County.	Wake County.
Halifax County.	Warren County.
Johnston County.	Wilson County.
Lee County.	
Nash County.	

§ 81.149 Northern Coastal Plain Intrastate Air Quality Control Region.

The Northern Coastal Plain Intrastate Air Quality Control Region (North Carolina) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of North Carolina:

Beaufort County.	Hyde County.
Bertie County.	Martin County.
Camden County.	Pasquotank County.
Chowan County.	Perquimans County.
Currituck County.	Pitt County.
Dare County.	Tyrrell County.
Gates County.	Washington County.
Hertford County.	

§ 81.150 Northern Piedmont Intrastate Air Quality Control Region.

The Northern Piedmont Intrastate Air Quality Control Region (North Carolina) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of North Carolina:

Alamance County.	Randolph County.
Caswell County.	Rockingham County.
Davidson County.	Stokes County.
Davie County.	Surry County.
Forsyth County.	Yadkin County.
Guilford County.	

§ 81.151 Sandhills Intrastate Air Quality Control Region.

The Sandhills Intrastate Air Quality Control Region (North Carolina) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of North Carolina:

Anson County.	Moore County.
Bladen County.	Richmond County.
Cumberland County.	Robeson County.
Harnett County	Sampson County.
Hoke County.	Scotland County.
Montgomery County.	

§ 81.152 Southern Coastal Plain Intrastate Air Quality Control Region.

The Southern Coastal Plain Intrastate Air Quality Control Region (North Carolina) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of North Carolina:

Brunswick County.	Lenoir County.
Carteret County.	New Hanover County
Columbus County.	Onslow County.
Craven County.	Pamlico County.
Duplin County.	Pender County.
Greene County.	Wayne County.
Jones County.	

§ 81.153 Western Mountain Intrastate Air Quality Control Region.

The Western Mountain Intrastate Air Quality Control Region (North Carolina) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of North Carolina:

Buncombe County.	Jackson County.
Cherokee County.	Macon County.
Clay County.	Madison County.
Graham County.	Swain County.
Haywood County.	Transylvania County.
Henderson County.	

§ 81.154 Eastern Shore Intrastate Air Quality Control Region.

The Eastern Shore Intrastate Air Quality Control Region (Maryland) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Maryland:

Caroline County.	Somerset County.
Cecil County.	Talbot County.
Dorchester County.	Wicomico County.
Kent County.	Worcester County.
Queen Annes County.	

§ 81.155 Central Maryland Intrastate Air Quality Control Region.

The Central Maryland Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Maryland:

Frederick County.

§ 81.156 Southern Maryland Intrastate Air Quality Control Region.

The Southern Maryland Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Maryland:

Calvert County.	St. Marys County.
Charles County.	

§ 81.157 North Central Wisconsin Intrastate Air Quality Control Region.

The North Central Wisconsin Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Wisconsin:

Adams County.	Marathon County.
Forest County.	Oneida County.
Florence County.	Portage County.
Juneau County.	Vilas County.
Langlade County.	Wood County.
Lincoln County.	

§ 81.158 Southern Wisconsin Intrastate Air Quality Control Region.

The Southern Wisconsin Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Wisconsin:

Columbia County.	Jefferson County.
Dane County.	Lafayette County.
Dodge County.	Richland County.
Green County.	Sauk County.
Iowa County.	

§ 81.159 Great Basin Valley Intrastate Air Quality Control Region.

The Great Basin Valley Intrastate Air Quality Control Region (California) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of California:

Alpine County.	Mono County.
Inyo County.	

§ 81.160 North Central Coast Intrastate Air Quality Control Region.

The North Central Coast Intrastate Air Quality Control Region (California) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of California:

Monterey County.	Santa Cruz County.
San Benito County.	

§ 81.161 North Coast Intrastate Air Quality Control Region.

The North Coast Intrastate Air Quality Control Region (California) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of California:

Del Norte County.	Mendocino County.
Humboldt County.	Trinity County.
Lake County.	

Siskiyou County—that portion of Siskiyou County which lies west of a line described as follows:

Beginning at the Oregon border and running south along the eastern boundary of T. 48 N., R. 8 W., Humboldt Base and Meridian; then east along the north boundary of T. 47 N., R. 7 W. to the northeast corner of sec. 4, T. 47 N., R. 7 W.; then south along the east boundaries of secs. 4, 9, 16, 21, 28, and 33, T. 47 N., R. 7 W.; then west along the south boundary of T. 47 N., R. 7 W., to the northeast corner of T. 46 N., R. 8 W.; then south along the east boundary of T. 46 N., R. 8 W., to its intersection with the north boundary of T. 45 N., R. 8 W.; then east one-quarter mile to the northeast corner of T. 45 N., R. 8 W.; then south along the east boundary of T. 45 N., R. 8 W., and T. 44 N., R. 8 W., to the northeast corner of sec. 24, T. 44 N., R. 8 W.; then east along the section line to the northeast corner of sec. 20, T. 44 N., R. 7 W.; then south along the eastern boundaries of secs. 20, 29, and 32, T. 44 N., R. 7 W., to the north boundary of T. 43 N., R. 7 W.; then east along the north boundary of T. 43 N., R. 7 W., to the northeast corner of sec. 3, T. 43 N., R. 7 W.; then south along the east boundaries of secs. 3, 10, 15, 22, 27, and 34, T. 43 N., R. 7 W., and continuing south along the east boundaries of secs. 3, 10, 15, 22, 27, and 34, T. 42 N., R. 7 W.; then east to the intersection of the Klamath and Shasta National Forest boundaries; then south along the common boundary of the two National Forests to the Trinity County boundary.

§ 81.162 Northeast Plateau Intrastate Air Quality Control Region.

The Northeast Plateau Intrastate Air Quality Control Region (California) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of California:

Lassen County.	Modoc County.

Shasta County—that portion of Shasta County which lies east and north of a line described as follows:

Beginning at the Shasta-Siskiyou County boundary and running south along the range line common to R. 2 E. and R. 1 E., Mount Diablo Base and Meridian to the southwest corner of T. 38 N., R. 2 E.; then east along the township line common to T. 35 N. and T. 34 N., to the northwest corner of T. 34 N., R. 3 E.; then south along the range line common to R. 3 E. and R. 2 E., to the southwest corner of T. 33 N., R. 3 E.; then east along the township line common to T. 33 N. and T. 32 N., to the northwest corner of T. 32 N., R. 4 E.; then south along the range line common to R. 4 E. and R. 3 E. to the point of intersection with the northwest corner of the Lassen Volcanic National Park boundary; then east along the north boundary of Lassen Volcanic National Park to the point of intersection with the Lassen-Shasta County boundary.

Siskiyou County—that portion of Siskiyou County which lies east of a line described as follows:

Beginning at the Oregon border and running south along the eastern boundary of T. 48 N., R. 8 W., Humboldt Base and Meridian; to the northeast corner of T. 47 N., R. 8 W.; then east along the north boundary of T. 47 N., R. 7 W. to the northeast corner of sec. 4, T. 47 N., R. 7 W.; then south along the east boundaries of secs. 4, 9, 16, 21, 28, and 33, T. 47 N., R. 7 W., then west along the south boundary of T. 47 N., R. 7 W. to the northeast corner of T. 46 N., R. 8 W.; then south along the east boundary of T. 46 N., R. 8 W. to its intersection with the north boundary of T. 45 N., R. 8 W.; then east one-quarter mile to the northeast corner of T. 45 N., R. 8 W.; then south along the east boundary of T. 45 N., R. 8 W., and T. 44 N., R. 8 W. to the northeast corner of sec. 24, T. 44 N., R. 8 W.; then east along the section line to the northeast corner of sec. 20, T. 44 N., R. 7 W.; then south along the eastern boundaries of secs. 20, 29, and 32, T. 44 N., R. 7 W.; then east along the north boundary of T. 43 N., R. 7 W.; to the northeast corner of sec. 3, T. 43 N., R. 7 W.; then south along the east boundaries of secs. 3, 10, 15, 22, 27, and 34, T. 43 N., R. 7 W., and continuing south along the east boundaries of secs. 3, 10, 15, 22, 27, and 34, T. 42 N., R. 7 W.; then east to the intersection of the Klamath and Shasta National Forest boundaries; then south along the common boundary of the two National Forests to the Trinity County boundary.

§ 81.163 Sacramento Valley Intrastate Air Quality Control Region.

The Sacramento Valley Intrastate Air Quality Control Region (California) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of California:

Butte County.	Sacramento County.
Colusa County.	Sierra County.
El Dorado County.	Sutter County.
Glenn County.	Tehama County.
Nevada County.	Yolo County.
Placer County.	Yuba County.
Plumas County.	

Shasta County—that portion of Shasta County which lies west and south of a line described as follows:

Beginning at the Shasta-Siskiyou County boundary and running south along the range line common to R. 2 E. and R. 1 E., Mount Diablo Base and Meridian to the southwest corner of T. 35 N., R. 2 E.; then east along the township line common to T. 35 N. and T. 34 N. to the northwest corner of T. 34 N., R. 3 E.; then south along the range line common to R. 3 E. and R. 2 E. to the southwest corner of T. 33 N., R. 3 E.; then east along the township line common to T. 33 N. and T. 32 N. to the northwest corner of T. 32 N., R. 4 E.; then south along the range line common to R. 4 E. and R. 3 E. to the point of intersection with the northwest corner of the Lassen Volcanic National Park boundary; then east along the north boundary of Lassen Volcanic National Park to the point of intersection with the Lassen-Shasta County boundary.

§ 81.164 San Diego Intrastate Air Quality Control Region.

The San Diego Intrastate Air Quality Control Region (California) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of California:

San Diego County—that portion of San Diego County which lies west of a line described as follows:

Beginning at the United States-Mexico border and running north along the range line common to R. 7 E., and R. 6 E., San Bernardino Base and Meridian; to the southeast corner of T. 16 S., R. 6 E.; then west along the township line common to T. 16 S. and T 17 S. to the southwest corner of T. 16 S., R. 6 E.; then north along the range line common to R. 6 E. and R. 5 E. to the southeast corner of T. 14 S., R. 5 E.; then west along the township line common to T. 14 S. and T. 15 S. to the point of intersection with the east boundary of Cuyamaca Park; then north along the east boundary of Cuyamaca Park to the point of intersection with the range line common to R. 5 E. and R. 4 E.; then north along this range line to the point of intersection with the south boundary of the San Felipe Land Grant; then east and north along the land grant boundary to the easternmost corner; then continuing west and north along the land grant boundary to the point of intersection with the range line common to R. 5 E. and R. 4 E.; then north along this range line to the point of intersection with the township line common to T. 10 S. and T. 9 S.; then west along this township line to the point of intersection with the range line common to R. 4 E. and R. 3 E.; then north along this range line to the San Diego-Riverside County boundary.

§ 81.165 San Joaquin Valley Intrastate Air Quality Control Region.

The San Joaquin Valley Intrastate Air Quality Control Region (California) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of California:

Fresno County.	Merced County.
Kern County.	San Joaquin County.
Kings County.	Stanislaus County.
Madera County.	Tulare County.

Kern County—that portion of Kern County which lies west of a line described as follows:

Beginning at the Kern-San Bernardino County boundary and running north along the range line common to R. 15 W. and R. 16 W., San Bernardino Base and Meridian to the southwest corner of T. 28 S., R. 15 W.; then east along the township line common to T. 28 S. and T. 29 S. to the southwest corner of T. 28 S., R. 14 W.; then north along the range line common to R. 14 W. and R. 15 W. to the southwest corner of T. 27 S., R. 14 W.; then east along the township line common to T. 27 S. and T. 28 S. to the southwest corner of T. 27 S., R. 13 W.; then north along the range line common to R. 13 W. and R. 14 W. to the southwest corner of T. 26 S., R. 13 W.; then east along the township line common to T. 26 S. and T. 27 S. to the southwest corner of T. 26 S., R. 12 W.; then north along the range line common to R. 12 W. and R. 13 W. to the southwest corner of T. 25 S., R. 12 W.; then east along the township line common to T. 25 S. and T. 26 S. to the southwest corner of T. 25 S., R. 11 W.; then north along the range line common to R. 11 W. and R. 12 W. to the southwest corner of T. 24 S., R. 11 W.; then east along the township line common to T. 24 S. and T. 25 S. to the southwest corner of T. 24 S., R. 10 W.; then north along the range line common to R. 10 W. and R. 11 W. to the southwest corner of T. 23 S., R. 10 W.; then east along the township line common to T. 23 S. and T. 24 S. to the southwest corner of T. 23 S., R. 9 W.; then north along the range line common to R. 9 W. and R. 10 W. to the southwest corner of T. 22 S., R. 9 W.; then east along the township line common to T. 22 S. and T. 23 S. to the southwest corner of T. 22 S., R. 8 W.; then north along the range line common to R. 8 W. and R. 9 W. to the southwest corner of T. 21 S., R. 8 W.; then east along the township line common to T. 21 S. and T. 22 S. to the southwest corner of T. 21 S., R. 7 W.; then north along the range line common to R. 7 W. and R. 8 W. to the southwest corner of T. 20 S., R. 7 W.; then east along the township line common to T. 20 S. and T. 21 S. to the southwest corner of T. 20 S., R. 6 W.; then north along the range line common to R. 6 W. and R. 7 W. to the southwest corner of T. 19 S., R. 6 W.; then east along the township line common to T. 19 S. and T. 20 S. to the southwest corner of T. 19 S., R. 5 W.; then north along the range line common to R. 5 W. and R. 6 W. to the southwest corner of T. 18 S., R. 5 W.; then east along the township line common to T. 18 S. and T. 19 S. to the southwest corner of T. 18 S., R. 4 W.; then north along the range line common to R. 4 W. and R. 5 W. to the southwest corner of T. 17 S., R. 4 W.; then east along the township line common to T. 17 S. and T. 18 S. to the southwest corner of T. 17 S., R. 3 W.; then north along the range line common to R. 3 W. and R. 4 W. to the southwest corner of T. 16 S., R. 3 W.; then east along the township line common to T. 16 S. and T. 17 S. to the southwest corner of T. 16 S., R. 2 W.; then north along the range line common to R. 2 W. and R. 3 W. to the southwest corner of T. 15 S., R. 2 W.; then east along the township line common to T. 15 S. and T. 16 S. to the southwest corner of T. 15 S., R. 1 W.; then north along the range line common to R. 1 W. and R. 2 W. to the southwest corner of T. 14 S., R. 1 W.; then east along the township line common to T. 14 S. and T. 15 S. to the intersection with the southwest boundary of partial sec. 31, T. 3 S., R. 1 W.; then northwest along the

by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of California:

Imperial County.	Riverside County.
Orange County.	San Bernardino County.

§ 81.172 Comanche Intrastate Air Quality Control Region.

The Comanche Intrastate Air Quality Control Region (Colorado) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Colorado:

Baca County.	Las Animas County.
Bent County.	Otero County.
Crowley County.	Prowers County.
Kiowa County.	

§ 81.176 San Luis Intrastate Air Quality Control Region.

The San Luis Intrastate Air Quality Control Region (Colorado) consists of

§ 81.165 San Joaquin Valley Intrastate Air Quality Control Region.

The San Joaquin Valley Intrastate Air Quality Control Region (California) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of California:

Amador County.	Merced County.
Calaveras County.	San Joaquin County.
Fresno County.	Stanislaus County.
Kings County.	Tulare County.
Madera County.	Tuolumne County.
Mariposa County.	

Kern County—that portion of Kern County which lies west and north of a line described as follows:

Beginning at the Kern-Los Angeles County boundary and running north and east along the northwest boundary of the Rancho La Liebre Land Grant to the point of intersection with the range line common to R. 15 W. and R. 16 W., San Bernardino Base and Meridian; north along the range line; then east along the township line common to T. 32 S., Mount Diablo Base and Meridian; and T. 12 N., San Bernardino Base and Meridian; then north along the range line common to R. 24 E. and R. 23 E., Mount Diablo Base and Meridian; then east along the township line common to T. 32 S. and T. 31 S.; then north along the range line common to R. 25 E. and R. 24 E.; then east along the township line common to T. 29 S. and T. 28 S.; then north along the range line common to R. 26 E. and R. 25 E.; then east along the township line common to T. 28 S. and T. 27 S.; then north along the range line common to R. 27 E., and R. 26 E. to the Kern-Tulare County boundary.

§ 81.166 South Central Coast Intrastate Air Quality Control Region.

The South Central Coast Intrastate Air Quality Control Region (California) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of California:

San Luis Obispo County.

Santa Barbara County—that portion of Santa Barbara County which lies north of a line described as follows:

Beginning at the Pacific Ocean outfall of Jalama Creek and running east and north along Jalama Creek to a point of intersection with the west boundary of the San Julian Land Grant; then south along the San Julian Land Grant boundary to its southwest corner; then east along the south boundary of the San Julian Land Grant to the northeast corner of partial sec. 20, T. 5 N., R. 32 W., San Bernardino Base and Meridian; then south and east along the boundary of the Las Cruces Land Grant to the southwest corner of partial sec. 28, T. 5 N., R. 32 W.; then northeast along the Las Cruces Land Grant boundary; then east along the north boundaries of sec. 13, T. 5 N., R. 32 W., and secs. 18, 17, 16, 15, 14, 13, T. 5 N., R. 31 W., and secs. 18, 17, 16, 15, 14, 13, T. 5 N., R. 30 W., and secs. 18, 17, 16, 15, T. 5 N., R. 29 W.; then south along the east boundary of sec. 15 T. 5 N., R. 29 W.; then east along the north boundaries of secs. 23 and 24, T. 5 N., R. 29 W., and secs. 19, 20, 21, 22, 23, 24, T. 5 N., R. 28 W., and secs. 19 and 20, T. 5 N., R. 27 W.; then north along the east boundary of sec. 20, T. 5 N., R. 27 W.; then east along the north boundaries of secs. 22, 23, 24, T. 5 N., R. 27 W. and sec. 30, T. 5 N., R. 26 W.; then south along the east boundary of sec. 30, T. 5 N., R. 26 W.; then east along the north boundaries of secs. 32, 33, 34, 35, T. 5 N., R. 26 W.; then south along the east boundary of sec. 35, T. 5 N., R. 26 W. to the township line common to T. 4 N. and T. 5 N.; then east along this township line to the Santa Barbara-Ventura County boundary.

§ 81.167 Southeast Desert Intrastate Air Quality Control Region.

The Southeast Desert Intrastate Air Quality Control Region (California) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of California:

Imperial County.

San Diego County—that portion of San Diego County which lies east of a line described as follows:

Beginning at the United States-Mexico border and running north along the range line common to R. 7 E. and R. 6 E. to the southeast corner of T. 16 S., R. 6 E.; then west along the township line, San Bernardino Base and Meridian; common to T. 16 S. and T. 17 S. to the southwest corner of T. 16 S., R. 6 E.; then north along the range line common to R. 6 E. and R. 5 E. to the southeast corner of T. 14 S., R. 5 E.; then west along the township line common to T. 14 S. and T. 15 S. to the point of intersection with the east boundary of Cuyamaca Park; then north along the east boundary of Cuyamaca Park to the point of intersection with the range line common to R. 5 E. and R. 4 E.; then north along this range line to the point of intersection with the south boundary of the San Felipe Land Grant; then east and north along the land grant boundary to the eastern most corner; then continuing west and north along the land grant boundary to the point of intersection with the range line common to R. 5 E. and R. 4 E.; then north along this range line to the point of intersection with the township line common to T. 10 S. and T. 9 S.; then west along this township line to the point of intersection with the range line common to R. 4 E. and R. 3 E.; then north along this range line to the San Diego-Riverside County boundary.

Riverside County—that portion of Riverside County which lies east of a line described as follows:

Beginning at the Riverside-San Diego County boundary and running north along the range line common to R. 4 E. and R. 3 E., San Bernardino Base and Meridian; then east along the township line common to T. 8 S. and T. 7 S.; then north along the range line common to R. 5 E. and R. 4 E.; then west along the township line common to T. 6 S. and T. 7 S. to the southwest corner of sec. 34, T. 6 S., R. 4 E.; then north along the west boundaries of secs. 34, 27, 22, 15, 10, 3, T. 6 S., R. 4 E.; then west along the township line common to T. 5 S. and T. 6 S.; then north along the range line common to R. 4 E. and R. 3 E.; then west along the south boundaries of secs. 12, 14, 15, 22, 17, and 18, T. 5 S., R. 3 E.; then north along the range line common to R. 2 E. and R. 3 E.; then west along the township line common to T. 4 S. and T. 3 S. to the intersection with the southwest boundary of partial sec. 31, T. 3 S., R. 1 W.; then northwest along this line to the intersection with the range line common to R. 2 W. and R. 1 W.; then north to the Riverside-San Bernardino County line.

San Bernardino County—that portion of San Bernardino County which lies east and north of a line described as follows:

Beginning at the San Bernardino-Riverside County boundary and running north along the range line common to R. 3 E. and R. 2 E., San Bernardino Base and Meridian; then west along the township line common to T. 3 N. and T. 2 N. to the San Bernardino-Los Angeles County boundary.

Los Angeles County—that portion of Los Angeles County which lies north and east of a line described as follows:

Beginning at the Los Angeles-San Bernardino County boundary and running west along the township line common to T. 3 N. and T. 2 N., San Bernardino Base and Meridian; then north along the range line common to R. 9 W. and R. 9 W.; then west along the township line common to T. 4 N. and T. 3 N.; then north along the range line common to R. 12 W. and R. 13 W. to the southeast corner of sec. 12, T. 5 N., R. 13 W.; then west along the south boundaries of secs. 12, 11, 10, 9, 8, 7, T. 5 N., R. 13 W. to the boundary of the Angeles National Forest which is collinear with the range line common to R. 13 W. and R. 14 W.; then north and west along the Angeles National Forest boundary to the point of intersection with the township line common to T. 7 N. and T. 6 N. (point is at the northwest corner of sec. 4 in T. 6 N., R. 14 W.); then west along the township line common to T. 7 N. and T. 6 N.; then north along the range line common to R. 15 W. and R. 16 W. to the southeast corner of sec. 13, T. 7 N., R. 16 W.; then along the south boundaries of secs. 13, 14, 15, 16, 17, 18, T. 7 N., R. 16 W.; then north along the range line common to R. 16 W. and R. 17 W. to the north boundary of the Angeles National Forest (collinear with township line common to T. 8 N. and T. 7 N.) then west and north along the Angeles National Forest boundary to the point of intersection with the south boundary of the Rancho La Liebre Land Grant; then west and north along this land grant boundary to the Los Angeles-Kern County boundary.

Kern County—that portion of Kern County which lies east and south of a line described as follows:

Beginning at the Kern-Los Angeles County boundary and running north and east along the northwest boundary of the Rancho La Liebre Land Grant to the point of intersection with the range line common to R. 15 W. and R. 16 W., San Bernardino Base and Meridian, north along the range line; then east along the township line common to T. 32 S., Mount Diablo Base and Meridian; and T. 12 N., San Bernardino Base and Meridian; then north along the range line common to R. 24 E. and R. 23 E., Mount Diablo Base and Meridian; then east along the township line common to T. 32 S. and T. 31 S.; then north along the range line common to R. 25 E. and R. 24 E.; then east along the township line common to T. 29 S. and T. 28 S.; then north along the range line common to R. 26 E. and R. 25 E.; then east along the township line common to T. 28 S. and T. 27 S.; then north along the range line common to R. 27 E. and R. 26 E. to the Kern-Tulare County boundary.

§ 81.168 Great Falls Intrastate Air Quality Control Region.

The Great Falls Intrastate Air Quality Control Region (Montana) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Montana:

Blaine County.	Liberty County.
Cascade County.	Pondera County.
Chouteau County.	Teton County.
Glacier County.	Toole County.
Hill County.	

§ 81.169 Helena Intrastate Air Quality Control Region.

The Helena Intrastate Air Quality Control Region (Montana) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Montana:

Beaverhead County.	Lewis and Clark County.
Broadwater County.	Madison County.
Deer Lodge County.	Meagher County.
Gallatin County.	Park County.
Granite County.	Powell County.
Jefferson County.	Silver Bow County.

§ 81.170 Miles City Intrastate Air Quality Control Region.

The Miles City Intrastate Air Quality Control Region (Montana) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Montana:

Carter County.	Prairie County.
Custer County.	Richland County.
Daniels County.	Roosevelt County.
Dawson County.	Rosebud County.
Fallon County.	Sheridan County.
Garfield County.	Treasure County.
McCone County.	Valley County.
Phillips County.	Wibaux County.
Powder River County.	

§ 81.171 Missoula Intrastate Air Quality Control Region.

The Missoula Intrastate Air Quality Control Region (Montana) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Montana:

Flathead County.	Missoula County.
Lake County.	Ravalli County.
Lincoln County.	Sanders County.
Mineral County.	

§ 81.172 Comanche Intrastate Air Quality Control Region.

The Comanche Intrastate Air Quality Control Region (Colorado) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Colorado:

Baca County.	Kiowa County.
Bent County.	Kit Carson County.
Cheyenne County.	Lincoln County.
Crowley County.	Otero County.
Elbert County.	Prowers County.

§ 81.173 Grand Mesa Intrastate Air Quality Control Region.

The Grand Mesa Intrastate Air Quality Control Region (Colorado) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Colorado:

Delta County.	Montrose County.
Eagle County.	Ouray County.
Garfield County.	Pitkin County.
Gunnison County.	San Miguel County.
Hinsdale County.	Summit County.
Mesa County.	

§ 81.174 Pawnee Intrastate Air Quality Control Region.

The Pawnee Intrastate Air Quality Control Region (Colorado) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Colorado:

Larimer County.	Sedgwick County.
Logan County.	Washington County.
Morgan County.	Weld County.
Phillips County.	Yuma County.

§ 81.175 San Isabel Intrastate Air Quality Control Region.

The San Isabel Intrastate Air Quality Control Region (Colorado) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Colorado:

Chaffee County.	Lake County.
Custer County.	Las Animas County.
El Paso County.	Park County.
Fremont County.	Pueblo County.
Huerfano County.	Teller County.

§ 81.176 San Luis Intrastate Air Quality Control Region.

The San Luis Intrastate Air Quality Control Region (Colorado) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Colorado:

Alamosa County.	Mineral County.
Conejos County.	Rio Grande County.
Costilla County.	Saguache County.

§ 81.177 Yampa Intrastate Air Quality Control Region.

The Yampa Intrastate Air Quality Control Region (Colorado) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Colorado:

Grand County.	Rio Blanco County.
Jackson County.	Routt County.
Moffat County.	

§ 81.178 Southern Delaware Intrastate Air Quality Control Region.

The Southern Delaware Intrastate Air Quality Control Region (Delaware) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described areas (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Delaware:

Kent County.	Sussex County.

§ 81.179 Aroostook Intrastate Air Quality Control Region.

The Aroostook Intrastate Air Quality Control Region (Maine) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Maine:

Aroostook County—That portion of Aroostook County which lies east of a line described as follows: Beginning at the point where the Maine-Canadian international border is intersected by a line common to the western boundary of Fort Kent Township and running due south to the intersection of said line with the Aroostook-Penobscot County boundary.

§ 81.181 Down East Intrastate Air Quality Control Region.

The Down East Intrastate Air Quality Control Region (Maine) consists of the

territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Connecticut:

Groton.	Putnam.
New London.	Willimantic.

Cities

plus to the intersection of said line with the Oxford-Franklin County boundary, which is also the northeast corner of Andover North Surplus.

Penobscot County—That portion of Penobscot County which lies east of a line described as follows: Beginning at the point where the Maine-Canadian international border is intersected by a line common to the western boundary of Fort Kent Township and running due south to the intersection of said line with the Aroostook-Penobscot County boundary.

§ 81.193 North Central Kentucky Intrastate Air Quality Control Region.

The North Central Kentucky Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographi-

territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Maine:

Hancock County.	Washington County.

Penobscot County—That portion of Penobscot County which lies south of a line described as follows: Beginning at the point where the Penobscot-Aroostook County boundary is intersected by a line common to the boundaries of Patten and Stacyville Townships and running due west to the intersection of said line with Penobscot-Piscataquis County boundary.

Piscataquis County—That portion of Piscataquis County which lies south and east of a line described as follows: Beginning at the point where the Somerset-Piscataquis County boundary is intersected by a line common to the northern boundary of Blanchard Plantation and running northeast along the northern boundary of Blanchard Plantation to the northeast corner of Blanchard Plantation; then northwest along the western boundary of Monson Township to the northwest corner of Monson Township; then northeast along the northern boundaries of Monson, Willimantic, and Bowerbank Townships, the northern boundary of Barnard Plantation, the northern boundaries of Williamsburg and Brownville Townships, and the northern boundary of Lake View Plantation to the intersection of said line with Piscataquis-Penobscot County boundary, which is also common to the northeast corner of Lake View Plantation.

§ 81.182 Northwest Maine Intrastate Air Quality Control Region.

The Northwest Maine Intrastate Air Quality Control Region (Maine) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Maine:

Aroostook County—That portion of Aroostook County which lies west of a line described as follows: Beginning at the point where the Maine-Canadian international border is intersected by a line common to the western boundary of Fort Kent Township and running due south to the intersection of the said line with the Aroostook-Penobscot County boundary.

Franklin County—That portion of Franklin County which lies north and west of a line described as follows: Beginning at the point where the Oxford-Franklin County boundary is intersected by a line common to the northern boundary of Township No. 6, Phillips Town, Salem Township, and Freeman Township to the intersection of the said line with the Franklin-Somerset County boundary, which is also common to the northeast corner of Freeman Township.

Oxford County—That portion of Oxford County which lies north and west of a line described as follows: Beginning at the point where the Maine-New Hampshire border is intersected by a line common to the northern boundary of Grafton Township, and running northeast along the northern boundaries of Grafton Township and Andover North Surplus to the intersection of said line with the Oxford-Franklin County boundary, which is also the northeast corner of Andover North Surplus.

Penobscot County—That portion of Penobscot County which lies north of a line described as follows: Beginning at the point where the Penobscot-Aroostook County boundary is intersected by a line common to the boundaries of Patten and Stacyville Townships, and running due west to the intersection of said line with the Penobscot-Piscataquis County boundary.

Piscataquis County—That portion of Piscataquis County which lies north and west of a line described as follows: Beginning at the point where the Somerset-Piscataquis County boundary is intersected by a line common to the northern boundary of Blanchard Plantation and running northeast along the northern boundary of Blanchard Plantation to the northeast corner of Blanchard Plantation; then northwest along the western boundary of Monson Township to the northwest corner of Monson Township; then northeast along the northern boundaries of Monson, Willimantic, and Bowerbank Townships, the northern boundary of Barnard Plantation, the northern boundaries of Williamsburg and Brownville Townships, and the northern boundary of Lake View Plantation to the intersection of said line with the Piscataquis-Penobscot County boundary, which is also common to the northeast corner of Lake View Plantation.

Somerset County—That portion of Somerset County which lies north and west of a line described as follows: Beginning at the point where the Somerset-Franklin County boundary is intersected by a line common to the northern boundary of New Portland Township and running northeast along the northern boundaries of New Portland, Embden, Solon, and Athens Townships to the intersection of said line with the Somerset-Piscataquis County boundary, which is common to the northeast corner of Athens Township.

§ 81.183 Eastern Connecticut Intrastate Air Quality Control Region.

The Eastern Connecticut Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Connecticut—Continued

Towns

Ashford.	Mansfield.
Bozrah.	Montville.
Brooklyn.	North Stonington.
Canterbury.	Old Lyme.
Chaplin.	Old Saybrook.
Chester.	Plainfield.
Clinton.	Pomfret.
Colchester.	Preston.
Columbia.	Putnam.
Coventry.	Salem.
Deep River.	Scotland.
Eastford.	Sprague.
East Lyme.	Stafford.
Essex.	Sterling.
Franklin.	Stonington.
Griswold.	Thompson.
Groton.	Union.
Hampton.	Voluntown.
Killingly.	Waterford.
Killingworth.	Westbrook.
Lebanon.	Willington.
Ledyard.	Windham.
Lisbon.	Woodstock.
Lyme.	

In the State of Connecticut:

Cities

Groton.	Putnam.
New London.	Willimantic.
Norwich.	

§ 81.184 Northwestern Connecticut Intrastate Air Quality Control Region.

The Northwestern Connecticut Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Connecticut:

Towns

Barkhamsted.	New Hartford.
Bridgewater.	New Milford.
Canaan.	Norfolk.
Colebrook.	North Canaan.
Cornwall.	Roxbury.
Goshen.	Salisbury.
Hartland.	Sharon.
Harwinton.	Sherman.
Kent.	Warren.
Litchfield.	Washington.
Morris.	Winchester.

Cities

Torrington.	Winsted.

§ 81.185 Northern Washington Intrastate Air Quality Control Region.

The Northern Washington Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Washington:

Chelan County.	Okanogan County.
Douglas County.	Pend Oreille County.
Ferry County.	Stevens County.

§ 81.187 Olympic-Northwest Washington Intrastate Air Quality Control Region.

The Olympic-Northwest Washington Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Washington:

Clallam County.	Pacific County.
Grays Harbor County.	San Juan County.
Island County	Skagit County.
Jefferson County.	Thurston County.
Mason County.	Whatcom County.

§ 81.189 South Central Washington Intrastate Air Quality Control Region.

The South Central Washington Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Washington:

Benton County.	Klickitat County.
Franklin County.	Walla Walla County.
Kittitas County.	Yakima County.

§ 81.190 Eastern Idaho Intrastate Air Quality Control Region.

The Eastern Idaho Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Idaho:

Bannock County.	Franklin County.
Bear Lake County.	Fremont County.
Bingham County.	Jefferson County.
Bonneville County.	Madison County.
Butte County.	Oneida County.
Caribou County.	Power County.
Clark County.	Teton County.

§ 81.191 Appalachian Intrastate Air Quality Control Region.

The Appalachian Intrastate Air Quality Control Region (Kentucky) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Kentucky:

Adair County.	Logan County.
Allen County.	McCreary County.
Barren County.	Metcalf County.
Butler County.	Monroe County.
Casey County.	Pulaski County.
Clinton County.	Russell County.
Cumberland County.	Simpson County.
Edmonson County.	Taylor County.
Green County.	Warren County.
Hart County.	Wayne County.

§ 81.192 Bluegrass Intrastate Air Quality Control Region.

The Bluegrass Intrastate Air Quality Control Region (Kentucky) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Kentucky:

Anderson County.	Jessamine County.
Bourbon County.	Lincoln County.
Boyle County.	Madison County.
Clark County.	Mercer County.
Estill County.	Nicholas County.
Fayette County.	Powell County.
Franklin County.	Scott County.
Garrard County.	Woodford County.
Harrison County.	

§ 81.193 North Central Kentucky Intrastate Air Quality Control Region.

The North Central Kentucky Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Kentucky:

Breckinridge County.	Meade County.
Bullitt County.	Nelson County.
Grayson County.	Oldham County.
Hardin County.	Shelby County.
Henry County.	Spencer County.
Larue County.	Trimble County.
Marion County.	Washington County.

§ 81.194 South Central Kentucky Intrastate Air Quality Control Region.

The South Central Kentucky Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Kentucky:

Adair County.	Logan County.
Allen County.	McCreary County.
Barren County.	Metcalf County.
Butler County.	Monroe County.
Casey County.	Pulaski County.
Clinton County.	Russell County.
Cumberland County.	Simpson County.
Edmonson County.	Taylor County.
Green County.	Warren County.
Hart County.	Wayne County.

§ 81.195 Central Michigan Intrastate Air Quality Control Region.

The Central Michigan Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Michigan:

Allegan County.	Mecosta County.
Arenac County.	Midland County.
Bay County.	Montcalm County.
Clare County.	Muskegon County.
Genesee County.	Newaygo County.
Gladwin County.	Oceana County.
Gratiot County.	Ogemaw County.
Huron County.	Osceola County.
Ionia County.	Ottawa County.
Iosco County.	Roscommon County.
Isabella County.	Saginaw County.
Kent County.	Sanilac County.
Lake County.	Shiawassee County.
Lapeer County.	Tuscola County.
Mason County.	

§ 81.196 South Central Michigan Intrastate Air Quality Control Region.

The South Central Michigan Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Michigan:

Barry County.	Jackson County.
Branch County.	Kalamazoo County.
Calhoun County.	Lenawee County.
Clinton County.	Livingston County.
Eaton County.	St. Joseph County.
Hillsdale County.	Washtenaw County.
Ingham County.	

§ 81.197 Upper Michigan Intrastate Air Quality Control Region.

The Upper Michigan Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Michigan:

Alcona County.	Kalkaska County.
Alger County.	Keweenaw County.
Alpena County.	Leelanau County.
Antrim County.	Luce County.
Baraga County.	Mackinac County.
Benzie County.	Manistee County.
Cheboygan County.	Marquette County.
Charlevoix County.	Menominee County.
Chippewa County.	Missaukee County.
Crawford County.	Montmorency County.
Delta County.	Ontonagon County.
Dickinson County.	Oscoda County.
Emmet County.	Otsego County.
Gogebic County.	Presque Isle County.
Grand Traverse County.	Schoolcraft County.
Houghton County.	Wexford County.
Iron County.	

§ 81.199 East Alabama Intrastate Air Quality Control Region.

The East Alabama Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Alabama:

Calhoun County.	Coosa County.
Chambers County.	Etowah County.
Cherokee County.	Randolph County.
Clay County.	Talladega County.
Cleburne County.	Tallapoosa County.

§ 81.200 Metropolitan Columbus Intrastate Air Quality Control Region.

The Metropolitan Columbus Intrastate Air Quality Control Region (Ohio) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically

located within the outermost boundaries of the area so delimited):

In the State of Ohio:

Delaware County.	Madison County.
Fairfield County.	Perry County.

In the State of Ohio:

Clinton County.	Jackson County.
Fayette County.	Pike County.
Highland County.	Ross County.
Hocking County.	Vinton County.

§ 81.216 Northeast Indiana Intrastate Air Quality Control Region.

The Northeast Indiana Intrastate Air Quality Control Region (Indiana) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Oregon

Crook County.	Klamath County.

In the State of West Virginia:

Greenbrier County.	Pocahontas County.
Hampshire County.	Randolph County.
Hardy County.	Summers County.
Monroe County.	Tucker County.
Pendleton County.	

consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

located within the outermost boundaries of the area so delimited):

In the State of Ohio:

Delaware County.	Madison County.
Fairfield County.	Perry County.
Franklin County.	Pickaway County.
Licking County.	Union County.

§ 81.201 Mansfield-Marion Intrastate Air Quality Control Region.

The Mansfield-Marion Intrastate Air Quality Control Region (Ohio) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Ohio:

Ashland County.	Morrow County.
Crawford County.	Richland County.
Holmes County.	Wayne County.
Knox County.	Wyandot County.
Marion County.	

§ 81.202 Northwest Ohio Intrastate Air Quality Control Region.

The Northwest Ohio Intrastate Air Quality Control Region (Ohio) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Ohio:

Allen County.	Logan County.
Auglaize County.	Mercer County.
Champaign County.	Paulding County.
Defiance County.	Putman County.
Fulton County.	Shelby County.
Hancock County.	Van Wert County.
Hardin County.	Williams County.
Henry County.	

§ 81.203 Sandusky Intrastate Air Quality Control Region.

The Sandusky Intrastate Air Quality Control Region (Ohio) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Ohio:

Erie County.	Sandusky County.
Huron County.	Seneca County.
Ottawa County.	

§ 81.204 Wilmington-Chillicothe-Logan Intrastate Air Quality Control Region.

The Wilmington-Chillicothe-Logan Intrastate Air Quality Control Region (Ohio) consists of the territorial area encompassed by the boundaries of the following jurisdiction or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Ohio:

Clinton County.	Jackson County.
Fayette County.	Pike County.
Highland County.	Ross County.
Hocking County.	Vinton County.

§ 81.205 Zanesville-Cambridge Intrastate Air Quality Control Region.

The Zanesville-Cambridge Intrastate Air Quality Control Region (Ohio) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Ohio:

Carroll County.	Muskingum County.
Coshocton County.	Noble County.
Guernsey County.	Tuscarawas County.
Harrison County.	

§ 81.213 Casper Intrastate Air Quality Control Region.

The Casper Intrastate Air Quality Control Region (Wyoming) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Wyoming:

Converse County.	Natrona County.
Freemont County.	

§ 81.214 Black Hills-Rapid City Intrastate Air Quality Control Region.

The Rapid City Intrastate Air Quality Control Region (South Dakota) has been renamed the Black Hills-Rapid City Intrastate Air Quality Control Region (South Dakota) and consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of South Dakota:

Butte County.	Lawrence County.
Custer County.	Meade County.
Fall River County.	Pennington County.

§ 81.215 East Central Indiana Intrastate Air Quality Control Region.

The East Central Indiana Intrastate Air Quality Control Region (Indiana) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Indiana:

Blackford County.	Jay County.
Delaware County.	Madison County.
Grant County.	Randolph County.
Henry County.	Wayne County.

§ 81.216 Northeast Indiana Intrastate Air Quality Control Region.

The Northeast Indiana Intrastate Air Quality Control Region (Indiana) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Indiana:

Adams County.	Noble County.
Allen County.	Steuben County.
De Kalb County.	Wells County.
Huntington County.	Whitley County.
Lagrange County.	

§ 81.217 Southern Indiana Intrastate Air Quality Control Region.

The Southern Indiana Intrastate Air Quality Control Region (Indiana) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Indiana:

Bartholomew County.	Jennings County.
Brown County.	Lawrence County.
Crawford County.	Martin County.
Daviess County.	Monroe County.
Decatur County.	Orange County.
Fayette County.	Owen County.
Franklin County.	Ripley County.
Greene County.	Rush County.
Harrison County.	Scott County.
Jackson County.	Switzerland County.
Jefferson County.	Union County.
	Washington County.

§ 81.218 Wabash Valley Intrastate Air Quality Control Region.

The Wabash Valley Intrastate Air Quality Control Region (Indiana) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Indiana:

Benton County.	Parke County.
Carroll County.	Pulaski County.
Cass County.	Putnam County.
Clay County.	Starke County.
Clinton County.	Sullivan County.
Fountain County.	Tippecanoe County.
Fulton County.	Tipton County.
Howard County.	Vermillion County.
Jasper County.	Vigo County.
Knox County.	Wabash County.
Miami County.	Warren County.
Montgomery County.	White County.
Newton County.	

§ 81.219 Central Oregon Intrastate Air Quality Control Region.

The Central Oregon Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Oregon

Crook County.	Klamath County.
Deschutes County.	Lake County.
Hood River County	Sherman County.
Jefferson County.	Wasco County.

§ 81.220 Eastern Oregon Intrastate Air Quality Control Region.

The Eastern Oregon Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Oregon

Baker County.	Morrow County.
Gilliam County.	Umatilla County.
Grant County.	Union County.
Harney County.	Wallowa County.
Malheur County.	Wheeler County.

§ 81.221 Southwest Oregon Intrastate Air Quality Control Region.

The Southwest Oregon Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Oregon:

Coos County.	Jackson County.
Curry County.	Josephine County.
Douglas County.	

§ 81.226 Lincoln-Beatrice-Fairbury Intrastate Air Quality Control Region.

The Lincoln-Beatrice-Fairbury Intrastate Air Quality Control Region (Nebraska) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Nebraska:

Gage County.	Lancaster County.
Jefferson County.	Thayer County.

§ 81.230 Allegheny Intrastate Air Quality Control Region.

The Allegheny Intrastate Air Quality Control Region (West Virginia) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of West Virginia:

Greenbrier County.	Pocahontas County.
Hampshire County.	Randolph County.
Hardy County.	Summers County.
Monroe County.	Tucker County.
Pendleton County.	

In Grant County:

Grant Magisterial District.	Milroy Magisterial District.

In Mineral County:

Cabin Run Magisterial District.	Welton Magisterial District.
Frankfort Magisterial District.	

§ 81.231 Central West Virginia Intrastate Air Quality Control Region.

The Central West Virginia Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of West Virginia:

Braxton County.	Nicholas County.
Calhoun County.	Ritchie County.
Clay County.	Roane County.
Doddridge County.	Upshur County.
Gilmer County.	Webster County.
Lewis County.	Wirt County.

§ 81.232 Eastern Panhandle Intrastate Air Quality Control Region.

The Eastern Panhandle Intrastate Air Quality Control Region (West Virginia) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of West Virginia:

Berkeley County.	Morgan County.
Jefferson County.	

§ 81.233 Kanawha Valley Intrastate Air Quality Control Region.

The Kanawha Valley Intrastate Air Quality Control Region (West Virginia) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of West Virginia:

Kanawha County.	Putnam County.

In Fayette County:

Falls Magisterial District.	Kanawha Magisterial District.

§ 81.234 North Central West Virginia Intrastate Air Quality Control Region.

The North Central West Virginia Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of West Virginia:

Barbour County.	Monongalia County.
Harrison County.	Preston County.
Marion County.	Taylor County.

§ 81.235 Southern West Virginia Intrastate Air Quality Control Region.

The Southern West Virginia Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of West Virginia:

Boone County.	Mercer County.
Lincoln County.	Mingo County.
Logan County.	Raleigh County.
McDowell County.	Wyoming County.

In Fayette County:

Fayetteville Magisterial District.	Quinnimont Magisterial District.
Mountain Cove Magisterial District.	Sewell Mountain Magisterial District.
Nuttall Magisterial District.	

§ 81.236 Central Georgia Intrastate Air Quality Control Region.

The Central Georgia Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Georgia:

Baldwin County.	Monroe County.
Ben Hill County.	Montgomery County.
Bibb County.	Peach County.
Bleckley County.	Pulaski County.
Crawford County.	Putnam County.
Dodge County.	Telfair County.
Hancock County.	Toombs County.
Houston County.	Treutlen County.
Jasper County.	Twiggs County.
Jeff Davis County.	Washington County.
Johnson County.	Wheeler County.
Jones County.	Wilcox County.
Laurens County.	Wilkinson County.
Macon County.	

§ 81.237 Northeast Georgia Intrastate Air Quality Control Region.

The Northeast Georgia Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically

located within the outermost boundaries of the area so delimited):

In the State of Georgia:

§ 81.241 Southwestern Mountains-Augustine Plains Intrastate Air Quality Control Region.

The Southwestern Mountains-Augustine Plains Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Minnesota:

Rock County.	Morrison County.

Quality Control Region was designated August 12, 1970 (35 F.R. 12787).

§ 81.248 Southeastern Alaska Intrastate Air Quality Control Region.

§ 81.252 Northwest Kansas Intrastate Air Quality Control Region.

The Northwest Kansas Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Kansas:

located within the outermost boundaries of the area so delimited):

In the State of Georgia:

Banks County.	Lumpkin County.
Barrow County.	Madison County.
Clarke County.	Morgan County.
Dawson County.	Newton County.
Elbert County.	Oconee County.
Forsyth County.	Oglethorpe County.
Franklin County.	Rabun County.
Greene County.	Stephens County.
Habersham County.	Towns County.
Hall County.	Union County.
Hart County.	Walton County.
Jackson County.	White County.

§ 81.238 Southwest Georgia Intrastate Air Quality Control Region.

The Southwest Georgia Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Georgia:

Baker County.	Irwin County.
Berrien County.	Lanier County.
Brooks County.	Lee County.
Calhoun County.	Lowndes County.
Clay County.	Miller County.
Colquitt County.	Mitchell County.
Cook County.	Randolph County.
Crisp County.	Seminole County.
Decatur County.	Terrell County.
Dougherty County.	Thomas County.
Early County.	Tift County.
Echols County.	Turner County.
Grady County.	Worth County.

§ 81.239 Upper Rio Grande Valley Intrastate Air Quality Control Region.

The Upper Rio Grande Valley Intrastate Air Quality Control Region (New Mexico) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of New Mexico:

Los Alamos County.	Taos County.
Santa Fe County.	

Those portions of Rio Arriba County lying east of the Continental Divide.

§ 81.240 Northeastern Plains Intrastate Air Quality Control Region.

The Northeastern Plains Intrastate Air Quality Control Region (New Mexico) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of New Mexico:

Colfax County.	San Miguel County.
Guadalupe County.	Torrance County.
Harding County.	Union County.
Mora County.	

§ 81.241 Southwestern Mountains-Augustine Plains Intrastate Air Quality Control Region.

The Southwestern Mountains-Augustine Plains Intrastate Air Quality Control Region (New Mexico) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of New Mexico:

Catron County.	Socorro County.

Those portions of McKinley County lying east of the Continental Divide.

Those portions of Valencia County, excluding the Zuni and Ramah Navajo Indian Reservations, lying west of a line described as follows: Starting at the point at which the south boundary of Bernalillo County intersects with the section line between secs. 1 and 2 T. 7 N., R. 2 W.; thence south to the southern boundary of the Laguna Indian Reservation between secs. 35 and 36 T. 7 N., R. 2 W.; thence southerly on section lines to the Socorro-Valencia County line at secs. 11, 12, 13, and 14, T. 5 N., R. 2 W.

§ 81.242 Pecos-Permian Basin Intrastate Air Quality Control Region.

The Pecos-Permian Basin Intrastate Air Quality Control Region (New Mexico) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of New Mexico:

Chaves County.	Lea County.
Curry County.	Quay County.
De Baca County.	Roosevelt County.
Eddy County.	

§ 81.243 Central Minnesota Intrastate Air Quality Control Region.

The Central Minnesota Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Minnesota:

Benton County.	Pine County.
Chisago County.	Sherburne County.
Isanti County.	Stearns County.
Kanabec County.	Wright County.
Mille Lacs County.	

§ 81.244 Northwest Minnesota Intrastate Air Quality Control Region.

The Northwest Minnesota Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Minnesota:

Becker County.	Morrison County.
Beltrami County.	Norman County.
Cass County.	Otter Tail County.
Clearwater County.	Pennington County.
Crow Wing County.	Polk County.
Douglas County.	Pope County.
Grant County.	Red Lake County.
Hubbard County.	Roseau County.
Kittson County.	Stevens County.
Lake of the Woods County.	Todd County.
Mahnomen County.	Traverse County.
Marshall County.	Wadena County.
	Wilkin County.

§ 81.245 Southwest Minnesota Intrastate Air Quality Control Region.

The Southwest Minnesota Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Minnesota:

Big Stone County.	Meeker County.
Chippewa County.	Murray County.
Cottonwood County.	Nobles County.
Jackson County.	Pipestone County.
Kandiyohi County.	Redwood County.
Lac qui Parle County.	Renville County.
Lincoln County.	Rock County.
Lyon County.	Swift County.
McLeod County.	Yellow Medicine County.

§ 81.246 Northern Alaska Intrastate Air Quality Control Region.

The Northern Alaska Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Alaska:

Those portions of the 1966 Election Districts 18–23, inclusive, as described in Article XIV, § 3 of the Constitution of the State of Alaska, which are not included in the designated Cook Inlet Intrastate Air Quality Control Region as designated August 12, 1970 (35 F.R. 12787).

§ 81.247 South Central Alaska Intrastate Air Quality Control Region.

The South Central Alaska Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Alaska:

Those portions of the 1966 Election Districts 7–17, inclusive, and Election District 24 as described in Article XIV, Section 3 of the Constitution of the State of Alaska, which are not included in the designated Cook Inlet Intrastate Air Quality Control Region as designated August 12, 1970 (35 F.R. 12787).

§ 81.248 Southeastern Alaska Intrastate Air Quality Control Region.

The Southeastern Alaska Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Alaska:
1966 Election Districts 1–6, inclusive, as described in Article XIV, Section 3 of the Constitution of the State of Alaska.

§ 81.249 Northwest Oregon Intrastate Air Quality Control Region.

The Northwest Oregon Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Oregon:

Clatsop County.	Tillamook County.
Lincoln County.	

§ 81.250 North Central Kansas Intrastate Air Quality Control Region.

The North Central Kansas Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Kansas:

Clay County.	Mitchell County.
Cloud County.	Morris County.
Dickinson County.	Ottawa County.
Ellsworth County.	Republic County.
Geary County.	Rice County.
Jewell County.	Riley County.
Lincoln County.	Saline County.
McPherson County.	Washington County.

§ 81.251 Northeast Kansas Intrastate Air Quality Control Region.

The Northeast Kansas Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Kansas:

Atchison County.	Miami County.
Brown County.	Nemaha County.
Doniphan County.	Osage County.
Douglas County.	Pottawatomie County.
Franklin County.	Shawnee County.
Jackson County.	Wabaunsee County.
Jefferson County.	
Marshall County.	

§ 81.252 Northwest Kansas Intrastate Air Quality Control Region.

The Northwest Kansas Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Kansas:

Barton County.	Rawlins County.
Cheyenne County.	Rooks County.
Decatur County.	Rush County.
Ellis County.	Russell County.
Gove County.	Sheridan County.
Graham County.	Sherman County.
Logan County.	Smith County.
Ness County.	Thomas County.
Norton County.	Trego County.
Osborne County.	Wallace County.
Phillips County.	

§ 81.253 South Central Kansas Intrastate Air Quality Control Region.

The South Central Kansas Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Kansas:

Butler County.	Kingman County.
Chase County.	Marion County.
Cowley County.	Reno County.
Harper County.	Sedgwick County.
Harvey County.	Sumner County.

§ 81.254 Southeast Kansas Intrastate Air Quality Control Region.

The Southeast Kansas Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Kansas:

Allen County.	Greenwood County.
Anderson County.	Labette County.
Bourbon County.	Linn County.
Chautauqua County.	Lyon County.
Cherokee County.	Montgomery County.
Coffey County.	Neosho County.
Crawford County.	Wilson County.
Elk County.	Woodson County.

§ 81.255 Southwest Kansas Intrastate Air Quality Control Region.

The Southwest Kansas Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Kansas:

Barber County.	Kiowa County.
Clark County.	Lane County.
Comanche County.	Meade County.
Edwards County.	Morton County.
Finney County.	Pawnee County.
Ford County.	Pratt County.
Grant County.	Scott County.
Gray County.	Seward County.
Greeley County.	Stafford County.
Hamilton County.	Stanton County.
Haskell County.	Stevens County.
Hodgeman County.	Wichita County.
Kearny County.	

§ 81.256 Northeast Iowa Intrastate Air Quality Control Region.

The Northeast Iowa Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Iowa:

Allamakee County.	Delaware County.
Benton County.	Fayette County.
Black Hawk County.	Howard County.
Bremer County.	Jones County.
Buchanan County.	Linn County.
Chickasaw County.	Winneshiek County.

§ 81.257 North Central Iowa Intrastate Air Quality Control Region.

The North Central Iowa Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Iowa:

Butler County.	Humboldt County.
Cerro Gordo County.	Kossuth County.
Floyd County.	Mitchell County.
Franklin County.	Webster County.
Grundy County.	Winnebago County.
Hamilton County.	Worth County.
Hancock County.	Wright County.
Hardin County.	

§ 81.258 Northwest Iowa Intrastate Air Quality Control Region.

The Northwest Iowa Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Iowa:

Buena Vista County.	Ida County.
Calhoun County.	O'Brien County.
Cherokee County.	Osceola County.
Clay County.	Palo Alto County.
Dickinson County.	Pocahontas County.

Sec.
81.267 North Central Iowa Intrastate Air Quality Control Region: Region 2.
81.268 Northwest Iowa Intrastate Air Quality Control Region: Region 2.
81.269 Southwest Iowa Intrastate Air Quality Control Region: Region 4.

Subpart S—Crankcase Emissions (Gasoline Fueled Vehicles and Engines)

Sec.
85.10 Applicability.
85.11 Standard for crankcase emissions.
85.12 Test procedures.
85.91 Mileage accumulation and emission measurements.
85.92 Compliance with emission standards.

Subpart T—Test Procedures for Engine Exhaust Emissions (Gasoline Fueled Heavy Duty Engines)

(1) "Act" means Part A of Title II of the Clean Air Act, 42 U.S.C. 1857 f-1 through f-7, as amended by Public Law 91-604.

(2) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized repre-

In the State of Iowa:

Buena Vista County.	Ida County.
Calhoun County.	O'Brien County.
Cherokee County.	Osceola County.
Clay County.	Palo Alto County.
Dickinson County.	Pocahontas County.
Emmet County.	Sac County.

§ 81.259 Southwest Iowa Intrastate Air Quality Control Region.

The Southwest Iowa Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Iowa:

Adair County.	Harrison County.
Adams County.	Mills County.
Audubon County.	Monona County.
Carroll County.	Montgomery County.
Cass County.	Page County.
Crawford County.	Ringgold County.
Fremont County.	Shelby County.
Greene County.	Taylor County.
Guthrie County.	Union County.

§ 81.260 South Central Iowa Intrastate Air Quality Control Region.

The South Central Iowa Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Iowa:

Appanoose County.	Marion County.
Boone County.	Marshall County.
Clarke County.	Monroe County.
Dallas County.	Polk County.
Decatur County.	Poweshiek County.
Jasper County.	Story County.
Lucas County.	Tama County.
Madison County.	Warren County.
Mahaska County.	Wayne County.

§ 81.261 Southeast Iowa Intrastate Air Quality Control Region.

The Southeast Iowa Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Iowa:

Cedar County.	Johnson County.
Davis County.	Keokuk County.
Henry County.	Van Buren County.
Iowa County.	Wapello County.
Jefferson County.	Washington County.

NOTE: For purposes of identification, the Regions are referred to by Iowa authorities as follows:

Sec.
81.262 Northeast Iowa Intrastate Air Quality Control Region: Region 1.
81.263 North Central Iowa Intrastate Air Quality Control Region: Region 2.
81.264 Northwest Iowa Intrastate Air Quality Control Region: Region 3.
81.265 Southwest Iowa Intrastate Air Quality Control Region: Region 4.
81.266 South Central Iowa Intrastate Air Quality Control Region: Region 5.
81.267 Southeast Iowa Intrastate Air Quality Control Region: Region 6.

§ 81.262 North Central Illinois Intrastate Air Quality Control Region.

The North Central Illinois Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Illinois:

Bureau County.	Marshall County.
La Salle County.	Putnam County.
Lee County.	Stark County.

§ 81.263 East Central Illinois Intrastate Air Quality Control Region.

The East Central Illinois Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Illinois:

Champaign County.	Iroquois County.
Clark County.	Livingston County.
Coles County.	McLean County.
Cumberland County.	Moultrie County.
De Witt County.	Piatt County.
Douglas County.	Shelby County.
Edgar County.	Vermilion County.
Ford County.	

§ 81.264 West Central Illinois Intrastate Air Quality Control Region.

The West Central Illinois Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Illinois:

Adams County.	Macoupin County.
Brown County.	Menard County.
Calhoun County.	Montgomery County.
Cass County.	Morgan County.
Christian County.	Pike County.
Greene County.	Sangamon County.
Jersey County.	Schuyler County.
Logan County.	Scott County.
Macon County.	

§ 81.265 Southeast Illinois Intrastate Air Quality Control Region.

The Southeast Illinois Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Illinois:

Clay County.	Jefferson County.
Crawford County.	Lawrence County.
Edwards County.	Marion County.
Effingham County.	Perry County.
Fayette County.	Richland County.
Franklin County.	Saline County.
Gallatin County.	Wabash County.
Hamilton County.	Wayne County.
Hardin County.	White County.
Jackson County.	Williamson County.
Jasper County.	

§ 81.266 Alabama and Tombigbee Rivers Intrastate Air Quality Control Region.

The Alabama and Tombigbee Rivers Intrastate Air Quality Control Region (Alabama) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Alabama:

Choctaw County.	Monroe County.
Clarke County.	Perry County.
Conecuh County.	Washington County.
Dallas County.	Wilcox County.
Marengo County.	

§ 81.267 Southeast Alabama Intrastate Air Quality Control Region.

The Southeast Alabama Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Alabama:

Barbour County.	Geneva County.
Coffee County.	Henry County.
Covington County.	Houston County.
Dale County.	

PART 85—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Subpart A—General Provisions

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85.2 Abbreviations.
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85.4 Labeling.
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85.11 Standard for crankcase emissions.
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85.21 Standards for exhaust emissions.
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85.31 Standards for exhaust emissions.
85.32 Test procedures.

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85.91 Mileage accumulation and emission measurements.
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Subpart I—Test Procedures for Engine Exhaust Emissions (Gasoline Fueled Heavy Duty Engines)

85.100 Introduction.
85.101 Gasoline fuel specifications.
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85.106 Calibration and instrument checks.
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85.126 Instrument checks.
85.127 Test run.
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AUTHORITY: The provisions of this Part 85 issued under U.S.C. 1857g(a), as amended by sec. 15(c)(2), Pub. L. 91-604, 84 Stat. 1712.

Subpart A—General Provisions

§ 85.1 Definitions.

(a) As used in this part, all terms not defined herein shall have the meaning given them in the Act:

(1) "Act" means Part A of Title II of the Clean Air Act, 42 U.S.C. 1857 f-1 through f-7, as amended by Public Law 91-604.

(2) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(3) "Model year" means the manufacturer's annual production period (as determined by the Administrator) which includes January 1 of such calender year: *Provided*, That if the manufacturer has no annual production period, the term "model year" shall mean the calendar year.

(4) "Gross vehicle weight" means the manufacturer's gross weight rating for the individual vehicle.

(5) "Light duty vehicle" means any motor vehicle either designed primarily for transportation of property and rated at 6,000 pounds GVW or less or designed primarily for transportation of persons and having a capacity of 12 persons or less.

(6) "Heavy duty vehicle" means any motor vehicle either designed primarily for transportation of property and rated at more than 6,000 pounds GVW or designed primarily for transportation of persons and having a capacity of more than 12 persons.

(7) "Heavy duty engine" means any engine which the engine manufacturer could reasonably expect to be used for motive power in a heavy duty vehicle.

(8) "Off-road utility vehicle" means a light duty vehicle which incorporates special features for off-road operation such as four-wheel drive.

(9) "Motorcycle" means any light duty vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels (including any tricycle arrangement) in contact with the ground and weighing less than 1,500 pounds.

(10) "Vehicle curb weight" means the actual or the manufacturer's estimated weight of the vehicle in operational status with all standard equipment, and weight of fuel at nominal tank capacity, and the weight of optional equipment computed in accordance with § 85.89(g).

(11) "Loaded vehicle weight" means the vehicle curb weight of a light duty vehicle plus 300 pounds.

(12) "System" includes any motor vehicle engine modification which controls or causes the reduction of substances emitted from motor vehicles or motor vehicle engines.

(13) "Engine family" means the basic classification unit of a manufacturer's product line used for the purpose of test fleet selection and determined in accordance with § 85.89(a).

(14) "Engine-system combination" means an engine family-exhaust emission control system-fuel evaporative emission control system (where applicable) combination.

(15) "Fuel system" means the combination of fuel tank, fuel pump, fuel lines, and carburetor, or fuel injection components, and includes all fuel system

vents and fuel evaporative emission control systems.

(16) "Crankcase emissions" means airborne substances emitted to the atmosphere from any portion of the engine

(ii) In the case of gasoline fueled heavy duty engines, a period of use of 5 years or of 50,000 miles of vehicle operation (or an equivalent period of 1,500

§ 85.3 General standards: increase in emissions; unsafe conditions.

(a) (1) Every new motor vehicle or new motor vehicle engine manufactured for sale, sold, offered for sale, introduced

available for sale to the public and covered by a certificate of conformity under § 85.55(a).

(2) A plastic or metal label shall be welded, riveted, or otherwise permanently affixed to the engine in such a location that it will be readily accessible for inspection after the engine is installed in a vehicle and shall read as follows:

ENGINE SMOKE EMISSION CERTIFICATION

system combination produced for sale in the United States during the preceding quarter. A manufacturer may elect to provide this information every 60 days instead of quarterly, to combine it with

vents and fuel evaporative emission control systems.

(16) "Crankcase emissions" means airborne substances emitted to the atmosphere from any portion of the engine crankcase ventilation or lubrication systems.

(17) "Exhaust emissions" means substances emitted to the atmosphere from any opening downstream from the exhaust port of a motor vehicle engine.

(18) "Fuel evaporative emissions" means vaporized fuel emitted into the atmosphere from the fuel system of a motor vehicle.

(19) "Smoke" means the matter in exhaust emissions which obscures the transmission of light.

(20) "Hot soak loss" means fuel evaporative emissions during the 1-hour hot soak period which begins immediately after the engine is turned off.

(21) "Diurnal breathing loss" means fuel evaporative emissions as a result of the daily range in temperature to which the fuel system is exposed.

(22) "Running loss" means fuel evaporative emissions resulting from an average trip in an urban area or the simulation of such a trip.

(23) "Tank fuel volume" means the volume of fuel in the fuel tank, prescribed to be 40 percent of nominal tank capacity rounded to the nearest whole U.S. gallon.

(24) "Maximum rated horsepower" means the maximum brake horsepower output of an engine as stated by the manufacturer in his sales and service literature and his application for certification under § 85.51.

(25) "Rated speed" means the speed at which the manufacturer specifies the maximum rated horsepower of an engine.

(26) "Maximum rated torque" means the maximum torque produced by an engine as stated by the manufacturer in his sales and service literature and his application for certification under § 85.51.

(27) "Opacity" means the fraction of a beam of light, expressed in percent, which fails to penetrate a plume of smoke.

(28) Zero (0) miles means that point after initial engine starting (not to exceed 10 miles of vehicle operation) at which adjustments are completed.

(29) Zero (0) hours means that point after initial engine starting (not to exceed 1 hour of engine operation) at which adjustments are completed.

(30) "Calibrating gas" means a gas of known concentration which is used to establish the response curve of an analyzer.

(31) "Span gas" means a gas of known concentration which is used routinely to set the output level of an analyzer.

(32) "Oxides of Nitrogen" means the sum of the nitric oxide and nitrogen dioxide contained in a gas sample as if the nitric oxide were in the form of nitrogen dioxide.

(33) "Useful life" means:

(i) In the case of light duty vehicles, a period of use of 5 years or 50,000 miles, whichever first occurs;

(ii) In the case of gasoline fueled heavy duty engines, a period of use of 5 years or of 50,000 miles of vehicle operation (or an equivalent period of 1,500 hours of dynamometer operation), whichever first occurs;

(iii) In the case of heavy duty diesel engines, a period of use of 5 years or of 100,000 miles of vehicle operation (or an equivalent period of 1,000 hours of dynamometer operation), whichever first occurs.

§ 85.2 Abbreviations.

The abbreviations used in this part have the following meanings in both capital and lower case:

Accel.—Acceleration.
ASTM—American Society for Testing and Materials.
BHP—Brake Horsepower.
C.—Centigrade.
C.f.h.—Cubic feet per hour.
CO_2—Carbon Dioxide.
CO—Carbon Monoxide.
Conc.—Concentration.
CT—Closed Throttle.
C.f.m.—Cubic feet per minute.
Cu.in.—Cubic inch(es).
Decel.—Deceleration.
EP—End Point.
Evap.—Evaporated.
F.—Fahrenheit.
FL—Full Load.
Gal.—U.S. Gallon(s).
Gm.—Gram(s).
GVW—Gross Vehicle Weight.
HC—Hydrocarbon(s).
Hg—Mercury.
Hi.—High.
HP.—Horsepower.
IBP—Initial Boiling Point.
ID—Internal Diameter.
Lb.—Pound(s).
Lb.-ft.—Pound-feet.
Max.—Maximum.
Min.—Minimum; also minute(s).
Ml.—Milliliter(s).
M.p.h.—Miles per hour.
Mm.—Millimeter(s).
Mv.—Millivolt(s).
N_2—Nitrogen.
NO—Nitric Oxide.
NO_2—Nitrogen Dioxide.
NO_x—Oxides of Nitrogen.
No.—Number.
Pb.—Lead.
P.p.m.—Parts per million by volume.
P.s.i.—Pounds per square inch.
P.s.i.g.—Pounds per square inch gauge.
PTA—Parts Throttle Accel.
PTD—Part Throttle Decel.
R—Rankine.
R.p.m.—Revolutions per minute.
RS—Rated Speed.
RVP—Reid Vapor Pressure.
S.A.E.—Society of Automotive Engineers.
Sec.—Second(s).
Sp.—Speed.
SS—Stainless Steel.
T—Torque.
TEL—Tetraethyl Lead.
TML—Tetramethyl Lead.
V.—Volts.
Vs.—Versus.
WOT—Wide Open Throttle.
Wt.—Weight.
'—Feet.
"—Inches.
°—Degrees.
%—Percent.

§ 85.3 General standards: increase in emissions; unsafe conditions.

(a) (1) Every new motor vehicle or new motor vehicle engine manufactured for sale, sold, offered for sale, introduced or delivered for introduction into commerce, or imported into the United States for sale or resale which is subject to any of the standards prescribed in this part shall be covered by a certificate of conformity issued pursuant to Subpart F of this part.

(2) No heavy duty vehicle manufacturer shall take any of the actions specified in section 203(a)(1) of the Act with respect to any gasoline fueled or diesel powered heavy duty vehicle which uses an engine which has not been certified as meeting applicable standards. Such manufacturer shall provide to the Administrator prior to the beginning of each model year a statement signed by an authorized representative which includes the following information:

(i) A description of the vehicles which will be produced subject to this section;

(ii) Identification of the engines used in the vehicles;

(iii) Projected sales data on each vehicle-engine combination;

(iv) A statement that the engines will not be modified by the vehicle manufacturer or a detailed specification of any changes which will be made. Changes made solely for the purpose of mounting an engine in a vehicle need not be included.

(b) (1) Any system installed on or incorporated in a new motor vehicle or new motor vehicle engine to enable such vehicle to conform to standards imposed by this part:

(i) Shall not in its operation or function cause the emission into the ambient air of any noxious or toxic substance that would not be emitted in the operation of such vehicle or engine without such system, except as specifically permitted by regulation; and

(ii) Shall not in its operation, function, or malfunction result in any unsafe condition endangering the motor vehicle, its occupants, or persons or property in close proximity to the vehicle.

(2) Every manufacturer of new motor vehicles or new motor vehicle engines subject to any of the standards imposed by this part shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicles or motor vehicle engines in accordance with good engineering practice to ascertain that such test vehicles or engines will meet the requirements of this section for the useful life of the vehicle or engine.

§ 85.4 Labeling.

(a) (1) The manufacturer of any light duty motor vehicle subject to any of the standards prescribed in this part shall, at the time of manufacture, affix a permanent, legible label, of the type and in the manner described below, containing the information hereinafter provided, to all production models of such vehicles available for sale to the public and covered by a certificate of conformity under § 85.55(a).

(2) A plastic or metal label shall be welded, riveted, or otherwise permanently attached in a readily visible position in the engine compartment.

(3) The label shall be affixed by the vehicle manufacturer, who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label, and shall not be affixed to any equipment which is easily detached from such vehicle.

(4) The label shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label:

(i) The label heading: Vehicle Emission Control Information;

(ii) Full corporate name and trademark of manufacturer;

(iii) Engine displacement (in cubic inches) and engine family identification;

(iv) Engine tuneup specifications and adjustments, as recommended by the manufacturer, including idle speed, ignition timing, and the idle air-fuel mixture setting procedure and valve (e.g. idle CO, idle air-fuel ratio, idle speed drop). These specifications should indicate the proper transmission position during tuneup and what accessories (e.g., air-conditioner), if any, should be in operation;

(v) The statement: "This Vehicle Conforms to U.S.E.P.A. Regulations Applicable to (insert current year) Model Year New Motor Vehicles."

(b) The manufacturer of any heavy duty gasoline fueled engine shall, at the time of manufacture, affix a permanent, legible plastic or metal label, containing the information hereinafter provided to all production models of such engines available for sale to the public, and covered by a certificate of conformity under §85.55(a). The label shall be affixed at such a location that it will be readily accessible for inspection after the engine is installed in a vehicle and shall read as follows:

ENGINE EMISSION CERTIFICATION

This engine is, in all material respects, of substantially the same construction as test engines certified by the U.S. Environmental Protection Agency as conforming to Federal regulations pertaining to crankcase and exhaust emissions.

Engine family identification and engine displacement (in cubic inches) ----------
Date of manufacture ----------
(Month and year)
Name of manufacturer ----------

(The information applicable to each engine is to be inserted on the appropriate line.)

(c) The manufacturer of any heavy duty diesel engine shall, at the time of manufacture, affix a permanent, legible plastic or metal label containing the information hereinafter provided to all production models of such engines available for sale to the public, and covered by a certificate of conformity under § 85.55(a). The label shall be affixed at such a location that it will be readily accessible for inspection after the engine is installed in a vehicle and shall read as follows:

ENGINE SMOKE EMISSION CERTIFICATION

This engine is, in all material respects, of substantially the same construction as test engines certified by the U.S. Environmental Protection Agency as conforming to Federal regulations pertaining to exhaust smoke emission.

Engine family identification and model ----------
Date of manufacture ----------
(Month and year)
Name of manufacturer ----------

(The information applicable to each engine is to be inserted on the appropriate line.)

(d) The provisions of this section shall not prevent a manufacturer from also reciting on the label that such vehicle or engine conforms to any applicable State emission standards for new motor vehicles or new motor vehicle engines or any other information that such manufacturer deems necessary for, or useful to, the proper operation and satisfactory maintenance of the vehicle or engine.

§ 85.5 Submission of vehicle identification numbers.

(a) The manufacturer of any light duty motor vehicle covered by a certificate of conformity under § 85.55(a) shall, not later than 60 days after its manufacture, submit to the Administrator the vehicle identification number of such vehicle: *Provided*, That this requirement shall not apply with respect to any vehicle manufactured within any State, as defined in section 302(d) of the Act.

(b) The requirements of this section may be waived with respect to any manufacturer who provides information satisfactory to the Administrator which will enable the Administrator to identify those vehicles or engines which are covered by a certificate of conformity.

§ 85.6 Production vehicles and engines.

(a) Any manufacturer obtaining certification under this part shall supply to the Administrator, upon his request, a reasonable number of production vehicles or engines selected by the Administrator which are representative of the engines, emission control systems, fuel systems, and transmissions offered and typical of production models available for sale under the certificate. These vehicles or engines shall be supplied for testing at such time and place and for such reasonable periods as the Administrator may require. Engines supplied under this paragraph may be required to be mounted in chassis and appropriately equipped for operation on a chassis dynamometer.

(b) Any manufacturer obtaining certification under this part shall notify the Administrator, on a quarterly basis, of the number of vehicles of each engine family - engine displacement - exhaust emission control system-fuel system-transmission type-inertia weight class combination or the number of engines of each engine family-engine displacement-exhaust emission control system-fuel system combination produced for sale in the United States during the preceding quarter. A manufacturer may elect to provide this information every 60 days instead of quarterly, to combine it with the notification required under § 85.5.

(c) All light duty vehicles covered by a certificate of conformity under § 85.55 (a) shall be adjusted by the manufacturer to the ignition timing specification detailed in § 85.4(a)(4)(iv).

§ 85.7 Emission control system operation during test.

All emission control systems installed on or incorporated in a new motor vehicle or new motor vehicle engine shall be functioning during all test procedures in this part.

§ 85.8 Special test procedures.

The Administrator may, on the basis of a written application therefor by a manufacturer, prescribe test procedures, other than those set forth in this part, for any motor vehicle or motor vehicle engine which he determines is not susceptible to satisfactory testing by the procedures set forth herein.

§ 85.9 Maintenance of records; submittal of information; right of entry.

(a) The manufacturer of any new motor vehicle or new motor vehicle engine subject to any of the standards prescribed in this part shall establish and maintain the following adequately organized and indexed records:

(1) Identification and description of all vehicles or engines for which testing is required under this part.

(2) A description of all emission control systems which are installed on or incorporated in each vehicle or engine.

(3) A description of the procedures used to test such vehicles or engines.

(4) Test data on each emission data vehicle or engine which will show its emissions at 0 and 4,000 miles or 0 and 125 hours, respectively.

(5) Test data on each durability vehicle or engine which will show the performance of the systems installed on or incorporated in the vehicle or engine during extended mileage or operation, as well as a record of all pertinent maintenance performed on the vehicle or engine.

(b) The manufacturer of any new motor vehicle or new motor vehicle engine subject to any of the standards prescribed in this part shall submit to the Administrator at the time of issuance by the manufacturer copies of all instructions or explanations regarding the use, repair, adjustment, maintenance, or testing of such vehicle or engine relevant to the control of crankcase, exhaust, or evaporative emissions, issued by the manufacturer for use by other manufacturers, assembly plants, distributors, dealers, and ultimate purchasers: *Provided*, That any material not translated into the English language need not be submitted unless specifically requested by the Administrator.

(c) The manufacturer of any new motor vehicle or new motor vehicle engine subject to any of the standards prescribed in this part shall permit officers

motor vehicles beginning with the model year specified therein, except motorcycles and 1972 model year vehicles with an engine displacement of less than 50 cubic

duty engines beginning with the 19[illegible] model year.

§ 85.31 Standards for exhaust emissions.

classes of motor vehicle engines represented by such test engines, any motor vehicle engine which is in all material respects of substantially the same construction as such test engines shall be deemed to be in conformity with the re-

(a) Durability data on such vehicles tested in accordance with the applicable test procedures of this part, and in such numbers as therein specified, which will show the performance of the systems installed on or incorporated in the vehi-

(i) The manufacturer may request a retest. Before the retest, the vehicle may be adjusted to manufacturer's specifications, and parts may be replaced in accordance with § 85.90, § 85.111, or § 85.131, as appropriate. All work on

(c) The manufacturer of any new motor vehicle or new motor vehicle engine subject to any of the standards prescribed in this part shall permit officers or employees duly designated by the Administrator, upon presenting appropriate credentials and a written notice to the manufacturer:

(1) To enter, at reasonable times, any premises used during the certification procedure for purposes of monitoring tests and mileage accumulation procedures, observing maintenance procedures, and verifying correlation or calibration of test equipment, or

(2) To inspect, at reasonable times, records, files, and papers compiled by such manufacturer in accordance with paragraph (a) of this section.

A separate notice shall be given for each such inspection, but a separate notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness.

Subpart B—Crankcase Emissions (Gasoline Fueled Vehicles and Engines)

§ 85.10 Applicability.

The provisions of this subpart are applicable to all new gasoline fueled light duty vehicles, except motorcycles, and heavy duty engines beginning with the 1972 model year for such vehicles and engines.

§ 85.11 Standards for crankcase emissions.

No crankcase emissions shall be discharged into the ambient atmosphere from any new motor vehicle or new motor vehicle engine subject to this subpart.

§ 85.12 Test procedures.

Every manufacturer of new motor vehicles or new motor vehicle engines subject to the standard prescribed in this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicles or motor vehicle engines in accordance with good engineering practice to ascertain that such test vehicles or engines, with proper maintenance, will meet the requirements of § 85.11 for the useful life of the vehicle or engine.

If, pursuant to § 85.55(a) the Administrator issues a certificate of conformity for the class or classes of motor vehicles or motor vehicle engines, represented by such test vehicles or engines, any new motor vehicle or motor vehicle engine which is in all material respects of substantially the same construction as such test vehicle or engine shall be deemed to be in conformity with the requirement of § 85.11.

Subpart C—Exhaust Emissions and Fuel Evaporative Emissions (Gasoline Fueled Light Duty Vehicles)

§ 85.20 Applicability.

The provisions of this subpart are applicable to new gasoline fueled light duty motor vehicles beginning with the model year specified therein, except motorcycles and 1972 model year vehicles with an engine displacement of less than 50 cubic inches.

§ 85.21 Standards for exhaust emissions.

(a) Exhaust emissions from 1975 model year vehicles shall not exceed:

(1) Hydrocarbons—0.41 gram per vehicle mile.

(2) Carbon monoxide—3.4 grams per vehicle mile.

(3) Oxides of nitrogen—3.0 grams per vehicle mile.

(b) Exhaust emissions from 1976 and later model year vehicles shall not exceed:

(1) Hydrocarbons—0.41 gram per vehicle mile.

(2) Carbon monoxide—3.4 grams per vehicle mile.

(3) Oxides of nitrogen—0.4 gram per vehicle mile.

(c) The standards set forth in paragraphs (a) and (b) of this section refer to the exhaust emitted over a driving schedule as set forth in the applicable sections of "Test Procedures for Vehicle Exhaust and Fuel Evaporative Emissions (Gasoline Fueled Light Duty Vehicles)" of this part and measured and calculated in accordance with those procedures.

§ 85.22 Standard for fuel evaporative emissions.

(a) Fuel evaporative emissions from vehicles beginning with the 1972 model year shall not exceed:

(1) Hydrocarbons—2 grams per test.

(b) The standard set forth in paragraph (a) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in the "Test Procedures for Vehicle Exhaust and Fuel Evaporative Emissions (Gasoline Fueled Light Duty Vehicles)" of this part and measured in accordance with those procedures.

§ 85.23 Test procedures.

Every manufacturer of new motor vehicles subject to the standards prescribed in this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicles in accordance with test procedures in Subpart H of this part to ascertain that such test vehicles meet the requirements of §§ 85.21 and 85.22, as applicable. If, pursuant to § 85.55(a), the Administrator issues a certificate of conformity for the class or classes of vehicles represented by such test vehicles, any new motor vehicle which is in all material respects of substantially the same construction as such test vehicles shall be deemed to be in conformity with the requirements of §§ 85.21 and 85.22, as applicable.

Subpart D—Exhaust Emissions (Gasoline Fueled Heavy Duty Engines)

§ 85.30 Applicability.

The provisions of this subpart are applicable to new gasoline fueled heavy duty engines beginning with the 19[illegible] model year.

§ 85.31 Standards for exhaust emissions.

(a) Exhaust emissions from new gasoline fueled heavy duty engines shall not exceed:

(1) Hydrocarbons—275 p.p.m.

(2) Carbon monoxide—1.5 percent by volume.

(b) The standards set forth in paragraph (a) of this section refer to a composite sample representing the operating cycles set forth in the applicable sections of "Test Procedures for Engine Exhaust Emissions (Gasoline Fueled Heavy Duty Engines)" of this part and measured in accordance with those procedures.

§ 85.32 Test procedures.

Every manufacturer of new motor vehicle engines subject to the standards prescribed in this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with test procedures prescribed in Subpart I of this part to ascertain that such test engines meet the requirements of § 85.31. If, pursuant to § 85.55(a), the Administrator issues a certificate of conformity for the class of classes of motor vehicle engines represented by such test engines, any new motor vehicle engine which is in all material respects of substantially the same construction as such test engines shall be deemed to be in conformity with the requirements of § 85.31.

Subpart E—Exhaust Emissions (Heavy Duty Diesel Engines)

§ 85.40 Applicability.

The provisions of this subpart are applicable to new heavy duty diesel engines beginning with the 1972 model year.

§ 85.41 Standards for exhaust smoke.

(a) The opacity of smoke emissions from new diesel engines subject to this subpart shall not exceed:

(1) 40 percent during the engine acceleration mode.

(2) 20 percent during the engine lugging mode.

(b) The standards set forth in paragraph (a) of this section refer to exhaust smoke emissions generated under the conditions set forth in the "Test Procedures for Engine Exhaust Emissions (Heavy Duty Diesel Engines)" of this part and measured and calculated in accordance with those procedures.

§ 85.42 Test procedures.

Every manufacturer of new motor vehicle engines subject to the standards prescribed in this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with test procedures prescribed in Subpart J of this part, to ascertain that such test engines meet the requirements of § 85.41. If, pursuant to § 85.55(a), the Administrator issues a certificate of conformity for the class of

classes of motor vehicle engines represented by such test engines, any motor vehicle engine which is in all material respects of substantially the same construction as such test engines shall be deemed to be in conformity with the requirements of § 85.41.

Subpart F—Certification of Motor Vehicles and Motor Vehicle Engines

§ 85.50 Applicability.

The provisions of this subpart are applicable to new motor vehicles and new motor vehicle engines subject to the standards prescribed in this part. As used in this subpart, the term "vehicle" and "test vehicle" shall include engines and test engines, respectively.

§ 85.51 Application for certification.

(a) An application for a certificate of conformity to the regulations applicable to any new motor vehicle shall be made to the Administrator by the manufacturer.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

(1) Identification and description of the vehicles covered by the application and a description of their emission control systems.

(2) Projected U.S. sales data sufficient to enable the Administrator to select a test fleet representative of the vehicles for which certification is requested.

(3) A description of the test equipment and fuel proposed to be used.

(4) A description of the proposed mileage accumulation procedure for durability testing.

(5) A statement of recommended maintenance and procedures necessary to assure that the vehicles covered by a certificate of conformity in operation conform to the regulations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(6) At the option of the manufacturer, the proposed composition of the emission data and durability data test fleet.

§ 85.52 Approval of procedure and equipment; test fleet selections.

Based upon the information provided in the application for certification, and any other information the Administrator may require, the Administrator will approve or disapprove in whole or in part the mileage accumulation procedure and equipment and fuel proposed by the manufacturer, and notify him in writing of such determination. Where any part of a proposal is disapproved, such notification will specify the reasons for disapproval. The Administrator will select a test fleet in accordance with § 85.89, § 85.110, or § 85.30, as appropriate.

§ 85.53 Required data.

The manufacturer shall perform the tests required by the applicable test procedures, and submit to the Administrator the following information:

(a) Durability data on such vehicles tested in accordance with the applicable test procedures of this part, and in such numbers as therein specified, which will show the performance of the systems installed on or incorporated in the vehicle for extended mileage or operation, as well as a record of all pertinent maintenance performed on the test vehicles.

(b) Emission data on such vehicles tested in accordance with the applicable emission test procedures of this part and in such numbers as therein specified, which will show their emissions after 0 miles or 0 hours, and 4,000 miles or 125 hours of operation (as appropriate).

(c) A description of tests performed to ascertain compliance with the general standards in § 85.3 and the data derived from such tests.

(d) A statement that the test vehicles with respect to which data are submitted have been tested in accordance with the applicable test procedures, that they meet the requirement of such tests, and that, on the basis of such tests, they conform to the requirements of the regulations in this part. If such statements cannot be made with respect to any vehicle tested, the vehicle shall be identified, and all pertinent test data relating thereto shall be supplied.

§ 85.54 Testing by the Administrator.

(a) The Administrator may require that any one or more of the test vehicles be submitted to him, at such place or places as he may designate, for the purpose of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(b)(1) Whenever the Administrator conducts a test on a test vehicle, the results of that test shall comprise the official data for the vehicle at that prescribed test point.

(2) Whenever the Administrator does not conduct a test on a test vehicle at a test point, the manufacturer's test date will be accepted as the official data for that test point: *Provided*, That if the Administrator makes a determination based on testing under paragraph (a) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer.

(3) If the Administrator determines that the test data developed under paragraph (a) of this section would cause a vehicle to fail due to excessive 4,000-mile or 125-hour emissions or excessive deterioration, then the following procedure shall be observed:

(i) The manufacturer may request a retest. Before the retest, the vehicle may be adjusted to manufacturer's specifications, and parts may be replaced in accordance with § 85.90, § 85.111, or § 85.131, as appropriate. All work on the vehicle shall be done at such location and under such conditions as the Administrator may prescribe.

(ii) The vehicle will be retested by the Administrator and the results of this test shall comprise the official data for that prescribed test point.

(4) If sufficient durability data is not available, at the time of any emission test conducted under paragraph (a) of this section, to enable the Administrator to determine whether a test vehicle would fail, the manufacturer may request a retest in accordance with the provisions of subparagraph (3) (i) and (ii) of this paragraph. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the vehicle from the test premises.

§ 85.55 Certification.

(a) (1) If, after a review of the test reports and data submitted by the manufacturer and data derived from any additional testing conducted pursuant to § 85.54, the Administrator determines that a test vehicle(s) conforms to the regulations of this part, he will issue a certificate of conformity with respect to such vehicle(s).

(2) Such certificate will be issued for such period not less than 1 year as the Administrator may determine and upon such terms as he may deem necessary to assure that any new motor vehicle covered by the certificate will meet the requirements of these regulations relating to durability and performance.

(b)(1) The Administrator will determine whether a vehicle covered by the application complies with applicable standards by observing the following relationships:

(i) A test vehicle selected under § 85.89(b) (2) or (4), § 85.110(b) (2) or (4), or § 85.130(b)(2), as appropriate, shall represent all vehicles in the same engine family of the same engine displacement-exhaust emission control system-evaporative emission control system combination.

(ii) A test vehicle selected under § 85.89(b)(3) or § 85.110(b)(3) as appropriate, shall represent all vehicles in the same engine family of the same engine displacement-exhaust emission control system-transmission type-fuel system combination.

(iii) A test vehicle selected under § 85.89(c)(1), § 85.110(c)(1), or § 85.130(c)(1), as appropriate, shall represent all vehicles of the same engine-system combination.

(2) The Administrator will proceed as in paragraph (a) of this section with respect to the vehicles belonging to an engine family all of which comply with applicable standards.

(3) If, after a review of the test reports and data submitted by the manufacturer and data derived from any additional testing conducted pursuant to § 85.54, the Administrator determines that one or more test vehicles of the category [illegible] istrator. Such notification shall be in advance of the addition unless the manufacturer elects to follow the procedure described in § 85.89. This notification shall include a full description of the vehicle to be added.

(c) If the Administrator determines based upon a description of the addition or change, that no test data will be required, he will notify the manufacturer in writing of the acceptability of the addition or change. If the Administrator

such additional tests as may be agreed upon by the parties.

(b) The results of the conference shall be reduced to writing by the Presiding Officer and made part of the record.

§ 85.64 Conduct of hearings.

Subpart H—Test Procedures for Vehicle Exhaust and Fuel Evaporative Emissions (Gasoline Fueled Light Duty Vehicles)

§ 85.70 Introduction.

range recommended by the vehicle or engine manufacturer.

Item	ASTM designation	Specifications
Distillation range	D 86	

(3) If, after a review of the test reports and data submitted by the manufacturer and data derived from any additional testing conducted pursuant to § 85.54, the Administrator determines that one or more test vehicles of the certification test fleet do not meet applicable standards, he will notify the manufacturer in writing, setting forth the basis for his determination. Within 30 days following receipt of the notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determination, and data in support of such objections. If, after a review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with subpart G with respect to such issue.

(4) The manufacturer may, at his option, proceed with any of the following alternatives with respect to any engine family represented by a test vehicle(s) determined not in compliance with applicable standards:

(i) Request a hearing under subpart G, or

(ii) Delete from the application for certification the vehicles represented by the failing test vehicle. (Vehicles so deleted may be included in a later request for certification under § 85.57.) The Administrator will then select in place of each failing vehicle an alternate vehicle chosen in accordance with selection criteria employed in selecting the vehicle that failed, or

(iii) Modify the test vehicle and demonstrate by testing that it meets applicable standards. Another vehicle which is in all material respects the same as the first vehicle, as modified, shall then be operated and tested in accordance with applicable test procedures.

(5) If the manufacturer does not request a hearing or present the required data under subparagraph (4) of this paragraph, the Administrator will deny certification.

§ 85.56 Separate certification.

Where possible a manufacturer should include in a single application for certification all vehicles for which certification is required. A manufacturer may, however, choose to apply separately for certification of part of his product line. The selection of test vehicles and the computation of test results will be determined separately for each application.

§ 85.57 Addition of a vehicle after certification.

(a) If a manufacturer proposes to add to his product line a vehicle of the same engine-system combination as vehicles previously certified but which was not described in the application for certification when the test vehicle(s) representing other vehicles of that combination was certified, he shall notify the Administrator. Such notification shall be in advance of the addition unless the manufacturer elects to follow the procedure described in § 85.59. This notification shall include a full description of the vehicle to be added.

(b) The Administrator may require the manufacturer to perform such tests on the test vehicle(s) representing the vehicle to be added which would have been required if the vehicle had been included in the original application for certification.

(c) If, after a review of the test reports and data submitted by the manufacturer, and data derived from any testing conducted under § 85.54, the Administrator determines that the test vehicle(s) meets all applicable standards, the appropriate certificate will be amended accordingly. If the Administrator determines that the test vehicle(s) does not meet applicable standards, he will proceed under § 85.55(b).

§ 85.58 Changes to a vehicle covered by certification.

(a) The manufacturer shall notify the Administrator of any change in production vehicles in respect to any of the parameters listed in § 85.89(a)(3), § 85.89(b)(3), or § 85.110(b)(3), giving a full description of the change. Such notification shall be in advance of the change unless the manufacturer elects to follow the procedure described in § 85.59.

(b) Based upon the description of the change, and data derived from such testing as the Administrator may require or conduct, the Administrator will determine whether the vehicle, as modified, would still be covered by the certificate of conformity then in effect.

(c) If the Administrator determines that the outstanding certificate would cover the modified vehicles, he will notify the manufacturer in writing. Except as provided in § 85.59 the change may not be put into effect prior to the manufacturer's receiving this notification. If the Administrator determines that the modified vehicles would not be covered by the certificate then in effect, then the modified vehicles shall be treated as additions to the product line subject to § 85.57.

§ 85.59 Alternative procedure for notification of additions and changes.

(a) A manufacturer may, in lieu of notifying the Administrator in advance of an addtion of a vehicle under § 85.57 or a change in a vehicle under § 85.58, notify him concurrently with the making of the change if the manufacturer believes the addition or change will not require any testing under the appropriate section. Upon notification to the Administrator, the manufacturer may proceed to put the addition or change into effect.

(b) The manufacturer may continue to produce vehicles as described in the notification to the Administrator for a maximum of 30 days, unless the Administrator grants an extension in writing. This period may be shortened by a notification in accordance with paragraph (c) of this section.

(c) If the Administrator determines based upon a description of the addition or change, that no test data will be required, he will notify the manufacturer in writing of the acceptability of the addition or change. If the Administrator determines that test data will be required he will notify the manufacturer to rescind the change within 5 days of receipt of the notification. The Administrator will then proceed as in § 85.57 (b) and (c), or § 85.58 (b) and (c) as appropriate.

(d) Election to produce vehicles under this section will be deemed to be a consent to recall all vehicles which the Administrator determines under § 85.57(c) do not meet applicable standards, and to cause such nonconformity to be remedied at no expense to the owner.

Subpart G—Hearings on Certification

§ 85.60 Hearing.

(a) After granting a request for a hearing under § 85.55, the Administrator will designate a Presiding Officer for the hearing.

(b) The General Counsel will represent the Environmental Protection Agency in any hearing under this subpart.

(c) If a time and place for the hearing have not been fixed by the Administrator under § 85.55, the hearing shall be held as soon as practicable at a time and place fixed by the Administrator or by the Presiding Officer.

§ 85.61 Hearing file.

(a) Upon his appointment pursuant to § 85.60, the Presiding Officer will establish a hearing file. The file shall consist of the notice issued by the Administrator under § 85.55, together with any accompanying material, the request for a hearing and the supporting data submitted therewith and all documents relating to the request for certification, including the application for certification and all documents submitted therewith, and correspondence and other data material to the hearing.

(b) The appeal file will be available for inspection by the applicant at the office of the Presiding Officer.

§ 85.62 Representation.

An applicant may appear in person, or may be represented by counsel or by any other duly authorized representative.

§ 85.63 Prehearing conference.

(a) The Presiding Officer upon the request of any party, or in his discretion, may arrange for a prehearing conference at a time and place specified by him to consider the following:

(1) Simplification of the issues;

(2) Stipulations, admissions of fact, and the introduction of documents;

(3) Limitation of the number of expert witnesses;

(4) Possibility of agreement disposing of all or any of the issues in dispute;

(5) Such other matters as may aid in the disposition of the hearing, including such additional tests as may be agreed upon by the parties.

(b) The results of the conference shall be reduced to writing by the Presiding Officer and made part of the record.

§ 85.64 Conduct of hearings.

(a) Hearings shall be conducted by the Presiding Officer in an informal but orderly and expeditious manner. The parties may offer oral or written evidence, subject to the exclusion by the Presiding Officer of irrelevant, immaterial, and repetitious evidence.

(b) Witnesses will not be required to testify under oath. However, the Presiding Officer shall call to the attention of witnesses that their statements may be subject to the provisions of title 18 U.S.C. 1001 which imposes penalties for knowingly making false statements or representations, or using false documents in any matter within the jurisdiction of any department or agency of the United States.

(c) Any witness may be examined or cross-examined by the Presiding Officer, the parties, or their representatives.

(d) Hearings shall be reported verbatim. Copies of transcripts of proceedings may be purchased by the applicant from the reporter.

(e) All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall, upon a showing satisfactory to the Presiding Officer of their authenticity, relevancy, and materiality, be received in evidence and shall constitute a part of the record.

(f) Oral argument may be permitted in the discretion of the Presiding Officer and shall be reported as part of the record unless otherwise ordered by him.

§ 85.65 Initial and final decisions.

(a) The Presiding Officer shall make an initial decision which shall include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law or discretion presented on the record. The findings, conclusions, and written decision shall be provided to the parties and made a part of the record. The initial decision shall become the decision of the Secretary without further proceedings unless there is an appeal to the Administrator or motion for review by the Administrator within 20 days of the date the initial decision was filed.

(b) On appeal from or review of the initial decision the Administrator shall have all the powers which he would have in making the initial decision including the discretion to require or allow briefs, oral argument, the taking of additional evidence or the remanding to the Presiding Officer for additional proceedings. The decision by the Administrator shall include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law, or discretion presented on the appeal or considered in the review.

Subpart H—Test Procedures for Vehicle Exhaust and Fuel Evaporative Emissions (Gasoline Fueled Light Duty Vehicles)

§ 85.70 Introduction.

The procedures described in this subpart will be the test program to determine the conformity of gasoline fueled light duty vehicles with the applicable standards set forth in this part.

(a) The test consists of prescribed sequences of fueling, parking, and operating conditions. The exhaust gases generated during vehicle operation are diluted with air and sampled continuously for subsequent analysis of specific components by prescribed analytical techniques. The fuel evaporative emissions are collected for subsequent weighing during both vehicle parking and operating events. The test applies to vehicles equipped with catalytic or direct-flame afterburners, induction system modifications, or other systems or to uncontrolled vehicles and engines.

(b) The exhaust emission test is designed to determine hydrocarbon, carbon monoxide, and oxides of nitrogen mass emissions while simulating an average trip in an urban area of 7.5 miles. The test consists of engine startups and vehicle operation on a chassis dynamometer through a specified driving schedule, as described in Appendix A to this part. A proportional part of the diluted exhaust emissions is collected continuously, for subsequent analysis, using a constant volume (variable dilution) sampler.

(c) The fuel evaporative emission test is designed to determine fuel hydrocarbon evaporative emissions to the atmosphere as a consequence of urban driving, and diurnal temperature fluctuations during parking. It is associated with a series of events representative of a motor vehicle's operation, which result in fuel vapor losses directly from the fuel tank and carburetor. Activated carbon traps are employed in collecting the vaporized fuel. The test procedure is specifically aimed at collecting and weighing:

(1) Diurnal breathing losses from the fuel tank and other parts of the fuel system when the fuel tank is subjected to a temperature increase representative of the diurnal range;

(2) Running losses from the fuel tank and carburetor resulting from a simulated trip on a chassis dynamometer; and

(3) Hot soak losses from the fuel tank and carburetor which result when the vehicle is parked and the hot engine is turned off.

§ 85.71 Gasoline specifications.

(a) Fuel having the following specifications or substantially equivalent specifications approved by the Administrator, shall be used in exhaust and evaporative emission testing. The lead content and octane rating of the fuel shall be in the range recommended by the vehicle or engine manufacturer.

Item	ASTM designation	Specifications
Distillation range	D 86	
IBP, ° F		75–95
10 percent point, ° F		120–135
50 percent point, ° F		200–220
90 percent point, ° F		300–325
EP, ° F (max.)		415
Sulfur, wt. percent, max	D 1266	0.10
Phosphorous, theory		0.0
RVP,[1] lb	D 323	8.7–9.2
Hydrocarbon composition	D 1319	
Olefins, percent, max		10
Aromatics, percent, max		35
Saturates		Remainder

[1] For testing which is unrelated to fuel evaporative emission control, the specified range is 8.0–9.2.

(b) Fuels representative of commercial fuels which will generally be available through retail outlets shall be used in mileage accumulation. The lead content and octane rating of the fuel used shall be in the range recommended by the vehicle or engine manufacturer. The Reid Vapor Pressure of the fuel used shall be characteristic of the motor fuel during the season during which the mileage accumulation takes place.

(c) The specification range of the fuels to be used under paragraph (b) of this section shall be reported in accordance with § 85.51(b)(3).

§ 85.72 Vehicle and engine preparation (fuel evaporative emissions).

(a) (1) Apply appropriate leak-proof fittings to all fuel system external vents to permit collection of effluent vapors from these vents during the course of the prescribed tests. Since the prescribed test requires the temporary plugging of the inlet pipe to the air cleaner, it will be necessary to install a probe for collecting the normal effluents from this source. Where antisurge/vent filler caps are employed on the fuel tank, plug off the normal vent if it does not conveniently lend itself to the collection of vapors which emanate from it, and introduce a separate vent, with appropriate fitting, on the cap. Where the fuel tank vent line terminus is inaccessible, sever the line at a convenient point near the fuel tank and install the collection system in a closed circuit assembly with the severed ends. All fittings shall terminate in 5/16-inch ID tube sections for ready connection to the collection systems and shall be designed for minimum dead space.

(2) The design and installation of the necessary fittings shall not disturb the normal function of the fuel system components or the normal pressure relationships in the system.

(b) (1) Inspect the fuel system carefully to insure the absence of any leaks to the atmosphere of either liquid or vapor which might affect the accuracy of the test or the performance of the control system. Corrective action, if any, shall be reported with the test results under § 85.53.

(2) Care should be exercised, in the application of any pressure tests, neither to purge nor load the evaporative emission control system.

(c) Prepare fuel tank for recording temperature by drilling and tapping the tank for a temperature probe. Locate the probe in the vapor space of the tank. Alternatively, the probe may be located in the fuel return line before it enters the tank. Seal the probe hole.

(d) Prepare the fuel tank for the introduction of the test fuel by disconnecting the fuel line at the point where it enters the tank. Connect a fuel supply line to the fuel tank inlet. Use a separate fuel supply tank for each fuel used in the test sequence.

(e) Prepare the fuel tank for the introduction of the test fuel by disconnecting the fuel line at the point where it leaves the tank. Connect a fuel return line to the fuel tank outlet. Use a separate fuel return tank for each fuel used in the test sequence.

(f) Fuel tank temperature probes, fuel supply lines, and fuel return lines may be installed through a single opening in the fuel tank.

(g) Fuel tanks shall be filled to the prescribed "tank fuel volume," defined in § 85.1. The temperature of the fuel following the charge to the tank shall be 60° F.±2° F. Care should be exercised against abnormal loading of

§ 85.75 Dynamometer driving schedule.

(a) The dynamometer driving schedule to be followed consists of a nonrepetitive series of idle, acceleration,

(c) The vehicle shall be nearly level when tested in order to prevent abnormal fuel distribution.

(d) Flywheels, electrical or other means of simulating inertia as shown in

(g) Practice runs over the prescribed driving schedule may be performed to find the minimum throttle action to maintain the proper speed-time relationship.

(b) If transmission ratio in first gear exceeds 5 : 1, follow the procedure for three- or four-speed manual transmission vehicles as if the first gear did not exist.

(2) Care should be exercised, in the application of any pressure tests, neither to purge nor load the evaporative emission control system.

(c) Prepare fuel tank for recording the temperature of the prescribed test fuel at its approximate midvolume.

(d) Provide additional fittings and adapters, as required to accommodate a fuel drain at the lowest point possible in the tank as installed on the vehicle.

§ 85.73 Vehicle preconditioning (fuel evaporative emissions).

Vehicle to be tested for compliance with the fuel evaporative emissions standard of this part shall be preconditioned as follows:

(a) The test vehicle shall be operated under the conditions prescribed for mileage accumulation, § 85.91, for 1 hour immediately prior to the operations prescribed below.

(b) The fuel tank shall be drained and specified test fuel (85.71(a)) added. The evaporative emission control system or device shall not be abnormally purged or loaded as a result of draining or fueling the tank.

(c) The test vehicle shall be placed on the dynamometer and operated over a simulated trip, according to the applicable requirements and procedures of §§ 85.75–85.80 except that the engine need not be cold when starting the run on the dynamometer and only a single trip of 7.5 miles shall be run. During the run the ambient temperature shall be between 68° F. and 86° F.

(d) The engine and cooling fan shall be stopped upon completion of the dynamometer operation and the vehicle permitted to soak either on or off the dynamometer stand at an ambient temperature between 76° F. and 86° F. for a period of not less than 1 hour prior to the soak period prescribed in § 85.74 (a)(1).

§ 85.74 Evaporative emission collection procedure.

The standard test procedure consists of three parts described below which shall be performed in sequence and without any interruption in the test conditions prescribed.

(a) *Diurnal breathing loss test.* (1) The test vehicle shall be allowed to "soak" in an area where the ambient temperature is maintained between 60° F. and 86° F. for a period of not less than 10 hours. (The vehicle preparation requirements of § 85.72 may be performed during this period.) It shall then be transferred to a soak area where the ambient temperature is maintained between 76° F. and 86° F. Upon admittance to the 76° F.–86° F. soak area, the prescribed fuel tank thermocouple shall be connected to the recorder and the fuel and ambient temperatures recorded at a chart speed of approximately 12 inches per hour (or equivalent record).

(2) The fuel tank of the prepared test vehicle, preconditioned according to § 85.73 shall be drained and recharged with the specified test fuel, § 85.71(a), to the prescribed "tank fuel volume," defined in § 85.1. The temperature of the fuel following the charge to the tank shall be 60° F.±2° F. Care should be exercised against abnormal loading of the evaporative emission control system or device as a result of fueling the tank.

(3) Immediately following the fuel charge to the tank, the exhaust pipe(s) and inlet pipe to the air cleaner shall be plugged and the prescribed vapor collection systems installed on all fuel stystem external vents. Multiple vents may be connected to a single collection trap provided that, where there is more than one external vent on a fuel system distinguishing between carburetor and tank vapors, separate collection systems shall be employed to trap the vapors from the separate sources. Every precaution shall be taken to minimize the lengths of the collection tubing employed and to avoid sharp bends across the entire system.

(4) Artificial means shall be employed to heat the fuel in the tank to 84° F. ±2° F. The prescribed temperature of the fuel shall be achieved over a period of 60 minutes±10 minutes using a constant rate of heat input. After a minimum of 1 hour, following admittance to the 76° F.–86° F. soak area, the vehicle shall be moved onto the dynamometer stand for the subsequent part of the test. The fuel tank thermocouple may be temporarily disconnected to permit moving the test vehicle. Plugs shall be removed from the exhaust pipe(s) and inlet pipe to the air cleaner.

(b) *Running loss test.* (1) The vehicle shall be placed on the dynamometer and the fuel tank thermocouple reconnected. The fuel temperature and the ambient air temperature shall be recorded at a chart speed of approximately 12 inches per hour (or equivalent record).

(2) Where the only external vent(s) is located in the immediate vicinity of the carburetor air horn, such that any "running loss" emissions would be inducted into the engine, there is no requirement to collect any vapor losses during this part of the test and the vapor-loss measurement system shall be temporarily disconnected and clamped.

(3) The vehicle shall be operated on the dynamometer according to the requirements and procedures of §§ 85.75–85.85. The engine and fan shall be turned off upon completion of the dynamometer run and the exhaust and air cleaner inlet pipes shall be replugged.

(4) Any vapor collection systems employed during this part of the test shall be left intact for their continued use during the following part. Any part of the vapor collection system disconnected during this phase of the test shall be reconnected for the following phase.

(c) *Hot soak test.* Upon completion of the dynamometer run, the test vehicle shall be permitted to soak with hood down for a period of 1 hour at an ambient temperature between 76° F. and 86° F. This operation completes the test. The traps are disconnected and weighed according to § 85.82.

§ 85.75 Dynamometer driving schedule.

(a) The dynamometer driving schedule to be followed consists of a nonrepetitive series of idle, acceleration, cruise, and deceleration modes of various time sequences and rates. The driving schedule is defined by a smooth transition through the speed vs. time relationships listed in Appendix A. The time sequence begins upon starting the vehicle according to the startup procedure described in § 85.80.

(b) A speed tolerance of ±2 m.p.h. and a time tolerance of ±1 second (or an algebraic combination of the two) from either the speed-time relationship prescribed in Appendix A or as printed on a driver's aid chart approved by the Administrator are acceptable. Speed tolerances greater than 2 m.p.h. (such as occur when shifting manual transmission vehicles) are acceptable provided they occur for less than 2 seconds on any one occasion. Speeds lower than those prevehicle is operated at maximum available power during such occurrences. Further, speed deviations from those prescribed due to stalling are acceptable provided the provisions of § 85.80(f) are adhered to.

§ 85.76 Dynamometer procedure.

(a) The dynamometer run consists of two tests, a "cold" start test after a minimum 12-hour soak according to the provisions of §§ 85.73–85.74, and a "hot" start test with a 10-minute soak between the two tests. Engine startup, operation over the driving schedule, and engine shutdown make a complete cold start test. Engine startup and operation over the first 505 seconds of the driving schedule complete the hot start test. The exhaust emissions are diluted with air to a constant volume and a portion is sampled continuously during each test. The composite samples collected in bags are analyzed for hydrocarbons, carbon monoxide, carbon dioxide, and oxides of nitrogen. A parallel sample of the dilution air is similarly analyzed for hydrocarbon, carbon monoxide, and oxides of nitrogen.

(b) During dynamometer operation, a fixed speed cooling fan shall be positioned so as to direct cooling air to the vehicle in an appropriate manner with the engine compartment cover open. The fan capacity shall normally not exceed 5,300 c.f.m. If, however, the manufacturer can show that during field operation the vehicle receives additional cooling, the fan capacity may be increased or additional fans used if approved in advance by the Administrator. In the case of vehicles with front engine compartments, the fan(s) shall be squarely positioned between 8 and 12 inches in front of the cooling air inlets (grill). In the case of vehicles with rear engine compartments (or if special designs make the above impractical), the cooling fan(s) shall be placed in a position to provide sufficient air to maintain engine cooling.

(c) The vehicle shall be nearly level when tested in order to prevent abnormal fuel distribution.

(d) Flywheels, electrical or other means of simulating inertia as shown in the following table shall be used. If the equivalent inertia specified is not available on the dynamometer being used, the next higher equivalent inertia (not to exceed 250 lbs.) available shall be used.

Loaded vehicle weight, pounds	Equivalent inertia weight, pounds	Road load power @ 50 m.p.h., horsepower
Up to 1,125	1,000	4.9
1,126 to 1,375	1,000	6.5
1,376 to 1,625	1,250	7.1
1,626 to 1,875	1,750	7.7
1,876 to 2,125	2,000	8.3
2,126 to 2,375	2,250	8.8
2,376 to 2,625	2,500	9.4
2,626 to 2,875	2,750	9.9
2,876 to 3,250	3,000	10.5
3,251 to 3,750	3,500	11.2
3,751 to 4,250	4,000	12.0
4,251 to 4,750	4,500	12.7
4,751 to 5,250	5,000	13.4
5,251 to 5,750	5,500	13.9
5,751 to above	6,000	14.4

(e) Power absorption unit adjustment.

(1) The power absorption unit shall be adjusted to reproduce road load power at 50 m.p.h. true speed. The indicated road load power setting shall take into account the dynamometer friction. The relationship between road load (absorbed) power and indicated road load power for a particular dynamometer shall be determined by the procedure outlined in Appendix B or other suitable means.

(2) The road load power listed in the table above shall be used or the vehicle manufacturer may determine the road load power by the following procedure and request its use:

(i) Measuring the absolute manifold vacuum of a representative vehicle, of the same equivalent inertia weight class, when operated on a level road under balanced wind conditions at a true speed of 50 m.p.h., and

(ii) Noting the dynamometer indicated road load horsepower setting required to reproduce that manifold vacuum, when the same vehicle is operated on the dynamometer at a true speed of 50 m.p.h. The tests on the road and on the dynamometer shall be performed with the same vehicle ambient absolute pressure (usually barometric), i.e. within ±5 mm. Hg.

(iii) The road load power shall be determined according to the procedure outlined in Appendix B and adjusted according to the following if applicable.

(3) Where it is expected that more than 33 percent of the vehicles in an engine family will be equipped with air conditioning, the road load power listed above or as determined in paragraph 2 of this subsection shall be increased by 10 percent for testing all test vehicles representing such engine family.

(f) The vehicle speed (m.p.h.) as measured from the dynamometer rolls shall be used for all conditions. A speed vs. time recording, as evidence of dynamometer test validity, shall be supplied on request of the Administrator.

(g) Practice runs over the prescribed driving schedule may be performed to find the minimum throttle action to maintain the proper speed-time relationship.

Note: When using two-roll dynamometers a truer speed-time trace may be obtained by minimizing the rocking of the vehicle in the rolls. The rocking of the vehicle changes the tire rolling radius on each roll. The rocking may be minimized by restraining the vehicle horizontally (or nearly so) by using a cable and winch.

(h) The drive wheel tires may be inflated up to 45 p.s.i.g. in order to prevent tire damage. The drive wheel tire pressure shall be reported with the test results.

(i) If the dynamometer has not been operated during the 2-hour period immediately preceding the test it shall be warmed up for 15 minutes by operating it at 30 m.p.h. using a nontest vehicle.

§ 85.77 Three-speed manual transmissions.

(a) All test conditions except as noted shall be run in highest gear.

(b) Cars equipped with free wheeling or overdrive units shall be tested with this unit (free wheeling or overdrive) locked out of operation.

(c) Idle shall be run with transmission in gear and with clutch disengaged (except first idle; see § 85.80).

(d) The vehicle shall be driven with minimum throttle movement to maintain the desired speed.

(e) Acceleration modes shall be driven smoothly with the shift speeds as recommended by the manufacturer. If the manufacturer does not recommend shift speeds, the vehicle shall be shifted from first to second gear at 15 m.p.h. and from second to third gear at 25 m.p.h. The operator shall release the accelerator pedal during the shift, and accomplish the shift with minimum closed throttle time. If the vehicle cannot accelerate at the specified rates, the vehicle shall be accelerated at WOT until the vehicle speed reaches the speed at which it should be at that time during the test.

(f) The deceleration modes shall be run with clutch engaged and without shifting gears from the previous mode, using brakes or throttle as necessary to maintain the desired speed. For those modes which decelerate to zero, the clutch shall be depressed when the speed drops below 15 m.p.h., when engine roughness is evident, or when engine stalling is imminent.

(g) Downshifting is allowed at the beginning of or during a power mode if recommended by the manufacturer or if the engine obviously is lugging.

§ 85.78 Four-speed and five-speed manual transmissions.

(a) Use the same procedure as for three-speed manual transmissions for shifting from first to second gear and from second to third gear. If the manufacturer does not recommend shift speeds, the vehicle shall be shifted from third to fourth gear at 40 m.p.h. Fifth gear may be used at the manufacturer's option.

(b) If transmission ratio in first gear exceeds 5 : 1, follow the procedure for three- or four-speed manual transmission vehicles as if the first gear did not exist.

§ 85.79 Automatic transmissions.

(a) All test conditions shall be run with the transmission in "Drive" (highest gear). Automatic stick-shift transmissions may be shifted as manual transmissions at the option of the manufacturer.

(b) Idle modes shall be run with the transmission in "Drive" and the wheels braked (except first idle; see § 85.80).

(c) The vehicle shall be driven with minimum throttle movement to maintain the desired speed.

(d) Acceleration modes shall be driven smoothly allowing the transmission to shift automatically through the normal sequence of gears. If the vehicle cannot accelerate at the specified rates, the vehicle shall be accelerated at WOT until the vehicle speed reaches the speed at which it should be at that time during the driving schedule.

(e) The deceleration modes shall be run in gear using brakes or throttle as necessary to maintain the desired speed.

§ 85.80 Engine starting and restarting.

(a) The engine shall be started according to the manufacturer's recommended starting procedures. The initial 20-second-idle period shall begin when the engine starts.

(b) Choke operation:

(1) Vehicles equipped with automatic chokes shall be operated according to the manufacturer's operating or owner's manual including choke setting and "kick-down" from cold fast idle. If choke "kick-down" time is not specified, it shall be performed 13 seconds after the engine starts. The transmission shall be placed in gear 15 seconds after the engine is started. If necessary, braking may be employed to keep the drive wheels from turning.

(2) eVehicles equipped with manual chokes shall be operated according to the instructions which will be included in the manufacturer's operating or owner's manual. If not specified, the choke shall be operated to maintain engine idle at 1,100±50 r.p.m. during the initial idle period and used where necessary during the remainder of the test to keep the engine running.

(c) The operator may use more choke, more throttle, etc., where necessary to keep the engine running.

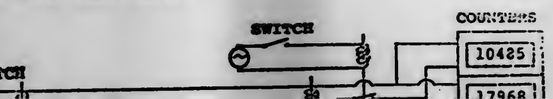
(d) If the vehicle does not start after 10 seconds of cranking, cranking shall cease and the reason for failure to start determined. The revolution counter on the constant volume sampler (see § 85.85, Dynamometer test runs) shall be turned off and the sample solenoid valves placed in the "dump" position during this diagnostic period. In addition, either the positive displacement pump should be turned off or the exhaust tube disconnected from the tailpipe during the diagnostic period. If failure to start is an operational error, the vehicle shall be rescheduled

for testing from a cold start. If failure to start is caused by vehicle malfunction, corrective action of less than 30 minutes duration may be taken

size so that the pressure at the mixing point is less than 1 inch of water pressure below ambient when the constant volume sampler is operating at its maxi-

(16) Sample collection bags for dilution air and exhaust samples of sufficient capacity so as not to impede sample flow.

(17) Revolution counters to count the



for testing from a cold start. If failure to start is caused by vehicle malfunction, corrective action of less than 30 minutes duration may be taken and the test continued. The sampling system shall be reactivated at the same time cranking is started. When the engine starts, the driving schedule timing sequence shall begin. If failure to start is caused by vehicle malfunction and the vehicle cannot be started, the test shall be voided, the vehicle removed from the dynamometer, corrective action taken, and the vehicle rescheduled for test. The reason for the malfunction (if determined) and the corrective action taken shall be reported.

(e) If the engine "false starts", the operator shall repeat the recommended starting procedure (such as resetting the choke, etc.).

(f) Stalling:

(1) If the engine stalls during an idle period, the engine shall be restarted immediately and the test continued. If the engine cannot be started soon enough to allow the vehicle to follow the next acceleration as prescribed, the driving schedule indicator shall be stopped. When the vehicle restarts the driving schedule indicator shall be reactivated.

(2) If the engine stalls during some operating mode other than idle, the driving schedule indicator shall be stopped, the vehicle restarted, accelerated to the speed required at that point in the driving schedule and the test continued.

(3) If the vehicle will not restart within 1 minute, the test shall be voided, the vehicle removed from the dynamometer, corective action taken, and the vehicle rescheduled for test. The reason for the malfunction (if determined) and the corerctive action taken shall be reported.

§ 85.81 Sampling and analytical system (exhaust emissions).

(a) *Schematic drawings.* The following figures (Figs. 1a and 1b) are schematic drawings of the exhaust gas sampling and analytical systems which will be used for testing under the regulations in this part. Additional components such as instruments, valves, solenoids, pumps, and switches may be used to provide additional information and coordinate the functions of the component systems.

(b) *Component description (exhaust gas sampling system).* The following components will be used in the exhaust gas sampling system for testing under the regulations in this part. See Figure 1a. Other types of constant volume samplers may be used if shown to yield equivalent results.

(1) A dilution air filter assembly consisting of a particulate (paper) filter to remove solid matter from the dilution air and thus increase the life of the charcoal filter; a charcoal filter to reduce and stabilize the background hydrocarbon level; and a second particulate filter to remove charcoal particles from the air stream. The filters shall be of sufficient capacity and the duct which carries the dilution air to the point where the exhaust gas is added shall be of sufficient size so that the pressure at the mixing point is less than 1 inch of water pressure below ambient when the constant volume sampler is operating at its maximum flow rate.

(2) A flexible, leak-tight connector and tube to the vehicle tailpipe. The flexible tubing shall be sized and connected in such a manner that the static pressure variations in the vehicle tailpipe(s) remain within ±1 inch of water of the static pressure variations measured during a dynamometer driving cycle with no connections to the tailpipe(s).

(3) A heating system to preheat the heat exchanger to within ±10° F. of its operating temperature before the test begins.

(4) A heat exchanger capable of limiting the gas mixture temperature variation during the entire test to ±10° F. as measured at a point immediately ahead of the positive displacement pump.

(5) A positive displacement pump to pumps dilute exhaust mixture. The pump capacity (300 to 350 c.f.m. is sufficient for testing most vehicles) shall be large enough to virtually eliminate water condensation in the system. See Appendix C for flow calibration techniques.

(6) Temperature sensor (T1) with an accuracy of ±2° F. to allow continuous recording of the temperature of the dilute exhaust mixture entering the positive displacement pump. (See § 85.83 (1).)

(7) Gauge (G1) with an accuracy of ±3 mm. Hg to measure the pressure depression of the dilute exhaust mixture entering the positive displacement pump, relative to atmospheric pressure.

(8) Gauge (G2) with an accuracy of ±3 mm. Hg to measure the pressure increase across the positive displacement pump.

(9) Sample probes (S1 and S2) pointed upstream to collect samples from the dilution air stream and the dilute exhaust mixture. Additional sample probes may be used, for example, to obtain continuous concentration traces of the dilute exhaust stream. In such case the sample flow rate, in standard cubic feet per test phase, must be added to the calculated dilute exhaust volume. The position of the sample probe in Figure 1a is pictorial only.

(10) Filters (F1 and F2) to remove particulate matter from dilution air and dilute exhaust samples prior to entering sample collection bags.

(11) Pumps (P1 and P2) to pump the dilution air and dilute exhaust into their respective sample collection bags.

(12) Flow control valves (N1 and N2) to regulate flows to sample collection bags, at constant flow rates. The minimum sample flow rate shall be 10 c.f.h.

(13) Flowmeters (FL1 and FL2) to insure, by visual observation, that constant flow rates are maintained throughout the test.

(14) Three-way solenoid valves (V1, V2, and V3) to direct sample streams to either their respective bags or overboard.

(15) Quick-connect leak-tight fittings (C1, C2, and C3), with automatic shutoff on bag side, to attach sample bags to sample system.

(16) Sample collection bags for dilution air and exhaust samples of sufficient capacity so as not to impede sample flow.

(17) Revolution counters to count the revolutions of the positive displacement pump while each test phase is in progress and samples are being collected.

(c) *Component description (exhaust gas analytical system).* The following components will be used in the exhaust gas analytical system for testing under the regulations in this part. The analytical system provides for the determination of hydrocarbon concentrations by flame ionization detector (FID) analysis, the determination of carbon monoxide and carbon dioxide concentrations by nondispersive infrared (NDIR) analysis and the determination of oxides of nitrogen concentrations by chemiluminescence (CL) analysis in dilute exhaust samples. The chemiluminescence method of analysis requires that the nitrogen dioxide present in the sample be converted to nitric oxide before analysis. See Appendix E. Other types of analyzers may be used if shown to yield equivalent results and if approved in advance by the Administrator. See Figure 1b.

(1) Quick-connect leak-tight fitting (C4) to attach sample bags to analytical system.

(2) Filter (F3) to remove any residual particulate matter from the collected sample.

(3) Pump (P3) to transfer samples from the sample bags to the analyzers.

(4) Selector valves (V4, V5, V6, V7, and V8) for directing samples, span gases or zeroing gases to the analyzers.

(5) Flow control valves (N3, N4, N5, N6, N7, N8, N9, N10, N11, N12, and N13) to regulate the gas flow rates.

(6) Flowmeters (FL3, FL4, and FL5) to indicate gas flow rates.

(7) Manifold (M1) to collect the expelled gases from the analyzers.

(8) Pump (P4) to transfer expelled gases from the collection manifold to a vent external to the test room (optional).

(9) Analyzers to determine hydrocarbon, carbon monoxide, carbon dioxide and oxides of nitrogen concentrations.

(10) An oxides of nitrogen converter to convert any NO_2 present in the samples to NO before analysis.

(11) Selector valves (V9 and V10) to allow the sample, span, calibrating or zeroing gases to bypass the converter.

(12) Water trap (T1) to partially remove water and a valve (V11) to allow the trap to be drained.

(13) Sample conditioning columns to remove remainder of water (WR1 and WR2 containing indicating $CaSO_4$) and carbon dioxide (CDR1 and CDR2 containing ascarite) from the CO analysis stream.

(14) Selector valves (V12 and V13) to permit switching from exhausted absorbing columns to fresh columns.

(15) Water bubbler (W1) to allow saturation of the CO_2 span gas to check efficiency of absorbing columns.

(16) Recorders (R1, R2, R3, and R4) to provide permanent records of calibration, spanning and sample measurements.

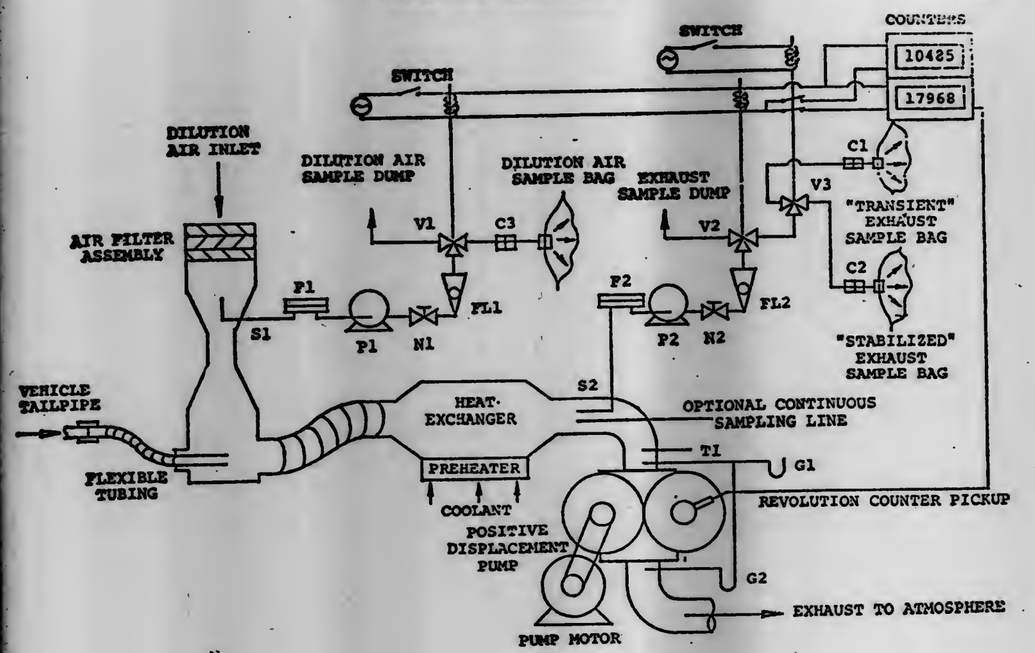


Figure 1a. Exhaust Gas Sampling System

SCREW-ON CAP

square meters
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	Percent
-----	0
-----	90–100
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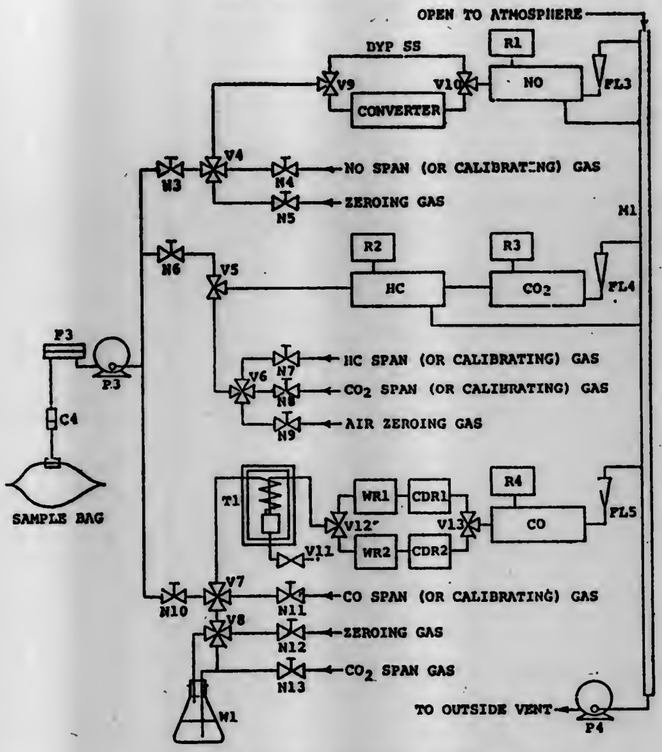


Figure 1b. Exhaust Gas Analytical System

§ 85.82 Sampling and analytical system (fuel evaporative emissions).

(a) *Schematic drawing.* (1) The following figures (Figures 2, 3, and 4) are flow diagrams of typical evaporative loss collection applications.

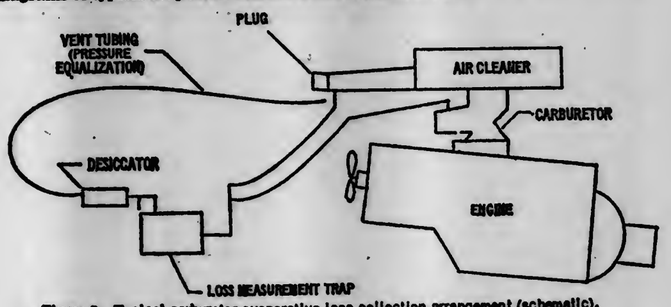


Figure 2. Typical carburetor evaporative loss collection arrangement (schematic).

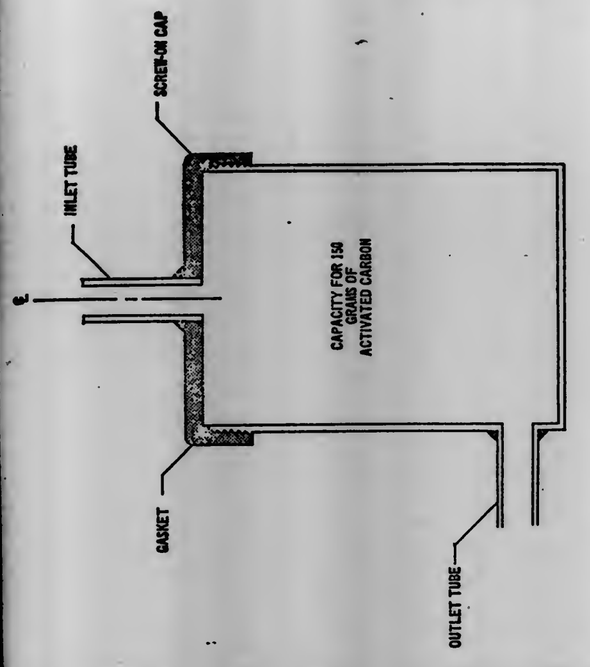


Figure 5. Typical activated carbon trap (schematic).

(1) Canister—300±25 ml., cylindrical container having a length to diameter ratio of 1.4±0.1. An inlet tube, ¼ inch ID and 1 inch long is sealed into the top of the canister, at its geometric center. A similar outlet tube is sealed into the wall ¼ inch from the bottom of the canister. The canister is designed to withstand an air pressure of 2 p.s.i., when sealed, without evidence of leaking when immersed in water for 30 seconds.

(ii) Activated carbon—meeting the following specifications:

Surface area, min. (N_2, BET method).[1]	1,000 square meters per gram.
Adsorption capacity, min. (carbon tetrachloride).	60 percent, by weight.
Volatile material including adsorbed water vapor.	None.
Screen analysis size:	Percent
Less than 1.4 mm	0
1.7–2.4 mm	90–100
More than 3.0 mm	0

[1] Brunauer, Emmett & Teller, Journal of the American Chemical Society, Vol. 60, p. 309, 1938.

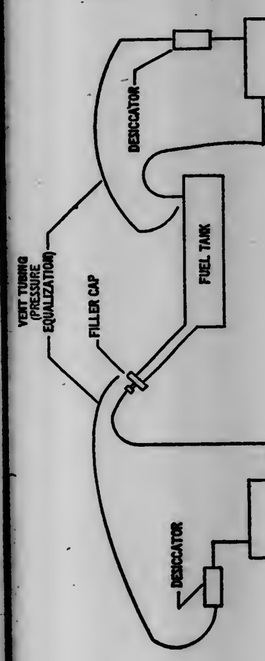


Figure 3. Typical fuel tank evaporative loss collection arrangement (schematic).

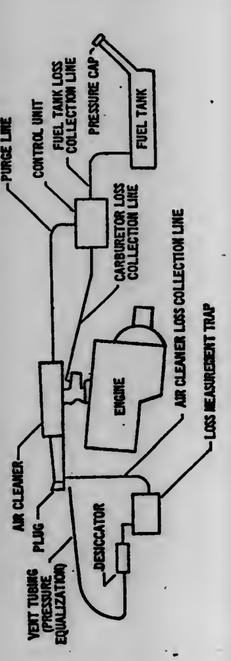


Figure 4. Typical fuel evaporative loss collection arrangement for vehicle equipped with evaporative emission control system (schematic).

(2) Figure 2 represents an arrangement for collecting losses which emanate from the carburetor. Figure 3 depicts the means for separately collecting the vapors which emanate from the fuel tank vent line and filler cap. Figure 4 shows an arrangement for collecting the losses from a closed fuel system, vented to the atmosphere solely through the air cleaner, as might be the case with certain fuel evaporative emission control devices.

(3) Schematic drawings of arrangements to be employed shall be submitted in accordance with § 85.51(b)(3).

(b) *Collection equipment.* The following equipment shall be used for this collection of fuel evaporative emissions. (Item quantities are determined by individual test needs.)

(1) *Activated carbon trap.* See Figure 5 for specifications of one design; other configurations may be used: *Provided,* That they give demonstrably equivalent results.

The activated carbon trap is prepared for the test by attaching clamped sections of vinyl tubing to the inlet and outlet tubes of the canister. The canister is then filled with 150±10 gm. hot activated

vided they record the information specified in subparagraph (1) of this paragraph with the required accuracy and are self-contained. Type J thermocouples are required to be compatible with recording instruments used in Federal certification

(j) Barometric pressure, ambient temperature and humidity and the temperature of the air in front (from 6 to 12 inches from the grill) of the radiator during the test.

(k) Fuel temperatures, as prescribed

the operating range of the analyzer. Provide enough oxygen for substantial conversion of NO to NO_2.

(ii) Knead bag and immediately connect the bag to the sample inlet and alternately measure the NO and NO_2

be stored prior to the emission tests in such a manner that precipitation (e.g. rain or dew) does not occur on the vehicle. The complete dynamometer test consists of a cold start drive of 7.5 miles and simulates a hot start drive of 7.5

"transient" sample bag, transfer to the analytical system and process according to § 85.84 as soon as practical and in no case longer than 10 minutes after the end of this portion of the test.

(12) Turn the engine off 2 seconds after the end of the last deceleration (at

The activated carbon trap is prepared for the test by attaching clamped sections of vinyl tubing to the inlet and outlet tubes of the canister. The canister is then filled with 150±10 gm. hot activated carbon which had previously been oven-dried for 3 hours at 300° F. Loss of carbon through the inlet and outlet tubes is prevented through the use of wire screens of 0.7 mm. mesh or wads of loosely packed glass wool. The canister is closed immediately after filling and the carbon is allowed to cool while the trap is vented through a drying tube via the unclamped outlet arm.

(iii) The trap is sealed and weighed after cooling and the weight, to the nearest 0.1 gram, is inscribed on the canister body. Within 12 hours of the scheduled test, the weight of the trap is checked and if it has changed by more than 0.5 gm., it is redried to constant weight. This redrying operation is performed by passing dry nitrogen, heated to 275° F., through the trap, via the inlet tube, at a rate of 1 liter per minute until checks made at 30-minute intervals do not vary by more than 0.1 percent of the gross weight. The trap and its contents are allowed to cool to room temperature, while vented through a drying tube via the outlet arm, before use.

(2) *Auxiliary collection equipment.*

(i) Drying tube—transparent, tubular body ¾ inch ID, 6 inches long, with serrated tips and removable caps.

(ii) Desiccant—indicating variety, 8 mesh. The drying tube is attached to the outlet tube of the collection traps to prevent ambient moisture from entering the trap. It is prepared by filling the empty drying tube with fresh desiccant using loose wad of glass wool to hold the desiccant in place. The desiccant is renewed when three-quarters spent, as indicated by color change.

(iii) Collection tubing—stainless steel or aluminum, 5/16 inch ID, for connecting the collection traps to the fuel system vents.

(iv) Polyvinyl chloride (vinyl) tubing—flexible tubing, 5/16 inch ID, for sealing butt-to-butt joints.

(v) Laboratory tubing—air tight flexible tubing 5/16 inch ID, attached to the outlet end of the drying tubes to equalize collection system pressure.

(vi) Clamps—hosecock, open side, for pinching off flexible tubing.

(c) *Weighing equipment.* The balance and weights used shall be capable of determining the net weight of the activated carbon trap within an accuracy of ±75 mg.

(d) *Temperature measuring equipment.* (1) Temperature recorder—multichannel, variable speed, potentiometric, or substantially equivalent, recorder with a temperature range of 50° F. to 100° F. and capable of either simultaneous or sequential recording of the ambient air and fuel temperatures within an accuracy of ±1° F.

(2) Fuel tank thermocouples—iron-constantan (type J) construction.

(3) Other types of thermocouples and recording equipment may be used provided they record the information specified in subparagraph (1) of this paragraph with the required accuracy and are self-contained. Type J thermocouples are required to be compatible with recording instruments used in Federal certification facilities.

(e) *Assembly and use of the activated carbon vapor collection system.* (1) The prepared activated carbon trap, dried to constant weight, cooled to the ambient temperature and sealed with clamped sections of vinyl tubing is carefully weighed to the nearest 20 milligrams and the weight recorded as the "tare weight."

(2) A drying tube is attached to the outlet tube and the clamp released, but not removed. A length of flexible tubing, for pressure equalization, is connected to the other end of the drying tube.

(3) The inlet tube of the adsorption trap and external vent(s) of the fuel system will be connected by minimal lengths of stainless steel or aluminum tubing and short sections of vinyl tubing. Butt-to-butt joints shall be made wherever possible and precautions taken against sharp bends in the connection lines, including any manifold systems employed to connect multiple vents to a single trap.

(4) The clamp on the inlet tube of the trap shall be released but not removed. Care shall be exercised to prevent heating the vapor collection trap by radiant or conductive heat from the engine.

(5) Upon completion of the collection sequence, the vinyl tubing sections on each arm of the collection trap shall be clamped tight and the collection system dismantled.

(6) The sealed vapor collection trap shall be weighed carefully to the nearest 20 milligrams. This constitutes the "gross weight," which is appropriately recorded. The difference between the "gross weight" and "tare weight" represents the "net weight" for purposes of calculating the fuel vapor losses.

§ 85.83 Information to be recorded.

The following information shall be recorded with respect to each test:

(a) Test number.

(b) System or device tested (brief description).

(c) Date and time of day for each part of the test schedule.

(d) Instrument operator.

(e) Driver or operator.

(f) Vehicle: Make—Vehicle identification number—Model year—Transmission type—Odometer reading—Engine displacement—Engine family—Idle r.p.m.—Nominal fuel tank capacity and location on vehicle—Number of carburetors—Number of carburetor barrels—Inertia loading—Actual road load HP. at 50 m.p.h. and drive wheel tire pressure.

(g) Dynamometer serial number and indicated road load power absorption at 50 m.p.h.

(h) All pertinent instrument information such as tuning—gain—serial numbers—detector numbers—range.

(i) Recorder charts: Identify zero, span, exhaust gas, and dilution air sample traces.

(j) Barometric pressure, ambient temperature and humidity and the temperature of the air in front (from 6 to 12 inches from the grill) of the radiator during the test.

(k) Fuel temperatures, as prescribed.

(l) The temperature and pressure of the mixture of exhaust and dilution air entering the positive displacement pump and the pressure increases across the pump. The temperature of the mixture shall be recorded continuously or digitally at a rate often enough to determine temperature variations, or it may be controlled to ±5° F. of the set point of the temperature control system. In the last case only the set point need be recorded.

(m) The number of revolutions of the positive displacement pump accumulated while the test is in progress and exhaust flow samples are being collected.

(n) The humidity of the dilution air.

§ 85.84 Analytical system calibration and sample handling.

(a) Calibrate the analytical assembly at least once every 30 days. Use the same flow rate as when analyzing samples.

(1) Adjust analyzers to optimize performance.

(2) Zero the hydrocarbon analyzer with zero grade air and the carbon monoxide, carbon dioxide, and oxides of nitrogen analyzers with zero grade nitrogen. The allowable zero gas impurity concentrations should not exceed 1 p.p.m. equivalent carbon response, 1 p.p.m. carbon monoxide, 300 p.p.m. (0.03 mole percent) carbon dioxide, and 0.1 p.p.m. nitric oxide.

(3) Set the CO and CO_2 analyzer gains to give the desired ranges. Select the desired attenuation scale of the HC analyzer and set the sample capillary flow rate, by adjusting the back pressure regulator, to give the desired range. Select the desired scale of the NO_x analyzer and adjust the phototube high voltage supply to give the desired range.

(4) Calibrate the HC analyzer with propane (air diluent) gases having nominal concentrations equal to 50 and 100 percent of full scale. Calibrate the CO analyzer with carbon monoxide (nitrogen diluent) gases and the CO_2 analyzer with carbon dioxide (nitrogen diluent) gases having nominal concentrations equal to 10, 25, 40, 50, 60, 70, 85, and 100 percent of full scale. Calibrate the NO_x analyzer with nitric oxide (nitrogen diluent) gases having nominal concentrations equal to 50 and 100 percent of full scale. The actual concentrations should be known to within ±2 percent of the true values.

(5) Compare values obtained on the CO and CO_2 analyzers with previous calibration curves. Any significant change reflects some problem in the system. Locate and correct problem, and recalibrate. Use best judgment in selecting curves for data reduction.

(6) Check the NO_x to NO converter efficiency by the following procedure:

(i) Fill a new (not previously used to collect exhaust gas samples) sample bag with air (or oxygen) and NO span gas in proportions which result in a mix in the operating range of the analyzer. Provide enough oxygen for substantial conversion of NO to NO_2.

(ii) Knead bag and immediately connect the bag to the sample inlet and alternately measure the NO and NO_x concentration at 1-minute intervals by alternately passing the sample through the converter and the bypass (close valves N6 and N10 to minimize pump down rate of bag). After several minutes of operation, the recording of NO and NO_x will resemble Figure 1c if the converter is efficient. Even though the amount of NO_2 increases with time, the total NO_x ($NO+NO_2$) remains constant. A decay of NO_x with time indicates the converter is not essentially 100 percent efficient and the cause should be determined before the instrument is used.

(iii) The converter efficiency should be checked at least once weekly and preferably once daily.

(b) HC, CO, CO_2, and NO_x measurements: Allow a minimum of 20 minutes warmup for the HC analyzer and 2 hours for the CO, CO_2 and NO_x analyzers. (Power is normally left on infrared and chemiluminescence analyzers; but when not in use, the chopper motors of the infrared analyzers are turned off and the phototube high voltage supply of the chemiluminescence analyzer is placed in the standby position.) The following sequence of operations should be performed in conjunction with each series of measurements:

(1) Zero the analyzers. Obtain a stable zero on each amplifier meter and recorder. Recheck after tests.

(2) Introduce span gases and set the CO and CO_2 analyzer gains, the HC analyzer sample capillary flow rate and the NO_x analyzer high voltage supply to match the calibration curves. In order to avoid corrections, span and calibrate at the same flow rates used to analyze the test samples. Span gases should have concentrations equal to approximately 80 percent of full scale. If gain has shifted significantly on the CO or CO_2 analyzers, check tuning. If necessary, check calibration. Recheck after test. Show actual concentrations on chart.

(3) Check zeros; repeat the procedure in subparagraphs (1) and (2) of this paragraph if required.

(4) Check flow rates and pressures.

(5) Measure HC, CO, CO_2, and NO_x concentrations of samples. Care should be exercised to prevent moisture from condensing in the sample collection bag.

(6) Check zero and span points.

(c) For the purposes of this section, the term "zero grade air" includes artificial "air" consisting of a blend of nitrogen and oxygen with oxygen concentrations between 18 and 21 mole percent.

§ 85.85 Dynamometer test runs.

(a) The vehicle shall be allowed to stand with the engine turned off for a period of not less than 12 hours before the cold start exhaust emission test, at an ambient temperature as specified in §§ 85.73 and 85.74. The vehicle shall be stored prior to the emission tests in such a manner that precipitation (e.g. rain or dew) does not occur on the vehicle. The complete dynamometer test consists of a cold start drive of 7.5 miles and simulates a hot start drive of 7.5 miles. The vehicle is allowed to stand on the dynamometer during the 10-minute time period between the cold and hot start tests. The cold start test is divided into two periods. The first period, representing the cold start "transient" phase, terminates at the end of the deceleration which is scheduled to occur at 505 seconds of the driving schedule. The second period, representing the "stabilized" phase, consists of the remainder of the driving schedule including engine shutdown. The hot start test similarly consists of two periods. The first period, representing the hot start "transient" phase, terminates at the same point in the driving schedule as the first phase of the cold start test. The second period of the hot start test, "stabilized" phase, is assumed to be identical to the second period of the cold start test. Therefore, the hot start test terminates after the first period (505 seconds) is run. During the tests the ambient temperature shall be between 68° F. and 86° F.

(b) The following steps shall be taken for each test:

(1) Place drive wheels of vehicle on dynamometer without starting engine.

(2) Open the vehicle engine compartment cover and start the cooling fan.

(3) With the sample solenoid valves in the "dump" position connect evacuated sample collection bags to the two dilute exhaust sample connectors and the dilution air sample line connector.

(4) Start the positive displacement pump, the sample pumps and the temperature recorder. (The heat exchanger of the constant volume sampler should be preheated to its operating temperature before the test begins.)

(5) Adjust the sample flow rates to the desired flow rate (minimum of 10 c.f.h.) and set the revolution counters to zero.

(6) Attach the flexible exhaust tube to the vehicle tailpipe(s).

(7) Simultaneously start the revolution counter for the positive displacement pump, position the sample solenoid valves to direct the sample flows into the "transient" exhaust sample bag and the dilution air sample bag, and start cranking the engine.

(8) Fifteen seconds after the engine starts, place the transmission in gear.

(9) Twenty seconds after the engine starts, begin the initial vehicle acceleration of the driving schedule.

(10) Operate the vehicle according to the dynamometer driving schedule (§ 85.75).

(11) At the end of the deceleration which is scheduled to occur at 505 seconds, simultaneously switch the dilute exhaust sample flow from the "transient" bag to the "stabilized" bag, switch off revolution counter No. 1 and start counter No. 2. Immediately disconnect the "transient" sample bag, transfer to the analytical system and process according to § 85.84 as soon as practical and in no case longer than 10 minutes after the end of this portion of the test.

(12) Turn the engine off 2 seconds after the end of the last deceleration (at 1,369 seconds).

(13) Five seconds after the engine stops running, simultaneously turn off revolution counter No. 2 and position the sample solenoid valve to the "dump" position. Immediately disconnect the "stabilized" exhaust and dilution air sample bags, transfer to analytical system and process samples according to § 85.84 as soon as practicable and in no case longer than 10 minutes after the end of this portion of the dynamometer test.

(14) Immediately after the end of the sample period, disconnect the exhaust tube from the tailpipe(s), turn off the cooling fan and close the engine compartment cover.

(15) Turn off the positive displacement pump.

(16) Repeat the steps in subparagraphs (2) through (10) of this paragraph for the hot start test except only one evacuated sample bag is required for sampling exhaust gas. The step in subparagraph (7) of this paragraph shall begin 9 and 11 minutes after the end of the sample period for the cold start test.

(17) At the end of the deceleration which is scheduled to occur at 505 seconds, simultaneously turn off the No. 1 revolution counter and position the sample solenoid valve to the "dump" position. (Engine shutdown is not part of the hot start test sample period.)

(18) Immediately disconnect the "transient" exhaust and dilution air sample bags, transfer to analytical system and process samples according to § 85.84 as soon as practicable and in no case longer than 10 minutes after the end of this portion of the dynamometer test.

(19) Disconnect the exhaust tube from the vehicle tailpipe(s) and remove vehicle from dynamometer.

(20) Turn off the positive displacement pump.

§ 85.86 Chart reading.

(a) Determine the HC, CO, CO_2 and NO_x concentrations of the dilution air and dilute exhaust sample bags from the instrument deflections or recordings making use of appropriate calibration charts.

(b) Determine the average dilute exhaust mixture temperatures from the temperature recorder trace if a recorder is used.

§ 85.87 Calculations (exhaust emissions).

The final reported test results shall be computed by use of the following formulae:

(a) For light duty vehicles:

$$Y_{wm}=(0.43\ Y_{ct}+0.57\ Y_{st}+Y_s)/7.5$$

where:

Y_{wm} = Weighted mass emissions of each pollutant, i.e. HC, CO, or NO_x, in grams per vehicle mile.

Y_{ct} = Mass emissions as calculated from the "transient" phase of the cold

where:

CO_c = Carbon monoxide concentration of the dilute exhaust sample volume corrected for water vapor and carbon dioxide extraction, in p.p.m. The calculation assumes the hy-

$$CO_c=\frac{(1-0.01925(1.43)-0.000323(43))}{308.6=293.4\ p.p.m.}$$

$$CO_d=(1-0.000323(43))\ 15.3=15.1\ p.p.m.$$

$$DF=\frac{13.4}{}=9.116$$

different engine families if the Administrator determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of the following features of each engine:

tion in the engine family and will be designated by the Administrator as to transmission type, fuel system and inertia weight class.

(c) Durability data vehicles:

(1) A durability data vehicle will be

or less of the vehicles in an engine family will be equipped with an item of optional equipment, no weight for that item will be added in computing curb weight. Optional equipment weighing less than 3 pounds per item need not be considered.

where:

Y_{wm} = Weighted mass emissions of each pollutant, i.e. HC, CO, or NO_x, in grams per vehicle mile.

Y_{ct} = Mass emissions as calculated from the "transient" phase of the cold start test, in grams per test phase.

Y_{ht} = Mass emissions as calculated from the "transient" phase of the hot start test, in grams per test phase.

Y_s = Mass emissions as calculated from the "stabilized" phase of the cold start test, in grams per test phase.

(b) The mass of each pollutant for each phase of both the cold start test and the hot start test is determined from the following:

(1) Hydrocarbon Mass:

$$HC_{mass} = V_{mix} \times Density_{HC} \times \frac{HC_{conc}}{1{,}000{,}000}$$

(2) Oxides of nitrogen Mass:

$$NO_{x_{mass}} = V_{mix} \times Density_{NO_2} \times \frac{NO_{x_{conc}}}{1{,}000{,}000} \times K_H$$

(3) Carbon monoxide Mass:

$$CO_{mass} = V_{mix} \times Density_{CO} \times \frac{CO_{conc}}{1{,}000{,}000}$$

(c) Meaning of symbols:

HC_{mass} = Hydrocarbon emissions, in grams per test phase.

$Density_{HC}$ = Density of hydrocarbons in the exhaust gas, assuming an average carbon to hydrogen ratio of 1:1.85, in grams per cubic foot at 68° F. and 760 mm. Hg pressure (16.33 gm./cu. ft.).

HC_{conc} = Hydrocarbon concentration of the dilute exhaust sample corrected for background, in p.p.m. carbon equivalent, i.e. equivalent propane × 3.

$$HC_{conc} = HC_e - HC_d\ (1 - 1/DF)$$

where:

HC_e = Hydrocarbon concentration of the dilute exhaust sample as measured, in p.p.m. carbon equivalent.

HC_d = Hydrocarbon concentration of the dilution air as measured, in p.p.m. carbon equivalent.

$NO_{x_{mass}}$ = Oxides of nitrogen emissions, in grams per test phase.

$Density_{NO_2}$ = Density of oxides of nitrogen in the exhaust gas, assuming they are in the form of nitrogen dioxide, in grams per cubic foot at 68° F. and 760 mm. Hg pressure (54.16 gm./cu. ft.).

$NO_{x_{conc}}$ = Oxides of nitrogen concentration of the dilute exhaust sample corrected for background, in p.p.m.

$$NO_{x_{conc}} = NO_{x_e} - NO_{x_d}\ (1 - 1/DF)$$

where:

NO_{x_e} = Oxides of nitrogen concentration of the dilute exhaust sample as measured, in p.p.m.

NO_{x_d} = Oxides of nitrogen concentration of the dilution air as measured, in p.p.m.

CO_{mass} = Carbon monoxide emissions, in grams per test phase.

$Density_{CO}$ = Density of carbon monoxide in grams per cubic foot at 68° F. and 760 mm. Hg pressure (32.97 gm./cu. ft.).

CO_{conc} = Carbon monoxide concentration of the dilute exhaust sample corrected for background, water vapor and CO_2 extraction, in p.p.m.

$$CO_{conc} = CO_e - CO_d\ (1 - 1/DF)$$

where:

CO_e = Carbon monoxide concentration of the dilute exhaust sample volume corrected for water vapor and carbon dioxide extraction, in p.p.m. The calculation assumes the hydrogen = carbon ratio of the fuel is 1.85:1.

$$CO_e = (1 - 0.01925\ CO_{2_e} - 0.000323\ R)\ CO_{e_m}$$

where:

CO_{e_m} = Carbon monoxide concentration of the dilute exhaust sample as measured, in p.p.m.

CO_{2_e} = Carbon dioxide concentration of the dilute exhaust sample, in mole percent.

R = Relative humidity of the dilution air, in percent.

CO_d = Carbon monoxide concentration of the dilution air corrected for water vapor extraction, in p.p.m.

$$CO_d = (1 - 0.000323\ R)\ CO_{d_m}$$

where:

CO_{d_m} = Carbon monoxide concentration of the dilution air sample as measured, in p.p.m.

$$DF = \frac{13.4}{CO_{2_e} + (HC_e + CO_e) \times 10^{-4}}$$

V_{mix} = Total dilute exhaust volume in cubic feet per test phase corrected to standard conditions (528°R and 760 mm. Hg).

$$V_{mix} = V_e \times N\ (P_b/760\ \text{mm. Hg})\ (528°R/T_b)$$

where:

V_e = Volume of gas pumped by the positive displacement pump, in cubic cubic feet per revolution. This volume is dependent on the pressure differential across the positive displacement pump.

N = Number of revolutions of the positive displacement pump during the test phase while samples are being collected.

P_b = Absolute pressure of the dilute exhaust entering the positive displacement pump, in mm. HG, i.e. barometric pressure minus the pressure depression below atmospheric of the mixture entering the positive displacement pump.

T_p = Average temperature of dilute exhaust entering positive displacement pump during test while samples are being collected, in degrees Rankine.

K_H = Humidity correction factor.

$$K_H = \frac{1}{1 - 0.0047\ (H - 75)}$$

where:

H = Absolute humidity in grains of water per pound of dry air.

(d) Example calculation of mass emission values:

(1) For the "transient" phase of the cold start test assume $V_e = 0.29344$ cu. ft. per revolution; N = 10,485; R = 48 percent; H = 62 grains per pound of dry air; $P_b = 692$ mm. Hg; $T_p = 570°R$; $HC_e = 105.8$ p.p.m. carbon equivalent; $NO_{x_e} = 11.2$ p.p.m.; $CO_{e_m} = 306.6$ p.p.m.; $CO_{2_e} = 1.43$ percent; $HC_d = 12.1$ p.p.m.; $NO_{x_d} = 0.8$ p.p.m.; $CO_{d_m} = 15.3$ p.p.m.

Then:

$V_{mix} = (0.29344)\ (10{,}485)\ (692/760)\ (528/570) = 2565.0$ cu. ft. per test phase.

$$K_H = \frac{1}{1 - 0.0047\ (62 - 75)} = 0.9424$$

$$CO_e = (1 - 0.01925\ (1.43) - 0.000323\ (48))\ 306.6 = 293.4\ \text{p.p.m.}$$

$$CO_d = (1 - 0.000323\ (48))\ 15.3 = 15.1\ \text{p.p.m.}$$

$$DF = \frac{13.4}{1.43 + (105.8 + 293.4) \times 10^{-4}} = 9.116$$

$$HC_{conc} = 105.8 - 12.1\ (1 - 1/9.116) = 95.03$$

$$HC_{mass} = (2565)\ (16.33)\ (95.03/1{,}000{,}000) = 4.037\ \text{grams per test phase.}$$

$$NO_{x_{conc}} = 11.2 - 0.8\ (1 - 1/9.116) = 10.49$$

$$NO_{x_{mass}} = (2595)\ (54.16)\ (10.49/1{,}000{,}000)\ (0.9424) = 1.389\ \text{grams per test phase.}$$

$$CO_{conc} = 293.4 - 15.3\ (1 - 1/9.116) = 279.8$$

$$CO_{mass} = (2595)\ (32.97)\ (279.8/1{,}000{,}000) = 23.94\ \text{grams per test phase.}$$

(2) For the "stabilized" portion of the cold start test assume that similar calculations resulted in $HC_{mass} = 0.62$ grams per test phase; $NO_{x_{mass}} = 1.27$ grams per test phase; and $CO_{mass} = 5.98$ grams per test phase.

(3) For the "transient" portion of the hot start test assume that similar calculations resulted in $HC_{mass} = 0.51$ grams per test phase; $NO_{x_{mass}} = 1.38$ grams per test phase; and $CO_{mass} = 5.01$ grams per test phase.

(4) For a 1975 light duty vehicle:

$$HC_{wm} = ((0.43)\ (4.037) + (0.57)\ (0.51) + 0.62)/7.5 = 0.352\ \text{gram per vehicle mile.}$$

$$NO_{x_{wm}} = ((0.43)\ (1.389) + (0.57)\ (1.38) + 1.27)/7.5 = 0.354\ \text{gram per vehicle mile.}$$

$$CO_{wm} = ((0.43)\ (23.94) + (0.57)\ (5.01) + 5.98)/7.5 = 2.55\ \text{grams per vehicle mile.}$$

§ 85.88 Calculations (fuel evaporative emissions).

The net weights of the individual collection traps employed in § 85.74 shall be added together to determine compliance with the fuel evaporative emission standard.

§ 85.89 Test vehicles.

(a) (1) The vehicles covered by the application for certification will be divided into groupings of vehicles whose engines are expected to have similar emission characteristics. Each group of engines with similar emission characteristics shall be defined as a separate engine family.

(2) To be classed in the same engine family, engines must be identical in all the following respects:

(i) The cylinder bore center to center dimensions.

(ii) The dimension from the centerline of the crankshaft to the centerline of the camshaft.

(iii) The dimension from the centerline of the crankshaft to the top of the cylinder block head face.

(iv) The cylinder block configuration (air-cooled or water-cooled; L-6, 90° V-8, etc.).

(v) The location of intake and exhaust valves and the valve sizes (within a ½-inch range on the valve head diameter).

(vi) The method of air aspiration.

(vii) The combustion cycle.

(3) Engines identical in all the respects listed in subparagraph (2) of this paragraph may be further divided into

different engine families if the Administrator determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of the following features of each engine:

(i) The bore and stroke.

(ii) The surface to volume ratio of the nominally dimensioned cylinder at the top dead center position.

(iii) The intake manifold induction port size and configuration.

(iv) The exhaust manifold port size and configuration.

(v) The intake and exhaust valve sizes.

(vi) The fuel system.

(vii) The camshaft timing and ignition timing characteristics.

(4) Where engines are of a type which cannot be divided into engine families based upon the criteria listed in subparagraphs (2) and (3) of this paragraph, the Administrator will establish families for those engines based upon the features most related to their emission characteristics.

(b) Emission data vehicles:

(1) Vehicles will be chosen to be operated and tested for emission data based upon the engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(2) Vehicles of each engine family will be divided into engine displacement-exhaust emission control system-evaporative emission control system combinations. A projected sales volume will be established for each combination for the model year for which certification is sought. One vehicle of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's total production of vehicles of that engine family is represented, or until a maximum of four vehicles is selected. If any single combination represents over 70 percent, then two vehicles of that combination will be selected. The vehicle selected for each combination will be specified by the Administrator as to transmission type, fuel system and inertia weight class.

(3) The Administrator may select a maximum of four additional vehicles within each engine family based upon features indicating that they may have the highest emission levels of the vehicles in that engine family. In selecting these vehicles, the Administrator will consider such features as the emission control system combination, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, compression ratio, inertia weight class, transmission options and axle ratios.

(4) If the vehicles selected in accordance with subparagraphs (2) and (3) of this paragraph do not represent each engine-system combination, then one vehicle of each engine-system combination not represented will be selected by the Administrator. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with the control system combination in the engine family and will be designated by the Administrator as to transmission type, fuel system and inertia weight class.

(c) Durability data vehicles:

(1) A durability data vehicle will be selected by the Administrator to represent each engine-system combination. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with that control system combination in that engine family and will be designated by the Administrator as to transmission type, fuel system and inertia weight class.

(2) If an exhaust emission control system-fuel evaporative emission control system combination is used in only one engine family, an additional vehicle using that combination in that family will be selected so that the durability data fleet shall contain at least two vehicles with each combination. The additional vehicle will be selected in the same manner as vehicles selected under subparagraph (1) of this paragraph.

(3) A manufacturer may elect to operate and test additional vehicles to represent any engine-system combination. The additional vehicles must be of the same engine displacement, transmission type, fuel system and inertia weight class as the vehicle selected for that engine-system combination in accordance with the provisions of subparagraph (1) of this paragraph. Notice of an intent to operate and test additional vehicles shall be given to the Administrator not later than 30 days following notification of the test fleet selection.

(d) For purposes of testing under § 85.91(g), the Administrator may require additional emission data vehicles and durability data vehicles identical in all material respects to vehicles selected in accordance with paragraphs (b) and (c) of this section: *Provided*, That the number of vehicles selected shall not increase the size of either the emission data fleet or the durability data fleet by more than 20 percent or one vehicle, whichever is greater.

(e) Any manufacturer whose projected sales of new motor vehicles subject to this subpart for the model year for which certification is sought is less than 2,000 vehicles may request a reduction in the number of test vehicles determined in accordance with the foregoing provisions of this section. The Administrator may agree to such lesser number as he determines would meet the objectives of this procedure.

(f) In lieu of testing an emission data or durability data vehicle selected under paragraph (b) or (c) of this section, and submitting data therefor, a manufacturer may, with the prior written approval of the Administrator, submit data on a similar vehicle for which certification has previously been obtained.

(g) (1) Where it is expected that more than 33 percent of an engine family will be equipped with an optional item, the full estimated weight of that item shall be included in the curb weight computation for the entire engine family. Where it is expected that 33 percent or less of the vehicles in an engine family will be equipped with an item of optional equipment, no weight for that item will be added in computing curb weight. Optional equipment weighing less than 3 pounds per item need not be considered.

(2) Where it is expected that more than 33 percent of an engine family will be equipped with an item of optional equipment that can reasonably be expected to influence exhaust or evaporative emissions, then such items of optional equipment shall actually be installed on all emission data and durability data vehicles for such engine family.

§ 85.90 Maintenance.

(a) (1) Maintenance on the engines and fuel systems of durability vehicles may be performed only under the following provisions:

(i) One major engine tuneup to manufacturer's specifications may be performed at 24,000 miles (±250 miles) of scheduled driving with the following exception: On a vehicle with an engine displacement of 150 cubic inches or less (or a rating of at least 1.20 maximum rated horsepower per cubic inch of displacement) major engine tuneups may be performed at 12,000, 24,000, and 36,000 miles (±250 miles) of scheduled driving. A major engine tuneup shall be restricted to the following:

(a) Replace spark plugs.

(b) Inspect ignition wiring and replace as required.

(c) Replace distributor breaker points and condensor as required.

(d) Lubricate distributor cam.

(e) Check distributor advance and breaker point dwell angle and adjust as required.

(f) Check automatic choke for free operation and correct as required.

(g) Adjust carburetor idle speed and mixture.

(h) Adjust drive belt tension on engine accessories.

(i) Adjust valve lash if required.

(j) Check exhaust heat control valve for free operation.

(k) Check engine bolt torque and tighten as required.

(ii) Spark plugs may be changed if a persistent misfire is detected.

(iii) Normal vehicle lubrication services (engine and transmission oil change and oil filter, fuel filter, and air filter servicing) will be allowed at manufacturer's recommended intervals.

(iv) The crankcase emission control system may be serviced at 12,000-mile intervals (±250 miles) of scheduled drivings.

(v) The fuel evaporative emission control system may be serviced at 12,000-mile intervals (± 250 miles) of scheduled driving.

(vi) Readjustment of the engine choke mechanism or idle settings may be performed only if there is a problem of stalling at stops.

(vii) Leaks in the fuel system, engine lubrication system and cooling system may be repaired.

(viii) Engine idle speed may be adjusted at the 4,000-mile test point.

(ix) Any other engine or fuel system maintenance or repairs will be allowed

points, data on these tests (including voided tests) shall be provided immediately to the Administrator. In addition, all test data shall be compiled and pro-

§ 85.92 Compliance with emission standards.

(a) The exhaust and fuel evaporative emission standards in §§ 1201.21 and

(viii) Engine idle speed may be adjusted at the 4,000-mile test point.

(ix) Any other engine or fuel system maintenance or repairs will be allowed only with the advance approval of the Administrator.

(2) Repairs to vehicle components of the durability data vehicle, other than the engine or fuel system, shall be performed only as a result of part failure or vehicle system malfunction.

(3) Allowable maintenance on emission data vehicles shall be limited to the adjustment of engine idle speed at the 4,000-mile test point.

(4) Where the Administrator agrees under § 85.91 to a mileage accumulation of less than 50,000 miles for durability testing, he may modify the requirements of this paragraph.

(b) Complete emission tests (see §§ 85.71–85.88) shall be run before and after any vehicle maintenance which may reasonably be expected to affect emissions. These test data shall be supplied to the Administrator immediately after the tests, along with a complete record of all pertinent maintenance, including an engineering report of any malfunction diagnosis and the corrective action taken. In addition, all test data and maintenance reports shall be compiled and provided to the Administrator in accordance with § 85.53.

(c) If the Administrator determines that maintenance or repairs performed have resulted in a substantial change to the engine-system combination, the vehicle shall not be used as a durability data vehicle.

§ 85.91 Mileage accumulation and emission measurements.

The procedure for mileage accumulation will be the Durability Driving Schedule as specified in Appendix D to this part. A modified procedure may also be used if approved in advance by the Administrator.

(a) Emission data vehicles: Each emission data vehicle shall be driven 4,000 miles with all emission control systems installed and operating. Emission tests shall be conducted at zero miles and 4,000 miles.

(b) Durability data vehicles: Each durability data vehicle shall be driven, with all emission control systems installed and operating, for 50,000 miles or such lesser distance as the Administrator may agree to as meeting the objectives of this procedure. Emission measurements from a cold start shall be made at zero miles and at each 4,000-mile interval.

(c) All tests required by this subpart to be conducted after 4,000 miles of driving or at any multiple of 4,000 miles may be conducted at any accumulated mileage within 250 miles of 4,000 miles or the appropriate multiple of 4,000 miles, respectively.

(d) The results of each emission test shall be supplied to the Administrator immediately after the test. Where a manufacturer conducts multiple tests at any test point or any tests between test points, data on these tests (including voided tests) shall be provided immediately to the Administrator. In addition, all test data shall be compiled and provided to the Administrator in accordance with § 85.53.

(e) Whenever the manufacturer proposes to operate and test a vehicle which may be used for emission or durability data, he shall provide the zero mile test data to the Administrator and make the vehicle available for such testing under § 85.54 as the Administrator may require before beginning to accumulate mileage on the vehicle. Failure to comply with this requirement will invalidate all test data submitted for this vehicle.

(f) Once a manufacturer begins to operate an emission data or durability data vehicle, as indicated by compliance with paragraph (e) of this section, he shall continue to run the vehicle to 4,000 miles or 50,000 miles, respectively, and the data from the vehicle will be used in the calculations under § 85.92. Discontinuation of a vehicle shall be allowed only with the written consent of the Administrator.

(g) (1) The Administrator may elect to operate and test any test vehicle during all or any part of the mileage accumulation and testing procedure. In such cases, the manufacturer shall provide the vehicle(s) to the Administrator with all information necessary to conduct this testing.

(2) The test procedures in §§ 85.71–85.88 will be followed by the Administrator. The Administrator will test the vehicles at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(3) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other vehicles of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer, the Administrator's data shall be used in the determination of deterioration factors.

§ 85.92 Compliance with emission standards.

(a) The exhaust and fuel evaporative emission standards in §§ 1201.21 and 1201.22 apply to the emissions of vehicles for their useful life.

(b) Since emission control efficiency decreases with mileage accumulated on the vehicle, the emission level of a vehicle which has accumulated 50,000 miles will be used as the basis for determining compliance with the standards.

(1) Separate emission deterioration factors shall be determined from the emissions results of the durability data vehicles for each engine-system combination. A separate factor shall be established for the combination for exhaust HC, exhaust CO, exhaust NO_x, and fuel evaporative HC.

(i) The applicable results to be used in determining the deterioration factors for each combination shall be:

(a) All emission data from the tests required under § 85.91(b), except the zero mile tests. This shall include the official test results, as determined in § 85.54, for all tests conducted on all durability vehicles of the combination selected under § 85.89(c), (including all vehicles elected to be operated by the manufacturer under § 85.89(c)(3)). Where the Administrator has agreed to a mileage less than 50,000 miles in accordance with § 85.91(b), the data for mileages greater than that actually run will be determined by extrapolating the test data generated at lesser mileages.

(b) All emission data from the tests conducted before and after the maintenance provided in § 85.90(a)(1)(i).

(ii) All applicable results shall be plotted as a function of the mileage on the system, rounded to the nearest mile, and the best fit straight lines, fitted by the method of least squares, shall be drawn through these data points. The interpolated 4,000- and 50,000-mile points on this line must be within the standards provided in §§ 85.21 and 85.22 or the data will not be acceptable for use in calculation of a deterioration factor.

(iii) An exhaust emission deterioration factor shall be calculated for each combination as follows:

$$\text{factor} = \frac{\text{exhaust emissions interpolated to 50,000 miles}}{\text{exhaust emissions interpolated to 4,000 miles}}$$

(iv) An evaporative emission deterioration factor shall be calculated for each combination by substracting the evaporative emissions interpolated to 4,000 miles from the evaporative emissions interpolated to 50,000 miles.

(2) (i) The exhaust emission test results for each emission data vehicle shall be multiplied by the appropriate deterioration factor: *Provided*, That if a deterioration factor as computed in subparagraph (1)(iii) of this paragraph is less than one, that deterioration factor shall be one for the purposes of this subparagraph.

(ii) The evaporative emission test results for each combination shall be adjusted by addition of the appropriate deterioration factor: *Provided*, That if a deterioration factor as computed in subparagraph (1)(iv) of this paragraph is less than zero, that deterioration factor shall be zero for the purposes of this subparagraph.

(3) The emissions to compare with the standard shall be the adjusted emissions of subparagraph (2) (i) and (ii) of this paragraph for each emission data vehicle.

(4) Every test vehicle of an engine family must comply with all applicable standards, as determined in subparagraph (3) of this paragraph, before any vehicle in that family may be certified.

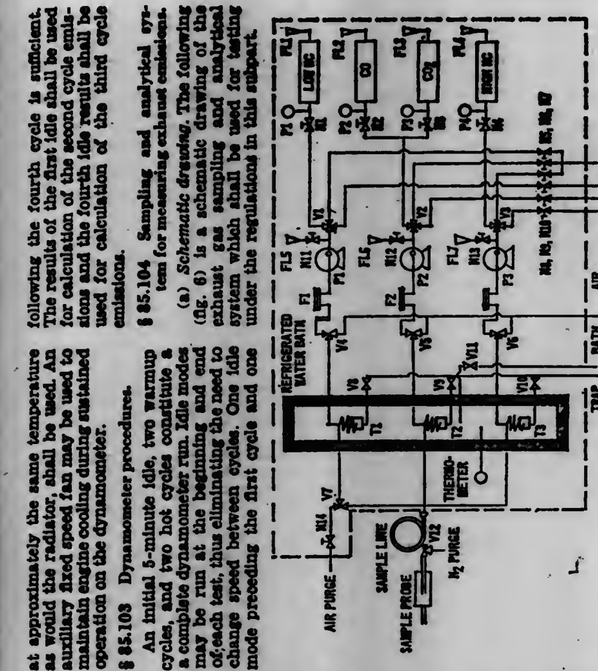


Figure 6. Flow schematic of exhaust gas analysis system employed in Federal facilities.

(b) *Component description.* The following components shall be used in sampling and analytical systems for testing under the regulations in this part.

(1) Flowmeters *FL1*, *FL2*, *FL3*, and *FL4* indicate the sample flow rate through the analyzers.

(2) Low range hydrocarbon analyzer.

(3) Carbon monoxide analyzer.

(4) Carbon dioxide analyzer.

(5) High range hydrocarbon analyzer.

(6) Pressure gauges P1, P2, and P3 indicate the analyzer sample pressure.

(7) Needle valves N1, N2, N3, and N4 regulate sample flow rate to the analyzers.

(8) Needle valves N5, N6, N7, N8, N9, and N10 regulate the flow rates of N_2 and normalizing gases to the analyzers.

(9) Ball valves V1, V2, and V3 for directing either sample or calibration gases to the analyzers.

(10) Needle valves N11, N12, and N13 regulate the sample flow rate through the bypass network.

(11) Flowmeters *FL5*, *FL6*, and *FL7* indicate the flow rate through the bypass system.

(12) Pumps P1, P2, and P3 for pulling sample from source.

(13) Filters *F1*, *F2*, and *F3* remove contaminants from sample prior to analysis.

(c) When an engine is tested for exhaust emissions or is operated for durability testing on an engine dynamometer the complete engine shall be used with all accessories which might reasonably be expected to influence emissions to the atmosphere installed and functioning.

§ 85.101 Gasoline fuel specifications.

(a) For exhaust emission testing, fuel having specifications as shown in the table in § 85.71(a), or substantially equivalent specifications approved by the Administrator, shall be used.

(b) For durability testing, fuel having specifications as shown in the table in § 85.71(b), or substantially equivalent specifications approved by the Administrator, shall be used. The octane rating of the fuel used shall be in the range recommended by the engine manufacturer. The specifications of the fuel to be used shall be reported in accordance with § 85.51(b)(3).

§ 85.102 Dynamometer operation cycle and equipment.

(a) (1) The following nine-mode cycle shall be followed in dynamometer operation tests of gasoline fueled heavy duty engines.

Subpart I—Test Procedures for Engine Exhaust Emissions (Gasoline Fueled Heavy Duty Engines)

§ 85.100 Introduction.

The procedures described in this subpart will be the test program to determine the conformity of new gasoline fueled heavy duty engines with the applicable standards set forth in this part.

(a) The test consists of prescribed sequences of engine operating conditions to be conducted on an engine dynamometer. The exhaust gases generated during engine operation are sampled continuously for specific component analysis through the analytical train. The test is applicable to engines equipped with catalytic or direct-flame afterburners, induction system modifications, or other systems, or to uncontrolled engines.

(b) The exhaust emission test is designed to determine hydrocarbon and carbon monoxide concentrations during a truck driving pattern in a metropolitan area as simulated on an engine dynamometer. The test consists of two warm-up cycles and two hot cycles. The average concentrations for the warmup cycles and the hot cycles are combined to yield the reported values.

§ 85.103 Dynamometer procedures.

An initial 5-minute idle, two warmup cycles, and two hot cycles constitute a complete dynamometer run. Idle modes may be run at the beginning and end of each test, thus eliminating the need to change speed between cycles. One idle mode preceding the first cycle and one at approximately the same temperature as would the radiator, shall be used. An auxiliary fixed speed fan may be used to maintain engine cooling during sustained operation on the dynamometer.

Sequence No.	Mode	Manifold vacuum	Time in Mode-Secs.	Cumulative Time-Secs.	Weighting factors
1	Idle	16" Hg	70	70	0.096
2	Cruise	10" Hg	23	93	.297
3	PTA	10" Hg	44	137	.088
4	Cruise	10" Hg	23	160	.047
5	PTD	10" Hg	17	177	.088
6	Cruise	10" Hg	23	200	.047
7	PA	10" Hg	23	223	.088
8	Cruise	10" Hg	34	257	.047
9	CT	16" Hg	43	300	.051

(2) The engine dynamometer shall be operated at a constant speed of 2,000 r.p.m. ±100 r.p.m. (exception: representative engine speed for a given displacement engine as determined by its application, but not less than 1,800 r.p.m. nor greater than 2,500 r.p.m.).

(3) The idle operating mode shall be carried out at the manufacturer's recommended engine speed. The CT operating mode shall be carried out at the same engine speed as in subparagraph (2) of this paragraph.

(b) The following equipment shall be used for dynamometer tests.

(1) An engine dynamometer capable of maintaining constant speed±100 r.p.m. from full throttle to closed throttle motoring.

(2) A chassis-type exhaust system or substantially equivalent exhaust system, shall be used.

(3) A radiator typical of that used with the engine in a vehicle, or other means of engine cooling which will maintain the engine operating temperatures

(14) Ball valves V4, V5, and V6 for directing sample to the analyzer or directing air in the reverse direction as a backflush.

(15) Toggle valves V8, V9, V10, and

family—idle r.p.m.—number of carburetors—number of carburetor venturis.

(g) All pertinent instrument information such as tuning—gain—serial numbers—detector numbers—range.

not in use, chopper motor is turned off.):

(1) Zero on clean nitrogen introduced at analyzer inlet. Obtain a stable zero on the amplifier meter and recorder. Recheck after test.

located on the charts at a point corresponding to the exact time of the mode. For each warmup or hot cycle to be evaluated, proceed as follows:

(a) Determine whether the cycle was

(2) Engines of each engine family will be divided into engine displacement-exhaust emission control system combinations. A projected sales volume will be established for each combination for

for which certification is sought is less than 700 engines may request a reduction in the number of test engines determined in accordance with the foregoing provisions of this section. The Administrator

(14) Ball valves V4, V5, and V6 for directing sample to the analyzer or directing air in the reverse direction as a backflush.

(15) Toggle valves V8, V9, V10, and V11 for draining condensate traps and refrigerated bath.

(16) Traps T1, T2, and T3 for condensing water vapor and cooling exhaust sample.

(17) Ball valve V7 for diverting air to low HC analyzer during periods of high hydrocarbon response.

(18) Needle valve N14 for regulating air flow to low hydrocarbon analyzer during purge conditions.

(19) Thermometer for indicating bath temperature.

(20) Refrigerated water bath for condensing water vapor and cooling exhaust sample.

(21) Sample line from vehicle to analysis system.

(22) Sample probe to extract exhaust gas sample downstream of muffler.

(23) Ball valve V12 for directing N_2 to hydrocarbon analysers.

(c) *Hang up reduction.* Stringent methods to reduce hang up may be employed. All methods must be approved in advance by the Administrator.

§ 85.105 Information to be recorded on charts.

The following information shall be recorded with respect to each test:

(a) Test number.

(b) System tested (brief description).

(c) Date and time of day for each part of the test schedule.

(d) Instrument Operator.

(e) Driver or Operator.

(f) Engine Make—identification number—date of manufacture—number of hours — engine displacement — engine family—idle r.p.m.—number of carburetors—number of carburetor venturis.

(g) All pertinent instrument information such as tuning—gain—serial numbers—detector numbers—range.

(h) Recorder Charts: Identify zero, span, exhaust gas sample traces.

(i) Barometric pressure, intake air temperature and humidity and, as applicable, the temperature of the air in front of the radiator during the test.

(j) A continuous trace of intake manifold vacuum and engine r.p.m., recorded on the same chart with an automatic marker indicating one second intervals.

§ 85.106 Calibration and instrument checks.

(a) The instrument assembly shall be calibrated at least once every 30 days, using the same flow rate as when sampling exhaust and proceeding as follows:

(1) Tune analyzers.

(2) Zero on nitrogen: Check each cylinder of N_2 for contamination with hydrocarbons. Set the instrument gain to give the desired range. Normal operating ranges are as follows:

Low-Range Hydrocarbon Analyzer.	0–1,000 p.p.m. hexane equivalent.
High-Range Hydrocarbon Analyzer.	0–10,000 p.p.m. hexane equivalent.
CO Analyzer	0–10% CO.
CO_2 Analyzer	0–16% CO_2.

(3) Calibrate with the following normalizing gases. Flow rates should be set at 10 c.f.h. on the hydrocarbon analyzers and 5 c.f.h. on the carbon monoxide and carbon dioxide analyzers. The concentrations given indicate nominal concentrations, and actual concentrations should be known to within ±2 percent of true value. Prepurified N_2 is used as the diluent.

Low range HC analyzer	High range HC analyzer	CO and CO_2 analyzers		
		Blend of CO and CO_2 containing:		
Hexane equivalent[1]	*Hexane equivalent*	*Mole percent CO*	Plus	*Mole percent CO_2*
100 p.p.m.	600 p.p.m.	0.5		16.0
200 p.p.m.	1,000 p.p.m.	1.0		15.0
300 p.p.m.	1,500 p.p.m.	2.0		14.0
400 p.p.m.	2,500 p.p.m.	3.0		13.0
600 p.p.m.	4,000 p.p.m.	4.0		12.0
800 p.p.m.	6,000 p.p.m.	6.0		10.0
1,000 p.p.m.	8,000 p.p.m.	8.0		8.0
	10,000 p.p.m.	10.0		6.0

[1] The hexane equivalent of propane, when used as the normalizing gas for calibrating nondispersive infrared analyzers, is prescribed to be 0.52 (Propane Concentration×0.52=Hexane Equivalent Concentration).

Minimum storage temperature of the cylinders shall be 60° F.; minimum use temperature shall be 68° F.

(4) Compare values with previous curves. Any significant change reflects some problem in the system. Locate and correct problem, and recalibrate. Use best judgment in selecting curve for data reduction.

(5) Check response of hydrocarbon analyzer to 100 percent CO_2. If response is greater than 0.5 percent full scale, refill filter cells with 100 percent CO_2 and recheck. Note any remaining response on chart. If response still exceeds 0.5 percent, replace detector.

(6) Check response of hydrocarbon analyzers to nitrogen saturated with water at ambient temperature. Record ambient temperature. If the low-range instrument response exceeds 5 percent of full scale with saturated nitrogen at 75° F., replace the detector. If the high-range response exceeds 0.5 percent of full scale, check detector on low-range instrument, then reject if response exceeds 5 percent of full scale at 75° F.

(b) The following daily instrument check shall be performed, allowing a minimum of 2 hours warmup for infrared analyzers. (Power is normally left on continuously; but, when instruments are not in use, chopper motor is turned off.):

(1) Zero on clean nitrogen introduced at analyzer inlet. Obtain a stable zero on the amplifier meter and recorder. Recheck after test.

(2) Introduce normalizing gas and set gain to match calibration curve. In order to avoid a correction for sample cell pressure, normalize and calibrate at the same flow rates used for exhaust sampling. Normalizing or span gases: (See paragraph (a)(3) of this section for allowable variation.)

Low-Range Hydrocarbon Analyzer.	1,000 p.p.m. hexane equivalent in prepurified N_2.
High-Range Hydrocarbon Analyzer.	10,000 p.p.m. hexane equivalent in prepurified N_2.
CO Analyzer	10% CO in prepurified N_2.
CO_2 Analyzer	12 to 16% CO_2 in prepurified N_2.

If gain has shifted significantly, check tuning. If necessary, check calibration. Recheck after test. Record actual concentrations on chart.

(3) Check nitrogen zero, repeat the procedure in subparagraphs (1) and (2) of this paragraph if required.

(4) Check flow rates and pressures.

§ 85.107 Dynamometer test run.

(a) The engine shall be allowed to stand with engine turned off for at least 1 hour before the exhaust emission test at an ambient temperature of 60° F. to 86° F. The engine shall be stored prior to the emission tests in such a manner that it is not exposed to precipitation or condensation. During the dynamometer run, the ambient temperature shall be between 68° F. and 86° F.

(b) The following steps shall be taken for each test:

(1) Mount test engine on the engine dynamometer.

(2) Calibrate exhaust emission analyzer assembly.

(3) Start cooling system, if it is to be used.

(4) Start engine and idle at 1,000–1,200 r.p.m. for 5 minutes.

(5) Obtain normal idle speed, record it, and start exhaust sampling.

(6) Run four 9-mode cycles.

(c) Upon completion of the test, purge the sample line with nitrogen to establish a constant hydrocarbon "hangup" level. The hydrocarbon concentration shall drop to 5 percent of scale in 10 seconds, and 3 percent of scale in 3 minutes, or the test is invalid. Check calibration of exhaust emission instruments: A drift in excess of ±2 percent of scale in the calibration of any one of the exhaust emission analyzers will invalidate the test results.

§ 85.108 Chart reading.

The recorder response for measuring exhaust gas concentrations always lags the engine's operation because of a variable exhaust system delay and a fixed sample system delay. Therefore, the concentrations for each mode will not be

located on the charts at a point corresponding to the exact time of the mode. For each warmup or hot cycle to be evaluated, proceed as follows:

(a) Determine whether the cycle was run in accordance with the specified cycle timing by observing either chart pips, speed trace, manifold vacuum trace, or concentration traces. Deviation by more than 2 seconds from the specified time for the closed throttle mode (sequence 9) or deviation of more than ±0.2" Hg from the specified mode vacuums during the last 10 seconds of a mode will invalidate the data.

(b) Time correlate the hydrocarbon, carbon monoxide, and carbon dioxide charts. Determine the location on the chart of concentrations corresponding to each mode. Determine and compensate for trace abnormalities.

(c) For all open throttle (3", 10", 16", and 19" Hg) and idle modes, integrate the last 3 seconds of the HC, CO and CO_2 traces.

(d) The values recorded for the initial idle mode are used for both warmup cycles 1 and 2. The final idle mode values are applied to hot cycles 3 and 4.

(e) Intergrate the complete HC, CO, and CO_2 traces during this 43-second closed throttle mode of each cycle.

(f) Direct computer analysis of analyzer output may be utilized provided that the analysis is sufficiently similar to the above procedures to result in comparable data results.

§ 85.109 Calculations.

The final reported test results shall be derived through the following steps:

(a) Determine composite hydrocarbon and carbon monoxide concentrations for the first and second cycles. Average the results of these two cycles.

(b) Determine composite hydrocarbon and carbon monoxide concentrations for the third and fourth cycles. Average the results of these two cycles.

(c) Combine the results of paragraphs (a) and (b) of this section according to the formula: 0.35(a) plus 0.65(b). Since hydrocarbon, carbon monoxide, and carbon dioxide are all measured with essentially the same moisture content, no moisture correction is required to convert the results to a dry basis. The correction factor:

$$\frac{14.5}{\%\ CO_2+(0.5)\%\ CO+(1.8\times 6)\%\ HC}$$

shall be applied to the measured concentrations of hydrocarbon and carbon monoxide to correct these observed values for dilution of the exhaust.

§ 85.110 Test engines.

(a) The engines covered by the application for certification will be divided into engine families based upon the criteria outlined in § 85.29(a).

(b) Emission data engines:

(1) Engines will be chosen to be run for emission data based upon the engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(2) Engines of each engine family will be divided into engine displacement-exhaust emission control system combinations. A projected sales volume will be established for each combination for the model year for which certification is sought. One engine of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's total production of engines of that family is represented, or until a maximum of four engines is selected. The engines selected for each combination will be specified by the Administrator as to fuel system.

(3) The Administrator may select a maximum of two additional engines within each engine family based upon features indicating that they may have the highest emission levels of the engines in that engine family. In selecting these engines, the Administrator will consider such features as the exhaust emission control system, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, and compression ratio.

(4) If the engines selected in accordance with subparagraphs (2) and (3) of this paragraph do not represent each engine-system combination, then one engine of each engine-system combination not represented shall be selected by the Administrator. The engine selected shall be of the displacement with the largest projected sales volume of engines with the exhaust emission control system in the family and will be designated by the Administrator as to fuel system.

(c) Durability data engines:

(1) A durability data engine will be selected by the Administrator to represent each engine-system combination. The engine selected shall be of the displacement with the largest projected sales volume of engines with that exhaust emission control system in that engine family and will be designated by the Administrator as to fuel system.

(2) If an exhaust emission control system is used in only one engine family, an additional engine using that control system in that family will be selected so that the durability data fleet shall contain at least two engines with each control system. The additional engine will be selected in the same manner as engines selected under subparagraph (1) of this paragraph.

(3) A manufacturer may elect to operate and test additional engines to represent any engine-system combination. The additional engines must be of the same engine displacement and fuel system as the engine selected for that combination in accordance with the provisions of subparagraph (1) of this paragraph. Notice of an intent to run additional engines shall be given to the Administrator not later than 30 days following notification of the test fleet selection.

(d) Any manufacturer whose projected sales of new motor vehicle engines subject to this subpart for the model year for which certification is sought is less than 700 engines may request a reduction in the number of test engines determined in accordance with the foregoing provisions of this section. The Administrator may agree to such lesser number as he determines will meet the objectives of this procedure.

(e) In lieu of testing an emission data or durability data engine selected under paragraph (b) or (c) of this section and submitting data therefor, a manufacturer may, with the prior written approval of the Administrator, submit data on a similar engine for which certification has previously been obtained.

§ 85.111 Maintenance.

(a) (1) Maintenance on the engines and fuel systems of durability engines may be performed only under the following provisions:

(i) Two major engine tuneups to manufacturer's specifications may be performed at 500 and 1,000 hours (±8 hours) of scheduled dynamometer operation with the following exception: On engines with a displacement of 200 cubic inches or less, a major engine tuneup may be performed at 375, 750, and 1,125 hours (±8 hours) of scheduled dynamometer operation. A major engine tuneup shall be restricted to the following:

(a) Replace spark plugs.

(b) Inspect ignition wiring and replace as required.

(c) Replace distributor breaker points and condensor as required.

(d) Lubricate distributor cam.

(e) Check distributor advance and breaker point dwell angle and adjust as required.

(f) Check automatic choke for free operation and correct as required.

(g) Adjust carburetor idle speed and mixture.

(h) Adjust drive belt tension on engine accessories.

(i) Adjust valve lash if required.

(j) Check exhaust heat control valve for free operation.

(k) Check engine bolt torque and tighten as required.

(ii) Spark plugs may be changed if a persistent misfire is detected.

(iii) Normal services (engine oil change, and oil filter, fuel filter and air filter servicing) will be allowed at manufacturer's recommended intervals.

(iv) The crankcase emission control system may be serviced at 375-hour intervals (±8 hours) of dynamometer operation.

(v) Readjustment of the engine choke mechanism or idle settings may be performed only if there is a problem of stalling at idle.

(vi) Leaks in the fuel system, engine lubrication system and cooling system may be repaired.

(vii) Engine idle speed may be adjusted at the 125-hour test point.

(viii) Any other engine or fuel system maintenance or repairs will be allowed only with the advance approval of the Administrator.

(2) Allowable maintenance on emission data engines shall be limited to the adjustment of engine idle speed at the 125-hour test point.

(b) Complete emission tests (see

(f) Once a manufacturer begins to operate an emission data or durability data engine, as indicated by compliance with paragraph (e) of this section, he shall continue to run the engine to 125

(c) The procedure for determining compliance of a new engine with exhaust emission standards is as follows:

(1) Separate emission deterioration factors shall be determined from the emission results of the durability data

(2) Allowable maintenance on emission data engines shall be limited to the adjustment of engine idle speed at the 125-hour test point.

(b) Complete emission tests (see §§ 85.101–85.109) shall be run before and after any engine maintenance which may reasonably be expected to affect emissions. These test data shall be supplied to the Administrator immediately after the tests, along with a complete record of all pertinent maintenance, including an engineering report of any malfunction diagnosis and the corrective action taken. In addition, all test data and maintenance reports shall be compiled and provided to the Administrator in accordance with § 85.53.

(c) If the Administrator determines that maintenance or repairs have resulted in a substantial change to the engine-system combination, the engine shall not be used as a durability data engine.

§ 85.112 Service accumulation and emission measurements.

The engine dynamometer service accumulation schedule will consist of several operating conditions which give the same percentage of time at various manifold vacuums and the modes as specified in the emission test cycle. The average speed shall be between 1,650 and 1,700 r.p.m. with some operation at 3,200 r.p.m. or governed speed, whichever is lower. Maximum cycle time shall be 15 minutes. A cycle approved in advance by the Administrator shall be used.

(a) Emission data engines: Each emission data engine shall be operated for 125 hours with all emission contol systems installed and operating. Emission tests shall be conducted at zero and 125 hours.

(b) Durability data engines: Each durability data engine shall be operated, with all emission control systems installed and operating, for 1,500 hours. Emission measurements, as prescribed, shall be made at zero hours and at each 125-hour interval.

(c) All tests required by this subpart to be conducted after 125 hours of operation or at any multiple of 125 hours may be conducted at any accumulated number of hours within 6 hours of 125 hours or the appropriate multiple of 125 hours, respectively.

(d) The results of each emission test shall be supplied to the Administrator immediately after the test. In addition, all test data shall be compiled and provided to the Administrator in accordance with § 85.53.

(e) Whenever the manufacturer proposes to operate and test an engine which may be used for emission or durability data, he shall provide the zero-hour test data to the Administrator and make the engine available for such testing under § 35.54 as the Administrator may require, before beginning to accumulate hours on the engine. Failure to comply with this requirement will invalidate all test data later submitted for this engine.

(f) Once a manufacturer begins to operate an emission data or durability data engine, as indicated by compliance with paragraph (e) of this section, he shall continue to run the engine to 125 hours or 1,500 hours, respectively, and the data from the engine will be used in the calculations under § 85.113. Discontinuation of an engine shall be allowed only with the prior written consent of the Administrator.

§ 85.113 Compliance with emission standards.

(a) The exhaust emission standards in § 85.31 apply to the emissions of engines for their useful life.

(b) Since emission control efficiency decreases with the accumulation of hours on the engine, the emission level of an engine which has accumulated 1,500 hours of dynamometer operation will be used as the basis for determining compliance with the standards.

(c) The procedure for determining compliance of a new engine with exhaust emission standards is as follows:

(1) Separate emission deterioration factors shall be determined from the emission results of the durability data engines for each engine-system combination. Separate factors shall be established for HC and CO for each combination.

(i) The applicable results to be used in determining the deterioration factors for each combination shall be:

(a) All emission data from the tests required under § 85.112(b), except the zero-hour tests. This shall include the official test results, as determined in § 85.54, for all tests conducted on all durability engines of the combination selected under § 85.110(c) (including all engines elected to be operated by the manufacturer under § 85.110(c)(3)).

(b) All emission data from the tests conducted before and after the maintenance provided in § 85.111(a)(1)(i).

(ii) All applicable results shall be plotted as a function of the hours on the system, rounded to the nearest hour, and the best fit straight lines, fitted by the method of least squares, shall be drawn through these data points. The interpolated 125- and 1,500-hour points on this line must be within the standard provided in § 85.31 or the data shall not be used in calculation of a deterioration factor.

$$\text{factor} = \frac{\text{exhaust emissions interpolated to 1,500 hours}}{\text{exhaust emissions interpolated to 125 hours}}$$

(iii) An exhaust emission deterioration factor shall be calculated for each combination as follows:

(2) The exhaust emission test results for each emission data engine shall be multiplied by the appropriate deterioration factor: *Provided*, That if a deterioration factor as computed in subparagraph (1) of this paragraph is less than one, that deterioration factor shall be one for the purposes of this subparagraph.

(3) The emissions to compare with the standard shall be the adjusted emissions of subparagraph (2) of this paragraph for each emission data engine.

(4) Every test engine of an engine family must comply with all applicable standards, as determined in subparagraph (3) of this paragraph, before any engine in that family will be certified.

Subpart J—Test Procedures for Engine Exhaust Emissions (Heavy Duty Diesel Engines)

§ 85.120 Introduction.

(a) The procedures described in this subpart will be the test program to determine the conformity of heavy duty diesel engines with the applicable standards set forth in this part:

(b) The test consists of a prescribed sequence of engine operating conditions on an engine dynamometer with continuous examination of the exhaust gases. The test is applicable equally to controlled engines equipped with means for preventing, controlling, or eliminating smoke emissions and to uncontrolled engines.

(c) The test is designed to determine the opacity of smoke in exhaust emissions during those engine operating conditions which tend to promote smoke from diesel-powered vehicles.

(d) The test procedure begins with a warm engine which is then run through preloading and preconditioning operations. After an idling period, the engine is operated through acceleration and lugging modes during which smoke emission measurements are made to compare with the standards. The engine is then returned to the idle condition and the acceleration and lugging modes are repeated. Three sequences of acceleration and lugging constitute the full set of operating conditions for smoke emission measurement.

§ 85.121 Diesel fuel specifications.

(a) The diesel fuels employed shall be clean and bright, with pour and cloud points adequate for operability. The fuels may contain nonmetallic additives as follows: cetane improver, metal deactivator, antioxidant, deposit, antirust, pour depressant, dye, and dispersant.

(b) Fuel meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in exhaust emission testing. The grade of fuel recommended by the engine manufacturer, commercially designated as "Type 1-D" or "Type 2-D", shall be used.

engine speed reaches 95 to 100 percent of rated speed in 10±2 seconds.

(3) *Lugging mode.* (i) Proceeding from the acceleration mode, the dynamometer controls shall be adjusted to permit the engine to develop maximum horsepower at rated speed. Smoke emissions during this transitional mode are not used in determining smoke emissions to compare with the standard.

(ii) Without changing the throttle position, the dynamometer controls shall be adjusted gradually to slow the engine to the speed of maximum torque or to 60 percent of rated speed, whichever is higher. This engine lugging operation shall be performed smoothly over a period of 35±5 seconds. The rate of slowing of the engine shall be linear, within ±100 r.p.m.

(4) *Engine unloading.* After completion of the lugging mode in subparagraph (3)(ii) of this paragraph, the dynamometer and engine shall be returned to the idle condition described in subparagraph (1) of this paragraph.

(b) The procedures described in paragraph (a)(1) through (4) of this section shall be repeated until the entire cycle has been run three times.

§ 85.123 Dynamometer and engine equipment.

The following equipment shall be used for smoke emission testing of engines on engine dynamometers.

(a) An engine dynamometer with adequate characteristics to perform the test cycle described in § 85.122.

(b) An engine cooling system having sufficient capacity to maintain the engine at normal operating temperatures during conduct of the prescribed engine tests.

(c) A noninsulated exhaust system extending 12±2 feet from the exhaust manifold of the engine and presenting an exhaust back pressure within ±0.2 inches Hg of the upper limit at maximum rated horsepower, as established by the engine manufacturer in his sales and service literature for vehicle application. A conventional automotive muffler of a size and type commonly used with the engine being tested shall be employed in the exhaust system during smoke emission testing. The terminal 2 feet of the exhaust pipe shall be of circular cross section and be free of elbows and bends. The end of the pipe shall be cut off squarely. The terminal 2 feet of the exhaust pipe shall have a diameter in accordance with the engine being tested, as specified below:

Maximum rated horsepower	Exhaust pipe dia
Less than 101	2"
101–200	3"
201–300	4"
301 or more	5"

(d) An engine air inlet system presenting an air inlet restriction within ±1-inch of water of the upper limit for the engine operating condition which results in maximum air flow, as established by the engine manufacturer in his sales and service literature, for the engine being tested.

§ 85.124 Smoke measurement system.

(a) *Schematic drawing.* The following figure (fig. 7) is a schematic drawing of the optical system of the light extinction meter.

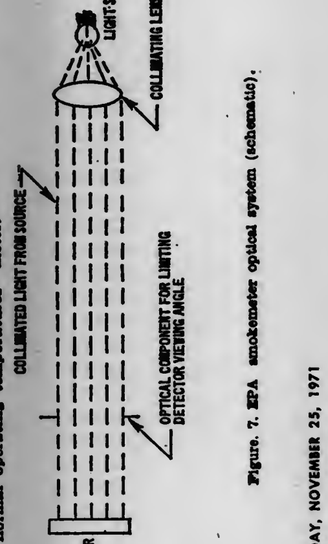


Figure. 7. EPA smokemeter optical system (schematic).

Item	ASTM test method No.	Type 1-D	Type 2-D
Cetane	D 613	45–55	40–50
Distillation range	D 86		
IBP, °F		330–390	340–400
10 percent point, °F		370–430	400–460
50 percent point, °F		410–480	470–540
90 percent point, °F		460–520	520–610
EP, °F		500–580	580–690
Gravity, °API	D 287	40–44	32–37
Total sulfur, percent	D 129 or D 2622	0.04–0.20	0.2–0.5
Hydrocarbon composition	D 1319		
Aromatics, percent		5–15	27 (Min.)
Paraffins, Naphthenes, Olefins		Remainder	Remainder
Flash point, °F (Min.)	D 93	130	130
Viscosity, centistokes	D 445	1.4–2.0	2.0–4.3

(c) Fuel meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in service accumulation. The grade of fuel recommended by the engine manufacturer, commercially designated as "Type 1-D" or "Type 2-D", shall be used.

Item	ASTM test method No.	Type 1-D	Type 2-D
Cetane	D 613	45–55	40–50
Distillation range	D 86		
IBP, °F		330–390	340–400
10 percent point, °F		370–430	400–460
50 percent point, °F		410–480	470–540
90 percent point, °F		460–520	520–610
EP, °F		500–580	580–690
Gravity, °API	D 287	40–44	32–37
Total sulfur, percent	D 129 or D 2622	0.04–0.20	0.2–0.5
Flash point, °F (Min.)	D 93	130	130
Viscosity, centistokes	D 445	1.4–2.0	2.0–4.3

(d) The type fuel, including additive and other specifications, used under paragraphs (b) and (c) of this section shall be reported in accordance with § 85.51(b)(3).

§ 85.122 Dynamometer operation cycle for smoke emission tests.

(a) The following sequence of operations shall be performed during engine dynamometer testing of smoke emissions, starting with the dynamometer preloading determined and the engine preconditioned (§ 85.127(c)).

(1) *Idle mode.* The engine is caused to idle for 5 to 5.5 minutes at the manufacturer's recommended low idle speed. The dynamometer controls shall be set to provide minimum load by turning the load switch to the "off" position or by adjusting the controls to the minimum load position.

(2) *Acceleration mode.* (i) The engine speed shall be increased to 200±50 r.p.m. above the manufacturer's recommended low idle speed within 3 seconds.

(ii) The engine shall be accelerated at full-throttle against the inertia of the engine and dynamometer or alternately against a preselected dynamometer load such that the engine speed reaches 85 to 90 percent of rated speed in 5±1.5 seconds.

(iii) When the engine reaches the speed required in subdivision (ii) of this subparagraph, the throttle shall be moved rapidly to the closed position and the preselected load required to perform the acceleration in subdivision (iv) of this subparagraph shall be applied. The engine speed shall be reduced to the speed of maximum rated torque or 60 percent of rated speed (whichever is higher), within ±50 r.p.m. Smoke emissions during this transitional mode are not used in determining smoke emissions to compare with the standard.

(iv) The throttle shall be moved rapidly to the full-throttle position and the engine accelerated against the preselected dynamometer load such that the

(b) *Equipment.* The following equipment shall be used in the system:

(1) Adapter—the smokemeter optical unit may be mounted on a fixed or movable frame. The normal unrestricted shape of the exhaust plume shall not be

meter-recorder combination may be damped so that signals with a frequency higher than 10 cycles per second are attenuated. A separate low-pass electronic filter with the following performance characteristics may be installed between

(3) Calibrated neutral density filters having approximately 20 percent and 40 percent opacity shall be employed to check the linearity of the instrument. The filter(s) shall be inserted in the light path perpendicular to the axis of the

chart speed of approximately 1 inch per minute minimum during the idle mode and transitional modes and 6 inches per minute minimum during the acceleration and lugging modes.

(3) Turn off engine.

engine-system combination has the highest fuel feed per stroke, the engine with the highest maximum rated horsepower will be selected for durability testing.

(2) A manufacturer may elect to operate and test additional engines to

adjustment of engine low idle speed at the 125-hour test point.

(b) Complete emission tests (see §§ 85.121–85.129) shall be run before and after any engine maintenance which may reasonably be expected to affect

(b) *Equipment.* The following equipment shall be used in the system:

(1) Adapter—the smokemeter optical unit may be mounted on a fixed or movable frame. The normal unrestricted shape of the exhaust plume shall not be modified by the adapter, the meter, or any ventilation system used to remove the exhaust from the test site.

(2) Smokemeter (light extinction meter)—continuous recording, full-flow light obscuration meter. It shall be positioned near the end of the exhaust pipe so that a built-in light beam traverses the exhaust smoke plume which issues from the pipe at right angles to the axis of the plume. The light source is an incandescent lamp operated at a constant voltage of not less than 15 percent of the manufacturer's specified voltage. The lamp output is collimated to a beam with a nominal diameter of 1.125 inches. The angle of divergence of the collimated beam shall be within 4° included angle. A light detector, directly opposed to the light source, measures the amount of light blocked by the smoke in the exhaust. The detector sensitivity is restricted to the visual range and comparable to that of the human eye. A collimating tube with apertures equal to the beam diameter is attached to the detector. It restricts the viewing angle of the detector to within 16° included angle. An amplified signal corresponding to the amount of light blocked is recorded continuously on a remote recorder. An air curtain across the light source and detector window assemblies may be used to minimize deposition of smoke particles on those surfaces provided that it does not measurably affect the opacity of the plume. The meter consists of two units, an optical unit and a remote control unit. Light extinction meters employing substantially identical measurement principles and producing substantially equivalent results but which employ other electronic and optical techniques may be used only after having been approved in advance by the Administrator.

(3) Recorder—a continuous recorder, with variable chart speed over a minimal range of 0.5 to 8.0 inches per minute (or equivalent) and an automatic marker indicating 1-second intervals shall be used for continuously recording the transient conditions of exhaust gas opacity, engine r.p.m. and torque. The recorder scale for opacity shall be linear and calibrated to read from 0 to 100 percent opacity full scale. The opacity trace shall have a resolution within 1 percent opacity. The recorder scale for engine r.p.m. and the recorder scale for observed engine torque shall be linear and shall have full scale calibration such as to facilitate chart reading. The r.p.m. trace shall have a resolution within 30 r.p.m. The torque trace shall have a resolution within 10 lb.-ft. Any means other than strip chart recorder may be used provided it produces a permanent visual data record of quality equal to or better than that described above.

(4) The recorder used with the smokemeter shall be capable of full-scale deflection in 0.5 second or less. The smokemeter-recorder combination may be damped so that signals with a frequency higher than 10 cycles per second are attenuated. A separate low-pass electronic filter with the following performance characteristics may be installed between the smokemeter and the recorder to achieve the high-frequency attenuation.

(i) 3 decibel point—10 cycles per second.

(ii) Insertion loss-zero ±0.5 decibels.

(iii) Selectivity—12 decibels per octave above 10 cycles per second.

(iv) Attenuation—27 decibles down at 40 cycles per second minimum.

(c) *Assembling equipment.* (1) The optical unit of the smokemeter shall be mounted radially to the exhaust pipe so that the measurement will be made at right angles to the axis of the exhaust plume. The distance from the optical centerline to the exhaust pipe outlet shall be 1.0 to 1.5 pipe diameters but never less than 4 inches. The full flow of the exhaust stream shall be centered between the source and detector apertures (or windows and lenses) and on the axis of the light beam.

(2) Power shall be supplied to the control unit of the smokemeter in time (at least 15 minutes prior to testing) to allow for stabilization.

§ 85.125 Information to be recorded.

The following information shall be recorded with respect to each test:

(a) Test number.
(b) Date and time of day.
(c) Instrument operator.
(d) Engine operator.
(e) Engine Identification numbers—Date of manufacture—Number of hours of operation accumulated on engine—Engine Family—Exhaust pipe diameter—Fuel injector type—Maximum measured fuel rate at maximum measured torque and horsepower—Air aspiration system—Low idle r.p.m.—Maximum governed r.p.m.—Maximum measured horsepower at r.p.m.—Maximum measured torque at r.p.m.—Exhaust system back pressure—Air inlet restriction.
(f) Smokemeter. Number—Zero control setting—Calibration control setting—Gain.
(g) Recorder chart. Identify zero traces—Calibration traces—Idle traces—Acceleration and lug-down test traces—Start and finish of each test.
(h) Ambient temperature in dynamometer testing room.
(i) Engine intake air temperature and humidity.
(j) Barometric pressure.
(k) Observed engine torque.

§ 85.126 Instrument checks.

(a) The smokemeter shall be checked according to the following procedure prior to each test:

(1) The optical surfaces of the optical section shall be checked to verify that they are clean and free of foreign material and fingerprints.

(2) The zero control shall be adjusted under conditions of "no smoke" to give a recorder trace of zero.

(3) Calibrated neutral density filters having approximately 20 percent and 40 percent opacity shall be employed to check the linearity of the instrument. The filter(s) shall be inserted in the light path perpendicular to the axis of the beam and adjacent to the opening from which the beam of light from the light source emanates, and the recorder response shall be noted. The nominal opacity value of the filter will be confirmed by the Administrator. Deviations in excess of 1 percent of the nominal opacity shall be corrected.

(b) The instruments for measuring and recording engine r.p.m., engine torque, air inlet restrictions, exhaust system back pressure, etc., which are used in the tests prescribed herein shall be calibrated from time to time in accordance with good technical practice.

§ 85.127 Test run.

(a) The temperature of the air supplied to the engine shall be between 68° F. and 86° F. The observed barometric pressure shall be between 28.5 inches and 31 inches Hg. Higher air temperature or lower barometric pressure may be used, if desired, but no allowance will be made for possible increased smoke emissions because of such conditions.

(b) The governor and fuel system shall have been adjusted to provide engine performance at the levels specified by the engine manufacturer for maximum rated horsepower and maximum rated torque. These specifications shall be reported in accordance with § 85.51 (b)(3).

(c) The following steps shall be taken for each test:

(1) Start cooling system.

(2) Starting with a warmed engine, determine by experimentation the dynamometer inertia and dynamometer load required to perform the acceleration in the dynamometer cycle for smoke emission tests (§ 85.122(a)(2)). In a manner appropriate for the dynamometer and controls being used, arrange to conduct the acceleration mode.

(3) Install smokemeter optical unit and connect it to the recorder. Connect the engine r.p.m. and torque sensing devices to the recorder.

(4) Turn on purge air to the optical unit of the smokemeter, if purge air is used.

(5) Check and record zero and span settings of the smokemeter recorder at a chart speed of approximately 1 inch per minute. (The optical unit shall be retracted from its position about the exhaust stream if the engine is left running.)

(6) Precondition the engine by operating it for 10 minutes at maximum rated horsepower.

(7) Proceed with the sequence of smoke emission measurements on the engine dynamometer as prescribed in § 85.122.

(8) During the test sequence of § 85.122, continuously record smoke measurements, engine r.p.m. and torque at a chart speed of approximately 1 inch per minute minimum during the idle mode and transitional modes and 8 inches per minute minimum during the acceleration and lugging modes.

(9) Turn off engine.

(10) Check zero and reset if necessary and check span of the smokemeter recorder by inserting neutral density filters. If either zero or span drift is in excess of 2 percent opacity, the test results shall be invalidated.

§ 85.128 Chart reading.

(a) The following procedure shall be employed in reading the smokemeter recorder chart.

(1) Locate the acceleration mode (§ 85.122(a)(2)) and the lugging mode (§ 85.122(a)(3)) on the Chart. Divide each mode into ½-second intervals beginning at the start of each mode Determine the average smoke reading during each ½-second interval except those recorded during the transitional portions of the acceleration mode (§ 85.122(a)(2)(iii) and the lugging mode (§ 85.122(a)(3)(i)).

(2) Locate and record the 15 highest ½-second readings during the acceleration mode of each dynamometer cycle.

(3) Locate and record the five highest ½-second readings during the lugging mode of each dynamometer cycle.

§ 85.129 Calculations.

(a) Average the 45 readings in § 85.128(a)(2) and designate the value as "a".

(b) Average the 15 readings in § 85.128(a)(3) and designate the value as "b".

§ 85.130 Test engines.

(a) The engines covered by the application for certification will be divided into engine families based upon the criteria outlined in § 85.89(a).

(b) Emission data engines:

(1) Engines will be chosen to be run for emission data based upon engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(2) Engines of each engine family will be divided into groups based upon exhaust emission control system. Two engines of each engine-system combination shall be run for smoke emission data as prescribed in § 85.132(b). Within each combination, the engines that feature the highest fuel feed per stroke, primarily at the speed of maximum rated torque and secondarily at rated speed, will be selected. In the case where more than one engine in an engine-system combination have the highest fuel feed per stroke, the engine with the highest maximum rated torque will be selected.

(c) Durability data engines:

(1) One engine from each engine-system combination shall be tested for lifetime smoke emission data as prescribed in § 85.132(c). Within each combination, the engine which features the highest fuel feed per stroke, primarily at rated speed and secondarily at the speed of maximum rated torque, will be selected for durability testing. In the case where more than one engine in an engine-system combination has the highest fuel feed per stroke, the engine with the highest maximum rated horsepower will be selected for durability testing.

(2) A manufacturer may elect to operate and test additional engines to represent any engine-system combination. The additional engines must be of the same model and fuel system as the engine selected in accordance with the provisions of subparagraph (1) of this paragraph. Notice of an intent to test additional engines shall be given to the Administration not later than 30 days following notification of the test fleet selection.

(d) Any manufacturer whose projected sales of new motor vehicle engines subject to this subpart for the model year for which certification is sought is less than 200 engines may request a reduction in the number of test engines determined in accordance with the foregoing provisions of this section. The Administrator may agree to such lesser number as he determines would meet the objectives of this procedure.

(e) In lieu of testing an emission data or durability data engine selected under paragraph (b) or (c) of this section and submitting data therefor, a manufacturer may, with the prior written approval of the Administrator, submit data on a similar engine for which certification has previously been obtained.

§ 85.131 Maintenance.

(a) (1) Maintenance on the engines and fuel systems of durability engines may be performed only under the following provisions:

(i) One major engine servicing to manufacturer's specifications may be performed at 500 hours (±8 hours) of dynamometer operation. A major engine servicing shall be restricted to the following:

(a) Adjust low idle speed.
(b) Adjust valve lash if required.
(c) Adjust injector timing.
(d) Adjust governor.
(e) Clean and service injector tips.

(ii) Injectors may be changed if a persistent misfire is detected.

(iii) Normal engine lubrication services (engine oil change and oil filter, fuel filter, and air filter servicing and adjustment of drive belt tension and engine bolt torque, as required) will be allowed at manufacturer's recommended intervals.

(iv) Readjustment of the engine fuel rates may be performed only if there is a problem of dropping below 95 percent of maximum rated horsepower at 95–100 percent rated speed.

(v) Leaks in the fuel system, engine lubrication system and cooling system may be repaired.

(vi) Engine low-idle speed may be adjusted at the 125-hour test point.

(vii) Any other engine or fuel system maintenance or repair will be allowed only with the advance approval of the Administrator.

(2) Allowable maintenance on emission data engines shall be limited to the adjustment of engine low idle speed at the 125-hour test point.

(b) Complete emission tests (see §§ 85.121–85.129) shall be run before and after any engine maintenance which may reasonably be expected to affect emissions. These test data shall be supplied to the Administrator immediately after the tests, along with a complete record of all pertinent maintenance, including an engineering report of any malfunction diagnosis and the corrective action taken. In addition, all test data and maintenance reports shall be compiled and provided to the Administrator in accordance with § 85.53.

(c) If the Administrator determines that maintenance or repairs performed have resulted in a substantial change to the engine-system combination, the engine shall not be used as a durability data engine.

§ 85.132 Service accumulation and emission measurements.

Service accumulation shall be accomplished by operation of an engine on a dynamometer.

(a) Emission data engines: Each engine shall be operated on a dynamometer for 125 hours with the dynamometer and engine adjusted so that the engine is operating at 95–100 percent of rated speed and at least 95 percent of maximum rated horsepower. During such operation, the engine shall be run at the exhaust back pressure specified in § 85.123(c) and the air inlet restriction specified in § 85.123(d) except that the tolerances shall be ±0.5 inches of Hg. and ±3 inches of water respectively. Exhaust smoke tests shall be conducted at zero and 125 hours of operation.

(b) Durability data engines: Each engine shall be operated on a dynamometer for 1,000 hours with the dynamometer and engine adjusted so that the engine is operating at 95–100 percent of rated speed and at least 95 percent of maximum rated horsepower. During such operation, the engine shall be run at the exhaust back pressure specified in § 85.123(c) and the air inlet restriction specified in § 85.123(d) except that the tolerances shall be ±0.5 inches of Hg. and ±3 inches of water respectively. Exhaust smoke measurements shall be made at zero hours and at each 125 hours of operation. All results except the zero hour results shall be used to establish the deterioration factors (see § 85.133).

(c) All tests required by this subpart to be conducted after 125 hours of dynamometer operation or at any multiple of 125 hours may be conducted at any accumulated hours within 8 hours of 125 hours or the appropriate multiple of 125 hours, respectively.

(d) The results of each emission test shall be supplied to the Administrator immediately after the test. In addition, all test data shall be compiled and provided to the Administrator in accordance with § 85.53.

(e) Whenever the manufacturer proposes to operate and test an engine which may be used for emission or durability data, he shall provide the zero hour test

data to the Administrator and make the engine available for such testing under § 85.54 as the Administrator may require before beginning to accumulate hours on the engine. Failure to comply with this

sion data engine within an engine-system combination to which are added the respective factors "A" and "B" of subparagraph (1) of this paragraph for that

Subparts N–R—[Reserved]

Subpart S—Low-Emission Vehicles

AUTHORITY: The provisions of this Subpart S issued under sec. 212, 84 Stat. 1676, Pub

to the endangerment of public health or welfare; and

§ 400.6 of this title no later than April 2, 1972.

(5) Does not significantly increase the emissions of any air pollutant not subject to an emission standard under sec-

(e) In addition to the information required under this section, and under § 400.4 of this title, the Administrator may require the applicant to submit any

Administrator may have conducted in accordance with § 85.328.

(b) The Administrator shall, immediately upon making the determination required in paragraph (a) of this section, publish in the FEDERAL REGISTER

data to the Administrator and make the engine available for such testing under § 85.54 as the Administrator may require before beginning to accumulate hours on the engine. Failure to comply with this requirement shall invalidate all test data submitted for this engine.

(f) Once a manufacturer begins to operate an emission data or durability data engine, as indicated by compliance with paragraph (e) of this section, he shall continue to run the engine to 125 hours or 1,000 hours, respectively, and the data from the engine shall be used in the calculations under § 85.133. Discontinuation of an engine shall be allowed only with the prior written consent of the Administrator.

§ 85.133 Compliance with emission standards.

(a) The emission standards in § 85.41 apply to the emissions of engines for their useful life.

(b) Since emission control efficiency decreases with the accumulation of hours on the engine, the emission level of an engine which has accumulated 1,000 hours of dynamometer operation will be used as the basis for determining compliance with the standards.

(c) The procedure for determining compliance with exhaust smoke emission standards in heavy duty diesel engines is as follows:

(1) Emission deterioration factors for the acceleration mode (designated as "A") and the lugging mode (designated as "B") shall be established separately for each engine-system combination.

(i) The applicable results to be used in determining the deterioration factors for each combination shall be:

(a) All emission data from the tests required under § 85.132(b), except the zero hour tests. This shall include the official test results, as determined in § 85.54, for all tests conducted on all durability engines of the combination selected under § 85.130(c) (including all engines elected to be operated by the manufacturer under § 85.130(c)(2)).

(b) All emission data from the tests conducted before and after the maintenance provided in § 85.131(a)(1)(i).

(ii) All applicable results shall be plotted as a function of the hours on the system, rounded to the nearest hour, and the best fit straight lines, fitted by the method of least squares, shall be drawn through these data points. The interpolated 125 and 1,000 hour points on this line must be within the standard provided in § 85.41 or the data shall not be used in calculation of a deterioration factor.

(iii) The deterioration factors will be calculated as follows:

A-percent opacity "a", interpolated to 1,000 hours, minus percent opacity "a," interpolated to 125 hours.

B-percent opacity "b", interpolated to 1,000 hours, minus percent opacity "b", interpolated to 125 hours.

(2) The "percent opacity" values to compare with the standards shall be the opacity values "a" and "b" for each emission data engine within an engine-system combination to which are added the respective factors "A" and "B" of subparagraph (1) of this paragraph for that engine-system combination: *Provided*, That if a deterioration factor as computed in subparagraph (1) of this paragraph is less than zero, that deterioration factor shall be zero for the purposes of this subparagraph.

(3) Every test engine of an engine family must comply with all applicable standards, as determined in subparagraph (2) of this paragraph, before any engine in that family will be certified.

Subparts K–L—[Reserved]

Subpart M—Performance of Motor Vehicles and Motor Vehicle Engines During Their Useful Life

§ 85.160 Maintenance instructions.

(a) The manufacturer shall furnish or cause to be furnished to the ultimate purchaser of each new motor vehicle or engine subject to any of the standards prescribed in this part, written instructions for the maintenance and use of the vehicle or engine by the ultimate purchaser as may be reasonable and necessary to assure the proper functioning of emission control systems.

(1) Such instructions shall be provided for those vehicle and engine components listed in Appendix F to this part (and for any other components) to the extent that maintenance of these components is necessary to assure the proper functioning of emission control systems.

(2) Such instructions shall be in clear, and to the extent practicable, nontechnical language.

(b) The maintenance instructions required by this section shall contain a general description of the documentation which the manufacturer will require from the ultimate purchaser or any subsequent purchaser as evidence of compliance with the instructions.

§ 85.161 Submission of maintenance instructions.

(a) The manufacturer shall provide to the Administrator, no later than the time of the submission required by § 85.53, a copy of the maintenance instructions which the manufacturer proposes to supply to the ultimate purchaser in accordance with § 85.160(a). The Administrator will review such instructions to determine whether they are reasonable and necessary to assure the proper functioning of the vehicle's or engine's emission control systems. The Administrator will notify the manufacturer of his determination whether such instructions are reasonable and necessary to assure the proper functioning of the emission control systems.

(b) Any revision to the maintenance instructions which will affect emissions shall be supplied to the Administrator at least 30 days before being supplied to the ultimate purchaser unless the Administrator consents to a lesser period of time.

Subparts N–R—[Reserved]

Subpart S—Low-Emission Vehicles

AUTHORITY: The provisions of this Subpart S issued under sec. 212, 84 Stat. 1676, Public Law 91-604.

§ 85.320 Definitions.

(a) As used in this subpart, all terms not defined herein shall have the meaning given them in the Clean Air Act (42 U.S.C. 1857 f-1 et seq.) and in § 86.1:

(1) "Motor vehicle" means any self-propelled vehicle designed for use in the United States on the highways, other than a vehicle designed or used for military field training, combat, or tactical purposes.

(2) "Inherently low-polluting vehicle" means any low-emission vehicle which is powered by a propulsion system which does not require control devices, for exhaust emissions, external to the engine.

(3) "Anticipated certification period" means the 1-year period which begins 270 days after submission of a completed certification application to the Administrator.

(4) "Model year" as used in this subpart shall have the same meaning as that term has under section 202(b)(3)(A)(i) of the Clean Air Act.

(5) "Light-duty motor vehicle" as used in this subpart means a motor vehicle which may be a suitable substitute for a class or model of light-duty motor vehicles as defined at § 85.1(a)(5).

§ 85.321 Low-emission vehicle.

(a) A "low-emission vehicle" for the purpose of being certified as a suitable substitute for any class or model of light-duty motor vehicles means any motor vehicle for which a completed certification application has been filed in accordance with § 85.322 and which—

(1) Meets the most stringent crankcase emission and fuel evaporative standards which will apply under section 202 of the Clean Air Act during any part of the anticipated certification period to motor vehicles of that type; and

(2) Produces exhaust emissions of (i) hydrocarbons or carbon monoxide which meet the emission standards applicable under section 202 of the Act to model year 1975 gasoline-fueled light-duty vehicles, or (ii) oxides of nitrogen which meet the emission standard applicable under section 202 to model year 1976 gasoline-fueled light-duty vehicles; and

(3) Does not exceed the following exhaust emission standards:

(i) Hydrocarbons—3 grams per vehicle mile;

(ii) Carbon monoxide—28 grams per vehicle mile: and

(iii) Oxides of nitrogen—3.1 grams per vehicle mile; and

(4) Emits no air pollutant other than those pollutants which are emitted by any class or model of motor vehicles for which the applicant vehicle may be a suitable substitute, unless the Administrator determines that such other emissions will not contribute significantly to air pollution which causes or contributes to the endangerment of public health or welfare; and

(5) Does not significantly increase the emissions of any air pollutant not subject to an emission standard under section 202 of the Act by comparison to the emissions of such pollutant by any class or model of motor vehicles for which the applicant vehicle may be a suitable substitute.

(b) The applicable test procedures for determining compliance with the standards established by paragraph (a) of this section shall be those in effect under section 202 of the Act for 1975 model year gasoline-fueled light-duty motor vehicles, except as provided in § 85.322(b).

§ 85.322 Application for certification.

(a) Any person desiring certification of a test vehicle under section 212 of the Clean Air Act shall submit to the Administrator a notice of intent to submit a certification application with respect to such vehicle. The notice of intent shall contain a description of the vehicle, including the propulsion system and the fuel used by it, and such other information as the Administrator may request. The Administrator will transmit a copy of the notice of intent to the Low-Emission Vehicle Certification Board.

(b) As soon as practicable after receipt of a notice of intent to submit a certification application for a vehicle, the Administrator shall determine whether the test procedures required under § 85.321(b) are applicable to that vehicle. If he determines they are inapplicable, he shall, as soon as practicable thereafter, prescribe test procedures for determining whether such vehicle is a low-emission vehicle, and, if necessary, he shall establish emission standards equivalent to those in effect under paragraph (a) of § 85.321. He shall also select test vehicles in accordance with § 85.322.

(c) After completion of testing of all test vehicles in accordance with applicable test procedures and with § 85.323, the person desiring certification shall submit to the Administrator a written application signed by an authorized representative of the applicant. The application shall contain all emission data from the tests of the emission and durability data test vehicles and all data required by the Board under § 400.4 of this title, relative to the following vehicle characteristics:

(1) Safety;
(2) Performance characteristics;
(3) Reliability potential;
(4) Serviceability;
(5) Fuel availability;
(6) Noise level; and
(7) Maintenance costs.

(d) Any certification application must be filed prior to July 8, 1972, in order for that vehicle to be eligible for certification, except that the Administrator may, after consultation with the Board, accept an application filed no later than December 31, 1972, if he determines that it is likely that the Board will be able to make the determination required by § 400.6 of this title no later than April 2, 1973.

(e) In addition to the information required under this section, and under § 400.4 of this title, the Administrator may require the applicant to submit any other information which the Administrator deems necessary in determining whether the test vehicle is a low-emission vehicle. The application for certification may be considered incomplete, unless all information required by the Administrator and the Low-Emission Vehicle Certification Board has been submitted.

(f) The Administrator shall, immediately upon receipt of a completed application for certification under paragraph (c) of this section, publish in the FEDERAL REGISTER notice of receipt of the application, the name of the applicant, a brief description of the propulsion system and fuel used by the applicant vehicle, and information concerning the method by which the public may have access to data relating to the emission characteristics of the applicant vehicle.

§ 85.323 Test vehicle selection.

(a) The test vehicles covered by the application for certification shall be divided into engine families in accordance with § 85.89(a)(2) unless the Administrator approves an alternative procedure under § 85.322(b).

(b) Except as the Administrator may require pursuant to § 85.322(b), the applicant shall test or cause to be tested two durability data vehicles of each engine-system combination and four emission data vehicles of each engine family described in the notice of intent. The test vehicles shall be selected by the Administrator upon receipt of the notice of intent and after consultation with the Board to determine the models or classes of vehicles for which the test vehicle may be a suitable substitute.

§ 85.324 Data reporting.

(a) All data on emission data and durability data test vehicles shall be reported in accordance with §§ 85.53(a) and 85.81(d).

(b) For the purpose of this subpart § 85.91(e).

§ 85.325 Testing by the Administrator.

The Administrator may require that any one or more of the applicant's test vehicles be submitted to him, at such place or places and at such time or times as he may designate for the purpose of conducting emission tests.

§ 85.326 Administrator's determination.

(a) The Administrator shall, within 90 days after receipt of a completed application for certification, determine whether the applicant vehicle is a low-emission vehicle. Such determination shall be based upon an evaluation of the data provided to the Administrator in the application for certification, any supporting information the Administrator may obtain from the applicant, any relevant information obtained from the public, and the results of any testing the Administrator may have conducted in accordance with § 85.325.

(b) The Administrator shall, immediately upon making the determination required in paragraph (a) of this section, publish in the FEDERAL REGISTER notice of such determination and the reasons therefor.

(c) The Administrator may make any recommendation which he deems appropriate concerning whether any applicant vehicle is an inherently low-polluting vehicle.

(d) If at any time after making an affirmative determination under paragraph (a) of this section but prior to certification by the Board, the Administrator obtains information which demonstrates that the applicant vehicle is not a low-emission vehicle, he may revoke such determination. The Administrator must immediately thereafter notify the Board and publish in the FEDERAL REGISTER notice of such revocation and the reasons therefor.

§ 85.327 Postcertification testing.

The Administrator shall at the request of the Board, test the emissions from certified low-emission vehicles purchased by the Federal Government. If these tests show that the emissions exceed the rates on which the Administrator based his determination under § 85.326, the Administrator shall notify the Board.

APPENDIX A

EPA URBAN DYNAMOMETER DRIVING SCHEDULE

(Speed versus Time Sequence)

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
0	0.0	43	16.0	86	29.8
1	0.0	44	17.1	87	30.1
2	0.0	45	19.1	88	30.4
3	0.0	46	21.1	89	30.7
4	0.0	47	22.7	90	30.7
5	0.0	48	22.9	91	30.5
6	0.0	49	22.7	92	30.4
7	0.0	50	22.6	93	30.3
8	0.0	51	21.3	94	30.4
9	0.0	52	19.0	95	30.8
10	0.0	53	17.1	96	30.4
11	0.0	54	15.8	97	29.9
12	0.0	55	15.8	98	29.5
13	0.0	56	17.7	99	29.8
14	0.0	57	19.8	100	30.3
15	0.0	58	21.6	101	30.7
16	0.0	59	23.2	102	30.9
17	0.0	60	24.2	103	31.0
18	0.0	61	24.6	104	30.9
19	0.0	62	24.9	105	30.4
20	0.0	63	25.0	106	29.8
21	3.0	64	24.8	107	29.9
22	5.9	65	24.5	108	30.2
23	8.6	66	24.7	109	30.7
24	11.5	67	24.8	110	31.2
25	14.3	68	24.7	111	31.8
26	16.9	69	24.6	112	32.2
27	17.3	70	24.6	113	32.4
28	16.1	71	25.1	114	32.2
29	20.7	72	25.6	115	31.7
30	21.7	73	25.7	116	28.6
31	22.4	74	25.4	117	25.3
32	22.5	75	24.9	118	22.0
33	22.1	76	25.0	119	18.7
34	21.5	77	25.4	120	15.4
35	20.9	78	26.0	121	12.1
36	20.4	79	26.0	122	8.8
37	19.8	80	25.7	123	5.5
38	17.0	81	26.1	124	2.2
39	14.9	82	26.7	125	0.0
40	14.9	83	27.5	126	0.0
41	15.2	84	28.6	127	0.0
42	15.5	85	29.3	128	0.0

APPENDIX A—Continued

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
129	0.0	197	37.3	265	52.1
130	0.0	198	39.3	266	52.4
131	0.0	199	40.5	267	52.0

APPENDIX A—Continued

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
333	0.0	401	0.0	469	35.7
334	0.0	402	0.0	470	36.0
335	0.0	403	2.6	471	36.0

APPENDIX A—Continued

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
537	25.9	605	22.5	673	16.4
538	26.0	606	22.7	674	14.5
539	25.6	607	23.7	675	11.6

APPENDIX A—Continued

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
741	26.5	809	34.2	877	28.4
742	27.1	810	34.2	878	29.0
743	27.6	811	34.0	879	29.3

APPENDIX A—Continued

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
945	25.1	1,013	22.5	1,081	15.0
946	25.6	1,014	22.0	1,082	12.5
947	26.1	1,015	21.6	1,083	11.1

APPENDIX A—Continued

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
1,149	10.7	1,217	21.5	1,285	23.5
1,150	7.4	1,218	21.5	1,286	23.5
1,151	4.1	1,219	21.2	1,287	23.5

APPENDIX A—Continued

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
129	0.0	197	37.3	265	52.1	333	0.0	401	0.0	469	35.7	537	35.8	606	22.5	673	10.4
130	0.0	198	39.2	266	52.4	334	0.0	402	0.0	470	36.0	538	36.0	606	22.7	674	14.5
131	0.0	199	40.5	267	52.0	335	0.0	403	2.6	471	36.0	539	36.6	607	23.7	675	11.6
132	0.0	200	42.1	268	51.9	336	0.0	404	5.9	472	35.6	540	35.2	608	25.1	676	8.7
133	0.0	201	43.5	269	51.7	337	0.0	405	9.2	473	35.5	541	35.0	609	26.0	677	5.8
134	0.0	202	45.1	270	51.5	338	0.0	406	12.5	474	35.4	542	35.0	610	26.5	678	2.5
135	0.0	203	46.0	271	51.6	339	0.0	407	15.8	475	35.2	543	35.0	611	27.0	679	2.0
136	0.0	204	46.8	272	51.8	340	0.0	408	19.1	476	35.2	544	34.4	612	26.1	680	0.0
137	0.0	205	47.5	273	52.1	341	0.0	409	22.4	477	35.2	545	33.1	613	22.8	681	0.0
138	0.0	206	47.5	274	52.5	342	0.0	410	25.0	478	35.2	546	19.8	614	19.5	682	0.0
139	0.0	207	47.3	275	53.0	343	0.0	411	25.6	479	35.2	547	16.5	615	16.2	683	0.0
140	0.0	208	47.2	276	53.5	344	0.0	412	27.5	480	35.2	548	13.2	616	12.9	684	0.0
141	0.0	209	47.0	277	54.0	345	0.0	413	29.0	481	35.0	549	9.9	617	9.6	685	0.0
142	0.0	210	47.0	278	54.9	346	0.0	414	30.0	482	35.1	550	6.6	618	6.3	686	0.0
143	0.0	211	47.0	279	55.4	347	1.0	415	30.1	483	35.2	551	3.3	619	3.0	687	0.0
144	0.0	212	47.0	280	55.6	348	4.3	416	30.0	484	35.5	552	0.0	620	0.0	688	0.0
145	0.0	213	47.0	281	56.0	349	7.6	417	29.7	485	35.2	553	0.0	621	0.0	689	0.0
146	0.0	214	47.2	282	56.0	350	10.9	418	29.3	486	35.0	554	0.0	622	0.0	690	0.0
147	0.0	215	47.4	283	55.8	351	14.2	419	28.8	487	35.0	555	0.0	623	0.0	691	0.0
148	0.0	216	47.9	284	55.2	352	17.3	420	28.0	488	35.0	556	0.0	624	0.0	692	0.0
149	0.0	217	48.5	285	54.5	353	20.0	421	25.0	489	34.8	557	0.0	625	0.0	693	0.0
150	0.0	218	49.1	286	53.6	354	22.5	422	21.7	490	34.6	558	0.0	626	0.0	694	1.4
151	0.0	219	49.5	287	52.5	355	23.7	423	18.4	491	34.5	559	0.0	627	0.0	695	3.8
152	0.0	220	50.0	288	51.5	356	25.2	424	15.1	492	33.5	560	0.0	628	0.0	696	4.4
153	0.0	221	50.6	289	51.5	357	26 6	425	11.8	493	32.0	561	0.0	629	0.0	697	6.5
154	0.0	222	51.0	290	51.5	358	28.1	426	8.5	494	30.1	562	0.0	630	0.0	698	9.2
155	0.0	223	51.5	291	51.1	359	30.0	427	5.2	495	28.0	563	0.0	631	0.0	699	11.3
156	0.0	224	52.2	292	50.1	360	30.8	428	1.9	496	25.5	564	0.0	632	0.0	700	13.5
157	0.0	225	53.2	293	50.0	361	31.6	429	0.0	497	22.5	565	0.0	633	0.0	701	14.6
158	0.0	226	54.1	294	50.1	362	32.1	430	0.0	498	19.8	566	0.0	634	0.0	702	16.4
159	0.0	227	54.6	295	50.0	363	32.8	431	0.0	499	16.5	567	0.0	635	0.0	703	16.7
160	0.0	228	54.9	296	49.6	364	33.6	432	0.0	500	13.2	568	0.0	636	0.0	704	16.5
161	0.0	229	55.0	297	49.5	365	34.5	433	0.0	501	10.3	569	3.3	637	0.0	705	16.5
162	0.0	230	54.9	298	49.5	366	34.6	434	0.0	502	7.2	570	6.6	638	0.0	706	16.2
163	0.0	231	54.6	299	49.5	367	34.9	435	0.0	503	4.0	571	9.9	639	0.0	707	19.2
164	3.3	232	54.6	300	49.1	368	34.8	436	0.0	504	1.0	572	13.0	640	0.0	708	20.1
165	6.6	233	54.8	301	48.6	369	34.5	437	0.0	505	0.0	573	14.6	641	0.0	709	21.5
166	9.9	234	55.1	302	48.1	370	34.7	438	0.0	506	0.0	574	16.0	642	0.0	710	22.5
167	13.2	235	55.5	303	47.2	371	35.5	439	0.0	507	0.0	575	17.0	643	0.0	711	22.5
168	16.5	236	55.7	304	46.1	372	36.0	440	0.0	508	0.0	576	17.0	644	0.0	712	22.1
169	19.8	237	56.1	305	45.0	373	36.0	441	0.0	509	0.0	577	17.0	645	0.0	713	22.7
170	22.2	238	56.3	306	43.8	374	36.0	442	0.0	510	0.0	578	17.5	646	2.0	714	23.3
171	24.3	239	56.6	307	42.6	375	36.0	443	0.0	511	1.2	579	17.7	647	4.5	715	23.5
172	25.6	240	56.7	308	41.5	376	36.0	444	0.0	512	3.5	580	17.7	648	7.8	716	22.5
173	26.4	241	56.7	309	40.3	377	36.0	445	0.0	513	5.5	581	17.5	649	10.2	717	21.6
174	25.7	242	56.5	310	38.5	378	36.1	446	0.0	514	6.5	582	17.0	650	12.5	718	20.5
175	25.1	243	56.5	311	37.0	379	36.4	447	0.0	515	8.5	583	16.9	651	14.0	719	18.0
176	24.7	244	56.5	312	35.2	380	36.5	448	3.3	516	9.6	584	16.6	652	15.3	720	15.0
177	25.0	245	56.5	313	33.8	381	36.4	449	6.6	517	10.5	585	17.0	653	17.5	721	12.0
178	25.2	246	56.5	314	32.5	382	36.0	450	9.9	518	11.9	586	17.1	654	19.6	722	9.0
179	25.4	247	56.5	315	31.5	383	35.1	451	13.2	519	14.0	587	17.0	655	21.0	723	6.2
180	25.8	248	56.4	316	30.6	384	34.1	452	16.5	520	16.0	588	16.6	656	22.2	724	4.5
181	27.2	249	56.1	317	30.5	385	33.5	453	19.8	521	17.7	589	16.5	657	23.3	725	3.0
182	28.5	250	55.6	318	30.0	386	31.4	454	23.1	522	19.0	590	16.5	658	24.5	726	2.1
183	24.0	251	55.1	319	29.0	387	29.0	455	26.4	523	20.1	591	16.6	659	25.3	727	0.5
184	22.7	252	54.6	320	27.5	388	25.7	456	27.8	524	21.0	592	17.0	660	25.6	728	0.5
185	19.4	253	54.2	321	24.8	389	23.0	457	29.1	525	22.0	593	17.6	661	26.0	729	3.2
186	17.7	254	54.0	322	21.5	390	20.3	458	31.5	526	23.0	594	18.5	662	26.1	730	6.5
187	17.2	255	53.7	323	20.1	391	17.5	459	33.0	527	23.8	595	19.2	663	26.2	731	9.6
188	18.1	256	53.6	324	19.1	392	14.5	460	33.6	528	24.5	596	20.2	664	26.2	732	12.5
189	18.6	257	53.9	325	18.5	393	12.0	461	34.8	529	24.9	597	21.0	665	26.4	733	14.0
190	20.0	258	54.0	326	17.0	394	8.7	462	35.1	530	25.0	598	21.1	666	26.5	734	16.0
191	22.2	259	54.1	327	15.5	395	5.4	463	35.6	531	25.0	599	21.2	667	26.5	735	18.0
192	24.5	260	54.1	328	12.5	396	2.1	464	36.1	532	25.0	600	21.6	668	26.0	736	19.6
193	27.3	261	53.8	329	10.8	397	0.0	465	36.0	533	25.0	601	22.0	669	25.5	737	21.5
194	30.5	262	53.4	330	8.0	398	0.0	466	36.1	534	25.0	602	22.4	670	23.6	738	23.1
195	33.5	263	53.0	331	4.7	399	0.0	467	36.2	535	25.0	603	22.5	671	21.4	739	24.5
196	36.2	264	52.6	332	1.4	400	0.0	468	36.0	536	25.6	604	22.5	672	18.5	740	25.5

APPENDIX A—Continued

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
741	26.5	809	34.2	877	28.4	945	26.1	1,013	22.5	1,081	15.0	1,149	10.7	1,217	21.8	1,285	23.5
742	27.1	810	34.2	878	29.0	946	25.6	1,014	22.0	1,082	12.5	1,150	7.4	1,218	21.5	1,286	23.5
743	27.6	811	34.0	879	29.3	947	25.1	1,015	21.6	1,083	11.1	1,151	4.1	1,219	21.2	1,287	23.5
744	27.9	812	34.0	880	29.1	948	24.0	1,016	20.5	1,084	10.6	1,152	0.8	1,220	21.5	1,288	24.0
745	28.3	813	33.9	881	29.0	949	22.0	1,017	17.5	1,085	10.0	1,153	0.0	1,221	21.8	1,289	24.1
746	28.6	814	33.6	882	28.9	950	20.1	1,018	14.2	1,086	9.5	1,154	0.0	1,222	22.0	1,290	24.5
747	28.6	815	33.1	883	28.5	951	16.9	1,019	10.9	1,087	9.1	1,155	0.0	1,223	21.9	1,291	24.7
748	28.3	816	33.0	884	28.1	952	13.6	1,020	7.6	1,088	8.7	1,156	0.0	1,224	21.7	1,292	25.0
749	28.2	817	32.5	885	28.0	953	10.3	1,021	4.3	1,089	8.6	1,157	0.0	1,225	21.5	1,293	25.4
750	28.0	818	32.0	886	28.0	954	7.0	1,022	1.0	1,090	8.8	1,158	0.0	1,226	21.5	1,294	25.6
751	27.5	819	31.9	887	27.6	955	3.7	1,023	0.0	1,091	9.0	1,159	0.0	1,227	21.4	1,295	25.7
752	26.8	820	31.6	888	27.2	956	0.4	1,024	0.0	1,092	8.7	1,160	0.0	1,228	20.1	1,296	26.0
753	25.5	821	31.5	889	26.6	957	0.0	1,025	0.0	1,093	8.6	1,161	0.0	1,229	19.5	1,297	26.2
754	23.5	822	30.6	890	27.0	958	0.0	1,026	0.0	1,094	8.0	1,162	0.0	1,230	19.2	1,298	27.0
755	21.5	823	30.0	891	27.5	959	0.0	1,027	0.0	1,095	7.0	1,163	0.0	1,231	19.6	1,299	27.8
756	19.0	824	29.9	892	27.8	960	2.0	1,028	0.0	1,096	5.0	1,164	0.0	1,232	19.8	1,300	28.3
757	16.5	825	29.9	893	28.0	961	5.3	1,029	0.0	1,097	4.2	1,165	0.0	1,233	30.0	1,301	29.0
758	14.9	826	29.9	894	27.8	962	8.6	1,030	0.0	1,098	2.6	1,166	0.0	1,234	19.5	1,302	29.1
759	12.5	827	29.9	895	28.0	963	11.9	1,031	0.0	1,099	1.0	1,167	0.0	1,235	17.5	1,303	29.0
760	9.4	828	29.6	896	28.0	964	15.2	1,032	0.0	1,100	0.0	1,168	0.0	1,236	16.5	1,304	28.0
761	6.2	829	29.5	897	28.0	965	17.5	1,033	0.0	1,101	0.1	1,169	2.1	1,237	13.0	1,305	24.7
762	3.0	830	29.5	898	27.7	966	18.6	1,034	0.0	1,102	0.6	1,170	5.4	1,238	10.0	1,306	21.4
763	1.5	831	29.3	899	27.4	967	20.0	1,035	0.0	1,103	1.6	1,171	8.7	1,239	8.0	1,307	19.1
764	1.5	832	28.9	900	26.9	968	21.1	1,036	0.0	1,104	3.6	1,172	12.0	1,240	6.0	1,308	14.8
765	0.5	833	28.2	901	26.6	969	22.0	1,037	0.0	1,105	6.9	1,173	15.3	1,241	4.0	1,309	11.5
766	0.0	834	27.7	902	26.5	970	23.0	1,038	0.0	1,106	10.0	1,174	18.6	1,242	2.5	1,310	8.2
767	3.0	835	27.0	903	26.5	971	24.5	1,039	0.0	1,107	12.5	1,175	21.1	1,243	0.7	1,311	4.9
768	6.3	836	26.5	904	26.5	972	26.3	1,040	0.0	1,108	14.0	1,176	23.0	1,244	0.0	1,312	1.6
769	9.6	837	25.7	905	26.5	973	27.5	1,041	0.0	1,109	14.5	1,177	23.5	1,245	0.0	1,313	0.0
770	12.9	838	22.0	906	26.2	974	28.1	1,042	0.0	1,110	16.0	1,178	23.0	1,246	0.0	1,314	0.0
771	15.8	839	20.5	907	26.2	975	28.4	1,043	0.0	1,111	18.1	1,179	22.5	1,247	0.0	1,315	0.0
772	17.5	840	19.2	908	25.9	976	28.5	1,044	0.0	1,112	20.0	1,180	20.0	1,248	0.0	1,316	0.0
773	18.4	841	19.2	909	25.6	977	28.5	1,045	0.0	1,113	21.0	1,181	16.7	1,249	0.0	1,317	0.0
774	19.5	842	20.1	910	25.6	978	28.5	1,046	0.0	1,114	21.2	1,182	13.4	1,250	0.0	1,318	0.0
775	20.7	843	20.9	911	25.9	979	27.7	1,047	0.0	1,115	21.3	1,183	10.1	1,251	0.0	1,319	0.0
776	22.0	844	21.4	912	25.8	980	27.5	1,048	0.0	1,116	21.4	1,184	6.8	1,252	1.0	1,320	0.0
777	23.2	845	22.0	913	25.5	981	27.2	1,049	0.0	1,117	21.7	1,185	3.5	1,253	1.0	1,321	0.0
778	25.0	846	22.6	914	24.6	982	26.8	1,050	0.0	1,118	22.5	1,186	0.2	1,254	1.0	1,322	0.0
779	26.5	847	23.2	915	23.5	983	26.5	1,051	0.0	1,119	23.0	1,187	0.0	1,255	1.0	1,323	0.0
780	27.5	848	24.0	916	22.2	984	26.0	1,052	0.0	1,120	23.8	1,188	0.0	1,256	1.0	1,324	0.0
781	28.0	849	25.0	917	21.6	985	25.7	1,053	1.2	1,121	24.5	1,189	0.0	1,257	1.5	1,325	0.0
782	28.8	850	26.0	918	21.6	986	25.2	1,054	4.0	1,122	25.0	1,190	0.0	1,258	3.0	1,326	0.0
783	28.9	851	26.6	919	21.7	987	24.0	1,055	7.2	1,123	24.9	1,191	0.0	1,259	4.0	1,327	0.0
784	28.9	852	26.6	920	22.6	988	23.0	1,056	10.6	1,124	24.8	1,192	0.0	1,260	5.0	1,328	0.0
785	28.9	853	26.8	921	23.4	989	21.5	1,057	13.9	1,125	25.0	1,193	0.0	1,261	6.3	1,329	0.0
786	28.8	854	27.0	922	24.0	990	21.5	1,058	17.0	1,126	25.4	1,194	0.0	1,262	8.0	1,330	0.0
787	28.5	855	27.2	923	24.2	991	21.8	1,059	18.5	1,127	25.8	1,195	0.0	1,263	10.0	1,331	0.0
788	28.8	856	27.8	924	24.4	992	22.5	1,060	20.0	1,128	26.0	1,196	0.0	1,264	10.5	1,332	0.0
789	28.3	857	28.1	925	24.9	993	23.0	1,061	21.8	1,129	26.4	1,197	0.2	1,265	9.5	1,333	0.0
790	28.2	858	28.8	926	25.1	994	23.8	1,062	23.0	1,130	26.6	1,198	1.5	1,266	8.5	1,334	0.0
791	28.2	859	28.9	927	25.2	995	23.8	1,063	24.0	1,131	26.9	1,199	3.5	1,267	7.5	1,335	0.9
792	27.6	860	29.0	928	25.8	996	23.0	1,064	24.8	1,132	27.0	1,200	6.5	1,268	8.8	1,336	0.0
793	27.5	861	29.1	929	25.5	997	22.7	1,065	25.6	1,133	27.0	1,201	9.8	1,269	11.0	1,337	0.0
794	27.5	862	29.0	930	25.2	998	22.7	1,066	26.5	1,134	27.0	1,202	12.0	1,270	14.0	1,338	1.5
795	27.5	863	28.1	931	25.0	999	22.7	1,067	26.8	1,135	26.9	1,203	12.9	1,271	17.0	1,339	4.8
796	27.5	864	27.5	932	25.0	1,000	23.5	1,068	27.4	1,136	26.8	1,204	13.0	1,272	19.5	1,340	8.1
797	27.5	865	27.0	933	25.0	1,001	24.0	1,069	27.9	1,137	26.8	1,205	13.6	1,273	21.0	1,341	11.4
798	27.5	866	25.8	934	24.7	1,002	24.6	1,070	28.2	1,138	26.5	1,206	13.9	1,274	21.8	1,342	13.2
799	27.6	867	25.0	935	24.5	1,003	24.8	1,071	28.0	1,139	26.4	1,207	13.1	1,275	22.2	1,343	15.1
800	28.0	868	24.5	936	24.3	1,004	25.1	1,072	27.5	1,140	26.0	1,208	13.1	1,276	23.0	1,344	16.8
801	28.5	869	24.8	937	24.3	1,005	25.5	1,073	27.0	1,141	25.5	1,209	14.0	1,277	23.6	1,345	18.3
802	30.0	870	25.1	938	24.5	1,006	25.6	1,074	27.0	1,142	24.6	1,210	15.5	1,278	24.1	1,346	19.5
803	31.0	871	25.5	939	25.0	1,007	25.5	1,075	26.3	1,143	23.5	1,211	17.0	1,279	24.5	1,347	20.3
804	32.0	872	25.7	940	25.0	1,008	25.0	1,076	24.5	1,144	21.5	1,212	18.6	1,280	24.5	1,348	21.3
805	33.0	873	26.2	941	24.6	1,009	24.1	1,077	22.5	1,145	20.0	1,213	19.7	1,281	24.0	1,349	21.9
806	33.0	874	26.9	942	24.6	1,010	23.7	1,078	21.5	1,146	17.5	1,214	21.0	1,282	23.5	1,350	22.1
807	33.6	875	27.5	943	24.1	1,011	23.2	1,079	20.6	1,147	16.0	1,215	21.5	1,283	23.5	1,351	22.4
808	34.0	876	27.8	944	24.5	1,012	22.9	1,080	16.0	1,148	14.0	1,216	21.8	1,284	23.5	1,352	22.0

APPENDIX A—Continued

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
1,353	21.6	1,360	16.5	1,367	0.0
1,354	21.1	1,361	15.5	1,368	0.0
1,355	20.5	1,362	14.0	1,369	0.0

Where:

Q=Gas flow in standard cubic feet p
minute.

n=Pump speed in revolution per minu

See § 81.67 for remainder of definitio

APPENDIX A—Continued

Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)	Time (sec.)	Speed (m.p.h.)
1,353	21.6	1,360	16.5	1,367	0.0
1,354	21.1	1,361	15.5	1,368	0.0
1,355	20.5	1,362	14.0	1,369	0.0
1,356	20.0	1,363	11.0	1,370	0.0
1,357	19.6	1,364	8.0	1,371	0.0
1,358	18.5	1,365	5.2	1,372	0.0
1,359	17.5	1,366	2.5		

APPENDIX B

PROCEDURE FOR DYNAMOMETER ROAD HORSEPOWER CALIBRATION

This appendix describes the method for determining the road horsepower absorbed by a chassis dynamometer. The measured absorbed road horsepower includes the dynamometer friction as well as the power absorbed by the power absorption unit. The dynamometer is driven above the test speed range. The device used to drive the dynamometer is then disengaged from the dynamometer and the roll(s) is allowed to coast down. The kinetic energy of the system is dissipated by the dynamometer friction and absorption unit. This method neglects the variations in roll bearing friction due to the drive axle weight of the vehicle. The difference in coast down time of the free (rear) roll relative to the drive (front) roll may be neglected in the case of dynamometers with paired rolls.

This procedure shall be followed:

1. Devise a method to determine the speed of the drive roll if not already measured. A fifth wheel, revolution pickup or other suitable means may be used.

2. Place a vehicle on the dynamometer or devise another method of driving the dynamometer.

3. Engage inertia flywheel for the most common vehicle weight class for which the dynamometer is used.

4. Drive dynamometer up to 50 m.p.h.

5. Record indicated road horsepower.

6. Drive dynamometer up to 60 m.p.h.

7. Disengage the device used to drive the dynamometer.

8. Record the time for the dynamometer drive roll to coast down from 55 m.p.h. to 45 m.p.h.

9. Adjust the power absorption unit to a different level.

10. Repeat steps 4 to 9 above sufficient times to cover the range of road horsepower used.

11. Calculate absorbed road horsepower from:

$$HP_d = (1/2)\,(W_1/32.2)\,(V_1^2 - V_2^2)/(550t)$$

$$HP_d = 0.00073\,(W_1/t)$$

Where:

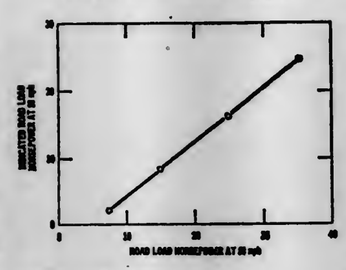
W_1 = Equivalent inertia in lb.

V_1 = Initial velocity in ft./sec. (55 m.p.h. = 80.67 ft./sec.).

V_2 = Final velocity in ft./sec. (45 m.p.h. = 66 ft./sec.).

t = Elapsed time for rolls to coast from 55 m.p.h. to 45 m.p.h.

12. Plot indicated road load horsepower at 50 m.p.h. versus road load horsepower at 50 m.p.h.



EXAMPLE: Dynamometer calibration curve

13. The road load horsepower reported in § 85.76 is obtained by entering the plot at the indicated road load horsepower determined in § 85.76, (c), (1), (ii).

14. Once the road load horsepower at 50 m.p.h. is known for a vehicle, it may be tested on other dynamometers using a similar calibration.

APPENDIX C

CONSTANT VOLUME SAMPLER FLOW CALIBRATION

The following procedure is used in Federal laboratories to calibrate the gas flow of constant volume samplers which use positive displacement pumps. First, the gas flow as a function of the pressure increase across the pump is determined. Second, the whole system, including the instruments, is checked to determine if it accounts for an amount of pure propane or carbon monoxide introduced into the system.

The following steps are followed to determine the gas flow as a function of the pressure increase across the pump, in cubic feet per pump revolution.

1. The pump inlet pressure depression during a typical test is determined.

2. A variable flow restrictor, such as a slide valve, is attached to the CVS at a point upstream of the sample point and the positive displacement pump. The dilution air filter system may or may not be in use during calibration, depending on the particular CVS design.

3. A flow measuring device (laminar flow element) is attached ahead of the flow restrictor.

4. The CVS is operated at several different pump inlet pressure settings (controlled by the flow restrictor) and the measurements as specified in § 85.82 (h), (j), (l), and (m), the time per test, and the measurements related to the flow device are recorded. The data points are equally spaced around the normal operating condition.

5. The gas flow, Q, at each test point is calculated in standard cubic feet per minute from the flow device data.

6. The gas flow (at pump inlet pressure and temperature) is calculated in cubic feet per revolution from the following:

$$Vo = \frac{Q}{n} \times \frac{T_p}{528} \times \frac{760}{P_p}$$

Where:

Q = Gas flow in standard cubic feet p... minute.

n = Pump speed in revolution per min...

See § 81.87 for remainder of definitio...

7. Vo is plotted versus pressure increa... across the pump, ΔP.

8. The flow measuring device is remov... and attached to the exit of the CVS. Steps ... 4, No. 5, No. 6 and No. 7 are repeated. If t... resulting two Vo versus ΔP plots differ sig... nificantly, the procedure is repeated with th... flow measuring device ahead of the flow re... strictor, steps being taken to eliminate th... leaks which caused the discrepancy in th... original data.

9. If the CVS exhaust system configuratio... and pressure are constant, the pressure inde... depression is substituted for the independe... variable, ΔP.

The following procedure is followed t... check the CVS calibration using a known ... quantity of injected gas. It assumes a reliabl... analyzer calibration.

1. A small cylinder is charged with pu... propane or carbon monoxide gas.

2. The cylinder is weighed.

3. The CVS is operated in the normal man... ner and a quantity of pure propane or carbo... monoxide is released into the system.

4. The calculations of § 85.87 are per... formed in the normal way except the densit... of propane (17.30 grams/cu. ft./carbon atom) ... is used in place of the density of exhaust ... hydrocarbons.

5. The CVS measured mass is compared t... the gravimetric measured mass.

6. The reason for any discrepancy is found ... and corrected.

APPENDIX D

DURABILITY DRIVING SCHEDULE

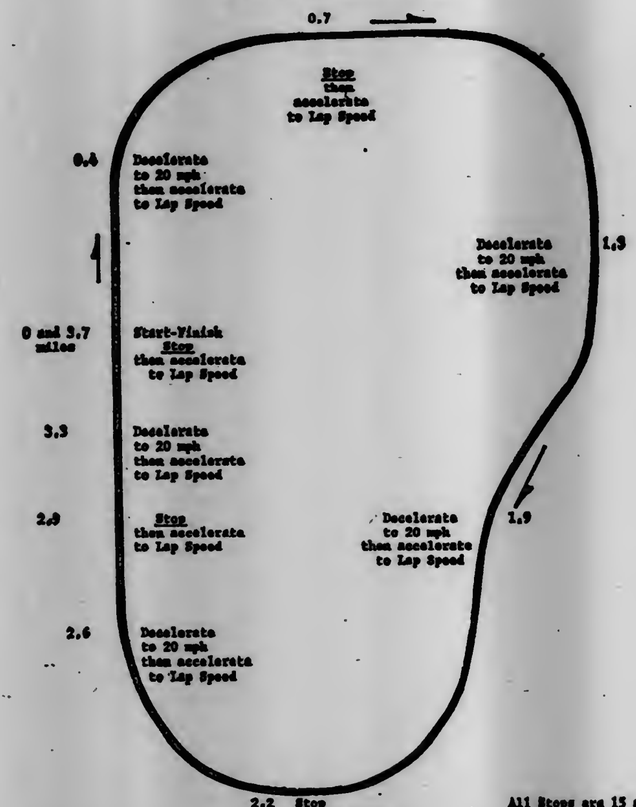
The schedule consists basically of 11 laps ... of 3.7 mile course. The basic vehicle speed ... for each lap is listed below:

Lap	Speed-m.p.h.
1	40
2	30
3	40
4	40
5	35
6	30
7	35
8	45
9	35
10	55
11	70

During each of the first nine laps there are ... 4 stops with 15 second idle. Normal accelera... tions and decelerations are used. In addi... tion, there are 5 light decelerations each lap ... from the base speed to 20 m.p.h. followed by ... light accelerations to the base speed.

The 10th lap is run at a constant speed o... 55 m.p.h.

The 11th lap is begun with a wide open ... throttle acceleration from stop to 70 m.p.h. ... A normal deceleration to idle followed by a ... second wide open throttle acceleration oc... curs at the mid-point of the lap.



All Stops are 15 sec.

APPENDIX E—OXIDES OF NITROGEN ANALYTICAL SYSTEM

The chemiluminescence method utilizes the principle that nitric oxide (NO) reacts with ozone (O_3) to give nitrogen dioxide (NO_2) and oxygen (O_2). Approximately 10 percent of the NO_2 is electronically excited. The transition of excited NO_2 to the ground state yields a detectable light emission (590–690 nanometer region) at low pressures. The intensity of this emission is proportional to the mass flow rate of NO into the reactor. The light emission can be measured utilizing a photomultiplier tube and associated electronics.

The method also utilizes the principle that the thermal decomposition of NO_2 ($2NO_2 \rightarrow 2NO + O_2$) is complete at about 600° C. The rate of constant for the dissociation of NO_2 at 600° C. is approximately 10^3 (liters/mole-second). A 6-foot length of one-eighth inch outside diameter, 0.026 wall thickness, flawless stainless steel tubing resistance heated using a low voltage, high current power supply to a temperature of 650° C. (1200° F.) provides sufficient residence time at a sample flow rate of 700 cc. per minute (1.5 c.f.h.) for essentially complete conversion of nitrogen dioxide to nitric oxide. Other converter designs may be used if shown to yield essentially 100 percent conversion of NO_2 to NO.

The method permits continuous monitoring of NO_x concentrations over a wide range. Response time (2 to 4 seconds is typical) is primarily dependent on the mechanical pumping rate at the operating pressure of the reactor. The operating pressure of the reactor is generally less than 5 torr.

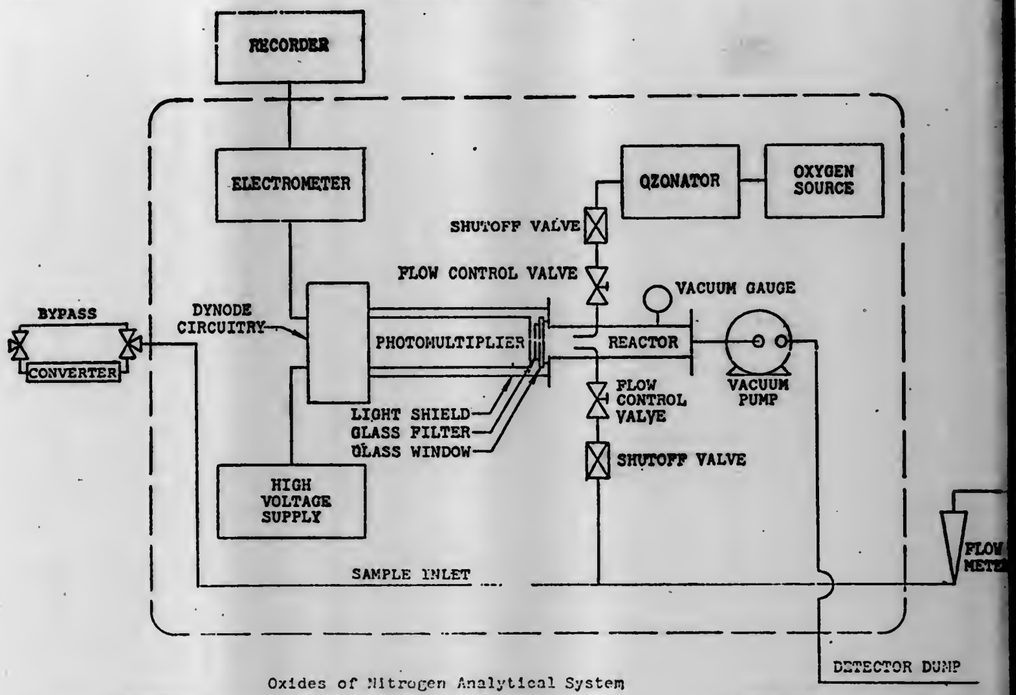
The following figure is a flow schematic illustrating one configuration of the major components required for the oxides of nitrogen analytical system.

Sec.
104.19 Presentation of standards and supporting material by the Environmental Protection Agency.
104.20 Hearing procedure.
104.21 Record of proceedings.

grams, or the Deputy Assistant Administrator for Water Programs, in the Environmental Protection Agency or such other employee of that Agency as the Administrator may appoint.

§ 104.7 Publication of notice.

Notice of the water quality standards-setting conference shall be published in the FEDERAL REGISTER at least thirty (30) days prior to the conference.



Oxides of Nitrogen Analytical System

APPENDIX F

VEHICLE AND ENGINE COMPONENTS

A. Gasoline Fueled Light Duty Vehicles and Heavy Duty Engines.

I. Basic Mechanical Components—Engine:
1. Intake and exhaust valves.
2. Drive belts.
3. Manifold and cylinder head bolts.
4. Engine oil and filter.
5. Engine coolant.
6. Cooling system hoses and connections.
7. Vacuum fittings, hoses and connections.

II. Fuel System
1. Fuel specification—octane rating, lead content.
2. Carburetor—idle r.p.m., mixture ratio.
3. Choke mechanism.
4. Fuel system filter and fuel system lines and connections.
5. Choke plate and linkage.

III. Ignition Components
1. Ignition timing and advance systems.
2. Distributor breaker points and condenser.
3 Spark plugs.
4. Ignition wiring.
5. Operating parts of distributor.

IV. Crankcase Ventilation System:
1. PCV valve.
2. Ventilation hoses.
3. Oil filler breather cap.
4. Manifold inlet (carburetor spacer, etc).

V. External Exhaust Emission Control System:
1. Secondary air injection system hoses.
2. Air system manifolds.
3. Control valves and air pump.
4. Manifold reactors.
5. Catalytic mufflers.
6. Exhaust recirculation.
7. Water injection.

VI. Evaporative Emission Control System:
1. Engine compartment hose connections.
2. Carbon storage media.
3. Fuel tank pressure-relief valve operation.
4. Fuel vapor control valves.

VII. Air Inlet Components
1. Carburetor air cleaner filter.
2. Hot air control valve.

B. Heavy Duty Diesel Engines.

I. Engine Mechanical Components:
1. Valve train.
2. Cooling system.
a. Coolant.
b. Thermostat.
c. Filter.
3. Lubrication.
a. Oil Filter.
b. Lubricant.

II. Fuel System:
1. Fuel type.
2. Fuel pump.
3. Fuel filters.
4. Injectors.
5. Governor.

III. Air Inlet Components:
1. Air cleaner.
2. Inlet ducting.

IV. External Exhaust Emission Control System
1. Rack limiting devices (aneroid, throttle delay, etc.)
2. Manifold reactor.
3. Catalytic mufflers.
4. Exhaust recirculation.
5. Water injection.

SUBCHAPTER D—WATER PROGRAM

PART 104—STANDARDS-SETTING CONFERENCES, HEARINGS, AND NOTIFICATION OF ALLEGED VIOLATORS OF WATER QUALITY STANDARDS

Sec.
104.1 Applicability.
104.2 Definitions.
104.3 Initiation of proceedings for conferences; appointment of chairman.
104.4 Organization and general procedures of the conference.
104.5 Notice of conference.
104.6 Service.
104.7 Publication of notice.
104.8 Parties.
104.9 Presentation of material by the Environmental Protection Agency.
104.10 Conference procedure.
104.11 Record of proceedings.
104.12 Preparation, publication, and promulgation of water quality standards; effective date; petition for public hearing.
104.13 Initiation of proceedings for water quality public hearings; appointment of Hearing Board.
104.14 Organization and general procedure of the Hearing Board.
104.16 Notice of hearing.
104.16. Service.
104.17 Publication of notice.
104.18 Parties.
104.19 Presentation of standards and supporting material by the Environmental Protection Agency.
104.20 Hearing procedure.
104.21 Record of proceedings.
104.22 Oral argument.
104.23 Final findings and recommendations.
104.24 Notification of alleged violators of water quality standards.

AUTHORITY: The provisions of this Part 104 issued under sec. 10, 70 Stat. 508, as amended; 33 U.S.C. 1160. Interpret or apply sec. 10(c), 79 Stat. 908, 33 U.S.C. 1160(c).

§ 104.1 Applicability.

The provisions of this part apply to proceedings under section 10(c) (2), (4), and (5) of the Federal Water Pollution Control Act, as amended (79 Stat. 908; 33 U.S.C. 1160(c) (2), (4), and (5)).

§ 104.2 Definitions.

(a) "Act" means the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151 et seq.).

(b) "Chairman" means the Chairman appointed by the Administrator to conduct the conference pursuant to section 10(c)(2) of the Act (33 U.S.C. 1160(c)(2)).

(c) "Agency" means the Environmental Protection Agency.

(d) "Administrator" means the Administrator of the Environmental Protection Agency.

(e) "Assistant Administrator for Media Programs" means the Assistant Administrator for Media Programs in the Environmental Protection Agency.

(f) "Deputy Assistant Administrator for Water Programs" means Deputy Assistant Administrator for Water Programs in the Environmental Protection Agency.

(g) "Water Quality Standards" mean water quality criteria applicable to specific interstate waters and a plan for the implementation and enforcement of such criteria, all of which shall be such as to protect the public health or welfare, enhance the quality of water and serve the purposes of the Act, taking into consideration the use and value of such waters for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial and other legitimate uses.

(h) The definitions of terms contained in subsection 10(j) and section 23 of the Act shall be applicable to such terms as used in this part unless the context otherwise requires.

§ 104.3 Initiation of proceedings for conferences; appointment of chairman.

(a) In any case where the Administrator finds that the conditions precedent to his establishment of water quality standards exist, he will give notice of his intention to do so and call a conference in connection therewith. He may fix the time and place of such conference in his notice of intention to establish water quality standards or he may authorize his designee to do so.

(b) The Chairman of such conference shall be the Administrator, or the Assistant Administrator for Media Programs, or the Deputy Assistant Administrator for Water Programs, in the Environmental Protection Agency or such other employee of that Agency as the Administrator may appoint.

§ 104.4 Organization and general procedures of the conference.

(a) The Chairman shall convene the conference and schedule such other meetings as may be necessary, including meetings for the settlement or simplification of issues.

(b) The Chairman shall preside at all conference sessions and meetings called by him.

(c) The conference shall be conducted in an informal but orderly manner in accordance with this part. Questions of procedure during a conference shall be determined by the Chairman.

(d) The Office of Water Programs in the Environmental Protection Agency shall provide such clerical and technical assistance as may be necessary.

(e) The Chairman shall maintain and have custody of all official records and documents pertaining to the conference and shall perform such other duties related to the functioning of the conference as may be necessary.

(f) The Chairman shall execute, issue or serve such notices, reports, communications, and other documents relating to the functions of the conference as he may deem proper.

§ 104.5 Notice of conference.

(a) The Administrator or the Assistant Administrator for Media Programs or the Deputy Assistant Administrator for Water Programs shall issue and serve notice of a conference as herein provided including the time and place of the conference.

(b) The notice of conference shall briefly describe the location and nature of the interstate waters to be covered by the conference.

(c) The notice shall include the name of the Chairman before whom the conference will be conducted upon a day and at a time and place specified not earlier than thirty (30) days after the service of the notice.

(d) Notice of the conference shall be served on representatives of Federal departments and agencies, interstate agencies, States, municipalities, and industries the Administrator, the Assistant Administrator for Media Programs or the Deputy Assistant Administrator for Water Programs has reason to believe are contributing to, affected by, or have an interest in water quality standards for the waters to be covered by the conference.

§ 104.6 Service.

Notice of the conference may be served by mailing a copy thereof to each person, department, or agency to be served at their residence, office or place of business as ascertained by the Administrator, the Assistant Administrator for Media Programs or the Deputy Assistant Administrator for Water Programs, as the case may be. Service by mail is complete upon mailing.

§ 104.7 Publication of notice.

Notice of the water quality standards-setting conference shall be published in the FEDERAL REGISTER at least thirty (30) days prior to the conference.

§ 104.8 Parties.

(a) The parties to a conference shall include the persons, departments, and agencies specified in § 104.5(d).

(b) The Chairman shall have all the rights of a party to the conference.

(c) Upon application and good cause shown, the Chairman may permit any interested Federal departments and agencies, interstate agencies, States, municipalities, industries or other persons to appear at the conference and be admitted as parties to such extent and upon such terms as the Chairman shall determine proper.

(d) Any party may appear in person or by counsel.

(e) The failure of any party to file an appearance or appear at the conference in response to the notice of conference shall not delay the conference and the Chairman shall proceed, hear, receive statements, make determinations and take other appropriate action affecting such party.

§ 104.9 Presentation of material by the Environmental Protection Agency.

The Administrator, the Assistant Administrator for Media Programs or the Deputy Assistant Administrator for Water Programs shall arrange for the presentation of material concerning the quality of waters to be covered by the conference, the uses, both existing and potential, of such waters, the criteria necessary to protect such uses, the person or persons, if any, contributing or discharging any matter affecting the quality of such waters, and remedial measures, if any, recommended by the Environmental Protection Agency.

§ 104.10 Conference procedure.

(a) Persons making statements need not be sworn or make affirmation. Each party shall be given an opportunity to make a statement concerning the water quality standards for the waters covered by the conference, an opportunity after all parties have been heard to make a further statement which may include comments on or rebuttal of other parties' views, and an opportunity to make recommendation for water quality standards in either his first or subsequent statement.

(b) When necessary, in order to prevent undue prolongation of the conference, the Chairman may limit the number of times any party may make a statement and may direct that further statements be made in writing.

(c) The Chairman shall exclude irrelevant, immaterial or unduly repetitious material.

§ 104.11 Record of proceedings.

(a) Statements given and other procedures of a formal conference shall be reported verbatim. A transcript of such report shall be a part of the record and

the sole official transcript of the proceedings.

(b) All statements, charts, tabulations and other data shall be received in the

Administrator to call a public hearing with respect to water quality standards under section 10(c) (4) of the Act, identifying the interstate waters with respect

technical assistance as may be necessary.

(f) The Hearing Board shall designate an executive secretary, from personnel provided by the Deputy Assistant

any interested person or agency to appear before it and be admitted as a party to such extent and upon such terms as the Hearing Board shall determine

§ 104.22 Oral argument.

Oral argument may be permitted in the discretion of the Hearing Board, and shall be reported as part of the record

§ 106.1 Applicability.

The provisions of this part apply to proceedings under section 10 of the Federal Water Pollution Control Act (70 Stat. 504; 33 U.S.C. 1160.)

the sole official transcript of the proceedings.

(b) All statements, charts, tabulations and other data shall be received in the record. If a party to a proceeding under this section objects to the admissibility of such material, the objection shall be noted and the Chairman shall have a right to rule thereon.

(c) When the statement refers to a statute, or a report or document, the Chairman shall, after satisfying himself of the identification of such statute, report or document, determine whether the same shall be produced at the conference and physically be made part of the record or shall be incorporated in the record by reference.

(d) The Chairman may take official notice of statutes of States and of duly promulgated regulations of any Federal or State agency.

(e) The Chairman shall submit to the Administrator the verbatim transcript including all charts, tabulations, and similar data which are part of the conference record.

§ 104.12 Preparation, publication, and promulgation of water quality standards; effective date; petition for public hearing.

(a) Subsequent to submission of the conference transcript and record, the Administrator shall prepare regulations setting forth water quality standards for interstate waters or portions thereof which were covered by the conference. Such regulations shall be published as part of a notice of proposed rule making in the FEDERAL REGISTER.

(b) After publication of such regulations and notice of proposed rule making, interested persons may submit written data, views, or arguments in triplicate in regard to the regulations setting forth water quality standards to the Administrator, Environmental Protection Agency, Washington, D.C. 20460. All relevant material received not later than 90 days after such publication will be considered.

(c) If, within 6 months from the date the Administrator publishes such regulations, the State has not adopted water quality standards found by the Administrator to be consistent with section 10(c)(3) of the Act, or a petition for public hearing has not been filed under section 10(c)(4) of the Act and § 104.12(d), the Administrator shall promulgate water quality standards by publication thereof in the FEDERAL REGISTER. Such water quality standards shall be effective thirty (30) days after such publication unless a petition for public hearing has been first filed under section 10(c)(4) of the Act and § 104.12(d).

(d) At any time prior to thirty (30) days after water quality standards have been promulgated under § 104.12(c), the Governor of any State affected by such standards may petition the Administrator for a public hearing under section 10(c)(4) of the Act. A petition for a public hearing need not observe any fixed form, but it must be in writing directed to the Administrator and state that the petitioning Governor desires the Administrator to call a public hearing with respect to water quality standards under section 10(c)(4) of the Act, identifying the interstate waters with respect to which such hearing is to be called.

§ 104.13 Initiation of proceedings for water quality public hearings; appointment of Hearing Board.

(a) In any case where the Administrator finds that the conditions precedent to the calling of a water quality public hearing under the Act exist, he will call such a hearing, and may either fix the time and place thereof, or authorize the Assistant Administrator for Media Programs or the Deputy Assistant Administrator for Water Programs to do so.

(b) Prior to the hearing, the Administrator will appoint a Hearing Board of five or more persons, as provided in the Act, and will designate one of the members as chairman. A majority of the Hearing Board shall be persons other than officers or employees of the Agency. The Administrator may revoke appointment to the Hearing Board in the event of disability of a member or for other cause, and may fill any vacancy in the membership of the Hearing Board, or in the office of Chairman. The Secretary of Commerce, the Secretary of Health, Education, and Welfare, other affected Federal departments and agencies, and each State which would be affected by such standards shall each be given an opportunity to select a member of the Hearing Board and shall further be given an opportunity to select another person to fill any vacancy resulting from the resignation or revocation of appointment of any member originally so selected.

§ 104.14 Organization and general procedures of the Hearing Board.

(a) The Chairman shall convene the Hearing Board for hearing sessions and for such other meetings as may be necessary.

(b) The Chairman shall preside at all hearing sessions and meetings of the Hearing Board. In case of the absence or incapacity of the Chairman, the Hearing Board may elect from its members an acting chairman to preside and to perform the duties of the Chairman.

(c) The hearing shall be conducted in an informal but orderly manner in accordance with this part. A quorum of the Hearing Board for the purpose of the hearing shall consist of not less than five members. Questions of procedure during a hearing shall be determined by the Chairman. Rulings of the Chairman may be appealed to the Hearing Board.

(d) The Hearing Board shall have the power to rule upon offers of proof and the admissibility of evidence, to receive relevant evidence, to examine witnesses and parties, to regulate the course of the hearing, to change the time and place of the hearing or any of its sessions upon reasonable notice to the parties, and to hold conferences for the settlement or simplification of issues.

(e) The Deputy Assistant Administrator for Water Programs shall provide for the Hearing Board such clerical and technical assistance as may be necessary.

(f) The Hearing Board shall designate an executive secretary, from personnel provided by the Deputy Assistant Administrator for Water Programs, who shall maintain and have custody of all official records and other documents pertaining to the functions of the Hearing Board, and shall perform such other duties related to its functions as the Hearing Board may prescribe.

(g) The Hearing Board may authorize the Chairman and the executive secretary on its behalf to execute, issue or serve such notices, reports, communications, and other documents relating to the functions of the Hearing Board as it may deem proper.

§ 104.15 Notice of hearing.

(a) The Administrator, Assistant Administrator for Media Programs, or the Deputy Assistant Administrator for Water Programs shall issue and serve notice of hearing as herein provided.

(b) The notice of hearing shall briefly describe the location and nature of the interstate waters to be covered by the hearing and the water quality regulations therefor, if any, prepared pursuant to section 10(c)(2) of the Act.

(c) The notice shall include the names of the persons constituting the Hearing Board before whom the hearing will be held and shall designate a day, a time and place therefor not earlier than thirty (30) days after the service of the notice.

(d) Notice of the hearing shall be served on representatives of Federal departments and agencies, interstate agencies, States, municipalities and industries the Administrator, Assistant Administrator for Media Programs, or the Deputy Assistant Administrator for Water Programs has reason to believe are contributing to, affected by, or have an interest in water quality standards for the waters to be covered by the hearing.

§ 104.16 Service.

Notice of the hearing and other documents relating to the function of the hearing may be served by mailing a copy thereof to each person, department, or agency to be served at their residence, office or place of business as ascertained by the Administrator, Assistant Administrator for Media Programs, or the Deputy Assistant Administrator for Water Programs, as the case may be. Service by mail is complete upon mailing.

§ 104.17 Publication of notice.

Notice of the public hearing shall be published in the FEDERAL REGISTER at least thirty (30) days prior to the hearing.

§ 104.18 Parties.

(a) The parties to a hearing shall include the persons and agencies specified in § 104.15(d).

(b) The Deputy Assistant Administrator for Water Programs shall have all the rights of a party to the hearing.

(c) Upon application and good cause shown, the Hearing Board may permit any interested person or agency to appear before it and be admitted as a party to such extent and upon such terms as the Hearing Board shall determine proper.

(d) Any party may appear in person or by counsel.

(e) The failure of any party to file an appearance or appear at the hearing in response to the notice of hearing shall not delay the hearing and the Hearing Board may proceed, hear and receive evidence and take other appropriate action affecting such party.

§ 104.19 Presentation of standards and supporting material by the Deputy Assistant Administrator for Water Programs.

The Deputy Assistant Administrator for Water Programs shall arrange for the presentation of the regulations, if any, prepared by the Administrator and setting forth the standards of water quality for the waters covered by the hearing, and such other material as he deems relevant to the issues in the hearing.

§ 104.20 Hearing procedure.

(a) Each witness shall, before testifying, be sworn or make affirmation.

(b) When necessary, in order to prevent undue prolongation of the hearing, the Hearing Board may limit the number of times any witness may testify, the repetitious examination or cross-examination of witnesses or the amount of corroborative or cumulative testimony.

(c) The Hearing Board shall exclude irrelevant, immaterial or unduly repetitious evidence.

(d) Every party shall have the right to present evidence and cross-examine witnesses.

§ 104.21 Record of proceedings.

(a) Testimony given and other proceedings had at a hearing shall be reported verbatim. A transcript of such report shall be a part of the record and the sole official transcript of the proceedings.

(b) All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall, upon a showing satisfactory to the Hearing Board of their authenticity, relevancy, and materiality, be received in evidence and shall constitute a part of the record.

(c) Where the testimony of a witness refers to a statute, or a report or document, the Hearing Board shall, after satisfying itself of the identification of such statute, report or document, determine whether the same shall be produced at the hearing and physically be made a part of the record or shall be incorporated in the record by reference.

(d) The Hearing Board may take official notice of statutes of the United States or of any State and of duly promulgated regulations of any Federal or State agency.

(e) The Hearing Board may take official notice of a material fact not appearing in the evidence in the record, but any party, prior to the conclusion of the hearing, shall be afforded an opportunity to show the contrary.

§ 104.22 Oral argument.

Oral argument may be permitted in the discretion of the Hearing Board, and shall be reported as part of the record unless otherwise ordered by the Hearing Board.

§ 104.23 Final findings and recommendations.

(a) The Hearing Board shall make its final findings, conclusions, and recommendations, if any, based on the evidence presented at the hearing, and submit the same to the Administrator.

(b) Upon submission of such findings, conclusions, and recommendations, the Hearing Board shall be terminated and all records pertaining to its functions transferred to the custody of the Deputy Assistant Administrator for Water Programs.

(c) A copy of the findings, conclusions, and recommendations, if any, of the Hearing Board shall be served on all parties to the hearing by the Administrator and the Administrator shall cause their publication in the FEDERAL REGISTER.

§ 104.24 Notification of alleged violators of water quality standards.

The Administrator shall notify those persons responsible for the discharge of matter into interstate waters or portions thereof which is not in compliance with the water quality standards established under section 10 of the Act (whether the matter causing or contributing to such violation is discharged directly into such waters or reaches such waters after discharge into tributaries of such waters) and other interested parties of the alleged violation of such standards. In all such notices, the Administrator shall designate a time when and place where any person receiving such notice may appear before and participate in an informal hearing before the Administrator, his designee, or such Board as he may appoint relative to the alleged violation of standards so that, if possible, there can be voluntary agreement reached as to appropriate remedial action.

PART 106—PUBLIC HEARINGS UNDER THE FEDERAL WATER POLLUTION CONTROL ACT

Sec.
- 106.1 Applicability.
- 106.2 Definitions.
- 106.3 Initiation of proceedings for public hearings; appointment of Board.
- 106.4 Organization and general procedures of the Board.
- 106.5 Notice of hearing.
- 106.6 Service.
- 106.7 Publication of notice.
- 106.8 Parties.
- 106.9 Presentation of evidence by the Environmental Protection Agency.
- 106.10 Hearing procedure.
- 106.11 Records of proceedings.
- 106.12 Oral argument.
- 106.13 Final findings and recommendations.

AUTHORITY: The provisions of this Part 106 issued under sec. 10, 70 Stat. 505, 506; 33 U.S.C. 1160.

§ 106.1 Applicability.

The provisions of this part apply to proceedings under section 10 of the Federal Water Pollution Control Act (70 Stat. 504; 33 U.S.C. 1160.)

§ 106.2 Definitions.

As used in this part:

(a) "Act" means the Federal Water Pollution Control Act, 70 Stat. 498, 33 U.S.C. 1151, et seq.

(b) "Board" means the board appointed by the Administrator pursuant to section 10 of the Act (33 U.S.C. 1160).

(c) "Agency" means the Environmental Protection Agency.

(d) "Pollution" means any pollution declared to be subject to abatement by section 10 of the Act (33 U.S.C. 1160).

(e) "Administrator" means the Administrator of the Environmental Protection Agency.

(f) "Deputy Assistant Administrator for Water Programs" means the Deputy Assistant Administrator for Water Programs in the Environmental Protection Agency.

(g) The definitions of terms contained in section 10 of the Act (33 U.S.C. 1160) shall be applicable to such terms as used in this part unless the context otherwise requires.

§ 106.3 Initiation of proceedings for public hearings; appointment of Board.

(a) In any case where the Administrator finds that the conditions precedent to the calling of a public hearing under the Act exist, he will call such a hearing, and may either fix the time and place thereof, or authorize the Deputy Assistant Administrator for Water Programs to do so.

(b) Prior to the hearing, the Administrator will appoint a hearing board of five or more persons, as provided in the act, and will designate one of the members as chairman. A majority of the Board shall be persons other than officers or employees of the Agency. The Administrator may revoke appointment to the Board in the event of disability of a member, and may fill any vacancy in the membership of the Board, or in the office of chairman.

§ 106.4 Organization and general procedures of the Board.

(a) The chairman shall convene the Board for hearing sessions and for such other meetings as may be necessary.

(b) The chairman shall preside at all hearing sessions and meetings of the Board. In case of the absence or incapacity of the chairman, the Board may elect from its members an acting chairman to preside and perform the duties of the chairman.

(c) The hearing shall be conducted in an informal but orderly manner in accordance with this part. A quorum of the Board for the purpose of the hearing shall consist of not less than five members. Questions of procedure during a hearing shall be determined by the

chairman. Rulings of the chairman may be appealed to the Board.

(d) The Board shall have the power to rule upon offers of proof and the ad-

§ 106.7 Publication of notice.

Notice of the public hearing shall be published in the FEDERAL REGISTER at least three (3) weeks prior to the

part of the record or shall be incorporated in the record by reference.

(d) The Board may take official notice of statutes of the United States or of

(b) "Agency" means the Environmental Protection Agency.

(c) "Administrator" means the Administrator of the Environmental Pro-

characteristics of the discharges and the level of heat in flow shall be included in the reported data. Where available in existing data, twenty-four (24) hour

processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or

chairman. Rulings of the chairman may be appealed to the Board.

(d) The Board shall have the power to rule upon offers of proof and the admissibility of evidence, to receive relevant evidence, to examine witnesses, to regulate the course of the hearing, to change the time and place of the hearing or any of its sessions upon reasonable notice to the parties, and to hold conferences for the settlement or simplification of issues.

(e) The Deputy Assistant Administrator for Water Programs shall provide for the Board such clerical and technical assistance as may be necessary.

(f) The Board shall designate an executive secretary, from personnel provided by the Deputy Assistant Administrator for Water Programs, who shall maintain and have custody of all official records and other documents pertaining to the functions of the Board, and shall perform such other duties related to its functions as the Board may prescribe.

(g) The Board may authorize the chairman and the executive secretary on its behalf to execute, issue or serve such notices, reports, communications, and other documents relating to the functions of the Board as it may deem proper.

§ 106.5 Notice of hearing.

(a) The Deputy Assistant Administrator for Water Programs shall issue and serve notice of hearing as herein provided and, if the time and place of the hearing have not been fixed by the Administrator, shall fix such time and place.

(b) The notice of hearing shall identify the person or persons discharging any matter causing or contributing to the pollution, and briefly describe the nature of the discharge or discharges and the interstate waters affected thereby. The notice shall include the names of the persons constituting the Board before whom the hearing will be held upon a day and at a time and place specified not earlier than three (3) weeks after the service of the notice.

(c) Notice of hearing shall be served on the following:

(1) Each person named in the notice as discharging any matter causing or contributing to pollution; and the water pollution control agency or interstate agency to whom formal notification of such pollution has previously been given in accordance with the Act.

(2) The water pollution control agency or the interstate agency of the State or States, other than that in which the discharge originates, claiming to be adversely affected by such pollution.

§ 106.6 Service.

Notice of hearing, findings, conclusions and recommendations of the Board, and any other documents relating to the functions of the Board, may be served by mailing a copy thereof addressed to each person or agency to be served at their respective residences, offices or place of business as ascertained by the Deputy Assistant Administrator for Water Programs or the Board, as the case may be.

§ 106.7 Publication of notice.

Notice of the public hearing shall be published in the FEDERAL REGISTER at least three (3) weeks prior to the hearing.

§ 106.8 Parties.

(a) The parties to a hearing shall include the persons and agencies specified in § 106.5(c).

(b) The Deputy Assistant Administrator for Water Programs shall have all the rights of a party to the hearing.

(c) Upon application and good cause shown, the Board may permit any interested person or agency to appear before it and be admitted as a party to such extent and upon such terms as the Board shall determine proper.

(d) Any party may appear in person or by counsel.

(e) The failure of any party to file an appearance or appear at the hearing in response to the notice of hearing shall not delay the hearing and the Board may proceed, hear and receive evidence and take other appropriate action affecting such party.

§ 106.9 Presentation of evidence by the Deputy Assistant Administrator for Water Programs.

The Deputy Assistant Administrator for Water Programs shall arrange for the presentation of evidence concerning the pollution, the person or persons discharging any matter causing or contributing to the pollution and remedial measures, if any, recommended by him.

§ 106.10 Hearing procedure.

(a) Each witness shall, before testifying, be sworn or make affirmation.

(b) When necessary, in order to prevent undue prolongation of the hearing, the Board may limit the number of times any witness may testify, the repetitious examination or cross-examination of witnesses or the amount of corroborative or cumulative testimony.

(c) The Board shall exclude irrelevant, immaterial or unduly repetitious evidence.

(d) Every party shall have the right to present evidence and cross-examine witnesses.

§ 106.11 Record of proceedings.

(a) Testimony given and other proceedings had at a hearing shall be reported verbatim. A transcript of such report shall be a part of the record and the sole official transcript of the proceedings.

(b) All written statements, charts, tabulations and similar data offered in evidence at the hearing shall, upon a showing satisfactory to the Board of their authenticity, relevancy and materiality, be received in evidence and shall constitute a part of the record.

(c) Where the testimony of a witness refers to a statute, or a report or document, the Board shall, after satisfying itself of the identification of such statute, report or document, determine whether the same shall be produced at the hearing and physically be made a part of the record or shall be incorporated in the record by reference.

(d) The Board may take official notice of statutes of the United States or of any State and of duly promulgated regulations of any Federal agency.

(e) The Board may take official notice of a material fact not appearing in the evidence in the record, but any party, prior to the conclusion of the hearing, shall be afforded an opportunity to show the contrary.

§ 106.12 Oral argument.

Oral argument may be permitted in the discretion of the Board, and shall be reported as part of the record unless otherwise ordered by the Board.

§ 106.13 Final findings and recommendations.

(a) The Board shall make its final findings, conclusions and recommendations, if any, based on the evidence presented at the hearing, and submit the same to the Administrator.

(b) Upon submission of such findings, conclusions and recommendations, the Board shall be terminated and all records pertaining to its functions transferred to the custody of the Deputy Assistant Administrator for Water Programs.

(c) A copy of the findings, conclusions, and recommendations, if any, of the Board shall be served on all parties to the hearing by the Administrator.

PART 107—FILING OF REPORTS WITH THE ADMINISTRATOR BY PERSONS WHOSE ALLEGED ACTIVITIES RESULT IN DISCHARGES CAUSING OR CONTRIBUTING TO WATER POLLUTION

Sec.
107.1 Applicability.
107.2 Definitions.
107.3 Initiation of request for report.
107.4 Service.
107.5 Report; form and content, time for submission.
107.6 Protection of trade secrets; confidential information.
107.7 Penalties.

AUTHORITY: The provisions of this Part 107 issued under sec. 10(k) as amended, 80 Stat. 1250; sec. 22(a), as amended, 78 Stat. 204; 33 U.S.C. 1160(k), 1172(a).

§ 107.1 Applicability.

The provisions of this part apply to reports requested or required by the Administrator to be filed with him by any person whose alleged activities result in discharges causing or contributing to water pollution. The Administrator is authorized to request such reports to be filed at the request of a majority of the conferees in any conference and to require such reports in connection with any hearing called under section 10 of the Federal Water Pollution Control Act, as amended. (80 Stat. 1250; 33 U.S.C. 1160 (f) (2), (3), and (4), and (k))

§ 107.2 Definitions.

(a) "Act" means the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151 et seq.).

(b) "Agency" means the Environmental Protection Agency.

(c) "Administrator" means the Administrator of the Environmental Protection Agency.

(d) The definitions of terms contained in sections 10 and 23 of the act shall be applicable to such terms as used in this part unless the context otherwise requires.

§ 107.3 Initiation of request for report.

(a) The Administrator at the request of a majority of the conferees in any conference may request, or in connection with any public hearing called under section 10 of the Federal Water Pollution Control Act, as amended, may require any person whose alleged activities result in discharges causing or contributing to water pollution of the subject waters of such conference or public hearing to file with him a report as to the character, kind and quantity of such discharges and the use of facilities or other means to prevent or reduce such discharges by the person filing such report.

(b) When the Administrator finds that the conditions precedent to the requesting or requiring of such report or reports have been met he may request or require in writing the submission to him of such report in the time, form and content as herein provided.

(c) The request for or requirement of such report shall be served on any person whose alleged activities result in discharges causing or contributing to the pollution of waters in the matter of which the conference or the public hearing has been called.

§ 107.4 Service.

The written request for or requirement of such report may be served by mailing a copy thereof to the person whose alleged activities result in discharges causing or contributing to the pollution of waters subject to the conference or to the public hearing, or in the case of a corporation, partnership, association, State, municipality, other political subdivision of a State, upon an authorized representative thereof at his residence, office or place of business as ascertained by the Administrator.

§ 107.5 Report; form and content, time for submission.

(a) No particular form for such reporting will be required unless specified within the written request for or requirement of such report.

(b) Such report shall detail, based on existing data, and covering such period as the Administrator may direct, all pertinent and useful information as to the character, kind and quantity of the discharges, treated, or untreated, alleged to be causing or contributing to the pollution of the waters. The reported data shall identify the causes and sources of the alleged pollutional discharges and shall include but not be limited to applicable information as to the physical, chemical, or biological properties of any liquid, gaseous, solid, radioactive, or other substance composing the discharges in whole or in part. Thermal characteristics of the discharges and the level of heat in flow shall be included in the reported data. Where available in existing data, twenty-four (24) hour daily average quantities of discharges, in whole and of separate individual component substances shall be stated either in units of pounds per day or, as measurable in concentration, in milligrams per liter. Peak hourly discharge quantities, in whole, in combination, or of separate individual component substances, which exceed such twenty-four (24) hour daily average by twenty (20) percent or more shall be noted.

(c) Facilities or other means used to prevent or reduce such discharges shall be reported and described in sufficient detail, including pertinent plans and specifications, to permit a technical judgment of the present and future effectiveness of such facilities or other means, together with any specific data the Administrator may reasonably consider necessary and useful. Plans for future improvement of existing facilities or other means or for the installation of new facilities or other means may be included, together with a projected timetable for their planning and installation, at the option of the respondent.

(d) Five (5) copies of the report shall be furnished. It shall be directed to the Administrator, be dated, clearly identify the subject matter of the report, bear the name, address and telephone number of the reporting person and shall be signed by such person, or in the case of a corporation, municipality or other political subdivision, by a duly authorized officer thereof. The report shall be clearly typed, printed, or duplicated and shall be securely stapled or otherwise fastened. Each page shall be numbered and in proper sequence. Any exhibits shall be included in or securely attached to the report.

(e) Such reports shall be filed with the Administrator within such time as specified in his written request or requirement which shall not be less than thirty (30) days from the date of the request or requirement unless the Administrator finds that an emergency exists requiring the report to be furnished in a shorter time, or unless an extension for good cause shown is requested of and granted by the Administrator in writing.

§ 107.6 Protection of trade secrets; confidential information.

No person shall be required in such report to divulge trade secrets or secret processes and all information reported shall be considered confidential for the purposes of section 1905 of title 18 of the United States Code which provides:

Whoever, being an officer or employee of the United States or of any department or agency thereof, publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy thereof of any book containing any abstract or particulars thereof to be seen or examined by any persons except as provided by law; shall be fined not more than $1,000, or imprisoned not more than 1 year, or both; and shall be removed from office or employment. June 25, 1948, c. 645, 62 Stat. 791.

§ 107.7 Penalties.

(a) If any person fails to file a report required by the Administrator in connection with any public hearing within the time set for the filing of such report and such failure shall continue for thirty (30) days after written notice of such default given by the Administrator to such persons by registered or certified mail at his last known address, such person shall forfeit to the United States the sum of $100 for each and every day of continued default following immediately upon the expiration of the thirtieth (30th) day after the Administrator has given written notice; such forfeiture to be paid into the Treasury of the United States.

(b) If any person, having agreed to submit a report to any conference, fails to file a report requested by the Administrator in response to a request of a majority of the conferees in such conference within the time set for the filing of such report and such failure shall continue for thirty (30) days after written notice of such default given by the Administrator to such person by registered or certified mail at his last known address, the Administrator shall forthwith report such failure to the conferees.

(c) A majority of the conferees of said conference may order such person to be subject to a forfeiture of $100 for each and every day of continued default following immediately upon the expiration of the thirtieth (30th) day after the Administrator has given written notice; such forfeiture to be paid into the Treasury of the United States.

(d) Such forfeitures, without demand or further notice, may be recovered in a civil suit in the name of the United States brought in the district in which such person has his principal office or in which he does business.

(e) The Administrator may, upon timely application therefor, remit or mitigate any forfeiture and he shall have authority to determine the facts upon all such applications.

PART 109—CRITERIA FOR STATE, LOCAL AND REGIONAL OIL REMOVAL CONTINGENCY PLANS

Sec.
109.1 Applicability.
109.2 Definitions.
109.3 Purpose and scope.
109.4 Relationship to Federal response actions.
109.5 Development and implementation criteria for State, local and regional oil removal contingency plans.
109.6 Coordination.

AUTHORITY: The provisions of this Part 109 issued under sec. 11(j)(1)(B), 84 Stat. 96, 33 U.S.C. 1161(j)(1)(B).

§ 109.1 Applicability.

The criteria in this part are provided to assist State, local and regional agen-

ing, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches. The develop-

the communications systems established under related oil removal contingency plans, particularly State and National

PART 110—DISCHARGE OF OIL

Sec.
110.1 Definitions.

in any form other than dredged spoil having a combined specific gravity equivalent to or greater than water.

§ 110.2 Applicability.

cumvent the provisions of this part is prohibited.

§ 110.8 Demonstration projects.

Notwithstanding any other provisions

§ 109.1 Applicability.

The criteria in this part are provided to assist State, local and regional agencies in the development of oil removal contingency plans for the inland navigable waters of the United States and all areas other than the high seas, coastal and contiguous zone waters, coastal and Great Lakes ports and harbors and such other areas as may be agreed upon between the Environmental Protection Agency and the Department of Transportation in accordance with section 11(j)(1)(B) of the Federal Act, Executive Order No. 11548 dated July 20, 1970 (35 F.R. 11677) and section 306.2 of the National Oil and Hazardous Materials Pollution Contingency Plan (35 F.R. 8511).

§ 109.2 Definitions.

As used in these guidelines, the following terms shall have the meaning indicated below:

(a) "Oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

(b) "Discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

(c) "Remove" or "removal" refers to the removal of the oil from the water and shorelines or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches.

(d) "Major disaster" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, drought, fire, or other catastrophe in any part of the United States which, in the determination of the President, is or threatens to become of sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement the efforts and available resources of States and local governments and relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

(e) "United States" means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(f) "Federal Act" means the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1151, et seq.

§ 109.3 Purpose and scope.

The guidelines in this part establish minimum criteria for the development and implementation of State, local, and regional contingency plans by State and local governments in consultation with private interests to insure timely, efficient, coordinated and effective action to minimize damage resulting from oil discharges. Such plans will be directed toward the protection of the public health or welfare of the United States, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches. The development and implementation of such plans shall be consistent with the National Oil and Hazardous Materials Pollution Contingency Plan. State, local and regional oil removal contingency plans shall provide for the coordination of the total response to an oil discharge so that contingency organizations established thereunder can function independently, in conjunction with each other, or in conjunction with the National and Regional Response Teams established by the National Oil and Hazardous Materials Pollution Contingency Plan.

§ 109.4 Relationship to Federal response actions.

The National Oil and Hazardous Materials Pollution Contingency Plan provides that the Federal on-scene commander shall investigate all reported spills. If such investigation shows that appropriate action is being taken by either the discharger or non-Federal entities, the Federal on-scene commander shall monitor and provide advice or assistance, as required. If appropriate containment or cleanup action is not being taken by the discharger or non-Federal entities, the Federal on-scene commander will take control of the response activity in accordance with section 11(c)(1) of the Federal Act.

§ 109.5 Development and implementation criteria for State, local and regional oil removal contingency plans.

Criteria for the development and implementation of State, local and regional oil removal contingency plans are:

(a) Definition of the authorities, responsibilities and duties of all persons, organizations or agencies which are to be involved or could be involved in planning or directing oil removal operations, with particular care to clearly define the authorities, responsibilities and duties of State and local governmental agencies to avoid unnecessary duplication of contingency planning activities and to minimize the potential for conflict and confusion that could be generated in an emergency situation as a result of such duplications.

(b) Establishment of notification procedures for the purpose of early detection and timely notification of an oil discharge including:

(1) The identification of critical water use areas to facilitate the reporting of and response to oil discharges.

(2) A current list of names, telephone numbers and addresses of the responsible persons and alternates on call to receive notification of an oil discharge as well as the names, telephone numbers and addresses of the organizations and agencies to be notified when an oil discharge is discovered.

(3) Provisions for access to a reliable communications system for timely notification of an oil discharge and incorporation in the communications system of the capability for interconnection with the communications systems established under related oil removal contingency plans, particularly State and National plans.

(4) An established, prearranged procedure for requesting assistance during a major disaster or when the situation exceeds the response capability of the State, local or regional authority.

(c) Provisions to assure that full resource capability is known and can be committed during an oil discharge situation including:

(1) The identification and inventory of applicable equipment, materials and supplies which are available locally and regionally.

(2) An estimate of the equipment, materials and supplies which would be required to remove the maximum oil discharge to be anticipated.

(3) Development of agreements and arrangements in advance of an oil discharge for the acquisition of equipment, materials and supplies to be used in responding to such a discharge.

(d) Provisions for well defined and specific actions to be taken after discovery and notification of an oil discharge including:

(1) Specification of an oil discharge response operating team consisting of trained, prepared and available operating personnel.

(2) Predesignation of a properly qualified oil discharge response coordinator who is charged with the responsibility and delegated commensurate authority for directing and coordinating response operations and who knows how to request assistance from Federal authorities operating under existing national and regional contingency plans.

(3) A preplanned location for an oil discharge response operations center and a reliable communications system for directing the coordinated overall response operations.

(4) Provisions for varying degrees of response effort depending on the severity of the oil discharge.

(5) Specification of the order of priority in which the various water uses are to be protected where more than one water use may be adversely affected as a result of an oil discharge and where response operations may not be adequate to protect all uses.

(e) Specific and well defined procedures to facilitate recovery of damages and enforcement measures as provided for by State and local statutes and ordinances.

§ 109.6 Coordination.

For the purposes of coordination, the contingency plans of State and local governments should be developed and implemented in consultation with private interests. A copy of any oil removal contingency plan developed by State and local governments should be forwarded to the Council on Environmental Quality upon request to facilitate the coordination of these contingency plans with the National Oil and Hazardous Materials Pollution Contingency Plan.

PART 110—DISCHARGE OF OIL

Sec.
110.1 Definitions.
110.2 Applicability.
110.3 Discharge into navigable waters harmful.
110.4 Discharge into contiguous zone harmful.
110.5 Discharge prohibited.
110.6 Exception for vessel engines.
110.7 Dispersants.
110.8 Demonstration projects.
110.9 Notice.

AUTHORITY: The provisions of this Part 110 issued under sec. 11(b)(3), as amended, 84 Stat. 92; 33 U.S.C. 1161.

§ 110.1 Definitions.

As used in this part, the following terms shall have the meaning indicated below:

(a) "Oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, oil mixed with ballast or bilge, and oil mixed with wastes other than dredged spoil;

(b) "Discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping;

(c) "Vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water other than a public vessel;

(d) "Public vessel" means a vessel owned or bare-boat chartered and operated by the United States, or by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce;

(e) "United States" means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

(f) "Person" includes an individual, firm, corporation, association, and a partnership;

(g) "Contiguous zone" means the entire zone established or to be established by the United States under article 24 of the Convention on the Territorial Sea and the Contiguous Zone;

(h) "Onshore facility" means any facility (including, but not limited to motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States other than submerged land;

(i) "Offshore facility" means any facility of any kind located in, on, or under, any of the navigable waters of the United States other than a vessel or public vessel;

(j) "Applicable water quality standards" means water quality standards adopted pursuant to section 10(c) of the Federal Act and State-adopted water quality standards for waters which are not interstate within the meaning of that Act.

(k) "Federal Act" means the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1151, et seq.

(l) "Sheen" means an iridescent appearance on the surface of water.

(m) "Sludge" means an aggregate of oil or oil and other matter of any kind in any form other than dredged spoil having a combined specific gravity equivalent to or greater than water.

§ 110.2 Applicability.

The regulations of this part apply to the discharge of oil into or upon the navigable waters of the United States, adjoining shorelines or into or upon the waters of the contiguous zone, prohibited by section 11(b) of the Federal Act.

§ 110.3 Discharge into navigable waters harmful.

For purposes of section 11(b) of the Federal Act, discharges of such quantities of oil into or upon the navigable waters of the United States or adjoining shorelines determined to be harmful to the public health or welfare of the United States, at all times and locations and under all circumstances and conditions, except as provided in section 110.6 of this part, include discharges which:

(a) Violate applicable water quality standards, or

(b) Cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

§ 110.4 Discharge into contiguous zone harmful.

For purposes of section 11(b) of the Federal Act, discharges of such quantities of oil into or upon the waters of the contiguous zone determined to be harmful to the public health or welfare of the United States, at all times and locations and under all circumstances and conditions, except as provided in section 110.6 of this part, include discharges which:

(a) Violate applicable water quality standards in navigable waters of the United States, or

(b) Cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

§ 110.5 Discharge prohibited.

As provided in section 11(b)(2) of the Federal Act, no person shall discharge or cause or permit to be discharged into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone any oil, in harmful quantities as determined in §§ 110.3 and 110.4 of this part, except as the same may be permitted in the contiguous zone under Article IV of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended.

§ 110.6 Exception for vessel engines.

For purposes of section 11(b) of the Federal Act, discharges of oil from a properly functioning vessel engine are not deemed to be harmful; but such oil accumulated in a vessel's bilges shall not be so exempt.

§ 110.7 Dispersants.

Addition of dispersants or emulsifiers to oil to be discharged which would circumvent the provisions of this part is prohibited.

§ 110.8 Demonstration projects.

Notwithstanding any other provisions of this part, the Administrator of the Environmental Protection Agency may permit the discharge of oil into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, in connection with research, demonstration projects, or studies relating to the prevention, control, or abatement of oil pollution.

§ 110.9 Notice.

Any person in charge of any vessel or onshore or offshore facility shall, as soon as he has knowledge of any discharge of oil from such vessel or facility in violation of § 110.5 of this part, immediately notify the U.S. Coast Guard of such discharge in accordance with such procedures as the Secretary of Transportation may prescribe.

PART 115—STATE CERTIFICATION OF ACTIVITIES REQUIRING A FEDERAL LICENSE OR PERMIT

Subpart A—General
Sec.
115.1 Definitions.
115.2 Contents of certification.
115.3 Contents of application.
Subpart B—Determination of Effect on Other States
115.11 Copies of documents.
115.12 Supplemental information.
115.13 Review by Regional Administrator and notification.
115.14 Forwarding to affected State.
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115.21 When Administrator certifies.
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115.27 Notification to licensing or permitting agency.
115.28 Termination of suspension.
Subpart D—Consultations
115.30 Review and advice.

AUTHORITY: The provisions of this Part 115 issued under secs. 21 (b) and (c), 84 Stat. 91; 33 U.S.C. 1171(b) (1970). Reorganization Plan No. 3 of 1970.

Subpart A—General

§ 115.1 Definitions.

As used in this part, the following terms shall have the meanings indicated below:

(a) "License or permit" means any license or permit granted by an agency of the Federal Government to conduct any activity which may result in any discharge into the navigable waters of the United States.

(b) "Licensing or permitting agency" means any agency of the Federal Government to which application is made for a license or permit.

mit to include in the form of application such information relating to water quality considerations as may be agreed upon by the licensing or permitting agency

§ 115.14 Forwarding to affected State.

The Regional Administrator shall forward to each affected State a copy of the material provided in accordance with

§ 115.22 Applications.

An applicant for certification from the Administrator shall submit to the Regional Administrator a complete description of the discharge involved in the se-

cable to the waters which might be affected by the proposed activity, he shall so notify the applicant and the licensing or permitting agency in writing and shall provide the licensing or permitting

spect such facility or activity for the purpose of determining if the manner in which such facility or activity will be operated or conducted will violate applicable water quality standards.

(b) "Licensing or permitting agency" means any agency of the Federal Government to which application is made for a license or permit.

(c) "Administrator" means the Administrator, Environmental Protection Agency.

(d) "Regional Administrator" means the Regional designee appointed by the Administrator, Environmental Protection Agency.

(e) "Certifying Agency" means the person or agency designated by the Governor of a State, by statute, or by other governmental act, to certify compliance with applicable water quality standards. If an interstate agency has sole authority to so certify for the area within its jurisdiction, such interstate agency shall be the certifying agency. Where a State agency and an interstate agency have concurrent authority to certify, the State agency shall be the certifying agency. Where water quality standards have been promulgated by the Administrator pursuant to section 10(c)(2) of the Act, or where no State or interstate agency has authority to certify, the Administrator shall be the certifying agency.

(f) "Act" means the Federal Water Pollution Control Act, 33 U.S.C. 1151, et seq.

(g) "Water Quality Standards" means standards established pursuant to section 10(c) of the Act, and State-adopted water quality standards for navigable waters which are not interstate waters.

§ 115.2 Contents of certification.

(a) A certification made by a certifying agency shall include the following:

(1) The name and address of the applicant;

(2) A statement that the certifying agency has either (i) examined the application made by the applicant to the licensing or permitting agency (specifically identifying the number or code affixed to such application) and bases its certification upon an evaluation of the information contained in such application which is relevant to water quality considerations, or (ii) examined other information furnished by the applicant sufficient to permit the certifying agency to make the statement described in subparagraph (3) of this paragraph;

(3) A statement that there is a reasonable assurance that the activity will be conducted in a manner which will not violate applicable water quality standards;

(4) A statement of any conditions which the certifying agency deems necessary or desirable with respect to the discharge or the activity; and

(5) Such other information as the certifying agency may determine to be appropriate.

(b) The certifying agency may modify the certification in such manner as may be agreed upon by the certifying agency, the licensing or permitting agency, and the Regional Administrator.

§ 115.3 Contents of application.

A licensing or permitting agency shall require an applicant for a license or permit to include in the form of application such information relating to water quality considerations as may be agreed upon by the licensing or permitting agency and the Administrator.

Subpart B—Determination of Effect on Other States

§ 115.11 Copies of documents.

(a) Upon receipt from an applicant of an application for a license or permit without an accompanying certification, the licensing or permitting agency shall either (1) forward one copy of the application to the appropriate certifying agency and two copies to the Regional Administrator, or (2) forward three copies of the application to the Regional Administrator, pursuant to an agreement between the licensing or permitting agency and the Administrator that the Regional Administrator will transmit a copy of the application to the appropriate certifying agency. Upon subsequent receipt from an applicant of a certification, the licensing or permitting agency shall forward a copy of such certification to the Regional Administrator, unless such certification shall have been made by the Regional Administrator pursuant to § 115.24.

(b) Upon receipt from an applicant of an application for a license or permit with an accompanying certification, the licensing or permitting agency shall forward two copies of the application and certification to the Regional Administrator.

(c) Only those portions of the application which relate to water quality considerations shall be forwarded to the Regional Administrator.

§ 115.12 Supplemental information.

If the documents forwarded to the Regional Administrator by the licensing or permitting agency pursuant to § 115.11 do not contain sufficient information for the Regional Administrator to make the determination provided for in § 115.13, the Regional Administrator may request, and the licensing or permitting agency shall obtain from the applicant and forward to the Regional Administrator, any supplemental information as may be required to make such determination.

§ 115.13 Review by Regional Administrator and notification.

The Regional Administrator shall review the application, certification, and any supplemental information provided in accordance with §§ 115.11 and 115.12 and if the Regional Administrator determines there is reason to believe that a discharge may affect the quality of the waters of any State or States other than the State in which the discharge originates, the Regional Administrator shall, no later than 30 days of the date of receipt of the application and certification from the licensing or permitting agency as provided in § 115.11, so notify each affected State, the licensing or permitting agency, and the applicant.

§ 115.14 Forwarding to affected State.

The Regional Administrator shall forward to each affected State a copy of the material provided in accordance with § 115.11.

§ 115.15 Hearings on objection of affected State.

When a licensing or permitting agency holds a public hearing on the objection of an affected State, notice of such objection, including the grounds for such objection, shall be forwarded to the Regional Administrator by the licensing or permitting agency no later than 30 days prior to such hearing. The Regional Administrator shall at such hearing submit his evaluation with respect to such objection and his recommendations as to whether and under what conditions the license or permit should be issued.

§ 115.16 Waiver.

The certification requirement with respect to an application for a license or permit shall be waived upon:

(a) Written notification from the State or interstate agency concerned that it expressly waives its authority to act on a request for certification; or

(b) Written notification from the licensing or permitting agency to the Regional Administrator of the failure of the State or interstate agency concerned to act on such request for certification within a reasonable period of time after receipt of such request, as determined by the licensing or permitting agency (which period shall generally be considered to be 6 months, but in any event shall not exceed 1 year).

In the event of a waiver hereunder, the Regional Administrator shall consider such waiver as a substitute for a certification, and as appropriate, shall conduct the review, provide the notices, and perform the other functions identified in sections 115.13, 115.14, and 115.15. The notices required by section 115.13 shall be provided not later than 30 days after the date of receipt by the Regional Administrator of either notification referred to herein.

Subpart C—Certification by the Administrator

§ 115.21 When Administrator certifies.

Certification by the Administrator that the discharge resulting from an activity requiring a license or permit will not violate applicable water quality standards will be required where:

(a) Standards have been promulgated, in whole or in part, by the Administrator pursuant to section 10(c)(2) of the Act: *Provided, however*, That the Administrator will certify compliance only with respect to those water quality standards promulgated by him; or

(b) Water quality standards have been established, but no State or interstate agency has authority to give such a certification.

§ 115.22 Applications.

An applicant for certification from the Administrator shall submit to the Regional Administrator a complete description of the discharge involved in the activity for which certification is sought, with a request for certification signed by the applicant. Such description shall include the following:

(a) The name and address of the applicant;

(b) A description of the facility or activity, and of any discharge into navigable waters which may result from the conduct of any activity including, but not limited to, the construction or operation of the facility, including the biological, chemical, thermal, and other characteristics of the discharge, and the location or locations at which such discharge may enter navigable waters;

(c) A description of the function and operation of equipment or facilities to treat wastes or other effluents which may be discharged, including specification of the degree of treatment expected to be attained;

(d) The date or dates on which the activity will begin and end, if known, and the date or dates on which the discharge will take place;

(e) A description of the methods and means being used or proposed to monitor the quality and characteristics of the discharge and the operation of equipment or facilities employed in the treatment or control of wastes or other effluents.

§ 115.23 Notice and hearing.

The Regional Administrator will provide public notice of each request for certification by mailing to State, County, and municipal authorities, heads of State agencies responsible for water quality improvement, and other parties known to be interested in the matter, including adjacent property owners and conservation organizations, or may provide such notice in a newspaper of general circulation in the area in which the activity is proposed to be conducted if the Regional Administrator deems mailed notice to be impracticable. Interested parties shall be provided an opportunity to comment on such request in such manner as the Regional Administrator deems appropriate. All interested and affected parties will be given reasonable opportunity to present evidence and testimony at a public hearing on the question whether to grant or deny certification if the Regional Administrator determines that such a hearing is necessary or appropriate.

§ 115.24 Certification.

If, after considering the complete description, the record of a hearing, if any, held pursuant to § 115.23, and such other information and data as the Regional Administrator deems relevant, the Regional Administrator determines that there is reasonable assurance that the proposed activity will not result in a violation of applicable water quality standards, he shall so certify. If the Regional Administrator determines that no water quality standards are applicable to the waters which might be affected by the proposed activity, he shall so notify the applicant and the licensing or permitting agency in writing and shall provide the licensing or permitting agency with advice, suggestions, and recommendations with respect to conditions to be incorporated in any license or permit to achieve compliance with the purpose of this Act. In such case, no certification shall be required.

§ 115.25 Adoption of new water quality standards.

(a) In any case where:

(1) A license or permit was issued without certification due to the absence of applicable water quality standards; and

(2) Water quality standards applicable to the waters into which the licensed or permitted activity may discharge are subsequently established; and

(3) The Administrator is the certifying agency because:

(i) No State or interstate agency has authority to certify; or

(ii) Such new standards were promulgated by the Administrator pursuant to section 10(c)(2) of the Act; and

(4) The Regional Administrator determines that such uncertified activity is violating water quality standards;

Then the Regional Administrator shall notify the licensee or permittee of such violation, including his recommendations as to actions necessary for compliance. If the licensee or permittee fails within 6 months of the date of such notice to take action which in the opinion of the Regional Administrator will result in compliance with applicable water quality standards, the Regional Administrator shall notify the licensing or permitting agency that the licensee or permittee has failed, after reasonable notice, to comply with such standards and that suspension of the applicable license or permit is required by section 21(b)(9)(B) of the Act.

(b) Where a license or permit is suspended pursuant to paragraph (a) of this section, and where the licensee or permittee subsequently takes action which in the Regional Administrator's opinion will result in compliance with applicable water quality standards, the Regional Administrator shall then notify the licensing or permitting agency that there is reasonable assurance that the licensed or permitted activity will comply with applicable water quality standards.

§ 115.26 Inspection of facility or activity before operation.

Where any facility or activity has received certification pursuant to § 115.24 in connection with the issuance of a license or permit for construction, and where such facility or activity is not required to obtain an operating license or permit, the Regional Administrator or his representative, prior to the initial operation of such facility or activity, shall be afforded the opportunity to inspect such facility or activity for the purpose of determining if the manner in which such facility or activity will be operated or conducted will violate applicable water quality standards.

§ 115.27 Notification to licensing or permitting agency.

If the Regional Administrator, after an inspection pursuant to § 115.26, determines that operation of the proposed facility or activity will violate applicable water quality standards, he shall so notify the applicant and the licensing or permitting agency, including his recommendations as to remedial measures necessary to bring the operation of the proposed facility into compliance with such standards.

§ 115.28 Termination of suspension.

Where a licensing or permitting agency, following a public hearing, suspends a license or permit after receiving the Regional Administrator's notice and recommendation pursuant to § 115.27, the applicant may submit evidence to the Regional Administrator that the facility or activity or the operation or conduct thereof has been modified so as not to violate water quality standards. If the Regional Administrator determines that water quality standards will not be violated, he shall so notify the licensing or permitting agency.

Subpart D—Consultations

§ 115.30 Review and advice.

The Regional Administrator may, and upon request shall, provide licensing and permitting agencies with determinations, definitions and interpretations with respect to the meaning and content of water quality standards where they have been federally approved under section 10 of the Act, and findings with respect to the application of all applicable water quality standards in particular cases and in specific circumstances relative to an activity for which a license or permit is sought. The Regional Administrator may, and upon request shall, also advise licensing and permitting agencies as to the status of compliance by dischargers with the conditions and requirements of applicable water quality standards. In cases where an activity for which a license or permit is sought will affect water quality, but for which there are no applicable water quality standards, the Regional Administrator may advise licensing or permitting agencies with respect to conditions of such license or permit to achieve compliance with the purpose of the Act.

PART 120—WATER QUALITY STANDARDS

Sec.
120.1 Scope and purpose.
120.2 State adoption.
120.3 Applicability.
120.10 Standards adopted.
120.11 Iowa water quality standards.

Authority: The provisions of this Part 120 issued under sec. 1, 70 Stat. 506, as amended; 33 U.S.C. 1160(c), unless otherwise noted.

No. 228——18

§ 120.1 Scope and purpose.

This part applies to procedures for the adoption of water quality standards pursuant to section 10(c) of the Federal

"Water Quality Standards for Interstate Waters Within the State of Alaska, revised November 10, 1967," except for items 8 and 9 entitled "Sediment" and "Toxic Or Other Deleterious Substances, Pesticides and Re-

28. Water Quality Control Policy ... Coastal Waters, Point Arguello to Point ... ras Blancas, 1967.

24. Water Quality Control Policy ... Coastal Waters, Rincon Point to Point ...

entitled "Water Quality Criteria, Implementation And Enforcement Plan, Potomac River And Tributaries, June 1967," as amended; except for temperature and dissolved oxygen criteria.

Michigan and Little Calumet River, Grand Calumet River and Wolf Lake," together with appendixes and supporting documents, dated September 6, 1966, and September 28, 1967, as amended;

Water Quality Criteria-Kansas" and "Plan of Implementation for Water Quality Control and Pollution Abatement," as amended; except for the final treatment compliance date of 1986, the bacteriological and temperature

§ 120.1 Scope and purpose.

This part applies to procedures for the adoption of water quality standards pursuant to section 10(c) of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1160(c), hereinafter the Federal Act, and identifies and describes those State-adopted water quality standards which the Administrator of the Environmental Protection Agency, hereinafter the Administrator, has determined meet the criteria of the Federal Act.

§ 120.2 State adoption.

(a) Water quality standards consisting of water quality criteria and a plan for the enforcement and implementation of such criteria, if adopted by a State after notice and public hearing, and if determined by the Administrator to be such standards as will protect the public health or welfare, enhance the quality of water and serve the purposes of the Federal Act, shall thereafter be the water quality standards applicable to the interstate waters or portions thereof for which adopted.

(b) Determination by the Administrator that State-adopted water quality standards meet the criteria of paragraph (a) of this section shall be published in the FEDERAL REGISTER. Documents containing such standards shall be incorporated by reference into this part.

§ 120.3 Availability.

State-adopted water quality standards which the Administrator has determined meet the criteria of § 120.2 shall be available for inspection at the Regional Offices of the Environmental Protection Agency and at its Washington, D.C., address at Waterside Mall, Washington, D.C. 20460, where the official historic file of water quality standards shall be maintained.

§ 120.10 Standards adopted.

Water quality standards consisting of water quality criteria and plans of enforcement and implementation thereof which the Administrator has determined meet the criteria of section 10(c) of the Federal Act, except as otherwise noted, have been established by the States as follows:

ALABAMA

Water quality standards established by Alabama on May 5, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled, "Water Quality Standards for Waters of Alabama and a Plan of Implementation, June 1967," except for temperature and dissolved oxygen criteria for those interstate waters for which shellfish harvesting, and fish and wildlife propagation are the established uses, together with appendixes and supporting documents; as amended.

ALASKA

Water quality standards established by Alaska on June 29, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Standards for Interstate Waters Within the State of Alaska and A Plan for Implementation and Enforcement of the Criteria, June 29, 1967," as amended by "Water Quality Standards for Interstate Waters Within the State of Alaska," revised November 10, 1967," except for items 8 and 9 entitled "Sediment" and "Toxic Or Other Deleterious Substances, Pesticides and Related Organic and Inorganic Materials."

ARIZONA

Water quality standards established by Arizona on July 18, 1968, for interstate waters subject to its jurisdiction and which are contained in the document entitled "Water Quality Standards for Surface Waters in Arizona," together with supporting material.

ARKANSAS

Water quality standards established by Arkansas on May 26, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled, "Water Quality Criteria and Plan of Implementation of the State of Arkansas, Arkansas Pollution Control Commission," consisting of one volume with six sections, section IV thereof containing criteria for interstate streams, which criteria are identified as "Regulation No. 2 of the Arkansas Pollution Control Commission," and section V thereof containing the "Implementation and Enforcement Plan," together with appendixes and supporting documents; as amended.

CALIFORNIA

Water quality standards established by California in June 1967 for interstate waters subject to its jurisdiction and which are contained in the following documents:

1. Water Quality Control Policy for Klamath River in California, 1967.
2. Water Quality Control Policy for Smith River, 1967.
3. Water Quality Control Policy for Humboldt Bay, 1967.
4. Water Quality Control Policy for Humboldt-Del Norte Coast, 1967.
5. Water Quality Control Policy for Sonoma-Marin Coast, 1967.
6. Water Quality Control Policy for Mendocino Coast, 1967.
7. Lake Tahoe, Water Quality Control Policy, June 1966.
8. Water Quality Control Policy for East Walker River, 1967.
9. Water Quality Control Policy for West Fork Carson River, 1967.
10. Water Quality Control Policy for Truckee River, 1967.
11. Water Quality Control Policy for West Walker River and Lake Topaz, 1967.
12. Water Quality Control Policy for East Fork Carson River, 1967.
13. Statement of Policy for Water Quality Control of Minor California, Nevada Interstate Waters, April 1967.
14. Water Quality Control Policy for Pacific Ocean, 1967.
15. Water Quality Control Policy for San Diego Bay, 1966.
16. Water Quality Control Policy for Mission Bay including Tidal Prism of San Diego River and Agua Hedionda Lagoon, 1967.
17. Water Quality Control Policy for Tijuana River Basin in California, 1967.
18. Water Quality Control Policy for Sacramento-San Joaquin Delta, 1967.
19. Water Quality Control Policy for Goose Lake, Calif., January 1967.
20. Water Quality Control Policy for Tidal Waters Inland from the Golden Gate within the San Francisco Bay Region, 1967.
21. Water Quality Control Policy for Pacific Ocean, Pescadero Point to Mouth of Tomales Bay (Bolinas Lagoon, Drakes Estero, Limantour Estero, Portions of Tomales Bay and Tidal Portions of Coastal Streams), 1967.
22. Water Quality Control Policy for Coastal Waters, Point Piedras Blancas to Pescadero Point, 1967.
23. Water Quality Control Policy for Coastal Waters, Point Arguello to Point Piedras Blancas, 1967.
24. Water Quality Control Policy for Coastal Waters, Rincon Point to Point Arguello, 1967.
25. Water Quality Control Policy for Pacific Ocean Coastal Waters, Rincon Point to San Gabriel River, 1967.
26. Water Quality Control Policy for San Gabriel River Tidal Prism, 1967.
27. Water Quality Control Policy for Pacific Ocean Coastal Waters, 1967.
28. Water Quality Control Policy for Coastal Bays, Marinas & Sloughs, 1967.
29. Water Quality Control Policy for Colorado River in California, 1967.
30. Water Quality Control Policy for Alamo River in California, 1967.
31. Water Quality Control Policy for New River in California, 1967.

as amended, together with supporting material; except for temperature criteria and the minimum limit of the dissolved oxygen criteria for the near shore coastal waters of the Santa Ana Region.

COLORADO

Water quality standards established in Colorado on June 12, 1967, for interstate waters subject to its jurisdiction and which are contained in the document entitled "Stream Classification for Surface Waters of Colorado, Including: Stream Quality Standards, Plan of Implementation, Enforcement Procedures," as amended; except for dissolved oxygen and temperature criteria for the Animas River below Durango and temperature-change limits for waters classified as "B-1" and "B-2".

CONNECTICUT

Water quality standards established by Connecticut on June 19, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Standards, State of Connecticut, Submitted to the Secretary of the Interior by the Water Resources Commission, State of Connecticut, June 28, 1967," except for the dissolved oxygen criteria for waters with a use designation of "Protection of Fish, Shellfish and Wildlife" in waters classified as "C," "CC," "SC," and "SCC"; as amended.

DELAWARE

Water quality standards established by Delaware on May 17, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Standards For Interstate Streams, June 1967," as amended; except for treatment requirements for Delaware City and Milton, and except for dissolved oxygen criteria of 50 percent saturation where so designated for fresh waters.

DELAWARE RIVER BASIN COMMISSION

Water quality standards established by the Delaware River Basin Commission on June 23, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Standards (as authorized by Resolution No. 67-9), June 23, 1967," together with appendixes and supporting documents, as amended; except for dissolved oxygen and temperature criteria for interstate waters classified for trout maintenance; and except for the Delaware River from the point designated R.M. 96.0 to the Philadelphia-Delaware County line.

DISTRICT OF COLUMBIA

Water quality standards established by the District of Columbia on June 29, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Criteria, Implementation And Enforcement Plan, Potomac River And Tributaries, June 1967," as amended; except for temperature and dissolved oxygen criteria.

An addendum to the water quality standards established by the District of Columbia which was adopted on December 16, 1968, by Commissioners' Order No. 68-891 and which is entitled "Revised Water Criteria and Uses (1972)".

FLORIDA

Water quality standards established by Florida on February 20, 1968, for interstate waters subject to its jurisdiction and which are contained in the document entitled, "Rules of the Florida Air and Water Pollution Control Commission, Chapter 28-5, Pollution of Waters", as amended.

GEORGIA

Water quality standards established by Georgia in June 1967, for interstate waters subject to its jurisdiction, and which are contained in the documents entitled "Establishment of Water Quality Standards and Classifications For Interstate Waters In the State of Georgia In Compliance With the Federal Water Pollution Control Act, As Amended by the Water Quality Act of 1965—Section 10(c)(1), Under Authority of the Georgia Water Quality Control Act, Act 870, As Amended Through 1966," consisting of 11 sections, including criteria contained in "Rules of State, Water Quality Control Board, Chapter 730-6, Water Use Classifications and Water Quality Standards" adopted by the State Water Quality Control Board on April 21, 1967, and contained in section 1 of the aforesaid 11 sections, together with appendixes and supporting documents.

TERRITORY OF GUAM

Water quality standards established by the Territory of Guam on December 19, 1967, for interstate waters subject to its jurisdiction and which are contained in the document entitled "Standards of Water Quality for Waters of the Territory of Guam, December, 1967", and which were revised on April 15, 1968, and which are contained as revised, in the document entitled "Standards of Water Quality for Waters of the Territory of Guam, April, 1968".

HAWAII

Water quality standards established by Hawaii on June 28, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Standards, June 28, 1967," and which were revised on December 28, 1967, by revisions of Chapters 37 and 37-A of the Public Health Regulations, and as otherwise amended.

IDAHO

Water quality standards established by Idaho in June 1967, for interstate waters subject to its jurisdiction, and which are contained in the documents entitled "Rules And Regulations For Standards of Water Quality For The Interstate Waters Of Idaho And Disposal Therein Of Sewage And Industrial Wastes," and "Implementation, Enforcement And Surveillance Plan For The Interstate Waters of Idaho," together with appendixes and supporting documents, as amended.

ILLINOIS

Water quality standards established by Illinois for interstate waters subject to its jurisdiction and which are contained in the following documents:

1. "Rules and Regulations SWB-7, Water Quality Criteria, Interstate Waters Lake Michigan and Little Calumet River, Grand Calumet River and Wolf Lake," together with appendixes and supporting documents, dated September 6, 1966, and September 28, 1967, as amended;

2. "Rules and Regulations SWB-11, Water Quality Criteria, Interstate Waters Rock River, Fox River, Des Plaines River, Kankakee River and Certain Named Interstate Tributaries, Criteria—December 1, 1966, Implementation—August 28, 1967," together with appendixes and supporting documents, dated December 1, 1966, and August 28, 1967, as amended; except for dissolved oxygen and temperature criteria for interstate waters classified for fish and aquatic life;

3. "Rules and Regulations SWB-15, Water Quality Criteria, Chicago River and Calumet River Systems, June 28, 1967," together with appendixes and supporting documents, dated June 28, 1967, as amended; except for dissolved oxygen and temperature criteria for interstate waters classified for fish and aquatic life;

4. "Rules and Regulations SWB-8, Water Quality Criteria, Interstate Waters Illinois River and Lower Section of Des Plaines River, Criteria—December 1, 1966, Implementation—August 11, 1967," together with appendixes and supporting documents, dated December 1, 1966, and August 11, 1967, as amended; except for dissolved oxygen and temperature criteria for interstate waters classified for fish and aquatic life.

INDIANA

Water quality standards established by Indiana in June 1967, for interstate waters subject to its jurisdiction, and which are contained in the following documents:

1. "Report On Water Quality Criteria And Plan Of Implementation, Whitewater River Basin, June 1967," as amended.
2. "Report On Water Quality Criteria And Plan Of Implementation, St. Joseph River Basin, June 1967," as amended.
3. "Report On Water Quality Criteria And Plan Of Implementation, Maumee River Basin, June 1967," as amended.
4. "Report On Water Quality And Plan Of Implementation, Upper And Middle Wabash River Basins (Down to Terre Haute), June 1967," as amended.
5. "Report On Water Quality And Plan Of Implementation, Patoka River Basin And The Indiana Waters Of The Lower Wabash River Basin Including The Waters Of The White River Basin, June 1967," as amended.
6. "Report On Water Quality And Plan Of Implementation, The Indiana Waters Of The Main Stem Of The Ohio River And Its Indiana Tributary Basins Including The Waters Of The Wabash River Basin, June 1967," as amended.
7. "Report On Water Quality And Plan Of Implementation, Indiana Waters Of The Kankakee River Basin, June 1967," as amended.
8. "Report On Water Quality And Plan Of Implementation, Lake Michigan Basin, June 1967," as amended.

IOWA

Water quality standards established by Iowa on May 26, 1967, for interstate waters subject to its jurisdiction and which are contained in the document entitled "Water Quality Criteria and Plan for Implementation and Enforcement for the Surface Waters of Iowa," as amended; except for any parts thereof which may be in conflict with the provisions of § 120.11.

KANSAS

Water quality standards established by Kansas in June 1967 for interstate waters subject to its jurisdiction and which are contained in documents entitled "River Basin Water Quality Criteria-Kansas" and "Plan of Implementation for Water Quality Control and Pollution Abatement," as amended; except for the final treatment compliance date of 1986, the bacteriological and temperature criteria for all interstate waters of Kansas, and the dissolved oxygen criterion for the Missouri River.

KENTUCKY

Water quality standards established by Kentucky on May 31, 1967, for interstate waters subject to its juriadiction and which are contained in the document entitled "Kentucky Water Quality Standards for Interstate Waters," as amended; except for the criteria for the protection of aquatic life.

LOUISIANA

Water quality standards established by Louisiana on June 27, 1967, for interstate waters subject to its juriadiction, and which are contained in the documents entitled "Louisiana Stream Control Commission, Baton Rouge, Louisiana, Water Quality Criteria for Waters of the State of Louisiana," and "Plan For Implementation and Enforcement of Water Quality Standards, Louisiana Stream Control Commission," together with appendixes and supporting documents, as amended; except for dissolved oxygen criteria for those interstate waters for which a use includes the propagation of aquatic life, and for which the dissolved oxygen criterion is established at "not less than 50 percent of saturation at existing water temperature."

MAINE

Water quality standards established by Maine on July 5, 1967, for interstate waters subject to its jurisdiction, and which are contained in the following documents:

"Saco River Basin Water Quality Standards";
"Sagadahoc County Tidal Basin Water Quality Standards";
"St. Croix River Basin Water Quality Standards";
"Lincoln County Tidal Basin Water Quality Standards";
"Androscoggin River Water Quality Standards";
"Cumberland County Tidal Basin Water Quality Standards";
"Salmon Falls and Piscataqua River Basin Water Quality Standards";
"Aroostook River Basin Water Quality Standards";
"Mousumkeag River Basin Water Quality Standards";
"Minor County Tidal Waters Water Quality Standards";
"York County Tidal Basin Water Quality Standards";
"Waldo, Penobscot and Hancock County Tidal Waters Water Quality Standards";
"Washington County Tidal Waters Water Quality Standards";
"Prestile Stream Water Quality Standards";
"State of Maine Material for Implementation Plan Common to All Interstate River and Tidal Waters Water Quality Standards";

all of which as amended; and except for Hancock County interstate waters designated as Class SC; and except for pH, temperature and radioactivity criteria for all interstate waters other than those classified as Class "A"; and except for bacteriological criteria for Classes "C", "D", "SC", and "SD"; and except for dissolved oxygen criteria for all fresh waters.

MARYLAND

Water quality standards established by Maryland for interstate waters subject to its jurisdiction and which are contained in the documents entitled, "Water Resources Regulation 4.2, General Water Quality Criteria

and Specific Water Quality Standards for All Maryland Waters," of the Maryland Water Resources Commission, May 23, 1967; and "Maryland's Water Quality Program, Maryland Plan, Binder No. 1," together with appendixes and supporting documents, as amended; except for the maximum temperature limit of 93° F. for July and August.

MISSISSIPPI

Water quality standards established by Mississippi on June 30, 1967, for interstate waters subject to its jurisdiction, and which are contained in the documents entitled "Water Pollution Control Regulations (Exhibit 'A')" and "Interstate Water Quality Standards and Plan of Implementation, 1967".

3. "Interstate Waters Classifications, Water Quality Standards and Criteria and Implementation and Enforcement Plan for the St. Lawrence River Basin, Volume III, May 1967;

5. "Report on Water Quality Standards For The Maumee River Basin Including Interstate Waters, June 1967," as amended; except for temperature and dissolved oxygen criteria for waters classified "Aquatic Life A".

Specific Water Quality Standards, Implementation Plan," except for the dissolved oxygen criteria for waters classified as "B," "C," and swamp waters, the temperature-rise criteria for all freshwater classifications and

and Specific Water Quality Standards for All Maryland Waters," of the Maryland Water Resources Commission, May 22, 1967; and "Maryland's Water Quality Program, Maryland Plan, Binder No. 1," together with appendixes and supporting documents.

MASSACHUSETTS

Water quality standards established by Massachusetts for the interstate waters subject to its jurisdiction and which are contained in the documents entitled:

1. "Volume 1, Water Quality Standards, Laws, Policy and Standards," including "Water Quality Standards" adopted by the Commonwealth of Massachusetts Water Resources Commission, Division of Water Pollution Control, on March 3, 1967;
2. "Volume 2, Water Quality Standards, Blackstone, French and Quinebaug River Basins;
3. "Volume 3, Water Quality Standards, Housatonic and Hoosic River Basins;
4. "Volume 4, Water Quality Standards, Taunton and Ten Mile River Basins;
5. "Volume 5, Water Quality Standards, Nashua River Basin;
6. "Volume 6, Water Quality Standards, Connecticut River Basins;
7. "Volume 7, Water Quality Standards, Merrimack River Basin;
8. "Volume 8, Water Quality Standards, Coastal Waters;" together with appendixes and supporting documents.

MICHIGAN

Water quality standards established by Michigan on June 28, 1967, for interstate waters subject to its jurisdiction, and which are contained in the following documents:

1. "Water Resource Uses, Present and Prospective for the St. Joseph River Basin in Michigan and Water Quality Standards and Plan of Implementation, Revised June 1967";
2. "Water Resource Uses, Present and Prospective for Lake Michigan and Water Quality Standards and Plan of Implementation, Revised June 1967";
3. "Water Resource Uses, Present and Prospective for Lake Huron and Water Quality Standards and Plan of Implementation, Revised June 1967";
4. "Water Resource Uses, Present and Prospective for St. Clair River, Lake St. Clair, Detroit River, Lake Erie, Maumee River Basin and Water Quality Standards and Plan of Implementation, Revised June 1967";
5. "Water Resource Uses, Present and Prospective for Lake Superior and the St. Marys River and Water Quality Standards and Plan of Implementation, Revised June 1967";
6. "Water Resource Uses, Present and Prospective for the Menominee and Montreal River Basins in Michigan and the Other Michigan-Wisconsin Interstate Boundary Waters and Water Quality Standards and Plan of Implementation, Revised June 1967"; as amended; except temperature criteria for waters classified for the protection of fish, wildlife and other aquatic life.

MINNESOTA

Water quality standards established by Minnesota on May 8, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Standards for the Interstate Waters of Minnesota, June, 1967", as amended; except for the St. Louis River; and except for the criteria of dissolved oxygen of 3 mg/l for interstate waters other than waters which are the subject of recommendations following the conferences on the Red River of the North (September 14–15, 1965) and the Upper Mississippi River (February 7–8, 1964) called pursuant to section 10(d) of the Federal Water Pollution Control Act, as amended; and except for the maximum temperature limit of 93° F. for July and August.

MISSISSIPPI

Water quality standards established by Mississippi on June 19, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Standards For Interstate Waters, June 19, 1967," as amended; except for the dissolved oxygen criteria for fresh waters and open ocean waters classified for fish and wildlife or higher uses; and temperature change limits in waters classified for fish and wildlife or higher uses.

MISSOURI

Water quality standards established by Missouri in June 1967, for interstate waters subject to its jurisdiction, and which are contained in the following documents:

1. "St. Francis River, Little River, Lower Mississippi River Basin, Water Quality Standards, June 1967," as amended.
2. "Osage-Marais des Cygnes River, Lake of the Ozarks, Marmaton, and Little Osage Rivers, Missouri River Basin, Water Quality Standards, June 1967," as amended.
3. "Nishnabotna, Tarkio, West Tarkio, Nodaway, Platte, One Hundred And Two, Grand, East Fork Grand, Thompson, Little Weldon, and Charlton Rivers, Missouri River Basin, Water Quality Standards, June 1967," as amended.
4. "White, North Fork White, Spring, Eleven Point, Current and Black Rivers, White River Basin, Southwest Lower Mississippi, Water Quality Standards, June 1967," as amended.
5. "Missouri River, Water Quality Standards, June 1967," as amended; except for dissolved oxygen criteria.
6. "Mississippi River, Water Quality Standards, June 1967," as amended; except for dissolved oxygen criteria for portion below Alton Lock Dam.
7. "Big Blue River, Missouri River Basin, Water Quality Standards, June 1967," as amended.
8. "Des Moines, Fox, Wyaconda, and North Fabius Rivers, Upper Mississippi River Basin, Water Quality Standards, June 1967," as amended.
9. "Spring River, Shoal Creek, and Turkey Creek, Elk River, Buffalo Creek, and Lost Creek, Grand (Neosho) River Basin, South-West Lower Mississippi, Water Quality Standards, June 1967," as amended.

MONTANA

Water quality standards established by Montana on June 5, 1967, for interstate waters subject to its jurisdiction, and which are contained in the documents entitled "Missouri River Drainage, Water Quality Standards For The Surface Waters Of Montana," and "Columbia River Drainage, Water Quality Standards For The Surface Waters Of Montana," as amended on September 22, 1967, by "Water Quality Standards for the Surface Waters of Montana."

An addendum adopted on October 9, 1968, and made part of the water quality standards established by Montana.

NEBRASKA

Water quality standards established by Nebraska on November 16, 1966, for interstate waters subject to its jurisdiction and which are contained in the document entitled "Information Bulletin for Public Hearings on Proposed Revisions of Water Quality Standards for Interstate and Intrastate Waters of Nebraska, October 1966," as amended.

NEVADA

Water quality standards established by Nevada on June 27, 1967, for interstate waters subject to its jurisdiction, and which are contained in the documents entitled "Water Pollution Control Regulations (Exhibit 'A')" and "Interstate Water Quality Standards and Plan of Implementation, 1967".

NEW HAMPSHIRE

Water quality standards established by New Hampshire on May 24, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Report on Water Quality Standards," together with appendixes and supporting documents, as amended; except for treatment time schedules for cities of Manchester, Concord, Rye, Durham, Plymouth, Dover, Portsmouth, and except for temperature criteria for all interstate waters classified as "B" and "C", and except for the Androscoggin River.

NEW JERSEY

Water quality standards established by New Jersey on August 10, 1964, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "New Jersey State Department of Health, Division of Clean Air and Water, Water Pollution Control Program, Stream Classification, Standards of Quality—Implementation," as amended; except dissolved oxygen criteria in interstate waters classified for FW–2, FW–3, TW–1, CW–1, CW–2, and except for temperature criteria for all coastal and tidal waters, except Delaware Bay and Estuary, and except for temperature change limits for trout waters classified FW–2 and FW–3.

NEW MEXICO

Water quality standards established by New Mexico on June 6, 1967, for interstate waters subject to its jurisdiction, and which are contained in the following documents:

"The Rio Grande River in New Mexico, Water Quality Standards, June 1967";

"The San Juan, La Plata, and Animas Rivers in New Mexico, Water Quality Standards, June 1967";

"The Pecos River in New Mexico, Water Quality Standards, June 1967";

"The Gila and San Francisco Rivers in New Mexico, Water Quality Standards, June 1967";

"The Canadian River in New Mexico, Water Quality Standards, June 1967";

And a water quality standards plan of enforcement and implementation established on June 20, 1967, which are contained in the document entitled "Implementation and Enforcement Plan for Water Quality Control in New Mexico, June 1967";

And amendments adopted on March 4, 1968, and contained in the document entitled "Amendments to the Water Quality Standards, March 1968".

An addendum adopted on October 9, 1968, and made a part of section 2, page 5 of the document "Implementation and Enforcement Plan for Water Quality Control in New Mexico, June 1967."

And addenda adopted on January 13, 1969, and made part of the water quality standards established by New Mexico.

NEW YORK

Water quality standards established by New York for interstate waters subject to its jurisdiction, and which are contained in the following documents:

1. "Interstate Waters, Classifications, Water Quality Standards and Criteria and Implementation Plan for the Delaware River Drainage Basin, Volume I, November 1966;
2. "Interstate Waters, Classifications, Water Quality Standards and Criteria and Implementation and Enforcement Plan for the Susquehanna River Drainage Basin, Volume II, February 1967;

3. "Interstate Waters Classifications, Water Quality Standards and Criteria and Implementation and Enforcement Plan for the St. Lawrence River Basin, Volume III, May 1967;
4. "Interstate Waters, Classifications, Water Quality Standards and Criteria and Implementation Plan for the Lake Ontario Basin, Volume IV, June 1967;
5. "Interstate Waters, Classifications, Water Quality Standards and Criteria and Implementation and Enforcement Plan for the Hudson River Basin, Volume V, June 1967;
6. "Interstate Waters, Classifications, Water Quality Standards and Criteria and Implementation and Enforcement Plan for the Lake Erie-Niagara River Basin, Volume VI, June 1967;
7. "Interstate Waters, Classifications, Water Quality Standards and Criteria and Implementation and Enforcement Plan for the Allegheny River Basin, Volume VII, June 1967;
8. "Interstate Waters, Classifications, Water Quality Standards and Criteria and Implementation and Enforcement Plan for the Coastal Waters of New York State, Volume VIII, June 1967;"

together with all appendixes and attachments thereto, and all of which as amended.

NORTH CAROLINA

Water quality standards established by North Carolina on June 23, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Excerpt: North Carolina Water Quality Standards and Plan of Implementation, Interstate and Coastal Waters," as amended; except for dissolved oxygen criteria for fresh waters classified as "A," "B," and "C," and open ocean waters classified as "SA," "SB," "SC," and except for maximum temperature limit of 98° F. and temperature change limits for trout propagation waters and all "S" classes.

NORTH DAKOTA

Water quality standards established by North Dakota on May 16, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Standards for Surface Waters of North Dakota, Plan for Implementation of Water Quality Standards," together with appendixes and supporting documents, all of which as amended; except for the Red River of the North Drainage Basin.

OHIO

Water quality standards established by Ohio in June 1967, for interstate waters subject to its jurisdiction, and which are contained in the following documents:

1. "Water Quality Standards For Great Miami, Whitewater and Wabash River Basins, June 21, 1967," as amended; except for temperature and dissolved oxygen criteria in waters classified "Aquatic Life A".
2. "Water Quality Standards For Mahoning River, Yankee and Pymatuning Creeks, and Little Beaver Creek, June 20, 1967," as amended; except for the Mahoning River and except for odor criterion for Little Beaver, Yankee, and Pymatuning Creeks, and except for temperature and dissolved oxygen criteria for waters classified "Aquatic Life A".
3. "Water Quality Standards For The Ashtabula River, Connneaut Creek, and Turkey Creek, Including Interstate Waters of Ohio-Pennsylvania, June 1967," as amended; except for temperature and dissolved oxygen criteria for waters classified "Aquatic Life A".
4. "Water Quality Standards for Interstate Waters of the Ohio River Between Ohio-West Virginia and Ohio-Kentucky, June 26, 1967," as amended; except for temperature and dissolved oxygen criteria for waters classified "Aquatic Life A".
5. "Report on Water Quality Standards For The Maumee River Basin Including Interstate Waters, June 1967," as amended; except for temperature and dissolved oxygen criteria for waters classified "Aquatic Life A".
6. "Report on Water Quality Standards For Interstate Waters Of Lake Erie, May 1967, as amended; except for temperature and dissolved oxygen criteria for waters classified "Aquatic Life A".

OKLAHOMA

Water quality standards established by Oklahoma on October 10, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Criteria And Stream Standards For Oklahoma, 1967," as amended; except for dissolved oxygen criteria for waters with a use designated "Protection of fish and wildlife propagation, including smallmouth bass fisheries."

OREGON

Water quality standards established by Oregon on June 1, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Chapter 334, Oregon Administrative Rules, State Sanitary Authority, Division 1, Water Pollution, Subdivision 1, Standards of Quality for Public Waters of Oregon and Disposal therein of Sewage and Industrial Wastes," together with appendixes and supporting documents, and as amended on May 24, 1968, by a document entitled "Addendum, Adopted May 24, 1968, Implementation and Enforcement Plan for the Public Waters of the State of Oregon, May 1967."

PENNSYLVANIA

Water quality standards established by Pennsylvania on June 23, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Standards For Pennsylvania's Interstate Streams, June 1967," as amended, including criteria and use classifications contained in Article 301 of the Pennsylvania Sanitary Water Board's rules and regulations.

COMMONWEALTH OF PUERTO RICO

Water quality standards established by Puerto Rico on June 30, 1967, for interstate waters subject to its jurisdiction and which are contained in the document entitled, "Sanitary Rules and Regulations No. 127, To Establish Classifications and Standards for the Coastal Waters of Puerto Rico in accordance with Article 8 of Act No. 142 Approved May 1, 1950, for the Water Pollution Control, as amended, and of Act No. 81 approved March 14, 1912, 'An Act to Reorganize the Sanitary Service', as amended," together with supporting material, as amended by Sanitary Regulation No. 128, adopted December 29, 1967 and further amended by Sanitary Regulation No. 129, adopted December 23, 1968.

RHODE ISLAND

Water quality standards established by Rhode Island on June 27, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "State of Rhode Island and Providence Plantations, Water Quality Standards for Interstate Waters, June, 1967," together with appendixes and supporting documents, as amended; except for dissolved oxygen criteria for interstate waters classified as Class "C" and Class "SC".

SOUTH CAROLINA

Water quality standards established by South Carolina on November 7, 1967, for interstate waters subject to its jurisdiction and which are contained in the document entitled "General Water Quality Criteria and Specific Water Quality Standards, Implementation Plan," except for the dissolved oxygen criteria for waters classified as "B," "C," and swamp waters, the temperature-rise criteria for all freshwater classifications and the maximum temperature limit for all freshwater areas except the Savannah, Tugaloo, and Chatooga Rivers.

SOUTH DAKOTA

Water quality standards established by South Dakota on February 16, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Standards For The Surface Waters Of South Dakota, February 16, 1967," together with appendixes and supporting documents.

TENNESSEE

Water quality standards established by Tennessee on May 26, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Criteria And Implementation Plan for State of Tennessee," as amended; except for temperature criteria in all interstate waters classified for fish and aquatic life.

TEXAS

Water quality standards established by Texas on June 26, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "State of Texas, Water Quality Requirements," as amended.

UTAH

Water quality standards established by Utah in June 1967, and amended in November 1968, for interstate waters subject to its jurisdiction and which are contained in the document entitled "Water Quality Standards and Implementation Plan," as amended.

VERMONT

Water quality standards established by Vermont on June 15, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Plan for Implementation and Water Quality Criteria (Public Law 89–234) Vermont Water Resources Board, June 1967," as amended; except for lower Connecticut River (Wilder Dam to Massachusetts State line), Walloomsac River, and the segment of Battan Kill classified as "C" (Richville Road Bridge to Tanner Brook); and except for dissolved oxygen criteria for all interstate waters classified for Class "C"; and except for dissolved oxygen and temperature change criteria for interstate waters classified for coldwater fish propagation.

VIRGINIA

Water quality standards established by Virginia for interstate waters subject to its jurisdiction and which are contained in the following documents:

1. "Plan for Management of Water Quality in the Clinch & Powell River Basins in Virginia, Publication No. WQ–4, March 29, 1967," adopted March 29, 1967.
2. "Plan for Management of Water Quality in the Holston River Basin in Virginia, Publication No. WQ–6, March 29, 1967," adopted June 13, 1967.
3. "Plan for Management of Water Quality in the Shenandoah River and its Tributaries from the West Virginia-Virginia State line to the Junction of the North & South Forks, South Fork to Route 619 Bridge, Potomac River Tributaries (Frederick and Clarke Counties) and Interstate Tributaries (Rockingham County) in Virginia, Publication No. WQ–9, June 5, 1967," adopted June 13, 1967.

4. "Plan for Management of Water Quality in the South Fork Shenandoah River in Warren, Page, Rockingham and Augusta Counties in Virginia, June 4, 1968," adopted June 4, 1968.

WASHINGTON

Water quality standards established by Washington on June 30, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Regulation Relating to Water Quality Standards for Interstate and Coastal Waters of the State of Washington and A Plan For Implementation and Enforcement of Such Standards, June 1967," as amended; except for the dissolved oxygen criteria for waters classified for fish and wildlife or higher uses; and except for the temperature change limits in waters classified for fish and wildlife or higher uses.

WEST VIRGINIA

Water quality standards established by West Virginia on June 30, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Standards For Interstate Waters, June 1967," as amended; except for the dissolved oxygen criteria for waters classified for fish and wildlife or higher uses; and except for the temperature change limits in waters classified for fish and wildlife or higher uses.

WISCONSIN

Water quality standards established by Wisconsin on June 30, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Standards For Wisconsin Interstate Waters, June 1967," as amended; except for the dissolved oxygen criteria for waters classified for fish and wildlife or higher uses; and except for the temperature change limits in waters classified for fish and wildlife or higher uses.

WYOMING

Water quality standards established by Wyoming on June 30, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Standards For Interstate Waters, June 1967," as amended; except for the dissolved oxygen criteria for waters classified for fish and wildlife or higher uses; and except for the temperature change limits in waters classified for fish and wildlife or higher uses.

(c) *Temperature.* Temperature shall not exceed the interstate water quality standards applicable to the receiving waters.

(d) *Phenols.* Concentrations of phenols from other than natural sources shall not exceed one part per billion (0.001 mg/l).

(b) "Chairman" means the Chairman designated as stated in § 123.10(a) to conduct the conference pursuant to section 10(c)(2) of the Act.

procedures set forth in §§ 122.7–122.14 shall be applicable. However, such a conference shall not be required in the case of any revision initiated under para-

agencies, States, municipalities, and industries the Administrator or his designee has reason to believe may be affected by, or have an interest in, the proposed

4. "Plan for Management of Water Quality in the South Fork Shenandoah River in Warren, Page, Rockingham and Augusta Counties in Virginia, June 4, 1968," adopted January 17, 1968.

5. "Plan for Management of Water Quality in the tributaries of the Potomac River in Prince William, Stafford, King George, Westmoreland and Northumberland Counties in Virginia, Publication No. WQ-12, May 29, 1967," adopted May 29, 1967.

6. "Plan for Management of Water Quality in the Tributaries of the Potomac River in Fairfax County, East of the Western Fairfax-Arlington County Boundary and in Arlington and Prince William Counties, but not including Chopawamsic Creek, Publication No. WQ-13, June 5, 1967," adopted June 13, 1967.

7. "Plan for Management of Water Quality in the New River Basin in Virginia, Publication No. WQ-15, June 5, 1967," adopted June 13, 1967.

8. "Plan for Management of Water Quality in the Dan, Smith, Yadkin and Roanoke River Basins in Virginia, Publication No. WQ-18, June 30, 1967," adopted June 29, 1967.

9. "Plan for Management of Water Quality in the Chowan River Basin in Virginia, Publication No. WQ-20, May 29, 1967," adopted May 29, 1967.

10. "Plan for Management of Water Quality in the Rappahannock River Basin in Virginia, Publication No. WQ-22, May 29, 1967," adopted May 29, 1967.

11. "Plan for Management of Water Quality in the Big Sandy River Basin in Virginia, Publication No. WQ-24, June 5, 1967," adopted June 13, 1967.

12. "Plan for Management of Water Quality in the York River Basin in Virginia, Publication No. WQ-26, May 29, 1967," adopted May 29, 1967.

13. "Plan for Management of Water Quality in the James River Basin in Virginia, Publication No. WQ-30, June 30, 1967," adopted June 22, 1967.

14. "Plan for Management of Water Quality in the Back Bay, North Landing and Northwest Rivers and other Interstate Streams and their Tributaries in Virginia Beach, Chesapeake, and Nansemond County, Virginia, Publication No. WQ-32, June 16, 1967," adopted June 22, 1967.

15. "Plan for Management of Water Quality in the Chesapeake Bay and Atlantic Ocean Drainage Basins in Virginia, Publication No. WQ-34, June 16, 1967," adopted June 22, 1967.

16. "Plan for Management of Water Quality in the Tributaries of the Potomac River in Highland County, Virginia, Publication No. WQ-36, June 5, 1967," adopted June 13, 1967.

as amended, together with supporting documents; except for dissolved oxygen criteria for the open ocean and freshwater streams, the 95° F. maximum temperature limit, the chloride criteria for the North Fork Holston River, and certain parts of the implementation plan.

VIRGIN ISLANDS

Water quality standards established by the Virgin Islands on July 7, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Report On Water Quality Criteria And Plan Of Implementation, Virgin Islands, United States Of America, July 1967," as amended by "Report On Water Quality Criteria And Plan Of Implementation, Virgin Islands, United States Of America, August 25, 1967."

WASHINGTON

Water quality standards established by Washington on June 29, 1967, for interstate waters subject to its jurisdiction, and which are contained in the documents entitled "A Regulation Relating to Water Quality Standards for Interstate and Coastal Waters of the State of Washington and A Plan For Implementation and Enforcement of Such Standards Promulgated June 29, 1967," and "Implementation and Enforcement Plan for Interstate and Coastal Waters, June 1967," as amended by "A Regulation Relating To Water Quality Standards For Interstate and Coastal Waters of the State of Washington and a Plan For Implementation and Enforcement of Such Standards, December 4, 1967" and "Implementation and Enforcement Plan for Interstate and Coastal Waters, December 1967," together with appendixes and supporting documents.

WEST VIRGINIA

Water quality standards established by West Virginia on January 26, 1967, for interstate waters subject to its jurisdiction and which are contained in the document entitled "Report On Water Quality Criteria And Plan Of Implementation, Interstate Streams Of West Virginia," as amended; except for iron and aluminum criteria for interstate waters classified under Section 5.08 (a) of State Regulations.

WISCONSIN

Water quality standards established by Wisconsin on April 26, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Standards For Interstate Waters With Report On Implementation And Enforcement, June 1967," including Wisconsin Administrative Code Sections RD 2.01, RD 2.02, RD 2.03, RD 3.01 through RD 3.09, together with appendixes and supporting documents.

WYOMING

Water quality standards established by Wyoming on October 28, 1968, for interstate waters subject to its jurisdiction and which are contained in the document, "Water Quality Standards for Interstate Waters in Wyoming," together with supporting documents.

§ 120.11 Iowa water quality standards.

(a) *Waters.* The water quality standards of this section are applicable to the interstate waters located in the State of Iowa, of the Mississippi River, Missouri River, Fox River, Des Moines River, East Fork of the Des Moines River, West Fork of the Des Moines River, Iowa River, Cedar River, Shellrock River, Winnebago River, Wapsipinicon River, Upper Iowa River, Chariton River, Middle Fork Medicine River, Weldon River, Little River, Thompson River, East Fork of the Big River, Grand River, Platte River, East Fork of the 102 River, Middle Fork of the 102 River, Nodaway River, West Tarkio River, Tarkio River, Nishnabotna River, Little Sioux River, Big Sioux River, Rock River, and Kanaranzi Ditch.

(b) *Dilution.* Dilution shall not be considered a substitute for proper waste treatment at any time.

(c) *Temperature.* Heat additions from manmade sources in all interstate waters, except the Mississippi River and Missouri River, shall not raise the mean daily temperature more than 5° F. and shall not exceed a maximum temperature for each individual water body such as is necessary to protect the production of locally occurring desirable fish populations and their associated biota, and in any case shall not exceed at any time a maximum temperature of 90° F.

(d) *Phenols.* Concentrations of phenols from other than natural sources shall not exceed one part per billion (0.001 mg/1).

(e) *Public water supply.* Waters designated as a source of public water supply shall be of such quality that USPHS Drinking Water Standards for finished water can be met after conventional water treatment, consisting of coagulation, sedimentation, rapid sand filtration and disinfection.

(f) *Treatment.* All municipal wastes discharged into the interstate waters of the Mississippi River and the Missouri River shall receive a minimum of secondary treatment to achieve a ninety percent (90%) reduction of BOD prior to discharge no later than December 31, 1973. All industrial wastes discharged into such interstate waters shall receive equivalent treatment prior to discharge no later than December 31, 1973.

(g) *Disinfection.* Continuous disinfection shall be provided for all municipal waste treatment effluents and for all other wastes which may be sources of bacterial pollution throughout the year where such wastes are discharged into interstate waters designated for public water supplies, and throughout the recreational season (April 1 to October 31) where such wastes are discharged into interstate waters used or classified for recreational use, and at all other times as necessary to prevent bacterial pollution which may endanger the public health or welfare.

(Sec. 10(c)(2), as amended, 79 Stat. 908; 33 U.S.C. 1160(c)(2))

PART 122—REVISION OF WATER QUALITY STANDARDS

Sec.
122.1 Applicability.
122.2 Definitions.
122.3 General provisions.
122.4 Initiation of proceeding by State which adopted standards to be revised.
122.5 Initiation of proceedings for revision by the Administrator.
122.6 Initiation of revision proceedings by a Governor of an affected State.
122.7 Notice of conference.
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122.13 Record of proceedings.
122.14 Preparation, publication, and promulgation of water quality standards.

AUTHORITY: The provisions of this Part 122 issued under section 10, 70 Stat. 506, as amended; 33 U.S.C. 1160. Interpret or apply section 10(c), 79 Stat. 908, 33 U.S.C. 1160(c).

§ 122.1 Applicability.

The provisions of this part apply to revisions of water quality standards under section 10(c) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1160(c)).

§ 122.2 Definitions.

(a) "Act" means the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151 et seq.).

(b) "Chairman" means the Chairman designated as stated in § 122.10(a) to conduct the conference pursuant to section 10(c)(2) of the Act.

(c) "Agency" means the Environmental Protection Agency (EPA).

(d) "Administrator" means the Administrator of EPA.

(e) "Water quality standards" mean water quality criteria applicable to specific interstate waters and plans for the implementation and enforcement of such criteria, established pursuant to Part 120 of this chapter, and as revised from time to time pursuant to this part.

(f) The definitions of terms contained in subsection 10(j) and section 23 of the Act shall be applicable to such terms as used in this part unless the context otherwise requires.

§ 122.3 General provisions.

(a) The Governor of any State which has adopted water quality standards, or the Governor of any State affected by another State's water quality standards, or the Administrator, may seek to revise such standards from time to time as provided in this part.

(b) Unless and until a revision to water quality standards has been finally promulgated or approved by the Administrator and has become effective in accordance with this part, every aspect of the water quality standards, including water quality criteria and plans for implementation and enforcement, as in effect prior to such revision shall continue in effect and shall be the enforceable water quality standards for purposes of the Act. Except as provided in this part, water quality standards, including water quality criteria and plans for implementation and enforcement, may not be revised, modified or altered in any respect.

§ 122.4 Initiation of proceeding by State which adopted standards to be revised.

(a) A State may, after notice and public hearing, adopt revisions of its own water quality standards, including revisions of water quality criteria and revisions of plans for the enforcement and implementation of such criteria. Such revisions shall be valid and enforceable if they are determined by the Administrator to be such revisions as will protect the public health or welfare, enhance the quality of water and serve the purposes of the Act, and the water quality standards of the State as so revised shall thereafter be the water quality standards applicable to the interstate waters or portions thereof for which adopted.

(b) Determination by the Administrator that State-adopted revisions to water quality standards meet the criteria of paragraph (a) of this section shall be published in the FEDERAL REGISTER. Documents containing such standards shall be incorporated by reference into Part 120 of this chapter.

(c) The Administrator may, if he deems it to be appropriate, call a conference prior to making a determination pursuant to paragraph (a) of this section. If such a conference is called, the procedures set forth in §§ 122.7–122.14 shall be applicable. However, such a conference shall not be required in the case of any revision initiated under paragraph (a) of this section.

§ 122.5 Initiation of proceedings for revision by the Administrator.

In any case where the Administrator desires revisions in water quality standards of one or more States previously determined by him to meet the requirements of the Act, including revision of water quality criteria or of plans for implementation and enforcement, he shall call a conference in connection therewith and shall proceed in accordance with §§ 122.7–122.14.

§ 122.6 Initiation of revision proceedings by a Governor of an affected State.

(a) If the Governor of the State affected by another State's water quality standards desires revisions in such standards, including revision of water quality criteria or of plans for implementation and enforcement, he shall request the Administrator to initiate a conference for such purpose and he shall submit to the Administrator the following:

(1) A description of the location and nature of the interstate waters to be covered by the conference, the standards to be revised, the nature of the revisions desired and the reason therefor.

(2) A copy of the applicable established water quality standards on which copy matter proposed to be deleted, if any, shall be indicated by hyphens through such matter, and matter proposed to be added, if any, shall be inserted as proposed and shall be underlined.

(b) After receipt of the Governor's request for revision, the Administrator shall proceed in accordance with §§ 122.7–122.14.

§ 122.7 Notice of conference.

(a) In any case where the Administrator finds that the conditions precedent to the calling of a conference pursuant to this part exist, he shall call a conference. The Administrator or his designee shall issue and serve notice of a conference as herein provided.

(b) The notice of conference shall briefly describe the location and nature of the interstate waters to be covered by the conference, the standards to be revised, the nature of the revisions desired and the reason therefor. The conference shall be limited to the matters set forth in the notice.

(c) The notice shall include the name of the chairman before whom the conference will be conducted and shall state the city where and the day when the conference shall be held. The conference shall be held not earlier than thirty (30) days after the service of the notice.

§ 122.8 Service of notice.

(a) The notice of the conference shall be served either personally or by publication on representatives of Federal departments and agencies, interstate agencies, States, municipalities, and industries the Administrator or his designee has reason to believe may be affected by, or have an interest in, the proposed revision.

(b) The notice of the conference may be served by mailing a copy thereof to each person, department, or agency to be served at their residence, office, or place of business as ascertained by the Administrator or his designee, as the case may be. Service by mail is complete upon mailing.

(c) The notice of the conference shall be published at least once at least 30 days in advance of the conference date in the FEDERAL REGISTER and in such local newspapers as the Administrator deems to be necessary.

§ 122.9 Parties.

(a) The parties to a conference shall include the persons, departments, and agencies specified in § 122.8(a).

(b) The chairman shall have all the rights of a party to the conference.

(c) Upon application and good cause shown, the chairman may permit any additional interested Federal departments and agencies, interstate agencies, States, municipalities, industries, or other persons to appear for the purpose of presenting a statement or to be admitted as parties to such extent and upon such terms as the chairman shall determine proper.

(d) Any appearance may be in person or by counsel.

(e) The failure of any party to file an appearance or appear at the conference in response to the notice of conference shall not delay the conference and the chairman shall proceed, hear, receive statements, make determinations, and take other appropriate action affecting such party.

§ 122.10 Organization and general procedures of the conference.

(a) The chairman of the conference shall be the Administrator or such employee of the Agency as the Administrator may designate. The chairman shall convene the conference and shall schedule such other meetings as may be necessary, including meetings for the settlement or simplification of issues.

(b) The chairman or his designee shall preside at all conference sessions and meetings called by him.

(c) The conference shall be conducted in an informal but orderly manner. Questions of procedure during a conference shall be determined by the chairman.

(d) The Office of Water Programs in the Environmental Protection Agency shall provide such clerical and technical assistance as may be necessary.

(e) The chairman shall maintain and have custody of all official records and documents pertaining to the conference and shall perform such other duties related to the functioning of the conference as may be necessary.

(f) The chairman shall execute, issue, or serve such notices, reports, communications, and other documents relating to

the functions of the conference as he may deem proper.

Administrator shall either: (1) Notify the parties to the conference of his determination that the proposed revisions

SUBCHAPTER E—PESTICIDE PROGRAMS

PART 162—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL

Sec.
162.111 Interpretation with respect to shipments for experimental use; permit requirements.

aged or after dilution or mixture with other substances, such as carriers or baits. Products intended only for use after further processing or manufactur-

(3) Is not antagonistic to the activity of the principal active ingredient: *Provided, however,* That the Director may require an ingredient to be designated as

the functions of the conference as he may deem proper.

§ 122.11 Presentation of material.

The chairman shall prescribe the order for the presentation of material concerning the waters to be covered by the conference. Such material shall include a report by the Office of Water Programs (where the Administrator has proposed revisions) or by the State which has proposed revisions, stating the established standards for said waters, the present quality of said waters, the uses both existing and potential of such waters, and the criteria and implementation schedules necessary to protect and enhance such uses, all as related to the proposed revisions.

§ 122.12 Conference procedure.

(a) Persons making statements need not be sworn or make affirmation. Each party shall be given an opportunity to make a statement concerning the proposed revisions, an opportunity after all parties have been heard to make a further statement which may include comments on or rebuttal of other parties' views, and an opportunity to make recommendations as to the proposed revisions in either his first or subsequent statement.

(b) When necessary, in order to prevent undue prolongation of the conference, the chairman may limit the number of times any party may make a statement and may direct that further statements be made in writing.

(c) The chairman shall exclude irrelevant, immaterial, or unduly repetitious material.

§ 122.13 Record of proceedings.

(a) The proceedings shall be reported verbatim. A transcript of such report shall be a part of the record and the sole official transcript of the proceedings.

(b) All statements, charts, tabulations, and other data shall be received in the record. If a party objects to the admissibility of such material, the objection shall be noted and the chairman shall have a right to rule thereon.

(c) When the statement refers to a statute, or a report, or document, the chairman shall, after satisfying himself of the identification of such statute, report, or document, determine whether the same shall be produced at the conference and physically be made part of the record or shall be incorporated in the record by reference.

(d) The chairman may take official notice of statutes of States and of duly promulgated regulations of any Federal or State agency.

(e) The chairman shall submit to the Administrator the verbatim transcript including all charts, tabulations, and similar data which are part of the conference record.

§ 122.14 Preparation, publication, and promulgation of water quality standards.

(a) Subsequent to submission of the conference transcript and record, the Administrator shall either: (1) Notify the parties to the conference of his determination that the proposed revisions covered by the conference are not consistent with section 10(c) of the Act or (2) shall prepare regulations setting forth the proposed revisions covered by the conference, with such modifications as he shall deem necessary to conform with section 10(c)(3) of the Act. Such regulations shall be published in the FEDERAL REGISTER.

(b) If, within 6 months from the date the Administrator publishes such regulations, the State has not adopted revisions to its water quality standards which the Administrator finds to be consistent with section 10(c)(3) of the Act, or a petition for public hearing has not been filed under section 10(c)(4) of the Act, the Administrator shall promulgate revisions by publication thereof in the FEDERAL REGISTER. Such revisions shall be effective thirty (30) days after such publication unless a petition for public hearing has been first filed.

(c) At any time prior to thirty (30) days after revisions have been promulgated under paragraph (b) of this section, or thirty (30) days after receipt of notice of the Administrator's determination pursuant to paragraph (a)(1) of this section, the Governor of the State which adopted the standards to be revised, or the Governor of any affected State, may petition the Administrator for a public hearing under section 10(c)(4) of the Act. A petition for a public hearing need not observe any fixed form, but it must be in writing directed to the Administrator and state that the petitioning Governor desires the Administrator to call a public hearing with respect to revision of water quality standards under section 10(c)(4) of the Act, and must identify the interstate waters and the revisions with respect to which such hearing is to be called.

(d) If a petition for a public hearing is filed under section 10(c)(4) of the Act, and the Administrator finds that the conditions precedent to the calling of such a hearing exist, he will call such a hearing and may either fix the time and place thereof, or authorize his designee to do so. Such hearings shall proceed in accordance with the provisions of §§ 104.13–104.24 of this chapter. (1) If the Hearing Board approves the revisions as published or promulgated by the Administrator, the revisions shall take effect on receipt by the Administrator of the Hearing Board's recommendations. (2) If the Hearing Board agrees with the Administrator's refusal to approve revisions, then no revisions shall take effect. (3) If the Hearing Board recommends modifications in the revisions as published or promulgated by the Administrator, or recommends revisions where the Administrator refused to approve revisions, the Administrator shall promulgate revised regulations setting forth the revisions as recommended by the Hearing Board, which revisions will become effective immediately upon such promulgation.

SUBCHAPTER E—PESTICIDE PROGRAMS

PART 162—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

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AUTHORITY: The provisions of this Part 162 issued under sec. 6, 61 Stat. 169; 7 U.S.C. 135d.

§ 162.1 Words in singular form.

Words used in the singular form in this part shall include the plural, and vice versa, as the case may require.

§ 162.2 Terms defined.

Terms used in this part shall have the meanings set forth for such terms in the Act. In addition, as used in this part, the following terms shall have the meanings stated below:

(a) *Act.* "Act" means the Federal Insecticide, Fungicide, and Rodenticide Act, as amended.

(b) *Director.* "Director" means the Director of the Pesticides Regulation Division, Environmental Protection Agency, or any officer or employee to whom he has heretofore lawfully delegated or to whom he may hereafter lawfully delegate the authority to act in his stead.

(c) *Agency.* "Agency" means the Environmental Protection Agency.

(d) *Economic poison.* "Economic poison" includes all preparations intended for use as insecticides, rodenticides, nematocides, fungicides, herbicides, amphibian and reptile poisons or repellents, bird poisons or repellents, fish poisons or repellents; mammal poisons or repellents, invertebrate animal poisons or repellents, plant regulators, plant defoliants, and plant desiccants. A product shall be deemed to be an economic poison regardless of whether intended for use as packaged or after dilution or mixture with other substances, such as carriers or baits. Products intended only for use after further processing or manufacturing, such as grinding to dust or more extensive operations, shall not be deemed to be economic poisons. Substances which have recognized commercial uses other than uses as economic poisons shall not be deemed to be economic poisons unless such substances are:

(1) Specially prepared for use as economic poisons, or

(2) Labeled, represented, or intended for use as economic poisons, or

(3) Marketed in channels of trade where they will presumably be purchased as economic poisons.

(e) *Fungicide.* "Fungicide" includes all preparations intended for preventing, destroying, repelling, or mitigating any fungi or any viruses (other than those on or in living man or other animals). Examples of fungicides include but are not limited to: (1) Plant fungicides, seed fungicides, fungicidal wood preservatives, and mildew and mold preventatives, and

(2) Disinfectants, sanitizers, and sterilizers, except those for use only on or in living man or other animals.

(f) *Herbicide.* "Herbicide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any weed, including any algae or other aquatic weed, or any plant parts growing where not wanted.

(g) *Nematocide.* "Nematocide" includes only those products intended for preventing, destroying, repelling, or mitigating nematodes inhabiting soil, water, plants, or plant parts. The term does not include products intended for use against nematodes in or on living man or other animals.

(h) *Plant regulator.* "Plant regulator" includes those substances intended to alter the behavior of ornamental or crop plants or the produce thereof through physiological rather than physical action. The term includes, but is not limited to, substances intended to accelerate or retard the rate of growth or maturation of ornamental or crop plants, enhance fruit set, prevent fruit drop, accelerate root formation and elongation, prolong or break domancy of ornamental or crop plants or the produce thereof, but shall not include substances intended solely for use as plant nutrients or fertilizers.

(i) *Active ingredient.* An "active ingredient" is an ingredient which: (1) Is capable in itself, and when used in the same manner and for the same purposes as directed for use of the product, of preventing, destroying, repelling, or mitigating insects, fungi, rodents, weeds, nematodes, or other pests, or altering through physiological action the behavior of ornamental or crop plants or the produce thereof, or causing leaves or foliage to drop from a plant, or artificially accelerating the drying of plant tissue.

(2) Is present in the product in an amount sufficient to add materially to its effectiveness; and

(3) Is not antagonistic to the activity of the principal active ingredient: *Provided, however,* That the Director may require an ingredient to be designated as an active ingredient if, in his opinion, it sufficiently increases the effectiveness of the economic poison to warrant such action.

(j) *Official inspector.* "Official inspector" means any employee or agent of the Environmental Protection Agency or the Treasury Department authorized by the Director or by the Secretary of the Treasury to make investigations in connection with enforcement of the Act.

(k) *Vertebrate animals.* "Vertebrate animals" means all species of the subphylum vertebrata, including domestic vertebrates and vertebrate species of fish and wildlife.

(l) *Invertebrate animals.* "Invertebrate animals" means all forms of animal life other than vertebrate animals, including both domestic and wild species.

§ 162.3 Administration.

The Director is authorized to take such action as, in his discretion, may be necessary in the administration and enforcement of the Act and the regulations in this part.

LABELING

§ 162.4 Labeling required.

Every economic poison shall bear a label containing the information specified in the Act and the regulations in this part.

§ 162.5 Language to be used.

All statements, words, and other information required by the Act or the regulations in this part to appear on the label or labeling of any economic poison shall be in the English language: *Provided,* That shipments of articles intended solely for sale in foreign countries may bear labels or labeling in the appropriate foreign language. The Director may permit the use of an appropriate foreign language version of the label or labeling in addition to the English version on products intended for distribution in areas of the United States where a large percentage of the population does not speak English.

§ 162.6 Labeling.

(a) *Contents of label and labeling.* The label of every economic poison must show, clearly and prominently, the name, brand or trademark under which the product is sold; the name and address of the manufacturer, registrant, or person for whom manufactured; the net contents as prescribed in paragraph (e) of this section; an ingredient statement as prescribed in § 162.7; the registration number assigned to the economic poison as prescribed in paragraph (f) of this section, and an appropriate warning or caution statement as prescribed in § 162.9. The label or labeling of every economic poison must bear directions for use which are necessary and if complied with, adequate for the protection of the public.

(b) *Placement of label.* The label shall appear on the economic poison or the immediate container thereof. If the immediate container is enclosed within

nor shall there be any unreasonable variation from the average in the contents of any package.

(f) *Registration number.* The regis-

A trade-mark or trade name shall not be used as the name of an ingredient except when it has become a common name.

(c) *Percentages of ingredients.* Per-

(b) *Tests on other species.* Tests on other specified rodent or nonrodent species may be required by the Director with respect to individual economic poi-

dren" in lieu of the statement "Keep out of reach of children" if he determines that such a variation would not be injurious to the public.

(b) The label of every economic poi-

tion number to the economic poison. The registration number shall consist of a number assigned to the registrant, immediately followed by a hyphen and a number assigned to the product.

(c) *Effective date of registration.*

(b) *Placement of label.* The label shall appear on the economic poison or the immediate container thereof. If the immediate container is enclosed within a wrapper or outside container through which the label cannot be clearly read by a person with normal vision, the label must also appear on such outside wrapper or container if it is a part of the retail package.

(c) *Name and address of manufacturer, distributor, packer, formulator, or registrant.* An unqualified name and address given on the label shall be considered as the name and address of the manufacturer. If the registrant's name appears on the label and the registrant is not the manufacturer, or if the name of the person for whom the economic poison was manufactured appears on the label, it must be qualified by appropriate wording such as "Packed for • • •," "Distributed by • • •," or "Sold by • • •" to show that the name is not that of the manufacturer. If a person has two or more locations at which an economic poison is manufactured or packaged, or from which it is distributed, the name and address of the person's principal office will be accepted except in cases where the Director determines that the address of the exact location is necessary for the protection of the public. The address of the manufacturer, registrant, or person for whom manufactured shall include the street address, if any, unless the street address is shown in a current city directory or telephone directory.

(d) *Name, brand, or trade-mark of economic poison.* The name, brand, or trade-mark of the economic poison, appearing on the label shall be that under which the economic poison is registered.

(e) *Net content.* (1) The net content shall be exclusive of wrappers or other material, and shall be deemed to be average content unless stated as a minimum quantity.

(2) Net content shall be stated in the terms of weight or measure in general use by consumers and users of the type of economic poison to give accurate information as to the quantity of the economic poison. If there is no general use, the net content statement shall be in terms of liquid measure if the product is a liquid, and in terms of weight if it is solid, semi-solid, viscous, or a mixture of liquid and solid. Statements of liquid measure shall be in terms of the United States gallon, quart, pint, and fluid ounce at 68° F. The statements of weight shall be in terms of avoirdupois pound and ounce. All statements of net content shall be in terms of the largest unit present.

(3) If the contents are stated as a minimum quantity, variation below the stated quantity is not permissible and variation above shall not be unreasonably large.

(4) If the contents are not stated as a minimum quantity, variation shall be permitted only to the extent that it represents deviations unavoidable in good packing practice. The average quantity in the packages in a shipment shall not fall below the average quantity stated, nor shall there be any unreasonable variation from the average in the contents of any package.

(f) *Registration number.* The registration number assigned to an economic poison at the time of registration shall appear on the label of such economic poison. The number must be the same as that appearing on the notice of registration and shall be preceded by the phrase "EPA Registration No.," or the phrase "EPA Reg. No." all of which shall be in type of a size and style similar to other print on that part of the label on which it appears and shall run parallel to it. The registration number shall not appear in a manner which would make it misleading to the public.

(g) *Legibility of label and labeling.* All words, statements, graphic representations, or designs required by the regulations in this part to appear on the label or labeling must be clearly legible and easy to read by a person with normal vision. The signal word, when required, and the statement "Keep out of reach of children" prescribed in § 162.9(a) shall be of a size bearing a reasonable relationship to the other type on the front part of the label and to the size of the container. The signal word, when required, shall not be less than 18 point type and the said warning statement shall not be less than 12 point type, unless the label space on the container is too small to accommodate such type sizes in which case the Director shall prescribe the type size. When the size of the label space requires a reduction in type size, the reduction shall be made to a size no smaller than is necessary and in no event to a size smaller than 6 point type.

§ 162.7 Ingredient statement.

(a) *Location of ingredient statement.* The ingredient statement must appear on the front panel or that part of the label displayed under customary conditions of purchase, except in cases where the Director determines that, due to the size or form of the container, a statement on that portion of the label is impracticable, and permits such statement to appear on another side or panel of the label. Regardless of the placement of the ingredient statement on the label, it shall be sufficiently prominent and in type size which can be easily read by a person with normal vision. The ingredient statement must run parallel with other printed matter on the panel of the label on which it appears and must be on a clear contrasting background not obscured or crowded.

(b) *Names of ingredients.* The well-known common name of each of the listed ingredients must be given or, if an ingredient has no common name, the correct chemical name which conforms most closely with generally accepted rules of chemical nomenclature. If there is no common name and the chemical composition is complex, the Director may permit the use of a new or coined name which he finds to be appropriate for the information and protection of the user. If the use of a new or coined name is permitted, the Director may prescribe the terms under which it may be used. A trade-mark or trade name shall not be used as the name of an ingredient except when it has become a common name.

(c) *Percentages of ingredients.* Percentages of ingredients shall be determined by weight and the sum of the percentages of the ingredients shall be 100. Sliding scale forms of ingredient statements shall not be used.

(d) *Designation of ingredients.* (1) Active ingredients and inert ingredients shall be so designated, and the terms "inert ingredients" shall appear in the same size type and be equally as prominent as the term "active ingredients."

(2) If the name but not the percentage of each active ingredient is given, the names of the active and inert ingredients shall, respectively, be shown in the descending order of the percentage of each present in each classification and the name of each ingredient shall be given equal prominence.

(e) *Active ingredient content.* As long as an economic poison is subject to the Act the percentages of active ingredients in the economic poison shall be those declared in the ingredient statement.

§ 162.8 Economic poisons highly toxic to man.

(a) Economic poisons which fall within any of the following categories when tested on laboratory animals as specified in subparagraphs (1), (2), or (3) of this paragraph are highly toxic to man or contain substances or quantities of substances highly toxic to man within the meaning of the Act (such economic poisons being hereinafter in this part referred to as economic poisons highly toxic to man): *Provided, however,* That the Director may, upon application and after opportunity for hearing, exempt any economic poison which is in any of these categories, but which is not in fact highly toxic to man, from the requirements of the Act and the regulations in this part with respect to economic poisons highly toxic to man:

(1) *Oral toxicity.* An economic poison which has a single dose LD_{50} of 50 milligrams or less per kilogram of body weight when administered orally to both male and female rats which have been fasted for a period of 24 hours (or to other rodent or nonrodent species specified by the Director); or

(2) *Toxicity on inhalation.* An economic poison which has an LC_{50} of 2,000 micrograms or less of dust or mist per liter of air or 200 parts per million or less by volume of a gas or vapor, when administered by continuous inhalation for one hour to both male and female rats (or to other rodent or nonrodent species specified by the Director), if the Director finds that it is reasonably foreseeable that such concentration will be encountered by man; or

(3) *Toxicity by skin absorption.* An economic poison which has an LD_{50} of 200 milligrams or less per kilogram of body weight when administered by continuous contact for twenty-four hours with the bare skin of rabbits (or other rodent or nonrodent species specified by the Director).

(b) *Tests on other species.* Tests on other specified rodent or nonrodent species may be required by the Director with respect to individual economic poisons or to classes of economic poisons whenever he finds that tests on other species are necessary to determine whether an economic poison is highly toxic to man.

(c) *Terms LD_{50} and LC_{50}.* An LD_{50} as used in connection with oral toxicity and skin absorption toxicity tests specified in paragraph (a) (1) and (3) of this section is the dose and LC_{50} as used in connection with inhalation tests specified in paragraph (a)(2) of this section is the concentration which is expected to cause death within 14 days in 50 percent of the test animals so treated.

(d) *Toxicity based on human experience.* If the Director finds, after opportunity for hearing, that available data on human experience with any economic poison indicate a toxicity greater than that determined from the above described tests on animals, the human data shall take precedence and, if he finds that the protection of the public so requires the Director shall declare such an economic poison to be highly toxic to man for the purposes of this Act and the regulations thereunder.

§ 162.9 Warning or caution statement.

Warning or caution statements, which are necessary and, if complied with, adequate to prevent injury to living man and useful vertebrate animals, useful vegetation, and useful invertebrate animals, must appear on the label in a place sufficiently prominent to warn the user, and must state clearly and in nontechnical language the particular hazard involved in the use of the economic poison, e.g., ingestion, skin absorption, inhalation, flammability or explosion, and the precautions to be taken to avoid accident, injury, or damage.

(a) The label of every economic poison shall bear warnings or cautions which are necessary for the protection of the public, including the statement, "Keep out of reach of children," and a signal word such as "Danger," "Warning," or "Caution" as the Director may prescribe, on the front panel or that part of the label displayed under customary conditions of purchase: *Provided, however,* The Director may permit reasonable variations in the placement of that part of the required warnings and cautions other than the statement "Keep out of reach of children" and the required signal word, if in his opinion such variations would not be injurious to the public. If an economic poison is marketed in channels of trade where the likelihood of contact with children is extremely remote, or if the nature of the product is such that it is likely to be used on infants or small children without causing injury under any reasonably foreseeable conditions, the Director may waive the requirement of the statement "Keep out of reach of children" if in his opinion such a statement is not necessary to prevent injury to the public. The Director may permit a statement such as "Keep away from infants and small children" in lieu of the statement "Keep out of reach of children" if he determines that such a variation would not be injurious to the public.

(b) The label of every economic poison which is highly toxic to man as described in § 162.8 shall bear the word "Danger" along with the word "Poison" in red on a contrasting background in immediate proximity to the skull and crossbones and an antidote statement including directions to call a physician immediately, on the front panel or that part of the label displayed under customary conditions of purchase: *Provided, however,* The Director may permit reasonable variations in the placement of the antidote statement if some reference such as "See antidote statement on back panel" appears on the front panel near the word "Poison" and the skull and crossbones.

REGISTRATION

§ 162.10 Registration.

(a) *Eligibility.* Any manufacturer, packer, seller, distributor, or shipper of an economic poison is eligible to apply for registration of such economic poison.

(b) *Effect of registration.* If an economic poison is registered under the Act by other persons is required: *Provided,* That

(1) The product is in the manufacturer's or registrant's original unbroken immediate container; and

(2) The claims made for it and the directions for its use do not differ from the representations made in connection with registration; and

(3) The product contains the labeling accepted in connection with registration and otherwise complies with the Act.

(c) *Procedure for registration.* Applications for registration should be addressed to Pesticides Regulation Division, Environmental Protection Agency, Washington, D.C., 20250. Application forms will be furnished upon request. All applications for registration shall be accompanied by duplicate copies of the proposed labeling, including all printed or graphic matter which is to accompany the economic poison at any time and, if requested by the Director, a full description of the tests made and the results thereof upon which the claims for the economic poison are based, together with such other information as may be necessary to assure compliance with the Act and the regulations in this part. If any part of the proposed labeling submitted is in a foreign language, it shall be accompanied by an accurate and complete English translation. Applications should be submitted as far in advance as possible, and at least 30 days, before it is desired that registration take effect. However, the period of time required to process applications to determine the adequacy of the proposed labeling may exceed 30 days in some cases. Applications which require consultation with other governmental agencies will take a longer period of processing. No fees are charged for registration.

(d) *Registration number.* When an economic poison is registered under the Act, the Director shall assign a registration number to the economic poison. The registration number shall consist of a number assigned to the registrant, immediately followed by a hyphen and a number assigned to the product.

(e) *Effective date of registration.* Registration of an economic poison shall become effective on the date the notice of registration is issued.

(f) *Responsibility of applicant for registration.* The applicant for registration is responsible for the accuracy and completeness of all information submitted in connection with his application for registration of an economic poison.

(g) *Changes in labeling or formulas.* (1) Changes in the labeling or changes in the formula of a registered economic poison must be submitted in advance to the Pesticides Regulation Division, Environmental Protection Agency, Washington, D.C. 20250. The registrant must describe the exact changes desired and the proposed effective date and, upon request, shall submit a description of tests which justify such changes.

(2) After the effective date of a change in labeling or formula, the product shall be marketed only under the new claims or formula: *Provided, however,* The Director may permit a reasonable time for the disposition of stocks of the discontinued product, if in his opinion such an extension would not endanger the public.

(h) *Claims must conform to registration.* Claims made for an economic poison must not differ from representations made in connection with registration, including representations with respect to effectiveness, ingredients, directions for use, or pests against which the product is recommended.

(i) *Duration of registration.* If at any time it does not appear to the Director that the economic poison is such as to warrant the proposed claims for it or if the economic poison and its labeling and other material required to be submitted do not comply with the provisions of the Act, the Director shall notify the registrant of the facts involved and afford him an opportunity to bring the product and its labeling into compliance with the Act. If after a reasonable period of time, the registrant has not made such corrections, the Director may cancel the registration under the provisions of section 4.c. of the Act. Unless cancelled in accordance with this paragraph or with the acquiescence of the registrant, or unless continued in effect in accordance with the provisions of paragraph (j) of this section, the registration of an economic poison shall be cancelled at the end of a period of five years following the date of registration of such economic poison, or at the end of five years following the date of any subsequent registered change in formula or labeling, or at the end of five years following the date of any continuance of registration pursuant to paragraph (j) of this section: *Provided, however,* That prior to any such cancellation the Pesticides Regulation Division shall send to the registrant a notice of intent to cancel, and, in the event such notice is not sent to the registrant 30 days prior to the expiration of the five-year period, the registration shall remain in effect until 30 days following the date such

notice has been sent to the registrant at his latest address submitted to the Pesticides Regulation Division.

(j) *Continuance of registration.* If a

was shipped or delivered by the person giving the guarantee.

(e) *Expiration of guarantee.* Any guarantee shall expire when the product

(d) *Exceptions.* (1) Notwithstanding the provisions of paragraphs (b) and (c) of this section, the Director, after opportunity for hearing, may permit

(2) A false or misleading statement concerning the effectiveness of the product as an economic poison or device.

(3) A false or misleading statement about the value of the product for purposes other than as an economic poison

in violation of the Act, a notice in writing shall be sent to the person against whom criminal proceedings are contemplated, giving him 20 days within which to offer such written explanation as he may desire. The notice shall state the

types, specific and general. A specific permit will be issued to cover a particular shipment on a specified date to a named person. A general permit will be issued to cover more than one shipment over a period of time to the same or different

notice has been sent to the registrant at his latest address submitted to the Pesticides Regulation Division.

(j) *Continuance of registration.* If a registrant desires to continue the registration in effect, he shall notify the Pesticides Regulation Division in writing and it shall be continued in effect under the same terms as the original registration: *Provided, however,* That if, on the basis of information available at the time, it appears that the product or its labeling fails to comply with the Act, the registrant shall be so notified and afforded the opportunity to make the necessary corrections. If the corrections are not made, registration will be cancelled as provided in section 4.c. of the Act.

(k) *Limitations on registrations.* The Director may refuse to register any economic poison or any specific use thereof if, in his opinion, directions and warnings cannot be written which will prevent injury to the general public when the product is used in accordance with warnings and directions or in accordance with commonly recognized practices. If, however, such an economic poison is proposed for certain acceptable uses, the Director may require the label to bear a warning against specific unacceptable uses such as in the home or home garden.

GUARANTEES

§ 162.11 Guarantee of economic poison.

(a) *By whom given; effect of guarantee.* Any manufacturer, distributor, wholesaler, or other person residing in the United States may furnish to any person to whom he sells an economic poison a guarantee that the economic poison was lawfully registered at the time of sale and delivery to such person, and that the economic poison complies with all the requirements of the Act and of the regulations in this part. The Act provides that penalties for violation of section 3.a. of the Act shall not apply to a person who establishes that he has received a guarantee as specified in the Act.

(b) *Reference to guarantee.* No reference to a guarantee or suggestion that such a guarantee has been given shall be made in the labeling of any economic poison.

(c) *Contents of guarantee.* In order to afford effective protection, each guarantee must:

(1) Be signed by and contain the name and address of the person giving it; and

(2) State that the economic poison was lawfully registered at the time of sale and delivery and that it complies with all other requirements of the Federal Insecticide, Fungicide, and Rodenticide Act.

(d) *Scope of guarantee.* A guarantee may be (1) limited to a specific shipment or other delivery of a product, in which case it may be a part of or attached to the invoice or bill of sale covering such shipment or delivery, or (2) general and continuing, in which case, in its application to any shipment or other delivery of a product it shall be considered to have been given at the date when such product was shipped or delivered by the person giving the guarantee.

(e) *Expiration of guarantee.* Any guarantee shall expire when the product is repacked or relabeled by the purchaser or when it becomes in violation of the Act or the regulations in this part after shipment or other delivery by the person giving the guarantee.

(f) *Forms of guarantee.* The following are suggested forms of guarantee:

(1) *Limited form for use on invoice or bill of sale.*

---------- hereby guarantees
(Name of guarantor)
that the economic poison herein listed is lawfully registered with the Secretary of Agriculture and that the same complies with all requirements of the Federal Insecticide, Fungicide, and Rodenticide Act.

(Signature and post office address of guarantor)

(Date)

(2) *General and continuing form.*

The economic poisons, comprising each shipment or other delivery hereafter made by ----------, to or on the order of
(Name of guarantor)
---------- are hereby
(Name and address of person receiving guarantee)
guaranteed to be lawfully registered with the Secretary of Agriculture and to comply with all requirements of the Federal Insecticide, Fungicide, and Rodenticide Act, as of the date of such shipment or delivery.

(Signature and post office address of guarantor)

(Date)

COLORATION OF ECONOMIC POISONS

§ 162.12 Coloration and discoloration.

The white economic poisons hereinafter named shall be colored or discolored in accordance with this section. The hues, values, and chromas specified are those contained in the Munsell Book of Color, Munsell Color Company, 10 East Franklin Street, Baltimore, Md.

(a) *Coloring agent.* The coloring agent must produce a uniformly colored product not subject to change in color beyond the minimum requirements specified in the regulations in this part during ordinary conditions of marketing or storage, and must not cause the product to be ineffective or result in its causing damage when used as directed.

(b) *Arsenicals and barium fluosilicate.* Standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, and barium fluosilicate shall be colored any hue, except the yellow-reds and yellows, having a value of not more than 8 and a chroma of not less than 4, or shall be discolored to a neutral lightness value not over 7.

(c) *Sodium fluoride and sodium fluosilicate.* Sodium fluoride and sodium fluosilicate shall be colored blue or green having a value of not more than 8 and a chroma of not less than 4, or shall be discolored to a neutral lightness value not over 7.

(d) *Exceptions.* (1) Notwithstanding the provisions of paragraphs (b) and (c) of this section, the Director, after opportunity for hearing, may permit other hues to be used for any particular purpose if he determines that use of the prescribed hues is not feasible for such purpose and that such action will not be injurious to the public.

(2) Any economic poison specified in this part which is intended solely for use by a textile manufacturer or commercial laundry, cleaner or dyer as a mothproofing agent, which would not be suitable for such use if colored and which will not come into the hands of the public except when incorporated into a fabric, may be exempted by the Director from the requirements of section 3.a.(4) of the Act and the requirements of this section.

(3) The economic poison sodium fluoride shall be exempt from the requirements of section 3.a.(4) of the Act and paragraph (c) of this section when (i) it is intended for use as a fungicide solely in the manufacture or processing of rubber, glue, or leather goods; (ii) coloration of the economic poison in accordance with said requirements will be likely to impart objectionable color characteristics to the finished goods; (iii) the economic poison will not be present in such finished goods in sufficient quantities to cause injury to any person; and (iv) the economic poison will not come into the hands of the public except after incorporation into such finished goods.

ADULTERATION AND MISBRANDING

§ 162.13 Adulteration.

An economic poison is adulterated if its strength or purity falls below the professed standard or quality as expressed on its labeling or under which it is sold, or if any substance has been substituted wholly or in part for the article, or if any valuable constituent of the article has been wholly or in part abstracted.

(a) A valuable constituent will be considered as wholly abstracted whenever the designation or representation of the product imports its presence therein and such constituent has been wholly omitted therefrom in the preparation of the product or has been wholly removed from the completed product.

(b) A valuable constituent will be considered as partly abstracted whenever the designation or representation of the product imports its presence therein and such constituent is not present in the usual or customary amount or in the amount indicated in the labeling.

§ 162.14 Misbranding.

An economic poison or device is misbranded if the article or its labeling is false or misleading to the public in any particular.

(a) Examples of statements or representations in the labeling of an economic poison or device which render it misbranded are the following:

(1) A false or misleading statement concerning composition of the product.

(2) A false or misleading statement concerning the effectiveness of the product as an economic poison or device.

(3) A false or misleading statement about the value of the product for purposes other than as an economic poison or device.

(4) A false or misleading comparison with other economic poisons or devices.

(5) Unwarranted claims as to the safety of the economic poison or its ingredients, including a statement such as "safe," "non-poisonous," "non-injurious," or "harmless" with or without such a qualifying phrase as "when used as directed": *Provided, however,* That the Director may permit a truthful statement such as "non-toxic to humans and pets" on those products which are determined by the Director to be non-toxic to humans and pets.

(6) Any statement directly or indirectly implying that the economic poison or device is recommended or endorsed by any agency of the Federal Government.

(7) The name of an economic poison which contains two or more principal active ingredients if it suggests the name of one or more but not all such principal active ingredients even though the names of the other ingredients are stated elsewhere in the labeling.

(8) Prominent reference in the labeling to one or more active ingredients without giving their percentages in immediate proximity thereto or without giving equal prominence to the other active ingredients or to the inert ingredients.

(9) A true statement used in such a way as to give a false or misleading impression to the purchaser.

(b) *Justification of false and misleading statements not permitted.* (1) The use of any false or misleading statement on any part of the labeling, given as the statement or opinion of any person or based upon such statement or opinion, shall not be justified by the fact that the statement or opinion is actually that of such person.

(2) The use of a false or misleading statement in the labeling cannot be justified by an explanatory statement.

ENFORCEMENT

§ 162.15 Enforcement.

(a) *Collection of samples.* Samples of economic poisons and devices shall be collected by official inspectors or by any employee of the Federal Government, or of a State or Territory, or political subdivision thereof who has been duly authorized by the Director to collect samples.

(b) *Examination of samples.* Methods of examination of samples shall be those adopted and published by the Association of Official Agricultural Chemists, where applicable, or such other methods as the Director may find necessary to determine whether the product complies with the law.

(c) *Notice of apparent violation.* (1) If, from an examination or analysis, an economic poison or device appears to be in violation of the Act, a notice in writing shall be sent to the person against whom criminal proceedings are contemplated, giving him 20 days within which to offer such written explanation as he may desire. The notice shall state the manner in which the sample fails to meet the requirements of the Act and the regulations thereunder.

(2) Any such person may, in addition to his reply to such notice, file within 20 days of its receipt a written request for an opportunity to present his views orally in connection therewith.

(3) No notice or hearing is required prior to the seizure of any economic poison or device.

§ 162.16 Notices of judgment.

Publication of notices of judgments of the courts in cases arising under the criminal or seizure provisions of the Act shall be made in the form of notices, circulars, or bulletins as the Director may prescribe.

TEMPORARY PERMITS

§ 162.17 Limited shipments for experimental purposes.

Temporary permits not to exceed a period of one year may be issued for shipment of limited amounts of a product which is to be tested further, usually on a larger scale, to determine its limitations. Permits will be issued only for bona fide experimental programs under the supervision of qualified persons. The Director may require the submission of such information and data concerning the product and the program which he deems necessary for the protection of the public. If, in the opinion of the Director, such information has not been submitted he may, for the protection of the public, refuse to issue the permit.

(a) *Articles for which no permit is required.* (1) A substance or mixture of substances being put through tests in which the purpose is only to determine its value for economic poison purposes or to determine its toxicity or other properties, and where the user does not expect to receive any benefit in pest control from its use, is not considered an economic poison within the meaning of section 2a of the Act. Therefore, no permit under the Act is required for its shipment.

(2) An economic poison shipped or delivered for experimental use by or under the supervision of any Federal or State agency authorized by law to conduct research in the field of economic poisons shall not be subject to the provisions of the Act and the regulations in this part.

(b) *Articles for which permit is required.* (1) An economic poison shipped or delivered for experimental use by qualified persons but not under the supervision of a Federal or State agency authorized by law to conduct research in the field of economic poisons, for which a permit has been issued by the Director pursuant to the provisions of this section, shall otherwise be exempt from the provisions of the Act and of the regulations in this part. Permits will be of two types, specific and general. A specific permit will be issued to cover a particular shipment on a specified date to a named person. A general permit will be issued to cover more than one shipment over a period of time to the same or different persons.

(2) If an economic poison is to be tested in such a manner that residues may result in or on food or feed, a permit for shipment will not be issued unless:

(i) Sufficient data are submitted to the Director to show that no residue will be present on food or feed involved in the experimental program or

(ii) A tolerance or exemption from the need of a tolerance or a temporary tolerance or exemption from the need of a temporary tolerance, has been established by the Environmental Protection Agency to cover any detectable residue which may be present on food or feed involved in the experimental program and sufficient data are submitted to the Director to show that such program will not result in any residue in excess of any such tolerance or

(iii) The food or feed derived from the experimental program will be destroyed or fed only to laboratory animals or otherwise disposed of in a manner which will protect the public and which is approved by the Director.

(3) A permit for shipment of any experimental economic poison for testing in any place likely to be frequented by people will be granted only if it is clearly shown in the application for such permit that the applicant's instructions for use reasonably assure the avoidance of injury to all persons concerned.

(4) All applications for permits covering shipments for experimental use shall be filed in duplicate with the Pesticides Regulation Division, Environmental Protection Agency, Washington, D.C. 20250, and must be signed by the shipper and must contain the following:

(i) A certification to the effect that food or feed derived from the experimental program will not be used or offered for consumption or sale for consumption, except by laboratory or experimental animals if illegal residues are present in or on such food or feed.

(ii) Name and address of the shipper and place or places from which the shipment will be made.

(iii) Proposed date of shipment or proposed shipping period not to exceed one year.

(iv) A statement of the composition of material to be covered by the permit which should apply to a single material or group of closely allied formulations of the material.

(v) A statement of the approximate quantity of material to be shipped.

(vi) Available data or information, or reference to available data or information, on the toxicity of the economic poison.

(vii) A statement of the nature of the proposed experimental program, including designation of the type of pests or organisms to be experimented with, the crops or animals on which the economic

poison is to be used, a statement of the dates during which the proposed experimental program will be conducted, and

(7) An economic poison shipped under a permit shall not be offered for general retail sale.

IMPORTS

§ 162.30 Definitions.

All terms used in §§ 162.30 to 162.35

§ 162.35 Bond for release of imports pending examination.

Consignments of economic poisons and devices offered for importation into the

applied. There would seem to be no question but that the substances carried by the operator are economic poisons within the literal wording of the act and the regulations. However, the pur-

defoliants, and plant desiccants, as described below.

(1) *Insecticides.* The term 'insecticide" as defined in the Act includes all preparations intended for preventing, de-

poison is to be used, a statement of the dates during which the proposed experimental program will be conducted, and the states or geographical areas where it is proposed to conduct the program, and including the results of previous tests where necessary to justify the issuance of a permit for the quantity requested.

(viii) The percentage of the total quantity of material specified under subdivision (v) of this subparagraph which will be supplied without charge to the user.

(ix) A statement that the economic poison is intended for experimental use only.

(x) Proposed labeling which must bear (a) the prominent statement "For Experimental Use Only" on the container label and any accompanying circular or other labeling, (b) a warning or caution statement if in the opinion of the Director it is necessary, which statement shall, if complied with, be adequate in his opinion, for the protection of those who may handle or be exposed to the experimental formulations, (c) the name and address of the applicant for the permit, (d) the name or designation of the formulation, (e) an ingredient statement as prescribed in § 162.7, and (f) necessary directions for use including crops or sites to be treated, limitations on dosage to be used, and if the economic poison is to be tested on food or feed crops the number of days required between last application and harvest.

(5) The Director may limit the quantity of economic poison covered by a permit to such less quantity than requested as he may determine if the available information on effectiveness, or toxicity or other hazards, is not sufficient to justify the scope of experimental use proposed in the application, or may make such other limitations in the permit as he may determine to be necessary for the protection of the public.

(6) Reports on experimental program: During the period in which a permit is effective, the holder shall submit to the Director periodic reports regarding the status of the experimental program. Reports shall be submitted at 3-month intervals and at the end of the experimental program. These reports shall include the following information:

(i) Amount of the economic poison shipped during reporting period.

(ii) Name and address of consignee of each shipment.

(iii) A summary of data on effectiveness, phytotoxicity, or other pertinent information obtained during the reporting period.

(iv) Any additional data on residues or analytical methods obtained during the reporting period.

(v) Any additional data on toxicity obtained during the reporting period.

(vi) Such other information and data as the Director may require.

The Director may at any time request additional reports on the experimental program if, in his opinion, such reports are necessary for the protection of the public.

(7) An economic poison shipped under a permit shall not be offered for general retail sale.

(c) *General permit for economic poisons for experimental use which are also subject to the new drug requirements of the Federal Food, Drug, and Cosmetic Act.* (1) Notwithstanding the provisions of paragraph (b) of this section, a general permit is hereby issued under section 7.a.(4) of the Act to the manufacturers and shippers of economic poisons for experimental use only, to ship such economic poisons: *Provided,* (i) That the product is a "new drug" within the meaning of section 201(p) and 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. sec. 321(p) and sec. 355); (ii) that it is subject to, and the manufacturer or shipper complies with, the provisions of section 505(i) of said Act (21 U.S.C. sec. 355(i)) and § 130.3 of the regulations (21 CFR 130.3) thereunder; and (iii) that the documents referred to in said § 130.3 shall be made available for inspection upon the request of any officer or employee of the Environmental Protection Agency at any reasonable time within two years after the introduction of the product into interstate commerce.

(2) The general permit referred to in the preceding subparagraph shall apply only insofar as the experimental uses are for drug purposes within the meaning of the Federal Food, Drug, and Cosmetic Act. It shall not apply to other experimental uses even though the product may be intended for both drug and nondrug uses.

(d) *Cancellation of permits.* Any permit for shipment for experimental use may be canceled at any time for any violation of the terms thereof or if it shall appear to the Director that the permit should be canceled for the protection of the public.

§§ 162.18–162.24 [Reserved]

DECLARATION OF PESTS

§ 162.25 Forms of plant and animal life and viruses declared to be pests.

(a) Each of the following forms of plant and animal life and viruses is declared to be a pest under the Act when it exists under circumstances that make it injurious to plants, man, domestic animals, other useful vertebrates, useful invertebrates, or other articles or substances:

Mammals, including but not limited to dogs, cats, moles, bats, wild carnivores, armadillos, and deer;
Birds, including but not limited to starlings, English sparrows, crows, and blackbirds;
Fishes, including but not limited to the jawless fishes such as the sea lamprey, the cartilaginous fishes such as the sharks, and the bony fishes such as the carp;
Amphibians and reptiles, including but not limited to poisonous snakes;
Aquatic and terrestrial invertebrates, including but not limited to slugs, snails, and crayfish;
Roots and other plant parts growing where not wanted;
Viruses, other than those on or in living man or other animals.

IMPORTS

§ 162.30 Definitions.

All terms used in §§ 162.30 to 162.32, inclusive, shall have the meaning set forth for such terms in the Federal Insecticide, Fungicide, and Rodenticide Act and § 162.2 of the regulations promulgated by the Administrator of the Environmental Protection Agency thereunder. In addition the term "Collector of Customs" means any person authorized under the customs laws and regulations to perform the duties of a collector of customs.

CROSS REFERENCE: For regulations of the Bureau of Customs, Department of the Treasury, see 19 CFR Chapter 1.

§ 162.31 Registration.

All economic poisons are required to be registered under the provisions of section 4 of the act, and § 162.10 of the regulations promulgated by the Administrator of the Environmental Protection Agency thereunder before being permitted entry into the United States.

§ 162.32 Declaration.

All invoices of economic poisons and devices imported into the United States shall be accompanied by a declaration of the shipper as follows:

I, _____, the undersigned, do hereby declare that I am the
(Name in full)
_____ of the manufacturer or shipper)
_____ (Manufacturer or shipper)
chandise herein mentioned, which consists of economic poisons or devices or both. None of this merchandise is adulterated or misbranded or otherwise violates the prohibitions set forth in the Federal Insecticide, Fungicide, and Rodenticide Act in any respect, or is dangerous to the health of the people of the United States, or is of a kind forbidden entry into, or forbidden to be sold or restricted in sale in the country in which it is made, or from which it is exported. The merchandise was manufactured in _____ by _____
(Country) (Name of manufacturer)
and is exported from _____
(City)
consigned to _____
(City)
Dated at _____ this _____ day of _____, 19_____

_____
(Signature)

§ 162.33 Notice of shipments for importation.

The Collector of Customs shall notify the Director of all shipments of economic poisons and devices being imported into the United States and shall detain all such shipments until notified by the Director that the shipment may be released.

§ 162.34 Drawing of samples of imported shipments.

The Collector of Customs shall, upon request by the Director, draw samples of import shipments of economic poisons and devices, and deliver them together with a copy of the labeling, and all accompanying circulars and advertising matter pertaining to such merchandise, to the designated laboratory of the Environmental Protection Agency.

§ 162.35 Bond for release of imports pending examination.

Consignments of economic poisons and devices offered for importation into the United States may be detained pending examination to determine whether or not they comply with the requirements of the act, or they may be released to the consignee prior to such examination upon the execution of a customs single-entry or term bond in the appropriate form and in the amount prescribed in regulations of the Bureau of Customs, United States Treasury Department, in force on the date of entry, and containing a provision for the redelivery of the merchandise or any part thereof upon the demand of the Collector of Customs at any time. The bond shall be filed with the Collector of Customs, who, in case of default, shall take appropriate action to effect the collection of all liquidated damages provided for in the bond.

§ 162.36 Procedure after examination.

(a) If, upon examination or analysis of a sample from an import consignment of economic poisons or devices, such sample is found not to be in violation of the act, the Director shall notify the Collector of Customs that the shipment may be released. However, if, upon examination or analysis of the sample and consideration of other evidence in the case such sample is found to be in violation of the act, the owner or consignee shall be notified promptly by the Director of the nature of the violation and be given a reasonable time, not to exceed sixty days, to submit written material or, at his option, to appear before the Director and introduce testimony, to show cause why the shipment should not be destroyed or refused entry.

(b) If, after consideration of all of the evidence in the case, it still appears that the consignment may not lawfully be admitted into the United States, the Director shall notify the Collector of Customs that the merchandise is in violation of the act and the nature of the violation, and thereupon the Secretary of the Treasury (1) shall refuse delivery to the consignee and, under such regulations as he may prescribe, shall cause the destruction of any merchandise not exported by the consignee within 3 months from the date of notice of such refusal of entry or (2) if the shipment has been released to the consignee under bond, shall take action to enforce the terms of said bond.

INTERPRETATIONS

§ 162.100 Interpretation as to applicability of act and regulations to operations of pest control operators.

(a) The question has arisen as to whether the requirements of the Federal Insecticide, Fungicide, and Rodenticide Act and the regulations promulgated thereunder are applicable to the situation in which a commercial pest control operator, as a part of his service operation, carries his own economic poisons from one State to another for application by him in his work, the material remaining in his sole and actual possession until applied. There would seem to be no question but that the substances carried by the operator are economic poisons within the literal wording of the act and the regulations. However, the purpose of the act and the regulations in requiring proper registration and labeling of the regulated substances is to protect the purchaser or user of such substances. In the situation in question, there is no purpose of sale of the substances as such or the use thereof by others. The operator is hired to control pests and as a part of his service work applies the substances. Under these circumstances it would seem that so long as the economic poisons remain in the operator's sole and actual custody, nothing would be accomplished by requiring the registration of the substances and their proper labeling, including ingredient statements, directions for use, poison indicia, warning statements, etc. The substances are applied presumably by experts who are familiar with the nature of such substances and the risks involved. It would not appear that the activities of a commercial pest control operator, outlined above, fall within the spirit or intent of the registration and labeling provisions of the act or the regulations. Of course, any substances sold by such an operator or left by him unapplied would be subject to the act and the regulations.

(b) While the requirements of the act and the regulations as to registration and labeling appear to have been intended primarily for the protection of purchasers and users of economic poisons, the requirements as to coloring or discoloring of economic poisons appear to be largely for the protection of the public generally, which might come in contact with the economic poisons in unmixed form either before or after use. This being so, it is considered that requirements as to coloring or discoloring are applicable to commercial pest control operations, and the interstate transportation of economic poisons in connection with such operations without complying with these requirements would constitute a violation of the act.

§ 162.101 Interpretation of terms included in definition of economic poison.

(a) *Definition of economic poison.* Under section 2a of the Act the term "economic poison" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, or weeds, or any of the other forms of life declared to be pests in § 162.25; and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

This includes all preparations intended for use as insecticides, rodenticides, nematocides, fungicides, herbicides, amphibian and reptile poisons or repellants, bird poisons or repellants, fish poisons or repellants, mammal poisons or repellants, invertebrate animal poisons or repellants, plant regulators, plant defoliants, and plant desiccants, as described below.

(1) *Insecticides.* The term "insecticide" as defined in the Act includes all preparations intended for preventing, destroying, repelling, or mitigating any member of the Class Insecta or allied classes in the Phylum Arthropoda, for example products intended for use against beetles, bugs, bees, flies, spiders, mites, ticks, centipedes, or wood lice, in any environment whatsoever, including preparations intended for use on or in living man or other animals.

For convenience of reference all preparations intended for preventing, destroying, repelling, or mitigating other classes of invertebrates in the Phylum Arthropoda, declared to be pests in § 362.25, will also be identified in the administration of the Act as "insecticides."

(2) *Rodenticides.* The term "rodenticide" as defined in the Act includes all preparations intended for preventing, destroying, repelling, or mitigating animals belonging to the Order Rodentia of the Class Mammalia, such as rats, mice, gophers, and porcupines, and closely related species such as rabbits and hares.

(i) Rodenticides include, but are not limited to:

(a) Products intended for use as baits, tracking powders, or fumigants to kill or repel rodents; and

(b) Products intended for use on plants, in premises, or on or in packaging or other materials such as food containers, plastic pipe, telephone cables, and building materials, to repel rodents.

(ii) The Act defines "rodenticide" to include also any substances or mixture of substances intended for preventing, destroying, repelling, or mitigating other vertebrate animals declared to be pests in § 162.25 but for convenience of reference such products will be identified in the administration of the Act as provided in subparagraphs (6), (7), (8), and (9) of this paragraph.

(3) *Nematocides.* The term "nematocide" as defined in the Act includes all preparations intended for preventing, destroying, repelling, or mitigating any invertebrate animals in the Class Nematoda of the Phylum Nemathelminthes, inhabiting soil, water, plants or plant parts.

(i) Nematocides include, but are not limited to:

(a) Products intended for use in controlling such nematodes in soil and in or on plants or plant parts (including foliage, roots, stems, flowers, and seeds);

(b) Products intended for use in controlling such nematodes on inanimate surfaces; and

(c) Products intended for use as space fumigants to control such nematodes on or in the commodities or articles being fumigated.

(ii) Products intended for use in controlling nematodes in or on living man or other animals are not considered to be economic poisons under the Act.

(4) *Fungicides.* The term "fungicide" as defined in the Act includes all preparations intended for preventing, destroying,

repelling, or mitigating any fungi. The term "fungi" includes all such organisms as rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living

(i) Products intended for use in baits or sprays for killing or repelling poisonous snakes.

(7) *Bird poisons or repellents.* The term "bird poisons or repellents" as used

killing parasites on or in living man and other animals are not considered to be economic poisons under the Act.

(11) *Plant regulators.* The term "plant regulator" as defined in the Act

(a) The label or labeling of the product bears claims for use as an economic poison;

(b) Claims or recommendations for use as an economic poison are made in

(v) Fertilizers and other plant nutrients; and

(vi) Preparations intended only for experimental use to determine their value as economic poisons, or their tox-

(2) If a product consists of a principal active ingredient together with other ingredients which may be either active or inert and the principal active ingredient is present in sufficient amount to be effec-

repelling, or mitigating any fungi. The term "fungi" includes all such organisms as rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living man or other animals. For convenience of reference all preparations intended for preventing, destroying, repelling, or mitigating viruses (other than those on or in living man or other animals), declared to be pests in § 162.25, will also be identified in the administration of the Act, as "fungicides."

(i) Fungicides include, but are not limited to:

(a) Products intended for use as seed or plant treatments to destroy or prevent fungus disease;

(b) Products intended for use in disinfecting premises or inanimate objects to prevent or destroy pathogenic organisms which cause diseases of man or other animals;

(c) Products intended for use in reducing bacteria count in water or air; and

(d) Products intended for use as wood preservatives which prevent rot or decay in wood by preventing or destroying organisms which cause decay or rot.

(ii) Products not considered to be fungicides include:

(a) Products intended for use in preventing or destroying fungi or viruses on or in living man or other animals; and

(b) Paints which are treated to protect the paint itself and bear no claims for protecting painted surfaces or other objects by preventing or destroying fungi.

(5) *Herbicides.* The term "herbicide" as defined in the Act includes all preparations intended for preventing, destroying, repelling, or mitigating plants which grow where they are not wanted. For convenience of reference, products for preventing, destroying, repelling, or mitigating the growth of weed parts, declared to be pests in § 162.25, will also be identified as herbicides in the administration of the Act.

(i) Herbicides include, but are not limited to:

(a) Products intended for use in killing, destroying, or mitigating weeds or weed parts by direct contact;

(b) Products intended for use as soil treatments for destroying, or preventing growth of weeds or weed parts including those which prevent the germination of weed seed;

(c) Products intended for use in killing or preventing the growth of plant roots in drainage tiles and sewers; and

(d) Products intended for use in killing or preventing the growth of algae or any other aquatic weeds.

(ii) Desiccants and plant regulators are not considered to be herbicides.

(6) *Amphibian and reptile poisons or repellents.* The term "amphibian and reptile poisons or repellents" as used in this part includes all preparations intended for preventing, destroying, repelling, or mitigating amphibians and reptiles declared to be pests in § 162.25, for example:

(i) Products intended for use in baits or sprays for killing or repelling poisonous snakes.

(7) *Bird poisons or repellents.* The term "bird poisons or repellents" as used in this part includes all preparations intended for preventing, destroying, repelling, or mitigating birds declared to be pests in § 162.25.

(i) Bird poisons or repellents include, but are not limited to:

(a) Products applied to perches, tree branches, or similar places to kill birds when absorbed through the feet;

(b) Products applied to areas for the purpose of killing, repelling, or otherwise preventing the concentration of undesirable birds such as crows, blackbirds, etc; and

(c) Products applied around airports, grain fields, or similar areas to control birds.

(ii) Instruments to repel birds by high frequency sound are not considered to be economic poisons, but are devices under the Act.

(8) *Fish poisons or repellents.* The term "fish poisons or repellents" as used in this part includes all preparations intended for preventing, destroying, repelling, or mitigating fish declared to be pests in § 162.25.

(i) Fish poisons or repellants include but are not limited to:

(a) Products intended for use in repelling sharks or other fish; and

(b) Products intended for killing trash fish in ponds.

(ii) Products intended for use in controlling amphibians, reptiles, or aquatic mammals are not considered to be fish poisons or repellents.

(9) *Mammal poisons or repellents.* The term "mammal poisons or repellents" as used in this part includes all preparations intended for preventing, destroying, repelling, or mitigating mammals declared to be pests in § 162.25.

(i) Mammal poisons or repellants include, but are not limited to:

(a) Products intended for use in protecting persons, beneficial animals, plants, structures, or premises from injury by dogs, cats, moles, bats, wild carnivores, armadillos, or deer.

(ii) Rodenticides are treated separately under subparagraph (2) of this paragraph.

(10) *Invertebrate animal poisons or repellents.* The term "invertebrate animal poisons or repellents" as used in this part includes all preparations intended for preventing, destroying, repelling, or mitigating aquatic and terrestrial invertebrates declared to be pests in § 162.25, not including insecticides and nematocides.

(i) Invertebrate animal poisons or repellents include, but are not limited to:

(a) Products intended for use on boat and ship bottoms, piers, docks, and other structures to prevent damage by invertebrate animals such as teredos; and

(b) Products intended for use in destroying or repelling slugs or snails.

(ii) Products, other than insecticides under subparagraph (1) of this paragraph, intended for use in controlling or killing parasites on or in living man and other animals are not considered to be economic poisons under the Act.

(11) *Plant regulators.* The term "plant regulator" as defined in the Act includes all preparations intended for altering the behavior of ornamental or crop plants or the produce thereof through physiological rather than physical action.

(i) Plant regulators include, but are not limited to:

(a) Products intended for accelerating or retarding the rate of growth or maturation of plants;

(b) Products intended for enhancing fruit set, thinning flowers, or preventing fruit drop;

(c) Products intended to prolong or break dormancy of plants or the products thereof; and

(d) Products intended for accelerating root formation and elongation.

(ii) Products intended for use as fertilizers or plant nutrients, or for use in altering the behavior of plants through physical action such as sprays which form a vinyl coating, are not considered to be plant regulators.

(12) *Defoliants.* The term "defoliant" as defined in the Act includes all preparations intended for causing leaves or foliage to drop from plants.

(i) Defoliants include, but are not limited to:

(a) Products intended for use in causing leaves to drop from crop plants such as cotton, soybeans, or tomatoes, usually to facilitate harvest.

(ii) Products not considered to be defoliants include:

(a) Herbicides; and

(b) Desiccants intended for use in causing leaves to dry but not drop from plants.

(13) *Desiccants.* The term "desiccant" as defined in the Act includes all preparations intended for artificially accelerating the drying of plant tissues.

(i) Desiccants include, but are not limited to:

(a) Products intended for use in accelerating the drying of crop plant parts such as cotton leaves, potato vines, or tobacco suckers, or debarking trees.

(ii) Herbicides intended for use in destroying weeds by drying, and defoliants are not considered to be desiccants.

(b) *Status of products as economic poisons.* (1) A substance or mixture of substances is or is not an economic poison depending upon the purposes for which it is intended. Determination of intent in the marketing or distribution of these products is therefore of major importance. This determination will depend upon the facts in the particular case which tend to show the intended use of the product. In general, if a product is marketed in a manner that results in its being used as an economic poison, it is considered to be the intended result. Such intentions may be either expressed or implied. It is assumed that the distributor is aware of the purposes for which his product will be used.

(i) A product will be considered to be an economic poison if:

(a) The label or labeling of the product bears claims for use as an economic poison;

(b) Claims or recommendations for use as an economic poison are made in collateral advertising such as publications, advertising literature which does not accompany the product, or advertisements by radio or television; or

(c) Claims or recommendations for use as an economic poison are made verbally or in writing by representatives of the manufacturer, shipper, or distributor of the product.

(ii) When all or most of the uses of a product are for economic poison purposes, it will be considered to be intended for use as an economic poison unless other intentions are clearly defined. Examples of products in this category are: pyrethrum concentrates, lead arsenate, calcium arsenate, DDT, toxaphene, pentachlorophenol, quaternary ammonium solutions, warfarin, pival, 2,4-D, and captan.

(2) A product shall be deemed to be an economic poison regardless of whether intended for use as packaged or after dilution or mixture with other substances such as water, kerosene, talc, clay, fertilizers, baits, or other carriers, solvents, diluents, or propellents. Accordingly, products intended for use as economic poisons after reformulation or repackaging are economic poisons. However, products intended for use as economic poisons only after further chemical manufacturing or other extensive processing, such as grinding to dust form, shall not be deemed to be economic poisons, unless such substances are especially prepared for use as economic poisons, or labeled, represented, or marketed in channels of trade where they will presumably be purchased as economic poisons.

(3) Economic poisons include, but are not limited to:

(i) Products intended for use in large scale experimental tests when the user expects benefit in pest control. (Such products are subject to the "permit" provisions of the Act. See § 162.17.)

(ii) Products intended for use both as economic poisons and for other purposes. (Such products are subject to all provisions of the Act including section 2s(1) under which a product is misbranded if its labeling bears any statement which is false or misleading concerning any of its uses or in any other particular.)

(4) Products not considered economic poisons include:

(i) Deodorants, bleaching agents, and cleaning agents, which bear no claims for the control of any pests;

(ii) Embalming fluids;

(iii) Building materials, such as lumber, fiber boards, wallpaper paste, and paints, which have been treated to protect the material itself against any pest and which bear no claims for protection of other surfaces or objects;

(iv) Fabrics which have been treated to protect the fabric itself from insects, fungi, or any other pest, and which bear no claims for protection of other surfaces or objects;

(v) Fertilizers and other plant nutrients; and

(vi) Preparations intended only for experimental use to determine their value as economic poisons, or their toxicity or other properties, when the user expects no benefit in pest control.

(c) *Economic poisons which are also drugs.* A few products are used in such a manner as to make them subject to both the Federal Insecticide, Fungicide, and Rodenticide Act and the Federal Food, Drug and Cosmetic Act. Such products are usually classified as insecticides within the meaning of the Federal Insecticide, Fungicide, and Rodenticide Act and bear claims for use on or in living man or other animals. Examples of such products are preparations intended for use in controlling mites which cause mange, scabies, or itch on man or other animals, and preparations intended for use in controlling cattle grubs, bots, and other internal insect parasites of man or other animals. Fungicides which bear drug claims are also subject to both Acts.

To avoid conflict in the requirements under the Federal Insecticide, Fungicide, and Rodenticide Act and the Federal Food, Drug and Cosmetic Act with respect to products which are covered by both Acts, close liaison is maintained between the Pesticides Regulation Division and the Food and Drug Administration.

§ 162.102 Interpretation with respect to names of products.

(a) *Permissible names.* (1) The act does not prohibit the use of any name for an economic poison which is not false or misleading in any particular.

(2) Names which give clear, nonmisleading information as to the composition of the product are permissible. Thus the names "standard lead arsenate," "lime sulfur solution," "pyrethrum powder and lead arsenate," "sodium salt of 2,4-D," "bordeaux mixture," "nicotine dust" and "paris green" may be used for the products mentioned. If a product contains two or more ingredients, it is permissible to name only one of the ingredients if the ingredient named is present in sufficient proportion itself to make the product effective for the purposes for which it is intended and if the name clearly indicates the presence of other constituents; or if the ingredient is present in sufficient proportion to be of value and its percentage is clearly shown in the name. Examples of acceptable names of this type are "Brown Rat Killer with Antu," "5% Antu for brown rats," or "Antu 5% for brown rats," for a preparation containing 5% antu; "5% nicotine dust" or "Dust containing nicotine" for a preparation containing 5% nicotine and recommended for uses where this amount of nicotine is an adequate control; "1% DDT spray" (but not "spray containing DDT") for a preparation containing DDT among other constituents but insufficient DDT to be effective in and of itself for all of the purposes for which the product is intended.

(3) If a product consists of a principal active ingredient together with other ingredients which may be either active or inert and the principal active ingredient is present in sufficient amount to be effective for all of the purposes for which the product is intended, it may bear the name of the principal active ingredient followed by the term "dust," "spray," "mixture," "insecticide," "fungicide" or similar term, in type of equal prominence, without other qualification. However, if this form of name is used, the ingredient statement following the first option and, in case of use of such terms as "insect killer," the types of pests to be controlled must appear prominently on the front panel of the label.

Examples: Nicotine dust
Rotenone dust
DDT spray

(b) *Conditions under which a name is considered to be false or misleading.* (1) A descriptive or partially descriptive name may be false or misleading by reason of its giving a wrong impression of the composition of the product. This may be done in a number of ways. For example, (i) the product may consist of several ingredients but the name may specify only one of them, thus giving the impression that the product consists of only the one ingredient; (ii) the lettering used in the name of the product indicating the presence of one of the ingredients may be in large type or in a different color than the rest of the name so that it is unduly emphasized; or (iii) an ingredient mentioned in the name may be present in such a small amount that it is of no practical value in the product.

(2) A name may also be false or misleading because it claims or implies effectiveness for the product which it does not possess. Claims may be false because the name contains a direct misstatement as, for example, "roach killer" for a product which does not kill sufficient roaches to be an adequate control for them, or "moth repellent" for a preparation which is not repellent to moths, or they may be objectionable because they are too broad. Examples of objectionable broad names when used without qualification are "Insect Killer" for a household insecticide consisting of pyrethrum extract and deodorized kerosene; "Ant Killer" for a preparation which will attract and kill only sweet-preferring ants; "Rat Killer" for a preparation dependent upon antu for its effectiveness; and "Weed Killer" for a preparation dependent upon 2,4-D for effectiveness. The false impression created by such names as these can frequently be overcome by naming the pests to be controlled, prominently and in close proximity to the name of the product on the front panel of the label, as, for example, "5% Antu Rat Killer for brown rats" or "Insect Killer for flies, mosquitoes, roaches and bedbugs," assuming, of course, that the product is effective for the pests named. In the case of products sold as "Weed Killer containing 2,4-D," "Insect Spray" or "Insect Dust," the names of the particular weeds or insects to be controlled need not be contained

on the front panel of the label if they are placed prominently on the back panel, since it is believed that most users

(6) Unless the ingredient statement is a complete analysis of the economic poison, the term "analysis" should not

creases the effectiveness of the economic poison.

(2) If an ingredient is present in a small proportion that it does not

(i) Run parallel with the other printed matter on the panel on which it appears; and

they should at first be accompanied by the chemical or other descriptive name of the ingredient. As an example, if a

substantially reduce the effectiveness of the product, they may be neglected. Thus a technical sodium fluoride containing 95 percent of actual sodium

on the front panel of the label if they are placed prominently on the back panel, since it is believed that most users would not be misled by this procedure.

(3) A coined name may be misleading because it gives a misleading impression of the composition or the effectiveness of the product. Such names are as much in violation of the law as if the misleading impression were given by a direct statement. A name such as "Para-Camph" for a moth killer would indicate a mixture of paradichlorobenzene and camphor, the former being present in the larger amount. "Para-pur" would imply straight paradichlorobenzene. The use of variations of the terms "sterile" in the name of a disinfectant is likely to imply sterilization.

(c) *Names registered as trade-marks.* In determining whether or not to register a trade-mark, the Patent Office makes no determination of its legality under the Federal Insecticide, Fungicide and Rodenticide Act. Therefore, such registration cannot be accepted as evidence that a name is legal under the act. If a name is false or misleading, it is in violation of the act whether or not it has been registered as a trade-mark. Sometimes the misleading impression can be overcome by clearly and prominently indicating in the name that the name is only a brand name and by clearly stating the limitations of the product.

§ 162.103 Interpretation with respect to ingredients and ingredient statements.

(a) *Labels must bear ingredient statements.* (1) The label of each economic poison must bear either:

(i) A statement of the name and percentage of each active ingredient and the total percentage of the inert ingredients, or

(ii) A statement of the names of each of the active ingredients in the descending order of the amount of each present, followed by a statement of the names of each of the inert ingredients, if any, in the descending order of the amount of each, and the total percentage of the inert ingredients.

(2) If the economic poison is highly toxic to man, the first form of ingredient statement must be used.

(3) In addition to one of the above forms of ingredient statement the label of an economic poison containing arsenic must state the percentages of total and water soluble arsenic, each calculated as elemental arsenic.

(4) The active ingredients must be designated by the term "active ingredients" and the inert ingredients by the term "inert ingredients," or the singular forms of these terms when appropriate. These terms shall be in the same size type and equally prominent. It is preferable, but not required, that these designations be set over well to the left, and that the names of the ingredients be indented.

(5) In the ingredient statement for a product which contains 100 percent of active ingredients, the statement "Inert Ingredients, none" is not required.

(6) Unless the ingredient statement is a complete analysis of the economic poison, the term "analysis" should not be used as a heading for the ingredient statement.

(b) *Definition of "ingredient."* (1) Ingredients are the simplest constituents of the economic poison which can reasonably be determined and reported. A mixture of ingredients is not to be reported as a single ingredient except in those cases where it is not practical to separate them. A solution is a mixture of ingredients, and not a single ingredient.

(2) In the case of the simpler economic poisons which consist of mixtures of readily determinable chemical compounds, the actual compounds present are the ingredients. For example, the following are ingredients of economic poisons: lead arsenate, copper sulfate pentahydrate (in blue vitriol), copper sulfate monohydrate, tricalcium arsenate, copper acetoarsenite (in paris green), water, ethyl alcohol, sulfur, alpha naphthylthiourea, and sodium salt of 2,4-dichlorophenoxyacetic acid. It should be borne in mind that the compounds present in the economic poison may differ from those put into it. When copper sulfate pentahydrate, for example, is dissolved in water, the result is a solution of copper sulfate. The water of crystallization will have become merely water of solution, and will no longer be part of the active ingredient. When sodium hydroxide (lye) and fatty acids are added together in suitable proportions, the result is soap.

(3) In the case of the more complex economic poisons, it may not be practical to determine the actual chemical compounds present. In such cases, the statement of ingredients as actual compounds is not feasible, and some other method of statement which will be both practical and informative to the purchaser must be used. Examples of this type of ingredient are kerosene, tobacco other than nicotine (for the inert portion of powdered tobacco), and copper (stating the form in which it is present) in indefinite compounds such as basic copper carbonate or basic copper sulfate.

(4) If the manufacturer is in doubt as to what constituents of his economic poison are to be considered ingredients, he may furnish the Pesticides Regulation Division full information as to its formulation, the results of chemical analysis and any other pertinent data, and the Division will aid him insofar as possible to determine which constituents should be considered ingredients.

(c) *Active ingredients.* (1) The active ingredients of an economic poison are those which are capable, in themselves, of preventing, destroying, repelling, or mitigating insects, fungi, rodents, weeds, or other pests when used in the same manner and for the same purposes as those for which the economic poison is intended. An ingredient which is antagonistic to the activity of the principal active ingredients cannot be considered active because it actually decreases the effectiveness of the economic poison.

(2) If an ingredient is present in a small proportion that it does not materially to the effectiveness of product, it is misleading to name it an active ingredient.

(3) If an economic poison is intended for two or more economic poison purposes (for example, as a combined insecticide and fungicide), each of the ingredients which is active for one or more of the intended economic poison shall be considered as an active ingredient.

(4) The Director may require an ingredient to be designated as an active ingredient if, in his opinion, it significantly increases the effectiveness of economic poison to warrant such action. Sesamin, which is not itself an effective insecticide, but which greatly increases the effectiveness of pyrethrins in deodorized kerosene, is considered an active ingredient in such mixtures.

(d) *Inert ingredients.* All ingredients which are not "active" as defined in the preceding section are inert within the meaning of the law. This includes the following types of ingredients (even when they have economic poison effectiveness of their own): solvents such as water; baits such as sugars, starches, meat scraps, etc.; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; emulsifiers; and other. The fact that these ingredients are necessary in the practical application of the economic poison does not make them active ingredients.

(e) *Position of ingredient statement.* (1) The ingredient statement is, in general, required to appear on that part of the immediate container of the retail package which is presented or displayed under customary conditions of purchase—that is, on the front panel. If there is an outside container or wrapper through which the ingredient statement cannot be clearly read, the ingredient statement must also appear on such outside container or wrapper.

(2) If the size or form of the package makes it impractical to place the ingredient statement on the front panel of the label, permission may be granted to place the ingredient statement to appear on some other panel of the label. If the package contains not more than one pound of a solid or one pint of a liquid, the ingredient statement may appear on the side or back panel.

(3) In case the ingredient statement is unusually long, permission may be granted to place it on a side or back panel of packages containing not more than 1 pounds of a solid or 3 pints of a liquid.

(f) *Prominence of the ingredient statement.* (1) The ingredient statement must be placed prominently on the label and with such conspicuousness as to render it likely to be read by the ordinary individual under customary conditions of purchase. To fulfill this requirement the statement must:

(i) Run parallel with the other printed matter on the panel on which it appears; and

(ii) Be on a clear contrasting background; and

(iii) Not be obscured or crowded—that is, it must have a reasonable amount of clear space around it and not be placed in the body of reading matter; and

(iv) Be in type large enough so that it is likely to be read. It is not possible to state a minimum size of type which will be applicable to all packages. In general, the type used should be at least as large as that used for the directions or other wording in close proximity to the ingredient statement. In some cases, it may have to be larger to achieve the requisite prominence. In any case it should be large enough to be easily read by an individual with normal eyesight without the aid of glasses.

(g) *Names to be used in the ingredient statement.* (1) It is the purpose of the act that the names used in the ingredient statement shall be as informative as possible to the persons purchasing the economic poison and other interested persons, such as official advisors as to the use of economic poisons (county agents, extension entomologists, plant pathologists, agronomists, and pest control officials), and to physicians when necessary for the preparation of antidotes. The name used for the ingredient shall be the well-known common name, if there is such a name. If there is no common name, and the chemical name is known, it should be used when it will be properly informative. A trade-mark or trade name may not be used as the name of an ingredient except when it has become a common name.

(2) In many cases there is no well-known common name and no chemical name. In such cases, the name used for the ingredient should be as informative as possible. It may be a descriptive name, such as derris resins or tobacco other than nicotine.

(3) In some cases where there is no common name, the chemical composition may be unknown or so complex that use of the chemical name would not be practical. In such cases, the Director may permit the use of a new or coined name for the ingredient if this will simplify the ingredient statement and not hide information.

(i) A new or coined name will normally refer to a single chemical compound, or at least to a definitely defined material. Its adoption usually entails discussion with interested groups, such as representatives of the chemical, entomological, medical, and plant pathological scientific groups, as well as with the manufacturers of the material. The purpose is to obtain a name which is easy to use and informative to the public. The new or coined name must not be covered by private trademark and must be free for general use.

(ii) Since new or coined names will not be common names when first used, they should at first be accompanied by the chemical or other descriptive name of the ingredient. As an example, if a new or coined name were adopted for a chemical which was the only active ingredient in an economic poison, the ingredient statement would be in the following form:

Active ingredient:	Percent
Coined name[1]	-----
Inert ingredients	-----
Total	100

[1] Consists of (full name of chemical compound).

It is necessary to include the name of the compound since cases of poisoning may occur and the coined name alone will not be sufficiently informative for the attending physician.

(h) *Statement of percentages.* (1) The percentages of ingredients shall be stated in terms of weight. Statements in terms of percentage by volume or on a so-called "Weight-volume" basis do not fulfill the requirements of the law, but may be used as additional statements, if they will be informative to the purchaser and not misleading. For example, in addition to the ingredient statement in terms of percentage by weight, the label of a DDT solution in kerosene may bear a correct statement such as "Contains ___ oz. of DDT per gallon of product," the correct value to be inserted in the blank space. In many cases such a procedure is desirable.

(2) The sum of the percentages of the active and the inert ingredients shall be 100.

(3) Sliding scale forms of percentage statements, such as "22–25", shall not be used.

(i) *Accuracy of statement of percentages.* (1) The percentages given for the active and inert ingredients should be as nearly correct as possible in good manufacturing practice. In case there is a small unavoidable variation in the percentage of the active ingredients in different batches of an economic poison, the value stated shall be the lowest percentage of the active ingredient which may be present, so that the purchaser can always depend upon receiving a product of at least the strength promised him. However, the variation above the value stated should not be unreasonably large. Actual figures for permissible variation will depend upon the facts in the particular case. Percentages should not be stated to a greater degree of accuracy than the facts warrant.

(2) Inert impurities which are present in substantial amounts in active ingredients, are to be considered as inert ingredients in the ingredient statement. If the impurities are present in less than substantial amounts and their presence does not reduce the effectiveness of the product, their presence may be neglected. What constitutes substantial amounts will depend upon the special circumstances in the particular case, but, as a general rule, if the total proportion of impurities in the product is less than one percent and if they do not substantially reduce the effectiveness of the product, they may be neglected. Thus a technical sodium fluoride containing 95 percent of actual sodium fluoride and 5 percent of sodium chloride, sodium sulfate, and sodium carbonate would be required to declare the 5 percent of inert ingredients but a boric acid containing 99.1 percent of actual boric acid could be considered as consisting entirely of boric acid.

(j) *Economic poisons which deteriorate.* (1) Economic poisons must be effective for the purposes intended and have the proportions of active ingredients claimed as long as they are subject to the act.

(2) If the product is one which loses strength on standing, this should be taken into account in preparing the ingredient statement and marketing the product. In such cases, the product should be marketed in such a way that it will all be used before appreciable deterioration has taken place, or allowance should be made for deterioration of the product in preparing the ingredient statement. For example, if an economic poison will lose 10 percent of its strength in six months, its ingredient statement may show the strenth that it will have at the end of six months, and then it may be marketed so that it will all be used up by that time. However, it must be effective for the purposes claimed even at the lower strength.

(3) If the product is one which is intended to attract insects or rodents and will lose its attractiveness after a time, it should not be marketed after that time. A prominent statement, "Not to be used after _____," is allowable.
(Date)

(k) *Acceptable forms of ingredient statement.* Some acceptable forms of ingredient statement follow: (1) For commercial calcium arsenate and other calcium compounds:

Active ingredient:	Percent
Tricalcium arsenate	-----
Inert ingredients	-----
Total	100

Total arsenic calculated as elemental arsenic, ---------%. Water-soluble arsenic calculated as elemental arsenic not more than ---------%.

(2) For bordeaux mixture:

Active ingredient:	Percent
Copper (in bordeaux mixture)	-----
Inert ingredients	-----
Total	100

(3) For fly spray containing pyrethrum extract and deodorized kerosene:

Active ingredients:	Percent
Pyrethins	-----
Petroleum distillate	-----
Total	100

or

Active ingredients:	Percent
Petroleum distillate	-----
Pyrethrins	-----
Total	100

(4) For pine oil disinfectant made of pine oil, soap, and water:

Active ingredients:	Percent

nicotine sulfate solution containing 40 percent of nicotine and U. S. P. formaldehyde solution. The content of these liquid economic poisons must be stated

tent may be plainly and conspicuously stenciled on the drum or bag. If a single label is printed for use on several different sizes of containers, the net con-

or more of a liquid intended primarily for use undiluted, or 20 gallons or more of a liquid intended primarily for use after dilution; *Provided:*

strictions or limitations, and effectiveness of the product for economic poison purposes;

(iii) The label clearly states that the product is intended for use only in man-

case of products intended for large scale agricultural or commercial uses. The large scale user is more likely to be informed of the properties of economic poisons and also to rely on local agricul-

(4) For pine oil disinfectant made of pine oil, soap, and water:

Active ingredients:	Percent
Pine oil	-----
Soap	-----
Inert ingredients	-----
Total	100

or

Active ingredients:	Percent
Pine oil	-----
Soap	-----
Inert ingredient, water	-----
Total	100

(5) For brown rat bait consisting of alpha naphthyl thiourea (Antu) and bait materials:

Active ingredient:	Percent
Alpha naphthyl thiourea	-----
Inert ingredients	-----
Total	100

(6) For a weed killer containing the sodium salt of 2,4-dichlorophenoxyacetic acid (2,4–D):

Active ingredient:	Percent
Sodium salt of 2,4-dichlorophenoxyacetic acid [1]	-----
Inert ingredients	-----
Total	100

[1] Equivalent to 2,4-dichlorophenoxyacetic acid, ------%.

The correct values for the percentages should in each case be inserted in the blank spaces.

§ 162.104 Interpretation with respect to statement of net contents.

(a) *Requirement of the act.* The act requires that the label of each economic poison bear a statement of the net weight or measure of the contents.

(b) *Terms of weight or measure.* (1) If there are terms of weight or measure in general use for a particular economic poison which will give accurate information to users as to the quantity of content, such terms shall be used on the label.

(2) When there is no general usage in the trade with respect to the terms of weight or measure of a particular economic poison, the content must be stated in terms of liquid measure if the product is a liquid, and in terms of weight if it is a solid, semisolid, viscous, or a mixture of liquid and solid.

(i) Liquids include all substances which flow freely like water and thus can be readily measured. Oils of low viscosity such as kerosene, creosote oil and pine oil are liquids. Emulsions with low viscosity are liquids, but emulsions of high viscosity such as mayonnaise, or viscous tars are not liquids within the meaning of this definition.

(ii) The terms solid, semisolid, viscous and mixture of liquid and solid include all products other than liquids.

(3) Statements of liquid measure must be in terms of the United States gallon, quart, pint and fluid ounce at 68° F.; statements of weight must be in terms of avoirdupois pound and ounce.

(4) Some liquid economic poisons are usually sold by weight. Examples are nicotine sulfate solution containing 40 percent of nicotine and U. S. P. formaldehyde solution. The content of these liquid economic poisons must be stated in terms of weight.

(5) In a few cases economic poisons are sold in gelatine capsules and the contents of such capsules stated in terms of fluid drams. Where such usage has been general, the net content must be given in terms of the number of capsules each containing a stated number of fluid drams.

(6) Some disinfectants are made up in tablet form. When so prepared, objection will not be raised to giving the number of tablets and the weight of each.

(c) *Units of weight or measure.* Statements of net content must be in terms of the largest unit present, but in the case of added fractions of the largest unit, the fractional portion may be expressed in terms of a smaller unit. Thus, 3½ pounds may be stated as "3½ pounds" or "3 pounds, 8 ounces"; 5½ gallons may be stated as "5½ gallons" or "5 gallons, 2 quarts"; 3¾ quarts may be stated as "3¾ quarts," "3 quarts, 1½ pints," or "3 quarts, 1 pint, 8 fl. oz." It is not permissible to state net contents such as 128 fluid ounces, 32 fluid ounces, 6 pints, 8 quarts, or 24 ounces since in each case the statement is not in terms of the largest unit present.

(d) *Permissible variations.* (1) If the contents are stated as a minimum quantity, the package must contain at least the quantity claimed. No variation below this quantity is permitted and any variation above the contents stated must not be unreasonably large.

(2) The net content is considered to be the average net content unless stated as a minimum quantity. Where average net content is used:

(i) The average content of the packages in any shipment must not fall below the quantity stated and variation above the quantity stated is permitted only to the extent that it represents deviations unavoidable in good packing practice.

(ii) There must be no unreasonable variation from the average in the content of any package.

(e) *Allowance for loss.* A statement of net content "when packed" does not comply with the requirements of the act. The statement must be such that it will be correct as long as the economic poison is subject to the law. Thus, if a product such as borax may lose weight by drying out when stored in paper bags, it must be packed and labeled in such a way that the statement of net content will be correct when the product is purchased.

(f) *Location and prominence of net content statement.* (1) The net content statement must appear on the label of the container. It is not required to appear on the front panel of the label but it must be prominently placed with such conspicuousness as to render it likely to be read by the purchaser under customary conditions of purchase and use. In the case of drums or bags the net content may be plainly and conspicuously stenciled on the drum or bag. If a single label is printed for use on several different sizes of containers, the net content may be plainly inserted on each label with a rubber stamp or by any other methods which gives the information clearly.

(2) When the retail package contains smaller unit packets as, for example, single doses, the net contents must appear on the retail package but need not appear on the individual packets. Thus, if a rodenticide is made up into individual baits enclosed in cellophane, and these baits are packed in a retail package, the net contents should be shown on the retail container but need not be shown on the individual baits. However, if the individual baits are at any time marketed separately, they must bear the net content statement as well as other required information.

§ 162.105 Interpretation of requirements with respect to directions for use.

(a) *Requirements of the Act.* The Act and the regulations require that every economic poison which is subject to their provisions must be properly labeled including directions for use which may be necessary and, if complied with, adequate to protect the public.

(b) *Contents of directions.* The content of detailed information required in the directions for use will vary, depending upon the nature of the proposed use, general knowledge of the economic poison and its uses, and possible hazards involved. In general, directions should include:

(1) The site of application of the economic poison including such factors as the crops, animals, areas, or objects to be treated;

(2) The rate of application to each site;

(3) Instructions on timing applications to obtain best results and to avoid adverse effects;

(4) Any necessary limitation or restriction such as the time required between application and harvest of food crops, warning against use on certain crops, animals, objects, or in certain areas; and

(5) Any other pertinent information which in the opinion of the Director is necessary for the protection of the public.

(c) *When directions are required.* Directions for use are required whenever they are necessary for the protection of the public. The public includes all persons who may be affected by the handling, storage, or use of the economic poison. Directions for use are necessary in the labeling of all products which are sold for use as economic poisons with the following exceptions:

(1) Detailed directions for use may be omitted from the labeling of well known economic poisons which are sold in containers of 100 pounds or more of a solid intended primarily for use undiluted, 5 pounds or more of a solid intended primarily for use after dilution, 55 gallons or more of a liquid intended primarily for use undiluted, or 20 gallons or more of a liquid intended primarily for use after dilution; *Provided:*

(i) There is readily available general knowledge of the composition, methods of use, and effectiveness of the product for economic poison purposes;

(ii) Option 1 of the ingredient statement is followed; and

(iii) In the opinion of the Director, such directions are not necessary for the protection of the public.

(2) Detailed directions for use may be omitted from the labeling of economic poisons (as defined in Interpretation 3, Division D) which are intended for use only by manufacturers of products other than economic poisons in their regular manufacturing processes; *Provided:*

(i) Option 1 of the ingredient statement is followed;

(ii) The label clearly shows that the product is intended for use only in manufacturing processes;

(iii) Adequate information such as technical data sheets or bulletins is available to the trade specifying the type of pesticide involved and its proper use in manufacturing processes;

(iv) The economic poison will not come into the hands of the general public except after incorporation into such finished products; and

(v) In the opinion of the Director, such directions are not necessary for the protection of the public.

Detailed directions for use are not considered necessary in such cases since such uses are highly specialized and usually well-known to the manufacturer. Examples of such products would be those intended for use during the manufacturing processes in treating leather, wool, other fabrics, paints, building materials, and other materials for protection against any pest.

(3) Detailed directions for use may be omitted from the labeling of economic poisons for which sale is limited to physicians, veterinarians, or druggists; *Provided:*

(i) Option 1 of the ingredient statement is followed;

(ii) The label clearly states that the product is for use only by physicians or veterinarians, or for use as prescribed by physicians or veterinarians; and

(iii) In the opinion of the Director, such directions are not necessary for the protection of the public.

An example of such products would be benzyl benzoate to be used by, or its use prescribed by physicians or veterinarians for use against the itch mite or mange mite.

(4) Detailed directions for use may be omitted from the labeling of economic poisons which are intended for use only by distributors or formulators in preparing economic poisons for sale to the public; *Provided:*

(i) Option 1 of the ingredient statement is followed;

(ii) There is readily available to the trade, information on the composition, toxicity, methods of use, applicable restrictions or limitations, and effectiveness of the product for economic poison purposes;

(iii) The label clearly states that the product is intended for use only in manufacturing, formulating, mixing, or repacking for use as economic poisons; and

(iv) In the opinion of the Director, such directions are not necessary for the protection of the public.

Examples of such products are 50 percent DDT and concentrated 2,4-dichlorophenoxyacetic acid intended for use by distributors or formulators in preparing economic poisons of a lower concentration for sale to the public.

(d) *Where directions shall appear.* The directions for use shall appear on the labeling of the economic poison. The labeling includes the label which is affixed to the product plus all printed or graphic matter which accompanies the product at any time. Directions for use may appear on the label or on accompanying leaflets or circulars.

(1) Directions for use may be placed on any part of the label; *Provided:*

(i) They are conspicuous enough to be easily read by the user of the economic poison.

(2) Directions for use may appear on printed or graphic matter which accompanies the economic poison; *Provided:*

(i) Such printed or graphic matter is securely attached to each package of the economic poison, or placed within the outside wrapper or bag, so that it will not under normal condition be lost during shipment, storage, or handling,

(ii) The label bears a reference to the directions for use on accompanying leaflets or circulars, such as "See directions on the enclosed circular," and

(iii) In the opinion of the Director it is not necessary for such directions to appear on the label.

(e) *Adequacy and clarity of directions.* (1) Directions for use must be stated in terms which can be easily read and understood by the average person likely to use the economic poison. Directions must be adequate when carefully followed, to protect the public from economic cheat and from personal injury or damage to property. This requires sufficient completeness to insure the proper use of the product so as to obtain the desired results in pest control without causing injury to man, beneficial animals, or beneficial plants. Directions need not be exhaustive in every case, since some of the common economic poisons are intended for use against a large number of pests. Frequently the methods of control in different parts of the country vary and they may vary in a single locality from year to year, depending on weather conditions. It would be manifestly impractical to include detailed directions for all uses on the labeling of many widely used economic poisons.

(2) The need for detailed directions for use will be greater on household or home garden products likely to be used by persons not well informed in the use of economic poisons than it will be in the case of products intended for large scale agricultural or commercial uses. The large scale user is more likely to be informed of the properties of economic poisons and also to rely on local agricultural authorities for advice. The need for detailed directions is also greater in the case of new economic poisons, or those of unusual composition than it is in the case of older, well-known materials.

(3) The following general considerations apply:

(i) Directions for use of economic poisons which are likely to be applied by householders or small gardeners, cattle raisers, etc., shall be sufficiently detailed to give full information on usage. They must include methods of application, time of application, rate of application, dilutions, any necessary limitations or restrictions and when necessary they shall provide for repeated treatments. The directions for use shall be consistent with the warning or caution statements on the label.

(ii) Directions for use of well-known, standardized economic poisons which will be applied by professional pest control operators, may be more general in nature, giving sites of application, pests to be controlled, and rates and methods of application.

(iii) Directions for use of new or unusual economic poisons shall be given in full detail, since information or advice on the use of the product from other sources is not likely to be available.

(f) *Applicability of directions.* Directions for use in the labeling of economic poisons will be considered to apply in all parts of the country in which the product is marketed unless the labeling makes a direct statement to the contrary. It has been found that some pests are more easily controlled in certain parts of the country than in others. If an economic poison has a nationwide distribution, the directions for use should apply to all parts of the nation. However, if work by the State experiment stations in certain sections of the country shows, for example, that concentrations lower than those recommended in the labeling of the product will be effective against a certain pest in those particular sections than is required in other sections, objection is not raised to recommendation of the weaker dilution in the particular sections involved or to a reference to agricultural authorities in those sections for information as to usage there. If the product is marketed only in the sections where the weaker dilution has been found effective, the weaker dilution may be recommended without reference to the dilution required elsewhere. However, a statement to that effect must accompany the application for registration.

(g) *Broad claims.* The directions for use must not bear any false or misleading claims. Examples of broad claims, which are not acceptable in most cases, include the following:

(1) Broad references to insects, plant diseases, weeds, rodents, or a list of pests followed by the abbreviation "etc." which

are likely to be interpreted as implying that the product will kill or control any or all such pests. (Specific pests which the product will adequately control when

the specifications or directions of the foreign purchaser.

(3) Registration will not be issued for devices or other products which are not

(2) Registration is not to be understood as indicating the Environmental Protection Agency's approval or recommendation of the economic poison.

in size. A sheet of heavy typewriter paper is satisfactory. On each data sheet should be clearly stated the name of the product, the name and address of the registrant and, if it does not appear

nish additional information such as the complete formula for the product and a full description of the tests upon which the claims for the product are based. If the article or its labeling does not appear

that it be registered as submitted, the economic poison shall be registered under protest. The notice of registration under protest will be accompanied by a warning in writing of the apparent failure to comply with the law.

are likely to be interpreted as implying that the product will kill or control any or all such pests. (Specific pests which the product will adequately control when used as directed, may be named and in some cases are required to be named.)

(2) Claims for extermination of insects, plant diseases, weeds, rodents, or other pests. (Claims for killing or controlling particular kinds of pests are acceptable and may be required if the product will give a reasonable control of such pests under the specified conditions of use.)

(3) Claims for sterilization in the case of germicides when the product will not kill resistant spores under the specified conditions of use.

(4) Claims implying effectiveness of the economic poison under all conditions of use if it is not effective under all such conditions. When a product is not effective under certain conditions, as for example, in the presence of dirt, at low temperatures, or in the presence of other chemicals, the directions should make it clear that such conditions are to be avoided.

(h) *Responsibility for claims.* The shipper or guarantor of an economic poison is responsible for the accuracy of all claims made for it, including those in the directions for use. Therefore, only those claims which have been proven to be accurate, in that effective pest control is accomplished without injury to living man, beneficial plants or beneficial animals, should appear in the directions for use.

§ 162.106 Interpretation with respect to registration requirements.

(a) *Products which must be registered.* (1) Registration is required for all economic poisons that are distributed, sold or offered for sale in the District of Columbia or the territories, shipped or delivered for shipment in interstate commerce, exported, or imported from abroad, except economic poisons which are intended solely for experimental use. (These, however, may be subject to the permit requirements of the law.)

(2) Custom mixes (special mixtures of economic poisons prepared on the order of and according to the specifications of the purchaser), are subject to the act and must be registered. When rush shipment of such mixtures is required, special attention will be given to expediting the registration. When requested, telegraphic notification of registration at the expense of the registrant will be given.

(b) *Products for which registration is not required.* (1) Economic poisons which are made and used in the same state without entering interstate commerce need not be registered under the act since they are not subject thereto. However, registration will not be denied them since it is possible they may be shipped out of the state.

(2) Economic poisons which are delivered for shipment to any foreign country need not be registered when they are prepared or packed in accordance with the specifications or directions of the foreign purchaser.

(3) Registration will not be issued for devices or other products which are not economic poisons.

(c) *Who may register an economic poison.* (1) Any manufacturer, packer, seller, distributor, or shipper of an economic poison may register it.

(2) If the manufacturer of an economic poison ships it in interstate or foreign commerce or distributes it in the District of Columbia or the Territories, he will normally register it himself since it must be registered before such shipment or distribution. This is true whether the manufacturer ships it under his own label or under a label bearing the distributor's name.

(3) If the manufacturer sells to a distributor in the same state, the manufacturer may or may not register the product, but if he has not, registration by the distributor will be required before the product is shipped in interstate commerce.

(4) If a distributor has an economic poison made for him by two or more manufacturers following exactly the same formula and labeled with identical labels which bear his name as distributor but make no reference to the actual manufacturer, the distributor may register the product, obtaining a single registration to cover the material from all sources of manufacture. On the other hand, each manufacturer may register the product which he furnishes to the distributor, but in this case the manufacturer can register his own product only and it will be necessary for each manufacturer to have a separate registration.

(d) *The effect of registration.* (1) Registration is a device to bring the economic poison to the attention of the Environmental Protection Agency and to furnish an opportunity to correct obvious faults in labeling. It does not place the responsibility for correct labeling upon the Agency though the Agency does advise relative to revision of labeling, on the basis of available information. The shipper of the goods or the guarantor is responsible for the compliance of his labeling with legal requirements. Before placing the article on the market, he should have it thoroughly tested by experimentors competent to judge its effectiveness and make only such claims as are justified by the results of their tests. If it is likely to cause injury to human beings, or desirable plants or animals, its limitations from these standpoints should be determined and adequate cautions placed on the label. Determination should be made as to whether it is highly toxic within the meaning of the act and regulations and, if so, the label must bear the statements required with respect to highly toxic products. It is the purpose of the act to protect the public before injury occurs rather than to subject the public to the dangers of experimentation and take action only after injury has occurred.

(2) Registration is not to be understood as indicating the Environmental Protection Agency's approval or recommendation of the economic poison.

(3) Federal registration does not remove the requirements for state registration in those states which require registration.

(4) When the economic poison has been registered, no further registration under the act is required if the product is in the manufacturer's or registrant's original unbroken immediate container and if the claims made for it and the directions for its use do not differ in substance from the representations made in connection with the registration.

(e) *Multiple products.* A single registration applies only to a single economic poison, that is, to a product having the same composition, usually manufactured by the same person, and the labeling of which is identical with and bears the same claims as those considered by the registration. If a single registration is to cover the same product sold under other trade names and bearing the names and addresses of the distributors, statements showing such other names and labels shall be filed with the Pesticides Regulation Division. Thus when a manufacturer prepares an economic poison under a stock label which does not bear his name but on which he prints names of the product and names and addresses of distributors, who obtain the product from him, the manufacturer may register the product under his name and file an additional statement showing the trade names under which the product will be sold and the names and addresses which will appear on the labels. These additional statements may be made at any time before the goods become subject to the law.

(f) *Procedure for registration.* Applications for registration should be sent to the Pesticides Regulation Division, Environmental Protection Agency, Washington, D.C. 20250. No fee is required. Application forms may be obtained from the Plant Pest Control Division by request. Applications should be submitted as far in advance as possible and at least 30 days before it is desired that the registration take effect. In special cases, the Agency will try to issue registration in less than 30 days, but dependence should not be placed on obtaining registration in a shorter period except for real emergencies.

(2) As many products may be submitted for registration as desired with one application form. If there is not room on the form to name all of the products, their names may be continued on a separate plain sheet of paper attached to it.

(3) The blank spaces on the form should be filled in and the form signed by the proposed registrant or, if the registrant is a firm, by a responsible officer.

(4) With the filled-in application for registration there should be submitted two "data sheets" for each product which it is desired to register. The "data sheet" should be 8½ inches by 11 inches in size. A sheet of heavy typewriter paper is satisfactory. On each data sheet should be clearly stated the name of the product, the name and address of the registrant and, if it does not appear on the label, a statement giving the name and percentage of each active ingredient in the product and any pertinent information about the inert ingredients. To each data sheet there should be attached a specimen of the label for the product and specimens of any leaflets, circulars, or other advertising material accompanying the product. If the same label, except for statement of net contents, is used for several sizes of the product, information as to the different sizes should be given and the label for only the smallest size need be submitted. All labels bearing different claims should be submitted. Before attaching the labels and other material to the "data sheet," the applicant should make sure that they include the required information which is as follows:

On the label:

(i) The name and address of the manufacturer, registrant, or person for whom manufactured.

(ii) The name under which the product is sold,

(iii) The ingredient statement,

(iv) The net weight or measure of content,

(v) Any caution or warning statement which may be necessary and, if complied with, will be adequate to prevent injury to living man and other vertebrate animals, and useful vegetation and invertebrate animals,

(vi) In the case of highly toxic materials, the word "Poison" in red, the skull and crossbones and the antidote statement.

On the label, or on circulars, etc. accompanying the economic poison: Adequate directions for use when necessary for the proper use of the product.

(5) If the proposed registrant has doubt as to the legality of his labeling or proposed corrections for it, he may first submit a rough draft form for comment. After he has received the comment, he may revise and print the labeling and submit it in duplicate for registration.

(6) If the product is being recommended for any uses, or if any claims are being made for it, other than those on the labeling submitted, these should be shown on the data sheet. It is not desired, however, that the complete script of radio broadcasts, periodical advertising and other advertising material which does not accompany the economic poison be submitted.

(7) When the application is received in the Pesticides Regulation Division, it is examined to determine whether the composition of the product appears to be such as to warrant the proposed claims for it and whether the product, its labeling, and other material submitted appear to comply with the requirements of the act.

(8) If the information submitted is not sufficient to furnish a basis for action, the applicant may be asked to furnish additional information such as the complete formula for the product and a full description of the tests upon which the claims for the product are based. If the article or its labeling does not appear to comply with legal requirements, the applicant is notified wherein it fails to comply and given an opportunity to make corrections.

(g) *Effective period of registration.* (1) The registration becomes effective on the date that the notice of registration is issued.

(2) A registration extends for five years unless canceled for cause or at the request of the registrant.

(3) The Agency can, at any time, cancel a registration and issue a registration under protest, if such action is found necessary to protect the public.

(4) The Agency can cancel the registration of an economic poison at the end of five years following the registration or at the end of any five-year period thereafter, unless the registrant, prior to the expiration of the five-year period, requests that such registration be continued in effect.

(5) A registration will be cancelled at any time on request of the registrant.

(h) *Changes in labeling or formulas.* (1) If changes in substance in the labeling of a registered product or changes in its formula are to be made, a statement of the contemplated changes must be submitted to the Agency in advance so that an amended registration or new registration may be issued, if such registration is justified.

(2) The statement should show or describe the exact changes to be made, describe any tests which justify the changes, and state the proposed effective date of the changes.

(3) The material submitted will be considered in the same manner as is an original submission. If new or amended registration appears justified, notification to that effect will be sent the registrant. Among reasons for which the new or amended registrations under the same name may be refused would be a reduction in strength or effectiveness of the product which would make it misleading to sell the new material under the old name.

(4) After the effective date of the new or amended registration the product shall be marketed only under the new claims or the new formula except that, upon request, a reasonable period of time may be allowed for the disposal of properly labeled old stocks. If the registrant desires to avail himself of this privilege, he should notify the Pesticides Regulation Division at the time of change of registration how much stock he has and when he expects it will be used up. Consideration will then be given to permitting its disposal.

(i) *Registration under protest.* (1) If upon receipt of a notice that his economic poison does not appear to warrant the claims made for it or that the article or its labeling does not appear to comply with the provisions of the act, the proposed registrant insists that corrections are unnecessary and requests in writing that it be registered as submitted, the economic poison shall be registered under protest. The notice of registration under protest will be accompanied by a warning in writing of the apparent failure to comply with the law.

(2) In the case of conviction for an offense concerning which he has been warned in connection with the issuance of a registration under protest, the act provides that the registrant shall be fined not more than $1000 or imprisoned for not more than one year, or both fined and imprisoned, and the registration of the article shall terminate.

(3) Registration under protest should only occur when there is serious disagreement between the registrant and Agency officials concerning the efficacy of, or labeling required for, an economic poison. Disagreements may in some cases be due to misunderstandings as to requirements. When they arise, it is the purpose of the Agency to cooperate with the proposed registrant in an attempt to clear them up. It appears desirable that registration under protest be requested and issued only as a last resort.

§ 162.107 Interpretation with respect to advertising.

(a) *Requirements of the Act.* Section 3(a) of the Act prohibits interstate shipment or distribution of an economic poison if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration. This includes any representations made by the manufacturer or registrant anywhere and by any means, including periodical and radio or television advertising.

(b) *Advertising which may also be used as labeling.* Printed or graphic matter directly associated with the marketing of an economic poison, such as counter displays, window displays, or handouts distributed with the product, is labeling and must be submitted in connection with registration.

(c) *Advertising not considered to be labeling.* Section 4a(3) of the Act provides that an applicant for registration shall file a statement of all claims for the economic poison, including the directions for use. All claims and directions for the use of an economic poison, regardless of where made, must be filed as a part of the application for registration. It is not required nor is it desired that copies of all advertising be filed if such advertising will never be used as labeling. However, under all circumstances, the claims to be made in such advertising should not exceed or differ in substance from those claims and directions which appear in labeling accepted in connection with registration under the Act.

(d) *Cooperation with Federal Trade Commission.* Advertising in periodicals and by television or radio is also subject to the laws enforced by the Federal Trade Commission. It is the policy of the Pesticides Regulation Division to cooperate with the Federal Trade Commission in order to avoid possible

conflict with or duplication of efforts in the administration of the Federal Insecticide, Fungicide, and Rodenticide Act and acts administered by that

(3) The net contents of the container, or in the case of a label attached to a delivery receipt of tank truck delivery, the net amount delivered.

(2) For 5 percent DDT dust sold in a 100-pound barrel.

DDT Dust

Active Ingredient:	Percent

comply with all requirements of the Federal Insecticide, Fungicide, and Rodenticide Act.

Signature and postoffice address of guarantor

deteriorated and become worthless. In this case, the guaranty would not apply to the shipment a year later.

§ 162.110 Interpretation with respect to

their effectiveness is usually not sufficient to enable the preparation of adequate directions for use and adequate warning statements and, therefore, suitable labeling for registration cannot be prepared

conflict with or duplication of efforts in the administration of the Federal Insecticide, Fungicide, and Rodenticide Act and acts administered by that agency. In accordance with this policy there has been established a liaison, which is now in operation, for continued cooperation and coordination between the Federal Trade Commission and the Pesticides Regulation Division in the enforcement of the Federal Insecticide, Fungicide, and Rodenticide Act and the Federal Trade Commission Act as they apply to economic poisons. In general, the policy is for advertising, other than labeling, to be handled by the Federal Trade Commission. In the application of the above policy it is to be understood, however, that both agencies reserve the right to fully use their respective regulatory powers when necessary to protect the public interest.

§ 162.108 Interpretation with respect to labels for large containers.

(a) *Requirements of the Act.* The act and the regulations require labels on all containers of economic poisons which come within the scope of the act. There is no exemption in the case of large containers such as tank cars, tank trucks, or drums. Therefore, all such containers must be labeled.

(b) *Where label must appear.* (1) Labels for economic poisons in tank cars, may be attached to the panel berne by such cars for the purpose of attaching notices, or they may be placed directly on any conspicuous part of the tank where they can be easily read.

(2) Labels for economic poisons in tank trucks may be placed at any conspicuous place on the tank; however, when a tank truck is used only to deliver economic poisons to the user and the tank does not remain in the user's custody, a label attached to the tank would not be informative to the user. In such cases, the label may be attached to the delivery sheet which is carried by the driver of the truck and left with the user at the time of delivery.

(3) Labels for economic poisons in drums may consist of printed labels securely attached to the drums or labels may be stenciled on the drums. In either case labels must be clearly legible and easy to read.

(c) *Contents of label.* The following information must appear on the label:

(1) The name of the product. This must be the name under which it is registered with the Environmental Protection Agency.

(2) The name and address of the manufacturer, registrant, or person for whom manufactured.

(i) If the name is other than that of the manufacturer, the label should indicate this fact.

(ii) If the name is not that of the primary registrant, it must be the name of some other person or firm which has been added by a supplemental registration statement under the provisions of section 4a of the act.

(3) The net contents of the container, or in the case of a label attached to a delivery receipt of tank truck delivery, the net amount delivered.

(4) The ingredient statement.

(5) The registration number assigned to the economic poison as required in § 162.6(f).

(6) Any warning or caution statement which may be necessary to prevent injury to living man, beneficial animals, and beneficial plants. This statement is particularly important on large containers, since leakage may occur and result in injury to persons or property unless users or handlers are warned to take adequate precautions.

(7) In the case of an economic poison highly toxic to man, the skull and crossbones, the word "POISON" prominently in red, and an antidote statement.

(d) *Directions for use.* Directions for use are required on the labeling of economic poisons whenever they are necessary to protect the public.

(1) Detailed directions for use as prescribed in Interpretation 7 (Rev. 1) will be required on the labeling of all economic poisons for which the composition, methods of use, possible hazards involved, and effectiveness for economic poison purposes are not well known. Such directions for use may appear on the label or on other printed matter which is delivered to the user with the economic poison or otherwise accompanies the economic poison.

(2) Detailed directions for use may be omitted from the labeling of well known economic poisons which are sold in containers of 100 pounds or more of a solid intended primarily for use undiluted, 50 pounds or more of a solid intended primarily for use after dilution, 55 gallons or more of a liquid intended primarily for use undiluted, or 20 gallons or more of a liquid intended primarily for use after dilution: *Provided:*

(i) There is readily available general knowledge of the composition, methods of use, and effectiveness of the product for economic poison purposes;

(ii) Option 1 of the ingredient statement is followed; and

(iii) In the Opinion of the Director, such directions are not necessary for the protection of the public.

(e) *Acceptable types of labeling.* The following are examples of acceptable labels for two well known economic poisons.

(1) For creosote oil, free of water or free carbon.

CREOSOTE OIL

Active Ingredient 100%
John Doe and Company
Washington, D.C.
Net contents 55 gallons
EPA Reg. No. xxx-xx

CAUTION: Avoid prolonged or repeated contact with the skin or breathing of the vapors. Keep out of reach of children.

(2) For 5 percent DDT dust sold in a 100-pound barrel.

DDT Dust

Active Ingredient:	Percent
Dichloro Diphenyl Trichloroethane (DDT)	5
Inert Ingredients	95
Total	100

Net weight 100 pounds
John Doe and Company
New York, N.Y.
EPA Reg. No. xxx-xx

CAUTION: Keep out of reach of children. Avoid breathing dust. Avoid contamination of feed and foodstuffs.

§ 162.109 Interpretation with respect to the guaranty of an economic poison.

(a) *Purpose of the guaranty.* (1) The manufacturer of an economic poison is presumed to know the composition of his product and he will ordinarily be the one who registers it with the Environmental Protection Agency. He will, therefore, be in position to determine whether or not its shipment or distribution is legal.

(2) The distributor who purchases it from him will not be in a position to determine its composition except as he has it analyzed in a chemical laboratory and he will not know, except as his supplier may inform him, whether the product is registered, and what representations were made in connection with the registration. It will, therefore, be difficult for him to determine whether or not its shipment or distribution is legal.

(3) In order that the distributor may protect himself the act specifies that the penalties provided for violations of section 3a shall not apply to any person who establishes a guaranty, signed by and containing the name and address of the registrant or person residing in the United States from whom he purchased and received in good faith the article in the same unbroken package, to the effect that the article was lawfully registered, at the time of sale and delivery and that it complies with the other requirements of the act, giving the name of the act in full. When the distributor holds such a guaranty, the guarantor is responsible for any violation involved in the shipment of the goods. However, the distributor, to avoid responsibility, must be able definitely to show that the economic poison in question is covered by a specific guaranty.

(b) *Who may give guaranty.* A guaranty may be given by any manufacturer, distributor, wholesaler, or any other person residing in the United States, who sells an economic poison to anyone else.

(c) *Scope and form of guaranty.* A guaranty may be either limited to a specific shipment or it may be general and continuing in nature. The following forms of guaranty are suggested:

(1) Limited form for use on invoice or bill of sale.

---------- hereby guarantees
Name of guarantor
that the economic poisons herein listed are lawfully registered with the Administrator of the Environmental Protection Agency and comply with all requirements of the Federal Insecticide, Fungicide, and Rodenticide Act.

---------- Signature and postoffice address of guarantor

---------- Date

(2) General and continuing form.

The economic poisons comprising each shipment or other delivery hereafter made by ---------- to or on the order of
Name of guarantor
---------- Name and address of
---------- person receiving guarantee
are hereby guaranteed to be lawfully registered with the Administrator of the Environmental Protection Agency and to comply with all requirements of the Federal Insecticide, Fungicide, and Rodenticide Act, as of the date of such shipment or delivery.

---------- Signature and postoffice address of guarantor

---------- Date

(3) In some cases an invoice may cover shipment of both economic poisons covered by permit for experimental use and registered economic poisons. The guaranty cannot apply to the economic poisons shipped under permit. Therefore, the above forms of guaranty must be modified to be applicable to such procedure. It is suggested that in such cases the name of the experimental economic poison as shown on the invoice or bill of sale be immediately followed by the word "Experimental." Then the first form of guaranty should be changed to read:

---------- hereby guarantees
Name of guarantor
that the economic poisons herein listed (except such as are designated "experimental") are lawfully registered with the Administrator of the Environmental Protection Agency and that they comply with all requirements of the Federal Insecticide, Fungicide, and Rodenticide Act.

---------- Signature and post office address of guarantor

---------- Date

A similar change should be made in the second form of guaranty.

(d) *Reference to guaranty.* No reference to the guaranty may be made on the label or in the labeling of the product since such reference would be likely to give the purchaser an unwarranted sense of security.

(e) *Limitation of guaranty.* The guaranty applies only so long as the economic poison remains unchanged in the manufacturer's or registrant's unbroken immediate container bearing his label. It expires when the immediate package is opened, when the material is repacked or relabeled, or when it has been otherwise changed so as to be in violation of the law after shipment or delivery by the person giving the guaranty. For example, a product may deteriorate when stored for any considerable length of time. It may have been in strict compliance with the law when shipped by the guarantor but a year later, when shipped by the distributor, it may have deteriorated and become worthless. In this case, the guaranty would not apply to the shipment a year later.

§ 162.110 Interpretation with respect to the analyzing and testing of economic poisons.

(a) *Analyzing and testing of economic poisons; functions of the Department.* Insofar as the Federal Insecticide, Fungicide and Rodenticide Act is concerned, the functions of the Environmental Protection Agency are those of a law enforcement agency. The Agency analyzes and tests economic poisons subject to the act to determine whether or not they are in violation of the provisions thereof. Its analytical and testing work is limited to official samples collected by official investigators or others who have been duly designated by the Director of the Pesticides Regulation Division. It cannot undertake such work to help a manufacturer prepare his labeling. It is the manufacturer's responsibility to have such work carried out, which may be done by commercial laboratories or by other qualified persons. The Agency is, however, willing to comment on proposed labeling submitted by manufacturers, based on available information.

The Agency has no authority to recommend or to approve any specific commercial laboratory or person engaged in doing analytical or testing work on economic poisons.

§ 162.111 Interpretation with respect to shipments for experimental use; permit requirements.

(a) *Shipments for experimental use by certain Federal and State agencies.* The penalties provided for violation of section 3a of the act do not apply to the manufacturer or shipper of an economic poison intended only for experimental use by or under the supervision of any Federal or State agency authorized by law to conduct research in the field of economic poisons. This means that a manufacturer may freely ship economic poisons for experimental use by or under the supervision of the agencies indicated without registration or any other compliance with section 3a of the act. No Federal permits for these shipments are required.

(b) *Shipments for experimental use by others.* In the case of shipments of economic poisons for experimental use only, to parties other than Federal or State agencies authorized by law to conduct research in the field of economic poisons or to those working under their supervision, the same exemption from the penalties set forth for violation of section 3a of the act exists: *Provided,* That a permit has been obtained from the Agency before shipment of the goods. This provision of the act is intended to apply primarily to shipments of products which have already been found to have economic poison value, but which are being tested further, usually on a larger scale, to determine their limitations. The information about their effectiveness is usually not sufficient to enable the preparation of adequate directions for use and adequate warning statements and, therefore, suitable labeling for registration cannot be prepared without further experimentation. This experimental work may be carried out on a large scale, including treatment of many acres of crops in various sections of the country. However, it must be carried out in such a way as to avoid injury to humans and useful animals. If the economic poison is to be tested for a use which is likely to result in contamination of food or feed the affected food or feed must be disposed of without allowing it to be consumed by humans, or by useful animals except those used for toxicity tests, unless there is convincing evidence that the proposed use will not result in injury to them.

(c) *Sale of the product.* The economic poison may be sold to the user or may be supplied to him without charge. If it is not furnished without charge the label must bear, in addition to other required material, a statement of the names and percentages of the principal active ingredients in the product. This is intended to include the names and percentages of the ingredients commonly known as toxicants but not necessarily the names and percentages of ingredients which act primarily as solvents, emulsifiers, carriers or in a similar manner. The experimental work must be carried out by persons qualified to evaluate the results obtained. Offering the product for sale to anyone who wishes to purchase it is not considered marketing for experimental use only, and is prohibited. Products so offered will be subject to registration and all other requirements of the law.

(d) *Types of products and labeling.* (1) An economic poison shipped for experimental use may be one which has not previously been used as an economic poison, or it may be one which has had other economic poison uses and is now being tested for a new use.

(2) The labeling of all economic poisons shipped under permit must bear the following:

(i) The prominent statement "For Experimental Use Only" on the container label and any accompanying circular or other labeling.

(ii) A warning or caution statement if it is necessary for the protection of those who may handle or be exposed to the economic poison.

(iii) The name and address of the applicant for the permit.

(iv) The name of the formulation; and,

(v) If the economic poison is to be sold, the names and percentages of its principal active ingredients.

(e) *Specific and general permits.* (1) If a manufacturer desires to make a single shipment of an economic poison for experimental use, he may obtain a permit for that specific shipment; or

(2) If he desires to make more than one shipment of a single economic poison or closely allied economic poisons for experimental use, he may apply for a

general permit. A general permit will be subject to the following limitations and may be cancelled at any time for any violation of its terms:

notification at his expense of the issuance of the permit.

(g) *Limitation of quantity of economic poison permitted for experimental*

§ 162.113 Interpretation with respect to liquid and pressurized household insecticides acceptable for generalized application (primarily non-

Pesticidal chemical	Percentage in liquid space and	Percentage in aerosol mist

malathion plus 1.5 percent DDT would also be accepted. There would be no objection to any separately acceptable amounts of the thiocyanates or synergized pyrethrins being added to a liquid

The ingredient statement should in all cases accurately reflect the complete composition of the product. The names given for the various ingredients must be the common names, if they have com-

general permit. A general permit will be subject to the following limitations and may be cancelled at any time for any violation of its terms:

(i) It will be good only for a specified period of time, in no case exceeding one year.

(ii) It will be subject to the truthfulness of the representations made in the application for the permit.

(iii) It will apply only to one economic poison or closely allied group of such products. This provision is intended to include under one permit different formulations of the same material which are being tested to determine the best formulation for the particular use, but is not intended to include under one permit entirely different chemicals used as economic poisons.

(f) *Application for permits.* An application for a permit for shipment for experimental use should be made in duplicate on forms which may be obtained from the Pesticides Regulation Division, Environmental Protection Agency, Washington, D.C. 20250, giving in full the following information:

(1) Name and address of the shipper and place or places from which the shipment will be made.

(2) Proposed date of shipment or proposed shipping period not to exceed one year.

(3) A statement of the composition of material to be covered by the permit which should apply to a single material or group of closely allied formulations of the material.

(4) A statement of the approximate quantity to be shipped.

(5) Available data or information or reference to available data or information on the acute toxicity of the economic poison.

(6) A statement of the nature of the proposed experimental program, including the type of pests or organisms to be experimented with, the crops or animals for which the product is to be used, the areas where it is proposed to conduct the program, and including the results of previous tests where necessary to justify the quantity requested.

(7) When food or feed is likely to be contaminated, either a full statement of action which will be taken to prevent the food or feed from being consumed, except by laboratory or experimental animals, or convincing evidence that the proposed experiment will not result in injury to man or useful animals.

(8) The percentage of the total quantity specified under subparagraph (4) of this paragraph which will be supplied without charge to the user.

(9) A statement that the economic poison is intended for experimental use only.

(10) Proposed labeling for the product.

Applications will be considered as rapidly as possible. In special cases the manufacturer may request telegraphic notification at his expense of the issuance of the permit.

(g) *Limitation of quantity of economic poison permitted for experimental use.* When the available information on the effectiveness, toxicity or other hazards inherent in a proposed experimental use of an economic poison is not sufficient to assure that it is safe under the conditions of the experiment, the full quantity requested may not be permitted or other limitations may be placed upon the permit if necessary for the protection of the public. This is intended to apply particularly if the material is to be handled and applied by people who have not been especially trained in the use of poisons or if its use on a scale as broad as that requested is likely to constitute an unwarranted hazard.

(h) *Cancellation of permits.* A permit for shipment of an economic poison for experimental use may be canceled at any time for any violation of its terms. It may also be canceled if it appears upon further consideration that distribution of the product under the terms of the permit constitutes a hazard to the public.

(i) *Custom mixes.* Permits will not be issued for so-called custom mixes which are ordinarily economic poisons prepared to the special formula of the user. These are not intended for experimental use, but are special economic poisons intended for special uses. When shipped in interstate commerce, they are subject to the registration and other provisions of the law.

(j) *Shipment of products not classified as economic poisons.* Section 162.17 (a) (1) provides that a product is not an economic poison when it is being put through tests in which the purpose is only to determine its value for economic poison purposes or to determine its toxicity or other properties, and when the user does not expect to receive any benefit in pest control. This will, in general, include products being put through so-called screening tests or preliminary tests to determine whether further tests with them are worth while; products shipped to toxicological laboratories to determine their toxicity; products sent to chemical laboratories for chemical investigation; and products shipped for tests by testing laboratories which maintain test plots solely to evaluate the effectiveness of the product and not for the value of the crops obtained. Permits are not required for shipments of products of this type and they are not subject to the provisions of the act in any way. There is no requirement for any report concerning them to the Agency, except when it is necessary to report the results of the tests to support claims when they are later submitted for registration or when an application for a permit for shipment for experimental use is submitted. However, confidential progress reports will be valuable to the Agency.

§ 162.113 Interpretation with respect to liquid and pressurized household insecticides acceptable for generalized application (primarily non-deposit forming).

(a) *Composition.* These products are ordinarily marketed as solutions, emulsions, suspensions, or pressurized products and are designed for use in undiluted form by the consumer. In a few cases, concentrated products requiring dilution are marketed. These products usually have a petroleum distillate base together with such auxiliary solvents as may be necessary to keep the formulation as a solution under conditions of relatively low temperature. Water is sometimes used in the liquid formulations. Auxiliary solvents such as methylated naphthalenes, methylated aromatic petroleum solvents, and methylene chloride are frequently used, although the latter is more common in pressurized products. The propellants commonly encountered are known as Propellant 11 (trichloro monofluoro methane) and Propellant 12 (dichloro difluoro methane). Propellant 12 may be used alone or in various proportions with Propellant 11, methylene chloride, or methyl chloroform. This interpretation is not intended to cover products intended primarily to be used in such a manner as to deposit substantial quantities of insecticides on treated surfaces.

(b) *Acceptable ingredients.* The following chemicals are frequently encountered in household-type insecticides of this class. The percentage figures given are the maximums which are ordinarily encountered in this class of products. An asterisk indicates that the percentage specified is the maximum being accepted. The other percentage figures should not be regarded as maximum at the present time, even though further information may necessitate modification of these figures and the use of additional asterisks. All percentage figures are expressed in terms of weight. Ingredient statement requirements are discussed in paragraph (c) of this section.

Pesticidal chemical	Percentage in liquid space and contact sprays	Percentage in aerosol mist sprays
Allethrin (allyl homolog of cinerin I) —%	0.5	0.6
Beta-butoxy-beta'-thiocyanodiethyl ether —% (Lethane 384)	[1]2.5	[1]4.0
Beta-thiocyanoethyl esters of mixed fatty acids containing 10 to 18 carbon atoms —%. Beta-butoxy-beta'-thiocyanodiethyl ether —% (Lethane 384 Special)	[1]2.5	[1]1.0
Butoxypolypropylene glycol —%	10.0	5.0
Dichloro diphenyl dichloroethane —% (TDE)	*4.0	None

Footnote at end of table.

Pesticidal chemical	Percentage in liquid space and contact sprays	Percentage in aerosol mist sprays
Dichloro diphenyl trichloroethane —% (DDT)	*5.0	*2.0
Diethyl diphenyl dichloroethane [or 1,2-dichloro-2,2-bis (4-ethylphenyl) ethane] —% (95% of the total amount of technical ingredient present). Related compounds —% (5% of the total amount of technical ingredient present) (Perthane)	*5.0	*2.0
Gamma isomer of benzene hexachloride from lindane —%	*0.1	None
Isobornyl thiocyanoacetate —% (85% of the total amount of technical ingredient present). Related compounds —% (15% of the total amount of technical ingredient present) (Thanite)	2.5	*2.0
Malathion —% [1]	2.0	*2.0
Pyrethrins —%	0.2	0.6
Rotenone —% (Usually "Other Cube Resins," another active ingredient, is also present in formulations containing this ingredient)	0.1	0.33
Technical methoxychlor —% [2]	5.0	*2.0
Terpenepolychlorinates (60% chlorine) —% and an additional statement: "Chlorinated Camphena, Pinena, and Related Terpenes." (Strobane)	*2.0	*2.5
Toxaphene —% [3]	*2.5	*2.5
Synergists		
Di-n-propyl isocinchomeronate condensate —% (Propyl isome)	2.0	2.0
N-octyl-bicycloheptene dicarboximide —%	2.5	2.0
Octyl sulfoxide of isosafrole —% (Sulfoxide)	2.0	4.0
Sesame oil extractives —% [4]	1.5	3.0
Technical piperonyl butoxide —% [5]	1.5	2.0

[1] Thiocyanate.
[2] O,O-dimethyl dithiophosphate of diethylmercaptosuccinate.
[3] Equivalent to —% (80% of the first percentage) 2,2-bis(p-methoxyphenyl) 1,1,1-trichloroethane and —% (12% of the first percentage) other isomers and reaction products.
[4] Technical chlorinated camphene (67% to 69% chlorine).
[5] Containing sesamin —%.
[6] Equivalent to —% (80% of the first percentage) (butylcarbityl) (6-propylpiperonyl) ether —% related compounds (20% of the first percentage).

These products frequently contain a combination of pesticidal ingredients, together with synergized pyrethrins and thiocyanates. These ingredients may be used in any combinations desired except that when combinations of phosphates and/or chlorinated hydrocarbons are proposed, concentrations of these ingredients should be proportionately reduced. The following is illustrative of a mixture of DDT and malathion which would be acceptable:

Insecticidal mixture:	*Maximum percentage by weight in liquid products*
DDT	3 percent.
plus	plus
Malathion	1 percent.

DDT when used alone may be present to the extent of 6 percent. Malathion when used alone may be present to the extent of 2 percent. When combinations of these ingredients are used the quantities of each must be proportionately reduced as in the above illustration. A finished liquid formulation containing 1.0 percent malathion plus 1.5 percent DDT would also be accepted. There would be no objection to any separately acceptable amounts of the thiocyanates or synergized pyrethrins being added to a liquid formulation.

(c) *Ingredient statement.* The following form of ingredient statement would fulfill legal requirements for a hypothetical liquid mixture containing pyrethrins, petroleum distillate, piperonyl butoxide, perthane, and malathion:

Active ingredients:	*Percent*
Pyrethrins	---
Malathion [1]	---
Technical piperonyl butoxide [2]	---
Diethyl diphenyl dichloroethane	---
Petroleum distillate	---
Total	100

[1] 0,0=dimethyl dithiophosphate of diethylmercaptosuccinate.
[2] Equivalent to -- percent (butyl carbityl) (6 propyl piperonyl) ether and -- percent related compounds.

The correct figures should, of course, be entered in the blank spaces. As an alternative, the names of the ingredients may be listed in the descending order of their respective percentages. In such cases the heading "Active Ingredients 100%" should be used. The term "100%" may be omitted when actual percentage figures are given for each active ingredient. An illustration of this alternative form of ingredient statement appears elsewhere for a hypothetical pressurized formulation.

The following forms of ingredient statements would fulfill legal requirements for a pressurized product containing pyrethrins, piperonyl butoxide, and DDT:

Active ingredients:	*Percent*
Pyrethrins	---
Technical piperonyl butoxide [1]	---
Dichloro diphenyl trichloroethane	---
Petroleum distillate	---
Inert ingredients	---
Total	100

or

Active ingredients:	*Percent*
Petroleum distillate	---
Dichloro diphenyl trichloroethane	---
Technical piperonyl butoxide [2]	---
Pyrethrins	---
Inert ingredients:	
Methylene chloride	---
Dichloro difluoro methane	---

[1] Equivalent to -- percent (butyl carbityl) (6 propyl piperonyl) ether and -- percent related compounds.
[2] Consists of (butyl carbityl) (6 propyl piperonyl) ether and related compounds.

In all cases, the correct percentages should be entered in the blank spaces. The tabulation of pesticidal chemicals appearing in paragraph (b) of this section gives appropriate suggestions for the naming of ingredients. Except for explanatory parenthetical wording, the information given in paragraph (b) of this section is suitable for use in label ingredient statements. Interpretation 5 gives further information on the preparation of correct ingredient statements. The ingredient statement should in all cases accurately reflect the complete composition of the product. The names given for the various ingredients must be the common names, if they have common names. Otherwise, the chemical names as specified above should be used. Trademarked names should not be used in the ingredient statement.

(d) *Basic insecticidal value*—(1) *Petroleum distillate sprays.* Liquid spray products of this class should have as a minimum the insecticidal value of a petroleum distillate solution of pyrethrins containing 114.8 mg. of this ingredient per 100 cc. of solution. For practical purposes, this reference standard should have the same biological value as the current Official Test Insecticide which is prepared and distributed under the supervision of the Chemical Specialties Manufacturers Association, 50 East 41st Street, New York 10017, New York. Any testing procedure which accurately compares the toxicity of the standard mixture to the liquid product being evaluated, will be considered. The testing procedures published as "The Peet-Grady Method" and the "Cockroach Spray Test Method" by the above-mentioned association will be considered as satisfactory for flies and roaches, respectively. These methods will not be regarded as interchangeable, since they only evaluate the comparative toxicity of liquid insecticides against the pests named. These methods are given in the 1959 edition of the Blue Book and Catalogue edition of Soap and Chemical Specialties, published by the MacNair-Dorland Company, 254 West 31st Street, New York City. These testing procedures may not be considered as adequate or applicable when new or unusual pesticidal chemicals are included in the formulation or if claims and directions for killing insects other than roaches or flies are proposed. If such products are intended to be used for killing household pests other than flies or roaches, special attention will be given to assessing the toxicity of the pesticide for the purposes which are proposed. Full information on the proposed claims and directions should be submitted in each case. It will be necessary for the applicant to submit data to establish the safety of any new or unusual chemical or pesticidal treatment that is proposed. It is the usual practice to consult with the Public Health Service of the Department of Health, Education, and Welfare on such matters.

(2) *Aerosol-type products.* Pressurized formulations classified as "aerosols" are usually marketed in dispensers ranging from a few ounces to 5 pounds. However, most of the items designed for mass distribution are packaged in sizes of 12 ounces and 16 ounces. These products contain 80 percent or 85 percent of propellant gas, usually a combination of Propellant 11 and Propellant 12. Methylene chloride or methyl chloroform is frequently substituted in whole or in part for Propellant 11. As a minimum, these products should have the knockdown and insecticidal value of a product containing

85 percent of a 50–50 mixture of Propellant 11 and Propellant 12, and 15 percent of petroleum solvent containing sufficient pyrethrum extract and DDT to

24-hour mortality figures are no more than 5 percentage points under the comparable figures for the reference product. If claims and directions for killing insects

erality of application is essential, small pressurized dispensers may not give as good results in some cases. Repeated applications should be specified in all

(f) *Caution and warning statements*—(1) *General.* All economic poisons are required to bear warning or caution statements which are necessary to protect the public from injury, and accept-

fully justified by the killing action and knockdown effect of the product when tested against house flies. Except for fly sprays, there is no generally recognized grade classification for household insec-

the actual compounds of the acids which are present. In a powder containing 2,4–D acid and sodium carbonate, for example, the active ingredient would be the 2,4-dichlorophenoxyacetic acid; in

85 percent of a 50–50 mixture of Propellant 11 and Propellant 12, and 15 percent of petroleum solvent containing sufficient pyrethrum extract and DDT to yield 0.4 percent pyrethrins and 2 percent DDT in the total formulation. The reference standard should have the same biological value as the current Official Test Aerosol dispenser of the Chemical Specialties Manufacturers Association. These dispensers may be obtained from the Association at 50 East 41st Street, New York 17, New York. Any testing procedure which accurately compares the knockdown and toxicity of the test aerosol with the reference standard will be considered. The official method of the Association, published in the 1959 edition of the Blue Book and Catalogue, as previously noted, will be accepted, provided the results demonstrate that the product is no less effective in 5-minute, 10-minute and 15-minute knockdown and 24-hour mortality intervals than the comparison formulation when tested against house flies at the same dosage or less. This method of testing may not be considered as adequate if claims and directions for killing insects other than flies are proposed or if new or unusual ingredients or insecticidal usage are involved. In any test, the spray from aerosol dispensers should be in a finely divided form, in which 80 percent or more of the individual spray particles have a mean diameter of 30 microns or less and none of the spray particles have a diameter of more than 50 microns. Products which do not have the necessary biological activity when tested by the specified methods or which dispense a coarser type spray should not be represented as being "aerosols." Full information on the proposed claims and directions should be filed in all such cases. It will be necessary for the applicant to submit data to establish the safety of any new or unusual chemical ingredient or pesticidal treatment that is proposed. It is the usual practice to consult with the Public Health Service of the Department of Health, Education, and Welfare of such matters.

(3) *Pressurized space and contact sprays.* Products of this class are less common, and differ from the aerosol-type products in that their biological performance is of a lower order and usually somewhat slower in effect on the insects which are sprayed. These products deliver mist sprays intermediate between aerosol-type sprays and those which are intended to deposit an insecticidal residue of a chemical. They should have the biological performance of the reference standard specified for the aerosol-type product when a dosage of no more than twice that used for the same reference standard has been applied. Also, for these purposes the testing procedure may be modified to omit comparisons of the knockdown at the 5-minute and 10-minute intervals. The comparisons in such cases will be only at the 15-minute knockdown and 24-hour mortality intervals. The product will be regarded as having sufficient insecticidal value if the average 15-minute knockdown and 24-hour mortality figures are no more than 5 percentage points under the comparable figures for the reference product. If claims and directions for killing insects other than flies are included, or if new or unusual chemicals are included in the formulation, individual consideration will be given to the proposed claims and directions on a separate basis. It will, of course, be necessary to submit data to establish the safety of any new or unusual ingredient or pesticidal usage. It is the usual practice to consult with the Public Health Service of the Department of Health, Education, and Welfare on such matters.

(e) *Directions for use*—(1) *General.* In all cases, the labeling should bear adequate directions for use against all of the insects named in the labeling. Although these products are commonly referred to as "fly sprays," "aerosols," or "pressurized products," they are usually recommended for use against a number of household insects, including house flies, mosquitoes, roaches (water bugs), bed bugs, ants, carpet beetles, brown dog ticks, and clothes moths. These products are primarily contact insecticides and in order to be effective must hit or wet the individual insect with the spray mist. Since the habits and life cycles of different insect pests vary considerably, the directions must in each case be adapted to the particular variety of insect which is causing annoyance and the type of structure or building in which the product is used.

(2) *Particular insects*—(i) *Flies and mosquitoes.* Directions for use against these pests should provide for closing the doors and windows and thoroughly spraying all parts of the room, particularly toward the ceiling, so as to fill the room with a fine mist. The room should be kept closed for 10 to 15 minutes and the fallen insects swept up and destroyed. However, when strong formulations are used, containing substantial amounts of rapidly acting paralytic agents, it is simply necessary to ascertain that the various insects have been thoroughly enveloped in the spray mist. Pressurized aerosol formulations and pressurized sprays may also be used in a manner quite similar to the liquid products. Dosages of aerosol and pressurized formulations are sometimes expressed in terms of seconds of discharge with appropriate adjustments for low and high delivery rate dispensers. These dosages usually are in the range of 4 to 5 grams of aerosol mixture in mist form per 1000 cubic feet of space.

(ii) *Household ants and roaches.* The directions for use against these pests should provide for thorough spraying into all parts of the room suspected of harboring these pests. Special attention should be paid to cracks and hidden surfaces around sinks or food storage areas where these insects may be hiding. It is necessary in all cases that the insects be contacted directly with the spray. Treatment around doors and windows is desirable in connection with directions for use against ants. Pressurized formulations may also be used, but since liberality of application is essential, small pressurized dispensers may not give as good results in some cases. Repeated applications should be specified in all cases. Special care should be taken to use these products in such a manner that food and food utensils will not be contaminated. If any spray contaminates cooking utensils, silverware, or dishes, they should be thoroughly cleaned.

(iii) *Bed bugs.* The directions for use against these pests should provide for thorough spraying of the bed, the springs, and the mattress, as well as the baseboards and wall cracks about the bedroom. Repeated applications are usually necessary for good results against these pests. In the case of malathion, the maximum acceptable concentration for this use is a 1 percent spray, which in any case is to be applied lightly to the mattress.

(iv) *Clothes moths and carpet beetles.* The directions for use against these pests should provide for cleaning all articles to be protected and for thorough spraying, particularly of seams and folds. The interior of trunks, closets, cupboards, and other storage containers should also be thoroughly sprayed. Unless the sprayed articles are to be stored immediately in moth-tight containers, the directions should provide for repeating the treatment at least once a month. In the case of upholstered furniture, the directions should provide for spraying the interior of the furniture, as well as the outer surfaces, unless the furniture can be fumigated to kill any hidden infestation of these pests. Rugs and carpets that are to be treated may also be sprayed, not only on the top surfaces, but also on the under side. However, when carpet beetles are a serious problem, it is usually desirable to use a residual type insecticidal treatment. Pressurized products, including aerosols, may be used on the same terms, but are less suitable, since small dispensers do not ordinarily permit the liberality of treatment which is usually necessary for good results.

(v) *Fleas and brown dog ticks in buildings.* Directions for use against these pests should provide for liberal applications to floor areas, cracks and crevices, sleeping quarters of animals, behind pictures, and wherever these insects may be suspected of harboring. Liberal and repeated applications directly to the individual pests are desirable in all cases.

(vi) *Mosquitoes and small flying insects outdoors.* Liquid and pressurized products of the types described can often be used effectively as mist spray applications for tall grass, shrubbery and around lawns where these pests may hover or harbor. This usage is suitable only in still air and requires frequent reapplication to kill additional insects that may be drifting into the area. It is not suitable for coping with any large influx of insects. Care should be taken to avoid wetting vegetation since many of these formulations are phytotoxic. Only mist spray application should be directed.

(f) *Caution and warning statements*—(1) *General.* All economic poisons are required to bear warning or caution statements which are necessary to protect the public from injury, and acceptable directions for use must be consistent with these requirements. These cautions and directions are quite variable, depending on the composition of the product and the manner of use which is intended. The detailed precautions, especially for operator protection during use of most of the various pesticidal ingredients, are given in the current revision of Interpretation 18. Cautions to protect food and food-handling equipment from contamination are often required and are appropriate in any case. These products should ordinarily be kept out of reach of children and pets.

(2) *Liquid household insecticides.* In all cases where petroleum distillate or other combustible formulations are involved, warning against spraying in the presence of open flame or sparks is required.

(3) *Pressurized household insecticides.* Since many of these products contain significant amounts of petroleum distillates, other combustible substances, and/or halogenated hydrocarbons yielding irritant substances in the presence of open flame or heated surfaces, and since bursting or leakage of contents may occur at high temperatures, all pressurized products (except as specified hereafter) should bear the following warning or its practical equivalent:

WARNING: Contents under pressure. Do not puncture. Do not use or store near heat or open flame. Exposure to temperatures above 130° Farenheit may cause bursting. Never throw container into fire or incinerator.

Pressurized products which have extreme flammability or explosive hazards will be considered separately and additional precautionary labeling prescribed. Methods for determining the need for such additional precautionary labeling may be obtained from the Director, Pesticides Regulation Division, Environmental Protection Agency, Washington, D.C. 20250. It is the responsibility of the registrant to provide precautionary labeling which will be adequate, if complied with, to prevent injury to persons using or handling his product.

(g) *Deterioration.* Petroleum distillate sprays containing pyrethrins, if exposed too long to light in ordinary glass bottles, or stored for long periods of time, may lose their efficiency due to deterioration of the active ingredients. Also, certain types of packaging may permit deterioration. All products should maintain their active ingredients at the levels declared on the label and represented at the time of registration as long as they remain in unopened containers in channels of trade.

(h) *Grade classification.* The grade classifications given in Commercial Standard CS 72–54 apply to liquid fly sprays and should be used only to classify such products. If a claim for grade classification is made for a fly spray, it should be only such a grade as may be fully justified by the killing action and knockdown effect of the product when tested against house flies. Except for fly sprays, there is no generally recognized grade classification for household insecticides and no such claims should be made other than for fly sprays.

(i) *Unwarranted claims.* These products are not effective against all household insects, and claims for effectiveness against insects generally or all insects, are unwarranted and should not be made. These products, as customarily marketed, are not effective against termites and cannot be relied upon to kill any insect which cannot be reached directly by the spray. This applies also to the eggs of many insects, which are often placed in inaccessible cracks or hidden surfaces. Claims for extermination are not warranted and should not be made. Products of this type are injurious under certain conditions to both men and animals and may contaminate food when improperly used. Therefore, their labels must ordinarily not bear any unqualified claims such as "Non-Toxic," "Non-Poisonous," "Non-Injurious," or "Harmless to Man and Animals." Such products are of no value in disinfecting and will not prevent diseases, and claims to that effect should not be made.

(j) *Registration.* All applications for registration should include duplicate copies of all labels, circulars, or other literature which may be associated with or accompany the product at any time. Complete information concerning the composition of the product should also be furnished with the application. If the product does not conform to a conventional pattern of pesticidal usage against household pests, data should be furnished to demonstrate the practical value of the product for the various pests which are named in the labeling. Consultation with applicants is solicited at all times, in order to eliminate possible misunderstanding.

§ 162.115 Interpretation with respect to labeling of weed killers containing 2,4–D, 2,4,5–T, and MCPA.

(a) *Composition.* In this interpretation, 2,4–D is a designation for 2,4-dichlorophenoxyacetic acid; 2,4,5–T is a designation for 2,4,5-trichlorophenoxyacetic acid; and MCPA is a designation for 2-methyl-4-chlorophenoxyacetic acid. These designations will also represent the salts and esters of these acids when they are used as weed killers. The acids themselves are not very soluble in water and ordinarily are not used alone; they may be mixed with an alkali, such as sodium carbonate, so that the sodium salt will be formed when the mixture is added to water, but they are commonly used as amine salts, as volatile esters, including the ethyl, butyl, propyl, and amyl series, or as low-volatile esters, including butoxy ethanol, polyethanol glycol butyl ether, tetrahydrofurfuryl, ethoxy ethoxy propyl, butoxy ethoxy propyl, iso-octyl, and others.

(b) *Ingredient statement.* (1) The active ingredients in a weed killer containing 2,4–D, 2,4,5–T, or MCPA will be the actual compounds of the acids which are present. In a powder containing 2,4–D acid and sodium carbonate, for example, the active ingredient would be the 2,4-dichlorophenoxyacetic acid; in a product containing the anhydrous sodium salt of 2,4–D, however, the active ingredient would be the anhydrous sodium salt of 2,4-dichlorophenoxyacetic acid; the ethanol amine salt of 2,4-dichlorophenoxyacetic acid would be the active ingredient in a product containing it; and any specific esters of 2,4-dichlorophenoxyacetic acid present would be declared as the active ingredients in products containing them. The same principle would be followed for the various formulations containing 2,4,5–T or MCPA.

(2) Since the herbicidal action of products containing 2,4–D, 2,4,5–T, or MCPA has been reported on the basis of the equivalent content of their respective acids, it is desirable that the equivalent amount of the acid be given in the ingredient statement. However, it should be borne in mind that some compounds, particularly the esters, act differently from others and it is not safe, therefore, to base judgment entirely on the equivalent acid content.

(3) When sodium 2,4-dichlorophenoxyacetate monohydrate is present in a dry mixture, it should be considered the active ingredient. In water solutions, the convention has been adopted of declaring only the anhydrous forms of the dissolved solids as active ingredients; thus, in a water solution of sodium 2,4-dichlorophenoxyacetate monohydrate, the active ingredient would be declared as "anhydrous sodium 2,4-dichlorophenoxyacetate."

(4) The following forms of ingredient statements for 2,4–D are acceptable for the types of materials indicated. In each case, correct values should be inserted in the blank spaces.

(i) A dry mixture of 2,4-dichlorophenoxyacetic acid, sodium carbonate, and other inert ingredients:

Active Ingredient:	Percent
2,4-dichlorophenoxyacetic acid	---
Inert Ingredients	---
Total	100

(ii) A mixture of the anhydrous sodium salt of 2,4-dichlorophenoxyacetic acid and inert materials:

Active Ingredient:	Percent
Sodium salt of 2,4-dichlorophenoxyacetic acid [1]	---
Inert Ingredients	---
Total	100

[1] Equivalent to 2,4-dichlorophenoxyacetic acid --- percent.

(iii) Isopropyl amine salt of 2,4-dichlorophenoxyacetic acid and inert ingredients:

Active Ingredient:	Percent
Isopropyl amine salt of 2,4-dichlorophenoxyacetic acid [1]	---
Inert Ingredients	---
Total	100

[1] Equivalent to 2,4-dichlorophenoxyacetic acid --- percent.

(iv) Butyl ester of 2,4-dichlorophenoxyacetic acid and inert ingredients:

Active Ingredients:	Percent

crops as tomatoes, cotton, and grapes are severely damaged by small amounts of 2,4–D or related compounds. When

"Avoid drift of spray mist (dust) onto vegetables, flowers, ornamental trees and shrubs, and other desirable crop plants."

"Call A Physician Immediately." In addition, the label should carry the word "Warning" and instructions for handling to reduce chances of injury in use.

tions for use of sprays in food handling establishments are otherwise acceptable, a statement such as "Cover or remove all exposed food, utensils, and containers

fied therein. The exact wording used in the suggested statements is not obligatory, although the substance of all such statements will be required, unless

(iv) Butyl ester of 2,4-dichlorophenoxyacetic acid and inert ingredients:

Active Ingredients:	Percent
Butyl ester of 2,4-dichlorophenoxyacetic acid [1]	---
Inert Ingredients	---
Total	100

[1] Equivalent to 2,4-dichlorophenoxyacetic acid --- percent.

The above examples of ingredient statements would also apply to similar formulations of 2,4,5-T and MCPA.

Tables of equivalent percentages of the salts, amine salts, and esters of 2,4-D, 2,4,5-T, and MCPA, for use in computing the equivalent percentages of the acids, may be obtained from the Pesticides Regulation Division, Environmental Protection Agency, Washington, D.C. 20250.

(c) *Directions for use.* (1) 2,4-D weed killers have been used successfully to control broad leaf weeds, such as plantain, dandelion, henbit and chickweed in lawns and golf courses, to destroy certain weeds in drainage ditches and streams (but in this case caution must be exercised not to contaminate water used for irrigation or domestic purposes), and to treat rice, flax, sugar cane, oats, barley, wheat and corn fields. Such uses are not without danger to other plants, however, the danger being especially great when dusts and esters are applied.

(2) 2,4,5-T is more effective against hard-to-kill weeds and woody plants, such as deep-rooted perennial weeds, brambles, sagebrush, and trees and shrubs growing in non-cropped or other waste areas, fence and hedge rows, under utility lines, along railroads and highways, around air fields, buildings, and lumber yards, and along ditchbanks and water ways. It is also used to control weeds in rice. Caution should be exercised to avoid contaminating waters used for irrigation or domestic purposes.

(3) MCPA is commonly used in Europe as a weed killer and is being used successfully in this country to control common broad leaf weeds in grains and other crops. It is particularly useful on oats, flax and peas, to which crops it is less injurious than 2,4-D.

(4) It is the responsibility of the manufacturer to prepare adequate directions for use which, when followed, will render the product effective against the weeds it is intended to control without causing injury to persons, valuable plants, or animals. The following points should be given consideration:

(i) Time and place of application (for most effective weed control with minimum injury to valuable plants).

(ii) Method of application.

(iii) Dosage (pounds of acid equivalent per acre is commonly used).

(iv) Dilution (if product is to be used as a water or oil spray).

(d) *Caution or warning statement to avoid injury to valuable plants.* (1) Herbicides containing 2,4-D, 2,4,5-T, MCPA, or their salts or esters, when used as selective weed killers, have been found to cause damage to valuable crops and plants under many conditions. Such crops as tomatoes, cotton, and grapes are severely damaged by small amounts of 2,4-D or related compounds. When used in a dust form, the pesticide may drift for miles. Dusting by airplane particularly is likely to cause damage by such drifting, and for this reason, dust formulations should not be applied by airplane. Ester formulations of these herbicides are volatile, and the so-called "low-volatile" ester formulations are known to be volatile under conditions of higher temperatures. These herbicides should not be applied near plants they are likely to kill. All weed killers containing 2,4-D or related compounds should be stored where they will not contaminate seeds, fertilizers, insecticides, or fungicides. Dusting or spraying equipment in which 2,4-D and related compounds have been used should be thoroughly cleaned with a suitable alkaline chemical, or with activated charcoal before being used for other purposes.

(2) Suggested caution or warning statements for labeling agricultural spray materials containing 2,4-D, 2,4,5-T, MCPA, or their salts or esters, are as follows:

CAUTION: Avoid spray drift to susceptible plants as this product many injure cotton, beans, peas, grapes, ornamentals, etc. (coarse sprays are less likely to drift). Thoroughly clean spray equipment with a suitable chemical cleaner before using for other purposes (or do not use same spray equipment for other purposes). Do not store near fertilizers, seeds, insecticides, or fungicides.

(3) Suggested caution or warning statements for labeling agricultural dust preparations containing 2,4-D, 2,4,5-T, MCPA, or their salts or esters, are as follows:

CAUTION: Before using, consult agricultural authorities in your State. This dust may drift for miles, even on quiet days, and cause damage to susceptible plants such as cotton, beans, grapes, peas, etc. Do not apply by airplane. Use only where there is no hazard of drift. Do not store near fertilizers, seeds, insecticides, or fungicides. After use of this dust, do not use same equipment for insecticides or fungicides (or give directions for cleaning the equipment).

(4) In addition to the above statements, preparations containing esters should bear a warning against the hazards due to their vapors, such as:

Vapors from this product may injure susceptible plants in the immediate vicinity.

(5) Other wording for the caution or warning statement may be used provided it is equally informative and effective.

(6) Herbicides containing 2,4-D, 2,4,5-T, or MCPA prepared in small packages for home garden and lawn use should contain adequate caution or warning statements on their labels to warn of the hazards in their use. When recommended for use on grass lawns, golf courses and cemeteries, the label should warn of possible injury to bentgrass, St. Augustine grass, Dichondria and carpetgrass, and damage to grass seedlings on newly seeded ground. The hazards of the drift of spray and dust should be noted by a statement such as: "Avoid drift of spray mist (dust) onto vegetables, flowers, ornamental trees and shrubs, and other desirable crop plants."

(e) *Caution or warning statement to avoid injury to man or animals.* Available information does not indicate that herbicides containing 2,4-D, 2,4,5-T or MCPA are highly toxic to man. Therefore, their labels are not required to bear the word "Poison," the skull and crossbones, or an antidote statement. However, they may cause irritation to the skin and eyes, and products containing the free acids, or inorganic salts of 2,4-D, 2,4,5-T or MCPA, in concentrations of 20 percent and above, should bear caution statements such as: "Avoid inhaling dust. Avoid contact with skin, eyes, or clothing." Organic esters or amine salts of these herbicides require a caution such as, "Avoid contact with skin, eyes or clothing."

(f) *Products not intended for economic poison use.* Products containing 2,4-D, 2,4,5-T or MCPA which are intended for use solely to delay fruit drop, or for other non-economic poison uses are not subject to the Act and need not comply with its provisions.

§ 162.116 Interpretation with respect to warning, caution, and antidote statements required to appear on labels of economic poisons.

(a) *Requirements of the act.* Section 2. z. (2)(d) of the act provides that an economic poison is misbranded if its label does not contain a warning or caution statement which may be necessary and if complied with adequate to prevent injury to living man and other vertebrate animals, vegetation, and useful invertebrate animals. Section 3. a. (3) of the act requires that any economic poison which contains any substance or substances in quantities highly toxic to man must bear on the label the skull and crossbones, the word "Poison" (in red) on a contrasting background, and an antidote statement.

(b) *Categories of toxicity and general provisions as to statements required for economic poisons therein.* (1) Four general categories of toxicity of economic poisons are recognized. The first is the highly toxic class as defined in § 162.8. The second is the class immediately below the highly toxic, and in general includes formulations having toxicities down to one-tenth those of the highly toxic class. The third group embraces products having hazards below the class two but to a degree which still requires some cautions and usually includes toxicities down to about one-tenth of those in class two. The fourth class is comparatively free from danger.

(2) Products in the categories specified in subparagraph (1) of this paragraph are to be distinguished from each other by the following general scheme:

(i) Highly toxic products are required by the act to be labeled with the skull and crossbones, the word "Poison" (in red) on a contrasting background, and an antidote statement. The antidote statement should include the sentence "Call A Physician Immediately." In addition, the label should carry the word "Warning" and instructions for handling to reduce chances of injury in use.

(ii) Labels of products which fall in the second category should carry warning statements equivalent to those required for highly toxic materials, but they do not need to bear the skull and crossbones, the word "Poison," or an antidote statement.

(iii) Labels of products in the third category should carry the word "Caution" and statements indicating the means of avoiding the principal hazards of use. Use of the skull and crossbones, the word "Poison," and antidote statements are not necessary for these products.

(iv) No warning, caution, or antidote statements are required for the few formulations in the fourth category, although unqualified claims for safety are usually not justified.

(c) *Miscellaneous provisions.* (1) Warning or caution statements on the labels of economic poisons must give concise and easily understood warnings as to the hazards associated with the use of the products, together with instructions to be followed to insure adequate protection. Precautionary labeling should warn against the hazards associated with the formulation both as it is sold and as used by the customer, whether it is suitable for use directly or must be diluted or mixed prior to application.

(2) The precautionary labeling detailed in this interpretation for specific economic poisons is directed primarily toward the avoidance of hazard to the persons handling or applying the economic poison and to persons or animals exposed to the economic poison incident to its handling or use. The manufacturer should recognize the possibility of injury of other types associated with the use of his product and the label should bear suitable directions for the avoidance of such injury. When an economic poison is intended for use on or around feed or food products and contamination with harmful residues may occur, the label should bear specific statements adequate to avoid danger of contaminating such feed or foodstuffs. For some formulations, the residues of which may be readily removed by washing or mechanical means without damage to the product, a statement such as "remove residues at harvest by—(stating an effective method of removal)—" will be acceptable. For formulations whose residues cannot be readily removed or where the product would be damaged in the process of removal, but where the residues disappear progressively, directions such as "Do not apply within—(stating a period adequate to reduce residues to a safe level)—days of harvest" will be acceptable. For still other formulations whose residues cannot readily be removed without damage to the product and do not disappear within a reasonable time, a statement such as "Do not apply after edible parts begin to form" may be required. When directions for use of sprays in food handling establishments are otherwise acceptable, a statement such as "Cover or remove all exposed food, utensils, and containers before spraying" may be required. In order to avoid contamination of milk or meat, certain economic poisons must bear directions against application in dairy barns, to dairy animals, or animals being finished for slaughter, or to forage crops to be used as feed for dairy animals or animals being finished for slaughter. Products which would be used in a manner likely to destroy beneficial insects should bear appropriate directions, such as proper timing of application to avoid destruction of pollinating insects. Products which might be injurious to fish and wildlife after extensive use or indiscriminate disposal of excess material or spray-tank washings, and which bear directions for widespread use in areas where contamination of waterways would be possible, should bear directions such as "To protect fish and wildlife, do not contaminate streams, lakes, or ponds with this material." Herbicides which might be used in a manner likely to cause injury to beneficial vegetation should carry directions warning against the danger of drifting of dusts, spray mist, or vapors from volatile ingredients.

(3) In general, the presence on the label of either the skull and crossbones and the word "Poison" or the warning "May Be Fatal If Swallowed" will substitute for such precautionary statements as "Avoid contamination of food" and "Keep away from children and domestic animals."

(4) Fire hazard cautions shall be based on the flash point of the particular products. The manufacturer of a formulation should determine the flash point of his product and label it accordingly. For formulations having flash points at or below 20° F. by the Tagliabue Open-Cup Method, a statement such as "Danger—Extremely flammable! Keep away from fire, sparks, and heated surfaces" should be used. For flash points above 20° F. but not over 80° F., "Warning—Flammable! Keep away from heat and open flame" would be appropriate. For flash points above 80° F. but not over 150° F., the caution "Do not use or store near heat or open flame" would be acceptable.

(5) Antidote statements must contain emergency first aid instructions suitable for use by a layman. In most cases they should require only materials which are readily available.

(6) It is permissible and usually advisable for a manufacturer of an economic poison to submit facsimiles of proposed labeling to the Pesticides Regulation Division, Environmental Protection Agency, Washington, D.C. 20250, for review and tentative acceptance before he invests in new printed labels.

(d) *Acceptable warning, caution and antidote statements for economic poisons containing specified ingredients.* The following subparagraphs set forth or indicate acceptable warning, caution and antitdote statements for economic poisons containing the ingredients specified therein. The exact wording used in the suggested statements is not obligatory, although the substance of all such statements will be required, unless under special conditions of handling or use it is unnecessary. The manufacturer is obligated to use any added warning, caution or antidote statements which any special characteristics or uses of his formulation indicate to be necessary. Where the notation (H.P.) for "household package" appears following a precautionary statement, it indicates that the warning will be required only on packages commonly stored or used in the household where there is greater danger of accidents involving children or pets. The insignia

Poison

always refers to the skull and crossbones and the word "Poison" (in red) on a contrasting background. The fire hazard caution prescribed in this paragraph in each case is based on the flash point of the chemical named.

Acetone—50% and above.

Caution: Extremely Flammable! Keep away from fire, sparks, and heated surfaces. Avoid prolonged breathing of vapor. Avoid prolonged or repeated contact with skin.

NOTE: For formulations containing low percentages the signal word and flammability warning may be reduced on the basis of actual flash point determinations.

3 (2-Acetonylfurfuryl)-4-hydroxycoumarin (Fumarin) and salts—(i) Above 3%. Treat as *Warfarin* (i).

(ii) *Concentrations from 0.1% to 3% inclusive.* Treat as *Warfarin* (ii).

(iii) *Finished baits.* Treat as *Warfarin* (iii).

Acrylonitrile (Technical).

Poison

Antidotes: Carry victim to fresh air. Have him lie down. Remove contaminated clothing, but keep victim warm. Start treatment immediately. Call a Physician Immediately!

If inhaled. Break an amyl nitrite pearl in a cloth and hold lightly under nose for 15 seconds; repeat five times at about 15 second intervals. Give artificial respiration if breathing has stopped.

If swallowed. Break an amyl nitrite pearl in a cloth and hold lightly under nose for 15 seconds. If victim is conscious, or when consciousness returns, give one tablespoonful of salt in a glass of warm water, and repeat until vomit fluid is clear. Repeat amyl nitrite five times at about 15 second intervals. Give artificial respiration if breathing has stopped.

Never Give Anything by Mouth to an Unconscious Person!

Warning: Poisonous Liquid and Vapor! Flammable! Do not breathe vapor. Do not get in eyes, on skin, or on clothing. Keep away from heat and open flame. Keep container closed.

NOTE: Directions for use should include instructions for appropriate respiratory protection.

Aldrin (95% hexachloro hexahydro-endo, exo-dimethano naphthalene)—(i) 60% and above.

Poison

Antidotes: If swallowed. Give a tablespoonful of salt in a glass of warm water and

repeat until vomit fluid is clear. Have victim lie down and keep quiet. Call a Physician Immediately!

If on skin. Wash immediately with soap and water.

clothing including shoes and flush skin or eyes with plenty of water: for eyes, get medical attention. Wash thoroughly with soap and water after handling and before eating or smoking. During commercial or prolonged

Wash thoroughly after using. Avoid breathing dust or spray mist.

(iii) *Inorganic insoluble below 10 percent; inorganic soluble below 1 percent.*

Caution: Harmful if swallowed. Avoid

(iii) *Dust and wettable powder formulations 25% and below.*

Caution: Avoid breathing dust. Avoid storage near feed and food products.

Bis (tri-n-butyltin) oxide and salts—(i) above 10%.

victim lie down and keep quiet. Call a Physician Immediately!

If on skin. Remove contaminated clothing and wash skin immediately with soap and water. Call a Physician Immediately!

Warning: Poisonous If Swallowed. Inhaled,

closed. Do not breathe vapor or mist. Avoid contact with eyes, skin or clothing.

(iii) *Below 10%.*

Caution: Extremely Flammable! Harmful by swallowing or inhalation. Avoid contact with eyes, skin or clothing. Keep away

repeat until vomit fluid is clear. Have victim lie down and keep quiet. Call a Physician Immediately!

If on skin. Wash immediately with soap and water.

Warning: Poisonous If Swallowed, Inhaled or Absorbed Through Skin! Do not breath dust or spray mist. Do not get in eyes, on skin or on clothing. In case of contact immediately remove contaminated clothing and flush skin or eyes with plenty of water; for eyes, get medical attention. Wash thoroughly with soap and water after handling and before eating or smoking; wear clean clothing. During commercial or prolonged exposure in spray-mixing and loading operations, wear clean synthetic rubber gloves and a mask or respirator of a type passed by the U.S. Department of Agriculture for aldrin protection. Do not apply or allow to drift to areas occupied by unprotected humans or beneficial animals. To protect fish and wildlife, do not contaminate streams, lakes or ponds with this material.

(ii) *10% to 60%.*

Warning: Hazardous If Swallowed, Inhaled, or Absorbed Through Skin! Do not breathe dust or spray mist. Do not get in eyes, on skin or on clothing. In case of contact, immediately remove contaminated clothing and flush skin or eyes with plenty of water; for eyes, get medical attention. Wash thoroughly with soap and water after handling and before eating or smoking; wear clean clothing. During commercial or prolonged exposure in spray-mixing and loading operations, wear clean synthetic rubber gloves and a mask or respirator of a type passed by the U.S. Department of Agriculture for aldrin protection. Do not apply or allow to drift to areas occupied by unprotected humans or beneficial animals. To protect fish and wildlife, do not contaminate streams, lakes or ponds with this material.

(iii) *Below 10%.*

Caution: Harmful if swallowed, inhaled or absorbed through skin. Avoid breathing of dust or spray mist. Avoid contact with skin, eyes or clothing. In case of contact with skin or eyes, flush with plenty of water; for eyes, get medical attention. Wash with soap and water after handling and before eating or smoking; wear clean clothing. Avoid contamination of feed and foodstuffs. Do not apply or allow to drift to areas occupied by unprotected humans or beneficial animals. To protect fish and wildlife, do not contaminate streams, lakes or ponds with this material.

(iv) *Fertilizer formulations.*

Caution: Avoid prolonged or repeated inhalation of dust or contact with skin. Wash thoroughly after handling. To protect fish and wildlife, do not use where runoff will contaminate streams, lakes or ponds.

Allethrin. To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

Allyl alcohol—(1) *Technical.*

☠ Poison ☠

Antidotes: If swallowed. Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep quiet. Call a Physician Immediately!

If on skin. In case of contact, remove contaminated clothing and immediately wash skin with soap and water.

Warning: Poisonous If Swallowed, Inhaled, or Absorbed Through Skin! Rapidly Absorbed Through Skin! Do not get in eyes, on skin or on clothing. Do not breathe vapor. Use with adequate ventilation. Wear rubber gloves and goggles. In case of contact, immediately remove contaminated clothing including shoes and flush skin or eyes with plenty of water: for eyes, get medical attention. Wash thoroughly with soap and water after handling and before eating or smoking. During commercial or prolonged exposure in spray-mixing and loading operations, wear a mask or respirator of a type adequate against organic vapors and gases. Do not store near feed and food products. Do not reuse shoes or clothing until free of all contamination. Do not apply or allow to drift to areas occupied by unprotected humans or beneficial animals.

(ii) *Aerosols-greenhouse use.*

☠ Poison ☠

Antidotes: Internal. Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep quiet. Call a Physician Immediately!

If on skin. Wash thoroughly with soap and water.

Warning: Poisonous If Inhaled or Absorbed Through Skin! Do not get on skin. Use only while wearing a mask or respirator of a type adequate against organic vapors and gases. Wear protective clothing and natural rubber gloves. Wash hands, arms and face with soap and water after using the bomb. Wash contaminated clothing with soap and hot water before reuse. Do not store near food and feed products.

Alpha naphthyl thiourea—(i) *30% and above.*

☠ Poison ☠

Antidote: Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep quiet. Call a Physician Immediately!

Warning: Keep dogs, cats, hogs and chickens away from baited areas.

(ii) *Below 30%.*

Warning: Keep away from children and domestic animals. Avoid contamination of feed and foodstuffs.

Ammonium sulfamate. To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

Antimony potassium tartrate (tartar emetic)—(1) *10% and above.*

Warning: May be fatal if swallowed. Do not breathe dust. Wash thoroughly after handling.

(ii) *Below 10%.*

Caution: Harmful if swallowed. Avoid breathing dust. Wash thoroughly after handling. Keep away from children and domestic animals. Avoid contamination of feed and foodstuffs.

Arsenic compounds. Inorganic insoluble including calcium arsenate, lead arsenate, magnesium arsenate, paris green, london purple. Inorganic soluble including arsenous oxide, sodium arsenate, sodium arsenite.

(i) *Inorganic insoluble 50% and above; inorganic soluble 5% and above.*

☠ Poison ☠

Antidote: Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Then give 2 tablespoonfuls of Epsom Salt or Milk of Magnesia in water, and plenty of milk and water. Have victim lie down and keep quiet. Call a Physician Immediately!

Warning: Poisonous if swallowed. Avoid contact with skin, eyes, or clothing. Wash thoroughly after using. Avoid breathing dust or spray mist.

(ii) *Inorganic insoluble 10% to 50%; inorganic soluble 1% to 5%.*

Warning: May be Fatal if Swallowed! Avoid contact with skin, eyes, or clothing. Wash thoroughly after using. Avoid breathing dust or spray mist.

(iii) *Inorganic insoluble below 10 percent; inorganic soluble below 1 percent.*

Caution: Harmful if swallowed. Avoid prolonged breathing of dust or spray mist. Avoid contamination of feed and foodstuffs. Keep away from children and domestic animals.

(iv) *Formulations for use as herbicides require an additional statement:*

Caution: Keep children and animals off treated areas.

Arsonates (except calcium propyl arsonate)—(1) *all effective concentrations.*

Caution: Harmful if swallowed. Avoid contact with skin. Avoid breathing dust or spray mist. Wash hands after using. Avoid storage near food and feed products. Keep away from children and domestic animals.

(ii) *Calcium propylarsonate, all effective concentrations.* Treat as *arsenic compounds* (ii). (See subparagraph (9)(ii) of this paragraph.)

Asobenzene.

Caution: Harmful if swallowed or inhaled! Avoid breathing fumes or dust. Avoid contamination of feed and foodstuffs. Keep away from children and domestic animals.

Benzene—15 percent and above.

Caution: Extremely Flammable! Keep away from fire, sparks, and heated surfaces. Avoid prolonged breathing of vapor. Avoid prolonged contact with skin.

NOTE: For formulations containing low percentages the signal word and flammability warning may be reduced on the basis of actual flash point determinations.

Benzene hexachloride (hexachlorocyclohexane, BHC)—(1) *BHC and dry formulations 25% and above.*

Caution: Harmful If Swallowed! May be Absorbed Through Skin! May produce irritation of skin and eyes. Do not breathe dust or spray mist. Avoid contact with skin and eyes. Wash thoroughly after handling. Avoid contamination of feed and foodstuffs.

(ii) *Dry formulations below 25%.*

Caution: May be absorbed through the skin. Avoid prolonged breathing of dust or spray mist. Avoid contact with skin and eyes. Wash thoroughly after handling. Avoid contamination of feed and foodstuffs.

(iii) *Solutions and emulsions 25% and above.*

Caution: Harmful If Swallowed! May be Absorbed Through Skin! May produce irritation of skin or eyes. Do not breathe spray mist. Avoid contact with skin and eyes. In case of contact, wash immediately with soap and water; for eyes, flush with water and get medical attention. Avoid contamination of feed and foodstuffs. Do not use on household pets or humans.

(iv) *Solutions and emulsions below 25%.*

Caution: May be absorbed through skin. Avoid inhalation of spray mist. Avoid skin contact. In case of contact, wash immediately with soap and water. Avoid contamination of feed and foodstuffs. Do not use on household pets or humans.

Bis (chlorophenyl)-2,2,2-trichloroethanol (Kelthane)—(1) *technical emulsions and wettable powders above 25%.*

Caution: Harmful if swallowed. Avoid skin contact with solutions. In case of skin contact, wash with soap and water. Avoid breathing dust and spray mist. Avoid storage near feed and food products.

(ii) *Emulsifiable or petroleum oil solutions for agricultural and industrial use, 25% and below.*

Caution: Avoid contact with skin. In case of skin contact, wash with soap and water. Avoid breathing spray mist. Avoid storage near feed and food products.

(iii) *Dust and wettable powder formulations 25% and below.*

Caution: Avoid breathing dust. Avoid storage near feed and food products.

Bis (tri-n-butyltin) oxide and salts—(i) *Above 30%.*

Warning: May Be Fatal If Swallowed! May be absorbed through skin. Causes skin irritation. Do not breathe spray mist. Do not get in eyes, on skin or on clothing. In case of skin contact, remove contaminated clothing and immediately wash skin with soap and water; for eyes, immediately flush with plenty of water. If irritation persists, get medical attention. Wash contaminated clothing before reuse. Avoid storage near food and feed products.

(ii) *5% to 30%.*

Caution: Harmful if swallowed. May be absorbed through skin. Causes skin irritation. Avoid breathing spray mist. Do not get in eyes, on skin or on clothing. In case of skin contact, remove contaminated clothing and immediately wash skin with soap and water; for eyes, immediately flush with plenty of water. If irritation persists, get medical attention. Wash contaminated clothing before reuse. Avoid storage near food and feed products.

(iii) *Below 5%.*

Caution: Harmful if swallowed. May be absorbed through skin. Causes skin irritation. Avoid breathing spray mist. Avoid contact with skin, eyes or clothing. In case of contact, immediately remove contaminated clothing and wash skin with soap and water; for eyes, flush with plenty of water and get medical attention. Wash clothing before reuse. Avoid storage near feed and food products.

Boric acid—20% and above.

Caution: Avoid contamination of feed and foodstuffs. Keep away from children and domestic animals.

Cadmium formulations, each to be considered on own merits—(i) *If found "highly toxic" under the Act.*

☠ Poison ☠

Antidote: Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Then give 2 tablespoonfuls of Epsom Salt or Milk of Magnesia in water and plenty of milk or water. Have victim lie down and keep warm. Call a Physician Immediately!

Warning: May Be Fatal If Swallowed! Do not get in eyes or on skin. Do not breathe dust or spray mist. Wash thoroughly after handling.

(ii) *If formulation is not "highly toxic" under the Act, appropriate warnings must be used.*

Calcium cyanamide.

Caution: Harmful if swallowed. May cause skin and eye irritation. Avoid contact with skin and eyes. Avoid breathing dust. In case of eye contact, flush with plenty of water and get medical attention. After skin contact, cleanse with a bland oil such as corn or mineral oil, followed by soap and water. Avoid storage near food or feed products.

Captan (n-trichloromethylmercapto-3-cyclohexenedicarboximide).

Caution: Avoid inhalation of dust or spray mist. Avoid prolonged or repeated contact with skin. Avoid contamination of feed and foodstuffs.

2-carbomethoxy-1-methylvinyl dimenthyl phosphate (s-isomer) (Phosdrin)—(1) *Above 2% (except aerosols, see below).*

☠ Poison ☠

Antidotes: If swallowed. Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep quiet. Call a Physician Immediately!

If on skin. Remove contaminated clothing and wash skin immediately with soap and water. Call a Physician Immediately!

Warning: Poisonous If Swallowed, Inhaled, or Absorbed Through Skin or Eyes! Rapidly Absorbed Through Skin! Do not get in eyes or on skin. Wear natural rubber gloves, protective clothing and goggles. In case of contact wash immediately with soap and water. Wear a mask or respirator of a type passed by the U.S. Department of Agriculture for phosdrin protection. Keep all unprotected persons out of operating areas or vicinity where there may be danger of drift. Vacated areas should not be reentered on the day of treatment. Do not store near feed and food products. Wash hands, arms and face thoroughly with soap and water before eating or smoking. Wash all contaminated clothing with soap and hot water before reuse.

(ii) *Dusts, 2% and below.*

Warning: May Be Fatal If Swallowed, Inhaled, or Absorbed Through Skin! Rapidly Absorbed Through Skin! Do not get in eyes, on skin, or on clothing. Wear natural rubber gloves, protective clothing and goggles. In case of contact wash immediately with soap and water. Wear a mask or respirator of a type passed by the U.S. Department of Agriculture for phosdrin protection. Keep all unprotected persons out of operating areas or vicinity where there may be danger of drift. Vacated areas should not be reentered until drifting insecticide and volatile residues have dissipated. Do not contaminate feed and foodstuffs. Wash hands, arms and face thoroughly with soap and water before eating or smoking. Wash all contaminated clothing with soap and hot water before reuse.

(iii) *Aerosols—greenhouse use.*

☠ Poison ☠

Antidotes: Internal. Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep quiet. Call a Physician Immediately!

If on skin. Wash thoroughly with soap and water.

Warning: Poisonous If Inhaled or Absorbed Through Skin! Do not get on skin. Use only while wearing a full-face mask of a type passed by the U.S. Department of Agriculture for phosdrin protection. Replace canister as directed. Wear protective clothing and natural rubber gloves. Wash hands, arms, and face with soap and water after using the bomb. Wash contaminated clothing with soap and hot water before reuse. Do not contaminate feed and foodstuffs.

Carbon disulfide—(1) *90% and above.*

☠ Poison ☠

Antidotes: If inhaled. Get victim into fresh air immediately and give artificial respiration if breathing has stopped. Call a Physician Immediately!

If swallowed. Give ½ cupful medicinal mineral oil. Give large quantities of warm water, and hot tea or coffee. Call a Physician Immediately!

Warning: Poisonous if swallowed or inhaled. Extremely Flammable! Keep away from fire, sparks or heated surfaces. Store in a cool place. Keep container closed. Do not breathe vapor. Do not get in eyes, on skin, or on clothing.

(ii) *10% to 90%.*

Warning: Extremely Flammable! May Be Fatal If Inhaled or Swallowed! Keep away from fire, sparks or heated surfaces. Store in a cool place. Keep container closed. Do not breathe vapor or mist. Avoid contact with eyes, skin or clothing.

(iii) *Below 10%.*

Caution: Extremely Flammable! Harmful by swallowing or inhalation. Avoid contact with eyes, skin or clothing. Keep away from fire, sparks or heated surfaces. Store in a cool place. Keep container closed.

(iv) *Fumigants.*

Warning: Do not reenter treated areas without an airline respirator or a full-face gas mask with a canister for protection against organic vapors.

Carbon tetrachloride—(1) *10% and above.*

Caution: Harmful Vapor! Harmful if swallowed. Do not breathe vapor. Avoid prolonged or repeated contact with skin.

(ii) *Fumigants.*

Warning: Do not reenter treated areas without an airline respirator or a full-face gas mask with a canister for protection against organic vapors.

Chlorates (including magnesium or sodium salts)—(1) *With fire retardants.*

Caution: Harmful if swallowed. Avoid storage near feed and food products.

(ii) *With no fire retardants.*

Caution: Harmful if swallowed. Strong oxidant. Contact with combustible material may cause fire. Clothing and vegetation contaminated with chlorate or its solution are dangerously flammable. Remove clothing and wash thoroughly with water. Store separately from flammable material. Keep away from fire. Avoid storage near feed and food products. Keep animals off treated areas.

Chlordane (octachloro-4,7-methano tetrahydroindane)—(1) *Technical chlordane and wettable powders above 25%.*

Caution: Harmful if swallowed. Contact with skin causes toxic symptoms. Avoid breathing dust or spray mist. In case of contact with skin, wash with soap and water. Avoid contamination of feed and foodstuffs.

(ii) *Emulsifiable and petroleum oil solutions for agricultural and industrial use.*

Caution: Harmful if swallowed. Contact with skin can cause toxic symptoms. Avoid breathing spray mist. In case of contact with skin, wash with soap and water. Avoid contamination of feed and foodstuffs.

(iii) *Emulsifiable and petroleum oil solutions and self-propelled wetting sprays for household use.*

Caution: Harmful if swallowed. Repeated or prolonged contact with skin can cause toxic symptoms. In case of contact with skin, wash with soap and water. Avoid breathing spray mist. Avoid contamination of feed and foodstuffs. Keep out of reach of children.

NOTE: See also Interpretation 19 (162.117).

(iv) *Self-propelled sprays for use on animals.*

Caution: Wash hands thoroughly with soap and warm water after handling. Avoid contamination of feed and foodstuffs. Keep out of reach of children. (H.P.)

NOTE: See also paragraph (ii) *Kerosene sprays.*

(v) *Dust and wettable powder formulations 25% and below.*

Caution: Avoid breathing dust or spray mist. Avoid contamination of feed and foodstuffs.

NOTE: See also Interpretation 19 (162.117).

2-Chloro-4-ethylamino-6-isopropylamino-s-triazine (Atrazine).

Caution: Harmful if swallowed. Avoid inhalation of dust. Avoid storage near feed and food products.

Chloroform—10% and above.

Caution: Harmful Vapor! Harmful if swallowed. Avoid prolonged breathing of vapor.

Avoid prolonged or repeated contact with skin.

p-Chlorophenyl phenyl sulfone—Wettable powder containing 25% named compound and 12% related compounds.

15 seconds. Repeat five times at about 15 second intervals. Give artificial respiration if breathing has stopped.

If swallowed. Break an amyl nitrite pearl in a cloth and hold lightly under nose for

Wear a mask or respirator of a type pas by the U.S. Department of Agriculture protection against this material. Do n contaminate feed or foodstuffs. Keep all u

fied and foodstuffs. Remove birds, pets, and fish bowls from rooms being sprayed. Keep out of reach of children.

NOTE: See also Interpretation 13 (162.113).

(ii) *10% to 60%.* Treat as *aldrin.*

(iii) *Below 10% for agricultural use.* Treat as *aldrin.*

(iv) *Fertilizer formulations.* Treat as *aldrin.*

for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

O,O-Dimethyl-S-p-chlorophenylthiomethyl phosphorodithioate (methyl trithion).

Avoid prolonged or repeated contact with skin.

p-Chlorophenyl phenyl sulfone—Wettable powder containing 25% named compound and 12% related compounds.

Caution: Avoid prolonged or repeated inhalation of dust. Avoid contamination of feed and foodstuffs.

Chloropicrin.

☠ Poison ☠

Antidotes: If inhaled. Get victim into fresh air. Have him lie down and keep warm and quiet. Give artificial respiration if breathing has stopped. Call a Physician Immediately!

Warning: Poisonous Vapor! Do not breathe vapor. Do not get in eyes, on skin, or on clothing. In case of contact, immediately flush skin or eyes with plenty of water for at least 15 minutes; for eyes, get medical attention. Remove and wash clothing before reuse.

NOTE: Directions for use should include directions for appropriate respiratory protection.

Coal tar creosote—containing less than 5% phenols.

Caution: May cause skin irritation. Avoid prolonged or repeated contact with skin. Avoid prolonged breathing of vapor.

Coal tar disinfectants. Treat on the basis of percentage of phenols.

Copper compounds—10% and above (based on the percentage of elemental copper present).

Caution: Harmful if swallowed!

Cresols and cresylic acids. Refer to phenols.

Citronella, oil of.

Caution: Harmful if swallowed. Keep out of reach of children.

Cryolite (sodium fluoaluminate). To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

Cyanide—(1) Calcium cyanide, 5% and above.

☠ Poison ☠

Antidotes: Carry victim to fresh air. Have him lie down. Remove contaminated clothing but keep victim warm. Start treatment immediately. Call a Physician Immediately!

If inhaled. Break an amyl nitrite pearl in a cloth and hold lightly under nose for 15 seconds. Repeat five times at about fifteen second intervals. Give artificial respiration if breathing has stopped.

If swallowed. Break an amyl nitrite pearl in a cloth and hold lightly under nose for 15 seconds. If victim is conscious or when consciousness returns, give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Repeat inhalation of amyl nitrite five times at 15 second intervals. Give artificial respiration if breathing has stopped.

Never give anything by mouth to an unconscious person!

Warning: Liberates Poison Gas: Do not breathe vapor or dust. Do not get in eyes or on skin. Keep away from acids. Wash thoroughly after handling.

NOTE: Directions for indoor use should include appropriate mask protection.

(ii) *Inorganic cyanides (except Co (CN)$_3$, and liquid HCN) 5% and above.*

☠ Poison ☠

Antidotes: Carry victim to fresh air. Have him lie down. Remove contaminated clothing but keep victim warm. Start treatment immediately. Call a Physician Immediately!

If inhaled. Break an amyl nitrite pearl in a cloth and hold lightly under nose for 15 seconds. Repeat five times at about 15 second intervals. Give artificial respiration if breathing has stopped.

If swallowed. Break an amyl nitrite pearl in a cloth and hold lightly under nose for 15 seconds. If victim is conscious or when consciousness returns, give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Repeat inhalation of amyl nitrite five times as 15 second intervals. Give artificial respiration if breathing has stopped.

Never give anything by mouth to an unconscious person!

Warning: Contact with Acid Liberates Poison Gas! Do not breathe vapor or dust. Do not get in eyes or on skin. Wash thoroughly after handling.

NOTE: Directions for indoor use should include appropriate mask protection.

(iii) *Inorganic cyanides below 5%.*

Warning: Contact with Acid Liberates Poison Gas! May be fatal if inhaled or swallowed. Do not breathe vapor or dust. Do not allow to come in contact with skin or eyes. Wash thoroughly after using.

(iv) *Liquid HCN (hydrocyanic acid).*

☠ Poison ☠

Antidotes: Carry victim to fresh air. Have him lie down. Remove contaminated clothing but keep victim warm. Start treatment immediately. Call a Physician Immediately!

If inhaled. Break an amyl nitrite pearl in a cloth and hold lightly under nose for 15 seconds. Repeat five times at about 15 second intervals. Give artificial respiration if breathing has stopped.

If swallowed. Break an amyl nitrite pearl in a cloth and hold lightly under nose for 15 seconds. If victim is conscious or when consciousness returns, give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Repeat inhalation of amyl nitrite five times at 15 second intervals. Give artificial respiration if breathing has stopped.

Never give anything by mouth to an unconscious person!

Warning: Poison Gas! Flammable! Do not breathe gas. Do not get in eyes, on skin, or on clothing. In case of contact remove contaminated clothing and wash thoroughly. Keep away from heat and open flame.

NOTE: Directions for use should include appropriate gas mask protection.

Dalapon (2,2-dichloropropionic acid) and salts—30% and above.

Caution: Causes eye irritation. May cause skin irritation. Avoid contact with eyes, skin, or clothing. In case of contact, flush with plenty of water for at least 15 minutes; for eyes, get medical attention. Wash clothing before reuse.

Demeton 0,0-diethyl 0 (and S)-2-(ethylthio) ethyl phosphorothioates—(1) 2% and above.

☠ Poison ☠

Antidotes: If swallowed. Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep quiet. Call a Physician Immediately!

If on skin. Remove contaminated clothing and wash skin immediately with soap and water.

Warning: Poisonous If Swallowed, Inhaled, Or Absorbed Through Skin! Rapidly Absorbed Through Skin! Do not get in eyes or on skin. Wear protective clothing, natural rubber gloves, and goggles. In case of contact, remove contaminated clothing and wash skin immediately with soap and water. Do not breathe fumes, dust, or spray mist. Wear a mask or respirator of a type passed by the U.S. Department of Agriculture for protection against this material. Do not contaminate feed or foodstuffs. Keep all unprotected persons out of the operating area or vicinity where there may be danger of drift. Vacated areas should not be reentered until the drifting insecticides and volatile residues have dissipated. Wash hands, arms, and face thoroughly with soap and water before eating or smoking. Wash all contaminated clothing with soap and hot water before reuse.

(ii) *Below 2%.*

Warning: May Be Fatal If Swallowed, Inhaled, or Absorbed Through Skin! Rapidly Absorbed Through Skin! Do not get in eyes or on skin. Wear protective clothing, natural rubber gloves, and goggles. In case of contact, remove contaminated clothing and wash skin immediately with soap and water. Do not breathe fumes, dust, or spray mist. Wear a mask or respirator of a type passed by the U.S. Department of Agriculture for protection against this material. Do not contaminate feed or foodstuffs. Keep all unprotected persons out of the operating area or vicinity where there may be danger of drift. Vacated areas should not be reentered until the drifting insecticides and volatile residues have dissipated. Wash hands, arms, and face thoroughly with soap and water before eating or smoking. Wash all contaminated clothing with soap and water before reuse.

1,2-Dibromo-3,3-dichloroethyl dimethyl phosphate (Dibrom)—(1) Liquid concentrates.

Caution: Harmful if swallowed. Concentrate may cause skin damage. Do not get in eyes, on skin, or on clothing. Avoid breathing spray mist. Use waterproof gloves and face shield or goggles when handling concentrate. In case of contact, immediately remove contaminated clothing and flush skin or eyes with plenty of water; for eyes, get medical attention. Avoid storage near feed and food products.

(ii) *All dust formulations.*

Caution: Harmful if swallowed. May cause irritation of eyes, nose, and throat. Avoid breathing dust. Avoid contact with skin and eyes. Wash thoroughly after handling. Avoid storage near feed and food products.

Diethyl succinate. No precautionary labeling is required on the basis of this ingredient alone.

Dichlone; Dichloro-naphthoquinone.

Caution: May cause skin irritation. Avoid prolonged and repeated contact with skin. Avoid inhalation of dust. Wear protective clothing. Wash with soap and water after using. Avoid storage near feed and food products.

Dichloro diphenyl dichloroethane. Treat on same basis as DDT.

Dichloro diphenyl trichloroethane (DDT)—(1) Technical, emulsions, and wettable powders above 25%.

Caution: Harmful if swallowed. Avoid skin contact with solutions. In case of skin contact, wash with soap and water. Avoid breathing dust and spray mist. Avoid contamination of feed and foodstuffs.

(ii) *Emulsifiable or petroleum oil solutions for agricultural and industrial use 25% and below.*

Caution: Avoid contact with skin. In case of skin contact, wash with soap and water. Avoid breathing spray mist. Avoid contamination of feed and foodstuffs.

(iii) *Emulsifiable or petroleum oil solutions for household use.*

Caution: Harmful if swallowed. Avoid contact with skin. Avoid prolonged breathing of spray mist. Wash with soap and water after using. Avoid contamination of feed and foodstuffs. Remove birds, pets, and fish bowls from rooms being sprayed. Keep out of reach of children.

NOTE: See also Interpretation 15 (162.113).

(iv) *Self-propelled sprays.*

Caution: Do not spray on skin or animals. Wash with soap and water after using. Avoid inhalation of mist. Avoid contamination of feed and foodstuffs. Remove birds, pets, and fish bowls from rooms being sprayed. Keep out of reach of children.

NOTE: See also Interpretation 15 (162.113).

(v) *Dust and wettable powder formulations 25% and below.*

Caution: Avoid breathing dust. Avoid contamination of feed and foodstuffs.

Dichlorosthyl ether—(1) 10% and above.

Warning: May Be Fatal If Inhaled, Swallowed, or Absorbed Through Skin! Do not breathe vapor or spray mist. In case of contact remove contaminated clothing and wash immediately with soap and water.

(ii) *Below 10%.*

Caution: Harmful if inhaled, swallowed, or absorbed through skin! Avoid inhalation of vapor or spray mist. Avoid contact with skin or clothing and wash thoroughly after using. Keep away from children and domestic animals (H. P.).

2,4-Dichlorophenoxyacetic acid (2,4-D)—(1) 2,4-D acid and inorganic salts—30% and above.

Caution: Avoid inhaling dust. Avoid contact with skin, eyes, or clothing.

(ii) *Organic esters and amine salts.*

Caution: Avoid contact with skin, eyes, or clothing.

NOTE: Added warning statements regarding danger to crops through drifting dusts sprays, or vapors should be used on all labels of 2,4-D formulations.

2,4-Dichlorophenyl ester of benzene sulfonic acid—95% emulsifiable concentrate.

Caution: Avoid inhalation of spray mist. Avoid contact with skin.

Di-(p-chlorophenyl) methyl carbinol—(1) 25% and above.

Caution: Harmful if swallowed! Avoid prolonged breathing of vapor or spray mist. Do not get in eyes or on skin. Wash thoroughly after using. Do not contaminate feed and foodstuffs. Keep away from children and domestic animals.

(ii) *Below 25%.*

Caution: Harmful if swallowed! Avoid contact with skin or eyes. Wash thoroughly after using. Avoid contamination of feed and foodstuffs.

Dichloropropene-dichloropropane and related C$_3$ hydrocarbons (D-D mixture).

Warning: Hazardous Vapor and Liquid! May be Fatal if Swallowed, Inhaled or Absorbed through Skin. Causes burns of skin and eyes. Do not get in eyes, or skin, or on clothing. Wear polyethylene gloves and goggles when handling material. Do not breathe vapor. In case of accidental spillage indoors, have available a self-contained breathing apparatus or a mask or respirator of a type passed by the U.S. Department of Agriculture for chlorinated C$_3$ hydrocarbon protection. In case of contact immediately remove contaminated clothing, including shoes, and wash with soap and water; for eyes, flush with plenty of water and get medical attention. Wash thoroughly after handling and before eating or smoking. Wash clothing and air shoes thoroughly before reuse. Do not store near feed or food products. To protect fish and wildlife, do not contaminate streams, lakes, or ponds with this material.

Dieldrin (85% hexachloro epoxy octahydro-endo, exo-dimethano naphthalene)—(1) 60% and above. Treat as aldrin.

(ii) *10% to 60%. Treat as aldrin.*

(iii) *Below 10% for agricultural use. Treat as aldrin.*

(iv) *Fertilizer formulations. Treat as aldrin.*

(v) *0.5% self-propelled sprays or solutions and 1.0% dusts for household use.*

Caution: Avoid prolonged or repeated inhalation of dust or spray mist or contact with skin. Do not contaminate foods, utensils, dishes or drinking water. Do not apply to humans, pets, or birds, or near fish bowls. Keep out of reach of children.

NOTE: See also *kerosene sprays.*

O,O-Diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) Phosphorothioate (Diazinon)—(1) 15% and above.

Warning: May be fatal if swallowed. May be absorbed through skin. Do not breathe dust or spray mist. Avoid contact with skin, eyes, and clothing. Wash thoroughly after handling. Avoid storage near food and feed products.

(ii) *Below 15%.*

Caution: Harmful if swallowed. May be absorbed through skin. Avoid breathing dust or spray mist. Avoid contact with skin, eyes, and clothing. Wash thoroughly after handling. Avoid storage near food and feed products. Keep out of reach of children. (H.P.)

(iii) *0.5% self-propelled sprays or solutions and 1.0% dust for household use.*

Caution: Harmful if swallowed. Avoid prolonged breathing of dust or spray mist. Avoid prolonged and repeated contact with skin; wash thoroughly after using. Avoid contamination of food and feed products. Keep out of reach of children.

Diethyl diphenyl dichloroethane (Perthane)—(1) Technical, emulsions and wettable powders above 25%.

Caution: Harmful if swallowed. Avoid skin contact with solutions. In case of skin contact, wash with soap and water. Avoid breathing dust and spray mist. Avoid storage near feed and food products.

(ii) *Emulsifiable or petroleum oil solutions for agricultural and industrial use, 25% and below.*

Caution: Avoid contact with skin. In case of skin contact, wash with soap and water. Avoid breathing spray mist. Avoid storage near feed and food products.

(iii) *Emulsifiable or petroleum oil solutions for household use.*

Caution: Harmful if swallowed. Avoid contact with skin. Avoid prolonged breathing of spray mist. Wash with soap and water after using. Avoid contamination of feed and foodstuffs. Remove birds, pets, and fish bowls from rooms being sprayed. Keep out of reach of children.

NOTE: See also Interpretation 15 (162.113).

(v) *Dust and wettable powder formulations, 25% and below.*

Caution: Avoid breathing dust. Avoid storage near feed and food products.

N,N-Diethyl toluamide—(1) 40% and above.

Caution: Harmful if swallowed. Avoid contact with eyes and lips. Keep out of reach of children.

(ii) *Below 40%.*

Caution: Avoid contact with eyes and lips.

1,2-Dihydropyridazine-3,6-dione (maleic hydrazide). To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

O,O-Dimethyl-S-p-chlorophenylthiomethyl phosphorodithioate (methyl trithion).

Warning: May be fatal if swallowed, inhaled, or absorbed through skin. Do not get in eyes, on skin, or on clothing. Do not breathe dust or spray mist. In case of contact, wash immediately with soap and water. Wear clean clothing. Wash all contaminated clothing with soap and hot water before reuse. Do not store near feed and food products. To protect fish and wildlife, do not contaminate streams, lakes, or ponds with this material.

O,O-Dimethyl-O, p-nitrophenyl thiophosphate. Treat on same basis as parathion.

O,O-Dimethyl S-[4-oxo-1,2,3-benzotriazin-3 (4H) ylmethyl] phosphorodithioate (Guthion)—(1) Above 2%.

☠ Poison ☠

Antidotes: If swallowed. Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep quiet. Call a Physician Immediately!

If on skin. In case of contact remove contaminated clothing and immediately wash skin with soap and water.

Warning: Poisonous If Swallowed, Inhaled, or Absorbed Through Skin! Do not get in eyes or on skin. Wear natural rubber gloves, protective clothing and goggles. In case of contact, wash immediately with soap and water. Wear a mask or respirator of a type passed by the U.S. Department of Agriculture for guthion protection. Keep all unprotected persons out of operating areas or vicinity where there may be danger of drift. Vacated areas should not be reentered for at least two days. Do not store near feed and food products. Wash hands, arms, and face thoroughly with soap and water before eating or smoking. Wash all contaminated clothing with soap and hot water before reuse.

(ii) *Dusts, 2% and below.*

Warning: May Be Fatal If Swallowed, Inhaled, or Absorbed Through Skin! Do not get in eyes or on skin. Wear natural rubber gloves, protective clothing and goggles. In case of contact wash immediately with soap and water. Wear a mask or respirator of a type passed by the U.S. Department of Agriculture for guthion protection. Keep all unprotected persons out of operating areas or vicinity where there may be danger of drift. Vacated areas should not be reentered for at least two days. Do not store near feed and food products. Wash hands, arms, and face thoroughly with soap and water before eating or smoking. Wash all contaminated clothing with soap and hot water before reuse. Do not store near feed and food products. To protect fish and wildlife, do not contaminate streams, lakes, or ponds with this material.

Dinitro ortho cresol—(1) 10% and above.

☠ Poison ☠

Antidote: Give a teaspoonful of baking soda in a glass of warm water and repeat until vomiting occurs. Call a Physician Immediately,

Warning: Poisonous If Swallowed Or Absorbed Through Skin! Do not breathe vapor, dust, or spray mist. Do not get in eyes, on skin, or on clothing. In case of contact, remove clothing and wash thoroughly with soap and water; for eyes, flush with water and get medical attention.

(ii) *From 2% to 10%.*

Warning: May Be Fatal If Swallowed Or Absorbed Through Skin! Do not breathe vapor or spray mist. Do not get in eyes, on skin, or on clothing. In case of contact, remove clothing and wash thoroughly with soap and water; for eyes, flush with water and get medical attention.

(iii) *Below 2%.*

Caution: Harmful if swallowed. Avoid breathing vapor or spray mist. Avoid contact with skin or eyes. In case of contact, wash immediately with soap and water. Avoid prolonged breathing of vapor or spray mist. Avoid contamination of feed and foodstuffs. Remove birds, pets, and fish bowls from rooms being sprayed. Keep out of reach of children.

NOTE: See also Interpretation 15 (162.113).

(iv) *Self-propelled sprays.*

Caution: Do not spray on skin or animals. Wash with soap and water after using. Avoid inhalation of mist. Avoid contamination of feed and foodstuffs. Remove birds, pets, and fish bowls from rooms being sprayed. Keep out of reach of children.

NOTE: See also Interpretation 15 (162.113).

(v) *Dust and wettable powder formulations 25% and below.*

Caution: Avoid breathing dust. Avoid contamination of feed and foodstuffs.

Dichlorosthyl ether—(1) 10% and above.

Warning: May Be Fatal If Inhaled, Swallowed, or Absorbed Through Skin! Do not breathe vapor or spray mist. In case of contact remove contaminated clothing and wash immediately with soap and water.

(ii) *Below 10%.*

Caution: Harmful if inhaled, swallowed, or absorbed through skin! Avoid inhalation of vapor or spray mist. Avoid contact with skin or clothing and wash thoroughly after using. Keep away from children and domestic animals (H. P.).

2,4-Dichlorophenoxyacetic acid (2,4-D)—(1) 2,4-D acid and inorganic salts—30% and above.

Caution: Avoid inhaling dust. Avoid contact with skin, eyes, or clothing.

(ii) *Organic esters and amine salts.*

Caution: Avoid contact with skin, eyes, or clothing.

NOTE: Added warning statements regarding danger to crops through drifting dusts sprays, or vapors should be used on all labels of 2,4-D formulations.

2,4-Dichlorophenyl ester of benzene sulfonic acid—95% emulsifiable concentrate.

Caution: Avoid inhalation of spray mist. Avoid contact with skin.

Di-(p-chlorophenyl) methyl carbinol—(1) 25% and above.

Caution: Harmful if swallowed! Avoid prolonged breathing of vapor or spray mist. Do not get in eyes or on skin. Wash thoroughly after using. Do not contaminate feed and foodstuffs. Keep away from children and domestic animals.

(ii) *Below 25%.*

Caution: Harmful if swallowed! Avoid contact with skin or eyes. Wash thoroughly after using. Avoid contamination of feed and foodstuffs.

Dichloropropene-dichloropropane and related C$_3$ hydrocarbons (D-D mixture).

Warning: Hazardous Vapor and Liquid! May be Fatal if Swallowed, Inhaled or Absorbed through Skin. Causes burns of skin and eyes. Do not get in eyes, or skin, or on clothing. Wear polyethylene gloves and goggles when handling material. Do not breathe vapor. In case of accidental spillage indoors, have available a self-contained breathing apparatus or a mask or respirator of a type passed by the U.S. Department of Agriculture for chlorinated C$_3$ hydrocarbon protection. In case of contact immediately remove contaminated clothing, including shoes, and wash with soap and water; for eyes, flush with plenty of water and get medical attention. Wash thoroughly after handling and before eating or smoking. Wash clothing and air shoes thoroughly before reuse. Do not store near feed or food products. To protect fish and wildlife, do not contaminate streams, lakes, or ponds with this material.

Dieldrin (85% hexachloro epoxy octahydro-endo, exo-dimethano naphthalene)—(1) 60% and above. Treat as aldrin.

Heptachlor—(1) 10% and above.

Warning: May Be Fatal If Swallowed! Do not breathe vapor, dust, or spray mist. Do

Warning: May Be Fatal If Swallowed! May Be Absorbed Through Skin! Do not breathe spray mist. Avoid contact with skin or eyes. In case of contact, wash immediately with soap and water. Wear a mask or respirator of a type passed by the U.S. Department of Agriculture for protection against this material. Do not contaminate feed or foodstuffs. Keep all unprotected persons out of the operating area or vicinity where there may be danger of drift. Vacated areas should not be reentered until the drifting insecticides and volatile residues have dissipated. Wash hands, arms, and face thoroughly with soap and water before eating or smoking. Wash all contaminated clothing with soap and hot water before reuse.

(ii) *Below 2%.*

Warning: May Be Fatal If Swallowed, Inhaled, or Absorbed Through Skin! Rapidly Absorbed Through Skin! Do not get in eyes or on skin. Wear protective clothing, natural rubber gloves, and goggles. In case of contact, remove contaminated clothing and wash skin immediately with soap and water. Do not breathe fumes, dust, or spray mist. Wear a mask or respirator of a type passed by the U.S. Department of Agriculture for protection against this material. Do not contaminate feed or foodstuffs. Keep all unprotected persons out of the operating area or vicinity where there may be danger of drift. Vacated areas should not be reentered until the drifting insecticides and volatile residues have dissipated. Wash hands, arms, and face thoroughly with soap and water before eating or smoking. Wash all contaminated clothing with soap and water before reuse.

1,2-Dibromo-3,3-dichloroethyl dimethyl phosphate (Dibrom)—(1) Liquid concentrates.

Caution: Harmful if swallowed. Concentrate may cause skin damage. Do not get in eyes, on skin, or on clothing. Avoid breathing spray mist. Use waterproof gloves and face shield or goggles when handling concentrate. In case of contact, immediately remove contaminated clothing and flush skin or eyes with plenty of water; for eyes, get medical attention. Avoid storage near feed and food products.

(ii) *All dust formulations.*

Caution: Harmful if swallowed. May cause irritation of eyes, nose, and throat. Avoid breathing dust. Avoid contact with skin and eyes. Wash thoroughly after handling. Avoid storage near feed and food products.

Diethyl succinate. No precautionary labeling is required on the basis of this ingredient alone.

Dichlone; Dichloro-naphthoquinone.

Caution: May cause skin irritation. Avoid prolonged and repeated contact with skin. Avoid inhalation of dust. Wear protective clothing. Wash with soap and water after using. Avoid storage near feed and food products.

Dichloro diphenyl dichloroethane. Treat on same basis as DDT.

Dichloro diphenyl trichloroethane (DDT)—(1) Technical, emulsions, and wettable powders above 25%.

Caution: Harmful if swallowed. Avoid skin contact with solutions. In case of skin contact, wash with soap and water. Avoid breathing dust and spray mist. Avoid contamination of feed and foodstuffs.

(ii) *Emulsifiable or petroleum oil solutions for agricultural and industrial use 25% and below.*

Caution: Avoid contact with skin. In case of skin contact, wash with soap and water. Avoid breathing spray mist. Avoid contamination of feed and foodstuffs.

(iii) *Emulsifiable or petroleum oil solutions for household use.*

Caution: Harmful if swallowed. Avoid contact with skin. Avoid prolonged breathing of spray mist. Wash with soap and water after using. Avoid contamination of feed and foodstuffs. Remove birds, pets, and fish bowls from rooms being sprayed. Keep out of reach of children.

NOTE: See also Interpretation 15 (162.113).

(v) *Dust and wettable powder formulations, 25% and below.*

Caution: Avoid breathing dust. Avoid storage near feed and food products.

N,N-Diethyl toluamide—(1) 40% and above.

Caution: Harmful if swallowed. Avoid contact with eyes and lips. Keep out of reach of children.

(ii) *Below 40%.*

Caution: Avoid contact with eyes and lips.

1,2-Dihydropyridazine-3,6-dione (maleic hydrazide). To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

O,O-Dimethyl-S-p-chlorophenylthiomethyl phosphorodithioate (methyl trithion).

Warning: May be fatal if swallowed, inhaled, or absorbed through skin. Do not get in eyes, on skin, or on clothing. Do not breathe dust or spray mist. In case of contact, wash immediately with soap and water. Wear clean clothing. Wash all contaminated clothing with soap and hot water before reuse. Do not store near feed and food products. To protect fish and wildlife, do not contaminate streams, lakes, or ponds with this material.

O,O-Dimethyl-O, p-nitrophenyl thiophosphate. Treat on same basis as parathion.

O,O-Dimethyl S-[4-oxo-1,2,3-benzotriazin-3 (4H) ylmethyl] phosphorodithioate (Guthion)—(1) Above 2%.

☠ Poison ☠

Antidotes: If swallowed. Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep quiet. Call a Physician Immediately!

If on skin. In case of contact remove contaminated clothing and immediately wash skin with soap and water.

Warning: Poisonous If Swallowed, Inhaled, or Absorbed Through Skin! Do not get in eyes or on skin. Wear natural rubber gloves, protective clothing and goggles. In case of contact, wash immediately with soap and water. Wear a mask or respirator of a type passed by the U.S. Department of Agriculture for guthion protection. Keep all unprotected persons out of operating areas or vicinity where there may be danger of drift. Vacated areas should not be reentered for at least two days. Do not store near feed and food products. Wash hands, arms, and face thoroughly with soap and water before eating or smoking. Wash all contaminated clothing with soap and hot water before reuse.

(ii) *Dusts, 2% and below.*

Warning: May Be Fatal If Swallowed, Inhaled, or Absorbed Through Skin! Do not get in eyes or on skin. Wear natural rubber gloves, protective clothing and goggles. In case of contact wash immediately with soap and water. Wear a mask or respirator of a type passed by the U.S. Department of Agriculture for guthion protection. Keep all unprotected persons out of operating areas or vicinity where there may be danger of drift. Vacated areas should not be reentered for at least two days. Do not store near feed and food products. Wash hands, arms, and face thoroughly with soap and water before eating or smoking. Wash all contaminated clothing with soap and hot water before reuse. Do not store near feed and food products. To protect fish and wildlife, do not contaminate streams, lakes, or ponds with this material.

Dinitro ortho cresol—(1) 10% and above.

☠ Poison ☠

Antidote: Give a teaspoonful of baking soda in a glass of warm water and repeat until vomiting occurs. Call a Physician Immediately,

Warning: Poisonous If Swallowed Or Absorbed Through Skin! Do not breathe vapor, dust, or spray mist. Do not get in eyes, on skin, or on clothing. In case of contact, remove clothing and wash thoroughly with soap and water; for eyes, flush with water and get medical attention.

(ii) *From 2% to 10%.*

Warning: May Be Fatal If Swallowed Or Absorbed Through Skin! Do not breathe vapor or spray mist. Do not get in eyes, on skin, or on clothing. In case of contact, remove clothing and wash thoroughly with soap and water; for eyes, flush with water and get medical attention.

Nicotine and its salts—(1) 5% and above.

(iii) *Below 2%.*

Caution: Harmful if swallowed. Avoid breathing vapor or spray mist. Avoid contact with skin, eyes, or clothing. Wash thoroughly after using.

Diphacinone (2-diphenylacetyl-1,3-indandione) and salts—(i) *Above 3%.* Treat as *warfarin* (i).

(ii) *Concentrations from 0.1% to 3%, inclusive.* Treat as *warfarin* (ii).

(iii) *Finished baits.* Treat as *warfarin* (iii).

Di-n-propyl maleate isosafrole condensate (n-propyl isome). To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

Disodium ethylene bisdithiocarbamate (Nabam)—*3% and above.*

Caution: May be harmful if swallowed. May cause skin irritation. Avoid contact with skin and eyes. In case of contact, flush with plenty of water; for eyes, get medical attention.

Diuron (dichlorophenyl dimethylurea).

Caution: May cause irritation of eyes, nose, throat and skin. Avoid breathing dust or spray mist. Avoid contact with skin, eyes, and clothing.

Endrin (hexachloro-epoxy-octahydro-endo, endo-dimethano naphthalene—(i) *2.5% and above.*

☼ Poison ☼

Antidotes: If swallowed. Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep quiet. Call a Physician Immediately!

If on skin. Wash immediately with soap and water.

Warning: Poisonous by Swallowing, Inhalation, or Skin Contact! Do not get in eyes, on skin, or on clothing. Do not breathe dust or spray mist. In case of contact, immediately remove all contaminated clothing and flush skin or eyes with plenty of water for at least 15 minutes; for eyes, get medical attention. Wear clean synthetic rubber gloves and a mask or respirator of a type passed by the U.S. Department of Agriculture for endrin protection. Wash thoroughly with soap and water after handling and before eating or smoking; wear clean clothing. Do not apply or allow to drift to areas occupied by unprotected humans or beneficial animals. Do not contaminate feed and foodstuffs. To protect fish and wildlife, do not contaminate streams, lakes, or ponds with this material.

(ii) *Below 2.5%.*

Warning: Hazardous by Swallowing, Inhalation, or Skin Contact! Rapidly Absorbed Through Skin! Do not get in eyes, on skin, or on clothing. Do not breathe dust or spray mist. In case of contact with skin or eyes, flush with plenty of water; for eyes, get medical attention. Wash thoroughly with soap and water after handling and before eating or smoking; wear clean clothing. Wear clean synthetic rubber gloves and a mask or respirator of a type passed by the U.S. Department of Agriculture for endrin protection. Do not apply or allow to drift to areas occupied by unprotected humans or beneficial animals. Do not contaminate feed and foodstuffs. To protect fish and wildlife, do not contaminate streams, lakes, or ponds with this material.

Ethion (O,O,O',O'-tetraethyl S,S'-methylene bis phosphorodithioate)—(i) *50% and above.*

Warning: May be fatal if swallowed, inhaled or absorbed through skin. Do not breathe vapor, dust or spray mist. Do not get in eyes, on skin, or on clothing. In case of skin contact, wash with soap and water; for eyes, flush with plenty of water and get medical attention. Wash clothing with soap and hot water before reuse. Do not store near food and feed products.

(ii) *15% to 50%.*

Warning: May be fatal if swallowed. Absorbed through skin. Do not breathe vapor, dust or spray mist. Avoid contact with skin, eyes, and clothing. Wash thoroughly after handling. Avoid storage near food and feed products.

Ferbam: ferric dimethyl dithiocarbamate—3% and above.

Caution: May cause irritation of eyes, nose, throat and skin! Avoid breathing dust or spray mist. Avoid contact with eyes, skin, or clothing. In case of contact, flush with plenty of water; for eyes, get medical attention.

NOTE: For dust mixture 50% and above, add: Keep away from fire and sparks.

Fluorides—(i) *Inorganic, water soluble fluorides 10% and above.*

Warning: May Be Fatal If Swallowed! Do not breathe dust. Do not contaminate feed and foodstuffs. Keep out of reach of children and domestic animals.

(ii) *Inorganic, water soluble fluorides, below 10%.*

Caution: Harmful if Swallowed! Avoid prolonged breathing of dust. Avoid contamination of feed and foodstuffs. Keep away from children and domestic animals.

(iii) *Fluosilicates, 5% and above.*

Caution: Harmful if Swallowed! Avoid prolonged breathing of dust or spray mist. Avoid contamination of feed and foodstuffs. Keep away from children and domestic animals.

Formaldehyde solutions—(i) *6% and above.*

☼ Poison ☼

Antidote: Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Give milk, or white of egg beaten with water. Call a Physician Immediately!

(ii) *Below 15%.*

Caution: Harmful if swallowed. May be absorbed through skin. Avoid breathing dust or spray mist. Avoid contact with skin, eyes, and clothing. Wash thoroughly after handling. Avoid storage near food and feed products. Keep out of reach of children (H.P.).

Ethyl bromide—10% and above.

Caution: Harmful Vapor! Avoid prolonged breathing of vapor. Do not use or store near heat or open flame.

Ethylene dibromide—10% and above.

Caution: Harmful by inhalation, swallowing or skin contact. Avoid breathing vapor. Do not get in eyes, on skin, or on clothing. In case of contact immediately remove clothing, incuding shoes, and flush skin or eyes with plenty of water for at least 15 minutes; for eyes, get medical attention. Wash clothing and air shoes thoroughly before reuse.

Ethylene dichloride—10% and above.

Warning: Flammable! Harmful if inhaled or swallowed! Keep away from heat and open flame. Avoid breathing vapor. Avoid contact with skin, eyes, and clothing.

Fenuron (phenyl dimethylurea).

Caution: May cause irritation of eyes, nose, throat, and skin. Avoid breathing dust or spray mist. Avoid contact with skin, eyes, and clothing.

Warning: Causes Irritation of Skin, Eyes, Nose and Throat! Do not breathe vapor. Avoid contact with skin, eyes, or clothing. In case of contact, flush with plenty of water; for eyes, get medical attention.

(ii) *Below 4%.*

Caution: Avoid prolonged breathing of vapor.

Heptachlor—(i) *10% and above.*

Warning: May Be Fatal If Swallowed! Do not breathe vapor, dust, or spray mist. Do not get on skin. In case of contact wash immediately with soap and water. Do not contaminate feed and foodstuffs.

(ii) *Below 10% for agricultural use.*

Caution: Harmful if swallowed. Avoid inhalation of dust or spray mist. Avoid skin contact, and wash hands, arms, and face with soap and water after using. Avoid contamination of feed and foodstuffs.

(iii) *Fertilizer formulations.*

Caution: Avoid prolonged or repeated inhalation of dust or contact with skin. Wash thoroughly after handling.

Hexachloro-hexahydromethano-2,4,3 - benzodioxathiepin oxide (thiodan)—(i) *60% and above.* Treat as *aldrin* (i).

(ii) *10% to 60%.* Treat as *aldrin* (ii).

(iii) *Below 10%.* Treat as *aldrin* (iii).

Hexaethyl tetraphosphate. Treat on basis of content of tetraethyl pyrophate.

Hydrochloric acid—10% and above (as hydrogen chloride).

Caution: Harmful if swallowed! Do not breathe vapor or fumes. Do not get in eyes, on skin, or on clothing.

NOTE: The word "Poison" together with an internal and external antidote statement as previously required under the Federal Caustic Poisons Act may be used.

Hypochlorites (sodium and potassium hypochlorite solutions)—10% and above.

Caution: Harmful if Swallowed!

NOTE: The word "Poison" together with an internal and external antidote statement as previously required under the Federal Caustic Poisons Act may be used.

Isopropyl N-(3-chlorophenyl) carbamate (CIPC)—50% and above.

Caution: Harmful if Swallowed!

Isopropyl N-phenyl carbamate (IPC)—50% and above.

Caution: Harmful if Swallowed!

2-Isovaleryl-1,3-indandione (PMP) and salts—(i) *Above 6%. Treat as Warfarin* (i).

(ii) *Concentrations from 0.1% to 6%, inclusive.* Treat as *Warfarin* (ii).

(iii) *Finished baits.* Treat as *Warfarin* (iii).

Kerosene sprays (or similar formulations containing other petroleum distillates)—(i) *When sold for household use.*

Caution: Harmful if Swallowed! Keep out of reach of children. Do not use or store near heat or open flame.

(ii) *When recommended for use on animals.*

Caution: Avoid wetting the hides of animals. Do not use or store near heat or open flame.

Lime-sulfur solutions.

To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

Lindane (gamma isomer of benzene hexachloride 99% and above)—(i) *Dry formulations for agricultural use, 25% and above.*

Warning: May be Fatal If Swallowed! May Be Absorbed Through Skin! Do not breathe dust or spray mist. Avoid contact with skin and eyes. Wash thoroughly after handling. Avoid contamination of feed and foodstuffs.

(ii) *Dry formulations below 25%.*

Caution: May Be Absorbed Through Skin! Avoid prolonged breathing of dust or spray mist. Avoid contact with skin and eyes. Wash thoroughly after handling. Avoid contamination of feed and foodstuffs. Harmful if swallowed (H.P.). Keep out of reach of children (H.P.).

(iii) *Solutions and emulsions 25% and above.*

Warning: May Be Fatal If Swallowed! May Be Absorbed Through Skin! Do not breathe spray mist. Avoid contact with skin or eyes. In case of contact, wash immediately with soap and water; for eyes, flush with water and get medical attention. Avoid contamination of feed and foodstuffs. Do not use on household pets or humans.

(iv) *Self-propelled sprays, solutions and emulsions below 25%.*

Caution: May be absorbed through skin. Avoid breathing spray mist. Avoid contact with skin. In case of contact, wash immediately with soap and water. Avoid contamination of feed and foodstuffs. Do not use on household pets or humans. Harmful if swallowed (H.P.). Keep out of reach of children (H.P.).

(v) *Dusts suitable for use on animals.*

Caution: May Cause Irritation Of Nose Wash thoroughly after handling. Avoid contamination of feed and foodstuffs.

Malathion (O,O-Dimethyl dithiophosphate of diethylmercaptosuccinate).

Caution: Harmful if swallowed. Avoid prolonged breathing of dust or spray mist. Avoid prolonged or repeated contact with skin; wash thoroughly after using. Avoid contamination of feed and foodstuffs. Keep out of reach of children (H.P.).

NOTE: For dusts and wettable powders below 20% the caution "Harmful if swallowed" may be omitted.

(Maneb (manganese ethylenebisdithiocarbamate)—10% and above.

Caution: May be absorbed through skin. And Throat! Do not breathe dust or spray mist.

NOTE: For dust mixtures 50% and above, add: Keep away from fire and sparks.

Mercury compounds—(i) *Inorganic salts (except calomel)—20% and above (based on the percentage of elemental mercury present).*

☼ Poison ☼

Antidote: Give milk or white of egg beaten with water, then a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Repeat milk or white of egg beaten with water. Call A Physician Immediately!

Warning: Do not breathe dust. Do not get in eyes, on skin, or on clothing. Wash thoroughly after handling.

(ii) *Inorganic salts—below 20% (based on the percentage of elemental mercury present).*

Warning: May Be Fatal If Swallowed! Do not breathe dust. Do not get in eyes, on skin, or on clothing. Wash thoroughly after handling.

(iii) *Organic salts.* Due to wide variation in characteristics each product must be considered individually. See also phenyl mercuric acetate.

Mercury, metallic (in ointments)—(i) *20% and above.*

☼ Poison ☼

Antidote: Give milk, or white of egg beaten with water, then a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Repeat milk or white of egg beaten with water. Call A Physician Immediately!

Warning: May produce irritation of skin and eyes. Application to large areas of skin may cause serious mercury poisoning.

(ii) *Below 20%.*

Warning: May cause irritation of skin and eyes. Application to large areas of skin may cause serious mercury poisoning.

Metaldehyde (technical).

Warning: May be fatal if swallowed. Harmful dust. Avoid breathing dust and vapor. Avoid contact with skin, eyes, and clothing.

Methoxychlor (2,2-bis[p-methoxyphenyl]-1,1,1-trichlorocthane). To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

Methyl bromide (Technical).

☼ Poison ☼

Antidote: Remove victim to fresh air immediately. Keep victim lying down and warm. Give artificial respiration if breathing has stopped. Call A Physician Immediately!

Warning: Poisonous Liquid and Vapor! Contact with liquid may produce burns. Do not breathe vapor. Wear a full-face gas mask with black canister meeting specifications of the U.S. Bureau of Mines for organic vapors. Do not get in eyes, on skin, or on clothing. In case of contact, immediately remove all contaminated clothing including shoes. Wash skin thoroughly with soap and water and flush eyes with water for at least 15 minutes. Get medical attention. Do not reuse shoes or clothing until free of all contamination.

Methyl chloride. (Technical).

Warning: Flammable! May Be Fatal If Inhaled. Contact with liquid may produce burns. Do not breathe vapor. Do not get in eyes or on skin. Do not use or store near heat or open flame.

2-Methyl 4-chlorophenoxyacetic acid—(i) *Acid and salts—20% and above.*

Caution: Avoid inhaling dust. Avoid contact with skin, eyes, or clothing.

(ii) *Organic esters and amine salts.*

Caution: Avoid contact with skin, eyes, or clothing.

NOTE: Added warning statements regarding danger to crops through drifting dusts, sprays, or vapors should be used on all labels of 2-Methyl 4-chlorophenoxyacetic acid formulations.

Methylene chloride—(i) *Technical.*

Caution: Harmful if swallowed! Avoid prolonged or repeated breathing of vapor. Avoid prolonged or repeated contact with skin.

(ii) *Self-propelled sprays.*

Caution: Avoid prolonged or repeated breathing of vapor. Avoid prolonged or repeated contact with skin. Keep out of reach of children.

Monuron 3-(p-chlorophenyl)-1,1-dimethylurea.

Caution: May cause irritation of eyes, nose, throat, and skin. Avoid breathing dust or spray mist. Avoid contact with skin, eyes, and clothing.

1-Naphthyl N-methylcarbamate (Sevin)—(i) *Above 50%.*

Caution: Harmful if swallowed or inhaled. Avoid breathing of dust or spray mist. Avoid prolonged or repeated contact with skin; wash thoroughly after handling. Wear clean clothing. Avoid storage near feed and food products.

(ii) *50% and below.*

Caution: Harmful if swallowed. Avoid prolonged breathing of dust or spray mist. Avoid prolonged or repeated contact with skin; wash thoroughly after using. Avoid storage near feed and food products. Keep out of reach of children (H.P.).

N-1 Naphthyl phthalamic acid. To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

Neburon 1-Butyl-3-(3,4-dichlorophenyl)-1-methylurea.

Caution: May cause irritation of eyes, nose, throat, and skin. Avoid breathing dust or spray mist. Avoid contact with skin, eyes, and clothing.

Nicotine and its salts—(i) *5% and above.*

☼ Poison ☼

Antidote: Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep warm. Give strong tea or coffee. Give artificial respiration if breathing has stopped. Call a Physician Immediately!

Warning: Poisonous by Swallowing, Inhalation or Skin Contact! Do not breathe vapor, dust or spray mist. Do not get in eyes, on skin or on clothing. In case of contact, immediately flush skin or eyes with plenty of water for at least 15 minutes; for eyes, get medical attention. Remove and wash clothing before reuse.

NOTE: Directions for use should include instructions for appropriate respiratory protection.

(ii) *1% to 5% solutions, and 2% to 5% dusts.*

Warning: May Be Fatal If Swallowed, Inhaled or Absorbed Through Skin! Do not breathe vapor, dust or spray mist. Avoid contact with eyes, skin or clothing. In case of contact, flush with plenty of water; for eyes, get medical attention.

NOTE: Directions for use should include instructions for appropriate respiratory protection.

(iii) *Solutions below 1%.*

Caution: Harmful If Swallowed! Avoid breathing vapor, or spray mist. Avoid contact with eyes, skin, or clothing. Avoid contamination of feed and foodstuffs. Keep away from children.

(iv) *Dusts below 2%.*

Caution: Irritating Dust!

Nitrobenzene (oil of Mirbane)—(i) *25% and above.*

☼ Poison ☼

Antidotes: If swallowed. Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear.

External. Wash thoroughly with soap and warm water. Call A Physician Immediately!

Warning: Poisonous If Swallowed Or Absorbed Through Skin! Do not breathe vapor, fumes or spray mist. Do not get in eyes, on skin or on clothing.

(ii) *Below 25%.*

Warning: May be Fatal If Swallowed Or Absorbed Through Skin! Do not breathe vapor, fumes or spray mist. Do not get in eyes, on skin or on clothing. Wash thoroughly after handling.

2-Nitro-1,1-bis (p-chlorophenyl) butane or 2-Nitro-1,1-bis (p-chlorophenyl propane (Dilan), or mixtures of these—(i) *25% and above.*

Caution: May Cause Irritation Of Skin and Eyes! May Be Absorbed Through Skin! In case of contact, wash skin thoroughly with warm water and soap; for eyes, wash with running water for 15 minutes and get medical attention. Avoid contamination of feed and foodstuffs.

(ii) *Below 25%.*

Caution: May cause irritation of skin and eyes! May be absorbed through skin! Avoid prolonged breathing of dust or spray mist. Avoid contamination of feed and foodstuffs. Wash thoroughly after using.

Octyl-bicyclo-heptene-dicarboximide. To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

N-Octylsulfoxide of isosafrole. To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

Orthodichlorobenzene—50% and above.

Caution: Avoid prolonged breathing of vapor. Avoid contact with eyes, skin, or clothing. Wash thoroughly after using.

Oxo-E (p-chlorophenyl-p-chlorobenzene sulfonate).

Caution: Harmful if swallowed. Avoid prolonged breathing of vapor or spray mist. Avoid contact with skin, eyes, or clothing. Wash thoroughly after using.

Paraquat (1,1'-dimethyl-4,4'-bipyridinium salts).

Caution: Harmful if swallowed. Avoid prolonged breathing of spray mist. Avoid contact with skin, eyes, or clothing. Wash thoroughly after using.

Parathion (O,O-Diethyl O-p-nitrophenyl thiophosphate)—(i) *Above 15%.*

Warning: Hazardous by Swallowing, Inhalation, or Skin Contact! Rapidly Absorbed Through Skin! Do not get in eyes, on skin, or on clothing. Do not breathe dust or spray mist. In case of contact with skin or eyes, flush with plenty of water; for eyes, get medical attention. Wash thoroughly with soap and water after handling and before eating or smoking; wear clean clothing. Wear clean synthetic rubber gloves and a mask or respirator of a type passed by the U.S. Department of Agriculture for endrin protection. Do not apply or allow to drift to areas occupied by unprotected humans or beneficial animals. Do not contaminate feed and foodstuffs. To protect fish and wildlife, do not contaminate streams, lakes, or ponds with this material.

(ii) *2% to 15%.*

Warning: Hazardous by Swallowing, Inhalation, or Skin Contact! Rapidly Absorbed Through Skin! Do not get in eyes, on skin, or on clothing. Do not breathe dust or spray mist. In case of contact with skin or eyes, flush with plenty of water; for eyes, get medical attention. Wash thoroughly with soap and water after handling and before eating or smoking; wear clean clothing. Wear clean synthetic rubber gloves and a mask or respirator of a type passed by the U.S. Department of Agriculture for endrin protection. Do not apply or allow to drift to areas occupied by unprotected humans or beneficial animals. Do not contaminate feed and foodstuffs. To protect fish and wildlife, do not contaminate streams, lakes, or ponds with this material.

(iii) *Below 2%.*

Warning: Hazardous by Swallowing, Inhalation, or Skin Contact! Rapidly Absorbed Through Skin! Do not get in eyes, on skin, or on clothing. Do not breathe dust or spray mist. In case of contact with skin or eyes, flush with plenty of water; for eyes, get medical attention. Wash thoroughly with soap and water after handling and before eating or smoking; wear clean clothing. Wear clean synthetic rubber gloves and a mask or respirator of a type passed by the U.S. Department of Agriculture for endrin protection. Do not apply or allow to drift to areas occupied by unprotected humans or beneficial animals. Do not contaminate feed and foodstuffs. To protect fish and wildlife, do not contaminate streams, lakes, or ponds with this material.

Pentachlorophenol and its salts—(i) *Technical.*

Caution: Harmful if swallowed! Avoid prolonged breathing of vapor. Avoid prolonged or repeated contact with skin.

(ii) *Solutions.*

Caution: Harmful if swallowed! Avoid prolonged breathing of vapor. Avoid prolonged or repeated contact with skin. Keep out of reach of children.

Phenyl mercuric acetate (PMA)—(i) *Above 10%.*

Warning: May Be Fatal If Swallowed! May Be Absorbed Through Skin! Do not breathe dust or spray mist. Avoid contact with skin and eyes. Wash thoroughly after handling. Avoid contamination of feed and foodstuffs.

(ii) *Below 10%.*

Caution: Harmful if swallowed! Avoid prolonged breathing of dust or spray mist. Avoid contact with skin and eyes. Wash thoroughly after handling. Avoid contamination of feed and foodstuffs.

Phosphamidon (2-chloro-2-diethylcarbamoyl-1-methylvinyl dimethyl phosphate).

Warning: May Be Fatal If Swallowed! May Be Absorbed Through Skin! Do not breathe vapor, dust, or spray mist. Do not get on skin. In case of contact wash immediately with soap and water. Do not contaminate feed and foodstuffs.

Phosphoric acid—10% and above.

Caution: Harmful if swallowed! Do not breathe vapor or fumes. Do not get in eyes, on skin, or on clothing.

NOTE: The word "Poison" together with an internal and external antidote statement as previously required under the Federal Caustic Poisons Act may be used.

Potassium arsenite—(i) *Above 50%.*

☼ Poison ☼

Antidote: Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep quiet. Call a Physician Immediately!

If on skin. Wash thoroughly with soap and water.

Warning: Poisonous If Inhaled or Absorbed Through Skin! Do not breathe dust or spray mist. Do not get in eyes, on skin, or on clothing. Wash thoroughly after handling.

(ii) *Below 50%.*

Caution: Harmful if swallowed! Avoid prolonged breathing of dust or spray mist. Avoid contact with skin, eyes, or clothing. Wash thoroughly after handling.

Propargite (2-(p-tert-butylphenoxy)-1-methylethyl 2-propynyl sulfite).

Caution: Harmful if swallowed! Avoid prolonged breathing of vapor or spray mist. Avoid contact with skin, eyes, or clothing. Wash thoroughly after using.

Propionic acid—10% and above.

Caution: Harmful if swallowed! Do not breathe vapor or fumes. Do not get in eyes, on skin, or on clothing.

NOTE: The word "Poison" together with an internal and external antidote statement as previously required under the Federal Caustic Poisons Act may be used.

Propylene dichloride—10% and above.

Warning: Flammable! Harmful if inhaled or swallowed! Keep away from heat and open flame. Avoid breathing vapor. Avoid contact with skin, eyes, and clothing.

Pyrethrins (pyrethrins I and II).

Caution: Harmful if swallowed! Avoid prolonged breathing of vapor or spray mist. Avoid contact with skin, eyes, or clothing. Wash thoroughly after using.

Rotenone (Derris, Cube).

Caution: Harmful if swallowed! Avoid prolonged breathing of dust or spray mist. Avoid contact with skin, eyes, or clothing. Wash thoroughly after using.

Selenium and its salts—(i) *Above 50%.*

☼ Poison ☼

Antidote: Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep quiet. Call a Physician Immediately!

If on skin. Wash thoroughly with soap and water.

Warning: Poisonous If Inhaled or Absorbed Through Skin! Do not breathe dust or spray mist. Do not get in eyes, on skin, or on clothing. Wash thoroughly after handling.

(ii) *Below 50%.*

Caution: Harmful if swallowed! Avoid prolonged breathing of dust or spray mist. Avoid contact with skin, eyes, or clothing. Wash thoroughly after using.

Silvex (2-(2,4,5-trichlorophenoxy) propionic acid).

Caution: Harmful if swallowed! Avoid prolonged breathing of vapor or spray mist. Avoid contact with skin, eyes, or clothing. Wash thoroughly after using.

Sodium arsenite—(i) *Above 50%.*

☼ Poison ☼

Antidote: Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep quiet. Call a Physician Immediately!

If on skin. Wash thoroughly with soap and water.

Warning: Poisonous If Inhaled or Absorbed Through Skin! Do not breathe dust or spray mist. Do not get in eyes, on skin, or on clothing. Wash thoroughly after handling.

(ii) *Below 50%.*

Caution: Harmful if swallowed! Avoid prolonged breathing of dust or spray mist. Avoid contact with skin, eyes, or clothing. Wash thoroughly after using.

Sodium chlorate—10% and above.

Caution: Harmful if swallowed! Do not breathe vapor or fumes. Do not get in eyes, on skin, or on clothing.

NOTE: The word "Poison" together with an internal and external antidote statement as previously required under the Federal Caustic Poisons Act may be used.

Sodium cyanide—10% and above.

Caution: Harmful if swallowed! Do not breathe vapor or fumes. Do not get in eyes, on skin, or on clothing.

NOTE: The word "Poison" together with an internal and external antidote statement as previously required under the Federal Caustic Poisons Act may be used.

Sodium fluoride—50% and above.

Caution: Harmful if Swallowed!

Sodium fluoroacetate (1080)—(i) *Above 1%.*

☼ Poison ☼

Antidote: Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep quiet. Call a Physician Immediately!

If on skin. Wash thoroughly with soap and water.

Warning: Poisonous By Swallowing, Inhalation or Skin Contact! Do not get in eyes, on skin, or on clothing. Do not breathe dust or spray mist. In case of contact, immediately remove all contaminated clothing and flush skin or eyes with plenty of water for at least 15 minutes; for eyes, get medical attention. Wash thoroughly with soap and water after handling and before eating or smoking; wear clean clothing. Do not apply or allow to drift to areas occupied by unprotected humans or beneficial animals. Do not contaminate feed and foodstuffs. To protect fish and wildlife, do not contaminate streams, lakes, or ponds with this material.

(ii) *Below 1%.*

Warning: Hazardous by Swallowing, Inhalation, or Skin Contact! Rapidly Absorbed Through Skin! Do not get in eyes, on skin, or on clothing. Do not breathe dust or spray mist. In case of contact with skin or eyes, flush with plenty of water; for eyes, get medical attention. Wash thoroughly with soap and water after handling and before eating or smoking; wear clean clothing. Wear clean synthetic rubber gloves and a mask or respirator of a type passed by the U.S. Department of Agriculture for endrin protection. Do not apply or allow to drift to areas occupied by unprotected humans or beneficial animals. Do not contaminate feed and foodstuffs. To protect fish and wildlife, do not contaminate streams, lakes, or ponds with this material.

Sodium hydroxide—10% and above.

Caution: Harmful if swallowed! Do not breathe vapor or fumes. Do not get in eyes, on skin, or on clothing.

NOTE: The word "Poison" together with an internal and external antidote statement as previously required under the Federal Caustic Poisons Act may be used.

Sodium monofluoroacetate (1080)—(i) *Above 1%.*

☼ Poison ☼

Antidote: Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep quiet. Call a Physician Immediately!

If on skin. Wash thoroughly with soap and water.

Warning: Poisonous By Swallowing, Inhalation or Skin Contact! Do not get in eyes, on skin, or on clothing. Do not breathe dust or spray mist. In case of contact, immediately remove all contaminated clothing and flush skin or eyes with plenty of water for at least 15 minutes; for eyes, get medical attention. Wash thoroughly with soap and water after handling and before eating or smoking; wear clean clothing. Do not apply or allow to drift to areas occupied by unprotected humans or beneficial animals. Do not contaminate feed and foodstuffs. To protect fish and wildlife, do not contaminate streams, lakes, or ponds with this material.

(ii) *Below 1%.*

Warning: Hazardous by Swallowing, Inhalation, or Skin Contact! Rapidly Absorbed Through Skin! Do not get in eyes, on skin, or on clothing. Do not breathe dust or spray mist. In case of contact with skin or eyes, flush with plenty of water; for eyes, get medical attention. Wash thoroughly with soap and water after handling and before eating or smoking; wear clean clothing. Wear clean synthetic rubber gloves and a mask or respirator of a type passed by the U.S. Department of Agriculture for endrin protection. Do not apply or allow to drift to areas occupied by unprotected humans or beneficial animals. Do not contaminate feed and foodstuffs. To protect fish and wildlife, do not contaminate streams, lakes, or ponds with this material.

Sodium pentachlorophenate—(i) *Technical.*

Caution: Harmful if swallowed! Avoid prolonged breathing of vapor. Avoid prolonged or repeated contact with skin.

(ii) *Solutions.*

Caution: Harmful if swallowed! Avoid prolonged breathing of vapor. Avoid prolonged or repeated contact with skin. Keep out of reach of children.

Sodium selenite—(i) *Above 50%.*

☼ Poison ☼

Antidote: Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep quiet. Call a Physician Immediately!

If on skin. Wash thoroughly with soap and water.

Warning: Poisonous If Inhaled or Absorbed Through Skin! Do not breathe dust or spray mist. Do not get in eyes, on skin, or on clothing. Wash thoroughly after handling.

(ii) *Below 50%.*

Caution: Harmful if swallowed! Avoid prolonged breathing of dust or spray mist. Avoid contact with skin, eyes, or clothing. Wash thoroughly after using.

Sodium silicofluoride—10% and above.

Caution: Harmful if Swallowed!

Strychnine and its salts.

☼ Poison ☼

Antidote: If less than ten minutes has

passed by the U.S. Department of Agriculture for phosphamidon protection. Keep all unprotected persons out of operating areas or vicinity where there may be danger of

foodstuffs. Keep out of reach of children (H.P.).

(ii) *5% and below.*

Caution: Harmful if swallowed. Avoid

Warning: May Produce Delayed Chemical Burns! Do not breathe dust or spray mist. Do not get in eyes, on skin or on clothing. Wash thoroughly after handling.

(ii) *Below 6%.*

Orthodichlorobenzene—10% and above.

Caution: Avoid prolonged breathing of vapor. Avoid contact with eyes, skin, or clothing. Wash thoroughly after using.

Ovex (p-chlorophenyl-p-chlorobenzene sulfonate)—(i) *Wettable powder, 50% and above.*

Caution: May cause skin irritation. Avoid prolonged or repeated contact with skin. Avoid inhaling dust or spray mist.

(ii) *Aerosols, 10%, and above, with methyl chloride as propellent.*

Warning: Flammable! May Be Fatal If Inhaled! Do not use or store near heat or open flame. Use only while using a full-face mask with canister approved by the U.S. Bureau of Mines for organic vapors. Wash hands, arms, and face immediately after using.

Paints, containing insecticides, fungicides, etc. Treat as oil solutions, emulsions or on basis of formulation toxicity.

Paradichlorobenzene—Use in vacuum cleaner attachments.

Caution: Avoid prolonged breathing of vapor and spray. Avoid contact with eyes. Rooms with treated furniture should be well ventilated before occupancy.

Parathion (O,O-Diethyl O,p-nitrophenyl thiophosphate)—(i) *Above 2% (except aerosols; see below).*

Poison

Antidotes: If swallowed. Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep quiet. Call a Physician Immediately!

If on skin. In case of contact remove contaminated clothing and immediately wash skin with soap and water.

Warning Poisonous If Swallowed, Inhaled, or Absorbed Through Skin! Rapidly Absorbed Through Skin! Do not get in eyes, on skin, or on clothing. Wear natural rubber gloves, protective clothing and goggles. In case of contact, wash immediately with soap and water. Wear a mask or respirator of a type passed by the U.S. Department of Agriculture for parathion protection. Keep all unprotected persons out of operating areas or vicinity where there may be danger of drift. Vacated areas should not be reentered until drifting insecticide and volatile residues have dissipated. Do not contaminate feed and foodstuffs. Wash hands, arms, and face thoroughly with soap and water before eating or smoking. Wash all contaminated clothing with soap and hot water before reuse.

(ii) *Dusts, 2% and below.*

Warning: May Be Fatal If Swallowed, Inhaled, or Absorbed Through Skin! Rapidly Absorbed Through Skin! Do not get in eyes, on skin, or on clothing. Wear natural rubber gloves, protective clothing and goggles. In case of contact wash immediately with soap and water. Wear a mask or respirator of a type passed by the U.S. Department of Agriculture for parathion protection. Keep all unprotected persons out of operating areas or vicinity where there may be danger of drift. Vacated areas should not be reentered until drifting insecticide and volatile residues have dissipated. Do not contaminate feed and foodstuffs. Wash hands, arms, and face thoroughly with soap and water before eating or smoking. Wash all contaminated clothing with soap and hot water before reuse.

(iii) *Aerosols—greenhouse use.*

Poison

Antidotes: Internal. Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep quiet. Call a Physician Immediately!

If on skin. Wash thoroughly with soap and water.

Warning: Poisonous If Inhaled or Absorbed Through Skin! Do not get on skin. Use only while wearing a full-face mask of a type passed by the U.S. Department of Agriculture for parathion protection. Replace canister as directed. Wear protective clothing and natural rubber gloves. Wash hands, arms and face with soap and water after using the bomb. Wash contaminated clothing with soap and hot water before reuse. Do not contaminate feed and foodstuffs.

Pentachlorophenol—(i) *5% and above (except oil solutions or emulsions).*

Caution: Harmful if inhaled or swallowed! Do not breathe dust. Avoid contact with eyes, skin or clothing. Wash thoroughly after handling.

(ii) *Oil solutions or emulsions 3% and above.*

Caution: Harmful if swallowed or absorbed through skin! Causes skin irritation! Do not breathe vapor or spray mist. Do not get in eyes, on skin or on clothing. Wash thoroughly after handling.

(iii) *Sodium pentachlorophenate—3% and above.*

Caution: Causes skin irritation. Harmful if swallowed. Do not breathe dust or spray mist. Do not get in eyes, on skin, or on clothing. Wash thoroughly after handling.

Peroxyacetic acid—For a 40% aqueous solution.

Warning: Oxidizing Agent! May Be Fatal If Swallowed! May produce severe burns. Store in a cool place away from combustible material. Avoid inhalation of vapor or contact of the undiluted material with the skin. Wear rubber gloves when handling the concentrate. In case of contact, wash thoroughly with plenty of water.

Phenols (including phenol, cresol, cresylic acid). The following will be considered as minimum precautionary labeling except that, where there is adequate evidence of presence of alkyl substitutions greater than one methyl group, lower requirements may be permitted on the basis of evidence submitted as to reduce toxicity.

(i) *10% and above.*

Warning: May Be Fatal If Swallowed or Absorbed Through Skin! May Produce Severe Burns! Do not get in eyes, on skin, or on clothing. Avoid breathing spray mist. Wash thoroughly after handling.

(ii) *2% to 10%.*

Caution: Harmful if Swallowed! Avoid contact with skin, eyes and clothing. Avoid breathing spray mist. Avoid contamination of feed and foodstuffs (H.P.). Keep away from children and domestic animals.

(iii) *Chlorophenyl phenol and sodium o-phenyl phenate 5% and above.*

Caution: Harmful if Swallowed!

NOTE: The word "Poison" together with an internal and external antidote statement as previously required under the Federal Caustic Poisons Act may be used.

Phenylmercuric acetate—(i) *5% and above.*

Poison

Antidotes: If swallowed. Give milk or white of egg beaten with water, then a tablespoonful of salt in a glass of warm water, and repeat until vomit fluid is clear. Repeat milk or white of egg beaten with water. Call a Physician Immediately!

If on skin. Wash immediately with soap and warm water.

If in eyes. Flush with water for at least 15 minutes, and get medical attention.

Warning: May Produce Delayed Chemical Burns! Do not breathe dust or spray mist. Do not get in eyes, on skin or on clothing. Wash thoroughly after handling.

(ii) *Below 5%.*

Warning: May Be Fatal If Swallowed! May Produce Delayed Chemical Burns! Do not breathe dust or spray mist. Do not get in eyes, on skin or on clothing. In case of contact, wash skin with soap and water; for eyes, flush with water for at least 15 minutes, and get medical attention. Wash thoroughly after handling.

NOTE: See also Mercury compounds, Organic salts (iii).

Phorate (O,O-diethyl-S-(ethylthiomethyl) phosphorodithioate.

Poison

Antidotes: If swallowed. Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep quiet. Call a Physician Immediately!

If on skin. In case of contact, remove contaminated clothing and immediately wash skin with soap and water.

Warning: Poisonous If Swallowed, Inhaled, or Absorbed Through Skin! Rapidly Absorbed Through Skin! Do not get in eyes or on skin. Wear natural rubber gloves, protective clothing and goggles. In case of contact, wash immediately with soap and water. Wear a mask or respirator of a type passed by the U.S. Department of Agriculture for phorate protection. Keep all unprotected persons out of operating areas or vicinity where there may be danger of drift. Vacated areas should not be reentered until drifting insecticides and volatile residues have dissipated. Do not store near feed and food products. Wash hands, arms, and face thoroughly with soap and water before eating or smoking. Wash all contaminated clothing with soap and hot water before reuse.

Phosphamidon (chloro diethylcarbamoyl methylvinyl dimethyl phosphate)—(i) *Above 2%.*

Poison

Antidotes: If swallowed. Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep quiet. Call a Physician Immediately!

If on skin. Remove contaminated clothing and immediately wash skin with soap and water.

Warning: Poisonous If Swallowed, Inhaled, or Absorbed Through Skin! Rapidly Absorbed Through Skin! Do not get in eyes or on skin. Wear natural rubber gloves, protective clothing and goggles. In case of contact, wash immediately with soap and water. Wear a mask or respirator of a type passed by the U.S. Department of Agriculture for phosphamidon protection. Keep all unprotected persons out of operating areas or vicinity where there may be danger of drift. Vacated areas should not be reentered until drifting insecticide and volatile residues have dissipated. Do not store near feed and food products. Wash hands, arms, and face thoroughly with soap and water before eating or smoking. Wash all contaminated clothing with soap and hot water before reuse.

(ii) *Dusts, 2% and below.*

Warning: May Be Fatal If Swallowed, Inhaled, or Absorbed Through Skin! Rapidly Absorbed Through Skin! Do not get in eyes or on skin. Wear natural rubber gloves, protective clothing and goggles. In case of contact wash immediately with soap and water. Wear a mask or respirator of a type

passed by the U.S. Department of Agriculture for phosphamidon protection. Keep all unprotected persons out of operating areas or vicinity where there may be danger of drift. Vacated areas should not be reentered until drifting insecticide and volatile residues have dissipated. Do not store near feed and food products. Wash hands, arms, and face thoroughly with soap and water before eating or smoking. Wash all contaminated clothing with soap and hot water before reuse.

Phosphorus (white or yellow)—(i) *1% and above.*

Poison

Antidote: Internal. Give one tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Follow by eight tablespoonfuls of medicinal mineral oil. (Not salad or vegetable oils). Have victim lie down and keep warm. Call a Physician Immediately!

Warning: Do not get in eyes, on skin or on clothing. Wash thoroughly after handling. Do not breathe fumes.

(ii) *Below 1%.*

Warning: May Be Fatal If Swallowed! Do not get in eyes, on skin or on clothing. Wash thoroughly after handling. Do not breathe fumes. Keep away from children and domestic animals.

Pine Oil. To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

Piperonyl butoxide. To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

Piperonyl cyclonene. To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

2-Pivalyl-1,3-indandione (Pival) and Salts—(i) *Above 3%.* Treat as *warfarin* (i).

(ii) *Concentrations from 0.1% to 3%, inclusive.* Treat as *warfarin* (ii).

(iii) *Finished baits.* Treat as *warfarin* (iii).

Potassium cyanate.

Caution: Avoid breathing dust or spray mist. Avoid prolonged or repeated contact with skin. Wash thoroughly after using. Avoid storage near feed and food products.

Pyrethrins. To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

Quaternary ammonium compounds—(i) *10% and above.*

Caution: Harmful if swallowed. Avoid contact with skin and eyes. In case of contact flush with plenty of water. Avoid contamination of food.

(ii) *Below 10%.*

Caution: Avoid contamination of food.

(iii) *Formulations having hazards requiring more caution statements.* Quaternary formulations having hazards requiring more caution statements than those indicated in subdivisions (i) and (ii) of this subparagraph must be considered individually.

Red squill powder and extracts; any effective concentrations.

Caution: Avoid contamination of feed and foodstuffs. Keep away from children and domestic animals.

Ronnel [O,O-dimethyl O-(2,4,5-trichlorophenyl) phosphorothioate]—(i) *Above 5%.*

Caution: Harmful if swallowed. Irritating to the skin and eyes. Do not get in eyes. Avoid prolonged and repeated contact with skin. Avoid prolonged breathing of dust or spray mist. Wash with soap and water after using. Avoid storage near feed and foodstuffs. Keep out of reach of children (H.P.).

(ii) *5% and below.*

Caution: Harmful if swallowed. Avoid prolonged breathing of spray mist. Avoid prolonged and repeated contact with skin. Wash thoroughly after using. Avoid contamination of feed and foodstuffs. Remove bird cages and fish bowls from rooms being sprayed (H.P.). Keep out of reach of children (H.P.).

(iii) *Feed supplements.*

Caution: Avoid prolonged or repeated contact with skin. Wash thoroughly after using. Avoid storage near feed and food products.

Rotenone. To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

Sabadilla powder.

Caution: Avoid breathing dust.

Selenites and selenates—(i) *3% and above.*

Poison

Antidote: Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep warm. Call a Physician Immediately!

Warning: Do not breathe dust or spray mist. Do not use on or around plants to be used for food. Keep away from children and domestic animals.

(ii) *Below 3%.*

Warning: May Be Fatal If Swallowed! Do not breathe dust or spray mist. Keep away from children and domestic animals. Do not use on or around plants to be used for food.

Sesamin. To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

Simazine (2-chloro-4,6-bis [ethylamino]-s-triazine). To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

Sodium fluoroacetate (1080); any concentration.

Poison

Antidote: If swallowed. Speed is essential. Immediately give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Then give two tablespoonfuls of Epsom Salt in water. Have victim lie down and keep warm and quiet. Call a Physician Immediately!

Warning: For use By Trained Operators Only! Poisonous If Swallowed! May cause secondary poisoning in other animals, so pick up and burn or bury deeply all carcasses of pests killed by 1080. Burn all surplus bait or bait containers. Keep pets and domestic animals confined away from baited areas. Do not contaminate feed and foodstuffs. Keep out of reach of children.

Sodium isopropyl xanthate—50% and above.

Caution: Irritating dust. Avoid breathing dust. Avoid contact with skin and eyes.

Sodium o-phenyl phenate. See under *phenols.*

Sodium trichloroacetate.

Caution: May cause burns. Avoid breathing spray mist. Avoid contact with skin, eyes, and clothing. In case of contact, immediately wash skin with plenty of water; for eyes, wash with water for at least 15 minutes and get medical attention.

Sorbic acid. To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

Strychnine and its salts.

Poison

Antidote: If less than ten minutes has passed since the poison was taken, give a tablespoonful of salt in a glass of warm water. Have victim lie down in a quiet, darkened room and keep him warm. Call a Physician Immediately!

Warning: Convulsive Poison! Do not contaminate feed and foodstuffs. Keep away from children and domestic animals.

Sulfur. To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

Terpene polychlorinates (chlorinated mixture of camphene, pinene and related terpenes, containing 65 to 66% chlorine) (*Strobane*).

(i) *Dry formulations 25% and above.* Treat as *toxaphene.*

(ii) *Dry formulations below 25%.* Treat as *toxaphene.*

(iii) *Solutions and emulsions.* Treat as *toxaphene.*

(iv) *Self-propelled sprays.* Treat as *toxaphene.*

2-(p-Tertiary-butyl phenoxy) isopropyl-2-chlorethyl sulfite (Aramite)—(i) *Solutions.*

Caution: Harmful if swallowed. Avoid inhalation or spray mist. Do not get on skin, in eyes, or on clothing. Avoid storage near feed and food products.

(ii) *Wettable powders and dusts.*

Caution: Avoid inhalation of dust or spray mist. Do not get on skin, in eyes, or on clothing. Avoid storage near feed and food products.

2,4,5,4-tetrachlorodiphenyl sulfone (Tedion). To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

Tetraethyl dithionopyrophosphate. Treat on same basis as tetraethyl pyrophosphate.

Tetraethyl pyrophosphate (TEPP)—(i) *1% and above.*

Poison

Antidotes: If swallowed. Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep warm and quiet. Call a Physician Immediately!

If on skin. Wash with large amounts of soap and water.

Warning: Poisonous If Swallowed, Inhaled, or Absorbed Through Skin or Eyes! Rapidly Absorbed Through Skin or Eyes. Do not breathe spray mist or dust. Avoid skin or eye contact with concentrated spray, or prolonged contact with diluted spray. Wear a mask or respirator of a type passed by the U.S. Department of Agriculture for tetraethyl pyrophosphate protection. Wear natural rubber gloves, protective clothing and goggles. Keep all unprotected persons out of operational area or vicinity where there may be danger of drift until one hour after spraying or dusting is completed.

(ii) *Below 1%.*

Warning: May Be Fatal If Swallowed, Inhaled, or Absorbed Through Skin or Eyes! Rapidly Absorbed Through Skin! Avoid skin or eye contact with concentrated spray, inhalation of spray mist, or prolonged contact with diluted spray. Wear protective clothing, goggles, and a mask or respirator of a type passed by the U.S. Department of Agriculture for tetraethyl pyrophosphate protection. Remove outer garments and wash face, hands, and arms with soap and water before eating or smoking. Keep all unprotected persons out of operational area or vicinity where there may be danger of drift, until one hour after spraying or dusting is completed.

Thallium compounds—(i) *1% and above.*

☠ Poison ☠

Antidote: Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep warm. Call a Physician Immediately!

Warning: Cumulative Poison! Absorbed through the skin. Do not get in eyes, on skin or on clothing. Wash thoroughly after handling. Keep children and domestic animals away from baited areas and burn all pests killed.

(ii) *Below 1%.*

Warning: May Be Fatal If Swallowed or Absorbed Through Skin! Do not get in eyes, on skin or on clothing. Wash thoroughly after handling. Do not contaminate feed and foodstuffs. Keep children and domestic animals away from baited areas and burn all pests killed.

NOTE: See also Interpretation 22 (162.120).

Thiram (Tetramethylthiuramdisulfide)—20% and above.

Caution: May cause skin irritation. Do not inhale dust. Do not get in eyes or on skin. Wash thoroughly after handling.

Thiocyanates—(i) *B-butoxy,B'-thiocyano diethyl ether—25% concentrate.*

Warning: Harmful if swallowed or absorbed through skin. Do not get in eyes, on skin or on clothing. Wash thoroughly after handling. Do not breathe spray mist.

(ii) *B-butoxy,B'-thiocyano diethyl ether—3% to 25% concentrate.*

Caution: Avoid prolonged contact with skin. Avoid prolonged inhalation of spray mist. Avoid contamination of feed and foodstuffs. (H.P.)

(iii) *B-thiocyano ethyl esters of mixed fatty acids averaging 10 to 18 carbon atoms, 13.2% of B-butoxy B'-thiocyano diethyl ether—35% concentrate.*

Caution: Avoid prolonged contact with skin. Avoid prolonged inhalation of spray mist. Avoid contamination of feed and foodstuffs. (H.P.)

Toxaphene (chlorinated camphene containing 67 to 69% chlorine)—(i) *Dry formulations 25% and above.*

Warning: May Be Fatal If Swallowed! Do not breathe dust or spray mist. Do not get in eyes, on skin or on clothing. Wash thoroughly after using. Do not store near feed and food products. To protect fish and wildlife, do not contaminate streams, lakes, or ponds with this material.

(ii) *Dry formulations below 25%.*

Caution: Harmful If Swallowed! Avoid prolonged breathing of dust or spray mist. Avoid contact with eyes, skin and clothing. Wash thoroughly after using. Avoid storage near feed and food products. To protect fish and wildlife, do not contaminate streams, lakes, or ponds with this material.

(iii) *Solutions and emulsions.* Labels should bear precautionary statements covering the combined hazards of toxaphene and solvent.

(iv) *Self-propelled sprays.*

Caution: Do not spray on skin, or animals. Wash with soap and water after using. Avoid inhalation of mist. Avoid contamination of feed and foodstuffs. Remove birds, pets, and fish bowls from rooms being sprayed. Keep out of reach of children.

Trichloroacetic acid.

Caution: Causes Burns! Harmful if swallowed. Avoid breathing spray mist. Avoid contact with eyes, skin, and clothing. In cases of contact, immediately wash skin with plenty of soap and water; for eyes, wash with water for at least 15 minutes and get medical attention.

N-trichloromethyl thiophthalimide (phaltan).

Caution: Avoid inhalation of dust or spray mist. Avoid prolonged or repeated contact with skin. Avoid storage near feed and food products.

2,4,5-Trichlorophenoxyacetic acid (2,4,5-T)—(i) *2,4,5-T acid and inorganic salts—20% and above.*

Caution: Avoid inhaling dust. Avoid contact with skin, eyes, or clothing.

(ii) *Organic esters and amine salts.*

Caution: Avoid contact with skin, eyes, or clothing.

NOTE: Added warning statements regarding danger to crops through drifting dusts, spray, or vapors should be used on all labels of 2,4,5-T formulations.

Warfarin (3-[alpha-acetonylbenzyl]-4-hydroxycoumarin) and salts—(i) *Above 3%.*

☠ Poison ☠

Antidote: Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Call a Physician Immediately!

Warning: Keep away from humans, domestic animals and pets. If swallowed by humans, domestic animals, or pets, this material may reduce the clotting ability of the blood and cause bleeding. In such case, intravenous and oral administration of Vitamin K combined with blood transfusions are indicated as in the case of hemorrhage caused by overdoses of bishydroxycoumarin.

(ii) *Concentrations from 0.1% to 3%, inclusive.*

Caution: Keep away from humans, domestic animals, and pets. If swallowed by humans, domestic animals, or pets, this material may reduce the clotting ability of the blood and cause bleeding. In such case, intravenous and oral administration of Vitamin K combined with blood transfusions are indicated as in the case of hemorrhage caused by overdoses of bishydroxycoumarin.

Directions for use should include a statement directing placement of baits so as to protect humans, pets, and domestic animals.

(iii) *Finished baits.*—The only requirement is the statement directing placement of baits so as to protect humans, pets, and domestic animals; however, voluntary use of precautionary labeling similar to that required under subdivision (ii) of this subparagraph would not be objectionable.

Zinc phosphide—(i) *10% and above.*

☠ Poison ☠

Antidote: Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep warm. Call a Physician Immediately!

Warning: Do not breathe dust or fumes. Avoid contact with skin. Wash hands after using. Do not contaminate feed and foodstuffs. Keep away from children and domestic animals.

(ii) *2% to 10%.*

Warning: May Be Fatal If Swallowed! Do not breathe dust or fumes. Avoid contact with skin. Wash hands after using. Do not contaminate feed and foodstuffs. Keep away from children and domestic animals.

(iii) *Below 2%.*

Caution: Harmful If Swallowed! Avoid breathing dust or fumes. Avoid contact with skin. Wash hands after using. Avoid contamination of feed and foodstuffs. (H.P.) Keep away from children and domestic animals.

NOTE: *Rodenticide use, hand broadcast, wear rubber gloves.*

Zinc salts—not elsewhere included—(considered as zinc, not as anions)—*5% and above.*

Caution: Harmful if swallowed.

Zineb (zinc ethylene bisdithiocarbamate)—10% and above.

Caution: May Cause Irritation of Nose and Throat! Do not breathe dust or spray mist.

NOTE: For dust mixtures 50% and above, add: Keep away from fire and sparks.

Ziram (zinc dimethyl dithiocarbamate)—5% and above.

Caution: May Be Harmful If Swallowed or Inhaled! May cause irritation of eyes, nose, throat, and skin. Avoid contact with eyes, skin, or clothing. Avoid breathing dust or spray mist. In case of contact, flush with plenty of water; for eyes, get medical attention.

NOTE: For dust mixtures 50% and above, add: Keep away from fire and sparks.

§ 162.117 Interpretation with respect to labeling of household insecticides containing chlordane.

In determining whether household insecticides containing chlordane comply with the requirements of the Federal Insecticide, Fungicide, and Rodenticide Act, the following principles will apply:

(a) *Permissible uses.* Products containing chlordane intended for use in and around human dwellings shall not be deemed to comply with the act unless their labeling shows that where they are intended for use inside of premises, they are to be used only against one or more of the following pests: roaches, waterbugs, silverfish, ants, brown dog ticks, carpet beetles, houseflies, wasps, mosquitoes, box elder bugs, crickets, scorpions, and clothes moths (under restricted directions as hereinafter stipulated), or such other pests as the Director may find to be controlled effectively by one or more of the specified formulations when applied in a manner otherwise compatible with proper usage.

(b) *Permissible formulations.* (1) Most household insecticides containing chlordane fall into the following four general classes:

(i) Petroleum distillate (kerosene) solutions which may or may not contain limited quantities of other chlorinated hydrocarbon insecticides and certain paralytic agents.

(ii) Water emulsions which do not ordinarily contain any other insecticidal ingredients and which are to be used undiluted, or emulsifiable concentrates to be used after suitable dilutions with water.

(iii) Dry powder formulations based on talc, pyrophyllite or other suitable diluents, which sometimes contain limited quantities of other insecticides.

(iv) Pressurized dispensers usually of the 12-ounce size which ordinarily contain 2 percent of chlordane by weight and may not contain more than 3 percent by weight. Other chlorinated hydrocarbon insecticides may be substituted for a part of the chlordane as long as the relative hazard to human health of the mixture is no greater than that of one containing 3 percent chlordane by weight. Acceptable self-propelled sprays must deliver a coarse, wet spray.

In addition, there are a few other special products which contain chlordane.

(2) Petroleum distillate spray formulations frequently contain 2 percent chlordane by weight without any other residual toxicant. Under certain circumstances less than 2 percent chlordane by weight may be used. However, the chlordane content of these formulations shall not exceed 3 percent by weight. If other chlorinated hydrocarbon insecticides are present which have additive toxicities, the hazard of the mixed formulation shall not exceed that of one containing a maximum of 3 percent chlordane by weight as the only chlorinated hydrocarbon insecticide present.

(3) Water emulsion formulations when diluted for use shall not contain more than 3 percent chlordane by weight without any other chlorinated residual toxicant. Under certain circumstances less than 2 percent chlordane by weight may be used. However, the chlordane content in these formulations shall not exceed 3 percent by weight. If other chlorinated hydrocarbon insecticides are present which have additive toxicities, the hazard of the mixed formulation shall not exceed that of one containing a maximum of 3 percent chlordane by weight.

(4) Dry powder formulations of chlordane based on talc, pyrophyllite or other suitable dry diluents shall not contain more than 6 percent chlordane by weight. If other chlorinated hydrocarbon insecticides are present which have additive toxicities, the hazard of the mixed dry powder shall not exceed that of one containing a maximum of 6 percent chlordane by weight.

(5) Self-propelled sprays must comply with all provisions outlined under subparagraph (1) (iv) of this paragraph.

(6) All formulations referred to above to be accepted must be fully effective when used in accordance with the directions specified on the label.

(c) *Directions for use*—(1) *General.* The directions for liquid formulations and pressurized sprays shall under all circumstances provide for application as a coarse, wet spray or by the use of a paint brush or similar means. Directions for liquid formulations, dry powders, and any other properly formulated mixtures which contain chlordane, either alone or in combination with other toxicants, shall prescribe application in a manner which will treat only infested cracks, surfaces or other areas where the insects rest, run or hide. Directions for use against clothes moths shall set forth the necessary treatment of fabrics. The residual effectiveness of chlordane is dependent on its deposition on desired surfaces or in fabrics. There shall be no claims for spraying in the air or for the use of fine mist sprayers. There shall be no claims or directions which might lead to contamination of foods. There shall be no claims for safety or nontoxicity.

(2) *Particular insects*—(i) *Roaches and waterbugs.* The directions, for control of roaches and waterbugs shall provide for thorough spraying, painting or dusting of infested cracks and other hiding places and of adjacent exposed surfaces where roaches and waterbugs will crawl when they come out of hiding. The directions shall indicate that the application should be repeated as often as necessary to maintain effective control.

(ii) *Silverfish.* The directions for control of silverfish shall provide for thorough spraying, painting or dusting of baseboards, areas behind shelving, book cases and storage areas. The directions shall indicate that the application should be repeated as often as necessary to maintain effective control.

(iii) *Ants.* The directions for control of ants shall provide for thorough spraying, painting or dusting of ant trails and areas around door sills and window frames where the pests may enter. The directions should also indicate that it is frequently desirable to treat the openings around water pipes, heat ducts, electrical outlets and baseboards where ants come into rooms from wall spaces and partitions, and that the application should be repeated as often as necessary to maintain effective control.

(iv) *Brown dog ticks.* The directions for control of brown dog ticks shall provide for thorough spraying, painting or dusting of infested areas around baseboards, window and door frames, wall cracks, sleeping quarters of household pets and localized areas of floors and floor coverings. The directions shall indicate that the frequency and extent of applications necessary will depend upon the source and intensity of the infestation. The directions shall also indicate that fresh bedding should be placed in animal quarters following treatment, and that pets or other animals should not be treated with household formulations. Water emulsions not exceeding 0.5 percent chlordane concentration by weight are acceptable for direct application to dogs once in two weeks, or once weekly in the case of water emulsions not exceeding 0.25 percent chlordane concentration by weight.

(v) *Carpet beetles.* The directions for the control of carpet beetles shall provide for a thorough spray, paint, or dust application to infested areas of carpets, localized areas of floors and baseboards, and into cracks and under carpets where these pests may be found. Localized treatments of areas on floors, baseboards and shelves of closets may also be indicated. The directions shall also provide that the application should be repeated as often as necessary to maintain effective control.

(vi) *Houseflies, wasps and mosquitoes.* The directions for the killing of houseflies, wasps, and mosquitoes indoors shall provide for thorough and repeated spraying, painting or dusting of selected surfaces such as doors, around windows and areas frequented by these insects. The directions for killing houseflies, wasps and mosquitoes outdoors and for preventing the entry of these insects into human dwellings should provide for thorough spraying, painting or dusting of screens, window frames, doorsills and selected areas of porches where these insects tend to alight or congregate. The directions should provide also for repeated applications as necessary to obtain the maximum value against these pests since insecticidal residues on the outside of buildings tend to deteriorate quite rapidly. In the case of wasps, directions may be given to spray or dust the nest with a strong formulation after dark when all of the insects have returned to the nest.

(vii) *Box elder bugs.* The directions for preventing annoyance by box elder bugs should provide for thorough painting, spraying or dusting around doorsills, window frames or wherever these pests may enter the home. The directions should also provide for the direct spraying of any congregation of these insects as soon as it is observed. The directions may indicate that thorough spraying or dusting of areas where these insects crawl or congregate on porches or sides of houses will aid in preventing annoyance by these pests on the outside of dwellings and that effective results against these pests can often be obtained by spraying the infested box elder tree or other host plant with a suitable insecticide.

(viii) *Crickets.* The directions for the control of crickets shall provide for thorough spraying, painting or dusting of baseboards, floors of closets and storage places and other hiding places. The directions shall also indicate that the application should be repeated as often as necessary to maintain effective results.

(ix) *Spiders and centipedes.* The directions for the control of these pests shall provide for thorough spraying or dusting of infested baseboards and corners and of pipes, storage localities and other infested areas in basements. The directions shall indicate that the application should be repeated as often as necessary to maintain effective control.

(x) *Scorpions.* The directions for preventing the entry of scorpions shall provide for thorough spraying, painting or dusting of strong formulations around doorsills, window frames or other areas where these insects may enter the premises. These directions may include limited interior treatment at the places of possible entry. Directions may be given that liberal spraying or dusting of surfaces over which these pests may crawl will aid in controlling these pests in garages and buildings other than human dwellings. The directions should indicate that frequent repeated applications may be necessary, particularly on exterior surfaces exposed to the weather.

(xi) *Clothes moths.* The directions for the protection of clothing, blankets and other woolens from injury by clothes moths should provide for spraying with 2 percent chlordane solution to thoroughly dampen all surfaces. Such directions should also provide that treated articles should be dried and immediately thereafter placed in storage, and that all articles should be dry cleaned before allowing them to be used as clothing or as bedding. Formulations which contain smaller amounts of chlordane may also contain other suitable moth proofing insecticides provided the hazard of the mixed formulation does not exceed that of one containing the maximum concentration of chlordane permitted for such use.

(d) *Ingredient statement provisions.* The following forms of ingredient statements would fulfill the requirements of the Act as to ingredient statements for the four general classes of formulations

(b) To be acceptable for registration, all claims proposed in this connection must be specific. Broad, general, and indefinite claims are likely to be misleading and cannot be accepted.

made in a manner to confuse the best recommendation by the manufacturer. Any labeling bearing claims relative to effectiveness in hard water in any type of application must bear an equal

surized products, some of which are designed for use in undiluted form by the consumer. In some cases concentrated products requiring various degrees of dilution are marketed. These products

with propellant 11, methylene chloride or methyl chloroform, together with small amounts of propane. Pressurized products of this class usually contain lower levels of propellants than are com-

ual treatment may be applied to as many areas of the infested premises and to as large a proportion of the available surface as may be considered necessary for effective pest control. When the usage

(d) *Ingredient statement provisions.* The following forms of ingredient statements would fulfill the requirements of the Act as to ingredient statements for the four general classes of formulations of household insecticides containing chlordane. These suggested forms of statements assume that chlordane is the only toxicant present and that petroleum distillate in the form of deodorized kerosene is the only other active ingredient.

(1) *Kerosene solutions.*

	Percent
(i) Active ingredients:	
Technical chlordane [1]	-----
Petroleum distillate	-----
Total	100
(ii) Active ingredients:	
Petroleum distillate	-----
Technical chlordane [1]	-----
Total	100

(2) *Water emulsions or dry powders.*

(i) Active ingredients:	
Technical chlordane [1]	-----
(ii) Inert ingredients	-----
Total	100

(3) *Self-propelled sprays.*

(i) Active ingredients:	
Technical chlordane [1]	-----
Petroleum distillate	-----
(ii) Inert ingredients	-----
Total	100

[1] Equivalent to -- percent octachloro-4,7-methano tetrahydroindane and -- percent of related compounds.

[2] Consists of octachloro-4,7-methano tetrahydroindane and related compounds.

The correct percentages should be given in the blank spaces and the sum of the percentage of octachloro-4,7-methano tetrahydroindane and the percentage of related compounds stated should be equal to the percentage of technical chlordane in the product.

(e) *Precautionary labeling provisions.* Precautionary labeling shall conform to the patterns set forth in Interpretation 18, Revision 1, for the various formulations involved. With respect to fire hazard cautions, the following will be acceptable:

Fire hazard. (For use on petroleum distillate solutions only.)

Caution. Do not spray into or near fire or open flame. Do not smoke while spraying.

§ 162.119 Interpretation concerning labeling claims for germicides, disinfectants, and sanitizers recommended for use in hard water areas.

(a) Naturally occurring hard waters act to slow down the rate of germicidal activity in some germicides, disinfectants, and sanitizers recommended for dairy, food plant utensil, and restaurant use, so that they may not perform satisfactorily in all hard water areas when speed of action is a primary requisite to effectiveness. If a manufacturer or distributor submits labeling which contains specific claims and directions for use in hard water areas, such labeling will be accepted for registration only if adequate experimental data are submitted to justify the claims and representations proposed.

(b) To be acceptable for registration, all claims proposed in this connection must be specific. Broad, general, and indefinite claims are likely to be misleading and cannot be accepted.

(c) There is considerable variation in natural hard waters and the precise evaluation of the effects of water hardness on germicides, disinfectants, and sanitizers can best be accomplished by the establishment of acceptable chemical standards of reference for hard water. Therefore, all products for which claims for effectiveness in hard waters are made in connection with registration, and all regulatory samples which may be collected in connection with the enforcement of tho act will be evaluated in waters prepared according to the following procedure:

(1) Two stock solutions are prepared. One, solution A, is made by dissolving 31.74 grams of $MgCl_2$ and 73.99 grams of $CaCl_2$ in boiled distilled water and adjusting to a one liter volume. The other, solution B, is made by dissolving 56.03 grams of $NaHCO_3$ in boiled distilled water and adjusting to a one liter volume. Solution A may be heat sterilized. Solution B cannot be heat sterilized, but can be sterilized by filtration. The required amount of solution A is added to a sterile one liter flask and at least 600 mls of sterile distilled water added. Then 4 mls of solution B is added and the volume brought to one liter with sterile distilled water. Each ml of solution A used will give the water a hardness equivalent to approximately 100 p.p.m. of hardness calculated as $CaCO_3$ using the formula:

Total hardness as p.p.m. of $CaCO_3 = 2.96 \times$ p.p.m. of $Ca + 4.115 \times$ p.p.m. of Mg.

In preparing waters in accordance with this procedure, the pH of all test waters up to 2,000 p.p.m. of hardness should fall between 7.6 and 8.0. Chemicals of reagent grade should be employed. If the hydrate of $MgCl_2$ is used, substitutions should be made on an equimolar basis. All synthetic hard waters prepared for use by this procedure should be checked chemically for hardness at the time the tests are made employing a procedure or procedures described in the 11th Edition Standard Methods for the Examination of Water and Sewage. A.P.H.A. (1960).

(d) In evaluating effectiveness claims for products to be used in waters of specified degrees of hardness according to the standard outlined in this section, the A.O.A.C. Germicidal and Detergent Sanitizers-Official test [Manual of Methods A.O.A.C. Ninth Edition, pages 70–72 (1960)] will be employed.

(e) Except as otherwise provided in this section, to be acceptable for registration, label claims relating to dairy, restaurant, and food plant utensil use must be based upon effective results, within 30 seconds, using the test named in paragraph (d) of this section in water of the degree of hardness indicated in the label claims. Supplemental claims for effectiveness at longer intervals of time or at elevated temperatures in dairy, restaurant, and food plant utensil use, or in other specified applications, will be given consideration, but should not be made in a manner to confuse the basic recommendation by the manufacturer. Any labeling bearing claims relative to effectiveness in hard water in any type of application must bear an equally prominent declaration based on the procedure specified above.

(f) To avoid misleading the consumer, claims for effectiveness in waters above 100 p.p.m. of hardness should be made in increments no less than 50 p.p.m. of hardness calculated as $CaCO_3$. For example, evidence of effectiveness in waters of 478 p.p.m. of hardness should be construed as supporting a claim for effectiveness in waters of 450 p.p.m. of hardness, and evidence of effectiveness in waters of 510 p.p.m. should be construed as supporting a claim for effectiveness in waters up to 500 p.p.m. of hardness.

(g) Section 162.14 of the regulations defines misbranding to include "any statement directly or indirectly implying that the economic poison or device is recommended or endorsed by any agency of the Federal Government." Therefore, any label claims relating to endorsement or recommendation of a specific product by the Agency or the U.S. Public Health Service will not be accepted for registration. However, a claim such as "This product fulfills the criteria of Appendix F as revised March 12, 1956, of the Milk Ordinance and Code, 1953 Recommendations of the U.S. Public Health Service in waters up to _____ p.p.m. of hardness calculated as $CaCO_3$ when tested by the A.O.A.C. Germicidal and Detergent Sanitizers-Official Method" may be accepted.

§ 162.120 Interpretation with respect to registration of thallium products for the control of insect and rodent pests in the household.

(a) Labels and other labeling accepted in connection with registration of thallium-containing products for household use must bear clearly and prominently a statement to the effect that the product is for use only by governmental personnel trained in the proper use and management of such products. This includes qualified personnel in Federal, State, or local governments. An example of acceptable wording of such a limiting statement is as follows:

For use by Government agencies only.

In addition to the above statement, the label must also bear clearly and prominently a warning against sale to the general public and the labeling must otherwise comply with the current requirements of the Act and regulations.

(b) All applications for registration shall include five copies of all labels, circulars, or other literature which may be associated with or accompany the product at any time. A statement of the full formula shall be included giving each ingredient (including those in the bait) by percent.

§ 162.121 Interpretation with respect to liquid, powdered and pressurized household insecticides acceptable for depositing insecticidal and chemical residues.

(a) *Composition.* These products are ordinarily marketed as oil solutions, emulsions, suspensions, powers or pressurized products, some of which are designed for use in undiluted form by the consumer. In some cases concentrated products requiring various degrees of dilution are marketed. These products usually have a petroleum distillate base, together with such auxiliary solvents as may be necessary to keep the formulation as a solution under conditions of relatively low temperature. Water is sometimes used in the liquid formulations. Auxiliary solvents, such as methylated naphthalenes, methylated aromatic petroleum solvents, methylene chloride and methyl chloroform are frequently used, although the last two named are more common in pressurized products than in liquid formulations. The propellants commonly encountered are known as propellant 11 (trichloromonofluoromethane), propellant 12 (dichlorodifluoromethane), nitrogen, carbon dioxide, nitrous oxide, and certain hydrocarbons, such as propane. Propellant 12 is used alone or in various proportions with propellant 11, methylene chloride or methyl chloroform, together with small amounts of propane. Pressurized products of this class usually contain lower levels of propellants than are commonly encountered in the products discussed in Interpretation 15, as revised (§ 162.113). The present interpretation is not intended to cover products designed primarily as space sprays which are used in such a manner as not to deposit substantial chemical residues on treated surfaces. Moreover, mothproofing treatments of woolens and fabrics for the purpose of impregnating them with a protective chemical residue are excluded from this Interpretation.

(b) *Acceptable ingredients.* The following is a list of chemicals frequently encountered in household type insecticides of this class. The percentage figure given in each case is the maximum that can be accepted for this purpose. An asterisk in connection with the percentage figure indicated that the usage is currently restricted to professional applications by a pest control operator or a public health official. All percentage figures are expressed in terms of weight alone.

Products covered by this interpretation frequently contain a combination of pesticidal ingredients together with synergized pyrethrins and thiocyanates. These ingredients may be used in the necessary combinations, except that when combinations of phosphates and/or chlorinated hydrocarbons are proposed, concentrations of these ingredients should be proportionately reduced. The information set forth in paragraph (b) of Interpretation 15, as revised (§ 162.113(b)) is also applicable to the products covered by this interpretation.

Pesticidal chemical and scope of treatment	Maximum allowable concentration (percent)	
	Liquid and pressurized	Powder
"Butonate" O,O-dimethyl 2,2,2-trichloro-1-(n-butyryloxy ethyl) phosphonate—%	2.0	-----
Dichloro diphenyl dichloroethane—% (DDT) (general treatment)	6.0	**10.0
Dichloro diphenyl dichloroethane—% (TDE) (general treatment)	4.0	10.0
Malathion—% [1] (general treatment)	2.0	5.0
Malathion—% [1] (spot application)	4.0	5.0
"Diazinon" O,O-diethyl O-(2-isopropyl-4-methyl-6-pyrimidinyl) phosphorothioate—% (spot application)	0.5	1.0
(Fast control operators only) (spot application)	*1.0	*2.0
"Perthane" diethyl diphenyl dichloroethane [or 1,2-dichloro-2,2-bis(4-ethylphenyl) ethane]—% (95% of the total amount of technical ingredient present). Related compounds—% (5% of the total amount of technical ingredient present) (spot application)	4.0	10.0
Ronnel—% [2] (general treatment)	2.0	-----
(spot application)	4.0	-----
Technical chlordane—% [3] (spot application)	3.0	6.0
Dicapthon—% [4] (spot application)	*1.0	-----
Dieldrin—% [5] (spot application)	0.5	1.0
"Dilan" [6] (A mixture of 2-nitro-1,1-bis ((4 chlorophenyl)) butane and 2-nitro-1,1-bis ((4 chlorophenyl)) propane)—% (general application)	3.0	-----
Heptachlor—% (spot application)	0.5	-----
(Lindane) (gamma isomer of benzene hexachloride from lindane—%) spot application	0.5	1.0
Pyrethrum powder (pyrethrins—%)	-----	1.6
Methoxychlor—% [7] (general application)	4.0	10.0
Sodium fluoride—%	-----	96.0
Toxaphene—% (technical chlorinated camphenes) (67–69% chlorine) (spot application)	4.0	10.0
Ryanie—% (spot application)	-----	100.0
Silica aerogels (spot application)	-----	-----
Silica gel—%	-----	100.0
Propellant additives		
"MGK R-11" 2,3,4,5 bis (2butylene) tetrahydrofurfural—% (spot application) (repellent)	4.0	-----
"MGK R-326" Di-n-propyl isocinchomeronate—% (spot application)	2.0	-----
"Tabatrex" Dibutyl succinate—% (spot application) (repellent)	4.0	-----

** An additional specialized usage includes a concentration of 50% of DDT which is restricted to the control of roaches and ants by pest control operators or public health officials only. The dust should be pinned only in areas inaccessible to children and pets. Any powder visible after application is completed should be carefully brushed into cracks and crevices or else removed. Such dusts may be applied on surfaces behind sinks, refrigerators, stoves and cabinets that are not accessible to animal pets and children. No generalized use in the household would be acceptable. Powders of this type may also be used as a rodenticide against mice.

[1] Malathion (O,O-dimethyl dithiophosphate of diethyl mercaptosuccinate).

[2] Ronnel (O,O-dimethyl O-2,4,5 trichlorophenyl phosphorothioate).

[3] Technical chlordane —% with explanatory statement: Equivalent to —% (60% of first percentage) octachloro-4,7-methanotetrahydro indane and —% (40% of first percentage) related compounds.

[4] Dicapthon (O,O-dimethyl O-(2-chloro-4-nitrophenyl) phosphorothioate).

[5] An explanatory statement is required, reading: —% hexachlorexopoxyoctahydro-endo, exo-dimethanonaphthalene —% related compounds.

[6] 2-nitro-4,1-bis (p-chlorophenyl)propane —% 2-nitro-1,1-bis (p-chlorophenyl)butane —% (both active ingredients always present).

[7] Technical methoxychlor —% an explanatory substatement is required: Equivalent to —% (88% of the first percentage) 2,2-bis (p-methoxyphenyl) 1,1,1-trichloroethane and —% (12% of the first percentage) other isomers and reaction products.

(c) *Ingredient statement.* The information set forth in paragraph (c) of Interpretation 15, as revised (§ 162.113(c)) is equally applicable to the products covered by this interpretation.

(d) *Manner of application. When* general application is specified the residual treatment may be applied to as many areas of the infested premises and to as large a proportion of the available surface as may be considered necessary for effective pest control. When the usage is limited to "spot application" much greater attention should be given to limiting the treatment to those surfaces where the pests have been seen or where they are suspected of hiding. Such treatments would normally be limited to a maximum of 20 percent of the floor and lower wall surfaces including shelving and cabinets.

(e) *Basic insecticidal value.* These products are required to contain enough of the residual insecticidal ingredient so that when they are applied substantial residues of the insecticidal chemical will be deposited on all treated surfaces. The biological evaluation of the effectiveness of these treatments will be considered separately in all cases on the basis of the existing experimental information on the insecticidal value of the chemical or upon such data and practical evidence as can be furnished by the applicant. If new or unusual formulations or claims and directions for use are submitted, it will be necessary to request the submission of sufficient experimental evidence to justify the proposed claims. In any case, it will be necessary for the applicant to submit data to establish the safety of any new or unusual chemical or pesticidal treatment that is proposed. It is the usual practice to consult with the Public Health Service of the Department of Health, Education, and Welfare on such matters.

(f) *Directions for use*—(1) *General.* In all cases the labeling should bear adequate directions for use against all of the insects named in the labeling. These products are commonly recommended for the control of such pests as roaches (water bugs), house flies, mosquitoes, silverfish, spiders, bed bugs, ants, carpet beetles, scorpions, fleas, and brown dog ticks. Many of these formulations are not acceptable for mist spray application in the air and care should be taken to apply the products as relatively coarse wet sprays which will adhere to treated surfaces. This is especially important in the case of pressurized products. Since the habits and life cycles of different pests vary considerably, the directions must, in each case, be adapted to the particular kind of insect or other pest which is causing annoyance and to the type of structure or building in which the product is used. Claims that residual insecticidal value will last for any particular period of time are usually undesirable, due to the variable conditions under which the products are used. It may be stated that the product is a residual insecticide but the labeling should emphasize the need for repeated applications as often as necessary since it is not possible to anticipate all of the conditions of use, types of surfaces to be treated and cleaning operations of treated surfaces.

(2) *Particular insects*—(i) *Flies and mosquitoes.* Directions for use against these pests should provide for thorough

treatment of all surfaces where these insects are known to alight or congregate. Emphasis should be placed on spraying or applying powders around

for thorough spraying of suitable formulations along baseboards, edges of carpeting, under furniture, under carpeting

statements which are necessary to protect the public from injury and acceptable directions for use must be consist-

While these products may have considerable residual insecticidal value when properly applied, it is usually desirable to avoid any specific claim that residual

(c) *Economic poisons permitted to bear limited claims for non-toxicity.* An economic poison may have such labeling claims as "non-toxic to humans

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treatment of all surfaces where these insects are known to alight or congregate. Emphasis should be placed on spraying or applying powders around doors, windows and porches. In all cases, repeated applications should be specified as often as necessary.

Acceptable chemicals: DDT, dichlorodiphenyl dichloroethane, "Butonate," heptachlor, malathion, "Diazinon," ronnel, chlordane, dicapthon, dieldrin, "Perthane," "Dilan," a mixture of 2-nitro-1,1-bis (4 chlorophenyl) butane and 2-nitro-1,1-bis (4 chlorophenyl) propane, lindane, methoxychlor, "MGK R–326" (repellent), "tabatrex" (repellent), and "MGK R–11" (repellent).

(ii) *Household ants, roaches and silverfish.* The directions for use against these pests should provide for thorough spraying or distribution of the powder into all parts of the room suspected of harboring them. Special attention should be paid to cracks and hidden surfaces around sinks or food storage areas where these insects may be hiding. Thorough treatment around doors and windows is desirable in connection with directions for use against ants. Spraying around baseboards, windows, door frames, bookcases and storage areas is usually desirable in connection with directions for use against silverfish. Repeated applications should be specified in all cases. Silica gels are usually applied at the rate of 2 ounces of the powder per 100 sq. ft. of treated floor area. Liberal applications are needed. Special care should be taken to use all of these products in such a manner that food and food utensils will not be contaminated. If any spray or powder should contaminate cooking utensils, silverware or dishes, they should be thoroughly cleaned.

Acceptable chemicals: DDT, dichlorodiphenyl dichloroethane, "Butonate" (roaches and silverfish only), malathion, sodium fluoride, pyrethrum powder, "Diazinon," ronnel, chlordane, dicapthon, dieldrin, heptachlor, methoxychlor, toxsphene, ryania, Silica gels, "Tabatrex" (repellent), and "MGK R–11" (repellent).

(iii) *Bed bugs.* The directions for use against this pest should provide for thorough spraying of the bed, the springs and the mattress, as well as the baseboards and wall cracks about the bedroom. Repeated applications are usually necessary for good results against this pest. In the case of malathion, the maximum acceptable concentration for this use is a 1 percent spray which in any case is to be applied lightly to the mattress. Chlordane, dicapthon and "Diazinon" are not acceptable for use against this pest. Lindane is not acceptable as a residual insecticide for treatment of beds and mattresses, even though a concentration of 0.1 percent has been accepted as a non-residual insecticide for use against this pest.

Acceptable chemicals: DDT, pyrethrum powder, dichlorodiphenyl dichloroethane, malathion and ronnel 1 percent.

(iv) *Carpet beetles.* The directions for use against these pests should provide for thorough spraying of suitable formulations along baseboards, edges of carpeting, under furniture, under carpeting and rugs and in closets and shelving wherever these insects are seen or suspected. Pressurized products and powders may also be used for this purpose. In all cases, the treatment should be repeated as often as necessary.

Acceptable chemicals: DDT, dichlorodiphenyl dichloroethane, malathion, "Diazinon," chlordane, dieldrin, heptachlor, ronnel, lindane, methoxychlor and "Perthane."

(v) *Fleas and brown dog ticks in buildings.* Directions for use against these pests should provide for liberal applications to floor areas, cracks and crevices, sleeping quarters of animals, behind pictures and wherever presence of these insects may be suspected. Liberal and repeated applications to the infested areas are desirable in all cases. Spot applications are not suitable for the control of fleas. Consequently, such insecticides as lindane and chlordane are not acceptable for use against this pest.

Acceptable chemicals: DDT, dichlorodiphenyl dichloroethane, "Diazinon," ronnel, methoxychlor, malathion 2 percent and Silica gel (fleas only), and chlordane (for brown dog ticks).

(vi) *Spiders and scorpions.* Directions for the control of these pests should provide for thorough wet spraying or dusting around windows, doors and other areas over which these pests may crawl. Pressurized sprays may be used on the same general terms as liquid and powdered products. In all cases, the applications should be repeated as often as necessary.

Acceptable chemicals: DDT, dichlorodiphenyl dichloroethane, malathion, "Diazinon," ronnel (spiders only), chlordane, dieldrin, lindane, methoxychlor, heptachlor (spiders only), and "Butonate" (spiders only).

(vii) *Pantry pests.* Saw-toothed grain beetle, flour beetle, rice weevil, cigarette beetle, drug-store beetle and Indian-meal moth are pests included in this category. While cleanliness and good housekeeping are basic to the prevention of losses by reason of these pests, insecticides may sometimes be carefully used to advantage. Directions to aid in the control of these pests should provide for the removal of all packages of food and for the treatment of the interior surfaces of the shelves and cupboards with a residual spray. The spray must be allowed to dry before the packages are put back on the shelf. Shelf paper or foil should be used to prevent contact of food or utensils with sprayed surfaces. It should be emphasized that treatment of this kind is of only supplemental value since it does not affect the insects breeding inside the packages. Infested food packages should be destroyed or fumigated.

Acceptable chemicals: DDT, chlordane, lindane, methoxychlor, malathion, ronnel, "Perthane," and "Diazinon."

(g) *Caution and warning statements.*—(1) *General.* All economic poisons are required to bear warning or caution statements which are necessary to protect the public from injury and acceptable directions for use must be consistent with these requirements. These cautions and directions are quite variable, depending on the composition of the product and the manner of use which is intended. The detailed precautions especially for operator protection, during use of most of the pesticidal ingredients, are given in Interpretation 18 (§ 162.116). Cautions to protect food and food handling utensils from contamination are often specified and are appropriate in any case. These products should be kept out of the reach of children and pets. Many of these products will stain or discolor wallpaper, textiles, and other finished surfaces or articles. Appropriate label cautions or warnings should be included in all such cases.

(2) *Liquid and powdered insecticides.* In all cases where petroleum distillate or other combustible formulations are involved, warnings against use in the presence of open flame and sparks are required.

(3) *Pressurized products.* Since many of these products contain significant amounts of petroleum distillate, or other combustible substances in the presence of open flames or heated surfaces and since bursting or leakage of contents may occur at high temperatures, all pressurized products (except as specified hereafter) should bear the following warning or its practical equivalent:

WARNING: Contents under pressure. Do not puncture. Do not use or store near heat or open flame. Exposure to temperatures above 120° F. may cause bursting. Never throw container into fire or incinerator.

Pressurized products which have extreme flammability or explosive hazards will be considered separately and additional precautionary labeling prescribed. Methods for determining the need for such additional precautionary labeling may be obtained from the Director, Pesticides Regulation Division, Environmental Protection Agency, Washington, D.C. 20250. It is the responsibility of the registrant to provide precautionary labeling which will be adequate to prevent injury to persons using or handling his product.

(h) *Deterioration.* Some of these formulations deteriorate quite rapidly in storage. Also, certain types of packaging tend to accelerate this deterioration. It is the responsibility of the registrant and marketer of the particular pesticide to so formulate, package and market his products that they will always contain the amounts of active ingredients which were represented in the information furnished at the time of registration. If products are known to deteriorate, a date may be placed on the label advising against use after a stipulated period of time. Products which have deteriorated are adulterated and should be withdrawn from the market.

(i) *Unwarranted claims.* These products are not effective against all household insects and claims for effectiveness against insects generally or all insects are unwarranted and should not be made. While these products may have considerable residual insecticidal value when properly applied, it is usually desirable to avoid any specific claim that residual protection will last for any particular length of time. The conditions of use and types of surfaces that may be treated are so diversified that directions for repeated applications as necessary are desirable in all cases. Claims for exterminations are not warranted and should not be made. Products of this type are frequently injurious under some conditions to both man and animal and may contaminate food when improperly used. Therefore, their labels must ordinarily not include any unqualified claim such as "Non-toxic," "Non-poisonous," "Non-injurious" or "Harmless to man and animals." Such products are of no value in disinfecting and will not prevent disease and claims to that effect should not be made.

(j) *Registration.* All applications for registration should include duplicate copies of all labels, circulars or other literature which may be associated with or accompany the product at any time. Complete information concerning the composition of the product should also be furnished with the application. If the product does not conform to a conventional pattern of pesticidal usage against household pests, data should be furnished to demonstrate the practical value of the product for the various pests named in the labeling. Consultation with applicants is solicited at all times in order to eliminate possible misunderstanding.

(k) *Other interpretations.* This interpretation supplements interpretations 7, 15, and 18 as revised (7 CFR 162.105, 162.106, and 162.116).

§ 162.122 Interpretation with respect to claims for safety and nontoxicity on labeling of economic poisons.

(a) *Requirements of the act and regulations.* The act provides that an economic poison or device is misbranded if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular (7 U.S.C. (n)(1)). Section 162.14(a)(5) prohibits the use of unwarranted claims as to the safety of the economic poison or its ingredients, including statements such as "safe," "non-poisonous," "non-injurious," or "harmless" with or without such a qualifying phrase as "when used as directed." This section does provide for limited claims for non-toxicity on those products which are determined by the Director to be non-toxic to humans and pets.

(b) *Economic poisons not permitted to have any claims for non-toxicity.* (1) No claim for non-toxicity to man or animals shall be made for any economic poison that is required to have any precautionary labeling relative to the toxicity of the product. (2) No new economic poison will be permitted to bear claims of non-toxicity until convincing evidence based on practical experience has shown that such claims are warranted.

(c) *Economic poisons permitted to bear limited claims for non-toxicity.* An economic poison may have such labeling claims as "non-toxic to humans and pets" when: (1) Use of such claims is not precluded by paragraph (b) of this section, and (2) such claims are supported by (i) adequate toxicity data on the specific product including active and inert ingredients to show that no warning or caution statements are necessary, (ii) subacute and chronic toxicity data on test animals sufficient to demonstrate that an adequate margin of safety exists between the dosages causing detectable effects and those recommended for effective use (up to 100 fold margin of safety may be required), and (iii) human and/or animal experience data demonstrating that humans and/or animals are not likely to be injured by the chemical under any reasonably foreseeable conditions.

Products meeting these requirements may be exempted from the provisions of § 162.9(a) with respect to the statement "Keep Out of Reach of Children."

(d) *Prominence of claims for non-toxicity.* Claims for non-toxicity permitted by paragraph (c) of this section may appear anywhere in the labeling provided they do not appear in such a manner as to be misleading to the public. They must be printed in type of a size and style bearing a reasonable relationship to other print on that part of the label on which they appear and comply with the following maximum type sizes.

Size of label panel	Maximum type size permitted
Less than 60 square inches	12 point.
60 square inches and above	18 point.

Repetition of claims for non-toxicity permitted by paragraph (c) of this section shall be held to a minimum and will not be permitted when, in the opinion of the Director, such repetition is likely to encourage misuse of the product, or tend to crowd or obscure other information required by the act and regulations to appear on the labeling.

§ 162.123 Interpretation with respect to labeling of sodium arsenite or arsenic trioxide products.

(a) *Home use unacceptable.* Labeling for economic poisons submitted in connection with registration under the Act bearing directions for use of products containing more than 2 percent sodium arsenite or more than 1.5 percent arsenic trioxide in or around the home is not acceptable.

(b) *Required warning against home use.* In addition to other warning and caution statements required by the regulations and interpretations under the Act, labels for such products with acceptable directions for agricultural, commercial, or industrial use must bear, in a prominent position, the warning statement(s) as indicated below:

(1) All products; "Do Not Use or Store in or Around the Home."

(2) Products intended for area treatments such as herbicide use; "Do Not Allow Domestic Animals to Graze Treated Areas."

§ 162.124 Interpretation with respect to labeling of phosphorus paste products.

(a) *Home use unacceptable.* Labeling for economic poisons submitted in connection with registration under the Act bearing directions for use of products containing phosphorus paste in or around the home is not acceptable.

(b) *Acceptable directions for use by Government agencies or professional pest control operators.* Products bearing acceptable directions for commercial or industrial use and marketed in channels of trade which are limited to Government agencies or pest control operators will continue to be registered. In addition to other warning and caution statements required by the Act and regulations, labels for such products must bear the following statement in a prominent position: "Do not use or store in or around the home."

§ 162.125 Interpretation with respect to the term "germ proof" and related terms used in labeling of economic poisons.

For the purposes of the Act, the following terms shall have the meanings stated below:

(a) The terms "germ proof" and "germ proofed", referring to any surfaces, materials or articles, indicate the existence of actively germicidal or self disinfecting properties.

(b) The terms "germ proofs" and "germ proofer" mean that, when applied as directed, the economic poison will provide a germicidal or disinfecting result, and also provide treated surfaces, articles or materials with germ proof or germ proofed properties.

(c) The term "germ proofing" means a process that will, when followed, disinfect and provide germ proof and germ proofed surfaces, materials and articles.

PART 163—CERTIFICATION OF USEFULNESS OF PESTICIDE CHEMICALS

Sec.
163.1 Words in the singular form.
163.2 Definitions.
163.3 Administration.
163.4 Filing of requests for certification.
163.5 Material in support of the request for certification.
163.6 Certification limited to economic poison uses.
163.7 Factors considered in determining usefulness.
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163.10 Withdrawal of request for certification pending clarification or completion.
163.11 Registration under the Federal Insecticide, Fungicide, and Rodenticide Act.
163.12 Opinion as to residue.

AUTHORITY: The provisions of this Part 163 issued under sec. 3, 68 Stat. 511; 21 U.S.C. 346a.

§ 163.1 Words in the singular form.

Words in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 163.2 Definitions.

Unless the context otherwise requires, the following terms shall be construed,

(b) Data relating to the usefulness of the pesticide chemical obtained by other qualified investigators;

(c) Any other material which the pe-

(b) Within one week after receipt of such notice of proposed certification the person requesting the certification may, by filing a request with the Director, (1)

proposed, consideration will be given, among other things, to:

(1) Data furnished by the petitioner showing (i) the results of tests to ascer-

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164.32 Examiner's report.
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164.34 Final order.

an economic poison[1] registered pursuant to the provisions of the Act.

(k) The term "registrant" means any person who has registered an economic poison[1] pursuant to the provisions of

§ 163.2 Definitions.

Unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

(a) "Act" means the Federal Food, Drug, and Cosmetic Act (21 U. S. C. 301 et seq.), as amended by Public Law 518, 83d Congress, 2d Session, "An Act to amend the Federal Food, Drug, and Cosmetic Act with respect to residues of pesticide chemicals in or on raw agricultural commodities" (68 Stat. 511).

(b) "Director" means the Director of the Pesticides Regulation Division, Environmental Protection Agency, Washington, D.C.

(c) "Agency" means the Environmental Protection Agency.

(d) "Pesticide chemical" and "raw agricultural commodity" shall have the same meanings as they have in paragraphs (q) and (r), respectively, of section 201 of the act.

(e) "Economic poison" shall have the same meaning as it has under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U. S. C. 135–135k) and the regulations issued thereunder (Part 162 of this chapter).

(f) "Person" means individuals, partnerships, corporations, and associations.

(g) "Certification" means a certification by the Director that a pesticide chemical is useful for the purpose for which a tolerance or exemption is sought under the act.

(h) "Petition" means a petition filed with the Administrator, Environmental Protection Agency pursuant to section 408(d)(1) of the act.

§ 163.3 Administration.

The Director is authorized to take such action as, in his discretion, may be necessary to carry out the provisions of sections 408 (i) and 408 (l) of the act and the regulations in this part.

§ 163.4 Filing of requests for certification.

All requests for a certification shall be made in writing to the Director. Action upon such a request will not be undertaken unless (a) the person making the request has, pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, registered or submitted an application for the registration of an economic poison consisting of or containing the pesticide chemical for which the certification is sought and (b) the request is accompanied by a copy of the petition. The person requesting certification may at any time withdraw such request for certification.

§ 163.5 Material in support of the request for certification.

In addition to the data required by section 408 (d) (1) of the act to be included in the petition, the request for certification should be supported by the following material, to the extent it is relied upon by the petitioner:

(a) A complete report of the results of any experimental work by the petitioner on the effectiveness of the pesticide chemical for the purposes intended;

(b) Data relating to the usefulness of the pesticide chemical obtained by other qualified investigators;

(c) Any other material which the petitioner believes will justify a finding of usefulness.

If such material is fully shown in the petition, it need not be set forth separately in the request for certification.

§ 163.6 Certification limited to economic poison uses.

If the product for which a certification is sought is intended for both economic poison and noneconomic poison uses, any certification relative to the usefulness of such product will refer only to economic poison uses. No action will be taken with respect to the noneconomic poison uses of such product.

§ 163.7 Factors considered in determining usefulness.

In determining whether a pesticide chemical is useful for the purposes for which a tolerance or exemption is sought, consideration will be given, among other things, to:

(a) The results of any experimental work by the petitioner on the effectiveness of the pesticide chemical for the purposes intended.

(b) Data relating to the usefulness of the pesticide chemical obtained by other qualified investigators.

(c) Reports of other experimental work before the Director in publications, the official files of the Agency, or otherwise.

(d) Opinions of experts qualified in the fields involved.

§ 163.8 Basis for determination of usefulness.

Usefulness of a pesticide chemical for the purposes intended will be determined upon the basis of its practical pesticidal, or biological, effectiveness. Pesticidal effectiveness may be established in terms of percentage reduction or control of pests or, when appropriate, increase in yield or quality of crop following application of the specified pesticide under the conditions prescribed, compared with the results from adequate controls. Consideration may also be given to other economic gain or practical benefit, including: Economy or ease of production, harvest, or storage of crop; flexibility as regards the time of planting or harvest, even at the possible sacrifice of yield; and general benefit to livestock, plants, or human welfare.

§ 163.9 Proposed certification; notice; request for hearing.

(a) If, upon the basis of the data before him, it appears to the Director that the pesticide chemical is not useful for the purpose or purposes for which a tolerance or exemption is sought, or is useful for only some of the purposes for which a tolerance or exemption is sought, the Director shall notify the person requesting the certification of his proposal to so certify. Notice of such proposed certification will be given by registered mail.

(b) Within one week after receipt of such notice of proposed certification the person requesting the certification may, by filing a request with the Director, (1) request that the certification be made on the basis of the proposed certification; (2) request a hearing on the proposed certification or the parts objected to; (3) request both such certification and such hearing; or (4) withdraw the request for certification as provided for in § 163.10. If no such request or withdrawal is filed with the Director within such time, the certification will be made as proposed.

§ 163.10 Withdrawal of request for certification pending clarification or completion.

In some cases it may be necessary for the Director to notify the petitioner of his proposal to certify that the pesticide chemical does not appear to be useful for some or all of the purposes for which a tolerance or exemption is sought only because the data submitted by the petitioner are not sufficiently clear or complete to justify a finding of usefulness. In such cases the petitioner may withdraw his request for certification pending its clarification or the obtaining of additional data, and no further action will be taken with respect to the making of the certification until the request for certification is resubmitted. Upon the resubmission of the request for certification, the time limitation within which final certification is required to be made will begin to run anew from the date of the resubmission.

§ 163.11 Registration under the Federal Insecticide, Fungicide, and Rodenticide Act.

(a) Since in most cases where a pesticide chemical may leave a residue in or on a raw agricultural commodity there can be no determination of the adequacy of the directions for use or the warning or caution statements appearing on the labeling of an economic poison until a tolerance or exemption has been established for the pesticide chemical which is, or is a part of, such economic poison, it will not ordinarily be possible to register the economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act until such tolerance or exemption has been established.

(b) Factors other than pesticidal, or biological, effectiveness are considered in the granting of registration under the Federal Insecticide, Fungicide, and Rodenticide Act. Therefore, the criteria for registration are not all applied in considering the certification of usefulness, and the fact that such a certification has been made does not mean that the economic poison can be registered for the uses concerned.

§ 163.12 Opinion as to residue.

(a) In forming an opinion whether the tolerance or exemption proposed by the petitioner reasonably reflects the amount of residue likely to result when the pesticide chemical is used in the manner proposed, consideration will be given, among other things, to:

(1) Data furnished by the petitioner showing (i) the results of tests to ascertain the amount of residue remaining, including a description of the analytical methods used, and (ii) practicable methods for removing residue which exceeds any proposed tolerance;

(2) Reports of other experimental work before the Director in publications, the official files of the Agency, or otherwise;

(3) Opinions of experts qualified in the fields involved.

(b) If a tolerance proposed by the petitioner is reasonably to reflect the amount of residue likely to result when a pesticide chemical is used, it must be large enough to include all residue which is likely to result when the pesticide chemical is used in the manner proposed by the petitioner, but not larger than needed for this purpose. The tolerance proposed by the petitioner may take into account reduction of residue by washing, brushing, or other applicable method.

(c) If there is insufficient information before the Director to support an opinion as to whether the tolerance proposed by the petitioner reasonably reflects the amount of residue likely to result, the opinion will so state.

PART 164—RULES GOVERNING THE APPOINTMENT, COMPENSATION, AND PROCEEDINGS OF AN ADVISORY COMMITTEE; AND RULES OF PRACTICE GOVERNING HEARINGS UNDER THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Subpart A—General

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Subpart B—Rules Governing the Appointment, Compensation, and Proceedings of an Advisory Committee

164.10 Appointment of advisory committee.
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164.20 Institution of hearing; docket number.
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164.38 Procedure for disposition of petitions.
164.39 Filing; number of copies.
164.40 Service; proof of service.
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164.42 Extensions of time.

AUTHORITY: The provisions of this Part 164 issued under secs. 4, 6, 61 Stat. 167–168, as amended; 7 U.S.C. 135b, 135d.

Subpart A—General

§ 164.1 Meaning of words.

As used in this part, words in the singular form shall be deemed to import the plural, and vice-versa, as the case may require.

§ 164.2 Definitions.

For the purposes of this part, the following terms shall be construed, respectively, to mean:

(a) The term "Act" means the Federal Insecticide, Fungicide, and Rodenticide Act (61 Stat. 163, et seq. as amended, 7 U.S.C. 135–135k).

(b) The term "person" includes any individual, partnership, association, corporation, or any organized group of persons, whether incorporated or not.

(c) The term "Administrator" means the Administrator of the Environmental Protection Agency of the United States, or any officer or employee of the Environmental Protection Agency to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead, including the Judicial Officer of the Environmental Protection Agency.

(d) The term "Hearing Clerk" means the Hearing Clerk, Environmental Protection Agency, Washington, D.C. 20250.

(e) The term "Examiner" means an examiner in the Office of the Hearing Examiners, Environmental Protection Agency.

(f) The term "Examiner's Report" means the report made by the Examiner to the Administrator with respect to proposed:

(1) Findings of fact and conclusions regarding all material issues of fact, law or discretion, as well as the reasons or basis therefor, and

(2) Order.

(g) [Reserved]

(h) The term "Director" means the Director, Pesticides Regulation Division, Environmental Protection Agency, or any official or employee of the Environmental Protection Agency to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(i) The term "Division" means the Pesticides Regulation Division, Environmental Protection Agency.

(j) The term "applicant" means any person who has made application to have an economic poison[1] registered pursuant to the provisions of the Act.

(k) The term "registrant" means any person who has registered an economic poison[1] pursuant to the provisions of the Act.

(l) The term "petitioner" means any person who has been notified that his application for registration of an economic poison[1] has been refused or any person who has received a notice of cancellation or suspension of the registration of an economic poison[1] under the Act, and who has filed a petition requesting that the matter be referred to an advisory committee.

(m) The term "advisory committee" means a group of qualified experts designated to submit an independent report to the Administrator regarding the registration of an economic poison.[1]

(n) The term "hearing" means any action arising under the Act, in which it is required by law that relevant and material evidence be received at a public hearing.

(o) The term "final order" includes the Administrator's findings, conclusions, order and rulings on motions, exceptions, statements of objections and proposed findings, conclusions and orders submitted by parties and not theretofore ruled upon.

§ 164.3 Scope and applicability of this part.

The provisions of Subpart B of this part shall be applicable to the appointment, compensation, and proceedings of an advisory committee; and the provisions of Subpart C of this part shall govern hearings conducted pursuant to the provisions of the Act.

§ 164.4 Submission of a determination respecting an economic poison to an advisory committee, and institution of a hearing regarding the application for registration or cancellation or suspension of an economic poison under the Act.

(a) *Applications for registration of an economic poison under the Act.* Whenever the Director shall determine, in connection with an application for registration of an economic poison under the Act, that it does not appear that the article is such as to warrant the proposed claims for it or if the article and its labeling and other material required to be submitted do not comply with the provisions of the Act, the Director shall notify the applicant of the manner in which the article, labeling, or other material required to be submitted fail to comply with the Act and the applicant shall have an opportunity to make the necessary corrections. If the applicant does not make the corrections, the Director will refuse to register the article: *Provided, however,* That an applicant may, within 30 days after service of notice of refusal to register and the reasons therefor:

[1] See definition of "economic poison" and related terms contained in section 2 of the Act (7 U.S.C. 135b) and § 162.2 of the regulations for the enforcement of the Act (7 CFR 162.2).

(1) File a petition with the Hearing Clerk requesting that the matter be referred to an advisory committee, or

(2) File objections with the Hearing Clerk to the refusal to refer the matter to an advisory committee.

(b) *Action by Administrator.* Upon receipt of such petition or objections, the Administrator shall, if he deems such referral desirable, request the National Academy of Sciences, National Research Council, to select qualified experts, insofar as practicable, to serve on the committee. The Administrator shall furnish a suitable meeting place for the committee. If a meeting is held, the secretariat shall keep the minutes and provide clerical

(5) The Administrator may waive or refund such fees in whole or in part when in his judgment such action will be warranted and equitable under the

§ 164.21 Contents of document setting forth objections.

(a) *Concise statement of matters alleged to be unwarranted required.* Any

(c) *Answers to motions and requests.* Within 15 days after service of any written motion or request, or within any longer period fixed by the Administrator

(1) File a petition with the Hearing Clerk requesting that the matter be referred to an advisory committee, or

(2) File objections with the Hearing Clerk to the determination of the Director and request a public hearing respecting the matter.

(b) *Cancellation of the registration of an economic poison under the Act.* The Director may cancel the registration of an economic poison whenever it does not appear that the article or its labeling or other material required to be submitted complies with the provisions of the Act. Whenever the Director determines that a registration of an economic poison should be canceled, he will notify the registrant of his action and state the reasons therefor. A cancellation of registration shall be effective 30 days after service of the cancellation notice on the registrant, unless within such time the registrant:

(1) Makes the necessary corrections;

(2) Files a petition with the Hearing Clerk requesting that the matter be referred to an advisory committee; or

(3) Files objections with the Hearing Clerk and requests a public hearing.

(c) *Suspension of the registration of an economic poison under the Act.* Whenever the Director finds that such action is necessary to prevent an imminent hazard to the public, he may, by order, suspend the registration of the economic poison immediately. In such event, the Director will give the registrant notice of the action and the registrant shall have the opportunity to have the matter submitted to an advisory committee and shall have the opportunity for an expedited hearing regarding the matter.

(d) *Procedure available if there is an adverse order after referral to an advisory committee.* If a matter regarding the registration of an economic poison has been referred to an advisory committee and thereafter the Administrator makes a determination and issues an order that is adverse to the applicant or registrant, the applicant or the registrant may, within 60 days from the date of the order of the Administrator, file objections thereto with the Hearing Clerk and request a public hearing regarding the matter.

(e) *Referral to an advisory committee at the request of the Administrator.* The Administrator may, on his own initative and when in his opinion it is desirable to have an independent evaluation respecting the merits of the registration of any economic poison, refer the matter to an advisory committee. In such event, the Administrator shall give the applicant or the registrant notice of the submission of the matter to the advisory committee.

Subpart B—Rules Governing the Appointment, Compensation, and Proceedings of an Advisory Committee

§ 164.10 Appointment of advisory committee.

(a) *Qualifications of experts.* Whenever a petition for an advisory committee is filed or the Administrator otherwise deems such referral desirable, the Administrator shall request the National Academy of Sciences, National Research Council, to select qualified experts, including at least one representative from a land-grant college, willing to serve on the advisory committee. All such experts shall have had sufficient training and experience in toxicology, pharmacology, bacteriology, chemistry, entomology, plant pathology and physiology, human pathology and physiology, or other appropriate science to evaluate the safety or efficacy of economic poisons. The Administrator will request the National Academy of Sciences, when it furnishes the names of such experts, to supply a biographical sketch showing the background of their experience and their connection, if any, with academic and commercial institutions.

(b) *Number of experts.* The Administrator shall designate the number and names of experts to serve on the advisory committee, and each such committee shall have at least one expert who is a representative from a land-grant college. The Administrator shall appoint one member of the committee as chairman, and the chairman shall be the spokesman of the committee for receiving and forwarding reports and other functions of the committee.

(c) *Compensation for experts.* The Administrator shall appoint the experts so selected and fix their compensation at not to exceed the maximum permitted by other authority per day for each day or part thereof spent in committee meetings, plus necessary traveling and subsistence expenses while the experts are serving away from their places of residence. Subsistence expenses shall not exceed the maximum per diem permitted by this Department.

§ 164.11 Procedure for advisory committee.

(a) *Submission of information to advisory committee.* The Administrator shall submit to the chairman of the committee the petition and such other relevant information as he may have available with respect to registration of the product. When the Administrator submits a matter to an advisory committee he shall inform the applicant or the registrant and shall furnish him with copies of the material that is furnished to the committee. The chairman shall acknowledge receipt of the information and readiness of the committee to act. A copy of this acknowledgment shall be forwarded to the applicant or registrant by the chairman of the committee.

(b) *Advisory committee meetings.* A secretariat to advisory committees will be established by the Administrator. The secretariat shall furnish members of the committee with copies of the petition and any data received by the chairman. If the chairman of the committee believes that a meeting of the committee is necessary before making a recommendation, he shall so advise the Administrator and the petitioner. Such meeting shall be held in Washington, D.C., or such other place as the Administrator may designate. The Administrator shall furnish a suitable meeting place for the committee. If a meeting is held, the secretariat shall keep the minutes and provide clerical assistance.

(c) *Report of the advisory committee.* As soon as practicable, but not later than 60 days after the date on which the information referred to in paragraph (a) of this section has been submitted to the committee (unless the time has been extended as provided in paragraph (d) of this section), the chairman shall certify to the Administrator the report of the committee, including any minority report. The report shall include a recommendation as to the registration of the article and a statement of the reasons or basis for the recommendation, together with copies of all relevant data or material considered by the committee, except that in the case of scientific literature readily available in scientific libraries, proper reference may be made to it instead of furnishing actual copies. The report of the advisory committee shall be available for inspection by any interested person after the Administrator's order with respect to registration of the product is issued.

(d) *Extension of time for advisory committee report.* If at any time within the 60-day period referred to in paragraph (c) of this section the chairman believes that the advisory committee needs more time, he shall so inform the Administrator in writing, in which case the Administrator may extend said time not to exceed 60 additional days. Notification of any such extension of time will be sent to the applicant or registrant by the Administrator.

(e) *Assessment of costs of submission to an advisory committee.* (1) In the event that an applicant or a registrant requests that a matter concerning the registration of an economic poison be referred to an advisory committee, the costs of such referral shall be borne by the applicant or the registrant unless the committee shall recommend in favor of the applicant or the registrant.

(2) Costs of the advisory committee shall include compensation for experts as provided in § 164.10(c) and the expenses of the secretariat, including the costs of duplicating petitions and other related material referred to the committee.

(3) An advance deposit shall be made in the amount of $2,500 to cover the costs. Further advance deposits of $2,500 each shall be made upon request of the Administrator when necessary to prevent arrears in the payment of such costs. Any deposits in excess of actual expenses will be refunded to the depositor.

(4) All deposits and fees required by the regulations in this part shall be paid by money order, bank draft, or certified check drawn to the order of the Environmental Protection Agency, Washington, D.C. 20250, whereupon after making appropriate record thereof they will be transmitted to the Treasurer of the United States, for deposit to the proper account.

(5) The Administrator may waive or refund such fees in whole or in part when in his judgment such action will be warranted and equitable under the particular circumstances and promote the public interest.

(6) Any person who believes that payment of these fees will work a hardship on him may petition the Administrator to waive or refund the fees.

(f) *Consultation with advisory committee.* The applicant or registrant and representatives of the Environmental Protection Agency shall have the right to consult with the advisory committee. Such persons shall notify the chairman of a desire to consult with the committee and, if practicable, make appointments through him. The report of the advisory committee shall show the names of all persons, other than committee members, discussing the petition or referral with the committee or a committee member.

(g) *Confidentiality of data.* All data submitted to an advisory committee shall be considered confidential by such committee: *Provided*, That this provision shall not be construed as prohibiting the use of such data by the Committee in connection with its consultation with the applicant or registrant or representatives of the Environmental Protection Agency, and in connection with its report and recommendations to the Administrator.

(h) *Order of the Administrator.* The date of receipt of the advisory committee report and recommendations shall be the date for computing the time for the Administrator to act with respect to registration of the economic poison. Within 90 days of such date, the Administrator shall make his determination and issue an order, with findings of fact, with respect to the registration of the economic poison. The Administrator shall serve a copy of his order on the applicant or the registrant.

(i) *National Academy of Sciences to designate committee member to testify.* The National Academy of Sciences shall designate one of the committee members who will be available to appear and testify at the request of the Administrator, the applicant or registrant, or the Examiner, at a public hearing, if one occurs, with respect to the report and recommendations of the committee, and the Academy shall notify the Administrator of the name of such member: *Provided, however*, That this shall not preclude any other member of the committee from being requested to appear and testify at such hearing.

Subpart C—Rules of Practice Governing Hearings

§ 164.20 Institution of hearing; docket number.

Whenever a document setting forth objections and requesting a public hearing is filed with the Hearing Clerk, the matter shall be docketed and assigned an "I. F. & R." docket number by the Hearing Clerk and thereafter the proceeding shall be referred to by such number.

§ 164.21 Contents of document setting forth objections.

(a) *Concise statement of matters alleged to be unwarranted required.* Any document filed pursuant to § 164.4 containing objections to the refusal of an application for registration of an economic poison or cancellation or suspension of the registration of such a product, shall clearly and concisely set forth such objections and the basis for each objection, including relevant allegations of fact concerning the economic poison under consideration.

(b) *Amendments to objections.* At any time prior to the close of the public hearing, the objections may be amended; but, in the case of an amendment adding new assertions or matters, the hearing shall, on request of the Division, be adjourned for a period not exceeding 15 days.

§ 164.22 Filing copies of notification respecting registration.

After a copy of the document setting forth the objections and requesting a public hearing is served upon the Administrator, the Administrator shall file with the Hearing Clerk a copy of the notice of refusal to register the economic poison involved, or the notice of cancellation or suspension of the registration of such economic poison, which was transmitted to the applicant or the registrant. Such notice shall become a part of the record of the proceeding.

§ 164.23 Answer to objections.

(a) *Filing and Service.* Within 20 days after a copy of the document setting forth the objections and requesting a public hearing is served upon the Administrator, he shall file an answer to the objections.

(b) *Contents of the answer.* The answer shall (1) contain a concise statement of the facts relied upon respecting the notice of refusal to register, or the cancellation or suspension of the registration of an economic poison; and (2) set forth the names of the scientific experts and scientific literature and data considered or consulted when making the determination, and (3) other appropriate reply to any matter raised by the objections.

§ 164.24 Motions and requests.

(a) *General.* All motions and requests shall be in writing and shall be filed with the Hearing Clerk, unless made during the course of a public hearing, in which case they may be stated orally and made a part of the transcript. The Examiner is authorized to rule upon all motions and requests filed or made prior to the filing of his report with the Hearing Clerk as hereinafter provided in § 164.32. The Administrator will rule upon all motions and requests filed after that time.

(b) *Motions.* All motions and requests concerning the sufficiency of the objections must be made within the time allowed for filing an answer. All motions and requests shall state the particular order, ruling or action desired and the grounds therefor.

(c) *Answers to motions and requests.* Within 15 days after service of any written motion or request, or within any longer period fixed by the Administrator or the Examiner, the opposing party shall file an answer to the motion or request or shall be deemed to have no objection to the granting of the relief asked for in the motion or request. Unless specifically permitted by the Administrator or the Examiner, the movant shall have no right to reply to the answer.

(d) *Certification of interlocutory issues to the Secretary.* The submission or certification of any motion, request, or other question to the Administrator prior to the time the Examiner's report is filed with the Hearing Clerk, shall be in the discretion of the Examiner. The Examiner may either rule upon the motion, request, or other question, or certify the matter to the Administrator, but not both. If the Examiner rules on the matter, the propriety of such ruling shall be reviewed by the Administrator only during his consideration in connection with the issuance of a final order.

§ 164.25 Prehearing conference.

In any proceeding in which it appears that a prehearing conference will expedite the hearing, the Examiner, at any time prior to the commencement of the hearing, may order such conference and request the parties or their counsel to consider (1) the simplification of issues; (2) the necessity or desirability of amendments to the pleadings; (3) the possibility of obtaining stipulations of fact and of documents which will avoid unnecessary proof; (4) the limitation of the number of experts and other witnesses; and (5) any other matter that may expedite the hearing or aid in the disposition of the matter. No transcript of such prehearing conference shall be made unless a request therefor by one of the parties is granted by the Examiner in view of the nature of the matters to be considered at the conference and the purposes of the conference; however, in the absence of a transcript, the Examiner shall prepare and file for the record a written summary of the action taken at such conference, which shall incorporate any written stipulations or agreements made by the parties at or as a result of the conference. If circumstances render a prehearing conference impracticable, the Examiner may request the parties to correspond with him for the purpose of accomplishing any of the objectives set forth in this section. The Examiner shall forward copies of letters and documents sent to him in this connection to the parties as the circumstances require. Correspondence in such negotiations shall not be a part of the record, but the Examiner shall submit a written summary for the record if any action is taken.

§ 164.26 Examiners.

(a) *Assignment.* No Examiner shall be assigned to serve in any hearing under the Act who:

(1) Has any pecuniary interest in any matter or business involved in the proceeding;

(2) Is related within the third degree, by blood or marriage, to any party to the proceeding; or

(3) Has participated in the investiga-

by counsel or other representative. Persons who appear as counsel or in a representative capacity must conform to the standards of ethical conduct required of

the report and recommendations of [illegible] committee, shall, if relevant and [illegible] rial, be received on request of the [illegible] ministrator, the applicant or regist[illegible]

except in such particulars as he shall specify, and that the exhibits accompanying the transcript are all the exhibits introduced at the hearing, with such ex-

§ 164.35 Argument before the Secretary.

Except where the Administrator deter-mines that argument on additional issues

§ 164.38 Procedure for disposition of petitions.

Within 7 days following the service of any petition provided for in § 164.37, the

(2) Is related within the third degree, by blood or marriage, to any party to the proceeding; or

(3) Has participated in the investigation preceding the institution of the hearing or in the determination of the Administrator respecting the registration of the economic poison or in the preparation of the notice regarding such determination.

(b) *Disqualification of the Examiner.* (1) Any party may, by motion made to the Examiner, request that the Examiner disqualify himself and withdraw from the proceeding. The Examiner may then either rule upon or certify the motion to the Administrator, but not both.

(2) An Examiner shall withdraw from any proceeding in which he deems himself disqualified for any reason.

(c) *Conduct.* The Examiner shall conduct the proceeding in a fair and impartial manner, and shall not consult with any person or party on any fact in issue unless upon notice and opportunity for all parties to participate.

(d) *Powers.* Subject to review by the Administrator, as provided elsewhere in this part, the Examiner shall have power to:

(1) Rule upon motions and requests;

(2) Set the time and place of hearing, adjourn the hearing from time to time, and change the time and place of hearing;

(3) Administer oaths and affirmations and take affidavits;

(4) Examine witnesses;

(5) Rule on objections and admit evidence relevant and material to the issues and exclude other evidence;

(6) Hear oral argument on the facts or on the law; and

(7) Do all acts and take all measures necessary for the maintenance of order at the hearing and for the efficient, fair and impartial conduct of the proceeding.

(e) *Who may act in the absence of the Examiner.* In case of the absence of the Examiner or his inability to act, the powers and duties to be performed by him under this part in connection with a hearing assigned to him may, without abatement of the proceeding unless otherwise directed by the Administrator, be assigned to another Examiner.

§ 164.27 Procedure for a public hearing.

(a) *Time and place of hearing.* After a proceeding has been instituted in accordance with the procedures set forth in this part, the Examiner, giving careful consideration to the convenience of the parties, shall set a time and place for hearing and shall file with the Hearing Clerk a notice stating the time and place of hearing which shall be served upon the parties. If any change in the time or place of hearing is made, the Examiner shall file with the Hearing Clerk a notice of such change, which notice shall be served upon the parties unless the change is made during the course of the public hearing and is made a part of the transcript.

(b) *Appearances*—(1) *Representatives.* Parties may appear in person or by counsel or other representative. Persons who appear as counsel or in a representative capacity must conform to the standards of ethical conduct required of practitioners before the courts of the United States. Whenever the Administrator finds, after notice and opportunity for hearing, that a person, who is acting or has acted as counsel or representative for another person in any proceeding before the Administrator, is unfit to act as such counsel or representative, he will order that such person be precluded from acting as counsel or representative in any proceeding under the Act. The procedure in such case will be governed by the applicable provision of this part.

(2) *Failure to appear.* If any party to the proceeding after being duly notified, fails to appear at the hearing, he shall be deemed to have waived the right to participate in the public hearing in the proceeding. In the event that a party appears at the hearing and no party appears for the opposing side, the party who is present shall have an election whether to present his evidence, in whole or in part, in the form of affidavits or by oral testimony before the Examiner. Failure to appear at a hearing shall not be deemed to be a waiver of the right to be served with the copy of the Examiner's report and to file exceptions and make oral argument before the Administrator with respect thereto, in the manner provided in §§ 164.33 and 164.35.

§ 164.28 Order of proceeding and burden of proof.

At the hearing, the person whose objections raised the issues to be determined shall be, within the meaning of 5 U.S.C. 556(d) (formerly 5 U.S.C. 1006(c)), the proponent of the order sought, and accordingly shall proceed first at the hearing and have the burden of proof.

§ 164.29 Evidence.

(a) *General.* The testimony of witnesses at the hearing shall be upon oath or affirmation and subject to cross-examination. Any witness may, in the discretion of the Examiner, be examined separately and apart from all other witnesses except those who may be parties to the proceeding. The examiner shall admit all relevant and material evidence, except evidence which is unduly repetitious.

(b) *Report of an advisory committee.* If a matter concerning the registration of an economic poison had been submitted to an advisory committee, all reports, recommendations, and underlying data, and reasons certified to the Administrator by the advisory committee shall be made a part of the record of the hearing, if relevant and material, subject to the provisions of 5 U.S.C. § 556(d).

(c) *Testimony of member of advisory committee.* If a matter concerning the registration of an economic poison had been submitted to an advisory committee, the testimony of the member of the advisory committee designated by the National Academy of Sciences to appear and testify at the hearing with respect to the report and recommendations of such committee, shall, if relevant and material, be received on request of the Administrator, the applicant or registrant or the Examiner: *Provided, however,* That this shall not preclude any other member of the advisory committee from appearing and testifying at the hearing pursuant to such a request.

(d) *Objections.* If a party objects to the admission or rejection of any evidence or the limitation of the scope of any examination or cross-examination, he shall state briefly the grounds for such objection, whereupon an automatic exception will follow if the objection is overruled by the Examiner. The transcript shall not include argument or debate thereon, except as ordered by the Examiner. The ruling of the Examiner on any objection shall be a part of the transcript. Only objections made before the Examiner may be subsequently relied upon in the proceeding.

(e) *Records of the Department.* A true copy of every written entry in the records of the Environmental Protection Agency, made by an officer or employee thereof in the course of his official duty and relevant and material to the issues involved in the hearing, shall be admissible as prima facie evidence of the facts stated therein, without the production of such officer or employee.

(f) *Exhibits.* Except where the Examiner finds that the furnishing of copies is impracticable, copies of each exhibit, in addition to the original, shall be filed with the Examiner or the use of the other parties to the proceeding. A true copy of an exhibit may, in the discretion of the Examiner, be substituted for the original.

(g) *Official notice.* Official notice may be taken of the official publications of the Environmental Protection Agency and other Federal agencies, of such matters as are judicially noticed in the courts of the United States, and of any other matter of technical or scientific fact of established character: *Provided, however,* That the parties shall be given adequate opportunity to show that such facts are erroneously noticed.

(h) *Offer of proof.* Whenever evidence is excluded from the record, the party offering such evidence may make an offer of proof, which shall be included in the transcript. The offer of proof for excluded oral testimony shall consist of a brief statement describing the nature of the evidence excluded. If the evidence consists of an exhibit, it shall be inserted in the record in toto. In the event the Administrator decides that the Examiner's ruling in excluding the evidence was erroneous and prejudicial, the hearing shall be reopened to permit the taking of such evidence.

§ 164.30 Transcripts.

(a) *Filing and certification.* Oral hearings shall be stenographically reported and transcribed. As soon as practicable after the close of the hearing, the examiner shall certify that the original transcript is a true transcript of the testimony offered or received at the hearing, except in such particulars as he shall specify, and that the exhibits accompanying the transcript are all the exhibits introduced at the hearing, with such exceptions as he shall specify. A copy of such certificate shall be attached to each of the copies of the transcript.

(b) *Ordering copies.* Parties to the proceeding or other persons who desire a copy of the transcript of the hearing may place orders with the reporter who will furnish and deliver such copies directly to the purchaser upon payment therefor at the rate per page provided by the contract between the reporter and purchaser.

§ 164.31 Proposed findings of fact, conclusions, and order.

Within 20 days of the close of the hearing, each party may file with the Hearing Clerk proposed findings of fact, conclusions, and orders, based solely on the record, and a brief in support thereof. A copy of each such document filed by a party shall be served upon the other party or parties by the Hearing Clerk.

§ 164.32 Examiner's report.

The Examiner, within 20 days after the termination of the period allowed to the parties for the filing of proposed findings of fact, conclusions, and orders, and briefs in support thereof, shall prepare on the basis of the record and shall file with the Hearing Clerk, his report, a copy of which shall be served upon each of the parties.

§ 164.33 Exceptions; objections; request for oral argument.

(a) Within 5 days after service of the Examiner's Report, each party may take exception to any matter set forth in such report, and in such case shall file exceptions in writing with the Hearing Clerk, referring to the relevant pages of the transcript, and suggesting corrected findings of fact, conclusions, or order. Within the same period of time, each party may file with the Hearing Clerk a brief statement in writing concerning each of the objections taken to the action of the Examiner at the hearing, as set out in § 164.29, upon which the party wishes to rely, referring where relevant, to the pages of the transcript. A party may file a brief in support of any exceptions or objections which he may file.

(b) A party, if he files exceptions or a statement of objections, shall state in writing whether he desires to make an oral argument thereon before the Administrator; otherwise he shall be deemed to have waived such oral argument.

§ 164.34 Final order.

As soon as practicable after the expiration of the period for filing exceptions, and briefs, or, in case oral argument is had, as soon as practicable thereafter, but not later than 90 days after the completion of the hearing, the Administrator shall issue his final decision and order, including his rulings on any exceptions or objections filed by the parties.

§ 164.35 Argument before the Secretary.

Except where the Administrator determines that argument on additional issues would be helpful, argument whether oral or on brief, shall be limited to the issues raised by the exceptions and statement of objections to action of the Examiner. If the Administrator determines that additional issues should be argued, counsel for the parties shall be given reasonable notice of such determination, so as to permit preparation of adequate argument on all the issues to be argued.

§ 164.35 Ex parte discussion of proceeding.

At no stage of the hearing procedure between its institution and the issuance of the order shall the Administrator discuss ex parte the merits of the proceeding with any person who is connected with the proceeding in an advocative or in an investigative capacity, or with any representative of such person: *Provided, however,* That the Administrator may discuss the merits of the case with such person if all parties to the proceeding, or their representatives, have been given an opportunity to be present. Any memorandum or other communication addressed to the Administrator, during the pendency of the proceeding, and relating to the merits thereof, by or on behalf of any party, shall be regarded as argument made in the proceeding and shall be filed with the Hearing Clerk, who shall serve a copy thereof upon the opposite party to the proceeding, and opportunity will be given the opposite party to file a reply thereto.

§ 164.37 Application for reopening hearings; for rehearing; or reargument of proceeding, or for reconsideration of order.

(a) *Petition requisite*—(1) *Filing; service.* An application for reopening the hearing to take further evidence, or for rehearing or reargument of the proceeding, or for reconsideration of the order, must be made by petition to the Administrator filed with the Hearing Clerk, who shall serve a copy thereof upon the other party or parties to the proceeding. Every such petition must state specifically the grounds relied upon.

(2) *Petitions to reopen hearings.* A petition to reopen a hearing to take further evidence may be filed at any time prior to the issuance of the final order. Every such petition shall state briefly the nature and purpose of the evidence to be adduced, shall show that such evidence is not merely cumulative, and shall set forth a good reason why such evidence was not adduced at the hearing.

(3) *Petitions to rehear or reargue proceedings, or to reconsider orders.* A petition to rehear or reargue the proceeding or to reconsider the order shall be filed within 10 days after the date of service of the order. Every such petition must state specifically the matters claimed to have been erroneously decided and alleged errors must be briefly stated.

§ 164.38 Procedure for disposition of petitions.

Within 7 days following the service of any petition provided for in § 164.37, the other party to the proceeding may file with the Hearing Clerk an answer thereto. As soon as practicable thereafter, the Administrator shall announce his decision whether to grant or to deny the petition. Unless the Administrator shall determine otherwise, operation of the order shall not be stayed pending the decision to grant or to deny the petition. In the event that any such petition is granted by the Administrator, the applicable rules of practice, as set out elsewhere herein, shall be followed. A person filing a petition under this section shall be regarded as the moving party.

§ 164.39 Filing; number of copies.

All documents or papers required or authorized to be filed, except as provided otherwise in the rules in this part, shall be filed with the Hearing Clerk in quadruplicate: *Provided, however,* That where there are more than two parties to the proceeding, a sufficient number of copies shall be filed so as to provide copies for service upon all parties to the proceeding.

§ 164.40 Service; proof of service.

Copies of all documents or papers required or authorized by the rules in this part to be served on any party to a proceeding shall be served by the Hearing Examiner, Hearing Clerk, or by some other employee of the United States. Except as is provided otherwise by the rules in this part, service shall be made either (a) by delivering a copy of the document or paper to the individual to be served or to a member of the partnership to be served or to the president, secretary, or other executive officer or any director of the corporation, organization, or association to be served, or to the attorney or agent of record of such individual, partnership, corporation, organization, or association, or of his or its attorney or agent of record; or (b) by leaving a copy of the document or paper at the principal place of business of such individual, partnership, corporation, organization, or association, or of his or its attorney or agent of record; or (c) by registering or certifying and sending by airmail a copy of the document or paper, addressed to such individual, partnership, corporation, organization, or association, or to his or its attorney or agent of record, at his or its last known residence or principal place of business. Proof of service hereunder shall be made by the affidavit of the person who actually made the service: *Provided, however,* That if the service is made by registered or certified airmail, proof of service shall be made by the return post office receipt. The affidavit or post office receipt contemplated hereby shall be filed with the Hearing Clerk, and the fact of filing thereof shall be noted on the record of proceeding.

§ 164.41 Computation of time.

Saturdays, Sundays, and holidays shall be included in computing the time allowed for the filing of any document or

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160.17 Prehearing and other conferences.
160.18 Submission of documentary evidence in advance.
160.19 Excerpts from documentary evidence.

Sec.
180.132 Thiram; tolerances for residues.
180.133 Lindane; tolerances for residues.
180.134 Ovex; tolerances for residues.
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Sec.
180.176 Coordination product of zinc ion and maneb; tolerances for residues.

Sec.
180.219 2,3,5-Triiodobenzoic acid; tolerances for residues.
180.220 Atrazine; tolerances for residues.
180.221 O-Ethyl S-phenyl ethylphospho-

Sec.
180.256 p - Chlorophenyl - 2,4,5-trichlorophenyl sulfide; tolerances for residues.
180.257 Chloroneb; tolerances for residues.

§ 164.41 Computation of time.

Saturdays, Sundays, and holidays shall be included in computing the time allowed for the filing of any document or paper: *Provided, however,* That, when such time expires on a Saturday, Sunday, or legal holiday, such period shall be extended to include the next following business day.

§ 164.42 Extension of time.

The time for the filing of any document or paper required or authorized to be filed under the rules in this part may be extended by the Examiner (before the Examiner's report is filed), or by the Administrator (after the Examiner's report is filed), if request for such extension of time is made prior to the final date allowed for such filing, and if in the judgment of the Examiner or the Administrator as the case may be after notice to and consideration of the views of the other party, when practicable, there is good reason for the extension. In this connection consideration shall also be given to the fact that, under the provisions of the act (7 U.S.C. 135b), the Administrator must issue his order not later than 90 days after the completion of the hearing.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

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180.191 Folpet; tolerances for residues.
180.192 Calcium arsenate; tolerances for residues.
180.193 Copper arsenate; tolerances for residues.
180.194 Lead arsenate; tolerances for residues.
180.195 Magnesium arsenate; tolerance for residues.
180.196 Sodium arsenate; tolerance for residues.
180.197 Inorganic bromides resulting from soil treatment with 1,2-dibromo-3-chloropropane; tolerances for residues.
180.198 *O,O*-Dimethyl 2,2,2-trichloro-1-hydroxyethyl phosphonate; tolerance for residues.
180.199 Inorganic bromides resulting from soil treatment with combinations of chloropicrin, methyl bromide, and propargyl bromide; tolerances for residues.
180.200 2,6-Dichloro-4-nitroaniline; tolerances for residues.
180.201 Chlorosulfamic acid; tolerances for residues.
180.202 *p*-Chlorophenoxyacetic acid; tolerances for residues.
180.203 2,3,5,6-Tetrachloronitrobenzene; tolerances for residues.
180.204 Dimethoate including its oxygen analog; tolerances for residues.
180.205 Paraquat; tolerances for residues.
180.206 Phorate; tolerances for residues.
180.207 Trifluralin; tolerances for residues.
180.208 *N*-Butyl-*N*-ethyl-*α,α,α*-trifluoro-2,6-dinitro-*p*-toluidine; tolerances for residues.
180.209 Terbacil; tolerances for residues.
180.210 Bromacil; tolerances for residues.
180.211 2-Chloro-*N*-isopropylacetanilide; tolerances for residues.
180.212 *S*-Ethyl cyclohexylethylthiocarbamate; tolerances for residues.
180.213 Simazine; tolerances for residues.
180.214 Fenthion; tolerances for residues.
180.215 Naled; tolerances for residues.
180.216 3-[*p*-(*p*-Chlorophenoxy) phenyl] 1,1-dimethylurea; tolerances for residues.
180.217 Ammoniates of [ethylenebis-(dithiocarbamate)] zinc and ethylenebis [dithiocarbamic acid] bimolecular and trimolecular cyclic anhydrosulfides and disulfides; tolerances for residues.
180.218 Isopropyl 4,4'-dichlorobenzilate; tolerance for residues.
180.219 2,3,5-Triiodobenzoic acid; tolerances for residues.
180.220 Atrazine; tolerances for residues.
180.221 *O*-Ethyl *S*-phenyl ethylphosphonodithioate; tolerances for residues.
180.222 2,4-Bis(isopropylamino)-6-methylthio-*s*-triazine; tolerances for residues.
180.223 2,4-Dichlorophenyl *p*-nitrophenyl ether; tolerances for residues.
180.224 Gibberellic acid; tolerances for residues.
180.225 Aluminum phosphide; tolerances for residues.
180.226 Diquat; tolerances for residues.
180.227 Dicamba, tolerances for residues.
180.228 S-Ethyl hexahydro-1H-asepine-1-carbothioate; tolerances for residues.
180.229 Fluometuron; tolerances for residues.
180.230 Diphenamid; tolerances for residues.
180.231 Dichlobenil; tolerances for residues.
180.232 *S*-Ethyl diisobutylthiocarbamate; tolerances for residues.
180.233 *O,O*-Dimethyl *O*-*p*-(dimethylsulfamoyl) phenyl phosphorothioate including its oxygen analog; tolerances for residues.
180.234 *O,O*-Diethyl *O*-[*p*(methylsulfinyl) phenyl] phosphorothioate; tolerances for residues.
180.235 2,2-Dichlorovinyl dimethyl phosphate; tolerances for residues.
180.236 Triphenyltin hydroxide; tolerances for residues.
180.237 4-(Methylsulfonyl)-2,6,-dinitro-*N*,*N*-dipropylaniline; tolerances for residues.
180.238 *S*-Propyl butylethylthiocarbamate; tolerances for residues.
180.239 Phosphamidon; tolerances for residues.
180.240 *S*-Propyl dipropylthiocarbamate; tolerances for residues.
180.241 *S*-(*O,O*-Diisopropyl phosphorodithioate) of *N*-(2-mercaptoethyl) benzenesulfonamide; tolerances for residues.
180.242 Thiabendazole; tolerances for residues.
180.243 2-Chloro-4, 6-bis(isopropylamino)-*s*-triazine; tolerances for residues.
180.244 Basic zinc sulfate; tolerances for residues.
180.245 Streptomycin; tolerances for residues.
180.246 Succinic acid 2,2-dimethylhydrazide; tolerances for residues.
180.247 2-Chloroallyl diethyldithiocarbamate; tolerances for residues.
180.248 Neodecanoic acid; tolerances for residues.
180.249 2-Chloro-2', 6'-diethyl-*N*-(methoxymethyl) acetanilide; tolerances for residues.
180.250 3-(*p*-Bromophenyl)-1-methoxy-1-methylurea; tolerance for residues.
180.251 Dodecachlorooctahydro-1,3,4-metheno-2*H*-cyclobuta[cd] pentalene; tolerances for residues.
180.252 2-Chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl phosphate; tolerances for residues.
180.253 Methomyl; tolerances for residues.
180.254 Carbofuran; tolerances for residues.
180.255 *m*-(1-Methylbutyl) phenyl methylcarbamate and *m*-(1-ethylpropyl) phenyl methylcarbamate; tolerances for residues.
180.256 *p*-Chlorophenyl 2,4,5-trichlorophenyl sulfide; tolerances for residues.
180.257 Chloroneb; tolerances for residues.
180.258 2-Ethylamino-4-isopropylamino-6-methylthio-*s*-triazine; tolerances for residues.
180.259 2-(*p*-*tert*-Butylphenoxy) cyclohexyl 2-propynyl sulfite; tolerances for residues.
180.260 Norea; tolerances for residues.
180.261 *N*-(Mercaptomethyl) phthalimide *S*-(*O,O*-dimethyl phosphorodithioate) and its oxygen analog; tolerances for residues.
180.262 *O*-Ethyl *S,S*-dipropylphosphorodithioate; tolerances for residues.
180.263 Phosalone; tolerances for residues.
180.264 *O,O*-Diethyl *O*-2-pyrazinyl phosphorothioate and its oxygen analog; tolerances for residues.
180.265 2-*tert*-Butylamino-4-ethylamino-6-methylthio-*s*-triazine; tolerances for residues.
180.266 Amiben; tolerances for residues.
180.267 *cis*-*N*-[(1,1,2,2-Tetrachloroethyl) thio]-4-cyclohexene-1,2-dicarboximide; tolerances for residues.
180.268 Barban; tolerances for residues.
180.269 Aldicarb; tolerances for residues.
180.270 Benzadox; tolerances for residues.
180.271 Boron; tolerances for residues.
180.272 *S,S,S*-Tributyl phosphorotrithioate; tolerances for residues.
180.273 Trichlorobenzyl chloride; tolerances for residues.
180.275 2,4,5,6-Tetrachloroisophthalonitrile; tolerances for residues.
180.276 Formetanate hydrochloride; tolerances for residues.
180.277 *S*-2,3,-Dichloroallyl diisopropylthiocarbonate; tolerances for residues.
180.278 Phenmedipham; tolerances for residues.
180.279 3-(4-Bromo-3-chlorophenyl)-1-methoxy-1-methylurea; tolerances for residues.
180.280 Dimethyl phosphate of 4-methylbensyl 3-hydroxy-*cis*-crotonate;
180.281 2-*sec*-Butyl-4,6-dinitrophenol; tolerances for residues.
180.282 2-Chloro-*N,N*-diallylacetamide; tolerances for residues.
180.283 2,3,6-Trichlorophenylacetic acid; tolerances for residues.
180.284 Zinc phosphide; tolerances for residues.
180.285 *N'*-(4-Chloro-*o*-toiyl)-*N,N*-dimethylformamdine; tolerances for residues.
180.286 1-Chloro-2-nitropropane; tolerances for residues.
180.287 Decachloroactahydro-1,3,4-metheno-2H-cyclobuta [cd] pentalen-2-one; tolerances for residues.
180.288 2-(Thiocyanomethylthio) benzothiasole; tolerances for residues.
180.289 Methanearsonic acid; tolerances for residues.
180.290 p-Nitrophenyl 2-nitro-4 (trifluoromethyl) phenyl ether; tolerances for residues.
180.291 Pentachloronitrobenzene; tolerance
180.292 4-Amino-3,5,6-trichloropicolinic acid; tolerances for residues. for residues.
180.293 Endothall; tolerances for residues.
180.294 Benomyl; tolerances for residues.
180.295 4-*tert*-Butyl-2-chlorophenyl methyl methylphosphoromidate; tolerances for residues.
180.296 Dimethyl phosphate of 3-hydroxy-*N*-methyl-*cis*-crotonamide; tolerances for residues.

Sec.
180.297 N-1-Naphthyl phthalamic acid; tolerances for residues.
180.298 *O,O*-Dimethyl phosphorodi-thioate, S-ester with 4-(mercapto-

(b) Agency, without qualification, means the Environmental Protection Agency.

(c) [Reserved]

the extent possible in good manufacturing practice; and

(2) The concentration of the pesti in the preserved or processed food w

(k) The term "pesticide chemical," as defined in § 201(q) of the act, means any substance which, alone, in chemical combination, or in formulation with one

§ 180.3 Tolerances for related pesticide chemicals.

(a) Pesticide chemicals that cause related pharmacological effects will be

related terpenes, containing 65–66 percent chlorine) and toxaphene (chlorinated camphene containing 67–69 percent chlorine) on the same raw agricultural commodities, the total amount of

Sec.
180.297 N-1-Naphthyl phthalamic acid; tolerances for residues.
180.298 *O,O* - Dimethyl phosphorodi - thi - oate, S-ester with 4-(mercaptomethyl) - 2 methoxy - Δ² - 1,3,4-thiadi-azolin-5-one; tolerances for residues.
180.300 Ethephon; tolerances for residues.
180.301 Carboxin; tolerances for residues.
180.302 Hexachlorophene; tolerances for residues.
180.303 Acetic acid; tolerances for residues.
180.304 Propionic acid; tolerances for residues.
180.305 3,4,5-Trimethyl methyl carbamate and 2,3,5-trimethylcarbamate; tolerances for residues.

Subpart D—Exemptions From Tolerances
180.1001 Exemptions from the requirement of a tolerance.
180.1002 Allethrin (allyl homolog of cinerin I); exemption from the requirement of a tolerance.
180.1003 Ammonia; exemption from the requirement of a tolerance.
180.1004 Carbon disulfide; exemption from the requirement of a tolerance.
180.1005 Carbon tetrachloride; exemption from the requirement of a tolerance.
180.1006 Organic bromide residues from ethylene dibromide; exemption from the requirement of a tolerance.
180.1007 Ethylene dichloride; exemption from the requirement of a tolerance.
180.1008 Chloropicrin; exemption from the requirement of a tolerance.
180.1009 Chloroform; exemption from the requirement of a tolerance.
180.1010 Methylene chloride; exemption from the requirement of a tolerance.
180.1011 Viable spores of the microorganism *Bacillus thuringiensis* Berliner; exemption from the requirement of a tolerance.
180.1012 1,1,1-Trichloroethane; exemption from the requirement of a tolerance.
180.1013 Sulfur dioxide from use in fumigants for stored grains; exemption from the requirement of a tolerance.
180.1014 Pentane; exemption from the requirement of a tolerance.
180.1015 Sodium propionate; exemption from the requirement of a tolerance.
180.1016 Ethylene; exemption from the requirement of a tolerance.
180.1017 Diatomaceous earth; exemption from the requirement of a tolerance.
180.1018 Ammonium nitrate; exemption from the requirement of a tolerance.
180.1019 Sulfuric acid; exemption from the requirement of a tolerance.
180.1020 Sodium chlorate; exemption from the requirement of a tolerance.

AUTHORITY: The provisions of this Part 180 issued under sec. 406, 68 Stat. 511; 21 U.S.C. 346a, unless otherwise noted.

Subpart A—Definitions and Interpretative Regulations

DEFINITIONS AND INTERPRETATIONS

§ 180.1 Definitions and interpretations.

(a) Administrator, without qualification, means the Administrator of the Environmental Protection Agency.

(b) Agency, without qualification, means the Environmental Protection Agency.

(c) [Reserved]

(d) Pesticides Tolerance Division means the unit established within the Environmental Protection Agency charged with administration of the Pesticide Residue amendment to the Federal Food, Drug, and Cosmetic Act (section 408).

(e) Raw agricultural commodities include, among other things, fresh fruits, whether or not they have been washed and colored or otherwise treated in their unpeeled natural form; vegetables in their raw or natural state, whether or not they have been stripped of their outer leaves, waxed, prepared into fresh green salads, etc.; grains, nuts, eggs, raw milk, meats, and similar agricultural produce. It does not include foods that have been processed, fabricated, or manufactured by cooking, freezing, dehydrating, or milling.

(f) Where raw agricultural commodities bearing residues that have been exempted from the requirement of a tolerance, or which are within a tolerance permitted under section 408 are used, the processed foods will not be considered unsafe within the meaning of section 406 if:

(1) The poisonous or deleterious pesticide residues have been removed to the extent possible in good manufacturing practice; and

(2) The concentration of the pesticide in the preserved or processed food when ready to eat is not greater than the tolerance permitted on the raw agricultural commodity.

(g) For the purpose of computing fees as required by § 180.33, each group of crops listed in § 180.34(e) is counted as a single raw agricultural commodity for a petition or request for tolerances or exemption from the requirement of a tolerance for a nonsystemic pesticide. As a general rule, when considering a petition or request with respect to a systemic pesticide (see § 180.34(c)) crops shall not be grouped; however, when computing fees in connection with establishing tolerances for negligible residues, each group listed in § 180.34(f) is counted as a single commodity without regard as to whether or not the pesticide is systemic.

(h) Tolerances and exemptions established for pesticide chemicals in or on the general category of raw agricultural commodities listed in column A apply to the corresponding specific raw agricultural commodities listed in column B. However, a tolerance or exemption for a specific commodity in column B does not apply to the general category in column A.

A	B
Beans	Green beans, lima beans, navy beans, red kidney beans, snap beans, wax beans, cowpeas, blackeyed peas.
Celery	Anise (fresh leaves and stalks only), celery.
Cherries	Sour cherries, sweet cherries.
Citrus fruits	Grapefruit, lemons, limes, oranges, tangelos, tangerines, citrus citron, kumquats, and hybrids of these.
Melons	Cantaloupe, casabas, crenshaws, honeydew melons, honey balls, muskmelons, Persian melons, and hybrids of these, watermelons and their hybrids.
Onions	Dry bulb onions, green onions, garlic, leeks, shallots, spring onions.
Onions (dry bulbs only)	Garlic, onions (dry bulb only).
Peppers	All varieties of peppers including pimentos and bell, hot, and sweet peppers.
Tangerines	Tangelos, tangerines.
Turnip tops or turnip greens	Broccoli raab (raab, raab salad), turnip tops (turnip greens).

(i) Unless otherwise specified, tolerances and exemptions established under the regulations in this part apply to residues from only preharvest application of the chemical.

(j) Unless otherwise specified in this paragraph or in tolerance regulations prescribed in this part for specific pesticide chemicals, the raw agricultural commodity to be examined for pesticide residues shall consist of the whole raw agricultural commodity.

(1) The raw agricultural commodity bananas, when examined for pesticide residues, shall not include any crown tissue or stalk.

(2) Shell shall be removed and discarded from nuts before examination for pesticide residues.

(3) Caps (hulls) shall be removed and discarded from strawberries before examination for pesticide residues.

(4) Stems shall be removed and discarded from melons before examination for pesticide residues.

(5) Roots, stems, and outer sheaths (or husks) shall be removed and discarded from garlic bulbs, and only the garlic cloves shall be examined for pesticide residues.

(6) Where a tolerance is established on a root vegetable including tops or with tops, and the tops and the roots are marketed together, they shall be analyzed separately and neither the pesticide residue on the roots nor the pesticide residue on the tops shall exceed the tolerance level, except that in the case of carrots the tops shall be removed and discarded before analyzing roots for pesticide residues.

(7) The crowns (leaves at the top of the fruit) shall be removed and discarded from pineapples before examination for pesticide residues.

(k) The term "pesticide chemical," as defined in § 201(q) of the act, means any substance which, alone, in chemical combination, or in formulation with one or more other substances, is an "economic poison" within the meaning of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135–135k) and as defined in § 362.2 of regulations for its enforcement (7 C.F.R. 362.2), as now in force or as hereafter amended, and which is used in the production, storage, or transportation of raw agricultural commodities.

(l) The term "negligible residue" means any amount of a pesticide chemical remaining in or on a raw agricultural commodity or group of raw agricultural commodities that would result in a daily intake regarded as toxicologically insignificant on the basis of scientific judgment of adequate safety data. Ordinarily this will add to the diet an amount which will be less than 1/2,000th of the amount that has been demonstrated to have no effect from feeding studies on the most sensitive animal species tested. Such toxicity studies shall usually include at least 90-day feeding studies in two species of mammals.

(m) The term "nonperishable raw agricultural commodity" means any raw agricultural commodity not subject to rapid decay or deterioration that would render it unfit for consumption. Examples are cocoa beans, coffee beans, field-dried beans, field-dried peas, grains, and nuts. Not included are eggs, milk, meat, poultry, fresh fruits, and vegetables such as onions, parsnips, potatoes, and carrots.

(Sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371)

§ 180.2 Pesticide chemicals considered safe.

(a) As a general rule, pesticide chemicals other than benzaldehyde (when used as a bee repellant in the harvesting of honey), ferrous sulfate, lime, lime-sulfur, potassium polysulfide, sodium carbonate, sodium chloride, sodium polysulfide, and sulfur, and, when used postharvest as fungicides, citric acid, fumaric acid, oil of lemon, oil of orange, sodium benzoate, and sodium propionate are not for the purposes of section 408(a) of the act generally recognized as safe for use.

(b) Upon written request, the Pesticides Tolerance Division will advise interested persons whether a pesticide chemical should be considered as poisonous or deleterious, or one not generally recognized by qualified experts as safe.

(c) The training and experience necessary to qualify experts to evaluate the safety of pesticide chemicals for the purposes of section 408(a) are essentially the same as training and experience necessary to qualify experts to serve on advisory committees prescribed by section 408 (g). (See § 180.11.)

(Sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371)

§ 180.3 Tolerances for related pesticide chemicals.

(a) Pesticide chemicals that cause related pharmacological effects will be regarded, in the absence of evidence to the contrary, as having an additive deleterious action. (For example, many pesticide chemicals within each of the following groups have related pharmacological effects: Chlorinated organic pesticides, arsenic-containing chemicals, metallic dithiocarbamates, cholinesterase-inhibiting pesticides.)

(b) Tolerances established for such related pesticide chemicals may limit the amount of a common component (such as As_2O_3) that may be present, or may limit the amount of biological activity (such as cholinesterase inhibition) that may be present, or may limit the total amount of related pesticide chemicals (such as chlorinated organic pesticides) that may be present.

(c) (1) Where tolerances for inorganic bromide in or on the same raw agricultural commodity are set in two or more sections in this part, the overall quantity of inorganic bromide to be tolerated from use of two or more pesticide chemicals for which tolerances are established is the highest of the separate applicable tolerances. For example, where the bromide tolerance on lima beans from ethylene dibromide soil treatment is 5 parts per million and on lima beans from methyl bromide fumigation is 50 parts per million, the overall inorganic bromide tolerance for lima beans grown on ethylene dibromide treated soil and also fumigated with methyl bromide after harvest is 50 parts per million.

(2) Where tolerances are established in terms of inorganic bromide residues only from use of organic bromide fumigants on raw agricultural commodities, such tolerances are sufficient to protect the public health and no additional concurrent tolerances for the organic pesticide chemicals from such use are necessary. This conclusion is based on evidence of the dissipation of the organic pesticide or its conversion to inorganic bromide residues in the food when ready to eat.

(d) (1) Where tolerances are established for both calcium cyanide and hydrogen cyanide on the same raw agricultural commodity, the total amount of such pesticides shall not yield more residue than that permitted by the larger of the two tolerances, calculated as hydrogen cyanide.

(2) Where tolerances are established for residues of both *O,O*-diethyl *S*-[2-(ethylthio)ethyl] phosphorodithioate and demeton (a mixture of *O,O*-diethyl *O*-(and *S*-)[2-(ethylthio)ethyl] phosphorothioates) on the same raw agricultural commodity, the total amount of such pesticides shall not yield more residue than that permitted by the larger of the two tolerances, calculated as demeton.

(3) Where tolerances are established for both terpene polychlorinates (chlorinated mixture of camphene, pinene, and related terpenes, containing 65–66 percent chlorine) and toxaphene (chlorinated camphene containing 67–69 percent chlorine) on the same raw agricultural commodities, the total amount of such pesticides shall not yield more residue than that permitted by the larger of the two tolerances, calculated as a chlorinated terpene of molecular weight 398.6 containing 67 percent chlorine.

(4) Where a tolerance is established for more than one pesticide containing arsenic found in, or on a raw agricultural commodity, the total amount of such pesticide shall not exceed the highest established tolerance calculated as As_2O_3.

(5) Where tolerances are established for more than one member of the class of dithiocarbamates listed in paragraph (e)(3) of this section on the same raw agricultural commodity, the total residue of such pesticides shall not exceed that permitted by the highest tolerance established for any one member of the class, calculated as zinc ethylenebisdithiocarbamate.

(6) Where tolerances are established for residues of both *S,S,S*-Tributyl phosphorotrithioite and tributyl phosphorotrithioate in or on the same raw agricultural commodity, the total amount of such pesticides shall not yield more residue than that permitted by the higher of the two tolerances, calculated as *S,S,S*-tributyl phosphorotrithioate.

(e) Except as noted in subparagraphs (1) and (2) of this paragraph, where residues from two or more chemicals in the same class are present in or on a raw agricultural commodity the tolerance for the total of such residues shall be the same as that for the chemical having the lowest numerical tolerance in this class, unless a higher tolerance level is specifically provided for the combined residues by a regulation in this part.

(1) Where residues from two or more chemicals in the same class are present in or on a raw agricultural commodity and there are available methods that permit quantitative determination of each residue, the quantity of combined residues that are within the tolerance may be determined as follows:

(i) Determine the quantity of each residue present.

(ii) Divide the quantity of each residue by the tolerance that would apply if it occurred alone, and multiply by 100 to determine the percentage of the permitted amount of residue present.

(iii) Add the percentages so obtained for all residues present.

(iv) The sum of the percentages shall not exceed 100 percent.

(2) Where residues from two or more chemicals in the same class are present in or on a raw agricultural commodity and there are available methods that permit quantitative determinations of one or more, but not all, of the residues, the amounts of such residues as may be determinable shall be deducted from the total amount of residues present and the remainder shall have the same tolerance

as that for the chemical having the lowest numerical tolerance in that class. The quantity of combined residues that are within the tolerance may be deter-

Isopropyl 4,4'-dichlorobenzilate.
Lindane.
Methoxychlor.
Ovex (*p*-chlorophenyl *p*-chlorobenzenesulfonate).
Oxythioquinox (6-quinoxalinedithiol cyclic *S,O*-ester).
Phosphamidon (2-chloro-*N,N*-diethyl-3-hydroxycrotonamide dimethyl phosphate).
Piperonyl butoxide.
Pyrethrins.
Rotenone.
Sevin (1-naphthyl *N*-methylcarbamate).
Sulfur.
Thiram.
Toxaphene.
Trichlorfon (dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate).
Vapam (sodium *N*-methyldithiocarbamate).
Zineb.
Ziram.

Diemathion (2,3-*p*-dioxanedithiol *S,S*-bis(*O,O*-diethylphosphorodithioate)) containing approximately 70 percent *cis* and *trans* isomers and approximately 30 percent related

or on a raw agricultural commodity may be established because, among other reasons:

(a) A safe level of the pesticide chemi-

finite residues will be incurred in milk, eggs, meat, and/or poultry but there is no reasonable expectation of finite residues in light of data such as those reflecting evaporated pesticide levels in feed-

pesticide chemical is an ingredient of an economic poison, the complete quantitative formula of the resulting economic poison should be submitted. The submission of this information does not restrict the application

as that for the chemical having the lowest numerical tolerance in that class. The quantity of combined residues that are within the tolerance may be determined as follows:

(i) Determine the quantity of each determinable residue present.

(ii) Deduct the amounts of such residues from the total amount of residues present and consider the remainder to have the same tolerance as that for the chemical having the lowest numerical tolerance in that class.

(iii) Divide the quantity of each determinable residue by the tolerance that would apply if it occurred alone and the quantity of the remaining residue by the tolerance for the chemical having the lowest numerical tolerance in that class and multiply by 100 to determine the percentage of the permitted amount of residue present.

(iv) Add the percentages so obtained for all residues present.

(v) The sum of the percentages shall not exceed 100 percent.

(3) The following pesticides are members of the class of dithiocarbamates:

A mixture of 5.2 parts by weight of ammoniates of [ethylenebis (dithiocarbamato)] zinc with 1 part by weight ethylenebis [dithiocarbamic acid] bimolecular and trimolecular cyclic anhydrosulfides and disulfides.
2-Chloroallyl diethyldithiocarbamate.
Coordination product of zinc ion and maneb containing 20 percent manganese, 2.5 percent zinc, and 77.5 percent ethylenebisdithiocarbamate.
Ferbam.
Maneb.
Manganous dimethyldithiocarbamate.
Sodium dimethyldithiocarbamate.
Thiram.
Zineb.
Ziram.

(4) The following are members of the class of chlorinated organic pesticides:

Aldrin.
BHC (benzene hexachloride).
1,1 - Bis(*p*-chlorophenyl) - 2,2,2-trichloroethanol.
Chlorbenside (*p*-chlorobenzyl *p*-chlorophenyl sulfide).
Chlordane.
Chlorobenzilate (ethyl 4,4'-dichlorobenzilate).
p-Chlorophenoxyacetic acid.
p-Chlorophenyl-2,4,5-trichlorophenyl sulfide.
2,4-D (2,4-dichlorophenoxyacetic acid).
DDD (TDE).
DDT.
1,1 - Dichloro - 2,2 - bis(*p* - ethylphenyl) ethane.
2,6-Dichloro-4-nitroaniline.
2,4-Dichlorophenyl *p*-nitrophenyl ether.
Dieldrin.
Dodecachlorooctahydro - 1,3,4 - methano - 2*H*-cyclobuta[cd] pentalene.
Endosulfan (6,7,8,9,10,10-hexachloro-1,5,5a, 6,9,9a - hexahydro - 6,9 - methano - 2,4,3 - benzodioxathiepin-3-oxide).
Endosulfan sulfate (6,7,8,9,10,10-hexachloro-1,5,5a,6,9,9a - hexahydro - 6,9 - methano - 2, 4,3-benzodioxathiepin-3,3-dioxide).
Heptachlor (1,4,5,6,7,8,8-heptachloro-3a,4,7, 7a-tetrahydro-4,7-methanoindene).
Heptachlor epoxide (1,4,5,6,7,8,8-heptachloro - 2,3 - epoxy - 2,3,3a,4,7,7a-hexahydro-4,7-methanoindene).
Hexachlorophene (2,2'-methylenebis(3,4,6-trichlorophenol)) and its monosodium salt.
Isopropyl 4,4'-dichlorobenzilate.
Lindane.
Methoxychlor.
Ovex (*p*-chlorophenyl *p*-chlorobenzenesulfonate).
Secone (sodium 2,4-dichlorophenoxyethyl sulfate, SHE).
Sodium 2,4-dichlorophenoxyacetate.
Sulphenone (*p*-chlorophenyl phenyl sulfone).
Terpene polychlorinates (chlorinated mixture of camphene, pinene, and related terpenes (62–66 percent chlorine).
2,3,5,6-Tetrachloronitrobenzene.
Tetradifon (2,4,5,4'-tetrachlorodiphenyl sulfone).
Toxaphene (chlorinated camphene).
Trichlorobenzoic acid.
Trichlorobenzyl chloride.

(5) The following are members of the class of cholinesterase-inhibiting pesticides:

Aldicarb (2-methyl-2-(methylthio) propionaldehyde *O*-(methylcarbamoyl) oxime) and its cholinesterase-inhibiting metabolites 2-methyl-2-(methylsulfinyl) propionaldehyde *O*-(methylcarbamoyl) oxime and 2-methyl-2-(methylsulfonyl) propionaldehyde *O*-(methylcarbamoyl) oxime.
Carbaryl (1-naphthyl *N*-methylcarbamate).
Carbofuran (2,3-dihydro-2,2-dimethyl-7-benzofuranyl *N*-methylcarbamate).
Carbofuran metabolite (2,3-dihydro-2,2-dimethyl-3-hydroxy-7-benzofuranyl *N*-methylcarbamate).
Carbophenothion (*S*-(*p*-chlorophenylthiomethyl) *O,O*-diethyl phosphorodithioate).
2-Chloro-1-(2,4,5-trichlorophenyl) vinyl dimethyl phosphate.
Coumaphos (*O,O*-diethyl *O*-3-chloro-4-methyl-2-oxo-2*H*-1-benzopyran-7-yl phosphorothioate).
Comaphos oxygen analog (*O,O*-diethyl *O*-3-chloro-4-methyl-2-oxo-2*H*-1-benzopyran-7-yl phosphate).
Demeton (a mixture of *O,O*-diethyl *O*-(and *S*-) [2-(ethylthio) ethyl] phosphorothioates).
2,2-Dichlorovinyl dimethyl phosphate.
O,O-Diethyl *S*-[2-(ethylthio) ethyl] phosphorodithioate and its cholinesterase-inhibiting metabolites.
O,O-Diethyl *O*-(2-isopropyl-4-methyl-6-pyrimidinyl) phosphorothioate.
O,O-Diethyl *O*-[*p*-(methylsulfinyl) phenyl] phosphorothioate and its cholinesterase-inhibiting metabolites.
Diethyl 2-pyrazinyl phosphate.
O,O-Diethyl *O*-2-pyrazinyl phosphorothioate.
S-(*O,O*-Diisopropyl phosphorodithioate) of *N*-(2-mercaptoethyl) benzenesulfonamide.
S-(*O,O*-Diisopropyl phosphorothioate) of *N*-(2-mercaptoethyl) benzenesulfonamide.
Dimethoate (*O,O*-dimethyl *S*-(*N*-methylcarbamoylmethyl) phosphorodithioate).
Dimethoate oxygen analog (*O,O*-dimethyl *S*-(*N*-methylcarbamoylmethyl) phosphorothioate).
O,O-Dimethyl *O*-*p*-(dimethylsulfamoyl) phenyl phosphate.
O,O-Dimethyl *O*-*p*-(dimethylsulfamoyl) phenyl phosphorothioate.
O,O-Dimethyl *O*-[4-(methylthio) -*m*-tolyl] phosphorothioate and its cholinesterase-inhibiting metabolites.
O,O-Dimethyl *S*-[4-oxo-1,2,3-benzotriazin-3-(4*H*)-ylmethyl] phosphorodithioate.
Dimethyl phosphate of α-methylbenzyl 3-hydroxy-*cis*-crotonate.
Dimethyl phosphate of 3-hydroxy-*N*-methyl-*cis*-crotonamide.
O,O-Dimethyl 2,2,2-trichloro-1-hydroxyethyl phosphonate.
O,O-Dimethyl phosphorodithioate, *S*-ester with 4-(mercaptomethyl) -2-methoxy-Δ²-1,3,4-thiadiasolin-5-one.
Dioxathion (2,3-p-dioxanedithiol *S,S*-bis(*O,O*-diethylphosphorodithioate)) containing approximately 70 percent *cis* and *trans* isomers and approximately 30 percent related compounds.
EPN.
Ethephon ((2 - chloroethly) phosphonic acid).
Ethion.
Ethion oxygen analog (*S*-[[(diethoxyphosphinothioyl)thio] methyl]*O,O*-diethyl phosphorothioate).
O-Ethyl *S,S*-dipropylphosphorodithioate.
O-Ethyl *S*-phenyl ethylphosphomonothioate.
O-Ethyl *S*-phenyl ethylphosphomodithioate.
O-Ethyl *S*-phenyl ethylphosphomothiolate.
m - (1 - Ethylpropyl) phenyl methylcarbamate.
Malathion.
N-(Mercaptomethyl) phthalimide *S*-(*O,O*-dimethyl phosphorodithioate).
N-(Mercaptomethyl) phthalimide *S*-(*O,O*-dimethyl phosphorothioate).
Methomyl (*S*-methyl *N*-[(methylcarbamoyl) oxy] thioacetimidate).
1-Methoxycarbonyl-1-propen-2-yl dimethyl phosphate and its beta isomer.
m-(1-Methylbutyl) phenyl methylcarbamate.
Methyl parathion.
Naled (1,2-dibromo-2,2-dichloroethyl dimethyl phosphate).
Parathion.
Phorate (*O,O*-diethyl *S*-(ethylthio) methyl phosphorodithioate) and its cholinesterase-inhibiting metabolites.
Phosalone (*S*-(6-chloro-2-mercaptobenzoxazolinone) *O,O* - diethyl phosphorodithioate).
Phosphamidon (2-chloro-2-diethylcarbamoyl-1-methylvinyl dimethyl phosphate) including all of its related cholinesterase-inhibiting compounds.
Ronnel.
Schradan (octamethylpyrophosphoramide).
4-*tert*-Butyl-2-chlorophenyl methyl methyl phosphoramidate.
Tributylphosphorotrithioite.
S,S,S-Tributyl phosphorotrithioite.
3,4,5-Trimethylphenyl methylcarbamate and its isomer 2,3,5-trimethylphenyl methylcarbamate.

(6) The following compounds are members of the class of dinitro pesticides:

2-sec-Butyl-4,6-dinitrophenol.
Dinitro-o-cyclohexylphenol.
Dicyclohexylamine salt of dinitro-o-cyclohexylphenol.

§ 180.4 Certification of usefulness and residue estimate.

The time period for the Agency's consideration of a petition will not begin to run until the Administrator of the Environmental Protection Agency certifies that the pesticide chemical involved is useful and gives an opinion whether the tolerance proposed by the petitioner reasonably reflects the amount of residue likely to result when the pesticide chemical is used in the manner proposed. The tolerance thereafter established ordinarily will not exceed that figure which the Administrator of the Environmental Protection Agency states, in his opinion, reasonably reflects the amounts of residue likely to result.

§ 180.5 Zero tolerances.

A zero tolerance means that no amount of the pesticide chemical may remain on the raw agricultural commodity when it is offered for shipment. A zero tolerance for a pesticide chemical in

or on a raw agricultural commodity may be established because, among other reasons:

(a) A safe level of the pesticide chemical in the diet of two different species of warm-blooded animals has not been reliably determined.

(b) The chemical is carcinogenic to or has other alarming physiological effects upon one or more of the species of the test animals used, when fed in the diet of such animals.

(c) The pesticide chemical is toxic, but is normally used at times when, or in such manner that, fruit, vegetables, or other raw agricultural commodities will not bear or contain it.

(d) All residue of the pesticide chemical is normally removed through good agricultural practice such as washing or brushing or through weathering or other changes in the chemical itself, prior to introduction of the raw agricultural commodity into interstate commerce.

§ 180.6 Pesticide tolerances regarding milk, eggs, meat, and/or poultry; statement of policy.

(a) When establishing tolerances for pesticide residues in or on raw agricultural commodities, consideration is always given to possible residues of those pesticide chemicals or their conversion products entering the diet of man through the ingestion of milk, eggs, meat, and/or poultry produced by animals fed agricultural products bearing such pesticide residues. In each instance an evaluation of all available data will result in a conclusion either:

(1) That finite residues will actually be incurred in these foods from feed use of the raw agricultural commodity including its byproducts; or

(2) That it is not possible to establish with certainty whether finite residues will be incurred, but there is a reasonable expectation of finite residues; or

(3) That it is not possible to establish with certainty whether finite residues will be incurred, but there is no reasonable expectation of finite residues.

(b) When the data show that finite residues will actually be incurred in milk, eggs, meat, and/or poultry, a tolerance will be established on the raw agricultural commodity used as feed provided that tolerances can be established at the same time, on the basis of the toxicological and other data available, for the finite residues incurred in milk, eggs, meat, and/or poultry. When it is not possible to determine with certainty whether finite residues will be incurred in milk, eggs, meat, and/or poultry but there is a reasonable expectation of finite residues in light of data reflecting exaggerated pesticide levels in feeding studies, a tolerance will be established on the raw agricultural commodity provided that appropriate tolerances can be established at the same time, on the basis of the toxicological and other data available, for the finite residues likely to be incurred in these foods through the feed use of the raw agricultural commodity or its byproducts. When it is not possible to determine with certainty whether finite residues will be incurred in milk, eggs, meat, and/or poultry but there is no reasonable expectation of finite residues in light of data such as those reflecting exaggerated pesticide levels in feeding studies and those elucidating the biochemistry of the pesticide chemical in the animal, a tolerance may be established on the raw agricultural commodity without the necessity of a tolerance on food products derived from the animal.

(c) The principles outlined in paragraphs (a) and (b) of this section will also be followed with respect to tolerances for residues which will actually be incurred or are reasonably to be expected in milk, eggs, meat, and/or poultry by the use of pesticides directly on the animal or administered purposely in the feed or drinking water.

(d) Tolerances contemplated by paragraphs (a) and (b) of this section will in addition to toxicological considerations be conditioned on the availability of a practicable analytical method to determine the pesticide residue; that is, the method must be sensitive and reliable at the tolerance level or in special cases at a higher level where such level is deemed satisfactory and safe in light of the toxicity of the pesticide residue and of the unlikelihood of such residue exceeding the tolerance. The analytical methods to be used for enforcement purposes will be those set forth in the "Pesticide Analytical Manual" (see § 180.101 (c)). The sensitivities of these methods are expressed in that manual.

(Sec. 701(a), 68 Stat. 511 et seq.; 21 U.S.C. 371(a))

Subpart B—Procedural Regulations

Procedure for Filing Petitions

§ 180.7 Petitions proposing tolerances or exemptions for pesticide residues in or on raw agricultural commodities.

(a) Petitions to be filed with the Agency under the provisions of section 408(d) shall be submitted in duplicate to the Pesticides Tolerance Division. If any part of the material submitted is in a foreign language, it shall be accompanied by an accurate and complete English translation. The petition shall be accompanied by an advance deposit for fees described in § 180.33. The petition shall state petitioner's mail address to which notice of objection under section 408(d)(5) may be sent.

(b) Petitions shall include the following data and be submitted in the following form:

_____
(Date)

Pesticides Tolerance Division,
Environmental Protection Agency,
Washington, D.C. 20250

Dear Sirs:

The undersigned, _____, submits this petition pursuant to section 408 (d) (1) of the Federal Food, Drug, and Cosmetic Act with respect to the pesticide chemical _____.

Attached hereto, in duplicate and constituting a part of this petition, are the following:

A. The name, chemical identity, and composition of the pesticide chemical. (If the pesticide chemical is an ingredient of an economic poison, the complete quantitative formula of the resulting economic poison should be submitted. The submission of this information does not restrict the application of any tolerance or exemption granted to the specific formula(s) submitted.)

B. The amount, frequency, and time of application of the pesticide chemical.

C. Full reports of investigations made with respect to the safety of the pesticide chemical. (These reports should include, where necessary, detailed data derived from appropriate animal or other biological experiments in which the methods used and the results obtained are clearly set forth.)

D. The results of tests on the amount of residue remaining, including a description of the analytical method used. (See § 180.34 for further information about residue tests.)

E. Practicable methods for removing residue that exceeds any proposed tolerance.

F. Proposed tolerances for the pesticide chemical if tolerances are proposed.

G. Reasonable grounds in support of the petition.

Enclosed is (money order, bank draft, or certified check) for $_____, payable to the Environmental Protection Agency to cover clerical operations, initial administrative review, and the cost incurred in considering the petition after it has been filed.

Very truly yours,

_____
(Petitioner)

Per _____
(Indicate authority)

Mail address _____

This petition must be signed by the petitioner or by his attorney or agent, or (if a corporation) by an authorized official.

The data specified under the several lettered headings should be on separate sheets or sets of sheets, suitably identified. If such data have already been submitted with an earlier application, the present petition may incorporate it by reference to the earlier one.

The petition shall be submitted in duplicate. The petitioner shall show that he has registered or has submitted an application for the registration of an economic poison containing the pesticide chemical under the Federal Insecticide, Fungicide, and Rodenticide Act.

(c) Except as noted in paragraph (d) of this section, a petition shall not be accepted for filing if any of the data prescribed by section 408(d) are lacking or are not set forth so as to be readily understood. Data in a petition entitled to protection as a trade secret will be held confidential and not revealed unless it is necessary to do so in administrative or judicial proceedings under section 408.

(d) The Pesticides Tolerance Division shall notify the petitioner within 15 days after its receipt of acceptance or nonacceptance of a petition, and if not accepted the reasons therefor. Copy of the notice shall be sent to the Pesticides Regulation Division, Environmental Protection Agency. If accepted, the date of notification becomes the date of filing for the purposes of section 408(d)(1). If petitioner desires, he may supplement a deficient petition after notification as to deficiencies. Each supplement shall be accompanied by a deposit of fees as specified in § 180.33(e). If the supplementary material or explanation of petition is deemed acceptable, petitioner shall be notified, and date of such notification

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becomes the date of filing. If the petitioner does not wish to supplement or explain the petition and requests in writing that it be filed as submitted, the peti-

(Sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371)

§ 180.9 Substantive amendments to petitions.

(c) The Administrator shall appoint the experts so selected and fix their compensation at not to exceed the maximum permitted by other authority

(d) If at any time within 60 days, the chairman believes that the advisory committee needs more time, he shall so inform the Administrator in writing, in

§ 180.14 Public hearing; notice.

If the objections and statements filed by any person, when they are considered

the time specified in the notice of hearing, file with the presiding officer a written notice of appearance setting forth his name, address, and employment. If

becomes the date of filing. If the petitioner does not wish to supplement or explain the petition and requests in writing that it be filed as submitted, the petition shall be filed and the petitioner so notified. The date of such notification becomes the date of filing. The Administrator shall publish in the FEDERAL REGISTER within 30 days a notice of filing, name of petitioner, and a brief outline of the petition, including description of analytical method or reference to a publication in which it appears, if such publication is generally available.

(e) The Pesticides Tolerance Division may request a sample of the pesticide chemical at any time while a petition is under consideration. The Pesticides Tolerance Division shall specify in its request for a sample of the pesticide chemical, a quantity which it deems adequate to permit tests of analytical methods used to determine residues of the pesticide chemical and of methods proposed by the petitioner for removing any residues of the chemical that exceed the tolerance proposed. The date used for computing the 90-day limit for the purposes of section 408(d)(2) shall be moved forward 1 day for each day in excess of 15 from the mailing date of the request taken by the petitioner to submit the sample. If the sample is not submitted within 180 days after mailing date of the request, the petition will be considered withdrawn without prejudice.

(f) The date of receipt from the Administration of certification as to usefulness shall be the date used for computing the 90-day limit for the purposes of section 408(d)(2).

(g) Unless the petition is referred to an advisory committee, the Administrator shall publish in the FEDERAL REGISTER within 90 days after receipt of the certification of usefulness, a regulation establishing a tolerance for residues of the pesticide chemical or exempting such residues from the necessity of a tolerance, as provided in section 408(d)(2) of the act.

(Sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371)

§ 180.8 Withdrawal of petitions without prejudice.

In some cases the Pesticides Tolerance Division or an advisory committee to which the petition has been referred will notify the petitioner that the petition, while technically complete, is inadequate to justify the establishment of a tolerance or the tolerance requested by petitioner. This may be due to the fact that the data are not sufficiently clear or complete. In such cases, the petitioner may withdraw the petition pending its clarification or the obtaining of additional data. This withdrawal may be without prejudice to a future filing. Upon refiling, the time limitation will begin to run anew from the date of refiling or the date of receipt of certification from the Administrator, whichever is later. A deposit for fees as specified in § 180.33(f) shall accompany the resubmission of the petition.

(Sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371)

§ 180.9 Substantive amendments to petitions.

After a petition has been filed or referred to an advisory committee, the petitioner may submit additional information or data in support thereof, but in such cases the petition will be given a new filing date or a new initial date of consideration by the advisory committee, and the time limitation will begin to run anew. The additional data shall be accompanied by a deposit of fees as specified in § 180.33(g).

ADVISORY COMMITTEES

§ 180.10 Referral of petition to advisory committee.

(a) If within the prescribed period a person filing a petition requests that the petition be referred to an advisory committee, he shall make such request in writing to the Administrator and forward with such request an advance deposit for fees prescribed by § 180.33(i)(3).

(b) If further advance deposits are not made upon request of the Administrator, as provided for in § 180.33(i)(3), the request for referral of the petition to an advisory committee shall be considered withdrawn, and a tolerance shall be established within 90 days of the date on which the Administrator requested the further advance deposit.

(c) In case the Administrator on his own initiative deems it necessary to refer a petition to an advisory committee, he shall, in writing, so inform the person filing the petition.

§ 180.11 Appointment of advisory committee.

(a) Whenever the referral of a petition or proposal to an advisory committee is requested or the Administrator otherwise deems such referral necessary, the Administrator will request the National Academy of Sciences, National Research Council, to select qualified experts, including at least one representative from land-grant colleges, willing to serve on the advisory committee. All such experts shall have had sufficient training and experience in biology, medicine, physiology, toxicology, pharmacology, veterinary medicine, or other appropriate science to evaluate the safety of pesticide chemicals. The Administrator will request the National Academy of Sciences, when it furnishes the names of such experts, to supply a biographical sketch showing the background of their experience and their connection, if any, with academic and commercial institutions.

(b) Each advisory committee shall consist of not less than three experts, at least one of whom is a representative from a land-grant college. The Administrator may specify a larger number to serve. He shall appoint one member of the committee as chairman, and the chairman shall be the spokesman of the committee for receiving and forwarding reports and other functions of the committee.

(c) The Administrator shall appoint the experts so selected and fix their compensation at not to exceed the maximum permitted by other authority per day for each day or part thereof spent in committee meetings and in traveling to and from committee meetings held outside the city of their residence, plus necessary traveling and subsistence expenses while the experts are serving away from their places of residence. Subsistence expenses shall not exceed the maximum per diem permitted by other authority.

§ 180.12 Procedure for advisory committee.

(a) The Administrator shall submit to the chairman of the committee the petition for tolerances, together with certification by the Administrator and such other relevant, reliable information as may be available. When the Administrator submits a proposal to an advisory committee, he shall inform the petitioner and furnish him with copies of material other than the petition and certification that is furnished the committee. The chairman of the committee shall acknowledge receipt of the information and readiness of the committee to act. The date of receipt of such information shall be considered the beginning of the period allowed for consideration by the committee. Copy of this acknowledgment shall be forwarded to the petitioner by the chairman of the committee.

(b) A secretariat to advisory committees will be established by the Administrator. The secretariat shall furnish members of the committee with copies of the proposal or petition, certification from the Administrator, and any data received by the chairman. If the chairman of the committee believes that a meeting of the committee is necessary before making a recommendation, he shall so advise the Administrator. Such meetings shall be held in Washington, D.C., or such other place as the Administrator may designate. The Administrator shall furnish a suitable meeting place for the committee. If a meeting is held, the secretariat shall keep the minutes and provide clerical assistance.

(c) As soon as practicable, but not later than 60 days after receipt of proposal or petition (unless the time has been extended as provided in paragraph (d) of this section), the chairman shall certify to the Administrator the report of the committee, including any minority report, and shall return the petition for tolerances and the certification. The report will include copies of all relevant material considered by the committee, except that in the case of scientific literature readily available in scientific libraries proper reference may be made to it instead of furnishing actual copies. The report of the advisory committee shall be available for inspection by any interested person after a tolerance or exemption resulting from the petition is published.

(d) If at any time within 60 days, the chairman believes that the advisory committee needs more time, he shall so inform the Administrator in writing, in which case he shall make the certification contemplated by section 408(d)(3) of the act within the additional 30 days.

(e) The date of receipt of the committee report will be the date for computing time for the Administrator to act for the purposes of both sections 408(d)(3) and (e).

(f) The chairman of the committee, after consultation with the committee members, will inform the National Academy of Sciences of the committee's opinion as to the member who may best represent the committe at a hearing, if one occurs.

(g) More than one petition or proposal may be handled by a committee concurrently.

(h) Persons authorized under section 408(h) to discuss proposals or petitions with the committee shall notify the chairman and if practicable, make appointments through him. The report of the committee shall show the names of persons other than committee members discussing proposals or petitions with the committee. Except for discussions with authorized persons the committee shall not disclose data originating with a petitioner prior to publication of a regulation.

PROCEDURE FOR FILING OBJECTIONS AND HOLDING A PUBLIC HEARING

§ 180.13 Objections to regulations and requests for hearings.

(a) Objections under section 408(d)(5) shall be submitted in quintuplicate to the hearing clerk of the Agency and shall be accompanied by a filing fee as specified in § 180.33(h). Each objection to a provision of the regulation shall be separately numbered.

(b) A statement of objections shall not be accepted for filing if:

(1) It fails to establish that the objector is adversely affected by the regulation; or

(2) It does not specify with particularity the provisions of the regulation to which objection is taken; or

(3) It does not state reasonable grounds for each objection raised. Grounds which it is reasonable to conclude are capable of being established by reliable evidence at the hearing and which if proved would call for changing the provisions specified in the objections will be deemed reasonable grounds.

(c) If the statement of objections may not be filed, the Administrator shall inform the objector of the reasons.

(d) If objections to a regulation issued pursuant to a petition are filed by a person other than the petitioner, the Agency shall send a copy of the objections by certified mail, return receipt requested, to the petitioner at the address given in the petition. Petitioner shall have 2 weeks from the date of receipt of the objections to make written reply.

§ 180.14 Public hearing; notice.

If the objections and statements filed by any person, when they are considered with the record in the proceeding (including any reply to the objections that the petitioner may have filed) show that the person filing the objections is adversely affected and that the grounds stated in support of the objections are reasonable, the Administrator shall cause to be published in the FEDERAL REGISTER a notice reciting the objections and announcing a public hearing to receive evidence on them. The notice shall designate the place where the hearing will be held, specify the time within which appearances must be filed, and specify the time (not earlier than 30 days after the date of the notice) when the hearing will start. The hearing shall convene at the place and time announced in the notice but thereafter it may be moved to a different place and may be continued from day to day or recessed to a later day without other notice than announcement thereof by the presiding officer at the hearing.

§ 180.15 Presiding officer.

The hearing shall be conducted by a presiding officer, who shall be a hearing examiner appointed as provided in the Administrative Procedure Act and designated by the Administrator for conducting the hearing. Any such designation may be made or revoked by the Administrator at any time. Hearings shall be conducted in an informal but orderly manner in accordance with these regulations and the requirements of the Administrative Procedure Act. The presiding officer shall have the power to administer oaths and affirmations; to request the member of an advisory committee designated as provided by section 408(d)(5) to testify with respect to the report and recommendations of the committee; to rule upon offers of proof and admissibility of evidence; to receive relevant evidence; to examine witnesses; to regulate the course of the hearing; to hold conferences for the simplification of the issues, and to dispose of procedural requests; but he shall not have power to decide any motion that involves final determination of the merits of the proceeding.

§ 180.16 Parties; burden of proof; appearances.

At the hearing, the person whose objections raised the issues to be determined shall be, within the meaning of section 7(c) of the Administrative Procedure Act, the proponent of the order sought, and accordingly shall have the burden of proof. Any interested person shall be given an opportunity to appear at the hearing, either in person or by his authorized representative, and to be heard with respect to matters relevant to the issues raised by the objections. Any interested person who desires to be heard at the hearing in person or through a representative shall, within the time specified in the notice of hearing, file with the presiding officer a written notice of appearance setting forth his name, address, and employment. If such person desires to be heard through a representative, such person or such representative shall file with the presiding officer a written appearance setting forth the name, address, and employment of such person. Any person or representative shall state with particularity in the appearance his interest in the proceedings and shall set forth the specific provisions of the regulations concerning which objections have been made on which such person desires to be heard. The appearance shall also set forth with particularity the position to be taken concerning the objections on which he wishes to be heard. No person shall be heard if he failed to file his appearance within the time prescribed in the absence of a clear showing of good cause why the appearance was not filed. All present at the hearing shall conform to all reasonable standards of orderly and ethical conduct.

§ 180.17 Prehearing and other conferences.

(a) The presiding officer, on his own motion, or on the motion of any party or his representative, may direct all parties or their representatives to appear at a specified time and place for a conference to consider:

(1) The simplification of the issues.

(2) The possibility of obtaining stipulations, admissions of facts and documents.

(3) The limitation of the number of expert witnesses.

(4) The scheduling of witnesses to be called.

(5) The advance submission of all documentary evidence.

(6) Such other matters as may aid in the disposition of the proceeding.

The presiding officer shall make an order which recites the action taken at the conference, the agreements made by the parties or their representatives, and the schedule of witnesses, and which limits the issues for hearing to those not disposed of by admissions or agreements. Such order shall control the subsequent course of the proceeding unless modified for good cause by subsequent order.

(b) The presiding officer may also direct all parties and their representatives to appear at conferences at any time during the hearing with a view to simplification, clarification, or shortening of the hearing.

§ 180.18 Submission of documentary evidence in advance.

(a) All documentary evidence to be offered at the hearing shall be submitted to the presiding officer and to the parties sufficiently in advance of the offer of such documentary evidence for introduction into the record to permit study and preparation of cross-examination and rebuttal evidence.

(b) The presiding officer, after consultation with the parties at a conference called in accordance with § 180.17, shall make an order specifying the time at which documentary evidence shall be submitted. Documentary evidence accumulated up to the start of the hearing shall be open for inspection by interested persons during office hours in the office of the hearing clerk of the Agency.

(c) The member of an advisory committee designated as provided by section 408(d)(5) to testify with respect to the report and recommendations of the committee shall be available for cross-examination at the hearing, citing the pages of the transcript of the testimony or properly identified exhibits where such evidence occurs.

§ 180.23 Indexing of record.

exceptions shall point out with particularity the alleged errors in said proposed order and shall contain a specific reference to the pages of the transcript of the testimony or to the exhibits on which

proceed as prescribed in section 408 and this part.

(d) If further advance deposits are not made upon request of the Administrator, as provided in § 180.33(i)(3), the request

emption from a tolerance may be revoked if the experimental permit is revoked, or may be revoked at any time if it develops that the application for a temporary tolerance contains a mis-

(b) The presiding officer, after consultation with the parties at a conference called in accordance with § 180.17, shall make an order specifying the time at which documentary evidence shall be submitted. He shall also specify in his order the time within which objection to the authenticity of such document must be made to comply with paragraph (d) of this section.

(c) Documentary evidence not submitted in advance in accordance with the requirements of paragraphs (a) and (b) of this section shall not be received in evidence in the absence of a clear showing that the offering party had good cause for his failure to produce the evidence sooner.

(d) The authenticity of all documents submitted in advance shall be deemed admitted unless written objection thereto is filed with the presiding officer upon notice to the other parties within the time specified by the presiding officer in accordance with paragraph (b) of this section, except that a party will be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to have filed such written objection.

§ 180.19 Excerpts from documentary evidence.

When portions only of a document are to be relied upon, the offering party shall prepare the pertinent excerpts, adequately identified, and shall supply copies of such excerpts, together with a statement indicating the purpose for which such materials will be offered, to the presiding officer and to the other parties. Only the excerpts, so prepared and submitted, shall be received in the record. However, the whole of the original document should be made available for examination and for use by opposing counsel for purposes of cross-examination.

§ 180.20 Submission and receipt of evidence.

(a) Each witness shall, before proceeding to testify, be sworn or make affirmation.

(b) When necessary to prevent undue prolongation of the hearing, the presiding officer may limit the number of times any witness may testify, the repetitious examination and cross-examination of witnesses, or the amount of corroborative or cumulative evidence.

(c) The presiding officer shall admit only evidence which is relevant, material, and not unduly repetitious.

(d) Opinion evidence shall be admitted when the presiding officer is satisfied that the witness is properly qualified.

(e) The presiding officer shall file as exhibits the FEDERAL REGISTER promulgating the regulation to which objections were taken and any report, recommendations, underlying data, and reasons that were certified to the Administrator by an advisory committee pursuant to section 408(d)(3). The report, recommendations, underlying data, and reasons shall be subject to section 7(c) of the Administrative Procedure Act. All documents constituting the record accumulated up to the start of the hearing shall be open for inspection by interested persons during office hours in the office of the hearing clerk of the Agency.

(f) The member of an advisory committee, if any, designated to testify, or any member requested to testify by the petitioner, the Agency, or the presiding officer, or who upon his own initiative requests to be heard, shall appear and testify with respect to the report, recommendations, underlying data, and reasons of the committee. The designated member shall receive per diem and travel and subsistence expenses when incurred, as though he were attending a meeting of the advisory committee.

(g) If any person objects to the admission or rejection of any evidence or to other limitation of the scope of any examination or cross-examination, he shall state briefly the grounds for such objection, and the transcript shall not include extended argument or debate thereon except as ordered by the presiding officer. A ruling of the presiding officer on any such objection shall be a part of the transcript, together with such offer of proof as has been made.

§ 180.21 Transcript of the testimony.

Testimony given at a hearing shall be reported verbatim. All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall be marked for identification and, upon a showing satisfactory to the presiding officer of their authenticity, relevancy, and materiality, shall be received in evidence subject to the Administrative Procedure Act (sec. 7(c), 60 Stat. 238; 5 U.S.C. 1006(c)). Exhibits shall, if practicable, be submitted in quintuplicate. In case the required number of copies are not made available, the presiding officer shall exercise his discretion as to whether said exhibit shall be read in evidence or whether additional copies shall be required to be submitted within a time to be specified by the presiding officer. Where the testimony of a witness refers to a statute or to a report or document, the presiding officer shall, after inquiry relating to the identification of such statute, report, or document, determine whether the same shall be produced at the hearing and physically be made a part of the evidence by reference. Where relevant and material matter offered in evidence is embraced in a report or document containing immaterial and irrelevant matter, such immaterial and irrelevant matter shall be excluded and shall be segregated insofar as practicable, subject to the direction of the presiding officer.

§ 180.22 Oral and written arguments.

(a) Unless the presiding officer issues an announcement at the hearing authorizing oral argument before him, it shall not be permitted.

(b) The presiding officer shall announce at the hearing a reasonable period within which interested persons may file written arguments based solely upon the evidence received at the hearing, citing the pages of the transcript of the testimony or properly identified exhibits where such evidence occurs.

§ 180.23 Indexing of record.

(a) Whenever it appears to the presiding officer that the record of hearing will be of such length that an index to the record will permit a more orderly presentation of the evidence and reduce delay, the presiding officer shall require counsel for the parties to prepare a daily topical index which will be available to the presiding officer and all parties. Preparation of such an index shall be apportioned among all counsel present in such manner as appears just and proper in the circumstances.

(b) The index should include each topic of testimony upon which evidence is taken, the name of each witness testifying upon the topic, the page of the record at which each portion of his testimony appeared, and the number of each exhibit relating to the topic. The index should also contain the name of each witness, followed by the topics upon which he testified and the page of the record at which such testimony appears.

§ 180.24 Certification of record.

At the close of the hearing, the presiding officer shall afford interested persons a short time (not longer than 1 week, except in unusual cases) in which to point out errors that may have been made in transcribing the testimony. The presiding officer shall promptly thereafter order such corrections made as in his judgment are required to make the transcript conform to the testimony, and he shall certify the transcript of testimony and the exhibits to the Administrator.

§ 180.25 Filing the record of the hearing.

As soon as practicable after the close of the hearing, the complete record of the hearing shall be filed in the office of the Hearing Clerk. The record shall include the transcript of the testimony, and exhibits, and any written arguments that may have been filed.

§ 180.26 Copies of the record of the hearing.

The Agency will make provisions for a stenographic record of the testimony and for such copies of the transcript thereof as it requires for its own purposes. Any person desiring a copy of the record of the hearing or of any part thereof shall be entitled to the same upon payment of the costs thereof.

§ 180.27 Proposed order.

As soon as practicable after the time for filing written arguments has ended the Administrator shall prepare and cause to be published in the FEDERAL REGISTER a proposed order which shall incorporate findings of fact, recommend decisions on the objections which were the subject of the hearing and tentative regulations. The proposed order shall specify a reasonable time, ordinarily not to exceed 30 days, within which any interested person may file exceptions. The

exceptions shall point out with particularity the alleged errors in said proposed order and shall contain a specific reference to the pages of the transcript of the testimony or to the exhibits on which each exception is based. Such exceptions may be accompanied by a memorandum brief.

§ 180.28 Final order.

As soon as practicable after the time for filing exceptions has passed, the record and the exceptions shall be presented to the Administrator and he shall cause to be published in the FEDERAL REGISTER his final order promulgating the regulation.

ADOPTION OF TOLERANCE ON INITIATIVE OF ADMINISTRATOR OR ON REQUEST OF INTERESTED PERSONS; JUDICIAL REVIEW; TEMPORARY TOLERANCES; AMENDMENT AND REPEAL OF TOLERANCES; FEES

§ 180.29 Adoption of tolerance on initiative of Administrator or on request of an interested person.

(a) Upon the request of an interested person (other than a person who has registered or who has submitted an application for the registration of an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135)) furnishing reasonable grounds therefor, and upon advance deposit to cover fees as prescribed in § 180.33, the Administrator may propose the issuance of a regulation establishing a tolerance for a pesticide chemical or exempting it from the necessity of a tolerance. Reasonable grounds shall include an explanation showing wherein the person has a substantial interest in such a tolerance or exemption from tolerance; information, if available, as to why registrant of the pesticide chemical under the Federal Insecticide, Fungicide, and Rodenticide Act has not petitioned for a tolerance or exemption from a tolerance; and adequate data on subjects outlined in clauses (A), (B), (C), (D), (E), and (F) of section 408(d)(1) of the Federal Food, Drug, and Cosmetic Act. If the Administrator concludes upon studying the request that it does not warrant a proposal for the issuance of a regulation, he shall so inform the person making the request and state the reasons for his decision.

(b) The notice of the proposal shall show whether it is made on the initiative of the Administrator or at the request of an interested person, naming such person.

(c) If within 30 days after publication of the proposal a person who has registered, or who has submitted an application for registration of an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act containing the pesticide chemical named in the proposal, requests in writing that the proposal be referred to an advisory committee and makes advance deposit as provided by § 180.33(i)(3), the Administrator shall appoint a committee as provided in § 180.11 and refer the proposal and relevant data to such committee. The Agency and the committee shall proceed as prescribed in section 408 and this part.

(d) If further advance deposits are not made upon request of the Administrator, as provided in § 180.33(i)(3), the request for referral of the petition to an advisory committee shall be considered withdrawn, and a tolerance shall be established within 90 days from the date on which the Administrator requested the further advance deposit.

§ 180.30 Judicial review.

(a) The Administrator hereby designates the Deputy General Counsel, Environmental Protection Agency as the officer upon whom copy of petition for judicial review shall be served. Such officer shall be responsible for filing in the court the record on which the order of the Administrator is based. The record shall be certified by the Administrator.

(b) Before forwarding the record to the court the Agency shall advise the petitioner of costs of preparing it and as soon as payment to cover fees is made shall forward the record to the court.

§ 180.31 Temporary tolerances.

(a) A temporary tolerance (or exemption from a tolerance) established under authority of section 408(j) of the act shall be deemed to be a tolerance (or exemption from the requirement of a tolerance) for the purposes of section 408(a)(1) or (2) of the act.

(b)(1) A request for a temporary tolerance or a temporary exemption from a tolerance by a person who has obtained an experimental permit for a pesticide chemical under the Federal Insecticide, Fungicide, and Rodenticide Act shall be accompanied by a copy of such experimental permit, such data as are available on subjects outlined in clauses (A), (B), (C), (D), (E), (F), and (G) of section 408(d)(1), and an advance deposit to cover fees as provided in § 180.33(d).

(2) Before an experimental permit has been obtained, the Pesticides Tolerance Division upon request of the Environmental Protection Agency or a person who proposes to apply for an experimental permit will consider available data and discuss its adequacy for the purpose of justifying a tolerance or exemption from a tolerance.

(c) A notice of the issuance of a temporary tolerance outlining any restrictions as to use of the chemical imposed under the experimental permit under the Federal Insecticide, Fungicide, and Rodenticide Act may be published in the FEDERAL REGISTER if the Administrator deems such publication desirable.

(d) A temporary tolerance or exemption from a tolerance may be issued for a period designed to allow the orderly marketing of the raw agricultural commodities produced while testing a pesticide chemical under an experimental permit issued under authority of the Federal Insecticide, Fungicide, and Rodenticide Act when the Administrator concludes that the public health can be adequately protected during such marketing. A temporary tolerance or exemption from a tolerance may be revoked if the experimental permit is revoked, or may be revoked at any time if it develops that the application for a temporary tolerance contains a misstatement of a material fact or that new scientific data or experience with the pesticide chemical indicates that it may be hazardous to the public health.

(e) Conditions under which a temporary tolerance is established shall include:

(1) A limitation on the amount of the chemical to be used on the designated crops permitted under the experimental permit.

(2) A limitation for the use of the chemical on the designated crops to bona fide experimental use by qualified persons as indicated in the experimental permit.

(3) A requirement that the person or firm which obtains the experimental permit for which the temporary tolerance is established will immediately inform the Environmental Protection Agency of any reports on findings from the experimental use that have a bearing on safety.

(4) A requirement that the person or firm which obtained the experimental permit for which the temporary tolerance is established will keep records of production, distribution, and performance for a period of 2 years and, on request, at any reasonable time, make these records available to any authorized officer or employee of the Environmental Protectional Agency.

§ 180.32 Procedure for amending and repealing tolerances or exemptions from tolerances.

(a) The Administrator on his own initiative or on request from an interested person furnishing reasonable grounds therefor, may propose the issuance of a regulation amending or repealing a tolerance for a pesticide chemical on raw agricultural commodities or granting or repealing an exemption from tolerance for such chemical. Requests for such amendment or repeal shall be made in writing and accompanied by an advance deposit to cover fees as provided in § 180.33(d).

(b) Reasonable grounds shall include an explanation showing wherein the person has a substantial interest in such tolerance or exemption from tolerance and an assertion of facts (supported by data if available) showing that new uses for the pesticide chemical have been developed or old uses abandoned, that new data are available as to toxicity of the chemical, or that experience with the application of the tolerance or exemption from tolerance may justify its amendment or repeal. Evidence that a person has registered or has submitted an application for the registration of an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act will be regarded as evidence that he has a substantial interest in a tolerance or exemption from the requirement of a tolerance for a pesticide chemical that

consists in whole or in part of the economic poison. New data should be furnished in the form specified in § 180.7(b) for submitting petitions.

(c) The Administrator may establish a temporary tolerance or exemption from a tolerance for the residues of a pesticide chemical in or on a raw agricultural commodity after the establishment of a tolerance, or exemption from a tolerance, for such chemical in or on the commodity, or before the establishment of such a tolerance or exemption if he determines that the proposed tolerance or exemption is safe. Such temporary tolerance or exemption shall be established on condition that data will be submitted to show that the extended use will not cause a significant increase in the residue likely to be found in the commodity. The period for which the temporary tolerance or exemption is extended shall be sufficient to allow adequate data to be developed and submitted to support the establishment of a permanent tolerance or exemption. Upon establishment of a temporary tolerance or exemption, the Administrator shall publish in the FEDERAL REGISTER a notice stating the conditions of the temporary tolerance or exemption.

(d) The Administrator may revoke a temporary tolerance or exemption at any time if he finds that adequate data are not submitted to support the temporary tolerance or exemption, or that the temporary tolerance or exemption is unsafe.

(e) Upon establishment or revocation of a temporary tolerance or exemption, the Administrator shall publish in the FEDERAL REGISTER a notice stating the conditions of the temporary tolerance or exemption.

§ 180.33 Fees.

(a) Fees are charged for processing petitions and requests for tolerances, exemptions from tolerances, and for the establishment, amendment, or repeal of tolerances or exemptions from tolerances, in accordance with the following schedule:

(1) Petition for the establishment of a tolerance or exemption from a tolerance for a pesticide chemical in or on a raw agricultural commodity, $1,400.

(2) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional raw agricultural commodity, $600.

(3) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a processed food, $1,400.

(4) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional processed food, $600.

(5) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a meat, fat, or meat byproduct, $1,400.

(6) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional meat, fat, or meat byproduct, $600.

(7) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a milk, $1,400.

(8) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional milk, $600.

(9) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a poultry, $1,400.

(10) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional poultry, $600.

(11) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on an egg, $1,400.

(12) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional egg, $600.

(13) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a fish, $1,400.

(14) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional fish, $600.

(15) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a shellfish, $1,400.

(16) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional shellfish, $600.

(17) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a crustacean, $1,400.

(18) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional crustacean, $600.

(19) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a citrus fruits, $1,400.

(20) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional citrus fruits, $600.

(21) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a pome fruits, $1,400.

(22) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional pome fruits, $600.

(23) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a stone fruits, $1,400.

(24) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional stone fruits, $600.

(25) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a berries and small fruits, $1,400.

(26) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional berries and small fruits, $600.

(27) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a tree nuts, $1,400.

(28) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional tree nuts, $600.

(29) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a grapes, $1,400.

(30) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional grapes, $600.

(31) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a tomatoes, eggplants, peppers, pimentos, $1,400.

(32) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional tomatoes, eggplants, peppers, pimentos, $600.

(33) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a pecans, almonds, brazil nuts, bunh nuts, butternuts, chestnuts, filberts, hazelnuts, hickory nuts, walnuts, $1,400.

(34) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional pecans, almonds, brazil nuts, bunh nuts, butternuts, chestnuts, filberts, hazelnuts, hickory nuts, walnuts, $600.

(35) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a peanuts, $1,400.

(36) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional peanuts, $600.

(37) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a potatoes, $1,400.

(38) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional potatoes, $600.

(39) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a sugarcane, $1,400.

(40) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional sugarcane, $600.

(41) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a sweet potatoes, $1,400.

(42) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional sweet potatoes, $600.

(43) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a dry beans, $1,400.

(44) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional dry beans, $600.

(45) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a dry peas, $1,400.

(46) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional dry peas, $600.

(47) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a soybeans, $1,400.

(48) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional soybeans, $600.

(49) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a cotton, $1,400.

(50) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional cotton, $600.

(51) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a grasses, $1,400.

(52) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional grasses, $600.

(53) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a forage, fodder, and hay of legumes, $1,400.

(54) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional forage, fodder, and hay of legumes, $600.

(55) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a forage, fodder, and hay of nongrasses, nonlegumes, $1,400.

(56) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional forage, fodder, and hay of nongrasses, nonlegumes, $600.

(57) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a straw, $1,400.

(58) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional straw, $600.

(59) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a miscellaneous, $1,400.

(60) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional miscellaneous, $600.

(61) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a animal feeds, $1,400.

(62) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional animal feeds, $600.

(63) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a animal feeds, $1,400.

(64) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional animal feeds, $600.

(65) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a animal feeds, $1,400.

(66) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional animal feeds, $600.

(67) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a animal feeds, $1,400.

(68) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional animal feeds, $600.

(69) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a animal feeds, $1,400.

(70) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional animal feeds, $600.

(71) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a animal feeds, $1,400.

(72) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional animal feeds, $600.

(73) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a animal feeds, $1,400.

(74) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional animal feeds, $600.

(75) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a animal feeds, $1,400.

(76) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional animal feeds, $600.

(77) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a animal feeds, $1,400.

(78) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional animal feeds, $600.

(79) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a animal feeds, $1,400.

(80) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional animal feeds, $600.

(81) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a animal feeds, $1,400.

(82) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional animal feeds, $600.

(83) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a animal feeds, $1,400.

(84) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional animal feeds, $600.

(85) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a animal feeds, $1,400.

(86) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional animal feeds, $600.

(87) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a animal feeds, $1,400.

(88) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional animal feeds, $600.

(89) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a animal feeds, $1,400.

(90) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional animal feeds, $600.

(91) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a animal feeds, $1,400.

(92) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional animal feeds, $600.

(93) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a animal feeds, $1,400.

(94) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional animal feeds, $600.

(95) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a animal feeds, $1,400.

(96) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional animal feeds, $600.

(97) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a animal feeds, $1,400.

(98) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional animal feeds, $600.

(99) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on a animal feeds, $1,400.

(100) Petition for the establishment of a tolerance or exemption from a tolerance for residues of a pesticide chemical in or on each additional animal feeds, $600.

(f) It may be possible to make a reliable estimate of negligible residues of pesticide chemicals to be expected on each commodity in a designated grouping on the basis of data on a representative commodity in the group. Where this is possible, the petitioner may request that the petition be considered for the group. The petitioner should submit adequate data to show that the pesticide chemical proposed may interact with other pesticide chemicals or other substances to which man is exposed, it may be necessary to require special experimental data regarding potentiation capacities

consists in whole or in part of the economic poison. New data should be furnished in the form specified in § 180.7(b) for submitting petitions.

(c) The notice announcing the proposal to amend or repeal a regulation shall show whether the proposal was made on the initiative of the Administrator or at the request of an interested person, naming such person. From this point the proceedings shall be the same as prescribed by section 408(e), beginning with the second sentence of that paragraph, and the regulations applicable to section 408 (d), (e), (f), and (g).

§ 180.33 Fees.

(a) Except as noted in paragraphs (b) and (c) of this section, each petition or request for the establishment of a tolerance shall be accompanied by a deposit of $3,000, plus $300 for each raw agricultural commodity more than nine on which the establishment of a tolerance is requested.

(b) Except as noted in paragraph (c) of this section, a petition requesting two or more numerical tolerance levels shall be accompanied by a deposit of $4,500, plus $300 for each raw agricultural commodity more than 14 on which the establishment of a tolerance is requested.

(c) Each petition or request for the establishment of a tolerance at a lower numerical level or levels than a tolerance already established for the same pesticide chemical, or for the establishment of a tolerance on additional raw agricultural commodities at the same numerical level as a tolerance already established for the same pesticide chemical, shall be accompanied by a deposit of $300, plus $300 for each raw agricultural commodity on which a tolerance is requested.

(d) Each petition or request for an exemption or a temporary exemption from the requirement of a tolerance, a temporary tolerance, or the amendment or repeal of a tolerance or exemption shall be accompanied by a deposit of $3,000, unless it meets the requirements of subparagraph (1) or (2) of this paragraph.

(1) Such deposit is not required when, in connection with the change sought under this paragraph, a petition or request is filed for the establishment of new tolerances to take the place of those sought to be amended or repealed and a deposit is made as required by paragraph (a) or (b) of this section.

(2) A request for a temporary tolerance for a pesticide chemical which has a tolerance for other uses at the same numerical level shall be accompanied by a deposit of $300 for clerical handling and initial administrative review, plus $300 for each raw agricultural commodity on which the temporary tolerance is sought.

(e) If a petition or a request proposing the issuance of a regulation is not accepted for filing or processing because it is technically incomplete, the deposit, less a $300 fee for clerical handling and initial administrative review, shall be returned unless the petitioner, indicates that he wishes to submit a supplement, in which case the deposit will be held by the Administrator, and the supplement shall be accompanied by a nonreturnable fee of $300.

(f) When a petition is withdrawn after filing and resubmitted within 6 months, it shall be accompanied by a deposit of $900, or by a deposit equal to the one originally submitted, whichever is smaller. If resubmitted after 6 months, it shall be accompanied by the deposit that would be required if it were being submitted for the first time.

(g) After a petition has been filed, any additional information or data submitted in support of it (i.e., any substantive amendment) shall be accompanied by a deposit of $900 or by a deposit equal to the one originally submitted, whichever is smaller.

(h) Objections under section 408(d)(5) of the act shall be accompanied by a filing fee of $300.

(i) (1) In the event of a referral of a petition or proposal under this section to an advisory committee, the costs shall be borne by the person who requests the referral of the data to the advisory committee.

(2) Costs of the advisory committee shall include compensation for experts as provided in § 180.11(c) and the expenses of the secretariat, including the costs of duplicating petitions and other related material referred to the committee.

(3) An advance deposit shall be made in the amount of $2,500 to cover the costs. Further advance deposits of $2,500 each shall be made upon request of the Administrator when necessary to prevent arrears in the payment of such costs. Any deposits in excess of actual expenses will be refunded to the depositor.

(j) The person who files a petition for judicial review of an order under section 408 (d)(5) or (e) of the act shall pay the costs of preparing the record on which the order is based.

(k) All deposits and fees required by the regulations in this part shall be paid by money order, bank draft, or certified check drawn to the order of the Environmental Protection Agency, collectible at par at Washington, D.C. All deposits and fees shall be forwarded to the Environmental Protection Agency, Washington, D.C., 20250, whereupon after making appropriate record thereof they will be transmitted to the Chief Disbursing Officer, Division of Disbursement, Treasurer of the United States, for deposit to a special account.

(l) The Administrator may waive or refund such fees in whole or in part when in his judgment such action will promote the public interest.

(m) Any person who believes that payment of these fees will work a hardship on him may petition the Administrator to waive or refund the fees.

§ 180.34 Tests on the amount of residue remaining.

(a) Data in a petition on the amount of residue remaining in or on a raw agricultural commodity should establish the residue that may remain when the pesticide chemical is applied according to directions registered under the Federal Insecticide, Fungicide, and Rodenticide Act, or according to directions contained in an application for registration. These data should establish the residues that may remain under conditions most likely to result in high residues on the commodity.

(b) The petition should establish the reliability of the residue data reported in it. Sufficient information should be submitted about the analytical method to permit competent analysts to apply it successfully.

(c) If the pesticide chemical is absorbed into a living plant or animal when applied (is systemic), residue data may be needed on each plant or animal on which a tolerance or exemption is requested.

(d) If the pesticide chemical is not absorbed into the living plant or animal when applied (is not systemic), it may be possible to make a reliable estimate of the residues to be expected on each commodity in a group of related commodities on the basis of less data than would be required for each commodity in the group, considered separately.

(e) Each of the following groups of crops lists raw agricultural commodities that are considered to be related for the purpose of paragraph (d) of this section. Commodities not listed in this paragraph are not considered as related for the purpose of paragraph (d) of this section. This grouping of crops does not affect the certification of usefulness by the Administrator as contemplated by section 408(l) of the act.

(1) Apples, crabapples, pears, quinces.
(2) Avocados, papayas.
(3) Blackberries, boysenberries, dewberries, loganberries, raspberries.
(4) Blueberries, currants, gooseberries, huckleberries.
(5) Cherries, plums, prunes.
(6) Oranges, citrus citron, grapefruit, kumquats, lemons, limes, tangelos, tangerines.
(7) Mangoes, persimmons.
(8) Peaches, apricots, nectarines.
(9) Beans, peas, soybeans (each in dry form).
(10) Beans, peas, soybeans (each in succulent form).
(11) Broccoli, brussels sprouts, cauliflower, kohlrabi.
(12) Cantaloups, honeydew melons, muskmelons, pumpkins, watermelons, winter squash.
(13) Carrots, garden beets, sugar beets, horseradish, parsnips, radishes, rutabagas, salsify roots, turnips.
(14) Celery, fennel.
(15) Cucumbers, summer squash.
(16) Lettuce, endive (escarole), Chinese cabbage, salsify tops.
(17) Onions, garlic, leeks, shallots (green, or in dry bulb form).
(18) Potatoes, Jerusalem-artichokes, sweetpotatoes, yams.
(19) Spinach, beet tops, collards, dandelion, kale, mustard greens, parsley, Swiss chard, turnip tops, watercress.

(20) Tomatoes, eggplants, peppers, pimentos.
(21) Pecans, almonds, brazil nuts, bush nuts, butternuts, chestnuts, filberts, haselnuts, hickory nuts, walnuts.
(22) Field corn, popcorn, sweet corn (each in grain form).
(23) Milo, sorghum (each in grain form).
(24) Wheat, barley, oats, rice, rye (each in grain form).
(25) Clovers, alfalfa, cowpea hay, lespedeza, lupines, peanut hay, pea-vine hay, soybean hay, vetch.
(26) Corn forage, sorghum forage.
(27) Sugarcane, cane sorghum.

(f) It may be possible to make a reliable estimate of negligible residues of pesticide chemicals to be expected on each commodity in a designated grouping on the basis of data on a representative number of commodities listed in the following designated groups. Tolerances for negligible residues will be established on the group as a whole following the certification of usefulness (pursuant to section 408(l) of the act) on the group as a whole. This does not affect this Agency's requirements for data for registration of labels for each commodity. Commodities not listed are not considered as included in the groupings for the purpose of this paragraph.

Group	Commodities therein
Citrus fruits	Citrus citron, grapefruit, kumquats, lemons, limes, oranges, tangelos, tangerines, and hybrids of these.
Cucurbits	Cantaloups, casabas, crenshaws, cucumbers, honey balls, honeydew melons, melons, melon hybrids, muskmelons, Persian melons, pumpkins, summer squash, watermelons and their hybrids, winter squash.
Forage grasses	Any grasses (either green or cured) that will be fed to or grazed by livestock, all pasture and range grasses, all grasses grown for hay or silage, corn grown for fodder or silage, sorghum grown for hay or silage, small grains grown for hay, grazing, or silage.
Forage legumes	Any crop belonging to the family Leguminosae that is grown for forage (hay, grazing, silage, etc.), alfalfa, beans (for forage), clovers, cowpeas (for forage), cowpea hay, lespedezas, peanuts (for forage), peanut hay, peas (for forage), pea vine hay, trefoil, velvet beans (for forage), vetch, soybeans (for forage), soybean hay.
Fruiting vegetables	Egg plants, peppers, pimentos, tomatoes.
Grain crops	Any crop belonging to the family Graminae that produces mature seed that are used for food or feed, barley, buckwheat, corn (field corn, sweet corn, and popcorn), milo, oats, rice, rye, sorghums (grain), wheat.
Leafy vegetables	Anise (fresh leaf and stock only), beet greens (tops), broccoli, broccoli raab, brussels sprouts, cabbage, cauliflower, celery, Chinese cabbage, collards, dandelion, endive, escarole, fennel, kale, kohlrabi, lettuce, mustard greens, parsely, rhubarb, salsify tops, spinach, sugar beet tops, Swiss chard, turnip greens (tops), watercress.
Nuts	Almonds, Brazil nuts, bush nuts, butternuts, cashews, chestnuts, filberts, haselnuts, hickory nuts, macadamia nuts, pecans, walnuts.
Pome fruits	Apples, crabapples, pears, quinces.
Poultry	Chickens, ducks, geese, guinea, pheasant, pigeons, quail, turkeys.
Root crop vegetables	Beets, carrots, chicory, garlic, green onions, horseradish, Jerusalem artichokes, leeks, onions, parsnips, potatoes, radishes, rutabagas, salsify, shallots, spring onions, sugar beets, sweetpotatoes, turnips, yams.
Seed and pod vegetables	Black-eyed peas, cowpeas, dill, edible soybeans, field beans, field peas, garden peas, green beans, kidney beans, lima beans, navy beans, okra, peas, pole beans, snap beans, string beans, wax beans, other beans and peas (except dried beans and peas).
Small fruits	Blackberries, blueberries, boysenberries, cranberries, currants, dewberries, elderberries, gooseberries, grapes, huckleberries, loganberries, raspberries.
Stone fruit	Apricots, cherries (sour and sweet), damsons, nectarines, pawpaws, peaches, plums, prunes.
Stored commodities other than fruits, grain, and vegetables.	Cottonseed, dried beans (all), dried peas (all), hay, peanuts.
Stored fruits and vegetables	Same crops as specified in this list for cucurbits, fruits, nuts, and vegetables.
Stored grain	Same crops as specified in this list for grain crops.

§ 180.35 Tests for potentiation.

Experiments have shown that certain cholinesterase-inhibiting pesticides when fed together to test animals are more toxic than the sum of their individual toxicities when fed separately. One substance potentiates the toxicity of the other. Important toxicological interactions also have been observed between pesticides and other substances. Wherever there is reason to believe that a pesticide chemical for which a tolerance is proposed may interact with other pesticide chemicals or other substances to which man is exposed, it may be necessary to require special experimental data regarding potentiation capacities to evaluate the safety of the proposed tolerance. This necessarily will be determined on a case-by-case basis.

Subpart C—Specific Tolerances

§ 180.101 Specific tolerances; general provisions.

(a) The tolerances established for pesticide chemicals in this Subpart C apply to residues resulting from their application prior to harvest or slaughter, unless otherwise stated. Tolerances are expressed in terms of parts by weight of the pesticide chemical per one million parts by weight of the raw agricultural commodity.

(b) The poisonous and deleterious substances for which tolerances are established by the regulations in this Subpart C are named by their common names wherever practicable, otherwise by their chemical names.

(c) The analytical methods to be used for determining whether pesticide residues, including negligible residues, in or on raw agricultural commodities are in compliance with the tolerances established in this Part 120 are identified among the methods contained or referenced in the Food and Drug Administration's "Pesticide Analytical Manual" which is available from the Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204.

§ 180.102 Sesone; tolerances for residues.

The following tolerances are established for residues of the herbicide sesone (sodium 2,4-dichlorophenoxyethyl sulfate) in or on the raw agricultural commodities indicated:

6 parts per million in or on potatoes, peanuts, peanut hulls, peanut hay.

2 parts per million in or on asparagus, strawberries.

§ 180.103 Captan; tolerances for residues.

Tolerances for residues of fungicide captan (*N*-trichloromethyl-mercapto-4-cyclohexene-1,2-dicarboximide) in or on raw agricultural commodities from preharvest or postharvest uses or combinations of such uses are established as follows:

100 parts per million in or on beet greens, cherries, lettuce, spinach.

50 parts per million in or on apricots, celery, grapes, leeks, mangoes, nectarines, onions (green), peaches, plums (fresh prunes), shallots.

25 parts per million in or on apples, avocados, blackberries, blueberries (huckleberries), cantaloups, crabapples, cranberries, cucumbers, dewberries, eggplants, garlic, honeydew melons, muskmelons, onions (dry bulb), pears, peppers, pimentos, pumpkins, quinces, raspberries, rhubarb, strawberries, summer squash, tomatoes, watermelons, winter squash.

2 parts per million in or on beets (roots), broccoli, brussels sprouts, cabbage, carrots, cauliflower, collards, cottonseed, kale, mustard greens, peas (dry and succulent), spearmint, spinach, squash (both summer and winter), strawberries, sugar beets (tops), Swiss chard, tangerines (including tangelos), turnip greens (tops), watercress.

0.5 part per million in or on sugar beets.

0.3 part per million in or on beans, eggplants.

0.2 part per million in or on sorghum forage, soybeans (dry and succulent), spearmint, spinach, squash (both summer and winter), strawberries, sugar beets (tops), Swiss chard, tangerines (including tangelos), turnip greens (tops), watercress.

5 parts per million in or on apples, citrus fruits, melons, pears.

0.5 part per million in or on cottonseed and meat, fat, and meat byproducts of

thiocarbamate, in or on raw agricultural commodities are established as follows:

[1] 7 parts per million in or on apples, apricots, asparagus, beans, beets (with or eggplants, gooseberries, grapes, kale, kohlrabi, lettuce, loganberries, melons, nectarines, onions, peaches, peanuts, pears, peas, peppers, pumpkins, quinces,

2 parts per million in or on beets (roots), broccoli, brussels sprouts, cabbage, carrots, cauliflower, collards, cottonseed, kale, mustard greens, peas (dry and succulent), rutabagas (roots), soybeans (dry and succulent), sweet corn (kernels plus cob with husk removed), turnip greens, turnips (roots).

Also, the following tolerances for residues of captan are established on an interim basis pending evaluation of new data to be presented to the Food and Drug Administration before January 1, 1970, on the transmission of such residues to meat, milk, and eggs from feeding cattle or poultry with raw agricultural commodities or their byproducts when such commodities have been treated with captan:

100 parts per million in or on almond hulls.

25 parts per million in or on beans (dry and succulent), grapefruit, lemons, limes, oranges, pineapples, potatoes, tangerines.

2 parts per million in or on almonds.

§ 180.104 Heptachlor and heptachlor epoxide; tolerances for residues.

Tolerances for total residues of the insecticide heptachlor (1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-4,7-methanoindene) and its oxidation product heptachlor epoxide (1,4,5,6,7,8,8-heptachloro-2,3-epoxy-2,3,3a,4,7,7a-hexahydro-4,7-methanoindene) from application of heptachlor in or on raw agricultural commodities are established as follows:

0.1 part per million in or on cabbage, lettuce, rutabagas, snap beans.

Zero in or on alfalfa, apples, barley, beets (including sugar beets), black-eyed peas, brussels sprouts, carrots, cauliflower, cherries, clover, corn, cottonseed, cowpeas, grain sorghum (milo), grapes, grass (pasture and range), kohlrabi, lima beans, meat, milk, oats, onions, peaches, peanuts, peas, pineapple, potatoes, radishes, rye, sugarcane, sweet clover, sweetpotatoes, tomatoes, turnips (including tops), wheat.

§ 180.105 Demeton; tolerances for residues.

Tolerances for residues of the insecticide demeton (a mixture of *O,O*-diethyl *O*(and *S*)-2-(ethylthio)ethyl phosphorothioates) in or on raw agricultural commodities are established as follows:

12 parts per million in or on alfalfa hay, clover hay.

5 parts per million in or on almond hulls, barley (green fodder and straw), fresh alfalfa, fresh clover, oats (green fodder and straw), sugar beet tops, and wheat (green fodder and straw).

1.25 parts per million in or on grapes, hops.

0.75 part per million in or on almonds, apples, apricots, barley grain, broccoli, brussels sprouts, cabbage, cauliflower, celery, cottonseed, filberts, grapefruit, lemons, lettuce, muskmelons, nectarines, oat grain, oranges, peaches, pears, peas, pecans, peppers, plums (fresh prunes), potatoes, strawberries, tomatoes, walnuts, wheat grain.

0.5 part per million in or on sugar beets.

0.3 part per million in or on beans, eggplants.

0.2 part per million in or on sorghum grain, sorghum forage.

§ 180.106 Diuron; tolerances for residues.

Tolerances for residues of the herbicide diuron (3-(3,4-dichlorophenyl)-1,1-dimethylurea) in or on raw agricultural commodities are established as follows:

7 parts per million in or on asparagus, Bermudagrass, and Bermudagrass hay.

2 parts per million in or on alfalfa; corn fodder or forage (including sweet corn, field corn, and popcorn); grass crops (other than Bermudagrass); grass hay (other than Bermudagrass hay); hay, forage, and straw of barley, oats, rye, and wheat; hay and forage of birdsfoot trefoil, clover, peas, and vetch; peppermint hay, sorghum fodder and forage.

1 part per million in or on apples, artichokes, barley grain, blackberries, blueberries, boysenberries, citrus fruits, corn in grain or ear form (including sweet corn, field corn, popcorn), cottonseed, currants, dewberries, gooseberries, grapes, huckleberries, loganberries, oat grain, olives, pears, peas, pineapple, potatoes, raspberries, rye grain, sorghum grain, sugarcane, vetch (seed), wheat grain.

1 part per million in or on meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep.

0.1 part per million (negligible residue) in or on bananas, nuts.

§ 180.107 Aramite; tolerances for residues.

A tolerance of zero is established for residues of the insecticide Aramite (2-(*p-tert*-butylphenoxy)-isopropyl-2-chloroethyl sulfite) in or on each of the following raw agricultural commodities: Alfalfa, apples, blueberries, cantaloups, celery, cucumbers, grapefruit, grapes, green beans, lemons, muskmelons, oranges, peaches, pears, plums, raspberries, soybeans (whole plant), strawberries, sweet corn (kernels) and forage thereof, tomatoes, watermelons.

§ 180.108 Monuron; tolerances for residues.

Tolerances for residues of the herbicide monuron (3-(*p*-chlorophenyl)-1,1-dimethylurea) are established in or on raw agricultural commodities as follows:

7 parts per million in or on asparagus.

1 part per million in or on avocados, citrus citron, cottonseed, grapefruit, grapes, kumquats, lemons, limes, onions (dry bulbs only), oranges, pineapple, spinach, sugarcane, tangerines.

§ 180.109 Ethyl 4,4'-dichlorobenzilate; tolerances for residues.

Tolerances for residues of the insecticide ethyl 4,4'-dichlorobenzilate (Chlorobenzilate) are established in or on raw agricultural commodities as follows:

15 parts per million in or on almond hulls.

5 parts per million in or on apples, citrus fruits, melons, pears.

0.5 part per million in or on cottonseed and meat, fat, and meat byproducts of cattle and sheep.

0.2 part per million in or on almonds, walnuts.

§ 180.110 Maneb; tolerances for residues.

Tolerances for residues of the fungicide maneb (manganous ethylenebisdithiocarbamate), calculated as zinc ethylenebisdithiocarbamate, are established in or on raw agricultural commodities, as follows:

45 parts per million in or on sugar beet tops.

15 parts per million in or on bananas of which not more than 2 parts per million shall be in the pulp after peel is removed and discarded. The tolerance applies to accumulative residues from both preharvest and postharvest use.

10 parts per million in or on apricots, beans (succulent form), broccoli, brussels sprouts, cabbage, cauliflower, celery, Chinese cabbage, collards, endive (escarole), kale, kohlrabi, lettuce, mustard greens, nectarines, papayas, peaches, rhubarb, spinach, turnip tops.

7 parts per million in or on apples, beans (dry form), carrots, cranberries, cucumbers, eggplants, figs, grapes, melons, onions, peppers, pumpkins, summer squash, sweet corn (kernels plus cob with husks removed), tomatoes, turnip roots, winter squash.

0.1 part per million in or on almonds, potatoes.

§ 180.111 Malathion; tolerances for residues.

Tolerances are established for residues of the insecticide malathion (*O,O*-dimethyl dithiophosphate of diethyl mercaptosuccinate) in or on raw agricultural commodities as follows:

From preharvest application: 135 parts per million in or on alfalfa, clover, cowpea forage and hay, grass, grass hay, lespedeza hay and straw, lupine hay and straw, peanut forage and hay, soybean forage and hay, and vetch hay and straw.

From preharvest application: 50 parts per million in or on almond hulls.

From preharvest application: 8 parts per million in or on apples, apricots, asparagus, avocados, beans, beets (including tops), blackberries, blueberries, boysenberries, broccoli, brussels sprouts, cabbage, carrots, cauliflower, celery, cherries, collards, corn forage, cranberries, cucumbers, currants, dandelions, dates, dewberries, eggplants, endive (escarole), figs, garlic, gooseberries, grapefruit, grapes, guavas, horseradish, kale, kohlrabi, kumquats, leeks, lemons, lentils, lespedeza seed, lettuce, limes, loganberries, lupine seed, mangos, melons, mushrooms, mustard greens, nectarines, okra, onions (including green onions), oranges, parsley, parsnips, passion fruit, peaches, pears, peas, peavines, peavine hay, pecans, peppermint, peppers, pineapples, plums, potatoes, prunes, pumpkins, quinces, radishes, raspberries, rutabagas, salsify (including tops), shallots, sorghum forage, soybeans (dry and succulent), spearmint, spinach, squash (both summer and winter), strawberries, sugar beets (tops), Swiss chard, tangerines, tomatoes, turnips (including tops), vetch seed, walnuts, and watercress.

From preharvest and postharvest application: 8 parts per million in or on almonds, peanuts, and the grains of barley, oats, rice, rye, sorghum, and wheat.

From postharvest application: 8 parts per million in or on corn grain.

From preslaughter application: 4 parts per million in or on meat, fat, and meat byproducts from cattle, goats, hogs, horses, poultry, or sheep; the tolerance level shall not be exceeded in any cut of meat or in any meat byproduct from cattle, goats, hogs, horses, poultry, or sheep.

From preharvest application: 2 parts per million in or on corn (kernels plus cob with husk removed) and cottonseed.

From preharvest application: 1 part per million in or on chestnuts, filberts, hops, macadamia nuts, papayas, sugar beets (roots), and sweetpotatoes.

From preharvest application: 0.2 part per million in or on safflower seed.

From application to dairy cows: 0.5 part per million in milk fat reflecting negligible residues in milk.

From application to poultry: 0.1 part per million in eggs.

Where tolerances are established in this section for residues of malathion from both preharvest and postharvest application to the same commodity, the accumulative residues on the commodity from both shall not exceed the tolerance for residues from postharvest application.

§ 180.112 Sulphenone (*p*-chlorophenyl phenyl sulfone); tolerances for residues.

A tolerance of 8 parts per million for residues of the insecticide Sulphenone (*p*-chlorophenyl phenyl sulfone) is established in or on each of the following raw agricultural commodities: Apples, peaches, pears.

§ 180.113 Allethrin (allyl homolog of cinerin I); tolerances for residues.

Tolerances are established for residues of the insecticide allethrin (allyl homolog of cinerin I) as follows:

4 parts per million from postharvest use in or on the following raw agricultural commodities: Apples, blackberries, blueberries (huckleberries), boysenberries, cherries, crabapples, currants, dewberries, figs, gooseberries, grapes, guavas, loganberries, mangoes, muskmelons, oranges, peaches, pears, pineapples, plums (fresh prunes), raspberries, tomatoes.

2 parts per million from postharvest use in or on the following grains: Barley, corn, grain sorghum, milo, oats, rye, wheat.

§ 180.114 Ferbam; tolerances for residues.

Tolerances for residues of the fungicide ferbam (ferric dimethyldithiocarbamate), calculated as zinc ethylenebisdithiocarbamate, in or on raw agricultural commodities are established as follows:

[1]7 parts per million in or on apples, apricots, asparagus, beans, beets (with or without tops) or beet greens alone, blackberries, blueberries (huckleberries), boysenberries, broccoli, brussels sprouts, cabbage, carrots, cauliflower, celery, cherries, citrus fruits, collards, corn, cranberries, cucumbers, currants, dates, dewberries, eggplants, gooseberries, grapes, guavas, kale, kohlrabi, lettuce, loganberries, mangoes, melons, mustard greens, nectarines, onions, papayas, peaches, peanuts, pears, peas, peppers, plums (fresh prunes), pumpkins, quinces, radishes (with or without tops) or radish tops, raspberries, rutabagas (with or without tops), or rutabaga tops, spinach, squash, strawberries, summer squash, tomatoes, turnips (with or without tops) or turnip greens, youngberries.

0.1 part per million in or on almonds.

§ 180.115 Zineb; tolerances for residues.

Tolerances for residues of the fungicide zineb (zinc ethylenebisdithiocarbamate) in or on raw agricultural commodities are established as follows:

60 parts per million in or on hops.

25 parts per million in or on beet tops, Chinese cabbage, collards, endive (escarole), kale, lettuce, mustard greens, romaine, spinach, Swiss chard.

[1]7 parts per million in or on apples, apricots, beans, beets (garden roots only), blackberries, boysenberries, broccoli, brussels sprouts, cabbage, carrots, cauliflower, celery, cherries, citrus fruits, corn, cranberries, cucumbers, currants, dewberries, eggplants, gooseberries, grapes, guavas, kohlrabi, loganberries, melons, mushrooms, nectarines, onions, parsley, peaches, peanuts, pears, peas, peppers, plums (fresh prunes), pumpkins, quinces, radishes (with or without tops) or radish tops, raspberries, rutabagas (with or without tops) or rutabaga tops, salsify, squash, strawberries, summer squash, tomatoes, turnips (with or without tops) or turnip greens, youngberries.

1 part per million in or on wheat.

§ 180.116 Ziram; tolerances for residues.

Tolerances for residues of the fungicide ziram (zinc dimethyldithiocarbamate), calculated as zinc ethylenebisdithiocarbamate, in or on raw agricultural commodities are established as follows:

[1]7 parts per million in or on apples, apricots, beans, beets (with or without tops) or beet greens alone, blackberries, blueberries (huckleberries), boysenberries, broccoli, brussels sprouts, cabbage, carrots, cauliflower, celery, cherries, collards, cranberries, cucumbers, dewberries, eggplants, gooseberries, grapes, kale, kohlrabi, lettuce, loganberries, melons, mustard greens, nectarines, onions, papayas, peaches, peanuts, pears, peas, peppers, pumpkins (fresh prunes), pumpkins, quinces, radishes (with or without tops) or radish tops, raspberries, rutabagas (with or without tops) or rutabaga tops, spinach, squash, strawberries, summer squash, tomatoes, turnips (with or without tops) or turnip greens, youngberries.

0.1 part per million in or on almonds, pecans.

§ 180.117 *S*-Ethyl dipropylthiocarbamate; tolerances for residues.

Tolerances are established for negligible residues of the herbicide *S*-ethyl dipropylthiocarbamate in or on the raw agricultural commodities almond hulls, asparagus, castor beans, citrus, cotton forage, cottonseed, flaxseed, forage grasses, forage legumes, fruiting vegetables, grain crops, leafy vegetables, nuts, pineapples, root crop vegetables, safflower seed, seed and pod vegetables, small fruits, strawberries, and sunflower seed at 0.1 part per million.

§ 180.118 Dichlone; tolerances for residues.

Tolerances for residues of the fungicide dichlone (2,3-dichloro-1,4-naphthoquinone) are established as follows:

15 parts per million in or on strawberries.

3 parts per million in or on apples, beans, celery, cherries, peaches, plums (fresh prunes), tomatoes.

§ 180.119 EPN; tolerances for residues.

Tolerances for residues of the insecticide EPN (*O*-ethyl-*O*-*p*-nitrophenyl benzene thiophosphonate) in or on raw agricultural commodities are established as follows:

[1]3 parts per million in or on apples, apricots, beans, beets (with or without tops) or beet greens alone, blackberries, boysenberries, cherries, citrus fruits, corn, dewberries, grapes, lettuce, loganberries, nectarines, olives, peaches, pears, pineapples, plums (fresh prunes), quinces, raspberries, rutabagas (with or without tops) or rutabaga tops, spinach, strawberries, sugar beets (but not sugar beet tops), tomatoes, turnips (with or without tops) or turnips greens, youngberries.

0.5 part per million in or on almonds, cottonseed, pecans, walnuts.

0.05 part per million (negligible residue) in or on soybeans.

§ 180.120 Methoxychlor; tolerances for residues.

Tolerances are established for residues of the insecticide methoxychlor (2,2-bis (*p*-methoxyphenyl)-1,1,1-trichloroethane) as follows:

100 parts per million in or on alfalfa, clover, cowpeas, grass for forage, peanut forage, soybean forage.

[1]14 parts per million in or on apples, apricots, asparagus, beans, beets (with or without tops) or beet greens alone, blackberries, blueberries (huckleberries), boysenberries, broccoli, brussels sprouts,

[1] Some of these tolerances were established on the basis of data acquired at the public hearings held in 1950 (formerly § 180.101) and the remainder were established on the basis of pesticide petitions presented under the procedure specified in the amendment to the Federal Food, Drug, and Cosmetic Act by Public Law 518, 82d Congress (66 Stat. 511).

[1] See footnote 1 to § 180.115.

cabbage, carrots, cauliflower, cherries, collards, corn, cranberries, cucumbers, currants, dewberries, eggplants, gooseberries, grapes, kale, kohlrabi, lettuce, loganberries, blueberries (huckleberries), boysenberries, broccoli, brussels sprouts, cabbage, carrots, cauliflower, celery, cherries, citrus fruits, collards, corn, cucumbers, dewberries, eggplants, gooseberries, grapes, guavas, kale, kohlrabi, lettuce, loganberries, mangoes, melons, mushrooms, nectarines, onions, papayas, peaches, pineapples, plums (fresh prunes), pumpkins, quinces, radishes, raspberries, rutabagas, shallots, spinach, squash, strawberries, sweet corn (kernels plus cob with husk removed), tomatoes, turnips (including tops), watercress, watermelons, and yams.

From preharvest application: 4 parts per million in or on almonds, barley, corn, cotton, oats, peanuts, rice, rye, sorghum, and wheat.

From postharvest application: 4 parts per million in or on corn grain.

From preslaughter application: 2 parts per million in or on meat, fat, and meat byproducts from cattle, goats, hogs, horses, poultry, or sheep; the tolerance level shall not be exceeded in any cut of meat or in any meat byproduct from cattle, goats, hogs, horses, poultry, or sheep.

From preharvest application: 1 part per million in or on corn (kernels plus cob with husk removed) and cottonseed.

From preharvest application: 0.5 part per million in or on chestnuts, filberts, hops, macadamia nuts, papayas, sugar beets (roots), and sweetpotatoes.

From preharvest application: 0.1 part per million in or on safflower seed.

From application to dairy cows: 0.1 part per million in milk fat reflecting negligible residues in milk.

From application to poultry: 0.1 part per million in eggs.

Where tolerances are established in this section for residues of methoxychlor from both preharvest and postharvest application to the same commodity, the accumulative residues on the commodity from both shall not exceed the tolerance for residues from postharvest application.

§ 180.121 Methyl bromide; tolerances for residues.

Tolerances are established for residues of methyl bromide in or on raw agricultural commodities as follows:

From preharvest application: 300 parts per million in or on cocoa beans.

From preharvest application: 50 parts per million in or on dates, figs, nuts.

From preharvest application: 30 parts per million in or on cereal grains, dried beans, dried peas, dried peppers, dried vegetables, processed animal feeds.

From preharvest application: 20 parts per million in or on fresh fruits, fresh vegetables.

From preharvest application: 5 parts per million in or on processed foods.

Where tolerances are established in this section for residues of methyl bromide from both preharvest and postharvest application to the same commodity, the accumulative residues on the commodity from both shall not exceed the tolerance for residues from postharvest application.

§ 180.122 Methyl bromide and ethylene dibromide; tolerances for residues.

Tolerances are established for residues of methyl bromide and ethylene dibromide in or on raw agricultural commodities as follows:

From preharvest application: 300 parts per million in or on cocoa beans.

From preharvest application: 50 parts per million in or on dates, figs, nuts.

From preharvest application: 30 parts per million in or on cereal grains, dried beans, dried peas, dried peppers, dried vegetables, processed animal feeds.

From preharvest application: 20 parts per million in or on fresh fruits, fresh vegetables.

From preharvest application: 5 parts per million in or on processed foods.

Where tolerances are established in this section for residues of methyl bromide and ethylene dibromide from both preharvest and postharvest application to the same commodity, the accumulative residues on the commodity from both shall not exceed the tolerance for residues from postharvest application.

§ 180.123 Methyl bromide and inorganic bromides; tolerances for residues.

Tolerances are established for residues of methyl bromide and inorganic bromides in or on raw agricultural commodities as follows:

From preharvest application: 300 parts per million in or on cocoa beans.

From preharvest application: 50 parts per million in or on dates, figs, nuts.

From preharvest application: 30 parts per million in or on cereal grains, dried beans, dried peas, dried peppers, dried vegetables, processed animal feeds.

From preharvest application: 20 parts per million in or on fresh fruits, fresh vegetables.

From preharvest application: 5 parts per million in or on processed foods.

Where tolerances are established in this section for residues of methyl bromide and inorganic bromides from both preharvest and postharvest application to the same commodity, the accumulative residues on the commodity from both shall not exceed the tolerance for residues from postharvest application.

§ 180.124 Methyl bromide, ethylene dibromide, and inorganic bromides; tolerances for residues.

Tolerances are established for residues of methyl bromide, ethylene dibromide, and inorganic bromides in or on raw agricultural commodities as follows:

From preharvest application: 300 parts per million in or on cocoa beans.

From preharvest application: 50 parts per million in or on dates, figs, nuts.

From preharvest application: 30 parts per million in or on cereal grains, dried beans, dried peas, dried peppers, dried vegetables, processed animal feeds.

From preharvest application: 20 parts per million in or on fresh fruits, fresh vegetables.

From preharvest application: 5 parts per million in or on processed foods.

Where tolerances are established in this section for residues of methyl bromide, ethylene dibromide, and inorganic bromides from both preharvest and postharvest application to the same commodity, the accumulative residues on the commodity from both shall not exceed the tolerance for residues from postharvest application.

§ 180.125 Methyl bromide and ethylene dibromide; tolerances for residues.

Tolerances are established for residues of methyl bromide and ethylene dibromide in or on raw agricultural commodities as follows:

From preharvest application: 300 parts per million in or on cocoa beans.

From preharvest application: 50 parts per million in or on dates, figs, nuts.

From preharvest application: 30 parts per million in or on cereal grains, dried beans, dried peas, dried peppers, dried vegetables, processed animal feeds.

From preharvest application: 20 parts per million in or on fresh fruits, fresh vegetables.

From preharvest application: 5 parts per million in or on processed foods.

Where tolerances are established in this section for residues of methyl bromide and ethylene dibromide from both preharvest and postharvest application to the same commodity, the accumulative residues on the commodity from both shall not exceed the tolerance for residues from postharvest application.

§ 180.126 Methyl bromide and inorganic bromides; tolerances for residues.

Tolerances are established for residues of methyl bromide and inorganic bromides in or on raw agricultural commodities as follows:

From preharvest application: 300 parts per million in or on cocoa beans.

From preharvest application: 50 parts per million in or on dates, figs, nuts.

From preharvest application: 30 parts per million in or on cereal grains, dried beans, dried peas, dried peppers, dried vegetables, processed animal feeds.

From preharvest application: 20 parts per million in or on fresh fruits, fresh vegetables.

From preharvest application: 5 parts per million in or on processed foods.

Where tolerances are established in this section for residues of methyl bromide and inorganic bromides from both preharvest and postharvest application to the same commodity, the accumulative residues on the commodity from both shall not exceed the tolerance for residues from postharvest application.

residues of inorganic bromides from the use of nematocides such as ethylene dibromide or 1,2-dibromo-3-chloropropane are unsuitable as an ingredient in the feed of meat and dairy animals and

20 parts per million in or on carrots, peaches, plums (fresh prunes).

15 parts per million in or on sweetpotatoes.

10 parts per million in or on citrus

mustard greens, nectarines, okra, onions (dry bulb only), peaches, pears, peppers, pineapples, plums (fresh prunes), quinces, spinach, strawberries, and Swiss chard.

cabbage, carrots, cauliflower, cherries, collards, corn, cranberries, cucumbers, currants, dewberries, eggplants, gooseberries, grapes, kale, kohlrabi, lettuce, loganberries, melons, mushrooms, nectarines, peaches, peanuts, pears, peas, peppers, pineapples, plums (fresh prunes), pumpkins, quinces, radishes (with or without tops) or radish tops, raspberries, rutabagas (with or without tops) or rutabaga tops, spinach, squash, strawberries, summer squash, tomatoes, turnips (with or without tops) or turnip greens, youngberries.

7 parts per million in or on sweetpotatoes and yams from preharvest and postharvest application.

3 parts per million in or on the fat of meat from cattle, goats, hogs, horses, or sheep.

2 parts per million in or on the following grains from storage-bin treatment: Barley, corn, oats, rice, rye, sorghum grain, wheat.

1 part per million in or on potatoes.

Zero in milk.

§ 180.121 Parathion or its methyl homolog; tolerances for residues.

Tolerances for residues of the insecticide parathion (*O,O*-diethyl-*O*-*p*-nitrophenyl thiophosphate) or its methyl homolog in or on raw agricultural commodities are established as follows:

1 part per million in or on alfalfa, apples, apricots, artichokes, avocados, barley, beans, beets (with or without tops) or beet greens alone, blackberries, blueberries (huckleberries), boysenberries, broccoli, brussels sprouts, cabbage, carrots, cauliflower, celery, cherries, citrus fruits, clover, collards, corn, corn forage, cranberries, cucumbers, currants, dates, dewberries, eggplants, endive (escarole), figs, garlic, gooseberries, grapes, grass for forage, guavas, hops, kale, kohlrabi, lettuce, loganberries, mangoes, melons, mustard greens, nectarines, oats, okra, olives, onions, parsnips (with or without tops) or parsnip greens alone, peaches, pea forage, peanuts, pears, peas, peppers, pineapples, plums (fresh prunes), pumpkins, quinces, radishes (with or without tops) or radish tops, raspberries, rice, rutabagas (with or without tops) or rutabaga tops, soybean hay, spinach, squash, strawberries, summer squash, Swiss chard, tomatoes, turnips (with or without tops) or turnip greens, vetch, wheat, youngberries.

0.75 part per million in or on cottonseed.

0.2 part per million in or on sunflower seed.

0.1 part per million in or on soybeans.

§ 180.122 Chlordane; tolerances for residues.

A tolerance of 0.3 part per million is established for residues of the insecticide chlordane (1,2,4,5,6,7,8,8-octachloro-2,3,-3a,4,7,7a-hexahydro-4,7-methanoindene, containing not more than 1 percent of the intermediate compound hexachlorocyclopentadiene) in or on each of the following raw agricultural commodities: Apples, apricots, beans, beets (with or without tops) or beet greens alone, blackberries, blueberries (huckleberries), boysenberries, broccoli, brussels sprouts, cabbage, carrots, cauliflower, celery, cherries, citrus fruits, clovers, collards, corn, cucumbers, dewberries, eggplants, grapes, kale, kohlrabi, lettuce, loganberries, melons, mushrooms, nectarines, peaches, peanuts, pears, peas, peppers, pineapples, plums (fresh prunes), potatoes, quinces, radishes (with or without tops) or radish tops, raspberries, rutabagas (with or without tops) or rutabaga tops, squash, strawberries, summer squash, sweetpotatoes, tomatoes, turnips (with or without tops) or turnip greens, youngberries.

§ 180.123 Inorganic bromides resulting from fumigation with methyl bromide; tolerances for residues.

Tolerances for residues of inorganic bromides (calculated as Br) in or on raw agricultural commodities that have been fumigated with the antimicrobial agent and insecticide methyl bromide after harvest (with the exception of strawberries) are established as follows:

240 parts per million in or on popcorn.

200 parts per million in or on almonds, brazil nuts, bush nuts, butternuts, cashew nuts, chestnuts, cottonseed, filberts (hazelnuts), hickory nuts, peanuts, pecans, pistachio nuts, walnuts.

200 parts per million in or on soybeans from use in accordance with the Pesticides Tolerance Division of the EPA.

100 parts per million in or on copra.

100 parts per million in or on asparagus, cumin seed, and ginger root from use in accordance with the Plant Quarantine Program of the U.S. Department of Agriculture.

75 parts per million in or on potatoes, sweetpotatoes.

75 parts per million in or on avacados and coffee beans from use in accordance with the Plant Quarantine Program of the U.S. Department of Agriculture.

50 parts per million in or on alfalfa hay, barley, beans, beans (green), beans (lima), beans (snap), black-eyed peas, cipollini bulbs, cocoa beans, corn, garlic, grain sorghum (milo), oats, peas, rice, rye, sweet corn (determined on kernels plus cob with husk removed), wheat.

50 parts per million in or on cabbage from use in accordance with the Plant Quarantine Program of the U.S. Department of Agriculture.

50 parts per million in or on timothy hay from use in accordance with the Plant Pest Control Program of the U.S. Department of Agriculture.

30 parts per million in or on garden beets (roots), carrots, citrus citron, cucumbers, grapefruit, horseradish, Jerusalem-artichokes, kumquats, lemons, limes, okra, oranges, parsnips (roots), peppers, pimentos, radishes, rutabagas, salsify roots, strawberries (from use before harvest), sugar beets (roots), summer squash, tangerines, turnips (roots), yams.

20 parts per million in or on apricots, cantaloups, cherries, eggplants, grapes, honeydew melons, mangoes, muskmelons, nectarines, onions, papayas, peaches, pineapples, plums (fresh prunes), pumpkins, tomatoes, watermelons, winter squash, zucchini squash.

5 parts per million in or on apples, pears, quinces.

§ 180.124 Glyodin; tolerances for residues.

Tolerances are established for residues of the fungicide glyodin (2-heptadecyl glyoxalidine acetate or 2-heptadecyl glyoxalidine (base)) in or on the raw agricultural commodities apples, cherries, peaches, and pears at 5 parts per million.

§ 180.125 Calcium cyanide; tolerances for residues.

Tolerances are established for residues of the insecticide calcium cyanide, calculated as hydrogen cyanide, in or on raw agricultural commodities as follows:

25 parts per million, from postharvest application, in or on the grains: Barley, buckwheat, corn, oats, rice, rye, sorghum, and wheat.

5 parts per million in or on cucumbers, lettuce, radishes, and tomatoes.

§ 180.126 Inorganic bromides resulting from soil treatment with ethylene dibromide; tolerances for residues.

Tolerances for residues of inorganic bromides (calculated as Br) in or on raw agricultural commodities grown in soil treated with the nematocide ethylene dibromide are established as follows:

75 parts per million in or on broccoli, carrots, melons, parsnips, potatoes.

50 parts per million in or on eggplant, okra, summer squash, sweet corn, sweet corn forage, sweetpotatoes, tomatoes.

40 parts per million in or on pineapple.

30 parts per million in or on cucumbers, lettuce, peppers.

25 parts per million in or on cottonseed, peanuts (see § 180.126a).

10 parts per million in or on asparagus, cauliflower.

5 parts per million in or on lima beans, strawberries.

§ 180.126a Inorganic bromide residues in peanut hay and peanut hulls; statement of policy.

(a) Investigations by the Food and Drug Administration show that peanut hay and peanut hulls have been used as feed for meat and dairy animals. While many growers now harvest peanuts with combines and leave the hay on the ground to be incorporated into the soil, some growers follow the practice of curing peanuts on the vines in a stack and save the hay for animal feed. Peanut shells or hulls have been used to a minor extent as roughage for cattle feed. It has been established that the feeding to cattle of peanut hay and peanut hulls containing residues of inorganic bromides will contribute considerable residues of inorganic bromides to the meat and milk.

(b) There are no tolerances for inorganic bromides in meat and milk to cover residues from use of such peanut hay and peanut hulls as animal feed. Peanut hay and peanut hulls containing residues of inorganic bromides from the use of nematocides such as ethylene dibromide or 1,2-dibromo-3-chloropropane are unsuitable as an ingredient in the feed of meat and dairy animals and should not be represented, sold, or used for that purpose.

§ 180.127 Piperonyl butoxide; tolerances for residues.

Tolerances for residues of the insecticide piperonyl butoxide ((butyl carbityl) (6-propyl piperonyl) ether) from postharvest use of such pesticide chemical are established in or on raw agricultural commodities, as follows:

20 parts per million in or on barley, birdseed mixtures, buckwheat, corn (including popcorn), rice, rye, wheat.

8 parts per million in or on almonds, apples, beans, blackberries, blueberries (huckleberries), boysenberries, cherries, cocoa beans, copra, cottonseed, crabapples, currants, dewberries, figs, flaxseed, gooseberries, grain sorghum, grapes, guavas, loganberries, mangoes, muskmelons, oats, oranges, peaches, peanuts (determined on the nuts with shell removed), pears, peas, pineapples, plums (fresh prunes), raspberries, tomatoes, walnuts.

0.25 part per million in or on potatoes from postharvest application.

§ 180.128 Pyrethrins; tolerances for residues.

Tolerances for residues of the insecticide pyrethrins (insecticidally active principles of *Chrysanthemum cinerariaefolium*) are established in or on raw agricultural commodities as follows:

From postharvest application: 3 parts per million in or on barley, birdseed mixtures, buckwheat, corn (including popcorn), rice, rye, and wheat.

From postharvest application: 1 part per million in or on almonds, apples, beans, blackberries, blueberries (huckleberries), boysenberries, cherries, cocoa beans, copra, cottonseed, crabapples, currants, dewberries, figs, flaxseed, gooseberries, grain sorghum, grapes, guavas, loganberries, mangoes, muskmelons, oats, oranges, peaches, peanuts (determined on the nuts with shell removed), pears, peas, pineapples, plums (fresh prunes), raspberries, tomatoes, and walnuts.

0.5 part per million in milk fat reflecting negligible residues in milk.

0.1 part per million (negligible residue) in meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep.

0.05 part per million in or on potatoes from postharvest application.

§ 180.129 *o*-Phenylphenol and its sodium salt; tolerances for residues.

Tolerances are established for residues of the fungicides *o*-phenylphenol and sodium *o*-phenylphenate, each expressed as *o*-phenylphenol, from postharvest application of either, as follows:

125 parts per million in or on cantaloups, of which not more than 10 parts per million shall be in the edible portion.

25 parts per million in or on apples, pears.

20 parts per million in or on carrots, peaches, plums (fresh prunes).

15 parts per million in or on sweetpotatoes.

10 parts per million in or on citrus citron, cucumbers, grapefruit, kumquats, lemons, limes, oranges, peppers (bell), pineapples, tangerines, tomatoes.

5 parts per million in or on cherries, nectarines.

§ 180.130 Hydrogen cyanide; tolerances for residues.

Tolerances for residues of the insecticide hydrogen cyanide from postharvest fumigation are established as follows:

250 parts per million in or on the following spices: Allspice, anise, basil, bay, black pepper, caraway, cassia, celery seed, chili, cinnamon, cloves, coriander, cumin, dill, ginger, mace, marjoram, nutmeg, oregano, paprika, poppy, red pepper, rosemary, sage, savory, thyme, tumeric, white pepper.

75 parts per million in or on barley, buckwheat, corn (including popcorn), milo (grain sorghum), oats, rice, rye, wheat.

50 parts per million in or on citrus fruits.

25 parts per million in or on almonds, beans (dried), cashews, cocoa beans, peanuts, peas (dried), pecans, sesame, walnuts.

§ 180.131 Endrin; tolerances for residues.

A tolerance of zero is established for residues of the insecticide endrin in or on each of the following raw agricultural commodities: Broccoli, brussels sprouts, cabbage, cauliflower, cottonseed, cucumbers, eggplant, peppers, potatoes, sugarbeets, sugarbeet tops, summer squash, and tomatoes.

§ 180.132 Thiram; tolerances for residues.

Tolerances for residues of the fungicide thiram (tetramethyl thiuram disulfide) in or on raw agricultural commodities are established as follows:

7 parts per million in or on apples, celery, peaches, strawberries, tomatoes.

7 parts per million in or on bananas (from preharvest and postharvest application) of which not more than 1 part per million shall be in the pulp after peel is removed and discarded.

§ 180.133 Lindane; tolerances for residues.

Tolerances are established for residues of the insecticide lindane (gamma isomer of benzene hexachloride) in or on raw agricultural commodities as follows:

7 parts per million in or on the fat of meat from cattle, goats, horses, and sheep.

4 parts per million in or on the fat of meat from hogs.

3 parts per million in or on cucumbers, lettuce, melons, mushrooms, pumpkins, squash, summer squash, and tomatoes.

1 part per million in or on apples, apricots, asparagus, avocados, broccoli, brussels sprouts, cabbage, cauliflower, celery, cherries, collards, eggplants, grapes, guavas, kale, kohlrabi, mangoes, mustard greens, nectarines, okra, onions (dry bulb only), peaches, pears, peppers, pineapples, plums (fresh prunes), quinces, spinach, strawberries, and Swiss chard.

§ 180.134 Ovex; tolerances for residues.

Tolerances for residues of the insecticide ovex (*p*-chlorophenyl-*p*-chlorobenzenesulfonate) are established as follows:

5 parts per million in or on grapefruit, lemons, oranges, tangerines.

3 parts per million in or on apples, peaches, pears, plums (fresh prunes).

§ 180.135 Aldrin; tolerances for residues.

Tolerances for total residues of the insecticide aldrin and its epoxidation product dieldrin, resulting from application of aldrin, in or on raw agricultural commodities are established as follows:

0.1 part per million in or on asparagus, broccoli, brussels sprouts, cabbage, cantaloups, cauliflower, celery, cherries, cranberries, cucumbers, eggplant, grapes, lettuce, mangoes, muskmelons, nectarines, peaches, peppers, pimentos, pineapple, plums (fresh prunes), potatoes, pumpkins, strawberries, summer squash, sweet potatoes, tomatoes, watermelons, winter squash.

Zero in or on alfalfa, apples, apricots, beans, black-eyed peas, carrots, clover, collards, corn forage, corn grain, cowpeas, cowpea hay, endive (escarole), garden beets, garden beet tops, garlic, grain sorghum, grain sorghum forage, horse radish, kale, kohlrabi, leeks, lespedeza, mustard greens, onions, parsnips, peanuts, peanut hay, pears, peas, pea hay, popcorn, quinces, radishes, rutabagas, salsify tops, salsify roots, shallots, soybeans, soybean hay, spinach, sugarbeets, sugarbeet tops, Swiss chard, turnips, turnip tops.

Additional tolerances for total residues of aldrin are established, on an interim basis pending reevaluation of all tolerances for this insecticide when new toxicity and related data become available on or before June 30, 1968, at 0.1 part per million in or on straws of barley, oats, rice, rye, and wheat; at 0.05 part per million in or on grapefruit, lemons, limes, oranges, rice grain, and tangerines; at 0.02 part per million in or on the grains of barley, oats, rye, and wheat.

§ 180.136 Basic copper carbonate; tolerance for residues.

The tolerance for residues of the fungicide basic copper carbonate in or on pears from post-harvest use of the chemical is 3 parts per million of combined copper.

§ 180.137 Dieldrin; tolerances for residues.

Tolerances for residues of the insecticide dieldrin in or on raw agricultural commodities are established as follows:

0.1 part per million in or on apples, apricots, asparagus, bananas, broccoli, brussels sprouts, cabbage, carrots, cauliflower, cherries, cranberries, cucumbers, eggplant, grapes, horse radish, lettuce,

mangoes, nectarines, onions, parsnips, peaches, pears, peppers, pimentos, plums (fresh prunes), potatoes, quinces, radishes, radish tops, salsify roots, strawberries, summer squash, sweet potatoes, tomatoes, turnips, watermelons, winter squash.

0.02 part per million in or on grapefruit, lemons, limes, oranges, rice grain, tangerines.

§ 180.138 Heptachlor; tolerances for residues.

Tolerances for residues of the insecticide heptachlor (1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-4,7-methanoindene) and its epoxide (1,4,5,6,7,8,8-heptachloro-2,3-epoxy-3a,4,7,7a-tetrahydro-4,7-methanoindene) in or on raw agricultural commodities are established as follows:

0.1 part per million in or on asparagus, broccoli, brussels sprouts, cabbage, cantaloups, cauliflower, celery, cherries, cranberries, cucumbers, eggplant, grapes, lettuce, mangoes, muskmelons, nectarines, peaches, peppers, pimentos, pineapple, plums (fresh prunes), potatoes, pumpkins, strawberries, summer squash, sweet potatoes, tomatoes, watermelons, winter squash.

Zero in or on alfalfa, apples, apricots, beans, black-eyed peas, carrots, clover, collards, corn forage, corn grain, cowpeas, cowpea hay, endive (escarole), garden beets, garden beet tops, garlic, grain sorghum, grain sorghum forage, horse radish, kale, kohlrabi, leeks, lespedeza, mustard greens, onions, parsnips, peanuts, peanut hay, pears, peas, pea hay, popcorn, quinces, radishes, rutabagas, salsify tops, salsify roots, shallots, soybeans, soybean hay, spinach, sugarbeets, sugarbeet tops, Swiss chard, turnips, turnip tops.

Additional tolerances for total residues of heptachlor are established, on an interim basis pending reevaluation of all tolerances for this insecticide when new toxicity and related data become available on or before June 30, 1968, at 0.1 part per million in or on straws of barley, oats, rice, rye, and wheat; at 0.05 part per million in or on grapefruit, lemons, limes, oranges, rice grain, and tangerines; at 0.02 part per million in or on the grains of barley, oats, rye, and wheat.

§ 180.139 Heptachlor epoxide; tolerances for residues.

Tolerances for residues of the insecticide heptachlor epoxide (1,4,5,6,7,8,8-heptachloro-2,3-epoxy-3a,4,7,7a-tetrahydro-4,7-methanoindene) in or on raw agricultural commodities are established as follows:

0.1 part per million in or on asparagus, broccoli, brussels sprouts, cabbage, cantaloups, cauliflower, celery, cherries, cranberries, cucumbers, eggplant, grapes, lettuce, mangoes, muskmelons, nectarines, peaches, peppers, pimentos, pineapple, plums (fresh prunes), potatoes, pumpkins, strawberries, summer squash, sweet potatoes, tomatoes, watermelons, winter squash.

Zero in or on alfalfa, apples, apricots, beans, black-eyed peas, carrots, clover, collards, corn forage, corn grain, cowpeas, cowpea hay, endive (escarole), garden beets, garden beet tops, garlic, grain sorghum, grain sorghum forage, horse radish, kale, kohlrabi, leeks, lespedeza, mustard greens, onions, parsnips, peanuts, peanut hay, pears, peas, pea hay, popcorn, quinces, radishes, rutabagas, salsify tops, salsify roots, shallots, soybeans, soybean hay, spinach, sugarbeets, sugarbeet tops, Swiss chard, turnips, turnip tops.

Additional tolerances for total residues of heptachlor epoxide are established, on an interim basis pending reevaluation of all tolerances for this insecticide when new toxicity and related data become available on or before June 30, 1968, at 0.1 part per million in or on straws of barley, oats, rice, rye, and wheat; at 0.05 part per million in or on grapefruit, lemons, limes, oranges, rice grain, and tangerines; at 0.02 part per million in or on the grains of barley, oats, rye, and wheat.

§ 180.140 Methoxychlor; tolerances for residues.

Tolerances for residues of the insecticide methoxychlor (2,2-bis(*p*-methoxyphenyl)-1,1,1-trichloroethane) in or on raw agricultural commodities are established as follows:

14 parts per million in or on alfalfa, apples, asparagus, beans, beans (green), beans (lima), beans (snap), beets (with or without tops) or beet greens alone, blackberries, blueberries (huckleberries), boysenberries, broccoli, brussels sprouts, cabbage, carrots, cauliflower, celery, cherries, citrus fruits, clover, collards, corn, corn forage, cranberries, cucumbers, currants, dates, dewberries, eggplants, endive (escarole), figs, garlic, gooseberries, grapes, grass for forage, guavas, hops, kale, kohlrabi, lettuce, loganberries, mangoes, melons, mustard greens, nectarines, oats, okra, olives, onions, parsnips (with or without tops) or parsnip greens alone, peaches, pea forage, peanuts, pears, peas, peppers, pineapples, plums (fresh prunes), pumpkins, quinces, radishes (with or without tops) or radish tops, raspberries, rice, rutabagas (with or without tops) or rutabaga tops, soybean hay, spinach, squash, strawberries, summer squash, Swiss chard, tomatoes, turnips (with or without tops) or turnip greens, vetch, wheat, youngberries.

0.75 part per million in or on cottonseed.

0.2 part per million in or on sunflower seed.

0.1 part per million in or on soybeans.

§ 180.141 Methyl parathion; tolerances for residues.

Tolerances for residues of the insecticide methyl parathion (*O,O*-dimethyl-*O*-*p*-nitrophenyl thiophosphate) in or on raw agricultural commodities are established as follows:

1 part per million in or on alfalfa, apples, apricots, artichokes, avocados, barley, beans, beets (with or without tops) or beet greens alone, blackberries, blueberries (huckleberries), boysenberries, broccoli, brussels sprouts, cabbage, carrots, cauliflower, celery, cherries, citrus fruits, clover, collards, corn, corn forage, cranberries, cucumbers, currants, dates, dewberries, eggplants, endive (escarole), figs, garlic, gooseberries, grapes, grass for forage, guavas, hops, kale, kohlrabi, lettuce, loganberries, mangoes, melons, mustard greens, nectarines, oats, okra, olives, onions, parsnips (with or without tops) or parsnip greens alone, peaches, pea forage, peanuts, pears, peas, peppers, pineapples, plums (fresh prunes), pumpkins, quinces, radishes (with or without tops) or radish tops, raspberries, rice, rutabagas (with or without tops) or rutabaga tops, soybean hay, spinach, squash, strawberries, summer squash, Swiss chard, tomatoes, turnips (with or without tops) or turnip greens, vetch, wheat, youngberries.

0.75 part per million in or on cottonseed.

0.2 part per million in or on sunflower seed.

0.1 part per million in or on soybeans.

§ 180.142 Methyl parathion or its ethyl homolog; tolerances for residues.

Tolerances for residues of the insecticide methyl parathion (*O,O*-dimethyl-*O*-*p*-nitrophenyl thiophosphate) or its ethyl homolog in or on raw agricultural commodities are established as follows:

1 part per million in or on alfalfa, apples, apricots, artichokes, avocados, barley, beans, beets (with or without tops) or beet greens alone, blackberries, blueberries (huckleberries), boysenberries, broccoli, brussels sprouts, cabbage, carrots, cauliflower, celery, cherries, citrus fruits, clover, collards, corn, corn forage, cranberries, cucumbers, currants, dates, dewberries, eggplants, endive (escarole), figs, garlic, gooseberries, grapes, grass for forage, guavas, hops, kale, kohlrabi, lettuce, loganberries, mangoes, melons, mustard greens, nectarines, oats, okra, olives, onions, parsnips (with or without tops) or parsnip greens alone, peaches, pea forage, peanuts, pears, peas, peppers, pineapples, plums (fresh prunes), pumpkins, quinces, radishes (with or without tops) or radish tops, raspberries, rice, rutabagas (with or without tops) or rutabaga tops, soybean hay, spinach, squash, strawberries, summer squash, Swiss chard, tomatoes, turnips (with or without tops) or turnip greens, vetch, wheat, youngberries.

0.75 part per million in or on cottonseed.

0.2 part per million in or on sunflower seed.

0.1 part per million in or on soybeans.

§ 180.143 Naled; tolerances for residues.

Tolerances for residues of the insecticide naled (1,2-dibromo-2,2-dichloroethyl dimethyl phosphate) in or on raw agricultural commodities are established as follows:

10 parts per million in or on citrus fruits.

5 parts per million in or on apples, cherries, grapes, peaches, pears, plums (fresh prunes).

§ 180.144 Nicotine; tolerances for residues.

Tolerances for residues of the insecticide nicotine in or on raw agricultural commodities are established as follows:

2 parts per million in or on apples, cherries, grapes, peaches, pears, plums (fresh prunes).

§ 180.145 Nicotine sulfate; tolerances for residues.

Tolerances for residues of the insecticide nicotine sulfate in or on raw agricultural commodities are established as follows:

2 parts per million in or on apples, cherries, grapes, peaches, pears, plums (fresh prunes).

§ 180.146 Oil of mustard; tolerances for residues.

Tolerances for residues of oil of mustard in or on raw agricultural commodities are established as follows:

0.1 part per million in or on asparagus, broccoli, brussels sprouts, cabbage, cantaloups, cauliflower, celery, cherries, cranberries, cucumbers, eggplant, grapes, lettuce, mangoes, muskmelons, nectarines, peaches, peppers, pimentos, pineapple, plums (fresh prunes), potatoes, pumpkins, strawberries, summer squash, sweet potatoes, tomatoes, watermelons, winter squash.

Zero in or on alfalfa, apples, apricots, beans, black-eyed peas, carrots, clover, collards, corn forage, corn grain, cowpeas, cowpea hay, endive (escarole), garden beets, garden beet tops, garlic, grain sorghum, grain sorghum forage, horse radish, kale, kohlrabi, leeks, lespedeza, mustard greens, onions, parsnips, peanuts, peanut hay, pears, peas, pea hay, popcorn, quinces, radishes, rutabagas, salsify tops, salsify roots, shallots, soybeans, soybean hay, spinach, sugarbeets, sugarbeet tops, Swiss chard, turnips, turnip tops.

Additional tolerances for total residues of oil of mustard are established, on an interim basis pending reevaluation of all tolerances for this insecticide when new toxicity and related data become available on or before June 30, 1968, at 0.1 part per million in or on straws of barley, oats, rice, rye, and wheat; at 0.05 part per million in or on grapefruit, lemons, limes, oranges, rice grain, and tangerines; at 0.02 part per million in or on the grains of barley, oats, rye, and wheat.

§ 180.147 DDT; tolerances for residues.

Tolerances for residues of the insecticide DDT (2,2-bis(*p*-chlorophenyl)-1,1,1-trichloroethane) in or on raw agricultural commodities are established as follows:

7 parts per million in or on alfalfa, apples, asparagus, beans, beans (green), beans (lima), beans (snap), beets (with or without tops) or beet greens alone, blackberries, blueberries (huckleberries), boysenberries, broccoli, brussels sprouts, cabbage, carrots, cauliflower, celery, cherries, citrus fruits, clover, collards, corn, corn forage, cranberries, cucumbers, currants, dates, dewberries, eggplants, endive (escarole), figs, garlic, gooseberries, grapes, grass for forage, guavas, hops, kale, kohlrabi, lettuce, loganberries, mangoes, melons, mustard greens, nectarines, oats, okra, olives, onions, parsnips (with or without tops) or parsnip greens alone, peaches, pea forage, peanuts, pears, peas, peppers, pineapples, plums (fresh prunes), pumpkins, quinces, radishes (with or without tops) or radish tops, raspberries, rice, rutabagas (with or without tops) or rutabaga tops, soybean hay, spinach, squash, strawberries, summer squash, Swiss chard, tomatoes, turnips (with or without tops) or turnip greens, vetch, wheat, youngberries.

0.75 part per million in or on cottonseed.

0.2 part per million in or on sunflower seed.

0.1 part per million in or on soybeans.

Zero in milk.

Residues of DDT in any manner to the feed of dairy cows or to the dairy cows themselves results in residues of DDT in milk. No tolerance has been established to permit any residues of DDT in milk from feeding corn forage, corn fodder, or other feed crops grown on land to which DDT has been applied. Any application of DDT to the land, or to the feed of dairy cows or to the dairy cows themselves, which results in residues of DDT in milk is unlawful. Seven parts per million of DDT can be fed to animals without causing the meat from such animals to contain residues in excess of the tolerance. Therefore, unless a grower of meat animals is in a position to establish that the DDT residue in

mangoes, nectarines, onions, parsnips, peaches, pears, peppers, pimentos, plums (fresh prunes), potatoes, quinces, radishes, radish tops, salsify roots, strawberries, summer squash, sweet potatoes, tomatoes.

Zero in or on alfalfa, beans, black-eyed peas, clover, collards, corn grain, corn forage, cowpeas, cowpea hay, endive (escarole), garden beets, garden beet tops, grain sorghum, grain sorghum forage, kale, kohlrabi, lespedeza, mustard greens, peas, pea hay, popcorn, rutabagas, salsify tops, spinach, soybeans, soybean hay, Swiss chard, turnips, turnip tops.

Additional tolerances for residue of dieldrin are established, on an interim basis pending reevaluation of all tolerances for this insecticide when new toxicity and related data become available on or before June 30, 1968, at 0.1 part per million in or on the straws of barley, oats, rye, and wheat; at 0.05 part per million in or on grapefruit, lemons, limes, oranges, and tangerines; at 0.02 part per million in or on the grains of barley, oats, rye, and wheat.

§ 180.138 Toxaphene; tolerances for residues.

Tolerances are established for residues of the insecticide toxaphene (chlorinated camphene containing 67 percent–69 percent chlorine) in or on raw agricultural commodities as follows:

[1]7 parts per million in or on apples, apricots, beans, blackberries, boysenberries, broccoli, brussels sprouts, cabbage, carrots, cauliflower, celery, citrus fruits, collards, corn, cranberries, cucumbers, dewberries, eggplants; fat of meat from cattle, goats, hogs, horses, and sheep; hazelnuts, hickory nuts, horseradish, kale, kohlrabi, lettuce, loganberries, nectarines, okra, onions, parsnips, peaches, peanuts, pears, peas, pecans, peppers, pimentos, quinces, radishes (with or without tops) or radish tops, raspberries, rutabagas, spinach, strawberries, tomatoes, walnuts, youngberries.

5 parts per million in or on barley, oats, rice, rye, sorghum grain, wheat.

8 parts per million, calculated as a chlorinated terpene of molecular weight 396.6 containing 67 percent chlorine, in or on cottonseed.

3.5 parts per million combined residues of DDT and toxaphene in or on soybeans (dry form), of which residues DDT shall not exceed 1.5 parts per million and toxaphene shall not exceed 2 parts per million.

3 parts per million in or on bananas (of which residue not more than 0.3 part per million shall be in the pulp after the peel is removed and discarded), pineapples.

2 parts per million in or on soybeans (dry form).

§ 180.139 1,1-Dichloro-2,2-bis(p-ethylphenyl) ethane; tolerances for residues.

Tolerances are established for residues of the insecticide 1,1-dichloro-2,2-bis (p-ethylphenyl) ethane in or on raw agricultural commodities as follows:

15 parts per million in or on apples, broccoli, brussels sprouts, cabbage, cauliflower, cherries, kohlrabi, lettuce, pears, spinach.

Zero in meat and milk.

§ 180.140 BHC; tolerances for residues.

Tolerances are established for residues of the insecticide BHC (benzene hexachloride) in or on the raw agricultural commodities apples, apricots, asparagus, avocados, broccoli, brussels sprouts, cabbage, cauliflower, celery, cherries, collards, cucumbers, eggplants, grapes, kale, kohlrabi, lettuce, melons, mustard greens, nectarines, okra, onions (dry bulb only), peaches, pears, peppers, plums (fresh prunes), pumpkins, spinach, strawberries, squash, summer squash, Swiss chard, and tomatoes at 1 part per million.

§ 180.141 Biphenyl; tolerances for residues.

A tolerance of 110 parts per million for residues of the fungicide biphenyl (also known as diphenyl) from postharvest use is established in or on each of the following raw agricultural commodities: Citrus citron, grapefruit, kumquats, lemons, limes, oranges, tangerines, other citrus fruits and hybrids thereof.

§ 180.142 2,4-D; tolerances for residues.

(a) A tolerance of 5 parts per million is established for residues of the herbicide and plant regulator 2,4-D (2,4-dichlorophenoxyacetic acid) in or on each of the following raw agricultural commodities: Apples, citrus fruits, pears, quinces. The tolerance for citrus fruits also includes residues of 2,4-D (2,4-dichlorophenoxyacetic acid) from the preharvest application of 2,4-D isopropyl ester to citrus fruits and from the postharvest application of the 2,4-D isopropyl ester to lemons.

(b) Tolerances are established for residues of 2,4-D (2,4-dichlorophenoxyacetic acid) at 0.5 part per million in or on the grain of, and at 20 parts per million in or on the forage of barley, oats, rye, and wheat from application of 2,4-D in acid form, or in the form of one or more of the following salts or esters:

(1) The inorganic salts: Ammonium, lithium, potassium, and sodium.

(2) The amine salts: Alkanolamines (of the ethanol and isopropanol series), alkyl (C–12), alkyl (C–13), alkyl (C–14), alkylamines derived from tall oil, amylamine, diethanolamine, diethylamine, diisopropanolamine, dimethylamine, diisopropanolamine, dimethylamine, *N,N*-dimethyllinoleylamine, *N,N*-dimethyloleylamine, ethanolamine, ethylamine, heptylamine, isopropanolamine, isopropylamine, methylamine, morpholine, octylamine, *N*-oleyl-1,3-propylenediamine, propylamine, triethanolamine, triethylamine, triisopropanolamine, and trimethylamine.

(3) The esters: Amyl (pentyl), butoxyethoxypropyl, butoxyethyl, butoxypolyethoxypropyl, butoxypropyl, butyl, dipropylene glycol isobutyl ether, ethoxyethoxyethyl, ethoxyethoxypropyl, ethyl, ethylene glycol butyl ether, 2-ethylhexyl (isooctyl), 2-ethyl-4-methylpentyl (isooctyl), isobutyl, isopropyl, methyl, 2-octyl (isooctyl), polyethylene glycol 200, polypropoxybutyl, polypropylene glycol, propylene glycol, propylene glycol butyl ether, propylene glycol isobutyl ether, tetrahydrofurfuryl, and tripropylene glycol isobutyl ether.

§ 180.143 [Reserved]

§ 180.144 [Reserved]

§ 180.145 Fluorine compounds; tolerances for residues.[2]

A tolerance of 7 parts per million of combined fluorine is established for residues of the insecticidal fluorine compounds cryolite and synthetic cryolite (sodium aluminum fluoride) in or on each of the following raw agricultural commodities: Apples, apricots, beans, beets (with or without tops) or beet greens alone, blackberries, blueberries (huckleberries), boysenberries, broccoli, brussels sprouts, cabbage, carrots, cauliflower, citrus fruits, corn, collards, cranberries, cucumbers, dewberries, eggplants, grapes, kale, kohlrabi, lettuce, loganberries, melons, mustard greens, nectarines, okra, peaches, peanuts, pears, peas, peppers, plums (fresh prunes), pumpkins, quinces, radishes (with or without tops) or radish tops, raspberries, rutabagas (with or without tops) or rutabaga tops, squash, strawberries, summer squash, tomatoes, turnips (with or without tops) or turnip greens, youngberries.

§ 180.146 Inorganic bromides or total combined bromide resulting from fumigation with ethylene dibromide; tolerances for residues.

Tolerances of 50 parts per million are established for residues of inorganic bromides (calculated as Br) in or on the following grains that have been fumigated after harvest with ethylene dibromide: Barley, corn, oats, popcorn, rice, rye, sorghum (milo), wheat.

Tolerances of 10 parts per million are established for residues of inorganic bromides (calculated as Br) in or on the following raw agricultural commodities that have been fumigated after harvest with ethylene dibromide in accordance with the Mediterranean Fruit Fly Control Program or the Quarantine Program of the U.S. Department of Agriculture: Beans (string), bitter melons (*Momordica charantia*), cantaloups, Cavendish bananas, citrus fruits, cucumbers, guavas, litchi fruit, litchi nuts, longan fruit, mangoes, papayas, peppers (bell), pineapples, and zucchini squash.

Tolerances of 25 parts per million are established for residues of total combined bromine (which include bromine from both inorganic and organic compounds, resulting from fumigation after harvest with ethylene dibromide in accordance with the Mediterranean Fruit Fly Control Program, the Quarantine Program

[1] See footnote 1 to § 180.115.

[2] Tolerances established are based upon data acquired at the public hearing held in 1950 and formerly appeared in § 180.101.

of the U.S. Department of Agriculture, or to meet the State quarantine requirements) in or on cherries, plums (fresh prunes).

§ 180.147 DDT; tolerances for residues.

Tolerances for residues of the insecticide DDT (a mixture of 1,1,1-trichloro-2,2-bis (p-chlorophenyl) ethane and 1,1,1-trichloro-2-(o-chlorophenyl)-2-(p-chlorophenyl) ethane) are established in or on raw agricultural commodities as follows:

50 parts per million in or on peppermint hay and spearmint hay, which are not to be used for feeding livestock.

20 parts per million in or on fresh hops. Any byproducts or refuse from such hops are not to be used for feeding livestock.

7 parts per million in or on apples, apricots, beans, beet greens, blueberries (huckleberries), cabbage, celery, collards, cranberries, cucumbers, eggplants; fat of meat from cattle, goats, hogs, horses, and sheep; grapes, kale, lettuce, mangoes, melons, mustard greens, nectarines, okra, onions, parsnip greens, peaches, pears, peas, peppers, pineapples, pumpkins, quinces, radish tops, rutabaga tops, spinach, squash, summer squash, sweetpotatoes (from postharvest use), Swiss chard, tomatoes, turnip greens.

4 parts per million in or on cottonseed.

3.5 parts per million in or on avocados, carrots, cherries, citrus fruits, the fresh vegetable sweet corn (determined on kernels plus cob after removing any husk present when marketed), papayas, plums (fresh prunes).

3.5 parts per million combined residues of DDT and toxaphene in or on soybeans (dry form), of which residues DDT shall not exceed 1.5 parts per million and toxaphene shall not exceed 2 parts per million.

1.5 parts per million in or on soybeans (dry form).

1 part per million in or on artichokes, asparagus, beets (roots), blackberries, boysenberries, broccoli, brussels sprouts, cauliflower, currants, dewberries, endive (escarole), gooseberries, guavas, kohlrabi, loganberries, mushrooms, parsnips (roots), peanuts, potatoes (determined after washing off any soil present when marketed), radishes (roots), raspberries, rutabagas (roots), strawberries, turnips (roots), youngberries.

§ 180.147a DDT residues in corn forage, corn fodder, corn silage, corn stover, and sweet corn cannery waste; statement of policy and interpretation.

(a) Section 180.101(c)(43) of this chapter, promulgated on March 11, 1955, permitted a tolerance of 7 parts per million for residues of DDT in or on the fresh vegetable sweet corn. Because of a showing of the unsuitability of the tolerance level based on sweet corn as marketed, § 180.147 provides a tolerance of 3.5 parts per million of DDT in or on the fresh vegetable sweet corn (determined on kernels plus cob after removing any husk present when marketed). Residue studies have indicated that the application of DDT in any manner to the feed of dairy cows or to the dairy cows themselves results in residues of DDT in milk. No tolerance has been established to permit any residues of DDT in milk from feeding corn forage, corn fodder, corn silage, corn stover, or sweet corn cannery waste to dairy cows. When these items contain any amount of DDT, they are unsuitable as a feed for dairy cows and should not be represented, sold, or used for that purpose.

(b) A tolerance of 7 parts per million for residues of DDT in the fat of meat from cattle, goats, hogs, horses, and sheep has been established in § 180.147. Animals that consume corn forage, corn fodder, corn silage, corn stover, or sweet corn cannery waste containing DDT may accumulate considerably more of the chemical in their fat than is present in the feed itself, and a long time may be required on a diet free of DDT to reduce excessive levels of DDT to the tolerance level. Unless the person who raises meat animals is in a position to determine the magnitude of DDT residues in these corn feed products and to insure that the conditions of feeding are such that the residues in meat from such animals will be within the established tolerance, these products from DDT-treated corn should not be used in the feeding of meat animals.

(See also 21 CFR 121.226.)

§ 180.147b DDT residues in apple pomace.

(a) Investigations by the Food and Drug Administration show that apple pomace containing substantial amounts of DDT has been used as feed for dairy and meat animals. Section 409 of the act would render illegal any apple pomace for animal feeding that contains DDT in excess of the 7 parts per million fixed for apples by § 180.147. It has been established that the feeding of apple pomace containing DDT will contribute residues of DDT to the fat of meat animals and to milk of dairy animals.

(b) There is no tolerance for DDT in milk to provide for residues that may occur from feeding apple pomace which contains DDT to dairy animals. Apple pomace containing DDT should not be fed to dairy animals, since it has been established that the ingestion by them of even small amounts of DDT results in contamination of the milk with this pesticide. Apple pomace containing any amount of DDT is unsuitable as a feed or an ingredient of mixed feeds for dairy animals and should not be represented, sold, or used for that purpose.

(c) There is an established legal tolerance of 7 parts per million for residues of DDT in or on the fat of meat from cattle, goats, sheep, horses, and hogs (§ 180.147). Animals that consume DDT in feed may accumulate considerably more of the chemical in their fat than is present in the feed itself, and a long time may be required on a diet free of DDT to reduce excessive residues to the tolerance level. It has not been established under what conditions of feeding, if any, apple pomace containing less than 7 parts per million of DDT can be fed to animals without causing the meat from such animals to contain residues in excess of the tolerance. Therefore, unless a grower of meat animals is in a position to establish that the DDT residue in the apple pomace and the conditions of feeding are such that the meat from such animals will be within the established tolerance, apple pomace should not be used in the feeding of meat animals.

§ 180.147c DDT and its related degradation products in milk.

Tolerances of 0.05 part per million are established for residues in milk for each or any combination of the following: DDT, DDD (1,1-dichloro-2,2-bis(p-chlorophenyl) ethane), and DDE (1,1-dichloro-2,2-bis(p-chlorophenyl) ethylene). These tolerances are not established to provide for residues from the purposeful use of DDT, DDD, or DDE on dairy cattle, in dairy barns, or on the crops intended to be used for feeding dairy cattle.

§ 180.148 β-Naphthoxyacetic acid; tolerances for residues.

A tolerance of 0.05 part per million is established for negligible residues of the plant regulator β-naphthoxyacetic acid in or on the raw agricultural commodity pineapples from the application of the sodium salt of β-naphthoxyacetic acid to the growing crop.

§ 180.149 Mineral oil; tolerances for residues.

(a) For the purposes of this section, the insecticide mineral oil is defined as the refined petroleum fraction having the following characteristics:

(1) Minimum flashpoint of 300° F.

(2) Gravity of 27 to 34 by the American Petroleum Institute standard method.

(3) Pour point of 30° F. maximum.

(4) Color 2 maximum by standards of the American Society for Testing Materials.

(5) Boiling point between 480° F. and 960° F.

(6) Viscosity at 100° F. of 100 to 200 seconds Saybolt.

(7) Unsulfonated residue of 90 percent minimum.

(8) No sulfur compounds according to the United States Pharmacopeia test under Liquid Petrolatum.

(b) Tolerances of 200 parts per million for residues of mineral oil as specified in paragraph (a) of this section are established in or on the following grains from postharvest application: Shelled corn, grain sorghum.

§ 180.150 Dalapon sodium salt; tolerances for residues.

Tolerances for residues of the herbicide dalapon sodium salt calculated as dalapon (2,2-dichloropropionic acid), in or on raw agricultural commodities, are established as follows:

75 parts per million in or on flaxseed.

35 parts per million in or on cottonseed.

20 parts per million in or on asparagus.

15 parts per million in or on peaches, peas (shelled or unshelled), peavines (with or without pods).

10 parts per million in or on corn grain, dried ear corn (kernels and cobs), potatoes.

5 parts per million in or on bananas, tomatoes, turnip roots, turnip tops, watercress, winter squash.

0.75 part per million in or on the fat, meat, and meat byproducts of cattle and

2 parts per million in or on grapefruit, lemons, limes, oranges, sorghum grain, tangerines.

0.8 part per million in or on apples;

30 parts per million in or on bananas, of which residue not more than 10 parts per million shall be in the pulp after peel is removed and discarded.

schradan (octamethylpyrophosphoramide) in or on English walnuts.

§ 180.167 Nicotine-containing compounds; tolerances for residues.[1]

or on the nut meats after shell is removed and discarded.

10 parts per million in or on apples, apricots, asparagus, bananas, beans, blueberries, broccoli, brussels sprouts,

10 parts per million in or on corn grain, dried ear corn (kernels and cobs), potatoes.

5 parts per million in or on bananas, corn fodder and forage, cranberries, fresh corn including sweet corn (kernels plus cobs with husks removed), grapefruit, limes, oranges, sugar beets (roots and tops), tangarines.

3 parts per million in or on apples, grapes, pears, pineapples.

2 parts per million in or on coffee.

1 part per million in or on apricots, plums.

0.1 part per million in or on sugarcane (negligible residue).

Zero in meat and milk.

§ 180.151 Ethylene oxide; tolerances for residues.

A tolerance of 50 parts per million is established for residues of the antimicrobial agent and insecticide ethylene oxide, when used as a postharvest fumigant in or on the following raw agricultural commodities: Black walnut meats, copra, whole spices.

§ 180.152 Sodium dimethyldithiocarbamate; tolerance for residues.

A tolerance of 25 parts per million is established for residues of the fungicide sodium dimethyldithiocarbamate, calculated as zinc ethylenebisdithiocarbamate, in or on melons.

§ 180.153 Tolerance for residues of *O,O*-diethyl *O*-(2-isopropyl-4-methyl-6-pyrimidinyl) phosphorothioate.

Tolerances for residues of the insecticides *O,O*-diethyl *O*-(2-isopropyl-4-methyl-6-pyrimidinyl) phosphorothioate in or on raw agricultural commodities are established as follows:

60 parts per million in or on grass, of which residue not more than 40 parts per million shall remain 24 hours after application.

40 parts per million in or on alfalfa (fresh), clover (fresh), corn forage, peanut forage, pineapple forage.

25 parts per million in or on bean forage, peavines.

10 parts per million in or on alfalfa hay, bean hay, clover hay, grass hay, peanut hulls and hay, peavine hay, sorghum forage, sugar beet tops.

3 parts per million in or on almond hulls.

1 part per million in or on olives.

0.75 part per million in or on apples, apricots, beans (snap), beet roots, beet tops, blackberries, blueberries, boysenberries, broccoli, brussels sprouts, cabbage, carrots, cauliflower, celery, cherries, citrus, collards, corn (kernels and cob with husks removed), cranberries, cucumbers, dewberries, endive (escarole), figs, grapes, hops, kale, lettuce, lima beans, loganberries, melons, nectarines, onions, parsley, parsnips, peaches, peanuts, pears, peas with pods (determined on peas after removing any shell present when marketed), peppers, pineapples, plums (fresh prunes), radishes, raspberries, sorghum grain, spinach, strawberries, sugar beet roots, sugarcane, summer squash, Swiss chard, tomatoes, turnip roots, turnip tops, watercress, winter squash.

0.75 part per million in or on the fat, meat, and meat byproducts of cattle and sheep from preslaughter application.

0.2 part per million in or on bananas (of which not more than 0.1 part per million shall be present in the pulp after peel is removed).

0.1 part per million in or on potatoes, sweetpotatoes.

§ 180.154 *O,O*-Dimethyl *S*-[4-oxo-1,2,3-benzotriazin-3(4H)-ylmethyl] phosphorodithioate; tolerances for residues.

Tolerances for residues of the insecticide *O,O*-dimethyl *S*-[4-oxo-1,2,3-benzotriazin-3(4H)-ylmethyl] phosphorodithioate in or on raw agricultural commodities are established as follows:

10 parts per million in or on almond hulls.

5 parts per million in or on alfalfa hay, blueberries, clover hay, grapes.

2 parts per million in or on alfalfa, apples, apricots, artichokes, barley straw, blackberries, boysenberries, broccoli, brussels sprouts, cabbage, cauliflower, celery, cherries, citrus fruits, clover, crabapples, cranberries, cucumbers, loganberries, melons (honeydew melons, muskmelons, cantaloups, watermelons, and other melons), nectarines, oat straw, onions, peaches, pears, plums (fresh prunes), quinces, raspberries, rye straw, snap beans, spinach, strawberries, tomatoes (from pre- and post-harvest applications), and wheat straw.

0.5 part per million in or on cottonseed.

0.3 part per million in or on almonds, eggplants, peppers, sugarcane.

0.2 part per million in or on barley grain, oat grain, rye grain, wheat grain.

0.1 part per million in the meat, fat, and meat byproducts of cattle, goats, and sheep.

Zero in milk.

§ 180.155 α-Naphthaleneacetic acid; tolerances for residues.

Tolerances are established for residues of the plant regulator α-naphthaleneacetic acid in or on raw agricultural commodities as follows:

1 part per million in or on apples, pears, quinces.

0.05 part per million (negligible residue) in or on pineapples from the application of the sodium salt to the growing crop.

§ 180.156 Carbophenothion; tolerances for residues.

Tolerances for residues of the insecticide carbophenothion (*S*-(*p*-chlorophenylthiomethyl) *O,O*-diethyl phosphorodithioate) in or on raw agricultural commodities are established as follows:

10 parts per million in or on almond hulls.

5 parts per million in or on alfalfa (fresh), alfalfa (hay), bean straw, clover (fresh), clover (hay), corn forage, sorghum forage, sugarbeets (roots), sugarbeets (tops).

2 parts per million in or on grapefruit, lemons, limes, oranges, sorghum grain, tangerines.

0.8 part per million in or on apples; apricots; beans, snap (succulent form); beans, lima (succulent form); beets, garden (roots); beets, garden (tops); cantaloups; cherries; crabapples; cucumbers; eggplants; figs; grapes; nectarines; olives; onions (dry bulb); onions (green); peaches; pears; peas (succulent form); peppers; pimentos; plums (fresh prunes); quinces; soybeans (succulent form); spinach; strawberries; summer squash; tomatoes; watermelons.

0.2 part per million in or on corn (kernels plus cob with husks removed), undelinted cottonseed.

0.1 part per million in the fat of meat of cattle, goats, hogs, and sheep.

Zero in milk.

§ 180.157 1-Methoxycarbonyl-1-propen-2-yl dimethylphosphate and its beta isomer; tolerances for residues.

Tolerances for residues of the insecticide 1-methoxycarbonyl-1-propen-2-yl dimethylphosphate and its beta isomer are established in or on raw agricultural commodities as follows:

1.0 part per million in or on alfalfa, artichokes, broccoli, brussels sprouts, cabbage, cauliflower, celery, cherries, clover, collards, corn forage, garden beets (including tops), kale, mustard greens, parsley, peaches, pea vines, plums, raspberries, sorghum forage, sorghum grain, spinach, strawberries, turnip tops.

0.5 part per million in or on apples, grapes, lettuce, melons (including cantaloups, honeydew melon and muskmelon, determined on the edible portion with rind removed), pears, watermelon.

0.25 part per million in or on beans, carrots, corn grain (including field corn, popcorn, sweet corn), cucumbers, eggplant, grapefruit, lemons, okra, onions (green), oranges, peas, peppers, potatoes, summer squash, tomatoes, turnips, walnuts (determined on the nut meats with shell removed).

§ 180.158 2,4-Dichloro-6-o-chloroanilino-*s*-triazine; tolerances for residues.

Tolerances for residues of the fungicide 2,4-dichloro-6-o-chloroanilino-*s*-triazine in or on raw agricultural commodities are established as follows:

10 parts per million in or on blackberries, blueberries (huckleberries), celery, cranberries, cucumbers, dewberries, green onions, loganberries, melons, pumpkins, raspberries, shallots, summer squash, strawberries, tomatoes, winter squash.

1 part per million in or on garlic, onions (dry bulb), potatoes.

§ 180.159 Sodium dehydroacetate; tolerances for residues.

Tolerances are established for residues of the fungicide sodium dehydroacetate, expressed as dehydroacetic acid, from postharvest application in or on raw agricultural commodities as follows:

65 parts per million in or on strawberries.

30 parts per million in or on bananas, of which residue not more than 10 parts per million shall be in the pulp after peel is removed and discarded.

§ 180.160 Mercaptobenzothiazole; tolerance for residues.

A tolerance of 0.1 part per million is established for residues of the fungicide mercaptobenzothiazole calculated as 2,2'-dithiobisbenzothiazole in or on apples.

§ 180.161 Manganous dimethyldithiocarbamate; tolerance for residues.

A tolerance of 7 parts per million is established for residues of the fungicide manganous dimethyldithiocarbamate, calculated as zinc ethylenebisdithiocarbamate, in or on apples.

§ 180.162 Tetraiodoethylene; tolerance for residues.

A tolerance of 15 parts per million is established for residues of the fungicide tetraiodoethylene in or on cantaloups from postharvest application.

§ 180.163 1,1-Bis(*p*-chlorophenyl)-2,2,2-trichloroethanol; tolerances for residues.

Tolerances for residues of the insecticide 1,1-bis(*p*-chlorophenyl)-2,2,2-trichloroethanol in or on raw agricultural commodities are established as follows:

30 parts per million in or on hops.

25 parts per million in or on peppermint hay and spearmint hay.

10 parts per million in or on apricots, grapefruit, kumquats, lemons, limes, nectarines, oranges, peaches, tangerines.

5 parts per million in or on apples, beans (dry form); beans, snap (succulent form); beans, lima (succulent form); blackberries, boysenberries, bushnuts, butternuts, cantaloups, cherries, chestnuts, crabapples, cucumbers, dewberries, eggplants, figs, filberts, grapes, hazelnuts, hickory nuts, loganberries, melons, muskmelons, pears, pecans, peppers, pimentos, plums (fresh prunes), pumpkins, quinces, raspberries, summer squash, strawberries, tomatoes, walnuts, watermelons, winter squash.

0.1 part per million in or on cottonseed.

§ 180.164 Terpene polychlorinates; tolerance for residues.

A tolerance of 5 parts per million is established for residues of the insecticide terpene polychlorinates (chlorinated mixture of camphene, pinene, and related terpenes, containing 65–68 percent chlorine), calculated as a chlorinated terpene of molecular weight 396.6 containing 67 percent chlorine, in or on cottonseed.

§ 180.165 2,4-D sodium salt; tolerance for residues.

A tolerance of 5 parts per million is established for residues of the herbicide 2,4-D sodium salt, calculated as 2,4-D (2,4-dichlorophenoxyacetic acid), in or on asparagus.

§ 180.166 Schradan; tolerance for residues.

A tolerance of 0.75 part per million is established for residues of the insecticide schradan (octamethylpyrophosphoramide) in or on English walnuts.

§ 180.167 Nicotine-containing compounds; tolerances for residues.[1]

A tolerance of 2 parts per million of nicotine is established for residues of nicotine-containing compounds used as insecticides in or on the following raw agricultural commodities: Apples, apricots, artichokes, asparagus, avocados, beans, beets (with or without tops) or beet greens alone, blackberries, boysenberries, broccoli, brussels sprouts, cabbage, cauliflower, celery, cherries, citrus fruits, collards, corn, cranberries, cucumbers, currants, dewberries, eggplants, gooseberries, grapes, kale, kohlrabi, lettuce, loganberries, melons, mushrooms, mustard greens, nectarines, okra, onions, parsley, parsnips (with or without tops) or parsnip greens alone, peaches, pears, peas, peppers, plums (fresh prunes), pumpkins, quinces, radishes (with or without tops) or radish tops, raspberries, rutabagas (with or without tops) or rutabaga tops, spinach, squash, strawberries, summer squash, Swiss chard, tomatoes, turnips (with or without tops) or turnip greens, youngberries.

§ 180.168 Chlorbenside; tolerances for residues.

A tolerance of 3.0 parts per million is established for residues of the insecticide chlorbenside (*p*-chlorobenzyl *p*-chlorophenyl sulfide), including its sulfoxide and sulfone oxidation products, calculated as *p*-chlorobenzyl *p*-chlorophenyl sulfide, in or on each of the following raw agricultural commodities: Apples, crabapples, eggplants, nectarines, peaches, pears, plums (fresh prunes), quinces.

§ 180.169 Carbaryl; tolerances for residues.

Tolerances are established for residues of the insecticide carbaryl (1-naphthyl *N*-methylcarbamate), including its hydrolysis product 1-naphthol, calculated as 1-naphthyl *N*-methylcarbamate, in or on raw agricultural commodities, as follows:

100 parts per million in or on alfalfa, alfalfa hay, barley (green fodder and straw), bean forage, bean hay, clover, clover hay, corn fodder, corn forage, cotton forage, cowpea forage, cowpea hay, grass, grass hay, oats (green fodder and straw), peanut hay, peavines, rice straw, rye (green fodder and straw), sorghum forage, soybean forage, soybean hay, sugarbeet tops, wheat (green fodder and straw).

40 parts per million in or on almond hulls.

12 parts per million in or on blackberries, boysenberries, collards, dandelions, dewberries, garden beets (tops), kale, loganberries, mustard greens, parsley, raspberries, spinach, Swiss chard, turnips (tops).

10 parts per million in or on whole almonds (meat plus shell) and whole walnuts (meat plus shell) of which not more than 1 part per million shall be in or on the nut meats after shell is removed and discarded.

10 parts per million in or on apples, apricots, asparagus, bananas, beans, blueberries, broccoli, brussels sprouts, cabbage, carrots, cauliflower, cherries, Chinese cabbage, citrus fruits, cranberries, cucumbers, eggplants, endive (escarole), grapes, kohlrabi, lettuce, melons, nectarines, okra, olives, peaches, pears, peas (with pods), peppers, plums (fresh prunes), pumpkins, salsify (tops), sorghum grain, strawberries, summer squash, tomatoes, winter squash.

5 parts per million in or on corn (kernels and kernels plus cob, determined after removing husks present when marketed), cottonseed, cowpeas, garden beets (roots), horseradish, meat and fat of poultry, parsnips, peanuts, radishes, rice, rutabagas, salsify (roots) soybeans, turnips (roots).

5 parts per million in or on filberts (hazelnuts) of which not more than 1 part per million shall be in or on the nuts after shell is removed and discarded.

Zero in eggs and the following grains: Barley, oats, rye, wheat.

§ 180.171 Dioxathion; tolerances for residues.

Tolerances for residues of dioxathion (2,3-*p*-dioxanedithiol-*S,S*-bis (*O,O*-diethylphosphorodithioate)) in or on raw agricultural commodities insurred from the use of the insecticide composed of a mixture of approximately 70 percent of the *cis* and *trans* isomers of 2,3-*p*-dioxanedithiol-*S,S*-bis(*O,O*-diethylphosphorodithioate) and approximately 30 percent of related compounds are established as follows:

4.9 parts per million in or on apples, pears, quinces.

2.8 parts per million in or on grapefruit, lemons, limes, oranges, tangerines.

2.1 parts per million in or on grapes.

1 part per million in or on fat of meat from cattle, goats, hogs, horses, and sheep.

0.14 part per million (negligible residue) in or on stone fruits and walnuts.

Zero in milk.

§ 180.172 Dodine; tolerances for residues.

Tolerances for residues of the fungicide dodine (*n*-dodecylguanidine acetate) in or on raw agricultural commodities are established as follows:

5 parts per million in or on apples, cherries (sour and sweet), peaches, pears, strawberries.

0.3 part per million in or on black walnuts and pecans.

Zero in meat and milk.

§ 180.173 Ethion; tolerances for residues.

Tolerances are established for total residues of the insecticide ethion (*O,O,O',O'*-tetraethyl *S,S'*-methylene bisphosphorodithioate) including its oxygen analog (*S*-[[(diethoxyphosphinothioyl)

[1] See footnote 2 § 180.145.

thio]methyl]*O,O*-diethyl phosphorothioate) in or on raw agricultural commodities as follows:

5 parts per million in or on almond hulls.

15 parts per million in or on fodder or forage of field corn, sweet corn, and popcorn.

10 parts per million in or on apples, celery, crabapples, fennel, pears, quinces,

of the defoliant orthoarsenic acid in or on the raw agricultural commodity cottonseed.

§ 180.181 CIPC; tolerance for residues.

bage, cauliflower, cottonseed, lettuce, oat grain, peanuts, peas, pecans, pineapples, potatoes, rice, sorghum grain, spinach, and tomatoes.

0.5 part per million in or on hops and

tributyiphosphorotrithioite in or on cottonseed.

§ 180.187 TDE (or DDD); tolerances for residues.

(dry bulb), pumpkins, summer squash, winter squash.

§ 180.192 Calcium arsenate; tolerances for residues.[1]

A tolerance of 3.5 parts per million of

thio]methyl]O,O-diethyl phosphorothioate) in or on raw agricultural commodities as follows:

5 parts per million in or on almond hulls.

2.5 parts per million in or on fat of cattle.

2 parts per million in or on apples, beans, citrus fruits, grapes, melons, plums (fresh prunes), sorghum grain, sorghum forage, strawberries, tomatoes.

1 part per million in or on eggplants, nectarines, onions, peaches, pears, peppers, pimentos.

0.75 part per million in or on meat and meat byproducts of cattle.

0.5 part per million in or on cucumbers, summer squash.

0.1 part per million in or on almonds, apricots, cherries, chestnuts, filberts, pecans, and walnuts.

Zero in milk.

§ 180.174 Tetradifon; tolerances for residues.

Tolerances are established for residues of the insecticide tetradifon (2,4,5,4'-tetrachlorodiphenyl sulfone) in or on raw agricultural commodities as follows:

100 parts per million in or on peppermint, spearmint.

30 parts per million in or on fresh hops.

6 parts per million in or on figs.

5 parts per million in or on apples, apricots, cherries, crabapples, grapes, nectarines, peaches, pears, plums (fresh prunes), quinces, strawberries.

2 parts per million in or on citrus citron, grapefruit, lemons, limes, oranges, tangerines.

1 part per million in or on cucumbers, melons, pumpkins, tomatoes, winter squash.

Zero in meat and milk.

§ 180.175 Maleic hydrazide; tolerances for residues.

Tolerances for residues of the herbicide and plant regulator maleic hydrazide (1,2-dihydro-3,6-pyridazinedione) in or on raw agricultural commodities are established as follows:

50 parts per million in or on potatoes.

15 parts per million in or on onions (dry bulb).

§ 180.176 Coordination product of zinc ion and maneb; tolerances for residues.

Tolerances for residues of a fungicide which is a coordination product of zinc ion and maneb (manganous ethylenebisdithiocarbamate) containing 20 percent manganese, 2.5 percent zinc, and 77.5 percent ethylenebisdithiocarbamate (the whole product calculated as zinc ethylenebisdithiocarbamate), are established as follows:

65 parts per million in or on peanut vine hay, sugarbeet tops.

25 parts per million in or on the straws of barley, oats, rye, wheat.

15 parts per million in or on bananas from both preharvest and post-harvest use, of which not more than two parts per million shall be in the pulp after peal is removed and discarded.

15 parts per million in or on fodder or forage of field corn, sweet corn, and popcorn.

10 parts per million in or on apples, celery, crabapples, fennel, pears, quinces.

10 parts per million in or on the whole fruit of papayas, with no residue present in the edible pulp after the peel is removed and discarded.

7 parts per million in or on cranberries, cucumbers, grapes, summer squash, tomatoes.

7 parts per million in or on melons, with no residue present in the edible portion after the peel is removed and discarded.

5 parts per million in or on the grains of barley, oats, rye, wheat.

2 parts per million in or on carrots, sugar beets.

0.5 part per million in or on corn grain (including popcorn), fresh corn including sweet corn (kernels plus cob with husks removed), cottonseed, kidney, liver, onions (dry bulb), and peanuts.

0.1 part per million (negligible residue) in or on asparagus.

§ 180.177 Ronnel; tolerances for residues.

Tolerances for residues of the insecticide ronnel (O,O-dimethyl O-(2,4,5-trichlorophenyl) phosphorothioate), including its 2,4,5-trichlorophenol containing metabolites, in or on raw agricultural commodities are established as follows:

10 parts per million in fat of cattle, goats, and sheep.

4 parts per million in meat and meat byproducts of cattle, goats, and sheep.

3 parts per million in fat of hogs.

2 parts per million in meat and meat byproducts of hogs.

1.25 part per million in milk fat (reflecting negligible residues in whole milk).

0.5 part per million on bananas (of which residue, zero shall be in the pulp after peel is removed and discarded).

0.03 part per million in eggs.

0.01 part per million in meat, fat, and meat byproducts of poultry.

(See also 21 CFR 121.209).

§ 180.178 Ethoxyquin; tolerances for residues.

A tolerance of 3 parts per million is established for residues of the plant regulator ethoxyquin (1,2-dihydro-6-ethoxy-2,2,4-trimethylquinoline) from preharvest or postharvest use in or on apples and pears.

(See also 21 CFR 121.201, 121.202, and 121.1001.)

§ 180.179 Tartar emetic; tolerances for residues.[1]

A tolerance of 3.5 parts per million is established for residues of the insecticide tartar emetic, calculated as combined antimony trioxide, in or on each of the following raw agricultural commodities: Citrus fruit, grapes, onions.

§ 180.180 Orthoarsenic acid.

A tolerance of 4 parts per million of combined As_2O_3 is established for residues of the defoliant orthoarsenic acid in or on the raw agricultural commodity cottonseed.

§ 180.181 CIPC; tolerance for residues.

A tolerance of 50 parts per million is established for residues of the plant regulator CIPC (isopropyl N(2-chlorophenyl) carbamate) in or on potatoes from postharvest application.

§ 180.182 Endosulfan; tolerances for residues.

Tolerances are established for the total residues of the insecticide endosulfan (6,7,8,9,10,10 - hexachloro - 1,5,5a,6,9,9a - hexahydro-6,9-methano - 2,4,3 - benzodioxathiepin-3-oxide) and its metabolite endosulfan sulfate (6,7,8,9,10,10-hexachloro - 1,5,5a,6,9,9a-hexahydro-6,9-methano-2,4,3-benzodioxathiepin-3,3-dioxide) in or on raw agricultural commodities as follows:

2 parts per million in or on apples, apricots, artichokes, beans, broccoli, brussels sprouts, cabbage, cauliflower, celery, cherries, collards, cucumbers, eggplants, grapes, kale, lettuce, melons, mustard greens, nectarines, peaches, pears, peas (succulent type), peppers, pineapples, plums, prunes, pumpkins, spinach, strawberries, summer squash, sunflower seed, tomatoes, turnip greens, watercress, and winter squash.

1 part per million in or on alfalfa hay and cottonseed.

0.5 part per million in milk fat (reflecting negligible residues in milk) and in or on sugarcane.

0.3 part per million in or on alfalfa (fresh).

0.2 part per million in or on carrots, sweet corn (kernels plus cob with husks removed), sweetpotatoes; and in meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep.

0.2 part per million (negligible residues) in or on filberts, macadamia nuts, pecans, potatoes, safflower seed, and walnuts.

§ 180.183 O,O-Diethyl S-[2-(ethylthio) ethyl] phosphorodithioate; tolerances for residues.

Tolerances for residues of the insecticide O,O-diethyl S-[2-(ethylthio) ethyl] phosphorodithioate and its cholinesterase-inhibiting metabolites, calculated as demeton, in or on raw agricultural commodities are established as follows:

12 parts per million in or on alfalfa hay, clover hay.

5 parts per million in or on alfalfa (fresh), barley (green fodder and straw), bean vines, clover (fresh), corn fodder and forage (including field corn, sweet corn, and popcorn), oats (green fodder and straw), peanut hay, pea vines, pineapple foliage, rice straw, sorghum fodder and forage, wheat (green fodder and straw).

2 parts per million in or on sugar beet tops.

0.75 part per million in or on barley grain, beans (dry), beans (lima), beans (snap), broccoli, brussels sprouts, cabbage, cauliflower, cottonseed, lettuce, oat grain, peanuts, peas, pecans, pineapples, potatoes, rice, sorghum grain, spinach, and tomatoes.

[1] See footnote 2 to § 180.145.

0.5 part per million in or on hops and sugarbeets.

0.3 part per million in or on coffee, corn grain including field corn, sweet corn (kernels plus cob with husk removed), and popcorn, sugarcane, wheat grain.

0.25 part per million in or on soybean forage and hay.

0.1 part per million in or on peppers and soybeans.

§ 180.184 Linuron; tolerances for residues.

Tolerances for residues of the herbicide linuron (3-(3,4-dichlorophenyl)-1-methoxy-1-methylurea) in or on raw agricultural commodities are established as follows:

1 part per million in or on carrots; corn fodder or forage from field corn, sweet corn, and popcorn; potatoes; sorghum fodder and forage; soybeans (dry or succulent); soybean forage and hay; meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep.

0.5 part per million in or on parsnips (with or without tops) and parsnip tops; the forage, hay, and straw of barley, oats, rye, and wheat.

0.25 part per million in or on corn in grain or ear form from field corn, sweet corn, and popcorn, cottonseed, the grain of barley, oats, rye, sorghum (milo), and wheat.

§ 180.185 Dimethyl 2,3,5,6-tetrachloroterephthalate; tolerances for residues.

Tolerances for total residues of the herbicide dimethyl 2,3,5,6-tetrachloroterephthalate and its metabolites monomethyl 2,3,5,6-tetrachloroterephthalate and 2,3,5,6-tetrachloroterephthalic acid (calculated as dimethyl 2,3,5,6-tetrachloroterephthalate) are established as follows:

5 parts per million in or on mustard greens and turnip greens.

2 parts per million in or on collards, field beans (dry), kale, lettuce, mung beans (dry), peppers, pimentos, potatoes, snap beans (succulent), southern peas (black-eyed peas), soybeans, strawberries, sweetpotatoes, turnips, and yams.

1 part per million in or on broccoli, brussels sprouts, cabbage, cantaloups, cauliflower, cucumbers, eggplants, garlic, honeydew melons, onions, summer squash, tomatoes, watermelons, and winter squash.

0.4 part per million (negligible residue) in or on corn forage or fodder (including sweet corn, field corn, and popcorn).

0.2 part per million (negligible residue) in or on cottonseed.

0.05 part per million (negligible residue) in or on corn grain (including field corn and popcorn) and sweet corn (kernels plus cob with husk removed).

§ 180.186 Tributylphosphorotrithioite; tolerance for residues.

A tolerance of 0.25 part per million is established for residues of the defoliant tributylphosphorotrithioite in or on cottonseed.

§ 180.187 TDE (or DDD); tolerances for residues.

Tolerances for residues of the insecticide TDE (1,1-dichloro-2,2-bis(p-chlorophenyl) ethane) are established in or on raw agricultural commodities as follows:

7 parts per million in or on apples, apricots, beans, blueberries (huckleberries), cucumbers, eggplants, grapes, melons, nectarines, peaches, pears, peppers, pumpkins, quinces, rutabaga tops, squash, summer squash, tomatoes, and turnip greens.

3.5 parts per million in or on blackberries, boysenberries, cherries, citrus fruits, dewberries, loganberries, plums (fresh prunes), raspberries, strawberries, sweet corn (kernels plus cob with husks removed).

1 part per million in or on broccoli, brussels sprouts, cabbage, carrots, cauliflower, kohlrabi, lettuce, peas, rutabagas (roots), spinach, and turnips (roots).

§ 180.188 Ammonium sulfamate; tolerances for residues.

A tolerance of 5 parts per million is established for residues of the herbicide ammonium sulfamate in or on apples and pears.

§ 180.189 Coumaphos; tolerances for residues.

Tolerances are established for residues of the insecticide coumaphos (O,O-diethyl O-3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphorothioate) and its oxygen analog (O,O-diethyl O-3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl phosphate) in or on raw agricultural commodities as follows:

1 part per million in or on meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep.

0.5 part per million in milk-fat reflecting negligible residues in milk.

0.1 part per million in eggs.

(See also 21 CFR 121.304.)

§ 180.190 Diphenylamine; tolerances for residues.

Tolerances for residues of the fungicide diphenylamine are established as follows:

10 parts per million in or on apples from preharvest or postharvest use, including use of impregnated wraps, for scald control.

Zero in milk and meat.

§ 180.191 Folpet; tolerances for residues.

Tolerances for residues of the fungicide folpet (N-(trichloromethylthio) phthalimide) in or on raw agricultural commodities are established as follows:

50 parts per million in or on celery, cherries, leeks, lettuce, onions (green), shallots.

25 parts per million in or on apples, avocados, blackberries, blueberries, boysenberries, crabapples, cranberries, currants, dewberries, gooseberries, grapes, huckleberries, loganberries, raspberries, strawberries, tomatoes.

15 parts per million in or on citrus fruits, cucumbers, garlic, melons, onions (dry bulb), pumpkins, summer squash, winter squash.

§ 180.192 Calcium arsenate; tolerances for residues.[2]

A tolerance of 3.5 parts per million of combined As_2O_3 is established for residues of the insecticide calcium arsenate in or on each of the following raw agricultural commodities: Asparagus, beans, blackberries, blueberries (huckleberries), boysenberries, broccoli, brussels sprouts, cabbage, carrots, cauliflower, celery, collards, corn, cucumbers, dewberries, eggplants, kale, kohlrabi, loganberries, melons, peppers, pumpkins, raspberries, rutabagas (with or without tops) or rutabaga tops, spinach, squash, strawberries, summer squash, tomatoes, turnips (with or without tops) or turnip greens, youngberries.

[2] See footnote 2 § 180.145.

§ 180.193 Copper arsenate; tolerances for residues.[2]

A tolerance of 3.5 parts per million of combined As_2O_3 is established for residues of the insecticide and fungicide copper arsenate in or on each of the following raw agricultural commodities: brussels sprouts, cabbage, cauliflower, kohlrabi, tomatoes.

§ 180.194 Lead arsenate; tolerances for residues.[2]

Tolerances for residues of lead arsenate (primarily an insecticide) in or on raw agricultural commodities are established as follows:

7 parts per million of combined lead in or on apples, apricots, asparagus, avocados, blackberries, blueberries (huckleberries), boysenberries, celery, cherries, cranberries, currants, dewberries, eggplants, gooseberries, grapes, loganberries, mangoes, nectarines, peaches, pears, peppers, plums (fresh prunes), quinces, raspberries, strawberries, tomatoes, youngberries.

1 part per million of combined lead in or on citrus fruits.

§ 180.195 Magnesium arsenate; tolerances for residues.[2]

A tolerance of 3.5 parts per million of combined As_2O_3 is established for residues of the insecticide magnesium arsenate in or on the raw agricultural commodity beans.

§ 180.196 Sodium arsenate; tolerance for residues.[2]

A tolerance of 3.5 parts per million of combined As_2O_3 is established for residues of the insecticide sodium arsenate in or on the raw agricultural commodity grapes.

§ 180.197 Inorganic bromides resulting from soil treatment with 1,2-dibromo-3-chloropropane; tolerances for residues.

Tolerances for residues of inorganic bromides (calculated as Br) in or on raw agricultural commodities grown in soil treated with the nematocide 1,2-

[2] See footnote 2 to § 180.145.

dibromo-3-chloropropane are established as follows:

130 parts per million in or on endive (escarole) and lettuce.

125 parts per million in or on bananas

§ 180.199 Inorganic bromides resulting from soil treatment with combinations of chloropicrin, methyl bromide, and propergyl bromide; tolerances for residues.

§ 180.204 Dimethoate including its oxygen analog; tolerances for residues.

Tolerances for total residues of the insecticide dimethoate (O,O-dimethyl

sweet corn (kernels plus cob with husk removed), lettuce, peanuts, rice sorghum grain, sorghum fodder, sugarcane, and tomatoes.

0.05 part per million in or on cotton-ing any pod present when marketed) and sugar beet roots.

0.1 part per million (negligible residue) in or on corn grain, cottonseed, sweet corn (kernels plus cobs with husks

1 part per million in or on broccoli, brussels sprouts, cabbage, cauliflower, lettuce, strawberries.

0.5 part per million in or on cucumbers, eggplants, melons, peppers, pumpkins,

dibromo-3-chloropropane are established as follows:

130 parts per million in or on endive (escarole) and lettuce.

125 parts per million in or on bananas (of which residue not more than 75 parts per million shall be in the pulp after the peel is removed and discarded).

75 parts per million in or on almond hulls, carrots, celery, figs, okra, parsnips, radishes, snap beans, and turnips.

50 parts per million in or on almonds, broccoli, brussels sprouts, cabbage, cauliflower, eggplants, melons, peanuts,[a] peppers, pineapples, and tomatoes.

25 parts per million in or on blackberries, boysenberries, cottonseed, cucumbers, dewberries, grapes, loganberries, raspberries, and summer squash.

20 parts per million in or on citrus fruits.

15 parts per million in or on cherries and plums (fresh prunes).

10 parts per million in or on English walnuts and strawberries.

5 parts per million in or on apricots, nectarines, and peaches.

§ 180.198 *O,O*-Dimethyl 2,2,2-trichloro-1-hydroxyethyl phosphonate; tolerances for residues.

Tolerances are established for residues of the insecticide *O,O*-dimethyl 2,2,2-trichloro-1-hydroxyethyl phosphonate in or on raw agricultural commodities as follows:

45 parts per million in or on alfalfa (hay) and clover (hay).

12 parts per million in or on alfalfa (fresh), barley (green fodder and straw), clover (fresh), flax straw, oats (green fodder and straw), sugar beet tops, and wheat (green fodder and straw).

Four parts per million in or on peanut vine hay and hulls.

2 parts per million in or on bananas (of which not more than 0.2 part per million will be present in the pulp after the peel is removed).

1 part per million in or on bean vines and cowpea vines.

0.1 part per million (negligible residues) in or on artichokes, barley (grain), beans (dried), beets (garden), brussels sprouts, cabbage, carrots, cauliflower, collards, corn fodder and forage, corn (kernels plus cob with husk removed), cottonseed, cowpeas, flaxseed, lettuce, lima beans, meat, fat, and meat byproducts of cattle, oats (grain), peppers, pumpkins, safflower seed, snap beans, sugar beets, tomatoes, and wheat (grain).

0.01 part per million (negligible residue) in milk.

0.05 part per million (negligible residue) in or on peanuts.

[a] See § 180.126a for restrictions against use of peanut hay and peanut hulls for animal feed.

§ 180.199 Inorganic bromides resulting from soil treatment with combinations of chloropicrin, methyl bromide, and propargyl bromide; tolerances for residues.

Tolerances for residues of inorganic bromides (calculated as Br) in or on raw agricultural commodities grown in soil fumigated with combinations of chloropicrin, methyl bromide, and propargyl bromide are established as follows:

60 parts per million in or on eggplants.

40 parts per million in or on muskmelons, tomatoes.

25 parts per million in or on broccoli, cauliflower, peppers, pineapples, strawberries.

No tolerances are established for chloropicrin since it has been established that no residue of this substance remains in the raw agricultural commodity.

§ 180.200 2,6-Dichloro-4-nitroaniline; tolerances for residues.

Tolerances for residues of the fungicide 2,6-dichloro-4-nitroaniline are established as follows:

20 parts per million in or on apricots, nectarines (from preharvest and postharvest application), peaches (from preharvest and postharvest application), sweet cherries (from preharvest and postharvest application), snap beans.

15 parts per million in or on blackberries, boysenberries, celery, raspberries, strawberries.

10 parts per million in or on carrots (from postharvest application), grapes, lettuce, rhubarb, sweetpotatoes (from postharvest application).

5 parts per million in or on cucumbers, garlic, onions, tomatoes.

1 part per million in or on plums (fresh prunes).

0.1 part per million in or on cottonseed.

0.25 part per million in or on potatoes.

Unless otherwise specified, the tolerances prescribed in this section provide for residues from preharvest application only.

§ 180.201 Chlorosulfamic acid; tolerances for residues.

A tolerance of 8 parts per million is established for residues of sulfamate ion, expressed as sulfamic acid, from the postharvest application of the fungicide chlorosulfamic acid in or on asparagus, carrots, cauliflower, celery, potatoes, and radishes.

§ 180.202 *p*-Chlorophenoxyacetic acid; tolerances for residues.

A tolerance of 2 parts per million is established for residues of *p*-chlorophenoxyacetic acid in or on mung bean sprouts, from use as a plant regulator on the beans to inhibit embryonic root development.

§ 180.203 2,3,5,6-Tetrachloronitrobenzene; tolerances for residues.

A tolerance of 25 parts per million is established for residues of the plant regulator 2,3,5,6-tetrachloronitrobenzene in or on potatoes from postharvest application.

§ 180.204 Dimethoate including its oxygen analog; tolerances for residues.

Tolerances for total residues of the insecticide dimethoate (*O,O*-dimethyl *S*-(*N*-methylcarbamoylmethyl) phosphorodithioate) including its oxygen analog (*O,O*-dimethyl *S*-(*N*-methylcarbamoylmethyl) phosphorothioate) in or on raw agricultural commodities are established as follows:

2 parts per million in or on apples, beans (dry, lima, snap), broccoli, cabbage, cauliflower, collards, endive (escarole), grapefruit, kale, lemons, lettuce, mustard greens, oranges, pears, peas, peppers, spinach, Swiss chard, tangerines, tomatoes, turnips (roots and tops), and wheat (green fodder and straw).

1 part per million in or on melons.

0.2 part per million in or on potatoes.

0.1 part per million in or on cottonseed, pecans, and safflower seed.

0.04 part per million (negligible residue) in or on wheat grain.

0.02 part per million (negligible residue) in eggs and in meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep.

0.002 part per million (negligible residue) in milk.

§ 180.205 Paraquat; tolerances for residues.

Tolerances are established for residues of the desiccant, defoliant, and herbicide paraquat (1,1'-dimethyl-4,4'-bipyridinium) derived from application of either the bis(methyl sulfate) or the dichloride salt, calculated in both instances as the cation, in or on raw agricultural commodities as follows:

0.5 part per million in or on almond hulls, cottonseed, potatoes, sugar beets, sugar beet tops.

0.05 part per million (negligible residue) in or on almonds, apples, apricots, avocados, bananas, cherries, citrus, coffee beans, corn (fresh vegetable), corn fodder and forage, corn grain, figs, filberts, grapes, lettuce, macadamia nuts, melons, nectarines, olives, papaya, peaches, pears, peppers, plums (fresh prunes), sorghum forage, sorghum grain, soybeans, soybean forage, tomatoes, walnuts.

§ 180.206 Phorate; tolerances for residues.

Tolerances are established for residues of the insecticide phorate (*O,O*-diethyl *S*-ethylthio) methyl phosphorodithioate), and its cholinesterase-inhibiting metabolites, in or on raw agricultural commodities as follows:

3 parts per million in or on sugar beet tops.

1.5 parts per million in or on wheat (green fodder).

1 part per million in or on alfalfa hay.

0.5 part per million in or on alfalfa (fresh), bean vines, corn forage, hops, and potatoes.

0.3 part per million in or on peanut vines and hay and sugar beet roots.

0.1 part per million in or on barley grain, barley straw, beans, corn grain, sweet corn (kernels plus cob with husk removed), lettuce, peanuts, rice sorghum grain, sorghum fodder, sugarcane, and tomatoes.

0.05 part per million in or on cottonseed, wheat grain and wheat straw

0.02 part per million (negligible residue) in milk.

§ 180.207 Trifluralin; tolerances for residues.

Tolerances for residues of the herbicide and plant regulator trifluralin (α,α,α - trifluoro - 2,6 - dinitro - *N,N* - dipropyl-*p*-toluidine) in or on raw agricultural commodities are established as follows:

2 parts per million in or on mung bean sprouts.

1 part per million in or on carrots.

0.2 part per million (negligible residue) in or on alfalfa hay.

0.05 part per million (negligible residue) in or on citrus fruits, cottonseed, cucurbits, forage legumes, fruiting vegetables, grapes, hops, leafy vegetables, nuts, peanuts, peppermint hay, root crop vegetables (except carrots), safflower seed, seed and pod vegetables, spearmint hay, stone fruits, sugarcane, sunflower seed, wheat grain, and wheat straw.

§ 180.208 *N*-Butyl-*N*-ethyl-α,α,α-trifluoro-2,6-dinitro-*p*-toluidine; tolerances for residues.

Tolerances are established for negligible residues of the herbicide *N*-butyl-*N*-ethyl-α, α, α -trifluoro-2,6-dinitro-*p*-toluidine in or on the raw agricultural commodities alfalfa, birdsfoot trefoil, clover, lettuce, and peanuts at 0.05 part per million.

§ 180.209 Terbacil; tolerances for residues.

A tolerance of 0.1 part per million is established for residues of the herbicide terbacil (3-*tert*-butyl-5-chloro-6-methyluracil) in or on apples, citrus fruits, peaches, pears, peppermint hay, spearmint hay, and sugarcane.

§ 180.210 Bromacil; tolerances for residues.

A tolerance of 0.1 part per million is established for residues of the herbicide bromacil (5-bromo-3-sec-butyl-6-methyluracil) in or on citrus fruits and pineapples.

§ 180.211 2-chloro-*N*-isopropylacetanilide; tolerances for residues.

Tolerances for residues of the herbicide 2-chloro-*N*-isopropylacetanilide and its metabolites (calculated as 2-chloro-*N*-isopropylacetanilide) in or on raw agricultural commodities are established as follows:

3 parts per million in or on sorghum forage.

1.5 parts per million in or on corn forage and pea forage.

1 part per million in or on sugarbeet tops.

0.25 part per million in or on sorghum grain.

0.2 part per million in or on peas with pods (determined on peas after removing any pod present when marketed) and sugar beet roots.

0.1 part per million (negligible residue) in or on corn grain, cottonseed, sweet corn (kernels plus cobs with husks removed).

0.02 part per million (negligible residue) in eggs; milk; meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep.

§ 180.212 *S*-Ethyl cyclohexylethylthiocarbamate; tolerances for residues.

Tolerances are established for residues of the herbicide *S*-ethyl cyclohexylethylthiocarbamate in or on the raw agricultural commodities garden beets (roots and tops), spinach, and sugar beets (roots and tops) at 0.05 part per million (negligible residue).

§ 180.213 Simazine; tolerances for residues.

Tolerances for residues of the herbicide simazine (2-chloro-4, 6-bis(ethylamino)-*s*-triazine) in or on raw agricultural commodities are established as follows:

15 parts per million in or on alfalfa, Bermuda grass, grass.

10 parts per million in or on asparagus.

0.5 part per million in or on artichokes.

0.25 part per million in or on almonds (hulls and nuts), apples, avocados, blackberries, blueberries, boysenberries, cherries, fresh corn including sweet corn (kernels plus cobs with husks removed), corn grain (including popcorn), corn forage or fodder (including field corn, sweet corn, and popcorn), cranberries, currants, dewberries, filberts, grapefruit, grapes, lemons, loganberries, macadamia nuts, olives, oranges, peaches, pears, plums, raspberries, strawberries, and walnuts.

0.02 part per million (negligible residue) in eggs; milk; meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep.

§ 180.214 Fenthion; tolerances for residues.

Tolerances are established for residues of the insecticide fenthion (*O,O*-dimethyl *O*-[4-(methylthio)-*m*-tolyl] phosphorothioate) and its cholinesterase-inhibiting metabolites in or on raw agricultural commodities as follows:

18 parts per million in or on alfalfa hay and grass hay.

5 parts per million in or on alfalfa and grass.

0.1 part per million in or on meat, fat, and meat byproducts of cattle and poultry.

0.01 part per million (negligible residue) in milk.

§ 180.215 Naled; tolerances for residues.

Tolerances for residues of the insecticide naled (1,2-dibromo-2,2-dichloroethyl dimethyl phosphate) and its conversion product 2,2-dichlorovinyl dimethyl phosphate, expressed as naled, in or on raw agricultural commodities are established as follows:

3 parts per million in or on grapefruit, lemons, oranges, spinach, Swiss chard, tangerines, turnip tops.

1 part per million in or on broccoli, brussels sprouts, cabbage, cauliflower, lettuce, strawberries.

0.5 part per million in or on cucumbers, eggplants, melons, peppers, pumpkins, rice, summer squash, tomatoes, winter squash.

§ 180.216 3-[p-(p-Chlorophenoxy) phenyl]-1,1-dimethylurea; tolerances for residues.

Tolerances for negligible residues of the herbicide 3-[*p*-(*p*-chlorophenoxy) phenyl]-1,1-dimethylurea in or on raw agricultural commodities are established as follows:

0.15 part per million in or on soybeans and soybean forage.

0.1 part per million in or on carrots, onions (dry bulb), and strawberries.

§ 180.217 Ammoniates of [ethylenebis(dithiocarbamato)] zinc and ethylenebis [dithiocarbamic acid] bimolecular and trimolecular cyclic anhydrosulfides and disulfides; tolerances for residues.

Tolerances for residues of a fungicide that is a mixture of 5.2 parts by weight of ammoniates of [ethylenebis (dithiocarbamato)] zinc with 1 part by weight ethylenebis [dithiocarbamic acid] bimolecular and trimolecular cyclic anhydrosulfides and disulfides, calculated as zinc ethylenebisdithiocarbamate, in or on raw agricultural commodities are established as follows:

7 parts per million in or on apples.

5 parts per million in or on celery, cantaloups, cucumbers, tomatoes.

0.5 part per million (negligible residue) in or on pecans and potatoes.

§ 180.218 Isopropyl 4,4'-dichlorobenzilate; tolerance for residues.

A tolerance of 5 parts per million is established for residues of the insecticide isopropyl 4,4'-dichlorobenzilate in or on apples and pears.

§ 180.219 2,3,5-Triiodobenzoic acid; tolerances for residues.

Tolerances for negligible residues of the plant regulator 2,3,5-triiodobenzoic acid and its dimethylamine salt (calculated as 2,3,5-triiodobenzoic acid) in or on raw agricultural commodities are established as follows:

0.15 part per million in or on soybeans.

0.05 part per million in or on apples.

§ 180.220 Atrazine; tolerances for residues.

Tolerances for residues of the herbicide atrazine (2-chloro-4-ethylamino-6-isopropylamino-*s*-triazine) in or on raw agricultural commodities are established as follows:

15 parts per million in or on corn forage or fodder (including field corn, sweet corn, and popcorn), perennial rye grass, sorghum fodder and forage.

10 parts per million in or on pineapple fodder and forage.

5 parts per million in or on wheat fodder and straw.

0.25 part per million in or on fresh corn including sweet corn (kernels plus

cobs with husks removed), corn grain (includes popcorn), macadamia nuts, pineapples, sorghum grain, sugarcane, sugarcane fodder and forage, wheat grain.

0.75 part per million in or on broccoli, brussels sprouts, cabbage, carrots, cauliflower, celery, kohlrabi, onions (green or in dry bulb form), and parsley.

0.05 part per million (negligible residue) in or on almonds, apples, apricots, avocados, bananas, cherries, citrus, coffee beans, corn (fresh vegetable), corn fodder and forage, corn grain, figs, filberts, grapes, lettuce, macadamia nuts, melons, nectarines, olives, papaya, peaches, pears, peppers, plums (fresh prunes), sorghum forage, sorghum grain, soybeans, soybean forage, tomatoes, walnuts.

§ 180.221 Dimethyl 2,2,2-trichloro-1-hydroxyethyl phosphonate; tolerances for residues.

Tolerances are established for residues of the insecticide dimethyl 2,2,2-trichloro-1-hydroxyethyl phosphonate in or on raw agricultural commodities as follows:

45 parts per million in or on alfalfa (hay) and clover (hay).

12 parts per million in or on alfalfa (fresh), barley (green fodder and straw), clover (fresh), flax straw, oats (green fodder and straw), sugar beet tops, and wheat (green fodder and straw).

Four parts per million in or on peanut vine hay and hulls.

2 parts per million in or on bananas (of which not more than 0.2 part per million will be present in the pulp after the peel is removed).

1 part per million in or on bean vines and cowpea vines.

0.1 part per million (negligible residues) in or on artichokes, barley (grain), beans (dried), beets (garden), brussels sprouts, cabbage, carrots, cauliflower, collards, corn fodder and forage, corn (kernels plus cob with husk removed), cottonseed, cowpeas, flaxseed, lettuce, lima beans, meat, fat, and meat byproducts of cattle, oats (grain), peppers, pumpkins, safflower seed, snap beans, sugar beets, tomatoes, and wheat (grain).

0.01 part per million (negligible residue) in milk.

0.05 part per million (negligible residue) in or on peanuts.

§ 180.222 Ethyl 4,4'-dichlorobenzilate; tolerance for residues.

A tolerance of 5 parts per million is established for residues of the insecticide ethyl 4,4'-dichlorobenzilate in or on apples and pears.

§ 180.223 Ethyl 3-phenylcarbamoyloxyphenylcarbamate; tolerances for residues.

Tolerances for residues of the herbicide ethyl 3-phenylcarbamoyloxyphenylcarbamate in or on raw agricultural commodities are established as follows:

0.5 part per million in or on sugar beet tops.

0.1 part per million in or on sugar beets.

§ 180.224 Methyl 3-phenylcarbamoyloxyphenylcarbamate; tolerances for residues.

Tolerances for residues of the herbicide methyl 3-phenylcarbamoyloxyphenylcarbamate in or on raw agricultural commodities are established as follows:

0.5 part per million in or on sugar beet tops.

0.1 part per million in or on sugar beets.

§ 180.225 Ethyl 3-(3-chlorophenylcarbamoyloxy)phenylcarbamate; tolerances for residues.

Tolerances for residues of the herbicide ethyl 3-(3-chlorophenylcarbamoyloxy)phenylcarbamate in or on raw agricultural commodities are established as follows:

0.5 part per million in or on sugar beet tops.

0.1 part per million in or on sugar beets.

§ 180.226 Methyl 3-(3-chlorophenylcarbamoyloxy)phenylcarbamate; tolerances for residues.

Tolerances for residues of the herbicide methyl 3-(3-chlorophenylcarbamoyloxy)phenylcarbamate in or on raw agricultural commodities are established as follows:

0.5 part per million in or on sugar beet tops.

0.1 part per million in or on sugar beets.

§ 180.227 Isopropyl 3-(3-chlorophenylcarbamoyloxy)phenylcarbamate; tolerances for residues.

Tolerances for residues of the herbicide isopropyl 3-(3-chlorophenylcarbamoyloxy)phenylcarbamate in or on raw agricultural commodities are established as follows:

0.5 part per million in or on sugar beet tops.

0.1 part per million in or on sugar beets.

§ 180.228 Isopropyl 3-phenylcarbamoyloxyphenylcarbamate; tolerances for residues.

Tolerances for residues of the herbicide isopropyl 3-phenylcarbamoyloxyphenylcarbamate in or on raw agricultural commodities are established as follows:

0.5 part per million in or on sugar beet tops.

0.1 part per million in or on sugar beets.

§ 180.229 Isopropyl 3-(3-chlorophenylcarbamoyloxy)phenylcarbamate; tolerances for residues.

Tolerances for residues of the herbicide isopropyl 3-(3-chlorophenylcarbamoyloxy)phenylcarbamate in or on raw agricultural commodities are established as follows:

0.5 part per million in or on sugar beet tops.

0.1 part per million in or on sugar beets.

§ 180.230 Methyl 3-(3-methylphenylcarbamoyloxy)phenylcarbamate; tolerances for residues.

Tolerances for residues of the herbicide methyl 3-(3-methylphenylcarbamoyloxy)phenylcarbamate in or on raw agricultural commodities are established as follows:

0.5 part per million in or on sugar beet tops.

0.1 part per million in or on sugar beets.

§ 180.231 Ethyl 3-(3-methylphenylcarbamoyloxy)phenylcarbamate; tolerances for residues.

Tolerances for residues of the herbicide ethyl 3-(3-methylphenylcarbamoyloxy)phenylcarbamate in or on raw agricultural commodities are established as follows:

0.5 part per million in or on sugar beet tops.

0.1 part per million in or on sugar beets.

§ 180.232 Isopropyl 3-(3-methylphenylcarbamoyloxy)phenylcarbamate; tolerances for residues.

Tolerances for residues of the herbicide isopropyl 3-(3-methylphenylcarbamoyloxy)phenylcarbamate in or on raw agricultural commodities are established as follows:

0.5 part per million in or on sugar beet tops.

0.1 part per million in or on sugar beets.

§ 180.233 Isopropyl 3-(3-methylphenylcarbamoyloxy)phenylcarbamate; tolerances for residues.

Tolerances for residues of the herbicide isopropyl 3-(3-methylphenylcarbamoyloxy)phenylcarbamate in or on raw agricultural commodities are established as follows:

0.5 part per million in or on sugar beet tops.

0.1 part per million in or on sugar beets.

§ 180.234 Methyl 3-(3-chlorophenylcarbamoyloxy)phenylcarbamate; tolerances for residues.

Tolerances for residues of the herbicide methyl 3-(3-chlorophenylcarbamoyloxy)phenylcarbamate in or on raw agricultural commodities are established as follows:

0.5 part per million in or on sugar beet tops.

0.1 part per million in or on sugar beets.

§ 180.235 2,2-Dichlorovinyl dimethyl phosphate; tolerances for residues.

Tolerances for residues of the insecticide 2,2-dichlorovinyl dimethyl phosphate in or on raw agricultural commodities are established as follows:

2 parts per million in or on cucumbers, eggplants, lettuce, peppers, and tomatoes.

1 part per million in or on apples, beans (dry, lima, snap), broccoli, cabbage, cauliflower, celery, corn (fresh vegetable), grapefruit, lemons, oranges, pears, peas, pineapples, spinach, Swiss chard, tangerines, and turnip tops.

0.5 part per million in or on grapes, nectarines, peaches, plums (fresh prunes), and summer squash.

0.2 part per million in or on potatoes.

0.1 part per million in or on corn grain, cottonseed, and sugar beet tops.

0.05 part per million in or on sugar beets.

0.02 part per million (negligible residue) in or on corn fodder and forage, meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep.

0.01 part per million (negligible residue) in milk.

§ 180.236 Dimethyl 2,2-dichlorovinyl phosphate; tolerances for residues.

Tolerances for residues of the insecticide dimethyl 2,2-dichlorovinyl phosphate in or on raw agricultural commodities are established as follows:

2 parts per million in or on cucumbers, eggplants, lettuce, peppers, and tomatoes.

1 part per million in or on apples, beans (dry, lima, snap), broccoli, cabbage, cauliflower, celery, corn (fresh vegetable), grapefruit, lemons, oranges, pears, peas, pineapples, spinach, Swiss chard, tangerines, and turnip tops.

0.5 part per million in or on grapes, nectarines, peaches, plums (fresh prunes), and summer squash.

0.2 part per million in or on potatoes.

0.1 part per million in or on corn grain, cottonseed, and sugar beet tops.

0.05 part per million in or on sugar beets.

0.02 part per million (negligible residue) in or on corn fodder and forage, meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep.

0.01 part per million (negligible residue) in milk.

§ 180.237 Dimethyl 2,2-dichlorovinyl phosphate; tolerances for residues.

Tolerances for residues of the insecticide dimethyl 2,2-dichlorovinyl phosphate in or on raw agricultural commodities are established as follows:

2 parts per million in or on cucumbers, eggplants, lettuce, peppers, and tomatoes.

1 part per million in or on apples, beans (dry, lima, snap), broccoli, cabbage, cauliflower, celery, corn (fresh vegetable), grapefruit, lemons, oranges, pears, peas, pineapples, spinach, Swiss chard, tangerines, and turnip tops.

0.5 part per million in or on grapes, nectarines, peaches, plums (fresh prunes), and summer squash.

0.2 part per million in or on potatoes.

0.1 part per million in or on corn grain, cottonseed, and sugar beet tops.

0.05 part per million in or on sugar beets.

0.02 part per million (negligible residue) in or on corn fodder and forage, meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep.

0.01 part per million (negligible residue) in milk.

§ 180.238 Dimethyl 2,2-dichlorovinyl phosphate; tolerances for residues.

Tolerances for residues of the insecticide dimethyl 2,2-dichlorovinyl phosphate in or on raw agricultural commodities are established as follows:

2 parts per million in or on cucumbers, eggplants, lettuce, peppers, and tomatoes.

1 part per million in or on apples, beans (dry, lima, snap), broccoli, cabbage, cauliflower, celery, corn (fresh vegetable), grapefruit, lemons, oranges, pears, peas, pineapples, spinach, Swiss chard, tangerines, and turnip tops.

0.5 part per million in or on grapes, nectarines, peaches, plums (fresh prunes), and summer squash.

0.2 part per million in or on potatoes.

0.1 part per million in or on corn grain, cottonseed, and sugar beet tops.

0.05 part per million in or on sugar beets.

0.02 part per million (negligible residue) in or on corn fodder and forage, meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep.

0.01 part per million (negligible residue) in milk.

§ 180.239 Phosphamidon; tolerances for residues.

Tolerances (expressed as phosphamidon) for residues of the insecticide phosphamidon (2-chloro-2-diethylcarbamoyl-1-methylvinyl dimethyl phosphate) in or on raw agricultural commodities are established as follows:

0.5 part per million in or on apples, cherries, peaches, pears, and plums (fresh prunes).

0.1 part per million in or on corn grain, cottonseed, and sugar beet tops.

0.05 part per million in or on sugar beets.

0.02 part per million (negligible residue) in or on corn fodder and forage, meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep.

0.01 part per million (negligible residue) in milk.

§ 180.240 Dimethyl 2,2-dichlorovinyl phosphate; tolerances for residues.

Tolerances for residues of the insecticide dimethyl 2,2-dichlorovinyl phosphate in or on raw agricultural commodities are established as follows:

2 parts per million in or on cucumbers, eggplants, lettuce, peppers, and tomatoes.

1 part per million in or on apples, beans (dry, lima, snap), broccoli, cabbage, cauliflower, celery, corn (fresh vegetable), grapefruit, lemons, oranges, pears, peas, pineapples, spinach, Swiss chard, tangerines, and turnip tops.

0.5 part per million in or on grapes, nectarines, peaches, plums (fresh prunes), and summer squash.

0.2 part per million in or on potatoes.

0.1 part per million in or on corn grain, cottonseed, and sugar beet tops.

0.05 part per million in or on sugar beets.

0.02 part per million (negligible residue) in or on corn fodder and forage, meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep.

0.01 part per million (negligible residue) in milk.

§ 180.241 Dimethyl 2,2-dichlorovinyl phosphate; tolerances for residues.

Tolerances for residues of the insecticide dimethyl 2,2-dichlorovinyl phosphate in or on raw agricultural commodities are established as follows:

2 parts per million in or on cucumbers, eggplants, lettuce, peppers, and tomatoes.

1 part per million in or on apples, beans (dry, lima, snap), broccoli, cabbage, cauliflower, celery, corn (fresh vegetable), grapefruit, lemons, oranges, pears, peas, pineapples, spinach, Swiss chard, tangerines, and turnip tops.

0.5 part per million in or on grapes, nectarines, peaches, plums (fresh prunes), and summer squash.

0.2 part per million in or on potatoes.

0.1 part per million in or on corn grain, cottonseed, and sugar beet tops.

0.05 part per million in or on sugar beets.

0.02 part per million (negligible residue) in or on corn fodder and forage, meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep.

0.01 part per million (negligible residue) in milk.

§ 180.242 Dimethyl 2,2-dichlorovinyl phosphate; tolerances for residues.

Tolerances for residues of the insecticide dimethyl 2,2-dichlorovinyl phosphate in or on raw agricultural commodities are established as follows:

2 parts per million in or on cucumbers, eggplants, lettuce, peppers, and tomatoes.

1 part per million in or on apples, beans (dry, lima, snap), broccoli, cabbage, cauliflower, celery, corn (fresh vegetable), grapefruit, lemons, oranges, pears, peas, pineapples, spinach, Swiss chard, tangerines, and turnip tops.

0.5 part per million in or on grapes, nectarines, peaches, plums (fresh prunes), and summer squash.

0.2 part per million in or on potatoes.

0.1 part per million in or on corn grain, cottonseed, and sugar beet tops.

0.05 part per million in or on sugar beets.

0.02 part per million (negligible residue) in or on corn fodder and forage, meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep.

0.01 part per million (negligible residue) in milk.

§ 180.243 Dimethyl 2,2-dichlorovinyl phosphate; tolerances for residues.

Tolerances for residues of the insecticide dimethyl 2,2-dichlorovinyl phosphate in or on raw agricultural commodities are established as follows:

2 parts per million in or on cucumbers, eggplants, lettuce, peppers, and tomatoes.

1 part per million in or on apples, beans (dry, lima, snap), broccoli, cabbage, cauliflower, celery, corn (fresh vegetable), grapefruit, lemons, oranges, pears, peas, pineapples, spinach, Swiss chard, tangerines, and turnip tops.

0.5 part per million in or on grapes, nectarines, peaches, plums (fresh prunes), and summer squash.

0.2 part per million in or on potatoes.

0.1 part per million in or on corn grain, cottonseed, and sugar beet tops.

0.05 part per million in or on sugar beets.

0.02 part per million (negligible residue) in or on corn fodder and forage, meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep.

0.01 part per million (negligible residue) in milk.

§ 180.244 Basic zinc sulfate; tolerances for residues.

A tolerance of 30 parts per million is established for residues of the fungicide basic zinc sulfate, calculated as elemen-

cobs with husks removed), corn grain (includes popcorn), macadamia nuts, pineapples, sorghum grain, sugarcane, sugarcane fodder and forage, wheat grain.

0.02 part per million (negligible residue) in eggs; milk; meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep.

§ 180.221 *O*-ethyl *S*-phenyl ethylphosphonodithioate; tolerances for residues.

Tolerances are established for residues of the insecticide *O*-ethyl *S*-phenyl ethylphosphonodithioate including its oxygen analog (*O*-ethyl *S*-phenyl ethylphosphonothiolate) in or on raw agricultural commodities as follows:

0.5 part per million in or on asparagus.

0.1 part per million (negligible residue) in or on beans (except lima beans), fresh corn including sweet corn (kernels plus cob with husk removed), corn grain (includes popcorn), corn forage or fodder (including sweet corn, field corn, and popcorn), leafy vegetables, mint (peppermint, spearmint, peppermint hay, and spearmint hay), peanuts, peanut hay, root crop vegetables, strawberries, sugar beet tops, and sugarcane.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Objections Clerk, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

§ 180.222 2,4-Bis(isopropylamino) - 6 - methylthio-*s*-triazine; tolerances for residues.

Tolerances for residues of the herbicide 2,4-bis(isopropylamino) -6-methylthio-*s*-triazine are established in or on raw agricultural commodities as follows:

1 part per million in or on cotton forage.

0.5 part per million in or on celery.

0.25 part per million in or on corn grain (includes popcorn), fresh corn including sweet corn (kernels plus cobs with husks removed), corn forage and fodder (including field corn, sweet corn, and popcorn), and cottonseed.

§ 180.223 2,4,Dichlorophenyl *p* - nitrophenyl ether; tolerances for residues.

Tolerances for residues of the herbicide 2,4-dichlorophenyl *p*-nitrophenyl ether in or on raw agricultural commodities are established as follows:

0.75 part per million in or on broccoli, brussels sprouts, cabbage, carrots, cauliflower, celery, kohlrabi, onions (green or in dry bulb form), and parsley.

0.05 part per million (negligible residue) in or on horseradish and sugar beets (roots and tops).

§ 180.224 Gibberellic acid; tolerances for residues.

Tolerances are established for negligible residues of the plant regulator gibberellic acid in or on the raw agricultural commodities artichokes, citrus fruits, grapes, hops, leafy vegetables, and stone fruits at 0.15 part per million.

§ 180.225 Aluminum phosphide; tolerances for residues.

Tolerances are established for residues of the fumigant phosphine from treatment with aluminum phosphide at 0.1 part per million in or on the raw agricultural commodities barley, corn, millet, oats, rice, rye, sorghum, and wheat.

§ 180.226 Diquat; tolerances for residues.

A tolerance of 0.05 part per million is established for negligible residues of the plant regulator diquat (6,7-dihydrodipyrido (1,2-a:2',1'-c) pyrazidiinium), derived from application of the dibromide salt and calculated as the cation, in or on the raw agricultural commodity sugar.

§ 180.227 Dicamba; tolerances for residues.

Tolerances are established for the combined residues of the herbicide dicamba (3,6-dichloro-o-anisic acid) and its metabolite 3,6-dichloro-5-hydroxy-o-anisic acid in or on raw agricultural commodities as follows:

40 parts per million in or on grasses (pasture and rangeland) and grass hay.

3 parts per million in or on sorghum (grain, fodder, and forage).

0.5 part per million in or on corn (grain, fodder, and forage) and grain and straw of barley, oats, and wheat.

0.05 part per million (negligible residue) in milk.

§ 180.228 *S*-Ethyl hexahydro-1H-azepine-1-carbothioate; tolerances for residues.

Tolerances are established for negligible residues of the herbicide *S*-ethyl hexahydro-1H-azepine-1-carbothioate in or on the raw agricultural commodities rice and rice straw at 0.1 part per million.

§ 180.229 Fluometuron; tolerances for residues.

Tolerances are established for negligible residues of the herbicide fluometuron (1,1-dimethyl-3-(*a,a,a*-trifluoro-*m*-tolyl) urea) in or on the raw agricultural commodities cottonseed and sugarcane at 0.1 part per million.

§ 180.230 Diphenamid; tolerances for residues.

Tolerances are established for residues of the herbicide diphenamid (*N,N*-dimethyl-2,2-diphenylacetamide) including its desmethyl metabolite (*N*-methyl-2,2-diphenylacetamide) in or on raw agricultural commodities as follows:

1 part per million in or on potatoes and strawberries.

0.1 part per million (negligible residue) in or on the commodity group fruiting vegetables.

§ 180.231 Dichlobenil; tolerances for residues.

Tolerances are established for the combined negligible residues of the herbicide dichlobenil (2,6-dichlorobenzonitrile) and its metabolite 2,6-dichlorobenzoic acid in or on the raw agricultural commodities: Almond hulls, apples, avocados, blackberries, blueberries, citrus, cranberries, figs, grapes, mangoes, nuts, pears, raspberries, and stone fruits at 0.15 part per million.

§ 180.232 *S*-Ethyl diisobutylthiocarbamate; tolerances for residues.

Tolerances are established for negligible residues of the herbicide *S*-ethyl diisobutylthiocarbamate in or on the raw agricultural commodities corn grain (including popcorn), fresh corn including sweet corn (kernels plus cob with husk removed), and corn forage and fodder (including sweet corn, field corn, and popcorn) at 0.1 part per million.

§ 180.233 *O,O*-Dimethyl *O*-*p*-(dimethylsulfamoyl) phenyl phosphorothioate including its oxygen analog; tolerances for residues.

Tolerances are established for residues of the insecticide *O,O*-dimethyl *O*-*p*-(dimethylsulfamoyl) phenyl phosphorothioate including its oxygen analog (*O,O*-dimethyl *O*-*p*-(dimethylsulfamoyl) phenyl phosphate) in or on the raw agricultural commodities meat, fat, and meat byproducts of cattle at 0.1 part per million.

§ 180.234 *O,O*-Diethyl *O*-[*p*-(methylsulfinyl) phenyl] phosphorothioate; tolerances for residues.

Tolerances are established for the combined residues of the insecticide *O,O*-diethyl *O*-(*p*-(methylsulfinyl) phenyl] phosphorothioate and its cholinesterase-inhibiting metabolites in or on raw agricultural commodities as follows:

5 parts per million in or on peanut hulls.

1 part per million in or on corn forage and fodder (including field corn, popcorn, and sweet corn).

0.1 part per million in or on corn grain (including field corn and popcorn), fresh corn including sweet corn (kernels plus cobs with husk removed), onions (dry), potatoes, rutabagas (roots), and tomatoes.

0.05 part per million in or on peanuts, pineapples, pineapple forage, sugar beets, and sugar beet tops.

0.02 part per million (negligible residue) in or on bananas and sugarcane.

0.02 part per million in meat, fat, and meat byproducts of cattle, goats, and sheep.

§ 180.235 2,2-Dichlorovinyl dimethyl phosphate; tolerances for residues.

Tolerances for residues of the insecticide 2,2-dichlorovinyl dimethyl phosphate are established as follows:

2 parts per million from postharvest application in or on nonperishable packaged or bagged raw agricultural commodities that contain more than 6 percent fat.

1 part per million (expressed as naled) in or on lettuce.

0.5 part per million (expressed as naled) in or on cucumbers.

0.5 part per million (expressed as naled) in or on tomatoes from preharvest and postharvest application.

0.5 part per million in or on radishes.

0.5 part per million from postharvest application in or on nonperishable packaged or bagged raw agricultural commodities that contain 6 percent fat or less.

0.02 part per million (negligible residue) in meat, fat, and meat byproducts of cattle, goats, horses, and sheep and in milk.

The tolerance of 0.1 part per million prescribed by § 135g.75 for negligible residues of 2,2-dichlorovinyl dimethyl phosphate in the edible tissues of swine covers both its use as an anthelmintic in swine feed and as an insecticide applied directly to swine.

§ 180.236 Triphenyltin hydroxide; tolerances for residues.

Tolerances are established for residues of the fungicide triphenyltin hydroxide in or on raw agricultural commodities as follows:

0.4 part per million in or on peanut hulls.

0.1 part per million (negligible residue) in or on sugar beets (but not tops).

0.05 part per million (negligible residue) in or on pecans, peanuts, and potatoes.

0.05 part per million (negligible residue) in the kidney and liver of cattle, goats, hogs, horses, and sheep.

§ 180.237 4-(Methylsulfonyl) -2,6-dinitro-*N,N*-dipropylaniline; tolerances for residues.

Tolerances are established for negligible residues of the herbicide 4-(methylsulfonyl) - 2,6 - dinitro-*N,N*-dipropylaniline in or on the raw agricultural commodities broccoli, brussels sprouts, cabbage, cauliflower, cottonseed, cucumbers, forage legumes, fruiting vegetables, peanuts, safflower seed, seed and pod vegetables, soybeans (dry form), and watermelons at 0.1 part per million.

§ 180.238 *S*-Propyl butylethylthiocarbamate; tolerances for residues.

Tolerances are established for negligible residues of the herbicide *S*-propyl butylethylthiocarbamate in or on the raw agricultural commodities sugar beets (roots and tops) and tomatoes at 0.1 part per million.

§ 180.239 Phosphamidon; tolerances for residues.

Tolerances (expressed as phosphamidon) for residues of the insecticide phosphamidon (2 - chloro - 2 - diethylcarbamoyl-1-methylvinyl dimethyl phosphate) including all of its related cholinesterase-inhibiting compounds in or on raw agricultural commodities are established as follows:

1 part per million in or on apples.

0.75 part per million in or on grapefruit, lemons, oranges, tangerines.

0.5 part per million in or on broccoli, cauliflower, cucumbers, peppers.

0.25 part per million in or on cantaloups, watermelons.

0.1 part per million in or on cottonseed, potatoes, sugarcane, tomatoes and walnuts.

§ 180.240 *S*-Propyl dipropylthiocarbamate; tolerances for residues.

Tolerances are established for negligible residues of the herbicide *S*-propyl dipropylthiocarbamate in or on the raw agricultural commodities peanuts, peanut forage, peanut hay, potatoes, soybeans, soybean forage, soybean hay, and sweetpotatoes at 0.1 part per million.

§ 180.241 *S*-(*O,O*-Diisopropyl phosphorodithioate) of *N*-(2-mercaptoethyl) benzenesulfonamide; tolerances for residues.

Tolerances are established for negligible residues of the herbicide *S*-(*O,O*-diisopropyl phosphorodithioate) of *N*-(2 - mercaptoethyl) benzenesulfonamide including its oxygen analog *S*-(*O,O*-diisopropyl phosphorothioate) of *N*-(2-mercaptoethyl) benzenesulfonamide in or on the raw agricultural commodities carrots, cottonseed, cucurbits, fruiting vegetables, leafy vegetables, and onions (dry bulb) at 0.1 part per million.

§ 180.242 Thiabendazole; tolerances for residues.

Tolerances are established for residues of the fungicide thiabendazole (2-(4-thiazolyl) -benzimidazole) in or on raw agricultural commodities as follows:

3 parts per million in or on bananas (from postharvest application) of which not more than 0.4 part per million shall be present in the pulp after the peel is removed and discarded.

2 parts per million in or on citrus fruits (from postharvest application).

0.25 part per million in or on sugar beets (from preharvest application) excluding tops.

§ 180.243 2-Chloro-4,6-bis(isopropylamino)-*s*-triazine; tolerances for residues.

A tolerance of 0.25 part per million is established for negligible residues of the herbicide 2-chloro-4,6-bis(isopropylamino)-*s*-triazine in or on the raw agricultural commodities sorghum grain, forage, and fodder.

§ 180.244 Basic zinc sulfate; tolerances for residues.

A tolerance of 30 parts per million is established for residues of the fungicide basic zinc sulfate, calculated as elemental zinc, in or on the raw agricultural commodity peaches.

§ 180.245 Streptomycin; tolerances for residues.

A tolerance of 0.25 part per million is established for negligible residues of the fungicide streptomycin in or on the raw agricultural commodity group pome fruits for controlling fire blight.

§ 180.246 Succinic acid 2,2-dimethylhydraxide; tolerances for residues.

Tolerances are established for residues of the plant regulator succinic acid 2,2-dimethylhydrazide in or on raw agricultural commodities as follows:

55 parts per million in or on sour cherries.

30 parts per million in or on apples, nectarines, peaches, peanuts, and sweet cherries.

10 parts per million in or on grapes.

and peanut hay and hulls.

2 parts per million in poultry kidney.

0.2 parts per million in the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry (except poultry kidney), and sheep.

0.2 part per million in eggs.

0.2 part per million (negligible residue) in or on tomatoes.

0.02 part per million (negligible residue) in milk.

§ 180.247 2-Chloroallyl diethyldithiocarbamate; tolerances for residues.

Tolerances are established for negligible residues of the herbicide 2-chloroallyl diethyldithiocarbamate in or on raw agricultural commodities bean vines, broccoli, brussels sprouts, cabbage, cantaloups, cauliflower, celery, chicory, collards, corn (kernels plus cob with husk removed), corn fodder and forage, corn grain, cucumbers, endive (escarole), hanover salad, kale, lettuce, lima beans, mustard greens, okra, potatoes, snap beans, soybeans, soybean forage and hay, spinach, tomatoes, turnip greens, turnips, and watermelons at 0.2 part per million.

§ 180.248 Neodecanoic acid; tolerances for residues.

A tolerance of 1 part per million is established for negligible residues of the desiccant and defoliant neodecanoic acid (a mixture of 10-carbon trialkyl acetic acids (calculated as $C_9H_{19}COOH$)) in or on the raw agricultural commodity cottonseed.

§ 180.249 2-Chloro-2',6'-diethyl-*N*-(methoxymethyl) acetanilide; tolerances for residues.

Tolerances are established for residues of the herbicide 2-chloro-2',6'-diethyl-

N-(methoxymethyl) acetanilide and its metabolites (calculated as 2-chloro-2',6'-diethyl-*N*-(methoxymethyl) acetanilide) in or on raw agricultural commodities

10 parts per million in or on corn fodder or forage (including field corn, sweet corn, and popcorn).

5 parts per million in or on cabbage.

0.1 part per million (negligible residue) in or on beans, cottonseed, soybeans, and sugarbeets (roots and tops).

0.05 part per million (negligible residue) in milk.

corn fodder and forage (including field corn and sweet corn), fresh corn including sweet corn (kernels plus cob with husks removed), peanuts, peanut hay, pineapples, pineapple fodder and forage, forage), lima beans, peanuts, peanut forage, peppers, pumpkins, snap beans, soybeans, soybean forage, squash (summer and winter), sunflower seed, sweet potatoes, and tomatoes at 0.1 part per

30 parts per million in or on cottonseed to cover residues from application of the defoliant, desiccant, and herbicide sodium borate (including sodium metaborate and sodium tetraborate) plus

N-(methoxymethyl) acetanilide and its metabolites (calculated as 2-chloro-2',6'-diethyl-*N*-(methoxymethyl) acetanilide) in or on raw agricultural commodities as follows:

0.75 part per million in or on soybean forage.

0.2 part per million (negligible residues) in or on corn fodder and forage, corn grain, cotton forage, peanut forage, and soybeans.

0.05 part per million (negligible residues) in or on cottonseed and peanuts.

0.02 part per million (negligible residues) in milk and eggs and in or on meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep.

§ 180.250 3-(*p*-Bromophenyl)-1-methoxy-1-methylurea; tolerance for residues.

A tolerance of 0.2 part per million is established for residues of the herbicide 3-(*p*-bromophenyl)-1-methoxy-1-methylurea in or on the raw agricultural commodity potatoes.

§ 180.251 Dodecachlorooctahydro-1,3,4-metheno-2*H*-cyclobuta[cd]pentalene; tolerances for residues.

Tolerances for residues of the insecticide dodecachlorooctahydro-1,3,4-metheno-2*H*-cyclobuta[cd]pentalene in or on raw agricultural commodities are established as follows:

0.1 part per million (negligible residue) in the fat of meat from cattle, goats, hogs, horses, poultry, and sheep.

0.1 part per million in milk fat reflecting negligible residues in milk.

0.1 part per million (negligible residue) in eggs.

0.01 part per million (negligible residue) in or on all raw agricultural commodities (exclusive of eggs, milk fat, and the fat of cattle, goats, hogs, horses, poultry, and sheep)

§ 180.252 2-Chloro-1-(2,4,5-trichlorophenyl)vinyl dimethyl phosphate; tolerances for residues.

Tolerances are established for residues of the insecticide 2-chloro-1-(2,4,5-trichlorophenyl)vinyl dimethyl phosphate in or on raw agricultural commodities as follows:

110 parts per million in or on corn forage and fodder (including field corn, sweet corn, and popcorn).

10 parts per million in or on apples, sweet corn (kernels plus cob with husks removed), and corn grain (including field corn and popcorn).

1.5 parts per million in the fat of cattle.

0.75 part per million in the fat of poultry.

0.5 part per million in the meat and meat byproducts of cattle.

0.1 part per million in eggs, meat, and meat byproducts of poultry.

§ 180.253 Methomyl; tolerances for residues.

Tolerances are established for residues of the insecticide methomyl (*S*-methyl *N*-[(methylcarbamoyl)oxy]thioacetimidate) in or on raw agricultural commodities as follows:

10 parts per million in or on corn fodder or forage (including field corn, sweet corn, and popcorn).

5 parts per million in or on cabbage.

0.2 part per million (negligible residue) in or on the commodity groups fruiting vegetables, leafy vegetables (except cabbage), and root crop vegetables.

0.1 part per million (negligible residue) in or on corn grain (including popcorn), fresh corn including sweet corn (kernels plus cob with husk removed).

§ 180.254 Carbofuran; tolerances for residues.

Tolerances are established for combined residues of the insecticide carbofuran (2,3-dihydro-2,2-dimethyl-7-benzofuranyl N-methylcarbamate) and its metabolite 2,3-dihydro-2,2-dimethyl-3-hydroxy-7-benzofuranyl N-methylcarbamate in or on the following raw agricultural commodities:

20 parts per million in or on alfalfa hay.

5 parts per million in or on alfalfa (fresh).

1 part per million in or on peanut hulls.

0.5 part per million in or on corn fodder and forage.

0.2 part per million in or on rice and rice straw.

0.1 part per million in or on corn grain, peanuts, and sugarcane.

0.02 part per million (negligible residue) in milk.

§ 180.255 *m*-(1-Methylbutyl-phenyl methylcarbamate and *m*-(1-ethylpropyl)phenylmethylcarbamate; tolerances for residues.

Tolerances are established for negligible residues of an insecticide that is a mixture consisting of 75 percent *m*-(1-methylbutyl)phenyl methylcarbamate and 25 percent *m*-(1-ethylpropyl)phenyl methylcarbamate in or on the raw agricultural commodities corn grain, fresh corn including sweet corn (kernels plus cob with husk removed), and corn fodder and forage at 0.05 part per million (such tolerances to cover residues of both components).

§ 180.256 *p*-Chlorophenyl-2,4,5-trichlorophenyl sulfide; tolerances for residues.

A tolerance of 0.1 part per million is established for negligible residues of the insecticide *p*-chlorophenyl-2,4,5-trichlorophenyl sulfide in or on the raw agricultural commodity apples.

§ 180.257 Chloroneb; tolerances for residues.

Tolerances are established for residues of the fungicide chloroneb (1,4-dichloro-2,5-dimethoxybenzene) and its metabolite 2,5-dichloro-4-methoxyphenol (calculated as chloroneb) in or on raw agricultural commodities as follows:

2 parts per million in or on cotton forage and vines (forage) of beans and soybeans.

0.2 part per million in meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep.

0.1 part per million (negligible residue) in or on beans, cottonseed, soybeans, sugarbeets (roots and tops).

0.05 part per million (negligible residue) in milk.

§ 180.258 2-Ethylamino-4-isopropylamino-6-methylthio-*s*-triazine; tolerances for residues.

Tolerances are established for residues of the desiccant and herbicide 2-ethylamino-4-isopropylamino-6-methylthio-*s*-triazine in or on raw agricultural commodities as follows:

0.5 part per million in or on corn fodder and forage.

0.25 part per million in or on banana, corn grain, fresh corn including sweet corn (kernels plus cob with husk removed), pineapples, pineapple fodder and forage, potatoes, sugarcane, and sugarcane fodder and forage.

§ 180.259 2-(*p*-*tert*-Butylphenoxy)cyclohexyl 2-propynyl sulfite; tolerances for residues.

Tolerances are established for residues of the insecticide 2-(*p*-*tert*-butylphenoxy) cyclohexyl 2-propynyl sulfite in or on raw agricultural commodities as follows:

15 parts per million in or on hops.

7 parts per million in or on apricots, peaches, and strawberries.

4 parts per million in or on nectarines.

3 parts per million in or on apples, pears, and plums (fresh prunes).

0.1 part per million (negligible residue) in or on walnuts.

§ 180.260 Norea; tolerances for residues.

Tolerances are established for negligible residues of the herbicide norea (3-(hexahydro-4,7-methanoindan-5-yl)-1,1-dimethyl urea) in or on the raw agricultural commodities cottonseed, potatoes, sorghum (cane, forage, and grain), soybeans, spinach, and sugarcane at 0.2 part per million.

§ 180.261 *N*-(Mercaptomethyl)phthalimide *S*-(*O*,*O*-dimethyl phosphorothioate) and its oxygen analog; tolerances for residues.

Tolerances are established for the cholinesterase-inhibiting residues of the insecticide *N*-(mercaptomethyl)phthalimide *S*-(*O*,*O*-dimethyl phosphorodithioate) and its oxygen analog *N*-(mercaptomethyl)phthalimide *S*-(*O*,*O*,-dimethyl phosphorothioate) in or on raw agricultural commodities as follows:

40 parts per million in or on alfalfa.

10 parts per million in or on apples, cherries, grapes, peaches, and pears.

5 parts per million in or on apricots, nectarines, and plums (fresh prunes).

0.2 part per million in meat and fat of meat of cattle, goats, hogs, and sheep.

0.1 part per million in or on potatoes.

§ 180.262 *O*-Ethyl *S*,*S*-dipropylphosphorodithioate; tolerances for residues.

Tolerances are established for negligible residues of the insecticide *O*-ethyl *S*,*S*-dipropylphosphorodithioate in or on the raw agricultural commodities bananas, corn (in the grain and ear form),

corn fodder and forage (including field corn and sweet corn), fresh corn including sweet corn (kernels plus cob with husks removed), peanuts, peanut hay, pineapples, pineapple fodder and forage, soybeans, soybean forage and hay, and sweetpotatoes at 0.02 part per million.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Objections Clerk, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

§ 180.263 Phosalone; tolerances for residues.

Tolerances are established for residues of the insecticide phosalone (*S*-(6-chloro-3-(mercaptomethyl)-2-benzoxazolinone) *O*,*O*-diethyl phosphorodithioate) in or on raw agricultural commodities as follows:

10 parts per million in or on apples, grapes, and pears.

0.05 part per million (negligible residue) in or on brazil nuts, bush nuts, butternuts, cashews, chestnuts, filberts, haselnuts, hickory nuts, macadamia nuts, pecans, and walnuts.

§ 180.264 *O*,*O*-Diethyl *O*-2-pyrazinyl phosphorothioate and its oxygen analog; tolerances for residues.

A tolerance of 0.1 part per million is established for negligible residues of the insecticide and nematocide *O*,*O*-diethyl *O*-2-pyrazinyl phosphorothioate and its oxygen analog diethyl 2-pyrazinyl phosphate in or on the raw agricultural commodities broccoli, brussels sprouts, cabbage, cauliflower, corn forage or fodder (including sweet corn, field corn, popcorn), corn grain, fresh corn including sweet corn (kernels plus cob with husks removed), cottonseed, mint, snap beans, snap bean vines, strawberries, and sugar beets (roots and tops).

§ 180.265 2-*tert*-Butylamino-4-ethylamino-6-methylthio-*s*-triazine; tolerance for residues.

A tolerance of 0.1 part per million is established for negligible residues of the herbicide 2-*tert*-butylamino-4-ethylamino-6-methylthio-*s*-triazine in or on the raw agricultural commodity wheat (grain, green fodder, and straw).

§ 180.266 Amiben; tolerances for residues.

Tolerances for negligible residues of the herbicide amiben (3-amino-2,5-dichlorobenzoic acid) are established in or on the raw agricultural commodities, beans (dried), bean vines, cantaloups, cucumbers, field corn (grain, fodder and forage), lima beans, peanuts, peanut forage, peppers, pumpkins, snap beans, soybeans, soybean forage, squash (summer and winter), sunflower seed, sweet potatoes, and tomatoes at 0.1 part per million.

§ 180.267 *cis*-*N*-[(1,1,2,2-Tetrachloroethyl)thio]-4-cyclohexene-1,2-dicarboximide; tolerances for residues.

Tolerances are established for residues of the fungicide *cis*-*N*-[(1,1,2,2-tetrachloroethyl)thio]-4-cyclohexene-1,2-dicarboximide in or on raw agricultural commodities as follows:

50 parts per million in or on cherries (sour).

30 parts per million in or on apricots and peaches.

15 parts per million in or on tomatoes.

8 parts per million in or on cranberries.

5 parts per million in or on melons.

2 parts per million in or on cherries (sweet), cucumbers, nectarines, and plums (fresh prunes).

0.5 part per million in or on citrus fruits and potatoes.

0.25 part per million in or on apples.

0.1 part per million (negligible residue) in or on macadamia nuts, onions, and pineapples.

§ 180.268 Barban; tolerances for residues.

A tolerance of 0.1 part per million is established for negligible residues of the herbicide barban (4-chloro-2-butynyl *m*-chlorocarbanilate) in or on the raw agricultural commodities barley, flax seed, lentils, mustard seed, peas, safflower seed, soybeans, sugar beets, sugar beet tops, sunflower seed, and wheat.

§ 180.269 Aldicarb; tolerances for residues.

Tolerances are established for residues of the insecticide and nematocide aldicarb (2-methyl-2-(methylthio)propionaldehyde O-(methylcarbamoyl)oxime) and its cholinesterase-inhibiting metabolites 2-methyl-2-(methylsulfinyl)propionaldehyde O-(methylcarbamoyl) oxime and 2-methyl-2-(methylsulfonyl) propionaldehyde O-(methylcarbamoyl) oxime in or on raw agricultural commodities as follows:

1 part per million in or on sugar beet tops.

0.1 part per million in or on cottonseed.

0.05 part per million in or on sugar beets.

0.01 part per million (negligible residue) in the meat, fat, and meat byproducts of cattle, goats, hogs, and sheep.

0.002 part per million (negligible residue) in milk.

§ 180.270 Benzadox; tolerances for residues.

Tolerances are established for negligible residues of the herbicide benzadox (benzamidooxyacetic acid) in or on the raw agricultural commodities sugar beet roots and tops at 0.1 part per million.

§ 180.271 Boron; tolerances for residues.

Tolerances for total boron, calculated as elemental boron, are established as follows:

30 parts per million in or on cottonseed to cover residues from application of the defoliant, desiccant, and herbicide sodium borate (including sodium metaborate and sodium tetraborate) plus naturally occurring boron in cottonseed.

8 parts per million in or on citrus fruits to cover residues from postharvest application of the fungicides borax and boric acid plus the naturally occurring boron in citrus fruits.

§ 180.272 *S*,*S*,*S*-Tributyl phosphorotrithioate; tolerances for residues.

Tolerances are established for residues of the defoliant *S*,*S*,*S*-tributyl phosphorotrithioate in or on raw agricultural commodities as follows:

4 parts per million in or on cottonseed.

0.02 part per million (negligible residue) in meat, fat, and meat byproducts of cattle, goats, and sheep.

0.002 part per million (negligible residue) in milk.

§ 180.273 Trichlorobenzyl chloride; tolerances for residues.

Tolerances are established for negligible residues of the herbicide trichlorobenzyl chloride and its metabolite trichlorobenzoic acid in or on raw agricultural commodities as follows:

0.1 part per million in or on corn forage and fodder (including field corn, popcorn, and sweet corn).

0.02 part per million in or on corn grain including field corn, popcorn, and sweet corn (kernels plus cob with husk removed).

§ 180.275 2,4,5,6-Tetrachloroisophthalonitrile; tolerances for residues.

Tolerances are established for the combined residues of the fungicide 2,4,5,6-tetrachloroisophthalonitrile and its metabolite 4-hydroxy-2,5,6-trichloroisophthalonitrile in or on raw agricultural commodities as follows:

15 parts per million in or on celery.

5 parts per million in or on broccoli, brussels sprouts, cabbage, cauliflower, cucumbers, melons, pumpkins, snap beans, squash (summer and winter), and tomatoes.

1 part per million in or on carrots and sweet corn (kernels plus cob with husks removed).

0.3 part per million in or on peanuts.

0.1 part per million (negligible residue) in or on potatoes.

§ 180.276 Formetanate hydrochloride; tolerances for residues.

Tolerances are established for residues of the insecticide formetanate hydrochloride (m-[[(dimethylamino)methylene]amino]phenyl methylcarbamate hydrochloride) in or on raw agricultural commodities as follows:

4 parts per million in or on lemons, limes, and oranges.

3 parts per million in or on apples and pears.

§ 180.277 *S*-2,3-Dichloroallyl diisopropylthiocarbamate; tolerances for residues.

Tolerances are established for negligible residues of the herbicide *S*-2,3-

dichloroallyl diisopropylthiocarbamate in or on the raw agricultural commodities alfalfa (fresh and hay), barley (grain, forage, and straw), clover (fresh and hay), field corn grain, fodder and forage,

§ 180.284 Zinc phosphide; tolerances for residues.

A tolerance of 0.01 part per million is established for residues of phosphine in or on the raw agricultural commodity

fungicide pentachloronitrobenzene in or on the raw agricultural commodity cottonseed.

§ 180.292 4-amino-3,5,6-trichloropicolinic acid; tolerances for residues.

§ 180.297 *N*-1-Naphthyl phthalamic acid; tolerances for residues.

A tolerance of 0.1 part per million is established for negligible residues of the herbicide *N*-1-naphthyl phthalamic acid

section the technical grade hexachlorophene used in the formulation shall not contain more than 0.1 part per million of 2,3,7,8-tetrachlorodibenzo-*p*-dioxin.

§ 180.303 Acetic acid; tolerances for

(8) Rotenone or derris or cube roots.
(9) Ryania.
(10) Sabadilla.

These pesticides are not exempted from the requirement of a tolerance when applied to a crop at the time of or after

dichloroallyl diisopropylthiocarbamate in or on the raw agricultural commodities alfalfa (fresh and hay), barley (grain, forage, and straw), clover (fresh and hay), field corn grain, fodder and forage, flaxseed, lentils, peas, pea forage and hay, potatoes, safflower seed, soybeans, soybean forage and hay, and sugar beet roots and tops at 0.05 part per million.

§ 180.278 Phenmedipham; tolerances for residues.

Tolerances are established for negligible residues of the herbicide phenmedipham (methyl *m*-hydroxycarbanilate *m*-methylcarbanilate) in or on the raw agricultural commodities sugar beet roots and tops at 0.1 part per million.

§ 180.279 3-(4-Bromo-3-chlorophenyl)-1-methoxy-1-methylurea; tolerances for residues.

Tolerances are established for negligible residues of the herbicide 3-(4-bromo-3-chlorophenyl)-1-methoxy-1-methylurea in or on the raw agricultural commodities corn in grain or ear form (including field corn, sweet corn, and popcorn) and corn forage and fodder (including field corn, sweet corn, and popcorn) at 0.2 part per million.

§ 180.280 Dimethyl phosphate of α-methylbenzyl 3-hydroxy-*cis*-crotonate; tolerances for residues.

Tolerances are established for negligible residues of the insecticide dimethyl phosphate of α-methylbenzyl 3-hydroxy-*cis*-crotonate in meat, fat, and meat byproducts of cattle, goats, hogs, and sheep and in milk at 0.02 part per million.

§ 180.281 2-*sec*-Butyl-4,6-dinitrophenol; tolerances for residues.

Tolerances are established for residues of the herbicide 2-*sec*-butyl-4,6-dinitrophenol from application of its alkanolamine salts (of the ethanol and isopropanol series) in or on raw agricultural commodities as follows:

1 part per million in or on soybean forage.

0.1 part per million (negligible residue) in or on soybeans.

§ 180.282 2-Chloro-*N,N*-diallylacetamide; tolerances for residues.

Tolerances are established for negligible residues of the herbicide 2-chloro-*N,N*-diallylacetamide in or on the raw agricultural commodities cabbage, castor beans, celery, corn grain (includes popcorn), fresh corn including sweet corn (kernels plus cobs with husk removed), corn forage or fodder (including sweet corn, field corn, and popcorn), dried beans, lima beans, lima bean forage, onions, peas, pea forage, potatoes, snap beans, snap bean forage, sorghum grain, sorghum forage, soybeans, soybean forage, sugarcane, sweetpotatoes, and tomatoes at 0.05 part per million.

§ 180.283 2, 3, 6-Trichlorophenylacetic acid; tolerances for residues.

A tolerance of 0.1 part per million is established for negligible residues of the herbicide 2, 3, 6-trichlorophenylacetic acid in or on sugarcane, such residues resulting from application of its dimethylamine or sodium salts.

§ 180.284 Zinc phosphide; tolerances for residues.

A tolerance of 0.01 part per million is established for residues of phosphine in or on the raw agricultural commodity sugarcane from use of the rodenticide zinc phosphide in sugarcane fields.

§ 180.285 *N'*-(4-Chloro-*o*-tolyl)-*N,N*-dimethylformamidine; tolerances for residues.

Tolerances are established for combined residues of the insecticide *N'*-(4-chloro-*o*-tolyl)-*N,N*-dimethylformamidine and its metabolites containing the 4-chlorotoluidine moiety (calculated as the insecticide) from application of the insecticide as the free base or as the hydrochloride salt in or on raw agricultural commodities as follows:

5 parts per million in or on pears.

3 parts per million in or on apples.

Two parts per million in or on broccoli, brussels sprouts, cabbage, and cauliflower.

§ 180.286 1-Chloro-2-nitropropane; tolerances for residues.

A tolerance of 0.05 part per million is established for negligible residues of the fungicide 1-chloro-2-nitropropane and its metabolite 2-nitropropanol (calculated as 1-chloro-2-nitropropane) in or on the raw agricultural commodities cottonseed and melons.

§ 180.287 Decachlorooctahydro-1, 3, 4-metheno-2H-cyclobuta[cd]pentalen-2-one; tolerance for residues.

A tolerance of 0.01 part per million is established for negligible residues of the insecticide decachlorooctahydro-1,3,4,-metheno-2H-cyclobuta[cd]pentalen-2-one in or on the raw agricultural commodity bananas.

§ 180.288 2-(Thiocyanomethylthio)benzothiazole; tolerances for residues.

A tolerance of 0.1 part per million is established for negligible residues of the fungicide 2-(thiocyanomethylthio)benzothiazole in or on cottonseed.

§ 180.289 Methanearsonic acid; tolerances for residues.

A tolerance of 0.7 part per million (expressed as As_2O_3) is established for residues of the herbicide methanearsonic acid in, or on cottonseed, from application of the disodium and monosodium salts of methanearsonic acid in the production of cotton.

§ 180.290 *p*-Nitrophenyl 2-nitro-4-(trifluoromethyl)phenyl ether; tolerances for residues.

A tolerance of 0.1 part per million is established for negligible residues of the herbicide *p*-nitrophenyl 2-nitro-4-(trifluoromethyl)phenyl ether and its metabolites *p*-nitrophenyl 2-amino-4-(trifluoromethyl)phenyl ether and *p*-nitrophenol in or on the raw agricultural commodities seed and pod vegetables and their forages, soybeans and soybean forage.

§ 180.291 Pentachloronitrobenzene; tolerance for residues.

A tolerance of 0.1 part per million is established for negligible residues of the fungicide pentachloronitrobenzene in or on the raw agricultural commodity cottonseed.

§ 180.292 4-amino-3,5,6-trichloropicolinic acid; tolerances for residues.

Tolerances are established for residues of the herbicide 4-amino-3,5,6-trichloropicolinic acid from its application in the acid form, or in the form of its potassium, triethylamine or triisopropanolamine salts expressed as 4-amino-3,5,6-trichloropicolinic acid in or on raw agricultural commodities as follows:

- 80 parts per million in or on forage grasses.
- 5 parts per million in the kidney of cattle, goats, and sheep.
- 0.5 part per million in the liver of cattle, goats, and sheep.
- 0.2 part per million in the meat, fat, and meat byproducts (other than kidney and liver) of cattle, goats, and sheep.
- 0.05 part per million (negligible residue) in milk.

§ 180.293 Endothall; tolerances for residues.

A tolerance of 0.1 part per million is established for negligible residues of the defoliant endothall (7-oxabicyclo-(2.2.1) heptane-2,3-dicarboxylic acid) from use of its mono-*N,N*-dimethylalkylamine salt, wherein the alkyl group is the same as in the fatty acids of coconut oil, in or on the raw agricultural commodity cottonseed.

§ 180.294 Benomyl; tolerances for residues.

Tolerances are established for residues of the fungicide benomyl (methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate) in or on raw agricultural commodities as follows:

15 parts per million (from postharvest and/or preharvest application) in or on apricots, cherries, nectarines, peaches and plums (including fresh prunes).

2 parts per million in or on snap beans (succulent).

1 part per million in or on bananas, of which not more than 0.2 part per million (negligible residue) shall be present in the pulp after the peel is removed and discarded, from postharvest application.

0.2 part per million in or on peanuts and sugar beet roots.

§ 180.295 4-*tert*-Butyl-2-chlorophenyl methyl methylphosphoramidate; tolerances for residues.

A tolerance of 1 part per million is established for residues of the insecticide 4-*tert*-butyl-2-chlorophenyl methyl methylphosphoramidate and its metabolite 4-*tert*-butyl-2-chlorophenol (calculated as the parent compound) in the meat, fat, and meat byproducts of cattle, goats, and sheep.

§ 180.296 Dimethyl phosphate of 3-hydroxy-*N*-methyl-*cis*-crotonamide; tolerances for residues.

A tolerance is established for residues of the insecticide dimethyl phosphate of 3-hydroxy-*N*-methyl-*cis*-crotonamide in or on cottonseed, potatoes, and sugarcane at 0.1 part per million.

§ 180.297 *N*-1-Naphthyl phthalamic acid; tolerances for residues.

A tolerance of 0.1 part per million is established for negligible residues of the herbicide *N*-1-naphthyl phthalamic acid from application of its sodium salt in or on the raw agricultural commodities cantaloups, cranberries, cucumbers, muskmelons, peanuts, peanut hay, soybeans, soybean hay, and watermelons.

§ 180.298 *O,O*-Dimethyl phosphorodithioate, *S*-ester with 4-(mercaptomethyl)-2-methoxy-Δ^2-1,3,4-thiadiazolin-5-one; tolerances for residues.

Tolerances for residues of the insecticide *O,O*-dimethyl phosphorodithioate, *S*-ester with 4-(mercaptomethyl)-2-methoxy-Δ^2-1,3,4-thiadiazolin-5-one are established in or on raw agricultural commodities as follows:

6 parts per million in or on alfalfa, alfalfa hay, clover, clover hay, grass, and grass hay.

0.2 part per million in or on cottonseed.

§ 180.300 Ethephon; tolerances for residues.

A tolerance is established for negligible residues of the plant regulator ethephon ((2-chloroethyl) phosphonic acid) in or on the raw agricultural commodity pineapples at 0.1 part per million.

§ 180.301 Carboxin; tolerance for residues.

A tolerance is established for combined negligible residues of the fungicide carboxin (5,6-dihydro-2-methyl-1,4-oxathiin-3-carboxanilide) and its metabolite 5,6-dihydro-3-carboxanilide-2-methyl-1,4-oxathiin-4-oxide (calculated as carboxin) in or on the raw agricultural commodity cottonseed at 0.2 part per million.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Objections Clerk, Environmental Protection Agency, 1626 K Street NW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

§ 180.302 Hexachlorophene; tolerance for residues.

A tolerance of 0.05 part per million is established for negligible residues of the fungicide hexachlorophene (2,2'-methylenebis (3,4,6-trichlorophenol)) in or on the raw agricultural commodity cottonseed from the use of its monosodium salt on the growing crop cotton before the bolls are open. For the purposes of this section the technical grade hexachlorophene used in the formulation shall not contain more than 0.1 part per million of 2,3,7,8-tetrachlorodibenzo-*p*-dioxin.

§ 180.303 Acetic acid; tolerances for residues.

Tolerances are established for residues of the fungicide acetic acid in or on the grains of barley, corn, oats, sorghum, and wheat at 12,000 parts per million from postharvest application. These grains are for use only as animal feeds.

§ 180.304 Propionic acid; tolerances for residues.

Tolerances are established for residues of the fungicide propionic acid in or on the grains of barley, corn, oats, sorghum, and wheat at 8,000 parts per million from postharvest application. These grains are for use only as animal feeds.

§ 180.305 3,4,5-Trimethylphenyl methylcarbamate and 2,3,5-trimethylphenyl methylcarbamate; tolerances for residues.

Tolerances are established for negligible residues of an insecticide that is a mixture consisting of 3,4,5-trimethylphenyl methylcarbamate and 2,3,5-trimethylphenyl methylcarbamate isomers, which are present in ratios varying between 4:1 and 3:1, respectively, in or on the raw agricultural commodities corn grain (including field corn and popcorn) and corn fodder and forage at 0.1 part per million (such tolerance to cover the sum of the residues of both components).

Subpart D—Exemptions From Tolerances

§ 180.1001 Exemptions from the requirement of a tolerance.

(a) An exemption from a tolerance shall be granted when it appears that the total quantity of the pesticide chemical in or on all raw agricultural commodities for which it is useful under conditions of use currently prevailing or proposed will involve no hazard to the public health.

(b) When applied to growing crops, in accordance with good agricultural practice, the following pesticide chemicals are exempt from the requirement of a tolerance:

(1) The following copper compounds: Bordeaux mixture, copper abietate, copper acetate, basic copper carbonate (malachite), copper hydroxide, copper-lime mixtures, copper linoleate, copper oleate, copper oxychloride, copper silicate, copper sulfate basic, copper sulfate monohydrate, copper sulfate pentahydrate, copper-zinc chromate, cupric oxide, cuprous oxide, tetra copper calcium oxychloride. These copper compounds are used primarily as fungicides.

(2) N-Octylbicyclo-(2,2,1)-5-heptene-2,3-dicarboximide.

(3) Petroleum oils.

(4) Piperonyl butoxide.

(5) Piperonyl cyclonene.

(6) *N*-Propyl isome.

(7) Pyrethrum and pyrethrins.

(8) Rotenone or derris or cube roots.

(9) Ryania.

(10) Sabadilla.

These pesticides are not exempted from the requirement of a tolerance when applied to a crop at the time of or after harvest.

(c) Residues of the following materials are exempted from the requirement of a tolerance when used in accordance with good agricultural practice as inert ingredients in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest:

Inert ingredients	Limits	Uses
Acetic acid	----------	Catalyst.
Acetone	----------	Solvent, cosolvent.
Alkyl(C_8-C_{24}) benzenesulfonic acid and its ammonium, calcium, magnesium, potassium, sodium, and zinc salts.	----------	Surfactants, related adjuvants of surfactants.
α-Alkyl(C_{10}-C_{16})-omega-hydroxypoly(oxyethylene); the poly (oxyethylene) content averages 3-20 moles.	----------	Do.
α-Alkyl(C_{12}-C_{15})-omega-hydroxypoly(oxyethylene) sulfate, ammonium, calcium, magnesium, potassium, sodium, and zinc salts; the poly-(oxyethylene) content averages 3 moles.	----------	Do.
α-(p-Alkylphenyl)-omega-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of alkylphenol (alkyl is a mixture of propylene tetramer and pentamer isomers and averages C_{12}) with 6 moles of ethylene oxide.	----------	Do.
Alkyl(C_8-C_{18}) sulfate, ammonium, calcium, magnesium, potassium, sodium, and zinc salts.	----------	Do.
Ammonium bicarbonate.	----------	Surfactant, suspending agent, dispersing agent.
Ammonium chloride.	----------	Intensifier when used with ammonium nitrate as desiccant or defoliant.
Ammonium hydroxide.	----------	Solvent, cosolvent, neutralizer, solubilizing agent.
Ammonium stearate	----------	Surfactant.
Ammonium thiosulfate.	----------	Intensifier when used with ammonium nitrate as desiccant or defoliant.
Amyl acetate	----------	Solvent, cosolvent, attractant.
Animal glue	----------	Surfactant, adhesive.
Apple pomace	----------	Solid diluent, carrier.
Attapulgite-type clay.	----------	Solid diluent, carrier, thickener.
Bentonite	----------	Solid diluent carrier.
Benzoic acid	----------	Preservative for formulation.
α-Butyl-omega-hydroxypoly (oxypropylene) block polymer with poly-(oxyethylene); molecular weight 2,400-3,500.	----------	Surfactants, related adjuvants of surfactants.
Calcareous shale	----------	Solid diluent, carrier.

Inert ingredients	Limits	Uses
Calcite	----------	Solid diluent, carrier.
Calcium carbonate	----------	Do.
Guar gum	----------	Surfactants, related adjuvants of surfactants.
α-(p-Nonylphenyl)-omega-hydroxypoly(oxyethylene)	----------	Surfactants, related adjuvants of surfactants.

Inert ingredients	Limits	Uses
Poly(vinylpyrrolidone); molecular weight 40,000 or	----------	Surfactants, related adjuvants of surfactants.
Sorbitan fatty acid esters (fatty acids limited to C_{12}, C_{14}, C_{16}, and C_{18}	----------	Surfactants, related adjuvants of surfactants.
Trisodium phosphate.	----------	Surfactant, emulsifier, wetting agent.
Urea	----------	Stabilizer, inhibitor.
Vermiculite	----------	Solid diluent, carrier.
Walnut shells	----------	Do.

Inert ingredients	Limits	Uses
Calcite		Solid diluent, carrier.
Calcium carbonate		Do.
Calcium hydroxide		Solid diluent.
Calcium oxide		Do.
Calcium silicate		Solid diluent, carrier
Calcium stearate		Do.
Casein		Surfactant, emulsifier, wetting agent.
Castor oil, polyoxyethylated; the poly(oxyethylene) content averages 40 moles.		Surfactants, related adjuvants of surfactants.
Citric acid		Sequestrant.
Cocoa shells		Solid diluent, carrier.
Coconut oil		Surfactant, emulsifier, wetting agent.
Coffee grounds		Solid diluent, carrier.
		Do.
Corn cobs		Do.
Cornstarch		Do.
Cottonseed oil		Sefener.
Dextrin		Surfactant, suspending agent, dispersing agent.
		Solid diluent, carrier.
Dextrose		Do.
Diatomite (diatomaceous earth).		Propellant.
Dichlorodifluoromethane.		Do.
Dichlorotetrafluoroethane.		
Diethylene glycol abietate.		Surfactants, related adjuvants of surfactants.
Dipropylene glycol		Solvent, cosolvent.
Disodium phosphate.		Antiasking agent, conditioning agent.
α-(p-Dodecylphenyl)-ω-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of dodecylphenol (dodecy group is a propylene tetramer isomer) with an average of 6-16 or 30-70 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 6-16 or 30-70.		Surfactants, related adjuvants of surfactants.
Dolomite		Solid diluent, carrier.
Epoxidised linseed oil.		Surfactants, related adjuvants of surfactants.
Epoxidised soybean oil.		Do.
Ethyl acetate		Solvent, cosolvent.
Ethylenediaminetetraacetic acid.	8% of pesticide formulation.	Sequestrant.
Ethylenediaminetetraacetic acid, tetrasodium salt.	8% of pesticide formulation.	Do.
Glycerol		Solvent, cosolvent.
Granite		Solid diluent, carrier.
Guar gum		Surfactants, related adjuvants of surfactants.
Gum arabic (acacia)		Surfactant, suspending agent, dispersing agent.
Gypsum		Solid diluent, carrier.
Hydrochloric acid		Solvent; neutraliser.
α-Hydro-ω-hydroxypoly(oxyethylene); molecular weight 200-9,500 (as defined in § 121.2513 of this chapter).		Surfactants, related adjuvants of surfactants.
α-Hydro-ω-hydroxypoly(oxypropylene); molecular weight 4,000.		Do.
Hydroxyethyl cellulose		Do.
Iron oxide		Solid diluent, carrier.
Kaolinite-type clay		Do.
Lauryl alcohol		Surfactant.
α-Lauryl-ω-hydroxypoly(oxyethylene) sulfate, sodium salt; the poly(oxyethylene) content is 2-4 moles.		Surfactants, related adjuvants of surfactants.
Licorice root		
Lignosulfonate, ammonium, calcium, magnesium, potassium, sodium, and zinc salts.		Surfactants, related adjuvants of surfactants.
Magnesium carbonate.		Antiasking agent, conditioning agent.
Magnesium chloride.		Sefener.
Magnesium lime		Solid diluent, carrier.
Magnesium silicate		Do.
Magnesium sulfate		Solid diluent, carrier, sefener.
Methylcellulose		Thickener.
Methyl chloride		Propellant.
Methyl ester of rosin, partially hydrogenated (as defined in § 121.1049).		Surfactants, related adjuvants of surfactants.
Mica		Solid diluent, carrier.
Molasses		Attractant.
Montmorillonite-type clay.		Solid diluent, carrier
α-(p-Nonylphenyl)-ω-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of nonylphenol (nonyl group is a propylene trimer isomer) with an average of 4-14 or 30-50 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 4-14 or 30-50.		Surfactants, related adjuvants of surfactants.
α-(p-Nonylphenyl)-ω-hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4-14 moles.		Surfactants, related adjuvants of surfactants.
α-(p-Octylphenyl)-ω-hydroxypoly(oxyethylene) sulfate, ammonium, calcium, magnesium, potassium, sodium, and zinc salts; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4 moles.		Do.
α-cis-9-Octadecenyl-ω-hydroxypoly(oxyethylene); the octadecenyl group is derived from oleyl alcohol and the poly(oxyethylene) content averages 20 moles.		
Oleic acid		Diluent.
Oleic acid diester of α-hydro-ω-hydroxypoly(oxyethylene); the poly(oxyethylene) having average molecular weight 400.		Surfactants, related adjuvants of surfactants.
Orange pomace		Solid diluent, carrier.
Peanut shells		Do.
Petroleum hydrocarbons, light odorless conforming to § 121.1158 of this chapter.		Solvent, diluent.
Petroleum hydrocarbons, synthetic isoparaffinic, conforming to § 121.1154 of this chapter.		Do.
Phosphoric acid		Buffer.
Phosphorus oxychloride.		Catalyst.
β-Pinene polymers		Surfactants related adjuvants, of surfactants.
Polyglyceryl phthalate ester of coconut oil fatty acids.		Do.
Poly(oxypropylene) block polymer with poly(oxyethylene); molecular weight 1,500-9,000.		Do.

Inert ingredients	Limits	Uses
Poly(vinylpyrrolidone); molecular weight 40,000 or over.		Surfactants, related adjuvants of surfactants.
Potassium aluminum silicate.		Solid diluent, carrier.
Potassium hydroxide		Neutralizer.
Propylene glycol		Solvent, cosolvent.
Pyrophyllite		Solid diluent, carrier.
Rice bran		Do.
Resin, partially dimerized (as defined in § 121.1050).		Surfactants, related adjuvants of surfactants.
Resin, partially hydrogenated (as defined in § 121.1059).		Do.
Resin, wood		Do.
Silica, hydrated silica		Solid diluent, carrier.
Soap (sodium or potassium salts of fatty acids).		Surfactant, emulsifier, wetting agent.
Soapstone		Solid diluent.
Sodium acetate		Buffer.
Sodium acid pyrophosphate.		Surfactant, suspending agent, dispersing agent, buffer.
Sodium aluminum silicate.		Solid diluent, carrier.
Sodium benzoate		Antiasking agent.
Sodium carboxymethylcellulose.		Surfactants, related adjuvants of surfactants.
Sodium dioctylsulfosuccinate.		Do.
Sodium hexametaphosphate.		Surfactant, emulsifier, wetting agent, suspending agent, dispersing agent, buffer.
Sodium hydroxide		Neutralizer.
Sodium *N*-lauroyl-*N*-methyltaurine.		Surfactants, related adjuvants of surfactants.
Sodium lauryl glyceryl ether sulfonate.		Do.
Sodium monoalkyl and dialkyl (C_7-C_{13}) phenoxybenzenedisulfonate mixtures containing not less than 70% of monoalkylated product.		Do.
Sodium *N*-oleoyl-*N*-methyltaurine.		Do.
Sodium oleyl sulfate.		Do.
Sodium *N*-palmitoyl-*N*-methyltaurine.		Do.
Sodium propionate.		Preservative for fermentation.
Sodium salt of sulfated oleic acid.		Surfactants, related adjuvants of surfactants.
Sodium silicate		Surfactant, emulsifier, wetting agent, stabilizer, inhibitor.
Sodium sulfate		Solid diluent, carrier.
Sodium tripolyphosphate.		Buffer, surfactant, suspending agent, dispersing agent, antiasking agent, conditioning agent.
Sorbitan fatty acid esters (fatty acids limited to C_{12}, C_{14}, C_{16}, and C_{18} containing minor amounts of associated fatty acids) and their poly(oxyethylene) derivatives; the poly(oxyethylene) content averages 20 moles.		Surfactants, related adjuvants of surfactants.
Sorbitol		Antidusting agent.
Soybean flour		Surfactant.
α-Stearoyl-ω-hydroxypoly(oxyethylene); the poly(oxyethylene) content averages either 8 moles or 40 moles; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be either 8 or 40.		Surfactants, related adjuvants of surfactants.
Sucrose		Solid diluent carrier, sefener.
Talc		Solid diluent, carrier
Tall oil; fatty acids not less than 56 percent, rosin acids not more than 44 percent, unsaponifiables not more than 8 percent.		Surfactants, related adjuvants of surfactants.
α-[p-(1,1,3,3-Tetramethylbutyl) phenyl]-ω-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of p-(1,1,3,3-tetramethylbutyl) phenol with an average of 4-14 or 30-70 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product that is a component of the blend shall be in the range of 4-14 or 30-70.		Do.
Tetrasodium pyrophosphate.		Antiasking agent, conditioning agent.
Trisodium phosphate.		Surfactant, suspending agent, dispersing agent, antiasking agent, conditioning agent.
Trichlorofluoromethane.		Propellant.
Trisodium phosphate.		Surfactant, emulsifier, wetting agent.
Urea		Stabilizer, inhibitor.
Vermiculite		Solid diluent, carrier.
Walnut shells		Do.
Wheat bran		Do.
Zeolite (hydrated alkali aluminum silicate).		Do.

(d) The following materials are exempted from the requirement of a tolerance when used in accordance with good agricultural practice as inert ingredients in pesticide formulations applied to growing crops only:

Inert ingredients	Limits	Uses
α-Alkyl(C_{12}-C_{15})-ω-hydroxypoly(oxyethylene) mixture of dihydrogen phosphate and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium, and zinc salts of the phosphate esters; the poly(oxyethylene) content averages 3-10 moles.		Surfactants, related adjuvants of surfactants.
Amine salts of alkyl (C_6-C_{18}) benzenesulfonic acid (butylamine, dimethylaminopropylamine, mono- and dipropylamine, mono-, di-, and triethanolamine).		Do.
Benzene		Solvent, cosolvent.
N,N-Bis(2-hydroxyethyl) alkylamine, where the alkyl groups (C_{14}-C_{18}) are derived from tallow.		Surfactants, related adjuvants of surfactants.
Butoxytriethylene-glycol phosphate		Surfactant for arsenical herbicide formulations only.
n-Butyl alcohol		Solvent, cosolvent.
Butoxytriethylene-glycol phosphate.		Surfactant for arsenical herbicide formulations only.
Chlorobenzene	Contains not more than 1% impurities. Not for use after edible parts of plant begin to form. Do not graze livestock in treated areas within 48 hours after application.	Do.

Inert ingredients	Limits	Uses
Cyclohexane		Do.
Cyclohexanone		Do.

§ 180.1002 Allethrin (allyl homolog of cinerin I); exemption from the requirement of a tolerance.

The insecticide allethrin is exempted

§ 180.1010 Methylene chloride; exemption from the requirement of a tolerance.

The insecticide methylene chloride is

oats, popcorn, rice, rye, grain sorghum (milo), wheat.

§ 180.1014 Pentane; exemption from the requirement of a tolerance.

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health,

ulations to repeal provisions for certification of demeclocycline hydrochloride topical ointment. The order amended Parts 141c and 146c by revoking §§ 141c.258 and 146c.258.

Inert ingredients	Limits	Use
Cyclohexane		Do.
Cyclohexanone		Do.
A-(Di-sec-butyl)-phenyl-poly-(oxypropylene) block polymer with poly(oxyethylene); the poly(oxypropylene) content averages 4 moles, the poly-(oxyethylene) content averages 5 to 12 moles, the molecular weight averages 600 to 968.		Surfactants, related adjuvants of surfactants.
Dioxane		Solvent, cosolvent.
Ethylene dichloride (1,2-dichloroethane)		Do.
Ethylene glycol monobutyl ether.		Do.
Ethyl methacrylate.		Surfactants, related adjuvants of surfactants.
Formaldehyde	Not more than 1% of pesticide formulation.	Preservative for formulation.
Hexane (including isomeric hexanes).		Solvent, cosolvent.
Isopropyl alcohol		Solvent, cosolvent, stabilizer, inhibitor.
Methyl alcohol		Solvent, cosolvent.
Methyl ethyl ketone.		Do.
Methyl isobutyl ketone.		Do.
Methylene chloride (dichloromethane).		Do.
Methyl methacrylate.		Surfactants, related adjuvants of surfactants.
Morpholine salt of dodecylbenzenesulfonic acid.		Do.
Naphthalenesulfonic acid-formaldehyde condensate and its sodium salt.		
Paraformaldehyde	Not more than 1% of pesticide formulation as formaldehyde.	Preservative for formulation.
Polyoxyethylated sorbitol fatty acid esters; the polyoxyethylated sorbitol solution containing 15 percent water is reacted with fatty acids limited to C_{16}, C_{18}, C_{18}, and C_{18} containing minor amounts of associated fatty acids; the poly-(oxyethylene) content averages 30 moles.		Surfactants, related adjuvants of surfactants.
Sodium butyl naphthalenesulfonate.		Do.
Sodium mono- and dimethylnaphthalenesulfonate; molecular weight 245-260.		Do.
Sodium mono-, di-, and triisopropylnaphthalenesulfonate.		Do.
Sodium salt of partially or completely saponified dark wood rosin (as defined in § 121.2520(a)(1)(v).		Do.
Tetrasodium N-(1,2-dicarboxyethyl)-N-octadecylsulfosuccinamate.		
Toluene		Solvent, cosolvent.
Xylene		Do.

§ 180.1002 Allethrin (allyl homolog of cinerin I); exemption from the requirement of a tolerance.

The insecticide allethrin is exempted from the requirement of a tolerance for residues when used before harvest in the production of apples, beans, broccoli, brussels sprouts, cabbage, cauliflower, citrus, collards, horseradish, kale, kohlrabi, lettuce, mushrooms, mustard greens, peaches, pears, peppers, radishes, rutabagas, tomatoes, and turnips.

§ 180.1003 Ammonia; exemption from the requirement of a tolerance.

The fungicide ammonia is exempted from the requirement of a tolerance when used after harvest on the raw agricultural commodities grapefruit, lemons, and oranges.

§ 180.1004 Carbon disulfide; exemption from the requirement of a tolerance.

The insecticide carbon disulfide is exempted from the requirement of a tolerance for residues, when used as a fumigant after harvest for the following grains: Barley, corn, oats, popcorn, rice, rye, sorghum (milo), wheat.

§ 180.1005 Carbon tetrachloride; exemption from the requirement of a tolerance.

The insecticide carbon tetrachloride is exempted from the requirement of a tolerance for residues, when used as a fumigant after harvest for the following grains: Barley, corn, oats, popcorn, rice, rye, sorghum (milo), wheat.

§ 180.1006 Organic bromide residues from ethylene dibromide; exemption from the requirement of a tolerance.

The organic bromide residues are exempted from the requirement of a tolerance for residues when the insecticide ethylene dibromide is used as a fumigant after harvest for the following grains: Barley, corn, oats, popcorn, rice, rye, sorghum (milo), wheat.

§ 180.1007 Ethylene dichloride; exemption from the requirement of a tolerance.

The insecticide ethylene dichloride is exempted from the requirement of a tolerance for residues, when used as a fumigant after harvest for the following grains: Barley, corn, oats, popcorn, rice, rye, sorghum (milo), wheat.

§ 180.1008 Chloropicrin; exemption from the requirement of a tolerance.

The insecticide chloropicrin is exempted from the requirement of a tolerance for residues when used as a fumigant after harvest for the following grains: Barley, buckwheat, corn (including popcorn), oats, rice, rye; grain sorghum, wheat.

§ 180.1009 Chloroform; exemption from the requirement of a tolerance.

The insecticide chloroform is exempted from the requirement of a tolerance for residues, when used as a fumigant after harvest for the following grains: Barley, corn, oats, popcorn, rice, rye, sorghum (milo), wheat.

§ 180.1010 Methylene chloride; exemption from the requirement of a tolerance.

The insecticide methylene chloride is exempted from the requirement of a tolerance for residues when used as a fumigant after harvest for the following grains:

Barley, corn, oats, popcorn, rice, rye, sorghum (milo), wheat.

When used in the postharvest fumigation of citrus fruits.

§ 180.1011 Viable spores of the microorganism *Bacillus thuringiensis* Berliner; exemption from the requirement of a tolerance.

(a) For the purposes of this section the microbial insecticide for which exemption from the requirement of a tolerance is being established shall have the following specifications:

(1) The microorganism shall be an authentic strain of *Bacillus thuringiensis* Berliner conforming to the morphological and biochemical characteristics of *Bacillus thuringiensis* as described in Bergey's Manual of Determinative Bacteriology, Seventh Edition.

(2) Spore preparations of *Bacillus thuringiensis* Berliner shall be produced by pure culture fermentation procedures with adequate control measures during production to detect any changes from the characteristics of the parent strain or contamination by other microorganisms.

(3) Each lot of spore preparation, prior to the addition of other materials, shall be tested by subcutaneous injection of at least 1 million spores into each of five laboratory test mice weighing 17 grams to 23 grams. Such test shall show no evidence of infection or injury in the test animals when observed for 7 days following injection.

(b) Exemption from the requirement of a tolerance is established for residues of the microbial insecticide *Bacillus thuringiensis* Berliner, as specified in paragraph (a) of this section, in or on the following raw agricultural commodities: Alfalfa, apples, artichokes, bananas, beans, broccoli, cabbage, cauliflower, celery, collards, cottonseed, cucumbers, eggplants, grapes, kale, lettuce, melons, mustard greens, oranges, potatoes, spinach, strawberries, sweet corn, tomatoes, and turnip greens.

§ 180.1012 1,1,1-Trichloroethane; exemption from the requirement of a tolerance.

The fungicide 1,1,1-trichloroethane is exempted from the requirement of a tolerance for residues when used in the postharvest fumigation of citrus fruits.

§ 180.1013 Sulfur dioxide from use in fumigants for stored grains; exemption from the requirement of a tolerance.

Residues from the use of sulfur dioxide in liquid grain-fumigant formulations for marker or fire-retardant purposes at levels not exceeding 5 percent by weight of such formulations are exempted from the requirement of a tolerance in or on barley, buckwheat, corn, oats, popcorn, rice, rye, grain sorghum (milo), wheat.

§ 180.1014 Pentane; exemption from the requirement of a tolerance.

Pentane is exempted from the requirement of a tolerance for residues when used in accordance with good commercial practice as an adjuvant in liquid grain fumigants for the fumigation of the following grains: Barley, corn, oats, popcorn, rice, rye, sorghum (milo), wheat.

§ 180.1015 Sodium propionate; exemption from the requirement of a tolerance.

Sodium propionate is exempted from the requirement of a tolerance for residues when used as follows:

(a) As a fungicide in the production of garlic.

(b) For postharvest application as a preservative on salad greens and vegetables intended for consumption as salads.

§ 180.1016 Ethylene; exemption from the requirement of a tolerance.

Ethylene is exempted from the requirement of a tolerance for residues when used as a plant regulator on fruit and vegetable crops in conformity with good agricultural practice, before or after harvest.

§ 180.1017 Diatomaceous earth; exemption from the requirement of a tolerance.

Diatomaceous earth is exempted from the requirement of a tolerance for residues when used against insect pests in accordance with good agricultural practice on stored beans, peas, soybeans, and on the stored grains barley, buckwheat, corn, oats, rice, rye, sorghum (milo), wheat.

§ 180.1018 Ammonium nitrate; exemption from the requirement of a tolerance.

Ammonium nitrate is exempted from the requirement of a tolerance when used as a desiccant or defoliant in the production of cottonseed, grain sorghum, peppers, potatoes, sweetpotatoes.

§ 180.1019 Sulfuric acid; exemption from the requirement of a tolerance.

Sulfuric acid is exempted from the requirement of a tolerance for residues when used in accordance with good agricultural practice as a herbicide in the production of garlic and onions.

§ 180.1020 Sodium chlorate; exemption from the requirement of a tolerance.

Sodium chlorate is exempted from the requirement of a tolerance for residues in or on cottonseed when used in accordance with good agricultural practice as a defoliant, desiccant, or fungicide in cotton production.

SUBCHAPTER F—RADIATION PROGRAMS [RESERVED]

SUBCHAPTER G—NOISE ABATEMENT PROGRAMS [RESERVED]

[FR Doc.71-17201 Filed 11-24-71;8:45 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

[DESI 60105]

PART 141a—PENICILLIN AND PENICILLIN-CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

Order Revoking Provisions for Certification of Penicillin for Inhalation; Confirmation of Effective Date

An order was published in the FEDERAL REGISTER of September 3, 1971 (36 F.R. 17644), amending the antibiotic drug regulations to repeal provisions for certification of penicillin for inhalation. The order amended Parts 141a and 146a by revoking §§ 141a.28 and 146a.46 and all antibiotic certificates issued thereunder.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050–51, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections were filed to the above-identified order. Accordingly, the amendments promulgated thereby became effective October 13, 1971.

Firms affected by the order will be allowed 30 days after publication hereof in the FEDERAL REGISTER to recall outstanding stocks of the affected drugs. Certification of new stocks has been discontinued.

Dated: November 10, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-17224 Filed 11-24-71;8:56 am]

[DESI 50260]

PART 141c—CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-)CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

PART 146c—CERTIFICATION OF CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-)CONTAINING DRUGS

Repeal of Provisions for Certification of Demeclocycline Hydrochloride Topical Ointment; Confirmation of Effective Date

An order was published in the FEDERAL REGISTER of September 3, 1971 (36 F.R. 17645) amending the antibiotic drug regulations to repeal provisions for certification of demeclocycline hydrochloride topical ointment. The order amended Parts 141c and 146c by revoking §§ 141c.258 and 146c.258.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050–51, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner (21 CFR 2.120), notice is given that no objections were filed to the above-identified order. Accordingly the amendments promulgated thereby became effective October 13, 1971. Certification of new stocks has been discontinued.

Dated: November 10, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-17222 Filed 11-24-71;8:55 am]

[DESI 50277]

PART 141c—CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-)CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

PART 146c—CERTIFICATION OF CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-)CONTAINING DRUGS

Revocation of Provisions for Certification of a Combination Drug Containing Tetracycline With Vasoconstrictor and Hydrocortisone; Confirmation of Effective Date

An order was published in the FEDERAL REGISTER of August 6, 1971 (36 F.R. 14470), amending the antibiotic drug regulations to repeal provisions for certification of a combination drug containing tetracycline with vasoconstrictor and hydrocortisone. The order amended Parts 141c and 146c by revoking §§141c.226 and 146c.226.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (Secs. 502, 507, 52 Stat. 1050–51, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections were filed to the above-identified order. Accordingly the amendments promulgated thereby became effective September 15, 1971.

Firms affected by the order will be allowed 30 days after publication hereof in the FEDERAL REGISTER to recall outstanding stocks of the affected drugs. Certification of new stocks has been discontinued.

Dated: November 10, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-17223 Filed 11-24-71;8:56 am]

Chapter III—Environmental Protection Agency

REDESIGNATION AND

U.S.C.; and delegations of authority at 49 CFR 1.48, 1.51, 36 F.R. 6570–71)

In consideration of the foregoing, 23 CFR 204.4 is amended as follows, effec-

concepts in applying control devices and in the modification of existing devices to improve their effectiveness through controlled experimentation.

D. An implementation schedule to

§ 40.735–16 Military Assistance Program.

(a) Any retired member of the Armed Forces of the United States whose last active duty assignment was in a Military

from serving in Vietnam (as defined in § 49.3(b)) or other designated hostile fire areas, or, if serving in Vietnam or other designated hostile fire areas, be reassigned therefrom.

§ 52.4 Policy.

(a) *Sole surviving sons.* • • •

(2) *Discharges.* (i) Enlisted personnel who become sole surviving sons subsequent to enlistment or induction may

Chapter III—Environmental Protection Agency

REDESIGNATION AND REPUBLICATION

CROSS REFERENCE: For a document, affecting the changes described above, see Title 40, F.R. Doc. 71-17201, appearing in this issue.

Title 23—HIGHWAYS AND VEHICLES

Chapter II—Highway Safety Program Standards, Department of Transportation

PART 204—UNIFORM STANDARDS FOR STATE HIGHWAY SAFETY PROGRAMS

Revision of Standard and Miscellaneous Amendments

The Highway Safety Act of 1970 (Public Law 91-605) effected a legislative reorganization of those organizations within the Department of Transportation charged with the duty of carrying out the responsibilities of the Secretary of Transportation which are related to motor vehicle and traffic safety. Section 202 (a) and (b) of the Act abolished the National Highway Safety Bureau and established as its successor the National Highway Traffic Safety Administration as a separate operating administration within the Department of Transportation. The Act authorizes the Secretary to carry out through the Federal Highway Administration those provisions of the Highway Safety Act of 1966 for highway safety programs, research, and development relating to highway design, construction and maintenance, traffic control devices, identification and surveillance of accident locations, and highway-related aspects of pedestrian safety.

Highway Safety Program Standard No. 13, which is presently entitled "Traffic Control Devices", deals only slightly with traffic engineering services. Administration of the highway safety program has revealed a need to revise this standard to give greater emphasis to the importance of traffic engineering services in reducing the likelihood and severity of traffic accidents.

The purpose of these amendments is to retitle and revise Standard No. 13, and to reflect the division of responsibility relating to the administration of highway safety programs. In those highway safety program standards administered by the Federal Highway Administration, each reference to the National Highway Safety Bureau is therefore changed to "Federal Highway Administration." In addition, Standard No. 14, Pedestrian Safety, is amended to reflect the fact that this standard is jointly administered.

(Sec. 202, Highway Safety Act of 1970, Public Law 91-605, secs. 315, 401, and 402, Title 23, U.S.C.; and delegations of authority at 49 CFR 1.48, 1.51, 36 F.R. 8670-71)

In consideration of the foregoing, 23 CFR 204.4 is amended as follows, effective upon publication in the FEDERAL REGISTER (11-25-71).

1. By amending the chapter heading of Chapter II to read as set forth above.

§ 204.4 [Amended]

2. Paragraph II of Highway Safety Program Standard No. 9 and paragraph II of Standard No. 12 are amended by changing the words "National Highway Safety Bureau" to "Federal Highway Administration".

3. Paragraph VII of Highway Safety Program Standard No. 14 is amended to read as follows:

"VII. This program shall be periodically evaluated by the States, and the National Highway Traffic Safety Administration and the Federal Highway Administration shall be provided with an evaluation summary."

4. Highway Safety Program Standard No. 13 is revised to read as follows:

HIGHWAY SAFETY PROGRAM STANDARD No. 13

TRAFFIC ENGINEERING SERVICES

Each State, in cooperation with its political subdivisions, and each Federal department or agency which controls highways open to public travel or supervises traffic operations, shall have a program for applying traffic engineering measures and techniques, including the use of traffic control devices, to reduce the number and severity of traffic accidents.

I. The program as a minimum shall consist of:

A. A comprehensive manpower development plan to provide the necessary traffic engineering capability, including:

1. Provisions for supplying traffic engineering assistance to those jurisdictions unable to justify a full-time traffic engineering staff.

2. Provisions for upgrading the skills of practicing traffic engineers, and providing basic instruction in traffic engineering techniques to subprofessionals and technicians.

B. Utilization of traffic engineering principles and expertise in the planning, design, construction, and maintenance of the public roadways, and in the application of traffic control devices.

C. A traffic control devices plan including:

1. An inventory of all traffic control devices.

2. Periodic review of existing traffic control devices, including a systematic upgrading of substandard devices to conform with standards issued or endorsed by the Federal Highway Administrator.

3. A maintenance schedule adequate to insure proper operation and timely repair of control devices, including daytime and nighttime inspections.

4. Where appropriate, the application and evaluation of new ideas and concepts in applying control devices and in the modification of existing devices to improve their effectiveness through controlled experimentation.

D. An implementation schedule to utilize traffic engineering manpower to:

1. Review road projects during the planning, design, and construction stages to detect and correct features that may lead to operational safety difficulties.

2. Install safety-related improvements as a part of routine maintenance and/or repair activities.

3. Correct conditions noted during routine operational surveillance of the roadway system to rapidly adjust for the changes in traffic and road characteristics as a means of reducing accident frequency or severity.

4. Conduct traffic engineering analyses of all high accident locations and development of corrective measures.

5. Analyze potentially hazardous locations, such as sharp curves, steep grades, and railroad grade crossings and develop appropriate countermeasures.

6. Identify traffic control needs and determine short and long range requirements.

7. Evaluate the effectiveness of specific traffic control measures in reducing the frequency and severity of traffic accidents.

8. Conduct traffic engineering studies to establish traffic regulations such as fixed or variable speed limits.

II. This Program shall be periodically evaluated by the State, or appropriate Federal department or agency where applicable, and the Federal Highway Administration shall be provided with an evaluation summary.

Issued in Washington, D.C., on November 19, 1971.

DOUGLAS W. TOMS,
National Highway Traffic Safety Administrator.

F. C. TURNER,
Federal Highway Administrator.

[FR Doc.71-17246 Filed 11-24-71;8:52 am]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER R—PERSONNEL, MILITARY AND CIVILIAN

PART 40—STANDARDS OF CONDUCT

Military Assistance Program

The following amendments to Part 40 have been authorized:

Paragraph (c) of § 40.735-5 has been amended and a new § 40.735-16 has been added as follows:

§ 40.735-5 Gratuities.

• • • • • •

(c) Procedures with respect to Reserve Officer Training Corps Staff members are set forth in Part 92 of this subchapter.

§ 40.735-16 Military Assistance Program.

(a) Any retired member of the Armed Forces of the United States whose last active duty assignment was in a Military Assistance Advisory Group (as that term is defined in DOD Directive 5105.38, "Defense Security Assistance Agency (DSAA)," August 11, 1971 [1] shall not accept employment for a 3-year period after the termination of such duty with the foreign government of the country where such duty was performed, except with the approval of the Secretary of the appropriate military department. This prohibition shall also apply to employment by a United States or foreign firm under contract with that foreign government if such employment involves the furnishing of personal services by such retiree directly to that foreign government.

(b) Procedures applicable to the above-listed retired members with respect to gifts and decorations from foreign governments are set forth in DOD Directive 1005.3, "Decorations and Gifts from Foreign Governments," September 16, 1967.[1]

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Comptroller).

[FR Doc.71-17241 Filed 11-24-71;8:51 am]

PART 49—ASSIGNMENTS OF MILITARY PERSONNEL TO DUTY IN DESIGNATED HOSTILE FIRE AREAS

Policy and Responsibilities

Part 49 has been revised as follows:

Paragraph (a) of § 49.3 and paragraph (a) of § 49.4 have been amended as follows:

§ 49.3 Definitions.

• • • • • •

(a) Family members include a husband and wife, or the father, mother, sons and daughters, and all sisters and brothers as defined in Title 37, United States Code 501(a) (2), (3), and (4).

• • • • • •

§ 49.4 Policy and responsibilities.

(a) *General.* (1) Assignment to duty in a hostile fire area will be shared as equitably as practicable by all members of the Armed Forces, except under the following conditions:

(i) *All designated hostile fire areas* (a) *Family deaths or disability* (1) Where, as a result of serving in a designated hostile fire area, a member of a family is killed or dies or is determined by the Veterans Administration or one of the military services to be 100 percent physically or mentally disabled, and by virtue of such disability is hospitalized on a continuing basis and not gainfully employed, other members of the same family will, upon request, be exempt from serving in Vietnam (as defined in § 49.3(b)) or other designated hostile fire areas, or, if serving in Vietnam or other designated hostile fire areas, be reassigned therefrom.

(2) Family members will be similarly exempt, upon request, during a period in which another family member is in a captured or missing status.

(b) *Age limitations.* Military personnel who are under 18 years of age are not eligible for assignment to serve in a hostile fire area, but may be assigned to sea duty or to duty in other oversea areas.

(c) *Sole surviving sons.* Military personnel who are qualified sole surviving sons and who either have requested noncombat duty or have not waived a request submitted by a parent will be subject to the provisions of Part 52 of this subchapter.

(d) *Conscientious objectors.* The assignment of valid conscientious objectors shall be subject to the restrictions set forth in Part 75 of this subchapter.

(ii) *Vietnam only* (a) *Family service.* (1) Where one member of the Armed Forces is serving with a military unit in Vietnam, another member of the same family, upon his request, will be deferred from assignment to that country until completion of the first member's tour.

(2) Deferments are not authorized in those instances where a member is serving in Vietnam on temporary duty orders for a period of less than thirty (30) days.

(b) *Wounded personnel reassignment.* (1) Wounded personnel who have been hospitalized 30 or more days outside Vietnam due to a specific hostile fire action resulting from service in Vietnam will not be returned to such service during the tour in which they are wounded. Personnel reassigned under this policy will be eligible for subsequent Vietnam tours, if needed, as are other personnel who have been credited with a tour in Vietnam. Personnel will be permitted to volunteer to return to Vietnam if they are medically qualified.

(2) This provision does not apply to personnel hospitalized due to injury, accident, or illness not attributable to hostile fire action. This precludes consideration of cases such as self-inflicted wounds and other noncombat causes.

(3) All military personnel being processed for assignment to a designated hostile fire area will be specifically advised of the special assignment considerations for family members outlined in subparagraph (1) of this paragraph.

• • • • • •

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Comptroller).

[FR Doc.71-17242 Filed 11-24-71;8:51 am]

PART 52—SPECIAL ASSIGNMENT POLICIES FOR FAMILY MEMBERS

Sole Surviving Sons

Section 52.4(a)(2) (i) and (ii), and (3)(i) are amended to read as follows:

§ 52.4 Policy.

(a) *Sole surviving sons.* • • •

(2) *Discharges.* (i) Enlisted personnel who become sole surviving sons subsequent to enlistment or induction may apply for and be granted an administrative discharge, except where the individual qualifies as a sole surviving son on the basis of a captured or missing-in-action status of a father, brother or sister (§ 52.3(a)(3)) and as precluded by subparagraph (3)(ii) of this paragraph.

(ii) Enlisted personnel who qualify as sole surviving sons on the basis of the 100 percent disability status of a father, brother or sister (§ 52.3(a)(4)) which occurred either prior to or subsequent to induction or enlistment may apply for and be granted an administrative discharge (see subparagraph (3)(ii) of this paragraph for members who have waived their status, but shall be required to complete at least 6 months of active duty prior to discharge in order to qualify for a veteran's exemption under the provisions of 50 App. U.S.C. 456(b)(3)).

• • • • • •

(3) *Waivers.* (i) Where the parent(s) of a qualified sole surviving son request application on the protective assignment provisions of this policy on behalf of the member, the serviceman, himself, will be afforded the opportunity of waiving the parental request before a final determination is made.

MAURICE W. ROCHE,
Chief, Correspondence and Directives Division, OASD (Comptroller).

[FR Doc.71-17243 Filed 11-24-71;8:52 am]

PART 76—MOBILIZATION OF THE READY RESERVE

Applicability and Scope

Paragraph (d) of § 76.2 and paragraph (c) of § 76.3 have been amended as follows:

§ 76.2 Applicability and scope.

• • • • • •

(d) The provisions of this part do not abrogate the policies, guidance or responsibilities established by DOD Directive 3025.12 [1] and Part 185 of Subchapter G; however, whenever feasible and appropriate mobilization policies prescribed herein shall apply.

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§ 76.3 Definitions.

• • • • • •

(c) *Full mobilization.* Expansion of the active Armed Forces resulting from action by Congress and the President to mobilize all units in the existing approved force structure and all individual

[1] Filed as part of the original. Copies available from U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120, Attention: Code 300.

[1] Filed as part of the original. Copies available from U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA, Attention: Code 300

reservists, and the material resources needed for these units.

• • • • • •

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Comptroller).

[FR Doc.71-17244 Filed 11-24-71;8:52 am]

PART 108—SELECTIVE SERVICE SUSPENSION OF INDUCTIONS

Random Selection

Sec.
108.1 Purpose and applicability.
108.2 Policy.

AUTHORITY: The provisions of this Part 108 issued under sec. 6(a), 62 Stat. 613, as amended, 50 App. U.S.C. 456(a).

§ 108.1 Purpose and applicability.

This part implements the provisions of section 6(a) of the Military Selective Service Act, as amended, which prohibits the induction of persons into the Armed Forces of the United States except those who have been selected in a random manner.

§ 108.2 Policy.

(a) Random selection for induction into the Armed Forces of the United States shall be conducted in such a manner that each registrant who is subject to induction shall have the same chance of induction as every other registrant who is subject to induction.

(b) Random selection for induction into the Armed Forces of the United States shall be conducted in such a manner that each registrant who is subject to induction shall have the same chance of induction as every other registrant who is subject to induction.

(c) Random selection for induction into the Armed Forces of the United States shall be conducted in such a manner that each registrant who is subject to induction shall have the same chance of induction as every other registrant who is subject to induction.

(d) Random selection for induction into the Armed Forces of the United States shall be conducted in such a manner that each registrant who is subject to induction shall have the same chance of induction as every other registrant who is subject to induction.

(e) Random selection for induction into the Armed Forces of the United States shall be conducted in such a manner that each registrant who is subject to induction shall have the same chance of induction as every other registrant who is subject to induction.

(f) Random selection for induction into the Armed Forces of the United States shall be conducted in such a manner that each registrant who is subject to induction shall have the same chance of induction as every other registrant who is subject to induction.

(g) Random selection for induction into the Armed Forces of the United States shall be conducted in such a manner that each registrant who is subject to induction shall have the same chance of induction as every other registrant who is subject to induction.

(h) Random selection for induction into the Armed Forces of the United States shall be conducted in such a manner that each registrant who is subject to induction shall have the same chance of induction as every other registrant who is subject to induction.

(i) Random selection for induction into the Armed Forces of the United States shall be conducted in such a manner that each registrant who is subject to induction shall have the same chance of induction as every other registrant who is subject to induction.

(j) Random selection for induction into the Armed Forces of the United States shall be conducted in such a manner that each registrant who is subject to induction shall have the same chance of induction as every other registrant who is subject to induction.

(k) Random selection for induction into the Armed Forces of the United States shall be conducted in such a manner that each registrant who is subject to induction shall have the same chance of induction as every other registrant who is subject to induction.

(l) Random selection for induction into the Armed Forces of the United States shall be conducted in such a manner that each registrant who is subject to induction shall have the same chance of induction as every other registrant who is subject to induction.

(m) Random selection for induction into the Armed Forces of the United States shall be conducted in such a manner that each registrant who is subject to induction shall have the same chance of induction as every other registrant who is subject to induction.

(n) Random selection for induction into the Armed Forces of the United States shall be conducted in such a manner that each registrant who is subject to induction shall have the same chance of induction as every other registrant who is subject to induction.

(o) Random selection for induction into the Armed Forces of the United States shall be conducted in such a manner that each registrant who is subject to induction shall have the same chance of induction as every other registrant who is subject to induction.

(p) Random selection for induction into the Armed Forces of the United States shall be conducted in such a manner that each registrant who is subject to induction shall have the same chance of induction as every other registrant who is subject to induction.

(q) Random selection for induction into the Armed Forces of the United States shall be conducted in such a manner that each registrant who is subject to induction shall have the same chance of induction as every other registrant who is subject to induction.

(r) Random selection for induction into the Armed Forces of the United States shall be conducted in such a manner that each registrant who is subject to induction shall have the same chance of induction as every other registrant who is subject to induction.

(s) Random selection for induction into the Armed Forces of the United States shall be conducted in such a manner that each registrant who is subject to induction shall have the same chance of induction as every other registrant who is subject to induction.

(t) Random selection for induction into the Armed Forces of the United States shall be conducted in such a manner that each registrant who is subject to induction shall have the same chance of induction as every other registrant who is subject to induction.

(u) Random selection for induction into the Armed Forces of the United States shall be conducted in such a manner that each registrant who is subject to induction shall have the same chance of induction as every other registrant who is subject to induction.

(v) Random selection for induction into the Armed Forces of the United States shall be conducted in such a manner that each registrant who is subject to induction shall have the same chance of induction as every other registrant who is subject to induction.

(w) Random selection for induction into the Armed Forces of the United States shall be conducted in such a manner that each registrant who is subject to induction shall have the same chance of induction as every other registrant who is subject to induction.

(x) Random selection for induction into the Armed Forces of the United States shall be conducted in such a manner that each registrant who is subject to induction shall have the same chance of induction as every other registrant who is subject to induction.

(y) Random selection for induction into the Armed Forces of the United States shall be conducted in such a manner that each registrant who is subject to induction shall have the same chance of induction as every other registrant who is subject to induction.

(z) Random selection for induction into the Armed Forces of the United States shall be conducted in such a manner that each registrant who is subject to induction shall have the same chance of induction as every other registrant who is subject to induction.

such requests are subject to the following requirements:

(1) Certification of the obligation is made by the employer, sponsor, or recognized church body as appropriate.

PART 14-1—GENERAL

Subpart 14-1.4—Procurement Responsibility and Authority

[Revised]

to the one given below, containing, as a minimum, those requirements set forth therein. Additional safety requirements may be added to cover special circumstances.

reservists, and the material resources needed for these units.

* * * * *

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Comptroller).

[FR Doc.71-17244 Filed 11-24-71;8:52 am]

PART 89—CIVILIAN PAY ALLOTMENTS

Allotments for Foreign Nationals

1. Paragraphs (a)(2), (c) and (e)(8) of § 89.3 have been revised as follows:

§ 89.3 Policy.

(a) * * *

(2) Allotments for purposes described in paragraph (e) (7), (8), and (9) of this section may be made by DOD employees who meet the eligibility requirements specified in Treasury Fiscal Requirements Manual for Guidance of Departments and Agencies (Part III, Chapter 4000), DOD Directive 1426.1,[1] DOD Directive 5035.1, "Fund-Raising within DOD," and DOD Instruction 5035.5, "DOD Overseas Combined Federal Fund-Raising Campaign".

* * * * *

(c) *Allotments for foreign nationals.* Foreign nationals employed by DOD and working outside of their own country on assignments of three or more months' duration may be permitted to make allotments for any of the purposes authorized in paragraph (e) of this section, providing all other provisions of this part are observed. Foreign nationals employed by DOD to work in their own countries, or in the Canal Zone, may be permitted to make allotments for the purposes shown in paragraph (e) (5) and (8) of this section and to pay premiums on group health benefits and group life insurance. In addition, foreign nationals may be permitted to make other allotments from pay when based on local customs and practices or pursuant to treaties or country-to-country agreements.

* * * * *

(e) *Purpose of allotment.* * * *

(8) Payment of employee organization dues as authorized by DOD Directive 1426.1.[2]

* * * * *

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Comptroller).

[FR Doc.71-17240 Filed 11-24-71;8:51 am]

[DOD Directive 1205.14] [3]

PART 103—ENLISTMENT, APPOINTMENT, AND ASSIGNMENT OF INDIVIDUALS IN RESERVE COMPONENTS

OCTOBER 19, 1971.

The Deputy Secretary of Defense approved the following revision to Part 103:

[1] Filed as part of original.

[2] Filed as part of original. Copies available from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120, Attention: Code 300.

Sec.
103.1 Purpose and applicability.
103.2 Policy.

AUTHORITY: The provisions of this Part 103 issued under 10 U.S.C. 510, 10 U.S.C. 511; sec. 301, 80 Stat. 379; 5 U.S.C. 301.

§ 103.1 Purpose and applicability.

This part provides standards, procedures, and priority guidelines for enlistment, assignment or appointment of individuals in units of the Reserve Components of the Military Departments.

§ 103.2 Policy.

(a) Physical and mental standards for male personnel enlisted in the basic enlistment pay grade will not be higher than those prescribed by the Military Selective Service Act of 1967, or DOD Directive 1145.1, "Qualitative Distribution of Military Manpower," September 13, 1967,[1] which establish minimum standards for acceptability into the regular services. Higher physical and mental standards may be specified by the appropriate Secretary of a Military Department for initial enlistment in a grade higher than the basic enlistment pay grade or for enlistment in a program leading to a commission.

(b) The appropriate Secretary shall, except as otherwise provided by law, prescribe physical, mental, moral, academic attainment, professional and age qualifications for appointment of reserve members of the Armed Forces of the United States.

(c) The enlistment of individuals under the provisions of section 511(a) or 511(d) of title 10, United States Code, and the assignment of applicants to units of the Ready Reserve shall normally be in accordance with the order of priorities listed below. Applicants in categories (1) through (6) may be enlisted without regard to their date of application. Nonprior service applicants in category (7) who are accepted on reserve unit enlistment waiting lists will be retained in their original priority. However, exceptions to these policies may be made when, in the best judgment of those responsible for the procurement of reserve personnel, an applicant's prior military service or significant civilian training or experience in the occupational skill concerned is considered to warrant it. In such cases, notation as to the basis of the exception shall be made in the individual's service record.

(1) Members of the Selected Reserve who desire to reenlist.

(2) Members of Selected Reserve units applying for transfer from another locality.

(3) Members of the Selected Reserve who were relieved from assignment to units due to reorganization, inactivation, or relocation of their units.

(4) Members of the Ready Reserve Pool.

(5) Prior service applicants.

(6) Nonprior service individuals who have not undergone random selection for induction (includes all qualified female nonprior service applicants), or who have undergone random selection for induction and have passed through their full year of vulnerability without induction.

(7) Nonprior service individuals who have undergone random selection for induction but have not yet passed through their full year of vulnerability.

(d) In conjunction with the policies in paragraph (c) of this section, the Secretaries of the Military Departments will require their Reserve Components to actively recruit qualified individuals of all races, creeds, and ethnic groups toward the end that all units shall generally reflect the character of the population in the unit's recruiting area.

(e) Prior to enlisting a draft-liable individual in one of the Reserve Components, the applicant shall be required to sign a written statement to the effect that he has not received orders to report for induction, that any subsequent receipt of such orders will be reported to his unit commander, and that he understands he is subject to an induction order if issued before he enlists.

(f) An individual who enlists in a Reserve Component and who subsequently receives orders to report for induction, the issuing date of which precedes his date of enlistment, shall be discharged from his Reserve Component for the purpose of induction into the Armed Forces.

(2) The discharge should be effected concurrently with the induction so as to continue the individual's military obligation consistent with § 50.2(d) of this title.

(3) The date of issuance of orders to report for induction shall be considered to be the date of mailing of such orders by appropriate authority in the Selective Service System.

(f) Individual applicants for assignment or enlistment in the Reserve Components shall not be accepted unless there is reasonable assurance that they will be available and able to participate satisfactorily in the unit concerned. In this respect careful consideration shall be given to the geographical location, future plans, and possible conflicts with the civilian occupation of the individual applicant. Individuals who are engaged in or preparing for a skill listed in the Department of Labor "List of Critical Occupations for Screening the Ready Reserve" shall not be enlisted unless there is an overriding military necessity for their skill consistent with Part 125 of this title.

(g) Reserve members who have enlisted under the provisions of section 511(d) of title 10, U.S.C., and who thereafter incur either a bona fide temporary, nonmilitary obligation requiring overseas residency outside the United States, or a bona fide, temporary, religious missionary obligation which would conflict with their required participation in reserve training, may, upon their request, be reenlisted under the provisions of section 511(a) of title 10, U.S.C. Requests under the provisions of this subsection, except those from members who incur a legitimate religious missionary obligation, will be approved by the Secretary of the Military Department concerned. Requests from members based on a religious missionary obligation may be approved by the local National Guard or Reserve Component Commander. Approval of all such requests are subject to the following requirements:

(1) Certification of the obligation is made by the employer, sponsor, or recognized church body as appropriate.

(2) Reserve members concerned have completed their initial period of active-duty-for-training.

(3) The approving authority concerned is satisfied that the request is bona fide.

(4) Reenlistment contracts for such individuals will include an agreement to serve for a period of time which will include the period of temporary, nonmilitary obligation (not to exceed 30 months) plus the remaining obligatory military service remaining under the original enlistment contract. Such reenlistment contracts will assure that each individual will serve a total of six (6) years of reserve service as required by law.

(5) The individual reservists concerned will be carried as members of the inactive National Guard or the Ready Reserve Pool, as appropriate, during the period of nonmilitary obligation, and as such, will be subject to being involuntarily ordered to active duty as authorized by law (see paragraph IV.C.2 of DOD Directive 1215.13, "Unsatisfactory Performance of Ready Reserve Obligation," October 12, 1970.[1]

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Comptroller).

[FR Doc.71-17267 Filed 11-24-71;8:50 am]

[1] Filed as part of original. Copies available from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120, Attention: Code 300.

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 14—Department of the Interior

MISCELLANEOUS AMENDMENTS TO CHAPTER

Pursuant to the authority of the Secretary of the Interior, contained in 5 U.S.C. 301, Parts 14-1, 14-3, 14-7, and 14-10 of Chapter 14, Title 41 of the Code of Federal Regulations are hereby amended as set forth below.

It is the general policy of the Department of the Interior to allow time for interested parties to take part in the rule making process. However, the amendments and revisions contained herein are minor and entirely administrative in nature. Therefore, the public rule making process is waived and these changes will become effective upon publication in the FEDERAL REGISTER (11-25-71).

WARREN F. BRECHT,
Deputy Assistant Secretary of the Interior.

NOVEMBER 19, 1971.

[1] Filed as part of original. Copies available from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120, Attention: Code 300.

PART 14-1—GENERAL

Subpart 14-1.4—Procurement Responsibility and Authority

§ 14-1.451-1 [Revised]

1. This section is revised by deletion of the word hereby immediately preceding the word delegated.

§ 14-1.451-5 [Deleted]

2. Subpart 14-1.4 is hereby amended by the deletion of § 14-1.451-5.

3. Part 14-1 is amended by the addition of Subpart 14-1.12 and §§ 14-1.1204 and 14-1.1204-1.

Subpart 14-1.12—Responsible Prospective Contractors

Sec.
14-1.1204 Determination of responsibility or nonresponsibility.
14-1.1204-1 Requirement.

AUTHORITY: The provision of this Subpart 14-1.12 issued under section 205(c), 63 Stat. 390, 40 U.S.C. 486(c).

Subpart 14-1.12—Responsible Prospective Contractors

§ 14-1.1204 Determination of responsibility or nonresponsibility.

§ 14-1.1204-1 Requirement.

The signing of a contract by the contracting officer shall satisfy the requirements of § 1-1.1204-1(a) of this title for making and documenting an affirmative determination that the prospective contractor is responsible with respect to that contract.

PART 14-3—PROCUREMENT BY NEGOTIATION

Subpart 14-3.2—Circumstances Permitting Negotiation

1. Section 14-3.201 is revised to read as follows:

§ 14-3.201 National emergency.

(a) *Determination.* It is determined by the Secretary that contracts or purchases negotiated under § 1-3.201(b) of this title during the national emergency which exists by reason of Presidential Proclamation No. 2914 of December 16, 1950 (3 CFR) are in the public interest.

(b) *Application.* Contracts in excess of $100,000, negotiated under § 1-3.201(c)(1) of this title shall be submitted to the Secretary for approval prior to execution by the contracting officer. Contracts over $25,000 and not in excess of $100,000 may be approved by the heads of bureaus or offices but this responsibility may not be redelegated.

PART 14-7—CONTRACT CLAUSES

Subpart 14-7.6—Fixed-Price Construction Contracts

1. Section 14-7.602-50(5) is amended as follows:

§ 14-7.602-50(5) Safety and health.

In the interest of uniform practice, each bureau and office shall include in every construction contract exceeding $2,000 a safety and health clause similar to the one given below, containing, as a minimum, those requirements set forth therein. Additional safety requirements may be added to cover special circumstances.

SAFETY AND HEALTH

(a) The Contractor shall not require any laborer or mechanic employed in the performance of the contract to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health or safety, as determined under construction safety and health standards promulgated by regulations of the Secretary of Labor.

(b) The Contractor shall comply with the Department of Labor Safety and Health Regulations for Construction promulgated under section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.).

(c) If the Contractor fails or refuses to promptly comply with the requirements of this clause, the Contracting Officer, or his authorized representative, shall notify the Contractor of any noncompliance and indicate to the Contractor the action to be taken. The Contractor shall, after receipt of such notice, immediately correct the conditions to which attention has been directed. Such notice, either oral or written, when served on the Contractor or his authorized representative(s) at the site of the work, shall be deemed sufficient.

(d) In the event the Contractor fails or refuses to promptly comply with the compliance directive issued under subparagraph (c) above, the Contracting Officer or his authorized representative may issue an order to suspend all or any part of the work. When satisfactory corrective action is taken, an order to resume work will be issued. The Contractor shall not be entitled to any extension of time, nor to any claim for damage or to excess costs by reason of either the directive or the suspension order. Failure of the Contracting Officer or his authorized representative to order discontinuance of any or all of the Contractor's operations shall not relieve the Contractor of his responsibility for the safety of personnel and property.

(e) The Contractor shall maintain an accurate record of, and shall report to the Contracting Officer in the manner prescribed by the Contracting Officer, all cases of death, occupational diseases, traumatic injury to employees or the public involved, and property damage by accident in excess of $100 incident to performance of work under this contract.

(f) The rights and remedies of the Government provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

(g) In event there is a conflict between the requirements of this clause and any requirement of the U.S. Department of Labor in its regulation of the Construction Safety Act, the more stringent requirement will prevail.

PART 14-10—BONDS AND INSURANCE

Subpart 14-10.1—Bonds

§ 14-10.109 Execution and administration of bonds.

1. The title of § 14-10.109 as set forth above is inserted immediately preceding § 14-10.109-50 Additional requirements respecting bonds.

[FR Doc.71-17211 Filed 11-24-71;8:49 am]

Title 42—PUBLIC HEALTH

Chapter IV—Environmental Protection Agency

Several commentators offered changes which they felt were necessitated by the time frame set forth for the financial reports. The adopted amendment incorporates in part some of these suggestions

cessarily made on the basis of financial information filed with the Commission by the regulated carrier. The absence of current financial data on the occasion of a major rate change, it is rea-

indicated in subparagraphs (2) and (3) of this paragraph. For purposes of this paragraph, gross revenue shall be for the 12-month period ending not more than 60 days prior to the date of filing

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-17285 Filed 11-24-71;8:53 am]

thereon, which report is hereby referred to and made a part hereof;

It is ordered, That § 1056.6(d) and § 1056.7 of part 1056 of Chapter X of Title 49 of the Code of Federal Regulations, Transportation of Household

Title 42—PUBLIC HEALTH

Chapter IV—Environmental Protection Agency

REDESIGNATION AND REPUBLICATION

CROSS REFERENCE: For a document affecting the changes described above, see Title 40, F.R. Doc. 71-17201, appearing in this issue.

Title 46—SHIPPING

Chapter IV—Federal Maritime Commission

SUBCHAPTER B—REGULATIONS AFFECTING MARITIME CARRIERS AND RELATED ACTIVITIES

[Docket No. 71-63; General Order 11, Amdt. 1]

PART 512—REPORTS OF RATE BASE AND INCOME ACCOUNT BY VESSEL OPERATING COMMON CARRIERS IN THE DOMESTIC OFFSHORE TRADES

General Requirements

On June 5, 1971, the Federal Maritime Commission published in the FEDERAL REGISTER (36 F.R. 10985) a notice of proposed rule making, wherein an amendment to 46 CFR Part 512 was proposed. The regulations contained in 46 CFR Part 512 are for the purpose of requiring the filing of additional information by common carriers by water subject to the Commission's General Order No. 5 (46 CFR Part 511) to enable the Commission to expedite the discharge of its duties under the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933.

The purpose of the amendment is the enhancement of the usefulness of General Order 11 (46 CFR Part 512) by dispensing with the filing of statements and data required for the first 6 months of each year, and requiring in lieu thereof the filing of financial and operating data in support of initial, new or changed tariff rates at the same time that such initial, new or changed tariff rates are themselves filed with the FMC.

It was pointed out in the notice that failure to furnish the above financial and operating data certified, as required by 46 CFR 512.4, simultaneously with initial, new or changed tariff rates, may leave the Commission with no alternative other than to suspend such rates for a part or all of the 4-month period authorized by section 3 of the Intercoastal Shipping Act, 1933.

Written comments on the proposed amendment were invited and received from interested parties. The Commission has carefully considered the comments which were submitted and are on file with the Commission. Certain of these comments have been adopted or substantially satisfied by editorial changes, deletions from, or additions to the amendment. These and other comments are discussed hereinbelow.

Several commentators offered changes which they felt were necessitated by the time frame set forth for the financial reports. The adopted amendment incorporates in part some of these suggestions by providing that the reports cover a 12-month period ending not more than 60 days prior to the date of filing the initial, new or changed rates.

Another suggestion offered was to allow 150 days in which to prepare the justifications, or in the alternative to allow the latest General Order 11 report to be substituted, rather than allowing the 60 days suggested by Hearing Counsel.

Hearing Counsel's suggestion extended the original rule which allowed for only 30 days. We find that unless the information is current, i.e., not more than 60 days old, it will be of little value to the Commission's Bureau of Financial Analysis. The Bureau has felt it necessary to require that the 3 percent gross revenue requirement be based upon gross revenue as of the 12-month period ending not more than 60 days prior to filing of the rate adjustment. To utilize the latest annual General Order 11 report as suggested by these carriers would render the desired information valueless for purposes of financial analysis.

The proposed amendment was also criticized for failing to specify how the 3 percent of gross revenue is to be determined. This is remedied by providing that the determination of gross revenue is to be made for that 12-month period ending not more than 60 days prior to the date of filing the initial, new or changed rates.

In § 512.3(d)(1)(i), the word "and" has been added to make the phrase "increase and/or decrease". The purpose of this is to clarify the effect of a simultaneous increase and decrease of tariff items. Thus, for example, if 35 percent of a carrier's domestic offshore tariff items were increased by 3 percent or more and simultaneously 20 percent of that carrier's domestic offshore tariff items were decreased by 3 percent or more, the cumulative effect is an increase and decrease of 55 percent which would bring this particular change within the rule.

Finally, a new paragraph, (d)(5), has been added to provide for a certification to be filed along with every changed rate filed which does not meet the tests set forth in (d)(1)(i) or (ii). This certification will state that since the changed rate does not meet the criteria set out in (d)(1)(i) and (ii), the financial and operating data set forth in subparagraphs (2) and (3) are unnecessary.

Other comments include:

1. The argument that the rule "purports to impose on the carriers, contrary to law, the burden of coming forward with evidence that proposed rates are lawful." This is attributed to the statement in the notice of proposed rule making that, "Failure to furnish the financial and operating data * * * may leave the Commission with no alternative other than to suspend such rates * * *." This argument is not valid since the decision as to whether or not to suspend a proposed rate change is necessarily made on the basis of financial information filed with the Commission by the regulated carrier. The absence of current financial data on the occasion of a major rate change, it is readily apparent, would indeed be a hindrance to the Commission in the exercise of its discretionary power to suspend, when the effects of that rate change may be permanent and widespread.

2. The contention that the furnishing of financial and operating data is meant to be wholly on a voluntary basis. We must emphasize that the Commission is authorized to require the filing of financial data pursuant to authority granted to the Commission by sections 18, 21, and 43 of the Shipping Act, 1916, and sections 2 and 3 of the Intercoastal Shipping Act, 1933.

3. The claim that the proposed rule imposes a burden upon office procedures since schedules would have to be prepared on other than a financial year basis. Hearing Counsel contend that this argument is without merit since the schedules required are no more burdensome than the 6-month report, which under the old rule was required unless there was no substantial change in the carrier's operations. In the case of a major rate change, there would be such "substantial change" which would add only the projections required by the new rule. We agree with Hearing Counsel's position that the information required would be on hand since, in deciding whether a major rate change is necessary, a carrier would have to compute data similar to that required by the proposed rules. The additional requirement is simply the translation of that data into General Order 11 terms.

4. The State of Hawaii's Petition for Leave to Intervene which, along with its comments, is based on the misconception that the requirement for filing annual General Order 11 reports will be eliminated. It is abundantly clear that the proposed rules do not purport to eliminate the annual General Order 11 reports required by 46 CFR 512.3(a), but only those required by 46 CFR 512.3(d), the 6-month General Order 11 reports. In their place would be substituted the requirement for filing current financial data at the time of filing a major rate increase.

Pursuant to sections 18, 21, and 43 of the Shipping Act, 1916 (46 U.S.C. 817, 820 and 841(a)) and sections 2, 4, and 7 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 844, 845(a), and 847), paragraph (d) of § 512.3, Title 46 CFR, Chapter IV, Part 512 is amended to read as follows:

§ 512.3 General requirements.

(d)(1) Whenever a carrier files with the Federal Maritime Commission a tariff or tariffs containing initial rates, new rates, or changed rates which will (i) increase and/or decrease 50 percent or more of its domestic offshore tariff items by 3 percent or more, or (ii) increase or decrease its domestic offshore gross revenue by 3 percent or more, per trade, it shall file simultaneously therewith financial and operating data as indicated in subparagraphs (2) and (3) of this paragraph. For purposes of this paragraph, gross revenue shall be for the 12-month period ending not more than 60 days prior to the date of filing the initial, new, or changed rates with the Commission.

(2) Exhibit A's (of the nature required by § 512.7(b)), in duplicate, for a 12-month period ending not more than 60 days prior to the date of filing the initial, new, or changed rates with the Commission; and for a 12-month period beginning with the month following the month in which the inital, new, or changed rates are proposed to become effective (the latter mentioned Exhibit A will have to be constructed, and should be predicated on the very best estimates that it is possible for the carrier to make).

(3) Exhibit B's (of the nature required by § 512.7(c)), in duplicate, supported by schedules similar to those normally required by the annual filings covering a 12-month period coinciding with the period covered by the Exhibit A mentioned in subparagraph (2) of this paragraph (this requirement applies only with respect to changed rates—it does not apply to initial or new rates); and for a constructed 12-month period (taking into account the effect of proposed rate changes) commencing with the month following the month in which the changed rates are proposed to become effective.

(4) If a carrier files initial, new, or changed rates within 90 days of the end of its financial year, it may, at its option, furnish its annual General Order 11 report, in duplicate, for that year in lieu of the schedules of actual data required in subparagraphs (2) and (3) of this paragraph. The requirement to furnish schedules pertaining to future operations under the proposed new rates would not be affected by this substitution.

(5) When a changed rate is filed which does not meet the criteria set forth in subdivisions (i) and (ii) of subparagraph (1) of this paragraph, the following certification must be submitted with the changed rate.

CERTIFICATION

I, the undersigned _____
(type or print name and title of officer in charge of accounts)
of _____ certify
(full name of reporting company)
that the changed rate submitted herewith does not meet the criteria set forth in 46 CFR 512.3(d)(1)(i) and (ii), and for that reason no financial and operating data as set forth in subparagraphs (2) and (3) of § 512.3(d) are necessary.

Signature _____
Date _____, 19--

(Secs. 18, 21, 43, Shipping Act, 1916; 46 U.S.C. 817, 820, 841(a); secs. 2, 4, 7, Intercoastal Shipping Act, 1933; 46 U.S.C. 844, 845(a), 847)

These rules shall become effective 30 days from date of publication in the FEDERAL REGISTER, pursuant to section 4(c) of the Administrative Procedure Act (5 U.S.C. 553).

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[FR Doc.71-17255 Filed 11-24-71;8:53 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 19116]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in the Upper New England Area; Correction

In the matter of amendment of § 73.202, Table of assignments, FM broadcast stations (Skowhegan, Augusta, Westbrook, and South Paris, Maine; Plymouth and Dover, N.H.; Waterbury, Vt.; and Plattsburgh, N.Y.), Docket No. 19116, RM-1442, RM-1464.

In the Commission's Report and Order, FCC 71-1159, in the above-entitled proceeding, adopted November 10, 1971, published in the FEDERAL REGISTER on November 18, 1971, 36 F.R. 21996, the channel reference in paragraph 19(c), page 11, is corrected in line 1 to read "288A" and in line 11 to read "224A".

Released: November 19, 1971.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE, *Secretary.*

[FR Doc.71-17256 Filed 11-24-71;8:53 am]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. MC-19; Sub-No. 14]

PART 1056—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE OR FOREIGN COMMERCE

Practices of Motor Common Carriers of Household Goods; Reweighing of Shipments

Order. At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 9th day of November 1971.

It appearing that on the Commission's own motion a rule making proceeding was initiated on February 3, 1971 (36 F.R. 2432) to determine whether it would be in the public interest to modify and revise 49 CFR 1056.6(d) and 1056.7 so as to allow a carrier charge for the reweighing of shipments of household goods only in certain circumstances:

It further appearing that investigation of the matters and things involved in these proceedings has been made and that the Commission has made and filed its report 114 M.C.C. herein containing its findings of facts and conclusions thereon, which report is hereby referred to and made a part hereof;

It is ordered, That § 1056.6(d) and § 1056.7 of part 1056 of Chapter X of Title 49 of the Code of Federal Regulations, Transportation of Household Goods in Interstate or Foreign Commerce, be, and they are hereby, modified and revised in the following manner:

(1) Modify the last sentence of 49 CFR 1056.6(d) to read as follows:

§ 1056.6 Determination of weights.

* * * * *

(d) * * * The carrier may publish in its tariff a reasonable charge for reweighing shipments, which charge shall not be applicable when (1) the reweigh net weight is more than 120 pounds below the billed net weight, or (2) the billed net weight exceeds by 25 percent or more the estimated weight shown on the Estimate of Charges for Transportation provided pursuant to § 1056.8.

* * * * *

(2) Revise Form BOp 103, Summary of Information for Shippers of Household Goods, 49 CFR 1056.7, the chapter entitled "How Do I Know the Weight of My Shipment?", by striking the words "at your expense" from the next-to-the-last sentence and adding the following sentences at the end of the last paragraph:

Because of physical limits in mechanical weighing devices, the billing weights, upon which your shipping charges are based, may be approximate. You may request that your shipment be reweighed, and the carrier may publish in its tariff a reasonable charge for reweighing shipments. This charge shall not be applicable when (1) the reweigh net weight is more than 120 pounds below the billed net weight, or (2) the billed net weight exceeds by 25 percent or more the estimated net weight shown on the Estimate of Charges for Transportation provided pursuant to § 1056.8 of these regulations.

It is further ordered, That the amendments specified in the next preceding paragraph be, and they are hereby, prescribed to become effective January 1, 1972, and will apply only on household goods removed from the shipper's premises on and after the said effective date.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-17293 Filed 11-24-71;8:56 am]

[No. MC-C-6748]

PART 1061—LIMITATION OF SMOKING ON INTERSTATE PASSENGER CARRIER VEHICLES

Order. At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 8th day of November 1971.

It appearing that by petition filed January 8, 1970, Ralph Nader sought the institution of a rule making proceeding for the purpose of establishing a rule or regulation of general applicability for

terstate Commerce Act, which desire to permit smoking of cigars, cigarettes, or pipes, shall, where smoking on passenger-carrying motor vehicles is otherwise permitted by law, provide a smoking section,

(1) The archery hunting season on the refuge extends from November 20 through December 5, 1971, inclusive.

(2) Weapons—Only nonmechanical bow as permitted by State regulations

ALAMOSA NATIONAL WILDLIFE REFUGE

The public hunting of pheasants on the Alamosa National Wildlife Refuge, Colo., is permitted only on the area designated

Pursuant to the authority vested in the Pay Board by the Economic Stabilization Act of 1970, as amended (Public Law 91-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 1468; Public Law 92-8,

within established rate ranges may be continued in new agreements which become effective after November 13, 1971. Any increase applied to a rate range shall be considered a raise in wages or salaries under the regulations adopted by the Pay Board. How-

It appearing that by petition filed January 8, 1970, Ralph Nader sought the institution of a rule making proceeding for the purpose of establishing a rule or regulation of general applicability for passenger-carrying motor vehicles operating in interstate or foreign commerce, prohibiting the smoking of cigars, cigarettes, and pipes by passengers or operating personnel on all such motor vehicles, whereupon the petition was published in the FEDERAL REGISTER on February 14, 1970 (35 F.R. 3053), with provision for the filing of representations, views, and arguments in support of, or in opposition to the petition;

It further appearing that various parties submitted their views and arguments regarding the petition, and that subsequently this rule making proceeding was instituted by order of August 7, 1970, and an oral hearing was held in the above-entitled proceeding on October 5, 1970, at Washington, D.C.;

It further appearing that by report and recommended order served February 8, 1971, the examiner recommended the promulgation of a regulation requiring common carriers of passengers, in interstate or foreign commerce, essentially to display a notice requesting "no smoking" on a voluntary basis, and that exceptions and replies thereto have been filed;

And it further appearing that investigation of the matters and things involved in this proceeding has been made and that the Commission has made and filed its report herein containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

It is ordered, That Subchapter A of Chapter X of Title 49 of the Code of Federal Regulations be, and it is hereby, amended by adding thereto a new Part 1061 *Limitation of smoking on interstate passenger carrier vehicles* as set forth below.

It is further ordered, That the said petition in all other respects be, and it is hereby denied.

It is further ordered, That this order shall become effective on January 6, 1972, and shall remain in effect until modified or revoked in whole or in part by further order of the Commission.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

(Sections 202, 204, 206, 216, 49 Stat. 543, 546, 552, and 558, all as amended; 49 U.S.C. 302, 304, 306, 316.)

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

§ 106.1 Provision for separate seating for smokers and nonsmokers on interstate passenger carriers by motor vehicle.

(a) All motor common carriers of passengers subject to part II of the Interstate Commerce Act, which desire to permit smoking of cigars, cigarettes, or pipes, shall, where smoking on passenger-carrying motor vehicles is otherwise permitted by law, provide a smoking section, consisting of a number of seats in the rear of the passenger-carrying motor vehicle, not to exceed 20 percent of the capacity of the said vehicle. Except as otherwise permitted under paragraph (b) of this section, smoking of cigars, cigarettes, or pipes shall not be permitted in any portion of the motor vehicle other than the smoking section required by subparagraph (1) of this paragraph.

(b) The provisions of paragraph (a) of this section shall not be construed to apply to charter operations performed by motor common carriers of passengers subject to part II of the Interstate Commerce Act.

(c) In the event of any unusual circumstances arising under paragraph (a) of this section, the operator (driver) of the motor vehicle involved (or other carrier employee) may exercise reasonable discretion to the extent permitted by the carrier, by making minor modifications in the special seating sections established by paragraph (a) of this section in order to assure the comfort of all passengers and the provisions of safe, adequate, and expeditious transportation service.

[FR Doc.71-17294 Filed 11-24-71;8:57 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Monte Vista National Wildlife Refuge, Colo.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER. (11-25-71).

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

COLORADO

MONTE VISTA NATIONAL WILDLIFE REFUGE

Archery hunting of pheasants, rabbits, skunk, badger, raccoon, coyote, bobcat, feral cat, magpie, and crow on the Monte Vista National Wildlife Refuge, Colo., is permitted only on the area designated by signs or maps as open to hunting. This open area, comprising 2,865 acres, is delineated on maps available at refuge headquarters, Monte Vista, Colo., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103.

Archery hunting shall be in accordance with all applicable State regulations governing the hunting of pheasants, rabbits, skunk, badger, raccoon, coyote, bobcat, feral cat, magpie, and crow subject to the following special conditions:

(1) The archery hunting season on the refuge extends from November 27 through December 5, 1971, inclusive.

(2) Weapons—Only nonmechanical bow as permitted by State regulations and flu-flu arrows may be used for hunting.

(3) Dogs—Not to exceed two dogs per hunter may be used in the hunting of pheasants, rabbits, skunk, badger, raccoon, coyote, bobcat, feral cat, magpie, and crow.

(4) Admittance—Entrance to the open area and parking of vehicles will be restricted to designated parking areas.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 6, 1971.

CHARLES R. BRYANT,
Refuge Manager, Monte Vista National Wildlife Refuge, Monte Vista, Colo.

AUGUST 9, 1971.

[FR Doc.71-17214 Filed 11-24-71;8:49 am]

PART 32—HUNTING

Monte Vista and Alamosa National Wildlife Refuges, Colo.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (11-25-71).

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

COLORADO

MONTE VISTA NATIONAL WILDLIFE REFUGE

The public hunting of pheasants on the Monte Vista National Wildlife Refuge, Colo., is permitted only on the area designated by signs as open to hunting. This open area, comprising 5,314 acres, is delineated on maps available at refuge headquarters, Monte Vista, Colo., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103.

Hunting shall be in accordance with all applicable State regulations governing the hunting of pheasants subject to the following special conditions:

(1) The pheasant hunting season on the refuge extends from November 27 through December 5, 1971, inclusive.

(2) Dogs—Not to exceed two dogs per hunter may be used in the hunting of pheasants.

(3) Admittance—Entrance to the open area and parking of vehicles will be restricted to designated parking areas.

(4) Hunting with rifles and hand guns is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 6, 1971.

ALAMOSA NATIONAL WILDLIFE REFUGE

The public hunting of pheasants on the Alamosa National Wildlife Refuge, Colo., is permitted only on the area designated by signs as open to hunting. This open area, comprising 3,267 acres, is delineated on maps available at refuge headquarters, Alamosa, Colo., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103.

Hunting shall be in accordance with all applicable State regulations governing the hunting of pheasants subject to the following special conditions:

(1) The pheasant hunting season on the refuge extends from November 27 through December 5, 1971, inclusive.

(2) Dogs—Not to exceed two dogs per hunter may be used in the hunting of pheasants.

(3) Admittance—Entrance to the open area and parking of vehicles will be restricted to designated parking areas.

(4) Hunting with rifles and hand guns is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 6, 1971.

CHARLES R. BRYANT,
Refuge Manager, Monte Vista National Wildlife Refuge, Monte Vista, Colo.

AUGUST 6, 1971.

[FR Doc.71-17215 Filed 11-24-71;8:49 am]

Title 6—ECONOMIC STABILIZATION

Chapter II—Pay Board

PART 201—STABILIZATION OF WAGES AND SALARIES

Interpretive, Definitional, and Procedural Decisions

The purpose of these amendments is to set forth for public information and guidance in the appendices to Part 201, interpretive, definitional, and procedural decisions adopted by the Pay Board. Appendix B—Interpretive Decisions Adopted by the Pay Board and Appendix C—Definitional Decisions Adopted by the Pay Board were published in the FEDERAL REGISTER on November 17, 1971 (36 F.R. 21952). A new appendix, Appendix D—Procedural Decisions Adopted by the Pay Board, is added to set forth daily procedural decisions of the Pay Board until such decisions can be incorporated into the regulations under this chapter. When a decision is incorporated into the regulations it will be deleted from its proper appendix.

Pursuant to the authority vested in the Pay Board by the Economic Stabilization Act of 1970, as amended (Public Law 91-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38), Executive Order No. 11627 (36 F.R. 20139, Oct. 16, 1971), and Cost of Living Council Order No. 3 (36 F.R. 20202, Oct. 16, 1971), the Pay Board hereby adopts these following amendments to the appendices.

Because of the need for immediate guidance from the Pay Board with respect to the provisions contained in these amendments to the appendices, it is hereby found impracticable to issue such amendments with notice and public procedure thereon under 5 U.S.C., section 553(b), or subject to the effective date limitation of 5 U.S.C., section 553(d).

Effective date. These amendments and appendices shall be effective on and after November 14, 1971.

GEORGE H. BOLDT,
Chairman of the Pay Board.

PARAGRAPH 1. Appendix B, relating to Interpretive Decisions Adopted by the Pay Board, is amended by adding items (3), (4), (5), and (6) thereto, to read as follows:

APPENDIX

INTERPRETIVE DECISIONS ADOPTED BY THE PAY BOARD

* * * * *

(3) *Tandem relationships (Adopted November 19, 1971).* For purposes of permitting retroactivity under § 201.13 during the freeze period in certain recognized tandem relationships (as defined in item (3) of Appendix C—Definitional Decisions Adopted by the Pay Board), the following conditions must be met:

(a) The basic agreement to which the tandem is claimed must have been completed before August 15, 1971;

(b) The tandem relationship was clearly established as a past pay practice either for 5 years or in the last two bargaining agreements;

(c) The tandem agreement for which retroactivity is sought expired no more than 30 days after the basic agreement; and

(d) It can be shown that retroactivity was either an established practice or had been agreed to prior to the end of the freeze.

(4) *Low wage employees (Adopted November 19, 1971).* For purposes of permitting retroactivity in cases of severe inequities under § 201.13(c) during the freeze period, payments of retroactive increases may be made to employees who would have become eligible for a pay increase during the freeze and whose rate of pay prior to the freeze was $2 per hour or less.

(5) *One-time benefits (Adopted November 19, 1971).* For purposes of permitting retroactivity in cases of severe inequities under § 201.13(c) during the freeze period, retroactive payments may be made in the case of employees who would have become eligible for a new or increased benefit during the freeze and who otherwise (because of death, retirement, etc.) cannot become eligible for the benefit after the freeze period.

(6) *Merit and salary administration plans (Adopted November 22, 1971).* Existing contract provisions providing for merit increases within established rate ranges may be continued in new agreements which become effective after November 13, 1971. Any increases applied to a rate range shall be considered a raise in wages or salaries under the regulations adopted by the Pay Board. However, individual increases within the rate range under such plans shall not be considered a wage or salary increase under such regulations.

Where no labor agreement exists, aggregate individual pay increases under a merit plan and/or salary administration plan shall be considered pay increases subject to the general pay standard. However, individual increases may be made under an initial labor agreement or established pay practice which incorporates a well-defined plan: *Provided*, That the plan is administered in good faith and in accordance with previous policies and practices, and provided that such individual increases are made within minimum and maximum levels of rate ranges which are subject to the general wage and salary standard.

PAR. 2. Appendix C, relating to Definitional Decisions Adopted by the Pay Board, is amended by adding item (3) thereto to read as follows:

APPENDIX C

DEFINITIONAL DECISIONS ADOPTED BY THE PAY BOARD

* * * * *

(3) *Tandem relationships (Adopted November 19, 1971).* A "tandem relationship" means a well-established and consistently maintained practice whereby the precise timing, amount, and nature of general increases in wages, salaries, and other compensation of a given appropriate employee unit have so followed those of another such unit of employees of the same employer or of other employers within a commonly recognized industry (such as SIC two-digit category) that a general increase, in the normal operation of the practice, would have been put into effect and have been applicable to work performed on or before November 13, 1971, but for the operation of the freeze.

PAR. 3. Part 201 is amended by adding at the end thereof a new Appendix D—Procedural Decisions Adopted by the Pay Board. This new provision reads as follows:

APPENDIX D

PROCEDURAL DECISIONS ADOPTED BY THE PAY BOARD

(1) *Challenges (Adopted November 22, 1971).* Pursuant to paragraph (f) of Pay Board Order No. 1 (36 F.R. 21798), the Internal Revenue Service shall process challenges by parties at interest, make an investigation, and report the positions of all parties at interest, including the forwarding of supporting documents, to the Pay Board for determination.

(2) *Retroactivity under § 201.13; rulings (Adopted November 22, 1971).* Pursuant to paragraph (c) of Pay Board Order No. 1 (36 F.R. 21798), the Internal Revenue Service may rule on requests for retroactivity under paragraphs (a) and (b) of § 201.13, and on requests for retroactivity with respect to tandem relationships. (See item (3) of Appendix B—Interpretive Decisions Adopted by the Pay Board and item (3) of Appendix C—Definitional Decisions Adopted by the Pay Board). In the event of an adverse ruling by the Internal Revenue Service an appeal may be made to the Pay Board.

(3) *Self-determinations; low-wage employees; one-time benefits (Adopted November 22, 1971).* Subject to spot-checks for compliance by the Internal Revenue Service, employers may determine for themselves whether to make retroactive payments applicable to the freeze period in the case of items (4) and (5) of Appendix B—Interpretive Decisions Adopted by the Pay Board.

[FR Doc.71-17439 Filed 11-24-71;4:28 pm]

Proposed Rule Making

(8) *Self-determinations; low-wage employees; one-time benefits (Adopted November 22, 1971).* Subject to spot-checks for compliance by the Internal Revenue Service, employers may determine for themselves whether to make retroactive payments applicable to the freeze period in the case of items (4) and (5) of Appendix B—Interpretative Decisions Adopted by the Pay Board.

[FR Doc.71-17439 Filed 11-24-71;4:53 pm]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 706]

NAVAL STORES CONSERVATION

Notice of 1972 Cost-Sharing Program

Notice is hereby given that pursuant to the authority in the Soil Conservation and Domestic Allotment Act, as amended, the Secretary of Agriculture proposed to issue the regulations set forth below to govern the 1972 Naval Stores Conservation Program.

The proposed regulations are identical to the 1971 regulations, including Amendment 1, the addition of Practice 11, Planting of superior trees. It is proposed that Practice 11 of the 1972 Naval Stores Conservation Program be started prior to January 1, 1972 (in the same manner as for the Rural Environmental Assistance Program) to make fullest use of funds during the tree planting season which begins about the middle of November.

The purpose of the Naval Stores Conservation Program is to provide for Federal cost-sharing in carrying out approved conservation practices related to the extraction of gum from living slash and longleaf pines. Cost-shares are predicated upon the economic use and conservation of soil and timber resources on turpentine farms.

All persons who wish to submit written data, views, or objections pertaining to the proposed regulations may do so by submitting them in duplicate to the Department of Agriculture, Forest Service, Division of Cooperative Forestry, South Agriculture Building, Room 3242, Washington, D.C. 20250, within 30 days of the date of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be available for public inspection in the Division of Cooperative Forestry during regular business hours. (7 CFR 1.27(b))

J. PHIL CAMPBELL,
Acting Secretary of Agriculture.

NOVEMBER 22, 1971.

PART 706—NAVAL STORES CONSERVATION

Subpart G—1972

GENERAL PROVISIONS

Sec.
706.1 Purposes and general requirements.
706.2 Required performance.
706.3 Double-headed nails requirement.
706.4 Fire protection.
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CONSERVATION PRACTICES AND RATES OF FEDERAL COST-SHARES

706.7 Practice 1: Working only 9 inch d.b.h. or larger trees.
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706.10 Practice 4: Working only 12 inch d.b.h. or larger trees.
706.11 Practice 5: Restricting turpentining to previously worked trees.
706.12 Practice 6: Working only selectively marked trees.
706.13 Practice 7: Initial use of spiral gutters or Varn aprons and double-headed nails.
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GENERAL PROVISIONS RELATING TO FEDERAL COST-SHARING

706.18 Increase in small Federal cost-shares.
706.19 Maintenance of practices.
706.20 Practices defeating purposes of programs.
706.21 Federal cost-shares not subject to claims.
706.22 Assignments.
706.23 Death, incompetency, or disappearance of producer.
706.24 Maximum Federal cost-share limitation.
706.25 Evasion.

APPLICATION FOR PAYMENT OF FEDERAL COST-SHARES

706.26 Persons eligible to file application for payment of Federal cost-shares.
706.27 Time and manner of filing applications and required information.

APPEALS

706.28 Appeals.

DEFINITIONS

706.29 Definitions.

AUTHORITY, AVAILABILITY OF FUNDS, APPLICABILITY, AND ADMINISTRATION

706.30 Authority.
706.31 Availability of funds.
706.32 Applicability.
706.33 Administration.

AUTHORITY: The provisions of this Subpart G issued under section 4, 49 Stat. 164, secs. 7-15, 16(a), and 17, 49 Stat. 1148, as amended; 16 U.S.C. 590d, 590g to 590o, 590p(a), and 590q.

GENERAL PROVISIONS

§ 706.1 Purposes and general requirements.

(a) *Purposes.* The purpose of the 1972 Naval Stores Conservation Program (referred to in this subpart as "this program") is to restrict turpentining to the most productive timber, to conserve the worked trees, to protect and permit undisturbed growth of the uncupped trees and to conserve the soil, water, and timber resources. Under this program the Federal Government will effectuate such purposes by sharing with turpentine farmers the cost of carrying out approved conservation practices in accordance with the provisions of the regulations in this subpart and such modifications thereof as may hereafter be made. Cost-shares are predicated upon the economic use and conservation of soil and timber resources on turpentine farms, and computed on the faces in the tract or drift where an approved conservation practice is carried out. This program provides cost-sharing for conservation practices only on turpentine farms having tracts or drifts of faces which were installed during, or after, the 1968 season.

(b) *General requirements.* No tract or drift can qualify for cost-sharing under more than one conservation practice other than as provided for under practices specified in §§ 706.13, 706.14, and 706.15. In each of the practices except § 706.17, the faces are to be worked sufficiently to obtain at least one dipping of gum from the current year's working.

§ 706.2 Required performance.

(a) *Approved conservation practices.* Each participating producer shall carry out at least one of the approved conservation practices in every tract or drift of faces operated by him during the 1972 turpentine season. This requirement will not apply if the U.S. Forest Service or State Forest Agency determines that the condition of a particular tract or drift does not warrant carrying out approved conservation practices as a practical or economic matter, in which case the U.S. Forest Service or State Forest Agency may approve face installations made without carrying out a conservation practice. In cases where such approval is given for specific tracts or drifts of the turpentine farm, no cost will be shared for any faces in such tracts or drifts.

(b) *Practice components.* Cost-sharing may be approved under the 1972 program for only the component parts of the practices which are completed during the program year. The producer must complete all the remaining components of the practice in accordance with good forestry practices and all applicable requirements of this program to be eligible for cost-sharing under a subsequent program. Separate rates of cost-sharing have been established for each component part of each practice.

(c) *First year working.* The cost-share for this component is applicable to tracts or drifts having only eligible virgin

working faces, i.e., faces installed for the first working during the 1972 season. If faces have been installed contrary to the requirements for eligible faces, the cups and tins for such faces shall be re-

of the back face is provided and maintained throughout the 1972 turpentine season, the total of the two bark-bars being not less than 7 inches in width, measured horizontally along the bark

§ 706.8 Practice 2: Working only 10-inch d.b.h. or larger trees.

(a) *Description of practice.* This practice consists of installing and working faces and raising the cups and tins on

practice and rates of cost-sharing thereof shall be as follows:

(1) Initial installation and first year working of 12-inch d.b.h. or larger trees; 11 cents per face.

der one of the diameter cupping practices, specified in §§ 706.7, 706.8, 706.9, or 706.10.

(2) Working of faces for second, third, fourth, or fifth year; 6 cents per face.

(d) *Rate of cost-sharing.* The rate of cost-sharing for this practice is 9 cents per face.

(e) *Use of paper bags.* On accepting cost-sharing for this practice the producer agrees to use paper bags attached

working faces, i.e., faces installed for the first working during the 1972 season. If faces have been installed contrary to the requirements for eligible faces, the cups and tins for such faces shall be removed within 60 days after the producer is notified by the U.S. Forest Service or State Forest Agency, or the tract or drift will be considered only for qualification for cost-shares under the practice with the next lower rate of payment.

(d) *Second, third, fourth, or fifth year working.* The cost-shares for working of faces for second, third, fourth, or fifth years are applicable under the 1972 program to faces which were installed and met the eligible face requirements during the 1968, 1969, 1970, or 1971 season. Such cost-shares may also be allowed to new participating producers working tracts or drifts which had some undersized trees from which cups have been removed by the time of first elevation. New faces installed in 1972 and those installed in 1972 or prior years contrary to the requirements for eligible faces will disqualify the tracts or drifts for cost-sharing, unless the cups and tins on such faces shall be removed within 60 days after the producer is notified by the U.S. Forest Service or State Forest Agency. If such faces are not removed within the 60-day period, there may be withheld or required to be refunded the entire cost-shares for the tract or drift previously paid to the producer who installed the improper faces.

(e) *Practices under § 706.7, 706.8, 706.9, 706.10, 706.11, 706.12, 706.13, or 706.16 which require more than 1 year for completion.* Cost-shares may be approved under this program for the completion of a component of a practice only on the condition that the producer agrees in writing to complete the remaining components of the practice according to program provisions and within the time prescribed by the U.S. Forest Service, unless prevented from doing so by reasons beyond his control, or to refund the cost-shares paid to him. The extension of the period for completion of the components shall not constitute a commitment to approve cost-shares therefor under a subsequent program. Approval of cost-sharing for other practices under a subsequent program may also be denied until the remaining components are completed.

§ 706.3 Double-headed nails requirement.

Use of double-headed nails is required in the elevation of all cups and tins.

§ 706.4 Fire protection.

Each producer shall during the 1972 turpentine season cooperate with any existing cooperative fire control system serving the general area where his turpentine farm is located, unless he is otherwise following approved forest fire protection on his turpentine farm.

§ 706.5 Bark-bar requirement.

No back face shall be worked on any tree unless a live bark-bar on each side of the back face is provided and maintained throughout the 1972 turpentine season, the total of the two bark-bars being not less than 7 inches in width, measured horizontally along the bark surface at the narrowest point: *Provided, however,* That the restriction with respect to the width of the bark-bar shall not apply to any tree which has on it two or more old faces, including any back face installed prior to 1972. Faces having bark-bars totaling less than 7 inches shall not be worked in a manner that will result in leaving bark-bars less than those of former workings measured at the narrowest point.

§ 706.6 Inspection assistance.

Each producer shall assist representatives of the U.S. Forest Service or State Forest Agency in the administration of this program by:

(a) Giving them free access to his turpentine farm or farms;

(b) Counting all faces and reporting separately thereon by tracts and drifts to the local inspector;

(c) Furnishing information on burned areas, cutting operations, and interests in other turpentine farms as requested;

(d) Furnishing competent labor to assist the local inspector in counting faces;

(e) Submitting an application for payment of Federal cost-shares (Form 3200–3) and other prescribed forms;

(f) Notifying the U.S. Forest Service or State Forest Agency promptly of any change in ownership, control, or number of faces worked; and

(g) Otherwise facilitating the work of the local inspector in checking compliance with the terms and conditions of this program.

CONSERVATION PRACTICES AND RATES OF FEDERAL COST-SHARES

§ 706.7 Practice 1: Working only 9-inch d.b.h. or larger trees.

(a) *Description of practice.* This practice consists of installing and working faces and raising the cups and tins on 9-inch d.b.h. or larger trees over a period of 2 to 5 years.

(b) *Eligible faces.* Trees on which faces are installed shall be selected in a manner that will result in having no faces (except back faces on trees having a worked-out face) on trees which are less than 9 inches d.b.h. and only one face on trees less than 14 inches d.b.h.

(c) *Components of practice and rates of cost-sharing.* Components of the practice and rates of cost-sharing thereof shall be as follows:

(1) Initial installation and first-year working of 9-inch d.b.h. or larger trees; 4 cents per face.

(2) Working of faces for second, third, fourth, or fifth year; 1 cent per face.

(3) Initial use of double-headed nails in the initial installation or in the raising of cups and tins to conserve the worked portion of the trees; 1 cent per face. This component is not applicable where § 706.13 is used.

§ 706.8 Practice 2: Working only 10-inch d.b.h. or larger trees.

(a) *Description of practice.* This practice consists of installing and working faces and raising the cups and tins on 10-inch d.b.h. or larger trees over a period of 2 to 5 years.

(b) *Eligible faces.* Trees on which faces are installed shall be selected in a manner that will result in having no faces (except back faces on trees having a worked-out face) on trees which are less than 10 inches d.b.h. and only one face on trees less than 14 inches d.b.h.

(c) *Components of practice and rates of cost-sharing.* Components of the practice and the rates of cost-sharing thereof shall be as follows:

(1) Initial installation and first year working of 10-inch d.b.h. or larger trees; 9 cents per face.

(2) Working of faces for second, third, fourth, or fifth year; 6 cents per face.

(3) Initial use of double-headed nails in the initial installation or in the raising of cups and tins to conserve the worked portion of the trees; 1 cent per face. This component is not applicable where § 706.13 is used.

§ 706.9 Practice 3: Working only 11-inch d.b.h. or larger trees.

(a) *Description of practice.* This practice consists of installing and working faces and raising the cups and tins on 11-inch d.b.h. or larger trees over a period of 2 to 5 years.

(b) *Eligible faces.* Trees on which faces are installed shall be selected in a manner that will result in having no faces (except back faces on trees having a worked-out face) on trees which are less than 11 inches d.b.h. and only one face on trees less than 14 inches d.b.h.

(c) *Components of practice and rates of cost-sharing.* Components of the practice and rates of cost-sharing thereof shall be as follows:

(1) Initial installation and first year working of 11-inch d.b.h. or larger trees; 10 cents per face.

(2) Working of faces for second, third, fourth, or fifth year; 6 cents per face.

(3) Initial use of double-headed nails in the initial installation or in the raising of cups and tins to conserve the worked portion of the tree; 1 cent per face. This component is not applicable where § 706.13 is used.

§ 706.10 Practice 4: Working only 12-inch d.b.h. or larger trees.

(a) *Description of practice.* This practice consists of installing and working faces and raising the cups and tins on 12-inch d.b.h. or larger trees over a period of 2 to 5 years.

(b) *Eligible faces.* Trees on which faces are installed shall be selected in a manner that will result in having no faces (except back faces on trees having a worked-out face) on trees which are less than 12 inches d.b.h. and only one face on trees less than 14 inches d.b.h.

(c) *Components of practice and rates of cost-sharing.* Components of the practice and rates of cost-sharing thereof shall be as follows:

(1) Initial installation and first year working of 12-inch d.b.h. or larger trees; 11 cents per face.

(2) Working of faces for second, third, fourth, or fifth year; 6 cents per face.

(3) Initial use of double-headed nails in the initial installation or in the raising of cups and tins to conserve the worked portion of the trees; 1 cent per face. This component is not applicable where § 706.13 is used.

§ 706.11 Practice 5: Restricting turpentining to previously worked trees.

(a) *Description of practice.* This practice consists of installing and working faces and raising the cups and tins over a period of 2 to 5 years only on trees having a previously worked face.

(b) *Eligible faces.* Trees on which faces are installed shall be selected in a manner that will result in having no faces on round trees.

(c) *Components of practice and rates of cost-sharing.* Components of the practice and rates of cost-sharing thereof shall be as follows:

(1) Initial installation and first year working of faces on previously worked trees; 12 cents per face.

(2) Working of faces for second, third, fourth, or fifth year; 6 cents per face.

(3) Initial use of double-headed nails in the initial installation or in the raising of cups and tins to conserve the worked portion of the tree; 1 cent per face. This component is not applicable where § 706.13 is used.

§ 706.12 Practice 6: Working only selectively marked trees.

(a) *Description of practice.* This practice consists of installing and working faces and raising the cups and tins on selectively marked trees over a period of 2 to 5 years.

(b) *Eligible faces.* Only trees 9 inches or more d.b.h. which should be removed to improve the timber stand may be cupped and there shall be only one face on trees less than 14 inches d.b.h. Cupping shall be limited to trees selectively marked in advance in accordance with good, approved timber management practices to insure production of larger diameter class timber or to provide other stand improvement measures as approved by the U.S. Forest Service: *Provided,* That the number of remaining uncupped trees per acre shall average at least the minimum number per acre specified by the U.S. Forest Service in its Minimum Stocking Guide issued June 4, 1956, as amended, and be well distributed over the area.

(c) *Components of practice and rates of cost-sharing.* Components of the practice and rates of cost-sharing thereof shall be as follows:

(1) Initial installation and first year working of selectively marked trees; 12 cents per face. If faces have been installed contrary to the requirements for eligible faces, the area will be considered only for qualification for cost-shares under one of the diameter cupping practices, specified in §§ 706.7, 706.8, 706.9, or 706.10.

(2) Working of faces for second, third, fourth, or fifth year; 6 cents per face.

(3) Initial use of double-headed nails in the initial installation or in the raising of cups and tins to conserve the worked portion of the tree; 1 cent per face. This component is not applicable where § 706.13 is used.

§ 706.13 Practice 7: Initial use of spiral gutters or Varn aprons and double-headed nails.

(a) *Purpose.* The purpose of this practice is to minimize damage to the tree in installing faces for the virgin year or in the first elevation and to conserve the worked portion of the tree.

(b) *Description of practice.* This practice consists of using spiral gutter or Varn aprons attached with double-headed nails when cups and tins are initially installed on the face or when cups and tins are elevated for the first time.

(c) *Eligible faces.* Faces on trees installed to meet the requirements of §§ 706.7, 706.8, 706.9, 706.10, 706.11, 706.12, and 706.16 may qualify for this practice, the cost-share for which is in addition to the aforesaid sections.

(d) *Rate of cost-sharing.* The rate of cost-sharing for this practice is 4 cents per face.

(e) *Cost-sharing limited to virgin working faces.* This practice is limited to tracts or drifts having only virgin working faces, i.e., faces installed for the first working during the 1972 season or faces upon which the cups and tins are elevated for the first time during the 1972 season. On accepting cost-sharing for this practice the producer agrees to use the spiral gutter or Varn apron and double-headed nails to attach the tins in all subsequent raisings and attachment of tins to the face.

(f) *Installation of cups and tins.* Cups and tins shall be installed in a manner that will minimize the loss of gum and restrict amount of damage to the tree. Spiral gutters or Varn aprons shall be used and the tins shall be attached to the tree with double-headed nails. In smoothing the tree and seating the cup for virgin installation, exposure of wood shall be limited to areas on the tree having burls, ridges, or other deformities.

§ 706.14 Practice 8: Use of disposable paper bags.

(a) *Purpose.* The purpose of this practice is to encourage producers to use paper bags to improve the quality of gum, keep the butt section of the tree available for other uses and to promote greater productivity from the woods laborers.

(b) *Description of practice.* This practice consists of using disposable paper bags instead of spiral gutters or Varn aprons and metal or clay cups.

(c) *Eligible faces.* Faces on trees installed to meet the requirements of §§ 706.7, 706.8, 706.9, 706.10, 706.11, 706.12, and 706.16 may qualify for this practice, the cost-share for which is in addition to the aforesaid sections.

(d) *Rate of cost-sharing.* The rate of cost-sharing for this practice is 9 cents per face.

(e) *Use of paper bags.* On accepting cost-sharing for this practice the producer agrees to use paper bags attached with wire staples in combination with a bark jump streak in lieu of metal gutters or tins. Once installed, the producer agrees to continue the use of paper bags throughout the 1972 season. Paper bags will be installed in a manner that will minimize the loss of gum and restrict the amount of damage to the tree. In smoothing the tree and seating the bag for virgin installation, exposure of wood shall be limited to areas on the tree having burls, ridges, or other deformities.

§ 706.15 Practice 9: Removal of cups and tins from faces on small trees.

(a) *Purpose.* The purpose of this practice is to encourage producers who have not participated in the 1970 or 1971 programs to discontinue working small unproductive trees, to promote improved naval stores and forestry practices, and to improve productivity of the woodland.

(b) *Description of practice.* This practice consists of removing the cups and tins and discontinuing the working of small unproductive timber and meeting all other requirements for participation in this program.

(c) *Eligible faces.* All faces installed for the first working in 1972 on trees under 9 inches d.b.h. and all but one face on trees between 9 and 14 inches d.b.h. having two or more faces shall be eligible. Working of faces shall be discontinued and cups and tins removed by tracts or drifts within 60 days after the producer is notified by the U.S. Forest Service or State Forest Agency to meet the eligible face requirements of § 706.7. Only producers who did not participate in the 1970 or 1971 programs are eligible for cost-sharing under this practice.

(d) *Rate of cost-sharing.* The rate of cost-sharing for this practice is 10 cents per face. (The cost-share is applicable to faces discontinued by removal of cups and tins to permit the tract or drift to meet the eligible face requirements of § 706.7.)

§ 706.16 Practice 10: Pilot plant tests of new methods and equipment.

(a) *Purpose.* The purpose of this practice is to conduct controlled demonstrations or experiments to test values of management practices, new methods and equipment for gum production.

(b) *Description of practice.* This practice consists of carrying out practical demonstrations or tests of management practices, new methods or equipment according to requirements of the U.S. Forest Service.

(c) *Eligible faces.* Only faces or check trees in selected tracts used in controlled demonstrations or tests carried out in accordance with provisions prescribed by the U.S. Forest Service are eligible for cost-sharing.

(d) *Components of practice and rates of cost-sharing.* Components of the practice and rates of cost-sharing thereof are 15 cents per face for faces meeting

the requirements of §§ 706.7, 706.8, 706.9, 706.10, 706.11, and 706.12.

§ 706.17 Practice 11: Planting of superior trees.

Amount of cost-shares computed:	Increase in cost-shares
$30.00 to $30.99	10.00
$31.00 to $31.99	10.20
$32.00 to $32.99	10.40

shall be left uncut and undamaged and well distributed over the cutting area.

(2) When turpentine trees are cut in a harvest cutting, at least 400 turpentine trees per acre shall be left uncut and

questions of title under State law; without deduction of claims for advances except as provided in § 706.22; and without regard to any claim or lien against any crops or proceeds thereof, in favor

If it is determined that two or more producers contributed to carrying out the practice, the Federal cost-shares shall be divided among such producers in the proportion which the Program

cally, which are currently being worked for gum naval stores, herein referred to as a working area; and (2) all commercially valuable or potentially valuable forest land, owned by a producer on

the requirements of §§ 706.7, 706.8, 706.9, 706.10, 706.11, and 706.12.

§ 706.17 Practice 11: Planting of superior trees.

(a) *Purpose.* The purpose of this practice is to improve the stocking of depleted forest land with trees of proven increased oleoresin yield and faster wood growth. Such trees will produce more crude gum, pulpwood, sawtimber, plywood, poles, and other forest products.

(b) *Description of practice.* This practice consists of planting certified genetically superior high gum yielding slash pine seedlings, developed from the Olustee strain, on properly prepared sites and at spacings specified by the U.S. Forest Service.

(c) *Eligible acres.* Only land owned by a participant which is selected and planted in accordance with provisions prescribed by the U.S. Forest Service are eligible for cost-sharing.

(d) *Rate of cost-sharing.* The rate of cost-sharing for this practice is 80 percent of the actual cost not to exceed $20 per acre.

GENERAL PROVISIONS RELATING TO FEDERAL COST-SHARING

§ 706.18 Increase in small Federal cost-shares.

The total of the payment computed for any producer with respect to his turpentine farm under the Naval Stores Conservation Program and the cost-share computed for him on the same farm under the Rural Environmental Assistance Program for practices other than practice F-4 (§ 701.75(d) of this chapter) shall be increased as follows: (a) Any Federal cost-sharing amounting to 71 cents or less shall be increased to $1; (b) any Federal cost-sharing amounting to more than 71 cents but less than $1 shall be increased by 40 percent; (c) any Federal cost-sharing amounting to $1 or more shall be increased in accordance with the following schedule:

Amount of cost-shares computed:	*Increase in cost-shares*
$1.00 to $1.99	$0.40
$2.00 to $2.99	.80
$3.00 to $3.99	1.20
$4.00 to $4.99	1.60
$5.00 to $5.99	2.00
$6.00 to $6.99	2.40
$7.00 to $7.99	2.80
$8.00 to $8.99	3.20
$9.00 to $9.99	3.60
$10.00 to $10.99	4.00
$11.00 to $11.99	4.40
$12.00 to $12.99	4.80
$13.00 to $13.99	5.20
$14.00 to $14.99	5.60
$15.00 to $15.99	6.00
$16.00 to $16.99	6.40
$17.00 to $17.99	6.80
$18.00 to $18.99	7.20
$19.00 to $19.99	7.60
$20.00 to $20.99	8.00
$21.00 to $21.99	8.20
$22.00 to $22.99	8.40
$23.00 to $23.99	8.60
$24.00 to $24.99	8.80
$25.00 to $25.99	9.00
$26.00 to $26.99	9.20
$27.00 to $27.99	9.40
$28.00 to $28.99	9.60
$29.00 to $29.99	9.80
$30.00 to $30.99	10.00
$31.00 to $31.99	10.20
$32.00 to $32.99	10.40
$33.00 to $33.99	10.60
$34.00 to $34.99	10.80
$35.00 to $35.99	11.00
$36.00 to $36.99	11.20
$37.00 to $37.99	11.40
$38.00 to $38.99	11.60
$39.00 to $39.00	11.80
$40.00 to $40.99	12.00
$41.00 to $41.99	12.10
$42.00 to $42.99	12.20
$43.00 to $43.99	12.30
$44.00 to $44.99	12.40
$45.00 to $45.99	12.50
$46.00 to $46.99	12.60
$47.00 to $47.99	12.70
$48.00 to $48.99	12.80
$49.00 to $49.99	12.90
$50.00 to $50.99	13.00
$51.00 to $51.99	13.10
$52.00 to $52.99	13.20
$53.00 to $53.99	13.30
$54.00 to $54.99	13.40
$55.00 to $55.99	13.50
$56.00 to $56.99	13.60
$57.00 to $57.99	13.70
$58.00 to $58.99	13.80
$59.00 to $59.99	13.90
$60.00 to $185.99	14.00
$186.00 to $199.99	(1)
$200.00 and over	(2)

[1] Increase to $200.
[2] No increase.

§ 706.19 Maintenance of practices.

The sharing of costs by the Federal Government for performance of approved practices included in this program will be subject to the condition that the producer with whom the costs are shared will maintain such practices in accordance with good forestry practices as long as the timber remains under his control. There may be withheld or required to be refunded all cost-shares under this program or previous programs on tracts or drifts in which failure to maintain any or all practices occurs, except as modified by this section or § 706.2(d). The producer shall not be expected to maintain and complete the practice when prevented by destruction of the timber by fire, weather, insects, diseases, or other conditions beyond his control. Measures which will be considered as failure to maintain practices in accordance with good forestry practices shall include, but are not restricted to the following:

(a) *The cutting contrary to good forestry practices of turpentine trees in tracts or drifts (including current nonworking areas) on which costs have been or would be shared under this program or the 1968, 1969, 1970, or 1971 program.* There may be withheld or required to be refunded the amount previously paid for each face for which costs were shared in 1968, 1969, 1970, 1971, or 1972 in the tracts or drifts in which such cutting occurs. Conformity to the following rules shall be considered good cutting practices:

(1) When turpentine trees are cut for thinnings at least the minimum number of trees per acre specified in the Minimum Stocking Guide issued by the U.S. Forest Service June 4, 1956, as amended, shall be left uncut and undamaged and well distributed over the cutting area.

(2) When turpentine trees are cut in a harvest cutting, at least 400 turpentine trees per acre shall be left uncut and undamaged and well distributed over the cutting area, or a minimum of the following number or combination of numbers of thrifty turpentine seed trees per acre: 9 inches or over d.b.h.—six trees, 8 inches d.b.h.—nine trees, or 7 inches d.b.h.—12 trees, shall be left uncut and undamaged, or if clearcut, artificial planting of at least 500 trees per acre will be accomplished prior to April 1, 1975.

(b) *Raising cups and tins without double-headed nails.* There may be withheld or required to be refunded all of the cost-shares earned under this or previous programs on the tracts or drifts in which such improper raising occurs.

(c) *Picking up additional faces after the first year's working will disqualify the tract or drift for any further cost-sharing, unless the hardware is removed to limit the working to one age class of faces.* Such removal must be accomplished within 60 days of notification by the U.S. Forest Service or State Forest Agency.

(d) *Failure to meet bark-bar requirement.* There may be withheld or required to be refunded all or any part of cost-shares earned under this program on the tracts or drifts in which such improper chipping occurs.

(e) *The burning by the producer on any tract or drift of his turpentine farm which will destroy natural reforestation on land which is not fully stocked with turpentine trees or which will result in damage to established turpentine tree reproduction.* There may be withheld or required to be refunded all or any part of cost-shares earned under this program on the tracts or drifts in which such improper burning occurs.

(f) *The installation of new faces on round trees less than 9 inches d.b.h. or more than one face on round trees between 9 and 14 inches d.b.h. in tracts or drifts having working faces installed during or prior to the 1967 turpentine season.* There may be withheld or required to be refunded 2 cents per face for each working face installed during or prior to 1967 in the tracts or drifts in which such installation occurs.

§ 706.20 Practices defeating purposes of programs.

If the U.S. Forest Service or State Forest Agency finds that any producer has adopted or participated in any practice which tends to defeat the purposes of this program or previous programs, it may withhold or require to be refunded all or any part of any cost-share which has been or otherwise would be made to such producer under this program, except as modified by § 706.2(d) or § 706.19.

§ 706.21 Federal cost-shares not subject to claims.

Any Federal cost-share, or portion thereof, due any person shall be determined and allowed without regard to questions of title under State law; without deduction of claims for advances except as provided in § 706.22; and without regard to any claim or lien against any crop, or proceeds thereof, in favor of the owner or any other creditor. The regulations issued by the Secretary governing setoffs and withholdings, part 13 of this title, as amended, shall be applicable to the program.

§ 706.22 Assignments.

Any producer who may be entitled to any Federal cost-share under the 1972 program may assign his right thereto, in whole or in part, in accordance with the regulations governing the assignment of payments, Part 709 of this chapter, as amended.

§ 706.23 Death, incompetency, or disappearance of producer.

In case of the death, incompetency, or disappearance of any producer, the cost-share due him shall be paid to his successor, as determined in accordance with the regulations in Part 707 of this chapter, as amended.

§ 706.24 Maximum Federal cost-share limitation.

For practices other than practice F-4 (§ 701.75(d)) of this chapter, the total of all Federal cost-shares under this program and the 1972 Rural Environmental Assistance Program to any person with respect to farms, ranching units, and turpentine places in the United States, Puerto Rico, and the Virgin Islands for approved practices which are not carried out under pooling agreements shall not exceed the sum of $2,500, and for all approved practices, including those carried out under pooling agreements, shall not exceed the sum of $10,000. The rules for applying the maximum Federal cost-share limitation contained in the regulations governing the Rural Environmental Assistance Program, Part 701 of this chapter, as amended, shall be applicable to this program.

§ 706.25 Evasion.

All or any part of any Federal cost-share which has been or otherwise would be made to any producer participating in this program may be withheld or required to be refunded if he has adopted or participated in adopting any scheme or device, including the dissolution, reorganization, revival, formation, or use of any corporation, partnership, estate, trust, or any other means which was designed to evade the provisions of § 706.24.

APPLICATION FOR PAYMENT OF FEDERAL COST-SHARES

§ 706.26 Persons eligible to file application for payment of Federal cost-shares.

An application for payment of Federal cost-shares may be filed by any producer who contributed to the performance of any approved Naval Stores Conservation practice and is working faces for the production of gum naval stores, during the 1972 turpentine season, which were installed during or after the 1968 season. If it is determined that two or more producers contributed to carrying out the practice, the Federal cost-shares shall be divided among such producers in the proportion which the Program Supervisor determines they contributed to carrying out the practice. In making this determination, the Program Supervisor shall take into consideration the value of the labor, equipment, or material contributed by each person toward the carrying out of each practice on a particular acreage, and shall assume that each contributed equally unless it is established to the satisfaction of the Program Supervisor that their respective contributions thereto were not in equal proportion. The furnishing of land, trees, or the right to use water will not be considered as a contribution to the carrying out of any practice.

§ 706.27 Time and manner of filing applications and required information.

Payment of Federal cost-shares will be made only when a report of performance is submitted to the U.S. Forest Service or State Forest Agency on or before December 31, 1972, on the prescribed Form (8200–3) Application for Payment. Payment of Federal cost-shares may be withheld from any producer who fails to file any form or furnish any information required with respect to any turpentine farm which is being operated by him.

§ 706.28 Appeals.

Any producer may, within 15 days after notice thereof is forwarded to or made available to him, request the Southeastern Area Director in writing to review the recommendation or determination of the Program Supervisor in any matter affecting the right to or the amount of his Federal cost-shares with respect to the producer's turpentine farm. The Southeastern Area Director shall notify the producer of his decision in writing within 60 days after the submission of the appeal. If the producer is dissatisfied with the decision of the Southeastern Area Director he may, within 15 days after the decision is forwarded to or made available to him, request the Chief of the U.S. Forest Service to review the case and render his decision, which shall be final.

DEFINITIONS

§ 706.29 Definitions.

(a) *Gum naval stores.* Crude gum (oleoresin), gum turpentine, and gum rosin produced from living trees.

(b) *Producer or turpentine farmer.* Any person, firm, partnership, corporation, or other business enterprise doing business as a single legal entity, producing gum naval stores from turpentine trees controlled through fee ownership, cash lease, percentage lease, share lease, or other form of control.

(c) *Turpentine tree.* Any tree of either of the two species, longleaf pine (Pinus palustris) or slash pine (Pinus elliottii engelm).

(d) *Turpentine farm.* This includes (1) land growing turpentine trees, owned or leased by a producer in one general locality, which are currently being worked for gum naval stores, herein referred to as a working area; and (2) all commercially valuable or potentially valuable forest land, owned by a producer on which turpentine trees are growing and which are not being currently worked for gum naval stores, herein referred to as a non-working area.

(e) *Tract.* A portion of a working area having a continuous stand of trees supporting faces of one age class or intermingled age classes.

(f) *Drift.* A portion or subdivision of a tract set apart for convenience of operation or administration.

(g) *Turpentine season.* The entire calendar year, or, if a farm is operated less than the full calendar year, that period within the calendar year during which a producer is operating his turpentine farm for the production of gum naval stores.

(h) *Face.* The whole wound or aggregate of streaks made by chipping, streaking, or pulling the live tree to stimulate the flow of crude gum (oleoresin) herein referred to as gum.

(i) *Cup.* A container made of metal, clay, or other material hung on or below the face to accumulate the flow of gum.

(j) *Tins.* The gutters or aprons, made of sheet metal or other material, used to conduct the gum from a face into a cup.

(k) *D.b.h.* Diameter breast height, i.e., diameter of tree measured 4½ feet from the ground.

(l) *Round tree.* Any tree which has not been faced or scarred.

(m) *Scarred tree.* A tree having an idle face not over 36 inches in vertical measurement from the shoulder of the first streak to the shoulder of the last streak.

(n) *Worked-out face.* Any idle face which is 60 inches or more in vertical measurement between the shoulder of the first streak and the shoulder of the last streak, or dry face.

(o) *Back face.* A face placed on a tree having a previously worked face.

(p) *Spiral gutter.* A curved gutter that follows a spiral path around the tree.

(q) *Varn apron.* A curved two-piece adjustable apron with tacking flange.

(r) *Double-headed nail.* A nail with two heads meeting minimum specifications as follows: The overall length shall be 1¾ inches; distance between heads a minimum of one-fourth inch; its wire gauge no smaller than 13; the driving head shall be of flat "Common Nail" type with diameter between five-thirty-seconds and one-fourth inch and diameter of clinching head one-fourth inch. (Double-headed nails specially designed for naval stores use are produced commercially by several manufacturers. Experience has shown that the use of double-headed nails meeting these specifications is satisfactory and meets the requirements for any type of installation and easy removal from the trees.)

(s) *Disposable paper bag.* A paper bag meeting the following minimum specifications: The bag shall be fabricated from 50-pound, wet-strength, Kraft paper laminated to a plastic film. Dimensions of the bag shall be approximately

16 inches wide laterally, 9½ inches high overall, with 3½ inch gussets, and an outside from 8½ inches high.

(t) *Staples for attaching paper bags.* Agriculture or by the U.S. Fish and Wildlife Service of the Department of the Interior).

(b) This program is applicable to: as a result of changes in the affiliation (with handlers) of certain groups of growers. Under the order, grower membership on the committee is divided

Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after publication

TABLE

[Percent]

Early and midseason type	Two weeks later	Three weeks later

All persons who desire to submit written data, views, or arguments in connection with the proposed amendment should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department

16 inches wide laterally, 9½ inches high overall, with 3½ inch gussets, and an outside from 8½ inches high.

(t) *Staples for attaching paper bags.* Staples manufactured of soft iron, one-half to nine-sixteenths inch in length, averaging 16 to 21 staples per inch of clip, are satisfactory.

(u) *Virgin streak.* The first chipping of the tree following initial installation of the face.

(v) *Hardware.* All gutters, aprons, or metal strips of any kind whatsoever together with nails used to support same and nails used to support cups for the collection of raw gum resin.

(w) *State Forest Agency.* State Forester or comparable State official who has entered into a cooperative agreement with the U.S. Forest Service to provide technical assistance in carrying out this program.

AUTHORITY, AVAILABILITY OF FUNDS, APPLICABILITY, AND ADMINISTRATION

§ 706.30 Authority.

This program is approved pursuant to the authority vested in the Secretary of Agriculture under sections 7 to 15, 16(a), and 17 of the Soil Conservation and Domestic Allotment Act, as amended.

§ 706.31 Availability of funds.

(a) The provisions of this program are necessarily subject to such legislation affecting said program as the Congress of the United States may hereafter enact; the paying of the Federal cost-shares herein provided for is contingent upon such appropriation as the Congress may hereafter provide for such purpose; and the amounts of such Federal cost-shares will necessarily be within the limits finally determined by such appropriation and by the extent of participation in this program.

(b) The funds provided for this program will not be available for the payment of applications filed after December 31, 1973.

(c) If the total estimated cost-shares under the Naval Stores Conservation Program exceed the total funds available for cost-sharing, such cost-shares will be reduced equitably.

(d) The regulations in Part 796 of this chapter prohibiting the making of payments to program participants who, after August 10, 1971, harvest or knowingly permit to be harvested for illegal use marijuana or other such prohibited drug-producing plants on any part of the lands owned or controlled by them are applicable to this program.

§ 706.32 Applicability.

(a) The provisions of this program are not applicable to any turpentining operations within the public domain of the United States, including the lands and timber owned by the United States which were acquired or reserved for conservation purposes, or which are to be retained permanently under Government ownership (such lands include, but are not limited to lands owned by the United States which are administered by the U.S. Forest Service of the Department of Agriculture or by the U.S. Fish and Wildlife Service of the Department of the Interior).

(b) This program is applicable to:

(1) Turpentine farms on privately owned lands;

(2) Lands owned by a State or political subdivision or agency thereof; or

(3) Lands owned by corporations which are either partly or wholly owned by the United States provided such lands are temporarily under such Government or corporation ownership and are not acquired or reserved for conservation purposes. (These include lands administered by the Farmers Home Administration, the Federal Farm Mortgage Corporation, a Production Credit Association, or the U.S. Department of Defense, and lands administered by any other agency complying with all of the foregoing provisions for eligibility.)

§ 706.33 Administration.

The U.S. Forest Service shall have charge of the administration of this program and is hereby authorized to prepare and to issue such bulletins, instructions and forms, and to make such determinations, as may be required to administer this program pursuant to the provisions of the regulations in this subpart. The field work shall be administered by the U.S. Forest Service through the office of the Southeastern Area Director, U.S. Forest Service, 1720 Peachtree Road NW., Atlanta, GA 30309. Information concerning this program may be secured from the U.S. Forest Service, Post Office Box 1625, Valdosta, GA 31601, its representatives, or from State Forest Agency offices in Alabama, Florida, Georgia, and Mississippi.

[FR Doc.71-17291 Filed 11-24-71;8:56 am]

Consumer and Marketing Service

[7 CFR Part 910]

LEMONS GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Proposed Change in Grower Representation

Notice is hereby given that the Department is considering a proposed amendment, as hereinafter set forth, to the rules and regulations (Subpart—Rules and Regulations; 7 CFR 910.100–910.180; 36 F.R. 17485) currently effective pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910, 36 F.R. 9061), regulating the handling of fresh Lemons grown in Arizona and designated part of California, hereinafter referred to collectively as the "order." This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The amendment to said rules and regulations was unanimously recommended by the Lemon Administrative Committee, established under said order as the agency to administer the terms and provisions thereof.

The proposal involves realignment of grower representation on said committee as a result of changes in the affiliation (with handlers) of certain groups of growers. Under the order, grower membership on the committee is divided among representatives from three grower groups: The "co-op more than 60 percent" (the principal cooperative marketing organization); the "other co-ops;" and the "independents" who are growers unaffiliated with any cooperative marketing organization. On November 1, 1971, growers who operate three packinghouses changed their affiliation from "other co-ops" to independent handlers. Before the change, lemon production by all "independent" growers amounted to 4.35 percent of regulated shipments, based on regulated shipments during August 1, 1970, through July 31, 1971, as a representative period. As a result of the change, "independent" grower production amounts to 12.04 percent of regulated shipments when figured as a percent of regulated shipments during the representative period. Before the change lemon production by growers affiliated with "other co-ops" amounted to 11.24 percent of regulated shipments, based on regulated shipments during the representative period. As a result of the change, production by growers still affiliated with "other co-ops" amounts to 3.54 percent of regulated shipments when figured as a percent of regulated shipments during the period.

Therefore, the proposed realignment would change the grower member composition of the committee by (1) reducing the "other co-ops" representation from two grower members to one in District 2 and increasing the independent grower representatives from zero to one, and (2) reducing the "other co-ops" grower members from one to zero in District 3 and increasing the independent grower members from one to two. Representation of the principal co-operative marketing organization is not involved and total grower membership on the committee would remain unchanged at eight members. The proposed amendment would become effective 30 days after publication in the FEDERAL REGISTER.

The proposal is as follows:

A new § 910.120 *Change in grower representation,* is added reading as follows:

§ 910.120 Change in grower representation.

Pursuant to § 910.22(h) grower representative on the Lemon Administrative Committee for purposes of §§ 910.20 and 910.22 shall be as follows:

	Co-op more than 60 percent	Other co-ops	Independents
District 1	1	0	0
District 2	2	1	1
District 3	1	0	2

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed committee realignment, shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: November 19, 1971.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-17239 Filed 11-24-71;8:50 am]

Consumer and Marketing Service

[7 CFR Part 914]

ORANGES GROWN IN THE INTERIOR DISTRICT IN FLORIDA

Notice of Proposed Rule Making

Notice is hereby given that the Department is considering a proposed amendment, as hereinafter set forth, of the rules and regulations (Subpart—Rules and Regulations; § 914.130; 36 F.R. 3801) currently in effect pursuant to the applicable provisions of the marketing agreement and Order No. 914 (7 CFR Part 914), regulating the handling of oranges grown in the Interior District in Florida, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The amendment of said rules and regulations was proposed by the Interior Orange Marketing Committee, established under said marketing agreement and order, as the agency to administer the terms and provisions thereof. Section 914.45 requires that the quantity of oranges which may be handled during any week shall be allocated between early and midseason type oranges and late type oranges on the basis of the respective percentages of weekly shipments of the two types of oranges during the preceding three fiscal periods. The proposed amendment is designed to put into effect the method for determining the allocation of the fixed quantity during the 1971–72 fiscal period by revising the table of shipment data to reflect the last three fiscal periods (1968–69 through 1970–71).

Therefore, it is proposed that the table following the introductory language of paragraph (b) of § 914.130 be amended to read as follows:

§ 914.130 Method of allocating fixed quantity.

• • • • • •

(b) • • •

TABLE

[Percent]

Early and midseason type oranges in shipments for a given week	Two weeks later	Three weeks later
99	78	50
98	74	44
97	70	40
96	65	34
95	59	30
94	55	27
93	50	24
92	48	23
91	45	21
90	42	19
89	39	18
88	37	17
87	33	15
86	31	14
85	30	13
84	29	12
83	28	12
82	27	11
81	26	11
80	25	11
79	24	10
78	24	10
77	23	10
76	23	9
75	22	9
74	21	8
73	21	8
72	20	7
71	20	7
70	19	7
69	18	7
68	17	6
67	17	6
66	16	6
65	15	5
64	15	5
63	14	5
62	14	5
61	14	5
60	13	4
59	13	4
58	13	4
57	13	4
56	12	4
55	11	4
54	11	4
53	11	4
52	10	4
51	10	4
50	10	4
49	10	4
48	9	3
47	9	3
46	9	3
45	8	3
44	8	3
43	8	3
42	7	3
41	7	3
40	7	3
39	7	3
38	6	3
37	6	3
36	6	3
35	6	3
34	5	2
33	5	2
32	5	2
31	4	2
30	4	2
29	4	2
28	4	2
27	4	2
26	4	2
25	4	2
24	4	2
23	3	2
22	3	2
21	3	2
20	3	2
19	3	2
18	3	1
17	3	1
16	2	1
15	2	1
14	2	1
13	2	1
12	2	1
11	2	1
10	2	1
9	2	1
8	2	1
7	2	1
6	1	1
5	1	1
4	1	1
3	1	1
2	1	0
1	0	0

All persons who desire to submit written data, views, or arguments in connection with the proposed amendment should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112–A, Administration Building, Washington, D.C. 20250, not later than the 10th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: November 18, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-17118 Filed 11-24-71;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1904]

RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

Proposed Statistical Reporting Program

Notice is hereby given of the proposed rules set forth below which would amend Part 1904 of Title 29, Code of Federal Regulations, in order to add thereto new rules prescribing certain statistical reporting requirements under the Williams-Steiger Occupational Safety and Health Act of 1970. Copies of proposed Occupational Injuries and Illnesses Survey, Form OSHA No. 103, are available for inspection at the regional offices of the Bureau of Labor Statistics and at the national office of the Bureau, General Accounting Office Building, 441 G Street NW., Washington, DC 20212.

Interested persons are invited to submit written data, views, and arguments concerning the proposed rules to the Office of Safety and Health Statistics, Bureau of Labor Statistics, 441 G Street NW., Washington, DC 20212, within 20 days following publication of this notice in the FEDERAL REGISTER. Any written comments which are not designated as confidential and otherwise exempt from public disclosure under 5 U.S.C. 552 may be inspected by any person upon written request.

Part 1904 of Title 29, Code of Federal Regulations, would be amended by adding thereto the following:

STATISTICAL REPORTING OF OCCUPATIONAL INJURIES AND ILLNESSES

§ 1904.20 Description of statistical programs.

(a) Section 24 of the Act directs the Secretary of Labor, in consultation with the Secretary of Health, Education, and Welfare, to develop and maintain a program of collection, compilation, and

analysis of occupational safety and health statistics. The Commissioner of the Bureau of Labor Statistics has been subdelegated this authority by the Secretary of Labor. The program shall con-

tion of new Parts 511, 541, 551, and 561 to Title 24 of the Code of Federal Regulations, as set forth below.

The proposed new Parts 511, 541, 551, and 561 would assist in the selection of

the status of their application with HUD (either approved contingent on fully meeting statutory requirements, or rejected). This notification will contain an explanation for rejection, in those cases

§ 511.1 Scope.

(a) *Purpose.* This part sets forth criteria and procedures to be used in preliminary evaluation of applications for

tivities are taking place or are to take place under a neighborhood development program.

(h) "Renewal experience" means those renewal efforts and activities carried out

(f) *Housing component.* Absence of any known barrier to an adequate or better rating on the Housing Production and Mortgage Credit Project Selection System (36 F.R. 19316–20, Oct. 2, 1971)

analysis of occupational safety and health statistics. The Commissioner of the Bureau of Labor Statistics has been subdelegated this authority by the Secretary of Labor. The program shall consist of periodic surveys of occupational injuries and illnesses. For the immediate future, such surveys shall cover all nonfarm employments with a few limited exclusions such as government and mining.

(b) The sample design encompasses probability procedures, detailed stratification by industry and size, and a systematic selection within strata. Stratification and sampling will be carried out by State and other jurisdictions in order to provide the most efficient sample for eventual State estimates. Some industries will be sampled more heavily than others depending on the injury rate level based on previous experience. Nationally, the survey should produce adequate estimates for most four-digit Standard Industrial Classification (SIC) industries in manufacturing and for three-digit SIC classification in nonmanufacturing. In participating States where the sample size has been supplemented significantly, comparable estimates are possible.

§ 1904.21 Duties of employers.

Upon receipt of an Occupational Injuries and Illnesses Survey Form, OSHA No. 103,[1] the employer shall promptly complete the form in accordance with the instructions contained therein, and return it in accordance with the aforesaid instructions.

§ 1904.22 Effect of State plans.

Nothing in any State plan approved under section 18(c) of the Act shall affect the duties of employers to submit statistical report forms under § 1904.21 of this part.

(Secs. 8(g), 24, 84 Stat. 1600, 1615; 29 U.S.C. 657, 673; Secretary's Order No. 12–71, 36 F.R. 8754)

Signed at Washington, D.C., this 22d day of November 1971.

GEOFFREY H. MOORE,
Commissioner,
Bureau of Labor Statistics.

[FR Doc.71–17276 Filed 11–24–71;8:56 am]

[1] Filed as part of the original document.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R–71–160]

[24 CFR Parts 511, 541, 551, 561]

PROJECT SELECTION SYSTEM FOR CERTAIN COMMUNITY DEVELOPMENT PROGRAMS

Notice of Proposed Rule Making

Notice is hereby given that the Assistant Secretary for Community Development, under the authority contained in section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d), is considering the addition of new Parts 511, 541, 551, and 561 to Title 24 of the Code of Federal Regulations, as set forth below.

The proposed new Parts 511, 541, 551, and 561 would assist in the selection of project applications for funding under the Neighborhood Development Program, the Open Space Program (Legacy of Parks), the Neighborhood Facilities Program, and the Public Facility Loans Program.

These are four of seven basic programs now grouped under the umbrella of "Community Development" as part of a Departmental reorganization reflecting a basic change in the operation of the Department in order to subordinate "program" to "purpose."

The Department's purpose, the delivery of essential Community Development resources and assistance to areas of need, without regard to size of the community in the face of demand which exceeds the supply, can be most effectively achieved through use of a rational system which identifies eligible projects which best meet Community Development goals established by this Department.

The Community Development Project Selection Systems will be used to allocate scarce resources and assistance quickly and fairly for the maximum benefit of the hard pressed urban and rural areas of this country. These systems will identify those projects for early funding decisions which do more than the bare minimum needed to qualify an applicant under a particular statute. Priority systems such as these are necessary tools for allocation of resources to those projects which deliver the most to areas of greatest need. In addition these Project Selection Systems further the objective of annual funding. The purpose is to make those decisions fairly, equitably, and openly.

Project applications will be reviewed in the HUD Area Office by a team consisting of appropriate Community Development staff and technical experts.

Funding will be made available only after three distinct review activities occur. First, the application will be judged against statutory related prerequisites to eliminate clearly inappropriate proposals or clearly ineligible projects; second, the application, if it meets the prerequisite test, will be evaluated against certain numerically rated criteria and ranked among all applications for a particular fiscal quarter; third, those applications ranked high enough to justify further processing in accordance with established procedures will then be reviewed for technical compliance with all relevant statutory requirements including those for which a preliminary judgment was made as to apparent eligibility in the prerequisite review. No funding commitments will be made until after these technical compliance reviews are completed.

Staff judgments will be based on information submitted by the applicant as well as information secured from Area Offices/local staff discussion and site visits. At the end of each fiscal quarter all applicants will receive notice as to the status of their application with HUD (either approved contingent on fully meeting statutory requirements, or rejected). This notification will contain an explanation for rejection, in those cases where an application is not approved. Applicants whose projects receive conditional approval will be required to submit any needed technical supplemental information within 60 days or lose the conditional fund assurance.

The numerical ranking process will be used to select those applications which are superior in terms of meeting program goals. Criteria rate the locality's need for the project, and ability to coordinate and carry out the project, as well as rating the project itself.

A positive response on each statement for which points are awarded will result in the awarding of the assigned number of points. In several instances a judgment is called for between "good" and "superior" with the point total differentiated accordingly.

Interested persons are invited to participate in the making of the proposed rule by submitting written data, views, or statements with regard to the proposed regulations. Communications should identify the proposed rule by the above title and should be filed in triplicate with the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, Washington, D.C. 20410. All relevant material received on or before December 27, 1971, will be considered by the Secretary before taking action on the proposal. Copies of comments submitted will be available during business hours, both before and after the specified closing date, at the above address, for examination by interested persons. Environmental statements concerning the impact of these project selection systems can be purchased from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151.

Accordingly, Chapter V of Title 24 of the Code of Federal Regulations is proposed to be amended by adding new Parts 511, 561 and 561 to read as follows:

PART 511—PROGRAM PROJECT SELECTION SYSTEM FOR THE NEIGHBORHOOD DEVELOPMENT PROGRAM

Sec.
511.1 Scope.
511.2 Definitions.
511.4 Program prerequisites.
511.6 Criteria for evaluating applications.
511.8 Local effort and coordination.
511.10 Impact of area selected.
511.12 Program management capacity.
511.14 Local equal employment and entrepreneurial effort.
511.16 Local need.
511.18 Commitment of local, State, and Federal entities to project or program.
511.20 Expansion of housing for low- and moderate-income families.
511.22 Community development.

AUTHORITY: The provisions of this Part 511 issued under secs. 121–124, of the Housing Act of 1949, as amended, 63 Stat. 518–520; 42 U.S.C. 1460–1460c.

§ 511.1 Scope.

(a) *Purpose.* This part sets forth criteria and procedures to be used in preliminary evaluation of applications for Federal loan and grant assistance to local public bodies and agencies for Neighborhood Development Programs, which are urban renewal undertakings and activities, in one or more urban renewal areas, that are planned and carried out on the basis of annual increments.

(b) *Procedures.* Submissions will first be reviewed against six prerequisites. If any of these prerequisites are not met, the application will be rejected. If the application appears to meet the prerequisites, it will be evaluated against the point rated criteria and assigned a point rating. The application will then be rejected or processed further according to its point rating as compared with the point ratings of other competing applications. This evaluation will not result in a final decision to extend loan and grant assistance to particular Neighborhood Development Program projects. Such decision will be made only after a full technical review of applications for compliance with all relevant statutory requirements.

§ 511.2 Definitions.

As used in the regulations in this part:

(a) "Applicant" means a local public agency as defined under sec. 110(h) of the Housing Act of 1949; 63 Stat. 413, 421; 42 U.S.C. 1460(h).

(b) "City Demonstration Agency" means that agency which was required to be established under title I of the Demonstration Cities and Metropolitan Development Act of 1966, 80 Stat. 1255, 42 U.S.C. 3301, to carry out a Model Cities program at the local level.

(c) "Locality" means the political jurisdiction or jurisdictions having general purpose government powers upon whose behalf the application for funding has been submitted.

(d) "Low and moderate income" means an income level which is less than the maximum income eligibility level for a family of four under either of the subsidized housing programs authorized by section 235 or 236 of the National Housing Act, as amended, 82 Stat. 476, 477, 498, 12 U.S.C. 1715Z, 1715Z–1.

(e) "Low- and moderate-income housing" refers to housing with a fair market value that is equal to or less than the resultant of multiplying the section 235–236 maximum income for a family of four, as established by the Secretary for the county in which the project is located, by a factor of 3. "Low- and moderate-income housing" also refers to housing with an annual rental equal to or less than one-third of such section 235–236 maximum income.

(f) "Model neighborhood" means that geographical area in which funds are being spent under a program authorized by title I of the Demonstration Cities and Metropolitan Development Act of 1966, 80 Stat. 1255, 42 U.S.C. 3301.

(g) "NDP area" means the area or areas in which urban renewal project activities are taking place or are to take place under a neighborhood development program.

(h) "Renewal experience" means those renewal efforts and activities carried out under one or more urban renewal projects under sec. 110(c) of the Housing Act of 1949, as amended, 63 Stat. 413, 414; 42 U.S.C. 1450; or a Neighborhood Development Program as described in sections 131–134 of said Housing Act.

(i) "Service area" has the same definition as NDP area above.

§ 511.4 Program prerequisites.

For the Neighborhood Development Program there are the following six prerequisites:

(a) *Workable program.* The presence of a certified or certifiable Workable Program pursuant to section 101(c) of the Housing Act of 1949, as amended, Public Law 81–171, 63 Stat. 413; U.S.C. 1451c. By "certifiable workable program" is meant a reasonable probability of certification or recertification based upon submitted materials and local progress towards meeting certification standards and conditions as indicated in HUD's Handbook for the Workable Program, RHA 7100.

(b) *Local general plan.* The presence of a local general plan, and conformance of the project thereto. A "local general plan" is defined as an official document or documents containing a land use plan, thoroughfare plan, community facilities plan, public improvement program, zoning ordinance and map, and subdivision regulations so interrelated that taken together they serve as a comprehensive guide for the physical development of the locality as a whole. The plan must have been approved by the local governing body of the locality in which the NDP is proposed.

(c) *Civil rights.* Submission of acceptable assurances of compliance with title VI of the Civil Rights Act of 1964, Public Law 88–352, 78 Stat. 252, 42 U.S.C. 2000d and HUD title VI regulations 24 CFR Part I, 29 F.R. 16280 and with affirmative action plan requirements pursuant to Executive Order 11246, as amended 30 F.R. 12319, and HUD regulations 24 CFR Part 8, 36 F.R. 20688.

(d) *Relocation requirements.* Absence of any known impediment to the locality's ability to meet relocation requirements and fulfill requirements for replacement housing. "Known impediment" refers to both a legal inability to comply with title I of the Housing Act of 1949 as amended, Public Law 81–171, 63 Stat. 413, 414, 42 U.S.C. 1450, et seq., or the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91–646, 84 Stat. 1894, 42 U.S.C. 4601, or other statutory requirements and a practical inability to provide adequate relocation assistance and replacement housing.

(e) *A–95 coordination.* Evidence that A–95 coordination is in process. The phrase "A–95 coordination" refers to the procedure involving review of applications by the appropriate agency designated under OMB Circular A–95.

(f) *Housing component.* Absence of any known barrier to an adequate or better rating on the Housing Production and Mortgage Credit Project Selection System (36 F.R. 19316–20, Oct. 2, 1971) for any subsidized housing required to meet the housing component for the program.

§ 511.6 Criteria for evaluating applications.

Criteria for evaluating applications are divided into the following major categories:

(a) Local effort and coordination;
(b) Impact of area selected;
(c) Program management capacity;
(d) Local equal employment effort;
(e) Local need;
(f) Commitment of local, State, and Federal entities to project or program;
(g) Expansion of housing for low- and moderate-income families;
(h) Community development.

The elements considered in each category are described in the following sections, and the method of assigning rating points to each element or category is set forth. Points are awarded to each element or category in the following manner unless otherwise specifically indicated: If a statement under a particular element or category applies specifically to the project application under consideration, the application is awarded the number of points assigned to that statement. If no statement applies, no points are awarded to the application for that element.

§ 511.8 Local effort and coordination.

(The value of this category is the sum of the values of paragraphs (a) and (b) of this section.)

(a) *Budget and capital improvement plan.* All necessary project related public improvements, facilities, and services are identified in the appropriate local budgets and capital improvements plan, except those included in project costs ---------- 5

(b) *Model cities.* The NDP area is in whole or in part a Model Neighborhood, and there exists a statement by the City Demonstration Agency Director that the activities for which funding is requested are consistent with the goals and objectives of the Model Neighborhood plan ---------- 5

§ 511.10 Impact of area selected.

(The value of this category is the sum of the values of paragraphs (a) to (d) of this section.)

(a) *Rehabilitation of substandard residential units.* Seventy-five percent of the existing substandard residential units in the NDP area will be rehabilitated, and 75 percent of the total units will be retained---------- 7

"Substandard residential units" refer to those residential units which are out of compliance with the appropriate local housing and building codes.

(b) *Redevelopment areas.* The NDP area is in a designated redevelopment area as defined by the Public Works and Economic Development Act of 1965, as

amended Public Law 89–136, 79 Stat. 552, 42 U.S.C. 3121, and the program shows evidence of conformance to the Overall Economic Development Plan for that

is the sum of the values of subparagraphs (1) to (3) of this paragraph.)

(1) Activities undertaken by the locality have provided relatively superior op-

ecutive and local governing body during the planning of the project, and they are demonstrating current public commitment in support of the project.---------- 4

Sec.
541.14 Local need.
541.16 Commitment of local, State, and Federal entities to project or program.

ized by title I of the Demonstration Cities and Metropolitan Development Act of 1966, 80 Stat. 1255, 42 U.S.C. 3301.

§ 541.4 Program prerequisites.

unless otherwise specifically indicated. If a statement under a particular element or category applies specifically to the project application under consideration, the application is awarded the number of points

amended Public Law 89–136, 79 Stat. 552, 42 U.S.C. 3121, and the program shows evidence of conformance to the Overall Economic Development Plan for that area ---------- 4

(c) *Environmental deficiencies.* The locality is taking active steps (including those proposed under the NDP) to eliminate environmental deficiencies in the NDP area, including but not limited to any among those listed below:

(1) Overcrowding of land.
(2) Substantial substandard housing.
(3) Lack of open space.
(4) Transportation (including parking) deficiencies.
(5) Inadequate public facilities, including water and sewer.
(6) Incompatible land uses.
(7) Incompatible types of building uses.
(8) Underutilized land---------- 4

(d) Expansion of low- and moderate-income housing. The program contributes to the realistic plan referred to in § 511.20(b) ---------- 4

§ 511.12 Program management capacity.

(The value of this category is the sum of the values of either paragraphs (a) or (b) of this section. For purposes of this section, 4 points equals good, 8 points equals superior.)

(a) *Locality that has had previous renewal experience.* (The value of this element is the sum of subparagraphs (1) and (2) of this paragraph.)

(1) There is consistency between past project(s) results and relevant project objectives---------- 4 or 8

(2) Since July 1, 1968, there has been a reasonable relationship between past initial cost and time commitments and actual cost and development time- 4 or 8

(b) *Locality that is without previous renewal experience.* (The value of this element is the sum of subparagraphs (1), (2), and (3) of this subparagraph.)

(1) The applicant is organizationally part of a local general purpose government ---------- 4

(2) There is a likelihood of successful execution and completion of the proposed NDP, based on the relationship to the proposed NDP activities of the following factors:

(i) Administrative budget.
(ii) Time phasing for critical events.
(iii) Staff assignments.
(iv) Budgeted activities of other local agencies ---------- 4 or 8

(3) Either the locality's performance with other HUD programs in the last 3 years was satisfactory in all programs, or

For localities without other HUD program experience, the locality's performance in its public development efforts during the last 3 years was satisfactory ---------- 4

§ 511.14 Local equal employment and entrepreneurial effort.

(The value of this category is the sum of the values of either paragraphs (a) or (b) of this section.)

(a) *If locality has had previous renewal experience.* (Value of this element is the sum of the values of subparagraphs (1) to (3) of this paragraph.)

(1) Activities undertaken by the locality have provided relatively superior opportunities for training and/or employment, of minority persons ---------- 3

(2) Activities undertaken by the locality have provided relatively superior opportunities for business concerns owned, controlled or managed in substantial part by minority persons ---------- 3

(3) The applicant has taken affirmative action in its own employment in the hiring, training, etc., of minority persons, with relatively superior results -------- 4

(b) *If locality is without previous renewal experience.* (Value of this element is the sum of the values of subparagraphs (1) and (2) of this paragraph.)

(1) Activities undertaken by the locality have provided relatively superior opportunities for training and/or employment of minority persons---------- 5

(2) Activities undertaken by the locality have provided relatively superior opportunities for business concerns owned, controlled, or managed in substantial part by minority persons---------- 5

In determining whether or not performance has been "relatively superior" the following items will be taken into consideration: Absolute numbers of persons actually trained or hired in relation to numbers of minority group persons in the labor market area; total dollar value of contracts let to minority entrepreneurs in relation to total dollar amount of contracts let by locality; within the administering agency, racial composition at all levels of employment and absolute number of training opportunities made available to minority group persons.

§ 511.16 Local need.

(The value of this category is the sum of the values of paragraphs (a) and (b) of this section.)

(a) *Median income of jurisdiction.* The median annual family income of the geographic area of jurisdiction of the applicant compared to the State median annual family income is: (Select one, if appropriate):

(1) $1–$500 below State median ---- 4
(2) More than $500 below State median---------- 8

(b) *Median income of service area.* The median annual family income of the service area compared to the State annual median family income is: (Select one if appropriate):

(1) $1–$500 below State median---- 4
(2) More than $500 below State median ---------- 8

Median family incomes for the service area and the State are to be obtained by utilising the City-County Data Book or other census data if possible. Or use best available data.

§ 511.18 Commitment of local, State, and Federal entities to project or program.

(The value of this category is the sum of paragraphs (a) to (d) of this section.)

(a) *Local commitment.* There was substantial participation by the chief executive and local governing body during the planning of the project, and they are demonstrating current public commitment in support of the project---------- 4

(b) *Resident commitment.* There was effective widespread participation of a representative spectrum of residents in the development of project objectives and there is evidence of current support for the execution of the project---------- 4

(c) *Coordination of resources.* There was substantial participation of other local agencies during planning, and there is a current commitment including resources, from State, county, or local entities other than those necessary to satisfy the local share requirement---- 4

(d) *Participation in areawide or metropolitan planning.* There is active participation by the locality's representatives in the areawide or metropolitan planning organization---------- 3

§ 511.20 Expansion of housing for low- and moderate-income families.

(The value of this category is the sum of paragraphs (a) and (b) of this section.)

(a) *Expansion within applicant's jurisdiction.* Within the applicant's geographic area of jurisdiction, there has been significant expansion of the supply of standard housing for low- and moderate-income families in a nondiscriminatory way---------- 6

(b) Dispersion of low and moderate income housing. The locality has a realistic plan to expand the supply of standard low and moderate income housing in a nondiscriminatory way outside areas of concentration of economically disadvantage or minority citizens---------- 4

§ 511.22 Community development.

The project is necessary for undertaking other publicly supported community development activities---------- 0 to 4

"Community development activities" refers to those publicly supported physical development activities and those related social or economic development activities being carried out or to be carried out within a reasonable period of time in accordance with a locally determined or area-wide plan or strategy. Factors taken into consideration may include the project's responsiveness to local needs and objectives, the economics possible through coordinated or joint action, the degree of support by the appropriate unit(s) of local general-purpose government, and the management capacity within local general-purpose government.

PART 541—OPEN SPACE PROGRAM (LEGACY OF PARKS) PROJECT SELECTION SYSTEM

Sec.
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AUTHORITY: The provisions of this Part 541 issued under title IV, of the Housing Act of 1961, as amended, Public Law 91–609, 84 Stat. 1781; 42 U.S.C. 1500.

§ 541.1 Scope.

(a) *Purpose.* This part sets forth criteria and procedures to be used in preliminary evaluation of applications for Federal grant assistance to local public bodies and agencies for the Open Space Program (Legacy of Parks).

(b) *Procedures.* Submissions will first be reviewed against five prerequisites. If any of these prerequisites are not met, the application will be rejected. If the application meets all prerequisities, it will be evaluated against the point rated criteria and assigned a point rating. The application will then be rejected or processed further according to its point rating as compared with the point ratings of other competing applications. This evaluation will not result in a final decision to extend grant assistance to particular Open Space projects. Such decision will be made only after a full technical review of applications for compliance with all relevant statutory requirements.

§ 541.2 Definitions.

As used in the regulations in this part:

(a) "City Demonstration Agency" means that agency which was required to be established under title I of the Demonstration Cities and Metropolitan Development Act of 1966, 80 Stat. 1255, 42 U.S.C. 3301, to carry out a Model Cities program at the local level.

(b) "Locality" means the political jurisdiction or jurisdictions having general-purpose government powers upon whose behalf the application for funding has been submitted.

(c) "Low and moderate income" means an income level which is less than the maximum income eligibility level for a family of four for the county in which the project is to be located under either of the subsidized housing programs authorized by section 235 or 236 of the National Housing Act, as amended 82 Stat. 476, 477, 498; 12 U.S.C. 17152, 17152–1.

(d) "Low- and moderate-income housing" refers to housing with a fair market value that is equal to or less than the resultant of multiplying the section 235–236 maximum income for a family of four, as established by the Secretary for the county in which the project is located, by a factor of 3. "Low- and moderate-income housing" also refers to housing with an annual rental equal to or less than one-third of such section 235–236 maximum income.

(e) "Model neighborhood" means that geographical area in which funds are being spent under a program authorized by title I of the Demonstration Cities and Metropolitan Development Act of 1966, 80 Stat. 1255, 42 U.S.C. 3301.

§ 541.4 Program prerequisites.

For the Open Space Program (Legacy of Parks) there are the following five prerequisities:

(a) Certified areawide planning jurisdiction. The locality is in a certified areawide planning jurisdiction. For definition of "certified areawide planning jurisdiction" see HUD Circular 6415.1A and 6415.2.

(b) *Civil rights.* Submission of acceptable assurances of compliance with title VI of the Civil Rights Act of 1964, Public Law 88–352, 78 Stat. 252, 42 U.S.C. 2000d and HUD title VI regulations 24 CFR Part I, 29 F.R. 16280 and with affirmative action plan requirements pursuant to Executive Order 11246, as amended 30 F.R. 12319, and HUD regulations 24 CFR Part 8, 36 F.R. 20688.

(c) *Relocation.* Absence of any known impediment to the locality's ability to meet relocation requirements.

"Known impediment" refers to both a legal inability to comply with title I of the Housing Act of 1949, as amended, Public Law 81–171; 63 Stat. 413, 414, 42 U.S.C., 1450, or the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91–646, 84 Stat. 1894, 42 U.S.C. 4601, or other statutory requirements and a practical inability to provide adequate relocation assistance.

(d) *A–95 coordination.* Evidence that A–95 coordination is in process. The phrase "A–95 coordination" refers to the procedure involving review of applications by the appropriate agency designated under OMB Circular A–95.

(e) *National Register of Historic Places.* For historic and architectural preservation assistance the project must involve property or open space land which is listed on the National Register of Historic Places. The "National Register of Historic Places" is a record of culturally significant property maintained by the National Park Service, U.S. Department of the Interior. See section 106 of the Historic Preservation Act of 1966, Public Law 89–665, 80 Stat. 915; 16 U.S.C. 470.

§ 541.6 Criteria for evaluating applications.

Criteria for evaluating applications are divided into the following major categories:

(a) Local effort and coordination;
(b) Projects ability to meet open space needs;
(c) Local equal employment effort;
(d) Local need;
(e) Commitment of local, State, and Federal entities to project or program;
(f) Expansion of housing for low- and moderate-income families;
(g) Community development.

The elements considered in each category are described in the following sections, and the method of assigning rating points to each element or category is set forth. Points are awarded to each element or category in the following manner unless otherwise specifically indicated. If a statement under a particular element or category applies specifically to the project application under consideration, the application is awarded the number of points assigned to that statement. If no statement applies, no points are awarded to the application for that element.

§ 541.8 Local effort and coordination.

(The value of this category is the sum of the values of paragraphs (a) to (d) of this section.)

(a) *Budget and capital improvement plan.* All necessary project related public improvements, facilities, and services are identified in the appropriate local budgets and capital improvement plan, except those included in projects costs ---------- 4

(b) *Model Cities.* The project area in whole or in part is in a Model Neighborhood and there exists a statement by the City Demonstration Agency Director that the activities for which funding is requested are consistent with the goals and objectives of the Model Neighborhood's plan---------- 3

(c) *Local regulatory measures.* The project is coordinated with other programs and regulations to improve the quality of the environment, as evidenced by the fact that the locality has adopted and is enforcing regulatory measures to reduce blight and decay and to preserve and promote open space and historic resources at minimum cost. These regulatory measures must include at least three of the following:

(1) Requirements for undergrounding of utilities;
(2) Adoption and enforcement of litter control, weed abatement, or sign control;
(3) Subdivision regulations requiring open space dedication;
(4) Cluster zoning or planned unit developments; "Cluster Zoning or Planned Unit Development" are regulations enacted by the locality that encourage the grouping and placement of structures in such a manner as to create or reserve open space.
(5) Relaxation of set-back and height controls to provide Open Space in core areas;
(6) Ordinances to protect historic sites and buildings---------- 4

(d) *Low- and moderate-income housing.* The project is related to and coordinated with the provision of low- and moderate-income housing---------- 4

§ 541.10 Projects ability to meet open space needs.

(The value of this category is the sum of paragraphs (a) to (f) of this section.)

(a) *Environment.* Effect on the environment (The value of this section is the sum of subparagraphs (1) to (6) of this paragraph.)

(1) The project will prevent or remedy urban blight or deterioration---------- 2

(2) The project will help curb urban sprawl or prevent incompatible development ---------- 2

"Urban sprawl" refers to random and unguided development outward from

urban centers. It is usually characterized by groups of large scale, low density residential development, interspersed and surrounded by commercial and industrial development. Projects that can help

and operates those programs in a nondiscriminatory manner---------- 5

§ 541.12 Local equal employment and entrepreneurial effort.

utilizing the City County Data Book or other census data if possible. Or use best available data.

§ 541.16 Commitment of local, State,

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housing with an annual rental equal to or less than one-third of such section 235–236 maximum income.

§ 551.4 Program prerequisites.

§ 551.8 Relationship to comprehensive planning.

(The value of this category is the value of paragraph (a)).

urban centers. It is usually characterized by groups of large scale, low density residential development, interspersed and surrounded by commercial and industrial development. Projects that can help alleviate and curb urban sprawl are projects designed to guide large scale growth, or act as a buffer by separating existing land uses. "Incompatible development" refers to undesirable and hasardous development of flood plains, steep slopes, faults, or any other similarly unsuited area.

(3) The project will remedy deficiency of open space..... 2

"Deficiency of Open Space" means that there is less than 2.5 acres of existing public open space per thousand population.

(4) The project preserves ecologically significant areas or conserves scenic areas 1

"Ecologically significant" refers to unusual, specific, resource-oriented open space areas such as wildlife sanctuaries, geysers, waterfalls, wet lands, and sand dunes.

(5) The project involves more than one type of environmental improvement activity 1

"Environmental improvements" are those development activities, excluding park development, designed to improve the overall appearance of a locality or neighborhood. These activities are designed to prevent community blight and decay, and can include street tree planting, redesigning street furniture, and improving pathways.

(b) *Population served.* The project will readily serve a substantial number of low and moderate income residents.. 7

(c) *Patterns of urban growth.* The project involves undeveloped or predominately undeveloped land which, if withheld from commercial, industrial, and residential development, would have special significance in helping to shape desirable patterns of urban growth..... 5

(d) *Danger of loss.* The project site is in imminent danger of loss..... 3

"Imminent Danger of Loss" means that the project is threatened by action which will prevent the use of the area or property for open space or historic preservation purposes.

(e) *Historic preservation.* The project is a historic building involving an adaptive use such as community center, senior center, information center, citizen's meeting hall, or any such use that meets a specific need in the community it serves 2

(f) *Program experience.* If applicant had previous federally assisted program experience:

The applicant has expeditiously acquired and developed properties, sponsors programs for its use, and operates them in accordance with contract conditions..... 5

or

If the applicant is without federally assisted program experience:

The applicant has well maintained public open spaces, sponsors programs for their use, and operates those programs in a nondiscriminatory manner..... 5

§ 541.12 Local equal employment and entrepreneurial effort.

(The value of this category is the sum of the values of either paragraphs (a) or (b) of this section.)

(a) *If locality has had previous federally assisted open space experience.* (Value of this element is the sum of the values of subparagraphs (1) to (3) of this paragraph.)

(1) All activities undertaken by the locality have provided relatively superior opportunities for training and/or employment, of minority persons..... 3

(2) All activities undertaken by the locality have provided relatively superior opportunities for business concerns owned, controlled, or managed in substantial part by minority persons.... 3

(3) The applicant has taken affirmative action in its own employment in the hiring, training, etc., of minority persons, with relatively superior results.. 4

(b) If locality has not had previous federally assisted open space experience: (Value of this element is the sum of the values of subparagraphs (1) and (2) of this paragraph.)

(1) Activities undertaken by the locality have provided relatively superior opportunities for training and/or employment of minority persons..... 5

(2) Activities undertaken by the locality have provided relatively superior opportunities for business concerns owned, controlled, or managed in substantial part by minority persons. In determining whether or not performance has been "relatively superior", the following items will be taken into consideration: Absolute numbers of persons actually trained or hired in relation to numbers of minority group persons in the labor market area; total dollar value of contracts let to minority entrepreneurs in relation to total dollar amount of contracts let by locality; within the administering agency, racial composition at all levels of employment and absolute number of training opportunities made available to minority group persons..... 5

§ 541.14 Local need.

(The value of this category is the sum of the values of paragraphs (a) and (b) of this section.)

(a) *Median income of jurisdiction.* The median annual family income of the geographic area of jurisdiction of the applicant compared to the State median annual family income is: (Select one, if appropriate):

(1) $1–$500 below State median..... 4

(2) more than $500 below State median 8

(b) *Median income of service area.* The median annual family income of the service area compared to the State annual median family income is: (Select one if appropriate):

(1) $1–$500 below State median..... 4

(2) more than $500 below State median 8

Median family incomes for the service area and the State are to be obtained by utilizing the City County Data Book or other census data if possible. Or use best available data.

§ 541.16 Commitment of local, State, and Federal entities to project or program.

(The value of this category is the sum of paragraphs (a) to (d) of this section.)

(a) *Local commitment.* There was substantial participation by the chief executive and local governing body during the planning of the project, and they are demonstrating current public commitment in support of the project..... 4

(b) *Resident commitment.* There was effective widespread participation of a representative spectrum of residents in the development of project objectives and there is evidence of current support for the execution of the project..... 4

(c) *Coordination of resources.* There was substantial participation of other local agencies during planning, and there is a current commitment including resources, from State, county, or local entities other than those necessary to satisfy the local share requirement..... 4

(d) *Participation in areawide or metropolitan planning.* There is active participation by the locality's representatives in the areawide or metropolitan planning organization..... 3

§ 541.18 Expansion of housing for low- and moderate-income families.

(The value of this category is the sum of paragraphs (a) and (b) of this section.)

(a) *Expansion of low- and moderate-income housing.* Within the applicant's geographic area of jurisdiction, there has been significant expansion of the supply of standard housing for low- and moderate-income families in a nondiscriminatory way..... 6

(b) *Dispersion of low- and moderate-income housing.* The locality has a realistic plan to expand the supply of standard low- and moderate-income housing in a nondiscriminatory way outside areas of concentration of economically disadvantaged or minority citizens..... 4

§ 541.20 Community development.

The degree to which the project is necessary for undertaking other publicly supported community development activities..... 0 to 4

"Community development activities" refers to those publicly supported physical development activities and those related social or economic development activities being carried out or to be carried out within a reasonable period of time in accordance with a locally determined or areawide plan or strategy. Factors taken into consideration may include the project's responsiveness to local needs and objectives, the economies possible through coordinated or joint action, the degree of support by the appropriate unit(s) of local general-purpose government, and the management capacity and efforts to develop management capacity within local general-purpose government.

PART 551—NEIGHBORHOOD FACILITIES PROGRAM PROJECT SELECTION SYSTEM

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551.20 Commitment of local, State, and Federal entities to project or program.
551.22 Expansion of housing for low- and moderate-income families.
551.24 Community development.

AUTHORITY: The provisions of this Part 551 issued under sec. 703, of the Housing and Urban Development Act of 1965, 79 Stat. 491; 42 U.S.C. 3103.

§ 551.1 Scope.

(a) *Purpose.* This part sets forth criteria and procedures to be used in preliminary evaluation of applications for Federal grant assistance to local public bodies and agencies for Neighborhood Facilities Grant Projects.

(b) *Procedures.* Submissions will first be reviewed against five prerequisites. If any of these prerequisites are not met, the application will be rejected. If the application meets all prerequisites, it will be evaluated against the point rated criteria and assigned a point rating. The application will then be rejected or processed further according to its point rating as compared with the point ratings of other competing applications. This evaluation will not result in a final decision to extend grant assistance to particular Neighborhood Facilities projects. Such decision will be made only after a full technical review of applications for compliance with all relevant statutory requirements.

§ 551.2 Definitions.

As used in the regulations in this part:

(a) "Locality" means the political jurisdiction or jurisdictions having general-purpose government powers upon whose behalf the application for funding has been submitted.

(b) "Low and moderate income" means an income level which is less than the maximum income eligibility level for a family of four for the county in which the project is to be located under either of the subsidized housing programs authorized by section 235 or 236 of the National Housing Act, as amended, 82 Stat. 476, 477, 498, 12 U.S.C. 1715Z, 1715Z–1.

(c) "Low- and Moderate-Income Housing" refers to housing with a fair market value that is equal to or less than the resultant of multiplying the section 235–236 maximum income for a family of four, as established by the Secretary, for the county in which the project is located, by a factor of 3. "Low- and Moderate-Income Housing" also refers to housing with an annual rental equal to or less than one-third of such section 235–236 maximum income.

§ 551.4 Program prerequisites.

For the Neighborhood Facilities Grant Program there are the following five prerequisites:

(a) *Relocation.* Absence of any known impediment to the locality's ability to meet relocation requirements.

"Known impediment" refers to both a legal inability to comply with title I, Housing Act of 1949, as amended, Public Law 81–171; 63 Stat. 413, 414, 42 U.S.C. 1450, or the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91–646, 84 Stat. 1894, 42 U.S.C. 4601, or other statutory requirements and a practical inability to provide adequate relocation assistance.

(b) *Civil rights.* Submission of acceptable assurances of compliance with title VI of the Civil Rights Act of 1964, Public Law 88–352, 78 Stat. 252, 42 U.S.C. 2000d and HUD Title VI regulations 24 CFR Part I, 29 F.R. 16280 and with affirmative action plan requirements pursuant to Executive Order 11246, as amended 30 F.R. 12319, and HUD regulations 24 CFR Part 8, 36 F.R. 20688.

(c) *Area to be served.* The area to be served by the facility is reasonable in relationship to the services to be provided, and the design and capacity of the proposed facility.

(d) *Project location.* The project is so located as to be available for use by a significant portion (or number in the case of large urban places) of the area's low- and moderate-income residents.

§ 551.6 Criteria for evaluating applications.

Criteria for evaluating applications are divided into the following major categories:

(a) Relationship to comprehensive planning;

(b) Income level of area to be served;

(c) Relevance of program objectives;

(d) Capacity to administer the neighborhood facility;

(e) Local equal employment effort;

(f) Local need;

(g) Commitment of local, State, and Federal entities to project or program;

(h) Expansion of housing for low- and moderate-income families;

(i) Community development;

The elements considered in each category are described in the following sections, and the method of assigning rating points to each element or category is set forth. Points are awarded to each element or category in the following manner unless otherwise specifically indicated: If a statement under a particular element or category applies specifically to the project application under consideration, the application is awarded the number of points assigned to that statement. If no statement applies, no points are awarded to the application for that element.

§ 551.8 Relationship to comprehensive planning.

(The value of this category is the value of paragraph (a)).

(a) *General plan.* The proposed facility is specifically identified in the locality's general plan..... 5

§ 551.10 Income level of area to be served.

(The value of this category is the value of paragraphs (a), (b), or (c) of this section, as applicable.)

(a) *Population served.* On the basis of 1970 Census data, 40–49 percent of the families whose needs are proposed to be served by the facility are low- and moderate-income families..... 5

"Low- and moderate-income" is defined in § 551.2(b).

(b) *Population served.* On the basis of 1970 Census data, 50–59 percent of the families whose needs are proposed to be served by the facility are low- and moderate-income families..... 10

(c) *Population served.* On the basis of 1970 Census data, 60 percent or over of the families whose needs are proposed to be served by the facility are low- and moderate-income families..... 14

§ 551.12 Relevance of program objectives.

(The value of this category is the sum of paragraphs (a) to (c) in this section.)

(a) *Accessibility to low- and moderate-income persons.* The proposed facility will be made readily accessible to low- and moderate-income persons outside the immediate neighborhood..... 3

(b) *Provision of community service.* The proposed facility will provide a program of community services to meet identified needs of low- and moderate-income families and individuals where present service and facilities do not exist 8

(c) *Coordination of existing services.* The proposed Neighborhood Facility Program will coordinate and extend existing health, recreation, social or similar community services to meet the identified needs of the population of the area to be served..... 5

"Identified Needs" refer to those priority needs determined by the applicant with the participation of the community residents whose needs are to be served.

§ 551.14 Capacity to administer the Neighborhood Facility.

(The value of this category is the sum of paragraphs (a) and (b) of this section:)

(a) *Local commitment.* The locality has committed core staff and funds to operate the proposed facility..... 5

"Core Services" (central administrative services) cover such activities as:

(1) Coordination of services, including hiring of a center director;

(2) Outreach;

(3) Intake, referral, and follow-through;

(4) Information development and dissemination;

(5) Maintenance of central record-keeping system;

(6) Community organization.

(b) *Program experience.* (1) If local-

area of jurisdiction of the applicant compared to the State median annual family income is: (Select one, if appropriate):

(1) $1–$500 below State median..... 4

social or economic development activities being carried out or to be carried out within a reasonable period of time in accordance with a locally determined

National Housing Act, as amended 82 Stat. 476, 477, 498, 12 U.S.C. 1715z, 1715 z–1.

(c) "Low- and moderate-income house-

tions, and the method of assigning rating points to each element or category is set forth. Points are awarded to each element or category in the following man-

local housing standards in the area in which the project is to be located.

§ 551.18 Local equal employment and

(5) Maintenance of central record-keeping system;

(6) Community organization.

(b) *Program experience.* (1) If locality has had prior federally assisted Neighborhood Facilities Grant Program experience:

The locality has expeditiously put in operation such facilities and operated them in accordance with contract conditions..... 5

or

(2) If the locality is without federally assisted Neighborhood Facilities Grant Program experience:

The applicant has adequately maintained public facilities on a neighborhood basis and operated them in a nondiscriminatory manner 5

§ 551.16 Local equal employment and entrepreneurial effort.

(The value of this category is the sum of the values of either paragraphs (a) or (b) of this section.)

(a) *If locality has previously received financial funding under the Neighborhood Facilities Program.* (Value of this element is the sum of the values of subparagraphs (1) to (3) of this paragraph.)

(1) Activities undertaken by the locality have provided relatively superior opportunities for training and/or employment, of minority persons..... 3

(2) Activities undertaken by the locality have provided relatively superior opportunities for business concerns owned, controlled or managed in substantial part by minority persons..... 3

(3) The applicant has taken affirmative action in its own employment in the hiring, training, etc., of minority persons, with relatively superior results... 4

(b) *If locality has not previously received financial funding under the Neighborhood Facilities Program.* (Value of this element is the sum of the values of subparagraphs (1) and (2) of this paragraph.)

(1) Activities undertaken by the locality have provided relatively superior opportunities for training and/or employment of minority persons..... 5

(2) Activities undertaken by the locality have provided relatively superior opportunities for business concerns owned, controlled, or managed in substantial part by minority persons.

In determining whether or not performance has been "relatively superior", the following items will be taken into consideration: Absolute numbers of persons actually trained or hired in relation to numbers of minority group persons in the labor market area; total dollar value of contracts let to minority entrepreneurs in relation to total dollar amount of contracts let by locality; within the administering agency, racial composition at all levels of employment and absolute number of training opportunities made available to minority group persons.... 5

§ 551.18 Local need.

(The value of this category is the sum of the values of paragraphs (a) and (b) of this section.)

(a) *Median income of jurisdiction.* The median annual family of the geographic area of jurisdiction of the applicant compared to the State median annual family income is: (Select one, if appropriate):

(1) $1–$500 below State median..... 4

(2) More than $500 below State median 8

(b) *Median income of service area.* The median annual family of the service area compared to the State annual median family income is: (Select one if appropriate):

(1) $1–$500 below State median..... 4

(2) More than $500 below State median 8

Median family incomes for the service area and the State are to be obtained by utilizing the City County Data Book or other census data if possible. Or use best available data.

§ 551.20 Commitment of local, State, and Federal entities to project or program.

(The value of this category is the sum of paragraphs (a) to (d) of this section.)

(a) *Local commitment.* There was substantial participation by the chief executive and local governing body during the planning of the project, and they are demonstrating current public commitment in support of the project..... 4

(b) *Resident commitment.* There was effective widespread participation of a representative spectrum of residents in the development of project objectives and there is evidence of current support for the execution of the project..... 4

(c) *Coordination of resources.* There was substantial participation of other local agencies during planning, and there is a current commitment including resources, from State, county, or local entities other than those necessary to satisfy the local share requirement..... 4

(d) *Participation in areawide or metropolitan planning.* There is active participation by the locality's representatives in the areawide or metropolitan planning organization..... 3

§ 551.22 Expansion of housing for low- and moderate-income families.

(The value of this category is the sum of paragraphs (a) and (b) of this section.)

(a) *Expansion of low- and moderate-income housing.* Within the applicant's geographic area of jurisdiction, there has been significant expansion of the supply of standard housing for low- and moderate-income families in a nondiscriminatory way..... 6

(b) *Dispersion of low- and moderate-income housing.* The locality has a realistic plan to expand the supply of standard low- and moderate-income housing in a nondiscriminatory way outside areas of concentration of economically disadvantaged or minority citizens..... 4

§ 551.24 Community development.

The degree to which the project is necessary for undertaking other publicly supported community development activities ..... 0 to 4

"Community development activities" refers to those publicly supported physical development activities and those related social or economic development activities being carried out or to be carried out within a reasonable period of time in accordance with a locally determined or areawide plan or strategy. Factors taken into consideration may include the project's responsiveness to local needs and objectives, the economics possible through coordinated or joint action, the degree of support by the appropriate unit(s) of local general-purpose government, and the management capacity and efforts to develop management capacity within local general-purpose government.

PART 561—PUBLIC FACILITY LOANS PROGRAM

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561.22 Commitment of local, State, and Federal entities to project or program.
561.24 Expansion of housing for low- and moderate-income families.
561.26 Community development.

AUTHORITY: The provisions of this Part 561 issued under secs. 201–204, of the Housing Amendments of 1955, 69 Stat. 642–644; 42 U.S.C. 1491–1494.

§ 561.1 Scope.

(a) *Purpose.* This part sets forth criteria and procedures to be used in preliminary evaluation of applications for Federal loan assistance to local public bodies and agencies under the Public Facility Loans Program.

(b) *Procedures.* Submissions will first be reviewed against four prerequisites. If any of these prerequisites are not met, the application will be rejected. If the application meets all prerequisites, it will be evaluated against the point rated criteria and assigned a point rating. The application will then be rejected or processed further according to its point rating as compared with the point ratings of other competing applications. This evaluation will not result in a final decision to extend loan assistance to particular Public Facility Loan projects. Such decision will be made only after a full technical review of applications for compliance with all relevant statutory requirements.

§ 561.2 Definitions.

As used in the regulations in this part:

(a) "Locality" means the political jurisdiction or jurisdictions having general purpose government powers upon whose behalf the application for funding has been submitted.

(b) "Low and moderate income" means an income level which is less than the maximum income eligibility level for a family of four for the county in which the project is to be located under either of the subsidized housing programs authorized by section 235 or 236 of the

National Housing Act, as amended 82 Stat. 476, 477, 496, 12 U.S.C. 1715z, 1715 z-1.

(c) "Low- and moderate-income housing" refers to housing with a fair market value that is equal to or less than the resultant of multiplying the section 235–236 maximum income for a family of four, as established by the Secretary for the county in which the project is located, by a factor of 3. "Low- and moderate-income housing" also refers to housing with an annual rental equal to or less than one-third of such section 235–236 maximum income.

§ 561.4 Program prerequisites.

For the Public Facility Loans Program there are the following four prerequisites:

(a) *Population.* The population of the locality submitting the application is less than 50 thousand or in a designated redevelopment area, less than 150 thousand. This prerequisite does not apply to NASA impacted areas, Public Law 345, 84th Congress, 69 Stat. 635, 642; 42 U.S.C. 1491.

(b) *Civil rights.* Submission of acceptable assurances of compliance with title VI of the Civil Rights Act of 1964, Public Law 88–352, 78 Stat. 252, 42 U.S.C. 2000d and HUD Title VI regulations 24 CFR Part I, 29 F.R. 16280 and with affirmative action plan requirements pursuant to Executive Order 11246, as amended 30 F.R. 12319, and HUD regulations 24 CFR Part 8, 36 F.R. 20688.

(c) *Relocation.* Absence of any known impediment to the locality's ability to meet relocation requirements.

"Known impediment" refers to both a legal inability to comply with Title I, Housing Act of 1949, as amended, Public Law 81–171; 63 Stat. 413, 414, 420 U.S.C. 1450, or the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91–646, 84 Stat. 1894, 42 U.S.C. 4601, or other statutory requirements and a practical inability to provide adequate relocation assistance.

(d) *A–95 coordination.* Evidence that A–95 coordination is in process. The phrase "A–95 coordination" refers to the procedure involving review of applications by the appropriate agency under OMB Circular A–95.

§ 561.6 Criteria for evaluating applications.

Criteria for evaluating applications are divided into the following major categories:

(a) Availability of credit to applicant;
(b) Type of projects;
(c) Population class;
(d) Physical need;
(e) Housing consideration;
(f) Local equal employment effort;
(g) Local need;
(h) Commitment of local, State, and Federal entities to project or program;
(i) Expansion of housing for low- and moderate-income families;
(j) Community development.

The elements considered in each category are described in the following sections, and the method of assigning rating points to each element or category is set forth. Points are awarded to each element or category in the following manner unless otherwise specifically indicated: If a statement under a particular element or category applies specifically to the project application under consideration, the application is awarded the number of points assigned to that statement. If no statement applies, no points are awarded to the application for that element.

§ 561.8 Availability of credit to applicant.

(The value of this category is the values of paragraph (a) or paragraph (b) of this section.)

(a) Credit is not available in the private market..... 12

(b) Private credit is available at a rate 1 percent above the Public Facility Loan rate or more..... 6

§ 561.10 Type of project.

(The value of this category is the value of paragraph (a), (b), (c) or (d) of this section.)

(a) The project is a water sewer facility 10
(b) The project is a gas facility..... 8
(c) The project is a health facility.. 8
(d) The project is a public building.. 5

§ 561.12 Population class.

(The value of this category is the value of paragraph (a) or paragraph (b) of this section.)

(a) The population of the locality is under 10,000..... 10

(b) The population of the locality is 10,000 to 25,000..... 5

§ 561.14 Physical need.

(The value of this category is the value of paragraph (a) or paragraph (b) of this section.)

(a) The project will meet a critical need 12

(b) The project will provide a basic needed facility which is not currently available 6

"Critical need" refers to a demonstrated need which must be met immediately to prevent or terminate a serious threat to the health or safety of the locality, e.g., a desperate need for water or control of demonstrated causes of diseases of epidemic proportions.

§ 561.16 Housing consideration.

(The value of this category is the sum of paragraphs (a) through (c) of this section.)

(a) The project is necessary for maintenance of existing decent, safe, and sanitary housing..... 3

(b) The project is necessary for assistance to proposed decent, safe, and sanitary low- and moderate-income housing 5

(c) The project is necessary for assistance for significant areas of housing that is less than decent, safe, and sanitary 3

"Decent, safe and sanitary" refers to housing that is in accordance with the local housing standards in the area in which the project is to be located.

§ 561.18 Local equal employment and entrepreneurial effort.

(The value of this category is the sum of the values of either paragraph (a) or paragraph (b) of this section.)

(a) *If locality has previously received financial funding under the Public Facilities Loans Program.* (Value of this element is the sum of the values of subparagraphs (1) to (3) of this paragraph.)

(1) Activities undertaken by the locality have provided relatively superior opportunities for training and/or employment, of minority persons..... 3

(2) Activities undertaken by the locality have provided relatively superior opportunities for business concerns owned, controlled, or managed in substantial part by minority persons..... 3

(3) The applicant has taken affirmative action in its own employment in the hiring, training, etc., of minority persons, with relatively superior results..... 4

(b) *If locality has not previously received financial funding under the Public Facility Loans Programs.* (Value of this element is the sum of the values of subparagraphs (1) and (2) of this paragraph.)

(1) Activities undertaken by the locality have provided relatively superior opportunities for training and/or employment of minority persons..... 5

(2) Activities undertaken by the locality have provided relatively superior opportunities for business concerns owned, controlled, or managed in substantial part by minority persons.

In determining whether or not performance has been "relatively superior", the following items will be taken into consideration. Absolute numbers of persons actually trained or hired in relation to numbers of minority group persons in the labor market area; total dollar value of contracts let to minority entrepreneurs in relation to total dollar amount of contracts let by locality; within the administering agency, racial composition at all levels of employment and absolute number of training opportunities made available to minority group persons.... 5

§ 561.20 Local need.

(The value of this category is the sum of the values of paragraphs (a) and (b) of this section.)

(a) *Median income of jurisdiction.* The median annual family income of the geographic area of jurisdiction of the applicant compared to the State median annual family income is: (Select one, if appropriate):

(1) $1–$500 below State median..... 4

(2) More than $500 below State median 8

(b) *Median income of service area.* The median annual family income of the service area compared to the State annual median family income is: (Select one, if appropriate):

(1) $1–$500 below State median..... 4

(2) More than $500 below State median 8

capacity within local general-purpose government.

FLOYD H. HYDE,
Assistant Secretary for Community Development.

CANADAIR: Applies to Canadair Limited Type CL–215–1A10 airplanes, Serial Nos. 1005, 1006, 1010, 1011, 1013 through 1018, 1021, and 1023 through 1030.

Compliance required within the next 125 hours' time in service, unless already accomplished.

To prevent possible failure of the rudder control system, accomplish the following:

(a) Inspect the rudder control system in accordance with Canadair Service Bulletin No. 215–27–3, Revision 1, dated October 15, 1971, or later revisions approved by the Chief, Aircraft Engineering Division, Federal Aviation Administration, Eastern Region.

(b) Replace any unairworthy parts found during the inspection required by paragraph (a) of this AD with parts of the same part number or equivalent parts approved by the Chief, Aircraft Engineering Division, Federal Aviation Administration, Eastern Region.

(c) Upon request of an operator, the Chief, Aircraft Engineering Division, Federal Aviation Administration, Eastern Region, may adjust the compliance time specified in this AD to permit compliance at an established inspection period of the operator if the request contains sufficient data to substantiate that the new compliance time would provide an adequate level of safety.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 3166 Des Plaines Avenue, Des Plaines, IL 60018.

proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the

Median family incomes for the service area and the state are to be obtained by utilizing the City County Data Book or other census data if possible. Or use best available data.

§ 561.22 Commitment of local, State, and Federal entities to project or program.

(The value of this category is the sum of paragraphs (a) to (d) of this section.)

(a) *Local commitment.* There was substantial participation by the chief executive and local governing body during the planning of the project, and they are demonstrating current public commitment in support of the project..... 4

(b) *Resident commitment.* There was effective widespread participation of a representative spectrum of residents in the development of project objectives and there is evidence of current support for the execution of the project..... 4

(c) *Coordination of resources.* There was substantial participation of other local agencies during planning, and there is a current commitment including resources, from State, county, or local entities other than those necessary to satisfy the local share requirement..... 4

(d) *Participation in areawide or metropolitan planning.* There is active participation by the locality's representatives in the areawide or metropolitan planning organization..... 3

§ 561.24 Expansion of housing for low- and moderate-income families.

(The value of this category is the sum of paragraphs (a) and (b) of this section.)

(a) *Expansion of low- and moderate-income housing.* Within the applicant's geographic area of jurisdiction, there has been significant expansion of the supply of standard housing for low- and moderate-income families in a nondiscriminatory way..... 6

(b) *Dispersion of low- and moderate-income housing.* The locality has a realistic plan to expand the supply of standard low- and moderate-income housing in a nondiscriminatory way outside areas of concentration of economically disadvantaged or minority citizens..... 4

§ 561.26 Community development.

The degree to which the project is necessary for undertaking other publicly supported community development activities ..... 0 to 4

"Community development activities" refers to those publicly supported physical development activities and those related social or economic development activities being carried out or to be carried out within a reasonable period of time in accordance with a locally determined or areawide plan or strategy. Factors taken into consideration may include the project's responsiveness to local needs and objectives, the economies possible through coordinated or joint action, the degree of support by the appropriate unit(s) of local general-purpose government, and the management capacity and efforts to develop management capacity within local general-purpose government.

FLOYD H. HYDE,
Assistant Secretary for Community Development.

[FR Doc.71-17200 Filed 11-24-71;8:50 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 26]

[CGFR 71-150]

VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE

Extension of Comment Period

The Coast Guard proposed regulations to implement the Vessel Bridge-to-Bridge Radiotelephone Act in a notice of proposed rule making (CGFR 71-114) which was published in the FEDERAL REGISTER on October 20, 1971 (36 F.R. 20306).

The American Waterways Operators, Inc., has requested additional time to submit comments to permit their committee, which deals with communications matters, to review and comment on the proposal. Since this committee will be unable to meet until November 30 and since the members of the American Waterways Operators will be directly affected by the proposal, the Coast Guard finds that good cause exists for the extension and that the extension is in the public interest.

Therefore, the Coast Guard will consider all comments on this notice of proposed rule making (CGFR 71-114) received on or before December 10, 1971.

Dated: November 19, 1971.

C. R. BENDER,
Admiral, U.S. Coast Guard Commandant.

[FR Doc.71-17249 Filed 11-24-71;9:51 am]

[33 CFR Part 110]

[CGFR 71-153]

WILMINGTON RIVER, GA.

Proposed Anchorage Grounds

The Coast Guard is considering revoking the regulations which established an anchorage ground on the Wilmington River at Thunderbolt, Ga., as described in 33 CFR 110.178. The anchorage ground is not considered suitable for anchoring vessels because of the construction of a bridge through the anchorage ground and existing shoal conditions.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander, Seventh Coast Guard District, Room 1018, Federal Building, 51 Southwest First Avenue, Miami, FL 33130. Each person submitting comments should include his name and address, identify this notice (CGFR 71-153), and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Seventh Coast Guard District.

The Commander, Seventh Coast Guard District, will forward any comments received before December 27, 1971, and his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, who will evaluate all communications received and take final action on this proposal. The proposal may be changed in light of comments received.

(Sec. 7, 38 Stat. 1053, as amended, sec. 6 (g)(1)(A), 80 Stat. 937; 33 U.S.C. 471, 49 U.S.C. 1655(g)(1)(A); 49 CFR 1.46(c)(1), 33 CFR 1.05-1(c)(1) (36 F.R. 19160))

Dated: November 19, 1971.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.71-17271 Filed 11-24-71;8:53 am]

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 71-EA-126]

CANADAIR AIRCRAFT

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending § 39.13 of the Federal Aviation regulations so as to issue an Airworthiness Directive applicable to Canadair CL-215-1A10 type aircraft.

A review of the certification data by Department of Transportation, Canada, reflects a need to assure that the subject aircraft meet the certification requirements of FAR 25.1182 (a)(1) and (a)(2) as they relate to fire resistant lines in the engine fire zone. To meet this need an Airworthiness Directive will be issued requiring the alteration of certain hydraulic and engine lubrication hose assemblies.

Interested persons are invited to participate in the making of the proposed rule by submitting written data and views. Communications should identify the docket number and be submitted in duplicate to the Office of Regional Counsel, FAA, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430.

All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before taking action upon the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments will be available in the Office of Regional Counsel for examination by interested parties.

In consideration of the foregoing, it is proposed to issue a new airworthiness directive as hereinafter set forth:

CANADAIR: Applies to Canadair Limited Type CL-215-1A10 airplanes, Serial Nos. 1006, 1008, 1010, 1011, 1013 through 1018, 1021, and 1023 through 1030.

Compliance required within the next 125 hours' time in service, unless already accomplished, after the effective date of this AD. To reduce the risk of flame propagation in the event of a fire in the engine fire zone, modify the oil system and hydraulic system hoses in accordance with the instructions and effectivities listed in the following Canadair Service Bulletins or an equivalent modification approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(a) Canadair Service Bulletin CL-215-138 dated Febuary 2, 1971, and revision "A" dated April 23, 1971 or later approved revision.

(b) Canadair Service Bulletin CL-215-140 dated January 18, 1971 or later approved revision.

Upon request with substantiating data submitted through an FAA maintenance inspector, the compliance time specified in this AD may be increased by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

This proposal is made under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on November 16, 1971.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.71-17182 Filed 11-24-71;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 71-GL-16]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation regulations so as to designate a transition area at Ashland, Ohio.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 3166 Des Plaines Avenue, Des Plaines, IL 60018. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 3166 Des Plaines Avenue, Des Plaines, IL 60018.

A new public use instrument approach procedure has been developed for the Ashland, Ohio, County Airport based on a non-Federal-owned NDB. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Ashland, Ohio.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation regulations as hereinafter set forth:

In § 71.181 (36 F.R. 2140), the following transition area is added:

ASHLAND, OHIO

That airspace extending upward from 700 feet above the surface within a 5½ mile radius of the Ashland County Airport (latitude 40°54'11" N., longitude 82°15'21" W.); within 3½ miles each side of the 002° bearing from the airport extending from the 5½ mile radius area to 11½ miles north of the airport excluding that portion which overlies the Mansfield, Ohio, transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Ill., on October 28, 1971.

R. O. ZIEGLER,
Acting Director, Great Lakes Region.

[FR Doc.71-17168 Filed 11-24-71;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SW-65]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation regulations to designate a 700-foot transition area at Commerce, Tex.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Forth Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation regulations as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the following transition area is added.

COMMERCE, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Commerce Municipal Airport (latitude 33°17'36" N., longitude 95°53'46" W.) and within 2.5 miles each side of the Sulphur Springs, Tex., VORTAC 286° radial extending from the 5-mile radius area to 15 miles west of the VORTAC.

The proposed transition area will provide controlled airspace for aircraft executing approach/departure procedures proposed at Commerce Municipal Airport.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Tex., on November 16, 1971.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.71-17172 Filed 11-24-71;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 71-GL-19]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation regulations so as to alter the control zone at Dayton, Ohio.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 3166 Des Plaines Avenue, Des Plaines, IL 60018. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part

of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Great Lakes Region, Federal Aviation Administration, 3166 Des Plaines Avenue, Des Plaines, IL 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Great Lakes Region, Federal Aviation Administration, 3166 Des Plaines Avenue, Des Plaines, IL 60018.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation regulations as hereinafter set forth:

In § 71.181 (36 F.R. 2140), the following transition area is added:

DES PLAINES, ILL.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Des Plaines, Ill., VORTAC (latitude 42°02'30" N., longitude 87°54'30" W.) and within 2.5 miles each side of the 180° radial extending from the 5-mile radius area to 7 miles south of the VORTAC.

The proposed transition area will provide controlled airspace for aircraft executing approach/departure procedures proposed at Des Plaines, Ill.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Ill., on November 3, 1971.

LYLE K. BROWN,
Director, Great Lakes Region.

[FR Doc.71-17169 Filed 11-24-71;8:46 am]

ATOMIC ENERGY COMMISSION

[10 CFR Part 50]

LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Proposed Amendments Relating to Seismic Considerations

The Atomic Energy Commission is considering amendments to its regulations in Part 50, "Licensing of Production and Utilization Facilities," to require that applicants for construction permits and operating licenses for nuclear power plants provide additional information regarding the seismic design of such plants.

In order to determine whether and to what extent a nuclear power plant need be designed to withstand the effects of surface faulting, the criteria require that

The Commission expects that the provisions of the proposed amendments will be useful as interim guidance until such time as the Commission takes further

of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 3166 Des Plaines Avenue, Des Plaines, IL 60018.

Since designation of controlled airspace at Springfield, Ohio, two new instrument approach procedures have been developed for the Springfield Municipal Airport, Springfield, Ohio, utilizing the Patterson VOR and the Patterson TACAN as navigational aids. Accordingly, it is necessary to alter the Dayton, Ohio control zone to adequately protect aircraft executing the new procedures.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation regulations as hereinafter set forth:

In § 71.171 (36 F.R. 2055), the following control zone is amended to read:

DAYTON, OHIO (WRIGHT-PATTERSON AFB)

Within a 5-mile radius of Patterson AFB, Dayton, Ohio (latitude 39°49'25" N., longitude 84°02'55" W.); within 2 miles each side of the Patterson VOR 039° radial extending from the 6-mile radius zone to 10 miles northeast of the VOR; within 2 miles each side of the Patterson TACAN 054° radial extending from the 5-mile radius zone to 8 miles northeast of the TACAN; within a 5-mile radius of Wright AFB, Dayton, Ohio (latitude 39°46'45" N., longitude 84°06'35" W.); within a 6-mile radius of the Springfield Municipal Airport, Springfield, Ohio (latitude 39°50'22" N., longitude 83°50'21" W.); within 9 miles each side of the 065° bearing from the airport extending from the 6-mile radius zone to 9 miles northeast of the airport and within 3 miles south and 4 miles north of the 243° bearing from the airport extending from the 6-mile radius zone to 8.5 miles southwest of the airport.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Ill., on November 4, 1971.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc.71-17171 Filed 11-24-71;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 71-GL-17]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation regulations so as to alter the transition area at Richmond, Ind.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 3166 Des Plaines Avenue, Des Plaines, IL 60018. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 3166 Des Plaines Avenue, Des Plaines, IL 60018.

The Richmond, Ind., Municipal Airport VOR approaches have been revised and the NDB decommissioned and the NDB approach canceled. These changes require changes in the controlled airspace to adequately protect the aircraft executing the revised procedures.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation regulations as hereinafter set forth:

In § 71.181 (36 F.R. 2140), the following transition area is amended to read:

RICHMOND, IND.

That airspace extending upward from 700 feet above the surface within 6½ mile radius of the Richmond Municipal Airport (latitude 39°45'28" N., longitude 84°50'36" W.); within 2 miles each side of the Richmond VOR 045° radial, extending from the 6½ mile radius area to 8 miles northeast of the VOR; within 2 miles each side of the Richmond VOR 243° radial, extending from the 6½ mile radius area to 8 miles southwest of the VOR; and that airspace extending upward from 1,200 feet above the surface bounded on the northeast by a line extending from latitude 40°10'00" N., longitude 85°00'00" W. to latitude 39°40'02" N., longitude 84°25'09" W. on the southeast by a line extending from latitude 39°40'00" N., longitude 84°25'00" W. to latitude 39°12'00" N., longitude 85°30'00" W. and on the west by the Indiana-Ohio boundary.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Ill., on October 28, 1971.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc.71-17169 Filed 11-24-71;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 71-GL-18]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation regulations so as to designate a transition area at Tell City, Ind.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 3166 Des Plaines Avenue, Des Plaines, IL 60018. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 3166 Des Plaines Avenue, Des Plaines, IL 60018.

A new public use instrument approach procedure has been developed for the Perry County Airport, Tell City, Ind., utilizing a nonfederally owned NDB. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Tell City, Ind. The new procedure will become effective concurrently with the designation of the transition area.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation regulations as hereinafter set forth:

In § 71.181 (36 F.R. 2140), the following transition area is added:

TELL CITY, IND.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Perry County Municipal Airport, Ind. (latitude 38°01'05" N., longitude 86°41'30" W.); and within 2 miles each side of the 195° bearing from the Perry County Municipal Airport extending from the 5-mile radius to 8 miles southeast.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Ill., on November 3, 1971.

LYLE K. BROWN,
Director, Great Lakes Region.

[FR Doc.71-17170 Filed 11-24-71;8:45 am]

ATOMIC ENERGY COMMISSION

[10 CFR Part 100]

NUCLEAR POWER PLANTS

Seismic and Geologic Siting Criteria

The Atomic Energy Commission has under consideration amendments to its regulations, 10 CFR Part 100, "Reactor Site Criteria," which would add an Appendix A, "Seismic and Geologic Siting Criteria for Nuclear Power Plants." The purpose of the criteria is to set forth the principal seismic and geologic considerations which guide the Commission in its evaluation of the suitability of proposed sites for nuclear powerplants and the suitability of the plant design bases established in consideration of the seismic and geologic characteristics of the proposed sites in order to provide reasonable assurance that the nuclear powerplant can be constructed and operated at a proposed site without undue risk to the health and safety of the public.

The criteria describe the seismic and geologic investigations required to obtain information needed to determine the design basis for earthquake-produced vibratory ground motion and for seismically-induced floods and water waves. They also describe investigations required to obtain information to determine whether and to what extent the nuclear powerplant need be designed for surface faulting.

The design basis for the maximum vibratory ground motion is determined, as described in the criteria, through evaluation of the geology and the geologic and seismic history of the site and the surrounding region. The most severe earthquakes associated with tectonic structures or tectonic provinces in the region surrounding the site are identified by considering those historically reported earthquakes that can be associated with these structures or provinces. If faults in the region surrounding the site are active faults, the most severe expected earthquakes associated with these faults are determined by also considering their geologic history. Because of the limited historical data, the most severe earthquakes associated with these tectonic structures or tectonic provinces are determined in a conservative manner and are usually larger than the maximum earthquakes historically recorded. The design basis for vibratory ground motion at the site is then determined by assuming that the epicenters or regions of highest intensity of the earthquakes are situated at the point on the tectonic structures or tectonic provinces nearest the site.

The criteria require the evaluation of other design considerations which are affected by the design basis for vibratory ground motion, including soil stability, slope stability, and cooling water supply.

In order to determine whether and to what extent a nuclear power plant need be designed to withstand the effects of surface faulting, the criteria require that the location of the site with respect to active faults be considered. Procedures are provided for determining whether the site is within a zone requiring detailed faulting investigation based on its location with respect to active faults. Where a site is within a zone requiring detailed faulting investigation, the criteria require that the regional and local geologic and seismic characteristics of the site be investigated in considerable detail. The adequacy of the detailed investigation will be determined by the Commission on an individual case basis, taking into account the specific site characteristics. Where the detailed investigation indicates that surface faulting need not be taken into account in the design of the nuclear power plant, the criteria require that sufficient data to clearly justify the proposed design basis be presented in the license application.

The criteria also provide general guidance for the design of a nuclear power plant to withstand earthquake-caused effects, pending the development of more detailed criteria.

The criteria were prepared in cooperation with the U.S. Geological Survey and the National Oceanic and Atmospheric Administration. The development of these criteria has taken into account the experience accumulated by these agencies and the Atomic Energy Commission in evaluating seismic and geologic characteristics of sites which have been proposed to date for the location of nuclear power plants. The development of these criteria has also taken into account discussions with and comments by a representative group of utilities and their specialist consultants in order to assure clarity of the criteria and their applicability to sites being considered by the nuclear industry.

These seismic and geologic siting criteria would supplement 10 CFR Part 100 by specifying the seismic and geologic investigations and analyses necessary in determining the acceptability of a proposed site, as required by § 100.10 of 10 CFR Part 100. Specific references to the proposed Appendix A, "Seismic and Geologic Siting Criteria for Nuclear Power Plants," would be added to § 100.10(c)(1). The provisions in § 100.10(c)(1) which state that the design of a facility should conform to accepted building codes or standards and that no facility should be located closer than one-fourth mile from the surface location of a known active earthquake fault would be deleted since these provisions are superseded by these criteria.

The criteria would also assist applicants in complying with § 50.34(a)(1) of 10 CFR Part 50 which requires that the preliminary safety analysis report include a description and safety assessment of the site on which a production or utilization facility is to be located, with appropriate attention to features affecting facility design.

The Commission expects that the provisions of the proposed amendments will be useful as interim guidance until such time as the Commission takes further action on them.

Pursuant to the Atomic Energy Act of 1954, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 100 is contemplated. All interested persons who wish to submit comments or suggestions in connection with the proposed amendments should send them to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, within 60 days after publication of this notice in the FEDERAL REGISTER. Copies of comments received may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, DC.

1. In § 100.10, paragraph (c)(1) is amended to read as follows:

§ 100.10 Factors to be considered when evaluating sites.

* * * * *

(c) Physical characteristics of the site, including seismology, meteorology, geology, and hydrology.

(1) Appendix A, "Seismic and Geologic Siting Criteria for Nuclear Power Plants," sets forth the principal seismic and geologic considerations which guide the Commission in its evaluation of the suitability of proposed sites for nuclear power plants.

* * * * *

2. A new Appendix A is added to read as follows:

APPENDIX A

SEISMIC AND GEOLOGIC SITING CRITERIA FOR NUCLEAR POWER PLANTS

I. Purpose. It is the purpose of these criteria to set forth the principal seismic and geologic considerations which guide the Commission in its evaluation of the suitability of proposed sites for nuclear power plants, and the suitability of the plant design bases established in consideration of the seismic and geologic characteristics of the proposed sites.

These criteria are based on the limited geophysical and geological information available to date concerning earthquake occurrence and effect. They will be revised as necessary when more complete information becomes available.

II. Scope. These criteria, which apply to nuclear powerplants, describe the nature of the investigations required to obtain the geologic and seismic data necessary to determine site suitability and provide reasonable assurance that a nuclear powerplant can be constructed and operated at a proposed site without undue risk to the health and safety of the public. They describe procedures for determining the quantitative vibratory ground motion design basis at a site due to earthquakes and describe information needed to determine whether and to what extent a nuclear powerplant need be designed for surface faulting. Other geologic and seismic factors required to be taken into account in the siting and design of nuclear powerplants are identified.

Each applicant for a construction permit shall investigate all seismic and geologic factors that may affect the design and operation of the proposed nuclear powerplant irrespective of whether such factors are explicitly

included in these criteria. Additional investigations and more conservative determinations than those included in these criteria may be required for sites located in unusual geologic or seismic areas. If an applicant believes that the seismicity and geologic characteristics of the site and region are sufficiently unusual to warrant departure from these criteria, he may propose alternative criteria for consideration by the Commission.

III. Definitions. As used in these criteria:

(a) *Vibratory ground motion* refers to the motion of the ground produced by earthquakes.

(b) *Safe Shutdown Earthquake* is that earthquake which is based upon an evaluation of the maximum earthquake potential considering the regional and local geology and seismology and specific characteristics of the site, and which produces the maximum vibratory ground motion for which those features of the nuclear powerplant necessary to assure shutdown and containment of reactor fuel and retention of radioactivity are designed to remain functional.

(c) *Operating Basis Earthquake* is that earthquake which, considering the regional and local geology and seismology and specific characteristics of the site, could reasonably be expected to affect the site during the operating life of the nuclear powerplant, and which produces vibratory ground motion for which those features of the nuclear powerplant necessary for continued operation without undue risk to the health and safety of the public are designed to remain functional.

(d) *Seismic and geologic siting factors* include the geologic, seismic, and engineering characteristics of a site and its environs that could affect the design, operation, or safety of a nuclear powerplant.

(e) *Tectonic province* is a region encompassing structural features of a consistent tectonic character.

(f) *Active fault* is a fault which has had surface displacement within Holocene time (about the last 10,000 years).

(g) *Design earthquake* is that earthquake which is used in the seismic design of the powerplant, as distinguished from the Safe Shutdown Earthquake or the Operating Basis Earthquake.

IV. Required Investigations.

(a) The following investigations shall be carried out in evaluating the proposed site:

(1) Investigations of the regional and local geology sufficient to define the geologic history of the region and site, the structural relationship between local features and regional tectonic structures, and the correlation of earthquakes with geologic features.

(2) Investigations sufficient to determine the nature and properties of the soil and rock strata that support seismic Category I structures, including the vibratory response of soil and rock and the liquefaction potential of soil.

(3) Investigations sufficient to evaluate the potential for surface tectonic or nontectonic deformation, including the zones requiring detailed faulting investigation.

(4) Investigations sufficient to evaluate the slope stability of natural slopes and of excavations made for construction.

(5) Investigations sufficient to evaluate the potential for seismically induced floods and water waves.

(b) The following investigations shall be carried out in determining the Safe Shutdown Earthquake and the Operating Basis Earthquake for the proposed site:

(1) Investigations sufficient to identify and locate earthquakes that may cause vibratory ground motion at the site.

(2) Investigations sufficient to determine the magnitude and intensity of the largest historical earthquakes that may affect the site.

(3) Investigations sufficient to determine the relationship of the earthquakes to the tectonic structures associated with them.

(4) Investigations sufficient to determine the maximum vibratory ground motion at the site that may be associated with the largest earthquakes in the region.

(5) Investigations sufficient to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur in the region during the life of the powerplant.

(6) Investigations sufficient to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur along identified active faults during the life of the powerplant.

(7) Investigations sufficient to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur along postulated faults in the region during the life of the powerplant.

(8) Investigations sufficient to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur in the region during the life of the powerplant in the absence of recognized faults capable of producing them.

(c) The following investigations shall be carried out in determining the design earthquake for the proposed site:

(1) Investigations sufficient to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur in the region during the life of the powerplant.

(2) Investigations sufficient to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur along identified active faults during the life of the powerplant.

(3) Investigations sufficient to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur along postulated faults in the region during the life of the powerplant.

(4) Investigations sufficient to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur in the region during the life of the powerplant in the absence of recognized faults capable of producing them.

V. Procedures for Evaluating Seismic and Geologic Siting Factors.

(a) *Procedures for determining the Safe Shutdown Earthquake.* The Safe Shutdown Earthquake for a site is determined by assuming that the maximum earthquake potential that could reasonably be associated with each tectonic province in the region surrounding the site could occur at the point on the province nearest the site. The maximum earthquake potential is based on the largest earthquake historically reported to have occurred in the province, modified as necessary on the basis of consideration of the regional and local geology and seismology and specific characteristics of the site. The vibratory ground motion at the site is then determined for each of these earthquakes. The Safe Shutdown Earthquake is the one which produces the maximum vibratory ground motion for which those features of the nuclear powerplant necessary to assure shutdown and containment of reactor fuel and retention of radioactivity are designed to remain functional.

(b) *Procedures for determining the Operating Basis Earthquake.* The Operating Basis Earthquake for a site is determined by assuming that the maximum earthquake potential that could reasonably be associated with each tectonic province in the region surrounding the site could occur at the point on the province nearest the site. The maximum earthquake potential is based on the largest earthquake historically reported to have occurred in the province, modified as necessary on the basis of consideration of the regional and local geology and seismology and specific characteristics of the site. The vibratory ground motion at the site is then determined for each of these earthquakes. The Operating Basis Earthquake is the one which produces the maximum vibratory ground motion for which those features of the nuclear powerplant necessary for continued operation without undue risk to the health and safety of the public are designed to remain functional.

(c) *Procedures for determining the design earthquake.* The design earthquake for a site is determined by assuming that the maximum earthquake potential that could reasonably be associated with each tectonic province in the region surrounding the site could occur at the point on the province nearest the site. The maximum earthquake potential is based on the largest earthquake historically reported to have occurred in the province, modified as necessary on the basis of consideration of the regional and local geology and seismology and specific characteristics of the site. The vibratory ground motion at the site is then determined for each of these earthquakes. The design earthquake is the one which produces the maximum vibratory ground motion for which those features of the nuclear powerplant necessary to assure shutdown and containment of reactor fuel and retention of radioactivity are designed to remain functional.

(d) *Procedures for determining vibratory ground motion.* The vibratory ground motion at a site may be determined by the use of empirical data or by the use of theoretical models. Empirical data may be used to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur in the region during the life of the powerplant. Empirical data may be used to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur along identified active faults during the life of the powerplant. Empirical data may be used to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur along postulated faults in the region during the life of the powerplant. Empirical data may be used to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur in the region during the life of the powerplant in the absence of recognized faults capable of producing them. Theoretical models may be used to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur in the region during the life of the powerplant. Theoretical models may be used to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur along identified active faults during the life of the powerplant. Theoretical models may be used to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur along postulated faults in the region during the life of the powerplant. Theoretical models may be used to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur in the region during the life of the powerplant in the absence of recognized faults capable of producing them.

(e) *Procedures for determining the vibratory ground motion at the site.* The vibratory ground motion at the site may be determined by the use of empirical data or by the use of theoretical models. Empirical data may be used to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur in the region during the life of the powerplant. Empirical data may be used to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur along identified active faults during the life of the powerplant. Empirical data may be used to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur along postulated faults in the region during the life of the powerplant. Empirical data may be used to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur in the region during the life of the powerplant in the absence of recognized faults capable of producing them. Theoretical models may be used to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur in the region during the life of the powerplant. Theoretical models may be used to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur along identified active faults during the life of the powerplant. Theoretical models may be used to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur along postulated faults in the region during the life of the powerplant. Theoretical models may be used to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur in the region during the life of the powerplant in the absence of recognized faults capable of producing them.

(f) *Procedures for determining the vibratory ground motion at the site.* The vibratory ground motion at the site may be determined by the use of empirical data or by the use of theoretical models. Empirical data may be used to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur in the region during the life of the powerplant. Empirical data may be used to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur along identified active faults during the life of the powerplant. Empirical data may be used to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur along postulated faults in the region during the life of the powerplant. Empirical data may be used to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur in the region during the life of the powerplant in the absence of recognized faults capable of producing them. Theoretical models may be used to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur in the region during the life of the powerplant. Theoretical models may be used to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur along identified active faults during the life of the powerplant. Theoretical models may be used to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur along postulated faults in the region during the life of the powerplant. Theoretical models may be used to determine the vibratory ground motion at the site associated with the largest earthquakes that could reasonably be expected to occur in the region during the life of the powerplant in the absence of recognized faults capable of producing them.

versus distance from site. Active faults of lesser length than those indicated in Table 1 and faults which are not active faults generally need not be considered in determining the Safe Shutdown Earthquake, except

(i) The length of the fault;

(ii) The relationship of the fault to regional tectonic structures;

(iii) The nature, amount, and geologic history of displacements along the fault, in-

(1) *Determination of Safe Shutdown Earthquake.* The Safe Shutdown Earthquake shall be identified through evaluation of seismic and geologic information developed pursuant to the requirements of paragraph

included in these criteria. Additional investigations and more conservative determinations than those included in these criteria may be required for sites located in unusual geologic or seismic areas. If an applicant believes that the seismology and geology of a site indicate that some of these criteria, or portions thereof, need not be satisfied, the specific sections of these criteria should be identified in the license application, and supporting data to justify clearly such departures should be presented.

III. *Definitions.* As used in these criteria:

(a) The "magnitude" of an earthquake is a measure of the size of an earthquake and is related to the energy released in the form of seismic waves. "Magnitude" means the numerical value on a Richter scale.

(b) The "intensity" of an earthquake is a measure of its effects on man, on man-built structures, and on the earth's surface at a particular location. "Intensity" means the numerical value on the Modified Mercalli scale.

(c) The "Safe Shutdown Earthquake" is that earthquake which produces the vibratory ground motion for which structures, systems, and components important to safety are designed to remain functional.

These structures, systems, and components are those necessary to assure:

(1) The integrity of the reactor coolant pressure boundary,

(2) The capability to shut down the reactor and maintain it in a safe shutdown condition, or

(3) The capability to prevent or mitigate the consequences of accidents which could result in potential offsite exposures comparable to the guideline exposure of 10 CFR Part 100.

(d) The "Operating Basis Earthquake" is that earthquake which produces the vibratory ground motion for which those structures, systems, and components necessary for power generation are designed to remain operable.

(e) A "fault" is a tectonic structure along which differential displacement of the adjacent earth materials has occurred parallel to the fracture plane. It is distinct from nontectonic types of ground disruption such as landsliding, fissuring, and cratering. A fault may have gouge or breccia between its two walls and includes any associated monoclinal flexure (a steplike bend in otherwise horizontal or gently dipping beds which passes into a fault) or other similar geologic structural feature.

(f) "Surface Faulting" is differential ground displacement at or near the surface caused directly by fault movement and is distinct from nontectonic types of ground disruption, such as landsliding, fissuring and cratering.

(g) An "active fault"[1] is a fault which has exhibited one or more of the following characteristics:

(1) Movement at or near the ground surface at least once in the past 35,000 years or more than once in the past 500,000 years. In the absence of data permitting absolute dating, faults with sufficiently recent movement to leave perceptible evidence of surface rupture, surface warping, or offset of geomorphic features are considered active faults.

(2) Instrumentally well-determined macro-seismicity for a fault located in the continental United States west of the Rocky Mountain Front, or in Alaska, Hawaii, or Puerto Rico.

(3) A relationship to an active fault according to characteristics (1) or (2) such that movement on one could be reasonably expected to be accompanied by movement on the other.

In some cases, the geologic evidence of past activity at or near the ground surface along a particular fault may be obscured at a particular site. This might occur, for example, at a site having a deep alluvial overburden. For these cases, evidence may exist elsewhere along the fault from which an evaluation of its characteristics in the vicinity of the site can be reasonably based. Such evidence shall be used in determining whether the fault is an active fault within this definition.

Other valid geologic reasons may exist to demonstrate that a fault which has one of the characteristics stated in (1) through (3) is not an active fault within this definition. For example, some faults may lack deep-seated, long-term causes and be due to shallow short-term causes. Association of a fault with geologic structural features which are geologically old (at least pre-Quaternary) may, in the absence of conflicting evidence, demonstrate that the fault is not an active fault within this definition.

(h) A "tectonic province" is a region of the North American continent characterized by a uniformity of the geologic structural features contained therein.

(i) A "tectonic structure" is a large scale dislocation or distortion within the earth's crust. Its extent is measured in miles.

(j) A "zone requiring detailed faulting investigation" is the zone within which a nuclear power reactor may be located only if a detailed investigation of the regional and local geologic and seismic characteristics of the site is made in order to consider the need to design for surface faulting.

(k) The "control width" of a fault is the maximum width of mapped fault traces, including all Quaternary fault traces which join or can reasonably be inferred to join the main fault trace, measured within 10 miles along the fault's trend in both directions from the point of nearest approach to the site. (See Figure 1)

(l) A "response spectrum" is a plot of the maximum peak responses of a family of idealized single-degree-of-freedom damped oscillators to a specified vibratory motion input at their supports.

IV. *Required investigations.* The geologic, seismic, and engineering characteristics of a site and its environs shall be investigated in sufficient scope and detail to (1) provide reasonable assurance that they are sufficiently well understood to permit an adequate evaluation of the proposed site, and (2) provide sufficient information to support the determinations required by these criteria and to permit adequate engineering solutions to actual or potential geologic and seismic effects at the proposed site. The size of the region to be investigated and the type of data pertinent to the investigations shall be determined by the nature of the region surrounding the proposed site. The investigations shall be carried out by a review of the pertinent literature and/or field investigations and shall include the steps outlined in (a) through (c).

(a) *Required investigation for vibratory ground motion.* The purpose of the investigations required by this paragraph is to obtain information needed to describe the vibratory ground motion produced by the Safe Shutdown Earthquake. All of the steps in subparagraphs IV(a)(5) through IV(a)(8) need not be carried out if the Safe Shutdown Earthquake can be clearly established by investigations and determinations of a lesser scope. The investigations shall include the following:

(1) Determination of the lithologic, stratigraphic, and structural geologic conditions of the site and the region surrounding the site, including its geologic history;

(2) Identification of tectonic structures underlying the site and the region surrounding the site;

(3) Determination of physical evidence concerning behavior during prior earthquakes of the surficial geologic materials and the substrata underlying the site from the lithologic, stratigraphic, and structural geologic studies;

(4) Determination of the static and dynamic engineering properties of the materials underlying the site. Included should be properties needed to determine the behavior of the underlying material during earthquakes and the characteristics of the underlying material in transmitting earthquake-induced motions to the foundations of the plant, such as seismic wave velocities, density, water content, porosity, and strength.

(5) Listing of all historically reported earthquakes which have affected or which could be reasonably expected to have affected the site, including the data of occurrence and the following measured or estimated data: magnitude or highest intensity, and a plot of the epicenter or region of highest intensity. Where historically reported earthquakes could have caused a maximum ground acceleration of at least one-tenth the acceleration of gravity (0.1g) at the foundations of the proposed nuclear powerplant structures, the acceleration or intensity and duration of ground shaking at these foundations shall also be estimated. Since earthquakes have been reported in terms of various parameters, such as magnitude, intensity at a given location, and effect on ground, structures, and people at a specific location, some of these data may have to be estimated by use of appropriate empirical relationships. Where appropriate, the comparative characteristics of the material underlying the epicentral location or region of highest intensity and of the material underlying the site in transmitting earthquake vibratory motion shall be considered.

(6) Correlation of epicenters or regions of highest intensity of historically reported earthquakes, where possible, with tectonic structures, any part of which is located within 200 miles of the site. Epicenters or regions of highest intensity which cannot be reasonably correlated with tectonic structures shall be identified with tectonic provinces, any part of which is located within 200 miles of the site.

(7) For faults, any part of which is within 200 miles[2] of the site and which may be of significance in establishing the Safe Shutdown Earthquake, determination of whether these faults are to be considered as active faults. This determination is required in order to permit appropriate consideration of the geologic history of such faults in establishing the Safe Shutdown Earthquake. For guidance in determining which faults may be of significance in determining the Safe Shutdown Earthquake, Table 1 presents the minimum length of fault to be considered.

[1] The definition and use of "active fault" in these criteria is not the same as other definitions generally used by geologists. An active fault is a fault whose geologic history shall be taken into account in evaluating the fault's potential for causing vibratory ground motion or surface faulting. The historic seismicity of a fault shall be taken into account in determining the design basis for vibratory ground motion even though the fault is not considered to be an active fault by these criteria.

[2] If the Safe Shutdown Earthquake can be associated with a fault closer than 200 miles to the site, the procedures of subparagraphs IV(a)(7) and IV(a)(8) need not be carried out for successively more remote faults.

versus distance from site. Active faults of lesser length than those indicated in Table 1 and faults which are not active faults generally need not be considered in determining the Safe Shutdown Earthquake, except where unusual circumstances indicate such consideration is appropriate.

TABLE 1

Distance from the site (miles)	*Minimum length of fault (miles) to be considered in establishing Safe Shutdown Earthquake*
0 to 20	1
Greater than 20 to 50	5
Greater than 50 to 100	10
Greater than 100 to 150	20
Greater than 150 to 200	40

(8) For faults, any part of which is within 200 miles[2] of the site which may be of significance in establishing the Safe Shutdown Earthquake and which are considered as active faults, determination of:

(i) The length of the fault;

(ii) The relationship of the fault to regional tectonic structures;

(iii) The nature, amount, and geologic history of displacements along the fault, including particularly the estimated amount of the maximum Quaternary displacement related to any one earthquake along the fault.

(b) *Required investigation for surface faulting.* The purpose of the investigations required by this paragraph is to obtain information to determine whether and to what extent the nuclear power plant need be designed for surface faulting. If the design basis for surface faulting can be clearly established by investigations of a lesser scope, all of the steps in subparagraphs IV(b)(5) through IV(b)(6) need not be carried out. The investigations shall include the following:

(1) Determination of the lithologic, stratigraphic, and structural geologic conditions of the site and the area surrounding the site, including its geologic history;

(2) Determination of geologic evidence of fault offset at or near the ground surface at or near the site;

(3) For faults greater than 1,000 feet long, any part of which is within 5 miles[4] of the site, determination of whether these faults are to be considered as active faults;

(4) Listing of all historically reported earthquakes which can be reasonably associated with active faults greater than 1,000 feet long, any part of which is within 5 miles[4] of the site, including the date of occurrence and the following measured or estimated data: Magnitude or highest intensity, and a plot of the epicenter or region of highest intensity;

(5) Correlation of epicenters or regions of highest intensity of historically reported earthquakes with active faults greater than 1,000 feet long, any part of which is located within 5 miles[4] of the site;

(6) For active faults greater than 1,000 feet long, any part of which is within 5 miles[4] of the site, determination of:

(i) The length of the fault;

(ii) The relationship of the fault to regional tectonic structures;

(iii) The nature, amount, and geologic history of displacements along the fault, including particularly the estimated amount of the maximum Quaternary displacement related to any one earthquake along the fault; and

(iv) The outer limits of the fault established by mapping Quaternary fault traces for 10 miles along its trend in both directions from the point of its nearest approach to the site.

(c) *Required investigation for seismically induced floods and water waves.* (1) For coastal sites, the investigations shall include the determination of:

(i) Information regarding distantly and locally generated waves or tsunami which have affected or could have affected the site. Available evidence regarding the runup and drawdown associated with historic tsunami in the same coastal region as the site shall also be included.

(ii) Local features of coastal topography which might tend to modify tsunami runup or drawdown. Appropriate available evidence regarding historic local modifications in tsunami runup or drawdown at coastal locations having similar topography to the site shall also be obtained.

(iii) Appropriate geologic and seismic evidence to provide information for establishing the design basis for seismically induced floods or water waves from a local offshore earthquake, from local offshore effects of an onshore earthquake, or from coastal subsidence. This evidence shall be determined, to the extent practical, by a procedure similar to that required in paragraphs IV(a) and IV(b). The probable slip characteristics of offshore faults shall also be considered as well as the potential for offshore slides in submarine material.

(2) For sites located near lakes and rivers, investigations similar to those required in subparagraph (1) shall be carried out, as appropriate, to determine the potential for the nuclear powerplant to be exposed to seismically induced floods and water waves as, for example, from the failure during an earthquake of an upstream dam or from slides of earth or debris into a nearby lake.

V. *Seismic and geologic design bases*—(a) *Determination of design basis for vibratory ground motion.* The design of each nuclear powerplant shall take into account the potential effects of vibratory ground motion caused by earthquakes. The design basis for the maximum vibratory ground motion is determined through evaluation of the geology and the geologic and seismic history of the site and the surrounding region. The most severe earthquakes associated with tectonic structures or tectonic provinces in the region surrounding the site are identified by considering those historically reported earthquakes that can be associated with these structures or provinces. If faults in the region surrounding the site are active faults, the most severe expected earthquakes associated with these faults are determined by also considering their geologic history. The vibratory ground motion at the site is then determined by assuming that the epicenters or regions of highest intensity of the earthquakes are situated at the point on the tectonic structures or tectonic provinces nearest to the site. The earthquake which could cause the maximum vibratory ground motion at the site is designated the Safe Shutdown Earthquake. The specific procedures for determining the design basis for vibratory ground motion are given in the following sections.

(1) *Determination of Safe Shutdown Earthquake.* The Safe Shutdown Earthquake shall be identified through evaluation of seismic and geologic information developed pursuant to the requirements of paragraph IV(a), as follows:

(i) The historic earthquakes of greatest magnitude or intensity which have been correlated with tectonic structures pursuant to the requirements of subparagraph IV(a)(6) shall be determined. In addition, for active faults, information required by subparagraph IV(a)(8) shall also be taken into account in determining the earthquakes of greatest magnitude related to the faults. The magnitude or intensity of these earthquakes based on geologic evidence may be larger than that of the maximum earthquakes historically recorded. The accelerations at the site shall be determined assuming that the epicenters of the earthquakes of greatest magnitude or the regions of highest intensity related to the tectonic structures are situated at the point on the structures closest to the site.

(ii) Where epicenters or regions of highest intensity of historically reported earthquakes cannot be reasonably related to tectonic structures but are identified pursuant to the requirements of subparagraph IV(a)(6) with tectonic provinces in which the site is located, the accelerations at the site shall be determined assuming that these earthquakes occur adjacent to the site.

(iii) Where epicenters or regions of highest intensity of historically reported earthquakes cannot be reasonably related to tectonic structures but are identified pursuant to the requirements of subparagraph IV(a)(6) with tectonic provinces in which the site is not located, the accelerations at the site shall be determined assuming that the epicenters or regions of highest intensity of these earthquakes are located at the closest point to the site on the boundary of the tectonic province.

(iv) The earthquake producing the maximum vibratory acceleration at the site, as determined from subdivisions (i) through (iii) shall be designated the Safe Shutdown Earthquake for vibratory ground motion, except as noted in subdivision (v). The characteristics of the Safe Shutdown Earthquake shall be derived from more than one earthquake, determined from subdivisions (i) through (iii) where necessary to assure that the maximum vibratory acceleration at the site throughout the frequency range of interest is included. In order to compensate for the limited data, the procedures in subdivisions (i) through (iii) should be applied in a conservative manner. The maximum vibratory accelerations of the Safe Shutdown Earthquake at the foundations of the nuclear power plant structures shall be determined taking into account the characteristics of the underlying soil material in transmitting the earthquake-induced motions, obtained pursuant to subparagraphs IV(a)(1), (3), and (4). The Safe Shutdown Earthquake shall be defined by response spectra corresponding to the maximum vibratory accelerations as outlined in paragraph VI(a).

(v) Where the maximum vibratory accelerations of the Safe Shutdown Earthquake at the foundations of the nuclear power plant structures are determined to be less than one-tenth the acceleration of gravity (0.1g) as a result of the steps required in subdivisions (i) through (iv), it shall be assumed that the maximum vibratory accelerations of the Safe Shutdown Earthquake at these foundations are at least 0.1g.

(2) *Determination of Operating Basis Earthquake.* The Operating Basis Earthquake may be specified by the applicant. If vibratory

[3] If the Safe Shutdown Earthquake can be associated with a fault closer than 200 miles to the site, the procedures of subparagraphs IV(a)(7) and IV(a)(8) need not be carried out for successively more remote faults.

[4] If the design basis for surface faulting can be determined from a fault closer than 5 miles to the site, the procedures of subparagraphs IV(b)(3) through IV(b)(6) need not be carried out for successively more remote faults.

ground motion occurs which produces a maximum acceleration above .05g at any foundation of the nuclear power plant structures or which exceeds that of the Operating Basis

(ii) Definitive evidence concerning the regional and local characteristics of the fault justifies use of a different value.

In delineating the zone requiring detailed

erties of the materials underlying the site developed pursuant to subparagraphs IV(a)(1), (3), and (4) and the effects of the Safe Shutdown Earthquake and the design

(2) *Operating Basis Earthquake.* Where the applicant chooses to design the nuclear powerplant to withstand the effects of an Operating Basis Earthquake, the Operating Basis Earthquake shall be defined by re-

(c) *Seismically-induced floods and water waves and other design conditions.* The design basis for seismically-induced floods and water waves and other design conditions determined pursuant to paragraphs V (c) and

(d), shall be taken into account in the design of the nuclear powerplant so as to prevent undue risk to the health and safety of the public.

ground motion occurs which produces a maximum acceleration above .05g at any foundation of the nuclear power plant structures or which exceeds that of the Operating Basis Earthquake, whichever is greater, shutdown of the nuclear power plant will be required. Prior to resuming operations, the licensee shall demonstrate to the Commission that no functional damage has occurred to features necessary for continued operation.

(b) *Determination of need to design for surface faulting.* In order to determine whether a nuclear powerplant is required to be designed to withstand the effects of surface faulting, the location of the site with respect to active faults shall be considered. The area over which each of these faults has caused surface faulting in the past is identified by mapping its fault traces in the vicinity of the site. The fault traces are mapped along the trend of the fault for 10 miles in both directions from the point of its nearest approach to the site because, for example, traces may be obscured along portions of the fault. The maximum width of the mapped fault traces, called the control width, is then determined from this map. Because surface faulting has sometimes occurred beyond the limit of mapped fault traces, or where fault traces have not been previously recognized, the control width of the fault is increased by a factor which is dependent upon the largest potential earthquake related to the fault. This larger width delineates a zone, called the zone requiring detailed faulting investigation, in which the possibility of surface faulting is to be considered. The following section outlines the specific procedures for determining the zone requiring detailed faulting investigation for an active fault.

(1) *Determination of zone requiring detailed faulting investigation.* The zone requiring detailed faulting investigation for an active fault, which was investigated pursuant to the requirement of subparagraph IV(b)(6), shall be determined through use of the following table:

TABLE 2—DETERMINATION OF ZONE REQUIRING DETAILED FAULTING INVESTIGATION

Magnitude of earthquake	*Width of zone requiring detailed faulting investigation (see Figure 1)*
Less than 5.5	1 x control width
5.5–6.4	2 x control width
6.5–7.5	3 x control width
Greater than 7.5	4 x control width

The largest magnitude earthquake related to the fault shall be used in Table 2. This earthquake shall be determined from the information developed pursuant to the requirements of paragraph IV(b) for the fault, taking into account the information required by subparagraph IV(b)(6). The control width used in Table 2 is determined by mapping the outer limits of the fault traces from information developed pursuant to subdivision IV(b)(6)(iv). The control width shall be used in Table 2 unless the characteristics of the fault are obscured for a significant portion of the 10 miles on either side of the point of nearest approach to the site. In this event, the use in Table 2 of the width of the fault more than 10 miles from the point of nearest approach to the site may be appropriate.

The zone requiring detailed faulting investigation, as determined from Table 2, shall be used for the fault except where:

(i) The zone requiring detailed faulting investigation from Table 2 is less than one-half mile in width. In this case the zone shall be at least one-half mile in width.

(ii) Definitive evidence concerning the regional and local characteristics of the fault justifies use of a different value.

In delineating the zone requiring detailed faulting investigation for a fault, the center shall coincide with the center of the fault at its point of nearest approach to the site as illustrated in Figure 1.

(c) *Determination of design bases for seismically induced floods and water waves.* The size of seismically induced floods and water waves which could affect a site shall be determined, taking into consideration the results of the investigation required by paragraph IV(c). Local topographic characteristics which might tend to modify the possible run-up and draw-down at the site shall be considered. Adverse tide conditions shall also be taken into account in determining the effect of the floods and waves on the site. The characteristics of the earthquake to be used in evaluating the offshore effects of local earthquakes shall be determined by a procedure similar to that used to determine the characteristics of the Safe Shutdown Earthquake in paragraph V(a).

(d) *Determination of other design conditions*—(1) *Soil Stability.* Vibratory ground motion associated with the Safe Shutdown Earthquake can cause soil instability due to ground disruption, such as fissuring, differential consolidation, and cratering, which is not directly related to surface faulting. The following geologic features which could affect the foundations of the proposed nuclear powerplant structures shall be evaluated, taking into account the information concerning physical properties of materials underlying the site developed pursuant to subparagraphs IV(a)(1), (3), and (4) and the effects of the Safe Shutdown Earthquake:

(i) Areas of actual or potential surface or subsurface subsidence, uplift, or collapse resulting from:

(a) Natural features such as tectonic depressions and cavernous or karst terrains, particularly those underlain by calcareous or other soluble deposits;

(b) Man's activities, such as withdrawal or addition of subsurface fluids, or mineral extraction;

(c) Regional warping.

(ii) Deformational zones, such as shears, joints, fractures and folds, or combinations of these features.

(iii) Zones of alteration or irregular weathering profiles, and zones of structural weakness composed of crushed or disturbed materials.

(iv) Unrelieved residual stresses in bedrock.

(v) Rocks or soils that might be unstable because of their mineralogy, lack of consolidation, water content, or potentially undesirable response to seismic or other events. Seismic response characteristics to be considered shall include liquefaction, thixotropy, differential consolidation, cratering, and fissuring.

(2) *Slope stability.* Stability of all slopes, both natural and artificial, the failure of which could adversely affect the nuclear powerplant, shall be considered. An assessment shall be made of the potential effects of erosion or deposition, and of combinations of erosion or deposition with seismic activity, taking into account information concerning the physical properties of the materials underlying the site developed pursuant to subparagraphs IV(a)(1), (3), and (4) and the effects of the Safe Shutdown Earthquake.

(3) *Cooling water supply.* Assurance of adequate cooling water supply for emergency and long-term shutdown decay heat removal shall be considered in the design of the nuclear powerplant, taking into account information concerning the physical properties of the materials underlying the site developed pursuant to subparagraphs IV(a)(1), (3), and (4) and the effects of the Safe Shutdown Earthquake and the design basis for surface faulting. Consideration of river blockage or diversion, coastal uplift or subsidence, or tsunami run-up and draw-down, and of the failure of dams and intake structures shall be included in the evaluation, where appropriate.

VI. *Engineering design criteria.* The engineering design criteria included in this section are intended only for general guidance. More detailed criteria for seismic design of nuclear powerplants are being developed.

(a) *Vibratory ground motion*—(1) *Safe Shutdown Earthquake.* The vibratory ground motion produced by the Safe Shutdown Earthquake shall be defined by response spectra corresponding to the maximum vibratory accelerations at the elevations of the foundations of the nuclear powerplant structures determined pursuant to subparagraph V(a)(1). The response spectra shall relate the response of the foundations of the nuclear powerplant structures to the vibratory ground motion, considering such foundations to be single-degree-of-freedom damped oscillators and neglecting soil-structure interaction effects. In view of the limited data available on vibratory ground motions of strong earthquakes, it usually will be appropriate that the response spectra be smoothed design spectra, developed from an envelope of spectra related to the measured vibratory motions caused by more than one earthquake.

The nuclear powerplant shall be designed so that, if the Safe Shutdown Earthquake occurs, all structures, systems, and components important to safety will remain functional. These structures, systems, and components are those necessary to assure (1) the integrity of the reactor coolant pressure boundary, (2) the capability to shut down the reactor and maintain it in a safe condition, or (3) the capability to prevent or mitigate the consequences of accidents which could result in potential offsite exposures comparable to the guideline exposures of this part. In addition to seismic loads, including aftershocks, applicable concurrent functional and accident-induced loads shall be taken into account in the design of these safety-related structures, systems, and components. The design of the nuclear powerplant shall also take into account the possible effects of the Safe Shutdown Earthquake on the facility foundations by ground disruption, such as fissuring, differential consolidation, cratering, liquefaction, and landsliding, as required in paragraph V(d).

The engineering method used to insure that the required safety functions are maintained during and after the vibratory ground motion associated with the Safe Shutdown Earthquake shall involve the use of a suitable dynamic analysis, such as a time history method, except where it can be demonstrated that the use of an equivalent static load method provides adequate conservatism. The analysis shall take into account soil-structure interaction effects and the expected duration of vibratory motion. It is permissible to allow strain limits in excess of yield strain in some of these safety-related structures, systems, and components during the Safe Shutdown Earthquake and under the postulated concurrent conditions, provided that the necessary safety functions are maintained.

These safety-related structures, systems, and components shall also be designed to withstand the effects of vibratory motion of at least 50 percent of the Safe Shutdown Earthquake in combination with other appropriate loads well within elastic limits.

(2) *Operating Basis Earthquake.* Where the applicant chooses to design the nuclear powerplant to withstand the effects of an Operating Basis Earthquake, the Operating Basis Earthquake shall be defined by response spectra.

All structures, systems, and components of the nuclear powerplant necessary for power generation shall be designed to withstand the effects of the vibratory motion of the Operating Basis Earthquake in combination with other appropriate loads well within elastic limits.

The engineering method used to insure that all structures, systems, and components necessary for power generation are capable of withstanding the effects of the Operating Basis Earthquake shall involve the use of a suitable dynamic analysis, such as a time history method, except where it can be demonstrated that the use of an equivalent static load method provides adequate conservatism. The analysis shall take into account soil-structure interaction effects and the expected duration of vibratory motion.

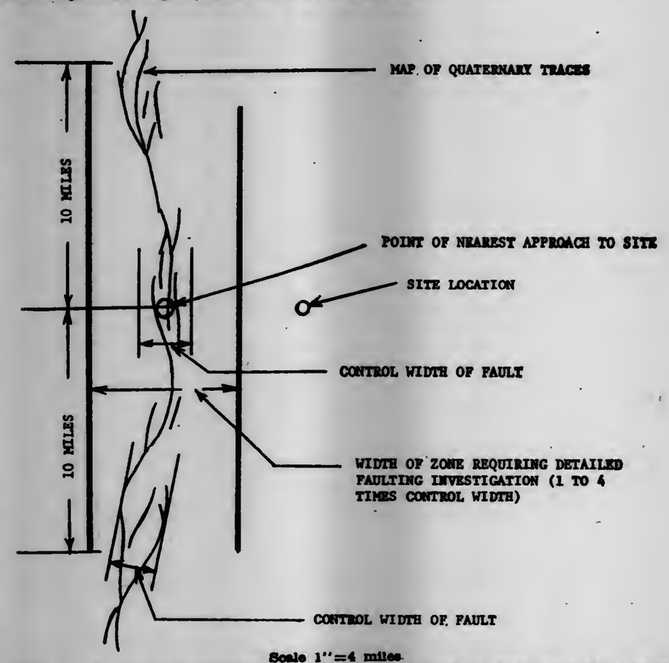
(3) *Required seismic instrumentation.* Suitable instrumentation shall be provided so that the seismic response of nuclear powerplant features important to safety can be determined promptly to permit comparison of such response with that used as the design basis. Such a comparison is needed to decide whether the plant can continue to be operated safely and to permit such timely action as may be appropriate.

(b) *Surface faulting.* If the reactor facility is to be located within the zone requiring detailed faulting investigation, a detailed investigation of the regional and local geologic and seismic characteristics of the site shall be carried out to determine the need to take into account surface faulting in the design of the nuclear powerplant. Where it is determined that surface faulting need not be taken into account, sufficient data to clearly justify the determination shall be presented in the license application.

Where it is determined that surface faulting must be taken into account, guidance in establishing the design basis for surface faulting on a site shall be obtained from the data in Technical Information Document 24124, "Historic Surface Faulting in Continental United States and Adjacent Parts of Mexico," by M. G. Bonilla, U.S. Geological Survey, 1967, from the evidence concerning the regional and local geologic and seismic characteristics of the site, and from any other relevant data.

The design basis for surface faulting shall be taken into account in the design of the nuclear powerplant by providing reasonable assurance that in the event of occurrence of such faulting all structures, systems, and components important to safety will remain functional. These structures, systems, and components are those necessary to assure (1) the integrity of the reactor coolant pressure boundary, (2) the capability to shut down the reactor and maintain it in a safe shutdown condition, or (3) the capability to prevent or mitigate the consequences of accidents which could result in potential offsite exposures comparable to the guideline exposures of this part. In addition to seismic loads, including aftershocks, applicable concurrent functional and accident-induced loads shall be taken into account in the design of such safety features. The design provisions shall be based on an assumption that the design basis for surface faulting can occur in any direction and azimuth and under any part of the nuclear powerplant, unless evidence indicates this assumption is not appropriate, and shall take into account the estimated rate at which the surface faulting may occur.

(c) *Seismically-induced floods and water waves and other design conditions.* The design basis for seismically-induced floods and water waves and other design conditions determined pursuant to paragraphs V (c) and (d), shall be taken into account in the design of the nuclear powerplant so as to prevent undue risk to the health and safety of the public.



Scale 1"=4 miles.

FIGURE 1—Diagrammatic illustration of delineation of width of zone requiring detailed faulting investigation for a specific site area.

(Sec. 161 b., i., 68 Stat. 948 as amended; 42 U.S.C. 2201 (b)(i))

Dated at Germantown, Md., this 18th day of November 1971.

For the Atomic Energy Commission.

W. B. McCOOL,
Secretary of the Commission.

[FR Doc.71-17134 Filed 11-24-71;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2, 21, 89, 91]

[Docket No. 19327]

ALLOCATION OF FREQUENCIES

Order Extending Time

In the matter of amendment of Parts 2, 21, 89, and 91 of the Commission's rules with regard to allocation of frequencies in the bands 35.19–35.69 MHz and 43.19–43.69 MHz, Docket No. 19327, RM 1069.

1. The Commission has before it for consideration a motion for extension of time in the above-named proceeding filed on behalf of the National Association of Radiotelephone Systems (NARS), requesting a 30 days extension in the time for filing comments and reply comments in response to the Commission's notice of proposed rule making (36 F.R. 19916) adopted September 30, 1971.

2. According to NARS a preliminary examination of the Commission's proposed rule making has indicated certain potential problems of interference which were not contemplated in the notice. NARS says the additional time is necessary to enable its consulting engineers to properly study the problem and prepare data for consideration by the Commission.

3. The Commission certainly desires to be fully informed of any potentially serious problems arising from the proposed rules. We appreciate the assistance of NARS in this matter and believe that it has shown good cause for 30 days extension. It does not appear that such an extension would seriously delay the proceeding or inconvenience other parties intending to file.

4. *Accordingly, it is ordered,* Pursuant to authority contained in section 5(d) of the Communications Act of 1934, as amended, (47 U.S.C. 155(d)) and § 0.251 of the Commission's rules, that the time for filing comments and reply comments in the above-entitled proceeding is extended from November 26, 1971, to December 28, 1971.

Adopted: November 12, 1971.

Released: November 15, 1971.

Notices

4. *Accordingly, it is ordered,* Pursuant to authority contained in section 5(d) of the Communications Act of 1934, as amended, (47 U.S.C. 155(d)) and § 0.251 (b) of the Commission's rules (47 CFR 0.251(b)), the date for filing comments in this proceeding is extended from November 15, 1971, to December 15, 1971, and the date for filing reply comments is extended from November 26, 1971, to December 28, 1971.

Adopted: November 12, 1971.

Released: November 15, 1971.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] RICHARD E. WILEY,
General Counsel

[FR Doc.71-17257 Filed 11-24-71;8:53 am]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

HIGH-SPEED TOOL STEEL FROM SWEDEN

Antidumping Proceeding Notice

On October 12, 1971, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs regulations (19 CFR 153.26, 153.27), indicating a possibility that high-speed tool steel from Sweden is being, or likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

There is evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Having conducted a summary investigation as required by § 153.29 of the Customs regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the Bureau of Customs is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows:

The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the prices for home consumption.

This notice is published pursuant to § 153.30 of the Customs regulations (19 CFR 153.30).

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: November 19, 1971.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-17247 Filed 11-24-71;8:52 am]

Internal Revenue Service

[Order No. 30 (Rev. 4)]

ASSISTANT COMMISSIONER (COMPLIANCE) AND DIRECTOR, ALCOHOL, TOBACCO, AND FIREARMS DIVISION

Delegation of Authority Regarding Administration and Enforcement of Laws

1. (a) Pursuant to the authority vested in the Commissioner of Internal Revenue by the regulations in Title 26 of the Code of Federal Regulations implementing chapters 51, 52, and 53 of the Internal Revenue Code and by Treasury Department Order No. 150-37, dated March 17, 1955, there is hereby delegated to the Assistant Commissioner (Compliance) and the Director, Alcohol, Tobacco, and Firearms Division, the authority to administer and enforce chapters 51, 52, and 53 of the Internal Revenue Code relating, respectively, to distilled spirits, wines, and beer, tobacco, and firearms, including the authority to supervise and regulate the liquor and tobacco industries, and the determination of appeals in administrative proceedings involving the denial of applications for industrial alcohol and tobacco permits and the annulment, revocation, and suspension of such permits.

(b) Pursuant to the authority vested in the Commissioner by Treasury Department Order No. 30, dated June 12, 1940, and No. 150-2, dated May 15, 1952, there is hereby delegated to the Assistant Commissioner (Compliance) and the Director, Alcohol, Tobacco, and Firearms Division, the authority to administer and enforce the Federal Alcohol Administration Act (27 U.S.C. chapter 8), including the authority to accept or reject offers in compromise submitted pursuant to such Act, and the determination of appeals in administrative proceedings involving the denial of applications for beverage permits and the annulment, revocation, and suspension of such permits.

(c) Pursuant to the authority vested in the Commissioner by 26 CFR Part 178, there is hereby delegated to the Assistant Commissioner (Compliance) and the Director, Alcohol, Tobacco, and Firearms Division, the authority to administer and enforce 18 U.S.C. chapter 44, relating to firearms and including the determination of appeals in administrative proceedings involving the denial of applications for firearms licenses and the revocation of such licenses; and title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. appendix), as amended, relating to unlawful possession or receipt of firearms; and pursuant to the authority so vested by 26 CFR Part 180, authority is hereby delegated to the Assistant Commissioner (Compliance) and the Director, Alcohol, Tobacco, and Firearms Division, the authority to administer and enforce section 414 of the Mutual Security Act of 1954, as amended (22 U.S.C. 1934), relating to the control of the importation of arms, ammunition and implements of war.

(d) Pursuant to the authority vested in the Commissioner by Treasury Decision 4662, dated July 3, 1936, and Treasury Department Order No. 150-2, dated May 15, 1952, there is hereby delegated to the Assistant Commissioner (Compliance) and the Director, Alcohol, Tobacco, and Firearms Division, the authority to administer and enforce 18 U.S.C. chapter 40, relating to explosives and including the determination of appeals in administrative proceedings involving the denial of applications for explosive licenses and permits and the revocation of such licenses and permits.

(e) Pursuant to the authority vested in the Commissioner by Treasury Department Order No. 149, dated March 5, 1952, and No. 150-2, dated May 15, 1952, there is hereby delegated to the Assistant Commissioner (Compliance) and the Director, Alcohol, Tobacco, and Firearms Division, the authority to remit or mitigate forfeitures of:

(i) Personal property seized as subject to administrative forfeiture under internal revenue laws, and

(ii) Vessels, vehicles, or aircraft seized as subject to administrative forfeiture under the customs laws for transporting or concealment therein in violation of the Act of August 9, 1939 (49 U.S.C. chapter 11), of firearms in respect of which there have been violations of chapter 53 of the Internal Revenue Code.

(f) Pursuant to the authority vested in the Commissioner by Treasury Department Order No. 150-45 (Rev. No. 2), dated October 15, 1970, and 26 CFR Part 181, there is hereby delegated to the Assistant Commissioner (Compliance) and the Director, Alcohol, Tobacco, and Firearms Division, the authority to administer and enforce 18 U.S.C. chapter 40, relating to explosives and including the determination of appeals in administrative proceedings involving the denial of applications for explosive licenses and permits and the revocation of such licenses and permits.

(g) Pursuant to the authority vested in the Commissioner by 26 CFR Parts 178 and 181, relating to applications for relief from firearms or explosives disabilities filed under 18 U.S.C. 925(c) or 18 U.S.C. 845(b), there is hereby delegated to the Assistant Commissioner (Compliance) and the Director, Alcohol, Tobacco, and Firearms Division, the authority to take final action on such applications.

2. The authorities delegated under paragraph 1 (a)-(f) hereof may be redelegated but not below the position of Assistant Director, except that specified routine actions required in processing documents involving firearms actions may be further redelegated to the Chief, Firearms and Explosives Branch, and to coordinators in that Branch.

3. The authority delegated under paragraph 1(g) may not be redelegated.

4. This order supersedes Delegation Order No. 31 (Rev. 3) issued September 10, 1971.

Date of issuance: November 19, 1971.

Effective date: November 19, 1971.

[SEAL] JOHNNIE M. WALTERS,
Commissioner.

[FR Doc.71-17248 Filed 11-24-71;8:51 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

to lands in the State of Idaho) who, in good faith, under color of title or claiming as a riparian owner has, prior to March 30, 1961, placed valuable improve-

cle will be used to study biological tissue specimens removed from mammalian reproductive tracts and certain portions of the central nervous system in investiga-

3223 North Broad Street, Philadelphia, PA 19140. Article: Ultramicrotome, Om U2. Manufacturer: C. Reichert Optische Werke A.G., West Germany. Intended

Instrument Co., United Kingdom. Intended use of article: The article is intended to be used in experiments designed to study the shift of microwave

Docket No. 72-00079-65-42000. Applicant: Iowa State University, Ames Laboratory, Ames, Iowa 50010. Article: Interference flatness tester. Manufacturer:

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Colorado 0102703]

COLORADO

Notice of a Partial Termination of Proposed Withdrawal and Reservation of Lands

November 18, 1971.

Notice of a Bureau of Reclamation, U.S. Department of the Interior application, Colorado 0102703, for withdrawal and reservation of lands for reclamation purposes in connection with the Fryingpan-Arkansas Project, was published as Federal Register Document No. 63-1923, on pages 1686 and 1687 of the issue for Thursday, February 21, 1963. The applicant agency has canceled its application insofar as it affects the following described lands:

Sixth Principal Meridian, Colorado

T. 7 S., R. 85 W.,
Sec. 36: S½SE¼, containing 80 acres.

Therefore, pursuant to the regulations contained in 43 CFR Part 2091.2-5(b)(1), such lands, at 10 a.m., on December 24, 1971, will be relieved of the segregative effect of the above mentioned application.

Allan E. Arnold,
Acting Chief,
Division of Technical Services.

[FR Doc.71-17217 Filed 11-24-71;8:49 am]

[I-4701]

IDAHO

Notice of Offer of Lands

November 15, 1971.

1. Pursuant to the provisions of the Act of May 31, 1962 (76 Stat. 89), the following lands, found upon survey to be omitted lands of the United States, will be offered for sale:

Boise Meridian, Idaho

T. 3 N., R. 37 E.
Sec. 1, lots 10 and 11;
Sec. 2, lots 8, 12, 13, 14, and 16;
Sec. 12, lots 10, 13, 14, and 17;
Sec. 13, lots 10, 11, and 12;
Sec. 24, lots 9, 10, 11, and 12.

The areas described aggregate 264.41 acres.

2. Plats of survey were filed in the Land Office, Boise, Idaho, at 10 a.m. on November 3, 1969.

3. Persons claiming a preference right in accordance with the provisions of the Act, must file with the Idaho State Office, Room 334, Federal Building, 550 West Fort Street, Boise, ID 83702, before January 20, 1972, a notice of their intention to apply to purchase all or part of the lands as qualified preference right claimants.

4. The Act grants a preference right to purchase the above lands to any citizens of the United States (including corporations, partnership, firm, or other legal entity having authority to hold title to lands in the State of Idaho) who, in good faith, under color of title or claiming as a riparian owner has, prior to March 30, 1961, placed valuable improvements upon, reduced to cultivation, or occupied any of the lands so offered for sale, or whose ancestors or predecessors in interest have taken such action.

5. The lands are determined to be suitable for sale and will be sold at their fair market value subject to:

(a) Qualified preference right claims.

(b) A reservation to the United States of all the coal, oil, gas, shale, phosphate, potash, sodium, native asphalt, solid and semisolid bitumen and bitumen rock, including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried.

(c) The following reservations:

(1) A right-of-way easement for existing flood control dikes.

(2) A reservation of a 100-foot strip of land along the river banks of the lots bordering the Snake River for use of the public for access and recreation.

Richard H. Petrie,
Chief,
Division of Technical Services.

[FR Doc.71-17210 Filed 11-24-71;8:49 am]

DEPARTMENT OF COMMERCE

Office of Import Programs

UNIVERSITY OF IOWA ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the Federal Register.

Amended regulations issued under cited Act, as published in the October 14, 1969, issue of the Federal Register, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 72-00065-33-46040. Applicant: The University of Iowa, Iowa City, Iowa 52240. Article: Electron microscope, Model Elmiskop 101 and accessories. Manufacturer: Siemens A.G., West Germany. Intended use of article: The article will be used to study biological tissue specimens removed from mammalian reproductive tracts and certain portions of the central nervous system in investigations directed toward a better understanding of the mechanism of action of contraceptive devices and drugs. These investigations are related to a multidisciplinary approach to the problem of interference with implementation of the fertilized ovum, and employment of existing drugs to enhance the effect of current contraceptive measures, as well as possible design of new and different contraceptive drugs. The article will also be used in a lecture and laboratory course covering all aspects of electron microscopy. Application received by Commissioner of Customs: July 29, 1971.

Docket No. 72-00066-33-46040. Applicant: University of Iowa, Department of Zoology, Iowa City, Iowa 52240. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: The article will be used for research studies which include the following:

1. Studies on the biogenesis of the cytoplasmic organelle called the "peroxisome" to establish the relation between enzyme induction and organelle development.

2. Study of sections of organs which must be seen distinctly at low magnification and photographed in order to locate and identify specific cell types which are then studied at intermediate and high magnification to analyze their structural characteristics.

3. Characterization of the structure and composition of a cytoplasmic component believed to represent stored gene product.

Application received by Commissioner of Customs: July 29, 1971.

Docket No. 72-00067-01-11000. Applicant: Southern Illinois University, Edwardsville, Ill. 62025. Article: Gas chromatograph-mass spectrometer. Manufacturer: Varian MAT III G.m.b.T., West Germany. Intended use of article: The article is intended to be used in the following courses:

1. Chemistry 432-8 (4,4) Instrumental Analytical Measurements;

2. Chemistry 446-4 Qualitative Organic Analysis;

3. Chemistry 455-2 (1,1) Experimental Methods in Biochemistry;

4. Chemistry 496-2 to 6 Chemical Problems; and

5. Chemistry 596-1 to 2 Advanced Chemical Problems.

The objectives of these courses are to: elucidate chemical behavior at the molecular level; assist in the professional chemical training of undergraduate students; and to acquaint the chemistry student with expeditious modern laboratory techniques. Application received by Commissioner of Customs: August 2, 1971.

Docket No. 72-00068-33-46500. Applicant: Temple University, School of Dentistry, Electron Microscope Laboratory,

3323 North Broad Street, Philadelphia, PA 19140. Article: Ultramicrotome, Om U2. Manufacturer: C. Reichert Optische Werke A.G., West Germany. Intended use of article: The article is to be used to section X-irradiated parotid gland tissues of 50 angstrom units thickness or less for electron microscopy. This work is part of a research project designed to elucidate the subcellular events in the parotid gland acinar cells following administration of low doses of X-irradiation. Application received by Commissioner of Customs: August 2, 1971.

Docket No. 72-00069-01-77030. Applicant: Temple University School of Medicine, 3420 North Broad Street, Philadelphia, PA 19140. Article: NMR Spectrometer, Model JNM-MH-60-II. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article will be used in experiments on organic chemicals of biological interest, and their interaction with metal ions and biological macromolecules. In addition, the article will be used for training of students in nuclear magnetic resonance spectroscopy techniques. Application received by Commissioner of Customs: August 2, 1971.

Docket No. 72-00071-75-46070. Applicant: University of California, Los Alamos Scientific Laboratory, Post Office Box 990, Los Alamos, CA 87544. Article: Scanning electron microscope, JSM-U3. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: The article is intended to be used to study the physical, mechanical microstructural, and transport properties of potential reactor fuels and clads and to apply the apparatus also to the post-irradiation examination of fast breeder reactor experimental fuel elements. Application received by Commissioner of Customs: August 2, 1971.

Docket No. 72-00072-33-46040. Applicant: New York State Office of General Services, Alfred E. Smith State Office Building, Albany, N.Y. 12225. Article: Electron microscope, Model EM-7. Manufacturer: Associated Electronic Industries, United Kingdom. Intended use of article: The article will be used for a wide range of biological and medical studies; including the examination of living cells, whole and component parts, normal and abnormal; and whole microorganisms including bacteria and viruses. Application received by Commissioner of Customs: August 2, 1971.

Docket No. 72-00073-01-77040. Applicant: University of Utah, Purchasing Department, Salt Lake City, Utah 84112. Article: Mass spectrometer, CH-7. Manufacturer: Varian MAT, West Germany. Intended use of article: The article will be used as an integral component of new instrumentation being constructed for the specific purpose of sequencing peptide molecules and peptide derivatives. Application received by Commissioner of Customs: August 2, 1971.

Docket No. 72-00074-01-42990. Applicant: Columbia University, Department of Chemistry, Broadway at 116th Street, New York, NY 10027. Article: Superconducting magnet. Manufacturer: Oxford Instrument Co., United Kingdom. Intended use of article: The article is intended to be used in experiments designed to study the shift of microwave absorption frequencies, and its relation to molecular magnetism. Application received by Commissioner of Customs: August 2, 1971.

Docket No. 72-00075-01-90000. Applicant: University of Oklahoma Medical Center, c/o Central Shipping & Receiving, 600 North Oklahoma, Oklahoma City, OK 73104. Article: Rotating anode X-ray generator, GX6. Manufacturer: Elliot Automation Radar Systems Ltd., United Kingdom. Intended use of article: The article is intended to be used to provide high intensity X-radiation for single crystal X-ray diffraction studies of proteins. Application received by Commissioner of Customs: August 2, 1971.

Docket No. 72-00076-33-77040. Applicant: Galesburg State Research Hospital, 1801 North Seminary Street, Galesburg, IL 61401. Article: Gas chromatograph/mass spectrometer, CH 7. Manufacturer: Varian MAT, West Germany. Intended use of article: The article is intended to be used for biochemical analyses of body fluids from patients with mental diseases particularly schizophrenia, to determine whether or not there is a biochemical abnormality in this group of diseases. Application received by Commissioner of Customs: August 5, 1971.

Docket No. 72-00077-33-43780. Applicant: University of Cincinnati, College of Medicine, Eden and Bethesda Avenues, Cincinnati, OH 45219. Article: Laryngo-Schronstroboscope KS3. Manufacturer: Rolf Timcke, West Germany. Intended use of article: The article will be used to teach medical students, interns and residents the anatomic and physiologic action of the vocal cords and the voice box. Application received by Commissioner of Customs: August 5, 1971.

Docket No. 72-00078-33-46040. Applicant: Southwest Missouri State College, 901 South National, Springfield, MO 65802. Article: Electron microscrope, Model HU-11F. Manufacturer: Hitachi Perkin-Elmer, Japan. Intended use of article: The article is intended to be used in various research projects which include:

1. Direct and indirect study of noncrystalline biomolecules;

2. Ultrastructural study of light-induced changes in tomato pith cells;

3. Significance of the different properties of various plant peroxidases as marker proteins in protein tracer studies;

4. A study on the development or more specific enzyme localizations at the ultrastructural level; and

5. Origin, transport, and deposition of induced peroxidase protein in plant cell walls.

The article will also be used in teaching a course, "Methods in Electron Microscopy" to graduate students. Application received by Commissioner of Customs: August 5, 1971.

Docket No. 72-00079-65-42000. Applicant: Iowa State University, Ames Laboratory, Ames, Iowa 50010. Article: Interference flatness tester. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used to measure flatness of alkali halide crystals prior to use in diffusion experiments. Application received by Commissioner of Customs: August 5, 1971.

Docket No. 72-00080-65-01100. Applicant: Iowa State University, Ames Laboratory, Ames, Iowa 50010. Article: Particle size analyzer. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for quantitative study of crystalline defects and void formation in radiation damage investigation by transmission electron microscopy. Application received by Commissioner of Customs: August 5, 1971.

Docket No. 72-00081-91-80300. Applicant: University of Alaska, Geophysical Institute, College, Alaska 99701. Article: Temperature recorder. Manufacturer: Grant Instruments (Developments) Ltd., United Kingdom. Intended use of article: The article is intended to be used for research on tundra revegetation studies. Application received by Commissioner of Customs: August 5, 1971.

Docket No. 72-00082-33-46040. Applicant: Veterans Administration Hospital, 3350 La Jolla Village Drive, San Diego, CA 92161. Article: Electron microscope, Model Elmiskop 101. Manufacturer: Siemens A. G., West Germany. Intended use of article: The article is intended to be used for the following diagnostic purposes:

(1) Renal, liver, muscle and nerve, brain and tumor biopsies;

(2) Examination of smears from body secretion for the identification of viral particles;

(3) Study of sedimentation pellets of body fluid;

(4) Identification of viruses from biopsy specimens grown in cultures.

The article will also be used to train young pathologists in both technical and interpretive aspects of electron microscopy as a diagnostic tool in pathology. Application received by Commissioner of Customs: August 5, 1971.

Docket No. 72-00083-55-17500. Applicant: Oregon State University, Business Office, Post Office Box 1086, Corvallis, OR 97331. Article: Recording current meter, Model 4. Manufacturer: Ivar Aanderaa, Norway. Intended use of article: The article is intended to be used in a research effort to define the response of the upper layer of the ocean to the stress of winds along the surface. Application received by Commissioner of Customs: August 9, 1971.

Docket No. 72-00084-88-46070. Applicant: University of Delaware, Newark, Del. 19711. Article: Scanning electron microscope, IIA. Manufacturer: Cambridge Scientific Instruments Ltd., United Kingdom. Intended use of article: The article will be used in the investigation of the detailed microstructure and topography of mineral, fossil, biological, and other specimens. In addition, the

article will be used to instruct advanced undergraduate students in the field of micropaleontology and mineralogy. Application received by Commissioner of

mainly embryonic hearts that exhibit normal and pathological structures after the administration of various teratogens, especially nicotine. Research will be con-

for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of

therefore, a pertinent characteristic of the ultra microtome to be used for sectioning materials that experience has shown difficult to section."

Intended use of article: The article will be used with an existing Elmiskop 1A electron microscope.

Comments: No comments have been

faces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency,

article will be used to instruct advanced undergraduate students in the field of micropaleontology and mineralogy. Application received by Commissioner of Customs: August 9, 1971.

Docket No. 72-00085-99-26000. Applicant: Nelson County Vocational School Extension, Post Office Box 160, Bardstown, KY 40004. Article: Dr. Clemens, standard construction device for the theory of electricity. Manufacturer: Dr. Clemens, West Germany. Intended use of article: The article will be used in classes in electricity for teaching the basic theory of electricity. Application received by Commissioner of Customs: August 9, 1971.

Docket No. 72-00086-33-46040. Applicant: Ohio Agricultural Research and Development Center, Wooster, Ohio 44691. Article: Electron microscope, Elmiskop 101. Manufacturer: Siemens A.G., West Germany. Intended use of article: The article is intended to be used in research projects ranging from, the investigation of plant virus pathology of soybean, corn and wheat—involving local lesion formation mechanisms, virus location within the tissue and general ultrastructural phenomena resulting from the infection—to pathological conditions in animals such as TGE virus in swine. Application received by Commissioner of Customs: August 9, 1971.

Docket No. 72-00087-00-76540. Applicant: University of Texas, Department of Astronomy, 407 Physics Building, Austin, TX 78712. Article: Four image slicers with accessories. Manufacturer: E. Harvey Richardson, Canada. Intended use of article: The article is intended to be used in astronomical research with a spectrograph. Application received by Commissioner of Customs: August 9, 1971.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-17195 Filed 11-24-71;8:48 am]

COLLEGE OF MEDICINE AND DENTISTRY OF NEW JERSEY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00487-33-46500. Applicant: College of Medicine and Dentistry of New Jersey at Newark, 100 Bergen Street, Newark, NJ 07103. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used to study biological materials, mainly embryonic hearts that exhibit normal and pathological structures after the administration of various teratogens, especially nicotine. Research will be concentrated on the development of a heart with special emphasis on the endocardial cushion tissue.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting, (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultra microtome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of August 27, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to the applicant's ultrastructural study of developing endocardial cushion tissue in embryonic heart in which soft embedded specimens or specimens difficult to section may be encountered. HEW cites as a precedent its prior recommendation relating to Docket No. 71-00147-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-17196 Filed 11-24-71;8:48 am]

DARTMOUTH COLLEGE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00531-33-46500. Applicant: Dartmouth College, Hanover, N.H. 03755. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used to study biological substances, consisting of normal and tumor cells, from both animals and man, growing on plastic petri dishes. Investigations concern the interactions between cells under a variety of experimental conditions, involving the sectioning of monolayers of cells.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting, (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultra microtome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of September 10, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to ultrathin serial sectioning of the softer or more difficultly cut specimens of tissue culture cells encountered in the applicant's studies involving analysis of cell-cell junction and microtubles. HEW cites as a precedent its prior recommendation relating to Docket No. 71-00307-33-46500 which conforms in many particulars with the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-17194 Filed 11-24-71;8:48 am]

therefore, a pertinent characteristic of the ultra microtome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of August 27, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to the applicant's ultrastructural study of developing endocardial cushion tissue in embryonic heart in which soft embedded specimens or specimens difficult to section may be encountered. HEW cites as a precedent its prior recommendation relating to Docket No. 71-00147-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-17193 Filed 11-24-71;8:47 am]

MAYO FOUNDATION

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00477-33-46500. Applicant: Mayo Foundation, 200 First Street Southwest, Rochester, MN 55901. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used for studies on viral diseases of the skin, tumors of the skin, ultrastructural histochemical techniques of the skin, and immuno-ultrastructural techniques of the skin in progress. Educational use will be in courses in graduate training and for thesis work investigating biologic and pathologic problems of the skin by ultrastructural methods.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to accessories for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used.

The Department of Commerce knows of no similar accessories being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-17186 Filed 11-24-71;8:47 am]

JOHNS HOPKINS UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00586-00-46040. Applicant: Johns Hopkins University, Charles and 34th Streets, Baltimore, MD 21218. Article: Film cassette and kit. Manufacturer: Siemens A.G., West Germany.

Intended use of article: The article will be used with an existing Elmiskop 1A electron microscope.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to accessories for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used.

The Department of Commerce knows of no similar accessories being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-17185 Filed 11-24-71;8:47 am]

MIAMI UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural

Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00239-33-46040. Applicant: The Rockefeller University, 66th and York Avenue, New York, NY 10021. Article: Film cassette and kit. Manufacturer: Siemens A.G., West Germany.

Intended use of article: The article will be used with an existing Elmiskop 1A electron microscope.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to accessories for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used.

The Department of Commerce knows of no similar accessories being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-17184 Filed 11-24-71;8:47 am]

UNIVERSITY OF CALIFORNIA, RADIOLOGICAL LABORATORY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00573-33-46500. Applicant: University of California, Radio-

Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00486-33-46500. Applicant: Miami University, Oxford, Ohio 45056. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter, A.B., Sweden.

Intended use of article: The article will be used for research directed toward the production by cells of secretory materials, both for digestion and for formation of connective tissue matrices. Another project concerns the production of structures within spermatocyte nuclei and the investigation of their biochemical constituents.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of August 27, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to the sectioning of the very soft embedded specimens encountered in the applicant's studies of secretary mucins in relation to connective tissue. HEW cites as a precedent its prior recommendation relating to Docket No. 71-00170-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-17187 Filed 11-24-71;8:47 am]

MICHIGAN STATE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00541-33-46500. Applicant: Michigan State University, 516 Biochemistry, MSU, East Lansing, Mich. 48823. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of of article: The article will be used for research to determine the reaction of the postnatal mouse cerebellum to injury by an alkylating agent with coordinated ultrastructural and biochemical studies at various post-injection intervals. These coordinated studies will be conducted on both whole tissue and fraction preparations from the cerebellum.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of September 10, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to the satisfactory serial sectioning of the softer specimens encountered in the applicant's studies involving injury to the developing mouse cerebellum at the ultrastructural level. HEW cites as a precedent its prior recommendation relating to Docket No. 71-00322-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-17188 Filed 11-24-71;8:47 am]

STATE UNIVERSITY OF NEW YORK AT ALBANY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural

Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00436-02-37100. Applicant: State University of New York at Albany, 1400 Washington Avenue, Albany, NY 12203. Article: Model 07499.02 dangoumau sample homogeniser. Capacity; two 65-milliliter jars or one 150-milliliter jar. Ball-mill agitation by a 220-volt, 50-cycle, 1/10-horsepower asynchronous motor. Has water jacket for maintaining constant temperature of the sample during pulverization. Manufacturer: Prolabo, Societe, Paris, France.

Intended use of article: The article will be used for low temperature pulverization of plant material, preliminary to extraction of chemical constituents, principally seeds preceding protein extraction.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the combination of small sample size, temperature control, operation at low temperatures, and a reciprocating action which forces a ball to pulverise the sample. The characteristics described above are pertinent to the applicant's research studies. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated July 9, 1971, that it knows of no domestic instrument or apparatus that provides all the capabilities of the foreign article.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-17189 Filed 11-24-71;8:47 am]

ROCKEFELLER UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00239-33-46040. Applicant: The Rockefeller University, 66th and York Avenue, New York, NY 10021. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electron NVD, The Netherlands.

Intended use of article: The article will be used in the Department of Parasitology and Invertebrate Physiology for high resolution studies in host-parasite relationship of intracellular parasites such as malaria, *Babesia* and *Leishmania* as well as for the study of structures involved in the complex feeding mechanism of the protozoan *Tokophrya infusionum*.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides both a 20-kilovolt accelerating voltage and an externally controlled anode-cathode spacing. The most closely comparable domestic instrument is the Model EMU-4C manufactured by Forgflo Corp. (Forgflo). The Model EMU-4C provides upon request a 20-kilovolt accelerating voltage but not an externally controlled anode-cathode spacing. We are advised by the Department of Health, Education, and Welfare in its memorandum dated February 21, 1971, that both the 20-kilovolt accelerating voltage and an externally controlled anode-cathode spacing are pertinent to the purposes for which the foreign article is intended to be used.

We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-17190 Filed 11-24-71;8:47 am]

UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00573-33-46500. Applicant: University of California, Radiobiology Laboratory, Davis, Calif. 95616. Article: Ultramicrotome, Model LKB 8800A, and accessories. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used in studies concerning mineralized tissue including compact and trabecular bone both lamellar and woven in pattern; osteosarcomas; cartilage; bone marrow; and also other soft tissues of the canine. Undergraduate and graduate veterinarians will be trained in morphologic understanding of disease processes in courses in pathology and tumor biology.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as the article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultra microtome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of October 1, 1971, that cutting

speeds in excess of 4 mm./sec. are pertinent to the sectioning of the softer specimens or the more complex tissue structures encountered in the applicant's

Education, and Welfare (HEW) in its memorandum dated May 14, 1971, that the capability described above is pertinent to the purposes for which the article

an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife

of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 70-00765-06-46070. Applicant: University of Florida, Department of Metallurgical and Materials Engineer-

UNIVERSITY OF IOWA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

UNIVERSITY OF LOUISVILLE

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speeds in excess of 4 mm./sec. are pertinent to the sectioning of the softer specimens or the more complex tissue structures encountered in the applicant's studies of foci of radiation damage and cell repair which involves ultrathin serial sectioning of a variety of marrow, bone and related tissue, and tumor. HEW cites as a precedent its prior recommendation relating to Docket No. 71-00322-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-17191 Filed 11-24-71;8:47 am]

UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00337-33-21095. Applicant: University of California, San Francisco, Purchasing Department, 1438 South 10th Street, Richmond, CA 94804. Article: Dichrograph, Model CD 185. Manufacturer: Jouan, France.

Intended use of article: The article will be used in pharmaceutical chemistry courses and for research to determine the configuration of a wide range of biologically active substances, including synthetic drugs, steroids, amino acids, natural alkaloids, phospholipids, peptides, and proteins over the wavelength range from 185 to 615 nm., and for carrying out conformational studies in solution on these substances.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is capable of measuring samples in the temperature range of −180° centrigrade to +40° centigrade regulated to ±0.5°C. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated May 14, 1971, that the capability described above is pertinent to the purposes for which the article is intended to be used. HEW further advises that it knows of no comparable domestic instrument or apparatus being manufactured in the United States that can be used for all the applicant's purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-17192 Filed 11-24-71;8:47 am]

UNIVERSITY OF CONNECTICUT

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00479-33-46500. Applicant: The University of Connecticut, Storrs, Conn. 06268. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used for studies of unicellular algae, endocrine glands of fish, cutaneous receptor organs of fish, oviducts of birds, electric organs of electric eels, cell membranes of micro-organisms, plant viruses, bacterial viruses, and nerve sheaths. Research concerns the structures of normal materials and experimentally treated materials.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media, and the geometry of the block. In connection with a prior case (Docket No. 70-00065-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultra microtome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of August 20, 1971 that cutting speeds in excess of 4 mm./sec. are pertinent to the applicants intended use which includes study of ultrastructures and localization of a variety of biological materials including cell membranes, nerve sheaths, glands, and enzymes. HEW cites as a precedent its prior recommendation relating to Docket No. 71-00138-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-17193 Filed 11-24-71;8:47 am]

UNIVERSITY OF FLORIDA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 70-00765-65-46070. Applicant: University of Florida, Department of Metallurgical and Materials Engineering, Gainesville, Fla. 32601. Article: Scanning electron microscope, Model Mark IIA. Manufacturer: Cambridge Instrument Co., Ltd., United Kingdom.

Intended use of article: The article will be used for educational and research purposes. Metallurgical and materials engineering studies concern the morphology of reaction of product surfaces from aqueous and high temperature corrosion and oxidation reactions and the fracture surfaces of metals, ceramics, composite structure, and fibers. Life sciences studies include cell wall surfaces in Streptococci; plant tissues; bone structures, tissues of humans and other mammals, and micropaleontology.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (June 18, 1969).

Reasons: The application is a resubmission of Docket No. 69-00681-65-46070 which was denied without prejudice to resubmission for informational deficiencies. The foreign article provides an airlock between the gun and column, three prealigned electromagnetic condenser lens system which provides automatic compensation for the accelerating voltages ranges and full 360° rotation of the specimen in the goniometer stage. The most closely comparable domestic instruments available at the time the foreign article was ordered was the Model SM-2 manufactured by the Ultrascan Corporation which was formerly doing business as the K-Square Corporation and the Model 700 manufactured by the Materials Analysis Corp. (MAC). Both the Model SM-2 and MAC 700 could provide the required goniometer stage and the MAC 700 could provide three prealigned electromagnectic condenser lens but neither could provide an airlock between the gun and column. We are advised by the National Bureau of Standards (NBS) in its memorandum dated April 7, 1971, that all of the characteristics of the foreign article described above are pertinent to the purposes for which the article is intended to be used.

For the foregoing reasons, we find that neither the Model SM-2 nor the Model 700 is of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States at the time the foreign article was ordered.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-17194 Filed 11-24-71;8:47 am]

UNIVERSITY OF IOWA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00336-33-28500. Applicant: University of Iowa, Biochemistry Department, Medical Research Center, Iowa City, Iowa 52240. Article: Electrophoresis Equipment. Manufacturer: Locarte Co., United Kingdom.

Intended use of article: The article will be used to study the migration of large and small aggregates of charged molecules under the influence of an electrical field which is applied to a medium in which the molecules are suspended. Amino acids, peptides from enzyme digestions, proteins, nucleic acids, viruses, and colloidal particles of biological importance that carry charges will be separated. Also, the article will be used in four biochemistry courses for the training of students of pharmacy, dentistry, and chemistry.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides five interlocking safety devices and cooling in two plates permitting separation at higher voltages with improved resolution. The most closely comparable domestic instrument is the Model FP-22H manufactured by Savant Industries Inc. The Model FP-22H provides one interlocking safety switch and cooling in one plate permitting separations at higher voltages but with reduced resolution. We are advised by the Department of Health, Education, and Welfare in its memorandum dated May 14, 1971, that the capabilities of better resolution and maximum safety are pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model FP-22H is not of equivalent scientific value to the foreign article, for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-17196 Filed 11-24-71;8:48 am]

UNIVERSITY OF LOUISVILLE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00515-33-46040. Applicant: University of Louisville, School of Medicine, Health Sciences Center, 500 South Preston Street, Louisville, KY 40200. Article: Electron microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, Inc., West Germany.

Intended use of article: The article will be used for an ultrastructural investigation of animal tissues from hormone deficient animals. Diabetic rats, dogs, rabbits, and monkeys will be treated with a variety of drugs for studies on the site of action of insulin and prostaglandins on the subcellular elements of the animal tissues. Educational use will be in a course in "Selected Topics in Molecular Endocrinology" which has approximately 25 students per semester.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. The foreign article is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programing. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C electron microscope is a relatively complex instrument designed for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare in its memorandum dated July 23, 1971, that the relative simplicity of design and ease of operation of the foreign article is pertinent to the applicant's educational purposes.

We, therefore, find that the Model EMU-4C electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article

is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-17195 Filed 11-24-71;8:48 am]

UNIVERSITY OF MINNESOTA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00335-33-46500. Applicant: University of Minnesota, Department of Physiology, Minneapolis, Minn. 55455. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used for studies of unicellular algae, endocrine glands of fish, cutaneous receptor organs of fish, oviducts of birds, electric organs of electric eels, cell membranes of micro-organisms, plant viruses, bacterial viruses, and nerve sheaths. Research concerns the structures of normal materials and experimentally treated materials.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media, and the geometry of the block. In connection with a prior case (Docket No. 70-00065-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultra microtome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of August 20, 1971 that cutting speeds in excess of 4 mm./sec. are pertinent to the applicants intended use which includes study of ultrastructures and localization of a variety of biological materials including cell membranes, nerve sheaths, glands, and enzymes. HEW cites as a precedent its prior recommendation relating to Docket No. 71-00138-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-17197 Filed 11-24-71;8:48 am]

Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of September 10, 1971, that cutting speeds in excess of 4 mm./sec. are

Eastman Chemical Products, Inc., Kingsport, Tenn. 37662, proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for the safe use of TBHQ (tertiary butylhydroquinone)

This permit expires 12 months from the date of signature of this document.

Dated: November 17, 1971.

SAM D. FINE,

is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-17196 Filed 11-24-71;8:48 am]

UNIVERSITY OF MARYLAND

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00352-33-46040. Applicant: University of Maryland, Baltimore County, 5401 Wilkins Avenue, Baltimore, MD 21228. Article: Electron microscope, Model HU-12. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used for research on ultrastructural aspects of nuclear development in ciliated protozoa and on production of surface membrane in the same organisms. Advanced undergraduate and graduate students will be trained in the basics of electron microscopic techniques and applications.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated June 30, 1971, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used.

We, therefore, find that the Model EMU-4c is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-17197 Filed 11-24-71;8:48 am]

UNIVERSITY OF PITTSBURGH

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00588-00-11000. Applicant: University of Pittsburgh, Department of Chemistry, 4200 Fifth Avenue, Pittsburgh, PA 15212. Article: LKB 9010 mass marker and LKB 9043 heated inlet. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The articles are accessories for an existing LKB 9000 gas chromatograph-mass spectrometer.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to accessories for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used.

The Department of Commerce knows of no similar accessories being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-17199 Filed 11-24-71;8:48 am]

WESTERN MICHIGAN UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00553-33-46500. Applicant: Western Michigan University, Department of Biology, Wood Hall, Western Michigan Avenue, Kalamazoo, MI 49001. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used to examine plant, animal and bacterial tissues, exhibiting normal and pathological laterations. The studies concern ultrastructural changes associated with viral infection, primarily as regards antigenic changes at the various membranes; and maturation of animal viruses at cell membranes resulting in antigenic alterations in both lytic and nonlytic conditions.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultra microtome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of September 10, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to the sectioning of the softer specimens encountered in the applicant's studies involving antigenic change in a variety of cell types at the various membranes due to viral infection. HEW cites as a precedent its prior recommendation relating to Docket No. 71-00307-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.71-17200 Filed 11-24-71;8:48 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

BORDEN, INC.

Notice of Withdrawal of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Borden, Inc., 350 Madison Avenue, New York, N.Y. 10017, has withdrawn its petition (FAP 1A2674), notice of which was published in the FEDERAL REGISTER of May 13, 1971 (36 F.R. 8820), proposing the issuance of a regulation (21 CFR Part 121) to provide for the safe use of glycine as a flavor agent in flavoring compounds.

Dated: November 18, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-17218 Filed 11-24-71;8:56 am]

EASTMAN CHEMICAL PRODUCTS, INC.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 1A2588) has been filed by Eastman Chemical Products, Inc., Kingsport, Tenn. 37662, proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for the safe use of TBHQ (tertiary butylhydroquinone) alone or in combination with other permitted antioxidants in food whereby the total antioxidant content of the food does not exceed 0.02 percent of its oil or fat content including its essential (volatile) oil content.

Dated: November 17, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-17219 Filed 11-24-71;8:56 am]

ECONOMICS LABORATORY, INC.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 2H2741) has been filed by Economics Laboratory, Inc., Osborn Building, St. Paul, Minn. 55102, proposing that § 121.2547 *Sanitizing solutions* be amended to provide for the safe use of an aqueous solution containing iodine, butoxy monoether of mixed (ethylene-propylene) polyalkylene glycol, having a cloud point of 90°-100° C. in 0.5 percent aqueous solution and an average molecular weight of 3300, polyoxyethylene-polyoxypropylene block polymers (having a minimum average molecular weight of 2,000), together with components generally recognized as safe, for use on food-processing equipment and utensils, bottles and other containers.

Dated: November 12, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-17220 Filed 11-24-71;8:56 am]

TILLIE LEWIS FOODS, INC.

Canned Apricots Deviating From Identity Standards; Temporary Permit for Market Testing

Pursuant to § 10.5 (21 CFR 10.5) concerning temporary permits to facilitate market testing of foods deviating from the requirements of standards of identity promulgated pursuant to section 401 (21 U.S.C. 341) of the Federal Food, Drug, and Cosmetic Act, notice is given that a temporary permit has been issued to Tillie Lewis Foods, Inc., Stockton, Calif. 95201. This permit covers limited interstate marketing tests of canned apricots that deviate from the identity standard prescribed in § 27.10 (21 CFR 27.10) in that ascorbic acid will be added in an amount necessary to preserve color.

The principal display panel of the label on each container will bear the statement "ascorbic acid added to preserve color" as part of the name of the product.

This permit expires 12 months from the date of signature of this document.

Dated: November 17, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-17221 Filed 11-24-71;8:57 am]

Office of Education

BUREAU OF EDUCATION FOR THE HANDICAPPED

Notice of Closing Date for Receipt of Applications

Pursuant to the authority contained in sections 631 and 634 of the Education of the Handicapped Act (84 Stat. 175, 184, 185, 20 U.S.C. 1431, 1434), notice is hereby given that the U.S. Commissioner of Education has established a final closing date for receipt of applications for training grants (except Special Projects) under Part D of the Act by institutions of higher education. Such applications must be postmarked on or before the 30th day following the publication of this notice in the FEDERAL REGISTER.

Regulations governing such grants and other programs and projects authorized under Part D of the Act are being developed, and will be published in the FEDERAL REGISTER as notice of proposed rule making, subject to public comment, as soon as they have been completed.

Dated: November 17, 1971.

S. P. MARLAND, JR.,
U.S. Commissioner of Education.

[FR Doc.71-17345 Filed 11-24-71;8:54 am]

Public Health Service

MINORITY SCHOOLS BIOMEDICAL SUPPORT PROGRAM

Notices of Initiation of Program

Pursuant to authority of section 301 (d) of the PHS Act, as amended (42 U.S.C. 241(d)) the Director, National Institutes of Health announces the initiation of a new grant program called the Minority Schools Biomedical Support (MSBS) Program to be administered by the General Research Support Branch, Division of Research Resources, National Institutes of Health.

The MSBS Program is designed to strengthen the institutional biomedical research and research training capabilities of public and private nonprofit 4-year colleges, universities, and health professional schools, within the United States and its territories, in which student enrollments are drawn mainly from ethnic minority groups (such as blacks, browns, reds, and orientals).

This program is oriented toward providing institutional support for biomedical research and research training rather than support of individual categorical research projects. Funds awarded under this program may be used for a broad range of biomedically oriented

purposes including the support of faculty "released time," biomedical research programs, salaries of research personnel including undergraduate and graduate

1954, as amended (hereinafter, "the Act"), and the Commission's regulations published in 10 CFR Chapter I. Prior to issuance of the proposed construction

separate replies, have urged adherence to the present schedule which contemplated a 1 week session. The Board concludes that by extending the hours of

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the documents which are in the docket of this proceeding on file in the Docket

the group at a 25-percent discount from the fare. The tariff is marked to expire on September 30, 1972.[4]

In support of its proposal, Delta asserts that individual tour-basing fares are less

yield which may result as furnishing a basis for future increases in the level of basic fares. We will also expect the carriers to maintain records of traffic, revenues, and expenses, sufficient for a full evaluation of the profit impact of this

purposes including the support of faculty "released time," biomedical research programs, salaries of research personnel including undergraduate and graduate students as research or laboratory assistants, research training programs, undergraduate, graduate, and postgraduate research trainees, research resources, and consortia biomedical programs.

Awards under this program will range from approximately $30,000 to $500,000 per year for a period of support of as much as 5 years. Applicant institutions will compete for available funds at three levels of activity. Smaller awards could enable institutions to support the activities of a few faculty members involved in individual research or research training activities. At the intermediate level, the institutions could extend and expand the biomedical activities of one or more departments (e.g., biology, chemistry, psychology, etc.). With the larger awards, institutions could make long-range commitments for the general expansion of their overall biomedical research capabilities through the involvement of sizeable faculty groups.

Effective December 1, 1971, application kits and instructions will be available from the Minority Schools Biomedical Support Program, General Research Support Branch, Division of Research Resources, National Institutes of Health, Building 31, Room 4B04, Bethesda, Md. 20014, telephone Area Code 301, 496–6743.

Dated: November 18, 1971.

ROBERT Q. MARSTON,
Director,
National Institutes of Health.

[FR Doc.71–17206 Filed 11–24–71;8:51 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50–394]

CALIFORNIA STATE POLYTECHNIC COLLEGE

Notice of Proposed Issuance of Construction Permit

The Atomic Energy Commission (the Commission) is considering the issuance of a construction permit to the California State Polytechnic College (the College) at San Luis Obispo, Calif. The proposed permit would authorize the College to receive, possess, transport, and construct the AGN–201 (Serial No. 100) nuclear research reactor on its campus in San Luis Obispo, Calif., for educational training. The permit would also authorize the receipt, possession, transportation, and storage of 735 grams of contained uranium-235 and the small quantity of byproduct material contained in the reactor components. The reactor is presently located in Monterey, Calif., under the authority of Commission License No. R–11 issued to the U.S. Naval Postgraduate School (Docket No. 50–43).

The Commission has found that the application dated May 30, 1971, and supplements thereto dated July 26 and October 22, 1971, comply with the requirements of the Atomic Energy Act of 1954, as amended (hereinafter, "the Act"), and the Commission's regulations published in 10 CFR Chapter I. Prior to issuance of the proposed construction permit, the Commission will have made the remainder of the findings required by the Act and the Commission's regulations which are set forth in the proposed permit. Upon issuance of the permit, California State Polytechnic College will be required to execute an indemnity agreement as required by section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

Within 15 days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the Commission's rules of practice in 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this proposed construction permit, see (1) the application by the College dated May 30, 1971, and supplements thereto dated July 26 and October 22, 1971, (2) the proposed construction permit, and (3) a related Safety Evaluation prepared by the Division of Reactor Licensing, all of which are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, DC. A copy of each of items (2) and (3) may be obtained upon request sent to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 17th day of November 1971.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[FR Doc.71–17216 Filed 11–24–71;8:49 am]

[Docket No. 50–271]

VERMONT YANKEE NUCLEAR POWER CORP.

Order Setting Evidentiary Hearing

In the matter of Vermont Yankee Nuclear Power Corp. (Vermont Yankee Nuclear Power Stations), Docket No. 50–271.

The Atomic Safety and Licensing Board has been considering the advisability of reconvening the next session of hearings in this proceeding at 9 a.m. on Wednesday, December 1, 1971, rather than pursuant to the present schedule of 2 p.m. on November 29. Upon inquiry, the Board has determined that it will be convenient to all of the parties and their attorneys, except Applicant and the Staff to reconvene on December 1, 1971. Applicant and the Staff, in their separate replies, have urged adherence to the present schedule which contemplated a 1 week session. The Board concludes that by extending the hours of the daily hearings to include evening sessions, the same 1 week's regular schedule of hearing time can be provided for the parties and that no prejudice nor delay will occur by reason of this change in schedule.

Wherefore, it is ordered, In accordance with the Atomic Energy Act, as amended, and the rules of practice of the Commission, that the schedule to convene an evidentiary hearing in this proceeding on November 29, 1971 is canceled and the next session of evidentiary hearing in this proceeding shall convene at 9 a.m. on Wednesday, December 1, 1971, in the Vermont National Guard Armory, 207 Main Street, Brattleboro, VT.

Issued: November 19, 1971, in Germantown, Md.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[FR Doc.71–17270 Filed 11–24–71;8:53 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23960]

AIR BRITISH VIRGIN ISLANDS (AIR B.V.I.) LTD.

Notice of Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on December 15, 1971, at 10 a.m., local time, in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner Henry Whitehouse.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before December 7, 1971.

Dated at Washington, D.C., November 22, 1971.

[SEAL] RALPH L. WISER,
Chief Examiner.

[FR Doc.71–17275 Filed 11–24–71;8:55 am]

[Docket No. 23837]

BASLER FLIGHT SERVICE, INC.

Enforcement Proceeding; Notice of Postponement of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding has been postponed from December 1, 1971, to December 14, 1971, at 10 a.m., local time, in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., November 22, 1971.

[SEAL] RICHARD M. HARTSOCK,
Hearing Examiner.

[FR Doc.71–17276 Filed 11–24–71;8:55 am]

[Docket No. 23693]

BETRIEBS - KOMMANDITGESELLSCHAFT AIR COMMERZ FLUGGESELLSCHAFT m.b.H. & CO.

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a public hearing in the above-entitled proceeding is assigned to be held on December 21, 1971, at 10 a.m., local time, in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned examiner.

For information concerning the issues involved and other details of this proceeding, interested persons are referred to the Report of Prehearing Conference and other documents which are in the docket of this case on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., November 22, 1971.

[SEAL] HYMAN GOLDBERG,
Hearing Examiner.

[FR Doc.71–17277 Filed 11–24–71;8:55 am]

[Docket No. 23942; Order 71–11–77]

DELTA AIR LINES, INC.

Order Dismissing Complaint

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of November 1971.

By tariff[1] marked to become effective December 16, 1971, Delta Air Lines, Inc. (Delta) proposes to establish round-trip peak and off-peak individual tour-basing fares from 10 midwestern cities to Miami, Fort Lauderdale, West Palm Beach, Orlando, and Tampa and return.[2] The fares are $0.93 higher than existing group inclusive tour fares in competitive markets, and reflect discounts ranging from 1 to 23 percent during the peak period, and from 12 to 35 percent during the off-peak period.[3] Four-day minimum- and 20-day maximum-stay limits would apply and reservations must be made 14 days in advance. The minimum tour add-on is $75, and one tour conductor may be transported for each 15 passengers in the group at a 25-percent discount from the fare. The tariff is marked to expire on September 30, 1972.[4]

In support of its proposal, Delta asserts that individual tour-basing fares are less costly to the carrier than similar group fares because they eliminate the additional workload required to assign and manage blocked space, monitor group members who check in on an individual basis, and verify the accounting and use of transportation by group passengers in order to insure that tariff provisions are being fulfilled. The carrier further contends that individual tours are more generative as they are easier to administer and can be promoted by all travel agencies, regardless of size, and that eliminating blocked space will permit a more even distribution of passengers on all flights.

Eastern Air Lines, Inc. (Eastern) has complained against the proposal requesting suspension and investigation. Eastern alleges that the average length of stay in Florida increases significantly with the onset of the peak season, and that a 4-day minimum-stay will not prevent excessive dilution. Based on their own in-flight survey, some 70 percent of Florida peak-season travelers allegedly stay more than 4 days and 53 percent would qualify for the 20-day maximum-stay limit. The carrier further alleges that Delta's statements as to a more even load factor among flights and lower costs are invalid in the absence of supporting data. Eastern contends that advance knowledge of travel plans allows carriers to arrange for blocked space on selected flights, and that individual passengers are more likely to travel on peak flights which would increase load factor variations.

Upon consideration of all relevant matters, the Board finds that the complaint does not set forth sufficient facts to warrant investigation of the proposal and the request therefor, and consequently the request for suspension, will be denied and the complaint dismissed. The fares and the restrictions on their use are quite similar to existing individual inclusive tour fares from northeast points to Florida, and the discounts are within the range of comparable promotional fares in this and other markets. The fact that the fares are set at about the level of group inclusive tour fares in this market does not per se establish that they are unreasonable, in our opinion.

However, we will expect the carriers offering these fares to bear the risk of the promotional experiment, and we do not intend to treat any dilution of fare yield which may result as furnishing a basis for future increases in the level of basic fares. We will also expect the carriers to maintain records of traffic, revenues, and expenses, sufficient for a full evaluation of the profit impact of this fare plan.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That:

1. The complaint of Eastern Air Lines, Inc., in Docket 23942 is hereby dismissed; and

2. A copy of this order be served upon Delta Air Lines, Inc., and Eastern Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71–17282 Filed 11–24–71;8:54 am]

[Docket No. 23970]

DOMINICANA DE AVIACION, C. POR A.

Notice of Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on December 6, 1971, at 10 a.m., local time, in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner Joseph L. Fitzmaurice.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before December 1, 1971.

Dated at Washington, D.C., November 22, 1971.

[SEAL] RALPH L. WISER,
Chief Examiner.

[FR Doc.71–17278 Filed 11–24–71;8:55 am]

[Docket No. 23498; Order 71–11–78]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Passenger Fare Matters

Issued under delegated authority November 19, 1971.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 2 of the International Air Transport Association (IATA). The agreement, which was adopted at the Miami passenger fare conference in the fall of 1971 for early effectiveness, has been assigned the above-designated CAB agreement number.

[1] Delta Air Lines, Inc., Tariff CAB No. 157.

[2] Chicago, Cincinnati, Columbus (Ohio), Dayton, Detroit, Fort Wayne, Indianapolis, Louisville, St. Louis, and Toledo.

[3] Peak period is from December 16, 1971–April 15, 1972; off-peak April 16, 1972–September 30, 1972.

[4] The tariff also provides discounts for children accompanied by an adult. The issue of the lawfulness per se of discounts for accompanying family members is included in Phase 5 of the Domestic Passenger-Fare Investigation, Docket 21866–5. In the event that the Board there constules that such fares are unjustly discriminatory, the Board would take appropriate action looking toward the cancellation of such discounts embraced in the instant filing. Accordingly, our determination not to institute an investigation of these fares should not be construed as any prejudgment of the issues in Docket 21866–5.

Insofar as it would have application in air transportation as defined by the Act, the subject agreement is procedural and would rescind an earlier adopted resolution[1] which enabled a more flexible ad-

[Docket No. 23333; Order 71–11–79]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Commissions for

[Docket No. 23760]

KODIAK AIRWAYS, INC./WESTERN ALASKA AIRLINES, INC. MERGER

Notice of Prehearing Conference

91–215, the Railroad Retirement Board has determined that the excise tax imposed by such section 3221(c) on every employer, with respect to having individuals in his employ, for each man-hour

The attention of any party in interest desiring to file pleadings pursuant to Section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application

governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS

Insofar as it would have application in air transportation as defined by the Act, the subject agreement is procedural and would rescind an earlier adopted resolution[1] which enabled a more flexible adjustment in rates of exchange agreed by IATA for the publishing or converting of fares, rates, and other charges specified in basic currencies (dollars and pounds sterling) into local currencies within Europe/Middle East/Africa. This rescission is effective December 1, 1971, or upon the coming into effect of other specific resolutions designed for the same and other purposes, whichever is later. The balance of the subject agreement, over which we are herein disclaiming jurisdiction, relates to creative fares between London and Pisa.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14:

1. It is not found, on a tentative basis, that the following resolution, which is incorporated in the agreement as indicated, is adverse to the public interest or in violation of the Act:

Agreement CAB 22663	IATA No.	Title	Application
R-50.....	003	Standard Rescission Resolution.	2

2. It is not found that the following resolution, which is incorporated in the agreement as indicated, affects air transportation within the meaning of the Act:

Agreement CAB 22663	IATA No.	Title	Application
R-51.....	072g	TC2 Creative Fares Board—Europe (Amending).	2

Accordingly, it is ordered, That:

1. Action on Agreement CAB 22663, R-50, be and hereby is deferred with a view toward eventual approval; and

2. Jurisdiction be and hereby is disclaimed with respect to Agreement CAB 22663, R-51.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-17283 Filed 11-24-71;8:54 am]

[1] Approved by Order 71-5-102, dated May 21, 1971.

[Docket No. 23333; Order 71-11-79]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Commissions for Cargo Sales Agents

Issued under delegated authority November 19, 1971.

By Order 71-10-19, dated October 5, 1971, action was deferred on an agreement adopted by the Traffic Conferences of the International Air Transport Association (IATA). Among other things, the agreement included provisions which would have the effect of allowing commissions to be paid to cargo sales agents in respect of international route charges and, consistent with earlier action by the Board with respect to such route charges,[1] action was deferred with a view toward eventual disapproval of the application of this element of the agreement in air transportation.

In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period, and the tentative conclusions in Order 71-10-19 with respect to the subject agreement will herein be made final.

Accordingly, it is ordered, That:

Agreement CAB 22529, R-2 and R-3, be and hereby is disapproved insofar as it would have application in air transportation as defined by the Federal Aviation Act of 1958.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-17284 Filed 11-24-71;8:54 am]

[Docket No. 23987]

J. D. KAYE INTERNATIONAL LTD.

Notice of Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on December 22, 1971, at 10 a.m., local time, in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner Merritt Ruhlen.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before December 15, 1971.

Dated at Washington, D.C., November 22, 1971.

[SEAL] RALPH L. WISER,
Chief Examiner.

[FR Doc.71-17279 Filed 11-24-71;8:55 am]

[1] Order 71-9-46, dated September 9, 1971.

[Docket No. 23760]

KODIAK AIRWAYS, INC./WESTERN ALASKA AIRLINES, INC. MERGER

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on December 20, 1971, at 10 a.m., local time, in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner Merritt Ruhlen.

In order to facilitate the conduct of the conference parties are instructed to submit to the Examiner and other parties: (1) Proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statement of positions of parties; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before December 3, 1971, and the other parties on or before December 14, 1971. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights.

Dated at Washington, D.C., November 22, 1971.

[SEAL] RALPH L. WISER,
Chief Examiner.

[FR Doc.71-17280 Filed 11-24-71;8:55 am]

[Docket No. 23901]

LUFTHANSA GERMAN AIRLINES

Notice of Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on December 17, 1971, at 10 a.m., local time, in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner Thomas P. Sheehan.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before December 10, 1971.

Dated at Washington, D.C., November 22, 1971.

[SEAL] RALPH L. WISER,
Chief Examiner.

[FR Doc.71-17281 Filed 11-24-71;8:55 am]

RAILROAD RETIREMENT BOARD

RAILROAD RETIREMENT TAX ACT

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. section 3221(c)) as amended by section 5(a) of Public Law 91-215, the Railroad Retirement Board has determined that the excise tax imposed by such section 3221(c) on every employer, with respect to having individuals in his employ, for each man-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning January 1, 1972, shall be at the rate of six cents.

Dated: November 19, 1971.

By authority of the Board.

[SEAL] RICHARD F. BUTLER,
Secretary of the Board.

[FR Doc.71-17213 Filed 11-24-71;8:51 am]

The attention of any party in interest desiring to file pleadings pursuant to Section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 571]

COMMON CARRIER SERVICES INFORMATION[1]

Domestic Public Radio Services Applications Accepted for Filing[2]

NOVEMBER 22, 1971.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

[2] The above alternative cutoff rules apply to those applications listed below as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio, and Local Television Transmission Services (Part 21 of the rules).

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

2915-C2-P-72—Electrocom Corp. (KCB691), for additional facilities to operate on 35.58 MHz at a new site described as location No. 2: 350 Cedar Street, Needham, MA.

2918-C2-P-72—Waco Communications, Inc. (KQZ760), to change the antenna system and relocate facilities operating on 158.70 MHz to Kyle Hotel, 111 North Main Street, Temple, TX.

2919-C2-P-72—AAA Anserphone, Inc.—Jackson (New), for a new 2-way station to be located east of Highway No. 7 North, approximately 4 miles north of Oxford, Miss., to operate on 152.21 MHz.

2920-C2-P-72—AAA Anserphone, Inc.—Jackson (New), for a new 2-way station to be located on Sweet Home Road at Highway No. 8, Grenada, Miss., to operate on 152.06 MHz.

2921-C2-P-72—Central Communications, Inc. (New), for a new 1-way station to be located on State Route No. 13, at Water Tower, west of Albert Lea, Minn., to operate on 158.700 MHz.

2922-C2-P-72—Central Communications, Inc. (New), for a new 1-way station to be located at the Water Tower, Owatonna, Minn., to operate on 158.700 MHz.

2923-C2-P-72—Central Communications, Inc. (New), for a new 1-way station to be located at St. Olaf Hospital, Austin, Minn., to operate on 158.700 MHz.

2945-C2-AL-72—Loomis Electronic Protection, Inc., consent to assignment of license from Loomis Electronic Protection, Inc., Assignor, to: Pass Word, Inc., Assignee. Station KOA271, Spokane, Wash.

2946-C2-MP-(2)-72—Delta Valley Radiotelephone Co., Inc. (KMA743), to relocate control facilities operating on 75.46 and 75.82 MHz from location No. 3 to location No. 1: 3502 Kroy Way, Sacramento, CA.

2951-C2-P-72—Radio Telephone Service (New), for a new 1-way station to be located at No. 2 Peachtree Street, Atlanta, GA, to operate on 43.22 MHz.

2952-C2-P-72—Empire Communications Co. (New), for a new 1-way station to be located at 521 South Central Street, Medford, OR, to operate on 152.24 MHz.

2953-C2-(3)-72—Empire Communications Co. (KLF506), to add control facilities at location No. 1: 162 East Sixth Avenue, Eugene, OR, on 75.54 MHz; add base facilities on 152.24 MHz at a new site described as location No. 2: McDonald Forest, 4 miles north Corvallis, Oreg., and add control facilities on 75.54 MHz at a new site described as location No. 3: 161 High Street, Salem, OR.

2954-C2-P-72—General Communications Co. (New), for a new 1-way station to be located at Route No. 8, Fairmont, W. Va., to operate on 35.22 MHz.

2955-C2-AL-72—Vermont Telephone Corp., consent to assignment of license from Vermont Telephone Corp., Assignor, to: Vermont State Telephone Corp., Assignee. Station KCC798 North Ferrisburg, Vt.

2956-C2-P-72—Harold's Radio Service (KSD321), for additional facilities to operate on 152.120 MHz, at new site described as location No. 2: 1204 East Tennessee Street, Evansville, IN.

2957-C2-P-72—Harold's Radio Service (New), for a new 1-way station to be located at 1204 East Tennessee Street, Evansville, IN, to operate on 152.240 MHz.

2960-C2-AL-(3)-72—Central Telephone Co. of Illinois, consent to assignment of license from Central Telephone Co. of Illinois, Assignor, to: New Centel Illinois, Inc., Assignee. Stations: KRS701 Pekin, Ill. (1-way); KFQ929 Pekin, Ill., and KSD683 Dixon, Ill.

2962-C2-P-72—Western Valley Telephone Co. (KOK413), replace transmitter operating on 454.45 MHz at 9633 Southeast East View Drive, near Portland, Oreg.

2964-C2-P-72—Baymore Communications (KLF565), for additional facilities to operate on 152.12 MHz at intersection of U.S. No. 31 and County No. 41 and No. 61 northwest of Bench Mark No. 288, Perdido, Ala.

2974-C2-P-72—Hanover Telephone Answering Service, Inc. (New), for a new 2-way station to be located at Crafts Hill, West Lebanon, N.H., to operate on 152.18 MHz.

2975-C2-TC-(6)-72—Tel/Sec Radio, Inc., consent to transfer of control from Margaret Walsh, Transferor, to: Richard D. Cahill and Lorna Cahill, Transferees. Stations: KLF607 Green Bay, Wis., KLF645 Green Bay, Wis. (1-way), KRM974 Manitowoc, Wis., KRH668 Oshkosh, Wis., KRS627 Appleton, Wis. (1-way), and KSJ762 Appleton, Wis.

RURAL RADIO SERVICE

2916-C1-P-72—The Offshore Telephone Co. (New), for a new central office fixed station to be located at Platform A, Block 195, East Cameron, Gulf of Mexico, to operate on 454.550 MHz.

2917-C1-ML-73—The Offshore Telephone Co. (KKT89), for authority to communicate with the above new central office fixed station. (58 units) In any temporary fixed location within the Gulf of Mexico, in vicinity of central office, operating on 459.50, 459.55, and 459.60 MHz.

minence of the 1972 political campaign. We shall therefore grant the one-month extension only as to part IV, because of the litigation uncertainties noted during October 12, 1971, FCC 71-1037, paragraphs 2-3 concerning NBC and CBS, paragraphs 4-9 concerning ABC. The difference was that the CBS and NBC pletely within the scope of "Footnote 35" of the report and order in Docket 12782 (23 FCC 2d 382), where we stated that waiver would be granted in "occasional instances" to permit the completion of

2933-C1-P-72—Microband Corp. of America (New), a new station at Bayside West Valley Bank Tower, Main and Bridge Streets, Springfield, MA., latitude 42°06'11" N., longitude 72°35'42" W. Frequencies: 2162.225 MHz (visual) and 2150.20 MHz (aural) toward various receiving points of system and 2158.50 MHz (visual) and 2154.00 MHz (aural) toward various receiving points of system.

2934-C1-P-72—Paul E. Tait, doing business as Tait Broadcasting Co. (New), a new station at 800 Orleans Street, Beaumont, TX. latitude 30°04'50" N., longitude 94°05'40" W. latitude 30°04'50" N., longitude 94°05'45" W. Frequencies: 2154.775 MHz (visual) and 2150.275 MHz toward various receiving points of system.

2935-C1-P-72—Multi Point Distribution Systems, Inc. (New), a new station at 600 Broadway Building, Corpus Christi, TX. latitude 27°47'45" N., longitude 97°23'45" W. Frequencies: 2154.775 MHz (visual) and 2150.275 MHz (aural) toward various receiving points of system.

2936-C1-P-72—Multi Point Distribution Systems, Inc. (New), a new station at El Paso, Tex., Ranger Peak in Franklin Mountains, approximately 1 mile west of El Paso. latitude 31°48'13.5" N., longitude 106°28'57" W. Frequencies: 2154.775 MHz (visual) and 2150.275 MHz (aural) toward various receiving points of system.

2937-C1-P-72—Multi Point Distribution Systems, Inc. (New), a new station at 310 Villita Street, San Antonio, TX. latitude 29°25'21" N., longitude 98°29'26" W. Frequencies: 2154.775 MHz (visual) and 2150.275 MHz (aural) toward various receiving points of system.

2938-C1-P-72—Multi Point Distribution Systems, Inc. (New), a new station at 714 Houston Street, Continental National Bank Building, Fort Worth, TX. latitude 32°45'06" N., longitude 97°19'50" W. Frequencies: 2154.775 MHz (visual) and 2150.275 MHz (aural) toward various receiving points of system.

2939-C1-P-72—Multi Point Distribution Systems, Inc. (New), a new station at 1312 Guadalupe Street, Austin, TX. latitude 30°16'23" N., longitude 97°44'37" W. Frequencies: 2154.775 MHz (visual) and 2150.275 MHz (aural) toward various receiving points of system.

2940-C1-P-72—Cleveland Video Service, Inc. (New), a new station located at Terminal Tower Building, Cleveland, Ohio, latitude 41°29'58" N., longitude 81°41'40" W. Frequencies: 2150.200 MHz (aural) and 2162.225 MHz (visual) toward various receiving points of system and 2154.000 MHz (aural) and 2158.500 MHz (visual) toward various receiving points of system.

2941-C1-P-72—Parker Industries, Inc. (New), a new station at Auburn Street, Worcester, Mass., latitude 42°15'21" N., longitude 71°52'02" W. Frequencies: 2150.20 MHz (aural) and 2162.225 MHz (visual) and 2154.00 MHz (aural) and 2158.50 MHz (visual) toward various receiving points of system.

[FR Doc.71-17256 Filed 11-24-71;8:53 am]

[Docket No. 19260; FCC 71-1168]

FAIRNESS DOCTRINE AND PUBLIC INTEREST STANDARDS

Order Extending Time

In the matter of the handling of public issues under the Fairness Doctrine and the Public Interest Standards of the Communications Act; Docket No. 19260.

1. The Commission has before it the request of the National Association of Broadcasters "• • • that the Commission extend the time in which comments in the second phase of this proceeding must be filed from December 10, 1971, to January 10, 1972." The basic ground is that the question of access to the media is complex and is integrally tied in with the recent decision in BEM v. FCC, Case No. 24,492, C.A.D.C., as to which further review steps are planned. The access issues related to BEM are set out in part IV of the inquiry. While these issues are of course relevant to the other parts of the Inquiry, we nevertheless believe it appropriate to proceed expeditiously with these other parts. Part II is an important overlay to the entire proceeding, and part V should be resolved as expeditiously as possible, in view of the imminence of the 1972 political campaign. We shall therefore grant the one-month extension only as to part IV, because of the litigation uncertainties noted during this period. We also note that this staggering of the filing dates facilitates the digesting of the comments, and thus will not delay the resolution of the important issues in this proceeding.

2. In the alternative, the NAB points out that reply comments in part III are presently due on November 24, and that it would be helpful, in view of the complex issues involved in the inquiry, if the due date for the other parts were set back 10 days. This is a reasonable request, particularly since the comments will still be received before any holiday hiatus.

3. *Accordingly, it is ordered*, That the day for filing comments in part IV of the inquiry is extended to January 10, 1972, with reply comments in this part due February 10, 1972; and that the time for filing comments in parts II and V is extended to December 20, 1971, with the reply comments due on January 29, 1972.

Adopted: November 18, 1971.

Released: November 19, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-17260 Filed 11-24-71;8:53 am]

[FCC 71-1166]

CERTAIN ABC COLLEGE FOOTBALL TELECASTS

Memorandum Opinion and Order Regarding Prime Time Access Rule

In the matter of requests for waiver of § 73.658(k), the "Prime Time Access" rule, in connection with certain ABC college football telecasts (requests of ABC and of Station KTVK, Phoenix, Ariz.).

1. The Commission here considers two requests for waiver of the "prime time access" rule, § 73.658(k) of our rules, which, after October 1, 1971, in general limits to 3 hours the amount of network programing which television stations may carry each evening during "prime time" (defined as 7 to 11 p.m., local time, except 6–10 p.m., c.t. in the central time zone). The requests, from American Broadcasting Companies, Inc. (ABC), filed November 10, 1971, and the licensee of Station KTVK, Phoenix, Ariz., filed October 27, 1971, both relate to carriage of ABC football games.

The ABC request. 2. In its consideration of various waiver requests early in October, the Commission denied a number of those by ABC concerning football broadcasts and other sports events, while granting several requests by NBC and CBS concerning the same types of material. See memorandum opinion and order adopted October 6, 1971, released October 12, 1971, FCC 71-1037, paragraphs 2–3 concerning NBC and CBS, paragraphs 4–9 concerning ABC. The difference was that the CBS and NBC requests, mostly in connection with pro football, contemplated in general that the coverage would be completed before prime time begins, e.g. a game starting at 4 p.m., e.t. would be over before 7 p.m., e.t., and would involve a "runover" only in unusual circumstances such as an unusual delay or "sudden death" playoff. ABC, on the other hand, contemplated incursion into the early part of prime time by its football or other sports coverage, more o rless as a matter of course, while continuing to present the regular three hours of prime time network programs in the evening. Thus, in its earlier waiver requests it allocated 3½ hours for its NCAA football coverage, and asked us to permit this to run until 7:30 or 8 p.m., e.t., with no cutback in evening network programing later.[2] These requests were denied.

3. ABC has made readjustments in some of the these dates, so that, it claims, the college football telecasts "are scheduled to be completed prior to prime time" and "can be carried in their scheduled times without conflict with the three-hour limit." However, waiver is now requested, in case it should be necessary, in three cases where the game coverage is scheduled from 4 to 7 p.m., e.t., and in one where it is from 3:30 to 7 p.m., e.t. Waiver is requested in case the games have "unanticipated runovers" or "should unexpectedly run" past the 7 p.m. scheduled completion time.[2] It is also stated that the "scoreboard" program usually following its NCAA telecasts will not be carried in the event of runover into prime time, so that "the waivers will be utilized only to carry the football game telecasts to completion." It appears that, in general, the readjustments made have consisted in rescheduling the games to start a half-hour or 1 hour earlier, and in reallocating time so that the coverage is scheduled for completion in 3 hours.

4. We are not persuaded that, even without the "scoreboard" show referred to, the "runover" after 7 p.m. in three of these cases would be as unexpected as ABC claims. It appears that its game coverage this fall has often run slightly over 3 hours, from starting time of the telecast to the final whistle and completion of the game coverage (the November 6 afternoon contest appeared to be about 3 hours 7 minutes on this basis). This is somewhat longer than the CBS and NBC pro-football coverage, which has usually been completed by 7 when the games start at 4 p.m., e.t. The ABC situations thus do not appear to fall completely within the scope of "Footnote 35" of the report and order in Docket 12782 (23 FCC 2d 382), where we stated that waiver would be granted in "occasional instances" to permit the completion of coverage of events which "normally" are concluded before the beginning of prime time. However, we must also recognize that the incursion into prime time is both small (e.g. the 7 minutes mentioned) if it occurs at all, and will occur only on a small number of days. The resulting disruption of regular evening network programing which would probably occur if waiver were denied appears to outweigh the public benefit involved in strict adherence to the rule. Accordingly waiver is granted in these four cases. However, it is granted only to the extent requested by ABC—"to carry the football game telecasts to completion"—and thus will not cover any post-game "scoreboard" show to the extent waiver would be involved. Also, this waiver is granted only for events occurring in this football season, during the initial months of operation under the rule, and is not to be taken as any indication that further waivers will be granted in similar circumstances later, when ABC and other parties will have had more opportunity to make adjustments.

Request of Station KTVK, Phoenix, Ariz. 5. The second request mentioned above is from Station KTVK, Phoenix, in connection with evening ABC college football games, to be carried as the latter portions of "doubleheaders" on November 20 and November 25 (Thanksgiving Day), 1971. The waiver request is necessary only because of the station's situation in the Mountain time zone. Coverage of these games is scheduled to begin on the network at 8 p.m., e.t., and thus any "runover" beyond 3 hours in the eastern and central zones would be outside of prime time. However, this is 6 p.m., m.t., the beginning of prime time for this station,[3] and if the game coverage runs over 3 hours KTVK will not be able to carry it to completion without a waiver, which accordingly is requested in case it should be necessary. The station plans no other prime time network programing on these evenings.

6. In our judgement, waiver in this case is warranted, perhaps even more so than in connection with the ABC requests mentioned, because there is not involved here a question of possibly reducing other network programing. If the game runs over 3 hours and the station is not granted a waiver, it will simply have to terminate the coverage before the end of the game, obviously something not to be desired. Accordingly, waiver is granted, but limited as with ABC's requests above, to the extent necessary to carry the football game telecast to completion.

[1] Commissioners Bartley and Reid absent; Commissioner Johnson concurring.

[2] As detailed in the earlier memorandum opinion and order, some of the ABC requests for specific dates involved different arrangements, but the principle was the same.

[3] The four dates are Nov. 20 and Nov. 27, 1971 (NCAA games) and Dec. 31, 1971, and Jan. 8, 1973 (Bowl games). The first is scheduled to begin at 3:30 p.m., e.t., the rest at 4 p.m., e.t.

[3] KTVK, like the other Phoenix stations, has taken advantage of the permission given by the Commission to redesignate its prime time hours as 6 to 10 p.m., m.t. However, unlike the others, it has not chosen to designate instead the period from 5 to 9 p.m. Saturdays and Sundays as prime time.

Correction

2256-C1-P/ML-72—Continental Telephone Co. of California (KNL47), correct frequencies to read: 157.80, 157.86, 157.89, 157.92, 157.98, 158.01, 158.04, and 158.07 MHz. See Public Notice dated Nov. 1, 1971, Report No. 568.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)

2950-C1-P-72—South Central Bell Telephone Co. (KJJ78), location: 1 mile east of Signal Mountain, Tenn. To add frequency 10,765 MHz toward Chattanooga, Tenn.

2951-C1-AP-72—Central Telephone Co. of Illinois (WDD89), consent to assignment of license from Central Telephone Co. of Illinois, Assignor, to: New Cantel Illinois, Inc., Assignee.

2952-C1-MP-72—The Mountain States Telephone & Telegraph Co. (WOH92), to add frequencies 11,365 and 11,605 MHz toward Big Sky, Mont., via passive reflector; a new point of communication, latitude 45°07'15" N., longitude 111°05'18" W. Location: 8.3 miles southwest of Minor, Mont.

The following applications for developmental modification of license were filed by American Telephone & Telegraph Co. They request developmental authority to make laboratory tested changes in certain Western Electric Type TD-2 transmitters at the following nine radio relay stations between Kansas City and St. Louis, Mo., to evaluate the feasibility of increased circuit loading and other equipment improvements. It is represented that, except for an increase in output power from the currently authorized level of 2 watts to a 4-watt level, the emission characteristics of the transmitters will be unchanged. Waiver of section 21.404(d) of the FCC rules is requested to permit the continued rendition of public service during the developmental tests:

2965-C1-ML-72—Kansas City, Mo. (KAC73), frequencies: 3750, 3810, 3890, 3950, 3970, 4030, 4090, 4110, and 4130 MHz toward Elkhorn, Mo.

2966-C1-ML-72—Elkhorn, Mo. (KAB91), frequencies: 3770, 3850, 3930, 3990, 4010, 4070, 4090, 4150, and 4170 MHz toward Kansas City, Mo.

2967-C1-ML-72—Dover, Mo. (KAB92), frequencies: 3730, 3810, 3890, 3950, 3970, 4030, 4050, 4110, and 4130 MHz toward Elkhorn, Mo., and 3750, 3790, 3850, 3890, and 4110 MHz toward Slater, Mo.

2968-C1-ML-72—Slater, Mo. (KAB98), frequencies: 3770, 3850, 3930, and 4150 MHz toward Dover, Mo., and toward Prairie Home, Mo.

2969-C1-ML-72—Prairie Home, Mo. (KAT78), frequencies: 3730, 3790, 3890, and 4110 MHz toward Slater, Mo., and Holts Summit, Mo.

2970-C1-ML-72—Holts Summit, Mo. (KAT79), frequencies: 3770, 3830, 3930, and 4150 MHz toward Prairie Home, Mo., and Hermann, Mo.

2971-C1-ML-72—Hermann, Mo. (KAI90), frequencies: 3730, 3790, 3890, and 4110 MHz toward Holts Summit, Mo., and Gray Summit, Mo.

2972-C1-ML-72—Gray Summit, Mo. (KAI81), frequencies: 3770, 3830, 3930, and 4150 MHz toward Hermann, Mo., and 3710, 3870, 4050, and 4130 MHz toward St. Louis, Mo.

2973-C1-ML-72—St. Louis, Mo. (KAH84), frequencies: 3750, 3910, 4090, and 4170 MHz toward Gray Summit, Mo.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)

2970-C1-P-72—Cablecom-General, Inc. (KLM96), Location: 4.7 miles southeast of Salling, Okla., at latitude 35°05'00" N., longitude 98°51'30" W. To change frequencies from 5937.5, 6037.5, and 6137.5 MHz to 5945.3, 6004.4, and 6063.8 MHz and add 6122.1 MHz on azimuth 308°00'. Add a new point of communications at Mooreland, Okla., using the four frequencies above on an azimuth of 231°45'. Applicant proposes to provide the television signal of Station KETA-TV to Tru-Vu Community T.V. in Woodward, Okla., and KETA-TV, WKY-TV, WKTV, and KOCO-TV to Mooreland Television Co. in Mooreland, Okla.

The following applicants propose to establish omnidirectional facilities for the provision of common carrier "Subscriber-Programmed" television service.

2932-C1-P-72—Microband Corp. of America (New), a new station located at First National Bank Building, Fourth and Main Streets, Louisville, KY. latitude 38°15'22" N., longitude 85°45'25" W. Frequencies: 2162.225 MHz (visual) and 2150.20 MHz (aural) toward various receiving points of system and 2158.50 MHz (visual) and 2154.00 MHz (aural) toward various receiving points of system.

7. In view of the foregoing: *It is ordered*, That waiver of § 73.658(k) is granted, as follows:

(1) To affiliates of the American Broadcasting Companies, Inc. (ABC) to permit the completion of coverage of events which commence before 7 p.m., e.t., and which are scheduled to be completed before 7 p.m., e.t., but which may run over into prime time, on the dates of November 20 and November 25, 1971, and January 1, 1972, and

(2) To Station KTVK, Phoenix, Ariz., to permit the completion of coverage of events which commence before 6 p.m., m.t., and which are scheduled to be completed before 6 p.m., m.t., but which may run over into prime time, on the dates of November 20 and November 25, 1971.

Adopted: November 18, 1971.

Released: November 19, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-17261 Filed 11-24-71;8:53 am]

[Docket No. 19259; FCC 71-1167]

CABLE-VISION CATV SYSTEM

Memorandum Opinion and Order Denying Petition

In the matter of petition of Spottswood Broadcasting Co. for relief against Cable-Vision CATV system; Docket No. 19259.

1. The Commission has before it a petition filed by Spottswood Broadcasting Co. (WUST), 5 F.C.C. 2d 717, 8 RR 2d 991 (1966), licensee of station WKWF on Channel 8 in Key West, Fla., requesting that the Commission order Cable-Vision, Inc., to delete the signals of stations WKIZ and WFYN-FM from its CATV system in Key West, Fla. Spottswood alleges that Cable-Vision has refused to afford equivalent carriage to WKWF, and that this refusal is part of a pattern of anticompetitive practices by Cable-Vision. Cable-Vision opposes the petition, and Spottswood has filed a reply.

2. Spottswood alleges that Cable-Vision has refused to afford equivalent carriage to WKWF, and that this refusal is part of a pattern of anticompetitive practices by Cable-Vision. Cable-Vision opposes the petition, and Spottswood has filed a reply.

3. Spottswood alleges that Cable-Vision has refused to afford equivalent carriage to WKWF, and that this refusal is part of a pattern of anticompetitive practices by Cable-Vision. Cable-Vision opposes the petition, and Spottswood has filed a reply.

4. In Atlantic Broadcasting Co. (WUST), 5 F.C.C. 2d 717, 8 RR 2d 991 (1966), licensee of station WKWF on Channel 8 in Key West, Fla., requesting that the Commission order Cable-Vision, Inc., to delete the signals of stations WKIZ and WFYN-FM from its CATV system in Key West, Fla. Spottswood alleges that Cable-Vision has refused to afford equivalent carriage to WKWF, and that this refusal is part of a pattern of anticompetitive practices by Cable-Vision. Cable-Vision opposes the petition, and Spottswood has filed a reply.

Asserting that he never actually or constructively refused Florida Keys' request for carriage on the Cable-Vision CATV system, Spottswood points out that as late as June 18, 1971, in a letter addressed to

To determine whether John M. Spottswood's carriage of station WKWF on the Cable-Vision, Inc. CATV system and his alleged refusal to afford equivalent carriage to stations WKIZ and WFYN-FM

1936, and section 3 of the Merchant Marine Act, 1920.

In consideration of the foregoing the Commission is of the opinion that an investigation should be initiated to determine the lawfulness of the subject

It is further ordered, That the hearing shall be commenced as soon as possible and the Examiner shall issue an initial decision at the earliest practicable date. Exceptions to the Examiner's initial decision shall be filed within 10 days

7. In view of the foregoing: *It is ordered*, That waiver of § 73.658(k) is granted, as follows:

(1) To affiliates of the American Broadcasting Companies, Inc. (ABC) television network, to carry to their completion (but not including any postgame show) telecasts of college or all-star football games carried on ABC and starting at 3:30 or 4 p.m., e.t., on November 20, November 27, and December 31, 1971, and January 8, 1972, without any of the time counting toward the 3 hours of permissible network programs on those dates; and

(2) To Station KTVK, Phoenix, Ariz., to carry to completion (but not any postgame show) telecasts of college football games carried on ABC on November 20 and November 25, 1971.

Adopted: November 17, 1971.

Released: November 18, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[4]
[SEAL] BEN F. WAPLE
Secretary.

[FR Doc.71-17261 Filed 11-24-71;8:53 am]

[Docket No. 19290; FCC 71R-394]

JOHN M. SPOTTSWOOD AND STATION WKWF, KEY WEST, FLA.

Memorandum Opinion and Order Amending Issues

In re application of John M. Spottswood, for renewal of license for Station WKWF, Key West, Fla., Docket No. 19290, File No. BR-1229.

1. By Memorandum Opinion and Order, 30 F.C.C. 2d 943, 36 F.R. 14350, published August 4, 1971, the Commission designated for hearing on various issues the renewal application of John M. Spottswood (Spottswood), the licensee of standard broadcast station WKWF, Key West, Fla.[1] Presently before the Review Board is a motion to modify issues, filed August 19, 1971, by Spottswood.[2]

2. Petitioner contends that Issue No. 1, as presently worded, presupposes that Spottswood refused to afford equivalent carriage on his CATV system to Florida Keys' stations, WKIZ and WFYN-FM.[3] Asserting that he never actually or constructively refused Florida Keys' request for carriage on the Cable-Vision CATV system, Spottswood points out that as late as June 18, 1971, in a letter addressed to the Broadcast Bureau, he made an unqualified offer to carry station WKIZ as soon as that station delivered a visual and audio signal to the head-end facilities of the Cable-Vision CATV system. By letter, dated June 28, 1971, Spottswood notes, he again indicated his willingness to provide carriage by offering to assign Cable-Vision's channel 4 to Florida Keys. Alleging that the Commission overlooked the letters of June 18 and June 28, 1971, in designating the station WKWF renewal application for hearing, Spottswood urges the Review Board to modify Issue No. 1 so as to afford him an opportunity to demonstrate, at the hearing, that the Florida Keys stations had not been refused carriage on the Cable-Vision CATV system.[4]

3. Florida Keys opposes the instant motion, contending that the requested modification of Issue No. 1 is not necessary since the "question of refusal or nonrefusal is at the very heart of the case and will receive thorough investigation at the hearing" and since "any reasonable reading of Issue No. 1 gives Spottswood every opportunity • • • to present whatever material and relevant evidence he has to support his position that he has 'never refused' Florida Keys' request".[5] With respect to Spottswood's request to delete reference to station WFYN-FM from Issue No. 1, Florida Keys alleges that while it initially requested use of a channel on the Cable-Vision CATV system in May of 1966, its intention to utilize that channel for the signal of station WFYN-FM as well as that of station WKIZ was clearly communicated to Spottswood, not only in Florida Keys' petition to deny (see paragraph 3 thereof), which was filed on January 16, 1970, but also in an April 2, 1970 letter from Mr. Gayle Swofford, the general manager of stations WKIZ and WFYN-FM.[6] In Florida Keys' view, the requested deletion would unnecessarily and improperly limit the scope of the hearing which concerns whether Spottswood utilized his common ownership of station WKWF and the Cable-Vision CATV system in an unfair manner against his broadcast competitors, stations WKIZ and WFYN-FM.

4. In Atlantic Broadcasting Co. (WUST), 5 F.C.C. 2d 717, 8 RR 2d 991 (1966), the Commission instructed subordinate officials that in a designation order where specific reasons are stated for the Commission's action or inaction or where a reasoned analysis with respect to the merits of a particular matter is set forth, the Commission's judgment is to be followed as the law of the case, absent new facts or circumstances previously unknown to the Commission. The Board notes that the Commission, in its Memorandum Opinion and Order designating this proceeding for hearing, went to great length and particularity in considering the correspondence between Spottswood, Florida Keys and the Renewal and Transfer Division of the Broadcast Bureau. See paragraphs 13 to 17 of the designation order, supra. However, no mention is made therein of Spottswood's letters of June 18 and June 28, 1971.[7] Since these letters set forth Spottswood's unconditional offer to presently allocate a channel on his Cable-Vision CATV system for the use of Florida Keys and since this offer bears on the crucial question of refusal of carriage, the Review Board believes that the failure to explicitly identify these letters and thoroughly consider their contents in the designation order suggests that the letters may have been overlooked by the Commission. The Review Board, therefore, will appropriately modify the subject issue to clearly reflect the "substantial and material" questions of fact to be explored thereunder. See Cowles Florida Broadcasting, Inc. (WESH-TV), F.C.C. 71R-317, ------ F.C.C. 2d ----, released October 28, 1971; "What the Bible Says, Inc.", 11 F.C.C. 2d 620, 12 RR 2d 235 (1968). However, we will not, as requested by Spottswood, modify Issue No. 1 to eliminate consideration of the alleged refusal to carry station WFYN-FM, a matter specifically considered and placed in issue by the Commission. See paragraphs 7, 18 and 19 of the designation order, supra.

5. *Accordingly, it is ordered*, That the Motion to Modify Issues, filed August 19, 1971, by John M. Spottswood, is granted to the extent indicated below, and is denied in all other respects; and

6. *It is further ordered*, That Issue No. 1 as specified in the designation order herein, is amended to read as follows:

---

[4] Commissioners Bartley and H. Rex Lee absent; Commissioner Johnson dissenting.

[1] The specified issues included an issue seeking:

1. To determine whether John M. Spottswood's carriage of station WKWF on the Cable-Vision, Inc., CATV system and refusal to afford equivalent carriage to stations WKIZ and WFYN-FM constituted an unfair method of competition.

By its Order, the Commission named as a party to this proceeding the licensee of stations KWIZ and WFYN-FM, Florida Keys Broadcasting Corp. (Florida Keys).

[2] Other related pleadings before the Board are: (a) Erratum, filed September 7, 1971, by Spottswood; (b) Broadcast Bureau's opposition, filed September 15, 1971; and (c) opposition, filed September 15, 1971, by Florida Keys.

[3] On September 13, 1971, Spottswood petitioned the Commission to reconsider and set aside its order designating the renewal application of station WKWF for hearing.

[4] While he does not object to carriage of the station WFYN-FM signal on the CATV channel allocated to Florida Keys, Spottswood maintains that "equivalent carriage" could not be achieved by allocating an additional cable channel for station WFYN-FM since Spottswood does not have an FM facility. Accordingly, Spottswood submits that his alleged refusal to carry station WFYN-FM on the Cable-Vision CATV system should not be a matter at issue in this proceeding.

[5] The Broadcast Bureau, in its opposition pleading, agrees with Florida Keys' interpretation of Issue No. 1, and further argues that Spottswood has not shown that the Commission overlooked any material in arriving at that designated issue.

[6] The letter from Mr. Swofford, who is also a corporate officer of Florida Keys, reads in pertinent part: This is a response to the letter of January 28, 1970 regarding the request of stations WKIZ and WFYN-FM, Key West, Fla., to be carried on one channel on the CATV system operated in Key West by Cable Vision, Inc.

Although your letter indicates that you have not refused to provide us channel space, it does not clearly indicate that Cable Vision is presently willing to carry stations WKIZ and WFYN-FM. However, for your information I will reiterate that we are simply asking that the stations be carried on the systems under the same conditions as are now applicable to systems' carriage of WKWF. Our request is essentially unchanged from that which I detailed to you in my letter of May 16, 1966 • • •.

[7] Similarly, the designation order is silent with respect to Florida Keys' July 17, 1971 letter in response thereto.

To determine whether John M. Spottswood's carriage of station WKWF on the Cable-Vision, Inc. CATV system and his alleged refusal to afford equivalent carriage to stations WKIZ and WFYN-FM constituted an unfair method of competition.

Adopted: November 15, 1971.

Released: November 16, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[8]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-17259 Filed 11-24-71;8:53 am]

FEDERAL MARITIME COMMISSION

[Docket No. 71-68]

ASSOCIATED LATIN AMERICAN FREIGHT CONFERENCES AND ASSOCIATION OF WEST COAST STEAMSHIP COMPANIES

Amended Tariff Rules Regarding Wharfage and Handling Charges; Order of Investigation

The Associated Latin American Freight Conferences represents a group of 10 active conferences and the Association of West Coast Steamship Companies is a conference operating pursuant to Commission-approved agreements in trades between U.S. Atlantic and Gulf ports and ports in Central and South America and various neighboring islands. A list of these conferences and the member lines is attached as appendix A below.

These conferences have revised their tariff rules regarding wharfage and handling charges so as to fix wharfage and handling charges at the ports of New York and Philadelphia and generally to shift the assessment of wharfage and handling charges at other U.S. Atlantic and Gulf ports from carrier to cargo. These charges presently bear effective dates of November 15 and December 1, 1971. Appendix B attached[1] contains a typical specimen of the revised tariff rules as published by one of the subject conferences.

The publication of such tariff rules results in the assessment of charges by the conferences which vary in amount from port to port in the continental United States. The Commission has received protests pursuant to section 16 first, as amended, Shipping Act, 1916, from the Governors of the States of New York, New Jersey, and Philadelphia, alleging that the subject charges unjustly discriminate against the ports of New York[2] and Philadelphia and violate sections 15, 16 and 17 of the Shipping Act, 1916, section 205 of the Merchant Marine Act, 1936, and section 3 of the Merchant Marine Act, 1920.

In consideration of the foregoing the Commission is of the opinion that an investigation should be instituted to determine the lawfulness of the subject tariff rules and charges.

Now, therefore, it is ordered, That pursuant to sections 15 and 22 of the Shipping Act, 1916, an investigation shall be instituted to determine whether the Conferences' concerted action in publishing the subject rules and charges is in violation of section 205, Merchant Marine Act, 1936, and section 15, Shipping Act, 1916, by preventing carrier members of such Conferences from serving the ports of New York and Philadelphia at the same rates and charges which such carrier members charge at the nearest port already regularly served by them; whether the subject rules will subject the States of New York, New Jersey, and Pennsylvania and their products moving in foreign commerce, as well as cargo normally moving in foreign commerce via their ports, to undue and unreasonable prejudice in violation of section 16 of the Shipping Act, 1916; whether the subject rules will result in the assessment of charges that will be unjustly discriminatory and unfair as between the ports of New York and Philadelphia and other ports in violation of sections 15 and 17 of the Shipping Act, 1916; whether the subject charges at the ports of New York and Philadelphia will result in the establishment of unjust and unreasonable regulations and practices relating to the handling of property at such ports, moving in foreign commerce, in violation of section 17 of the Shipping Act, 1916; whether the subject charges will be unjustly discriminatory or unfair as between shippers, exporters and importers engaged in foreign commerce via the ports of New York and Philadelphia and shippers, exporters and importers engaged in foreign commerce via other ports, in violation of sections 15 and 17 of the Shipping Act, 1916; and whether the subject charges will divert cargo from the natural direction of its flow through the ports of New York and Philadelphia, in violation of section 8 of the Merchant Marine Act, 1920.

It is further ordered, That, pursuant to section 16, First of the Shipping Act, 1916, respondents are ordered to show cause why the subject rules and charges should not be set aside for the reasons enumerated above as advanced in the protests of the Governors of the States of New York, New Jersey, and Pennsylvania.

It is further ordered, That the Governors of the States of New York, New Jersey, and Pennsylvania are hereby named parties in this proceeding;

It is further ordered, That a public hearing be held before an examiner of the Commission's Office of Hearing Examiners at a date and place to be determined and announced by the Chief Examiner in accordance with this order to receive evidence in this proceeding to provide an adequate record for proper disposition of the issues; and

It is further ordered, That the hearing shall be commenced as soon as possible and the Examiner shall issue an initial decision at the earliest practicable date. Exceptions to the Examiner's initial decision shall be filed within 10 days following the date of service thereof with replies to exceptions to be filed within 10 days thereafter; and

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and that a copy thereof and notice of hearing be served upon all parties; and

It is further ordered, That any person other than those named as parties herein who desires to become a party to this proceeding and participate therein, shall file a petition to intervene in accordance with Rule 5(l) (46 CFR 502.72) of the Commission's rules of practice and procedure; and

It is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

APPENDIX A

2744 Atlantic and Gulf/West Coast of South America Conference—Mr. C. D. Marshall, Chairman, 11 Broadway, New York, NY 10004

8300 Atlantic and Gulf/West Coast of Central America and Mexico Conference—Mr. C. D. Marshall, Chairman, 11 Broadway, New York, NY 10004.

7590 East Coast Colombia Conference—Mr. C. D. Marshall, Chairman, 11 Broadway, New York, NY 10004.

8120 U.S. Atlantic and Gulf—Haiti Conference—Mr. C. D. Marshall, Chairman, 11 Broadway, New York, NY 10004.

4610 U.S. Atlantic and Gulf—Jamaica Conference—Mr. C. D. Marshall, Chairman, 11 Broadway, New York, NY 10004.

7540 Leeward and Windward Islands and Guianas Conference—Mr. C. D. Marshall, Chairman, 11 Broadway, New York, NY 10004.

3868 Atlantic and Gulf/Panama Canal Zone, Colon and Panama City Conference—Mr. C. D. Marshall, Chairman, 11 Broadway, New York, NY 10004.

6080 U.S. Atlantic and Gulf—Santo Domingo Conference—Mr. C. D. Marshall, Chairman, 11 Broadway, New York, NY 10004.

6190 U.S. Atlantic and Gulf—Venezuela and Netherlands Antilles Conference—Mr. C. D. Marshall, Chairman, 11 Broadway, New York, NY 10004.

7890 West Coast South America Northbound Conference—Mr. C. D. Marshall, Chairman, 11 Broadway, New York, NY 10004.

3302 Association of West Coast Steamship Companies—Mr. E. Adema, Secretary, Post Office Box 5097, Cristobal, Canal Zone.

Caribbean Trailer Express Ltd., Hamilton, Bermuda.

Lykes Bros. Steamship Co., Inc., Post Office Box 53068, New Orleans, LA 70150.

Asta Shipping Co. (Asta Line), c/o Industrias Asucareras, S.A., Post Office Box 3455, Avenida Francisco Miranda y Puente Tacome, Caracas, Venezuela.

Marine Mercante Nicaraguense, S.A. (Mamenic Line), Apartado Postal 805, Managua, Nicaragua, C.A.

[8] Review Board Member Berkemeyer absent.

[1] Appendix B filed as part of original document.

[2] The Port of New York includes Marine Terminal facilities at Newark, Elizabeth, Hoboken and other points in New Jersey.

No. 228——35

Sea-Land Service, Inc.,[1] Terminal and Fleet Streets, Post Office Box 1050, Elizabeth, NJ 07207, and Gulf-Puerto Rico Lines, Inc.,[1]

active conferences and the Association of West Coast Steamship Companies is a conference operating pursuant to Commission-approved agreements in trades

any other agency of the Federal Government lying within the continental limits of the United States, at the same rates which it charges at the nearest port already regularly

APPENDIX A

2744 Atlantic & Gulf/West Coast of South America Conference—Mr. C. D. Marshall, Chairman, 11 Broadway, New York, NY 10004

Compania Sud-Americana de Vapores (Chilean Line), Casilla 2207, Santiago, Chile.

Flota Mercante Grancolombiana, S.A., Apartado Aereo 4482, Bogota, Colombia.

Gulf & South American Steamship Company,

1971, be modified to provide that the suspension period run concurrently with the suspension period of the increased rates of Sea-Land Service, Inc., which was to

Sea-Land Service, Inc.,[1] Terminal and Fleet Streets, Post Office Box 1050, Elizabeth, NJ 07207, and Gulf-Puerto Rico Lines, Inc.,[1] Post Office Box 51420, New Orleans, LA 70150.
United Fruit Co. (a division of United Brands Co.), 1260 Broadway, New York, NY 10001.
Atlantic Lines, Ltd., The Harris Building, 58 Shirley Street, Nassau, Bahamas.
Booth Steamship Co., Ltd.,[2] Cunard Building, Liverpool 3, United Kingdom, and Lamport & Holt Line, Ltd.,[2] Royal Liver Building, Liverpool 3, United Kingdom.
L. Figueiredo Navegacao, S.A., Rua Visc. do Rio Branco, 2-2° and Caixa Postal 13, Santos, Brazil.
Linea Amazonica, S.A., Calle Pevas 219, Casilla 525, Iquitos, Peru.
Pan American Mail Line, Inc., Apartado 4369, Panama 5, R.P.
The Honduran Line (Empresa Hondurena de Vapores, S.A.), San Pedro Sula, Honduras.
Hapag-Lloyd AG (Hapag/Lloyd Magellan Service), Gustav-Deetjen-Allee 2/6, 28 Bremen 1, Germany.
Colombiana Internacional de Vapores, Apartado 17227, Bogota, Colombia.
Compania Sud-Americana de Vapores (Chilean Line), Casilla 3207, Santiago, Chile.
Flota Mercante Grancolombiana, S.A., Apartado Aereo 4482, Bogota, Colombia.
Gulf & South American Steamship Company, Inc., Post Office Box 50938, New Orleans, LA 70150.
Kawasaki Kisen Kaisha, Ltd. ("K" Line), 8, Kaigan-dori, Ikuta-Ku, Kobe, Japan.
Nippon Yusen Kaisha Line (N.Y.K. Line), 3-2, Marunouchi, 2-Chome, Chiyoda-Ku, Tokyo 100, Japan.
Prudential-Grace Lines, Inc., One Whitehall Street, New York, NY 10004.
Vaasa Line Oy, Arkadiankatu 21, Helsinki, Finland.
Westfal-Larsen & Co., A/S (Westfal-Larsen Line), Post Office Box 1192, Bergen, Norway.
Compania Peruana de Vapores (Peruvian State Line), Camarra 676—Chucuito—Callao, Apartado 208, Callao, Peru.
Alcoa Steamship Company, Inc., Two Pennsylvania Plaza, Suite 2680, New York, NY 10001.
Compania Anonima Venezolana de Navegacion (Venezuelan Line), Ave. Urdaneta, Esq. Las Ibauas, Edif. Central, Caracas, Venezuela.
Delta Steamship Lines, Inc., 1700 International Trade Mart, New Orleans, LA 70150.
Koninklijke Nederlandsche Stoomboot Maatschappij, N.V. (Royal Netherlands Steamship Co.), Het Scheepvaarthuis, Prins Hendrikkade, 108–114 Amsterdam, Nederlands.
Nopal Lines (The Northern Pan-America Line A/S), Post Office Box 27, Smestad, Oslo 3, Norway.

[FR Doc.71-17250 Filed 11-24-71;8:52 am]

[Docket No. 71-87]

ASSOCIATED LATIN AMERICAN FREIGHT CONFERENCES AND ASSOCIATION OF WEST COAST STEAMSHIP COMPANIES

Amended Tariff Rules Regarding Wharfage and Handling Charges; Order To Show Cause

The Associated Latin American Freight Conferences represents a group of 10 active conferences and the Association of West Coast Steamship Companies is a conference operating pursuant to Commission-approved agreements in trades between U.S. Atlantic and Gulf ports and ports in Central and South America and various neighboring islands. A list of these conferences and the member lines is attached as Appendix A below.

These conferences have revised their tariff rules regarding wharfage and handling charges so as to fix wharfage and handling charges and generally to shift the assessment of wharfage and handling charges at U.S. Atlantic and Gulf ports from carrier to cargo. These charges presently bear effective dates of November 16 and December 1, 1971. Appendix B attached[1] contains a typical specimen of the revised tariff rules as published by one of the subject conferences.

The publication of such tariff rules results in the assessment of charges by the conferences which vary in amount from port to port in the continental United States. The Commission has received protests pursuant to Section 16 First as amended, Shipping Act, 1916, from the Governors of the States of New York, Pennsylvania, and New Jersey alleging that the subject charges violate sections 15, 16, and 17 of the Shipping Act, 1916, section 205 of the Merchant Marine Act, 1936, and section 8 of the Merchant Marine Act, 1920. The Commission has also received informal complaints against these charges from the Maryland Port Administration, the Baltimore Marine Terminal Association, the Philadelphia Marine Terminal Association, and several shippers.

The publication of the subject tariff rules results in the assessment of charges by the conferences which vary in amount from port to port within the continental United States. In view of the Commission's recent decisions in Docket No. 70–11, "Pacific Coast European Conference—Rules 10 and 12, Tariff No. FMC 14," and Docket No. 70–18, "Sacramento-Yolo Port District vs. Pacific Coast European Conference, et al.," the Commission is of the opinion that section 205 of the Merchant Marine Act, 1936, forbids any conference from taking concerted action which results in the conference's assessing varying rates and charges among federally improved continental U.S. ports and, furthermore, prohibits the Commission from approving such action pursuant to section 15 of the Shipping Act, 1916.

Section 205 of the Merchant Marine Act, 1936, states:

> Without limiting the power and authority otherwise vested in the Commission, it shall be unlawful for any common carrier by water, either directly or indirectly, through the medium of an agreement, conference, association, understanding, or otherwise, to prevent or attempt to prevent any other such carrier from serving any port designed for the accommodation of ocean-going vessels located on any improvement project authorized by the Congress or through it by any other agency of the Federal Government, lying within the continental limits of the United States, at the same rates which it charges at the nearest port already regularly served by it.

As we held in Docket No. 70–11, "Pacific Coast European Conference—Rules 10 and 12, Tariff No. FMC 14," cited above, one of the purposes of this provision of law was "to prevent collective action designed to create discrimination in the form of a difference in rates at which federally-improved ports are served * * *" multilith opinion, page 20.

Now, therefore, it is ordered, Pursuant to sections 15 and 22 of the Shipping Act, 1916, and section 205, Merchant Marine Act, 1936, that the conferences and member lines as shown in Appendix A below be named respondents in this proceeding and that respondents be ordered to show cause why the Commission should not find the Conferences' concerted action in publishing the subject rules relating to wharfage and handling charges to be in violation of sections 205, Merchant Marine Act, 1936, and section 15, Shipping Act, 1916, and, accordingly, order such rules and charges stricken from the tariffs;

It is further ordered, That this proceeding shall be limited to the submission of affidavits and memoranda of law, replies, and oral argument. Should any party feel that an evidentiary hearing be required, that party must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, and why such proof cannot be submitted through affidavit. Requests for hearing shall be filed on or before November 30, 1971. Affidavits of fact and memoranda of law shall be filed by respondents and intervenors in support of respondents and served upon all parties no later than the close of business November 30, 1971. Reply affidavits and memoranda shall be filed by the Commission's Bureau of Hearing Counsel and intervenors in opposition to respondents, if any, no later than close of business December 8, 1971. Oral argument will be scheduled at a later date if requested and/or deemed necessary by the Commission.

It is further ordered, That a notice of this order be published in the FEDERAL REGISTER and that a copy thereof be served upon respondents;

It is further ordered, That persons other than those already party to this proceeding who desire to become parties to this proceeding and to participate therein shall file a petition to intervene pursuant to Rule 5(1) of the Commission's rules of practice and procedure (46 CFR 502.72) no later than close of business November 26, 1971;

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in an original and 15 copies as well as being mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[1] Sea-Land joint service as one member only.
[2] Booth/Lamport joint service as one member only.

[1] Appendix B filed as part of the original document.

APPENDIX A

3044 Atlantic & Gulf/West Coast of South America Conference—Mr. C. D. Marshall, Chairman, 11 Broadway, New York, NY 10004.
3080 Atlantic and Gulf/West Coast of Central America and Mexico Conference—Mr. C. D. Marshall, Chairman, 11 Broadway, New York, NY 10004.
7030 East Coast Colombia Conference—Mr. C. D. Marshall, Chairman, 11 Broadway, New York, NY 10004.
8120 United States Atlantic and Gulf-Haiti Conference—Mr. C. D. Marshall, Chairman, 11 Broadway, New York, NY 10004.
4810 U.S. Atlantic and Gulf—Jamaica Conference—Mr. C. D. Marshall, Chairman, 11 Broadway, New York, NY 10004.
7040 Leeward & Windward Islands & Guianas Conference—Mr. C. D. Marshall, Chairman, 11 Broadway, New York, NY 10004.
3260 Atlantic and Gulf/Panama Canal Zone, Colon and Panama City Conference—Mr. C. D. Marshall, Chairman, 11 Broadway, New York, NY 10004.
6880 United States Atlantic and Gulf Santo Domingo Conference—Mr. C. D. Marshall, Chairman, 11 Broadway, New York, NY 10004.
6190 United States Atlantic & Gulf—Venezuela and Netherlands Antilles Conference—Mr. C. D. Marshall, Chairman, 11 Broadway, New York, NY 10004.
7080 West Coast South America Northbound Conference—Mr. C. D. Marshall, Chairman, 11 Broadway, New York, NY 10004.
3660 Association of West Coast Steamship Companies—Mr. E. Adema, Secretary, Post Office Box 5097, Cristobal, CZ.
Caribbean Trailer Express, Ltd., Hamilton, Bermuda.
Lykes Bros. Steamship Co., Inc., Post Office Box 53068, New Orleans, LA 70150.
Asta Shipping Co. (Asta Line), c/o Industrias Azucareras, S.A., Post Office Box 3465, Avenida Francisco Miranda y Puente Tacome, Caracas, Venezuela.
Marine Mercante Nicaraguense, S.A. (Mamenic Line), Apartado Postal 805, Managua, Nicaragua, C.A.
Sea-Land Service, Inc.,[1] Terminal and Fleet Streets, Post Office Box 1050, Elizabeth, N.J. 07207, and Gulf-Puerto Rico Lines, Inc.,[1] Post Office Box 51420, New Orleans, LA 70150.
United Fruit Co. (a division of United Brands Co.), 1260 Broadway, New York, NY 10001.
Atlantic Lines, Ltd., The Harris Building, 58 Shirley Street, Nassau, Bahamas.
Booth Steamship Co., Ltd.,[2] Cunard Building, Liverpool 3, United Kingdom, and Lamport & Holt Line Ltd., Royal Liver Building, Liverpool 3, United Kingdom.
L. Figueiredo Navegacao S.A., Rua Visc. do Rio Branco, 2-2° and Caixa Postal 13, Santos, Brasil.
Linea Amazonica S.A., Calle Pevas 219, Casilla 525, Iquitos, Peru.
Pan American Mail Line, Inc., Apartado 4369, Panama 5, R.P.
The Honduran Line (Empresa Hondurena de Vapores, S.A.), San Pedro Sula, Honduras.
Hapag-Lloyd AG (Hapag/Lloyd Magellan Service), Gustav-Deetjen-Allee 2/6, 28 Bremen 1, Germany.
Colombiana Internacional de Vapores, Apartado 17227, Bogota, Colombia.
Compania Sud-Americana de Vapores (Chilean Line), Casilla 3207, Santiago, Chile.
Flota Mercante Grancolombiana, S.A., Apartado Aereo 4482, Bogota, Colombia.
Gulf & South American Steamship Company, Inc., Post Office Box 50938, New Orleans, La. 70150.
Kawasaki Kisen Kaisha, Ltd. ("K" Line), 8, Kaigan-dori, Ikuta-Ku, Kobe, Japan.
Nippon Yusen Kaisha Line (N.Y.K. Line), 3-2, Marunouchi, 2-Chome, Chiyoda-Ku, Tokyo 100, Japan.
Prudential-Grace Lines, Inc., 1 Whitehall St., New York, NY 10004.
Vaasa Line Oy, Arkadiankatu 21, Helsinki, Finland.
Westfal-Larsen & Co., A/S (Westfal-Larsen Line), Post Office Box 1192, Bergen, Norway.
Compania Peruana de Vapores (Peruvian State Line), Camarra 676—Chucuito—Callao, Apartado 208, Callao, Peru.
Alcoa Steamship Company, Inc., 2 Pennsylvania Plaza, Suite 2680, New York, NY 10001.
Compania Anonima Venezolana de Navegacion (Venezuelan Line), Ave. Urdaneta, Esq. Las Ibauas, Edif. Central, Caracas, Venezuela.
Delta Steamship Lines, Inc., 1700 International Trade Mart, New Orleans, LA 70150.
Koninklijke Nederlandsche Stoomboot Maatschappij N.V. (Royal Netherlands Steamship Co.), Het Scheepvaarthuis, Prins Hendrikkade, 108–114 Amsterdam, Nederlands.
Nopal Lines (The Northern Pan-America A/S), Post Office Box 27, Smestad, Oslo 3, Norway.

[FR Doc.71-17251 Filed 11-24-71;8:52 am]

[Docket No. 71-79]

PUERTO RICAN FORWARDING CO., INC.

General Increases in Rates in the U.S. Atlantic and Puerto Rico Trade; Amendment of Order of Suspension and Investigation

On August 20, 1971, the Commission issued an Order of Investigation and Suspension which suspended proposed increases to Tariff FMC–F No. 3 by Puerto Rican Forwarding Co., Inc. (PRF) for a 4-month period commencing on August 25, 1971, and terminating on December 25, 1971. By the same order, an investigation into the lawfulness of the increased rates was instituted.

One of the cost factors which PRF had submitted to the Commission as justification for its proposed increase in rates was the 18 percent cost increase in the purchase of transportation from its underlying water carriers. The latter increases had been suspended by Commission Order until August 25, 1971; they have since been "frozen"[1] until November 13, 1971, by the Commission's circular letter of August 18, 1971.

On November 2, 1971, PRF filed a Motion To Amend the Order of Suspension and Investigation, in which it moved that the Commission's order served August 20, 1971, be modified to provide that the suspension period run concurrently with the suspension period of the increased rates of Sea-Land Service, Inc., which was to expire on November 13, 1971.

PRF claims that it voluntarily suspended the effective date of its tariff increases from March 26, 1971, first to mid-June and then to August 26, 1971, at which time the Commission-imposed suspension took effect. During the 8 months since the increases were initially proposed, various audits and inspections of PRF's records have been made by the Commission.

PRF further argues that if the underlying carriers' rate increases go into effect on November 13, and PFR's rates remain suspended, PRF will cease to function in an economically viable manner. PRF states that it is presently "losing money" and that no investigation or audit by the Commission's staff has proven otherwise. PRF contends that no standard of reasonableness has ever been announced by the Commission in analyzing NVOCC rates.

Finally, PRF emphasizes that it has cooperated to the fullest extent with the Commission in the investigation of its proposed rate increases. It concludes that "no purpose can be served in creating discrimination by suspending PRF's rates beyond the period the underlying carrier's rates are suspended." Hearing Counsel, relying on the facts cited by PRF in its Motion To Amend, have joined with PRF in requesting that the Commission's Order be amended to allow the suspension period to run concurrently with the suspension period of the increased rates of Sea-Land Service, Inc., the major underlying carrier.

For the reasons cited by PRF, and especially in light of the fact that it has cooperated fully with the Commission in its investigation of the proposed increases, and had voluntarily postponed its increases for some 4 months prior to the issuance of the Order of Suspension, we conclude that the motion should be granted. By so granting this motion, the Commission is in no way expressing any conclusions with respect to the continuing investigation of the subject rate increases.

Therefore, it is ordered, That the Commission's Order of Investigation and Suspension, dated August 20, 1971, is hereby amended to provide that Supplements Nos. 8, 9, 10, and 11 to Tariff FMC–F No. 3 are suspended and the use thereof deferred to and including November 13, 1971.

It is further ordered, That while the above amendment is authorized for filing, any proposed rate increase cannot become effective until approved by the Federal Maritime Commission, pursuant to 6 CFR 390.016.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[FR Doc.71-17252 Filed 11-24-71;8:52 am]

[1] Sea-Land Joint Service as one member only.
[2] Booth/Lamport Joint Service as one member only.

[1] The rates were "frozen" under Executive Order 11615, Economic Stabilization Act, 1970, as amended by Executive Order 11637.

MEMBERS OF THE TRANS-PACIFIC FREIGHT CONFERENCE OF HONG KONG AND MEMBERS OF NEW YORK FREIGHT BUREAU

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Agreement No. 9880-1, between the members of the Trans-Pacific Freight Conference of Hong Kong and members of New York Freight Bureau, modifies the basic agreement to provide for the establishment of a joint rate committee to establish rates and charges for the transportation of cargo between ports in the Far East and ports in the United States Atlantic and Gulf Coast range.

Interested parties may inspect this agreement and obtain copies thereof at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect it at the New York District Office, 17 Battery Place, Room 1114. Comments with reference to this agreement may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER.

By order of the Federal Maritime Commission.

Dated: November 22, 1971.

FRANCIS C. HURNEY, *Secretary.*

[FR Doc.71-17253 Filed 11-24-71;8:52 am]

THAILAND/U.S. ATLANTIC AND GULF CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Agreement No. 9870-1, between the members of the Thailand/U.S. Atlantic and Gulf Conference, modifies the basic agreement to provide for the establishment of a joint rate committee to establish rates and charges for the transportation of cargo between ports in Thailand and ports in the United States Atlantic and Gulf Coast range.

Interested parties may inspect this agreement and obtain copies thereof at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect it at the New York District Office, 17 Battery Place, Room 1114. Comments with reference to this agreement may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER.

By order of the Federal Maritime Commission.

Dated: November 22, 1971.

FRANCIS C. HURNEY, *Secretary.*

[FR Doc.71-17254 Filed 11-24-71;8:52 am]

expenditures for advance payments, and changes in Federal income tax rates. Cities Service agrees not to file for a general increase in its jurisdictional rates

December 17, 1971, and that the hearing be further postponed until January 3, 1972.

Upon consideration, notice is hereby

procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it

MEMBERS OF THE TRANS-PACIFIC FREIGHT CONFERENCE OF HONG KONG AND MEMBERS OF NEW YORK FREIGHT BUREAU

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Charles F. Warren, Esq., 1100 Connecticut Avenue NW., Washington, DC 20036.

Agreement No. 9970 is a Cooperative Working Agreement between member lines of the Trans-Pacific Freight Conference of Hong Kong (Agreement No. 14, as amended) and the members of the New York Freight Bureau (Agreement No. 5700, as amended), which permits "• • • joint meetings which shall be held at the Owners level, the lines may meet together, discuss and agree upon rates to be charged, rules in implementation thereof, and all other matters of mutual interest within the scope of activities permitted under their approved Agreements 14 and 5700, both as amended, and joint action taken hereunder shall be determined only by a concurrence of the [Agreement 14 lines] acting as a group, and of the [Agreement 5700 lines] acting as a group, each in accordance with the procedures, quorums, and votes prescribed by its representative Conference Agreement."

Dated: November 19, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-17254 Filed 11-24-71;8:52 am]

THAILAND/U.S. ATLANTIC AND GULF CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

S. S. Marr, Thailand/U.S. Atlantic & Gulf Conference, c/o The Borneo Co., Ltd., 1/1041 Silom Road, Bangkok, Thailand.

Agreement No. 8100-8 modifies the Thailand/U.S. Atlantic & Gulf Conference's basic agreement by deleting section 17 which requires all conference lines to utilize the New York Lines Agency as their agent in "South Siam."

Dated: November 19, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-17258 Filed 11-24-71;8:52 am]

FEDERAL POWER COMMISSION

[Docket No. RP72-66]

BACA GAS GATHERING SYSTEM, INC.

Notice of Proposed Changes in Rates and Charges

NOVEMBER 16, 1971.

Take notice that on November 9, 1971, Baca Gas Gathering System, Inc. (Baca), tendered for filing a proposed change in its FPC Gas Tariff, Original Volume No. 1, to become effective on December 1, 1971, or on such later date as the proposed increased rate is approved. The tender, Original Sheet No. 3-B, would increase the rate from 17 cents per Mcf to 18.6 cents, under its amended Rate Schedule No. 1, to Panhandle Eastern Pipe Line Co. (Panhandle), the sole jurisdictional customer involved. Based on the remaining gas supply on June 30, 1971, the proposed change would increase jurisdictional revenues by approximately $163,951. Baca states that the reason for the proposed rate increase is to enable it to meet its mortgage debt obligations.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 24, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

Any order issued in this proceeding is subject to our Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38) and Executive Order No. 11615, including such amendments as the Commission may require.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17226 Filed 11-24-71;8:49 am]

[Dockets Nos. RP71-106, RP71-120]

CITIES SERVICE GAS CO.

Notice of Filing of Stipulation and Agreement

NOVEMBER 16, 1971.

Take notice that on November 9, 1971, Cities Service Gas Co. (Cities Service) filed a request for approval of a proposed stipulation and agreement in the above-entitled proceedings. The stipulation and agreement is a result of discussions among Cities Service, the Commission Staff, and interested parties in those proceedings. It resolves all issues therein with the exception of the issue of normalization of liberalized tax depreciation for ratemaking purposes and Cities Service's curtailment policies and procedures as expressed in Article 13, "Priority of Service," of the general terms and conditions of its FPC gas tariff.

The stipulation and agreement and accompanying tariff sheets provide for rates which produce an increase in Cities Service's test period jurisdictional revenues of approximately $8,000,583 above the revenues produced by the rates in effect at the time of Cities Service's filing in Docket No. RP71-106. The stipulation and agreement further provides, among other things, that Cities Service may adjust its rates to reflect further changes in the company's purchased gas costs,

expenditures for advance payments, and changes in Federal income tax rates. Cities Service agrees not to file for a general increase in its jurisdictional rates prior to July 21, 1972, except to reflect during that moratorium period (1) the placing in service of construction projects that would increase the availability of gas supplies to Cities Service's system and capitalized expenditures made to comply with the Natural Gas Pipeline Safety Act of 1968 and the Occupational Safety and Health Act of 1970 and rules, regulations and standards thereunder, with aggregate cost for such construction projects and capitalized expenditures of at least $8 million, and (2) any payments eventually made by Cities Service to Western Natural Gas Co. pursuant to a final and nonappealable judgment or settlement of the issues if such judgment or settlement arises out of the latter company's suit in The District Court, Oklahoma County, Okla., Case No. 175,435. The stipulation and agreement provides for the refund with interest, for the period October 23, 1971, to the date on which Cities Service is permitted to charge and collect the rates provided in the stipulation and agreement, of the difference between any amounts billed and collected by Cities Service in excess of the amounts calculated on the basis of the rates reflected in the stipulation and agreement.

Copies of the stipulation and agreement were served upon all parties to the above-captioned proceedings; and the accompanying tariff sheets, upon all of Cities Service's jurisdictional customers, interested State commissions, and parties to these proceedings.

Comments with respect to the proposed stipulation and agreement may be filed with the Federal Power Commission, Washington, D.C. 20426, on or before December 13, 1971.

Any order issued in these proceedings is subject to the Commission's Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38) and Executive Order No. 11615, including such amendments as the Commission may require.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17229 Filed 11-24-71;8:50 am]

[Docket No. E-7680]

METROPOLITAN EDISON CO.

Notice of Further Extension of Time

NOVEMBER 17, 1971.

On November 11, 1971, the Borough of Kutztown filed a request for a further extension of time within which to file testimony and exhibits, pursuant to paragraph (C) of the order issued June 29, 1971, in the above-designated matter. On November 15, 1971, Metropolitan Edison Co. (Met-Ed) filed an answer opposing the requested extension of time. Met-Ed requests that if the extension of time is granted that the time for filing rebuttal testimony be extended to and including December 17, 1971, and that the hearing be further postponed until January 3, 1972.

Upon consideration, notice is hereby given that the time is further extended to and including November 29, 1971, within which the Borough of Kutztown shall file its testimony and exhibits in the above-designated matter. The time is further extended to and including December 17, 1971, within which rebuttal evidence shall be filed by Met-Ed, and the hearing is further postponed, to commence on January 4, 1972, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17230 Filed 11-24-71;8:50 am]

[Docket No. CP68-249]

MIDWESTERN GAS TRANSMISSION CO.

Notice of Petition To Amend

NOVEMBER 16, 1971.

Take notice that on November 3, 1971, Midwestern Gas Transmission Co. (petitioner), Chamber of Commerce Building, Houston, Tex. 77002, filed in Docket No. CP68-249 a petition to amend the order of the Commission issued pursuant to section 7(c) of the Natural Gas Act on May 24, 1968 (39 FPC 863), as amended, in said docket by authorizing the modification and operation of a gas turbine compressor unit located at its Station No. 2105 near Beaver Dam, Ky., all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The order of May 24, 1968, as amended, authorized, inter alia, the construction and operation of certain facilities by Petitioner for the receipt of a maximum daily volume of 600,780 Mcf of natural gas from Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee), at two delivery points, one near Portland, Tenn., and the other at the interconnection between the systems of Trunkline Gas Co. (Trunkline) and petitioner near Potomac, Ill.

Petitioner states that deliveries of natural gas by Trunkline, for the account of Tennessee, at the Potomac delivery point will be phased out effective November 1, 1972. To provide the system capacity necessary to accept delivery of the entire quantity of natural gas at the Portland delivery point, Petitioner proposes to modify the existing gas turbine compressor unit at its Station No. 2105. This modification, at a cost of $194,790, is expected to add approximately 4,550 horsepower of compression to petitioner's system.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 6, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17231 Filed 11-24-71;8:50 am]

[Docket No. CP72-117]

TEXAS GAS PIPE LINE CORP.

Notice of Application

NOVEMBER 16, 1971.

Take notice that on November 2, 1971, Texas Gas Pipe Line Corp. (applicant), Post Office Box 2120, Houston, TX 77001, filed in Docket No. CP72-117 an application pursuant to section 7(b) of the Natural Gas Act for permission for and approval of the abandonment of certain natural gas facilities, and pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas with Texas Eastern Transmission Corp. (Texas Eastern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the U.S. Army Corps of Engineers has requested that applicant's pipeline crossing of the Neches River in Jefferson County, Tex., be removed and relocated to facilitate the improvement of the river's channel. Applicant states that the cost of relocating this pipeline is prohibitive considering the volume of gas transported through the facilities for sale to Transcontinental Gas Pipe Line Corp. (Transco), and the reserves which support the sale. Therefore, applicant proposes to abandon and salvage this river crossing at an estimated cost of $25,286.

To provide for the continued sale and delivery of natural gas to Transco, applicant proposes to exchange natural gas with Texas Eastern. Specifically, applicant proposes to deliver up to 20,000 Mcf of natural gas per day to Texas Eastern at an interconnection between their facilities in Jefferson County, Texas. Texas Eastern will redeliver equivalent volumes to applicant at an interconnection between their facilities in Orange County, Tex.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 6, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in

determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17232 Filed 11-24-71;8:50 am]

UNITED GAS PIPE LINE CO.

Notice of Proposed Changes in Rates and Charges

NOVEMBER 16, 1971.

Take notice that on November 9, 1971, United Gas Pipe Line Co. (United) tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1, to become effective on December 1, 1971, or on such later date as the proposed increased rate is approved. The tender, Original Sheet No. 3-B, would increase the rate from 17 cents per Mcf to 18.6 cents, under its amended Rate Schedule No. 1, to Panhandle Eastern Pipe Line Co. (Panhandle), the sole jurisdictional customer involved. Based on the remaining gas supply on June 30, 1971, the proposed change would increase jurisdictional revenues by approximately $163,951. United states that the reason for the proposed rate increase is to enable it to meet its mortgage debt obligations.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 24, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

Any order issued in this proceeding is subject to our Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38) and Executive Order No. 11615, including such amendments as the Commission may require.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17227 Filed 11-24-71;8:49 am]

UNITED GAS PIPE LINE CO.

Notice of Proposed Changes in Rates and Charges

NOVEMBER 16, 1971.

Take notice that on November 9, 1971, United Gas Pipe Line Co. (United) tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1, to become effective on December 1, 1971, or on such later date as the proposed increased rate is approved. The tender, Original Sheet No. 3-B, would increase the rate from 17 cents per Mcf to 18.6 cents, under its amended Rate Schedule No. 1, to Panhandle Eastern Pipe Line Co. (Panhandle), the sole jurisdictional customer involved. Based on the remaining gas supply on June 30, 1971, the proposed change would increase jurisdictional revenues by approximately $163,951. United states that the reason for the proposed rate increase is to enable it to meet its mortgage debt obligations.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 24, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

Any order issued in this proceeding is subject to our Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38) and Executive Order No. 11615, including such amendments as the Commission may require.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17228 Filed 11-24-71;8:49 am]

VIRGINIA COMMONWEALTH BANKSHARES, INC.

Order Approving Acquisition of Bank

There has come before the Board of Governors, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), an application by Virginia Commonwealth Bankshares, Inc., Richmond, Va., a registered bank holding company, for the Board's prior approval of the acquisition of 100 percent of the voting shares of the successor organization to Bank of Commerce, Cambridge, Mass. (Bank). Applicant has also applied for approval of the acquisition of 51 percent or more of the voting shares of University Trust Co., Cambridge, Mass. Notice of the proposed acquisition, affording opportunity for interested persons to submit comments and views with respect to the proposed acquisition, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired and all those received have been considered by the Board.

Applicant is the 12th largest banking organization in Virginia, controlling deposits of $1.1 billion, representing 3.1 percent of the total deposits in commercial banks in the State. Bank, with deposits of $5.5 million, is the 5th largest of 6 banks in the Cambridge-Somerville-Boston banking market (approximately 5 miles from Boston), controlling 0.1 percent of the deposits in commercial banks in the market. Consummation of the proposed acquisition would not increase the concentration of banking resources in the Cambridge-Somerville-Boston banking market. Applicant has no subsidiaries in that market and its nearest subsidiary is located approximately 400 miles from Bank. Consummation of the proposed acquisition would not eliminate any significant competition between Applicant and any of its subsidiaries and Bank. Consummation of the proposed acquisition would not have any significant adverse effects on existing competition in any relevant area. Bank's management is adequate and its future prospects appear favorable. Applicant proposes to provide Bank with additional capital funds and to provide Bank with the services of Applicant's staff. Considerations relating to the convenience and needs of the community to be served are consistent with approval. Accordingly, the Board concludes that the proposed acquisition would be in the public interest and that the application should be approved.

Applicant proposes to acquire the shares of Bank through the acquisition of the shares of a successor organization to be formed by the merger of Bank and Cambridge Trust Co., Cambridge, Mass., a proposed new bank. Applicant has represented that the proposed acquisition of the shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

As required by section 3(b) of the Act, the Board has considered whether the proposed acquisition would result in a monopoly or be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, and whether the effect of such acquisition may be substantially to lessen competition or to tend to create a monopoly in any section of the country, or to restrain trade, or to result in a restraint of trade in any section of the country, or to injure, destroy, or prevent competition in any section of the country. The Board has also considered whether the proposed acquisition would result in a monopoly or be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any section of the country, or to restrain trade, or to result in a restraint of trade in any section of the country, or to injure, destroy, or prevent competition in any section of the country. The Board has also considered whether the proposed acquisition would result in a monopoly or be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any section of the country, or to restrain trade, or to result in a restraint of trade in any section of the country, or to injure, destroy, or prevent competition in any section of the country.

Applicant proposes to acquire the shares of Bank through the acquisition of the shares of a successor organization to be formed by the merger of Bank and Cambridge Trust Co., Cambridge, Mass., a proposed new bank. Applicant has represented that the proposed acquisition of the shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

As required by section 3(b) of the Act, the Board has considered whether the proposed acquisition would result in a monopoly or be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, and whether the effect of such acquisition may be substantially to lessen competition or to tend to create a monopoly in any section of the country, or to restrain trade, or to result in a restraint of trade in any section of the country, or to injure, destroy, or prevent competition in any section of the country. The Board has also considered whether the proposed acquisition would result in a monopoly or be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any section of the country, or to restrain trade, or to result in a restraint of trade in any section of the country, or to injure, destroy, or prevent competition in any section of the country. The Board has also considered whether the proposed acquisition would result in a monopoly or be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any section of the country, or to restrain trade, or to result in a restraint of trade in any section of the country, or to injure, destroy, or prevent competition in any section of the country.

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determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17232 Filed 11-24-71;8:50 am]

[Docket No. CP72-91]

EL PASO NATURAL GAS CO.

Notice of Application; Correction

NOVEMBER 12, 1971.

In the notice of application, issued October 22, 1971, and published in the FEDERAL REGISTER October 30, 1971, 36 F.R. 20911, change "CP72-92" to "CP72-91".

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17234 Filed 11-24-71;8:50 am]

[Docket No. CI71-136]

MONSANTO CO. ET AL.

Notice of Application; Correction

SEPTEMBER 21, 1971.

In the notice of application, issued September 13, 1971 and published in the FEDERAL REGISTER September 15, 1971, 36 F.R. 18487, heading and first paragraph: Change Docket No. CI71-136 to Docket No. CI72-136.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17235 Filed 11-24-71;8:50 am]

[Docket No. CP71-209]

GREAT LAKES GAS TRANSMISSION

Notice of Supplement to Application; Correction

AUGUST 17, 1971.

In the notice of supplement to application, issued July 2, 1971, and published in the FEDERAL REGISTER July 24, 1971, 36 F.R. 13817: First paragraph delete "2.6¢" and substitute "2.9¢".

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17236 Filed 11-24-71;8:50 am]

[Docket No. RI71-809]

TEXACO, INC., ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund; Correction

AUGUST 4, 1971.

In the order providing for hearing on and suspension of proposed changes in rates, and allowing rate changes to become effective subject to refund, issued March 10, 1971, and published in the FEDERAL REGISTER March 20, 1971, 36 F.R. 5381: Appendix "A" Docket No. RI71-819, Pennzoil United, Inc., et al. Under column headed "Supp. No." change "7" to "8". Under column headed "Rate in Effect" change "16.0" to "16.06".

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17237 Filed 11-24-71;8:50 am]

[Dockets Nos. RI71-970, CI71-788]

WARREN PETROLEUM CORP. AND SUN OIL CO.

Order Setting Date for Formal Hearing, Consolidating Proceedings, Prescribing Procedures, Permitting Intervention and Directing the Filing of an Application; Correction

SEPTEMBER 30, 1971.

In the order setting date for formal hearing, consolidating proceedings, prescribing procedures, permitting intervention and directing the filing of an application to abandon pursuant to section 7(b) of the Natural Gas Act, issued September 9, 1971, and published in the FEDERAL REGISTER September 18, 1971, 36 F.R. 18685: In the above-referenced order change "Cities Service Gas Co." to "Cities Service Oil Co".

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17238 Filed 11-24-71;8:50 am]

FEDERAL RESERVE SYSTEM

NORTH ATLANTIC BANCORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by North Atlantic Bancorp., which is a bank holding company located in Newton, Mass., for prior approval by the Board of Governors of the acquisition by Applicant of 51 percent or more of the voting shares of University Trust Co., Cambridge, Mass.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Boston.

Board of Governors of the Federal Reserve System, November 19, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-17212 Filed 11-24-71;8:49 am]

VIRGINIA COMMONWEALTH BANKSHARES, INC.

Order Approving Acquisition of Bank Stock By Bank Holding Company

In the matter of the application of Virginia Commonwealth Bankshares, Inc., Richmond, Va., for approval of acquisition of 100 percent of the voting shares of the successor by merger to Bank of Warren, Front Royal, Va.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Virginia Commonwealth Bankshares, Inc., Richmond, Va., a registered bank holding company, for the Board's prior approval of the acquisition of 100 percent of the voting shares of the successor by merger to Bank of Warren (Bank), Front Royal, Va. The bank into which Bank is to be merged has no significance except as a means of acquiring all of the shares of Bank. Accordingly, the proposed acquisition of the shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Virginia Commissioner of Banking and requested his views and recommendation. The Commissioner recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on September 22, 1971 (36 F.R. 18817), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant, the fourth largest banking organization in Virginia, controls 15 banks which hold combined deposits of approximately $674.5 million, representing 8.4 percent of the total commercial banks deposits held by Virginia banks. (All banking data are as of December 31, 1970, adjusted to reflect holding company formations and acquisitions through September 30, 1971.) The acquisition of Bank ($13.6 million deposits) would increase applicant's share of deposits in the State by only 0.2 percentage point, representing no significant increase in Applicant's control of deposits in the State, or change in its present ranking. In a separate application filed concurrently with the instant matter, applicant proposes to acquire the successor by merger to the Bank of Whaleyville, Inc., Whaleyville, Va. Affiliation of both banks would increase applicant's share of the total commercial bank deposits in Virginia to 8.6 percent and would not, therefore, have any significant effect on the concentration of banking resources in Virginia or on applicant's Statewide competitive position.

Bank operates its main office and a single branch in the town of Front Royal. Deposits in Warren County (Bank's relevant market) are almost equally divided between Bank and a competing bank which operates three branch offices in Front Royal. However, the competing bank, headquartered in Winchester, 16 miles north of Front Royal, has total deposits five times greater than that of Bank. Thus, the proposed affiliation of Bank with applicant could serve to enhance competition in Warren County in view of the present disparity in the competitive strength of the two institutions.

Applicant's subsidiary office closest to Bank is located 37 miles east of Front Royal, and apparently no significant present competition exists between Bank and this office, or any of applicant's other offices. It appears that consummation of this proposal would not foreclose significant potential competition in the light of the facts of record, notably, the distances involved, the restrictive branching laws in the State of Virginia, and the unlikelihood that applicant would enter Bank's market de novo. Based on the foregoing, and the record before it, the Board concludes that consummation of the proposed acquisition would not have an adverse effect on competition in any relevant market.

Considerations related to financial condition, management, and prospects, as they relate to applicant, its subsidiaries, and Bank are regarded as satisfactory and consistent with approval of the application. It is noted that applicant has made a public offering of common stock. Considerations relating to the convenience and needs of the area lend some weight toward approval. Although the more important banking needs of the area are being served at the present time, applicant plans to assist Bank to strengthen its retail business as well as to add other services to create a full-service bank. Operating economies of scale and access to the specialized talents of the holding company are regarded as likely to benefit Bank and facilitate its serving the needs of the community. It is the Board's judgment that consummation of the proposed transaction would be in the public interest, and that the application should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above: *Provided*, That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Board of Governors,[1] November 18, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-17203 Filed 11-24-71;8:48 am]

VIRGINIA COMMONWEALTH BANKSHARES, INC.

Order Approving Acquisition of Bank Stock By Bank Holding Company

In the matter of the application of Virginia Commonwealth Bankshares, Inc., Richmond, Va., for approval of acquisition of 100 percent of the voting shares of the successor by merger to Bank of Whaleyville, Inc., Whaleyville, Va.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by

[1] Voting for this action: Chairman Burns and Governors Robertson, Daane, and Maisel. Absent and not voting: Governors Mitchell, Brimmer, and Sherrill.

Virginia Commonwealth Bankshares, Inc., Richmond, Va., a registered bank holding company, for the Board's prior approval of the acquisition of 100 percent of the voting shares of the successor by merger to Bank of Whaleyville, Incorporated (Bank), Whaleyville, Va. The bank into which Bank is to be merged has no significance except as a means of acquiring all of the shares of Bank. Accordingly, the proposed acquisition of the shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Virginia Commissioner of Banking and requested his views and recommendation. The Commissioner recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on September 22, 1971 (36 F.R. 18817), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant, the fourth largest banking organization in Virginia, controls 15 banks which hold combined deposits of approximately $674.5 million, representing 8.4 percent of the total commercial bank deposits held by Virginia banks. (All banking data are as of December 31, 1970, adjusted to reflect holding company formations and acquisitions through September 30, 1971.) The acquisition of Bank ($4.2 million deposits), would increase applicant's share of commercial bank deposits in the State by an insignificant amount. In a separate application file concurrently with the instant matter, applicant proposes to acquire the successor by merger to the Bank of Warren, Front Royal, Va. Affiliation of both banks would increase applicant's share of the total commercial bank deposits in Virginia to 8.6 percent and would not, therefore, have any significant effect on the concentration of banking resources in Virginia or on applicant's Statewide competitive position.

Bank operates its single office in the town of Whaleyville (population 332), and serves the surrounding rural area within a radius of about 10 miles. With but 5.9 percent of total deposits in the Whaleyville banking market (approximated by the southern part of Nansemond County including the independent city of Suffolk), Bank is the smallest of five banking organizations in the area. Competing in this market are two bank holding companies and the State's second largest bank. Applicant's subsidiary office closest to Bank is located 30 miles

northeast of Whaleyville and separated by the intervening city of Suffolk. Apparently no significant present competition exists between Bank and this office, or

published. The time for filing comments and views has expired and all received have been considered.

The operation by a bank holding com-

NATIONAL COMMISSION ON STATE WORKMEN'S COM-

INTERSTATE COMMERCE COMMISSION

Mason & Dixon Lines, now assigned December 6, 1971, at Montgomery, Ala., postponed to January 18, 1972, at Birmingham, Ala., in the Red Carpet Motor Inn, 2040 Highland Avenue.

MC 29783 Sub 226, Clay Hyder Trucking

FOURTH SECTION APPLICATION FOR RELIEF

NOVEMBER 22, 1971.

Protests to the granting of an applica-

northeast of Whaleyville and separated by the intervening city of Suffolk. Apparently no significant present competition exists between Bank and this office, or any of applicant's other offices. It also appears unlikely that consummation of this proposal would foreclose potential competition in the light of the facts of record, notably, Virginia's restrictive branching laws and the unlikelihood that applicant would establish a de novo bank in a community of the size Bank serves. Based on the foregoing, and the record before it, the Board concludes that consummation of the proposed transaction would not have an adverse effect on competition in any relevant market.

Considerations relating to financial condition, management and prospects, as they relate to applicant, its subsidiaries, and Bank are regarded as satisfactory and consistent with approval of the application. The major banking needs of the area are presently being met by the existing institutions; however, as a result of its affiliation with applicant, Bank would be able to offer expanded and improved services. Further, applicant states that it intends to augment the capital of Bank to enable it to establish branches. Affiliation with applicant should enable Bank to improve the quality and scope of its services and to become a more viable competitor to the other banks in the area. It is the Board's judgment that consummation of the proposed transaction would be in the public interest, and that the application should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above: *Provided*, That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Board of Governors,[1] November 18, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-17204 Filed 11-24-71;8:48 am]

ZIONS UTAH BANCORPORATION

Order Approving Acquisition of Industrial Bank

Zions Utah Bancorporation, Salt Lake City, Utah, a bank holding company within the meaning of the Bank Holding Company Act of 1956, as amended, has applied for the Board's approval under section 4(c)(8) of the Act and § 222.4(b)(2) of the Board's Regulation Y to acquire all of the voting shares of Guaranty Industrial Bank, Loveland, Colo. Notice of the application, affording opportunity for interested persons to submit comments and views, has been duly published. The time for filing comments and views has expired and all received have been considered.

The operation by a bank holding company of an industrial bank is an activity that the Board has determined is closely related to banking if conducted in the manner authorized by State law, so long as the institution does not both accept demand deposits and make commercial loans and the activities of the institution are not conducted in a manner that is inconsistent with limitations the Board has established pursuant to section 4(c)(8) of the Act (§ 222.4(c) of Regulation Y).

It appears that Guaranty Industrial Bank does not accept demand deposits and engages solely in the activities described in § 222.4(a)(2) of Regulation Y. Accordingly, the activities of Guaranty are closely related to banking.

Guaranty has assets of approximately $1 million; it serves a portion of Laramie County. Zions presently operates four industrial banks in Colorado, one of which (with assets of $373,000) is located 15 miles south of Loveland in Fort Collins on the periphery of Laramie County. Numerous other financial institutions compete with Guaranty for savings deposits; 13 small loan companies, including three in Loveland, and a number of credit unions compete with Guaranty for loans.

It is anticipated that, following consummation of the proposal, Zions would augment Guaranty's capital structure, which will enable Guaranty to expand on a sound basis and allow it to make larger loans to individual borrowers. Affiliation with Zions would also provide Guaranty with access to improved marketing and auditing services. As a result, Guaranty should be in a position better to serve its customers and to provide more effective competition in its market area.

There is no significant competition between Zions' existing subsidiaries and Guaranty. Because of the large number of competing institutions within Laramie County, consummation of the proposal would only minimally decrease competition. There is no evidence in the record indicating that consummation of the proposed transaction would result in any undue concentration of resources, unfair competition, conflicts of interests, unsound banking practices, or other adverse effects on the public interest.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the proposed activity is a proper incident to banking or managing or controlling banks within the meaning of that section. The application is approved, but the transaction shall not be consummated until 10 days from the date hereof.

By order of the General Counsel of the Board, November 19, 1971, acting on behalf of the Board pursuant to delegated authority (12 CFR 265.2(b)(2)).

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-17205 Filed 11-24-71;8:45 am]

[1] Voting for this action: Chairman Burns and Governors Robertson, Daane, and Maisel. Absent and not voting: Governors Mitchell, Brimmer, and Sherrill.

NATIONAL COMMISSION ON STATE WORKMEN'S COMPENSATION LAWS

STATE WORKMEN'S COMPENSATION LAWS

Notice of a Public Hearing

Notice is hereby given of a public hearing to be held by the National Commission on State Workmen's Compensation Laws at Room 2010, New Executive Office Building, 726 Jackson Place NW., Washington, DC, commencing at 10 a.m. on January 24, 1972, and continuing through January 26, 1972, if necessary to accommodate persons requesting to testify. At the hearing, interested parties may make oral or written presentations of data, views, and arguments relating to the general question of whether State workmen's compensation laws provide an adequate, prompt and equitable system of compensation, and to possible methods which might be used by, and sources of information available to, the National Commission on State Workmen's Compensation Laws in making its study and preparing its report under section 27 of the Occupational Safety and Health Act of 1970 (84 Stat. 1618).

Interested persons shall, not later than twenty (20) days prior to the commencement of the hearing, file with the Chairman, National Commission on State Workmen's Compensation Laws, 1825 K Street NW., Washington, DC 20006, a notice of intention to appear which shall contain the following information:

1. Name and address of the person appearing.

2. The subject matter or matters to be discussed.

3. If such person is appearing in a representative capacity, the name and address of the persons or organizations he is representing.

4. The date and approximate length of time requested for his presentation.

Interested persons may also file written data, views, or arguments with the Commission at the above address.

The oral proceedings shall be stenographically reported and transcripts will be available to interested persons on payment of fees therefor. The Presiding Officer shall regulate the proceedings, dispose of procedural requests, objections, and comparable matters, and confine the presentation to matters pertinent to the inquiry. He shall have discretion to keep the record open after the close of the hearing to permit any person who participated in the oral presentation to submit additional data, views, and arguments responsive to the oral presentations made by other persons.

Signed at Washington, D.C., this 19th day of November 1971.

JOHN F. BURTON, Jr.,
Chairman.

[FR Doc. 71-17226 Filed 11-24-71;8:51 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

NOVEMBER 22, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 19227 Sub 152, Leonard Bros. Trucking Co., Inc., now being assigned March 2, 1972, at New Orleans, La.

MC 29910 Sub 101, Arkansas-Best Freight System, Inc., assigned February 22, 1972, at New Orleans, La.

MC 51146 Sub 206, Schneider Transport & Storage, Inc., now being assigned March 1, 1972, at New Orleans, La.

MC 106644 Sub 118, Superior Trucking Co., now being assigned March 2, 1972, at New Orleans, La.

MC 107002 Sub 406, Miller Transporters, Inc., now being assigned February 28, 1972, at New Orleans, La.

MC 119774 Sub 24, Doing business as Eagle Trucking Co., now being assigned February 25, 1972, at New Orleans, La.

MC 127028 Sub 7, Bredehoeft Produce Co., Inc., now being assigned February 23, 1972, at New Orleans, La.

MC 128366, Frassel Enterprises, Inc., now being assigned February 24, 1972, at New Orleans, La.

MC 10994 Sub 45, Sinar Trucking, Inc., assigned December 9, 1971, at St. Paul, Minn., canceled and application dismissed.

MC 124211 Sub 187, Hilt Truck Line, Inc., now being assigned hearing February 7, 1972, at Chicago, Ill., in a hearing room to be later designated.

MC 124211 Sub 188, Hilt Truck Line, Inc., now being assigned hearing on February 7, 1972, at Chicago, Ill., in a hearing room to be later designated.

MC 126676 Sub 53, Fast Motor Service, Inc., now being assigned hearing February 9, 1972, at Chicago, Ill., in a hearing room to be later designated.

MC 128048 Sub 7, Trans-United, Inc., now being assigned hearing February 11, 1972, at Chicago, Ill., in a hearing room to be later designated.

MC 111375 Sub 61, Pirkle Refrigerated Freight Lines, now being assigned hearing February 14, 1972, at Chicago, Ill., in a hearing room to be later designated.

MC 21455 Sub 24, Gene Mitchell Co., now being assigned hearing on February 16, 1972, at Chicago, Ill., in a hearing room to be later designated.

MC 119581 Sub 153, Dieckbrader Express, Inc., now being assigned hearing on February 16, 1972, at Chicago, Ill., in a hearing room to be later designated.

MC-F-11193, MC 128044 Sub 9, Reliable Truck Lines, MC-F-11194, MC 86389 Sub 39, Cooper Transfer Co., MC-F-11145, MC 11230 Sub 139, Gordons Transports, MC-F-11189, MC 86389 Sub 199, The Mason & Dixon Lines, now assigned December 6, 1971, at Montgomery, Ala., postponed to January 18, 1972, at Birmingham, Ala., in the Red Carpet Motor Inn, 2040 Highland Avenue.

MC 29788 Sub 228, Clay Hyder Trucking Lines, Inc., now being assigned February 29, 1972, at Omaha, Nebr., hearing room to be later designated.

MC 106398 Sub 629, Morgan Drive-Away, Inc., now being assigned February 28, 1972, at Omaha, Nebr., hearing room to be later designated.

MC 113362 Sub 14, Nelsen Bros., Inc., now being assigned February 25, 1972, at Omaha, Nebr., hearing room to be later designated.

MC 123639 Sub 135, J. B. Montgomery, Inc., now being assigned March 2, 1972, at Omaha, Nebr., hearing room to be later designated.

MC 134211 Sub 185, Hilt Truck Line, Inc., now being assigned February 24, 1972, at Omaha, Nebr., hearing room to be later designated.

MC 134211 Sub 181, Hilt Truck Line, Inc., now being assigned February 22, 1972, at Omaha, Nebr., hearing room to be later designated.

MC 2900 Sub 98, National Freight, Inc., now assigned hearing January 27, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 82280 Sub 316, C & H Transportation Co., Inc., now assigned January 27, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 106274 Sub 15, Radford Trucking Co., now being assigned January 24, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 106644 Sub 119, Superior Trucking Co., Inc., now assigned January 24, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 106676 Sub 41, A. J. Metler Hauling and Rigging, Inc., now assigned January 26, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 113666 Sub 57, Freeport Transport, Inc., now being assigned January 24, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 119789 Sub 68, Caravan Refrigerated Cargo, Inc., now assigned February 3, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 240 Sub 18, Quarmer Truck Lines, now assigned February 14, 1972, at Dallas, Tex., hearing room to be designated later.

MC 61224 Sub 8, Hannis Freight Lines, of Canada, Ltd., doing business as Florida Refrigerated Service, now assigned February 7, 1972, at Dallas, Tex., a hearing room to be designated later.

MC 107295 Sub 890, Pre-Fab Transit, now assigned February 15, 1972, at Dallas, Tex., a hearing room to be designated later.

MC 107515 Sub 788, Refrigerated Transport, now assigned February 16, 1972, at Dallas, Tex., a hearing room to be designated later.

MC-F-11229, Eagle Motor Lines—Purchase—Southwest Oilfield Transportation, now assigned February 9, 1972, at Dallas, Tex., a hearing room to be designated later.

MC-F-11228, Refrigerated Transport Co., Inc.—Purchase (Portion)—Subler Transfer, Inc., now being assigned hearing March 20, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-17297 Filed 11-24-71;8:55 am]

FOURTH SECTION APPLICATION FOR RELIEF

NOVEMBER 22, 1971.

Protests to the granting of an application must be prepared in accordance with § 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42310—*Beet or cane sugar to Kenosha, Wis.* Filed by Burlington Northern Inc., (No. 3), for interested rail carriers. Rates on sugar, beet or cane, in carloads, as described in the application, from specified points in North Dakota and Minnesota, to Kenosha, Wis.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 63 to H. H. Kirchoff, agent, tariff ICC 21. Rates are published to become effective on December 18, 1971.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-17296 Filed 11-24-71;8:55 am]

[Notice 400]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 22, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 35807 (Sub-No. 22 TA), filed November 9, 1971. Applicant: WELLS FARGO ARMORED SERVICE CORPORATION, 210 Baker Street NW., 30312, Mailing: Post Office Box 4313, Atlanta, GA 30302. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. Au-

thority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin*, between Miami, Fla., on the one hand, and, on the other, points in Boston, New York, LAND TRANSPORT, INC., Box 72, Siren, WI 54872. Applicant's representative: Marion I. Anderson (same address as above). Authority sought to operate as a *common carrier*, by motor ity sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wine and malt beverages*, from Van Nuys, Azusa, Modesto, and Saratoga, Calif., to Coeur

be lifted solely for the purpose of permitting joinder of the proposed route at the junction of New Jersey Highway 17 and the interchange of Interstate Highway 80 in Hackensack, N.J. for 180 days. matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and and those injurious or contaminating to other lading), serving the plantsite of R. G. LeTourneau Co. (Marathon LeTourneau Co.) near Vicksburg, Miss., as

thority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin*, between Miami, Fla., on the one hand, and, on the other, points in Boston, New York, Buffalo, Philadelphia, Cleveland, Cincinnati, Pittsburgh, Baltimore, Charlotte, Atlanta, Birmingham, Jacksonville, Nashville, New Orleans, Chicago, Detroit, St. Louis, Little Rock, Louisville, Memphis, Minneapolis, Helena, Kansas City, Missouri, Denver, Oklahoma, Omaha, Dallas, El Paso, Houston, San Antonio, San Francisco, Los Angeles, Portland, Seattle, Fort Knox, West Point, Salt Lake City, and Washington, D.C., for 180 days. Supporting shipper: General Services Administration, Washington, D.C. 20405. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC 75302 (Sub-No. 10 TA) (Correction), filed October 26, 1971, published FEDERAL REGISTER November 9, 1971, corrected and republished in part as corrected this issue. Applicant: DOUDELL TRUCKING COMPANY, Post Office Box 842, 545 Queens Row, San Jose, CA 95106. Applicant's representative: Raymond A. Greene, Jr., 405 Montgomery Street, San Francisco, CA 94104. NOTE: The purpose of this partial republication is to set forth the correct Docket No. MC 75302 (Sub-No. 10 TA), in lieu of No. MC 75302 (Sub-No. 8 TA), shown erroneously in previous publication. The rest of the notice remains the same.

No. MC 111812 (Sub-No. 437 TA) (Correction), filed September 29, 1971, published FEDERAL REGISTER October 16, 1971, corrected and republished in part as corrected this issue. Applicant: MIDWEST COAST TRANSPORT, INC., 405½ E. Eighth Street, Post Office Box 1233, Wilson Terminal Building, Sioux Falls, SD 57101. Applicant's representative: R. H. Jinks (same address as above). NOTE: The purpose of this partial republication is to add *cocoa butter* to the commodity description, which was inadvertently omitted in previous publication. The rest of the notice remains the same.

No. MC 118270 (Sub-No. 5 TA), filed November 11, 1971. Applicant: PRODUCE TRANSPORT SERVICE, INC., 181 West Ramapo Avenue, Mahwah, NJ 07430. Applicant's representative: Blanton P. Bergen, 137 East 36th Street, New York, NY 10016. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Charleston, S.C., to points in Pennsylvania, New York, New Jersey, Connecticut, Massachusetts, and Rhode Island, for 180 days. Supporting shipper: Chiquita Brands, Inc., 1250 Broadway, New York, NY 10001. Send protests to: District Supervisor Joel Morrows, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 123497 (Sub-No. 5 TA), filed November 11, 1971. Applicant: WOODLAND TRANSPORT, INC., Box 72, Siren, WI 54872. Applicant's representative: Marion I. Anderson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used snowmobiles*, from points in Wisconsin, Illinois, and Minnesota to points in Montana and Wyoming, and return, for 180 days. Supporting shippers: Waupaca Snowmobile Group, Waupaca, Wis.; Burnett County Snowmobile Organization, Siren, Wis.; Stage Coach Corp., West Yellowstone, Mont. Send protests to: District Supervisor Raymond T. Jones, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Court House, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 125254 (Sub-No. 11 TA), filed November 11, 1971. Applicant: DONALD L. MORGAN, doing business as MORGAN TRUCKING CO., 1201 East Fifth Street, Post Office Box 714, Muscatine, IA 52761. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk) from Iowa City, Iowa, to points in Minnesota (except St. Paul and Minneapolis), South Dakota, North Dakota, Missouri (except Kansas City and St. Louis and St. Joseph, Mo., and its commercial zone), Kansas (except Kansas City), Iowa, and Rock Island, Ill. Restriction: The authority sought herein is restricted to the transportation of shipments originating at the above-named origin and destined to the above-named destinations, for 180 days. Supporting shipper: Heinz U.S.A. Division of H. J. Heinz Co., Post Office Box 57, Pittsburgh, PA 15230. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 128343 (Sub-No. 18 TA), filed November 11, 1971. Applicant: C-LINE, INC., Touretellot Hill Road, Chepachet, R.I. 02814. Applicant's representative: Ronald N. Cobert, Suite 501, 1730 M Street NW., Washington, DC 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials, plastic products, and supplies* used in the manufacture and distribution thereof, between Jermone, Idaho, on the one hand, and, on the other, North Smithfield, R.I., Halls, Tenn., and ports of entry on the United States-Canada boundary line in Michigan, New York, and Vermont, for 180 days. Supporting shipper: The Tupperware Co., North Smithfield, R.I. 02895. Send protests to: Gerald H. Curry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 167 Westminster Street, Providence, RI 02903.

No. MC 135887 (Sub-No. 1 TA), filed November 11, 1971. Applicant: VOYNE E. GLEASON, Post Office Box 209, Coeur D'Alene, ID 83814. Applicant's representative: Joseph O. Earp, 411 Lyon Building, Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wine and malt beverages*, from Van Nuys, Azusa, Modesto, and Saratoga, Calif., to Coeur D'Alene, Idaho. Supporting shipper: Panhandle Distributors, Inc., Post Office Box 614, Coeur D'Alene, ID 83814. Send protests to: E. J. Casey, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 136100 (Correction), filed October 21, 1971, published FEDERAL REGISTER November 9, 1971, corrected and republished in part as corrected this issue. Applicant: K & K TRANSPORTATION CORP., 4515 North 24 Street, Omaha, NE 68110. Applicant's representative: Einar Viren, 904 City National Bank Building, Omaha, Nebr. 68102. NOTE: The purpose of this partial republication is to add "folding cartons and corrugated cases" to the commodity description in paragraph 2 above, which was inadvertently omitted in previous publication. The rest of the notice remains the same.

MOTOR CARRIER OF PASSENGERS

No. MC 668 (Sub-No. 96 TA), filed November 11, 1971. Applicant: INTER-CITY TRANSPORTATION CO., INC., 419 Anderson Avenue, Fairview, NJ 07022. Applicant's representative: Edward F. Bowes, 744 Broad Street, Newark, NJ 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage and express and newspapers* in the same vehicle with passengers, (1) between Ridgefield Park, and Hackensack, N.J., from the junction of U.S. Highway 46 and Interstate Highway 95 (New Jersey Turnpike), Ridgefield Park, N.J., over Interstate Highway 95 to junction Interstate Highway 80 and Interstate Highway 95 in Teaneck at the Ridgefield Park-Teaneck boundary line, then over Interstate Highway 80 to the interchange of Interstate Highway 80 at junction New Jersey Highway 17, then over the interchange to New Jersey Highway 17, and return over the same route, for operating convenience only, serving no intermediate points; (2) between Hackensack, N.J., and Hackensack, N.J., from Interstate Highway 80 interchange at the junction of Interstate Highway 80 and New Jersey Highway 17, over Interstate Highway 80 to the interchange of Interstate Highway 80 at Polifly Road, then over the Interchange to junction Polifly Road, then over Polifly Road to junction Essex Street, then over Essex Street to junction Summit Avenue and return over the same routes, for operating convenience only, serving no intermediate points; and (3) in conjunction with this proposed service on New Jersey Highway 17 the applicant already is authorized to operate with closed doors on New Jersey Highway 17 at the junction of New Jersey Highway 17 and the interchange with Interstate Highway 80 in Hackensack, N.J. It is requested that the existing restriction against service on New Jersey Highway 17 at such junction

be lifted solely for the purpose of permitting joinder of the proposed route at the junction of New Jersey Highway 17 and the interchange of Interstate Highway 80 in Hackensack, N.J., for 180 days.

NOTE: The applicant proposes to join the above-described routes (a) to its existing 41 route between Midland Park and New York, N.Y., over the Lincoln Tunnel, serving the intermediate points of Ridgewood, Hawthorne, Glen Rock, and Fair Lawn; and (b) to its existing 35 line between Ridgewood, N.J., and New York, N.Y., over the Lincoln Tunnel serving the intermediate points of Ridgewood, Paramus, Rochelle Park, Maywood, and Hackensack, N.J., with service at Hackensack limited to Hackensack, N.J., west and north of the junction of Essex Street and Summit Avenue including such junction. Supported by: W. C. White, 476 Sutton Avenue, Hackensack, NJ, and approximately 280 other passengers signatures on file at Newark, N.J., Interstate Commerce Commission field office. Send protests to: District Supervisor Joel Morrows, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-17295 Filed 11-24-71;8:54 am]

[Notice 98]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

NOVEMBER 19, 1971.

The following applications are governed by Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with § 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of § 1.247(d)(4) of the special rules, and shall include the certification required therein.

Section 1.247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's General Policy Statement Concerning Motor Carrier Licensing Procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 2202 (Sub-No. 398) (Amendment), filed August 24, 1971, published in the FEDERAL REGISTER issue of October 7, 1971 and republished in part as amended this issue. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, OH 44309. Applicant's representative: James W. Conner (same address as applicant). NOTE: The purpose of this partial republication is to show that applicant seeks to serve Myrtle Grove, La., in lieu of Alliance, La., as was shown in the previous publication. The rest of the application remains as previously published.

No. MC 2229 (Sub-No. 166), filed October 14, 1971. Applicant: RED BALL MOTOR FREIGHT, INC., 3177 Irving Boulevard, Post Office Box 47407, Dallas, TX 75247. Applicant's representative: Martin B. Turner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading), serving the plantsite of R. G. LeTourneau Co. (Marathon LeTourneau Co.) near Vicksburg, Miss., as off-route point in connection with carrier's regular route operations at Vicksburg, Miss., and serving no intermediate points. NOTE: If a hearing is deemed necessary, applicant requests it be held at Vicksburg or Jackson, Miss.

No. MC 2900 (Sub-No. 216), filed October 18, 1971. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, FL 32203. Applicant's representative: John Carter (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *Candy and confectionery:* (1) over regular route: Serving the plantsite and storage facilities of Peter Paul, Inc., at or near Frankfort, Ind., as an off-route point in connection with applicant's presently authorized regular-route operations between Chicago, Ill., and Indianapolis, Ind.; and (2) over irregular routes: Transporting *food, foodstuffs and food preparations*, from Kendallville, Ind., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, New York, North Carolina, Pennsylvania, South Carolina, and Tennessee. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 4405 (Sub-No. 488), filed October 20, 1971. Applicant: DEALERS TRANSIT, INC., 7701 South Lawndale Avenue, Chicago, IL 60652. Applicant's representative: Robert E. Joyner, 2111 Sterick Building, Memphis, TN 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal buildings, wall sections and parts thereof*, from Indiana County, Pa., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 9050 (Sub-No. 32), filed October 22, 1971. Applicant: SEEGER BROS., a corporation, Hillside Avenue, Kenvil, NJ 07847. Applicant's representative: James J. Farrell, 206 North Boulevard, Belmar, NJ 07719. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Classes A, B and C explosives, ammonium nitrate and nitro-carbo-nitrate*, between McAdery, Ala., on the one hand, and, on the other, points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, under contract with Hercules, Inc., Wilmington, Del. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

[1] Copies of Special Rule 1.247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

No. MC 10761 (Sub-No. 259), filed October 19, 1971. Applicant: TRANSAMERICAN FREIGHT LINES, INC., 1700 North Waterman Avenue, Detroit,

Dakota, South Dakota, Nebraska, Minnesota, Wisconsin, Michigan, Illinois, Indiana, Missouri, Kansas, Colorado, Wyoming, Montana, Ohio, Pennsylvania, and

Oxford, and Oxford Junction. NOTE: Applicant herein seeks to add Carter Lake, Iowa, and Council Bluffs, Iowa, with its presently held authority and convert its Certificate of Registration to a Certificate

over the same route; (6) from Los Angeles over U.S. Highway 66 to Fontana and return over the same route; (7) from Los Angeles over U.S. Highway 66-A to junction U.S. Highway 66 (near Arcadia), and return over the same route; (8) from

Conejo, Laton, Hanford, Guernsey, Corcoran, Stoil, and Allensworth to Earlimart and return over the same route; (27) from Laton over unnumbered highways to Kingsburg and return over the same route; (28) from Hanford over

tion U.S. Highway 101 (near La Habra), thence over U.S. Highway 101 to junction U.S. Highway 101 Bypass (near Anaheim) and return over the same route; (46) from junction U.S. Highway 101

No. MC 10761 (Sub-No. 259), filed October 19, 1971. Applicant: TRANS-AMERICAN FREIGHT LINES, INC., 1700 North Waterman Avenue, Detroit, MI 48209. Applicant's representative: A. Alvis Layne, Pennsylvania Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, and household goods as defined by the Commission), serving the plantsite of PPG Industries at or near Mount Holly Springs, Pa., as an off-route point in connection with presently authorized regular-route operations to and from Harrisburg, Pa. NOTE: If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa.

No. MC 10761 (Sub-No. 260), filed October 21, 1971. Applicant: TRANS-AMERICAN FREIGHT LINES, INC., 1700 North Waterman Avenue, Detroit, MI. 48209. Applicant's representative: A. Alvis Layne, Pennsylvania Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Mattoon, Ill., to points in Connecticut, Delaware, Georgia, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, restricted to the transportation of traffic originating at the above-named origin point and destined to the above-named destinations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 17091 (Sub-No. 8), filed October 25, 1971. Applicant: ISAAC JONES, JR., 321 Lexington Avenue, Pitman, NJ 08071. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap materials* in dump vehicles, from Danbury, Conn., to Reading and Sinking Spring, Pa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Danbury, Conn., or Philadelphia, Pa.

No. MC 20992 (Sub-No. 22), filed October 21, 1971. Applicant: DOTSETH TRUCK LINE, INC., Knapp, Wis. 54749. Applicant's representative: Gary L. Bakke, New Richmond, Wis. 54017. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery, parts and attachments*, (1) from Green Isle, Minn., to points in North Dakota, South Dakota, Nebraska, Iowa, Wisconsin, Michigan, Illinois, Indiana, Missouri, Kansas, Colorado, Wyoming, Montana, Ohio, Pennsylvania, and New York; (2) from Grinnell, Iowa, to points in North Dakota, South Dakota, Nebraska, Minnesota, Wisconsin, Michigan, Illinois, Indiana, Missouri, Kansas, Colorado, Wyoming, Montana, Ohio, Pennsylvania, and New York; and (3) from Greeley, Colo., to points in North Dakota, South Dakota, Nebraska, Iowa, Wisconsin, Michigan, Illinois, Indiana, Missouri, Kansas, Minnesota, Wyoming, Montana, Ohio, Pennsylvania, and New York. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Madison, Wis.

No. MC 21337 (Sub-No. 3), filed September 20, 1971. Applicant: RAPID FILM SERVICE, INC., East Hi-Way 30, Grand Island, Nebr. 68661. Applicant's representative: George H. Fabian, 1116 South Sixth Street, Omaha, NE. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motion picture film and commodities generally*, (1) between Carter Lake and Council Bluffs, Iowa, and Omaha, Nebr., over U.S. Highways 30 and 6 to the junction with U.S. Highway 275, thence on U.S. Highway 275 to Fremont, thence over U.S. Highway 30 to Grand Island, Nebr., all intermediate points to be served; no off-route points to be served; (2) between Grand Island and Gothenburg, Nebr., from Grand Island over U.S. Highway 30, to Farnam over Nebraska Highway 47; thence to Holdrege over Nebraska Highway 23; thence south to Alma over U.S. Highway 183; thence over U.S. Highway 136 to Franklin; thence to Minden over Nebraska Highway 10 and return to Grand Island over U.S. Highway 34, all intermediate points to be served, serving the off-route points of Kenesaw and Doniphan; (3) from Grand Island, Nebr., in the following circular manner; north over U.S. Highway 281 to Greeley; thence south from Greeley over U.S. Highway 281 to the junction with Nebraska Highway 22; thence over Nebraska Highway 22 to Scotia; thence over Nebraska Highway 11 to Burwell; thence over Nebraska Highway 91 to Taylor; thence over U.S. Highway 183 to the junction with Nebraska Highway 70; thence over Nebraska Highway 70 to Broken Bow; thence over Nebraska Highway 92 to Loup City; thence over Nebraska Highway 10 to junction with Nebraska Highway 2; thence over Nebraska Highway 2 to Grand Island, serving all intermediate points; serving the off-route points of Comstock, Arcadia, and Mason City, Nebr. Service between Grand Island and Broken Bow, Nebr., over Nebraska Highways 2 and 92; service between Grand Island and Broken Bow, Nebr., over Nebraska Highway 281 to St. Paul and thence over Nebraska Highway 92 to Broken Bow, Nebr., and (4) between Holdrege and Alma, Nebr., in a circuitious manner; southwest over U.S. Highway 6 to Cambridge; thence over Nebraska Highway 47 to the junction with Nebraska Highway 89; thence over Nebraska Highway 89 to Alma and return to Holdrege over U.S. Highway 183, serving all intermediate points and the off-route points of Edison, Oxford, and Oxford Junction. NOTE: Applicant herein seeks to add Carter Lake, Iowa, and Council Bluffs, Iowa, with its presently held authority and convert its Certificate of Registration to a Certificate of Public Convenience and Necessity. If a hearing is deemed necessary, applicant requests it be held at Omaha or Lincoln, Nebr.

No. MC 27617 (Sub-No. 98), filed October 14, 1971. Applicant: H. C. GABLER, INC., Rural Delivery No. 3, Chambersburg, PA 17201. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pet food*, from Baltimore, Md., to Cleveland, Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Washington, D.C.

No. MC 30606 (Sub-No. 147), filed September 22, 1971. Applicant: THE SANTA FE TRAIL TRANSPORTATION COMPANY, a corporation, 433 East Waterman Street, Wichita, KS 67201. Applicant's representative: F. J. Steinbrecher, 80 East Jackson Boulevard, Chicago, IL 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except liquid nitroglycerine, commodities of unusual value, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (A) between Los Angeles International Airport, San Francisco International Airport, and points in California as follows: (1) Between Fontana, Calif., and the plant of Kaiser Co., Inc., located 3 miles west of Fontana, serving no intermediate points: (a) From Fontana over Arrow Boulevard to Cherry Street, thence over Cherry Street to the plant of Kaiser Co., Inc., and return over the same route; (b) from Fontana over Foothill Boulevard to Cherry Street, thence over Cherry Street to the plant of Kaiser Co., Inc., and return over the same route, and (c) from Fontana over Merrill Street to Cherry Street, thence over Cherry Street to the plant of Kaiser Co., Inc., and return over the same route; (2) from San Francisco over U.S. Highway 50 to junction California Highway 120 (near Lathrop), and thence over California Highway 120 to Manteca, and return over the same route; (3) from San Francisco over Interstate Highway 80 to junction California Highway 4 [2] near Rodeo), thence over California Highway 4 to junction U.S. Highway 99 (near Stockton), and thence over U.S. Highway 99 to Manteca, and return over the same route; (4) From Manteca over U.S. Highway 99 to Los Angeles, and return over the same route; (5) from Los Angeles over city streets, through Inglewood, El Segundo, Redondo Beach, and Wilmington, to San Pedro and Long Beach and return

[2] Changed from California Highway 40 to California Highway 4.

over the same route; (6) from Los Angeles over U.S. Highway 66 to Fontana and return over the same route; (7) from Los Angeles over U.S. Highway 66–A to junction U.S. Highway 66 (near Arcadia), and return over the same route; (8) from Los Angeles over U.S. Highway 101 or Interstate Highway 5 to San Diego and National City and return over the same route; (9) from Los Angeles over U.S. Highway 101 Bypass or Interstate Highway 5 to junction U.S. Highway 101 (near Orange), and return over the same route; (10) from junction U.S. Highway 101 Bypass or Interstate Highway 5 and Commonwealth Avenue, in Buena Park, over Commonwealth Avenue to Fullerton, thence over California Highway 14 to junction California Highways 14 and 18 (east of Olive), and return over the same route; (11) from Santa Ana over Interstate Highway 5 to Orange, thence over unnumbered highways to Olive and thence over California Highway 18 to junction California Highways 14 and 18 (east of Olive), and return over the same route; (12) from junction California Highways 14 and 18 (east of Olive) to junction California Highway 91, thence over California Highway 91 to Riverside and thence over U.S. Highway 395 to Colton and return over the same route; (13) from Corona over California Highway 71 to Elsinore and return over the same route; (14) from Riverside over U.S. Highway 395 to Perris, thence over California Highway 74 to Hemet and thence over California Highway 79 to San Jacinto and return over the same route; (15) from Oakland over California Highway 24 to junction California Highways 4 and 24 (near Concord) and thence over California Highways 4 and 24 to Pittsburg and return over the same route; (16) from junction U.S. Highway 50 and California Highway 120 (near Lathrop) over U.S. Highway 50 to Stockton and return over the same route; (17) from Turner over an unnumbered highway to Simms and return over the same route; (18) From Manteca over California Highway 120 to Oakdale and return over the same route; (19) from Salida over unnumbered highways, through Riverbank to Oakdale and return over the same route; (20) from Modesto over unnumbered highway to Escalon and return over the same route; (21) from Modesto over California Highway 132 to Empire and thence over unnumbered highways through Hughson and Denair to Turlock and return over the same route; (22) from Ceres over an unnumbered highway to Hughson and return over the same route; (23) from Livingston over unnumbered highways, through Winton to Atwater and return over the same route; (24) from Merced over California Highway 140 to Planada and thence over unnumbered highways, through Le Grand, to Minturn and return over the same route; (25) from Le Grand over unnumbered highway to junction California Highway 99 and return over the same route; (26) from Fresno over California Highway 41 to junction unnumbered highway (west of Conejo) and return over unnumbered highways, through Conejo, Laton, Hanford, Guernsey, Corcoran, Stoil, and Allensworth to Earlimart and return over the same route; (27) from Laton over unnumbered highways to Kingsburg and return over the same route; (28) from Hanford over California Highway 198 to Wisalia and return over the same route; (29) from Corcoran over unnumbered highways to Tulare and return over the same route; (30) from Corcoran over unnumbered highways to Tipton and thence over California Highway 190 to Porterville and return over the same route; (31) from Stoil over an unnumbered highway to Alpaugh and return over the same route; (32) from junction California Highway 99 and an unnumbered highway (south of Delano) over that unnumbered highway to Pond, thence over unnumbered highways, through Wasco, to Shafter, and thence over Lerdo Road to Lerdo and return over the same route; (33) from Wasco over an unnumbered highway to junction California Highway 99 and return over the same route;

(34) From Shafter over an unnumbered highway to junction with California Highway 178, thence over California Highway 178 to Bakersfield and return over the same route; (35) from Fresno over California Highway 180 to Minkler, thence over an unnumbered highway to Reedley and return over the same route; (36) from Minkler over unnumbered highways to Orange Cove and return over the same route; (37) from Cutler over unnumbered highways to junction California Highway 65, thence over California Highway 65 to Exeter and return over the same route; (38) from Porterville over California Highway 65 to junction unnumbered highway (formerly California Highway 65) (near Ducor, Calif.), thence over unnmbered highway to junction California Highway 99 (near Famosa) and return over the same route; (39) from Redondo Beach over city streets through Torrance, to Wilmington and return over the same route; (40) from Azusa over Azusa Avenue to junction California Highway 99 (near West Covina) and return over the same route; (41) from junction U.S. Highway 66 and California Highway 71 (near Claremont) over California Highway 71 to junction California Highway 99 (near Pomona) and return over the same route; (42) from junction U.S. Highway 66 and Archibald Avenue (near Cucamonga) over Archibald Avenue to junction California Highway 99 (near Guasti) and return over the same route; (43) from junction U.S. Highway 66 and Cherry Avenue (near plant of Kaiser Co., Inc.) over Cherry Avenue to junction California Highway 99 and return over the same route; (44) from junction U.S. Highway 66 and Sierra Avenue (near Fontana) over Sierra Avenue to junction California Highway 99 and return over the same route;

(45) From Los Angeles over U.S. Highway 101 to junction California Highway 35 (near Pico), thence over California Highway 35 to Santa Fe Springs, thence over Anaheim-Telegraph Road, Leffingwell Road, and Central Avenue to junction U.S. Highway 101 (near La Habra), thence over U.S. Highway 101 to junction U.S. Highway 101 Bypass (near Anaheim) and return over the same route; (46) from junction U.S. Highway 101 Bypass and California Highway 19 (near Rivera) over unnumbered highway to Santa Fe Springs and thence over California Highway 35 to junction U.S. Highway 101 Bypass (near Norwalk) and return over, the same route; (47) from junction Anaheim-Telegraph Road and Valley View Avenue over unnumbered highway to junction U.S. Highway 101 Bypass (near Buena Park) and return over the same route; (48) from Linda Vista over an unnumbered highway to junction with Interstate Highway 5 (near San Diego) and return over the same route; (49) from junction U.S. Highway 101 Bypass and California Highway 91 (near Anaheim) over California Highway 91 to Olive and return over the same route; (50) from junction U.S. Highway 101 and Chapman Avenue (near Fullerton) over Chapman Avenue to junction California Highway 55 (near Atwood) and return over the same route; (51) from junction California Highways 18 and 55 (near Olive) over California Highway 55 to junction U.S. Highway 101 (near Tustin) and return over the same route; (52) from junction U.S. Highway 395 and Iowa Avenue (near Highgrove) over Iowa Avenue to junction U.S. Highways 395 and 60 (near Riverside) and return over the same route; (53) from junction California Highway 74 and an unnumbered highway (west of Hemet) over unnumbered highway to Winchester and return over the same route, serving all intermediate points served by the Atchison, Topeka, and Santa Fe Railway Co., on the routes specified above; and

(54) Between Santa Ana, Calif., and the U.S. Army Air Corps Replacement Center approximately 6 miles southwest of Santa Ana, as an off-route point in connection with applicant's regular route operations, serving no intermediate points; and (B) between Houston Inter-Continental Airport, Dallas Love Field Airport, Dallas-Fort Worth Regional Airport (now under construction), Fort Worth Greater Southwest International Airport, Amarillo Air Terminal, and points in Texas and Oklahoma as follows: (1) Between Fort Worth, Tex., and junction unnumbered highway and U.S. Highway 77 (approximately 7½ miles south of Sanger, Tex.): From Fort Worth over unnumbered highway via Haslet, Justin, Ponder, and Krum, Tex., to junction U.S. Highway 77, and return over the same route. Service is authorized to and from all intermediate points; (2) between Dallas, Tex., and Lubbock, Tex.: From Dallas over U.S. Highway 80 to Fort Worth, Tex., thence over U.S. Highway 377 to Stephenville, Tex., thence over U.S. Highway 67 to Coleman, Tex., thence over U.S. Highway 84 via Abilene, Tex., to Lubbock and return over the same route. Service is authorized to and from all intermediate points; (3) between Coleman, Tex., and Ballinger, Tex.: From Coleman over U.S.

Highway 67 to Ballenger and return over the same route. Service is authorized to and from all intermediate points; (4) between San Angelo, Tex., and junction U.S. Highways 83 and 84 at or near Tuscola, Tex., thence over Farm-to-Market Road No. 600 to junction U.S. Highway 84, thence over U.S. Highway 84 to Lubbock, Tex., and return over the same route. Service is authorized to and from all intermediate points; (5) between Lubbock, Tex., and junction U.S. Highways 84 and 62 at or near Post, Tex., over U.S. Highway 84, serving all intermediate points; (6) between Lubbock, Tex., and junction U.S. Highways 62 and 82 at or near Wilson, Tex., over U.S. Highway 62, serving all intermediate points; (7) between Lubbock, Tex., and junction U.S. Highways 62 and 70 at or near Crowell, Tex., over U.S. Highway 62, serving all intermediate points; (8) between Lubbock, Tex., and junction U.S. Highways 62 and 287 at or near Quanah, Tex., over U.S. Highway 62, serving all intermediate points; (9) between Lubbock, Tex., and junction U.S. Highways 62 and 277 at or near Vernon, Tex., over U.S. Highway 62, serving all intermediate points; (10) between Lubbock, Tex., and junction U.S. Highways 62 and 82 at or near Wichita Falls, Tex., over U.S. Highway 62, serving all intermediate points; (11) between Lubbock, Tex., and junction U.S. Highways 62 and 287 at or near Electra, Tex., over U.S. Highway 62, serving all intermediate points; (12) between Lubbock, Tex., and junction U.S. Highways 62 and 81 at or near Henrietta, Tex., over U.S. Highway 62, serving all intermediate points; (13) between Lubbock, Tex., and junction U.S. Highways 62 and 281 at or near Jacksboro, Tex., over U.S. Highway 62, serving all intermediate points; (14) between Lubbock, Tex., and junction U.S. Highways 62 and 81 at or near Bowie, Tex., over U.S. Highway 62, serving all intermediate points; (15) between Lubbock, Tex., and junction U.S. Highways 62 and 287 at or near Decatur, Tex., over U.S. Highway 62, serving all intermediate points; (16) between Lubbock, Tex., and junction U.S. Highways 62 and 81 at or near Decatur, Tex., over U.S. Highway 62, serving all intermediate points; (17) between Lubbock, Tex., and junction U.S. Highways 62 and 287 at or near Paradise, Tex., over U.S. Highway 62, serving all intermediate points; (18) between Lubbock, Tex., and junction U.S. Highways 62 and 81 at or near Decatur, Tex., over U.S. Highway 62, serving all intermediate points; (19) between Lubbock, Tex., and junction U.S. Highways 62 and 287 at or near Paradise, Tex., over U.S. Highway 62, serving all intermediate points; (20) between Lubbock, Tex., and junction U.S. Highways 62 and 81 at or near Bowie, Tex., over U.S. Highway 62, serving all intermediate points; (21) between Lubbock, Tex., and junction U.S. Highways 62 and 287 at or near Electra, Tex., over U.S. Highway 62, serving all intermediate points; (22) between Lubbock, Tex., and junction U.S. Highways 62 and 82 at or near Wichita Falls, Tex., over U.S. Highway 62, serving all intermediate points; (23) between Lubbock, Tex., and junction U.S. Highways 62 and 277 at or near Vernon, Tex., over U.S. Highway 62, serving all intermediate points; (24) between Lubbock, Tex., and junction U.S. Highways 62 and 70 at or near Crowell, Tex., over U.S. Highway 62, serving all intermediate points; (25) between Lubbock, Tex., and junction U.S. Highways 62 and 82 at or near Wilson, Tex., over U.S. Highway 62, serving all intermediate points; (26) between Lubbock, Tex., and junction U.S. Highways 84 and 62 at or near Post, Tex., over U.S. Highway 84, serving all intermediate points; (27) between Denton, Tex., and Krum, Tex., serving all intermediate points: From Denton over Texas Highway 24 to junction Texas Highway 156 (formerly shown as unnumbered highway), thence over Texas Highway 156 to Krum, and

Lamesa, Tex., and Slaton, Tex., and all intermediate points: From Lamesa over U.S. Highway 87 to junction Farm-to-Market Road No. 400 north of Tahoka, Tex., thence over Farm-to-Market Road Commercial Street, Waterloo, IA 50704. Applicant's representative: Truman A. Stockton, Jr., 1650 Grant Street Building, Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plantsite of Kaiser Steel Corporation at or near Fontana, Calif., to points in Arizona, Colorado, Idaho, Nevada, Oregon, Utah, Washington, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 30844 (Sub-No. 378), filed October 26, 1971. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA 50704. Applicant's representative: Truman A. Stockton, Jr., 1650 Grant Street Building, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the plantsite of Iowa Beef Packers, Inc., at or near Mount Holly Springs, Pa., to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. NOTE: The sole purpose of this partial republication is to correctly reflect the location of the PPG Industries, Inc., plantsite as being at or near Mount Holly Springs, Pa., in lieu of Holly Springs, Pa., which was inadvertently shown in the original publication. The rest of the application remains the same.

Highway 67 to Ballenger and return over the same route. Service is authorized to and from all intermediate points; (4) between San Angelo, Tex., and junction U.S. Highways 83 and 84 at or near Tuscola, Tex.: From San Angelo over U.S. Highway 67 to Ballenger, Tex., thence over U.S. Highway 83 to junction U.S. Highway 84 and return over the same route. Service is authorized to and from all intermediate points; (5) between Snyder, Tex., and Lamesa, Tex.: From Snyder over Texas Highway 15 to Lamesa and return over the same route. Service is authorized to and from all intermediate points;

(6) Between Lubbock, Tex., and the site of the Government Bomber Air Field, approximately 9 miles west of Lubbock: From Lubbock over Texas Highway 290 to the site of the Government Bomber Air Field and return over the same route. Service is authorized to and from all intermediate points; (7) between Galveston, Tex., and Rosenberg, Tex.: From Galveston, over Texas Highway 6 to junction U.S. Highway 90–A, thence over U.S. Highway 90–A to Rosenberg and return over the same route; (8) between Richmond, Tex., and Thompsons, Tex.: From Richmond over U.S. Highway 90–A to junction unnumbered highway, thence over said unnumbered highway via Crabb and Booth, Tex., to Thompsons and return over the same route; (9) between junction Texas Highway 6 and unnumbered highway east of Duke, Tex., and Duke, Tex.: From junction Texas Highway 6 and unnumbered highway over said unnumbered highway to Duke and return over the same route; (10) between Texas City, Tex., and junction Texas Highway 6 and U.S. Highway 75: From Texas City over Texas Highway 146 to junction U.S. Highway 75 and thence over U.S. Highway 75 to junction Texas Highway 6 and return over the same route; (11) between Houston, Tex., and Alvin, Tex.: From Houston over Texas Highway 35 to Alvin and return over the same route. Service is authorized to and from all intermediate points in (7) through (11) above; (12) between Houston, Tex., and Bellville, Tex.: From Houston over Alternate U.S. Highway 90 to Rosenberg, Tex., and thence over Texas Highway 36 to Bellville and return over the same route. Service is authorized to and from the intermediate points between Rosenberg and Bellville; (13) between Houston, Tex., and Beaumont, Tex., serving no intermediate points: From Houston over U.S. Highway 90 to Beaumont and return over the same route; (14) between Beaumont, Tex., and Longview, Tex., serving all intermediate points: From Beaumont over U.S. Highway 96, via Silsbee, Kirbyville, and San Augustine to Tenaha, Tex., thence over U.S. Highway 59 to Carthage, Tex., thence over Texas Highway 149 to Longview and return over the same route;

(15) Between Dallas, Tex., and Longview, Tex., serving no intermediate points: From Dallas over Interstate Highway 20 to Longview and return over the same route; (16) between Lamesa, Tex., and Slaton, Tex., and all intermediate points: From Lamesa over U.S. Highway 87 to junction Farm-to-Market Road No. 400 north of Tahoka, Tex., thence over Farm-to-Market Road No. 400 to junction U.S. Highway 84, thence over U.S. Highway 84 to Slaton and return over the same route; (17) between Brownwood, Tex., and Bellville, Tex., serving all intermediate points: From Brownwood, Tex., over U.S. Highway 84–183 to Goldthwaite, Tex., thence over U.S. Highway 183 to Lometa, Tex., thence over U.S. Highway 190 to junction U.S. Highway 81, 1 mile south of Belton, Tex., thence over U.S. Highway 81 to Temple, Tex., thence over Texas Highway 36 to Bellville and return over the same route; (18) between Houston, Tex., and Brenham, Tex., as an alternate route for operating convenience only; serving no intermediate points: From Houston over U.S. Highway 290 to Brenham and return over the same route; (19) between Lubbock, Tex., and Amarillo, Tex., serving all intermediate points: From Lubbock over U.S. Highway 87 to Amarillo and return over the same route; (20) between Lubbock, Tex., and Seagraves, Tex., serving all intermediate points: From Lubbock over U.S. Highway 62 to Seagraves and return over the same route;

(21) Between Fort Worth, Tex., and Temple, Tex., serving all intermediate points: From Forth Worth over U.S. Highway 81 to junction Texas Highway 174, thence over Texas Highway 174 to junction Texas Highway 6, thence over Texas Highway 6 to junction Texas Highway 317, thence over Texas Highway 317 to Texas Highway 36, thence over Texas Highway 36 to Temple and return over the same route; (22) between Cleburne, Tex., and Dallas, Tex., serving all intermediate points: From Cleburne over U.S. Highway 67 to Dallas and return over the same route; (23) between junction Texas Highways 67 and 174 and Blum, Tex., serving all intermediate points: From junction Texas Highways 67 and 174 over Texas Highway 174 to junction unnumbered highway, thence over unnumbered highway to Blum and return over the same route; (24) between junction Texas Highway 174 and Texas Spur Road 1859 and Kopperl, Tex., serving all intermediate points: From junction Texas Highway 174 and Texas Spur Road 1859 over Texas Spur Road 1859 to Kopperl and return over the same route; (25) between junction U.S. Highway 81 and Texas Farm Road 731 and Crowley, Tex., serving all intermediate points: From junction U.S. Highway 81 and Texas Farm Road 731 over Texas Farm Road 731 to Crowley and return over the same route; (26) between Dallas, Tex., and Sanger, Tex., serving all intermediate points: From Dallas over U.S. Highway 77 to junction Interstate Highway 35E (formerly shown as unnumbered highway), thence over Interstate Highway 35E via Denton, Tex., to junction U.S. Highway 77, thence over U.S. Highway 77 to Sanger and return over the same route;

(27) between Denton, Tex., and Krum, Tex., serving all intermediate points: From Denton over Texas Highway 24 to junction Texas Highway 156 (formerly shown as unnumbered highway), thence over Texas Highway 156 to Krum and return over the same route; (28) between Amarillo, Tex., and Woodward, Okla., serving all intermediate points: From Amarillo, Tex., over U.S. Highway 60 to Texas–Oklahoma State line, thence over Oklahoma Highways 51 and 15 to Woodward and return over the same route;

(29) Between Lubbock, Tex., and Fort Sumner, N. Mex., serving all intermediate points, and the off-route points of the site of the Southwestern Public Service Co. generating plant, located approximately nine and one-half miles north of Amherst, Tex.: From Lubbock over U.S. Highway 84 to Farwell, Tex., thence over U.S. Highway 60 to Fort Sumner and return over the same route; (30) between Lubbock, Tex., and Levelland, Tex., serving all intermediate points: From Lubbock over Texas Highway 116 to Levelland and return over the same route; (31) between Levelland, Tex., and Littlefield, Tex., serving no intermediate points: From Levelland, Tex., over U.S. Highway 385 to Littlefield, Tex., and return over the same route, serving no intermediate points; and (32) between Canyon, Tex., and Farwell, Tex., serving all intermediate points: From Canyon over U.S. Highway 60 to Farwell and return over the same route. Restriction: The service authorized herein is subject to the following conditions: The service to be performed by carrier shall be limited to those shipments which have a prior or subsequent movement by air, by or on behalf of, Santa Fe Air Freight Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 30844 (Sub-No. 373), filed October 18, 1971. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA 40704. Applicant's representative: Truman A. Stockton, Jr., 1650 Grant Street Building, Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Infants and children's clothing and supplies*, from Eldora, Iowa, to points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, Virginia, South Carolina, Tennessee, Texas, Vermont, West Virginia, Wisconsin, and the District of Columbia. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 30844 (Sub-No. 375), filed October 26, 1971. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA 50704. Applicant's representative: Truman A. Stockton, Jr., 1650 Grant Street Building, Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, from New Hampton, Iowa to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to shipments originating at the plantsites and facilities of Kitchens of Sara Lee at New Hampton, Iowa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 30844 (Sub-No. 376), filed October 26, 1971. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA 50704. Applicant's representative: Truman A. Stockton, Jr., 1650 Grant Street Building, Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such materials, supplies and ingredients* as are used in the food processing industry, from points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois (except Chicago and commercial zone), Indiana, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin to warehouses and facilities utilized by Kitchens of Sarah Lee in Iowa and Minnesota. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 30844 (Sub-No. 377), filed October 26, 1971. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA 50704. Applicant's representative: Truman A. Stockton, Jr., 1650 Grant Street Building, Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, from New Hampton, Iowa, to points in Illinois on and north of U.S. Highway 36; points in Iowa, Kentucky, Michigan, Minnesota, and Wisconsin, restricted to shipments originating at the plantsites and facilities of Kitchens of Sara Lee at New Hampton, Iowa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 30844 (Sub-No. 378), filed October 26, 1971. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA 50704. Applicant's representative: Truman A. Stockton, Jr., 1650 Grant Street Building, Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, from New Hampton, Iowa, to points in Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee, restricted to shipments originating at the plantsites and facilities of Kitchens of Sara Lee at New Hampton, Iowa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 30844 (Sub-No. 379), filed November 1, 1971. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA 50704. Applicant's representative: Truman S. Stockton, Jr., 1650 Grant Street Building, Denver, Colo. 80203. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses* as described in sections A, B, and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and warehouse facilities utilized by Wilson Certified Foods, Inc., at Oklahoma City, Okla., to points in Massachusetts, Rhode Island, Connecticut, Michigan, New York, New Jersey, Delaware, Maryland, District of Columbia, and Chicago, Ill. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. Applicant states the purpose of this application is for gateway elimination and circuitous miles. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 55822 (Sub-No. 12) (Amendment), filed September 22, 1971, published in the FEDERAL REGISTER issue of October 21, 1971, and republished in part as amended this issue. Applicant: VICTORY EXPRESS, INC., 2600 Willowburn Avenue, Dayton, OH 45427. Applicant's representative: Harold G. Hernly, Jr., Arlington, VA 22201. NOTE: The purpose of this partial republication is to add Dayton, Ohio, as an origin point in addition to Palatka, Fla. The rest of the application remains as previously published.

No. MC 72442 (Sub-No. 36) (Correction), filed October 4, 1971, published in the FEDERAL REGISTER issue of November 4, 1971, and republished in part as corrected this issue. Applicant: AKERS MOTOR LINES, INCORPORATED, Post Office Box 579, Gastonia, NC 28052. Applicant's representative: Paul M. Daniell, Post Office Box 872, Atlanta, GA 30301. NOTE: The sole purpose of this partial republication is to correctly reflect the location of the PPG Industries, Inc., plantsite as being at or near Mount Holly Springs, Pa., in lieu of Holly Springs, Pa., which was inadvertently shown in the original publication. The rest of the application remains as previously published.

No. MC 73688 (Sub-No. 51), filed October 21, 1971. Applicant: SOUTHERN TRUCKING CORPORATION, 1500 Orenda Avenue, Post Office Box 7182, Memphis, TN 38107. Applicant's representative: Charles H. Hudson, Jr., 601 Stahlman Building, Nashville, Tenn. 37201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel and iron and steel articles*, between Newport, Ark., on the one hand, and, on the other, points in Iowa, Kansas, Missouri, Illinois, Indiana, Alabama, Kentucky, Tennessee, Arkansas, Oklahoma, Texas, Louisiana, Mississippi, Georgia, and Ohio; and (2) *materials, equipment, and supplies* used in the manufacturing, sale, and distribution of iron and steel articles, from points in Iowa, Kansas, Mississippi, Missouri, Illinois, Indiana, Alabama, Kentucky, Tennessee, Arkansas, Oklahoma, Texas, Louisiana, Georgia, and Ohio, to Newport, Ark. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark., or Memphis, Tenn.

No. MC 74447 (Sub-No. 13), filed October 15, 1971. Applicant: PASCO SALVINO, doing business as P. SALVINO TRANSPORT, 6615 Corson Avenue South, Seattle, WA 98108. Applicant's representative: Joseph O. Earp, 411 Lyon Building, Seattle, WA 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper or pulpboard*, not corrugated, from Tacoma, Wash., to Canby, Oreg., under contract with Container Corp. of America. NOTE: If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 82492 (Sub-No. 61), filed October 19, 1971. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, Kalamazoo, MI 49003. Applicant's representative: William C. Harris, Post Office Box 2653, Kalamazoo, MI 49003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Fremont and Omaha, Nebr., to Covington and Louisville, Ky., and points in Indiana, Michigan, and Ohio, restricted to traffic originating at the named origins and destined to the named destination territory. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 82841 (Sub-No. 86), filed October 22, 1971. Applicant: HUNT TRANSPORTATION, INC., 801 Livestock Exchange Building, Omaha, Nebr. 68107. Applicant's representative: Donald L. Stern, Suite 530, City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in sections A, B, and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite and storage facilities utilized by Wilson Certified Foods, Inc., at or near Fort Madison, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 82841 (Sub-No. 87), filed October 22, 1971. Applicant: HUNT TRANSPORTATION, INC., 801 Livestock Exchange Building, Omaha, Nebr. 68107. Applicant's representative: Donald L. Stern, Suite 530, City National Bank Building, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in sections A, B, and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite and storage facilities utilized by Wilson Certified Foods, Inc., at or near Fort Madison, Iowa, to points in Minnesota, Arkansas, Missouri, Wisconsin, Kansas, Oklahoma, Georgia, North Carolina, South Carolina, Texas, Nebraska, Louisiana, Mississippi, Alabama, Florida, Tennessee, and Kentucky. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 108385 (Sub-No. 20), filed October 4, 1971. Applicant: HYMAN FREIGHTWAYS, INC., 2600 Prior Avenue North, St. Paul, MN 55113. Applicant's representative: William S. Rosen, 630 Osborn Building, St. Paul, Minn. 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from points in New Mexico to points in Arizona and California. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Fort Worth, Tex. Carrier's authorities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Fort Worth, Tex.

No. MC 82841 (Sub-No. 86), filed October 22, 1971. Applicant: HUNT TRANSPORTATION, INC., 801 Livestock Exchange Building, Omaha, Nebr. 68107. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry equipment*, from Kewanee, Ill., to points in Alabama, Arkansas, California, Indiana, Iowa, Kentucky, Massachusetts, Michigan, New York, Ohio, Pennsylvania, Tennessee, Texas, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Omaha, Nebr.

No. MC 82841 (Sub-No. 87), filed October 22, 1971. Applicant: HUNT TRANSPORTATION, INC., 801 Livestock Exchange Building, Omaha, Nebr. 68107. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery and parts and self-propelled sanitary equipment and parts*, from Clarion, Iowa, to points in the United States including the District of Columbia (excluding Alaska and Hawaii). Restriction: Restricted to traffic originating at Hagie Manufacturing Co. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Des Moines, Iowa.

No. MC 83539 (Sub-No. 320), filed October 18, 1971. Applicant: C & H TRANSPORTATION CO., INC., 1935–2010 West Commerce Street, Post Office Box 5976, Dallas, TX 75222. Applicant's representative: Thomas E. James (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particleboard*, from Diboll, Tex., to points in Arkansas, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New Mexico, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 87720 (Sub-No. 117), filed October 18, 1971. Applicant: BASS TRANSPORTATION CO., INC., Old Croton Road, Flemington, N.J. 08822. Applicant's representative: Bert Collins, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic film and sheeting*, from Nixon, N.J., to points in Maine, Vermont, New Hampshire, Ohio, Illinois, Indiana, Michigan, Iowa, Minnesota, Arkansas, Missouri, Wisconsin, Kansas, Oklahoma, Georgia, North Carolina, South Carolina, Texas, Nebraska, Louisiana, Mississippi, Alabama, Florida, Tennessee, and Kentucky; and (2) materials and supplies used in the manufacture and sale of the above commodities (except in bulk), from the above-described destination territory to Nixon, N.J., and *returned and rejected shipments* in the reverse direction, Restriction: The proposed service to be under contract with Tenneco Chemicals, Inc., a subsidiary of Tenneco, Inc. NOTE: Applicant has common carrier authority pending under MC 135684 Sub 1. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 88161 (Sub-No. 85), filed October 25, 1971. Applicant: INLAND TRANSPORTATION CO., INC., 6737 Corson Avenue South, Seattle, WA 98108. Applicant's representative: Stephen A. Cole (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Formaldehyde, resins, and methanol, liquid*, in bulk, in tank vehicles, from points in Missoula County, Mont., to points in Idaho. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle or Spokane, Wash.

No. MC 100666 (Sub-No. 203), filed October 25, 1971. Applicant: MELTON TRUCK LINES, INC., Post Office Box 7666, Shreveport, LA 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life, 3535 Northwest 58th, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urethane and urethane products, urethane roofing and insulation, and materials*, used in the installation thereof, from the plantsite of the Philip Carey Co., Division of Pancon Corp., at or near Elizabethtown, Ky., to points in Alabama, Arkansas, Colorado, Florida, Georgia, Iowa, Kansas, Louisiana, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Cincinnati, Ohio, or Louisville, Ky.

No. MC 106398 (Sub-No. 562), filed October 25, 1971. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, OK 74151. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from Izard County, Ark., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 106920 (Sub-No. 41), filed October 18, 1971. Applicant: RIGGS FOOD EXPRESS, INC., Post Office Box 28, West Monroe Street, New Bremen, OH 45869. Applicant's representative: Carroll V. Lewis, 122 East North Street, Sidney, OH 45365. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Mattoon, Ill., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to traffic originating at Mattoon, Ill., and destined to the above-named destination points. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 107002 (Sub-No. 411), filed October 14, 1971. Applicant: MILLER TRANSPORTERS, INC., Post Office Box 1123, U.S. Highway 80 West, Jackson, MS 39205. Applicant's representative: H. D. Miller, Jr., Post Office Box 22567, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from Tuscaloosa, Ala., to points in Georgia, North Carolina, South Carolina, and Tennessee. NOTE: Applicant states no duplicate authority is sought. It further states that although tacking would be possible at Memphis, Tenn., applicant can presently render the same service over direct routes by combining presently held authorities. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala.

No. MC 108207 (Sub-No. 336), filed October 1, 1971. Applicant: FROZEN FOOD EXPRESS, 318 Cadiz Street, 75207, Post Office Box 5888, Dallas, TX. 75222. Applicant's representative: J. B. Ham (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766, from New Orleans, La., to points in Mississippi. NOTE: Applicant states it proposes to tack with its Sub 12 to perform a through service to points in Mississippi, New Orleans, and Louisiana. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Fort Worth, Tex.

No. MC 108207 (Sub-No. 337), filed October 18, 1971. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz Street, Post Office Box 5888, Dallas, TX 75222. Applicant's representative: J. B. Ham (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from points in New Mexico to points in Arizona and California. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Santa Fe, N. Mex., or Fort Worth, Tex.

No. MC 108340 (Sub-No. 23), filed November 1, 1971. Applicant: HANEY TRUCK LINE, a corporation, 2219 Cedar Street, Forest Grove, OR. Applicant's representative: Lawrence V. Smart, Jr., 419 Northwest 23d Avenue, Portland, OR 97210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, culvert, highway guard rail, and fittings and hardware therefor*, from points in Washington County, Oreg., to points in and north of Mendocino Lake, Colusa, Sutter, and Placer Counties, Calif. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 108449 (Sub-No. 334), filed October 22, 1971. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, MN 55113. Applicant's representative: W. A. Myllenbeck (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, in bulk, having an immediate prior or subsequent movement over the lines of the Chicago and Northwestern Railway, between points in Illinois, Iowa, Kansas, Upper Michigan, Minnesota, Nebraska, North Dakota, South Dakota, Wisconsin, Missouri, and Wyoming. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Minneapolis, Minn.

No. MC 108703 (Sub-No. 26), filed October 29, 1971. Applicant: LEE & EASTES TANK LINES, INC., 2416 Airport Way South, Seattle, WA 98134. Applicant's representative: Jerrold L. Sharp (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Residual fuel oil, road oil, dust oil and asphalt*, in bulk, in tank vehicles, from Spokane, Wash., to points in that part of Idaho in and north of the southern boundary of Idaho County. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 108835 (Sub-No. 20), filed October 6, 1971. Applicant: HYMAN FREIGHTWAYS, INC., 2990 Prior Avenue North, St. Paul, MN 55113. Applicant's representative: William S. Rosen, 630 Osborn Building, St. Paul, Minn. 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, high explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading), between Watertown and Sioux Falls, S. Dak., with service authorized at the intermediate point of Brookings, S. Dak., over the following routes: (1) From Watertown, over U.S. Highway 212 to junction with Interstate Highway 29; thence over Interstate Highway 29 to Sioux Falls, S. Dak., and return over the same route; and (2) from Watertown, S. Dak., over U.S. Highway 81 to junction with U.S. Highway 14, thence over U.S. Highway 14 to Brookings, S. Dak., thence over Interstate Highway 29 to Sioux Falls, S. Dak., and return over the same route. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Sioux Falls, S. Dak.

No. MC 110098 (Sub-No. 120), filed October 26, 1971. Applicant: ZERO REFRIGERATED LINES, a corporation, 1400 Ackerman Road, Post Office Box 20380, San Antonio, TX 78220. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Waterloo and Columbus Junction, Iowa, to points in Oklahoma, restricted to traffic originating at Waterloo and Columbus Junction, Iowa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Des Moines, Iowa.

No. MC 110525 (Sub-No. 1021), filed October 29, 1971. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Applicant's representative: Thomas J. O'Brien (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Muriatic acid*, in bulk, in tank vehicles, from Fort Worth, Tex., to Healdton, Okla. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Fort Worth, Tex.

No. MC 113267 (Sub-No. 274), filed October 20, 1971. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 312 West Morris Street, Caseyville, IL 62232. Applicant's representative: Lawrence A. Fischer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bags and bagging*, from Nashville, Tenn., to points in Illinois, Wisconsin, Minnesota, Iowa, Missouri, Kansas, and Nebraska. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Nashville, Tenn.

No. MC 113362 (Sub-No. 224), filed October 26, 1971. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Applicant's representative: Milton D. Adams, 1106½ Eighth Avenue NE., Box 562, Austin, MN 55912. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite and storage facilities utilized by Wilson Sinclair Co., located at Des Moines, Iowa, to points in Indiana, Michigan, and Ohio. Restriction: Restricted to the transportation of traffic originating at the named origin and destined to the named destinations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Des Moines, Iowa.

No. MC 113362 (Sub-No. 225), filed October 29, 1971. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Applicant's representative: Milton D. Adams, 1106½ Eighth Street NE., Box 562, Austin, MN 55912. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, from New Hampton, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to shipments originating at the plantsites and facilities of Kitchens of Sara Lee at New Hampton, Iowa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 113495 (Sub-No. 52), filed October 26, 1971. Applicant: GREGORY

HEAVY HAULERS, INC., 51 Oldham Street, Post Office Box 60628, Nashville, TN 37206. Applicant's representative: Wilmer B. Hill, 705 McLachlen Bank

carrier, by motor vehicle, over irregular routes, transporting: *Frozen meat*, from Wilmington, Del., to points in Colorado, Connecticut, Illinois, Indiana, Iowa,

rest of the application remains as previously published.

No. MC 114274 (Sub-No. 17), filed October 14, 1971. Applicant: VITALIS

No. MC 116014 (Sub-No. 56), filed October 18, 1971. Applicant: OLIVER TRUCKING COMPANY, INC., Post Office Box 53, also: Lexington Road, Winchester, KY 40391. Applicant's repre-

states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are

HEAVY HAULERS, INC., 51 Oldham Street, Post Office Box 60628, Nashville, TN 37206. Applicant's representative: Wilmer B. Hill, 705 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contractors' machinery and equipment*, not limited to such commodities as are intended solely for use by contractors, between points in Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no *present* intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. No duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 113535 (Sub-No. 23), filed October 18, 1971. Applicant: A & W TRUCKING CO., INC., Route 5, Box 900, Mosinee, WI 54455. Applicant's representative: John J. Altenburg (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, articles distributed by meat packinghouses, and such commodities* as are used by meatpackers in the conduct of their business when destined to and for use by meatpackers as defined by the Commission (except commodities in bulk in tank vehicles, and hides), between plant and warehouse facilities of the Dubuque Packing Co., Dubuque, Iowa, and Duluth, Minn.; and (2) from points in Wisconsin to Dubuque, Iowa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 113678 (Sub-No. 441), filed October 25, 1971. Applicant: CURTIS, INC., Post Office Box 16004, Stockyard Station, Denver, CO 80216. Applicant's representative: Duane W. Acklie, 521 South 14th, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Mattoon, Ill., to points in Arizona, California, Colorado, Kansas, New Mexico, Nevada, Oklahoma, Texas, Utah, and Washington, restricted to traffic originating at Mattoon, Ill., and destined to the States named. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Denver, Colo.

No. MC 113843 (Sub-No. 177), filed October 18, 1971. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, MA 02210. Applicant's representative: Lawrence T. Sheils (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meat*, from Wilmington, Del., to points in Colorado, Connecticut, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, Vermont, Wisconsin, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 114004 (Sub-No. 112), filed October 18, 1971. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, AR 72209. Applicant's representative: Winston Chandler, Jr, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *Trailers* designed to be drawn by passenger automobiles and *buildings*, in sections, mounted on wheeled undercarriages in initial movements, from points in Charlotte County, Va., to points in the United States (including Alaska, but excluding Hawaii), and (2) *buildings*, in sections, mounted on wheeled undercarriages in initial movements, from points in Mecklenburg County (except South Hill), Va., to points in the United States (including Alaska, but excluding Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Richmond, Va.

No. MC 114106 (Sub-No. 87), filed October 22, 1971. Applicant: MAYBELLE TRANSPORT COMPANY, a corporation, Box 849, Lexington, NC 27292. Applicant's representative: Robert M. Sielaty, 1819 H Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydrated alumina*, from King Creek, S.C., to points in Georgia, North Carolina, South Carolina, and Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract carrier authority under MC 115176 and subs, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114211 (Sub-No. 160) (Correction), filed September 16, 1971, published in the FEDERAL REGISTER issue of October 15, 1971, and republished in part as corrected this issue. Applicant: WARREN TRANSPORT, INC., 324 Manhard, Post Office Box 420, Waterloo, IA 50704. Applicant's representative: Charles W. Singer, Suite 1625, 33 North Dearborn, Chicago, IL 60602. NOTE: The sole purpose of this partial republication is to reflect the correct docket number as MC 114211 (Sub-No. 160) in lieu of MC 114211 (Sub-No. 16) as erroneously shown in the original publication. The rest of the application remains as previously published.

No. MC 114274 (Sub-No. 17), filed October 14, 1971. Applicant: VITALIS TRUCK LINES, INC., 137 Northeast 48th Street Place, Des Moines, IA 50306. Applicant's representative: William H. Towle, 127 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, from Omaha, Nebr., to points in Illinois, Indiana, Michigan, Missouri, Ohio, and Wisconsin. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories that can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the applicant may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Omaha, Nebr.

No. MC 114312 (Sub-No. 23), filed October 29, 1971. Applicant: ABBOTT TRUCKING, INC., Route 3, Delta, OH 43515. Applicant's representative: A. Charles Tell, 10 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fertilizer, fertilizer materials, fertilizer ingredients*; (2) *herbicides, insecticides, and pesticides* moving in mixed shipments with the commodities in (1) above from Toledo, Ohio, to points in Iowa, Kentucky, Maryland, Minnesota, Missouri, and New Jersey; and (3) *soybean meal*, from Bellevue and Fostoria, Ohio, to points in the Lower Peninsula of Michigan. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 115841 (Sub-No. 418), filed October 14, 1971. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 Bankhead Highway West, Birmingham, AL 35204. Applicant's representative: E. Stephen Heisley, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Cleveland, Ohio, to points in California. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio, Detroit, Mich., or Washington, D.C.

No. MC 116014 (Sub-No. 56), filed October 18, 1971. Applicant: OLIVER TRUCKING COMPANY, INC., Post Office Box 53, also: Lexington Road, Winchester, KY 40391. Applicant's representative: Louis J. Amato, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plywood and plywood faced or finished with decorative or protective material*; and (2) *materials, accessories and supplies* (except commodities in bulk), used in the installation of the commodities in (1) above, from Wilmington, N.C., to points in Arkansas, Indiana, Illinois, Kentucky, Maryland, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Raleigh, N.C.

No. MC 116073 (Sub-No. 204), filed October 18, 1971. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., Post Office Box 919, Moorhead, MN 56560. Applicant's representative: Robert G. Tessar, 1819 Fourth Avenue South, Kegel Plaza, Moorhead, MN 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass panels and fiberglass polyurethane foam sandwich panels for modular sectional buildings*, from Pasco, Wash., to points in Washington, Oregon, California, Idaho, Nevada, Arizona, New Mexico, North Dakota, South Dakota, Colorado, Montana, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 116073 (Sub-No. 205), filed October 18, 1971. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., Post Office Box 919, Moorhead, MN 56560. Applicant's representative: Robert G. Tessar, 1819 Fourth Avenue South, Kegel Plaza, Moorhead, MN 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, from Orange County, N.C., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Raleigh, N.C.

No. MC 116073 (Sub-No. 206), filed October 29, 1971. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, Post Office Box 919, Moorhead, MN 56560. Applicant's representative: Robert G. Tessar, 1819 Fourth Avenue South, Kegel Plaza, Moorhead, MN 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *modular homes*, from Port Orchard, Wash., to points in Washington, Oregon, Idaho, and Montana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 116110 (Sub-No. 10), filed October 15, 1971. Applicant: P. C. WHITE TRUCK LINE, INC., Murray Road at Loftin Road, Post Office Box 1488, Dothan, AL 36301. Applicant's representative: Robert S. Richard, 57 Adams Avenue, Post Office Box 2069, Montgomery, AL 36103. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Montgomery, Ala., and Atlanta, Ga., over Interstate Highway 85, serving points within 15 miles of Montgomery, Ala., and Atlanta, Ga., as intermediate and off-route points (also over U.S. Highway 29 between Atlanta, Ga., and Tuskegee, Ala., and U.S. Highway 80 between Tuskegee and Montgomery, Ala.), serving no intermediate points. NOTE: If a hearing is deemed necessary, applicant requests it be held at Montgomery, Ala., and Atlanta, Ga.

No. MC 117940 (Sub-No. 71), filed October 26, 1971. Applicant: NATIONWIDE CARRIERS, INC., Post Office Box 104, Maple Plain, MN 55359. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and canned foods* (except dairy products), as described in section B of appendix 1 to the report in *Descriptions in Motor Carrier certificates*, 61 M.C.C. 209, from points in Minnesota, to points in Arkansas, Kansas, Missouri, Oklahoma, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 118292 (Sub-No. 26), filed October 20, 1971. Applicant: BALLENTINE PRODUCE, INC., Box 312, Alma, AR 72921. Applicant's representative: Nancy Pyeatt, 1000 15th Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs*, from St. James, Madelia, and Butterfield, Minn., and Estherville, Iowa, to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Montana, Missouri, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, Tennessee, Texas, Utah, Washington, Wisconsin, and Wyoming, and (2) *materials, supplies, and equipment* used or useful in the preparation, packing, and sale of these commodities, from the above-named States, to St. James, Madelia, and Butterfield, Minn., and Estherville, Iowa. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Washington, D.C.

No. MC 118959 (Sub-No. 99), filed October 18, 1971. Applicant: JERRY LIPPS, INC., 130 South Frederick, Cape Girardeau, MO 63701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic, plastic products and pipe and materials, equipment and supplies* used in the manufacture of plastics, plastic products and pipe, (1) between Glenville, W. Va., on the one hand, and, on the other, points in Florida, Georgia, Idaho, Pennsylvania, and Wisconsin and (2) between Fayetteville, W. Va., on the one hand, and, on the other, points in Florida, Georgia, Idaho, Pennsylvania, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract carrier authority under MC 125664, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Charleston, W. Va., or Pittsburgh, Pa.

No. MC 119630 (Sub-No. 10), filed October 20, 1971. Applicant: VAN TASSEL, INCORPORATED, Fifth and Grand, Pittsburg, Kans. 66762. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Center, 3535 Northwest 58th, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, plastic conduit, vinyl plastic siding and extruded plastic products*, from Pittsburg, Kans, to points in the United States (except Alaska and Hawaii). NOTE: Applicant holds contract carrier authority under MC 115036 therefore dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Tulsa, Okla., or Wichita, Kans.

No. MC 119669 (Sub-No. 29), filed October 26, 1971. Applicant: TEMPCO TRANSPORTATION, INC., 546 South 31 A, Columbus, IN 47201. Applicant's representative: Jack H. Blanshan, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared flour, prepared flour mixes, frosting mixes and icing mixes*, from Chelsea, Mich., to points in Arkansas, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing

is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119774 (Sub-No. 34), filed October 26, 1971. Applicant: MARY

tween Oregon-California State line and the Mexican Border, from Oregon-California State line over California Highway 99 to junction Interstate Highway 5, thence over Interstate Highway 5 to

No. MC 123389 (Sub-No. 13), filed October 26, 1971. Applicant: CROUSE CARTAGE COMPANY, a corporation, Carroll, Iowa, 51401. Applicant's representative: William S. Rosen, 630 Osborn

NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Rapid City, S. Dak., or Billings, Mont.

Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 125420 (Sub-No. 20), filed October 22, 1971. Applicant: MERCURY TANKLINES LIMITED, a corporation,

lieu of "from". If a hearing is deemed necessary, applicant requests it be held at Boston, Mass., or Montpelier, Vt.

No. MC 126276 (Sub-No. 58), filed October 15, 1971. Applicant: FAST MOTOR SERVICE, INC., 12855 Ponderosa Drive, Palos Heights, IL 60463. Applicant's rep-

is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119774 (Sub-No. 34), filed October 26, 1971. Applicant: MARY ELLEN STIDHAM, N. M. STIDHAM, A. E. MANKINS (INEZ MANKINS, EXECUTRIX), AND JAMES E. MANKINS, SR., a partnership doing business as EAGLE TRUCKING COMPANY, Post Office Box 471, Kilgore, TX 75662. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, and materials, equipment, and supplies* used in the manufacture of iron and steel articles, between Newport, Ark., and points within 5 miles thereof, and Hope, Ark., and points within 5 miles thereof, on the one hand, and, on the other, all points in the United States (except Alaska and Hawaii). NOTE: Applicant states that it proposes to tack at points in Arkansas with presently held authorities in its Subs- 1, 2, 3, 11, and 16 to provide a through service. No duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark., Shreveport, La., or Dallas, Tex.

No. MC 119777 (Sub-No. 229), filed October 25, 1971. Applicant: LIGON SPECIALIZED HAULER, INC., Post Office Drawer L, Highway 85 East, Madisonville, KY 42431. Applicant's representative: Ronald E. Butler, Box 477, Madisonville, KY 42431. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Poultry, eggs, and livestock supplies and equipment*, from Athens, Ga., to points in the United States (except Alaska and Hawaii). NOTE: Applicant holds contract carrier authority under MC 129670, therefore dual operations and common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or St. Louis, Mo.

No. MC 120728 (Sub-No. 2), filed October 20, 1971. Applicant: MOJAVE TRANSPORTATION CO., a corporation, 14410 South Avalon Boulevard, Gardena, CA 90247. Applicant's representative: Martin J. Rosen, 140 Montgomery Street, San Francisco, CA 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: (A) *Property* necessary or incidental to the establishment, maintenance, or dismantling of oil, gas, or water well, pipelines, refineries, and cracking or gasinghead plants, *equipment and material* used in construction and equipment used in farming (1) Regular routes: Between the Oregon-California State line and California-Mexico State line, from the Oregon-California State line over U.S. Highway 101 and U.S. Highway 101 Bypass to junction Interstate Highway 5, thence over Interstate Highway 5 to the California-Mexico State line; (2) between Oregon-California State line and the Mexican Border, from Oregon-California State line over California Highway 99 to junction Interstate Highway 5, thence over Interstate Highway 5 to the Mexican Border; (3) between Redding and Alturas, Calif., over U.S. Highway 299; (4) between the Oregon-California State line and the California Nevada State line, via Alturas and Johnstonville over U.S. Highway 395; (5) between junction California Highway 99 near Red Buff, Calif., and junction U.S. Highway 395 at Johnstonville over California Highway 36; (6) between Marysville, Calif., and junction California Highway 20 and Interstate Highway 80, over California Highway 20; (7) between San Francisco, Calif., and California-Nevada State line over Interstate Highway 80; (8) between Sacramento, Calif., and California-Nevada State line over U.S. Highway 50; (9) between the California-Nevada State line at Topaz Lake and junction U.S. Highway 395 and U.S. Highway 66, over U.S. Highway 395; (10) Between Los Angeles, Calif., and Needles, Calif., over U.S. Highway 66; (11) between Los Angeles, Calif., and the California-Arizona State line, from Los Angeles over California Highway 60 to junction Interstate Highway 10, thence over Interstate Highway 10 to the California-Arizona State line; (12) between Barstow, Calif., and the Nevada-California State line, from Barstow over U.S. Highways 91 and 466; (13) between San Diego, Calif., and the California-Arizona State line over U.S. Highway 80; and (14) between Baker, Calif., and the Nevada-California State line over California Highway 127; and return over the same routes in (1) through (14) above, serving all intermediate points, and serving off-route points within a radius of 50 miles. (B) (1) *Commodities* which, by reason of size or weight, require special handling or the use of special equipment, and *commodities* which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which, by reason of size or weight, require special handling or the use of special equipment; (2) *self-propelled articles*, transported on trailers, and *related machinery, tools, parts, and supplies* moving in connection therewith; (3) *iron and steel articles* as described in Appendix 5 to the Commission's report in *Descriptions in Motor Carrier Certificates*, ex parte, MC-45, 61 M.C.C. 209 and 766; (4) *pipe* other than iron or steel, together with fittings; and (5) *construction materials*. Irregular routes: Between points in California on the one hand, and, on the other, points in Oregon, Washington, Idaho, Montana, Utah, Nevada, Wyoming, Colorado, and Arizona. NOTE: The instant application seeks to convert the certificate of registration under MC 120728 (Sub-1), into a Certificate of Public Convenience and Necessity. If a hearing is deemed necessary, applicant requests it be held at Los Angeles or San Francisco, Calif., or Portland, Oreg.

No. MC 123389 (Sub-No. 13), filed October 26, 1971. Applicant: CROUSE CARTAGE COMPANY, a corporation, Carroll, Iowa, 51401. Applicant's representative: William S. Rosen, 630 Osborn Building, St. Paul, MI 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (1) from Denison and Fort Dodge, Iowa; Dakota City and West Point, Nebr., to points in Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to traffic originating at the plantsites of and storage facilities utilized by Iowa Beef Processors, Inc., and (2) from Denison and Fort Dodge, Iowa and West Point, Nebr., to points in Illinois; points in Kansas in the Kansas City commercial zone and Missouri, restricted to traffic originating at the plantsites of and storage facilities utilized by Iowa Beef Processors, Inc. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territory that can be served through tacking. Person interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Washington, D.C.

No. MC 123405 (Sub-No. 29), filed October 19, 1971. Applicant: FOOD TRANSPORT, INC., Post Office Box 1041, York, PA 17405. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, pet foods and pet supplies, drugs, insecticides* (other than agricultural), *and buffing and polishing compounds*, from the plantsite and storage facilities utilized by the R. T. French Co. at or near Rochester, N.Y., to points in Florida. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Rochester, N.Y.

No. MC 124692 (Sub-No. 84), filed November 1, 1971. Applicant: SAMMONS TRUCKING, a corporation, Post Office Box 1447, Missoula, MT 59801. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, Ind. 42604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points in Lawrence and Pennington Counties, S. Dak., to points in North Dakota, Minnesota, and Wisconsin.

NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Rapid City, S. Dak., or Billings, Mont.

No. MC 124796 (Sub-No. 90), filed October 20, 1971. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 East Salt Lake Avenue, Post Office Box 1257, City of Industry, CA 91747. Applicant's representative: J. Max Harding, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Salt and salt mixtures, and pepper, condiments, flavoring materials, animal and poultry mineral feed mixtures and materials and supplies*, used in the agricultural, water treatment, food processing, wholesale grocery and institutional supply industries, when shipped in mixed loads with salt and salt mixtures, from Weeks Island, La., to points in Alabama, Georgia, Mississippi, and Tennessee; (2) *Ground clay*, from Weeks Island, La., to points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee; and (3) *Returned, refused and rejected shipments of the commodities* described in (1) and (2) above, from the destination States shown to Weeks Island, La. Restriction: The operations authorized are restricted against the transportation of commodities in bulk and further restricted to traffic which either originates or terminates at the plantsite of Morton-Norwich Products, Inc., its divisions and affiliates at Weeks Island, La. Said operations are limited to a transportation service to be performed under a continuing contract, or contracts with Norton Norwich Products, Inc., its divisions and affiliates. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or Washington, D.C.

No. MC 125168 (Sub-No. 20), filed October 22, 1971. Applicant: OIL TANK LINES, INC., Box 190, Hook Road and Darby Creek, Darby, PA 19023. Applicant's representative: Edwin H. van Deusen, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum and petroleum products*, in bulk, in tank vehicles, from points in Congo (Hancock County), W. Va., to points in Connecticut, the District of Columbia, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, and Virginia; and (2) *petroleum oils and petroleum oil additives*, in bulk, in tank vehicles, from Bayonne, Elizabeth, Paulsboro, Petty's Island, Sewaren, N.J.; Bradford, Emlenton, Farmer's Valley, Freedom, Karns City, Philadelphia, Pittsburgh, Reno, and Rouseville, Pa.; to Congo (Hancock County), W. Va., under a continuing contract with Quaker State Oil Refining Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 125420 (Sub-No. 20), filed October 22, 1971. Applicant: MERCURY TANKLINES LIMITED, a corporation, 4056 Ogden Road SE., Calgary, AB, Canada. Applicant's representative: Ray F. Koby, 314 Montana Building, Great Falls, Mont. 59401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages*, in bulk, in tank vehicles, between Louisville and Bardstown, Ky., on the one hand, and, on the other, ports of entry on the United States-Canada international boundary at or near Detroit and Port Huron, Mich., under contract with Brown Forman Distillers Corp. and Canadian Mist Distillers, Ltd. NOTE: Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Kentucky, Michigan, or Montana.

No. MC 125474 (Sub-No. 31), filed October 21, 1971. Applicant: BULK HAULERS, INC., Post Office Box 3601, Wilmington, NC 28401. Applicant's representative: John C. Bradley, 618 Perpetual Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Citric acid, sodium citrate, acid gluconic, chelating compounds, sulphuric acid, caustic soda, and chemicals*, between points in Brunswick County, N.C., on the one hand, and, on the other, points in North Carolina, South Carolina, Georgia, West Virginia, Virginia, Florida, Tennessee, Maryland, and the District of Columbia. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Raleigh, N.C.

No. MC 126142 (Sub-No. 6) (amendment), filed August 9, 1971, published in the FEDERAL REGISTER issue of October 7, 1971, amended and republished as amended, this issue. Applicant: GLEASON TRANSPORTATION CO., INC., Post Office Box 907, White River Junction, VT 05001. Applicant's representative: Frederick T. O'Sullivan, 372 Granite Avenue, Milton, MA 02186. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat byproducts* (except commodities in bulk, in tank vehicles, hides and skin), between Springfield, Vt., and Claremont, N.H. NOTE: Applicant states it will tack this authority to its Sub 1, at Springfield, Vt., to perform a single line service on traffic originating under MC 126142 Sub 5. The purpose of this republication is to reflect a "between movement" of the proposed authority, in lieu of "from". If a hearing is deemed necessary, applicant requests it be held at Boston, Mass., or Montpelier, Vt.

No. MC 126276 (Sub-No. 58), filed October 15, 1971. Applicant: FAST MOTOR SERVICE, INC., 12855 Ponderosa Drive, Palos Heights, IL 60463. Applicant's representative: Albert A. Andrin, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container ends, and closures*, from the plantsites of Crown Cork & Seal Co., at Fruitland and Baltimore, Md.; Philadelphia, Pa.; North Bergen, N.J.; Winchester, Va.; and Spartanburg, S.C., to points in Maryland, South Carolina, North Carolina, Georgia, Alabama, Tennessee, Florida, Louisiana, Texas, West Virginia, Virginia, and Arkansas, under contract with Crown Cork & Seal Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 126278 (Sub-No. 4), filed October 18, 1971. Applicant: FRIGID WAY CARTAGE CO., a corporation, 4500 West 44th Place, Chicago, IL 60632. Applicant's representative: William J. Boyd, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Chicago and Deerfield, Ill., to points in Indiana, Michigan, Ohio, and Louisville, Ky., restricted to the transportation of traffic originating at the facilities of Continental Freezers of Illinois at Chicago, Ill., and the plantsites and warehouses utilized by Kitchens of Sara Lee, Inc., at Deerfield and Chicago, Ill., and destined to the above-named destination States. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 126389 (Sub-No. 1), filed October 26, 1971. Applicant: MARY KIRKPATRICK, doing business as KIRKPATRICK TRUCKING, 11317 Route 14, North, Harvard, IL 60033. Applicant's representative: Charles B. Myers, 611 La Salle Bank Building, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Mineral wool and mineral wool products and materials and supplies* (except liquid commodities in bulk), used in the manufacture, installation, or distribution thereof; (a) between the plantsite and warehouse facilities of the United States Gypsum Co. in Walworth County, Wis., on the one hand, and, on the other hand, points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Pennsylvania, South Dakota, Tennessee, and Wisconsin; (b) between the plantsite and warehouse facilities of the United States Gypsum Co. located in Wabash County, Ind., on the one hand, and, on the other hand, points in Iowa, Minnesota, North Dakota, South Dakota, Wisconsin, and points in Illinois, on and north of Illinois Highway 17 (except points in Cook, Du Page, and Will Counties, Ill.); and (2) *products*

treated or impregnated with plastics, plastic articles and materials or supplies (except liquid commodities in bulk), used in the manufacture or distribution thereof, between the plantsite and warehouse facilities of the United States Gypsum Co. in Walworth County, Wis., on the one hand, and, on the other hand, points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Pennsylvania, South Dakota, Tennessee, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Cincinnati, Ohio, or Louisville, Ky.

No. MC 127237 (Sub-No. 8), filed October 8, 1971. Applicant: ROBERT A. KOCH, doing business as KOCH TRUCKING, Post Office Box 1, Hillsboro, WI 54634. Applicant's representative: Edward Solie, Executive Building, Suite 100, 4513 Vernon Boulevard, Madison, WI 53705. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and advertising materials, premiums, and supplies* moving in connection therewith, from Milwaukee, Wis., to points in Illinois, Indiana, Iowa, Michigan, Minnesota, and Ohio, under contract with Pabst Brewing Co. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Cincinnati, Ohio or Washington, D.C.

No. MC 128030 (Sub-No. 32) (Correction), filed October 8, 1971, published FEDERAL REGISTER of November 18, 1971, corrected in part and republished as corrected this issue. Applicant: THE MASON AND DIXON LINES, INCORPORATED, Post Office Box 969, Kingsport, TN 37662. Applicant's representative: Daniel B. Johnson, Post Office Box 969, Kingsport, TN 37662. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Springfield, Mass., to points in Tennessee, Alabama, Georgia, Florida, North Carolina, South Carolina, Mississippi, and Louisiana, under continuing contract with Hammermill Paper Co. and its subsidiaries and divisions. NOTE: If a hearing is deemed necessary, applicant

Springfield, Mass., to points in Tennessee, Alabama, Georgia, Florida, North Carolina, South Carolina, Mississippi, and Louisiana, under continuing contract with Hammermill Paper Co. and its subsidiaries and divisions. NOTE: If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or Washington, D.C.

No. MC 128168 (Sub-No. 20), filed October 22, 1971. Applicant: OIL TANK LINES, INC., Box 190, Hook Road and Darby Creek, Darby, PA 19023. Applicant's representative: Edwin H. van Deusen, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum and petroleum products*, in bulk, in tank vehicles, from points in Congo (Hancock County), W. Va., to points in Connecticut, the District of Columbia, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, and Virginia; and (2) *petroleum oils and petroleum oil additives*, in bulk, in tank vehicles, from Bayonne, Elizabeth, Paulsboro, Petty's Island, Sewaren, N.J.; Bradford, Emlenton, Farmer's Valley, Freedom, Karns City, Philadelphia, Pittsburgh, Reno, and Rouseville, Pa.; to Congo (Hancock County), W. Va., under a continuing contract with Quaker State Oil Refining Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 128276 (Sub-No. 1), filed October 26, 1971. Applicant: MICHIGAN-WISCONSIN PIPE LINE COMPANY, 1 Woodward Avenue, Detroit, MI 48226. Applicant's representative: Robert D. Gunderman, 710 Penobscot Building, Detroit, MI 48226. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from Niles, Mich., to points in Wisconsin, under contract with Michigan-Wisconsin Pipe Line Company. NOTE: If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Washington, D.C.

No. MC 128389 (Sub-No. 1), filed October 26, 1971. Applicant: ROBERT L. MOORE, doing business as MOORE TRUCKING, Post Office Box 1, Hillsboro, WI 54634. Applicant's representative: Daryl Terrill (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles distributed by meat packinghouses* as described in sections A and C

treated or impregnated with plastics, plastic articles and materials or supplies (except liquid commodities in bulk), used in the manufacture or distribution thereof, between the plantsite and warehouse facilities of the United States Gypsum Co. located in Dodge, Jefferson, and Waukesha Counties, Wis., on the one hand, and, on the other, points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Pennsylvania, South Dakota, Tennessee, and Wisconsin, under contract with United States Gypsum Co. NOTE: Applicant holds common carrier authority under MC 106594, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 126587 (Sub-No. 1), filed October 26, 1971. Applicant: PARK AVENUE STORAGE CORPORATION, 359–365 Park Avenue, Newark, NJ 07102. Applicant's representative: Edward F. Bowes, 744 Broad Street, Newark, NJ 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods and personal effects*, in containers limited to shipments transported in containers, moving on the through bill of lading of a forwarder operating under the section 402(b)(2) exemption of the Freight Forwarder Act of Part 4 of the Interstate Commerce Act, and having an immediately prior or subsequent line-haul movement by rail, motor, water, or air, between points in Hudson and Essex Counties, N.J., within the exempt commercial zona of New York, N.Y., as defined by the Interstate Commerce Commission including Kearny, Newark, Elizabeth, and Port Reading, N.J., on the one hand, and, on the other, points in Bergen, Essex, Somerset, Mercer, Monmouth, Camden, and Gloucester Counties, N.J. NOTE: Applicant is presently authorized to transport household goods from the abovementioned counties in New Jersey (except Sussex County), to points in New York, Pennsylvania, and Delaware. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 126899 (Sub-No. 49), filed September 22, 1971. Applicant: USHER TRANSPORT, INC., 3925 Old Benton Road, Paducah, KY 42001. Applicant's representative: George M. Catlett, 703–706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum and petroleum products*, in bulk, in tank vehicles, from points in McCracken and Livingston Counties, Ky., and points in Massac County, Ill., to points in Benton, Crockett, Dyer, Henry, Humphreys, Montgomery, Stewart, Carroll, Dickson, Gibson, Houston, Lake, Obion, and Weakley Counties, Tenn.; and (2) *jet fuel and aviation gasoline* from Memphis, Tenn., to Paducah, Ky. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Cincinnati, Ohio, or Louisville, Ky.

No. MC 127227 (Sub-No. 8), filed October 28, 1971. Applicant: BIRDSALL, INC., 821 Avenue E, Riviera Beach, FL 33404. Applicant's representative: J. Edward Allen, Post Office Box 1086, Jacksonville, FL 32201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, between points in Dade, Broward, Martin, and Palm Beach Counties, Fla., restricted to traffic having had an immediate prior or subsequent movement by water in foreign commerce. NOTE: Applicant states that it presently holds authority between the points in Florida, restricted to traffic having an immediate prior or subsequent movement by water, and further restricted to particular islands in the Caribbean to which shipments originate or destine, under MC 127227 and Subs 1 through 6 thereunder, and that the purpose of this application is to remove the restriction as to particular islands and ports, stating also that it does not seek any duplicating authority, and consents to the cancellation of any duplicating authority upon the granting of the instant application. Applicant further states that the requested authority cannot be tacked to its existing authority. If a hearing is deemed necessary, applicant requests it be held at Miami or West Palm Beach, Fla.

No. MC 127274 (Sub-No. 34), filed November 1, 1971. Applicant: SHERWOOD TRUCKING, INC., 1517 Hoyt Avenue, Muncie, IN 47302. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the plantsite of American Home Foods at La Porte, Ind., to points in Arkansas, Texas, and Missouri, on and south of Interstate 44 and Joplin, Mo. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.

No. MC 127505 (Sub-No. 48), filed October 25, 1971. Applicant: RALPH H. BOELK, doing business as R. H. BOELK TRUCK LINE, Route No. 2, Mendota, IL 61342. Applicant's representative: Walter J. Kobos, 1016 Kehoe Drive, St. Charles, IL 60174. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urethane and urethane products, urethane roofing and insulation, and materials* used in the installation thereof, from the plantsite of the Philip Carey Co., Division of Panacon Corp., Elizabethtown, Ky., to points in Illinois, Iowa, Indiana, Michigan, Minnesota, North Dakota, South Dakota, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Cincinnati, Ohio or Washington, D.C.

No. MC 128030 (Sub-No. 32) (Correction), filed October 8, 1971, published FEDERAL REGISTER of November 18, 1971, corrected in part and republished as corrected this issue. Applicant: THE STOUT TRUCKING CO., INC., Post Office Box 177, Rural Route No. 1, Urbana, IL 61801. Applicant's representative: James F. Flanagan, 111 West Washington Street, Chicago, IL 60602. NOTE: The purpose of this partial republication is to reflect the correct docket number assigned as MC 128030 Sub-No. 32, in lieu of MC 129028 Sub-No. 32, erroneously shown in previous publication. The rest of the application remains the same.

No. MC 128215 (Sub-No. 9), filed October 18, 1971. Applicant: MARTIN TRAILER TOTERS, INC., 4038 Jefferson Highway, New Orleans, LA 70121. Applicant's representative: Donald B. Morrison, 717 Deposit Guaranty National Bank Building, Post Office Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, and *buildings, in sections*, in initial movements; (1) from the plantsite of Guerdon Industries, Inc., at or near Greenwood, Miss., to points in Louisiana, Arkansas, Alabama, Tennessee, and Missouri; (2) from the plantsite of Yazoo Mobile Homes, Inc., at or near Yazoo, Miss., to points in Alabama, Florida, Louisiana, Texas, Arkansas, Missouri, Tennessee, and West Virginia; and (3) from points in Warren County, Miss., to points in Louisiana, Mississippi, Texas, Arkansas, Tennessee, and Alabama. NOTE: If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss.

No. MC 128375 (Sub-No. 72), filed October 25, 1971. Applicant: CRETE CARRIER CORPORATION, Box 246, Crete, NE 68333. Applicant's representative: Duane Acklie, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes; transporting: *Paper and paper products*, from Erie and Lockhaven, Pa., Watervliet, Mich., Oswego, N.Y., Westfield, West Springfield, Woronoco, and Turners Falls, Mass., to points in Arizona, Idaho, New Mexico, California, Oregon, and Washington, under continuing contract with Hammermill Paper Co., its subsidiaries and divisions. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr.

No. MC 128375 (Sub-No. 73), filed November 1, 1971. Applicant: CRETE CARRIER CORPORATION, Box 249, Crete, NE 68333. Applicant's representative: Duane W. Acklie, Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Erie and Lock Haven, Pa.; Watervliet, Mich.; Hamilton, Ohio; Oswego, N.Y.; Woronoco, Turners Falls, Westfield, and West Springfield, Mass., to points in Tennessee, Alabama, Georgia, Florida, North Carolina, South Carolina, Mississippi, and Louisiana, under continuing contract with Hammermill Paper Co. and its subsidiaries and divisions. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr.

No. MC 128672 (Sub-No. 3), filed October 22, 1971. Applicant: TIMBER TRUCKING CO., INC., Post Office Box 8188, 928 Cross Lanes Drive, Nitro, WV 25143. Applicant's representative: Robert L. DeHart (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, timber and wood products*, from points in Powell County, Ky., to points in Delaware, Indiana, Kentucky, Maryland, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia, under contract with the Burke-Parsons-Bowlby Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Charleston, W. Va., or Washington, D.C.

No. MC 128720 (Sub-No. 2), filed October 18, 1971. Applicant: MERCHANTS FREIGHT LINE, INC., Omohundro Drive, Nashville, Tenn. 37210. Applicant's representative: Walter Harwood, 1822 Parkway Towers, Nashville, TN 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods, commodities in bulk, and those requiring special equipment): (1) Between Fountain Run, Ky., and Lafayette, Tenn., from Fountain Run, Ky., over Kentucky Highway 100 to Holland, thence over Kentucky Highway 90 to the Kentucky-Tennessee State line, thence over Tennessee Highway 10 to Lafayette, Tenn., and return over the same route, serving all intermediate points; (2) between Holland and Tompkinsville, Ky., from Holland, Ky., over Kentucky Highway 100 to its junction with Kentucky Highway 1366, thence over Kentucky Highway 1366 to its junction with Kentucky Highway 63 near Tompkinsville, thence over Kentucky Highway 63 to Tompkinsville, and return over the same route, serving the intermediate point of Fountain Run, Ky., and serving Tompkinsville, and also the junction of Kentucky Highways 100 and 63 (about 2 miles north of the Kentucky-Tennessee State line) for joinder only; and (3) between Gallatin, Tenn., and Fountain Run, Ky., from Gallatin over U.S. Highway 31–E to Scottsville, Ky., thence over Kentucky Highway 100 to Fountain Run, Ky., and return over the same route, serving no intermediate points, and serving Gallatin for joinder only. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Louisville, Ky.

No. MC 128860 (Sub-No. 10), filed October 20, 1971. Applicant: LARRY'S EXPRESS, INC., 720 Lake Street, Tomah, WI 54660. Applicant's representative: Edward Solie, Executive Building, Suite 100, 4513 Vernon Boulevard, Madison, WI 53705. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and advertising materials, premiums, and malt beverages dispensing equipment*, when moving at the same time and in the same vehicle with malt beverages, from New York, N.Y., and Newark, N.J., to points in Kansas, under a continuing contract, or contracts with Van Munching & Co., Inc., New York, N.Y. NOTE: If a hearing is deemed necessary, applicant requests it be held at Madison, Wis.

No. MC 129475 (Sub-No. 9), filed October 18, 1971. Applicant: CARRELL TRUCKING CO., INC., Post Office Box 186, Monroe, GA 30655. Applicant's representative: William Addams, Suite 527, 1776 Peachtree Street NW., Atlanta, GA 30309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by chain department stores*, between the warehouses of Sears, Roebuck & Co., at Atlanta, Ga., on the one hand, and, on the other, Ridgeland, S.C., under contract with Sears, Roebuck & Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 133037 (Sub-No. 3), filed November 1, 1971. Applicant: MILE-HI EXPRESS, INC., 1335 East 40th Street, Denver, CO 80205. Applicant's representative: Duane W. Acklie, Post Office Box 80806, 521 South 14th Street, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, packinghouse products and commodities used by packinghouses*, between Denver, Colo., on the one hand, and, on the other, points in Laramie County, Wyo. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 133065 (Sub-No. 17), filed October 22, 1971. Applicant: ECKLEY TRUCKING AND LEASING, INC., Post Office Box 156, Mead, NE 68041. Applicant's representative: Gailyn L. Larsen, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salvage rail track, salvage switches, salvage plates, salvage ties, salvage spikes, and related salvage materials*, between points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, Oregon, Washington, and Wyoming, under continuing contract with A & K Railroad Materials, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lincoln or Omaha, Nebr.

No. MC 133574 (Sub-No. 15), filed October 18, 1971. Applicant: TERRILL TRUCKING COMPANY, a corporation, 1016 Geneseo Street, Post Office Box 940, Storm Lake, Iowa 50588. Applicant's representative: Daryl Terrill (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of Appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Council Bluffs, Iowa, to points in Georgia, Alabama, Florida, and Tennessee. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Des Moines, Iowa.

No. MC 134321 (Sub-No. 3), filed October 15, 1971. Applicant: HAROLD W. HOLT, Route 5, Manchester, Tenn. 37355. Applicant's representative: A. O. Buck, 500 Court Square Building, Nashville, Tenn. 37201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal roofing, fencing, equipment and nails*, from Fairfield, Ala., to Manchester, Tenn., under contract with Powers Farm Store, Manchester, Tenn. NOTE: If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 134323 (Sub-No. 20), filed November 1, 1971. Applicant: JAY LINES, INC., 720 North Grand Street, Amarillo, TX 79105. Applicant's representative: Duane Acklie, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by hardware stores, drug stores, supermarkets, discount stores, and department stores, from the warehouses and facilities of Action Industries and its wholly owned subsidiaries located in Allegheny County, Pa., to points in Texas, Arkansas, Missouri, Louisiana, Kansas, Oklahoma, New Mexico, and Colorado, under contract with Action Industries, Inc., Cheswick, Pa. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 134347 (Sub-No. 2), filed October 18, 1971. Applicant: SAMUEL M. COKER, doing business as COKER TRUCK LINE, 305 Blue Hills Drive, Nashville, TN 37214. Applicant's representative: Samuel M. Coker (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automobile parts and automobile accessories*, between Nashville, Tenn., on the one hand, and, on the other, points in Butler, Caldwell, Daviess, Hancock, Henderdon, Hopkins, McLean, Muhlenberg, Ohio, and Webster Counties, Ky., under contract with Mid-State Automotive Distributors, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 135032 (Sub-No. 2), filed October 15, 1971. Applicant: HIAWATHA PRODUCE COMPANY, a corporation,

3850 Fourth Street, Winona, MN 55987. Applicant's representative, Allan B. Torhorst, Post Office Box 307, Burlington, WI 53105. Authority sought to operate as a *common carrier*, by motor vehicle,

restricted to the performance of pickup and delivery service in connection with packing, crating, containerization, or unpacking, uncrating, and decontainerization of such traffic. NOTE: Common con-

representative: B. R. Almand (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing granules*, dry, in bulk, from

Building, Phoenix, Ariz. 85012. The purpose of this partial republication is to show the correct docket number as MC 135876 (Sub-No. 1), in lieu of MC 135876, which was inadvertently omitted in the

an area bounded on the south by a line beginning at Ocean City, Md., and extending along U.S. Highway 50 to Washington, D.C.; on the west, by a line beginning at Washington, D.C., and extend-

ing business as FRANKLIN STREET TRUCKING CO., 41 Worth Street, New York, NY 10013. Applicant's representative: William D. Traub, 10 East 40th Street, New York, NY 10016. Authority

3850 Fourth Street, Winona, MN 55987. Applicant's representative, Allan B. Torhorst, Post Office Box 307, Burlington, WI 53105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products, and other commodities distributed by dairies* (except in bulk), from the plantsites, warehouses, storage and production facilities utilized by Land O'Lakes, Inc., in Minnesota, Wisconsin, and Chicago, Ill., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant now holds contract carrier authority under its No. MC 133709 Sub-No. 1, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 135033 (Sub-No. 4), filed October 18, 1971. Applicant: SILVEY & COMPANY, a corporation, Gifford Road, Council Bluffs, Iowa 51601. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic housewares*, from Fitchburg, Mass., to points in Minnesota, Wisconsin, Iowa, Nebraska, Kansas, Missouri, and Illinois, under contract with Gotham Industries. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 135049 (Sub-No. 3), filed September 24, 1971. Applicant: KEARNEY'S INC., U.S. Alternate Route 611, Portland, Pa. 18331. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, PA 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Expanded crushed slate in dump-type semitrailers and crushed slate powder*, from Bangor, Pa., to New York, N.Y., points in Nassau, Suffolk, and Westchester Counties, N.Y., and points in New Jersey. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Allentown, or Philadelphia, Pa.

No. MC 135071 (Sub-No. 3), filed October 14, 1971. Applicant: RONALD M. STROLE AND BETTY L. STROLE, a partnership, doing business as AA-1 MOVING & STORAGE, 18485 Iona Avenue, Post Office Box 189, Lemoore, CA 93245. Applicant's representative: Warren N. Grossman, 606 South Olive Street, Los Angeles, CA 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Kings, Tulare, Fresno, Madera, and Kern Counties, Calif., restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, containerization, or unpacking, uncrating, and decontainerization of such traffic. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 135152 (Sub-No. 4), filed November 1, 1971. Applicant: CASKET DISTRIBUTORS, INC., Rural Route No. 2, Harrison, Ohio 45030. Applicant's representative: Jack B. Josselson, 700 Atlas Bank Building, Cincinnati, Ohio 45202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated caskets, casket displays, funeral supplies, and crated caskets*, in mixed loads with uncrated caskets, from Eynon, Pa.; Burlington, N.C.; Syracuse, N.Y.; and Jackson, Miss., to points in the United States (except Alaska and Hawaii). NOTE: Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 135153 (Sub-No. 12), filed October 28, 1971. Applicant: GREAT OVERLAND, INC., 1730 Shaber Street, Sparks, NV 89431. Applicant's representative: Harley E. Laughlin, Post Office Box 515, Sparks, NV 89431. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as defined by the Commission, between Dodge City, Kans., on the one hand, and points in Kansas, Louisiana, Texas, Arizona, New Mexico, California, Nevada, Oregon, Washington, and Utah, on the other hand. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Carson City, Nev.

No. MC 135272 (Sub-No. 1), filed October 21, 1971. Applicant: ROBERT CRAWFORD, doing business as CRAWFORD TRUCKING COMPANY, Post Office Box 7172, Omaha, NE 68107. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motorcycles and motorcycle trailers, motorcycle parts and accessories, and motorcycles's accessories*, from points in California, to Fremont, Omaha, and Bellevue, Nebr., and Council Bluffs, Iowa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 135326 (Sub-No. 3), filed October 18, 1971. Applicant: BILLY R. ALMAND, doing business as ALMAND TRUCKING COMPANY, Post Office Box 79, Keithville, LA 71047. Applicant's representative: B. R. Almand (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing granules*, dry, in bulk, from points in Pulaski County, Ark., to Shreveport, La. NOTE: If a hearing is deemed necessary, applicant requests it be held at Shreveport or Baton Rouge, La., or Little Rock, Ark.

No. MC 135654 (Sub-No. 2), filed August 19, 1971. Applicant: WILLIAM A. MAXSON, doing business as DELL MAXSON MILK TRANSPORT, Pittsford, Mich. 49271. Applicant's representative: L. Russell Heuman, 410 South Jackson Street, Jackson, MI 49201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles*, between Jonesville, Mich., and Winston-Salem, N.C., Linden, N.J., and Marion, S.C. under contract with Mark I Molded Plastics. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Jackson or Lansing, Mich.

No. MC 135736 (Sub-No. 1), filed August 6, 1971. Applicant: FLEET SERVICES, INC., Rockefeller Center, Time & Life Building, New York, N.Y. 10020. Applicant's representative: Charles W. Chapman, 233 Broadway, New York, NY 10007. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* in express service (except in bulk, in tank vehicles), from New York, N.Y., to (1) points in Connecticut and New Jersey; (2) points in Berkshire, Franklin, Hampshire, and Hampden Counties, Mass.; (3) points in Pennsylvania east of a line beginning at the Pennsylvania-Maryland State line and extending along Interstate Highway 83 to Harrisburg, thence along Pennsylvania Highway 147 to Muncy, thence along Pennsylvania Highway 405 to Hughesville, thence along U.S. Highway 220 to the Pennsylvania-New York State line; and (4) to the District of Columbia. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y. or Washington, D.C.

No. MC 135866 (Sub-No. 1) (Clarification), filed August 25, 1971, published in the FEDERAL REGISTER issue of October 15, 1971, and republished, in part, as clarified, this issue. Applicant: JACK L. MASSENDER, doing business as ZILLAH HAULING SERVICE, 6502 North Pittsburg, Spokane, WA 99207. The purpose of this partial republication is to delete the name of John Hall as applicant's representative, which was erroneously submitted by applicant in previous publication. The rest of the application remains as previously published.

No. MC 136076 (Sub-No. 1) (Correction), filed August 12, 1971, published in the FEDERAL REGISTER issue of September 16, 1971, and republished in part, as corrected, this issue. Applicant: JESSE GOMEZ, Route 1, Box 114, Wellton, AZ 85356. Applicant's representative: A. Michael Bernstein, 1327 United Bank Building, Phoenix, Ariz. 85012. The purpose of this partial republication is to show the correct docket number as MC 135876 (Sub-No. 1), in lieu of MC 135876, which was inadvertently omitted in the previous publication. The rest of the application remains as published.

No. MC 135878 (Sub-No. 2), filed October 20, 1971. Applicant: AVERIL W. HUNTER, Rural Route No. 3, Florenceville, New Brunswick, Canada. Applicant's representative: William D. Pinansky, 443 Congress Street, Portland, ME 04111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, from port of entry on the international boundary line between the United States and Canada at or near Houlton, Maine, to points in Maine. NOTE: If a hearing is deemed necessary, applicant requests it be held at Portland, Maine.

No. MC 136067, filed September 20, 1971. Applicant: PHILIPPE RICHARD, LTD., St-Pascal, County of Kamouraska, Province of Quebec. Applicant's representative: Aurele Richard, 1619, Boulevard de l'Entente, Quebec, Province de Quebec. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Soya feed for animals*, from the port of entry on the international boundary line between Canada and the United States at or near Rouses Point, N.Y., to the city of Rouses Point and return to this port of entry. NOTE: If a hearing is deemed necessary, applicant requests it be held at Concord, N.H.

No. MC 136085 (Sub-No. 1), filed October 15, 1971. Applicant: B & M CARRIERS LIMITED, Post Office Box 4040, Station E, Ottawa 1, ON, Canada. Applicant's representative: Herbert M. Canter, 345 South Warren Street, Syracuse, NY 13202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, in dump vehicles, from ports of entry on the United States-Canada border at or near Rooseveltown, Ogdensburg, and Alexandria Bay, N.Y., to points in Clinton, Franklin, Hamilton, Herkimer, Jefferson, Lewis, and St. Lawrence Counties, N.Y. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Syracuse, N.Y., or Washington, D.C.

No. MC 136106, filed October 12, 1971. Applicant: RICLO TRUCKING CO., a corporation, 840 Bloomfield Avenue, Clifton, NJ 07012. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, dangerous explosives, household goods as defined in Practices of Motor Carriers of Household Goods, commodities in bulk, and those requiring special equipment), from the site of Allwood Warehouse Co., Inc., at Clifton, N.J., to points on and within an area bounded on the south by a line beginning at Ocean City, Md., and extending along U.S. Highway 50 to Washington, D.C.; on the west, by a line beginning at Washington, D.C., and extending along U.S. Highway 70S to Frederick, Md., thence along U.S. Highway 70 to Bedford, Pa., thence along U.S. Highway 220 to Williamsport, Pa., thence along U.S. Highway 15 to junction New York Highway 14, thence along New York Highway 14 to Elmira, N.Y., thence along New York Highway 13 to Cortland, N.Y., thence along Interstate Highway 81 to Syracuse, N.Y.; on the north, by a line beginning at Syracuse, N.Y., and extending along Interstate Highway 90 to Utica, N.Y., thence along New York Highway 8 to Ticonderoga, N.Y., thence along New York Highway 22 to junction U.S. Highway 4 to Portsmouth, N.H.; on the east, by the Atlantic Ocean, from Portsmouth, N.H., to the point of beginning at Ocean City, Md.; under contract with Allwood Warehouse Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 136103 (Sub-No. 1), filed October 20, 1971. Applicant: JOHN J. SAMMON, 45-64 157th Street, Flushing, NY 11355. Applicant's representative: Arthur J. Piken, 1 Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electro plating, materials and supplies*, except in bulk, in tank vehicles, from Nutley, N.J., to points in that part of the New York, N.Y., commercial zone as defined in the fifth supplemental report in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, within which operations may be conducted pursuant to the partial exemption in section 203(b)(8) of the Interstate Commerce Act (the "exempt" zone), under contract with Udylite Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 136110, filed October 18, 1971. Applicant: GARY PECK, doing business as PECK TRUCKING, Route 1, McArthur, Ohio 45651. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Sand, gravel, water well packing, and water filter replacements*, from points in Jefferson Township, Ross County, Ohio, to points in the United States (except Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming); and (2) *materials and supplies used in processing, packaging, and shipping the commodities named in (1) above*, on return, under contract with The Parry Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 136112, filed October 6, 1971. Applicant: JOSEPH W. NOTO AND ANTHONY J. NOTO, a partnership, doing business as FRANKLIN STREET TRUCKING CO., 41 Worth Street, New York, NY 10013. Applicant's representative: William D. Traub, 10 East 40th Street, New York, NY 10016. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Piece goods*, between the warehouse site of A. E. Nathan Co., Inc., at Oceanside, N.Y., and points in the New York, N.Y., commercial zone as defined by the Commission, under contract with A. E. Nathan Co., Inc., Oceanside, N.Y. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 136113, filed October 4, 1971. Applicant: ADELPHI SALES CO., INC., 31 Grand Street, Brooklyn, NY 11211. Applicant's representative: Jason Horn, 31 Grand Street, Brooklyn, NY 11211. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Candies and cookies*, from New York, N.Y., to points in Bergen, Hudson, Essex, Morris, Passaic, Union, and Middlesex Counties, N.J.; and *rejected and return shipments*, on return. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 136118 (Sub-No. 1), filed October 26, 1971. Applicant: CERNI TRANSPORTATION CORP., 169 Avenue P, Bayonne, NJ 07002. Applicant's representative: Paul J. Keeler, Post Office Box 253, South Plainfield, NJ 07080. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Forms or molds, concrete construction, and materials and equipment used in the installation and removal of same, plywood, and steel scaffolding*, (1) between the plantsites and warehouses of Symons Manufacturing Co., a division of Symons Corp., at Des Plaines, Ill., Victor, N.Y., King of Prussia, Pa., Fairfield, N.J., and Baltimore, Md., and (2) between the warehouse of Symons Manufacturing Co., a division of Symons Corp., at Fairfield, N.J., on the one hand, and, on the other, New York, N.Y., and points in Nassau, Suffolk, Westchester, Putnam, Dutchess, Columbia, Greene, Ulster, Sullivan, Orange, and Rockland Counties, N.Y., under contract with Symons Manufacturing Co., a division of Symons Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 136125, filed October 25, 1971. Applicant: SOUTHEAST TRUCKING, INC., 5425 South Orange Blossom Trail, Orlando, FL 32809. Applicant's representative: Richard J. Brooks, Post Office Box 1531, Tallahassee, FL 32302. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carpet, rugs and rug samples, tile and adhesive, vinyl and adhesive, laminated plastic, contact cement and carpet padding*, from Cartersville and Dalton, Ga., Kearny and Trenton, N.J., Marcus Hook, Pa., Wilburton, Okla., Los Angeles, Calif., Odenton, Md., Grove City, Ohio, Buffalo, N.Y., and Morris, Ill., to warehouses of Atlantic

Distributors, Inc., located at Orlando, Miami, Fort Lauderdale, Tampa, Jacksonville, and Panama City, Fla., and Savannah, Ga., under contract with At-

gers and their baggage in the same vehicle with passengers, in round-trip special operations, beginning and ending at Fort Lee and Hackensack, N.J., and ex-

and Indianapolis, Ind., from Elwood over Indiana Highway 13 to junction Indiana Highways 37 and 37A, and return over the same route, serving all intermediate

follows: From Noblesville over Indiana Highway 238 to junction Indiana Highway 37; (b) from Indiana Highway 37A located at Ben Hur over county road designated as County Line Road and as

raine, 1250 Connecticut Avenue, Suite 600, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their bag-*

foreign commerce, by non-self-propelled vessels with the use of separate towing vessels, in the transportation of *lumber and lumber products*, from the port of Longview, Wash., to the ports of Provi-

Distributors, Inc., located at Orlando, Miami, Fort Lauderdale, Tampa, Jacksonville, and Panama City, Fla., and Savannah, Ga., under contract with Atlantic Distributors, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Orlando, Jacksonville, or Miami, Fla.

No. MC 136132, filed November 1, 1971. Applicant: BOAT MOVING ENGINEERS, INC., 12401 Greiner Street, Detroit, MI 48206. Applicant's representative: Robert A. Sullivan, 1600 Buhl Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boats, boat equipment, boat supplies and boat parts*, when moving with boats, between Michigan, on the one hand, and points in Ohio, Pennsylvania, and Kentucky, on the other. NOTE: If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 136135, filed October 14, 1971. Applicant: CHARLES E. POWERS, doing business as POWERS SERVICE, 1912 Tarry Lake Road, Fort Collins, CO 80521. Applicant's representative: Robert S. Stauffer, 3539 Boston Road, Cheyenne, WY 82001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked or disabled motor vehicles and replacements therefor*, by use of wrecker equipment only, between points in Denver, Weld, and Larimer Counties, Colo., on the one hand, and, on the other hand, points in Idaho, Kansas, Montana, New Mexico, Nebraska, South Dakota, Texas, Utah, and Wyoming. NOTE: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Cheyenne, Wyo.

No. MC 136140, filed October 25, 1971. Applicant: ROCKDALE SERVICES, INC., 153-58 Rockaway Boulevard, Jamaica, NY 11434. Applicant's representative: Morris Konig, 150 Broadway, New York, NY 10038. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Luggage and personal property* usually carried by airline passengers, between La Guardia Airport and John F. Kennedy International Airport, New York, N.Y., and Newark Airport, Newark, N.J., on the one hand, and, on the other, points in New York, Connecticut, Massachusets, Rhode Island, New Jersey, Pennsylvania, Maryland, Delaware, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

MOTOR CARRIERS OF PASSENGERS

No. MC 3700 (Sub-No. 67), filed October 26, 1971. Applicant: MANHATTAN TRANSIT COMPANY, a corporation, Route 46, East Paterson, N.J. 07407. Applicant's representative: Robert E. Goldstein, 8 West 40th Street, New York, NY 10018. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, in round-trip special operations, beginning and ending at Fort Lee and Hackensack, N.J., and extending to Delaware Park Race Track, Stanton, Del., Green Mountain Park Race Track, Pownal, Vt., and Liberty Bell Park Race Track, Philadelphia, Pa., restricted to service during the authorized racing seasons of the above-named race tracks. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 34319 (Sub-No. 11), filed August 12, 1971. Applicant: A. B. C. COACH LINES, INC., 116 West Rudisill Boulevard, Fort Wayne, IN 46807. Applicant's representative: Warren C. Young, 401 East Jackson Street, Muncie, IN 47305. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *Passengers and their baggage, and express and newspapers*, in the same vehicle with passengers, over regular routes: (1) between Fort Wayne, Ind., and Richmond and Muncie, Ind., as follows: From Fort Wayne over U.S. Highway 27 to Richmond (also from Fort Wayne over U.S. Highway 27 as specified above, to Winchester, Ind., thence over Indiana Highway 32 to Muncie), and return over the same routes, serving all intermediate points; (2) between Fort Wayne, Ind. and South Bend, Ind., over U.S. Highway 33, serving all intermediate points; (3) between Fort Wayne, Ind., and junction Indiana Highway 9 and U.S. Highway 33, from Fort Wayne over Indiana Highway 427 to Auburn, thence over U.S. Highway 27 to Garrett, thence over Indiana Highway 327 to U.S. Highway 6, thence over U.S. Highway 6 to Kendallville and Ligonier, thence over Indiana Highway 9 through Albion to junction U.S. Highway 33, and return over the same route, serving all intermediate points; (4) between Muncie and Portland, Ind., from Muncie over Indiana Highway 67 to Albany, thence over Indiana Highway 167 to Dunkirk, thence over county road to Redkey, thence over Indiana Highway 1 to junction Indiana Highway 67, thence over Indiana Highway 67 to Portland and return over the same route, serving all intermediate points; (5) between Ligonier and Syracuse, Ind., from Ligonier over U.S. Highway 6 to junction Indiana Highway 13–A, thence over Indiana Highway 13–A to junction Indiana Highway 313, thence over unnumbered county roads in a circuitous manner around Lake Syracuse via Wawasee, South Shore, and Cedar Point to junction Indiana Highway 13–A, thence return over the same route, serving all intermediate points;

(6) between Muncie and Anderson, Ind., over Indiana Highway 32, and return over the same route, serving all intermediate points; (7) between Anderson and Lebanon, Ind., over Indiana Highway 32, and return over the same route, serving all intermediate points; (8) between Fort Wayne and Garrett, Ind., over Indiana Highway 327, and return over the same route, serving all intermediate points; (9) between Elwood and Indianapolis, Ind., from Elwood over Indiana Highway 13 to junction Indiana Highways 37 and 37A, and return over the same route, serving all intermediate points; (10) between Ligonier and South Bend, Ind., from Ligonier over U.S. Highway 33 to junction U.S. Highway 6, thence over U.S. Highway 6 to junction Indiana Highway 331, thence over Indiana Highway 331 to Mishawaka, Ind., thence over U.S. Highway 33 to South Bend, and return over the same route, serving all intermediate points; (11) between Richmond and New Castle, Ind., over Indiana Highway 38, and return over the same route, serving all intermediate points; (12) between New Castle and Muncie, Ind., over Indiana Highway 3, and return over the same route, serving all intermediate points; (13) between Muncie and Mount Summit, over Indiana Highway 3 and unnumbered county highway in a southwesterly direction through Cowan, Oakville, and Springport and return over the same route, serving all intermediate points; (14) between Muncie and Richmond, Ind., over U.S. Highway 35, and return over the same route, serving all intermediate points;

(15) Between Muncie and Anderson, Ind., from Muncie over Indiana Highway 67 to junction Indiana Highway 232, thence over Indiana Highway 232 to junction Indiana Highway 32, thence over Indiana Highway 32 to Anderson, and return over the same route, serving all intermediate points; excepting that no passengers, baggage, light express, newspapers, or mail will be received or discharged at Anderson or Muncie, whose entire ride is between the terminal points of Anderson and Muncie; and excepting on Highways 32 and 232, into Anderson; (16) between junction Indiana Highways 67 and 232 and Indianapolis, Ind., over Indiana Highway 67, and return over the same route, serving all intermediate points; provided that no passengers shall be transported whose points of origin or destination is between the junction of Indiana Highways 67 and 9, immediately south of Anderson, Ind., into Indianapolis, Ind.; (17) (a) between junction Indiana Highway 67 and unnumbered highway (designated as Main Street) and Anderson, Ind., over unnumbered highway (designated as Main Street), serving all intermediate points, and (b) between Anderson, Ind., and the plantsite of Guide Lamp, Inc., located on Indiana Highway 9, near Anderson, Ind., from Anderson over Indiana Highway 9 to said plantsite of Guide Lamp, Inc., serving all intermediate points, and limited to employees of said plant and to facilities whose point of origin or destination is east of the city limits of Anderson, Ind.; (18) between Fort Wayne and Kendallville, Ind., over Indiana Highway 3, serving all intermediate points; (19) between junction Indiana Highways 32 and 37 and Indianapolis, Ind., over Indiana Highway 37 to junction Indiana Highway 37A, thence over Indiana Highway 37A to Indianapolis, Ind., and return over the same route, serving all intermediate points;

(20) (a) Between Indiana Highways 37 and 37A near Indianapolis, Ind., as follows: From Noblesville over Indiana Highway 238 to junction Indiana Highway 37; (b) from Indiana Highway 37A located at Ben Hur over county road designated as County Line Road and as 116th Street to junction Indiana Highway 37; (c) from junction Indiana Highway 37A over county road designated as County Line Road and 96th Street to junction Indiana Highway 37; (d) from Indiana Highway 37A at Allisonville over highway designated as 86th Street and Indiana Highway 100, through the town of Castleton to Indiana Highway 37; (e) from Indiana Highway 37A over 75th Street to junction Indiana Highway 37; (f) from Indiana Highway 37A over 62d Street to junction Indiana Highway 37; (g) from Indiana Highway 37A over Keasler Boulevard, to junction Indiana Highway 37; (h) from Indiana Highway 37A over 56th Street to junction Indiana Highway 37; (i) from Indiana Highway 37A over 46th Street to junction Indiana Highway 37; and return over the same routes in (a) through (i) above, serving all intermediate points; (21) between Winchester and Union City, Ind., from Winchester over Indiana Highway 32 to junction Indiana Highway 227, thence over Indiana Highway 227 to Union City, and return over the same route, serving all intermediate points; (22) between Richmond and Connersville, Ind., from Richmond over U.S. Highway 27 to Liberty, thence over Indiana Highway 44 to Connersville, and return over the same route, serving all intermediate points, except no service to be rendered between Richmond and Liberty;

(23) Between Anderson and Connersville, Ind., from Anderson over Indiana Highway 236 to Middletown, thence over County Road to Indiana Highway 38, thence over Indiana Highway 38 through Cadiz to New Castle, thence over County Road through New Lisbon to Dublin, thence over U.S. Highway 40 to Cambridge City, thence over Indiana Highway 1 through Milton to Connersville and return over the same route, serving all intermediate points; (24) between New Castle and Middletown, Ind., from New Castle over Indiana Highway 3 to Junction U.S. Highway 36, thence over U.S. Highway 36 and County Roads to Middletown and return over the same route, serving all intermediate points, and (25) between Richmond and Cambridge City, Ind., over U.S. Highway 40, serving all intermediate points. Irregular routes: *Passengers and their baggage, light express, newspapers and mail*, in special or charter operations, between points in Indiana. NOTE: Applicant's purpose is to modify and alter it's Interstate Commerce Commission operating authority under MC 34319 to coincide with its Public Service Commission of Indiana intrastate authority under No. 98A. Applicant's evidence will be confined to the support of such purpose. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.

No. MC 135364 (Sub-No. 2), filed October 4, 1971. Applicant: STATESVILLE MOTOR COACH CO., INC., 109 Winston Avenue, Statesville, NC 28677. Applicant's representative: Charles Ephraim, 1250 Connecticut Avenue, Suite 600, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in charter operations, beginning and ending at points in Iredell County, N.C., and extending to points in the United States in and east of Wisconsin, Illinois, Missouri, Arkansas, and Louisiana. NOTE: If a hearing is deemed necessary, applicant requests it be held at Statesville, N.C.

No. MC 136139, filed October 18, 1971. Applicant: VIKEN BUS CHARTER SERVICE, INC., 2018 Sugar Grove, Indianapolis, IN 46202. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, Ind. 46202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in round-trip charger and special service, beginning and ending at points in Marion County, Ind., and extending to points in the United States (except Alaska and Hawaii). NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.

APPLICATIONS FOR BROKERAGE LICENSES

No. MC 12379 (Sub-No. 1), filed October 14, 1971. Applicant: PARKER TOURS, INC., 125 West 43d Street, New York, NY 10036. For a license (BMC 5) to engage in operations as a *broker* at Bergenfield, N.J., as well as at the presently authorized point of New York, N.Y., in arranging for transportation by motor vehicle, in interstate or foreign commerce, of *passengers and their baggage*, between points in the United States.

No. MC 130158, filed October 18, 1971. Applicant: JAMES ALAN VITEZ, 62 Upland Road, Wyomissing Hills, PA. For a license (BMC–4) to engage in operations as a *broker* at Reading, Pa., and Washington, D.C., in arranging for the transportation by motor vehicle, in interstate or foreign commerce of *articles*, which because of size or weight require the use of special equipment; contractors equipment; heavy and bulky articles; machinery; machine parts; self-propelled articles weighing 15,000 pounds or more and related machinery, tools parts, supplies, moving in connection therewith and other equipment which are a part of the contents of an industrial plant to be moved as a unit from one location to another (except commodities in bulk), between points in the United States (except Alaska and Hawaii).

APPLICATION FOR WATER CARRIER

No. W–405 (Sub-No. 10) (PALANTIC STEAMSHIP CO., INC., Extension—Tug and Barge), filed September 22, 1971. Applicant: PALANTIC STEAMSHIP CO., INC., 1400 25th Avenue, Longview, WA 98632. Applicant's representative: John Cunningham, 500 Tower Building, Washington, DC 20005. By application filed September 22, 1971, applicant seeks a revision of permit No. W–405 to operate as a contract carrier, in interstate or foreign commerce, by non-self-propelled vessels with the use of separate towing vessels, in the transportation of *lumber and lumber products*, from the port of Longview, Wash., to the ports of Providence and Portsmouth, R.I.; New London and New Haven, Conn.; New York, N.Y.; Philadelphia, Pa.; Wilmington, Del., and Baltimore, Md.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 114966 (Sub-No. 45), filed October 27, 1971. Applicant: CYRUS TRUCK LINE, INC., Post Office Box 327, Iola, KS 66749. Applicant's representative: Charles H. Apt, 104 South Washington, Iola, KS 66749. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, from points in Douglas County, Kans., to points in Iowa, Missouri, Nebraska, Arkansas, Oklahoma, and Minnesota. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority.

No. MC 133401 (Sub-No. 3), filed November 1, 1971. Applicant: DONALD G. BEACHLER, doing business as B & B TRUCKING, 2949 Standiford, Modesto, CA 95350. Applicant's representative: J. Wilmar Jensen, 1514 H Street, Modesto, CA 95354. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Manufactured dry fertilizer*, in bulk, from Lathrop, San Joaquin County, Calif., to points in the counties of Klamath, Lake, and Jackson, all in the State of Oregon, in addition to authority which has previously been granted to operate from Richmond, Shell Point, and Nickols, Calif., to the above-mentioned Oregon counties; also, applicant is presently requesting an amendment (133401 Sub 2) permitting operations from Helm, Fresno County, Calif., to the above-mentioned Oregon counties, under contract with Collier's customers, Occidental's customers and Simplot's customers.

No. MC 136048 (Sub-No. 1) (Correction), filed September 10, 1971, published FEDERAL REGISTER, issue of October 29, 1971, as No. MC 136058, and republished as corrected this issue. Applicant: NEIL J. NEWLAND, doing business as NEWLAND'S GARAGE, Sixth and Locust, Wellsville, KS 66092. Applicant's representative: John L. Richeson, First National Bank Building, Ottawa, Kans. 66067. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm implements, machinery, and farm equipment*, assembled and unassembled, machinery and farm equipment, assembled and unassembled, between points in Kansas, Missouri, Oklahoma, Nebraska, Illinois, Texas, Iowa, and Colorado. NOTE: The purpose of this republication is to show that the application has been reassigned No. MC 136048 (Sub-No. 1). The rest of the notice remains as previously published.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.71-17143 Filed 11-24-71;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[812-3021]

CONTINENTAL ILLINOIS CORP. ET AL.

Notice of Filing of Application for Order Exempting Proposed Transaction

NOVEMBER 18, 1971.

Notice is hereby given that Continental Illinois Corporation ("Corporation"), a bank holding company registered under the Bank Holding Company Act of 1956, and Continental Illinois National Bank and Trust Company of Chicago ("Bank"), a national banking association and wholly-owned subsidiary of the Corporation, both with principal offices at 231 South LaSalle Street, Chicago, Ill. 60693, have filed an application pursuant to section 3(a)(3) of the Investment Company Act of 1940 ("Act") for an order exempting from the provisions of section 17(a) of the Act the proposed transaction described below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Corporation proposes to issue and sell to the Bank, and the Bank proposes to purchase, $50,000,000 principal amount of its 6¾% Subordinated Notes, Series A, due December 1, 1981. The Corporation proposes to use the proceeds from the sale of the notes for general corporate purposes, including the purchase of shares of the Bank's common stock. The Bank proposes to use the proceeds from the sale of the notes to increase its capital funds.

Section 17(a) of the Act generally prohibits affiliated persons of a registered investment company from selling any property to such company unless the Commission finds that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act. Section 3(a)(3) of the Act provides that any person directly or indirectly controlling or controlled by or under common control with a bank holding company is an affiliated person of such bank holding company.

The Corporation and the Bank state that the Corporation is a bank holding company registered under the Bank Holding Company Act of 1956 and that the Bank is a wholly-owned subsidiary of the Corporation. They state that the Corporation is not an investment company and that the Bank is not engaged in the business of investing, reinvesting, or trading in securities. They state that the Corporation and the Bank are affiliated persons of each other and that the proposed transaction is therefore subject to the provisions of section 17(a) of the Act.

The Corporation and the Bank state that the proposed transaction is reasonable and fair and does not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act. They state that the proposed transaction will not adversely affect the Corporation's ability to service its debt and that the proposed transaction will not adversely affect the Bank's capital position.

By order dated January 17, 1969 (Holding Company Act Release No. 16268), the Commission authorized Kingsport to issue and sell its notes to two commercial banks prior to December 31, 1969,

is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be

ber 10, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his inter-

days in advance of the date set for the hearing.

Issued: November 22, 1971.

By order of the Commission.

SECURITIES AND EXCHANGE COMMISSION

[812-3009]

E. I. DU PONT DE NEMOURS & CO.

Notice of Filing of Application for Order Exempting Proposed Transaction

NOVEMBER 19, 1971.

Notice is hereby given that E. I. du Pont de Nemours & Co. (Applicant), Wilmington, Del. 19898, a Delaware corporation, has filed an application pursuant to section 17(b) of the Investment Company Act of 1940 (Act) for an order exempting the proposed grant of certain exclusive licenses and rights to Applicant's technical information and patents in Mexico to Policron de Mexico, S.A. (Policron), a Mexican corporation. All interested persons are referred to the application on file with the Commission for a full statement of the representations therein, which are summarized below.

Christiana Securities Co. (Christiana), a registered closed-end investment company, owns approximately 28.4 percent of the outstanding common stock of Applicant, which in turn owns 49 percent of the outstanding common stock of Policron. Under section 2(a)(9) of the Act, both Applicant and Policron are presumed to be controlled by Christiana and, under section 2(a)(3) of the Act, both Applicant and Policron are also affiliated persons of Christiana.

Policron, a manufacturer of polyester fibers since 1965, has expanded its manufacturing facilities to include the manufacture of additional types of fibers and the polymers used in polyester fiber manufacture. Accordingly, Policron seeks to acquire from Applicant exclusive technical information and patent rights in Mexico with respect to such fibers and polymers.

In consideration for exclusive rights to this package of technical information and patents, Policron has agreed to pay Applicant fees and royalties at the rate of four percent (4.0%) of the "net selling price" (gross sales price less customer discounts, sales taxes and transportation expenses) of all quantities of polyester fibers manufactured and used or sold by Policron or any sublicensee of Policron. The fees and royalties will be in effect on polyester fibers used or sold that are manufactured on or before December 31, 1981. Applicant states that the fees and royalties and other provisions of the licenses have been negotiated on an arm's-length basis, and Applicant believes that the terms thereof are fair to both parties.

Section 17(a) of the Act prohibits an affiliated person of a registered investment company from purchasing from such company or any company controlled by such registered investment company any security or other property, with certain exceptions not here applicable. Section 17(b) of the Act provides that the Commission shall issue an order exempting a proposed transaction from one or more provisions of section 17(a) if the Commission finds, upon application, that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of the registered investment company and the general purposes of the Act.

Notice is further given that any interested person may, no later than December 9, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GLADYS E. GREER,
Assistant Secretary.

[FR Doc.71-17207 Filed 11-24-71;8:48 am]

[70-4703]

KINGSPORT POWER CO.

Notice of Third Post-Effective Amendment Regarding Issue and Sale of Short-Term Notes to Banks

NOVEMBER 19, 1971.

Notice is hereby given that Kingsport Power Co. (Kingsport), 40 Franklin Road, Roanoke, VA 24009, a public-utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed with this Commission a third posteffective amendment to its application in this proceeding pursuant to section 6(b) of Public Utility Holding Company Act of 1935 (Act) regarding the following proposed transactions. All interested persons are referred to the amended application, which is summarized below, for a complete statement of the proposed transactions.

By order dated January 17, 1969 (Holding Company Act Release No. 16268), the Commission authorized Kingsport to issue and sell its notes to two commercial banks prior to December 31, 1969, in an aggregate amount not to exceed $2,500,000 outstanding at any one time. By supplemental orders dated December 15, 1969, and December 24, 1970 (Holding Company Act Releases Nos. 16553 and 16922), the Commission authorized Kingsport to increase the amount of its notes outstanding at any one time to $3,500,000 and to extend the period of issuance until December 31, 1971. Kingsport now proposes that the notes be issued prior to December 31, 1972, in an aggregate amount not to exceed $4 million outstanding at any one time. Kingsport requests the Commission's approval of the issue and sale of such amount of notes not already exempt pursuant to the first sentence of section 6(b) of the Act. The notes will be issued and sold to Manufacturers Hanover Trust Co., New York, N.Y. and Morgan Guaranty Trust Company of New York, N.Y., in the aggregate principal amounts of $2,500,000 and $1,500,000, respectively; will mature not later than 270 days after the date of the issue or renewal; and will bear interest from the date thereof at the prime credit rate in effect from time to time or at the time the borrowing is made. Kingsport will maintain compensating balances of 20 percent, which are the currently prevailing balance requirements at the two banks named, and the effective interest cost to Kingsport of the issuance and sale of the notes to such banks will be approximately 6.9 percent based on the current prime commercial credit rate of 5½ percent. The notes may be prepaid at any time, in whole or in part, without premium. As of November 1, 1971, Kingsport had outstanding $2,500,000 of short-term notes.

Kingsport will use the proceeds from the sale of the notes to repay bank loans the proceeds of which were used for past expenditures in connection with its construction program, to provide funds to finance, in part, its future construction program, estimated for 1972 to cost approximately $2,400,000, and for other corporate purposes. It is stated that all of Kingsport's notes payable to banks outstanding at the time of its next permanent financing will be paid from the proceeds of that financing.

It is represented that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 13, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said posteffective amendment to the application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served

is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as now amended or as it may be further amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GLADYS E. GREER,
Assistant Secretary.

[FR Doc.71-17208 Filed 11-24-71;8:49 am]

[811-1150]

TECHNICAL CAPITAL CORP.

Notice of Proposal To Terminate Registration

NOVEMBER 19, 1971.

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 (Act), to declare by order upon its own motion that Technical Capital Corp. (Technical), 235 East 42d Street, New York, NY, registered as a closed-end nondiversified management investment company under the Act, has ceased to be an investment company.

Technical registered under the Act on February 1, 1962, as a small business investment company. Information available to the Commission indicates that Technical has never engaged in the business of being an investment company; that its registration statement under the Securities Act of 1933 was withdrawn on August 14, 1962; and that it has less than 100 shareholders.

Section 3(c)(1) of the Act provides, in pertinent part, that any issuer whose outstanding securities are beneficially owned by not more than 100 persons and which is not making and does not presently propose to make a public offering is not an investment company within the meaning of the Act.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on its own motion, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that upon the effectiveness of such order, which may be issued upon the Commission's own motion where appropriate, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than December 10, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Technical at the address set forth above. Proof shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations under the Act, an order disposing of the matter may be issued by the Commission upon the basis of the information stated in this notice, unless an order for hearing upon this matter shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GLADYS E. GREER,
Assistant Secretary.

[FR Doc.71-17209 Filed 11-24-71;8:49 am]

TARIFF COMMISSION

[AA1921-84]

DIAMOND TIPS FROM UNITED KINGDOM

Notice of Investigation and Hearing

Having received advice from the Treasury Department on November 18, 1971, that diamond tips for phonograph needles from the United Kingdom are being, or are likely to be, sold at less than fair value, the U.S. Tariff Commission has instituted an investigation under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Hearing. A public hearing in connection with the investigation will be held in the Tariff Commission's Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, DC, beginning at 10 a.m., e.s.t., on January 11, 1972. All parties will be given opportunity to be present, to produce evidence, and to be heard at such hearing. Interested parties desiring to appear at the public hearing should notify the Secretary of the Tariff Commission, in writing, at its offices in Washington, D.C., at least 5 days in advance of the date set for the hearing.

Issued: November 22, 1971.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.71-17273 Filed 11-24-71;8:53 am]

[TEA-W-122]

GLADDING CORP.

Workers' Petition for Determination of Eligibility To Apply for Adjustment Assistance; Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the workers of the U.S. Fiberglass Division, Gladding Corp., Miami, Fla., the U.S. Tariff Commission, on November 22, 1971, instituted an investigation under section 301(c)(2) of the act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with the fiberglass fishing rods produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such company.

The petitioners have not requested a public hearing. A hearing will be held on request of any other party showing a proper interest in the subject matter of the investigation: *Provided*, Such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, DC, and at the New York City office of the Tariff Commission located in room 437 of the Customhouse.

Issued: November 22, 1971.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.71-17272 Filed 11-24-71;8:53 am]

TELEVISION RECEIVERS

Report to the President

Industry ineligible for tariff or other assistance.

The U.S. Tariff Commission today reported to the President the results of an investigation under the Trade Expansion Act of television receivers and certain parts thereof.

In the investigation, the Commission found (Commissioner Moore dissenting) that television receivers and parts thereof, provided for in item 685.20 of the Tariff Schedules of the United States, are not, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause, or

threaten to cause, serious injury to the domestic industry producing like or directly competitive products.

The investigation (TEA-I-21) was instituted on October 29, 1971, upon receipt of a petition filed by the Electronic Industries Association, Washington, D.C., on behalf of the industry producing television receivers in the United States. The petition was filed under section 301(b)(1) of the Trade Expansion Act of 1962, which establishes the criteria for determining whether a domestic industry is qualified for tariff or other assistance.

Public hearings were held in connection with the investigation in Washington, D.C., on November 16 and 17, 1971.

The Commission's findings, which were adopted on November 22, 1971, will be released as soon as possible. Copies will be available on request as long as the supply lasts. Requests should be addressed to the

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threaten to cause, serious injury to the domestic industry producing like or directly competitive products.

The investigation (TEA-I-21) was instituted by the Commission in June 1971 on petition of three unions (the International Association of Machinists and Aerospace Workers, AFL-CIO; the International Brotherhood of Electrical Workers, AFL-CIO; and the International Union of Electrical, Radio & Machine Workers, AFL-CIO-CLC) representing workers in the industry. It was conducted under the provisions of section 301(b) of the Trade Expansion Act of 1962, which establishes the criteria for determining whether a domestic industry is qualified for tariff or other assistance.

A part of the material contained in the report may not be made public since it includes information that would disclose the operations of an individual firm. The Commission, therefore, is releasing to the public only those portions of the report that do not contain business confidential information.

Copies of the public report (TC Publication 436), which contains statements of the reasons for the Commissioners' findings, will be released as soon as possible. Copies will be available on request as long as the supply lasts. Requests should be addressed to the Secretary, U.S. Tariff Commission, Eighth and E Streets, NW., Washington, DC 20436.

By order of the Commission.

For release: November 19, 1971.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.71-17167 Filed 11-24-71;8:51 am]

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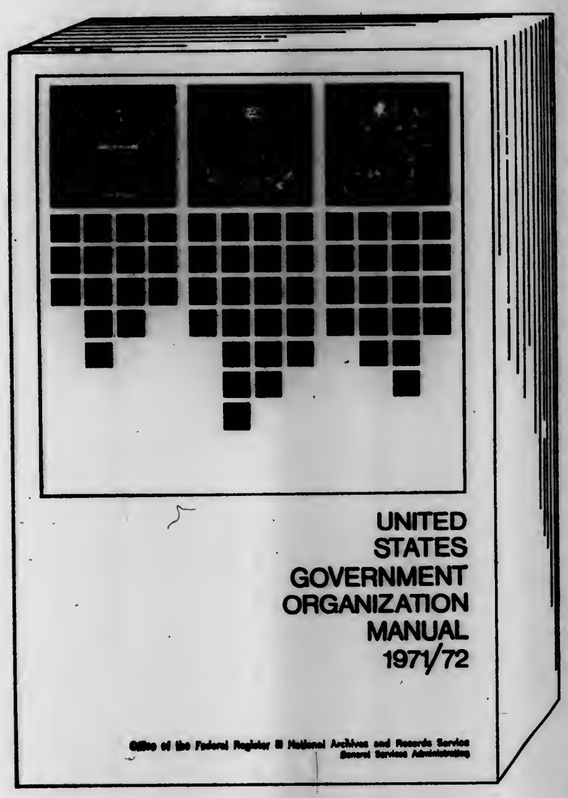

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Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

National Foundation on the Arts and the Humanities

Section 213.3182 is amended to show that in the National Endowment for the Arts the position of Director of Planning and Management is excepted under Schedule A, and that in the National Endowment for the Humanities the positions of Program Officer, State-Based Programs, and Program Officer, Special Projects, in the Division of State and Community Programs are excepted under Schedule A until June 30, 1973. It is also amended to reflect the current title of the Division of State and Community Programs in the titles of its Director and its present Program Officer.

Effective on publication in the FEDERAL REGISTER (11–27–71), subparagraph (18) of paragraph (a) and subparagraphs (16) and (17) of paragraph (b) are added, and subparagraphs (14) and (15) of paragraph (b) of § 213.3182 are amended as set out below.

§ 213.3182 National Foundation on the Arts and the Humanities.

(a) *National Endowment for the Arts.* • • •

(18) Until June 30, 1973, one Director of Planning and Management.

(b) *National Endowment for the Humanities.* • • •

(14) Until June 30, 1973, one Director, Division of State and Community Programs.

(15) Until June 30, 1973, one Program Officer, Division of State and Community Programs.

(16) Until June 30, 1973, one Program Officer, State-Based Programs, Division of State and Community Programs.

(17) Until June 30, 1973, one Program Officer, Special Projects, Division of State and Community Programs.

(5 U.S.C. sections 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71–17369 Filed 11–26–71;8:51 am]

PART 213—EXCEPTED SERVICE

Department of the Interior

Section 213.3312 is amended to show that one position of Special Assistant to the Assistant Secretary for Mineral Resources is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (11–27–71), subparagraph (37) of paragraph (a) is added to § 213.3312 as set out below.

§ 213.3312 Department of the Interior.

(a) *Office of the Secretary.* • • •

(37) One Special Assistant to the Assistant Secretary for Mineral Resources.

• • • • • •

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71–17413 Filed 11–26–71;8:51 am]

Title 7—AGRICULTURE

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR PEANUT CROP INSURANCE; CORRECTION

In the above-named document [F.R. Doc. 71–16817] which was published on November 18, 1971 (36 F.R. 22003), "Runner" was listed as the type of peanuts insured in Pike County, Ala. The types of peanuts insured in Pike County, Ala., should be changed to "Runner, Southeast Spanish, Virginia."

[SEAL] MORRIE S. HILL,
Acting Secretary, Federal Crop Insurance Corporation.

[FR Doc.71–17300 Filed 11–26–71;8:45 am]

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER F—DETERMINATION OF NORMAL YIELDS AND ELIGIBILITY FOR ABANDONMENT AND CROP DEFICIENCY PAYMENTS

PART 847—PUERTO RICO

Pursuant to the provisions of section 303 of the Sugar Act of 1948, as amended, Part 847 of Chapter VIII of Title 7 of the Code of Federal Regulations is revised to read as follows:

Sec.
847.1 Introduction.
847.2 Definitions.
847.3 Farm normal yield.
847.4 Eligibility for abandonment and deficiency.
847.5 Approval and certification.

AUTHORITY: The provisions of this Part 847 issued under secs. 303, 403, 61 Stat. 930, as amended, 932, as amended; 7 U.S.C. 1133, 1153, and secs. 13, 19, Public Law 92–138 approved Oct. 14, 1971.

§ 847.1 Introduction.

In accordance with the provisions of the "Sugar Act Amendments of 1971," Public Law 92–138 approved October 14, 1971, this revision of this Part 847 is issued to provide that, effective January 1, 1972, payments under section 303 of the Sugar Act of 1948, as amended, with respect to bona fide abandonment of planted acreage and crop deficiencies of harvested acreage of 1971–72 and subsequent crops of sugarcane shall be made on an individual farm basis. The regulations in the following §§ 847.2 through 847.5 are effective on January 1, 1972, and thereafter until amended, superseded or revoked.

§ 847.2 Definitions.

For the purpose of this part, the terms:

(a) "Act," "Director," "Area Office," and designation of a crop of sugarcane by year shall have the meanings set forth in § 893.1 of this chapter.

(b) "Yield of sugar" means hundredweight of sugar commercially recoverable as determined in accordance with Part 837 of this chapter, from sugarcane grown on the farm and marketed (or processed) for the extraction of sugar.

(c) "Planted acreage" or "planted acres" means the acreage from which sugarcane was harvested for the extraction of sugar plus the acreage of sugarcane with respect to which there was bona fide abandonment as a result of drought, flood, storm, freeze, disease, or insects.

(d) "Annual yield for the farm" means the average yield in hundredweight of sugar commercially recoverable per planted acre, as computed from the production record applicable to all of the land constituting the farm in the crop year for which such annual yield is established.

(e) "Farm" shall have the meaning set forth in Part 827 of this chapter.

§ 847.3 Farm normal yield.

The normal yield of commercially recoverable sugar per acre for any sugarcane farm in Puerto Rico shall be established by the Area Office for the 1971–72 and each subsequent year as follows:

(a) For a farm on which there was planted acreage in three or more of the next preceding five crop years, the normal yield shall be the simple average of all the annual yields for the farm for such years.

(b) For a farm on which there was no planted acreage in three or more of the next preceding five crop years, the normal yield shall be the simple average of

the normal yields established pursuant to paragraph (a) of this section for not less than six nearby farms having similar production potentials.

§ 847.4 Eligibility for abandonment and deficiency payments.

For each crop, each farm having abandonment of planted sugarcane acreage, or having a crop deficiency of harvested sugarcane acreage below 80 percent of the normal yield for such acreage, or having both such abandonment and deficiency, shall be approved by the Director for payments relating thereto if the following conditions with respect to the farm are met:

(a) The abandonment or deficiency was caused directly by drought, flood, storm, freeze, disease, or insects.

(b) The planted acres that were abandoned, or the harvested acres with respect to which there was such a crop deficiency, were suitable for the production of sugarcane and were cared for up to the time of harvest or abandonment, as the case may be, in a manner which could have been expected under average conditions to produce a normal crop of sugarcane.

(c) With respect to acreage abandonment, the area office was notified of the intention to abandon the acreage before the sugarcane was destroyed or the acreage was used for other purposes: *Provided*, That the Director may waive the requirement of prior notification if he (1) has knowledge that sugarcane was planted on the abandoned acreage and the extent of such plantings, (2) has knowledge of widespread crop damage in the locality where the farm or part of the farm is located, and (3) is satisfied that the abandonment on the farm in question resulted directly from drought, flood, storm, freeze, disease, or insects.

(d) There was compliance with all the other conditions for payment prescribed by the Act.

§ 847.5 Approval and certification.

Approval by the Director of an application for an abandonment payment or a crop deficiency payment, or both, shall constitute a determination that the farm with respect to such application is made is eligible for an abandonment or a deficiency payment, or both, as the case may be.

STATEMENT OF BASES AND CONSIDERATIONS

Pursuant to the amendment, effective January 1, 1972, of section 303 of the Sugar Act of 1948, as provided in Public Law 92–138, approved October 14, 1971, this revision of regulations authorizes payment for abandoned acreage and for deficiency of production on an individual farm basis. Heretofore, to receive payment the farm must have been located in an approved local producing area wherein damage to the crop had to affect 10 percent of the farms or 10 percent of the planted acres in the area.

All of the other eligibility requirements for approving abandonment and deficiency for the farm which were included in § 847.2 (27 F.R. 6080) approved June 22, 1962, remain unchanged. The Director, Caribbean Area ASCS Office, must determine that (1) the abandonment of deficiency was caused by drought, flood, storm, freeze, disease, or insects; and (2) the acres that were abandoned or the harvested acres from which there was crop deficiency were suitable for the production of sugarcane and were cared for up to the time of abandonment or harvest in a manner which would produce a normal crop under average conditions. Also, the producer must notify the area office of his intention to abandon acreage before the sugarcane is destroyed or the acreage is used for other purposes, subject to certain exceptions.

Effective date. Since Public Law 92–138 approved October 14, 1971, provided that effective January 1, 1972, payments are authorized to be made to sugarcane producers in Puerto Rico on an individual farm basis for acreage abandonment of planted acres and crop deficiencies of harvested acres; and as this revision of the regulation also provides for relief from the requirement in the previous regulation concerning the need for prior notification of the producer's intention to abandon acres, it is hereby determined and found that compliance with the notice, procedure, and effective date requirements of 5 U.S.C. 533 is unnecessary and not in the public interest, and this revision shall become effective on January 1, 1972.

Accordingly, I hereby find and conclude that the foregoing revision of Part 847 will effectuate the applicable provisions of the Act.

Signed at Washington, D.C., on November 19, 1971.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.71-17340 Filed 11-26-71;8:49 am]

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Orange Reg. 69, Amdt. 2]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of oranges, except Navel, Temple, Murcott Honey oranges, and Valencia, Lue Gim Gong and similar late maturing oranges of the Valencia type, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The recommendation by the committees reflects their appraisal of the Florida orange crop and the current and prospective market conditions. Except for Navel oranges, more restrictive regulation requirements should be made effective during the period November 29 through December 26, 1971, because the maturity of oranges is such that larger amounts are available, hence, a higher minimum grade regulation for Florida oranges for fresh shipment is needed to (1) maintain returns to producers consistent with the declared policy of the act by preventing the shipment of less desirable oranges to fresh market outlets, and (2) provide consumers with oranges of the most desirable quality.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than November 29, 1971. Domestic shipments of Florida oranges, except Temple, Murcott Honey oranges, and Valencia, Lue Gim Gong and similar late maturing oranges of the Valencia type, are currently regulated pursuant to Orange Regulation 69 (36 F.R. 20215, 22054) and determinations as to the need for, and extent of, continued regulation of Florida orange shipments must await the development of the crop and the availability of information on the demand for such fruit, the recommendations and supporting information for regulation of orange shipments subsequent to November 28, 1971, and in the manner herein provided, were promptly submitted to the Department after an assembled meeting of the Growers Administrative Committee on November 18, 1971. Such meeting was held to consider recommendations for regulation, and interested persons were afforded an opportunity to submit their views; the provisions of this amendment are identical with the aforesaid recommendation of the committee, and information concerning such provisions has been disseminated among handlers of such oranges; it is necessary in order to effectuate the declared policy of the act, to make this amendment effective as hereinafter set forth; and compliance with this amendment will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

Order. In § 905.536 (Orange Regulation 69; 36 F.R. 20215, 22054) the provisions of paragraph (a)(1) are amended and a new paragraph (c) is added to read as follows:

§ 905.536 Orange Regulation 69.

(a) • • •

(1) Any oranges, except Navel, Temple, Murcott Honey oranges, and Valencia, Lue Gim Gong and similar late maturing oranges of the Valencia type, grown in the production area, which do not grade at least U.S. No. 1: *Provided*, That during the period November 29 through December 26, 1971, no handler may ship any oranges, except Navel, Temple, Murcott Honey oranges and Valencia, Lue Gim Gong and similar late maturing oranges of the Valencia type, grown in the production area, which do not grade at least Florida No. 1 Grade for oranges;

• • • • •

(c) Terms used in the amended marketing agreement and order shall, when used herein, have the same meanings as given to the respective terms in said amended marketing agreement and order; "Florida No. 1 Grade" shall have the same meaning as when used in sec. (1)(a) of Regulation 105–1.02, as amended, effective October 28, 1970, of the Regulations of the Florida Citrus Commission, and terms relating to grade and diameter as used herein, shall have the same meanings as given to the respective terms in the U.S. Standards for Florida Oranges and Tangelos (§§ 51.1140–51.1178 of this title).

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 24, 1971, to become effective November 29, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-17425 Filed 11-26-71;8:52 am]

[Tangerine Reg. 42, Amdt. 2]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Notice was published in the FEDERAL REGISTER on November 19, 1971 (36 F.R. 22066), that consideration was being given to a proposal relative to limitation of shipments of tangerines handled between the production area and any point outside thereof in the continental United States, Canada, or Mexico, recommended by the committees, established under the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice provided that all written data, views, or arguments in connection with the proposed amendment be submitted by November 23, 1971. None were received within the prescribed time. However, at their meetings on November 18, 1971, the committees recommended that the proposed amendment be modified to provide for less restrictive regulation requirements than initially proposed during the period November 29, through December 5, 1971.

The initial recommendation by the committees for more restrictive size requirements on shipments of tangerines was based on the increasing available supply of smaller size tangerines. The committee reported that tangerines of the later maturing Dancy variety are beginning to be shipped in volume to fresh market outlets adding to the currently available supply of the earlier maturing Robinson variety tangerine. The later recommendation by the committees is based upon its later appraisal of the supply situation which indicates that in the prevailing situation it is desirable to curtail all except a relatively small percentage of tangerines of the smaller size in shipments during the period November 29 through December 5, 1971, to prevent a buildup of such sizes in the markets during the period of an increasing supply so as to maintain orderly marketing conditions. The higher minimum size requirement recommended for the period December 6 through December 19, 1971, is necessary to prevent a general weakening of the price structure for all sizes of tangerines during the period of peak volume. It is anticipated by the committees that the supply situation will be such that fresh market outlets will accept smaller tangerines after December 19, 1971, at prices which will provide favorable returns to producers.

After consideration of all relevant matters presented, including the recommendations made by the committees at their meetings on November 11, 1971, as set forth in the aforesaid notice, and on November 18, 1971, and other available information, it is hereby found that the regulation, as hereinafter set forth, is in accordance with said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice of proposed rule making concerning this amendment, with an effective date of November 26, 1971, was published in the FEDERAL REGISTER on November 19, 1971 (36 F.R. 22066), and no objection to this amendment or such effective date was received; (2) except for the less stringent size requirement during the period November 29 through December 5, 1971, the provisions of this amendment are identical with the aforesaid recommendation of the committees of November 11, 1971, which was published in the aforesaid notice; (3) the recommendation and supporting information for regulation of shipments of tangerines were submitted to the Department after open meetings of the committees on November 11 and 18, 1971, which were held to consider recommendations for regulation, after giving due notice of such meetings, and interested persons were afforded an opportunity to submit their views at these meetings; (4) information concerning such provisions and effective time has been disseminated among handlers of tangerines; and (5) compliance with the regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

Order. In § 905.537 (Tangerine Regulation 42; 36 F.R. 20215, 22066) the provisions of paragraph (a)(2) are amended and a new paragraph (c) is added to read as follows:

§ 905.537 Tangerine Regulation 42.

(a) • • •

(2) Any tangerines, grown in the production area, which are of a size smaller than 2$^{4}/_{64}$ inches in diameter, except that a tolerance of 10 percent, by count, of tangerines smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the U.S. Standards for Florida Tangerines: *Provided*, That during the period November 26, through December 19, 1971, no handler may ship tangerines, grown in the production area, which are of a size smaller than 2$^{5}/_{64}$ inches in diameter except that a tolerance of 10 percent, by count, of tangerines smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the U.S. Standards for Florida Tangerines: *Provided further*, That during the period November 29, through December 5, 1971, any handler may ship a quantity of tangerines which are smaller than the 2$^{5}/_{64}$ inches in diameter, including the aforesaid tolerance, if (i) the number of standard packed boxes of such smaller tangerines does not exceed 15 percent of the total shipments of tangerines by such handler during the last previous week, within the current fiscal period, in which he shipped tangerines; and (ii) such smaller tangerines are of a size not smaller than 2$^{4}/_{64}$ inches in diameter, except that a tolerance of 10 percent, by count, of tangerines smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in said U.S. Standards for Florida Tangerines.

• • • • •

(c) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said

amended marketing agreement and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of oranges, except Navel, Temple, Murcott Honey oranges, and Valencia, Lue Gim Gong and similar late maturing oranges of the Valencia type, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The recommendation by the committees reflects their appraisal of the Florida orange crop and the current and prospective market conditions. Except for Navel oranges, more restrictive regulation requirements should be made effective during the period November 29 through December 26, 1971, because the maturity of oranges is such that larger amounts are available, hence, a higher minimum grade regulation for Florida oranges for fresh shipment is needed to (1) maintain returns to producers consistent with the declared policy of the act by preventing the shipment of less desirable oranges to fresh market outlets, and (2) provide consumers with oranges of the most desirable quality.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than November 29, 1971. Domestic shipments of Florida oranges, except Temple, Murcott Honey oranges, and Valencia, Lue Gim Gong and similar late maturing oranges of the Valencia type, are currently regulated pursuant to Orange Regulation 69 (36 F.R. 20215, 22054) and determinations as to the need for, and extent of, continued regulation of Florida orange shipments must await the development of the crop and the availability of information on the demand for such fruit, the recommendations and supporting information for regulation of orange shipments subsequent to November 28, 1971, and in the manner herein provided, were promptly submitted to the Department after an assembled meeting of the Growers Administrative Committee on November 18, 1971. Such meeting was held to consider recommendations for regulation, and interested persons were afforded an opportunity to submit their views; the provisions of this amendment are identical with the aforesaid recommendation of the committee, and information concerning such provisions has been disseminated among handlers of such oranges; it is necessary in order to effectuate the declared policy of the act, to make this amendment effective as hereinafter set forth; and compliance with this amendment will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

Title 12—BUSINESS CREDIT

amended marketing agreement and order; and terms relating to grade and diameter, as used herein, shall have the same meaning as is given to the respective term in the U.S. Standards for Florida Tangerines (§§ 51.1810–51.1834 of this title); the term "week" shall mean the 7-day period beginning at 12:01 a.m., local time, on Monday of one calendar week and ending at 12:01 a.m., local time, on Monday of the following calendar week.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 24, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-17405 Filed 11-24-71;11:25 am]

[Lemon Reg. 509]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.809 Lemon Regulation 509.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 36 F.R. 9061), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The Committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 23, 1971.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period November 28, 1971, through December 4, 1971, is hereby fixed at 190,000 cartons.

(2) As used in this section, "handled", and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 24, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-17426 Filed 11-26-71;8:52 am]

[Grapefruit Reg. 82]

PART 912—GRAPEFRUIT GROWN IN THE INDIAN RIVER DISTRICT IN FLORIDA

Limitation of Handling

§ 912.382 Grapefruit Regulation 82.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 912, as amended (7 CFR Part 912), regulating the handling of grapefruit grown in the Indian River District in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Indian River Grapefruit Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is sufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Indian River grapefruit, and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time; are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Indian River grapefruit; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 23, 1971.

(b) *Order.* (1) The quantity of grapefruit grown in the Indian River District which may be handled during the period November 29, 1971, through December 5, 1971, is hereby fixed at 150,000 standard packed boxes.

(2) As used in this section, "handled," "Indian River District," "grapefruit," and "standard packed box" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 24, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-17407 Filed 11-26-71;8:51 am]

[Avocado Order 6, Amdt. 6; Avocado Reg. 6, Amdt. 3; Avocado Reg. 13, Amdt. 2]

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

Limitations on Handling

On November 17, 1971, notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 21894), regarding a proposal, which would limit the handling of avocados grown in Florida by amending the container requirements of § 915.305 *Avocado Order 5* (36 F.R. 20670), the pack requirements of § 915.306 *Avocado Regulation 6* (36 F.R. 20670), and the size, quality, and maturity requirements of § 915.313 *Avocado Regulation 13* (36 F.R. 11509, 20670). The amendment was recommended by the Avocado Administrative Committee, established pursuant to the amended marketing agreement and Order No. 915, as amended (7 CFR Part 915; 36 F.R. 14126), regulating the handling of avocados grown in South Florida. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendation and information submitted by the Avocado Administrative Committee, and other available information, it is hereby found and determined that the amendment, as hereinafter set forth, is in accordance with the provisions of the said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

The recommendation of the Avocado Administrative Committee reflects its appraisal of the avocado crop and current and prospective market conditions. Seasonally heavy shipments of avocados are now in progress. On October 25, 1971, the aforementioned regulations were amended to permit the handling within the production area of avocados which would have failed to meet the container, pack, and grade requirements in effect just prior thereto. Industry experience since that date has shown that, under present circumstances, current regulations have not had desired results. Lower quality avocados sold in urban markets within the production area have adversely affected sales of avocados meeting container, pack, and grade requirements. Additionally, such markets for avocados of all levels of quality are reported to have been depressed. Consequently, the committee has recommended reestablishment of the regulation requirements in effect just prior to October 25, 1971.

It is hereby further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice of proposed rule making concerning this amendment, with an effective date of November 29, 1971, was published in the FEDERAL REGISTER (36 F.R. 21894), and no objection to this amendment or such effective date was received; (2) the recommendation and supporting information for regulation during the period specified herein were submitted to the Department after an open meeting of the Avocado Administrative Committee on November 9, 1971, which was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; (3) the provisions of this amendment, including the effective time hereof, are identical with the aforesaid recommendation of the committee; (4) information concerning such provisions and effective time has been disseminated among handlers of such avocados; (5) compliance with this amendment will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof; (6) shipments of the current crop of such avocados are now in progress, and this amendment should be applicable, as soon as is practicable, to all shipments of such avocados in order to effectuate the declared policy of the act.

1. The provisions of paragraph (a) (1) of § 915.305 (Avocado Order 5; 36 F.R. 20670) are hereby amended to read as follows:

§ 915.305 Avocado Order 5.

(a) *Order.* (1) On and after November 29, 1971, no handler shall handle any variety of avocados in containers having a capacity of more than 4 pounds of avocados, unless such avocados are handled in containers meeting the following specifications and conform to all other applicable requirements of this section:

* * * * * *

2. The provisions of paragraph (a) (2) of § 915.306 (Avocado Regulation 6; 36 F.R. 20670) are hereby amended to read as follows:

§ 915.306 Avocado Regulation 6.

(a) *Order.* * * *

(2) On and after November 29, 1971, no handler shall handle any container of avocados, grown in the production area, unless the avocados in such container meet the requirements of standard pack and one of the pack specifications established in subparagraph (1) of this paragraph, and each container in each lot is marked or stamped to show the U.S. grade applicable to such lot: *Provided,* That, in lieu of such marking requirement, any handler may affix to the container a label, brand or trademark, registered with the Avocado Administrative Committee in accordance with the following, which appropriately identifies the grade of such avocados:

* * * * * *

3. The provisions of paragraph (a) (1) of § 915.313 (Avocado Regulation 13; 36 F.R. 11509, 20670) are hereby amended to read as follows:

§ 915.313 Avocado Regulation 13.

(a) *Order.* (1) During the period November 29, 1971, through April 30, 1972, no handler shall handle any avocados unless such avocados grade at least U.S. No. 3 grade;

* * * * * *

(Sec. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 24, 1971, to become effective November 29, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-17444 Filed 11-26-71;9:40 am]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Rev. 10, Amdt. 11]

PART 121—SMALL BUSINESS SIZE STANDARDS

Definition for Purpose of Government Procurements for Fluid Milk Products

On June 15, 1971, there was published in the FEDERAL REGISTER (36 F.R. 11525) a notice that the Administrator of the SBA proposed to reduce the definition of a small business for the purpose of bidding on products classified into Standard Industrial Classification (SIC) Industry 2026, Fluid Milk, from 750 employees to 500 employees. Interested parties were given 30 days in which to submit written statements of facts, opinions, or arguments concerning this proposal.

A common concern of the concerns which filed responses is the encroachment of national dairy and food chains as well as large cooperatives upon their local markets. However, based on Department of Defense (DOD) procurement data for the last 3 fiscal years, it does not appear that "large" dairy firms have made considerable gains in the Government market. DOD expenditures on dairy food products have declined precipitously in the past 3 fiscal years. From fiscal year 1969 to fiscal year 1971, the number of actions and dollar volume has decreased by 47 percent and 50 percent, respectively. Nonetheless, the small business share of these procurements has increased. In fiscal year 1969, small business accounted for 43 percent of the total number of DOD actions and 44 percent of the dollar volume. In fiscal year 1971, 55 percent of the actions went to small business, accounting for 60 percent of the aggregate dollar value. It is evident that small dairy firms as presently defined can continue to maintain their share of the Government market during a period of sharp decline. Under all of the circumstances, it has been determined to adopt the change as proposed.

Accordingly, Part 121 of Chapter I of Title 13 of the Code of Federal Regulations is hereby further amended by deleting from Schedule B of § 121.3–8, the 750-employee size standard for fluid milk (Census Classification Code 2026).

Effective date. This amendment shall become effective 30 days after publication in the FEDERAL REGISTER, but shall apply only to procurements issued on or after that date.

Dated: November 19, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-17309 Filed 11-26-71;8:46 am]

Title 14—AERONAUTICS

"Max. design maneuver speed—183 m.p.h. (159 knots).

Regulations, Amendment 39–1189 (36 F.R. 6827), AD 71–8–2, is amended in

GLENVIEW, ILL.

Delete "131° and 163° radials extending

1. VFR aircraft could misidentify some of the terrain features used as

to the Public Service powerplant, thence direct to the Staten Island Expressway at

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 71-CE-28-AD; Amdt. 39-1347]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Model 56TC Airplanes

A condition exists in some Beech Model 56TC airplanes which may adversely affect the safe operation of these airplanes. Specifically, the presently installed placard does not properly identify the correct margin between the placarded maximum structural cruising speed and the never exceed speed in certain of these model airplanes. Under certain operating conditions and situations, this discrepancy can result in the airplane being operated beyond its never exceed speed. To correct this condition, and at the request of the manufacturer, an Airworthiness Directive is being issued requiring owners/operators to revise applicable placards, and remark the airspeed indicator in Beech Model 56TC airplanes to reflect the correct margin between maximum structural cruising speed and never exceed speed, as specified in Aircraft Specification No. 3A16, revised January 10, 1969.

Since immediate action is required in the interest of safety, compliance with the notice and public procedure provisions of the Administrative Procedure Act is not practical and good cause exists for making this amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD.

BEECH. Applies to Model 56TC (Serials Nos. TG-1 through TG-76) Airplanes.

Compliance: Required as indicated, unless already accomplished.

To provide information reflecting applicable operating limitations and margin between maximum structural cruising speed and never exceed speed, within the next 50 hours' time in service after the effective date of this AD, revise placards and change airspeed indicator marking as follows:

(1) Install placard at lefthand cabin side, adjacent to ignition switch panel reading: "This airplane must be operated as a Normal Category airplane in compliance with the operating limitations stated in the form of placards, markings and manuals (Pilot's Check List). Occupied seats must be in upright position during takeoff and landing. Maximum weight 5,990 lb. No acrobatic maneuvers including spins approved.

"Max. speed w/landing gear extended (normal) (TG-1 through TG-71)—165 m.p.h. (143 knots); (TG-72 and up—175 m.p.h. (152 knots).
"Max. speed with flaps extended (15° down)—175 m.p.h. (152 knots).
"Max. speed with flaps extended (normal)—144 m.p.h. (125 knots).
"Max. design maneuver speed—183 m.p.h. (159 knots).
"Minimum control speed single engine—97 m.p.h. (84 knots).
"Max. structural cruising speed (S.L. to 20,000 ft. alt.)—233 m.p.h. (202 knots).
"Max. structural cruising speed (25,000 ft. alt.)—222 m.p.h. (193 knots).
"Max. structural cruising speed (30,000 ft. alt.)—214 m.p.h. (186 knots).
"Never exceed speed (S.L. to 20,000 ft. alt.)—262 m.p.h. (227 knots).
"Never exceed speed (25,000 ft. alt.)—249 m.p.h. (216 knots).
"Never exceed speed (30,000 ft. alt.)—240 m.p.h. (208 knots)."

2. Install placard on floating instrument panel near airspeed indicator reading: "See limitations placard for 'max. structural cruise' and 'never exceed limits'."

(3) Remark airspeed indicator to extend yellow arc from 240 m.p.h. to 233 m.p.h. so that green arc does not enter this range.

Beechcraft Service Instruction No. 0173-016 considers this subject.

This amendment becomes effective November 30, 1971.

(Sec. 313(a), 601, and 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on November 17, 1971.

JOHN M. CYROCKI,
Director, Central Region.

[FR Doc.71-17312 Filed 11-26-71;8:46 am]

[Airworthiness Docket No. 71-WE-10-AD; Amdt. 39-1346]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas DC-9 Series Airplanes

Amendment 39-1189 (36 F.R. 6827), AD 71-8-2, requires affixing placard(s) in the cockpit to ensure pilot control of speed brake retraction and to prevent in-flight deployment of ground spoilers on all McDonnell Douglas DC-9 Series Airplanes. After issuing Amendment 39-1189, the agency has determined that the installation of an interlock switch in accordance with McDonnell Douglas DC-9 Service Bulletin 32-128, dated November 17, 1971, and an amendment to the Limitations Section, Airplane Flight Manual, constitute a satisfactory alternative means of compliance. Therefore, the AD is being amended to provide for affixing placard(s) in the cockpit until the aircraft is modified in accordance with the manufacturer's Service Bulletin and the FAA Approved Airplane Flight Manual is amended.

Since this amendment provides an alternative means of compliance and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1189 (36 F.R. 6827), AD 71-8-2, is amended in pertinent part as follows:

To ensure pilot control of speed brake retraction and to prevent inflight deployment of ground spoilers, accomplish one of the following:

1. Affix a placard(s) in the cockpit in plain view of both crew members stating:

DO NOT EXTEND GEAR WITH SPEED BRAKES DEPLOYED

DO NOT ARM GROUND SPOILERS PRIOR TO GEAR EXTENSION

2.a. Install the interlock switch per McDonnell Douglas DC-9 Service Bulletin No. 32-128, dated November 17, 1971, or later FAA approved revisions, or an equivalent modification approved by the Chief, Aircraft Engineering Division, FAA Western Region and

b. Amend the Limitations Section, FAA Approved Airplane Flight Manual, to include the statements:

Do not extend gear with speed brakes deployed.

Do not arm ground spoilers prior to gear extension.

NOTE: Placards previously installed per step 1 may be removed if step 2 is accomplished.

This amendment becomes effective November 30, 1971.

(Secs. 313(a), 601, 603; Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on November 17, 1971.

ROBERT O. BLANCHARD,
Acting Director, FAA Western Region.

[FR Doc.71-17313 Filed 11-26-71;8:46 am]

[Airspace Docket No. 71-GL-29]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the control zone at Glenview, Ill.

The VOR approaches to Palwaukee Airport and Sky Harbor Airport have been revised. Application of controlled airspace criteria to protect these approaches reduces the length of control zone extensions now designated for these approach procedures. This will result in deleting the Chicagoland Airport from the control zone which is operationally desirable. This action is in the public interest as it reduces the impact of the controlled airspace on the public, therefore notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended as hereinafter set forth:

In § 71.171 (36 F.R. 2055) the following control zone is amended as follows:

GLENVIEW, ILL.

Delete "131° and 163° radials extending from the Glenview, Ill., and the Chicago, Ill. (O'Hare International Airport), 5-mile-radius zones to 1 mile south and southeast of the VOR", and insert in place "162° and 140° radials extending from the Chicago, Ill. (O'Hare International Airport), and the Glenview, Ill., 5-mile-radius zones to. 3½ miles south and 3½ miles southeast of the VOR.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Des Plaines, Ill., on November 12, 1971.

LYLE K. BROWN,
Director, Great Lakes Region.

[FR Doc.71-17314 Filed 11-26-71;8:47 am]

[Airspace Docket No. 71-WA-6]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Terminal Control Area

On September 23, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 18872) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the New York, N.Y., terminal control area (TCA) by raising the floor from 800 feet MSL to 1,200 feet MSL in a small area immediately west of the Linden, N.J., airport.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. Five comments were received in response to this proposal, three favorable and two unfavorable.

The Air Transport Association of America (ATA) objects to the proposed alteration on the premise that pilots operating to and from the Linden Airport not familiar with the area may accidentally stray beyond the eastern boundary of area "J" into the path of aircraft on the final approach to Newark's runway 4 left. Their rationale is that the eastern boundary of area "J" is visually described by U.S. Route 1 which could be confused with the New Jersey Turnpike approximately 1.3 statute miles farther east. In addition, they do not consider the visual marking used in describing area "J" to be as prominent as shorelines, bridge towers and waterways used descriptively in other portions of the New York TCA. In consideration of this reasoning along with the proximity of Linden Airport to the ILS final approach course to Newark's runway 4 left, they recommend that the Linden Airport be included in the New York TCA airspace.

The Port of New York Authority objects to the proposed alteration on the premise that it would decrease the margin of safety for passengers using Newark Airport. Their objection is based on the following points:

1. VFR aircraft could misidentify some of the terrain features used as boundary references between areas "C" and "J" and stray unintentionally into the path of aircraft executing instrument approaches to runway 4 left at Newark Airport.

2. That no application of the U.S. Standard for Terminal Instrument Procedures (TERPS) was made in designing the subareas of the TCA and that the approach plane for the ILS approach to runway 4 left at Newark is not contained within area "C".

3. That aircraft making an NDB approach to runway 4 left at Newark could descend below the floor of area "C".

The principal objection of both the ATA and the Port Authority reflects a lack of confidence in the navigational ability of pilots to recognize and honor the boundaries of designated airspace areas. Acceptance of this viewpoint would be contrary to the entire basis for charting designated airspace areas. TCA's, other controlled airspace such as control zones, transition areas and airways as well as prohibited and restricted areas are normally delineated by lines on charts without reference to electronic navigational guidance or terrain features. This method has proven to be completely satisfactory and in most cases, the only feasible method. When terrain features can be used as a boundary reference, such as those used in the proposed area "J", the pilot has an additional aid in identifying the boundaries. Therefore, this amendment is considered to be well within the safety requirements associated with the designation of airspace areas.

The ATA's recommendation to include Linden Airport within TCA airspace would require that Air Traffic Control (ATC) exercise control over all traffic operating to and from Linden Airport. This is impractical and is not being considered at this time.

The Port Authority's objections concerning the application of TERPS criteria and the NDB approach to runway 4 left at Newark are not germane to the proposal.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 6, 1972, as hereinafter set forth.

In § 71.401(a) (36 F.R. 2317 and 13376) the New York, N.Y., terminal control area is amended as follows:

1. In Area B, "Areas C and D" is deleted and "Areas C, D and J" is substituted therefor.

2. Area C is amended to read "That airspace extending upward from above 800 feet MSL to and including 7,000 feet MSL within a 6.5-mile radius circle centered at latitude 40°41'30" N., longitude 74°10'00" W., and bounded by a line beginning at the point where the 6.5-mile radius circle intersects U.S. Highway No. 1, thence northeast along U.S. Highway No. 1 to its point of intersection with a 4-mile radius circle centered at latitude 40°41'30" N., longitude 74°10'00" W., at the Esso Research Center, thence direct to the Public Service powerplant, thence direct to the Staten Island Expressway at its point of intersection with the 4-mile radius circle, thence east via the Staten Island Expressway to Richmond Avenue, thence south along Richmond Avenue to the 6.5-mile radius circle, thence clockwise along the 6.5-mile radius circle to the point of beginning."

3. In Area E, "Area F" is deleted and "Areas F and J" is substituted therefor.

4. In Area G, "Area H" is deleted and "Areas H and J" is substituted therefor.

5. Area J is added as follows:

That airspace extending upward from above 1,200 feet MSL to and including 7,000 feet MSL within a 6.5-mile radius circle centered at latitude 40°41'30" N., longitude 74°10'00" W., and bounded by a line beginning at the intersection of the 6.5-mile radius circle and the tracks of the Central Railroad of New Jersey, thence eastward along the railroad tracks to their point of intersection with the 4-mile radius circle centered at latitude 40°41'30" N., longitude 74°10'00" W., thence counterclockwise along the 4-mile radius circle to U.S. Highway No. 1, thence southwest along U.S. Highway No. 1 to the 6.5-mile radius circle, thence clockwise along the 6.5-mile radius circle to the point of beginning.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 22, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-17315 Filed 11-26-71;8:47 am]

[Docket No. 11560; Amdt. 784]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAP's) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAP's for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 F.R. 5609).

SIAP's are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Copies of SIAP's adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAP's may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, DC 20590, or

from the applicable FAA regional office

3. Section 97.25 is amended by estab-

Greensboro, N.C.—Greensboro-High Point-

Since the amendment contained here-

making the request will be so informed

place of business, or in which the Board

from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $125 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.13 is amended by establishing, revising, or canceling the following Ter VOR SIAP's, effective December 23, 1971.

Grand Canyon, Ariz.—Grand Canyon National Park Airport; VOR-3, Original; Canceled.

2. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP's, effective December 23, 1971.

Alpena, Mich.—Phelps-Collins Airport; VOR Runway 18, Amdt. 3; Revised.
Baraboo, Wis.—Baraboo Wisconsin Dells Airport; VOR-A, Amdt. 4; Revised.
Belmar-Farmingdale, N.J.—Monmouth County Airport; VOR-A, Amdt. 7; Revised.
Crestview, Fla.—Bob Sikes Airport; VOR-A, Amdt. 4; Revised.
Dixon, Ill.—Dixon Municipal-Charles R. Walgreen Field, VOR-A, Amdt. 2; Revised.
Eau Claire, Wis.—Eau Claire Municipal Airport; VOR-A, Amdt. 15; Revised.
Eau Claire, Wis.—Eau Claire Municipal Airport; VOR/DME Runway 4, Amdt. 1; Revised.
Grand Canyon, Ariz.—Grand Canyon National Park Airport; VOR Runway 3, Original; Established.
Hancock, Mich.—Houghton County Memorial Airport; VOR Runway 25, Amdt. 6; Revised.
Knoxville, Tenn.—McGhee Tyson Airport; VOR Runway 22R, Amdt. 14; Revised.
Lapeer, Mich.—Dupont-Lapeer Airport; VOR-A, Amdt. 3; Revised.
Marquette, Mich.—Marquette County Airport; VOR Runway 8, Amdt. 8; Revised.
Marquette, Mich.—Marquette County Airport; VOR Runway 26, Amdt. 7; Revised.
Meridian, Miss.—Key Field; VOR-A, Amdt. 10; Revised.
Neptune, N.J.—Asbury Park-Neptune Airport; VOR-A, Amdt. 4; Revised.
Paducah, Ky.—Barkley Airport; VOR/DME Runway 22, Amdt. 1; Revised.
Pendleton, Oreg.—Pendleton Municipal Airport; VOR Runway 7L, Amdt. 11; Revised.
Rapid City, S. Dak.—Rapid City Regional Airport; VOR Runway 32, Amdt. 15; Revised.
Rapid City, S. Dak.—Rapid City Regional Airport; VOR/DME Runway 14, Amdt. 5; Revised.
Tuscaloosa, Ala.—Van DeGraaff Airport; VOR Runway 22, Amdt. 3; Revised.
Welsh, La.—Welsh Airport; VOR/DME Runway 6, Original; Established.
Winner, S. Dak.—Bob Wiley Field; VOR-A, Amdt. 2; Revised.
Winnsboro, Tex.—Winnsboro Municipal Airport; VOR-A, Amdt. 1; Revised.

3. Section 97.25 is amended by establishing, revising, or canceling the following SDF-LOC-LDA SIAP's effective December 23, 1971.

Joplin, Mo.—Joplin Municipal Airport; LOC (BC) Runway 31, Amdt. 13; Revised.
Norwood, Mass.—Norwood Memorial Airport; SDF Runway 35, Amdt. 1; Revised.
Rapid City, S. Dak.—Rapid City Regional Airport; LOC (BC) Runway 14, Amdt. 3; Revised.

4. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's effective December 23, 1971.

Arkadelphia, Ark.—Arkadelphia Municipal Airport; NDB Runway 4, Amdt. 1; Revised.
Bellaire, Mich.—Bellaire-Antrim County Airport; NDB Runway 2, Amdt. 3; Revised.
Great Falls, Mont.—Great Falls International Airport; NDB Runway 34, Amdt. 11; Revised.
Joplin, Mo.—Joplin Municipal Airport; NDB Runway 13, Amdt. 16; Revised.
Knoxville, Tenn.—McGhee Tyson Airport; NDB Runway 4L, Amdt. 25; Revised.
Meridian, Miss.—Key Field; NDB Runway 1, Amdt. 13; Revised.
Norwood, Mass.—Norwood Memorial Airport; NDB Runway 35, Amdt. 3; Revised.
Pendleton, Oreg.—Pendleton Municipal Airport; NDB(ADF) Runway 25R, Amdt. 8; Canceled.
Pendleton, Oreg.—Pendleton Municipal Airport; NDB-A, Original; Established.
Vidalia, Ga.—Vidalia Municipal Airport; NDB Runway 24, Amdt. 1; Revised.
Waukegan, Ill.—Waukegan Memorial Airport; NDB Runway 23, Amdt. 2; Revised.

5. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's, effective December 23, 1971.

Joplin, Mo.—Joplin Municipal Airport; ILS Runway 13, Amdt. 15; Revised.
Knoxville, Tenn.—McGhee Tyson Airport; ILS Runway 4L, Amdt. 26; Revised.
Meridian, Miss.—Key Field; ILS Runway 1, Amdt. 15; Revised.
Pendleton, Oreg.—Pendleton Municipal Airport; ILS Runway 25R, Amdt. 14; Revised.
Philadelphia, Pa.—North Philadelphia Airport; ILS Runway 24, Amdt. 3; Revised.
Rapid City, S. Dak.—Rapid City Regional Airport; ILS Runway 32, Amdt. 5; Revised.
Reading, Pa.—Reading Municipal/General Carl A. Spaatz Field; ILS Runway 36, Amdt. 18; Revised.
Wheeling, W. Va.—Wheeling-Ohio County Airport; ILS Runway 3, Amdt. 10; Revised.

6. Section 97.31 is amended by establishing, revising, or canceling the following Radar SIAP's, effective December 23, 1971.

Chicago, Ill.—Chicago-Midway Airport; Radar-1, Amdt. 16; Revised.
Memphis, Tenn.—Memphis International Airport; Radar-1, Amdt. 21; Revised.

7. Section 97.33 is amended by establishing, revising, or canceling the following RNAVSIAP's, effective December 23, 1971.

Atlanta, Ga.—DeKalb-Peachtree Airport; RNAV Runway 20L, Amdt. 1; Revised.
Augusta, Ga.—Daniel Field; RNAV Runway 10, Original; Established.
Gainesville, Fla.—Gainesville Municipal Airport; RNAV Runway 26, Original; Established.
Greensboro, N.C.—Greensboro-High Point-Winston-Salem Regional Airport; RNAV Runway 23, Original; Established.
Jackson, Miss.—Hawkins Field; RNAV Runway 16, Original; Established.
Joliet, Ill.—Joliet Municipal Airport; RNAV Runway 12, Original; Established.
McComb, Miss.—McComb-Pike County Airport; RNAV Runway 33, Original; Established.
Miami, Fla.—Miami International Airport; RNAV Runway 9L, Original; Established.
Miami, Fla.—Opa Locka Airport; RNAV Runway 9L, Original; Established.
Richmond, Va.—Richard Evelyn Byrd International Airport; RNAV Runway 20, Original; Established.
Sanford, Fla.—Sanford Airport; RNAV Runway 9, Amdt. 1; Revised.
South Bend, Ind.—St. Joseph County Airport; RNAV Runway 9, Original; Established.
Southern Pines, N.C.—Pinhurst-Southern Pines Airport; RNAV Runway 23, Amdt. 1; Revised.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510, Sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c) and 5 U.S.C. 552(a)(1))

Issued in Washington, D.C., on November 18, 1971.

JAMES F. RUDOLPH,
Director, Flight Standards Service.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 F.R. 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.71-17176 Filed 11-26-71;8:45 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER B—PROCEDURAL REGULATIONS

[Reg. PR-123; Amdt. 4]

PART 310—INSPECTION AND COPYING OF BOARD OPINIONS, ORDERS, AND RECORDS

Miscellaneous Amendments

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 22d day of November 1971.

Recently, the Administrative Conference of the United States issued several recommendations for Federal agencies to follow in handling public requests for information under the Freedom of Information Act. Although the present Board Regulations are in substantial conformance with the majority of recommendations and principles set forth by the Administrative Conference, minor differences were found to exist in regard to the Board's Regulations governing the process of intraagency appeal, partial disclosure of exempt records and files, the honoring of categorical requests for records, promptness in responding to requests for records, and initial denials of requests. We find that the amendment of Part 310 of the Procedural Regulations to correspond more closely with the submitted recommendations of the Administrative Conference would provide for more expeditious handling of information requests in conformance with the statutory policy encouraging disclosure and would otherwise be of benefit to the public.

Since the amendment contained herein relates solely to matters of agency procedure, notice and public procedure thereon are not required, and the amendment may become effective immediately.

Accordingly, the Civil Aeronautics Board hereby amends Part 310 of the Procedural Regulations (14 CFR Part 310) effective November 27, 1971, as follows:

1. Amend § 310.6(b) to read as follows:

§ 310.6 Procedure for requesting records.

* * * * *

(b) Requests for records shall be specific and must identify the specific records or materials which are desired by name, date, number, or other identifying data sufficient to allow the Board's staff to locate, retrieve, prepare, and when necessary, edit the record for inspection or copying to delete exempted matter. Where a requested file or record does contain exempt information, the file or a copy of the record will be made available with appropriate deletions whenever this can be done without revealing the exempted information. Although the Board's staff need not honor blanket or generalized requests for records, it will endeavor to do so if compliance would not unduly burden or interfere with Board operations because of the staff time consumed or the resulting disruption of files.

2. Amend § 310.7 to read as follows:

§ 310.7 Production of Board records.

Every effort will be made to serve requests with reasonable dispatch. Requests for the same record will be filed on a "first come, first served" basis, but use of a document by the Board or its staff will be given precedence. Normally, a request for records will be honored or denied within 10 working days of its receipt. However, when additional time is required because of extenuating circumstances, the office at which the request was made shall acknowledge the request in writing within the 10-day period and shall include a brief notation of the reason for the delay and an indication of the date on which the records will be made available or a denial will be forthcoming. If the appropriate Board unit does not reply to or acknowledge a request within the 10-day period, the requester may treat such nonaction as a denial and appeal to the Managing Director as in the case of a denial.

3. Amend § 310.9 to read as follows:

§ 310.9 Refusal to make record available.

(a) Where the material requested is currently in use by another member of the public or an employee of the Board, the person making the request will be so informed by the office at which the request was made pursuant to § 310.7, and will be advised when the material will be available. The request may then be renewed at a later time.

(b) Where the material requested is not a record, is an exempted record, or is otherwise unavailable, the person making the request will be so informed by the office at which the request was made. The form of notification will be the same as that used for making the request. Whether notification is oral or in writing it shall include a reference to the specific exemption under this regulation and the Freedom of Information Act authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld and contain a description of the appeal procedure within the agency and of the ultimate availability of judicial review as set forth in paragraph (e) of this section. A copy of all denial letters and all written statements explaining why exempt records have been withheld will be collected and maintained for public inspection in the Public Reference Room.

(c) Not more than 10 days after a request for a record is denied pursuant to paragraph (b) of this section, the person making the request may appeal the denial to the Managing Director, who has been delegated authority by the Chairman to make determinations on such appeals. The appeal shall be by letter, and shall identify the materials requested and denied in the same manner as it was identified to the Board office receiving and denying the request; shall indicate the dates of the request and denial; and shall indicate the expressed basis for the denial. In addition, the letter or appeal shall state briefly and succinctly the reasons why the record should be made available.

(d) The Managing Director may consult with other members of the staff in making his determination, and shall either rule on the appeal or, at his discretion, pass the matter to the Board for its determination. If the Managing Director rules on the appeal, he shall by letter inform the requester within 7 business days after receipt of the letter of appeal whether the requested material will be made available in whole or in part. If the request is denied in whole or in part, the basis for denial will be stated and no further administrative appeal will be permitted. If the appeal is not ruled upon by the Managing Director but instead is referred to the Board, the Managing Director shall so notify the requester by letter within the above 7-day period. An appeal passed to the Board shall ordinarily be acted upon by the Board within 20 calendar days from the date of filing. However, where novel or very complicated questions are raised by the appeal, the Board may extend the time for final action for a reasonable period beyond 20 working days upon notifying the requester of the reasons for the extended deadline and the date on which a final response will be forthcoming.

(e) A decision by either the Managing Director or the Board pursuant to paragraph (d) of this section is final and will not be subject to petitions for reconsideration. It is subject to judicial review in the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the Board records are situated.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324; Freedom of Information Act, 81 Stat. 54, 5 U.S.C. 552)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-17352 Filed 11-26-71;8:50 am]

Title 17—COMMODITIES AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release Nos. 33-5208, IC-6805]

PART 270—GENERAL RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

Retroactive Registration of Certain Investment Company Shares Sold in Excess of Number of Shares Included in an Effective Registration Statement

On August 6, 1971, the Securities and Exchange Commission published notice that it had under consideration the adoption of Rule 24f-1 (17 CFR 270.24f-1) under the Investment Company Act of 1940, as amended (Act), and invited all interested persons to submit their views and comments on the proposal (Securities Act Release No. 5174; Investment Company Act Release No. 6660 (36 F.R. 15670)). The Commission has considered the comments and suggestions received and has adopted Rule 24f-1 in the form set forth below.

The rule implements the provisions of the first two sentences of section 24(f) of the Act (15 U.S.C. 80a-24(f)), which were added by the Investment Company Amendments Act of 1970, Public Law 91-547 (84 Stat. 1424).

The rule applies to securities issued by a face-amount certificate company and redeemable securities issued by an open-end management company or unit investment trust where the number of shares of such securities which have been sold exceeds the number of shares of such securities included in the registration statement of such company under the Securities Act of 1933 (1933 Act) (15 U.S.C. 77a et seq.) in effect at the time of such sale. The rule provides a procedure whereby, by filing of a notification containing the information specified in the rule and by the payment of the prescribed fee, such companies may elect to have the registration of certain excess shares, sold within 6 months prior to the payment of the fee required by the rule, deemed effective as of the time of sale of such excess shares, provided that at the time of the sale of such shares a registration statement was in effect with respect to shares of the same class or series.

The limitation of the rule to shares sold within 6 months of payment of the required fee follows the provisions of the first two sentences of section 24(f), which are as follows:

(f) In the case of securities issued by a face-amount certificate company or redeemable securities issued by an open-end management company or unit investment trust, which are sold in an amount in excess of the number of securities included in an effective registration statement of any such company, such company may, in accordance with such rules and regulations as the Commission shall adopt as it deems necessary or appropriate in the public interest or for the protection of investors, elect to have the registration of such securities deemed effective as of the time of their sale, upon payment to the Commission, within 6 months after any such sale, of a registration fee of three times the amount of the fee which would have otherwise been applicable to such securities. Upon any such election and payment, the registration statement of such company shall be considered to have been in effect with respect to such shares * * *.

In accordance with the foregoing provisions of section 24(f), which require the payment of a fee three times "the amount of the fee which would have otherwise been applicable" to the securities with respect to which an election is made, the rule requires the payment of a fee three times the amount of the registration fee, calculated in the manner specified in section 6(b) of the 1933 Act (15 U.S.C. 77f) and the rules and regulations thereunder, which would have been payable if an amendment to register the securities had been filed pursuant to section 24(e)(1) of the Act (15 U.S.C. 80a-24(f)) on the later of (i) the day 6 months before the payment of the fee under rule, or (ii) the date of the first sale of shares in excess of the number included in the registration statement then in effect. This provision reflects the fact that section 24(f) does not apply to securities sold more than 6 months prior to the payment of the fee. The minimum fee payable under the rule is $300, three times the minimum fee payable under section 6(b) of the 1933 Act.

The Report of the House Committee on Interstate and Foreign Commerce, House Rept. No 91-1382, 91st Cong., second session, p. 32, makes the following comment on the provisions of section 24(f) quoted above:

Occasionally, due to inadvertence, a registered investment company making a continuous offering of its securities, sells more shares than are covered by its registration statement under the Securities Act of 1933. Although the number of shares sold in excess of those registered are not registered under the act, in practical effect no investor is harmed if each offeree or purchaser is given a current prospectus. However, the inadvertence may result in a violation of section 5 of the Securities Act and any person who can show that his shares were not actually registered might be entitled to the rescission rights given by section 12 of the Securities Act.

* * * the bill would add a new section 24(f) to the Act to permit the Commission to adopt rules allowing retroactive registration of securities sold in excess of the number of securities included in an effective registration statement upon payment of three times the normal registration fee for such shares * * *

In accordance with the foregoing, the proposed rule required a statement by an issuer filing a notification of election under the rule that a current prospectus was given to each purchaser of the shares with respect to which the notification is filed. In the comments received on the proposed rule, objection was made to this requirement. It was pointed out that such representation was unnecessary, since section 5(b) of the 1933 Act (15 U.S.C. 77e) requires that a purchaser be furnished a copy of a prospectus meeting the requirements of section 10 of the 1933 Act (15 U.S.C. 77j) and that a purchaser who did not receive such a prospectus would therefore have a right of action for rescission under section 12 of the 1933 Act (15 U.S.C. 77l) despite the filing by the issuer of a notification of election under Rule 24f-1. It was asserted, further, that the result of requiring such a statement would be to render the rule ineffectual since an issuer whose securities are widely distributed through a large number of dealers cannot be expected to be in a position to make the required representation.

After considering the comments received, the Commission had determined to omit from the rule, as suggested, the requirement for a statement by the issuer that a prospectus was in fact delivered to each purchaser of the shares covered by the notification filed under the rule, and to substitute a requirement for a confirmation by the issuer that such shares were sold in accordance with the issuer's usual method of distributing its registered securities, under which prospectuses are made available for delivery to offerees and purchasers in accordance with the requirements of section 5(b) of the 1933 Act. An investor who nevertheless did not in fact receive a prospectus would, of course, have a right of action under section 12(1) of the 1933 Act for violation of the prospectus requirements of section 5 of that Act.

Commission action. As adopted, Part 270 of Chapter II of Title 17 of the Code of Federal Regulations is amended by adding a new § 270.24f-1 reading as follows:

§ 270.24f-1 Retroactive registration under the Securities Act of 1933 of certain investment company shares sold in excess of number of shares included in an effective registration statement.

(a) In the case of securities issued by a face-amount certificate company or redeemable securities issued by an open-end management company or unit investment trust, which have, within 6 months prior to the payment of the fee required below, been sold in an amount in excess of the number of shares of securities of the same class or series included in a registration statement of such issuer under the Securities Act of 1933 in effect at the time of sale, the issuer may, subject to the provisions of paragraph (b) of this section, elect to have the registration of such securities under the Securities Act of 1933 deemed effective as of the time of their sale, by the filing of a notification of election in accordance with paragraph (b) of this section and the payment to the Commission, by a U.S. postal money order or a certified bank check or cash, of a fee computed in accordance with paragraph (c) of this section, but not less than $300.

(b) (1) A notification pursuant to paragraph (a) of this section shall be captioned "Notification of Election Under Rule 24f-1" and shall show the file number of the registration statement of the issuer under the Securities Act of 1933 which was in effect, at the time of sale of the shares with respect to which the notification is filed, as to securities of the same class or series. The notification shall state the name and address of the issuer, identify the security and state the number of shares thereof with respect to which such notification is filed and the period of time during which such shares were sold, and show the computation of the fee paid per share and in the aggregate.

(2) The notification shall not be effective for purposes of paragraph (a) of this section unless it includes a statement by the issuer confirming that the shares with respect to which the notification is filed were sold in accordance with the issuer's usual method of distributing its registered shares, under which prospectuses are made available for delivery to offerees and purchasers of such shares in accordance with section 5(b) of the Securities Act of 1933.

(3) The notification shall include as an exhibit a certified copy of a resolution of the board of directors of the issuer authorizing the filing of the notification and shall be signed for the issuer by a duly authorized officer thereof. Five copies of the notification shall be filed, at least one of which shall be manually signed. The other copies may have facsimile or typed signatures.

(c) The amount of the fee to be paid pursuant to paragraph (a) of this section with respect to shares as to which a notification of election is filed under this rule shall be three times the amount of the registration fee, calculated in the manner specified in section 6(b) of the Securities Act of 1933 and the rules and regulations thereunder, which have been payable if an amendment to register such shares had been filed pursuant to section 24(e)(1) of the Investment Company Act of 1940 on the later of (1) the day 6 months before the payment of the fee made pursuant to paragraph (a) of this section, or (2) the date of the first sale of shares in excess of the number included in the registration statement in effect at the time of such sale.

(Sec. 24, 54 Stat. 825, 84 Stat. 1424, 15 U.S.C. 80a-24; sec. 38, 54 Stat. 841, 15 U.S.C. 80a-37; Public Law 91-547)

By the Commission, November 5, 1971.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-17310 Filed 11-26-71;8:46 am]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

SUBCHAPTER E—REGULATIONS UNDER THE NATURAL GAS ACT

[Opinion No. 607, Docket No. AR67-1, etc.]

PART 154—RATE SCHEDULES AND TARIFFS

Just and Reasonable Rates for Natural Gas Produced in the Other Southwest Area

On October 29, 1971, the Commission issued Opinion No. 607, which, among other things, set up a new § 154.109a in the regulations under the Natural Gas Act, relating to the pricing of natural gas produced in the Other Southwest Area.

In the opinion, the Commission directed the Secretary to cause prompt publication to be made in the FEDERAL REGISTER of the findings and ordering paragraphs and a notice of availability of the entire opinion. Pursuant thereto, the findings and ordering paragraphs are set out below.

Excerpts from Federal Power Commission Opinion No. 607, Area Rate Proceeding et al. (Other Southwest Area), FPC Docket No. AR67-1 et al., 46 FPC ------, issued October 29, 1971:

FURTHER FINDINGS AND ORDER

Upon consideration of the entire record in this proceeding, which includes public notice, public hearing with opportunity for the submission of oral and documentary evidence, for cross-examination, and for the submission of rebuttal evidence, initial decision by an examiner, exceptions thereto, and oral argument before the Commission, the Commission further finds:

(1) The Other Southwest Area comprises: (a) The State of Mississippi and the Federal domain offshore thereof; (b) Northwest Alabama, consisting of Marion, Fayette, Lamar, and Pickens Counties; (c) Northern Louisiana, consisting of that portion of Louisiana lying north of the 31° parallel through Concordia, Pointe Coupee, Avoyelles, Rapides, and Vernon Parishes; (d) Texas Railroad Commission Districts Nos. 5, 6, and 9; (e) Other Oklahoma, consisting of Adair, Atoka, Bryan, Carter, Cherokee, Choctaw, Cleveland, Coal, Comanche, Cotton, Craig, Creek, Delaware, Garvin, Greer, Harmon, Haskell, Hughes, Jackson, Jefferson, Johnston, Kay, Kiowa, Latimer, Le Flore, Lincoln, Logan, Love, McClain, McCurtain, McIntosh, Marshall, Mayes, Murray, Muskogee, Noble, Nowata, Okfuskee, Oklahoma, Okmulgee, Osage, Ottawa, Pawnee, Payne, Pittsburgh, Pontotoc, Stephens (except Carter-Knox Area), Tillman, Tulsa, Wagoner, Washington, Pottawatomie, Pushmataha, Rogers, Seminole, and Sequoyah Counties; (f) Northern Arkansas, consisting of Sevier, Howard, Pike, Clark, Dallas, Cleveland, Drew, and Desha Counties, and all other Arkansas counties north of this group; (g) Southern Arkansas, consisting of Little River, Hempstead, Miller, Lafayette, Nevada, Columbia, Ouachita, Union, Calhoun, Bradley, Ashley, and Chicot Counties, Ark.

(2) Each of the respondents[1] listed in Appendix A[2] to this opinion and order is, and at the time of all past sales with which we are here concerned was, a "natural gas company" within the meaning of the Natural Gas Act and is engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption subject to the jurisdiction of this Commission.

(3) Past, present, and proposed sales of natural gas to which the order herein applies are subject to the jurisdiction of this Commission.

(4) Rates for all sales of natural gas, subject to the jurisdiction of the Commission by the producers in the Other Southwest Area that are above the applicable area rates prescribed herein, have not been shown to be just and reasonable or otherwise lawful under the provisions of the Natural Gas Act and should be disallowed, and refunds should be required as hereafter provided.

(5) The just and reasonable rates for past, present, and prospective sales of natural gas to which this order applies are the applicable area rates set forth in ordering paragraphs (A) and (B) below.

(6) Rates in excess of the applicable just and reasonable rates determined herein are in that respect unjust and unreasonable.

(7) It is necessary and appropriate to carry out the provisions of the Natural Gas Act that the Commission adopt the orders and regulations herein prescribed.

(8) Except as herein granted the exceptions to the initial decision and proposed order should be denied.

Acting pursuant to sections 4, 5, and 16 of the Natural Gas Act (52 Stat. 822, as amended, 823, 830; 15 U.S.C. 717c, 717d, 717o) and sections 553, 556, and 557 of title 5 of the United States Code (the Administrative Procedure Act, 60 Stat. 238, 239, 241, 242, as codified September 6, 1966, by 80 Stat. 383, 384, 386, 387), the Commission orders:

(A) Part 154 of the Commission's regulations under the Natural Gas Act, Subchapter E, Chapter I, Title 18 of the Code of Federal Regulations is amended by adding a new § 154.109a reading as follows:

§ 154.109a Area rates—Other Southwest area.

(a) From and after January 1, 1972, and prior to July 1, 1976, no rate or charge made, demanded, or received under a rate schedule filed pursuant to this part for gas produced in the Other Southwest Area shall exceed the applicable area rate prescribed by this section except in compliance with a specific order of the Commission.

(b) Applicable area rate means the base area rate established in paragraph (c) of this section adjusted to the extent required by paragraph (d) of this section.

(c) The base area rates: The following base area rates per Mcf (at 14.65 p.s.i.a. unless otherwise noted) are hereby established for the period from January 1, 1972, to July 1, 1976, subject to the adjustments provided in paragraph (d) of this section, for gas gathered and delivered by the seller at either a central point in the field, the tailgate of a plant or point on the buyer's pipeline, or an offshore platform to the buyer's line, by the following:

(1) Gas sold under contracts dated prior to October 1, 1968:

	From Jan. 1, 1972 through Sept. 30, 1973	Beginning Oct. 1, 1973
Other Oklahoma	19.4	20.4
Texas Railroad District No. 9	19.7	20.7
Northern Arkansas	18.8	19.8
Texas Railroad District No. 6	19.1	20.1
Northern Louisiana (at 15.025 p.s.i.a.)	20.6	21.6
Southern Arkansas	18.25	19.25
Mississippi and Alabama (at 15.025 p.s.i.a.)	20.0	21.0

(2) Gas sold under contracts dated on or after October 1, 1968:

	From Jan. 1, 1972 through Sept. 30, 1973	Beginning Oct. 1, 1973
Other Oklahoma	23.75	24.75
Texas Railroad District No. 9	24.0	25.0
Northern Arkansas	23.0	24.0
Texas Railroad Districts Nos. 5 and 6	23.5	24.5
Northern Louisiana (at 15.025 p.s.i.a.)	25.0	26.0
Southern Arkansas	22.5	23.5
Mississippi and Alabama (at 15.025 p.s.i.a.)	25.0	26.0
Federal Domain Offshore of Mississippi	26.0	27.0

(3) The applicable area rate shall be adjusted downward, for gas delivered closer to the wellhead than a central point in the field, the tailgate of a plant, a point on the buyer's pipeline or an offshore platform on the buyer's line by the following:

Other Oklahoma, Texas Railroad District No. 9, and Northern Arkansas.	1.5 cents per Mcf.
Texas Railroad District Nos. 5 and 6, Northern Louisiana and Southern Arkansas.	1 cent per Mcf.
Mississippi and Alabama	1.25 cents per Mcf.

(d) Quality standards and adjustments to the base area rates. The base area rates established in paragraph (c) of this section are subject to adjustment as follows:

[1] Where the term "respondents" is used in the finding and ordering paragraphs hereinafter set forth, it is to be regarded as referring to all named respondents in the Commission orders issued in this case, and to all parties on whose behalf such named respondents have filed FPC gas rate schedules for sales of gas produced in the Texas Gulf Coast area.

[2] Filed as part of the original document.

(1) B.t.u. adjustment: For gas with more than the maximum standard of B.t.u.'s per cubic foot, at 60° F. and 14.73 p.s.i.a., upward adjustments shall be made on a proportional basis from a base equal to the maximum standard. For gas with less than the minimum standard of B.t.u.'s per cubic foot, at 60° F. and 14.73 p.s.i.a., downward adjustments shall be made on a proportional basis from a base equal to the minimum standard. Measurement of B.t.u. shall be on a wet basis. The applicable maximum and minimum standards are:

	Maximum	Minimum
Other Oklahoma, Texas Railroad District No. 9, and Northern Arkansas	1,060	1,000
Texas Railroad Districts Nos. 5 and 6, Northern Louisiana and Southern Arkansas	1,060	1,000
Mississippi and Alabama	960	960
Federal Domain Offshore of Mississippi	1,060	1,000

(2) The following additional quality standards shall apply:

(i) *Water content.* The gas shall not contain in the aggregate more than 7 pounds of water, either in the form of liquid or vapor, per million cubic feet of gas at 60° F. and 14.73 p.s.i.a. (0.007 lbs. per Mcf).

(ii) *Hydrogen sulphide.* The gas shall not contain more than 1 grain of hydrogen sulphide per 100 cubic feet of gas at 60° F. and 14.73 p.s.i.a. (10 gr. per Mcf).

(iii) *Total sulphur.* The gas shall not contain more than 20 grains of total sulphur per 100 cubic feet of gas at 60° F. and 14.73 p.s.i.a. (200 gr. per Mcf).

(iv) *Carbon dioxide.* The gas shall not contain more than 3 percent by volume of carbon dioxide.

(v) *Other impurities.* The gas shall contain no oxygen, dust, dirt, gum, or other impurity in sufficient amounts to require the buyer to incur processing costs to eliminate such impurities in order for the gas to meet either customary commercial standards or the customary requirements of any of the interstate pipelines in the area.

(vi) *Delivery pressure.* The gas shall be delivered at a pressure sufficient to enter the buyer's pipeline except that a minimum of 500 p.s.i.g. must be available at the point of delivery.

(3) When a purchaser buys gas which deviates from the quality standard established in subparagraph (2) of this paragraph, the base area rate shall be adjusted for any deviations from such standards as follows:

(i) The applicable area rate shall be adjusted downward by the net cost, actually incurred prior to ultimate consumption, of processing the gas to bring it up to standard.

(a) If the processing is performed by the purchaser, a reasonable return upon the net investment should be included as part of the processing cost incurred in bringing the gas up to pipeline quality.

(b) If such processing reduces the volume of the gas, the purchaser shall pay for only the volume remaining after processing.

(ii) In the case of delivery by seller of gas containing carbon dioxide in excess of the standards herein permitted, notwithstanding anything to the contrary in subparagraph (2)(iv) of this paragraph, the producers shall have the alternative of receiving payment for the total volume of gas delivered, including the carbon dioxide, providing that the B.t.u. content of the gas is measured before the removal of the carbon dioxide for the purposes of the B.t.u. adjustments specified in this order, or receiving payment for the volumes exclusive of the carbon dioxide with the B.t.u. measured by the volumes of gas only.

(e) Prior to July 1, 1976, any seller seeking to charge a rate in excess of the applicable area rate or requesting a change in the applicable area rate must file a petition for waiver or amendment of this section pursuant to § 1.7(b) of the Commission's rules of practice and procedure in this chapter (18 CFR 1.7(b)) fully justifying the relief sought in the light of this opinion and order. Prior to July 1, 1976, the seller may not file any rate increase in excess of the applicable area rate herein prescribed unless and until the Commission grants the petition.

(B) For the purpose of computing refunds in all section 4(e) proceedings now pending with respect to gas produced in the Other Southwest Area, the following base area rates (at 14.65 p.s.i.a. unless otherwise noted) are hereby established, for gas gathered and delivered by the seller at either a central point in the field, the tailgate of a plant, or a point on the buyer's pipeline:

(1) Gas sold under contracts dated prior to January 1, 1961:

	Prior to Jan. 1, 1968	From Jan. 1, 1968 through Sept. 30, 1968	From Oct. 1, 1968
Other Oklahoma	17.5	18.4	19.4
Texas Railroad District No. 9	17.8	18.7	19.7
Northern Arkansas	17.0	17.9	18.8
Texas Railroad District No. 6	18.0	17.0	19.1
Northern Louisiana (at 15.025 p.s.i.a.)	16.7	18.6	20.6
Southern Arkansas	14.4	16.25	18.25
Mississippi and Alabama (at 15.025 p.s.i.a.)	19.0	19.8	20.0

(2) Gas sold under contracts dated from January 1, 1961, through September 30, 1968:

	Prior to Jan. 1, 1968	From Jan. 1, 1968 through Sept. 30, 1968	From Oct. 1, 1968 until Jan. 1, 1972
Other Oklahoma	18.4	18.9	19.4
Texas Railroad District No. 9	18.7	18.2	19.7
Northern Arkansas	17.9	18.3	18.8
Texas Railroad District No. 6	18.1	18.6	19.1
Northern Louisiana (at 15.025 p.s.i.a.)	19.6	20.1	20.6
Southern Arkansas	17.25	17.75	18.25
Mississippi and Alabama (at 15.025 p.s.i.a.)	19.0	19.50	20.0

(3) Gas sold under contracts dated on or after October 1, 1968:

Other Oklahoma	23.75
Texas Railroad District No. 9	24.0
Northern Arkansas	23.0
Texas Railroad Districts Nos. 5 and 6	23.5
Northern Louisiana (at 15.025 p.s.i.a.)	25.0
Southern Arkansas	22.5
Mississippi and Alabama (at 15.025 p.s.i.a.)	25.0

(4) The applicable area rate shall be adjusted downward, for gas delivered closer to the wellhead than a central point in the field, the tailgate of a plant, or a point on the buyer's pipeline in the same amounts provided in such cases in paragraph (d) of § 154.109a as added by ordering paragraph (A) hereof, to Part 154 of the Commission's regulations under the Natural Gas Act, and shall be subject to the same quality standards and adjustments as provided by paragraph (d) of § 154.109a.

(C) The applicable area rates as defined in ordering paragraph (A) above, shall be effective from and after January 1, 1972, and any amounts collected in excess thereof on or after that date shall be subject to refund plus interest at 7 percent. In addition, with respect to the rates involved in section 4(e) proceedings set out in Appendix A, the applicable area rate as defined in ordering paragraph (B) above, shall be effective from the date such section 4(e) rates were collected subject to refund and all amounts collected under those section 4(e) rates prior to the effective date of this opinion in excess of the applicable area rate shall be subject to refund, plus interest at the rate specified in the respective section 4(e) proceeding, in accordance with the provisions of ordering paragraphs (E) and (F) herein: *Provided, however,* That with respect to such 4(e) dockets no refunds are required below the rate allowed in a final, unconditioned permanent certificate previously granted for such sale.

(D) By February 1, 1972, each respondent shall file a supplement to each applicable rate schedule, effective as of January 1, 1972, reflecting any reductions required to bring any or all of its rates into conformity with the applicable base area rates established by ordering paragraph (A) herein. The timely filing of a completed statement in conformity with Appendix D [1] hereto shall constitute compliance with this paragraph (D).

(E) Each person having on file with this Commission a rate schedule with regard to gas produced or sold within the Other Southwest Area, or hereafter filing such a rate schedule (including a contract or amendment adding acreage or new reserves) shall, with regard to such rate schedule or amendment, file by February 1, 1972, or within 90 days from the date of first delivery under the rate schedule or amendment, whichever is later, a statement in conformity with Appendix D hereto. All statements herein required shall be signed by both the seller and the purchaser. If the seller and the purchaser are unable to agree upon any or all of the particulars entering into the computation of the applicable area rate, the seller shall file the statements herein required which shall indicate the absence of agreement and

[1] Filed as part of the original document.

supply the information required to compute the applicable area rate as well as the contentions of the parties with respect to the quality and amount of the adjustment for any item in dispute. The purchaser may file a separate statement setting forth its views within the period herein provided.

(2) The statement filed hereunder which reflects full agreement between the seller and purchaser shall be deemed accepted by the Commission unless the Commission, within 120 days after such filing, shall otherwise order. In the event of disagreement between the seller and purchaser or, where the Commission otherwise determines that the statement filed is inconsistent with the provisions of ordering paragraph (A) herein, the Commission will after appropriate proceedings, prescribe the applicable area rate to be applied.

(3) Any respondent will be exempt from filing the statement required by subparagraph (1) hereof for any sales which are "small producer sales" as defined in the Commission's regulations under the Natural Gas Act if a producer seeks to qualify thereunder. If the Commission subsequently finds that such a producer does not qualify as a small producer such applicant shall be required to file the statement required by subparagraph (1) hereof within 90 days after any such Commission finding.

(F) *Refund reports.* By February 1, 1972, refund reports shall be filed with this Commission in triplicate, and one copy served on the buyer, by each respondent involved in one or more of the section 4(e) proceedings set out in Appendix A and as to which refunds are required under the terms of this decision. Within 20 days from the filing of the refund report the buyer shall file its written concurrence or disagreement with such report. Each producer within 30 days of filing a refund report shall notify each working interest owner under each rate schedule of any refunds, including interest, applicable to its gross interest. The report shall set forth the following information (if more than one rate schedule is involved the respondent shall supply the information for each schedule separately):

(i) The rates collected during the period subject to refund, and the periods during which each rate was collected.

(ii) The volume of gas sold at each such rate.

(iii) The difference between the total amount collected during the period subject to refund and the amount that would have been collected at the applicable area rate as defined herein subject to the proviso of ordering paragraph (C).

(iv) The computation of the applicable area rate and the basis for any difference between it and the base area rate.

(v) The interest, at rates as specified in each section 4(e) proceeding, on the above refundable excess revenues, subject to the limitation by § 154.102(f) of the Commission's regulations under the Natural Gas Act. The interest shall be calculated to the date of the refund report.

(G) *Treatment of refunds.* Each respondent shall retain the amounts shown in the report required under ordering paragraph (F) subject to further order of the Commission directing the disposition of those amounts. If a respondent elects to commingle these retained refunds with its general assets and use them for its corporate purposes, it is authorized so to do after notice to the Commission; and it shall pay interest thereon at the prime rate, in effect as of 12 m. on the date of issuance of this opinion and order for loans made by the Chase Manhattan Bank, on all funds thus available from the effective date of this order to the date on which they are paid over to the person ultimately determined to be entitled thereto in a final order of the Commission. If a respondent elects to deposit the retained funds in a special escrow account, the respondent shall make such deposit and shall comply with the escrow agreement requirements of § 250.12 of the regulation under the Natural Gas Act (18 CFR 250.12Y. Unless notified to the contrary by the Secretary within 30 days from the date of filing thereof, the escrow agreement shall be deemed to be satisfactory and to have been accepted for filing.

(H) The provisions of § 154.63 of the Commission's regulations under the Natural Gas Act are waived to permit pipeline companies to file rate increase applications to track producer rate increases filed pursuant to the provisions of this order; such tracking applications may be filed by pipeline purchasers or by pipelines purchasing from such pipeline purchasers which are not authorized to track rate changes of their suppliers with regard to gas from Other Southwest: *Provided,* That pipelines filing such an adjustment submit working papers with the filing showing the computation thereof, and, provided further, that the rate or rates as revised by such rate increase applications shall be collected subject to reduction and refund from the effective date of such increased rate or rates.

(I) Section 2.52, *General policy and interpretations,* of the Commission's general rules is waived so as to permit the filing of a rate increase application to track producer rate increases filed pursuant to the provisions of this order by a pipeline purchaser or by a pipeline purchasing from such a pipeline purchaser where the pipeline has a proposed increased rate or rates under suspension at the time of such tracking application.

(J) The procedures for establishing and revising the amount of reserves in new dedications, and the reports required, will be established by later order of the Commission.

(K) These proceedings shall remain open for such further action as may be necessary with respect to individual respondents and such other action as may be necessary in the premises.

(L) The Secretary of the Commission is authorized to accept filings of rate changes and quality statements made in accordance with this opinion and order.

(M) Except as herein granted the exceptions to the initial decision and proposed order are hereby denied.

(N) The Secretary shall cause prompt publication of the findings and ordering paragraphs, together with notice of the availability of this entire opinion, to be made in the FEDERAL REGISTER.

(O) This order does not relieve any of the applicants herein of any responsibility imposed by, and is expressly subject to, the Commission's Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91–379, 84 Stat. 799, as amended by Public Law 92–15, 85 Stat. 38), including such amendments as the Commission may require, and Executive Order No. 11615.

Copies of the complete text of Opinion No. 607 may be obtained in person from the Office of Public Information of the Federal Power Commission, or by written request addressed to the Secretary, Federal Power Commission, 441 G Street NW., Washington, DC 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17225 Filed 11-26-71;8:49 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 4—Department of Agriculture

PART 4–12—LABOR

Procurement

These amendments involve matters relating to agency management and include rules interpreting and implementing existing regulations of other Federal agencies, which are not subject to the notice and public procedure requirements for rule making under 5 U.S.C. 553. In addition, the amendments contain provisions requiring the inclusion of the equal opportunity clause in all contracts with financial institutions regardless of the dollar amounts involved. It is in the public interest that these provisions be made effective immediately. Accordingly, under 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

(E.O. 11246, as amended by E.O. 11375; 41 CFR Part 12–1; 41 CFR Part 60)

1. Section 4–12.803–9 is revised as follows:

§ 4–12.803–9 Notice to bidders regarding preaward equal opportunity compliance reviews.

The Contracting Officer shall be responsible for inclusion of the Preaward Equal Opportunity Compliance Reviews clause prescribed in § 1–12.803–9 of this

title in the invitation for bids or request for proposals for each nonconstruction contract which may result in an award of $1 million or more.

2. Section 4–12.804–1 is amended by adding a new paragraph (g) as follows:

§ 4–12.804–1 General.

• • • • •

(g) Exemptions based on dollar amounts do not apply to contracts with financial institutions. All contracts with financial institutions shall include the Equal Opportunity Clause as set forth in § 1–12.803–2 of this title.

3. Section 4–12.805–1(a) is revised and paragraph (b) is deleted to read as follows:

§ 4–12.805–1 Duties of the Department.

(a) The Director of the Office of Equal Opportunity for the Department has been designated Department Contract Compliance Officer pursuant to § 1–12.805–1(b) of this title. The Chief of the Contract Compliance Review Staff has been designated as Deputy Contract Compliance Officer.

(b) [Deleted]

4. Section 4–12.805–5 is amended by designating the first paragraph as (a) and by adding new paragraphs (b) and (c) as follows:

§ 4–12.805–5 Compliance reviews.

• • • • •

(b) Upon receipt of a bid or offer for any nonconstruction contract which may result in an award of $1 million or more, the Contracting Officer shall submit, by telephone, telegram, or letter, the following information to the Department Contract Compliance Officer, his Deputy, or Assistant:

(1) Names and address of the firm or individual submitting the bid or proposal, also name and address of each known subcontractor;

(2) Name of the person signing the bid or offer;

(3) Dollar amount of the bid or offer;

(4) Date bid or offer will expire;

(5) Date by which the Contracting Officer must receive advice from the Department Contract Compliance Officer in order to award a valid and binding contract.

The Department Contract Compliance Officer will comply with the requirements of § 1–12.805–5(d) of this title and advise the Contracting Officer as to whether the low bidder or offeror, and his first-tier subcontractors are in compliance with the Equal Opportunity clause.

(c) The following information shall be prepared by each agency for all construction contracts exceeding $10,000 and submitted in duplicate to the Contract and Supply Management Staff, Office of Plant and Operations, by January 20 for the 6-month period July 1 through December 31, and by July 20 for the 6-month period January 1 through June 30 of each fiscal year:

(1) Name of agency;

(2) Contract number;

(3) Description of project;

(4) Names and address of contractor(s);

(5) Amount of contract and date of award;

(6) Percent of completion.

5. The table of contents for Part 4–12 is amended as follows:

Sec.
4–12.805–1 Duties of the Department.

Effective date: Upon publication in the FEDERAL REGISTER (11–27–71).

Done at Washington, D.C., this 23d day of November 1971.

JOHN J. KEANEY,
Acting Director of Plant and Operations.

[FR Doc.71–17357 Filed 11–26–71;8:51 am]

Chapter 5A—Federal Supply Service, General Services Administration

PART 5A–2—PROCUREMENT BY FORMAL ADVERTISING

PART 5A–72—REGULAR PURCHASE PROGRAMS OTHER THAN FEDERAL SUPPLY SCHEDULE

Miscellaneous Amendments

The table of contents for Part 5A–2 is amended to include the following new entry:

Sec.
5A–2.407–53 Disposition of contract documents.

Subpart 5A–2.4—Opening of Bids and Award of Contract

Section 5A–2.407–53 is added as follows:

§ 5A–2.407–53 Disposition of contract documents.

Each no-bid response to an invitation for bids (original only) shall be retained by the buying activity for a period of 3 months after the date of contract award and thereafter destroyed. (See also § 5–2.407–53.)

Subpart 5A–72.5—Procurement of Items for Self-Service Stores

1. Section 5A–72.502 is revised as follows:

§ 5A–72.502 Replenishment of standard stock catalog items, except buildings maintenance supplies.

Stock catalog items stocked by self-service stores normally shall be replenished by submission of an order from the store manager to the supply control activity, in accordance with standard procedures. When such an order cannot be filled due to nonavailability of stock, the item will be back ordered. If an emergency requirement exists for a back-ordered item the store manager will make a followup to the supply control activity to determine the estimated availability date. In the event the estimated date of availability will not satisfy the emergency requirement, the self-service store manager may purchase up to $100 value for a single line item of stock catalog items. When the emergency requirement for a back-ordered item exceeds $100 for a single line item, the store manager will request assistance through normal channels from the regional Chief, Inventory Management Branch, the Chief, Inventory Management Branch, will take action to satisfy the requirement by expediting delivery, arranging for interwarehouse transfer, substitution, or initiating an emergency local purchase request to the Procurement Division. (For different limitation applying to buildings maintenance items, see § 5A–72.505.)

2. Section 5A–72.503(b) is revised as follows:

§ 5A–72.503 Replenishment of other self-service store items.

• • • • •

(b) Orders issued against Federal Supply Schedule contracts or other established sources of supply shall be prepared by the regional Procurement Division unless blanket purchase arrangements (made by the regional Procurement Division) exist, in which case store managers are authorized to place delivery orders.

• • • • • •

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 5–1.101(c))

Effective date. These regulations are effective on the date shown below.

Dated: November 12, 1971.

L. E. SPANGLER,
Acting Commissioner, Federal Supply Service.

[FR Doc.71–17349 Filed 11–26–71;8:50 am]

Title 29—LABOR

Chapter I—National Labor Relations Board

PART 102—RULES AND REGULATIONS, SERIES 8

Subpart B—Procedure Under Section 10 (a) to (i) of the Act for the Prevention of Unfair Labor Practices

HEARINGS

Section 102.35(i) is corrected to read as follows:

§ 102.35 Duties and powers of trial examiners.

• • • • •

(i) To make and file decisions in conformity with Public Law 89–554, 5 U.S.C. section 557;

• • • • • •

This correction is effective upon publication in the FEDERAL REGISTER (11–27–71).

[SEAL] OGDEN W. FIELDS,
Executive Secretary.

NOVEMBER 23, 1971.

[FR Doc.71–17341 Filed 11–26–71;8:49 am]

Title 24—HOUSING AND HOUSING CREDIT

Chapter VII—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Eligible Communities

Section 1914.4 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1914.4 List of eligible communities.

• • • • • • •

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
• • •	• • •	• • •	• • •	• • •	• • •	• • •
California	Los Angeles	Arcadia	I 06 037 0120 05 I 06 037 0120 06	Department of Water Resources, Post Office Box 388, Sacramento, CA 95802. California Insurance Department, 107 South Broadway, Los Angeles, CA 90012, and 1407 Market St., San Francisco, CA 94103.	Office of the City Clerk, City Hall, Post Office Box 60, Arcadia, CA 91006.	Nov. 26, 1971.
Do	do	Walnut	I 06 037 4069 05 I 06 037 4069 06	do	Office of the City Manager, City of Walnut, 20580 East Carrey Rd., Walnut, CA 91789.	Do.
Colorado	Boulder	Longmont				Do.
Connecticut	Hartford	Farmington				Do.
Florida	Palm Beach	Riviera Beach				Do.
Massachusetts	Barnstable	Provincetown				Do.
Do	do	Truro				Do.
Michigan	Wayne	Redford Township.				Do.
Missouri	Clay	Unincorporated areas.				Do.
New Jersey	Somerset	Bridgewater Township.				Do.
Do	Atlantic	Hamilton Township.				Do.
Do	Cape May	Middle Township.				Do.
Do	Monmouth	Sea Girt				Do.
New York	Nassau	Freeport				Do.
Do	do	Island Park				Do.
Pennsylvania	Delaware	Springfield Township.				Do.
Do	Chester	Western Township.				Do.
Texas	San Patricio		I 48 409 0000 08 through I 48 409 0000 12	Texas Water Development Board, Post Office Box 12386, Capital Station, Austin, TX 78701. Texas Insurance Department, 1110 San Jacinto St., Austin, TX 78701.	Office of the County Clerk, San Patricio County Courthouse, Sinton, Tex. 78387.	Do.
Do	McLennan	Waco				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: November 19, 1971.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.71–17264 Filed 11–26–71;8:45 am]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
• • •	• • •	• • •	• • •	• • •	• • •	• • •
California	Los Angeles	Arcadia	H 06 037 0120 06 H 06 037 0120 06	Department of Water Resources, Post Office Box 388, Sacramento, CA 95802. California Insurance Department, 107 South Broadway, Los Angeles, CA 90012 and 1407 Market St., San Francisco, CA 94103.	Office of the City Clerk, City Hall, Post Office Box 60, Arcadia, CA 91006.	Sept. 2, 1970 and Nov. 17, 1970.
Do	do	Walnut	H 06 037 4069 05 H 06 037 4069 06	do	Office of the City Manager, City of Walnut, 20560 East Carrey Rd., Walnut, CA 91789.	Dec. 15, 1970.
Colorado	Boulder	Longmont				Nov. 26, 1971.
Connecticut	Hartford	Farmington				Do.
Florida	Palm Beach	Riviera Beach				Do.
Massachusetts	Barnstable	Provincetown				Do.
Do	do	Truro				Do.
Michigan	Wayne	Redford Township.				Do.
Missouri	Clay	Unincorporated areas.				Do.
New Jersey	Somerset	Bridgewater Township.				Do.
Do	Atlantic	Hamilton Township.				Do.
Do	Cape May	Middle Township.				Do.
Do	Monmouth	Sea Girt.				Do.
New York	Nassau	Freeport.				Do.
Do	do	Island Park.				Do.
Pennsylvania	Delaware	Springfield Township.				Do.
Do	Chester	Westtown Township.				Do.
Texas	San Patricio		H 48 409 0000 03 through H 48 409 0000 13	Texas Water Development Board, Post Office Box 12386, Capital Station, Austin, TX 78701. Texas Insurance Department, 1110 San Jacinto St., Austin, TX 78701.	Office of the County Clerk, San Patricio County Courthouse, Sinton, Tex. 78387.	June 17, 1970
Do	McLennan	Waco				Nov. 26, 1971.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: November 19, 1971.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.71-17265 Filed 11-26-71;8:45 am]

[Docket No. R-71-109]

FEDERAL CRIME INSURANCE PROGRAM

Miscellaneous Amendments

The following amendments to Subchapter C have six major purposes: (1) To clarify those provisions of the existing regulations which appear to have been misunderstood during the 3 months the program has been in operation, particularly the protective device requirements set forth in Part 1932 and the certification by the applicant and by the agent or broker on the application form; (2) to eliminate from the existing protective device requirements with respect to both residential properties and commercial properties the additional requirement in Part 1932 for door latches, and to permit the use of security screens and padlocks on commercial properties; (3) to offer three new reduced-coverage options, with correspondingly reduced premiums, to commercial properties which applicants believe are not exposed to both burglary and robbery perils in the same degree, so that insureds can vary the amounts of coverage they purchase in accordance with their anticipated exposure; (4) to eliminate protective device requirements on commercial properties where only robbery coverage is purchased, inasmuch as the requirements set forth in Part 1932 are essentially intended to reduce burglary perils and do not relate to robbery perils; (5) to significantly lower the amounts of present deductibles on both residential and commercial risks (of low-to-moderate sales volume) because of early indications that an inadequate amount of protection is being provided in relation to premiums charged and to actual exposure, particularly in connection with robbery coverages; and (6) to reduce the territorial rate classifications of four metropolitan areas in accordance with recently published data, resulting in correspondingly reduced premiums. The four areas are Albany, N.Y.; Harrisburg, Pa.; Kansas City, Mo.; and Pittsfield, Mass.

Although it is the general policy of the Federal Insurance Administration to propose its regulatory changes for public comment whenever practical and in the public interest, it has been determined in this instance that since (1) none of the following changes results in any detriment to the public or restricts benefits under the crime insurance program in any way and (2) there is a demonstrated need to make the new optional coverages and modified protective device requirements available as rapidly as possible to those who need crime insurance, it is in the public interest to make the following changes effective as soon as they can be fully implemented. The regulations will therefore become effective on January 1, 1972, without further publication.

The changes in the protective device requirements and in the amounts of applicable deductibles will be effective both with respect to all Federal crime insurance policies written after the effective date of these amendments and, at the option of the insured, to all losses under existing policies which occur on or after such effective date. No endorsement forms will initially be required in connection with any existing insurance policy, but one-page endorsement forms reflecting these changes will be available in quantity from the servicing companies prior to the effective date of the changes.

AUTHORITY: The following amendments to Subchapter C issued under sec. 1247, 82 Stat. 566; 12 U.S.C. 1749bbb-17.

Subchapter C of Chapter VII of Title 24 is amended as follows:

SUBCHAPTER C—FEDERAL CRIME INSURANCE PROGRAM

PART 1931—PURCHASE OF INSURANCE AND ADJUSTMENT OF CLAIMS

1. Subparagraph (1) of paragraph (a) of § 1931.2 is revised to read as follows:

§ 1931.2 Eligibility requirements applicable to property owners.

(a) • • •

(1) Apply separately for coverage for each eligible premises within an eligible State and personally sign each application, either on the application form itself or on any applicable amendatory endorsement, or both, as the insurer may require;

• • • • • •

2. Section 1931.4 is amended by adding a new paragraph (c), reading as follows:

§ 1931.4 Terms and conditions of policy to govern.

• • • • • •

(c) Changes in the provisions of this subchapter which broaden or liberalize the coverages being provided under the prescribed policy forms, but do not require any additional premium to be charged, shall be applicable to all existing and future policies of insurance as of the date of their adoption, without the necessity of endorsement.

3. The first sentences of paragraph (c) and the final sentence of paragraph (d) of § 1931.7 are revised to read as follows:

§ 1931.7 Cancellations, modifications, and renewals of coverage.

• • • • • •

(c) Changes in limits of coverage may be made only upon the submission of a new or renewal application. • • •

(d) • • • Except as provided by § 1932.4 of this chapter, cancellations by the insurer for either of the remaining two grounds, or as provided by paragraph (e) of this section, shall be upon 30 days' written notice, and the insured shall be entitled to a short-rate refund of unearned premium, if any.

PART 1932—PROTECTIVE DEVICE REQUIREMENTS

• • • • • •

4. Paragraphs (b), (g), (h), and (i) of § 1932.1 are revised to read as follows:

§ 1932.1 Definitions.

• • • • • •

(b) "Central station, supervised service alarm system" means a silent alarm system that is constantly in operation, which signals upon any breach of a door, window (including storefront windows and unbarred skylights), or other accessible opening to the protected premises, at a private sentry or guard headquarters that is attended and monitored 24 hours a day, that dispatches guards to the protected premises immediately upon the activation of the alarm, that periodically checks the operation and effectiveness of the system, and that notifies law enforcement authorities as soon as the breach of the premises is confirmed;

• • • • • •

(g) "Local alarm system" means an alarm system that signals loudly at the premises by means of one or more tamper-protected sounding devices upon any breach of a door, window (including storefront windows and unbarred skylights), or other accessible opening to the protected premises.

(h) "Silent alarm system" means an alarm system that signals at a location other than the location where it is installed upon any breach of a door, window (including storefront windows and unbarred skylights), or other accessible opening to the protected premises; and

(i) "Throw," when used in the context of a locking device, means the distance that its bolt or latch protrudes from the body of the device when the bolt or latch is in a locked position.

5. Section 1932.2 is amended by adding a new paragraph (c), reading as follows:

§ 1932.2 Purpose of protective device requirements.

• • • • • •

(c) Protective device standards that impose less-stringent or optional alternate requirements upon applicants and insureds, as well as clarifications of existing standards, may be published at any time and shall be applicable both to new policies and to renewals and, at the option of the insured, to crime insurance policies already in force.

6. Section 1932.21 is revised to read as follows:

§ 1932.21 Minimum standards for residences and apartments.

In order to be eligible for Federal crime insurance, residential premises shall meet the following minimum standards:

(a) Each exterior doorway or doorway leading to garage areas, public hallways, terraces, balconies, or other areas affording easy access to the insured premises, shall be protected by a door which, if not a sliding door, shall be equipped with a dead lock using either an interlocking vertical bolt and striker, or a minimum ½-inch throw dead bolt, or a minimum ½-inch throw self-locking dead latch.

(b) All sliding doors, first floor and basement windows, and windows opening onto stairways, fire escapes, porches, terraces, balconies, or other areas affording easy access to the premises, shall be equipped with a locking device of any kind.

7. Section 1932.31 is revised to read as follows:

§ 1932.31 Minimum standards for industrial and commercial properties.

In order to be eligible for Federal crime insurance, a nonresidential premises shall meet the following minimum standards:

(a) Except for doorways that are completely protected during nonbusiness hours by heavy-duty overhead doors or metal security screens or the equivalent, each exterior door shall be equipped with either a heavy-duty dead lock (utilizing either interlocking vertical bolts and striker or else a 1-inch dead bolt that extends at least one-half inch into the frame of the door), or a heavy-duty padlock (with casehardened steel shackle, five-pin tumbler operation, and unremovable key when in unlocked position), or a comparable dead lock or padlock that provides equivalent protection. Where applicable fire and safety laws permit their use, double-cylinder locks are recommended.

(b) All exterior grate or grill-type doors, overhead doors, and security screens or grillwork (unless permanently installed) shall be equipped with locks that meet the requirements of paragraph (a) of this section.

(c) Except for doorways that are completely protected during nonbusiness hours by heavy-duty overhead doors or metal security screens or the equivalent, each exterior door shall be of heavy gauge metal, tempered glass, or solid wood core (not less than 1⅜ inches thick) construction, or else shall be covered with metal sheeting of at least 16 gauge (1/16-inch thick) or its equivalent, or with grillwork, to give like protection;

(d) Outside hinge pins shall be welded, flanged, or screw-secured, nonremovable pins;

(e) Except where expressly prohibited by applicable laws pertaining to fire protection, accessible openings exceeding 96 square inches in area and 6 inches in the smallest dimension (other than storefront display windows), shall either meet the standards for exterior doors, or else shall be protected by inside or outside iron bars one-half inch in diameter, or by flat steel material, spaced not more than 5 inches apart and securely fastened, or by iron or steel grills of ⅛-inch material of 2-inch mesh, securely fastened, or by other heavy-duty material that provides equivalent protection. The requirements of this paragraph shall not apply to skylights protected by alarm systems.

(f) The following types of establishments whose inventories pose a particularly heavy risk shall, as a minimum, in addition to the requirements of paragraphs (a) through (e) of this section, be protected by the type of alarm system indicated. If the system specified in subparagraph (1) of this paragraph is not

available in the community in which the premises are located, the type of system specified in subparagraph (2) of this paragraph shall be permitted.

(1) Central station, supervised service, alarm systems shall be required for the following:

(i) Jewelry—manufacturing, wholesale, and retail;
(ii) Gun and ammunition shop;
(iii) Wholesale liquor;
(iv) Wholesale tobacco;
(v) Wholesale drug; and
(vi) Fur store.

(2) Silent alarm systems shall be required for the following:

(i) Liquor store;
(ii) Pawn shop;
(iii) Electronic equipment store;
(iv) Wig shop;
(v) Clothing (new) store;
(vi) Coin and stamp shop;
(vii) Industrial tool supply house;
(viii) Camera store; and
(ix) Precious metal storage facility.

(3) Local alarm systems shall be required for the following:

(i) Antique store;
(ii) Art gallery; and
(iii) Service station.

(g) The protective device requirements set forth in this section shall not apply to premises which are insured only under Option 2 against the peril of robbery only, as provided in paragraph (c) of § 1933.25 of this chapter.

PART 1933—COVERAGES, RATES, AND PRESCRIBED POLICY FORMS

8. In paragraph (c) of § 1933.1, the last sentence is revised to read as follows:

§ 1933.1 Descripiton of residential coverage.

* * * * *

(c) * * * Premises in hotels (other than residence hotels where normal occupancy exceeds 6 months in duration) and premises within residential properties used in whole or in part for business purposes are not eligible for coverage under the residential policy.

9. The first sentence of § 1933.3 is amended by reducing the amount of the deductible from "$100" to "$75", so that the revised sentence reads as follows:

§ 1933.3 Amount of residential policy deductible.

The residential crime insurance policy shall be subject to a deductible in the amount of $75 for each loss occurrence, or 5 percent of the gross amount of the loss, whichever is greater. * * *

10. Section 1933.5 is amended by revising the following in paragraph (a): The note following Item 2. of the Application; the first sentence of the Certification by Applicant and first sentence of the Certification by Agent or Broker in the Application. A new paragraph (c) is added to this section to read as follows:

§ 1933.5 Required residential policy form.

* * * * *

(a) * * *

APPLICATION

* * * * * *

2. * * *

NOTE: Coverage is subject to a deductible of $75 or 5 percent of the gross amount of any loss, whichever is greater.

* * * * *

Certification by Applicant:

"I certify, under penalty of Federal law for fraud or intentional misrepresentation as set forth in 18 U.S.C. 1001, (1) that the statements I have made in this application, including the signature date set forth below, are true and correct to the best of my knowledge and belief, (2) that I have read the applicable eligibility requirements and protective device requirements, and (3) that to the best of my knowledge and belief the insured premises meet such requirements. * * *"

* * * * *

Certification by Agent or Broker:

"I certify, under penalty of Federal law for fraud or intentional misrepresentation as set forth in 18 U.S.C. 1001, (1) that I am an agent or broker licensed in the State in which the premises are located, (2) that the date of this application is correct, and is the date on which the applicant submitted this completed application to me, and (3) that to the best of my knowledge and belief I have fully explained to the applicant the nature of the protective device requirements which are prerequisite for coverage under this policy. * * *"

* * * * *

(c) Such endorsements to the owner's or tenant's Residential Crime Insurance Policy forms as the insurer may approve.

11. The first sentence of paragraph (a) of § 1933.23 is amended by reducing the amount of the deductible for each of four categories, so that the revised sentence reads as follows and paragraph (b) of § 1933.23 is amended by reducing the amount of the deductible from $200 to $100, so that the revised paragraph reads as follows:

§ 1933.23 Amount of commercial policy deductible.

(a) The commercial crime insurance policy for industrial and commercial risks shall be subject to a deductible in the following amounts for each loss occurence, or 5 percent of the gross amount of the loss, whichever is greater, in accordance with the categories established in § 1933.25(b)(3): Category I, $50; Category II, $75; Category III, $100; Category IV, $150; all other categories, $200. * * *

* * * * *

(b) The commercial crime insurance policy for nonprofit or public property risks shall be subject to a deductible in the amount of $100 for each loss occurrence, or 5 percent of the amount of loss, whichever is greater.

12. Section 1933.25 is amended by revising paragraph (b)(5) and by adding new paragraphs (c), (d), and (e) to read as follows:

§ 1933.25 Commercial crime insurance rates.

* * * * *

(b) * * *

(5) The product derived in accordance with subparagraph (4) of this paragraph shall then be rounded to the next higher dollar above $0.49 to obtain the chargeable annual policyholder premium for full coverage under all insuring agreements (both robbery and burglary), subject to the specified dollar limit for each single occurrence. This combination of equal amounts of robbery and burglary coverages shall be referred to as "Option 1", and all crime insurance applications shall be assumed to be for coverage under Option 1 unless otherwise specified in Line 6 of the Application.

(c) Option 2: An applicant may elect to purchase coverage only under Insuring Agreements I, II, VI, and VII of the Commercial Crime Insurance Policy, dealing with Robbery, Observed Theft, and Damage resulting from losses under Insuring Agreements I and II only, subject to the specified dollar limit for each single occurrence. To obtain coverage under Option 2, the applicant or his agent or broker shall enter the words "Option 2," the limit of coverage being applied for, and the words "robbery only" on Line 6 of the application form. Thus, if $5,000 in coverage under Option 2 is being applied for, the entry on Line 6 should read, "Option 2: $5,000—robbery only". The premium for coverage under Option 2 shall be determined in accordance with the procedure set forth in Paragraph (b) of this section, multiplied by a factor of 0.60 and then rounded to the next higher dollar above $0.49.

(d) Option 3. An applicant may elect to purchase coverage only under Insuring Agreements III, IV, V, VI, and VII of the Commercial Crime Insurance Policy, dealing with Safe Burglary, Theft from Night Depository, and Burglary or Robbery of a Watchman, and Damage resulting from losses under Insuring Agreements III and V only, subject to the specified dollar limit for each single occurrence. To obtain coverage under Option 3, the applicant or his agent or broker shall enter the words "Option 3", the limit of coverage being applied for, and the words "burglary only" on Line 6 of the application form. Thus, if $5,000 in coverage under Option 3 is being applied for, the entry on Line 6 should read, "Option 3: $5,000—burglary only". The premium for coverage under Option 3 shall be determined in accordance with the procedure set forth in paragraph (b) of this section, multiplied by a factor of 0.50 and then rounded to the next higher dollar above $0.49.

(e) Option 4. An applicant may elect to purchase coverage under both Option 2 and Option 3 only in the same policy, and only if both coverages are applied for (or else one is renewed or rewritten and the other is added) at the same time. To obtain coverage under Option 4, the applicant or his agent or broker shall enter the words "Option 2," followed by the limit of coverage being applied for under that option, and "Option 3," followed by the limit of coverage being applied for under that option, on Line 6 of the application form. Thus, if $5,000 in coverage under Option 2 and $10,000 in coverage under Option 3 are being applied for. the entry on Line 6 should read, "Option 2—$5,000; Option 3—$10.000". The premium for combined coverage under Option 4 shall consist of the sum of the applicable premiums for the individual coverage under Option 2 and the coverage under Option 3, determined in accordance with paragraphs (c) and (d) of this section.

13. Section 1933.26 is amended by making the following changes:

1. In paragraph (a): The note following Item 6. of the application; the first sentence of the Certification by Applicant and the first sentence of the Certification by Agent or Broker in the application are revised.

2. In paragraph (b): The Commercial Crime Insurance Policy form is corrected by renumbering Insuring Agreement "VIII. Policy period, territory." to read "VII. Policy period, territory."

3. A new paragraph (c) is added.

§ 1933.26 Required commercial policy form.

(a) * * *

APPLICATION

* * * * * *

6. * * *

NOTE: Coverage is subject to a deductible of $50 if gross receipts are less than $25,000, $75 if gross receipts are between $25,000 and $50,000, $100 if gross receipts are between $50,000 and $100,000, $150 if gross receipts are between $100,000 and $300,000, and $200 if gross receipts are $300,000 or over, or 5 percent of the gross amount of any loss, whichever is greater.

* * * * *

Certification by Applicant:

"I certify, under penalty of Federal law for fraud or intentional misrepresentation as set forth in 18 U.S.C. 1001, (1) that the statements I have made in this Application, including the signature date set forth below, are true and correct to the best of my knowledge and belief, (2) that I have read the applicable eligibility requirements and protective device requirements, and (3) that to the best of my knowledge and belief the insured premises meet such requirements."

* * * * *

Certification by Agent or Broker:

"I certify, under penalty of Federal law for fraud or intentional misrepresentation as set forth in 18 U.S.C. 1001, (1) that I am an agent or broker licensed in the State in which the premises are located, (2) that the date of this Application is correct, and is the date on which the Applicant submitted this completed Application to me, and (3) that to the best of my knowledge and belief I have fully explained to the Applicant the nature of the protective device requirements which are a prerequisite for coverage under this policy."

* * * * *

(b) * * *

VII. *Policy period, territory.* * * *

* * * * *

(c) Such endorsements to the Commercial Crime Insurance Policy forms as the insurer may approve.

PART 1934—CLASSIFICATION OF TERRITORIES

14. The territories section of the Federal Crime Insurance manual set forth under paragraph (b) of § 1934.2 is amended by revising the "Rate territory" classification of the following SMSA's to read as follows:

§ 1934.2 List and classification of territories.

* * * * *

(b) * * *

SMSA	Statistical code	Rate territory
* * *	* * *	* * *
Albany-Schenectady-Troy, N.Y. (Includes Albany, Rensselaer, Saratoga, and Schnectady Counties)	0160	1
* * *	* * *	* * *
Harrisburg, Pa. (Includes Cumberland, Dauphin, and Perry Counties)	3240	1
* * *	* * *	* * *
Kansas City, Mo.-Kan. (Includes Clay, Jackson, Cass, and Platte Counties, Mo., and Johnson and Wyandotte Counties, Kans.)	3760	2
* * *	* * *	* * *
Pittsfield, Mass. (Includes Berkshire County)	6320	1
* * *	* * *	* * *

Effective date. These amendments shall be effective on January 1, 1972.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.71-17323 Filed 11-26-71;8:47 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Parts 212, 261]

ADMINISTRATION OF FOREST DEVELOPMENT TRANSPORTATION SYSTEM

Road Closure and Damage

Notice is hereby given that pursuant to the authority vested in the Secretary of Agriculture by the Act of June 4, 1897 (30 Stat. 35, as amended; 16 U.S.C. 551) and the Act of July 22, 1937 (50 Stat. 526; 7 U.S.C. 1011(f)), it is proposed to amend Parts 212 and 261 of Title 36, Code of Federal Regulations as follows:

1. Part 212, § 212.7(a) is amended by adding subparagraphs (3) and (4) as follows:

§ 212.7 Road system management.

(a) *Traffic rules.* • • •

(3) *Closures.* The Chief may close roads, or segments thereof, under the jurisdiction of the Forest Service to all vehicle use or to use by certain classes of vehicles. Notices of closures shall be posted at the entrances to such roads or road segments and be available to the public at the offices designated in § 200.7 of this chapter.

(4) *Road damage.* Damaging and leaving in a damaged condition roads which are under the jurisdiction of the Forest Service is prohibited.

• • • • •

§ 261.4 [Amended]

2. Part 261 Trespass, § 261.4 is amended by deleting paragraphs (e) and (h).

(26 Stat. 1103, 16 U.S.C. 471; 30 Stat. 35, 36, U.S.C. 478, 551; 50 Stat. 526, 7 U.S.C. 1011(f); 72 Stat. 885, as amended, 23 U.S.C. 101, 205; 78 Stat. 1069, 16 U.S.C. 532–538; 74 Stat. 215, 16 U.S.C. 528–531)

The purpose of this amendment is to transfer regulations concerning closure of roads and damage to roads from Part 261 Trespass to Part 212 Administration of the Forest Development Transportation System. Minor changes in wording have been made.

All persons who wish to submit written data, views, or objections pertaining to the proposed amendment may do so by submitting them in duplicate to the Department of Agriculture, Forest Service, Division of Engineering, Room 1106, 1621 North Kent Street, Arlington, VA 22209, within 30 days of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be available for public inspection in the Division of Engineering during regular business hours. (7 CFR 1.27(b))

T. K. COWDEN,
Assistant Secretary of Agriculture.

NOVEMBER 22, 1971.

[FR Doc.71-17339 Filed 11-26-71;8:49 am]

Rural Electrification Administration

[7 CFR Part 1701]

ACCOUNTING SYSTEM FOR REA TELEPHONE BORROWERS

Prescribed System of Accounts

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.). REA proposes to issue revised REA Bulletin 461–1, Accounting System Requirements for Telephone Borrowers of the Rural Electrification Administration. This REA Bulletin prescribes the accounting and records system to be established and maintained by REA telephone borrowers. On final issuance of this revised REA Bulletin, Appendix A to Part 1701 will be modified accordingly.

Persons interested in the provisions of revised REA Bulletin 461–1 may submit written data, views, or comments to the Director, Borrowers' Financial Management Division, Room 4307, South Building, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 30 days from the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Borrowers' Financial Management Division during regular business hours.

A copy of proposed REA Bulletin 461–1 may be secured in person or by written request from the Director, Borrowers' Financial Management Division.

A summary of the changes proposed in this REA Bulletin for the system of accounts prescribed by REA for its telephone borrowers is as follows:

REA Bulletin 461–1, Accounting System Requirements for Telephone Borrowers of the Rural Electrification Administration, is being revised to be effective January 1, 1972. The principal changes are:

1. Interfund Accounts 120.29/1660.39, Accounts Receivable—REA Construction Fund (memo), and 159.29/2320.29, Accounts Payable—Due REA Construction Fund (memo), have been deleted. They were determined to be no longer required.

2. Subaccounts 335.1/7200.1, Interest on Funded Debt/Interest on Long-Term Debt, and 335.2/7200.2, Interest on Long-Term Debt—REA Notes, have been deleted. The segregation of interest charges on REA loans from interest on other funded debt is no longer necessary. Interest on REA Notes and on other funded debt should be charged to Account 335/7200, Interest on Funded Debt/Interest on Long-Term Debt.

3. Subaccount 1600.6, Special Cash Deposits, was established to clarify the accounting for special cash deposits for Class C telephone companies.

4. The REA long-term debt accounts have been changed from Account 157/2290 to 154/2200 to properly classify the REA long-term debt in conformance with the FCC System of Accounts, Long-term debt accounts, 154.13/2200.3, Telephone Bank Notes, and 154.17/2200.7, Telephone Bank Notes—Unadvanced, Dr., have been added to provide separate accounting for loans from the Rural Telephone Bank.

5. The retirement work in progress clearing account number has been reclassified from Account 139.2/1890.2 to Account 171–X/2600–X to be consistent with the FCC System of Accounts.

Dated: November 23, 1971.

E. F. RENSHAW,
Assistant Administrator—Telephone.

[FR Doc.71-17358 Filed 11-26-71;8:51 am]

[7 CFR Part 1701]

DESIGN AND CONSTRUCTION OF RURAL TELEPHONE FACILITIES

Procedure for Coordination of Borrowers' Activities With Connecting Systems

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue revised REA Bulletin 340–3, Coordination of Borrowers' Activities With Connecting Systems. This bulletin sets forth REA procedures and requirements for coordinating the design, construction, and interconnection of borrowers' facilities with those of connecting systems. On final issuance of this revised REA Bulletin, Appendix A to Part 1701 will be modified accordingly.

Persons interested in the revision of REA Bulletin 340–3 may submit written data, views, or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 30 days from the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

The text of revised REA Bulletin 340–3 is as follows:

REA BULLETIN 340–3 [2]

COORDINATION OF BORROWERS' ACTIVITIES WITH CONNECTING SYSTEMS

I. *Purpose.* This bulletin provides guidance for coordinating the design, construction, and interconnection of borrowers' facilities with those of connecting systems.

II. *General.* A. Effective coordination between the borrower and the connecting systems is essential if subscribers are to be provided service expeditiously.

B. Meetings to discuss interconnection may be desirable. However, discussions can often be handled satisfactorily by telephone. In either case, discussion should be confirmed in writing.

C. REA Form 809, "Fundamental Plan Information," is required with the proposed system design submitted by new borrowers. Existing borrowers need prepare it only when the proposed loan project involves new exchange areas not currently served by REA-financed facilities or when there will be significant changes in trunking or trunk ownership.

D. REA Form 810, "Central Office Equipment Engineering Information," is required in the plans and specifications for central office equipment whenever a new central office is to be purchased. A completed form should be included for each connecting system having trunks to the office.

III. *Supplemental loan proposal or area coverage design.* A. During the preparation of the plan for serving the area, alternate methods of providing trunking should be examined as a basis for discussion with personnel of the connecting system. The method selected should be consistent with the long range plans of the connecting system.

B. Form 809 and a trunking diagram, as described in paragraph 8 of section 205 in the Telephone Engineering and Construction Manual, should be discussed with the connecting system personnel and submitted for their written concurrence when appropriate. See paragraph II.C of this bulletin.

C. Copies of pertinent correspondence and minutes of meetings, if any, submitted in support of the loan application should clearly cover the agreements reached on all matters relating to interconnection. The detail required depends on the amount of change from the existing method of providing facilities and services.

IV. *Central office equipment plans and specifications.* A. Prior to, or during, the preparation of plans and specifications (REA Forms 524c or 558c) for the purchase of a new central office, the borrower's engineer should complete Part A of REA Form 810 for each connecting system having trunking with the new office. The completed form should show only the trunking requirements of the connecting system office(s) involved. The engineer should send two copies of the form for each new central office together with a new trunking diagram to the appropriate connecting system(s) with the request for completion of Part B and the return of one copy.

V. Continuing coordination. If the connecting system is expected to be ready for interconnection at the same time as the borrower, it must be given adequate lead time and must be kept informed concerning the following:

1. All modifications in the system design which may affect previous agreements.

2. Manufacture and type of equipment being provided for central office switching, trunk signaling, trunk carrier, and other special equipment; schedule for installation of the equipment as well as subsequent changes in the schedules.

3. Changes in "Work Schedule and Progress Report" (See REA Bulletin 340–4).

4. Preparation of Directory, and customer instructions.

5. Other cutover planning so that activities of mutual interest may be fully coordinated.

6. Post-cutover activities which involve the facilities or services provided by the connecting company.

Copies of REA Forms 809 and 810 [2] are available from REA upon request.

Dated: November 23, 1971.

E. F. RENSHAW,
Assistant Administrator—Telephone.

[FR Doc.71-17359 Filed 11-26-71;8:51 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 51]

CANNED DRY PEAS

Proposed Establishment of Separate Standards of Identity, Quality, and Fill of Container

Notice is given that a petition has been filed by the Washington and Idaho Dry Pea and Lentil Commissions, Post Office Box 463, Moscow, ID 83843, proposing (1) that the standard of identity for canned peas (21 CFR 51.1) be amended by deleting all references to dried peas, and (2) that new standards of identity, quality, and fill of container be established for the food prepared by canning dry peas. The petitioner proposes that in the new standards the name "cooked dry peas" or "soaked dry peas" be used to differentiate the food from canned succulent peas. It is not proposed that the modifying words "early," "June," "early June," "sweet," "sweet wrinkled," or "sugar" be required on labels for the food prepared by canning dry peas. In general the petition proposes that the requirements of the standards of identity, quality, and fill of container as applicable to canned succulent peas (21 CFR 51.1, 51.2, and 51.3) be incorporated into the new standards for canned dry peas with the exception that the percentage of alcohol-insoluble solids shall not be included as a factor of quality for canned dry peas.

Grounds given in support of the proposal are that: (1) Canned dry peas and canned succulent peas are both included in the standards of identity, quality, and fill of container for canned peas. However, the two foods differ greatly in composition, nutrients, texture, and flavor;

(2) The standard of quality for canned peas (21 CFR 51.2) is based on the attributes of succulent peas. All canned dry peas exceed the maximum percentage specified for alcohol-insoluble solids and must, according to the requirements of the quality standard, be labeled as substandard. Such labeling requirements have contributed to the disappearance of canned dry peas, a wholesome and nutritious food product, from interstate commerce; and

(3) Since consumers expect canned dry peas to be more starchy than canned succulent peas, it would be reasonable to establish for canned dry peas separate standards which do not include a maximum percentage for alcohol-insoluble solids.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat 919, 72 Stat. 948; 21 U.S.C. 341, 371) and in accordance with authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), interested persons are invited to submit their views in writing (preferably in quintuplicate) regarding this proposal within 60 days after its date of FEDERAL REGISTER publication. Such views and comments should be addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, Md. 20852, and may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: November 14, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-17336 Filed 11-26-71;8:49 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 71–SW–66]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation regulations to designate a 700-foot transition area at Almyra, Ark.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed

[1] Revision of Apr. 10, 1959, edition to indicate meetings are not required for coordination and to present 1971 revision of REA Forms 809 and 810.

[2] Filed as part of the original document.

be submitted in writing in accordance during such conferences must also be office of the Regional Counsel, North-

amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the following transition area is added.

ALMYRA, ARK.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Almyra Municipal Airport (latitude 34°24'30" N., longitude 91°27'30" W.).

The proposed transition area will provide controlled airspace for aircraft executing approach/departure procedures proposed at Almyra Municipal Airport.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Tex., on November 18, 1971.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.71-17322 Filed 11-26-71;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SO-172]

TRANSITION AREA

Proposed Designation

The Federal Aviation Admininistration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Brewton, Ala., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Brewton transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Brewton Municipal Airport (lat. 31°03'00" N., long. 87°04'00" W.); within 5 miles each side of Crestview, Fla., VORTAC 303° radial, extending from the 6.5-mile-radius area to 16 miles northwest of the VORTAC.

The proposed designation is required to provide controlled airspace protection for IFR operations at Brewton Municipal Airport. A prescribed instrument approach procedure to this airport, utilizing the Crestview, Fla., VORTAC, is proposed in conjunction with the designation of this transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on November 18, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71-17319 Filed 11-26-71;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 71-GL-22]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Columbus, Ohio.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 3166 Des Plaines Avenue, Des Plaines, IL 60018. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 3166 Des Plaines Avenue, Des Plaines, IL 60018.

Two new public instrument approach procedures have been developed for Bolton Field, Columbus, Ohio. To protect these approaches, additional transition area must be designated. Accordingly, it is necessary to alter the Columbus, Ohio, transition area to adequately protect the aircraft executing the new approach procedures and to comply with the new transition area criteria.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (36 F.R. 2140), the following transition area is amended:

Columbus, Ohio: Add "within a 6½-mile radius of Bolton Field (latitude 39°54'07" N., longitude 83°08'12" W.)" to the 700-foot transition area description.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Ill., on November 10, 1971.

R. O. ZIEGLER,
Acting Director, Great Lakes Region.

[FR Doc.71-17317 Filed 11-26-71;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 71-GL-20]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at East Tawas, Mich.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 3166 Des Plaines Avenue, Des Plaines, IL 60018. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 3166 Des Plaines Avenue, Des Plaines, IL 60018.

A new public use instrument approach procedure has been developed for the Iosco County Airport. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at East Tawas, Mich. The new procedure will become effective concurrently with the designation of the transition area.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (36 F.R. 2140), the following transition area is added:

EAST TAWAS, MICH.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Iosco County Airport (latitude 44°-16'48" N., longitude 83°25'30" W.), excluding the portion which overlies the Oscoda, Mich., transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Ill., on November 9, 1971.

R. O. ZIEGLER,
Acting Director, Great Lakes Region.

[FR Doc.71-17316 Filed 11-26-71;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SO-173]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Meridian, Miss. (OLF Bravo Field), transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Meridian (OLF Bravo Field) transition area would be designated as):

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of OLF Bravo Field (lat. 32°47'33" N., long. 88°49'40" W.).

The proposed designation is required to provide controlled airspace protection for IFR operations at OLF Bravo Field. A prescribed instrument approach procedure to this airport, utilizing the Navy Meridian TACAN, is proposed in conjunction with the designation of this transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on November 18, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71-17320 Filed 11-26-71;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 71-NW-19]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Spokane, Wash., transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Operations, Procedures and Airspace Branch, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108.

A review of the airspace requirements in the area south and southeast of Spokane, Wash., indicates a requirement for additional transition area to provide controlled airspace for the en route vectoring of aircraft in the Pullman-Spokane-Mullan Pass-area.

In consideration of the foregoing, the FAA proposes the following airspace action:

In § 71.181 (36 F.R. 2140), the description of the Spokane, Wash., transition area as amended (36 F.R. 5288), is further amended as follows:

In line 10 delete "• • • on the east by longitude 117°32'00" W. • • •" and substitute therefor, "• • • on the east by the west edge of V-253 • • •"

In line 13; after "• • • to the 024° radials, • • •", add "• • • and that area southeast of Spokane bounded on the northwest by the 52-mile arc, on the north by the south edge of V-28 on the southeast by the north edge of V-536, on the southwest by the northeast edge of V-253 • • •"

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Seattle, Wash., on November 16, 1971.

C. B. WALK, JR.,
Director.

[FR Doc.71-17318 Filed 11-26-71;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 70-SW-5]

CONTROL ZONES

Withdrawal of Proposed Designation and Alteration

On February 20, 1970, F.R. Doc. 70-2132 was published in the FEDERAL REGISTER (35 F.R. 3235) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations which would alter controlled airspace in the Waco, Tex., terminal area. It was proposed to designate a new control zone at Waco, Tex. (James Connally Airport), and also alter the existing Waco, Tex., control zone.

The proponent has now informed the Federal Aviation Administration that it is desired to withdraw the prior request for designation of a control zone at James Connally Airport, Waco, Tex. Should the need for designation of a control zone at James Connally Airport arise at a later date, the proponent will submit an additional request.

In consideration of the foregoing, notice is hereby given that the proposal contained in Airspace Docket No. 70-SW-5, published in the FEDERAL REGISTER on February 20, 1970, as F.R. Doc. 70-2132, is withdrawn.

This notice of withdrawal is made the public interest to allow their sale to delegations of authority at 49 CFR 1.51

This notice of withdrawal is made under the authority of section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Tex., on November 18, 1971.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.71-17321 Filed 11-26-71;8:47 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 70-2, Notice 3]

MOTOR VEHICLE SAFETY STANDARDS

Reclassified Tires

This notice proposes that the sale, for any purpose, of passenger car tires that have not been certified to conform to Standard No. 109 be prohibited.

Motor Vehicle Safety Standard No. 109 was amended on October 29, 1970 (35 F.R. 16734), and January 26, 1971 (36 F.R. 1195), to allow the sale of tires designed for passenger car use but not certified as complying with Standard No. 109, if the manufacturer took certain prescribed steps to prevent the sale of these tires for use on public highways. This proposed amendment would repeal that amendment, and prohibit the sale of these tires.

Since January 1, 1968, the effective date of Standard No. 109, certain tire manufacturers have marketed tires manufactured to specifications for passenger car tires, but which they believed might not comply with the performance requirements of the standard, as "off highway" or "farm use only" tires. Despite manufacturers' intentions of restricting the sale of these tires to off-road vehicles, they have been offered for sale and sold for use on public highways in many parts of the United States. The Administration has attempted to prevent their sale for highway use through enforcement proceedings on a case-by-case basis, and by the amendments to Standard No. 109 mentioned above.

The tires in question appear physically to be the same as passenger car tires, but are sold at a lower cost. For this reason they are easily sold for use on passenger cars to purchasers who either are unconcerned about the tires' safety, believe false claims that the warning labels are purely a formality and can be safely ignored, or are unaware of the potential danger because the warning labels have been removed.

The NHTSA's previous action in this area was designed to allow manufacturers to meet a legitimate market for low-speed, off-road, inexpensive tires. This agency has reevaluated its position in light of its experience under the rule permitting sale of these tires, and has tentatively determined that it is not in the public interest to allow their sale to continue. Despite strict labeling conditions imposed by the amendments of October 29, 1970, and January 26, 1971, the Administration has received information showing that tires manufactured after the amendments went into effect are being sold to the public for passenger car, on-highway use. More than 80,000 of such tires have been distributed to dealers since December 1, 1970, a much higher number than was believed necessary to satisfy the off-road market. There is no effective method available to insure that these tires are not used on the nation's highways. Furthermore, information that the agency has received indicates that the tire industry now has available for sale tires designed specifically for safe off-highway use, which carry only a slightly higher retail price than the "reclassified" tires.

In light of the above, it is proposed that Motor Vehicle Safety Standard No. 109, in § 571.21 of Title 49, Code of Federal Regulations, be amended as set forth below.

1. The definition of Reclassified Tire in S3. of Standard No. 109 would be deleted.

2. Paragraph S6., "Reclassified Tires", would be deleted and a new paragraph S6. would be added to read as set forth below:

S6. *Nonconforming Tires.* On or after March 1, 1972, no tire of a type and size designation specified in Table 1 of Appendix A shall be sold, offered for sale, imported, or introduced or delivered for introduction in interstate commerce, for any purpose, unless it conforms to all the requirements of this standard.

Proposed effective date: March 1, 1972.

Interested persons are invited to comment on the proposal. Comments should refer to the docket number and be submitted to the Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted. All comments received before the close of business on December 30, 1971, will be considered, and will be available for examination in the docket both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Administration. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The Administration will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

This notice of proposed rulemaking is issued under the authority of sections 103, 112, 119, and 201 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392, 1401, 1407, 1421), and the delegations of authority at 49 CFR 1.51 and 501.8.

Issued on November 18, 1971.

ROBERT L. CARTER,
Acting Associate Administrator, Motor Vehicle Programs.

[FR Doc.71-17342 Filed 11-26-71;8:49 am]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 373, 378, 378a]

[Docket No. 23940]

STUDY GROUP CHARTERS BY CERTAIN AIR CARRIERS, STUDY GROUP CHARTERERS, AND TOUR OPERATORS

Modification of Surety Bond Provisions; Extension of Time

NOVEMBER 23, 1971.

The Board, by circulation of notice of proposed rule making SPDR-26, dated October 26, 1971, and published at 36 F.R. 20895, gave notice that it had under consideration modification of the surety bond provisions of Parts 373, 378, and 378a of the Board's special regulations and certain miscellaneous amendments to these parts (14 CFR Parts 373, 378, 378a). Interested persons were invited to participate in the proceeding by submission of twleve (12) copies of written data, views, or arguments pertaining thereto to the Docket Section of the Board on or before December 2, 1971.

Subsequent to the issuance of the proposed rule, several supplemental air carriers, namely, Modern, ONA, Saturn, TIA, Universal, and World, requested an extension of time to January 10, 1972, for filing comments. Through their counsel, these carriers assert that the proposed amendments involve complex, and possibly controversial, questions on many of which comment is impossible until facts have been gathered from carrier personnel, tour operators, study group charterers, and surety companies. It is further stated that since the proposed rule is intended to be merely a codification of current staff interpretations, policies, and practices, the extension of time requested would not adversely affect the public, any air carrier, or the administration of the several parts to which the amendments pertain.

The undersigned finds that good cause has been shown for the extension of time requested.

Accordingly, pursuant to the authority delegated in § 385.20(d) of the Board's organization regulations, the undersigned hereby extends the time for submitting comments to January 10, 1972.

(Sec. 204(a) of the Federal Aviation Act, as amended, 72 Stat. 743; 49 U.S.C. 1324)

[SEAL] ARTHUR H. SIMMS,
Associate General Counsel, Rules and Rates.

[FR Doc.71-17354 Filed 11-26-71;8:50 am]

Notices

DEPARTMENT OF THE INTERIOR

Bonneville Power Administration

HEAD, CONTRACT ADMINISTRATION STAFF, LINE CONSTRUCTION SECTION, AND HEAD, CONTRACT ADMINISTRATION, SUBSTATION CONSTRUCTION SECTION

Redelegations of Authority

Redelegations of Authority published in the FEDERAL REGISTER on July 6, 1968 (33 F.R. 9784), and amended on September 13, 1968 (33 F.R. 12974), February 21, 1969 (34 F.R. 36), August 9, 1969 (34 F.R. 152), September 18, 1969 (34 F.R. 179), May 1, 1971 (36 F.R. 85), June 8, 1971 (36 F.R. 110), and July 24, 1971 (36 F.R. 143) are further amended by:

1. Section 10.11 is amended to include the following:

10.11 *Construction and Clearing Contracts.* • • •

c. The Head, Contract Administration Staff, Line Construction Section, and the Head, Contract Administration Unit, Substation Construction Section, may exercise the authority of the Construction Contracting Officer in administering all provisions of construction and clearing contracts except for (1) execution of supplemental agreements or amendments to contracts; (2) terminating the contractor's right to proceed for any reason; (3) determining final acceptance of completed work; or (4) making final decisions under the "Disputes" clause of any contract.

10.23 [Deleted]

2. Section 10.23 is deleted.

H. R. RICHMOND,
Administrator.

NOVEMBER 16, 1971.

[FR Doc.71-17301 Filed 11-26-71;8:45 am]

Bureau of Land Management

[A 5968]

ARIZONA

Notice of Termination of Proposed Withdrawal and Reservation of Lands (In Part) and Amendment of Proposed Withdrawal

Notice of a Forest Service, Department of Agriculture application, A 5968, for withdrawal and reservation of lands for an administrative site, was published as F.R. Doc. No. 70-16421 on page 18631 of the issue for December 8, 1970. The applicant agency has canceled its application insofar as it affects the following described lands:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 10 N., R. 10 E.,
Sec. 2, S½SW¼.

The area described aggregates 80 acres.

Therefore, pursuant to the regulations contained in 43 CFR 2091.2-5(b)(1), such lands at 10 a.m. on November 9, 1971, were relieved of the segregative effect of the above mentioned application.

The Forest Service has amended its application to also withdraw the additional lands as described below, from mining location and entry under the General Mining Laws, subject to existing valid claims:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 10 N., R. 10 E.,
Sec. 2, lot 2, SW¼NE¼, and NW¼SE¼.

The area described aggregates 119.68 acres.

The lands now involved in the withdrawal application are described, in their entirety, as follows:

GILA AND SALT RIVER MERIDIAN, ARIZONA

CLINE CABIN WILDLIFE ENCLOSURE

T. 4 N., R. 9 E. (unsurveyed),
Sec. 3, NW¼NE¼.

PAYSON ADMINISTRATIVE SITE

T. 10 N., R. 10 E.,
Sec. 2, lots 2, 3, and 4, SW¼NE¼, S½NW¼, N½SW¼, and NW¼SE¼.

The areas described aggregate 398.90 acres, more or less.

Dated: November 17, 1971.

JOE T. FALLINI,
State Director.

[FR Doc.71-17304 Filed 11-26-71;8:46 am]

UTAH

Notice of Filing of Plats of Survey and Order Providing for Opening of Public Lands

1. Plats of survey of the lands described below will be officially filed in the Utah State Office, Salt Lake City, Utah, effective at 10 a.m., on December 20, 1971:

SALT LAKE MERIDIAN

Plats of survey accepted October 20, 1971:

T. 38 S., R. 17 E.,
Sec. 1, lots 1 to 4, inclusive, S½N½, S½;
Sec. 3, lots 1 to 4, inclusive, S½N½, S½;
Sec. 4, lots 1 to 4, inclusive, S½N½, S½;
Sec. 5, lots 1 to 4, inclusive, S½N½, S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, lots 1 to 4, inclusive, E½, E½W½;
Secs. 8 to 15;
Sec. 17;
Sec. 18, lots 1 to 4, inclusive, E½, E½W½.

The area described aggregates 10,357.59 acres.

2. The following lands are within State Exchange application U 3710, and are not open to application, selection and petition unless it is withdrawn or finally rejected, in which event these lands will become open as provided by CFR 2244.2-3(c):

T. 38 S., R. 17 E.,
Secs. 1, 3, 4, 5, and 6.

3. Subject to valid existing rights, the provisions of existing withdrawals, C and MU Classification U 8131, and the requirements of applicable law, the remaining lands are hereby open to application, petition, location, and selection except for appropriations under the agriculture land laws (43 U.S.C., Parts 7 and 9, 25 U.S.C. sec. 334) and from sales under sec. 2455 of Revised Statutes (43 U.S.C. 1171). Also segregates from entry or location and surface use and occupancy: Sec. 13, S½; sec. 14, S½SW¼, SE¼; sec. 15, S½S½; sec. 17; S½S½; sec. 18, S½S½; and lands within 50 feet of the Mormon Trail.

4. All valid applications received at or prior to 10 a.m. on December 20, 1971, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. These lands are semiarid in character and not suitable for farming. The lands have values for watershed, grazing, wildlife, and recreation, which can best be managed under principles of multiple use.

5. Inquiries concerning the lands should be addressed to the Chief, Division of Technical Services, Utah State Office, Post Office Box 11505, Salt Lake City, UT 84111.

J. E. KEOGH,
Chief, Division of Technical Services.

NOVEMBER 11, 1971.

[FR Doc.71-17303 Filed 11-26-71;8:46 am]

Geological Survey

[Power Site Cancellation 256]

NORTH PLATTE RIVER, COLO.

Cancellation of Power Site

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and 220 Departmental Manual 6.1, Power Site Classifications 59, 343, 355, and 374 are hereby canceled to the extent that they affect the following described land:

SIXTH PRINCIPAL MERIDIAN

Power Site Classification 59 of March 13, 1924:

T. 12 N., R. 84 W.,
Sec. 20, NE¼NE¼.
Area—40 acres.

Power Site Classification 343 of September 14, 1943:

T. 10 N., R. 79 W.,
Sec. 8, NW¼NE¼, S½NE¼, E½NW¼, SW¼SW¼, E½SW¼, and SE¼;
Sec. 17, W½NE¼, E½NW¼, and NW¼SE¼;
Sec. 27, SE¼SW¼ and SW¼SE¼;
Sec. 28, NW¼NW¼.

T. 10 N., R. 80 W.,

ton, D.C. 20240, for information as to the

The petition for modification is signed

From this point the lead sheathed cable is

DEPARTMENT OF AGRICULTURE

T. 10 N., R. 80 W.,
Sec. 3, NW¼SW¼ and SE¼SW¼;
Sec. 10, W½NE¼, E½W½, SW¼SW¼, and NW¼SE¼;
Sec. 13, E½SE¼ and SW¼SE¼;
Sec. 15, NW¼ and N½SW¼;
Sec. 26, E½SW¼;
Sec. 27, SE¼NW¼;
Sec. 34, W½NW¼ and S½SE¼;
Sec. 35, E½NW¼, SW¼NW¼, and W½SW¼.
T. 11 N., R. 79 W.,
Sec. 19, NE¼SE¼.
T. 11 N., R. 80 W.,
Sec. 24, S½NW¼;
Sec. 34, SW¼SE¼;
Sec. 35, E½NE¼, NE¼SW¼, and NW¼SE¼.
Area—2,360 acres.
Power Site Classification 355 of October 31, 1944:
T. 12 N., R. 84 W.,
Sec. 21, SW¼NW¼.
Area—40 acres.
Power Site Classification 374 of March 23, 1945:
T. 11 N., R. 80 W.,
Sec. 2, NW¼SE¼ and S½SE¼.
T. 12 N., R. 80 W.,
Sec. 35, SE¼NE¼.
T. 12 N., R. 82 W.,
Sec. 22, lots 3 and 4, and N½SW¼.
Area—332.80 acres.

The total area described aggregates about 2,773 acres.

W. A. RADLINSKI,
Acting Director.

NOVEMBER 19, 1971.

[FR Doc.71-17302 Filed 11-26-71;8:45 am]

National Park Service

MOUNT RAINIER NATIONAL PARK

Notice of Intention To Extend Concession Contract

Pursuant to the provisions of section 5, of the Act of October 9, 1965; (79 Stat. 969; 16 U.S.C. 20) public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to extend the concession contract with Rainier National Park Co. authorizing it to provide concession facilities and services for the public at Mount Rainier National Park, for a period of one (1) year from January 1, 1972 through December 31, 1972.

The foregoing concessioner has performed its obligations under the expiring contract to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Chief, Division of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: November 18, 1971.

LAWRENCE C. HADLEY,
Assistant Director,
National Park Service.

[FR Doc.71-17306 Filed 11-26-71;8:46 am]

Office of Hearings and Appeals

[Docket No. M 72-18]

JUANITA COAL AND COKE CO.

Petition Regarding Modification of Mandatory Safety Standard

In regard to petition of the Juanita Coal and Coke Co. for modification of mandatory safety standard (section 308(b)).

In accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. section 861(c) (1970)), notice is given that the Juanita Coal and Coke Co. has filed a petition to modify the application of section 308(b) of the Act, 30 U.S.C. section 868(b) (1970), to its King mine located at Bowie, Delta County, Colo.

The petition for modification is signed by the president of the company and also by the Safety Committeeman, United Mine Workers of America.

Section 308(b) reads as follows:

(b) High-voltage circuits extending underground and supplying portable, mobile, or stationary high-voltage equipment shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the source transformers, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all high-voltage equipment supplied power from that circuit, except that the Secretary or his authorized representative may permit ungrounded high-voltage circuits to be extended underground to feed stationary electrical equipment if such circuits are either steel armored or installed in grounded, rigid steel conduit throughout their entire length, and upon his finding that such exception does not pose a hazard to the miners. Within 100 feet of the point on the surface where high-voltage circuits enter the underground portion of the mine, disconnecting devices shall be installed and so equipped or designed in such a manner that it can be determined by visual observation that the power is disconnected, except that the Secretary or his authorized representative may permit such devices to be installed at a greater distance from such area of the mine if he determines, based on existing physical conditions, that such installation will be more accessible at a greater distance and will not pose any hazard to the miners.

Petitioner stated that the King mine uses an ungrounded high-voltage circuit to feed stationary electrical equipment at 2,400 volts a.c. It asks that the standard be modified to the extent that part of the cable now used in the mine not be required to be placed in rigid steel conduit and that it not be required to comply with the requirements for an underground high-voltage resistance grounded system with a fail safe ground check and monitor. Petitioner describes the high-voltage power system in the King mine as follows:

Source transformers are at the company powerplant, approximately 2,000 feet from the mine portal. Power is purchased from Western Colorado Power Co. and is carried into three 150-kw. transformers at 44,000 volts where it is transformed to 2,400 volts. Visual disconnects are provided on both the high- and low-voltage sides. The power is carried into the powerplant where it is divided into separate [sic] circuits for distribution to various installations. Mine power enters an oil circuit breaker and from there through lead sheathed submarine cable to the outside of the building. From this point it is carried on three bare copper conductors to the mine. Lightning arresters are provided on each end of these lines.

A branch circuit is taken off into an oil circuit breaker to provide power for a 200-h.p. hoist motor. Another branch circuit is taken into an oil circuit breaker to provide power for a 150-h.p. fan motor. The bare copper line terminates at an oil circuit breaker at the mine portal. Here it enters a pot head on lead sheathed submarine cable enclosed in rigid steel conduit. The submarine cable is carried in conduit for 750 feet.

From this point the lead sheathed cable is supported on messenger wire for a distance of 3,720 feet to a permanent transformer station where it enters an oil switch. From this switch one branch goes to three 75-KW. transformers provided with fused disconnects. The other branch goes on to another permanent transformer installation and is carried in steel armored cable for a distance of 2,040 feet. From this point it is carried by nonmetallic armored cable, containing metallic shielded cables and ground wires, for a distance of 820 feet to the permanent transformer installation of three 75-KW. transformers. Visual fused disconnects are provided on the high-voltage side and an oil circuit breaker on the low-voltage (440 v.) side.

From this oil circuit breaker the 440-volt power is carried on three insulated single conductors, supported on insulators, to the working section of the mine. Fused nips are presently being used to provide trailing cable protection, with ground wires solidly connected to a 2-inch galvanized iron water pipeline. Circuit breakers are on order to provide trailing cable protection as called for in the Act.

Transformer installations, metallic sheath and messenger wires are grounded to a 2-inch galvanized iron water pipeline that runs parallel to this entire underground circuit and in turn is continuous to a sump near the company powerplant, where water is pumped to the mine for underground use. In addition this pipeline lays in many wet areas where effective grounding is provided.

Petitioner states that to comply with the requirements for an ungrounded high-voltage circuit, it would have to replace or put in rigid steel conduit 3,720 feet of lead sheathed cable and 820 feet of nonmetallic armored cable. Petitioner states that to comply with the requirements for an underground high-voltage resistance grounded system with fail safe ground check and monitor, it would have to replace all of the underground circuit with the exception of 820 feet of nonmetallic armored cable. Petitioner states that this would involve 6,510 feet of cable, 9,400 feet of pilot check wire, and 2,000 feet of bare ground wire, and in addition grounding monitoring equipment, zig-zag transformers, and numerous circuit breakers.

Petitioner states that its ungrounded high-voltage system described above has been in operation at the mine for 49 years and that no injuries to workmen or equipment malfunctions have occurred that can be attributed to the use of the system. Petitioner states that the mine area will be worked out in approximately 5 years.

Parties interested in this petition should file their answers or comments within 30 days from the date of publication of this notice in the FEDERAL REGISTER with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 6432 Federal Building, Salt Lake City, Utah 84111. Copies of the petition are available for inspection at that address.

JAMES M. DAY,
Director,
Office of Hearings and Appeals.

NOVEMBER 18, 1971.

[FR Doc.71-17307 Filed 11-26-71;8:46 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

HUMANELY SLAUGHTERED LIVESTOCK

Identification of Carcasses; Changes in Lists of Establishments

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1904), and the statement of policy thereunder in 9 CFR 381.1, the lists (36 F.R. 17451, 19270, and 20538) of establishments which are operated under Federal inspection pursuant to the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) and which use humane methods of slaughter and incidental handling of livestock are hereby amended as indicated in the following table listing species at additional establishments that have been reported as being slaughtered and handled humanely.

Name of establishment	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Equines
Spencer Foods, Inc.	648	(*)					
Central Foods, Inc.	5510	(*)				(*)	
Behn's Lean Meats, Inc.	5574					(*)	
Dinner Bell Meat Products, Inc.	7440	(*)	(*)	(*)		(*)	
Dalee Meat Processing Plant	7781	(*)		(*)		(*)	

New establishments reported 5.

Done at Washington, D.C., on November 22, 1971.

KENNETH M. MCENROE,
Deputy Administrator, Meat and Poultry Inspection Program.

[FR Doc.71-17292 Filed 11-26-71;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. C-359]

RICHARD THOMAS ENNIS

Notice of Loan Application

NOVEMBER 19, 1971.

Richard Thomas Ennis, 315 Marina Street, Post Office Box 845, Morro Bay, CA 93442, has applied for a loan from the Fisheries Loan Fund to assist in financing the purchase of a new steel fishing vessel, about 55 feet in length, to engage in the fishery for salmon, tuna, Dungeness crab, and bottom fish.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

PHILIP M. ROEDEL,
Director.

[FR Doc.71-17326 Filed 11-26-71;8:48 am]

[Docket No. C-356]

JOHN FAVALORA

Notice of Loan Application

NOVEMBER 19, 1971.

John Favalora, 491 Strawberry Canyon Road, Watsonville, CA 95076, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new steel vessel, about 58 feet in length, to engage in the fishery for bottom fish, salmon, and tuna.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will

or will not cause such economic hardship or injury.

announcement by advising the Commissioner that said drug has been deleted

lished in the FEDERAL REGISTER on October 28, 1970 (35 F.R. 16705). Notice

reactor located at the licensee's site on

submitted proof of financial protection

furnished to the Commission a written

or will not cause such economic hardship or injury.

PHILIP M. ROEDEL,
Director.

[FR Doc.71-17327 Filed 11-26-71;8:48 am]

[Docket No. C-357]

VERNON K. AND BETTY A. ROBERTS

Notice of Loan Application

NOVEMBER 19, 1971.

Vernon K. Roberts and Betty A. Roberts, Post Office Box 172, Albion, CA 95410, have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel, about 50-foot in length, to engage in the fishery for salmon, Dungeness crab, sablefish, and tuna (albacore, yellowfin, and skipjack).

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

PHILIP M. ROEDEL,
Director.

[FR Doc.71-17328 Filed 11-26-71;8:48 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-399; NADA No. 7-955V]

HAVER-LOCKHART LABORATORIES

Smearalba 335; Notice of Withdrawal of Approval of New Animal Drug Application

In the FEDERAL REGISTER of September 5, 1970 (35 F.R. 14168, DESI 901V), the Commissioner of Food and Drugs announced the conclusions of the Food and Drug Administration following evaluation of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Smearalba 335, NADA (new animal drug application) No. 7-955V. Haver-Lockhart Laboratories, Post Office Box 676, Kansas City, MO 64141, holder of said NADA, responded to the announcement by advising the Commissioner that said drug has been deleted from the market and requesting that approval of said NADA be withdrawn.

Based on the grounds set forth in said announcement and the firm's response, the Commissioner concludes that approval of said NADA should be withdrawn. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120), approval of NADA No. 7-955V, including all amendments and supplements thereto, is hereby withdrawn effective on the date of publication of this document.

Dated: November 18, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-17337 Filed 11-26-71;8:49 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-332]

ALLIED-GULF NUCLEAR SERVICES ET AL.

Notice of Availability of Applicant's Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations, notice is hereby given that a copy of a report entitled "Barnwell Nuclear Fuel Plant Environmental Report," submitted by Allied-Gulf Nuclear Services, Allied Chemical Nuclear Products, Inc., and Gulf Oil Corp. (Allied-Gulf), and dated November 5, 1971, is being placed for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20545. A copy of the report is also being placed for public inspection in the State Clearinghouse, Office of the Governor, State Planning and Grants Division, 915 Main Street, Columbia, SC 29201; the regional clearinghouse, Lower Savannah Regional Planning and Development Commission, Post Office Box 850, Aiken, SC 29801; and at the Barnwell County Courthouse, Office of the County Commissioners, Barnwell, S.C. 29812. The report discusses environmental considerations related to the application by Allied-Gulf for a license to reprocess spent nuclear fuel at a facility presently under construction at a site in Barnwell County, S.C. Comments on the report may be submitted by interested persons to the Director, Division of Materials Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Notice of availability of the original environmental report entitled "Applicant's Environmental Report," dated July 7, 1970, was published in the FEDERAL REGISTER on October 6, 1970 (35 F.R. 12567). Notice of availability of the Commission's detailed statement on environmental considerations was published in the FEDERAL REGISTER on October 28, 1970 (35 F.R. 16705). Notice of issuance of a construction permit to Allied-Gulf was published in the FEDERAL REGISTER on December 29, 1970 (35 F.R. 19708). Subsequent to the publishing of the latter notice, on July 23, 1971, the U.S. Court of Appeals for the District of Columbia Circuit held in "Calvert's Cliffs Coordinating Committee, Inc., et al. v. United States Atomic Energy Commission et al." that AEC regulations for the implementation of the National Environmental Policy Act of 1969 did not comply in several specified respects with the dictates of the Act and remanded the proceedings to AEC for rule making consistent with the court's opinion. Accordingly, the Commission's regulation 10 CFR Part 50, "Licensing of Production and Utilization Facilities," Appendix D, was amended September 9, 1971, to conform with the court's decision. Under the provisions of the amended regulation, it was required that Allied-Gulf furnish additional environmental information for consideration by the Commission. It is in conformity with that requirement that the new environmental report described in the first paragraph above has been submitted.

After the new environmental report has been reviewed by the Commission's regulatory staff in the light of the revised 10 CFR Part 50, Appendix D, a supplemental draft detailed statement on environmental considerations related to the proposed activity will be prepared. Upon completion of the supplemental draft detailed statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of its availability. The summary notice will request, within thirty (30) days or such longer period as the Commission may determine to be practicable, comments from interested persons on the proposed action and on the draft statement. The summary notice will also contain a statement to the effect that the comments of Federal agencies and State and local officials thereon will be made available when received.

Dated at Bethesda, Md., this 19th day of November 1971.

For the Atomic Energy Commission.

RICHARD E. CUNNINGHAM,
Acting Director,
Division of Materials Licensing.

[FR Doc.71-17325 Filed 11-26-71;8:48 am]

[Docket No. 50-255]

CONSUMERS POWER CO.

Interim Provisional Operating License; Notice of Amendment

Notice is hereby given that the Atomic Energy Commission (the Commission) has issued Amendment No. 1 to Provisional Operating License No. DPR-20 to Consumers Power Co. (the licensee) which permits operation, at steady state power levels not to exceed 440 megawatts thermal, of the Palisades Plant (the facility), a pressurized water nuclear reactor located at the licensee's site on the eastern shore of Lake Michigan in Covert Township, Van Buren County, Mich. The facility is designed for operation at approximately 2,200 megawatts thermal, but in accordance with the provisions of Interim Provisional Operating License No. DPR-20, as amended, activities under the license are restricted to operation at steady state power levels not to exceed 440 megawatts thermal (20 percent of the facility's rated power level of 2,200 MWT).

A notice of proposed issuance of a provisional operating license for the facility was issued by the Commission on March 10, 1970 (35 F.R. 4310). The notice provided that within 30 days from the date of publication, any person whose interest might be affected by the issuance of the license could file a petition for leave to intervene in accordance with the requirements of 10 CFR Part 2, "Rules of Practice". Petitions for leave to intervene and requests for hearing were filed by a number of persons. The notice of hearing issued by the Commission on May 18, 1970 (35 F.R. 7750), ordered a hearing held in the matter, permitted intervention by petitioners, and appointed a presiding atomic safety and licensing board (the Board).

On March 24, 1971, pursuant to an initial decision by the Board, on a motion by the licensee, the Commission issued Interim Provisional Operating License No. DPR-20 authorizing fuel loading and initial operation limited to 1 megawatt thermal.

On September 27, 1971, the licensee requested the Board, in accordance with the provisions of paragraph D.2 of 10 CFR Part 50, Appendix D, to issue an order authorizing the Director of Regulation to issue an amendment to Interim Provisional Operating License No. DPR-20 authorizing operation of the Palisades Plant at power levels not to exceed 1,320 megawatts thermal (60 percent of the facility's rated power level of 2,200 MWT). Subsequently, the licensee presented information to the Board as to the environmental impact of such operation, and the Commission's staff presented information as to the environmental impact of operation at power levels up to 440 megawatts thermal. On November 9, 1971, the Board issued an order authorizing the Director of Regulation to make appropriate findings on the matters set forth in 10 CFR 50.57 (a) and to issue an amendment to Interim Provisional Operating License No. DPR-20 authorizing operation at steady state power levels not to exceed 440 megawatts thermal, and directing the inclusion of a condition limiting thermal discharges to Lake Michigan.

The Commission's regulatory staff has inspected the facility and has determined that, for operation as authorized by the amendment, the facility has been constructed in accordance with the application, as amended, the provisions of Interim Provisional Construction Permit No. CPPR-25, the Atomic Energy Act of 1954, as amended, and the Commission's regulations. The licensee has previously submitted proof of financial protection in satisfaction of the requirements of 10 CFR Part 140.

The Director of Regulation has made the findings set forth in the license, and has concluded that the application, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Chapter 1, and that the issuance of the license will not be inimical to the common defense and security or to the health and safety of the public.

The license amendment is effective as of the date of issuance and shall expire on September 24, 1972, unless extended for good cause shown or upon the earlier issuance of a superseding operating license.

Copies of (1) the Board's order dated November 9, 1971, (2) Amendment No. 1 to Interim Provisional Operating License No. DPR-20, Technical Specifications, and (3) "Discussion and Conclusions by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Pursuant to Appendix D of 10 CFR Part 50, Supporting the Issuance of a License to Consumers Power Co., Inc., Authorizing Limited Operations of the Palisades Nuclear Generating Plant, Docket No. 50-255, dated October 13, 1971," are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington DC. Copies of the amended license, and item (3) above may be obtained upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 20th day of November 1971.

For the Atomic Energy Commission.

FRANK SCHROEDER,
Deputy Director,
Division of Reactor Licensing.

[FR Doc.71-17351 Filed 11-26-71;8:50 am]

[Docket No. 50-309]

MAINE YANKEE ATOMIC POWER CO.

Determination Not To Suspend Construction Activities Pending Completion of NEPA Environmental Review

The Maine Yankee Atomic Power Co. (the licensee), is the holder of Construction Permit No. CPPR-55 (the construction permit), issued by the Atomic Energy Commission on October 21, 1968. The construction permit authorizes the licensee to construct a pressurized water nuclear power reactor designated as the Maine Yankee Atomic Power Station, at the licensee's site in Lincoln County, Maine. The facility is designed for initial operation at approximately 2,440 megawatts (thermal).

In accordance with section E.3 of the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), Appendix D of 10 CFR Part 50 (Appendix D), the licensee has furnished to the Commission a written statement of reasons, with supporting factual submission, why the construction permit should not be suspended, in whole or in part, pending completion of the NEPA environmental review. This statement of reasons was furnished to the Commission on October 20, 1971.

The Director of Regulation has considered the licensee's submission in light of the criteria set out in section E.2 of Appendix D, and has determined, after considering and balancing the criteria in section E.2 of Appendix D, that construction activities at the Maine Yankee Atomic Power Station authorized pursuant to CPPR-55 should not be suspended pending completion of the NEPA environmental review.

Further details of this determination are set forth in a document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permit for the Maine Yankee Atomic Power Station, Docket No. 50-309".

Pending completion of the full NEPA review, the holder of Construction Permit No. CPPR-55 proceeds with construction at its own risk. The determination herein and the discussion and findings hereinabove referred to do not preclude the Commission, as a result of its ongoing environmental review, from continuing, modifying or terminating the construction permit or from appropriately conditioning the permit to protect environmental values.

Any person whose interest may be affected by this proceeding, other than the licensee, may file a request for a hearing within thirty (30) days after publication of this determination in the FEDERAL REGISTER. Such request shall set forth the matters, with reference to the factors set out in section E.2 of Appendix D, alleged to warrant a determination other than that made by the Director of Regulation and shall set forth the factual basis for the request. If the Commission determines that the matters stated in such request warrant a hearing, a notice of hearing will be published in the FEDERAL REGISTER.

The licensee's statement of reasons, furnished pursuant to section E.3 of Appendix D, as to why the construction permit should not be suspended pending completion of the NEPA environmental review, and the document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permit for the Maine Yankee Atomic Power Station, Docket No. 50-309", are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Wiscasset Public Library Association, High Street, Wiscasset, Maine 04578. Copies of the "Discussion and Findings" document may be obtained upon request addressed to the Atomic

Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 20th day of November 1971.

For the Atomic Energy Commission.

FRANK SCHROEDER,
Deputy Director,
Division of Reactor Licensing.

[FR Doc.71-17352 Filed 11-26-71;8:50 am]

[Docket No. 50-309]

MAINE YANKEE ATOMIC POWER CO.

Notice of Hearing on Application for Construction Permit

Pursuant to the Atomic Energy Act of 1954, as amended, and the regulations in 10 CFR Part 50, and upon consideration of the matters addressed in the Commission's determination dated November 20, 1971, not to suspend construction activities pending completion of the NEPA environmental review, notice is hereby given that a hearing will be held at 10 a.m., local time, on January 18, 1972, in the Lincoln County Courthouse, Wiscasset, Maine, to consider the application of the Maine Yankee Atomic Power Co. for a construction permit for the Maine Yankee Atomic Power Station, a pressurized water nuclear reactor designed for initial operation at approximately 2,440 megawatts (thermal). The facility is located at the licensee's site in Lincoln County, Maine.

The hearing will be conducted by an Atomic Safety and Licensing Board designated by the Chairman, Atomic Safety and Licensing Board Panel, pursuant to 10 CFR Part 2. The Board is authorized to take evidence on all matters relevant to the issuance of a construction permit, including the findings required by the Commission's regulations in 10 CFR Part 50. The Board is also authorized to take evidence on the matters specified in section E.2 of Appendix D to 10 CFR Part 50, and to determine whether the construction permit should be suspended pending completion of the NEPA environmental review.

In the event that such a meeting has not been held, the Board will set a time and place for a prehearing conference with counsel for the applicant and petitioners, if any, to consider matters which may expedite the orderly conduct of the hearing, including the admissibility of evidence, the exchange of proposed testimony, and the limitation of the number of witnesses. In addition, at the discretion of the Board, a limited appearance session will be scheduled at which persons may appear and make statements setting forth their position on matters within the scope of the hearing.

Any person who wishes to make a limited appearance statement at the hearing should file a written request with the Board as soon as practicable before the hearing. Such requests should be addressed to the Atomic Safety and Licensing Board, U.S. Atomic Energy Commission, Washington, D.C. 20545. Persons making limited appearance statements will not be permitted to participate in the conduct of the hearing, but their statements will be considered by the Board to the extent that they are relevant to matters within the scope of the hearing.

Pursuant to the provisions of 10 CFR Part 2, the applicant is required to file a written answer to the petition for leave to intervene of Natural Resources Defense Council, Inc., et al., dated November 15, 1971, within 20 days after service of the petition. Any other petitioner who wishes to participate as a party in the proceeding must file a petition for leave to intervene in accordance with the provisions of 10 CFR Part 2 within the time prescribed in the notice of hearing. Petitions for leave to intervene must be filed by January 3, 1972. Petitions and answers should be addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch.

Dated at Bethesda, Md., this 20th day of November 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc.71-17353 Filed 11-26-71;8:50 am]

22663 as set forth in finding paragraph 3 of the order in I & S Docket No. 1100 is hereby modified to read as follows:

3. Respondent George Carlo doing business as Carlo Trucking Co. is a common carrier by motor vehicle subject to the Interstate Commerce Act.

4. Respondent George Carlo doing business as Carlo Trucking Co. is a member of the Eastern Central Motor Carriers Association, Inc., and Middle Atlantic Conference, which are rate bureaus participating in the Uniform Motor Carrier Bureaus Agreement approved by the Commission in Docket No. 22663 and is bound by the terms of the order in I & S Docket No. 1100 and the Uniform Motor Carrier Bureaus Agreement.

5. Respondent George Carlo doing business as Carlo Trucking Co. is a member of the Eastern Central Motor Carriers Association, Inc., and Middle Atlantic Conference, which are rate bureaus participating in the Uniform Motor Carrier Bureaus Agreement approved by the Commission in Docket No. 22663 and is bound by the terms of the order in I & S Docket No. 1100 and the Uniform Motor Carrier Bureaus Agreement.

6. Respondent George Carlo doing business as Carlo Trucking Co. is a member of the Eastern Central Motor Carriers Association, Inc., and Middle Atlantic Conference, which are rate bureaus participating in the Uniform Motor Carrier Bureaus Agreement approved by the Commission in Docket No. 22663 and is bound by the terms of the order in I & S Docket No. 1100 and the Uniform Motor Carrier Bureaus Agreement.

7. Respondent George Carlo doing business as Carlo Trucking Co. is a member of the Eastern Central Motor Carriers Association, Inc., and Middle Atlantic Conference, which are rate bureaus participating in the Uniform Motor Carrier Bureaus Agreement approved by the Commission in Docket No. 22663 and is bound by the terms of the order in I & S Docket No. 1100 and the Uniform Motor Carrier Bureaus Agreement.

8. Respondent George Carlo doing business as Carlo Trucking Co. is a member of the Eastern Central Motor Carriers Association, Inc., and Middle Atlantic Conference, which are rate bureaus participating in the Uniform Motor Carrier Bureaus Agreement approved by the Commission in Docket No. 22663 and is bound by the terms of the order in I & S Docket No. 1100 and the Uniform Motor Carrier Bureaus Agreement.

Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 23d day of November 1971.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.71-17414 Filed 11-26-71;8:51 am]

[Docket No. 50-280]

VIRGINIA ELECTRIC AND POWER CO.

Establishment of Atomic Safety and Licensing Board

On November 24, 1971, the Commission published in the FEDERAL REGISTER a notice of hearing to consider the application filed by the Virginia Electric and Power Co. for a facility operating license which would authorize the operation of a pressurized water reactor, identified as Surry Power Station, Unit No. 1. That notice indicated that the Licensing Board for this proceeding would be designated at a later date, and that notice of its membership would be published in the FEDERAL REGISTER.

Pursuant to the Atomic Energy Act of 1954, as amended, the regulations in Title 10, Code of Federal Regulations, Part 2 (Rules of Practice) and the notice of hearing referred to above, notice is hereby given that the Licensing Board in this proceeding will consist of Dr. Stuart G. Forbes, Dr. Charles E. Winters, and Mr. James R. Yore, Chairman. Dr. J. M. B. Kellogg has been designated as a technically qualified alternate and Mr. Samuel W. Jensch has been designated as an alternate qualified in the conduct of administrative proceedings.

As provided in the notice of hearing, the date and place of a prehearing conference will be set by the Board, and the date and place of the hearing will be set at or after the prehearing conference. Notices as to the dates and places of the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

Dated at Washington, D.C., this 24th day of November 1971.

WILLIAM L. WOODARD,
Assistant Executive Secretary, Atomic Safety and Licensing Board Panel.

[FR Doc.71-17379 Filed 11-26-71;8:51 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23486; Order 71-11-82]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Passenger Fare Matters

Agreement adopted by the Traffic Conferences of the International Air Transport Association relating to passenger fare matters. Docket 23486, Agreement CAB 22663, R-44 through R-49.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 22d day of November 1971.

There have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, an agreement among various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA) and adopted at the passenger rate conference at Miami in the fall of 1971.

The agreement, adopted for early effectiveness, embraces passenger rates and related matters for application in Traffic Conference 1. The expedited resolutions described herein are subject to varying expiration dates ranging from 3 to 17 months from the date of effectiveness. The principal elements of the agreement are described below.

An amendment is proposed to the existing resolution governing economy-class service so as to liberalize conditions governing lounges and seat pitch for implementation on April 1, 1972, or 30 days after the Board decides Phase 6A of the Domestic Passenger-Fare Investigation. This amendment is proposed with the proviso that reconfiguration may not be implemented prior to advising other carrier members, at which time a special meeting would be convened to agree upon economy-class configurations and related matters. In the event that such a meeting does not reach unanimous agreement, the instant resolution shall expire 30 days after termination of the meeting.

GIT fares between the United States and Venezuela are amended so as to provide for midweek fare reductions for groups of 50 or more. These resolutions provide for discounts ranging from 8.5 to 18 percent over weekend fares. In addition to the $70 minimum for land arrangements above the air fare cost during the winter period, a $50 minimum is proposed for land arrangements during the summer season.

Additionally, normal first-class, economy, and first-class and economy excursion fares are established between Atlanta and Kingston. These fares are comparable to those currently in effect between Kingston and other U.S. points.

GIT fares, for groups of 50, are proposed between New York and Aruba/Curacao/Bonaire at $150. These fares provide for a stay of from 7 to 14 days and require a minimum expenditure of $50 for ground accommodations. Approval of the resolutions governing GIT fares is subject to the conditions the Board has applied in the past.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, finds:

1. That the following resolutions, incorporated in the agreement as indicated, are not adverse to the public interest or in violation of the Act: *Provided*, That approval is subject to the conditions hereinafter ordered.

Agreement CAB 22663	IATA No.	Title	Application
R-44	001zz	Special Effectiveness Resolution TC1 Fares Atlanta/Jamaica (New).	1.
R-45	060	Economy-Class Conditions of Service (Amending)	1.
R-46	084j	TC1—14-Day Group Inclusive Tour Fares—Venezuela (Revalidating and Amending).	1.
R-47	084u	TC1 Group Inclusive Tour Fares—Netherlands Antilles (New)	1.
R-49	072	JT2-3 Creative Fares (Amending)	2/3.

2. That the following resolution, incorporated in the agreement as indicated, does not affect air transportation within the meaning of the Act:

Agreement CAB 22663	IATA No.	Title	Application
R-48	001l	Closing and Opening, Ndola Airport (Revalidating and Amending).	2; 2/3.

Accordingly, it is ordered, That:

1. Those portions of Agreement CAB 22663, as set forth in finding paragraph 1 above be and hereby are approved: *Provided*, That with respect to R-46 and R-47 of the subject agreement,

(a) The provision which at departure would permit a lesser number of passengers than that prescribed by the resolution to travel shall not be limited to situations caused by circumstances beyond the control of the passengers dropping out of the group and the balance of the group may travel at no added costs;

(b) In the event a passenger discontinues his journey en route for any reason, the amount of the fare paid may be applied as a credit toward the purchase of transportation at the applicable fare calculated from the original point of origin;

(3) Full refund shall be made in the event of death or illness of the passenger or of a member of the passenger's immediate family prior to travel;

(4) The amount of the forfeiture to be imposed in the event of cancellation by the group or member of the group at departure time for any reason shall not exceed 25 percent of the fare paid and after departure the forfeiture shall not exceed 25 percent of the excess of the price of the group-fare ticket over the cost of normal-fare transportation from point of origin to point of cancellation.

2. Jurisdiction is disclaimed with respect to that portion of Agreement CAB 22663 as set forth in finding paragraph 2 above.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-17353 Filed 11-26-71;8:50 am]

ENVIRONMENTAL PROTECTION AGENCY

AMERICAN HOECHST CORP.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 2H2667) has been filed by American Hoechst Corp., 11312 Hartland Street, North Hollywood, CA 91605, proposing issuance of a food additive tolerance (21 CFR Part 121) of 35 parts per million for total residues of the insecticide endosulfan (6,7,8,9,10,10-hexachloro - 1,5,5a,6,9,9a - hexahydro - 6,9 - methano - 2,4,3 - benzodioxathiepin - 3 - oxide) and its metabolite endosulfan sulfate (6,7,8,9,10,10-hexachloro-1,5,5a,6,9,9a - hexahydro - 6,9 - methano - 2,4,3 - benzodioxathiepin-3,3-dioxide) in or on dried tea.

Dated: November 18, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71-17348 Filed 11-26-71;8:50 am]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1047]

CARLO INTERNATIONAL & CO.

Order of Revocation

By letter dated October 20, 1971, George Carlo doing business as Carlo International & Co., Port Everglades Station, Fort Lauderdale, Fla. 33316, was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1047 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before November 17, 1971.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

George Carlo doing business as Carlo International & Co. has failed to furnish a surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) § 7.04(g) (dated 9/29/70);

It is ordered, That the Independent Ocean Freight Forwarder License of George Carlo doing business as Carlo International & Co. be returned to the Commission for cancellation.

It is further ordered, That the Independent Ocean Freight Forwarder License of George Carlo doing business as Carlo International & Co. be and is hereby revoked effective November 17, 1971.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon George Carlo doing business as Carlo International & Co.

WM. JARREL SMITH, Jr.,
Deputy Managing Director.

[FR Doc.71-17346 Filed 11-26-71;8:49 am]

[Docket No. 71-77; Special Permission No. 5406]

DILLINGHAM LINES, INC.

Increases in Rates on All Commodities in the U.S. Pacific Coast/Hawaii Trade; Second Supplemental Order

By the original order in this proceeding served August 19, 1971, the Commission placed under investigation certain rate increases of the subject carrier in Tariff FMC-F No. 3, and suspended to and including December 22, 1971. The Commission's order prohibits changes in tariff matter held in effect by reason of suspension, during the period of suspension, unless otherwise ordered by the Commission.

By Special Permission Application No. 3, filed by Dillingham Lines, Inc., authority is sought under the provisions of section 2 of the Intercoastal Shipping Act, 1933, to depart from the terms of Rule 20(c) of Tariff Circular No. 3 and the terms of the original order in this proceeding to the extent necessary to permit the filing, upon statutory notice, of a Revised Page 30, which will change tariff matter continued in effect by reason of suspension in this proceeding.

A full investigation of the matters involved in the application having been made, which application is hereby referred to and made a part hereof:

It is ordered, That:

1. Authority to depart from Rule 20(c) of Tariff Circular No. 3 and the terms of the order in Docket No. 71-77 to make the changes in rates and provisions as set forth in Special Permission Application No. 3, said changes to become effective on full statutory notice, be and it is hereby granted.

2. Publications issued and filed under this authority shall bear the following notation: "Authority to depart from the terms of the order in I & S Docket No. 71-77 granted under Federal Maritime Commission Special Permission No. 5406."

3. This special permission does not modify any outstanding formal orders of the Commission except insofar as it allows the aforementioned rate changes to become effective, nor waive, except as herein authorized, any of the requirements of its rules relative to the construction and filing of tariff publications.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-17347 Filed 11-26-71;8:50 am]

GALVESTON WHARVES AND UNITED FRUIT CO.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy, of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Mr. C. S. Devoy, Port Director and General Manager, 802 Rosenberg, Post Office Box 328, Galveston, TX 77550.

Agreement No. T-2571, between Galveston Wharves (Port) and United Fruit Co. (United), provides for the 2-year lease to United with certain renewal options of certain marine terminal facilities at Galveston, Tex., for the berthing, loading, and unloading of United's container vessels. The lease also provides for the exclusive use of a berth, the preferential use of a public wharf, apron, and certain improvements to be made by the Port to the leased premises. As compensation, the

Port is to receive a fixed annual sum

applications should on or before Decem-

Fidelity Union Tower Building, Dallas,

FEDERAL RESERVE SYSTEM

1. The Federal Open Market Committee

Port is to receive a fixed annual sum plus a fee for each box of bananas in addition to all applicable tariff charges for cargo other than bananas moving through the facility. Should United implement banana containership operations at any other U.S. Gulf port, it will pay the Port all costs of improvements made under this agreement, less all revenues generated pursuant to the term of this agreement.

Dated: November 23, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-17344 Filed 11-26-71;8:49 am]

PACIFIC-STRAITS CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. R. E. Spaulding, Secretary, Pacific-Straits Conference, 635 Sacramento Street, San Francisco, CA 94111.

Agreement No. 5680-15 modifies the preamble of Pacific-Straits Conference's basic agreement by deleting the word "Malaysia" and adding the Republic of Singapore, Federation of Malaysia and Sultanate of Brunei to "* * * clearly reflect the governmental and political areas" covered by the agreement.

Dated: November 23, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-17345 Filed 11-26-71;8:49 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs. Temporary Reg. F-130]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in a telecommunications service rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Massachusetts Department of Public Utilities (Docket No. 17150) in a proceeding involving a rate increase for services provided by the New England Telephone and Telegraph Co.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

ROBERT L. KUNZIG,
Administrator of General Services.

NOVEMBER 19, 1971.

[FR Doc.71-17350 Filed 11-26-71;8:50 am]

FEDERAL POWER COMMISSION

[Docket No. CS72-390 etc.]

THOMAS D. CABOT, JR., ET AL.

Notice of Applications for "Small Producer" Certificates [1]

NOVEMBER 16, 1971.

Take notice that each of the applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before December 13, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date filed	Name of applicant
CS72-390...	11- 1-71	Thomas D. Cabot, Jr., 10 Copper Beach Rd., Greenwich, CT 06830.
CS72-391...	11- 2-71	Nell D. Naiden, 1140 Connecticut Avenue NW., Washington, DC 20036.
CS72-392...	11- 2-71	K. M. McClain, 529 Fort Worth National Bank Bldg., Fort Worth, Tex. 76102.
CS72-393...	11- 1-71	Vanderbilt Resources Corp., 211 North Ervay, Dallas, TX 75201.
CS72-394...	11- 3-71	The Veeder Supply and Development Co., Post Office Box 201, Cherryvale, KS 67335.
CS72-395...	11- 3-71	Raymond H. Hedge, Jr., 314 Peoples Bank Bldg., Tyler, Tex. 75701.
CS72-396...	11- 3-71	Joel M. Hedge, 314 Peoples Bank Bldg., Tyler, Tex. 75701.
CS72-397...	11- 3-71	Ruth D. Gross, 314 Peoples Bank Bldg., Tyler, Tex. 75701.
CS72-398...	11- 3-71	The Peoples National Bank & Sol Edelman, trustees for Harris M. Gross, Post Office Box 2001, Tyler, TX 75701.
CS72-399...	11- 3-71	The Peoples National Bank & Sol Edelman, trustees for Sara A. Gross, Post Office Box 2001, Tyler, TX 75701.
CS72-400...	11- 4-71	E. A. Roberts, Jr., 108 Suburban Bldg., 8636 Dyer St., Dallas, Tex. 75206.

[FR Doc.71-17283 Filed 11-26-71;8:45 am]

[Docket No. CP72-137]

DELHI GAS PIPELINE CORP.

Notice of Application

NOVEMBER 23, 1971.

Take notice that on November 18, 1971, Delhi Gas Pipeline Corp. (applicant), Fidelity Union Tower Building, Dallas, Tex. 75201, filed in Docket No. CP72-137 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to United Gas Pipe Line Co. (United) in Refugio County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it proposes to commence the sale to United within the contemplation of § 2.68 of the Commission's general policy and interpretations (18 CFR 2.68) and requests authorization to continue said sale for 1 year commencing at the termination of the 60-day emergency sale or on the date of authorization herein within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to charge and collect 35 cents per Mcf at 15.025 p.s.i.a. The estimated daily sales volume is 5,000 Mcf of gas.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before December 6, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17289 Filed 11-26-71;8:51 am]

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

FEDERAL RESERVE SYSTEM

FEDERAL OPEN MARKET COMMITTEE

Authorization for System Foreign Currency Operations

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below paragraph 2 of the Committee's Authorization for System Foreign Currency Operations. The amendment, which was effective August 12, 1971, was adopted by actions taken by members of the Committee on August 9 and 11, 1971, and ratified by action of the Committee at its meeting on August 24, 1971.

2. The Federal Open Market Committee directs the Federal Reserve Bank of New York to maintain reciprocal currency arrangements ("swap" arrangements) for System Open Market Account for periods up to a maximum of 12 months with the following foreign banks, which are among those designated by the Board of Governors of the Federal Reserve System under section 214.5 of Regulation N, Relations with Foreign Banks and Bankers, and with the approval of the Committee to renew such arrangements on maturity:

Foreign bank	Amount of arrangement (millions of dollars equivalent)
Austrian National Bank	200
National Bank of Belgium	600
Bank of Canada	1,000
National Bank of Denmark	200
Bank of England	2,000
Bank of France	1,000
German Federal Bank	1,000
Bank of Italy	1,250
Bank of Japan	1,000
Bank of Mexico	130
Netherlands Bank	800
Bank of Norway	200
Bank of Sweden	250
Swiss National Bank	1,000
Bank for International Settlements:	
Dollars against Swiss francs	600
Dollars against authorized European currencies other than Swiss francs	1,000

NOTE: For paragraph 1 of the authorization, see 34 F.R. 9044; for paragraph 3, see 36 F.R. 11239; and for paragraphs 4 through 10, see 32 F.R. 9583.

By order of the Federal Open Market Committee, November 17, 1971.

ARTHUR L. BRODA,
Deputy Secretary.

[FR Doc.71-17331 Filed 11-26-71;8:48 am]

FEDERAL OPEN MARKET COMMITTEE

Continuing Authority Directive With Respect to Domestic Open Market Operations

In accordance with § 271.5 of its rules regarding availability of information, notice is given that at its meeting on August 24, 1971, the Committee amended paragraph 1(a) of its continuing authority directive to the Federal Reserve Bank of New York with respect to domestic open market operations to authorize outright operations in securities issued by Federal agencies. With this amendment, the first part of the directive read as follows:

1. The Federal Open Market Committee authorizes and directs the Federal Reserve Bank of New York, to the extent necessary to carry out the most recent current economic policy directive adopted at a meeting of the Committee:

(a) To buy or sell U.S. Government securities and securities that are direct obligations of, or fully guaranteed as to principal and interest by, any agency of the United States in the open market, from or to securities dealers and foreign and international accounts maintained at the Federal Reserve Bank of New York, on a cash, regular, or deferred delivery basis, for the System Open Market Account at market prices and, for such Account, to exchange maturing U.S. Government and Federal agency securities with the Treasury or the individual agencies or to allow them to mature without replacement: *Provided*, That the aggregate amount of U.S. Government and Federal agency securities held in such Account at the close of business on the day of a meeting of the Committee at which action is taken with respect to a current economic policy directive shall not be increased or decreased by more than $2 billion during the period commencing with the opening of business on the day following such meeting and ending with the close of business on the day of the next such meeting.

NOTE: For paragraph 3 of the directive, see 35 F.R. 447, for paragraph 2, see 36 F.R. 19277, and for the remainder of the directive, see 32 F.R. 9584.

By order of the Federal Open Market Committee, November 17, 1971.

ARTHUR L. BRODA,
Deputy Secretary.

[FR Doc.71-17332 Filed 11-26-71;8:48 am]

FEDERAL OPEN MARKET COMMITTEE

Current Economic Policy Directive of August 24, 1971

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Current Economic Policy Directive issued at its meeting held on August 24, 1971.[1]

The information reviewed at this meeting indicates that real output of goods and services has been expanding moderately, that unemployment has remained substantial, and that prices and wages have been rising rapidly on average in recent months. However, the economic program announced by the President on August 15 enhances prospects for higher rates of growth in real economic activity, increased job opportunities, and curtailed inflationary pressures. In July inflows of consumer-type time and savings funds slowed markedly at banks, but inflows to nonbank thrift institutions continued large. Growth in the narrowly defined money stock remained rapid in July, but growth in broadly defined money slowed and bank credit continued to expand at about the second-quarter pace. Interest rates on most types of market securities declined sharply in the days following the announcement of the new program. The deficit in the U.S. balance of payments reached extraordinarily large proportions in early August, mainly reflecting an acceleration of capital outflows related to expectations of ships in foreign exchange rates. Following the suspension of convertibility of the

[1] The Record of Policy Actions of the Committee for the meeting of Aug. 24, 1971, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

dollar into gold and other reserve assets

(2) Any other proposed acquisition or

1972. Each price increase shall be limited

ance with applicable law and on the

dollar into gold and other reserve assets, major European central banks discontinued foreign exchange market operations for a week. When most of the European markets were reopened on August 23 these central banks pursued diverse exchange rate policies, but all allowed at least some types of market transactions to take place at rates of exchange for their currencies relative to the dollar above previous upper intervention limits. In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster financial conditions consistent with the aims of the new governmental program, including sustainable real economic growth and increased employment, abatement of inflationary pressures, and attainment of reasonable equilibrium in the country's balance of payments.

To implement this policy, the Committee seeks to achieve more moderate growth in monetary and credit aggregates over the months ahead. System open market operations until the next meeting of the Committee shall be conducted with a view to achieving bank reserve and money market conditions consistent with that objective.

By order of the Federal Open Market Committee, November 17, 1971.

ARTHUR L. BROIDA,
Deputy Secretary.

[FR Doc.71-17330 Filed 11-26-71;8:48 am]

FIRST BANC GROUP OF OHIO, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by First Banc Group of Ohio, Inc., which is a bank holding company located in Columbus, Ohio, for prior approval by the Board of Governors of the acquisition by applicant of 100 percent of the voting shares of the successor by merger of The Ashland Bank and Savings Co., Ashland, Ohio.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve system, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Cleveland.

Board of Governors of the Federal Reserve System, November 22, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-17333 Filed 11-26-71;8:48 am]

FIRST BANK SYSTEM, INC.

Proposed Acquisition of IDS Credit Corp.

First Bank System, Inc., Minneapolis, Minn., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(a)(8)) and § 222.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of IDS Credit Corp., Minneapolis, Minn. Notice of the application was published in newspapers and circulated in:

Atlanta, Ga.; The Atlanta Journal, October 5, 1971.
Baton Rouge, La.; State-Times, October 5, 1971.
Chicago, Ill.; Chicago Tribune, October 6, 1971.
Cincinnati, Ohio; The Cincinnati Enquirer, October 6, 1971.
Cleveland, Ohio; The Cleveland Press, October 4, 1971.
Corpus Christi, Tex.; Corpus Christi Caller, October 5, 1971.
Dallas, Tex.; The Dallas Morning News, October 5, 1971.
Detroit, Mich.; The Detroit News, October 5, 1971.
Dublin, Ga.; Dublin Courier-Herald, October 5, 1971.
Greensboro, N.C.; Greensboro Daily News, October 5, 1971.
Houston, Tex.; The Houston Chronicle, October 7, 1971.
Indianapolis, Ind.; The Indianapolis Star, October 6, 1971.
Kansas City, Mo.; The Kansas City Times, October 5, 1971.
Minneapolis, Minn.; Finance and Commerce, October 5, 1971.
Oklahoma City, Okla.; Daily Oklahoman, October 5, 1971.
St. Louis, Mo.; St. Louis Post-Dispatch, October 5, 1971.
San Antonio, Tex.; San Antonio Express, October 5, 1971.
Tulsa, Okla.; Tulsa World, October 6, 1971.

Applicant states that the proposed subsidiary engages in the activities listed below, all of which have been specified by the Board in § 222.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 222.4(b):

(1) Purchasing and servicing instalment obligations arising from the sale of materials and services for the installation and construction of improvements to real property, from the sale of homes, and from the sale of motor vehicles, appliances, and other personal property;

(2) Making direct consumer loans pursuant to licenses granted under small loan laws of Minnesota and Texas; and

(3) Making available to its borrowers, at the borrower's option, reducing group credit life and disability insurance covering the declining balance on the borrower's indebtedness through an insurance policy written by a nonaffiliated insurance company in which IDS Credit Corp. is the assured policyholder.

Some of the foregoing activities are conducted through three wholly owned subsidiary corporations, IDS Homes Corp., Empire Loan and Thrift Co., and IDS Credit Corporation of Texas.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 15, 1971.

Board of Governors of the Federal Reserve System, November 22, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-17334 Filed 11-26-71;8:48 am]

FIRST NATIONAL BANKSHARES OF FLORIDA, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), by First National Bankshares of Florida, Inc., Pompano Beach, Fla., for prior approval by the Board of Governors of action whereby applicant would become a bank holding company through the acquisition of 80 percent or more of the voting shares of First National Bank of Pompano Beach, Pompano Beach; First National Bank of North Broward County, Lighthouse Point; First National Bank of Margate, Margate; and Beach First National Bank of Pompano Beach, Pompano Beach, all in the State of Florida.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Atlanta.

Board of Governors of the Federal Reserve System, November 22, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-17335 Filed 11-26-71;8:48 am]

PRICE COMMISSION

FOOD RETAILERS AND WHOLESALERS IN PUERTO RICO

Authorization for Temporary Price Increases in Perishable Foods

The Price Commission has been requested to authorize temporary price increases on perishable foods shipped to Puerto Rico by air. Because of the East Coast longshoremen strike virtually no shipments of food to Puerto Rico by water have been made. As stocks on the island are exhausted the only way foods can be shipped is by air, which obviously results in much higher shipping costs. Puerto Rico does not have sufficiently large food producing resources to provide for its inhabitants.

In view of the foregoing, the Price Commission hereby grants authority to retailers and wholesalers in Puerto Rico to temporarily increase the prices on perishable foods (meat, poultry, seafoods, dairy products, frozen foods, and other perishables) shipped to Puerto Rico by air. The authorized price increases may be made without regard to any requirement in Part 300 of the regulations of the Price Commission that all retailers post at the place of sale base prices with respect to food products or best-selling products before increasing any price, and without regard to the requirement therein that the Price Commission be informed of customary initial percentage markups. Base prices must, however, be posted before January 2, 1972. Each price increase shall be limited to that part of the shipping cost by air that is over and above the ordinary shipping cost of the product involved and that is due to the tieup of U.S. East Coast docks, plus the customary initial percentage markup usually applied to that product, a product line, department, store, or other pricing basis.

The Price Commission reserves the right to change, revise, or revoke the authority granted herein as soon as the strike is settled or other circumstances warrant.

Issued in Washington, D.C., on November 24, 1971.

C. JACKSON GRAYSON, JR.,
Chairman of the Price Commission.

[FR Doc.71-17418 Filed 11-26-71;8:52 am]

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0151]

FAIRFIELD EQUITY CORP.

Notice of Approval of Application for Exemption for Conflict of Interest Transaction

Pursuant to the provisions of section 312 of the Act and § 107.1004 of the Small Business Administration (SBA) rules and regulations (13 CFR Part 107.1004 (1971)) (Regulations), a notice of filing of an application for exemption for a conflict of interest transaction was published in the FEDERAL REGISTER on October 13, 1971 (36 F.R. 19947 and 19948), and in a newspaper of general circulation on October 20, 1971, in Nyack, N.Y., the area most directly affected by the transaction.

Interested parties were given 15 days to send their comments to SBA on the proposed conflict of interest transaction. No comments were received.

Upon consideration of the application and other relevant information, SBA hereby grants an exemption for Fairfield Equity Corp. to consummate conflict of interest financing to Entertainment Investors, Inc.

Dated: November 17, 1971.

STEPHEN H. BEDWELL,
Acting Associate Administrator for Operations and Investment.

[FR Doc.71-17308 Filed 11-26-71;8:46 am]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Area Wage Determination Decisions and Modifications; New Determinations

There are set forth below general Area Wage Determination Decisions Nos. AM-6314 and AM-6370 of the Secretary of Labor. These decisions specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein. The decisions are applicable to Federal and federally assisted construction in described localities situated within the States of California and Hawaii.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, and of Secretary of Labor's Orders 12-71 and 15-71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal or federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 533, and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determinations frequently and in large volume causes such procedures to be impractical and contrary to the public interest.

These wage determinations are effective for a period of 120 days from the date of publication in the FEDERAL REGISTER and are to be used in accordance with the provisions of 29 CFR Part 5. Accordingly, the applicable determination together with any modification issued subsequent to this date during this 120-day period, shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

The area wage determination decisions for localities within the above States are set forth below.

MODIFICATION TO AREA WAGE DETERMINATION DECISIONS

Modification to Area Wage Determination Decisions for Specified Localities in Arizona, Connecticut, Delaware, Indiana,

Kentucky, Louisiana, Maryland, Texas, Utah, Virginia, and Wisconsin and Washington, D.C.

Area wage determination decisions published in the FEDERAL REGISTER on the following dates:

Decision No.	Date
AM-1589	Aug. 6, 1971
AM-352, AM-355, AM-356, AM-359, AM-360, AM-361, AM-362, AM-364, AM-367, AM-368, AM-370	Aug. 13, 1971
AM-427, AM-428	Aug. 16, 1971
AM-478, AM-479, AM-480, AM-481, AM-482, AM-1841, AM-1842, AM-1843	Aug. 20, 1971
AM-3555, AM-3626, AM-3627, AM-3628, AM-3629	Aug. 25, 1971
AM-2508	Aug. 27, 1971
AM-2529, AM-2531	Sept. 3, 1971
AM-6116	Nov. 12, 1971

are hereby modified as set forth below.

These modifications are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since these determinations were issued.

The determinations of prevailing rates and fringe benefits made in these modifications have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended 46 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following the Secretary of Labor's Order No. 24-70) containing provisions for payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of the Code of Federal Regulations, Procedure for Predetermination of Wage Rates, and of Secretary of Labor's Orders 13-71 and 15-71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in the foregoing area wage determination decisions, as hereby modified, shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

The modifications are effective from their date of publication in the FEDERAL REGISTER until the end of the period for which the determinations being modified were issued and are to be used in accordance with the provisions of 29 CFR Part 5. The modifications to the area wage determination decisions listed above are set forth below.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. section 553 is set forth in the document being modified.

Signed at Washington, D.C., this 19th day of November 1971.

HORACE E. MENASCO,
Administrator, Employment Standards Administration.

State, California: Counties: Kern, Riverside, San Bernardino, Santa Barbara and Ventura; Decision No. AM-6,370; Date of Decision. November 26, 1971.
Description of work: Residential construction consisting of single family homes and garden type apartments up to and including four stories.

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
Kern County						
Asbestos workers	$9.77	$0.48	$0.35		$0.025	
Boilermakers	7.20	.30	.70	$0.45	.02	
Boilermakers' helpers	6.90	.30	.70	.45	.02	
Bricklayers; stonemasons	7.20	.40	.40	.30	.05	
Brick tenders	5.85	.45	.85	.30		
Carpenters:						
Carpenters	6.23	.61	.75	.50	.01	
Saw filers	6.41	.61	.75	.50	.01	
Table power saw operator	6.43	.61	.75	.50	.01	
Shinglers	6.46	.61	.75	.50	.01	
Hardwood floor layers; millwrights	6.53	.61	.75	.50	.01	
Pneumatic nailer	6.59	.61	.75	.50	.01	
Piledrivermen:						
Rock slingers	6.44	.61	.75	.50	.01	
Bridge, dock carpenters; derrick bargemen	6.46	.61	.75	.50	.01	
Head rock slingers	6.56	.61	.75	.50	.01	
Cement masons:						
Cement masons	5.77	.80	.85	.60	.0225	
Cement floating and troweling machine operator	6.02	.80	.85	.60	.0225	
Drywall installers	7.25	.46	.55	.50	.04	
Electricians (Edwards Air Force Base and Naval Ordnance Test Station):						
Electricians; technicians	9.80	.35	1%+.50		.10	
Cable splicers	10.78	.35	1%+.50		.10	
Electricians (remainder of county):						
Electricians; technicians	7.80	.35	1%+.50		.10	
Cable splicers	8.58	.35	1%+.50		.10	
Elevator constructors (South of Tehachapi)	7.58	.185	$0.20	2%+b		
Elevator constructors (North of Tehachapi)	6.15	.185	.20	2%+b		
Elevator constructors' helpers	70%JR	.185	.20	2%+b		
Elevator constructors' helpers (prob.)	50%JR					
Ironworkers:						
Reinforcing	$7.96	.43	.425	$0.50	.02	
Fence erectors	7.89	.43	.425	.50	.02	
Ornamental; structural	8.03	.43	.425	.50	.02	
Lathers	6.78	.35	.65	.50		
Line construction (Edwards Air Force Base and Naval Ordnance Test Station):						
Groundmen	7.85	.35	1%+.50		.10	
Linemen	9.80	.35	1%+.50		.10	
Cable splicers	10.78	.35	1%+.50		.10	
Line construction (remainder of county):						
Linemen	7.80	.35	1%+.50		.10	
Cable splicers	8.58	.35	1%+.50		.10	
Painters (cities of Lancaster, Mojave, Palmdale, China Lake Naval Ordnance Test Station, and Edwards AFB):						
Brush	6.75	.205	$0.30	.25		
Structural steel, bridge; tapers	6.87	.205	.30	.25		
Brush swing stage (13 stories or less); paperhangers; sandblasters; spray	7.00	.205	.30	.25		
Sandblaster swing stage; spray swing stage	7.25	.205	.30	.25		
Painters (rest of county):						
Brush	6.67	.20	.30			
Brush swing stage; structural steel	6.82	.20	.30			
Tapers, sheet rock	6.87	.20	.30			
Paperhangers; sandblasters; spray	6.92	.20	.30			
Sandblaster swing stage; spray swing stage	7.07	.20	.30			
Painters, parking lot striping work and/or highway markers	4.88	.20	.20	c		
Painters, parking lot striping work and/or highway markers' helpers; sandblasters	4.38	.20	.20	c		
Plasterers	7.07	.30	.35	$0.50	.01	
Plasterers' tenders	6.385	.45	.85	.30		

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
Plumbers; steamfitters (east of Los Angeles Aqueduct)	$8.22	$.60	$1.00	$.50	$.05	
Plumbers; steamfitters (remaining portion of county)	7.22	.60	1.00	.50	.05	
Roofers	6.30	.30	.30			
Sheet metal workers	7.07	.39	.23			
Soft floor layers (east of Los Angeles Aqueduct)	7.29	.29	.29	.39	.015	
Soft floor layers (remaining portion of county)	6.36	.29		.24		
Sprinkler fitters	10.55	.25	.40		.05	
Terrazzo workers:						
Terrazzo workers	6.42	.15		.15		
Helpers; floor machine operators	5.53	.15		.45		
Tile setters	5.75	.40		.30	a	

Riggers; welders: Receive rate prescribed for craft performing operation to which rigging or welding is incidental.
Paid holidays:
A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.

Footnotes:
a. Employer contributes the sum of $1 per month to Apprenticeship Training Fund.
b. Employer contributes 4 percent of basic hourly rate for 5 years' service and 2 percent of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 6 Paid Holidays: A through F.
c. Employer contributes $0.17 per hour to Holiday Fund plus $0.10 per hour to Vacation for 1 years' service, $0.20 per hour after 1 year but less than 5 years' service, $0.30 per hour after 5 years but less than 10 years' service, $0.40 per hour after 10 years' service.

Riverside County						
Asbestos workers	$9.77	.48	.35		.025	
Boilermakers	7.20	.30	.70	.45	.02	
Boilermakers' helpers	6.90	.30	.70	.45	.02	
Bricklayers; stonemasons; blocklayers	6.26	.29	.17			
Bricklayers' tenders	5.85	.44	.85	.30		
Carpenters:						
Carpenters	6.23	.61	.75	.50	.01	
Saw filers	6.41	.61	.75	.50	.01	
Table power saw operators	6.43	.61	.75	.50	.01	
Shinglers	6.46	.61	.75	.50	.01	
Hardwood floor layers; millwrights	6.53	.61	.75	.50	.01	
Pneumatic nailer	6.59	.61	.75	.50	.01	
Piledrivermen:						
Rock slingers	6.44	.61	.75	.50	.01	
Bridge, dock carpenters; derrick bargemen	6.46	.61	.75	.50	.01	
Head rock slinger	6.56	.61	.75	.50	.01	
Cement Masons:						
Cement masons	5.77	.80	.85	.60	.0225	
Cement floating and troweling machine operator	6.02	.80	.85	.60	.0225	
Drywall installers	7.25	.40	.55	.50	.04	
Electricians:						
Electricians	7.72	.40	1%+.40		.02	
Cable splicers	8.02	.40	1%+.40		.02	
Elevator constructors	7.58	.185	$0.20	2%+a		
Elevator constructors' helpers	70%JR	.185	.20	2%+a		
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	$7.03	.30	.30		.04	
Ironworkers:						
Reinforcing	7.96	.43	.425	$0.50	.02	
Fence erectors	7.89	.43	.425	.50	.02	
Structural; ornamental	8.03	.43	.425	.50	.02	
Irrigation and lawn sprinklers	6.50	10%	10%	12%	1%	
Lathers	7.375	$0.24	.105	$0.53	.01	
Line construction:						
Groundmen	8.79	.40	1%+.40		.02	
Linemen; line equipment operators	7.72	.40	1%+.40		.02	
Cable splicers	8.02	.40	1%+.40		.02	
Painters:						
Brush-paint burner	6.93	.30	$0.30	.60	.03	
Brush, swing stage; spray; painter (groundwork)	7.18	.30	.30	.60	.03	
Sandblaster	7.43	.30	.30	.60	.03	
Sandblaster swing stage	7.68	.30	.30	.60	.03	
Steeplejack work	8.39	.30	.30	.60	.03	
Parking lot striping work and/or highway markers	4.88	.20	.20	b		
Parking lot striping work and/or highway markers' helpers; sandblasters	4.38	.20	.20	b		
Plasterers	9.996					
Plasterers' tenders	7.93	.45	.85	$0.30		
Plumbers; steamfitters; lead burners	6.30	10%	10%	12%	1%	
Roofers	6.10		$0.20	$0.20	$0.01	
Sheet metal workers	6.55	$0.39	.40		.03	
Soft floor layers	7.29	.29	.29	.39	.015	
Sprinkler fitters	10.55	.25	.40		.05	
Terrazzo workers	6.42	.15		.15		
Terrazzo workers' helpers:						
Floor machine operator; helpers	5.53	.15		.45		
Tile setters	6.75	.40	.40		.025	
Tile setters' helpers	5.21	.145	.80		.05	
Air conditioning and refrigeration	6.15	.20	.31	.39	.03	

Welders-riggers: Receive rate prescribed for craft performing operation to which welding or rigging is incidental.
Paid Holidays:
A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.
Footnotes:
a. Employer contributes 4 percent basic hourly rate for over 5 years' service and 2 percent of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 6 Paid Holidays: A through F.
b. Employer contributes $0.17 per hour to Holiday Fund plus $0.10 per hour to Vacation for 1 year's service, $0.20 per hour after 1 year but less than 5 years' service, $0.30 per hour after 5 years but less than 10 years' service, $0.40 per hour after 10 years' service.

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
San Bernardino County						
Asbestos workers	9.77	.46	.85		.025	
Boilermakers	7.20	.30	.70	.45	.02	
Boilermakers' helpers	6.90	.30	.70	.45	.02	
Bricklayers; stonemasons	6.26	.29	.17			
Bricklayers' tenders	6.85	.45	.85	.30		
Carpenters:						
Carpenters	6.33	.61	.75	.50	.01	
Saw filers	6.41	.61	.75	.50	.01	
Table power operators	6.43	.61	.75	.50	.01	
Shinglers	6.46	.61	.75	.50	.01	
Hardwood floor layers; millwrights	6.53	.61	.75	.50	.01	
Pneumatic nailer	6.58	.61	.75	.50	.01	
Piledrivermen:						
Rock slingers	6.44	.61	.75	.50	.01	
Bridge, dock carpenters; derrick bargemen	6.46	.61	.75	.50	.01	
Head rock slingers	6.56	.61	.76	.50	.01	
Cement masons:						
Cement masons	5.77	.80	.85	.60	.0225	
Cement floating and troweling machine operator	6.02	.80	.85	.60	.0225	
Drywall installers	7.25	.46	.55	.50	.04	
Electricians:						
Electricians	8.47	.35	1%+.30		.02	
Cable splicers	8.77	.35	1%+.30		.02	
Electricians (tunnel):						
Electricians	9.40	.35	1%+.30		.02	
Cable Splicers	9.73	.35	1%+.30		.02	
Elevator constructors	7.58	.185	$0.20	2%+a		
Elevator constructors' helpers	70%JR	.185	.20	2%+a		
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	$7.03	.30	.30		.04	
Ironworkers:						
Reinforcing	7.98	.43	.425	$0.50	.02	
Fence erectors	7.89	.43	.425	.50	.02	
Structural; ornamental	8.03	.43	.425	.50	.02	
Irrigation and lawn sprinklers	6.50	10%	10%	13%	1%	
Lathers	6.61	$0.245	$0.60		$0.015	
Line construction:						
Groundmen	6.35	.35	1%+.30		.02	
Linemen	8.47	.35	1%+.30		.02	
Cable splicers	8.77	.35	1%+.30		.02	
Painters:						
Parking lot striping work and/or highway markers	4.88	.20	$0.20	b		
Parking lot striping work and/or highway markers' helpers; sandblasters	4.38	.20	.20	b		
Painters (western portion of county including China Lake Area, Johannesburg, Boron, and Wrightwood Area):						
Brush	6.75	.305	.30	$0.25		
Bridge; paint burner; steel; taper	6.87	.305	.30	.25		
Brush swing stage (13 stories or less); paperhangers; sandblasters; spray	7.00	.305	.30	.25		
Bridge swing stage; steel swing stage	7.15	.305	.30	.25		
Spray, sandblaster swing stage (13 stories or less)	7.25	.305	.30	.25		
Steeplejack work	8.00	.305	.30	.25		
Painters (Remainder of county):						
Brush; paint burner	6.93	.39	.39	.60	.03	
Brush swing stage; spray	7.18	.39	.39	.60	.03	
Paperhangers; sheet rock taper; steel and bridge on swing; sandblaster	7.43	.39	.39	.60	.03	
Steeplejack work	8.33	.39	.39	.60	.03	
Plasterers	9.995					
Plasterers' tenders	7.93	.46	.85	.30		
Plumbers; steamfitters; lead burners	8.30	10%	10%	13%	1%	
Roofers	6.10		$0.20	$0.20	$0.01	
Sheet metal workers	6.65	$0.39	.40		.03	
Soft floor layers	7.29	.29	.28	.39	.018	
Sprinkler fitters	10.55	.25	.40		.05	
Sprinkler fitters (Ontario)	6.69	.29	.25	1.40	.02	
Terrazzo workers	6.42	.15		.15		
Terrazzo workers' helpers:						
Helper; floor machine operator	5.58	.15		.45		
Tile setters	6.75	.40	.40		.025	
Tile setters' helpers	6.21	.145	.50		.03	
Air conditioning and refrigeration	6.15	.29	.31	.39	.03	

Welders—Receive rate prescribed for craft performing operation to which welding is incidental.

Paid holidays:
A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.

Footnotes:
a. Employer contributes 4 percent basic hourly rate for over 5 years' service and 2 percent basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 6 Paid Holidays: A through F.
b. Employer contributes $0.17 per hour to Holiday Fund plus $0.10 per hour to Vacation for 1 year's service, $0.20 per hour after 1 year but less than 5 years' service, $0.30 per hour after 5 years but less than 10 years' service, $0.40 per hour after 10 years' service.

Santa Barbara County						
Asbestos workers	9.77	.46	.85		.025	
Boilermakers	7.20	.30	.70	.45	.02	
Boilermakers' helpers	6.90	.30	.70	.45	.02	
Bricklayers; blocklayers; stonemasons	8.175	.40	.40			
Brick tenders (except Santa Maria)	8.37	.45	.85	.475		
Carpenters:						
Carpenters	6.33	.61	.75	.50	.01	
Saw filers	6.41	.61	.75	.50	.01	
Table power saw operators	6.43	.61	.75	.50	.01	
Shinglers	6.46	.61	.75	.50	.01	
Hardwood floor layers; millwrights	6.53	.61	.75	.50	.01	
Pneumatic nailer	6.58	.61	.76	.50	.01	
Piledrivermen:						
Rock slingers	6.44	.61	.75	.50	.01	
Bridge, dock carpenters; derrick bargement	6.46	.61	.75	.50	.01	
Head rock slingers	6.56	.61	.75	.50	.01	
Cement masons:						
Cement masons	5.77	.80	.85	.60	.0225	
Cement floating and troweling machine operator	6.02	.80	.85	.60	.0225	
Drywall installers	7.25	.46	.55	.50	.04	
Electricians (Vandenberg Air Force Base):						
Electricians	9.33	.42	1%+.45		.03	
Cable splicers	10.33	.42	1%+.45		.03	
Electricians (remainder of county):						
Electricians	8.08	.42	1%+.45		.03	
Cable splicers	9.08	.42	1%+.45		.03	

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
Elevator constructors	7.58	.185	$0.20	2%+a		
Elevator constructors' helpers	70%JR	.185	.20	2%+a		
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	$7.03	.30	.30		.04	
Ironworkers:						
Reinforcing	7.98	.43	.425	$0.50	.02	
Fence erectors	7.89	.43	.425	.50	.02	
Ornamental; structural	8.03	.43	.425	.50	.02	
Irrigation and lawn sprinklers	6.50	10%	10%	13%	1%	
Line construction (Vandenberg AFB):						
Groundmen	6.95	$0.35	1%+.45		$0.03	
Linemen	8.85	.35	1%+.45		.03	
Cable splicers	9.10	.35	1%+.45		.03	
Line construction (remainder of county):						
Linemen	7.60	.35	1%+.45		.03	
Cable splicers	7.85	.35	1%+.45		.03	
Painters:						
Brush	6.76	.35	$0.30		.02	
Iron and steel; paperhanger; paste machine operator; sandblaster; taper	7.01	.35	.30		.02	
Sprayman	7.26	.35	.30		.02	
Steeplejack	7.76	.35	.30		.02	
Parking lot striping work and/or highway markers	4.88	.20	.20	b		
Parking lot striping work and/or highway markers' helpers; sandblasters	4.38	.20	.20	b		
Plasterers	7.94	.40	.75		.01	
Plasterers' tenders (except Santa Maria)	6.9375	.35	.60	$1.00		
Plumbers; steamfitters; lead burners	8.30	10%	10%	13%	1%	
Roofers	6.48	$0.175	$0.15	$0.35	$0.0025	
Sheet metal workers	8.57	.59	.90	.86		
Soft floor layers	7.29	.29	.28	.39	.015	
Sprinkler fitters	10.55	.25	.40		.05	
Terrazzo workers	6.42	.15		.15		
Terrazzo workers' helpers:						
Floor machine operators; helpers	5.58	.15		.45		
Tile setters	8.175	.40	.40			

Riggers; welders: Receive rate prescribed for craft performing operation to which welding or rigging is incidental.

Paid holidays:
A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.

Footnotes:
a. Employer contributes 4 percent basic hourly rate for over 5 years' service and 2 percent basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 6 Paid Holidays: A through F.
b. Employer contributes $0.17 per hour to Holiday Fund plus $0.10 per hour to Vacation for 1 year's service, $0.20 per hour after 1 year but less than 5 years' service, $0.30 per hour after 5 years but less than 10 years' service, $0.40 per hour after 10 years' service.

Ventura County						
Asbestos workers	9.77	.48	.35		.025	
Boilermakers	7.20	.30	.70	.45	.02	
Boilermakers' helpers	6.90	.30	.70	.45	.02	
Carpenters:						
Carpenters	6.33	.61	.75	.50	.01	
Saw filers	6.41	.61	.75	.50	.01	
Table power saw operators	6.43	.61	.75	.50	.01	
Shinglers	6.46	.61	.75	.50	.01	
Hardwood floor layers; millwrights	6.53	.61	.75	.50	.01	
Pneumatic nailer	6.58	.61	.75	.50	.01	
Piledrivermen:						
Rock slingers	6.44	.61	.75	.50	.01	
Bridge, dock carpenters; derrick bargemen	6.46	.61	.75	.50	.01	
Head rock slingers	6.56	.61	.75	.50	.01	
Cement masons:						
Cement masons	5.77	.80	.85	.60	.0225	
Cement floating and troweling machine operator	6.02	.80	.85	.60	.0225	
Drywall installers	7.25	.46	.55	.50	.04	
Electricians:						
Electricians	7.68	.35	1%+.45		25.00py	
Cable splicers	8.45	.35	1%+.45		25.00py	
Elevator constructors	7.58	.185	$0.20	2%+a		
Elevator constructors' helpers	70%JR	.185	.20	2%+a		
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	$7.03	.30	.30		$0.01	
Ironworkers:						
Reinforcing	7.98	.43	.425	$0.50	.02	
Fence erectors	7.89	.43	.425	.50	.02	
Ornamental; structural	8.03	.43	.425	.50	.02	
Irrigation and lawn sprinklers	6.50	10%	10%	13%	1%	
Lathers	6.11	$0.30	$0.80	$0.60	$0.01	
Line construction:						
Groundmen	6.50	.25	1%		25.00py	
Linemen	7.68	.25	1%		25.00py	
Cable splicers	8.46	.25	1%		25.00py	
Painters:						
Brush	6.76	.35	$0.30		$0.02	
Iron and steel; paperhangers; paste machine operators; sandblaster; taper	7.01	.35	.30		.02	
Spraymen	7.26	.35	.30		.02	
Steeplejack	7.76	.35	.30		.02	
Parking lot striping work and/or highway markers	4.88	.20	.20	b		
Parking lot striping work and/or highway markers' helpers; sandblasters	4.38	.20	.20	b		
Plasterers	7.74	.25	.30	$0.50	.02	
Plasterers' tenders	6.86	.45	1.35	1.00		
Plumbers; steamfitters; lead burners	8.30	10%	10%	13%	1%	
Roofers	6.29	$0.35	$0.35		$0.02	
Sheet metal workers	8.57	.90	.90	$0.86		
Soft floor layers	7.29	.29	.28	.39	.018	
Sprinkler fitters	10.55	.25	.40		.05	
Sprinkler fitters (Santa Paula)	8.69	.29	.25	1.40	.02	
Terrazzo workers	6.42	.15		.15		
Terrazzo workers' helpers:						
Helper, and floor machine operator	5.58	.15		.45		

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
Tile setters	$6.96	.145	.85		.02	
Tile setters' helpers	$5.46	.145	.80		.08	
Welders: Receive rate prescribed for craft performing operation to which welding is incidental.						
Paid holidays: A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.						
Footnotes: a. Employer contributes 4 percent of basic hourly rate for over 5 years' service and 2 percent of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 6 Paid Holidays: A through F. b. Employer contributes $0.17 per hour to Holiday Fund plus $0.10 per hour to Vacation for 1 year's service, $0.20 per hour after 1 year but less than 5 years' service, $0.30 per hour after 5 years but less than 10 years' service, $0.40 per hour after 10 years' service.						
Laborers: Cleaning and handling of pannel forms; concrete screeding for rough strike off; concrete, water curing; demolition laborer, the cleaning of brick and lumber; dry packing of concrete, plugging, filling of shee-bolt holes; fire watcher, limbers, brush loaders, pilers and debris handler; gas and oil pipeline; laborers, general or construction; laborer, temporary water and air lines; material heasman (walls, slab, floors and decks); mixer-truck chute man (walls, slabs decks, floors foundations and footing-curb and gutter and sidewalks); rigging and signaling; slip form raisers; window cleaner	$5.045	.45	.85	.30		
Cutting torch (demolition); sealer; tarman; mortarman	$5.095	.45	.85	.30		
Guinea chaser	$5.226	.45	.85	.30		
Asphalt shoveler; fine grader, highway and street paving, airports, runways, and similar type heavy construction; landscape graderner and nursery man	$5.145	.45	.85	.30		
Packing rod steel and pans; tanks sealer and cleaner	$5.17	.45	.85	.30		
Underground (including caisson bellower)	$5.178	.45	.85	.30		
Chucktender; septic tank digger and installer	$5.195	.45	.85	.30		
Cesspool digger and installer	$5.225	.45	.85	.30		
Concrete curer—impervious membrane and form oiler: Riprap stonepaver placing stone or sacked concrete; sandblaster (pot tender)	$5.235	.45	.85	.30		
Pipelayers' backupman, coating, grouting, making of joints, sealing, caulking	$5.335	.45	.85	.30		
Buggymobile man; cement dumper (on 1 yd. or larger mixer and handling bulk cement); gas and oil pipeline wrapperpot tender; power broom sweepers (small); roto scraper and tiller; tree climber, faller, chain saw operator, Pittsburgh chopper and similar type brush shredders; trenching machine, hand propelled	$5.255	.45	.85	.30		
Asphalt raker, luteman and ironer; concrete core cutter, grinder or sender concrete saw man, cutting, scoring old or new concrete; impact wrench, multiplate; pneumatic, gas, electric tools, vibrating machines and similar mechanical tools not separately classified herein; tampers, Barko Wacker and similar type	$5.355	.45	.85	.30		
Rock slinger	$5.305	.45	.85	.30		
Driller, jackhammer—2½ drill steel or longer	$5.438	.45	.85	.30		
Concrete vibrator operator, 70 lbs. and over	$5.455	.45	.85	.30		
Pipelayer (nonmetallic including sewer, drain and underground tile); prefabricated manhole installer	$5.455	.45	.85	.30		
Gas and oil pipeline wrapper (6-inch and over;) kettlemen, potmen and men applying asphalt, lay-koid, creosote, lime caustic and similar type materials	$5.385	.45	.85	.30		
Cribber, shorer, lagging, sheeting, and trench bracing, hand-guided lagging hammer	$5.505	.45	.85	.30		
Blaster powderman	$5.505	.45	.85	.30		
Steel headerboard man and guideline setter	$5.47	.45	.85	.30		
Sandblaster (nozzleman)	$5.495	.45	.85	.30		
Driller (core-diamond-wagon)	$5.505	.45	.85	.30		
Head rock slinger	$5.565	.45	.85	.30		
Gunite laborers: Nozzlemen and rodmen	$6.37	.45	.85	.30		
Gunmen	$5.87	.45	.85	.30		
Reboundmen	$5.11	.45	.85	.30		
Power equipment operators: Group I: Brakeman; compressor operator; deck hand; engineer oiler; generator operator; heavy duty repairman helper; pump operator; signalman; switchman	$6.03	.45	.80	.30	.02	
Group II: Concrete mixer, skip type; conveyor; fireman; generator, pump or compressor, (2–5 inclusive) portal units—over 5 units, $0.10 per hour for each additional unit up to nine units; hydrostatic pump; oiler crusher (asphalt or concrete plant); plant operator, generator, pump or compressor; skiploader—wheel type up to ¾ yd. without attachment; tar pot fireman; temporary heating plant operator; trenching machine oiler; truck crane oiler	$6.27	.45	.80	.30	.02	
Group III: A-frame or winch truck; chainman; elevator (inside); equipment greaser (rack); Ford Ferguson (with dragtype attachments); power concrete curing machine; power concrete saw; power-driven jumbo form setter; Ross carrier (jobsite); stationary pipe wrapping and cleaning machine	$6.51	.45	.80	.30	.02	
Group IV: Asphalt plant fireman; boring machine; boxman or mixerman (asphalt or concrete); chip spreading machine; concrete pump (small portable); bridge type unloader and turntable; dinky locomotive or motorman (up to and including 10 tons); equipment greaser (grease truck); helicopter hoist operator; highline cableway signalman; Hydra-Hammer-Aero stomper; power sweeper; roller (compacting); screed (asphalt or concrete); rodman; trenching machine (up to 6 ft.)	$6.62	.45	.80	.30	.02	
Group V: Asphalt plant engineer; concrete batch plant operator—(oiler or journeyman-trainee required); backhoe (up to and including ¾ yd.); bit sharpener; concrete joint machine operator (canal and similar type); concrete planer; derrickman (oilfield type); deck engine operator; drilling machine (including water wells); forklift (under 5-ton capacity); hydrographic seeder machine (straw, pulp or seed); machine tool; Maginnis internal full slab vibrator; mechanical berm, curb or gutter (concrete or asphalt); mechanical finisher operator (concrete Clary-Johnson-Bidwell or similar); pavement breaker (truck mounted, oiler); road oil mixing machine; roller operator (asphalt or finish); rubber tired earth moving equipment (single engine, up to and including 25 yds. struck); self-propelled tar pipelining machine operator; slip form pump (power driven hydraulic lifting device for concrete forms); tugger hoist (1 drum); tunnel locomotive operator (over 10 and up to and including 30 tons); stinger crane (Austin-Western or similar type; skiploader operator (crawler and wheel type over ¾ yd. and up to and including 1½ yds.); tractor operator-bulldozer, tamper scraper (single engine, up to 100 h.p. flywheel and similar types, up to and including D–5 and similar types)	$6.81	.45	.80	.30	.02	

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
Group VI: Asphalt or concrete spreader (tamping or finishing); asphalt paving machine (Barber-Greene or similar type-2 screedman required); BHL Lima road pactor, Wagner Factor or similar; bridge crane operator; cast in place pipe laying machine operator; combination mixer and compressor (gunite work); concrete pump (truck mounted) (oiler required); concrete mixer operator—paving; crane operator (up to and including 25 tons capacity); crushing plant operator; elevating grader forklift (over 5 tons); grade cbecker; Gradall operator; grouting machine; heading shield; heavy duty repairman; hoist operator (Chicago boom and similar type); Koiman belt loader and similar type; LeTourneau blob compactor or similar type; lift slab machine (Vagtburg and similar types); lift mobile operator; loader operator (Athey, Euclid, Sierra and similar type); material hoist; mucking machine (¾ yd.—rubber-tired, rail or track type); pneumatic concrete placing machine (Hackley-Presswell or similar type); pneumatic heading shield (tunnel); pumpcrete gun; rotary drill (excluding caisson type); rubber-tired earth moving equipment (single engine-Caterpillar, Euclid, Athey Wagon, and similar types with any and all attachments over 25 yds. and up to and including 50 cu. yds. struck); rubber-tired scraper (self-loading—paddle wheel type; skiploader (crawler and wheel type—over 1½ yds., up to and including 6½ yds.); surface heaters and planer; rubber-tired earth moving equipment, multiple engine (up to and including 25 yds. struck); trenching machine (over 6 ft. depth capacity, manufacturers rating); tower crane; tractor compressor drill combination; tractor (any type larger than D–6—100 flywheel h.p. and over, or similar) (bulldozer, tamper, scraper, and push tractor, single engine); tractor (boom attachments); traveling pipe wrapping, cleaning and bending machine; tunnel locomotive (over 30 ton); shovel, backhoe, dragline, clamshell (over ¾ yd. and up to 5 cu. yds. M.R.C	$6.91	.45	.80	.30	.02	
Group VII: Crane—over 25 tons up to and including 100 tons; derrick barge; dual drum mixer; monorail locomotive (diesel, gas or electric); motor patrol—blade (single engine); multiple engine tractor (Euclid and similar type, except Quad 9 Cat); rubber-tired earth moving equipment, single engine over fifty (50) yds. struck; rubber-tired earth moving equipment (multiple engine, Euclid, Caterpillar, and similar) (over 25 yds. and up to 50 cu. yds. struck); tractor loader (crawler and wheel type over 6½ yds.); tower crane repairman; shovel, backhoe, dragline, clamshell (over 5 cu. yds.) M.R.C.; Woods mixer and similar pugmill equipment; heavy duty repairman—welder combination	$7.01	.45	.80	.30	.02	
Group VIII: Auto grader operator; automatic slip form; crane—over 100 tons; hoist, stiff legs, Guy derricks or similar types (capable of hoisting 100 tons or more); mass excavator; mechanical finishing machine; motor patrol (multiengine); pipe mobile machine; rubber-tired earth moving equipment (multiple engine, Euclid, Caterpillar and similar type over 50 cu. yds. struck); rubber-tired scraper (push-pull) (0.50 cents per hour additional to base rate); tandem equipment operator (2 units only); tandem tractor operator (Quad 9 or similar type); tunnel mole boring machine operator	$7.15	.45	.80	.30	.02	
Group IX: Canal liner; canal trimmer; helicopter pilot; highline cableway; rubber-tired self-loading scraper (paddle wheel—auger type self-loading—2 or more units); wheel excavator (over 750 cu. yds.); remote controlled earth moving equipment operator ($1 per hour additional)	$7.25	.45	.80	.30	.02	
Truck drivers: Truck repairman (welder)	$6.115	.65	.45	.55		
Dump (40 yds. or more water level, single unit or combination of vehicles); DW 10 and DW 20 Enclid-type equipment, LeTourneau pulls, Terra Cobras and similar types of equipment; also PB and similar type truck when performing work within teamsters jurisdiction, regardless of types of attachments and when pulling aqua pak and water tank trailer; truck repairman	$6.015	.65	.45	.55		
Dump (26 yds. but less than 40 yds. water level)	$5.99	.65	.45	.55		
A-frame or Swedish crane, or similar type equipment driver; fork lift; Ross carrier (highway)	$5.736	.65	.45	.55		
Dump (16 yds., but less than 26 yds. water level); legal payload capacity (20 tons or more); dumpster or dumptor truck; transit-mix (3 yds. or more); dumpcrete (6½ yds. water level and over)	$5.43	.65	.45	.55		
Truck greaser and tireman	$5.38	.65	.45	.55		
Water or tank-type truck driver (4,000 gallons and over)	$5.35	.65	.45	.55		
Transit-mix truck, (under 3 yds.); dumpcrete truck (less than 6½ yards water level)	$5.29	.65	.45	.55		
Truck repairman helper	$5.285	.65	.45	.55		
Cement distributor truck; fuel truck; water or tank-type (2,500 gallons to 4,000 gallons)	$5.23	.65	.45	.55		
Dump (12 yds. but less than 16 yds. water level); legal payload capacity (15 tons to 20 tons)	$5.21	.65	.45	.55		
Dump (8 yds. but less than 12 yds. water level); legal payload capacity (10 tons to 15 tons)	$5.13	.65	.45	.55		
Truck mounted power broom; warehouseman-clerk; water or tank-type (under 2,500 gallons)	$5.11	.65	.45	.55		
Dump (4 yds. but less than 8 yds. water level); legal payload capacity (6 tons to 10 tons)	$5.08	.65	.45	.55		
Dump (less than 4 yds. water level); traffic-control pilot car excluding moving heavy equipment: legal payload capacity, (less than 6 tons)	$5.05	.65	.45	.55		
Warehouseman and teamster	$4.97	.65	.45	.55		

State: Hawaii; County: Statewide; decision No. AM-6, 314, date of decision: November 26, 1971.
Description of work: Residential construction consisting of single-family homes and garden-type apartments up to and including four stories.

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
1-HAW-1-2-3-t:						
Asbestos workers	$6.80	$0.23	$0.40		$0.02	
Boilermakers; blacksmith	6.00	.10	.15		.01	
Boilermakers' helpers; blacksmiths' helpers	5.40	.10	.15		.01	
Bricklayers	5.82	.17	.30		.02	
Carpenters:						
Carpenters; piledrivermen	5.95	.25	.35		.02	
Millwrights	6.10	.25	.35		.02	
Cementmasons:						
Cementmasons	5.82	.17	.30		.02	
Trowel machine operators	6.62	.17	.30		.02	
Drywall installers	6.05	.25	.35		.07	
Electricians:						
Groundmen	4.50	.23	.75	7.2%	.06	
Line equipment operator	5.40	.23	.75	7.2%	.06	
Electricians; linemen	5.00	.23	.75	7.2%	.06	
Cable splicers	6.60	.23	.75	7.2%	.06	
Elevator constructors	6.90	.185	.20	2%+b		
Elevators constructors' helpers	70%JR	.185	.20	2%+b		
Elevator constructors' helpers (prob.)	80%JR					
Glazers	$5.10	c		d	.04	
Ironworkers:						
Ornamental; structural; bridge	6.60		.30		.02	
Reinforcing	6.60	$0.92a	.40			
Lathers (metal, wire and wood)	6.65	.24	.60		.01	
Marble setters; stonemasons	5.82	.17	.30		.02	
Painters:						
Brush	5.95	.30	.25		.04	
Spray	6.30	.30	.25		.04	
Taper	6.15	.30	.25		.04	
Plasterers:						
Plasterers	6.55	.35	.30		.15	
Mortar mixers	4.95	.23	.30		.02	
Hod carriers	4.75	.23	.30		.02	
Plumbers; steamfitters	6.70	.26	.75	8%	.05	
Sheet metal workers	6.80	.35	.70	7.35%	.05	
Soft floor layers	5.65	.15		$0.10	.04	
Sprinkler fitters	7.95	.25	.40		.05	
Terazzo workers:						
Terazzo workers	5.95	.15	.30			
Terazzo base grinder	5.65	.15	.30			
Floor machine grinder and helper	4.85	.15	.30			
Terazzo workers' helpers:						
1st 60 calendar days' experience	4.60	.15	.30			
Tile setters (ceramic)	5.95	.15	.30			
Tile setters' helpers (ceramic):						
1st 60 calendar days' experience	4.60	.15	.30			
Over 60 but less than 90 calendar days' experience	4.70	.15	.30			
After 90 calendar days' experience	4.85	.15	.30			
Truck drivers:						
Flatbed	5.10	.37	.525	.20	.10	
Dump, 8 yds. and under; Water truck (up to and including 1,500 gals.)	5.36	.37	.525	.20	.10	
Water truck (over 1,500 gals.)	5.51	.37	.525	.20	.10	
Tandem, semitrailer, or semidump	5.97	.37	.525	.20	.10	
Slip-in or rock cans	6.27	.37	.525	.20	.10	
End dumps, unlicensed (Euclid, Mack, caterpillar, or similar); tractor-trailer (hauling equipment)	6.19	.37	.525	.20	.10	
Welders: Receive rate prescribed for craft performing operation to which welding is incidental.						
Laborers:						
Group 1: Asphalt ironers and rakers; Barko and similar type tampers; buggymobile; chainsaw, faller, loglouder and bucker; concrete and magnesite mixer under ½ yd.; concrete grinder; concrete pan work; concrete saw (walking or hand type); cribbers; cut granite curb setter; Form raisers; header board; mortar mixers (block-brick-masonry); Jackhammer operator; Jackson and similar type compactors; lagging, sheeting, whaling bracing, trench-jacking, hand-guided lagging hammer; magnesite and mastic workers (wet or dry); mechanical drillers not covered elsewhere; pavement breakers; pipelayers, caulkers, bander; pipe-wrappers, kettlemen, potmen and men applying asphalt, Lay-Kold, creosote and similar type materials; post-hole diggers (hand-held—gas, air and electric); riprap, stonepaver and rock slinger, including placing of sacked concrete (wet or dry); rotary scarifier; rototiller; sandblasters; tank cleaners; tree climbers; vibra-screed (bull float in connection with laborers work); vibrator; burning, welding, signaling, and rigging in connection with laborers work; concrete pump machine; Joy drill model TWM-2A, Gardner-Denver DH-143, and similar type drills (track drillers, diamond core, and wagon drillers) and Davis Trencher T-66 or similar	$5.12	.25	.35		.02	
Group II: Asphalt shovelers; cement dumpers; choke setter and rigger (clearing work); concrete chipping; concrete laborers (wet or dry) including bucket tender for concrete; driller's helper, chuck tender, outside nipper; Guinea chaser (stakeman); high-pressure nozzleman—hydraulic monitor (over 100 lb. pressure) excl. levee work; loading and unloading, carrying and handling of all rods and materials for use in reinforcing concrete construction; mucker (underground); sloper; all pneumatic, gas and electric tools not listed in Group I	4.92	.25	.35		.02	
Group III: All cleanup work of debris, grounds and buildings; bridge laborers; construction laborers; dumpman; gardeners, horticultural and landscape laborers; general laborers; limbers, brush loaders and pilers; maintenance, repair (track and roadbeds)	4.82	.25	.35		.02	

Paid holidays:
A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.

Footnotes:
a. Represents hourly equivalent of monthly cost for health and welfare based on 40 hours per week; average of 173 hours per month.
b. Employer contributes 4 percent of basic hourly rate for 5 years' service and 2 percent of basic hourly rate for 6 months to 5 years' service as vacation pay credit. Six paid holidays: A through F.
c. HMSA plan 4; single—$9.86 per month; family—$27.60 per month.
d. Employee with 1 year's continuous service with employer is eligible for a vacation of 2 weeks or 80 hours at his straight-time rate if he has worked at least 1,800 straight-time hours during his employment year; with 5 or more years' continuous service, vacation of 3 weeks or 120 hours, at his straight-time rate. Nine paid holidays: A through F—Kamehameha Day, President's Day and General Election Day.
e. In lieu of vacations, holiday pay and employment office assistance, employer shall pay $.11 per hour into the credit union for employee.

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
1-HAW-1-2-3-t—Continued						
Miners' helpers	5.17	.25	.35		.02	
Mason tenders, more than 60 days' service	5.06	.25	.35		.02	
High scaler	5.97	.25	.35		.02	
Gunite operator	5.42	.25	.35		.02	
Miners	5.52	.25	.35		.02	
Powderman	5.62	.25	.35		.02	
Power equipment operators:						
Group I: Partsman (heavy duty repair shop parts room when needed); repairman helper	4.89	.27	.425	.145	.05	
Group II: Compressor, electrically, deisel or gas powered etc.; hydraulic monitor; material loader and/or conveyor operator (handling building material); mixer box operator (concrete plant); pump operator; spreader boxman (with screeds); tarpot fireman (power agitated); rodman or chainman	4.69	.27	.425	1.45	.05	
Group III: Oiler; fireman; switchman; brakeman; deckhand; tarpot fireman; box operator (bunker); locomotive (up to and including 30 tons); roller (5 tons and under); screed-man (except asphaltic concrete paving); self-propelled, automatically applied concrete curing machine on (streets, highways, airports and canals); tugger hoist, single drum	4.83	.27	.425	.145	.05	
Group IV: Boom truck or dual purpose A-frame truck; forklift or lumber stacker (construction job site); material hoist (1 drum); straddle truck; Ross carrier and similar (jobsite); dinky operator	5.08	.27	.425	.145	.05	
Group V: Concrete mixer (up to 2 yds.); concrete pumps or pumperete guns; generators, gasoline or diesel driven (100 kw.); lubrication and service engineer (mobile and grease rack); tower-mobile; welding machine (gasoline or diesel); Agri-Cat (mini-Cat); slip form pumps (power-driven by hydraulic, electric, air, gas, etc., lifting device for concrete forms)	5.35	.27	.425	.145	.05	
Group VI: Combination loader and backhoe including Hopto (up to and including ¾ yd.); concrete batch plants (wet or dry); concrete saws and/or grinder (self-propelled unit on streets, highways, airports and canals); drilling machinery (not to apply to waterliners, wagon drills or jackhammers); highline cable-way signalman; loader (up to and including 2½ cu. yds.); lull high lift; crushers plant engineer; grade setter (mechanical or otherwise); pavement breaker; Maginnis internal full slab vibrator (on airports, highways, canals, and warehouses); mechanical finishers (concrete) (large Clary, Johnson Bidwell bridge deck or similar types); mobile crane driver; portable crushers; power jumbo operator setting slip forms, etc., in tunnels); rollers (over 5 tons); self-propelled compactor (single-engine); small rubber-tired tractors; trencher (up to and including 6 feet)	5.66	.27	.425	.145	.05	
Group VII: Dual drum mixer; instrument man; hoist (2 drums); Koiman loader; loader (over 2½ cu. yds., up to and including 5 cu. yds.); mechanical finishers or spreader machine asphalt (Barber-Greene and similar) (screedman required); mine or shaft hoist; pavement breaker, truck mounted, with compressor combination; pavement breaker with compressor combination (operates 1 or 2); pipe cleaning machine (tractor-propelled and supported); pipe wrapping machine (tractor-propelled and supported); pipe bending machine (pipe lines only); self-propelled elevating grade plane; slusher operator; trencher (over 6 feet); water tanker (pulled by Euclids, T-pulls, DW-10, 20, 21 or similar); mixermobile (over 5 tons); small tractor (with boom D-6 or similar)	5.94	.27	.425	.145	.05	
Group VIII: Boring machine; cast-in-place pipelaying machine; concrete batch plant (multiple units); combination loader and hydraulic backhoe (over ½ yd. to and including ¾ yd.); conveyor (tunnel); engineer, locomotive (over 30 tons up to and including 100 tons); finishing machine operator (airports and highways); hydraulic backhoe (over ½ yd. to and including ¾ yd.); mechanical trench shield; mucking machine; no-joint pipelaying machine; portable crushing and screening plants; saurman type dragline (under 5 yds.); self-propelled boom type lifting device; stationary pipe wrapping cleaning and bending machine; surface heater and planer; tunnel badger; tri-batch paver	6.04	.27	.425	.195	.05	
Group IX: Boom type backfilling machine; combination mixer and compressor (gunite); Do-mar loader and Adams Elegrader; Lull Hi-lift (40 feet or over); rubber-tired earthmoving equipment (up to 12 cu. yds.); wheel trencher (over 6 feet)	6.14	.27	.425	.145	.05	
Group IX-A: Dozers; heavy duty repairman or welder; push cats.; scrapers; self-propelled compactor with dozer; sheep foot; tractors; tractors (with boom, larger than D-6, and similar)	6.29	.27	.425	.145	.05	
Group X: Chicago boom; hoist (3 drums); Koehring skooper; loader (over 5 yds. up to and including 12 yds.); locomotive (over 100 tons) (single or multiple units); power blade operator; rubber-tired earthmoving equipment (up to and including 35 cu. yds. Euclids, T-pulls, DW-10, 20, 21 and similar); Saurman type dragline (5 yds. or over); soil stabilizer (P&H equal); sub-grader (Gurries or other automatic type); track-laying type earthmoving machine (single-engine with tandem scraper); tractor, compressor, drill combination; tractor (tandem scraper); tractors (D-9 or equivalent)	6.40	.27	.425	.145	.05	
Group X-A: Cranes (not over 25 tons); power shovels, clamshells, draglines, gradealls (up to and including 1 cu. yd.)	6.53	.27	.425	.145	.05	
Group XI: Automatic slip form paver (concrete or asphalt) (gradesetter, screedman required); cranes (over 25 tons); DW-10, 20, etc. (tandem); earth-moving machines (multiple propulsion power units and 2 or more scrapers) (up to and including 35 cu. yds. struck "MRC"); highline cableway; lift slab machine; loader (over 12 yds.); Power shovels, clamshells, draglines, backhoes, gradealls (over 1 yd. and up to 7 yds.); power blade operator (15 or over); pre-stress wire wrapping machine; self-propelled compactor (with multiple propulsion power units); single-engine rubber-tired earth moving machine (with tandem scraper); tandem cats.; tower cranes, mobile; trencher (pulling attached shield); wheel excavator (up to and including 750 cu. yds.)	6.65	.27	.425	.165	.05	
Group XII: Band wagon (in conjunction with wheel excavator); derricks; drill rigs; multipropulsion earth-moving machines (2 or more scrapers) (over 35 cu. yds. "struck" mrc); power shovels and draglines (7 cu. yds. mrc and over); rubber-tired earthmoving equipment (over 35 cu. yds. Euclids, T-pulls, DW-10, 20, 21 and similar); wheel excavator (over 750 cu. yds.)	6.98	.27	.425	.165	.05	

MODIFICATIONS

MODIFICATIONS—Continued

MODIFICATIONS

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-2,529—36 F.R. 17693, Phoenix, Glendale, Mesa, Scottsdale, Tempe, Luke AFB, Williams AFB, Maricopa County, Ariz., Modification No. 1						
CHANGE:						
Painters:						
Brush	$6.25	$0.275	$0.20	$0.15	$0.02	
Steel and bridge, brush	6.60	.275	.20	.15	.02	
Spray	6.60	.275	.20	.15	.02	
Soft floor layers	6.25	.275	.20	.15	.02	
ADD:						
Roofers	6.10	.30	.20		.02	
WD No. AM-2,531—36 F.R. 17695, Statewide, Arizona.[1] Modification No. 1						
CHANGE:						
Painters (Phoenix area):						
Brush:						
Zone A (0-40 miles from Phoenix Court House; Mesa; and including Williams and Luke Fields)	6.25	.275	.20	.15	.02	
Zone B (41-60 miles from Phoenix Court House)	7.25	.275	.20	.15	.02	
Zone C (61 miles and over from Phoenix Court House)	7.75	.275	.20	.15	.02	
Brush, steel and bridge:						
Zone A	6.60	.275	.20	.15	.02	
Zone B	7.60	.275	.20	.15	.02	
Zone C	8.10	.275	.20	.15	.02	
Spray, steel and bridge:						
Zone A	6.80	.275	.20	.15	.02	
Zone B	7.80	.275	.20	.15	.02	
Zone C	8.30	.275	.20	.15	.02	

[1] Establish a point 35 miles due north from the city hall of the city of Flagstaff, and establish another point 35 miles due north from the city hall of the city of Kingman; then draw a straight line from the first point to the second point and extend that same line to the intersection of the Arizona-Nevada State line. Establish a third point 35 miles due north of the city hall of the city of Holbrook, and draw a straight line from the first point to the third point; and from the third point extend a line due east to the intersection of the Arizona-New Mexico State line.

WD No. AM-6,116—36 F.R. 21721, Phoenix, Glendale, Mesa, Scottsdale, Tempe, Luke AFB, and Williams AFB, Maricopa County, Ariz. Modification No. 1						
CHANGE:						
Soft floor layers	6.25	.275	.20	.15	.02	
WD No. AM-1,589—36 F.R. 14543, Fairfield County, Conn. Modification No. 1						
CHANGE:						
Laborers, building:						
Greenwich:						
Laborers, carpenter tenders and wrecking laborers	6.20	.30	.25	.35	.05	
Carpenters, soft-floor layers (building only):						
Remainder of county	6.15	.20	.20	]		

Footnote:
] Paid holidays: Labor Day; ½ day on Christmas Eve and New Year's Eve.

WD No. AM-1,841—36 F.R. 16235, Statewide, Delaware. Modification No. 1						
ADD:						
Dredge 1—*Atlantic*—U:						
Dipper and clamshell dredges:						
Operators	6.02	.25	.15	a+5%		
Cranemen	5.78	.25	.15	a+5%		
Maintenance engineers	5.66	.25	.15	a+5%		
Welders	5.54	.25	.15	a+5%		
Mates	5.14	.25	.15	a+5%		
Oilers, firemen, welders' helpers	4.54	.25	.15	a+5%		
Deckhands	4.35	.25	.15	a+5%		
Scowmen	4.28	.25	.15	a+5%		
Engineer	5.95	.25	.15	a+5%		
Hydraulic dredges:						
Levermen	5.86	.25	.15	a+5%		
Engineer and derrick operators	5.78	.25	.15	a+5%		
Maintenance engineer	5.66	.25	.15	a+5%		
Dredge carpenter, electricians, blacksmith, welders and boilermen	5.54	.25	.15	a+5%		
Mates	5.14	.25	.15	a+5%		
Oilers, firemen, carpenter's helper, welder's helper and blacksmith helper	4.54	.25	.15	a+5%		
Deckhands and shoremen	4.28	.25	.15	a+5%		
Tug engineer	5.20	.25	.15	a+5%		
Tug deckhand	4.35	.25	.15	a+5%		
Drill boats:						
Engineer	7.1875	.25	.15	b		
Blaster	7.2575	.25	.15	b		
Driller, welder, machinist	7.1587	.25	.15	b		
Firemen	6.88	.25	.15	b		
Oiler	6.7387	.25	.15	b		
Drill helper	6.7387	.25	.15	b		

Paid holidays:
A—New Year's Day; B—Memorial Day; C—Independence Day; D—Labor Day; E—Thanksgiving Day; F—Christmas Day.
Footnotes:
a. Holidays: A through F; Washington's Birthday and Veterans Day.
b. Holidays: A through F; Washington's Birthday and Veterans Day; 6⅓ days of vacation with pay for 104 days of service, 1 additional day of vacation with pay for each additional 21⅔ days of service, all in 1 calendar year. Employees not qualifying for vacation to receive 1 day's vacation with pay for each full 24 days of service in 1 calendar year.

WD No. AM-362—36 F.R. 15282, Bartholomew County, Ind. Modification No. 3						
CHANGE:						
Building construction:						
Glaziers	$7.77					
WD No. AM-355—36 F.R. 15297, Delaware County, Ind. Modification No. 3						
CHANGE:						
Building construction:						
Glaziers	7.77					
Roofers	5.50	.15	.10			
WD No. AM-356—36 F.R. 15303, Grant County, Ind. Modification No. 3						
CHANGE:						
Building construction:						
Glaziers	7.77					

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-359—36 F.R. 15337, Marion County, Ind. Modification No. 4						
CHANGE:						
Building construction:						
Glaziers	7.77					
WD No. AM-360—36 F.R. 15333, Monroe County, Ind. Modification No. 3						
CHANGE:						
Building construction:						
Glaziers	7.77					
WD No. AM-361—36 F.R. 15340, Porter County, Ind. Modification No. 3						
CHANGE:						
Building construction:						
Glaziers	7.05					
WD No. AM-362—36 F.R. 15343, St. Joseph County, Ind. Modification No. 3						
CHANGE:						
Building construction:						
Cementmasons	7.12	.30	.30		.01	
WD No. AM-364—36 F.R. 15368, Vigo County, Ind. Modification No. 3						
CHANGE:						
Building construction:						
Glaziers	7.77					
WD No. AM-367—36 F.R. 15374, Blackford, Delaware, Fayette, Grant, Hamilton, Hancock, Henry, Jay Johnson, Madison, Marion, Randolph, Rush, Shelby, Union, and Wayne Counties, Ind. Modification No. 1						
CHANGE:						
Cementmasons:						
Shelby County	6.20					
WD No. AM-369—36 F.R. 15382, Crawford, Du Bois, Gibson, Perry, Pike, Posey, Spencer, Vanderburgh, and Warrick Counties, Ind. Modification No. 1						
CHANGE:						
Cementmasons:						
Gibson and Pike Counties	6.65	.30			.01	
WD No. AM-370—36 F.R. 15386, Bartholomew, Brown, Clark, Dearborn, Decatur, Floyd, Franklin, Harrison, Jackson, Jefferson, Jennings, Lawrence, Martin, Monroe, Ohio, Orange, Ripley, Scott, Switzerland, and Washington Counties, Ind., Modification No. 1						
CHANGE:						
Cement masons:						
Monroe County	6.90					
Martin County	6.65	.30			.01	
Bartholomew and Brown Counties	6.20					
Ironworkers:						
Southwest half of Martin County	8.15	.35	.35			
Northwest one-sixth of Lawrence County and the northern portion of Martin County, excluding the city of Shoals	7.90	.40	.65			
Southeast half of Martin County, southern half of Jackson County, southern half of Jennings County, southern two-thirds of Lawrence County and the remaining counties	7.75	.40	.65		.04	
WD No. AM-478—36 F.R. 16427, Boyd County, Ky. Modification No. 2						
CHANGE:						
Carpenters	6.96	.30	.50		.02	
Soft floor layers	6.96	.30	.50		.02	
Millwrights	7.38	.30	.37		.02	
Piledrivermen	7.21	.30	.50		.02	
Power equipment operators—building and heavy construction:						
Class A operators	6.65	.25	.25			
Class B operators	5.50	.25	.25			
Class C operators	5.10	.25	.25			
WD No. AM-479—36 F.R. 16432, Fayette County, Ky. Modification No. 3						
CHANGE:						
Soft floor layers	6.50	.30	.15		.02	
Power equipment operators—Building and heavy construction:						
Class A operators	6.65	.25	.25			
Class B operators	5.50	.25	.25			
Class C operators	5.10	.25	.25			
WD No. AM-480—36 F.R. 16437, Jefferson County, Ky. Modification No. 2						
CHANGE:						
Plumbers	7.73	.30	.25	.77	.045	
Steamfitters	7.75	.30	.50	.50	.045	
Up to a 35-mile radius of Jefferson and Warren County Courthouse:						
Plumbers	8.18	.30	.25	.77	.045	
Steamfitters	8.20	.30	.50	.50	.045	
Beyond a 35-mile radius of Jefferson County and Warren County Courthouse:						
Plumbers	8.43	.30	.25	.77	.045	
Steamfitters	8.45	.30	.50	.50	.045	
Power equipment operators—Building and heavy construction:						
Class A operators	6.65	.25	.25			
Class B operators	5.50	.25	.25			
Class C operators	5.10	.25	.25			
WD No. AM-481—36 F.R. 16443, McCracken County, Ky. Modification No. 2						
CHANGE:						
Power equipment operators—Building and heavy construction:						
Class A operators	6.65	.25	.25			
Class B operators	5.50	.25	.25			
Class C operators	5.10	.25	.25			
WD No. AM-482—36 F.R. 16446, Warren County, Ky. Modification No. 2						
CHANGE:						
Plumbers and steamfitters	8.18	.30	.25	.77	.045	
Millwrights	6.63	.15	.15			
Piledrivermen	6.69	.30				
Soft floor layers	6.69	.30				
Power equipment operators—Building and heavy construction:						
Class A operators	6.65	.25	.25			
Class B operators	5.50	.25	.25			
Class C operators	5.10	.25	.25			

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments: H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-3,627—36 F.R. 16738, Caddo and Bossier Parishes, La., Modification No. 2						
CHANGE:						
Electricians:						
Electricians	6.40	.25	1%		2/10%	
Ironworkers:						
Structural, ornamental	6.05	.20	$0.25		$0.04	
Reinforcing	6.05	.20	.25		.04	
Sheeters	6.05	.20	.25		.04	
Sheet Metal Workers	5.87	.30	.25		.02	
Stone Masons	6.55					
WD No. AM-3,626—36 F.R. 16736, East Baton Rouge Parish, La., Modification No. 1						
CHANGE:						
Millwrights	6.775					
WD No. AM-3,629—36 F.R. 16742, Rapides Parish, La., Modification No. 1						
CHANGE:						
Plumbers-steamfitters	6.55	.30			.05	
Sheet metal workers	5.87	.30	.25		.02	
WD No. AM-3,628—36 F.R. 16740, Orleans, Plaquemines, Jefferson, St. Bernard Parishes, La. Modification No. 2						
CHANGE:						
Carpenters:						
Piledrivers	6.17	.20	.10		.04	
Millwrights	6.355	.20	.10		.04	
Electricians:						
Electricians, linemen, cable splicers and welders	7.075	.20	1%+.10		.015	
Marble setters helpers	4.30					
LA-6-PEO-1-n:						
Power equipment operators:						
Heavy equipment operator:						
A-frame truck, when working with ironworkers and pipefitters; bulldozers D-6 and larger; cableways; concrete mixers (over 16S); paving machines; cranes; derricks, draglines and clamshells; deck winches (2); gradealls; hi-ho and similar type equipment; hoist, 1 drum, 4 stories and over; hoist, 2 drums or more; hydro cranes; mechanic; motor patrols; pile drivers; rollers on brick and asphalt; rubber-tired front-end loader, with or without blade attachment, 1 cu. yd. capacity or more; scrapers; shovels, backhoes (all types); side boom cats; stabilizers, 3 drums or more; traxcavators; trenching machines; unit operator; welder journeyman; well points systems; (gas, diesel, electric, etc.)	6.37	.10	.15			
Light equipment operator:						
A-frame truck, except when working with ironworkers or pipefitters; air compressor; asphalt plant engineers; asphalt finisher, screed men; blade graders; boat operator; bull floats; concrete joining machines; concrete mixers, 16S and under; concrete spreader; crusher operator; deck winch operator (1); distributors, asphalt "Ditch Witch" and similar equipment; electric elevators (inside); finishing machine; firemen; form graders; fork lifts; hoist, 1 drum, under 4 stories; power subgraders pug mill operators; pull tractor; pump, pumpcrete; rollers, except on brick and asphalt; rubber-tired front end loader (with or without blade attachment) less than 1 cu. yd. capacity; scale operator; scoop-mobile; snatch cats; spray machines; stabilizers, less than 3 drums; straddle-buggy; tract machines and equivalent machines; tractors or bulldozers smaller than D6	5.50	.10	.15			
Batch plant operator	5.12	.10	.15			
Mechanic helpers	5.12	.10	.15			
Oilers (drivers)	5.12	.10	.15			
Oilers	4.85	.10	.15			
WD No. AM-3,555—36 F.R. 16773 Bexar County, Tex. Modification No. 3						
CHANGE:						
Building Construction:						
Terrazzo workers' helpers:						
Terrazzo helpers	3.50					
Floor machine operators	3.70					
Tile setters' helpers	3.50					
WD No. AM-2,506—36 F.R. 17139, Statewide, Utah. Modification No. 3						
CHANGE:						
Piledrivermen; bridge, wharf, and dock carpenters, riggers, boom men	7.63	.15	.20	.15	.02	
WD No. AM-427—36 F.R. 15979, Kenosha County, Wis. Modification No. 4						
CHANGE:						
Building construction:						
Plasterers	7.25	.40				
WD No. AM-428—36 F.R. 15984, La Crosse County, Wis. Modification No. 4						
CHANGE:						
Building construction:						
Plasterers:						
Plasterers	6.15					
Swing scaffold	6.40					
WD No. AM-1,842—36 F.R. 16238, Montgomery and Prince Georges Counties, Md.; city of Alexandria, Va.; Arlington County, Va.; Dulles International Airport. Modification No. 3						
CHANGE:						
Building construction:						
Ironworkers, reinforcing	6.85	.25	.25		.03	
WD No. AM-1,843—36 F.R. 16241, Washington, D.C. Modification No. 4						
CHANGE:						
Building construction:						
Ironworkers, reinforcing	6.85	.25	.25		.03	

[FR Doc.71-17123 Filed 11-26-71;8:45 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

NOVEMBER 23, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 61440 Sub 114, Lee Way Motor Freight, Inc., assigned at Washington, D.C., application dismissed.

MC 110585 Sub 15, Republic Van & Storage Co., now being assigned continued hearing November 29, 1971, at the Offices of Interstate Commerce Commission, Washington, D.C.

MC 2660 Sub 100, National Freight, Inc., now being assigned hearing January 24, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 30237 Sub 21, Yeatts Transfer Co., now being assigned hearing January 27, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 51146 Sub 223, Schneider Transport & Storage, Inc., now being assigned hearing February 3, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 637 Sub 6, Ajax Transport, Inc., assigned at Fort Worth, Tex., application dismissed.

MC 23616 Sub 13, McAlister Trucking Co., application dismissed.

MC 60157 Sub 13, C. A. White Trucking Co., application dismissed.

MC 79999 Sub 5, E. Jack Walton Trucking Co., application dismissed.

MC 105984 Sub 9, John B. Barbour Trucking Co., assigned at Dallas, application dismissed.

MC 106623 Sub 11, Southwest Oilfield Transportation Co., application dismissed.

MC 106775 Sub 24, Atlas Truck Line, Inc., application dismissed.

MC 107678 Sub 40, Hill & Hill Truck Line, Inc., application dismissed.

MC 119176 Sub 6, The Squaw Transit Co., application dismissed.

MC 119774 Sub 17, Eagle Trucking Co., application dismissed.

MC 61592 Sub 210, Jenkins Truck Lines, Inc., application dismissed.

MC 124306 Sub 11, Kenan Transport Co., Inc., now being assigned January 10, 1972, at Richmond, Va., in a hearing room to be designated later.

MC 61592 Sub 219, Jenkins Truck Line, now assigned February 24, 1972, at Salt Lake City, Utah, hearing room to be designated later.

MC 73165 Sub 293, Eagle Motor Lines, now assigned March 1, 1972, at Los Angeles, Calif., hearing room to be designated later.

MC 134947, Masao Yamashiro Contract Carrier Application, now assigned March 2, 1972, at Los Angeles, Calif., hearing room to be designated later.

MC 135585, Sid Cockrell, doing business as Commercial Auto Delivery, now assigned February 28, 1972, at Los Angeles, Calif., hearing room to be designated later.

MC 115092 Sub 14, Weiss Trucking, now assigned February 22, 1972, at Salt Lake City, Utah, hearing room to be designated later.

MC 134884 Sub 1, Farwest Furniture Transport, now assigned March 6, 1972, at San Francisco, Calif., hearing room to be designated later.

MC 120761 Sub 2, Newman Bros. Trucking Co., assigned January 10, 1972, at Austin, Tex., is canceled and application dismissed.

MC-C 7327, Mason Trucking, Carroll Truck Lines, West Gin Co., Investigation of Operations and Practices, assigned December 14, 1971, at Memphis, Tenn., postponed indefinitely.

MC 134542 Sub 4, Quick-Livick, Inc., assigned January 27, 1972, at Washington, D.C., postponed to January 31, 1972, in Room 517, Doremus Gym, Washington and Lee University, Lexington, Va.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-17356 Filed 11-26-71;8:50 am]

CUMULATIVE LIST OF PARTS AFFECTED—NOVEMBER

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PART II

ENVIRONMENTAL PROTECTION AGENCY

■

GRANT PROGRAMS

Interim Regulations

No. 229—Pt. II——1

Title 40—PROTECTION

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30.800–1 Waiver of equipment account-

(e) Section 210 of the National Emission Standards Act, as amended (42 interested Federal agencies will be solicited in the development of this Reg- project in a diligent and professional manner; this responsibility may be

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

SUBCHAPTER B—GRANTS

INTERIM REGULATIONS

The following regulations are promulgated as interim regulations applicable to all grant programs of the Environmental Protection Agency. Because of the urgent need for a better and more explicit public statement of EPA grant policies and procedures and for uniformity among the EPA grant programs, these regulations are hereby adopted as interim regulations. Interested parties and government agencies are encouraged to submit written comments, views, or data to the Director, Grants Administration Division, Environmental Protection Agency, Washington, D.C. 20460. All such submissions received on or before March 15, 1972, will be considered prior to the promulgation of final EPA general grant regulations.

Supplemental interim or final regulations will be promulgated as soon as possible for particular grant administration and program requirements of each of the grant programs of the agency under Part 35 (State and Local Assistance), Part 40 (Research and Demonstrations), and Part 45 (Training Grants and Fellowships) of this Subchapter B.

Previously published EPA grant regulations were revoked on November 25, 1971 (36 F.R. 22369), but were maintained as uncodified regulations. Such uncodified grant regulations will continue as uncodified regulations, to the extent not inconsistent with the regulations promulgated hereby, pending publication of appropriate additional final or interim regulations.

Effective date. The interim regulations and procedures of this part shall become effective on January 1, 1972, and shall govern all Environmental Protection Agency grants awarded on or after January 1, 1972. In addition, these interim regulations and procedures shall govern all grants awarded prior to January 1, 1972, by the Environmental Protection Agency or its predecessor departments or agencies to the extent not inconsistent with the terms and conditions of such grants.

WILLIAM D. RUCKELSHAUS,
Administrator.

NOVEMBER 17, 1971.

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AUTHORITY: The provisions of this Part 30 issued under the authorities cited in § 30.101.

§ 30.100 Purpose of regulation.

This subchapter (hereinafter referred to as "Regulation") establishes and codifies uniform policies and procedures for all grants awarded by the U.S. Environmental Protection Agency (EPA).

§ 30.101 Authority.

This Regulation is promulgated by the Administrator of the Environmental Protection Agency pursuant to the authority conferred by Reorganization Plan No. 3 of 1970 and pursuant to the following statutes which authorize the award of Environmental Protection Agency grants:

(a) The Federal Water Pollution Control Act, as amended (33 U.S.C. 1151 et seq.);

(b) The Clean Air Act, as amended (42 U.S.C. 1857 et seq.);

(c) The Solid Waste Disposal Act, as amended (42 U.S.C. 3251 et seq.);

(d) The Noise Pollution and Abatement Act of 1970 (42 U.S.C. 1858 et seq.);

(e) Section 210 of the National Emission Standards Act, as amended (42 U.S.C. 1857f–6b);

(f) Section 301 et seq. of the Public Health Service Act, as amended (42 U.S.C. 241, 242b, 243, and 246);

(g) Section 204(5) of the National Environmental Policy Act (42 U.S.C. 4321 et seq.); and

(h) The Grant Act (42 U.S.C. 1891 et seq.).

§ 30.102 Applicability and scope.

This part contains policies and procedures which will apply to all grants made by the Environmental Protection Agency and is designed to achieve maximum uniformity throughout the various grant programs of the Agency. Except as directed by the President, Congress, or other superior authority, these policies and procedures are mandatory with respect to all Environmental Protection Agency grants and shall apply to grants awarded or administered within and outside the United States, unless otherwise specified herein.

§ 30.103 Publication.

This Regulation is published (in Title 40) in the daily issue of the FEDERAL REGISTER, in cumulated form in the Code of Federal Regulations, and in separate loose-leaf volume form.

§ 30.104 Copies.

Copies of this Regulation in FEDERAL REGISTER and Code of Federal Regulations form may be purchased by Federal agencies and the public from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies of this Regulation in loose-leaf volume form may be obtained by Federal agencies from the Environmental Protection Agency, in a very limited quantity, and may be purchased by the public from the Superintendent of Documents.

§ 30.105 Citation.

This Regulation will be cited in accordance with FEDERAL REGISTER standards. Thus, this section, when referred to in divisions of this Regulation, should be cited as "§ 30.105 of this subchapter." When this section is referred to formally in official documents, such as legal briefs, it should be cited as "40 CFR 30.105." Any section of this Regulation may be informally identified, however, for purposes of brevity, as "EPA–GR" followed by the section number, such as "EPA–GR 30.105."

§ 30.106 Amendment.

This Regulation may be amended from time to time to establish new or improved grant policies and procedures, to simplify and abbreviate grant application procedures, to simplify and standardize grant conditions and related requirements, and to improve the administration of grants by the Agency as well as the grantee. The development of new grant techniques, procedures, or policies is encouraged. To the maximum practicable extent, and where appropriate and feasible, public comment and the views of interested Federal agencies will be solicited in the development of this Regulation. Suggestions for changes to this Regulation may be addressed to the Director, Grants Administration Division, Environmental Protection Agency, Washington, D.C. 20460.

§ 30.107 Grant information.

Information concerning Agency grants and application forms may be obtained through the Grants Administration Division, Environmental Protection Agency, Washington, D.C. 20460, or any Regional Office Grants Administration Branch of the Environmental Protection Agency:

Region	Address	States
I	John F. Kennedy Federal Bldg., Room 2303, Boston, Mass. 02203.	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.
II	26 Federal Plaza, Room 847, New York, N.Y. 10007.	New Jersey, New York, Puerto Rico, Virgin Islands.
III	6th and Walnut, Curtis Bldg., Philadelphia, Pa. 19106.	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia.
IV	Suite 300, 1421 Peachtree St. NE., Atlanta, GA 30309.	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.
V	1 North Wacker Dr., Chicago, IL 60606.	Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.
VI	1600 Patterson St., 11th Floor, Dallas, TX 75202.	Arkansas, Louisiana, New Mexico, Oklahoma, Texas.
VII	911 Walnut St., Room 702, Kansas City, MO 64106.	Iowa, Kansas, Missouri, Nebraska.
VIII	Room 900, Lincoln Tower, 1860 Lincoln St., Denver, CO 80203.	Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.
IX	100 California St., San Francisco, CA 94111.	Arizona, California, Hawaii, Nevada, American Samoa, Guam, Trust Territories of Pacific Islands, Wake Islands.
X	1200 6th Ave., Seattle, WA 98101.	Alaska, Idaho, Oregon, Washington.

Subpart A—Basic Policies

§ 30.200 The role of EPA.

The Environmental Protection Agency has a broad mandate to prevent and abate degradation of the environment and to promote environmental enhancement. Grants constitute one of EPA's principal means of achieving these objectives. EPA assistance may be awarded for research, demonstration, training and fellowships, State and local government assistance, or such other programs as will advance the mission of the Agency.

§ 30.201 Role of the Administrator.

The Administrator is responsible pursuant to Reorganization Plan No. 3 of 1970 for the administration of the grant activities of the Environmental Protection Agency.

§ 30.202 Responsibility of the grantee.

It is the responsibility of the grantee to comply with all the terms and conditions of the grant, to efficiently and effectively manage grant funds within the approved budget, and to complete the project in a diligent and professional manner; this responsibility may be neither delegated nor transferred. The extent to which the Government will monitor grant performance will depend upon a variety of factors. However, neither the extent of monitoring performed by or on behalf of the Government nor the amount of EPA grant assistance shall serve to diminish or shift the responsibility of the grantee. For purposes of this Regulation, an award of a grant shall be deemed to constitute a public trust. This trust is placed in the grantee upon whom the burden of performing the project is principally placed. The personnel of the Environmental Protection Agency must assure that the best interest of the public is served.

§ 30.203 Grant objectives.

EPA grants are intended to encourage accomplishment of statutory and EPA goals with the minimum administrative requirements necessary to protect the public interest.

§ 30.204 Records of grant actions.

An official file shall be established for each EPA grant which shall contain documentation of actions taken with respect to such grant, from application to final disposition. To the extent that retained copies of documents do not represent all significant actions taken, suitable memoranda or a summary statement of such undocumented actions should be prepared promptly and be retained in the grant file.

§ 30.205 Comprehensive grants.

A comprehensive grant is a grant funded under more than one grant authority by EPA or an EPA grant awarded in conjunction with one or more Federal agencies. A comprehensive grant shall be awarded and administered pursuant to such conditions and procedures for EPA assistance as the Administrator may direct, which requirements shall comply with this Regulation to the greatest extent practicable.

§ 30.206 Foreign grants.

Foreign grants shall be awarded and administered pursuant to such conditions and procedures for EPA assistance as the Administrator may direct, which requirements shall comply with this Regulation to the greatest extent practicable. Grants or agreements entered into with funds under the Special Activities Overseas Program which utilize U.S.-owned excess foreign currencies shall not be subject to the Regulation.

§ 30.207 Cost sharing.

Cost sharing is mandatory for all projects for which EPA grants are awarded. There must be a contribution by the grantee (see § 30.702) of no less than 5 percent of the allowable actual project costs, except as otherwise required by statute, and provided that in the case of grants for wastewater treatment works contributions by other Federal or State agencies may be credited toward grantee contributions.

Subpart B—Application and Award

ation of the proposal, or for negotiation of a grant award:

§ 30.301–4 Place of submission.

(a) All applications for research,

(a) Preliminary administrative evaluation; (b) program relevance; (c) technical and scientific evaluation; (d)

them (including proposed subagreements);

(c) Is able to comply with the pro-

case of State and local assistance grants, the grant shall become effective and shall constitute an obligation of Federal

Subpart B—Application and Award

§ 30.300 Preapplication procedures.

Informal inquiries by potential grant applicants will generally expedite preparation of the grant application documents by the grantee as well as evaluation of these documents by EPA. Grantees are encouraged, therefore, to make full use of such preapplication procedures as are available through the grant program office. Such procedures will range from informal telephone advice to the potential applicant to briefings of individual potential applicants or classes of applicants.

§ 30.300–1 Preproposal.

Applications for grants which are received by EPA grant offices but which do not substantially comply with the requirements of this Regulation may be deemed to be preproposals. The party submitting a preproposal shall be promptly notified by the appropriate grant office (a) that the documents submitted fail to comply with this Regulation; (b) that EPA grant application requirements may be found in this Regulation; and (c) that informal assistance will be rendered upon request to enable the potential applicant to comply with grant application requirements.

§ 30.301 Application for grant.

Submittals which substantially comply with this Regulation shall be deemed to be applications. An application shall consist of all documents submitted pursuant to §§ 30.301–2 and 30.302–1, including the application form, technical documents and supplementary materials furnished the applicant.

§ 30.301–1 Form.

All applications for EPA grants shall be submitted upon such forms as the Administrator shall prescribe. Each grant application shall bind the applicant to accept the grant conditions and other requirements of this Regulation; the grantee shall clearly indicate any requested deviations and the justification therefor, in accordance with § 30.1001. EPA reserves the right to make grant awards in appropriate cases, notwithstanding failure to comply with formal grant application requirements.

§ 30.301–2 Content.

Each application shall include the information set forth below:

(a) Name and address of the applicant;

(b) Date of submission of the application;

(c) Type of applicant (individual; profit, nonprofit, educational, or political organization; other);

(d) Type of project for which a grant award is sought (construction; research; demonstration; training; planning; etc.);

(e) The name, address and telephone number of administrative, financial, and technical personnel who may be contacted by EPA for further information regarding the grant application, for evaluation of the proposal, or for negotiation of a grant award;

(f) Proposed starting and completion dates, expressed either as calendar dates or in relation to award of a grant;

(g) The type (new or continuation) and amount of the grant requested, expressed both as a percentage of the total estimated allowable project cost and dollars;

(h) Proposed budget, including detailed cost estimates;

(i) Proposed subagreements;

(j) Names of any other Federal agencies to which an application has been submitted for Federal assistance for all or a part of the project, or an integrally related project; or which is funding the proposed project, any portion thereof, or an integrally related project;

(k) The period (not less than 90 days) for which the application proposal is valid, or the date (if any) by which the grant award must be made for the project;

(l) Applications for continuation of grant support should be accompanied by an estimate of the amount of unspent, uncommitted funds which will be carried over beyond the term of the prior grant, and shall be accompanied by a statement comparing expenditures with the previously approved project budget for each of the categories identified pursuant to paragraph (h) of this section;

(m) A project proposal including objectives, strategies, and expected results; required financial, facility, equipment, and manpower resources; and such technical and other information as may be required by Parts 35, 40 or 45 of this subchapter;

(n) Each application containing data, including confidential data, which the applicant desires to be held confidential and to be used by EPA for evaluation purposes only, shall be marked on the cover sheet with the following, or similar, legend:

Data contained in pages.... of this application shall not be used or disclosed, except for evaluation purposes, unless such data is obtained from another source without restriction. If, however, a grant or contract is awarded as a result of or in connection with this application, the Government shall have the unlimited right to duplicate, use or disclose such data for any purpose, unless otherwise provided in such grant or contract. Such data may be subject to disclosure pursuant to the Freedom of Information Act, 5 U.S.C. 552. If a grant or contract is not awarded as a consequence of this application, those portions of this application containing such data shall be returned promptly to the applicant no later than 6 months after receipt, unless such period of time is extended at the request of the applicant.

(o) The signature of a person authorized to obligate the applicant to the terms and conditions of the grant, if approved.

§ 30.301–3 Time of submission.

Applications should be submited well in advance of the desired grant award date. Generally grant application processing requires 90 days.

§ 30.301–4 Place of submission.

(a) All applications for research, demonstration, and training grants and fellowships should be addressed to the Grants Administration Division, Environmental Protection Agency, Washington, D.C. 20460 for the following programs described in the 1971 edition of the Catalog of Federal Domestic Assistance:

Catalog No.	*Program*
66.002	Air Pollution Fellowships.
66.003	Air Pollution Manpower Training Grants.
66.004	Air Pollution Research Grants.
66.005	Air Pollution Survey and Demonstration Grants.
66.100	Pesticides Research Grants.
66.200	Radiation Research Grants.
66.201	Radiation Training Grants.
66.300	Solid Waste Dem. and Resource Recovery System Grants.
66.301	Solid Waste Planning Grants.
66.302	Solid Waste Research Grants.
66.303	Solid Waste Training Grants.
66.405	Water Pollution Control-Research, Dev. and Dem. Grants.
66.406	Water Pollution Control-Research Fellowships.
66.410	Water Pollution Control Training Grants.
66.414	Water Hygiene Research Grants.

(b) Applications for EPA grant programs listed below should be transmitted to the appropriate EPA Regional office, Grants Administration Branch (§ 30.107):

Catalog No.	*Program*
66.001	Air Pollution Control Program Grants.
66.400	Wastewater Treatment Works Construction Grants.
66.401	Water Pollution Control Comprehensive Basin Planning Grants.
66.407	Water Pollution Control State and Interstate Program Grants.

§ 30.301–5 Number of copies of application.

An original and three copies of each application shall be submitted.

§ 30.302 Evaluation of applications.

Each application shall be subjected (a) to administrative evaluation to determine the adequacy of the application in relation to this Regulation and (b) to technical and program evaluation to determine the merit and relevancy of the project.

§ 30.302–1 Supplemental information.

Each applicant shall be notified that the application has been received and is in the process of evaluation pursuant to this Regulation. The applicant may be requested to furnish information or documents required by this Regulation and necessary in order to complete administrative, program, or technical evaluation of the application; the applicant shall be notified that evaluation will be suspended until such additional information or documents have been furnished.

§ 30.302–2 Procedure.

Every application shall be evaluated in accordance with the following procedure:

(a) Preliminary administrative evaluation; (b) program relevance; (c) technical and scientific evaluation; (d) final administrative evaluation. At each stage of the evaluation, such informal contact or negotiations as are required shall be conducted. Technical, scientific and program relevancy evaluation shall be performed by the appropriate program office(s), with the advice of such advisory councils or boards as are required by statute or established pursuant to this Regulation.

§ 30.303 Criteria for award of grant.

Each application shall be evaluated in accordance with the requirements and criteria established pursuant to this Regulation and promulgated herein. Program award critera may be found in Parts 35, 40, and 45 of this subchapter. Grants may be awarded without regard to nonstatutory criteria in exceptional cases, particularly in the case of comprehensive grants: *Provided*, That the appropriate Regional or Assistant Administrator shall make a written statement setting forth the basis for each such award, which shall be included within the grant file prior to grant award.

§ 30.304 Responsible prospective grantee.

§ 30.304–1 Scope.

The policy and procedures established by this section shall be followed to determine, prior to award of any grant, whether a prospective grantee will qualify as responsible.

§ 30.304–2 General policy.

The award of grants to applicants who are not responsible is a disservice to the public, which is entitled to receive full benefit from the award of grants for the protection and enhancement of the environment. It frequently is inequitable to the applicants themselves, who may suffer hardship, sometimes even financial failure, as a result of inability to meet grant or project requirements. Moreover, such awards are unfair to other competing applicants capable of performance, and may discourage them from applying for future grants. It is essential, therefore, that precautions be taken to award grants only to reliable and capable applicants who can reasonably be expected to comply with grant and project requirements. A responsible prospective grantee is one which is found to meet the minimum standards set forth in § 30.304–3 and such additional standards as may be prescribed and promulgated for a specific grant program.

§ 30.304–3 Standards.

In order to qualify as responsible, a prospective grantee must meet the following standards as they relate to the particular proposed grant under consideration:

(a) Has adequate financial resources for performance, or has the ability to obtain such resources as required;

(b) Has the necessary experience, organization, technical qualifications, and facilities, or has the ability to obtain them (including proposed subagreements);

(c) Is able to comply with the proposed or required completion schedule for the project;

(d) Has a satisfactory record of integrity, judgment, and performance, including, in particular, performance upon grants and contracts from the Federal Government;

(e) Appears to be able to conform to the Equal Opportunity requirements of this Regulation;

(f) Is otherwise qualified and eligible to receive a grant award under applicable laws and regulations.

Acceptable "ability to obtain" financial resources, experience, organization, technical qualifications, skills, and facilities (see paragraphs (a) and (b) of this section) generally shall comprise a firm commitment or arrangement to obtain financial resources, experience, organization, technical qualifications, skills or facilities.

§ 30.304–4 Determination of responsibility.

No grant shall be awarded to any applicant unless after adequate and appropriate evaluation a determination has first been made in writing and included within the grant file that the applicant is responsible within the meaning of §§ 30.304–2 and 30.304–3. Any applicant who is not determined to be responsible shall be notified in writing of such finding and of the basis therefor.

§ 30.305 Award of grant.

Generally, within 90 days after receipt of a completed application (excluding suspension periods for submission of supplemental information), the application will be (a) approved for grant award; (b) deferred due to lack of funding or other specified reason; or (c) disapproved. The applicant shall be promptly notified in writing of any deferral or disapproval. A deferral or disapproval of an application shall not preclude its reconsideration or a reapplication. The applicant shall not be notified of an approval or grant award prior to transmittal of the grant agreement for execution by the applicant pursuant to § 30.305–2.

§ 30.305–1 Amount and term of grant.

The amount and term of a grant shall be determined by the Administrator or his authorized representative at the time of grant award.

§ 30.305–2 Grant agreement.

Upon approval of a grant for award, the grant agreement will be transmitted by certified mail (return receipt requested) to the applicant for execution. The grant agreement must be executed by the applicant and returned to the Grants Officer within 3 weeks after receipt, or within any extension of such time that may be granted by the Grants Officer. The grant agreement shall set forth the approved project work, approved budget and the approved commencement and completion dates for the project or major phases thereof. In the case of State and local assistance grants, the grant shall become effective and shall constitute an obligation of Federal funds in the amount and for the purposes stated in the grant agreement, at the time of approval of the project for grant award. In the case of all other EPA grants, the grant shall become effective and shall constitute an obligation of Federal funds in the amount and for the purposes stated in the grant instrument, only upon execution of the grant agreement by the parties thereto. Except as may be otherwise provided by statute, no costs may be incurred prior to the execution of the grant agreement by the parties thereto.

§ 30.305–3 Effect of grant award.

Neither the approval of a project nor the award of any grant shall commit or obligate the United States to award any continuation grant or enter into any grant amendment with respect to any approved project or portion thereof.

§ 30.306 Continuation grants.

Upon written application and after receipt of such progress, fiscal or other reports as may be required pursuant to this Regulation, a continuation grant may be awarded in accordance with this Subpart B upon a finding by the Grants Officer that the progress made during the budget period warrants continuation within the project period.

Subpart C—Grant Conditions

§ 30.400 General.

All EPA grants shall be subject to applicable statutory provisions; to requirements imposed pursuant to Executive orders, and to the Grant Conditions set forth in this subpart or in Appendix A to this subchapter. Additional special conditions necessary to assure accomplishment of the project or of EPA objectives may be imposed upon any grant or class of grants by agreement with the grantee.

§ 30.401 Statutory conditions.

All EPA grants are awarded subject to the following statutory requirements, in addition to such statutory provisions as may be applicable to particular grants or grantees or classes of grants or grantees.

(a) The National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq., as amended, particularly as it relates to the assessment of the environmental impact of federally assisted projects (42 U.S.C. 102(1)(C)).

(b) Section 306 of the Clean Air Act, 42 U.S.C. 1857h–4, as amended, requiring that facilities receiving Federal assistance by way of grant, loan, or contract shall comply with the Clean Air Act.

(c) The Civil Rights Act of 1964, 42 U.S.C. 2000a et. seq., as amended, and particularly title VI thereof, which provides that no person in the United States shall on the ground of race, color, religion, sex, or national origin be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving

Federal financial assistance, as implemented by regulations issued thereunder.

(b) The Copeland (Anti-Kickback) Act, 18 U.S.C. 874, 40 U.S.C. 276c, and the

encouraged to seek the advice and opinions of EPA on problems that may arise,

§ 30.604 Grantee publications and publicity.

vided for in the grant agreement or this Regulation.

Federal financial assistance, as implemented by regulations issued thereunder.

(d) The Hatch Act, 5 U.S.C. 1501 et seq., relating to political activities of certain State and local employees.

(e) The Freedom of Information Act, 5 U.S.C. 552, as amended, relating to the right of the public to obtain information and records.

(f) The National Historic Preservation Act of 1966, 16 U.S.C. 470 et seq., as amended, relating to the preservation of historic landmarks.

(g) The Demonstration Cities and Metropolitan Development Act of 1966, 42 U.S.C. 3301 et seq., as amended, and particularly section 204 thereof, which requires that applications for Federal assistance for a wide variety of public facilities projects in metropolitan areas must be accompanied by the comments of an areawide comprehensive planning agency covering the relationship of the proposed project to the planned development of the area, as implemented by OMB Circular No. A-98 (June 5, 1970).

(h) The Intergovernmental Cooperation Act of 1968, 42 U.S.C. 4201 et seq., as amended, which requires coordination by and between local, regional, State, and Federal agencies with reference to plans, programs, and development projects and activities, as implemented by OMB Circular N. A-95 (Rev. Feb. 9, 1971) and OMB Circular No. A-98 (June 5, 1970).

§ 30.402 Executive orders.

All EPA grants are subject to the requirements imposed by the following Executive orders, in addition to such other lawful provisions as may be applicable to particular grants or grantees or classes of grants or grantees.

(a) Executive Order 11246 dated September 24 ,1965, as amended, with regard to equal employment opportunities, and all rules, regulations and procedures prescribed pursuant thereto.

(b) Executive Order 11296 dated August 10, 1966, regarding evaluation of flood hazard in locating federally owned or financed buildings, roads, and other facilities, and in disposing of Federal lands and properties.

(c) Executive Order 11514 dated March 5, 1970, providing for the protection and enhancement of environmental quality in furtherance of the purpose and policy of the National Environmental Policy Act of 1969.

(d) Executive Order 11602 dated June 29, 1971, requiring compliance with the Clean Air Act in the award and administration of Federal grants, and all rules, regulations, and procedures prescribed pursuant thereto.

§ 30.403 Additional requirements—federally assisted construction.

Grants for projects that involve construction are subject to the following additional requirements:

(a) The Davis-Bacon Act, as amended, 40 U.S.C. 276a et seq., 276c, and the regulations issued thereunder, 29 CFR 5.1 et seq., respecting wage rates for federally assisted construction contracts in excess of $2,000.

(b) The Copeland (Anti-Kickback) Act, 18 U.S.C. 874, 40 U.S.C. 276c, and the regulations issued thereunder, 29 CFR 3.1 et seq.

(c) The Contract Work Hours and Safety Standards Act, 40 U.S.C. 327 et seq., and the regulation issued thereunder.

(d) The Uniform Relocation Assistance and Land Acquisition Policies Act of 1970, 42 U.S.C. 4621 et seq., 4651 et seq., and the regulations issued thereunder, 40 CFR Chapter 1, Part 4.

§ 30.404 Noncompliance with grant conditions.

In addition to such other remedies as may be provided by law, in the event of noncompliance with any condition imposed pursuant to this Regulation, a grant may be annulled and all EPA grant funds recovered or it may be terminated pursuant to Article 5 of the Grant Conditions (Appendix A), the project work may be suspended pursuant to Article 4 of the Grant Conditions, an injunction may be entered by an appropriate court, or such other action may be taken by the Grants Officer as the Administrator shall direct: *Provided*, That no such action shall be taken without prior consultation with the grantee.

Subpart D—Patents, Data, and Copyrights

§ 30.500 Patents and inventions.

§ 30.500–1 Scope.

This subpart sets forth (a) policy and procedures regarding patents, data and copyrights under EPA grants or fellowships involving experimental, developmental or research work, and (b) the grant clauses and regulations which define and implement said policy.

§ 30.500–2 Definitions.

Definitions applicable to this Subpart D, in addition to those set forth in § 30.1000, are set forth in Appendix B to this subchapter.

§ 30.501 General.

It is the policy of EPA to allocate rights to inventions that result from federally supported grants or fellowships that involve, or are likely to involve, research, developmental or experimental work, in accordance with the guidance and criteria set forth in the Statement of Government Patent Policy by the President of the United States on August 23, 1971 (36 F.R. 16887) (hereinafter referred to as "Statement"). The Statement sets forth in section 1 thereof three major categories (1(a), 1(b), and 1(c)) of contract or grant objectives, and prescribes the manner for allocation of rights to inventions that result from a grant or contract which falls within the particular category.

(a) Under section 1(a) of the Statement, the United States, at the time of grant award, normally acquires or reserves the right to acquire the principal or exclusive rights to any invention made under the grant or contract. Generally this is implemented by the United States taking all domestic rights to such invention. However, section 1(a) permits that in exceptional circumstances, the grantee may acquire greater rights than a nonexclusive license at the time of grant award where the Administrator certifies that such action will best serve the public interest. Section 1(a) also prescribes circumstances under which the grantee or contractor may acquire such greater rights after an invention is identified.

(b) Under section 1(b) of the Statement the grantee normally acquires principal rights at the time of grant award.

(c) Section 1(c) applies to grants that are not covered by section 1(a) or 1(b), and provides that allocation of rights is deferred until after inventions have been identified.

§ 30.502 Required patent provision.

Every EPA grant or fellowship involving research, developmental, or experimental work shall be deemed subject to section 1(a) of the Statement and shall include the patent provisions set forth in Appendix B to this subchapter.

§ 30.503 Request for rights to identified inventions.

A grantee or fellow may address a request for rights to a reported invention to the Grants Officer pursuant to any of the terms of the patent provisions (Appendix B).

§ 30.504 Data and copyrights.

§ 30.504–1 General.

EPA's data policy is to expedite general utilization or further development, of new or improved pollution prevention and abatement technology and procedures developed under EPA grants and fellowships. Therefore, it is most important that the results of EPA sponsored research include data that is sufficient to enable those skilled in the particular area to promptly utilize or further develop such technology and procedures. Availability of adequate data permits accurate assessment of the progress achieved under a grant or fellowship so that EPA priorities can be established.

§ 30.504–2 Required provision.

Every EPA grant or fellowship involving research, developmental or experimental work shall include the rights in data and copyrights provisions set forth in Appendix C to this subchapter.

§ 30.505 Deviations.

Any request for deviation from the patent provisions in Appendix B to this subchapter and from the rights in data and copyrights provisions in Appendix C to this subchapter must be submitted in writing pursuant to § 30.1001.

Subpart E—Administration and Performance of Grants

§ 30.600 General.

The primary responsibility for administration of a grant must remain with the grantee, who is responsible for the success of the project for which the grant was made. Although grantees are

encouraged to seek the advice and opinions of EPA on problems that may arise, the giving of such advice shall not shift the responsibility for final decisions to EPA. The primary concern of EPA is that granted funds be used to achieve the objectives of the grant project in a manner that will accord with program objectives and will make a maximum contribution to the betterment of the environment. Grantees and those assisting them on project work must direct their efforts to this end.

§ 30.601 Adherence to original budget estimates.

Expenditures shall follow the cost allocations (i.e., by budget line item or program elements) of the approved budget. The Grants Officer shall be notified of fund transfers among budget cost components (rebudgeting) pursuant to § 30.900.

§ 30.602 Payment.

EPA grant funds shall be paid in advance or by way of reimbursement, subject to such conditions as may be imposed pursuant to this Regulation for allowable project costs. Payments may be made periodically and shall be based upon estimated requirements or actual costs. Such payments may be increased or decreased by the amount that prior payments are less than or exceed the EPA share of the costs of the project. All payments will be recorded by the grantee in separate fund accounts which identify such grant funds and their disposition.

§ 30.602–1 Retention.

An amount not to exceed ten percent (10%) of the EPA grant funds may be withheld until the grantee has complied with all grant conditions, including the patent provisions (Appendix B), and with such other requirements as may be imposed pursuant to this Regulation, including the submission of reports.

§ 30.603 Grant related income.

Income derived from a project, including proceeds from the sale or disposition of assets (see § 30.800–3), during the period of EPA support until final settlement (see § 30.802) shall be credited to the EPA grant payments in a proportion equal to the ratio of the EPA grant to total project costs. Equitable title to interest or dividends earned or paid upon any deposit or investment by the grantee of grant funds shall vest in the United States, except where the grantee is a State (in accordance with OMB Circular No. A-98). Except as otherwise provided in this Regulation or in the grant agreement, such interest or dividends and refunds, rebates, and royalties from copyrights and patents shall be credited to the grant payments and fully accounted for by the grantee. State and local governments are not accountable for income earned by a facility in which the Federal financial participation was limited to assistance in developing, constructing, or equipping the facility.

§ 30.604 Grantee publications and publicity.

§ 30.604–1 Publicity.

Press releases and other public dissemination of information by the grantee shall acknowledge EPA grant support of the project.

§ 30.604–2 Publications.

Grantees shall give notice in writing to the Grants Officer at least 30 days, or such shorter period as the Grants Officer may allow, prior to the publication or other dissemination of information (other than publicity) resulting directly or indirectly from a grant supported activity. Any such written publication shall acknowledge Federal grant assistance by including a statement substantially as follows: "This project has been financed in part with Federal funds from the Environmental Protection Agency under grant number -------. The contents do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does mention of trade names or commercial products constitute endorsement or recommendation for use."

§ 30.604–3 Surveys and questionnaires.

A grantee (or party to subagreement) collecting information from the public on his own initiative in connection with an EPA supported project may not represent that the information is being collected by or for EPA without prior agency approval. If reference is to be made to EPA, prior clearance of plans and report forms must be requested by the grantee through the Grants Officer to assure compliance with the Federal Reports Act of 1942 (44 U.S.C. 3501–3511).

§ 30.604–4 Signs.

Where project work is visible to the public, the grantee shall erect and suitably display such informational sign(s) as the Grants Officer may approve to identify the project and EPA grant support.

§ 30.605 Accounting.

Accounting for project funds (including receipts, grantee contributions, and expenditures) will be in accordance with generally accepted accounting principles and practices, consistently applied, regardless of the source of funds. Supporting records of grant expenditures must be recorded in sufficient detail to show that grant funds were used for the purpose for which the grant was made.

§ 30.605–1 Personnel.

Salaries and wages, whether treated as direct costs or allocated as indirect costs, will be supported by appropriate time distribution records.

§ 30.606 Audits and inspections.

Grant records are subject to audit and inspection by the Comptroller General of the United States and EPA in addition to other audit and inspections provided for in the grant agreement or this Regulation.

§ 30.607 Reports.

Grantees shall prepare and submit to the Grants Officer an acceptable final report and such progress, financial and other reports relating to the conduct and results of the approved project as may be specified in the grant agreement. Failure to submit reports required by the grant agreement or this Regulation may result in (a) retention of grant funds (see § 30.602–1), (b) suspension or termination of the grant, (c) a finding of nonresponsibility for future grant awards (see § 30.304), or (d) such other action as the Grants Officer may be authorized to take.

Subpart F—Expenditures by Grantee

§ 30.700 Use of funds.

All Federal assistance received under EPA grants shall be expended by the grantee solely for carrying out the approved project in accordance with the terms of the grant agreement and this Regulation. The grantee may not delegate or transfer his responsibility for the use of such funds.

§ 30.701 Allocation and allowability of costs.

Except as otherwise provided by statute, allocation and allowability of costs will be governed in the case of grants to educational institutions by the provisions of Office of Management and Budget (OMB) Circulars Nos. A–21 (Revised), and A–88, and in the case of grants to State and local governments by the provisions of OMB Circular A–87. All other grants shall be governed by the policies and principles established in the Federal Procurement Regulations, Title 41, Code of Federal Regulations, Chapter 1, Subpart 1–15.2 to the greatest practicable extent.

§ 30.702 Cost sharing.

In addition to direct and in-kind contributions, the grantee's cost share (see § 30.207) may include allowable indirect costs. The grantee must maintain records to adequately evidence the required cost-sharing contribution in relation to actual allowable project costs.

Subpart G—Grantee Accountability

§ 30.800 Equipment, materials, or supplies.

Except as may be otherwise provided by law or in this Regulation or in the grant agreement, title to movable or fixed equipment, materials, or supplies (materials) shall vest in the grantee, subject to such equitable interest in the United States as may be provided for in this Regulation or in the grant agreement. The grantee shall assure that the interest of the United States in the materials is adequately reflected and protected in compliance with all recordation or registration requirements of the Uniform Commercial Code or other applicable local laws. Expenditures of project funds for materials may be allowed as

direct costs only to the extent such materials are required for the conduct of the approved project during the period for which EPA grant support is provided. Any materials on hand on the date of termination or conclusion of EPA grant support (excluding expendable supplies within such limitations as the Grants Officer may prescribe) shall be accounted for, or accountability waived, by one or a combination of the following methods:

§ 30.800–1 Waiver of equipment accountability.

Under research grants where the grantee is an organization within the terms of the Grant Act of September 6, 1958 (42 U.S.C. 1891–93), the obligation to account for the value of any fixed or movable equipment purchased with funds under a research grant may be waived.

§ 30.800–2 Retention by the grantee.

Upon written approval by the Grants Officer prior to the final accounting (see § 30.801), materials may be retained, without adjustment of accounts, for use by the grantee in the approved program or project, other EPA grants, or other Federal grant programs. Materials may be retained by the grantee for use in other operations provided that the grantee compensates the United States for the latter's equity in the property in the final accounting (see § 30.801) as part of final settlement (see § 30.802).

§ 30.800–3 Sale or other disposition by grantee.

Upon written approval by the Grants Officer prior to final accounting (see § 30.801), materials (a) may be sold by the grantee and the (1) net proceeds of sale or (2) fair market value at the time of sale, whichever is greater, shall be paid to the United States in the proportion which EPA assistance bears to the actual allowable project cost, or (b) may be disposed of in any other manner by the grantee upon payment to the United States of such proportion of the fair market value at time of final accounting.

§ 30.800–4 Transfer to the United States.

Prior to the final accounting the Grants Officer may require or approve, transfer of title to materials to the United States or its designee for such use or disposition as may be authorized by law, except for materials utilized in construction under grants, with equitable settlement for the grantee's matching share.

§ 30.800–5 Other provisions.

When materials purchased with grant funds are used for credit or "trade-in" on the purchase of new materials, the foregoing requirements shall apply to such new materials.

§ 30.801 Final accounting.

In addition such other accounting as may be required pursuant to this Regulation or the grant agreement, each grantee shall render an acceptable final account no later than 90 days following the end of the project period or the date of complete termination of grant support, whichever occurs first, or within such additional time as the Grants Officer may allow for good cause.

§ 30.802 Final settlement.

At the time EPA grant support for a project terminates or ceases, there shall be payable to the United States as final settlement the total sum of (a) any unexpended grant funds, (b) any amounts payable to the United States for equipment, materials, or supplies, (c) other grant related income, and (d) an amount equivalent to that portion of project costs which have been disallowed or which are unallowable, in proportion to the EPA share and to the extent grant payments therefor have been made. Such final settlement shall constitute a debt owed by the grantee to the United States and if not paid at the time of final accounting shall be recovered from the grantee or its successors by setoff or other action as provided by law.

Subpart H—Modification, Suspension and Termination of Grants

§ 30.900 Project changes.

§ 30.900–1 Notice of project changes.

The grantee shall promptly notify the Grants Officer in writing by certified mail (return receipt requested) of all project changes, including but not limited to:

(a) Rebudgeting (see § 30.601);

(b) Changes in the technical plans or specifications for the project;

(c) Acceleration or deceleration in the time for performance of the project, or any major phase thereof;

(d) Changes which may increase or decrease the total cost of a project;

(e) Changes which may affect the approved scope of a project;

(f) Changed site conditions;

(g) Changes in personnel identified as key personnel in the grant agreement;

(h) Absence of personnel identified as key personnel in the grant agreement from the project at critical project points or for periods of time longer than 3 months;

(i) Substantial reduction of effort on the project by personnel identified as key personnel in the grant agreement; or

(j) Changes or amendments to non-Federal enabling legislation, regulations, standards, ordinances, or enforcement procedures which may affect the project.

§ 30.900–2 Disapproval of project changes.

The Grants Officer may disapprove project changes in writing by certified mail (return receipt requested) not later than 3 weeks after receipt of notice pursuant to § 30.900–1. Failure on the part of the grantee to give notice pursuant to § 30.900–1 or disapproval by the Grants Officer of the proposed change shall result in disallowance of costs incurred which are attributable to the change or in termination of the grant. No action taken pursuant to this section shall commit or obligate the United States to any increase in the amount of a grant or payments thereunder, but shall not preclude consideration of a request for a grant amendment pursuant to § 30.901.

§ 30.901 Grant amendments.

Approved project changes which do not substantially alter the objective or scope of a project may give rise to grant amendments to increase or decrease the dollar amount, the term, or other provisions of a grant. A grant amendment shall be effected only by a written amendment to the grant agreement executed by the Grants Officer on behalf of the Government and by the Project Manager on behalf of the grantee entered into after the effective date of the grant. No grant amendment may be made unless the Grants Officer has received timely notification of the proposed project change and has approved the proposed change provided, that the Grants Officer, if he decides that the circumstances justify such action, may receive and act upon any request for grant amendment submitted prior to final payment under the grant. Failure to agree upon the amount of a grant amendment shall constitute a dispute under the "Disputes" article of the grant agreement.

§ 30.902 Suspension of grants.

Work on a project or on a portion or phase of a project for which a grant has been awarded may be ordered stopped by the Grants Officer pursuant to Article 4 of the Grant Conditions.

§ 30.902–1 Use of stop-work orders.

Work stoppage may be required for good cause including default by the grantee, failure to comply with the terms and conditions of the grant, realignment of programs, lack of adequate funding, or advancements in the state of the art. Inasmuch as stop work orders may result in increased costs to the Government by reason of standby costs, such orders will be issued only with prior approval at a level above the Grants Officer. Generally, use of a stop-work order will be limited to those situations where it is advisable to suspend work on the project or a portion or phase of the project for important program or agency considerations and a supplemental agreement providing for such suspension is not feasible. Although a stop-work order may be used pending a decision to terminate by mutual agreement or for other cause, it will not be used in lieu of the issuance of a termination notice after a decision to terminate has been made.

§ 30.902–2 Contents of orders.

Prior to issuance, stop-work orders should be discussed with the grantee and should be appropriately modified, in the light of such discussions. Stop-work orders should include (a) a clear description of the work to be suspended, (b) instructions as to the issuance of further orders by the grantee for materials or services, (c) guidance as to action to be taken on subagreements, and (d) other suggestions to the grantee for minimizing costs.

§ 30.902–3 Subsequent action.

As soon as feasible after a stop-work order is issued, (a) the grant will be terminated, or (b) the stop-work order will either be canceled or—if necessary and if the grantee agrees—be extended beyond the period specified in the order. In any event, this must be done before the specified stop-work period expires. When an extension of the stop-work order is necessary, it shall be evidenced by a written grant amendment. Any cancellation or bilateral extension of a stop-work order shall be subject to the same approvals as were required for the issuance of the order.

§ 30.902–4 Disputes provision.

Failure to agree upon the amount of an equitable adjustment due under a stop-work order shall constitute a dispute under the "Disputes" article of the grant instrument.

§ 30.903 Termination of grants.

A grant may be terminated in whole or in part by the Grants Officer pursuant to Article 5 of the Grant Conditions: *Provided*, That no termination will be effected without prior approval at a level above the Grants Officer.

§ 30.903–1 Termination agreement.

The parties may enter into an agreement to terminate the grant at any time pursuant to terms which are consistent with this Regulation.

§ 30.903–2 Project termination by grantee.

A grantee may not terminate a project for which a grant has been awarded except for good cause. If the Grants Officer finds that a grantee has terminated the project work without good cause, then he shall annul the grant and all EPA grant funds previously paid to the grantee shall be returned to the United States as final settlement. If the Grants Officer finds that there is good cause for the termination of project work, he shall (a) enter into a termination agreement pursuant to § 30.903–1 or (b) terminate the grant pursuant to § 30.903–3, effective with the date of termination of the project by the grantee.

§ 30.903–3 Termination by EPA.

The Grants Officer, by written notice and after consultation with the grantee, may terminate a grant, in whole or in part, pursuant to the Article 5 of the grant agreement, for cause including default by the grantee, failure to comply with the terms and conditions of the grant, realignment of programs or change in program requirements or priorities, lack of adequate funding, or advancements in the state of the art.

§ 30.903–4 Termination costs.

If a grant is terminated, the Government shall be liable only for payment in accordance with the termination provisions of the grant.

§ 30.903–5 Disputes provision.

Failure to agree upon the amount of termination costs or upon a good cause determination pursuant to § 30.903–2 shall constitute a dispute under the "Disputes" article of the grant agreement.

Subpart I—Miscellaneous

§ 30.1000 Definitions.

All terms used in this Regulation which are defined in the statutes cited in § 30.101 and which are not defined in this section, shall have the meaning given to them in the relevant statutes. As used throughout this Regulation, the words and terms defined in this paragraph shall have the meanings set forth below, unless (a) the context in which they are used clearly requires a different meaning, or (b) a different definition is prescribed for a particular part or portion thereof. The words and terms defined in this section shall have the meanings set forth herein whenever used in any correspondence, directives, orders, or other documents of the Environmental Protection Agency relating to grants, unless the context clearly requires a different meaning.

§ 30.1000–1 Administrator.

The Administrator or Acting Administrator of the U.S. Environmental Protection Agency.

§ 30.1000–2 Agency.

The U.S. Environmental Protection Agency (EPA).

§ 30.1000–3 Applicant.

Any party which has filed an application for a grant pursuant to this Regulation.

§ 30.1000–4 Budget.

The financial plan for expenditure of all funds for a project, including grant funds or other Federal assistance, which is developed by cost components in the grant application.

§ 30.1000–5 Budget period.

The length of time approved for funding in the grant agreement (see § 30.305–2).

§ 30.1000–6 Cost sharing.

Participation by the grantee in the cost of conducting the project (see § 30.207).

§ 30.1000–7 Educational institution.

Any institution which (a) has a faculty, (b) offers courses of instruction, and (c) is authorized to award a degree or certificate upon completion of a specific course of study.

§ 30.1000–8 Federal assistance.

The entire Federal contribution for a project including but not limited to the EPA grant amount.

§ 30.1000–9 Grant.

An award of funds or other assistance by a written grant agreement pursuant to this Regulation, except fellowships.

§ 30.1000–10 Grant agreement.

The written agreement and amendments thereto between EPA and a grant applicant in which the terms and conditions governing the grant are stated and agreed to by both parties pursuant to § 30.305.

§ 30.1000–11 Grantee.

A party which has accepted a grant award.

§ 30.1000–12 Grants officer.

Any employee of the Environmental Protection Agency who is exercising the responsibility for negotiating or coordinating the negotiation of terms and conditions of specific grants with grant applicants, or administering grants, and who is authorized to serve as EPA's principal contact with the grantee within the limits of his authority.

§ 30.1000–13 Matching share.

That portion of the project costs which is not derived from Federal assistance.

§ 30.1000–14 Nonprofit organization.

Any corporation, trust, foundation, or institution (a) which is entitled to exemption under section 501(c)(3) of the Internal Revenue Code, or (b) which is not organized for profit and no part of the net earnings of which inure to the benefit of any private shareholder or individual.

§ 30.1000–15 Project.

An undertaking for which grant funds are awarded.

§ 30.1000–16 Project costs.

All costs incurred by a grantee in accomplishing the objectives of a grant project, not limited to those costs which are allowable in computing the final EPA grant amount or total Federal assistance.

§ 30.1000–17 Project manager.

The person authorized and designated by the grantee to serve as the grantee's principal contact with EPA.

§ 30.1000–18 Project period.

The period of time approved by EPA for completion of a supported project.

§ 30.1000–19 Subagreement.

A written agreement between a grantee and a third party for the furnishing of services or supplies necessary to complete the project for which a grant was awarded, including contracts and purchase orders.

§ 30.1001 Deviation.

§ 30.1001–1 Applicability.

A deviation shall be considered to be any of the following:

(a) When a prescribed grant clause is set forth verbatim in this Regulation, use of a clause covering the same subject matter which varies from, or has the effect of altering, the prescribed clause, or changing its application;

(b) When a grant clause is set forth in this Regulation but not for use verbatim, use of a clause covering the same subject matter which is inconsistent with the intent, principle and substance

after receipt of notice. Failure on the part of work on the project for which this grant cording to law, any machine design, manu-

of the Regulation clause or related coverage of the subject matter;

(c) Omission of any mandatory grant clause;

(d) When an EPA or other form is prescribed by this Regulation, use of any other form for the same purpose;

(e) Alteration of an EPA or other form prescribed in this Regulation except as authorized herein;

(f) When limitations are imposed by this Regulation upon the use of a grant clause, form procedure, or any other grant action, the imposition of lesser or greater limitations; or

(g) When a policy, procedure, method or practice of administering or conducting grant actions is prescribed by this Regulation, any policy, procedure, method, or practice inconsistent therewith.

§ 30.1001–2 Request for deviation.

Requests for deviations from this Regulation shall be submitted as far in advance as the exigencies of the situation will permit. Where the deviation would involve more than a unique special situation, e.g., will affect grantees as a class, concurrence in the request for deviation by the appropriate Assistant or Regional Administrator(s) will be additionally required. Each request for a deviation shall contain as a minimum:

(a) Identification of the section of this Regulation from which a deviation is sought;

(b) A full description of the deviation and the circumstances in which it will be used;

(c) A description of the intended effect of the deviation;

(d) A statement as to whether the deviation has been requested previously, and if so, circumstances of the previous request;

(e) The name of the grantee and identification of the grant affected, including the dollar value; and

(f) Detailed reasons supporting the request, including any pertinent background information which will contribute to a fuller understanding of the deviation sought.

§ 30.1001–3 Approval of deviation.

Deviations from this Regulation will be authorized only when essential to effect necessary grant actions or where special circumstances make such deviations clearly in the best interests of the Government. Such deviations may be approved only by the Director of the Grants Administration Divison or his duly authorized representative, and a copy of such written approval shall be retained in the grant file.

PART 35—STATE AND LOCAL ASSISTANCE [RESERVED]

PART 40—RESEARCH AND DEMONSTRATIONS [RESERVED]

PART 45—TRAINING GRANTS AND FELLOWSHIPS [RESERVED]

APPENDIX A

GENERAL GRANT CONDITIONS

1. Access: The Government and any persons designated by the Grants Officer shall at all reasonable times have access to the premises where any portion of the project for which the grant was awarded is being performed. Subsequent to cessation of EPA grant support EPA personnel shall at all reasonable times have access to the project records (as defined in Article 2, below) and to the project site, to the full extent of the Grantee's right to access.

2. Audit and records: (a) The grantee shall maintain books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly (1) the amount, receipt and disposition by the grantee of all assistance received for the project, including both Federal assistance and any matching share or cost sharing, and (2) the total cost of the project, including all direct and indirect costs of whatever nature incurred for the performance of the project for which the EPA grant has been awarded. The foregoing constitute "records" for the purposes of this article.

(b) The grantee's facilities, or such facilities as may be engaged in the performance of the project for which the EPA grant has been awarded, and his records shall be subject at all reasonable times to inspection and audit by the Grants Officer, the Comptroller General of the United States, or any authorized representative, until completion of the project for which the EPA grant was awarded.

(c) The grantee shall preserve and make his records available to the Grants Officer, the Comptroller General of the United States, or any authorized representative (1) until expiration of 3 years from the date of final payment under this grant, or of the time periods for the particular records specified in 41 CFR Part 1–20, whichever expires earlier, and (2) for such longer period, if any, as is required by applicable statute or lawful requirement, or by (1) or (2) below.

(1) If this grant is terminated completely or partially, the records relating to the work terminated shall be preserved and made available for a period of 3 years from the date of any resulting final termination settlement.

(2) Records which relate to (i) appeals under the "Disputes" clause of this grant, (ii) litigation or the settlement of claims arising out of the performance of the project for which this grant was awarded, or (iii) costs and expenses of the project as to which exception has been taken by the Grants Officer or any of his duly authorized representatives, shall be retained until such appeals, litigation, claims, or exceptions have been disposed of.

3. Reports: The grantee shall prepare and file with the Grants Officer an acceptable final report and such progress, financial and other reports relating to the conduct and results of the approved project as are specified in the grant agreement. Failure to timely submit reports required by the grant agreement may result in (a) retention of grant funds pursuant to EPA–GR 30.602–1, (b) suspension of the grant pursuant to Article 4, EPA General Grant Conditions, (c) termination of the grant pursuant to Article 5, EPA General Grant Conditions, (d) a finding of nonresponsibility for future EPA grant awards pursuant to EPA–GR 30.304, or (e) such other action as the Grants Officer may be authorized to take.

4. Stop-work order: (a) The Grants Officer may, at any time, by written order to the grantee, require the grantee to stop all, or any part of the project work for a period of not more than thirty (30) days after the order is delivered to the grantee, and for any further period to which the parties may agree. Any such order shall be specifically identified as a stop-work order issued pursuant to this clause. Upon receipt of such an order, the grantee shall forthwith comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of not more than thirty (30) days after a stop-work order is delivered to the grantee, or within any extension of that period to which the parties shall have agreed, the Grants Officer shall either—

(1) Cancel the stop-work order, or

(2) Terminate the work covered by such order as provided in the "Termination" article of this grant.

(b) If a stop-work order issued under this article is canceled or the period of the order or any extension thereof expires, the grantee shall resume work. An equitable adjustment shall be made in the grant period, the project period, or grant amount, or all of these, and the grant instrument shall be amended accordingly, if:

(1) The stop-work order results in an increase in the time required for, or in the grantee's cost properly allocable to, the performance of any part of the project, and

(2) The grantee asserts a written claim for such adjustment within thirty (30) days after the end of the period of work stoppage: *Provided*, That if the Grants Officer decides the circumstances justify such action, he may receive and act upon any such claim asserted at any time prior to final payment under this grant.

(c) If a stop-work order is not canceled and the work covered by such order is terminated, the reasonable costs resulting from the stop-work order shall be allowed in arriving at the termination settlement.

(d) Costs incurred by the grantee after a stop-work order is delivered, or within any extension of the stop-work period to which the parties shall have agreed, which are not authorized by this article or by the Grants Officer shall not be allowable costs.

5. Termination: (a) *Grant Termination by EPA.* The Grants Officer, by written notice and after consultation with the grantee, may terminate the grant, in whole or in part: *Provided*, That such termination action has been authorized and approved by the appropriate EPA official(s) superior to the Grants Officer. Cause for termination shall include, but not be limited to, default by the grantee, failure by the grantee to comply with the terms and conditions of the grant, realignment of programs, change in program requirements or priorities, lack of adequate funding, or advancements in the state of the art. Upon such termination, the grantee shall refund to the United States any unexpended grant funds, except such portion thereof as may be required by the grantee to meet commitments which had become firm prior to the effective date of termination and are otherwise allowable.

(b) *Project termination by grantee.* A grantee may not terminate a project for which the grant has been awarded, except for good cause. If the Grants Officer finds that there is good cause for the termination of all or any portion of a project for which the grant has been awarded, he shall enter into a termination agreement or unilaterally terminate the grant, effective with the date of termination of the project by the grantee. If the Grants Officer finds that the grantee has terminated the project without good cause, then he shall annul the grant and all EPA grant funds previously paid or owing to the grantee shall be returned to the United States as final settlement.

6. Project changes: The grantee shall promptly notify the Grants Officer in writing of all project changes pursuant to the provisions of EPA–GR 30.900. The Grants Officer may disapprove proposed project changes by written notice to the grantee within 3 weeks after receipt of notice. Failure on the part of the grantee to give timely notice of proposed project changes or disapproval by the Grants Officer of a project change may result in disallowance of costs incurred which are attributable to the change or in termination of the grant. Neither approval nor failure to disapprove a project change shall commit or obligate the United States to any increase in the amount of the grant or payments thereunder, but shall not preclude consideration of a request for a grant amendment. A grant amendment may not alter the objective or scope of a project for which the grant has been awarded.

7. Disputes: (a) Except as otherwise provided by law or any other grant provision, any dispute arising under this grant which is not disposed of by agreement shall be decided by the Grants Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the grantee. The decision of the Grants Officer shall be final and conclusive unless, within 30 days from the date of receipt of such copy, the grantee mails or otherwise furnishes to the Grants Officer a written appeal address to the Administrator. The decision of the Administrator or his duly authorized representative for the determination of such appeal, shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with an appeal proceeding under this clause, the grantee shall be afforded an opportunity to be heard and to offer evidence in support of any appeal.

(b) This "disputes" clause does not preclude consideration of questions of law in connection with decisions provided for in paragraph (a) above: *Provided*, That nothing in this grant shall be construed as making final the decision of any administrative official, representative, or board, on a question of law.

8. Equal opportunity: During the performance of the project for which this grant is awarded, the grantee agrees to comply with the Civil Rights Act of 1964, 42 U.S.C. 2000a et seq., as amended and all Executive Orders and regulations promulgated pursuant thereto.

9. Covenant against contingent fees: The grantee warrants that no person or agency has been employed or retained to solicit or secure this grant upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide offices established and maintained by the grantee for the purpose of securing grants or business. For breach or violation of this warranty, the Government shall have the right to annul this grant without liability or in its discretion to deduct from the grant award, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

10. Officials not to benefit: No member of, or delegate to Congress, or Resident Commissioner, shall be permitted to any share, or part of this grant, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this grant if made with a corporation for its general benefit.

11. Subagreements: All subagreements in excess of $2,500 and not identified in the approved budget require the written approval of the Grants Officer. All subagreements must be in writing. A subagreement may not be in the nature of a grant. A copy of each subagreement shall be furnished to the Grants Officer upon request.

12. Requirements pertaining to federally assisted construction: The grantee warrants and represents that during the performance of work on the project for which this grant has been awarded, it will comply, and will ensure that parties to subagreements will comply, with the following requirements:

(a) The Davis-Bacon Act, as amended, 40 U.S.C. 276a et seq., 276c, and the regulations issued thereunder, 29 CFR 5.1 et seq., respecting wage rates for federally assisted construction contracts in excess of $2,000;

(b) The Copeland (Anti-Kickback) Act, 18 U.S.C. 874, 40 U.S.C. 276c, and the regulations issued thereunder, 29 CFR 3.1 et seq.;

(c) The Contract Work Hours and Safety Standards Act, 40 U.S.C. 327 et seq., and the regulations issued thereunder;

(d) The Uniform Relocation Assistance and Land Acquisition Policies Act of 1970, 42 U.S.C. 4621 et seq., 4651 et seq.;

(e) Convict labor shall not be used in such construction unless it is labor performed by convicts who are on work release, parole or probation.

APPENDIX B

PATENTS AND INVENTIONS

A. Definitions: (1) "Background Patent" means a foreign or domestic patent (regardless of its date of issue relative to the date of the EPA grant):

(i) Which the grantee, but not the Government, has the right to license to others, and

(ii) Infringement of which cannot be avoided upon the practice of a Subject Invention or Specified Work Object.

(2) "Commercial Item" means—

(i) Any machine, manufacture, or composition of matter which, at the time of a request for a license pursuant to part D of this appendix, has been sold, offered for sale or otherwise made available commercially to the public in the regular course of business, at terms reasonable in the circumstances, and

(ii) Any process which, at the time of a request for a license, is in commercial use, or is offered for commercial use, so the results of the process or the products produced thereby are or will be accessible to the public at terms reasonable in the circumstances.

(3) "Specified Work Object" means the specific process, method, machine, manufacture or composition of matter (including relatively minor modifications thereof) which is the subject of the experimental, developmental, or research work performed under this grant.

(4) "Grantee" is the party which has accepted this grant award and includes entities controlled by the grantee. The term "controlled" means the direct or indirect ownership of more than 50 percent of outstanding stock entitled to vote for the election of directors, or a directing influence over such stock: *Provided, however*, That foreign entities not wholly owned by the grantee shall not be considered as "controlled."

(5) "Subagreement" includes subagreements at any tier under this grant.

(6) "Domestic" and "foreign" refer, respectively, (i) to the United States of America, including its territories and possessions, Puerto Rico and the District of Columbia and (ii) to countries other than the United States of America.

(7) "Government" means the Federal Government of the United States of America.

(8) "Subject Invention" means any invention, discovery, improvement or development (whether or not patentable) made in the course of or under this grant or any subagreement (at any tier) thereunder.

(9) "Made," when used in connection with any invention, means the conception of first actual reduction to practice of such invention.

(10) To "practice an invention or patent" means the right of a licensee on his own behalf to make, have made, use or have used, sell or have sold, or otherwise dispose of according to law, any machine, design, manufacture, or composition of matter physically embodying the invention, or to use or have used the process or method comprising the invention.

(11) The term "to bring to the point of practical application" means to manufacture in the case of composition or product, to use in the case of a process, or to operate in the case of a machine and, under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

(12) "Statement" means the President's Patent Policy Statement of August 23, 1971, 36 F.R. 16,889, August 26, 1971.

B. Domestic patent rights in Subject Inventions: (1) The grantee agrees that he will promptly disclose to the Grants Officer in writing each Subject Invention in a manner sufficiently complete as to technical details to convey to one skilled in the art to which the invention pertains a clear understanding of the nature, purpose, operation and, as the case may be, the physical, chemical, biological, or electrical characteristics of the invention. However, if any Subject Invention is obviously unpatentable under the patent laws of the United States, such disclosure need not be made thereon. On request of the Grants Officer, the grantee shall comment respecting the differences or similarities between the invention and the closest prior art drawn to his attention.

(2) Except in the instance of a determination, pursuant to paragraph (3) of this section, by the Administrator to leave to the grantee, rights greater than a nonexclusive license, the grantee agrees to grant and does hereby grant to the Government the full and entire domestic right, title, and interest in the Subject Invention. The Government may upon written request, grant to the grantee a revocable or irrevocable, as deemed appropriate, royalty-free and nonexclusive license to practice the Subject Invention. Any such license granted shall extend to any existing and future companies, controlled by, controlling or under common control with the grantee and shall be assignable to the successor of the part of the grantee's business to which such invention pertains.

(3) Not later than (3) months after the disclosure of a Subject Invention pursuant to paragraph (1) of this section, and without regard to whether the invention is a primary object of this grant, the grantee may submit a request in writing to the Grants Officer for a determination by the Administrator leaving the grantee greater rights than that reserved to the grantee in paragraph (2) of this section. Such request should set forth information and facts which in the grantee's opinion, would justify a determination that:

(i) In the case of a Subject Invention which is clearly a primary object of this grant, the acquisition of such greater rights by the grantee is both consistent with the intent of section 1(a) of the Statement and is either, a necessary incentive to call forth private risk capital and expense to bring the invention to the point of practical application or is justified because the Government's contribution to such invention is small compared to that of the grantee; or that

(ii) The Subject Invention is not a primary object of this grant, and that the acquisition of such greater rights will serve the public interest as expressed in the Statement, particularly when taking into account the scope and nature of the grantee's stated intentions to bring the invention to the point of commercial application and the guidelines of section 1(a) of the Statement.

The Administrator will review the grantee's request for greater rights and will make a determination, either granting the request in whole or in part, or denying the request in its entirety. The grantee will be notified of such determination.

(4) In the event greater rights in any Subject Invention are vested in or granted to the grantee pursuant to paragraph (3) of this section:

(i) The grantee's rights in such inventions shall, as a minimum, be subject to a nonexclusive, nontransferable, paid-up license to the Government to practice the invention throughout the world by or on behalf of the Government (including any Government agency) and States and domestic municipal governments, unless the Administrator determines that it would not be in the public interest to acquire the license for the States and domestic municipal governments; and said license shall include the right to sublicense any foreign government pursuant to any existing or future treaty or agreement if the Administrator determines it woud be in the national interest to acquire this right; and

(ii) The grantee further agrees to and does hereby grant to the Government the right to require the granting of a license to a responsible applicant(s) under any such invention:

(a) On a nonexclusive or exclusive basis on terms that are reasonable under the circumstances, unless the grantee, its licensees or its assignees demonstrate to the Government, at the Government's request, that effective steps have been taken within three (3) years after a patent issued on any such invention to bring it to the point of practical application or that it has been made available for licensing royalty-free or on terms that are reasonable in the circumstances, or can show cause why the time period should be extended or

(b) On a nonexclusive or exclusive basis on terms that are reasonable in the circumstances to the extent that the invention is required for public use by Governmental regulations or as may be necessary to fulfill health or safety needs or for such other public purposes as are stipulated in this grant and

(iii) The grantee shall file in due form and within six (6) months of the granting of such greater rights a U.S. patent application claiming the Subject Invention and shall furnish, as soon as practicable, the information and materials required under paragraph (2) of section F. As to each Subject Invention in which the grantee has been given greater rights, the grantee shall notify the Grants Officer at the end of six (6) months period if he has failed to file or caused to be filed a patent application covering such invention. If the grantee has filed or caused to be filed such an application within six (6) month period but elects not to continue prosecution of such application, he shall so notify the Grants Officer not less than sixty (60) days before the expiration of the response period. In either of the situations covered by the two immediately preceding sentences, the Government shall be entitled to all right, title and interest in such Subject Inventions subject to the reservation to the grantee of a royalty-free, nonexclusive license therein.

(iv) The grantee shall, if requested by the Government, either before or after final closeout of this grant, furnish written reports at reasonable intervals, as to:

(a) The commercial use that is being made or is intended to be made of such invention;

(b) The steps taken by the grantee to bring such invention to the point of practical application, or to make the invention available for licensing.

C. Foreign rights and obligations: (1) Subject to the waiver provisions of paragraph (2) of this section, it is agreed that the entire foreign right, title and interest in any subject invention shall be in the Government, as represented for this purpose by the Administrator. The Government agrees to grant and does hereby grant to the grantee a royalty-free nonexclusive license to practice the invention under any patent obtained on such subject invention in any foreign country. The license shall extend to existing and any future companies controlled by controlling or under common control with the grantee, and shall be assignable to the successor of the part of the grantee's business to which such invention pertains.

(2) The grantee may request the foreign rights to a subject invention at any time subsequent to the reporting of such invention. The response to such request and notification thereof to the grantee will not be unreasonably delayed. The Government will waive title to the grantee to such subject invention in foreign countries in which the Government will not file an application for a patent for such invention, or otherwise secure protection therefor. Whenever the grantee is authorized to file in any foreign country the Government will not thereafter proceed with filing in such country except on the written agreement of the grantee, unless such authorization has been revoked pursuant to paragraph (3) of this section.

(3) In the event the grantee is authorized to file a foreign patent application on a subject invention, the Government agrees that it will use its best efforts not to publish a description of such invention until a United States or foreign application on such invention is filed, whichever is earlier, but neither the Government, its officers, agents or employees shall be liable for an inadvertent publication thereof. If the grantee is authorized to file in any foreign country, he shall, on request of the Grants Officer, furnish to the Government a patent specification in English within six (6) months after such authorization is granted, prior to any foreign filing and without additional compensation. The Grants Officer may revoke such authorization on failure on the part of the grantee to file any such foreign application within nine (9) months after such authorization has been granted.

(4) If the grantee files patent applications in foreign countries pursuant to authorization granted under paragraph (2) of this section, the grantee agrees to grant to the Government an irrevocable, nonexclusive, paid-up license to practice by or on its behalf the invention under any patents which may issue thereon in any foreign country. Such license shall include the right to issue sublicenses pursuant to any existing or future treaties or agreements between the Government and a foreign government for uses of such foreign government, provided the Administrator determines that it is in the national interest to acquire such right to sublicense. The grantee further agrees to grant under such foreign patents a nonexclusive royalty-free license (i) to sell and to use, but not to make, any composition of matter, article of manufacture, apparatus or system, made under a license granted by the Government to practice the Subject Invention in the United States, and (ii) to practice any process comprising the Subject Invention. Said licensees must be U.S. citizens or U.S. corporations in which 75 percent of the voting stock is owned by U.S. citizens.

(5) In the event the Government or the grantee elects not to continue prosecuting any foreign application or to maintain any foreign patent on a Subject Invention, the other party shall be notified no less than sixty (60) days before the expiration of the response period or maintenance tax due date, and upon written request, shall execute such instruments (prepared by the party wishing to continue the prosecution or to maintain such patent) as are necessary to enable such party to carry out its wishes in this regard.

D. Licenses under Background Patents: (1) The grantee agrees that he will make his Background Patent(s) available for use in conjunction with a Subject Invention or Specified Work Object for use in the specific field of technology in which the purpose of this grant or the work called for or required thereunder falls. This may be done (i) by making available, in quality, quantity, and price all of which are reasonable to the circumstances, an embodiment of the Subject Invention or Specified Work Object, which incorporates the invention covered by such Background Patent, as a Commercial Item, or (ii), by the sale or an embodiment of such Background Patent as a Commercial Item in a form which can be employed in the practice of a Subject Invention or Specified Work Object or can be so employed with relatively minor modifications, or (iii) by the licensing of the domestic Background Patent(s) at reasonable royalty to responsible applicants on their request.

(2) If the Administrator determines after a hearing that the quality, quantity, or price of embodiments of the Subject Invention or Specified Work Object sold or otherwise made available commercially as set forth in (D) (1) (i) is unreasonable in the circumstances, he may require the grantee to license such domestic Background Patent to a responsible applicant at reasonable terms, including a reasonable royalty, for use in the specific field of technology in which the purpose of this grant or the work called for thereunder falls, and for use in connection with (i) a Specified Work Object, or (ii) a Subject Invention.

(3) (i) When a license to practice a domestic Background Patent in conjunction with a Subject Invention or Specified Work Object is requested, in writing by a responsible applicant, for use in the specific field of technology in which the purpose of this grant or the work called for thereunder falls, and such Background Patent is not available as set forth in D(1) (i) or (ii), the grantee shall have six (6) months from the date of his receipt of such request to decide whether to make such Background Patent so available. The grantee shall promptly notify the Grants Officer of any request in writing for a license to practice a Background Patent in conjunction with a Subject Invention or Specified Work Object, which the grantee or his exclusive licensee wish to attempt to make available as set forth in D(1) (i) or (ii).

(ii) If the grantee decides to make such domestic Background Patent so available either by himself or by an exclusive licensee, he shall so notify the Administrator within the said six (6) months, whereupon the Administrator shall then designate the reasonable time within which the grantee must make such Background Patent available in reasonable quantity and quality, and at a reasonable price. If the grantee or his exclusive licensee decides not to make such Background Patent so available, or fails to make it available within the time designated by the Administrator, the Background Patent shall be licensed to a responsible applicant at reasonable terms, including a reasonable royalty, in conjunction with (a) a Specified Work Object, or (b) a Subject Invention, and may be limited to the specific field of technology in which the purpose of this grant or the work called for thereunder falls.

(iii) The grantee agrees to grant or have granted to a designated applicant, upon the

written request of the Government, a nonexclusive license at reasonable terms, including reasonable royalties, under any foreign Background Patent in furtherance of any treaty or agreement between the Government of the United States and a foreign government for practice by or on the behalf of such foreign government, if an embodiment of the Background Patent is not commercially available in that country: *Provided, however,* That no such license will be required unless the Administrator determines that issuance of such license is in the national interest. Such license may be limited by the licensor to the practice of such Background Patent in conjunction with a Subject Invention or a Specified Work Object and for use in only the specific field of technology in which the purpose of this grant or the work called for thereunder falls.

(iv) The grantee agrees it will not seek injunctive relief or other prohibition of the use of the invention in enforcing its rights against any responsible applicant for such license and that it will not join with others in any such action. It is understood and agreed that the foregoing shall not affect the grantee's right to injunctive relief or other prohibition of the use of Background Patents in areas not connected with the practice of a Subject Invention or Specified Work Object in the specific field of technology in which the purpose of this grant or the work called for thereunder falls, or where the grantee has made available a Commercial Item as set out in paragraph D(1) (i) or (ii).

(4) For use in the specific field of technology in which the purpose of this grant or the work called for thereunder falls, and in conjunction with a Subject Invention or a Specified Work Object, the grantee agrees to grant to the Government a license under any Background Patent. Such license shall be nonexclusive, nontransferable, royalty-free and worldwide to practice such patent which is not available as a Commercial Item as specified in paragraph D(1) (ii) for use of the Federal Government in connection with pilot plants, demonstration plants, test beds, and test modules. For all other Government uses, any royalty charged the Government under such license shall be reasonable and shall give due credit and allowance for the Government's contribution, if any, toward the making, commercial development or enhancement of the invention(s) covered by the Background Patent.

(5) Any license granted under a process Background Patent for use with a Specified Work Object shall be additionally limited to employment of the Background Patent under conditions and parameters reasonably equivalent to those called for or employed under this grant.

(6) It is understood and agreed that the grantee's obligation to grant licenses under Background Patents shall be limited to the extent of the grantee's right to grant the same without breaching any unexpired contract it had entered into prior to this grant or prior to the identification of a Background Patent, or without incurring any obligation to another solely on account of said grant. However, where such obligation is the payment of royalties or other compensation, the grantee's obligation to license his Background Patents shall continue and the reasonable license terms shall include such payments by the applicant as will at least fully compensate the grantee under said obligation to another.

(7) On the request of the Grants Officer the grantee shall identify and describe any license agreement which would limit his right to grant licenses under any Background Patent.

(8) In the event the grantee has a parent or an affiliated company, which has the right to license a patent which would be a Background Patent if owned by the grantee, but which is not available as a Commercial Item as specified in paragraph D(1) (i) or (ii), and a qualified applicant requests a license under such patent for use in the specific field of technology in which the purpose of this contract or the work called for thereunder falls, and in connection with the use of a Subject Invention or Specified Work Object, the grantee shall, at the written request of the Government, recommend to his parent company, or affiliated company, as the case may be, the granting of the requested license on reasonable terms, including reasonable royalties, and actively assist and participate with the Government and such applicant, as to technical matters and in liaison functions between the parties, as may reasonably be required in connection with any negotiations for issuance of such license. For the purpose of this subparagraph, (i) a parent company is one which owns or controls, through direct or indirect ownership of more than 50 percent of the outstanding stock entitled to vote for the election of directors, another company or other entity and, (ii) affiliated companies are companies or other entities owned or controlled by the same parent company.

E. Related inventions: The grantee shall submit to the Grants Officer within six (6) months after the submission of the final invention report submitted pursuant to paragraph F(6), written information concerning the conception or actual reduction to practice, or both, as may be applicable, of every invention made by the grantee pertaining to the work called for in this grant which was conceived or first actually reduced to practice within the period of three (3) months prior, during, or three (3) months subsequent to the term of this grant, which invention would be a Subject Invention if made under this grant, but which the grantee believes was made outside the performance of work required under this grant. The Grants Officer may require additional information to be furnished in confidence by the grantee. At the request of the Grants Officer made during or subsequent to the term of this grant including any extensions for additional research and development work, the grantee shall furnish information concerning any other invention which appears to the Grants Officer to reasonably have the possibility of being a Subject Invention.

All information supplied by the grantee hereunder shall be of such nature and character as to enable the Grants Officer reasonably to ascertain whether or not the invention concerned is a Subject Invention. Failure to furnish such information called for herein shall, in any subsequent proceeding, place on the grantee the burden of going forward with the evidence to establish that such invention is not a Subject Invention. If such evidence is not then presented the invention shall be deemed to be a Subject Invention. After receipt of information furnished pursuant hereto, the Grants Officer shall not unduly delay rendering his opinion on the matter. The Grants Officer's decision shall be subject to the Disputes Clause of the grant. The grantee may furnish the information required under this section E as grantee confidential information, which shall be identified as such.

F. General provisions: (1) The grantee shall obtain the execution of and deliver to the Grants Officer any document relating to Subject Inventions as the Grants Officer may require under the terms hereof to enable the Government to file and prosecute patent applications therefor in any country and to evidence and preserve its rights. Each party hereto agrees to execute and deliver to the other party on its request suitable documents to evidence and preserve license rights derived from this appendix.

(2) The Government and the grantee shall promptly notify each other of the filing of a patent application on a Subject Invention in any country, identifying the country or countries in which such filing occurs and the date and serial number of the application, and on request shall furnish a copy of such application to the other party and a copy of any action on such patent application by any Patent Office and the responses thereto. Any applications or responses furnished shall be kept confidential.

(3) Any other provisions of this appendix notwithstanding, the Grants Officer, or his authorized representative shall, until the expiration of three (3) years after final payment under this grant, have the right to examine in confidence any books, records, documents, and other supporting data of the grantee which the Grants Officer or his authorized representative shall reasonably deem directly pertinent to the discovery or identification of Subject Inventions or to the compliance by the grantee with the requirements of this appendix.

(4) Notwithstanding the grant of a license under any patents to the Government pursuant to any provisions of this appendix, the Government shall not be prevented from contesting the validity, enforceability, scope, or title of such licensed patent.

(5) The grantee shall furnish to the Grants Officer every 12 months, or earlier as may be agreed in this grant (the initial period shall commence with the date of award of this grant) a interim report listing all Subject Inventions required to be disclosed which were made during the interim reporting period or certify that there are no such unreported inventions.

(6) The grantee shall submit a final report under this grant listing all Subject Inventions required to be disclosed which were made in the course of the work performed under this grant, and all subagreements subject to this appendix. If to the best of the grantee's knowledge and belief, no Subject Inventions have resulted from this grant, the grantee shall so certify to the Grants Officer. If there are no such subagreements, a negative report is required.

(7) The interim and final reports submitted under F (5) and (6) and Subject Invention disclosures required under B(1) shall be submitted on EPA forms which will be furnished by the Grants Officer on request. Any equivalent form approved by the Grants Officer may be used in lieu of EPA forms. Such reports and disclosures shall be submitted in triplicate.

(8) Any action required by or of the Government under this patent provision shall be undertaken by the Grants Officer as its duly authorized representative unless otherwise stated.

(9) The Government may duplicate and disclose reports and disclosures of Subject Inventions required to be furnished by the grantee pursuant to this appendix without additional compensation.

(10) The grantee shall furnish to the Grants Officer, in writing, and as soon as practicable, information as to the date and identity of any first public use, sale or publication of any Subject Invention made by or known to the grantee, or of any contemplated publication of the grantee.

(11) The Administrator shall determine the responsibility of an applicant for a license under any provision of this patent provision when this matter is in dispute and his detremination thereof shall be final and binding.

(12) The grantee shall furnish promptly to the Grants Officer on request an irrevocable power to inspect and make copies of each U.S. patent application filed by or on

behalf of the grantee covering any Subject Invention.

(13) The grantee shall include in the first paragraph in any U.S. patent application which it may file on a Subject Invention the following statement:

This invention resulted from work done under Grant No. ---------- with the Environmental Protection Agency and is subject to the terms and provisions of said Grant.

(14) All information furnished in confidence pursuant to this appendix shall be clearly identified by an apppropriate written legend. Such information shall be subject to the provisions of the Freedom of Information Act, 5 U.S.C. 552 and shall in any event cease to be confidential if it is or becomes generally available to the public, or has been made or becomes available to the Government (i) from other sources, or (ii) by the grantee without limitation as to use, or was already known to the Government when furnished to it.

(15) Any action by the Grants Officer affecting the disposition of rights to patents or inventions pursuant to this appendix shall be taken only after review by the Office of General Counsel.

G. Warranties: (1) The grantee warrants that whenever he has divested himself of the right to license any Background Patent (or any invention owned by the grantee which could become the subject of a Background Patent) prior to the date of this grant, such divestment was not done to avoid the licensing requirements set forth in section D of this appendix. After a Background Patent, or invention which could become the subject of a Background Patent, is identified, the grantee shall take no action which shall impair the performance of his obligation to issue Background Patent licenses pursuant to this grant.

(2) The grantee warrants that he will take no action which will impair his obligation to assign to the Government any invention first actually conceived or reduced to practice in the course of or under this grant.

(3) The grantee warrants that he has full authority to make obligations of this appendix effective, by reason of agreements with all of the personnel, including consultants who might reasonably be expected to make inventions, and who will be employed in work on the project for which the grant has been awarded, to assign to the grantee all discoveries and inventions made within the scope of their employment.

H. Subagreements: This appendix shall be included in any subagreement over $10,000 under this grant where a purpose of the subagreement is the conduct of experimental, developmental or research work, unless the Grants Officer authorizes the omission or modification of this appendix. The grantee shall not acquire any rights to Subject Inventions made under such subagreement for his own use (as distinguished from such rights as may be required solely to fulfill his grant obligations to the Government in performance of this grant). Upon completion of work under such a subagreement, the grantee shall promptly notify the Grants Officer in writing of such completion, and shall upon request furnish a copy of the subagreement to the Grants Officer. The grantee hereby assigns to the Government all rights of the grantee to enforce the obligations of the party to such subagreement with respect to Subject Inventions, Background Patents, and pursuant to section E of this appendix. The grantee shall cooperate with the Government at the Government's request and expense in any legal action to secure the Government's rights.

APPENDIX C

RIGHTS IN DATA AND COPYRIGHTS

1. The term "Subject Data" as used herein includes writings, sound recordings, magnetic recordings, pictorial reproductions, drawings, or other graphical representations, and works of any similar nature (whether or not copyrighted) which are specified to be delivered under this grant. The term does not include financial reports, cost analyses, and other information incidental to grant administration.

2. Except as may otherwise be provided in the grant agreement, when publications, films, or similar materials are developed directly or indirectly from a project supported by the Environmental Protection Agency, the author is free to arrange for copyright without approval. However, such materials shall include acknowledgement of EPA grant assistance. The grantee agrees to and does hereby grant to the Government, and to its officers, agents, and employees acting within the scope of their official duties, a royalty-free, nonexclusive, and irrevocable license throughout the world for Government purposes to publish, translate, reproduce, deliver, perform, dispose of, and to authorize other so to do, all Subject Data, or copyrightable material based on such data, now or hereafter covered by copyright.

3. The grantee shall not include in the Subject Data any copyrighted matter, without the written approval of the Grants Officer, unless he provides the Government with the written permission of the copyright owner for the Government to use such copyrighted matter in the manner provided in article 2 above.

4. The grantee shall report to the Grants Officer, promptly and in reasonable written detail, each notice or claim of copyright infringement received by the grantee with respect to all Subject Data delivered under this grant.

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[FR Doc.71-17089 Filed 11-26-71;8:45 am]

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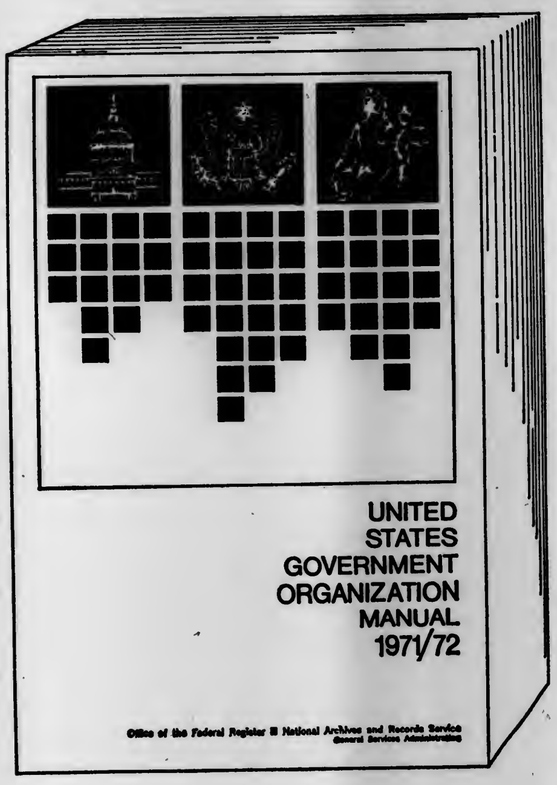

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PART 213—EXCEPTED SERVICE

Department of Commerce

Section 213.3314 is amended to reflect the following title change: from Secretarial Assistant to the Director, Bureau of Domestic Commerce to Executive Assistant to the Director, Bureau of Domestic Commerce.

Effective on publication in the FEDERAL REGISTER (11–30–71), subparagraph (11) of paragraph (m) of § 213.3314 is amended as set out below.

§ 213.3314 Department of Commerce.

* * * * *

(m) *Office of the Assistant Secretary for Domestic and International Business.* * * *

(11) One Executive Assistant to the Director, Bureau of Domestic Commerce.

* * * * *

(5 U.S.C. Secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71–17370 Filed 11–29–71;8:45 am]

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 725—FLUE-CURED TOBACCO

Subpart—Proclamations, Determinations and Announcement of National Marketing Quotas and Referendum Results

DETERMINATIONS AND ANNOUNCEMENTS 1972–73 MARKETING YEAR

Basis and purpose. Section 725.2 is issued pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended, hereinafter referred to as the "Act", to (1) determine and announce the reserve supply level and total supply for Flue-cured tobacco, and (2) determine and announce for Flue-cured tobacco for the marketing year beginning July 1, 1972, the amount of the national marketing quota; the national average yield goal; the national acreage allotment; the reserve for making corrections in farm acreage allotments, adjusting inequities, and for establishing acreage allotments for new farms; the national acreage factor; and the national yield factor. The material previously appearing in this section under centerhead Determinations and Announcements—1971–72 Marketing Year remain in full force and effect as to the crop to which it was applicable.

The determinations by the Secretary contained in § 725.2 have been made on the basis of the latest available statistics of the Federal Government. Due consideration has been given data, views, and recommendations received from Flue-cured tobacco producers and others pursuant to a notice (36 F.R. 15758) given in accordance with the provisions of 5 U.S.C. 553. As to the national marketing quota, national average yield goal, and national acreage allotment for the 1972–73 marketing year, respondents preponderantly recommended keeping the quota, yield goal, and allotment about the same as for the 1971–72 marketing year.

Since farmers are now making their plans for 1972 production of Flue-cured tobacco and need to know the acreage allotments and marketing quotas for their farms for 1972 in order to be able to make definite decisions, it is hereby found that compliance with the 30-day effective date provision of 5 U.S.C. 553 is impracticable and contrary to the public interest. Therefore, the determinations and announcements contained herein shall become effective upon the date of publication in the FEDERAL REGISTER.

Section 317(a)(1) provides, in part, that for Flue-cured tobacco, the national marketing quota for a marketing year is the amount of Flue-cured tobacco produced in the United States which the Secretary estimates will be utilized during the marketing year in the United States and will be exported during the marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level.

The reserve supply level is defined in the the Act as 105 percent of the normal supply. The normal supply is defined in the Act as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic consumption and 65 percent of a normal year's exports. A normal year's domestic consumption is defined in the Act as the yearly average quantity produced in the United States and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption. A normal year's exports is defined in the Act as the yearly average quantity produced in the United States which was exported from the United States during the 10 marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports. The 10-year average domestic consumption during the 10 marketing years preceding the 1971–72 marketing year was 719 million pounds, and the 10-year average exports during such period amounted to 499 million pounds. After adjustment for trends, a normal year's domestic consumption of 667 million pounds and a normal year's exports of 530 million pounds appear reasonable, and result in a reserve supply level of 2,844 million pounds.

The carryover of Flue-cured tobacco in the hands of dealers and manufacturers and under Government loan on July 1, 1971, amounted to 1,976 million pounds, farm sales weight. The 1971 crop is currently estimated at 1,102 million pounds. The sum of these, 3,078 million pounds, represents the total supply of Flue-cured tobacco for the 1971–72 marketing year. This is 234 million pounds in excess of the reserve supply level.

It is estimated that 620 million pounds of Flue-cured tobacco will be utilized in the United States during the 1972–73 marketing year and 485 million pounds will be exported. The sum of these, 1,105 million pounds, is the estimated total disappearance. Because it is desirable to effect an orderly reduction of supplies to the reserve supply level, a downward adjustment of 33.4 million pounds has been made. Accordingly, the national marketing quota for Flue-cured tobacco for the marketing year beginning July 1, 1972 is determined to be 1,071.6 million pounds. This reduction is less than the maximum reduction of 15 per centum permitted by the Act, but no further reduction is deemed desirable because a greater reduction is not considered to be orderly. It is determined that the national marketing quota of 1,071.6 million pounds, in view of the anticipated carryover, will insure an adequate supply of Flue-cured tobacco for the 1972–73 marketing year.

The "national average yield goal" has been determined to be 1,854 pounds per acre. It has been determined that this yield will improve or insure the usability of Flue-cured tobacco and increase the net return per pound to the growers. In making this determination, consideration was given to research data of the Agricultural Research Service of the Department and one of the land-grant colleges in the Flue-cured tobacco area.

The community average yields have been determined for Flue-cured tobacco and published in the FEDERAL REGISTER,

[Airspace Docket No. 71–WA–201

7 CFR 724.34u (30 F.R. 6207, 9875, 14487).

The national acreage allotment is 577,993.52 acres, determined in accordance with provisions of the Act by dividing the national marketing quota by the national average yield goal.

In accordance with the Act, a reserve from the national acreage allotment is established in the amount of 218 acres for making corrections in farm acreage allotments, adjusting inequities and establishing allotments for new farms. It is estimated that the reserve acreage will be adequate.

Consideration, in the light of the latest available statistics of the Federal Government, was given as to whether any of the types of Flue-cured tobacco should be treated as a kind of tobacco pursuant to the proviso in section 301(b)(15) of the Act at the time the national marketing quota for the 1965–66 marketing year for Flue-cured tobacco was determined (30 F.R. 6144), and it was determined that types 11, 12, 13, and 14 constitute one kind of tobacco for purposes of the Act for the 1965–66, 1966–67, and 1967–68 marketing years. This finding was affirmed by the Secretary in his determination of January 18, 1966 (31 F.R. 881), and that determination was sustained in the case of Brown et al. v. Freeman. This finding was made applicable for the 1968–69, 1969–70, and 1970–71 marketing years (32 F.R. 9817), and was made applicable also to the 1971–72, 1972–73, 1973–74 marketing years (35 F.R. 10838).

No action may be taken under section 313(i) of the Act unless a substantial difference exists in the usage or market outlets for any one or more of the types comprising the kind of tobacco. On the basis of the facts recited (30 F.R. 6144) in connection with the consideration of § 301(b)(15), it was determined that there is no substantial difference existing in the usage or marketing outlets for any one or more of the types of Flue-cured tobacco and, therefore, no action was taken for the 1965–66 marketing year (nor for subsequent marketing years) under this section. The same conditions prevail with respect to usage or marketing outlets that prevailed at the time of the determination for the marketing quotas on an acreage-poundage basis for the 1965–66 and subsequent marketing years and, therefore, no action is being taken under § 313(i) of the Act for the 1972–73 marketing year. In addition, § 313(l) of the Act applied only to marketing quotas and acreage allotments established pursuant to § 313. It is, therefore, concluded that, notwithstanding § 4 of Public Law 89–12, the better view is that § 313(l) of the Act should not be applied to acreage allotments and marketing quotas determined under section 317 of the Act.

DETERMINATIONS AND ANNOUNCEMENTS—1972–73 MARKETING YEAR

§ 725.2 Flue-cured tobacco.

(a) *Reserve supply level.* The reserve supply level for Flue-cured tobacco is 2,844 million pounds, calculated, as provided in the Act, from a normal year's domestic consumption of 667 million pounds and a normal year's exports of 530 million pounds.

(b) *National marketing quota.* A national marketing quota for Flue-cured tobacco on an acreage-poundage basis for the marketing year beginning July 1, 1972 is hereby determined and announced in the amount of 1,071.6 million pounds. This quota is based upon an estimated utilization in the United States in such marketing year of 620 million pounds and exports in such marketing year of 485 million pounds, with a downward adjustment determined to be desirable for the purpose of effecting an orderly reduction of supplies to the reserve supply level.

(c) *National average yield goal.* The national average yield goal for Flue-cured tobacco for the marketing year beginning July 1, 1972 is determined and announced at 1,854 pounds. This goal is based on the yield per acre which on a national average basis it is determined will improve or insure the usability of Flue-cured tobacco and increase the net return per pound to growers.

(d) *National acreage allotment.* The national acreage allotment for Flue-cured tobacco on an acreage-poundage basis for the marketing year beginning July 1, 1972 is determined and announced to be 577,993.52 acres. This allotment was determined by dividing the national marketing quota of 1,071.6 million pounds by the national average yield goal of 1,854 pounds.

(e) *Reserve acreage for making corrections in farm acreage allotments, adjusting inequities, and establishment of acreage allotments for new farms.* A national reserve from the national acreage allotment in the amount of 218 acres is hereby determined and announced. This reserve is for making corrections in farm acreage allotments, adjusting inequities, and establishing allotments for new farms. Of the 218 acres, 50 acres are hereby set aside to be available for new farms. The remainder, 168 acres, is hereby made available for making corrections in farm acreage allotments and for adjusting inequities.

(f) *National acreage factor.* The national acreage factor for the 1972 crop of Flue-cured tobacco is determined and announced to be 1.0.

(g) *National yield factor.* The national yield factor for the 1972 crop of Flue-cured tobacco is determined and announced to be .9312.

(Secs. 301, 313, 317, 375, 52 Stat. 38, 47, 66, as amended, 79 Stat. 66; 7 U.S.C. 1301, 1313, 1314c, 1375)

Effective date: Date of publication of this document in the FEDERAL REGISTER (11–30–71).

Signed at Washington, D.C., on November 26, 1971.

J. PHIL CAMPBELL,
Acting Secretary.

[FR Doc.71–17462 Filed 11–26–71;1:23 pm]

Chapter IX—Consumer and Marketing Service (Marketing Agreement and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

Tolerance for Delivery of Undersized Reserve Prunes, 1971–72 Crop Year

Notice was published in the October 8, 1971, issue of the FEDERAL REGISTER (36 F.R. 19603) regarding a proposal to amend § 993.207—Subpart—Salable and Reserve Percentages and Handler Reserve Obligation for the 1971–72 Crop Year (7 CFR 993.207; 36 F.R. 14724). The subpart is operative pursuant to the marketing agreement, as amended, and Order No. 993, as amended (7 CFR Part 993), regulating the handling of dried prunes produced in California. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was unanimously recommended by the Prune Administrative Committee.

The notice afforded interested persons opportunity to submit written data, views, or arguments with respect to the proposal. None were received within the prescribed time.

Section 993.207 prescribes salable and reserve percentages for prunes of 60 percent and 40 percent, respectively, for the 1971–72 crop year and, in connection therewith, the required composition of each handler's reserve obligation including certain small-sized prunes defined in § 993.207 as undersized prunes; i.e., those prunes which pass freely through a round opening twenty-five thirty-seconds of an inch in diameter.

It is recognized that not all undersized prunes will in each instance be segregated from prunes of larger size during the course of sizing operations by a handler. The Committee concluded it reasonable to provide for some tolerance as to size in connection with the requirements pertaining to undersized prunes.

The amendment would add a new paragraph (d) to § 993.207 to provide a tolerance for delivery of undersized prunes by a handler to the Committee pursuant to § 993.57. The tolerance provided in paragraph (d) would permit a handler to deliver to the Committee, or its designee, as undersized prunes any lot of reserve prunes if at least 95 percent of the prunes in the lot by weight pass freely through a round opening twenty-eight thirty-seconds of an inch in diameter. However, any lot of prunes so delivered wherein less than 95 percent of the prunes in such lot by weight pass freely through a twenty-eight thirty-second-inch opening, only those prunes in the lot which pass freely through a twenty-five thirty-seconds of an inch opening would be credited as a delivery of undersized prunes.

After consideration of all relevant matter presented, including that in the notice, the information and recommendation of the Prune Administrative Committee, and other available information, it is found that amendment of Subpart—Salable and Reserve Percentages and Handler Reserve Obligation for the 1971–72 Crop Year (7 CFR 993.207; 36 F.R. 14724), as proposed in said notice (36 F.R. 19603), is in accordance with this part, will tend to effectuate the declared policy of the act, and for the reasons hereinafter set forth, should become effective at the time provided herein.

Therefore, it is hereby ordered, That, § 993.207 (Subpart—Salable and Reserve Percentages and Handler Reserve Obligation for the 1971–72 Crop Year; 7 CFR 993.207; 36 F.R. 14724) is amended by adding thereto a new paragraph (d) as follows:

§ 993.207 Salable and reserve percentages for prunes and handler reserve obligation for the 1971–72 crop year.

* * * * *

(d) *Delivery of prunes as undersized prunes.* At the request of the Committee pursuant to § 993.57, any lot of reserve prunes delivered by a handler to the Committee or its designee as undersized prunes shall be considered as a delivery of undersized prunes in its entirety if at least 95 percent of the prunes in the lot by weight pass freely through a round opening twenty-eight thirty-seconds of an inch in diameter. In any lot of prunes so delivered in which less than 95 percent of the prunes in such lot by weight pass freely through such a round opening, only those prunes in the lot which pass freely through a round opening twenty-five thirty-seconds of an inch in diameter shall be considered as a delivery of undersized prunes.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER and for making the provisions hereof effective upon publication (5 U.S.C. 553) in that: (1) This action would afford handlers a tolerance in connection with their deliveries of undersized reserve prunes to the Prune Administrative Committee, thereby relieving restrictions on handlers; (2) handlers are aware of this action and require no additional time to prepare for it; (3) the Committee is preparing to instruct handlers to deliver undersized reserve prunes to it soon for disposition in certain prescribed outlets, and it is imperative that this tolerance be established promptly so that handlers can use this tolerance in connection with such deliveries; and (4) no useful purpose would be served by postponing the effective time of this action.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated November 24, 1971, to become effective upon publication in the FEDERAL REGISTER (11–30–71).

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71–17433 Filed 11–29–71;8:51 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 71–WA–3A]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Area High Routes

On November 11, 1971, F.R. Doc. No. 71–16324 was published in the FEDERAL REGISTER (36 F.R. 21584) which amended Part 75 of the Federal Aviation Regulations, effective 0901 G.m.t., January 6, 1972, by adding several area high routes including J907R and J917R. In J907R the transposition of tabulated information resulted in the incorrect listing of the Kofa, Ariz., waypoint rather than the Brenda, Ariz., waypoint. Also in J917R the geographic position for the Logan, Calif., waypoint was incorrectly listed as 36 59 13/121 43 57 rather than 36 58 59/121 43 26. The reference facilities for the Boulder City, Nev., and Phoenix, Ariz., waypoints are being changed to provide stronger signals on this route. Therefore, action is taken herein to effect these changes.

Since this amendment is editorial and minor in nature and no substantive change in the regulation or route structure is effected, notice and public procedure thereon are unnecessary, and good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, effective upon publication in the FEDERAL REGISTER (11–30–71), F.R. Doc. 71–16324 (36 F.R. 21584) is amended as hereinafter set forth.

a. In J907R Houston, Tex., to Los Angeles, Calif., the penultimate waypoint "Kofa, Ariz. 33 30 58/113 53 17 Yuma, Ariz." is deleted and "Brenda, Ariz. 33 43 56/113 47 00 Yuma, Ariz." is substituted therefor.

b. J917R San Francisco, Calif., to Phoenix, Ariz., is amended to read:

J917R SAN FRANCISCO, CALIF., TO PHOENIX, ARIZ.

Waypoint name, N. latitude/W. longitude, and reference facility
Logan, Calif.; 36°58'59"/121°43'36"; Fresno, Calif.
Easton, Calif.; 36°45'17"/119°49'48"; Fresno, Calif.
Wild Rose, Calif.; 36°19'37"/116°51'41"; Beatty, Nev.
Boulder City, Nev.; 35°59'45"/114°51'46"; Boulder City, Nev.
Sycamore, Ariz.; 34°37'25"/112°55'26"; Needles, Calif.
Phoenix, Ariz.; 33°25'53"/111°53'17"; Phoenix, Ariz.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 22, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71–17397 Filed 11–29–71;8:47 am]

[Airspace Docket No. 71–WA–20]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Area High Routes

On November 11, 1971, F.R. Doc. 71–16448 was published in the FEDERAL REGISTER (36 F.R. 21584) which amended Part 75 of the Federal Aviation Regulations, effective January 6, 1972, by adding area high route J982R, Los Angeles, Calif., to Kansas City, Mo. The purpose of this amendment to that document is to correct the geographical position for the Larrabee, Kans., waypoint, to provide for improved signal coverage on the route by adding the Sofia, N. Mex., waypoint between Springer, N. Mex., and Larrabee, Kans., and to change the reference facility for the Factory, Kans., waypoint from Salina, Kans., to Butler, Mo.

Since this amendment is editorial in nature and makes no substantive change in the regulation or the route alignment, notice and public procedure thereon are unnecessary, and good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, effective upon publication in the FEDERAL REGISTER (11–30–71) F.R. Doc. No. 71–16448 (36 F.R. 21584) is amended as hereinafter set forth.

In J982R Los Angeles, Calif., to Kansas City, Mo., delete all after "Springer, N. Mex. 36 15 07/104 46 52 Las Vegas, N. Mex." and substitute the following therefor:

Sofia, N. Mex.; 36°25'38"/104°01'41"; Tucumcari, N. Mex.
Larrabee, Kans.; 37°10'36"/100°29'46"; Garden City, Kans.
Wichita, Kans.; 37°43'40"/97°27'11"; Ponca City, Okla.
Factory, Kans.; 38°57'48"/95°05'22"; Butler, Mo.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 22, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71–17396 Filed 11–29–71;8:47 am]

[Airspace Docket No. 70–WA–43A]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Area High Routes

On November 11, 1971, F.R. Doc. No. 71–16328 was published in the FEDERAL REGISTER (36 F.R. 21586) which amended Part 75 of the Federal Aviation Regulations, effective January 6, 1972, by adding several area high routes including J853R, Los Angeles, Calif., to Phoenix, Ariz. The purpose of this amendment to that document is to substitute a more refined geographic position for the one listed at the Seal Beach, Calif., waypoint and to improve signal coverage on the route by changing the reference facility for the Phoenix, Ariz., waypoint from Gila Bend, Ariz., to Phoenix, Ariz.

Since this amendment is editorial and minor in nature and no substantive change in the regulation or route is effected, notice and public procedure thereon are unnecessary, and good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, effective upon publication in the FEDERAL REGISTER (11-30-71), F.R. Doc. No. 71-16328 is amended as hereinafter set forth.

J853R, Los Angeles, Calif., to Phoenix, Ariz., is amended to read:

J853R, LOS ANGELES, CALIF., TO PHOENIX, ARIZ.

Seal Beach, Calif.; 33°47'00"/118°03'14"; Oceanside, Calif.
Kofa, Ariz.; 33°30'58"/113°53'17"; Yuma, Ariz.
Phoenix, Ariz.; 33°25'53"/111°53'17"; Phoenix, Ariz.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 22, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-17398 Filed 11-29-71;8:47 am]

[Airspace Docket No. 71-WA-18]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Area High Routes

On November 11, 1971, F.R. Doc. No. 71-16327 was published in the FEDERAL REGISTER (36 F.R. 21586) which amended Part 75 of the Federal Aviation Regulations, effective January 6, 1972, by adding two area high routes, including J933R, Dallas, Tex., to Los Angeles, Calif. The purpose of this amendment to that document is to change the Texico, Tex., waypoint and reference facility to Texico, N. Mex., and to improve signal coverage on the route by adding the Chubbuck, Calif., waypoint between the Drake, Ariz., and Morrow, Calif., waypoints.

Since this amendment is editorial in nature and does not change the alignment of the route, notice and public procedure thereon are unnecessary, and good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, effective upon publication in the FEDERAL REGISTER (11-30-71), F.R. Doc. No. 71-16327 (36 F.R. 21586) is amended as hereinafter set forth.

In J933R Dallas, Tex., to Los Angeles, Calif.:

a. "Texico, Tex. 34 29 42/102 50 21 Texico, Tex." is deleted and "Texico, N. Mex. 34 29 42/102 50 21 Texico, N. Mex." is substituted therefor.

b. "Morrow, Calif. 34 02 51/117 14 54 Oceanside, Calif." is deleted and "Chubbuck, Calif. 34 32 20/114 48 08 Parker, Calif., Morrow, Calif. 34 02 51/117 14 54 Oceanside, Calif." is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on November 22, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-17400 Filed 11-29-71;8:47 am]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

[Docket No. R-398; Order 415-B]

PART 2—GENERAL POLICY AND INTERPRETATIONS

PART 4—LICENSES, PERMITS, AND DETERMINATION OF PROJECT COSTS

Implementation of National Environmental Policy Act

NOVEMBER 19, 1971.

Order amending §§ 2.80, 2.81, and 2.82 of the general rules and § 4.41 of the regulations under the Federal Power Act.

On December 4, 1970, the Commission issued order No. 415 (35 F.R. 18958, Dec. 15, 1970) which prescribed §§ 2.80-2.82 of its general policy and interpretations (18 CFR 2.80-2.82) and various related amendments to the Commission's regulations under the Federal Power and Natural Gas Acts. On April 13, 1971, the Commission issued its order No. 415-A (36 F.R. 7232, Apr. 16, 1971) further clarifying the procedures in §§ 2.81 and 2.82. Experience in applying these regulations, as amended, and the Final Guidelines of the Council on Environmental Quality (36 F.R. 7724) demonstrated the desirability of once again proposing revisions to the Commission's Regulations for Implementation of the National Environmental Policy Act of 1969 (83 Stat. 852).

Accordingly, on July 7, 1971 (36 F.R. 13040, July 13, 1971), the Commission issued a notice of proposed rule making to amend §§ 2.80-2.82 of its "Statement of General Policy to Implement Procedures for Compliance with the National Environmental Policy Act of 1969", and § 4.41 of the Commission's regulations under the Federal Power Act. All interested persons were invited to submit comments for consideration in connection with the proposed amendments on or before August 9, 1971. A total of 12 comments were received.[1]

Many of the comments received were objections to Order No. 415 and not to the changes proposed in our July 7, 1971, notice.

Several comments expressed concern that the time limitations specified in the proposed § 2.80(c)(1)[2] would unduly delay procedures. This provision was added as a result of the recommendation contained in paragraph 10(b) of the Guidelines of the Council on Environmental Quality. It should be pointed out that these Guidelines are advisory. Our rule making procedures for compliance with the National Environmental Policy Act are subject to the provisions of the Administrative Procedure Act and must meet its requirements. Accordingly, after careful consideration, the Commission has determined that no significant delay need result from this limitation. However, for purposes of clarification: *It is ordered*, That § 2.80(c)(1) be changed to read as set forth below.

Section 2.81(b) as promulgated in Order 415, issued December 4, 1970 (35 F.R. 18958) requires each applicant as described in § 2.81(a) to submit a detailed statement environmental factors along with its application. The Commission, in order to assist other government agencies and other interested parties in complying with the provisions of section 4(e) of the Federal Power Act (41 Stat. 1065-1066; 49 Stat. 840-841; 61 Stat. 501; 16 U.S.C. 797(e)) and section 102(2)(C) of the National Environmental Policy Act (83 Stat. 853) and to facilitate publication of legal notices, has determined that it is desirable to make the applicant's environmental impact statement a self-contained exhibit to the application.

One comment expressed the concern that amending the Commission's regulations so as to have § 4.41 specify a new Exhibit W (the applicant's environmental impact statement) will involve unnecessary duplication of information required both in certain exhibits[3] to the application and the applicant's environmental impact statement. It should be pointed out that Exhibit W must be "self-contained". The applicant, if it so desires, is free to incorporate by reference in the environmental impact statement information required by other exhibits provided that such exhibits or pertinent extracts therefrom are attached to the environmental impact statement.

Since the promulgation of Order No. 415 the Commission has sent all section 102(2)(C) referrals to the Environmental Protection Agency. However, §§ 2.81 and 2.82 of Part 2, Subchapter A of 18 CFR have not explicitly designated the Environmental Protection Agency and

[1] Timely comments filed on or before August 9, 1971, were submitted by: Columbia Gas System Service Corp.; Consolidated Edison Company of New York, Inc.; Edison Electric Institute; Kaftn and Needleman; Chris C. Oynes; Pacific Gas and Electric Co.; Pennsylvania Power & Light Co.; Phillips Petroleum Co.; Southern California Edison Co.; and Southern Natural Gas Co.

Late filings were made by Virginia Electric and Power Co. (filed August 11, 1971); and the Northern Natural Gas Co. (filed August 23, 1971).

We have considered all the filings made in this docket.

[2] The proposed § 2.80(c)(1) stated:

To the maximum extent practicable no administrative action is to be taken sooner than 90 days after a draft environmental statement has been circulated for comment and 30 days after the final text of our environmental statement has been made available to the Council on Environmental Quality and the public.

[3] Exhibit H requires a complete study of the hydrological effect of project operation; Exhibit S requires a complete study of the effect on fish and wildlife of project operation.

the Commission, through experience in applying these provisions, has determined that it is desirable that government agencies submitting these referrals provide the applicant and the other parties to the proceeding with a copy. Therefore, the Commission is amending the relevant portions of those sections by specifically naming the Environmental Protection Agency, the applicant, and the other parties to the proceeding.

The final guidelines of the Council on Environmental Quality recommend that "wherever an agency action related to air or water quality * * * or other provisions of the authority of the Administrator * * *" (of the Environmental Protection Agency (EPA)) the Administrator shall be allowed 45 days to make his section 102(2)(C) comment. It is felt that there is no reason to allow EPA 45 days for their comments, while limiting all other parties to a 30-day period. Therefore we have adopted a 45-day period in lieu of our earlier 30-day period for EPA and all others wishing to submit comments.

The purpose of the changes in §§ 2.81(b) and 2.82(b) is to clarify our procedures in regard to the preparation and circulation of environmental statements. For purposes of circulation for comment as required by section 102(2)(C) of the National Environmental Policy Act, the applicant's statement, as modified by §§ 2.81(b) and 2.82(b), will serve as the agency draft statement, in accord with the recommendations of the Council on Environmental Quality in section 7 of the Guidelines. Again, it should be pointed out that these Guidelines are recommendations, and that our procedures are governed by the Administrative Procedure Act. The procedures herein prescribed are more comprehensive than those recommended in the Guidelines.

This statement, with its attendant comments, will serve to delineate the issues upon which environmental evidence will be presented at the hearing. This will, of course, subject the initial statement to considerable analysis and possibly modification by the staff and all other parties, both during hearing and, after the environmental evidence has been fully developed, at the briefing stage.

We have decided that each applicant for a certificate within the scope of § 2.82(a) shall file an environmental statement as a part of its application. By this order we are deleting the abbreviated procedures previously available under § 2.82(b). Accordingly §§ 2.81(b) and 2.82(b) are amended to read as set forth below.

Wording in §§ 2.81(c) and 2.82(c) has been changed to reflect the changes in §§ 2.81(b) and 2.82(b). In addition, in order to clarify the status of the comments of the Environmental Protection Agency and the Council on Environmental Quality, the final sentence of §§ 2.81(e) and 2.82(e) is transferred to the final sentences of §§ 2.81(c) and 2.82(c). Accordingly, §§ 2.81(c) and 2.82(c) are modified to read as set forth below.

To further carry out our procedural implementation of the National Environmental Policy Act, to bring uniformity to our procedures, and to assure equal and adequate environmental consideration of all applications filed pursuant to §§ 2.81 and 2.82 of Part 2, Subchapter A of 18 CFR, the separate procedures set forth in §§ 2.81(f) and 2.82(f) for handling noncontested cases are hereby deleted. Henceforth all cases described above will be handled in the same manner.

Sections 2.81(g) and 2.82(g) are redesignated as §§ 2.81(f) and 2.82(f).

The Commission finds:

(1) The revisions to the statement of policy herein adopted result from review and consideration of the comments and suggestions received in response to the notice of proposed rule making issued July 7, 1971. However, these revisions differ in some respects from those proposed in that notice. In view of the great importance and urgency of environmental problems, it is essential that the Commission promulgate these procedures respecting environmental statements at this time. For the foregoing reasons, further compliance with the notice, public procedure and effective date provisions of 5 U.S.C. is impracticable and contrary to the public interest and good cause exists that the Commission adopt the revisions to the statement of policy set out in this order without further notice and public procedure and that the revisions herein adopted become effective upon the issuance of this order;

(2) The amendments to the Commission's general rules and regulations under the Federal Power Act adopted herein are necessary and appropriate for carrying out the provisions of the Federal Power Act, the Natural Gas Act, and the National Environmental Policy Act;

(3) Good cause exists that the amendments herein adopted become effective upon the issuance of this order.

The Commission acting pursuant to the provisions of the Federal Power Act, particularly sections 4, 10, 15, 307, 309, 311 and 312 (41 Stat. 1065, 1066, 1068, 1069, 1070, 1072; 46 Stat. 798, 49 Stat. 839, 840, 841, 842, 843, 844, 856, 857, 858, 859, 860, 61 Stat. 501, 82 Stat. 617; 16 U.S.C. 797, 803, 808, 825f, 825h, 825j, 825k), and the Natural Gas Act, particularly sections 7 and 16 (52 Stat. 824, 825, 830, 56 Stat. 83, 84; 61 Stat. 459; 15 U.S.C. 717f, 7170), and the National Environmental Policy Act of 1969, Public Law 91-190, approved January 1, 1970, particularly sections 102 and 103 (83 Stat. 853, 854) orders:

(A) The Statements of General Policy to implement procedures for compliance with the National Environmental Policy Act of 1969 in Part 2—General Policy and Interpretations is revised to read as follows:

STATEMENT OF GENERAL POLICY TO IMPLEMENT PROCEDURES FOR COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

§ 2.80 Detailed environmental statement.

(a) It shall be the general policy of the Federal Power Commission to adopt and to adhere to the objectives and aims of the National Environmental Policy Act of 1969 (Act) in its regulation under the Federal Power Act and the Natural Gas Act. The National Environmental Policy Act of 1969 requires, among other things, a detailed environmental statement in all major Federal actions and in all reports and recommendations on environmental legislative proposals which will significantly affect the quality of the human environment.

(b) Therefore, in compliance with the National Environmental Policy Act of 1969 we will make a detailed environmental statement when the regulatory action taken by us under the Federal Power Act and Natural Gas Act will have such significant environmental impact. A "detailed statement" prepared in compliance with the requirements of §§ 2.81 through 2.82 shall fully develop the five factors listed hereinafter in the context, among other relevant environmental factors, of such considerations as the proposed activity's direct and indirect effect on the ecology of the land, air, and water environment of the project or natural gas pipeline facility, and on aquatic and wildlife, and established park and recreational areas, on sites of natural, historic, and scenic values and resources of the area, on secondary significant environmental effects of the proposed activity and the conformity of the proposed activity with all applicable environmental standards. Such statement should also deal with the alternatives as compared with the proposal. The above factors are listed to merely illustrate the kinds of values that must be considered in the statement; in no respect is this listing to be construed as covering all relevant factors.

(1) The environmental impact of the proposed action,

(2) Any adverse environmental effects which cannot be avoided should the proposal be implemented,

(3) Alternatives to the proposed action,

(4) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(5) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

(c) (1) Except as authorized by the Commission no action to construct a facility licensed or certificated by the Commission is to be taken sooner than 90 days after a draft environmental statement has been circulated for comment or 30 days after the final text of an environmental statement has been made available to the Council on Environmental Quality and the public.

(2) Upon a finding that it is necessary and appropriate in the public interest the Commission may dispense with any time period specified in §§ 2.80-2.82.

§ 2.81 Compliance with the National Environmental Policy Act of 1969 under Part I of the Federal Power Act.

(a) A notice of all applications for major projects (those in excess of 2,000

horsepower) or for reservoirs only providing regulatory flows to down-stream (major) hydroelectric projects under Part I of the Federal Power Act for license or relicense, or amendment to license proposing construction or operating change in project works will be transmitted by the Commission to the Council on Environmental Quality, Environmental Protection Agency, and to appropriate governmental bodies, Federal, regional, State, and local with a request for comments on the environmental considerations listed in § 2.80. Notice of all such applications shall also be made as prescribed by law.

(b) All applications covered by paragraph (a) of this section shall be accompanied by Exhibit W, the applicant's detailed statement of the environmental factors specified in §§ 2.80 and 4.41. The Staff shall make an initial review of the applicant's statement and issue, if necessary, any deficiency letters as to sufficiency of form. If it appears, based upon the application and the detailed statement, and a preliminary review thereof by staff, that the proposed action may be a major federal action significantly affecting the quality of the human environment, then staff shall cause the applicant's statement, as revised, to be made available to all interested governmental bodies and to the public for comments. For purposes of this section, the applicant's draft statement, as modified pursuant to this paragraph (b), shall be deemed to be information comparable to an agency draft statement pursuant to section 7 of the Guidelines of the Council on Environmental Quality. The Secretary of the Federal Power Commission shall cause prompt publication in the FEDERAL REGISTER of notice of availability of the applicant's statement, as modified pursuant to this paragraph (b). A period of 45 days shall be afforded in which to submit written comments. The applicant shall, as requested, supply twenty-five copies or more of the statement, as revised (each copy to be accompanied by such supporting papers as are necessary) to the Federal Power Commission.

(c) All interveners taking a position on environmental matters shall file comments on the draft statement with the Commission including an explanation of their environmental position, specifying any differences with the applicant's detailed statement upon which intervener wishes to be heard and including therein a discussion of that position in the context of the factors enumerated in § 2.80, at a time specified by the Commission or the Presiding Examiner. All interveners shall be responsible for filing 10 copies of their filing with the Council on Environmental Quality and at least one copy with the Environmental Protection Agency at the time they file with the Commission and shall also supply a copy of such filing to all participants to the proceeding. Nothing herein shall preclude an intervener from filing a detailed environmental statement. The comments of the Council on Environmental Quality, and the Environmental Protection Agency, if any, should be made in a written statement served upon the Commission's Secretary and all parties of record.

(d) The applicant, staff, and all interveners taking a position on environmental matters should offer evidence for the record in support of their environmental position, filed in compliance with the provisions of this section.

(e) In the case of each contested application the initial and reply briefs filed by the applicant, the staff, and all interveners taking a position on environmental matters should specifically analyze and evaluate the evidence in the light of the environmental criteria enumerated in § 2.80. Furthermore, the initial decision of the Presiding Examiner in such cases shall include an evaluation of the environmental factors enumerated in § 2.80 and the views and comments expressed in conjunction therewith by the applicant and all those making formal comment pursuant to the provisions of this section. If the Commission grants the application, its final order shall include a final detailed environmental statement as specified in § 2.80.

(f) Ten copies of all comments from governmental bodies—Federal, regional, State, and local—made pursuant to this section shall also be transmitted to the Council on Environmental Quality and at least one copy shall be transmitted to the Environmental Protection Agency, to the applicant, and to the parties to the proceeding within 15 days of Commission grant of intervention by the party filing such comments.

§ 2.82 Compliance with the National Environmental Policy Act of 1969 under the Natural Gas Act.

(a) A notice of all certificate applications filed under section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)), except abbreviated applications filed pursuant to § 157.7 (b), (c), (d), and (e) of this title will be transmitted by the Commission to the Council on Environmental Quality and the Environmental Protection Agency. Notice of all certificate applications will continue to be published as prescribed by law, and transmitted to other appropriate Federal and State governmental bodies.

(b) All applications covered by paragraph (a) of this section shall be accompanied by the applicant's detailed statement of the environmental factors specified in § 2.80. The staff shall make an initial review of the applicant's statement and issue, if necessary, any deficiency letters as to sufficiency of form. If it appears, based upon the application and the detailed statement, and a preliminary review thereof by staff, that the proposed action may be a major Federal action significantly affecting the quality of the human environment, then staff shall cause the applicant's statement, as revised, to be made available to all interested governmental bodies and to the public for comments. For purposes of § 2.82 the applicant's draft statement, as modified pursuant to this paragraph (b), shall be deemed to be information comparable to an agency draft statement pursuant to section 7 of the Guidelines of the Council on Environmental Quality. The Secretary of the Federal Power Commission shall cause prompt publication in the FEDERAL REGISTER of notice of availability of the applicant's statement, as modified pursuant to this paragraph (b). A period of 45 days shall be afforded in which to submit written comments. The applicant shall, as requested, supply 25 copies or more of the statement, as revised (each copy to be accompanied by such supporting papers as are necessary) to the Federal Power Commission.

(c) All interveners taking a position on environmental matters shall file comments on the draft statement with the Commission including an analysis of their environmental position, specifying any difference with the applicant's detailed statement upon which intervener wishes to be heard and including therein a discussion of that position in the context of the factors enumerated in § 2.80, at a time specified by the Commission or the Presiding Examiner. All interveners shall be responsible for filing ten copies of their filing with the Council on Environmental Quality, and at least one copy with the Environmental Protection Agency at the time they file with the Commission and shall also supply a copy of such filing to all participants to the proceeding. Nothing herein shall preclude an intervener from filing a detailed environmental statement. The comments of the Council on Environmental Quality, and the Environmental Protection Agency, if any, should be made in a written statement served upon the Commission Secretary and all parties of record.

(d) The applicant, staff, and all interveners taking a position on environmental matters should offer evidence for the record in support of their environmental position, filed in compliance with the provisions of this section.

(e) In the case of each contested application the initial and reply briefs filed by the applicant, the staff, and all interveners taking a position on environmental matters should specifically analyze and evaluate the evidence in the light of the environmental criteria enumerated in § 2.80. Furthermore, the initial decision of the Presiding Examiner in such cases shall include an evaluation of the environmental factors enumerated in § 2.80 and the views and comments expressed in conjunction therewith by the applicant and all those making formal comment pursuant to the provisions of this section. If the Commission grants the application, its final order shall include a final detailed environmental statement as specified in § 2.80.

(f) Ten copies of all comments from governmental bodies—Federal, regional, State and local—made pursuant to this section shall also be transmitted to the Council on Environmental Quality and at least one copy shall also be transmitted to the Environmental Protection Agency, to the applicant and to the parties to the proceeding within 15 days of Commission grant of intervention by the party filing such comments.

(B) The Commission amends § 4.41 Required Exhibits in Part 4, Subchapter B, Regulations under the Federal Power Act, Chapter I, Title 18 of the Code of Federal Regulations by adding immediately following Exhibit V, a new paragraph entitled Exhibit W to read as follows:

§ 4.41 Required exhibits.

* * * * * *

Exhibit W. Applications covered by 18 CFR 2.81(a) shall be accompanied by an applicant's environmental statement. Such statement shall comply with the detailed requirements set down in 18 CFR 2.80–2.81, and shall include a one-page summary of the statement. Furthermore, such statement with its supporting papers shall be self-contained.

(C) The amendments adopted herein shall be effective upon issuance of this order.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.71-17380 Filed 11-29-71;8:48 am]

Title 22—FOREIGN RELATIONS

Chapter I—Department of State

SUBCHAPTER M—INTERNATIONAL TRAFFIC IN ARMS

[Dept. Reg. 108.649]

PART 124—MANUFACTURING LICENSE AND TECHNICAL ASSISTANCE AGREEMENTS

PART 125—UNCLASSIFIED TECHNICAL DATA AND CLASSIFIED INFORMATION (DATA AND EQUIPMENT)

Information Required in Agreements and Exemptions From Requirement

Parts 124 and 125 of Title 22 of the Code of Federal Regulations are revised or amended as set forth below.

1. Section 124.10(n)(2) is revised to read as follows:

§ 124.10 Required information in agreements.

* * * * * *

(n) * * *

(2) If the U.S. Government is obligated or becomes obligated to pay licensor royalties, fees, or other charges for the use of technical data or patents which are involved in the manufacture, use, or sale of any licensed item, any royalties, fees or other charges in connection with purchases of such licensed item from licensee or its sublicensees with funds derived through the Military Assistance Program or otherwise through the U.S. Government shall not exceed the total amount the U.S. Government would have been obligated to pay the licensor.

* * * * * *

2. Section 125.11(a)(8) is amended to read as follows:

§ 125.11 General exemptions.

(a) * * *

(8) If it consists of additional copies of technical data previously approved for export to the same recipient; or if it consists of revised copies of technical data, provided it pertains to the identical Munitions List article, and the revisions are solely editorial and do not add to the content of technology previously approved for export to the same recipient.

* * * * * *

Effective date. These changes in the regulations are effective upon publication in the FEDERAL REGISTER (11–30–71).

(Sec. 414, as amended, 68 Stat. 848; 22 U.S.C. 1934; secs. 101, 105, E.O. 10973, 26 F.R. 10469; sec. 6, Department Delegation of Authority No. 104, 26 F.R. 10608, as amended, 27 F.R. 9925; Redelegation of Authority No. 104–3–A, 28 F.R. 7231; Redelegation of Authority No. 104–7, 35 F.R. 3243; Redelegation of Authority No. 104–7–A, 35 F.R. 5423, 5424)

Dated: November 17, 1971.

[SEAL] WILLIAM P. ROGERS, *Secretary of State.*

[FR Doc.71-17409 Filed 11-29-71;8:49 am]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER B—PERSONNEL; MILITARY AND CIVILIAN

PART 77—MORTGAGE INSURANCE FOR SERVICEMEN TO AID IN CONSTRUCTION OR PURCHASE OF HOMES

The Deputy Secretary of Defense approved the following:

Sec.
77.1 Purpose and applicability.
77.2 Definitions.
77.3 Policy and authorities.
77.4 Delegation of authority.
77.5 Forms.

AUTHORITY: The provisions of this Part 77 issued under sec. 222, National Housing Act, as amended (12 U.S.C. 1715m).

§ 77.1 Purpose and applicability.

(a) This part provides policy guidance to the Military Departments in implementation of section 222, National Housing Act, as amended (12 U.S.C. 1715m), and delegates authority conferred upon the Secretary of Defense by section 222, National Housing Act, as amended (12 U.S.C. 1715m) to issue certificates of eligibility and to prescribe other necessary instructions.

§ 77.2 Definitions.

As used in this part:

(a) "Eligible serviceman" means a person to whom the Secretary of Defense or his designee has issued a certificate of eligibility indicating that such person is serving on active duty in the Armed Forces of the United States and has so served for a period of more than 2 years and requires housing. A person ordered to active duty for training purposes only is not an eligible serviceman.

(b) "Period of Ownership by Serviceman" as defined by the Federal Housing Administration (FHA) means that period of eligibility during which the Military Department concerned is required to pay the mortgage insurance premiums to the FHA. For purposes of administration by the Department of Defense, this period shall commence with the date the FHA endorses a loan for mortgage insurance hereunder and shall terminate when the Secretary of Defense or his designee furnishes the Commissioner of the FHA with certification that the Military Service concerned will no longer be liable for the mortgage insurance premiums by reason of the serviceman's (1) death, with no surviving widow as owner of the property; (2) discharge or separation from active duty (except when reenlisted the next day); (3) termination of ownership of the property covered by such loan or other termination of eligibility; or (4) specific request.

(c) "Housing" means a dwelling unit designed for a one family residence or a one family unit in a condominium for occupancy by the serviceman as his home.

(d) "FHA" means the Federal Housing Administration, Department of Housing and Urban Development.

§ 77.3 Policy and authorities.

(a) Home loans as provided in the National Housing Act, as amended, shall be made available to eligible members of the Armed Forces.

(b) The respective Military Departments will issue a certificate of eligibility to any member of the Armed Forces currently serving on active duty who has more than 2 years of active service, and who certifies that he requires housing. A further certificate may be issued when (1) the period of ownership has terminated, (2) a serviceman surrenders an expired certificate of eligibility or (3) he certifies an unused or expired certificate has been lost or destroyed.

(c) An eligible serviceman may be issued a certificate of eligibility if he assumed/assumes a mortgage indebtedness (transferred from another person) either prior or subsequent to the date of this part.

(1) However, payments for mortgage insurance premiums prior to August 1, 1968, will not be made by the Military Department concerned.

(2) Where mortgage insurance premiums are currently being paid by a military service on a serviceman's loan, an additional certificate will not be issued.

(d) Only one certificate of eligibility may be issued to a serviceman under the terms of this part unless the Secretary of a Military Department determines that due to military orders or an emergency the denial of an additional certificate would cause hardship or an inequity to the serviceman. Any additional certificates issued will be subject to the provisions of (c)(2) of this section.

(e) Payments for all mortgage insurance premiums on a loan of a deceased serviceman, who leaves a surviving widow as owner of the property, will be made by the military department concerned for 2 years beyond the date of the serviceman's death, or until the date the widow disposes of the property, dies, or remarries, whichever date occurs first.

(1) The benefit of this section shall be extended to a surviving widow whose serviceman husband died not more than 2 years prior to August 1, 1968, except that payments of mortgage insurance premiums prior to August 1, 1968, in these cases will not be made by the military department concerned.

(2) Payments for all mortgage insurance premiums on loans will be made by a designated activity of the military departments following receipt of vouchers forwarded directly to it by the FHA. Additionally, a designated activity of the military departments will notify a surviving widow of the cost of mortgage insurance premiums when payments of the premiums are to be discontinued by the military departments.

(f) Mortgage insurance on property purchased by a serviceman receiving a certificate of eligibility under this part will be governed by applicable FHA regulations.

§ 77.4 Delegation of authority.

The authority to issue certificates of eligibility and terminate eligibility is hereby delegated to the Secretaries of the Army, Navy, and Air Force for their respective Departments, subject to the provisions of this part. The authority may be redelegated to Commanders of echelons within each of the Military Services where personnel records are maintained.

§ 77.5 Forms.

(a) DD Form 802, Request for and Certificate of Eligibility[1] will be used to make a request for Certificate of Eligibility, Certification by the Military Service, and to record the FHA action as to endorsement or rejection.

(b) DD Form 803, Certificate of Termination[1] will be used by the Military Services for the purpose of notifying FHA of termination of ownership.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division OASD (Comptroller).

[FR Doc.71-17417 Filed 11-29-71;8:50 am]

[1] Filed as part of original document. Copies are available through administrative channels of each of the Military Services.

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 201—ADVANCES AND DISCOUNTS BY FEDERAL RESERVE BANKS

Changes in Rates

Pursuant to section 14(d) of the Federal Reserve Act (12 U.S.C. 357), and for the purpose of adjusting discount rates with a view to accommodating commerce and business in accordance with other related rates and the general credit situation of the country, Part 201 is amended as set forth below:

1. Section 201.51 is amended to read as follows:

§ 201.51 Advances and discounts for member banks under sections 13 and 13a.

The rates for all advances and discounts under sections 13 and 13a of the Federal Reserve Act (except advances under the last paragraph of such section 13 to individuals, partnerships, or corporations other than member banks) are:

Federal Reserve Bank of—	Rate	Effective
Boston	4½%	Nov. 11, 1971
New York	4½%	Nov. 19, 1971
Philadelphia	4½%	Nov. 11, 1971
Cleveland	4½%	Do.
Richmond	4½%	Nov. 12, 1971
Atlanta	4½%	Nov. 16, 1971
Chicago	4½%	Nov. 12, 1971
St. Louis	4½%	Nov. 11, 1971
Minneapolis	4½%	Do.
Kansas City	4½%	Nov. 12, 1971
Dallas	4½%	Nov. 11, 1971
San Francisco	4½%	Do.

2. Section 201.52 is amended to read as follows:

§ 201.52 Advances to member banks under section 10(b).

The rates for advances to member banks under section 10(b) of the Federal Reserve Act are:

Federal Reserve Bank of—	Rate	Effective
Boston	5½%	Nov. 11, 1971
New York	5½%	Nov. 19, 1971
Philadelphia	5½%	Nov. 11, 1971
Cleveland	5½%	Do.
Richmond	5½%	Nov. 12, 1971
Atlanta	5½%	Nov. 16, 1971
Chicago	5½%	Nov. 12, 1971
St. Louis	5½%	Nov. 11, 1971
Minneapolis	5½%	Do.
Kansas City	5½%	Nov. 12, 1971
Dallas	5½%	Nov. 11, 1971
San Francisco	5½%	Do.

3. Section 201.53 is amended to read as follows:

§ 201.53 Advances to persons other than member banks.

The rates for advances under the last paragraph of section 13 of the Federal Reserve Act to individuals, partnerships, or corporations other than member banks secured by direct obligations of, or obligations fully guaranteed as to principal and interest by, the United States or any agency thereof are:

Federal Reserve Bank of—	Rate	Effective
Boston	6¼%	Nov. 11, 1971
New York	6¼%	Nov. 19, 1971
Philadelphia	6¼%	Nov. 11, 1971
Cleveland	6¼%	Do.
Richmond	6¼%	Nov. 12, 1971
Atlanta	6¼%	Nov. 16, 1971
Chicago	6¼%	Nov. 12, 1971
St. Louis	6¼%	Nov. 11, 1971
Minneapolis	6¼%	Do.
Kansas City	6¼%	Nov. 12, 1971
Dallas	6¼%	Nov. 11, 1971
San Francisco	6¼%	Do.

(12 U.S.C. 248(i). Interprets or applies 12 U.S.C. 357)

By order of the Board of Governors, November 19, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-17329 Filed 11-29-71;8:45 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER A—GENERAL

[CGFR 71-151]

PART 25—CLAIMS

Subpart C—Claims in Favor of the United States

STANDARDS FOR EXERCISE OF DELEGATED AUTHORITY

This amendment revises the regulations governing the suspension or termination of collection activities on claims in favor of the United States in order to make them consistent with the policy of the Justice Department on referrals of claims reflected in the regulations in Chapter II of Title 4, Code of Federal Regulations.

Since this amendment concerns agency policy, it is exempt from the notice and hearing requirements of 5 U.S.C. 553 and may be made effective upon publication in the FEDERAL REGISTER (11-30-71).

In consideration of the foregoing, Part 25 of Title 33 of the Code of Federal Regulations is amended by revising § 25.319 to read as follows:

§ 25.319 Referral to U.S. attorney.

(a) A designee under § 25.301(b)(2) within whose command a claim under this subpart arises or to whom a claim is referred, may refer any such claim not exceeding his monetary jurisdiction on which collection action has been taken and which cannot be compromised or on which collection action cannot be suspended or terminated in accordance with 4 CFR Ch. II, directly to the appropriate U.S. attorney for collection. The Chief Counsel may refer a claim to the Department of Justice or the General Accounting Office as may be necessary.

(b) No collection action of $400 or more may be suspended or terminated by an officer to whom authority is delegated under this subpart on the ground that it is likely that the cost of further collection will exceed the amount recoverable thereby.

(14 U.S.C. 633, 647, 31 U.S.C. 952; 49 U.S.C. 1655(b)(1); 49 CFR 89.1(b))

Effective date. This revision shall become effective on November 30, 1971.

Dated: November 19, 1971.

C. R. BENDER,
Admiral, U.S. Coast Guard Commandant.

[FR Doc.71-17419 Filed 11-29-71;8:52 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter I—Federal Procurement Regulations

[Federal Procurement Regs.; Temporary Reg. 23]

PART 1-1—GENERAL

Stabilization of Prices, Rents, Wages, and Salaries

1. *Purpose.* This regulation amends the Federal Procurement Regulations to provide procedures designed to facilitate the stabilization of prices, rents, wages, and salaries.

2. *Effective date.* This regulation is effective upon publication in the FEDERAL REGISTER (11-30-71).

3. *Expiration date.* This regulation will continue in effect until canceled or until the requirements of Executive Order 11615, August 15, 1971, as superseded by Executive Order 11627, October 15, 1971, expire.

4. *Background.* Executive Order 11615, August 15, 1971, provided for the stabilization of prices, rents, wages, and salaries. Federal Procurement Regulations, Temporary Regulation 22 provided procedures which implemented that order. Executive Order 11627, October 15, 1971, superseded the earlier order and included the following provision:

SEC. 13. All orders, regulations, circulars, or other directives issued and all other actions taken pursuant to Executive Order No. 11615, as amended, are hereby confirmed and ratified, and shall remain in full force and effect, as if issued under this order, unless and until altered, amended, or revoked by the Council or by such competent authority as the Council may specify.

This temporary regulation of the Federal Procurement Regulations continues, on a modified basis, the requirements previously prescribed by Federal Procurement Regulations, Temporary Regulation 22. The changes which have been made involve the inclusion of appropriate references to Executive Order 11627, October 15, 1971.

5. *Effect on other issuances.* FPR Temporary Regulation 22 remains in effect with respect to outstanding contracts and solicitations. New solicitations and contracts shall be handled as required by this regulation.

6. *Explanation of change.* Section 1-1.321 is added as follows:

§ 1-1.321 Stabilization of prices, rents, wages, and salaries.

By Executive Order 11615, August 15, 1971, the President stabilized prices, rents, wages and salaries. Pursuant to the Executive order, the President's Regulations and Purchasing Review Board stated:

The U.S. Government is the largest purchaser of goods and services in the World. That Government purchasing power should be used to the full extent the law permits to support the recently announced Federal Price-Wage-Rent freeze. In placing Government contracts for goods and services, officials should consider, as a decisive factor, whether contractors are in compliance with the Price-Wage-Rent freeze in all of their transactions.

This section prescribes procedures for carrying out the purpose of the Executive order.

§ 1-1.321-1 Solicitations.

Price certifications shall be included in all solicitations (invitations for bids and requests for proposals), excluding small purchases under $2,500 and any contracts resulting therefrom (see § 1-1.321-2). A price certification is prescribed in paragraph (a) of this section and an alternate price certification is prescribed in paragraph (b) of this section which may be employed as provided therein.

(a) *Price certification.* Agencies shall satisfy the requirements of this section by employing the price certification set forth in this paragraph (a), except to the extent that the price certification prescribed in paragraph (b) of this section is authorized for use.

PRICE CERTIFICATION

(a) By submission of this bid (offer) bidder (offeror) certifies that he is in compliance and will continue to comply with the requirements of Executive Order 11615, August 15, 1971, as superseded by Executive Order 11627, October 15, 1971, for the duration thereof and further certifies that the prices bid (offered) herein conform to the requirements of Executive Order 11615, as superseded by Executive Order 11627, October 15, 1971, or shall be reduced accordingly at the time of any billings that are made during the effective period of the Executive order.

(b) Prior to the payment of invoices under this contract, the Contractor shall place on, or attach to, each invoice submitted the following certification:

I hereby certify that amounts invoiced herein do not exceed the lower of (i) the contract price, or (ii) maximum levels established in accordance with Executive Order 11615, August 15, 1971, as superseded by Executive Order 11627, October 15, 1971.

(c) The Contractor agrees to insert the substance of this clause, including this paragraph (c), in all subcontracts for supplies or services issued under this contract.

(b) *Alternate price certification.* The price certification set forth in this paragraph may be employed in lieu of the certification in paragraph (a) of this section only in those situations which do not involve the submission of invoices.

PRICE CERTIFICATION

(a) By submission of this bid (offer) bidder (offeror) certifies that he is in compliance and will continue to comply with the requirements of Executive Order 11615, August 15, 1971, as superseded by Executive Order 11627, October 15, 1971.

(b) Acceptance of any payments for property, goods, or services furnished during the effective period of the Executive order shall constitute a certification by the Contractor that the amounts paid do not exceed the maximum levels established in accordance with Executive Order 11615, as superseded by Executive Order 11627.

(c) The Contractor agrees to insert the substance of this clause, including this paragraph (c), in all subcontracts.

§ 1-1.321-2 Notification of contractors.

Contracting officers shall notify all contractors with existing contracts (i.e., a contract which does not contain a price certification as prescribed in § 1-1.321-1) and all contractors awarded contracts under $2,500 except (a) those made with imprest funds (see § 1-1.321-6), and (b) other small purchases as provided by individual agency procedures, of their obligations under Executive Order 11615, as superseded by Executive Order 11627. This shall be accomplished by issuance of a notice, as provided in paragraph (a) or (b) of this section, whichever is appropriate.

(a) Notice to contractors:

Reference is made to your Contract No.(s)_____

You are hereby notified of your following obligations under Executive Order 11615, August 15, 1971, as superseded by Executive Order 11627, October 15, 1971:

Prior to payment of invoices submitted under each contract, you must place on, or attach to, each invoice or other payment document submitted the following certification:

I hereby certify that amounts invoiced herein do not exceed the lower of (1) the contract price, or (2) maximum levels established in accordance with Executive Order 11615, August 15, 1971, as superseded by Executive Order 11627, October 15, 1971.

Payments will not be made on invoices submitted under the above noted contract unless certification, as prescribed above, has been completed.

(b) Alternate notice to contractors:

Acceptance of any payments for property, goods, or services furnished during the effective period of the Executive order shall constitute a certification by the Contractor that amounts paid do not exceed the maximum levels established in accordance with Executive Order 11615, August 15, 1971, as superseded by Executive Order 11627, October 15, 1971.

§ 1-1.321-3 Absence of certification in solicitations.

Solicitations which do not include a certification as required by § 1-1.321-1 shall be handled as follows:

(a) In formally advertised procurements, invitations for bids which do not include the certification shall be amended to include the certification where there is sufficient time to amend the invitation prior to the time (including permissible time extensions) set for the opening of bids.

(b) In negotiated procurements where awards have not been made, requests for proposals shall be amended to include the certification.

(c) Where invitations for bids and requests for proposals include the certification requirement and bidders and offerors decline to comply with the certification, their bids and offers shall be deemed to be nonresponsive.

(d) In formally advertised procurements, where the invitation for bids did not include the certification requirement and the requirement was not included by an amendment of the invitation, awards shall be made in accordance with established procedures. Prior to award, however, such bidders shall be notified in the same manner provided in § 1–1.321–2 for existing contracts that they will be subject to the procedures of the applicable price certification prescribed in § 1–1.321–2.

§ 1–1.321–4 Violations.

Reported and suspected violations of Executive Order 11615, as superseded by Executive Order 11627, October 15, 1971, which are brought to the attention of contracting personnel, shall be reported in accordance with agency procedures.

§ 1–1.321–5 Payments.

(a) Where the procedure prescribed in paragraph (b) of the price certification in § 1–1.321–1(a) and the procedure in § 1–1.321–2(a) are employed, payment shall not be made until the contractor has complied with the procedure.

(b) Where the alternate notice to contractors prescribed in paragraph (b) of § 1–1.321–2 is employed, payment shall not be made until the notice has been acknowledged by the contractor in the manner prescribed by agency procedures or some other appropriate form of certification has been obtained.

§ 1–1.321–6 Imprest funds.

Individuals authorized to place imprest fund orders shall not place such orders with concerns which are in known violation of Executive Order 11615, as superseded by Executive Order 11627. Further, such individuals shall report violations in accordance with agency procedures.

§ 1–1.321–7 Execution of certification.

Invoices which otherwise satisfy the requirements of the finance offices receiving such invoices need not be signed by contractors executing the certification in order to satisfy the certification requirements of this regulation.

ROBERT L. KUNZIG,
Administrator of General Services.

NOVEMBER 22, 1971.

[FR Doc.71–17411 Filed 11–29–71;8:49 am]

Chapter 14R—Office of Saline Water, Department of the Interior

PART 14R–9—PATENTS AND DATA

On page 11694 of the FEDERAL REGISTER of July 22, 1970 there was published a notice and text of proposed patent and data regulations for the Office of Saline Water in the Department of the Interior.

Interested persons were given sixty (60) days within which to submit written comments, suggestion or objections to the proposed regulations. A number of these have been received and all were duly considered. The proposed regulations, modified in some aspects as a result of the material submitted, are hereby adopted and are set forth below. These regulations shall become effective 45 days after the date of publication in the FEDERAL REGISTER.

WARREN F. BRECHT,
Deputy Assistant Secretary of the Interior.

NOVEMBER 22, 1971.

Sec.

14R–9.000 Scope of part.
14R–9.001 Contracting Officer to consult with Solicitor.

Subpart 14R–9.1—Inventions and Patents

14R–9.100 Scope of subpart.
14R–9.101 Statutory requirements.
14R–9.101–1 Patent clause requirement.
14R–9.101–2 Definitions.
14R–9.101–2.1 Specified work object.
14R–9.101–2.2 Contractor.
14R–9.101–3 Domestic patent rights.
14R–9.101–4 Exclusion of inventions.
14R–9.101–5 Foreign rights.
14R–9.101–6 Background patents.
14R–9.101–7 Subcontracts.
14R–9.101–8 Reporting of related inventions.
14R–9.101–9 Patent clause.

Subpart 14R–9.2—Data

14R–9.200 Scope of subpart.
14R–9.201 Data requirements.
14R–9.202 Data clause.

AUTHORITY: The provisions of this Part 14R–9 issued under 5 U.S.C. 1964 ed., sec. 22; sec. 2, Reorganization Plan No. 3 of 1950, 15 F.R. 3174.

§ 14R–9.000 Scope of part.

These regulations and contract clauses set forth the policies of the Office of Saline Water in the area of patents and data.

§ 14R–9.001 Contracting officer to consult with Solicitor.

(a) All authority of the Secretary of the Department of the Interior with respect to patent policies and procedures has been delegated to the Solicitor of the Department (Departmental Manual, Part 210, Chapter 2, paragraph 210.2.2A(5)). Therefore, any action under any contract provision required of the contracting officer (or other official having administrative authority over the contract) which affects the disposition of rights in inventions and in the related area of data, shall be taken only after consultation with and approval of the Solicitor of the Department. No modification or alteration of any contract provision in these areas shall be made by the contracting officer without the express written authorization of the Solicitor. Requests for deviation shall be submitted to the Solicitor and the reasons for the actions requested set forth.

(b) The Office of the Solicitor shall be consulted for policies, instructions, and contract clauses concerning inventions, patents, and data for use in contracts which are to be performed outside the United States, its possessions and Puerto Rico.

Subpart 14R–9.1—Inventions and Patents

§ 14R–9.100 Scope of subpart.

(a) This subpart prescribes contract clauses and instructions which define and implement the policy of the Office of Saline Water of the Department of the Interior with respect to inventions made in the course of or under a contract which in whole or in part is for experimental, developmental or research work.

(b) Definitions of various terms employed in this subpart are to be found in § 14R–9.101–9.

§ 14R–9.101 Statutory requirements.

The Department of the Interior is charged with the administration of the Saline Water Act of 1971, Public Law 92–60, wherein the disposition of patent rights in inventions is governed by a specific statutory provision. Section 6(d) states:

All research within the United States contracted for, sponsored, cosponsored, or authorized under authority of this Act, shall be provided for in such manner that all information, uses, products, processes, patents, and other developments resulting from such research developed by Government expenditure will (with such exceptions and limitations, if any, as the Secretary may find to be necessary in the interest of national defense) be available to the general public. This subsection shall not be so construed as to deprive the owner of any background patent relating thereto of such rights as he may have thereunder • • •

This same language in the earlier Saline Water Act, Public Law 87–295 (42 U.S.C. 1954(b)) has been interpreted, after a thorough review of the legislative history, as meaning that inventions and resulting patents, etc., arising out of research under the authority of the Act must be made available royalty-free. See Solicitor's Memorandum M–36637 of May 7, 1962, 69 I.D. 54 (1962).

§ 14R–9.101–1 Patent clause requirement.

All Office of Saline Water contracts which are in whole or in part for experimental, developmental, or research work shall contain the patent clause set out at § 14R–9.101–9.

§ 14R–9.101–2 Definitions.

The definitions of various key terms employed in the regulations and patent clause are set forth in paragraph (a) of § 14R–9.101–9, the patent clause.

§ 14R–9.101–2.1 Specified work object.

The term "specified work object" relates to the tangible device or specific process upon which the research and development work is being conducted and is in existence or is known prior to the contract. For example, in a contract for improving the permeability ratio of a reverse osmosis membrane of a stated composition, the membrane that is being experimented with would be the "specified work object". The difference between this term and the objective of the contract is that the latter is the goal sought in the research effort (in this case an improved permeability ratio), whereas the former relates to the material being worked upon. Under the contract provisions, any background patent necessary to the practice of a Specified Work Object for water desalination will be made available either through commercially available embodiments or through licensing as set forth in § 14R–9.101–9(d).

In some types of research, such as basic research where the primary object is the development of new knowledge as distinct from the improvement of an existing device or process, there may well be no specified work object. In such case the following may be added, with the approval of the Solicitor, to paragraph (g)(12) of § 14R–9.101–9, of the patent clause:

(12) In view of the nature of the research work under this contract, the definition of Specified Work Object given in paragraph (a)(11) of this section is inapplicable in the patent clause. It is agreed, therefore, that all obligations relating to, or flowing from, a Specified Work Object have no force and effect in this patent clause.

§ 14R–9.101–2.2 Contractor.

The definition of "Contractor" in the patent clause may in some unusual cases give rise to situations which could cause serious difficulties in contracting. Subject to the approval of the Solicitor, deviations may be made in the definition as are deemed necessary to accommodate the specific problems presented and still attain the main objectives of the Department of the Interior's patent policy as expressed in the regulations.

§ 14R–9.101–3 Domestic patent rights.

All patents arising out of R. & D. contracts under the Saline Water Act are required to be made available to the public in the United States royalty-free. This is carried out in paragraph (b) of the patent clause (§ 14R–9.101–9(b)) by having the Government take title to all inventions made under such contracts. The contractor is granted a royalty-free license under such inventions.

§ 14R–9.101–4 Exclusion of inventions.

(a) Under the terms of the patent clause, an invention is considered made under the contract if it was first conceived or first actually reduced to practice in the course of or under the contract. Where the contractor alleges at the time of contracting that an identified invention was conceived prior to the execution of the contract, and a patent application has been filed or will be filed, he may acquire the right to have the invention excluded from being considered a subject invention even though it is later actually reduced to practice under the contract. The contractor may acquire this right if he can provide evidence sufficient to convince the Contracting Officer that the work actually performed by him had brought the invention to the point of engineering practicality prior to the contract, and an actual reduction to practice under the contract will require no more than routine work. However, data developed in connection with work on the invention in the course of or under the contract are subject to the provisions of the Data clause § 14R–9.202 and the Government has a shop right to practice the invention if it is held not to be a subject invention.

(b) When applicable, the following paragraphs shall be inserted in the contract as paragraph (b)(3) of the patent clause (§ 14R–9.101–9) to cover this aspect:

An invention which has not been actually reduced to practice may be excluded from being considered a Subject Invention even though it is subsequently actually reduced to practice in the course of or under the Contract if:

(i) The Contractor has demonstrated to the Contracting Officer at the time of contracting, or at a time subsequent thereto as set forth in the Schedule, that such invention was described in a patent application or in a suitable documented written disclosure furnished to the Contracting Officer and had been developed to the point of engineering practicality prior to this Contract by laboratory or design work, or both, and

(ii) A subsequent actual reduction to practice under this Contract did not require the exercise of invention or extensive experimentation, and

(iii) A U.S. patent application on said invention is filed prior to the termination of the Contract.

As used herein "extensive experimentation" shall be deemed to have taken place when the labor cost involved under the Contract in making the actual reduction to practice amounts to either (1), 15 or more percent of the total labor cost under the Contract, or (2), at least 10,000 dollars.

Upon the Contractor's request and without undue delay, after the actual reduction to practice the circumstances will be reviewed and a determination will be made whether the invention would be considered a Subject Invention. It is agreed that the Government has a shop right to practice, for Governmental purposes, any such invention held not to be a Subject Invention. Any dispute regarding the rights of the parties under this paragraph shall be subject to the Disputes Clause of this Contract.

§ 14R–9.101–5 Foreign rights.

Title to subject invention foreign rights will normally be waived to the Contractor upon his request except when the Government, because of a compelling public interest, determines to retain such rights.

§ 14R–9.101–6 Background patents.

(a) *Statutory provisions concerning background patents.* The Act provides generally that nothing contained therein shall be construed as to deprive the owner of any background patent rights. No prohibition against a patent owner agreeing by contract to enter into a license arrangement respecting his background patents is seen therein. However, care must be taken to make sure that such a contract is equitable. Generally speaking, it is the policy of OSW not to require licensing of background patents provided the invention involved therein is available commercially at reasonable prices.

(b) *License to the public.* Under the Saline Water Act, all patents, information, developments, etc., made under a research and development contract are required to be made available to the public. If the contractor has a dominating background patent, he can, by a restrictive licensing policy inhibit the use of a subject invention by the public, with the result that the Government's expenditure of funds for research intended to benefit the public at large would go for naught. To minimize this possibility, the background provisions in the Patent Rights clause sets forth in § 14R–9.101–9(d) that dominating background patents will be made available for use for water desalination in conjunction with the results of the research effort. To this end the contractor agrees to grant a license to any responsible applicant on reasonable terms, except where an embodiment of the dominating background patent is commercially available (or will be made so by a specified date) in a form which can be employed in the practice of either a subject invention or the specific subject matter of the research. In the latter case licensing is not required. The contractor may, of course, grant an unlimited license under his background patents.

(1) It should be noted that where a contractor employs an embodiment of his patent in work on a specific work object for convenience only, there being other functionally equivalent substitutes available, he would not be required to license the patent for use with the specified work object. Should a subject invention be made which is dominated by such patent, then licensing would be required if an embodiment is not commercially available.

(2) The background requirements are satisfied if a contractor makes his dominating background patent available through the commercial sale of a product in which the background patent, together with the foreground developments are joined. However, march-in rights are reserved to assure availability of the results of the research and development work.

(3) Where a contractor's parent or affiliated company controls a patent, not a commercial item, which would be background if held by the contractor, the patent clause at § 14R–9.101–9(d)(8) requires the contractor to aid in securing a license for qualified applicants.

(c) *License to the Government.* (1) Where the embodiment of a background patent is not available commercially, the Government should not be obligated to pay royalties to do pilot plant, test bed or test module work in the field of technology of the contract using such background patents since, if successful, the

result of such work will enhance the value of contractor's background.

(2) Since in many cases the purpose of the Government-sponsored research is to further develop a contractor's background invention, the Government should receive some recognition for its contribution if it wishes to employ such invention for any U.S. Government use. Accordingly, the patent clause provides that the Government will obtain a license on such background patent at a reasonable royalty which shall recognize the Government's contributions toward the commercial development or enhancement of the patent. Section 14R–9.101–9 (d)(4) of the patent clause covers these aspects.

(d) *Limitations on use of background patent to a process.* Where the research and development work involves the employment of a contractor's background patent in a process under parameters and conditions different from those which are employed in his commercial process, the requirement to license such background patent to the public for use in conjunction with the specified work object is limited to the conditions and parameters reasonably equivalent to those employed in the work under the contract. This would avoid the possibility of a license being acquired under the background patent which would enable the practice of contractor's commercial process, although the work under the contract called for different operating parameters.

(e) *Antitrust.* While agreements pursuant to the background and foreign rights clauses would not in the great majority of cases be violative of the antitrust laws, it may be possible to devise an arrangement thereunder which would be in restraint of trade. Accordingly, nothing herein is to be construed as relieving any person from the operation of the antitrust laws as regard a specific agreement entered into pursuant to these regulations and contract provisions.

§ 14R–9.101–7 Subcontracts.

Flowdown of patent rights to the Government in subcontracts is covered by the patent clause at § 14R–9.101–9(e).

§ 14R–9.101–8 Reporting of related inventions.

(a) In many cases a contractor conducts research on his own account parallel to that conducted under a Government contract during the same period, and sometimes with the same personnel. In order to enable the Government to determine whether or not an invention made by the contractor in the field of research contemplated by the contract is a subject invention, the patent article provides for reporting, during prescribed periods, all inventions made by the contractor which are related to the work under the contract. Additional information is to be furnished to the Government on request. Failure to report or to supply the information requested places on the contractor the duty of going forward with the evidence under any subsequent proceeding.

(b) If the contractor alleges that the reporting of related inventions would result in excessive administrative costs because of his large size and far-flung organization or other valid reasons, the contracting officer may limit the reporting requirement to a more limited segment of the organization conducting the research. However, the contractor will still be required to furnish information concerning any invention at the specific request of the contracting officer. This subject matter is covered by the patent clause in § 14R–9.101–9(f).

§ 14R–9.101–9 Patent clause.

(a) *Definitions.* (1) "Background Patent" means a foreign or domestic patent (regardless of its date of issue relative to the date of this Contract):

(i) Which the Contractor, but not the Government, has the right to license to others, and

(ii) Infringement of which cannot be avoided upon the practice of a Subject Invention or Specified Work Object.

(2) "Commercial Item" means:

(i) Any machine, manufacture or composition of matter which, at the time of a request for a license pursuant to paragraph (d) of this section, has been sold, offered for sale or otherwise made available commercially to the public in the regular course of business, at terms reasonable in the circumstances, and

(ii) Any process which, at the time of a request for a license, is in commercial use, or is offered for commercial use, so the results of the process or the products produced thereby are or will be accessible to the public at terms reasonable in the circumstances.

(3) "Contract" means any contract, agreement, grant, or other arrangement, or subcontract entered into with or for the benefit of the Government where a purpose of the contract is the conduct of experimental, development, or research work.

(4) "Contractor" means any individual, partnership, public or private corporation, association, institution or other entity which is a party to the contract and includes entities controlled by the contractor. The term "controlled" means the direct or indirect ownership or more than 50 percent of the outstanding stock entitled to vote for the election of directors, or a directing influence over such stock: *Provided, however,* That foreign entities not wholly owned by the contractor shall not be considered as "controlled" for purposes of this patent clause. For the purposes of the patent clause grantees are deemed contractors.

(5) "Domestic" and "foreign" refer, respectively, (i) to the United States of America, including its territories and possessions, Puerto Rico and the District of Columbia and (ii) to countries other than the United States of America.

(6) "Government" means the Federal Government of the United States of America.

(7) "Governmental purpose", as used herein, means the right of the Government to practice throughout the world by or on its behalf for any and all Government uses.

(8) "Made", when used in connection with any invention, means the conception or first actual reduction to practice of such invention.

(9) To "practice an invention or patent" means the right of a licensee on his own behalf to make, have made, use or have used, sell or have sold, or otherwise dispose of according to law, any machine, design, manufacture or composition of matter physically embodying the invention, or to use or have used the process or method comprising the invention.

(10) "Secretary" means the Secretary of the Interior, or his authorized representative.

(11) "Specified Work Object" means the specific process, method, machine, manufacture or composition of matter (including relatively minor modifications thereof) which is the subject of the experimental, developmental, or research work performed under this contract.

(12) "Subcontract" means any agreement made or purchase order executed by a Contractor or Subcontractor where the supplies or services covered by such agreement or purchase order are being obtained for use in the performance of this contract and a purpose of the subcontract is the conduct of experimental, developmental or research work.

(13) "Subcontractor" means any person holding a subcontract under this contract or any lower-tier subcontract under this contract.

(14) "Subject Invention" means any invention, discovery, improvement or development (whether or not patentable) made in the course of or under this contract or any subcontract (of any tier) thereunder.

(15) "Saline water" as used herein includes sea water, brackish water, mineralized ground or surface water, irrigation return flows and other chemically contaminated waters which contain chemicals susceptible to removal by desalting processes.

(16) "Desalination of saline water" means the treatment of saline water to remove chemical constituents therefrom and produce water having a quality suitable for beneficial consumptive uses. The term does not include (i) treatment of milk, fruit and vegetable or other plant juices, alcoholic beverages, tea, coffee, oil, etc., wherein the desired product is a concentrate or a dewatered material and the water removed is at most of secondary importance, (ii) treatment of potable water meeting either Federal or local public standards for human consumption to produce water intended for a private, industrial or commercial use in excess of these standards and (iii) treatment of water used in an industrial process to recover valuable minerals or chemicals introduced by such process.

(b) *Domestic patent rights in Subject Inventions.* (1) The Contractor agrees that he will promptly disclose to the Contracting Officer in writing each Subject Invention in a manner sufficiently complete as to technical details to convey to one skilled in the art to which the Invention pertains a clear understanding of the nature, purpose, operation and, as the case may be, the physical, chemical, biological, or electrical characteristics of the Invention. However, if any Subject Invention is obviously unpatentable under the patent laws of the United States, such disclosure need not be made thereon. On request of the Contracting Officer, the Contractor shall comment respecting the differences or similarities between the Invention and the closest prior art drawn to his attention.

(2) The Contractor agrees to grant and does hereby grant to the Government the full and entire domestic right, title and interest in the Subject Invention. The Government agrees to grant to the Contractor and does hereby grant a royalty-free and nonexclusive license to practice the Subject Invention. The license shall extend to any existing and future companies, controlled by, controlling or under common control with the Contractor and shall be assignable to the successor of the part of the Contractor's business to which such invention pertains.

(c) *Foreign rights and obligations.* (1) Subject to the waiver provisions of subparagraph (2) of this paragraph, it is agreed that the entire foreign right, title and interest in any Subject Invention shall be in the Government, as represented for this purpose by the Secretary. The Government agrees to grant and does hereby grant to the Contractor a royalty-free nonexclusive license to practice the Invention under any patent obtained on such Subject Invention in any foreign country. The license shall extend to existing and any future companies controlled by, controlling or under common control with the contractor, and shall be assignable to the successor of the part of the Contractor's business to which such Invention pertains.

(2) The Contractor may request the foreign rights to a Subject Invention at any time subsequent to the reporting of such Invention. The response to such request and notification thereof to the Contractor will not be unreasonably delayed. The Government will waive title to the Contractor to such Subject Invention in foreign countries in which the Government will not file an application for a patent for such Invention, or otherwise secure protection therefor. Whenever the contractor is authorized to file in any foreign country the Government will not thereafter proceed with filing in such country except on the written agreement of the Contractor, unless such authorization has been revoked pursuant to subparagraph (3) of this paragraph.

(3) In the event the Contractor is authorized to file a foreign patent application on a Subject Invention, the Government agrees that it will use its best efforts not to publish a description of such Invention until a United States or foreign application on such Invention is filed, whichever is earlier, but neither the Government, its officers, agents or employees shall be liable for an inadvertent publication thereof. If the Contractor is authorized to file in any foreign country, he shall, on request of the Contracting Officer, furnish to the Government a patent specification in English within six (6) months after such authorization is granted, prior to any foreign filing and without additional compensation. The Contracting Officer may revoke such authorization on failure on the part of the Contractor to file any such foreign application within nine (9) months after such authorization has been granted.

(4) If the Contractor files patent applications in foreign countries pursuant to authorization granted under subparagraph (2) of this paragraph, the Contractor agrees to grant to the Government an irrevocable, nonexclusive, royalty-free license to practice the Invention under any patents which may issue thereon in any foreign country, including the power to issue sublicenses, either for governmental purposes or pursuant to any existing or future treaties or agreement between the Government and a foreign government for governmental purposes of said foreign government, or both. The Contractor further agrees to grant under such foreign patents a nonexclusive, nontransferable, royalty-free license to any applicant therefor who is a licensee of the Government under a corresponding U.S. patent, patent application or invention, to sell and to use, but not to make, any composition of matter, article or manufacture, apparatus or system, made by such applicant under the license granted by the Government. Said applicant must be a U.S. citizen or a U.S. corporation in which 75 percent of the voting stock is owned by U.S. citizens.

(5) In the event the Government or the Contractor elects not to continue prosecuting any foreign application or to maintain any foreign patent on a Subject Invention, the other party shall be notified not less than sixty (60) days before the expiration of the response period or maintenance tax due date, and upon written request, shall execute such instruments (prepared by the party wishing to continue the prosecution or to maintain such patent) as are necessary to enable such party to carry out its wishes in this regard.

(d) *License under Background Patents.* (1) Contractor agrees that he will make his Background Patent available for use in conjunction with a Subject Invention or Specified Work Object for water desalination purposes. This may be done (i) by making available an embodiment of the Subject Invention or Specified Work Object, which incorporates the invention covered by the Background Patent, as a Commercial Item, or (ii), by the sale of an embodiment of a Background Patent as a Commercial Item in a form which can be employed in the practice of a Subject Invention or Specified Work Object or can be so employed with relatively minor modifications, or (iii), by the licensing of the domestic Background Patent at reasonable royalty to responsible applicants on their request.

(2) If the Secretary determines after a hearing that the quality, quantity, or price of embodiments of the Subject Invention or Specified Work Object sold or otherwise made available commercially as set forth in subparagraph (1)(i) of this paragraph is unreasonable in the circumstances, he may require the Contractor to license such domestic Background Patent to a responsible applicant at reasonable terms, including a reasonable royalty, solely for water desalination purposes for use in connection with (i) a Specified Work Object, or (ii) a Subject Invention.

(3)(i) When a license to practice a domestic Background Patent in conjunction with a Subject Invention or Specified Work Object is requested, in writing, for water desalination by a responsible applicant, and such Background Patent is not available as set forth in subparagraph (1)(i) or (ii) of this paragraph, the Contractor shall have 6 months from the date of his receipt of such request to decide whether to make such Background Patent so available. The Contractor shall promptly notify the Contracting Officer of any request in writing for a license to practice a Background Patent in conjunction with a Subject Invention or Specified Work Object, which the Contractor or his exclusive licensee wish to attempt to make available as set forth in subparagraph (1)(i) or (ii) of this paragraph.

(ii) If the Contractor decides to make such domestic Background Patent so available either by himself or by an exclusive licensee, he shall so notify the Secretary within the said six (6) months, whereupon the Secretary shall then designate the reasonable time within which the Contractor must make such Background Patent available in reasonable quantity and quality, and at a reasonable price. If the Contractor or his exclusive licensee decides not to make such Background Patent so available, or fails to make it available within the time designated by the Secretary, the Background Patent shall be licensed to a responsible applicant at reasonable terms, including a reasonable royalty, in conjunction with (a) a Specified Work Object, or (b) a Subject Invention, and may be limited by the licensor to water desalination purposes solely.

(iii) The Contractor agrees to grant or have granted to a designated applicant, upon the written request of the Government, a nonexclusive license at reasonable terms, including reasonable royalties, under any foreign Background Patent in furtherance of any treaty or agreement between the Government of the United States and a foreign government for the governmental purposes of such foreign government if an embodiment of the Background Patent is not commercially available in that country. Such license may be limited by the licensor to the practice of such Background Patent in conjunction with the Subject Inventions or Specified Work Objects for water desalination.

(iv) The Contractor agrees it will not seek injunctive relief or other prohibition of the use of the invention in enforcing its rights against any responsible applicant for such license and that it will not join with others in any such action. It is understood and agreed that the foregoing shall not affect the Contractor's right to injunctive relief or other prohibition of the use of Background Patents in areas not connected with the practice of a Subject Invention or Specified Work Object for water desalination, or where the Contractor has made available a Commercial Item as set out in subparagraph (1)(i) or (ii) of this paragraph.

(4) For use in water desalination in conjunction with a Subject Invention or a Specified Work Object, the Contractor agrees to grant to the Government a license under any Background Patent. Such license shall be nonexclusive, nontransferable, royalty-free and worldwide to practice such Patent which is not available as a Commercial Item as specified in subparagraph (1)(ii) of this paragraph for use of the Government in connection with pilot plants, test beds, and test modules. Subject to the royalty-free license provided for in this subparagraph and to any license provisions set forth elsewhere in this patent clause, or in other contracts or agreements, any royalty charged the Government under such license shall be reasonable and shall give due credit and allowance for the Government's contribution, if any, toward the making, commercial development or enhancement of the invention(s) covered by the Background Patent.

(5) Any license granted under a process Background Patent for use with a Specified Work Object may be additionally limited by the Contractor to employment of the Background Patent under conditions and parameters reasonably equivalent to those called for or employed under the contract.

(6) It is understood and agreed that the Contractor's obligation to grant licenses under Background Patents shall be limited to the extent of the Contractor's right to grant the same without breaching any unexpired contract it had entered into prior to this contract or prior to the identification of a Background Patent, or without incurring any obligation to another solely on account of said grant. However, where such obligation is the payment of royalties or other compensation, the Contractor's obligation to license his Background Patents shall continue and the reasonable license terms shall include such payments by the applicant as will at least fully compensate the Contractor under said obligation to another.

(7) On the request of the Contracting Officer the Contractor shall identify and describe any license agreement which would limit his right to grant a license under any Background Patent.

(8) In the event the Contractor has a parent or an affiliated company, which has the right to license a patent which would be a Background Patent if owned by the Contractor, but which is not available as a Commercial Item as specified in subparagraph (1)(i) or (ii) of this paragraph, and a qualified applicant requests a license under such patent for the purpose of water desalination in connection with the use of a Subject Invention or Specified Work Object, the Contractor shall, at the written request of the Government, recommend to his parent company, or affiliated company, as the case

may be, the granting of the requested license

three (3) months subsequent to the term

of which shall commence with the date of

duce, translate, publish, use, dispose of and

may be, the granting of the requested license on reasonable terms, including reasonable royalties, and actively assist and participate with the Government and such applicant, as to technical matters and in liaison functions between the parties, as may reasonably be required in connection with any negotiations for issuance of such license. For the purpose of this subparagraph, (i) a parent company is one which owns or controls, through direct or indirect ownership of more than 50 percent of the outstanding stock entitled to vote for the election of directors, another company or other entity and, (ii) affiliated companies are companies or other entities owned or controlled by the same parent company.

(e) *Subcontracts.* (1) The Contractor, shall, unless otherwise authorized or directed by the Contracting Officer, include a patent clause containing provisions that correspond to those of this clause, except for the "withholding of payment" provision, in any subcontract hereunder where a purpose of the subcontract is the conduct of experimental, developmental or research work. In the event of refusal by a subcontractor to accept this clause, the Contractor:

(i) Shall promptly submit a written report to the Contracting Officer setting forth the subcontractor's reasons for such refusal or the reasons the Contractor is of the opinion that the inclusion of this clause is inappropriate, and other pertinent information which may expedite disposition of the matter; and

(ii) Shall not execute the subcontract without the written authorization of the Contracting Officer.

The Contractor shall not in any subcontract, or by using such subcontract as consideration therefor, acquire any rights to Subject Inventions for his own use (as distinguished from such rights as may be required solely to fulfill his contract obligations to the Government in the performance of this contract). Reports, instruments and other information required to be furnished by a subcontractor to the Contracting Officer under the provisions of a patent clause in a subcontract hereunder may, upon mutual consent of the Contractor and the subcontractor (or by direction of the Contracting Officer) be furnished to the Contractor for transmission to the Contracting Officer.

(2) The Contractor, at the earliest practicable date, shall also notify the Contracting Officer in writing of any subcontract containing a patent clause, furnish him a copy of such clause and notify him when such subcontract is completed. It is understood that the Government is a third party beneficiary of any subcontract clause granting rights in Subject Inventions, Background Patents, and pursuant to paragraph (f) of this section, and the Contractor hereby assigns to the Government all rights that the Contractor would have to enforce the subcontractor's obligations with respect to Subject Inventions, Background Patents, and pursuant to paragraph (f) of this section. The Contractor shall join with the Government at the Government's request and expense in any legal action to secure the Government's rights.

(f) *Related inventions.* (1) The Contractor shall submit to the Contracting Officer within six (6) months after the submission of the final report required by paragraph (g)(6) of this section, written information concerning the conception of actual reduction to practice, or both, as may be applicable, of every invention made by the Contractor pertaining to the work called for in this contract which was conceived or first actually reduced to practice within the period of three (3) months prior, during, or three (3) months subsequent to the term of this contract, which invention would be a Subject Invention if made under this contract, but which the Contractor believes was made outside the performance of work required under this contract. The Contracting Officer may require additional information to be furnished in confidence by the Contractor. At the request of the Contracting Officer made during or subsequent to the term of the contract, including any extensions for additional research and development work, the Contractor shall furnish information concerning any other invention which appears to the Contracting Officer to reasonably have the possibility of being a Subject Invention.

(2) All information supplied by the Contractor hereunder shall be of such nature and character as to enable the Contracting Officer reasonably to ascertain whether or not the invention concerned is a Subject Invention. Failure to furnish such information called for herein shall, in any subsequent proceeding, place on the Contractor the burden of going forward with the evidence to establish that such invention is not a Subject Invention. If such evidence is not then presented the invention shall be deemed to be a Subject Invention. After receipt of information furnished pursuant hereto, the Contracting Officer shall not unduly delay rendering his opinion on the matter. In the case of a contract, the Contracting Officer's decision shall be subject to the Disputes Clause of such contract, and in the case of a grant, the decision shall be subject to appeal to the Secretary or his duly authorized representative. The Contractor may furnish the information required under this paragraph (f) as Contractor confidential information, which shall be identified as such.

(g) *General provisions.* (1) The Contractor shall obtain the execution of and deliver to the Contracting Officer any document relating to Subject Inventions as the Contracting Officer may require under the terms hereof to enable the Government to file and prosecute patent applications therefor in any country and to evidence and preserve its rights. Each party hereto agrees to execute and deliver to the other party on its request suitable documents to evidence and preserve license rights derived from this clause.

(2) The Government and the Contractor shall promptly notify each other of the filing of a patent application on a Subject Invention in any country, identifying the country or countries in which such filing occurs and the date and serial number of the application, and on request shall furnish a copy of such application to the other party and a copy of any action on such patent application by any Patent Office and the responses thereto. Any applications or responses furnished shall be kept confidential.

(3) Any other provisions of this clause notwithstanding, the Contracting Officer, or his authorized representative shall, until the expiration of three (3) years after final payment under this Contract, have the right to examine in confidence any books, records, documents, and other supporting data of the Contractor which the Contracting Officer or his authorized representative shall reasonably deem directly pertinent to the discovery or identification of Subject Inventions or to the compliance by the Contractor with the requirements of this patent clause.

(4) Notwithstanding the grant of a license under any patents to the Government pursuant to any provisions of this clause, the Government shall not be prevented from contesting the validity, enforceability, scope, or title of such licensed patent.

(5) The Contractor shall furnish to the Contracting Officer interim reports every 6 months, or such other time interval as may be required in this contract, the initial period of which shall commence with the date of this contract. Each report shall list all Subject Inventions required to be disclosed which were made during the interim reporting period or certify that there are no such unreported Inventions.

(6) The Contractor shall submit a final report under this contract listing all Subject Inventions required to be disclosed which were made in the course of the work performed under this contract, and all subcontracts entered into containing a patent clause. If to the best of the Contractor's knowledge and belief, no Subject Inventions have resulted from this contract, the Contractor shall so certify to the Contracting Officer. If there are no such subcontracts, a negative report is required.

(7) The interim and final reports required under paragraph (g) (5) and (6) of this section shall be submitted on Form DI–1216 and Subject Invention disclosures required under paragraph (b)(1) of this section shall be submitted on Form DI–1217 or an equivalent approved by the Contracting Officer. Such reports and disclosures shall be submitted in triplicate to the Contracting Officer, who will furnish copies of the DI forms on request.

(8) Any action required by or of the Government under this clause shall be undertaken by the Contracting Officer as its duly authorized representative unless otherwise stated.

(9) The Government may duplicate and disclose reports and disclosures of Subject Inventions required to be furnished by the Contractor pursuant to this article without additional compensation.

(10) The Contractor shall furnish to the Contracting Officer, in writing, and as soon as practicable, information as to the date and identity of any first public use, sale or publication of any Subject Invention made by or known to the Contractor, of any contemplated publication of the Contractor.

(11) The Secretary shall determine the responsibility of an applicant for a license under any provision of this patent clause when this matter is in dispute and his determination thereof shall be final and binding.

(12) All information furnished in confidence pursuant to this patent clause shall be clearly identified by an appropriate written legend. Such information shall not be, or shall cease to be confidential if it is or becomes generally available to the public, or has been made or becomes available to the Government (i) from other sources, or (ii) by the Contractor without limitation as to use, or was already known to the Government when furnished to it.

(h) *Withholding of payment.* This section does not apply to a grant to, or a no-fee contract with, an educational institution. If the Contractor fails to deliver to the Contracting Officer the interim reports required by paragraph (g)(5) of this section or fails to furnish the written disclosures for all Subject Inventions required by paragraph (b)(1) of this section, shown to be due in accordance with any interim report delivered under paragraph (g)(5) of this section or otherwise known to be unreported, there shall be withheld from payment until the Contractor shall have corrected such failure either ten percent (10%) of the amount of this contract, as from time to time amended, or ten thousand dollars ($10,000), whichever is less. After payment of eighty percent (80%) of the amount of the contract, as from time to time amended, payment shall be withheld until a reserve of either ten percent (10%) of the amount of this contract or ten thousand dollars ($10,000), whichever is less, shall have been set aside. Final payment under the contract shall not be made before the Contractor delivers to the Contracting Officer:

(1) The final report required by paragraph (g)(6) of this section;

(2) Written disclosures for all inventions required by paragraph (b)(1) of this section which are shown to be due in accordance with interim reports delivered under paragraph (g)(5) of this section or in accordance with such final report, or are otherwise known to be unreported; and

(3) The information as to subcontracts required by paragraph (e)(2) of this section. No amount shall be withheld under this subparagraph when the amount specified by this subparagraph is being withheld under other provisions of this contract. The withholding of any amount or subsequent payment thereof to the Contractor shall not be construed as a waiver of any rights accruing to the Government under this contract. This subparagraph shall not be construed as requiring the Contractor to withhold any amounts from a subcontractor to enforce compliance with the patent provision of a subcontract. In cost-type contracts, "amount of this contract" shall mean "estimated cost of this contract".

(i) *Warranties.* (1) The Contractor warrants that whenever he has divested himself of the right to license any Background Patent (or any invention owned by the Contractor which could become the subject of a Background Patent) prior to the date of this contract, such divestment was not done to avoid the licensing requirements set forth in paragraph (d) of this section. After a Background Patent, or invention which could become the subject of a Background Patent, is identified, the Contractor shall take no action which shall impair the performance of his obligation to issue Background Patent Licenses pursuant to this contract.

(2) The Contractor warrants that he will take no action which will impair his obligation to assign to the Government any invention first actually reduced to practice in the course of or under the contract.

(3) The Contractor warrants that he has full authority to make obligations of this article effective, by reason of agreements with all of the personnel, including consultants (other than subcontractor personnel and consultants) who might reasonably be expected to make inventions, and who will be employed in work on the project contemplated by this contract, to assign to the Contractor all discoveries and inventions made within the scope of their employment.

Subpart 14R–9.2 Data

§ 14R–9.200 Scope of subpart.

This subpart prescribes the contract clauses and instructions which define and implement the research and development data policies of the Office of Saline Water in the Department of the Interior.

§ 14R–9.201 Data requirements.

(a) All contracts which are in whole or in part for experimental, developmental or research work shall contain the data clause set forth in § 14R–9.202 which specifies that all data developed under the contract shall be delivered to the Government without any limitation as to its use. Certain proprietary data, however, need not be delivered, as set forth in paragraph (b)(2) of R14–9.202, of the Data clause, although licensing thereof may be required under particular circumstances, as set forth in paragraph (c)(3) of R14–9.202 of the Data clause. The schedule of the contract may contain such specific provisions for the furnishing of data as may have been requested by the cognizant technical office or the contracting officer. Where additional definition of the data is required, the schedule provisions may specify the specific data which the Government wants to have furnished.

(b) The contractor cannot be granted the right to obtain a copyright on any work produced under a contract awarded under the Saline Water Conversion Act, Public Law 87–295 as amended, 42 U.S.C. sections 1951–1958g, which requires all information, uses, products, patents or other developments resulting from research carried out under the authority of the Act to be available to the public.

(c) When computer software is to be generated under a contract, property rights of the Government therein must be suitably provided for. The Rights in Data provisions of the Data clause (14R–9.202(c)) accomplishes this purpose.

§ 14R–9.202 Data clause.

(a) *Definitions.* For the purpose of the Data clause, the following terms have the meanings set forth below:

(1) "Data" means writings, recordings, pictorial reproductions, drawings, or other graphic representations and works of any similar nature whether or not copyrighted. The term includes computer information stored on computer listings, tapes, disks, cards and the like. However, it does not include information incident to contract administration such as financial reports and cost analyses.

(2) "Proprietary Data" means data developed at private expense providing information concerning the details of a contractor's secrets of manufacture, such as may be contained in, but not limited to, his manufacturing methods or processes, treatment and chemical composition of materials, plant layout, and tooling, to the extent that such information is not readily disclosed by inspection or analysis of the product itself and to the extent that the contractor has protected such information from unrestricted use by unauthorized parties.

(3) "Subject Data" means data specified to be delivered or which in fact is delivered under this contract, other than Proprietary Data.

(4) As used in this clause "Standard Commercial Items" means supplies or services which are available commercially to the public by sale or otherwise.

(5) "Contract" and "contractor" are equivalent to "grant" and "grantee" respectively.

(6) "Specified Work Object" and "Subject Invention" are as defined in § 14R–9.101–9(a)(11) and (14).

(b) *Data and reporting.* (1) Commensurate with scope of the work and in the manner, at the times and in the number of copies specified in the schedule, the Contractor shall furnish the data required in the reports set forth herein to the extent the data are of the type which can reasonably be expected to be developed under the contract. If any of such data are in the public domain or copyrighted, it will be sufficient for the Contractor to identify the data and furnish a citation as to where they may be found. No material which is copyrighted by others shall be included in the reports furnished hereunder without written authorization of the Contracting Officer, unless such material is identified to the Contracting Officer and the Contractor secures from the copyright holder a worldwide irrevocable, royalty-free and nonexclusive license under the copyright for the Government to reproduce, translate, publish, use, dispose of and to authorize others to do the same.

(ii) Reports required:

(a) Progress reports as required in sufficient detail to disclose all work accomplished and results achieved during the period concerned, including recommendations for any modification, extension or limitation of the work to be performed;

(b) A complete final technical report summarizing the state of the art and covering all work accomplished and results achieved under this contract, and including conclusions and recommendations derived therefrom. The final report shall include a complete disclosure of all materials, processes, and equipment employed, and shall be in such full, clear, concise and exact detail, including data such a mathematical, graphic and written descriptive materials and other means of disclosure appropriate in the circumstances, to enable any person skilled in the art to achieve the results of the work performed under the contract to the extent possible. The Contractor shall furnish, to the extent applicable, drawings, specifications, and necessary operating and maintenance instructions concerning any equipment, item or process developed under the contract to enable any person skilled in the art to make and use such equipment and perform such process by application of the most advanced state of the art achieved in the performance of this contract. Where appropriate, the report shall include recommendations for further improvements which would advance the future state of the art based on knowledge acquired in the performance of this contract. If this contract is with an individual or an educational institution and the right to publish has not been reserved by the Government, the Contracting Officer may at his option accept as the final technical report a publication describing the results accomplished in the research under the contract together with a report setting forth such additional information as may be necessary to complete the information specified hereinabove; provided however, that a copy of the manuscript for such publication must have been submitted to the Contracting Officer for informational purposes at least 90 days prior to the date of publication or such shorter period as may be agreed to by the Contracting Officer.

(c) An intermediate complete report of all work for the period concerned, of the character required under subdivision (a) of this subparagraph, shall be furnished when required by the Contracting Officer (1) upon completion of the work in each specified phase, (2) upon completion of all work performed up to the time of each contract amendment, if any, extending the period of performance, (3) upon termination, for whatever reason, prior to expiration of the time of performance, and (4) from time to time as may be directed by the Contracting Officer, provided however, that an adjustment in the contract price or fee may be made for the furnishing of such report under this provision (4).

(2) The following data need not be furnished in the reports required in paragraph (b)(1) of this section:

(i) Data for a Standard Commercial Item which is incorporated as a component part in or to be used with the product or process being developed if in lieu thereof the Contractor identifies the source and furnishes characteristics (including performance specifications, when necessary) sufficient to enable procurement of the part or an adequate substitute;

(ii) Proprietary Data which is used or to be used with the product or process being developed or used in the work performed under the contract, if in lieu thereof the Contractor shall identify such Proprietary Data

to the Contracting Officer in a manner sufficient to enable use of such product or performance of such process, or the full comprehension of the work performed.

(3) The Contractor shall submit to the Contracting Officer, at his request, a report of all studies made in planning the work, and in developing background research for the work, including citation references to all such background research compiled in connection with the performance of this contract; provided however, that an adjustment in the contract price or fee shall be made for the furnishing of such report.

(4) The complete final technical report submitted, or publication manuscript furnished in lieu thereof, as required in subparagraph (b)(ii) of this paragraph shall be accompanied by a transmittal letter advising if the report discloses any Subject Invention required to be reported under paragraph 9.101-9(b). The Department of the Interior and/or Contractor case number, or other suitable means shall be used to identify the invention. If the report does not disclose any Subject Invention, the transmittal letter shall so state.

(c) *Rights in data.* (1) The physical items by which the data produced under this contract are presented, as for example, the research reports, notebooks, recordings, photographs, computer information storage means and the like, shall become the property of the Government. The Contractor shall preserve and retain custody of the same at his own expense. The Government shall have the right to have access to them at all reasonable times and they may be used by the Government for any purpose whatsoever without any claim for compensation by the Contractor. The Contractor shall furnish such data items or copies thereof to the Contracting Officer at his request. The original data items shall not be destroyed by the Contractor without approval by the Contracting Officer or without giving the Government the opportunity to take over the retention of such originals.

(2) The Government may publish, reproduce, and use all Subject Data in any manner and for any purpose, without limitation and may authorize others to do the same. The Contractor agrees that he will not assert any copyright at common law or equity and will not establish any claim to a statutory copyright on such Subject Data.

(i) A contractor who is either an educational institution or an individual in the field of education may publish a report on the results of his work performed under this contract, provided that a manuscript of such report shall be submitted to the Contracting Officer for informational purposes at least ninety (90) days prior to publication on such shorter time as may be agreed to by the Contracting Officer. Other contractors, as for example, profit-making or not-for-profit contractors, may publish such report after submitting the manuscript to the Contracting Officer and obtaining his written permission. All such publications shall give due credit to the Office of Saline Water unless otherwise requested by the Contracting Officer. A transmittal letter as set forth in paragraph (b)(4) of this section shall accompany the manuscript advising whether any Subject Invention is disclosed therein. The Contractor agrees to and hereby grants to the Government a nonexclusive, irrevocable and royalty-free license to publish, reproduce and use such report in any manner and for any purpose without limitation, and to authorize or ratify publication, reproduction or use by others. The Contractor agrees not to make Subject Data available to others without the written approval of the Contracting Officer prior to disclosure of such Data by the Government or the publication thereof as set forth above, except to (a) representatives of the Contracting Officer and (b) other Office of Saline Water contractors for use solely in Office of Saline Water contracts. Any disclosures made under (b) above shall be reported pursuant to paragraph (b)(1) of § 14R-9-202 of the Data clause.

(3) If Proprietary Data as set forth in paragraph (b)(2)(ii) of this section is necessary for the efficient practice of a Subject Invention or a Specified Work Object, the Contractor agrees to grant a license for such practice of the Data in conjunction with a Subject Invention or a Specified Work Object for water desalination to any responsible applicant on his written request at reasonable terms and conditions, including reasonable restrictions against disclosure of the Proprietary Data: *Provided, however,* That such license need not be granted if at the time of the request the Proprietary Data are incorporated in a Standard Commercial Item in a form which can be employed in the practice of a Subject Invention or Specified Work Object for water desalination or can be so employed with relatively minor modifications. Any disputes as to the responsibility of an applicant or the necessity of the Proprietary Data shall be determined by the Secretary whose determination of fact in this regard shall be final and binding. It is agreed that any responsible applicant is a third party beneficiary under this clause.

(4) Nothing contained in this Data Clause shall be construed to imply a license under any patent, or be construed as altering the scope of any right of the Government in and to any invention whether or not patented.

(5) All Proprietary Data furnished the Contracting Officer shall be specifically identified by an appropriate written legend as being Contractor confidential. Such Data shall not be, or shall cease to be confidential, and the Government's confidentiality obligations with respect thereto shall terminate if the Data are or become generally available to the public, or have been made or become available to the Government (i) from other sources or (ii) from the Contractor without limitation as to use, or were already known to the Government when furnished to it.

(6) Notwithstanding any provisions of this contract concerning inspection and acceptance, the Government shall have the right at any time to modify, remove, obliterate, or ignore any marking not authorized by the terms of this contract on any piece of Subject Data furnished under this contract.

[FR Doc.71-17361 Filed 11-29-71;8:48 am]

Chapter 101—Federal Property Management Regulations

SUBCHAPTER B—ARCHIVES AND RECORDS

PART 101-11—RECORDS MANAGEMENT

Subpart 101-11.8—Standard and Optional Forms

CODIFICATION OF STANDARD FORMS

Section 101-11.809-2 is amended to reflect the revision and title change of revised Standard Form 95, February 1971, Claim for Damage, Injury, or Death.

Section 101-11.809-3 is amended by prescribing a new Standard Form 93, Report of Medical History, which replaces Standard Form 89, Report of Medical History. Standard Form 90, Health Qualification Placement Record, is now obsolete and is deleted.

Sections 101-11.809-2(f) and 101-11.809-3(a) are revised to read as follows:

§ 101-11.809-2 Standard forms for reporting accidents and for processing claims under the Federal Tort Claims Act.

* * * * *

(f) Revised Standard Form 95, February 1971, Claim for Damage, Injury, or Death, is to be completed by or on behalf of the person having sustained the damage, injury, or death.

§ 101-11.809-3 Standard forms for medical examination and clinical and health records.

* * * * *

(a) Unless an exception is granted by NARS (§ 101-11.804-2), the standard medical examination forms listed below are mandatory for use in general types of medical examinations, medical histories, and in employment health records for military and civilian personnel, for beneficiaries of Government programs which involve medical records, and for civil airmen subject to regulations of the Federal Aviation Administration. At the discretion of a Federal agency, the forms may also be used (1) for medical examination of persons other than employees of the Government and (2) in place of special medical examination forms such as those required in retirement cases, in claims for injuries, or for treatment following injuries. These standard medical examination forms are as follows:

Standard Form No.	*Title*
SF 78, Revised June 1961 (for use when required by the U.S. Civil Service Commission).	Certificate of Medical Examination.
SF 88, Revised June 1956.	Report of Medical Examination.
SF 93, January 1971 (for use when required by the Federal Government).	Report of Medical History.

* * * * *

(Sec. 205(c) 63 Stat. 390, 40 U.S.C. 486(c))

Effective date: This regulation is effective upon publication in the FEDERAL REGISTER (11-30-71).

Dated: November 22, 1971.

ROBERT L. KUNZIG,
Administrator of General Services.

[FR Doc.71-17412 Filed 11-29-71;8:49 am]

Title 45—PUBLIC WELFARE

Chapter X—Office of Economic Opportunity

PART 1069—COMMUNITY ACTION PROGRAM GRANTEE PERSONNEL MANAGEMENT

Subpart—Reporting Salaries of $10,000 or More

Chapter X of Title 45 of the Code of Federal Regulations is amended by adding a new Subpart 1069.5 reading as follows:

Sec.
1069.5-1 Applicability of this subpart.
1069.5-2 Policy.

AUTHORITY: The provisions of this Subpart 1069.5 issued under sec. 610-1(b), 81 Stat. 716; 42 U.S.C. 2951.

§ 1069.5-1 Applicability of this subpart.

All grant programs financially assisted under titles I-D, II, and III-B of the Economic Opportunity Act of 1964, as amended, if the assistance is administered by OEO.

§ 1069.5-2 Policy.

(a) All grantees receiving financial assistance from the Office of Economic Opportunity shall submit to OEO, no later than July 31 of each year, an annual report of all grantee and delegate agency employees employed as of the prior June 30 in a program financially assisted by OEO, whose annualized salary rate was $10,000 or more (biweekly rate of $384.63 or more).

(b) This report must be submitted in duplicate by grantees using OEO Form 242.[1] This report must be submitted in time to be received by OEO before July 31 of each year. The report should be sent to the OEO Office which administers the grant in question; for most Community Action Agencies, this will be the appropriate OEO Regional Office.

(c) Although the report is required by statute only for grantees under titles I-A and II, OEO is requiring for administrative and information purposes that the report be submitted by all OEO grantees.

WESLEY HJORNEVIK,
Deputy Director.

[FR Doc.71-17360 Filed 11-29-71;8:48 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 18632; FCC 71-1044]

PART 81—STATIONS ON LAND IN MARITIME SERVICES

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Stations of the Maritime Services in Alaska; Report and Order

Correction

In F.R. Doc. 71-15748 appearing at page 20949 in the issue of Tuesday, November 2, 1971, the following changes should be made:

1. In § 81.132(a) the figure "400" in the second line of item (8)(ii) in the table should read "4,000".

2. In § 81.206(a) the second figure in the table under column 22 reading "2248" should read "22485".

3. In § 81.304(a) the following changes should be made in the carrier frequency table:

a. Under frequency 2430 the seventh condition use figure reading "8" should read "38".

b. The first carrier frequency in the center column on page 20961 reading "2754.4" should read "8754.4".

c. The frequency reading "82688.5" in the center column of page 20961 should read "22688.5".

d. The heading MHz should be inserted above the carrier frequency reading "156.750".

4. In § 81.306(b)(13) the date in the third line should read "April 1 to December 15".

5. In § 81.306(c) the tabular entry in column (3) under Note 2 for Memphis, Tenn., reading "8210.0" should read "8210.8".

6. The tabular material appearing at the top of the second and third columns on page 20971 should be transferred to appear under § 83.132(a).

7. In § 83.351(a) the space in the carrier frequency listings following 4072.4 should carry an entry reading "4072.4".

8. In § 83.351(b) the section citations in the first line of subparagraph (72) reading in part "82.224, 82.233" should read "83.224, 83.233".

[1] OEO Form 242 is available through normal supply channels of the Office of Economic Opportunity:

Office of Economic Opportunity Warehouse, 5458 Third Street NE., Washington, DC 20011.

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Rev. S.O. No. 1072]

PART 1033—CAR SERVICE

Distribution of Boxcars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 10th day of November 1971.

It appearing, that an acute shortage of plain boxcars with inside length of 50 feet or longer exists on the Maine Central Railroad Co.; that shippers located on lines of this carrier are being deprived of such cars required for loading, resulting in a very severe emergency; that present rules, regulations, and practices with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of boxcars owned by this railroad are ineffective. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1072 Service Order No. 1072.

(a) *Distribution of boxcars.* Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Return to owner empty, except as otherwise authorized in subparagraphs (4), (5), and (6) of this paragraph, all plain boxcars which are listed in the Official Railway Equipment Register, ICC R.E.R. 381, issued by E. J. McFarland, or reissues thereof, as having mechanical designation XM, with inside length 50 feet or longer, owned by the Maine Central Railroad Co.

(2) Plain boxcars described in subparagraph (1) of this paragraph include both plain boxcars in general service and plain boxcars assigned to the exclusive use of a specified shipper.

(3) Boxcars described in subparagraph (1) of this paragraph shall not be back-hauled empty from a junction with the car owner.

(4) Except as otherwise authorized in paragraphs (5) and (6) herein, boxcars described in subparagraph (1) of this paragraph, located in States other than Maine, Massachusetts, or New Hampshire, may be loaded to any station located in the States of Maine, Massachusetts, or New Hampshire. After unloading at a junction with the car owner, such cars shall be delivered to the car owner at that junction, either loaded or empty.

(5) Boxcars described in subparagraph (1) of this paragraph, located at stations in the States of Maine, Massachusetts, or New Hampshire, may be loaded only to stations on the lines of the car owner or to any station which is a junction with the car owner. After unloading at a junction with the car owner, such cars shall be delivered to the car owner at that junction, either loaded or empty.

(6) Boxcars described in subparagraph (1) of this paragraph located at a point other than a junction with the car owner shall not be back-hauled empty, except for the purpose of loading to a junction with the car owner or to a station on the lines of the car owner.

(7) The return to the owner of a boxcar described in subparagraph (1) of this paragraph shall be accomplished when it is delivered to the car owner, either empty or loaded, as authorized by subparagraph (4), (5), or (6) of this paragraph.

(8) Junction points with the car owner shall be those listed by the car owner in its specific registration in the Official Railway Equipment Register, ICC R.E.R. No. 381, issued by E. J. McFarland, or successive issues thereof, under the heading "Freight Connections and Junction Points."

FEDERAL REGISTER, VOL. 36, NO. 230—TUESDAY, NOVEMBER 30, 1971

(9) The Maine Central Railroad Co. shall restrict its use of plain boxcars of the type described in this order, which are owned by any other railroad, to traffic destined to a station closer to the car owner than the station at which the car is loaded, or to traffic routed via the car owner.

EXCEPTION: For the purpose of securing utilization of cars for which the owners have no immediate need, car owners, other than the Maine Central Railroad Co., may remove their cars from the provisions of this paragraph by written notice to W. H. Van Slyke, Chairman, Car Service Division, Association of American Railroads, Washington, D.C., for submission to R. D. Pfahler, Director, Bureau of Operations, Interstate Commerce Commission.

(10) In determining distances to the car owner from points of loading or unloading, tariff distances applicable via the lines of the carriers obligated under Car Service Rules 1 and 2 to move the car shall be used.

(11) No common carrier by railroad subject to the Interstate Commerce Act shall accept from shipper any loaded boxcar for movements contrary to the provisions of subparagraphs (4), (5), (6), or (9) of this paragraph.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(c) *Effective date.* This order shall become effective at 11:59 p.m., November 15, 1971.

(d) *Expiration date.* This order shall expire at 11:59 p.m., March 31, 1972, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies secs. 1(10–17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy of the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-17428 Filed 11-29-71;8:50 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Cabeza Prieta Game Range, Ariz.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (11–30–71).

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

ARIZONA

CABEZA PRIETA GAME RANGE

Public hunting of bighorn sheep on the Cabeza Prieta Game Range, Ariz., is permitted only on the area designated by signs as open to hunting. The bighorn sheep season is from December 4 through December 19, 1971, inclusive. The open bighorn sheep area, comprising 860,000 acres, is delineated on a map available at the game range headquarters, Yuma, Ariz., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103. Hunting shall be in accordance with all applicable State regulations governing the hunting of bighorn sheep subject to the following special conditions:

(1) Bighorn sheep limited to 4 permits issued by the Arizona Game and Fish Department.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 19, 1971.

GERALD E. DUNCAN, *Acting Refuge Manager, Cabeza Prieta Game Range, Yuma, Ariz.*

NOVEMBER 18, 1971.

[FR Doc.71-17374 Filed 11-29-71;8:46 am]

PART 33—SPORT FISHING

Imperial National Wildlife Refuge, Arizona and California

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (11–30–71).

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

ARIZONA AND CALIFORNIA

IMPERIAL NATIONAL WILDLIFE REFUGE

Sport fishing and the taking of bullfrogs, crustaceans and mollusks on the Imperial National Wildlife Refuge is permitted in all areas except in those areas closed to public entry. These areas comprising 8,100 acres are delineated on maps available at the Refuge Headquarters, Yuma, Ariz., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103. The taking of bullfrogs, crustaceans, and mollusks shall be in accordance with applicable State regulations subject to the following special conditions:

(1) The open seasons for the taking of bullfrogs, crustaceans and mollusks shall be in accordance with State law.

(2) The open season for sport fishing on the refuge extends from January 1 through December 31, 1972, inclusive, except for an area of approximately 165 acres in Martinez Lake as posted to be closed during the periods January 1 through February 28, 1972, inclusive, and October 1 through December 31, 1972, inclusive.

(3) The use of bow and arrow for the taking of carp, buffalo, mullet, suckers, and bullfrogs is permitted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1972.

GERALD E. DUNCAN, *Acting Refuge Manager, Imperial National Wildlife Refuge, Yuma, Ariz.*

NOVEMBER 18, 1971.

[FR Doc.71-17375 Filed 11-29-71;8:46 am]

Proposed Rule Making

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Part 214]

NONIMMIGRANT CLASSES

Admission and Transfer of Students

Pursuant to section 553 of Title 5 of the United States Code (80 Stat. 383), notice is hereby given of the proposed issuance of the following rules pertaining to students, their admission, and transfer to another school.

In accordance with section 553, interested persons may submit to the Commissioner of Immigration and Naturalization, Room 757, 119 D Street NE., Washington, DC 20536, written data, views, or arguments, in duplicate, relative to the proposed rules. Such representations may not be presented orally in any manner. All relevant material received within 20 days following the date of publication of this notice will be considered.

1. Subparagraph (1) of paragraph (f) of § 214.2 is amended and new subparagraphs (2), (3), and (4) are added to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

• • • • •

(f) *Students*—(1) *General.* A student seeking admission to the United States under section 101(a)(15)(F)(i) of the Act and his accompanying spouse and minor children shall not be eligible for admission unless he presents Form I–20 properly filled out by himself and the school to which he is destined. The student's spouse and minor children following to join him shall not be eligible for admission into the United States unless they present Form I–20 from the school in which the student is enrolled stating that he is taking a full course of study and noted by the school to indicate the date of expiration of his authorized stay in the United States as shown on the student's Form I–94.

(2) *Admission.* An applicant for his first admission with a nonimmigrant student visa issued on or after January 1, 1972, shall not be eligible for admission unless he establishes that he is destined to and intends to attend the school specified in his visa. Any other applicant for admission as a nonimmigrant student shall not be eligible for admission unless he establishes that he is destined to and intends to attend the school which issued the Form I–20 presented by him to the examining immigration officer at the port of arrival or the school specified on Form I–94 presented in accordance with subparagraph (3) of this paragraph. In all cases, the name of the school a student is authorized to attend shall be endorsed by the examining immigration officer on the student's Form I–94. The period of admission of a nonimmigrant student shall not exceed 1 year.

(3) *Temporary absence.* Form I–20 presented by a student returning from a temporary absence may be retained by him and used for any number of reentries within 1 year of the date of its issuance. However, a Canadian national or an alien landed immigrant of Canada who has a common nationality with Canadian nationals who has been temporarily absent in Canada, or any alien whose visa is considered to be automatically revalidated pursuant to 22 CFR 41.125(f)(2) or is within the purview of that regulation except that his nonimmigrant visa has not expired, returning to the United States as a nonimmigrant under section 101(a)(15)(F) of the Act, shall, if otherwise admissible, be readmitted, without presentation of Form I–20, for the remainder of his initial admission or current extension of stay as shown on his Form I–94.

(4) *School transfer.* A student shall not be eligible to transfer to another school unless he submits a valid Form I–20 completed by that school and the Service grants him permission to transfer. Application for transfer shall be made on Form I–538 and shall be filed in the Service office having jurisdiction over the school which he was last authorized by the Service to attend. Permission to transfer may be granted only if the applicant establishes that he is a bona fide nonimmigrant student, that he intends to take a full course of study at the school to which he wishes to transfer, and that he in fact was a full-time student at the school which he was last authorized by the Service to attend, unless failure to commence or continue full-time attendance was due to circumstances beyond his control or was otherwise justified. The name of the school to which transfer is authorized shall be endorsed on the student's Form I–94.

• • • • •

2. Existing subparagraphs (2) *Extension,* (3) *Employment,* and (4) *Decision on application for extension, permission to transfer to another school, or permission to accept or continue employment* of paragraph (f) *Students* of § 214.2 *Special requirements for admission, extension, and maintenance of status* are redesignated subparagraphs (5), (6), and (7), respectively.

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

Dated: November 23, 1971.

RAYMOND F. FARRELL, *Commissioner of Immigration and Naturalization.*

[FR Doc.71-17421 Filed 11-29-71;8:52 am]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Service

[9 CFR Part 84]

INTERSTATE MOVEMENT OF BOVINE SEMEN

Notice of Extension of Time To Submit Written Data, Views, and Arguments

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that the time for filing data, views, and arguments with respect to the proposed issuance of regulations restricting the interstate movement of bovine semen to be contained in a new Part 84, Subchapter C, Title 9, Code of Federal Regulations, as published in the FEDERAL REGISTER on September 30, 1971 (36 F.R. 19169), is extended to December 30, 1971.

Interested persons are to submit written comments, suggestions or objections regarding the proposed regulations to the Deputy Administrator, Animal and Plant Health Service, Veterinary Services, U.S. Department of Agriculture, Federal Center Building, Hyattsville, Md. 20782.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 24th day of November 1971.

G. H. WISE, *Acting Administrator, Animal and Plant Health Service.*

[FR Doc.71-17431 Filed 11-29-71;8:51 am]

Consumer and Marketing Service

[7 CFR Part 987]

DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIF.

Notice of Proposed Free and Restricted Percentages and Withholding Factors for the 1971–72 Crop Year

Notice is hereby given of a proposal to establish, for the 1971–72 crop year, free and restricted percentages and withholding factors applicable to marketable Deglet Noor, Zahidi, Halawy, and Khadrawy dates. The crop year began October 1, 1971. The proposed percentages and withholding factors would be established in accordance with the provisions of the marketing agreement, as amended, and Order No. 987, as amended (7 CFR Part 987; 36 F.R. 15036), regulating the handling of domestic dates produced or packed in Riverside County,

Calif. The amended agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was unanimously recommended by the California Date Administrative Committee.

Consideration will be given to any written data, views, or arguments pertaining to the aforesaid proposal which are received by the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than 7 days after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice should be in quadruplicate and will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Estimates pertinent to the proposed volume regulation percentages and withholding factors for Deglet Noors and Zahidis are as follows:

Factors	Deglet Noor	Zahidi
	1,000 pounds	
1. Production of marketable dates (1971–72 crop)	28,597	1,762
2. Plus: Handler carryover of marketable dates not certified "free" or "restricted" (Sept. 30, 1971)	4,100	637
3. Total available supply of marketable dates subject to regulation	32,697	2,399
4. Trade demand for free dates[1]	18,700	1,730
5. Plus: Allowance for desirable handler carryover to assure date supplies for early free demand (Sept. 30, 1972)	9,200	600
6. Less: Certified handler carryover of free dates (Sept. 30, 1971)	2,438	135
7. Requirements for free dates	25,462	2,195
8. Supply of marketable dates in excess of requirements for free dates (Item 3–Item 7)	7,235	204

[1] The California Date Administrative Committee included no countries other than the Continental United States and Canada in trade demand.

On the basis of the foregoing estimates, free and restricted percentages, and a withholding factor for Deglet Noor dates of 78 percent, 22 percent, and 28.2 percent, respectively, and for Zahidi dates of 90 percent, 10 percent, and 11.1 percent, respectively, appear appropriate for the 1971–72 crop year.

The total available 1971–72 marketable supply of Halawys and Khadrawys is estimated at 0.8 million pounds, and approximates estimated trade demand requirements for both varieties. Hence, a free percentage of 100 percent is proposed for each of these two varieties.

The proposal is as follows:

§ 987.219 Free and restricted percentages, and withholding factors.

The various free percentages, restricted percentages, and withholding factors applicable to marketable dates of each variety shall be, for the crop year beginning October 1, 1971, and ending September 30, 1972, as follows: (a) Deglet Noor variety dates: Free percentage, 78 percent; restricted percentage, 22 percent; and withholding factor, 28.2 percent; (b) Zahidi variety dates: Free percentage, 90 percent; restricted percentage, 10 percent; and withholding factor, 11.1 percent; (c) Halawy variety dates: Free percentage, 100 percent; restricted percentage, 0 percent; and withholding factor, 0 percent; (d) Khadrawy variety dates: Free percentage, 100 percent; restricted percentage, 0 percent; and withholding factor, 0 percent.

Dated: November 22, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-17338 Filed 11-29-71;8:45 am]

[7 CFR Part 999]

RAISIN IMPORTS

Notice of Extension of Time for Receipt of Written Data, Views, or Arguments

Pursuant to the requirements of section 8e (7 U.S.C. 608e–1) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), a notice of proposed rule making was published in the July 14, 1971, issue of the FEDERAL REGISTER (36 F.R. 13098) regarding proposed grade, size, and other requirements governing the importation of raisins.

The notice afforded interested persons opportunity to submit written data, views, or arguments to be received by the Hearing Clerk not later than 60 days after publication of the aforesaid notice. The time for receipt of such written data, views, or arguments was extended to November 30, 1971, in a notice published in the September 11, 1971, issue of the FEDERAL REGISTER (36 F.R. 18323).

A request for additional time for comments has been made to afford interested persons further time to consider the proposal.

Notice is hereby given that the time for receipt of written data, views, or arguments on the aforesaid proposal is extended to January 31, 1972.

Dated: November 24, 1971.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-17408 Filed 11-29-71;8:49 am]

Farmers Home Administration

[7 CFR Part 1831]

[FHA Instruction 441.1]

OPERATING LOAN POLICIES AND AUTHORIZATIONS

Notice of Proposed Rule Making

Notice is hereby given that the Farmers Home Administration is considering a revision of Subpart A of Part 1831, "Operating Loan Policies and Authorizations," to:

1. Eliminate the authority to make participation loans.

2. Under loan purposes:

(a) Provide that operating loans may be authorized for the payment of FHA operating loan interest-only installments.

(b) Provide that FHA may refinance a debt incurred under the terms of a formal subordination agreement pursuant to § 1871.11 of this chapter under certain conditions specified even though the amount advanced may exceed the borrower's equity in the chattels.

(c) Authorize loans to make partial payments on grain or other storage and drying facilities under certain conditions specified.

3. Revise the policy regarding repayment schedules on operating loans.

This document is a revision of rules currently in effect under §§ 1831.1 to 1831.14 of this subpart (36 F.R. 1099 through 1105).

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed amendments to the Assistant Administrator for Management, Farmers Home Administration, U.S. Department of Agriculture, Room 5013, South Building, Washington, D.C. 20250, within 20 days after date of publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Assistant Administrator for Management during regular business hours. (8:15 a.m.–4:45 p.m.)

As proposed, the revised subpart reads as follows:

Subpart A—Operating Loan Policies and Authorizations

Sec.
1831.1 General.
1831.2 Objectives.
1831.3 Supervisory assistance.
1831.4 Definition of a family farm.
1831.5 Eligibility requirements.
1831.6 Veterans' preference.
1831.7 Certification by County Committee.
1831.8 Supplementing FHA operating loans with other credit.
1831.9 Loan purposes.
1831.10 Special requirements and loan limitations.
1831.11 Rates and terms.
1831.12 Security policies.
1831.13 Tenure.
1831.14 Loan approval.
1831.15 Nondiscrimination poster.

AUTHORITY: The provisions of this Subpart A issued under sec. 339, 75 Stat. 318, 7 U.S.C. 1989; Order of Acting Secretary of Agriculture, 36 F.R. 21529, Order of Assistant Secretary of Agriculture for Rural Development and Conservation, 36 F.R. 21529.

Subpart A—Operating Loan Policies and Authorizations

§ 1831.1 General.

This subpart is supplemented by Parts 1890, 1890a, 1890c, 1890f, 1890k, and 1890r of this chapter, modified by Subpart B of Part 1810 of this chapter, and supplemented and modified by Part 1890l of this chapter. This subpart prescribes the policies and authorizations of the Farmers Home Administration (FHA) for making operating loans to farmers, including ranchers and former farmers obtaining subsequent loans after converting their entire farming operations to recreational enterprises.

§ 1831.2 Objectives.

The basic objectives of the FHA in making operating loans, supplemented as feasible by credit from other sources, are to assist eligible farmers and ranchers to make efficient use of their land, labor, and other resources, carry on sound and successful operations on the farm, and afford the family an opportunity to have a reasonable level of living. The operations include establishment or enlargement of recreational and other nonfarm enterprises on the farm to supplement the farm income. These objectives will be accomplished through the extension of operating loans, supplemented by credit from other sources, and by supervisory assistance.

§ 1831.3 Supervisory assistance.

Supervision will be provided borrowers to the extent necessary to achieve the objectives of the loan and to protect the interests of the FHA in accordance with Subpart A of Part 1802 of this chapter. Such assistance consists of farm, home, and nonfarm or recreation planning, recordkeeping, analyzing the farm and any recreational or other nonfarm enterprises, and giving management advice.

§ 1831.4 Definition of a family farm.

The term "farm" includes a tract or tracts of land and improvements considered to be farm property, operated by the applicant and used or to be used in the production of crops or livestock, including the production of fish under controlled conditions. The term "farm" also includes any such land and improvements and facilities used in a recreational or other nonfarm enterprise.

(a) *Family farm.* A family farm is defined as one that will produce agricultural commodities for sale in sufficient quantities so that it is recognized as a farm rather than a rural residence, one that will provide substantial income by itself and which, together with any other dependable income, will enable the family to pay necessary family and other operating expenses, including maintenance of essential chattel and real property and pay debts, and one for which the operator and his immediate family provide the management and major portion of the labor including any recreation or nonfarm enterprise, except during seasonal peakload periods.

(b) *Recreational enterprises.* Loans may be made to operate, improve, establish, or enlarge recreational enterprises or to convert a part or all of the farming operation to such enterprises providing it is not feasible to make a recreation loan (RL) for this purpose. Subsequent loans for recreation purposes also may be made to borrowers who previously have converted their entire farming operation to a recreational enterprise(s).

(c) *Nonfarm enterprises other than recreational enterprises.* Loans may be made to farmers who will also continue farming operations to operate, improve, establish, or enlarge a nonfarm enterprise(s) needed to supplement farm income. Such enterprises must be located or headquartered on the farm. Nonfarm enterprises involving services such as delivery, custom, construction, or repair services must be headquartered on the farm. Loans will be made only for enterprises which produce goods or services for which there is a need that is not being adequately supplied by others in the community and for which there is a reasonably reliable market.

§ 1831.5 Eligibility requirements.

To be eligible for an operating loan each applicant must:

(a) Be a citizen of the United States.

(b) Possess legal capacity to incur the obligations of the loan. State requirements will be issued by the State Director with the advice of the Office of the General Counsel (OGC).

(c) Be an individual who has a farm background, except for veterans as defined in Part 1801 of this chapter, and either training or farm experience and any other training or experience sufficient to assure reasonable prospects of success in the proposed operation. In addition, the applicant must be engaged in farming to qualify for a loan to convert his entire farming operation into a recreational enterprise.

(1) An applicant who is already earning sufficient income to have a reasonable standard of living is not eligible for a loan, even though he meets other eligibility requirements, unless the County Supervisor and the County Committee are reasonably certain that after the applicant's planned enterprise (including recreational or other nonfarm enterprise) is fully developed, he will not engage in other employment to supplement his income, except to the extent necessary to enable his family to have a reasonable standard of living.

(d) Possess the character, ability, and industry necessary to carry out the proposed operation and honestly endeavor to carry out the undertakings and obligations required of him in connection with the loan.

(e) Be unable to obtain sufficient operating credit elsewhere to finance his actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which he resides for loans for similar purposes and periods of time. The applicant's equity in real estate, chattels, and other assets should be considered in determining his ability to obtain credit from private and cooperative sources.

(f) After the loan is made, be operating not larger than the equivalent of a family farm as an owner or tenant.

(g) Be able to meet his major needs for operating credit within the indebtedness limitation for operating loans during the period that such loans likely will be needed, except in cases in which additional financing on a contractual or equally definite basis is available.

§ 1831.6 Veterans' preference

Veterans, as defined in Part 1801 of this chapter, will be given preference. When it appears that available funds will be inadequate to meet the needs of all applicants, the applications on hand from veterans will be processed first.

§ 1831.7 Certification by County Committee.

Before an operating loan is approved, the County Committee will certify on Form FHA 440–2, "County Committee Certification or Recommendation," that the applicant is eligible for a loan in accordance with the provisions of § 1831.5. In addition, the County Committee will establish the maximum amount of credit which may be extended, under the certification, to meet the actual needs of the applicant during his crop or operating year. The crop or operating year for each applicant will be established in accordance with the provisions of Subpart B of Part 1802 of this chapter. The maximum amount of credit established by the County Committee will not necessarily represent the amount which actually will be loaned. For this reason, and to avoid possible misunderstanding, the applicant will not be notified of the maximum credit as established by the County Committee.

§ 1831.8 Supplementing FHA operating loans with other credit.

(a) *Policy.* (1) Credit from other reliable agricultural credit sources will be obtained to the maximum extent possible to supplement FHA operating loans. This is necessary in order to serve as many eligible operating loan applicants and borrowers as possible with the loan funds available.

(2) Funds ordinarily will not be included in either initial or subsequent operating loans for purposes for which credit can be obtained from other agricultural credit sources on terms which are generally available to other farmers in the community.

(3) Each new applicant or present borrower who applies for an operating loan will be required to meet as much of his needs as possible from other agricultural credit sources by open account, note only, liens, feeder agreements, or other contractual basis.

(4) When credit for annual operating and family living expenses is not available from other agricultural credit sources on any other satisfactory basis, FHA may:

(i) Take a lien on chattels and crops subject to the lien of another creditor, as authorized in § 1831.12.

(ii) Subordinate its liens on chattels and crops as authorized in § 1871.11 of this chapter.

(b) *Relationships with other lenders and suppliers.* (1) County Supervisors will keep appropriate agricultural lenders and suppliers currently informed concerning FHA policies with respect to loan making, cooperation with other lenders, and subordinations, supervision, and servicing, including the distribution of income available for debt payments, and

graduation of borrowers. However, FHA employees may not guarantee, personally, or on behalf of FHA, repayment of advances from other credit sources.

(2) Other agricultural lenders and suppliers will be requested and encouraged to furnish as much of each applicant's or borrower's essential needs as possible with the balance being supplied with operating loan funds.

(3) The County Supervisor will require applicants and borrowers, as appropriate, to contact other lenders and suppliers and obtain as much of their needs as possible from those sources. Such applicants and borrowers should request other lenders and suppliers to indicate the amounts and terms of operating-type credit which will be made available to them. The amount and purposes of such credit will be documented and clearly identified in Form FHA 431-2, "Farm and Home Plan," or Form FHA 431-4, "Business Analysis—Nonagricultural Enterprise."

(4) When operating credit is to be obtained from other sources, the County Supervisor should have reasonable assurance that the credit from other sources will be available when needed and that significant additional amounts will not be extended by such creditors except with the concurrence of FHA.

(c) *Documentation when applicants and borrowers are unable to obtain credit for operating expenses from other agricultural lenders or suppliers.* When FHA operating loans are to be made which include funds for annual operating and family living expenses, the County Supervisor will document in the running record the efforts which were made to obtain such credit from other sources including the names of the lenders or suppliers contacted and the reasons it could not be obtained. When appropriate, the County Supervisor will check on evidence presented by the applicant or borrower that he cannot obtain credit elsewhere.

§ 1831.9 Loan purposes.

Subject to the loan limitations and special requirements set forth in § 1831.10, operating loans may be made for:

(a) Purchase of livestock, poultry, fur bearing and other farm animals, fish, bees, farm equipment, and paying costs incident to reorganizing the farming system for more profitable operation and for other farm needs, including equipment to be utilized in the development of forest lands, and the production and harvesting of forestry products.

(b) Purchase of animals, birds, fish, tools, equipment, facilities, furnishings, inventories, and supplies, and paying costs incident to reorganizing, establishing or enlarging a nonfarm or recreational enterprise.

(c) Purchase of an undivided interest in the items included in paragraphs (a) and (b) of this section which would be operated under a joint arrangement or as a group service.

(d) Purchase of feed, seed, fertilizer, insecticides, farm and other supplies, including inventory; the repair or rental of equipment; and payment of essential operating expenses for the farm, forestry, recreation or other nonfarm enterprise; or paying bills incurred for any items in this paragraph for the crop or operating year being financed.

(e) Payment of customary and equitable cash rent or cash charges for the use of essential buildings, pasture, crop, hay or other land, and grazing permits or bills for such purposes for the operating or crop year being financed, subject to the following:

(1) The applicant is obligated under a written lease or other formal agreement to pay such rent or charges in advance of the time income will be available from the operations to make such payment. For grazing fees an invoice showing the number of livestock to be grazed, the grazing period, the cost per head and the total cost may be used in lieu of a written lease. However, when relatively small amounts are involved an invoice will not be required if the applicant's explanation of a satisfactory grazing agreement is recorded in the loan docket.

(2) Arrangements cannot be made for the rent or charges to fall due when income will be available from the operations to make such payments.

(3) Not more than 1 year's cash rent or cash charges will be paid with loan funds in any 1 lease year, except that if a loan is approved near the end of the current lease year funds for payment of such rent or charges for the succeeding lease year may be included in the loan.

(4) The terms of the rental agreement provide the applicant with reasonably satisfactory tenure.

(f) Payment of: (1) Personal and real property taxes due or about to become due subject to the limitations in § 1831.10 (b)(5), and water or drainage charges or assessments. In addition, any amounts advanced in excess of the equivalent of 1 year's taxes or water or drainage charges or assessments, without regard to whether such items are a lien on the property, will be treated as refinancing debts in accordance with paragraph (m) of this section.

(2) Social Security taxes in connection with hired labor.

(3) Premiums for insurance on real estate and personal property, including premiums on homeowners policies. However, operating loans may be made to pay premiums on insurance covering real estate of a borrower indebted for both FHA real estate and operating loans, or of an FHA real estate loan borrower who is obtaining an operating loan for other purposes only if the operating loan is adequately secured.

(4) Premiums for public liability and property damage insurance on farm and other equipment, including farm trucks, and on recreational and other nonfarm enterprises.

(g) Payment of: (1) Not more than a year's interest calculated at a rate not to exceed that which is reasonable and customary for the area, that is due on, or about to become due on debts secured by liens of other creditors on property essential for the farm, recreational or other nonfarm enterprises.

(2) FHA interest-only installment(s) scheduled for the first January 1, and when a deferred payment of principal is involved, the second January 1 following the closing of the loan, when a borrower will not otherwise be able to meet the initial interest payment(s) on his loan because income from crops, livestock, or other sources is not available.

(h) Payment of depreciation in any 1 year not to exceed 15 percent of the market value of the essential farm, recreational or nonfarm enterprise equipment under prior lien to another creditor, or 15 percent of the amount owed to such creditors, whichever is lesser.

(i) Acquisition of memberships in farm purchasing and marketing and farm service-type cooperative associations, or to purchase stock in such associations to help provide capital for improvement of services to farmer members. Purchase membership or stock in recreational or other nonfarm purchasing, marketing, service or promotional-type cooperative association organized to produce additional income for its members exclusive of membership in associations which will acquire, lease, or improve land not otherwise under the control of the members.

(j) Meeting family subsistence needs, including premiums on reasonable amounts of health and life insurance, and expenses for medical care or paying bills incurred for any items in this paragraph for the crop or operating year being financed. Applicants must understand, however, that within the limits of their resources they should plan and carry on adequate food production and conservation programs.

(k) Purchase of essential home equipment and furnishings, and the payment for home equipment repairs required by the applicant family to sustain itself in a reasonably satisfactory manner.

(l) Expenses incident to loan closing.

(m) Refinancing secured and unsecured debts, other than the payment of bills referred to in paragraphs (d), (e), and (j) of this section, subject to the following:

(1) The amount advanced for such purposes does not exceed the applicant's equity in the animals, birds, bees, fish, and so forth; farm and recreation equipment; and nonfarm enterprise equipment and inventory which are to be taken as security for the loan.

(i) When it is necessary to refinance a debt that was incurred for the production of feed on hand, or that is secured by a lien on such feed, the applicant's equity in the feed also may be used, if necessary, to justify the refinancing of this particular debt. The funds advanced for this purpose will be scheduled for repayment in the same manner as funds advanced for the purchase of feed.

(2) FHA may refinance a debt incurred under the terms of a formal subordination agreement pursuant to § 1871.11 of this chapter, even though the amount advanced may exceed the borrower's equity in the chattels referred to in paragraph (m)(1) of this section, provided:

(i) It is determined that the borrower will not receive sufficient income to repay the subordination agreement.

(ii) The borrower's inability to pay the full amount is due to circumstances beyond his ability to control, such as depressed prices or unusually adverse conditions which materially reduced income; accident or serious illness; or substantial loss of livestock or crops due to disease, pestilence or catastrophe.

(iii) The County Supervisor personally contacts the creditor and documents in the County Office case folder the necessity for refinancing.

(iv) The borrower is making satisfactory progress under prevailing conditions in becoming successfully established in farming.

(v) Assistance will continue to be provided the borrower by FHA.

(3) The provisions of § 1831.10 (a) and (b).

(4) The provisions of § 1831.32(e).

(n) Purchase of milk base either with or without cows where such action is necessary to assure the borrower a satisfactory market for his dairy products, as provided in a manner prescribed by or on prior approval of the State Director.

(o) Purchase of grazing license or permit rights of private parties which can be validly sold and transferred or waived separate from any land lease or other interest in land either with or without eligible livestock, provided loans for this purpose are approved by the State Director or are authorized by requirements issued by the State Office.

(p) The following real estate improvements are subject to the limitations in § 1831.10:

(1) Purchase, construction, alteration, repair, or relocation of service buildings or facilities essential to the operation, including minor repairs or alterations to dwellings.

(2) Purchase, repair, or relocate essential equipment which is or will become a part of the real estate and cannot be made subject to a security interest as a fixture in Uniform Commercial Code (UCC) States, or be severed and made subject to a valid chattel mortgage in Louisiana, or to security interest in any UCC State.

(3) Provide land and water development, use, and conservation essential to the operation of the farm and any recreational or other nonfarm enterprise facilities such as fencing, land clearing, establishment and improvement of permanent hay or pasture drainage and irrigation facilities, basic application of lime and fertilizer, fish ponds, dams, nature trails, repair shops, sales buildings, golf driving ranges, lakes, hiking trails and campsites, and the development or acquisition of water supplies or rights. Also, loan funds may be used to pay that part of the cost of facilities, improvements, and practices which is to be earned by participation in the Agricultural Conservation or Great Plains programs only when such costs cannot be covered by purchase orders or assignments to material suppliers or contractors. If loan funds are advanced and the portion of the payment for which the funds were advanced likely will exceed $500, the applicant will assign the payment to the FHA.

(q) The purchase of a franchise, contract, or a privilege when such action is necessary to the operation of the planned enterprise.

(r) Any purpose authorized in this subpart to an eligible applicant to enable a dependent in his immediate family to initiate, develop, or carry on a farm or nonfarm enterprise in connection with his or her participation in youth organizations such as Future Farmers of America, Future Homemakers of America, 4-H Clubs, or approved vocational training courses.

(s) Make partial payment on grain or other storage and drying facilities when the Commodity Credit Corporation, through the Agricultural Stabilization and Conservation Service (ASCS), is providing the remaining portion of the credit under the Commodity Credit Corporation Farm Storage and Drying Equipment Loan Program. Handling FHA's security interest in such facilities will be in accordance with § 1872.28 of this chapter.

§ 1831.10 Special requirements and loan limitations.

(a) *Refinancing of debts.* (1) When an applicant's request includes the use of loan funds for the refinancing of debts, it must be determined before a loan is made that his present creditors will not give him rates and terms on the existing debts that he reasonably could be expected to meet. Before refinancing any debt, the County Supervisor will:

(i) Discuss with the applicant the possibility of obtaining the needed credit from the applicant's present creditors or other sources. He will request the applicant to contact his present creditors to explain his credit needs and to determine if the creditor will renew, extend, change or reduce the present debts, as appropriate. He also will advise the applicant of other credit sources available in the area which might assist him with his credit needs and request that he contact such credit sources. If the applicant is unsuccessful in his efforts to obtain credit or to get a revision of the rates and terms of his indebtedness, the County Supervisor will obtain from the applicant the reasons given by the present creditors and other sources for not assisting the applicant, and document such information in the running record.

(ii) If the County Supervisor is notified by the applicant that his negotiations with the present creditor(s) or other sources were unsuccessful he will determine on the basis of the applicant's financial statement, planned income and expenses, estimated amount available for debt payment, and the additional facts presented by the applicant, whether it appears necessary to refinance the debt(s) or to obtain a change in the rates and terms. When it is determined that refinancing may be necessary, he will contact in person when practicable, each secured creditor and each unsecured creditor to whom substantial debts are owed for the purpose of verifying the necessity for refinancing. If the loan is to be processed, a statement of each secured account to be refinanced showing the final due date, interest rate, annual installment, amount delinquent, unpaid principal, and accrued interest will be obtained.

(b) *Purposes for which loans may not be made.* While it is impracticable to list all of the purposes for which loans may be made, the following are those commonly requested by applicants which are not authorized:

(1) Purchase of passenger automobiles or the refinancing of debts for such purchases. However, this will not prohibit the refinancing of such a debt secured by a lien on items described in § 1831.9 (a) and (b) only, or on such property and on the automobile to the extent of the equity in the property other than the automobile which serves as security for the debt.

(2) Payment of Federal or State income taxes, or social security taxes payable by borrowers in their own behalf.

(3) Purchase of real estate, or the making of payments on, or the refinancing of any indebtedness secured by a lien on real estate other than the payment of taxes and interest as authorized in this subpart. However, this will not prohibit the refinancing of a debt secured by a lien on items described in § 1831.9 (a) and (b), as well as on real estate to the extent of the equity in the nonreal property serving as security for the debt. In addition, loans may not be made for carrying on any land purchasing or land leasing program.

(4) Replacing items described in § 1831.9 (a) and (b) or crops sold, or refinancing chattel debts incurred primarily for the purpose of obtaining funds for any of the real estate purposes referred to in subparagraph (3) of this paragraph, if such action was taken by the applicant with the intent of replacing the chattel property or refinancing the debts with operating loan funds.

(5) Payment of taxes in connection with real estate securing FHA loans other than operating loans.

(6) Payment of debts owed by the applicant to the FHA or to make principal or interest payments on such debts, except interest-only installment(s) as provided in § 1831.9(g)(2) of this subpart.

(7) To purchase membership or stock in production cooperatives, purchase memberships or stock for the purpose of establishing control by the FHA in any type of cooperative, or furnish a majority of the associations' capital requirements.

(c) *Limitations on loans for real estate improvements.* (1) Not more than $2,500 may be loaned to a borrower in any one fiscal year for real estate improvements or for refinancing unsecured debts clearly incurred for such purposes. Before an operating loan is made for real estate improvements, a careful analysis must be made of the applicant's resources and proposed operations and all of the following determinations must be made:

(i) Operating loans will not be needed or made year after year to make substantial real estate improvements.

(ii) Such real estate improvements cannot be provided practicably through a real estate loan.

(iii) The sum of the operating loan being made for real estate improvements and the unpaid indebtedness against the farm and other security which secures the FHA real estate loan will not exceed the total indebtedness or the normal value limitations prescribed for real estate loans. The borrower's equity in the livestock and farm and other equipment to be taken as security for the operating loan may be added to the normal value of the farm where this is necessary to comply with the normal value limitations prescribed in Subpart A of Part 1821 of this chapter.

(iv) The applicant will likely continue to operate the farm for a sufficient period of time and under such terms that will enable him to obtain reasonable returns on his investment.

(2) Operating loans may be made to tenants to finance modest real estate improvements or repairs, provided the County Supervisor determines that the applicant has reasonably secure tenure for a sufficient period to enable him to realize adequate benefits to justify the expenditure, or a written lease is obtained providing for compensating the tenant for any unexhausted value of the improvement upon termination of the lease.

(d) *Limitations on amount of loan.* The amount of each loan will be limited to the needs of the applicant and his ability to pay. In addition, consideration will be given to the value of the chattel property, including crops, which will be available as security. In no case may a loan be made which would result in the total principal balance outstanding to exceed $35,000 for operating loans (including production and subsistence).

(e) *Debt settlement cases.* A loan will not be made to an applicant whose debts have been settled pursuant to Part 1864 of this chapter, or who has been released from personal liability under Subpart A of Part 1872 of this chapter, as reflected by the County Office records, or where settlement or release under such requirements is contemplated, unless the applicant's failure to pay his loan indebtedness was the result of circumstances beyond his control, the conditions which necessitated the debt settlement or release, other than weather hazards, disasters, or price fluctuations, have been removed, and the borrower's operations will afford him a reasonable prospect of repaying the loan and meeting his other obligations. Prior to approval of the loan, the loan docket and any available case folders, including the County Supervisor's justification for making the loan, will be submitted to the State Office for a determination as to whether the loan should be made.

(f) *Loans to individuals jointly engaged in farming, recreational, and other nonfarm enterprises.* (1) A joint loan may be made to two eligible applicants living together or living separately and operating jointly not larger than the equivalent of one adequate family farming operation. When joint loans are made, both individuals will execute the application, payment authorization, notes, security agreements, and other documents required in connection with the making and closing of the loan.

(2) Separate loans may be made to eligible applicants who are jointly engaged in a farming or other operation, provided (a) not more than three individuals are interested in the operation, and (b) the operation provides the equivalent of not larger than one adequate family farming operation for each individual.

(g) *Relationship with emergency loans.* Operating loans will not be made to applicants whose credit needs can be met adequately with emergency loans as prescribed in Subpart A of Part 1832 of this chapter.

§ 1831.11 Rates and terms.

Interest will be charged at the rate of 6⅜ percent per annum on all operating loans. Interest on the initial advance will accrue from the date of the promissory note. Interest on future advances will accrue from the date of the loan check for each such advance.

(a) Payments of principal and interest on operating loans will be scheduled on the note in accordance with the borrower's reasonable ability to pay, determined by an analysis of his operations as reflected in his Form FHA 431-2 or Form FHA 431-4. All installment dates will be January 1 of each year, except the final installment which will be determined in accordance with § 1831.32(h). No installment will be made payable later than 7 years from the date of the note. When it is determined that income sufficient to meet any payment of principal will not be received by the borrower until the second or third January 1 following the date of the promissory note, the repayment of principal may be deferred to the second or third January 1, as appropriate, following the date of the note. When the payment of principal is deferred to the second January 1 following the date of the note, the first scheduled installment will be the amount of accrued interest from the date of the note to February 1 of the next calendar year. When the payment of principal is deferred to the third January 1 following the date of the note, the second scheduled installment will be the amount of accrued interest for a full year and the first scheduled installment will be the amount of accrued interest from the date of the note to February 1 of the next calendar year.

(1) Advances for annual recurring operating expenses or for paying bills incurred for such purposes for the operating or crop year being financed will be scheduled for payment when the principal income from the year's operations normally would be received. This includes advances for the payment of interest, taxes, and depreciation.

(2) Advances to purchase or produce feed for productive livestock or livestock to be fed for the market, or to pay bills incurred for such purposes for the crop year being financed, except for feed of a type which the County Supervisor determines will be produced in future years, will be scheduled for payment when the principal income from the sale of such livestock or livestock products can be expected.

(3) Advances for purposes other than those enumerated in subparagraphs (1) and (2) of this paragraph, will be scheduled for payment over the minimum period consistent with the applicant's ability to pay, as determined from an analysis of the operations. This will include, among other things, the purchase of significant amounts of feed or seed which will be produced in future years and major repairs to equipment. In no instance may the payment schedule extend beyond the useful life of the security offered for the advance.

(4) When conditions warrant such action, principal payments scheduled in accordance with subparagraph (3) of this paragraph may vary in amount. For example, when a livestock enterprise is being expanded as the feed and pasture program is developed, a graduated payment schedule could be used if necessary. In connection with subsequent loans for such purposes, it is necessary to consider payment schedules established previously for outstanding loans in order to assure a realistic overall payment schedule within the prescribed limits. However, the last installment will not be larger than the amount which can then be refinanced with another lender or be repaid within a renewal period of not to exceed 5 years.

(b) *Supplementary payment agreement.* Form FHA 440-9, "Supplementary Payment Agreement," should be used for each applicant who regularly (such as weekly, monthly, or quarterly) receives substantial income from a recreation or other nonfarm enterprise or from farming. It will be used also when the farm income from which payment is to be made will be received substantially before a January 1 installment due date.

§ 1831.12 Security policies.

The words "security instrument(s)" as used in this subpart includes financing statements and security agreements, chattel mortgages, and similar lien instruments.

(a) Except as provided in subparagraph (3) of this paragraph and paragraphs (b), (c), (d), and (f) of this section, each loan will be secured as follows:

(1) *Crops, title to which is held by the borrower.* By a first lien on the applicant's crops, or his share of the crops, if he is a share tenant, which are growing or to be grown by him, subject only to:

(i) The landlord's lien on the crops for reasonable cash or privilege rent for the current year.

(ii) The real estate mortgagee's lien or real estate purchase contract holder's lien on the crops for the current year's installment on the real estate debt, provided such installment is reasonable when related to the normal rental charges for similar farms in the area.

(iii) The lien or contract of another creditor on crop(s) for necessary advances for planned annual farm operating and family living expenses for the

crop year, provided the other creditor agrees in writing to the FHA that his advance(s) will be limited to a specific amount which has been determined necessary by the borrower, FHA, and the other lender.

(2) *Crops grown under contract when title to the crop is held by the contractor.* When a crop is being produced, harvested, processed, or marketed by the applicant under an equitable written contract with a responsible contractor and title to the crop is retained by such contractor, loans may be made in connection with such crops, provided the contractor limits his advances to production, harvesting, processing, or marketing costs in connection with the contract crop or to purposes related thereto, and an assignment of all or a part of an applicant's share of the income from the crop is given to the FHA and is accepted in writing by the contractor holding title to the crops. The assignment will be in an amount at least equal to the amount planned to be paid on the applicant's FHA indebtedness from such crop. However, when no payment is expected to be made on the loan from the crops, an assignment will not be required. The form for use in obtaining such assignments will be approved by the OGC. In UCC States the assignment will constitute a security agreement on such crop income, and the contract will be described specifically, or as "Contract Rights" or "Contract Rights in Crops," and so forth, in paragraph 1(b) of the financing statement.

(3) *Feed crops only.* Subject to the limitations of subparagraph (6) of this paragraph, a lien on crops need not be taken when the crops to be produced by the borrower are for feed purposes only and the loan approval official determines that the loan is otherwise reasonably well secured and that liquidation action, either voluntary or involuntary, is not likely to occur during the crop year for which the loan is made.

(4) *Items of personal property described in § 1831.9 (a) and (b), purchased or refinanced.* By a lien on all such items subject only to the lien of another creditor for amount(s) advanced or to be advanced by such creditor to meet planned annual operating and family living expenses for the operation or crop year, provided the other creditor agrees in writing to the FHA that his advance(s) will be limited to a specific amount which has been determined necessary by the borrower, FHA, and the other lender. However, liens will not be taken on such equipment, facilities, or buildings which cannot be made subject to a valid chattel lien or a valid security interest, or on livestock or poultry kept primarily for subsistence purposes, or on household goods and equipment or on small tools and equipment.

(5) *Undivided interests.* An applicant obtaining a loan for the purchase of an undivided interest in the property referred to above or the refinancing of debts on an undivided interest in such items will secure his loan by a lien on his undivided interest in the item purchased or refinanced along with any other security required by this action. Joint security instruments will not be taken except as provided in § 1831.10(f). Each party having an undivided interest in such property will execute Form FHA 441-12, "Agreement for Disposition of Jointly-Owned Property," providing for the disposition of his interest in the property. However, Form FHA 441-12 will not be required when a tenant and landlord own property jointly and the lease provides for satisfactory division of such property or the proceeds from its sale, or a joint security instrument is taken to secure loans to two individuals jointly engaged in the operation.

(6) *Other items of personal property owned by the applicant described in § 1831.9 (a) and (b), not purchased or refinanced.* By the best lien obtainable on as much of such property of significant security value as is necessary to protect the interest of FHA. This will include any undivided interest in such property owned by the applicant jointly with others who have an interest in the operation. A lien will not be taken under this subparagraph on the types of items excluded under subparagraph (4) of this paragraph.

(7) *Liens and assignments to protect FHA's interest in feed purchased or produced with loan funds.* Loans made to purchase or produce feed for livestock being fed for market or to be fed to productive livestock (excluding livestock and poultry kept primarily for subsistence purposes) will ordinarily be secured by first liens on such livestock. However, when a first lien cannot be obtained, the loan will be secured by liens or assignments as provided below:

(i) When the livestock will be owned by the applicant and a first lien cannot be obtained, a junior lien will be taken, provided it is determined that the applicant has, or will acquire during the feeding period, an equity in the livestock being fed or will receive income from livestock or livestock products, either of which must be commensurate with the investment made for this purpose, and prior lienholders sign Form FHA 441-13, "Division of Income and Nondisturbance Agreement," or similar form approved by the OGC, agreeing to a suitable nondisturbance period and to a division of the income to be received from the livestock and livestock products, which will permit the applicant to pay his loan in accordance with the policies expressed herein. However, when no payment is expected to be made on the loan from the livestock or livestock products, Form FHA 441-13 will not be required.

(ii) When the livestock enterprise is to be managed by the applicant under a livestock share lease, share agreement, or contract, and the income to be received therefrom will be from the livestock fed, or from livestock products, an assignment of all or a part of such income will be taken, provided the owner or purchaser of the livestock or livestock products accepts in writing the assignment. The assignment will be in an amount at least equal to the amount planned to be paid on the applicant's FHA indebtedness from such income. The form for use in obtaining such assignments will be approved by the OGC. However, when no payment is expected to be made on the loan from the livestock or livestock products, an assignment will not be required. In UCC States, if an assignment on the livestock income is taken, such assignment will constitute a security agreement on such income and the share lease, share agreement, or contract will be described specifically, or as "Contract Rights" or as "Contract Rights in Livestock," and so forth, in paragraph 1(b) of the financing statement.

(7) *Assignments of crop insurance.* Assignments of all or a part of crop insurance proceeds will be taken when the loan approval official determines such action is necessary to protect the interests of the FHA.

(i) In order to obtain a claim on Federal crop insurance proceeds, it will be necessary to obtain an assignment on such proceeds. The assignment will be prepared on Form FCI-20, "Collateral Assignment," furnished by the local representative of the Federal Crop Insurance program. The assignment must be approved by the Federal Crop Insurance Corporation.

(ii) An assignment of other crop insurance is not required in cases where a crop insurance policy contains a standard mortgage clause naming the FHA as mortgagee or secured party.

(8) *Assignment of or consent to payment of proceeds from sale of products or other income.* (i) Assignments of and "consents" to payment of proceeds from the sale of products or other income will be used when payments are planned from such sources and such instruments are necessary to protect the interest of FHA and it is possible to obtain the acceptance of the purchaser or other payer.

(a) Form FHA 441-18, "Consent to Payment of Proceeds from Sale of Farm Products," will be used for products or income except dairy products in which FHA has a security interest under the UCC.

(b) Form FHA 441-8, "Assignment of Proceeds from the Sale of Agricultural Products," will be used for products or income in which FHA does not have a security interest under the UCC. Other forms approved by the OGC may be used when Form FHA 441-8 is not adequate.

(c) Assignment of incentive and agricultural program payments will be taken on forms provided by ASCS except that Form FHA 462-8, "Wheat and Feed Grain Programs—Assignments," will be used to obtain assignments of Wheat Certificate and Feed Grain Program payments.

(d) Form FHA 441-25, "Assignment of Proceeds from the Sale of Dairy Products and Release of Security Interest," will be used for dairy products in which FHA has a security interest under the UCC.

(9) *Real estate.* Real estate security will not be taken in connection with making initial operating loans, except that in most UCC States a security interest may be taken on fixtures even

though they are considered to be real

from its National Office at 14th and In-

authority to process participation loans

indicate that the crop or operating year

though they are considered to be real estate in the particular State. Furthermore, such real estate security will not be taken in connection with making subsequent operating loans except in individual cases in which it appears that it may be necessary to rely on such security for payment of the loan. When such security is taken the provisions of § 1872.19 of this chapter will apply. Generally, an item is to be considered a fixture if it is attached to a building or other structure or to land in such a way that it cannot be removed without defacing or dismantling the structure, or damaging substantially the item itself.

(10) *Consent and subordination agreements and severance agreements.* (i) In those UCC States in which the State procedure does not require the use of a severance agreement, Form FHA 440–26, "Consent and Subordination Agreement," will be used as necessary to meet the security requirements contained in subparagraph (4) of this paragraph.

(ii) In Louisiana, and in those UCC States in which State procedures so provide, Form FHA 440–6, "Severance Agreement," will be obtained when operating loan funds are used to purchase or refinance debts on property which is or may become a fixture, and it is necessary to sever such property from real estate to meet the security requirements contained in subparagraph (4) of this paragraph.

(b) Loans for the acquisition of memberships or the purchase of stock in cooperative associations may be made on the basis of the borrower's promissory note without taking security except as follows:

(1) An assignment, pledge, or other security interest in stock or other evidence of membership will be obtained, provided it would have security value. Such security interest also may be taken on significant amounts of dividends to be received from stock, memberships, or patronage, or on undivided profits and other retains. The security interest will be in the form of an assignment, pledge, or other instrument and will be taken on forms and in the manner approved by the OGC. County Offices will retain water stock certificates and similar collateral. A notation will be made on Form FHA 405–1, "Management System Card—Individual," showing that such security has been retained.

(2) In individual cases, loan approval officials may require a lien on crops or chattels as security for a loan made for the acquisition of a membership or stock if they determine that such action is necessary to protect the interest of FHA due to such reasons as the amount of the advance or the borrower's financial situation.

(c) Loans made under participation agreements between the FHA and other lenders under Form FHA 441–3, as prescribed in § 1831.8, will be secured by liens taken by the other lenders. Such liens will be taken on livestock or farm or other equipment or crops and may also include any other property which the other lender determines is desirable. In such cases the loan approval official must determine that the security to be obtained by the other lender in accordance with the provisions of the participation agreement will be adequate to protect the interest of FHA under that agreement.

(d) Loans of not more than $1,500 for real estate improvements may be made on the basis of the borrower's promissory note without taking security when the applicant has a good reputation for paying his debts promptly, he clearly has sufficient income to meet all of his obligations, and he has assets from which a recovery of the loan could be made in case of default.

(e) Property and public liability and property damage insurance will be obtained as follows:

(1) Applicants obtaining operating loans should be encouraged to carry insurance on the property serving as security for the loan and on other chattel or real property necessary to afford them adequate protection against substantial losses from the common hazards existing in an area. It is especially desirable that insurance be obtained by applicants who obtain large loans and have considerable personal property including feed, supplies, and inventory centrally stored or housed over an extended period. Such insurance may be required by the loan approval official in individual cases or by requirements set forth by the State Director.

(2) Applicants receiving loans for a recreational or other nonfarm enterprise will be advised of the possibilities of incurring liability and encouraged to obtain public liability and property damage insurance, including insurance on customer's property in custody of the borrower. Such insurance may be required by the loan approval official in individual cases.

(3) When insurance is required on property serving as security for an operating loan, a Form FHA 426–2, "Property Insurance Mortgage Clause (Without Contribution)," or a standard mortgage clause which is in general use in the area will be attached to or printed in the policy and will show the United States of America (Farmers Home Administration) as mortgagee or secured party.

(f) State Directors, with the advice of the OGC, will inform County Supervisors on a State basis if it is necessary, because of State statutes or types of leases, land purchase contracts, and real estate mortgages commonly in use, to obtain subordination agreements, Form FHA 441–17, "Certification of Obligation to Landlord," severance agreements, disclaimers, and consent and subordination agreements, and will otherwise supplement this paragraph as necessary.

(g) Lien searches will be obtained in accordance with the provisions of Subpart B of this part to determine that the FHA will have the required security, except that when the loan is made under a written participation agreement with another lender a lien search will not be required by the FHA if the loan approval official determines that the other lender will take the necessary steps in closing the loan to assure proper protection of FHA's interests.

§ 1831.13 Tenure.

Good tenure is essential for a successful operation. Applicants will, therefore, be required to make satisfactory arrangements for the use of the kind of property necessary for carrying on the planned operation. The tenure policies set forth below will be followed by FHA officials in the making and approving of loans.

(a) *Tenant operators.* (1) Before a loan is made, the tenant, landlord, and County Supervisor must understand the terms and conditions of the tenure arrangements. These understandings can best be reached through discussions, preferably on the unit, and such discussions will be held whenever possible, except when no significant adjustments and improvements are to be made in the operations. In any event the understanding will include, as applicable, how the unit will be operated, the manner in which the planned adjustments, improvements and operation will be financed, the distribution of income and expenses and other contributions by the tenant or the landlord, provisions for the division of the jointly-owned property when the lease is terminated, agreement on any pertinent longtime aspects of the case, and any other factors affecting the tenure relationship.

(2) Ordinarily, loans will not be made unless the applicant obtains a satisfactory written lease. However, when for good reason an applicant cannot obtain a written lease on part or all of the real estate he expects to operate, the loan may be approved, provided the County Supervisor determines that the understanding existing between the tenant and landlord are definite and the rental terms are satisfactory, the lack of a written lease will not likely jeopardize the applicant's operations, and the loan docket clearly reflects the rental arrangements made with respect to each tract of land or building.

(3) Pertinent information concerning the tenure arrangements will be recorded as set forth in Subpart B of this part.

(b) *Owner operators.* Before loans are made to owner operators, the terms existing with respect to any real estate indebtedness owing will be ascertained and a determination will be made as to whether the applicant's proposed operations will enable him to meet the required payments on the real estate indebtedness as well as being feasible in other respects, and the applicant will have reasonably secure tenure on the real estate under the terms of the real estate mortgage or purchase contract.

§ 1831.14 Loan approval.

(a) *Indebtedness limitation with respect to loan approval authority.* Current information regarding limitations on loan approval authorities of various officials of the FHA may be obtained from any county or State Office of the FHA or from its National Office at 14th and Independence Avenue SW., Washington, DC 20250.

(b) *Administrative determinations and responsibilities.* When the County Committee certification has been made, the loan approval official will determine administratively whether:

(1) The applicant is eligible and likely to be successful in the proposed operations and to achieve the objectives of the loan.

(2) The applicant has available, under satisfactory tenure arrangements, a unit adequate in size and productivity to reasonably expect success, taking into consideration farm and other income including income from a recreational or other nonfarm enterprise.

(3) Plans have been made and documented for:

(i) A suitable system of farming or type of recreation or other nonfarm enterprise.

(ii) The crucial adjustments and improvements and key practices essential for the applicant's success.

(iii) Effective supervision and corrective action.

(4) The proposed farm and home operations, and recreational or other nonfarm enterprise(s) of the applicant are feasible.

(5) The loan is feasible and can be repaid from income as scheduled, except as provided in § 1831.11(a)(4), with respect to the last installment.

(6) The amount of the loan and the purposes for which the funds are to be used are consistent with the applicant's needs and are for authorized purposes.

(7) The security requirements can be met.

(8) The certifications required of the applicant and County Committee have been made and are a part of the loan docket.

(9) The loan meets all other FHA requirements.

§ 1831.15 Nondiscrimination poster.

Borrowers who have received operating loans for recreational enterprises since January 3, 1965, must display the nondiscrimination poster, "And Justice for All," at the recreation area once it is open to the public.

Dated: November 23, 1971.

JAMES V. SMITH,
Administrator,
Farmers Home Administration.

[FR Doc.71-17427 Filed 11-29-71;8:51 am]

[7 CFR Part 1831]

[FHA Instruction 441.3]

OPERATING LOAN PROCESSING

Notice of Proposed Rule Making

Notice is hereby given that the Farmers Home Administration is considering a revision of Subpart B of Part 1831, "Operating Loan Processing," Title 7, Code of Federal Regulations (36 F.R. 1105 through 1110), which removes the authority to process participation loans and provides requirements and procedures for the preparation of the revised Form FHA 441–1, "Promissory Note."

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed amendments to the Assistant Administrator for Management, Farmers Home Administration, U.S. Department of Agriculture, Room 5013, South Building, Washington, D.C. 20250, within 20 days after date of publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Assistant Administrator for Management during regular business hours. (8:15 a.m.–4:45 p.m.)

As proposed, the revised Subpart B reads as follows:

Subpart B—Operating Loan Processing

Sec.
1831.31 General.
1831.32 Loan forms and routines.
1831.33 Loan docket.
1831.34 Review and approval or rejection.
1831.35 Loan checks.
1831.36 Loan closing.
1831.37 Revision in the use of Operating loan funds.

AUTHORITY: The provisions of this Subpart B issued under section 339, 75 Stat. 318, 7 U.S.C. 1989; Order of Acting Secretary of Agriculture, 36 F.R. 21529; Order of Assistant Secretary of Agriculture for Rural Development and Conservation, 36 F.R. 21529.

Subpart B—Operating Loan Processing

§ 1831.31 General.

This subpart is supplemented by Part 1890r of this chapter and modified by Subpart B of Part 1810 of this chapter. This subpart sets forth the requirements and procedures for the preparation and execution of documents and for other routines in connection with making operating loans as prescribed in Subpart A of this part.

§ 1831.32 Loan forms and routines.

(a) *Applications for Farmers Home Administration (FHA) assistance.* Applications for FHA assistance will be taken as outlined in Part 1801 of this chapter.

(b) *Form FHA 440–2, "County Committee Certification or Recommendation."* (1) When the applicant is determined to be eligible, the County Committee will execute Form FHA 440–2 before the loan is approved. This certification will cover any operating loan(s) to be made to the applicant for the crop or operating year specified within the maximum amount of credit established by the County Committee. The date designated by the County Committee as the end of the crop or operating year and the maximum amount of credit will be inserted in the appropriate spaces.

(i) It is intended that County Committees will have some latitude in determining for which crop or operating year(s) credit may be extended. In some cases where an initial operating loan is being made, the County Committee may indicate that the crop or operating year for which credit may be extended coincides with that for which an interim plan is developed. Such action may be taken because the Committee wishes to review the circumstances of the applicant again at the end of the interim crop or operating year before committing itself for the succeeding crop or operating year. In other cases, the County Committee may, when an application is being acted upon during the latter part of a crop or operating year, establish the maximum amount of credit for both the interim crop or operating year and the next crop or operating year, provided the operations for the current year have advanced to the point that the County Committee will be able to determine with reasonable certainty the maximum amount of credit which the applicant would need for the next crop or operating year under normal conditions. The same principles with respect to County Committee certifications for an initial loan may be followed in connection with subsequent loans.

(ii) If it is found, after an applicant has been certified as eligible, that there will be a major change in operations or that an amount of credit in excess of the maximum previously established by the County Committee will be required for the designated crop or operating year, it will be necessary for the County Committee again to certify the applicant as eligible on the basis of the changed circumstances if a loan is to be made.

(2) When the County Committee has agreed to increase the original amount of loan assistance certified for the crop or operating year because such amount was insufficient to meet the needs of the borrower, a new Form FHA 440–2 will be prepared and executed. The date of the end of the same crop or operating year (month, day, and year) as that indicated in the original certification will be inserted in the appropriate space. In the space indicating the maximum amount of credit for the crop or operating year, the amount to be inserted will be the sum of the latest certification for the crop year for any operating and emergency loans, plus the additional amount(s) of any such loan(s) the County Committee determines is necessary to meet the actual credit needs of the borrower for the remainder of the crop or operating year. A notation will be made in the blank space on Form FHA 440–2 that the County Committee has again reviewed the applicant's situation and his credit needs for the crop or operating year are as indicated rather than $------ shown on Form FHA 440–2 dated ----------. The new Form FHA 440–2 should be executed by the County Committee and dated as of that date. The Form FHA 440–2 previously executed will be retained in the case files.

(c) *Form FHA 431X1, "Long-Time Farm and Home Plan."* Form FHA 431–1 will be developed with the assistance of the County Supervisor.

(d) *Form FHA 431–2, "Farm and Home Plan."* Form FHA 431–2 will be

developed by the borrower with the as-

final installment. The final installment of such collections to exceed the debt

"Security Agreement," as appropriate

developed by the borrower with the assistance of the County Supervisor using Form FHA 431-1 as a framework, except when a loan is made only for the acquisition of membership or the purchase of stock in a cooperative association and the applicant is not indebted for another FHA loan. In the latter case, the best estimates available will be used to complete Table J of Form FHA 431-2 in order to determine whether the loan requested can be paid and the period over which payments should be scheduled. The source of payment should be shown in Table K. When the preparation of Table J is inadequate to enable the loan approval official to make the required determinations, other portions of Form FHA 431-2, as necessary, will be used.

(e) *Appraisal of chattel property.* (1) When a debt is to be refinanced under the provisions of § 1831.9(m), Form FHA 440-21, "Appraisal of Chattel Property," will be completed. In lieu thereof, a form issued by the State Director showing as a minimum the information required on Form FHA 440-21 may be used. Ordinarily only one appraisal form will be required with a loan docket.

(2) When funds are to be advanced for the payment of depreciation pursuant to § 1831.9(h), an appraisal will be made with respect to the farm, recreation, or nonfarm equipment involved for the purpose of making the determination required in that paragraph.

(f) *Form FHA 440-32, "Request for Statement of Debts and Collaterals."* This form will be used as necessary to obtain information from the creditors of the applicant concerning the amount of debts owed and the collateral for the debts.

(g) *Tenure agreement.* Generally, a copy of the lease agreement between tenant applicants and their landlords will be obtained and made a part of the loan docket. Where it is not practical to obtain a copy of the lease agreement, a statement setting forth those terms and conditions of the agreement which are not clearly reflected in the Farm and Home Plan will be prepared and made a part of the loan docket. A brief summary of the joint discussion between the tenant, landlord, and County Supervisor will be reflected in the running case record. If such a discussion is not held, a statement of the reasons therefor should be included in the running case record.

(h) *Form FHA 441-1, "Promissory Note."* One note will be prepared showing the full amount of the loan regardless of the number of advances involved except as provided in subparagraph (1) of this paragraph. The amount of the note will be rounded to the nearest $100. In addition to the principal, each scheduled installment will include interest. The first scheduled installment will include interest calculated from the date of the note to February 1 of the next calendar year. Instructions available in all FHA offices for preparation of Form FHA 441-1 will be used for the computation of interest. All installment due dates will be January 1 of each year except the final installment. The final installment will be payable on the date of the note plus the number of years over which the loan is amortized. No installment will be made payable later than 7 years from the date of the note. The note will be dated on the date the loan is closed. The applicant's spouse will be required to execute Form FHA 441-1 when legally required by State law, the loan approval official determines that the signature is needed because of the spouse's interest in the farm being operated or in property offered as security, or it is determined by the State Director on a State basis that the spouse's signature will be required. The State Director, with the advice of the Office of the General Counsel (OGC), will issue an appropriate State requirement concerning the spouse's signature on Form FHA 441-1. In all cases in which the wife joins with her husband in executing a promissory note or other evidence of indebtedness, the purpose and effect of the wife's signature will be, in addition to any other purpose and effect for which her signature is obtained, to engage her separate and individual personal liability regardless of any State law to the contrary. The original and copy of the promissory note, Form FHA 441-1, will be sent to the Finance Office immediately after loan closing.

(1) When an operating loan is made for purposes which would be secured in accordance with the provisions of § 1831.-12(a) and simultaneously for purposes in which the security provisions of § 1831.12 (b) and (d) apply, separate notes will be required.

(i) *Form FHA 440-9, "Supplementary Payment Agreement."* In addition to its use in connection with other sources of income, this form will be used when the farm income from which payment is to be made will be received substantially before the January 1 installment due date.

(j) *Form FHA 440-1, "Payment Authorization."* (1) Only one payment authorization will be prepared for the total amount of the loan regardless of the number of advances involved. This is also true when separate notes are prepared in accordance with paragraph (h)(1) of this section. The approval official will indicate his determination that the applicant is eligible and his approval of the loan by signing and dating the original in the space provided, and by inserting his title. The type of loan will be inserted in the space provided for the purpose as follows:

(i) "OL-I" to indicate a loan to an applicant who is not indebted for an Operating loan.

(ii) "OL-S" to indicate a loan to a borrower who is indebted for an Operating loan.

(2) To assist the Finance Office in the examination of loan documents, enter on Form FHA 440-1, the date, amount, and receipt number of receipts issued for collections for which Form FHA 451-26, "Transaction Record," has not been received in the County Office when a loan is submitted which would cause the borrower's indebtedness before application of such collections to exceed the debt limitation for Operating loans or the delegated loan approval authority.

(k) *Borrower's case number.* The use of the borrower's case number (including the State and County codes) for loan processing is prescribed in the guide available in all FHA offices for preparation of Form FHA 440-1.

(l) *Immediate and future disbursements.* The applicant's total anticipated credit need for the crop or operating year will be planned when Form FHA 431-2 or Form FHA 431-4, "Business Analysis—Nonagricultural Enterprise," as applicable, are developed. Loan funds for the full amount of FHA credit required will be disbursed in an immediate advance, an immediate advance and one or more future advances, or one or more future advances without an immediate advance. All such advances must be disbursed at least 30 days apart. The payment date(s) for any future advance(s) must not be later than the date shown as the ending date of the crop or operating year, Item 2 of Form FHA 440-2. When additional FHA credit is required that could not be foreseen at the time plans for the year were completed, Form FHA 431-2 or Form FHA 431-4 will be revised to include the additional amount and a subsequent loan docket will be submitted to the Finance Office.

(1) Each advance will be limited to an amount which can be expended promptly, usually within 60 days after receipt of the check in the County Office. This will prevent loan funds from remaining in the possession of borrowers or in supervised bank accounts for long periods of time.

(2) The loan authorization will show the schedule of advances. Upon receipt of a payment authorization the Finance Office will obligate funds for the total amount of the advance(s) shown. For each future advance the date for Thursday of the week in which the loan check is to be issued will be shown on Form FHA 440-1. The Finance Office will issue checks for future advances without further action by the County Office. In order that these dates will be available in County Offices, an appropriate notation should be inserted on Form FHA 405-1, "Management System Card—Individual," if it has been prepared, or on the County Office copy of the Promissory Note.

(3) When a future advance is to be canceled the following actions must be taken:

(i) Complete Form FHA 440-10, "Notification of Loan or Grant Cancellation."

(ii) Prepare and execute a substitute note on Form FHA 441-1 reflecting the revised total of the loan and the revised repayment schedule. When it is not possible to obtain a substitute Promissory Note the County Supervisor will show on Form FHA 440-10 the revised amount of the loan and the revised repayment schedule.

(iii) Prepare a Form FHA 441-7, "OL-EM and Other Credit Analysis," to show borrower's name and case number and enter under Item I the amount for each

purpose being reduced or canceled and the total of such amounts. In the space above Item I enter in large red letters the word "Reduction."

(iv) Transmit to the Finance Office the Forms FHA 440-10, FHA 441-1 and FHA 441-7 prepared as outlined above.

(m) *Form FHA 441-5, "Subordination Agreement," or Form FHA 441-17, "Certification of Obligation to Landlord."* When a subordination agreement is required on crops, livestock, farm equipment, and other chattel property, including items which have become personal property through execution of a severance agreement, Form FHA 441-5 or other form approved by the State Director, with the advice of the OGC, where Form FHA 441-5 is not legally sufficient, will be used except as provided in subparagraph (1) of this paragraph. The years to be covered by the subordination generally will be for the period of the loan or the unexpired period of the lease if the borrower is a tenant, but as a minimum will be for the year for which the loan is made.

(1) Form FHA 441-17 may be used in lieu of obtaining a subordination agreement when it appears that the applicant is not obligated to the landlord except for rent for the lease year and that he will not incur other obligations to the landlord during such year, and when requirements set forth by the State Director authorizes the use of Form FHA 441-17 in such cases have been issued. See § 1831.12.

(n) *Assignment of or consent to payment of proceeds from the sale of products.* Form FHA 441-8, "Assignment of Proceeds from the Sale of Agricultural Products," Form FHA 441-18, "Consent to Payment of Proceeds from Sale of Farm Products," or Form FHA 441-25, "Assignment of Proceeds from the Sale of Dairy Products and Release of Security Interest," will be used in accordance with § 1831.12(a)(8). Form FHA 441-21, "Transmittal of Assignment or Consent," may be used to transmit Form FHA 441-8 or Form FHA 441-18 to purchasers.

(o) *Form FHA 440-6, "Severance Agreement."* This form will be used as required by State Directors.

(1) State Directors, with the advice of the OGC, will specify the situations in which severance agreements are required under State law to comply with the requirements of Subpart A of this part, whether the severance agreement should be filed or recorded, and whether the spouse of the borrower and the spouse(s) of other party(ies) of interest also will be required to execute the severance agreement. In specifying the situations in which severance agreements will be required, consideration will be given to the actions necessary to prevent the property from becoming part of the real estate as well as to severance after it has become attached to the real estate.

(2) If severance agreements are required in accordance with the provisions of Subpart A of this part, and requirements issued by State Directors, such agreements will be executed no later than the date on which the property purchased with loan funds is delivered to the farm, or prior to the release of loan funds to the creditor, if refinancing of debts on such property is involved.

(p) *Form FHA 440-26, "Consent and Subordination Agreement."* Unless otherwise provided by requirements issued by the State Director, this form rather than a severance agreement, will be used in Uniform Commercial Code (UCC) States when a security interest is taken in property after it has become a fixture.

(1) Consent and subordination agreements will be obtained when necessary to meet the security requirements contained in Subpart A of this part as follows:

(i) Prior to the release of loan funds to the creditor, if a debt is being refinanced on an item which already has become a fixture.

(ii) Not later than the time of loan closing, in all other cases in which a security interest is being taken on an item which already has become a fixture.

(2) Consent and subordination agreements will be taken only in those cases in which the fixture is placed on the real estate before all of the following steps have been taken: The financing statement and security agreement covering the fixture have been executed, the financing statement is filed, and the payment authorization is signed by the loan approving official.

(q) *Form FHA 441-13, "Division of Income and Nondisturbance Agreement."* Form FHA 441-13 will be used when it is necessary to obtain both a division of income and a nondisturbance agreement from prior lienholders.

(r) *Form FHA 441-10, "Nondisturbance Agreement."* Form FHA 441-10 will be used when it is necessary to obtain only nondisturbance agreements from creditors of an applicant who are in a position to interfere with the applicant's operations.

(s) *Running case record entries.* In addition to the information required by Part 1801 of this chapter, the running case record also will include pertinent information concerning the applicant's tenure arrangements and proposed operations not reflected elsewhere in the loan docket.

(t) *Form FHA 441-7, "OL-EM and Other Credit Analysis."* Form FHA 441-7 will be prepared after the loan docket otherwise is completed, and will be transmitted to the Finance Office along with Forms FHA 441-1 and FHA 440-1. This form will also be transmitted to the Finance Office as prescribed in Subpart A of Part 1871 of this chapter to show the use of other credit by borrowers not receiving operating loans during the fiscal year.

(u) *Form FHA 492-19, "Characteristics of Approved Applicants."* Form FHA 492-19 will be prepared for each initial operating loan.

(v) *Taking security instruments*—(1) *Forms to be used.* Form FHA 440A25, "Financing Statement," or Form FHA 440-25, "Financing Statement," and Form FHA 440-4, or Form FHA 440-4A, "Security Agreement," as appropriate, will be used to obtain security interests in personal property in UCC States unless State requirements provide for the use of other forms. Requirements issued by State Directors also will provide information as to whether Form FHA 440A25 or Form FHA 440-25 will be used. The financing statement and security agreement together will constitute a security instrument. Although only the financing statement is required to be filed or recorded, it is necessary also to take a security agreement in order to have a complete security instrument. (See also § 1831.12(a) (2) and (6).) Forms of chattel mortgage and crop pledge will be used in the State of Louisiana in accordance with State requirements issued by the State Director.

(2) *Describing notes on security instruments.* When security agreements, chattel mortgages, or other similar security instruments are taken, all outstanding operating loan notes, and all notes representing other operating-type debts as prescribed by the respective loan making requirements will be described on such security instruments.

(3) *Describing security property on security instruments.* The printed form of the FHA Financing Statement describes certain types of collateral. If items of collateral not covered under those types are to serve as security they should be described by types or individual items in the space provided in the financing statement for that purpose. Unless otherwise prescribed by the State Director, animals, birds, fish, and so forth, should be described by groups on the security agreement. The serial or motor number should be shown on only major items of equipment. If a security interest is to be taken in property such as inventory, supplies, recreation or other nonfarm equipment or fixtures which cannot be readily described under the column headings of items 2 or 3, as appropriate, of the security agreement, an appropriate description of such property will be inserted in item 2 or 3 below the other property described in the item without regard to the column headings. The advice of the OGC will be obtained in individual cases as to how to describe in the financing statement and security agreement items such as grazing permits, milk bases, membership or stock in cooperative associations unless the method has been prescribed by the State Director. The property to be described on security instruments should be reconciled with any existing security instruments and Form FHA 462-1, "Record of the Disposition of Security Property."

(4) *When to take security instruments*—(i) *Initial loans.* In initial loan cases the financing statement and security agreement will be taken at the time the note is executed. When the initial security agreement does not describe individually or by groups all of the collateral that is to serve as security, an all inclusive security agreement will be

taken as soon as all of the security property has been purchased. Forms of chattel mortgage and crop pledge will be taken in Louisiana in initial loan cases in accordance with State requirements issued by the State Director.

(ii) *Subsequent loans.* (*a*) Financing statements: A filed FHA Financing Statement is effective for a period of 5 years from the date of filing and as long thereafter as it is continued as provided in Subpart A of Part 1871 of this chapter. If the filed financing statement is still effective and covers all types of collateral that are to serve as security for the subsequent loan and describes the land on which crops or fixtures are or are to be located, a new financing statement will not be required. However, when a new financing statement is needed, it will be taken at the time the subsequent loan note is executed. Forms of chattel mortgage and crop pledge will be taken in Louisiana in subsequent loan cases in accordance with State requirements issued by the State Director.

(*b*) Security agreements. An additional security agreement will not be taken in connection with a subsequent loan until it is required by Subpart A of Part 1871 of this chapter, if the existing security agreement covers all types of collateral that are to serve as security for the subsequent loan, describes the land on which the crops or fixtures are or are to be located, and was taken within 1 year before the crops become growing crops, unless otherwise prescribed by the State Director.

(*c*) If a subsequent loan is being made and the operating loan indebtedness is being secured for the first time under the UCC, the procedure in subdivision (i) of this subparagraph with respect to securing initial loans will be followed.

(5) *Executing security instruments.* County Office employees in bonded positions are authorized to execute any legal instruments necessary to obtain or preserve security for loans. This includes financing statements, chattel mortgages and similar lien instruments, as well as severance agreements, consent and subordination agreements, affidavits, acknowledgments, and other instruments. The financing statements in UCC States, and forms of chattel mortgage and crop pledge in Louisiana, will be executed on behalf of the Government. The requirements with respect to the execution of security instruments on behalf of the borrower(s) will be the same as prescribed for Form FHA 441–1.

(6) *Filing or recording security instruments.* Ordinarily, in UCC States, financing statements will be delivered or mailed to the filing officer(s) for filing or recording, whichever is appropriate, when the loan is approved. However, when this is not practical the financing statement may be filed at a later date, but not later than the first withdrawal of loan funds from the supervised bank account or delivery of the check to the borrower. If crops or other property of the borrower are or are to be located in a State other than that of a borrower's residence, the County Supervisor servicing the loan will contact the County Supervisor in the other State for information as to the security instruments to be used and the place(s) of filing or recording in the other State. The financing statement will be filed or recorded in a manner required by State Directors. Security agreements will not be filed or recorded unless otherwise provided by requirements issued by State Directors because of special State law requirements. Forms of chattel mortgage and crop pledge will be filed or recorded in Louisiana as provided by State requirements issued by the State Director.

(7) *Additional actions required to perfect a purchase money security interest in inventory.* In order to properly perfect a purchase money security interest in inventory, it is necessary, on or before the time the debtor receives possession of the inventory, to obtain a security agreement and file a financing statement as required by this subpart, and notify in writing any parties known to have a security interest in such inventory or who have filed a financing statement covering the inventory that the FHA has or expects to acquire a purchase money security interest in the inventory being purchased with FHA loan funds. The notice must describe the inventory by item or type. These actions are necessary, for example, when FHA funds are advanced to purchase inventory in connection with a nonfarm enterprise and another creditor has on file a financing statement covering such inventory.

(8) *Fees.* Statutory fees for filing or recording financing statements, mortgages, or other legal instruments and notary and lien search fees incident to loan transactions in all cases will be paid by the borrower from personal funds, or from the proceeds of the loan.

(i) Whenever cash is accepted by FHA personnel to be used to pay the filing or recording fees for security instruments (including financing statements), or the cost of making lien searches, Form FHA 440–12, "Acknowledgment of Payment for Recording, Lien Search, and Releasing Fees," will be executed. FHA personnel who accept custody of such fees will make it clear to the borrower that the amount so accepted is not received by the Government as credit on the borrower's indebtedness, but is accepted only for the purpose of paying the recording, filing, or lien search fees on behalf of the borrower.

(9) *Retention and use of security agreements.*—(i) *Originals.* Original executed security agreements will not be altered, and will not be disposed of when new security agreements are taken.

(ii) *Work copy.* Information with respect to changes in security property will be noted only on the work copy. When an additional security agreement covering all collateral for the indebtedness is taken, the work copy used in preparing the additional security agreement may be destroyed.

(10) *Security requirements in relation to "future advance" and "after-acquired property" clauses and special State statutes.* The after-acquired property and future advance provision of security agreements in UCC States will be considered valid in all respects unless otherwise provided in a requirement issued by the State Director.

(i) *Future advance provision.* A properly prepared executed and filed or recorded FHA Financing Statement and a properly prepared and executed FHA Security Agreement to give FHA a security interest in the property described thereon to secure any operating or emergency loan indebtedness owed by the debtor, including any such future loans, advances, or expenditures without regard to whether they are evidenced by promissory notes described on the security agreements, and any other FHA debts evidenced by notes described on the security agreement and any advances or expenditures made in connection with the debts evidenced by such notes.

(ii) *After-acquired property provisions.* Any after-acquired property, except fixtures, of the same type as described (individually or by groups or specifically or generally), on the financing statement and security agreement will serve as security for the debt covered thereby. The after-acquired property clause in the security agreement will encumber crops grown on the land described in the agreement and financing statement, provided they are planted or otherwise become growing crops within 1 year of the execution date of the security agreement, or such other period as provided by State requirements. Except as set forth in § 1871.33(a)(4) of this chapter, such FHA after-acquired security interests take priority over other security interests perfected after the FHA Financing Statement was filed.

(11) *Requirements by State Office.* In addition to the State requirements referred to in other subparagraphs of this paragraph, requirements will be issued by State Directors, as necessary, to provide additional routines for taking liens on motor vehicles and motor boats, and any special type of security. The requirements also will supplement subparagraph (10) of this paragraph with respect to the "future advance" and "after-acquired property" clauses of security instruments. The State Director will set forth the requirements with respect to filing or recording of security instruments if the borrower is not a resident of the State, but is conducting some operation in the State. This is for use when County Supervisors in other States request such information in accordance with subparagraph (8) of this paragraph.

(w) *Form FHA 440–45, "Nondiscrimination Certificate (Individual Housing)."* Form FHA 440–45 will be used when an operating loan includes funds for repairs or improvement of a dwelling under provisions of § 1831.10(c).

§ 1831.33 Loan docket.

(a) The loan docket will include the forms and documents listed in instructions available in all FHA offices.

(b) The documents to be submitted will be examined thoroughly by the County Office Clerk to make sure that they are complete as to dates, signatures, and mechanical accuracy. For loans requiring approval other than in the County Office, the loan submission will consist of the required documents enumerated above and all of the applicant's County Office case folders.

§ 1831.34 Review and approval or rejection.

After the documents prescribed in § 1831.33 have been assembled, the loan approval official will make the determinations required in § 1831.14.

(a) *Approval of loans.* If the loan is to be approved, the loan approval official will date and sign Form FHA 440–1 and insert his title and grade in the spaces designated for these purposes. The loan approval official also will set forth any special conditions of approval or special security requirements in the running record in the loan docket or by memorandum. Ordinarily, after approval the original of Form FHA 441–7, Form FHA 492–19, when applicable, and the original and copy of Form FHA 440–1 will be removed from the assembled loan docket and forwarded to the Finance Office together with a copy of the memorandum from the National Office authorizing approval of the loan in those cases in which such authorization is required. However, if an operating loan is being made in connection with the making of an FHA real estate loan and one loan is dependent on the other, the loan approval official may determine that the loan checks should be issued simultaneously in order to avoid unnecessary interest charges to the applicant. The operating loan docket will be held in the County Office if it is within the approval authority of the County Supervisor, or returned to the County Office after approval in other cases, and the appropriate forms will be transmitted to the Finance Office at the same time the loan check for the real estate loan is requested. When operating loan allotments are nearly exhausted, State Offices should take the necessary steps to assure that sufficient funds are retained in their allotment to pay such loans at the time the loan check is needed. However, when it is not possible to order the real estate loan check before the end of the fiscal year, the operating loan should not be approved until after the beginning of the new fiscal year.

(b) *Rejection of loans.* If a loan is rejected, the loan approval official will indicate the reasons for the rejection in the running case record in the loan docket or in a memorandum. The County Supervisor will notify the applicant of the rejection and will return to him any tenure agreements, and any executed security instruments (including the unfiled financing statement in UCC States).

§ 1831.35 Loan checks.

(a) When a check cannot be delivered or is lost or destroyed, the Finance Office will be notified immediately.

(b) If a check is to be canceled, the County Supervisor will return the check with Form FHA 440–10 to the Regional Disbursing Center, U.S. Treasury Department, Post Office Box 2509, Kansas City, MO 64142. Copies of Form FHA 440–10 will be furnished to the Finance Office and to the State Office.

§ 1831.36 Loan closing.

(a) *Check delivery.* County Office employees in bonded positions will receive and deliver loan checks. Upon receipt of a loan check, the County Supervisor will notify the applicant promptly on Form FHA 440–8, "Notice of Check Delivery." Following loan closing, when a supervised bank account is required and the depository bank does not require the borrower's endorsement for deposit, the County Supervisor may deposit the loan check in the supervised bank account and furnish the borrower a copy of the deposit slip. When a loan check is delivered direct to the borrower, or when the check is deposited in a supervised bank account, the amount and date thereof will be entered on Form FHA 405–1.

(b) *Form FHA 440–13, "Report of Lien Search."* Form FHA 440–13 or other form providing substantially the same information will be prepared.

(1) Lien searches will be obtained at a time which will assure that the security instruments give the Government the required security. Under this policy the lien search normally will be obtained at the time the financing statement (mortgage or crop pledge in Louisiana) is filed or recorded. However, lien searches may be obtained after that date, but in no case later than the first withdrawal of any loan funds from the supervised bank account or delivery of the check to the borrower. Lien searches may also be obtained in connection with processing applications when such searches are determined to be necessary on an individual case basis, but in these cases it will be necessary to obtain continuation searches to meet the policy prescribed above.

(i) Under the UCC it is necessary to obtain lien searches in connection with the making of subsequent loans only in those cases in which an additional financing statement is required. This is when crops or fixtures to be taken as security are or are to be located on land not described on the existing financing statement or property not otherwise covered by the financing statement is to be taken as security for the operating loan debt.

(2) Except as otherwise provided in this subparagraph, applicants are required to obtain and pay the cost of lien searches. County Supervisors will make inquiries locally concerning the available sources through which satisfactory lien searches can be obtained at nominal cost to applicants. However, applicants should select the sources through which lien searches are made. The cost of lien searches may be paid from the proceeds of loan checks when necessary.

(i) County Office employees may make continuation lien searches when such searches are made as referred to in the last sentence of subparagraph (1) of this paragraph.

(ii) State Directors may authorize the employees of a particular County Office unit to make lien searches without cost to applicants when the cost of lien searches is exorbitant, such service is not available, or experience has shown that the service available will cause undue delay in the closing of loans or make it difficult to comply with the provisions of subparagraph (1) of this paragraph.

(3) State Directors, with the advice of the OGC, will issue requirements setting forth the minimum requirements for lien searches, including the records to be searched and the period to be covered with respect to each.

§ 1831.37 Revision in the use of operating loan funds.

(a) *Authority of the County Supervisor or Assistant County Supervisor (GS–7 or GS–9).* The County Supervisor or Assistant County Supervisor (GS–7 or GS–9) is authorized to approve changes in the purposes for which loan funds are to be used provided:

(1) The loan was within the respective loan approval official's authority.

(2) Such a change is for an authorized purpose and within applicable limitations.

(3) Such a change will not adversely affect the feasibility of the operation, or the Government's interest. If the County Supervisor is uncertain as to the probable effect the change would have on the feasibility of the operation or on the Government's interest, he should obtain the advice of the State Director prior to approving the change.

(b) *Authority of State Office officials.* (1) The State Director may delegate additional authority to County Supervisors to approve certain kinds of changes in the use of loan funds upon prior approval from the National Office.

(2) The State Director and employees in the State Office who have loan approval authority are authorized to approval changes in the use of loan funds provided the changes are consistent with authorities, policies, and limitations for making operating loans.

(c) *Documentation and routines.* When changes are made in the use of loan funds, no revision will be made in the repayment schedule on Form FHA 441–1 or in the loan record of the Management System Card—Individual, nor will a corrected Form FHA 441–7 be prepared. However, when funds loaned for the purchase of capital goods are to be used to meet operating expenses, the borrower must agree to repay the funds so used in accordance with the repayment terms prescribed in § 1831.11. Appropriate changes with respect to the repayments will be made in Table K of Form FHA 431–2 and initialed by the borrower. The County Supervisor also will make appropriate notations in the "Supervisory and Servicing Actions" section of the Management System Card—Individual for followup.

Dated: November 23, 1971.

JAMES V. SMITH,
Administrator,
Farmers Home Administration.

[FR Doc.71–17428 Filed 11–29–71;8:51 am]

[7 CFR Part 1861]

[FHA Instruction 451.1, AL–990(451)]

ACCOUNT SERVICING POLICIES

Notice of Proposed Rule Making

Notice is hereby given that the Farmers Home Administration is considering a revision of Subpart A or Part 1861, "Account Serving Policies," to:

1. Remove all references for the account servicing of participation loans.

2. Remove any references to the proration of regular and extra payments and to redefine the term "refunds" as used in Form FHA 441–1, "Promissory Note," to mean the return of funds advanced for capital goods.

3. Authorize employees receiving collections to make exceptions to the provisions of § 1861.4(a) (1), (2), and (5) when it is necessary to apply a part of a payment to delinquent accounts to prevent the Federal statute of limitations from being asserted as a defense in suits on FHA claims. This document is a revision of rules currently in effect under §§ 1861.1 to 1861.9 of this subpart (31 F.R. 14194 through 14197).

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed amendment to the Assistant Administrator for Management, Farmers Home Administration, U.S. Department of Agriculture, Room 5013, South Building, Washington, D.C. 20250, within 20 days after date of publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Assistant Administrator for Management during regular business hours. (8:15 a.m.–4:45 p.m.)

As proposed, the revised Subpart reads as follows:

Subpart A—Accounting Servicing Policies

Sec.
1861.1 General.
1861.2 Definition of types of payments on all loan accounts.
1861.3 Distribution of payments when a borrower owes both real estate and other loans to the FHA.
1861.4 Application of payments on operating (OL), emergency (EM), economic opportunity (EO) loans to individuals, soil and water conservation (SW) coded "24," and other production-type loan accounts.
1861.5 Application of payments on farm ownership (FO), SW (except SW loans coded "24," but including SW loan accounts coded 13F), rural housing (RH), labor housing (LH), senior citizen rental housing (SCH), rural rehabilitation (RR), and resettlement projects (RP) cooperative association, and other real estate (ORE) accounts.
1861.6 Changes in the application of loan payments.
1861.7 Overpayments and refunds.
1861.8 Return of paid-in-full or satisfied notes to borrowers.
1861.9 Definitions and other information on FO, SW, ORE, RH, LH, and SCH accounts.
1861.10 Servicing of interest credits for section 502 RH borrowers.

AUTHORITY: The provisions of this Subpart A issued under sec. 339, 75 Stat. 318, 7 U.S.C. 1989, sec. 510, 63 Stat. 437, 42 U.S.C. 1480, sec. 4, 64 Stat. 100, 40 U.S.C. 442, sec. 602, 78 Stat. 528, 42 U.S.C. 2942, sec. 301, 80 Stat. 379, 5 U.S.C. 301, Order of Acting Secretary of Agriculture, 36 F.R. 21529, Order of Assistant Secretary of Agriculture for Rural Development and Conservation, 36 F.R. 21529, Order of Director, OEO, 29 F.R. 14764.

Subpart A—Accounting Servicing Policies

§ 1861.1 General.

Borrowers will be required to pay their debts to the Farmers Home Administration (FHA) in accordance with their agreements and their ability to pay and will be encouraged to pay ahead of schedule to an extent consistent with sound farming and money management. When borrowers have acted in good faith and have exercised due diligence in an effort to pay their indebtedness but cannot pay on schedule because of circumstances beyond their control, future servicing actions will be consistent with the best interest of the borrower and the Government. County Supervisors will be responsible for servicing all FHA accounts as prescribed by this subpart and under the general guidance and supervision of State Office personnel.

(a) *Accounts of active borrowers.* The foundation for proper and timely debt payment is sound farm and home planning or budgeting, including plans for debt payments supplemented by effective followup supervision. Account servicing, therefore, must begin with initial planning and must be an integral part of yearend analysis and subsequent planning, as well as followup supervision when required.

(b) *Accounts of collection-only borrowers.* (1) Collection-only borrowers are expected to discharge debts owed by them to FHA in accordance with their ability to pay. Efforts to collect such debts, including effective use of collection letters and account servicing visits, must be coordinated with other program activities. If these borrowers are unable to pay in full, established debt settlement policies should be applied in appropriate cases.

(2) When a collection-only borrower who is employed by the Federal Government has the ability to pay all or a part of the debt owed by him to FHA but refuses to do so, the employing agency, including the military establishment or the Coast Guard, will be contacted by the County Supervisor. The purpose of such contact will be to arrange for the orderly retirement of the debt by allotment or otherwise. This procedure is authorized by 4 CFR 102.5 of Chapter II of the Joint Regulations issued by the General Accounting Office and the Department of Justice pursuant to section 3 of the Federal Claims Collection Act of 1966. If the efforts to collect the debt through this means fail, the County Supervisor will submit the case to the State Director in accordance with the provisions of § 1871.41(c) of this chapter.

(c) *Notifying FHA borrowers of payments.* County Supervisors are responsible for notifying borrowers of the dates and amounts of payments that have been agreed upon for all types of accounts. Form FHA 451–3, "Reminder of Payment To Be Made," or similar form, approved by the State Director, will be used for this purpose. These notices will be timed to reach borrowers immediately prior to the receipt of the income from which the payments should be made, or prior to the installment due date on the note, as appropriate. Such notices need not be sent, however, when frequent payments are scheduled and the borrower customarily makes his payments when due. The County Supervisor may include on Form FHA 451–3 other pertinent information, such as a reference to agreements reached during the year and sources of income from which the payment was planned.

(d) *Subsequent servicing.* If a borrower fails to make a payment as agreed upon, the County Supervisor will write or otherwise contact the borrower or request him to make the payment or request him to come to the office to discuss the reasons why the payment was not made and to develop specific plans for making the payment. In the event the borrower refuses to make the payment when he has the income, or it is determined that his farming operations will not permit him to make the payment in a reasonable length of time, as well as make future payments, action will be taken to protect the Government's security interest in accordance with applicable FHA requirements. Followup actions for subsequent servicing will be noted on appropriate forms.

§ 1861.2 Definition of types of payments on all loan accounts.

(a) *Regular payments.* Regular payments will be all payments other than extra payments and refunds. Usually, regular payments will be derived from normal farm income, but not including proceeds from the sale of basic chattel or real estate security. Regular payments also will include payments derived from sources such as Agricultural Conservation Program payments (other than those those referred to in paragraph (b) of this section), off-farm income, inheritances, life insurance, and normal income as defined in § 1872.7(b) of this chapter, including income from leases or bonuses. Regular payments in the case of a Section 502 RH loan to an applicant involved in an authorized mutual self-help project will include loan funds advanced for the payment of any part of the first and second installments.

(b) *Extra payments.* Extra payments will be payments derived from sale of basic chattel or real estate security, including rental or lease of real estate security of a depreciating or depleting nature, refinancing of the real estate debt, mineral royalties, cash proceeds of real property insurance as provided in § 1803.5(b) of this chapter, a sale, pursuant to a condition of loan approval, of real estate not mortgaged to the Government, Agricultural Conservation Program payments as provided in §§ 1821.53

(e), 1831.12(a)(8), and 1821.7(c) of this chapter, and transactions of a similar nature.

(c) *Refunds.* Refunds will be payments derived from the return of unused loan or grant funds, except that the term "refunds," as used in Form FHA 441–1, "Promissory Note," shall be construed to mean the return of funds advanced for capital goods.

§ 1861.3 Distribution of payments when a borrower owes both real estate and other loans to the FHA.

(a) *Distribution of regular payments.* When a borrower owes both FHA real estate loans and other FHA loans, payments received from each crop year's income as regular payments will be distributed in accordance with the following principles, except that when the County Supervisor determines that it is reasonable to expect that the income which will be available for payment on FHA debts will be sufficient to pay the installments scheduled for the year under the first and second priorities, collections may be distributed so as to avoid unnecessary delinquencies, and regular payments derived from rental or lease of real estate security after approval of foreclosure or voluntary conveyance will be distributed to the real estate lien of the highest priority.

(1) First, to other than real estate loans an amount equal to any advances for the year's operating expenses.

(2) Second, to the real estate and other FHA loans in proportion to the approximate amounts due on each for the year. In determining the amounts due for the year on other than real estate loans, deduct an amount equal to any advances for the year's operating expenses.

(3) Third, to the real estate and other FHA loans in proportion to the delinquencies existing on each.

(4) Fourth, to the real estate and other FHA loans for making advance payments. In making such distribution take into consideration the principal balance outstanding on each, the relative security position of each type of loan, the borrower's wishes, and related circumstances. In individual cases in which the accounts are out of balance because of improper distribution of payments in the past or in which the interest of the Government cannot be properly protected by distribution of payments as provided above, distribution will be made so as to correct such improper distribution or to protect the Government's interest.

(b) *Distribution of extra payments.* Extra payments will be distributed first to the FHA loan having highest priority of lien on the security from which the payment was derived, except as otherwise provided in § 1872.3(e) of this chapter. When the payment is in excess of the unpaid balance of the FHA lien having the highest priority, the balance of such payment will be distributed to the FHA loan having the next highest priority.

(c) *Application of payments.* After the decision is reached as to the amount of each payment that is to be distributed to the real estate and other FHA loans, application of the payment will be governed by § 1861.4 or § 1861.5, as appropriate.

§ 1861.4 Application of payments on operating (OL), emergency (EM), economic opportunity (EO) loans to individuals, soil and water conservation (SW), coded "24," and other production-type loan accounts.

Employees receiving payments on OL, EM, EO loans to individuals, SW coded "24" and other production-type loan accounts will select, in accordance with the provisions of this paragraph, the account or accounts to which such payment will be applied. Such employees will show the loan code of the account selected in the first column of Form FHA 451–1, "Receipt for Payment," on loans approved on or before December 31, 1971. The payment applicable to the loan code will be shown in the "Total" column. All payments will be credited by the Finance Office first to unpaid billed interest and then to principal. Employees receiving collections are authorized hereby to make exceptions to the policy of payments being applied to interest first when the unpaid billed interest is not due under the provisions of the note or notes and the borrower requests that his payment be applied to principal only. The notation "Interest not due" will be inserted on the Form FHA 451–1 in the application block. In general, however, borrowers should be encouraged to pay all billed interest first. All payments on loans approved January 1, 1972, and later, will be credited first to interest to the date of the payment and then to principal.

(a) *Rules governing the selection of accounts.* The following rules will govern the selection of accounts and installments to which payments will be applied.

(1) Payments derived from the sale of mortgaged property representing normal farm income or from assignments of income will be applied first to accounts with small balances, including recoverable costs, for the purpose of removing such accounts from the records. Any balance of the remittance will be applied on debts secured by the mortgage in the following order:

(i) To amounts due or falling due on loans made in connection with the current year's operations, except:

(a) When funds loaned for the purchase of capital goods were used to meet the current year's operating expenses (see § 1831.37 of this chapter), payments will be applied first to the final unpaid installments to the extent of the loan funds so used. Such payments will be treated as extra payments.

(b) When installments on loans previously made fall due early in the year and prior to the installment on the loan for the current year's operations or when such loans are delinquent and it is anticipated that sufficient income be received to meet the installment on the current year's operations when due, collections may be applied first to installments on loans made in previous years.

(ii) To accounts having the oldest delinquencies, or if no delinquencies, to the oldest unpaid account, except that the amount available for payment on operating and emergency loan accounts will be prorated between the two accounts on the basis of the delinquent amount owed on each, or the total amount owed on each if there are no delinquencies.

(2) Payments derived from the sale of basic security, including real estate security, will be applied to the earliest account secured by the earliest mortgage covering such basic security. The amount to be applied to principal will be applied to the final unpaid installment(s).

(3) On partial loan refunds, the amount to be applied to the principal will be applied to the final unpaid installment(s) on the note(s) which evidences such advance(s), except when such refund represents an advance for current farm and home expenses repayable within the year, it may be applied to the principal on the first unpaid installment on such note as a regular payment.

(4) Total refunds of loan advances will be applied to the notes which evidence such advances.

(5) In applying payments from sources other than those in subparagraphs (1) to (4) of this paragraph, the borrower has the right of election as to the loan account(s) on which such payments will be applied. In the absence of the borrower's election, such payments generally will be applied in the following order:

(i) To accounts with small balances (including recoverable costs).

(ii) To accounts with the oldest unsecured note(s).

(iii) To accounts with the oldest delinquencies.

(iv) To accounts with the oldest secured note(s).

(6) Employees receiving collections are authorized to make exceptions to the provisions of subparagraphs (1), (2), and (5) of this paragraph when it is necessary to apply a part of a payment to delinquent account(s) to prevent the Federal Statute of Limitations from being asserted as a defense in suits on FHA claims.

(7) When a borrower owes both FHA and State Rural Rehabilitation Corporation (SRRC) loan accounts, payments described in subparagraph (5) of this paragraph in the absence of the borrower's election and any balances remaining after payments are made under subparagraphs (1) and (2) of this paragraph will be prorated between FHA and the SRRC loan accounts on the basis of the total balances (including principal and interest) owed to each. The portions thus prorated will be applied respectively to the FHA and SRRC loan accounts as prescribed in subparagraph (5) of this paragraph.

(8) When the Government has advanced funds to complete SRRC commitments any payment that normally would be applied to any of the borrower's SRRC accounts will be applied to the IF _____ account until it is paid.

(9) Application of payments to notes within loan-type accounts will be made in accordance with the general rules set

forth in subparagraphs (1) through (7) of this paragraph. County Supervisors

(3) Refunds and extra payments will be applied first to interest accrued on the

accrued to the date of the receipt and

real estate and other loan accounts when

(b) If a borrower believes he has made

$ (list principal amount of each note sep-

forth in subparagraphs (1) through (7) of this paragraph. County Supervisors are authorized to apply payments to specific notes within loan-type accounts according to the rules of application prescribed in this paragraph when the need for such application arises. Form FHA 451–4, "Statement of Application of Remittances," will be used for this purpose.

(b) *Payments in full.* (1) When it is intended to pay one or more of a borrower's accounts in full, the collection official will collect all of the interest and principal shown on the latest Form FHA 450–1 for the account(s) to be paid in full plus interest on the account from the date of the Form FHA 450–1 to the date of the collection.

(2) Errors of significant amount in computation or collection will be called to the attention of the official making the collection by the Finance Office and the borrower's note will not be returned until the balance on the loan account is paid in full. Claims by or on behalf of the borrowers that the amounts owed have been computed incorrectly will be referred to the Finance Office.

§ 1861.5 Application of payments on farm ownership (FO), SW (except SW loans coded "24" but including SW loan accounts coded 13F), rural housing (RH), labor housing (LH), senior citizen rental housing (SCH), rural rehabilitation (RR), and resettlement project (RP) cooperative association, and other real estate (ORE) accounts.

(a) *Regular payments.* If a borrower owes more than one type of real estate loan, or has received initial and subsequent loans on which separate accounts are maintained, payments on such accounts should be applied so as to maintain the note accounts approximately in balance at the end of the year with respect to installments due on the notes and other charges. For example, to the extent feasible, payments should not be applied so that at the end of the year installments of one account are prepaid while an installment due on another account remains unpaid or delinquent.

(1) *Direct loan accounts.* All regular payments on direct loan accounts will be applied first to interest accrued to the date of the receipt of payment, and then to principal.

(2) *Insured loan accounts.* All regular payments on insured loan accounts will be applied first to any unpaid balance of the insurance account (see § 1861.9(a)(2)(ii)), including unpaid interest on any advances from the insurance fund which is shown on the statement of account, and second to interest accrued on the note as of the date of the receipt of payment. Any remainder will be applied to the principal balance on the note.

(b) *Refunds and extra payments.* (1) Refunds will be applied to the note representing the loan from which the advance was made.

(2) Extra payments will be applied to the note secured by the earliest mortgage on the property from which the extra payment was obtained.

(3) Refunds and extra payments will be applied first to interest accrued on the note and the remainder to the principal balance on the note. Extra payments and refunds will not affect the schedule status of a borrower except indirectly in connection with the reamortization of a direct loan pursuant to § 1861.9(e).

(4) Funds remaining from an RH grant or a combination loan and a grant, after completion of development, will be refunded. If the borrower received a combination loan and grant, the remaining funds up to the amount of the grant are considered to be grant funds.

(c) *County Office actions*—(1) *Preparation of receipt.* The collecting official will complete Form FHA 451–1 in accordance with appropriate instructions showing for each loan account the proper loan code in the first column, whether the collection is a regular payment, extra payment, or refund in the fourth column, and the total amount to be applied to each loan account in the fifth column.

(2) *Substitution of County Office copy of Form FHA 451–1.* When the County Office is advised by the Finance Office on the yellow copy of Form FHA 451–1 of the application of the payment, the yellow copy of Form FHA 451–1 will be substituted for the County Office copy of Form FHA 451–1.

(3) *Notifying borrowers of application of payments.* (i) For those borrowers who desire to be notified of the application of payment for which Form FHA 451–1 is issued, Form FHA 451–6, "Application of Payment on Loan Account," may be sent to the borrower when application of each payment is known in the County Office or periodically as agreed to with the borrower.

(ii) When Form FHA 451–23, "Distribution of Default Credit," is received from the Finance Office showing that an advance has been made for the account of the borrower out of the insurance fund, those borrowers who desire to be notified of the application of each payment may be notified by letter of the amount and date of the advance and the application of the advance to interest and principal.

(iii) When the Finance Office returns the yellow copy of Form FHA 451–1 to the County Office showing the application of the payment to principal and interest on the note, interest and principal on advances from the insurance fund, payment of the loan insurance charge, or any change in the application of a payment, the County Office may indicate the correct application on the County Office copy of the form and forward it to the borrower. If the payment received from the borrower is to reimburse the insurance fund for a payment made on the borrower's note account, County Office personnel should be prepared to explain to the borrower the amount of the payment reflected on the receipt that represents the amount of interest that was advanced from the insurance fund in making the payment on the note account.

(d) *Finance Office handling*—(1) *Regular payments*—(i) *Direct loan accounts.* Amounts paid on direct loan accounts will be credited to the borrower's account as of the date of Form FHA 451–1 and will be applied first to interest accrued to the date of the receipt and second to principal.

(ii) *Insured loan accounts.* Amounts paid on insured loan accounts will be credited to the borrower's account as of the date of Form FHA 451–1 and will be applied in the following order:

(*a*) Billed interest on advances from the insurance fund as shown on the latest annual statement of account. (If the collection is intended for final payment of the loan, or to pay the insurance account in connection with an assumption agreement, the collection will be applied first to the interest accrued on the advance to the date of the receipt.)

(*b*) Principal of advance from the insurance fund.

(*c*) Unpaid loan insurance charges, including the current year's charge, when applicable.

(*d*) Accrued interest to the date of Form FHA 451–1 on the note account and then to the principal balance of the note account.

(2) *Extra payments and refunds.* Extra payments and refunds will be credited to the borrower's note account as of the date of Form FHA 451–1 and will be applied first to interest accrued to the date of the receipt and second to principal. Extra payments and refunds will not affect the schedule status of a borrower except indirectly in connection with the amortization of a direct loan pursuant to § 1861.9(e).

(3) *Notice of applications.* The yellow copy of Form FHA 451–1, showing the application of the payment, will be returned to the County Office.

(4) *Remittances to lender.* The Finance Office will remit final payments promptly. Other collections (regular, extra, and refunds) applied to a borrower's insured note will be accumulated until the annual installment due date, and will be remitted along with any advances from the insurance fund to the lender within 30 days after the installment due date. All payments to a lender will be credited first to interest to the date of the Treasury check and then to principal. Since the application of a payment to a borrower's account with the Government and the Government's account with a lender is as of a different effective date, the balance owed by a borrower to the Government and by the Government to a lender ordinarily will not be the same. When the bond of an insured SW association loan provides semiannual payments, remittances will be made on a semiannual basis. When an insured note or the insurance endorsement does not provide for the remittance of collections annually and the holder objects to receiving payments on an annual basis, such objection will be referred to the Finance Office. If, after explanation by the Finance Office, the objection is not withdrawn, payments will be remitted to the holder in accordance with the terms of the note.

§ 1861.6 Changes in the application of loan payments.

(a) *Authority to State Directors.* State Directors are hereby authorized to approve requests for changes in the application of payments between a borrower's real estate and other loan accounts when payments have been applied in error and such requests conform to the policies expressed in this subpart. However, no change in the application of payments will be made if the payment applied in error resulted in the payment in full of any FHA loan of the borrower and the canceled note(s) has been returned to him.

(b) *Authority to County Supervisors.* County Supervisors are hereby authorized to approve requests for changes in the application of payments within and between OL, EM, SL, SW coded J, and other production-type loan accounts and within and between real estate accounts, when payments have been applied in error and such requests conform to the rules of application set forth in this subpart. In areas in which the number of requests for reapplication appear to be excessive, the Finance Office will furnish the State Director with the number, by counties, of such requests. State Directors will be responsible for correcting such conditions.

(c) *Form FHA 451–7, "Request for Change in Application."* Requests for changes in application of payments will be made on Form FHA 451–7 which will be prepared by the County Supervisor in an original and two copies.

(d) *Changes made by the Finance Office in application of remittances.* (1) When reapplication of collections is initiated and made by the Finance Office because of renewal notes or because of erroneous application made by that office, it will be accomplished by means of Form FHA 451–6, "Journal Voucher for Loan Account Adjustments," or Form FHA 405–8, "Journal Voucher for Insured Loan," a copy of which will be forwarded to the County Office.

(2) When it is necessary for the Finance Office to make any corrections in Form FHA 451–1 as prepared by the County Office, the Finance Office will notify the County Office by returning the yellow copy of Form FHA 451–1 stamped "Receipt Corrected." Upon receipt of the yellow Form FHA 451–1, the County Office copy thereof will be destroyed unless such copy is forwarded to the borrower.

(e) *Notifying borrowers.* County Supervisors will inform borrowers of any reapplication between real estate and other loan accounts, and of any other application of a significant amount. Borrowers may be notified by letter, by the use of Form FHA 451–6, or by indicating the reapplication on the County Office copy of Form FHA 451–1 or Form FHA 451–7 and sending it to the borrower.

§ 1861.7 Overpayments and refunds.

(a) If, after all principal and interest indebtedness of a borrower has been repaid, there is an additional amount identifiable as "excess" for credit to the borrower, the finance office will refund the amount due the borrower. The refund check will be mailed to the borrower in care of the County Supervisor, who will examine his records to see that the refund is due before delivering the check.

(b) If a borrower believes he has made an overpayment and requests a refund, such a request must be in writing. County Supervisors will discourage borrowers from making requests for refunds in cases in which the County Office records show that a refund is not due, unless after being advised of what the County Office records show the borrower still believes he is entitled to a refund. In the latter event, the County Supervisor will forward the request to the finance office for further examination. When refunds are requested, finance office computations will control.

(c) Underpayments or overpayments of less than $1 will not be collected or refunded (except as provided in paragraph (b) of this section) since the expense of processing the action would be more than the amount involved.

§ 1861.8 Return of paid-in-full or satisfied notes to borrower.

(a) *Return of notes after collection.* When a note (or loan-type account) evidencing an OL, EM, EO, SL, SW loan coded 24, or other production-type loans has been satisfied by payment in full, or otherwise, the finance office will attach such notes to the original of Form FHA 451–26, "Transaction Record," and mail them to the County Office. The County Supervisor will examine the borrower's records in the County Office and determine that the account has been satisfied before delivering the note(s) to the borrower (refer to § 1871.13 of this chapter for the satisfaction of security instruments). The note(s) will be returned to the borrower immediately except that:

(1) When the final payment is made in a form other than currency and coin, Treasury check, cashier's check, certified check, Postal or bank money order, bank draft, or a check issued by a responsible lending institution or a responsible title insurance or title and trust company, the note(s) will not be surrendered until 15 days after the date of final payment, and

(2) When notes are needed in making marginal releases or satisfactions of security instruments, the notes will be held until the instruments are satisfied.

(b) *Surrender of notes to effect collection.* (1) In individual cases, County Supervisors are authorized to request the finance office in writing to furnish them with promissory notes, together with a statement of the amount due under such notes, when the surrender of the notes is necessary to effect final collection.

(2) County Supervisors are authorized to surrender notes to borrowers in such cases when final payments of the amount due are made in the form of currency and coin, Treasury check, cashier's check, certified check, Postal or bank money order, bank draft, or a check issued by a responsible lending institution or a responsible title insurance or title and trust company.

(c) *Lost notes.* If notes evidencing satisfied accounts cannot be found, the following statement will accompany the original of Form FHA 451–26: "The note(s) in the principal amount(s) of $ (list principal amount of each note separately) evidencing the paid-in-full or satisfied account covered by this statement cannot be located." This statement will be signed by the Assistant Head, Communications and Records Management Section. State Directors may authorize County Supervisors to execute appropriate affidavits regarding lost notes in cases in which such affidavits are requested by borrowers. The form of such affidavits will be approved by the Office of the General Counsel (OGC).

(d) *Return of notes reduced to judgment.* Notes which have been reduced to judgment are a part of the court records and ordinarily cannot be withdrawn and returned to the borrower even after satisfaction of the judgment. Therefore, no effort will be made to obtain and return such notes except upon the written request of the judgment debtor or his attorney. Such requests will be referred to the OGC.

(e) *Debt settlement cases.* Refer to Part 1864 of this chapter for the handling of notes in debt settlement cases.

§ 1861.9 Definitions and other information on FO, SW, ORE, RH, LH, and SCH accounts.

(a) *Installment on note and other charges.* (1) *Direct loan accounts.* For a borrower with a direct loan, the term "installment on note and other charges," as used in this subpart will be the sum of the following:

(i) Annual installment for the year as provided in his promissory note(s).

(ii) Any recoverable cost charges paid for the borrower during the year, such as taxes and insurance.

(2) *Insured loan accounts.* "Loan insurance charge" means a separate insurance charge applying to FO and SW insured loans evidenced by promissory note forms bearing a form date (or revision date) prior to January 8, 1959. For all insured loans evidenced by note forms bearing a form date (or revision date) of January 8, 1959, or later, the insurance charge is called "annual charge" and is included in the interest portion of the annual installment shown in the note. For a borrower with an insured loan, the term "installment on note and other charges" means the sum of the following:

(i) Annual installment for the year as provided in his promissory note.

(ii) Amounts owed the Agricultural Credit Insurance Fund. These amounts are covered by the general term "Insurance Account" and consist of the following:

(*a*) Unpaid loan insurance charges from prior years.

(*b*) Loan insurance charge for the current year. The loan insurance charge is computed on the basis of the amount of the unpaid principal obligation as of the installment due date and is due and payable on or before the next installment due date.

(c) Any unpaid balance on advances from the insurance fund, including any recoverable cost charges paid for the borrower during the year, such as taxes and insurance.

(d) Any accrued interest on advances from the insurance fund as shown on the

required to pay at least an amount sufficient to keep him on schedule as of the

Such accounts may be reamortized

A renewal note dated ---------- 19 --, in the principal sum of $------ has been given

owned by the fund. The original of the note being reamortized will be attached

ject to an interest credit agreement, a new agreement may, at his request, be

(*d*) Any accrued interest on advances from the insurance fund as shown on the statement of account.

(iii) The amounts owed on the insurance account must be paid by regular payments each year whether or not the note account is ahead of schedule.

(b) *Schedule status.* For direct and insured loans, a borrower will be on schedule when the sum of his regular payments through the last preceding due date of the note equals the sum of "installments on his note and other charges" due through the same date. Such a borrower will be ahead of schedule or behind schedule when the sum of such regular payments is larger or smaller, respectively, than the sum of such "installments on his note and other charges."

(c) *FO payments.* FO borrowers generally will be encouraged to establish a prepayment reserve by paying their FO indebtedness in accordance with the terms of agreements entered into and their ability to pay. The agreements of many borrowers provide a system of variable payments which permits paying more than the scheduled installment on the note and other charges in good years and using the excess to reduce the amount to be paid in poor years. The prepayment reserve which can be established under this system contributes to the security of the borrower's farm ownership by serving as a cushion against the many hazards with which farmers are confronted. The borrower who pays in accordance with his agreements and his ability to pay, operates his farm efficiently, and acts in good faith with respect to other mortgage covenants will enjoy reasonable security in the ownership of his farm. The variation in payment requirements between borrowers resulting from the use of different forms of notes and other payment agreements, with the exception of borrowers required only to pay the fixed annual installment, does not make them inconsistent with the principles of these policies.

(1) *Payment requirements.* All borrowers may make payments ahead of schedule at any time.

(i) FO borrowers whose loans were approved prior to November 1, 1946, and are repaying their loans under variable payment agreement Forms FSA–LE–228 or FSA–550, will be required, subject to the terms of the agreement to pay each year the amount determined by the County Supervisor to be within their ability to pay.

(ii) Any borrower whose agreement calls only for fixed payments will be encouraged to make additional payments in accordance with his ability.

(iii) Other FO borrowers whose promissory note or supplementary agreement calls for variable payments will be required to pay one installment on note and other charges each year plus any amount the borrower is behind schedule plus any additional sums agreed to by the borrower and the County Supervisor. However, any borrower who is ahead of schedule and whose income for the year is determined to be below normal will be required to pay at least an amount sufficient to keep him on schedule as of the next due date.

(*a*) The County Supervisor will make a determination as to whether or not a borrower's income for the year was below normal only when requested to do so by a borrower who is ahead of schedule and has not paid an amount equal to the installment on note and other charges for the year. The County Supervisor will advise such a borrower by letter as to whether or not his income for the year has been determined to be below normal and whether he will need to pay a full installment for the year or may pay less than a full installment.

(*b*) The borrower's income will be considered not below normal when it is equal to or exceeds an amount sufficient to pay usual family living and reasonable farm operating expenses, make normal capital replacements within reasonable conformance with the farm and home plan, and pay installment on his note and other charges for the year. If the borrower is not receiving year-end analysis, the determination of whether the borrower had a below-normal income year will be made on the basis of an estimate of the borrower's income, based on the information concerning the borrower's production for the year as compared with the production of other borrowers in the area. The County Supervisor may take into consideration factors which probably would affect the borrower's income, such as drought, hail, or insects prevalent in the area and on the borrower's farm, the prevailing level of commodity prices compared with the costs which were probably encountered by the borrower in his particular type of farming, and any other relevant information acquired by the County Supervisor during the year from farm visits, personal interviews, or other reliable sources.

(iv) Any FO borrower whose loan is evidenced by a promissory note from bearing a form date (or revision date) of September 12, 1961, or later, may use ahead-of-schedule payments to forego subsequent payments or to supplement the amount available during any year for payment on his annual installment on note and other charges. All borrowers should be encouraged to establish prepayment reserves.

(d) *RH, LH, RRH, and SW payments.* (1) A borrower may make payments ahead of schedule at any time. He may later use such ahead-of-schedule payments to forego payments or to supplement the amount available during any year for payment on his annual installment on note and other charges. All borrowers should be encouraged to establish prepayment reserves.

(2) One annual installment on note and other charges will be due each year plus any amount behind schedule, except that a borrower who is ahead of schedule will be required to pay an amount sufficient to keep him on schedule as of the next due date.

(e) *Reamortizing direct or insured FO, RH, or individual SW accounts.* (1) Such accounts may be reamortized when: (i) Authorized under Subparts A or B of Part 1821 in connection with making the borrower an additional loan, or

(ii) The borrower has made extra payments or refunds or both totaling 10 percent or more of the loan being reamortized and the State Director determines that the borrower cannot reasonably be expected to meet his obligations unless the account is reamortized to substantially reduce the annual installments. The County Supervisor will send to the State Director for consideration a completed Form FHA 451–21, "Request for Reamortization of Real Estate Loan," together with a statement of the borrower's extra payments and refunds based on a statement of account from the Finance Office. The date to be inserted on Form FHA 451–21 at the end of the amortization period will be the maturity date of the note to be reamortized. If the State Director makes such determination and approves the reamortization, he will indicate his approval on Form FHA 451–21.

(*a*) For an insured loan, a new promissory note in an original and one copy executed by the borrower together with an approved Form FHA 451–21 will be sent to the Finance Office. The note form to be used in the preparation of the new note will be the same form number and have the same revision date as the note being reamortized, and if the form is not available in existing stock it will be duplicated. If the loan is owned by a private holder, the Finance Office will have the note assigned to the insurance fund before processing the reamortization. The new note will renew the original note, will show as principal the total amount owed by the borrower as of the date of reamortization, and will show the new annual installment as indicated in subparagraph (2) of this paragraph. This new note will be dated as of the date of reamortization and will be modified as follows:

(*1*) In the final installment provision (which is usually at the end of the second sentence of the note), the printed language will be changed to read substantially as follows:

> Except that the final installment of the entire indebtedness evidenced hereby, if not sooner paid, shall be due and payable------------ 19--.

The due date of the final installment will be inserted in the blank space. The change in the printed language will be initialed by the borrower in the margin alongside the change.

(*2*) At the end of the note, above the borrower's signature, insert the following:

> This note is given in renewal, but not in satisfaction, of a note from borrower to Government dated------------ 19--, in the principal sum of $-------.

The date and face amount of the original note will be inserted in the blank spaces.

(*3*) On the back of the original of the note being reamortized, below all signatures and endorsements, the Finance Office will insert the following:

> A renewal note dated ------------ 19 --, in the principal sum of $------ has been given in renewal but not in satisfaction of this note.

(*4*) The legend in subdivision (ii)(*a*)(*3*) of this subparagraph will be inserted on the back of the copy of the note by the County Supervisor and such copy will be retained in his files. The date and amount of the renewal note will be inserted in the blank space in the legend provided for in subdivision (ii)(*a*)(*3*) of this subparagraph.

(*5*) If the borrower has an assumption agreement and the State Director approves reamortization, the State Director will forward the case file to the National Office for instructions.

(*b*) For a direct loan, the State Director will send only an approved Form FHA 451–21 to the Finance Office, requesting that the Finance Office reamortize the account within the remaining period of the note or assumption agreement.

(2) For an insured loan a revised amortization schedule will be calculated in accordance with the following principles:

(i) The total amount (interest and principal and any amount owed the insurance fund) owed on the account as of the date of reamortization will be reamortized as indicated below.

(*a*) First installment. After considering the debt paying ability of the borrower, the first installment will be determined as follows:

(*1*) It may be less but not more than the regular annual installment.

(*2*) It may not be less than the amount equal to interest from the date of reamortization to February 1 or May 1 of the year following the calendar year in which the loan is reamortized. The February 1 date applies to loans bearing a due date of January 1, and the May 1 date applies to loans bearing a due date of March 31.

(*b*) Regular installments. Regular installments will be calculated in accordance with the appropriate amortization schedule available from any FHA County or State Office, or from its National Office at 14th and Independence Avenue SW., Washington, DC 20250, for the remaining number of years of the original note.

(*c*) The annual installment due dates will be the same as the due date on the note being reamortized.

(3) For a direct loan, when the reamortization schedule has been calculated and processed, the Finance Office will notify the County Supervisor by use of Form FHA 451–8 of such reamortization and will make a notation of the amount of the new annual installment on the back of the reamortized note or assumption agreement. The County Supervisor will appropriately change his records to reflect the amount of the new annual installment on the copy of the note or assumption agreement, and will notify the borrower of the change. A new direct loan note or assumption agreement will not be obtained, and no change will be made in the existing note or assumption agreement.

(4) For an insured loan, the Director of the Finance Office may sell the new note in the same manner as other notes owned by the fund. The original of the note being reamortized will be attached to the Finance Office copy of the new note and will be retained by the FHA until the account is paid in full or is otherwise liquidated.

§ 1861.10 Servicing of interest credits for Section 502 RH borrowers.

(a) *Purpose.* This section outlines the policies and conditions under which interest credits will be allowed on section 502 rural housing (RH) loans.

(b) *Definitions.* As used in this section:

(1) "Borrower" means an RH borrower who has a low or moderate income and is indebted for a section 502 insured loan that was approved on or after August 1, 1968.

(2) "Interest Credit Agreement" means an agreement between Farmers Home Administration (FHA), and the borrower executed on Form FHA 444–6, "Interest Credit Agreement (Section 502 RH Loans)," which provides for interest credits on his loan.

(3) "Review period" means only the months of November and December.

(4) "Substantial change" means a change in a borrower's circumstances that warrants a review of his situation during the next review period. Such a change occurs when—

(i) Either his current family income has been significantly reduced by causes such as death, physical or mental impairment, or loss of employment; or, his family size has increased; and

(ii) As a result of subdivision (i) of this subparagraph, the annual interest credit to which he would be entitled has been increased by at least $100. "Substantial change" does not apply to circumstances that warrant cancellation of an agreement in accordance with paragraph (d)(1) of this section.

(c) *Determination of interest credits for existing loans.* (1) Review of outstanding interest credit agreements expiring December 31 of the current calendar year. For a borrower in this category a new interest credit agreement may be executed during the review period provided the following conditions can be met:

(i) The borrower meets the eligibility requirements outlined in § 1822.7(n)(1) of this chapter.

(ii) Current and accurate information is obtained about the borrower's family income and net worth.

(*a*) Complete either the front page of Form FHA 431–3, "Family Budget," or items 1–4 and 15–18 of Form FHA 410–4, "Application for Rural Housing Loans (Non Farm Tract)," as appropriate.

(*b*) The County Supervisor will take whatever steps he considers necessary to verify the information obtained on Form FHA 431–3.

(iii) None of the conditions outlined in paragraph (d)(1) of this section exist.

(2) Substantial change or subsequent loan during first year of interest credit agreement. For a borrower who has experienced a substantial change or a borrower who has an initial loan interest credit agreement which will expire December 31 of the succeeding calendar year and a subsequent loan not now subject to an interest credit agreement, a new agreement may, at his request, be executed during the review period in accordance with the conditions outlined in paragraph (c)(1) of this section. The old agreement will be canceled as of December 31 of the current calendar year.

(3) Execution of interest credit agreement by borrowers who do not now have such an agreement. For a borrower who does not now have an interest credit agreement because he was ineligible at the time of receiving his initial loan or because his agreement was canceled but who is now eligible because of a substantial change, a new agreement may, at his request, be executed during the review period in accordance with the conditions outlined in paragraph (c)(1) of this section.

(d) *Cancellation of existing interest credit agreements.* (1) An existing interest credit agreement will be canceled whenever the borrower ceases to occupy the housing; liquidation action is initiated against the borrower; or the borrower sells or conveys title to the property.

(2) The effective date of cancellation will be the last day of the month in which the action occurs which causes the cancellation.

(3) The County Supervisor will determine the date of cancellation and notify the Finance Office. The Finance Office will credit the borrower's account with the pro rata amount of the interest credit. For example, if an agreement was canceled on June 30 for a borrower entitled to a $240 annual interest credit, the Finance Office would credit his account for 6/12's of $240 or $120.

(e) *Instruction for completing Form FHA 444–6.* (1) Form FHA 444–6 will be completed as prescribed in the guide available in all FHA offices for preparation of this form.

(2) The agreement will be effective for two installment years unless the borrower experiences a substantial change or the agreement is canceled in accordance with paragraph (d) of this section.

(3) The signed original of Form FHA 444–6 should be received by the Finance Office not later than December 31 of the current calendar year.

Dated: November 23, 1971.

JAMES V. SMITH,
Administrator,
Farmers Home Administration.

[FR Doc.71–17430 Filed 11–29–71;8:51 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Part 146]

[CGFR 71–154]

STABILIZED METHYLACETYLENE-PROPADIENE ON BOARD VESSELS

Transportation and Storage

The Coast Guard is considering amending Title 46 of the Code of Fed-

eral Regulations to provide specific re- ylacetylene- propadiene, stabilized (con- (060°M) and Stockton 267°T (250°M)

March 26, 1972, for the Joint Training though it may exceed the specified mini- (b) That there be minimum candle-

eral Regulations to provide specific requirements for the carriage of stabilized methylacetylene-propadiene, a flammable compressed gas, on board vessels. This proposal also authorizes the carriage of stabilized methlacetylene-propadiene in portable tanks and motor vehicle tank trucks, in addition to cylinders and tank cars.

This proposal reflects the amendment of Parts 172, 173, 176, 178, and 179 of Title 49 of the Code of Federal Regulations by the Hazardous Materials Regulations Board on May 25, 1971. That amendment [Docket No. HM-17; Amendments Nos. 172-9, 173-47, 176-4, 178-18, 179-6] appears on page 10731 of Volume 36 of the Federal Regulations on Wednesday, June 2, 1971.

The Board's regulations apply to shippers by air, land, and water, and carriers by air and land. If adopted, this proposal will apply to carriers by water.

Interested persons are invited to submit written data, views, or comments regarding the proposal to the U.S. Coast Guard (MHM), 400 Seventh Street SW., Washington, DC 20590. Communications should identify the notice number (CGFR 71-154), any specific wording recommended, reasons for any recommended change, and the name, address, and organization, if any, of the commentator. The Coast Guard will hold an informal hearing on January 18, 1972 in Conference Room 8332, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC. Interested persons are invited to attend the hearing and present oral or written statements on this proposal. There will be no cross-examination of persons presenting statements. All communications received on or before January 25, 1972, or at the hearing, will be fully considered and evaluated before final action is taken on this proposal. Copies of all written communications received will be available for examinations in Room 8306, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC, both before and after the closing date for the receipt of comments. The proposal contained in this document may be changed in the light of the comments received.

In consideration of the foregoing, it is proposed that Part 146 of Title 46 of the Code of Federal Regulations be amended as follows:

1. In § 146.04-5 List of explosives and other dangerous articles and combustible liquids, by striking out "Methylacetylene-15 to 20 percent propadiene mixture" and inserting "Methylacetylene-propadiene, stabilized (containing at least 32 percent stabilizing diluents)" in place thereof.

2. In column 1 of § 146.24-100 Table G—Classification: Compressed gases, by striking out "Methylacetylene-15 to 20 percent propadiene mixture." and inserting "Methylacetylene-propadiene, stabilized (*containing at least 32 percent stabilizing diluents.*)" in place thereof.

3. In column 4, "Cargo vessel," of § 146.24-100 Table G—Classification: Compressed Gases for the entire "Methylacetylene- propadiene, stabilized (containing at least 32 percent stabilizing diluents.)" by striking out the words "Tank cars complying with DOT regulations (trailerships only)" and inserting in place thereof:

Portable tanks (DOT-51) not over 20,000 pounds gross weight.
Motor vehicle tank trucks complying with DOT regulations (Trailerships and trainships only).

(RS. 4472, as amended; sec. 1, 19 Stat. 252, sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 170, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Dated: November 22, 1971.

W. F. REA, III,
Rear Admiral, U.S. Coast Guard Chief, Office of Merchant Marine Safety.

[FR Doc.71-17420 Filed 11-29-71;8:52 am]

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 71-WE-49]

FEDERAL AIRWAY SEGMENTS

Proposed Alteration and Revocation

The Federal Aviation Administration (FAA) is considering amendments to Part 71 of the Federal Aviation Regulations that would alter segments of VOR Federal airways Nos. 6S, 109, 244 and 334, and revoke a segment of VOR Federal airway No. 6.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 92007, Worldway Postal Center, Los Angeles, CA 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20590. An informal docket will be available for examination at the office of the Regional Air Traffic Division Chief.

The FAA proposes the following airspace actions:

1. Revoke V-6 segment from Half Moon Bay, Calif., intersection to Oakland, Calif.

2. Realign V-6 south alternate segment from Oakland, Calif., to Sacramento, Calif., via the intersection of Oakland 077°T (060°M) and Sacramento 194°T (177°M) radials.

3. Realign V-109 and V-244 segments from Oakland to Stockton, Calif., via the intersection of the Oakland 077°T (060°M) and Stockton 267°T (250°M) radials.

4. Realign V-334 segment from San Jose, Calif., to Sacramento via the intersection of San Jose 022°T (005°M) and Sacramento 194°T (177°M) radials.

The realignment of V-334 will eliminate the Mocho Intersection; reduce chart clutter in the area of the Sunol Intersection, and would provide a more direct route between San Jose, Calif., and Sacramento, Calif. The realignment of V-6S, V-109, and V-244 segments will facilitate the junction of these airway segments with the proposed realignment of V-334. The revocation of V-6 segment between Half Moon Bay Intersection and Oakland VORTAC is proposed as this airway segment is no longer required for air traffic control purposes.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on November 22, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-17401 Filed 11-29-71;8:47 am]

[14 CFR Part 73]

[Airspace Docket No. 71-SW-56]

TEMPORARY RESTRICTED AREA

Proposed Designation

The Federal Aviation Administration (FAA) is considering an amendment to Part 73 of the Federal Aviation Regulations which would designate a temporary joint-use restricted area near Killeen, Tex.

Interested persons are invited to participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The Air Force has requested the establishment of a temporary joint-use restricted area in the vicinity of Killeen, Tex. The proposed restricted area would be utilized for a 6-day period beginning March 28, 1972, for the Joint Training Exercise Gallant Hand 72. The restricted airspace is required to effectively test the tactical control squadrons under the most realistic conditions.

If these actions are taken, the temporary restricted area will be designated as follows:

KILLEEN, TEX.

Boundaries beginning at lat. 31°06'00" N., long. 97°33'00" W.; to lat. 31°14'00" N., long. 97°33'00" W.; to lat. 32°00'00" N., long. 97°50'00" W.; to lat. 32°10'00" N., long. 98°02'00" W.; to lat. 32°10'00" N., long. 99°30'00" W.; to lat. 31°20'00" N., long. 99°55'00" W.; to lat. 30°44'00" N., long. 98°02'00" W.; to lat. 30°50'00" N., long. 97°44'00" W.; to point of beginning, excluding that airspace within a 3-nautical-mile radius of lat. 31°11'00" N., long. 99°19'27" W., from surface to 2,500 feet above the surface.

Designated altitudes: Surface to 35,000 feet MSL

Time of designation: Continuous from 0001 c.s.t. March 26, 1972, to 2359 c.s.t. March 31, 1972

Controlling agency: Federal Aviation Administration, Houston ARTC Center

Using agency: U.S. Air Force, Strike Command (USAFSTRIKE), Langley AFB, Va.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on November 22, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-17402 Filed 11-29-71;8:47 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 71-21; Notice 1]

LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Notice of Proposed Rule Making

The purpose of this Notice is to propose an amendment to Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment*, that would modify the method by which conformance of certain lamps to photometric requirements is determined.

Standard No. 108 (published October 31, 1970, 35 F.R. 16840, as amended on February 3, 1971, 36 F.R. 1896; May 19, 1971, 36 F.R. 9069 and August 28, 1971, 36 F.R. 17343), effective January 1, 1972, requires that lamps be designed to conform to certain referenced SAE standards. These standards include the requirement that taillamps, parking lamps, clearance lamps, side-marker lamps, identification lamps, turn-signal lamps, and stoplamps meet minimum photometric candlepower requirements at up to 27 individual test points. If a lamp fails to meet the minimum requirement at any test point, the lamp does not conform to Standard No. 108 even though it may exceed the specified minimum at all other test points.

It appears that this requirement is unnecessarily severe, since such deviances at single test points are generally not discernible to the human eye. Therefore, this agency is proposing a modification of the method of determining photometric conformance of taillamps, parking lamps, clearance lamps, side-marker lamps, identification lamps, turn-signal lamps, and stoplamps. The evidence available to date indicates that the proposal will not have a significant effect on motor vehicle safety. It is designed to set up a more realistic and cost-effective method of determining compliance with photometric requirements.

The proposed method would set up seven groups of test points, each group containing from three to five test points. The candlepower requirement for each group would be the sum of the minimums specified for the individual test points in that group. If this concept were adopted in Standard No. 108, there would be no violation of the standard when a specified minimum was not reached for one or more test points within a group, as long as the sum of the candlepower measured at all test points within that group equaled or exceeded the sum of the minimums required for those test points. However, if the candlepower at any test point fell below 60 percent of the specified minimum there would be a failure to meet Standard No. 108 even if the sum of the candlepower measured at the remaining test points within that group equaled or exceeded the sum of the required minimums. Lamps would continue to be tested using standard bulbs operated at their mean spherical candlepower.

The NHTSA is also proposing—

(a) That minimum candlepower requirements be identical for taillamps, parking lamps, side-marker lamps, clearance lamps, and identification lamps;

Test points, degrees		Lighted compartments (single, double, and triple compartment lamps)					
		Red			Yellow (amber) (White—parking lamps only)		
		Single	Double	Triple	Single	Double	Triple
10U and 10D	10L	0.3	0.5	0.7	0.6	1.0	1.4
	V	.5	1.0	1.5	1.0	2.0	3.0
	10R	.3	.5	.7	.6	1.0	1.4
5U and 5D	45L	.25	.4	.6	.5	.8	1.2
	20L	.3	.5	.7	.6	1.0	1.4
	10L	.5	1.3	2.0	1.6	2.6	4.0
	5L	1.3	2.0	3.0	2.6	4.0	6.0
	V	1.8	3.0	4.5	3.6	6.0	9.0
	5R	1.3	2.0	3.0	2.6	4.0	6.0
	10R	.5	1.3	2.0	1.6	2.6	4.0
	20R	.3	.5	.7	.6	1.0	1.4
	45R	.25	.4	.6	.5	.8	1.2
H	45L	.25	.4	.6	.5	.8	1.2
	20L	.4	.7	1.0	.8	1.4	2.0
	10L	.8	1.3	2.0	1.6	2.6	4.0
	5L	2.0	3.5	5.0	4.0	7.0	10.0
	V	2.0	3.5	5.0	4.0	7.0	10.0
	5R	2.0	3.5	5.0	4.0	7.0	10.0
	10R	.8	1.3	2.0	1.6	2.6	4.0
	20R	.4	.7	1.0	.8	1.4	2.0
	45R	.25	.4	.6	.5	.8	1.2
Maximum		15	20	25	.....	None	.....

H=horizontal, V=verticle, U=up, D=down, L=left, R=right

FIGURE 1—Minimum candlepower requirements—Tail, parking, clearance, side marker, and identification lamps

(b) That there be minimum candlepower requirements for taillamps, stoplamps, and turn-signal lamps, measured at a 45-degree angle where any SAE standard incorporated by reference requires visibility of the lamp at a 45-degree angle; and

(c) That both red and yellow (amber) rear-turn-signal lamps have the same maximum candlepower limitation.

In consideration of the foregoing, it is proposed that 49 CFR 571.21, Motor Vehicle Safety Standard No. 108, be amended by deleting paragraph S4.1.1.11 on parking lamp photometrics and substituting a new paragraph S4.1.1.11 in lieu thereof:

S4.1.1.11 Each taillamp, parking lamp, clearance lamp, side-marker lamp, identification lamp, turn-signal lamp, and stoplamp shall meet the following photometric requirements when tested according to the procedures of the SAE standards referenced in Tables I and III, as applicable:

(a) Within each of the groups described below, the sum of the measured candlepower values at the test points of each lamp shall equal or exceed the sum of the minimum candlepower values for those test points specified in Figure 1 (taillamps, parking lamps, clearance lamps, side-marker lamps, and identification lamps) or in Figure 2 (turn-signal lamps and stoplamps).

Group 1—H-V, H-5L, H-5R, 5U-V, 5D-V
Group 2—5L-5U, 5L-5D, 10L-H
Group 3—5R-5U, 5R-5D, 10R-H
Group 4—10U-V, 5U-10L, 5U-10R
Group 5—10D-V, 5D-10L, 5D-10R
Group 6—20L-5U, 20L-H, 20L-5D, 10L-10U, 10L-10D
Group 7—20R-5U, 20R-H, 20R-5D, 10R-10U, 10R-10D

(b) The measured candlepower at each test point shall be not less than 60 percent of the minimum specified in Figure 1 or Figure 2, as applicable.

(c) No lamp shall exceed the maximum candlepower values in Figure 1 or Figure 2, as applicable, at any test point.

make a limited appearance are requested on June 9, 1971 (36 F.R. 11113) that it

Any person who wishes to make an

Test points, degrees		Lighted compartments (single, double, and triple compartment lamps)					
		Red			Yellow (amber) (turn signal lamps only)		
		Single	Double	Triple	Single	Double	Triple
10U and 10D	10L	10	12	15	25	30	35
	V	25	30	35	60	75	90
	10R	10	12	15	25	30	35
5U and 5D	45L	5	6	7	10	12	15
	20L	10	12	15	25	30	35
	10L	30	35	40	75	88	100
	5L	50	60	70	125	150	175
	V	70	82	95	175	205	235
	5R	50	60	70	125	150	175
	10R	30	35	40	75	88	100
	20R	10	12	15	25	30	35
	45R	5	6	7	10	12	15
H	45L	5	6	7	10	12	15
	20L	15	18	20	35	45	50
	10L	40	47	55	100	120	140
	5L	80	95	110	200	240	275
	V	80	95	110	200	240	275
	5R	80	95	110	200	240	275
	10R	40	47	55	100	120	140
	20R	15	18	20	35	45	50
	45R	5	6	7	10	12	15
Maximum—rear lamps only		300	360	420	300	360	420

H=horizontal, V=vertical, U=up, D=down, L=left, R=right.

FIGURE 2—Minimum candlepower requirements—turn signal and stop lamps

Interested persons are invited to submit data, views, and arguments concerning the proposed amendment. Comments should identify the docket number, and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, DC 20590. It is requested, but not required, that 10 copies be submitted.

All comments received before the close of business on December 30, 1971, will be considered and will be available for examination both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Administration. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. Relevant material will continue to be filed, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new materials.

Proposed effective date: September 1, 1972.

This notice of proposed rule making is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1407) and the delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.

Issued on November 23, 1971.

ROBERT L. CARTER,
Acting Associate Administrator,
Motor Vehicle Programs.

[FR Doc.71-17343 Filed 11-29-71;8:45 am]

ATOMIC ENERGY COMMISSION

[10 CFR Part 50]

[Docket No. RM-50-1]

LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Acceptance Criteria for Emergency Core Cooling Systems for Light-Water-Cooled Nuclear Power Reactors

On June 29, 1971, the Atomic Energy Commission published a notice in the FEDERAL REGISTER of an immediately effective interim statement of policy establishing interim acceptance criteria for emergency core cooling systems for light-water-cooled nuclear power reactors (36 F.R. 12247). These criteria, which were adopted following a review by the AEC regulatory staff and the Advisory Committee on Reactor Safeguards, were designed to assure that the margins of safety considered desirable by the AEC for the performance of emergency core cooling systems in light-water nuclear powerplants are maintained. The notice requested that comments or suggestions from interested persons in connection with the interim policy statement, which was set out in the notice together with a statement of relevant considerations, be sent to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington D.C. 20545, Attention: Chief, Public Proceedings Branch, within 60 days after publication of the notice. The notice additionally stated that the Commission will consider holding a public rule making hearing on this interim policy statement.

Notice is hereby given that a public rule making hearing in this proceeding will be held on January 27, 1972, at 10 a.m., in the auditorium of the Atomic Energy Commission located in Germantown, Md. The hearing board will consist of Nathaniel H. Goodrich, Esq., presiding, Dr. Lawrence R. Quarles, and Dr. John H. Buck. Subject to the other provisions of this notice, the hearing will be conducted as a legislative-type rule making hearing for the purpose of aiding the Commission in its determination as to whether or not the subject interim policy statement should be retained in its present form or adopted in some other form. Additional evaluation models are now under review. When such models have been accepted by the AEC, appropriate notice will be published in the FEDERAL REGISTER.

Notice is also hereby given that a prehearing conference will be conducted by the presiding officer named above on January 18, 1972, at 10 a.m., at the above location. The purpose of the prehearing conference will be to rule on requests to become a participant and requests to make a limited appearance in the proceeding and to take other actions as may be appropriate for the conduct of the hearing. In addition, a hearing schedule shall be established. If appropriate, a prehearing order will be issued by the presiding officer to govern the conduct of the hearing.

Any person who wishes to become a participant in the proceeding must file with the Secretary of the Commission, not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER, an original and 10 conformed copies of a request to become a participant. The request must set forth: (1) His technical or other qualifications to make a contribution to the hearing; (2) his position with regard to the proposed amendments; and (3) a description of the matters he seeks to present or elicit at the hearing. A person admitted by the presiding officer as a participant will be permitted to present oral and documentary evidence on matters relevant to the subject policy statement and to question other participants in the proceeding. Participants may, but need not be, represented by counsel. The Commission's regulatory staff will also participate in the proceeding to explain the considerations underlying the subject policy statement and to answer questions by participants, as appropriate.

Any person who wishes to make an oral or written statement at the rule making hearing, but does not desire to become a participant as specified hereinabove, may request permission to make a limited appearance. Such an appearance will be permitted in the discretion of the presiding officer. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER. A person permitted to make a limited appearance may state his position on the subject policy statement and submit questions to the presiding officer which he would like to have answered to the extent that the questions are relevant to the policy statement.

Since the hearing will be part of a rule making, rather than an adjudicatory, proceeding, the provisions of Subpart G, "Rules of General Applicability", of 10 CFR Part 2, the Commission's "Rules of Practice", are not applicable. Accordingly, those sections of Part 2 dealing, inter alia, with "Depositions and Written Interrogatories: Discovery; Admissions; Evidence" and "Hearings" are not applicable to this proceeding. The hearing will be conducted as expeditiously as practicable, consistent with affording participants and those making limited appearances a reasonable opportunity to present their positions, as determined by the presiding officer. A transcript of the hearing will be made, and a copy of the transcript, together with copies of all documents presented at the hearing, will be placed in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., where they will be available for inspection by members of the public.

After the conclusion of the hearing, the presiding officer, without rendering any decision or making any recommendation, will forward the transcript of the hearing to the Commission. The Commission will carefully consider the transcript of the hearing and comments and suggestions submitted in accordance with the first paragraph of this notice, as well as other relevant considerations and factors, and, after reaching its determination in the rule making proceeding, will cause an appropriate notice to be published in the FEDERAL REGISTER.

The Commission considers that the rule making hearing described herein will provide an increased opportunity for public participation in this proceeding, and is hopeful that such participation will be helpful to the Commission in its formulation of further decisions in the proceeding. The conduct of this hearing and the procedures described herein are directed at the particular criteria under consideration.

Dated at Bethesda, Md., this 26th day of November 1971.

For the Atomic Energy Commission.

W. B. MCCOOL,
Secretary of the Commission.

[FR Doc.71-17562 Filed 11-29-71;10:34 am]

[10 CFR Part 50]

[Docket No. RM-50-2]

LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Effluents From Light-Water-Cooled Nuclear Power Reactors

The Atomic Energy Commission published a notice in the FEDERAL REGISTER on June 9, 1971 (36 F.R. 11113) that it has under consideration amendments to its regulation, 10 CFR Part 50, "Licensing of Production and Utilization Facilities", which would supplement the regulation with a new Appendix I to that part to provide numerical guides for design objectives and technical specification requirements for limiting conditions for operation of light-water-cooled nuclear power reactors to keep radioactivity in effluents as low as practicable. The notice requested that comments or suggestions in connection with the proposed amendments, which were set out in the notice together with a statement of relevant considerations, be sent to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, within 60 days after publication of the notice.

Notice is hereby given that a public rule making hearing in this proceeding will be held on January 20, 1972, at 10 a.m., in the Auditorium of the Atomic Energy Commission located in Germantown, Md. The hearing board will consist of Algie A. Wells, Esq., presiding, Dr. Walter H. Jordan, and Dr. John C. Geyer. Subject to the other provisions of this notice, the hearing will be conducted as a legislative-type rule making hearing for the purpose of aiding the Commission in its determination as to whether or not the amendments should be adopted as proposed, or adopted in some other form.

Notice is hereby given that a prehearing conference will be conducted by the presiding officer named above on January 10, 1972, at 10 a.m., at the above location. The purpose of the prehearing conference will be to rule on requests to become a participant and requests to make a limited appearance in the proceeding and to take other action as may be appropriate for the conduct of the hearing. In addition, a hearing schedule shall be established. If appropriate, a prehearing order will be issued by the presiding officer to govern the conduct of the hearing.

Any person who wishes to become a participant in the proceeding must file with the Secretary of the Commission, not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER, an original and 10 conformed copies of a request to become a participant. The request must set forth (1) his technical or other qualifications to make a contribution to the hearing, (2) his position with regard to the proposed amendments, and (3) a description of the matters he seeks to present or elicit at the hearing. A person admitted by the presiding officer as a participant will be permitted to present oral and documentary evidence on matters relevant to the proposed amendments and to question other participants in the proceeding. Participants may, but need not be, represented by counsel. The Commission's regulatory staff will also participate in the proceeding to explain the considerations underlying the proposed amendments and to answer questions by participants, as appropriate.

Any person who wishes to make an oral or written statement at the rule making hearing, but does not desire to become a participant as specified hereinabove, may request permission to make a limited appearance. Such an appearance will be permitted in the discretion of the presiding officer. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER. A person permitted to make a limited appearance may state his position on the proposed amendment and submit questions to the presiding officer which he would like to have answered to the extent that the questions are relevant to the proposed amendments.

Since the hearing will be part of a rule making, rather than an adjudicatory, proceeding, the provisions of Subpart G, "Rules of General Applicability", of 10 CFR Part 2, the Commission's "Rules of Practice", are not applicable. Accordingly, those sections of Part 2 dealing, inter alia, with "Depositions and Written Interrogatories; Discovery; Admissions; Evidence" and "Hearings" are not applicable in this proceeding. The hearing will be conducted as expeditiously as practicable, consistent with affording participants and those making limited appearances a reasonable opportunity to present their positions, as determined by the presiding officer. A transcript of the hearing will be made, and a copy of the transcript, together with copies of all documents presented at the hearing, will be placed in the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, where they will be available for inspection by members of the public.

After the conclusion of the hearing, the presiding officer, without rendering any decision or making any recommendation, will forward the transcript of the hearing to the Commission. The Commission will carefully consider the transcript of the hearing and the comments and suggestions submitted in accordance with the first paragraph of this notice, as well as other relevant consideration and factors, and, after reaching its determination in the rule making proceeding, will cause an appropriate notice to be published in the FEDERAL REGISTER.

The Commission considers that the rule making hearing described herein will provide an increased opportunity for public participation in this proceeding, and is hopeful that such participation will be helpful to the Commission in its formulation of further decisions in the proceeding. The conduct of this hearing and the procedures described herein are directed at the particular amendments under consideration.

Dated at Bethesda, Md., this 26th day of November 1971.

For the Atomic Energy Commission.

W. B. MCCOOL,
Secretary of the Commission.

[FR Doc.71-17563 Filed 11-29-71;10:39 am]

NATIONAL CREDIT UNION ... NW., Washington, DC 20456 to be re- designated geographical area in which

NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Part 700]

DEFINITIONS

Notice of Proposed Rule Making

On page 14149 of the FEDERAL REGISTER of July 30, 1971, there was published a proposed revision of certain definitions as used in 12 CFR Part 700.

After consideration of all such relevant matter as was presented by interested persons, further revisions are hereby proposed as set forth below pursuant to the authority conferred by section 120, 73 Stat. 635, 12 U.S.C. 1766.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed revision to the Administrator, National Credit Union Administration, 1325 K Street NW., Washington, DC 20456, to be received not later than January 3, 1972.

HERMAN NICKERSON, Jr.,
Administrator.

NOVEMBER 23, 1971.

§ 2700.1 Definitions.

As used in this chapter:

(a) "Act" means the Federal Credit Union Act (73 Stat. 628, 84 Stat. 944, 12 U.S.C. 1751–1790).

(b) "Administration" means the National Credit Union Administration.

(c) "Administrator" means the Administrator of the National Credit Union Administration.

(d) "Credit Union" means a credit union chartered under the Federal Credit Union Act or, as the context permits, under the laws of any State.

(e) "Regional Director" means the representative of the Administration in the designated geographical area in which the office of the Federal credit union is located.

(f) "Regional Office" means the office of the Administration located in the designated geographical area in which the office of the Federal credit union is located.

(g) "State" means a State of the United States, the District of Columbia, any of the several Territories and possessions of the United States, the Panama Canal Zone, and the Commonwealth of Puerto Rico.

(h) Pursuant to section 101(4) of the Federal Credit Union Act, the term "low income members" shall include (1) those members whose annual income falls at or below the lower level Standard of Living classification as established by the Bureau of Labor Statistics, U.S. Department of Labor, (2) those members who are residents of a public housing project who qualify for such residency because of low income, and (3) members who qualify as recipients in a community action program.

(i) As used in section 101(4) of the Federal Credit Union Act, the term "predominantly" is defined as a simple majority.

[FR Doc.71-17403 Filed 11-29-71;8:49 am]

Notices

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

[DOD Directive 5154.4[1]]

DEPARTMENT OF DEFENSE EXPLOSIVES SAFETY BOARD

Functions and Responsibilities

OCTOBER 23, 1971.

The Deputy Secretary of Defense approved the following:

Refs.: (a) DOD Directive 5154.4, "The Armed Services Explosives Safety Board," July 25, 1963 (hereby canceled).

(b) DOD Instruction 4145.24, "Determination of Ammunition and Explosives Characteristics Which Influence Handling, Storage and Transportation," February 27, 1967 (hereby canceled).

(c) DOD Instruction 4145.27, "DOD Ammunition and Explosives Safety Standards," March 10, 1969 (hereby canceled).

(d) OASD(I&L) Memorandum, "Ammunition Facilities-Military Construction Program," May 1, 1967 (hereby canceled).

I. *Purpose.* Pursuant to the authority vested in the Secretary of Defense and in accordance with Title 10, United States Code, section 172, this Directive establishes the Department of Defense Explosives Safety Board (DDESB) as a joint activity of the Department of Defense subject to the direction, authority and control of the Secretary of Defense. Its composition, functions and responsibilities, authority, relationships and administration will be as prescribed below.

II. *Cancellations.* References (a), (b), (c), and (d) are hereby superseded and canceled.

III. *Applicability.* The provisions of this Directive apply to the Military Departments and Defense Agencies, hereinafter referred to as the DOD Components, worldwide and cover facilities under United States jurisdiction located within the United States and overseas wherever ammunition and explosives are manufactured, tested, handled, developed, reworked, transported, stored or disposed of while under the custody of the DOD.

IV. *Definitions*—A. Ammunition and explosives: 1. Include, but are not necessarily limited to, all items of ammunition; chemical propellants, liquid and solid; high and low explosives; guided missiles; warheads; devices; signals; components thereof, including chemical agent fillers (and biological agent fillers until disposal of these items is completed); and substances associated therewith presenting real or potential hazards to life and property.

2. Do not encompass wholly inert items, liquid fuels or nuclear bombs, warheads, devices, and radiological fillers, except in an advisory capacity for considerations concerned with blast, fire, and nonnuclear fragment hazards associated with the chemical high explosives contained therein.

B. Administrative support includes budgeting, funding, fiscal control, manpower control and utilization, personnel administration, security administration, space, facilities, supplies and other required administrative provisions and services.

V. *Composition and Administration.* A. The Department of Defense Explosives Safety Board is composed of a Chairman and a member from each of the Military Departments.

1. The Chairman, DDESB, shall be selected and appointed by the Assistant Secretary of Defense (Installations and Logistics), or his designee, from qualified officers of rank of Colonel or Captain (Navy), or higher, nominated by the Secretaries of the Military Departments. His term will be for a period of 3 years and his effectiveness of performance will be evaluated by the Assistant Secretary of Defense (Installations and Logistics) ASD(I&L), or his designee. The office of the Chairman shall be rotated equitably among the Military Departments.

2. The Secretaries of the Military Departments shall each select and assign one qualified officer of the rank of Colonel or Captain (Navy), or higher, to serve as a member of the Board. The Secretaries shall each also assign an alternate who, in the absence of his principal, will act for the member, with plenary powers. The alternate may be a qualified civilian.

3. The Defense Agencies will designate knowledgeable individuals from their agencies who will, in addition to their normal assignments, serve as nonvoting members of the Board, at the call of the Chairman, when the business before the Board is such as to be of particular interest to their agency.

B. The DDESB shall be supported by a permanent Secretariat composed of such qualified military and civilian personnel as the Chairman, with the approval of the ASD(I&L), or his designee, shall determine are required to effectively fulfill DDESB responsibilities.

1. Military staff members shall consist of at least one individual from each Military Department, having appropriate rank and experience, and acceptable to the Chairman, DDESB. Military personnel shall be assigned to the DDESB Secretariat on a full-time basis, and during such assignment shall be responsible to the Chairman for performance of duty and efficiency ratings.

2. Civilian DDESB Secretariat personnel shall be provided by the Secretary of the Army, or his designee, and shall be responsible to the Chairman for performance of duty and performance ratings.

3. Personnel for technical Secretariat positions will be selected by the Chairman.

VI. *Functions and responsibilities.* A. Under the policy direction and program guidance of the ASD(I&L), and in consonance with other DOD policies and Directives, the DDESB shall:

1. Provide impartial and objective advice to the Secretary of Defense, the Secretaries of the Military Departments and the Directors of Defense Agencies, on ammunition and explosives manufacturing, testing, handling, reworking, disposal, transportation, storage, and siting with special attention to preventing conditions that will endanger life and property inside and outside DOD installations.

2. Recommend DOD-wide safety standards designed to prevent or correct hazardous conditions associated with ammunition and explosives to the ASD (I&L) or his designee for approval and publication (DOD 5154.4–S).

3. Establish, with the assistance of the DOD Components, joint regulations for explosives hazard classification procedures and arbitrate or otherwise resolve differences among DOD Components on the assignment of appropriate hazard classifications.

4. Maintain liaison with other Government departments, allied Governments, and industrial organizations having mutual interests or responsibilities.

5. Keep informed of DOD Components' safety problems relating to ammunition and explosives development, manufacture, testing, handling, transportation, storage, maintenance, rework, salvage, and disposal.

6. Survey, study and evaluate activities to determine compliance with ammunition and explosives safety standards and to detect conditions which could result in undue loss of life or damage to property inside and outside Department of Defense installations.

7. Review and analyze reports, data, and information from all sources in which ammunition and explosives hazards, accidents, and safety (nuclear excepted) are involved and make appropriate recommendations to proper authorities for the establishment or revision of standards and procedures.

8. Review and approve with respect to safety considerations all general site plans for construction or modification of fixed or movable ammunition and explosives facilities and sites and facilities in proximity to or affected by such ammunition and explosives facilities and sites, and give impartial and objective advice to the DOD Components involved on the safety of these facilities and sites.

[1] Filed as part of the original document.

(Facilities being constructed under combat conditions or the immediate expectations of such conditions are exempted from this requirement.) With respect to any site plans providing less than desirable safety, a certification by the Secretary or Director of the Component involved that such siting is required because of operational necessity or other impelling reason, together with adequate justification therefor, will be taken into consideration.

9. Prepare such programs of investigation, research, study and tests, concerning ammunition and explosives hazards as are required to develop and maintain safety standards and execute such portions of these programs as are approved by the Office of the Secretary of Defense.

10. Perform such other duties as may be assigned by the ASD(I&L) or his designee.

B. The Secretaries of the Military Departments and Directors of the Defense Agencies, or their designees, shall:

1. Provide the DDESB with information and support necessary to discharge its assigned responsibilities and functions.

2. Submit to the DDESB for review and approval, general site plans for construction or modification of pertinent facilities (see VI.A.8. above), outlining the type and character of the proposed construction. Such site plans will be normally submitted to the DDESB prior to submission of the project in proposed legislation for the current budget year.

3. Set interim safety standards for the manufacture, storage, and handling of ammunition and explosives pending the establishment of DOD-wide standards (see VI.A.2. above).

4. Comply with the DOD safety standards (VI.A.2. above). Inability to comply with such standards for strategic or other impelling reasons may be made the subject of a specific waiver or exemption issued by the affected DOD Component. Responsibility for such waivers or exemptions rests with the Secretary of the Military Department or Director of the Defense Agency granting such waivers or exemptions.

5. Provide qualified personnel when requested by the Chairman, DDESB, to DDESB working groups.

6. Perform such tests and evaluations as are necessary to assign hazard classifications in accordance with joint regulations (VI.A.3. above) which will include:

a. Military handling and storage hazard class and compatibility group.

b. Transportation hazard class, commodity description and markings.

NOTE: In the event of inability to comply with the provisions of paragraph 6 or the joint regulations or, in the case of unresolved differences between responsible DOD Components, complete documentation will be submitted to the DDESB for resolution.

C. The Secretary of the Army is designated as Executive Agent responsible for determining, in consultation with the Chairman, DDESB, and providing adequate administrative support for the operation of the Board and its Secretariat. This responsibility may be redelegated to the Under Secretary of the Army or to an Assistant Secretary of the Army.

VII. *Authority.* A. To discharge the functions and responsibilities assigned herein, the Chairman, DDESB, shall:

1. Preside at DDESB meetings or, in his absence, designate an appropriate member to act in his stead.

2. Determine the internal organization of the DDESB including operating procedures for the Secretariat and direct activities of the Board members and the Secretariat.

3. Establish or maintain a system which will provide the Secretary of Defense and the Secretaries of the Military Departments with current information on all matters falling within DDESB jurisdiction.

4. Exercise the power of decision, as appropriate, on any matter within DDESB jurisdiction on which other DDESB members are not unanimous. With respect to any such decision of the Chairman, any DOD Component may initiate a written appeal therefrom through proper channels to the Assistant Secretary of Defense (I&L) for review and final decision.

5. Establish and direct the activities of temporary working groups, as appropriate, to assist the DDESB.

6. Determine what coordination is required on matters referred to the DDESB.

B. The Chairman and Board members, and the Secretariat under the direction of the Chairman, are authorized and expected to exercise free and unrestricted access to, and have direct communication with all elements of DOD as well as with other Governmental, foreign, and private organizations having a mutual interest or responsibility in safety matters involving ammunition and explosives. With regard to nuclear weapons, access and communication will be in accordance with the established procedures of the Defense Nuclear Agency and the Atomic Energy Commission.

VIII. *Effective date and implementation.* This Directive is effective immediately. Three copies of the implementing documents shall be forwarded to the Assistant Secretary of Defense (Installations and Logistics) within 90 days. Where revision of previous implementing documents would be required for no other reason than that the name of the DDESB has been changed, such revisions may be delayed until such time as the document requires overall revision for other reasons.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division OASD (Comptroller).

[FR Doc.71-17410 Filed 11-29-71;8:49 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

NEZ PERCE INDIAN RESERVATION, PORTLAND, OREG.

Ordinance Legalizing the Introduction, Sale, or Possession of Intoxicants

NOVEMBER 19, 1971.

In accordance with authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2, and in accordance with the Act of August 15, 1953, Public Law 277, 83d Congress, first session (67 Stat. 586), I certify that the following ordinance relating to the application of the Federal Indian Liquor Laws on the Nez Perce Indian Reservation, Portland, was adopted on October 4, 1971, by the Nez Perce Tribal Executive Committee, which has jurisdiction over the area of Indian country included in the ordinance, reading as follows:

Whereas, the Nez Perce Tribal Executive Committee has been empowered to act for and in behalf of the Nez Perce Tribe, pursuant to the Revised Constitution and Bylaws, adopted by the General Council of the Nez Perce Tribe, on May 6, 1961, and approved by the Acting Commissioner of Indian Affairs on June 27, 1961; and

Whereas, pursuant to Article VIII, section 2 of the Revised Constitution, the Executive Committee is authorized to issue and enforce regulations governing the use of tribal property and the conduct of business affairs within the Nez Perce Reservation; and

Whereas, pursuant to the Act of August 15, 1953, 67 Stat. 586 (Public Law 83-277), each Indian tribe is empowered to promulgate an ordinance or ordinances legalizing the introduction, sale and/or possession of intoxicating beverages within any area of Indian country under the jurisdiction of such tribe; and

Whereas, the Nez Perce Tribal Executive Committee, acting for and on behalf of the Nez Perce Tribe, finds it appropriate and necessary to legalize the retail sale of intoxicating beverages within the Nez Perce Reservation in connection with the Tribe's recreation development program;

Now therefore, be it enacted by the Nez Perce Tribal Executive Committee as follows:

ORDINANCE

(1) Subject to the provisions of Paragraph (2) of this Ordinance, the retail sale of intoxicating beverages is hereby authorized within the Nez Perce Reservation on those lands which are designated by the Nez Perce Tribal Executive Committee to be "recreation development areas," and the introduction and possession of intoxicating beverages within the Nez Perce Reservation in furtherance of, or in connection with; such retail sales is also authorized.

(2) The retail sale of intoxicating beverages in accordance with Paragraph (1) of this Ordinance shall be subject to the following limitations: (a) no sale will be lawful unless and until the seller shall first have obtained a retail liquor license from the Nez Perce Tribe pursuant to such rules and regulations as the Executive Committee may promulgate; and (b) the time, manner and other conditions of sale must conform to such rules and regulations (including, tax assessed by the tribe) relating thereto as are adopted from time to time by the Executive Committee: *Provided*, That no act may be permitted by the Tribe which would violate applicable Idaho law. (3) All tribal laws, ordinances and resolutions relating to the introduction, possession and sale of intoxicating beverages within the Nez Perce Reservation are hereby amended to make lawful the acts and transactions authorized by this Ordinance.

JOHN O. CROW,
Deputy Commissioner of Indian Affairs.

[FR Doc.71-17378 Filed 11-29-71;8:48 am]

Bureau of Land Management

UTAH

Notice of Filing of Plats of Survey

1. Plats of survey of the lands described below will be officially filed in the Land Office, Salt Lake City, Utah, effective at 10 a.m. on December 29, 1971:

SALT LAKE MERIDIAN

Plats of survey accepted December 3, 1970:

T. 16 S., R. 16 E.
Sec. 3, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 9, lots 1 to 4, inclusive, S½N½, S½;
Sec. 10, lots 1 to 4, inclusive, S½N½, S½.

The area described aggregates 1,869.42 acres.

2. The following lands were withdrawn for Public Water Reserve 145 on April 15, 1931.

SALT LAKE MERIDIAN

T. 16 S., R. 16 E.
Sec. 3, SW¼NW¼.

3. All of these lands were withdrawn for Oil Shale by Executive Order 5327, April 15, 1930 and PLO 4522, September 13, 1968.

4. Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right.

5. Inquiries concerning these lands should be addressed to the Chief, Division of Technical Services, Utah State Office, Post Office Box 11505, Salt Lake City, UT 84111.

[SEAL] JACK M. REED,
Acting State Director.

NOVEMBER 19, 1971.

[FR Doc.71-17377 Filed 11-29-71;8:46 am]

Geological Survey

[Power Site Cancellation 282]

NORTH PLATTE RIVER, WYO.

Cancellation of Power Site

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and 220 Departmental Manual 6.1, Power Site Classifications 58, 346, and 374 are hereby canceled to the extent that they affect the following described land:

SIXTH PRINCIPAL MERIDIAN

Power Site Classification 58 of March 13, 1924:

T. 12 N., R. 84 W.,
Sec. 4, SE¼NW¼ and NE¼SW¼;
Sec. 8, SW¼SW¼;
Sec. 15, NW¼NE¼.
T. 13 N., R. 84 W.,
Sec. 1, lots 2 and 3, SW¼NE¼, SE¼NW¼, E½SW¼, and W½SE¼;
Sec. 12, NW¼NE¼ and SE¼NE¼;
Sec. 13, N½NW¼ and SW¼NW¼;
Sec. 14, SE¼NE¼ and E½SE¼;
Sec. 23, E½;
Sec. 26, E½W½;
Sec. 35, NE¼SW¼.

Area—1,322.80 acres.

Power Site Classification 346 of January 6, 1944:

T. 12 N., R. 81 W.,
Sec. 6, lots 2 and 3, W½NE¼, and E½W½;
Sec. 7, lots 1, 2, and 3, SE¼NE¼, W½E½, and E½W½;
Sec. 8, SW¼NW¼, N½SW¼, and SE¼SW¼;
Sec. 17, W½NE¼, SE¼NE¼, E½W½, SW¼NW¼, and W½SW¼;
Sec. 18, NE¼, E½NW¼, and N½SE¼;
Sec. 20, lots 1 and 2.
T. 12 N., R. 82 W.,
Sec. 1, lot 4, SW¼NE¼, S½NW¼, SW¼, and NE¼SE¼;
Sec. 2, lots 1 and 2, and SE¼NE¼;
Sec. 11, NE¼SE¼;
Sec. 12, N½NE¼, SE¼NE¼, NE¼NW¼, SW¼, and N½SE¼.
T. 13 N., R. 81 W.,
Sec. 4, lot 3 and S½;
Sec. 5, SE¼NE¼ and E½SE¼;
Sec. 8, NE¼;
Sec. 9;
Sec. 10, SW¼;
Sec. 15, E½W½ and W½NW¼;
Sec. 29, W½SE¼;
Sec. 31, SE¼NE¼, SE¼SW¼, and SE¼;
Sec. 32, SW¼NW¼, N½SW¼, SW¼SW¼, and N½SE¼.
T. 14 N., R. 81 W.,
Sec. 6, N½SW¼ and SW¼SW¼;
Sec. 6, lots 1, 2, and 3, SE¼NE¼, and NE¼SE¼;
Sec. 7, NW¼NE¼;
Sec. 8, NW¼, N½SW¼, and SE¼SW¼;
Sec. 16, NE¼NE¼;
Sec. 17, W½NE¼, E½NW¼, and NW¼SE¼;
Sec. 20, S½NE¼, SE¼NW¼, E½SW¼, and W½SE¼;
Sec. 28, SE¼SW¼;
Sec. 30, SW¼NE¼ and SW¼SE¼;
Sec. 32, SW¼SE¼;
Sec. 33, NE¼SW¼.

Area—6,198.37 acres.

Power Site Classification 374 of March 23, 1945:

T. 12 N., R. 82 W.,
Sec. 3, SW¼SW¼;
Sec. 4, S½SE¼;
Sec. 9, N½NE¼, SE¼NE¼, and W½SE¼;
Sec. 10, W½NE¼, E½NW¼, NW¼NW¼, N½SE¼, and SE¼SE¼;
Sec. 11, W½SW¼ and SE¼SW¼;
Sec. 12, S½SE¼;
Sec. 13, N½NW¼;
Sec. 14, SE¼NE¼, N½NW¼, and E½SE¼;
Sec. 15, SW¼NW¼ and NW¼SE¼;
Sec. 22, lots 3 and 4;
Sec. 23, lots 1 to 4, inclusive.
T. 12 N., R. 84 W.,
Sec. 9, NE¼SE¼;
Sec. 10, NW¼SW¼;
Sec. 15, lot 3 and NE¼SW¼.
T. 13 N., R. 80 W.,
Sec. 5, SW¼NW¼ and NW¼SW¼;
Sec. 6, S½NE¼ and SE¼;
Sec. 7, NE¼;
Sec. 8, W½NW¼ and SW¼;
Sec. 17, NW¼ and W½SW¼;
Sec. 18, SE¼NE¼ and E½SE¼;
Sec. 19, NE¼NE¼;
Sec. 20, N½NW¼, SE¼NW¼, and SW¼;
Sec. 28, W½SW¼, SE¼SW¼, and S½SE¼;
Sec. 29, E½E½, W½NE¼, E½NW¼, and NW¼NW¼;
Sec. 33, NE¼, S½SW¼, and W½SE¼.
T. 13 N., R. 84 W.,
Sec. 13, NW¼NE¼, SE¼NW¼, N½SW¼, and SW¼SW¼;
Sec. 24, W½W½;
Sec. 26, W½SE¼;
Sec. 35, W½NE¼, E½NW¼, and NW¼SE¼.

Area—4,299.59 acres.

The land described aggregates about 11,821 acres.

Dated: November 22, 1971.

W. A. RADLINSKI,
Acting Director.

[FR Doc.71-17365 Filed 11-29-71;8:45 am]

[Power Site Cancellation 214]

WHITETAIL CREEK, MONT.

Cancellation of Power Site

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and 220 Departmental Manual 6.1, Power Site Classification 303 of October 11, 1937, is hereby canceled to the extent that it affects the following described land:

PRINCIPAL MERIDIAN

T. 3 N., R. 5 W.,
Sec. 25, SW¼NW¼ and SW¼.

The area described aggregates about 200 acres.

Dated: November 22, 1971.

W. A. RADLINSKI,
Acting Director.

[FR Doc.71-17366 Filed 11-29-71;8:45 am]

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.

Final Environmental Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Final Environmental Statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a change-of-purpose of loan funds requested by Tri-State Generation and Transmission Association, Inc., of Denver, Colo. This change-of-purpose of loan funds, together with funds from other sources, will provide financing for approximately seventy-seven (77) miles of 230 kV. transmission line between Beaver Creek, Colo., and Wray, Colo., a switching station at Beaver Creek and a substation addition at Wray.

Additional information may be secured on request, submitted to Mr. James N.

Myers, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The final Environmental Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue SW., Washington, DC, Room 4322, or at the office of Tri-State Generation and Transmission Association, Inc., 10520 Melody Drive, Northglenn, CO. Final action may be taken with respect to this matter after thirty (30) days.

Any change of purpose will be subject to, and release of funds thereunder contingent upon, REA's reaching satisfactory conclusions with respect to environmental effects and after compliance with Environmental Statement procedures required by the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 22d day of November 1971.

DAVID A. HAMIL,
Administrator, Rural Electrification Administration.

[FR Doc.71-17432 Filed 11-29-71;8:52 am]

DEPARTMENT OF COMMERCE

Maritime Administration

OFFICERS AND CREWS OF PASSENGER VESSELS

Determination of Operating-Differential Subsidy for Subsistence

In F.R. Doc. 71-9346 appearing in the FEDERAL REGISTER issue of July 1, 1971 (36 F.R. 12547) comments were invited relative to the tentative procedures formulated by the Maritime Subsidy Board and Assistant Secretary of Commerce for Maritime Affairs in connection with the determination of operating-differential subsidy for subsistence of officers and members of the crews of passenger vessels subsidized under title VI of said 1936 Act.

In view of the comments received concurring in the tentative procedures, notice is given that said procedures have been adopted without change. Copies of the procedures may be obtained from the Secretary of the Maritime Subsidy Board and the Maritime Administration.

Dated: November 23, 1971.

By order of the Maritime Subsidy Board and Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.71-17434 Filed 11-29-71;8:51 am]

Office of Import Programs

GEORGETOWN UNIVERSITY ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Comemrce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 72-00089-33-46040. Applicant: Georgetown University, School of Medicine and Dentistry, 3900 Reservoir Road NW., Washington, DC 20007. Article: Electron microscope, EM 801. Manufacturer: Associated Electrical Industries, United Kingdom. Intended use of article: The article is intended to be used in studies of materials of a diverse biological nature; mainly mammalian tissue from human biopsy and tissue from a variety of experimental animals. Several of the studies include experiments on (1) fine structure of various endocrine organs in situ and in vitro and the effects of various physiological mediators and pharmacological agents upon cytological organelles and inclusions, (2) development of mammalian blastocysts particularly to determine how large molecules enter the blastocoel, (3) determining the morphology of uterine tube epithelium in rats to characterize the ciliated and secretory cells, and (4) the localization of lysosomal enzymes within odontoclasts of canine resorbing teeth and alveolar bone. The article will also be used in teaching a course entitled "Biomedical Techniques-Essentials of Electron Microscopy" to graduate students. Application received by Commissioner of Customs: August 13, 1971.

Docket No. 72-00090-55-17500. Applicant: University of Washington, Department of Oceanology, Seattle, Wash. 98195. Article: Recording current meter, Model 4. Manufacturer: Ivar Aanderaa, Norway. Intended use of article: The article is intended to be used to monitor current speed and direction, and water temperature during deployment of the current meter in the 2,600-meter-deep Greenland-Spitsbergen passage. Application received by Commissioner of Customs: August 13, 1971.

Docket No. 72-00091-33-46500. Applicant: Emory University, Department of Anatomy, Atlanta, Ga. 30322. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article is intended to be used in experiments which include: (1) Studies on the ultrastructural development of cardiac tissue in normal fetal and adult animals with hereditary or experimentally produced cardiomyopathy and heart failure; (2) experiments on variations in protein synthesis in normal and myopathic heart cells; and (3) structural changes in the inner membranes of mitochondria isolated from normal and diseased hearts. The article will also be used in teaching preparative techniques for electron microscopy to advanced graduate students. Application received by Commissioner of Customs: August 13, 1971.

Docket No. 72-00092-33-46070. Applicant: The University of Iowa, Iowa City, Iowa 52240. Article: Scanning electron microscope, Model S4. Manufacturer: Cambridge Scientific Instruments Ltd., United Kingdom. Intended use of article: The article is intended to be used by several different departments representing a broad spectrum of biological and medical research. Several studies cited are, (1) spatial aspects of vitellogenesis during cogenesis on both marine and fresh water organisms, (2) delineate the normal morphology on various joint surfaces in animals and humans, (3) morphological changes of microvilli of the choroid plexus as related to cerebral spinal fluid secretion and aging, (4) morphological changes that may be produced in enamel and dentin by the use of various topical fluorides, (5) determination of active corrosion sites on metallic surfaces, (6) research in the study of conodonts, (7) detailed study of the micro- and megaspores contained in an unusually complete petrified lepidodendron cone. The article will also be used in teaching scanning electron microscopy in biological and medical research to graduate students. Application received by Commissioner of Customs, August 13, 1971.

Docket No. 72-00094-33-54500. Applicant: University of Michigan, Department of Ophthalmology, Ann Arbor, Mich. 58104. Article: Tubinger perimeter. Manufacturer: Oculus Co., West Germany. Intended use of article: The article is intended to be used to determine characteristics of patients' static visual field. Application received by Commissioner of Customs: August 13, 1971.

Docket No. 72-00095-55-46040. Applicant: Woods Hole Oceanographic Institution, Water Street, Woods Hole, Mass. 02543. Article: Electron microscope, Model HU-12. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used to find and identify micro- to ultramicro-suspended particles in oceanic systems. In addition the article will be used to train graduate students in electron microscopy for courses in physiology and embryology. Application received by Commissioner of Customs: August 13, 1971.

Docket No. 72-00096-33-46040. Applicant: Washington University, School of Medicine, 660 South Euclid, St. Louis, MO 63110. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic Instruments, the Netherlands. Intended use of article: The article is intended to be used to study the effects of a variety of experimental agents on cultured nervous tissue from various parts of the central peripheral nervous system; study the myelin sheath of the central and peripheral nervous systems; and aid in the analysis of the fine structure of the nervous system. Application received by Commissioner of Customs: August 13, 1971.

Docket No. 72-00097-33-03400. Applicant: The University of Tennessee, Knoxville, Tenn. 37916. Article: Auditory training units, Suvag I and Suvag II. Manufacturer: Societe Sedi, France. Intended use of article: The article is intended to be used to habilitate and rehalibitate deaf children and adults. Application received by Commissioner of Customs: August 18, 1971.

Docket No. 72-00098-33-40700. Applicant: Washington University School of Medicine, Mallinckrodt Institute of Radiology, 510 South Kingshighway, St. Louis, MO 63110. Article: Irradiation unit. Manufacturer: Atomic Energy of Canada Ltd., Canada. Intended use of article: The article will be used to study the effects of anticancer agents as well as radiation on normal and regenerating hematopoietic stem cells and the effects of various perturbations, such as administration of malignant cells upon the rate of repopulation. The article will also be used to irradiate tissue culture cells in both monolayer and suspension cultures. Further, mice bearing tumors will receive radiation from this machine for experiments to devise better therapy schedules for tumor cure. Application received by Commissioner of Customs: August 18, 1971.

Docket No. 72-00099-65-46070. Applicant: State University of New York, Stony Brook, N.Y. 11790. Article: Scanning electron microscope, Mark IIA. Manufacturer: Cambridge Scientific Instruments, United Kingdom. Intended use of article: The article will be used for research in: (1) Effect of surface upon mechanical behavior of materials; (2) fracture of engineering materials; (3) structure of reinforced fiber composites; (4) protective coatings for high temperature materials; (5) structure of solid surfaces; (6) corrosion of materials in marine and biological environments; (7) effect of surface coatings upon atomic defect generation and annihilation; and (8) methods of fabrication of field effect (FET) metal-oxide semiconductor transistors (MOS) and various solid-state devices. The article will also be used in teaching several courses in materials and electrical sciences to graduate students. Application received by Commissioner of Customs: August 18, 1971.

Docket No. 72-00100-65-46040. Applicant: Lehigh University, Bethlehem, Pa. 18015. Article: Electron microscope, EM 300 and accessories. Manufacturer: Philips Electronic Instruments, the Netherlands. Intended use of article: The article is to be used to investigate the ultrastructure of biological specimens and the fine structure of metals, minerals, and polymers. The crystallography of various phases and imperfections of the metals, minerals, and polymers will also be examined. The article will also be used to train students in courses of electron microscopy and electron metallography. Application received by Commissioner of Customs: August 18, 1971.

Docket No. 72-00101-33-46500. Applicant: University of California, School of Medicine, La Jolla, Calif. 92037. Article: Ultramicrotome, LKB 8800A. Manufacturer. LKB Produkter A.B., Sweden. Intended use of article: The article will be used in research directed at the study of the process by which the cerebral spinal fluid and materials within the cerebral spinal fluid are absorbed from around the brain back into the vascular system through the arachnoid villi. Application received by Commissioner of Customs: August 18, 1971.

Docket No. 72-00102-33-46040. Applicant: Bowman Gray School of Medicine, Department of Microbiology, Winston-facturer: LKB Produkter A.B., Sweden. Salem, N.C. 27103. Article: Electron microscope, Model EM9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used in research to study the interactions of bacteria and viruses with their hosts and investigations of the ultrastructure of microorganisms, animal cells, and plant cells. The article will be used for education for courses in general microbiology and "Ultrastructure of microorganisms and mammalian cells." Application received by Commissioner of Customs: August 18, 1971.

Docket No. 72-00103-65-28200. Applicant: Georgetown University, 37th and O Streets NW., Washington, DC 20007. Article: Electron spin resonance spectrometer. Manufacturer: Japan Electron Optics Laboratory Co., Japan. Intended use of article: The article will be used in the following experiments: (1) Determination of ESR spectra of powders, single crystals, solutions and gases at different temperature; (2) flow-mixing experiments of kinetic studies; (3) ultraviolet irradiation of samples in cavity; and (4) electrolytic generation of paramagnetic species in cavity. The article will also be used in teaching courses in biochemical techniques and physical chemistry laboratory to graduate and undergraduate students. Application received by Commissioner of Customs: August 19, 1971.

Docket No. 72-00104-33-46500. Applicant: University of Miami, Post Office Box 8184, Coral Gables, FL 33124. Article: Ultramicrotome, LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article is intended to be used in experiments on normal hard and soft dental tissues, the ultrastructural aspects of the osteogenic cells in regards to their osteoclastic and osteoblastic actions by determined microorganisms in the oral cavity. The article will also be used in teaching investigations of ultrastructural conditions of normal and pathological hard tissues of the oral cavity in human and experimental animals. Application received by Commissioner of Customs: August 20, 1971.

Docket No. 72-00105-33-40700. Applicant: Kensington Hospital, 136 West Diamond Street, Philadelphia, PA 19122. Article: Irradiator, RW-1, one additional probe. Manufacturer: Hawker de Havilland Australia Pty. Ltd., Australia. Intended use of article: The article is intended to be used in ear operations in the mastoid region. Application received by Commissioner of Customs: August 20, 1971.

Docket No. 72-00106-50-77000. Applicant: University of Illinois, Purchasing Division, 223 Administration Building, Urbana, Ill. 61801. Article: Raindrop spectrometer. Manufacturer: Marc Weibel Dipl, Sweden. Intended use of article: The article will be used in research to obtain numbers and sizes of raindrops reaching the ground during natural rain to determine the effect on raindrop distributions brought about by the St. Louis urban area. Application received by Commission of Customs: August 23, 1971.

Docket No. 72-00107-01-77030. Applicant: Sangamon State University, Springfield, Ill. 62037. Article: NMR Spectrometer, JNM-MH-100. Manufacturer: Japan Electron Optics Lab. Co., Ltd., Japan. Intended use of article: The article will be used in faculty initiated research in the utilization of detergents and detergent components by algae, the synthesis and conformational analysis of alkyl and dialkyldihydroaromatics, and the acidity of weak carbon acids. The article will also be used in teaching courses in chemistry and biology. Application received by Commissioner of Customs: August 23, 1971.

Docket No. 72-00108-89-54900. Applicant: Wisconsin State University, Grand Avenue, Superior, Wis. 54880. Article: Scanning stereoscope, ODSS III. Manufacturer: N.V. Optische Industrie "De Oude Delft", the Netherlands. Intended use of article: The article is intended to be used for university level instruction in the following courses: (1) Airphoto Interpretation with special emphasis on the scientific analysis of environmental problems; (2) Environmental and Urban Planning—the effects of the urban development on the environment will also be studied; (3) Independent Study—scientific analysis of air photos. Application received by Commissioner of Customs: August 23, 1971.

Docket No. 72-00110-33-07500. Applicant: Veterans' Administration Hospital, 4801 Linwood Boulevard, Kansas City, MO 64128. Article: LKB Microcalorimeter. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used in research to measure the heats of various proteins reactions such as substrate binding, and the kinetic measurements of enzyme systems. Application received by Commissioner of Customs: August 25, 1971.

SETH M. BODNER,
Director, Office of Import Programs.

[FR Doc.71-17437 Filed 11-29-71;8:51 am]

STATE UNIVERSITY OF NEW YORK AT STONY BROOK ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

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A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 72–00132–33–46500. Applicant: State University of New York, School of Basic Sciences, Stony Brook, N.Y. 11790. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used to reveal by ultrastructural analysis the localization of rhodopsin in the frog retinal and structural changes which occur during the shortening of horseshoe crab striated muscle. In addition the article will be used for training of students in the course "Techniques in Electron Microscopy." Application received by Commissioner of Customs: September 14, 1971.

Docket No. 72–00133–33–46040. Applicant: The University of Texas at Houston, M. D. Anderson Hospital & Tumor Institute, 6723 Bertner, Houston, TX 77025. Article: Electron Microscope, Model EM 9S–2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used to investigate fine structural morphology of normal and neoplastic human tissues in extensive studies of a wide range of human benign and malignant tumors, categorizing their fine structure and correlating the electron microscopic findings with light microscopy. The article will also be used in training graduate students, members of the professional staff, and medical technologists in the principles and techniques of electron microscopy. Application received by Commissioner of Customs: September 15, 1971.

Docket No. 72–00134–33–46040. Applicant: Temple University School of Medicine, Department of Anatomy, 3420 North Broad Street, Philadelphia, PA 19140. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic Instruments, the Netherlands. Intended use of article: The article is intended to be used in the following research studies: (1) Follow substrates through synthesis and secretion in cells that make steroid hormones; (2) determine the structural organization of skeletal and cardiac muscles in normal and pathological material from man and various experimental animals; (3) determining the position of Na-K-activated ATPase by cytochemistry; (4) determining the nature of radiation damage in the parotid gland. Application received by Commissioner of Customs: September 15, 1971.

Docket No. 72–00135–00–86300. Applicant: University of Maryland, College Park, Md. 20742. Article: Low frequency sweep accessory for rheovibron. Manufacturer: Toyo Measuring Instruments Co., Ltd., Japan. Intended use of article: The article is an accessory for a viscoelastometer ordered from the same manufacturer. Application received by Commissioner of Customs: September 15, 1971.

Docket No. 72–00136–33–46070. Applicant: University of Wisconsin, Department of Entomology, 237 Russell Laboratories, 1630 Linden Drive, Madison, WI 53706. Article: Scanning electron microscope, Model JSM–U3. Manufacturer: Japan Electron Optics Laboratory Co. Ltd., Japan. Intended use of article: The article will be used in research for the following: (1) Studies extending to and elucidating the nature of the sensory receptor cell membrane in different states of excitation; (2) recording and the observation of changes in the distribution and number of other microcomponents of the photoreceptor cell; (3) studies of the crystallite array on the exterior surface of the Manduca postretinal axon; (4) determination of glial cell organization. The article will also be used in teaching a course in principles and techniques of scanning electron microscopy. Application received by Commissioner of Customs: September 15, 1971.

Docket No. 72–00137–36–46040. Applicant: The University of Akron Institute of Polymer Science, 302 East Buchtel Avenue, Akron, OH 44304. Article: Electron microscope, Model JEM–120. Manufacturer: Japan Electron Optics Lab. Co., Ltd., Japan. Intended use of article: The article is intended to be used for high resolution miscroscopy in research to obtain information about the molecular structure, morphology, phase separation, domain formation and crystal growth of polymers, glasses, and inorganic polymers. Application received by Commissioner of Customs: September 16, 1971.

Docket No. 72–00138–36–46040. Applicant: The University of Akron, Institute of Polymer Sciences, 302 East Buchtel Avenue, Akron, OH 44304. Article: Electron microscope, Model JEM–T8. Manufacturer: Japan Electron Optics Lab. Co., Ltd., Japan. Intended use of article: The article is intended to be used in research to develop models for the molecular structure of polymeric films and membranes, morphology of phase separated systems, and domain formation and crystal growth. Additionally, the article will be used to train students, staff and faculty in electron microscopy. Application received by Commissioner of Customs: September 16, 1971.

Docket No. 72–00139–36–46070. Applicant: The University of Akron, Institute of Polymer Science, 302 East Buchtel Avenue, Akron, OH 44304. Article: Scanning electron microscope, Model JSM–U3. Manufacturer: Japan Electron Optics Lab. Co., Ltd., Japan. Intended use of article: The article is intended to be used in research on rubbery and glassy plastics, fabrics and resins, polymer latex samples for particle size analysis and multiphase polymers. The article is also intended to be used for teaching courses in polymers, elastomers, and other related subjects. Application received by Commissioner of Customs: September 16, 1971.

Docket No. 72–00140–65–86300. Applicant: Illinois Institute of Technology, 3300 South Federal Street, Chicago, IL 60616. Article: Viscoelastometer, Model DDV–II–B. Manufacturer: Toyo Measuring Instruments Co., Ltd., Japan. Intended use of article: The article will be used in education and research to measure the temperature dependence of complex modulus, dynamic storage modulus, dynamic loss modulus, and dynamic loss tangent of viscoelastic materials at specific selected frequencies of strain input. Application received by Commissioner of Customs: September 16, 1971.

Docket No. 72–00141–00–46040. Applicant: Indiana University-Purdue University at Indianapolis, 630 West New York Street, Indianapolis, IN 46202. Article: Universal camera for electron microscope. Manufacturer: Siemens A.G., West Germany. Intended use of article: The article is an accessory to an existing electron microscope. Application received by Commissioner of Customs: September 21, 1971.

Docket No. 72–00142–33–46040. Applicant: The University of Michigan, Ann Arbor, Mich. 48104. Article: Electron Microscope, Corinth 275. Manufacturer: Associated Electrical Industries, United Kingdom. Intended use of article: The article is intended to be used in research studies which involve the following: (1) High resolution studies on cytomembranes; (2) size distribution analyses of air pollution particles; and (3) studies to correlate structural-functional features of the skin. The article will also be used to train students in electron microscopy. Application received by Commissioner of Customs: September 21, 1971.

Docket No. 72–00143–33–46040. Applicant: The Ohio State University, Department of Pathology, 190 North Oval Drive, Columbus, OH 43210. Article: Electron microscope, Model HU–12. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article is intended to be use in the following research studies: (1) Atherosclerosis; (2) myocardial histochemistry; (3) breast carcinomas; (4) myocardial hypertropy; (5) cardiac conduction system; and (6) malignancy-associated lymphocytic changes. The article is also intended for teaching and training of medical students, graduate students, interns, residents, and fellows as well as research personnel in the techniques and biomedical application of electron microscopy. Application received by Commissioner of Customs: September 21, 1971.

Docket No. 72–00144–33–46040. Applicant: Ortho Research Foundation, Virology Division of Diagnostics Research, Route 202, Raritan, N.J. 08869. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic Instruments, N.V.D., the Netherlands. Intended use of article: The article is intended to be used as a research tool for these studies: (1) Replication of the agent(s) of hepatitis by hybridizing the hepatitis associated antigen (HAA) with known viruses complete or incomplete; (2) antigenic variants among HAA strains; (3) the role of reverse transcriptase in the understanding of oncogenesis, in hepatitis and slow viruses; and (4) surface antigens of Neisseria gonorrhoeae and the interaction of these antigens with tagged specific antibodies. Application received by Commissioner of Customs: September 21, 1971.

Docket No. 72–00145–33–46040. Applicant: Harvard University, Purchasing Department, 75 Mount Auburn Street, Cambridge, MA 02138. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic Instruments, N.V.D., the Netherlands. Intended use of article: The article is intended to be used in the investigation of the organization of the nervous system which involves the study of ultrathin sections of the brain and spinal cord obtained from rats and other laboratory animals. In addition the article will be used for studies of the development of the nervous system and for the training of graduate students and postdoctoral fellows preparing for a career in neurocanatomical research and teaching of medical students. Application received by Commissioner of Customs: September 21, 1971.

Docket No. 72–00172–99–26000. Applicant: Office of the Purchasing Agent, Clarksville-Montgomery County School System, Post Office Box 867, Clarksville, TN 37040. Article: Theory of electricity device. Manufacturer: Dr. Clemenz, West Germany. Intended use of article: The article will be used in classes for teaching the basic theory of electricity by having the students construct electrical apparatus. Application received by Commissioner of Customs: October 5, 1971.

Docket No. 72–00150–99–07700. Applicant: Communitel Corp., 312 East Ninth Street, New York, NY 10003. Article: Sony Videorover II (camera). Manufacturer: Sony Corp., Japan. Intended use of article: The article is intended to be used in a training and development program in the production and techniques of television which will make possible the recording and comparison of the culture and life style of several communities simultaneously as well as the development, research and simplification of video tape machines. Application received by Commissioner of Customs: September 24, 1971.

SETH M. BOONER,
Director, Office of Import Programs.

[FR Doc.71–17436 Filed 11–29–71;8:51 am]

VANDERBILT UNIVERSITY ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

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Docket No. 72–00111–65–46070. Applicant: Vanderbilt University, Department of Materials Science and Engineering, Box 3245, Station B, Nashville, TN 37203. Article: Scanning electron microscope, Mark IIA. Manufacturer: Cambridge Instrument Co., Ltd., United Kingdom. Intended use of article: The article will be used in research studies of surfaces and coating phenomena and microcrystallographic orientation which will include studies of alloys, ceramics, high strength polymers, studies of surface fretting of biomedical implants, friction and wear of titanium alloys, formation of coherent oxide scales, and high temperature sulfidation studies. The article will also be used for education in lecture demonstrations and individual tutorials in a variety of engineering and scientific areas. Application received by Commissioner of Customs: August 27, 1971.

Docket No. 72–00112–01–77030. Applicant: David Lipscomb College, Nashville, Tenn. 37203. Article: NMR Spectrometer, Model JNM–C60HL. Manufacturer: Japan Electron Optics Lab. Co. Ltd., Japan. Intended use of article: The article will be in research to study transition metal chelates and the effect of lanthanide salts on the structure of methanol and ethanol. The article will also be used as a teaching tool in various courses in chemistry. Application received by Commissioner of Customs: August 27, 1971.

Docket No. 72–00113–75–27000. Applicant: University of California, Lawrence Radiation Laboratory, East End of Hearst Avenue, Berkeley, Calif. 04720. Article: Electron tubes. Manufacturer: Compagnie Generale de Telegraphie Sans Fil France. Intended use of article: The article will be used in a proton-deuteron accelerator complex (the Bevatron) to furnish power at approximately 200 MHz for the second of three stages of acceleration, a 50 MeV linear accelerator. The ultimate goal of the Bevatron is to provide protons or deuterons to high energy physics experiments involved in the exploration of nuclear structure of matter. Application received by Commissioner of Customs: August 27, 1971.

Docket No. 72–00114–01–46040. Applicant: University of Texas Medical Branch, Office of the Purchasing Agent, Administration Building, Galveston, Tex. 77550. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electron Instruments, N.V.D., the Netherlands. Intended use of article: The article will be used by qualified investigators for research on biogenic amines and synaptic interconnections in the nervous system. Application received by Commissioner of Customs: August 30, 1971.

Docket No. 72–00115–00–46040. Applicant: University of California, 405 Hilgard Avenue, Los Angeles, CA 90024. Article: Universal cassette. Manufacturer: Siemens A.G., West Germany. Intended use of article: The article is an accessory for an existing electron microscope. Application received by Commissioner of Customs: August 30, 1971.

Docket No. 72–00116–33–43780. Applicant: Cold Spring Harbor Laboratory, Post Office Box 100, Cold Spring Harbor, NY 11724. Article: Microelectrode puller, EH–11. Manufacturer: Takahashi, Japan. Intended use of article: The article is intended to be used to make microelectrodes for intracellular recording from nerve cells. Application received by Commissioner of Customs: August 31, 1971.

Docket No. 72–00117–99–43780. Applicant: Cold Spring Harbor Laboratory, Post Office Box 100, Cold Spring Harbor, NY 11724. Article: Floating Current Clamps. Manufacturer: University of Bristol, United Kingdom. Intended use of article: The article will be used in teaching a course in practical neurobiology in which the article will pass a nano amp current between two intercellular microelectrodes without passing any current across the neuron membrane. Application received by Commissioner of Customs: August 31, 1971.

Docket No. 72–00118–33–46500. Applicant: University of Maryland, 31 South Greene Street, Baltimore, MD 21201. Article: Ultramicrotome, Model Om U2. Manufacturer: C. Reichert Optische, Werke A.G., Austria. Intended use of article: The article will be used in the research work and for training students and fellows in experimental pathology. The research involved includes: (1) Exploration of the reactions in the cytocavitary network which includes lysosomes; (2) investigation of the morphological changes and volumetric analysis of mitochondria; (3) investigation of

alterations of transporting epithelium or changes in model systems of the ascites tumor cells as well as alterations of other tissue culture systems. Application received by Commissioner of Customs: August 31, 1971.

Docket No. 72-00119-33-46040. Applicant: University of California, Santa Barbara, 4219P Administration Building, Santa Barbara, Calif. 93106. Article: Electron microscope, EM 300. Manufacturer: Philips Electronic Instruments, the Netherlands. Indended use of article: The article is intended to be used in the following biological research: (1) Fine structural studies of mature and differentiating phloem cells to try to determine the relation of structure to function of the various subcellular systems; (2) cytochemical studies on mature and differentiating phloem sieve elements; (3) ultrastructure of the adrenal cortex of the domestic duck, *Anas Platyrhynchos*. Application received by Commissioner of Customs: August 31, 1971.

Docket No. 72-00120-75-20700. Applicant: Cornell University, Laboratory of Nuclear Studies, Wilson Laboratory, Ithaca, N.Y. 14850. Article: Lead glass. Manufacturer: Ohara Glass Co., Japan. Intended use of article: The article will be used in several experiments as detectors to measure the energy and point of conversions of multi-GeV gamma rays. Application received by Commissioner of Customs: August 31, 1971.

Docket No. 72-00122-33-46040. Applicant: Westerfield State College, Western Avenue, Westerfield, Mass. 01085. Article: Electron microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used in biological research, involving morphology and physiology, of plant and animal tissue. The article will also be used in a course in electron microscopy for beginning students. Application received by Commissioner of Customs: September 2, 1971.

Docket No. 72-00123-33-46500. Applicant: College of William and Mary, Department of Biology, Williamsburg, Va. 23185. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used in experiments which include investigation of the ultrastructural aspects of both differentiating vegetative and reproductive cells of marine red algae and the early stages of development of algal thalli (plants) derived from spore germination within controlled environment culture incubators. Cell wall otogeny, the establishment of polarity, mitosis, meiosis and cytokinesis (cell division) comprise several of the features of this poorly-studied group of plants that will be investigated. A course in "Experimental Electron Microscopy" will be taught at the graduate level with the article. Application received by Commissioner of Customs: September 9, 1971.

Docket No. 72-00124-33-46500. Applicant: DHEW, PHS, HSMHA, Center for Disease Control, 255 East Paces Ferry Road, Northeast, Atlanta, GA 30305. Article: Ultramicrotome and Knifemaker Combination. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used to study the ultrastructural histology in punch biopsies from experimental animals in investigating the development of glumerulonephritis. Application received by Commissioner of Customs: September 9, 1971.

Docket No. 72-00125-65-86300. Applicant: University of Maryland, College Park, Md. 20742. Article: Viscoelastometer, Model DDV-II-B Rheovibron. Manufacturer: Toyo Measuring Instruments Co., Ltd., Japan. Intended use of article: The article is intended to be used in an investigation to study molecular and phase interaction in polymer blends and to determine the compatibility of specific blends of homopolymers and copolymers produced from them. A second program requiring the use of the article will be studies of the properties of material produced from the radiation-induced polymerization of ethylene and hexafluoroacetone. Further, the instrument will be used to study the effect of solutes on the glass transition temperature of polymers and in doctoral level thesis research by graduate students in the study of novel polymers, and the effect of solutes on the glass transition temperature of polymers. Application received by Commissioner of Customs: September 13, 1971.

Docket No. 72-00126-33-71200. Applicant: University of Chicago, 950 East 59th Street, Chicago, IL 60637. Article: Freeze-Dryer, FT-1. Manufacturer: Bergman-Bevings, Sweden. Intended use of article: The article is intended to be used for processing of monoamines in tissue at low temperatures and high vacuum. Application received by Commissioner of Customs: September 9, 1971.

Docket No. 72-00127-91-75000. Applicant: University of Nebraska, 227 Nebraska Hall, Lincoln, Nebr. 68501. Article: Tecator Digestion System. Manufacturer: Tecator A.B., Sweden. Intended use of article: The article is intended to be used as a supplement to the Standard Kjeldahl macrodigestion system; for digestion of plant and soil materials for total nitrogen determinations and for perchloric acid digestion of plant materials for determination of calcium, phosphorus, zinc, etc. Application received by Commissioner of Customs: September 9, 1971.

Docket No. 72-00128-33-46040. Applicant: University of California-San Francisco, Purchasing Department, 1438 South 10th Street, Richmond, CA 94804. Article: Electron microscope, Model Elmiskop 101. Manufacturer: Siemens A.G., West Germany. Intended use of article: The article is intended to be used in research on the lipoproteins of plasma which transport the atherogenic lipids, cholesterol and fats. The article will also be used in training graduate and postdoctoral students in electron microscope techniques related to the investigation of plasma lipoproteins. Application received by Commissioner of Customs: September 13, 1971.

Docket No. 72-00129-33-81595. Applicant: University of Cincinnati, Department of Environmental Health, Kettering Laboratory, Eden and Bethesda Avenues, Cincinnati, OH 45219. Article: Wright Dust Feed Mechanism. Manufacturer: L. Adams, Ltd., United Kingdom. Intended use of article: The article will be used to generate a cloud of very fine particles of coal dust at a constant concentration for six or more continuous hours per day in experiments designed to study the effect and fate of inhaled coal dust in order to establish safe working conditions for coal workers. Application received by Commissioner of Customs: September 9, 1971.

Docket No. 72-00130-33-46040. Applicant: University of Utah, Purchasing Department, Salt Lake City, Utah 84112. Article: Electron microscope, Model Elmiskop 101. Manufacturer: Siemens A.G., West Germany. Intended use of article: The article is intended to be used to examine ultrathin sections and negatively stained particulate material from fractionated cells in studies of the in situ arrangement of DNA molecules (chromosomes) of essential cell organelles—mitochondria, chloroplasts, and kinetoplasts, and their relationship to organelles membrane structures; study the form and structure of DNA molecules from mitochondria, kinetoplasts, chloroplasts, and the chromosomes of higher organisms; determine the physical length and position of tandem duplications and deletions in bacteriophage T4 DNA molecules. The article will also be used to train selected graduate students in electron microscopy. Application received by Commissioner of Customs: September 13, 1971.

Docket No. 72-00131-33-46500. Applicant: Veterans Administration Hospital, Neurology Research, 4150 Clement Street, San Francisco, CA 94121. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article is intended to be used for ultrastructural studies of human peripheral nerve and in electron microscopic autoradiography of experimental neuropathies in mice. Application received by Commissioner of Customs: September 14, 1971.

SETH M. BODNER,
Director, Office of Import Programs.

[FR Doc.71-17435 Filed 11-29-71;8:51 am]

STATE UNIVERSITY COLLEGE OF NEW YORK ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The notice of application as published in Volume 36, No. 217 (page 21534) of the FEDERAL REGISTER dated Wednesday, November 10, 1971 pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) is hereby amended to read as follows:

In Docket No. 72-00025-00-11000, article: Mass marker instead of Mass market; and

In Docket No. 72-00028-72-46040, article: Electron microscope, EM-9S-2 instead of EM-9S02.

Docket No. 72-00025-00-11000. Applicant: St. Louis University, 221 North Grand Boulevard, St. Louis, MO 63103. Article: Mass marker, Model LKB 9010. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article is an accessory for an existing mass spectrometer. Application received by Commissioner of Customs: July 14, 1971.

Docket No. 72-00028-72-46040. Applicant: University of Maryland-Baltimore County, 5401 Wilkens Avenue, Catonsville, MD 21228. Article: Electron microscope, EM-9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used for routine specimen examination and selection of favorable specimens which will then be examined at high resolution in a larger research microscope. The specimens employed will be primarily thin tissue or cell sections with some whole mount microbial and viral preparations, as well.

The article will also be used as an educational microscope in a course for advanced under-graduate and graduate students. Application received by Commissioner of Customs: July 14, 1971.

SETH M. BODNER,
Director, Office of Import Programs.

[FR Doc.71-17438 Filed 11-29-71;8:51 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-270, 50-287]

DUKE POWER CO.

Determination Not To Suspend Construction Activities at Oconee Nuclear Station

Duke Power Co. (the licensee) is the holder of Provisional Construction Permits Nos. CPPR-34 and CPPR-35 (the construction permits) issued by the Atomic Energy Commission on November 6, 1967. The provisional construction permits authorize the licensee to construct two pressurized water nuclear power reactors designated as the Oconee Nuclear Station Units 2 and 3, at a site in Oconee County, S.C., approximately 8 miles northeast of Seneca, S.C. Each facility is designed for initial operation at approximately 2,452 megawatts (thermal).

In accordance with section E.3 of the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), Appendix D of 10 CFR Part 50 (Appendix D), the licensee has furnished to the Commission a written statement of reasons, with supporting factual submission, why the construction permits should not be suspended, in whole or in part, pending completion of the NEPA environmental review.

The Director of Regulation has considered the licensee's submission in light of the criteria set out in section E.2 of Appendix D, and has determined, after considering and balancing the criteria in section E.2 of Appendix D, that construction activities at the Oconee Nuclear Station authorized pursuant to CPPR-34 and CPPR-35 should not be suspended pending completion of the NEPA environmental review.

Further details of this determination are set forth in a document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permits for the Oconee Nuclear Station Units 2 and 3, Duke Power Co., AEC Dockets Nos. 50-270 and 50-287, November 19, 1971."

Pending completion of the full NEPA review, the holder of Provisional Construction Permits Nos. CPPR-34 and CPPR-35 proceeds with construction at its own risk. The determination herein and the discussion and findings referred to above do not preclude the Commission, as a result of its ongoing environmental review, from continuing, modifying or terminating the construction permits or from appropriately conditioning the permits to protect environmental values.

Any person whose interest may be affected by this proceeding, other than the licensee, may file a request for a hearing within thirty (30) days after publication of this determination in the FEDERAL REGISTER. Such request shall set forth the matters, with reference to the factors set out in section E.2 of Appendix D, alleged to warrant a determination other than that made by the Director of Regulation and shall set forth the factual basis for the request. If the Commission determines that the matters stated in such request warrant a hearing, a notice of hearing will be published in the FEDERAL REGISTER.

The licensee's statement of reasons, furnished pursuant to section E.3 of Appendix D, as to why the construction permits should not be suspended pending completion of the NEPA environmental review, and the document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permits for the Oconee Nuclear Station Units 2 and 3, Duke Power Co. AEC Dockets Nos. 50-270 and 50-287, November 19, 1971," are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC and at the Oconee County Library, 201 South Spring Street, Walhalla, SC 29691. Copies of the "Discussion and Findings" document may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 20th day of November 1971.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.71-17404 Filed 11-29-71;8:49 am]

[Docket No. 50-271]

VERMONT YANKEE NUCLEAR POWER CORP.

Order Convening Evidentiary Hearing

In the matter of Vermont Yankee Nuclear Power Corp. (Vermont Yankee Nuclear Power Station), Docket No. 50-271.

The Atomic Safety and Licensing Board has rearranged schedules of hearings to accommodate necessities from other arrangements which now require reconvening the evidentiary hearing at 2 p.m. on Monday, November 29, 1971, in lieu of reconvening on December 1. At the time of reconvening, cross-examination will commence by Intervenors on financial concerns and a recess will be taken on Wednesday, December 1. On Thursday, December 2, 1971, consideration will be given to applicant's motion and evidence for low power testing and Intervenors' motion in opposition, after which the hearing will include the balance of cross-examination on financial concerns.

Wherefore, it is ordered, In accordance with the Atomic Energy Act, as amended, and the rules of practice of the Commission, the order of November 19 is canceled respecting reconvening on December 1, 1971, and in lieu thereof, the evidentiary hearing in this proceeding shall reconvene at 2 p.m. on Monday, November 29, 1971, in the Vermont National Guard Armory, 207 Main Street, Brattleboro, VT.

Issued: November 24, 1971, Germantown, Md.

Atomic Safety and Licensing Board.

SAMUEL W. JENSCH,
Chairman.

[FR Doc.71-17475 Filed 11-29-71;8:52 am]

[Docket No. 50-333]

POWER AUTHORITY OF THE STATE OF NEW YORK

Determination Not To Suspend Construction Activities Pending Completion of NEPA Environmental Review

The Power Authority of the State of New York (the licensee) is the holder of Construction Permit No. CPPR-71 (the construction permit), issued by the Atomic Energy Commission on May 20, 1970. The construction permit authorizes the licensee to construct a boiling water nuclear power reactor designated as the James A. FitzPatrick Nuclear Power Plant, at a site located in Oswego County, N.Y. The facility is designed for initial

operation at approximately 2,436 megawatts (thermal).

In accordance with section E.3 of the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), Appendix D of 10 CFR Part 50 (Appendix D), the licensee has furnished to the Commission a written statement of reasons, with supporting factual submission, why the construction permit should not be suspended, in whole or in part, pending completion of the NEPA environmental review. This statement of reasons was furnished to the Commission on October 18, 1971.

The Director of Regulation has considered the licensee's submission in the light of the criteria set out in section E.2 of Appendix D, and has determined, after considering and balancing the criteria in section E.2 of Appendix D, that construction activities at the James A. FitzPatrick Nuclear Power Plant authorized pursuant to CPPR–71 should not be suspended pending completion of the NEPA environmental review.

Further details of this determination are set forth in a document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permit for the James A. FitzPatrick Nuclear Power Plant, Docket No. 50–333."

Pending completion of the full NEPA review, the holder of Construction Permit No. CPPR–71 proceeds with construction at its own risk. The determination herein and the discussion and findings hereinabove referred to do not preclude the Commission, as a result of its ongoing environmental review, from continuing, modifying or terminating the construction permit or from appropriately conditioning the permit to protect environmental values.

Any person whose interest may be affected by this proceeding, other than the licensee, may file a request for a hearing within thirty (30) days after publication of this determination in the FEDERAL REGISTER. Such request shall set forth the matters, with reference to the factors set out in section E.2 of Appendix D, alleged to warrant a determination other than that made by the Director of Regulation and shall set forth the factual basis for the request. If the Commission determines that the matters stated in such request warrant a hearing, a notice of hearing will be published in the FEDERAL REGISTER.

The licensee's statement of reasons, furnished pursuant to section E.3 of Appendix D, as to why the construction permit should not be suspended pending completion of the NEPA environmental review, and the document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permit for the James A. FitzPatrick Nuclear Power Plant, Docket No. 50–333," are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC and the Oswego City Library, 120 East Second Street, Oswego, NY 13126. Copies of the "Discussion and Findings" document may be obtained upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 23d day of November 1971.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.71–17415 Filed 11–29–71;8:49 am]

[Docket No. 50–301]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

Notice of Reconstitution of Board

In the mater of Wisconsin Electric Power Co., and Wisconsin Michigan Power Co., Point Beach Nuclear Plant, Unit 2, Docket No. 50–301.

Dr. John C. Geyer was a member of the Board established to consider the above application. He has advised that he is unable to continue to serve as a member of the Board in this proceeding.

Accordingly, Dr. Walter H. Jordan, the technical alternate, has been constituted a member of the Board. Reconstitution of the Board in this manner is in accordance with § 2.721(b) of the rules of practice.

Dated at Washington, D.C., this 24th day of November 1971.

JAMES R. YORE,
Executive Secretary, Atomic Safety and Licensing Board Panel.

[FR Doc.71–17416 Filed 11–29–71;8:49 am]

ENVIRONMENTAL PROTECTION AGENCY

UNIROYAL, INC.

Notice of Extension and Establishment of Temporary Tolerances

Uniroyal, Inc., Bethany, Conn. 06525, was granted temporary tolerances for residues of the insecticide 2-(*p-tert*-butylphenoxy) cyclohexyl 2-propynyl sulfite in or on grapes at 10 parts per million, strawberries at 7 parts per million, oranges at 3 parts per million, and almonds at 0.1 part per million (negligible residue) on October 13, 1969 (notice was published in the FEDERAL REGISTER of October 18, 1969 (34 F.R. 17041)). The tolerances expired October 13, 1970.

The firm has requested a 1-year extension of the tolerances for residues of the pesticide in or on grapes and almonds to obtain additional experimental data and establishment of temporary tolerances for the pesticide in or on the raw agricultural commodities grapefruit, lemons, and oranges.

It has been determined that temporary tolerances for residues of the pesticide in or on grapes at 10 parts per million; grapefruit, lemons, and oranges at 5 parts per million; and almonds at 0.1 part per million (negligible residue) will protect the public health. The tolerances are therefore extended or established on condition that the pesticide be used in accordance with the temporary permits which are being issued concurrently by the Environmental Protection Agency and which provide for distribution under the Uniroyal name.

These temporary tolerances expire November 22, 1972.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), the authority transferred to the Administrator (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs of the Environmental Protection Agency (36 F.R. 9038).

Dated: November 22, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71–17371 Filed 11–29–71;8:48 am]

HAZLETON LABORATORIES, INC.

Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP1F1130) has been filed by Hazleton Laboratories, Inc., 9200 Leesburg Turnpike, Vienna, VA 22180, proposing establishment of tolerances (21 CFR Part 420) for negligible residues of the herbicide diethyl dithiobis (thonoformate) in or on the raw agricultural commodities onions at 0.2 part per million and lettuce and sugar beet roots and tops at 0.1 part per million.

The anayltical method proposed in the petition for determining residues of the herbicide is a microcoulometric gas chromatographic procedure using a sulfur detector.

Dated: November 22, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71–17367 Filed 11–29–71;8:48 am]

STAUFFER CHEMICAL CO.

Notice of Withdrawal of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), the following notice is issued:

In accordance with § 420.8 *Withdrawal of petitions without prejudice* of the pesticide procedural regulations (21 CFR 420.8), Stauffer Chemical Co., 1200 South 47th Street, Richmond, CA 94804, has withdrawn its petition (PP 0F1002), notice of which was published in the FEDERAL REGISTER of August 25, 1970 (35 F.R. 13535), proposing establishment of a tolerance for negligible residues of the herbicide *S*-ethyl hexahydro-*1H*-azepine-1-carbothioate in or on the agricultural commodity sweet potatoes at 0.1 part per million.

Dated: November 22, 1971.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.71–17368 Filed 11–29–71;8:48 am]

FEDERAL POWER COMMISSION

[Docket No. RP71–131]

ALGONQUIN GAS TRANSMISSION CO.

Order Suspending Proposed Tariff Provision

NOVEMBER 19, 1971.

On October 29, 1971, Algonquin Gas Transmission Co. (Algonquin) submitted for filing Original Sheets Nos. 27–A and 27–B, Fourth Revised Sheet No. 8, Ninth Revised Sheet No. 15–K and Fourth Revised Sheet No. 15–P to its FPC Gas Tariff, Original Volume No. 1, with the request that said sheets be allowed to become effective on November 1, 1971.

Algonquin stated in its filing that the purpose thereof was to set forth in specific detail the precise procedure it will employ to implement the prorationing provision contained in its presently effective tariff.

In requesting that the revised sheets be permitted to become effective on November 1, 1971, Algonquin asked for a waiver of compliance with pertinent Commission rules and regulations. Algonquin also requested that in the event that the tariff sheets are suspended the suspension should be limited to 1 day.

On November 12, 1971, the Algonquin Customer Group[1] filed a protest and objection to Algonquin's October 29, 1971, filing, and requested the suspension thereof for the full statutory period and a hearing thereon. Reference is made to the complex nature of Algonquin's proposed tariff provisions, the alleged failure to precisely define the curtailment procedures and possible conflicts in the provisions.

Since it appears that the justness and reasonableness of Algonquin's proposed tariff revisions may be in question and that hearings be held thereon, we have determined that the effectiveness should be suspended. Under the circumstances we are ordering a suspension for the full statutory period. Accordingly there is no need for the requested waiver of compliance with the Commission's rules and regulations.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that Algonquin's proposed tariff revisions be suspended and the use thereof deferred as herein provided.

(2) In the event Commission determination of this proceeding is not concluded prior to the termination of the suspension period herein ordered the placing of the tariff changes applied for in this proceeding into effect after the suspension period in the manner prescribed by the Natural Gas Act, all subject to refund with interest, while pending Commission determination as to their justness and reasonableness is consistent with the purposes of the Economic Stabilization Act of 1970, as amended.

The Commission orders:

(A) Pending hearing and decision on issues relating thereto, Algonquin's proposed Original Sheets Nos. 27–A and 27–B Fourth Revised Sheet No. 8, Ninth Revised Sheet No. 15–K and Fourth Revised Sheet No. 15–P are hereby suspended and the use thereof deferred until April 29, 1972, and such further time as they are made effective in the manner prescribed by the Natural Gas Act.

By the Commission.

[SEAL] KENNETH R. PLUMB,
Secretary.

[FR Doc.71–17384 Filed 11–29–71;8:46 am]

[Docket No. RP72–61]

ALGONQUIN GAS TRANSMISSION CO.

Order Suspending Proposed Tariff Provision

NOVEMBER 19, 1971.

On October 21, 1971, Algonquin Gas Transmission Co. (Algonquin), submitted for filing First Revised Sheet No. 27 to its FPC Gas Tariff, Original Volume No. 1.

Algonquin stated that the proposed revised tariff sheet which provides for relief from the demand charge adjustment in the event of curtailment of deliveries due to a gas supply shortage on Algonquin's system. As stated by Algonquin, the relief requested tracks that requested by Texas Eastern Transmission Corp. (Texas Eastern), Algonquin's sole supplier.

Algonquin requested that the revised tariff sheet be allowed to become effective on November 1, 1971, or such other date as Texas Eastern's Second Revised Sheet No. 76 (which is the subject of proceedings in Docket No. RP72–58) is made effective. In connection therewith Algonquin asked that pertinent Commission rules and regulations be waived.

Since it appears that the justness and reasonableness of Algonquin's proposed tariff revision may be in question and that hearings be held thereon, we have determined that the effectiveness should be suspended. Since in the Docket No. RP72–58 proceeding we are suspending the effectiveness of Texas Eastern's Second Revised Sheet No. 76 until April 19, 1972, it would be appropriate to suspend the effectiveness of Algonquin's filing for a like period. Accordingly, there is no need for the requested waiver of compliance with the Commission's rules and regulations.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that Algonquin's proposed revised tariff sheet be suspended and the use thereof deferred as herein provided.

(2) In the event Commission determination of this proceeding is not concluded prior to the termination of the suspension period herein ordered the placing of the tariff changes applied for in this proceeding into effect after the suspension period in the manner prescribed by the Natural Gas Act, all subject to refund with interest while pending Commission determination as to their justness and reasonableness is consistent with the purposes of the Economic Stabilization Act of 1970, as amended.

The Commission orders:

Pending hearing and decision on issues relating thereto, Algonquin's proposed First Revised Sheet No. 27 is hereby suspended and the use thereof deferred until April 19, 1972, and such further time as it is made effective in the manner prescribed by the Natural Gas Act.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.71–17385 Filed 11–29–71;8:46 am]

[Docket No. CP65–67]

BACA GAS GATHERING SYSTEM, INC.

Notice of Petition To Amend

NOVEMBER 19, 1971.

Take notice that on November 5, 1971, Baca Gas Gathering System, Inc. (petitioner), 1200 Hartford Building, Dallas, TX 75201, filed in Docket No. CP65–67 a petition to amend the order of the Commission issued pursuant to section 7(c) of the Natural Gas Act on January 25, 1965 (33 FPC 102), as amended, by deleting or modifying certain conditions imposed by the Commission, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The order of January 25, 1965, authorized, inter alia, the construction and

[1] The Algonquin Customer Group includes: Boston Gas Co., Bristol and Warren Gas Co., Brockton Taunton Gas Co., Buzzards Bay Gas Co., Cambridge Gas Co., The Connecticut Gas Co., Connecticut Natural Gas Corp., Fall River Gas Co., The Hartford Electric Light Co., Town of Middleborough, Municipal Gas and Electric Department, New Bedford Gas and Edison Light Co., The Newport Gas Light Co., North Attleboro Gas Co., City of Norwich, Department of Public Utilities, Norwood Gas Co., Pequot Gas Co., South County Gas Co., The Southern Connecticut Gas Co., Tiverton Gas Co., and Worcester Gas Light Co.

operation of facilities and the sale of

portation of 410,625 billion B.t.u. an-

pipeline system a new supply of natural

[Docket No. CP71–210, etc.]

mated remaining reserves in the Rocky

Provided, however, That the participa-

operation of facilities and the sale of natural gas in interstate commerce to Panhandle Eastern Pipe Line Co. (Panhandle). Said certificate is conditioned so that petitioner is permitted to sell natural gas to Panhandle at a rate not to exceed 4 cents plus any rate lawfully in effect for the sale of gas to petitioner by the producers.

Petitioner states that the reserves of gas dedicated to it have proved to be only 58 percent of the original projections and that its gross revenue at the existing rates are not sufficient to cover both operating costs and the retirement of mortgage debt. Therefore, petitioner has contracted with Panhandle for a price of 16.6 cents per Mcf, or a rate not to exceed 5.6 cents per Mcf above the rate in effect for the sale of gas to petitioner by producers, and requests that the Commission amend the order heretofore issued in said docket to reflect this increased rate.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 13, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17386 Filed 11-29-71;8:46 am]

[Docket No. CP71-68]

COLUMBIA LNG CORP.

Notice of Amendment to Application

NOVEMBER 18, 1971.

Take notice that on November 8, 1971, Columbia LNG Corp. (Columbia LNG), 20 Montchanin Road, Wilmington, DE 19807, filed in Docket No. CP71-68 an amendment to its pending application pursuant to section 3 of the Natural Gas Act for an order of the Commission authorizing Applicant to import liquefied natural gas (LNG) from Algeria into the United States, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that it has entered into an Amended Agreement with El Paso Algeria Corp. (El Paso Algeria) which (i) extends the date for termination of the original Agreement upon which this Application is based from June 1, 1971, to June 30, 1972, (ii) provides for termination of such Agreement unless necessary authorizations for importation of 410,625 billion B.t.u. annually (the equivalent of 1 million Mcf per day) are obtained by Applicant and other purchasers from El Paso Algeria, rather than the amount of 205,312,500 million B.t.u. (the equivalent of 500,000 Mcf per day) as provided in the original contract, (iii) provides for a base price for LNG delivered at Cove Point, Md., of 64.60 cents per million B.t.u., and (iv) provides for a nine-ship fleet of LNG tankers to be provided by El Paso Algeria for delivery of LNG to Cove Point and two other purchasers at Savannah, Ga.

Applicant states that the foregoing amendment does not change the annual volumes of LNG which Applicant originally proposed to import, amounting to 123,187,500 million B.t.u. per year (the approximate equivalent of 300,000 Mcf per day).

Alternatively, Applicant states that upon the occurrence of certain conditions precedent with respect to the availability of LNG supply, it proposes to purchase from El Paso Algeria a quantity of up to 205,312,500 million B.t.u. annually (the approximate equivalent of 500,000 Mcf per day). Under this arrangement, Applicant states that the base price of LNG delivered to Cove Point would be 64.55 cents per million B.t.u.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before December 13, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). Any person who has heretofore been permitted to participate as a party in this proceeding need not file again. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17387 Filed 11-29-71;8:46 am]

[Docket No. CP72-125]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Application

NOVEMBER 18, 1971.

Take notice that on November 8, 1971, Michigan Wisconsin Pipe Line Co. (Applicant), One Woodward Avenue, Detroit, MI 48226, filed in Docket No. CP72-125 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities to enable Applicant to connect to its pipeline system a new supply of natural gas from offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has contracted with TransOcean, a group of producers, for the purchase of 200 million Mcf of presently proven reserves in Block 171, West Cameron Area, offshore Louisiana. To connect the TransOcean reserves to its system, Applicant proposes to construct a 30-inch pipeline extending approximately 13.9 miles from the southerly terminus of its offshore pipeline in the Block 71 Field, West Cameron Area, to Block 171. Applicant also proposes to construct approximately 22.1 miles of 30-inch pipeline extending from the northerly terminus of its Block 71 line to its Lake Arthur Compressor Station, and to install 5.4 miles of 26-inch loop line into its North Tepetate Compressor Station, completing the looping of that line.

The estimated cost of the facilities proposed herein is $15,800,000, which cost Applicant states will be financed with borrowings from banks under lines of credit, together with retained earnings and other funds generated internally.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 13, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17388 Filed 11-29-71;8:46 am]

[Docket No. CP71-310, etc.]

MOUNTAIN GAS CO., ET AL.

Order Consolidating Proceedings, Permitting Intervention, Setting Hearing Date, and Specifying Procedures

NOVEMBER 19, 1971.

Mountain Gas Co., Consolidated Gas Supply Corp., Cabot Corp., Appalachian Exploration & Development, Inc., Dockets Nos. CP71-310, CP72-26, CI71-897, CI71-898, CI71-902, and CI71-903, CI71-899, and CI71-904.

On June 23, 1971, and as later supplemented on August 13, 1971, Mountain Gas Co. (Mountain) requested authorization, pursuant to sections 7(b) and 7(c) of the Natural Gas Act, to construct and operate certain pipeline and compressor facilities; acquire by purchase certain rights, interests, and facilities from its parent, the Cabot Corp. (Cabot); and exchange natural gas with Consolidated Gas Supply Corp. (Consolidated); all for the transportation and sale of natural gas in interstate commerce. In addition, Mountain requests authorization to abandon sales from the Rocky Fork Field, Kanawha County, W. Va., and conduct studies to determine storage potential of this field.

Mountain is a wholly owned subsidiary of Cabot and the subject proposal is part of a corporate reorganization designed to separate the production, transmission and storage, and local distribution activities of the parent corporation.

On August 3, 1971, Consolidated requested authorization, pursuant to section 7(c) of the Natural Gas Act, to construct and operate metering facilities and to exchange up to 2,000 Mcf of natural gas per day with Mountain.

Appalachian Exploration and Development, Inc. (AED), producing subsidiary of Cabot, has filed applications in CI71-899 and CI71-904 to sell natural gas to Mountain from previously intrastate acreage in various counties in West Virginia. The gas involved in Dockets Nos. CI71-899 and CI71-904 will be sold under separate contracts dated May 17, 1971, which provide AED with the option to process the gas for removal of liquefiable hydrocarbons after delivery to Mountain. The estimated sales volume in Docket No. CI71-899 is 402,833 Mcf per month.

Cabot has filed abandonment applications in CI71-897, CI71-899, CI71-902, and CI71-903 to abandon interstate sales prior to their assignment to Mountain.

The total cost of facilities to be acquired from Cabot, is the depreciated original cost, which was $6,019,366 on December 31, 1970. The estimated cost of facilities to be installed by Mountain is $66,876. Consolidated estimates the cost of its proposed metering and regulating facilities to be $5,263. Mountain's proposed abandonment will not involve any facilities.

On August 2, 1971, Columbia Gas Transmission Corp. (Columbia) filed a petition for leave to intervene in Docket No. CP71-310. Columbia directly controls approximately 80 percent of the estimated remaining reserves in the Rocky Fork Field and is not conducting any joint storage studies with Mountain or Cabot. A formal hearing is not requested but in the event one is held, participation by Columbia is requested.

On August 9, 1971, the Public Service Commission of West Virginia filed a petition to intervene in opposition in Docket No. CP71-310, requesting a hearing in the subject proceeding. The West Virginia Commission contends that certain facilities to be assigned to Mountain by Cabot were declared exempt from the Commission's jurisdiction in Opinion 564, issued August 1, 1969, in Docket No. CP68-176; and these facilities are presently subject to the jurisdiction of the West Virginia Commission.

The West Virginia Commission's petition for leave to intervene raises legal and factual issues indicating that an evidentiary proceeding will be required regarding matters presented in the section 7(b) and 7(c) applications of Mountain and Consolidated, as well as the related producer filings of AED and Cabot.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing on the matters presented in the section 7(b) and 7(c) applications of Mountain and Consolidated, and the related producer filings.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the disposition of this proceeding be expedited in accordance with the procedures set forth below.

(3) Participation of the above-named petitioners may be in the public interest.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 7, 15, and 16 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held commencing December 15, 1971, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426.

(B) On or before December 6, 1971, all applicants shall prepare and file with the Commission and serve on the Presiding Examiner, the Commission's Staff, and other parties in this proceeding their direct testimony and exhibits in support of the section 7(b) and 7(c) applications, and related producer applications.

(C) Any party planning to present testimony in opposition to the aforementioned section 7(b) and 7(c) applications shall, on or before November 29, 1971, file and serve on the Presiding Examiner, the Commission's Staff, and all other parties in this proceeding prepared written testimony in support of their positions.

(D) The above-named parties, who have filed petitions to intervene herein, are hereby permitted to become intervenors in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in their petitions for leave to intervene; and *Provided, further,* That the admission of said intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(E) A Presiding Examiner to be designated by the Chief Examiner for that purpose shall preside at the hearing in this proceeding pursuant to the Commission's rules of practice and procedure.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17389 Filed 11-29-71;8:46 am]

[Docket No. E-7621]

NORTHWESTERN PUBLIC SERVICE CO.

Notice of Supplemental Application

NOVEMBER 18, 1971.

Take notice that on November 10, 1971, Northwestern Public Service Co. (applicant) filed a second supplement to its application in Docket No. E-7621 seeking a supplemental order pursuant to section 204 of the Federal Power Act authorizing the issuance on or before December 31, 1971, of an additional $1 million of short term promissory notes in addition to the $5 million of short term promissory notes authorized by the order of the Commission issued June 1, 1971 in the Docket No. E-7621.

Applicant is incorporated under the laws of the State of Delaware and is qualified as a foreign corporation to do business in the States of South Dakota and North Dakota, and as a domesticated corporation in the State of Nebraska. The additional notes proposed to be issued pursuant to this application will be short term promissory notes which will be issued to commercial banks. Such notes will be issued in an aggregate amount not to exceed $1 million in addition to the $5 million of short term promissory notes previously authorized by order of the Commission issued June 1, 1971, in Docket No. E-7621. The interest rate on the new borrowing in an amount aggregating not to exceed $1 million to be issued pursuant to the supplemental application will be the prime commercial rate of The Chase Manhattan Bank as it is in effect from time to time during the term of such notes. The new additional notes in the aggregate amount not to exceed $1 million will be issued from time to time on or before December 31, 1971. Each of these notes will have a maturity date of less than 360 days from the date of issue.

The net proceeds from the issuance of the notes will be used, together with other funds of the applicant, for construction, extension, and improvement of facilities

and particularly accelerated and in-

[Docket No. CP72-126]

quired, further notice of such hearing

deliveries the procedures to be followed

ferred to in the motion, as well as any

cember 14, 1971, at 10 a.m., e.s.t., in a hearing room of the Federal Power Com-

and particularly accelerated and increased expenditures in 1971 in connection with construction of the large electric generating plant near Big Stone City, S. Dak.

Any person desiring to be heard or to make any protest with reference to this application should on or before the 9th day of December, 1971 file with the Federal Power Commission, Washington, D.C. 20436, petition or protest in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestant parties to the proceedings. Persons wishing to become parties to the proceedings or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rule. The application is on file with the Commission and available for public information.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17390 Filed 11-29-71;8:47 am]

[Docket No. E-7678]

OTTER TAIL POWER CO.

Notice of Application

NOVEMBER 19, 1971.

Take notice that on November 12, 1971, Otter Tail Power Co. (applicant) of Fergus Falls, Minn., filed an application seeking an order for approval of the issuance of short term obligations in the form of promissory notes to banks, such notes to be issued on or before December 31, 1974, with a final maturity date of not later than December 31, 1975, and in the form of commercial paper to commercial paper dealers, such commercial paper to be issued on or before December 31, 1975, and to have a maturity date of not to exceed 9 months from the date of issue.

The net proceeds from the notes and from the sale of commercial paper will be used to provide general funds for the Company's construction program.

Any person desiring to be heard or to make any protest with reference to such application should, on or before December 10, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17391 Filed 11-29-71;8:47 am]

[Docket No. CP72-126]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Application

NOVEMBER 19, 1971.

Take notice that on November 8, 1971, Texas Eastern Transmission Corp. (Applicant), Post Office Box 2511, Houston, TX 77001, filed in Docket No. CP72-126 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas through existing facilities with Texas Gas Pipe Line Corp. (Texas Gas), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the U.S. Army Corps of Engineers has requested that Texas Gas' pipeline crossing of the Neches River in Jefferson County, Tex., be removed and relocated to facilitate the improvement of the river's channel. Texas Gas has determined that the cost for this relocation would be prohibitive. Therefore, a natural gas exchange agreement between Texas Gas and Applicant was initiated to alleviate the necessity for the relocation of the crossing. Pursuant to the terms of this agreement, dated October 19, 1971, Texas Gas will deliver up to 20,000 Mcf of natural gas per day to Applicant at an interconnection between their facilities in Jefferson County. Applicant proposes to redeliver equivalent volumes to Texas Gas at an interconnection between their facilities in Orange County, Tex.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 13, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17392 Filed 11-29-71;8:47 am]

[Dockets Nos. RP71-130, etc.]

TEXAS EASTERN TRANSMISSION CORP. AND ALGONQUIN GAS TRANSMISSION CO.

Order Consolidating Proceedings, Granting Motion and Establishing Hearing and Conference Procedures

NOVEMBER 19, 1971.

On May 17, 1971, Texas Eastern Transmission Corp. (Texas Eastern) filed a report dated May 14, 1971, responding to the Commission's Order No. 431, issued April 15, 1971, in the Docket No. R-418 proceeding. In said report Texas Eastern stated that it "does not know at this time whether it will be necessary to curtail deliveries to its customers during the 1971-72 winter heating season." In the report Texas Eastern further stated that in the event of curtailment the procedure followed would be in accordance with section 12.3 of the General Terms and Conditions of Texas Eastern's FPC Gas Tariff, Second Revised Volume, No. 1. The report was assigned Docket No. RP71-130.

On October 19, 1971, Texas Eastern filed a proposed revision in its Gas Tariff to eliminate the demand charge adjustment provisions in its rate schedules (Docket No. RP72-58).[1] In connection with said filing Texas Eastern stated that it estimates that it will be required to curtail deliveries by approximately 15 billion cubic feet of gas during the period from November 1, 1971, to May 1, 1972. Texas Eastern further stated that curtailments would be made in accordance with section 12.3 of the General Terms and Conditions of its currently effective FPC Gas Tariff, Second Revised Volume, No. 1.

On May 17, 1971, Algonquin Gas Transmission Co. (Algonquin) filed a report dated May 14, 1971, responding to the Commission's Order No. 431, issued April 15, 1971, in the Docket No. R-418 proceeding. In said report Algonquin stated that "Texas Eastern as its sole supplier had not curtailed deliveries of existing firm contract quantities and under the circumstances it did not consider it necessary to file a plan of curtailment." Algonquin further stated that in the event of a curtailment of firm gas deliveries the procedures to be followed were contained in Algonquin's tariff. The report was assigned Docket No. RP71-131.[2]

On October 21, 1971, Algonquin filed a proposed revision in its Gas Tariff to eliminate the demand charge adjustment provisions (Docket No. RP72-61).[3] Algonquin stated that the relief requested tracks similar relief requested by Texas Eastern and was occasioned by Texas Eastern's announcement of its intention to effect curtailments of gas deliveries during the period November 1, 1971, through April 30, 1972.

On October 29, 1971, Algonquin filed in Docket No. RP71-131 proposed revisions in its Gas Tariff which are stated to be for the purpose of setting forth "in specific detail, the precise procedures it will employ to implement the prorationing provision contained in its presently effective tariff."[4]

In view of the nature of the above filings by Texas Eastern and Algonquin and the fact that Texas Eastern is Algonquin's sole supplier, it appears appropriate that the proceedings in Dockets Nos. RP71-130, RP71-131, RP72-58, and RP72-61 be consolidated for hearing and decision.

By motion dated October 12, 1971, the Algonquin Customer Group[5] requested that the Commission convene a joint hearing or conference in the Dockets Nos. RP71-130 and RP71-131 proceedings to discuss issues relating, among other things, to the causes for the impairment of the gas supply of Texas Eastern and Algonquin and the curtailment procedures which will be followed by the companies. Columbia Gas Transmission Corp. (Columbia), a customer of Texas Eastern, opposed the said motion. In view of our determination to consolidate the filings of Texas Eastern and Algonquin hereinbefore referred to for hearing and decision and since we deem it appropriate that a conference be convened before the Presiding Examiner to be designated, we are granting the said motion and scheduling such a conference to consider the matters referred to in the motion, as well as any other relevant matters.

On October 27, 1971, the Municipal Defense Group, a group of municipality customers of Texas Eastern in Pennsylvania and Tennessee filed a motion seeking inter alia, consolidation of the Dockets Nos. RP71-130 and RP72-58 proceedings. Texas Eastern opposed the said motion. As we have indicated we have determined to consolidate the said proceedings together with the Algonquin filings. Accordingly to the extent the said motion seeks consolidation of the Texas Eastern filings we are granting the said motion.

The urgency implicit in these proceedings makes it essential that all steps necessary to insure expedition be taken. We are therefore fixing a date for the distribution by Texas Eastern and Algonquin of evidence in support of the curtailment programs to be pursued, including the backup supply, demand and other data on which such programs are based and the impact on each customer at various anticipated curtailment levels. Texas Eastern and Algonquin shall at the same time distribute evidence bearing on the environmental factors considered and the environmental impact of the proposed curtailment programs. Following the distribution of such evidence we are scheduling the conference above referred to. In the event such conference is not productive of a settlement of the issues in this proceeding, we are directing the Examiner to proceed immediately to schedule the distribution of answering and rebuttal evidence and a hearing date for cross-examination. Such hearing should proceed without recess except for good cause shown.

The Commission finds: (1) It is necessary and proper in the public interest and to aid in the enforcement of the Natural Gas Act that the proceedings in Dockets Nos. RP71-130, RP71-131, RP72-58, and RP72-61 be consolidated, and that the issues in these proceedings be scheduled for hearing in accordance with the procedures herein set forth.

(2) The motions by the Algonquin Customer Group and the Municipal Defense Group should be granted to the extent above indicated.

The Commission orders: (A) The proceedings in Dockets Nos. RP71-130, RP71-131, RP72-58, and RP72-61 are consolidated for hearing and decision.

(B) Texas Eastern and Algonquin shall distribute on or before December 6, 1971, the evidentiary support for the proposed curtailment programs and elimination of demand charge adjustments, including the environmental factors considered and the environmental impact of such curtailment programs.

(C) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held in the said consolidated proceedings to be presided over by the Presiding Examiner which shall be held on December 14, 1971, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, for the purpose of incorporating into the record the testimony and exhibits previously distributed. Immediately thereafter the Presiding Examiner will convene a conference and in the event a settlement of the issues does not result from said conference, the Presiding Examiner will schedule dates for the distribution of answering and rebuttal evidence, and the date for the commencement of hearings for the purpose of cross-examination and will rule on all data requests or any other relevant matters presented at such hearing.

(D) A Presiding Examiner to be designated by the Chief Examiner (see Delegation of Authority, 18 CFR 3.5(d)), shall preside at, and control these proceedings in accordance with the policies expressed in the Commission's rules of practice and procedure and the purposes expressed in this order.

(E) The motions made by the Algonquin Customer Group dated October 12, 1971, and by the Municipal Defense Group filed October 27, 1971, are granted to the extent above indicated.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17393 Filed 11-29-71;8:47 am]

[1] By notice issued by the Acting Secretary on June 16, 1971, petitions to intervene or protests were required to be filed by July 9, 1971.

[2] By notice issued by the Secretary on November 2, 1971, petitions to intervene or protests were required to be filed on November 11, 1971.

[3] By notice issued by the Acting Secretary on June 22, 1971, petitions to intervene or protests were required to be filed by July 9, 1971.

[4] By notice issued by the Secretary on November 2, 1971, petitions to intervene were required to be filed by November 11, 1971.

[5] By notice issued by the Secretary on November 3, 1971, petitions to intervene or protests were required to be filed by November 12, 1971.

[6] The Algonquin Customer Group includes: Boston Gas Co., Bristol and Warren Gas Co., Brockton Taunton Gas Co., Buzzards Bay Gas Co., Cambridge Gas Co., the Connecticut Gas Co., Connecticut Natural Gas Corp., Fall River Gas Co., the Hartford Electric Light Co., Town of Middleborough, Municipal Gas and Electric Department, New Bedford Gas and Edison Light Co., the Newport Gas Light Co., North Attleboro Gas Co., City of Norwich, Department of Public Utilities, Norwood Gas Co., Pequot Gas Co., South County Gas Co., the Southern Connecticut Gas Co., Tiverton Gas Co., and Worcester Gas Light Co.

[Docket No. R-427, etc.; Order 437A-3]

NEW ENGLAND POWER CO., ET AL.

Third Supplementary Order to Amended Statement of Policy and Order

NOVEMBER 19, 1971.

Statement of policy implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38) and Executive Orders Nos. 11615 and 11627, Docket No. R-427.

New England Power Co., E-7595; Central Telephone & Utilities Corp., E-7602; Southern California Edison Co., E-7618.

On November 16, 1971, the Commission issued Order No. 437A, effective as of 12:01 a.m., November 14, 1971, in which Part 2, General Policy and Interpretations, Subchapter A, Chapter I, Title 18, Code of Federal Regulations was amended by adding a new § 2.90a. This new section was promulgated to implement Executive Order No. 11627 and 6 CFR 300.016. In paragraph (d) of § 2.90a, the Commission announced "that its actions with respect to increases in rates or charges otherwise effective, but for the policy announced in order No. 437, where the applicability of order No. 437 is not reflected in any Commission order, such actions will be reviewed for consistency with the Economic Stabilization Act, as amended, and, after such review, increases in rates or charges approved as being consistent with such purposes will be reported as supplements to this order and shall be effective as of 12:01 a.m., November 14, 1971."

The Commission has reviewed the rate

[Docket No. R-427, etc.; Order 437A-1]

437 is not reflected in any Commission

Date	

any protest with reference to said application should on or before December 8,

The Commission has reviewed the rate increase filings made by jurisdictional electric public utilities in the dockets listed below in this third supplementary order. The increases in rates relating to the dockets listed below would all have become effective during the period from August 15 to November 13, 1971, under the provisions of section 205(e) of the Federal Power Act, 16 U.S.C. section 24d(e), were it not for the policy announced in order No. 437 implementing the Economic Stabilization Act of 1970, as amended, and Executive Order No. 11615. While these rate increases will be permitted to become effective, subject to refund, the Commission has not found such increases to be just and reasonable. However, pursuant to the provisions of section 205(e) of the Federal Power Act, the Commission shall give to the hearing and decision of such questions preference over other questions pending before it and decide the same as speedily as possible. In determining the justness and reasonableness of such rate increase filings, the regulatory standards which the Commission will implement pursuant to the provisions of the Federal Power Act are consistent with the purposes of the Economic Stabilization Act of 1970. While consumers are protected from excessive charges since the increased rates will be collected subject to refund with interest, the filing companies will not be deprived of revenues to which they may be entitled under the Constitution and applicable statutes pending the Commission's determination of the justness and reasonableness of their new schedules.

The Commission finds: To permit the rate increases applied for in the dockets listed below to become effective, subject to refund with interest, while pending Commission determination as to their justness and reasonableness, is consistent with the purposes of the Economic Stabilization Act of 1970, as amended.

The Commission orders: (A) The rate increases applied for in the dockets listed below may become effective, subject to refund with interest, as of 12:01 a.m., November 14, 1971, while pending Commission determination as to their justness and reasonableness.

(B) This order shall constitute the certification of consistency with the purposes of the Economic Stabilization Act of 1970, as amended, as required by § 300.016(b) of Chapter III, Title 6 of the Code of Federal Regulations.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

Docket No.	Applicant	Date application filed	Date suspension period terminated
E-7595.....	New England Power Co.	8-12-71	8-15-71
E-7602.....	Central Telephone & Utilities Corp.	8-19-71	10-20-71
E-7618.....	Southern California Edison Co.	8-27-71	10-20-71

[FR Doc.71-17382 Filed 11-29-71;8:48 am]

[Docket No. R-427, etc.; Order 437A-1]

NORTHERN NATURAL GAS CO. ET AL.

First Supplementary Order to Amended Statement of Policy and Order

NOVEMBER 19, 1971.

Statement of policy implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38) and Executive Orders Nos. 11615 and 11627, Docket No. R-427.

Northern Natural Gas Co., RP71-107; Michigan-Wisconsin Pipeline Co., RP71-112; El Paso Natural Gas Co., RP71-137.

On November 16, 1971, the Commission issued Order No. 437A, effective as of 12:01 a.m., November 14, 1971, in which Part 2, general policy and interpretations, Subchapter A, Chapter I, Title 18, Code of Federal Regulations was amended by adding a new § 2.90a. This new section was promulgated to implement Executive Order No. 11627 and 6 CFR 300.016. In paragraph (c) of § 2.90a, the Commission announced "that its actions with respect to increases in rates or charges in orders heretofore issued containing a provision that they are subject to the policy announced in order No. 437 will be reviewed for consistency with the purposes of the Economic Stabilization Act of 1970, as amended. After such review, increases in rates or charges approved as being consistent with such purposes will be reported as supplements to this order and shall be effective as of 12:01 a.m., November 14, 1971."

The Commission has reviewed the list of orders heretofore issued concerning natural gas pipeline rate increases attached below. These orders were issued under the provisions of section 4(e) of the Natural Gas Act, 15 U.S.C. section 717c(e). The increases in rates relating to the dockets listed below would all have become effective during the period from August 15 to November 13, 1971, under the provisions of the Natural Gas Act were it not for the policy stated in our order No. 437 implementing the Economic Stabilization Act of 1970, as amended, and Executive Order No. 11615. While these rate increases were approved by the Commission subject to refund and to our order No. 437 implementing the Economic Stabilization Act of 1970, as amended, and Executive Order No. 11615, the Commission has not found such increases to be just and reasonable. However, pursuant to the provisions of section 4(e) of the Natural Gas Act, the Commission shall give to the hearing and decision of such questions preference over other questions pending before it and decide the same as speedily as possible. In determining the justness and reasonableness of such rate increase filings, the regulatory standards which the Commission will implement pursuant to the provisions of the Natural Gas Act are consistent with the purposes of the Economic Stabilization Act of 1970. While consumers are protected from excessive charges since the increased rates will be collected subject to refund with interest, the filing companies will not be deprived of revenues to which they may be entitled under the Constitution and applicable statutes pending the Commission's determination of the justness and reasonableness of their new schedules.

The Commission finds: To permit the rate increases applied for in the dockets listed below to become effective, subject to refund with interest, while pending Commission determination as to their justness and reasonableness, is consistent with the purposes of the Economic Stabilization Act of 1970, as amended.

The Commission orders: (A) The rate increases applied for in the dockets listed below may become effective, subject to refund with interest, as of 12:01 a.m., November 14, 1971, while pending Commission determination as to their justness and reasonableness.

(B) This order shall constitute the certification of consistency with the purposes of the Economic Stabilization Act of 1970, as amended, as required by § 300.016(b) of Chapter III, Title 6 of the Code of Federal Regulations.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

Docket No.	Applicant	Date application filed	Date suspension period terminated
RP71-107....	Northern Natural Gas Co.	4-26-71	10-27-71
RP71-112...	Michigan-Wisconsin Pipeline Co.	4-29-71	11- 1-71
RP71-137....	El Paso Natural Gas Co. (Northwest Division).	6-30-71	11- 1-71

[FR Doc.71-17383 Filed 11-29-71;8:49 am]

[Docket No. RP71-98 etc.; order 437A-2]

PACIFIC GAS TRANSMISSION CO. ET AL.

Second Supplementary Order to Amended Statement of Policy and Order

NOVEMBER 19, 1971.

Statement of policy implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38) and Executive Orders Nos. 11615 and 11627, Docket No. R-427.

Pacific Gas Transmission Co., RP71-98, Great Lakes Transmission Co., RP71-102, Cities Service Gas Co., RP71-106, Panhandle Eastern Pipe Line Co., RP71-108.

On November 16, 1971 the Commission issued order No. 437A, effective as of 12:01 a.m., November 14, 1971, in which Part 2, general policy and interpretations, Subchapter A, Chapter I, Title 18, Code of Federal Regulations was amended by adding a new § 2.90a. This new section was promulgated to implement Executive Order No. 11627 and 6 CFR 300.016. In paragraph (d) of § 2.90a, the Commission announced "that its actions with respect to increases in rates or charges otherwise effective, but for the policy announced in order No. 437, where the applicability of order No. 437 is not reflected in any Commission order, such actions will be reviewed for consistency with the Economic Stabilization Act, as amended, and, after such review, increases in rates or charges approved as being consistent with such purposes will be reported as supplements to this order and shall be effective as of 12:01 a.m., November 14, 1971."

The Commission has reviewed the rate increase filings made by jurisdictional natural gas pipeline companies in the dockets listed below in this second supplementary order. The increases in rates relating to the dockets listed below would all have become effective during the period from August 15 to November 13, 1971, under the provisions of section 4(e) of the Natural Gas Act, 15 U.S.C. section 717c(e), were it not for the policy announced in Order No. 437 implementing the Economic Stabilization Act of 1970, as amended, and Executive Order No. 11615. While these rate increases will be permitted to become effective, subject to refund, the Commission has not found such increases to be just and reasonable. However, pursuant to the provisions of section 4(e) of the Natural Gas Act, the Commission shall give to the hearing and decision of such questions preference over other questions pending before it and decide the same as speedily as possible. In determining the justness and reasonableness of such rate increase filings, the regulatory standards which the Commission will implement pursuant to the provisions of the Natural Gas Act are consistent with the purposes of the Economic Stabilization Act of 1970. While consumers are protected from excessive charges since the increased rates will be collected subject to refund with interest, the filing companies will not be deprived of revenues to which they may be entitled under the Constitution and applicable statutes pending the Commission's determination of the justness and reasonableness of their new schedules.

The Commission finds:

To permit the rate increases applied for in the dockets listed below to become effective, subject to refund with interest, while pending Commission determination as to their justness and reasonableness, is consistent with the purposes of the Economic Stabilization Act of 1970, as amended.

The Commission orders:

(A) The rate increases applied for in the dockets listed below may become effective, subject to refund, with interest, as of 12:01 a.m., November 14, 1971, while pending Commission determination as to their justness and reasonableness.

(B) This order shall constitute the certification of consistency with the purposes of the Economic Stabilization Act of 1970, as amended, as required by § 300.016(b) of Chapter III, Title 6 of the Code of Federal Regulations.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

Docket No.	Applicant	Date application filed	Date suspension period terminated
RP71-98...	Pacific Gas Transmission Co.	4- 1-71	10- 1-71
RP71-102..	Great Lakes Transmission Co.	4-16-71	11- 1-71
RP71-106..	Cities Service Gas Co.	4-27-71	10-23-71
RP71-108..	Panhandle Eastern Pipe Line Co.	4-27-71	10-27-71

[FR Doc.71-17381 Filed 11-29-71;8:48 am]

[Docket No. CP72-132]

ALGONQUIN GAS TRANSMISSION CO.

Notice of Application

NOVEMBER 26, 1971.

Take notice that on November 15, 1971, Algonquin Gas Transmission Co. (applicant), 1284 Soldiers Field Road, Boston, Mass. 02135, filed in Docket No. CP72-132 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a limited term rearrangement of deliveries to certain of its customers from December 1, 1971, to April 15, 1972, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that as a result of the Commission's order issued on October 22, 1971, in Docket No. CP70-196, permitting the importation of certain limited volumes of liquefied natural gas (LNG) by Distrigas Corp. (Distrigas), it has entered into an agreement with three of its customers, Providence Gas Co. (Providence), The Connecticut Gas Co. (Connecticut) and Boston Gas Co. (Boston), providing for certain delivery rearrangements. Distrigas was to sell and deliver LNG to Providence and Connecticut at their respective facilities. These facilities have not been completed. Therefore, as an alternative, Distrigas proposes to deliver regasified LNG to Boston. Pursuant to the terms of the agreement between Providence, Connecticut, Boston and applicant, Boston will use the natural gas delivered by Distrigas as a substitute for equivalent volumes which were to be delivered by applicant. Applicant will then deliver these volumes to Providence and Connecticut through existing facilities.

Applicant states that all deliveries to Providence and Connecticut will be subject to the operational requirements of its system. The estimated volumes of natural gas to be delivered to Providence and Connecticut during the term of this limited rearrangement are 300,000 Mcf and 500,000 Mcf, respectively. Applicant will receive a transportation rate of 8 cents per Mcf delivered to the parties.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions for leave to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before December 8, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

MARY B. KIDD, *Acting Secretary.*

[FR Doc.71-17485 Filed 11-29-71;8:52 am]

FEDERAL RESERVE SYSTEM

AFFILIATED BANK CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Affiliated Bank Corp., which is a bank holding company located in Madison, Wis., for prior approval by the Board of Governors of the acquisition by applicant of 80 percent or more the outstanding voting shares of Middleton Shores Bank, Middleton, Wis.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country

may be substantially to lessen competi-

ing the effect of the proposed acquisition

married above: *Provided*, That the as-

GENERAL SERVICES

disaster listed, naming Hugh H. Fowler as Federal Coordinating Officer.

MCs 13002 Subs 8 and 9, Fremont Smith Truck Line, Inc., 13067 Sub 35, Stockberger Transfer & Storage, Inc., 30844 Sub 365,

may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Chicago.

Board of Governors of the Federal Reserve System, November 23, 1971.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.71-17362 Filed 11-29-71;8:45 am]

BANCOHIO CORP.

Order Approving Acquisition of Bank Stock by Bank Holding Company

NOVEMBER 22, 1971.

In the matter of the application of BancOhio Corp., Columbus, Ohio, for approval of acquisition of at least 80 percent of the voting shares of The Niles Bank Co., Niles, Ohio.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by BancOhio Corp., Columbus, Ohio, for the Board's prior approval of the acquisition of at least 80 percent of the voting shares of The Niles Bank Co. (Bank), Niles, Ohio.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Ohio Superintendent of Banks and requested his views and recommendation. The Superintendent offered no objection to approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on September 28, 1971 (36 F.R. 19099), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant, the largest bank holding company and second largest banking organization in Ohio, has 28 subsidiary banks controlling deposits in excess of $1.6 billion, representing approximately 7.2 percent of the total commercial bank deposits in the State. (All banking data are as of June 30, 1971, and reflect holding company formations and acquisitions approved by the Board through October 31, 1971.) Consummation of the proposal herein would increase the percentage of total State deposits controlled by applicant slightly to 7.3 percent and applicant would remain the State's second largest banking organization.

Bank with $24.6 million deposits controls 2.8 percent of deposits in the Youngstown-Warren SMSA which approximates the relevant market within which the competitive aspects of the proposal are to be considered. Bank is the ninth largest of 14 banking organizations in the market; the five largest banks in the market each have deposits in excess of $100 million. Applicant's closest subsidiary to Bank is located about 30 miles away from the Mineral Ridge branch of Bank. There is, therefore, no existing competition between applicant and Bank. Ohio's countywide branching restrictions (applicant neither has subsidiaries within Bank's home county nor in counties contiguous thereto) and other facts of record make it unlikely that future competition will develop between them. Consummation of this proposal would thus foreclose neither existing nor potential competition, between Bank and any banking subsidiary of applicant. Affiliation with applicant is likely to enable Bank to compete more effectively in the market while not having a detrimental effect on the smaller well-established banks within the market. Accordingly, the Board concludes that consummation of the proposal would not have any adverse effect on competition in any relevant area.

The financial and managerial resources and prospects of applicant, its subsidiaries, and Bank are satisfactory and consistent with approval of the application. As a result of affiliation with applicant, international banking services and fiduciary services would be made available to Bank's customers through lead bank of applicant. Applicant would also provide Bank with expertise which would permit Bank to offer directly FHA and VA insured loans and which would permit Bank to expand other services such as floor planning financing. Consequently, considerations related to the convenience and needs factor lend some weight toward approval. It is the Board's judgment that the proposed transaction would be in the public interest and that the application should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above: *Provided*, That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Cleveland pursuant to delegated authority.

By order of the Board of Governors,[1] November 22, 1971.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.71-17363 Filed 11-29-71;8:45 am]

INDUSTRIAL NATIONAL CORP.

Proposed Acquisition of Ambassador Factors Corp.

Industrial National Corp., New York, N.Y., has applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 222.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Ambassador Factors Corp., New York, N.Y. Notice of the application was published on September 23, 1971, in The New York Times, a newspaper circulated in New York, N.Y.

The proposed subsidiary would perform the activity of a factoring company. Such activity has been specified by the Board in § 222.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 222.4(b).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Boston.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices". Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 23, 1971.

Board of Governors of the Federal Reserve System, November 23, 1971.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.71-17364 Filed 11-29-71;8:45 am]

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, and Maisel. Absent and not voting: Governors Brimmer and Sherrill.

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. E-17, Supp. 1]

PUNCHED CARD ACCOUNTING MACHINES

Issuance of Requirements Type Contracts

Correction

In F.R. Doc. 71-17085 appearing on page 22258 in the issue of Tuesday, November 23, 1971, the date in the third line of paragraph 2 should read "(11-23-71)".

OFFICE OF EMERGENCY PREPAREDNESS

ALBERT D. O'CONNOR

Appointment as Federal Coordinating Officer

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11575, December 31, 1970 (36 F.R. 37, Jan. 5, 1971) to administer the Disaster Relief Act of 1970 (Public Law 91-606, 84 Stat. 1744), I hereby appoint Albert D. O'Connor as Federal Coordinating Officer to perform the duties specified by section 201 of that Act for New Jersey disaster number 310 with date of declaration, September 4, 1971, to be effective November 19, 1971.

This notice changes my designation of September 10, 1971 (36 F.R. 18539, Sept. 16, 1971) with respect to the same disaster listed, naming Leo C. McNamee, Jr. as Federal Coordinating Officer.

Dated: November 22, 1971.

G. A. LINCOLN, *Director, Office of Emergency Preparedness.*

[FR Doc.71-17372 Filed 11-29-71;8:45 am]

ALBERT D. O'CONNOR

Appointment as Federal Coordinating Officer

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11575, December 31, 1970 (36 F.R. 37, Jan. 5, 1971) to administer the Disaster Relief Act of 1970 (Public Law 91-606, 84 Stat. 1744), I hereby appoint Albert D. O'Connor as Federal Coordinating Officer to perform the duties specified by section 201 of that Act for New York disaster No. 311 with date of declaration, September 13, 1971, to be effective November 19, 1971.

This notice changes my designation of September 17, 1971 (36 F.R. 18913, Sept. 23, 1971) with respect to the same disaster listed, naming Hugh H. Fowler as Federal Coordinating Officer.

Dated: November 22, 1971.

G. A. LINCOLN, *Director, Office of Emergency Preparedness.*

[FR Doc.71-17373 Filed 11-29-71;8:46 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

NOVEMBER 24, 1971.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 2948 Sub 83, Western Gillette, Inc., assigned at Los Angeles, Calif., application dismissed.

MC 107103 Sub 6, Robinson Cartage Co., now being assigned hearing February 28, 1972, at Chicago, Ill., in a hearing room to be later designated.

MC 114211 Sub 156, Warren Transport, Inc., now being assigned hearing February 25, 1972, at Chicago, Ill., in a hearing room to be later designated.

MC 114211 Sub 157, Warren Transport, Inc., now being assigned hearing February 24, 1972, at Chicago, Ill., in a hearing room to be later designated.

MC 119641 Sub 101, Ringle Express, Inc., now being assigned hearing February 22, 1972, at Chicago, Ill., in a hearing room to be later designated.

MC 123048 Sub 197, Diamond Transportation System, Inc., now being assigned hearing February 24, 1972, at Chicago, Ill., in a hearing room to be later designated.

MC 126648 Sub 6, Trans United, Inc., now being assigned hearing on February 23, 1972, at Chicago, Ill., in a hearing room to be later designated.

MC 135739, John J. Clark, doing business as Double J. Machinery Transport, now being assigned hearing March 2, 1972, at Chicago, Ill., in a hearing room to be later designated.

Finance Docket No. 26864, Penn Central Transportation Co., discontinuance of trains Nos. 508 and 521 between Providence, R.I., and New London, Conn., now being assigned hearing December 20, and December 21, 1971, in the Alwin-Mason Building, 169 Weybosset Street, Second Floor, Providence, RI.

Finance Docket No. 26864, Penn Central Transportation Co., discontinuance of trains Nos. 508 and 521 between Providence, R.I., and New London, Conn., now being assigned hearing December 22, 1971, at the Town Hall, Council Chamber, 66 High Street, Wakefield, RI.

MC 126276 Sub 46, Fast Motor Service, Inc., now being assigned continued hearing February 22, 1972, at Chicago, Ill., in a hearing room to be later designated.

MCs 13002 Subs 8 and 9, Fremont Smith Truck Line, Inc., 13067 Sub 35, Stockberger Transfer & Storage, Inc., 30844 Sub 365, Kroblin Refrigerated Express, 41404 Sub 96, Argo-Collier Truck Lines Corp., 59367 Sub 76, Decker Truck Line, Inc., 61592 Sub 235, Jenkins Truck Line, Inc., 82492 Sub 57, Michigan & Nebraska Transit Co., Inc., 83217 Sub 56, Dakota Express, Inc., 99780 Subs 16 and 17, Chipper Cartage Co., Inc., MC 105566 Subs 56 and 57, Sam Tanksley Trucking, Inc., 106053 Sub 104, Little Audrey's Transportation Co., Inc., 108449 Sub 326, Indianhead Truck Line, Inc., 110098 Sub 113, Zero Refrigerated Lines, 110563 Subs 63 and 69, Coldway Food Express, Inc., 111375 Subs 49 and 52, Pirkle Refrigerated Freight Lines, Inc. MC 112822 Sub 192, Bray Lines, Inc., 113362 Subs 208 and 217, Ellsworth Freight Lines, Inc., 113678 Sub 424, Curtis, Inc., 114273 Subs 84 and 93, Cedar Rapids Steel Transportation, Inc., 114457 Sub 112, Dart Transit Co., 114632 Sub 47, Apple Lines, Inc., 115331 Sub 310, Truck Transport, Inc., 117119 Sub 435, Willis Shaw Frozen Express, Inc., 117815 Sub 173, Pulley Freight Lines, Inc., 118180 Sub 11, Govan Express, Inc., 118263 Sub 48, Coldway Carriers, Inc., 119619 Sub 54, Distributors Service Co., 119741 Subs 38 and 39, Green Field Transport Co., Inc., 119767 Sub 267, Beaver Transport Co., 124211 Sub 190, Hilt Truck Line, Inc., 126473 Sub 17, Harold Dickey Transport, Inc., 127042 Sub 85, Hagen, Inc., assigned February 28, 1972, at Chicago, Ill., in a hearing room to be later designated.

MC 128497 Sub 10, Jack Link Truck Line, Inc., 128750 Sub 5, Pitt Truck, Inc., 129367 Sub 9, Bill Payne, doing business as Bill Payne Trucking Co., 133655 Sub 49, Trans-National Truck, Inc., 133775 Sub 9, Reefer Transit Line, Inc., 134777 Sub 11, Sooner Express, Inc., and MC 135100 Subs 4 and 5, Signal Transport, Inc., now being assigned hearing February 28, 1972, at Chicago, Ill., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-17422 Filed 11-29-71;8:50 am]

[Notice 788]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 26, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72889. By report and order of November 22, 1971, Division 3, acting as an Appellate Division, approved the transfer to Nationwide Auto Transporters, Inc., Fort Lee, N.J., of that portion of the operating rights in certificate No. MC-4405 issued October 9, 1969, to Dealers Transit, Inc., Chicago, Ill.,

authorizing the transportation of automobiles, new, used, unfinished, and

K. MORRIS, INC., Post Office Box 98, Harrisonville, and Davidson Roads

mission, Bureau of Operations, 316 East Morehead Suite 417 (BSR Bldg.) Char-

Quincy, Ill., for 180 days. Supporting shipper: K. L. Stebor, General Manager,

address as above). Authority sought to operate as a *common carrier*, by motor

VA 22401. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, DC 20005. Authority sought

authorizing the transportation of automobiles, new, used, unfinished, and wrecked, in subsequent or secondary movements, in driveaway service, between points in the United States, except those in Alaska, Arizona, Hawaii, Nevada, Oregon, and Vermont, and except between plantsites or other facilities including railheads of Ford Motor Co. in the Chicago, Ill., commercial zone, on the one hand, and, on the other, points in Illinois, Indiana, Michigan, Wisconsin, and Iowa. Harold G. Hernly, Sr., 2030 North Adams Street, Suite 510, Arlington, VA 22201 and Peter W. Williamson, 60 East 42d Street, New York, NY 10017, attorneys for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-17554 Filed 11-29-71;8:53 am]

[Notice 401]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 23, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 30887 (Sub-No. 170 TA), filed November 15, 1971. Applicant: SHIPLEY TRANSFER, INC., Post Office Box 55, 49 Main Street, Reisterstown, MD 21136. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic granules*, in bulk, in Pneumatic Vehicles—X Rail, from Baltimore, Md., to points in Maryland, for 180 days. Supporting shipper: B. F. Goodrich Chemical Co., 3135 Euclid Avenue, Cleveland, OH 44115. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 814-B Federal Building, Baltimore, Md. 21201.

No. MC 91811 (Sub-No. 8 TA), filed November 15, 1971. Applicant: MILTON K. MORRIS, INC., Post Office Box 98, Harrisonville and Davidson Roads, Swedesboro, NJ 08085. Applicant's representative: V. Baker Smith, 123 South Broad Street, Philadelphia, PA 19109. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning, washing and scouring compounds; sodium hydrochlorite solution; laundry bleaches; animal litter and chopped alfalfa;* (except in bulk), from Jersey City, Kearny, and Newark, N.J., to points in Pennsylvania on and east of U.S. Highway 15, for 180 days. Supporting shipper: The Clorox Co., 7901 Oakport Street, Oakland, CA 94621. Send protests to: District Supervisor Richard M. Regan, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 111401 (Sub-No. 353 TA), filed November 12, 1971. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, Post Office Box 632, Enid, OK 73701. Applicant's representative: Victor R. Comstock (same address as above). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Printing ink*, in bulk, in tank vehicles, from Tulsa, Okla., to San Diego and Costa Mesa, Calif., for 180 days. Supporting shipper: Sun Chemical Co., J. Bolzak, Director of Traffic, 631 Central Avenue, Carlstadt, NJ 07072. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 113865 (Sub-No. 14 TA), filed November 15, 1971. Applicant: STAUFFER TRUCK SERVICE, INC., Rural Route No. 1, Taylor, MO 63471. Applicant's representative: S. R. Stauffer (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Utility truck bodies, pickup truck tool boxes and packs*, from West Quincy, Mo., to points in the United States (except Alaska and Hawaii), for 150 days. Supporting shipper: The Knapheide Manufacturing Co., Quincy, Ill. 62301. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 114106 (Sub-No. 88 TA), filed November 15, 1971. Applicant: MAYBELLE TRANSPORT COMPANY, Post Office Box 849, 1820 South Main Street, Lexington, NC 27292. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry plastic material*, from Greer, S.C., to points in North Carolina and South Carolina, on shipments having a prior movement by rail, for 180 days. Supporting shipper: Celanese Corp., 522 Fifth Avenue, New York, NY 10036. Send protests to: Frank H. Wait, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 316 East Morehead, Suite 417 (BSR Bldg.), Charlotte, NC 28202.

No. MC 115669 (Sub-No. 124 TA), filed November 11, 1971. Applicant: HOWARD N. DAHLSTEN, doing business as DAHLSTEN TRUCK LINE, Post Office Box 95, Clay Center, NE 68933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, from Saltair, Utah, to points in Kansas, for 180 days. Supporting shipper: Morton Salt Co., 6175 Baseo, Kansas City, MO. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 711 Federal Office Building, Omaha, Nebr. 68102.

No. MC 116254 (Sub-No. 129 TA), filed November 15, 1971. Applicant: CHEM-HAULERS, INC., Post Office Box 245, 1510 Martin Avenue, Sheffield, AL 35660. Applicant's representative: Douglas Logue (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Benzene and toulene* (coal tar derivatives), in bulk, in tank vehicles, from Cordova and Lynn Park, Ala., to points in South Carolina and Tennessee, for 180 days. Supporting shipper: United States Pipe and Foundry Co., 3300 First Avenue, North Birmingham, AL 35202, Attention: H. J. Travis, Traffic Manager. Send protests to: Clifford W. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 814, 2121 Building, Birmingham, Ala. 35203.

No. MC 117565 (Sub-No. 51 TA), filed November 12, 1971. Applicant: MOTOR SERVICE COMPANY, INC., Post Office Box 448, Route 3, Coshocton, OH 43812. Applicant's representative: John R. Hafner (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *House trailers*, designed to be drawn by passenger automobiles and *building sections*, in initial movements, fom the plantsite and storage facilities of Kit Manufacturing Co., Mount Vernon, Ohio, to points in Connecticut, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, New Hampshire, New York, Pennsylvania, West Virginia, and Wisconsin, for 180 days. Supporting shipper: Kit Manufacturing Co., Post Office Box 470, Mount Vernon, OH 40350. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 255 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

No. MC 118776 (Sub-No. 14 TA), filed November 17, 1971. Applicant: C. L. CONNORS, INC., Mail: Post Office Box 712, 2700 Gardner Expressway, Quincy, IL 62301. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dump truck bodies and dump truck body hoists*, from Milwaukee, Wis., to

Quincy, Ill., for 180 days. Supporting shipper: K. L. Stebor, General Manager, Knapheide Equipment Co., Post Office Box 553, Quincy, IL 62301. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 325 West Adams Street, Room 476, Springfield, IL 62704.

No. MC 128449 (Sub-No. 4 TA), filed November 17, 1971. Applicant: JAMES A. TUCKER, doing business as JIMMIE TUCKER TRUCKING, Route 1, Box 40-B, Broken Bow, OK 74728. Applicant's representative: James A. Tucker (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, rough or dressed, treated or untreated, plywood, composition or asphalt lumber including boards, sheets, and exterior siding, and particle board* made from ground wood, wood chips, or sawdust, with weight of added binder not to exceed 14 percent, from the plantsite of Weyerhaeuser Co., McCurtain County, Okla., to points in Colorado, Missouri, New Mexico, and Texas, for 180 days. Supporting shipper: J. L. Fleming, Director of Transportation Service, Weyerhaeuser Co., Post Office Box 1060, Hot Springs, AR 71901. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 128573 (Sub-No. 3 TA), filed November 12, 1971. Applicant: BARNETT TRUCK LINE, INC., 3404 Wheat Street, Kinston, NC 28501. Applicant's representative: James B. Barnett (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, in bags and bulk, from Hartsville, S.C., to points in North Carolina on and east of Highway 220, for 180 days. Supporting shipper: International Minerals & Chemical Corp., Post Office Box 4145, Winston-Salem, NC 27105. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 26896, Raleigh, NC 27611.

No. MC 135158 TA, filed November 11, 1971. Applicant: COLEMAN TRANSFER & STORAGE, INC., 2804 North 13 Street, Omaha, NE 68101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods and unaccompanied baggage*, between points in Washington, Douglas, Sarpy, Cass, Otoe, Lancaster, Saunders, Dodge Counties, Nebr.; Harrison, Pottawattamie, Mills, Fremont, Shelby, Montgomery and Page Counties, Iowa. Restriction: The operations requested herein are restricted to the transportation of traffic having a prior or subsequent movement, by motor, water, rail or air, for 180 days. Supported by: Applicant filed its own supporting statement. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 711 Federal Office Building, Omaha, Nebr. 68102.

No. MC 135553 (Sub-No. 5 TA), filed November 17, 1971. Applicant: HENRY ANDERSEN, INC., 1618 College Avenue, Post Office Box 3427, Fredericksburg, VA 22401. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, DC 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and frozen bacon, bacon ends, and skins*, from Dogue, Va., to Scranton and Forty Fort, Pa., and San Diego, Los Angeles, and Alameda, Calif., for 180 days. Supporting shipper: White Packing Co., Inc., 2011 Eighth Street, North Bergen, NJ 07047. Send protests to: Robert W. Waldron, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 10-502 Federal Building, Richmond, Va., 23240.

No. MC 136130 (Sub-No. 1 TA), filed November 17, 1971. Applicant: SOUTH CENTRAL WAREHOUSE CORPORATION, 1112 Collins Drive, Kissimmee, FL 32741. Applicant's representative: Donald F. Wright, 145 North Magnolia Avenue, Orlando, FL 32802. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *General commodities* from applicant's warehouse in Kissimmee, Fla., to Walt Disney World, Bay Lake, Fla., in Orange and Osceola Counties, Fla., over S.R. 535, for 180 days. Supporting shipper: Walt Disney World Co., Lake Buena Vista, Fla. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, 5720 Southwest 17th Street, Room 105, Miami, FL 33155.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-17355 Filed 11-26-71;8:50 am]

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RESOLUTION CHART

100 MILLIMETERS

INSTRUCTIONS Resolution is expressed in terms of the lines per millimeter recorded by a particular film under specified conditions. Numerals in chart indicate the number of lines per millimeter in adjacent "T-shaped" groupings.

In microfilming, it is necessary to determine the reduction ratio and multiply the number of lines in the chart by this value to find the number of lines recorded by the film. As an aid in determining the reduction ratio, the line above is 100 millimeters in length. Measuring this line in the film image and dividing the length into 100 gives the reduction ratio. Example: the line is 20 mm. long in the film image, and 100/20 = 5.

Examine "T-shaped" line groupings in the film with microscope, and note the number adjacent to finest lines recorded sharply and distinctly. Multiply this number by the reduction factor to obtain resolving power in lines per millimeter. Example: 7.9 group of lines is clearly recorded while lines in the 10.0 group are not distinctly separated. Reduction ratio is 5, and 7.9 x 5 = 39.5 lines per millimeter recorded satisfactorily. 10.0 x 5 = 50 lines per millimeter which are not recorded satisfactorily. Under the particular conditions, maximum resolution is between 39.5 and 50 lines per millimeter.

Resolution, as measured on the film, is a test of the entire photographic system, including lens, exposure, processing, and other factors. These rarely utilize maximum resolution of the film. Vibrations during exposure, lack of critical focus, and exposures yielding very dense negatives are to be avoided.